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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
vs.	)	CASE NO. CR-18-227-SLP
	)	
JOSEPH MALDONADO-PASSAGE,	)	
	)	
Defendant.	)	

\* \* \* \* \*

**VOLUME I OF VII**

TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE

MARCH 25, 2019

\* \* \* \* \*

Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

*Emily Eakle, RMR, CRR*  
United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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1	INDEX	PAGE
2		
3	Opening statement on behalf of the government.....	17
4	Opening statement on behalf of the defendant.....	26
5	EVIDENCE ON BEHALF OF THE GOVERNMENT:	
6	ERIK COWIE	
7	Direct Examination by Ms. Maxfield-Green.....	34
8	Cross-Examination by Mr. Earley.....	48
9	Redirect Examination by Ms. Maxfield-Green.....	60
10	Recross Examination by Mr. Earley.....	64
11	DYLAN WEST	
12	Direct Examination by Ms. Maxfield-Green.....	66
13	Cross-Examination by Mr. Earley.....	74
14	Redirect Examination by Ms. Maxfield-Green.....	82
15	Recross Examination by Mr. Earley.....	84
16	Further Redirect by Ms. Maxfield-Green.....	85
17	EUGENE "TREY" KEY	
18	Direct Examination by Ms. Maxfield-Green.....	86
19	Cross-Examination by Mr. Wackenheim.....	94
20	JAMES MARKLEY	
21	Direct Examination by Mr. Brown.....	97
22	Cross-Examination by Mr. Wackenheim.....	115
23	TABITHA VINER	
24	Direct Examination by Mr. Brown.....	134
25	Cross-Examination by Mr. Earley.....	153
	JOANNE GREEN	
	Direct Examination by Mr. Brown.....	164
	Cross-Examination by Mr. Wackenheim.....	188
	Redirect Examination by Mr. Brown.....	195
	DARLEEN CERVANTES	
	Direct Examination by Ms. Maxfield-Green.....	198
	Cross-Examination by Mr. Wackenheim.....	217
	Redirect Examination by Ms. Maxfield-Green.....	222

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1 (The following record was made in open court on March 25,  
2 2019, in the presence of all parties, counsel, and in the  
3 presence and hearing of the jury.)

4 THE COURT: Good morning. Welcome back.

5 This is the case of United States of America vs. Joseph  
6 Maldonado-Passage, Case No. CR-18-227.

7 Parties could please make your appearances for the record.

8 MS. MAXFIELD-GREEN: Amanda Green for the United States  
9 and Charles Brown for the United States.

10 MR. EARLEY: William Earley and Kyle Wackenheim for  
11 Mr. Maldonado-Passage, and he's present, Your Honor.

12 THE COURT: Good morning. I don't have much more voice  
13 than I had when we last parted, but I will get past this thing  
14 before this trial concludes, I can assure you.

15 Welcome back. As I -- as may have been explained to you, we  
16 are going to be hearing this case in this courtroom as opposed to  
17 where we started out. That's to accommodate for evidence that  
18 may be admitted to you in various electronic forms. My usual  
19 courtroom, where we started out, is a bit dated in terms of  
20 electronics. I assume none of the evidence is coming in by  
21 eight-track tape, so it's not going to happen down there. So we  
22 have relocated down here to the chief's courtroom, which is a  
23 little bit more -- has already been upgraded in terms of  
24 technology, so we'll be here for the duration of the trial.

25 I would, first of all, like all of you-all to reflect on the

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1 questions and the preliminary instructions that I gave you as we  
2 went through jury selection week before last. And I would like  
3 to ask you as a panel, since the last time you were here, and  
4 this is for all of you, have any of you seen, heard or read any  
5 information about this case at all?

6 Any of you at all?

7 (No response.)

8 THE COURT: That would include media accounts, social  
9 media information, online commentary in blogs or forums.  
10 Anything like that? Anyone?

11 (No response.)

12 THE COURT: Have any of you discussed this case with  
13 anyone, or has anyone discussed or attempted to discuss the case  
14 with you?

15 (No response.)

16 THE COURT: Thank you.

17 If you will all please rise, the clerk will administer the  
18 oath to the jury.

19 (Jury panel sworn.)

20 THE COURT: Members of the jury, now that you have been  
21 sworn, I will give you some preliminary instructions to guide you  
22 as jurors in this case. Some of these are ones that you have  
23 heard before, but they're very important and it's important that  
24 I go through them with you again.

25 You and I have very sharply defined divisions of

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1 responsibilities in this trial. My responsibility is to  
2 determine the rules of law that apply in this case. It will be  
3 your duty and responsibility to find from the evidence what the  
4 facts are. You and you alone are the judges of the facts. You  
5 will then have to apply to those facts the law as I give it to  
6 you. You must follow that law, whether you agree with it or not.  
7 Nothing I say or do during the course of the trial is intended to  
8 indicate nor should be taken by you as indicating what your  
9 verdict should be.

10 The evidence from which you will find the facts will consist  
11 of the testimony of witnesses, documents and other things  
12 received into the record as exhibits, and any facts the lawyers  
13 agree or stipulate to or that I may instruct that you find.  
14 Certain things are not evidence and must not be considered by  
15 you, and I'll list those for you now. Statements, arguments and  
16 questions by lawyers are not evidence.

17 Objections to questions are not evidence. Lawyers have an  
18 obligation to their client to make an objection when they believe  
19 evidence being offered is or may be improper under the rules of  
20 evidence. You should not be influenced by the objection or by my  
21 ruling on it. If it is overruled, you treat the answer just like  
22 you would any other. If you are instructed that some item of  
23 evidence is received for a limited purpose only, you must follow  
24 that instruction. Testimony that I have excluded or told you to  
25 disregard is not evidence and must be not -- must not be

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1 considered. Anything you may have seen or heard outside the  
2 courtroom is not evidence and must be disregarded. You are to  
3 decide this case solely on the evidence presented here in the  
4 courtroom.

5 It will be up to you to decide which witnesses to believe,  
6 which witnesses not to believe, and how much of any witness's  
7 testimony to accept or reject. I will give you some guidelines  
8 for determining the credibility of witnesses at the end of the  
9 case.

10 As you know, this is a criminal case. There are three basic  
11 rules about a criminal case that you must keep in mind. First,  
12 the defendant is presumed innocent until proven guilty. The  
13 indictment against the defendant brought by the government is  
14 only an accusation, nothing more. It is not proof of guilt or  
15 anything else. The defendant, therefore, starts out with a clean  
16 slate.

17 The burden of proof is on the government to prove its case.  
18 The defendant has no burden to prove his innocence or to present  
19 any evidence or to testify. Since the defendant has the right to  
20 remain silent, the law prohibits you, in arriving at your  
21 verdict, from considering that the defendant may not have  
22 testified or presented evidence. The government must prove the  
23 defendant's guilt beyond a reasonable doubt. I will give you  
24 further instructions on this point later, but bear in mind that  
25 in this respect, a criminal case is different from a civil case.

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1 The burden is beyond a reasonable doubt.

2 The superseding indictment charges the defendant with two  
3 counts of the use of facilities of interstate commerce in the  
4 commission of the murder for hire of a person named C.B. In  
5 brief, Count 1 alleges that in or about November 2017, defendant  
6 paid Individual 1 money in exchange for Individual 1's promise to  
7 commit the murder of C.B. It is further alleged that the  
8 defendant caused Individual 1 to travel in interstate commerce  
9 and also that the defendant used the mail and facilities of  
10 interstate commerce, all with the intent that the murder of C.B.  
11 be committed.

12 Count 2 alleges that on or about December 8th of 2017, the  
13 defendant promised and agreed to pay an undercover FBI agent a  
14 sum of money to commit the murder of C.B. and that the defendant  
15 used facilities in interstate commerce with the intent that the  
16 murder of C.B. be committed.

17 The superseding indictment also charges the defendant with  
18 five counts of violating the Endangered Species Act by shooting  
19 tigers, one count of violating the Endangered Species Act by  
20 offering tiger cubs for sale, three counts of violating the  
21 Endangered Species Act by selling tiger cubs, and ten counts of  
22 creating false records concerning wildlife, namely tigers, lions  
23 and a lemur.

24 The superseding indictment is simply a description of the  
25 charges made by the government against the defendant. It is not

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1 evidence of guilt or anything else. The defendant has pleaded  
2 not guilty and is presumed innocent. The defendant may not be  
3 found guilty by you unless all 12 of you unanimously find that  
4 the government has proved his guilt beyond a reasonable doubt.

5 A few more instructions about your conduct as jurors.  
6 Again, some of these will sound familiar.

7 First, I instruct you that during the trial, you are not to  
8 discuss this case with anyone or permit anyone to discuss it with  
9 you. Until you retire to the jury room at the end of the case to  
10 deliberate on your verdict, you are simply to not talk about the  
11 case. Also, you must not have any conversations of any kind on  
12 any subject with any of the parties or the attorneys or the  
13 witnesses. This prohibition on communicating about the case  
14 includes communications about the case or about any aspect of  
15 your work as jurors by email, texting, blogs, Twitter and all  
16 other methods of communication. You must not communicate about  
17 this case by any means until after you have been discharged from  
18 your service as jurors in this case.

19 Do not read, watch or listen to anything touching on this  
20 case in any way. If anyone should try to talk to you about it,  
21 bring it to my attention promptly. Do not do any research or  
22 make any investigation of your own about the case or about any  
23 issues in the case or about any person or organization involved  
24 in the case. This includes Internet research of any kind about  
25 the case or about any issues in the case or about any person or

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1 organization involved in the case, no matter how curious you may  
2 be and no matter how tempting it may be to undertake any such  
3 research.

4 Finally, do not form any opinion until all the evidence is  
5 in and I have instructed you on the law and the case has been  
6 given to you for your deliberations and verdict. Keep an open  
7 mind until you start your deliberations at the end of the case.  
8 Among the many reasons for which you should keep an open mind  
9 about the issues in this case until the case has been given to  
10 you for your deliberations and verdict, please consider this: In  
11 this court, jury verdicts must, under the law, be unanimous.  
12 Each juror must concur with the verdict or there is no verdict.  
13 For that reason, you should listen to the evidence in this case  
14 with full awareness that in reaching your unanimous verdict, it  
15 will be necessary for you to consider the evidence from the point  
16 of view of other members of the jury.

17 As we proceed here, please let Marcia know if there's  
18 anything any of us can do to make your service more pleasant. I  
19 know this is a very solemn and important occasion for everyone,  
20 and I know that your presence here is a major disruption in your  
21 lives. We will make this as easy on you as we can. As I  
22 mentioned before, water in the jury box is okay as long as it's  
23 contained in something with a lid or a cap. If you're ever  
24 unable to hear, please let me know. One of the benefits of this  
25 courtroom is that we are able to make a number of adjustments to

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1 sound, lighting, things like that.

2 For the two alternates, seated on the risers, please be  
3 careful. I believe that while those seats can be adjusted up and  
4 down, anytime you stand, they raise back to their previous level.  
5 I also tried them out last week. I won't describe what happened,  
6 but what happens in the courtroom stays in the courtroom. Be  
7 very careful if you unlock the part where it lets you lean back.  
8 It leans back pretty far, which -- to my surprise. Please just  
9 don't be startled.

10 As we did during the jury selection, please feel free to  
11 stand and stretch during bench conferences. We'll still be in  
12 session, so please don't leave the courtroom and please keep the  
13 tone down, but you can visit amongst yourself. But we do have  
14 sometimes to be able to hear up here, but it is perfectly okay to  
15 stand and stretch.

16 As you can see, we have placed notebooks in each of your  
17 seats there in the jury box. If you would like to take notes  
18 during the course of the trial, you may do so. On the other  
19 hand, you are certainly not required to take notes, if you choose  
20 not to do so. That is something that is entirely up to you. If  
21 you choose to take notes, you must leave your notes on your chair  
22 at the end of the day. Just -- you don't have to take them out.  
23 Just leave them in the notebooks. Marcia will collect them and  
24 they'll be locked up overnight and their confidentiality will not  
25 be compromised. No one will read those. They'll be returned to

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1 your chair each morning in the notebooks. At the end of the  
2 deliberations, you'll be directed to leave your notes in the  
3 wastebasket there in the jury room, and we will see to their  
4 destruction. Their confidentiality is never compromised.

5 During the trial, you may note some instances in which I  
6 quickly review the testimony on one of these screens up here.  
7 The screen only provides a preliminary record of the testimony,  
8 and any transcript which could be made available to any person  
9 for any purpose would have to be a certified transcript. The  
10 preparation of a certified transcript can and usually does take a  
11 considerable amount of time. For that reason, it is generally  
12 not practical to prepare transcripts for the use of the jury  
13 during deliberations. This is one of the many reasons why you  
14 should listen very carefully to the testimony as it's presented  
15 during the course of the trial.

16 I'll remind you that our general plan will be, throughout  
17 the trial, to begin at 9:00 in the morning. We'll take a  
18 mid-morning break and then break for lunch around noon. We'll  
19 also take one afternoon break and normally recess close to 5:00.  
20 Sometimes we try to be -- sometimes a witness may -- if we're  
21 getting close to finishing up, it may be five minutes after 5:00  
22 or something like that. Other than those times, please signal me  
23 or Marcia if you need to take a break outside of one of those  
24 times. Again, we want to be sure that we're seeing to your  
25 needs. Please also remember that for any of those breaks, as

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1 well as for our overnight recess, you return -- come and go from  
2 the jury assembly room. And Marcia will escort you as a group.  
3 Please don't return directly to the courtroom.

4 Also, the instructions on the -- you know, what we call the  
5 admonition about not discussing the case, that applies all  
6 through the trial. I will not repeat that every time. I'll  
7 probably just give you a reminder that the admonition applies.

8 In terms of the course of the trial, the trial will start  
9 and now begin this morning. First, the government will make an  
10 opening statement. The opening statement is simply an outline to  
11 help you understand the evidence as it comes in. Next, the  
12 defendant's attorney may, but does not have to, make an opening  
13 statement. Opening statements are neither evidence nor  
14 arguments. The government will then present its witnesses, after  
15 which the counsel for the defendant may cross-examine them.  
16 Following the government's case, the defendant may, if he wishes,  
17 present witnesses whom the government may then cross-examine.

18 After all the evidence is in, I will instruct you on the law  
19 and then the attorneys will present their closing arguments to  
20 summarize and interpret the evidence for you. After that, the  
21 case will be given to you for your deliberations and verdict.

22 Does either party intend to invoke the rule?

23 MR. BROWN: Yes, Your Honor, we would.

24 MR. EARLEY: We would, as well.

25 THE COURT: And are there either -- do you-all have an

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1 agreement in terms of exceptions to the rule for your  
2 investigators or --

3 MR. WACKENHEIM: No, Your Honor.

4 THE COURT: No request for -- government?

5 MS. MAXFIELD-GREEN: Your Honor, the government's made  
6 the defense team aware of one exception to that rule.

7 MR. WACKENHEIM: Can we approach to discuss that, Your  
8 Honor?

9 THE COURT: Sure.

10 (The following proceedings were had at the bench and out of  
11 the hearing of the jury.)

12 MS. MAXFIELD-GREEN: Your Honor, we have notified the  
13 defense that we believe the victim may intend to watch the trial  
14 as well as testify at trial. She is going to testify. I believe  
15 she intends to watch some portion of the trial. Under the  
16 victim -- the Victims' Rights Act, she has the right to do that.  
17 That is an exception from the rule.

18 THE COURT: How about either of your two case agents?  
19 Are they witnesses?

20 MS. MAXFIELD-GREEN: They are. Special Agent Farabow  
21 is a witness and we would like him to be excepted from the rule  
22 as well.

23 THE COURT: How about --

24 MS. MAXFIELD-GREEN: He is not a government witness.  
25 Special Agent Matt Bryant is not a government witness.

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1 THE COURT: So the two exceptions would be the --  
2 Ms. Baskin and Agent Farabow?

3 MR. WACKENHEIM: Your Honor, we specifically object to  
4 classifying Ms. Baskin as a victim. I would note that a victim  
5 is -- under 18 USC (a)(2) a victim is someone who, quote,  
6 "Directly and proximately was harmed as a result of the  
7 commission of an offense." There's been no allegation that she  
8 has been harmed. I think -- as alleged in the indictment and as  
9 the evidence will show, there was no real risk to her, so we  
10 don't think she meets the definition of a crime victim.

11 THE COURT: Is she here yet?

12 MR. WACKENHEIM: Yes. I saw her and her husband.

13 MS. MAXFIELD-GREEN: May I respond, Your Honor? The  
14 indictment specifically states that she was not physically harmed  
15 by the Counts 1 and 2 alleged in the indictment. We certainly  
16 think that there has been emotional harm to her. She was  
17 notified during the case that her safety was at risk. She  
18 took -- the emotional harm from that, I believe, is obvious. She  
19 also took on extra security precautions at that time. And so we  
20 do believe she qualifies as a victim. And the defense counsel's  
21 statement that she was never actually at risk is simply not true.  
22 Mr. Glover, the Individual 1 in the indictment, had been paid  
23 money, had represented to Mr. Maldonado that he was planning to  
24 go forward with it. So it's -- I believe that's a -- an accurate  
25 statement of the events at the time.

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1 THE COURT: Okay. Mr. Wackenheim, is there any  
2 objection to the case agent being exempted from the rule?

3 MR. WACKENHEIM: No. I would just, for purposes of the  
4 record, note that the government is using two case agents, which  
5 is further reason for the support why we wanted to sever these  
6 two separate trials, as we see them. But, no, we don't have any  
7 objection to that.

8 THE COURT: Agent Farabow will be excepted from the  
9 rule. I'm also going to permit Ms. Baskin to stay in the  
10 courtroom. I understand the argument. I think certainly she's  
11 subject to cross-examination in terms about whether or not she's  
12 been -- I assume there's enough statements out there that if her  
13 statements appears to be -- have -- based on another witness's  
14 testimony, it will be subject to cross-examination, but I'm going  
15 to permit her to stay in the courtroom. The remaining witnesses  
16 will be excused and admonished to not discuss their testimony.  
17 If you-all will please monitor your own various witnesses to be  
18 sure that they're not in the courtroom.

19 MR. EARLEY: Your Honor, Agent Bryant is a witness, but  
20 I understand he's at the table with counsel.

21 THE COURT: Thank you.

22 (The following record was made in open court, in the  
23 presence of all parties, counsel, and in the presence and hearing  
24 of the jury.)

25 THE COURT: Government may proceed with their opening

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1 statement.

2 MR. BROWN: Thank you, Your Honor.

3 Revenge. Revenge is about retaliation. And it has been  
4 said that to seek revenge out of hatred and anger is something  
5 that will devour your very soul. Now, that simple but powerful  
6 statement about human nature best describes what is at the heart  
7 of this case. The evidence will show that in late 2017  
8 Mr. Passage, the defendant, he sought revenge when he paid a hit  
9 man to kill Carole Baskin, the person he blamed for all of his  
10 problems.

11 Now, throughout this trial you are going to hear and see a  
12 substantial amount of evidence about large animals. But at the  
13 end of the day, this is a case about people; and two people in  
14 particular, Mr. Passage, of Wynnewood, Oklahoma, and Carole  
15 Baskin, of Tampa, Florida.

16 Carole, she's a conservationist. She's the founder and CEO  
17 of Big Cat Rescue. It's a sanctuary. It's located down in  
18 Tampa, Florida. Sits on about 67 acres. Her organization  
19 rescues abandoned and abused tigers, lions and other big cats.  
20 You will hear that she is an outspoken critic of cub breeders,  
21 and you will also hear that it is her mission to stop what she  
22 believes to be the exploitation and the mistreatment of big cats  
23 at roadside zoos.

24 Mr. Passage, he founded an exotic animal park, 1999. It's  
25 located right off of I-35, just south of Pauls Valley. And at

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1 his park he exhibited hundreds of animals, but he prided himself  
2 on his tigers and his lions. You will hear that he was a  
3 prolific cub breeder, so much so that he became known as the  
4 "Tiger King."

5 Now, at his park, they charge for admission, they charge for  
6 tours, but they also charged for cub playtimes and cub pettings,  
7 and this is where a customer would pay a fee to have a few  
8 minutes of hands-on interactive playtime with a very young cub,  
9 sometimes as young as a few weeks old.

10 You're going to learn from Carole Baskin that she was deeply  
11 opposed to these cub playtimes, so much so that in the early  
12 2000s, once she learned about Mr. Passage and his zoo, she began  
13 her activism against him. She would organize protests. She  
14 would organize online campaigns. She would run online ads  
15 arguing that his zoo and his treatment of the animals was  
16 inhumane. She urged regulators, as well as the public, to shut  
17 him down.

18 And, initially, he retaliated by renaming one of his  
19 businesses to Big Cat Rescue Entertainment, kind of a play on her  
20 sanctuary's name. You will learn that Carole then sued  
21 Mr. Passage for trademark infringement in 2011. And in 2013, she  
22 won a \$1 million judgment against him and against his zoo. And  
23 soon after she wins this judgment, he restructured his zoo. He  
24 tried to open it up under a different name. He ultimately filed  
25 bankruptcy and he made other efforts to try to avoid paying

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1 Carole the \$1 million judgment.

2 That judgment devastated his zoo and him financially, so  
3 much so that by 2016, he had to let the zoo go. And you're going  
4 to learn that the zoo, in 2016, went to new owners, Jeff and  
5 Lauren Lowe, a couple out of South Carolina. They paid off some  
6 of his outstanding debt, some of his bills. But when they took  
7 over the zoo, they allowed him to remain living at the zoo. He  
8 kept his animals there and he continued running the daily  
9 operations at the zoo. For all intents and purposes, he still  
10 remained the face of the zoo. In exchange, they paid him a  
11 salary of a couple hundred dollars a week.

12 Now, what you will see throughout this case is that when you  
13 span all the way back to the early 2000s, when their decade-long  
14 feud began, Mr. Passage versus Carole Baskin, he was an outspoken  
15 critic of her online, and he was consistently posting online  
16 threats squarely targeted at Carole. And you'll see these  
17 threats. Rifles, Tannerite explosives, caskets, even  
18 rattlesnakes were oftentimes the subject matter of the threats  
19 that he was making against Carole Baskin.

20 You will see and hear other threats, videos, where he is  
21 telling Carole she's going to take her last breath. There's a  
22 video you will see where he is sitting next to a blowup doll that  
23 has been dressed to depict Carole, and on that video he warns  
24 Carole that they better never see each other again. He pulls out  
25 a loaded revolver and he shoots that doll in the head.

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Oklahoma City, OK 73102 \* 405.609.5403

1 By 2017, as you watch these videos and as you listen to  
2 these threats, you're going to sense his growing anger and  
3 contempt for Carole. And by 2017, he's lost his park. He's  
4 filed bankruptcy. He's trying to do everything he can to avoid  
5 having to pay her the \$1 million judgment that she's still trying  
6 to collect. His life's work since 1999 of building up that park  
7 in Wynnewood, his kingdom, is falling apart. And it's in 2017  
8 when his anger escalates from online threats to action.

9 You're going to hear, in the fall of 2017, Mr. Passage  
10 approaches a guy named Alan Glover. He's an employee at the zoo.  
11 He does odd jobs around the zoo, some maintenance, cleans up  
12 after the animals. Mr. Glover also lives on the zoo -- he lives  
13 at the zoo, one of the small trailers. He's a native South  
14 Carolinian. He's worked outdoors most of his life. He has a  
15 strong Carolina accent. But he also has a small teardrop tattoo  
16 under his left eye. And it's that teardrop tattoo that led  
17 Mr. Passage to begin courting him and to eventually ask him to  
18 kill Carole. And Glover told him he'll do it.

19 Mr. Passage told Glover he'll pay him between 10 and  
20 \$15,000, with a few thousand dollars down and the rest when she's  
21 dead. They discuss specific details of how Glover should kill  
22 Carole. Mr. Passage described the fact that she oftentimes used  
23 a bike path to ride to work, to her sanctuary. Mr. Passage told  
24 Glover he should wear camouflage, hide in the woods along that  
25 bike path and kill her as she approached. Mr. Passage suggested

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Oklahoma City, OK 73102 \* 405.609.5403

1 using a rifle, and you will hear that he even took Glover out for  
2 target practice at the zoo. And Glover, Glover tells him he'll  
3 do it, but Glover tells Mr. Passage he will kill Carole by  
4 cutting her head off.

5       Soon after this meeting, you're going to hear that  
6 Mr. Passage sends Glover down to Dallas to get a fake ID. And he  
7 goes down there to get a fake ID so that he can get to Florida  
8 and remain undetected under that alias while he's in Florida.  
9 About two weeks after getting the fake ID, right around  
10 Thanksgiving of 2017, Mr. Passage calls Glover into his office  
11 there at the zoo. Glover comes in and Mr. Passage hands him an  
12 envelope that has \$3,000 cash inside, the down payment for the  
13 murder.

14       Mr. Passage then takes Mr. Glover's personal phone from him.  
15 And you will hear that this phone is mailed out to Las Vegas,  
16 where Jeff and Lauren Lowe were living at the time, with the  
17 expectation that that phone would be turned on in Vegas so it  
18 pinged off the cell towers, making it appear that Mr. Glover was  
19 in Vegas, when in reality he would be in Florida.

20       While they're still inside the office, Mr. Passage hands  
21 Glover a new phone to take to Florida. But before he gives him  
22 the phone, Mr. Passage takes the new phone, walks over to his  
23 computer screen, which is displaying photos of Carole Baskin, and  
24 with that new phone he snaps a picture of the computer screen.  
25 He then pulls up the website for Big Cat Rescue, and at the

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Oklahoma City, OK 73102 \* 405.609.5403

1 bottom of that website is the address, the physical address to  
2 her sanctuary in Tampa. Mr. Passage snaps another photo with the  
3 phone. He then hands the phone to Glover to take to Florida,  
4 ensuring that Glover knows exactly what Carole looks like and  
5 that Glover knows exactly where to find her.

6 They agree that Glover will fly out of Oklahoma City to his  
7 home in South Carolina and then drive to Florida and murder her.  
8 And you'll hear from Glover. He does fly out of Oklahoma City,  
9 does go back home to South Carolina, and he does drive to  
10 Florida. But he will tell you he did not go there to murder her.  
11 He went there to hang out on the beach.

12 Now, at the same time that Mr. Passage is negotiating with  
13 Glover to go kill Carole, he doesn't realize that one of his  
14 friends, a guy named James Garretson, is actively working with  
15 law enforcement agents and trying to introduce an undercover  
16 agent posing as a hit man. And you'll hear from James Garretson.  
17 At the time, he was living in Ringling, Oklahoma. He's a tiger  
18 guy. He owns several tigers. And he was kind of a constant  
19 presence around the park there in Wynnewood.

20 And the evidence will show that by the summer of 2017,  
21 Mr. Passage had been complaining constantly to James about  
22 Carole. And James was concerned that Mr. Passage was serious  
23 about trying to have her killed, and that's what led him to begin  
24 working with law enforcement agents and recording all of his  
25 phone calls and all of his interactions with Mr. Passage.

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1           And you'll hear one of these phone calls, when he calls  
2 Mr. Passage and he tells him, hey, I got a friend who just got  
3 out of jail. His name is Mark. He could kill Carole for you.  
4 And then on December 8 of 2017, right about two weeks after  
5 Glover had been paid and had left Oklahoma for South Carolina, en  
6 route to Florida -- on December 8, 2017, you're going to hear  
7 that James Garretson, his friend, the guy named Mark, who's  
8 actually an undercover FBI agent, they go to the zoo and they  
9 meet with Mr. Passage inside his office. And that conversation  
10 is recorded. You will hear the conversation.

11           You will hear Mr. Passage complaining about Carole and her  
12 litigation. You will hear Mr. Passage ask the undercover agent  
13 how much he would charge to kill Carole. And you will hear  
14 Mr. Passage provide details about Carole. He mentions the bike  
15 path again. He describes the layout of her sanctuary, the fact  
16 that it has a front entrance and a rear gate. But, ultimately,  
17 Mr. Passage tells this undercover agent, you should just follow  
18 her to a parking lot, pull up next to her, shoot her and drive  
19 away. Mr. Passage then tells this undercover agent that he can  
20 get \$5,000 easy and he will get it to James.

21           And during that same conversation you're going to hear  
22 Mr. Passage ask the undercover agent, how long -- or how late is  
23 it that you can get to Florida? The evidence will show that at  
24 the time that Mr. Passage is negotiating with this undercover  
25 agent to kill Carole, he's still confident that Glover's actually

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1 going to kill her. The Glover plot is by far the primary plot.  
2 That's the main plot. That's option one. Option two, which is  
3 using this undercover agent, that's his backup plan. That's his  
4 insurance policy. Option one is Count 1 of the indictment.  
5 Option two is Count 2 of the indictment. Two separate plots  
6 using two separate hit men to kill one target, Carole Baskin.

7 Now, as central as Carole is to the two murder-for-hire  
8 counts, she's just as central to the remaining wildlife charges  
9 that are in the indictment in Counts 3 to 21. Again, it was  
10 Carole's outspoken activism and criticism against Mr. Passage,  
11 against his zoo and his breeding practices that led him to want  
12 her killed. And it was her activism that cut into his profit,  
13 into his money, and that made him struggle financially, which  
14 resulted in him engaging in the conduct that's outlined in  
15 Counts 3 to 21.

16 What the evidence will show is that between November of 2016  
17 and June of 2018, Mr. Passage routinely sold lions, tigers and  
18 other wildlife throughout the country. And when he sold these  
19 lions, tigers and other wildlife, he would have accompanying  
20 documents with him. And you'll hear about the documents. You'll  
21 see them. They're known as disposition forms and CVIs. But what  
22 Mr. Passage did with these documents is he would falsify them by  
23 indicating on the documents that the animals being transported  
24 were donated, when, in reality, he was selling them. That's the  
25 crime.

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1           You will also see evidence that he actively sold animals  
2 that are protected by the Endangered Species Act, lions and  
3 tigers and other animals. And he sold those across state lines.  
4 That's the crime.

5           And then, finally, what you will see is that in October of  
6 2017, Mr. Passage killed five tigers. And those tigers are  
7 protected by the Endangered Species Act. And what the evidence  
8 will show is that in October of 2017 a circus needed to house  
9 three of their big cats. They didn't have room, so they called  
10 Mr. Passage. He says, oh, yeah, I'll take them in. I'll board  
11 them for a few months. I'll charge you \$5,000, which he does.  
12 But he didn't have the space. He needed the space. And the  
13 evidence will show that he had an employee gather five of his  
14 tigers, put them in a specific area there at his park. And then  
15 one night he goes to where those five tigers are with a .410  
16 shotgun and he shoots all five tigers, killing them. He walks  
17 away. He looks at another employee, he says, load up the  
18 carcasses, take them out back and bury them.

19           The evidence will show that those tigers were healthy when  
20 he killed them. Ladies and gentlemen, the evidence will show  
21 that he killed those tigers because he needed that \$5,000. He  
22 needed the money. He was breeding all these cubs because he  
23 needed the money. And he was selling these animals in interstate  
24 commerce because he needed the money. And he needed the money  
25 because Carole Baskin had ruined him financially. And it's that,

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Oklahoma City, OK 73102 \* 405.609.5403

1 that is exactly what ultimately consumed him and led him to seek  
2 his revenge against her by trying to have her murdered.

3 Now, you're going to hear and see this evidence. The  
4 Court's going to instruct you on the law. Most important, you're  
5 going to get to use your common sense and your intelligence to  
6 determine truth and justice. The United States, we have the  
7 burden to prove Mr. Passage guilty beyond a reasonable doubt. We  
8 accept that burden and we will meet that burden.

9 At the end of the trial, we will ask you to return the only  
10 plausible verdicts on all 21 counts: Guilty.

11 THE COURT: Does the defense wish to make an opening  
12 statement at this time?

13 MR. EARLEY: Yes, Your Honor.

14 Well, ladies and gentlemen, I agree in one respect with  
15 Mr. Brown. This case is about two individuals who are very  
16 passionate about their beliefs. They each believe in their own  
17 cause and each of them has used social media and other forms of  
18 Internet chat to further their cause. Carole Baskin has aligned  
19 herself with several large animal rights organizations that want  
20 more and stricter federal laws and regulations concerning the  
21 exhibition and breeding of large cats. In this case, we'll talk  
22 about tigers and lions.

23 Joseph Passage aligns himself with small businessmen and  
24 women who own private zoos, sanctuaries and small roadside  
25 petting zoos. These individuals believe in their right to be

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U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 free from additional restrictive and burdensome federal laws and  
2 regulations. Mr. Passage believes he should be allowed to  
3 continue to engage in a completely legal activity; that is,  
4 breeding and cub petting, using animals that, for the most part,  
5 are generations removed from animals in the wild that this  
6 Endangered Species Act is supposedly there to cover.

7 Now, Ms. Baskin, she administered a number of websites  
8 spreading her message and soliciting donations for her cause.  
9 Mr. Passage did the same. The evidence will show that each  
10 goaded the other; Ms. Baskin, via her 911 Animal Abuse website,  
11 where she identified Mr. Passage as one of her most wanted.  
12 Mr. Passage goaded Carole Baskin via his Joe Exotic TV and other  
13 media websites. Oddly, I think the evidence would show, each was  
14 probably beneficial to the other in raising awareness for their  
15 respective causes.

16 In 2011, Mr. Passage's zeal to goad Ms. Baskin opened him up  
17 to civil liability. As Mr. Brown told you, he infringed a  
18 copyright that Ms. Baskin had on the term "Big Cat Rescue," and  
19 she successfully got a lawsuit going and won a million-dollar  
20 judgment. Once that judgment was enforceable in the state of  
21 Oklahoma, she took every legal procedure she could think of to  
22 try to collect on that judgment, with the purpose, as Mr. Passage  
23 believed, to bankrupt him. Hundreds of thousands of dollars in  
24 legal fees were spent on both sides over a five or six-year  
25 period.

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1           And it was during the period from 2011 to 2016 that  
2 Mr. Passage posted some of these YouTube videos and other social  
3 media posts ramping -- or disparaging Ms. Baskin. You're going  
4 to see a number of those. Mr. Passage's theatrics in some of  
5 these bordered on the ridiculous. They went on for years without  
6 drawing the attention of law enforcement. Apparently, for years,  
7 no one took them seriously.

8           Baskin's relentless legal maneuvering had the desired  
9 effect. Mr. Passage was unable to keep up with the legal fees.  
10 His efforts to avoid her taking his business couldn't keep it  
11 from failing. He brought in another person, Jeff Lowe. You're  
12 going to hear a lot about Jeff Lowe during the course of this  
13 trial. Around February 2016, Lowe became the new owner of the  
14 park. By 2017, Lowe's efforts to separate himself from  
15 Ms. Baskin's judgment and her legal maneuvering failed. He was  
16 unable to withstand Baskin's well-funded legal assault on the  
17 park.

18           In the summer of 2017, Lowe had had it. The evidence will  
19 show his investment in the park was going nowhere financially.  
20 The evidence will show he got together with another disgruntled  
21 investor, James Garretson, to contact Baskin to see if there was  
22 some way she would just buy the park out for about a half a  
23 million dollars. In exchange, he'd walk away and he'd give her  
24 some documents to show that maybe Mr. Passage had violated some  
25 rules and regulations consistent with his license. Garretson,

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1 you'll hear, had loaned the park \$10,000 and he too was not  
2 getting any return on his investment.

3 Well, the plan to sell the park to Carole Baskin didn't gain  
4 any traction, so the focus switched to getting rid of  
5 Mr. Passage. If Mr. Passage is gone, surely Ms. Baskin will turn  
6 her attention to her next most wanted person. Well, the easiest  
7 way to get rid of Mr. Passage was to exploit the very thing that  
8 drew attention to him in the first place, his inability to  
9 control his mouth.

10 The crude antics Mr. Passage engaged in repeatedly on the  
11 Internet and social media had an effect on Mr. Passage. The  
12 evidence will show it removed any filter that Mr. Passage may  
13 have had. After bashing Baskin year after year, over and over,  
14 he lost awareness of the limits to criticism and good sense.  
15 Fueled by the unbridled license that the Internet affords anyone  
16 who wants to spout off anything, Mr. Passage just did that over  
17 and over.

18 The loss of awareness and good sense on his part crept into  
19 his life at the zoo. Mr. Passage's mouth didn't turn off when  
20 the lights in the studio turned off. When prompted, when  
21 prompted, he routinely spouted off his dislike for Ms. Baskin to  
22 anybody who would listen. As you will hear, on several  
23 occasions, mostly out in the open and around a number of people,  
24 he would claim that he wanted Ms. Baskin dead. No one ever took  
25 him seriously, not even a man who is now a police officer took

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Oklahoma City, OK 73102 \* 405.609.5403

1 him seriously.

2       Apparently no one filed charges over this five-year period  
3 of time where he was spouting all this stuff and no one asked for  
4 an investigation into any of these rants. It was understood that  
5 these rants and rages were just a part of the filterless Joe  
6 Exotic.

7       Well, simultaneously, and perhaps coincidentally, two very  
8 similar plans were hatched to get rid of Mr. Passage. First,  
9 Lowe's plan. Well, Lowe had this hapless crony of his, Alan  
10 Glover, who had come to South Carolina. He had known him for  
11 years -- come from South Carolina. He had known him for years.  
12 Lowe and Glover phoned up this scam to have Baskin killed, and  
13 they tried to involve Mr. Passage in their plan. The evidence  
14 will show that Lowe sought to have Passage get involved in this  
15 plan to kill Carole Baskin, and it didn't seem to make a whole  
16 lot of sense. Glover hated Mr. Passage, and I'm sure you'll hear  
17 that when he testifies.

18       What Lowe and Glover didn't really know at the time,  
19 however, was that Mr. Passage was on to them. He played along  
20 with them in an effort to gather information about what they were  
21 seemingly doing to try to harm Ms. Baskin. He played along with  
22 the fake ID. He played along with sending a phone. He played  
23 along with giving money to Mr. Glover. Why would he do that?  
24 Well, the evidence will show Mr. Passage wanted the net benefit  
25 of this whole phony scheme that Jeff Lowe had cooked up, and that

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U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 was Glover's going to be gone. He's going back to South  
2 Carolina. He's out of my hair. My problems are solved with that  
3 particular person.

4 The evidence will show that Passage's plan worked out about  
5 how he envisioned it would. Glover did go back to South  
6 Carolina. And that was the end of it. Nothing more was  
7 expected. Nothing more happened. That was all there was to it.

8 Now, the evidence will show that Mr. Passage -- if you were  
9 going to hire a hit man, you would not hire Alan Glover. No one  
10 in their right mind would hire Alan Glover to do any task. The  
11 evidence will also show Mr. Passage had already decided, during  
12 this period of time, to exit from the park. He already had his  
13 exit plan in place. He was tired of it. He was tired of the  
14 park. He was tired of the legal business. And so he had already  
15 made his own plan.

16 He had actually -- you'll hear evidence that he cozied up to  
17 PETA, the People for Ethical Treatment of Animals, a very large  
18 animal rights organization. Mr. Passage got with PETA and he  
19 started unloading his animals at the park in the fall of 2017.  
20 Again, he had had it. He was ready to go. He joined the enemy  
21 and he started getting rid of his inventory, which is completely  
22 inconsistent with wanting to bring any harm to anyone.

23 Now, again, simultaneously, and maybe coincidentally, the  
24 federal government hooked up with Mr. Garretson. And, you know,  
25 after his phone call trying to tip off Carole Baskin,

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1 Mr. Garretson was contacted by the federal government, Agent  
2 Bryant. Garretson was asked to try to get some information on  
3 Mr. Passage, about him violating some of these wildlife rules and  
4 regulations. They had been investigating Mr. Passage since 2015  
5 and didn't have a prosecution to show for it.

6 So somehow, though, during the course of this, Mr. Garretson  
7 becomes aware of this plot that Lowe and Allen have to set up  
8 Mr. Passage for a murder for hire. And he apparently believed it  
9 was for real. Seizing on an opportunity to get something on  
10 Mr. Passage, Garretson's job then became to set up a  
11 murder-for-hire scheme involving an undercover FBI agent. The  
12 problem was, Mr. Passage just really wasn't interested. Oh,  
13 sure, when he was approached by Garretson and eventually the  
14 undercover FBI agent, Mr. Passage ran his mouth, as expected, but  
15 his follow-through with their plan to kill Baskin was pretty much  
16 nonexistent.

17 The evidence will show that after this initial meeting with  
18 the undercover agent on December 8, 2017, Mr. Passage made no  
19 real effort to follow through on any of it. In fact, for months  
20 the government, the agents, tried to engage Mr. Passage into  
21 having another meeting with this undercover FBI agent. It never  
22 happened. Mr. Passage never went through with any of the things  
23 that the undercover agent suggested that he needed to do, get a  
24 burner phone, find a firearm, do these other things. He never  
25 came up with money. He never did anything. Why? Because he

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Oklahoma City, OK 73102 \* 405.609.5403



1 wasn't interested in their plan.

2 Now, I anticipate the judge will instruct you, at the end of  
3 the trial, about the essential elements of the murder-for-hire  
4 charges that are in Counts 1 and 2. And the judge will instruct  
5 you, you must find each one of those elements beyond a reasonable  
6 doubt. I think after you listen to the evidence and you consider  
7 it carefully with the instructions that the judge will give you,  
8 you will find that Mr. Passage did not cause someone to travel in  
9 interstate commerce or use a facility in interstate commerce with  
10 the intent that a murder be committed. The evidence will fall  
11 well short of that.

12 Now, separately you will hear testimony about these, what  
13 I'll call animal regulations law violations that Mr. Passage is  
14 accused of. I think you will find, after you listen to the  
15 evidence and you look at the law that the Court instructs you on,  
16 that essentially all of those remaining counts are the  
17 government's effort to cobble together laws and regulations that  
18 really have no application to Mr. Passage, and that their only  
19 effort is to assist Ms. Baskin and her fellow big-money animal  
20 rights organizations to close down small businesses who are  
21 engaging in completely legal activity that they just don't like.

22 I want you to pay close attention to how this case was  
23 investigated, pay close attention to who was investigated and who  
24 was not investigated. And pay attention to the techniques that  
25 were used. And I think that you will find, at the conclusion of

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Oklahoma City, OK 73102 \* 405.609.5403

ERIK COWIE - Direct by Ms. Maxfield-Green

1 all of the evidence, all of the evidence, that the government has  
2 failed to establish any of these crimes, as they're required to  
3 do, beyond a reasonable doubt. Thank you.

4 THE COURT: Ladies and gentlemen, the parties have  
5 invoked the rule of sequestration. I would ask any witnesses  
6 that are in the courtroom, you are to be excused from the  
7 courtroom. Do not discuss your testimony with any other witness.  
8 With the exception of those witnesses that have been excused from  
9 the rule that the parties have previously addressed, I would ask  
10 the parties to please monitor their own witnesses to be sure that  
11 nobody's in the courtroom.

12 With that, government, you may call your first witness.

13 MS. MAXFIELD-GREEN: Thank you, Your Honor. The  
14 government calls Erik Cowie.

15 (WITNESS SWORN.)

16 **ERIK COWIE**

17 **DIRECT EXAMINATION**

18 **BY MS. MAXFIELD-GREEN:**

19 Q. Good morning, Mr. Cowie. Could you please state your name  
20 for the record?

21 A. Erik John David Cowie.

22 Q. Mr. Cowie, do you know a person named Joseph Schreibvogel,  
23 who also goes by the name as Joseph Maldonado-Passage or Joseph  
24 Passage?

25 A. Yes, ma'am.

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ERIK COWIE - Direct by Ms. Maxfield-Green

- 1 Q. How do you know Mr. Passage?
- 2 A. I worked out at the G.W. Zoo for him for about five years.
- 3 Q. And where is the G.W. Zoo?
- 4 A. Wynnewood, Oklahoma.
- 5 Q. Do you see Mr. Passage here in the courtroom?
- 6 A. I do.
- 7 Q. Could you describe, just for the record, what he's wearing,
- 8 please?
- 9 A. Looks like a leather jacket, white T-shirt.
- 10 Q. How did you come to work for Mr. Passage at the G.W. Zoo?
- 11 A. Found an ad on Craigslist.
- 12 Q. All right. Did you apply online?
- 13 A. Sent an email and then they came out and got me the next
- 14 day.
- 15 Q. All right. When was that?
- 16 A. 2014. March, I believe.
- 17 Q. Who hired you?
- 18 A. Joseph.
- 19 Q. Now, in total, how -- I think you referenced this earlier,
- 20 but, in total, how long did you work for the G.W. Zoo?
- 21 A. Almost five years.
- 22 Q. When did you stop working there?
- 23 A. I believe October of last year. September, October of last
- 24 year, I believe.
- 25 Q. What were you originally hired to do?

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U.S. Courthouse, 200 N.W. 4th St.  
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ERIK COWIE - Direct by Ms. Maxfield-Green

- 1 A. Work the big cat crew.
- 2 Q. What were your job responsibilities on the big cat crew?
- 3 A. Anything from doing water checks, placing meat down for  
4 them, putting vitamins on it, observing their behaviors, seeing  
5 if they're injured or anything like that, securing cages,  
6 shifting cats. Picking up poop, obviously. All-around  
7 maintenance, cage inspections. Pretty much everything.
- 8 Q. Prior to working at the G.W. Zoo, did you have any  
9 experience with exotic cats?
- 10 A. None whatsoever.
- 11 Q. At some point during your time there, did you get promoted  
12 to a crew leader of some kind?
- 13 A. Yes. I was big cat lead.
- 14 Q. Big cat lead?
- 15 A. Yes, ma'am.
- 16 Q. And how long were you the big cat lead?
- 17 A. Oh, probably three or so years.
- 18 Q. What was your job schedule like?
- 19 A. Some -- some months I'd go three or four months straight  
20 without a day off. I mean, we'd get there at 8:45 in the morning  
21 and leave whenever we got done with everything.
- 22 Q. All right. So six -- six or seven days a week, would you  
23 say?
- 24 A. Yes.
- 25 Q. Where did you live during this time?

*Emily Eakle, RMR, CRR*

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ERIK COWIE - Direct by Ms. Maxfield-Green

- 1 A. On the park.
- 2 Q. What kind of accommodations did the park have?
- 3 A. Trailer houses.
- 4 Q. How much were you paid?
- 5 A. I got 150 bucks a week, plus I didn't have to pay any bills
- 6 or anything like that.
- 7 Q. And were you paid by cash or by check?
- 8 A. By check.
- 9 Q. Now, as the big cat crew leader, did you interact with the
- 10 cats at the zoo on a daily basis?
- 11 A. Every day.
- 12 Q. And over time -- well, first of all, how many cats, big
- 13 cats, were at the zoo during your tenure?
- 14 A. So the population fluctuated a lot. Our inventory has
- 15 changed almost on a monthly basis, so some months we'd have maybe
- 16 200 big cats out there, sometimes we'd have maybe about 100 to
- 17 150.
- 18 Q. Now, that's a lot of animals. Over time did you get to know
- 19 each one of them so that you could tell them apart from each
- 20 other?
- 21 A. Absolutely, yes.
- 22 Q. Did you play a role in raising baby cubs that were born at
- 23 the park?
- 24 A. A lot of times, yes.
- 25 Q. What does that entail?

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 A. Just a feeding schedule, cleaning up their nurseries, doing  
2 private playtimes with the public, you know, when they come in  
3 and pay for a private playtime.

4 Q. How are those animals fed? Are they allowed to -- do their  
5 mothers nurse them, or how are they fed?

6 A. No, ma'am. We pulled them pretty much day, day after  
7 they're born. There's just too many things that can go wrong  
8 inside the cage. Usually there's a male in there. So they were  
9 pretty much all bottle-fed.

10 Q. Did you enjoy working at the park with the big cats?

11 A. Absolutely.

12 Q. When you started working at the zoo, what did you observe  
13 Mr. Passage's role to be?

14 A. Entertainment director.

15 Q. And what did that -- what were his responsibilities and his  
16 duties?

17 A. Pretty much had his hand in everything. I mean, I -- I --  
18 cannot slow him down.

19 Q. So he was pretty much involved in the day-to-day activities  
20 of the park?

21 A. Yes, ma'am.

22 Q. Did he act as a boss over the employees?

23 A. Well, he had to, yes.

24 Q. Over the course of your time there did Mr. Passage stay  
25 actively involved in the daily activities of the park?

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 A. Kind of more and more towards the end was less and less on  
2 the park itself. But he was always present, always there  
3 doing -- if he wasn't in the office, he was out running around,  
4 buying stuff for -- for the park.

5 Q. We were talking earlier about the baby cubs that were born  
6 at the park. While you were there, were cubs frequently born at  
7 the park?

8 A. Yes.

9 Q. About how many cubs were born per year?

10 A. Anywhere from 30 to 50.

11 Q. 30 to 50 cubs per year?

12 A. Yes.

13 Q. And you referenced this earlier, were some of those cubs  
14 used for playtimes at the zoo?

15 A. Yes, ma'am.

16 Q. Describe for us a playtime. What do you get with a  
17 playtime?

18 A. Well, get a cub -- we try to rotate them out so we're not  
19 burning them out all the time, but they're anywhere up to about  
20 16 weeks of age. People come in and just sit down on the floor  
21 with them, and they pet them and scratch their bellies and, you  
22 know, stuff like that. And my duties in there was to make sure  
23 nobody was going to get bit or scratched. That was my job, to  
24 get bit and scratched, but, you know, they're tigers, so.

25 Q. What did the park charge for a playtime?

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 A. I think it was 55 bucks for eight minutes, per person, and  
2 five dollars for each additional person.

3 Q. So with 30 to 50 cubs being born a year at the park, did --  
4 and some of those were used for playtimes, correct?

5 A. Correct.

6 Q. Okay. Now, did some of those cubs leave the park?

7 A. Most of them did.

8 Q. What percentage would you say left the park?

9 A. Upwards of 95 percent.

10 Q. To your knowledge, based on working there, was Mr. Passage  
11 selling lion and tiger cubs?

12 A. I had nothing to do with all the paperwork. I just handled  
13 the animals. So I couldn't tell you for any degree of accuracy.

14 Q. When the cubs left the park, was it your job to prepare them  
15 to travel?

16 A. Sometimes.

17 Q. What goes into that?

18 A. Get a -- get a couple of bottles, you know, baby bottles,  
19 get some KMR, which is Kitten Milk Replacer, the powder form.  
20 Keep that refrigerated. Get a kennel, put towels inside of it.  
21 Depending on the size of the cub, if they need water or not, you  
22 know, things like that.

23 Q. Did you ever hear Mr. Passage talk about selling the cubs  
24 for money?

25 A. Couple of times.

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 Q. What do you recall him saying?

2 A. We had a litter of five lions born, and he said he had just  
3 pulled the park out of the winter rut right then and there, which  
4 is about \$25,000.

5 Q. He believed the five cubs would be worth \$25,000; is that  
6 what you said?

7 A. Yeah. Total, yeah.

8 Q. Based on your observation of Mr. Passage over the years that  
9 you worked there, did he use social media, like Facebook,  
10 YouTube, Twitter, Instagram?

11 A. Habitually.

12 Q. That was going to be my next question. Can you describe the  
13 frequency that he would use social media?

14 A. Since I don't use social media -- I don't even have a cell  
15 phone -- I couldn't tell you. But I -- every day it was  
16 something about Facebook this, Facebook that.

17 Q. To your knowledge, was he maintaining and updating his  
18 social media accounts himself?

19 A. Sometimes I think he did, and then also he had people on the  
20 side just dedicated to -- to filling out Facebook pages or -- I  
21 don't know how that all works, but --

22 Q. All right. Let's talk about the summer of 2017. At that  
23 time, about how many cats were housed at the zoo?

24 A. Upwards about 150 or so, maybe 180.

25 Q. Okay. And those 180 -- 150 to 180 tigers, were they all in

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 individual cages?

2 A. No.

3 Q. How were they housed?

4 A. Usually, if they're all males, we'll keep them together.

5 You can have two females and a male in a cage and you'll be good,  
6 but for the most part it would be male, female.

7 Q. At that time were the big cat cages full to capacity or were  
8 there any empty cages?

9 A. There was a couple times we were completely full.

10 Q. In July of 2017 did the G.W. Zoo receive a shipment of more  
11 cats?

12 A. Yes.

13 Q. What were the circumstances -- circumstances of that?

14 A. They'd come up from Florida. It was 22 of them. And,  
15 evidently, the lady who had them got sued or something like that,  
16 I'm not really exactly sure, but that's where they came from.

17 Q. Where did you put them?

18 A. In the cages we had open.

19 Q. Okay. And at that point were there any empty cages?

20 A. Yes.

21 Q. Are you familiar with the Merriweather Circus?

22 A. Yes, ma'am.

23 Q. How are you familiar with the Merriweather Circus?

24 A. Trey, who is the cat handler there, he rents space at the  
25 zoo every winter, so it's -- cats have -- basically, they go on

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 vacation. They don't tour in the summertime.

2 Q. So would he bring his cats to the zoo?

3 A. Yes, ma'am.

4 Q. When did Trey Key's animals typically arrive each year?

5 A. Usually around October.

6 Q. Were you working at the zoo in October 2017?

7 A. Yes, ma'am.

8 Q. In October 2017, did you see Mr. Passage shoot some of the  
9 zoo's tigers?

10 A. I didn't see it, but I knew what was going on.

11 Q. Tell us about what you remember about that event.

12 A. We had some new employees and I had to keep them off park,  
13 which basically means we kept them in the commissary, which is a  
14 food preparation area for our herbivores and omnivores. And we  
15 keep them there because he didn't want them knowing what's going  
16 on.

17 Q. Who didn't want them knowing?

18 A. Joe and Reinke, John Reinke. And -- well, they tranquilized  
19 them and then I heard the gunshots.

20 Q. Okay. Let's break that down a little bit. What time of day  
21 was it?

22 A. It was after dark.

23 Q. And you say they "tranquiled" the animals. You mean  
24 tranquilized them?

25 A. Yes, ma'am.

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 Q. Did you assist -- well, first, who tranquilized them?

2 A. I wasn't physically there, so I really can't tell you with  
3 specifics, but the only people who had access to the drugs and  
4 the weapons was Joe and John Reinke.

5 Q. Did you assist in any way in getting the animals ready to be  
6 tranquilized?

7 A. No, ma'am. I was watching the other employees.

8 Q. Did you assist in any way in gathering the animals together?

9 A. No.

10 Q. All right. Did the park have a veterinarian?

11 A. At that time, yes.

12 Q. Who was it?

13 A. Doc Green.

14 Q. Was she there that night?

15 A. I don't think so.

16 Q. Now, you said you were with the employees at that point in  
17 the commissary, correct?

18 A. Uh-huh.

19 Q. How did you know what was about to happen?

20 A. Well, it had been discussed and they were asking me which  
21 cats were -- were not breeders.

22 MR. EARLEY: Your Honor, I'll object, unless there's  
23 some directive as far as who's saying what.

24 THE COURT: Sustained.

25 Q. (By Ms. Maxfield-Green) Mr. Cowie, who was saying this?

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 Who did you hear these conversations from during that day?

2 A. From Joe and Reinke.

3 Q. Okay. So you can go ahead. From -- what did you hear from  
4 Mr. Passage about what was happening that day?

5 A. Basically, we needed to make cage space and we were looking  
6 for cats who weren't producing any cubs. And I kept getting  
7 asked if these cats here have had cubs or these cats here have  
8 had cubs since I'd been there. And they had not, and so  
9 apparently they were dispensable.

10 Q. So you say you didn't see the tigers being shot, correct?

11 A. Correct.

12 Q. Did you hear gunshots?

13 A. Yes, ma'am.

14 Q. How many?

15 A. Five all day.

16 Q. Which tigers were shot?

17 A. There was two cats in cage 40, two cats in cage 42. It was  
18 Samson and Delilah, two white Bengals. There was also Trinity  
19 and Lauren in cage 40. And then Cuddles, who was in cage 81.

20 Q. All right. Tell me about Cuddles. What kind of tiger was  
21 he?

22 A. Siberian.

23 Q. What kind of health was he in?

24 A. He was an old cat, but he was actually in really good  
25 health. He was kind of a clown, so he was -- he was in good

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 spirits. He was just a single male, old male by himself.

2 Q. Okay. You mentioned Samson and Delilah. Is that a male and  
3 female?

4 A. Yes, ma'am.

5 Q. What was their health like?

6 A. They were good, just not producing any cubs.

7 Q. Were they limping?

8 A. No.

9 Q. What about -- you mentioned Lauren and Trinity. Is that a  
10 male and female?

11 A. Yes, ma'am. Lauren is the male. He did limp.

12 Q. He did or did not?

13 A. He did.

14 Q. He did limp?

15 A. Uh-huh.

16 Q. What about Trinity?

17 A. No, she was good.

18 Q. What was their overall health like?

19 A. Great.

20 Q. Had they been producing cubs?

21 A. No, ma'am.

22 Q. What did you hear Mr. Passage say about why he shot these  
23 five tigers?

24 A. Well, it was just --

25 MR. EARLEY: Your Honor, I think that's asked and

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ERIK COWIE - Direct by Ms. Maxfield-Green

1 answered.

2 THE COURT: He can answer.

3 THE WITNESS: Could you repeat the question, please?

4 Q. (By Ms. Maxfield-Green) What did you hear Mr. Passage say  
5 about why he shot the five tigers?

6 A. Make room for the cats coming from Merriweather Circus.

7 Q. Now, these five tigers were chosen. Were there other  
8 animals with health problems that he did keep?

9 A. Uh-huh.

10 Q. Why did he keep those animals?

11 A. 'Cause they were making babies.

12 THE COURT: Sir, you need to answer yes or no. It's  
13 hard for the court reporter to take down uh-huh and huh-uh, so if  
14 you would please answer yes or no.

15 THE WITNESS: Yes, sir.

16 Q. (By Ms. Maxfield-Green) Can you say that again?

17 A. One more time.

18 Q. Why did he keep other animals that might have had limps or  
19 health problems?

20 A. I couldn't say.

21 Q. During or immediately after you heard the gunshots, did you  
22 hear Mr. Passage say anything about what had just happened?

23 A. I did. I was walking down the backside of the park and he  
24 was coming up from Cuddles' cage. And he says, "Jesus, if I knew  
25 it was this easy, I'd just go blast them all."

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ERIK COWIE - Cross by Mr. Earley

1 Q. What happened to the tiger carcasses?

2 A. They dug a big hole with a skid steer in the back pasture  
3 and buried them.

4 Q. Did you dig that hole?

5 A. No, ma'am.

6 Q. Who did?

7 A. Dylan West.

8 Q. Now, after those carcasses had been pulled to the back, did  
9 you let the employees go?

10 A. Yes, ma'am.

11 Q. And did they -- did the employees know what had happened?

12 A. Not really.

13 Q. When the cages for Samson and Delilah and Lauren and Trinity  
14 and Cuddles were empty, what animals went into them?

15 A. There was two -- two of Trey's tigers went to cage 40 and  
16 cage 42, and then Francis, the lion, went out to cage 81, where  
17 Cuddles was.

18 Q. And were those all Trey Key's tiger -- animals from the  
19 Merriweather Circus?

20 A. Yes, ma'am.

21 MS. MAXFIELD-GREEN: Pass the witness.

22 THE COURT: Cross-examination.

23 **CROSS-EXAMINATION**

24 **BY MR. EARLEY:**

25 Q. So you referred to Mr. Passage as the "entertainment

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ERIK COWIE - Cross by Mr. Earley

1 director."

2 A. That's what he liked to call himself, yes.

3 Q. All right. And was there a studio on site at the park?

4 A. Yes, sir.

5 Q. And did you ever go into the studio?

6 A. Every once in a while, yes.

7 Q. All right. What would take place in the studio?

8 A. There for a while, he had a Internet TV show, Joe Exotic TV.  
9 They'd do a lot of editing up there. You know, the photographers  
10 and the cameramen would follow the crews around some days, and  
11 they'd do all their editing up in there.

12 Q. So this TV show that was produced there, were you ever there  
13 while it was being produced?

14 A. Not the production process, no, sir.

15 Q. Were you ever on the show?

16 A. Yes, sir.

17 Q. All right. So tell me about that. Who was -- how many  
18 people were involved in the production of this show?

19 A. Sometimes it was one guy, sometimes there was up to five or  
20 six of them.

21 Q. All right. And were you there when Mr. Passage did any of  
22 these shows where he was talking about Carole Baskin?

23 A. I've seen them.

24 Q. Well, were you there?

25 A. No, sir.

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ERIK COWIE - Cross by Mr. Earley

1 Q. All right. Now, was there a standard meeting of all  
2 employees at the park?

3 A. Yes, sir. 8:45 in the morning, then whenever we got done at  
4 night.

5 Q. All right. So who was required to attend these morning  
6 meetings?

7 A. Everybody.

8 Q. And were they every morning?

9 A. Yes, sir.

10 Q. And during any of these morning meetings, what would be  
11 discussed?

12 A. It all depends on what was lined up for the day, you know,  
13 what side of the park are you going to be cleaning today, who's  
14 going to be doing water checks. Just normal park business.

15 Q. All right. Was there anything that you would consider not  
16 related to park business that was discussed in these meetings?

17 A. Oh, sure.

18 Q. Okay.

19 A. You know, just discussing the news or, you know, who had a  
20 birthday or stuff like that.

21 Q. All right. Anything that you recall over the four years you  
22 were there that struck you as anything unusual being discussed at  
23 these meetings?

24 A. Well, lot of times he'd bring up Carole Baskin.

25 Q. Okay. What would he say about her?

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ERIK COWIE - Cross by Mr. Earley

1 A. Just sick of her, tired of it. I don't even know all  
2 these -- going to court, lawyer bills. Just constantly.

3 Q. Just complaining about --

4 A. Yes, sir.

5 Q. -- generally what's happening between Ms. Baskin and him in  
6 the legal arena, correct?

7 A. Yes, sir.

8 Q. Anything else?

9 A. Well, he did mention the fact that he'd -- he'd like to see  
10 her dead.

11 Q. Okay. Did he say that on a number of occasions?

12 A. Yes, sir.

13 Q. And did he say that in front of all of these employees?

14 A. Several of the employees, yes, sir.

15 Q. Now, your job description, I guess you said, at least -- you  
16 were mostly dealing with the large cats; is that correct?

17 A. All carnivores, yes.

18 Q. And I take it that your experience with them was movement  
19 from one cage to another? Is that true?

20 A. Sometimes, yes. We'd have shift pens. We don't go in there  
21 and clean with the big cats. We shift them in these little  
22 lockdowns, and then I'd go in and then let the rest of the crew  
23 in. We'd clean it up and put meat down, let the cats back in.  
24 Usually takes about 20 minutes.

25 Q. So how often did you have an opportunity to observe these

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ERIK COWIE - Cross by Mr. Earley

- 1 cats close-up?
- 2 A. Every day.
- 3 Q. And --
- 4 A. All of them.
- 5 Q. -- when Dr. Green was out there, were any of those cats, you
- 6 know, tranquilized for treatment purposes?
- 7 A. Yes, sir.
- 8 Q. Were you present during that time?
- 9 A. Several -- several times, yes.
- 10 Q. And you mentioned that the inventory changed pretty much
- 11 monthly, correct?
- 12 A. Almost, yeah.
- 13 Q. So cats would come in and cats would go out; is that right?
- 14 A. Yes, sir.
- 15 Q. Okay. And you talked a little bit about this playtime that
- 16 was there. People, I guess -- who were these people that would
- 17 come in and pay that money for playtime?
- 18 A. Ninety percent of the customers up there come in from the
- 19 Dallas-Fort Worth region. And we did tours twice a day, 11:30
- 20 and 2:30, so that also entailed a playtime with a baby tiger.
- 21 But then throughout the day, people can still go to the nursery
- 22 by themselves and --
- 23 Q. Did you conduct any of these tours?
- 24 A. Yeah.
- 25 Q. So what's the subject matter of these tours?

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ERIK COWIE - Cross by Mr. Earley

1 A. Basically, just lining out our mission statement, what we're  
2 all about, the preservation of tigers, what we can do to  
3 contribute to the -- the propagation of the species, working with  
4 hybrid cats as well, and --

5 Q. All right. So your message was given out during these  
6 tours, correct?

7 A. Yes, sir.

8 Q. And so these people that were coming in to do this playtime  
9 with these -- these cubs are just regular folks off the street,  
10 right?

11 A. Yes, sir.

12 Q. Okay. Who, for whatever reason, wanted to have an  
13 opportunity to get close to one of these small cubs, correct?

14 A. Yes.

15 Q. All right. Now, Dr. Green was the park veterinarian; is  
16 that right?

17 A. Yes, sir.

18 Q. And she was the person who authorized, I guess, treatment  
19 and -- and was the one to call if there was something wrong,  
20 correct?

21 A. Yes, sir.

22 Q. Have you had any formal training in veterinary care?

23 A. No, sir.

24 Q. So you're not allowed to make any sort of medical decision  
25 with respect to any of these cats on your own, correct?

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ERIK COWIE - Cross by Mr. Earley

- 1 A. Except for reporting injuries and irregular behaviors, yes.
- 2 Q. Sure. But you don't have any decision-making authority?
- 3 A. No, sir.
- 4 Q. Now, were there USDA inspectors that would come to this
- 5 park?
- 6 A. Yes, many times.
- 7 Q. All right. So was that on a regular basis?
- 8 A. Well, they'd just kind of pop in. All depends. One year,
- 9 we got inspected, I think, like eight or nine times.
- 10 Q. All right. So what would they do when they came in?
- 11 A. They would walk from one end of the park, inspecting every
- 12 single cage. They're looking for how tall your grass is.
- 13 They're looking for how big the wells are inside the cage, how
- 14 tall the cages are. And if they find an infraction, they'll
- 15 either give us some time to correct that or slap us with a fine.
- 16 Q. All right. So those inspections occurred frequently?
- 17 A. Yes.
- 18 Q. And did you have any interaction with these individuals when
- 19 they were there inspecting?
- 20 A. Very, very little.
- 21 Q. Okay. Did you know who they were?
- 22 A. Yes.
- 23 Q. All right. Now, you were interviewed about these things
- 24 that you have testified to about the -- your observations of what
- 25 happened in October 2017. You were interviewed about that

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ERIK COWIE - Cross by Mr. Earley

- 1 August 3rd, 2018; isn't that right?
- 2 A. I believe so.
- 3 Q. All right. That was after Mr. Passage had left the park,  
4 correct?
- 5 A. Yes.
- 6 Q. And who was running the park at that time?
- 7 A. Jeff and Lauren Lowe.
- 8 Q. All right. So when the agents in this case came out to talk  
9 to you about this matter, you were working for Mr. Lowe?
- 10 A. Yes, sir.
- 11 Q. Okay. And you knew that Lowe and Mr. Passage had had a  
12 falling out, correct?
- 13 A. Yes.
- 14 Q. All right. And Lowe made you available to these folks to  
15 talk to them about these matters, correct?
- 16 A. Yes, sir.
- 17 Q. All right. And prior to August 3rd, 2018, when Mr. Lowe had  
18 you come in and speak to these people, you hadn't mentioned to  
19 anyone your concerns about euthanasia of these animals back in  
20 October 2017, had you?
- 21 A. No, sir.
- 22 Q. You didn't mention it to USDA inspectors, did you?
- 23 A. No, sir. Again, I didn't handle any of the paperwork.
- 24 Q. You didn't mention it to Dr. Green, did you?
- 25 A. I don't believe so, no.

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ERIK COWIE - Cross by Mr. Earley

1 Q. Okay. You didn't mention any perceived wrongdoings that  
2 were supposedly maybe going on at the park to any law enforcement  
3 agent, did you?

4 A. I did not.

5 Q. And you didn't mention anything that you might have thought  
6 was going on that might have been wrong to any other  
7 organization, did you?

8 A. No, sir.

9 Q. All right. And you didn't attempt to pass any of this  
10 information that you told these people about in August 2018, you  
11 didn't attempt to pass that along anonymously even to anyone, did  
12 you?

13 A. Not really, no.

14 Q. Okay. So the first time that any mention is made of putting  
15 down these animals in October 2017, by you, is when Lowe  
16 presented these people to you, correct?

17 A. Yes.

18 Q. Are you still working at the park?

19 A. No, sir.

20 Q. Why did you leave?

21 A. Because I knew all this was going on and it was going to be  
22 bad. I had to walk away.

23 Q. So you left Mr. Lowe?

24 A. Yes.

25 Q. All right. Now, you mentioned that these Merriweather

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ERIK COWIE - Cross by Mr. Earley

1 animals were coming in in October 2017. How many were there?

2 A. Three; two tigers and a lion.

3 Q. Okay. And you mentioned that based on your observation of  
4 what happened with these five tigers, there would be, what, three  
5 empty -- empty cages, correct?

6 A. Correct.

7 Q. So how many cages were necessary for the Merriweather Circus  
8 tigers?

9 A. Three cages.

10 Q. And was that because the two tigers were kept separate?

11 A. Yes.

12 Q. And how many animals were on the park at that specific time,  
13 do you know?

14 A. We were pretty much at capacity, so --

15 Q. Do you know that for a fact?

16 A. All my cages were full, yes.

17 Q. Well, were there other cages?

18 A. Not capable of handling the tigers, no.

19 Q. You mentioned to Ms. Green that there were other animals  
20 that were, I guess, maybe not in good health that were left  
21 alone. Did you -- did you hear that question?

22 A. Yes.

23 Q. And -- but you don't have any experience with those other  
24 animals?

25 A. I do not, except for day-to-day observations.

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ERIK COWIE - Cross by Mr. Earley

1 Q. And, again, you're not trained to determine whether there's  
2 an animal who might be in pain, correct?

3 A. Correct.

4 Q. You're not trained in any scientific capacity to judge  
5 whether or not an animal needs to be euthanized, correct?

6 A. You are correct.

7 MR. EARLEY: May I have just a moment?

8 THE COURT: Sure.

9 Q. (By Mr. Earley) You mentioned in your testimony that toward  
10 the end Mr. Passage was less involved in the park, correct?

11 A. Correct.

12 Q. And isn't it true, in the fall of 2017, Mr. Passage was busy  
13 doing other things outside the park?

14 A. Yes.

15 Q. In fact, he was probably absent from the park regularly,  
16 correct?

17 A. At least once, twice a day, yes.

18 Q. All right. And -- now, did Mr. Passage at one point fire  
19 you?

20 A. Yeah.

21 Q. And when was that?

22 A. I can't remember the exact date.

23 Q. Was it in 2016?

24 A. Probably correct, yes.

25 Q. Why did he fire you?

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ERIK COWIE - Cross by Mr. Earley

- 1 A. You know, actually a big misunderstanding, because I'd been  
2 working for three months straight without a day off. And I was  
3 getting a day off and I knew I was getting a day off, and I got  
4 wasted. And I was still drunk in the morning and I didn't go  
5 into work. And he was going to fire me, so --
- 6 Q. So you were intoxicated at work, correct?
- 7 A. It was my day off.
- 8 Q. You work around large cats, correct?
- 9 A. I don't work drunk, sir.
- 10 Q. But you were drunk at the park, correct?
- 11 A. Yes.
- 12 Q. And he fired you, correct?
- 13 A. Yes.
- 14 Q. And then he gave you an opportunity to come back after you  
15 cleaned yourself up, correct?
- 16 A. Yeah.
- 17 Q. Now, did Mr. Lowe provide you any benefits when you were  
18 working for him, outside of your regular pay?
- 19 A. No.
- 20 Q. Did he provide you with any free dental work?
- 21 A. He talked about it.
- 22 Q. All right. What was he offering you?
- 23 A. Just to fix my teeth.
- 24 Q. And how was that going to be done?
- 25 A. I don't even know.

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ERIK COWIE - Redirect by Ms. Maxfield-Green

1 Q. He didn't discuss the particulars with you --

2 A. No, sir.

3 Q. -- about how that would be paid for?

4 A. He just said I needed to go set up the appointment and they  
5 would take care of the rest.

6 Q. That he would take care of it?

7 A. Yes, sir.

8 MR. EARLEY: Nothing further.

9 THE COURT: Ms. Green, we're knocking on the door of  
10 our morning break. Do you have much in the way of redirect?

11 MS. MAXFIELD-GREEN: No, Your Honor, a few minutes.

12 THE COURT: Please proceed.

13 **REDIRECT EXAMINATION**

14 **BY MS. MAXFIELD-GREEN:**

15 Q. All right. Mr. Cowie, Mr. Earley just talked to you about  
16 an incident where you were drunk at the park on your day off. Do  
17 you remember that?

18 A. Uh-huh. Yes.

19 Q. Where did you live?

20 A. On the park.

21 Q. So your residence was on the park as well?

22 A. Yes, ma'am.

23 Q. And so if you are drunk on your day off at your own  
24 residence, you're also still at the park, correct?

25 A. Correct.

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ERIK COWIE - Redirect by Ms. Maxfield-Green

- 1 Q. And you said -- told Mr. Earley that you never worked drunk?
- 2 A. No, ma'am. Head on a swivel.
- 3 Q. Explain that. What would be the downside of trying to work
- 4 drunk?
- 5 A. Getting ate.
- 6 Q. By a tiger, correct?
- 7 A. Yes. Hopefully a tiger.
- 8 Q. Why do you say "hopefully a tiger"?
- 9 A. A lion would just rip you apart all day long.
- 10 Q. Fair enough.
- 11 All right. Now, Mr. Earley asked you, and you admitted you
- 12 have no formal training in veterinary medicine, correct?
- 13 A. Correct.
- 14 Q. Now, over the course of five years of working at the park --
- 15 you testified earlier that you interacted with these animals on a
- 16 daily basis, correct?
- 17 A. Yes, ma'am.
- 18 Q. Did you feel close to these animals, like you knew them?
- 19 A. Yeah. More like a companion. I wasn't just the meat guy.
- 20 Q. Did the animals respond well to you?
- 21 A. Yes.
- 22 Q. How so?
- 23 A. Put it to you this way: I've actually thought about
- 24 sneaking on the park at night just to go see my babies, but
- 25 they'd give me away within about ten seconds.

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ERIK COWIE - Redirect by Ms. Maxfield-Green

- 1 Q. How do you think they would give you away?
- 2 A. Because they'd start meowing at me.
- 3 Q. Do they recognize you?
- 4 A. Yeah. They can tell your stride, by the way you walk, your  
5 voice.
- 6 Q. So based on the relationship you built with these cats, do  
7 you think you would have known if one was sick?
- 8 A. Oh, yeah.
- 9 Q. Do they sound different when they're sick?
- 10 A. They do. They actually become lethargic. It's not like  
11 they can talk to you or anything like that, but, I mean,  
12 obviously from -- injuries from fighting with another cat, that's  
13 painfully obvious. But, you know, when they're not acting the  
14 right way like they're supposed to be, they're not running up to  
15 you like they normally do, you know there's something wrong.
- 16 Q. And you would have noticed if these animals were limping,  
17 correct?
- 18 A. Correct.
- 19 Q. Mr. Earley, he referred to it as euthanasia. Do you  
20 consider what Mr. Passage did in shooting the tigers to be  
21 euthanasia?
- 22 A. In a matter of speaking, yes.
- 23 Q. Did you believe they needed to be put down for health  
24 purposes?
- 25 A. Not all at the time, no.

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ERIK COWIE - Redirect by Ms. Maxfield-Green

- 1 Q. I'm talking about the five tigers.
- 2 A. The five?
- 3 Q. Yes.
- 4 A. No, they shouldn't have. But the deal is, it's not my park.
- 5 Q. You weren't -- you didn't own the park, did you?
- 6 A. No.
- 7 Q. You didn't own those cats, did you?
- 8 A. No.
- 9 Q. Who did?
- 10 A. Joseph Maldonado.
- 11 Q. Who made all the decisions for the park?
- 12 A. Yes.
- 13 Q. Now, Mr. Earley asked you had the -- he established with you
- 14 that you didn't say anything to anyone about what had happened
- 15 until August of 2018, correct?
- 16 A. Correct.
- 17 Q. Why not?
- 18 A. It's always been a policy on the park, what happens on the
- 19 park stays on the park. It's nobody else's business but our own.
- 20 Q. Who made up that policy?
- 21 A. I believe Joseph did. And, actually, when you filled out
- 22 your paperwork for an application, you would sign a waiver for
- 23 \$1 million to not discuss what's going on on the park.
- 24 Q. There was a written --
- 25 A. Yes, ma'am.

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ERIK COWIE - Redirect by Ms. Maxfield-Green

1 Q. -- nondisclosure agreement?

2 A. Like a contract kind of thing, yeah.

3 Q. And what was it about the \$1 million? How did that play in?

4 A. Possible lawsuit against you, if you talked about what's  
5 going on in the park.

6 Q. And Mr. Earley asked you -- established with you that you  
7 were working for Mr. Lowe at the time that you spoke to federal  
8 agents about what had happened. Did the fact that you worked for  
9 Mr. Lowe influence what you told the government on that day or  
10 any other day?

11 A. No, not at all.

12 MS. MAXFIELD-GREEN: That's all for the government,  
13 Your Honor.

14 THE COURT: Mr. Earley, you have more than just a  
15 couple?

16 MR. EARLEY: No, I don't.

17 THE COURT: Okay.

18 **REXCROSS-EXAMINATION**

19 **BY MR. EARLEY:**

20 Q. Okay. So I believe you have established that you were very  
21 close to these animals that were put down in October of 2017,  
22 correct?

23 A. Correct.

24 Q. So close that you would think about sneaking in to visit  
25 with them at night, correct?

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ERIK COWIE - Redirect by Ms. Maxfield-Green

1 A. No, this is after I've left the park. I'm talking about  
2 just going back and seeing my babies.

3 Q. Okay. So close enough that, even to this day, you would  
4 have gone back to visit with them --

5 A. Yes.

6 Q. -- if you could?

7 A. Yes.

8 Q. Correct? All right. So -- and your testimony is there was  
9 absolutely nothing wrong with these animals and that they should  
10 not have been put down. Is that pretty much what you're saying?

11 A. Pretty much, sir, yes.

12 Q. All right. And so if you're that close to them and you felt  
13 that something that wrong had happened, why didn't you tell  
14 somebody?

15 A. First of all, I signed that agreement. Secondly, if --  
16 whenever we had to put any cats down, if I wasn't there to help  
17 them do this, then my -- my only solace I get out of this, at  
18 least they're close to me and, you know, they trust me. And so  
19 it made me feel -- you know, if I wasn't there to do it, somebody  
20 else would be.

21 Q. But you never did anything. You never called anyone. You  
22 only said anything when these people showed up, correct?

23 A. Correct.

24 MR. EARLEY: Nothing further.

25 THE COURT: Thank you, Mr. Cowie. You may step down.

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DYLAN WEST - Direct by Ms. Maxfield-Green

1 Ladies and gentlemen of the jury, we will take our morning  
2 break. Fifteen minutes. The court will remain in recess -- I  
3 mean in attendance and stay seated, please, as the jury leaves.

4 (Jury exited.)

5 THE COURT: Court will be in recess for 15 minutes. If  
6 I could see lead counsel in chambers, please.

7 (Break taken.)

8 (The following record was made in open court, in the  
9 presence of all parties, counsel, and in the presence and hearing  
10 of the jury.)

11 THE COURT: Court will come back to order. The record  
12 will reflect the jury has returned in the jury box.

13 Government, next witness.

14 MS. MAXFIELD-GREEN: Government calls Dylan West.

15 (WITNESS SWORN.)

16 MS. DAVIS: Please take a seat.

17 DYLAN WEST

18 DIRECT EXAMINATION

19 BY MS. MAXFIELD-GREEN:

20 Q. Good morning, Mr. West. Could you state your name for the  
21 record, please?

22 A. Dylan West.

23 Q. Mr. West, where do you currently live?

24 A. Elmore City.

25 Q. Is that here in Oklahoma?

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DYLAN WEST - Direct by Ms. Maxfield-Green

- 1 A. Yes.
- 2 Q. Are you from Oklahoma?
- 3 A. Yes, ma'am.
- 4 Q. Do you have a job?
- 5 A. Yes.
- 6 Q. What do you do?
- 7 A. Working at a welder fabricating place.
- 8 Q. Mr. West, do you know a person named Joseph Schreibvogel,
- 9 who also goes by the names Joseph Maldonado-Passage or Joseph
- 10 Passage?
- 11 A. Yes, ma'am.
- 12 Q. And how do you know Mr. Passage?
- 13 A. He gave me a job at the G.W. Exotic Animal Zoo.
- 14 Q. Okay. Do you see him here in the courtroom today?
- 15 A. Yes, ma'am.
- 16 Q. Can you just describe briefly for the record what he's
- 17 wearing?
- 18 A. Looks like a gray jacket and a tie.
- 19 Q. Now, you said that Mr. Passage gave you a job at the G.W.
- 20 Zoo. Is that in Wynnewood, Oklahoma?
- 21 A. Yes, ma'am.
- 22 Q. And when was that, that you started working at the zoo?
- 23 A. I'm going to say February the 24th.
- 24 Q. Of what year?
- 25 A. 2017.

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DYLAN WEST - Direct by Ms. Maxfield-Green

1 Q. Okay. And how did you find that job? How did you come to  
2 find the job and get to working there?

3 A. I was with a girl that was working there. And I was three  
4 weeks without a job and she told me that they needed help, to put  
5 an application in. So I went up front and put an application in,  
6 and within 30 minutes he -- Mr. Joe pulled me to the back and  
7 gave me an interview and gave me a date to start.

8 Q. In total, how long did you work for the G.W. Exotic Animal  
9 Park?

10 A. Probably about a year and a half to two years.

11 Q. About when did you stop working there?

12 A. October of 2018.

13 Q. When you got hired, what was your first job? What were you  
14 hired to do?

15 A. To work on a crew on small animals.

16 Q. And did you have that same job the whole time or did you  
17 take on different responsibilities?

18 A. I took on different responsibilities.

19 Q. What else did you end up doing?

20 A. Within three or four days of starting, I ended up getting  
21 moved to the cat crew, working under Erik. And then I was on cat  
22 crew for about seven months, and then I ended up taking over the  
23 crew leading over small animals.

24 Q. When you say "Erik," was that Erik Cowie?

25 A. Yes.

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DYLAN WEST - Direct by Ms. Maxfield-Green

- 1 Q. What was your job schedule like?
- 2 A. I worked every day except for Wednesday.
- 3 Q. Okay. And did you have set hours?
- 4 A. 8:45 to whenever everything got done and we had our nightly  
5 meeting and Mr. Joe would tell us to go home.
- 6 Q. Where did you live during this time?
- 7 A. We -- I stayed at the trailer house that were at the  
8 property of the zoo.
- 9 Q. Okay. How much were you paid?
- 10 A. 300 a week.
- 11 Q. Now, during your time at the zoo, what did you observe Joe's  
12 role to be?
- 13 A. Be the boss and to be -- to make sure we got the -- got the  
14 staff the things they needed to be able to take care of the  
15 animals.
- 16 Q. Was he pretty much there on a daily basis?
- 17 A. For the most part, yes, unless he had to go and -- to the  
18 store and get us stuff. Or there was a lot of times that he  
19 would go and -- you know, to Texas, to a wrestling match on some  
20 Fridays, like once a month or so.
- 21 Q. Were you working at the zoo in October of 2017?
- 22 A. Yes, ma'am.
- 23 Q. In October of 2017, did you see Mr. Passage shoot some of  
24 the zoo's tigers?
- 25 A. Yes, ma'am.

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DYLAN WEST - Direct by Ms. Maxfield-Green

1 Q. Can you tell us what happened?

2 A. We was there and he had one gentleman put them asleep. And  
3 then he walked over there with -- after they got them into the  
4 catch pen, he had them put to sleep and then he walked over there  
5 with a .410 and put it up against the head and pulled the  
6 trigger.

7 Q. Did you see him do it?

8 A. Yes, ma'am.

9 Q. How many tigers were in that catch pen?

10 A. One. Because there was two catch pens, so the pairs were in  
11 each catch pen.

12 Q. Okay. Now, to the best of your recollection, which tigers  
13 did he shoot?

14 A. I'm not sure what their names were. I know -- I know -- I  
15 think four of them was orange and one was a white one.

16 Q. Do you remember their -- the sex of the animals at all?

17 A. I know they're -- the fifth one was a male, and then the  
18 other four were pairs, a female and male pairs.

19 Q. Now, in your opinion, just in your observation of the cats  
20 by working there, did they appear to be in poor health?

21 A. No.

22 Q. The pairs, the male/female pairs, to your knowledge from  
23 working at the park, had they ever produced cubs?

24 A. The two females that were killed, no. I do not remember  
25 them having -- ever having cubs the whole time I was there.

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DYLAN WEST - Direct by Ms. Maxfield-Green

1 Q. Did Mr. Passage say anything about why he was shooting the  
2 tigers?

3 A. To make more room for other animals coming in.

4 Q. To your knowledge, based on what you heard him say, was  
5 there any reason he picked those five as opposed to any other  
6 five?

7 A. Because they were old and some of them were limping.

8 Q. Did the zoo have a veterinarian?

9 A. Yes.

10 Q. Who was the vet?

11 A. Doc Green.

12 Q. Was she there when the tigers were shot?

13 A. No, ma'am.

14 Q. To your knowledge, had she come by maybe the day before to  
15 examine them or --

16 A. No, ma'am.

17 Q. Once Mr. Passage shot the tigers, did he ask you to do  
18 something?

19 A. Yes. He asked me to load them up in the bucket of the skid  
20 steer and to haul them to the back of the property and bury them.

21 Q. Did you do that?

22 A. Yes, ma'am.

23 Q. And so explain for us, what is a skid steer and how did you  
24 use it to get the animals back to the property -- back of the  
25 property?

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DYLAN WEST - Direct by Ms. Maxfield-Green

1 A. It's like a bucket. It has a little cab. It's four wheels.  
2 You sit in it. And it has feet controls and arm controls. The  
3 arm controls makes you move back and forth and turn, and then you  
4 can move them side to side to make -- to work the bucket, make  
5 the bucket go up or tilt the bucket.

6 Q. Okay. And so you were able to scoop up the animals in the  
7 bucket?

8 A. It was me and one other zookeeper that helped me pick up the  
9 tigers and put them in the bucket.

10 Q. Is that something you had to do one at a time, or could you  
11 get all five of them in there?

12 A. One at a time.

13 Q. So you said you took them to a place on -- was it on the zoo  
14 property?

15 A. Yes.

16 Q. What was that property -- that piece of property used for?

17 A. Mainly to dump trash.

18 Q. Okay. And did you use the skid steer to dig a hole?

19 A. Yes, ma'am.

20 Q. How deep did you bury the tigers?

21 A. Estimate, I would probably have to say about 5 feet.

22 Q. How did you position them? Were they, like, all on top of  
23 each other, in a row, otherwise?

24 A. They were laid out one by one in a row.

25 Q. And then after you put them in the hole, did you put dirt

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DYLAN WEST - Direct by Ms. Maxfield-Green

1 back on top of them?

2 A. Yes, ma'am.

3 Q. Now, in October of this past year, of 2018, were you  
4 contacted by Special Agent Matt Bryant with the U.S. Fish &  
5 Wildlife Service?

6 A. Yes, ma'am.

7 Q. And did he ask you questions about this incident as well?

8 A. Yes, ma'am.

9 Q. And did you tell him the same things then that you told us  
10 here today?

11 A. Yes, ma'am.

12 Q. Did he ask you to show him where you'd buried the tigers?

13 A. He did, but I was not able to take off work and be there the  
14 day that they were digging them up, so I went out there the  
15 weekend before and flagged them.

16 Q. Okay. Did you -- explain what you did by -- what you mean  
17 by flagging them.

18 A. I put stakes down in the ground and tied ribbons around the  
19 areas that they were in.

20 Q. And at that time did you still remember where you'd buried  
21 them?

22 A. Yes, ma'am.

23 MS. MAXFIELD-GREEN: Government passes the witness.

24 THE COURT: Thank you.

25 Cross-examination?

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DYLAN WEST - Cross by Mr. Earley

**CROSS-EXAMINATION**1  
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25**BY MR. EARLEY:**

Q. Now, you stated you went to work at the park in February of 2017; is that right?

A. Yes, sir.

Q. So you were there, obviously, much less than a year when this incident took place, correct?

A. Yes.

Q. All right. And with respect to your knowledge of whether any of these female tigers had ever had cubs, was that based on just your experience during those few months?

A. Yes, just in the time that I was there.

Q. Right. So your knowledge about whether or not they had been breeding prior to February 20 -- 2017 -- well, you just had no knowledge, correct?

A. I had no knowledge.

Q. All right. So -- and you said it was four orange and one white; is that right?

A. If I am correct.

Q. Okay. Now, as I understand it, before the animals were shot, they were tranquilized; is that correct?

A. Yes, sir.

Q. Is it your understanding that that's the normal method for how the euthanasia is conducted at the park; tranquilizer first?

A. Yes.

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

DYLAN WEST - Cross by Mr. Earley

- 1 Q. All right. Had you actually seen that before?
- 2 A. Being -- tranquilizing them and putting them to sleep to --
- 3 Q. Yes.
- 4 A. -- doctor them and stuff, yes.
- 5 Q. Yes. Okay. So -- and that was just a normal thing.
- 6 They're shot with a tranquilizer gun, correct?
- 7 A. Yes.
- 8 Q. They're put to sleep and then, if the doctor is present,
- 9 they're euthanized, correct?
- 10 A. Yes.
- 11 Q. All right. With respect to these particular cats, did you
- 12 interact with them on a daily basis?
- 13 A. When I worked -- when I worked on the cat crew, I was around
- 14 them because we -- we -- we cleaned their cages every other day,
- 15 and then we fast fed them the days that we didn't clean them.
- 16 Q. And when was -- when was that, that you worked in that
- 17 capacity?
- 18 A. I would probably have to say at least the day before.
- 19 Q. All right. So were you on the cat crew the latter part of
- 20 your employment?
- 21 A. By that time, no.
- 22 Q. Okay.
- 23 A. I was -- I took over the small animal crew.
- 24 Q. Okay. So you were with the small animal crew at the time
- 25 that this incident took place?

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DYLAN WEST - Cross by Mr. Earley

1 A. Yes, sir.

2 Q. Okay. Now, have you had any formal training in veterinary  
3 medicine?

4 A. No, sir.

5 Q. All right. So you have no ability to discern whether or not  
6 there's something medically wrong with a particular animal,  
7 correct?

8 A. I have no idea -- if I thought something was wrong, I took  
9 it to someone that was over me.

10 Q. Correct. But you didn't make any decisions on your own as  
11 to whether or not a particular animal needed some sort of  
12 treatment?

13 A. No, sir.

14 Q. Okay. And are you familiar with USDA inspectors coming to  
15 the park?

16 A. I know we -- we was -- we'd get told the days when they were  
17 there, but when it comes to rules or anything, I don't know.

18 Q. Well, did you see USDA inspectors at the park?

19 A. Yes.

20 Q. How often would they come?

21 A. Probably within like -- I know they was -- they showed up  
22 probably ten times in that whole time that I was there.

23 Q. All right. And did you have any interaction with them at  
24 all?

25 A. No.

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DYLAN WEST - Cross by Mr. Earley

1 Q. Did they ever ask you any questions on occasion?

2 A. No, sir.

3 Q. What was it that you observed them doing?

4 A. Walking around, looking at the cages, looking at the  
5 animals. And if -- pretty much, that's all I would observe them  
6 doing, is walking around, talking about the cages, picking out  
7 what needed to be fixed or, you know, what animal, you know,  
8 needed to look at.

9 Q. Okay. Now, with respect to what happened in October  
10 of 2017, did you think there was something wrong going on?

11 A. I had no idea.

12 Q. Okay. I mean, did it come to your mind that maybe something  
13 that was taking place was not supposed to be taking place? Did  
14 you question it?

15 A. I didn't question it because I was just doing what I was  
16 told and I don't know the rules.

17 Q. Well, did anybody else who was there -- for example, Erik  
18 Cowie or John Reinke -- did any of them express to you that, hey,  
19 this isn't right?

20 A. No.

21 Q. So to your knowledge, it was just another part of your job,  
22 correct?

23 A. Yes.

24 Q. All right. Now, you're aware that Mr. Passage left the park  
25 at some point, correct?

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DYLAN WEST - Cross by Mr. Earley

- 1 A. Yes.
- 2 Q. And that was while you were still employed there, right?
- 3 A. Yes.
- 4 Q. And so you were working for Jeff Lowe; is that right?
- 5 A. Yes.
- 6 Q. And when did you leave work there at the park?
- 7 A. October of 2018. I could not tell you what day.
- 8 Q. All right. Did you just leave for a better job or --
- 9 A. I started looking for another job and Jeff Lowe found out
- 10 that I had an interview and he told me I was free to go, to pack
- 11 my stuff and get off the park.
- 12 Q. So he let you go before you had another job?
- 13 A. Yes.
- 14 Q. During this period of time, from October 2017 until you met
- 15 with these agents -- do you remember when you met with these
- 16 agents?
- 17 A. I couldn't tell you exactly what day it was.
- 18 Q. Was it -- if I told you it was August 3rd of last year,
- 19 2018, would that be about right?
- 20 A. Yes, that would be about right.
- 21 Q. It was after Mr. Passage had already left, correct?
- 22 A. Yes.
- 23 Q. So between the time that this incident happened in October
- 24 up until the time that you met with this agent -- the agents, had
- 25 you expressed to anybody any concern about what happened in

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DYLAN WEST - Cross by Mr. Earley

1 October with these five tigers?

2 A. No, because it was in the rules that we don't -- we didn't  
3 talk to any other employees about what was going on. We signed a  
4 contract, if we said anything to anybody, we could be sued.

5 Q. But did you think anything was wrong?

6 A. I didn't really think of anything.

7 Q. Okay. So Mr. Lowe made you available to these folks to talk  
8 to, did he not?

9 A. Yes.

10 Q. And, in fact, during the time that you were being  
11 interviewed back in August of 2018, did you actually have a group  
12 discussion with the agents and other employees of the park?

13 A. It was just Jeff, his wife, me, Erik and Matt.

14 Q. Who was there?

15 A. That talked in the group, it was me, Erik, Jeff Lowe, Lauren  
16 and Matt.

17 Q. Okay. So the agents talked to you alone, right?

18 A. Yes.

19 Q. Okay. But there was some discrepancy, was there not, about  
20 when this -- what we have identified, I guess, now as the October  
21 incident -- there was some discrepancy about when that may have  
22 occurred. Do you remember that?

23 A. I don't know exactly what day in October that happened.

24 Q. But was there some recollection by one of these people that  
25 it may have happened earlier on, in a completely different month?

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DYLAN WEST - Cross by Mr. Earley

- 1 A. No. It happened in October.
- 2 Q. No. I understand that you -- you say that. But what was  
3 the purpose of the group meeting?
- 4 A. Oh, of the -- talking to the agent?
- 5 Q. Yes.
- 6 A. It was to -- they were asking me questions about the  
7 incident that happened in October and was asking me some  
8 questions on some of the information, trying to figure out if I  
9 knew some information on other things, and I didn't.
- 10 Q. So -- but that took place with Jeff Lowe, Lauren Lowe, the  
11 two agents and Erik Cowie, correct?
- 12 A. Yes.
- 13 Q. All of you together?
- 14 A. Yes.
- 15 Q. So each one of you could hear what the other person was  
16 saying?
- 17 A. Yes.
- 18 Q. All right. And part of that was to see if you could figure  
19 out or knew anything else about any wrongdoing about Mr. Passage,  
20 correct?
- 21 A. Yes.
- 22 Q. Because that was their whole goal, was to find out from you,  
23 Mr. Cowie or anybody else if there was anything dirty going on  
24 with Mr. Passage, correct?
- 25 A. Yes.

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DYLAN WEST - Cross by Mr. Earley

1 Q. All right. Now, during your time at the park, did  
2 Mr. Lowe -- or if Mr. Passage was there at the time -- were you  
3 offered any benefits besides your salary?

4 A. I was offered dental work.

5 Q. Okay. How did that come about?

6 A. Joe was starting to talk to me and was offering to do my  
7 dental work done if I would get with him.

8 Q. Did he tell you how that dental work would be paid for?

9 A. All I know is he was trading a tiger and a guy named James  
10 Garretson was paying for it.

11 Q. Do you know how Mr. Garretson was paying for it?

12 A. I do not know. Later on, afterwards, I was told that he  
13 paid for it with fraud credit cards, but I don't know the truth  
14 about it.

15 Q. You were told that Garretson was paying for it with  
16 fraudulent credit cards, correct?

17 A. That's what I was told, but I -- I couldn't tell you how  
18 true it was.

19 MR. EARLEY: May I have just a moment?

20 THE COURT: You may.

21 Q. (By Mr. Earley) During this period of time that you were  
22 working at the park, were you on probation?

23 A. Yes. I'm on probation right now.

24 Q. For a felony?

25 A. Yes.

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DYLAN WEST - Redirect by Ms. Maxfield-Green

1 MR. EARLEY: I don't have any further questions.

2 THE COURT: Thank you.

3 Redirect?

4 MS. MAXFIELD-GREEN: Yes, Your Honor.

5 **REDIRECT EXAMINATION**

6 **BY MS. MAXFIELD-GREEN:**

7 Q. Now, Mr. West, you said that -- that Joe offered to get you  
8 some dental work, and you said -- you told Mr. Earley, "if I  
9 would get with him." What does that -- what do you mean by that?

10 A. To get in a relationship with him.

11 Q. Like a romantic relationship?

12 A. Yeah. Something like that, yes.

13 Q. Did that ever happen?

14 A. No.

15 Q. But did --

16 A. He -- he also tried to give me a four-door crew cab Dodge  
17 dually and anything else I wanted, and I wouldn't take the offer.  
18 Granted, I -- I did go and stay a couple of nights at his house  
19 with him because it was during the time shortly after his husband  
20 ended up passing -- you know, passing away. And he was depressed  
21 and I stayed down there to give him company.

22 Q. But you never entered into a romantic relationship with  
23 Mr. Passage?

24 A. No, ma'am.

25 Q. Okay. And the dental work, you did end up having that

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DYLAN WEST - Redirect by Ms. Maxfield-Green

1 dental work done?

2 A. Yes.

3 Q. Do you still owe money on that dental work?

4 A. Yes, ma'am.

5 Q. How much?

6 A. Little over \$1,400.

7 Q. All right. Now, you mentioned that as an employee of the  
8 zoo you signed some kind of an agreement to not ever tell  
9 anything that happened at the park, correct?

10 A. Yes, ma'am.

11 Q. Who -- whose requirement was that?

12 A. Joe's.

13 Q. And it sounds like at some point you also worked for Jeff  
14 Lowe, correct?

15 A. Yes.

16 Q. Did he ever have you sign a nondisclosure agreement?

17 A. No, ma'am.

18 Q. And Mr. Earley also asked you about a group meeting with you  
19 and Erik Cowie and the special agents and Mr. Lowe and his wife  
20 to try to discuss some of the timing of the incidents. Was there  
21 anything about that meeting that -- that influenced your ability  
22 to remember when this happened, when the tigers were shot?

23 A. No. I -- that day when he asked me, I remember it clear.

24 Q. You remembered it was in October at that time as well, and  
25 you still today remember it was in October of 2017?

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DYLAN WEST - Recross by Mr. Earley

1 A. Yes, ma'am.

2 MS. MAXFIELD-GREEN: That's all for the government,  
3 Your Honor.

4 THE COURT: Mr. Earley?

5 **RECCROSS-EXAMINATION**

6 **BY MR. EARLEY:**

7 Q. So let me make sure I'm clear on this with respect to the  
8 benefit that you got from Mr. Garretson. Were you -- did you end  
9 up having to pay for the whole dental work that you received from  
10 Garretson?

11 A. No, sir.

12 Q. So what you owe is just a portion of what was provided to  
13 you?

14 A. Yes.

15 Q. Now, you stated that you were to sign some sort of  
16 nondisclosure-type agreement as an employee at the park, correct?

17 A. Yes.

18 Q. Do you know who owned the park in 2017?

19 A. I could not tell you exactly who.

20 Q. Would it surprise you to find out that Jeff Lowe was  
21 actually the owner of the park when you came to work there?

22 A. I do not know that.

23 Q. So if there was paperwork that you needed to sign and  
24 nondisclosure agreements, that would be a company policy,  
25 correct?

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DYLAN WEST - Further Redirect by Ms. Maxfield-Green

1 A. Yes.

2 Q. Because it applied to everybody, correct?

3 A. Yes.

4 Q. And if the owner was Jeff Lowe, it was probably his  
5 requirement, correct?

6 A. Yes.

7 MR. EARLEY: Nothing further.

8 THE COURT: Thank you, Mr. West. You may step down.

9 MS. MAXFIELD-GREEN: Your Honor, could I have just one  
10 extra follow-up?

11 THE COURT: Briefly.

12 MS. MAXFIELD-GREEN: Thank you.

13 **FURTHER REDIRECT EXAMINATION**

14 **BY MS. MAXFIELD-GREEN:**

15 Q. Mr. West, Mr. Earley described it as that Mr. Garretson paid  
16 for your dental work. Did you ever see Mr. Garretson pay for  
17 your dental work?

18 A. No.

19 Q. Mr. Garretson ever tell you he was paying for your dental  
20 work?

21 A. No.

22 MS. MAXFIELD-GREEN: That's all, Your Honor.

23 THE COURT: That bring anything else up, Mr. Earley?  
24 I'll give you the opportunity.

25 MR. EARLEY: That's it, Your Honor.

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

1 THE COURT: Mr. West, you may step down.

2 Government, call your next witness, please.

3 MS. MAXFIELD-GREEN: Government calls Trey Key.

4 (WITNESS SWORN.)

5 EUGENE "TREY" KEY,

6 DIRECT EXAMINATION

7 BY MS. MAXFIELD-GREEN:

8 Q. Good morning, Mr. Key. Could you state your full name for  
9 the record, please?

10 A. My name is Eugene E. Key, III, and I go by Trey.

11 Q. What do you do for a living?

12 A. I am owner and president of Key Equipment Company, and we  
13 operate as Culpepper & Merriweather Circus, which I'm general  
14 manager and I present our big cat act in the show.

15 Q. And I can see our court reporter struggling. What's the  
16 name of the circus?

17 A. Culpepper, C-U-L-P-E-P-P-E-R, and Merriweather,  
18 M-E-R-R-I-W-E-A-T-H-E-R, Circus. And it's also a great combined  
19 circus. I bought the longest show title in the business.

20 Q. Okay. So you -- the circus, is it a traveling circus or  
21 does it have a location?

22 A. We are in our 34th season, traveling eight months out of the  
23 year, from mid March until late October.

24 Q. All right. And where all do you go with the circus? Is it  
25 regional?

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

- 1 A. Generally, from the Mississippi west.
- 2 Q. And I'm sorry, say again, how much of the year do you  
3 travel?
- 4 A. About 31 to 32 weeks every year.
- 5 Q. What's home base for you?
- 6 A. Hugo, Oklahoma.
- 7 Q. Does your circus involve exotic animals?
- 8 A. Yes, ma'am.
- 9 Q. What kind?
- 10 A. We have one African lion, who's a male, and we have two  
11 tigers, a male and a female.
- 12 Q. Now, in order to use exotic animals in your circus, do you  
13 have a license from the USDA?
- 14 A. Yes, ma'am.
- 15 Q. Do you know a person named Joseph Schreibvogel, who's now  
16 known as Joseph Maldonado-Passage or Joseph Passage?
- 17 A. Yes.
- 18 Q. How do you know him?
- 19 A. He was -- ran the G.W. Exotic Zoo. And as of the fall of  
20 2009, we started boarding our cats there, the three -- the lion  
21 and the two tigers there, for during the winters.
- 22 Q. Do you see Mr. Passage here in the courtroom?
- 23 A. Yes, I do.
- 24 Q. And can you describe, just for the record, what he's  
25 wearing?

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

1 A. Appears to be a dark tie with a white shirt and a -- a  
2 carefully -- very carefully highlighted mullet.

3 Q. About how many years did you board your animals at  
4 Mr. Passage's park?

5 A. We would drop them off in the fall, late October, the first  
6 time was 2009, and we would pick them up in March of the  
7 following year. And the last time we did that was March of 2018.

8 THE COURT: Mr. Key, if you could, please, slow down  
9 just a little bit. The court reporter has got to take down  
10 everything you say.

11 THE WITNESS: Yes, sir.

12 Q. (By Ms. Maxfield-Green) All right. Now, did Mr. Passage  
13 charge you to board the animals at the park?

14 A. There wasn't a charge. When we first discussed the  
15 arrangements for boarding my animals there, I offered a donation  
16 to the zoo. At the time, my wife and I felt like it was a  
17 facility that was -- that was doing good work as far as taking in  
18 animals that didn't have any other place to go, and we felt it  
19 was a worthy cause to support and we offered money up front.

20 Q. Okay. So each year, how much would you donate to the park?

21 A. Each fall, when we dropped the cats off, I would give  
22 \$5,000.

23 Q. Now, while your animals were being boarded at the G.W. Zoo,  
24 did you allow Mr. Passage to exhibit them to the public?

25 A. Yes.

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

1 Q. And are your tigers of a different color than normal tigers?

2 A. Yes. They're called Golden Tabby Tigers. They're a cross  
3 between white tigers and orange-and-black tigers. At the time in  
4 2009, when we first started working with G.W., they didn't have  
5 any Golden Tabbies, so they were quite excited to be exhibiting  
6 them.

7 Q. Now, you stated that you started doing this in 2009, all the  
8 way up to 2017. Did you have a consistently positive opinion of  
9 the park over time?

10 A. It -- it was good at first, and then management became more  
11 uncertain and personnel at the park became more uncertain. And  
12 after March of 2018, we decided to -- to not board them there in  
13 the future.

14 Q. Okay. I'm going to have you look in a book in front of you  
15 there at Exhibit 3.1. It should be marked "Government's  
16 Exhibits." It should be behind Tab 3. 3.1. You there?

17 A. Yes, ma'am.

18 Q. Okay. Are you familiar with this document?

19 A. Yes, ma'am. It's a transfer document. The USDA considered  
20 the park as our home facility. Since we travel, we have  
21 traveling sites, per their records, and a home facility. This  
22 wasn't necessary to do, since it was our home facility, but when  
23 you have to turn in your itinerary pretty exactly to the USDA,  
24 it's a good document to have to show what date the animals  
25 arrived at the facility. And we would do one when we picked them

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

1 up in March to show what day they left the facility.

2 Q. Okay. So on this particular form that you're looking at,  
3 were you -- did you assist in filling that out?

4 A. I was there when it was filled out. I received a copy of it  
5 and I have a copy of it in my records. I didn't keep as good of  
6 records as the park manager there at the time, but we did this  
7 every fall and every March when we picked them up.

8 Q. Who created that form?

9 A. John Reinke.

10 Q. You said that you did keep a copy in the business records of  
11 the zoo?

12 A. Yes. They kept a copy and we kept a copy in our USDA  
13 folder.

14 MS. MAXFIELD-GREEN: Government moves to admit  
15 Exhibit 3.1.

16 THE COURT: Any objection?

17 MR. WACKENHEIM: No, Your Honor.

18 THE COURT: Be admitted.

19 Q. (By Ms. Maxfield-Green) Okay. Now that we're all looking  
20 at the same thing here. So this is a transfer form; is that what  
21 you testified to?

22 A. Yes, ma'am. That's what we used as our transfer form to  
23 show that we had actually dropped the cats off and again when we  
24 picked them back up.

25 Q. And in the field where it says "Seller/Donor, Key

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

1 Equipment," that's you, right?

2 A. Yes, ma'am.

3 Q. And is that address in Hugo, Oklahoma, your home base  
4 address?

5 A. Yes, ma'am. That's our mailing address.

6 THE COURT: Counsel, approach, please.

7 (The following proceedings were had at the bench and out of  
8 the hearing of the jury.)

9 THE COURT: I may be missing something. I thought we  
10 were talking about 3.1. I have 3, a 3 that's being displayed,  
11 but not 3.1.

12 MS. MAXFIELD-GREEN: That's supposed to be 3.2, and  
13 then we'll get --

14 THE COURT: And on the list it's 3.1.

15 MS. MAXFIELD-GREEN: Yeah, but it's not -- okay. It  
16 should have gotten page numbers on it. I wonder if they got cut  
17 off. Sorry about that.

18 THE COURT: That's okay. I just wanted to be sure that  
19 we had the same exhibit.

20 MS. MAXFIELD-GREEN: Yeah, that's what we're supposed  
21 to be looking at.

22 THE COURT: So is there going to be a 3.2?

23 MS. MAXFIELD-GREEN: Yes, which is the next page.

24 THE COURT: Okay. So this --

25 MS. MAXFIELD-GREEN: We can get that fixed in all the

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

1 books.

2 THE COURT: Okay.

3 (The following record was made in open court, in the  
4 presence of all parties, counsel, and in the presence and hearing  
5 of the jury.)

6 Q. (By Ms. Maxfield-Green) Okay. Let's see. Where were we?  
7 Okay. Under buyer/receiver, it shows Key Equipment and then  
8 address in Wynnewood, Oklahoma. Is that the address of the G.W.  
9 Zoo?

10 A. Yes, ma'am.

11 Q. And is that your USDA license that's listed there?

12 A. Yes, ma'am.

13 Q. And these animals, one lion, two tigers, is that the animals  
14 you testified about earlier?

15 A. Yes, ma'am.

16 Q. And what's the date on this form?

17 A. It's October 24th, 2017.

18 Q. Okay. And so is -- would you have dropped off those animals  
19 on or about that date?

20 A. Yes, ma'am, that would have been that day.

21 Q. Okay. So on or about the same date would you have paid  
22 Mr. Passage the \$5,000 that you typically donated when you  
23 dropped off your animals?

24 A. It would have been that day or -- or close to it. I can't  
25 say that I maybe forgot the check as I was going and mailed it

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EUGENE "TREY" KEY - Direct by Ms. Maxfield-Green

1 later, but there would have been -- that would have been the time  
2 of year that would have been done.

3 Q. And how would you have paid him for this in October of 2017,  
4 cash or a check?

5 A. Check.

6 Q. Take a look at Government's Exhibit 3.2, which should just  
7 be the second page of Exhibit 3 in your book.

8 Got it?

9 A. Yes, ma'am.

10 Q. Are you familiar with that document?

11 A. Yes, ma'am.

12 Q. And what is it?

13 A. It's the check dated October 24, 2017, that I wrote them for  
14 that year's contribution.

15 Q. Did you pull that check from your own bank records?

16 A. Yes, ma'am. I -- yes, ma'am, I did.

17 Q. And how did you go about doing that?

18 A. I called our bank manager and I asked her to pull all the  
19 checks that I had written G.W. that they had on record, and they  
20 had seven years' worth.

21 Q. And is that check an accurate reflection of your memory of  
22 what you paid that year?

23 A. Yes, ma'am.

24 MS. MAXFIELD-GREEN: Government moves to admit  
25 Exhibit 3.2.

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EUGENE "TREY" KEY - Cross by Mr. Wackenheim

1 THE COURT: Any objection?

2 MR. WACKENHEIM: No, Your Honor.

3 THE COURT: Be admitted.

4 Q. (By Ms. Maxfield-Green) Okay. Looking at it a little  
5 closer. Okay. So is this check made out from Key Equipment  
6 Company?

7 A. Yes, ma'am.

8 Q. To Greater Wynnewood Exotic Animal Park?

9 A. Yes, ma'am.

10 Q. And what's the date on that check?

11 A. It is October 24th, 2017.

12 Q. And how much was it for?

13 A. \$5,000.

14 MS. MAXFIELD-GREEN: Government passes the witness.

15 THE COURT: Cross-examination?

16 **CROSS-EXAMINATION**

17 **BY MR. WACKENHEIM:**

18 Q. Mr. Key, who would you arrange the boarding of your animals  
19 with at the G.W. park?

20 A. Usually, in September of each year, I would either get a  
21 call from -- from Joe or from John Reinke. Sometimes we would  
22 show -- our circus would be performing close to Wynnewood and  
23 they would bring their folks out to see the show after the park  
24 had closed in the evening. And we would usually discuss the  
25 date -- or confirm that we were bringing them back and discuss

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EUGENE "TREY" KEY - Cross by Mr. Wackenheim

- 1 the date that we would be bringing them back the next month.
- 2 Q. So it would be either Mr. Passage or Mr. John Reinke?
- 3 A. Yes, sir.
- 4 Q. And this was an annual tradition, so to speak?
- 5 A. Yes, sir.
- 6 Q. You would board your animals there, correct?
- 7 A. Yes, sir.
- 8 Q. So this was revenue to be expected by the park? They knew
- 9 that they would have this with you each year, correct?
- 10 A. Yes, sir.
- 11 Q. You don't do it anymore, correct?
- 12 A. Correct.
- 13 Q. But at the time, you did?
- 14 A. Yes, sir.
- 15 Q. And roughly about the same time every year; is that right?
- 16 A. Yes, sir.
- 17 Q. Okay. And I think you said you've stopped in March of 2018?
- 18 A. Yes, sir.
- 19 Q. Have you constructed your own facility so you can house
- 20 those animals yourself?
- 21 A. Yes, sir.
- 22 Q. And who watches those animals, or at least who did this past
- 23 season?
- 24 A. During our winter months, John Reinke was our -- basically,
- 25 our cat sitter for about two months and helped build -- construct

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EUGENE "TREY" KEY - Cross by Mr. Wackenheim

1 our facility. And I was there the rest of the time.

2 Q. I think you have talked about Mr. Passage a little bit. Do  
3 you recall speaking with the United States Fish & Wildlife  
4 earlier this year?

5 A. Yes, sir.

6 Q. And you had described Mr. Passage a bit. Do you -- tell me  
7 what your opinion of him on -- and social media is.

8 A. Joe cares a great deal about animals, and his sincerity  
9 about that is very impressive. Unfortunately, in our business,  
10 we have a lot of agitators and what commonly known in social  
11 media are trolls, and Joe did a lot to aggravate those trolls  
12 instead of ignoring them.

13 Q. He had a big mouth on social media; yes?

14 A. I don't think I could deny that. I believe he did have a  
15 big mouth on social media. I don't -- yeah, that's a very  
16 accurate representation.

17 MR. WACKENHEIM: May I have a moment, Your Honor?

18 THE COURT: Yes.

19 MR. WACKENHEIM: Nothing further. Thank you.

20 THE COURT: Redirect?

21 MS. MAXFIELD-GREEN: No, Your Honor.

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

23 Government's next witness.

24 MR. BROWN: James Markley.

25 (WITNESS SWORN.)

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JAMES MARKLEY - Direct by Mr. Brown

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**JAMES MARKLEY,**  
**DIRECT EXAMINATION**

**BY MR. BROWN:**

Q. Sir, please introduce yourself to the jury.

A. Good morning. My name is James Markley. I'm a special agent with the U.S. Fish & Wildlife Service in Fort Worth, Texas.

Q. How long have you been a special agent with Fish & Wildlife?

A. Nine years.

Q. Any prior law enforcement experience?

A. Was a uniformed inspector with Fish & Wildlife Service for three, and also another three years with U.S. Customs and Border Protection.

Q. Describe your duties and your responsibilities as Fish & Wildlife special agent.

A. As an agent, I have the area of responsibility of North Texas. I enforce laws and treaties protecting the wildlife in the United States.

Q. Were you -- did you participate in the excavation in October of 2018?

A. Yes.

Q. Where exactly did that take place?

A. At Wynnewood, Oklahoma.

Q. And where within Wynnewood did it take place?

A. The G.W. Exotic's facility.

Q. What was the date?

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JAMES MARKLEY - Direct by Mr. Brown

- 1 A. November 9th -- I mean, October 25th, 2000 -- I'm sorry.  
2 I've got my dates wrong. 2017 -- October 25th -- October 25th,  
3 2018. I'm sorry.
- 4 Q. Okay. October 25th, 2018?
- 5 A. Sorry. Little nervous.
- 6 Q. Take your time. There's water as well, if you need it.  
7 How many folks participated in the search on that particular  
8 day?
- 9 A. Approximately ten.
- 10 Q. And what type of equipment did you-all have?
- 11 A. We had some big equipment, some backhoe equipment, and also  
12 some small shovels, spades, stuff like that.
- 13 Q. And when you arrived at -- I'll call it the park. When you  
14 arrived at the park, had an area been marked off for you?
- 15 A. It was.
- 16 Q. Okay. And did you know what -- what exactly were you  
17 looking for?
- 18 A. We had information that five tigers had been buried out  
19 there in the area that was marked off and that we were looking  
20 for those tigers that were -- we had been told were lined up like  
21 sausages or hot dogs.
- 22 Q. Okay. If you don't mind, please, grab that book in front of  
23 you and flip to Government's Exhibit 1 under Tab 1, and then flip  
24 all the way through, 1.1 -- there's not a 1.2. So it's 1.1 and  
25 then 1.3 through 1.11. When you're done looking at those, let me

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JAMES MARKLEY - Direct by Mr. Brown

1 know.

2 A. 1.1?

3 THE COURT: Counsel, again, the exhibit list, I'm  
4 showing just 1, and in the book I'm showing an Exhibit 1 and then  
5 there's some sub-markings on there for 1.1 on. But there's only  
6 one exhibit sticker on there, and that's 1. And on the exhibit  
7 list, there's just a 1.

8 MR. BROWN: Yes, Judge, and they're consecutive and I  
9 would be prepared to lay the foundation and offer it as Exhibit 1  
10 and then have him testify to each one, if possible.

11 THE COURT: Okay.

12 THE WITNESS: So make sure we're on the right -- we're  
13 on the pictures we're looking at here?

14 Q. (By Mr. Brown) Yes. Do you recognize all those pictures?

15 A. Yes.

16 Q. What are those pictures of?

17 A. Do you want me to go through them?

18 Q. No, just tell me generally what --

19 A. It was of the day of the excavation, or the search.

20 Q. Okay. And were you present when those photographs were  
21 taken?

22 A. I was.

23 Q. So do you recognize the scene that's contained or depicted  
24 in each photograph?

25 A. Yes.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. And does each photograph fairly and accurately depict the  
2 subject matter therein as it was on October 25th of 2018?

3 A. It does.

4 MR. BROWN: Judge, we would move for admission of  
5 Exhibit 1 at this time.

6 THE COURT: And when you say "Exhibit 1," are you  
7 talking about collectively all of those photos?

8 MR. BROWN: Yes, Your Honor.

9 THE COURT: Any objection?

10 MR. WACKENHEIM: Your Honor, there are a variety of  
11 photographs. I'm not sure each one is independently relevant.  
12 So we would submit -- yes, we do object on the cumulative nature  
13 of all of these photographs.

14 THE COURT: It will be sustained up until the point the  
15 foundation is laid for each.

16 Q. (By Mr. Brown) Okay. Let's look at Exhibit 1.1. What  
17 exactly does that reflect?

18 A. Okay. That first picture is the -- the area, G.W. Exotic.  
19 There's the tractor or the backhoe that we brought. Looks like  
20 it's moving some garbage.

21 Q. So are you participating in the search that's reflected in  
22 Exhibit 1.1?

23 A. Yes.

24 Q. And what day was that, again?

25 A. October 25th.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. All right. So you were present when that photograph was  
2 taken?

3 A. Yes.

4 Q. Okay.

5 MR. BROWN: We'd move for admission of 1.1.

6 THE COURT: Any objection?

7 MR. WACKENHEIM: No objection.

8 THE COURT: Be admitted.

9 Q. (By Mr. Brown) Okay. Explain exactly what we are looking  
10 at.

11 A. Are we on the next picture or --

12 Q. No. We're still on -- it should be up on your screen now.

13 A. Okay. That is a backhoe. The area was covered in garbage  
14 or carcasses and trash, and it was just kind of clearing the  
15 area.

16 Q. So is this the area that had been marked off?

17 A. Yes.

18 Q. Okay. Approximately how large was that area that was marked  
19 off?

20 A. Approximately 50 by 30 feet.

21 Q. Okay. And so once you removed all the trash, explain what  
22 your next step was in the search.

23 A. Next step was to use the backhoe and just start to kind of  
24 move the dirt gently --

25 Q. Okay.

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JAMES MARKLEY - Direct by Mr. Brown

1 A. -- as not to disrupt anything. We know we're looking for  
2 tigers, and specifically skulls, so we were careful not to damage  
3 that with the equipment.

4 Q. And so in your book, now look at 1.3. And does that picture  
5 depict what you just testified to?

6 A. Yes.

7 MR. BROWN: We'd move for admission of 1.3.

8 MR. WACKENHEIM: No objection.

9 THE COURT: 1.3 will be admitted.

10 Q. (By Mr. Brown) And it's now -- should be displayed on your  
11 screen, Agent. And just explain again, what exactly are you  
12 doing?

13 A. We have one of the backhoe operators is running the piece of  
14 equipment, and he's just using the dump there to just kind of  
15 move the dirt gently, looking for the tigers that we were told  
16 were there.

17 Q. Okay. And at any point in time while using the backhoe, did  
18 you and your search team come upon anything of significance?

19 A. Yes.

20 Q. What was that?

21 A. We found the group of tigers.

22 Q. And once you initially located those, what did you do?

23 A. Once the backhoe kind of got onto the first -- the first  
24 piece of carcass or skin, we kind of backed off with the heavy  
25 equipment and started to excavate it with the smaller tools.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. Okay. And if you can look in the book at Government's  
2 Exhibit 1.4 and 1.5. And are you familiar with those  
3 photographs?

4 A. I am.

5 Q. What exactly do those depict?

6 A. That is my hand and my glove. I'm using a brush to kind of  
7 brush the dirt off the carcass.

8 Q. How about 1.5?

9 A. That is myself in the middle there of Agent Bryant and the  
10 captain game warden, in the hole, excavating the carcass.

11 MR. BROWN: We'd move for admission of Government's  
12 Exhibits 1.4 and 1.5.

13 THE COURT: Any objection?

14 MR. WACKENHEIM: No, Your Honor.

15 THE COURT: 1.4 and 1.5 will be admitted.

16 Q. (By Mr. Brown) All right. So 1.4 is showing on the screen.  
17 And is that fur or something else of significance that's  
18 reflected in that picture?

19 A. It is. It's fur.

20 Q. Okay. And so once you located the fur, is that when you  
21 pulled the backhoe out?

22 A. Yes.

23 Q. And then began using hand tools?

24 A. The hand tools, small tools.

25 MR. BROWN: Can we go to the next, 1.5, please.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. (By Mr. Brown) And so explain just in detail what it is  
2 you-all are doing.

3 A. We are trying -- after we found the carcass, we were trying  
4 to locate the skulls. The information we had were that the  
5 tigers were shot, so we were looking to find the skulls and  
6 remove the skulls.

7 Q. Okay. And did you ultimately locate more than one tiger?

8 A. We did.

9 Q. And can you describe their positioning within the dig site?

10 A. We -- we found five tigers lined up side by side, kind of  
11 like hot dogs in a pack. They were just kind of laid right next  
12 to each other.

13 Q. Okay. And were they -- how was the decomposition?

14 A. The skin was still intact. The heads were still intact.  
15 They had been in the ground, I guess, about a year or so, or  
16 less. I'm not sure. But it was still pretty stinky. It was  
17 really bad.

18 Q. Okay. And did you and your search team actually exhume all  
19 five tigers?

20 A. We exhumed the skulls off of all five tigers.

21 Q. And explain how you would separate the skulls from the  
22 actual tiger carcass.

23 A. To separate the head off of the carcass with a reciprocating  
24 tool, and then also like a saw or a knife to separate the head  
25 from the vertebrae.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. And is there a reason you did not remove the entire tiger  
2 carcass?

3 A. We were looking for gunshot wounds in the head, so we didn't  
4 have a reason to remove the entire carcass from the ground.

5 Q. Okay. Can you look at Exhibit 1.6. And what exactly does  
6 that depict?

7 A. That is a skull of a tiger. You can see the bottom -- you  
8 can see the four canines, top and bottom.

9 Q. And is that how it was in the ground when you began exhuming  
10 it?

11 A. Yes.

12 Q. Okay.

13 MR. BROWN: We'd move for admission of 1.6.

14 THE COURT: Any objection?

15 MR. WACKENHEIM: No, Your Honor.

16 THE COURT: 1.6 will be admitted.

17 Q. (By Mr. Brown) And so were -- this is one of the five,  
18 correct?

19 A. Yes.

20 Q. Okay. Were the -- the remaining tigers similarly situated  
21 to this one?

22 A. Yes.

23 Q. Okay. And did you remove each skull from each tiger?

24 A. Yes.

25 Q. And what did you do after that?

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JAMES MARKLEY - Direct by Mr. Brown

1 A. Skulls were removed. They were placed on plastic and taken  
2 to an evidence collection site where they were wrapped.

3 Q. Okay. Look at Exhibit 1.7, please. In the book, 1.7.

4 A. Uh-huh.

5 Q. And what does that picture reflect?

6 A. It reflects the evidence collection area that we had set up.  
7 There's a white tarp laid out with five individual black plastic  
8 bags with skulls.

9 Q. Okay.

10 MR. BROWN: We'd move for admission of 1.7.

11 THE COURT: Any objection?

12 MR. WACKENHEIM: No, Your Honor.

13 THE COURT: 1.7 will be admitted.

14 Q. (By Mr. Brown) So this white tarp that's -- that we are  
15 looking at, where in relation to the actual dig site is the white  
16 tarp located?

17 A. It was behind the dig site, going back towards the main  
18 facility approximately 20 feet.

19 Q. Okay. So the skulls are removed and then taken over to this  
20 white tarp?

21 A. Yes.

22 Q. Photographed?

23 A. Yes.

24 Q. Inventoried?

25 A. Yes.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. Look at Exhibit 1.8, please. And describe what's depicted  
2 in 1.8.

3 A. In 1.8, this is the hole where the -- or the pit where the  
4 tigers' head -- the heads were removed. So the carcasses are  
5 still in the ground. The yellow flags represent where the heads  
6 were removed from the carcasses.

7 MR. BROWN: We'd move for admission of 1.8.

8 THE COURT: Any objection?

9 MR. WACKENHEIM: No, Your Honor.

10 Q. (By Mr. Brown) And I meant to ask, approximately how deep  
11 were these five tigers?

12 A. Three to five feet.

13 Q. And, again, I -- explain the five yellow flags that we are  
14 looking at in this photo. What exactly is significant about  
15 these flags?

16 A. Stuck the flags where the heads were removed from the rest  
17 of the carcass, so each flag represents where a head would have  
18 been laid.

19 Q. Okay.

20 A. You can see the three together on the bottom and then the  
21 one on the other side and then the one on the top.

22 Q. Okay. And with respect to the tiger skulls, after you had  
23 exhumed them and placed them on that white tarp and taken your  
24 photos, how were they packaged?

25 A. They were wrapped in plastic, wrapped in evidence tape and

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JAMES MARKLEY - Direct by Mr. Brown

1 then put in coolers, eventually, and that was it.

2 Q. And after they were placed in coolers, do you know if they  
3 were frozen?

4 A. They were frozen.

5 Q. Okay. And where -- were they ever mailed to a lab?

6 A. They were mailed to a National Fish & Wildlife forensics lab  
7 in Ashland, Oregon.

8 Q. And did you leave -- what exactly did you do with the five  
9 carcasses?

10 A. They were left in the pit.

11 Q. All right. Now I want to transition over into Endangered  
12 Species Act permits. What is an Endangered Species Act permit?

13 A. A permit for an Endangered Species Act would give you the  
14 ability to do something that was contrary or prohibited under the  
15 Endangered Species Act.

16 Q. And what is a captive-bred wildlife registration?

17 A. It was implemented to mainstream the permitting system under  
18 Endangered Species Act, and this was geared more towards  
19 endangered and threatened species that are live, exotic to the  
20 U.S. and born in captivity.

21 Q. Does your agency actually administer this permit and this  
22 registration program?

23 A. It does.

24 Q. Okay. And is an ESA permit or a captive-bred wildlife  
25 registration required to take an endangered species?

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JAMES MARKLEY - Direct by Mr. Brown

- 1 A. Yes, it is.
- 2 Q. And do you understand, when I say "take," I mean to kill --
- 3 A. Yes.
- 4 Q. -- an endangered species?
- 5 A. Yes.
- 6 Q. Okay. Same question regarding to sell in interstate
- 7 commerce. Is an ESA permit or a captive-bred wildlife
- 8 registration required before you can sell in interstate commerce
- 9 an animal protected by the Endangered Species Act?
- 10 A. Yes.
- 11 Q. Now, what is the process that is required to apply for and
- 12 obtain one of these permits, the permit or the registration?
- 13 A. We have a -- under U.S. Fish & Wildlife Service, it's called
- 14 Division of Management Authority. You have to fill out a form or
- 15 an application to them, kind of telling what you're planning on
- 16 doing or why you're doing that. They're the ones who kind of
- 17 receive the application process and grant the permits.
- 18 Q. Okay. And if a permit or a registration had been approved,
- 19 issued or granted, how long would it be kept?
- 20 A. At least five years, if not further -- or more.
- 21 Q. And would that be maintained with that sub agency within
- 22 your agency?
- 23 A. Yes.
- 24 Q. And refresh my memory. It's the Division of?
- 25 A. Division of Management Authority.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. And during your investigation, did you submit a query to the  
2 Division of Management Authority?

3 A. I did.

4 Q. And were there any records indicating that Mr. Passage ever  
5 received an ESA permit or a captive-bred wildlife registration?

6 A. No.

7 Q. Did your search reveal that Mr. Passage had ever applied for  
8 any other permit, other than those two that we just described?

9 A. Yes.

10 Q. Explain that, please.

11 A. The search showed that he had applied and received some  
12 import/export licenses years back.

13 Q. And describe what an import/export license is.

14 A. Import/export license is used in the commercial trade to  
15 move animals in and out of the country.

16 Q. So does it apply to any type of transfers within the United  
17 States?

18 A. Does not.

19 Q. And there is a -- an application that is required to be  
20 submitted?

21 A. Yes.

22 Q. All right. And you said he initially applied for it in  
23 2012?

24 A. 2012.

25 Q. Was it approved?

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JAMES MARKLEY - Direct by Mr. Brown

1 A. Yes.

2 Q. And did Mr. Passage renew that import/export application or  
3 permit?

4 A. According to the query, he renewed it for a few years after  
5 that, yes.

6 Q. Okay. And based on the database search, at any point in  
7 time did he actually import or export anything under that permit?

8 A. Yeah. In the query, he did export an animal in 2015.

9 Q. What kind of animal?

10 A. I believe it was a tiger-lion hybrid.

11 Q. And where was that exported to?

12 A. UAE, or Dubai.

13 Q. And is a liger protected by the Endangered Species Act?

14 A. It is not.

15 Q. Okay. So it would not have required any type of ESA permit?

16 A. No.

17 Q. Okay. Just that import/export permit?

18 A. Right.

19 Q. All right. Now I want to direct your attention to November  
20 of 2017. Did you assist investigators with an investigation down  
21 in Dallas?

22 A. Yes.

23 Q. All right. Did you -- explain that investigation and what  
24 you did, please.

25 A. I was contacted to serve a -- some papers to a business in

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JAMES MARKLEY - Direct by Mr. Brown

- 1 Dallas.
- 2 Q. And did you visit that actual business?
- 3 A. I did.
- 4 Q. What was the date of your visit?
- 5 A. November 9th, 2017.
- 6 Q. What was the name of the business you visited?
- 7 A. Smith Electric and Sign.
- 8 Q. Okay. And what's the nature of the business for Smith
- 9 Electric and Sign?
- 10 A. Appeared to be an electric type of business, but also they
- 11 did make some type of IDs, once we got inside.
- 12 Q. So once you went inside, it appeared they offered additional
- 13 services?
- 14 A. Yes.
- 15 Q. And were these authentic IDs, or what kind of IDs were they?
- 16 A. They were novelty IDs.
- 17 Q. Okay. Go ahead and flip to what's been marked as
- 18 Government's Exhibit 30. And there are one, two, three, four
- 19 pages. So we have 30.1, 30.2, 30.3 and 30.4. And just review
- 20 all four of those, please.
- 21 A. Okay.
- 22 Q. Have you reviewed them?
- 23 A. Yes.
- 24 Q. Okay. Were you present when these photographs were taken?
- 25 A. I was.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. Were they taken at Smith Electric and Signs?

2 A. They were.

3 Q. And were they taken on November 9th of 2017?

4 A. Yes.

5 Q. Do you recognize the scene in each of the photographs?

6 A. I do.

7 Q. All right. And does each photograph fairly and accurately  
8 depict the subject matter therein as it was on November 9th of  
9 2017?

10 A. Yes.

11 MR. BROWN: We'd move for admission for 30.1 through  
12 30.4.

13 THE COURT: Any objection?

14 MR. WACKENHEIM: No, Your Honor.

15 THE COURT: Be admitted.

16 Q. (By Mr. Brown) All right. If we could look at 30.1. What  
17 exactly is reflected in 30.1?

18 A. This was a display that was in the business, kind of  
19 representing the type of IDs that could be purchased.

20 Q. Okay. And did this particular business, Smith Electric and  
21 Signs, did they -- do you know if they offered IDs for all 50  
22 states?

23 A. Not all 50 states, but definitely the ones here represented.

24 Q. Okay. So they did offer an ID for Arizona?

25 A. Yes.

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JAMES MARKLEY - Direct by Mr. Brown

1 Q. And 30.2, what does that reflect?

2 A. It was a sign that was taped to the desk where the customer  
3 would fill out for the ID. It just basically talks about that  
4 they're novelty IDs.

5 Q. So they're not genuine. They're not authentic. You can't  
6 use them, really, for much?

7 A. Correct.

8 Q. And then in 30.3, what exactly -- when you-all were taking  
9 this picture, what are you taking a picture of?

10 A. This was a camera that was set up in the area where the IDs  
11 were being made. It was a camera used to take pictures for the  
12 IDs. And this is one of the pictures that was on the camera.

13 Q. So this is a -- the viewfinder for a camera that belonged to  
14 Smith Electric and Signs?

15 A. Yes.

16 Q. And it contains a digital image of a photograph that had  
17 been taken using that camera?

18 A. Yes.

19 Q. All right. And finally, 30.4. Explain this picture,  
20 please.

21 A. That was the computer screen at Smith Electric and Sign, of  
22 the last few pictures that had been taken to make IDs.

23 Q. So that's -- again, that's the Asus computer monitor that  
24 belonged to the business you visited on November 9th of 2017?

25 A. Yes.

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 Q. And the pictures that are depicted there are of customers  
2 who had recently obtained a novelty ID from Smith Electric and  
3 Signs?

4 A. Yes.

5 MR. BROWN: Pass the witness, Judge.

6 THE COURT: Cross-examination?

7 **CROSS-EXAMINATION**

8 **BY MR. WACKENHEIM:**

9 Q. Agent Markley, how long have you been investigating  
10 Mr. Passage?

11 A. I'm not the case agent on this case.

12 Q. Who is the case agent on this case?

13 A. Agent Matt Bryant.

14 Q. Where is he seated?

15 A. Right here at the desk.

16 Q. Prosecutors' table?

17 A. Yes.

18 Q. At the head of the table?

19 A. Uh-huh.

20 Q. Yes?

21 A. Yes.

22 Q. But you're -- I'm not asking whether or not you are the case  
23 agent, but how long have you personally been involved in the  
24 investigation of Mr. Passage?

25 A. I have assisted Agent Bryant in this case for a few years.

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JAMES MARKLEY - Cross by Mr. Wackenheim

- 1 Q. As far back as 2015?
- 2 A. I would say 2015, 2016.
- 3 Q. And you're out of kind of the northern Texas district,  
4 correct?
- 5 A. Fort Worth, Texas.
- 6 Q. Do you and Agent Bryant have the same job, just in  
7 different --
- 8 A. Same job, just different area of responsibility.
- 9 Q. And that initial investigation of Mr. Passage, what was it  
10 for?
- 11 A. I'm not familiar with why it was originally opened, but I  
12 think it was for -- obviously with cats.
- 13 Q. So violations of -- or alleged violations of the Endangered  
14 Species Act, correct?
- 15 A. Sure, yes.
- 16 Q. And also something called the Lacey Act; is that right?
- 17 A. Okay. Yes.
- 18 Q. Well, I'm asking you. Was he being investigated for Lacey  
19 Act violations?
- 20 A. Yeah. Like I said, I didn't open the original  
21 investigation, so I'm not familiar where -- exactly where it  
22 started from.
- 23 Q. Are you familiar with the Lacey Act?
- 24 A. Yes.
- 25 Q. What is the Lacey Act?

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JAMES MARKLEY - Cross by Mr. Wackenheim

- 1 A. It's one of our acts or laws that we enforce. It  
2 basically -- when there's a violation of state, federal or  
3 foreign law, and also in interstate commerce, it can trigger the  
4 Lacey Act.
- 5 Q. Right. That's one part. Is there also a mislabeling  
6 violation of the Lacey Act?
- 7 A. Yes.
- 8 Q. Are you familiar with that?
- 9 A. Uh-huh.
- 10 Q. Is that a "yes"?
- 11 A. Yes.
- 12 Q. So if I transport a load of fish across state lines, but I  
13 mislabel the fish in a material way, that's a violation of the  
14 Lacey Act?
- 15 A. If you fraudulently or falsely mislabel wildlife and it  
16 crossed state lines, yes.
- 17 Q. So a paperwork violation?
- 18 A. Well, a violation of the Lacey Act. False labeling.
- 19 Q. On paperwork?
- 20 A. Could be.
- 21 Q. How many investigations have you been involved in under the  
22 Lacey Act relating to generic tigers?
- 23 A. Myself personally, I haven't had any cases.
- 24 Q. Does Texas permit this cub petting that occurs in Oklahoma?
- 25 A. I'm sorry. Repeat the question.

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 Q. Does Texas permit cub petting, like here in Oklahoma?

2 A. I'm not familiar.

3 Q. How many investigations have you been involved in under the  
4 Endangered Species Act relating to generic tigers?

5 A. I have had cases involving endangered species with lions,  
6 tigers. Actually saying generic tigers, no.

7 Q. How many of those investigations resulted in criminal  
8 prosecutions?

9 A. We had a case just prosecuted last year involving lions and  
10 tigers.

11 Q. How many others?

12 A. That's the only one I have had personally. We also  
13 investigate many different things.

14 Q. Mr. Brown jumped right to the visit to the Dallas electrical  
15 store that also sold fake identifications. Do you recall that  
16 testimony?

17 A. Yes.

18 Q. Okay. But before that, were you present with a meeting with  
19 James Garretson and Agent Bryant in September of 2017?

20 A. I was not.

21 Q. So you don't recall meeting with -- at a Two Frogs  
22 restaurant in Ardmore, Oklahoma --

23 A. Oh, okay. Yes. Okay. Yeah.

24 Q. That's --

25 THE COURT: Agent, be sure you let him -- Agent, be

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 sure you let him finish his question before you answer. Okay?

2 Q. (By Mr. Wackenheim) Two Frogs --

3 THE WITNESS: Okay. Yes. Yes.

4 THE COURT: Not at the same time, please.

5 Q. (By Mr. Wackenheim) Do you remember that -- that meeting  
6 now?

7 A. I do.

8 Q. Okay. So as far back as September of 2017, you, working  
9 with Agent Bryant, were communicating with James Garretson,  
10 correct?

11 A. Correct.

12 Q. And you had learned that Mr. Garretson had attempted to  
13 contact Carole Baskin; is that right?

14 A. I'm not familiar with that part of it. I was -- I was  
15 there, but I don't remember exactly that.

16 Q. Okay. Have you reviewed reports relating to this  
17 prosecution?

18 A. Yes.

19 Q. Particularly reports that include your name as someone  
20 involved?

21 A. I have reviewed reports, yes.

22 Q. If I were to show you a report dated November 15th, 2017,  
23 could you review it and see if it refreshes your recollection?

24 A. Sure.

25 MR. WACKENHEIM: May I approach, Your Honor?

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 THE COURT: You may.

2 Counsel, would this be a good time for our lunch break?

3 MR. WACKENHEIM: I think it might be, Your Honor.

4 THE COURT: Ladies and gentlemen of the jury, we're  
5 going to take our lunch break now. We'll break for an hour and  
6 15 minutes.

7 I remind you of the Court's instructions and your admonition  
8 that you're not to discuss this case amongst yourselves or with  
9 anyone else. Don't reach any conclusions. Don't develop any  
10 opinions yet. The case hasn't been submitted to you for  
11 deliberation at this point in time.

12 We'll reconvene in an hour and 15 minutes. Court will  
13 remain in attendance as the jury exits the courtroom.

14 (Jury exited.)

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and out of the presence and  
17 hearing of the jury.)

18 THE COURT: Record will reflect that the jury is out of  
19 the courtroom.

20 Counsel for the government, this exhibit issue is -- this is  
21 a mess. Did I not suggest at the pretrial that the exhibits  
22 should be numbered consecutively, no decimals? If I didn't say  
23 that, I intended to, but --

24 MS. MAXFIELD-GREEN: Your Honor, I don't recall that  
25 discussion, but --

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 THE COURT: Well, in any event, even absent that, the  
2 exhibit list -- we're now dealing with some exhibits that have an  
3 exhibit sticker on them, and then the decimal ones don't have an  
4 exhibit sticker. And so, for instance, on Government's  
5 Exhibit 30, which has actually been referred to as Government's  
6 Exhibit 30.1 -- so we're now showing the jury an Exhibit 30 and  
7 we have got a 30.1 that is in evidence.

8 You know, the -- the exhibit list says -- I mean, there's  
9 not even any reference to anything other than an Exhibit 30, but  
10 then there's others that we have got a -- an A and a B. It's  
11 just -- it's problematic to keep track of. We are scrambling.

12 I am going to order the government to resubmit their exhibit  
13 list with them numbered as they should be in the book. And these  
14 exhibits that we have referred to and entered, they don't even  
15 have an exhibit sticker on them. And I -- I -- and I understand  
16 that they -- for instance, 30.2 is indicated down near the page  
17 number, but there's no exhibit sticker on there.

18 So in any event, I want that to get corrected as soon as  
19 possible. Is there any questions about the exhibits?

20 MS. MAXFIELD-GREEN: No, Your Honor. And we apologize  
21 for the confusion and we will have it fixed by tomorrow.

22 THE COURT: Counsel, please approach.

23 (The following record was made at the bench.)

24 THE COURT: My understanding, government wanted to  
25 make a record about the plea offer prior to trial.

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 MS. MAXFIELD-GREEN: Yes, Your Honor. Thank you.

2 On October 17th of 2018, the government contacted defense  
3 counsel and made the following plea offer: That the government  
4 would accept a plea to Count 1 of the indictment and one wildlife  
5 trafficking count if Mr. Maldonado would proffer information on  
6 other wrongdoing, and that the government would evaluate all the  
7 proffered information for a possible 5K, and that offer was  
8 rejected.

9 On June -- sorry -- February 19th of 2019 the government  
10 contacted defense counsel. We offered that the government was  
11 willing to allow Mr. Maldonado to plead to one count of killing a  
12 tiger and one count of a Lacey Act false documentation in  
13 exchange for dismissing the remaining wildlife counts, the --  
14 thus offering, essentially, that we would only proceed to trial  
15 on Counts 1 and 2, the murder-for-hire counts. In fact, we  
16 offered that if Mr. Maldonado took such a plea, we would  
17 stipulate to a motion in limine that no reference would be made  
18 to the fact that he had pled guilty to those crimes, including in  
19 the event that he testified in his own defense. And that offer  
20 was also rejected.

21 THE COURT: Okay. So those were both oral or were  
22 those --

23 MS. MAXFIELD-GREEN: Those were both oral.

24 THE COURT: Mr. Earley, does that square with your  
25 understanding of all the offers?

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 MR. EARLEY: Yes, Your Honor.

2 THE COURT: And I assume that you conveyed all that to  
3 Mr. Passage?

4 MR. EARLEY: Yes, we did.

5 THE COURT: Do you want to take a minute and confer  
6 with him so that we can confirm? I'm going to ask him. I'm not  
7 going to go into the detail of the offers, but just to ask him to  
8 confirm that you relayed this to him and that he has chosen to go  
9 to trial.

10 MR. EARLEY: Yes, Your Honor.

11 MR. BROWN: Judge, we anticipate after lunch Dr. Viner  
12 testifying, and I'm not sure what the Court's practice is with  
13 respect to tendering her as an expert. I know Judge Friot will  
14 not allow us to ever use the word expert when --

15 THE COURT: I would prefer you not request that I  
16 recognize her as an expert. I think her credentials can speak  
17 for themselves.

18 MR. BROWN: Sure. Fair enough. Thank you.

19 MR. EARLEY: I think we should maybe address one more  
20 aspect of the plea offers. I think it was just prior to  
21 Ms. Webster's deposition last Tuesday --

22 MS. MAXFIELD-GREEN: Yes.

23 MR. EARLEY: The government did advise us that based on  
24 some information that they had obtained through a phone call,  
25 that they did not believe that Mr. Maldonado would be of any use

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 to them if he did not, in fact, enter a plea to the wildlife  
2 counts, and if he insisted on going to trial, then they would no  
3 longer consider him as a person that they could use for  
4 cooperation purposes.

5 THE COURT: Okay.

6 MS. MAXFIELD-GREEN: That's correct.

7 THE COURT: Okay.

8 (The following record was made in open court, in the  
9 presence of all parties and counsel, and out of the presence and  
10 hearing of the jury.)

11 THE COURT: You ready, Mr. Earley?

12 MR. EARLEY: Yes.

13 THE COURT: Just as a matter of housekeeping,  
14 Mr. Earley, at the bench conference we discussed that prior to  
15 trial and today's -- leading up to trial, the -- I wanted to  
16 confirm, the government had extended to you a couple of different  
17 potential offers of -- for a plea; is that correct?

18 MR. EARLEY: That's correct. As is in -- the norm in  
19 almost every case, there are discussions with respect to trying  
20 to resolve it prior to trial. And that did happen in this case,  
21 yes, Your Honor.

22 THE COURT: And did you convey all those discussions to  
23 Mr. Passage?

24 MR. EARLEY: Yes, we did, Your Honor.

25 THE COURT: And it was his decision to decline those

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 and go to trial; is that correct?

2 MR. EARLEY: That is correct.

3 THE COURT: Mr. Passage, I'll ask you, without  
4 commentary, Mr. Earley present to you the different options that  
5 were presented to you by the government?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And it was your decision to not take those  
8 offers and go to trial; is that correct?

9 THE DEFENDANT: Absolutely.

10 THE COURT: Thank you.

11 Anything further from either party in that regard?

12 MS. MAXFIELD-GREEN: No, Your Honor.

13 MR. EARLEY: No, Your Honor.

14 THE COURT: We'll be in recess until, I believe, 1:35.

15 (Lunch break.)

16 (The following record was made in open court, in the  
17 presence of all parties, counsel, and in the presence and hearing  
18 of the jury.)

19 THE COURT: Mr. Wackenheim.

20 MR. WACKENHEIM: Thank you, Your Honor.

21 Q. (By Mr. Wackenheim) Agent Markley, I believe we last  
22 discussed the meeting you had with James Garretson and Agent  
23 Bryant in September of 2017 in Ardmore.

24 A. Yes.

25 Q. Did you have a chance to review that report?

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JAMES MARKLEY - Cross by Mr. Wackenheim

- 1 A. I did.
- 2 Q. Did that refresh your memory of the event?
- 3 A. It did.
- 4 Q. What was discussed at that meeting?
- 5 A. In part of this meeting -- I was called up to help and  
6 assist Matt with this meeting he had with this new informant,  
7 kind of a lot of the minutiae details and whatnot of the meeting.  
8 I'm more of an assistant there, but -- so the details that were  
9 discussed, I did read the report, but I'm not intimately -- you  
10 know, knowledge of the details.
- 11 Q. Did you meet the cooperating private individual that day?
- 12 A. We did.
- 13 Q. So CPI?
- 14 A. Yes.
- 15 Q. That's Mr. Garretson?
- 16 A. Yes.
- 17 Q. And did you learn that he had reached out to Ms. Baskin?
- 18 A. Yeah. According to the report, that's what he did. He  
19 advised Agent Bryant that there was a -- some talk between -- he  
20 tried to get ahold of Ms. Baskin, but I guess he did not.
- 21 Q. And do you know why he attempted to get ahold of Ms. Baskin?
- 22 A. Again, I'm not completely familiar with the details of  
23 the --
- 24 Q. Okay.
- 25 A. I was there more of an assistance to make sure he was safe

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 during the interview.

2 Q. And you have offered that assistance at various steps  
3 of this investigation?

4 A. We do that all the time. There's very few of us around the  
5 country. Matt's the only one in Oklahoma. So just to make sure  
6 for safety reasons, sometimes we'll come up and -- just to make  
7 sure he's okay. But as far as the general workings of the case,  
8 if it's his case, I'm more there just to kind of facilitate and  
9 make sure he's good to go.

10 Q. So if we have questions about the specifics, we should speak  
11 with Agent Bryant?

12 A. I am not the in-depth knowledge on the complete -- in the  
13 interview, no.

14 Q. But he would? He is?

15 A. Yeah.

16 Q. Okay. Do you recall staking out a bus station in November  
17 of 2017?

18 A. I do.

19 Q. What were the circumstances of that?

20 A. We were advised that an individual might be going to travel  
21 out of town, and so we were -- performed some surveillance to see  
22 if we could locate that person.

23 Q. Who was with you?

24 A. There was a couple of other agents in our office. I believe  
25 we had some agents out of Houston and also Fort Worth.

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JAMES MARKLEY - Cross by Mr. Wackenheim

- 1 Q. Do you remember which bus station you surveilled?
- 2 A. I believe -- there was two bus stations. I believe it was
- 3 Ardmore, maybe.
- 4 Q. Was the other one Pauls Valley?
- 5 A. Yes.
- 6 Q. And it could have been either?
- 7 A. Could have been either.
- 8 Q. But there were agents at both of those stations?
- 9 A. We went back and forth.
- 10 Q. Is that right, there were agents at both?
- 11 A. We had agents in the area that were looking at both
- 12 stations, yes.
- 13 Q. I suspect we'll learn more, but at that moment did you
- 14 believe that someone was going to board a bus in furtherance of
- 15 this accusation of this murder for hire?
- 16 A. We had information to believe that somebody was going to
- 17 possibly get on the bus.
- 18 Q. And who gave you that information?
- 19 A. That was given to me by the case agent.
- 20 Q. Okay. So you don't know if it was the CPI or someone else?
- 21 A. Again, I'm not familiar with that.
- 22 Q. Okay. You traveled to Dallas to serve a subpoena. Do you
- 23 remember that testimony?
- 24 A. I do.
- 25 Q. And is that in kind of your backyard, where you normally

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 operate?

2 A. Yes.

3 Q. Do you know how agents became aware to serve a subpoena at  
4 that location?

5 A. As far as the back story, I was contacted by the case agent  
6 to serve some papers, and that's what I did.

7 Q. Now, turning to the park exhumation that you testified  
8 about. You recall that testimony?

9 A. Yes.

10 Q. Who gave you permission to dig on that land?

11 A. We were there under the operation with the case agent. And  
12 from the case agent, he had a consent form signed by, I guess the  
13 owners or the -- or the new owners of the park.

14 Q. Jeff Lowe?

15 A. Yes.

16 Q. Did you observe Jeff Lowe taking personal photographs during  
17 the exhumation of these bodies -- of these animals?

18 A. I was in the hole, so I did not -- I didn't watch Jeff Lowe  
19 or what he did.

20 Q. And did you say you had at least ten agents or ten personnel  
21 assisting you?

22 A. Ten personnel that were comprised of Oklahoma game wardens  
23 and some refuge staff that were operating the equipment and then  
24 some special agents.

25 Q. So you personally observed the five animals?

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JAMES MARKLEY - Cross by Mr. Wackenheim

- 1 A. Yes.
- 2 Q. What color were the bodies of those animals?
- 3 A. Well, they were covered in dirt for the most part, but as we  
4 exhumed them, you could see the stripes and what a tiger would  
5 look like.
- 6 Q. Were you able to observe the different colors of tiger?
- 7 A. As far as being -- other than what a tiger looks like?
- 8 Q. Well, are you familiar with different colors of tigers?
- 9 A. Sure. Like white tigers or --
- 10 Q. Sure. And were you able to discern the colors of these  
11 tigers in the pit?
- 12 A. We didn't completely exhume the animals, so I didn't look  
13 for any specific white tigers. We just looked for the heads. We  
14 removed the heads.
- 15 Q. Right. So the purpose there was to take the heads of these  
16 five tigers, correct?
- 17 A. Yes.
- 18 Q. And how did you get the heads off of the tigers?
- 19 A. We removed them with saws, knives.
- 20 Q. You cut them off?
- 21 A. Yes.
- 22 Q. And you were not interested in the bodies of these animals,  
23 correct?
- 24 A. The information we had were that the animals were shot in  
25 the head, so we -- that's what we were there for.

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 Q. Okay. So your investigation was tunnelled at that point  
2 just to the heads of these animals, correct?

3 A. The information we had is they were shot in the head, and we  
4 removed the heads. That was what we were there for.

5 Q. So you were not interested in the bodies, correct?

6 A. We did not remove the bodies.

7 Q. And so those bodies have never been analyzed by a Fish &  
8 Wildlife Service laboratory, correct?

9 A. No, not that I know of.

10 Q. Is there someone that would know?

11 A. Well, we covered them back up with dirt. So unless somebody  
12 else went back out there and dug them up, they have not been  
13 looked at.

14 Q. And to your knowledge, no one's done that?

15 A. No.

16 Q. Do you recall your testimony regarding the captive-bred  
17 wildlife permit?

18 A. Yes.

19 Q. Are you responsible in any way for the issuance of those  
20 permits?

21 A. I am not.

22 Q. Are you made aware of who does have those permits?

23 A. No, not unless I query the system and specifically look for  
24 somebody with one.

25 Q. Do you have any personal knowledge of how many of those

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 permits have been granted in the past calendar year?

2 A. We ran a query, actually, two days ago, and there's a  
3 thousand records, I believe. So I don't know if some of those  
4 are still good or some are expired, but there are other permits,  
5 yes.

6 Q. So let's talk about this thousand CBWs.

7 A. Yes. Thousand -- a record for, whether applications or  
8 whatnot. A thousand records, in general.

9 Q. So those could encompass people who have attempted to get  
10 this permit but have been unsuccessful, correct?

11 A. Yes.

12 Q. So that doesn't mean there are over a thousand of these  
13 permits floating around?

14 A. Doesn't mean that, yes.

15 Q. Is it difficult to get one of these permits?

16 A. I have never personally applied for one. What I have read  
17 about them, it doesn't seem like it's that big of a process.  
18 It's an application you fill out, send to the -- we talked about  
19 earlier the Division of Management Authority, and then they're  
20 the ones that approve or deny.

21 Q. Do you know what the criteria for getting one of those  
22 licenses is?

23 A. The application itself has, you know, the name -- name, the  
24 business, the species, the -- what the permit is for. All that's  
25 filled out by the applicant and --

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JAMES MARKLEY - Cross by Mr. Wackenheim

1 Q. Have you reviewed the federal regulations on what's required  
2 to get one of these permits? Are you familiar with those  
3 regulations?

4 A. I'm familiar with the captive wildlife breeding  
5 registration, yes.

6 Q. Right. But if I'm understanding your testimony, you know  
7 there's an application process?

8 A. Yes.

9 Q. My question is, what qualifications does a facility have to  
10 have to get one of these licenses?

11 A. I would have to look at it and -- I mean, verbatim to repeat  
12 it back to you, but --

13 Q. And if you don't have one of these licenses, is it your  
14 testimony that you would be in violation of the Endangered  
15 Species Act by taking an animal that's been listed as an  
16 endangered species?

17 A. As far as I have been taught and told, without that permit  
18 and the endangered species permit, you can't take an animal, yes.

19 Q. So anytime an animal is even euthanized, that would be in  
20 violation, if you did not have one of these CBWs. Is that your  
21 understanding?

22 A. Technically, yes.

23 MR. WACKENHEIM: Could I have a moment, Your Honor?

24 THE COURT: You may.

25 MR. WACKENHEIM: Nothing further. Thank you.

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TABITHA VINER - Direct by Mr. Brown

1 THE COURT: Any redirect by the government?

2 MR. BROWN: No, Your Honor.

3 THE COURT: Thank you, Agent. You may step down.

4 THE WITNESS: Thank you.

5 THE COURT: Government's next witness.

6 MR. BROWN: Tabitha Viner.

7 (WITNESS SWORN.)

8 TABITHA VINER,

9 DIRECT EXAMINATION

10 BY MR. BROWN:

11 Q. Good afternoon, ma'am.

12 A. Hello.

13 Q. Please introduce yourself.

14 A. My name is Tabitha Copley Viner.

15 Q. Where do you work?

16 A. I work at the National Fish and Wildlife Forensics Lab in  
17 Ashland, Oregon.

18 Q. And what is your current position?

19 A. I am a veterinary forensic pathologist.

20 Q. How long have you worked at that lab?

21 A. For eight and a half years.

22 Q. Do you have a particular field of expertise?

23 A. I am board certified in veterinary anatomic pathology and am  
24 working in forensics.

25 Q. All right. And how long have you worked in the field

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TABITHA VINER - Direct by Mr. Brown

1 overall?

2 A. I have been a veterinary forensic -- or veterinary  
3 pathologist since 2003.

4 Q. And, Dr. Viner, what is your educational background?

5 A. I went to vet school at the Virginia-Maryland Regional  
6 College of Veterinary Medicine and did three years of residency,  
7 two at the National Zoo and one with the Armed Forces Institute  
8 of Pathology. And I am board certified in veterinary pathology.

9 Q. All right. Have you published any scientific articles on  
10 pathology?

11 A. Yes, I have.

12 Q. Approximately how many in the last five years?

13 A. About six or seven.

14 Q. Okay. Do you belong to any -- do you have any professional  
15 positions previously that you have held? Can you describe those?

16 A. I was the veterinary pathologist at the National Zoo for  
17 seven years prior to coming to Oregon.

18 Q. All right. And as a veterinary pathologist in the pathology  
19 section at the national lab in Oregon, what exactly do you do?

20 A. We get animals and animal parts from the special agents in  
21 the field, from law enforcement agents. And in pathology, we are  
22 asked to determine a cause of death for these animals. And so we  
23 perform a postmortem examination on them, which includes taking  
24 X-rays and fully examining the outside and the inside of the  
25 animals.

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TABITHA VINER - Direct by Mr. Brown

1 Q. Okay. And in approximately how many law enforcement cases  
2 have you actually performed a postmortem evaluation?

3 A. I have been the case coordinator on about 644 cases  
4 involving about -- or over 2,000 individual animals.

5 Q. All right. And the lab in Oregon, is it accredited?

6 A. It is accredited by ANAB, ANSI National Accreditation Board.

7 Q. And are you -- did you say you were certified?

8 A. I am board certified, yes.

9 Q. And approximately how many veterinary pathologists are board  
10 certified in the United States?

11 A. There are about 2,600.

12 Q. All right. Were you asked to conduct a veterinary forensic  
13 pathology examination in this case?

14 A. Yes.

15 Q. What were you asked to examine?

16 A. I was asked -- we received five bags containing the heads of  
17 tigers.

18 Q. And what were you asked to determine?

19 A. We were asked to determine a potential cause of death, if  
20 possible.

21 Q. Did you conduct a forensic pathology examination on each  
22 tiger head?

23 A. Yes, I did, individually.

24 Q. And were you able to reach a conclusion as far as cause of  
25 death for each tiger head that you examined?

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TABITHA VINER - Direct by Mr. Brown

1 A. I could determine an immediate cause of death for each tiger  
2 head examined, yes.

3 Q. Okay. Can you provide that, please?

4 A. For four of the five tiger heads, the immediate cause of  
5 death was gunshot with a shotgun. And for one tiger head, it was  
6 blunt force trauma.

7 Q. All right. And let's discuss the actual forensic pathology  
8 examination of Tiger Head 1. All right. Explain to the jury  
9 your first step in conducting that exam.

10 A. Okay. So we first received the item in its packaging, its  
11 soft packaging, and I X-rayed the item in that soft packaging  
12 first. Then I took the soft packaging out, observed and  
13 photographed what the item looked like just out of the bag.

14 Q. Okay. Dr. Viner, let me back up a little bit. I apologize.  
15 When -- how did the skulls arrive to your lab in Oregon?

16 A. They came to us in three hard coolers.

17 Q. And were the skulls still frozen at that time?

18 A. Yes.

19 Q. All right. Prior to you conducting the initial radiographic  
20 examination, did you thaw the skulls out?

21 A. Yes.

22 Q. All right.

23 A. They were totally thawed.

24 Q. And what date did you actually conduct your forensic  
25 examination?

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1 A. I did the forensic exam on the first four heads on the 31st  
2 of October, and then the last one on the 1st.

3 Q. Okay. And with respect to the initial radiographic  
4 examination, what, if anything, are you looking for?

5 A. We're looking for bony fractures and for any metal density  
6 objects that might be consistent with ballistic material.

7 Q. Okay. And, again, regarding Lab 1 or Skull 1, after  
8 conducting that initial radiographic examination, were there any  
9 metal irregularities?

10 A. Yeah. The radiographs did show that there were about 44 --  
11 upwards of 44 little metal particles within the item in the bag.

12 Q. So after the initial radiographic examination, what's your  
13 next step?

14 A. After the X-rays, we put it on the table and unwrapped it  
15 from its soft packaging, from the plastic bag that was  
16 surrounding it, photographed the item as it came out of the bag  
17 and then cleaned off the item so that we could better see the  
18 soft tissues that were left over and the bones of the skull.

19 Q. Okay. Let me ask you, if you don't mind, to look into that  
20 exhibit book right in front of you marked government's exhibits.

21 A. Uh-huh.

22 Q. And look for Government's Exhibit -- it's at the very end.  
23 It should be marked Government's Exhibit 113, 114 and 119.

24 A. Uh-huh.

25 MR. BROWN: And may I approach, Your Honor, just to

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TABITHA VINER - Direct by Mr. Brown

1 ensure that --

2 THE COURT: Yes.

3 MR. BROWN: Thank you.

4 Q. (By Mr. Brown) Do you recognize Government's Exhibits 113,  
5 114 and 119?

6 A. Yes, I do.

7 Q. And what are they?

8 A. These are pictures that I took of the skull as it was just  
9 coming out of the bag.

10 Q. Okay. So does each photograph fairly and accurately depict  
11 the subject matter as it was on the date of your examination?

12 A. Yes, it does.

13 MR. BROWN: Your Honor, we would move for admission of  
14 113, 114 and 119.

15 THE COURT: Any objection?

16 MR. EARLEY: No, Your Honor.

17 MR. BROWN: If we could see 113 --

18 THE COURT: The exhibits will be admitted.

19 MR. BROWN: Thank you, Your Honor. I'm sorry.

20 If we could see 113, please.

21 Q. (By Mr. Brown) And it should appear on your screen,  
22 Dr. Viner.

23 A. Yes.

24 Q. Okay. Can you explain what this picture shows?

25 A. This is showing the left side of the skull. So the nose is

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1 pointing off to the left side of the picture, the back of the  
2 head is pointing off to the right side of the picture. And so  
3 the -- and the top of the skull is at the top.

4 Q. And is this Skull No. 1?

5 A. This is Skull No. 1.

6 Q. And is this when you are first unwrapping the skull after  
7 conducting the initial radiographic examination?

8 A. Yes, that's true.

9 Q. Okay. And once you unwrap it, do you do a general visual  
10 observation?

11 A. Right. So I note what is on the skull, either its soft  
12 tissue or the dirt substrate that's attached to it.

13 Q. And was this skull, Skull No. 1, just based on your visual  
14 observation, was it markedly autolysed?

15 A. Oh, yes.

16 Q. Okay. And explain kind of the layman's terms what that  
17 means.

18 A. Autolysis is just tissue decomposition, the process of  
19 breaking down tissues.

20 Q. What's the significance of this particular skull being  
21 autolysed?

22 A. It just indicates that the animal had been dead for a very  
23 long time.

24 Q. Okay. Now, after unwrapping it initially, what's your next  
25 step?

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TABITHA VINER - Direct by Mr. Brown

1 A. The next step is I would wash the items off to remove any  
2 kind of debris or tissues that were still attached to the skull  
3 so that I could visualize the bones themselves.

4 Q. Okay. And if we could look at 114, please, and just briefly  
5 explain -- I think I'm jumping ahead on you. I apologize. But  
6 regarding 114, what does that show?

7 A. So this is a photograph of the top of the skull. The nose  
8 is pointing down to the bottom of the screen and the back of the  
9 head to the top of the screen.

10 Q. Now, regarding the next step, you just testified, was to  
11 actually clean the skull?

12 A. Yes.

13 Q. And describe that process. How do you go about cleaning it?

14 A. Basically, I just took a hose and regular water from the  
15 sink and hosed it down, wiped off whatever I could wipe off, and  
16 then sharply -- took a knife and sharply dissected off any  
17 tissues that might have been on the skull so I could see the bone  
18 easier.

19 Q. And was there any fur or anything remaining on this skull?

20 A. On this skull, there was a little bit of black and orange  
21 striped fur.

22 Q. Okay. And how much -- approximately how much tissue was  
23 remaining on the skull?

24 A. There was still a chunk at the -- at the top right of this  
25 image, you can see a chunk of soft tissue remaining at the back

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TABITHA VINER - Direct by Mr. Brown

1 of the head on the -- on that one side.

2 Q. Any excess muscle?

3 A. That was the soft tissue that was remaining, was muscle.

4 Q. Okay. If you could look at Government's Exhibit 120,  
5 Dr. Viner.

6 A. Uh-huh.

7 Q. Same questions. Do you recognize that photograph?

8 A. I do.

9 Q. And did you take that photograph?

10 A. I did.

11 Q. And did you take it during your examination?

12 A. Yes, I did.

13 Q. And does the photograph fairly and accurately depict the  
14 subject matter therein as -- on the date that you examined it,  
15 which was October 31st of 2018?

16 A. Yes.

17 MR. BROWN: We would move for admission of Exhibit 120.

18 THE COURT: Any objection?

19 MR. EARLEY: No objection.

20 THE COURT: 120 will be admitted.

21 Q. (By Mr. Brown) Okay. So you just testified about the  
22 cleaning process. If you could look at Exhibit 120 on the  
23 screen, Dr. Viner, and explain what we are now looking at.

24 A. So this view is similar to the previous view, that we're  
25 looking at the top of the head. The nose is pointing up and the

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TABITHA VINER - Direct by Mr. Brown

1 back of the head is pointing down. The arches around the eyes  
2 are to the sides, and there is a hole that's approximately  
3 16 millimeters in diameter just above where the right eye would  
4 be.

5 Q. Okay. So this is still Skull No. 1?

6 A. Yes.

7 Q. This is after you have cleaned it?

8 A. Uh-huh.

9 Q. And did you analyze -- the hole that you just discussed, did  
10 you analyze that in more detail?

11 A. Yes. I looked at it closely to determine -- because it  
12 appears to be a ballistic wound -- to determine whether that was  
13 an entry or an exit point. I looked at the edges of the skull  
14 bevelling, which is sort of a differential layering of the skull,  
15 can indicate whether a bullet went in or came out. And I  
16 determined at that particular point, because of the lack of  
17 bevelling on the outside, that that was an entry point of the  
18 projectile.

19 Q. So is it -- would it be fair to characterize the bevelling  
20 as if it was a piece of paper and something went through it and  
21 then the shards of the paper were underneath, you could tell the  
22 entry came from above?

23 A. Correct.

24 Q. Is that fair?

25 A. Yes.

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TABITHA VINER - Direct by Mr. Brown

1 Q. Okay. Can you look at Exhibit 121, please? Same question.  
2 Do you recognize that photograph?

3 A. Yes, I do.

4 Q. And did you take this photograph during your examination?

5 A. I did.

6 Q. And does it fairly and accurately depict the subject matter  
7 on the date that you examined the skull?

8 A. Yes, it does.

9 MR. BROWN: We would move for admission of 121, Your  
10 Honor.

11 THE COURT: Any objection?

12 MR. EARLEY: No objection.

13 THE COURT: 121 will be admitted.

14 Q. (By Mr. Brown) Are we still looking at the same skull?

15 A. Yes, we are.

16 Q. Is this just a magnified image of that -- what you described  
17 as an entry wound?

18 A. Yes. It's closer.

19 Q. Okay. Is there anything else of significance regarding this  
20 particular picture?

21 A. Just the -- you can better see the lack of bevelling around  
22 the edge of the hole, and a little bit of scalloping around the  
23 edge.

24 Q. Now, would you consider that hole in Exhibit 121 well  
25 defined?

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TABITHA VINER - Direct by Mr. Brown

1 A. Yes. Yes, I would.

2 Q. And what's the significance of the hole being well defined?

3 A. Well, because shot pellets were found in the skull,  
4 indicative of a shotgun injury, this well-defined nature  
5 indicates that the barrel of the shotgun was held very close to  
6 the animal's head. Because when a shot -- when a gunshot wound  
7 (sic) comes out of a shotgun, the pellets spread. And so the  
8 further away from the target the barrel of the gun is, the wider  
9 the spread of those shot pellets. So because it's so well  
10 defined and small, it indicates that it was very close.

11 Q. Okay. Now, with respect to the metallic shot pellets that  
12 you found within the skull, were they lodged in both the actual  
13 skull, the bone and the soft tissue?

14 A. Yes. Yes, they were.

15 Q. And approximately how many in Skull 1 did you find?

16 A. About 44 or greater.

17 Q. Okay. Did you find any hard plastic in Skull 1?

18 A. Yes. There was a shot cup that had been splayed open. A  
19 used shot cup, basically, that was present with the tissues.

20 Q. And any significance with a shot cup being found in the  
21 skull?

22 A. That also indicates that there was very close range of fire,  
23 because the shot cup is usually discarded if there's a distance  
24 between the barrel of the gun and the target.

25 Q. Okay. Let's look at -- if you don't mind, can you look at

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TABITHA VINER - Direct by Mr. Brown

- 1 Government's Exhibit 122, 123 and 124?
- 2 A. Okay.
- 3 Q. Same questions. Do you recognize those photographs?
- 4 A. I do.
- 5 Q. And did you take these three photographs?
- 6 A. Yes, I did.
- 7 Q. During your forensic exam?
- 8 A. Yes.
- 9 Q. And do they fairly and accurately depict the subject matter  
10 on the date that you actually took the photographs?
- 11 A. Yes.
- 12 MR. BROWN: We would move for admission of Exhibits 122  
13 through 124.
- 14 MR. EARLEY: No objection.
- 15 THE COURT: They'll be admitted.
- 16 Q. (By Mr. Brown) Okay. Regarding Exhibit 122, Dr. Viner,  
17 tell the jury what we are looking at.
- 18 A. Okay. This is a close-up view of the top of the skull. The  
19 nose is facing off the left side of the screen, and we're looking  
20 at a fracture of the bones over the snout.
- 21 Q. And what's the significance, if any, of the fracture above  
22 the snout?
- 23 A. The fracture just indicates that there was a concussive  
24 force, probably from the shotgun.
- 25 Q. And can we go to 123, please?

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TABITHA VINER - Direct by Mr. Brown

1 A. Okay.

2 Q. All right. Same question. What's the significance of  
3 Exhibit 123?

4 A. So this is exhibiting a large hole in the skull underneath  
5 the eye that was associated with the projectile's path.

6 Q. Okay. And then 124?

7 A. And this is just another view. We're looking -- the  
8 snout -- the nose is off to the right of the screen, and we're  
9 looking at -- there's a tooth there at the right side of the  
10 screen. We're also looking at another view of that large defect  
11 underneath the eye.

12 Q. So regarding Skull No. 1, were you able to identify an  
13 actual exit wound?

14 A. Yes. It is that large defect that was about 6 centimeters  
15 diameter underneath the eye.

16 Q. And is that consistent with a shotgun?

17 A. Yes, it is.

18 Q. All right. If you don't mind, look at Government's  
19 Exhibit 129, please.

20 A. Okay.

21 Q. And do you recognize that picture?

22 A. I do.

23 Q. Did you take that picture during your exam?

24 A. Yes, I did.

25 Q. And does that fairly and accurately depict the subject

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TABITHA VINER - Direct by Mr. Brown

1 matter on the date that you actually photographed this?

2 A. Yes.

3 MR. BROWN: We'd move for admission for Exhibit 129.

4 THE COURT: Any objection?

5 MR. EARLEY: No objection.

6 THE COURT: 129 will be admitted.

7 Q. (By Mr. Brown) All right. Can you explain to the jury  
8 exactly what you did with the skull in this picture?

9 A. All right. So the -- the blue rod I placed through the  
10 wound tract from the entry wound at the top of the head through  
11 the exit wound at the bottom of the head to show the trajectory  
12 of the projectile.

13 Q. And you testified that your conclusion with regard to  
14 Skull 1, at least, was that it was a fatal gunshot that was the  
15 cause of death, correct?

16 A. Yes.

17 Q. And with a gunshot, is it your opinion that the gunshot  
18 would have been fatal immediately?

19 A. Yes.

20 Q. Okay. Now, in addition to determining the cause of death,  
21 did you conduct any analysis on the teeth and other parts of the  
22 skull, looking for tooth wear and other abnormalities?

23 A. Yes. I noted during the examination any kind of  
24 abnormalities in the teeth.

25 Q. And regarding Skull No. 1, was there anything of

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1 significance that you noted?

2 A. There were a couple of slab fractures on some of the  
3 premolars and a little bit of wear of the incisors, which are the  
4 front teeth.

5 Q. And what's the significance of the -- did you say slab  
6 fractures?

7 A. Slab fractures off of the teeth are just sort of -- like I  
8 said, the slab has just been taken off one part of the tooth  
9 above the gum line. They can be -- if the slab takes off a  
10 portion down to the root, they can predispose to infection, but  
11 these did not appear to have affected the bone around the teeth.  
12 So it didn't appear to be a chronic infection.

13 Q. And how were the canines on Skull 1?

14 A. The canines were in fairly good shape. There was one canine  
15 that was slightly displaced down, but it was stable and it did  
16 not have any wear.

17 Q. And what about the incisors?

18 A. The incisors had a little bit of wear.

19 Q. Okay. And can you look at Exhibits 127 and 128, please?

20 A. Okay.

21 Q. All right. Do you recognize those pictures?

22 A. I do.

23 Q. And did you actually take these photos on October 31st of  
24 2018, during your forensic examination?

25 A. Yes, I did.

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1 Q. And do the photos fairly and accurately depict the subject  
2 matter as they were on that date?

3 A. Yes.

4 MR. BROWN: We would move for admission of 127 and 128,  
5 Your Honor.

6 THE COURT: Any objection, Mr. Earley, to 127 and 128?

7 MR. EARLEY: No, Your Honor.

8 THE COURT: 127 and 128 will be admitted.

9 Q. (By Mr. Brown) Okay. We're looking at Exhibit 127. Can  
10 you explain the significance of this particular photo?

11 A. So this view is looking at the roof of the mouth, so the  
12 head is upside down and the canine teeth are at the top of the  
13 picture. There's a fracture that extends from the upper -- from  
14 the canine tooth in the upper right of the screen, which is the  
15 upper left canine, and that particular canine is slightly  
16 asymmetrical.

17 Q. And regarding the, I guess they would be the front incisors,  
18 or the interior incisors, do they appear to be worn down?

19 A. They are worn down, yes.

20 Q. And that was reflected in your report, correct?

21 A. Yes.

22 Q. And any explanation as to what would cause the interior  
23 incisors to be worn down?

24 A. Just normal wear and tear is common. It can be a behavioral  
25 problem as well, but it is a normal wear and tear.

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TABITHA VINER - Direct by Mr. Brown

1 Q. And a behavioral problem, how so?

2 A. In some animals, they can exhibit abnormal chewing on  
3 things, but -- yeah.

4 Q. Okay. Fair enough.

5 Did you conduct the same forensic examination of the  
6 remaining four skulls?

7 A. Yes, I did.

8 Q. And did you have similar findings with respect to the  
9 remaining four skulls?

10 A. For three of the remaining four skulls, I determined it was  
11 also a shotgun injury to the head. In one of the remaining  
12 skulls, Lab 3, I determined the animal had been shot because  
13 there were pellets in the soft tissues, but that the fatal injury  
14 was a blunt-force trauma.

15 Q. Okay. And were there any, with respect to the -- was that  
16 Lab 3, or Skull No. 3, you're referring to?

17 A. Yes.

18 Q. And with respect to Skull No. 3, were there any metallic, I  
19 guess, gunshot particulates within the skull?

20 A. There were five shot particulates within the soft tissues  
21 around the skull.

22 Q. And so there was not an entry wound or an exit wound that  
23 you found?

24 A. Correct.

25 Q. Now, describe the -- I guess, in more detail describe the

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TABITHA VINER - Direct by Mr. Brown

1 actual cause of death for Skull No. 3.

2 A. So Skull No. 3 had a fracture of the skull that went from  
3 the right side, over the top of the skull, to the left side.

4 Q. And can that fracture be caused from the concussive force of  
5 a shotgun blow?

6 A. Potentially. It can be caused by either an object or  
7 potentially the -- the percussive and concussive force of a  
8 shotgun.

9 Q. And did any of the skulls display -- or were you able to  
10 determine whether or not they displayed any evidence of disease,  
11 such as arthritis?

12 A. No. There was no evidence of arthritis in the joints of the  
13 base of the skull or in the two skulls that had neck vertebrae  
14 attached to them.

15 Q. And going back to the teeth, did you analyze, and were you  
16 looking for, any tartar accumulation?

17 A. Yes. And I noted minimal to mild tartar in several of the  
18 skulls.

19 Q. And why is that significant?

20 A. It can -- tartar builds up if you don't brush your teeth, on  
21 anything that has teeth, just over time because food gets stuck  
22 in there and it just hardens into tartar. So it's kind of an  
23 indication of the age of an animal.

24 Q. And regarding the age of the animals, were you able to  
25 determine an approximate age of each of these five tigers?

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TABITHA VINER - Direct by Mr. Brown

1 A. Because the sutures, the linings between the skull plates,  
2 were sealed and pretty much closed over, and because there wasn't  
3 a lot of wear on the teeth and not a lot of tartar, I  
4 determined -- I estimated that these tigers were early to mid  
5 adults.

6 Q. And an early to mid adult tiger in captivity would be what,  
7 exactly?

8 A. Relatively speaking, because tigers can live, you know, mid  
9 to upper teens in captivity, an early to mid adult would be  
10 somewhere around three to ten.

11 Q. Okay. And during your forensic examination, were you able  
12 to determine approximately how long the tigers had been actually  
13 buried?

14 A. I couldn't determine an exact length of time, but they had  
15 been buried for greater than a few months.

16 Q. Okay. And, finally, I know you have testified about Skull 1  
17 and the tooth loss or tooth wear. Regarding the remaining four  
18 skulls, describe the tooth wear, please.

19 A. They also had minimal to mild wear of the incisors.

20 Q. And, again, that's indicative of?

21 A. It could just be life experience, basically.

22 Q. Okay. Thank you, Dr. Viner.

23 THE COURT: Cross-examination?

24 **CROSS-EXAMINATION**

25 **BY MR. EARLEY:**

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TABITHA VINER - Cross by Mr. Earley

1 Q. Okay. Dr. Viner, so according to, I guess, your testimony,  
2 the cause of death for each one of these animals was a gunshot  
3 wound to the head; is that correct?

4 A. For four of the five animals, a gunshot wound to the head.

5 Q. All right. And what's the -- the issue on the last one?

6 A. There were no entry or exit wounds in the skull, so I  
7 couldn't determine that it had died of a gunshot wound.

8 Q. Okay. But you did find pellets that were consistent with a  
9 shotgun --

10 A. Yes.

11 Q. -- in the tissue surrounding the skull, correct?

12 A. Correct.

13 Q. So my guess would be, those probably don't get there unless  
14 you're shot with a shotgun.

15 A. Yes.

16 Q. Would that be correct?

17 A. Yes. The animal had been shot.

18 Q. Okay. And the blunt-force trauma -- and let's just, you  
19 know, assume that it was because of a concussive effect from a  
20 firearm. Okay? What's the effect on the animal, as far as the  
21 concussive effect?

22 A. The fracture of the skull would have also caused tearing of  
23 the blood vessels over the brain, and that tearing and damage of  
24 the brain would have been fatal.

25 Q. All right. So each one of these animals died as a result of

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TABITHA VINER - Cross by Mr. Earley

1 a gunshot wound to the head, correct?

2 A. I can only say that definitively for four of the animals.

3 Q. All right. Now, with respect to the -- your evaluation of  
4 the teeth -- if you could pull up 127. And I know you talked  
5 about it, but I wasn't quite sure what we were talking about.

6 When you noted some wear on the teeth, you were discussing, I  
7 think, this and this; is that correct?

8 A. No. I was discussing the incisors, which are at the very  
9 top, the front of the teeth.

10 Q. So right here --

11 A. Correct.

12 Q. -- this area is what you were talking about?

13 A. Yes.

14 Q. And there appears to be some significant deterioration  
15 there?

16 A. There is some wear, moderate wear.

17 Q. That's moderate?

18 A. Mild to moderate, uh-huh.

19 Q. All right. Now, your testimony is that you have been, what,  
20 licensed since 2003; is that right?

21 A. Board certified in 2003, yes.

22 Q. Okay. If you would, turn to the other book. And go to  
23 what's tabbed No. 3, Defendant's Exhibit 3. Do you recognize  
24 this particular publication?

25 A. I do.

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TABITHA VINER - Cross by Mr. Earley

1 Q. And what is it?

2 A. It is the Guidelines for the Euthanasia of Animals put out  
3 by the American Veterinary Medical Association in 2013.

4 Q. And who's the American Veterinary Medical Association?

5 A. They are the overarching entity that accredits vet schools  
6 and oversees licensing of veterinarians.

7 Q. All right. So do they provide guidance and best practices  
8 to veterinarians?

9 A. Yes, they do.

10 Q. All right. And are you familiar with these guidelines on  
11 euthanasia?

12 A. Yes.

13 Q. If you would -- the whole article is not there. I'm sure  
14 it's pretty lengthy. If you would, just look at the pages that  
15 follow, please.

16 A. Uh-huh.

17 Q. And do you recognize those?

18 A. Yes, I do.

19 Q. And what are they?

20 A. They regard euthanasia for free-ranging wildlife.

21 Q. Okay. And there are methods of euthanasia for, I guess, all  
22 sorts of animals, correct?

23 A. Uh-huh. Yes.

24 Q. And with respect to wildlife -- and if you -- if you want to  
25 call these free ranging, I guess they wouldn't -- they would

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TABITHA VINER - Cross by Mr. Earley

1 probably be out in a large area, correct?

2 A. They would be not captive, meaning they would have free  
3 range of whatever environment they chose.

4 Q. Okay. And with respect to the methods of euthanasia, the  
5 American Veterinary Medical Association recognizes a gunshot  
6 wound to the head as a legitimate way to euthanize an animal,  
7 does it not?

8 A. Yes, it does.

9 Q. And that would not be inconsistent with the gunshot wounds  
10 that you saw when you evaluated these particular skulls, correct?

11 A. The guidelines outline the direction that the projectile  
12 should take, which was not seen in any of the skulls that I  
13 looked at.

14 Q. Well, what was different about these?

15 A. The trajectory of the projectile in two of the skulls was  
16 over the -- through the back of the head.

17 Q. Uh-huh.

18 A. Lab 1, which we looked at, was through the top of the head.  
19 And another one was through the back.

20 Q. All right. With respect to the use of a gunshot wound to  
21 the head, why is it an authorized method?

22 A. Because it is quick if it is done properly.

23 Q. Well, in each one of these cases, I believe that you have  
24 concluded, with respect to Lab 1, that one, that it would have  
25 been immediately fatal?

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TABITHA VINER - Cross by Mr. Earley

- 1 A. Yes.
- 2 Q. That wound, correct?
- 3 A. Yep.
- 4 Q. All right. And I believe that you also concluded, based on  
5 your examination in Lab 2, that that would have been immediately  
6 fatal, correct?
- 7 A. Yes.
- 8 Q. Lab 3 is the one that you testified to about the concussive  
9 effect, correct?
- 10 A. Yes.
- 11 Q. All right. And with respect to that particular injury,  
12 would it have been immediately fatal?
- 13 A. The gunshot wound would not have been immediately fatal if  
14 that was not what caused the fracture of the skull, because I  
15 could not definitively determine that the concussive effect of  
16 the projectile caused the skull fracture.
- 17 Q. Well, did the animal immediately die?
- 18 A. From the blunt force trauma, whether that was an object that  
19 hit it or something else.
- 20 Q. Okay. Well, we have already established that there were  
21 pellets around the skull, correct?
- 22 A. Correct.
- 23 Q. All right. And so I understand you're not willing to say  
24 that there was a shotgun blast to the head, correct?
- 25 A. Correct.

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TABITHA VINER - Cross by Mr. Earley

1 Q. Just because you didn't see a hole or any other evidence,  
2 right?

3 A. Right.

4 Q. But assuming that those pellets got there by a shotgun  
5 blast, the concussive effect of that blast caused immediate  
6 death?

7 A. I can't say that.

8 Q. Well, did the animal die immediately?

9 A. From blunt force impact.

10 Q. All right. That's good enough.

11 And the other animals that you -- the other skulls you  
12 evaluated, did they die immediately?

13 A. Yes.

14 Q. All right. Now, you have been provided only the skulls in  
15 this case, correct?

16 A. Correct.

17 Q. And I believe you testified, at least with respect to one of  
18 these, you did see some orange and black fur; is that right?

19 A. Yes.

20 Q. Could you tell what color the other animals were?

21 A. There were a few of the animals that had orange and black  
22 fur on them; the other ones were just covered in dirt.

23 Q. So you couldn't tell what color they were?

24 A. No.

25 Q. All right. And you couldn't tell what sex they were?

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TABITHA VINER - Cross by Mr. Earley

1 A. No.

2 Q. And that's because you only got the skulls, correct?

3 A. Correct. Yes.

4 Q. And with respect to an evaluation for any sort of illnesses  
5 or other medical issues these animals may have had, you were  
6 limited to a review of the skull only, correct?

7 A. Yes.

8 Q. And had you been provided the bodies of these particular  
9 animals, you would have done a full evaluation, correct?

10 A. Yes.

11 Q. In fact, I think, if I recall your testimony, you do full  
12 exams inside and out, correct?

13 A. Yes.

14 Q. All right. So if you were provided the bodies of these  
15 animals, you would have been able to determine whether or not  
16 there were any issues with, for example, their paws, correct?

17 A. Because the animals were so decomposed, soft tissues may not  
18 have been present that would have helped us determine if the  
19 animal had, for example, clone disease. If there was arthritis,  
20 it would have shown up in the bones, yes.

21 Q. And with respect to evaluating the animal's spine, for  
22 example, for any sort of degenerative issues, you could have been  
23 able to determine that as well, correct?

24 A. If it showed up in the bones, yes.

25 Q. Okay. And as far as the setup of your lab is concerned, is

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TABITHA VINER - Cross by Mr. Earley

1 there any reason why you couldn't have performed those  
2 examinations in this case?

3 A. There is -- I would have been able to perform it, yes.

4 Q. Had you been asked to?

5 A. Yes.

6 Q. Now, I want you to look in defendant's exhibit book, please,  
7 at Exhibit 4. And I believe there's a series of three  
8 photographs in Defendant's Exhibit 4. Do you recognize those?

9 A. Yes, I do.

10 Q. And what are those?

11 A. These are pictures of the teeth of Lab 1 that I took after I  
12 rechecked out the item.

13 Q. All right. And go to Defendant's Exhibit 5.

14 A. Uh-huh.

15 Q. And what is that?

16 A. This is a similar set of photographs from Lab 2.

17 Q. And with respect to both Exhibits 4 and 5, as far as the  
18 photographs, did you take those photographs?

19 A. Yes, I did.

20 Q. Do they accurately display what you saw?

21 A. Yes.

22 Q. And Defendant's Exhibit 6?

23 A. This is also a set from Lab 3.

24 Q. And did you take that photograph?

25 A. Yes.

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TABITHA VINER - Cross by Mr. Earley

1 Q. And Defendant's Exhibit 7?

2 A. Photograph from Lab 4.

3 Q. All right. And, again, did you take that photograph?

4 A. Yes.

5 MR. EARLEY: Your Honor, I'll move to admit Defendant's  
6 Exhibits 4 through 7.

7 MR. BROWN: No objection.

8 THE COURT: Well, Mr. Earley, the -- all of those will  
9 be admitted. I have the same concern that I addressed with the  
10 government, that the individual pictures don't have individual  
11 exhibit numbers on them for clarity of the record, but -- but  
12 they'll be admitted.

13 MR. EARLEY: Thank you.

14 May I have just a moment?

15 THE COURT: You may.

16 MR. EARLEY: Nothing further.

17 THE COURT: Mr. Brown, redirect?

18 MR. BROWN: One moment, please, Judge.

19 No further questions, Judge.

20 THE COURT: Thank you, Doctor. You may step down.

21 Government's next witness.

22 MR. BROWN: We would call Joanne Green. And, Your  
23 Honor, at this time, we would also offer to read the stipulations  
24 into the record.

25 THE COURT: Do I have that up here?

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1 MR. BROWN: It has not been filed yet, Judge. I  
2 apologize.

3 THE COURT: May I see a copy of it, please?

4 MR. BROWN: May I approach?

5 THE COURT: You may.

6 And you may proceed, Mr. Brown.

7 (WITNESS SWORN.)

8 MR. BROWN: I apologize, Your Honor. Did you say I  
9 could proceed with the stipulations?

10 THE COURT: Yes, you may.

11 MR. BROWN: At this time I will read the stipulations  
12 into the record.

13 The defendant, Joseph Maldonado-Passage, his counsel,  
14 William Earley and Kyle Wackenheim, and the United States, by and  
15 through Assistant U.S. Attorneys Amanda Green and Charles Brown,  
16 stipulate as proven the following facts: One, on or about  
17 October 30th, 2018, the National Fish & Wildlife Forensics  
18 Laboratory received five animal skulls that had been excavated  
19 from the property of the Greater Wynnewood Exotic Animal Park,  
20 located in Wynnewood, Oklahoma. Teeth from each of the five  
21 animal skulls were subjected to DNA testing. The results showed  
22 that all five animals were tigers, *Panthera tigris*; two, the  
23 forensic analytical crime lab received metal and plastic  
24 fragments that had been removed from the five animal skulls. The  
25 fragments were examined by a forensic scientist with a specialty

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JOANNE GREEN - Direct by Mr. Brown

1 in ballistics. The forensic scientist determined that the metal  
2 and plastic fragments were consistent with ammunition fired from  
3 a .410 shotgun. The jury may take these facts as if they were  
4 proven by the United States at trial.

5 Signed by Amanda Green, William Earley and Joseph  
6 Maldonado-Passage.

7 Thank you, Your Honor.

8 JOANNE GREEN

9 DIRECT EXAMINATION

10 BY MR. BROWN:

11 Q. Good afternoon, ma'am.

12 A. Good afternoon.

13 Q. Would you mind pulling the microphone a little bit closer,  
14 please. Thank you.

15 Can you introduce yourself, please?

16 A. I am Joanne Green.

17 Q. And, Ms. Green, explain what you do for a living.

18 A. I'm a veterinarian.

19 Q. And do you have your own practice?

20 A. Yes, I do.

21 Q. Where is your practice located?

22 A. Wynnewood, Oklahoma.

23 Q. Dr. Green, how long have you had your practice in Wynnewood?

24 A. Approximately 20 years.

25 Q. What type of practice is it?

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JOANNE GREEN - Direct by Mr. Brown

1 A. It's a mixed animal practice.

2 Q. What's your educational background?

3 A. I was born in Alabama. I went to Auburn University in  
4 undergrad and in veterinary school. I moved here for my  
5 internship, and then I acquired my Oklahoma license and began  
6 practicing.

7 Q. And are you familiar with a person named Joseph  
8 Schreibvogel, now known as Joseph Maldonado-Passage?

9 A. Yes.

10 Q. Do you see him here in the courtroom?

11 A. Yes, I do.

12 Q. Can you describe for the record, please, where he is sitting  
13 and what he is wearing?

14 A. He's sitting right over there and he's got a white button-up  
15 shirt on.

16 MR. BROWN: Your Honor, may the record reflect that the  
17 witness has identified the defendant?

18 THE COURT: So reflect.

19 Q. (By Mr. Brown) How are you familiar with Mr. Passage?

20 A. He was a client of mine for 20 years.

21 Q. Okay. When did he first become one of your clients?

22 A. In 1999.

23 Q. Okay. And at that time what kind of work were you doing for  
24 him?

25 A. He asked me to help him with some tigers that he needed to

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1 rescue.

2 Q. Okay. And did he own any tigers at the time?

3 A. Not that I was aware of.

4 Q. And when you first started working with Mr. Passage, did he  
5 operate -- was the park already up and running?

6 A. No.

7 Q. Okay. Did you continue your relationship with Mr. Passage  
8 from 1999 forward?

9 A. Yes, I did.

10 Q. And over time did Mr. Passage build and develop an exotic  
11 animal park?

12 A. Yes, he did.

13 Q. All right. And did you continue to provide veterinary  
14 treatment to Mr. Passage and his animals?

15 A. Yes, I did.

16 Q. All right. Do you have any specific training with respect  
17 to exotic animals, such as large cats?

18 A. I learned that part of my profession from continuing  
19 education and from knowledge with other veterinarians and other  
20 parks.

21 Q. Okay. And with respect to treating Mr. Passage's animals,  
22 would you treat them both at your clinic as well as on site at  
23 his park?

24 A. Yes.

25 Q. Okay. And when you would go to his park, did you have a --

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JOANNE GREEN - Direct by Mr. Brown

1 a standing vet visit, or would you go as -- as required or as  
2 needed?

3 A. I went as required or needed.

4 Q. So someone from the park would give you a call and say,  
5 Dr. Green, we need you to come over?

6 A. Yes.

7 Q. Okay. Now, approximately how far is the exotic park from  
8 your practice?

9 A. It's the next exit up on the interstate, so three or four  
10 miles.

11 Q. So if you were to drive -- if you were to leave your  
12 practice and drive over to the park, how long would it take you  
13 to get there?

14 A. Five to seven minutes.

15 Q. All right. Now, with respect to the large exotic cats in  
16 particular, are there any particular ailments or diseases that  
17 tend to afflict them more?

18 A. These are large cats in captivity, and they tend to suffer  
19 from ailments that any other feline would; respiratory diseases,  
20 funguses on the skin, injuries, things of that nature.

21 Q. And when you first started working with Mr. Passage, you  
22 indicated he had -- he had rescued a few cats. Did that number  
23 increase over time?

24 A. Yes, it did.

25 Q. At its peak, can you estimate approximately how many cats he

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JOANNE GREEN - Direct by Mr. Brown

1 housed at his park?

2 A. There would have been over a hundred.

3 Q. Now, are you familiar with a document or, I guess, a form  
4 that's known as a certificate of veterinary inspection?

5 A. Yes.

6 Q. What exactly is a certificate of veterinary inspection?

7 A. It is a state certificate that lists the owner of the animal  
8 and where the animal is going to go. The veterinarian is to  
9 examine the animals and certify that they are healthy and able to  
10 travel, and then we call the state of destination and ask them  
11 for their entry requirements. And we fulfill those requirements  
12 and then the animal can go.

13 Q. Okay. And are these certificates of veterinary inspections  
14 oftentimes referred to as CVIs?

15 A. Yes.

16 Q. And is the CVI required only if it involves interstate  
17 travel of the animal?

18 A. Yes.

19 Q. All right. Now, did you prepare and sign CVIs during your  
20 time providing treatment to Mr. Passage's park?

21 A. Yes.

22 Q. Okay. Can you -- do you know approximately how many you  
23 would have prepared over the years, going back to 1999?

24 A. There would have been hundreds.

25 Q. Hundreds? Okay. And who usually prepared the body of the

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JOANNE GREEN - Direct by Mr. Brown

1 CVI?

2 A. My secretary.

3 Q. And would your secretary prepare the body of the CVI based  
4 on information provided from somebody at the park?

5 A. Yes.

6 Q. All right. Now, with respect to the animals covered in each  
7 CVI, would you examine those animals before certifying and  
8 signing off on the CVI?

9 A. Yes.

10 Q. And did you ever refuse to certify an animal, to certify  
11 that it was healthy enough for interstate treatment, after  
12 examining it at his park?

13 A. There would have been certain examples, yes.

14 Q. So over the years, approximately how many?

15 A. Maybe a handful, a few. Most of the animals were very  
16 healthy.

17 Q. All right. And the ones that you might have been reluctant  
18 to certify, is that something that -- you know, a particular  
19 ailment that can be treated and then Mr. Passage or someone from  
20 the park can bring the animal back maybe a week or two later?

21 A. Yes.

22 Q. And then at that time you re-examine it?

23 A. Yes.

24 Q. And if it's healthy, you can certify it --

25 A. Yes.

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1 Q. -- for interstate travel?

2 Okay. Please look at Government Exhibit 136. It will be in  
3 the black binder. It should be -- I apologize. Not 136. Bear  
4 with me, please.

5 Go ahead and look at Government's Exhibit 5 and 6, and you  
6 let me know if you recognize those.

7 A. Yes.

8 Q. Okay. And what are they?

9 A. This is a CVI.

10 Q. But is this a CVI that was prepared at your practice?

11 A. Yes.

12 Q. And signed by you?

13 A. Yes.

14 Q. And does it fairly and accurately -- or does it appear to be  
15 in the same condition now as it was when you signed it on the two  
16 respective dates?

17 A. Yes.

18 Q. All right.

19 MR. BROWN: Your Honor, we'd move for admission of  
20 Government's 5 and 6.

21 THE COURT: Any objection?

22 MR. WACKENHEIM: Yes, Your Honor, hearsay, lack of  
23 foundation. I can elaborate, if we approach.

24 THE COURT: Please.

25 (The following proceedings were had at the bench and out of

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JOANNE GREEN - Direct by Mr. Brown

1 the hearing of the jury.)

2 MR. WACKENHEIM: Your Honor, we're objecting to both  
3 Government's Exhibits 5 and 6. We anticipate that -- well, we  
4 have heard testimony from the witness that other individuals  
5 would sign -- or excuse me -- would fill out portions of this  
6 certificate done by other members of her staff. These concern  
7 elements of the offense. We submit that whoever marks donation  
8 needs to be brought here. I think, upon further questioning,  
9 she'll indicate that she is unaware of who filled that out. And  
10 so we -- we'll stand on lack of foundation and hearsay to this  
11 exhibit.

12 MR. BROWN: Your Honor, we did believe we had a  
13 business record certification for it, but we do not. So I could  
14 re-establish that foundation with respect to it being a business  
15 record, assuming that it is, indeed, maintained at her office.  
16 And with respect to preparing it, she's already indicated that  
17 her staff prepared these forms based on information related to  
18 them by folks at the park, to include whether or not it was a  
19 donation or a sale.

20 THE COURT: Well, I would ask that you do go back  
21 through the foundation, absent the certification. Given that,  
22 they'll be admitted. I think it's going to have to be covered on  
23 cross-examination in terms of the source of the information.

24 MR. BROWN: Thank you, Judge.

25 (The following record was made in open court, in the

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JOANNE GREEN - Direct by Mr. Brown

1 presence of all parties, counsel, and in the presence and hearing  
2 of the jury.)

3 Q. (By Mr. Brown) Okay. Dr. Green, let me ask you this:  
4 With --

5 MS. MAXFIELD-GREEN: I'm sorry to interrupt, Your  
6 Honor.

7 (Brief interruption.)

8 MR. BROWN: I apologize, Judge.

9 Q. (By Mr. Brown) Okay. Dr. Green, I'm sorry. With respect  
10 to Government's Exhibits 5 and 6, you indicated that you  
11 recognized it. Each of these CVIs that you certify and that you  
12 signed, are they made at or near the time that you would have  
13 signed this document?

14 A. Yes.

15 Q. And is it the regular practice of your vet practice to make  
16 these CVIs and then to retain them as part of your practice?

17 A. Yes.

18 Q. Okay. And were these two CVIs records that are kept in the  
19 course of the regularly conducted business activity of your vet  
20 practice?

21 A. Yes.

22 MR. BROWN: Your Honor, we'd move for admission of  
23 Exhibits 5 and 6.

24 MR. WACKENHEIM: Same objection.

25 THE COURT: The objection will be overruled.

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JOANNE GREEN - Direct by Mr. Brown

1 MR. BROWN: Thank you, Your Honor.

2 THE COURT: Government's 5 and 6 will be admitted.

3 Q. (By Mr. Brown) Okay. Exhibit 5 should be on your screen,  
4 Dr. Green.

5 Now, with respect to the very top portion of the exhibit,  
6 does that indicate the consignee, or the owner, of the animal?

7 G.W. Zoo?

8 A. The -- the upper left, yes.

9 Q. Okay. And what -- the next box over, the name of the  
10 consign -- I guess that's the consignee. Who was the consignee  
11 in this form?

12 A. Monterey Zoo.

13 Q. All right. And if you go down underneath Monterey Zoo,  
14 where it indicates "purpose of movement," what is checked?

15 A. "Other."

16 Q. Okay. And then how about regarding "intrastate or  
17 interstate"?

18 A. "Interstate."

19 Q. All right. Which means it's going across state lines,  
20 correct?

21 A. Correct.

22 Q. And with respect to this CVI, what type of animal did you  
23 examine?

24 A. A lion.

25 Q. How old was that lion?

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1 A. Five years.

2 Q. And then going back to the purpose of movement, you  
3 indicated "other" was checked. What is written in next to that?

4 A. "Donation."

5 Q. And then if you look at the very bottom, is that your  
6 signature?

7 A. Yes.

8 Q. And does that indicate you examined this animal on  
9 December 16th of 2016?

10 A. Yes.

11 Q. All right. And then if you would go to the -- the body,  
12 which I just circled, are those your notes?

13 A. Yes.

14 Q. And can you read those, please?

15 A. "This lion is healthy and ready to travel."

16 Q. All right. And is that the standard practice for issuing a  
17 CVI to allow an animal to travel across state lines?

18 A. Yes.

19 Q. So you would have physically examined this particular lion.  
20 You confirmed it was healthy. You certified that it could be  
21 transported in interstate travel?

22 A. Yes.

23 Q. Now, other than your signature at the bottom and the note  
24 that I have circled, who would have prepared the rest of that  
25 document?

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JOANNE GREEN - Direct by Mr. Brown

1 A. My secretary at the time.

2 Q. Okay. And would your secretary at the time prepare that  
3 document based -- I mean, would she have come up with this  
4 information or would she have received this information from  
5 somewhere else?

6 A. She would have received a call from the park.

7 Q. Okay. And was that pretty standard practice?

8 A. Yes.

9 Q. All right. Did that -- did that enable a more efficient  
10 examination for you and certification for you?

11 A. Yes.

12 Q. That way, if you had to go out and visit the park and  
13 examine this five-year-old female lion, you didn't have to worry  
14 about completing the form once you got there?

15 A. Correct.

16 Q. All right. Can we look at Exhibit 6, please?

17 Dr. Green, same questions with Exhibit 6. This CVI, where  
18 were the animals going?

19 A. Animal Haven Zoo.

20 Q. And where is Animal Haven located?

21 A. Wisconsin.

22 Q. What animals did you examine on this CVI?

23 A. A male and a female lion.

24 Q. And what date did you certify that they were healthy for  
25 transport?

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JOANNE GREEN - Direct by Mr. Brown

1 A. 6/12 of '18.

2 Q. And then, according to your notes -- can you read those,  
3 please?

4 A. "These lions are healthy and ready to travel."

5 Q. And same questions. These -- the majority of this document  
6 would have been prepared by your secretary?

7 A. Yes.

8 Q. All right. And based on information relayed from someone at  
9 the park?

10 A. Yes.

11 MR. WACKENHEIM: Objection. That's a series of leading  
12 questions, Your Honor.

13 THE COURT: Sustained.

14 Q. (By Mr. Brown) Now, let me ask you, Dr. Green, about your  
15 euthanasia practice with respect to Mr. Passage. Okay? Did you  
16 have a program of veterinary care in place with Mr. Passage?

17 A. Yes.

18 Q. All right. And when was that program first, I guess,  
19 enacted or first put in place?

20 A. Probably 2004.

21 Q. And what was the purpose of the veterinary program -- the  
22 program of veterinary care? Sorry.

23 A. It is a contract between the licensee and the veterinarian  
24 and the USDA.

25 Q. Can you look at Government's Exhibit 4, please?

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JOANNE GREEN - Direct by Mr. Brown

1 Do you recognize Exhibit 4?

2 A. Yes.

3 Q. And what is it?

4 A. That is my program of animal care.

5 Q. And is this -- was this executed by you? Was it signed by  
6 you?

7 A. Yes.

8 Q. And Mr. Passage?

9 A. Yes.

10 Q. And was it maintained at your vet practice?

11 A. Yes.

12 Q. And did you provide this to the government during the  
13 investigation?

14 A. Yes, I did.

15 Q. And is this a fair and accurate representation of the  
16 program of veterinary care?

17 A. Yes.

18 Q. All right.

19 MR. BROWN: We'd move for admission of Exhibit 4.

20 THE COURT: Any objection?

21 MR. WACKENHEIM: No, Your Honor.

22 THE COURT: Government's Exhibit 4 will be admitted.

23 Q. (By Mr. Brown) Okay. Just explain, I guess generally, what  
24 is this form? I mean, given that it -- is this a government  
25 form?

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JOANNE GREEN - Direct by Mr. Brown

1 A. Yes.

2 Q. Okay. Is this required by the Department of Agriculture?

3 A. Yes.

4 Q. And why is it required?

5 A. Because Joe had an exhibitor's license. And to exhibit  
6 animals, you have to maintain a program of veterinary and animal  
7 care.

8 Q. Okay. And I know earlier you testified that -- that you  
9 began treating exotic cats around 1999 for him. Is there a  
10 reason that this program of vet care was not signed or was not  
11 entered until July of 2004?

12 A. He may not have been exhibiting animals at that time.

13 Q. Okay. So if he didn't have a USDA exhibitor's license  
14 before July of '04, he didn't need one of these, correct?

15 A. Correct.

16 Q. All right. So once he obtained an exhibitor's license, he  
17 was required to basically enact one of these?

18 A. Yes.

19 Q. And you assisted him with that?

20 A. Yes.

21 MR. BROWN: If we can go to Page 2, please. Section E,  
22 if you can enlarge that.

23 Q. (By Mr. Brown) Okay. Can you explain what Section E on  
24 Page 2 covers?

25 A. Euthanasia.

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JOANNE GREEN - Direct by Mr. Brown

1 Q. All right. And what does Block 1 of Section E indicate?

2 A. It indicates that the veterinarian is to be the first line  
3 of euthanasia.

4 Q. All right. And then how about Block 2?

5 A. That is our method of euthanasia.

6 Q. And that is sedation, then IV euthanasia solution?

7 A. Yes.

8 Q. All right.

9 MR. BROWN: Let's go to Page 3, please. If we could  
10 expand Section D, please.

11 Q. (By Mr. Brown) All right. And with respect to Page 3,  
12 what's the distinction between the euthanasia provision on Page 2  
13 and the euthanasia provision on Page 3?

14 And if you want us to back out, Dr. Green, so you can see  
15 the entire page, that might assist.

16 A. Yeah. I think I just elaborated a little bit more on  
17 Page 3, indication this is for wild and exotic animals.

18 Q. Okay. And so Page 3 was more specific or more tailored to  
19 wild and exotic animals?

20 A. Yes.

21 Q. All right.

22 MR. BROWN: Let's enlarge Section B again, please, on  
23 Page 3.

24 Q. (By Mr. Brown) Again, Dr. Green, according to Block 1, what  
25 does that indicate regarding who administers the euthanasia?

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JOANNE GREEN - Direct by Mr. Brown

1 A. A veterinarian.

2 Q. And then Block 2, explain that, please.

3 A. We would first sedate the cat with a dart filled with  
4 anesthesia solution. And once the cat was sedated, then the cat  
5 is humanely euthanized with an IV dose of euthanasia solution  
6 or -- euthanasia solution. There's several different solutions.

7 Q. And are these euthanasia solutions, generally speaking, do  
8 they essentially just stop the heart?

9 A. Yes, they do.

10 Q. And approximately how long from the time that you inject  
11 that solution into the exotic animal until the time that the  
12 heart stops beating?

13 A. Around 20 to 30 seconds.

14 Q. Okay. Now, once the animal is sedated, with respect to the  
15 euthanasia, according to this protocol, prior to actually  
16 administering the euthanasia solution, the animal will be  
17 sedated?

18 A. Yes.

19 Q. All right. And once an animal is sedated, do they  
20 experience any suffering once you inject the animal with the  
21 euthanasia solution?

22 A. There can be certain minor reactions to the solution.

23 Q. Okay.

24 A. It has to all reach the heart before the heart will stop.

25 Q. All right. Now, that vet program was enacted in 2004. At

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JOANNE GREEN - Direct by Mr. Brown

- 1 any point in time forward during your association with  
2 Mr. Passage, was that program amended?  
3 A. Yes.  
4 Q. And when was it amended?  
5 A. I believe in 2016.  
6 Q. Okay. And at whose request?  
7 A. Joe's request.  
8 Q. All right. Did Mr. Passage explain why he wanted to amend  
9 the vet program?  
10 A. In case I was out of town or he could not get ahold of a  
11 veterinarian, that he needed provisions and permission to do  
12 certain things to the tigers that usually a veterinarian would  
13 do.  
14 Q. All right. I'm going to ask you to look at Exhibit 135.  
15 And I apologize for bouncing around, but I believe it will likely  
16 be in the rear of that binder there, Dr. Green.  
17 Okay. Have you found Exhibit 135?  
18 A. Yes.  
19 Q. Do you recognize it?  
20 A. Yes.  
21 Q. What is it?  
22 A. This is the amendment veterinary protocol that Joe came up  
23 with, actually in 2014. I'm sorry.  
24 Q. And do you -- did you provide this to the government?  
25 A. Yes, I did.

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JOANNE GREEN - Direct by Mr. Brown

1 Q. And is this kept at your vet practice?

2 A. Yes.

3 Q. And does this fairly and accurately depict the vet protocol  
4 that was enacted on April 23rd of 2014?

5 A. Yes.

6 Q. All right.

7 MR. BROWN: We would move for admission of Exhibit 135.

8 THE COURT: Any objection?

9 MR. WACKENHEIM: No, Your Honor.

10 THE COURT: 135 will be admitted.

11 Q. (By Mr. Brown) All right. So with respect to this vet  
12 protocol dated April 23rd of 2014, this -- this appears to be  
13 typewritten. It's not on a government form.

14 A. Yes.

15 Q. All right. Did you produce this document?

16 A. No, I did not.

17 Q. All right. Who did?

18 A. Joe.

19 Q. And did he ask you to sign it?

20 A. Yes.

21 Q. Okay.

22 MR. BROWN: Now, if we can go to the middle, right  
23 around here, please.

24 Q. (By Mr. Brown) Okay. Regarding euthanasia, under this  
25 amended protocol, who was responsible -- who was the primary

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JOANNE GREEN - Direct by Mr. Brown

1 party responsible for euthanizing animals at the park?

2 A. I was.

3 Q. And that's reflected in -- probably right about the middle  
4 of that highlighted area?

5 A. Yes.

6 Q. All right. Now, the next bullet down, can you explain that,  
7 please?

8 A. That -- that statement was put on this document in case I  
9 was out of town and a tiger or a lion or any of the other animals  
10 on the park had suffered a major injury or was bleeding to death  
11 or had somehow escaped their enclosure and needed to be -- the  
12 suffering needed to be ended immediately.

13 Q. All right. And is that why it's described as an extreme  
14 emergency?

15 A. Yes.

16 Q. Okay. And from the time that this was enacted on -- or from  
17 the time you signed it on April 23rd of 2014, was this extreme  
18 emergency exception, was it ever invoked?

19 A. Yes, one time.

20 Q. One time. Explain that, please.

21 A. One of the tigers that had been in a cage for over 15 years  
22 somehow managed to get over the top and was in the vicinity of  
23 humans and Joe had to put it down.

24 Q. And there was a community safety concern?

25 A. Yes.

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JOANNE GREEN - Direct by Mr. Brown

- 1 Q. Okay. And do you know how Mr. Passage put that animal down?
- 2 A. With one gunshot to the head.
- 3 Q. Okay. And did -- after Mr. Passage put that one animal
- 4 down, did he notify you?
- 5 A. Yes.
- 6 Q. Okay. Other than that one occasion, any other occasions of
- 7 that extreme emergency exception being invoked?
- 8 A. No.
- 9 Q. All right. Now, when this was amended or -- or modified in
- 10 April of 2014, did you have any concerns with the extreme
- 11 emergency language?
- 12 A. No.
- 13 Q. Okay. If -- if possible, going back to 1999, approximately
- 14 how many animals have you had to euthanize at his park?
- 15 A. I can't remember.
- 16 Q. Would you say it was fewer than a hundred?
- 17 A. Since 1999?
- 18 Q. Yes.
- 19 A. It's probably around a hundred.
- 20 Q. Okay. If I could direct your attention to the summer
- 21 of 2017, do you -- did you respond to several large cats that
- 22 were in need at the park at that time?
- 23 A. Yes.
- 24 Q. Okay. And approximately how many?
- 25 A. I'm not sure.

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JOANNE GREEN - Direct by Mr. Brown

- 1 Q. Okay. Did you examine more than one cat in --
- 2 A. Yes.
- 3 Q. -- the summer of 2017?
- 4 A. Yes.
- 5 Q. Did you have to sedate and euthanize any?
- 6 A. I probably did, yes.
- 7 Q. Okay. But you can't remember?
- 8 A. No.
- 9 Q. All right. Fair enough.
- 10 Let me ask you about October of 2017. Do you recall whether
- 11 or not you conducted any examinations at the park in October
- 12 of 2017?
- 13 A. Yes, I did.
- 14 Q. Okay. Approximately how many?
- 15 A. I can't recall.
- 16 Q. All right. Do you know what the nature of the examinations
- 17 were?
- 18 A. At this point, I -- probably some for health certificates
- 19 and maybe some for pain and suffering. I'm not sure.
- 20 Q. Okay. And can you recall whether or not there were any
- 21 animals you examined in October of 2017 that had to be
- 22 euthanized?
- 23 A. I'm sure there were, but I don't have my records in front of
- 24 me.
- 25 Q. Okay. Fair enough.

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JOANNE GREEN - Direct by Mr. Brown

1 Have you had to put down big cats that were suffering with  
2 skin disorders?

3 A. Yes.

4 Q. All right. And have you --

5 THE COURT: Mr. Brown, let me interrupt you for a  
6 minute. I think we need to take our afternoon break.

7 Court will be in recess for 15 minutes. The court will  
8 remain in attendance and seated while the jury leaves the  
9 courtroom.

10 (Jury exited.)

11 THE COURT: Court will be in recess until 3:15.

12 (Break taken.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and in the presence and hearing  
15 of the jury.)

16 THE COURT: Mr. Brown, you may proceed.

17 MR. BROWN: Thank you, Judge.

18 Q. (By Mr. Brown) Dr. Green, prior to the break I asked you if  
19 you had ever put down any big cats at Mr. Passage's park that  
20 were suffering from skin disorders.

21 A. Yes.

22 Q. How about any big cats that were limping or had other issues  
23 related to a -- an improper declawing process?

24 A. Yes.

25 Q. Would either of those conditions qualify as an extreme

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JOANNE GREEN - Cross by Mr. Wackenheim

1 emergency under the revised vet protocol dated 2014?

2 A. No.

3 Q. Okay. Final question. Describe the billing arrangement  
4 between your clinic and Mr. Passage's park.

5 A. He would -- I would provide services and medications and  
6 things like that, and we would keep him a running total at the  
7 clinic. And he would pay me as he had money come available.

8 Q. And was he always current?

9 A. No.

10 Q. Okay. Is he still in arrears to you?

11 A. Yes.

12 MR. BROWN: Pass the witness, Your Honor.

13 THE COURT: Cross-examination?

14 **CROSS-EXAMINATION**

15 **BY MR. WACKENHEIM:**

16 Q. Dr. Green, could you open defendant's notebook in front of  
17 you to Tab 10? Do you recognize that document?

18 A. Yes.

19 Q. Is that your signature at the bottom of the document?

20 A. Yes.

21 Q. And is that your letterhead at the top?

22 A. Yes.

23 Q. What is this document? Well, strike that.

24 MR. WACKENHEIM: Defendant moves for admission of  
25 Defendant's Exhibit 10.

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JOANNE GREEN - Cross by Mr. Wackenheim

1 THE COURT: Any objection?

2 MR. BROWN: No objection.

3 THE COURT: Defendant's 10 will be admitted.

4 Q. (By Mr. Wackenheim) Can you describe to the jury what this  
5 document entails?

6 A. This is just a statement that I came up with for the park  
7 that if these animals are found lame and you could see that there  
8 was a toenail coming from the pad -- it's pretty obvious when  
9 these toenails start growing out of the top of the foot. It's  
10 extremely painful for them, and we wanted to be able to provide  
11 care, some type of pain relief for them, if that occurred.

12 Q. So you entrusted certain park staff to administer pain  
13 medication to the animals; is that --

14 A. Absolutely, yes.

15 Q. So who on the park staff did you trust to care for the  
16 animals in your absence?

17 A. John Reinke. And Joe, of course. And --

18 Q. So you have been working at this park for years, correct?

19 A. Yes.

20 Q. Did you trust Mr. Passage's judgment when it came to the  
21 treatment of his animals?

22 A. Yes.

23 Q. Did you also trust the judgment of Mr. Reinke?

24 A. Yes.

25 Q. Are you currently employed at the zoo?

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JOANNE GREEN - Cross by Mr. Wackenheim

1 A. No.

2 Q. Why not?

3 A. It has changed ownership and I don't -- I'm not working for  
4 the new owner.

5 Q. Who is that new owner?

6 A. Jeff Lowe.

7 Q. You talked briefly about your experience. Is it also true  
8 that you have worked with Oklahoma State University?

9 A. Yes.

10 Q. Just wanted to make sure that we accurately described your  
11 experience.

12 Speaking to captive tigers, you talked a little bit about  
13 your experience with them and how they're different than wild  
14 tigers. Can you talk a little bit about what happens as they get  
15 older?

16 A. When these tigers and large cats are in their native  
17 environment, say in Africa, you know, their life expectancy  
18 typically might be around seven, eight years old. When they are  
19 born in a cage and raised in an enclosure, they tend to live  
20 twice that long. And their skeletons can develop problems that  
21 they never would have experienced had they been in the wild.

22 Q. Is it true to say they outgrow their skeletons?

23 A. I wouldn't say they outgrew their skeletons, but maybe  
24 outlive their skeletons. They can develop arthritis. They can  
25 develop problems with their mouths, their teeth, everything

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JOANNE GREEN - Cross by Mr. Wackenheim

1 related to being in an enclosed environment.

2 Q. We have heard some testimony about the practice of removing  
3 cubs from the mother early. Can you talk about your experience  
4 with that practice?

5 A. When these baby cubs are born in an enclosed environment, in  
6 a cage, the mothers are typically not in an environment where  
7 they would take care of their cubs normally. The practice of  
8 removing the cubs is for the cubs' own safety. They probably  
9 would not survive with their mothers.

10 Q. Turning to the CVI forms, can you reference Government  
11 Exhibit 6? Do you see that in front of you?

12 A. Yes.

13 Q. And you have answered questions about this form, and I'm not  
14 going to go line by line, but is that your handwriting that says,  
15 "These lions are healthy and ready to travel"?

16 A. Yes.

17 Q. Is that --

18 A. Yes.

19 Q. Okay. Do you know who checked the box that says "interstate  
20 and exhibition" on that form?

21 A. That would be my secretary.

22 Q. And where did she get the information to check that?

23 A. From whoever called in the -- the animals that were going to  
24 be placed on this certificate from the park.

25 Q. So for this particular form dated June 12th, 2018, do you

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JOANNE GREEN - Cross by Mr. Wackenheim

1 have any knowledge who instructed your secretary to mark those  
2 boxes?

3 A. I don't remember who it was.

4 Q. Exhibit 5. Similar questions. In the box checked "other"  
5 that says "donation," is that your handwriting?

6 A. No.

7 Q. Is that your secretary's handwriting?

8 A. Yes.

9 Q. Do you know who told her to mark donation on that form?

10 A. No, I do not.

11 Q. In fact, is that information even required in these forms?

12 A. Some states do ask us why the animals are traveling to their  
13 state; others do not. Sometimes that box is left blank. It just  
14 depends on what the -- what the requirements are of the state  
15 that is receiving the animals.

16 Q. And is it your practice, or your office's practice, to call  
17 the receiving state to determine what information is required?

18 A. Absolutely.

19 Q. And so I think you testified what's required generally is  
20 the type of animal; is that right?

21 A. Yes.

22 Q. The age of the animal?

23 A. Yes.

24 Q. Who owns it?

25 A. Uh-huh.

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JOANNE GREEN - Cross by Mr. Wackenheim

- 1 Q. Is that a "yes"?
- 2 A. Yes.
- 3 Q. Who gets it?
- 4 A. Yes.
- 5 Q. And is the animal healthy?
- 6 A. Yes.
- 7 Q. We have had a lot of discussion about euthanasia, the
- 8 practice of putting down animals. Do you recall that testimony?
- 9 A. Yes.
- 10 Q. Is a gunshot to the head an accepted form of euthanasia?
- 11 A. Yes.
- 12 Q. Are you familiar with the USDA?
- 13 A. Yes.
- 14 Q. And their inspections on the park?
- 15 A. Yes.
- 16 Q. Have you had conversations with employees of the USDA about
- 17 euthanasia of animals on this park?
- 18 A. Yes.
- 19 Q. And have you ever been told that you are not permitted to
- 20 euthanize any of these animals?
- 21 A. No.
- 22 Q. Do you have a captive-bred wildlife license?
- 23 A. No, I do not.
- 24 Q. Did you trust the judgment of Mr. Reinke and Mr. Passage on
- 25 when they advised that an animal required euthanasia?

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JOANNE GREEN - Cross by Mr. Wackenheim

1 A. Yes.

2 Q. Have you ever been second-guessed by the USDA for your  
3 decision to euthanize an animal?

4 A. No.

5 Q. Has Mr. Passage ever asked you to put down an animal for any  
6 reason other than one related to the physical condition of the  
7 animal?

8 A. There was one tiger that I was asked to euthanize that was  
9 extremely aggressive. And we discussed it and we talked about it  
10 at length, and we ultimately decided that for human safety and  
11 protection, that animal needed to be euthanized.

12 Q. If you could turn to Defendant's Exhibit 4. That will be in  
13 the book. Could you review those photographs and give an  
14 estimate of the -- well, let me ask: Are you able to, upon  
15 reviewing Defendant's Exhibit 4, estimate the age of that tiger?

16 A. I see that there are some incisor teeth missing and there is  
17 wear on the enamel of the canine teeth. I would guesstimate this  
18 cat to be around 10 to 11 years old.

19 Q. Could you review Defendant's Exhibit 5? Same question. Are  
20 you able to estimate the age of this tiger?

21 A. This tiger possibly could be a little bit older than the  
22 first one. Same problem with the incisor teeth, one is trying to  
23 come out. There is a lot of wear and tear on the premolars. I  
24 would say probably same age, around 10 to 11, if not older.

25 Q. Could you review Defendant's Exhibit 6? Are you able to

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JOANNE GREEN - Cross by Mr. Wackenheim

1 estimate the age of the tiger based on that photograph?

2 A. Here we have a chipped premolar tooth and some wear and tear  
3 on the canines. I would say this cat was probably easily over  
4 ten years old.

5 Q. And, finally, Defendant's Exhibit 7. Same question. Are  
6 you able to estimate the age of that tiger?

7 A. There is some wear on the -- on the molar and the premolar.  
8 Some wear on the enamel. This cat's probably similar in age.

9 Q. So about ten years or older?

10 A. Yes.

11 Q. And is that consistent for those four tigers that I showed  
12 you?

13 A. Yes.

14 Q. On direct examination you were asked questions about the  
15 practice of lethal injection through intravenous drugs. Do you  
16 remember that testimony?

17 A. Yes.

18 Q. Okay. And do you remember being asked whether or not there  
19 is any pain or reaction associated with the intravenous drug? Do  
20 you remember that question?

21 A. Yes.

22 Q. And is there -- can there be pain associated with that form  
23 of euthanasia?

24 A. I'm not sure the degree of pain. I know that sometimes they  
25 will seizure. Sometimes it will stretch out. It depends on how

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JOANNE GREEN - Redirect by Mr. Brown

1 long it takes for the entire amount of drug to reach the cardiac  
2 muscle. And this is a very large volume of fluid, takes a while  
3 for it to get there. So once I inject the medication, I cannot  
4 predict how that's going to go.

5 Q. And do you know whether or not animals who are euthanized  
6 with a gunshot to the head are aware of any pain or feel any  
7 pain?

8 A. I'm not sure.

9 MR. WACKENHEIM: May I have a moment, Your Honor?

10 THE COURT: You may.

11 MR. WACKENHEIM: Thank you, Doctor.

12 No further.

13 THE COURT: Redirect, Mr. Brown?

14 **REDIRECT EXAMINATION**

15 **BY MR. BROWN:**

16 Q. Dr. Green, regarding Defendant's Exhibit 10, if you could  
17 flip to that, please. And what's the date of this document?

18 A. I don't see a date on it.

19 Q. Do you know when you drafted it?

20 A. I believe it was a few years ago, but I can't remember.

21 Q. Okay. And what's the overall purpose of the document?

22 A. For the park staff to be able to medicate animals that were  
23 in pain.

24 Q. All right. And would any animals being treated under the  
25 provisions of this document fall within the extreme emergency

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JOANNE GREEN - Redirect by Mr. Brown

1 exception in the revised vet protocol dated 2014?

2 A. I'm sure that they would.

3 Q. That they -- I'm sorry?

4 A. I'm sure that they would.

5 Q. Okay. So if an animal was receiving treatment from the  
6 medicine that you authorized the folks at -- the staff to  
7 provide, you're saying that an animal receiving that type of  
8 treatment would qualify under Government's Exhibit 135 as  
9 authorizing either Mr. Passage or John Reinke to euthanize the  
10 animal with a bullet?

11 A. No.

12 Q. Okay. So just to back up to make sure I understand your  
13 testimony. Is it your testimony that an animal being treated  
14 under Defendant's Exhibit 10, the protocol that you believe you  
15 enacted a few years ago --

16 A. Uh-huh. Yes.

17 Q. -- would not qualify under the extreme emergency exception  
18 for euthanasia as amended in April of 2014?

19 A. Not unless we discussed it, but this is not an extreme  
20 emergency. This is a program of veterinary care that we are  
21 treating the pain.

22 Q. Okay. Thank you.

23 Now, Mr. Wackenheim reviewed Defendant's Exhibits 4 through  
24 7, and those are the photographs of the teeth.

25 A. Yes.

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JOANNE GREEN - Redirect by Mr. Brown

1 Q. Do you recall your testimony regarding those?  
2 A. Yes.  
3 Q. I believe you testified there was some incisor wear?  
4 A. Yes.  
5 Q. And there were some issues with maybe a couple of cracked  
6 teeth and some misplaced or displaced canines; is that correct?  
7 A. Correct.  
8 Q. And animals with that type of -- those type of tooth  
9 problems, based on your experience, is that something that would  
10 have happened overnight?  
11 A. No.  
12 Q. Okay. That's something that would have progressively  
13 happened over time?  
14 A. Yes.  
15 Q. And in a situation like that, would that have been a  
16 situation where the park would have reached out to you in the  
17 event that they believe the animal should have been euthanized?  
18 A. Yes.  
19 Q. Thank you, Dr. Green.  
20 MR. BROWN: No further questions.  
21 THE COURT: Any recross, Mr. Wackenheim?  
22 MR. WACKENHEIM: No, Your Honor.  
23 THE COURT: Thank you, Doctor. You may step down.  
24 Government call their next witness.  
25 MS. MAXFIELD-GREEN: Government calls Darleen

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 Cervantes.

2 (WITNESS SWORN.)

3 **DARLEEN CERVANTES**

4 **DIRECT EXAMINATION**

5 **BY MS. MAXFIELD-GREEN:**

6 Q. Good afternoon, Ms. Cervantes. Could you state your full  
7 name for the record, please?

8 A. Darleen Denise Cervantes.

9 Q. Ms. Cervantes, where do you currently live?

10 A. In the state of Indiana.

11 Q. What do you do there?

12 A. Well, currently unemployed. I was a zookeeper right before  
13 that.

14 Q. Do you know a person named Joe Schreibvogel, now known as  
15 Joseph Maldonado-Passage or Joseph Passage?

16 A. Yes, I do.

17 Q. Do you see him here in the courtroom today?

18 A. Yes, I do.

19 Q. Could you describe for the record what he's wearing?

20 A. A white shirt and a tie, a blue tie.

21 Q. All right. How did you first get to know or know of  
22 Mr. Passage?

23 A. Social media.

24 Q. Did you interact with him at first on social media or just  
25 see postings he had made?

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 A. I just seen postings he had made.
- 2 Q. At that time that you had first started to see his postings  
3 on social media, did you have an interest in exotic animals?
- 4 A. Yes, I always have.
- 5 Q. And what was your interest?
- 6 A. Well, I had Savannah cats and I had always wanted to have a  
7 larger cat.
- 8 Q. And about when would you say that you started to become  
9 aware of Mr. Schreibvogel or Mr. Passage via social media?
- 10 A. Give or take, 2015.
- 11 Q. After you'd seen some of his videos and gotten familiar with  
12 him, did you reach out to him through the Internet or social  
13 media?
- 14 A. Yes, I did.
- 15 Q. And did he respond to you?
- 16 A. Yes, he did.
- 17 Q. And did you eventually get his phone number and have phone  
18 calls or text messages with him?
- 19 A. We text.
- 20 Q. Did you eventually meet him in person?
- 21 A. Yes, I did.
- 22 Q. What were the circumstances of that?
- 23 A. He was running for president.
- 24 Q. Okay. And where did you meet him?
- 25 A. In Ohio.

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 Q. Okay. About what year would that have been?
- 2 A. The year he ran for president, so last year, I believe it  
3 was.
- 4 Q. Well, if the last presidential campaign was in 2016, would  
5 that have been closer to that time --
- 6 A. Yeah. It would have, yeah.
- 7 Q. Okay. All right. And did you have a position in -- in the  
8 campaign?
- 9 A. Yes. I was his representative for the state of Kentucky.
- 10 Q. Now, in August of 2017, flashing forward a little bit, did  
11 you buy an animal from Mr. Passage?
- 12 A. Yes, I did.
- 13 Q. What did you buy?
- 14 A. Bobcat.
- 15 Q. How did you get that animal?
- 16 A. I reached out to him and I knew that he had -- you know,  
17 that he deals in animals. I was always impressed with what I had  
18 seen on social media, and I reached out to him as opposed to one  
19 of the other breeders that I knew had one for sale.
- 20 Q. Did you travel to Oklahoma to get it?
- 21 A. Yes, ma'am.
- 22 Q. Did you visit the zoo at that time?
- 23 A. Shortly.
- 24 Q. And did you pay for that animal?
- 25 A. Yes, ma'am.

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 Q. How much was it?
- 2 A. \$2,500.
- 3 Q. Was it a baby or an adult?
- 4 A. It was a baby.
- 5 Q. Now, a few months later, in October of 2017, did you reach
- 6 out to Mr. Passage about buying some tigers?
- 7 A. Yes, ma'am, I did.
- 8 Q. How did you communicate with him about that?
- 9 A. Via text.
- 10 Q. And when you were looking to buy a tiger, why did you think
- 11 of Mr. Passage, as opposed to other zoos that might be nearer to
- 12 you?
- 13 A. Simply because I knew that he had tigers available and I had
- 14 dealt with him in the past.
- 15 Q. Let's take -- have you take a look at Exhibit 21. There's a
- 16 book in front of you marked government's exhibits, and if you'll
- 17 look at 21.
- 18 A. Okay.
- 19 Q. And what is in that? What are you looking at? And let me
- 20 ask it this way: Are you looking at a DVD, like a CD, DVD?
- 21 A. Yeah, I'm looking at like just a report number thing here.
- 22 THE COURT: Counsel, does she have both books up there?
- 23 MS. MAXFIELD-GREEN: I think she --
- 24 THE WITNESS: I may have the wrong thing.
- 25 Q. (By Ms. Maxfield-Green) I think you have got defendant's.

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 Yeah. If you can look in the other book, the black one.
- 2 A. Okay.
- 3 Q. Are you looking at a CD or DVD?
- 4 A. No. Actually, I'm looking at somebody's driver's license.
- 5 Q. Okay. Well, that's not what I'm asking you to look at then.
- 6 A. I'm wondering why I'm looking at that.
- 7 Q. Are you looking at 21? Right behind --
- 8 A. Okay. Right behind it? There we go.
- 9 Q. Yes, behind.
- 10 A. Yes, there's a CD.
- 11 Q. Behind it --
- 12 A. That's what we're looking for.
- 13 Q. Okay. Now, let's -- sometime in the past year, did you
- 14 review your text messages with Mr. Passage on your own phone?
- 15 A. Did I review my messages with him?
- 16 Q. Did you look back through them?
- 17 A. Yes. I have looked back through them, yes, personally.
- 18 Q. And you have reread them?
- 19 A. Yes, I have.
- 20 Q. And while you were talking to -- did you talk to a member of
- 21 law enforcement about those text messages?
- 22 A. Yes, ma'am, I did.
- 23 Q. And while you were talking to a member of law enforcement,
- 24 did you show that -- that member of law enforcement your -- those
- 25 text messages?

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 A. Yes, ma'am, I did.

2 Q. And did you allow the -- the law enforcement officer to take  
3 a video of you scrolling your text messages so that they could be  
4 read?

5 A. Yes, ma'am, I did.

6 Q. Okay. And have -- did you allow her to provide that video  
7 of your scrolling text messages to the government in this case?

8 A. Yes, ma'am, I did.

9 Q. And have you and I talked about that before?

10 A. Never have met you before.

11 Q. What's that?

12 A. Nope. We have never talked.

13 THE COURT: One at a time, please.

14 MS. MAXFIELD-GREEN: Sorry about that.

15 THE WITNESS: Sorry.

16 Q. (By Ms. Maxfield-Green) Do you recall a phone conversation  
17 involving Special Agent Matt Bryant of the Fish & Wildlife  
18 Service?

19 A. Yes, I have.

20 Q. Where you discussed that same text conversation with  
21 Mr. Passage?

22 A. Yes.

23 MS. MAXFIELD-GREEN: The government moves to admit  
24 Exhibit 21.

25 THE COURT: Any objection?

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 MR. WACKENHEIM: Yes. May we approach?

2 THE COURT: You may.

3 (The following proceedings were had at the bench and out of  
4 the hearing of the jury.)

5 MS. MAXFIELD-GREEN: I thought she had a screenshot of  
6 it, so --

7 MR. WACKENHEIM: Your Honor, we're objecting on hearsay  
8 grounds. It's my understanding that she is going to show a  
9 conversation in text message form that might be on Facebook, it  
10 could be text, I'm not sure, but it's her statements made out of  
11 court, not under oath, and it does not meet a hearsay exception.  
12 We submit that her statements in those text messages are hearsay.

13 THE COURT: The witness's?

14 MR. WACKENHEIM: Correct.

15 THE COURT: I think the testimony was it's texts,  
16 correct?

17 MS. MAXFIELD-GREEN: Correct.

18 THE COURT: Okay. Response from the government?

19 MS. MAXFIELD-GREEN: The text messages are a  
20 back-and-forth conversation between her and Mr. Passage.  
21 Therefore, his statements are admission of a party opponent, and  
22 her statements are necessary to show the context or his knowledge  
23 of the meaning of the conversation.

24 THE COURT: Okay. Objection will be overruled.

25 (The following record was made in open court, in the

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 presence of all parties, counsel, and in the presence and hearing  
2 of the jury.)

3 MS. MAXFIELD-GREEN: And, Your Honor, can we admit  
4 Government's Exhibit 21?

5 THE COURT: Yes. 21 will be admitted.

6 MS. MAXFIELD-GREEN: Okay. And I'm going to have this  
7 brought up for you to look at on your screen.

8 Okay. And if you can pause it right there, Jane. Just  
9 pause it. Whoops. Can you run it back just slightly.

10 Q. (By Ms. Maxfield-Green) Okay. Now, that we're all looking  
11 at something here, does this look familiar to you?

12 A. Yes, ma'am.

13 Q. Is this your phone?

14 A. Yes, ma'am.

15 Q. Or a video of your phone?

16 A. It's a video.

17 Q. All right. And based on your memory of your phone and this  
18 conversation, who were you talking to?

19 A. Joseph Maldonado.

20 Q. Okay. And based on your history of communications with  
21 Mr. Passage, or Mr. Maldonado, are you confident that the contact  
22 information shown here was, in fact, Mr. Passage?

23 A. Yes, ma'am.

24 Q. All right. Okay. So if we look at that first block -- now,  
25 the -- the text in blue, that would be you talking, correct?

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 A. Yes, ma'am.

2 Q. And the text in gray would be him, correct?

3 A. Yes, ma'am.

4 Q. All right. So if you could just read in these -- these  
5 exchanges for the record, please.

6 A. Sure.

7 "What are you charging for a tiger or other cat? Would be  
8 for me."

9 "Tigers 2K."

10 "When will they be ready?"

11 "Now. Two weeks old."

12 "On bottle feeding?"

13 And he says, "Yes."

14 Q. Okay. And if you can see the date there at the very  
15 beginning of the next message, what is the date?

16 A. October 29th, 2017.

17 MS. MAXFIELD-GREEN: And, Jane, if you could let it  
18 scroll up a little bit. And pause it there.

19 Q. (By Ms. Maxfield-Green) Okay. Could you read the text  
20 below October 29, 2017, at 15:08? What does Mr. Passage say to  
21 you?

22 A. "Two others interested. Let me know."

23 Q. Okay. And what do you respond to him, in blue?

24 A. "Okay. I will most likely need to wait two weeks, so go  
25 ahead. Thank you."

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 Q. Okay.

2 MS. MAXFIELD-GREEN: And if we can scroll a little  
3 more, Jane. Pause it there.

4 Q. (By Ms. Maxfield-Green) Okay. And underneath October 30th  
5 at 14:08, what do you say to Mr. Passage?

6 A. "Do you have any older tigers for sale, like five" -- I'm  
7 sorry. It looks like it -- "six -- six or four months -- six  
8 months or for sale?"

9 Q. And what does he respond to you?

10 A. "Yep, two 5-month males. A thousand dollar pair."

11 Q. And what do you respond back to him?

12 A. "Okay. Let me work on this."

13 Q. Okay.

14 MS. MAXFIELD-GREEN: And pause it, Jane.

15 Q. (By Ms. Maxfield-Green) Okay. And what do you say to him  
16 on October 30th?

17 A. "So a thousand dollars, right? Can we do this this weekend?  
18 Cash."

19 Q. And what does he respond?

20 A. "Yes."

21 Q. And what do you respond?

22 A. "Okay. Thank you."

23 Q. All right.

24 MS. MAXFIELD-GREEN: Pause it there, Jane.

25 Q. (By Ms. Maxfield-Green) Okay. What does he respond back to

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 you?
- 2 A. A thumbs up.
- 3 Q. And then what do you say to him?
- 4 A. I say, "Do you know this kid, right?" And then it's a face  
5 shot of Michael Voorhees.
- 6 Q. Okay.
- 7 MS. MAXFIELD-GREEN: And if you'll pause it there,  
8 Jane.
- 9 Q. (By Ms. Maxfield-Green) Is that a photo of Mr. Voorhees and  
10 Mr. Passage?
- 11 A. Yes, ma'am.
- 12 Q. Okay. And what does it say underneath that photo?
- 13 A. "We want to do this together. You okay with that?"
- 14 Q. And what does he say?
- 15 A. "What do you mean?"
- 16 Q. And what do you respond?
- 17 A. "Buying them together."
- 18 Q. What does he respond?
- 19 A. A thumbs up.
- 20 Q. All right. And what do you say?
- 21 A. "Thanks. We will see you Saturday. You're the best." I  
22 responded --
- 23 Q. And then you respond?
- 24 A. "Love you -- love you more than this. I hope I -- you  
25 and -- you I hope you it."

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 Q. All right. And on October 31st at, looks like 7:57, what do  
2 you say to him?

3 A. I say, "Good morning. We are excited. Any way get a  
4 picture of the new kids?"

5 Q. And does Mr. Maldonado respond to you?

6 A. Yes.

7 Q. What does he respond with?

8 A. A tiger and a picture of an employee.

9 Q. Okay.

10 MS. MAXFIELD-GREEN: Scroll on up a little bit.

11 Q. (By Ms. Maxfield-Green) What do you ask him?

12 A. "Do they have names?"

13 Q. And what else do you say to him?

14 A. "Just wanted to be clear, the pair is a thousand dollars."

15 Q. Okay. And what's the next one?

16 A. "What is the hotel nearby the park? We will be there  
17 Saturday, a little after noon."

18 Q. And what does he respond to you on October 31st?

19 A. "Kent's."

20 Q. And to your knowledge, is Kent's the name of a hotel?

21 A. It was, yeah. He told me that.

22 Q. Okay.

23 MS. MAXFIELD-GREEN: And if you'll let it scroll a  
24 little, Jane.

25 Okay. If you'll pause it.

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 Q. (By Ms. Maxfield-Green) And what does he say underneath  
2 Kent's?
- 3 A. "I need to get permits to export, so I need the name and  
4 address if someone has a USDA number."
- 5 Q. And what do you tell him?
- 6 A. "Okay. We are set. Bringing a thousand dollars."
- 7 Q. What does he respond?
- 8 A. Thumbs up.
- 9 Q. And then what do you tell him next?
- 10 A. "I don't have a USDA permit because my county, Nevada,  
11 doesn't care about -- and is private ownership. What do you  
12 think? Can we still do this?"
- 13 Q. And what does he respond to you?
- 14 A. "Yep. I have to have time to get a health certificate to  
15 enter Nevada. These are going where?"
- 16 Q. Okay.
- 17 A. "My house, Nevada, Nye County."
- 18 Q. Okay. And what's that a picture of?
- 19 A. My driver's license.
- 20 Q. And what does he say to you on October 31st?
- 21 A. "You know you have to have a special use permit to have  
22 tigers there. That's why Karl Mitchell is always in trouble."
- 23 Q. All right. And what do you respond to him?
- 24 A. "Didn't they just allow him? Stephanie Zane, AK -- animal  
25 control, AC, has not given trouble in the past. Okay. So

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 no-go?"
- 2 Q. And what else do you say?
- 3 A. "I'm checking on it right now."
- 4 Q. All right. What does he say?
- 5 A. "Make sure you can."
- 6 Q. And you respond?
- 7 A. "Yes."
- 8 Q. Little bit later, on October 31st at 10:03, what do you say
- 9 to him?
- 10 A. "So we a go then?"
- 11 Q. And what does he respond to you?
- 12 A. "It's on you if you get in trouble."
- 13 Q. And what do you respond back to him?
- 14 A. "I will get all I need, I promise."
- 15 Q. And what does he respond?
- 16 A. "Okay."
- 17 Q. And then a couple -- an hour or so later on October 31st,
- 18 what does he send to you?
- 19 A. He asks for my phone number. It says, "Phone number?"
- 20 Q. Did you provide that to him?
- 21 A. Yes.
- 22 Q. And then what does he say next?
- 23 A. "They require a USDA number for Nevada. Can't get health
- 24 paper. Can you use your old address and health papers will go
- 25 for 30-day travel?"

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 Q. And what do you respond?
- 2 A. "Yes."
- 3 Q. And what's right underneath the "yes"?
- 4 A. "My Kentucky one," question mark.
- 5 Q. What does he say?
- 6 A. "Well, they won't issue one for Nevada. I told you they
- 7 wouldn't."
- 8 Q. What do you respond?
- 9 A. I said, "Okay. My Kentucky address is."
- 10 Q. What does he respond?
- 11 A. Thumbs up.
- 12 Q. Okay. October 31st, what does he ask you?
- 13 A. My ZIP code.
- 14 Q. Do you provide it to him?
- 15 A. Yes.
- 16 Q. All right. Now, it looks like we've moved on to
- 17 November 2nd. What does he ask you?
- 18 A. "So you still coming to get the cats?"
- 19 Q. What do you say?
- 20 A. "Yes."
- 21 Q. What does he respond?
- 22 A. A thumbs up.
- 23 Q. All right. Moving on -- I'll let it scroll a minute up to
- 24 November 3rd.
- 25 Okay. What's that first text there at the top?

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 A. It says, "Can I come up next weekend?"
- 2 Q. And what is the next line?
- 3 A. "At chemo and -- chemo and sicker than I thought." I have
- 4 no idea.
- 5 Q. Were you undergoing chemotherapy treatment?
- 6 A. I was interested in starting -- I had cancer. So we were
- 7 talking about it.
- 8 Q. What does Mr. Passage say to you on November 3rd at 12:08?
- 9 A. "They will not issue a health certificate without a USDA
- 10 number."
- 11 Q. What do you respond to him?
- 12 A. "Okay. Well, give me time. I will get it."
- 13 Q. What does he say to you?
- 14 A. And he tells me to call him.
- 15 Q. All right. And right there on November 10th, do you send a
- 16 message to him?
- 17 A. Yes, ma'am.
- 18 Q. What do you say?
- 19 A. "Can I call you?"
- 20 Q. What does he say back to you?
- 21 A. "Yes."
- 22 Q. All right. And coming back again on November 10th, what do
- 23 you text to him?
- 24 A. "Sorry. Just seen this. Still okay?"
- 25 Q. Okay. And what does it say under that?

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 A. "Hey, won't let me call that number. Anyway, want to talk  
2 about picking up the boys."
- 3 Q. And what's the next message on November 10th?
- 4 A. "It's my phone, not yours."
- 5 Q. Were you having trouble getting ahold of him?
- 6 A. Obviously.
- 7 Q. On November 10th does he provide you a different phone  
8 number?
- 9 A. He provides a home number, yes.
- 10 Q. And on November 14th, 2017, at 8:15, what does he text to  
11 you?
- 12 A. "Any luck on money? I'm in a hell of a bind."
- 13 Q. And what do you respond back on November 18th?
- 14 A. "I will get you something this week. Miss you."
- 15 Q. What does he respond to you on the same day?
- 16 A. "Need to pay lawyers. Could really use it."
- 17 Q. What do you respond?
- 18 A. "I understand. I'm on it."
- 19 Q. Does this reflect that -- does it say Joseph missed a call  
20 from you?
- 21 A. Yes.
- 22 Q. Were you again attempting to contact him?
- 23 A. I think I butt-called him, because it says, "Sorry."
- 24 Q. Okay. November 23rd, 2017, what do you text to him?
- 25 A. "Happy Thanksgiving."

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 Q. What does he text back?
- 2 A. "Same to you."
- 3 Q. And let's see. On December 7th, what do you text to him?
- 4 A. "Congratulations. I have your back. Love you."
- 5 Q. Do you remember why you congratulated him?
- 6 A. I don't remember.
- 7 Q. Okay. And what does he respond to you?
- 8 A. A thumbs up.
- 9 Q. What does he say next?
- 10 A. "Go bash them on the lost" -- I'm not sure what that word
- 11 is. Angle?
- 12 Q. Ogle?
- 13 A. Ogle. Maybe, yes.
- 14 Q. Do you know what The Lost Ogle is?
- 15 A. I have no idea.
- 16 Q. What do you respond to him?
- 17 A. "I'm here for you. Can you talk?"
- 18 Q. And what does he say?
- 19 A. "Not right now."
- 20 Q. And then what do you say back to him?
- 21 A. "Okay. I love you, Joe."
- 22 Q. And what does -- what do you say to him in that block there
- 23 in the middle?
- 24 A. "I'm gonna try to send you some money here in a few. I
- 25 would like to come up after new year."

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

- 1 Q. All right. And what does he respond to you on December 7th  
2 of 2017?
- 3 A. "For a tiger?"
- 4 Q. And what do you respond back to him?
- 5 A. "To help you."
- 6 Q. And then what do you ask him?
- 7 A. "Do you have a female?"
- 8 Q. And what does he say?
- 9 A. He says, "No. Call me."
- 10 Q. And do you ask for numbers?
- 11 A. Yes.
- 12 Q. All right. And a couple of minutes later do you say,  
13 "Called you"?
- 14 A. Uh-huh.
- 15 Q. Does he then provide you with another phone number?
- 16 A. Yes, ma'am.
- 17 Q. And then what do you ask him?
- 18 A. "Now," question mark, "or morning?"
- 19 Q. What does he say?
- 20 A. "Now."
- 21 Q. Do you recall what that conversation was about? Or did you  
22 get ahold of him on the phone?
- 23 A. The only time I talked to him thereafter was when he was  
24 with his now to-be husband, and I congratulated him for that.  
25 That's what I recall.

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DARLEEN CERVANTES - Direct by Ms. Maxfield-Green

1 Q. And that was in December of 2017?

2 A. That's what I recall.

3 Q. And it looks like December 25th, Christmas day, what do you  
4 send to him?

5 A. A picture with a tiger, a Christmas card.

6 Q. Okay. I'm going to stop there.

7 Was this entire conversation, or most of it at least, a back  
8 and forth about potentially purchasing tiger cubs?

9 A. It was actually for purchasing an older cub, yes.

10 Q. Older animals? Juveniles?

11 A. Yes.

12 Q. Did you follow through on buying these cubs?

13 A. No, I did not.

14 Q. Why not?

15 A. The person that I was talking with about getting a cub  
16 actually found some cubs from another source and we went with  
17 that person.

18 Q. Who was that?

19 A. Tim Stark.

20 Q. And where does he have a zoo?

21 A. Indiana.

22 MS. MAXFIELD-GREEN: Government passes the witness.

23 THE COURT: Cross-examination?

24 CROSS-EXAMINATION

25 BY MR. WACKENHEIM:

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DARLEEN CERVANTES - Cross by Mr. Wackenheim

1 Q. Ms. Cervantes, how did you get involved in this  
2 investigation?

3 A. I was working for another zoo in the state of Illinois as a  
4 zookeeper, and the licensing officers spoke to me about that zoo.  
5 They came out to do an inspection. And the conversation then  
6 turned to me and my -- my relationships with having tigers.

7 Q. So is there more than one relationship about getting tigers?

8 A. Relationship as in having tigers, working with tigers. So  
9 having previously owned tigers and so forth.

10 Q. How about buying tigers?

11 A. No -- yes, it did. Yes, it did.

12 Q. When was the last time you bought a tiger?

13 A. I never purchased one. The one that I was given in the  
14 picture there, that tiger was given to me.

15 Q. Donated?

16 A. Yes, sir.

17 Q. You mentioned that you are currently unemployed. Do you  
18 recall that testimony?

19 A. Yes, sir.

20 Q. Prior to that you were a zookeeper?

21 A. Yes, sir.

22 Q. What was the name of that zoo?

23 A. Paws and Claws.

24 Q. Paws and Claws?

25 A. Uh-huh.

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DARLEEN CERVANTES - Cross by Mr. Wackenheim

- 1 Q. Is that a "yes"?
- 2 A. Yes, sir.
- 3 Q. Is that in Illinois?
- 4 A. Yes, sir.
- 5 Q. Prior -- how long were you employed at Paws and Claws as a  
6 zookeeper?
- 7 A. Approximately seven months.
- 8 Q. What did you do before that?
- 9 A. I actually worked in security before that. I worked  
10 training other animals, canines. Basically worked for myself and  
11 did a few other jobs, such as security, working in a hospital,  
12 working with animals.
- 13 Q. And at some point, you worked on Mr. Maldonado-Passage's  
14 presidential campaign?
- 15 A. Yes, sir.
- 16 Q. And you said you were a Kentucky representative? Did I get  
17 that right?
- 18 A. Yes, sir.
- 19 Q. Yes? And you met him in Ohio; is that right?
- 20 A. Yes, sir.
- 21 Q. What were the circumstances -- what was going on in Ohio?
- 22 A. He was announcing his presidency at that time, that he was  
23 running.
- 24 Q. But prior to that, all of your contacts were through social  
25 media; is that right?

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DARLEEN CERVANTES - Cross by Mr. Wackenheim

1 A. Yes, sir.

2 Q. So would that be through Facebook?

3 A. Yes.

4 Q. How about Twitter?

5 A. No.

6 Q. Instagram?

7 A. No.

8 Q. WhatsApp?

9 A. Huh-uh.

10 Q. Is that a "no"?

11 A. That's a "no," sir.

12 Q. So just Facebook?

13 A. Yes, sir.

14 Q. Okay.

15 MR. WACKENHEIM: And if you could boot up the exhibit  
16 that we were just looking at. We don't need to scroll. Just the  
17 top of it would be fine.

18 Thank you.

19 Q. (By Mr. Wackenheim) Is this a text message exchange with  
20 Mr. Maldonado-Passage?

21 A. No, sir. I believe it's a PM from Facebook.

22 Q. So whether you're -- perhaps you're using the Facebook  
23 application on your mobile device to have this conversation?

24 A. Yes, sir.

25 Q. And how do we know that this is Joseph Passage?

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DARLEEN CERVANTES - Cross by Mr. Wackenheim

- 1 A. Because that's who I was speaking to, sir.
- 2 Q. Okay. You were -- and to figure that out --
- 3 A. Okay.
- 4 Q. -- you're conversing with an account with the title "Joseph
- 5 A. Maldonado-Passage," correct?
- 6 A. Yes, sir.
- 7 Q. And it has an avatar, which is that little picture, right?
- 8 A. Right.
- 9 Q. Are you aware that Mr. Passage has numerous accounts?
- 10 A. Actually, yes.
- 11 Q. Did you ever operate some of his accounts for him?
- 12 A. No.
- 13 Q. Did you ever know anyone else who operated his accounts for
- 14 him?
- 15 A. No.
- 16 Q. Were you aware that other people operated his accounts?
- 17 A. Yes.
- 18 Q. I won't go through it again, you did a very good job reading
- 19 it through, but it seems as though the terms were not agreed to.
- 20 Is that fair?
- 21 A. Yes.
- 22 Q. In fact, Mr. Maldonado-Passage was attempting to warn you
- 23 about some of the regulatory burdens that come with owning a
- 24 tiger, correct?
- 25 A. Yes.

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DARLEEN CERVANTES - Redirect by Ms. Maxfield-Green

1 MR. WACKENHEIM: May I have a moment, Your Honor?

2 THE COURT: You may.

3 MR. WACKENHEIM: Nothing further.

4 THE COURT: Redirect?

5 MS. MAXFIELD-GREEN: Just briefly, Your Honor.

6 **REDIRECT EXAMINATION**

7 **BY MS. MAXFIELD-GREEN:**

8 Q. Now, Ms. Cervantes, you just told Mr. Wackenheim that the  
9 terms were not agreed to. But based on your understanding of  
10 that conversation you were having, was the price agreed to?

11 A. By the texts, yes, ma'am.

12 Q. And was it -- had you agreed to a thousand dollars for the  
13 pair?

14 A. Yes, ma'am.

15 Q. And the animals were agreed to, correct?

16 A. By the text, yes, ma'am.

17 Q. And what animals were those?

18 A. Tigers.

19 MS. MAXFIELD-GREEN: That's all, Your Honor.

20 THE COURT: Anything else, Mr. Wackenheim?

21 MR. WACKENHEIM: No, Your Honor.

22 THE COURT: Thank you, Ms. Cervantes. You may step  
23 down.

24 THE WITNESS: Thank you.

25 THE COURT: Ladies and gentlemen of the jury, this will

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1 be -- as I mentioned, this will be the exception to the rule,  
2 that we're going to break for the day today. I have another  
3 matter, a hearing, that was somewhat urgent. We will typically  
4 go all the way up until 5:00, but I'm going to excuse you at this  
5 time.

6 Remember, please go to the jury assembly room. Don't  
7 discuss the case with anyone. Don't form any opinions yet. All  
8 of the admonitions I have given you before still apply. The case  
9 has not been submitted for your deliberation.

10 The courtroom will remain seated as the jury leaves the  
11 court.

12 (Jury exited.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and out of the presence and  
15 hearing of the jury.)

16 THE COURT: The record will reflect that the jury has  
17 left the courtroom.

18 Counsel, let me ask, do you-all anticipate -- I know that we  
19 have the Rule 15 matter to address. Do you-all anticipate  
20 standing on your submissions or do you anticipate needing some  
21 argument? It will -- to the extent it makes a difference, I  
22 expect what we could do is take that up first thing in the  
23 morning, maybe early before the jury gets here. I don't want the  
24 jury waiting on us, so what your answers are will dictate how  
25 early we're going to start.

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1 MS. MAXFIELD-GREEN: Your Honor, from the government's  
2 perspective, because we designated the entire transcript and our  
3 responses to the defendant's objections are on that transcript, I  
4 think we're pretty comfortable with just submitting it that way.

5 THE COURT: Mr. Wackenheim?

6 MR. WACKENHEIM: Your Honor, some of the objections  
7 were not stated on the record, allowing the testimony to go  
8 forward with the understanding that you would rule on some  
9 objections. We have noted those. We have tried to put those  
10 together. As long as the Court feels that's sufficient, we won't  
11 elaborate much further than that.

12 THE COURT: Well, I'll say this: I think this -- the  
13 Rule 15 issue is going to turn on the availability issue. So my  
14 anticipation is we'll get that out. I'll either rule this  
15 evening by written order, I -- or I may address it first thing in  
16 the morning. But if you're not going to represent -- as long as  
17 you're representing that there's not additional argument. I  
18 don't want to take that opportunity from you, should you want to  
19 do that. But if you're going to stand on the submissions, then  
20 we'll just take care of it that way. We'll start at 9:00.

21 MS. MAXFIELD-GREEN: Sounds good to the government,  
22 Your Honor.

23 MR. EARLEY: Just -- I moved to introduce Defendant's  
24 Exhibit 1 at that deposition, Your Honor. It was a text exchange  
25 between the agent and Ms. Webster. So as long as the Court takes

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1 that into consideration, I just --

2 THE COURT: At the time of the -- okay. We'll address  
3 that as well.

4 Anything else from either party?

5 MS. MAXFIELD-GREEN: No, Your Honor.

6 MR. EARLEY: No, Your Honor.

7 THE COURT: Court will be in recess.

8 (Court adjourned.)

9 REPORTER'S CERTIFICATION

10 I, Emily Eakle, Federal Official Realtime Court  
11 Reporter, in and for the United States District Court for the  
12 Western District of Oklahoma, do hereby certify that pursuant to  
13 Section 753, Title 28, United States Code that the foregoing is a  
14 true and correct transcript of the stenographically reported  
15 proceedings held in the above-entitled matter and that the  
16 transcript page format is in conformance with the regulations of  
17 the Judicial Conference of the United States.

18 Dated this 6th day of March 2020.

19

20

21

22

/S/ Emily Eakle  
EMILY EAKLE, RMR, CRR  
Federal Official Court Reporter

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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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1	EXAMINATION INDEX	PAGE
2		
3	BONNIE BOONE	
4	Direct Examination by Ms. Maxfield-Green.....	231
5	Cross-Examination by Mr. Earley.....	254
6	Redirect Examination by Ms. Maxfield-Green.....	282
7	Recross Examination by Mr. Earley.....	283
8	BETH CORLEY	
9	Direct Examination by Mr. Brown.....	285
10	Cross-Examination by Mr. Wackenheim.....	294
11	Redirect Examination by Mr. Brown.....	298
12	LEESA SPARKS	
13	Direct Examination by Ms. Maxfield-Green.....	300
14	Cross-Examination by Mr. Earley.....	329
15	MARSHA DAVID	
16	Direct Examination by Mr. Brown.....	332
17	Cross-Examination by Mr. Wackenheim.....	340
18	CAROLE BASKIN	
19	Direct Examination by Ms. Maxfield-Green.....	344
20	Cross-Examination by Mr. Earley.....	401
21	Redirect Examination by Ms. Maxfield-Green.....	423
22	Recross Examination by Mr. Earley.....	430
23	ANDREW FARABOW	
24	Direct Examination by Ms. Maxfield-Green.....	432
25	Reporter's Certificate.....	452

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1 (The following record was made in open court on March 26,  
2 2019, in the presence of all parties, counsel, and outside the  
3 presence and hearing of the jury.)

4 THE COURT: We are returning to order in the jury trial  
5 of United States of America vs. Joseph Maldonado-Passage.

6 Parties present and ready to proceed?

7 MS. MAXFIELD-GREEN: Yes, Your Honor.

8 MR. EARLEY: Yes, Your Honor.

9 THE COURT: Thank you. Before Marcia brings the jury  
10 up, I want to address the issue of the Rule 15 deposition. The  
11 Court previously granted the Government's motion to take the Rule  
12 15 deposition in light of the witness' unavailability. And the  
13 evidence before the Court at that time was a singular doctor's  
14 note regarding the witness, that due to her medical condition  
15 travel was not advised.

16 Subsequent to the Court granting the Rule 15 deposition, it  
17 was brought to the attention of the Court and the parties by the  
18 Government, appropriately so, that in spite of the doctor's  
19 documentation that the witness was unable to travel, the witness  
20 then proceeded to travel, my understanding is, 18 hours by  
21 vehicle to another state to another court proceeding.

22 Is that correct, Ms. Green?

23 MS. MAXFIELD-GREEN: That was what she communicated to  
24 us, yes.

25 THE COURT: And in addition, traveled to another

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1 courthouse for the taking of the deposition, which quite clearly  
2 is contrary and flies in the face of the finding of  
3 unavailability.

4 And based on that, the only evidence before the Court at  
5 this time is the single doctor's note, which is quite literally  
6 two lines, dated March 7th of 2019 that says, "Travel is not  
7 advised." It doesn't have any time parameters on it. It doesn't  
8 have -- it has nothing on it other than that. And subsequent to  
9 that time, the defendant has now raised an objection to the  
10 admission of the Rule 15 deposition based on precisely that, the  
11 fact that the witness isn't truly unavailable.

12 In light of the -- and I do want to make the comment that  
13 I'm -- I blame -- there's no fault on the Government here. I  
14 don't -- I took them at their word and I think they were  
15 operating in good faith with the information they provided to us,  
16 and also promptly the new information that came in, which the  
17 Court appreciates.

18 But based on the limitations of the evidence before the  
19 Court at this time and the subsequent travel of the witness, I  
20 find that the evidence that she is truly unavailable is  
21 insufficient and I'm going to grant the defendant's -- sustain  
22 the defendant's objection at this time.

23 I say that, that is -- that order is without prejudice.  
24 Should the Government produce some additional doctor's  
25 documentation or something that deals with her unavailability

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 more thoroughly or somehow explains how it is that she could  
2 travel 18 hours but not come to this courthouse, that's certainly  
3 something we could take up at that time. But at this point in  
4 time, the defendant's objection to the submission of the Rule 15  
5 deposition is sustained.

6 Anything else from either party before we bring the jury?

7 MS. MAXFIELD-GREEN: No, Your Honor.

8 MR. EARLEY: No, Your Honor.

9 (The following record was made in open court, in the  
10 presence of all parties, counsel, and in the presence and hearing  
11 of the jury.)

12 THE COURT: Good morning. Welcome back. I trust  
13 everybody was able to get back okay. Traffic seemed  
14 exceptionally heavy this morning and I don't know why. Nice day,  
15 I figured everybody would be playing hookey downtown, but that  
16 was not to be the case.

17 But anyway, welcome back.

18 Government may call your next witness.

19 MS. MAXFIELD-GREEN: Government calls Bonnie Boone.

20 (WITNESS SWORN.)

21 **BONNIE BOONE,**

22 **DIRECT EXAMINATION**

23 **BY MS. MAXFIELD-GREEN:**

24 Q. Good morning, Dr. Boone.

25 A. Good morning.

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 Q. Could you please state your name for the record?

2 A. Bonnie Sue Boone.

3 Q. And, Dr. Boone, what do you currently do for a living?

4 A. I work for the USDA APHIS Animal Care.

5 Q. And how long have you had that job?

6 A. Two years with Animal Care.

7 Q. Is that a position that's officed here in Oklahoma City?

8 A. My duty station is in Shawnee.

9 Q. Now, explain for us what the -- well, first of all, let's go  
10 to your educational background. What is your highest degree?

11 A. A doctor of veterinary medicine.

12 Q. And when did you obtain that degree?

13 A. May of 1990.

14 Q. What jobs have you had as a veterinarian?

15 A. Quite a few. Right out of school, me and my husband, who  
16 was a classmate of mine in vet school, purchased a veterinary  
17 practice from a veterinarian that was retiring. So we did that  
18 for 11 years. And then -- and then, due to divorce, I went into  
19 shelter medicine because I had a no compete agreement and I  
20 needed to honor that for five years. So I worked for Oklahoma  
21 City Animal Welfare Division.

22 And then I was recruited by the Center for Veterinary Health  
23 Sciences to teach a shelter rotation at Oklahoma State University  
24 for the fourth year vet students as an elective, and I did that  
25 for nearly ten years. And then I have always done a little bit

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 of relief work on the side because I want to keep up my clinical  
2 skills. And so after that job, I worked for Second Chance Animal  
3 Sanctuary. I have done some contract work for Norman Animal  
4 Welfare, doing shelter work. And then I worked for USDA APHIS  
5 and veterinary services for a year as one of their term VMOs for  
6 the high path avian influenza outbreak. And that --

7 Q. That was a lot. Could you explain that?

8 A. That's -- that led me to animal care.

9 Q. Okay. So you are now in the animal care division at the  
10 U.S. Department of Agriculture?

11 A. Yes.

12 Q. And the -- okay. Animal Plant Health Inspection Service, is  
13 that the name of the division you work for?

14 A. Yes.

15 Q. Can you describe your job responsibilities?

16 A. I was hired to enforce the Animal Welfare Act. And I don't  
17 know if you want me to give much background about that, but what  
18 basically we do is we enforce the Animal Welfare Act, you know,  
19 via our exhibitors, zoos, research institutions that do animal --  
20 animal research. Breeders, we regulate those.

21 And then we also -- Animal Care enforces the Horse  
22 Protection Act, which deals with the Tennessee walking horses.  
23 And then we also have a leadership role when it comes to natural  
24 disasters and homing animals that, you know --

25 Q. Okay. And so as part of enforcing those laws that you

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1 listed that are USDA laws and regulations, does that involve  
2 inspecting all of -- facilities?

3 A. Yes.

4 Q. Okay. And are there other inspectors like you in the state  
5 of Oklahoma?

6 A. Yes.

7 Q. How many are there?

8 A. There's one other veterinarian and there's one -- I  
9 believe -- I believe three other Animal Care inspectors. They're  
10 not veterinarians, but they -- they do everything we do except  
11 for the research.

12 Q. Okay. So if we can talk about USDA licensing. Now, if a  
13 person wants to own a tiger as a pet in their backyard, do they  
14 need to have a USDA license?

15 A. Tiger as a pet? No. No, it's only for exhibition.

16 Q. Okay. And that was my next question. So if you have that  
17 tiger but you want to exhibit it to the public, then do you need  
18 a USDA license?

19 A. Yes.

20 Q. What kind of animals that -- what kind of animals being  
21 exhibited need a USDA license? Does it only apply to  
22 domestics -- I'm sorry -- does it only apply to exotics or  
23 domestics as well?

24 A. Oh, that's a good question because there's a di minimus role  
25 so that we don't really do, like, farm animals or little farm

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 exhibits and petting zoos unless they have over a certain number  
2 of animals, but it does, you know, cover exotic animals.

3 Q. Can you describe the process of obtaining a USDA license for  
4 an exhibitor?

5 A. Oh, they would contact the -- the regional office, and for  
6 Oklahoma, it's in Colorado, and ask for an application packet.  
7 And they would have to fill it out and, you know, pay the fees  
8 and then -- and then the inspector would go out and do a  
9 pre-licensing inspection. And they have up to three  
10 pre-licensee's inspections to make sure they're going to be  
11 compliant with the Animal Welfare Act. And then if everything  
12 passes, then they would get licensed.

13 Q. How much does a USDA license cost?

14 A. It's kind of a sliding scale depending on what animals they  
15 own or how much money that they're going to receive, that sort of  
16 thing. So it's kind of hard to -- I mean, they're going to  
17 change that probably, but for right now it -- it varies.

18 Q. Okay. Is it relatively expensive? Are we talking like  
19 \$10,000 or --

20 A. No. It's actually very affordable.

21 Q. Okay. Do you have to renew a USDA license periodically?

22 A. Right now it's annually. They're thinking about changing  
23 that to, you know, every three years, but it's annually right  
24 now.

25 Q. How often are inspections made of USDA license holders?

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 A. It depends on the facility. The minimum would be yearly.  
2 You know, sometimes some areas have vacancies and you can -- you  
3 can extend beyond a year, but that's usually our minimum is  
4 yearly. If they're a facility that is having compliance issues,  
5 it could be a lot more frequently, like every three, four months.

6 Q. Can the USDA take your license away?

7 A. They can, but it's -- I don't see it happening that often.

8 Q. Why is that? Or what is the process that it takes to revoke  
9 someone's USDA license?

10 A. They have to have done some pretty severe things of animal  
11 neglect or, you know, have gotten into trouble with the law with  
12 animals with their state or county, things like that.

13 Q. Okay. And is there -- are exhibitors with a license  
14 entitled to an appeal process if the USDA tries to take away  
15 their rights -- take away their license?

16 A. I believe so. When we give citations, they have an appeal  
17 process if they don't agree with our citations. So I imagine it  
18 -- I have only worked there for two years, so I haven't, you  
19 know, heard a lot of people appealing that. But, yes, I think  
20 legal recourse is always an option.

21 Q. Do you know a person named Joseph Schreiber who also goes  
22 by Joseph Maldonado-Passage or Joseph Passage?

23 A. Yes.

24 Q. And how do you know him?

25 A. He's one of my licensees.

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 Q. Do you see him here in the courtroom?

2 A. I haven't looked at everybody in the courtroom.

3 Q. And you are very short, so I'm going to --

4 A. Oh, there he is. Yes. Okay.

5 Q. Could you describe, just for the record, what he's wearing,  
6 please?

7 A. Well, it looks like a blue or dark suit and a light shirt.  
8 It's either white or light blue, and a nice tie with stripes.

9 Q. All right. So did Mr. Passage have a USDA license for  
10 exhibiting animals at the Greater Wynnewood Exotic Animal Park?

11 A. Yes, he did.

12 Q. And I believe you stated this, but were you assigned to  
13 inspect his zoo from the time that you started at the USDA a  
14 couple of years ago?

15 A. Yes.

16 Q. And about what year -- or what year and month did you start  
17 taking over responsibility for the zoo in Wynnewood?

18 A. You know, I don't remember exactly because I was stationed  
19 in Arkansas for, you know, a few months before transferring to  
20 Oklahoma. But, you know, I started that job in January of 2017,  
21 so it would probably be around June -- June 2017, I believe.

22 Q. Okay. Prior to you taking over the inspection  
23 responsibility for the -- the Greater Wynnewood Exotic Animal  
24 Park, and I'll just call it the zoo, did somebody else at the  
25 USDA have the responsibility for inspecting?

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BONNIE BOONE - Direct by Ms. Maxfield-Green

- 1 A. Yes.
- 2 Q. And who was that?
- 3 A. Debbie Cunningham.
- 4 Q. And when you took over the inspection responsibilities from  
5 Debbie Cunningham, did you receive a file or paperwork on the  
6 zoo?
- 7 A. I received her folders, yes.
- 8 Q. How often did you inspect Mr. Passage's zoo?
- 9 A. It was probably every four months, something like that.
- 10 Q. Now, was this -- every four months, was this more frequent  
11 than you inspected other people in your caseload?
- 12 A. Well, I mean, there was some other licensees that were on  
13 that frequency as well, so he wasn't the only one, but --
- 14 Q. What was -- why did you inspect Mr. Passage's zoo every four  
15 months?
- 16 A. There was some history of some noncompliance.
- 17 Q. Were your visits to the zoo something that's scheduled or  
18 are they unannounced?
- 19 A. They're unannounced.
- 20 Q. When you went to inspect Mr. Passage's zoo, did you go alone  
21 or were there other people with you?
- 22 A. No. There's other inspectors.
- 23 Q. And what other inspectors would have gone with you?
- 24 A. Usually it would have been Dr. Michael Tigert. That's  
25 usually who goes with me, but occasionally there would be other

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 people. Like once my boss, my direct supervisor went, and then  
2 his supervisor went one time.

3 Q. Did you take security with you when you did your  
4 inspections?

5 A. Yes.

6 MR. EARLEY: Your Honor, I'm going to object to this.  
7 It's irrelevant. And if we could approach.

8 (The following bench conference was held outside the hearing  
9 of the jury.)

10 MR. EARLEY: In the tens of thousands of pages of stuff  
11 I have read in this case, there is some reference to Ms. Boone  
12 having an armed person with her when she inspected this  
13 particular facility. It sounds to me like, in what I have read,  
14 that this was unusual. And it may have been prompted by some --  
15 something -- I mean, it wasn't clear in the material, but I don't  
16 want this witness going into some testimony about potential  
17 404(b) evidence that I'm aware of -- unaware of.

18 MS. MAXFIELD-GREEN: Well, based on her -- what she has  
19 proffered to us, she took armed security with her on her visits  
20 because Mr. Passage had made threats against the USDA in the past  
21 and I think it's relevant. I'm not -- I'm not planning to go  
22 down the road of introducing evidence of the actual threats or of  
23 what caused her to take the security -- well, I would like her to  
24 say that it was the threats that caused her to take the security.  
25 Like I said, I'm not going to introduce what the threats were or

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 anything like that, but I think it -- the fact that she was there  
2 under those circumstances affected her ability to observe and to  
3 do her inspection, and perhaps the speed with which she wanted to  
4 get on and off the park. And I don't intend to have her  
5 establish any of that, but I think that's a fair inference for  
6 the jury to draw.

7 MR. EARLEY: Well, this is clearly 404(b) evidence of  
8 other acts on the part of Mr. Passage that we really haven't  
9 discussed in a motion in limine. But, you know, it -- well, it  
10 is that, it is unduly prejudicial. There's absolutely no  
11 personal knowledge, I can take it, from Ms. Boone of any of these  
12 past threats. It's just simply she read something in the file  
13 and has asked someone to come along with her. I think that's too  
14 vague. It's not relevant in this case.

15 THE COURT: Were the threats to her?

16 MS. MAXFIELD-GREEN: They were to USDA inspectors prior  
17 to when she started her employment.

18 THE COURT: Well, I mean, she's testified that she --  
19 that she took armed individuals with her.

20 MS. MAXFIELD-GREEN: And I didn't say "armed." I asked  
21 her if she took security.

22 THE COURT: I am reluctant to let her talk about  
23 threats that he's made to her. She's talked about taking  
24 security, she's testified that it was armed security. I think  
25 you could, at least to her personally, if she's had confrontation

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 with the defendant, but I am going to sustain the objection in  
2 terms of her discussing any of the random just threats to the  
3 USDA in general.

4 MS. MAXFIELD-GREEN: Okay.

5 MR. EARLEY: All right. So if I understand the Court  
6 correctly, if she -- if she has had a direct confrontation with  
7 Mr. Maldonado-Passage then --

8 THE COURT: Sure, I think that's fair game. I mean, if  
9 it's --

10 MS. MAXFIELD-GREEN: She has not had a direct  
11 confrontation with him, so I won't ask her. Can I ask her if she  
12 typically takes security on her other inspections?

13 THE COURT: I think that's getting pretty close to the  
14 line, but I think -- I think she can do -- I think she can  
15 describe -- I just don't want her talking about generic the  
16 defendant has made threats to the USDA in general.

17 MR. EARLEY: Well, and that's the only basis for her  
18 bringing security with her. So since that's the only reason for  
19 her to have security with her, and since it's not going to be  
20 allowed, then I wouldn't think that the question about did she  
21 have armed security with her would be allowed here. I think it's  
22 all irrelevant and unduly prejudicial, Your Honor.

23 THE COURT: I'll allow her to talk about whether that  
24 was typical, but I don't want her talking about the threats. So  
25 it's sustained in part; overruled in part.

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 (The following record was made in open court, in the  
2 presence of all parties, counsel, and in the presence and hearing  
3 of the jury.)

4 Q. (By Ms. Maxfield-Green) Ms. Boone, did you take security  
5 with you on your other inspections?

6 A. No.

7 Q. Now, if you could describe for us, what was the procedure  
8 like when you went to Mr. Passage's zoo? What were you looking  
9 for? Kind of just describe for us from the moment you walk onto  
10 the zoo what it is that you are actually doing and looking at.

11 A. We're looking at the facilities, the enclosures, make sure  
12 they're safe for the animals, they don't have broken wires,  
13 things like that. We're looking to see if, you know, the  
14 exhibits are clean. We look at their food, what kind of diet  
15 they're fed. The cleanliness of, you know, the water sources.  
16 Just looking at -- over anything that can impact the welfare of  
17 the animal. That's -- the facilities, we'll walk through and go  
18 look at the animals to make sure they're -- they look healthy and  
19 they do not have any injuries or anything like that.

20 And then we also -- we inspect, like, the coolers, the  
21 freezers, the kitchen area to make sure everything's sanitary in  
22 there and that the food looks wholesome and nutritious. And then  
23 after we're through with all the facilities and ask any  
24 questions, then we go to the paperwork. We look at vet records  
25 of any animals that have been treated for anything. We look at

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 their acquisition and disposition papers, animals coming in,  
2 animals leaving the zoo, and we look at their animal inventory.

3 Q. Okay. As for inventory, do you actually go through and  
4 count and list the animals?

5 A. We do. We do a physical count when we go through to do an  
6 inspection, and then we also look at the inventory and see how  
7 that matches up.

8 Q. Okay. And you spoke about inspecting the food that the  
9 animals are fed. Do you have any knowledge about how the zoo fed  
10 its predators, the tigers, lions, wolves, what kind of meat they  
11 were fed?

12 A. A variety of meat from different sources.

13 Q. Do you have any knowledge about where the -- the sources of  
14 that meat?

15 A. A little -- little knowledge. I know that some of it --  
16 some of it came from Walmart.

17 Q. Does Walmart have a program where it provides meat to  
18 facilities like Mr. Passage's?

19 A. I don't really know Walmart's business. I mean, I know what  
20 I have been told, but, you know, I don't know if they have  
21 anything set up.

22 Q. Okay. Now, did you typically deal with Mr. Passage only or  
23 with other zoo employees?

24 A. Other zoo employees.

25 Q. And who did you deal with?

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BONNIE BOONE - Direct by Ms. Maxfield-Green

- 1 A. Reineke.
- 2 Q. Is that John Reineke?
- 3 A. John Reineke.
- 4 Q. Okay. And what was his position at the park?
- 5 A. I'm not sure exactly, but he's kind of like a manager.
- 6 Q. Did Mr. Reineke appear to you to be familiar with and
- 7 knowledgeable about the animals?
- 8 A. Yes.
- 9 Q. About -- in total, about how many animals were at the zoo
- 10 when you started inspecting it?
- 11 A. I would have to look at the inventory, but, you know,
- 12 there's -- there's a lot. You know, there's about 200, roughly.
- 13 Q. 200 animals in total?
- 14 A. Yes.
- 15 Q. Okay. About how many tigers and lions and big cats were at
- 16 the zoo?
- 17 A. That would vary, but, you know, close to a hundred, maybe
- 18 more.
- 19 Q. Okay. After you conduct your inspection, do you write a
- 20 report with the findings?
- 21 A. Yes.
- 22 Q. And what happens to that report?
- 23 A. The report is given to the licensee and uploaded into our
- 24 database.
- 25 Q. Okay. Is the licensee required to sign it or acknowledge it

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 in some way?

2 A. They do acknowledge the receipt of it. We don't, you know,  
3 make them sign it, but they do have to acknowledge that they  
4 received it.

5 Q. If you notice a violation of USDA regulations at the zoo,  
6 what do you do?

7 A. We just -- we discuss it with the licensee and we cite for  
8 it usually.

9 Q. And when you cite for it, is there a fine associated with  
10 that or what happens?

11 A. Not necessarily. It depends on, you know, if it's a repeat  
12 violation or whatever. But it just goes on their -- their  
13 report, which is made available, you know, on our website to the  
14 public if they're an exhibitor.

15 Q. Okay. And when those reports are made available on the  
16 Internet, are they provided in whole or are they heavily  
17 redacted?

18 A. It depends. Like the -- the breeders, a lot of times their  
19 residence is on the same property as their breeding facility, so  
20 those are heavily redacted to protect their privacy. And it  
21 depends on the exhibitor, sometimes they also live on the  
22 premises, so it just depends on the exhibitor.

23 Q. Okay. So let's talk a little bit more about USDA records.  
24 What type of records are USDA license holders required to keep?

25 A. They're required to keep the acquisition and disposition

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 records. Like whenever they receive an animal, we want to see  
2 copies of where they came from so, you know, we can trace animals  
3 if we need to. A lot of times they'll have health certificates  
4 because those are required by the state, so we look at those. I  
5 look at -- I'm sorry. What was the question?

6 Q. Just what kind of forms are they required to keep, or what  
7 kind of records are they required to keep?

8 A. Acquisition, disposition, inventory and health records.

9 Q. And I think you stated this, but is the purpose of those  
10 forms just to keep track of how many animals they have?

11 A. And to know, yeah, where they're coming from, where they're  
12 going, uh-huh.

13 Q. So if one license holder sells an animal to another license  
14 holder, what would be the proper paperwork?

15 A. They would need to fill out a disposition paper that tells,  
16 you know, who's getting -- you know, where's the animal from,  
17 where is it going to, description of the animal and transport  
18 information.

19 Q. Are the license holders required to use, like, a particular  
20 form that's supplied by the USDA?

21 A. They're recommended to use, like, the 7006, 7005 forms,  
22 depending on if they're a breeder or an exhibitor, and they're  
23 asked to -- if they don't want to use that form, they need to  
24 provide all the information that's on that form, but they can use  
25 their own form if they get that approved.

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1 Q. Did Mr. Passage's zoo use the, what was it, the 7006 form or  
2 did they use a form that they had created?

3 A. They used a form that they had created.

4 Q. And are the license holders required to produce those forms  
5 at each inspection?

6 A. Yes.

7 Q. How long are they required to keep their forms?

8 A. They're supposed to keep them for at least a year, unless  
9 the animal care administrator says, oh, you need to keep them  
10 longer, and then they're required to keep them as long as they're  
11 told they need to keep them. It's usually a year.

12 Q. When you inspected Mr. Passage's zoo, did you look at his  
13 transfer forms?

14 A. Yes.

15 Q. And did you make copies of those forms to take with you?

16 A. Yes.

17 Q. How did you take a copy? Did you photocopy them or  
18 otherwise?

19 A. We ask them to photocopy them.

20 Q. And then did you keep copies of those -- did you keep copies  
21 of the transfer forms for other exhibitors on your caseload as  
22 well?

23 A. Yes.

24 Q. I'm going to ask you to look in the book in front of you.  
25 It's the government exhibit book, the black one. And if you

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1 could turn to Exhibits 7 through 13. And if you would just flip  
2 through those.

3 A. You want me to look -- look kind of through them?

4 Q. Yes.

5 A. Okay.

6 Q. Are you familiar with those documents?

7 A. Yes. Somewhat, yes.

8 Q. What are they?

9 A. They're disposition forms.

10 Q. Okay.

11 THE COURT: Dr. Boone, if you could, please pull that  
12 microphone a little bit closer to you.

13 Q. (By Ms. Maxfield-Green) And are those disposition forms  
14 that you collected or copied in the course of your job duties  
15 inspecting Mr. Passage's zoo?

16 A. Yes, I believe so.

17 Q. And did you put those documents in your case file for  
18 Mr. Passage's USDA license?

19 A. Yes.

20 Q. And is that a file maintained by you as part of your duties  
21 with the USDA?

22 A. Yes.

23 MS. MAXFIELD-GREEN: The Government moves to admit  
24 Exhibit 7, 8, 9, 10, 11, 12 and 13.

25 THE COURT: Any objection?

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 MR. EARLEY: No objection.

2 THE COURT: Be admitted.

3 MS. MAXFIELD-GREEN: If I could have Exhibit 12, Jane.

4 Q. (By Ms. Maxfield-Green) I'm just going to show you  
5 Exhibit 12, which is just an example of what you were looking at,  
6 one of the several documents you were looking at.

7 So if we could just -- you could kind of familiarize us, is  
8 this a disposition or transfer form that you're familiar with?

9 A. Yes, I believe so.

10 Q. Okay. And what -- the origin that lists Mr. Maldonado is --  
11 can you just kind of explain for us what this form shows?

12 A. Well, the origin would be, you know, the person that the  
13 animal is coming from, and then -- this is supposed to be  
14 destination, but anyhow, that is where the animal is going to.  
15 And donated was checked off, and two lions, one male, one female.  
16 Age, I believe that's years, but I don't know because it doesn't  
17 say years or months of age. And then the receiver and the date  
18 that they received it. And it looks like the transporter wrote  
19 down their vehicle description.

20 Q. Okay. And so would the -- this form be compliant with what  
21 the USDA requires for recordkeeping?

22 A. Yes, because it does have the USDA number on -- on it.

23 Q. Okay. And it's -- the box there is checked "donate." Did  
24 the USDA ever do anything to determine whether animals were  
25 actually donated versus sold?

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 A. Animal care doesn't -- doesn't really look into that, the  
2 specifics of that. We don't really have any regulatory  
3 jurisdiction on, you know, if things are sold or donated.

4 Q. Okay. Now, did Mr. Passage breed big cats and produce cubs?

5 A. Yes.

6 Q. If cubs were born at the zoo, how should that be documented?

7 A. They should be recorded on their inventory if they're going  
8 to keep them. They should be added to the inventory.

9 Q. And if cubs were sent to another zoo, how should that be  
10 documented?

11 A. In disposition paperwork such as this, unless they're just  
12 only going to be transported for, like, exhibit, but they still  
13 would need to do a disposition paper.

14 Q. Okay. Did Mr. Passage allow cub handling at his zoo?

15 A. Yes.

16 Q. And as part of your job with the -- as a USDA inspector, are  
17 you familiar with the USDA guidance regarding handling of tiger  
18 and lion cubs?

19 A. Yes. There's not a whole lot of guidance, though,  
20 unfortunately.

21 Q. What is the guidance, to the extent it exists?

22 A. That the animals won't be handled excessively, you know, to  
23 where it impacts their welfare. You know, if they're getting  
24 tired, they need to be allowed time to rest and, you know, be fed  
25 and to sleep.

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 Q. Okay. Is there -- are there age limits on public handling  
2 of cats? Are there -- is there a minimum age?

3 A. There's -- there's guidelines, but they're more on the upper  
4 end, you know, because we don't want people getting injured. So,  
5 you know, three to four months of age would be the maximum we  
6 would want any public handling to occur.

7 Q. Is there USDA guidance on handling cubs under the age of  
8 four weeks?

9 A. It's discouraged, but we don't have regulatory enforcement  
10 on that.

11 Q. Why is it discouraged?

12 A. Because it's not in the best interest of the welfare of the  
13 animal.

14 Q. You mentioned that there are upper limits based on the  
15 animal getting larger for safety, but there's no hard and fast  
16 rule, correct?

17 A. Well, if it goes beyond, like, you know, three to four  
18 months, then they're -- they can be cited for that.

19 Q. They can be cited for allowing too large of an animal to be  
20 handled?

21 A. Because it's dangerous, uh-huh.

22 Q. As part of your job duties, were you assigned to inspect a  
23 person named Beth Corley?

24 A. Yes.

25 Q. And did she have a USDA exhibitor's license?

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 A. Yes.

2 Q. To your knowledge, was Beth Corley affiliated with  
3 Mr. Passage or with the GW Zoo?

4 A. Physically, like, no. I mean, she was affiliated, but  
5 not -- I mean, I never saw her on the premises, things like that,  
6 but I think she did have some boarding arrangement with -- with  
7 Joe.

8 Q. Okay. What animals were on Beth Corley's USDA license?

9 A. I would have to -- I would have to look at the inventory  
10 because that did change, you know, but she did have some animals.

11 Q. Did she have tigers and lions, large animals on her license?

12 A. I believe so, because they were transferred around, so --

13 Q. And that's my next question. Did the animals under her  
14 license change from time to time?

15 A. Yes.

16 Q. How would they change?

17 A. There would be acquisition/disposition papers showing that  
18 they were being moved from licensee to licensee.

19 Q. Between her and who?

20 A. Mr. Maldonado and Jeff Lowe.

21 Q. Okay. So the animals would move from license to license?

22 A. Uh-huh.

23 Q. And be listed differently at different times?

24 A. Uh-huh.

25 THE COURT: Be sure to answer yes or no, please.

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BONNIE BOONE - Direct by Ms. Maxfield-Green

1 THE WITNESS: Yes.

2 Q. (By Ms. Maxfield-Green) Did you ever inspect Beth Corley's  
3 home?

4 A. No.

5 Q. Did you ever inspect her in connection with her license, any  
6 premises in connection with her license?

7 A. Not -- not other than the animals at the Greater Wynnewood  
8 Exotic Animal Park.

9 Q. So when you inspected at the park, you were aware that  
10 certain animals were listed under her license?

11 A. Yes.

12 Q. Have you ever met Ms. Corley?

13 A. Not until today.

14 Q. And was she -- so she was never present at the park when you  
15 did your inspections?

16 A. No, she was not, to my knowledge.

17 Q. What was your understanding of why animals would be  
18 transferred among these licenses that were associated with the  
19 zoo?

20 A. I never really understood why.

21 MR. EARLEY: Your Honor, as long as we specify the  
22 basis for the knowledge, lay a foundation as to that. Who said  
23 what, if that's what it's based on.

24 THE COURT: Sustained.

25 Q. (By Ms. Maxfield-Green) Did anyone ever explain to you why

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BONNIE BOONE - Cross by Mr. Earley

1 the animals were transferred among licenses?

2 A. No.

3 MS. MAXFIELD-GREEN: Government passes the witness.

4 THE COURT: Thank you.

5 Cross-examination?

6 **CROSS-EXAMINATION**

7 **BY MR. EARLEY:**

8 Q. Just to follow up where Ms. Green just left off, so there  
9 are forms in the park's file that show the acquisition and  
10 disposition from one licensee to another; is that correct?

11 A. Correct.

12 Q. And that is required by your agency, correct?

13 A. Yes, uh-huh.

14 Q. All right. So even though, apparently, those animals aren't  
15 going anywhere, if they're switching license, there still has to  
16 be a form, correct?

17 A. Correct.

18 Q. And those were records that you observed in the records of  
19 the park, correct?

20 A. Correct.

21 Q. All right. Now, prior to going to work for the USDA, I know  
22 you were in private practice awhile and did some other work with  
23 shelters. Did you have prior exotic animal experience?

24 A. In veterinary school I did -- I did have an interest in zoo  
25 animals. So I would take, you know, whatever additional training

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BONNIE BOONE - Cross by Mr. Earley

1 they had on that, but --

2 Q. But other than in vet school, did you have any experience  
3 with exotic animals as a veterinarian?

4 A. Just -- just usually smaller exotic animals, you know, that  
5 people would bring in to private practice, you know, birds and  
6 hedgehogs, you know, things like that, rabbits.

7 Q. But tigers, lions and other species like that?

8 A. No.

9 Q. You have already mentioned that a private person, if  
10 somebody just wants for whatever reason to get a lion, they don't  
11 need to have a license, correct, as long as they're not  
12 exhibiting the animal?

13 A. Not from the USDA, no.

14 Q. All right. And I believe that you stated that your  
15 inspections of this particular facility began in June of 2017; is  
16 that right?

17 A. I would have to look back at the inspection reports to be  
18 absolutely certain, but that sounds about right.

19 Q. But sometime in 2017, correct?

20 A. Yes.

21 Q. All right. And with respect to the frequency of your visits  
22 to the park, I believe you said in his case it was about every  
23 three to four months; is that right?

24 A. Yes.

25 Q. And if there are, I guess, significant enough violations of

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BONNIE BOONE - Cross by Mr. Earley

1 the rules, then a person's license can actually be taken,  
2 correct?

3 A. Yes.

4 Q. And I know that you don't get involved in that part of it,  
5 but that is a punishment that can be meted out against someone  
6 who's in violation of the rules of the USDA?

7 A. It can be.

8 Q. And when you go out there, you're basically looking to make  
9 sure everything is in good order. The cages, correct?

10 A. Yes.

11 Q. Food source?

12 A. Yes.

13 Q. Water source?

14 A. Yes.

15 Q. General animal welfare?

16 A. Yes.

17 Q. All right. And then, as you have just testified, you review  
18 all the paperwork that the individual is supposed to keep ahold  
19 of, correct?

20 A. Correct.

21 Q. And as far as these acquisition and disposition forms, they  
22 are required to be kept in the regular course of business; is  
23 that right?

24 A. Yes.

25 Q. And essentially, if I understand you correctly, the point of

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BONNIE BOONE - Cross by Mr. Earley

1 those forms is to show when it was received or when it was  
2 removed from the inventory of the park, correct?

3 A. Correct.

4 Q. So what you're always looking for, primarily, when you go  
5 out there, other than the welfare part, is to make sure that the  
6 animals that are on that park are accounted for on the inventory  
7 sheet, correct?

8 A. Yes.

9 Q. And if there's a prior inventory sheet that shows a  
10 particular animal and there's no acquisition or disposition  
11 sheet, that would cause you to make further inquiry?

12 A. Correct.

13 Q. All right. And if I'm not mistaken, you said that  
14 individuals such as Mr. Passage and other licensees are required  
15 to hold onto those for one year?

16 A. Yes.

17 Q. Now, how long does your agency hold onto your copy of those  
18 records?

19 A. That would depend on what's done with the records. If it's  
20 uploaded into our database, once it's in there -- like, if  
21 somebody had a noncompliance and we made a copy of that and it  
22 was loaded into our database, then it could be indefinite. I  
23 don't know how long we keep them. And then it depends on the  
24 inspector, how long they would keep it in their file.

25 Q. All right. As far as acquisition and disposition forms, are

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BONNIE BOONE - Cross by Mr. Earley

1 those usually uploaded into the system?

2 A. Only if there's a discrepancy or something on them that's --  
3 you know, would merit that; otherwise, no.

4 Q. So otherwise it's just up to the individual inspector how  
5 long they keep them in their individual file, correct?

6 A. Uh-huh.

7 Q. So, for example, I believe you identified Government's  
8 Exhibit 7. And this appears to be a form dated 11/16/16; is that  
9 correct?

10 A. Yes.

11 Q. All right. So that obviously wasn't something that you kept  
12 in your file, correct?

13 A. I don't believe it's in my file, but it could have been in  
14 the file that I got from Debbie.

15 Q. Correct. So she may have decided to keep those for a number  
16 of years, correct?

17 A. Correct.

18 Q. Okay. Now, when you go out there and you find some sort of  
19 deficiency in the operation that affects your area, what do you  
20 do?

21 A. We talk to the licensee about it so that they are aware that  
22 that's a deficiency, and then they may be cited for it or they  
23 may be given a teachable moment on it, depending on the severity  
24 and frequency.

25 Q. All right. And are some of those contained in the report

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1 that you provide to the licensee?

2 A. Yes.

3 Q. Is it always reduced to writing?

4 A. No. Sometimes we just do a talking point, you know.

5 Q. So if you went out and there was a dirty water bowl or  
6 something, you may not write up a report about that, but just  
7 have a conversation with the licensee?

8 A. Correct.

9 Q. If you would put the other exhibit book in front of you, the  
10 defendant's exhibit book, and turn to No. 11. Do you have that?

11 A. Yes.

12 Q. Okay. And can you tell me what that is?

13 A. It's an inspection report for the 25th of July 2017.

14 Q. And is that a report that you digitally signed?

15 A. Yes.

16 Q. All right. Would that be a report that you keep in the  
17 regular course of your business with respect to dealing with this  
18 particular entity?

19 A. Yes.

20 MR. EARLEY: I would move admission of Defendant's  
21 Exhibit 11.

22 THE COURT: Any objection?

23 MS. MAXFIELD-GREEN: No objection.

24 THE COURT: Be admitted.

25 Q. (By Mr. Earley) Now, in this particular report, which looks

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BONNIE BOONE - Cross by Mr. Earley

1 like it was the result of a July 25th, 2017, inspection. Would  
2 that be correct?

3 A. Yes.

4 Q. All right. There are a couple of things, or three or four  
5 things that are listed as deficiencies, correct?

6 A. Correct.

7 Q. Now, I want to draw your attention to the first deficiency  
8 that's noted here. And essentially what were you citing as a  
9 deficiency in this particular case?

10 A. It's information that was lacking on the form.

11 Q. All right. And with respect to this form -- is it the  
12 acquisition and disposition form?

13 A. Yes.

14 Q. So you -- during your routine review of the records at the  
15 facility, you're going through there and you note that, hey,  
16 there's some deficiencies in some of your paperwork, correct?

17 A. Correct.

18 Q. And you decide just to write the individual up and let the  
19 licensee know what the problem was, correct?

20 A. Yes, but some -- some of these -- there was a lot of  
21 paperwork that I couldn't go through on the premises, so I had  
22 to, like, work on them at the office.

23 Q. Sure. That's okay.

24 All right. But with respect to this first one, you say that  
25 several records examined were not in compliance with 2.75(b),

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BONNIE BOONE - Cross by Mr. Earley

- 1 Subparagraph 1, Subparagraphs 2 through 4; is that correct?
- 2 A. Are you talking about B or A?
- 3 Q. The very first citation or deficiency that you noted. Right
- 4 here.
- 5 A. Uh-huh.
- 6 Q. What is that referring to?
- 7 A. The animal welfare regulations.
- 8 Q. And are those contained in the code of federal regulations?
- 9 A. Yes.
- 10 Q. Are you familiar with those regulations?
- 11 A. Yes.
- 12 Q. In fact, you deal with those regulations probably daily; is
- 13 that right?
- 14 A. Yes -- well, not every day, but yes.
- 15 Q. Okay. Well, turn to Defendant's Exhibit 12, please. I'm
- 16 going to ask you to take a look at that.
- 17 A. It looks like it's out of an older regulation book, but --
- 18 but, yes, these are our regulations.
- 19 Q. Well, if you would, just turn -- turn to the next page. And
- 20 it shows which edition of the CFR?
- 21 A. The 1/1/17 edition. Okay.
- 22 Q. So that would be the 2017 version, correct?
- 23 A. I believe so.
- 24 Q. All right.
- 25 A. That's what it says, but I'm just -- I'm just confused in my

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BONNIE BOONE - Cross by Mr. Earley

1 mind if this might be the big blue book or -- you know, the big  
2 one or just the animal welfare one, but it's the same  
3 regulations.

4 Q. Correct. And you recognize these as the regulations, and  
5 certainly that particular regulation that you cited in  
6 Defendant's Exhibit 11, correct?

7 A. Just let me check real quick, just make sure I see it in  
8 here.

9 Q. To help you out, Subsection B(1) is on the second page of  
10 the regulation.

11 A. Yeah. Unfortunately, they leave off the -- there we go.  
12 Okay.

13 Q. Is that correct?

14 A. Yes.

15 MR. EARLEY: Your Honor, I would move for admission of  
16 Defendant's Exhibit 12.

17 THE COURT: Any objection?

18 MS. MAXFIELD-GREEN: No objection, Your Honor.

19 THE COURT: Defendant's Exhibit 12 will be admitted.

20 Q. (By Mr. Earley) Now, also in Defendant's Exhibit 11, which  
21 is the -- the form that I just did something with. Hold on one  
22 moment.

23 All right. So back to this. It states here that -- kind of  
24 what you testified to earlier, this APHIS form, do you remember  
25 that?

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BONNIE BOONE - Cross by Mr. Earley

- 1 A. Uh-huh.
- 2 Q. Now, I think you mentioned APHIS Form 7005, 7006; is that  
3 right?
- 4 A. That's what I said before.
- 5 Q. And if I'm not mistaken, I think that refers to, like, dogs  
6 and cats. Is there a reason you referred to Form 7 -- 7020 in  
7 this particular deficiency?
- 8 A. That must be the form that's used for exhibitors, because  
9 they are given different numbers, the dogs and cats and  
10 exhibitors.
- 11 Q. And I understand there's a lot of forms, are there not --
- 12 A. Uh-huh.
- 13 Q. -- that you deal with?
- 14 A. (Witness nodded.)
- 15 Q. On a daily basis?
- 16 A. Uh-huh. Uh-huh.
- 17 Q. All right. Now, I'll show you what's marked -- if you  
18 would, look at Defendant's Exhibit 13 in the book.
- 19 A. Uh-huh.
- 20 Q. And do you recognize that?
- 21 A. Oh, yeah. That's the 720. That's for other than dogs and  
22 cats, uh-huh.
- 23 Q. So that would be the form that you were referring to in  
24 Defendant's Exhibit 11, the deficiency notice, correct?
- 25 A. Yes.

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BONNIE BOONE - Cross by Mr. Earley

1 Q. All right. And you recognize Defendant's Exhibit 13 as an  
2 accurate representation of APHIS Form 7020?

3 A. Yes.

4 MR. EARLEY: I would move admission of Defendant's  
5 Exhibit 13.

6 THE COURT: Any objection?

7 MS. MAXFIELD-GREEN: No objection.

8 THE COURT: Be admitted.

9 Q. (By Mr. Earley) Now, in the letter -- and I'm afraid I'm  
10 going to be going back and forth a little bit here, if I don't  
11 lose my own paperwork -- you advise that it's not mandatory to  
12 use this APHIS 7020, correct?

13 A. Uh-huh.

14 Q. But you have to comply with certain portions of it; is that  
15 right?

16 A. Correct.

17 Q. Right. Now, if there was going to be full compliance, would  
18 you use the actual 7020 form itself?

19 A. Well, that's kind of a -- I don't really know how to answer  
20 that question because as long as they provide all the  
21 information, you wouldn't have to use a 7020.

22 Q. Okay. But if you did use the 7020, you would be providing  
23 all the required information that you would have to provide to  
24 the USDA, correct?

25 A. If you filled it out completely, yes.

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BONNIE BOONE - Cross by Mr. Earley

1 Q. Okay. Well, let's look at that. So this is the 7020 form  
2 and there are some directions on this form, correct?

3 A. Yes.

4 Q. Do you see that, where it says "instructions"?

5 A. Uh-huh.

6 Q. And the first thing that it tells you to do is complete  
7 applicable items 1 through 13, correct?

8 A. Correct.

9 Q. So whoever's using this form is instructed, you fill out  
10 boxes 1 through 13, correct?

11 A. Yes.

12 Q. And nothing else is required, according to this particular  
13 form, correct?

14 A. Well, is there any other instructions? I mean, you have got  
15 it zoomed up where I can't really look at the whole document, so.

16 Q. Well, no. Those are the only instructions that are provided  
17 by the USDA. And I'll pull it out so you can see the whole  
18 thing, if you like. It's kind of hard, it doesn't all go on this  
19 particular exhibit.

20 A. Uh-huh.

21 Q. But take a look at the one in your book and see if you find  
22 any other instructions.

23 A. Where is that in the book? 13?

24 Q. Thirteen.

25 A. Thank you.

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BONNIE BOONE - Cross by Mr. Earley

1 Okay. I looked at it.

2 Q. Any other instructions that you see on that form?

3 A. At the very bottom it says, "Delivery receipt to be  
4 completed by buyer or receiver."

5 Q. Okay.

6 A. But as far as, like, the person sending the animal, all they  
7 would have to do is 1 through 13.

8 Q. Right. Right. And so it seems like any other kind of form.  
9 I mean, it's fairly self-explanatory, right? First is if there's  
10 an invoice number, I suppose you need to put that in there,  
11 right?

12 A. Uh-huh.

13 Q. I don't know what "page" is referring to. Do you know what  
14 that means?

15 A. No, unless there's more than one page, you know, you had to  
16 really -- getting rid of a lot of animals or something.

17 Q. And the third box, date of disposition. So that's one of  
18 the big ones, right? We need to know what the date is that this  
19 particular transaction is occurring, correct?

20 A. Correct.

21 Q. And then the dealer's license number, so that would be the  
22 licensee's individual number assigned to them by USDA, correct?

23 A. Correct.

24 Q. All right. And then, No. 5, they want the seller or donor's  
25 name and address and ZIP code, correct?

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BONNIE BOONE - Cross by Mr. Earley

- 1 A. Correct.
- 2 Q. Number 6, the buyer's same information, correct?
- 3 A. Correct.
- 4 Q. And, hopefully, if they have a USDA license, the buyer's or  
5 receiver's particular number, correct?
- 6 A. Correct.
- 7 Q. All right. And then I guess the larger one here is  
8 Subsection 8, the identification of animals being delivered. So  
9 that's where you provide a general description; is that correct?
- 10 A. Correct.
- 11 Q. And try to hit, I guess, as many of those categories as you  
12 can given the circumstances?
- 13 A. Correct.
- 14 Q. Then finally you get down to the end, the "delivery by." So  
15 that's who's -- you know, what kind of transportation method, I  
16 take it?
- 17 A. Correct.
- 18 Q. All right. The license number of the truck, correct?
- 19 A. Uh-huh.
- 20 Q. If there's a bill of lading number, you want one of those,  
21 correct?
- 22 A. Correct.
- 23 Q. And then I guess if this is some company or courier service  
24 that's doing this, they need to fill out Paragraphs 12 and 13,  
25 correct?

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- 1 A. Correct.
- 2 Q. Now, on the receiving end, you go down to the bottom and  
3 you're supposed to give the condition of the animal when it was  
4 received, correct?
- 5 A. Correct.
- 6 Q. Box 14. The total number received, Box 15, correct?
- 7 A. Correct.
- 8 Q. Box 16, if there were any dead animals that were within the  
9 transport, correct?
- 10 A. Correct.
- 11 Q. And then the number alive?
- 12 A. Correct.
- 13 Q. And then signature, title and date. Is that all that's  
14 required by that form?
- 15 A. Yes.
- 16 Q. Okay. Now, with respect to the requirements, your  
17 requirements, the USDA requirements, you don't have to follow  
18 this particular form, correct?
- 19 A. Correct.
- 20 Q. All right. Because this form would be -- like boxes 1  
21 through 13, if you were able to fill all that out, you would be  
22 hitting everything that you could possibly hit, correct?
- 23 A. Correct.
- 24 Q. And sometimes in these particular circumstances with respect  
25 to the exchange of animals, from say zoo to zoo or licensee to

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BONNIE BOONE - Cross by Mr. Earley

1 licensee, a lot of that information probably isn't necessary,  
2 correct?

3 A. Can you give me that question again, please?

4 Q. Well, I mean, if this is going from zoo to zoo, for example,  
5 there may not be an invoice number.

6 A. Correct, yeah.

7 Q. Something like that?

8 A. Yeah, there might be some things that are missing.

9 Q. And, again, the main purpose behind the regulations and  
10 behind these forms and your requirements is we want to know who  
11 has it, we want to know who is it going to, we want to know the  
12 date, and I think in addition you usually have a veterinary  
13 inspection form that goes with it, correct?

14 A. Correct.

15 Q. So it's just to track the animal, correct?

16 A. To track the animal and, like, if it was, like, really hot  
17 summer months or whatever, we might want to look at the  
18 transportation, need to make sure that the animals weren't  
19 getting overheated, that sort of thing.

20 Q. Sure. Now, nowhere in the regulation, which is Defendant's  
21 Exhibit 13, I believe -- or Exhibit 12, and nowhere on this form  
22 is it required for you to put whether this was a sale, exchange  
23 or transfer or donation. That is not required by this form, is  
24 it?

25 A. Well, it's -- it has the -- it has it on there. I'm not

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BONNIE BOONE - Cross by Mr. Earley

- 1 sure what you're saying.
- 2 Q. Well, it has it on there, correct?
- 3 A. Uh-huh.
- 4 Q. But it also tells you, you fill out boxes 1 through 13 if  
5 you are the disposition person, correct? It is not required for  
6 you to say whether it is a sale or a donation or an exchange or  
7 transfer. You can leave that blank, correct?
- 8 A. That would be the person's prerogative.
- 9 Q. All right. And the regulations governing the acquisition  
10 and disposition that are in the CFR do not specifically state  
11 that the person acquiring or disposing of the animal must provide  
12 the USDA, whether this is a sale or an exchange or donation?  
13 They don't say that you have to do that, do they?
- 14 A. No.
- 15 Q. And like you have said, it's because you're not really  
16 interested in that. That really doesn't have anything to do with  
17 you, correct?
- 18 A. With animal care, it's regulatory.
- 19 Q. Right. So going back to an example, Government's Exhibit 7,  
20 whether this particular form had donated on it or not is really  
21 irrelevant to you, correct?
- 22 A. To me as animal care inspector, yes.
- 23 Q. And you're the one who keeps those records, correct?
- 24 A. Correct.
- 25 Q. Now, I want you to flip to Defendant's Exhibit 14. If you

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BONNIE BOONE - Cross by Mr. Earley

1 would, just take a look at that. Do you recognize that?

2 A. Yes.

3 Q. And what is it?

4 A. It's an acquisition form.

5 Q. Right. And would this be one of the forms that you would be  
6 looking for if you were out inspecting this premises, let's say  
7 in June of 2018?

8 A. Yes.

9 Q. All right. And I -- I hesitate to ask you this, but do you  
10 have any independent personal recollection of this particular  
11 form?

12 A. It's a little bit confusing, but yes. I don't personally  
13 like this form because it -- it's a little confusing, like  
14 buy/seller, buyer/receiver. You know, personally I like it to be  
15 where it's coming from, where it's going to, you know, and not  
16 being able to be switched, flipped.

17 Q. But this -- apparently this would be a form that would be  
18 kept at this particular park, correct?

19 A. Yes.

20 Q. All right.

21 MR. EARLEY: I'll move for admission of Defendant's  
22 Exhibit 14.

23 THE COURT: Any objection?

24 MS. MAXFIELD-GREEN: No objection, Your Honor.

25 THE COURT: Defendant's 14 will be admitted.

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BONNIE BOONE - Cross by Mr. Earley

1 Q. (By Mr. Earley) All right. So let's just take a look at  
2 this form. And, again, it's an acquisition/disposition form,  
3 correct?

4 A. Correct.

5 Q. And on this form there's a date. And you were mentioning  
6 you didn't like the way it was set up on top; is that correct?

7 A. Yes.

8 Q. And what was that that you didn't like about it?

9 A. It says buy/seller, you know, in the upper left, and the  
10 right says buyer/receiver. So it can be a little bit ambiguous  
11 as to who's buying and who's selling.

12 Q. Or if they're buying or selling?

13 A. Right.

14 Q. But other than that description that -- apparently D & D  
15 Farms must be using that particular form. Would that be your  
16 assumption, since they're the seller or disposition person?

17 A. I believe so.

18 Q. All right. But looking at this particular form that would  
19 have been kept by this particular entity in the regular course of  
20 their business and then provided to your agency, do you see any  
21 notation on this form where it reflects whether or not this was a  
22 sale or a transfer or a donation?

23 A. I don't see anything on this particular form.

24 Q. So other than this confusing label on top, would there be  
25 anything about this form that you would have called into

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BONNIE BOONE - Cross by Mr. Earley

1 question?

2 A. The spelling ability of the person who wrote it, but -- you  
3 know.

4 Q. Short of that, nothing?

5 A. No.

6 Q. Then, if you would, look at Defendant's Exhibit 15. Do you  
7 recognize that?

8 A. Uh-huh.

9 Q. Is that something that's kept in the regular course of  
10 business in your file?

11 A. Not necessarily. It could be. Sometimes they're forwarded  
12 to me and sometimes I don't get them.

13 Q. Does this look to be an accurate representation of the  
14 acknowledgment of renewal of a license?

15 A. Yes.

16 MR. EARLEY: Move for admission of Defendant's  
17 Exhibit 15.

18 THE COURT: Any objection?

19 MS. MAXFIELD-GREEN: No objection.

20 THE COURT: Defendant's 15 will be admitted.

21 Q. (By Mr. Earley) And we won't spend much time on this, but  
22 this apparently is an acknowledgment of the renewal of  
23 Mr. Passage's license dated October 5th, 2017, correct?

24 A. Yes.

25 Q. So the USDA determined that he would be allowed to operate

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BONNIE BOONE - Cross by Mr. Earley

1 for yet another year commencing October 5, 2017, under his  
2 license, correct?

3 A. Well, the renewal date was 10/25, so -- I guess it was  
4 issued October 5th, but the renewal date is October 25th.

5 Q. Okay. So from October 25th forward for another year,  
6 correct?

7 A. Yes.

8 Q. All right. Now, when you go out to this particular park,  
9 you do a walk-through; is that right?

10 A. Correct.

11 Q. And you inspect the cages; is that right?

12 A. Yes.

13 Q. And I believe you earlier testified that, you know,  
14 depending on -- on probably what month it is, there's a lot of  
15 movement of animals in and out of the park; is that right?

16 A. There can be, yes.

17 Q. Okay. And when you were at the park, did you ever notice,  
18 particularly with the lions and that type of animal, did you ever  
19 notice empty cages at the park?

20 A. Yes. There have been empty cages, uh-huh.

21 Q. All right. So beginning whenever it was when you were  
22 beginning your inspections of this place, say -- let's just --  
23 May or June of 2017, when you would go out there, you would see  
24 empty cages, correct?

25 A. On occasion, yes, uh-huh.

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BONNIE BOONE - Cross by Mr. Earley

1 Q. And, again, your inspections are unannounced, right?

2 A. Correct.

3 Q. So it's not like you give him a call and say, hey, we're  
4 about ready to pop in on you. That's not how it works.

5 A. Correct, that's not how it works.

6 Q. Now, during the course of your inspections have you reviewed  
7 records of Dr. Joanne Green, a veterinarian?

8 A. Yes.

9 Q. All right. And she's required to keep certain records as  
10 well, correct?

11 A. Yes.

12 Q. Okay. And have you ever questioned any of Dr. Green's  
13 records that she has submitted to your agency?

14 A. I have called her on occasion when I have been, you know,  
15 needing further information.

16 Q. Okay. And so give us an example of what that might have  
17 entailed.

18 A. There was a death of a bear, and I believe Joe had told me  
19 that he thought it had died of kidney disease. And I had a  
20 question about that because of something Dr. Green had written on  
21 her records, so I called her. I believe I called her and asked  
22 her and she said, no, it was liver disease. So I was like, okay,  
23 that makes a lot more sense.

24 Q. So you clarified something with her?

25 A. Yes, uh-huh.

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BONNIE BOONE - Cross by Mr. Earley

1 Q. Now, Dr. Green is required to keep records of euthanization;  
2 is that right?

3 A. According to the Oklahoma Practice Act, yes.

4 Q. All right. Does she have to keep those records for your  
5 agency?

6 A. Not for our agency, but she needs to keep them for her  
7 own -- you know, her own purposes. And if we ask to look at  
8 them, I'm sure she would let us look at them.

9 Q. Is there a reason why you might want to look at them?

10 A. If I needed to compare, you know, information or if, you  
11 know, I had any suspicion, then I would want to get  
12 clarification.

13 Q. Okay. So, to your knowledge, based on your experience out  
14 there and your review of Dr. Green's records, have you ever  
15 questioned Dr. Green's approval of euthanization at the park?

16 A. No.

17 Q. I'm going to show you what's marked as Government's  
18 Exhibit 6. It's been previously introduced. Are you familiar  
19 with this type of record?

20 A. Yeah. It's a certificate of veterinary inspection for the  
21 State of Oklahoma.

22 Q. All right. And as far as what you do in the regular course  
23 of your business, do you ask for these or require the licensee to  
24 present these to you?

25 A. Usually I ask for all paperwork concerning the animals, and

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BONNIE BOONE - Cross by Mr. Earley

1 I am given CVIs to look at as well.

2 Q. And let me ask you this: This appears to be an Oklahoma  
3 document; is that correct?

4 A. Correct.

5 Q. All right. So do you -- in the course of your records  
6 inspections, not only of this facility, but perhaps any of the  
7 other facilities that you inspect, do you run across these  
8 documents that are from other states?

9 A. Yes.

10 Q. All right. And just for example, if you would turn to the  
11 defendant's exhibit book, 17-A. And what does this appear to be?

12 A. It appears to be a Florida certificate of veterinary  
13 inspection.

14 Q. All right. And that would be the type of record that, if an  
15 animal happened to be transferred in from Florida, you would  
16 expect to be kept by the licensee and available to you, correct?

17 A. Correct.

18 MR. EARLEY: I would move for admission of Defendant's  
19 Exhibit 17-A.

20 THE COURT: Any objection?

21 MS. MAXFIELD-GREEN: Your Honor, I think if counsel can  
22 lay a foundation if she has any knowledge about the Florida  
23 requirements.

24 THE COURT: Mr. Earley?

25 Q. (By Mr. Earley) Well, have you seen Florida certificate of

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BONNIE BOONE - Cross by Mr. Earley

1 veterinary inspections in your practice?

2 A. No. I think this is probably the first one I have seen in  
3 awhile.

4 Q. All right. It's a blank form, correct?

5 A. Correct.

6 Q. Does it appear to be any different than the Oklahoma form  
7 that we have identified in Government's Exhibit 6?

8 A. It's similar to, I mean. I wouldn't say it's exactly, but,  
9 yeah, each state has their own requirements and --

10 Q. Correct. All right. Do you have any reason to believe that  
11 this is a form that is not used by the State of Florida?

12 A. Well, I'm not familiar with Florida's forms, so it's kind of  
13 hard for me to say.

14 Q. Okay. We'll take it up with someone else then. Thank you,  
15 Doctor.

16 THE COURT: Mr. Earley, the objection will be  
17 sustained.

18 Q. (By Mr. Earley) Now, are you familiar with captive-bred  
19 wildlife registration?

20 A. Not really.

21 Q. Do you -- how many entities do you go around and inspect?  
22 How many are on your route, so to speak?

23 A. In Oklahoma, there's roughly 40.

24 Q. Okay. And do you know if any of those licensees or entities  
25 have captive-bred wildlife registration permits?

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BONNIE BOONE - Cross by Mr. Earley

1 A. I believe maybe some of them do, but, you know, that's not  
2 my area of regulation, so I don't...

3 Q. All right. Now, as far as Mr. Passage is concerned, you  
4 started engaging with him in, I guess we'll just say spring or so  
5 of 2017; is that right?

6 A. Correct.

7 Q. Did you ever have any conversations with him after you  
8 started inspecting his premises about him leaving the business?

9 A. Not personally. I know that he did discuss some of that  
10 with one of my colleagues, but not -- not personally to me, no.

11 Q. Okay. Were you present during that exchange?

12 A. Yes.

13 Q. And so what was it that you recall him saying about him  
14 leaving?

15 A. I just -- I remember Debbie saying -- Debbie Cunningham, she  
16 was the inspector.

17 MS. MAXFIELD-GREEN: Objection; hearsay. I'm unclear  
18 on whether she heard this herself or heard it from  
19 Ms. Cunningham.

20 THE WITNESS: Yeah, I wasn't a direct witness.

21 THE COURT: Hold on. Hold on, Doctor. Just a second.  
22 Mr. Earley?

23 Q. (By Mr. Earley) Well, I think my question was what was it  
24 that you heard Mr. Passage say about leaving the park?

25 A. Well, I didn't really hear him say anything.

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BONNIE BOONE - Cross by Mr. Earley

1 Q. All right. So that came from some other person?

2 A. Another inspector.

3 Q. So another inspector told you that?

4 A. She kind of summarized it, yes.

5 Q. Okay. That's fine.

6 THE COURT: Mr. Earley, this might be a good time to  
7 take our morning break. The GSA is going to come up and  
8 hopefully get our chair fixed.

9 So anyway, ladies and gentlemen of the jury, I remind you of  
10 the admonishment. You're not to discuss this case with each  
11 other or anyone else or permit anybody to speak to you about it.  
12 We'll take a 15-minute break. If everyone will please remain  
13 seated while the jury exits the courtroom.

14 (Jury exited.)

15 THE COURT: Court will be in recess.

16 (Break taken.)

17 (The following record was made in open court, in the  
18 presence of all parties, counsel, and in the presence and hearing  
19 of the jury.)

20 THE COURT: We think it's fixed. They were really long  
21 screws they put in that.

22 Mr. Earley, you may continue.

23 Q. (By Mr. Earley) Now, Dr. Boone, you were asked a little bit  
24 about cub handling. Do you recall that?

25 A. Yes.

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BONNIE BOONE - Cross by Mr. Earley

1 Q. And you stated that there wasn't a lot of guidance on that;  
2 is that correct?

3 A. Well, there are some tech notes on it. That's kind of a  
4 formal publication that Animal Care has put out that does give  
5 guidance on it. But as far as regulatory enforcement, that's --  
6 that's not something that we have a reg that we -- you know.

7 Q. So there's no actual statute or code of federal regulation  
8 provision that deals with that, correct?

9 A. Correct.

10 Q. So essentially you're saying that you're guided by sort of  
11 some agency rules. Would that be fair to say?

12 A. Agency policy, yes.

13 Q. Or not even rules; policy?

14 A. Uh-huh.

15 Q. And just to be clear, an entity that allows the public to  
16 come in and have contact with either cubs or other small animals,  
17 there's nothing illegal about that, correct?

18 A. Correct.

19 Q. Now, have you spoken to individuals, with respect to this  
20 case, individuals who are employed with the Fish & Wildlife  
21 service?

22 A. Some.

23 Q. And tell -- do you have regular contact with individuals who  
24 are in the Fish & Wildlife service?

25 A. Some. I mean, some with the Oklahoma Department of Wildlife

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BONNIE BOONE - Redirect by Ms. Maxfield-Green

1 Conservation and some with the federal wildlife, yeah.

2 Q. So do you-all collaborate and share information?

3 A. Well, we have to, to some degree, to perform our duties,  
4 yes.

5 Q. Okay. So, in your experience with the USDA, can you tell us  
6 how many matters that you have been involved in -- either just  
7 with the USDA or a combination of Fish & Wildlife/USDA -- how  
8 many matters have you been involved with that have resulted in a  
9 criminal prosecution like this?

10 A. This is the first one.

11 MR. EARLEY: I don't have any further questions.

12 THE COURT: Redirect?

13 **REDIRECT EXAMINATION**

14 **BY MS. MAXFIELD-GREEN:**

15 Q. Ms. Boone -- Dr. Boone, is it part of your job duties with  
16 the USDA to enforce compliance or any aspect of the Endangered  
17 Species Act?

18 A. No.

19 Q. Is it part of your job responsibilities with the USDA to  
20 enforce anything about the Lacey Act?

21 A. No.

22 Q. I'm going to draw your attention here to Defendant's  
23 Exhibit 11, and you looked at that with Mr. Earley. Could you  
24 just read the highlighted portion of this inspection report that  
25 you created for the zoo?

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BONNIE BOONE - Recross by Mr. Earley

1 A. "Acquisition and disposition records are necessary to be  
2 able to accurately track animals being used in regulated  
3 activities to ensure their legal acquisition, proper care and  
4 humane transportation."

5 Q. Okay. I'm going to show you what was marked as Defendant's  
6 Exhibit 13. This is -- this is the USDA version of the  
7 acquisition and disposition or transport form, correct?

8 A. Correct.

9 Q. And there are, in fact, boxes on this form that -- with the  
10 words "sale," "exchange" or "transfer" and "donation" next to  
11 them, correct?

12 A. Correct.

13 Q. And is the implication of a box being next to those words  
14 that they should be checked by the person who's filling it out?

15 A. I believe so.

16 Q. Would it ever be proper to put false information on a  
17 government form?

18 A. No.

19 MS. MAXFIELD-GREEN: That's all for the government,  
20 Your Honor.

21 THE COURT: Anything additional, Mr. Earley?

22 MR. EARLEY: Just a couple of questions.

23 **RECROSS EXAMINATION**

24 **BY MR. EARLEY:**

25 Q. You just stated that it is your belief that those particular

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BONNIE BOONE - Recross by Mr. Earley

1 boxes should be checked; is that right?

2 A. Yeah, I think they should. They're on the form, but, you  
3 know, the instructions 1 through 13, that didn't include that.

4 Q. Exactly. The government form that the government wrote  
5 tells the person you only have to provide this information,  
6 correct?

7 A. Correct.

8 Q. And you've seen forms where there are boxes for an  
9 individual to check whether they're African-American, Caucasian  
10 or native American that are optional, correct?

11 A. Correct.

12 Q. So just because there's a box there and a description  
13 doesn't make it mandatory, correct?

14 A. Correct.

15 Q. All right. And you have reviewed the regulations, you have  
16 reviewed your practice, and you have testified that the sale,  
17 transfer, exchange, donation makes absolutely no difference to  
18 you, correct?

19 A. Correct.

20 MR. EARLEY: Thank you.

21 THE COURT: Thank you, Dr. Boone. You may step down.

22 THE WITNESS: Can I just say something about the form?

23 THE COURT: No, ma'am.

24 Government, you can call your next witness, please.

25 MR. BROWN: We'd call Beth Corley.

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BETH CORLEY - Direct by Mr. Brown

1 (WITNESS SWORN.)

2 THE COURT: Ms. Corley, if you could, feel free to  
3 adjust your chair and pull that mic up to you so you can speak  
4 into the microphone and so the court reporter can take down  
5 everything you say.

6 THE WITNESS: Thank you.

7 BETH CORLEY,  
8 DIRECT EXAMINATION

9 BY MR. BROWN:

10 Q. Good morning, ma'am.

11 A. Good morning.

12 Q. Please state your name.

13 A. Beth Corley.

14 Q. Ms. Corley, where do you live?

15 A. Here in Oklahoma City at 6604 South Miller.

16 Q. Thank you.

17 Are you familiar with a person named Joseph Schreibvogel,  
18 now known as Joe Maldonado-Passage?

19 A. Yes.

20 Q. Do you see him in the courtroom?

21 A. Yes, I do.

22 Q. Can you identify him and describe what he's wearing?

23 A. He's sitting over at that table there with a jacket and a  
24 tie on.

25 Q. Now, how do you know Mr. Passage?

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BETH CORLEY - Direct by Mr. Brown

- 1 A. I used to work for him.
- 2 Q. When did you work for him?
- 3 A. From 2003 to 2011, somewhere around there.
- 4 Q. Okay. And what kind of work did you do for Mr. Passage?
- 5 A. I helped take care of the animals.
- 6 Q. And where did you work with Mr. Passage?
- 7 A. At the GW Exotic Animal Park in Wynnewood.
- 8 Q. And initially, when you started in 2003, what kind of work  
9 were you doing?
- 10 A. I was taking care of small animals.
- 11 Q. And over time did you ultimately join his traveling road  
12 show?
- 13 A. Yes, I did.
- 14 Q. And explain exactly what the road show was.
- 15 A. That's when we would take animals with us to have a display.  
16 We would do pictures and play cages to earn money for the park.
- 17 Q. And where exactly would you-all travel?
- 18 A. Traveled all over.
- 19 Q. Across the country?
- 20 A. Pretty much. I mean, we went from -- we was in Minnesota,  
21 Illinois, Texas, just different malls that we would go to.
- 22 Q. Okay. And during the road show did you primarily set up at  
23 malls?
- 24 A. Yes.
- 25 Q. And when you would arrive to set up, were these -- was the

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BETH CORLEY - Direct by Mr. Brown

1 exhibit or the show, was it usually in the parking lot or  
2 actually inside the mall?

3 A. Well, we did both, but mostly in the malls.

4 Q. And how many shows would you estimate that you averaged each  
5 year?

6 A. It used to just be occasionally where it would be once or  
7 twice a month, but then it got to where it was more regular; we  
8 would do three and four shows a month.

9 Q. Okay. And on average, for each show, if you went to a --  
10 let's say a particular mall in Wichita, Kansas, how many days  
11 would you actually be at the mall?

12 A. We would set up on Friday, Saturday and Sunday.

13 Q. And during these shows, when you traveled to the malls, what  
14 type of animals did you generally bring?

15 A. Usually baby tigers. We have had all sorts of animals,  
16 though. We had baby bears. Sometimes we had pigs, we had goats,  
17 we had all kinds of animals.

18 Q. Okay. Did you also take adult animals?

19 A. We took some that were older. They weren't adults, but we  
20 had some that were six to eight months old sometimes.

21 Q. And during the road show were the customers able to have  
22 photos taken with any of the animals?

23 A. Yes, with the babies.

24 Q. And did you charge for that?

25 A. Yes.

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BETH CORLEY - Direct by Mr. Brown

1 Q. Okay. Over time did the road show begin offering what are  
2 known as play times or pettings?

3 A. Yes.

4 Q. And describe kind of what exactly is a cub play time.

5 A. We would take the people into the -- into with the baby  
6 tigers and they could sit on the floor with the baby tigers and  
7 pet and love on them a little bit.

8 Q. And about how old were these baby tigers?

9 A. Oh, usually -- they were about 10 to 12 weeks old.

10 Q. Okay. And would Mr. Passage accompany you -- or accompany  
11 the road show for every show?

12 A. Not every show, no.

13 Q. For the majority of the shows?

14 A. It was about 50-50.

15 Q. Okay. And what was the name of this road show when you  
16 first started participating in it?

17 A. We was just -- it was a road show, is what we called it. It  
18 was the -- it eventually became a magic show, but at the start it  
19 was just a road show that we would set up.

20 Q. And when you were first involved with the road show, did all  
21 the employees and the other staff members who participated in it,  
22 did you have any uniforms or anything else you wore?

23 A. Yes.

24 Q. Okay. And at some point in time during your tenure with the  
25 road show, did the name of the road show change?

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BETH CORLEY - Direct by Mr. Brown

- 1 A. Yes.
- 2 Q. What did it change to?
- 3 A. Big Cat Entertainment.
- 4 Q. Okay. And who changed that name?
- 5 A. I guess Joe did. I'm not sure.
- 6 Q. Okay. And how did you learn that the name had been changed?
- 7 A. Came into work one day and was told this is what we were
- 8 going out as.
- 9 Q. All right. Now, how long did you remain working for
- 10 Mr. Passage?
- 11 A. Until 2011.
- 12 Q. All right. And during your tenure while working with
- 13 Mr. Passage, did you actually possess or have a USDA exhibitor's
- 14 license?
- 15 A. Yes, I did.
- 16 Q. And when did you obtain that license?
- 17 A. It was probably the last five years I was there.
- 18 Q. Okay. And was it your decision to obtain the license?
- 19 A. It was a suggestion from Joe, but I agreed it would probably
- 20 be all right so that we could -- I could go to work under my
- 21 license.
- 22 Q. All right. And so during your tenure at the park, the
- 23 animals that you would take on the traveling show, would they be
- 24 animals on your license?
- 25 A. Yeah. They were transferred from the park. They were

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BETH CORLEY - Direct by Mr. Brown

1 originally park animals. We would put it on my license so that I  
2 was responsible for them while I was there. And then when we  
3 came back home, they transferred back off again.

4 Q. And at the time that you were working at the park, did  
5 Mr. Passage also have an exhibitor's license issued from the  
6 USDA?

7 A. Yes.

8 Q. When you left the park in 2011, did you maintain your  
9 exhibitor's license?

10 A. Yes, I did.

11 Q. And at that time, when you left, did you have any animals  
12 that were on that exhibitor's license?

13 A. Yes, there was still animals on the license.

14 Q. Okay. Did you have any personal animals that you took with  
15 you when you left the park?

16 A. Yes. I had a ring-tailed lemur.

17 Q. And was that lemur on that license?

18 A. Yes.

19 Q. All right. And when you -- when you left the park, did you  
20 terminate your license?

21 A. No, I extended it there.

22 Q. Okay. And did you maintain it, maintain its activity, I  
23 guess?

24 A. I did not do it myself, Joe did.

25 Q. And why did Mr. Passage maintain your license?

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1 A. He wanted to keep it there so that -- in case -- with the  
2 lawsuit that was going on with Carole Baskin, so that it would  
3 protect those animals.

4 Q. Okay. Did he ever make any statements to you about why he  
5 needed your license -- why he needed to use your specific  
6 license?

7 A. I thought it was to protect any babies or whatever from this  
8 lawsuit that he was involved in.

9 Q. So did he want his animals to remain on your license?

10 A. Some of them.

11 Q. And was that -- is it your testimony that that was to  
12 prevent Carole from being able to obtain those animals?

13 A. Yes.

14 Q. Okay. Now, at any point in time did you ask -- after you  
15 left the park and you were no longer affiliated with it, did you  
16 ever ask Mr. Passage to not renew your license?

17 A. I told him I was ready to let my license expire.

18 Q. And how would he respond when you would tell him that?

19 A. He said, I just need a little bit more time, so give me a  
20 little bit more time, and I would say okay.

21 Q. Okay. Do you still have an active exhibitor's license?

22 A. No.

23 Q. When did you finally -- when were you finally able to make  
24 it expire or allow it to expire?

25 A. I believe August.

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BETH CORLEY - Direct by Mr. Brown

- 1 Q. August of what year, ma'am?
- 2 A. This year.
- 3 Q. Of --
- 4 A. Well, last year.
- 5 Q. Last year, 2018?
- 6 A. 2018, yes.
- 7 Q. Now, after you left the park were you aware of any animals
- 8 that were on your license being transported away from the park to
- 9 other parks around the country?
- 10 A. I wasn't aware of any activity that was going on myself
- 11 personally.
- 12 Q. Okay. Now, I want to bring up Government's Exhibit 8, which
- 13 was previously admitted. And you see this form in the upper
- 14 left, it says -- it has your name and it -- is that correct?
- 15 A. Yes, that is correct.
- 16 Q. All right. That address, do you recognize that address
- 17 under your name?
- 18 A. That's the address of the park.
- 19 Q. All right. And so the date is February 3rd of 2018?
- 20 A. Yes.
- 21 Q. And it looks like a couple female -- a female tiger and a
- 22 tiliger were going to Tim Stark's place in Indiana. Have you
- 23 ever seen this form?
- 24 A. No.
- 25 Q. Okay. Did you know that those -- those animals that were on

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BETH CORLEY - Direct by Mr. Brown

1 your license at that time had been transported away from  
2 Oklahoma?

3 A. No, I did not.

4 Q. Okay.

5 MR. BROWN: Can we see Exhibit 9, please?

6 Q. (By Mr. Brown) And again, this is dated March of '18. And  
7 is that your name in the upper left?

8 A. Yes, it is.

9 Q. Okay. Looks like a tiger that went to Brown Zoo. Do you  
10 recognize that form?

11 A. I have never seen it before.

12 Q. And finally Exhibit 10, please. Same question, ma'am. Do  
13 you recognize that form?

14 A. No, I do not.

15 Q. All right. So you weren't aware that in December of 2016 a  
16 five-year-old lion under your license was transported from the  
17 park in Wynnewood to the Monterey Zoo in California?

18 A. No, I was not.

19 Q. All right. One final question I meant to ask you about the  
20 traveling road show. During the traveling road show you  
21 mentioned that, you know, sometimes you would have older animals  
22 as well as the cubs and the younger animals. During your tenure  
23 with the traveling road show, were there ever any shows at any  
24 malls that you attended where you only took older animals and you  
25 did not have any cubs available?

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BETH CORLEY - Cross by Mr. Wackenheim

1 A. No.

2 Q. And why was that?

3 A. Because the babies were what we used for the play cages and  
4 for the pictures.

5 MR. BROWN: Pass the witness.

6 THE COURT: Cross-examination?

7 **CROSS-EXAMINATION**

8 **BY MR. WACKENHEIM:**

9 Q. So, Ms. Corley, you have known Mr. Passage for a long time;  
10 is that fair?

11 A. Yes.

12 Q. You were with him at the beginning of his zoo and his road  
13 shows?

14 A. Not the very beginning, no. He already had the park and he  
15 was already doing road shows before I started.

16 Q. In about 2003; is that fair?

17 A. Yes.

18 Q. Now, these road shows that operated under the name Big Cat  
19 Rescue Entertainment -- and you have talked about this quite a  
20 bit in other sworn testimony; is that fair?

21 A. Yes.

22 Q. Because you have been deposed relating to these road shows,  
23 correct?

24 A. Yes.

25 Q. In fact, you have been deposed by lawyers for Ms. Carole

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BETH CORLEY - Cross by Mr. Wackenheim

1 Baskin; is that fair?

2 A. Yes.

3 Q. And were you a named defendant in that defamation lawsuit?

4 A. Yes, I was.

5 Q. So you were sued by Ms. Baskin?

6 A. I was part of the lawsuit, but then I was taken off. I was  
7 dropped.

8 Q. And your involvement relating to these road shows, you have  
9 talked a little bit about the cub petting. I would like to ask  
10 you a couple more questions about that. How many cub petting  
11 sessions do you think you have supervised or participated in?

12 A. I have no idea.

13 Q. Would it be a lot?

14 A. It was a few, yes.

15 Q. These small tigers, do they, in your opinion, based on your  
16 experience, enjoy this interaction with people?

17 A. They seemed to not have a problem with it. They were all  
18 fine whenever they were being played with, as long as they were  
19 fed and petted and they loved the attention.

20 Q. Is it similar to petting kittens, only larger?

21 A. Well, I guess there's some similarities.

22 Q. And does this cub petting experience have an effect on the  
23 people that pay to do it?

24 A. I think the people enjoyed it a lot. It was something that  
25 they couldn't experience otherwise.

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BETH CORLEY - Cross by Mr. Wackenheim

1 Q. And did it raise awareness of tigers for these individuals  
2 that participated in it?

3 A. Yes, it did.

4 Q. So that's an experience they took with them for a long time,  
5 if not forever?

6 A. Yes.

7 Q. You testified you went from various locations doing these  
8 road shows. Was there ever a time when Big Cat Rescue interfered  
9 or attempted to interfere with these road shows?

10 A. Yeah. They -- they was -- I think they lodged some  
11 complaints against us saying that we were trying to imitate them.

12 Q. Right. But even -- was there also a concern that, in their  
13 opinion, these cub petting sessions were not in the best interest  
14 of the tigers? Is that fair?

15 A. Yes, I believe so.

16 Q. And would they try to inform these businesses about their  
17 opinion in an attempt to stop the road shows from participating?

18 A. Yes.

19 Q. Do you still own that lemur?

20 A. No. He passed away.

21 Q. I'm sorry to hear that.

22 When you had the lemur, was it a requirement -- were you  
23 exhibiting that lemur? Did people pay to see it at any point?

24 A. No. He was exhibited, but he was not -- it was not a  
25 paid -- it was free for people to see as they walked around.

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BETH CORLEY - Cross by Mr. Wackenheim

1 Q. Is it your understanding that you needed a license so you  
2 could exhibit your lemur?

3 A. I felt that it was probably in the best interest so that I  
4 could make sure that he was taken care of.

5 Q. When did you lemur pass away?

6 A. Three years ago.

7 MR. WACKENHEIM: Could you put up Exhibit 8, please?

8 Q. (By Mr. Wackenheim) Referring to Government's Exhibit 8,  
9 you have already testified that is your name, your license on  
10 this form, but you have no knowledge of this form, correct?

11 A. That is correct.

12 Q. So you didn't fill this form out?

13 A. No, I did not.

14 Q. And is that the same for Exhibit 9?

15 A. That is correct.

16 Q. And for Exhibit 10?

17 A. That is correct.

18 Q. So these forms exist with your information, but you -- it  
19 was created without your knowledge?

20 A. That is correct.

21 Q. Okay. Have you used those forms in the past? Do you  
22 recall --

23 A. I have never used a form like that, no.

24 MR. WACKENHEIM: Can I have a moment, Your Honor?

25 THE COURT: You may.

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BETH CORLEY - Redirect by Mr. Brown

1 Q. (By Mr. Wackenheim) And those Exhibits 8, 9 and 10 that we  
2 just reviewed that you didn't fill out, it simply has the  
3 information associated with your license on it, correct?

4 A. Yes.

5 Q. It doesn't -- there's no forged signatures?

6 A. No.

7 Q. Okay. And were you aware that the address for your license  
8 was to the zoo?

9 A. Yes.

10 Q. So they would receive the mail or the license renewals or  
11 any of that?

12 A. Correct.

13 MR. WACKENHEIM: Thank you.

14 THE COURT: Mr. Brown, redirect?

15 **REDIRECT EXAMINATION**

16 **BY MR. BROWN:**

17 Q. Regarding that last question, Ms. Corley, each time you have  
18 to renew that license, is there a fee associated with it?

19 A. Yes.

20 Q. When the license would be renewed, would you pay that?

21 A. No.

22 Q. Who paid it?

23 A. Joe Schreibvogel did.

24 Q. And Mr. Wackenheim asked you about whether or not Big Cat  
25 Rescue had started I guess, you know, arguing to the malls and

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BETH CORLEY - Redirect by Mr. Brown

1 others that they shouldn't allow you to set up the road show; is  
2 that correct?

3 A. Correct.

4 Q. All right. At that point in time did you know anything  
5 about Big Cat Rescue or Carole Baskin?

6 A. No.

7 Q. And after you learned that they were starting to reach out  
8 to these malls, is that -- after that started happening, did your  
9 name of the traveling road show change to Big Cat Rescue  
10 Entertainment?

11 A. Yes.

12 Q. And did you have any concerns when your name changed to Big  
13 Cat Rescue Entertainment?

14 A. Yes. I did not like the idea that we were doing that.

15 Q. Explain, please.

16 A. Well, it had new pamphlets that had a Florida address on it  
17 and it was very similar to what Carole Baskin's logo was on  
18 there, and I thought it was very misleading.

19 Q. And around that same time did Mr. Passage ever begin  
20 complaining or ranting about Ms. Baskin?

21 A. Yeah. He complained that she didn't like him breeding cats.

22 MR. BROWN: Thank you, Ms. Corley.

23 THE WITNESS: You're welcome.

24 THE COURT: Mr. Wackenheim?

25 MR. WACKENHEIM: No, Your Honor.

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 THE COURT: Thank you, Ms. Corley. You may step down.  
2 Government's next witness.

3 MS. MAXFIELD-GREEN: Government calls Leesa Sparks.  
4 (WITNESS SWORN.)

5 THE COURT: Ms. Sparks, adjust that chair as you need  
6 to, or that microphone. Make yourself comfortable. Just be sure  
7 you speak into the mic so that they can pick up everything you  
8 say.

9 THE WITNESS: Yes, Your Honor. Can you hear me?

10 MS. MAXFIELD-GREEN: Yes.

11 LEESA SPARKS,

12 DIRECT EXAMINATION

13 BY MS. MAXFIELD-GREEN:

14 Q. Good morning, Ms. Sparks. Could you please just state your  
15 name for the record?

16 A. Leesa Sparks.

17 Q. And do you live here in Oklahoma?

18 A. Yes.

19 Q. Are you employed?

20 A. Yes.

21 Q. What do you do for a living?

22 A. I'm a student and teacher's assistant.

23 Q. Are you familiar with a person named Joseph  
24 Maldonado-Passage?

25 A. Yes.

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LEESA SPARKS - Direct by Ms. Maxfield-Green

- 1 Q. Do you see him here in the courtroom today?
- 2 A. Yes.
- 3 Q. Could you describe just for the record what he's wearing?
- 4 A. A suit, a white shirt, looks like a tie.
- 5 Q. How did you get to know Mr. Passage?
- 6 A. He came to a campaign launch in Tulsa.
- 7 Q. What kind of a campaign -- why did he come to the campaign
- 8 launch?
- 9 A. To support a state question.
- 10 Q. Was Mr. Passage running for office at the time?
- 11 A. Yes.
- 12 Q. What was he running for?
- 13 A. Governor.
- 14 Q. And about when was that that you met him?
- 15 A. September of 2017.
- 16 Q. So after you met him for the first time in September
- 17 of 2017, would you say that you became friends with Mr. Passage?
- 18 A. Yes.
- 19 Q. Did you see him fairly frequently after that?
- 20 A. Yes. We supported each other throughout the campaign.
- 21 Q. Were you still friends with Mr. Passage at the time that he
- 22 was arrested on the indictment in this case in September of 2018?
- 23 A. Yes.
- 24 Q. And were you called to testify on Mr. Passage's behalf
- 25 during a hearing that was held in this courthouse on October 4th

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 of 2018?

2 THE COURT: Hold on just a minute, Ms. Sparks.

3 MR. EARLEY: Your Honor, I'm going to object to this  
4 line of questioning on relevance.

5 MS. MAXFIELD-GREEN: I'm establishing how it is that  
6 she knows him and her later course of conversation with him.

7 THE COURT: It will be overruled at this time.

8 Q. (By Ms. Maxfield-Green) What was the purpose of that  
9 hearing?

10 A. It's a detention hearing. It was to get him to come home  
11 with me.

12 Q. Okay. And so can you -- can you describe what you mean by  
13 to get him to come home with you?

14 A. Released on bail.

15 Q. Okay.

16 A. Until he -- he could be tried.

17 Q. Did you testify that if he were released on bail he could  
18 come live with you?

19 A. Yes.

20 Q. Now, was he, in fact, released on bond or bail?

21 A. No.

22 MR. EARLEY: Your Honor, that should be stricken. It's  
23 irrelevant.

24 THE COURT: Sustained.

25 MS. MAXFIELD-GREEN: Could we approach, Your Honor,

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 then?

2 THE COURT: You may.

3 (The following proceedings were had at the bench and out of  
4 the hearing of the jury.)

5 MR. EARLEY: May I also add, not only do I object to  
6 that question and that answer, but Ms. Green's question and  
7 answer has resulted in information given to the jury that  
8 Mr. Maldonado-Passage is in custody. And based on the custodial  
9 status that the jury is aware of now, I would move for a  
10 mistrial.

11 MS. MAXFIELD-GREEN: Your Honor, part of the  
12 government's evidence are -- include emails he wrote from jail,  
13 phone calls he had while he was in custody, I mean, and the only  
14 way the government has those emails and phone calls is because he  
15 was in custody and they were recorded.

16 The -- asking Ms. Sparks in particular about this, she  
17 corresponded with him from jail and he sent her forms that he  
18 filled out in jail. All of that is relevant to the matters at  
19 hand. And I don't think his custodial status is so prejudicial  
20 as to, you know, certainly to cause a mistrial. And if the  
21 government -- if the judge would like to include a limiting  
22 instruction or an admonishment of some kind to the jury that his  
23 custodial status is irrelevant, that he, you know, is presumed  
24 innocent despite his custodial status, that kind of thing, I  
25 think that would cure any prejudice or error.

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1 THE COURT: Anything additionally, Mr. Earley?

2 I think that's true. The motion for mistrial will be  
3 overruled. The testimony has been somewhat limited that he's in  
4 custody, and I don't even know that you could presuppose that the  
5 jury infers that he's in custody now. I also don't think it  
6 rises to the level of if they were to see him in any type of  
7 restraint. So the motion for mistrial will be overruled.

8 Likewise, I think that it does lay a proper foundation for  
9 the explanation of how these communications occurred in terms of  
10 these recorded conversations, and so I think it's limited  
11 prejudicial value. I am inclined, if you request, Mr. Earley, to  
12 give an instruction. Whether or not that causes an inference  
13 that he is in custody right now or if it was more of a generic  
14 cautionary instruction that, if he were in custody at one time or  
15 another, you shouldn't hold that against him. But I leave that  
16 to you whether or not you would want a cautionary instruction.

17 And I'll add to that, whether you want that instruction  
18 contemporaneously with the testimony or whether you would like  
19 that included in the final instructions.

20 MR. EARLEY: Well, I think for now I would request that  
21 the Court give the jury a kind of generic instruction about  
22 whether he was in custody at some point or another is not to be  
23 considered by them as anything --

24 THE COURT: Evidence of guilt?

25 MR. EARLEY: Yes.

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 MS. MAXFIELD-GREEN: And I would point out, just for  
2 the record, Your Honor, that numerous defendants are tried while  
3 they're in custody and wearing orange jumpsuits, in fact, and  
4 it's not considered prejudicial.

5 THE COURT: I'll give the cautionary instruction,  
6 Mr. Earley, but I would also be willing to, in the final  
7 instructions to include that. Don't let me forget.

8 MR. EARLEY: I won't. Thank you.

9 (The following record was made in open court, in the  
10 presence of all parties, counsel, and in the presence and hearing  
11 of the jury.)

12 THE COURT: Ladies and gentlemen of the jury, you have  
13 heard some testimony and may continue to hear some testimony  
14 about the fact that Mr. Passage may have been in custody at one  
15 time or another. And I'm advising you and admonishing you and  
16 instructing you that whether Mr. Passage had been or has been in  
17 custody at any point in time is not evidence of anything and is  
18 certainly not evidence of guilt.

19 Q. (By Ms. Maxfield-Green) Okay. Ms. Sparks, where were we?  
20 Let's see.

21 So while Mr. Passage was in custody and awaiting trial, did  
22 you keep in contact with him?

23 A. Yes.

24 Q. How did you keep in contact with him?

25 A. Email, phone, and we did one video talk thing.

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LEESA SPARKS - Direct by Ms. Maxfield-Green

- 1 Q. Did Mr. Passage ask you to help him with some legal matters?
- 2 A. Yes.
- 3 Q. What kind of legal matters did he ask for your help with?
- 4 A. To get his animals back and his trailers, stuff like that.
- 5 A replevin, is what I came to find out what he needed.
- 6 Q. A replevin?
- 7 A. Replevin, yes.
- 8 Q. Okay. And had you been familiar with a replevin prior to
- 9 this?
- 10 A. No.
- 11 Q. What was your understanding of what filing a replevin would
- 12 do?
- 13 A. It would get his animals back and his stuff from being
- 14 destroyed from Mr. Lowe, and that's what I was trying to help him
- 15 get.
- 16 Q. Okay. So did he still have animals that were at the zoo?
- 17 A. Yes.
- 18 Q. Okay. And did he still have some other property that was at
- 19 the zoo?
- 20 A. Yes.
- 21 Q. Okay. And your understanding was he was trying to get that
- 22 away from the zoo, correct?
- 23 A. Correct.
- 24 Q. Okay. And did you do a little bit of research to find the
- 25 proper form for him?

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 A. Yes, I did. I did. I found a replevin form and sent it to  
2 him.

3 Q. Okay. Let me show you Government's Exhibit 140, which  
4 should be -- there's a black book in front of you there. And  
5 it's under -- behind Tab 140.

6 A. Yeah.

7 Q. Do you have it? And you see the texts there at the bottom.  
8 Do you recognize what this is? And you might need to flip the  
9 page over as well.

10 A. Yes. It's an email.

11 Q. Okay. And who is it from?

12 A. From Joe.

13 Q. Was it written -- who was it written to?

14 A. To me.

15 MS. MAXFIELD-GREEN: Government moves to admit  
16 Exhibit 140.

17 THE COURT: Any objection?

18 MR. EARLEY: May I have just one moment?

19 THE COURT: Sure.

20 MR. EARLEY: I'm going to object in part. With respect  
21 to the top part of the exhibit concerning Mr. Passage's words, I  
22 won't object, but I do object to the lower part from what  
23 Ms. Leesa Sparks is emailing to Mr. Passage.

24 THE COURT: So you're objecting -- so that I'm clear,  
25 Mr. Earley, you're objecting to the bottom portion of the second

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 page?

2 MR. EARLEY: Correct.

3 MS. MAXFIELD-GREEN: And, Your Honor, the portion at  
4 the bottom half of that exhibit should have been redacted and we  
5 don't intend to offer that. And for the purposes of just this  
6 witness, we will offer it on the Elmo so that that part is not  
7 showing. We only intend to offer the first part of the page.

8 THE COURT: Ending with -- or just above the reference  
9 of "calling now"?

10 MS. MAXFIELD-GREEN: Yes.

11 THE COURT: Okay. In that regard, the objection will  
12 be sustained as to that bottom portion.

13 Mr. Earley?

14 MR. EARLEY: That takes care of my objection, yes.

15 THE COURT: Okay.

16 MS. MAXFIELD-GREEN: So may we admit Government's 140  
17 with that -- making the necessary redaction?

18 THE COURT: Yes.

19 MS. MAXFIELD-GREEN: Thank you.

20 THE COURT: Be so admitted.

21 Q. (By Ms. Maxfield-Green) So you said this is an email from  
22 Mr. Passage to you, correct?

23 A. Correct.

24 Q. Okay. And if you could read the first three lines there.  
25 And I'll just -- if you could read those first three lines.

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 A. "The sheriff said if the lawyers will get a writ, not sure  
2 how to spell it, that he will go in the zoo with you-all and get  
3 our stuff and animals."

4 Q. And was this email in reference to the replevin action that  
5 Mr. Passage wanted you to help him with?

6 A. Yes.

7 Q. Okay. So once you found replevin forms, did you fill those  
8 forms out or did Mr. Passage?

9 A. Mr. Passage.

10 Q. And how did you get those forms to Mr. Passage?

11 A. I mailed them through the U.S. mail to Grady County Jail.

12 Q. And did you provide him a way to get those forms back to  
13 you?

14 A. Yes. I put an envelope inside that one so he could mail  
15 them back.

16 Q. And did he, in fact, mail those forms back to you?

17 A. Yes.

18 Q. And did they come back to you filled out in his handwriting?

19 A. Yes.

20 Q. And when you mailed those replevin forms to him, did you  
21 mail any other documents to Mr. Passage?

22 A. His animal list.

23 Q. Okay. Where did you get his animal list?

24 A. From his husband, Dillon.

25 Q. Okay. And how did his husband Dillon send you the animal

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 list?

2 A. He texted them to me.

3 Q. Okay.

4 A. And then I sent them to my computer and printed them off.

5 Q. Okay. And take a look at Government's Exhibit 141. It will  
6 be behind that tab in the book in front of you.

7 And the -- what I'm referring to is the first page of that  
8 over into just the very first three lines on the next page.

9 Okay?

10 A. Okay.

11 Q. And do you recognize what this is?

12 A. Yes. It's an email.

13 Q. Okay. And who is it from?

14 A. From Joe.

15 Q. And who is it to?

16 A. Me.

17 MS. MAXFIELD-GREEN: And the Government moves to admit  
18 Exhibit 141. And all we're asking to admit is the first page  
19 below "what's up," and the second page, the very first three  
20 lines.

21 THE COURT: Any objection, Mr. Earley?

22 MR. EARLEY: With that understanding, I do not object.

23 THE COURT: Okay. With those limitations, Government's  
24 141 will be admitted.

25 Q. (By Ms. Maxfield-Green) I'm going to show you the first

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1 page there that you're looking at. Like an art project going on  
2 up here.

3 Okay. So this is an email from Mr. Passage to you, correct?

4 A. Correct.

5 Q. And what's the date on it?

6 A. October 14th of 2018.

7 Q. Okay. And, if you could, just read the first two sentences  
8 there.

9 A. "Yes, I got the animal list done with Dillon. Can you see  
10 if he needs anything else done with it before he mails it to  
11 you?"

12 Q. And was that email in reference to the animal list or animal  
13 inventory you got from Mr. Passage -- Dillon Passage?

14 A. Yes.

15 Q. Okay. And --

16 MS. MAXFIELD-GREEN: Your Honor, I believe also part of  
17 Government's Exhibit 141 is the third page, and we're just  
18 seeking to introduce, of that third page, the very top email.

19 THE COURT: Mr. Earley, any objection?

20 MR. EARLEY: With that understanding, no.

21 THE COURT: That portion will be admitted.

22 MS. MAXFIELD-GREEN: Thank you, Your Honor.

23 Q. (By Ms. Maxfield-Green) All right. I'll just show it to  
24 you here. Ms. Sparks, is this another email from Mr. Passage to  
25 you?

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 A. Yes.

2 Q. And what's the date of this one?

3 A. October 14th of 2018.

4 Q. Okay. And so if you could read the first sentence, please.

5 A. "I got Dillon to do the inventory today, so all he needs to  
6 do is overnight you the court papers and my black book that needs  
7 to go to the lawyers."

8 Q. And, again, was this email in reference to the animal list  
9 that you received from Mr. Passage's husband?

10 A. Yes.

11 Q. Okay. If you could take a look at Exhibit 138, please.  
12 Do you recognize this document?

13 A. Yes, I do.

14 Q. What is it?

15 A. It's the replevin.

16 Q. Okay. Is this what you received in the mail from  
17 Mr. Passage?

18 A. Yes, it is.

19 Q. And is that Mr. Passage's handwriting on the forms?

20 A. Yes, it is.

21 MS. MAXFIELD-GREEN: Government moves to admit  
22 Exhibit 138.

23 MR. EARLEY: No objection.

24 THE COURT: 138 will be admitted.

25 Q. (By Ms. Maxfield-Green) Okay. Looking at Exhibit 138, so

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 it says affidavit and replevin there. Who is listed as the  
2 plaintiff?

3 A. Joseph Maldonado-Passage, Dillon Passage.

4 Q. And who's listed as the defendant?

5 A. Jeffery Lowe, Greater Wynnewood Exotic Animal Park.

6 Q. And which county is filled in there?

7 A. Garvin.

8 Q. And if you could just read us that first block, Paragraph  
9 No. 1, and the information that's listed there in handwriting as  
10 well.

11 A. "I am the owner of the following personal property: 2004  
12 International truck, value 5,000; four trailer houses, 20,000;  
13 Exhibit 1 through 13 list of animals attached, 361,000; a total  
14 of \$386,700.

15 Q. And where does it indicate the property is located at the  
16 following location?

17 A. 25803 NCR 3250, Wynnewood, Oklahoma, 7309 -- I don't know  
18 what that last number is.

19 Q. Okay. Let's look at the second page there. About  
20 two-thirds of the way down does it appear to have a signature on  
21 it?

22 A. Yes.

23 Q. And does it appear to be a notarized signature?

24 A. Yes.

25 Q. And, to your knowledge, would that have been Mr. Maldonado's

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LEESA SPARKS - Direct by Ms. Maxfield-Green

- 1 signature?
- 2 A. Yes.
- 3 Q. What's the date of the notary?
- 4 A. 25th of October, 2018.
- 5 Q. Okay. And if we look at the third page of this document, is
- 6 this more of the forms with Mr. Passage's handwriting?
- 7 A. Yes.
- 8 Q. Okay. Let's go on to the fourth page. On that fourth page,
- 9 is there another signature?
- 10 A. Yes, it is.
- 11 Q. And is his -- "Joseph Maldonado-Passage" written beneath the
- 12 signature?
- 13 A. Yes, it is.
- 14 Q. Now, if we were to flip through this multipage document,
- 15 would we find more of Mr. Passage's handwriting?
- 16 A. Yes.
- 17 Q. And more notarized signatures?
- 18 A. Yes.
- 19 Q. Okay. I'm going to ask you, on Page 4 that we're looking at
- 20 on the screen, to your recollection did you white out some
- 21 information on this form?
- 22 A. Yes, I did.
- 23 Q. What did you white out?
- 24 A. My name and address.
- 25 Q. Why did you white it out?

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 A. Because it was in care of me and I didn't want a part of  
2 that, I just wanted to help him get his animals to Dillon and get  
3 them where he needed them to go to be safe and get his stuff  
4 back.

5 Q. Okay. So you did not approve of having your information  
6 listed in connection with this?

7 A. No.

8 Q. Let's take a look at Government's Exhibit 139. It should be  
9 the book in front of you.

10 Okay. You got it?

11 A. Yes.

12 Q. Are you familiar with this document?

13 A. Yes.

14 Q. What is it?

15 A. It's the animal list.

16 Q. Now, when -- when you sent the animal list to Mr. Passage in  
17 jail, were there numbers written out to the right-hand side?

18 A. Yes -- no. Sorry. Sorry.

19 Q. Okay. Let me just clarify then.

20 When you sent it to him originally, were there numbers  
21 written to the right-hand side?

22 A. No, there wasn't.

23 Q. Okay. When Mr. Passage sent the inventory back to you, had  
24 he written numbers next to each animal?

25 A. Yes.

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 Q. And based on your conversations with Mr. Passage, what was  
2 your understanding of what those numbers represented?

3 A. The value of the animals.

4 Q. Was that surprising to you?

5 A. Yes.

6 Q. Why was that surprising to you?

7 A. I thought he was a rescue kind of thing where he just took  
8 care of animals and stuff like that.

9 Q. Okay. Now, the document that you're looking at in that  
10 book, does it have Mr. Passage's handwriting on it or is it your  
11 handwriting?

12 A. Here is where I'm not certain because I didn't make copies  
13 of the animal list with the values on them. And before Agent  
14 Bryant came to my house, I had copied the value with my own  
15 handwriting on the animal list, and I'm not for sure.

16 Q. Okay. Let's break that down a little bit.

17 Okay. So you received an original with Mr. Passage's  
18 handwriting on it, correct?

19 A. Correct.

20 Q. And then at some point did you want to make a copy of that  
21 list?

22 A. Yes.

23 Q. Okay. And as opposed to photocopying it, did you use your  
24 own handwriting to copy his list onto a fresh list?

25 A. The value on the --

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LEESA SPARKS - Direct by Ms. Maxfield-Green

- 1 Q. You copied only the value?
- 2 A. Yes.
- 3 Q. Okay. And did you -- when you were making that copy, were  
4 you looking at his list?
- 5 A. Yes.
- 6 Q. And did you write down exactly the numbers that were on his  
7 list?
- 8 A. Yes.
- 9 Q. Did you alter those numbers in any way?
- 10 A. No, because I didn't understand. I mean, I -- I still don't  
11 understand what any of this means.
- 12 Q. Okay. So the -- the inventory you're looking at here in  
13 your handwriting should be an exact copy of what he gave you; is  
14 that correct?
- 15 A. Correct.
- 16 Q. Okay. Now, had you intended to give the Government the  
17 version that he provided, the version he wrote on?
- 18 A. Yes.
- 19 Q. And what happened?
- 20 A. Well, I ended up -- I'm not real sure, because I sent the  
21 replevin to Erik's girlfriend, Diana, and those were the two  
22 copies that I had.
- 23 Q. Okay. So do you -- is it your current belief that you sent  
24 Mr. Passage's original handwriting to Diana?
- 25 A. Yes.

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 Q. And that you gave the government the one that you had  
2 created in your own hand?

3 A. Yes. I mean, some of it looks like Joe's, but some of it  
4 looks like mine. So I'm really uncertain with the chaos and all  
5 that stuff.

6 Q. Okay. In any event, the -- should the copy that you created  
7 in your handwriting be an identical copy of what Mr. Passage  
8 provided you?

9 A. Yes.

10 MS. MAXFIELD-GREEN: Government moves to admit  
11 Exhibit 139.

12 THE COURT: Any objection?

13 MR. EARLEY: No objection.

14 THE COURT: Government's 139 will be admitted.

15 Q. (By Ms. Maxfield-Green) This is the animal inventory,  
16 correct?

17 A. Correct.

18 Q. All right. Let's go through some of the entries. Just the  
19 very first entry there, what does it list the animal to be?

20 A. A tiger.

21 Q. Does it seem to indicate a name?

22 A. Noah.

23 Q. And in the headings at the top there, does it indicate that  
24 the birth date, color, purchase date might be provided in the  
25 sort of middle column?

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- 1 A. Yes. The birth date has April 9th of 2010.
- 2 Q. Okay. And that again states he's a tiger, correct?
- 3 A. Correct.
- 4 Q. And does it show the gender to be male?
- 5 A. Yes.
- 6 Q. All right. Under owner/breeder, what's listed there?
- 7 A. JS.
- 8 Q. And does -- before he was known as Mr. Maldonado, was
- 9 Mr. Passage's unmarried name Joseph Schreibvogel?
- 10 A. Correct.
- 11 Q. And what's written next to the entry for the tiger Noah?
- 12 A. 1,000.
- 13 Q. The one below it, the tiger Promise, what is written next
- 14 to -- what number is written next to the tiger Promise?
- 15 A. \$1,000.
- 16 Q. Okay. And are the next four entries all tigers valued at
- 17 \$1,000?
- 18 A. Yes.
- 19 Q. What about the tiger Thunder, how much is his value?
- 20 A. 5,000.
- 21 Q. Okay. Let's see, does that indicate -- what type of tiger
- 22 in that middle column does it indicate that he is?
- 23 A. A tabby tiger.
- 24 Q. Okay. And two entries below that, tiger, slash, white
- 25 Aloha, does that -- the middle column indicate that that's a

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1 white tiger?

2 A. Yes.

3 Q. And is that a female?

4 A. Yes.

5 Q. Okay. And how much is the value indicated for that tiger?

6 A. 5,000.

7 Q. Okay. Tiger below that, which tiger is that?

8 MR. EARLEY: Your Honor, I'm going to object. I mean,  
9 the form is in evidence. I don't think it's necessary for  
10 Ms. Green and the witness to go through each entry. I think the  
11 purpose of this form is to establish a value only, and I think  
12 the form speaks for itself.

13 THE COURT: Ms. Green?

14 MS. MAXFIELD-GREEN: Your Honor, it's relevant -- would  
15 you like this at the bench?

16 THE COURT: Sure.

17 (The following bench conference was held outside the hearing  
18 of the jury.)

19 MS. MAXFIELD-GREEN: Your Honor, the allegations in  
20 this case are that Mr. Passage was buying -- or was selling lions  
21 and tigers, which is illegal. And the fact that all of these  
22 animals have values next to them is obviously relevant. The  
23 quantity of animals and the -- the total of their values is  
24 directly relevant to his motive to sell the animals, his intent  
25 to sell animals, and I don't think it can be limited to talking

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 about a few.

2 Now, I don't intend to go on and on. We're going to speed  
3 up. But the quantity of animals and the fact that there were a  
4 lot of them is relevant to the analysis.

5 THE COURT: Well, I do tend to agree with Mr. Earley,  
6 at least in terms of, you know, the document is in evidence and  
7 the government will have full reign to argue that individual  
8 document. The witness has established that those are  
9 dollar values. I'll give you a little bit more leeway, but let's  
10 try to move this along. I mean, I do think it speaks for itself.  
11 And, like I said, the Government will have free reign to argue it  
12 too, so.

13 MS. MAXFIELD-GREEN: I would just add, to the extent,  
14 you know, it takes a little bit to get to other types of animals,  
15 you know, the differential in their values, lions are more  
16 expensive than tigers, et cetera, is, again, relevant to the  
17 analysis.

18 THE COURT: I'll give you a little bit more leeway, but  
19 try to see if we can't pick it up a little bit.

20 MS. MAXFIELD-GREEN: Okay.

21 (The following record was made in open court, in the  
22 presence of all parties, counsel, and in the presence and hearing  
23 of the jury.)

24 Q. (By Ms. Maxfield-Green) You okay, Ms. Sparks?

25 A. Yeah.

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1 Q. Okay. And let's go to the second page, please. Does this  
2 page appear to be listings of all tigers?

3 A. Yes.

4 Q. Okay. And do their values range between \$5,000 and 1,000?

5 A. Yes.

6 Q. Let's go to the next page. And are these also all tigers  
7 valued between -- or at \$1,000?

8 A. Yes.

9 Q. All right. Next page. Are these all tigers valued between  
10 5,000 and \$1,000?

11 A. Yes.

12 Q. All right. Next page. Are these also all tigers valued  
13 between 1,000, 2,000 and \$5,000?

14 A. Yes.

15 Q. Okay. Next page. Are these tigers all -- all tigers valued  
16 between 1,000, 2,000 and \$5,000?

17 A. Yes.

18 Q. Okay. If we go to the next page, do you see the two entries  
19 there in the middle for tiligers? What are the values of the  
20 tiligers?

21 A. 2,000 -- or 5,000. Sorry.

22 Q. All right. Next page. The very top entry, what is that an  
23 entry for?

24 A. A white lion.

25 Q. And what is the value of the white lion?

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LEESA SPARKS - Direct by Ms. Maxfield-Green

- 1 A. 15,000.
- 2 Q. All right. Does it look like there are three lions below  
3 that?
- 4 A. Yes.
- 5 Q. What is their value?
- 6 A. 5,000.
- 7 Q. Okay. Let's go to the next page. What's the second entry?
- 8 A. Lemur.
- 9 Q. Is that a lemur?
- 10 A. Lemur.
- 11 Q. What's the value of the lemur?
- 12 A. 1,500.
- 13 Q. If we go to the bottom there, the last two entries, are  
14 those two lions valued at \$5,000?
- 15 A. Yes.
- 16 Q. Okay. And if you go -- let's go back to Exhibit 138, the  
17 first page. And if we look at the value there of \$361,000 -- now  
18 again, this -- this writing is in Mr. Passage's handwriting,  
19 correct?
- 20 A. Correct.
- 21 Q. Okay. And based on your understanding of this form, is --  
22 did that value come from essentially adding up all of those  
23 values we just looked at?
- 24 A. I'm assuming so.
- 25 Q. Okay. So Mr. Passage mailed you all of this paperwork that

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 he had completed, correct?

2 A. Yes.

3 Q. All right. Now, before you got those forms from Mr. Passage  
4 in the mail, did Mr. Passage's husband bring you some things that  
5 belonged to Mr. Passage?

6 A. I met Dillon in Davis and we was going to do the replevin,  
7 but it became too much for Dillon, overwhelmed him, and he had to  
8 take the evidence. And I was driving through the city, so Dillon  
9 handed me two phones, a flash drive and a file.

10 Q. Okay.

11 A. That I was to give to the lawyers.

12 Q. All right. And did you eventually give those items to  
13 Mr. Passage's lawyers?

14 A. Yes.

15 Q. All right. Now, before you gave them to the lawyers, did  
16 you back up a copy of one of the phones to your computer?

17 A. Yes.

18 Q. Why did you do that?

19 A. Because I knew that Joe loved his pictures. He -- and I  
20 needed to have proof to get these animals back, and I just wanted  
21 to make sure he had it.

22 Q. Okay. Just trying to create a safe copy?

23 A. Yes.

24 Q. Now, in the process of making that copy of that phone to  
25 your computer, did you see some things that caused you to be

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 upset?

2 A. Yes.

3 Q. Okay. And right -- right before you received the replevin  
4 papers and the animal inventory in the mail, did you see  
5 something on the news that upset you?

6 A. Yes, I did.

7 Q. And what did you see?

8 MR. EARLEY: Your Honor, I'm going to object to the  
9 relevancy of this. I don't see how her viewing something on the  
10 news has anything to do with the values, which is what this  
11 witness is here to establish.

12 THE COURT: Response?

13 MS. MAXFIELD-GREEN: Your Honor, she -- it goes to how  
14 the government came into possession of these items, and it also  
15 leads into a question about a conversation she had with  
16 Mr. Passage.

17 THE COURT: Overruled.

18 Q. (By Ms. Maxfield-Green) Okay. Ms. Sparks, what is it that  
19 you saw that upset you?

20 A. Text messages between him and Jeff.

21 Q. Okay. Hold on just a second. Let me re-ask that question.  
22 What did you see on the news that upset you?

23 A. On the news? Sorry. They were digging up bones from a  
24 mound at the zoo.

25 Q. Okay. And what about that upset you?

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 A. I mean, I had seen a text between Jeff and Joe --

2 MR. EARLEY: Your Honor, I'm going to object to this --

3 THE COURT: Hold on just a minute, Ms. Sparks.

4 Q. (By Ms. Maxfield-Green) Suffice to say that seeing the news  
5 story about the park, about investigators digging up bones at the  
6 park upset you?

7 A. Yes.

8 Q. Okay. Did you ever, in your relationship with Mr. Passage,  
9 hear him make any comments about euthanizing animals at the park?

10 A. Yes.

11 Q. What do you remember about that conversation?

12 A. The meat program had been pulled and --

13 Q. And let me stop you there, just so we all understand what  
14 you're talking about. What is the meat program?

15 A. Walmart had a meat program that supplies animals with meat  
16 that's left over from butchering it. And they had pulled it from  
17 Joe, and he -- when we was driving back from Tulsa, he had said  
18 if -- something about he would have to start euthanizing them  
19 because he, I guess, couldn't afford to feed them. I'm not sure  
20 what he meant by that. I'm still not sure.

21 Q. Okay. So after you saw the news story, did you contact the  
22 government or law enforcement?

23 A. Yes.

24 Q. Who did you call?

25 A. I called the sheriff's department first. And then he had

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 stated to me that there's a protocol, there has to be a protocol  
2 of euthanizing animals.

3 Q. What I'm asking you about --

4 MR. EARLEY: Your Honor, who's -- I'm not sure who said  
5 what, and I would move to strike that testimony.

6 MS. MAXFIELD-GREEN: And that's fine, Your Honor.

7 THE COURT: Sustained as to that, Mr. Earley.

8 MS. MAXFIELD-GREEN: That's not where I was headed.

9 Q. (By Ms. Maxfield-Green) When you saw the news story, did  
10 you decide that you wanted to give the government the things that  
11 Mr. Passage had given you?

12 A. Yes.

13 Q. Who did you call to do that?

14 A. Well, I called the sheriffs, and then I called the U.S.  
15 Wildlife, then they wanted me to call the sheriffs in Garvin  
16 County. And then I ended up calling you and -- and then I ended  
17 up calling the game warden in my county.

18 Q. Okay. And based on your reaching out in that fashion, did  
19 you ultimately meet with Special Agent Matt Bryant?

20 A. Yes.

21 Q. And did you give him the replevin papers and the animal  
22 inventory that you had received from Mr. Passage?

23 A. Yes.

24 Q. After that point did you continue to communicate with  
25 Mr. Passage?

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LEESA SPARKS - Direct by Ms. Maxfield-Green

1 A. No.

2 MS. MAXFIELD-GREEN: Government passes the witness.

3 THE COURT: Mr. Earley, I'm -- do you know about  
4 approximately how much you have? Do you have a fair amount?

5 MR. EARLEY: It's hard to say.

6 THE COURT: Yeah. Well, I would -- I would think you  
7 have got more than four minutes.

8 MR. EARLEY: All right. Yes.

9 THE COURT: Ladies and gentlemen, let's take our lunch  
10 break, under the usual admonition, again. The case hasn't been  
11 submitted to you, please don't discuss this amongst yourselves or  
12 with anyone else, don't let anybody discuss it with you, don't  
13 come to any conclusions or -- keep an open mind at this point in  
14 time.

15 You'll be excused. We'll take an hour and 15 for lunch. If  
16 everyone will remain seated as the jury leaves the courtroom.

17 (Jury exited.)

18 (The following record was made in open court, in the  
19 presence of all parties, counsel, and out of the presence and  
20 hearing of the jury.)

21 THE COURT: The record will reflect that the jury has  
22 left the courtroom.

23 Ms. Green, I would ask to be sure that on the -- I'll call  
24 them the amended -- the 140 and 141, can we be hypervigilant that  
25 we get those put together so that we don't have something going

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LEESA SPARKS - Cross by Mr. Earley

1 back into the jury room?

2 MS. MAXFIELD-GREEN: Certainly, Your Honor. We'll fix  
3 it over lunch.

4 THE COURT: Be sure and whatever you do, get a copy to  
5 counsel for the defendant.

6 Anything else from either party?

7 MS. MAXFIELD-GREEN: No, Your Honor.

8 MR. EARLEY: No, Your Honor.

9 THE COURT: Court will be in recess.

10 (Break taken.)

11 (The following record was made in open court, in the  
12 presence of all parties, counsel, and in the presence and hearing  
13 of the jury.)

14 THE COURT: Mr. Earley.

15 **CROSS-EXAMINATION**

16 **BY MR. EARLEY:**

17 Q. Now, Ms. Sparks, at the time that Mr. Passage asked you to  
18 get this paperwork together for this replevin action, he was  
19 trying to prevent Jeff Lowe from taking and disposing of property  
20 at the park, correct?

21 A. Correct.

22 Q. And Jeff Lowe had already threatened to tear down the zoo  
23 and take all of Mr. Passage's animals at that time, correct?

24 A. Correct.

25 Q. And so Mr. Passage was very concerned about Jeff Lowe

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LEESA SPARKS - Cross by Mr. Earley

1 keeping his animals and who knows what he might do with them,  
2 correct?

3 A. Correct.

4 Q. So he asked you to try to find the paperwork where he could  
5 file some court action to attempt to get a court to enter an  
6 order preventing Mr. Lowe from obtaining all of his property,  
7 correct?

8 A. Correct.

9 Q. And you pulled the form, or found it somehow, and you  
10 commenced to prepare it so that it could be filed, correct?

11 A. Correct.

12 Q. And the form that you had, or at least that you presented to  
13 Mr. Passage, you have identified as Government's 138. And the  
14 form that you provided to him requires a listing of the property,  
15 correct?

16 A. Correct.

17 Q. And it also requires a value to the property, correct?

18 A. Correct.

19 Q. All right. So in order to establish a value for the form,  
20 he attached, or you attached for him, this list of animals at the  
21 park, correct?

22 A. Correct.

23 Q. All right. And did you actually file this form for him?

24 A. No.

25 Q. All right. Do you know if it was ever filed?

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LEESA SPARKS - Cross by Mr. Earley

1 A. No.

2 Q. No or you don't know?

3 A. I do not know if it was ever filed. I did send it to Erik's  
4 -- Diana.

5 Q. And would that be Erik Cowie's wife?

6 A. Yes, Erik Cowie's girlfriend.

7 Q. Or girlfriend. Okay.

8 So when you provided this to the Government, they asked you  
9 to come to Court and identify this list of property and the  
10 values that you assigned to it based on what Mr. Passage told  
11 you; is that correct?

12 A. State that again.

13 Q. So you provided this list to the Government, correct?

14 A. Correct.

15 Q. And they asked you to identify this and testify to the  
16 values that were added to it by you, correct?

17 A. What do you mean by me?

18 Q. Well, you're the one who put these values on here, right?

19 A. I'm not for sure if it's my writing or his writing on the --  
20 I mean, like I didn't copy the animal list. I copied the  
21 replevin and I'm not for sure if I sent the one that he put the  
22 values on that list to Erik's girlfriend or if that's it.

23 Q. Okay. Well, assuming he provided this particular form, they  
24 have asked you to identify this just to establish the value of  
25 these animals that he put on the form, right?

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MARSHA DAVID - Direct by Mr. Brown

1 A. Yes.

2 Q. And whether or not it's your handwriting or not, the  
3 information came from him, correct?

4 A. Correct.

5 MR. EARLEY: I don't have any further questions.

6 THE COURT: Redirect?

7 MS. MAXFIELD-GREEN: No, Your Honor.

8 THE COURT: Thank you. You may step down.

9 Government's next witness.

10 MR. BROWN: Marsha David.

11 (WITNESS SWORN.)

12 THE COURT: Ms. David, feel free to move that chair if  
13 you need to, or adjust that microphone. We'll need you to speak  
14 into the microphone so it picks you up so the court reporter is  
15 able to take down everything you say. Okay?

16 THE WITNESS: Yes, sir.

17 MARSHA DAVID,

18 DIRECT EXAMINATION

19 BY MR. BROWN:

20 Q. Good afternoon, ma'am.

21 A. Good afternoon.

22 Q. Please state your name.

23 A. Marsha David.

24 Q. Ms. David, where do you currently live?

25 A. Elmore City.

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MARSHA DAVID - Direct by Mr. Brown

1 Q. Ms. David, are you familiar with a person named Joseph  
2 Schreibvogel, also known as Joseph Maldonado-Passage?

3 A. Yes, I am.

4 Q. And do you see Mr. Passage in the courtroom?

5 A. Yes, I do.

6 Q. Can you describe what he is wearing, please?

7 A. He has a black suit with a white shirt and a tie.

8 Q. Ms. David, how are you familiar with Mr. Passage?

9 A. We started out just coming up to visit the zoo after we lost  
10 our son. And then --

11 Q. And when -- I'm sorry. When exactly did you first visit the  
12 zoo?

13 A. In 2015, the beginning of 2015.

14 Q. And after first visiting the zoo, did you or your husband  
15 ever come to work for Mr. Passage?

16 A. We helped clean up and rebuild the alligator habitat and  
17 recording studio.

18 Q. And approximately what time period was that?

19 A. It was around this time of year, in February -- or in March  
20 or February, somewhere in there, in 2015.

21 Q. 2015? All right. And since that time period, at any point  
22 in time did you and your husband ever transport any animals for  
23 Mr. Passage?

24 A. Just last year.

25 Q. Okay. How many occasions?

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MARSHA DAVID - Direct by Mr. Brown

- 1 A. There was two.
- 2 Q. All right. And do you remember the approximate date of the  
3 first time you transported animals?
- 4 A. It was in June.
- 5 Q. Okay. And do you remember what kind of animals you  
6 transported?
- 7 A. The ones to Missouri. There was quite a few. There was an  
8 alligator, a lion, a baby lion, a tiger, a bunch of birds, some  
9 bats, and then some serval cats.
- 10 Q. Okay. And during the transfer, was it -- or the transport,  
11 was it just you and your husband or did anyone assist you?
- 12 A. John Finley and Johnnie.
- 13 Q. And before you-all -- did you transport these animals from  
14 the Wynnewood park?
- 15 A. Yes.
- 16 Q. And before you left with the animals, did you receive any  
17 paperwork?
- 18 A. Yes.
- 19 Q. Was it a disposition form itemizing the animals?
- 20 A. Yes, it was.
- 21 MR. BROWN: Can we look at Government's 13? It was  
22 previously admitted, please.
- 23 Q. (By Mr. Brown) Okay. Ma'am, in this Government's  
24 Exhibit 13, it's dated June 18th of '18?
- 25 A. Yes.

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MARSHA DAVID - Direct by Mr. Brown

1 Q. And after looking at those animals that are itemized there,  
2 does this appear to be the transport you're referring to?

3 A. Yes, it is.

4 Q. All right. And at the bottom, under the vehicle that was  
5 used to transport these animals, do you recognize that vehicle?

6 A. Yes. It was my vehicle.

7 Q. So the '04 Cadillac Escalade was your vehicle. And it  
8 appears that they were being transported to the Branson Wild  
9 World, was that a zoo?

10 A. It was something similar to a zoo.

11 Q. Okay. But did you-all actually transport these animals up  
12 to Branson, Missouri?

13 A. Yes, we did.

14 Q. All right. And under the transporter, it explains John  
15 Finley. Did he assist, you testified, with actually transporting  
16 these?

17 A. Yes.

18 Q. And did you just use your Cadillac Escalade or did you-all  
19 use a trailer?

20 A. We used a trailer.

21 Q. Okay. Now, were any of these animals actually within the --  
22 I guess the cab of your Escalade?

23 A. Yes, they were.

24 Q. Which animals did you have inside with you?

25 A. The two babies, and then a bird, and I think the bats.

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MARSHA DAVID - Direct by Mr. Brown

1 Q. Okay. And then the -- how about -- it looks like there was  
2 a two-week-old lion cub?

3 A. Yes.

4 Q. And it was a boy. Was he inside or was he in the trailer?

5 A. He was inside the cab.

6 Q. And how about Moses, was Moses an adult lion?

7 A. Yes, he was.

8 Q. And where was he?

9 A. He was in the trailer.

10 Q. Okay. Was -- do you know if Moses was sedated before  
11 you-all -- before he was loaded into the trailer?

12 A. No, he was not.

13 Q. And how about -- you did mention an alligator. Do you know  
14 if the alligator was sedated?

15 A. No, he was not.

16 Q. Were they both in separate containers or crates within that  
17 trailer?

18 A. Yes.

19 Q. And during -- when you-all -- did you observe the animals as  
20 they were being loaded into the trailer?

21 A. Yes.

22 Q. And was Mr. Passage on site?

23 A. I don't believe he was.

24 Q. But prior to loading these animals, had you talked to  
25 Mr. Passage about this transport, or overheard anything he had

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MARSHA DAVID - Direct by Mr. Brown

1 said?

2 A. He asked us if we could help take care of some of the  
3 animals to move them to other facilities because he was being  
4 removed from the park.

5 Q. Okay. All right. Now, at the time that you -- and do you  
6 recall approximately what time of day it was when these animals  
7 were loaded onto the trailer and inside your -- your Cadillac?

8 A. It was mid afternoon.

9 Q. And are you -- during your kind of affiliation with the park  
10 since 2015, have you ever encountered Dr. Green?

11 A. I haven't had anything to do with her. I mean, I have never  
12 seen her until all of this came up.

13 Q. Okay. Do you recall whether or not, when these animals were  
14 being loaded, if you ever saw Dr. Green or any other veterinarian  
15 out there working on these animals or actually examining these  
16 animals?

17 A. No, not to my knowledge.

18 Q. Now, when you-all actually -- and let me, before I ask that,  
19 did someone provide you this form?

20 A. Yes.

21 Q. Who?

22 A. Reineke.

23 Q. And when he provided you with the form, was it already  
24 completed?

25 A. Yes, it was.

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MARSHA DAVID - Direct by Mr. Brown

- 1 Q. Okay. And did you take the animals as well as this form up  
2 to Branson Wild World?
- 3 A. Yes, we did.
- 4 Q. All right. And that address that's reflected under Branson  
5 Wild World, was that the correct address initially?
- 6 A. No, it was not.
- 7 Q. All right. And did you ultimately find the correct address?
- 8 A. Yes, we did. We called and got the right address. They  
9 have two facilities.
- 10 Q. So was it still within the Branson area?
- 11 A. Yes.
- 12 Q. And do you recall approximately what time you arrived?
- 13 A. It was around --
- 14 Q. I'm sorry?
- 15 A. It was around midnight.
- 16 Q. Okay. And once you arrived, were there any folks there  
17 awaiting your arrival?
- 18 A. Yes, there was quite a few people there.
- 19 Q. Did they assist with unloading?
- 20 A. Yes, they did.
- 21 Q. And at -- at any point in time did anybody from the Branson  
22 group provide money to you or any of the other folks who actually  
23 transported these animals up?
- 24 A. One of the ladies gave Johnnie money.
- 25 Q. And who is Johnnie?

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MARSHA DAVID - Direct by Mr. Brown

- 1 A. John Finlay's girlfriend.
- 2 Q. So Johnnie was someone who was inside your Cadillac from  
3 Wynnewood up to Branson?
- 4 A. Yes.
- 5 Q. All right. And at any point in time did you and Johnnie  
6 count the money?
- 7 A. I was feeding one of the babies while her and the other lady  
8 was counting it.
- 9 Q. Did you see them counting it?
- 10 A. Yes, I did.
- 11 Q. Do you know how much money was provided to them?
- 12 A. There was \$5,000.
- 13 Q. And did you-all ultimately return back to Wynnewood?
- 14 A. Yes, we did.
- 15 Q. Do you know what happened with that \$5,000?
- 16 A. Johnnie and John gave it to Joe.
- 17 Q. Okay. And did you see that?
- 18 A. I seen them hand him the envelope.
- 19 Q. Okay. And did you or your husband receive any money for  
20 this transport?
- 21 A. John Finlay had the money to pay for the gas.
- 22 Q. So they basically covered your gas?
- 23 A. Yes.
- 24 Q. All right. Now, in addition to the transport to Branson  
25 Wild World, did you have one other transport on behalf of

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MARSHA DAVID - Cross by Mr. Wackenheim

1 Mr. Passage?

2 A. Yes. We went to California.

3 Q. And was that before or after the Branson trip?

4 A. After the Branson trip.

5 Q. Okay. And do you recall what you transported to California?

6 A. Two baby tigers.

7 Q. All right. And did -- how long did that take you-all, to  
8 get from Wynnewood to the facility in California?

9 A. It was a day and a half, almost two days.

10 Q. Okay. Do you recall what vehicle you used?

11 A. My Cadillac.

12 Q. All right. And were the baby tigers inside the cabin of the  
13 Cadillac with you?

14 A. Yes, they were.

15 Q. All right. And what, if anything, did Mr. Passage pay you  
16 to transport those two baby tigers?

17 A. He gave us \$800 for our gas money for the trip.

18 Q. Okay. And was that for the total trip, round trip there and  
19 back?

20 A. Yes.

21 MR. BROWN: Pass the witness, Your Honor.

22 THE COURT: Cross-examination?

23 **CROSS-EXAMINATION**

24 **BY MR. WACKENHEIM:**

25 Q. Ms. David, this transportation occurred in the summer

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MARSHA DAVID - Cross by Mr. Wackenheim

- 1 of 2018; is that right?
- 2 A. In June, yes.
- 3 Q. Did you say that Mr. Passage was on his way out of the park?
- 4 A. He had told us that he had to move his animals because he
- 5 was being evicted off the park.
- 6 Q. By who?
- 7 A. Jeff Lowe.
- 8 Q. Do you know why?
- 9 A. I don't know exactly why.
- 10 Q. Okay. And this was the -- these two transportations, that's
- 11 the extent of you helping Mr. Passage transport animals?
- 12 A. Yes, it is.
- 13 Q. Okay. So you were asked to transport some animals from the
- 14 zoo to Branson Wild World, correct?
- 15 A. Yes.
- 16 Q. And there were a number of different animals. You have
- 17 talked about that.
- 18 A. Yes.
- 19 Q. And were those accurately reflected in that form you were
- 20 showed a couple moments ago?
- 21 A. Yes. There was two forms, so --
- 22 Q. Yeah. I think parakeets as well, was that another type of
- 23 animal that was transported?
- 24 A. Parrots, yes.
- 25 Q. So not just baby tigers or lions, but other animals as well?

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MARSHA DAVID - Cross by Mr. Wackenheim

- 1 A. Yes.
- 2 Q. And that form, did you see anyone fill out that form that  
3 you were handed?
- 4 A. I didn't see them fill it out.
- 5 Q. And you said --
- 6 A. Reineke handed it to me.
- 7 Q. Okay. Did you -- and I may have missed this, but was  
8 Mr. Passage on site at the zoo when you were taking the animals?
- 9 A. He was before we got the animals. Before we left, he had  
10 already left to go take care of something else.
- 11 Q. So he wasn't there to hand you the form or discuss the form  
12 or any of that?
- 13 A. No.
- 14 Q. And that was Mr. Reineke?
- 15 A. Yes.
- 16 Q. And then did I understand you right you came back from  
17 Missouri with this envelope; is that right?
- 18 A. Yes. Johnnie and John had the envelope.
- 19 Q. Now, did you -- you said that they counted it. How did you  
20 know it was \$5,000?
- 21 A. I was standing at the back of the vehicle feeding one of the  
22 babies when they were standing at the back of my vehicle counting  
23 it.
- 24 Q. So were they counting it out loud?
- 25 A. Yes.

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MARSHA DAVID - Cross by Mr. Wackenheim

- 1 Q. And you heard them?
- 2 A. Yes.
- 3 Q. You have no reason to dispute that it was \$5,000?
- 4 A. No, sir.
- 5 Q. Okay. And you saw that envelope being handed to Mr. Passage
- 6 back at the zoo.
- 7 A. Yes.
- 8 Q. Is that right?
- 9 A. Yes.
- 10 Q. And then at that point did you then take additional animals
- 11 to California?
- 12 A. Yes.
- 13 Q. And who went with you on that trip?
- 14 A. It was me and my husband.
- 15 Q. Okay. Do you know whose animals those were?
- 16 A. They were Joe's.
- 17 Q. And you received, and your husband received, compensation
- 18 for your time and gas and resources for going to these different
- 19 places?
- 20 A. We received the \$800 in gas to go to California and back.
- 21 Q. Did you receive anything for the Missouri trip?
- 22 A. Just the gas to go there and back.
- 23 Q. Now, were you part of the -- do you have any understanding
- 24 of how that \$5,000 relates to which animals that went to
- 25 Missouri?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 A. No.

2 Q. No?

3 A. No, I do not.

4 Q. Okay.

5 MR. WACKENHEIM: May I have a moment?

6 THE COURT: You may.

7 Q. (By Mr. Wackenheim) Ms. David, back to the transport to  
8 California. How many tiger cubs did you take to California?

9 A. Two.

10 Q. So Mr. Finlay didn't take one of those cubs himself in a  
11 different vehicle?

12 A. No.

13 Q. Okay. You took both?

14 A. I took both of them.

15 Q. Okay.

16 MR. WACKENHEIM: Thank you.

17 THE COURT: Redirect, Mr. Brown?

18 MR. BROWN: No, Your Honor.

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

20 Government's next witness.

21 MS. MAXFIELD-GREEN: Government calls Carole Baskin.

22 (WITNESS SWORN.)

23 **CAROLE BASKIN,**

24 **DIRECT EXAMINATION**

25 **BY MS. MAXFIELD-GREEN:**

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. Ms. Baskin, if you'll just speak directly into the  
2 microphone then we'll be able to hear each other. Okay?

3 A. Yes.

4 Q. Good afternoon. Could you please state your name for the  
5 record?

6 A. Carole Baskin.

7 Q. And, Ms. Baskin, where do you live?

8 A. I live in Tampa, Florida.

9 Q. What do you do for a living?

10 A. I'm the founder and CEO of Big Cat Rescue.

11 Q. And what is Big Cat Rescue?

12 A. Big Cat Rescue is a sanctuary to about 60 exotic cats.

13 Q. Are there any animals other than cats on the sanctuary?

14 A. No. It's all exotic cats.

15 Q. When did Big Cat Rescue open?

16 A. We started in 1992 with the rescue of a single bobcat named  
17 Windsong who was about to be clubbed in the head of a parking lot  
18 at an animal auction.

19 Q. All right. Currently how many acres is Big Cat Rescue?

20 A. We're located on 67 acres.

21 Q. How many employees do you have?

22 A. We have 14 paid employees and over a hundred volunteers and  
23 interns.

24 Q. All right. Is Big Cat Rescue the kind of place that the  
25 public can tour?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 A. They can only come for guided tours. We don't allow people  
2 to wander around unescorted because we want them to leave there  
3 with an understanding of the fact that these animals don't belong  
4 in captivity.

5 Q. All right. And, if you could, look at the book in front of  
6 you. There's a tab of No. 67. Could you look at Tab 67? And  
7 what you're looking for is what's behind Tab 67.

8 A. I have got it.

9 Q. Got it? Are you familiar with this?

10 A. I am.

11 Q. What is it?

12 A. This is what happened in response to -- I'm pulling the book  
13 apart here.

14 Q. Let's make sure. Do you have 67?

15 A. Nope.

16 I have 67 now.

17 Q. You have got it now?

18 A. This is our logo.

19 Q. Okay. Is that the logo for your organization, Big Cat  
20 Rescue?

21 A. Yes.

22 MS. MAXFIELD-GREEN: Government moves to admit  
23 Exhibit 67.

24 THE COURT: Any objection?

25 MR. EARLEY: No objection.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 THE COURT: Be admitted.

2 Q. (By Ms. Maxfield-Green) Okay. So this is the logo of the  
3 organization that you created, correct?

4 A. Correct.

5 Q. Okay. And you referred to this briefly, but could you give  
6 us a little history of how Big Cat Rescue started from the one  
7 bobcat and how it ended up being a sanctuary for 60 or more big  
8 cats?

9 A. We rescued that initial bobcat. And because she had been  
10 declawed, she couldn't be rehabbed and released back to the wild.  
11 I had done rehab and release of native bobcats since I was 17  
12 years old. But she came from Ohio, which meant she was  
13 not native to Florida, and she couldn't be released because of  
14 being declawed. And so, of course, a year later she was just  
15 terrorizing everything and everyone in the house. So we decided  
16 that she needed somebody she could play with and we called  
17 around.

18 A fellow up in Minnesota said that he would allow us to come  
19 see bobcats and lynx that he had for sale and maybe we could find  
20 somebody that she could get along with. So we went there. And  
21 when we got there, it turned out to be a fur farm, and I didn't  
22 know cats were being killed for their fur. So there's not like a  
23 big sign out front that says "fur farm."

24 We just walked in and the conditions in there were so  
25 horrific. These cats were kept in these tiny wire pens in their

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 own food and feces and there were a pile of dead cats on the  
2 floor. And I asked the guy if there was this big of a market for  
3 these as pets. And he said, no, whatever we don't sell for pets  
4 we'll slaughter next year for their fur.

5 So I started crying and my late husband said, how much for  
6 every cat here. And we came home with 56 bobcats and lynx, that  
7 would be Canada lynx and Siberian lynx. And then the following  
8 year we rescued 28 bobcats and lynx, and the following year we  
9 rescued 22 more bobcats and lynx.

10 And at that time we ended the trade of cats for their fur in  
11 the United States. But during that period of time, people  
12 started calling and saying, would you take my lion, would you  
13 take my tiger. And I had no idea that people had these animals  
14 as pets. So it was a real learning experience for us.

15 Q. And then did you subsequently start to take in tigers and  
16 lions?

17 A. Yes.

18 Q. About how long do tigers live in captivity?

19 A. In most other places, they live to be, I would say 10 to 12.  
20 At Big Cat Rescue they frequently live into their late teens and  
21 early 20s. Our average age of death for a tiger is 19.

22 Q. And are lions about the same?

23 A. Yes.

24 Q. Okay. About how much does it cost to feed and maintain one  
25 tiger in captivity for a year?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 A. It's really expensive. It costs us about \$10,000 per big  
2 cat per year, and that's just for the food and veterinary costs.  
3 That doesn't include any of the overhead of the sanctuary.

4 Q. At some point did you start to have a public presence as an  
5 activist against the abuse of big cats in captivity?

6 A. Yes. We realized very early on that we were never going to  
7 rescue our way out of this situation. I learned that there were  
8 literally thousands of lions and tigers in backyards and  
9 basements across America. And so in 1998 we started getting  
10 involving with a federal bill that would ban the private  
11 possession of big cats, and that bill passed in 2003. It passed  
12 unanimously and it was called the Captive Wildlife Safety Act.

13 What that did was -- you know, whenever you have a federal  
14 bill, you have to give and take some. And so what we had to give  
15 up was that anyone with a USDA license was exempted from the  
16 bill. But aside from that, what it did was it made it illegal to  
17 sell a big cat across state lines as a pet. So the exemption was  
18 that you could get a USDA license, which is name, address,  
19 telephone number and \$35 and, you know, virtually no oversight.  
20 So it wasn't a huge deterrent.

21 So in 2011 we filed again to -- to strengthen that bill by  
22 removing that USDA exemption, and we're still working on that.  
23 In fact, today we have a committee hearing in DC on it.

24 Q. In your opinion, what is the cause of greatest concern with  
25 regard to the treatment of big cats in the United States?

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1 A. The biggest reason for --

2 MR. EARLEY: Your Honor, unless there's some relevance  
3 to this particular case, I would just object to this testimony  
4 about policy and other matters.

5 THE COURT: Ms. Green?

6 MS. MAXFIELD-GREEN: Ms. Baskin's testimony on that  
7 point is directly relevant to the feud between Mr. Passage and  
8 Ms. Baskin that led to the allegations in this case.

9 THE COURT: Overruled.

10 Q. (By Ms. Maxfield-Green) And I'm sorry, let me ask that  
11 question again because I lost track of your answer.

12 What is the cause of greatest concern with regard to the  
13 treatment of big cats in the United States, in your opinion?

14 A. The number one cause of abuse in this country is because  
15 people will pay to have their pictures made with these cute  
16 little cubs. And you can see why that would be so attractive to  
17 people, because they're adorable and of course you want to handle  
18 them. But what people don't know is that it serves no  
19 conservation value.

20 These cats are all crossbred and inbred, so they're not pure  
21 subspecies of tigers that could ever be used to repopulate the  
22 wild. And they can only be used from about a four-week window,  
23 from about the time they're eight weeks old until 12 weeks old.  
24 So that means they have to be constantly breeding and breeding  
25 and breeding all of these cats that very quickly outgrow their --

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 their lucrative baby photo-op stage and then they become a  
2 liability. And as that liability, they are frequently handed off  
3 to people as pets or they're relegated to horrible barren cages  
4 where they're just constantly bred so that they can produce more  
5 cubs for the public to pay to have their pictures made.

6 Q. And, in your opinion, does that practice affect the  
7 population in the wild?

8 A. It has a very negative effect on conservation in the wild.  
9 And the reason that we know this is because we have been involved  
10 with CITES, which is the treaty of all of the countries to try  
11 and protect endangered species in the wild. And we have been  
12 part of a coalition that has been trying to ban the farming of  
13 tigers in China and other Asian countries.

14 They say that if you farm these tigers, it will take  
15 pressure off of the cats in the wild, but that's not true because  
16 people always want the premium product. And so they'll always  
17 want that wild tiger over the captive-bred cat. So by breeding  
18 more and more of these cats in captivity and selling them for  
19 their parts and using them to make things like tiger bone wine,  
20 it increases the demand for that, it makes people think that it's  
21 okay to do that, and then it's a whole lot easier to spend a  
22 dollar on a bullet to shoot a tiger in the wild than it is to  
23 spend tens of thousands of dollars to raise them up to adulthood  
24 to be able to be killed.

25 So whenever we're going to those meetings of the countries

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 and saying we don't think these cats should be farmed, these  
2 Asian countries look at us and they say, well, at least we know  
3 where our tigers are, the U.S. doesn't even know where these cats  
4 are that are all over the place in backyards and basements. So  
5 it creates a huge problem in us having any kind of credibility on  
6 the world stage to protect the beautiful tiger in the wild where  
7 it belongs.

8 Q. What's your position on breeding hybrids of big cats, like  
9 ligers and liligers?

10 A. We believe that it's a very cruel practice. And the reason  
11 is that most of these hybrids suffer from a condition called  
12 gigantism and they lack the gene that causes us to stop growing.  
13 So all animals grow to a certain adulthood stage and then we  
14 don't grow anymore. But when they have -- when they lack that  
15 gene, they just continue to grow and grow and grow. So they die  
16 very young.

17 And the mothers are typically not capable of carrying those  
18 hybrid cubs because the hybrid cubs are often larger than what  
19 either a lion or a tiger mother could carry. So they are often  
20 killed in carrying the animals or they go through C-sections in  
21 order to have the cats removed.

22 They're also bred and used to evade the prohibition on  
23 trading on -- in endangered species. By crossbreeding a tiger to  
24 a lion, you get a very big cub that people want to pet or to see,  
25 and yet it's not protected as a tiger would be.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. Now, as part of your activism did you start a website that  
2 was related to your campaign against animal abuses?

3 A. I did. It's called 911animalabuse.com.

4 Q. All right. And what kind of things are posted on that  
5 website?

6 A. What we do is whenever we see that there are people going  
7 around exploiting these animals in a bad way, we will create a  
8 page on them so that when the public is looking to see is this a  
9 good thing or a bad thing, then they're seeing that this is  
10 what's going on behind the scenes, these are how these cubs are  
11 treated.

12 What we see very frequently is that these organizations will  
13 change their names a lot so that their bad deeds don't follow  
14 them. So what we'll do is have all of the names of one facility  
15 or one person and what they're using as aliases in that one place  
16 so that they can be identified as the same person.

17 Q. Now, at times during your activism have you partnered with  
18 other animal welfare organizations?

19 A. We were part of the initial International Tiger Coalition,  
20 which was about 44 organizations that included the World Wildlife  
21 Fund, The Humane Society, National Fund for Animal Welfare, Born  
22 Free, organizations like that. We later became a much smaller  
23 coalition of about 10 or 12 of those same organizations to work  
24 on the big cat problem in the U.S.

25 The International Tiger Coalition's primary goal is to

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 protect tigers in the wild, and through that we were trying to  
2 stop the cub petting. But it became apparent that America is a  
3 huge part of why we're losing the tiger in the wild, so we needed  
4 to do something here to reign in all of this unregulated,  
5 unmonitored trade in these animals here in the United States.

6 So that group got together in 2011. And we came up with a  
7 three-pronged approach, because what we saw was the primary  
8 problem was these cubs that were being bred, exploited, and then  
9 disappearing into God knows where. And so the three-pronged  
10 approach was to rescind the generic tiger loophole. It was a  
11 loophole that was created in the '80s because everybody got all  
12 crazy about white tigers and the magicians in Las Vegas were  
13 calling them royal white bengal tigers. And the public thought  
14 that this was like some special subspecies or something, but, in  
15 fact, the only way that you get white tigers is through severe  
16 inbreeding of brother to sister and father to daughter.

17 And so what was happening was so many people started  
18 breeding these white tigers that the bengal tiger population,  
19 which is where that -- that gene originated, became so inbred  
20 that now whole litters were being born dead at the zoos and at  
21 these backyard breeders. So the only way that they could  
22 continue to produce cubs was to start cross breeding between  
23 bengal tigers and Amur tigers. And so by doing that, what they  
24 were doing was creating this generic tiger that wasn't any  
25 subspecies that could ever serve any kind of conservation.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1           So the U.S. Fish & Wildlife Service said, we're going to  
2 call that a generic tiger and it won't have to -- people breeding  
3 them will not have to meet the same high standards of those who  
4 are breeding purebred species. That just opened the floodgates  
5 for all kinds of people to be breeding these cats.

6           So our goal was to get them to rescind that loophole that  
7 they had created in the '80s. And finally in April of 2016,  
8 after many, many years of working on it, they did rescind that  
9 loophole.

10          The second part of our three-pronged approach was to ask  
11 USDA to actually enforce the Animal Welfare Act. As the Act is  
12 written, we believe that ripping cubs from their mothers and the  
13 horrible conditions that the cubs are kept in and the way that  
14 they're passed around from person to person and they're not  
15 getting the mother's milk and they're not getting the colostrum  
16 they need, and they're being handled frequently and contracting  
17 ringworm from the filthy conditions that they're in, all of those  
18 are things that should currently be considered a violation of the  
19 Animal Welfare Act, but USDA has not been enforcing it.

20          So as a group we got together and we submitted, I think it  
21 was about a 70-page petition. And it's not a -- a petition like  
22 people signing their names. This was a bunch of big cat vets got  
23 together with us and documented that this was a horrible practice  
24 and that this shouldn't be done and all of the citations and  
25 everything. That's what took 70 pages, of saying why these cats

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 should not be used that way.

2 The third part of our three-pronged approach is a federal  
3 bill. And the federal bill was introduced in 2012, and we are  
4 currently -- the bill has been reintroduced into this session.  
5 It's HR 1380. I think we had, I forget, something like 110, 120  
6 co-sponsors last year, and this year we fully expect that bill to  
7 pass.

8 What that bill will do is close that loophole in the bill  
9 that passed unanimously in 2003. And so you won't be able to pet  
10 the cubs, or own the cubs if you're a private owner.

11 Q. Okay. Let me ask you one question about the -- the generic  
12 tiger loophole. You say that in April 2016 that loophole closed  
13 or was rescinded. So if I understand you correctly, starting  
14 from April of 2016, the laws, the -- all of the federal laws  
15 relating to -- that would protect tigers then began to protect  
16 even generic tigers; is that correct?

17 A. Correct.

18 Q. Okay. As part of your activism, have you been -- have you  
19 partnered with People For the Ethical Treatment of Animals, or  
20 PETA?

21 A. They're typically not a partner of ours, but they did  
22 recently come to us with a petition that they were putting before  
23 USDA and asked if we would sign onto it, which, of course, we  
24 did, along with a lot of other animal protection groups. And  
25 their petition --

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. And, Ms. Baskin, I'll stop you right there because I'll have  
2 questions later that we'll get to that.

3 A. Okay.

4 Q. Okay. Are you familiar with a person named Joseph  
5 Schreibvogel, who also goes by the names Joseph Maldonado-Passage  
6 or Joseph Passage?

7 A. Yes.

8 Q. And do you see him here in the courtroom today?

9 A. Yes. He's wearing a plaid tie.

10 Q. When did you first become aware of Mr. Passage?

11 A. The first time I knew that he was 21 different groups that I  
12 was following was probably in 2009. Back in the mid 2000s, when  
13 news articles would come out talking about people going to malls  
14 and having their pictures made with cubs, we would be watching  
15 that and we would get into the comments and we would try to  
16 educate people in the comment section about why that was such a  
17 cruel thing to be doing to these cubs.

18 And I kept -- you know, as you know, the website where I had  
19 all of these different people that I would see their different  
20 organization names, and I realized that about 20, 21 of them were  
21 all the same person. They were all Joe Schreibvogel.

22 Q. Okay. And when you realized that, did you post information  
23 about him on the 911 animal abuse website?

24 A. Yes. The website listed all of his aliases that we could  
25 find him working under.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. Did you contact the malls where these cub petting  
2 exhibitions were taking place?

3 A. Yes. We would contact the malls and we would send them a  
4 fact sheet about why this cub handling was such a horrible thing  
5 for the cubs and how they, you know, didn't serve any kind of  
6 conservation value, which is what the public was being misled to  
7 believe. And frequently malls would understand that, you know,  
8 they didn't want to be involved in this, they didn't realize, you  
9 know, because that's not what they were being told. Sometimes  
10 they would say, well, you know, we have already paid him to be  
11 here, but we won't have him come back. And in other cases they  
12 were just like, hey, people want to pet cubs, we're going to let  
13 them come pet cubs.

14 So what we would say is, well, we respectfully disagree and  
15 we're going to let you know that most people don't think this is  
16 okay. So we would send out an alert to our fan base and our fan  
17 base would contact the malls and explain to them that this is not  
18 mainstream, good family fun, this is not something that they  
19 should be doing, and that it was causing them more harm than good  
20 to be treating animals this way.

21 Q. So as a result of those alerts you sent to your fan base,  
22 were there ever, for lack of a better term, protests at the  
23 malls, or demonstrations?

24 A. Sometimes little protests would spring up. It kind of  
25 surprised me because I didn't know that people would do that, but

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 when they did it turned out to be very effective. And they could  
2 get out there on a street corner with just a couple of families  
3 and their signs and the news would cover it. So what we saw over  
4 the years was this change from the media saying, oh, come out to  
5 the mall and pet the cute little cubs, to, oh, you know, there's  
6 some controversy about this and maybe that's not the right thing.

7 So now, whenever you see somebody posing with a cub online,  
8 they just -- everybody seems like they understand now and will  
9 really get upset about seeing that.

10 Q. Okay. So after you had posted some things online and  
11 contacted some malls and that kind of thing, did you receive any  
12 response from Mr. Passage around that time?

13 A. I didn't receive a response directly from him. What  
14 happened was people were saying that they didn't think that we  
15 allowed cub petting, and we didn't know what they were talking  
16 about. And so what we found was that he was using our logo and  
17 our name and was out there presenting himself as being Big Cat  
18 Rescue doing cub petting. And then he went on Facebook -- when  
19 we did find out about this, he went on Facebook and he said, I --  
20 I changed my name to Big Cat Rescue Entertainment so that  
21 whenever you say anything bad about cub petting, people will  
22 think it's you and you'll ruin your name publicly.

23 Q. Okay. Let's see. So in connection with the name change,  
24 let's -- if you could look at Government's Exhibit 68, please.  
25 Got it?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 A. Yes.

2 Q. Do you recognize Government's 68?

3 A. Yes. When we had asked the people that were saying that  
4 they saw this going on, we asked them to actually go to some of  
5 these displays and see what it is that's going on and send us  
6 photographs of it. And so we found that he was using Big Cat  
7 Rescue. Underneath that he -- where we would usually have a  
8 banner that said "an educational sanctuary," he used the word  
9 "entertainment," but in a much lighter font so that it wasn't as  
10 obvious.

11 The masthead that you see, or the -- well, you won't see it  
12 yet.

13 Q. Yeah. Let me stop you right there.

14 MS. MAXFIELD-GREEN: The Government moves to introduce  
15 Exhibit 68.

16 THE COURT: Any objection?

17 MR. EARLEY: No, Your Honor.

18 THE COURT: Government's 68 will be admitted.

19 Ms. Baskin, let me ask you to be sure and listen carefully  
20 to the question of the government. If it can be answered with a  
21 yes or no answer, you can do that. If the government has  
22 followup questions, they can ask for additional information.  
23 Okay?

24 THE WITNESS: Thank you.

25 Q. (By Ms. Maxfield-Green) Okay. So this is Government's 68.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 So this is Big Cat Rescue Entertainment, so this is not your  
2 organization, correct?

3 A. Correct.

4 Q. And is this the marketing materials from an organization  
5 that Mr. Passage created?

6 A. Yes.

7 MS. MAXFIELD-GREEN: And, Jane, is there a way we can  
8 look at 68 and 67 together?

9 Okay. That's great.

10 Q. (By Ms. Maxfield-Green) Okay. So on the right is your  
11 actual logo, correct?

12 A. Yes.

13 Q. And on the left is the -- Mr. Passage's logo, correct?

14 A. Yes.

15 Q. And so fair to say that the -- the font and the spacing of  
16 the font looks similar?

17 A. Yes.

18 Q. Okay.

19 MS. MAXFIELD-GREEN: And we can just have 68 now, Jane.

20 Q. (By Ms. Maxfield-Green) And the eyes that are -- the eyes,  
21 is that something that was associated with marketing materials  
22 for your organization?

23 A. Yes. Our website gets three and a half million visitors a  
24 year, and it had the snow leopard eyes across the top.

25 Q. Okay. So this is marketing for -- well, what is this

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1 marketing for?

2 A. This was for Joe's cub petting road show.

3 Q. Okay. And that's the thing you're adamantly opposed to,  
4 correct?

5 A. Yes.

6 Q. If you would look at Government's 69, please. And are you  
7 familiar with that?

8 A. Yes.

9 Q. And what is that?

10 A. This is a handout that he was using that, again, had the --  
11 the font and the name of our sanctuary and the masthead of our  
12 website.

13 Q. Okay.

14 A. But he was advertising his own place with it.

15 MS. MAXFIELD-GREEN: Government moves to admit  
16 Government's 69.

17 THE COURT: Any objection?

18 MR. EARLEY: Well, I'm not sure what the purpose in  
19 re-litigating the trademark or copyright infringement case is.  
20 That was reduced to judgment. So I'm not clear what the  
21 relevance of these documents are.

22 THE COURT: Ms. Green?

23 MS. MAXFIELD-GREEN: The documents relate to the  
24 ongoing feud between the defendant and Ms. Baskin about both  
25 animal welfare issues and litigation. That is the core of the

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1 government's alleged motive in this case.

2 THE COURT: Objection will be overruled.

3 MS. MAXFIELD-GREEN: Is Government's 69 admitted, Your  
4 Honor?

5 THE COURT: Yes. I'm sorry.

6 MS. MAXFIELD-GREEN: Thank you.

7 Q. (By Ms. Maxfield-Green) Okay. So this is another marketing  
8 material that Mr. Passage created, correct?

9 A. Yes.

10 Q. Okay. Please take a look at Government's 70. And are you  
11 familiar with that?

12 A. Yes.

13 Q. What is that?

14 A. This is a fundraising form that he created, also made to be  
15 very confusing to make people think that it was us that they were  
16 supporting.

17 MS. MAXFIELD-GREEN: Government moves to admit  
18 Exhibit 70.

19 THE COURT: Same objection, Mr. Earley?

20 MR. EARLEY: Yes, Your Honor.

21 THE COURT: Government's 70 will be admitted.

22 Q. (By Ms. Maxfield-Green) Okay. And so this -- is this a  
23 form that's asking for monetary donations?

24 A. Correct.

25 Q. If you'll look at Government's Exhibit 71. And are you

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1 familiar with that document?

2 A. Yes. This was a business card that he created using the  
3 same font, the same name, Big Cat Rescue, and the eyes from the  
4 website, along with adding that he had a Florida office, which he  
5 did not, and using an 813 area code, which is our area code.

6 MS. MAXFIELD-GREEN: Okay. Government moves to admit  
7 71.

8 THE COURT: Same objection, Mr. Earley?

9 MR. EARLEY: Yes, Your Honor.

10 THE COURT: Okay. Government's 71 will be admitted.

11 MS. MAXFIELD-GREEN: If you could blow that up, Jane.

12 Q. (By Ms. Maxfield-Green) Okay. And this is the business  
13 card you were referring to with a Florida office and a Florida  
14 area code. Is "you are their voice," is that language that is  
15 associated with Big Cat Rescue?

16 A. We would frequently use that in our calls to action.

17 Q. All right. Since approximately 2010, has Mr. Passage posted  
18 a number of pictures, videos and messages online about you?

19 A. It has been an ongoing onslaught for the last nine years of  
20 him posting all kinds of crude and vulgar and violent videos and  
21 posts on social media aimed at me.

22 Q. And throughout that time period, were those pictures, videos  
23 and messages brought to your attention?

24 A. Yes.

25 Q. How were they brought to your attention?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 A. People who would see it would usually send a copy to me or a  
2 link to me or tell me that it existed out there.

3 Q. And at some point after some of -- several of these had been  
4 brought to your attention, did someone at Big Cat Rescue make  
5 efforts to monitor what was being posted on an ongoing basis?

6 A. My husband did a very good job of listening to his shows and  
7 watching for anything that he did that was directed at me. And  
8 he has just volumes and volumes and volumes of video recordings  
9 and audio recordings and posts from social sites of Joe  
10 threatening me.

11 Q. So in the course of doing that monitoring, did your husband  
12 become familiar with Facebook -- the Facebook -- pardon me -- the  
13 Facebook pages and YouTube channels and other social media  
14 accounts that were being operated by Mr. Passage or people in his  
15 camp?

16 A. Yes.

17 Q. So would you typically see or hear about Mr. Passage's posts  
18 around the time they'd originally been posted online?

19 A. Yes.

20 Q. And when these posts appeared on the Internet, did -- I  
21 think you referenced this -- did your husband make efforts to  
22 download them, save them or copy them in some way?

23 A. Yes.

24 Q. Now, in preparing for your testimony today, have you had an  
25 opportunity to review a number of Mr. Passage's social media

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 posts and refresh your recollection about their content and about  
2 the date that they were posted?

3 A. Yes, but it's a very small selection of a lot, a lot of just  
4 horrific posts.

5 Q. Okay. If you could, take a look at Government's Exhibit 75.

6 A. Can I open this book up, because there's pages that are --

7 Q. Certainly. That book is very packed. If it would help you  
8 to open it up --

9 A. I just want to make sure these all stay in the same order.  
10 I apologize.

11 Q. That's okay. It is very difficult to operate.

12 A. All right. I'm just going to move them over a bit at a  
13 time.

14 MS. MAXFIELD-GREEN: May I approach, Your Honor, to  
15 help her?

16 THE COURT: Yes.

17 MS. MAXFIELD-GREEN: Thank you.

18 THE WITNESS: I don't want to send them flying.

19 Q. (By Ms. Maxfield-Green) All right. You're looking at  
20 Government's Exhibit 75. Are you familiar with this photograph?

21 A. Yes.

22 Q. What is it?

23 A. This is an image that was posted in 2010, I believe. And  
24 Joe had dressed up two effigies, two dolls; one of them labeled  
25 as PETA and one labeled with BCR, which is the acronym for Big

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1 Cat Rescue.

2 Q. And was this saved from a Facebook page that, based on your  
3 husband's monitoring of Mr. Passage, was controlled and  
4 maintained by him?

5 A. Yes.

6 Q. And to the best of your recollection, was it posted on or  
7 about August 20th of 2010?

8 A. Yes.

9 MS. MAXFIELD-GREEN: Government moves to admit  
10 Exhibit 75.

11 THE COURT: Any objection, Mr. Earley?

12 MR. EARLEY: On foundation, Your Honor. There's no  
13 connection to -- direct connection to Mr. Passage. It perhaps is  
14 a Facebook post, but how it got there and by whom is undisclosed.

15 THE COURT: Ms. Green?

16 MS. MAXFIELD-GREEN: Your Honor, numerous witnesses  
17 have described Mr. Passage's use of social media and that he was  
18 a frequent user of social media, including Facebook, and that he  
19 maintained those accounts himself. And I believe that lays a  
20 proper foundation for a Facebook post that is attached to an  
21 account that was associated with him and that it appeared there.  
22 I think that lays a proper foundation.

23 THE COURT: For purposes of admission, the objection  
24 will be overruled.

25 Mr. Earley, you'll certainly be able to cross-examine on it.

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1 Government's 75 will be admitted.

2 Q. (By Ms. Maxfield-Green) Okay. And so this is a person --  
3 the animal mascot in the middle appears to be holding a crossbow;  
4 is that correct?

5 A. Yes.

6 Q. And like you said, BCR, that stands for Big Cat Rescue?

7 A. Yes.

8 Q. And PETA, is that usually interpreted to mean People For the  
9 Ethical Treatment of animals?

10 A. Yes.

11 Q. To the best of your recollection, was this one of the  
12 earliest posts that you can recall that Mr. Passage made in  
13 reference to Big Cat Rescue?

14 A. There were two at this time; there was this one and there  
15 was another where he had the same dolls hanging up, but he had  
16 the tiger pointing guns at their heads.

17 Q. Now, going back to the marketing materials that you became  
18 aware of in -- would you have become aware of those marketing  
19 materials for Big Cat Rescue Entertainment at about the same time  
20 that this picture was posted?

21 A. Yes.

22 Q. All right. Once you became aware of those marketing  
23 materials, did you take action?

24 A. We did. We had several people contact us that really  
25 thought that was us out there doing those horrible things to

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 cubs, and we had to protect our name. So we sued for trademark  
2 and copyright infringement of our frame, which had been trademark  
3 protected.

4 Q. Let's take a look at Government's Exhibit 72. Is that still  
5 in the book? Sorry.

6 A. Okay.

7 Q. You have 72? Are you familiar with that document?

8 A. Yes.

9 Q. What is it?

10 A. This is the complaint.

11 MS. MAXFIELD-GREEN: Government moves to admit  
12 Exhibit 72.

13 THE COURT: Mr. Earley?

14 MR. EARLEY: Your Honor, I think the testimony is that  
15 they pursued legal action. We don't dispute that. I don't know  
16 what the purpose or relevance would be of introducing the actual  
17 documents that initiated the lawsuit.

18 THE COURT: Ms. Green?

19 MS. MAXFIELD-GREEN: Well, the lawsuit is a legal  
20 document that speaks for itself, and it also bears the date that  
21 it was filed and it -- so it's relevant to establishing the  
22 timeline.

23 THE COURT: Parties approach.

24 (The following bench conference was held outside the hearing  
25 of the jury.).

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1 THE COURT: My only concern is that -- and I haven't  
2 gone through all the pages in the document. Is there anything in  
3 here, in the complaint, in terms of any factual allegations  
4 that's not been testified to or not in evidence?

5 Mr. Earley, do you know?

6 MR. EARLEY: I don't know.

7 MS. MAXFIELD-GREEN: I don't know, Your Honor. And I'm  
8 not intending to actually discuss with her any of the allegations  
9 in the document. If you would like to -- I had this just  
10 recently in another case. If you would like to issue a limiting  
11 instruction that the facts alleged in the civil lawsuit are not  
12 at issue here or something to that effect, I think that would  
13 cover that situation.

14 MR. EARLEY: Well, how about just introducing it for  
15 identification purposes only to establish that a lawsuit was  
16 filed, but the inner workings of the document itself are really  
17 not relevant?

18 THE COURT: Yeah. Ms. Green, I mean, we have  
19 established that -- we have covered it in opening. I think it's  
20 sufficiently established that -- what his actions were that  
21 prompted the lawsuit. She sued him, and I think there's even  
22 been a fair amount of testimony she got a judgment. I'm not sure  
23 what added relevance that the actual document gets into. What  
24 would be the relevance of actually having the document in  
25 evidence?

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1 MS. MAXFIELD-GREEN: We're willing to offer it as a  
2 demonstrative, Your Honor, if that solves the problem.

3 MR. EARLEY: That's fine. Okay. We'll do that.

4 THE COURT: Thank you.

5 (The following record was made in open court, in the  
6 presence of all parties, counsel, and in the presence and hearing  
7 of the jury.)

8 MS. MAXFIELD-GREEN: The government would move to  
9 publish Exhibit 72 as a demonstrative.

10 THE COURT: That will be permitted.

11 Q. (By Ms. Maxfield-Green) Okay. Is this the lawsuit that was  
12 filed against Mr. Passage?

13 A. Yes.

14 Q. And does it show that Big Cat Rescue Corp. is the plaintiff?

15 A. Yes.

16 Q. Okay. And who are the defendants?

17 A. Big Cat Rescue Entertainment Group; GW Exotic Memorial  
18 Animal Foundation, doing business as Big Cat Rescue Entertainment  
19 Group, an Oklahoma corporation; Joe Schreibvogel, a/k/a Joe  
20 Exotic, a/k/a Aarron Alex, a/k/a Cody Ryan, individually; Beth  
21 Corley, individually; and Vicki Welch, individually.

22 Q. All right. And what date was this complaint filed?

23 A. January 31st, 2011.

24 Q. And did this complaint allege trademark violations?

25 A. Yes.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. Okay. In 2011 did you also become aware that Mr. Passage  
2 was using Big Cat Rescue photographs that had been copyrighted?

3 A. Yes. He used photos that belonged to us to misrepresent  
4 things that were happening.

5 Q. And what did you do about that?

6 A. We had to file suit.

7 MS. MAXFIELD-GREEN: Government would move to publish  
8 Government's Exhibit 73 as a demonstrative.

9 THE COURT: Any objection at this time, Mr. Earley?

10 MR. EARLEY: Not as a demonstrative exhibit.

11 THE COURT: Government will be allowed to publish 73 as  
12 a demonstrative.

13 Q. (By Ms. Maxfield-Green) And what is this? I'm sorry. 73.

14 A. This was our lawsuit to protect ourselves for the trademark  
15 of that photo.

16 Q. And are the plaintiffs and defendants the same as the  
17 previous lawsuit?

18 A. No. This would -- this did not include Beth Corley or Vicki  
19 Welch, but everybody else.

20 Q. And what was the date that that was filed?

21 A. That was September 2nd, 2011.

22 Q. Okay. And in preparing for your testimony today -- I think  
23 if you look at Government's Exhibit 77, I believe all that is  
24 there is a disk. But in preparing for your testimony today, did  
25 you review a video that had been -- from a television show that

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 was posted on the BBC news network?

2 A. Yes.

3 Q. And, to your recollection, did that air on the BBC on or  
4 about October 30th of 2011?

5 A. Yes.

6 Q. And would that have been after your first two lawsuits were  
7 filed?

8 A. Yes.

9 MS. MAXFIELD-GREEN: Government moves to admit  
10 Exhibit 77.

11 THE COURT: Any objection?

12 MR. EARLEY: I'm sorry, Judge. I may have missed the  
13 foundation. If we could just repeat, what is this an interview  
14 of?

15 Q. (By Ms. Maxfield-Green) It is -- well, could you describe  
16 what it is in -- what's on the BBC television show?

17 A. It's an interview of Joe Schreibvogel saying that he would  
18 euthanize all of his animals before he would allow them to be  
19 rescued.

20 MR. EARLEY: No objection, if that's what it shows.

21 THE COURT: Government's 77 will be admitted.

22 (Video played in open court.)

23 Q. (By Ms. Maxfield-Green) Okay. Government's Exhibit 79, do  
24 you recall reviewing Government's Exhibit 79 during preparation  
25 for your testimony?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 A. Yes.

2 Q. And, to your recollection, is it a video of Mr. Passage that  
3 was posted online on or about January 13th of 2012?

4 A. Yes.

5 MS. MAXFIELD-GREEN: Government moves to admit  
6 Exhibit 79.

7 THE COURT: Any objection, Mr. Earley?

8 MR. EARLEY: No, Your Honor.

9 THE COURT: Government's 79 will be admitted.

10 MS. MAXFIELD-GREEN: And, Marcia, I believe this one is  
11 really quiet, starts off really quiet, so if you could pump up  
12 the --

13 MS. DAVIS: It's as loud as it will go.

14 MS. MAXFIELD-GREEN: Is that it? Okay.

15 (Video played in open court.)

16 Q. (By Ms. Maxfield-Green) Now, was this video, if it was  
17 posted on -- about January 13th of 2012, would that have been  
18 posted after you'd filed the first two lawsuits?

19 A. Yes. And, in fact, there had been a -- he had asked for a  
20 temporary restraining order to keep me from saying that it was  
21 bad to abuse cubs and had been ruled against in that restraining  
22 order suit because it's my First Amendment right. But what he  
23 learned that day was that it has to either be true or you have to  
24 say it is your opinion or belief, so that's --

25 MR. EARLEY: Your Honor, I'm going to object to her

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1 testifying --

2 THE COURT: Sustained.

3 Q. (By Ms. Maxfield-Green) Thank you, Ms. Baskin.

4 Okay. Take a look at Government's Exhibit 74 in the book in  
5 front of you.

6 A. I have it.

7 Q. Are you familiar with that document?

8 A. Yes.

9 Q. And what is it?

10 A. He began using photos of my face and putting it on all kinds  
11 of lewd photographs and posting them online, so we had to sue.

12 MR. EARLEY: Your Honor, that's nonresponsive to the  
13 question.

14 MS. MAXFIELD-GREEN: Your Honor, the government moves  
15 to publish Exhibit 74 as a demonstrative.

16 THE COURT: Mr. Earley, what's your response as to  
17 Government's Exhibit 74? I'll go back and --

18 MR. EARLEY: As a demonstrative exhibit, I won't  
19 object.

20 THE COURT: Government's Exhibit 74 will be admitted  
21 for demonstrative purposes.

22 Mr. Earley, your objection will be sustained as to the  
23 witness's prior answer.

24 Ms. Baskin, again, be very careful, listen to the question  
25 very carefully and answer only that question. If the government

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 has -- or either of the lawyers have followup questions, they  
2 will ask you. Okay?

3 THE WITNESS: Yes, Your Honor.

4 Q. (By Ms. Maxfield-Green) Government's Exhibit 74, is this a  
5 lawsuit?

6 A. Yes.

7 Q. And is it a lawsuit filed by Big Cat Rescue against,  
8 essentially, Mr. Schreibvogel and his entities?

9 A. Yes.

10 Q. When was this lawsuit filed?

11 A. This was October 19th of 2012.

12 Q. Why did you file this lawsuit?

13 A. Because he was using my face and posting it on lewd images,  
14 of a photograph that I owned.

15 Q. Now, in February of 2013 did the three lawsuits that you had  
16 filed against Mr. Passage come to a resolution?

17 A. It did. We were awarded a little over a million dollars.

18 Q. And once those judgments were entered in Florida, did Big  
19 Cat Rescue immediately proceed with trying to collect on that  
20 \$1 million?

21 A. Yes.

22 Q. What did you do to collect the judgment?

23 A. We filed suit to collect the judgment.

24 Q. Did you hire lawyers here in Oklahoma?

25 A. Yes.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. And have those efforts to collect the judgment resulted in  
2 prolonged civil litigation here in Oklahoma?

3 A. Yes.

4 Q. Is part of the reason for that litigation that Mr. -- let me  
5 rephrase that.

6 Has part of that litigation involved filing of additional  
7 lawsuits here in Oklahoma that are related to the attempts to  
8 collect the money?

9 A. He filed bankruptcy, so we had to appear in bankruptcy  
10 court.

11 Q. Okay. Have there been civil proceedings, like depositions,  
12 involved?

13 A. Yes.

14 Q. Have there been a number of hearings in court?

15 A. Yes.

16 Q. Is that litigation still going on today in some form?

17 A. Yes.

18 Q. So you have been involved in litigation with Mr. Passage  
19 since January of 2011, correct?

20 A. Yes.

21 Q. And is that eight -- a little more than eight years?

22 A. Yes.

23 Q. How much money have you collected toward the \$1 million  
24 judgment?

25 A. Actually, it -- it's probably about 5 percent or less.

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1 Q. What has been your goal in pursuing the judgment?

2 A. First of all, we're owed the money. Second, I think it's a  
3 matter of principle. And, you know, if we would -- we actually  
4 tried to work out an amicable agreement with him and had actually  
5 come to a settlement agreement, but that didn't end up taking  
6 place.

7 Q. What types of settlement offers have you attempted with  
8 Mr. Passage?

9 A. The settlement agreement that he had agreed to was that he  
10 would stop cub petting, stop breeding cubs and selling them and  
11 doing that sort of thing, and he would make modest payments  
12 toward us monthly to reduce the debt. And we were happy with  
13 that.

14 Q. Did those settlement negotiations, were they successful or  
15 did they fall through?

16 A. He brought in Jeff Lowe and Jeff Lowe -- before those were  
17 actually put into writing and signed by the parties, Jeff Lowe  
18 said he was going to pay all of the legal fees and that they were  
19 not going to stop the cub petting.

20 Q. Did Mr. Passage's online threats against you continue from  
21 2013 through 2017?

22 A. Yes.

23 Q. Now, take a look at Exhibit 82, please. Are you familiar  
24 with that document?

25 A. Yes.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. And what is it?

2 A. This was a post that Joe made on Facebook on October 17th of  
3 2013 where he was talking about going to a doctor's appointment  
4 and he said --

5 Q. I'll just stop -- I'll stop you right there.

6 MS. MAXFIELD-GREEN: The government moves to admit  
7 Exhibit 82.

8 THE COURT: Mr. Earley?

9 MR. EARLEY: Same objection on foundation.

10 THE COURT: Okay. Objection will be overruled.  
11 Government's 82 will be admitted.

12 Q. (By Ms. Maxfield-Green) Okay. Now we can talk about it.

13 MS. MAXFIELD-GREEN: Jane, if you can blow up the text,  
14 please.

15 Q. (By Ms. Maxfield-Green) Okay. So this is a Facebook  
16 posting under the heading Joe Schreibvogel; is that correct?

17 A. Yes.

18 Q. And could you just read it for us?

19 A. He said, "Such a wonderful day. Went to the doctor  
20 yesterday, now I have to have surgery on Monday to remove some  
21 glands. Pray they're not cancer. They are taken over my left  
22 armpit so bad I can't move my arm. Better yet, Janice Haley,  
23 remember our deal, first one to get a terminal illness, Tampa  
24 will be less one more person."

25 Q. And your home is in Tampa, correct?

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1 A. There's no doubt he's talking about me.

2 Q. Who's Janice Haley?

3 A. Janice Haley is another person who lives in the Cosme area,  
4 which is near Tampa, that does cub petting.

5 Q. And to the best of your recollection, was this posted on or  
6 about October 17th of 2013?

7 A. Yes.

8 Q. Take a look at Exhibit 84 -- actually, 84, I believe, is a  
9 disk; is that correct?

10 A. Yes.

11 Q. Do you recall a video of Mr. Passage pointing a gun at a  
12 doll that is dressed like you?

13 A. Yes.

14 Q. And to the best of your recollection, was it posted online  
15 on about February 14th of 2014?

16 A. Yes.

17 MS. MAXFIELD-GREEN: Government moves to admit  
18 Exhibit 84.

19 THE COURT: Mr. Earley?

20 MR. EARLEY: No objection.

21 THE COURT: Government's Exhibit 84 will be admitted.

22 (Video played in open court.)

23 Q. (By Ms. Maxfield-Green) All right. And, to your  
24 recollection, did Mr. Passage post a video similar to that one, a  
25 similar format, on or about February 17th of 2014?

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1 A. Yes.

2 MS. MAXFIELD-GREEN: Government moves to admit  
3 Exhibit 85.

4 THE COURT: Mr. Earley?

5 MR. EARLEY: No objection.

6 THE COURT: Government's Exhibit 85 will be admitted.  
7 (Video played in open court.)

8 Q. (By Ms. Maxfield-Green) All right. To your recollection, a  
9 few days later, on February 19th of 2014, did Mr. Passage post  
10 another video of himself in a similar format to that involving  
11 snakes?

12 A. He did.

13 MS. MAXFIELD-GREEN: Government moves to admit  
14 Exhibit 86, please.

15 THE COURT: Any objection?

16 MR. EARLEY: No objection.

17 THE COURT: 86 will be admitted.

18 (Video played in open court.)

19 Q. (By Ms. Maxfield-Green) And the -- sorry. The banner that  
20 was shown in the background, the March for Lions, is that a Big  
21 Cat Rescue event?

22 A. Yes. That was an event that we had in -- that was coming up  
23 in that March.

24 Q. Have you ever, in fact, been mailed snakes?

25 A. I have gone to the mailbox and had -- opened the door and

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 just had snakes explode out of the box.

2 Q. Was that prior to you ever becoming acquainted with  
3 Mr. Passage?

4 A. It was prior to this. I don't know if it was prior to  
5 meeting him or not, or knowing of him.

6 Q. Okay. Take a look at Government's Exhibit 87. And what is  
7 that?

8 A. This is an image made to look like my head in a specimen jar  
9 on Joe's desk.

10 Q. And is that a Facebook post?

11 A. Yes.

12 Q. What -- to your recollection, was it posted on or about  
13 March 28th of 2014?

14 A. Yes.

15 MS. MAXFIELD-GREEN: Government moves to admit Exhibit  
16 87.

17 MR. EARLEY: Same foundation issue.

18 THE COURT: Thank you. Objection will be overruled.  
19 Government's 87 will be admitted.

20 Q. (By Ms. Maxfield-Green) And is that an image of your face?

21 A. Yes.

22 Q. And what does the caption above it say?

23 A. "OMG, look what just came in the mail for my birthday. I  
24 will cherish this forever."

25 Q. All right. To your recollection, was there a video posted

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 online of Mr. Schreibvogel on or about May 16th of 2014 involving  
2 a video of him discussing burying you?

3 A. Yes.

4 MS. MAXFIELD-GREEN: Government moves to admit  
5 Exhibit 92.

6 THE COURT: Mr. Earley?

7 MR. EARLEY: No objection.

8 THE COURT: Government's 92 will be admitted.

9 (Video played in open court.)

10 Q. (By Ms. Maxfield-Green) If you could take a look at  
11 Government's Exhibit 93. Now -- you got it?

12 A. Yes.

13 Q. Okay. Are you familiar with that picture?

14 A. Yes.

15 Q. And does that appear to be a Facebook post on  
16 Mr. Schreibvogel's, Mr. Passage's Facebook page?

17 A. Yes.

18 Q. And, to your recollection, was it posted on that page on or  
19 about May 19th of 2014?

20 A. Yes.

21 MS. MAXFIELD-GREEN: Government moves to admit  
22 Exhibit 93.

23 THE COURT: Same objection, Mr. Earley?

24 MR. EARLEY: Yes, Your Honor.

25 THE COURT: It will be noted. Objection will be

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 overruled. 93 will be admitted.

2 Q. (By Ms. Maxfield-Green) And was -- on the left-hand side  
3 there it says, "Carole Baskin commented in an article." Was  
4 that, in fact, a comment that you had made on a different online  
5 article?

6 A. Yes.

7 Q. Okay. And what does this appear to be a picture of?

8 A. It's Joe holding an assault rifle saying, "Do it, bitch. We  
9 are ready. Make my day."

10 Q. Let's see. Take a look at Exhibit 97, please. And does  
11 this appear to be a Facebook post that was posted on  
12 Mr. Passage's Facebook page?

13 A. Yes.

14 Q. And, to your recollection, was it posted on or about  
15 December 28th of 2014?

16 A. Yes.

17 MS. MAXFIELD-GREEN: Government moves to admit  
18 Exhibit 97.

19 THE COURT: Same objection, Mr. Earley?

20 MR. EARLEY: Yes, Your Honor.

21 THE COURT: Be noted. Objection will be overruled. 97  
22 will be admitted.

23 Q. (By Ms. Maxfield-Green) And what does this appear to be a  
24 picture of?

25 A. It's Joe standing on a coffin.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. And what does the caption say?

2 A. "I bought my good friend in Florida a Christmas present, it  
3 even came with me singing a farewell song. You know, the lady  
4 with blond hair and flowers on her head."

5 Q. And does that -- do you take that to refer to you?

6 A. Yes. I frequently wear flowers.

7 Q. All right. To your recollection, was a video posted online  
8 of Mr. Passage stating something to the effect that you will die  
9 first, on or about September 17th of 2015?

10 A. Yes.

11 MS. MAXFIELD-GREEN: Government moves to admit  
12 Exhibit 100.

13 THE COURT: Any objection, Mr. Earley?

14 MR. EARLEY: No, Your Honor.

15 THE COURT: Government's Exhibit 100 will be admitted.  
16 (Video played in open court.)

17 Q. (By Ms. Maxfield-Green) All right. Ms. Baskin, take a look  
18 at Exhibit 102, please. And does this appear to be a Facebook  
19 post that was posted on Mr. Passage's Facebook page on or about  
20 June 12th of 2016?

21 A. Yes.

22 MS. MAXFIELD-GREEN: Government moves to admit  
23 Exhibit 102.

24 THE COURT: Same objection, Mr. Earley?

25 MR. EARLEY: Yes, Your Honor.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 THE COURT: It will be noted. Government's 102 will be  
2 admitted.

3 Q. (By Ms. Maxfield-Green) And what does the caption at the  
4 top say?

5 A. Joe said, "Very sad. Just like Selena, my hero. Just goes  
6 to show you it can happen to anyone from fans, haters, or people  
7 obsessed with you. Right, Carole?"

8 Q. And what does the news link appear to be?

9 A. It says, "Police ID man who killed singer Christina  
10 Grimmie."

11 Q. All right. If you can -- to your recollection, was there a  
12 video posted on Mr. Passage's Facebook page on or about  
13 October 1st of 2016 where he is -- there's a video of him  
14 shooting a target?

15 A. Yes.

16 MS. MAXFIELD-GREEN: Government moves to admit  
17 Exhibit 103.

18 THE COURT: Any objection?

19 MR. EARLEY: If it was posted on Facebook, the same  
20 objection as --

21 THE COURT: The foundational objection?

22 MR. EARLEY: Yes.

23 THE COURT: Thank you. The objection will be  
24 overruled. Government's 103 will be admitted.

25 (Video played in open court.)

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. (By Ms. Maxfield-Green) And what does it say above that  
2 video?

3 A. It says, "Oh, Carole."

4 Q. And, Ms. Baskin, I think you referred to this, but is this a  
5 small sampling of the threats that were posted online over the  
6 years?

7 A. A very, very small sampling.

8 Q. Did you take these threats from Mr. Passage seriously?

9 A. I did.

10 Q. Did these threats from Mr. Passage ever cause you to take  
11 extra security precautions?

12 A. Yes. I tried to get a restraining order, but in  
13 Hillsborough County, where I live, they said that I had to have  
14 been struck by the person twice in order to get a restraining  
15 order, so I was unable to do that.

16 I took training for and obtained my concealed weapons permit  
17 and began to carry a gun. I installed more security cameras at  
18 the sanctuary and installed security cameras at my home. I  
19 invested in these roll-down blinds around my home, because I'm  
20 completely surrounded by water. So I never had to have curtains  
21 before, but there were so many cases where he was showing that he  
22 could blow up things from a distance or shoot things from a  
23 distance in reference to me that I felt like my life was in  
24 danger.

25 Q. Did you ever hire additional security for yourself or for

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 the park?

2 A. Yes. Every time I would go to any kind of an event where I  
3 needed to speak out against the private possession of big cats or  
4 against cub petting, I would hire security to go with me.

5 Anytime we had an event at the sanctuary, I would hire security,  
6 not only for my own safety, but that of our employees and  
7 volunteers and guests.

8 Q. Did you make any attempt on park vehicles to remove  
9 marketing materials, that kind of thing?

10 A. Yes. I had always used big magnets on the side of my car  
11 that advertise Big Cat Rescue and that talked about not paying to  
12 play with cubs, and I had to remove those from my cars for fear  
13 of somebody coming up to me in a parking lot or even at a  
14 stoplight or a stop sign.

15 Q. Did you at some point report these online threats to law  
16 enforcement?

17 A. I did a number of times over the years.

18 Q. What kind of law enforcement would you report them to?

19 A. When it was local and he was protesting at the end of our  
20 street, one of our events, I was concerned that he was harassing  
21 our guests. And so I had to have an off-duty officer come and  
22 make them back away from the people there.

23 I had filed -- or I had reported some of the phone calls and  
24 messages that I had gotten from people over the years that were  
25 whistleblowers that said that he had tried to pay them to kill

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 me.

2 Q. And did -- to that end, did you ever receive any warnings  
3 from people that Mr. Passage was trying to harm you?

4 A. Yes.

5 Q. Did you ever receive a warning from a person named Jackie  
6 Thompson?

7 A. Yes.

8 Q. What did she tell you?

9 A. She told me that --

10 MR. EARLEY: Your Honor, I'm going to object. It's  
11 hearsay.

12 MS. MAXFIELD-GREEN: Your Honor, would you like it at  
13 the bar?

14 THE COURT: Please.

15 (The following bench conference was held outside the hearing  
16 of the jury.)

17 MS. MAXFIELD-GREEN: Your Honor, we're not offering the  
18 statement for the truth of the matter asserted. We're offering  
19 it for the effect on the listener.

20 THE COURT: The effect on the witness?

21 MS. MAXFIELD-GREEN: The effect on Ms. Baskin, yes, and  
22 her subsequent reports to law enforcement.

23 THE COURT: What's the -- and I understand that the  
24 objection's hearsay, but what's the relevance of her reaction if  
25 she's already testified to what her reaction is based on the

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 threats that she received directly and that she contacted law  
2 enforcement?

3 MS. MAXFIELD-GREEN: I think -- I'm sorry. Restate --  
4 can you restate the question?

5 THE COURT: I know, that was a horrible question.

6 What is the relevance of what her reaction is to someone  
7 else reporting a threat if she's already testified to her  
8 reaction based on the threats that she received, the numerous  
9 threats and that that prompted her to contact law enforcement?

10 MS. MAXFIELD-GREEN: Well, the nature of the threat is  
11 different. The online threats, you know, are -- are what they  
12 stand for. This threat was about the fact that he was planning  
13 to harm her. And so I would say that the different character of  
14 the threat is kind of a new development in the timeline of these  
15 events and that the effect on her was greater and different than  
16 the online threats.

17 MR. EARLEY: If she's trying to get the witness to  
18 advise the jury about her reaction to this comment, she's  
19 offering the comment for the truth of the matter asserted. I  
20 mean, she's offering it for the threat and trying to gauge the  
21 witness's response to it. It is being offered for the truth of  
22 the matter. She's asking this witness to testify to a threat  
23 that she heard and what her reaction was. Well, the threat has  
24 to be the truth of the matter, otherwise it's irrelevant.

25 THE COURT: Is the witness who -- is the person who

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 shared with her this threat that you have asked about, is she  
2 going to testify?

3 MS. MAXFIELD-GREEN: No. Your Honor, I would also say  
4 that -- I lost my train of thought.

5 THE COURT: I'm sorry.

6 MS. MAXFIELD-GREEN: That's okay. It's -- I can  
7 establish with her -- I can ask her the question, did you know  
8 whether that was true or not. Someone called her and reported  
9 this thing. I think that she'll answer she did not know whether  
10 it was true or not, it was just reported to her.

11 And to flag this issue for the Court, I'm also going to ask  
12 her to testify about the voicemail that she received from Ashley  
13 Webster with the same rationale. It's not being offered for the  
14 truth of the matter asserted, it's that she received that  
15 voicemail, it had an effect on her, and especially Ms. Webster's  
16 voicemail caused her to contact the U.S. attorney's office in  
17 February of 2017, which is relevant to the timeline of this  
18 investigation.

19 THE COURT: Why don't we take our afternoon break. Let  
20 me get my head wrapped around that. I am struggling a little bit  
21 with dealing with the hearsay issue, but by the same token it's  
22 abundantly clear in even the theme of the defense that he would  
23 make these threats. He's unfiltered and -- so I'm not exactly  
24 sure how prejudicial it is, but why don't we take our -- I'm  
25 going to let you say anything else you need.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 MS. MAXFIELD-GREEN: Your Honor, these threats weren't  
2 just -- they were different in character from the ones -- they  
3 weren't just posted on Facebook. They came to her phone  
4 directly. They reached her on a person-to-person basis, either  
5 through a, you know, direct message or a voicemail. And so I  
6 just think that their relevance and their effect on her is  
7 different in character and, therefore, relevant.

8 THE COURT: Anything else, Mr. Earley?

9 MR. EARLEY: Just that -- I mean, they're being offered  
10 for the threat content. So to say that they're not being offered  
11 for the truth of the matter asserted, which is the threat, just  
12 doesn't make any sense.

13 MS. MAXFIELD-GREEN: Well, I would be happy to do a  
14 followup question of did you know whether these threats were  
15 true.

16 THE COURT: Does it change your posture, Mr. Earley, if  
17 she were to testify in answer to a question that she received  
18 information from other people outside of the social media that  
19 she discussed about Mr. Passage making threats and how did she  
20 react to that information without getting into what the specific  
21 information was?

22 MS. MAXFIELD-GREEN: Your Honor, the government still,  
23 at the very minimum, wants to use the voicemail that Ashley  
24 Webster left on her phone in February of 2017, which is the year  
25 that the alleged plots came together to have her murdered.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 THE COURT: Okay. Let's break. Let me think about  
2 that for a minute.

3 (The following record was made in open court, in the  
4 presence of all parties, counsel, and in the presence and hearing  
5 of the jury.)

6 THE COURT: Ladies and gentlemen, let's take our  
7 afternoon break give you-all a chance to stretch and run  
8 downstairs.

9 Again, the usual admonition, please don't discuss the case  
10 with anyone, including yourselves, amongst each other, don't let  
11 anybody attempt to discuss the case with you. If everyone will  
12 please remain seated as the jury leaves the courtroom.

13 (Jury exited.)

14 THE COURT: We'll be in recess until 3:15.

15 (Break taken.)

16 (The following record was made in open court, in the  
17 presence of all parties, counsel, and out of the presence and  
18 hearing of the jury.)

19 THE COURT: Before the jury comes back, the -- having  
20 considered the arguments of counsel, I'm going to sustain the  
21 objection to the witness testifying what the other person told  
22 her. I think she is able to testify that she received  
23 information and how she reacted to that, but she will not be  
24 permitted to testify as to what someone else told her.

25 MS. MAXFIELD-GREEN: And, Your Honor, so what about the

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 voicemail?

2 THE COURT: Same thing -- I know you hadn't moved to  
3 introduce the voicemail, but the same ruling will apply to the  
4 voicemail. I think that is -- I think it is perilously close to  
5 hearsay. And even in the event that it's not, I'm still not sure  
6 that I appreciate the relevance of what her reaction is. I mean,  
7 she's going to be able to testify what her reaction is, but the  
8 background behind that in terms of the out-of-court statement, I  
9 think -- I think it's still objectionable and the objection will  
10 be sustained as to that as well.

11 MS. MAXFIELD-GREEN: Thank you, Your Honor.

12 (Jury entered.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and in the presence and hearing  
15 of the jury.)

16 THE COURT: You may proceed, Ms. Green.

17 MS. MAXFIELD-GREEN: Thank you, Your Honor.

18 Q. (By Ms. Maxfield-Green) All right. Ms. Baskin, where we  
19 left off, did you ever receive warnings from anyone that  
20 Mr. Passage was actually trying to harm you?

21 A. Yes.

22 Q. Did you receive a warning from a person named Jackie  
23 Thompson?

24 A. Yes.

25 Q. Do you recall about when that was?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 A. I'm thinking that was in 2014, 2015.

2 Q. And how was that -- that information communicated to you?  
3 Was that a phone call, a Facebook message? What kind of -- how  
4 did that get to you?

5 A. I believe it was a Facebook message that she had sent to me.

6 Q. Okay. Now, in February of 2017 did you receive another  
7 warning that Mr. Passage was actually trying to harm you?

8 A. Yes.

9 Q. What kind of -- how did that information come to you?

10 A. That was a voicemail left on my phone.

11 Q. Was that on your personal cell phone?

12 A. I only have one phone.

13 Q. Okay. And when you received that voicemail, what did you --  
14 what was your reaction? What did you do with it?

15 A. I sent that information to our attorney.

16 Q. And do you know what she did with it?

17 A. I believe she sent it on to you.

18 Q. Okay. To your recollection, was there a video of  
19 Mr. Passage posted on his Facebook page on or about March 18th of  
20 2017 where he refers to property of his parents being taken?

21 A. Yes.

22 MS. MAXFIELD-GREEN: Government moves to admit  
23 Government's Exhibit 101.

24 THE COURT: Mr. Earley, any objection?

25 MR. EARLEY: Did she -- what media was it?

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 MS. MAXFIELD-GREEN: It's a video of him.

2 MR. EARLEY: Posted where?

3 MS. MAXFIELD-GREEN: On Facebook.

4 MR. EARLEY: Just the same objection.

5 THE COURT: Same foundational objection? Objection  
6 will be overruled. 101 will be admitted.

7 (Video played in open court.)

8 Q. (By Ms. Maxfield-Green) And that was posted on March 8th  
9 (sic) of 2017, correct?

10 A. Yes.

11 Q. To your -- do you understand what Mr. Passage was talking  
12 about? Do you know what he's referring to?

13 A. It had nothing to do with us. Apparently his mother had not  
14 paid her attorneys and they had filed some kind of claim against  
15 her, but it didn't have anything to do with us going after her.

16 Q. Okay. And you referenced this earlier in your testimony.  
17 In May of 2017, did Big Cat Rescue lend its support, along with  
18 PETA and some other animal welfare groups, in proposing some  
19 regulatory changes involving hybrid cats?

20 A. Yes.

21 Q. And what was the purpose of those regulatory changes?

22 A. The changes would be to stop the breeding of hybrids and  
23 white tigers. The American Zoological Association had made it  
24 clear to their members not to be breeding white tigers anymore,  
25 but the private sector still does, so this would address that.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. And did Mr. Passage, was he known for breeding hybrids?

2 A. Yes.

3 Q. And was he known for breeding white tigers?

4 A. Yes.

5 Q. Now, in July of 2017 were you aware of a lawsuit involving

6 PETA and a place -- a zoo in Florida called Dade City Wild

7 Things?

8 A. Yes.

9 Q. Did Big Cat Rescue have any stake in that litigation?

10 A. No.

11 Q. Did you follow that litigation?

12 A. Yes, we were interested.

13 Q. Okay. And what was Big Cat Rescue's interest in that

14 litigation?

15 A. PETA was suing under a violation of the Endangered Species

16 Act, that taking these cubs away from their mothers so young was

17 a violation under -- being harassment. And so we were very

18 interested in that case and other cases that they have pending

19 where they are seeking to enforce the Endangered Species Act to

20 protect these cubs.

21 Q. And based on your interest in that litigation and watching

22 what was going on with it, did Mr. Passage have an involvement

23 tangentially to that litigation?

24 A. Yes. PETA was given the right by the judge to come in and

25 inspect the conditions that the tigers were being kept in. And

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 so Dade City Wild Things, in an effort to thwart PETA's ability  
2 to see that, loaded them all up into trailers and sent them to  
3 Joe.

4 Q. And, to your knowledge, how many tigers were sent to  
5 Mr. Passage?

6 A. Twenty-two, I believe, left Dade City Wild Things, but I'm  
7 not sure that all 22 actually arrived in Oklahoma. I think a few  
8 may have disappeared along the way.

9 Q. And by "disappeared," you mean dropped off at other  
10 locations?

11 A. Yes.

12 Q. So did you become aware on or about July 16th of 2017 that  
13 Mr. Passage had posted videos on Facebook about receiving the  
14 shipment of those tigers?

15 A. Yes. He did live videos of their arrival.

16 Q. All right.

17 MS. MAXFIELD-GREEN: Government moves to admit -- well,  
18 Your Honor, these exhibit -- this video is broken into excerpts  
19 that encompass Exhibits 107, 108, 109, 110 and 111, and the  
20 government moves to admit each of those.

21 THE COURT: And those were all Facebook videos?

22 MS. MAXFIELD-GREEN: Yes.

23 THE COURT: Mr. Earley, same objection?

24 MR. EARLEY: Yes, Your Honor.

25 THE COURT: Objection will be overruled. They'll be

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 admitted, Government's 107, 108, 109, 110 and 111.

2 MS. MAXFIELD-GREEN: Let's have 107.

3 (Video played in open court.)

4 MS. MAXFIELD-GREEN: Government's 108, please, Jane.

5 (Video played in open court.)

6 MS. MAXFIELD-GREEN: All right. Government's 109.

7 (Video played in open court.)

8 MS. MAXFIELD-GREEN: All right. Government's 109,  
9 please.

10 (Video played in open court.)

11 MS. MAXFIELD-GREEN: And Government's 111.

12 (Video played in open court.)

13 Q. (By Ms. Maxfield-Green) Okay. And so in these videos  
14 Mr. Passage references you a number of times, correct?

15 A. Yes.

16 Q. Did you have anything to do with that -- sending that  
17 shipment of tigers, causing Dade City Wild Things to move their  
18 tigers?

19 A. No. In fact, there was a court order against them moving  
20 their tigers. And when we found out the tigers were on the move,  
21 we were trying to get the government to be able to catch them  
22 before they got out of the state with them, but they were unable.

23 Q. And was -- were these videos posted on or about July 16th of  
24 2017?

25 A. Yes.

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CAROLE BASKIN - Direct by Ms. Maxfield-Green

1 Q. Ms. Baskin, in the summer of 2017, how did you typically get  
2 to work?

3 A. I ride my bicycle 5 miles each way to work.

4 Q. Okay. And where do you ride your bicycle?

5 A. I took the -- there's something called the Tampa Bay Trail,  
6 which is a really beautiful trail that leads almost directly from  
7 my house to the sanctuary.

8 Q. Did you ever post on Facebook about your bike path?

9 A. I did. The bridge was out one time and I posted that, and I  
10 think I posted another video, a 360 video about how beautiful it  
11 was.

12 Q. Now, on or about November 8th of 2017, were you contacted by  
13 law enforcement and the U.S. attorney's office about Mr. Passage?

14 A. Yes.

15 Q. What was the nature of that contact?

16 A. They said my life was in imminent danger and that I should  
17 lay low, not be riding my bike or going out in public.

18 Q. And did you follow that advice?

19 A. I did for a while, but I -- I had to continue going to and  
20 from work. And so eventually I just started leaving different  
21 times of the day and taking different routes, having to go out by  
22 the roads instead of on the trail where I would go so that I  
23 wouldn't be easily spotted.

24 Q. And did you maintain all of the security precautions that  
25 you had described for us previously?

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CAROLE BASKIN - Cross by Mr. Earley

1 A. Yes, and even stepped them up more so.

2 Q. After you were contacted by law enforcement on November 8th  
3 of 2017, did you receive any additional updates about  
4 Mr. Passage?

5 A. I did later on, yes.

6 MR. EARLEY: Your Honor, I'll object to the content of  
7 the updates as hearsay.

8 MS. MAXFIELD-GREEN: And, Your Honor, we're not  
9 intending to go down the path of -- of detail -- of content.

10 THE COURT: Okay. Be overruled at this time.

11 Q. (By Ms. Maxfield-Green) Were you given any specific details  
12 about the evidence the Government was gathering?

13 A. Not specifics.

14 Q. In September of 2018, did you learn that Mr. Passage had  
15 been arrested?

16 A. I thought it was before that. December of --

17 Q. I'm sorry. September of 2018.

18 A. Oh, yes. Yeah.

19 MS. MAXFIELD-GREEN: Government passes the witness,  
20 Your Honor.

21 THE COURT: Thank you.

22 Mr. Earley, cross-examination?

23 **CROSS-EXAMINATION**

24 **BY MR. EARLEY:**

25 Q. Ms. Baskin, you have been present in the courtroom pretty

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CAROLE BASKIN - Cross by Mr. Earley

1 much the whole time so far in this trial, correct?

2 A. Yes.

3 Q. So you have heard all the testimony that's preceded your  
4 appearance here on the witness stand, correct?

5 A. Yes.

6 Q. All right. Now, with respect to what you were talking about  
7 last, this -- these last series of videos that were shown, those  
8 were posts by Mr. Passage of the arrival of the tigers from the  
9 facility down in Florida; is that correct?

10 A. From Dade City Wild Things.

11 Q. Yes. And he obviously was very disturbed about the  
12 condition that the animals arrived in, correct?

13 A. He was making a lot of fuss about it.

14 Q. Yes. And particularly seemed to be upset because apparently  
15 one of the tigers had given birth during the trip, or at least  
16 that's the way it appeared, correct?

17 A. That's the way it looked.

18 Q. Yes. And they -- that's the reference to the three dead  
19 tigers, correct?

20 A. Yes.

21 Q. All right. And while that scenario played out because of a  
22 lawsuit filed by PETA, he basically is identifying you with PETA  
23 and other organizations and tends to blame the whole lot of you,  
24 correct?

25 A. I believe he blames me for everything that goes wrong in his

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CAROLE BASKIN - Cross by Mr. Earley

1 life.

2 Q. Okay. And you identify him with all individuals who breed  
3 and allow cub petting as the bad guys, correct?

4 A. I don't -- I don't identify him as them. I -- I believe  
5 there are a handful of people that do the same thing. And I  
6 believe that ripping cubs from their mothers is wrong and using  
7 them that way is wrong.

8 Q. Right. And so individuals who do that, you identify them  
9 all as one group, correct, bad people?

10 A. I think they are.

11 Q. Okay. Now, let's talk about these videos. Now, first of  
12 all, I want -- I want to be clear on this. Ms. Green had asked  
13 you about reporting things to law enforcement. Do you remember  
14 that question?

15 A. Yes.

16 Q. All right. And you reported -- you said that you reported  
17 to the police an incident when Mr. Passage was, I guess, outside  
18 your facility protesting?

19 A. Yes.

20 Q. And when was that?

21 A. That was around one of our events that I believe was in  
22 March of 2014.

23 Q. All right. So because he was outside your place protesting,  
24 you called the police; is that right?

25 A. He has the right to protest. He was blocking traffic and I

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CAROLE BASKIN - Cross by Mr. Earley

1 didn't want him threatening people that were trying to come to  
2 the sanctuary.

3 Q. Well, did the police come?

4 A. Yes.

5 Q. What did they do?

6 A. They just made them stay on the sidewalk where they have the  
7 right to protest.

8 Q. So you reported that incident to the police. And then you  
9 reported what other activity to the police?

10 A. I had tried to get a restraining order, as I mentioned.

11 I -- when I first heard that he was trying to hire somebody to  
12 kill me, I -- I'm sure I reported that.

13 Q. Well, did you or did you not?

14 A. Over the course of nine years, I reported anytime that there  
15 was a direct threat against my life by him or things that I knew  
16 that he was doing that were in violation of the law. I just  
17 wasn't seeing any action by law enforcement, so I couldn't tell  
18 you exactly when.

19 Q. Well, the first video that you were shown was this BBC  
20 interview. Do you recall that?

21 A. Yes.

22 Q. And we saw just a little bit of that, but it was about a  
23 30-minute program, right?

24 A. I don't remember if it was 30 minutes or an hour.

25 Q. Well, did you watch the whole thing?

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CAROLE BASKIN - Cross by Mr. Earley

1 A. I did.

2 Q. It wasn't all about euthanizing animals. It was about his  
3 entire operation, correct?

4 A. Yes.

5 Q. And I know we selected some -- some little bits here that  
6 sounded bad, but there was a lot more to that video than what you  
7 were shown, correct?

8 A. None of it that made him look good.

9 Q. Well, that's your opinion, correct?

10 A. I think most people would feel that way.

11 Q. Well, you don't know how most people feel. I know you think  
12 you know how most people feel, but you -- we didn't see all of  
13 it, we just saw select portions of it, correct?

14 A. Yes.

15 Q. All right. Now, let's talk about the first one that the  
16 government's characterizing as a threat video. That was  
17 January 13th, 2012. It appeared to be part of that show or that  
18 TV show, correct?

19 A. Yes.

20 Q. Now, did you watch that entire show?

21 A. I watched most of what he posted online.

22 Q. All right. So did -- you did watch that entire show?

23 A. Probably.

24 Q. Okay. And after you watched that entire show, that's way  
25 back in 2012, which law enforcement agency did you call?

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CAROLE BASKIN - Cross by Mr. Earley

- 1 A. I couldn't tell you.
- 2 Q. Did you call one?
- 3 A. I don't know if it was specifically at that time or after  
4 that specific threat. Like I said, there were so many times that  
5 I just felt like law enforcement wasn't listening, that I didn't  
6 report it except for a few times.
- 7 Q. Okay. Well, let's go to the next one. That was  
8 October 17th, 2013. It had to do with the terminal illness and,  
9 you know, going to Tampa. Do you remember that?
- 10 A. Yes.
- 11 Q. Okay. And it's a screenshot. Which law enforcement agency  
12 did you call after that screenshot appeared on Facebook?
- 13 A. I don't think I did after that.
- 14 Q. Okay. And then we have the February 14th, 2014, video where  
15 there was the pointing the gun at the doll. Do you remember that  
16 one?
- 17 A. Yes.
- 18 Q. And, actually, there was another individual involved in that  
19 production, correct?
- 20 A. Yes.
- 21 Q. Did you watch that entire show?
- 22 A. I'm sure I did.
- 23 Q. All right. And I think there was a reference in that show  
24 to "we want our numbers to climb." Did you hear that?
- 25 A. Yes.

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CAROLE BASKIN - Cross by Mr. Earley

- 1 Q. What do you think he was referring to?
- 2 A. You would have to ask him.
- 3 Q. So these were broadcast on the web, correct?
- 4 A. Yes.
- 5 Q. Literally for the entire world to see, if they chose to,
- 6 correct?
- 7 A. Yes.
- 8 Q. So after that video, which law enforcement agency did you
- 9 contact?
- 10 A. I know I have talked to the FBI and I know I have talked to
- 11 the Wynnewood Sheriff's Department, I have talked to the
- 12 Hillsborough County Sheriff's Department, but I couldn't tell you
- 13 at what point on any of those. So you could ask me through all
- 14 of them, but I'm not going to be able to tell you which ones.
- 15 Q. Okay. Well, I will. How about February 17th there was the
- 16 shooting of the Carole blowup doll video. Do you remember that?
- 17 A. Yes.
- 18 Q. And did you watch that entire show?
- 19 A. Probably.
- 20 Q. And you don't recall whether or not you reported that to law
- 21 enforcement as a threat, do you?
- 22 A. I don't remember the dates or times.
- 23 Q. Okay. Entirely likely you didn't report that?
- 24 A. I don't know.
- 25 Q. And then there was the one just two days later of sending

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CAROLE BASKIN - Cross by Mr. Earley

- 1 snakes to Carole. Did you report that one?
- 2 A. I reported when there were snakes in my mailbox. I don't
- 3 know if I reported that one.
- 4 Q. Did the police come out?
- 5 A. For the snakes in my mailbox?
- 6 Q. Yes.
- 7 A. Yeah.
- 8 Q. And I assume they collected evidence?
- 9 A. I assume so.
- 10 Q. Okay. Was --
- 11 A. They didn't go back up to the mailbox.
- 12 Q. Was there a package in there from Mr. Passage that was
- 13 addressed to you?
- 14 A. No.
- 15 Q. So were these just snakes in your mailbox?
- 16 A. At that time, yes.
- 17 Q. Okay. So they didn't come in a package or an envelope or
- 18 anything?
- 19 A. I don't know.
- 20 Q. All right. Then March the 28th there was the -- the show
- 21 with a -- well, it's a screenshot, but a head in a bottle that
- 22 supposedly looked like you, correct?
- 23 A. Yes.
- 24 Q. All right. Did you report that to law enforcement as a
- 25 threat?

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CAROLE BASKIN - Cross by Mr. Earley

1 A. Probably not.

2 Q. And then the video of Mr. Passage and some other individual  
3 digging a hole to place a cross in it, did you report that to law  
4 enforcement as a threat?

5 A. I don't think so.

6 Q. And there was a photo of Mr. Passage posted on Facebook with  
7 a -- an assault rifle. Did you report that to law enforcement?

8 A. I'm not sure about that because I -- I didn't think that you  
9 could have those kinds of guns, so I may have at that point.

10 Q. So --

11 A. Or may have inquired into whether or not that was legal.

12 Q. All right. So that was on May the 19th, 2014. If you  
13 inquired about it, you were inquiring about whether it was legal  
14 to have that type of firearm?

15 A. Yes.

16 Q. All right. Not necessarily that you felt any threat because  
17 of that?

18 A. I did feel a threat.

19 Q. Well, did you communicate that to the law enforcement  
20 agency?

21 A. I have done that over the period of nine years, I just  
22 couldn't tell you if it was in direct relationship to that  
23 specific date.

24 Q. And then there's this coffin screenshot on December 28,  
25 2014. Do you recall, after you saw that, reporting that to law

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CAROLE BASKIN - Cross by Mr. Earley

1 enforcement as a threat?

2 A. I don't think so.

3 Q. And then there was the September 17th, 2015, audio, she will  
4 die first. Did you report that as a threat to law enforcement?

5 A. I'm not sure.

6 Q. The Selena Facebook post, I think as it's been referred to,  
7 did you report that as a threat?

8 A. I don't think so.

9 Q. That was in 2016, correct?

10 A. I think so.

11 Q. And then, similarly, in 2016 there was an "oh Carole" video  
12 shooting the target. I think we saw that. Did you report that  
13 as a threat?

14 A. I don't know.

15 Q. And you made some reference with respect to those voicemails  
16 that Ms. Green asked you about, I guess one was in 2014 from  
17 Ms. Thompson. I didn't hear you say you reported that to law  
18 enforcement. You reported that to your lawyer; is that right?

19 A. Yes.

20 Q. Okay. And is it fair to say that many of these videos and  
21 screenshots that you have collected, have they been used in your  
22 litigation?

23 A. I don't know. I'm trying to think if there would have been  
24 any reason to use them. I couldn't tell you.

25 Q. But you seem to -- did you report those to your lawyer?

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CAROLE BASKIN - Cross by Mr. Earley

1 A. Some of them our lawyer knows about, yes.

2 Q. All right. So your first response to many of these is not  
3 to call the police, but to call your lawyer, right?

4 A. There hasn't been any point in contacting the police. We  
5 didn't know that they were working on anything against him  
6 because nobody had taken action before.

7 Q. Well, but if you were truly concerned about these things, as  
8 crazy and silly as many of them are, I would think you would call  
9 the police.

10 A. I don't think they're silly at all.

11 THE COURT: Mr. Earley, please limit your  
12 cross-examination to questions.

13 MR. EARLEY: All right.

14 Q. (By Mr. Earley) Now, you have your website that is, you  
15 know, promoting your views, correct?

16 A. Yes.

17 Q. You have more than one, do you not?

18 A. Yes.

19 Q. Okay. And essentially you've testified to your three-prong  
20 assault on -- on activities that you believe should be outlawed,  
21 correct?

22 A. I didn't refer to it as an "assault."

23 Q. Well, it was a three-pronged approach to solving the problem  
24 that you think exists, correct?

25 A. Yes.

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CAROLE BASKIN - Cross by Mr. Earley

1 Q. And the first was to rescind the generic tiger loophole,  
2 correct?

3 A. Yes.

4 Q. And that got accomplished; is that right?

5 A. Yes.

6 Q. And the second was, you said, for USDA enforcement. Now,  
7 what did you mean by that?

8 A. I believe the Animal Welfare Act already prohibits the  
9 taking of cubs from their mothers to be used for these  
10 pay-to-play activities because of the fact that it is so harmful  
11 for the cubs and creates an untenable situation for the adults.  
12 I don't think the Animal Welfare Act has been enforced correctly,  
13 so we have petitioned the animal -- or petitioned the USDA to  
14 actually enforce that.

15 Q. Okay. So the agency responsible for enforcing the Act you  
16 don't believe is doing their job, correct?

17 A. I don't believe they're doing it as well as they could if  
18 they were interpreting it the way that I believe it should be  
19 interpreted.

20 Q. Is it possible they don't believe that the interpretation is  
21 the same as yours?

22 A. We don't know yet because they haven't ruled on the  
23 petition.

24 Q. All right. Would you understand if perhaps someone  
25 disagreed with your interpretation of the law and regulations?

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CAROLE BASKIN - Cross by Mr. Earley

1 A. Yes. I -- I understand that people do not always agree.

2 Q. Right. Not everyone sees it your way, correct?

3 A. Correct.

4 Q. Okay. And then the third thing, I guess, is this -- is it  
5 the Big Cat Public Safety Act? Is that what you were referring  
6 to as far as the cub petting and things like that that you're  
7 trying to outlaw?

8 A. That's our federal bill that would ban cub petting and ban  
9 private possession of big cats as pets.

10 Q. So effectively outlawing what individuals who do cub petting  
11 and breeding do for a business, correct?

12 A. It would outlaw that part of what they do.

13 Q. Now, the lawsuits, you have referred to them and testified  
14 about them. I guess there's about four different lawsuits, would  
15 that be fair to say? Three in Florida, one here?

16 A. If you -- well, there's been a number of times in the  
17 bankruptcy court that he changes the name of his organization and  
18 moves all the assets to a new organization and then we have to  
19 sue that organization, so there's been a number of those.

20 Q. Yes. And so -- and, obviously, you have been attempting to  
21 collect on that judgment for quite some time, right?

22 A. Yes.

23 Q. Okay. And I think you stated that you have maybe to date  
24 collected about 5 percent or less of that judgment; is that  
25 right?

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CAROLE BASKIN - Cross by Mr. Earley

1 A. I think so.

2 Q. Okay. And so if you -- if you can, and it's fine to  
3 estimate, how much do you think you have paid in legal fees over  
4 the last six years in an attempt to collect that judgment?

5 A. Probably a million dollars.

6 Q. All right. Now, this is a judgment in favor of your  
7 organization, the Big Cat Rescue, correct?

8 A. Yes.

9 Q. All right. It's not a judgment of Carole Baskin vs.  
10 Mr. Passage, correct?

11 A. Correct.

12 Q. All right. So you have, at least on paper and as far as the  
13 judgment is concerned, no personal judgment against Mr. Passage,  
14 right?

15 A. We got a judgment against him personally and against his  
16 zoo.

17 Q. All right. So you then, not just the organization, but you  
18 are able to collect personally off the enforcement of that  
19 judgment?

20 A. No, not me; Big Cat Rescue.

21 Q. All right. That --

22 A. Did I misunderstand what you were asking?

23 Q. I might have misunderstood what you said. I thought you  
24 said you also had a personal judgment against him.

25 A. Big Cat Rescue has a judgment against Joe Schreibvogel

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CAROLE BASKIN - Cross by Mr. Earley

1 personally and against his zoo organization.

2 Q. Okay. But Carole Baskin does not have a judgment against  
3 Mr. Passage?

4 A. Correct.

5 Q. All right. So if you were to -- to pass away, your death  
6 wouldn't have any effect on that judgment, correct?

7 A. That's correct.

8 Q. Now, do you know Brittany Peet?

9 A. Yes.

10 Q. And who is Brittany Peet?

11 A. She works for PETA.

12 Q. Okay. Have you ever done any work with her or communicated  
13 with her?

14 A. Yes.

15 Q. And with respect to communications with Ms. Peet, did those  
16 involve Mr. Passage?

17 A. Not that I was a party to.

18 Q. Okay. But your discussions with Ms. Peet, were they about  
19 Mr. Passage, at least in part?

20 A. I don't think I have talked to her about him.

21 Q. Well, you mentioned some effort to settle your case. Do you  
22 recall that testimony?

23 A. Yes.

24 Q. Did that involve PETA?

25 A. No. That was a settlement of the bankruptcy.

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CAROLE BASKIN - Cross by Mr. Earley

1 Q. So in late 2017, do you not recall being approached by  
2 Brittany Peet on behalf of PETA in an attempt to settle your  
3 lawsuit with Mr. Passage?

4 A. I know that PETA was trying to do something with him, but I  
5 never spoke to her about it.

6 Q. So did you sign off on any potential agreement that there  
7 may have been?

8 A. There wasn't any potential agreement.

9 Q. Was it discussed with you?

10 A. Not with me.

11 Q. All right. So if Ms. Peet had represented to Mr. Passage  
12 that she had worked out a deal with you whereby your lawsuit  
13 would go away in exchange for concessions for him, she would be  
14 lying to him, apparently?

15 A. She was talking to my husband. She wasn't talking to me.

16 Q. Well, then are you aware of an attempt by PETA to involve  
17 you in a settlement with Mr. Passage in late 2017?

18 A. Yes.

19 Q. All right. And that was through, I guess, your husband,  
20 correct?

21 A. Yes.

22 Q. All right. So then I guess Ms. Peet would not be lying to  
23 Mr. Passage if she said she had actually tried to broker a deal  
24 with you, correct?

25 A. Yes. It was my understanding that when she was talking to

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CAROLE BASKIN - Cross by Mr. Earley

1 my husband, my husband said, don't come to us unless you have  
2 something in writing from Jeff Lowe because he's the one that Joe  
3 is saying owns the park, and without him signing on we couldn't  
4 do anything.

5 Q. Okay. Did you later become aware, or did your husband  
6 become aware that the deal that Ms. Peet was trying to broker  
7 wouldn't go through because of Jeff Lowe?

8 A. To my understanding, Jeff Lowe never agreed to anything with  
9 PETA.

10 Q. All right. Now, let's talk a little bit about your park.  
11 Now, do you have a captive wildlife registration permit?

12 A. A CBW, or captive-bred wildlife registration permit, is only  
13 necessary if you are trying to do something that would be in  
14 violation of the Endangered Species Act, and there's nothing that  
15 we do that requires us to be in violation of the Endangered  
16 Species Act. So, no, we don't have one.

17 Q. So you don't have one. All right.

18 Now, your park is down in Tampa, right?

19 A. It's a sanctuary in Tampa.

20 Q. Have you ever been to Mr. Passage's park, or his former  
21 park?

22 A. No.

23 Q. All right. Have you had individuals associated with your  
24 organization go to that park?

25 A. People that we have known have been there. My husband's

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CAROLE BASKIN - Cross by Mr. Earley

1 been there.

2 Q. All right. As far as your park is concerned, you charge  
3 admission to get in, do you not?

4 A. We only do guided tours, but we do charge for those tours.

5 Q. All right. So to get in the gate you have to sign up for a  
6 tour, correct?

7 A. Yes.

8 Q. All right. And they vary in price, at least according to  
9 your website. There are a variety of levels that you can  
10 purchase, correct?

11 A. Yes.

12 Q. Like a day tour is \$39. Is that per person?

13 A. Yes.

14 Q. All right. You also have feeding tours; is that right?

15 A. Yes.

16 Q. What does that consist of?

17 A. The person pays to go along with our keepers in the morning  
18 when the keepers are feeding the cats, and the keepers will feed  
19 a limited number of cats on the route and talk about their  
20 dietary needs and that sort of thing.

21 Q. And you can do that for 67 bucks, right? And then there's  
22 private tours that are available, correct?

23 A. Yes.

24 Q. And those are \$152 a head?

25 A. Yes.

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CAROLE BASKIN - Cross by Mr. Earley

1 Q. And there are other varieties of tours that you have, keeper  
2 tour, photo tours, et cetera, correct?

3 A. Yes.

4 Q. All right. So all levels that you can purchase at your  
5 place?

6 A. Yes.

7 Q. So these cats that are in your sanctuary, you charge for  
8 people to come and see them?

9 A. Yes.

10 Q. And you understand that a part of Mr. Passage's business was  
11 pretty much identical to yours, where he charged for tours of his  
12 park, correct?

13 A. Yes.

14 Q. So really wasn't any difference in how you-all were  
15 operating your business, at least with respect to that aspect,  
16 correct?

17 A. That's probably where it ends.

18 Q. Okay. Now, it appeared that, at least from information on  
19 your website, that there was information that you could also  
20 potentially run into some kittens playing at the park. Is that  
21 possible at your place?

22 A. We do foster kittens with the Humane Society of Tampa Bay  
23 for domestic cats and kittens. So the public's never allowed to  
24 handle those kittens, but we have an area in the sanctuary where  
25 our volunteers will actually go in and socialize with the kittens

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CAROLE BASKIN - Cross by Mr. Earley

1 and you can see through the windows if you're on a tour.

2 Q. So are there any cubs born at your park from these large  
3 animals?

4 A. No. We have never bred lions or tigers.

5 Q. And how do you ensure that that's the case?

6 A. We spay and neuter anytime that there are cats living  
7 together, which is very rare because they're solitary by nature  
8 and they don't want to share a space. But in some rare  
9 occasions, cats have been raised together and so they have lived  
10 together their whole lives, but we spay and neuter to make sure  
11 that there are no kittens or cubs born.

12 Q. So I guess, technically speaking, by spaying or neutering  
13 these large cats, you are preventing them from breeding, correct?

14 A. Yes.

15 Q. All right. And you realize that that is a part of the  
16 prohibitions under the Endangered Species Act?

17 A. What is?

18 Q. Changing or altering an animals' environment, ability to  
19 breed.

20 A. If you're referring to the CBW, the CBW has a provision for  
21 generally accepted veterinary procedures that would include  
22 things like spaying or neutering or even a veterinary euthanasia.

23 Q. But, you know, literally speaking, the law does not allow  
24 that, correct?

25 A. It does allow it.

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CAROLE BASKIN - Cross by Mr. Earley

1 Q. Well, if someone decides it falls under an exception,  
2 correct?

3 A. That's what the government has provided in that case.

4 Q. Yeah. They decide whether or not someone is violating that  
5 particular provision of the law? It's up to their discretion to  
6 whether they want to pursue that, correct?

7 A. You would have to ask them how they do that.

8 Q. All right. Now, as far as your websites are concerned, you  
9 solicit donations, do you not?

10 A. Yes.

11 Q. And currently on your website are there posts that are  
12 updating your followers about this very case?

13 A. There is one page that is dedicated to this case, where we  
14 wanted people to know that it was happening but we have been very  
15 careful not to speak about anything that's going on during the  
16 process or to speak with any of the press who have been wanting  
17 to talk about this until after the case has been concluded.

18 Q. All right. But you've posted it on your website, correct?

19 A. Yes.

20 Q. And, in fact, the very day that Mr. Passage was arrested,  
21 you posted a big thank you note to the government and the U.S.  
22 attorney's office. Do you recall that?

23 A. Yes.

24 Q. All right. And has your publication of this case increased  
25 your donations?

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CAROLE BASKIN - Cross by Mr. Earley

1 A. I don't think so.

2 Q. Have you checked?

3 A. Well, I won't know until the end of the year.

4 Q. So you only get an update yearly?

5 A. Well, I'll only know how it compares to the year before at  
6 the end of the year.

7 Q. Well, that was last year. So do you know about your  
8 donations and the amount that you received from 2018?

9 A. Yes.

10 Q. Okay.

11 A. And it's been increasing every year, so I can't say that it  
12 had anything to do with this case.

13 Q. But you certainly have publicized the fact that this case is  
14 taking place, correct?

15 A. On that one page.

16 Q. And you have publicized the fact and literally said that you  
17 were the victim of this murder-for-hire scheme, correct?

18 A. So many people were contacting me and saying, this was you,  
19 this was you, right. So we did the one page just saying, yes,  
20 this was us and we can't talk about it until it's over.

21 MR. EARLEY: Could I have just a moment, Your Honor?

22 THE COURT: You may.

23 MR. EARLEY: Nothing further, Your Honor.

24 THE COURT: Redirect?

25 MS. MAXFIELD-GREEN: Yes, Your Honor.

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CAROLE BASKIN - Redirect by Ms. Maxfield-Green

1 REDIRECT EXAMINATION

2 BY MS. MAXFIELD-GREEN:

3 Q. Okay. Ms. Baskin, Mr. Earley asked you about whether you  
4 reported the online threats to law enforcement. Do you recall  
5 that?

6 A. Yes.

7 Q. And you testified, in response to those questions, that you  
8 did, in fact, contact law enforcement over the years; is that  
9 correct?

10 A. Yes.

11 Q. And tell us again, which law enforcement entities did you  
12 contact?

13 A. I know we have contacted the FBI and the Garvin County  
14 Sheriff's Department and the Hillsborough County Sheriff's  
15 Department.

16 Q. And at some point did you become a little disillusioned with  
17 the law enforcement response to your complaints?

18 A. Yes, because it didn't appear that anything was going on.  
19 And, like I said, I didn't know that there was any of this going  
20 on in the background to know that, well, I should be reporting  
21 every time something happens, but I didn't know that anybody was  
22 paying any attention.

23 Q. And you mentioned your -- on direct your attempts to get the  
24 attention of the law enforcement in Hillsborough County. Is that  
25 the county you live in?

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CAROLE BASKIN - Redirect by Ms. Maxfield-Green

1 A. Yes.

2 Q. And you stated that -- tell us again, what are the  
3 requirements for obtaining a victim protection order in  
4 Hillsborough County?

5 A. I was horrified to be told that I had to be struck twice by  
6 the person in order to get a restraining order against having  
7 them within so many yards of me. It blows my mind that that's  
8 the requirement, but that's what I was told.

9 Q. So fair to say an online threat was not going to qualify you  
10 for any relief in Hillsborough County, Florida, correct?

11 So based on the disappointing response of law enforcement,  
12 you at some point decided to take your security measures into  
13 your own hands; is that correct?

14 A. I felt like that was the only thing I could do to protect  
15 myself.

16 Q. And were part of those security measures that you started  
17 carrying a gun on you?

18 A. Yes.

19 Q. Where do you carry your gun?

20 A. I have a saddle bag on my bike. I carry a gun in my car. I  
21 have the same gun that I keep at the side of my bed.

22 Q. Was that a new thing to you or is that something you were  
23 comfortable with?

24 A. I have had a gun for a long time, but carrying it really --  
25 I'm more nervous carrying it than -- than anything else even

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CAROLE BASKIN - Redirect by Ms. Maxfield-Green

1 because it just -- I don't like to have to be in possession of a  
2 gun or to think that I would have to use that to protect myself.

3 Q. You also mentioned that you have taken signage off of Big  
4 Cat Rescue cars; is that correct?

5 A. Off of my car.

6 Q. And is having -- do you -- would you typically, in a normal  
7 situation, enjoy someone approaching you to ask you about Big Cat  
8 Rescue?

9 A. Because people know us so well, I am approached all the time  
10 when they see the logo on my clothing or on my car. And they'll  
11 come running across the parking lot, you know, just screaming, I  
12 love Big Cat Rescue, I love you guys, I love what you do. And  
13 now when I see somebody running at me, I don't know if it's one  
14 of those people or if somebody that's been hired to kill me.

15 Q. Now, you mentioned your residence that is on the water  
16 somewhere in Florida, and I assume you purchased a -- one would  
17 purchase a residence on the water for the view, correct?

18 A. Yes.

19 Q. And you stated that you have put blinds and curtains on the  
20 windows of that residence?

21 A. Yes.

22 Q. And why did you do that?

23 A. So that no one could see in.

24 Q. Did you fear that if they could see in you would be a target  
25 for harm?

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CAROLE BASKIN - Redirect by Ms. Maxfield-Green

1 A. Yes. It's -- even though I live in a subdivision, it's a  
2 part of the subdivision that's very remote. And so I -- I'm  
3 concerned that it would just be too easy for somebody to sneak up  
4 from any direction because I'm surrounded by this creek.

5 Q. Now, you -- Mr. Earley asked you if you had contacted law  
6 enforcement various times, and in response to some of those  
7 questions you responded that you contacted your lawyer. Did you  
8 contact your lawyer here in Oklahoma?

9 A. Yes.

10 Q. And did you tell her about the Internet threats that you had  
11 received?

12 A. Yes.

13 Q. And in 2016 are you aware that your lawyer called the U.S.  
14 attorney's office?

15 A. Yes.

16 MR. EARLEY: Your Honor, I'll object. This is beyond  
17 the scope of direct -- or of cross. I'm sorry.

18 MS. MAXFIELD-GREEN: Your Honor, Mr. Earley took quite  
19 a bit of time establishing with her whether she did or did not  
20 contact law enforcement in response to each one of these threats.  
21 And the fact that -- I think we're entitled some leeway in  
22 establishing that she did and when she did, which is what he was  
23 trying to establish on cross.

24 THE COURT: Overruled.

25 THE WITNESS: Yes, I would tell my attorney in the

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CAROLE BASKIN - Redirect by Ms. Maxfield-Green

1 hopes that she would tell you so that you would know what was  
2 going on.

3 Q. (By Ms. Maxfield-Green) And was the purpose of your  
4 lawyer's contact with our office a hope that there might be a law  
5 that would prevent him from making these online threats against  
6 you?

7 A. I'm not sure I understand the question.

8 Q. Well, was the point of -- was the point of your lawyer  
9 contacting the U.S. attorney's office here in Oklahoma an attempt  
10 to get someone to stop Mr. Passage from making the online  
11 threats?

12 A. I wasn't so concerned about him making the threats as him  
13 hiring somebody to kill me or working people up into a frenzy to  
14 try and get them to kill me by saying I was responsible for them  
15 losing all of their rights and they couldn't do things with  
16 animals that they wanted to do because it was all my fault and  
17 just constantly trying to get people worked up into a rage.

18 Q. And on that point, did Mr. Passage have a number of online  
19 followers for his Facebook page and his Joe Exotic TV account?

20 A. He had a big following, and in -- I think more importantly,  
21 it was a following of --

22 MR. EARLEY: Your Honor, I'm going to object about any  
23 thoughts about what the following -- the followers thought or  
24 what they did. It's not attributable to Mr. Passage. There's no  
25 connection between him and what someone else may have thought

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CAROLE BASKIN - Redirect by Ms. Maxfield-Green

1 about his position, so it's irrelevant.

2 THE COURT: Well, and I'm also -- and I do -- I think  
3 related to your earlier objection, it might be a little far  
4 outside the scope.

5 Do you have any response, Ms. Green?

6 MS. MAXFIELD-GREEN: I think -- the allegations in this  
7 case involve allegations that Mr. Passage tried to get someone  
8 else to harm Ms. Baskin. The evidence or -- evidence that he  
9 might have been trying to get people online to go harm her on his  
10 behalf I think is directly relevant.

11 MR. EARLEY: Those aren't even --

12 THE COURT: I'm going to sustain the objection.

13 Q. (By Ms. Maxfield-Green) Okay. With regard to the videos  
14 that Mr. Passage posted about Dade City Wild Things, again, you  
15 weren't involved in the litigation over Dade City Wild Things,  
16 correct?

17 A. That's right.

18 Q. But he named you specifically in his posts about the tigers  
19 he received?

20 A. I would frequently be credited for things I had nothing to  
21 do with.

22 Q. And it seemed in those videos that Mr. Passage seemed  
23 particularly upset that some of the cubs had been stillborn on  
24 the way to his facility. Now, your -- is that correct from --  
25 you saw the video.

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CAROLE BASKIN - Redirect by Ms. Maxfield-Green

1 A. I personally think he saw it as lost revenue is why he was  
2 so upset.

3 MR. EARLEY: Your Honor, I'm going to object to that  
4 response and ask that it be stricken.

5 THE COURT: Sustained. The answer will be stricken.

6 Ms. Baskin, be careful and listen carefully to the  
7 government's question and answer the questions before you. If  
8 they have followup questions for more information, they'll ask  
9 you. Okay?

10 THE WITNESS: Yes, sir.

11 Q. (By Ms. Maxfield-Green) So the -- do you recall what month  
12 those tigers would have been shipped?

13 A. It was in the summer of 2017, I think.

14 Q. And what is summer in Florida like?

15 A. Temperatures can be extraordinarily high, in the high 90s,  
16 even the low hundreds.

17 Q. Do you have any awareness of what summer in Oklahoma is  
18 like?

19 A. No.

20 Q. All right. As part of the litigation on the Dade City Wild  
21 Things tigers, what was -- there was a court order. What was the  
22 court order that had been entered in that litigation?

23 A. Dade City Wild Things had been restrained by the judge from  
24 trying to ship the tigers away from the zoo because the court had  
25 ordered that PETA should be able to come to the zoo and see the

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CAROLE BASKIN - Recross by Mr. Earley

1 condition of the tigers.

2 Q. Okay. So the tigers were supposed to stay in Florida?

3 A. Absolutely.

4 Q. Okay. Who made the decision to ship the tigers to Oklahoma?

5 A. Kathy Stearns, the owner of Dade City Wild Things.

6 Q. So it wasn't you that made that decision, correct?

7 A. No.

8 Q. And are you aware of the type of vehicle that those tigers  
9 were shipped in?

10 A. It looked like a cattle truck. Clearly it did not have any  
11 air conditioning or any way of protecting the cats against the  
12 extreme heat. And from the videos I saw, there didn't appear to  
13 be any way to give them water.

14 Q. And based on the video we saw, Mr. Passage agreed to accept  
15 that shipment of tigers in July who had -- were being shipped to  
16 him in a cattle trailer, correct?

17 A. Yes.

18 MS. MAXFIELD-GREEN: That's all for the government,  
19 Your Honor.

20 THE COURT: Recross, Mr. Earley?

21 MR. EARLEY: Just maybe one question, maybe two.

22 **RECROSS EXAMINATION**

23 **BY MR. EARLEY:**

24 Q. Ms. Baskin, Ms. Green just asked you about your efforts to  
25 protect yourself. I take it from some of your testimony

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CAROLE BASKIN - Recross by Mr. Earley

1 Mr. Passage was at your facility or close to it at one point when  
2 he was protesting, correct?

3 A. Yes.

4 Q. Did you ever have to take any steps to protect yourself  
5 personally from Mr. Passage at that time?

6 A. The same steps I was taking.

7 Q. Well, did you have to pull your gun on him? Did he ever  
8 approach you?

9 A. No.

10 Q. All right. So my question is: Did you have to take any  
11 steps to protect yourself from Mr. Passage when he was down in  
12 Florida at that protest?

13 A. I had to do all of the things that I had been doing to  
14 protect myself, so nothing in addition to that, other than not  
15 going up the road.

16 Q. Did he ever assault you when he was in Florida protesting?

17 A. The only time I have seen him has been in court and in a  
18 deposition, so it's been a controlled environment.

19 Q. All right. So I guess the answer is you have never had to  
20 protect yourself from any action by Mr. Passage, correct?

21 A. He's never had the opportunity.

22 Q. Now, have you ever had to protect yourself -- and what I  
23 mean by "protect yourself" is protect yourself from a physical  
24 assault or something like that from anyone that was claiming to  
25 be acting on behalf of Mr. Passage?

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CAROLE BASKIN - Recross by Mr. Earley

1 A. No.

2 Q. So over this, well, about eight-year period now that this  
3 lawsuit's been going on and you and Mr. Passage haven't been  
4 seeing eye to eye, you have never had to fend him off personally  
5 or fend off anyone acting on his behalf personally, correct?

6 A. I have been physically attacked, but the person who attacked  
7 me did not say they were doing it on his behalf.

8 Q. Well, when was that?

9 A. That was at a Florida Wildlife Commission hearing that I  
10 attended.

11 Q. All right. So it was actually in a government body hearing?

12 A. It was outside the building, on the way back to my car.

13 Q. Well, it wasn't this man, was it?

14 A. No.

15 Q. And, to your knowledge, there's absolutely no connection to  
16 Mr. Passage at all, correct?

17 A. He didn't say that there was.

18 MR. EARLEY: Nothing further.

19 THE COURT: Thank you. Ms. Baskin, you may step down.  
20 Government's next witness.

21 MS. MAXFIELD-GREEN: Government calls Special Agent  
22 Andy Farabow.

23 (WITNESS SWORN.)

24 **ANDREW FARABOW,**

25 **DIRECT EXAMINATION**

*Emily Eakle, RMR, CRR*



ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 **BY MS. MAXFIELD-GREEN:**

2 Q. Special Agent Farabow, could you introduce yourself with  
3 your name and your job title?

4 A. Yes, ma'am. My name is Andrew Farabow and I'm a special  
5 agent with the FBI.

6 Q. Mr. Farabow, how long have you been a special agent with the  
7 FBI?

8 A. About 24 years.

9 Q. All right. And have you always been stationed in the  
10 Oklahoma City area?

11 A. Yes, I have, ever since I completed the basic training.

12 Q. Over the course of your career -- your 24 years as a special  
13 agent, what kinds of investigations have you been involved in?

14 A. Various types of criminal investigations, violent crimes,  
15 white-collar crimes and narcotics investigations.

16 Q. Have you been involved in the investigation of Mr. Passage?

17 A. Yes, ma'am.

18 Q. When did the FBI open its investigation into Mr. Passage?

19 A. In February of 2017.

20 Q. At that time, in February of 2017, was there already an  
21 investigation into Mr. Passage underway?

22 A. Yes, there was.

23 Q. Which agency had already opened an investigation?

24 A. U.S. Fish & Wildlife.

25 Q. And which agent was working that case?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

- 1 A. Special Agent Matt Bryant.
- 2 Q. What was the nature of his investigation?
- 3 A. He was focused on wildlife trafficking violations.
- 4 Q. And is it fair to say that you had not ever worked a  
5 wildlife trafficking investigation?
- 6 A. Yes, that is accurate.
- 7 Q. How long had Special Agent Bryant's investigation been going  
8 on?
- 9 A. About a year.
- 10 Q. Now, in February of 2017, was it -- did Special Agent Bryant  
11 request assistance from the FBI?
- 12 A. Yes, he did.
- 13 Q. Why did he request FBI assistance?
- 14 A. It was in relation to a reported threat on the life of  
15 Carole Baskin.
- 16 Q. Okay. And is the -- a threat like that within the  
17 jurisdiction of the FBI?
- 18 A. Yes, ma'am.
- 19 Q. Now, prior to Special Agent Bryant contacting you and  
20 getting you involved, was the FBI aware of Mr. Passage?
- 21 A. I believe the FBI was. I personally was aware of him, but  
22 did not know much about him.
- 23 Q. Now, at the time you became involved in the investigation in  
24 February of 2017, did you become aware of online threats against  
25 her?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 A. Yes, ma'am.

2 Q. And was part of your investigation to review some of those  
3 threats?

4 A. Yes.

5 Q. And was there an effort by you to determine whether those  
6 threats would meet the threshold for any type of federal criminal  
7 prosecution?

8 A. Yes, there was. Special Agent Bryant and myself met with  
9 the U.S. attorney's office to discuss those threats in detail.

10 Q. Okay. And what was the outcome of those conversations?

11 A. The determination was that they would not meet the criteria  
12 for a federal charge at that time.

13 Q. Okay. Now, the contact you received in February of 2017 to  
14 get you involved, now, was that based on an online threat or a  
15 different type of threat?

16 A. That was based on a voicemail message that was left for  
17 Ms. Baskin.

18 Q. And did that voicemail message convey information about an  
19 actual threat on her life?

20 A. Yes.

21 Q. Were you involved in interviewing the person that made that  
22 threat -- sorry -- that made the voicemail?

23 A. Yes.

24 Q. And about when did you interview that person?

25 A. February 21st of 2017.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. And did you speak to her in person or on the phone?

2 A. On the telephone.

3 Q. Did Special Agent Bryant speak to her on the phone or in  
4 person?

5 A. In person. He did a followup interview to obtain more  
6 details.

7 Q. Okay. And where -- did he have to travel somewhere to do  
8 that?

9 A. Yes, ma'am. He had to travel out of state.

10 Q. Okay. And based on the -- that interview, the information  
11 you learned through that, was there enough information to  
12 continue the FBI keeping a case open?

13 A. Yes.

14 Q. Now, did Special Agent Bryant contact you in September  
15 of 2017 with a case update?

16 A. Yes. He and I maintained contact from February until  
17 September, and then he had new information to provide in  
18 September.

19 Q. Okay. What information was that?

20 A. He had developed what his agency referred to as a  
21 cooperating private individual who had information pertinent to  
22 the case.

23 Q. All right. And what information was that?

24 A. That person had advised -- provided information about an  
25 alleged murder-for-hire plot.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. Okay. And was that person James Garretson?

2 A. Yes, ma'am.

3 Q. And what -- what type of cooperation was Mr. Garretson  
4 willing to provide?

5 A. He was willing to participate in recorded conversations with  
6 Mr. Passage and potentially to introduce an undercover agent or  
7 officer to Mr. Passage in relation to the murder-for-hire plot.

8 Q. And what's the -- what's the thinking behind attempting to  
9 introduce an undercover agent who's posing as a hit man?

10 A. Well, the information we had was that Mr. Passage had  
11 approached Mr. Garretson and asked him to find someone to kill  
12 Carole Baskin for money, and so the plan was to have the  
13 undercover agent introduced as that individual.

14 Q. And at the point of -- if the FBI can be successful in  
15 introducing an undercover agent, does that give the FBI more  
16 control over the investigation?

17 A. Absolutely.

18 Q. And does that tend to eliminate the potential harm to the  
19 victim?

20 A. Yes, ma'am.

21 Q. What kind of equipment, if any, was provided to  
22 Mr. Garretson to record conversations he was having?

23 A. Special Agent Bryant provided him with a recording device to  
24 use.

25 Q. And did Mr. Garretson record conversations with Mr. Passage?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 A. Yes, ma'am.

2 Q. And did he record conversations he had with a person named  
3 Alan Glover?

4 A. Yes.

5 Q. And did he also record conversations he was having with Jeff  
6 Lowe?

7 A. Yes.

8 Q. And during the fall of 2017, from roughly September to  
9 December of 2017, who were the main targets of the  
10 murder-for-hire investigation?

11 A. Mr. Passage, Mr. Lowe, and also Mr. Glover.

12 Q. Did you temporarily pause the investigation for much of  
13 October 2017?

14 A. Yes, we did.

15 Q. And why did you do that?

16 A. Mr. Passage's husband passed away on October the 6th.

17 Q. Okay. And so at that time did you make the decision to kind  
18 of lay off during that period?

19 A. Yes.

20 Q. Okay. Let's talk about November of 2017. On about  
21 November 6th of 2017, based on Mr. Garretson's recordings, was  
22 there evidence that led you to believe that Mr. Passage had  
23 developed a plan, an actual plan to have Carole Baskin murdered?

24 A. Yes.

25 Q. And what was your understanding of that plan?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 A. That he was going to pay Alan Glover to murder Carole  
2 Baskin. And that was the first time that we became aware of  
3 Mr. Glover's involvement.

4 Q. And what was it that happened on November 6th that led  
5 you -- that informed you of -- that there was an actual plot  
6 involving Mr. Glover?

7 A. Well, Mr. Garretson learned of the plot, and that is the  
8 date that the fake ID was purchased in Dallas.

9 Q. Okay. And based on conversations that Mr. Garretson had  
10 recorded and information he provided, did you come to find out  
11 that Mr. Glover had traveled to Dallas?

12 A. Yes.

13 Q. And based on those conversations, you -- did you discover  
14 that he had obtained a fake ID?

15 A. Yes.

16 Q. And when you learned about the purchase of the fake ID, did  
17 you and Special Agent Bryant make efforts to obtain information  
18 from the business that sold the fake ID?

19 A. Yes. Special Agent Bryant had some agents from his agency  
20 contact that business and obtain that information.

21 Q. Okay. So that was on November 6th. On November 8th, two  
22 days later, did Mr. Garretson go to the zoo?

23 A. Yes, ma'am.

24 Q. And was he instructed to go to the zoo?

25 A. Yes, he was.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. What was the -- to be the purpose of his visit, as per the  
2 investigation?

3 A. To meet with Mr. Glover and attempt to find out more about  
4 the plot.

5 Q. Was Mr. Garretson successful in recording a conversation  
6 with Mr. Glover?

7 A. Yes, ma'am.

8 Q. And based on that conversation with Mr. Glover, did it  
9 appear to you that there was, in fact, a plot for Mr. Passage to  
10 hire Mr. Glover?

11 MR. EARLEY: Your Honor, I'm going to object to that  
12 question. It asks for his personal opinion about whether or not  
13 there was some actual plot. I don't think his opinion is  
14 relevant. He may testify to facts, but not his conclusions.

15 MS. MAXFIELD-GREEN: And, Your Honor, we would -- his  
16 opinion was absolutely relevant to what was going on. He was  
17 directing -- assisting in directing the continuing investigation,  
18 so his belief about what was going on is relevant to what he did  
19 next.

20 THE COURT: To the extent that it's describing his  
21 investigation, I'll overrule the objection.

22 MS. MAXFIELD-GREEN: May I grab a water, Your Honor?

23 THE COURT: Sure.

24 Q. (By Ms. Maxfield-Green) Okay. So did you believe, based on  
25 the conversation that Mr. Garretson recorded with Mr. Glover,

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 that there was, in fact, a plot involving Mr. Glover?

2 A. Yes, ma'am.

3 Q. So based on the conversation that Mr. Garretson recorded and  
4 other information that he had learned and relayed to you, what  
5 did you believe was about to happen there in early November?

6 A. Well, based on additional information gathered by  
7 Mr. Garretson, it was our belief that Mr. Glover planned to  
8 travel from Wynnewood, Oklahoma, to Tampa, Florida, on the  
9 morning of November 17th and that he was going to be traveling by  
10 a Greyhound bus and that the purpose of this trip was to murder  
11 Carole Baskin.

12 Q. Okay. And based on your understanding, through  
13 Mr. Garretson, of the plan, was there some kind of a holdup,  
14 something that was holding up the plan at that time?

15 A. Yes, there was.

16 Q. What was the holdup?

17 A. Mr. Passage was waiting for some money, or trying to raise  
18 some money to pay Mr. Glover.

19 Q. And based on what -- the recordings that Mr. Garretson gave  
20 you, what was your understanding of how he was trying to get that  
21 money?

22 A. Through the sale of some cubs.

23 Q. Okay. So at this point, on November 8th, after learning  
24 this information from Mr. Garretson, what did you instruct  
25 Mr. Garretson to do?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 A. Just to stay in contact with Mr. Glover and Mr. Passage and  
2 provide us any updates that he could obtain.

3 Q. Okay. And did Mr. Garretson have kind of a -- let's see how  
4 to put it -- an agreement or a discussion with Mr. Glover that  
5 gave him kind of an excuse to contact Mr. Glover repeatedly to  
6 keep track of him?

7 A. Yes.

8 Q. And what was his -- the excuse he was using to continually  
9 contact him to ask him his location?

10 A. Mr. Glover had asked Mr. Garretson to arrange for him to  
11 meet some females.

12 Q. Prostitutes?

13 A. Yes.

14 Q. And was Mr. Garretson playing along with that in an attempt  
15 to keep track of Mr. Glover?

16 A. Yes.

17 Q. Had Mr. Glover indicated he wanted to meet with a prostitute  
18 before he left Oklahoma?

19 A. Yes, he did.

20 Q. And so after November 8th, were there text messages  
21 exchanged between Mr. Garretson and Mr. Glover?

22 A. Yes, there were. And just to clarify, we didn't have the  
23 date of November 17th until after November 8th.

24 Q. Okay.

25 A. In other words, we got that information, I believe on the

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 15th or 16th.

2 Q. Okay. So because there was apparently a waiting period for  
3 money, to your understanding, you didn't find out until the 15th  
4 that perhaps Mr. Glover would be leaving on the 17th, correct?

5 A. Correct.

6 Q. Okay. Now, at the time that -- at the time, by  
7 November 8th, did you believe that Mr. Garretson had sufficiently  
8 gained the confidence of Mr. Passage and Mr. Glover that if -- if  
9 he was really getting ready to go, that Mr. Garretson would have  
10 been in the know?

11 A. Yes.

12 Q. At that time -- at the time in mid November, did the  
13 government take any other action to track Mr. Glover?

14 A. Yes.

15 Q. What action did the government take?

16 A. We obtained a ping warrant for his phone so that we could  
17 obtain the location data from his telephone.

18 Q. Can you explain for us how a ping, a phone ping works?

19 A. Yes. Basically, every 15 minutes or so we would get the GPS  
20 coordinates for that phone. It would be sent electronically. In  
21 this case, it was sent to Special Agent Bryant.

22 Q. And in order to ping someone's phone by GPS location, is  
23 that something that requires a court to get involved, a court  
24 order?

25 A. Yes.

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1 Q. And so were you involved in obtaining that?

2 A. I assisted Agent Bryant. He obtained the court order.

3 Q. Okay. And at the time in mid November, was Mr. Glover's  
4 phone pinging in Oklahoma?

5 A. It was.

6 Q. Was it pinging at the zoo?

7 A. Yes, ma'am.

8 Q. All right. During this period of time -- well, let me talk  
9 about the phone pinging in a minute.

10 During this -- at some point did Mr. Glover's phone stop  
11 pinging?

12 A. Yes.

13 Q. And based on the information that's available from a phone  
14 ping, did you know why it stopped pinging?

15 A. Not exactly, but we believe the phone had been turned off or  
16 he had switched telephones.

17 Q. Okay. So a phone will stop pinging if it's just turned off?

18 A. Correct.

19 Q. Now, at this time, in mid November, where was Jeff Lowe?

20 A. He was in Las Vegas, Nevada.

21 Q. Was there evidence indicating that Mr. Lowe knew about the  
22 plot involving Mr. Passage and Mr. Glover?

23 A. Yes.

24 Q. What evidence did you have that he knew about it?

25 A. There was one recorded phone conversation that he had with

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1 Mr. Garretson.

2 Q. Now, at that time in November, when you're investigating,  
3 was there any evidence indicating that Mr. Lowe had taken steps  
4 to further or assist this plan?

5 A. No, not that we were aware of.

6 Q. All right. So the point at which you developed a belief  
7 that Mr. Glover was going to enact this -- Mr. Passage's plot,  
8 what kind of preparation was the FBI taking?

9 A. Well, we were planning to arrest Mr. Glover upon his arrival  
10 at the bus station if -- if he traveled that morning of the 17th.

11 Q. Okay. Again, this -- the date of the 17th, how did that  
12 come to be a date that you associated with him leaving?

13 A. That was the information that we had from Mr. Garretson.

14 Q. Okay. And had the FBI and the Fish & Wildlife Service put  
15 together an operation plan?

16 A. Yes, ma'am.

17 Q. What did that operation plan involve?

18 A. It involved surveillance at the park on the morning of the  
19 17th, and agents were going to be stationed at the two local bus  
20 stations, Ardmore and Pauls Valley, in the event that Mr. Glover  
21 arrived.

22 Q. Okay. And did you participate with Special Agent Bryant and  
23 the U.S. attorney's office in preparing search warrants?

24 A. Yes.

25 Q. And what did you have search warrants for?

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1 A. For the park.

2 Q. Was there -- was it part of the operation plan to arrest  
3 Mr. Passage as well if Mr. Glover made it to a bus station?

4 A. Yes, it was.

5 Q. And so there was a search warrant for the park; is that  
6 correct?

7 A. Yes.

8 Q. Was there a search warrant for various electronic devices?

9 A. Yes, ma'am. And just to clarify, there was search warrants  
10 prepared, not actually --

11 Q. Thank you. So those search warrants were not ever presented  
12 to a judge?

13 A. No. They were ready to go, essentially, as were complaint  
14 affidavits.

15 Q. Okay. And would the complaint affidavit permit you to  
16 essentially arrest or preliminarily bring charges?

17 A. Yes, ma'am.

18 Q. Okay. And was this kind of a -- based on the plan -- so you  
19 were planning to go onto the zoo, if necessary, to arrest  
20 Mr. Passage?

21 A. Yes. Our preference was going to be to try to get him to  
22 leave the park, for safety reasons, and arrest him off the  
23 premises.

24 Q. Would executing a warrant or an arrest on a zoo property  
25 have been kind of a particular safety concern?

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1 A. Yes.

2 Q. Okay. So as of mid November of 2017, you believed you had  
3 probable cause to arrest Mr. Passage, correct, or you would if  
4 Mr. Glover went to a station?

5 A. Correct.

6 Q. And you believed, if he went to that station, you would have  
7 probable cause to arrest Mr. Glover as well?

8 A. Yes.

9 Q. Did you believe that you had probable cause to arrest  
10 Mr. Lowe at that time?

11 A. No.

12 Q. What was your plan -- did you have a plan that -- if  
13 Mr. Glover had gone to a station and he was arrested and  
14 Mr. Passage was arrested, did you have a plan for contacting  
15 Mr. Lowe?

16 A. Yes. We were going to have agents in Las Vegas contact him  
17 and attempt to interview him regarding his knowledge of the plot.

18 Q. Okay. So you believed this was all going to happen on  
19 November 17th. What happened on November 16th?

20 A. On November 16th we got information from Mr. Garretson that  
21 this deal was not going to happen.

22 Q. Okay. And what kind of information did he have that he  
23 relayed to you?

24 A. Well, he passed along information to Special Agent Bryant.  
25 And over the course of the next few days, there were also

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1 recorded conversations and text messages that indicated that  
2 Mr. Glover was going to travel back to South Carolina.

3 Q. Okay. And did that seem to be inconsistent with what you  
4 had heard about the plot for him to travel to Florida?

5 A. Yes. And our information was that the deal was off and that  
6 he was going back to South Carolina to be with his family.

7 Q. And were there also -- were there text messages between  
8 Mr. Glover and Mr. Garretson that supported that?

9 A. Yes.

10 Q. All right. And was that kind of the consensus of all the  
11 investigators, that the -- and Mr. Garretson, that the meaning of  
12 the text messages was that Mr. Glover was not going to Florida?

13 A. Yes.

14 Q. So in the opinion of the investigators, as of November 16th,  
15 had the -- the Glover plan, if you will, apparently fallen apart?

16 A. Yes. That was the information that we had, was that that  
17 deal was off.

18 Q. Okay. On that date, November 16th, had you received any  
19 indication that Mr. Passage had received money from selling cubs  
20 that he was looking for?

21 A. Not to my knowledge.

22 Q. Now, the -- you have testified that the FBI operation plan  
23 was never enacted, correct?

24 A. Correct. We called that off the night of the 16th.

25 Q. Did the Fish & Wildlife Service continue with some

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1 surveillance the next morning?

2 A. They did. I had spoke with Special Agent Bryant on the  
3 night of the 16th and he had already brought some people into  
4 town from other states, some other Fish & Wildlife agents. And  
5 so they did surveillance at two bus stations, the one in Pauls  
6 Valley and the one in Ardmore.

7 Q. And that was on the morning of the 17th?

8 A. Correct.

9 Q. And fair to say they didn't see Mr. Glover going to a bus  
10 station?

11 A. Correct. And his phone continued to ping at the -- in the  
12 area of the park for the next few days.

13 Q. Before it was apparently shut off?

14 A. Correct.

15 Q. So in November of 2017, did you have any information that  
16 there had been discussions between Mr. Passage and Mr. Glover?  
17 And by -- what I mean, did you have any recordings of  
18 conversations between just Mr. Passage and Mr. Glover discussing  
19 this plan?

20 A. No. We had no specific information regarding the nature of  
21 their discussions, just what Mr. Garretson had provided to us.

22 Q. So anytime in November of 2017, did you -- were you aware  
23 that -- or were you given any information that Mr. Passage gave  
24 money of any kind to Mr. Glover?

25 A. No.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. In November of 2017 did you have information of any kind  
2 indicating that Mr. Passage had given Mr. Glover a phone?

3 A. No.

4 Q. Did you have any indication of any kind that Mr. Passage had  
5 mailed a package to Las Vegas?

6 A. No.

7 Q. All right. Also in November of 2017, did you have any  
8 information about whether Mr. Glover did, in fact, go to South  
9 Carolina?

10 A. Yes. We were told he did.

11 Q. Did you know at that time how he got to South Carolina?

12 A. Well, the information we had was that he had caught a ride  
13 with a third party.

14 Q. Did you eventually get information on all of these things,  
15 a -- conversations with Mr. Glover, cell phones and the things we  
16 just talked about, did you eventually get evidence of those  
17 things?

18 A. Yes.

19 Q. When did you get evidence of those things?

20 A. Several months later.

21 Q. Can you -- was that in 2018?

22 A. Yes.

23 Q. Do you remember the approximate month in 2018?

24 A. As to which?

25 Q. Well, the mailing of -- that Mr. Passage had mailed anything

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1 to Las Vegas in November.

2 A. That would have been in July, I believe, of 2018.

3 Q. And what about information regarding specific conversations  
4 between Mr. Passage and Mr. Glover, when did you get that  
5 information?

6 A. When we interviewed Mr. Glover on July 13th of 2018.

7 THE COURT: Ms. Green, is this a logical stopping point  
8 for you?

9 MS. MAXFIELD-GREEN: Yes.

10 THE COURT: Ladies and gentlemen of the jury, we'll  
11 break for the evening. We have put in a long, hard day.

12 I remind you of the admonition, please don't discuss the  
13 case amongst yourselves or with any other person, don't watch any  
14 news accounts, read anything online, do any kind of independent  
15 research. The case has not been submitted to you and you should  
16 still have an open mind. With that being said, if you will  
17 retire to the jury room and we will start at 9 o'clock sharp  
18 tomorrow morning.

19 Please remain seated while the jury leaves the courtroom.

20 (Jury exited.)

21 THE COURT: Anything further from either party before  
22 we break?

23 MS. MAXFIELD-GREEN: No, Your Honor.

24 MR. EARLEY: No, Your Honor.

25 (Court adjourned.)

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REPORTER'S CERTIFICATION

I, Emily Eakle, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Oklahoma, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 6th day of March 2020.

**/S/ Emily Eakle**  
EMILY EAKLE, RMR, CRR  
Federal Official Court Reporter

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CASE NO. CR-18-227-SLP

JOSEPH MALDONADO-PASSAGE,

Defendant.

\* \* \* \* \*  
**VOLUME III OF VII**

TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE

MARCH 27, 2019

\* \* \* \* \*

Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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EXAMINATION INDEX

PAGE

ANDREW FARABOW

Direct Examination by Ms. Maxfield-Green.....456  
Cross-Examination by Mr. Earley.....481  
Redirect Examination by Ms. Maxfield-Green.....522

JAMES GARRETSON

Direct Examination by Ms. Maxfield-Green.....527  
Cross-Examination by Mr. Earley.....580  
Redirect Examination by Ms. Maxfield-Green.....604  
Recross Examination by Mr. Earley.....608

ALAN GLOVER

Direct Examination by Ms. Maxfield-Green.....614  
Cross-Examination by Mr. Wackenheim.....650

Reporter's Certificate.....675

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 (The following record was made in open court on March 27,  
2 2019, in the presence of all parties, counsel, and in the  
3 presence and hearing of the jury.)

4 THE COURT: Good morning, ladies and gentlemen.  
5 Welcome back.

6 Ms. Green, you may continue.

7 Agent Farabow, if you would return to the stand, please.

8 ANDREW FARABOW,

9 DIRECT EXAMINATION (continued)

10 BY MS. MAXFIELD-GREEN:

11 Q. All right. Good morning, Special Agent Farabow.

12 A. Good morning.

13 Q. Okay. When we left off yesterday, we were talking about  
14 your investigation into this case and the state of that  
15 investigation in November of 2017, correct?

16 A. Yes, ma'am.

17 Q. Okay. Let's talk about November 6th. And we discussed  
18 that, the events of November 6 yesterday, but on or about that  
19 date -- well, first of all, refresh us on what happened on  
20 November 6th.

21 A. That was the date that we learned about the plot involving  
22 Alan Glover and the date on which the fake ID was purchased in  
23 Dallas.

24 Q. All right. And on that date did you make contact with  
25 Carole Baskin?

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1 A. No. I made contact with her husband.

2 Q. Okay. And what was the purpose of your contact?

3 A. I believe this was the second time I had contacted him, just  
4 to advise him of what was going on and keep him apprised of  
5 developments in the case.

6 Q. Now, did you tell him any specifics; for instance, that a  
7 fake ID had been purchased?

8 A. No.

9 Q. What level of detail did you communicate?

10 A. I just told him that we had information that the threat was  
11 credible and that there was an active plan in place, something  
12 along those lines.

13 Q. And on or about that same day in -- in November, did you  
14 contact the FBI in Tampa?

15 A. Yes, ma'am.

16 Q. And what did -- what was the purpose of your contact to  
17 them?

18 A. I relayed the information we developed to an agent that I  
19 knew down in the Tampa division, and I put him in contact with  
20 Mr. Baskin. And then I also sent what we call a lead, a formal  
21 document with information, to the Tampa office advising them of  
22 the state of our case.

23 Q. Okay. In November of 2017, did you -- did you know that  
24 Mr. Passage had given Mr. Glover money to murder Carole Baskin?

25 A. No.

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1 Q. When did you find that out?

2 A. Well, there were recordings that alluded to that fact  
3 several months later, but it wasn't actually verified until we  
4 interviewed Mr. Glover in July of 2018.

5 Q. Okay. So you were testifying yesterday that, from the  
6 perspective of the FBI, that the Glover plot had fizzled on  
7 November 16th; is that correct?

8 A. Yes. That was the information that we had.

9 Q. And did James Garretson have a conversation with Mr. Passage  
10 on November 17th?

11 A. Yes.

12 Q. What did you learn from that conversation?

13 A. They discussed the Glover plot and it appeared that that was  
14 not going to go forward, as I said. And they discussed  
15 Mr. Garretson's friend who was going to be the undercover agent  
16 and Mr. Passage seemed receptive to meeting with him.

17 Q. Okay. And by that date, by November 17th, had you already  
18 lined up an undercover agent that could be introduced if the  
19 opportunity arose?

20 A. Yes, ma'am.

21 Q. So did you start making plans for him to go with  
22 Mr. Garretson for an introduction to Mr. Passage?

23 A. Yes.

24 Q. So what happened next?

25 A. On December 5th Mr. Garretson contacted Mr. Passage and

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 arranged a meeting for December 8th.

2 Q. And did the undercover agent go with Mr. Garretson on  
3 December 8th and meet Mr. Passage?

4 A. Yes, ma'am.

5 Q. And did he record that meeting?

6 A. Yes.

7 Q. Based on that meeting and listening to the recording of it,  
8 did you believe at that time that it had ended with an agreement  
9 between --

10 MR. EARLEY: Your Honor, I'm going to object to this  
11 question. She's asking for a conclusion as to his opinion about  
12 whether a crime had been committed. It's improper.

13 THE COURT: Overrule the objection at this time. You  
14 can cross-examine about that, Mr. Earley.

15 Q. (By Ms. Green) Based on that meeting, did you believe that  
16 it ended with an agreement between Mr. Passage and the undercover  
17 agent that Mr. Passage would hire him to murder Carole Baskin?

18 A. Yes, I did.

19 Q. Now, during that meeting on December 8th, did Mr. Passage  
20 give the undercover agent any money?

21 A. No, he did not.

22 Q. And did Mr. Passage ever give the undercover agent any  
23 money?

24 A. No, he did not.

25 Q. Based on the recorded conversations between Mr. Garretson

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1 and Mr. Passage, what was your understanding as to why that was?

2 A. Mr. Passage indicated that he was trying to come up with the  
3 money.

4 Q. Did Mr. Garretson record calls with Mr. Passage during the  
5 spring of 2018 as well?

6 A. Yes.

7 Q. And in those conversations did Mr. Passage bring up the  
8 undercover agent again?

9 A. There were ongoing discussions periodically between  
10 Mr. Garretson and Mr. Passage about the undercover officer, for  
11 several months up until March the 28th of 2018.

12 Q. And just -- just for ease of reference, what did  
13 Mr. Garretson and Mr. Passage refer to that undercover agent as?

14 A. Mark.

15 Q. At some point in March or April of 2018, did Mr. Passage  
16 stop talking to Mr. Garretson?

17 A. Yes. There was some kind of disagreement or falling out  
18 that they had.

19 Q. How did that impact the investigation?

20 A. Well, it basically prevented us from moving forward with the  
21 undercover operation, because the way it had been left was that  
22 Mr. Passage and Mr. -- or the undercover agent would communicate  
23 through Mr. Garretson and Mr. Garretson would be the point of  
24 contact for both to arrange a subsequent meeting.

25 Q. So did Mr. Passage have any independent -- a way independent

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 of Mr. Garretson of contacting Mark, the undercover?

2 A. No.

3 Q. So at that point when the -- the conversation between  
4 Mr. Passage and Mr. Garretson had stopped, what was the plan for  
5 the investigation?

6 A. Well, after a period of time and -- and we saw that the  
7 undercover operation was not going to move forward, we decided to  
8 do interviews of individuals who might have knowledge of the  
9 schemes.

10 Q. What happened in May of 2018?

11 A. In May of 2018? Could you be more specific?

12 Q. Did you get a contact from Mr. Garretson with new  
13 information in May of 2018?

14 A. Well, Mr. Garretson had a contact with Jeff Lowe. Is that  
15 what you're referring to?

16 Q. Yes.

17 A. And he -- Mr. Lowe indicated that he thought that a payment  
18 had been made by Mr. Passage to Mr. Glover in relation to this.

19 Q. So based on that, did Mr. Garretson coordinate a meeting  
20 between Jeff Lowe and Special Agent Matt Bryant?

21 A. Yes.

22 Q. And did he have that meeting?

23 A. Yes.

24 Q. Was that on about June 5th?

25 A. Yes, it was.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. After that meeting, did Mr. Lowe provide any physical  
2 evidence to the government?

3 A. Yes, he did.

4 Q. What did he provide?

5 A. Well, he engaged in recorded conversations with Mr. Glover,  
6 and then he also provided a cell phone to Special Agent Bryant.

7 Q. All right. What happened next?

8 A. Well, after the cell phone was provided, eventually Mr. Lowe  
9 arranged for Mr. Glover to come back to Oklahoma and we  
10 interviewed him here in Oklahoma.

11 Q. Did you also interview Mr. Lowe again in July of 2018?

12 A. Yes. We did a followup interview of Mr. Lowe on July 10th  
13 of 2018.

14 Q. Did you participate in that interview?

15 A. Yes, ma'am.

16 Q. And prior to that interview was Mr. Lowe provided any form  
17 of immunity from prosecution?

18 A. No.

19 Q. Did he request immunity?

20 A. He did.

21 Q. All right. When you interviewed Mr. Glover in July of 2018,  
22 did he provide the government with any physical evidence?

23 A. He did. He provided two additional cell phones.

24 Q. So at this point you had three cell phones that had been  
25 provided to you?

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Oklahoma City, OK 73102 \* 405.609.5403

ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 A. Correct.

2 Q. And what did you do with those?

3 A. I submitted those for digital analysis.

4 Q. And did you have consent to search those phones?

5 A. Yes. Mr. Glover provided consent for the search of all  
6 three phones.

7 Q. Okay. And when -- at the FBI, when you submit a phone for  
8 an examination, what happens?

9 A. We have some computer specialists who handle that and they  
10 do an extraction of data from the phone, and then that data is  
11 put onto a computer that I can use to review the data and I go  
12 through and I mark what I believe is pertinent to the  
13 investigation.

14 Q. All right. If you would, take a look at Government's  
15 Exhibit 25, 26 and 27.

16 A. Yes, ma'am.

17 Q. Okay. And what are these?

18 A. These are portions of the extraction report.

19 Q. And is the extraction report of any given cell phone, is  
20 that a -- what's the kind of volume of information that's  
21 produced?

22 A. The full extraction is quite voluminous. It took me several  
23 days to review all the data on the three phones.

24 Q. Okay. And so is what you're looking at just some excerpts  
25 of that more voluminous data?

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1 A. Yes, ma'am.

2 MS. MAXFIELD-GREEN: Government moves to admit Exhibits  
3 25, 26 and 27.

4 THE COURT: Any objection?

5 MR. EARLEY: No objection.

6 THE COURT: 25, 26 and 27 will be admitted.

7 Q. (By Ms. Green) Let's look at Government's Exhibit 25. And  
8 this is an extraction report of a cell phone, correct?

9 A. Yes, ma'am. This is an HTC cell phone.

10 Q. And is the HTC cell phone, which telephone was that? Whose  
11 phone was it and when was it in use?

12 A. This was the phone of Mr. Glover and it was the one provided  
13 to Agent Bryant.

14 Q. Okay. And does the data indicate that that cell phone was  
15 in use in the fall of 2017?

16 A. Yes, ma'am.

17 Q. And is this the cell phone that the Government obtained a  
18 ping for?

19 A. Yes.

20 Q. All right. Let's look at Page 2.

21 MS. MAXFIELD-GREEN: And if you can kind of zoom in  
22 there, Jane. Yeah, that top -- yeah.

23 Q. (By Ms. Maxfield-Green) Okay. What information is this?

24 A. This is location data for that phone.

25 Q. Okay. And the location data, what -- when was the last

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 location or -- sorry -- where was the last location that was  
2 recorded on this phone?

3 A. If you see under the column that says "position," it lists  
4 the latitude and longitude, which is in the area of Wynnewood,  
5 Oklahoma.

6 Q. And what date was the last location recorded on this phone?

7 A. November 25th of 2017.

8 Q. Okay. And the fact that this is the last location data that  
9 was recorded on the phone, what does that indicate?

10 A. Most likely that the phone was off after that time.

11 Q. Okay. And while we're talking about -- about dates and  
12 times on this, so the top -- the last entry -- or I guess it's  
13 the first entry there that reflects the last location  
14 information, it shows 11/25/2017 at 2:59:42 p.m. and then there's  
15 UTC plus 0. Can you explain that for us?

16 A. Yes. The time stamp here is in UTC time, which during that  
17 time of year is six hours ahead of Central Standard Time.

18 Q. Okay. So if we want to know what time it was Central  
19 Standard Time on that date, we look at that time and do what?

20 A. I'm sorry. You would add six hours.

21 Q. Add or subtract?

22 A. Yes, you would -- that says p.m. I'm sorry. I'm having  
23 trouble reading. You would subtract the six hours from 2:59.

24 Q. Okay. And I hate to make you do math on the stand, but if  
25 that's roughly 3 o'clock p.m., what time would it be in actual

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Central Standard Time in Oklahoma?

2 A. 8:59.

3 Q. Let's look at -- let's look at Government Exhibit 26,  
4 please.

5 Okay. And this is -- is this an extraction report from a  
6 cell phone that was received into evidence?

7 A. Yes.

8 Q. And which phone is this?

9 A. This is a ZTE phone.

10 MS. MAXFIELD-GREEN: And just with this example, Jane,  
11 can you go to the last page?

12 Q. (By Ms. Green) Okay. And is part of this extraction report  
13 photos of the actual phone?

14 A. Yes.

15 Q. Okay. So that's what the phone looked like that you  
16 processed, correct?

17 A. Correct.

18 Q. Okay. And, again, was this a phone that Mr. Glover gave to  
19 you or that Mr. Lowe gave to you?

20 A. That Mr. Glover gave to me.

21 MS. MAXFIELD-GREEN: Okay. Let's look at Page 3, Jane.

22 Q. (By Ms. Green) Okay. And this -- at the top it says  
23 "images." What is shown on the -- this part of the extraction  
24 report?

25 A. Well, the first two are images from the Internet, and then

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 the others are photographs that were taken with the phone.

2 Q. Okay.

3 MS. MAXFIELD-GREEN: And, Jane, if you could zoom in on  
4 the third entry there.

5 Q. (By Ms. Maxfield-Green) So this was a, like you said, a  
6 photograph that appeared on the phone?

7 A. Correct.

8 Q. Okay. And what time -- from this information, can you tell  
9 when that photo was captured?

10 A. Yes. It was captured on November 25th, 2017, at 9:05 a.m.,  
11 which equates to 1505 UTC time.

12 Q. So that 9:05, because it does not have the UTC, that's a  
13 real time, correct?

14 A. Correct.

15 Q. Or a Central Standard Time?

16 A. Yes.

17 Q. And did you review more closely that photo?

18 A. Yes.

19 Q. What does it appear to be a photo of?

20 A. Various photos of Carole Baskin.

21 Q. Okay. Could you take a look at Exhibit 143, please? I'm  
22 sorry. 144.

23 A. Yes, ma'am.

24 Q. And what is that?

25 A. That's the same images.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

- 1 Q. Okay. Is that just a bigger version of what that image is?
- 2 A. Yes.
- 3 Q. Okay.
- 4 MS. MAXFIELD-GREEN: Government moves to admit 144.
- 5 THE COURT: Any objection?
- 6 MR. EARLEY: No objection.
- 7 THE COURT: 144 will be admitted.
- 8 Q. (By Ms. Maxfield-Green) Okay. So this is the full, large
- 9 version of the -- that thumbnail we were looking at, correct?
- 10 A. Yes, ma'am.
- 11 Q. And who's in these pictures?
- 12 A. Carole Baskin.
- 13 Q. Let's go back to Government's 26, Page 3, please.
- 14 MS. MAXFIELD-GREEN: Jane, the fourth block down.
- 15 Q. (By Ms. Maxfield-Green) And what does this data tell us?
- 16 A. The data shows the created date of that picture, and time.
- 17 Q. Okay. And what is the date and time that that picture was
- 18 captured on the cell phone?
- 19 A. November 25th, 2017, at 1505 UTC time.
- 20 Q. And is that 9:05 Central Standard Time?
- 21 A. Yes, ma'am.
- 22 Q. Okay. And the thumbnail that we're looking at there, what
- 23 does that appear to be a picture of?
- 24 A. Carole Baskin.
- 25 Q. Could you look at Government's Exhibit 143, please? And do

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 you recognize that?

2 A. I do.

3 Q. What is it?

4 A. That's the same photo.

5 MS. MAXFIELD-GREEN: Government moves to admit 143.

6 MR. EARLEY: No objection.

7 THE COURT: 143 will be admitted.

8 Q. (By Ms. Maxfield-Green) Okay. So this is just a larger  
9 version of the thumbnail that we were looking at on the  
10 extraction report?

11 A. Yes, ma'am.

12 Q. Okay.

13 MS. MAXFIELD-GREEN: Jane, can you go back to 26,  
14 Page 3?

15 Q. (By Ms. Maxfield-Green) And you testified earlier in those  
16 first two blocks, those are -- that data, does it reflect that  
17 the Internet was accessed?

18 A. Yes, the first two rows.

19 Q. Okay. And what does it appear that that phone was used to  
20 access on the Internet?

21 A. There's a photo of Carole Baskin and the Big Cat Rescue  
22 emblem.

23 MS. MAXFIELD-GREEN: Jane, if we can go to the next  
24 page, Page 4.

25 Q. (By Ms. Maxfield-Green) Okay. Let's look at the -- well,

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 the first block, is that -- what is that a photo of? Jane will  
2 blow that up for you.

3 A. Again, those are photos of Carole Baskin.

4 Q. And were they captured on the cell phone on November 25th,  
5 2017 at 9:05?

6 A. Yes, ma'am.

7 MS. MAXFIELD-GREEN: Let's go to the second block,  
8 Jane.

9 Q. (By Ms. Maxfield-Green) And is this another photo that was  
10 captured on the cell phone on November 25th, 2017, at 9:06 a.m.?

11 A. Yes, ma'am.

12 Q. And you see the thumbnail there. And if you could look at  
13 that thumbnail and then look at Government's Exhibit 145, please.

14 A. Okay.

15 Q. And are you familiar with that image?

16 A. I am.

17 Q. What is that an image of?

18 A. It's a photo that shows the Big Cat Rescue address.

19 Q. Okay. And is it the same photo -- a larger version of the  
20 photo that's in the thumbnail there?

21 A. Yes, ma'am.

22 MS. MAXFIELD-GREEN: Government moves to admit 145.

23 THE COURT: Any objection?

24 MR. EARLEY: No objection.

25 THE COURT: 145 will be admitted.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. (By Ms. Maxfield-Green) And what does -- I'm sorry. I  
2 think you have said this already, but what does this appear to be  
3 a picture of?

4 A. It appears to be from the Big Cat Rescue website. It's --  
5 lists the address at the bottom, in the center of the photo.

6 Q. Take a look at Exhibit 146 as well, please. And are you  
7 familiar with that image?

8 A. Yes.

9 Q. And what is that?

10 A. Again, that's a photo of the address of Big Cat Rescue.

11 Q. Okay.

12 MS. MAXFIELD-GREEN: Government moves to admit 146.

13 THE COURT: Any objection?

14 MR. EARLEY: No objection.

15 THE COURT: 146 will be admitted.

16 Q. (By Ms. Maxfield-Green) And is that just simply an -- a  
17 different photo that was on the phone of a close-up of the Big  
18 Cat Rescue address?

19 A. Yes.

20 Q. Okay. If you could take a look at Government's 27,  
21 please -- or actually, it's already admitted. So can we see  
22 Government's 27.

23 Okay. And is this another cell phone extraction report?

24 A. Yes. This is from a Samsung cell phone.

25 Q. And where did this Samsung -- where did the Government

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 obtain this Samsung cell phone?

2 A. I obtained it from Mr. Glover.

3 Q. All right. Let's look at Page 2, please. Page 2.

4 Okay. And what does this portion of the report show?

5 A. Text messages.

6 Q. All right. And if --

7 MS. MAXFIELD-GREEN: Jane, we can look at the very  
8 first one.

9 Q. (By Ms. Maxfield-Green) And this text message, when was it  
10 sent to this cell phone?

11 A. It was an incoming text message sent to this Samsung cell  
12 phone on February 26, 2018.

13 Q. Okay. And this was a cell phone that was in the possession  
14 of Mr. Glover, correct?

15 A. Yes, ma'am.

16 Q. All right. And the number there, 405-207-1168, based on  
17 your investigation, the overall course of your investigation, who  
18 did that cell phone belong to, cell number belong to?

19 A. That was a cell phone used by Mr. Passage.

20 Q. And what does that text message say?

21 A. "How soon can you get back?"

22 MS. MAXFIELD-GREEN: Jane, if you can go down to the  
23 next one. It's Block 39.

24 Q. (By Ms. Maxfield-Green) Okay. Is this another text message  
25 from Mr. Passage's cell phone to Mr. Glover's cell phone?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

- 1 A. Yes, ma'am.
- 2 Q. And what date did it come in to the phone?
- 3 A. The same date, February 26 of 2018.
- 4 Q. And what does the text message say?
- 5 A. "Miss you."
- 6 Q. All right.
- 7 MS. MAXFIELD-GREEN: And, Jane, let's look at Block 49,
- 8 please -- actually, 49, 50 and 51.
- 9 Q. (By Ms. Maxfield-Green) All right. And are these more --
- 10 are these two text messages from Mr. Passage's phone and one text
- 11 message to Mr. Passage's phone?
- 12 A. Yes. There's actually a total of three there.
- 13 Q. Okay. And when were these text messages exchanged?
- 14 A. On the same date, February 26, 2018.
- 15 Q. All right. The first one, from Mr. Passage's phone, what
- 16 does it say?
- 17 A. "Hey, you got ant (sic) of that cash left?"
- 18 Q. Okay. And what's your understanding of "ant," what that was
- 19 supposed to mean?
- 20 A. Any.
- 21 Q. All right. What was the response back to Mr. Passage's cell
- 22 phone number?
- 23 A. "Not really, sir, but I can get cash. Social Security still
- 24 owes me \$3,760, which I found out a way to get it all, but, yeah,
- 25 I'll have some money for you when I get there."

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. Okay. And what does -- what text message comes back in from  
2 Mr. Passage's cell phone number on February 26, 2018?

3 A. "All good."

4 MS. MAXFIELD-GREEN: All right. Let's see the next  
5 page, Jane.

6 Q. (By Ms. Maxfield-Green) And are these more text messages to  
7 Mr. Glover's cell phone?

8 A. Yes.

9 MS. MAXFIELD-GREEN: Let's see that one there, Jane.

10 Q. (By Ms. Maxfield-Green) Okay. And is this another text  
11 message from Mr. Passage's cell phone to Mr. Glover's cell phone?

12 A. Yes, ma'am.

13 Q. And when was it sent?

14 A. March 5th of 2018.

15 Q. And what does it say?

16 A. "Hurry, I need help."

17 Q. All right.

18 MS. MAXFIELD-GREEN: Next page, Jane. Let's look at  
19 the first block there.

20 Q. (By Ms. Maxfield-Green) Is this another text message from  
21 Mr. Passage's cell phone number to Mr. Glover's cell phone?

22 A. Yes.

23 Q. And what date is it on?

24 A. April 6, 2018.

25 Q. What does it say?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 A. "I could use your help."

2 Q. All right. And Block No. 83, another text message from  
3 Mr. Passage?

4 A. Yes, ma'am, on the same date.

5 Q. And what does it say?

6 A. "It's killing me, can't find help."

7 Q. All right.

8 MS. MAXFIELD-GREEN: Down to the next one, Jane.

9 Q. (By Ms. Maxfield-Green) All right. Number 91, is this  
10 another text message from Mr. Passage's cell number to  
11 Mr. Glover's phone?

12 A. Yes.

13 Q. What date is it on?

14 A. April 24th, 2018.

15 Q. And what does it say?

16 A. "Been waiting on you."

17 Q. Okay. Could you take a look at Government's Exhibit 23,  
18 please? Got it?

19 A. Yes, ma'am.

20 Q. Are you familiar with that document?

21 A. Yes. These are records provided by American Airlines.

22 Q. And did you obtain those records in connection with your  
23 investigation?

24 A. I did.

25 MS. MAXFIELD-GREEN: Government moves to admit

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Exhibit 23, please.

2 THE COURT: Any objection?

3 MR. EARLEY: No objection.

4 THE COURT: 23 will be admitted.

5 Q. (By Ms. Maxfield-Green) Okay. And these documents were  
6 provided by American Airlines, correct?

7 A. Yes, ma'am.

8 Q. And what do they show?

9 A. They show booked travel for Frank Alan Glover on  
10 November 25th, 2017.

11 Q. Okay. And could you describe the flight itinerary for  
12 November 25th of 2017?

13 A. Yes. He was traveling from Oklahoma City to Savannah,  
14 Georgia, with a couple of stops in between.

15 Q. And when did that flight leave Oklahoma City on November 25,  
16 2017?

17 A. 1553, or 3:53 p.m.

18 Q. And when did it arrive in Savannah, Georgia?

19 A. Early the following morning.

20 Q. Okay. And this shows ticket information.

21 MS. MAXFIELD-GREEN: There in the middle, can you blow  
22 up the middle section under "phone information," Jane? Just that  
23 block -- yeah.

24 Q. (By Ms. Maxfield-Green) And what information does this  
25 show? What part of the airline ticketing information does this

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 show?

2 A. How the travel was booked and the phone number and email  
3 address associated with this travel.

4 Q. Okay. So it was booked through Travelocity?

5 A. Yes, ma'am.

6 Q. And what's the email address it was booked with?

7 A. Roundfaceranch@gmail.com.

8 Q. Okay. Can you take a look at Government's Exhibit 24? And  
9 are you familiar with that document?

10 A. I am.

11 Q. What is it?

12 A. It's a document pertaining to HomeWAV Access, which is a  
13 video visitation program used by inmates.

14 Q. All right.

15 MS. MAXFIELD-GREEN: And the Government moves to admit  
16 24, please.

17 THE COURT: Any objection?

18 MR. EARLEY: No objection.

19 THE COURT: 24 will be admitted.

20 Q. (By Ms. Maxfield-Green) Okay. And so is this -- well,  
21 let's look at the visitor details that are listed here. And  
22 again, what -- in what circumstance would someone need to provide  
23 these visitor details to the HomeWAV program?

24 A. If they wanted to communicate with an inmate over video,  
25 similar to Skype.

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 Q. And based on the records you received, was this information  
2 that was provided by someone attempting to contact Mr. Passage?

3 A. Yes.

4 MS. MAXFIELD-GREEN: All right. Let's look at the  
5 blowup on visitor details, Jane. Just all the way down. There  
6 you go.

7 Q. (By Ms. Maxfield-Green) Okay. What is the user name for  
8 this visitor?

9 A. Anne Patrick.

10 Q. And what -- I'm sorry. The user name at the top.

11 A. Oh, roundface.

12 Q. Okay. And what email was provided?

13 A. Roundfaceranch@gmail.com.

14 Q. All right. And then the actual person's name was Anne  
15 Patrick, correct?

16 A. Correct.

17 Q. Got a phone number. Where does that person list their --  
18 their state?

19 A. Massachusetts.

20 Q. Through the course of your investigation, have you reviewed  
21 a number of phone calls that Mr. Passage has made while he was in  
22 custody?

23 A. I have.

24 Q. Did Mr. Passage make a number of phone calls to Anne Patrick  
25 of Massachusetts?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 A. Yes.

2 Q. Is the -- the email address that was provided by Anne  
3 Patrick on that registration, roundfacerranch, the same -- roughly  
4 the same as the email address on the American Airlines record?

5 A. Yes, it is.

6 Q. All right. Was Mr. Passage in custody at the Grady County  
7 Jail in October of 2018?

8 A. Yes, he was.

9 Q. And are all the phone calls at the jail recorded?

10 A. Yes.

11 Q. And during the course of your investigation you have  
12 listened to a number of those calls, correct?

13 A. I have.

14 Q. Did you listen to a call made by Mr. Passage on October 23rd  
15 of 2018?

16 A. Yes, ma'am.

17 Q. And was that call made to Dillon Passage, his husband?

18 A. It was.

19 Q. And is a copy -- an excerpt of that call located at  
20 Exhibit 38?

21 A. I believe so, but I don't have one in the book.

22 Q. Okay. Is it -- you're looking at a DVD, right?

23 MS. MAXFIELD-GREEN: Government moves to admit  
24 Exhibit 38.

25 THE COURT: Any objection?

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ANDREW FARABOW - Direct by Ms. Maxfield-Green

1 MR. EARLEY: No, Your Honor.

2 THE COURT: Government's 38 will be admitted.

3 (Audio played in open court.)

4 Q. (By Ms. Maxfield-Green) All right. Did you -- in listening  
5 to the calls made by Mr. Passage, did he make any statements in  
6 any of those calls about shooting tigers?

7 A. Yes.

8 Q. What did he say?

9 A. He admitted that he had shot five tigers.

10 Q. Did he admit that in more than one phone call?

11 A. He did.

12 Q. Did you listen to a call made by Mr. Passage on March 16th  
13 of 2019?

14 A. I did.

15 Q. And was that call made to a female friend?

16 A. Yes.

17 Q. And is a copy of an excerpt of that call at Exhibit 36, or  
18 at least do you have a DVD there at Exhibit 36?

19 A. Yes, I do.

20 MS. MAXFIELD-GREEN: Government moves to admit  
21 Exhibit 36.

22 MR. EARLEY: No objection.

23 THE COURT: Government 36 will be admitted.

24 (Audio played in open court.)

25 MS. MAXFIELD-GREEN: Government passes the witness.

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ANDREW FARABOW - Cross by Mr. Earley

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION

3 BY MR. EARLEY:

4 Q. Agent Farabow, yesterday you had mentioned that you heard --  
5 or had heard the name Joseph Maldonado-Passage before you  
6 actually got into this investigation. Do you recall that?

7 A. Yes, sir.

8 Q. And had that been in connection with your position with the  
9 FBI?

10 A. No, sir.

11 Q. All right. So do you have any information about whether  
12 your agency had investigated any activity at the park where  
13 Mr. Passage was actually the victim of a crime?

14 A. I believe that was the case.

15 Q. And tell us what that was.

16 A. I don't have the specifics on that. I know that agents had  
17 responded down there a couple of years prior, and I believe it  
18 was agents from our cyber squad, but I don't know the details  
19 regarding it.

20 Q. Okay. What squad is that?

21 A. They investigate cyber crimes.

22 Q. Okay. But they had been called to the park to investigate  
23 something that apparently the park or Mr. Passage had been a  
24 victim of, correct?

25 A. Right.

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ANDREW FARABOW - Cross by Mr. Earley

1 Q. All right. Now, concerning this investigation, your first  
2 contact was in February of 2017; is that right?

3 A. Yes, sir.

4 Q. And it concerned the alleged threats, I guess, to -- that  
5 were made to Carole Baskin; is that right?

6 A. Correct.

7 Q. Now, I'm assuming those are portions of which we heard  
8 yesterday on the audio and videos.

9 A. No, sir.

10 Q. Okay. Was that the phone call that you're referring to?

11 A. Yes, sir, the voicemail.

12 Q. Now, after you got involved in this investigation, did you  
13 check to see whether or not the Wynnewood Police Department had  
14 any record of a complaint made by Carole Baskin?

15 A. I did not.

16 Q. And did you check with the Garvin County Sheriff's Office to  
17 see if there was any complaint made by Carole Baskin?

18 A. I did not.

19 Q. Why not?

20 A. I didn't see any need to contact them.

21 Q. And so after you reviewed the information that you had in  
22 February of 2017, you determined that it didn't meet the criteria  
23 for you pursuing a charge; is that right?

24 A. Are you referring to the online postings?

25 Q. Yes.

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ANDREW FARABOW - Cross by Mr. Earley

1 A. Yes, sir. I met with the assistant U.S. attorneys and we  
2 discussed it at length.

3 Q. All right. And you also had -- was Agent Bryant there at  
4 that meeting?

5 A. Yes, ma'am -- yes, sir.

6 Q. Okay. So at that meeting you made a suggestion, did you  
7 not, about how to perhaps proceed in this case?

8 A. At which meeting, sir?

9 Q. At the meeting you had with the U.S. attorney and Agent  
10 Bryant.

11 A. Well, there were several of those.

12 Q. The first one, where you discussed the online threats.

13 A. Okay. The way that happened is we were receiving  
14 information about those online threats over time, and so there  
15 were actually several discussions about the nature of those and  
16 whether it would rise to the level of a federal charge.

17 Q. Okay. So -- but during this period of time, you had the  
18 online threats, you also had that threat you referenced from a  
19 woman in Colorado; is that right?

20 A. Yes, sir.

21 Q. So this meeting that I'm referring to occurred on March the  
22 29th, 2017. Do you remember that meeting?

23 A. Not specifically, no, I don't.

24 MR. EARLEY: Can I approach and --

25 THE COURT: You may.

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ANDREW FARABOW - Cross by Mr. Earley

1 THE WITNESS: Yes, sir. This was following Agent  
2 Bryant's interview of the lady in Colorado.

3 Q. (By Mr. Earley) All right. And what was your --

4 THE COURT: Hold on, Mr. Earley. If you'll wait until  
5 you get back to the microphone, so we can all hear.

6 MR. EARLEY: I'm usually loud enough, Judge, but --

7 Q. (By Mr. Earley) And what was your recommendation at that  
8 time?

9 A. I don't know that I would call it a recommendation, but I  
10 documented that I mentioned the possibility of interviewing  
11 people regarding the threats.

12 Q. You mentioned the option of bringing Mr. Passage in,  
13 Mr. Lowe in, and even his -- Mr. Lowe's wife, correct?

14 A. Correct.

15 Q. And having a discussion about these alleged threats,  
16 correct?

17 A. Yes.

18 Q. But that course of action wasn't accepted, right?

19 A. Well, we all determined that that was not the best course of  
20 action.

21 Q. And why?

22 A. Because there was an ongoing investigation involving the  
23 park and Mr. Passage and other individuals.

24 Q. Well, involving the -- the wildlife cases, correct?

25 A. Yes.

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ANDREW FARABOW - Cross by Mr. Earley

1 Q. There was a consensus, I guess, drawn that we don't want to  
2 interrupt the investigation of these alleged sales of tigers and  
3 endangered species, correct?

4 A. That was part of it, and part to pursue an investigation  
5 into the threats.

6 Q. Now, your next involvement in this case was when Agent  
7 Bryant contacted you and said, hey, I have this confidential  
8 source; is that right?

9 A. No, sir. Over the next several months we attempted to  
10 identify people that we could interview that would have knowledge  
11 of any threats that were made. And so we did attempt to  
12 interview former employees of the park, and that continued for a  
13 while, but then the next significant thing that happened was what  
14 you mentioned.

15 Q. All right. So you were provided information, I guess, about  
16 this particular confidential source, right?

17 A. Yes, sir.

18 Q. And were you provided information about others involved in  
19 the investigation at the time, particularly Mr. Lowe?

20 A. Yes.

21 Q. And you learned that he was the -- the new owner of the park  
22 over the course of this investigation, correct?

23 A. Correct.

24 Q. And that he had made efforts to separate himself from the  
25 legal issues that the park and Ms. Baskin had, correct?

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ANDREW FARABOW - Cross by Mr. Earley

- 1 A. I'm not certain about that.
- 2 Q. Well, you learned that he also was having difficulty because  
3 of the legal proceedings against the park?
- 4 A. That was my understanding, yes.
- 5 Q. Right. All right. So -- and you also learned he was a  
6 convicted felon; is that right?
- 7 A. Correct.
- 8 Q. And you also learned about Alan Glover, correct?
- 9 A. Eventually.
- 10 Q. And he was a buddy of Mr. Lowe's from South Carolina; is  
11 that right?
- 12 A. Yes.
- 13 Q. And he was also a convicted felon?
- 14 A. Yes.
- 15 Q. Now, during the course of your investigation you became  
16 aware that Garretson was familiar with both Lowe and Mr. Passage  
17 over a several-year period, correct?
- 18 A. I don't recall how long he had known them, but he was  
19 familiar with both of them.
- 20 Q. And Garretson had advised the agents that he was closer to  
21 Lowe, correct?
- 22 A. What I recall is that he said he was friends with both of  
23 them.
- 24 Q. You don't recall him advising the other agents that he was  
25 closer to Lowe?

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ANDREW FARABOW - Cross by Mr. Earley

1 A. I don't recall. I don't recall him ever advising me that.

2 Q. All right.

3 A. If he told somebody else that, I don't know.

4 Q. Okay. Now, over the course of the next few weeks,  
5 Mr. Garretson was provided recording equipment; is that right?

6 A. Yes, sir.

7 Q. Because the plan was to have him go and try to get  
8 recordings?

9 A. Yes.

10 Q. What was the plan as far as what type of recordings and who  
11 he was going to record?

12 A. Well, we had information that he had engaged in discussions  
13 about the potential murder for hire of Ms. Baskin with  
14 Mr. Passage, and that Mr. Lowe was also in the know, so to speak,  
15 of that scheme. So we asked him to record conversations with  
16 both of them.

17 Q. All right. And so how was he going to be able to record  
18 these? Was he able to do that in person?

19 A. Yes, and on the telephone.

20 Q. So he had both options, he could either meet with the person  
21 together or he could make these phone calls and record them,  
22 right?

23 A. Yes, he did both.

24 Q. All right. Now, the first recording in this case that  
25 Mr. Garretson made was on September 29th; is that right?

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ANDREW FARABOW - Cross by Mr. Earley

1 A. Yes, sir.

2 Q. And that was a recording he did when he went to the park and  
3 visited with Mr. Passage, correct?

4 A. Yes, sir.

5 Q. All right. And your testimony is that on November 6th it  
6 was your understanding that Garretson became aware of this plot  
7 that -- to send Glover to Florida; is that correct?

8 A. Yes, sir.

9 Q. And I assume you became aware of the plot based upon  
10 Garretson's call to you, or another agent?

11 A. Yes. He contacted Special Agent Bryant.

12 Q. All right. So you had no independent information that  
13 suggested that Glover was involved in anything until Garretson  
14 advised you of this; is that correct?

15 A. Correct. I didn't even know who Glover was up until that  
16 day.

17 Q. Okay. And that was based upon, I guess, Mr. Garretson's  
18 contacts with Glover on November 6th on the way back on -- from  
19 the trip to Dallas, correct?

20 A. As well as a conversation he reported that he had with  
21 Mr. Lowe.

22 Q. All right. Well, he had a recorded conversation with  
23 Mr. Lowe the next day, didn't he?

24 A. Yes, he did.

25 Q. All right. And, in fact, that is the first recording that

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ANDREW FARABOW - Cross by Mr. Earley

1 Garretson had with Lowe in this case, correct?

2 A. I believe that's correct.

3 Q. All right. So a good month and at least a week had passed  
4 since -- well, perhaps a little longer. Maybe a month and a half  
5 had passed since Mr. Garretson was provided this recording  
6 information before he ever attempted to record Mr. Lowe, correct?

7 A. I don't know when the first attempt was made to record  
8 Mr. Lowe. I do know that he reached out to Mr. Lowe on several  
9 occasions but was unable to record a phone call.

10 Q. Well, the first call comes November 7th, correct?

11 A. The first recorded call, yes, sir.

12 Q. And have you heard that recording?

13 A. I have.

14 Q. And Lowe talks to Garretson about the trip to Dallas to get  
15 the ID, correct?

16 MS. MAXFIELD-GREEN: Your Honor, objection to the  
17 hearsay.

18 MR. EARLEY: Offering it for the continuance of the  
19 investigation, not for the truth.

20 THE COURT: Objection will be overruled.

21 You may answer, Agent.

22 THE WITNESS: I'm sorry. Could you repeat the  
23 question?

24 Q. (By Mr. Earley) Sure. Lowe talks to Garretson about this  
25 trip that Glover made to Dallas for the ID, correct?

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ANDREW FARABOW - Cross by Mr. Earley

- 1 A. Yes.
- 2 Q. And it's very clear, is it not, that Lowe knows all about  
3 Glover going down there to get the ID, correct?
- 4 A. I believe so.
- 5 Q. So it's not as if Garretson had to explain to Lowe the  
6 circumstances around which, you know, Glover had traveled and  
7 what he was doing in Dallas. It seemed that if -- Lowe already  
8 knew, correct?
- 9 A. Correct. In fact, Garretson had reported that the previous  
10 day.
- 11 Q. And during that conversation, Lowe tells Garretson that  
12 Mr. Passage actually had contacted him about this, correct?
- 13 A. I'm sorry. Can you repeat that?
- 14 Q. During this conversation, Lowe told Garretson that  
15 Mr. Passage had contacted him about Glover?
- 16 A. I believe that's correct.
- 17 Q. And, in fact, do you recall him saying that Mr. Passage  
18 asked him, and I'm referring to Lowe, "Do you think this Glover  
19 is serious?" Do you recall that statement?
- 20 A. I do.
- 21 Q. All right. And do you recall that Lowe advised Garretson  
22 that Glover and this crew were clown assassins?
- 23 A. I do.
- 24 Q. Do you remember that?
- 25 A. Yes, sir.

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ANDREW FARABOW - Cross by Mr. Earley

1 Q. And during that conversation Lowe is advising Garretson that  
2 Glover isn't capable of doing this, correct?

3 A. I believe he said without getting caught, or something to  
4 that effect.

5 Q. All right. And then I guess Lowe mentioned some plan that  
6 there was that Glover was going to leave in a day or two. Do you  
7 remember that statement?

8 A. I don't, not in that particular conversation.

9 Q. Okay. Do you recall at the end of that conversation  
10 Garretson said, call me later and we'll talk about that other  
11 stuff?

12 A. I don't.

13 Q. Did you ever take the opportunity to ask Garretson what that  
14 other stuff was that he was going to discuss with Lowe?

15 A. I don't even recall him saying that, so no.

16 Q. You listened to these tapes, though, didn't you?

17 A. I did.

18 Q. So given the information that Lowe provided, Garretson also  
19 called Mr. Passage on November 7, correct?

20 A. He did.

21 Q. All right. And it was after those conversations that the  
22 agents, you or Agent Bryant, wanted Garretson to go down to the  
23 zoo to see what was going on with Glover, correct?

24 A. Correct.

25 Q. And he, in fact, did that the next day, correct?

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ANDREW FARABOW - Cross by Mr. Earley

1 A. He did.

2 Q. So after November the 8th, visiting Glover at the zoo, what  
3 happened next?

4 A. That was when we put that plan in place to make that arrest  
5 on the morning of November 17th, because we had developed  
6 specific information that that was the day on which Glover was  
7 going to leave and it would be via Greyhound bus.

8 Q. And what specific information was that?

9 A. That information came from Mr. Garretson.

10 Q. Is that all he said was it's going to be November 17th, or  
11 was there any additional facts provided to you?

12 A. The Greyhound bus and that it was supposed to be that  
13 morning.

14 Q. So that came exclusively from Garretson?

15 A. Yes, sir. And it was corroborated, obviously, by the  
16 recordings.

17 Q. So you learned that -- the day before November 17th that  
18 apparently the plan was off; is that right?

19 A. That's the information we had, yes.

20 Q. And do you know what that information was based on?

21 A. It was based on Mr. Garretson's conversations and text  
22 messages with other people involved.

23 Q. And who in particular, do you recall?

24 A. I believe both Mr. Glover and Mr. Passage.

25 Q. During the course of your investigation, do you recall

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ANDREW FARABOW - Cross by Mr. Earley

- 1 seeing a text message between Garretson and Glover --
- 2 A. Yes.
- 3 Q. -- around this time?
- 4 A. I'm not sure which particular message you're referring to,
- 5 but there were text messages.
- 6 Q. Well, there was an exchange between Garretson and Glover on
- 7 November the 16th where he asked Glover, or indicated, I thought
- 8 you might be on a beach in Florida by now. Do you remember that?
- 9 A. Yes, sir.
- 10 Q. And was it that text message that led Mr. Garretson to
- 11 contact you that the plan might be off?
- 12 A. I think that was part of it.
- 13 Q. Okay.
- 14 A. That was part of the reason.
- 15 Q. And that's because Glover had texted Garretson and said,
- 16 well, things change, correct, something to that effect?
- 17 A. Something to that effect, yes.
- 18 Q. So based on all of that, this investigation was kind of
- 19 stopped at that point in time; is that correct?
- 20 A. No, I wouldn't say that.
- 21 Q. Okay.
- 22 A. The plan for the 17th and the enforcement action that was
- 23 planned was -- was canceled.
- 24 Q. So you canceled that based on the communications that
- 25 Garretson had with Glover, at least in part, correct?

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ANDREW FARABOW - Cross by Mr. Earley

1 A. In part, yes.

2 Q. And that's where Glover is saying, hey, things changed, not  
3 doing anything, or something to that effect, correct?

4 A. Correct.

5 Q. Now, was there something else that happened on November the  
6 16th, 2017, that involved Jeff Lowe?

7 A. I don't recall.

8 Q. Do you recall, based on reports in this case, that that was  
9 the same day that Lowe was arrested in Las Vegas, Nevada?

10 A. No, I don't recall that.

11 MR. EARLEY: May I approach, Your Honor?

12 THE COURT: You may.

13 THE WITNESS: Okay. This is a report that was prepared  
14 by Special Agent Bryant. My understanding of reading the report  
15 is it involves a search warrant and the issuance of some  
16 citations for wildlife violations.

17 Q. (By Mr. Earley) You're one of the case agents in this case,  
18 are you not?

19 A. Yes, sir.

20 Q. All right. And during the course of your investigation you  
21 were aware that Jeff Lowe had been arrested for violations in  
22 Nevada, correct?

23 A. Yes, sir.

24 Q. He had court appearances in Nevada, correct?

25 A. Yes, he did.

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ANDREW FARABOW - Cross by Mr. Earley

1 Q. And this report shows that that occurred -- the arrest  
2 occurred on November 16th of 2017, correct?

3 A. I'm not certain of the date of the arrest. The report  
4 indicates there was a search warrant served and citations issued.  
5 I don't know -- I don't have personal knowledge of when he was  
6 taken into custody or anything of that nature.

7 Q. But suffice it to say on November 16th, the same day that  
8 Alan Glover decides to call it quits, his buddy Jeff Lowe gets in  
9 trouble in Las Vegas, correct?

10 A. I don't know on what day Alan Glover made a decision about  
11 this whole plot. That's the day that we got the information from  
12 James Garretson, so...

13 Q. Correct. And that's the day that Glover texted Garretson,  
14 correct?

15 A. That's the day there were text messages exchanged, yes.

16 Q. So given that it didn't appear that the Glover situation was  
17 going to go anywhere, your agents ramped up the idea to get your  
18 own person in, correct?

19 A. Well, actually, that idea, we had been pursuing that since  
20 September. There was discussions in the initial conversation  
21 between Mr. Garretson and Mr. Passage on September 29th regarding  
22 Mr. Garretson's friend.

23 Q. But the efforts to try to arrange a meeting with Mr. Passage  
24 increased at that point in time?

25 A. No. I would just say we continued on the same course.

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ANDREW FARABOW - Cross by Mr. Earley

1 Q. Now, the meeting to arrange for the undercover agent to meet  
2 with Mr. Passage, that initially occurred December 5th, that's  
3 when it was discussed; is that right?

4 A. The actual date and time for that meeting, yes, sir.

5 Q. All right. And so that occurred on December the 8th, the  
6 actual meeting, correct?

7 A. Yes, sir.

8 Q. That was all recorded?

9 A. Correct.

10 Q. All right. Now, during that December 8th meeting with the  
11 undercover agent there were plans made on how to proceed next,  
12 correct?

13 A. Yes.

14 Q. In fact, the undercover agent advised that Mr. Passage  
15 needed to do several things before he actually went anywhere. Do  
16 you remember that?

17 A. He suggested, yes, sir.

18 Q. Okay. He suggested that -- that Mr. Passage obtain a  
19 firearm for him, correct?

20 A. Correct.

21 Q. He suggested that Mr. Passage go and get what was referred  
22 to as a burner phone, correct?

23 A. Actually, two.

24 Q. Or two burner phones, correct?

25 A. Yes, sir.

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ANDREW FARABOW - Cross by Mr. Earley

1 Q. And, of course, as Ms. Green's pointed out, there was a  
2 discussion about money, but no money changed hands that day,  
3 correct?

4 A. That's correct.

5 Q. And as the meeting on December the 8th ended, there was an  
6 anticipation that there would be other meetings or get-togethers  
7 to take care of the fine details, correct?

8 A. I think there was -- it was agreed that money would change  
9 hands at a later date.

10 Q. And -- well, didn't Garretson try to arrange another meeting  
11 with this Mark guy over the next several weeks?

12 A. Yes.

13 Q. And his efforts failed, correct?

14 A. There was no meeting that occurred.

15 Q. Mr. Passage never agreed to meet with the guy again,  
16 correct?

17 A. Well, they engaged in ongoing discussions about meeting --  
18 setting up a meeting between Mr. Passage and Mark all the way  
19 through March the 28th.

20 Q. Correct. Do you remember how many times they discussed  
21 trying to arrange a meeting between Mark and Mr. Passage over  
22 those several-month period?

23 A. Multiple occasions. I know of at least three.

24 Q. Okay. And nothing ever came of it, did it?

25 A. There was -- there was never an actual meeting, no, sir.

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ANDREW FARABOW - Cross by Mr. Earley

1 Q. Now, based on your recollection of the recordings that were  
2 done by Mr. Garretson over the course of this period of time, it  
3 appears that the next time that Garretson is able to record  
4 anything with Lowe is January the 21st, 2018. Does that sound  
5 right?

6 A. I don't recall the date.

7 Q. Would you like to look at the list of recordings?

8 A. Sure.

9 MR. EARLEY: May I approach?

10 THE COURT: Yes.

11 THE WITNESS: Yes, this list indicates that the next  
12 recorded conversation with Mr. Lowe was on January 21st.

13 Q. (By Mr. Earley) So basically a good two-and-a-half months  
14 had elapsed between the first recording of Lowe by Garretson and  
15 the next recording of Lowe by Garretson?

16 A. Yes, approximately.

17 Q. So there were either a lot of failed attempts or no attempts  
18 to get any recordings of Lowe by Garretson during that period of  
19 time?

20 A. Yes, there were no recordings during that period of time.

21 Q. And do you remember the content of that January 21st, 2018,  
22 recording?

23 A. I do not.

24 Q. If I advised you that it was primarily Mr. Lowe and  
25 Mr. Garretson discussing how to --

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ANDREW FARABOW - Cross by Mr. Earley

1 MS. MAXFIELD-GREEN: Your Honor, object to the hearsay  
2 of this, and I'm unclear how it relates to the line of  
3 questioning.

4 MR. EARLEY: Furtherance of the investigation, not  
5 offering it for the truth, Your Honor.

6 THE COURT: Objection will be overruled.

7 Q. (By Mr. Earley) The content of that conversation was  
8 essentially Mr. Lowe's desire or plans to sell the park out from  
9 under Mr. Maldonado-Passage. Do you remember that?

10 A. I do not. Frankly, if it wasn't pertinent to the  
11 murder-for-hire scheme, then I didn't review it.

12 Q. And maybe that's why you don't remember it, correct?

13 A. Could be.

14 Q. Because there was no discussion about murder for hire on  
15 that tape?

16 A. Not to my knowledge, no.

17 Q. Well, was Mr. Garretson still supposed to be trying to  
18 accumulate evidence for the government about this murder-for-hire  
19 scheme during this period of time?

20 A. Yes, sir.

21 Q. But apparently no effort was made to engage Mr. Lowe in any  
22 of those conversations, correct?

23 A. In any of which conversations?

24 Q. Well, the two or the -- the single one that he had in  
25 January.

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ANDREW FARABOW - Cross by Mr. Earley

1 A. I don't even recall that conversation.

2 Q. All right. Now, you testified that on April 18th or  
3 there -- in April of 2018, Mr. Passage just pretty much quit  
4 talking to Mr. Garretson; is that correct?

5 A. Yes, around that time frame.

6 Q. All right. So from December the 8th, 2017, up until  
7 April 2018, there were no contacts between the undercover guy  
8 that you were trying to run in and Mr. Passage, correct?

9 A. That's correct.

10 Q. No money was collected to give to the undercover agent and  
11 provided to Garretson or anyone else, correct?

12 A. Correct.

13 Q. Based on your investigation, was there any evidence to  
14 reflect that Mr. Passage had obtained a firearm for the  
15 undercover officer?

16 A. Not to my knowledge.

17 Q. Based on your investigation, was there any information  
18 gathered that would suggest that Mr. Passage obtained two burner  
19 phones for the undercover officer?

20 A. No, not that I'm aware of.

21 Q. Now, in May of 2018 you stated that there was contact with  
22 Lowe through Garretson; is that correct?

23 A. Yes.

24 Q. And what was the purpose? Was Garretson asked to see if  
25 Lowe would cooperate?

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ANDREW FARABOW - Cross by Mr. Earley

- 1 A. Eventually, yes.
- 2 Q. All right. And you mentioned that he did agree to cooperate  
3 but there was no immunity. What -- what do you mean by that?
- 4 A. I mean that there was no agreement that he would not be  
5 prosecuted for any offense for which he was responsible.
- 6 Q. So -- so he's told, hey, you're not getting a pass on  
7 anything if you have done something wrong, but go ahead and talk  
8 to us anyway; is that right?
- 9 A. Well, he was initially interviewed by Special Agent Bryant  
10 on June the 5th, and then a followup interview was conducted at  
11 the U.S. attorney's office on July 10th.
- 12 Q. Is there a name for that meeting that was held at the U.S.  
13 attorney's office on July 10, a label?
- 14 A. Yes.
- 15 Q. What is it?
- 16 A. A Rule 11 interview.
- 17 Q. And you have participated in a number of those interviews,  
18 have you not?
- 19 A. Yes, sir.
- 20 Q. And what is a Rule 11 interview?
- 21 A. The crux of the understanding is that information provided  
22 during the interview will not be used against the person who's  
23 providing the interview except under limited circumstances.
- 24 Q. And when did your interview of Glover take place?
- 25 A. Three days later, on July 13th.

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ANDREW FARABOW - Cross by Mr. Earley

- 1 Q. Now, what was your understanding of when Glover came back to  
2 Oklahoma?
- 3 A. Shortly before that.
- 4 Q. And do you know where he went?
- 5 A. He was in South Carolina.
- 6 Q. But, I mean, when he came back to Oklahoma where did he go?
- 7 A. He ended up back at the park.
- 8 Q. All right. With Jeff Lowe?
- 9 A. Yes.
- 10 Q. All right. Because Lowe was at the park at that time,  
11 correct?
- 12 A. Correct.
- 13 Q. Mr. Passage was already long gone, correct?
- 14 A. Yes.
- 15 Q. So Glover gets back, he goes down to the park where Mr. Lowe  
16 is located, correct?
- 17 A. Correct.
- 18 Q. All right. And when did you get this phone from Lowe, do  
19 you recall?
- 20 A. Special Agent Bryant received that from Mr. Lowe, I believe  
21 in June -- actually, I'm sorry, first week of July, I believe it  
22 was.
- 23 Q. Okay. And then you said that Glover provided you two  
24 additional phones; is that correct?
- 25 A. Yes, sir.

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ANDREW FARABOW - Cross by Mr. Earley

- 1 Q. And when was that?
- 2 A. On the date of his interview, July 13th.
- 3 Q. So before he handed those phones over to you, he had already
- 4 been in Oklahoma for several days?
- 5 A. I believe so. I'm not certain when he arrived back here.
- 6 Q. All right. But did he come up from Wynnewood for his
- 7 meeting with you?
- 8 A. No, sir. We went down there.
- 9 Q. Okay. So he was already there when you were there, when you
- 10 met with him?
- 11 A. Yes.
- 12 Q. Whether it be a day or a week or two, you can't recall?
- 13 A. Yeah. I don't remember when he actually arrived here.
- 14 Q. Now, you have identified your extraction reports; is that
- 15 correct?
- 16 A. Yes, sir.
- 17 Q. Okay. If you would look in defendant's exhibit book. Turn
- 18 to Defendant's Exhibit 19.
- 19 A. Okay.
- 20 Q. Can you identify that?
- 21 A. Yes, sir. This is the extraction report for the HTC phone.
- 22 Q. All right. And that would be the same report that you
- 23 identified, I guess, as Government's Exhibit 25?
- 24 A. I believe that's correct.
- 25 Q. All right. This is for, I believe you said, the HTC phone;

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ANDREW FARABOW - Cross by Mr. Earley

1 is that correct?

2 A. Yes, sir.

3 Q. All right.

4 MR. EARLEY: Move for admission of Defendant's Exhibit  
5 19.

6 MS. MAXFIELD-GREEN: No objection, Your Honor.

7 THE COURT: Defendant's Exhibit 19 will be admitted.

8 Q. (By Mr. Earley) If you would go to Defendant's Exhibit 20.

9 A. Okay.

10 Q. And what is that?

11 A. That is the extraction report for the ZTE phone.

12 MR. EARLEY: Move for admission of Defendant's Exhibit  
13 20.

14 MS. MAXFIELD-GREEN: No objection, Your Honor.

15 THE COURT: Be admitted.

16 Q. (By Mr. Earley) And I believe that corresponds with  
17 Government's Exhibit 26, correct?

18 A. I believe so.

19 Q. And then if you would look at Defendant's Exhibit 21.

20 A. Yes, sir. This is the extraction report for the Samsung  
21 phone.

22 MR. EARLEY: Move to admit Defendant's Exhibit 21.

23 MS. MAXFIELD-GREEN: Your Honor, on second thought,  
24 with these exhibits, the Government is concerned that they are  
25 unredacted versions of the phone extraction reports and they are

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ANDREW FARABOW - Cross by Mr. Earley

1 full of text messages of -- lots and lots of text messages that  
2 are, number one, hearsay, and I don't know that we can admit the  
3 entire report without establishing the relevance of any -- the  
4 relevance and the hearsay exception for any particular thing  
5 they're trying to use, so --

6 THE COURT: Parties approach, please.

7 (The following bench conference was held outside the hearing  
8 of the jury.)

9 THE COURT: Mr. Earley, the two exhibits that you just  
10 admitted --

11 MR. EARLEY: Yes.

12 THE COURT: -- correspond to Government's 25, the HTC  
13 phone; and 26, the ZTE phone?

14 MR. EARLEY: Yes.

15 THE COURT: Are those unredacted versions?

16 MS. MAXFIELD-GREEN: No, Your Honor. The government --

17 THE COURT: So those are identical?

18 MS. MAXFIELD-GREEN: No. Government's 25, 26 and 27  
19 are only -- essentially only the portions we showed. The only  
20 statements via text message and that kind of thing that are  
21 contained in Government's 25, 26 and 27 were the ones that we  
22 showed that were Mr. Passage's statements.

23 These unredacted reports have text messages between multiple  
24 parties in them and they're totally unredacted. So they -- their  
25 defense exhibit is not identical to ours. We only picked a few

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ANDREW FARABOW - Cross by Mr. Earley

1 things out of each extraction report to provide.

2 THE COURT: But 19 and 20 have been admitted, correct?

3 MS. MAXFIELD-GREEN: And, Your Honor, I would rescind  
4 my agreement to that because as I was looking through them I did  
5 not realize that they were also full of hearsay and --

6 THE COURT: Mr. Earley, what's your -- I'm sorry. I  
7 didn't mean to cut you off.

8 MS. MAXFIELD-GREEN: That's okay.

9 MR. EARLEY: Well, Your Honor, with respect to the  
10 report, it is the complete extraction report that was done, I'm  
11 assuming, that was done on these three telephones. The  
12 government has selected very narrow portions of these text  
13 exchanges to admit. It's our contention that the complete  
14 document is necessary. It shows the context of the conversations  
15 between Mr. Passage or Mr. Lowe and Mr. Glover. It shows the  
16 number of contacts between those parties and -- over the course  
17 of this investigation. And it's necessary, I think, for the jury  
18 to see the entire picture of the contacts between not only  
19 Mr. Passage but also Mr. Lowe when Glover is conversing about the  
20 facts that are before the jury on these crimes.

21 These aren't necessarily offered for the truth of the  
22 individual texts. They're offered to show the context which  
23 these communications were had.

24 THE COURT: So if -- if you're laying context and  
25 you're talking about portions of a text exchange between two

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ANDREW FARABOW - Cross by Mr. Earley

1 people that the witness testified about that the government  
2 showed portions of, I understand you're moving to admit the  
3 remainder of that text conversation, the text exchange. Are  
4 there text exchanges in there with different people that  
5 aren't --

6 MS. MAXFIELD-GREEN: Yes, Your Honor. There are text  
7 exchanges, I mean, with Mr. Glover's apparent girlfriend. There  
8 are text exchanges -- and they're text exchanges that I just  
9 don't think we can wholesale admit an entire phone's worth of  
10 text messages without them establishing the hearsay exception and  
11 the relevance of each one of those.

12 MR. EARLEY: If I recall, there may be one or two  
13 communications between Glover and someone else not related to  
14 this investigation. And one of those exchanges to a woman by the  
15 name of Cheryl actually is relevant as to Mr. Glover's receipt of  
16 the telephone from -- and I believe it would be the second  
17 telephone.

18 So I don't believe that -- you know, in whole there's hardly  
19 anything in here that's not between Glover and Mr. Passage and  
20 Mr. Lowe. And Mr. Glover is going to be a witness in this case,  
21 unless the government 's changed their mind. So his exchange and  
22 his communication with those individuals would be highly  
23 relevant.

24 MS. MAXFIELD-GREEN: And, Your Honor, I just -- these  
25 text messages are out-of-court statements, you know, by a

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ANDREW FARABOW - Cross by Mr. Earley

1 declarant and I just don't see how they're anything but hearsay.  
2 And unless they can tie them -- I know we have -- a lot of  
3 hearsay has come in so far with the justification that it was  
4 part of the investigation, but they're clearly trying to offer  
5 them for the truth of the matter asserted and not just for the  
6 effect on the investigation.

7 THE COURT: Well, I am inclined -- I don't think we can  
8 piecemeal out the text exchanges. To the extent that you want  
9 to, Mr. Earley, you want to admit the other portions of the  
10 conversation that the witness has already testified to, that will  
11 be permitted. You will not be permitted to introduce the  
12 unredacted version in total.

13 I understand that Mr. Glover may testify. And if you want  
14 to ask Mr. Glover about those conversations, it may become  
15 admissible at this time, but I don't think it's admissible to  
16 introduce every text exchange that was captured from that phone  
17 that's outside of the text exchange the witness has already  
18 described.

19 I do believe that, as you summed it up -- actually, I think  
20 nonhearsay because it, in fact, did characterize what caused the  
21 agent to take the next steps. And I have given quite a bit of  
22 leeway about that, but I don't think that I'm going to permit  
23 introduction of the entire exhibit containing the unredacted  
24 conversations outside of what the witness has testified to.  
25 That's subject to if there's some future testimony that comes up

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ANDREW FARABOW - Cross by Mr. Earley

1 that might lay a foundation or relevance or -- we'll deal with  
2 that at that time.

3 So the objection will be sustained in terms of introducing  
4 those exhibits as a whole. Clear about that?

5 MS. MAXFIELD-GREEN: Yes, Your Honor. I would just  
6 point out that many of the text message exchanges, all the ones  
7 that were offered on direct were statements by Mr. Passage, and  
8 those statements by Mr. Passage were statements to Mr. Glover.  
9 Now, these -- a couple of these reports are -- two of them, at  
10 least, have extensive text message conversations between  
11 Mr. Glover and Mr. Lowe, and I can't think of a hearsay exception  
12 that lets that come in. It is not a conversation with the  
13 defendant, there's no context to be provided from those, and --

14 THE COURT: Right, and I don't think we're there yet,  
15 in terms of whether Mr. Glover ultimately testifies or not and --  
16 then that may be something we take up at that time. But as far  
17 as Agent Farabow is concerned, I think the fact -- I think  
18 that's -- I think that the objection will be sustained in that  
19 regard, which is why I'm not inclined to admit the defendant's  
20 exhibit in total at this time.

21 MR. EARLEY: All right.

22 MS. MAXFIELD-GREEN: So, Your Honor, we'll just, for  
23 the record, formally withdraw -- we will formally object to  
24 Defendant's 19, 20 and 21, despite the fact that we had earlier  
25 stated no objection. We would withdraw that and now object.

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ANDREW FARABOW - Cross by Mr. Earley

1 MR. WACKENHEIM: But, in the future, if we are able to  
2 use some of that information, do I understand that we don't  
3 object that that is an authentic document so --

4 MS. MAXFIELD-GREEN: I don't object to the  
5 authenticity, no.

6 MR. WACKENHEIM: So we don't have to go through that --

7 MS. MAXFIELD-GREEN: Just the content, yes.

8 THE COURT: That's what I understand.

9 Is that clear?

10 MR. EARLEY: Yes.

11 THE COURT: Thank you.

12 (The following record was made in open court, in the  
13 presence of all parties, counsel, and in the presence and hearing  
14 of the jury.)

15 THE COURT: Is that not the worst noise in the world?  
16 You know, one of these days maybe I'll invent some soft white  
17 noise that -- and then we'll all retire.

18 But anyway, ladies and gentlemen, let's take our morning  
19 break, take a 15-minute break.

20 If everyone would remain seated as the jury leaves the  
21 courtroom.

22 Please remember your admonition.

23 (Jury exited.)

24 (The following record was made in open court, in the  
25 presence of all parties, counsel, and out of the presence and

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ANDREW FARABOW - Cross by Mr. Earley

1 hearing of the jury.)

2 THE COURT: The record can reflect the jury has left  
3 the courtroom.

4 Counsel, just to make the record clear, my understanding --  
5 so Defendant's 19 and 20, which were previously offered and  
6 admitted without objection from the Government, are unredacted  
7 versions corresponding to the other couple of the government  
8 exhibits. And the -- the government has now raised an objection  
9 to those in conjunction with the objection to Defendant's 21, to  
10 the extent that they contain complete unredacted versions and now  
11 object.

12 Having considered the argument at the bench, the Court is  
13 going to sustain the objection as to Defendant's 19 and 20 at  
14 this time subject to being re-raised at some future time with  
15 another witness. And the objection will, likewise, be sustained  
16 as to Defendant's 21 as it being a complete unredacted version.

17 Counsel, you will be permitted to admit as part of those  
18 exhibits any component of the text exchange that the witness  
19 testified about that wasn't contained in the government's  
20 exhibit, but you won't be permitted to go into conversations or  
21 text exchanges that were outside of what the witness testified to  
22 without laying the proper foundation or what we discussed at the  
23 bench.

24 Anything further from either party?

25 MS. MAXFIELD-GREEN: No, Your Honor.

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ANDREW FARABOW - Cross by Mr. Earley

1 MR. EARLEY: No, Your Honor.

2 THE COURT: Court will be in recess.

3 (Break taken.)

4 (The following record was made in open court, in the  
5 presence of all parties, counsel, and in the presence and hearing  
6 of the jury.)

7 THE COURT: Mr. Earley, you may proceed.

8 MR. EARLEY: Thank you.

9 Q. (By Mr. Earley) Agent Farabow, if you would turn to the  
10 government's exhibits, please.

11 A. Yes, sir.

12 Q. And the first extraction report, Government's Exhibit 25.

13 A. Okay.

14 Q. I'm sorry. Go to 26. Apologize for that.

15 A. Okay.

16 Q. And the second page of that report.

17 A. Yes, sir.

18 Q. Now, there's some data on that report, and I would refer you  
19 to the contents. Do you see that?

20 A. I do.

21 Q. And it reflects various portions, I guess, of the content of  
22 the phone; is that correct?

23 A. Yes, sir.

24 Q. And there's call log, contacts, MMS messages, SMS messages,  
25 timelines, data file; is that correct?

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ANDREW FARABOW - Cross by Mr. Earley

1 A. Yes, sir.

2 Q. Now, over in the next columns associated with that there are  
3 numbers. Could you explain what those are?

4 A. Yes. It just lists the numbers of each of those categories  
5 that you mentioned, how many of each are included in the report.

6 Q. All right. So when this phone was put into process for  
7 collecting the data that's in this report, it was generated in  
8 the form of data in some sort of software; is that correct?

9 A. Yes.

10 Q. All right. And so -- so, if you would, just for example,  
11 the call log, that line says 25 included in report, total 560,  
12 and then deleted. Can you tell us what that means?

13 A. Yes. That out of the 560 calls in the call log, 25 are  
14 included in the report.

15 Q. What does "60 deleted" mean?

16 A. I believe that that means that 60 of the 560 had been  
17 deleted and were recovered during the extraction process.

18 Q. So Government's Exhibit 26 is a report that you provided,  
19 correct?

20 A. Yes.

21 Q. And it was your decision to include, for example, in the  
22 call log, 25 of the total of 560 calls in your report, correct?

23 A. Yes.

24 Q. So even though this phone had a lot more data on it, you cut  
25 it down to what you thought was relevant; is that correct?

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ANDREW FARABOW - Cross by Mr. Earley

1 A. Correct.

2 Q. And you did the same thing with the contacts; is that  
3 correct?

4 A. Yes.

5 Q. So out of a total of 131 contacts, you decided that for your  
6 report only nine of those were relevant?

7 A. Correct.

8 Q. Now, SMS messages, are those the text messages?

9 A. Those are text messages, yes, sir.

10 Q. And so there were apparently 531 of those on this phone?

11 A. Correct.

12 Q. And you cut it down to what you thought was -- 117 that were  
13 relevant?

14 A. Yes.

15 Q. I assume -- and let me just ask you to look at Government's  
16 Exhibit 25. Is that same information included in the  
17 Government's Exhibit marked 25?

18 A. No, sir.

19 Q. And is that same information included in the exhibit marked  
20 Government's Exhibit 27?

21 A. No, it's not.

22 Q. But did you do this same thing with those two phones?

23 A. I did.

24 Q. You went through and decided what you thought was relevant  
25 to your investigation and the rest were left out of this report;

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ANDREW FARABOW - Cross by Mr. Earley

- 1 is that right?
- 2 A. Correct.
- 3 Q. Do you know the phone numbers associated with each one of
- 4 these phones?
- 5 A. Not off the top of my head, I do not.
- 6 Q. All right. Now, looking at Government's Exhibit 26, the --
- 7 looks like Page 20 of the report. It's the one with the images.
- 8 Do you see that?
- 9 A. Yes, sir.
- 10 Q. And so these are -- these top two images that you testified
- 11 about, there's no date or time on those, correct?
- 12 A. Correct.
- 13 Q. And can you explain why that is?
- 14 A. I cannot.
- 15 Q. And with respect to the time that you have identified that
- 16 these other images were supposedly placed on this phone, I
- 17 believe you were referring to this capture time; is that right?
- 18 A. Yes, and also the created, modified and access time that's
- 19 listed above.
- 20 Q. All right. Those particular images, do you know where they
- 21 came from?
- 22 A. Based on this report?
- 23 Q. Originally. Like the images themselves, do you know where
- 24 they were obtained?
- 25 A. They're photos that were taken using the camera on the

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ANDREW FARABOW - Cross by Mr. Earley

1 phone.

2 Q. Okay. Photos of information that's on a website, is that  
3 your understanding?

4 A. Photos, appears to be, of a computer screen.

5 Q. So do you know if those were obtained from a Facebook page  
6 or did you ever inquire where those photos --

7 A. I don't know where they were obtained from.

8 Q. You didn't ask anyone? You didn't ask any witness that you  
9 interviewed if they had knowledge of where these particular  
10 photos came from?

11 A. Yes, I did.

12 Q. And what were you told?

13 A. But I didn't receive that information, so...

14 Q. Okay. The image -- would you go to Government's  
15 Exhibit 145?

16 A. Okay.

17 Q. And that is a blowup of one of the images that was on the  
18 phone; is that correct?

19 A. Yes, sir.

20 Q. All right. And as far as this particular image is  
21 concerned, I know it's fuzzy and there's a blowup of it in  
22 another exhibit, but have you figured out where this particular  
23 image came from?

24 A. I believe it's from the Big Cat Rescue website.

25 Q. All right. So something taken off the Internet that's

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ANDREW FARABOW - Cross by Mr. Earley

1 generally available to anybody, correct?

2 A. Correct.

3 Q. Now, you looked at a report where all of the information was  
4 drawn from each of these three phones, correct?

5 A. Wasn't actually a report, it was the full extraction from  
6 each of the three phones and it took several days to review all  
7 of the material.

8 Q. And I noticed that on Government's Exhibit 25 there is this  
9 location -- or device location report; is that correct?

10 A. Correct.

11 Q. On the second page?

12 A. Yes.

13 Q. Was there a device location report for each of the other two  
14 phones?

15 A. Yes.

16 Q. All right. But that's not included in these exhibits,  
17 correct?

18 A. It's not.

19 Q. All right. With respect to the device location reports for  
20 all three of these phones, was there any data that suggested that  
21 any of these phones had been traced to an area in Florida?

22 A. No, sir.

23 Q. Now, you testified with respect to the American Airline  
24 records that Anne Patrick's name was associated with that; is  
25 that correct?

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ANDREW FARABOW - Cross by Mr. Earley

- 1 A. Email address.
- 2 Q. Okay.
- 3 A. Yes, sir.
- 4 Q. And do you know who Anne Patrick is?
- 5 A. I know that she's a friend of Mr. Passage.
- 6 Q. Were you aware that she spent a significant period of time  
7 at the park during this time frame?
- 8 A. Yes.
- 9 Q. So the fact that her name is associated with that ticket  
10 could just be because she was in the office helping that day?
- 11 A. Could be.
- 12 Q. And, in fact, isn't that what Glover stated?
- 13 A. He didn't identify her by name.
- 14 Q. But somebody helped him get his ticket, correct?
- 15 A. Correct.
- 16 Q. And then you referenced the telephone call between  
17 Mr. Passage where he mentions an individual by the name of Tim.  
18 Do you remember that phone call?
- 19 A. Yes, sir.
- 20 Q. That was on March 16th, 2019?
- 21 A. Correct.
- 22 Q. And do you know who he was referring to?
- 23 A. I believe he was referring to Tim Stark.
- 24 Q. And during the course of that call he stated that all of  
25 this money went to Lowe, correct?

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ANDREW FARABOW - Cross by Mr. Earley

1 A. I don't recall if he stated all of the money went to Lowe.

2 I remember he said -- indicated that money went to Lowe.

3 Q. Now, there was another name that came up during your  
4 investigation. Robert Engesser, do you remember that name?

5 A. Yes, sir.

6 Q. And how did that name come up?

7 A. He was mentioned as someone that would possibly purchase  
8 animals from Mr. Passage.

9 Q. Okay. And why was he relevant to your investigation of this  
10 murder-for-hire allegation?

11 A. There was some indication that he had purchased animals from  
12 Mr. Passage immediately prior to Mr. Glover's departure, and that  
13 that money may have funded the murder-for-hire plan.

14 Q. In fact, your -- your investigation, and based on your  
15 interview of individuals, including Mr. Glover, suggested that  
16 this sale that funded Glover's money to go to South Carolina or  
17 Florida or wherever he was going, that sale of a cub occurred on  
18 November 22nd, correct?

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

20 Q. The sale of the cub that supposedly funded this trip for  
21 Mr. Glover, as alleged in the indictment, was supposedly a sale  
22 that was on November 22nd, correct?

23 A. I don't recall.

24 Q. Do you recall witnesses advising you that it was the day  
25 before Thanksgiving?

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ANDREW FARABOW - Cross by Mr. Earley

- 1 A. I'm sorry. Which witness are you referring to?
- 2 Q. Ms. Verga, Brenda. Do you remember her?
- 3 A. I do not.
- 4 Q. Do you remember Alan Glover telling you the same thing?
- 5 A. Telling me what, exactly?
- 6 Q. That this Mr. Engesser met with Mr. Maldonado-Passage on
- 7 November 22nd and handed the money to him for the -- in exchange
- 8 for a cub?
- 9 A. Yes. I don't recall the exact date, but that's what he
- 10 said, that it was Mr. Engesser.
- 11 Q. In fact, when Jeff Lowe decided to start cooperating with
- 12 the Government, he actually showed Mr. Glover a picture of
- 13 Engesser, correct?
- 14 A. I don't know.
- 15 Q. You don't know that?
- 16 A. I do not know that.
- 17 Q. You have read no reports that suggest that Mr. Lowe provided
- 18 Glover a picture of Engesser and he identified him as the person
- 19 who purchased the cub?
- 20 A. I was told that Mr. Glover had identified Mr. Engesser as
- 21 the person that purchased the cub. I am unaware of Mr. Lowe's
- 22 involvement in that.
- 23 Q. But regardless, Mr. Engesser was supposedly the source of
- 24 this money, correct?
- 25 A. That was the information, yes.

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ANDREW FARABOW - Cross by Mr. Earley

- 1 Q. And did you investigate that further?
- 2 A. Yes.
- 3 Q. So how did you investigate it?
- 4 A. We interviewed Mr. Engesser.
- 5 Q. And based upon his conversation with you, he provided you a  
6 timeline of his whereabouts, correct?
- 7 A. I believe he did.
- 8 Q. All right. And one of the locations that he said he was at  
9 was in Indiana the day before November 21st. Do you recall that?
- 10 A. Yes, sir.
- 11 Q. Did you do something to try to verify his statement?
- 12 A. I don't recall. Agent Bryant actually handled that aspect  
13 of the case.
- 14 Q. So you haven't reviewed any of the reports that Agent Bryant  
15 has generated in this case?
- 16 A. I have reviewed many of them.
- 17 Q. Well, do you recall a report where Agent Bryant asked the  
18 police in Kokomo, Indiana, to verify Mr. Engesser's story?
- 19 A. I don't. I had no reason to question Mr. Engesser's story  
20 at that time.
- 21 Q. All right. Well, based upon that subsequent investigation  
22 and your knowledge of this case, do you have any reason to  
23 question Mr. Engesser's story now?
- 24 A. I do not.
- 25 Q. So I take it, based on your testimony there, that you didn't

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ANDREW FARABOW - Redirect by Ms. Maxfield-Green

1 involve yourself in the -- what I'll just generically say the  
2 wildlife aspect of this case; is that correct?

3 A. My involvement in that aspect of the case was minimal.  
4 Sometimes I would accompany Agent Bryant on interviews related to  
5 the -- that aspect of the case.

6 Q. And is that because that's just not part of what you  
7 generally investigate as an FBI agent?

8 A. That's correct.

9 MR. EARLEY: May I have a moment?

10 THE COURT: You may.

11 MR. EARLEY: No further questions.

12 THE COURT: Redirect?

13 **REDIRECT EXAMINATION**

14 **BY MS. MAXFIELD-GREEN:**

15 Q. Special Agent Farabow, Mr. Earley asked you about a phone  
16 call that took place between James Garretson and Jeff Lowe on  
17 November 7th of 2017. Do you recall that?

18 A. Yes.

19 Q. And you discussed with Mr. Earley the -- what you recall to  
20 be the contents of that call. Was there a recording of that  
21 call?

22 A. Yes, ma'am.

23 MS. MAXFIELD-GREEN: The Government moves to admit  
24 Exhibit 106, which is a recording of that call. And that is not  
25 on our list, Your Honor. That is something we have added.

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ANDREW FARABOW - Redirect by Ms. Maxfield-Green

1 THE COURT: 106? Counsel, Mr. Earley, do you have any  
2 objection?

3 MR. EARLEY: No objection.

4 THE COURT: 106 will be admitted.

5 (Audio played in open court.)

6 MS. MAXFIELD-GREEN: And, Your Honor, I did just want  
7 to clarify for the Court, that buzzing was on the original  
8 recording.

9 THE COURT: Thank you. I wanted to make sure that was  
10 as the recording was made, it was not due to playback in the  
11 courtroom.

12 MS. MAXFIELD-GREEN: That's correct, yes.

13 Q. (By Ms. Maxfield-Green) So was that the phone call -- was  
14 that a phone call that Mr. Garretson recorded in the course of  
15 his cooperation with the Government?

16 A. Yes, ma'am.

17 Q. And that was part of the information that you had as you  
18 were investigating about the development of the plot and the --  
19 the state of the plot on November 7th, correct?

20 A. Yes, ma'am.

21 Q. Okay. Mr. Earley asked you about the fact that there  
22 weren't really -- there weren't any recordings between  
23 Mr. Garretson and Mr. Lowe, I believe between that recording and  
24 in mid January of 2018, correct?

25 A. Yes, ma'am.

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1 Q. And Mr. Earley also established with you that Mr. Lowe was  
2 -- apparently encountered some form of legal trouble in Nevada on  
3 November 16, correct?

4 A. Yes.

5 Q. So that would have been, oh, a week or so after that phone  
6 call?

7 A. Correct.

8 Q. Okay. So does it appear that from mid November forward,  
9 Mr. Lowe was dealing with his own legal troubles in Nevada?

10 A. Yes.

11 Q. Now, during the spring of 2018, Mr. Garretson was still  
12 recording phone calls with Mr. Passage, correct?

13 A. Yes, he was.

14 Q. And do those phone calls contain Mr. Passage's references  
15 to -- or questions about using the undercover -- or Mark, the  
16 undercover agent?

17 A. Yes. He would be referred to as Mark or Garretson would  
18 refer to him as "my guy."

19 Q. And during the spring of 2018, no money -- Mr. Earley  
20 established with you that no money was ever given to the  
21 undercover agent, correct?

22 A. Yes, ma'am.

23 Q. Do the calls throughout the spring of 2018 indicate that  
24 Mr. Passage was having financial problems?

25 A. Yes.

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ANDREW FARABOW - Redirect by Ms. Maxfield-Green

1 Q. What did you understand from those calls?

2 A. He was trying to come up with the money.

3 Q. Okay. Was there -- was spring break mentioned as a kind of  
4 a financial event for Mr. Passage?

5 A. Yes. He indicated that he expected to receive money at the  
6 park over spring break.

7 Q. Did he refer to the birth of animals in connection with  
8 money?

9 A. He did.

10 Q. Also through the spring of 2018, was Mr. Passage preoccupied  
11 with a different aspect of his -- his professional life?

12 A. Yes.

13 Q. What was he preoccupied with in the spring of 2018?

14 A. Political matters.

15 Q. What was he doing?

16 A. Running for office.

17 Q. Which office?

18 A. I believe it was governor at that time.

19 Q. And, to your recollection, was the gubernatorial primary for  
20 Oklahoma in June of 2018?

21 A. It was.

22 Q. Okay. And Mr. Earley asked you about the phone call that we  
23 had on -- that we played on -- during your direct examination,  
24 and that's -- let's just play -- and you were having trouble  
25 remembering what exactly was said about money going into a bank

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ANDREW FARABOW - Redirect by Ms. Maxfield-Green

1 account. So if we can just hear 36.

2 (Audio played in open court.)

3 Q. (By Ms. Maxfield-Green) Now, Mr. Passage says, we put  
4 the -- "I put the money in Jeff's bank," correct?

5 A. Yes.

6 Q. During your investigation did you ever find any bank account  
7 with Mr. Passage's name on it?

8 A. No.

9 Q. Did you find evidence throughout your investigation that  
10 when Mr. Passage needed to use a bank account that he used the  
11 zoo's bank accounts?

12 A. Yes.

13 Q. And who was the signatory on the zoo's bank accounts?

14 A. Jeff Lowe.

15 Q. So if Mr. Passage was putting money into -- I think I'll  
16 just leave it there, Your Honor.

17 THE COURT: Anything additional, Mr. Earley?

18 MR. EARLEY: Can I have just a moment?

19 THE COURT: You may.

20 MR. EARLEY: No further questions.

21 THE COURT: Thank you, Special Agent Farabow. You may  
22 step down.

23 Government's next witness.

24 MS. MAXFIELD-GREEN: Government calls James Garretson.

25 (WITNESS SWORN.)

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 THE COURT: Mr. Garretson, if you would, please, you  
2 can move that chair, situate yourself, adjust the microphone so  
3 that you speak into that and we pick up what you're saying.

4 JAMES GARRETSON,

5 DIRECT EXAMINATION

6 BY MS. MAXFIELD-GREEN:

7 Q. Good morning, Mr. Garretson.

8 A. Good morning.

9 Q. Would you please state your name for the record?

10 A. James Brandon Garretson.

11 Q. Mr. Garretson, where do you currently live?

12 A. At Ardmore, Oklahoma.

13 Q. Did you grow up in Oklahoma?

14 A. No, I didn't.

15 Q. Where did you grow up?

16 A. In Dallas.

17 Q. What do you currently do for a living?

18 A. I have a store in Ardmore and I have a water sports business  
19 in south Florida.

20 Q. Are you familiar with a person named Joseph Schreibvogel or  
21 Joseph Maldonado-Passage or Joseph Passage?

22 A. Yes, I am.

23 Q. Do you see him here in the courtroom today?

24 A. Yes. He's over there. (Indicating.)

25 MS. MAXFIELD-GREEN: Let the record reflect that

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Mr. Garretson has indicated the defendant's presence.

2 THE COURT: Record will so reflect.

3 Q. (By Ms. Maxfield-Green) How long have you known  
4 Mr. Passage?

5 A. Probably over a period of 20 years.

6 Q. Over about that same period, have you off and on owned  
7 tigers and other exotic animals yourself?

8 A. Yes, over a period of about 25 years.

9 Q. What was your first contact with Mr. Passage?

10 A. We had a place in, I think in Texas. And the laws changed  
11 and -- I think I met him before that. I don't recall the exact  
12 time I met him, but we had a place and he boarded some animals  
13 for us, you know.

14 Q. Let me break that down a little bit. So you had a place in  
15 Texas. Did you have tigers at that place?

16 A. Yes.

17 Q. Okay.

18 A. Well, I think it was lions at the time, actually.

19 Q. Lions?

20 A. Yes.

21 Q. Okay. And in connection with having a place in Texas, I  
22 know you mentioned the laws changed in Texas. What happened with  
23 that?

24 A. I guess we needed a place to put the animals and my ex at  
25 the time reached out to Schreiber to temporary board the

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 animals.

2 Q. Okay. And is that one of the first times you had any  
3 contact with Mr. Passage?

4 A. I think I met him before that, but I'm not sure.

5 Q. Okay. So you're -- you or your girlfriend at the time  
6 boarded some animals with Mr. Passage?

7 A. Correct.

8 Q. Okay. Now, from about 1999 to 2007, did you own and operate  
9 a traveling show of some kind?

10 A. Yes, I did.

11 Q. What kind of traveling show was that?

12 A. Traveled around with tigers and tiger cubs.

13 Q. Okay. Did that show involve cub petting?

14 A. For a while it did, yes.

15 Q. Okay. And when you were doing that traveling show, did you  
16 spend part of the year in Florida?

17 A. Yes, I did.

18 Q. During that period of time, approximately 1999 to 2007, were  
19 you in contact with Mr. Passage?

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

21 Q. Did you ever buy any tigers from him during that period of  
22 time?

23 A. No, I did not.

24 Q. When you were living in Florida, did you become familiar  
25 with a person named Carole Baskin?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 A. Yes.
- 2 Q. And how did you become familiar with her?
- 3 A. She's known in the industry as an animal rights activist.
- 4 Q. Okay. Did she ever make any complaints about your show or  
5 about your facility in Florida?
- 6 A. I mean, I'm not really sure. You know, when you're in that  
7 industry, a lot of people make complaints, so I'm not real sure.
- 8 Q. Did you ever meet Ms. Baskin in person?
- 9 A. No.
- 10 Q. Have you ever met Ms. Baskin in person?
- 11 A. No.
- 12 Q. Okay. In 2009 did you move to Oklahoma?
- 13 A. Yes, I did.
- 14 Q. And where in Oklahoma did you settle?
- 15 A. Outside of Ardmore.
- 16 Q. Did you own tigers at that time?
- 17 A. Yes, I did.
- 18 Q. How many did you have?
- 19 A. I think we had 13.
- 20 Q. And did you bring them with you to Ardmore?
- 21 A. Yes.
- 22 Q. If you're from the Dallas area, why didn't you move back to  
23 Texas with your tigers?
- 24 A. The laws are a little different.
- 25 Q. Are the laws more strict in Texas?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 A. Correct.
- 2 Q. Were you exhibiting the tigers at the time?
- 3 A. At that time, no.
- 4 Q. Now, when you got back to Oklahoma in 2009 with your 13
- 5 tigers, did you run into Mr. Passage again?
- 6 A. I think I visited the park a time or two.
- 7 Q. Did you have any conversations with Mr. Passage at that
- 8 time?
- 9 A. I don't recall.
- 10 Q. All right. In about 2011, did you decide to take a break
- 11 from tigers for a while?
- 12 A. Yes, I did.
- 13 Q. And what did you do?
- 14 A. I actually ran bars and drove a truck, little bit of
- 15 everything.
- 16 Q. And did you -- what did you do with your tigers?
- 17 A. I retired them to a place in Indiana.
- 18 Q. Okay. You said you ran bars. From 2011 to 2014, what kind
- 19 of bar or establishment were you operating?
- 20 A. A gentleman's club and regular nightclubs.
- 21 Q. Okay. And by gentleman's club, do you mean a strip club?
- 22 A. Yes.
- 23 Q. Okay. And then you had some other just regular bars as
- 24 well?
- 25 A. Correct.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 Q. All right. And did the -- the strip club venture end in  
2 about 2014?
- 3 A. About that, yes.
- 4 Q. Okay. What did you do next?
- 5 A. We opened a couple regular bars.
- 6 Q. Okay. Did you start any businesses in Florida?
- 7 A. Yes. I bought a Jet Ski business in Marathon, Florida.
- 8 Q. Okay. Now, in the summer of 2016 did you decide you wanted  
9 to own tigers again?
- 10 A. Correct.
- 11 Q. Were you planning to stay in Florida at that time or where  
12 were you planning to be in the summer of 2016?
- 13 A. I was planning on staying in Oklahoma.
- 14 Q. And were you going to -- was your plan in getting new tigers  
15 that they would be in -- located in Oklahoma with you?
- 16 A. Correct.
- 17 Q. How did you go about getting some new tigers?
- 18 A. Contacted Joe Schreibvogel.
- 19 Q. And you mean Mr. Passage, correct?
- 20 A. Mr. Passage.
- 21 Q. And if it's more comfortable for you to call him  
22 Mr. Schreibvogel, I think the jury will understand that we're  
23 speaking about the same person.
- 24 A. Gotcha.
- 25 Q. Why did you contact Mr. Passage to get new tigers?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 A. He's a well-known breeder and dealer of tigers.
- 2 Q. All right. Tell us about the first tigers that you bought  
3 from Mr. Passage.
- 4 A. I bought a -- the first two tigers, I bought a tiger -- they  
5 call him a snow tiger. It's a -- basically a solid white tiger,  
6 and a black and white tiger. And at the time I was in Florida  
7 operating the Jet Ski stand, and then it goes on from there.
- 8 Q. Okay. Let's talk about those first two. You said you were  
9 in Florida and it was a snow tiger and a white tiger. How did  
10 you decide on those tigers? Did you pick them out?
- 11 A. Yeah. I actually visited the park. I don't recall what  
12 time -- when I did, but, yes, I did look at them.
- 13 Q. So you decided to buy the snow and the white. How much did  
14 you pay for them?
- 15 A. I think around 5,000.
- 16 Q. How did you pay for them?
- 17 A. At the time, I -- I used -- I think I used my debit card.
- 18 Q. Now, did you take possession of those tigers immediately  
19 once you paid for them?
- 20 A. No, I didn't. He was -- I was under the impression that I  
21 could pay for them and get them as soon as I built the facility.
- 22 Q. So while you were building your facility in Ardmore in  
23 Oklahoma, the animals were still at the zoo in Wynnewood; is that  
24 correct?
- 25 A. Correct.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. Okay. So at some point after you have purchased these  
2 tigers, you actually move -- physically move to Oklahoma,  
3 correct?

4 A. Correct.

5 Q. And is it the Ardmore or Ringling area?

6 A. Actually, Ringling area.

7 Q. Okay. Were you planning on exhibiting those tigers?

8 A. At the time, my girlfriend, she wanted to open a little --  
9 kind of a somewhat zoo or a bed and breakfast, and that's what we  
10 did.

11 Q. Okay. Did you or your girlfriend get a USDA license?

12 A. She did.

13 Q. Okay. Once you got to Oklahoma, did you -- did you buy some  
14 more tigers from Mr. Passage?

15 A. Yes.

16 Q. Which tigers were those?

17 A. I don't really recall the order, but I think it was Tommy  
18 and Diesel.

19 Q. Their names are Tommy and Diesel?

20 A. Correct.

21 Q. Are those both males?

22 A. They're males. One's white; one's orange color.

23 Q. And how much did you pay for Tommy and Diesel?

24 A. I think they were around \$2,500, 25 to \$3,000. I don't  
25 recall the exact price. It was basically buy the white one and

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 you get the orange one free.

2 Q. And is -- okay. So were -- you got the snow and the white  
3 the first two, correct? And then now an orange and a white, so  
4 we have got four tigers. Were all of these tigers delivered to  
5 you at the same time?

6 A. No. Actually, the smaller ones were first, Tommy and  
7 Diesel, and actually picked them up.

8 Q. You picked them up?

9 A. Correct.

10 Q. Okay. And the -- the snow and the other one, they were  
11 delivered and that's how that worked.

12 Q. Okay. Who delivered them to you?

13 A. One of -- one of Mr. Passage's employees.

14 Q. How far is it from Wynnewood to Ringling?

15 A. It's around an hour.

16 Q. And, in your experience, having transported exotic animals,  
17 how much does it usually cost to transport an animal?

18 A. Really just -- I mean, if you pick it up yourself, basically  
19 just gas.

20 Q. What if somebody delivers them to you, is there a  
21 transportation cost sometimes?

22 A. Yeah. I mean, whatever they pay their employee plus fuel.  
23 I'm not really sure.

24 Q. So the money you paid for the tigers that you bought from  
25 Mr. Passage, the \$5,000 you paid for the first two and the 2,500

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 or 3,000 you paid for the other ones, was that the cost for the  
2 animal or was that the cost for the transportation?

3 A. For the animal.

4 Q. Did you believe that you violated any laws by buying those  
5 four tigers from Mr. Passage?

6 A. No, because at the time we were -- we were in state.

7 Q. And is your understanding that an in state sale is not  
8 illegal?

9 A. That's my understanding.

10 Q. Did you get some paperwork when the tigers were -- when you  
11 either picked up the first two tigers and then the other ones  
12 were delivered to you?

13 A. Yes, I did.

14 Q. What kind of paperwork did you get?

15 A. I think it was a USDA transfer form, I believe 7020.

16 Q. Okay. Did the forms indicate whether it was a sale or a  
17 donation?

18 A. Donation.

19 Q. And so it was -- okay. So if it indicated it was a  
20 donation, is that consistent with your understanding or is that  
21 not true?

22 A. It's not true, but that's, I guess, standard practice in  
23 this industry.

24 Q. What's standard practice in the industry?

25 A. Everybody marks "donation."

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 Q. Does anybody ever mark "sale"?
- 2 A. In my years, I have never seen one.
- 3 Q. So once you're living full time in Ringling in 2016, did you  
4 start to see Mr. Passage more regularly?
- 5 A. That's correct.
- 6 Q. Okay. Did you start to become friends with him?
- 7 A. Friendly, yes.
- 8 Q. And did you start spending some time at the park, making  
9 visits?
- 10 A. Yes, periodically.
- 11 Q. And did you talk on the phone with him?
- 12 A. Yes.
- 13 Q. Now, around this same time in 2016, did you meet a person  
14 named Jeff Lowe?
- 15 A. Yes.
- 16 Q. Had you ever met Mr. Lowe prior to the summer of 2016?
- 17 A. No.
- 18 Q. How did you meet Mr. Lowe?
- 19 A. I went to the park one day and Jeff Lowe was next to  
20 Mr. Passage and he introduced me.
- 21 Q. At that time, what was your understanding of Mr. Lowe's  
22 role?
- 23 A. That he basically owned the park.
- 24 Q. Okay. And over time did you get to be familiar with  
25 Mr. Lowe as well?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 A. Correct.
- 2 Q. And talk to him on the phone sometimes?
- 3 A. Yes.
- 4 Q. And visit him in person sometimes?
- 5 A. Yes.
- 6 Q. Okay. In 2017, did you get a few more tigers from
- 7 Mr. Passage?
- 8 A. Yes, I did.
- 9 Q. All right. Tell me about the first one you got from him.
- 10 A. One was a tiger named Floyd.
- 11 Q. Okay. Tell us about Floyd.
- 12 A. His name was Forrest at the time. He was at the GW Park.
- 13 Saw him in the -- where they did the cub petting. And I didn't
- 14 buy him; he was given to me, actually.
- 15 Q. Why was he given to you?
- 16 A. For some -- basically money that was owed to me about an
- 17 investment that I had made.
- 18 Q. Okay. Was there a cub that -- was there a cub that you took
- 19 that had some health problems?
- 20 A. He had club feet.
- 21 Q. Was this Floyd?
- 22 A. Yeah. He was known as Forrest there.
- 23 Q. Okay. Forrest, or you came to call him Floyd?
- 24 A. I thought it was derogatory calling him Forrest, so I
- 25 renamed him Floyd.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. Okay. And he had club feet?

2 A. Correct.

3 Q. Okay. And did Mr. Passage ever tell you anything about --  
4 about Forrest or his --

5 MR. EARLEY: Your Honor, I'm going to object to the  
6 leading nature of these questions.

7 MS. MAXFIELD-GREEN: Okay.

8 THE WITNESS: Yes, he mentioned -- they were doing a  
9 playtime or photo session or whatever it was at and they  
10 mentioned that he was going to be put down after he was too big  
11 to do photos because -- they made fun of him because his feet  
12 were -- both of his feet were turned inwards.

13 Q. (By Ms. Maxfield-Green) And when you heard that, what was  
14 your response?

15 A. We'll take him.

16 Q. And how's Floyd now?

17 A. He's doing great.

18 Q. Were you able to address his club feet?

19 A. Yeah. We -- nutrition, and we actually -- he's a little  
20 arthritic still.

21 Q. Okay. Later in 2017 in the -- after Floyd, did you get a  
22 couple more tigers?

23 A. Yes.

24 Q. Okay. What tigers did you get?

25 A. There was a tabby -- it was a golden tabby named Tigger, and

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 it was basically to knock off some of the money that was owed for  
2 a pizza restaurant that I invested in.

3 Q. Tell us about the pizza restaurant you invested in.

4 A. Joe asked me -- or Mr. Passage asked me if I would invest  
5 some money to get a pizza restaurant opened by spring break and  
6 that we would split all the money three ways.

7 Q. Three ways between?

8 A. Passage, Lowe and myself. And he wanted to get it open in  
9 spring break. Finally got it open; I invested \$10,000 towards  
10 the building and then about 2 or \$3,000 worth of equipment that I  
11 bought for the pizza restaurant. And I was told that the money  
12 would just be split evenly and that never worked out. So we  
13 had -- we took animals in trade for the money that was owed,  
14 minus a \$5,000 check that he wrote me.

15 Q. Okay. So you -- did you ever get a third of the profits of  
16 the pizza restaurant?

17 A. No.

18 Q. So I'm just trying to break down what you said here. Did  
19 Mr. Passage pay you a check with some money in repayment of that  
20 loan?

21 A. Well, I received a check at my store one day under -- under  
22 the doormat, or under the door, and it was a check from Greater  
23 Wynnewood Development and it was signed by Jeff Lowe, or stamped  
24 by Jeff Lowe.

25 Q. Based on your understanding of the situation, was that a --

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1 supposed to be a repayment of your investment?

2 A. Correct.

3 Q. And then the tigers that you acquired from the park, was  
4 that supposed to represent some kind of reimbursement for your  
5 investment?

6 A. That was supposed to knock off the other 5,000, basically.  
7 I was just getting less than the money that I invested back.

8 Q. And you said you got Tigger, a golden tabby, and did you get  
9 any other animals?

10 A. One other tabby named -- we call him Jasper.

11 Q. Does Jasper have any health problems?

12 A. Yeah. He's pretty much blind.

13 Q. In connection with the pizza restaurant that you invested  
14 in, did you put your name on any business paperwork for that  
15 restaurant?

16 A. I acquired a tax EIN number from the federal government.

17 Q. All right. In 2017 did you and your wife acquire a  
18 ring-tailed lemur?

19 A. Yes, we did.

20 Q. Tell me how you acquired that lemur.

21 A. I think Lauren Lowe had a lemur and then my girlfriend,  
22 Brittany, she saw it and fell in love with it. And she asked me  
23 if I could find a lemur -- or asked -- I think she was there at  
24 the time with us and we asked Mr. Passage if he had any lemurs or  
25 knew where any were. At the time, he made a couple phone calls

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 and found one and -- and then about a week later it was  
2 delivered.

3 Q. Were you standing there when he made the phone calls?

4 A. Yes, I was.

5 Q. Who did he call?

6 A. He called a lady named Lori Ensign first. And she had a  
7 lemur, but she wouldn't -- she didn't want to sell it. And then  
8 he called a gentleman by the name of Omar Villarreal in south  
9 Texas and he had one.

10 Q. Okay. And so did you ultimately get that lemur?

11 A. Yes.

12 Q. Tell us about how that lemur arrived to you.

13 A. So basically, maybe a few days later Omar calls and asks if  
14 we still want the lemur. And we were like, sure. And it was  
15 around \$2,000 delivered, 1,500 for the lemur, 500 to deliver it.  
16 And it showed up a few days later by a lady named Jenny Brister,  
17 Jenny and Michael Brister. They delivered it.

18 Q. And did you give them the \$2,000?

19 A. Yes. I gave them \$2,000 cash.

20 Q. Now, Mr. Garretson, was the purchase of this lemur legal or  
21 illegal, in your opinion?

22 A. It was illegal because they're not supposed to -- they're  
23 not supposed to be transported across state lines.

24 Q. Did Mr. Passage help you with documenting your acquisition  
25 of that lemur?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 A. Yes, he did.
- 2 Q. How did he help you?
- 3 A. He wrote me a form and told me to tell everybody that it was  
4 born at his place.
- 5 Q. That -- I'm sorry, that the lemur was?
- 6 A. Was born at his place.
- 7 Q. Was born at his place.
- 8 Take a look at -- there's a book in front of you with  
9 documents in it, the -- is that a black book or a white book?
- 10 A. It's a white book.
- 11 Q. Look at the black book and take a look at what's behind Tab  
12 No. 49.
- 13 A. My vision's real bad.
- 14 Q. Take your time. You got it?
- 15 A. Yes.
- 16 Q. Okay. Do you recognize that document?
- 17 A. Yes.
- 18 Q. What is it?
- 19 A. That's the transfer form he filled out for me.
- 20 Q. And whose handwriting is on it?
- 21 A. Joe Passage.
- 22 Q. How do you know that's his handwriting?
- 23 A. Because he wrote it out in front of me.
- 24 MS. MAXFIELD-GREEN: Government moves to admit  
25 Exhibit 49.

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- 1 THE COURT: Any objection?
- 2 MR. EARLEY: No, Your Honor.
- 3 THE COURT: Government Exhibit 49 will be admitted.
- 4 Q. (By Ms. Maxfield-Green) Okay. And so is this a -- a
- 5 transfer form, an animal transfer form?
- 6 A. Correct.
- 7 Q. Okay. You were -- you said you were standing there when he
- 8 wrote it, correct?
- 9 A. Correct.
- 10 Q. In fact, were you recording -- audio and video recording the
- 11 conversation you were having with him while he was filling this
- 12 out?
- 13 A. Correct.
- 14 Q. Okay. So who does it show that the -- who does it show in
- 15 the left-hand block as the original -- the original location of
- 16 the animal?
- 17 A. Joe Maldonado.
- 18 Q. And who does it show as the buyer?
- 19 A. The Ringling Animal Care.
- 20 Q. What is Ringling Animal Care?
- 21 A. The Oklahoma corporation.
- 22 Q. Is that your girlfriend's Oklahoma corporation?
- 23 A. Girlfriend's Oklahoma corporation, yes.
- 24 Q. And what does it show as being transferred?
- 25 A. I think it's a seven week old lemur, or ten weeks, in great

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 condition.

2 Q. All right. And what's written in the upper right-hand  
3 corner?

4 A. Donated.

5 Q. Okay. You testified earlier that you became aware of Carole  
6 Baskin when you owned tigers in Florida, correct?

7 A. Correct.

8 Q. Once you started associating with Mr. Passage more  
9 frequently in 2016, did you ever hear him talk about Carole  
10 Baskin?

11 A. Pretty much every time, yes.

12 Q. What did he say about her?

13 A. He would pretty much just rant about her, she's suing,  
14 spending all this money on lawyers and always broke.

15 Q. All right. Did Mr. Passage ever say anything about wishing  
16 harm to Ms. Baskin?

17 A. Yes.

18 Q. How often did he say things like that?

19 A. Bring it up quite obvious -- I mean, bring it up a lot. And  
20 basically he wanted the, quote, the bitch dead, and he asked if I  
21 knew somebody that would kill her.

22 Q. Okay. When did he -- when was the first time he asked you  
23 if you knew somebody that would kill her, to the best of your  
24 recollection?

25 A. In early '16.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 Q. Did he mention money in connection with that?
- 2 A. He always referenced \$10,000.
- 3 Q. That he referenced that he would be willing to pay \$10,000?
- 4 A. \$10,000, correct.
- 5 Q. At the time, the first time he mentioned it to you in 2016,
- 6 did you think he was serious?
- 7 A. I thought so.
- 8 Q. What did you say to him when he asked you if you could find
- 9 somebody to kill Carole Baskin for \$10,000?
- 10 A. I'll look around.
- 11 Q. You told him you would look around?
- 12 A. Correct.
- 13 Q. Did you, in fact, look around for anyone?
- 14 A. Not really, no.
- 15 Q. Now, in the summer of 2016, did you bring some friends of
- 16 yours to the park?
- 17 A. Yes, I did.
- 18 Q. What was the circumstances of that?
- 19 A. We would go out there to shoot guns with his ex-husband, or
- 20 his husband at the time. And towards the end of it, when we were
- 21 done, we were sitting on the front office steps and these guys
- 22 were heavily tattooed and he made reference to, will these guys
- 23 do it, and he was referring to kill Carole Baskin.
- 24 Q. Okay. And what did you tell him?
- 25 A. I don't know if I responded to it. I think I just shook my

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 head no.

2 Q. Did you ever ask any of your friends to kill Carole Baskin?

3 A. No.

4 Q. So to the best of your recollection, from the first time  
5 Mr. Passage asked you whether you could find someone to kill  
6 Carole Baskin up until about August of 2017, about how many times  
7 did Mr. Passage talk to you about finding someone to kill Carole  
8 Baskin?

9 A. Maybe a half a dozen times.

10 Q. And in your mind -- or based on your conversations with him  
11 and your experience with him, would there be anything in  
12 particular that would prompt a question like that?

13 A. Not really. It was usually whenever she was suing or  
14 something to do with the litigation, you know, about how much  
15 money he had to spend on lawyers.

16 Q. So throughout maybe that -- those dozen times he mentioned  
17 that to you over the course of about a year, did you continue to  
18 believe he was serious?

19 A. Yes.

20 Q. Now, in about August of 2017 did you have a more detailed  
21 conversation with Mr. Passage about a plan to have Carole Baskin  
22 killed?

23 A. Yes, I did.

24 Q. What do you remember about that conversation?

25 A. I remember us sitting in the office.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 Q. And first, who -- okay. Who was in the office?
- 2 A. It was me, Jeff Lowe and Joe Passage.
- 3 Q. All right. And what was the discussion?
- 4 A. And Jeff Lowe had brought up some maps on his computer. He
- 5 was sitting on one side, Mr. Passage was sitting in the back of
- 6 the office. And something come up in conversation where
- 7 basically Mr. Passage knew everything about Ms. Baskin, so he
- 8 brings over a big stack of manila folders and throws them on the
- 9 desk and I guess it was everything about her or whatever. And I
- 10 didn't --
- 11 Q. Let me stop you and ask a question there.
- 12 What was your understanding of where he got that stack of
- 13 manila folders?
- 14 A. It was my understanding somebody in the inside of her
- 15 organization.
- 16 Q. Had provided those to him?
- 17 A. That was my understanding, yes.
- 18 Q. Okay. So sorry to interrupt, but he brought over some
- 19 manilla envelopes. What happened in the conversation then?
- 20 A. Sat them down, he went back to his desk and then Jeff Lowe
- 21 brought up some maps, it might have been Google Earth or
- 22 something, and started showing me ways -- easy ways to kill her
- 23 either from a bike path or showed me a gift shop, and then he
- 24 showed me pictures of her house, brought it all up on a computer.
- 25 Q. And was Mr. Passage also actively involved in that

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 conversation?

2 A. He was talking about it, but he was more to himself at that  
3 time.

4 Q. At that point were you becoming concerned that Mr. Passage  
5 might actually develop a plan to try to carry through with  
6 killing Carole Baskin?

7 A. Yes.

8 Q. Around this time, what was -- had your opinion of  
9 Mr. Passage started to change?

10 A. A little bit, yes.

11 Q. Can you describe for us why?

12 A. Well, I mean, I just -- I would see different things when I  
13 would go to the park, empty animal cages and everything was  
14 changed all the time, so I just knew something was going on.

15 Q. Okay. Fair to say you started to have a negative opinion?

16 A. Yes. How he talked to his employees and things, yes.

17 Q. Okay. Also around this same time, in August of 2017, was it  
18 your understanding that Mr. Lowe was thinking about ending his  
19 association with Mr. Passage?

20 A. Yes. He wanted -- at the time, he was trying to get out.  
21 He wanted out from underneath the park because of all the  
22 litigation and -- and he wanted out of the park, yes.

23 Q. Did Mr. Lowe ask you to contact Carole Baskin?

24 A. He did.

25 Q. Why did he want you to contact her?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 A. I guess he was represented by attorneys and Ms. Baskin's  
2 represented by attorneys, so he wanted me to call her and ask if  
3 she'd be willing to buy the park from Jeff Lowe since he was the  
4 rightful owner.

5 Q. And you mentioned that he had attorneys and she had  
6 attorneys. Did Mr. Lowe seem to believe he couldn't reach out to  
7 her directly?

8 A. Correct.

9 Q. And is that why he asked you to do it?

10 A. Yes.

11 Q. Okay. Did you agree to contact him for her?

12 A. Yes.

13 Q. Contact her for him?

14 A. Yes.

15 Q. Why did you agree to do that?

16 A. Because he offered me \$100,000.

17 Q. Out of --

18 A. Out of the proceeds of whatever the park sold for.

19 Q. Okay. So did you attempt to contact her?

20 A. Yes, I did.

21 Q. How did you attempt to contact her?

22 A. I called her -- I think it might have been her cell phone.

23 Q. Did she answer?

24 A. No.

25 Q. Did you leave a message, to your recollection?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 A. To my recollection, yes, I left a message.
- 2 Q. Did she ever call you back?
- 3 A. No.
- 4 Q. Now, as a result of those phone -- that phone call you made  
5 to Carole Baskin, did someone else call you back in August of  
6 2017?
- 7 A. Yes.
- 8 Q. Who called you back?
- 9 A. Matthew Bryant with the U.S. Fish & Wildlife Service.
- 10 Q. Did he immediately identify himself as an agent with the  
11 Fish & Wildlife Service?
- 12 A. He did.
- 13 Q. And did you -- once you knew that he was a special agent,  
14 did you continue -- agree to continue talking to him?
- 15 A. No. At the time I didn't really know if it was somebody  
16 just portraying themselves as a U.S. Fish & Wildlife officer. So  
17 what I had him do is send me an email from his work address  
18 and -- because I wanted to make sure I was talking to a real Fish  
19 & Wildlife officer.
- 20 Q. Okay. And once you had verified that, did you agree to  
21 speak with him further?
- 22 A. Yes.
- 23 Q. And did you ultimately meet Special Agent Bryant in person  
24 for an interview in mid September of 2017?
- 25 A. Yes.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 Q. And what did you tell him about?
- 2 A. We just -- basically he asked me if I ever heard Mr. Passage
- 3 ask anybody to kill Carole Baskin and I said yes.
- 4 Q. Okay. And did Special Agent Bryant also ask you about
- 5 Mr. Passage's wildlife dealings?
- 6 A. Yes, he did.
- 7 Q. And did you provide him with information about that as well?
- 8 A. At the time we -- we talked -- I think we talked brief and
- 9 then -- and then he brought documents and I signed to be the
- 10 confidential informant.
- 11 Q. Okay. So you agreed to cooperate in the Government's
- 12 investigation of Mr. Passage?
- 13 A. Yes.
- 14 Q. Okay. Why did you agree to cooperate with the Government?
- 15 A. Just the right thing to do at the time.
- 16 Q. Okay. And so as part of your cooperation, did you agree to
- 17 record phone calls?
- 18 A. Yes.
- 19 Q. Did you agree to record phone calls with Mr. Passage?
- 20 A. Yes.
- 21 Q. And did you agree to record phone calls with Mr. Lowe?
- 22 A. Yes.
- 23 Q. And did you agree to record phone calls with anybody else
- 24 you encountered that seemed to have knowledge about these things?
- 25 A. Yes.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. And then did you voluntarily turn those recordings over to  
2 Special Agent Bryant?

3 A. Yes.

4 Q. Did you also, in the same fashion, give him text messages  
5 that you received from Mr. Passage or Mr. Lowe or anybody else in  
6 association with the zoo?

7 A. Yes.

8 Q. What kind of technology did you use to record your phone  
9 calls?

10 A. I had a -- Special Agent Bryant gave me a recording device  
11 to use, and then when that device wasn't available I had an app  
12 on my phone that recorded.

13 Q. The one that Special Agent Bryant gave you to use, were  
14 there some technical problems with that working at times?

15 A. It was hard to use, yes.

16 Q. So then you said you had an app on your phone that you would  
17 also use?

18 A. Yes.

19 Q. All right. What about any -- any video recording devices,  
20 did Special Agent Bryant or Special Agent Farabow give you a  
21 device to do that with?

22 A. Yes.

23 Q. And all the conversations that you were able to record, did  
24 you hand them all over to Special Agent Bryant?

25 A. Yes.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. Now, in preparing for your testimony today, have you had a  
2 chance to review some of those recordings again?

3 A. Yes.

4 Q. And based on your review of them, are they fair and accurate  
5 recordings of the conversations as you remember them?

6 A. Yes.

7 Q. Have you also -- in connection with reviewing the audio and  
8 video, have you had a chance to review the written transcription  
9 of what's been played on those tapes?

10 A. Yes.

11 Q. Are those transcriptions fair and accurate recordings of  
12 what's being said?

13 A. To the best of my knowledge, yes.

14 Q. Okay. Did you make a visit to Mr. Passage's zoo in  
15 Wynnewood on September 29 of 2017?

16 A. Yes.

17 Q. And was that the first time you attempted to record a  
18 conversation with Mr. Passage?

19 A. Yes.

20 Q. And did you end up speaking to Mr. Passage that day?

21 A. Yes.

22 Q. Did the special agents, Bryant or Farabow, give you any  
23 instructions or -- for what to discuss or suggest with  
24 Mr. Passage that day?

25 A. Not really specifics.

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1 Q. Okay. And that conversation was recorded, correct?

2 A. Yes.

3 MS. MAXFIELD-GREEN: Government moves to admit  
4 Exhibit 50, which is the recording itself, and Exhibit 50-A,  
5 which is the transcription of the recording.

6 MR. EARLEY: No objection to 50. I will object to  
7 50-A, the transcript.

8 THE COURT: On what grounds?

9 MR. EARLEY: It is a superimposed, I believe,  
10 transcript on the video itself. It is not, obviously, in the  
11 original recording. The transcript in the screen is similar to  
12 watching something with a transcription at the bottom, for  
13 example, you know, if you're watching a foreign film. We believe  
14 that the jury will be diverted from the content of the video and  
15 audio recording and should be listening only to the oral  
16 assertions on the tape itself.

17 THE COURT: Well, to the extent that it assists the  
18 jury in understanding, the objection will be overruled. You can  
19 cross-examine, obviously, about the accuracy.

20 Government's 50 and 50-A will be admitted.

21 MS. MAXFIELD-GREEN: Okay. And, Your Honor, I just was  
22 looking at the time. This clip is about 11 minutes long and we  
23 can go ahead and do it, or if you -- just up to you on timing.

24 THE COURT: I'm giving the hunger look to see. Let's  
25 actually take our lunch break. Thank you, Ms. Green, for

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 bringing that to my attention.

2 Ladies and gentlemen of the jury, we'll take our lunch break  
3 now. Again, with the usual admonition, don't discuss the case  
4 amongst yourselves or with anybody else.

5 Please remain seated in the courtroom as the jury leaves.

6 (Jury exited.)

7 THE COURT: Anything else from either party before we  
8 break?

9 MS. MAXFIELD-GREEN: No, Your Honor.

10 MR. EARLEY: No, Your Honor.

11 THE COURT: Court will be in recess for an hour and 15  
12 minutes.

13 (Break taken.)

14 (The following record was made in open court, in the  
15 presence of all parties, counsel, and in the presence and hearing  
16 of the jury.)

17 THE COURT: Ms. Green, you may proceed.

18 MS. MAXFIELD-GREEN: Thank you.

19 Q. (By Ms. Maxfield-Green) Okay. Mr. Garretson, we were  
20 talking about the fall of 2017 when you started recording  
21 conversations for the Government, correct?

22 A. Correct.

23 Q. And in the fall of 2017, did anybody outside of law  
24 enforcement know that you were cooperating with the Government?

25 A. No.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. Did Mr. Lowe know that you were cooperating with the  
2 Government in the fall of 2017?

3 A. Not at first, no.

4 Q. All through the fall, did he know?

5 A. No.

6 Q. When did he know?

7 A. Probably about five months in.

8 Q. Okay. I believe we were about to play Government  
9 Exhibit 50.

10 (Video played in open court.)

11 MS. MAXFIELD-GREEN: I believe there's a second clip  
12 with the same exhibit.

13 (Video played in open court.)

14 Q. (By Ms. Maxfield-Green) Okay. Mr. Garretson, just  
15 following up on a couple of statements that were made in that  
16 video. You say to Mr. Passage, one of my guys just got out of  
17 jail recently. Was that true?

18 A. No.

19 Q. What was the purpose of that statement?

20 A. To introduce the undercover agent.

21 Q. And the -- it appeared that in part of that video  
22 Mr. Passage was filling out a form with your assistance, asking  
23 you questions like what date do you want on this, do you want me  
24 to back date it about a month. What was he doing?

25 A. That was the transfer form for the lemur that I bought.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. At the end of that video, Mr. Passage says the hurricane  
2 would have been the perfect time. What was he talking about?

3 A. Oh, he was talking about the hurricane in Florida be the  
4 perfect time to kill Carole.

5 Q. And based on your conversations with him, why would that  
6 have been the perfect time?

7 A. Because the power was out.

8 Q. And was that -- and you said your stuff in the Keys washed  
9 away. Was that -- had that hurricane hit just recently?

10 A. Yes.

11 Q. Okay. So that conversation was on September 29th.

12 Now, on October 6th of 2017, did Mr. Passage's husband pass  
13 away?

14 A. Yes.

15 Q. And did the special agents instruct you to put things on  
16 hold for a while, for several weeks after that happened?

17 A. Yes.

18 Q. Now, on about November 4th of 2017, did Mr. Passage ask you  
19 about fake IDs?

20 A. Yes.

21 Q. What did he ask you?

22 A. He asked me if I knew a place he could get a fake ID.

23 Q. What did you tell him?

24 A. I said, yes, in Dallas.

25 Q. And how did you know about a place in Dallas?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 A. Because when I worked in the bar business, that's where  
2 everybody went to get IDs when they couldn't work.

3 Q. Did you know of any places in Oklahoma to get a fake ID?

4 A. No.

5 Q. Now, during that call did Mr. Passage say anything to you  
6 about what the fake ID was for?

7 A. No.

8 Q. And were you able to get that call recorded?

9 A. Yes -- well, no. That call, no.

10 Q. Okay. Did you discover later that day, or thereabouts, what  
11 the fake ID was for?

12 A. Yes.

13 Q. And how did you come to learn what the ID was going to be  
14 for?

15 A. I think had a previous call with Jeff Lowe and he told me.

16 Q. Okay. And based on that conversation, what was your  
17 understanding of what the fake ID was for?

18 A. That somebody that's at the park was going to go get an ID  
19 and get on a bus and go kill Carole.

20 Q. And who was the person that was going to do that?

21 A. Alan Glover.

22 Q. And, to your knowledge, what was Mr. Glover's relationship  
23 to the park and Mr. Passage and Mr. Lowe?

24 A. He was Lowe's -- one of Lowe's longtime employees and he was  
25 currently working at the park.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. On November 6th did you get a call from Mr. Passage asking  
2 for information about the location of the -- where to get the  
3 fake ID?

4 A. Yes.

5 Q. What did he want to know?

6 A. Where I was located at.

7 Q. Were you able to record that call?

8 A. I don't think so.

9 Q. All right. Later on that same day, on November 6th, did you  
10 get some kind of a communication from John Finlay?

11 A. Yes, through Facebook Messenger.

12 Q. And who is John Finlay?

13 A. John Finlay, I think, is the ex-husband of Joe Maldonado, or  
14 Passage.

15 Q. And in that Facebook message, what did he want to know?

16 A. He was going to come by the -- my shop and let me look at  
17 the ID.

18 Q. And was it your understanding that they were -- that  
19 Mr. Finlay was involved in obtaining the ID on that day, on  
20 November 6?

21 A. I think he was the driver of Mr. Glover.

22 Q. Did you see John Finlay later that day?

23 A. Yes.

24 Q. Where did you see him?

25 A. He came by my store in Ardmore.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 Q. Was anyone with him?
- 2 A. Alan Glover.
- 3 Q. And why did they stop by?
- 4 A. On those IDs, there's a big stamp that says "entertainment  
5 purposes only." They're like a novelty. And he brought the ID  
6 back by to let me scrape off the back.
- 7 Q. Okay. When you -- on that day when you were holding the ID  
8 to scrape things off the back, what did you notice about it?
- 9 A. It was just an Arizona ID with Mr. Glover's photo on it.
- 10 Q. Okay. And were you able to get a picture of the fake ID  
11 that day?
- 12 A. No.
- 13 Q. Why not?
- 14 A. Because they were standing right in front of me.
- 15 Q. Did you manage to get a photo of Mr. Glover and Mr. Finlay  
16 that day?
- 17 A. Yes, walking around, when they were playing with the toy  
18 gun.
- 19 Q. Take a look at the book in front of you, at Government  
20 Exhibit 19.
- 21 A. Wrong book?
- 22 Q. Yeah, wrong book. Is it the big one or the small one? I  
23 think it's the big book, it would have 19 in it.
- 24 A. Yes, that's the photo I took.
- 25 MS. MAXFIELD-GREEN: Government moves to admit

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Exhibit 19.

2 THE COURT: Any objection?

3 MR. EARLEY: No objection.

4 THE COURT: Government's 19 will be admitted without  
5 objection.

6 Q. (By Ms. Maxfield-Green) Okay. And who's in this picture?

7 A. Alan Glover in the -- to the left, and then John Finlay.

8 Q. And are they standing in your store?

9 A. Yes.

10 Q. And that's a picture you took on November 6th?

11 A. Yes.

12 Q. Okay. Did you have a conversation with Mr. Lowe the day  
13 after you saw Mr. Glover and Mr. Finlay?

14 A. Yes.

15 Q. And in that conversation did he seem to be aware that there  
16 was a -- a plan to use Mr. Glover to kill Carole Baskin?

17 A. Yes.

18 Q. Now, did you also have a conversation with Mr. Passage the  
19 day after you saw Mr. Finlay and Mr. Glover at your shop?

20 A. Yes.

21 Q. And was that phone call recorded?

22 A. I think so, yes.

23 MS. MAXFIELD-GREEN: The Government moves to admit  
24 Exhibit 51 and 51-A, the audio and the transcript.

25 THE COURT: Mr. Earley?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 MR. EARLEY: If I could have just a second, Your Honor.

2 THE COURT: Sure.

3 MR. EARLEY: No objection.

4 THE COURT: Government's 51 and 51-A will be admitted.

5 MS. MAXFIELD-GREEN: Go ahead and play that.

6 (Video played in open court.)

7 Q. (By Ms. Maxfield-Green) Okay. Mr. Garretson, what are you  
8 talking about with Mr. Passage?

9 A. We're just talking about the ID that he picked up, or that  
10 those guys got, and we're just basically, you know, discussing  
11 the plan. He was discussing the plan.

12 Q. And Mr. Passage makes several references to as long as he  
13 doesn't get busted, if they bust him red-handed, and talking  
14 about a male going somewhere. Who was he talking about?

15 A. Talking about Glover.

16 Q. Mr. Passage mentions that he's waiting on money for liligers  
17 to pay for it with. How much are liligers worth?

18 A. You know, he's the only one that sold them. So, I mean, I  
19 was told 7,500 a piece, 5 to 7,500 a piece.

20 Q. And Mr. Passage makes reference to that he's going to be  
21 paying for it with \$100 bills from Florida. What did he mean by  
22 that?

23 A. Supposedly the buyer of the cats was coming from Florida and  
24 bringing cash that came out of a Florida bank, so it wasn't  
25 traceable to Oklahoma.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

- 1 Q. Okay. The next day -- that was November 7th. Now, the next  
2 day, November 8th of 2017, did you make a visit to Mr. Passage's  
3 zoo?
- 4 A. Yes.
- 5 Q. And on that day had Special Agent Bryant and Farabow asked  
6 you to go there?
- 7 A. Yes.
- 8 Q. What was the purpose of your visit?
- 9 A. To get the name off the ID that was being used so they could  
10 track if he boarded any buses or whatnot.
- 11 Q. And did you speak with Mr. Glover that day?
- 12 A. Yes.
- 13 Q. And were you wearing a camera at the time of that recorded  
14 conversation?
- 15 A. Correct.
- 16 Q. Did you ask Mr. Glover to see the fake ID he got in Dallas?
- 17 A. Yes, I did.
- 18 Q. Did you take a picture of it at that time?
- 19 A. I did.
- 20 Q. Take a look at Government Exhibit 20. It should be in one  
21 of those books.
- 22 You got 20?
- 23 A. Yes.
- 24 Q. And what is that?
- 25 A. It's a photo of the ID.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. Is that the photo you took on November 8th?

2 A. It appears so.

3 MS. MAXFIELD-GREEN: Government moves to admit  
4 Exhibit 20.

5 THE COURT: Any objection?

6 MR. EARLEY: No objection.

7 THE COURT: Government's 20 will be admitted.

8 Q. (By Ms. Maxfield-Green) Okay. And is this an Arizona ID?

9 A. Yes.

10 Q. And who is that a picture of?

11 A. Appears to be Alan Glover.

12 Q. And what name is listed there?

13 A. John Allen McDowell.

14 Q. Was this the ID that you had previously filed the novelty  
15 information off the back?

16 A. Correct.

17 Q. Okay. Based on the conversation you had with Mr. Glover on  
18 November 8th, what did you believe was about to happen?

19 A. That he was waiting for some money and he was going to  
20 either get on a bus or buy a car and go to Florida and kill  
21 Carole Baskin.

22 Q. And did you believe that that was about to happen soon?

23 A. I was under the impression, yes.

24 Q. And did you relay all of that to the investigating agents?

25 A. Yes, I did.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. So during that conversation with Mr. Glover that you had on  
2 November 8, did you develop a plan or an excuse for keeping in  
3 touch with him while he was waiting to go to Florida?

4 A. Yeah. They wanted me to keep -- keep him -- keep in contact  
5 with him so I can track his whereabouts and -- if he did leave to  
6 go to Florida.

7 Q. And did Mr. Glover ask you to do something for him that  
8 would allow you to kind of check in on his whereabouts?

9 A. Yeah. He wanted me to supply him with some hookers.

10 Q. And did he want you to do that for him before he left for  
11 Florida?

12 A. Yes.

13 Q. Okay. And so did you have some text messages back and forth  
14 with Mr. Glover where you told him you were looking for hookers  
15 for him?

16 A. Correct.

17 Q. So at this time, based on your prior interactions and the  
18 things you had been able to record, did you believe that you  
19 sufficiently had the confidence of Mr. Passage and Mr. Glover and  
20 Mr. Lowe that you would know if -- if something was about to be  
21 set in motion?

22 A. I thought so.

23 Q. All right. And let's look at Government Exhibit 25, and we  
24 want to look at Page 3, please. It's been previously admitted.

25 Okay. And we're looking at some text messages here that

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 were extracted from one of Mr. Glover's cell phones. And if we  
2 can zoom in here, we'll start at the bottom. It appears that  
3 these go in reverse order.

4 Okay. And so the very bottom one that starts in the Block  
5 No. 6 that was on November 17th -- it shows November 17th of  
6 2017. And we have had previous testimony about the time of  
7 the -- of that, how to interpret that time. If I represented to  
8 you that the converted time of that would have made it at 7:14  
9 p.m. on 11/16 of '17, would you have any reason to disagree with  
10 that?

11 A. No.

12 Q. Okay. So that text message that would have happened on  
13 11/16 at 7:14 p.m., is that a text message that you sent to  
14 Mr. Glover?

15 A. Yes.

16 Q. What did you say to him?

17 A. "Thought you would be sitting on a beach in Florida by now."

18 Q. And was this one of your -- were you attempting to figure  
19 out where he was?

20 A. Yeah. I was just trying to get his whereabouts.

21 Q. And what did he respond to you just, oh, about 30 minutes  
22 later?

23 A. He said, "things change."

24 Q. Okay. And then what does he say just a minute later?

25 A. "Been to Florida before, didn't like it." Then, "I got to

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 find me another beach."

2 Q. Okay. And then what does he say two minutes later?

3 A. "I got to go where the fish are biting, you know that."

4 Q. All right. Now, that was on the night -- or the evening of  
5 November 16th, 2017. What was your interpretation based on your  
6 understanding of all of your conversations that you had had and  
7 then you get these text messages, so what did that cause you to  
8 believe?

9 A. I didn't really know what to think. Maybe he didn't get the  
10 money. I'm not sure.

11 Q. Did you believe that the plan was off?

12 A. I believed that, you know, he -- he didn't leave.

13 Q. Okay. And so did you relay all of that to the investigating  
14 agents?

15 A. Yes.

16 Q. All right. And then if we look at text messages on  
17 November 21st of 2017 -- and, again, based on prior testimony, I  
18 believe that time would be at 1:26 a.m. on 11/21. That's a --  
19 just to verify, that 817 number, is that your phone number?

20 A. My cell phone, yes.

21 Q. Okay. And is the text message that Mr. Glover sent to you,  
22 No. 2 there, what did it say?

23 A. "Yes, I'll be leaving -- I'll be -- yes, I will be tomorrow.  
24 I'm leaving Friday, going back home, tired of this shit."

25 Q. Okay. And what's the next thing he says to you?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 A. And then, "I guess Jeff, we got to be doing some things back  
2 in South Carolina for a minute, these two got a house there in  
3 the business."

4 Q. Okay. And so based on your -- what did you understand those  
5 text messages to mean?

6 A. I understood it -- I mean, by the way it sounds, like he was  
7 just going to go back home.

8 Q. Okay. And you believed at the time that if he was going to  
9 carry through on the plan that you already knew about that he  
10 would have let you know?

11 A. Correct.

12 Q. Okay. On the very next day, on November 17th of 2017, did  
13 you go visit the zoo?

14 A. Yes.

15 Q. And did you have a recorded conversation with Mr. Passage?

16 A. Yes.

17 MS. MAXFIELD-GREEN: Government moves to admit  
18 Exhibit 52 and 52-A.

19 THE COURT: Any objection?

20 MR. EARLEY: No, Your Honor.

21 THE COURT: 52 and 52-A will be admitted.

22 MS. MAXFIELD-GREEN: Let's play 52, please.

23 This takes place in four separate clips.

24 (Video played in open court.)

25 Q. (By Ms. Maxfield-Green) Okay. And in that conversation,

*Emily Eakle, RMR, CRR*

JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 what was the purpose of the conversation you were having with  
2 Mr. Passage?

3 A. I was trying to stop the Glover plan and introduce Mark.

4 Q. Okay. And that was on -- just to clarify, that was on  
5 November 17th that you had that conversation with Mr. Passage,  
6 correct?

7 A. Correct.

8 MS. MAXFIELD-GREEN: And then, Jane, can you bring up  
9 Page 25 -- I'm sorry -- Exhibit 25, Page 3 again? Okay. The top  
10 two.

11 Q. (By Ms. Maxfield-Green) And we just looked at these and we  
12 won't have to reread them, but these text messages on the 21st  
13 that we had already talked about, those happened a few days after  
14 the recorded conversation with Mr. Passage, correct?

15 A. Yes.

16 Q. Okay. And by the end of November had you learned that  
17 Mr. Glover had, in fact, left the zoo?

18 A. Yes.

19 Q. How did you learn that?

20 A. I don't recall.

21 Q. All right. Did you have a call with Mr. Passage on  
22 December 5th of 2017?

23 A. Yes.

24 Q. And was that call recorded?

25 A. Yes.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 MS. MAXFIELD-GREEN: Government moves to admit  
2 Exhibit 53 and 53-A.

3 THE COURT: Any objection?

4 MR. EARLEY: No objection.

5 THE COURT: Government's 53 and 53-A will be admitted.  
6 (Video played in open court.)

7 Q. (By Ms. Maxfield-Green) Okay. And you refer to "my guy."  
8 Who were you talking about?

9 A. The undercover agent.

10 Q. Okay. And did Mr. Maldonado know who you were talking  
11 about?

12 A. We referred to him as Mark.

13 Q. So December 5th, the day of the call was a Tuesday, and you  
14 said you would be there by Friday. Would that be December 8th?

15 A. Yes.

16 Q. On December 8th did you make a visit to the park?

17 A. Yes.

18 Q. Did you take an undercover FBI agent with you?

19 A. Yes.

20 Q. And you said he went by the name of Mark, correct?

21 A. Yes.

22 Q. Did you introduce Mark to Mr. Passage?

23 A. Yes.

24 Q. And on that date did the three of you then discuss details  
25 about a plan to murder Carole Baskin?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 A. Correct, yes.

2 Q. Did you leave that meeting with the impression that  
3 Mr. Passage had changed the plan and was --

4 MR. EARLEY: Your Honor, I'll object. His impression  
5 is irrelevant. What's on the tape will speak for itself.

6 THE COURT: Ms. Green?

7 MS. MAXFIELD-GREEN: I believe his impression is  
8 relevant to what he did next.

9 THE COURT: To the extent that it guided what he did  
10 next, he can testify to, if he knows.

11 Q. (By Ms. Maxfield-Green) Did you relay to the special agents  
12 that you believed that you had been successful in convincing  
13 Mr. Passage to use the undercover?

14 A. Yes.

15 Q. Now, did Mr. Passage give Mark any money that day?

16 A. No.

17 Q. What was your understanding about why, based on that  
18 conversation you had?

19 A. He was waiting for money to come in.

20 Q. All right. After the meeting with Mr. Passage on  
21 December 8th, did you communicate with him further about the plan  
22 to use Mark to kill Carole Baskin?

23 A. Yes. A couple of times, yes.

24 Q. Did you have a recorded conversation with Mr. Passage on  
25 December 18th of 2017?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 A. Yes.

2 MS. MAXFIELD-GREEN: Government moves to admit Exhibits  
3 54 and 54-A.

4 THE COURT: Any objection?

5 MR. EARLEY: No, Your Honor.

6 THE COURT: Government's 54 and 54-A will be admitted.

7 Q. (By Ms. Maxfield-Green) Okay. So he -- the call mentions  
8 Mark. Does that mean the undercover FBI agent?

9 A. Yes.

10 Q. And Mr. Passage mentions he's waiting on a litter of lions.  
11 What did that have to do with it?

12 A. For the money.

13 Q. All right. On January 2nd of 2018, was Mr. Passage involved  
14 in a car accident?

15 A. Yes.

16 Q. Did you have a recorded conversation with Mr. Passage on  
17 January 9th, 2018?

18 A. Yes.

19 MS. MAXFIELD-GREEN: Government moves to admit  
20 Exhibit 55 and 55-A.

21 THE COURT: Any objection?

22 MR. EARLEY: No objection.

23 THE COURT: 55 and 55-A will be admitted.

24 (Video played in open court.)

25 Q. (By Ms. Maxfield-Green) And was that conversation having to

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 do with tigers and tiger breeding?

2 A. Correct.

3 Q. All right. Did you have a recorded conversation with  
4 Mr. Passage on February 11th of 2018?

5 A. Yes.

6 MS. MAXFIELD-GREEN: Government moves to admit  
7 Exhibit 56 and 56-A.

8 THE COURT: Any objection?

9 MR. EARLEY: No objection.

10 THE COURT: 56, 56-A will be admitted.

11 (Video played in open court.)

12 Q. (By Ms. Maxfield-Green) In that conversation Mr. Passage  
13 says, that last guy ran off to North Carolina and drank it all.  
14 What was your understanding of who he was referring to?

15 A. I assume he was talking about Glover.

16 Q. Okay. At the time that he made that statement, did you  
17 understand what that meant?

18 A. I put two and two together.

19 Q. Okay. And what did you --

20 A. I just assumed it was Glover and he took off with the money  
21 to kill Carole.

22 Q. All right. About a week later, on February 18th of 2018,  
23 did you get a phone call from Mr. Passage that you were unable to  
24 record?

25 A. Yes.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 Q. Where were you when you got that phone call?  
2 A. I was in our barn.  
3 Q. And why couldn't you get it recorded?  
4 A. Didn't have the device near me.  
5 Q. Okay. And what did Mr. Passage say on that call?  
6 A. I think he just basically asked if Mark was still available.  
7 Q. Okay. And what did you tell him?  
8 A. Yes.  
9 Q. Okay. Anything else of substance that you recall?  
10 A. No.  
11 Q. All right. Now, did you have a recorded conversation with  
12 Mr. Passage on March 8th of 2018?  
13 A. Yes.  
14 MS. MAXFIELD-GREEN: Government moves to admit  
15 Exhibit 57 and 57-A.  
16 THE COURT: Any objection?  
17 MR. EARLEY: May I have just a moment, Your Honor?  
18 THE COURT: Sure.  
19 MR. EARLEY: I just need a second. There's a reason  
20 that --  
21 THE COURT: Sure. No, take your time, Mr. Earley.  
22 MR. EARLEY: May we approach, briefly?  
23 THE COURT: Yes.  
24 (The following bench conference was held outside the hearing  
25 of the jury.).

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 MR. EARLEY: Your Honor, my only concern is that this  
2 is a part of a recording where there is the issue about the arson  
3 that was discussed, and I believe the Court granted the motion in  
4 limine on that. I just want to make sure Ms. Green has advised  
5 Mr. Garretson not to get into that.

6 MS. MAXFIELD-GREEN: Yes, he has been advised of that.  
7 And I'm just -- I'm really not going to ask him follow-up  
8 questions. I think we're just going to play this, which the only  
9 reference to that is that and there's no other explanation in  
10 the --

11 MR. WACKENHEIM: And that is -- I'll -- around on --

12 MS. MAXFIELD-GREEN: Yes, so that's -- there's no other  
13 context to indicate what they're talking about. So we thought  
14 that that line was okay to include, because there's just no way  
15 that the jury would get any inference about what that means.

16 MR. EARLEY: As long as there's no other reference to  
17 it.

18 MS. MAXFIELD-GREEN: Right. And I will not ask him a  
19 follow-up question about that that will tie any connection to the  
20 arson.

21 THE COURT: Thank you.

22 (The following record was made in open court, in the  
23 presence of all parties, counsel, and in the presence and hearing  
24 of the jury.)

25 MS. MAXFIELD-GREEN: Okay. Do you need this?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 And, Your Honor, I'm sorry, I don't recall, did you admit 57  
2 and 57-A?

3 THE COURT: Subject to the discussion at the bench, 57,  
4 57-A will be admitted.

5 (Video played in open court.)

6 Q. (By Ms. Maxfield-Green) Okay. In that conversation  
7 Mr. Passage refers to "that one of Jeff's." Who was he talking  
8 about?

9 A. Glover.

10 Q. And there's several references to the weekend and having  
11 three good weekends. What did that mean?

12 A. I think that he meant when it was near spring break and the  
13 zoo does really well financially.

14 MS. MAXFIELD-GREEN: Can I have just a moment, Your  
15 Honor, so we --

16 THE COURT: Sure.

17 Q. (By Ms. Maxfield-Green) Did you have another recorded  
18 conversation with Mr. Passage on March 28th of 2018?

19 A. Yes.

20 MS. MAXFIELD-GREEN: Government moves to admit  
21 Exhibit 58 and 58-A.

22 THE COURT: Any objection?

23 MR. EARLEY: If I could have just one moment.

24 THE COURT: You may.

25 MR. EARLEY: No objection.

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 THE COURT: Government's 58 and 58-A will be admitted.

2 MS. MAXFIELD-GREEN: And this takes place in a series  
3 of five clips.

4 (Video played in open court.)

5 Q. (By Ms. Maxfield-Green) Okay. I believe that's the last  
6 clip.

7 What was that conversation about?

8 A. Talking about Mark.

9 Q. Okay. And talking about using Mark for what?

10 A. To kill Carole.

11 Q. And the discussion of money, you're talking about getting  
12 some 20s and Mr. Passage is asking about how to funnel the money.  
13 What is that about?

14 A. How to give them the money without getting caught.

15 Q. Now, you refer to somebody that you call "that other  
16 dipshit." You also refer to him as a drunk. Who were you  
17 talking about?

18 A. Alan Glover.

19 Q. And in response Mr. Passage says, "He took 4,000 bucks and  
20 never came back." Was he also referring to Mr. Glover?

21 A. Yes.

22 Q. Okay. And this was March 28th of 2018. Shortly after that  
23 conversation, did Mr. Passage stop talking to you?

24 A. Yes.

25 Q. And why?

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JAMES GARRETSON - Direct by Ms. Maxfield-Green

1 A. It was when Jeff came back from -- Jeff Lowe came back from  
2 Las Vegas.

3 Q. And what happened that caused Mr. Passage to stop talking to  
4 you?

5 A. I'm not sure.

6 Q. Okay. In May of 2018 did you have a conversation with Jeff  
7 Lowe that led you to believe that he had more involvement  
8 about -- sorry -- that he had more information about Mr. Glover's  
9 involvement?

10 A. Yes.

11 Q. And did you relay that information to Special Agent Bryant?

12 A. Yes.

13 Q. And shortly after that did you coordinate a meeting between  
14 Jeff Lowe and Special Agent Matt Bryant?

15 A. Yes, I did.

16 Q. Was that pretty much the last thing you did to assist the  
17 investigative phase of this matter?

18 A. Yes.

19 Q. And, Mr. Garretson, throughout the course of all of this,  
20 has the Government offered you any form of immunity from  
21 prosecution in exchange for your cooperation with the  
22 investigation?

23 A. Nothing.

24 Q. Have you been offered anything in exchange for your  
25 testimony here today?

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JAMES GARRETSON - Cross by Mr. Earley

1 A. Nothing.

2 MS. MAXFIELD-GREEN: Government passes the witness.

3 THE COURT: Thank you.

4 Cross-examination?

5 **CROSS-EXAMINATION**

6 **BY MR. EARLEY:**

7 Q. Mr. Garretson, what is it that you would need immunity for?

8 A. Really, I didn't ask for any immunity.

9 Q. I know, but if you needed it, what would it be for?

10 A. I bought a lemur illegally.

11 Q. And that was from Mr. Villarreal; is that correct? Omar?

12 A. Well, it was coordinated by Joe Passage.

13 Q. Well, he put you in touch with Omar. Omar sold you your  
14 lemur, correct?

15 A. Correct.

16 Q. So with respect to that, have they threatened to prosecute  
17 you for that?

18 A. I was looking for a charge, yes.

19 Q. All right. And has one been made yet?

20 A. Not yet.

21 Q. And they have known that for -- known about that for, what,  
22 at least a year or so now?

23 A. Yes, sir.

24 Q. Now, when this all kind of got started you were in a room --  
25 as far as really started, you were in a room with Jeff Lowe and

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JAMES GARRETSON - Cross by Mr. Earley

1 you said Mr. Passage was in there, and was it June or August  
2 of 2017?

3 A. June.

4 Q. All right. So in June you were in the office at the park,  
5 correct?

6 A. Correct.

7 Q. And Jeff Lowe was there and Mr. Passage was there, correct?

8 A. Correct.

9 Q. Mr. Passage dumps a bunch of paperwork on a desk, correct?

10 A. Correct.

11 Q. And then Jeff Lowe proceeds to pull up the map and  
12 information about where Ms. Baskin lives; is that right?

13 A. Yes.

14 Q. All right. And I believe your testimony was that  
15 Mr. Passage was over in another part of the office while Mr. Lowe  
16 was discussing all that with you, correct?

17 A. Correct.

18 Q. All right. So there was no question in your mind that  
19 Mr. Lowe had some plan, at least in his mind at that point, about  
20 killing Ms. Baskin?

21 A. That is correct.

22 Q. All right. And I believe that -- was it after that that you  
23 and Mr. Lowe had your discussion about you calling Carole Baskin?

24 A. At that point that was -- that was after, yes.

25 Q. All right. And if I understood you correctly, Mr. Lowe had

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JAMES GARRETSON - Cross by Mr. Earley

1 kind of gotten sick and tired of all this legal business,  
2 correct?

3 A. That's correct.

4 Q. And he was going to take an opportunity, if you could  
5 arrange it, to sell off the park, correct?

6 A. Correct.

7 Q. And since he had been put as the new owner, he expected to  
8 be compensated for -- for the purchase price, correct?

9 A. That's correct.

10 Q. And as part of an incentive for you to act on his behalf, he  
11 offered you \$100,000; is that correct?

12 A. That is correct.

13 Q. All right. So not only did Mr. Lowe have a financial  
14 interest in getting rid of Mr. Passage, but you did as well at  
15 that point, correct?

16 A. No.

17 Q. Well, if you got rid of Mr. Passage, then you get a hundred  
18 thousand bucks, right?

19 A. Mr. Passage was an employee of the park. He could have been  
20 fired at any time, is what I understood.

21 Q. Well, correct. But Mr. Lowe, for whatever reason, was  
22 desperate enough to get rid of Mr. Passage that he was offering  
23 you \$100,000 out of it, correct?

24 A. Correct.

25 Q. All right. I want to talk a little bit about these

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JAMES GARRETSON - Cross by Mr. Earley

1 recordings, if we could. I believe the first recording is the  
2 September 29th visit that you had at the park; is that right? Is  
3 that correct?

4 A. Yes.

5 Q. All right. And I believe that the information associated  
6 with that recording shows that you were out there for about 30  
7 minutes; is that right?

8 A. About, yes.

9 Q. Seem about right to you?

10 A. Yes.

11 Q. All right. And, of course, the clip that we have shows that  
12 it is about -- you know, the first clip is about two minutes  
13 long. What was being discussed during the rest of this visit at  
14 the park?

15 A. I'm not -- I don't recall.

16 Q. Okay. But it wasn't about Carole Baskin, right?

17 A. Not everything was about Carole Baskin.

18 Q. Right. And so there was, in this particular visit to the  
19 park that was about 30 minutes, two references to Carole Baskin.  
20 Would that be fair to say?

21 A. If that's what it is, yes.

22 Q. Okay. Yeah, the first one was that, you know, you had a  
23 guy -- one of your guys that got out of jail recently. Do you  
24 remember that?

25 A. Yes.

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JAMES GARRETSON - Cross by Mr. Earley

1 Q. And you brought the subject up, correct?

2 A. Yes.

3 Q. Mr. Passage didn't say, out of the blue, hey, do you know  
4 anybody who will kill Carole Baskin? I mean, that didn't occur  
5 during this conversation, correct?

6 A. Not during that one, no.

7 Q. And it's because you brought it up and you were trying to  
8 inject the idea into your conversation, right?

9 A. At that time, yes.

10 Q. And then after that there was some more general discussion.  
11 And then as you're getting ready to leave, Mr. Maldonado-Passage  
12 didn't say, hey, what about that guy; you actually bring it up  
13 again, correct? Do you remember that?

14 A. Correct.

15 Q. So in this first meeting with Mr. Passage, you brought up  
16 the subject of bringing somebody in to take care of his problem  
17 twice. He didn't solicit that, correct?

18 A. On that occasion, yes.

19 Q. Right. And I believe your next meeting was a phone call on  
20 November the 7th; is that right? Or at least the next recording  
21 you heard?

22 A. Yes.

23 Q. Okay. And it was during that phone call again that you  
24 brought up, hey, did your guys get everything handled,  
25 everybody's gone away, or you got all that handled. Do you

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JAMES GARRETSON - Cross by Mr. Earley

1 remember that?

2 A. Yes.

3 Q. Again, Mr. Passage didn't bring the subject up; you did,  
4 correct?

5 A. Correct.

6 Q. Then you had another conversation with Mr. Passage on, looks  
7 like November the 17th. That's the next recording that the  
8 Government played. And that meeting actually lasted for about an  
9 hour and 42 minutes. Do you recall that?

10 A. I don't recall it lasting that long, but yes.

11 Q. And if I'm not mistaken, maybe you-all went to lunch or  
12 something to that effect?

13 A. We could have.

14 Q. All right. So again, during that conversation you once  
15 again inject this Mark or your buddy into the conversation,  
16 correct?

17 A. Correct.

18 Q. All right. Were the agents telling you to -- to bring this  
19 up and to see if you could further this along?

20 A. Yes.

21 Q. And then there was a phone conversation, that was the next  
22 recording that we listened to, Government's Exhibit 53, where you  
23 called Mr. Passage, correct?

24 A. Correct.

25 Q. And you're talking about various things and he says he's got

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JAMES GARRETSON - Cross by Mr. Earley

1 to go to a parade. And you're the one who brings up, hey, my  
2 guy's going to be in town, I would like to arrange a meeting. Do  
3 you recall that?

4 A. Yes.

5 Q. So Mr. Passage didn't call you and say, hey, you know,  
6 where's that guy, what's up with him, can you bring him by  
7 anytime. He didn't do that, did he?

8 A. Correct.

9 Q. So each time, as we progress along, you have to inject the  
10 idea into the conversation that you're having, correct?

11 A. With the undercover, yes.

12 Q. Correct. And because they're wanting you to try to move  
13 this along, correct?

14 A. Yes.

15 Q. Then there's a phone conversation on December the 18th, and  
16 that was Government's Exhibit 54. It's very short. But once  
17 again, there's a discussion about something at a Ford dealership  
18 and then you again raise the issue. Do you recall that?

19 A. Yes.

20 Q. And again, you know, here we are ten days after this meeting  
21 that the undercover person was at at the park and you're still  
22 having to bring up whether or not he's interested, correct?

23 A. Well, he was interested the whole time, yes.

24 Q. Well, he didn't call you this day. You brought the subject  
25 up, correct?

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JAMES GARRETSON - Cross by Mr. Earley

- 1 A. Correct.
- 2 Q. Now, after the December 8th meeting up until, let's just say  
3 the end of January, there are no recordings that the Government's  
4 introduced where you are trying to solicit Mr. Passage into  
5 agreeing to visit with Mark. Was there a reason for that?
- 6 A. His husband had passed away.
- 7 Q. Well, this is after December of 2017.
- 8 A. Oh, after December?
- 9 Q. Yes.
- 10 A. No.
- 11 Q. Any reason for that?
- 12 A. No.
- 13 Q. But you did have a conversation with Mr. Lowe, I believe in  
14 January of 2018. Do you remember making a recorded call to  
15 Mr. Lowe?
- 16 A. Yes.
- 17 Q. And would that be the very first recorded call that you had  
18 with Mr. Lowe since your initial recorded call in November?
- 19 A. That's correct.
- 20 Q. Why?
- 21 A. Well, me and Lowe had talked in between and there are some  
22 calls that were not recorded due to problems I was having with  
23 the phone.
- 24 Q. Okay. Well, what were you discussing with Mr. Lowe?
- 25 A. Just normal --

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JAMES GARRETSON - Cross by Mr. Earley

1 MS. MAXFIELD-GREEN: Objection, Your Honor; hearsay.

2 THE COURT: Sustained.

3 Q. (By Mr. Earley) Well, in this recorded conversation that  
4 you had with Mr. Lowe you were discussing the sale of the park.  
5 Do you recall that?

6 MS. MAXFIELD-GREEN: Objection, Your Honor; hearsay.

7 MR. EARLEY: I'm asking him what he was discussing, if  
8 he recalls.

9 THE WITNESS: I don't recall that, no.

10 THE COURT: Overruled to the extent that -- what he  
11 recalls, but not what Mr. Lowe said.

12 Q. (By Mr. Earley) Do you recall anything else out of that  
13 conversation?

14 A. I don't recall.

15 Q. And it was recorded, right? You know that?

16 A. Correct.

17 Q. Did they play all these recorded calls for you?

18 A. Yes.

19 Q. And you reviewed them?

20 A. Yes.

21 Q. But you don't remember the substance of the call you had  
22 with Mr. Lowe in January of 2018?

23 A. It's been a while. I made so many calls.

24 Q. Then the next time that there was some discussion, or at  
25 least one of the next times you have a phone call or a recorded

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JAMES GARRETSON - Cross by Mr. Earley

1 conversation with Mr. Passage in March of 2018. Do you remember  
2 listening to that today?

3 A. Yes.

4 Q. And again, you brought the subject up, correct?

5 A. Yes.

6 Q. You had another conversation during a meeting on March 28th  
7 and there were several times that you again brought the subject  
8 up, correct?

9 A. Correct.

10 Q. Now, would it be fair to say that you were in constant  
11 contact with Agent Bryant during this period of time?

12 A. That's correct.

13 Q. And, in fact, did you-all communicate by telephone and by  
14 text?

15 A. That's correct.

16 Q. If you would get the other exhibit book, please. Does it  
17 say "defendant's trial" --

18 A. Yes.

19 Q. All right. Thank you. And turn to No. 36.

20 A. Okay.

21 Q. All right. Now, I believe that these are text messages. Do  
22 you recognize that?

23 A. Yes.

24 Q. And do you recognize who's participating in the text  
25 message?

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JAMES GARRETSON - Cross by Mr. Earley

- 1 A. That would be Mr. Bryant and me.
- 2 Q. Okay. Agent Bryant?
- 3 A. Agent Bryant, yep.
- 4 Q. All right. And if you would, just take a moment and go  
5 through the rest of the exhibits, from 36 all the way up to  
6 Exhibit 57. Just flip through there, if you would.
- 7 A. To 57 or all the way through?
- 8 Q. Through to 57, yes.
- 9 A. Okay.
- 10 Yes, those are all text messages.
- 11 Q. And they're all between you and Agent Bryant; is that  
12 correct?
- 13 A. That is correct.
- 14 MR. EARLEY: Your Honor, I would move to admit  
15 Defendant's Exhibits 36 through 51.
- 16 THE COURT: 36 through 51?
- 17 MR. EARLEY: No. Sorry. Missed that. 56.
- 18 THE COURT: 56 -- say your total number again,  
19 Mr. Earley. I'm sorry.
- 20 MR. EARLEY: The beginning number is Exhibit 36 through  
21 Exhibit 56.
- 22 THE COURT: 56. Government?
- 23 MS. MAXFIELD-GREEN: Your Honor, we object. They are  
24 all hearsay.
- 25 MR. EARLEY: Your Honor, they are --

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JAMES GARRETSON - Cross by Mr. Earley

1 THE COURT: Hold on just a second. Please approach.  
2 (The following bench conference was held outside the hearing  
3 of the jury.).

4 THE COURT: Go ahead, Mr. Earley.

5 MR. EARLEY: Your Honor, the purpose of introducing  
6 these text messages between the agent and Mr. Garretson is for  
7 the purpose of showing the ongoing nature of the investigation.  
8 They show a contact between Agent Bryant and Mr. Garretson where  
9 they are trying to get him to further this along. That's the  
10 only purpose of introducing these. It shows the lack of contact  
11 with Mr. Maldonado-Passage during this period of time, and I  
12 think that they are relevant for purposes of showing the  
13 direction of the investigation in this case.

14 THE COURT: Didn't Mr. Garretson testify to that, about  
15 the lapses, and then admitted under cross-examination that he was  
16 being pressed to move the investigation along?

17 MR. EARLEY: Well, these are specific instances on  
18 specific days that -- that's exhibited by these text messages.  
19 And I think it's important for the jury to see in document form  
20 the continued requests by the Government agent that he contact  
21 Mr. Passage and that he attempt to get some information about the  
22 case and continue it forward.

23 THE COURT: Can't you accomplish the same thing by  
24 asking him the questions on the specific instances without  
25 admitting the hearsay side of the -- of the exhibit?

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JAMES GARRETSON - Cross by Mr. Earley

1 MR. EARLEY: Well, I can, but I would still like to  
2 have -- I plan to get the other half of the conversation in when  
3 Mr. Bryant testifies, if I have to get to that extent, but I  
4 thought it would be simpler and more time efficient to do it this  
5 way.

6 THE COURT: Well, and I appreciate that interest. Tell  
7 me, what's the relevance when you say you're using it to show the  
8 nature of the investigation? I don't understand what you mean by  
9 that.

10 MR. EARLEY: Well, the investigation and -- as the  
11 Court's aware, there was no contact with the undercover agent  
12 after December the 8th. The Government was attempting to insert  
13 the agent back into having another conversation with Mr. Passage.  
14 These text messages reflect their continuing efforts to do so,  
15 and at the end of it nothing ever happened. That's the point.

16 THE COURT: Okay. Response?

17 MS. MAXFIELD-GREEN: Yes, Your Honor. I mean, these  
18 text messages are classic hearsay. They are statements --  
19 out-of-court statements. They are being offered for the truth of  
20 the matter asserted, which Mr. Earley said he wants to establish  
21 that Mr. Garretson was being pressed by the agents to introduce  
22 an undercover. So he's offering them for that purpose.

23 Mr. Garretson has already testified that that was the case,  
24 that the agents were pressing him to do it. The text messages  
25 don't establish anything, according to Mr. Earley, beyond that.

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JAMES GARRETSON - Cross by Mr. Earley

1 And there's just no purpose in admitting hearsay statements to  
2 establish something that has already been established.

3 THE COURT: Anything further, Mr. Earley?

4 MR. EARLEY: No, Your Honor.

5 THE COURT: Well, Mr. Earley, I appreciate the going  
6 about time efficiency, suggesting that Mr. Bryant -- or Agent  
7 Bryant is going to testify, and I don't want to prerule, but it's  
8 your supposition that they may come in at that point, but for  
9 purposes of this witness, the objection will be sustained.

10 MR. EARLEY: May I inquire of the witness about his  
11 statements in the individual texts of the --

12 THE COURT: Of the witness's statements?

13 MR. EARLEY: Yes, without admission.

14 THE COURT: I believe you can. In terms of asking him,  
15 you might -- you might ask if he recalls. He might have to  
16 refresh his recollection with that. I don't think it would be  
17 appropriate for you to read all the individual texts that he said  
18 and then ask him does he remember that. And then I think that  
19 kind of defeats the purpose of --

20 MS. MAXFIELD-GREEN: May I object, Your Honor? Yeah,  
21 that would essentially just be reading into the record the same  
22 hearsay. And I -- asking Mr. Garretson even about his own  
23 statements, they're still hearsay as to him. So it doesn't  
24 really solve the problem just asking him about his own  
25 statements. It's still hearsay.

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JAMES GARRETSON - Cross by Mr. Earley

1 THE COURT: Well, and I'm aware there's some exceptions  
2 in the code for even his own statement to come in; I'm aware  
3 there are some exceptions to that. I'm not aware of it going  
4 that direction yet, but I think you can have him read them and go  
5 through them with him, but without -- I don't think you can read  
6 those to him without establishing first one of those exceptions  
7 to the hearsay rule in terms of a statement.

8 MR. EARLEY: All right.

9 (The following record was made in open court, in the  
10 presence of all parties, counsel, and in the presence and hearing  
11 of the jury.)

12 Q. (By Mr. Earley) Mr. Garretson, I believe that the  
13 Government showed you the texts from Mr. Glover where he, in  
14 essence, was advising that he had changed his mind. Do you  
15 recall that exhibit?

16 A. Yes.

17 Q. All right. And so as of that day -- which I think we have  
18 established November the 16th was when that was texted to you.  
19 Do you recall that?

20 A. Right.

21 Q. All right. And then after that was the focus, as far as  
22 your conversations with the agents, the focus of trying to get  
23 this undercover guy, was that kind of ramped up at that time?

24 A. Correct.

25 Q. Because nothing was going on with Glover, right?

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JAMES GARRETSON - Cross by Mr. Earley

1 A. I wasn't -- I lost track of the Glover situation.

2 Q. All right. So do you have a recollection of whether or not  
3 you received some direction from the agent to try to get this  
4 undercover agent in there on -- on or about November 17th? Do  
5 you recall having any conversation with him about that?

6 A. I don't recall.

7 Q. All right. Now, after the meeting on December the 8th, how  
8 many times, if you can recall, did Agent Bryant contact you about  
9 trying to set up another meeting?

10 A. I don't recall.

11 Q. Was that the goal, to try to get the undercover agent back  
12 in to visit with Mr. Passage?

13 A. Yes.

14 Q. And obviously that never occurred, correct?

15 A. Correct.

16 Q. Did you try to do that on a number of occasions after the  
17 December 8th meeting?

18 A. Yes.

19 Q. Did you try to do that on a number of occasions throughout  
20 January?

21 A. I don't recall.

22 Q. Would you turn to Defendant's Exhibit 42?

23 A. Okay.

24 Q. And does that refresh your recollection --

25 A. Yes.

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JAMES GARRETSON - Cross by Mr. Earley

1 Q. -- as to whether or not you received some direction?

2 A. Yes.

3 Q. Would you turn to Defendant's Exhibit 43?

4 Now, I want to ask you, does that refresh your recollection  
5 about the phone call that you had with Jeff Lowe?

6 A. Yes.

7 Q. So what was the content of that conversation that you recall  
8 from Jeff Lowe and yourself?

9 MS. MAXFIELD-GREEN: Your Honor, same objection;  
10 hearsay.

11 THE COURT: Mr. Earley?

12 MR. EARLEY: Your Honor, I think we have been through  
13 several conversations between Mr. Lowe and Mr. Garretson. It's  
14 simply to establish if he recalls whether or not there was any  
15 discussion of this alleged scheme or another topic. That's all.

16 THE COURT: Can you reask your question?

17 Q. (By Mr. Earley) All right. With respect to that meeting  
18 with Jeff Lowe, or that conversation you had with Jeff Lowe in  
19 January of 2018, did the issue of Carole Baskin come up at all  
20 during that conversation?

21 THE COURT: Overruled as to that question.

22 THE WITNESS: On the 18th?

23 Q. (By Mr. Earley) Yes.

24 A. I don't recall.

25 Q. All right. Would you look at Defendant's Exhibit 44?

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JAMES GARRETSON - Cross by Mr. Earley

1 A. Okay.

2 Q. Were you being asked to continue the investigation and  
3 further the effort to have a meeting with this Mark by the agent  
4 in February?

5 A. Appears to be, yes.

6 Q. Would you turn to Defendant's Exhibit 48?

7 A. Okay.

8 Q. Based on that, have you a recollection that, again, you were  
9 attempting to set up a meeting between you and the undercover  
10 agent in March?

11 A. That's correct.

12 Q. Now, to your knowledge, after the December 8th, 2017,  
13 meeting at the park with the undercover agent, did Mr. Passage  
14 ever provide money to anyone to further that along?

15 A. No, not that I'm aware of.

16 Q. Did he ever, to your knowledge, purchase a firearm for the  
17 individual?

18 A. Not that I'm aware of.

19 Q. Did he ever, to your knowledge, purchase burner phones for  
20 this individual?

21 A. Not that I'm aware of.

22 Q. And if any of that was going to happen, if this were going  
23 to turn into an actual situation, that would have gone through  
24 you, correct?

25 A. Yes.

*Emily Eakle, RMR, CRR*

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JAMES GARRETSON - Cross by Mr. Earley

1 Q. Because you were the only connection to this individual that  
2 Mr. Passage had, right?

3 A. Right.

4 Q. Do you know why Mr. Passage stopped talking to you in March?

5 A. I assume there was some hostility between Jeff and Joe.

6 Q. Was that relationship, to your knowledge, based upon your  
7 observations, deteriorating pretty quickly?

8 A. When Jeff came back, yes.

9 Q. All right. Now, with respect to the November 4th  
10 conversation with Jeff Lowe, he, in fact, was the one that  
11 advised you that he had retained Alan Glover for purposes of the  
12 Carole Baskin murder, correct?

13 A. I think Jeff -- in that conversation Jeff Lowe recommended  
14 him to Joe.

15 Q. All right. So Jeff Lowe sort of planted the idea of getting  
16 Glover to do something to Ms. Baskin before you were actually  
17 trying to set up the other deal, correct?

18 A. I'm not sure. I wasn't involved in any of those talks.

19 Q. All right. But that came before any conversation that you  
20 had with Mr. Passage about that, correct? Specific conversation?

21 A. Yes, correct.

22 Q. All right. So it was clear even before you spoke to him on  
23 November the 7th after -- after the Dallas trip, that Mr. Lowe  
24 was well aware of this plan, correct?

25 A. Yes.

*Emily Eakle, RMR, CRR*

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JAMES GARRETSON - Cross by Mr. Earley

1 Q. In fact, Alan was his idea, correct?

2 A. I'm not sure.

3 Q. And who contacted you about information about the place to  
4 get the IDs?

5 A. Joe.

6 Q. Do you know where he received that information or how -- how  
7 he thought that you might know something about that?

8 A. I'm not sure.

9 Q. Now, Mr. Garretson, there's been some discussion and  
10 testimony in this case about -- from individuals about receiving  
11 dental care and your involvement in that. Did you provide some  
12 assistance to individuals?

13 A. On one occasion.

14 Q. And what kind of assistance was that?

15 A. A friend of mine.

16 Q. And who was that?

17 A. Is that relevant to the case?

18 Q. Well, what kind of assistance did you provide?

19 A. He actually provided some credit for dental work.

20 Q. And was that legal credit?

21 A. From what I understand, yes.

22 MS. MAXFIELD-GREEN: Your Honor, I would -- I would  
23 object to the extent that Mr. Earley hasn't established that has  
24 anything to do with a witness in this case, or anything to do  
25 with this case.

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JAMES GARRETSON - Cross by Mr. Earley

1 MR. EARLEY: Well, I believe that Dylan West, I  
2 believe, testified about some dental care that Mr. Garretson  
3 provided.

4 THE COURT: Parties approach.

5 (The following bench conference was held outside the hearing  
6 of the jury.).

7 THE COURT: Its relevance, Mr. Earley? And I'm sorry,  
8 I didn't hear his answer in response to it not being relevant to  
9 the case and I should have admonished him to answer the question.

10 MR. EARLEY: There was some testimony from Dylan West  
11 that Mr. Garretson arranged for some dental care for him. It was  
12 through Care Credit. And my good faith belief is that the Care  
13 Credit that was used for those purposes was fraudulent.

14 MS. MAXFIELD-GREEN: And, Your Honor, Dylan West  
15 testified that Joe told him that James Garretson would be somehow  
16 assisting in the payment. He also testified he didn't know  
17 anything about the payment details other than what Mr. Passage  
18 had told him. And Mr. Garretson has not established that the  
19 person he provided dental care for was, in fact, Dylan West. So,  
20 I mean, we're kind of going down the road without linking it up  
21 to any testimony that's actually been had.

22 THE COURT: If that is the case, that Dylan West is the  
23 person that he's referring to, Mr. Earley, what position does  
24 that put you in if I compel him to answer the question?

25 MR. EARLEY: Well, then I'll just simply ask him if he

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JAMES GARRETSON - Cross by Mr. Earley

1 provided him with dental care based on fraudulent credit.

2 THE COURT: Fraudulent credit, you mean --

3 MR. EARLEY: Fraudulent credit card.

4 MS. MAXFIELD-GREEN: And, I'm sorry, I don't have the  
5 transcript, but didn't Mr. Garretson just testify he didn't  
6 believe it was fraudulent?

7 THE COURT: And I think that was the answer. But,  
8 again, I mean, if you want me to compel him to answer the  
9 question who it was, but I think he has answered the question.

10 I'm not reading an official certified transcript, for the  
11 record, but it -- I agree that it does appear that he answered  
12 the question that it was legal credit. I'll leave it up to you,  
13 Mr. Earley, if you want me to compel him to answer the question  
14 by naming the person he did it for.

15 MR. EARLEY: No, that's not necessary.

16 THE COURT: In that regard, the objection will be  
17 sustained.

18 (The following record was made in open court, in the  
19 presence of all parties, counsel, and in the presence and hearing  
20 of the jury.)

21 THE COURT: Mr. Earley, I don't want to rush you or cut  
22 you off if you're in the middle of -- or if you're close, or we  
23 can take our afternoon break.

24 MR. EARLEY: We can take a break. That's fine.

25 THE COURT: Okay. Ladies and gentlemen, we will take

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JAMES GARRETSON - Cross by Mr. Earley

1 our afternoon break under the usual admonition. Please don't  
2 discuss the case with anybody and keep an open mind.

3 Everyone please remain seated while the jury leaves the  
4 courtroom.

5 (Jury exited.)

6 (The following record was made in open court, in the  
7 presence of all parties, counsel, and out of the presence and  
8 hearing of the jury.)

9 THE COURT: We don't have to take it up now -- let the  
10 record reflect the jury is out of the room.

11 We don't have to take it up right now, but I wanted to give  
12 the parties an opportunity to think about it. Mr. Earley, I know  
13 you may have been discussing scheduling in terms of how we're  
14 progressing. I don't want to put anybody on the spot now, but if  
15 you-all would be thinking about, as we move through the rest of  
16 the afternoon, at the -- when we adjourn for the day, once I have  
17 excused the jury, before we adjourn for the day formally, I would  
18 like to talk a little bit about to see where you-all are in your  
19 witness lineup, if it's still looking to be about the same. And  
20 I know that's an imprecise science on how long any particular  
21 person is going to go, but just for the benefit of us being sure  
22 that we have witnesses here at the right time and all that. So  
23 if you-all would be prepared to discuss that after we adjourn the  
24 jury for today, I would appreciate it.

25 Anything further before we break?

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JAMES GARRETSON - Cross by Mr. Earley

1 MS. MAXFIELD-GREEN: No, Your Honor.

2 MR. EARLEY: No, Your Honor.

3 THE COURT: Court will be in recess.

4 (BREAK TAKEN.)

5 (The following record was made in open court, in the  
6 presence of all parties, counsel, and in the presence and hearing  
7 of the jury.)

8 THE COURT: Mr. Earley, you may continue.

9 Q. (By Mr. Earley) Mr. Garretson, taking you back to August  
10 and September of 2017, you agreed to assist the Fish & Wildlife  
11 agency; is that correct?

12 A. Correct.

13 Q. And what was your understanding -- at the time you signed up  
14 to assist them, what was your understanding of your undercover  
15 activities?

16 A. It was to stop the illegal transport of wildlife.

17 Q. All right. And with respect to any investigation about some  
18 alleged plot to harm Carole Baskin, was that part of your  
19 understanding at the beginning?

20 A. Yes.

21 Q. It was also part of your understanding?

22 A. Yes.

23 Q. So when you were contacted in September, were you already  
24 aware of the plot?

25 A. Everybody's been aware of the plot. I mean, it's not --

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JAMES GARRETSON - Cross by Mr. Earley

1 Q. Well, but they had something specific in mind, right?

2 A. That's not true.

3 Q. All right. Now, with respect to your first call with Agent  
4 Bryant, do you remember that call?

5 A. I do.

6 Q. And it wasn't recorded, was it?

7 A. No.

8 Q. All right. And do you remember during that call being asked  
9 who the bad guy was between the two of them? Do you remember  
10 that?

11 A. Yes.

12 Q. And what was your answer?

13 A. Mr. Passage.

14 Q. So your discussion with the agents from the very beginning  
15 of this made Mr. Passage the primary target of this  
16 investigation, correct?

17 A. Correct.

18 Q. To your knowledge, has Mr. Lowe been arrested for anything  
19 in connection with this offense, or crime?

20 A. No.

21 MR. EARLEY: Nothing further.

22 THE COURT: Thank you.

23 Redirect?

24 MS. MAXFIELD-GREEN: Yes, Your Honor.

25 **REDIRECT EXAMINATION**

*Emily Eakle, RMR, CRR*

JAMES GARRETSON - Redirect by Ms. Maxfield-Green

1 **BY MS. MAXFIELD-GREEN:**

2 Q. Mr. Garretson, Mr. Earley talked to you about the  
3 conversation that you had with Mr. Lowe right before you  
4 contacted Carole Baskin. Do you recall that?

5 A. Yes.

6 Q. And Mr. Earley characterized it that the -- the purpose of  
7 the -- the motivating factor for that call, Mr. Earley said that  
8 he was desperate to get rid of Mr. Passage. Now, was it your  
9 understanding that Mr. Lowe's desire to sell the park was an  
10 attempt to get rid of Mr. Passage?

11 A. No, that's not correct. He wanted to get out from  
12 underneath the park because all the legal problems.

13 Q. Once Mr. Lowe got involved in the zoo, did he also start to  
14 get sued by Carole Baskin?

15 A. From my understanding, yes.

16 Q. And from your understanding, had he attempted various legal  
17 maneuvers to try to get the entity that he owned out from under  
18 that litigation?

19 A. From what I understand, yes.

20 Q. Okay. So based on your conversations with Mr. Lowe, was it  
21 -- the contact to Carole Baskin about getting rid of the park or  
22 getting rid of Mr. Passage?

23 A. The park.

24 Q. Mr. Earley asked you a number of times, went through a  
25 number of calls with you and, you know, established that in any

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JAMES GARRETSON - Redirect by Ms. Maxfield-Green

1 given call it was you that brought up the subject of a hit man,  
2 that you're suggesting your guy Mark in various conversations.

3 Now, you testified on direct that before you ever started  
4 cooperating with the Government in September of 2017, you  
5 testified that Mr. Passage had asked you at least a dozen times  
6 to find someone to kill Carole Baskin; is that correct?

7 A. That's correct.

8 Q. And in connection with those times, that dozen or so times  
9 that he had asked you to find someone to kill Carole Baskin,  
10 prior to when you ever started cooperating with the Government,  
11 how much money did he suggest he would be willing to pay?

12 A. It was always \$10,000.

13 Q. So when you started cooperating with the Government and you  
14 had conversations with Mr. Passage in which you suggested using a  
15 hit man, was that just part of an ongoing conversation you had  
16 been having with Mr. Passage for over a year?

17 A. That's correct.

18 Q. Now, on direct we talked about a call that you had with  
19 Mr. Passage on February 18th of 2018 when you were standing in a  
20 barn. Do you recall that?

21 A. I do.

22 Q. And that call, it was not recorded, correct?

23 A. Correct.

24 Q. And why was it not recorded?

25 A. I couldn't get to the recording device and -- at the time

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JAMES GARRETSON - Redirect by Ms. Maxfield-Green

- 1 I had broke my phone that had the recording app on it.
- 2 Q. And you say you couldn't get to the recording device. Is  
3 that because Mr. Passage called you?
- 4 A. Correct.
- 5 Q. And tell us what Mr. Passage wanted when he called you when  
6 you were standing in the barn?
- 7 A. Basically asking if my guy was still available.
- 8 Q. And did he mean Mark, the undercover?
- 9 A. I assume.
- 10 Q. Now, Mr. Earley was discussing with you a November 4th  
11 conversation you had with Jeff Lowe, and Mr. Earley's words were  
12 that Jeff Lowe planted the idea of using Glover. Now, do you  
13 recall a phone conversation -- do you recall Mr. Earley asking  
14 you about that?
- 15 A. I do.
- 16 Q. Do you also recall a phone conversation with Jeff Lowe on  
17 November 7th of 2017 in which Mr. Lowe referred to the whole crew  
18 as a clown assassin?
- 19 A. I do.
- 20 Q. And the -- and did Mr. Lowe also tell you in that phone call  
21 that he believed essentially that Mr. Glover might be willing to  
22 do it but that he was not able to do it?
- 23 A. That is true.
- 24 Q. Is that consistent with your understanding that Jeff Lowe  
25 was in favor of using Mr. Glover as any kind of a hit man?

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JAMES GARRETSON - Redirect by Ms. Maxfield-Green

1 A. Correct.

2 Q. And I'm not sure I asked that correctly.

3 Did you believe that Mr. Lowe had any interest in planting  
4 the idea of using Mr. Glover as a hit man?

5 A. No.

6 Q. And finally, did Mr. Passage at the time -- in the fall of  
7 2017, did he know that you had owned strip clubs in Dallas, or a  
8 strip club in Dallas?

9 A. I assume, yes.

10 Q. And did he know that you had owned bars in Dallas?

11 A. Yes.

12 Q. And to your understanding, is that why Mr. Passage thought  
13 you might know where to get a fake ID?

14 A. Correct.

15 Q. And did you ever -- did you approach Mr. Passage and ask him  
16 if he needed a fake ID?

17 A. No.

18 Q. He contacted you and asked you where to get a fake ID,  
19 correct?

20 A. Yeah.

21 MS. MAXFIELD-GREEN: That's all, Your Honor.

22 THE COURT: Anything additional, Mr. Earley?

23 MR. EARLEY: Just a couple of questions, Your Honor.

24 **RE CROSS EXAMINATION**

25 **BY MR. EARLEY:**

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JAMES GARRETSON - Recross by Mr. Earley

1 Q. Now, Mr. Garretson, if I recall your testimony correctly,  
2 these dozens of times that Mr. Passage inquired of you about  
3 finding a hit man, you said that you thought he was serious,  
4 correct?

5 A. Correct.

6 Q. And this spanned over how long a period of time?

7 A. A few years.

8 Q. All right. So after one of those or three of those or six  
9 of those, did you ever think to contact law enforcement?

10 A. I was in touch with law enforcement right after, yes.

11 Q. Right after what? Right after each one of those  
12 conversations?

13 A. It was a very short period that I was involved with Passage.  
14 And then shortly after, that's when the Fish & Wildlife got  
15 involved.

16 Q. Well, I'm talking about the 18-month period or two-year  
17 period that you were talking about where these solicitations by  
18 Mr. Passage to try to find a hit man occurred. Do you remember  
19 you testified to that?

20 A. I remember, yes.

21 Q. At least a dozen times, I think you said. So those are the  
22 ones I'm referring to. After one of those, let's say in 2016,  
23 did you ever contact law enforcement?

24 A. No.

25 Q. And you thought it was serious?

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JAMES GARRETSON - Recross by Mr. Earley

1 A. Yes.

2 Q. Now, this initial meeting that you had with Mr. Lowe and  
3 where the discussion was about contacting Carole Baskin, it  
4 wasn't just merely about Mr. Lowe trying to sell the park, was  
5 it?

6 A. Basically it was, yes.

7 Q. Well, do you recall that there was another part of it?  
8 Mr. Lowe was going to offer Joe up on a silver platter; do you  
9 remember that?

10 A. What Lowe said is that he was going to give her all the  
11 computers that belonged to the park, is what we talked about.

12 Q. Right. And you testified in front of the grand jury, did  
13 you not, that he was going to offer Joe on a silver platter?

14 A. He may have said that, yes.

15 Q. Well, that was your testimony in front of the grand jury,  
16 correct?

17 A. Correct.

18 Q. Is that what he said?

19 A. Yes.

20 MR. EARLEY: Nothing further.

21 THE COURT: Thank you, Mr. Garretson. You may step  
22 down.

23 MS. MAXFIELD-GREEN: Your Honor, could we approach just  
24 briefly before we call our next witness?

25 THE COURT: You may.

*Emily Eakle, RMR, CRR*

1 (The following bench conference was held outside the hearing  
2 of the jury.).

3 MS. MAXFIELD-GREEN: Your Honor, we're about to call  
4 Alan Glover and we just wanted to advise the Court of a couple of  
5 things. Mr. Glover has extremely bad back pain. I have  
6 interviewed him a number of times and -- well, not a number of  
7 times, a couple of times -- and he almost always needs to stand  
8 up and stretch a little bit when he gets extremely uncomfortable.  
9 I'm not really sure how we address that.

10 You know, we're at 3:30, I'm not sure he can make it a whole  
11 hour and a half without having a little bit of a stretch break.  
12 Is there any way we could build in like a three-minute stretch  
13 break or something kind of halfway through that? I hate to do  
14 that, but he's in a lot of pain.

15 MR. BROWN: He might ask to testify while standing.

16 THE COURT: I was going to say, I can't say I have ever  
17 encountered this before.

18 Defense counsel, I'm not sure it's my preference for him to  
19 just stand all the time, but if we get to a position where he  
20 needs to stand as opposed to us taking multiple breaks, do  
21 you-all have an objection to him standing there at the witness  
22 box with the microphone?

23 MR. WACKENHEIM: No. I don't anticipate that it would  
24 become overly distracting. And as long as the jury is made aware  
25 that Mr. Glover's -- either through the Court, preferably -- that

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1 Mr. Glover, I understand you may need to stretch from time to  
2 time, feel free do so.

3 THE COURT: Yeah. I don't want it to become any kind  
4 of sympathy issue for the jury. I'll simply advise Mr. Glover  
5 when he takes the stand, it's my understanding that you have some  
6 back issues, if you get to a point that it would be preferable  
7 for you to stand for your testimony, we'd be willing to  
8 accommodate that. Is that --

9 MR. WACKENHEIM: That's fine.

10 MS. MAXFIELD-GREEN: And usually just, you know,  
11 90 seconds of standing and stretching a little bit usually gets  
12 him back to --

13 THE COURT: You guys are okay with that?

14 MR. EARLEY: That's fine.

15 MR. WACKENHEIM: Do you want to advise that --

16 MS. MAXFIELD-GREEN: Yes. And there's one more issue  
17 with Mr. Glover, and I have tried to sensitize defense counsel to  
18 this. Mr. Glover's ability to read is very limited. Most of his  
19 text messaging has been through dictation software on his phone.  
20 So I don't want defense counsel to walk into a situation where  
21 they're asking him to read and that's upsetting or frustrating to  
22 him.

23 I think we have agreed that to the extent they're going to  
24 be looking at text messages with him that it would be fine for  
25 them to read the text message to him and then essentially ask if

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1 that's consistent with what it says or what he remembers texting.

2 THE COURT: That okay?

3 MR. WACKENHEIM: That's fine. I will also advise the  
4 Court, we're going to attempt to admit those text messages, too.  
5 But I think we may have further discussion on whether or not  
6 those come in.

7 THE COURT: Okay. Thank you.

8 (The following record was made in open court, in the  
9 presence of all parties, counsel, and in the presence and hearing  
10 of the jury.)

11 MS. MAXFIELD-GREEN: Your Honor, the Government's  
12 calling Alan Glover.

13 (WITNESS SWORN.)

14 THE COURT: Mr. Glover, if you would have a seat and  
15 adjust yourself to the microphone. My understanding is that you  
16 have some back issues that could complicate you sitting for  
17 extended periods of time.

18 THE WITNESS: Yes, sir.

19 THE COURT: It would -- it's perfectly okay, if you get  
20 to a position that you're becoming uncomfortable or in some level  
21 of pain, if you would like to stand and use that microphone there  
22 to your side or -- and stretch for a second and then return,  
23 however you want to do it, just in order to accommodate for your  
24 condition.

25 THE WITNESS: Thank you, sir.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

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ALAN GLOVER,  
DIRECT EXAMINATION

BY MS. MAXFIELD-GREEN:

Q. Good afternoon, Mr. Glover. Could you state your full name for the record, please?

A. Frank Alan Glover.

Q. Mr. Glover, are you currently living in the State of Oklahoma?

A. Yes, ma'am.

Q. Where are you living?

A. At the zoo, GW Exotic Animal Park.

Q. Is that in Wynnewood, Oklahoma?

A. Yes, ma'am.

THE COURT: Mr. Glover, can you pull that front microphone a little bit towards you? Thank you.

Q. (By Ms. Maxfield-Green) And are you working at the zoo?

A. Yes, ma'am.

Q. Mr. Glover, where are you originally from?

A. South Carolina, Beaufort.

Q. Mr. Glover, how far did you go in school?

A. About fifth, sixth grade.

Q. What kind of jobs have you had throughout your life?

A. Tree work.

Q. Is that trimming, like --

A. Trimming trees, cutting trees down, yes, ma'am.

*Emily Eakle, RMR, CRR*

ALAN GLOVER - Direct by Ms. Maxfield-Green

1 Q. Okay. Are you familiar with a person named Joseph Maldonado  
2 or Joseph Maldonado-Passage?

3 A. Yes, ma'am.

4 Q. And do you -- based on your association with him, is it --  
5 have you mostly just called him Joe?

6 A. Yes, ma'am.

7 Q. Do you see Mr. Passage in the courtroom here today?

8 A. Gentleman sitting over there. (Indicating.)

9 MS. MAXFIELD-GREEN: Your Honor, can the record reflect  
10 that Mr. Glover indicated the presence of the defendant?

11 THE COURT: So reflect.

12 Q. (By Ms. Maxfield-Green) And, Mr. Glover, I'll just refer to  
13 the -- him as Mr. Passage or Joe. Okay?

14 Now, how was it that you came to meet Joe?

15 A. From a friend I knew back in South Carolina, Jeff Lowe.

16 Q. Okay. And how did you know Jeff Lowe?

17 A. I have worked for him before.

18 Q. Okay.

19 A. Through the years, through the years.

20 Q. Through the years?

21 A. Yes, ma'am.

22 Q. And you worked for him in South Carolina?

23 A. Yes, ma'am.

24 Q. Okay. And what was your understanding of how -- what  
25 Mr. Lowe's position was with the zoo here in Oklahoma?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. He bought it and owned it.
- 2 Q. Okay. And how did you end up coming from -- how or why did  
3 you end up coming from South Carolina here to Oklahoma?
- 4 A. How did I get here?
- 5 Q. Well, why did you come here?
- 6 A. Oh, to help Jeff out.
- 7 Q. Did he need some workers?
- 8 A. Yes, ma'am.
- 9 Q. And did you need a job?
- 10 A. Yeah.
- 11 Q. All right. So about when did you move from South Carolina  
12 to Oklahoma?
- 13 A. Oh, it's been several -- I have been here several years. I  
14 went back once, back to South Carolina.
- 15 Q. Okay. So did you come here after Mr. Lowe took ownership of  
16 the zoo?
- 17 A. Yeah. I believe he had it maybe three years once I -- when  
18 I got here, something like that. That's what I was -- heard.
- 19 Q. Okay. Once you got to the zoo, did Mr. Lowe put you to  
20 work?
- 21 A. Yes, ma'am.
- 22 Q. What kind of jobs did you do at the zoo?
- 23 A. Just odd jobs. He knows my back was messed up, so he didn't  
24 really put a lot on me.
- 25 Q. Okay. Did you do some -- did you do some landscaping and

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 tree work?
- 2 A. Yes, ma'am.
- 3 Q. Okay. Did you get to -- was part of your job to interact
- 4 with the animals?
- 5 A. Sometime I got a chance to.
- 6 Q. Did you enjoy interacting with the animals?
- 7 A. Yes, ma'am. It was pretty nice.
- 8 Q. So when you first got to Oklahoma, was Jeff Lowe still
- 9 living and working at the zoo?
- 10 A. Yes, ma'am.
- 11 Q. At some point after you got here, did he go live somewhere
- 12 else?
- 13 A. Yeah. He went to Vegas.
- 14 Q. Now, when you got to the zoo, what was Joe's role?
- 15 A. He was like the caretaker for everyday stuff, made sure it
- 16 got done.
- 17 Q. Who did you consider your boss to be?
- 18 A. Jeff Lowe, and Lauren Lowe now.
- 19 Q. And what about on a daily basis when you were working around
- 20 the park and Mr. Lowe wasn't there, who was your boss?
- 21 A. Joe would be.
- 22 Q. What was it like for you working for Joe?
- 23 A. Really hard to describe. He's an asshole. Treat his
- 24 employees like dirt.
- 25 Q. Okay. And did you have personal interactions with him that

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 made you feel that way?
- 2 A. Say it again, ma'am.
- 3 Q. Did you have personal interactions with him that made you  
4 feel like dirt?
- 5 A. Yes, ma'am.
- 6 Q. How -- what did he do to make you feel that way?
- 7 A. Well, he had his little -- everybody's got radios, but he  
8 would downgrade me to the point where it was coming close to  
9 blows, that's how bad it got. And not only him; he would get  
10 Eric or whoever, get Alan to do this and make sure he does not  
11 stop all day. And he's just -- he's really a cruel, cruel  
12 person.
- 13 Q. So he'd try to work you hard?
- 14 A. Like a slave.
- 15 Q. Okay. And you made reference to the employees having  
16 radios. Did he say stuff over the radios that all the employees  
17 could hear about you?
- 18 A. Absolutely. I was a rat, I was a -- all kind -- just really  
19 bad stuff. Like I say, it come close to blows.
- 20 Q. Did you ever have blows with Mr. Passage?
- 21 A. Nope. I had many enough confrontations with him, though.
- 22 Q. Were there occasions when Mr. Passage was nice to you or not  
23 as disparaging to you?
- 24 A. Yeah, there would be sometime, he'd take me to the store,  
25 get me something to eat, whatever, go to the other restaurant and

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 work up there.

2 Q. Okay. So it wasn't -- there were instances where it was  
3 okay?

4 A. Yeah. Seems like he was fishing for stuff, information,  
5 basically.

6 Q. Okay.

7 A. You can't be that bad of a person and then turn around and  
8 be somebody else.

9 Q. So even when he was nice to you, you felt like that was --

10 A. Oh, I knew it was bullshit -- bull.

11 Q. Now, before you came to Oklahoma to work at the zoo, had you  
12 ever heard of a person named Carole Baskin?

13 A. Before I came to the zoo?

14 Q. Right.

15 A. No, ma'am, but I heard about it every day after I got there.

16 Q. That was going to be my next question. What did you hear?

17 A. That he wanted to have that lady murdered or him murder her,  
18 all kind of stuff. It was crazy. And not only did employees  
19 hear it; people on the park could hear it.

20 Q. Do you think customers overheard him?

21 A. I'm sure they had to have. They may have not known what was  
22 going on, but we knew.

23 Q. How often would he make comments about Carole Baskin?

24 A. Pretty much every day, especially if something -- he got a  
25 letter saying, you know, he's got to go back to court, whatnot,

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 he's flip a script.

2 Q. Flip a script, does that mean --

3 A. He would go apeshit.

4 Q. Okay.

5 THE COURT: Mr. Glover, I would ask you to please watch  
6 your language unless you're delivering a quote.

7 THE WITNESS: Yes, sir.

8 Q. (By Ms. Maxfield-Green) Now, did you -- did you have a good  
9 idea of what he had against Carole Baskin, what the problem was?

10 A. From my understanding, it was a major lawsuit.

11 Q. Did you come to -- from listening to Joe, did you come to  
12 find out where she lives?

13 A. Yes, ma'am.

14 Q. Where did she live, to your knowledge?

15 A. He showed me on the computer one time of Big Cat Rescue.

16 Q. And what state was that in?

17 A. Florida.

18 Q. When he showed you that on a computer, who was in the room?

19 A. I was in the room only.

20 Q. Just you and Mr. Passage?

21 A. Yes, ma'am.

22 Q. All right. Mr. Glover, did Mr. Passage ever ask you to kill  
23 Carole Baskin?

24 A. He -- we have talked about it several times.

25 Q. Did you have more -- did you have one conversation about it

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 or more than one conversation?

2 A. We have had more than one conversation, several.

3 Q. Now, do you recall October 6th when Mr. Passage's husband  
4 died?

5 A. Yes, ma'am.

6 Q. Okay. To the best of your recollection, was the first  
7 conversation you had with Mr. Passage about killing Carole  
8 Baskin, would that conversation have happened before October 6th  
9 or after October 6th?

10 A. I believe it was before he died, I'm thinking.

11 Q. Now, what do you remember -- you have told us there was a  
12 conversation where Mr. Passage and you were in a room and he  
13 showed you her location on a computer. Was that the first  
14 conversation you had with him?

15 A. No. We have had conversations before I seen the picture of  
16 her.

17 Q. What do you recall about the -- to the extent you can  
18 distinguish it in your mind -- the very first conversation you  
19 had?

20 A. Went out on the front porch, right before we was getting off  
21 work, or actually when we were getting off work, because it would  
22 sometime be 11:00, 12 o'clock at night when we'd get off.

23 Q. And you're standing on the front porch -- and let me just  
24 clarify, when you got there and were working at the park, did you  
25 also live at the park?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. Yes, ma'am.
- 2 Q. About how far off was the trailer you lived in?
- 3 A. 500 feet maybe, or yards.
- 4 Q. So this conversation where you're on the front porch, the  
5 front porch of what?
- 6 A. Gift shop.
- 7 Q. What do you remember about what he said?
- 8 A. We was talking about it and he wanted to know could I get it  
9 done.
- 10 Q. Why do you think he asked you in particular?
- 11 A. Well, probably because I was -- have the teardrop on my eye.
- 12 Q. Did you say you have got a teardrop on your eye?
- 13 A. Yes, ma'am. It means two different things.
- 14 Q. Okay. Let me ask you first: Are you referring to -- do you  
15 have a -- the jury's on the other side of you. Do you have a  
16 teardrop tattoo under your eye?
- 17 A. Yes, ma'am, I do.
- 18 Q. Okay. And in your experience, what is -- what do people  
19 believe a teardrop tattoo means?
- 20 A. You lost someone you really love or you have killed someone.
- 21 Q. And do you think that Mr. Passage believed that you'd killed  
22 someone?
- 23 A. Yes, ma'am, I'm pretty sure.
- 24 Q. And did you let him believe that that's what it meant?
- 25 A. Yes, ma'am, I did.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 Q. Now, Mr. Glover, have you ever been convicted of a violent  
2 crime?
- 3 A. Yes, ma'am, I have.
- 4 Q. What was it?
- 5 A. Assault and battery with a highly aggravated nature.
- 6 Q. When was that?
- 7 A. I think I was about 17.
- 8 Q. Okay. Was that in South Carolina?
- 9 A. Yes, ma'am.
- 10 Q. Did you serve time in jail?
- 11 A. Yes, ma'am.
- 12 Q. About how long did you spend in jail?
- 13 A. Probably about five years.
- 14 Q. Okay. Do you have any other convictions for violent crimes?
- 15 A. Yes, ma'am.
- 16 Q. What kind of crimes?
- 17 A. Assault charges.
- 18 Q. Okay. Have you ever done any other stints in prison?
- 19 A. Here and there.
- 20 Q. All right. So when he asked -- Mr. Passage asked you if you  
21 could get it done, what did you tell him?
- 22 A. Yeah, I could get it done.
- 23 Q. Did he offer to pay you for killing her?
- 24 A. Yes, ma'am.
- 25 Q. How much did he offer to pay you?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. 5,000 at first, and then after it was done he would take  
2 care of me, basically.
- 3 Q. And what did that mean to you, that he'd take --
- 4 A. More money.
- 5 Q. That he'd give you more money?
- 6 A. Yes, ma'am.
- 7 Q. So after that first conversation, did you have several more  
8 conversations with Mr. Passage?
- 9 A. Yes, ma'am.
- 10 Q. In the other conversations you had with Mr. Passage about  
11 this, were there other people around or was it typically just you  
12 and him?
- 13 A. Typically just I.
- 14 Q. Did you discuss with Mr. Passage different ways of killing  
15 her?
- 16 A. Yes, ma'am.
- 17 Q. How did he want you to do it?
- 18 A. Well, with a -- a bow, bow and arrow, which was kind of like  
19 a side bow and arrow, it was -- what's it called?
- 20 Q. Is it a crossbow?
- 21 A. Crossbow. Thank you. That, or a rifle he had.
- 22 Q. Okay. And what were your thoughts about -- what did you  
23 tell him your thoughts were about using a rifle?
- 24 A. Well, I couldn't because I'm a felon.
- 25 Q. And what -- can you explain for us why you couldn't because

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 you're a felon? What does that mean?
- 2 A. If I got pulled over by a cop or anything, they would search
- 3 my vehicle, they always do because of my record.
- 4 Q. And --
- 5 A. I couldn't afford to get caught with anything.
- 6 Q. And is that because it's a crime for a felon to have a gun?
- 7 A. Yes, ma'am.
- 8 Q. In connection with his idea that you use a gun, did -- did
- 9 you ever go shooting guns with him?
- 10 A. Yes, ma'am.
- 11 Q. What was the purpose of shooting guns with him?
- 12 A. Target practice, shooting at Tannerite.
- 13 Q. What's Tannerite?
- 14 A. Explosives.
- 15 Q. Did he have any other gear that he thought you might be able
- 16 to use to go do it?
- 17 A. He had like a camouflage suit that, you go out in the woods,
- 18 it would be pretty hard to see you.
- 19 Q. And did he think that would be something you could take to
- 20 use?
- 21 A. Yes, ma'am.
- 22 Q. Did you ever have any conversations with him about where you
- 23 could be in terms of finding her?
- 24 A. Oh, he was showing me he'd seen on the Internet somewhere or
- 25 another that she likes to take walks, walks somewhere, and that

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 would probably be a good place to do it.
- 2 Q. Now, you had said that you were uncomfortable with the idea  
3 of guns because you have this felony conviction. Did you propose  
4 any other ways of killing her to Mr. Passage?
- 5 A. Yeah, I would cut her head off.
- 6 Q. Did he seem okay with that?
- 7 A. He was fine with it.
- 8 Q. So over the course of those conversations, did you tell  
9 Mr. Passage that you would murder Carole Baskin if he paid you to  
10 do it?
- 11 A. Yes, ma'am, I did.
- 12 Q. At the time that you told him that, did you intend to  
13 actually go kill Carole Baskin?
- 14 A. No, ma'am.
- 15 Q. What did you actually intend to do?
- 16 A. Take his money and run.
- 17 Q. Okay. And why would you want to take his money and run?
- 18 A. Because the way he treated me and the employees and the way  
19 he acted, I was ready to get away from there because I had no  
20 safety net when Jeff was gone.
- 21 Q. I'm sorry. Did you say you had no safety net?
- 22 A. Yes, ma'am.
- 23 Q. When Jeff was gone?
- 24 A. (Witness nodded.)
- 25 Q. Okay. So you were ready to go back home to South Carolina?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. Yes, ma'am.
- 2 Q. Now, during the time period that you were having these  
3 conversations with Mr. Passage, or Joe, did you travel from the  
4 zoo in Oklahoma down to Dallas?
- 5 A. Yes, ma'am, I did.
- 6 Q. And was anybody with you on that trip?
- 7 A. Yes, ma'am, John Finlay.
- 8 Q. John Finlay?
- 9 A. Yes, ma'am.
- 10 Q. And who is John Finlay?
- 11 A. One of his wives, or husbands.
- 12 Q. Is Mr. Finlay somebody who'd been in a relationship with  
13 Mr. Passage?
- 14 A. Yes, ma'am.
- 15 Q. And did Mr. Finlay work at the park?
- 16 A. Yes, ma'am, between the park and the restaurant.
- 17 Q. Okay. What was the purpose of the trip that you took to  
18 Dallas with Mr. Finlay?
- 19 A. To go pick up a fake ID, have one made.
- 20 Q. Say again.
- 21 A. To go pick up a fake ID, get one made.
- 22 Q. Okay. And why did you need a fake ID?
- 23 A. For travels, motels, stuff like that.
- 24 Q. Okay. And travels and motels to go where?
- 25 A. So I wouldn't be -- I wouldn't leave a paper trail.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 Q. And for your travel to where?
- 2 A. To Florida to kill that lady.
- 3 Q. Whose idea was the fake ID?
- 4 A. Joe's.
- 5 Q. Had you discussed with Joe how you were going to actually
- 6 travel from Oklahoma to Florida?
- 7 A. Yes. I think he wanted me to take a bus, but I wasn't going
- 8 for a seven-day ride.
- 9 Q. Why -- what was concerning to you about a seven-day ride on
- 10 a greyhound bus?
- 11 A. My back for starters, but that would still leave a paper
- 12 trail, so that's why I needed a fake ID.
- 13 Q. All right. Where did you go to get the fake ID?
- 14 A. Dallas.
- 15 Q. What kind of a place was it?
- 16 A. Kind of a sign shop, I think.
- 17 Q. How --
- 18 A. Never mind.
- 19 Q. Sorry about that.
- 20 How did you know where to go in Dallas?
- 21 A. Somebody told Joe about it.
- 22 Q. And did you have, like, an address or a location?
- 23 A. Yes, ma'am.
- 24 Q. Did you make it to that location?
- 25 A. Not at first, went to the wrong place.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 Q. Okay. And then did you get turned around and get to where  
2 you needed to be?

3 A. Yeah. He got the correct address. GPS I guess sent us to  
4 the wrong place.

5 Q. Who got the correct address?

6 A. John.

7 Q. John Finlay? Now, when you got there to the correct place,  
8 did you and Mr. Finlay go inside?

9 A. Yes, ma'am, we did.

10 Q. Did Mr. Finlay help you fill out the paperwork?

11 A. Yes, ma'am.

12 Q. Okay. Did you have your photo taken for the ID?

13 A. Yes, ma'am, I did.

14 Q. Did they make the ID while you waited?

15 A. Yeah. It only took a couple seconds.

16 Q. Who paid for the ID?

17 A. Joe did. He gave -- he gave John 200 bucks, which it only  
18 cost a hundred.

19 Q. What happened to the other hundred?

20 A. John put that in his pocket.

21 MS. MAXFIELD-GREEN: Can I have a minute to get my  
22 exhibit list, Your Honor?

23 THE WITNESS: How do you work this fucking thing?

24 Q. (By Ms. Maxfield-Green) All right. And if we can see  
25 Government Exhibit 20 that's been previously admitted.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 THE COURT: Hang on just a second.

2 THE WITNESS: I'm getting it. How you work it -- it's  
3 heavy.

4 Go ahead, ma'am. I apologize.

5 MS. MAXFIELD-GREEN: That's okay. I think we have got  
6 more water coming here.

7 THE WITNESS: Thank you. Thank you, lady.

8 Q. (By Ms. Maxfield-Green) Okay. And then while we're getting  
9 some water, if we could get Government Exhibit 20 up. Oh, it's  
10 up. I need to switch this. Okay. There we go.

11 Okay. If you'll look at that screen, do you recognize this?

12 A. Yes, ma'am. That's the photo ID I got from Dallas.

13 Q. Okay. And the name John Alan McDowell, how did you come up  
14 with the name John Alan?

15 A. Because John was with me and I seen McDowell on the -- some  
16 board that they had in there. I just ran with it.

17 Q. And Alan is your name, correct?

18 A. Yep.

19 Q. Okay. Is there any reason you picked an Arizona ID?

20 A. Not really.

21 Q. Okay. The date of birth that's on there, is that your  
22 actual date of birth?

23 A. Yes, ma'am.

24 Q. Do you still have this ID?

25 A. No, ma'am. I have looked for it, but I don't.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 Q. Okay. Did you lose it somewhere?
- 2 A. I think I discarded it. That's a no-no too.
- 3 Q. What's that?
- 4 A. That's a no-no too. Can't have anything like that on me.
- 5 Q. Okay.
- 6 A. Being a felon.
- 7 Q. You discarded it because you didn't want it found on you?
- 8 A. I'm pretty sure I did, ma'am.
- 9 Q. Okay. Now, after you got the fake ID made, did you and
- 10 Mr. Finlay stay in Texas or did you head back to Oklahoma?
- 11 A. We was heading back to Oklahoma, but I think he got a call
- 12 and distracted us to go somewhere else for somebody to look at
- 13 the ID to tamper with it.
- 14 Q. Okay. So did you stop off on the way back to the zoo?
- 15 A. Yes, ma'am.
- 16 Q. And do you remember what town you were in?
- 17 A. No, ma'am.
- 18 Q. Okay. Do you know who you were there to see?
- 19 A. I met the guy before, but I didn't -- I don't really know
- 20 him know him.
- 21 Q. Okay. And you said that he was -- you went there so he
- 22 could tamper with the ID. Do you know what he did with it?
- 23 A. Took a file and files something off the bottom of it. So I
- 24 think it was -- stated something that's not used for government
- 25 use or anything like that, something along the lines of that.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 Q. Okay. And this person who altered the ID, was it your  
2 understanding that he knew about -- about Joe's plan to have you  
3 kill Carole Baskin?

4 A. Yes, ma'am.

5 Q. On the -- during the day that you traveled to Dallas, did  
6 you try to reach -- try to reach Joe on the phone?

7 A. I think we did because of -- first we didn't know the right  
8 place, whatever. Can you say that one more time, please?

9 Q. Sure. At any time on the trip to Dallas did you try to call  
10 Joe on the phone?

11 A. On the way to Dallas?

12 Q. On the way or on the way back, at any time.

13 A. Got lost. I mean, we had to call to find out something, do  
14 you know the right place going. And I guess he either got a  
15 phone call or he made a phone call to go get that scratched off  
16 at that man's place. Other than that, we went back to Wynnewood.

17 Q. Okay. So let me see if I understand you. During the day,  
18 either you or Mr. Finlay did, in fact, communicate with Joe on  
19 the phone?

20 A. I think so. I didn't personally, I don't think.

21 Q. Now, when you got back to the zoo from Dallas, did you check  
22 in with Joe and let him know that you got the fake ID?

23 A. Not really.

24 Q. Okay. At the point at which you had the ID, was Joe ready  
25 to put the plan in motion and send you to Florida?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. No, ma'am, he was not.
- 2 Q. Why wasn't he ready to do that?
- 3 A. Because our agreement was \$5,000 and he had -- he didn't  
4 have five grand.
- 5 Q. Okay. And did -- did he think he -- did Mr. Passage say  
6 anything to you about that he could get the money?
- 7 A. Yeah. He said just give him time, he was waiting on  
8 somebody to come pick something up.
- 9 Q. And do you know what that something was?
- 10 A. Yes, ma'am, a liliger.
- 11 Q. Is that a liliger?
- 12 A. I think it's a liliger, yes, ma'am.
- 13 Q. Okay. So sometime after your trip to Dallas to get the fake  
14 ID, did you have a conversation with the same guy that had  
15 altered the ID?
- 16 A. Yes, ma'am. He came to the park one day.
- 17 Q. And did Mr. -- I'll refer to him as Mr. Garretson. I think  
18 you have testified you weren't sure of his name.
- 19 A. Yeah. I'm pretty sure that's who it is, though.
- 20 Q. Okay. Did he ask you questions about the plan to kill  
21 Carole Baskin?
- 22 A. Yes, ma'am.
- 23 Q. And did you tell him some of the details?
- 24 A. Did I tell any details about what I was going to do or --
- 25 Q. Did you tell him the details of the plan that you had

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 discussed with Joe?
- 2 A. He knew. He knew what was going on.
- 3 Q. Okay. Now, in that conversation did you try to make
- 4 Mr. Garretson, the guy that had altered the ID, did you try to
- 5 make him believe that you were going to go kill Carole Baskin?
- 6 A. Yes, ma'am, I did. I had to kind of -- because I thought he
- 7 was going to kind of like sneak in and take what I needed to get
- 8 out of there, was the money.
- 9 Q. Okay. You thought --
- 10 A. I just needed the money so I could leave.
- 11 Q. Okay. And you thought Mr. Garretson might try to take that
- 12 money?
- 13 A. Yes, ma'am.
- 14 Q. Why did you believe that?
- 15 A. He's a shady character.
- 16 Q. Okay. And did you think he might beat you to it?
- 17 A. Yes, ma'am, and I would be stuck there.
- 18 Q. Now, at the time you had that conversation with
- 19 Mr. Garretson, the guy that had tampered with the ID, did you
- 20 know that he was recording your conversation?
- 21 A. Not at the time.
- 22 Q. Are you aware that there is a recording of that?
- 23 A. Oh, yeah.
- 24 Q. And have you seen it before?
- 25 A. Yes, ma'am.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 Q. And is that a true and accurate recording of your  
2 conversation with him?

3 A. Yes, ma'am.

4 MS. MAXFIELD-GREEN: Government moves to admit  
5 Exhibit 59 and -- 59 and 59-1, and that is the video of the --  
6 video and a transcript.

7 THE COURT: 59 and 59-A?

8 MS. MAXFIELD-GREEN: Sorry. 59 and 59-A.

9 THE COURT: Mr. Earley -- or, I'm sorry,  
10 Mr. Wackenheim?

11 MR. WACKENHEIM: Same objection as to the transcript  
12 that we lodged earlier, but other than that, no.

13 THE COURT: Thank you. The objection will be  
14 overruled. 59 and 59-A will be admitted.

15 MS. MAXFIELD-GREEN: And just for the Court's  
16 knowledge, it takes place in six clips that are all incorporated  
17 into 59.

18 (Video played in open court.)

19 Q. (By Ms. Maxfield-Green) Now, Mr. Glover, you were talking  
20 to Mr. Garretson in great detail about a plan to kill Carole  
21 Baskin; is that right?

22 A. Yes, ma'am.

23 Q. And at the time that you were -- and you put a lot of detail  
24 in there, you seemed -- your attitude was pretty serious and you  
25 talked about going after anybody that ratted on you.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 MR. WACKENHEIM: Objection, Your Honor; characterizing  
2 his testimony.

3 THE COURT: Sustained.

4 Q. (By Ms. Maxfield-Green) At the time that you were telling  
5 Mr. Garretson all that, did you plan on actually going to Florida  
6 to murder Carole Baskin?

7 A. No, ma'am.

8 Q. Now, you testified earlier that you had by that point -- had  
9 convinced Mr. -- convinced Joe that you would kill Carole Baskin.  
10 Were those conversations that you had with Joe similar to that  
11 one that you had with Mr. Garretson?

12 A. Yes, ma'am, sometime.

13 Q. Okay. So at some point after you got the fake ID did  
14 Mr. Passage give you money, as you had discussed, to go to  
15 Florida to kill Carole Baskin?

16 A. Yes, ma'am.

17 Q. About how long was it after you got the fake ID?

18 A. Wasn't but a few days, I'm guessing.

19 Q. To your recollection --

20 A. Well, we had to wait for the man to come get that cat. So  
21 it was a couple of days later, few days.

22 Q. And to your recollection, were you at the park for  
23 Thanksgiving?

24 A. This last one?

25 Q. No, the Thanksgiving in 2017, during the time of all of

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 these conversations?
- 2 A. I'm not sure if I was there for it. I can't remember,  
3 ma'am, I really don't, the date of it.
- 4 Q. Okay. So you testified that he did eventually give you some  
5 money. Where did Joe get the money?
- 6 A. From selling that liliger.
- 7 Q. Were you there when he sold the liliger?
- 8 A. Yes, ma'am. I'm -- I was the one who went to the play area  
9 to get it.
- 10 Q. And did you physically pick up the animal?
- 11 A. Yes, ma'am, I did.
- 12 Q. And what did you do with it?
- 13 A. Took it out to the back parking lot so the deal could be  
14 done.
- 15 Q. Did you put the cub in the car?
- 16 A. Yeah. I handed it to the man and pretty -- yeah, pretty  
17 much put it in the car.
- 18 Q. Did you see the person who was leaving with the cub?
- 19 A. Yes, ma'am. I didn't meet him, but I saw him.
- 20 Q. Okay. About how long would you say that you had the chance  
21 to look at him?
- 22 A. Couple of minutes.
- 23 Q. Okay. Had you -- was he a person you'd ever seen before?
- 24 A. I can't say, ma'am.
- 25 Q. What did he look like, to the best of your recollection?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. A hobo.
- 2 Q. A hobo?
- 3 A. (Witness nodded.)
- 4 Q. Okay. Was he?
- 5 A. Not very well-dressed, car looked like he'd been living in  
6 it.
- 7 Q. Was he a big guy, little guy?
- 8 A. Kinda heavysset. Wasn't a very little guy, no.
- 9 Q. Did he have hair or bald?
- 10 A. He had hair, I'm pretty sure, I think. I'm not -- I can't  
11 say yes or no to that, ma'am.
- 12 Q. And you only --
- 13 A. Just for a few minutes.
- 14 Q. You only observed him for a few minutes?
- 15 A. I was more paying attention to the cat than I was him.
- 16 Q. Okay. Did you see this man give Joe the money?
- 17 A. Yes, ma'am.
- 18 Q. What did you see him give him?
- 19 A. Envelope stuffed full of money.
- 20 Q. Okay.
- 21 A. Hundreds.
- 22 Q. Was it -- appeared to be a thick envelope?
- 23 A. About like that. (Indicating.)
- 24 MS. MAXFIELD-GREEN: If the record could reflect, I  
25 believe Mr. Glover indicated a couple of inches.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 MR. WACKENHEIM: That seems accurate.
- 2 Q. Around this same time, did you book an airplane ticket to
- 3 leave Oklahoma?
- 4 A. Yes, ma'am.
- 5 Q. Where were you going to fly to?
- 6 A. To Savannah, Georgia.
- 7 Q. Now, had you discussed with Joe that you wanted to go to
- 8 South Carolina first?
- 9 A. Yes, ma'am.
- 10 Q. And was he -- did he agree to that plan?
- 11 A. He didn't care, as long as I got to Florida.
- 12 Q. Did you tell him that you would go to Florida after you got
- 13 to South Carolina?
- 14 A. Yes, ma'am.
- 15 Q. How did you tell him you would get to Florida?
- 16 A. I have got to get my license straightened out first and then
- 17 I'll get a vehicle and I'd be able to drive down there.
- 18 Q. At the time, did you have a driver's license?
- 19 A. No.
- 20 Q. So did you intend to go to South Carolina to --
- 21 A. Get my license straightened out? Absolutely.
- 22 Q. Now, did you book your own plane ticket or did you have some
- 23 help?
- 24 A. I used my card, but somebody else did it because I don't
- 25 know anything about computers, so --

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 Q. Okay. And do you remember who the person was that helped  
2 you book the ticket?
- 3 A. If I saw her, I could tell you, but it's a lady from Boston.
- 4 Q. How do you know she's from Boston?
- 5 A. Her accent.
- 6 Q. Okay. And who paid for your plane ticket?
- 7 A. I did.
- 8 Q. Did you ask Joe to pay for it?
- 9 A. Well, I was kind of getting the money out of it one way or  
10 another, so I wasn't really worried about the little plane  
11 ticket.
- 12 Q. Okay. After the man who bought the -- the liliger gave Joe  
13 the money, did he give you some money?
- 14 A. Yes, ma'am.
- 15 Q. About how long after that liliger was sold did he give  
16 you -- did Joe give you money?
- 17 A. I want to say like the next day or so.
- 18 Q. Okay. Where were you when he gave you the money?
- 19 A. In the office, at his desk.
- 20 Q. Okay. Did he give it to you in an envelope?
- 21 A. Yes, ma'am. It wasn't the same envelope, though.
- 22 Q. It wasn't the same envelope? What do you mean by that?
- 23 A. It wasn't as thick as it used to be.
- 24 Q. To your observation, it didn't have as much money as the  
25 first envelope?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 A. No, ma'am.

2 THE COURT: Mr. Glover, be sure and let the lawyers  
3 finish asking their question before you start to answer. Okay?

4 THE WITNESS: Yes, sir.

5 Q. (By Ms. Maxfield-Green) Okay. So, in your opinion, was it  
6 less money than was in the original envelope?

7 A. Yes, ma'am.

8 Q. And did you count the money?

9 A. No, I did not.

10 Q. Okay. Did you eventually count the money?

11 A. Yes, ma'am.

12 Q. Okay. Did you wait to count it until after -- after you  
13 were alone?

14 A. I went to the trailer to put it up.

15 Q. To your recollection, how much was it?

16 A. 3,000.

17 Q. Now, you had said earlier that you discussed \$5,000 as the  
18 initial payment?

19 A. That's what it was supposed to be, ma'am.

20 Q. Did you say anything to Joe about that?

21 A. No, I didn't want to waste another minute there.

22 Q. Now, on or about this same day did Joe ask you to give him  
23 your personal cell phone?

24 A. Yes, ma'am.

25 Q. Was it during the same conversation -- go ahead -- was it

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 during this same conversation that he was giving you the money?
- 2 A. Yeah, it was the same time.
- 3 Q. Okay. To your knowledge, why did he ask you for your --
- 4 A. It was right before I was leaving, I know that.
- 5 Q. He asked you for your phone right before you were leaving?
- 6 A. Yeah.
- 7 Q. Was it the -- maybe the same day that you took your flight?
- 8 A. Could be, ma'am. I won't swear to that.
- 9 Q. Okay. To your knowledge, why did he ask you for your phone?
- 10 A. I really don't know, didn't care.
- 11 Q. Did he give you a different phone?
- 12 A. Yes, ma'am.
- 13 Q. After your original phone, after you gave it to him, did you
- 14 ever see that phone again?
- 15 A. No.
- 16 Q. All right. Okay. Let's -- the phone that he gave you,
- 17 where did that come from?
- 18 A. It was a pizza restaurant phone. It belonged to the park.
- 19 Q. Did you say the pizza restaurant phone?
- 20 A. Yeah.
- 21 Q. Okay. And when he -- when he gave you that phone, did he
- 22 use it to give you any information he thought would help you?
- 23 A. Yes, ma'am, he did. He went back there to his desk, sat
- 24 down and he flipped up on the computer a Big Cat Rescue, what she
- 25 looked like, different pictures, different way she dresses and

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 whatnot, so I wouldn't kill the wrong person.
- 2 Q. Did he use the phone to -- what did he -- what did he do
- 3 with the screen?
- 4 A. Just like that (indicating), took a picture of it and saved
- 5 it on the phone.
- 6 Q. Okay. So at this point you -- Joe had given you money and a
- 7 new cell phone. And then did you, in fact, take that flight to
- 8 South Carolina?
- 9 A. Yes, ma'am, I did.
- 10 Q. And did you fly out of Oklahoma City?
- 11 A. Yes, ma'am.
- 12 Q. Who drove you to the airport?
- 13 A. Daffrey (phonetic) Saff. I don't know her last name.
- 14 Q. Was she another zoo employee?
- 15 A. Yes, ma'am.
- 16 Q. And just for the court reporter, was she known as Saff,
- 17 S-A-F-F?
- 18 A. Guy or girl.
- 19 Q. Okay. That person was known as Saff?
- 20 A. Yes, ma'am. Female.
- 21 Q. Now, when you left, did you take your belongings with you?
- 22 A. Not all of it, just what I know I needed or wanted.
- 23 Q. Okay. When you left Oklahoma for South Carolina, did you
- 24 intend to come back?
- 25 A. Maybe one day when Jeff -- if Jeff ever would have came back

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ALAN GLOVER - Direct by Ms. Maxfield-Green

1 here, I probably would have come back, but I didn't know when he  
2 was coming.

3 Q. Okay. And where did -- where did you land? You left  
4 Oklahoma City and where did you fly into?

5 A. Savannah, Georgia.

6 Q. And how did you get from Savannah, Georgia -- when you  
7 landed in Savannah, Georgia, where did you go?

8 A. My daughter picked me up.

9 Q. And then did you drive to South Carolina?

10 A. Beaufort, yes, ma'am.

11 Q. All right. Once you were back in South Carolina, what did  
12 you do?

13 A. Me? I -- I stayed at my daughter's house that night. She  
14 dropped me off at a friend of mine's, so I just hung out.

15 Q. Okay. Did you get a job?

16 A. Yeah and no. I mean, I kind of stayed with a friend of  
17 mine. Basically all I do is clean his house, and that was for  
18 rent, so I was all good for that.

19 Q. Okay. So you had a place to live if you cleaned this guy's  
20 house?

21 A. And the yard work, whatnot like that, so he didn't have to.

22 Q. Okay. Mr. Glover, after you made it to South Carolina, did  
23 you ever, in fact, go to Florida?

24 A. Yes, ma'am, I did.

25 Q. About how long after you got to South Carolina did you go to

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 Florida?
- 2 A. Couple of weeks maybe. I'm not -- I'm not sure 100 percent
- 3 on that, ma'am.
- 4 Q. How did you get there?
- 5 A. Took a vehicle.
- 6 Q. Did you have a driver's license at that time?
- 7 A. No, ma'am.
- 8 Q. Did you take a phone with you?
- 9 A. No, I did not.
- 10 Q. Did you take the money that Joe had given you?
- 11 A. Oh, yeah. Yes, ma'am.
- 12 Q. Mr. Glover, before you left for Florida, when you got in the
- 13 car, were you drinking alcohol?
- 14 A. Yes, ma'am.
- 15 Q. How much alcohol?
- 16 A. Probably too much to be driving.
- 17 Q. Were you using drugs as well?
- 18 A. Painkillers, cocaine.
- 19 Q. So on the way driving from South Carolina to Florida, were
- 20 you drunk?
- 21 A. Pretty much, yes, ma'am.
- 22 Q. And were you high?
- 23 A. Yes, ma'am.
- 24 Q. Now, when you got to Florida, where did you go?
- 25 A. To a beach.

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 Q. Okay. You ended up on a beach. To your best of your  
2 recollection, what town in Florida were you in?
- 3 A. I'm not sure, ma'am, to be honest. I don't know. Wasn't  
4 really paying attention.
- 5 Q. Okay. Did you believe you were in the Tampa area?
- 6 A. I could have been.
- 7 Q. But you're not sure?
- 8 A. No, ma'am.
- 9 Q. And again --
- 10 A. I didn't really pay attention to the signs or nothing. I  
11 just found a beach and found some people to party with. I had  
12 money.
- 13 Q. And were you consistently drunk and high during this trip?
- 14 A. Pretty much, yes, ma'am.
- 15 Q. When you went to Florida -- when you left for Florida, what,  
16 to the best that you can recall, what was it your intention to  
17 do?
- 18 A. Go tell Carole, at base, what Joe's intentions are, how  
19 serious it is, that he wants her that dead.
- 20 Q. You intended to go warn her?
- 21 A. Yes, ma'am.
- 22 Q. Did you ever go to Big Cat Rescue?
- 23 A. No, ma'am.
- 24 Q. Did you ever try to actually make contact of any kind with  
25 Ms. Baskin?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. I tried to look it up and then call her, but I don't  
2 think -- I mean, she's done been threatened so many times she  
3 ain't going to believe something like that over the phone. That  
4 would have to be something you would have to do face to face.  
5 Say, I'm the person that was supposed to kill you, ma'am.
- 6 Q. So that was your intent when you left South Carolina?  
7 A. To go tell her?
- 8 Q. Yes.
- 9 A. Yes, ma'am, it was, that she was at a very high risk of  
10 being murdered.
- 11 Q. And did you ever follow through with your intent to meet up  
12 with her?  
13 A. No, ma'am.
- 14 Q. And what did you do instead?  
15 A. Got drunk, running out of money, and I made my way back to  
16 South Carolina.
- 17 Q. About how long in total, to the best of your recollection,  
18 were you in Florida?  
19 A. I'm guessing maybe a day, and then the trip back.
- 20 Q. Okay. Did you stay overnight?  
21 A. Yes, ma'am.
- 22 Q. Where did you stay?  
23 A. On the beach with some people at their little resort.
- 24 Q. Okay. And then did you drive yourself back to South  
25 Carolina?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. Yes, ma'am, I did.
- 2 Q. And after you got back to South Carolina, did you eventually  
3 get a different cell phone from the pizza phone that you had?
- 4 A. Yes, ma'am.
- 5 Q. And I say the pizza phone, I mean the phone from the pizza  
6 restaurant.
- 7 A. Right. I still had both of them.
- 8 Q. So for a period of time you had that phone that Joe had  
9 given you, correct?
- 10 A. Right.
- 11 Q. And then did you also have a new phone?
- 12 A. Right.
- 13 Q. Do you have those phones now?
- 14 A. You do.
- 15 Q. I'm sorry?
- 16 A. The Government does.
- 17 Q. Okay. Now, around this time did Mr. -- did Joe ever call  
18 you and ask you how things were going, if you'd done it?
- 19 A. He knows I haven't done it because it would be all over the  
20 news. I doubt if he was really going to call me back and forth.  
21 That wouldn't make much sense neither.
- 22 Q. Now, Mr. Glover, at some point you -- you stated that you  
23 currently live in Oklahoma, so obviously you made it back here at  
24 some point. When you got back to Oklahoma -- well, let me ask  
25 you first: About when did you come back to Oklahoma?

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ALAN GLOVER - Direct by Ms. Maxfield-Green

- 1 A. Day after July 4th, July 5th.
- 2 Q. Would that have been in 2018?
- 3 A. Let -- yes, ma'am.
- 4 Q. And since you have -- once you got back to Oklahoma, did you  
5 see Joe again?
- 6 A. No.
- 7 Q. Did you have any other conversations with him once you got  
8 back to Oklahoma?
- 9 A. This last time?
- 10 Q. Yes.
- 11 A. He wasn't even on the park. He was already --
- 12 Q. I'm sorry. Go ahead.
- 13 A. He had already been removed from the park.
- 14 Q. Okay. Now, after you came back to Oklahoma, were you  
15 contacted by law enforcement about Joe's plan to kill Carole  
16 Baskin?
- 17 A. Yes, ma'am, I did.
- 18 Q. And did you voluntarily agree to talk with federal agents?
- 19 A. Yes, ma'am.
- 20 Q. And did you voluntarily tell them the same things you have  
21 told us here today?
- 22 A. Yes, ma'am.
- 23 Q. And did you voluntarily give them the phones that you still  
24 had in your possession?
- 25 A. Yes.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. Now, Mr. Glover, has anyone with the Government, me or any  
2 other lawyer or any federal agents, has anybody from the  
3 government made you any promises or agreements with you that  
4 you'll have immunity from prosecution?

5 A. No, ma'am, I have not, which worries me.

6 Q. I'm sorry?

7 A. I said, I'm worried about that.

8 MS. MAXFIELD-GREEN: Pass the witness, Your Honor.

9 THE COURT: Cross-examination, Mr. Wackenheim?

10 **CROSS-EXAMINATION**

11 **BY MR. WACKENHEIM:**

12 Q. Mr. Glover, that last question was whether or not any  
13 Government agent had promised you immunity. Do you remember  
14 that?

15 A. Yes, sir.

16 Q. Isn't it true that Mr. Lowe assured you that you might be  
17 able to get immunity?

18 A. No, not really. He don't have no idea either.

19 Q. Well, did he communicate to you that he appeared to have  
20 some sort of deal worked out where all you had to do was follow  
21 his instructions?

22 A. No, not really. He said that as long as I told the truth,  
23 everything would be fine. That's how he put it to me.

24 Q. There's a book in front of you with a blue cover, a white  
25 book. Do you see that?

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. Uh-huh.
- 2 Q. Can you open that up to the Tabitha says 21?
- 3 A. I ain't going to be able to see it, so --
- 4 MR. WACKENHEIM: May I approach, Your Honor?
- 5 THE COURT: You may.
- 6 Q. (By Ms. Maxfield-Green) You have never seen that before,
- 7 have you?
- 8 A. Oh, I can't barely see it now.
- 9 Q. Yeah. It's very small, but I'll represent to you that this
- 10 is an extraction report for the Samsung phone that you had. Do
- 11 you remember which phone was the Samsung phone?
- 12 A. No, sir, not right offhand, only -- I have bought many in my
- 13 life.
- 14 Q. Was it the phone that had the broken screen on it? Do you
- 15 remember that phone?
- 16 A. I wouldn't be surprised if they all didn't have broken
- 17 screens.
- 18 Q. Well, do you recall having text message conversations with
- 19 Jeff Lowe?
- 20 A. Yeah, I'm sure I have had conversations. He wanted to know
- 21 when I was coming back.
- 22 Q. Did you also ask Mr. Passage when you could come back to the
- 23 park?
- 24 A. I can't remember if I did anything like that or not.
- 25 Q. Do you recall telling Mr. Passage that you missed the park?

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. If I spoke to him, I'm pretty damn well sure I said that.
- 2 Q. Do you recall Mr. Passage asking how soon you could get back  
3 to the park?
- 4 A. Seems like I have heard that, yeah.
- 5 Q. Does that sound around February 26, 2018?
- 6 A. Couldn't tell you the dates on that, sir.
- 7 Q. Is it true that you generally have a problem with dates?
- 8 A. I do, badly. Dates, times, you name it.
- 9 Q. Well, we'll get into those text messages in a bit.
- 10 Let's back up a bit. You came to the park because -- well,  
11 I was unclear. How did you find out that Mr. Lowe had ownership  
12 of the park?
- 13 A. I think seen it online, Facebook or something like that. I  
14 was like, you know, let me give him a jingle.
- 15 Q. How did you know Mr. Lowe?
- 16 A. Met him from my brother.
- 17 Q. You worked for Mr. Lowe?
- 18 A. Have I or did he?
- 19 Q. Yes, sir.
- 20 A. My brother did; so did I.
- 21 Q. What kind of work did you do for Mr. Lowe?
- 22 A. Wholesale.
- 23 Q. What is wholesale?
- 24 A. He buys stuff that Walmart couldn't resell or whatnot, items  
25 like that.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. Did you ever do any of that in Louisiana with him?
- 2 A. No, never knew he had a place in Louisiana.
- 3 Q. You have done that for years with Mr. Lowe?
- 4 A. I have known Mr. Lowe for years. I have worked for him for
- 5 a little bit here and there. True work is my gig.
- 6 Q. Is it fair to say that you look up to him a bit?
- 7 A. Yes, sir, because he took care of my brother.
- 8 Q. How did he take care of your brother?
- 9 A. My brother was dying of cancer and he helped him and helped
- 10 me.
- 11 Q. By providing you employment?
- 12 A. Say that again.
- 13 Q. Did he give you a job?
- 14 A. Yeah.
- 15 Q. Okay. And at -- I think you testified that you have had a
- 16 felony conviction since about 1985; is that fair? When you were
- 17 about 17?
- 18 A. Started, yeah.
- 19 Q. So that kind of changes things; is that fair?
- 20 A. Absolutely it changes things.
- 21 Q. So was it about that time that you got the teardrop tattoo?
- 22 A. Nope.
- 23 Q. When did you get that?
- 24 A. I got that in Louisiana. When, I don't remember, just when
- 25 I was locked up in prison.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. And I'm not sure you actually explained what it means to  
2 you. Why -- what does that tattoo mean to you?
- 3 A. That I have lost a loved one that I cared a lot about. My  
4 grandmother, come to think about it.
- 5 Q. But you're aware that some people see that tattoo and think  
6 it means something else?
- 7 A. I don't care what other people think.
- 8 Q. Well, did you use that tattoo to convince Mr. Passage that  
9 maybe you were capable of doing this thing you say he asked you  
10 to do?
- 11 A. To get that money from him, I would have let him believe  
12 anything he wanted.
- 13 Q. And that would be that a teardrop tattoo means someone's  
14 capable of violence?
- 15 A. I never said that.
- 16 Q. Well, then what would Mr. Passage have believed about that  
17 teardrop tattoo?
- 18 A. I don't know what he believed. I didn't care what he  
19 believed. I just wanted his money so I could leave him.
- 20 Q. When you came to the park, how did you get there from South  
21 Carolina?
- 22 A. Which time?
- 23 Q. The first time.
- 24 A. I flew. Jeff picked me up.
- 25 Q. You didn't take a train ride?

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. Nope. Only been on one train and it didn't come here.
- 2 Q. When you communicate with Mr. Lowe, is it through text
- 3 messages?
- 4 A. To however I can get ahold of him.
- 5 Q. Which would be text messages is one way?
- 6 A. Phone calls, texts.
- 7 Q. Facebook?
- 8 A. Nope. I don't have Facebook.
- 9 Q. You do not?
- 10 A. I did a long time ago, but I don't even -- it won't even go
- 11 to Facebook no more. I don't know how to get to it. I lost how
- 12 to get into it.
- 13 Q. Before you lost it, were you able to use it to talk to Jeff
- 14 Lowe?
- 15 A. Yeah. That's how I found out about the zoo being -- needing
- 16 a place.
- 17 Q. There's been some discussion that you -- one of the reasons
- 18 you went back to South Carolina was to get some Social Security
- 19 payments set up.
- 20 A. Yeah, that too.
- 21 Q. What do you get that for?
- 22 A. I broke my neck and my back.
- 23 Q. Okay. So what -- is it disability for --
- 24 A. Yes.
- 25 Q. -- being unable to work?

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. Yes.
- 2 Q. So by working are you in violation of getting those  
3 benefits?
- 4 A. No, I'm not.
- 5 Q. Why is that?
- 6 A. Because I don't make no money. I get a place to stay.
- 7 Q. How about the tree work that you do?
- 8 A. That was years ago.
- 9 Q. Were you getting Social Security disability at that point?
- 10 A. Probably not. I have lost it, got it back, lost it, got it  
11 back. It's like a yo-yo with the Social Security people.
- 12 Q. These drug and alcohol problems that you have talked about,  
13 when did those start for you?
- 14 A. Oh, shit. Alcohol, I probably started drinking when I was  
15 maybe nine.
- 16 Q. And drugs?
- 17 A. Little later on in life.
- 18 Q. So I guess it's fair to say that when you came to the park  
19 the first time you still had --
- 20 A. Yeah. I had my medication for my back.
- 21 Q. Okay. Let me -- I know what you're -- you know what I'm  
22 going to ask, but I have to finish --
- 23 A. I have no idea what you're going to ask me.
- 24 Q. Okay. So let me finish the question.  
25 When you were at the park that first time, did you have a

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ALAN GLOVER - Cross by Mr. Wackenheim

1 drinking problem?

2 A. Yeah.

3 Q. Did that affect your ability to work at the park?

4 A. Little bit that I do, no.

5 Q. Did you show up to work drunk?

6 A. Nope. No drunker than I am right now.

7 Q. When you got off work late the night before, did you drink?

8 A. Night before what?

9 Q. That you showed up to work the following day?

10 A. What are you going at with this?

11 THE COURT: Mr. Glover, I'm just going to ask you to  
12 listen to the question and do your best to answer it, if you know  
13 the answer.

14 THE WITNESS: I don't even know where he's going with  
15 it.

16 Q. (By Mr. Wackenheim) Okay. Let me rephrase. That's fair.  
17 It's a confusing question.

18 What time would you show up to work?

19 A. Oh, sometime I would be out there 5 o'clock in the morning  
20 working.

21 Q. Okay.

22 A. Because in the afternoon it's so hot you can't work.

23 Q. Five o'clock every day?

24 A. No, if I got up early.

25 Q. Okay. Were there times that you showed up to work hung over

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 from the night before?
- 2 A. Never.
- 3 Q. Were there times you showed up to work drunk?
- 4 A. Never. I stopped drinking about 7 o'clock at night, and the  
5 way I drink, should be nowhere near my system by the time I get  
6 up.
- 7 Q. Can you understand that someone who supervises employees  
8 might not want their employees to be drunk while working?
- 9 A. I'm sure. It makes good sense to me.
- 10 Q. Or high on any number of drugs?
- 11 A. Makes sense.
- 12 Q. You talked a little bit about what you did at the park. Do  
13 you remember talking about that?
- 14 A. Yeah, I did odd -- odd jobs, whatever I could do before my  
15 back started killing me.
- 16 Q. So what kind of odd jobs?
- 17 A. Taking out the trash to washing his truck, washing his  
18 truck, his limo, this -- just odd stuff. Cutting the grass.
- 19 Q. Did you ever feel like Mr. Passage was asking you to do  
20 stuff that you didn't want to do?
- 21 A. No, doing stuff that I couldn't do, or if I could, I  
22 couldn't do it all day long like a slave.
- 23 Q. Would you tell Mr. Passage that?
- 24 A. In a certain type of way, yeah. I just ignored him.
- 25 Q. Would you tell Mr. Lowe that?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. I would tell him what was going on and he knew what was  
2 going on.

3 Q. Mr. Lowe knew that you and Mr. Passage had a -- a  
4 personality conflict is putting it nicely?

5 A. Yeah, you could say it like that.

6 Q. Or I could say significant -- or let me back that up.  
7 You two didn't get along at the park; is that fair?

8 A. Nobody got along with him at the park. That's fair. How  
9 long have you been with him?

10 Q. At the park you showed up in, is it 2016?

11 A. I'm not sure, sir.

12 Q. Okay. So there were people at the park before you got  
13 there; is that fair?

14 A. Oh, yeah.

15 Q. And there's people that have been at that park for years,  
16 yes?

17 A. Uh-huh.

18 Q. Is that a "yes"?

19 A. Yes, sir.

20 Q. Okay. So they were able to work with Mr. Passage for years,  
21 yes?

22 A. Because he had nowhere else to go probably, or didn't have  
23 enough --

24 Q. And in the end -- in the end, that's your situation. You  
25 had nowhere else to go at that point. You were looking for a

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 place to get out from, yes?
- 2 A. Not from the zoo; Joe.
- 3 Q. Okay. Because Jeff Lowe was in Las Vegas, Nevada, correct?
- 4 A. Yes, sir.
- 5 Q. What was he doing out there?
- 6 A. Whatever he was doing.
- 7 Q. Well, you're close with him, right?
- 8 A. Not that close. I mean, he was doing play times on a bus,
- 9 as far as I know. Other than that, no.
- 10 Q. Would he ever send you photographs of some of the things he
- 11 was doing out there in Vegas?
- 12 A. Oh, yeah.
- 13 Q. Did it ever make you jealous to see some of the things he
- 14 was doing in Vegas?
- 15 A. Not really. I was having fun where I was at.
- 16 Q. I thought you said you didn't like being at the park.
- 17 A. No. Not under his thumb, no.
- 18 Q. So what did you like about being at the park?
- 19 A. The meeting of women, girls, something he wouldn't allow.
- 20 Q. I think you said you enjoyed working with the animals.
- 21 A. Yes.
- 22 Q. Is that fair?
- 23 A. That's where that enjoyment comes from.
- 24 Q. You like doing the play times?
- 25 A. Anything. I haven't done -- done a play time since I have

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 been back, if that's where you're going with this.
- 2 Q. You learned quickly that Mr. Passage didn't like Carole
- 3 Baskin; is that fair?
- 4 A. No, he didn't dislike her; he hated her. There's a
- 5 difference between --
- 6 Q. Right. What I'm asking is that you learned that quickly?
- 7 A. I learned that like the first day I got there.
- 8 Q. Right. Because he'll tell anybody that, right?
- 9 A. Yes, sir.
- 10 Q. He'll tell employees and the public?
- 11 A. Yes.
- 12 Q. He'll tell people so loudly guests might hear it?
- 13 A. I'm sure they have heard.
- 14 Q. Not a secret; is that fair?
- 15 A. Ain't no secret.
- 16 Q. How did Jeff Lowe handle these disagreements between you and
- 17 Mr. Passage?
- 18 A. He called me up and asked me what actually happened, and I
- 19 would tell him exactly what would happen, and that would be the
- 20 end of it. He would either reprimand me about it or stay away
- 21 from me.
- 22 Q. Did you ever get the impression that Mr. Lowe was just tired
- 23 of hearing about you and Mr. Passage?
- 24 A. Oh, I'm sure he was sick of hearing it, because I'm sure he
- 25 was on the phone every day with some thing.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. So in the fall of 2017 you were ready to get out of that  
2 park?

3 A. Yes, sir.

4 Q. You had had enough?

5 A. Yes.

6 Q. Yes? Now, it's at this point that you claimed that  
7 Mr. Passage asked you to kill Carole; is that right?

8 A. Say that again, please.

9 Q. This time period when you're ready to leave the park, that's  
10 when you say Joe asked you to kill Carole?

11 A. No, prior to that.

12 Q. Okay.

13 A. Way prior to that. I'm not exactly sure how long, but, no,  
14 it wasn't that close together by far. We have spoke about it  
15 many times.

16 Q. When was the first time?

17 A. I don't know the date. I could tell you where it was, how  
18 it was said, what -- you want me to go through that?

19 Q. I believe the prosecutor can do that. What I'm interested  
20 in is the date.

21 A. I don't know the date.

22 Q. Well, I believe you testified on direct examination --

23 A. I'm not sure --

24 Q. Can I finish my question, please?

25 THE COURT: Mr. Glover, I'm going to warn you again,

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ALAN GLOVER - Cross by Mr. Wackenheim

1 please don't interrupt. Let him finish the question.

2 Mr. Wackenheim, I ask you to do the same, let him finish his  
3 answer.

4 MR. WACKENHEIM: Yes, Your Honor.

5 Q. (By Mr. Wackenheim) I believe you testified on direct  
6 examination that the first time was before the death of  
7 Mr. Passage's husband.

8 A. Yes, you're right.

9 Q. And if I told you that date was October 6th, 2017, would you  
10 have any reason to think that's wrong?

11 A. No.

12 Q. Okay. How much before that death?

13 A. A month maybe. I --

14 Q. You just don't know?

15 A. Within weeks.

16 Q. Within weeks?

17 A. Weeks, months. I would go for a good month because all  
18 the being pissy and then giving me rides to the store, doing  
19 this, that, whatnot, taking me out to dinner, yeah, it had to be  
20 a good month that I had to put up with that.

21 Q. Have you had any conversations -- let me start over.

22 Before you left the park in 2017, did you have any  
23 conversations with Mr. Lowe about what you were planning on  
24 doing?

25 A. No. I was told not to.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. Okay. So is it what you're trying to -- your testimony is  
2 that you were trying to make Mr. Passage believe you were serious  
3 about this; is that right?

4 A. Yes, sir.

5 Q. And how did you tell Mr. Passage you were going to do this  
6 plan? What were you going to do to Carole?

7 A. So I would not get picked up with a rifle or a crossbow, I  
8 would get a knife when I got down there, in his little suit  
9 thing, and kill that lady.

10 Q. By doing what to her?

11 A. Cutting her head off.

12 Q. Have you ever done that before?

13 A. No.

14 Q. Have you ever helped anybody do that before?

15 A. Never.

16 Q. Do you have any experience with that?

17 A. Never. I can't even cut up a cow in the back.

18 Q. What kind of -- well, and the reason you say you told  
19 Mr. Passage this is because you're a felon and can't be found  
20 with a gun, correct?

21 A. Absolutely no.

22 Q. Now, have you done some shooting practice with Mr. Passage  
23 on the zoo?

24 A. I have been out there when he was shooting.

25 Q. Have you yourself fired --

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. I have been out there with him shooting.
- 2 Q. Have you yourself shot the gun --
- 3 A. Nope.
- 4 Q. -- with Mr. Passage?
- 5 A. Nope.
- 6 Q. I thought you also said that you can't have a fake ID. Do
- 7 you remember that?
- 8 A. I don't think you probably can, not by law, I guess. I'm
- 9 not sure, but it wouldn't be good.
- 10 Q. So circling back, the different methods discussed included a
- 11 knife, yes?
- 12 A. Yes.
- 13 Q. Tannerite, do you remember that?
- 14 A. We were using Tannerite out there to shoot at.
- 15 Q. What happens when you do that?
- 16 A. It explodes.
- 17 Q. Okay.
- 18 A. If you hit the target.
- 19 Q. Was that one of the methods discussed?
- 20 A. Yes, sir.
- 21 Q. Was that different than the rifle?
- 22 A. No, that was the rifle. I can't stab Tannerite.
- 23 Q. So also a crossbow?
- 24 A. Yes.
- 25 Q. Okay. Now, was this going to happen on this walking path

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ALAN GLOVER - Cross by Mr. Wackenheim

1 that you have talked about?

2 A. Wherever I could find her that wouldn't be caught,  
3 basically. I had no idea where to even think about looking to  
4 kill her, but that was where he made that choice is to do it on  
5 that walk path. What's the chance of me catching her on the walk  
6 path?

7 Q. So this November 6th journey down to Dallas to get a fake  
8 ID, do you remember talking about that?

9 A. To?

10 Q. Just now.

11 A. Yes, sir.

12 Q. And that was done to hide your trail; is that right?

13 A. I'm sorry. Say that --

14 Q. That's okay.

15 What was the reason for getting the fake ID?

16 A. So I could get rooms or something like that so I didn't  
17 leave a paper trail with my name on it.

18 Q. But in the end you got a plane ticket with your name on it?

19 A. Yes, but I was going to South Carolina, not Florida.

20 Q. Did anyone ever purchase a bus ticket for you from -- to get  
21 to Florida or South Carolina?

22 A. No.

23 Q. Any of these conversations in which Mr. Passage allegedly  
24 asked you to kill Carole, was anyone else there during those?

25 A. No, sir.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. Were those recorded?
- 2 A. Oh, it was recorded. We just watched something.
- 3 Q. Okay. You're correct, we did watch some of those exhibits.
- 4 Did any of those exhibits show Mr. Passage asking you to kill
- 5 Carole Baskin?
- 6 A. Did you -- I didn't see any.
- 7 Q. So is it your testimony that Mr. Lowe had no involvement in
- 8 any of this?
- 9 A. None that I knew of. I was told not to tell him. The less
- 10 people knew the better off and -- go ahead. I'm sorry.
- 11 Q. Are you finished? Is there anything --
- 12 A. Yes, sir.
- 13 Q. Okay. But according to your testimony, Mr. Finlay knew
- 14 about this, correct?
- 15 A. Yes.
- 16 Q. Mr. Passage knew about this, correct?
- 17 A. Yeah. He was the one that orchestrated this.
- 18 Q. And Mr. Garretson knew about this, correct?
- 19 A. I believe so. I didn't know 100 percent if he knew
- 20 everything or not, but I wasn't taking no chances, that's why I
- 21 tried to bully him from doing -- going in behind me.
- 22 Q. You testified on direct examination that the only thing you
- 23 were waiting for was the money. Do you remember that?
- 24 A. Yes, sir.
- 25 Q. But weren't you -- I'll direct the Government to

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Exhibit 59-A.

2 You had additional conversations with Mr. Garretson about  
3 getting a -- a prostitute?

4 A. Yep, a hooker.

5 Q. Had you previously gotten a hooker from him?

6 A. No.

7 Q. Why did -- go ahead.

8 A. He was supposed to send me one, but he bowed out, I guess.

9 Q. Why did you expect him to be able to get you one?

10 A. Because he's that type of person. We spoke about it when he  
11 was scratching that stuff off the ID. I asked him about getting  
12 me pills, drugs. Where I live, you can't find nothing.

13 Q. We watched another clip -- and to be clear, you didn't know  
14 that these were being recorded, right?

15 A. No, sir.

16 Q. So at one point you say -- well, you explain your reasons  
17 why you're going to do what you're going to do. Do you remember  
18 watching that?

19 A. Yeah.

20 Q. Quote, "That's going to hurt me worse than anything else.  
21 This is good for the fucking animals. This is not about Joe."  
22 Do you remember that?

23 A. I'm pretty -- yes, sir, I do.

24 Q. What did you mean about this is good for the animals?

25 A. So his train of thought, if she's dead, she can't sue me.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 She can't take all these animals and my property.

2 Q. Right. But the next thing you say is, this is not about  
3 Joe.

4 A. Right. The animals come first.

5 Q. And you said this why? Why are you telling Garretson these  
6 things?

7 A. Because the animals come first, like I just said. He's  
8 secondary. He's just fronting the money, giving me -- getting me  
9 to go murder some lady to save that park, basically. So, yes,  
10 that does go first.

11 Q. And you were talking to Garretson to make him think you were  
12 serious?

13 A. Yeah -- yes.

14 Q. Because why?

15 A. Did not want him getting into the money for me to leave on.  
16 He would probably say that he knew somebody or he could get it  
17 done, so I was just going to squash that right there, intimidate  
18 him.

19 Q. This is going to be your deal, no one else, you want to take  
20 care of this?

21 A. No. You wording that one wrong.

22 Q. Okay. You don't want Garretson undercutting you --

23 A. Involved. I don't want him involved. Me and him had a  
24 deal, that's what was going to happen. Nobody else is jumping  
25 involved with it, screwing this up.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. So you knew at that point that Garretson had the  
2 conversations or the -- the ability to do this?

3 A. He would go in the office with Joe at night several times  
4 after me and Joe's communications about murdering this lady, and  
5 I could think in my head that he is trying to convince Joe not  
6 for me to do it, let him have somebody do it.

7 Q. There was another clip when Garretson's asking if you're  
8 going to take a bus. Do you remember that?

9 A. Yeah. I remember on tape, but I don't remember we  
10 discussing no bus. I probably did, but -- I mean, I know I did.  
11 It was on the --

12 Q. And he's asking you if you're going to take a bus, and you  
13 explain, when I came in with the boss, it was four days on a  
14 train. Do you remember saying that?

15 A. I might have.

16 Q. If that was part of the transcript, do you have any reason  
17 to believe you didn't say that?

18 A. No. If it was on there, I said it. It takes like a week on  
19 a train or a bus. I'm not riding on that.

20 Q. But I thought you said you didn't take a train out to the  
21 park.

22 A. I did not take a train out of here or in here. I may have  
23 said that but didn't do that.

24 Q. Were you drunk when you were making these statements?

25 A. Nope.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. Were you --

2 A. I'm just like I am. But when I'm aggravated, I get rattled.  
3 I could show you.

4 MR. WACKENHEIM: May I have a moment, Your Honor?

5 THE COURT: You may.

6 Q. (By Mr. Wackenheim) Do you recall giving testimony in the  
7 grand jury proceeding?

8 A. Yes, sir.

9 Q. Page 28 and 29. You were under oath then, yes?

10 A. Yes, sir.

11 Q. And you were being asked about the video in which today you  
12 say you were not drunk --

13 A. Pretty sure I wasn't drunk that day. I was just aggravated.

14 Q. May I finish my --

15 A. It was my day off.

16 MR. WACKENHEIM: Your Honor, I would ask that the Court  
17 instruct the witness to wait for the question.

18 THE WITNESS: Sorry about that.

19 THE COURT: Mr. Glover, I know it's late in the day,  
20 but again, please let him finish the question. Don't interrupt  
21 him. And then you can answer, if you know the answer.

22 THE WITNESS: Yes, sir.

23 Q. (By Mr. Wackenheim) Now, do you recall being asked, quote,  
24 "Now, in that conversation I showed you that video of, had you  
25 been drinking that day?" And you answered yes.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. I may have been.

2 Q. So were you drinking that day?

3 A. May have.

4 Q. It's your testimony today that you may have?

5 A. It was my day off.

6 Q. Were you wearing a park uniform in that video?

7 A. I don't wear uniforms.

8 Q. Were you wearing a park uniform in that video?

9 A. It looked like a shirt, basically like this right here.

10 Q. So no?

11 A. I don't think it was. I hardly ever wore uniforms.

12 MR. WACKENHEIM: Your Honor, this may be an appropriate  
13 breaking point.

14 THE COURT: I was going to ask you, how much do you  
15 think you have left? If you have a fair amount left, we will  
16 break, but if you're anywhere close to wrapping up, it may be  
17 better that we can go ahead and finish. How close are you?

18 MR. WACKENHEIM: I cannot accurately estimate that  
19 right now.

20 THE COURT: More than 10 minutes, 15 minutes?

21 MR. WACKENHEIM: Probably.

22 THE COURT: Okay. Ladies and gentlemen, we will take  
23 our break for this evening. Again, the usual admonishments:  
24 Please don't discuss the case amongst yourselves; don't do  
25 anything that would expose you to any kind of media accounts of

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ALAN GLOVER - Cross by Mr. Wackenheim

1 what's happened; you're limited to those things that happened  
2 here in the courtroom only. Please keep an open mind. Don't  
3 form any opinions yet. And we will see you at 9 o'clock in the  
4 morning.

5 Court will remain in attendance and seated while the jury  
6 leaves the courtroom.

7 Mr. Glover, if you could hang on just a second.

8 (Jury exited.)

9 (The following record was made in open court, in the  
10 presence of all parties, counsel, and out of the presence and  
11 hearing of the jury.)

12 THE COURT: Mr. Glover, you may step down. I would  
13 remind you, you're still under subpoena and you'll be back at  
14 9 o'clock in the morning for testimony.

15 THE WITNESS: Yes, sir.

16 THE COURT: Counsel, let's talk about timing real  
17 quick. I think what was represented to me, Mr. Earley, is that  
18 you may have a witness that's not coming in until Monday?

19 MR. EARLEY: Yes, that's the plan.

20 THE COURT: Yeah. Is there any risk, Government -- and  
21 I'm not going to hold you to this, but just for estimate  
22 purposes, is there any risk that you-all conclude your evidence  
23 before 5:00 on Friday?

24 MS. MAXFIELD-GREEN: Yeah, Your Honor -- yes, Your  
25 Honor. And depending on how much more Mr. Wackenheim has with

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Mr. Glover, we could, I think, get to our last witness tomorrow.

2 THE COURT: Why don't we do this, I would ask counsel  
3 to get together after we recess and if you-all could kind of  
4 discuss that, I -- I know counsel will do that in good faith  
5 and -- and if there is -- if it looks like that's a possibility,  
6 I -- Mr. Earley, I think I -- you might be prepared to -- should  
7 you choose to put on any evidence, you might be prepared to do  
8 that Friday, but even -- I'm going to charge you two with kind of  
9 coordinating that and see.

10 MR. EARLEY: I will advise the Court, as the Court's  
11 aware, when we are appointed in cases and we have out-of-state  
12 witnesses, those travel arrangements are made through the United  
13 States Marshal's office in the district where the individual  
14 resides. I will get a message to those offices and to the  
15 individuals, but I'm not quite sure about the short notice on  
16 that, but I would --

17 THE COURT: Yeah. I understand the intricacies of  
18 government travel.

19 MR. EARLEY: Yes. So anyway, I will get on it.

20 THE COURT: Okay. Well, I understand these are things  
21 that may be out of our control, but I would -- my intent is is  
22 that we not have to adjourn early for the week. I would like to  
23 keep charging ahead. But again, if there's anything you can do  
24 in that regard, please do so.

25 In the meantime, anything else from either party?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 MS. MAXFIELD-GREEN: No, Your Honor.  
2 THE COURT: Mr. Earley?  
3 MR. EARLEY: No, Your Honor.  
4 THE COURT: Court will be in recess.

5 (Court adjourned.)

6 REPORTER'S CERTIFICATION

7 I, Emily Eakle, Federal Official Realtime Court  
8 Reporter, in and for the United States District Court for the  
9 Western District of Oklahoma, do hereby certify that pursuant to  
10 Section 753, Title 28, United States Code that the foregoing is a  
11 true and correct transcript of the stenographically reported  
12 proceedings held in the above-entitled matter and that the  
13 transcript page format is in conformance with the regulations of  
14 the Judicial Conference of the United States.

15 Dated this 6th day of March 2020.

16  
17 /S/ Emily Eakle  
18 EMILY EAKLE, RMR, CRR  
19 Federal Official Court Reporter  
20  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CASE NO. CR-18-227-SLP

JOSEPH MALDONADO-PASSAGE,

Defendant.

\* \* \* \* \*  
**VOLUME IV OF VII**

TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE

MARCH 28, 2019

\* \* \* \* \*

Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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EXAMINATION INDEX

PAGE

ALAN GLOVER  
 Cross-Examination (cont'd) by Mr. Wackenheim.....679  
 Redirect Examination by Ms. Maxfield-Green.....704  
 Recross Examination by Mr. Wackenheim.....707

LAUREN LOWE  
 Direct Examination by Mr. Brown.....708  
 Cross-Examination by Mr. Earley.....716

BRIAN HESS  
 Direct Examination by Mr. Brown.....727  
 Cross-Examination by Mr. Wackenheim.....735

JOHN FINLAY  
 Direct Examination by Mr. Brown.....740  
 Cross-Examination by Mr. Earley.....764  
 Redirect Examination by Mr. Brown.....773

MARK WILLIAMS  
 Direct Examination by Ms. Maxfield-Green.....780  
 Cross-Examination by Mr. Wackenheim.....798  
 Redirect Examination by Ms. Maxfield-Green.....817

Reporter's Certificate.....821

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ALAN GLOVER - Cross by Mr. Wackenheim

1 (The following record was made in open court on March 28,  
2 2019, in the presence of all parties, counsel, and in the  
3 presence and hearing of the jury.)

4 THE COURT: Good morning, ladies and gentlemen.  
5 Welcome back.

6 Mr. Glover, I remind you, you are still under oath.

7 Mr. Wackenheim, you may continue with cross-examination.

8 **CROSS-EXAMINATION (continued)**

9 **BY MR. WACKENHEIM:**

10 Q. Mr. Glover, moving back to the three phones that you had.  
11 Do you remember having three phones in this period of time?

12 A. Yes, sir.

13 Q. There was a phone you had before you left the park in the  
14 fall of 2017?

15 A. Yeah.

16 Q. And you testified you gave that to Mr. Passage. Do you  
17 remember that?

18 A. Yes, I did.

19 Q. And then there was a second phone that you received at about  
20 the same time. Do you remember that phone?

21 A. Yes, sir.

22 Q. And that's kind of been called the pizza phone?

23 A. Right.

24 Q. Why are we calling it the pizza phone?

25 A. It was bought for the pizza restaurant, to make phone calls

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ALAN GLOVER - Cross by Mr. Wackenheim

1 with -- in and out for takeout.

2 Q. Did you take that with you to South Carolina?

3 A. Yes, sir.

4 Q. And did you get a third phone while you were in South  
5 Carolina?

6 A. Yes, sir.

7 Q. And to your knowledge, all three of those phones, does the  
8 Government have those?

9 A. They have two, and the one I got now is the one I got when I  
10 got here. So that has nothing to do with this situation, the  
11 phone that I have now.

12 Q. Fair. And we're not asking about any phone you have now.  
13 But the three phones we just talked about, the earlier phones,  
14 the Government has those phones, correct?

15 A. Yes, sir.

16 Q. And you gave them two of those phones?

17 A. Yeah.

18 Q. And who gave them the third phone?

19 A. I'm not really sure how it got to them.

20 Q. Okay. But you know they have it?

21 A. Yeah.

22 Q. Okay. Now, in the fall of 2017 when all these events  
23 happened, you were complaining to Jeff Lowe you wanted off the  
24 park, right?

25 A. Yeah.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. In fact, on October 26, 2017, you texted him --

2 MS. MAXFIELD-GREEN: Your Honor, objection; hearsay.

3 THE COURT: Mr. Wackenheim?

4 MR. WACKENHEIM: Your Honor, it's his own statement.

5 These are -- I mean, I'm not asking about an out-of-court  
6 declarant. I'm asking about Mr. Glover's own statement from a  
7 phone in the Government's possession whose authenticity has not  
8 been called into question.

9 THE COURT: Overruled.

10 Q. (By Mr. Wackenheim) Do you recall on October 26th, 2017,  
11 texting Mr. Lowe, "Yeah, I know, I'm trying to get me a plane  
12 ticket out of here"?

13 A. I may have said that, yes.

14 Q. And did you also ask -- well, do you also recall texting on  
15 the same date -- actually, the next day, depending on how the  
16 time zone works, but roughly the same time, quote, Should I get  
17 my ass up in the morning and go to work like I always do, see how  
18 it pans out. If not, he'll get me a ticket tomorrow, F'g Jeff, I  
19 don't want to leave here, I love this F'g zoo, dude."

20 Do you remember that?

21 A. Yeah, I believe so.

22 Q. And you're asking him what should I do?

23 A. Basically.

24 Q. And what did he tell you to do?

25 MS. MAXFIELD-GREEN: Your Honor, objection; hearsay.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 THE COURT: Sustained.

2 Q. (By Mr. Wackenheim) As a result of your conversation with  
3 Mr. Lowe, what did you decide to do?

4 A. I eventually left. That's why we're here.

5 MR. WACKENHEIM: One moment, Your Honor -- well, we'll  
6 move on.

7 Q. (By Mr. Wackenheim) And I think you had testified earlier  
8 that you were waiting on some money before you decided to leave;  
9 is that right?

10 A. Yes, sir.

11 Q. And you were waiting on money from someone who was going to  
12 purchase a big cat, right?

13 A. I was?

14 Q. Well, somebody was. You were waiting for money?

15 A. Yeah.

16 Q. And that was going to be from the purchase of a cat?

17 A. From a cat, yes.

18 Q. That was your testimony?

19 A. Yeah.

20 Q. And was it a man or a woman that was supposed to purchase  
21 this cat?

22 A. A man, it was a man.

23 Q. Could you please boot up Clip 1 of Government's 59?  
24 (Video played in open court.)

25 Q. (By Mr. Wackenheim) So when you were speaking to

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Mr. Garretson, was it a man or a woman you were waiting for?

2 A. I wasn't waiting on anybody. I was waiting on Joe to get me  
3 my money that I needed to leave with.

4 Q. Was it your understanding that that money was coming from a  
5 man or a woman?

6 A. I believe a man. A man brought it.

7 Q. So but you told Garretson --

8 A. I don't know who he got the money from.

9 Q. When you were speaking to Mr. Garretson on that clip, did  
10 you tell him you were waiting for a woman to bring the money for  
11 Joe?

12 A. If I did, it was a mistake.

13 Q. Now, when you -- you testified you were the individual that  
14 went and got this cub?

15 A. Yes.

16 Q. And gave it to a man?

17 A. Yes, in the back parking lot.

18 Q. And you described him as -- did you say hobo looking --

19 A. Hobo, kind of hobo looking. He was kind of --

20 THE COURT: Mr. Glover, be sure and let him finish his  
21 question before you start to answer.

22 Q. (By Mr. Wackenheim) So can you describe what you meant by  
23 "hobo looking"?

24 A. Raggedy clothes, raggedy car. Looked like he lived in his  
25 car, not somebody that should be buying a cat.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. Did you notice anything distinguishing about his face?

2 A. Bearded kind of roughly.

3 Q. During your communications with Mr. Lowe, did he help you  
4 figure out who you thought that person was?

5 A. I'm not sure what you mean.

6 Q. Well, at some point you identified who you delivered that  
7 cub to, correct?

8 A. Yes.

9 Q. Who helped you identify who you delivered that cub to?

10 A. I did. I'm the one that saw the picture and I said that's  
11 the person I'm sure I gave that cub to.

12 Q. Who showed you that picture?

13 A. I want to say the Government did, I believe.

14 Q. Did Mr. Lowe previously show you that picture to confirm  
15 whether or not that was the person?

16 A. I'm pretty sure, yeah.

17 Q. So the first time you confirmed who it was, that was with  
18 Mr. Lowe asking you?

19 A. Maybe so. I'm not sure exactly which way it went, but yes.

20 Q. In the white book, can you turn to No. 62 in front of you?

21 A. We went through this yesterday. I can't see it, sir.

22 MR. WACKENHEIM: May I approach, Your Honor?

23 THE COURT: You may.

24 Q. (By Mr. Wackenheim) What is that piece of paper in front of  
25 you?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. It's a picture of the guy that I handed that tiger to, that  
2 cub.

3 Q. So you recognize that individual?

4 A. Looks just like him, yeah.

5 Q. The man that you delivered the cub to?

6 A. Yes, sir.

7 Q. Okay.

8 MR. WACKENHEIM: Defendant moves for admission of  
9 Exhibit 62.

10 THE COURT: Any objection?

11 MS. MAXFIELD-GREEN: No objection.

12 THE COURT: Defendant's 62 will be admitted.

13 Q. (By Mr. Wackenheim) And so is that the individual you  
14 delivered the cub to?

15 A. Looks like it, sir.

16 Q. Do you know his name?

17 A. No, I do not.

18 Q. Now, around this time did you -- I think you testified you  
19 gave your phone to Mr. Passage.

20 A. Yeah.

21 Q. And why did you do that?

22 A. He wanted it for some reason, and I didn't really care,  
23 didn't ask why.

24 Q. Had you had that phone for a long time before you gave it to  
25 him?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. I have had a bunch of phones.

2 Q. How about that phone?

3 A. I'm not sure exactly how long. It could have been several  
4 months. I guarantee it wasn't past six months. I haven't kept a  
5 phone like that in -- it get broke.

6 Q. Would you be surprised to learn that that phone had over 600  
7 contacts, people that you had saved in your phone?

8 A. Oh, it's hard to believe, but it's possible.

9 Q. And that you had over 3,000 text messages saved in that  
10 phone, do you have any reason to disbelieve that?

11 A. No.

12 Q. And so you had no problem handing this phone over that had  
13 all of this information to Mr. Passage?

14 A. At the time I didn't.

15 Q. But you knew it was going to be mailed to Mr. Lowe, correct?

16 A. No, sir.

17 Q. But didn't Mr. Lowe know that the phone was coming to him?

18 A. Not that I know of.

19 MR. WACKENHEIM: Would you play Clip 6?

20 Q. (By Mr. Wackenheim) I'm going to show you a portion of  
21 Government's Exhibit 59.

22 (Video played in open court.)

23 Q. (By Mr. Wackenheim) So that's you on this recording,  
24 correct?

25 A. Sounded like it.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. Talking to Mr. Garretson, correct?
- 2 A. Yes, sir.
- 3 Q. And you're talking about Mr. Lowe, correct?
- 4 A. Yes, we were.
- 5 Q. And when -- when you're describing Mr. Lowe, you say he's
- 6 not even answering my phone calls.
- 7 A. Right. He's --
- 8 Q. And then Mr. Garretson asks really, and you say, he knows
- 9 what is going on.
- 10 A. Oh, yeah, about what I was there to do at the park.
- 11 Q. And then Mr. Garretson asks you, I thought he was coming
- 12 back next week. Coming back from where?
- 13 A. I would think Vegas.
- 14 Q. And then you say, he could be, everybody thinks I'm going
- 15 there.
- 16 A. Yeah, I spoke -- Joe and I had planned out to let people
- 17 know that I was going to South Carolina and then going to Vegas,
- 18 basically.
- 19 Q. So that "everybody," that word did not include Mr. Lowe?
- 20 A. Jeff didn't know nothing. Not to my knowledge, he didn't
- 21 know nothing. He wasn't supposed to know anything either.
- 22 Q. Okay. I think you testified that when you went to South
- 23 Carolina you were picked up by your daughter?
- 24 A. Yes, sir.
- 25 Q. But you didn't stay with her?

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. No, sir.
- 2 Q. You stayed with a friend, correct?
- 3 A. Right.
- 4 Q. What was your friend's name?
- 5 A. Dave Teffer (phonetic). I stayed there for a night and then
- 6 I went and stayed at a friend of mine's house for a while, while
- 7 I was there anyway.
- 8 Q. And that second friend, is that the one whose house you
- 9 cleaned?
- 10 A. Yes, sir, kept the yard up.
- 11 Q. What was that friend's name?
- 12 A. Paul White.
- 13 Q. And where does Paul White live?
- 14 A. South Carolina.
- 15 Q. In Beaumont?
- 16 A. Beaufort.
- 17 Q. Beaufort. I apologize.
- 18 A. You all right.
- 19 Q. But this whole time you're staying in contact with Mr. Lowe,
- 20 correct?
- 21 A. He wouldn't even answer my phone calls.
- 22 Q. But you had text message exchanges with him?
- 23 A. Yeah.
- 24 Q. And you were asked on direct examination if you had any
- 25 phone calls from Joe. Do you remember being asked that question

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ALAN GLOVER - Cross by Mr. Wackenheim

1 yesterday?

2 A. Yeah.

3 Q. And I think your answer, and if I'm -- was he didn't -- no,  
4 I had no -- well, you said -- let me back up -- that Joe didn't  
5 need to call me because he would find out on the news. Is that  
6 more or less what you said?

7 A. Probably.

8 Q. But just to be clear, did you and Mr. Passage have any phone  
9 calls while you were in South Carolina?

10 A. I think we did. I'm pretty sure we did, because that's what  
11 it states, that I did, so yes.

12 Q. When were those phone calls?

13 A. I don't know. I'm sure I was loaded. I don't really  
14 remember, to be honest with you.

15 Q. And was it in February of 2018 you learned Mr. Passage  
16 wanted you back on the park?

17 A. Yeah. I wasn't sure exactly what was going on because I --  
18 I didn't know what anybody knew. I just knew something wasn't  
19 right and I couldn't get heads or tails out of nobody.

20 Q. Well, around that time were you sending him messages about  
21 him being in a car accident?

22 A. Oh, yeah. I heard he got in a bad accident, broke his hip  
23 and whatnot.

24 Q. And do you remember telling him how you missed being at the  
25 park?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. Yeah, I'm sure I did. That park means a great deal to a lot  
2 of people.

3 Q. Do you remember telling him how soon you could get back to  
4 the park?

5 A. Maybe. Really had no intentions of coming back until I knew  
6 somebody was going to be there to save me.

7 MR. WACKENHEIM: Your Honor, I'm going to move for  
8 admission of Defendant's Exhibit 21. Pages 3 and 4 are the  
9 relevant text messages back and forth between Mr. Glover and  
10 Mr. Passage. The jury's already seen excerpts of Mr. Passage's  
11 responses.

12 THE COURT: So are you singling out Pages 3 and 4 for  
13 admission or are you wanting to admit the entirety of Defendant's  
14 21?

15 MR. WACKENHEIM: Well, I think we'll get to Page 2. I  
16 don't know if we're there yet. I just -- I don't think there  
17 is -- certainly Pages 3 and 4 at this point, we're moving for  
18 their admission. We can wait on Page 2.

19 THE COURT: Government?

20 MS. MAXFIELD-GREEN: No objection to Pages 3 and 4.

21 MS. DAVIS: I think we should call it 21-A.

22 THE COURT: Counsel, do you have any objection? Can we  
23 call that Defendant's 21-A to include Pages 3 and 4, just so  
24 there's no confusion in the record?

25 MR. WACKENHEIM: No, Your Honor.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 THE COURT: Counsel for the Government, Ms. Green, are  
2 you fine with that?

3 MS. MAXFIELD-GREEN: That's fine, Your Honor.

4 THE COURT: Okay. 21-A will be admitted. It's Pages 3  
5 and 4 of Defendant's 21.

6 Q. (By Mr. Wackenheim) I think yesterday you said you had not  
7 seen these types of reports, but we already know that these have  
8 come from one of the phones you had in Florida. I'm going to  
9 direct your attention to --

10 A. Never had a phone in Florida.

11 Q. Excuse me. South Carolina.

12 Number 361, you have a text message sent February 26th, "I  
13 heard you got in a really bad car accident. How are you doing,  
14 sir. I miss the park." Do you remember that?

15 A. I'm looking at it.

16 Q. Again, "Hey, I would -- hey, would you tell everyone at the  
17 meeting this morning I said hello, I'll see them soon, I love  
18 them all."

19 A. Yep.

20 Q. What meeting are you talking about?

21 A. Morning meetings, afternoon meetings.

22 Q. And then from Mr. Passage, "Not bad, still have to fix my  
23 hip." What's he talking about there?

24 A. Fixing his hip.

25 Q. "Sure will," from Mr. Passage. And then Mr. Passage asks,

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ALAN GLOVER - Cross by Mr. Wackenheim

1 "How soon can you get back?" Do you remember him asking you  
2 that?

3 A. I'm looking at it.

4 Q. And then, "My check comes in on the 1st, I see my doctor on  
5 the 12th, the day after, would that be okay, sir."

6 What check are you referring to?

7 A. Say that again, please, sir.

8 Q. When Mr. Passage asks you how soon can you get back, you  
9 respond, my check comes in on the 1st. What check are you  
10 talking about?

11 A. Social Security check.

12 Q. Following text, "Could you please have someone pick me up?"

13 A. Yeah, I'm sitting there bullshitting him. I had nothing  
14 better to do.

15 Q. "How is everything going on at the park, sir?" So you are  
16 still asking about how the park is going at that point?

17 A. Yeah.

18 Q. "Not bad." And then, Mr. Passage, we saw this earlier, says  
19 to you, "Miss you." And in response --

20 A. I must have been drunk.

21 Q. You say, "Yeah, believe it or not, I miss you too. That's  
22 F'g crazy." He says LOL and you tell him, "I never dreamed I  
23 would say that." Why did you never dream you would say that to  
24 Mr. Passage?

25 A. Because I just -- I must have been drunk, like I says.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. And you sent a message that you do miss the zoo. Do you  
2 remember that message?

3 A. I have seen it. What time was this in the evening,  
4 actually? That would help me out a lot.

5 Q. Well, we have heard testimony that this time right here is  
6 six hours in the future.

7 A. Okay. Help me with that.

8 Q. So that would have been in the morning.

9 A. Wait. What time in the morning, 3:00, 2:00? Because I know  
10 when I start drinking and I know when I quit.

11 Q. So it's possible you're drinking while you're sending these  
12 messages to him?

13 A. I'm pretty sure I was.

14 Q. Probably likely?

15 And you have a series of more exchanges, but it was not  
16 until this exchange that we heard earlier, "Have you got ant  
17 (sic) of the cash left?" And that's from Mr. Passage. Do you  
18 recall that text message?

19 A. Yeah.

20 Q. And you say, "Not really, sir, but I can cash, Social  
21 Security still owes me \$3,760."

22 A. Yep.

23 Q. And what does Mr. Passage say to you? "All good." Because  
24 he wanted you back at the park at that point, right?

25 A. Yeah.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. He wasn't worried about any of this cash, right?
- 2 A. I didn't realize I made a mistake on stealing that money.
- 3 Q. Now, you corrected me very quickly that you didn't take a  
4 phone to Florida, right?
- 5 A. Right.
- 6 Q. Why?
- 7 A. Didn't want -- I didn't need it.
- 8 Q. Well, isn't it true that you have been -- go ahead. I'm  
9 sorry.
- 10 A. I wanted to get away and go tell that lady that shit, but I  
11 don't know. I just couldn't do it. I should have.
- 12 Q. Isn't it true that you did not, in fact, go to Florida?
- 13 A. Yes, I did go to Florida.
- 14 Q. You did go to Florida?
- 15 A. I just don't know if I got to the Tampa area.
- 16 Q. Isn't it true you had conversations with Mr. Lowe about  
17 whether or not you should tell authorities that you went to  
18 Florida?
- 19 A. Yeah. He told me to tell them the truth. That's why I came  
20 back.
- 21 Q. So we have heard you being recorded by Mr. Garretson. Have  
22 you ever been recorded by Mr. Lowe?
- 23 A. I -- I don't know. I'm not 100 percent sure about that, but  
24 the Government found out information that I know I didn't tell  
25 them, so somebody had to tell them.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. So you have reason to believe that Mr. Lowe was recording  
2 your conversations?
- 3 A. Yeah.
- 4 Q. Do you remember talking to him on June 21st, 2018?
- 5 A. No, I do not.
- 6 Q. And just to maybe put a landmark, that would have been about  
7 two weeks before you came back to the park?
- 8 A. This last time?
- 9 Q. Correct.
- 10 A. Probably.
- 11 Q. Does that help you remember that conversation?
- 12 A. No.
- 13 Q. Okay. Do you recall telling him, in the context of what's  
14 going on, "I can say I went down there then." Do you remember  
15 telling Mr. Lowe that?
- 16 A. No, I don't.
- 17 Q. So if that's on a recording and it shows you saying that,  
18 how would you explain that?
- 19 A. Say I went down there for a day.
- 20 Q. No. How would you explain telling Mr. Lowe you'll say that  
21 you went down there if you want me to?
- 22 A. No, I never said nothing like that.
- 23 Q. What did you say?
- 24 A. What you just said, but it wasn't put like that.
- 25 Q. Because you're --

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. I said it because I went down there for a day and a half.  
2 So that would be the damn truth, so you're getting it. How I may  
3 have said it, that is the truth.

4 MR. WACKENHEIM: Your Honor, can we approach?

5 THE COURT: You may.

6 (The following bench conference was held outside the hearing  
7 of the jury.).

8 MR. WACKENHEIM: Your Honor, I elected to do this at  
9 the bench because this might be a long argument here, but  
10 Defendant's Exhibit 20 -- and I'm referring to the first --  
11 what's marked -- yeah, the first three pages. The fourth page  
12 I'll have to -- the first three pages.

13 THE COURT: The first three pages including the  
14 extraction report summary?

15 MR. WACKENHEIM: Correct, Your Honor. Correct.

16 These first three pages document a conversation between  
17 Mr. Lowe and Mr. Glover shortly after Mr. Lowe begins cooperating  
18 with Agent Bryant. It is a sequence of -- of messages in which  
19 Mr. Lowe and Mr. Glover discuss what to do, what to say to  
20 authorities, and what Mr. Lowe has already told authorities so  
21 that Mr. Glover is aware of what Mr. Lowe has already told. And  
22 in, what we would argue, in a manner to be consistent with what  
23 Mr. Lowe has already said.

24 So we're going to move for these admissions. I understand  
25 that there may be a hearsay objection.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 MS. MAXFIELD-GREEN: Yes, Your Honor. That's straight  
2 hearsay. They're out-of-court statements made almost -- most of  
3 the text messages are from Jeff Lowe. There's only a few that  
4 are actually to Mr. Glover -- I'm sorry -- to Jeff Lowe from  
5 Mr. Glover. So all -- the majority of the statements are hearsay  
6 on behalf of Jeff Lowe.

7 The statements by Mr. Glover are also still hearsay. These  
8 are all out-of-court statements. They're trying to offer them  
9 for the truth of the matter asserted. He can cross-examine  
10 Mr. Glover about whether Mr. Lowe told him what to tell  
11 authorities and whether he suggested facts to him or anything  
12 like that. We don't -- he can do that without introducing  
13 hearsay.

14 MR. WACKENHEIM: Well, we don't -- step one, this isn't  
15 hearsay. Is it a statement -- is it made by an out-of-court  
16 declarant? Yes. But is it offered for the truth of the matter?  
17 Are we offering it for the truth of what Mr. Lowe said? And we  
18 are not. We are offering it to show why Mr. Glover is testifying  
19 the way he did, and, arguably, to impeach him when he denies that  
20 Mr. Lowe told him these things.

21 So step one, I don't even think we get to hearsay. We think  
22 it's not being offered for the truth of the matter.

23 THE COURT: Well, Mr. Glover hasn't denied that he said  
24 these things, has he -- or that Mr. Lowe said these things, did  
25 he?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 MR. WACKENHEIM: He has been -- as far as I remember,  
2 correct me if I'm wrong -- but as I recall, he's testified  
3 Mr. Lowe told me to say the truth, the truth, but there are  
4 specific details in these text messages from Mr. Lowe to  
5 Mr. Glover. For example, looking at No. 76 on the first page,  
6 Mr. Lowe tells -- "Alan told them that you probably saw a chance  
7 to scam Joe out of some cash and took the chance," moving up,  
8 "because Joe treated you like shit." Moving up, "There you go,  
9 proof I didn't know."

10 And, Your Honor, that's the story that Mr. Glover has had.  
11 That's the story that we submit was given to him by Mr. Lowe.

12 THE COURT: I mean, I think you can cross-examine  
13 Mr. Glover about that without introducing the statement.

14 MS. MAXFIELD-GREEN: And, Your Honor, Jeff Lowe was on  
15 the defense witness list. They have made no attempt to subpoena  
16 him. He is available to be a witness in this trial, if he would  
17 be subpoenaed. They have made no attempt to do that and they  
18 can't attempt to get his testimony about Jeff Lowe in without  
19 calling him.

20 MR. WACKENHEIM: Well, I would just note that he's also  
21 been a Government agent since as early as June 2018 and the  
22 Government has elected not to call him as well. And there has  
23 been a number of hearsay statements that have come in when the  
24 Government's offered them. We're here simply -- we believe this  
25 is material to our defense, could meet the residual exception as

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ALAN GLOVER - Cross by Mr. Wackenheim

1 well under the hearsay rules of the Federal Evidence Code. And  
2 arguably, it denies us our right to confrontation, because this  
3 is material to our defense, to impeach.

4 MS. MAXFIELD-GREEN: Your Honor, if the defense wants  
5 to confront Jeff Lowe, they need to call Jeff Lowe as a witness.

6 THE COURT: The fact of the matter is we have -- I have  
7 allowed a fair amount of hearsay on both sides because of  
8 weighing the context for a number of things. And we have lapsed  
9 into that -- a lot of attempts to -- I'm not necessarily saying  
10 improperly -- but characterize some statements as not being  
11 hearsay because they're not offered to prove the truth, but they  
12 are bordering on getting far afield. And I do find that to  
13 introduce this entire text exchange between Mr. Glover and a  
14 witness who is available, Mr. Lowe, I do think -- do think is  
15 hearsay.

16 You can certainly call Mr. Lowe, should you choose. You can  
17 certainly cross-examine Mr. Glover about this. But the objection  
18 to introducing the entire content of this text exchange with  
19 another person who's not testifying is sustained.

20 MR. WACKENHEIM: Okay. And just for clarification,  
21 when I am cross-examining, I'm concerned about the detail in  
22 which I'm able to ask him about his conversation with Mr. Lowe  
23 because these messages give me specific questions, but those  
24 specific questions might themselves draw an objection for  
25 introducing the out-of-court statement.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 THE COURT: I'm sorry. I didn't mean to interrupt.

2 I think the point is, is that with cross-examination you  
3 have got some leeway. I think you can simply make your point and  
4 confront him about that without going into the statement. I  
5 think you can ask him about the theory that you're suggesting in  
6 terms of -- and you can ask him about it without going into  
7 quoting the -- the statement of Mr. Lowe. We --

8 MS. MAXFIELD-GREEN: In fact, we -- the Government  
9 would object to Mr. Wackenheim simply quoting the text messages  
10 and asking if that's what was said.

11 THE COURT: Yeah, I think everybody understands that.

12 MR. WACKENHEIM: I -- I won't even paraphrase. I'll  
13 zoom out even further than that. But I just wanted to approach  
14 because I knew this would be a lengthy --

15 THE COURT: I appreciate that. Thank you.

16 (The following record was made in open court, in the  
17 presence of all parties, counsel, and in the presence and hearing  
18 of the jury.)

19 THE COURT: Nobody should have to hear that white noise  
20 before noon. We'll work on some elevator music.

21 Q. (By Mr. Wackenheim) Mr. Glover, is it fair to say that in  
22 June of 2018 your communications with Mr. Lowe about Mr. Passage  
23 increased; you started talking about him a lot more?

24 A. Could have. Can you be more specific?

25 Q. Yes. At that point is it when you learned that Mr. Lowe

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 believed that Mr. Passage was the subject of an investigation?
- 2 A. When did I know this?
- 3 Q. Well, was this -- these conversations --
- 4 A. After I got back.
- 5 Q. Okay. So you --
- 6 A. I didn't know anything until after I got back. I was still
- 7 lost, and I'm still lost.
- 8 Q. Fair. You came back the day after the Fourth of July?
- 9 A. Yes, sir.
- 10 Q. So is it your testimony that before then you didn't know
- 11 anything about what's going on?
- 12 A. Just, like, little bits. He said he was off the park at one
- 13 time and I thought maybe -- I didn't understand. He left and
- 14 went somewhere. I didn't understand -- I figured he left and
- 15 went somewhere. I didn't know there was a whole big storm
- 16 brewing down there and didn't know anything about it. Didn't
- 17 know anything about the FBI really until I got back here, but I
- 18 knew I had to come back here.
- 19 Q. So you didn't learn from Mr. Lowe that Mr. Lowe was working
- 20 with federal agents?
- 21 A. Before I got back, yes, but that's why I had to come back.
- 22 Q. And in those communications, you and Mr. Lowe are talking
- 23 about what you will say to federal agents?
- 24 A. I'm sure that we -- I'm probably -- yeah. I would think so.
- 25 I mean, I have never done this before. I don't think he has,

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ALAN GLOVER - Cross by Mr. Wackenheim

1 so -- and then having to talk to him after stealing from him  
2 also, that was pretty hard.

3 Q. You testified yesterday that you did go to Florida, right?

4 A. Yeah, I went somewhere in Florida.

5 Q. Didn't take a phone with you, right?

6 Now, you're aware that phones have location information on  
7 them, right?

8 A. Yeah.

9 Q. So someone, if they had the ability, could figure out where  
10 a phone was at any time?

11 A. Oh, yeah.

12 Q. And isn't that why you didn't take a phone to Florida?

13 A. Yeah, pretty much.

14 Q. Or is it because the Florida story is made up?

15 A. No, it is not made up about that story.

16 Q. If you were going to confront Ms. Baskin to explain what was  
17 happening, why would you be worried about taking a phone that had  
18 location data on it?

19 A. I just wasn't thinking about that. It was just in -- I  
20 thought about it; it drove me crazy. I had to tell two people  
21 back home what I was here to do, just to get it off my chest. It  
22 was bothering me that bad.

23 Q. I mean --

24 A. Nothing made up about this.

25 Q. Isn't it -- isn't it a better story for you to go to

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Florida?
- 2 A. No. It's just the truth.
- 3 Q. But we can't verify that because you didn't bring a phone
- 4 with you, correct?
- 5 A. I guess, yes.
- 6 Q. Now, you said that when you went to Florida you wanted to
- 7 contact Ms. Baskin, and was it just walk up to her and tell her
- 8 what was going on?
- 9 A. Yeah, basically. A phone call wouldn't have -- she's done
- 10 seen so much videos of him wanting to kill her and acting,
- 11 pretending like he's shooting her head off, I don't think a
- 12 telephone call was going to make a bit of difference.
- 13 Q. How about a telephone call to law enforcement?
- 14 A. I know. I'm stupid. I wish I'd have never even done this.
- 15 Q. Now, you learned that Mr. Passage was removed from the park,
- 16 right?
- 17 A. Yeah. Right before I got there, actually.
- 18 Q. And that was Mr. Lowe that removed him from the park?
- 19 A. Yes, that's what I understand.
- 20 Q. And you're currently working -- sorry?
- 21 A. Yes, sir.
- 22 Q. And you're currently working at the park?
- 23 A. I'm there, yes, sir.
- 24 Q. And you're being paid by the owner of the park?
- 25 A. I get a Social Security check. He gives me a place to live.

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ALAN GLOVER - Redirect by Ms. Maxfield-Green

1 Q. Okay.

2 A. He helps me out. When I wasn't getting my check for so  
3 long, yeah, he helped me out with, you know, giving me money. It  
4 has to go back to him.

5 Q. You're in debt to Mr. Lowe?

6 A. Well, a little bit. I had \$3,000 to pay him. I got a  
7 thousand left to pay him.

8 Q. But you pay no rent where you live?

9 A. He helps me with everything like that.

10 Q. In exchange for you working there?

11 A. Yeah.

12 MR. WACKENHEIM: May I have a moment, Your Honor?

13 THE WITNESS: He kind of takes care of me like that.

14 MR. WACKENHEIM: No further questions.

15 THE COURT: Thank you.

16 Redirect?

17 MS. MAXFIELD-GREEN: Yes, Your Honor.

18 **REDIRECT EXAMINATION**

19 **BY MS. MAXFIELD-GREEN:**

20 Q. Mr. Glover, so Mr. Wackenheim was asking you about the man  
21 that picked up the cat, that -- where the money came from. Do  
22 you remember that?

23 A. Yes, ma'am.

24 Q. Okay. And it was a man that picked up the cat, correct?

25 A. Yes.

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ALAN GLOVER - Redirect by Ms. Maxfield-Green

1 Q. And you didn't know if he was going to be the ultimate  
2 owner, did you?

3 A. No, I did not.

4 Q. Is it possible that he could have been picking that cat up  
5 for somebody else?

6 A. Yes, very well.

7 Q. Okay. Now, on direct you said that when you were around  
8 that man that you had about two minutes that you were around him,  
9 correct?

10 A. Yeah, roughly. Just enough to hand him the cat, or get  
11 placed in the back of the car, and looking at the cat, and  
12 then --

13 Q. And at the time that you were around this man, you were  
14 holding a liger cub, right?

15 A. Right.

16 Q. About how much did that liger cub weigh, do you think?

17 A. 35, 40 pounds maybe.

18 Q. 35 or 40 pounds. So pretty big, right?

19 A. They're solid, really thick animals.

20 Q. Are they kind of squirmy?

21 A. Can be.

22 Q. Were you trying to be careful because could that animal  
23 scratch or bite you?

24 A. It could.

25 Q. So is it fair to say that when you were around this man for

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ALAN GLOVER - Redirect by Ms. Maxfield-Green

1 about two minutes you were preoccupied with the cat?

2 A. Right.

3 Q. And you remember -- you remember when you testified in grand  
4 jury?

5 A. Yes, ma'am.

6 Q. And that the -- that it was me, I showed you one photo of a  
7 man, correct?

8 A. Right.

9 Q. And you said, yeah, that's the guy. Do you remember that?

10 A. Yes, ma'am.

11 Q. Okay. Now, did I -- did I show you just one photo, correct?

12 A. Right.

13 Q. I didn't show you, like, ten photos, did I?

14 A. No, ma'am.

15 Q. And ask you to pick out the person you remember out of a  
16 photo lineup of ten people?

17 A. Right, right.

18 MS. MAXFIELD-GREEN: Let's see. Can I see  
19 Government's -- no. I'm sorry. Defendant's 20.

20 And I'm sorry. I'm looking at Defendant's 21-A.

21 Q. (By Ms. Maxfield-Green) Mr. Glover, this is -- has already  
22 been established that this is a text message exchange between you  
23 and Mr. Passage. And on February 26th of 2018, Mr. Passage texts  
24 you, "Hey, you got ant of the cash left?" And I believe it  
25 appears that that means "any." So he was texting you, hey, you

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ALAN GLOVER - Recross by Mr. Wackenheim

1 got any of the cash left. And this was in February of 2018.

2 What cash was he talking about?

3 A. Money that I was sent down there with to kill Karen (sic)  
4 Baskin, because I haven't done it yet.

5 MS. MAXFIELD-GREEN: That's all for the Government,  
6 Your Honor.

7 THE COURT: Thank you.

8 Anything further, Mr. Wackenheim?

9 MR. WACKENHEIM: Just a couple.

10 **RECROSS EXAMINATION**

11 **BY MR. WACKENHEIM:**

12 Q. So at grand jury Ms. Green showed you a photograph of that  
13 man and you identified him, correct?

14 A. Correct.

15 Q. Earlier Agent Bryant showed you that photograph and you  
16 identified him, correct?

17 A. Yes. It was the same person.

18 Q. And even before that, Mr. Lowe showed you that photograph  
19 and you identified him, correct?

20 A. I believe so.

21 Q. How old was that cub that you were holding?

22 A. I'm not sure. I really don't know.

23 MR. WACKENHEIM: Thank you.

24 THE COURT: Thank you, Mr. Glover. You may step down.  
25 Government's next witness.

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LAUREN LOWE - Direct by Mr. Brown

1 MR. BROWN: We'd call Lauren Lowe.

2 (WITNESS SWORN.)

3 LAUREN LOWE,  
4 DIRECT EXAMINATION

5 BY MR. BROWN:

6 Q. Good morning, ma'am.

7 A. Hi.

8 Q. Please state your name.

9 A. Lauren Franklin Lowe.

10 Q. Where do you currently live, Ms. Lowe?

11 A. Wynnewood, Oklahoma.

12 Q. Are you familiar with a person named Joseph  
13 Maldonado-Passage?

14 A. I am.

15 Q. Do you see Mr. Passage in the courtroom?

16 A. I do.

17 Q. Can you point at him and describe what he is wearing,  
18 please?

19 A. He is wearing a navy blue suit.

20 Q. Okay. When did you first meet Mr. Passage?

21 A. Oh, it was probably late October, early November of 2015.

22 Q. Okay. And where did you meet Mr. Passage?

23 A. At the Wynnewood zoo.

24 Q. Okay. And at some point in time after October of 2015, did  
25 you end up moving to the zoo?

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LAUREN LOWE - Direct by Mr. Brown

- 1 A. Yes.
- 2 Q. Okay. Did you move with anyone else?
- 3 A. Yes, my husband and I.
- 4 Q. Okay. And would that be Jeff Lowe?
- 5 A. Yes, it is.
- 6 Q. Were you and Mr. Lowe married at that time?
- 7 A. We were not, no.
- 8 Q. When did you and Mr. Lowe get married?
- 9 A. July 4th of 2017.
- 10 Q. All right. And when you and Mr. Lowe moved to the Wynnewood  
11 zoo, did you bring any big cats with you?
- 12 A. Not at first. They were left at Serenity Springs in  
13 Colorado. We eventually went back to get them in December.
- 14 Q. Okay. Now, at some point in time in 2016 did your  
15 husband -- were you guys engaged at the time?
- 16 A. We were, yes.
- 17 Q. Okay. At some point in time in 2016, did Mr. Lowe take over  
18 ownership of the zoo?
- 19 A. Yes, in February of 2016.
- 20 Q. All right. And at that time do you know whether or not  
21 Mr. Passage dissolved his zoo?
- 22 A. Yes. He did dissolve his zoo before we made a new  
23 corporation.
- 24 Q. Okay. And so did Mr. Lowe form the new entity in his name  
25 or was it in both of your names?

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LAUREN LOWE - Direct by Mr. Brown

- 1 A. It was in his name.
- 2 Q. And what was the name of the new entity?
- 3 A. Greater Wynnewood Exotic Animal Park.
- 4 Q. All right. And did either you or Mr. Lowe pay Mr. Passage
- 5 any type of consideration or any money or anything else for
- 6 taking over the zoo?
- 7 A. We did. We paid his lawyer fees, we paid food for the
- 8 animals, also the electric bills and water bills.
- 9 Q. Approximately how much?
- 10 A. Anywhere between maybe 50 to \$70,000.
- 11 Q. Okay. And the bills you just mentioned, were they -- were
- 12 those bills in arrears, meaning was Mr. Passage behind on some
- 13 bills?
- 14 A. He was behind on quite a few, yes.
- 15 Q. Okay. Now, after you -- or after Mr. Lowe took over
- 16 ownership of the zoo, did Mr. Passage remain at the zoo?
- 17 A. Yes, he did.
- 18 Q. Did his animals remain at the zoo?
- 19 A. Yes.
- 20 Q. All right. Did he essentially run the day-to-day operations
- 21 of the zoo?
- 22 A. Yes, he did.
- 23 Q. And at that point in time was he a salaried employee of
- 24 Mr. Lowe's new entity?
- 25 A. He was getting paid \$150 a week.

*Emily Eakle, RMR, CRR*

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LAUREN LOWE - Direct by Mr. Brown

- 1 Q. Okay.
- 2 A. With all his expenses paid.
- 3 Q. Now, when Mr. Lowe bought the zoo or took over ownership of  
4 the zoo, did he have a USDA exhibitor's license?
- 5 A. Yes.
- 6 Q. Did Mr. Passage have one at the time?
- 7 A. Yes.
- 8 Q. Okay. Were there any other USDA licenses for animals at the  
9 zoo?
- 10 A. Yes. There was Beth Corley and Trey.
- 11 Q. And with respect to Trey, is that related to the traveling  
12 circus?
- 13 A. Yes, uh-huh.
- 14 Q. All right. And Beth Corley, did -- was she present at the  
15 park?
- 16 A. I'd never met her.
- 17 Q. Did Mr. Passage ever say anything to you about any animals  
18 that were under Ms. Corley's USDA license?
- 19 A. At first he just said that she owned a few of the animals,  
20 which, you know, believed him right at the time, didn't realize  
21 what he was doing behind the scenes with her license until later  
22 on.
- 23 Q. So at some point in time did she make -- did he make any  
24 statements to you about animals under her license?
- 25 A. Just that she owned a couple of her own animals.

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LAUREN LOWE - Direct by Mr. Brown

1 Q. Okay. Now, after taking over ownership of the zoo, at some  
2 point in time did you and Mr. Lowe move out of state?

3 A. Yes, we moved to Las Vegas.

4 Q. Approximately when?

5 A. May of 2017, or early June.

6 Q. Okay. And when you-all moved to Las Vegas, did Mr. Passage  
7 essentially remain in charge at the zoo?

8 A. Yes. We let him stay in control of the day-to-day  
9 operations.

10 Q. And while you were living in Las Vegas, would you ever  
11 receive mail or any parcels from folks at the zoo?

12 A. Yes. I would actually have to call the zoo and -- to tell  
13 them to send me my mail. So it was just my daily, like,  
14 magazines or bills or things I had to do.

15 Q. Okay. And at any point in time in November of 2017 do you  
16 recall receiving anything from the zoo?

17 A. Yeah. Actually, I believe in November I received either two  
18 or three packages. Two of them just happened to be my regular  
19 mail that comes in, and the other one was a yellow envelope.

20 Q. Okay. And was it an envelope that had been mailed via the  
21 U.S. Postal Service or FedEx? Do you remember?

22 A. Postal Service.

23 Q. Okay. And do you remember when you received that envelope?

24 A. It was after Thanksgiving.

25 Q. Okay. And did you -- do you know who the addressee was?

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LAUREN LOWE - Direct by Mr. Brown

- 1 Was there an addressee on the envelope?
- 2 A. I think it was to Jeff Lowe.
- 3 Q. What about the return address?
- 4 A. It was to the zoo.
- 5 Q. Okay. Now, what was your specific street address in Las
- 6 Vegas at the time?
- 7 A. 6645 Natalia Court.
- 8 Q. All right. Did you end up opening that envelope?
- 9 A. Yeah. I open up a lot of mail.
- 10 Q. Okay. And do you recall what was inside the envelope?
- 11 A. Yeah. It looked like a -- a throwaway phone. Like, we
- 12 thought it was, like, one of the employees'. It wasn't anything
- 13 unusual for us to receive electronics from employees for us to
- 14 work on them to have them fixed.
- 15 Q. Okay. So do you or Mr. Lowe have some type of technology
- 16 background?
- 17 A. Yes, my husband does.
- 18 Q. All right. Was anything else inside the envelope?
- 19 A. A charger.
- 20 Q. All right. Now, when you and Mr. Lowe were living out of
- 21 state, you testified that Mr. Passage continued running the daily
- 22 operations?
- 23 A. Uh-huh.
- 24 Q. All right. Did the zoo have any type of operating bank
- 25 account with Pauls Valley National Bank?

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LAUREN LOWE - Direct by Mr. Brown

- 1 A. Yes. We had three accounts.
- 2 Q. And who was the signatory on those accounts?
- 3 A. It was my husband at first, only my husband.
- 4 Q. And over time did that change?
- 5 A. Yeah. I ended up being one of the signatures.
- 6 Q. Okay. Did Mr. Passage have authorization to write checks
- 7 that were drawn on those accounts for, we'll say park overhead,
- 8 you know, for bills, salaries and the like?
- 9 A. Yes. We left a stamp there in order for him to use it, and
- 10 the stamp was only to be used for payroll and for bills to be
- 11 paid directly for the zoo and animals.
- 12 Q. Okay. Any other employee at Mr. Lowe's zoo allowed to use
- 13 that stamp other than Mr. Passage?
- 14 A. No.
- 15 Q. Can you look at that book in front of you, Government's
- 16 Exhibit 147? It's the black book.
- 17 A. This one?
- 18 Q. Yes, ma'am.
- 19 A. Okay. And go where?
- 20 Q. 147. It might be in that smaller one.
- 21 A. Okay. This is quite a bit. 147. Yes.
- 22 Q. Do you recognize that?
- 23 A. Recognize the check or the signature?
- 24 Q. The overall -- what's reflected in 147?
- 25 A. Yes, uh-huh.

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LAUREN LOWE - Direct by Mr. Brown

1 Q. And have you seen that before?

2 A. I have, yes.

3 Q. Is that an accurate copy of it?

4 A. That is, yes.

5 Q. Okay.

6 MR. BROWN: We'd move for admission of Government's  
7 147.

8 THE COURT: Any objection?

9 MR. EARLEY: No objection.

10 THE COURT: Government's 147 be admitted.

11 Q. (By Mr. Brown) All right. And was this one of your -- or  
12 one of the operating accounts at Pauls Valley National Bank for  
13 Mr. Lowe's park?

14 A. Yes, they are.

15 Q. And what's the date of that check?

16 A. It is November 25th of 2017.

17 Q. And the payee?

18 A. The paid, \$212 to United States Postal Service.

19 Q. And let's talk about the signature. Do you recognize that  
20 signature?

21 A. Yes. That was the stamp.

22 Q. Okay. And at the time that this check was written to the  
23 United States Postal Service, November 25th, 2017, just remind  
24 us, where were you and Mr. Lowe living?

25 A. In Las Vegas.

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LAUREN LOWE - Cross by Mr. Earley

1 Q. Okay. Now, when did you and Mr. Lowe ultimately leave Las  
2 Vegas and return to the zoo?

3 A. I want to say it was in April.

4 Q. Okay. After -- and when you returned to the zoo in April  
5 of 2018, did you still have that phone that had been sent to you?

6 A. Yes, we did, uh-huh.

7 Q. Okay. And what, if anything, came of that phone?

8 A. Well, we just kind of threw it in a box and just completely  
9 forgot about it.

10 Q. Okay. At any point in time did you provide it to law  
11 enforcement?

12 A. Yes, I did.

13 Q. Do you remember who you provided it to?

14 A. To Matt Bryant.

15 Q. Okay. With Fish & Wildlife?

16 A. Yes.

17 MR. BROWN: Pass the witness, Your Honor.

18 THE COURT: Cross-examination?

19 **CROSS-EXAMINATION**

20 **BY MR. EARLEY:**

21 Q. I believe I heard your testimony that there were some  
22 animals that you and Mr. Lowe had in Colorado; is that correct?

23 A. Yes.

24 Q. Okay. And so did your husband have some experience with  
25 exotic animals?

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LAUREN LOWE - Cross by Mr. Earley

- 1 A. Yes. He has quite a bit of experience.
- 2 Q. How many years would you say he's got?
- 3 A. Practically since he was born.
- 4 Q. How old is he?
- 5 A. He is 52.
- 6 Q. Okay. So do you have any experience with exotic animals?
- 7 A. I have had experience with animals before, but not to the  
8 exotic animal world until a little over about five years ago.
- 9 Q. Okay. So when you and your -- your -- it wasn't your  
10 husband at the time -- but when you and Mr. Lowe decided to come  
11 down to the park, was it your intention to take over operation of  
12 the park?
- 13 A. Not right away. At the time we were trying to find a place  
14 for our animals to live.
- 15 Q. All right. Did they eventually come to the park?
- 16 A. Yes, they did.
- 17 Q. And do they have to be registered under someone's license?
- 18 A. Well, when we had them in Serenity Springs, of course, they  
19 were transferred into that corporation's name. And then when we  
20 moved to Wynnewood, they apparently were moved into Beth Corley's  
21 license that we were not aware of. They should have stayed in  
22 ours.
- 23 Q. So you did have a license?
- 24 A. Yes, we had a license.
- 25 Q. Okay. Well, who was doing the paperwork on that?

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LAUREN LOWE - Cross by Mr. Earley

- 1 A. Joe.
- 2 Q. All right. So you didn't see -- you didn't take the time to  
3 look to see if the animals that you had up in Colorado had been  
4 put under Jeff Lowe's license?
- 5 A. I don't remember seeing that piece of paper. I just know  
6 that we had to have them transferred from one facility to the  
7 other.
- 8 Q. They needed to be under some license, correct?
- 9 A. Correct, yes.
- 10 Q. And Ms. Corley, as you testified, had her own animals at the  
11 park, correct?
- 12 A. From what I was told, yes.
- 13 Q. All right. And do you have a job outside of working with  
14 your husband at the park?
- 15 A. No.
- 16 Q. And so it would be fair to say that you probably work  
17 alongside of him. Would that be correct?
- 18 A. I do.
- 19 Q. All right. And that would be on a daily basis, I assume?
- 20 A. Yes.
- 21 Q. Do you know Alan Glover?
- 22 A. I do.
- 23 Q. And how do you know him?
- 24 A. Well, I know him because he does work at our facility, but  
25 my husband had him employed for him down in Beaufort, South

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LAUREN LOWE - Cross by Mr. Earley

1 Carolina.

2 Q. But your husband and Mr. Glover go back quite a ways?

3 A. They do, yes.

4 Q. And you consider your husband and Alan Glover to have a  
5 pretty close relationship?

6 A. Yes.

7 Q. And do you have a close relationship with Mr. Glover?

8 A. Yes.

9 Q. Okay. And is the relationship such that Mr. Glover keeps in  
10 contact with your husband and you when you're away from the zoo?

11 A. Well, when we were in Las Vegas it wasn't as much, no.

12 Q. Okay. Well, so, if you can remember, how often, at least  
13 did you hear from him?

14 A. As in what time frame?

15 Q. When you were away from the zoo, in Vegas.

16 A. In Vegas? He would call a lot -- when I say a lot, maybe  
17 once a week -- about Joe, saying how much he hated Joe and that  
18 he was ready to leave.

19 Q. Okay. So you were aware of those conversations?

20 A. Yes.

21 Q. All right. Now, you and Mr. Lowe purchased -- or I guess he  
22 did anyway -- purchased this place in February of 2016; is that  
23 right?

24 A. Yes.

25 Q. And so was the name or -- the name of the place and the

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LAUREN LOWE - Cross by Mr. Earley

1 paperwork changed before you actually took over or right at that  
2 same time?

3 A. Joe got rid of his entity first. We didn't make ours until  
4 afterwards.

5 Q. All right. And were you aware of the legal issues that  
6 Mr. Passage had when you took over the zoo?

7 A. That was between him and Carole Baskin. That had nothing to  
8 do with us, so yes.

9 Q. All right. So I take it, then, when you-all decided you  
10 would take over the zoo, you thought, we're going to just take  
11 this place over and Mr. Passage's legal problems will just be his  
12 legal problems and they won't have anything to do with us,  
13 correct?

14 A. Shouldn't have been, but that's correct.

15 Q. And that's what you thought at the time?

16 A. Uh-huh.

17 Q. But that's not what happened?

18 THE COURT: Ma'am, you need to be sure to answer yes or  
19 no. The court reporter can't take down uh-huh or huh-uh.

20 THE WITNESS: I'm sorry.

21 Q. (By Mr. Earley) You thought that at the time, but that's  
22 not how it ended up, correct?

23 A. Correct.

24 Q. And so essentially what happened was you bought into all of  
25 these legal problems that Mr. Passage had, correct?

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LAUREN LOWE - Cross by Mr. Earley

1 A. Correct.

2 Q. And cost a -- cost a lot of attorney --

3 A. A pretty penny? Yes.

4 Q. Continuously, correct?

5 A. Uh-huh.

6 Q. All right. Did you feel that Mr. Passage's legal problems  
7 were -- were a liability for the park?

8 A. At the time, no, because they were between him and Carole  
9 Baskin of Big Cat Rescue. We -- that was more between -- that's  
10 more like something I can't exactly talk about, because I wasn't  
11 so involved with the legal problems between him and his zoo.

12 MR. BROWN: Judge, I'm going to object. This is well  
13 beyond the scope of direct. And, frankly, I don't see how it's  
14 relevant to what she testified to on direct.

15 THE COURT: Parties approach.

16 (The following bench conference was held outside the hearing  
17 of the jury.).

18 THE COURT: Mr. Earley, you're getting a little far  
19 afield. Where are you going with it?

20 MR. EARLEY: I'm just trying to establish her  
21 connection to the park as well as her knowledge about her  
22 husband's activities at the park, and in that -- in Las Vegas.  
23 They go to the issue of him using a signature stamp to pay park  
24 employees and what was authorized for purposes of bills and  
25 things like that. Just background information to establish her

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LAUREN LOWE - Cross by Mr. Earley

1 knowledge.

2 THE COURT: And to what relevance?

3 MR. EARLEY: Just establish that Mr. Passage had the  
4 authority to pay the bills, to act as the manager of the park and  
5 all of that.

6 THE COURT: I think she testified to that. I'll give  
7 you a little leeway, but what I don't want is you trying to get  
8 in Mr. Lowe's testimony through her. I mean, he can either  
9 testify or not, but I'll give you a little more leeway, but --

10 MR. BROWN: And, Judge, just for the record, she just  
11 testified that she can't really testify to any of the legal  
12 proceedings, she was never a party to it. And I would just, for  
13 the record, point out they were married on July 4th of 2017, so  
14 we're going to invoke marital privilege, too, once they start  
15 passing that as well, so.

16 THE COURT: Well, let's see where we go, but with those  
17 caveats.

18 MR. BROWN: Okay.

19 (The following record was made in open court, in the  
20 presence of all parties, counsel, and in the presence and hearing  
21 of the jury.)

22 Q. (By Mr. Earley) Now, you advised that maybe around May 1st,  
23 2017, you and your husband were located in Las Vegas; is that  
24 correct?

25 A. It was late May, early June.

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LAUREN LOWE - Cross by Mr. Earley

- 1 Q. All right. And is that where you were basically living?
- 2 A. Yes.
- 3 Q. Did you occasionally come back to the park?
- 4 A. Yes, we did.
- 5 Q. All right. And with respect to your testimony about the
- 6 mail, were packages mailed to you quite often?
- 7 A. Yes.
- 8 Q. And so you stated in November of 2017 you received two or
- 9 three packages; is that right?
- 10 A. Yes.
- 11 Q. And one of these was an envelope, correct?
- 12 A. Yellow envelope, yes.
- 13 Q. How big of an envelope was it?
- 14 A. I guess a 10 by 12, a large, legal-size envelope.
- 15 Q. All right. And there was a phone and a charger in it; is
- 16 that correct?
- 17 A. That is correct.
- 18 Q. Nothing else was in it?
- 19 A. No.
- 20 Q. All right. So a single yellow envelope, 10 by 12, with a
- 21 phone and a charger?
- 22 A. Correct.
- 23 Q. All right. And it was addressed to Jeff; is that right?
- 24 A. Yes.
- 25 Q. Okay. Was -- other than you just getting a phone randomly

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LAUREN LOWE - Cross by Mr. Earley

- 1 in the mail, did you do anything with it?
- 2 A. No, we didn't do anything with it.
- 3 Q. Do you remember what you did with it?
- 4 A. I just left it on the counter and then it got put into a  
5 drawer.
- 6 Q. Okay. Who put it in the drawer?
- 7 A. It was either me or my husband.
- 8 Q. Did you -- or if you even know -- did you or your husband  
9 ever inquire of the park about why you had that phone?
- 10 A. Yes. We asked Joe what it was for, he said he would tell us  
11 later on and not to turn it on.
- 12 Q. So not to turn it on?
- 13 A. Do not turn it on.
- 14 Q. All right. So it went into a drawer and it was never turned  
15 on?
- 16 A. It was never turned on.
- 17 Q. Okay. Did you ask your husband about that?
- 18 A. We were both on the same terms about it. We just left it  
19 alone.
- 20 Q. Now, with respect to this check that you identified made out  
21 to the United States Postal Service, would that be some sort of  
22 unauthorized payment by Mr. Passage?
- 23 A. Yes.
- 24 Q. Why would that be?
- 25 A. Because apparently it was when he was doing his running for

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LAUREN LOWE - Cross by Mr. Earley

1 governor and he was taking money from the park and was spending  
2 and sending out his own personal stuff without our permission to  
3 people.

4 Q. All right. Well, I thought the purpose of this check was to  
5 show that something was mailed.

6 A. Yes, but for it to be that much in price, \$212, that's a  
7 little high, so --

8 Q. So you assumed that maybe he was buying stamps or something  
9 that he shouldn't have been, or something to that effect?

10 A. Oh, he definitely was.

11 Q. Okay. When you were out in Las Vegas with your husband, did  
12 he get into any trouble out there?

13 A. Yes.

14 Q. And was it related to --

15 MR. BROWN: Objection, Judge; relevance.

16 THE COURT: Sustained.

17 Q. (By Mr. Earley) You're with your husband every day,  
18 correct?

19 A. Yes.

20 Q. And did he have conversations with an individual by the name  
21 of James Garretson?

22 A. Yes.

23 Q. How many conversations did he have with him, say last  
24 spring, 2018?

25 A. That's a hard thing for me to say, but maybe every other day

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LAUREN LOWE - Cross by Mr. Earley

1 or so.

2 Q. Quite often?

3 A. Needless to say, maybe.

4 Q. All right. And with respect to Mr. Glover, same time frame,  
5 did he have quite a few conversations with him at that time?

6 A. I wasn't around. I would not know.

7 Q. But you knew about Mr. Garretson, right?

8 A. Yes.

9 Q. All right. But you don't know about Mr. Glover?

10 A. Their conversations? No.

11 Q. Okay. And with respect to Mr. Passage, did he have  
12 conversations with Mr. Passage last spring and early summer?

13 A. Last spring, are we talking about 2017 or 2018?

14 Q. 2018.

15 A. Since last spring. Possibly. I don't know their  
16 conversations either.

17 Q. But you specifically remember that there were quite a few  
18 with James Garretson?

19 A. Yeah.

20 MR. EARLEY: May I have just a moment?

21 THE COURT: You may.

22 MR. EARLEY: Nothing further.

23 THE COURT: Mr. Brown?

24 MR. BROWN: No further questions, Judge.

25 THE COURT: Thank you. You may step down.

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BRIAN HESS - Direct by Mr. Brown

1 Government's next witness?

2 MR. BROWN: Yes. Postal Inspector Brian Hess.

3 THE COURT: Mr. Brown, do you have a fair amount with  
4 this witness?

5 MR. BROWN: No more than ten minutes, I believe.

6 THE COURT: I'm trying to calculate when we'll take our  
7 break. So let's go ahead and proceed.

8 (WITNESS SWORN.)

9 MR. BROWN: May I have one moment, Judge?

10 THE COURT: You may.

11 BRIAN HESS,

12 DIRECT EXAMINATION

13 BY MR. BROWN:

14 Q. Sir, please state your name.

15 A. Brian Hess.

16 Q. Where do you currently work?

17 A. The United States Postal Inspection Service.

18 Q. Okay. And what's your title?

19 A. Postal inspector or inspector.

20 Q. And is it a fair characterization that your agency is kind  
21 of the -- the law enforcement arm of the United States Postal  
22 Service?

23 A. Correct.

24 Q. Okay. How long have you been working for the Postal  
25 Service?

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BRIAN HESS - Direct by Mr. Brown

1 A. Since January of 2013.

2 Q. All right. And are you familiar with the recordkeeping  
3 practices of the Postal Service?

4 A. Yes.

5 Q. And do you regularly use and access postal records in  
6 furtherance of your duties as an inspector?

7 A. Yes.

8 Q. Were you asked to search for certain postal records in this  
9 case?

10 A. Yes, I was.

11 Q. Okay. And were you provided parameters to narrow down your  
12 search?

13 A. Yes.

14 Q. What were those parameters?

15 A. I was asked to look for records for parcels sent from  
16 Wynnewood, Oklahoma, to Las Vegas, Nevada, between the time frame  
17 of November 2017 to January 2018. Then specifically revised that  
18 to look for parcels destined to one of two specific addresses in  
19 Las Vegas.

20 Q. And did you conduct that search?

21 A. Yes, I did.

22 Q. Did your search yield any results?

23 A. Yes, it did.

24 Q. Can you take a look at Exhibit 33 in the Government's book,  
25 please? The black one. I'm sorry, Inspector Hess.

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BRIAN HESS - Direct by Mr. Brown

- 1 A. Okay.
- 2 Q. The thick black one. There you go.
- 3 Okay. Do you recognize it?
- 4 A. Yes, I do.
- 5 Q. Is that a record of the United States Postal Service?
- 6 A. Yes, it is.
- 7 Q. Okay. And was that record made by a person with knowledge
- 8 of or made from information transmitted by a person with
- 9 knowledge of the acts and events appearing on it?
- 10 A. Yes.
- 11 Q. Was the record made at or near the time of the acts or
- 12 events appearing on it?
- 13 A. Yes.
- 14 Q. Okay. And is it the regular practice of the Postal Service
- 15 to make such a record?
- 16 A. Yes, it is.
- 17 Q. Was that record kept in the course of regularly conducted
- 18 business activity?
- 19 A. Yes.
- 20 MR. BROWN: All right. We'd move for admission of
- 21 Government's 33.
- 22 THE COURT: Any objection?
- 23 MR. WACKENHEIM: No, Your Honor.
- 24 THE COURT: Government's 33 will be admitted.
- 25 Q. (By Mr. Brown) Okay. Can you now look at Government --

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BRIAN HESS - Direct by Mr. Brown

1 MR. BROWN: I'm sorry, Jane, not quite yet. We're  
2 going to go back.

3 Q. (By Mr. Brown) Can you now look at Government's 34, please?

4 A. Okay.

5 Q. Do you recognize it?

6 A. Yes, I do.

7 Q. Is it a record of the Postal Service?

8 A. Yes, it is.

9 Q. And was that record made by a person with knowledge of or  
10 made from information transmitted by a person with knowledge of  
11 the acts and events appearing on it?

12 A. Yes.

13 Q. Was that record made at or near the time of the acts or  
14 events appearing on it?

15 A. Yes.

16 Q. And is it the regular practice of the United States Postal  
17 Service to make such a record?

18 A. Yes.

19 Q. And was that record kept in the course of regularly  
20 conducted business activity?

21 A. Yes, it is.

22 MR. BROWN: We would move for admission of Government's  
23 34, please.

24 THE COURT: Any objection?

25 MR. WACKENHEIM: No, Your Honor.

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BRIAN HESS - Direct by Mr. Brown

1 THE COURT: 34 will be admitted.

2 MR. BROWN: Thank you, Judge.

3 Jane, can we see 33 first, please?

4 Q. (By Mr. Brown) Okay. Inspector Hess, can you describe what  
5 this record is?

6 A. This is a product tracking and reporting output result that  
7 identifies a Priority Mail Express parcel. The tracking number  
8 is listed on the top. And then it identifies the specifics of  
9 that particular product, as to where it was destined to, how much  
10 the postage was, the weight of the parcel, and the network  
11 predicted day of delivery or the scheduled delivery day.

12 Q. And does this document indicate the post office from where  
13 it was mailed?

14 A. It does on the next page.

15 Q. Okay. And with respect to right here, what's the  
16 significance of that?

17 A. That's the listed destination address for this particular  
18 parcel.

19 Q. Can you read that street address, please?

20 A. 6645 Natalia Court, Las Vegas, Nevada 89130.

21 Q. Okay. And let's go down to the schedule delivery  
22 information.

23 A. It was scheduled for delivery on Monday, November 27th,  
24 2017, by 3:00 p.m.

25 Q. Okay. Back out.

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BRIAN HESS - Direct by Mr. Brown

1 And does it indicate on this page the date that the  
2 transaction actually occurred at the Wynnewood Post Office?

3 A. On that page, it does not. It should on the second page.

4 MR. BROWN: Okay. Let's focus on the payment section,  
5 please, Jane.

6 Q. (By Mr. Brown) The weight and the postage?

7 A. Listed at \$52, 4 pounds 14 ounces.

8 MR. BROWN: All right. Can we go to the second page  
9 and can we highlight that?

10 Q. (By Mr. Brown) And does this reflect the actual date that  
11 it was physically dropped off at the destination address, the  
12 6645 Natalia Court?

13 A. Yes, it does.

14 Q. And what was that date?

15 A. Be November 27th, 2017.

16 Q. Okay.

17 MR. BROWN: And if we can go down to -- Jane, can you  
18 blow up the very first entry at the bottom, "accept or pickup."

19 Q. (By Mr. Brown) Now, that "accept or pickup," can you  
20 explain what the November 25th date and the time of 10:13  
21 indicates?

22 A. That would have been the time it was entered into the Postal  
23 Service system identified at Wynnewood, Oklahoma. Identifies a  
24 point of sale machine or a retail terminal of where it came  
25 across and was entered into the system at.

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BRIAN HESS - Direct by Mr. Brown

- 1 Q. Is that a.m. or p.m.?
- 2 A. That should be central time, so it should be a.m.
- 3 Q. All right.
- 4 MR. BROWN: Can we back out, Jane?
- 5 Q. (By Mr. Brown) Now, let's look at Exhibit 34, please.
- 6 Okay. Let's start with -- and I think there are several pages to
- 7 this record, correct?
- 8 A. Correct.
- 9 Q. And just generally describe what, if any, significance each
- 10 column has.
- 11 A. This is a report that identifies a particular transaction.
- 12 It identifies the employee name that completed the transaction,
- 13 the location of where the transaction occurred, also the date on
- 14 which it occurred.
- 15 There are also numerous columns in there that identify the
- 16 specific components that make up that transaction as far as how
- 17 it was paid and how much the cost was.
- 18 Q. Okay. Can we go to the next page, please. Same questions.
- 19 A. This indicates specifically on November 25th, 2017, that the
- 20 tender type or the payment for this postage was by check and --
- 21 Q. And what -- I'm sorry.
- 22 A. -- still identifying this one particular transaction.
- 23 Q. Okay. And what was the total amount for that particular
- 24 transaction?
- 25 A. It was \$212.

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BRIAN HESS - Direct by Mr. Brown

1 Q. Okay. Next page, please. Same question, please describe.

2 A. Again, further showing that it's the check for \$212, and in  
3 this -- the middle column there it lists the check number as  
4 3721.

5 Q. Okay. And next page. If you can, the second-to-last  
6 column, and as well as the product name, just kind of describe  
7 the significance behind each of those entries.

8 A. The product name is identifying the specific components of  
9 that transaction. Specifically, on the top line, it's  
10 identifying the Priority Mail Express parcel. The second-to-last  
11 column, it's showing the item cost amount for each of those  
12 particular products.

13 Q. Okay. And if you go to that -- the very first entry, the  
14 Priority Mail Express post office to addressee for \$52. Based on  
15 your record search, did that entry there match up with the  
16 previous exhibit we looked at?

17 A. Yes, it does.

18 Q. Okay. Next page, any significance?

19 A. In the serial number column it's identifying the particular  
20 tracking number for that Priority Mail Express parcel.

21 Q. Okay. And next page, any significance?

22 A. Again, more Postal Service transaction records that are on  
23 there. It does have the destination ZIP code listed under that  
24 column for that particular Priority Mail Express parcel.

25 MR. BROWN: And are there any other pages, Jane? I

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BRIAN HESS - Cross by Mr. Wackenheim

1 think this might be the final page.

2 Q. (By Mr. Brown) Any other significance here, Inspector?

3 A. Again, more of the same of the transaction data for that  
4 particular transaction.

5 MR. BROWN: We'll pass the witness, Judge.

6 THE COURT: Cross-examination?

7 CROSS-EXAMINATION

8 By MR. WACKENHEIM:

9 Q. Is it Inspector Hess?

10 A. Correct, sir.

11 Q. Inspector Hess, so you're testifying today to confirm that a  
12 package was mailed from Wynnewood to an address in Las Vegas,  
13 correct?

14 A. Yes, sir.

15 Q. And that package weighed how much?

16 A. Be 4 pounds, 14 ounces.

17 Q. So almost 5 pounds?

18 A. Yes, sir.

19 Q. And did your investigation, to the extent you had it, did it  
20 show who conducted that transaction at the Wynnewood Post Office?

21 A. As far as the employees, sir, or the actual mailer?

22 Q. The mailer.

23 A. No, sir.

24 Q. I think you have the employee. If you look to Government's  
25 Exhibit 34, the first page.

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BRIAN HESS - Cross by Mr. Wackenheim

- 1 A. Correct, sir.
- 2 Q. Did you interview that individual?
- 3 A. No, sir.
- 4 Q. So no evidence of who actually mailed that parcel, correct?
- 5 A. Correct.
- 6 Q. Apart from on the Postal Service.
- 7 Does the Postal Service have the ability to scan each parcel
- 8 as it travels?
- 9 A. Yes.
- 10 Q. Was that done in this case?
- 11 A. Yes, it was.
- 12 Q. Do you have the image for that? Or maybe I -- let me back
- 13 up. When I mean scan -- I'm sorry -- does it take an image of
- 14 first class mail and store it in a database?
- 15 A. For that particular parcel, it's possible that that got
- 16 recorded at some point along the way. Priority Mail Express
- 17 parcels typically have a carbon copy label that is retained at
- 18 the post office on the top that would have the address
- 19 information.
- 20 Q. And does the customer fill that part out?
- 21 A. That is correct.
- 22 Q. And we don't have that here?
- 23 A. Correct.
- 24 Q. Your investigation, I think you said you were tasked with
- 25 determining packages sent from Wynnewood from November of 2017 to

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BRIAN HESS - Cross by Mr. Wackenheim

1 January of 2018; is that right?

2 A. Yes, sir.

3 Q. Did you figure out how many packages you were working with?

4 A. It was approximately four within those parameters.

5 Q. And the parameters being to Las Vegas?

6 A. Yes.

7 Q. Those two addresses that you talked about -- well, one that  
8 we heard, correct, but there were two addresses?

9 A. Correct.

10 Q. And only four packages from Wynnewood to Las Vegas during  
11 that time?

12 A. That I was able to find within those parameters.

13 Q. And if it happened, you would have found it, right?

14 A. If it was listed within the records, I would probably have  
15 seen it, yes.

16 Q. Thank you.

17 A. Yes, sir.

18 THE COURT: Anything further, Mr. Brown?

19 MR. BROWN: No, Your Honor.

20 THE COURT: Thank you, Inspector Hess. You may step  
21 down.

22 Ladies and gentlemen, we are at the time for our morning  
23 break. Again, with the usual admonition to not discuss the case,  
24 keep an open mind. It has not been submitted to you for your  
25 consideration.

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1 Please remain seated as the jury leaves the courtroom.

2 (Jury exited.)

3 (The following record was made in open court, in the  
4 presence of all parties, counsel, and out of the presence and  
5 hearing of the jury.)

6 THE COURT: Anything else from either party before we  
7 take our break?

8 MS. MAXFIELD-GREEN: No, Your Honor, just -- we do just  
9 want to advise, in terms of timing, we have a witness who should  
10 be arriving at the Oklahoma City airport at 2:20 and he is  
11 coming --

12 THE COURT: I'm sorry. 2:20?

13 MS. MAXFIELD-GREEN: 2:20. He is coming directly here  
14 to the courthouse. We have some testimony prior to that, but I  
15 just wanted to advise that if -- you know, based on when we  
16 finish this next witness and lunch and everything, he will -- he  
17 will be here as shortly after 2:20 as we can get him here.

18 THE COURT: So your 2:20 arrival is the witness after  
19 your next witness?

20 MS. MAXFIELD-GREEN: Yes. We're going to call one  
21 after this break and then our very last witness is the person  
22 who's arriving at 2:20.

23 THE COURT: How long do you anticipate this next  
24 witness? You think it's going to take us to lunch?

25 MS. MAXFIELD-GREEN: Until lunch, yes. We think we can

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1 get to lunch.

2 THE COURT: Okay. And did you and Mr. Earley have a  
3 chance to talk yesterday about -- so you're anticipating we'll  
4 call the 2:20 witness that's coming in, that is your last  
5 witness?

6 MS. MAXFIELD-GREEN: That is our last witness.

7 THE COURT: And do you anticipate that will consume the  
8 balance of the day?

9 MS. MAXFIELD-GREEN: No. I think that probably is 30,  
10 40 minutes on direct.

11 THE COURT: Okay. Mr. Earley -- well, in any event, I  
12 think we should probably talk about having -- not knowing how  
13 many, if any, Mr. Earley, you intend to put on, we probably  
14 should have an instruction conference this afternoon, slash, this  
15 evening. I don't think it will take terribly long.

16 Okay. Well, we'll cross that bridge when we come to it.  
17 Court will be in recess for 15 minutes.

18 If I can see counsel in chambers.

19 (BREAK TAKEN.)

20 THE COURT: Ladies and gentlemen, my apologies for the  
21 longer-than-normal break, but sometimes behind the scenes we're  
22 trying to work out scheduling issues and things like that to make  
23 sure that we maximize the efficiency of your time and we were  
24 handling some of those scheduling matters.

25 Government's next witness?

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JOHN FINLAY - Direct by Mr. Brown

1 MR. BROWN: We'd call John Finlay.

2 (WITNESS SWORN.)

3 JOHN FINLAY,

4 DIRECT EXAMINATION

5 BY MR. BROWN:

6 Q. Good morning, sir.

7 A. Morning.

8 Q. Please state your name.

9 A. John Finlay.

10 Q. Where do you live, Mr. Finlay?

11 A. In Davis, Oklahoma.

12 Q. And just so I make sure I understand that correctly, how is  
13 your last name spelled?

14 A. F-I-N-L-A-Y.

15 Q. And is it pronounced Finlay?

16 A. Finlay.

17 Q. Thank you.

18 Now, Mr. Finlay, what do you do for a living?

19 A. I'm a welder.

20 Q. Are you familiar with a person named Joe Schreibvogel, also  
21 known as Joe Maldonado-Passage?

22 A. Yes, I am.

23 Q. Do you see him in the courtroom?

24 A. He's right over there. (Indicating.)

25 Q. Okay. Thank you.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Now, when did you first meet Mr. Passage?
- 2 A. June 11th of 2003.
- 3 Q. Okay. And how did you come to meet him?
- 4 A. I applied for a job.
- 5 Q. Okay. And were you -- had you recently graduated high
- 6 school?
- 7 A. I graduated high school on May 11th of 2003.
- 8 Q. Okay. And did Mr. Passage hire you?
- 9 A. Yes, he did.
- 10 Q. Was that down at the park?
- 11 A. Yes.
- 12 Q. Now, on your first day of work at the park, what title did
- 13 you have?
- 14 A. I was an animal caretaker.
- 15 Q. Okay. Now, approximately how long did you work at the park?
- 16 A. In total?
- 17 Q. Yes, sir, from 2003 forward.
- 18 A. For about 17 years.
- 19 Q. Okay. And can you estimate approximately when you -- you
- 20 left the zoo?
- 21 A. I left the zoo, I think in 2016.
- 22 Q. Okay. And after leaving the zoo, where did you go work?
- 23 A. I went to work at the bar.
- 24 Q. Now, explain to us what -- what exactly is the bar?
- 25 A. The Safari Bar. It was a couple of miles from the park.

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JOHN FINLAY - Direct by Mr. Brown

1 That's what Joe opened in case to help me and my daughter out for  
2 a future.

3 Q. Okay. Thank you. So it was affiliated with the zoo, but it  
4 was off site?

5 A. It was kind of affiliated. It -- but it was its own  
6 business.

7 Q. Okay. Now -- and, I'm sorry, was it still located in  
8 Wynnewood, Oklahoma?

9 A. Yes, it was.

10 Q. Now, when you first started working in 2003, approximately  
11 how many big cats would you say were at the park?

12 A. Maybe a hundred.

13 Q. Okay. And when you first started working in 2003,  
14 approximately how many employees similar to you, like animal  
15 caretakers?

16 A. Maybe ten.

17 Q. Okay. Now, did you -- or did the park, when you first  
18 started working, did the park offer an option to take pictures  
19 with animals?

20 A. Yes.

21 Q. And could you take pictures with small cubs?

22 A. With small cubs, yes.

23 Q. And at the time you first started working, was it an option  
24 to participate in what's commonly known as cub playtimes or  
25 petting sessions?

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JOHN FINLAY - Direct by Mr. Brown

- 1 A. When I first started, no.
- 2 Q. Over time, did that become an option for the customers?
- 3 A. Yes, it did.
- 4 Q. Now, was there also a road show involved?
- 5 A. Yes.
- 6 Q. Approximately when did that start?
- 7 A. I don't know when that started, but the first week I was
- 8 there, I was on the road.
- 9 Q. Okay. And just kind of describe -- we have heard a little
- 10 bit about it, but what exactly was the road show?
- 11 A. It was where we went out and educated the public on the
- 12 dangers and the -- like conservation stuff about them, and they
- 13 could see them and get a photo with them.
- 14 Q. And would you go to malls and fairs and other areas around
- 15 the region?
- 16 A. At first it was malls.
- 17 Q. Okay. Now, in addition to the road show, did the park
- 18 also -- or the zoo also have a magic show?
- 19 A. Later on it did, yes.
- 20 Q. And what was the name of the magic show?
- 21 A. At the time it was Mystical Magic of the Endangered.
- 22 Q. And what exactly was the magic -- the magic show?
- 23 A. It was a bunch of big illusions where Joe performed them.
- 24 Q. Did the magic show incorporate big cats and cubs into the
- 25 show?

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JOHN FINLAY - Direct by Mr. Brown

- 1 A. It incorporated cubs and other small animals.
- 2 Q. And once you got to the park, did you know whether or not
- 3 Mr. Passage was a breeder?
- 4 A. I did a couple of days after I started.
- 5 Q. Okay. And so throughout your tenure at the zoo, did
- 6 Mr. Passage breed big cats?
- 7 A. Yes.
- 8 Q. Okay. Was he pretty successful?
- 9 A. Yes.
- 10 Q. All right. During your tenure at the zoo, approximately how
- 11 many big cats would you say, on an average year, were born at the
- 12 zoo?
- 13 A. I can't give you an exact number on that.
- 14 Q. Okay. Would it be more than dozens?
- 15 A. Quite a few dozen.
- 16 Q. Okay. Did that include hybrid big cats?
- 17 A. Hybrids and standard colors.
- 18 Q. Okay. Now, when -- after the cubs were born, how soon would
- 19 Mr. Passage remove the cubs from their mother?
- 20 A. Anywhere from a day to a week.
- 21 Q. All right. Now, from 2003 forward, did the number of big
- 22 cats at the park steadily increase?
- 23 A. Yes, it did.
- 24 Q. Okay. And are you familiar with the title "The Tiger King"?
- 25 A. Yes, I am.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. Explain what that title is, The Tiger King.
- 2 A. It was the title he was given in a Hollywood magazine.
- 3 Q. Approximately when was he anointed The Tiger King?
- 4 A. Like from 2010 to 2014 or so.
- 5 Q. And did Mr. Passage use that title?
- 6 A. Yes, he did.
- 7 Q. Did the zoo sell merchandise that was branded with The Tiger
- 8 King logo or phrase?
- 9 A. Yes.
- 10 Q. What kind of merchandise?
- 11 A. T-shirts, underwear, CDs. There was just a bunch of stuff
- 12 in the gift shop.
- 13 Q. Okay. Now, in addition to the merchandise that was
- 14 available for sale, did Mr. Passage ever wear any clothing that
- 15 was branded with that phrase or that title?
- 16 A. I don't remember him wearing any -- well, unless it was one
- 17 of his own shirts, yeah.
- 18 Q. But he would wear a shirt that said "The Tiger King" on it?
- 19 A. It had his picture on it and it had The Tiger King and stuff
- 20 on it, yes.
- 21 Q. Now, during your tenure with the zoo, do you know if
- 22 Mr. Passage ever sold any of his cubs?
- 23 A. Yes, I do.
- 24 Q. And did you ever transport any of these animals for him?
- 25 A. Yes, I did.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. Now, when you would transport these animals that he was  
2 selling, what type of -- what vehicle would you use?

3 A. One would be a 2015 blue F-150. The other one would be a  
4 2014 Laramie Longhorn edition Dodge Ram.

5 Q. Now, were the vehicles that you used to transport the  
6 animals always park vehicles or zoo vehicles?

7 A. Yes.

8 Q. All right. Would you transport both young cubs as well as  
9 some older adult big cats?

10 A. Yes, I would.

11 Q. And do you recall what the youngest cubs were that you ever  
12 transported?

13 A. Three to six days, I think.

14 Q. All right. And when you would transport these young cubs,  
15 were they inside kennels during the transport?

16 A. Small dog kennels, yes.

17 Q. And did -- did the kennel remain inside the cab of the  
18 pickup with you?

19 A. Yes.

20 Q. Okay. And did you transport cubs throughout the region and  
21 the country?

22 A. Yes, I did.

23 Q. Okay. And so during a long transport, a lengthy transport,  
24 were the young cubs fed?

25 A. Yes, they were.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. What would you feed them?
- 2 A. Kitten milk replacer.
- 3 Q. Is that known as KMR?
- 4 A. Yes, KMR.
- 5 Q. And approximately how frequently would you stop to feed the
- 6 baby cubs?
- 7 A. Generally every three, four hours.
- 8 Q. Okay.
- 9 A. If they were sleeping, I wouldn't wake them.
- 10 Q. Now, are you familiar with what's known as disposition
- 11 forms?
- 12 A. Yes, I am.
- 13 Q. And describe what a disposition form is.
- 14 A. Now, are you talking about the health certificates or the
- 15 transport forms?
- 16 Q. The transport forms.
- 17 A. It's basically saying -- from the buyer to a seller and
- 18 describing what type of animal it is and what vehicles were used
- 19 and had to have the signature of the -- who was getting the cub.
- 20 Q. Okay. And when you were transporting these animals for
- 21 Mr. Passage, did you usually have these disposition forms with
- 22 you when you left the park?
- 23 A. Yes, I did.
- 24 Q. Who would provide the forms to you?
- 25 A. Either John Reineke or Joe Schreibvogel.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. Okay. And were the forms already completed and filled in  
2 when they were provided to you?

3 A. Yes, they were.

4 Q. During your -- during your tenure when you're transporting  
5 these animals, were you paid to transport the animals?

6 A. Yes.

7 Q. And when you would actually deliver the animals to the end  
8 buyer, did you ever collect payments from the folks you were  
9 delivering the animals to?

10 A. Yes, I did.

11 Q. All right. Was it -- what was the form of the payment?

12 A. Most of the time it was cash.

13 Q. And what would you do with the payment once you received it?

14 A. It would go in the center console of the truck. And then  
15 when I got back to the animal park, it would go straight to Joe.

16 Q. Do you recall ever transporting any animals to Brown Zoo in  
17 Illinois?

18 A. Yes, I do.

19 Q. All right. Can we look at Government's Exhibit 7, please?  
20 And you'll -- on the screen it will pop up, Mr. Finlay. We'll  
21 try to magnify it.

22 Do you recall this disposition form dated November 16th,  
23 2016?

24 A. Yes, I do.

25 Q. I believe -- or is that correct? Yes.

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JOHN FINLAY - Direct by Mr. Brown

1 All right. And do you recall whether or not you transported  
2 this, looks like tiger cub?

3 A. Yes, I do.

4 Q. And was that transported to Brown's Zoo?

5 A. Yes, it was.

6 Q. Okay. Did anyone from Brown's Zoo pay you for this cub once  
7 you delivered it?

8 A. Yes, she did.

9 Q. Who was that?

10 A. Nancy Brown.

11 Q. How much did Ms. Brown pay you?

12 A. I don't remember exactly how much it was.

13 Q. Okay. Do you remember if it was more than \$350?

14 A. Yes, it was more than 350.

15 Q. All right. What did you do with that money?

16 A. It went in the center console of the truck, and then when I  
17 got back to the zoo it was given to Joe.

18 Q. Now, did you ever transport any animals to a gentleman named  
19 Tim Stark?

20 A. Yes, I did.

21 Q. And is Mr. Stark in Indiana?

22 A. Yes, he is.

23 MR. BROWN: Can we see Government's Exhibit 11, please?

24 Q. (By Mr. Brown) Okay. Do you recall whether or not you  
25 transported this white lion cub and three baboons to Mr. Stark in

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JOHN FINLAY - Direct by Mr. Brown

- 1 June of 2017?
- 2 A. Yes, I do remember this.
- 3 Q. And when you delivered these animals, did you actually meet  
4 with Mr. Stark?
- 5 A. Yes, I did.
- 6 Q. Did Mr. Stark pay you?
- 7 A. Yes.
- 8 Q. Do you recall how much?
- 9 A. Ten grand.
- 10 Q. All right. What did you do with that money?
- 11 A. It went in my backpack that I traveled with, and then it  
12 went straight to Joe.
- 13 Q. Okay.
- 14 MR. BROWN: Can we see Exhibit 8, please?
- 15 Q. (By Mr. Brown) Do you recall whether or not -- and this,  
16 again, is back to Mr. Stark in Indiana. Did you transfer this  
17 young tiger cub and this young tiliger cub to Mr. Stark in  
18 February of 2018?
- 19 A. Yes, I did.
- 20 Q. Did Mr. Stark pay you for these animals?
- 21 A. Yes, he did.
- 22 Q. Do you recall how much?
- 23 A. No, I do not.
- 24 Q. Was it more than \$700?
- 25 A. It was more than 700, yes.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. Okay. Now, what did you do with the money when he paid you?

2 A. It would go into my backpack and then straight to Joe.

3 Q. Okay. Did you ever transport any animals to Brown's  
4 Oakridge Zoo in Illinois?

5 A. Yes.

6 Q. And is Brown's Oakridge Zoo the same as Brown Zoo that we  
7 discussed earlier?

8 A. It is the same.

9 Q. It is the same. Okay.

10 MR. BROWN: Can we see exhibit, I think Exhibit 9,  
11 please?

12 Q. (By Mr. Brown) All right. Do you recognize this  
13 disposition form?

14 A. Yes, I do.

15 Q. All right. Did you transfer this young tiger cub to Brown's  
16 Zoo on March 6 of last year?

17 A. Yes, I did.

18 Q. Did anyone from the zoo pay you for this cub when you  
19 delivered it?

20 A. Yes.

21 Q. Do you remember who paid you?

22 A. Nancy Brown.

23 Q. How much did Ms. Brown pay you?

24 A. I do not remember exactly how much.

25 Q. Was -- it was one tiger cub, correct?

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JOHN FINLAY - Direct by Mr. Brown

1 A. Yes.

2 Q. Was it more than \$350?

3 A. Yes, it was.

4 Q. And, again, what did you do with that money?

5 A. It went straight to Joe after I got it.

6 Q. All right. Are you familiar with a zoo known as Animal  
7 Heaven Zoo or Animal Haven Zoo in Wisconsin?

8 A. Yes.

9 Q. Have you ever transported any animals to that zoo in  
10 Wisconsin?

11 A. Two full-grown lions.

12 MR. BROWN: Can we see Exhibit 12, please?

13 Q. (By Mr. Brown) Do you recognize this form?

14 A. Yes, I do.

15 Q. All right. Do you recall transporting these -- so were they  
16 adult lions, five and seven?

17 A. Yes.

18 Q. And in June of last year you transported those?

19 A. Yes.

20 Q. Now, let me just ask you: With respect to transporting  
21 adult lions, obviously they're not riding in the cab of the  
22 pickup with you, are they?

23 A. No, they're not riding in the pickup.

24 Q. Okay. Explain where two adult lions, how you transport them  
25 from Wynnewood, Oklahoma, up to Wisconsin.

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JOHN FINLAY - Direct by Mr. Brown

1 A. We had a trailer that we modified for transport of multiple  
2 animals. It was air conditioned and it also had vents on the  
3 side of it to where air would flow through.

4 Q. And so are these two adult lions, are they within an  
5 enclosure and then loaded into the trailer?

6 A. They are loaded into transport cages and then they are  
7 loaded into the trailer and strapped down.

8 Q. Okay. Are those -- you said transport cages. Are those  
9 on -- are they on wheels?

10 A. Yes, they're on wheels.

11 Q. And when you're transporting adult big cats like this, are  
12 they sedated during the transport?

13 A. These two, I think I remember they were.

14 Q. Okay. But you do recall transporting these two adult lions  
15 to Animal Haven Zoo?

16 A. Yes.

17 Q. Did anyone from the zoo in Wisconsin pay you for those two  
18 lions when you delivered them?

19 A. Yes, they did.

20 Q. Do you remember who paid you?

21 A. I don't remember her name.

22 Q. Okay. Do you remember how much she paid you?

23 A. 5,000.

24 Q. Okay. And what did you do with the money, Mr. Finlay?

25 A. It went in my backpack and went straight to Joe.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. How about Branson Wild World in Missouri, are you familiar  
2 with that facility?

3 A. Yes, I am.

4 Q. Have you ever transported any animals up to Missouri?

5 A. Yes.

6 MR. BROWN: Can we see Exhibit 13, please?

7 Q. (By Mr. Brown) All right. Do you recognize this form?

8 A. Yes, I do.

9 Q. Do you recall transporting animals, looks like June 18th of  
10 last year, to Branson Wild World?

11 A. Yes, I do.

12 Q. Did anyone else accompany you and assist you during this  
13 transport?

14 A. Marsha David and Bruce David.

15 Q. Anybody else?

16 A. And Johni Adkisson.

17 Q. And who is Ms. Adkisson?

18 A. At the time, she was my girlfriend.

19 Q. Okay. And can you look at the -- the animals that are  
20 listed there. It looks like a baby lion, a young lion, an adult  
21 lion named Moses, some serval bats -- or an African serval and  
22 then some bats. Were there any other noticeable animals that  
23 were transported that aren't on there?

24 A. There was some birds and there was an alligator and there  
25 was some -- I think something else.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. And is it fair to say that you-all used a 2004 Escalade for  
2 this delivery?

3 A. Yes.

4 Q. Are you pulling a trailer as well?

5 A. Yes.

6 Q. And are there any animals within the Escalade with you?

7 A. The two cubs were in there. The two smaller cats were in  
8 the trailer. The bats were in the vehicle with us. And then  
9 some of the birds were also in the vehicle.

10 Q. Where was Moses?

11 A. Moses was in a transport cage in the trailer.

12 Q. Okay. And where was the alligator?

13 A. The alligator was in the back of the trailer, boarded off  
14 from everything else.

15 Q. So they -- they were separated during the transport?

16 A. They were all separated.

17 Q. Either Moses or the alligator sedated during this delivery?

18 A. No.

19 Q. Okay. Now, when you-all arrived at this facility, was there  
20 anyone expecting you?

21 A. There was a group of people.

22 Q. Okay. Did they assist with unloading the animals?

23 A. Yes.

24 Q. All right. And did anyone from the Branson Wild World  
25 facility pay you?

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JOHN FINLAY - Direct by Mr. Brown

1 A. Yes.

2 Q. And how much did they pay?

3 A. 5,000.

4 Q. And was that \$5,000 for all the animals?

5 A. To my assumption, yes, it was.

6 Q. Okay. And what -- what did you do with the \$5,000?

7 A. It -- after the girls counted it, I -- it went into my  
8 backpack and then it went straight to Joe.

9 Q. Okay. And I'm just curious, if you can explain, you have  
10 testified to the -- the previous deliveries going all the way  
11 back to late November of 2016. You have testified to amounts  
12 between 5 and \$10,000. Was there any particular reason that  
13 all -- that the large number of animals were sold for a total of  
14 \$5,000?

15 A. Other than Joe was trying to get rid of his animals to -- so  
16 he could vacate the premises.

17 Q. Okay.

18 A. No other reason.

19 Q. Now, during your entire tenure working at the zoo and  
20 delivering animals that Mr. Passage was selling, can you estimate  
21 approximately how many of these trips across state lines you  
22 took?

23 A. Somewhere around a hundred.

24 Q. All right. Now, would -- again, based on your knowledge and  
25 your deliveries on behalf of Mr. Passage, would Mr. Passage have

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JOHN FINLAY - Direct by Mr. Brown

- 1 ever sold any of these individual cubs or big cats for under \$350  
2 per cat?
- 3 A. No. It was always over 350.
- 4 Q. Okay. Mr. Finlay, I now want to direct your attention to  
5 November of 2017. Were you working at the bar at the time?
- 6 A. November of 2017, yes, I was.
- 7 Q. Okay. And do you know an individual named Alan Glover?
- 8 A. Yes, I do.
- 9 Q. How do you know Mr. Glover?
- 10 A. We worked together at the animal park.
- 11 Q. So you overlapped with him at the park?
- 12 A. Yes.
- 13 Q. Now, did you at any point in time take Mr. Glover down to  
14 Dallas?
- 15 A. Yes, I did.
- 16 Q. Do you recall approximately when that trip happened?
- 17 A. October, November of 2017.
- 18 Q. All right. Who asked you to take Mr. Glover to Dallas?
- 19 A. Mr. Schreibvogel.
- 20 Q. Okay. And what vehicle did you use?
- 21 A. 2014 Dodge Ram.
- 22 Q. Was that your vehicle or was that a park vehicle?
- 23 A. Park vehicle.
- 24 Q. Okay. Did Mr. Passage pay you to take Mr. Glover to Dallas?
- 25 A. Not that I can remember.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. All right. Do you know if he covered your expenses?
- 2 A. He covered the gas, yes.
- 3 Q. All right. Did you pick Mr. Glover up at the park?
- 4 A. Yes.
- 5 Q. And when you picked Mr. Glover up, did you know why you were
- 6 taking him to Dallas?
- 7 A. At that point in time, no.
- 8 Q. All right. Did you eventually learn why you were taking
- 9 Mr. Glover to Dallas?
- 10 A. Yes, I did.
- 11 Q. And who explained to you why you were taking Mr. Glover to
- 12 Dallas?
- 13 A. Mr. Schreibvogel.
- 14 Q. And what did Mr. Schreibvogel tell you?
- 15 A. He called me and he was hesitant of what to tell me, and
- 16 then he told me that I was taking Alan down there to get a fake
- 17 ID so he could go take care of Carole.
- 18 Q. And at the time were you aware of who Carole was?
- 19 A. Yes, I was.
- 20 Q. All right. When you -- did you take Mr. Glover to Dallas?
- 21 A. Yes, I did.
- 22 Q. And when you guys get in Dallas, did you initially locate
- 23 the correct business?
- 24 A. Yes.
- 25 Q. Okay. And what kind of business was it?

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JOHN FINLAY - Direct by Mr. Brown

- 1 A. It was like a sign shop.
- 2 Q. Did you go inside that business with Mr. Glover?
- 3 A. Yes, I did.
- 4 Q. And did Mr. Glover obtain a fake ID?
- 5 A. Yes, he did.
- 6 Q. Did you assist him with filling out some of the information?
- 7 A. Yes, I did.
- 8 Q. Now, after obtaining the fake ID in Dallas, did you-all
- 9 immediately return back to the park in Wynnewood?
- 10 A. No, we did not.
- 11 Q. Where did you go?
- 12 A. We went to James Garretson's thrift shop.
- 13 Q. Where is that located?
- 14 A. In Ardmore, Oklahoma.
- 15 Q. And when you went to Mr. Garretson's thrift shop, did you
- 16 meet with Mr. Garretson?
- 17 A. Yes. Yes, we did.
- 18 Q. Okay. What, if anything, did Mr. Garretson do when you were
- 19 meeting with him at the thrift shop?
- 20 A. He asked us for the ID and he took a fingernail file to it
- 21 and, like, roughed up the edges and took some stuff off the back
- 22 of it.
- 23 Q. Okay. Now, at any point in time after you had left Dallas,
- 24 either en route to Ardmore or after Ardmore -- so after leaving
- 25 Mr. Garretson's place, where all did you guys go?

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JOHN FINLAY - Direct by Mr. Brown

1 A. We went back to the park.

2 Q. All right. At any point in time before you arrived back at  
3 the park, did Mr. Schreibvogel call you?

4 A. He called us before we got to James Garretson's place.

5 Q. And what, if anything, did he tell you?

6 A. He asked us how the ID looked, and that was the first phone  
7 call. Then there was another phone call where he instructed us  
8 to go see James Garretson to fix it.

9 Q. Okay. Now, when you were driving down to Dallas and he  
10 called you and made the reference to Carole, what did he mean  
11 when he said that you were taking Glover to Dallas to get an ID  
12 to take care of Carole?

13 MR. EARLEY: Your Honor, I think that's an improper  
14 question. He just responded to what the actual statement was, so  
15 what he thought about that is irrelevant.

16 THE COURT: Mr. Brown?

17 MR. BROWN: I can strike that, Judge.

18 THE COURT: Okay. Please do.

19 Q. (By Mr. Brown) Let me ask you this, Mr. Finlay: Following  
20 this trip to Dallas, did you continue working at the bar until  
21 June of 2018?

22 A. Yes, I did.

23 Q. All right. Were you previously in a relationship with  
24 Mr. Passage?

25 A. Yes, I was.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. Okay. For how long?
- 2 A. Eleven years.
- 3 Q. All right. How long after you started working at the park  
4 in the summer of 2013 did you and Mr. Passage form this  
5 relationship?
- 6 A. Within two to three months or so.
- 7 Q. Okay. Now, in September of 2018 did you sit down and  
8 interview with any law enforcement agents?
- 9 A. Yes, I did.
- 10 Q. Okay. Do you remember their names?
- 11 A. I can only remember their first names. Matt and Andy.
- 12 Q. Do you see them in the courtroom?
- 13 A. Yes, I do.
- 14 Q. Okay. Now, when you sat down with them, did they interview  
15 you?
- 16 A. Yes, they did.
- 17 Q. Where did the interview take place?
- 18 A. In Norman, Oklahoma.
- 19 Q. And did you tell them about Glover?
- 20 A. Yes, I did.
- 21 Q. Did you tell them about the Dallas trip?
- 22 A. Yes, I did.
- 23 Q. Did you tell them about what Mr. Passage had told you while  
24 you were driving down to Dallas?
- 25 A. Yes, I did.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. All right. Did Mr. Passage call you sometime in late  
2 September of 2018?
- 3 A. Yes, he did.
- 4 Q. Do you know if he was in custody at the time?
- 5 A. Yes, I did.
- 6 Q. Okay. So was that after he had been arrested?
- 7 A. Yes.
- 8 Q. All right. And were you aware that he had been arrested?
- 9 A. Yes.
- 10 Q. All right. From the news or how were you aware?
- 11 A. From the news and a lot of the animal industry.
- 12 Q. Okay. Was that call recorded?
- 13 A. Yes, it was.
- 14 Q. Prior to your testimony today, did you review that recorded  
15 phone call?
- 16 A. Yes, I did.
- 17 Q. Was that call between you and Mr. Passage?
- 18 A. Yes, it was.
- 19 Q. All right. Now, you are familiar with his voice?
- 20 A. Yes.
- 21 Q. Do you recognize the voice on that recorded call as  
22 Mr. Passage's?
- 23 A. Yes, I do.
- 24 Q. And was that an accurate recording of the call?
- 25 A. Yes, it was.

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JOHN FINLAY - Direct by Mr. Brown

- 1 MR. BROWN: We'd move for admission of Government's 61.  
2 THE COURT: Any objection?  
3 MR. EARLEY: No objection.  
4 THE COURT: Government's 61 will be admitted.  
5 MR. BROWN: And 61-A, Judge. Sorry.  
6 THE COURT: Any objection to 61-A, Mr. Earley?  
7 MR. EARLEY: Just the same objection.  
8 THE COURT: Same objection? Objection will be  
9 overruled. 61, 61-A will be admitted.  
10 Q. (By Mr. Brown) Okay. Mr. Finlay, we're going to play that  
11 recorded call. And your testimony is that this was in late  
12 September of 2018?  
13 A. Yes.  
14 Q. Okay.  
15 (Audio played in open court.)  
16 Q. (By Mr. Brown) Mr. Finlay, during that call did Mr. Passage  
17 bring up the Dallas trip?  
18 A. Yes, he did.  
19 Q. Did Mr. Passage bring up Florida?  
20 A. Yes, he did.  
21 Q. And is it fair to say that during that call it seemed like,  
22 at the beginning and at the end of the call, he was pretty  
23 emotional?  
24 A. Yes.  
25 Q. And when he -- when you told him that you had met with the

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JOHN FINLAY - Cross by Mr. Earley

1 FBI, did his demeanor change?

2 A. Yes.

3 MR. BROWN: Pass the witness, Judge.

4 THE COURT: Cross-examination?

5 **CROSS-EXAMINATION**

6 **BY MR. EARLEY:**

7 Q. So, Mr. Finlay, you picked up Glover for this November trip  
8 to Dallas and had no idea what was going on, correct?

9 A. At the time I picked him up?

10 Q. Yes.

11 A. No, I did not.

12 Q. So you weren't included in any conversations that there may  
13 have been between Mr. Passage and Mr. Lowe, correct?

14 A. I was not included.

15 Q. You were not included in any conversations that there may  
16 have been between Mr. Lowe and Mr. Glover, correct?

17 A. Not in any of those conversations, no.

18 Q. All right. So you just had the task of driving him down  
19 there, right?

20 A. I was asked to take him down. That was it.

21 Q. And you didn't know any of the background story, correct?

22 A. What do you mean?

23 Q. At the time. Any background story as to why you were taking  
24 him to Dallas?

25 A. I did know about Carole Baskin and that type of stuff, yes.

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JOHN FINLAY - Cross by Mr. Earley

- 1 Q. Well, yes, but I'm talking about why he was going to Dallas.
- 2 A. No.
- 3 Q. Okay. Now, you stated that when he called you on -- I guess
- 4 it was on your way down there, did he call?
- 5 A. Yes.
- 6 Q. Okay. He was kind of hesitant, is that what you said?
- 7 A. Yes.
- 8 Q. And so do you recall Mr. Passage telling you to park some
- 9 distance away from the facility where you were supposed to go to
- 10 get the ID?
- 11 A. Yes.
- 12 Q. And did he tell you to park some distance away because he
- 13 didn't want you to be associated with what was going on? Do you
- 14 recall that?
- 15 A. And because he had a sticker on the back of his truck with
- 16 his face on it.
- 17 Q. Well, whatever.
- 18 A. Yes.
- 19 Q. But he didn't want you getting close to the place, correct?
- 20 A. Yes.
- 21 Q. All right. And so you said that he called when you were on
- 22 your way back from the store, correct?
- 23 A. Yes.
- 24 Q. And he asked you to tell him what it looked like?
- 25 A. Yes.

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JOHN FINLAY - Cross by Mr. Earley

- 1 Q. What did you tell him?
- 2 A. I told him that it looked pretty real.
- 3 Q. Okay. And then he called you back again and told you to go
- 4 by Garretson's?
- 5 A. Yes.
- 6 Q. All right. Did you have any other conversations other than
- 7 this phone call last September with Mr. Passage about this ID?
- 8 A. No.
- 9 Q. Okay. Never mentioned again?
- 10 A. Never mentioned again.
- 11 Q. Okay. Now, you stated that you started at the park in 2003
- 12 and left -- well, how long were you employed either at the park
- 13 or at the bar?
- 14 A. For over 17 years.
- 15 Q. Okay. And I guess you said you left the zoo at one point
- 16 and went to the bar. Were they completely separate businesses?
- 17 A. Completely separate.
- 18 Q. And you said something about he had set the -- the bar up
- 19 for you and your daughter. Is that what you stated?
- 20 A. Yes.
- 21 Q. What did you mean by that?
- 22 A. So that I could run the bar and then later on we would be
- 23 able to have money, income to raise my daughter.
- 24 Q. Okay. Mr. Passage loved your daughter, didn't he?
- 25 A. Yes.

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JOHN FINLAY - Cross by Mr. Earley

1 Q. Now, when you were at the park, what was it like working at  
2 the park?

3 A. In the beginning, it was fun and we actually got to  
4 entertain with the animals and stuff.

5 Q. And did you interact with Mr. Passage on a daily basis?

6 A. Yes, I did.

7 Q. Okay. So what kind of things would he do on a daily basis  
8 at the park?

9 A. Feed cubs, mess with different bigger cats, mess with social  
10 media, different, like, stuff like that.

11 Q. Okay. Now, while you were working there and with him, did  
12 Mr. Passage do community functions?

13 A. What do you mean?

14 Q. Did he do things in the community? Did he have anything  
15 that he provided, like a Thanksgiving dinner or parades or things  
16 like that?

17 A. Was active with the community with doing Thanksgiving, like,  
18 different days free for each town or county. Even Easter egg  
19 hunts, stuff like that.

20 Q. Okay. So he'd actually have days where he let in certain  
21 groups, whoever they were associated with, for free; is that  
22 right?

23 A. Yes.

24 Q. Okay. Now, this park had a studio, didn't it, at least a  
25 little bit later on, maybe?

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JOHN FINLAY - Cross by Mr. Earley

- 1 A. Two different studios.
- 2 Q. Okay. And there was actually a TV show; is that right?
- 3 A. Yes.
- 4 Q. Do you remember what the name of it was?
- 5 A. I know it was Joe Exotic something. Joe Exotic TV is what
- 6 it was.
- 7 Q. And kind of explain, if you know, what -- what was it? Was
- 8 it something that was broadcast over the web or was it an actual
- 9 show that was being produced?
- 10 A. At first it was broadcasted over YouTube, and then later on
- 11 it was also included on Facebook.
- 12 Q. And the show was -- how long did it go on? Do you remember
- 13 when it actually started?
- 14 A. No, I do not.
- 15 Q. Okay. Did you ever appear in any of the shows?
- 16 A. Quite a few times.
- 17 Q. Okay. And, in general, what were the shows about?
- 18 A. Most generally it was about animals.
- 19 Q. Okay. Did occasionally Carole Baskin come up on the shows?
- 20 A. Yes.
- 21 Q. All right. Well, when she would come up as a topic on the
- 22 show, was that generally the -- the entire focus of the entire
- 23 show or just a part of it?
- 24 A. At times it was, like, half of it.
- 25 Q. And how often did the show air?

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JOHN FINLAY - Cross by Mr. Earley

1 A. Five to six days a week.

2 Q. Okay. Were there a good number of these shows that were put  
3 out over YouTube or on Facebook that had nothing to do with  
4 Carole Baskin?

5 A. Quite a few, yes.

6 Q. All right. Now, you stated that you transported a number of  
7 animals for Mr. Passage, right?

8 A. Yes.

9 Q. Okay. And that normally you would get the animal and you  
10 were provided one of these forms; is that correct?

11 A. Yes.

12 Q. All right. And just a couple of them.

13 MR. EARLEY: Could you put up Government'S Exhibit 7?

14 Q. (By Mr. Earley) So these forms would be given to you before  
15 you took off for the destination, would that be right?

16 A. Yes.

17 Q. Okay. And, for example, on this one, do you know who  
18 actually filled this out?

19 A. No, I do not.

20 Q. All right. Can you remember, when you were transporting,  
21 who did you receive these forms from the most, Mr. Passage or  
22 from John Reineke?

23 A. That, I do not remember.

24 Q. Well, was it fairly even or was one more than the other?

25 A. Most of the time it was Mr. Schreibvogel.

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JOHN FINLAY - Cross by Mr. Earley

1 Q. Okay. And it appears that the only thing on here is his  
2 name, the receiver, and then a description of the animal,  
3 correct?

4 A. Correct.

5 Q. And someone wrote "donated" over there, correct?

6 A. Yes.

7 Q. But there's no signature or identifying information for the  
8 person who's supposed to sign at the bottom, correct?

9 A. Yes.

10 Q. So do you know what happens to these forms after they're  
11 turned in?

12 A. After I return the signed one? No, I do not.

13 Q. Okay. Now, you were paid for your work; is that right?

14 A. Yes.

15 Q. Okay. And how were you paid?

16 A. Where --

17 Q. By check or cash?

18 A. Which business?

19 Q. At the zoo.

20 A. There was times it was cash and times it was check.

21 Q. All right. Now, this phone call that was held back in  
22 September, he called you, correct?

23 A. Yes.

24 Q. All right. And I'm -- it's pretty clear he's emotional  
25 during the call; is that right?

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JOHN FINLAY - Cross by Mr. Earley

- 1 A. Yes.
- 2 Q. It's also clear that he had read his indictment, correct?
- 3 A. Yes.
- 4 Q. You hadn't, right?
- 5 A. I have never seen it.
- 6 Q. But he was trying to explain to you what they had alleged
- 7 against him. Do you recall that?
- 8 A. Yes.
- 9 Q. All right. And did you have additional phone calls with
- 10 Mr. Passage after that one?
- 11 A. There was maybe one or two.
- 12 Q. All right. Anything substantive discussed between the two
- 13 of you?
- 14 A. Not that I can remember.
- 15 Q. All right. After those one or two additional calls, did you
- 16 have any further contact with him?
- 17 A. No.
- 18 Q. Was there any particular reason why?
- 19 A. Other than me trying to start my life, no.
- 20 Q. Okay. And if -- were you approached by anyone to ask you to
- 21 sell your story about this matter?
- 22 A. Approached to sell my story?
- 23 Q. Did anyone in the media approach you and offer you any
- 24 money?
- 25 A. If you're meaning the documentary that I'm doing, yes.

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JOHN FINLAY - Cross by Mr. Earley

1 Q. Okay. So you were paid by someone, they're doing a  
2 documentary on you?

3 A. For selling my photos and anything I have of me or  
4 Mr. Schreibvogel.

5 Q. Okay. So somebody has gotten with you to see if you would  
6 give them rights to certain things so that they could either  
7 publish them or film them or write about them, correct?

8 A. Yes.

9 Q. All right. And so I guess contrary to your statement about  
10 taking further calls from Mr. Passage, you're not really ready to  
11 move on with your life as far as this chapter, correct?

12 A. Me talking about what has happened in my life is helping me  
13 move on.

14 Q. And you're getting paid for it, correct?

15 A. For items that I'm selling to them.

16 Q. All right.

17 A. Like photos or videos or stuff from the park.

18 Q. Okay. So in some way the notoriety of this case and your  
19 being a witness in this case is going to be financially  
20 beneficial to you, correct?

21 A. No.

22 Q. No? Well, would you get that money otherwise?

23 A. Yes.

24 Q. Well, who would want your story if this didn't have any  
25 public interest?

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JOHN FINLAY - Redirect by Mr. Brown

1 A. Well, the story -- the story wasn't started about me. It  
2 was started about him. And ever since this case started, that's  
3 when it kicked into higher gear, because I had never received a  
4 phone call until all this has happened.

5 Q. So your participation in this event has been financially  
6 lucrative for you?

7 A. Not all the interviews I have done have been.

8 Q. All right.

9 MR. EARLEY: Nothing further.

10 THE COURT: Redirect?

11 **REDIRECT EXAMINATION**

12 **BY MR. BROWN:**

13 Q. We have heard about a documentary. Who's the feature of the  
14 documentary?

15 A. Mr. Schreibvogel.

16 Q. I mean, you were with him from 2003 forward. Is it -- is  
17 Mr. Schreibvogel somewhat of a showman?

18 A. Yes.

19 Q. Okay. And so there's a documentary -- or a documentarian  
20 following him and trying to build a story about him, correct?

21 A. Yes.

22 Q. Do you know if Mr. Schreibvogel has been selling or offering  
23 his story for sale?

24 A. I do not know that.

25 Q. Okay. When was the first sit-down that you had with anyone

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JOHN FINLAY - Redirect by Mr. Brown

1 from Mr. Schreibvogel's feature film or documentary?

2 A. Either late last year or early this year. It might be early  
3 this year.

4 Q. So it was after he had been arrested?

5 A. Yes.

6 Q. It was after you had talked to the FBI?

7 A. Yes.

8 Q. And it was after you had talked to Mr. Passage on that  
9 recording that we just heard?

10 A. Yes.

11 Q. When you heard him say that you had hung him out to dry?

12 A. Yes.

13 MR. BROWN: Pass the witness, Judge.

14 THE COURT: Anything further, Mr. Earley?

15 MR. EARLEY: Nothing further.

16 THE COURT: Thank you, Mr. Finlay. You may step down.

17 Ladies and gentlemen, we are going to take our lunch break  
18 now. I have got a mixed bag of news that you can figure out  
19 whether it's good, bad, whatever. As I was saying, sometimes  
20 through -- the good news is, is because you have been working so  
21 hard, the case is moving along at a good pace. It is -- it still  
22 remains to be seen, but it is not likely that it's going to take  
23 as long as we had originally anticipated, which I'm sure for most  
24 of you that's good news.

25 The down side to that is as the lawyers work very hard to

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1 get witnesses here at the right time or whatever, the next  
2 witness for the government actually comes in on a flight just a  
3 little bit after 2:00. And so what that means is, is we're going  
4 to take a long lunch. That's a piece of good news for you. You  
5 don't have to remain here.

6 I'm going to ask that you be back here in the jury assembly  
7 room at 2:30. The import of that, particularly with a long  
8 lunch, is that you will likely leave the courthouse and things  
9 like that. It is highly important -- again, I remind you of your  
10 admonition not to discuss the case, be very wary of anybody  
11 trying to contact you about it or provide you with any  
12 information. Stay away from the TV news, Internet, things like  
13 that where you could -- something might come up. Again, the only  
14 thing that is evidence is what you hear in this courtroom.  
15 That's very, very important.

16 With that admonition, we will break. And as soon as we can  
17 get the witness here, but if you-all will be back here in the  
18 jury assembly room at 2:30.

19 Please remain seated while the jury leaves the courtroom.

20 (Jury exited.)

21 (The following record was made in open court, in the  
22 presence of all parties, counsel, and out of the presence and  
23 hearing of the jury.)

24 THE COURT: Record will reflect the jury has left the  
25 room.

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1 Ms. Green, I would just encourage you, as quickly as we can  
2 get our -- your witness here from the airport, if they need to  
3 run code three and hot.

4 MS. MAXFIELD-GREEN: That's the plan, Your Honor.

5 THE COURT: Minimize the delay to the jury.

6 And then, Mr. Earley, have you heard from your office in  
7 terms of scheduling yet?

8 MR. EARLEY: No, not yet.

9 THE COURT: I would ask that as soon as you do -- I  
10 know that you're -- you're waiting. As soon as you do, if you  
11 would let Ms. Green and Marcia know as soon as we know something,  
12 if we know something, and then we will adjust accordingly. We'll  
13 make a decision about jury instruction conference and that kind  
14 of thing after we know that.

15 MR. EARLEY: All right.

16 THE COURT: Anything else from either party before we  
17 break?

18 MS. MAXFIELD-GREEN: No, Your Honor.

19 MR. EARLEY: No, Your Honor.

20 THE COURT: Court will be in recess.

21 (BREAK TAKEN.)

22 (The following proceedings were had at the bench and out of  
23 the hearing of the jury.)

24 MS. MAXFIELD-GREEN: Your Honor, we'd like to make a  
25 record about the witness who is about to testify. He is an

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1 undercover FBI agent. And pursuant to your ruling, you have  
2 allowed him to testify under a pseudonym. And, therefore, when  
3 he is asked his name, he will introduce himself as Mark Williams.  
4 His true name has been provided to the defense so that they could  
5 do any necessary research for cross-examination, and your order  
6 was pursuant to an agreement between the parties to that end.

7 The Government also requests that the Court issue an order  
8 or a statement -- an order would be our preference -- but in lieu  
9 of an order, a statement to the gallery that no one should sketch  
10 this witness due to safety concerns because he is engaged in  
11 ongoing undercover operations.

12 THE COURT: Defense?

13 MR. WACKENHEIM: We have received the name that the  
14 Government's provided to us. We have been able to use that  
15 information to do our investigation on our end. We have full  
16 intention to comply with the Court's order of using the pseudonym  
17 of Mark Williamson --

18 MS. MAXFIELD-GREEN: Mark Williams.

19 MR. WACKENHEIM: Williams. Okay. Mark Williams.

20 And with respect to the courtroom sketch, I'm not sure the  
21 Court has the authority to do that. We think it might also in  
22 some way touch upon Mr. Passage's right to a public -- an open  
23 trial. So I also believe that to the extent the media's  
24 involved, they should have an ability to interject their position  
25 if the Court --

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1 THE COURT: Let me ask, in terms of the witness  
2 testifying under the pseudonym, Counsel, did you intend to cover  
3 that with him or simply present him under --

4 MS. MAXFIELD-GREEN: I did not. I intend to ask him  
5 his name and he will say Mark Williams. I intend to then proceed  
6 with establishing that he is, in fact, an FBI agent.

7 THE COURT: Counsel, do you agree with that?

8 MR. WACKENHEIM: It's no problem.

9 THE COURT: In regard to the gallery, the sketch folks  
10 here, again, I am unsure -- and I don't think I have seen any  
11 authority that suggests that I can order the gallery not to do  
12 that. I am happy to make that request. It was not my intent to  
13 do that on the record, but do the parties want that on the  
14 record?

15 MS. MAXFIELD-GREEN: Yes. Yes.

16 THE COURT: Okay.

17 MS. MAXFIELD-GREEN: Outside the hearing of the jury,  
18 of course.

19 THE COURT: Absolutely. Absolutely.

20 Okay. Anything else?

21 MS. MAXFIELD-GREEN: Your Honor, we have got a  
22 47-minute video, or audio to listen to, and would it be okay if I  
23 sit down during the playing of that audio?

24 THE COURT: Of course.

25 MS. MAXFIELD-GREEN: Thank you.

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1 THE COURT: Anything else?

2 MS. MAXFIELD-GREEN: I believe that's it.

3 (The following record was made in open court, in the  
4 presence of all parties, counsel, and out of the presence and  
5 hearing of the jury.)

6 THE COURT: Record will reflect that court is back in  
7 session. The jury has not returned to the courtroom.

8 It's my understanding from the government that the next  
9 government witness will be the undercover FBI agent. And I would  
10 ask -- I know that throughout the course of the trial we have a  
11 number of members of different areas of journalism here,  
12 including some sketch artists. And I would ask that the --  
13 anyone -- the sketch artists in the room to please not do any  
14 sketches of the undercover officer for safety concerns. I know  
15 that there have been a number of sketches that have been out  
16 there. And, in fact, my teenage son said, "They were generous  
17 with your hair, dad." So in any event, I would ask that if you  
18 would please refrain from any kind of description or depiction of  
19 the undercover officer.

20 Anything else from either party?

21 MS. MAXFIELD-GREEN: No, Your Honor.

22 MR. WACKENHEIM: No, Your Honor.

23 THE COURT: Please bring in the jury.

24 (The following record was made in open court, in the  
25 presence of all parties, counsel, and in the presence and hearing

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 of the jury.)

2 THE COURT: Record will reflect the jury is back in the  
3 courtroom.

4 Government's next witness?

5 MS. MAXFIELD-GREEN: Government calls Mark Williams.  
6 (WITNESS SWORN.)

7 MARK WILLIAMS,  
8 DIRECT EXAMINATION

9 BY MS. MAXFIELD-GREEN:

10 Q. Good afternoon, sir. Could you please state your name for  
11 the record?

12 A. Yes, ma'am. My name is Mark Williams.

13 Q. And, Mr. Williams, how are you employed?

14 A. I'm currently employed as an agent with the FBI.

15 Q. How long have you been an FBI agent?

16 A. It will be ten years this May.

17 Q. And as part of your employment for the FBI, do you serve in  
18 an undercover capacity as an undercover agent?

19 A. Yes, ma'am. I'm a certified undercover for the FBI. I have  
20 been since March of 2015.

21 Q. And when you become an undercover for the FBI, do you  
22 undergo special training that's separate from the typical FBI  
23 training?

24 A. Yes, ma'am. There's a two-week certification course that is  
25 all inclusive; meaning it will kind of cover every violation that

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 the FBI works, whether that be drugs or white collar or  
2 counterterrorism. And then after that certification course, if  
3 you're successful in it, you may undergo additional training in  
4 certain areas depending.

5 Q. About how many undercover operations have you participated  
6 in?

7 A. Approximately 30.

8 Q. Were you asked to serve as an undercover agent in an  
9 investigation into Joseph Maldonado-Passage?

10 A. Yes, ma'am, I was.

11 Q. And when were you contacted to do that?

12 A. It would have been roughly November 2017.

13 Q. What information, if any, did you review about the case  
14 before you took on your first undercover role?

15 A. I would have spoken with the case team about what the --  
16 what the lay of the land was, so to speak; what the -- if they  
17 had a cooperating witness, or a CHS, as we call them in the FBI,  
18 and they did; what that CHS was reporting; maybe a little bit of  
19 background on the defendant.

20 Sorry.

21 Q. Yeah, this mic is very sensitive.

22 Typically, in an undercover investigation, what other  
23 information, if any, would you want to know to prepare?

24 A. Well, to prepare I wouldn't go into a lot of depth with the  
25 case team, and that's by design. I don't want to find myself

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1 saying something that only an investigator would know when I'm  
2 with the subject. When I'm talking to that person, I don't want  
3 to make a slip of the tongue and say something that I would have  
4 no reason to know. So other than those items that I have already  
5 discussed, that would be about the extent of it.

6 Q. And you referenced this already, that -- to your knowledge,  
7 did this investigation already have a confidential human source  
8 involved?

9 A. Yes, ma'am, it did.

10 Q. And was that confidential human source James Garretson?

11 A. Yes, ma'am.

12 Q. And, to your knowledge, did James Garretson arrange for an  
13 introduction of you to Mr. Passage on December 8th of 2017?

14 A. Yes, ma'am.

15 Q. And did you, in fact, meet Mr. Passage on December 8th of  
16 2017?

17 A. I did.

18 Q. Do you see Mr. Passage here in the courtroom today?

19 A. I do, yes, ma'am.

20 Q. Could you just describe for the record what he's wearing?

21 A. He's the gentleman seated at defense counsel table with a  
22 blue suit and blue tie, white shirt.

23 Q. Where were you when you met Mr. Passage?

24 A. At his business location in Wynnewood, Oklahoma.

25 Q. When you met him, were you wearing a recording device?

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 A. I was.

2 Q. And prior to your testimony, have you had a chance to review  
3 the audio of that?

4 A. Yes, ma'am.

5 Q. Is it a fair and accurate recording of the conversation as  
6 you recall it?

7 A. It is.

8 Q. And in that recording do we primarily hear three voices?

9 A. Yes, ma'am. That's -- primarily you would hear myself, the  
10 defendant and the CHS.

11 Q. Okay. Did occasionally some other people walk into the room  
12 when you were having the conversation?

13 A. Yes, ma'am. There would have been workers or other people  
14 at the defendant's business location that would have interacted  
15 with us briefly.

16 MS. MAXFIELD-GREEN: Government moves to admit  
17 Exhibit 63.

18 THE COURT: Any objection?

19 MR. WACKENHEIM: No objection.

20 THE COURT: 63 will be admitted.

21 MS. MAXFIELD-GREEN: And, Your Honor, we're going to go  
22 ahead and play that video. It is -- I'm sorry. It's audio.  
23 That is a 47-minute audio, so I'm going to take my seat if that's  
24 okay.

25 THE COURT: That will be fine. Now, is that 63 and

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 63-A?

2 MS. MAXFIELD-GREEN: Just 63, Your Honor.

3 THE COURT: Just 63. Okay.

4 (Audio played in open court.)

5 Q. (By Ms. Maxfield-Green) Okay. Mr. Williams, I'm going to  
6 ask you a few questions about that conversation. Okay?

7 A. Okay.

8 MS. MAXFIELD-GREEN: Your Honor, I'm going to ask him a  
9 few questions about the conversation and -- well, first let me  
10 lay a foundation here.

11 Q. (By Ms. Maxfield-Green) Mr. Williams, have you had the  
12 opportunity to review a transcript of that recording?

13 A. Yes, ma'am, I have.

14 Q. And based on your participation in the conversation, is it a  
15 fair and accurate transcription of the recording?

16 A. Yes, ma'am, it is.

17 MS. MAXFIELD-GREEN: Your Honor, I would like  
18 permission to use certain pages of that transcription as a  
19 demonstrative, both to refresh Mr. Williams and as an aid to the  
20 jury so that they can -- we can essentially discuss what was  
21 being said since there was a lot going on in that audio.

22 THE COURT: You don't intend to move it into evidence  
23 at the conclusion?

24 MS. MAXFIELD-GREEN: No, just use it as a  
25 demonstrative.

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 THE COURT: Any objection?

2 MR. WACKENHEIM: Same as before, Your Honor.

3 THE COURT: Objection will be overruled. You can use  
4 it as a demonstrative exhibit.

5 Q. (By Ms. Maxfield-Green) So after you had been introduced to  
6 Mr. Passage -- and in this transcription is JM, is that  
7 referencing the defendant as Joseph Maldonado?

8 A. Yes, ma'am.

9 Q. Okay. And also in this transcription is the UCE, does that  
10 refer to you?

11 A. Yes, ma'am. That's a term the FBI uses for undercover  
12 employee.

13 Q. Okay. And where it says CI, is that Mr. Garretson?

14 A. It is.

15 Q. Okay. Now, Mr. Maldonado says, "This bitch has cost us  
16 almost three-quarter of a million dollars in lawyers already."  
17 And who do you believe that he was referring to?

18 A. Carole Baskin.

19 Q. And he says here, "She sues us every fucking minute, every  
20 time we turn around, and then like right now she's got four or  
21 five lawsuits against us."

22 Did you have any knowledge about that prior to entering in  
23 as an undercover?

24 A. I knew Ms. Baskin's name and I knew there was generalized  
25 business disputes between the two of them, or between the

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 defendant and Ms. Baskin of some type.

2 Q. And he says, "Yeah, just to bankrupt us in lawyers because  
3 she wants us out of business and then she'll turn around about a  
4 month after trial and sue you again."

5 Did you know what that was about?

6 A. Just the nature of what he was -- as I understood it, what  
7 he was explaining to me was that Ms. Baskin was essentially  
8 harassing him with lawsuits in an attempt to drive him out of  
9 business.

10 Q. Okay. So here in the middle of the page Mr. Maldonado says,  
11 "What's something like that run?" And you say, "Hmmm, usually  
12 about ten." What are you talking about?

13 A. Murder for hire, and specifically charging \$10,000 to commit  
14 one.

15 Q. Okay. And then later on he -- let's see -- well, after that  
16 he says, "I know everybody's been, what, pooling together. I  
17 think you could get 20." What -- and are we talking \$10? What  
18 amount of money are we talking?

19 A. No, ma'am. At this point I'm talking thousands of dollars.  
20 So references to 10 are \$10,000, references to 20 are \$20,000,  
21 references to 5 are \$5,000.

22 Q. And you say, "Is that right? Well, if you -- if it's not  
23 just talk, man, I'll do it." And what does Mr. Maldonado say  
24 back?

25 A. "What do you need down? 10?" In the form of a question.

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 Q. When he says "what do you need down," what does that mean?

2 A. What essentially would I like up front, the amount that I  
3 would like to be paid prior to committing the murder with the  
4 understanding that I would be paid an additional amount following  
5 the act.

6 Q. Okay. And let's see -- and you say, "Man, I would like --  
7 I'd like half." Would that mean \$5,000?

8 A. That's what I intended to convey, yes, ma'am.

9 Q. And he says, "Ten down" -- and he says, "Ten down, ten when  
10 it's on the noose, she's dead." What did you understand from the  
11 conversation that that meant?

12 A. That he might be willing to pay me \$10,000 up front and then  
13 another \$10,000 upon Ms. Baskin's death.

14 Q. And so you say, "Well, I mean, I would like half, that would  
15 be ideal." So how much money are you asking for?

16 A. I had not come off that \$5,000 -- or excuse me -- the  
17 \$10,000 figure, so I'm asking for \$5,000 at that point.

18 Q. Okay. Later on in the conversation Mr. Maldonado says,  
19 "There's so many fucking street cameras nowadays." What did you  
20 take that to mean?

21 A. That to the extent that I was going to conduct surveillance  
22 on Ms. Baskin, I would have to be careful or at least wary of  
23 camera -- cameras in the area.

24 Q. Okay. And, let's see, Mr. Maldonado says, "She's stupid  
25 because she has that Facebook live shit and she has some bike

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 path that she rides to work on a bicycle."

2 What did you understand that that had to do with anything?

3 A. That Ms. Baskin was not being careful about her, for lack of  
4 a better term, pattern of life, so you could figure out where she  
5 was and what time she was there by viewing her social media.

6 Q. The discussion of the -- you say to him, "I want to make  
7 sure, you know, if you're in some sort of business dispute with  
8 her, she's suing you all the time." And he says, "Shit, me  
9 running for governor, everybody sees me up here." And you say,  
10 "Well, that's what I was going to say, we have got to make sure  
11 it's a day that you're out in public."

12 What was the idea behind that?

13 A. My belief was that if Ms. Baskin was murdered, the defendant  
14 would be a suspect in that murder due to the ongoing business  
15 dispute. And so I was talking about him having an alibi to prove  
16 that he was not involved in the murder.

17 Q. All right. Later on in the conversation you ask for her  
18 name, and what name does he tell you?

19 A. Carole Baskin.

20 Q. All right. And you say to him, "Hey, man, if you're serious  
21 about it, you let me know." And what does Mr. Maldonado say?

22 A. We'll get James the money.

23 Q. And who did he mean?

24 A. The CHS.

25 Q. James Garretson?

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1 A. Yes, ma'am.

2 Q. And again, you say, "So I would need -- what do you think  
3 you could get up front?" And what does he say?

4 A. We can get five easy.

5 Q. And again, is that \$5,000?

6 A. Yes, ma'am.

7 Q. And you ask, you can get five, he says yeah, and you reply  
8 that that would be perfect.

9 A. Yes, ma'am.

10 Q. So at that point in the conversation, what was your  
11 understanding of what had been agreed to?

12 A. That Mr. -- Mr. Passage, the defendant, had agreed to hire  
13 me to kill Ms. Baskin.

14 Q. And what was your understanding of how that money was going  
15 to be given to you?

16 A. Through the CHS after it was collected.

17 Q. All right. Later in the conversation you say, "Is this a  
18 deal where she would just -- you'd just prefer her disappear  
19 or" -- and he says, "Yeah, I mean, we can."

20 You say, "I mean I can do it any way you-all want, don't  
21 matter."

22 What does Mr. Maldonado say?

23 A. "I just want -- the bitch has to go -- has got to go away,  
24 got to go away."

25 Q. Based on your understanding of the context of the

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 conversation, what does "go away" mean?

2 A. Die, be murdered.

3 Q. Okay. Later on in the conversation you say, "Yeah, yeah,  
4 I just need to know, you know, where she lives. Where -- I mean,  
5 if you have all that -- if you-all have that, any -- any  
6 information you got on her, so I can make sure."

7 And then Mr. Maldonado says, "How much do you need?" And in  
8 the audio it sounds -- there's a noise. What was happening in  
9 that part of the conversation?

10 A. At this point we're in Mr. Maldonado's office and I'm -- I'm  
11 asking for information related to Ms. Baskin and he provided me  
12 with a number of documents related to her.

13 Q. And did he tell you that he got all of that out of her  
14 office?

15 A. Yes, ma'am.

16 Q. Okay. Later in the conversation, let's see, you ask -- you  
17 said, "She rides her bike to work?" And what does he say?

18 A. "Well, she rides. I have never -- I have just seen her live  
19 videos."

20 Q. And what was that a reference to?

21 A. Again, where -- the potential locations for the murder to  
22 take place or surveillance of Ms. Baskin prior to.

23 Q. Okay. Then he says, "See, the -- but I bet you she's got  
24 her house so fucking burglar alarmed." What did you understand  
25 the concern to be there?

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 A. That she had security at the house and that that wouldn't be  
2 an ideal location to commit the act.

3 Q. Okay. Later on in the conversation you say, "But I -- I  
4 mean, what I would do, I would go get two cheap-ass burner phones  
5 so that I can call you and say, hey, this -- today's the day so  
6 that, you know, be out in public."

7 Now, this is something you suggest. What was the thought  
8 behind that?

9 A. The thought would be to have a secure method of  
10 communication between the two of us, or at least a method of  
11 communication that was unattributable to either of us. So when  
12 I'm making reference to a burner phone, I'm making reference to a  
13 disposable prepaid cell phone.

14 Q. And then Mr. Maldonado responds, "Think you can go to  
15 Walmart, you got a couple hours in Walmart." What did that mean  
16 to you?

17 A. That would be one place to obtain a burner or disposable  
18 cell phone.

19 Q. All right. Later in the conversation -- let's see.  
20 Mr. Maldonado says, "He said you" -- you something -- you  
21 something about him flying down there, and Mr. Garretson says,  
22 "Probably Monday, Tuesday, or middle of next week maybe." And  
23 Mr. Maldonado says, "He's flying, I bet. I mean, they can track  
24 him going from here to there."

25 What did you understand the concern to be?

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 A. If I was traveling by airplane there would be a record of  
2 that travel.

3 Q. Okay. So do you tell him you're not going to travel by air?

4 A. Correct. I tell him that I'm going to drive.

5 Q. Okay. And in the conversation he says, "She's going to be  
6 hard to get by herself." And then he observes -- there's a  
7 discussion of -- Mr. Garretson references Big Cat Rescue. Did  
8 you know what Big Cat Rescue was?

9 A. I believe it was Ms. Baskin's business.

10 Q. Mr. Maldonado says, "Well, they got a front gate and a back  
11 entrance." And then he goes on to say, "They got a back entrance  
12 too, but uh."

13 And what does -- what does all that mean? What are you  
14 discussing?

15 A. The physical structure of her business for surveillance  
16 purposes.

17 MS. MAXFIELD-GREEN: Sorry, Your Honor. I just need a  
18 moment. I have lost my place here.

19 THE COURT: Take your time.

20 Q. (By Ms. Maxfield-Green) Oh, there we go. Sorry.

21 Okay. So in the conversation you say, "And that's why I was  
22 asking, like, is it better if she just disappears one day or, you  
23 know."

24 When you talk about making someone disappear what are you  
25 talking about?

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 A. Killing someone in a manner where their body would not be  
2 found.

3 Q. And Mr. Maldonado responds, "I don't -- I don't even know  
4 how you would -- how would you just make somebody disappear? You  
5 would have -- that would take some work to carry that fat bitch."

6 What did you understand him to be -- to mean, or to be  
7 concerned about?

8 A. That transporting the body would be an issue once she was  
9 murdered.

10 Q. And then Mr. Maldonado, shortly after that comment, says,  
11 "Just, like, follow her into a parking lot and just cap her."  
12 What does it mean to cap someone?

13 A. Shoot, kill.

14 Q. And then he says, "Just drive off."

15 A. Yes, ma'am.

16 Q. What did you understand that proposal to be?

17 A. His suggestion was that I follow her into a public place,  
18 pull a vehicle up on her or next to her and shoot her and then  
19 drive off.

20 Q. All right. Later, much later in the conversation  
21 Mr. Maldonado says, "Let me get my," something we can't  
22 understand, "so if you can shoot for Wednesday, let me get -- put  
23 the money together by Wednesday."

24 What did you understand the money was to be for?

25 A. The down payment on the murder for hire.

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 Q. And to the best of your recollection, was December 8th a  
2 Friday?

3 A. Yes, ma'am, I believe so.

4 Q. And so is he talking about getting the money together by the  
5 following Wednesday?

6 A. That was my understanding, yes, ma'am.

7 Q. So at that point in the conversation, when he's stated "let  
8 me get -- put the money together by Wednesday," what was your  
9 understanding of the status of your agreement with Mr. Passage?

10 A. That he had -- that we had agreed that I would commit a  
11 murder for hire for him and that he was going to get the money  
12 together to pay me for that act.

13 Q. And then it's -- it's you that proposes, "Here's what I do,  
14 I'll come back, you get those two phones and the money together,  
15 I'll come back up, meet with you, that's the last time we're  
16 going to meet until after."

17 A. Correct.

18 Q. Okay. And when you say "I'll come back up, meet with you,"  
19 at that point in the conversation when did you think you were  
20 going to be coming back up?

21 A. The -- at the point when he was able to get the money to  
22 follow through on -- on what he had proposed.

23 Q. And you say, "And you just take your time getting the other  
24 half because it's going to be" -- and Mr. Maldonado says, "I'll  
25 just sell a bunch of tigers." And then he reiterates, "sell a

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 bunch of tigers." What did you think that selling tigers had to  
2 do with anything?

3 A. That he would make the money that he was going to give me to  
4 commit the murder by selling tigers that were presently at his  
5 business.

6 Q. Okay. Later in the conversation Mr. Maldonado and -- is  
7 talking and he says, "It's so bad right now, we had two customers  
8 all week." And you say, "Is that right? I imagine this is slow  
9 season." And he goes on and says, "Well, you know, we're  
10 fighting football and we're -- just got done fighting the state  
11 fair in Oklahoma City and the state fair in Dallas."

12 What was your understanding of what all that meant?

13 A. That these events were drawing people who might otherwise --  
14 might otherwise go to his business to those events, so they were  
15 spending their time doing those things rather than attending the  
16 park.

17 Q. Did you understand whether that had a financial impact on  
18 the park?

19 A. Yes, ma'am, it did.

20 Q. It just got blurry all of a sudden.

21 MS. DAVIS: You switched the auto focus off.

22 Q. (By Ms. Maxfield-Green) Okay. Mr. Maldonado, later in the  
23 conversation, says, "If we can hold 60 degree weather, it will be  
24 all right, but I got this -- this lady is supposed to be telling  
25 me today whether or not they're going to buy this tiger or not.

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 There's some guy in Florida that buys a bunch of fucking babies."

2 What did you understand the significance of that to be?

3 A. He's just talking about the business and the -- I understood  
4 the 60 -- if we can hold 60 degree weather, that would be more  
5 attractive to potential patrons, and then talking about selling  
6 some of the wildlife there.

7 Q. And what did you understand the effect of being able to sell  
8 some wildlife to be?

9 A. Raising money.

10 Q. Raising money for what?

11 A. The murder for hire.

12 Q. Okay. So it's Mr. Garretson that says, "So what do you  
13 think works, first of the week?" And you say, "Probably towards  
14 the end of the week." And you say, "I have got something else  
15 going." And Mr. Maldonado says, "Yeah, yeah. I mean, it doesn't  
16 have to happen tomorrow or within a week. I put up with this  
17 bitch since 2006."

18 What was your understanding of Mr. Maldonado's -- what was  
19 he suggesting?

20 A. That the scheduling of our next meeting didn't have to occur  
21 immediately following this meeting, but it could be -- he didn't  
22 mind waiting for a period of time.

23 Q. All right. And then Mr. Maldonado says, "All right, man. I  
24 will, uh, I'll get ahold of James Monday." You say, "Yeah.  
25 Yeah, let him know." And he says, "Let all this money come in

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 over the weekend."

2 What was your understanding of that portion of the  
3 conversation?

4 A. That he was going to get in touch with the CHS on Monday  
5 regarding the potential payment or potential next meeting, and  
6 that -- that patrons would visit the park over the weekend so  
7 that they would have money.

8 Q. All right. And now you suggest, "And I'll tell you what, if  
9 you can get a -- if you can get a clean pistol, something that  
10 doesn't have your name on it." And that's something that you  
11 suggest. Was there a strategy to that?

12 A. It's in keeping with the idea that I'm there to commit a  
13 murder for hire on his behalf.

14 Q. And he says, "Where the hell? At the flea market down here  
15 in Sulphur, you know, fuck that, I'll get a pistol at the flea  
16 market."

17 What was your understanding of what the pistol was going to  
18 be for?

19 A. The murder, the murder of Ms. Baskin.

20 Q. A few seconds later Mr. Maldonado says, "But aren't they  
21 going to be, like, registered to Oklahoma?" What is his concern,  
22 to your understanding?

23 A. That the gun would be traceable back to him.

24 Q. All right. Mr. Williams, so when you -- shortly after those  
25 last lines, did you depart the zoo with Mr. Garretson?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. Yes, ma'am, we did.

2 Q. When you left that meeting, what was your understanding of  
3 what had just occurred?

4 MR. WACKENHEIM: Objection, Your Honor. I think the  
5 transcript and the recording speaks for itself.

6 THE COURT: Sustained.

7 Q. (By Ms. Maxfield-Green) Now, at any time during that  
8 meeting did you give Mr. Passage any of your contact information  
9 so that he could get ahold of you directly?

10 A. I did not.

11 Q. So how was he supposed to get ahold of you?

12 A. Through the -- the confidential witness.

13 Q. James Garretson?

14 A. Yes, ma'am.

15 Q. And did you ever meet Mr. Passage again?

16 A. No, ma'am.

17 Q. Did he or anyone on his behalf ever provide you with any  
18 money?

19 A. No, ma'am.

20 MS. MAXFIELD-GREEN: Pass the witness.

21 THE COURT: Cross-examination?

22 **CROSS-EXAMINATION**

23 **BY MR. WACKENHEIM:**

24 Q. Agent Williams, just for the record, can you describe your  
25 facial hair?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. Can I describe my facial hair, sir?

2 Q. Yes, please.

3 A. Yes, sir. It's a long beard.

4 Q. How long is long?

5 MS. MAXFIELD-GREEN: Your Honor, we object. Can we  
6 approach?

7 THE COURT: You may.

8 (The following proceedings were had at the bench and out of  
9 the hearing of the jury.)

10 THE COURT: What's the relevance here?

11 MR. WACKENHEIM: The relevance is I would like to have  
12 him compare his physical description today as it was on  
13 December 8th, 2017.

14 THE COURT: To what end?

15 MR. WACKENHEIM: It's our position that Mr. Passage  
16 felt intimidated during this meeting with the undercover agent  
17 and was less likely to speak in a manner consistent with what's  
18 been alleged in the indictment.

19 THE COURT: What would the length of his beard have to  
20 do with whether or not he was intimidated?

21 MR. WACKENHEIM: That may -- that particular question,  
22 I suppose I could withdraw. And if necessary, we can make the  
23 record here outside -- and then ask to seal it, but I think it's  
24 important for the -- -

25 THE COURT: I'm still struggling with where you're

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 going. Is it your position to try to elicit testimony from the  
2 witness that he had a more intimidating appearance at the time?

3 MR. WACKENHEIM: Yes, that his appearance was a factor  
4 in the nature of the conversation that occurred on December 8,  
5 2017.

6 THE COURT: I think you can ask him what his appearance  
7 was as -- if he had any sense that his appearance intimidated  
8 Mr. Passage, but --

9 MR. WACKENHEIM: Okay.

10 THE COURT: I think going into the description of his  
11 appearance is really treading into precisely what we were trying  
12 to avoid here in terms of compromising his safety, but I'm okay  
13 if you -- if there was a -- I just don't understand what the  
14 point is other than the conclusion that there was some notion  
15 that his appearance was intimidating to Mr. Passage.

16 MR. WACKENHEIM: Well, certainly, Your Honor, I can  
17 move on. I can move on, Your Honor.

18 THE COURT: Okay. Thank you.

19 MS. MAXFIELD-GREEN: And, Your Honor, just for the  
20 record, the Government makes a specific objection to any attempt  
21 to create a written -- a transcript, essentially, of a  
22 description of the witness's appearance. This is precisely what  
23 we're trying to avoid. The transcript is -- will become publicly  
24 available at some point and that's exactly what we're trying to  
25 avoid. And I think that if Mr. -- if what they're trying to

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 establish is that Mr. Passage was intimidated by him, then  
2 Mr. Passage needs to testify to that effect.

3 MR. WACKENHEIM: May I -- may I inquire did you appear  
4 similar to how you appear today, on December 8th, 2017?

5 THE COURT: What does an answer one way or the other,  
6 how does that advance your notion that he may have been  
7 intimidated? If he says yes, I mean, regardless of what he  
8 describes how he looked, I mean, you would still -- you're still  
9 ultimately going to have to establish -- I mean, he's obviously  
10 never going to say that, oh, I was way more intimidating when you  
11 ask him your question. But regardless of his answer, I still  
12 don't understand where that gets you because only -- and  
13 certainly, absolutely, Mr. Passage obviously doesn't have to say  
14 a word, but I don't know who can establish that he was  
15 intimidated unless Mr. Passage told somebody he was intimidated.

16 MR. WACKENHEIM: I'll move on, Your Honor.

17 THE COURT: Thank you.

18 (The following record was made in open court, in the  
19 presence of all parties, counsel, and in the presence and hearing  
20 of the jury.)

21 Q. (By Mr. Wackenheim) Agent Williams, you've testified that  
22 you have received both regular special agent training at the FBI?

23 A. Correct. Yes, sir, I attended the FBI academy.

24 Q. And the undercover training?

25 A. That's correct, yes, sir.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. How much of that training was specialized for a murder for  
2 hire investigation?

3 A. It's certainly something that is covered during the -- the  
4 certification process, but I couldn't quantify, you know, whether  
5 it's 10 percent or 20 percent. It's -- it falls within the --  
6 what I would call the general criminal training that we received  
7 during that certification course.

8 Q. If I understand correctly, you had no direct contact with  
9 Mr. Passage, correct?

10 A. Other than the meeting, you mean, sir?

11 Q. Yeah, in arranging the meeting of December 8th.

12 A. That's correct.

13 Q. Were you aware of the efforts that were being made to  
14 arrange that meeting?

15 A. I was aware a meeting was being arranged, but beyond that,  
16 no, sir.

17 Q. Well, did you have to consult your calendar for when you  
18 would be available for the meeting?

19 A. I'm sure that I did.

20 Q. Were you the only agent that was available to fill the role  
21 of the undercover?

22 A. There's a number of certified undercovers within the FBI.

23 Q. So the question is: In this investigation of Mr. Passage,  
24 to fill the role of an undercover, was it just you that was being  
25 consulted for your availability?

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 A. As far as I know, yes, sir.
- 2 Q. And, to your knowledge, it was the confidential human source  
3 that was responsible for arranging this meeting with Mr. Passage?
- 4 A. That's my understanding. My understanding was that he was  
5 coordinating the meeting, yes, sir.
- 6 Q. Now, at that December 8th, 2017, meeting, do you remember  
7 what you were wearing?
- 8 A. A shirt and jeans, a pair of boots.
- 9 Q. And we heard the audio and it was a substantially long  
10 audio. Is that fair to say?
- 11 A. Actually, in my experience, no, that's probably one of the  
12 shorter tapes I have made.
- 13 Q. So that's a pretty quick interaction?
- 14 A. Again, it's all relative, but yes.
- 15 Q. And were you -- well, where did the meeting take place?
- 16 A. Mr. Passage's business location in Wynnewood.
- 17 Q. And it sounded as if you and Mr. Garretson and Mr. Passage  
18 were moving about the zoo; is that fair?
- 19 A. I believe we -- we showed up in the front area where we were  
20 met by the defendant and then we went to a back office area.
- 21 Q. Can you describe that office area?
- 22 A. There were papers, I believe some computer equipment, desks,  
23 chairs, that type of thing, a skunk.
- 24 Q. Was it cluttered?
- 25 A. Yes, sir.

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 Q. Was it sort of confined?
- 2 A. Not particularly, no, sir.
- 3 Q. How many chairs were there?
- 4 A. I couldn't say.
- 5 Q. What was the arrangement of where you were seated versus
- 6 Mr. Garretson and Mr. Passage?
- 7 A. The three of us were seated in a triangular-shaped
- 8 configuration. I was maybe 4 feet from both of them,
- 9 approximately.
- 10 Q. Were you sitting at a table or a desk?
- 11 A. We -- either sitting or standing around a desk, yes, sir.
- 12 Q. When you walked through the park to get to the office, did
- 13 other park employees see you?
- 14 A. Yes, sir.
- 15 Q. Did you know if any members of the public saw you?
- 16 A. I don't know one way or the other, sir.
- 17 Q. Okay. And portions of the conversation, did those occur in
- 18 the presence of others, not just Mr. Garretson and Mr. Passage?
- 19 A. When you say "portions of the conversation," what are you
- 20 referring to, sir?
- 21 Q. The 47-minute long recorded transcript, did portions of that
- 22 conversation occur in the presence of others?
- 23 A. Yes.
- 24 Q. Do you remember how many other people?
- 25 A. I would say at least two for fairly brief periods of time.

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 Q. And it's been recorded, correct?
- 2 A. The meeting was recorded, yes, sir.
- 3 Q. And so was there anything outside of that recording that's
- 4 important for your role in this murder for hire investigation?
- 5 A. I'm not sure I understand your question, sir.
- 6 Q. Well, did you -- after this recording was finished, did you
- 7 go back into the trailer or to the office to speak to
- 8 Mr. Passage?
- 9 A. No, sir. No, sir.
- 10 Q. So anything of substance involving your communications with
- 11 Mr. Passage are on that recording?
- 12 A. That's fair, yes, sir.
- 13 Q. Showing you what's been admitted for demonstrative purposes
- 14 Government's Exhibit 63-A. And you have gone over this quite a
- 15 bit, but right here where it says "CI Mr. Garretson," is this
- 16 where he introduces you to Mr. Passage?
- 17 A. Yes, sir, it is.
- 18 Q. And so you exchange pleasantries at that moment?
- 19 A. Yes, sir.
- 20 Q. And so the conversation then turns to Vegas buddies. Did
- 21 you understand who that was?
- 22 A. Not particularly. My understanding was the defendant had a
- 23 business associate who was located in Las Vegas.
- 24 Q. Did you have any understanding of how Mr. Passage mentioned
- 25 trying to get his animals back? Did you know what that meant?

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 A. No, sir.
- 2 Q. Well, the conversation about those animals lasted for a few  
3 minutes, correct?
- 4 A. Yes, sir.
- 5 Q. And then do you remember who turned the topic to Ms. Baskin?
- 6 A. I -- so I believe Mr. -- Mr. Garretson makes reference to  
7 the fact that I have spent time in Florida, and then the  
8 defendant begins to tell me about his problems with Ms. Baskin.
- 9 Q. Well, CI, that's Mr. Garretson, looks like he's describing a  
10 child custody or some sort of domestic matter, correct?
- 11 A. That was my understanding, yes, sir.
- 12 Q. And then Mr. Maldonado shares his personal experience with  
13 people he knows; yes?
- 14 A. Yes, sir.
- 15 Q. And then right here where the CI says, "Geeze, but, yeah, I  
16 was just talk talk, I didn't -- I really haven't told Mark much,  
17 but I just said that he's" -- and is that the point in the  
18 conversation where your purpose is introduced or brought up?
- 19 A. That's the point of the conversation where we initially  
20 begin discussing the defendant's issues with Ms. Baskin, yes,  
21 sir.
- 22 Q. And that's Mr. Garretson bringing that up, correct?
- 23 A. He's telling him that I have spent time in Florida. Yes,  
24 that's where the conversation went thereafter.
- 25 Q. And then Mr. Maldonado spends a good deal of time talking

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 about his legal issues with Ms. Baskin?
- 2 A. Yes, sir.
- 3 Q. In fact, you probably learned more about Ms. Baskin then  
4 than you probably cared to?
- 5 A. That's fair.
- 6 Q. Now, throughout the recording we hear laughter.
- 7 A. Yes, sir.
- 8 Q. And it seems like everyone was participating in that  
9 laughter.
- 10 A. Yes, sir.
- 11 Q. Was Mr. Passage making jokes throughout this conversation?
- 12 A. Yes, sir.
- 13 Q. In fact, he's joking around about a serial killer in Tampa  
14 area. Do you remember that part of it?
- 15 A. Yes, sir.
- 16 Q. After that joke has run its course, here Mr. Garretson says,  
17 "Yeah, Mark's done some stuff for me and he's -- he's top notch,  
18 he don't fuck around." Do you remember that part?
- 19 A. I do.
- 20 Q. And it's not true that you have ever done anything for  
21 Mr. Garretson, correct?
- 22 A. Correct, I have never done anything for Mr. Garretson.
- 23 Q. So why is Mr. Garretson saying that?
- 24 A. To lend some credence to my bona fides, that I am somebody  
25 who is capable of or willing to commit a murder for hire.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. And turning the conversation back to that topic, correct?

2 A. No, I wouldn't agree with that, sir. I think the topic is  
3 still on that. They're talking about the serial killer, and in  
4 relation to the serial killer the issues with Ms. Baskin.

5 Q. And you say to him, "If it's not just talk, man, I'll do  
6 it." Do you remember that?

7 A. Yes, sir.

8 Q. So what more did you need if it -- when you're saying  
9 it's -- if it's not just talk, I'll do it?

10 A. I wanted him to -- to tell me about his level of commitment  
11 to doing this.

12 Q. Which could include purchasing burner phones, correct?

13 A. Sure, yes, sir.

14 Q. Acquiring a pistol, correct?

15 A. Yes, sir.

16 Q. And none of those things were done?

17 A. To my knowledge, no, sir.

18 Q. You tell Mr. Maldonado, "What do I need for sure -- what I  
19 would need for sure is enough to get me down there for a few days  
20 because I wanna -- I need to know what -- who she is." So are  
21 you asking Mr. Maldonado to provide you information on  
22 Ms. Baskin?

23 A. No, sir. We're talking about how much money it would take  
24 to commit this act and what I would require or what I would like  
25 up front in terms of a down payment, if you will. And so I'm

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 telling him what I would like is at least enough money to travel  
2 down to Florida to conduct surveillance.

3 Q. So you need some money up front so you can spend the time  
4 surveilling or -- or making him believe that's what you need to  
5 do?

6 A. Correct.

7 Q. But at some point did you ask him for information on where  
8 she lived?

9 A. I did.

10 Q. Did you get that information?

11 A. I don't specifically recall whether it was contained in the  
12 information that we provided -- the information he did provide  
13 me. I know he made statements along the lines of someone named  
14 Jeff could provide information related to Ms. Baskin's address.

15 Q. And, in fact, didn't either you and Mr. Garretson ask  
16 Mr. Passage to provide that information, or ask Jeff to provide  
17 that information?

18 A. I think Mr. Garretson did, yes, sir.

19 Q. To your knowledge, was that information ever provided?

20 A. I don't know one way or the other, sir.

21 Q. Conversation rambled a bit. Is that fair to say?

22 A. It took the course of a natural conversation, I think, but  
23 there were a number of topics discussed, yes.

24 Q. Correct. And the -- for example, politics gets discussed at  
25 some point?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. Briefly, yes, sir.

2 Q. And that Mr. Passage is about to get married is also  
3 discussed?

4 A. It was, yes, sir.

5 Q. And do you remember when he said he was going to get  
6 married?

7 A. March -- or I believe the ceremony was in March, but he was  
8 planning on getting married the following week, I believe.

9 Q. Referring back to the beginning part of the conversation,  
10 "The big one's in March," this is Mr. Passage, "I'm getting  
11 married Monday." Do you remember that?

12 A. Yes, sir.

13 Q. And this was Friday?

14 A. I believe so, yes, sir.

15 Q. So in a matter of three days he's getting married?

16 A. Yes, sir.

17 Q. When did he say he was going to try to get the money to you?

18 A. The following week.

19 Q. The Wednesday?

20 A. Yes, sir.

21 Q. And he's getting married on Monday.

22 So when Mr. Passage is done discussing the publicity of his  
23 marriage, do you remember -- well, do you remember him talking  
24 about his marriage being public?

25 A. I do.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. And then do you remember that it was Mr. Garretson who  
2 brought the conversation back to your role in all of this where  
3 he says, "But we just -- just let him know, you got to start  
4 sliding back to Florida pretty soon anyway, don't you?" And you  
5 say, "Yeah, yeah."

6 A. We moved back to that topic, yes, sir.

7 Q. I think you also were specifically asked about this moment  
8 right here when you asked Mr. Passage for "any information you  
9 got on her." And can you -- since we don't have the video, can  
10 you describe what happened at that point?

11 A. I can describe it to the best of my recollection. He walked  
12 over to a storage area, or maybe a desk drawer, and pulled out a  
13 number of documents and provided them to me, or set them down in  
14 front of me.

15 Q. How many documents?

16 A. My recollection is a significant stack, you know, inches of  
17 documents.

18 Q. A stack of folders; is that fair?

19 A. That's fair.

20 Q. So it was basically a sight gag dumping that stack of  
21 material on the desk; is that fair?

22 A. No, I wouldn't agree with that characterization, sir.

23 Q. Well, did he laugh at the moment that he put that  
24 information on the desk?

25 A. He did.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. Again, you ask for specific details. You ask, "Where's --  
2 where's the park?" And in response Mr. Maldonado continues to  
3 talk about his disagreements and investigation of Ms. Baskin. Do  
4 you see that?

5 A. Yep -- yes, sir. I believe at this point we're kind of  
6 going through the documents together.

7 Q. And he's just disparaging her to you?

8 A. Yes.

9 Q. And he goes through the long history of his dispute?

10 A. He -- he got into some of the historical background, yes,  
11 sir.

12 Q. Now, you testified about this statement about getting two  
13 burner phones.

14 A. Yes, sir.

15 Q. And what was the purpose of suggesting that to Mr. Passage?

16 A. To convincingly portray myself as somebody who has the  
17 knowledge of operational security, that would facilitate a  
18 successful murder for hire.

19 Q. Your bona fides?

20 A. Yes, sir.

21 Q. Well, isn't another reason why you wanted him to do that is  
22 that you are suggesting a concrete step which, if he had taken,  
23 would have shown that he truly had the intent to solicit you to  
24 commit the murder of Carole Baskin?

25 A. I would agree with you that that would be a concrete step,

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 yes, sir.

2 Q. Which wasn't done, correct?

3 A. I think in that exchange he's suggesting that I go to  
4 Walmart to secure them.

5 Q. Well, let's go to that.

6 In addition to the two cheap burner phones, you also  
7 describe you want to be out in public, right?

8 A. Uh-huh.

9 Q. Is that --

10 A. Yes, sir.

11 Q. And then Mr. Passage says, "Think you can go to Walmart?"  
12 Laugh. "Yeah, find a cheap -- you got a couple hours in  
13 Walmart." Is it fair to say that Mr. Passage's reference to  
14 Walmart was more about being in public as opposed to where you  
15 could get phones?

16 A. That's not -- that was not my understanding at the time, nor  
17 is it today.

18 Q. Do you recall the conversation turning to PETA and problems  
19 with the park?

20 A. Yes, sir.

21 Q. Do you recall the conversation discussing problems that  
22 other individuals are having with Ms. Baskin and PETA?

23 A. Yes, sir.

24 Q. Do you remember learning about Mr. Garretson's water  
25 Buffalo?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. Yes, sir.

2 Q. But again, isn't it Mr. Garretson bringing the conversation  
3 back with, "Yeah, just figure out when we wanna," and that brings  
4 the conversation back to what you were there for? And I can show  
5 the previous page if that helps.

6 A. No, that's fine. I recall. Yeah, that -- he says that and  
7 we start talking about the details again.

8 Q. Do you remember this conversation about selling a lemur that  
9 might be missing a hand or a finger?

10 A. I do.

11 Q. And then again it's Mr. Garretson bringing the conversation  
12 back to, "So, what do you think works, first of the week?" And  
13 you answer, "Probably towards the end of the week."

14 A. Sir, I -- I disagree with your characterization. There were  
15 times we were going off on tangents, but it was all part of one  
16 kind of ongoing conversation.

17 Q. Well, is it possible that those tangents was Mr. Passage  
18 changing the subject and avoiding talking about you and your role  
19 in his office on December 8th?

20 A. No, sir.

21 Q. I mean, he had forgotten your name later in the meeting,  
22 correct?

23 A. That's what he said, yes. Yes, sir.

24 Q. And that's when Dillon walks in?

25 A. Correct.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. He introduces you but has forgotten your name, right?

2 A. Correct.

3 Q. Do you remember the conversation where -- or the part of the  
4 conversation where Mr. Passage and Mr. Garretson and you are  
5 talking about individuals who have died of lung cancer?

6 A. Yes, sir.

7 Q. And Mr. Passage then mentions that he's soon to get married.  
8 Do you remember that part?

9 A. I do.

10 Q. And then again it's Mr. Garretson who directs the  
11 conversation back to your role in the office trailer on  
12 December 8th where you -- when he says, "All right, man. I'll  
13 text you next couple of days, but if I need to help you get those  
14 tigers, let me know."

15 A. Again, sir, my sense of things during that conversation, and  
16 again in reviewing the transcript, was that it was part of one  
17 kind of long, ongoing conversation.

18 Q. Well, the recording speaks for itself and this is just to  
19 help, but did you also mention getting a clean pistol?

20 A. Yes, sir.

21 Q. Okay. Before you mention the clean pistol, was it -- in  
22 your mind, as an agent of the FBI, was it in your mind that your  
23 investigation was complete, that your role, you have done what  
24 you need to do, you have gotten him to say the things you need  
25 him to say?

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 A. I wasn't the case agent, sir. I wouldn't make that  
2 judgment.
- 3 Q. So you're suggesting an additional concrete step which, if  
4 taken, would further the investigation?
- 5 A. It would have been an additional concrete step, yes, sir.
- 6 Q. Which was not taken, correct?
- 7 A. To the best of my knowledge, no, sir.
- 8 Q. So the additional steps that were suggested during that  
9 meeting; provide the money, correct?
- 10 A. Those were things that were brought up as things that would  
11 need to or could happen prior to me committing the act.
- 12 Q. And what was the dollar amount again?
- 13 A. 5,000.
- 14 Q. Not 10,000?
- 15 A. No. That was Mr. Passage's suggestion. My -- my figure was  
16 five.
- 17 Q. And then get two phones; that was another step suggested?
- 18 A. It was, yes.
- 19 Q. And get a pistol, correct?
- 20 A. Correct.
- 21 Q. And have maps sent, correct?
- 22 A. Information related to Ms. Baskin -- additional information  
23 related to Ms. Baskin, yes, sir.
- 24 Q. But none of that was done, correct, or at least to your  
25 knowledge?

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MARK WILLIAMS - Redirect by Ms. Maxfield-Green

1 A. To my knowledge, no, sir.

2 Q. Who would know if that was done?

3 A. I -- not me.

4 Q. The case agent?

5 A. Not me.

6 Q. Well, in your training and experience, who's responsible for  
7 knowing if those steps in the investigation have been completed?

8 A. Generally the case agent -- that would be something the  
9 case agent would know, sure.

10 MR. WACKENHEIM: May I have a moment, Your Honor?

11 THE COURT: You may.

12 MR. WACKENHEIM: Thank you, Agent.

13 THE COURT: Pass the witness, Mr. Wackenheim?

14 MR. WACKENHEIM: Yes, Your Honor.

15 THE COURT: Redirect?

16 MS. MAXFIELD-GREEN: Briefly, Your Honor.

17 **REDIRECT EXAMINATION**

18 **BY MS. MAXFIELD-GREEN:**

19 Q. Mr. Williams, Mr. Wackenheim asked you about the portion of  
20 the conversation in which Mr. Passage had brought out a stack of  
21 papers and set it in front of you. Do you recall that?

22 A. I do.

23 Q. And after that point in the conversation, you're looking at  
24 some papers with him, correct?

25 A. Yes, ma'am.

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MARK WILLIAMS - Redirect by Ms. Maxfield-Green

1 Q. And you say, "What's that? What's that?" And Mr. Maldonado  
2 says, "That's her address. That's the address of Big Cat.

3 That's where the park is now." And you say, "Okay. All right."

4 Does that refresh your recollection about what was happening  
5 at that moment?

6 A. Yes, ma'am. We're looking through the documents that he  
7 provided.

8 Q. So does -- is he specifically pointing out to you the  
9 address of Big Cat Rescue, Ms. Baskin's business location?

10 A. Yes, ma'am.

11 Q. All right. Later in the conversation you say, "That's" --  
12 let's see -- "That's the other thing I wanted to ask you about,  
13 anybody else know about this?" And Mr. Maldonado says, "Nope,  
14 nope," another nope. And then Mr. Garretson chimes in and says,  
15 "We had that other guy, but he was just a fucking flake." And  
16 you say, "Yeah, you told me about that." And Mr. Garretson says,  
17 "Alcohol, he had alcohol, everybody starts talking when  
18 they're" -- and Mr. Maldonado chimes in and says, "Pain pills  
19 too, bad pain pills." And he reiterates again, "Bad pain pills."  
20 Did you know what they were talking about?

21 A. Yes, ma'am. The -- the defendant had previously hired  
22 someone else to commit a murder for hire related to Ms. Baskin  
23 and that that person had been unsuccessful for the reasons  
24 they're stating.

25 MS. MAXFIELD-GREEN: No further questions, Your Honor.

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1 THE COURT: Anything further, Mr. Wackenheim?

2 MR. WACKENHEIM: No, Your Honor.

3 THE COURT: Thank you, Agent. You may step down.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Ladies and gentlemen of the jury, we are at  
6 our evening break. We will adjourn until tomorrow morning. Same  
7 time, we'll be ready to go at 9 o'clock.

8 Same admonition applies: Be very careful, guard yourself  
9 against seeing anything on the news or reading anything online or  
10 anything like that. You're not to discuss the case amongst  
11 yourselves or with anybody else, or let anybody discuss it with  
12 you. That being said, we will see you tomorrow morning.

13 Please remain seated while the jury leaves the courtroom.

14 (Jury exited.)

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and out of the presence and  
17 hearing of the jury.)

18 THE COURT: Ms. Green, I'm not -- I don't know that --  
19 I'm not going to ask the Government to make any announcement at  
20 this point in time, but do you anticipate any additional  
21 witnesses?

22 MS. MAXFIELD-GREEN: We do not, Your Honor.

23 THE COURT: Mr. Earley, it's my understanding, at least  
24 at this point in time, you plan to call at least one witness and  
25 they're tomorrow morning at 9:00?

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1 MR. EARLEY: Yes. And possibly another witness, yes.

2 THE COURT: Possibly another -- yeah, and I'm not  
3 asking you how many, I just -- for scheduling purposes, you  
4 intend to make some presentation at 9:00.

5 I'm trying to think of -- I expect that you want to make a  
6 record after the Government announces rest?

7 MR. EARLEY: Yes. And I would like to check to make  
8 sure that, you know how the Circuits are, that there's nothing  
9 waived, but we could perhaps just make a motion for a judgment of  
10 acquittal and have the Court state that you'll entertain argument  
11 after we recess. That might take care of --

12 THE COURT: That was going to be my suggestion rather  
13 than us get up, Government announce rest, and I put the jury back  
14 on ice while we do that. If I permit you to make that motion and  
15 we will reserve that -- I want to give you every opportunity to  
16 preserve any record you need to preserve, and I think the -- I  
17 think it permits me to consider that during the recess.

18 The -- one other thought came to mind. I think also in  
19 light of those announcements in terms of the timing, the other  
20 witness you're potentially calling will be Monday morning,  
21 correct, in terms of travel arrangements?

22 MR. EARLEY: Yes.

23 THE COURT: So in that case, I -- would you -- would  
24 the parties agree, I don't think there's any need for us to have  
25 jury instruction conference this evening. Perhaps we do that

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1 tomorrow?

2 MS. MAXFIELD-GREEN: That works for the Government,  
3 Your Honor.

4 THE COURT: Is that satisfactory, Mr. Earley?

5 MR. EARLEY: Yes. I think we'll have more time to do  
6 it then, yes.

7 THE COURT: Sure. Anything else from either party?

8 MS. MAXFIELD-GREEN: No, Your Honor.

9 MR. EARLEY: No, Your Honor.

10 THE COURT: Court will be in recess.

11 (Court adjourned.)

12 REPORTER'S CERTIFICATION

13 I, Emily Eakle, Federal Official Realtime Court  
14 Reporter, in and for the United States District Court for the  
15 Western District of Oklahoma, do hereby certify that pursuant to  
16 Section 753, Title 28, United States Code that the foregoing is a  
17 true and correct transcript of the stenographically reported  
18 proceedings held in the above-entitled matter and that the  
19 transcript page format is in conformance with the regulations of  
20 the Judicial Conference of the United States.

21 Dated this 6th day of March 2020.

22

23

24

25

/S/ Emily Eakle  
EMILY EAKLE, RMR, CRR  
Federal Official Court Reporter

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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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13  
14  
15  
16  
17  
18  
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23  
24  
25

INDEX

PAGE

Government rests.....	826
Rule 29(a) motion.....	826
EVIDENCE ON BEHALF OF THE DEFENSE	
Brittany Peet	
Direct Examination by Mr. Earley.....	828
Cross-Examination by Ms. Maxfield-Green.....	842
Redirect Examination by Mr. Earley.....	848
Recross Examination by Ms. Maxfield-Green.....	850
Reporter's certificate.....	873

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1 (The following record was made in open court on March 29,  
2 2019, in the presence of all parties, counsel, and out of the  
3 presence and hearing of the jury.)

4 THE COURT: Counsel, I think kind of what the plan is,  
5 my understanding, based on the representations that counsel's  
6 made to Marcia, it's my understanding the government, is it still  
7 your intent to rest this morning?

8 MS. MAXFIELD-GREEN: Yes, Your Honor.

9 THE COURT: I'll bring the jury back in, you can  
10 announce rest, we'll do a quick bench conference.

11 Mr. Earley, if you can make the appropriate motion -- you  
12 can make the appropriate motion and then the Court will reserve  
13 ruling pursuant to 29(b). And at that point in time is it still  
14 your intent to put on a witness this morning?

15 MR. EARLEY: Yes.

16 THE COURT: Then I'll -- we'll begin, and I believe you  
17 just have the one witness this morning?

18 MR. EARLEY: Yes, Your Honor.

19 THE COURT: My plan is to at least -- I'll let the jury  
20 know that we're going to have a short day due to some travel  
21 issues and then they'll be released until Monday morning. Where  
22 -- your out-of-state witness will be here Monday morning?

23 MR. EARLEY: Yes.

24 THE COURT: And are we expecting that we will probably  
25 instruct and close on Monday?

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1 MR. EARLEY: We could be close, yes.

2 THE COURT: Okay. Okay.

3 All right. That's how we'll proceed then. Go ahead.

4 (Jury entered.)

5 THE COURT: Good morning, ladies and gentlemen. Happy  
6 Friday. We are here on the verge of a weekend.

7 Parties present and ready to proceed?

8 MS. MAXFIELD-GREEN: Your Honor, the United States  
9 rests its case.

10 THE COURT: Thank you.

11 Mr. Earley?

12 MR. EARLEY: We're ready to proceed.

13 THE COURT: Parties approach.

14 (The following bench conference was held outside the hearing  
15 of the jury.)

16 THE COURT: Mr. Earley?

17 MR. EARLEY: Your Honor, pursuant to Rule 29(a) of the  
18 Federal Rules of Criminal Procedure, we movement for a judgment  
19 of acquittal on all counts. We believe the evidence is  
20 insufficient to support any of those counts to the jury for  
21 consideration.

22 In the interest of judicial economy, I would ask the Court  
23 to reserve ruling on that per 29(b). And I hope this is very  
24 clear for the Circuit, that I'm making the motion and then we're  
25 going to present a witness, so -- just for purposes of

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1 scheduling. But we'll get into argument later, is my  
2 understanding.

3 THE COURT: Okay. And the record will reflect that you  
4 have reserved. The Court will defer -- reserve ruling until --  
5 pursuant to 29(b) until at a later time. Likely, I would say,  
6 we'll do that after we have adjourned the jury, we actually do it  
7 today. But, yes, I think the record is clear you have, in fact,  
8 reserved.

9 Anything from the Government?

10 MS. MAXFIELD-GREEN: Yes, Your Honor. And the  
11 government accepts that the defense has made their Rule 29 motion  
12 and reserved their argument for later.

13 And just to advise the Court, the Government does intend to  
14 dismiss two counts, and we can address that at the time of the  
15 Rule 29 motion so that the defense doesn't have to address those  
16 counts in their motion.

17 THE COURT: Thank you.

18 (The following record was made in open court, in the  
19 presence of all parties, counsel, and in the presence and hearing  
20 of the jury.)

21 THE COURT: Mr. Earley, the Government having rested,  
22 does the defendant intend to present evidence?

23 MR. EARLEY: Yes, Your Honor.

24 THE COURT: Please proceed with defendant's first.

25 MR. EARLEY: We'll call Brittany Peet.

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BRITTANY PEET - Direct by Mr. Earley

1 (WITNESS SWORN.)

2 THE COURT: Ms. Peet, if you could, please, you can  
3 adjust that chair, pull that microphone, whichever, or a  
4 combination of the two, just to be sure --

5 THE WITNESS: I think this is okay.

6 THE COURT: Yes. Thank you.

7 BRITTANY PEET,

8 DIRECT EXAMINATION

9 BY MR. EARLEY:

10 Q. State your name, please.

11 A. Brittany Peet.

12 Q. And go ahead and spell it for the court reporter.

13 A. Sure. B-R-I-T-T-A-N-Y, P-E-E-T.

14 Q. And, Ms. Peet, how are you employed?

15 A. I am employed by the PETA Foundation.

16 Q. And PETA stands for what?

17 A. People for the Ethical Treatment of Animals.

18 Q. All right. Now, during your course -- or during the -- your  
19 work with PETA, have you met a man named Joseph  
20 Maldonado-Passage, or Joseph Passage?

21 A. Yes.

22 Q. And do you see him in the courtroom?

23 A. Yes.

24 Q. Could you point him out for us?

25 A. Yes, this gentleman. (Indicating.)

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BRITTANY PEET - Direct by Mr. Earley

1 Q. All right. Thank you.

2 Now, when did you meet Mr. Passage?

3 A. I first met Mr. Passage, I believe it was toward the end of  
4 2017.

5 Q. Okay. And under what circumstances?

6 A. PETA was involved in litigation against a big cat exhibitor  
7 in Florida, suing them for violating the Federal Endangered  
8 Species Act. In the course of that litigation, the defendant in  
9 that lawsuit had sent a number of tigers who were evidence in the  
10 case to Mr. Passage's facility in Oklahoma. And PETA made a  
11 motion for contempt alleging that Mr. Passage and his business  
12 partner, Mr. Lowe, engaged in a conspiracy with those defendants  
13 to violate the Endangered Species Act by moving those tigers to  
14 his facility.

15 PETA was able to arrange a settlement of that allegation  
16 against Mr. Passage and Mr. Lowe by allowing PETA to transfer  
17 those 19 tigers to a reputable sanctuary. And I met Mr. Passage  
18 on the day that those tigers were transferred.

19 Q. So PETA, and at least Mr. Passage, subsequently settled  
20 whatever issue was going on in the Florida case and allowed you  
21 to come take those animals and place them at another location,  
22 correct?

23 A. Correct.

24 Q. All right. And did you go to the location when those  
25 animals were taken from the park?

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BRITTANY PEET - Direct by Mr. Earley

1 A. I -- I was both in Oklahoma when the tigers were picked up,  
2 and then was also in -- at the facility where they were -- to  
3 which they were ultimately transferred to oversee their release.

4 Q. Okay. Now, during your time here at the park, did you have  
5 any discussions with Mr. Passage?

6 A. Yes.

7 Q. And what were you discussing?

8 A. Well, we -- we discussed a number of things, you know,  
9 including -- I mean, one of the reasons that I'm familiar with  
10 Mr. Passage in the first place is one of the main campaigns that  
11 my department focuses on is the activity of prematurely  
12 separating tigers and other big cats from their mothers for the  
13 purposes of public encounters, which PETA alleges violates the  
14 Endangered Species Act and is highly cruel. And Mr. Passage, his  
15 former business partner Mr. Lowe, and his facility were one of  
16 the primary breeders and suppliers of big cats for this industry  
17 and also engaged in that activity. And so that was one of the  
18 reasons that I was so familiar with Mr. Passage and the facility  
19 in the first place.

20 So we discussed those activities, we discussed the recent  
21 passing of Mr. Passage's husband. And Mr. Passage indicated that  
22 he potentially had evidence against others in the industry that  
23 he would like to share with PETA, and we discussed things of that  
24 nature.

25 Q. Okay. So you had a discussion about, perhaps, your views on

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BRITTANY PEET - Direct by Mr. Earley

1 what he did, and did he discuss his views on what he did at the  
2 park?

3 A. I can't remember if he discussed those that day or not.

4 Q. Okay. Well, that's fine.

5 Now, when you left the park after those animals were  
6 removed, did you engage in further conversations with  
7 Mr. Passage?

8 A. Yes.

9 Q. And initially you were a little hesitant to communicate with  
10 him directly; is that correct?

11 A. I'm not sure about that.

12 Q. Well, was there some issue, perhaps, of him being  
13 represented and -- and you having representation that you were  
14 kind of afraid to maybe talk directly to him? Do you remember  
15 that?

16 A. Well, I'm an attorney. And so as an attorney, I -- there  
17 are ethical obligations, and one of those ethical obligations is  
18 that if you're -- if you intend to communicate with a person who  
19 is represented, you need the consent of their attorney in order  
20 to do so.

21 Q. And you received consent and were able to communicate  
22 directly with Mr. Passage; is that correct?

23 A. That's correct.

24 Q. Thank you.

25 Now, were some of your discussions with Mr. Passage about

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BRITTANY PEET - Direct by Mr. Earley

1 his future with -- with the park there in Wynnewood?

2 A. Yes.

3 Q. And what were those discussions?

4 A. Joe -- Mr. Passage indicated that -- that he wanted to get  
5 out of the business.

6 Q. Do you remember about when those discussions were taking  
7 place?

8 A. I don't recall. It would have been shortly after that first  
9 meeting.

10 Q. Okay. And when was that, if you best -- to the best of your  
11 recollection?

12 A. It was, I believe, late 2017.

13 Q. Do you know which month it was?

14 A. I don't.

15 Q. All right. So as a result of your discussions with  
16 Mr. Passage, did you reach an agreement to remove additional  
17 animals from his park?

18 A. We removed an additional 20 tigers, three bears and two  
19 baboons, and ultimately helped him place two chimpanzees as well.

20 Q. Now, your frequency of communication with Mr. Passage during  
21 the late 2017 period, would you describe it as somewhat frequent,  
22 at least given your respective positions?

23 A. Not necessarily.

24 Q. I mean, did he discuss personal matters with you?

25 A. He did.

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BRITTANY PEET - Direct by Mr. Earley

1 Q. All right. And also other matters having to do with the  
2 taking of animals from the park, correct?

3 A. Yes.

4 Q. All right. Did you have any communication with him by  
5 telephone?

6 A. Yes.

7 Q. So there would be text messages and telephone conversations  
8 between the two of you, correct?

9 A. Yes.

10 Q. All right. As far as the removal of this second group of  
11 animals that you just testified about, do you remember what date  
12 that may have been?

13 A. I don't.

14 Q. Okay. So if you'll -- look at Defendant's Exhibit 22 in  
15 that book. Go ahead and just look through those for a moment.  
16 Do you recognize them?

17 A. Yes.

18 Q. Now, those are text messages, correct?

19 A. Yes.

20 Q. And do you see the date on them? I think it should be on  
21 the first page.

22 A. Yes.

23 Q. And what's that date?

24 A. Tuesday, November 14th, 2017.

25 Q. All right. So is that essentially a text exchange with

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BRITTANY PEET - Direct by Mr. Earley

1 respect to the agreement that would eventually take place to  
2 remove those animals that you talked about just a few minutes  
3 ago?

4 A. Yes, it relates to the removal of those -- of those animals.

5 Q. All right. And that occurred later, correct?

6 A. Correct.

7 Q. All right. So that was on November 14th. And you mentioned  
8 that there were, what, how many animals that were taken on  
9 December 4th, I believe is the date?

10 A. So the second transport of animals included -- on that date  
11 included 20 tigers, three bears and two baboons.

12 Q. And that was on December 4th, do you recall that, or at  
13 least right around that time frame?

14 A. I believe it was in -- it would have been in December  
15 of 2017.

16 Q. Okay. Now, he wasn't selling these animals to PETA, was he?

17 A. No.

18 Q. So what were you going to do with these animals?

19 A. So PETA -- PETA wasn't going to do anything with the  
20 animals. We contacted reputable sanctuaries that we're familiar  
21 with that were capable of both transporting and providing  
22 appropriate lifetime care of those animals, and representatives  
23 from those facilities came and took possession of those animals  
24 on that day and transported them to their facilities.

25 Q. Now, you came back for that, correct?

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BRITTANY PEET - Direct by Mr. Earley

1 A. Yes.

2 Q. All right. So you were -- you were actually there  
3 December 4th when these other entities came and took the animals,  
4 correct?

5 A. Yes. I was there on the day that the animals were  
6 transferred.

7 Q. Now, was it necessary for paperwork to be completed for the  
8 transfer of the animals?

9 A. Yes.

10 Q. And you asked for Mr. Passage's cooperation in doing that?

11 A. Yes.

12 Q. And did he cooperate with you and these other facilities in  
13 making sure that all the paperwork was done so that they could be  
14 removed?

15 A. Yes.

16 Q. Now, do you recall having any discussions with Mr. Passage  
17 about what he intended to do with certain cages at his animal  
18 park?

19 A. He indicated to me that some of the cages that the -- that  
20 some of the animals -- the 20 tigers, the three bears and the --  
21 I believe it was just the tigers, but he indicated that some of  
22 them would be taken down so that additional cats couldn't be put  
23 in them, or that walls would be taken out to make the cages  
24 slightly larger.

25 Q. Now, after those animals were removed December the 4th, were

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BRITTANY PEET - Direct by Mr. Earley

1 there plans for future cooperation by Mr. Passage that would be  
2 beneficial to your interests?

3 A. I wouldn't call them plans, but there were discussions.

4 Q. And what were those discussions?

5 A. We discussed the possibility of the facility closing down  
6 and all of the animals being transferred to -- to reputable  
7 facilities, the facility being closed down permanently.

8 Q. All right. Did those plans or discussions or thoughts for  
9 what may happen in the future, did they include communications  
10 with Carole Baskin?

11 A. Yes.

12 Q. And what were -- what were those communications supposed to  
13 accomplish, if anything?

14 A. Well, Joe indicated on numerous occasions that there was no  
15 way that he could get out of the business without -- unless the  
16 million-dollar judgment that Big Cat Rescue had went away.

17 Q. Now, as far as when these discussions began with respect to  
18 perhaps closing the park and him moving on, do you remember the  
19 date of those discussions?

20 A. No.

21 Q. If you would, look at Defendant's Exhibit 29.

22 A. Okay.

23 Q. And looking at the date of that exchange, does that refresh  
24 your recollection on when those discussions started at least?

25 A. The date on Defendant's Exhibit 29, above the first text

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BRITTANY PEET - Direct by Mr. Earley

1 message that's listed there, is Tuesday, December 5th, 2017.

2 Q. Now, in addition to potential discussions of him leaving the  
3 park and including Carole Baskin in that, was there also  
4 discussions to perhaps have an additional number of tigers  
5 removed from the park?

6 A. I don't recall.

7 Q. If you would, look at Defendant's Exhibit 31.

8 A. Okay.

9 Q. And was there some discussion about additional animals being  
10 removed from the park?

11 A. Yes, it appears that there was.

12 Q. What day was that?

13 A. The date above the first text message on Defendant's  
14 Exhibit 31 is Friday, December 15th, 2017.

15 Q. Now, did you, in fact, try to come up with an agreement that  
16 included Carole Baskin with respect to taking care of  
17 Mr. Passage's legal issues and him getting out of the business?

18 A. I don't believe the agreement actually included Carole  
19 Baskin. I don't recall. But there was a draft agreement that  
20 was put together.

21 Q. All right. And did you communicate with Mr. Passage about  
22 that?

23 A. Yes.

24 Q. Do you remember when?

25 A. No.

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BRITTANY PEET - Direct by Mr. Earley

- 1 Q. So if you would, look at Defendant's Exhibit 33.
- 2 A. Okay.
- 3 Q. And is that a communication about potential agreement?
- 4 A. Yes.
- 5 Q. And what date is on that?
- 6 A. January 16th, 2018.
- 7 Q. If you would, look at Defendant's Exhibit 34.
- 8 A. Okay.
- 9 Q. And does that assist you in recalling when you actually sent  
10 a draft agreement?
- 11 A. It does.
- 12 Q. And what date was that?
- 13 A. January 24th, 2018.
- 14 Q. So on that day something had been written up, correct, some  
15 agreement?
- 16 A. It had been -- it was written up prior to -- it was -- yes.
- 17 Q. Okay. But you sent it to Mr. Passage for him to review,  
18 correct?
- 19 A. I don't see that from these text messages. These text  
20 messages indicate that I -- I would like to send the agreement  
21 later that day. So it -- yeah.
- 22 Q. Any reason to think you didn't send it?
- 23 A. No.
- 24 Q. Okay. But you also sent it to Mr. Lowe, correct?
- 25 A. Correct.

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BRITTANY PEET - Direct by Mr. Earley

1 Q. Now, why was Mr. Lowe included in this?

2 A. So in my discussions with Joe about him potentially leaving  
3 the business, there were two -- two things that potentially  
4 prevented him from doing so, according to him. One of those was  
5 the judgment from Big Cat Rescue and the other was the fact  
6 that -- that Jeff Lowe owned the property and owned the zoo, so  
7 Joe couldn't unilaterally close the business.

8 Q. Now, was an agreement ever reached?

9 A. No.

10 Q. And do you know why?

11 A. Yes. After I sent the agreement to Mr. Passage and  
12 Mr. Lowe, I received correspondence back from both of them  
13 indicating that because the agreement didn't include substantial  
14 payouts to them that they would not be -- that they were not  
15 willing to move forward with the agreement.

16 Q. Now, is that what both parties said or was that just what  
17 one party said?

18 A. That was what both parties said.

19 MR. EARLEY: All right. Your Honor, may I approach?

20 THE COURT: You may.

21 Q. (By Mr. Earley) Now, is that an email exchange, or a text  
22 exchange, or at least some form of communication between you,  
23 Mr. Passage and Mr. Lowe?

24 A. It's an email exchange.

25 Q. All right. And in -- based upon your review of that email,

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BRITTANY PEET - Direct by Mr. Earley

1 was it your understanding that Mr. Passage --

2 MS. MAXFIELD-GREEN: Your Honor, may I interject?

3 THE COURT: Hold on. Let him finish his question.

4 MS. MAXFIELD-GREEN: Certainly.

5 Q. (By Mr. Earley) Based upon your understanding of that email  
6 exchange, did it appear to you that Mr. Passage was not sure  
7 about entering into the agreement?

8 THE COURT: Hold on just a second, Ms. Peet, before you  
9 answer.

10 MS. MAXFIELD-GREEN: I'm sorry. I didn't hear an  
11 exhibit number or anything and I'm unsure what --

12 MR. EARLEY: I'm just using it to refresh her  
13 recollection.

14 THE COURT: Well, did --

15 MS. MAXFIELD-GREEN: We have not been provided with  
16 anything.

17 MR. EARLEY: I just got that, Your Honor, but I'll let  
18 them look at it.

19 THE COURT: If you could, please, let counsel for the  
20 government review it before you -- and, Mr. Earley, if there's  
21 anything additional that you're going to show the witness, I  
22 would ask that you show the government counsel first.

23 MR. EARLEY: I believe that was the only thing that  
24 they have not had in their discovery, Your Honor.

25 THE COURT: Counsel, I'll give you a minute to review.

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BRITTANY PEET - Direct by Mr. Earley

1 MS. MAXFIELD-GREEN: Thank you, Your Honor.

2 Your Honor, this is going to take a moment. This is an  
3 extensive, single-spaced email of about three and a half pages.

4 MR. EARLEY: Your Honor, I'll just drop the line of  
5 questioning. It's not that important.

6 THE COURT: Okay. Thank you, Counsel.

7 MR. EARLEY: Sure.

8 Q. (By Mr. Earley) There was no -- no agreement reached,  
9 correct?

10 A. Correct.

11 Q. All right. And did you have additional communications with  
12 Mr. Passage in 2018?

13 A. Yes.

14 Q. And do you remember approximately when those were?

15 A. No.

16 Q. But what was the -- the nature of those discussions?

17 A. I don't recall.

18 Q. Don't recall?

19 MR. EARLEY: May I approach the witness?

20 THE COURT: You may.

21 Q. (By Mr. Earley) Okay. And with respect to any additional  
22 communications with Mr. Passage and the park and animals, does  
23 that refresh your recollection as to the date of those  
24 discussions, generally?

25 A. Yes, generally.

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BRITTANY PEET - Cross by Ms. Maxfield-Green

1 Q. All right. And what date does that indicate?

2 A. Tuesday -- Tuesday, June 12th, 2018.

3 Q. So somewhere in that time frame you had had discussions  
4 about Mr. Passage and his future at the park and animals,  
5 correct?

6 A. Yes.

7 MR. EARLEY: No further questions.

8 THE COURT: Cross-examination?

9 **CROSS-EXAMINATION**

10 **BY MS. MAXFIELD-GREEN:**

11 Q. Good morning, Ms. Peet.

12 A. Good morning.

13 Q. Okay. You testified on direct that at some point in --  
14 let's see, it would have been late 2017, December of 2017 that  
15 PETA assisted in removing animals from the zoo, correct?

16 A. So initially -- we initially removed animals from the zoo in  
17 November of 2017, thereabouts, and then additional animals in  
18 December.

19 Q. Okay. And the animals that you removed in November, were  
20 those supposed to be the same animals that came from Florida,  
21 from Dade City Wild Things?

22 A. Yes.

23 Q. And that would -- if the exact same animals that came from  
24 Dade City Wild Things were not provided to PETA at that time,  
25 would that have been cooperation with the agreement you had with

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BRITTANY PEET - Cross by Ms. Maxfield-Green

1 Mr. Passage?

2 A. No.

3 Q. Now, the animals that left in December -- the animals that  
4 left in December, did he -- did Mr. Passage release any cubs or  
5 were they adults?

6 A. They were -- there were juveniles and adults. There were no  
7 cubs.

8 Q. Do you recall the -- the gender breakdown of those animals?  
9 Were they males, females, or what proportion?

10 A. I don't recall.

11 Q. Do you recall the colors of those animals? Were they all  
12 orange or -- anything about the colors of the animals?

13 A. Most of them -- most of them were orange. I can't recall if  
14 there were any whites or not.

15 Q. Based on that you said there were some juvenile animals,  
16 were there any animals that released to you that would have still  
17 been eligible for public handling?

18 A. No.

19 Q. Do you recall, those animals that were released to you, were  
20 they spayed or neutered, to your recollection?

21 A. To my recollection, they were not.

22 Q. Did he release any lions to you?

23 A. No.

24 Q. How about any hybrids; ligers, liligers?

25 A. I'm not sure.

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BRITTANY PEET - Cross by Ms. Maxfield-Green

1 Q. Now, I believe you testified on direct, and I'm just trying  
2 to clarify what I heard, the agreement -- or the draft proposal  
3 that you were circulating in January of 2018, did you testify  
4 that that agreement did not include the Baskins?

5 A. That's correct. The Baskins were not parties to that  
6 agreement -- or wouldn't have been parties to that draft  
7 agreement. It was -- it was conditioned on -- the agreement  
8 would have been conditioned on the judgment being settled between  
9 Mr. Passage and Big Cat Rescue.

10 Q. And there was never any settlement between Mr. Passage and  
11 Big Cat Rescue; is that correct?

12 A. Correct.

13 Q. So the draft proposal that you circulated also never  
14 approached an agreement, correct?

15 A. Correct.

16 Q. And Mr. Earley asked you about emails between you and  
17 Mr. Passage on January 24th of 2018, and I think I have got the  
18 only copy of that. And I'm --

19 MS. MAXFIELD-GREEN: Can I approach so that she can  
20 review it again?

21 THE COURT: You may.

22 Q. (By Ms. Maxfield-Green) And so you recall the email  
23 exchange between you and Mr. Passage on January 24th, 2018?

24 A. Yes.

25 MS. MAXFIELD-GREEN: Government moves to admit

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BRITTANY PEET - Cross by Ms. Maxfield-Green

1 Government's Exhibit 160.

2 THE COURT: Is that the document Mr. Earley had  
3 earlier?

4 MS. MAXFIELD-GREEN: It is, Your Honor, just the -- a  
5 single email.

6 THE COURT: Mr. Earley, do you have any objection?

7 MR. EARLEY: Well, in part I do. There is an email  
8 from Mr. Passage at the end --

9 THE COURT: Parties approach.

10 (The following bench conference was held outside the hearing  
11 of the jury.)

12 MS. MAXFIELD-GREEN: This one.

13 MR. EARLEY: Okay. That wasn't clear to me.

14 MS. MAXFIELD-GREEN: Yeah, I just want this one. It's  
15 between her and Mr. Passage. It's a party admission that we're  
16 offering against him. The rest we don't intend to introduce,  
17 just the --

18 THE COURT: So this is an entire exchange, and the --  
19 government, you only want to introduce this portion or this page?

20 MS. MAXFIELD-GREEN: No, that portion below the line,  
21 and then the remaining lines of the email.

22 THE COURT: So everything from there down?

23 MS. MAXFIELD-GREEN: Yeah.

24 THE COURT: Mr. Earley, any objection?

25 MS. MAXFIELD-GREEN: Your Honor, I would just like to

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BRITTANY PEET - Cross by Ms. Maxfield-Green

1 put on the record that the government made formal requests under  
2 Rule 16 for reciprocal discovery and this is the first time we  
3 have ever seen this document.

4 MR. EARLEY: I don't have any objection to this portion  
5 as long as --

6 THE COURT: When you say "this portion," you mean all  
7 the way through to the second page?

8 MS. MAXFIELD-GREEN: I will complete the email.

9 MR. EARLEY: Yeah, just that email exchange, I have no  
10 objection.

11 MR. WACKENHEIM: Do you want to get a clean version  
12 that is not written on? We can manufacture a clean version.

13 THE COURT: Okay. Government's Exhibit 160 will be  
14 admitted.

15 MS. MAXFIELD-GREEN: Thank you. Your Honor.

16 (The following record was made in open court, in the  
17 presence of all parties, counsel, and in the presence and hearing  
18 of the jury.)

19 Q. (By Ms. Maxfield-Green) Okay. So this is an email exchange  
20 between Mr. Passage, who goes by Joe Exotic, to you on Wednesday,  
21 January 24th, 2018, correct?

22 A. Yes.

23 Q. And does it reflect that he had reviewed the draft  
24 contingent agreement that you had provided to him?

25 A. Yes.

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BRITTANY PEET - Cross by Ms. Maxfield-Green

1 Q. And he says to you, "Brittany, unless I'm blind or stupid,  
2 this does not get rid of the judgment."

3 What is he talking about, based on the context of your  
4 conversations with him?

5 A. The judgment against him from Big Cat Rescue.

6 Q. And he says, "It does not get rid of the judgment, nor help  
7 in any way to pay off our legal bills and to make any money to  
8 move on to a new career."

9 Is that the substantial legal -- the substantial monetary  
10 payments you were referring to on direct?

11 A. Yes.

12 Q. Then he goes on to say, "You-all just gave 60K for two bears  
13 and some equipment and you want us never to have animals."

14 So those animals that you helped remove from the park, PETA  
15 paid for those animals?

16 A. No.

17 Q. What does this refer to?

18 A. That refers to a separate agreement with an entirely  
19 different facility.

20 Q. Oh, he's referring to another transaction that PETA had?

21 A. Correct.

22 Q. Did PETA give any consideration for the animals that were  
23 removed from his park?

24 A. From Mr. Passage's park?

25 Q. Right.

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BRITTANY PEET - Redirect by Mr. Earley

1 A. No.

2 Q. Okay. He goes on to say, "And you want us never to have  
3 animals, show our faces," et cetera. And goes on to say, "Allow  
4 you to take cages down. Maybe I'm reading this wrong, but what  
5 really does this do for us that working to pay lawyers don't do  
6 now?"

7 So what did you understand Mr. Passage's reaction to your  
8 draft proposal was?

9 A. That he was rejecting it unless we could provide a  
10 significant financial payout.

11 Q. To your knowledge, Ms. Peet, after these discussions in  
12 January, did Mr. Passage's zoo continue to offer cub petting?

13 A. Yes.

14 Q. And did he continue to breed animals after this?

15 A. To my knowledge, yes.

16 MS. MAXFIELD-GREEN: That's all for the Government,  
17 Your Honor.

18 THE COURT: Redirect?

19 **REDIRECT EXAMINATION**

20 **BY MR. EARLEY:**

21 Q. The proposed agreement was essentially for Mr. Passage to  
22 give up his business, correct?

23 A. Correct.

24 Q. All the animals would be removed, correct?

25 A. Correct.

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BRITTANY PEET - Redirect by Mr. Earley

1 Q. So his entire livelihood that he had had for two or three  
2 decades was going to be gone as a result of entering into this  
3 particular agreement, correct?

4 A. Sorry. And I should -- sorry. I need to dial back my  
5 previous testimony. At that time it was no longer his business.  
6 It was Jeff Lowe's business.

7 Q. Sure. But to get completely out of the business, correct?

8 A. That's correct. Joe -- Mr. Passage indicated to me that he  
9 wanted to leave the country and be a bartender in Belize and no  
10 longer wanted to be part of the business.

11 Q. Didn't want to have any part of that animal business as it  
12 was generically referred to, correct?

13 A. Correct.

14 Q. And so his request for compensation was to do that,  
15 compensate him for giving up his livelihood, correct?

16 A. I'm -- I'm not -- all I know is what was in the email.

17 Q. All right. But he was to never be in this line of business  
18 again, right?

19 A. Correct, no longer in the business of exhibiting, owning,  
20 possessing wild or exotic animals again.

21 Q. Well, and had he entered into that agreement, would that  
22 have been beneficial, in your view, to your organization?

23 A. Yes.

24 MR. EARLEY: Nothing further.

25 THE COURT: Anything further?

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BRITTANY PEET - Recross by Ms. Maxfield-Green

1 RECROSS EXAMINATION

2 BY MS. MAXFIELD-GREEN:

3 Q. I just want to clarify one more time, Ms. Peet, that  
4 agreement was never signed, correct?

5 A. Correct.

6 MS. MAXFIELD-GREEN: That's all, Your Honor.

7 THE COURT: Thank you, Ms. Peet. You may step down.

8 Ladies and gentlemen of the jury, as -- in spite of the  
9 best-laid plans, sometimes these things happen. We're going to  
10 have a really short day today. We have travel issues with a  
11 witness, through no fault of the lawyers, and it will be Monday  
12 morning before that witness is able to be here.

13 The good news is is that from the original estimate of the  
14 trial taking two weeks or more, I do anticipate that this case --  
15 that we will instruct and close and it will be submitted for your  
16 deliberation very early next week. It could be as early as  
17 Monday or Tuesday. We'll see as we go. But in any event, the  
18 good news for you is that you get out of here early on Friday.

19 It was -- it was important for you to be here this morning,  
20 again with the, you know, accommodating some witnesses, but -- so  
21 my apologies that we weren't able to work through the day. I can  
22 assure you after you have adjourned the parties and the lawyers  
23 and I will continue to work. We'll actually take care of some  
24 legal matters that have to be addressed outside of your presence.  
25 So that should also prevent any extended recesses for -- or

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1 delays while we take care of some of those necessary things.

2 That being said, you will be adjourned now for the weekend.  
3 Again, I remind you of the admonition about discussing the case  
4 with each other or anyone else. Don't let anybody discuss the  
5 case with you. Be very wary of outside information. Don't watch  
6 any news about it, read any news, anything like that, social  
7 media. It's very important. We have come a long way, we don't  
8 want to have the wheels fall off now.

9 So anyway, enjoy your weekend. We will see you back first  
10 thing Monday morning.

11 Please remain seated while the jury exits the courtroom.

12 (Jury exited.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and out of the presence and  
15 hearing of the jury.)

16 THE COURT: The record will reflect the jury has left  
17 the courtroom.

18 As we move forward, Mr. Earley, why wasn't the Government's  
19 Exhibit 160 provided earlier?

20 MR. EARLEY: Well, to be perfectly honest, Your Honor,  
21 I thought it was from the discovery, but I was wrong. And  
22 that's -- there's just bazillions of pages of this stuff, so I  
23 apologize.

24 THE COURT: Understand.

25 MS. MAXFIELD-GREEN: Your Honor, I would also just like

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1 to point out, we were provided by the defense, in their exhibits,  
2 text messages between Mr. Passage and Ms. Peet, but we are --  
3 were provided cherry-picked conversations that clearly continued  
4 on, and we weren't even given the complete version of that. And,  
5 again, we made a formal request under Rule 16 for reciprocal  
6 discovery. The document that was used by the defense just now  
7 had no Bates label at the bottom. It clearly did not come from  
8 us. All of our discovery has been Bates labeled. And we'd just  
9 like to put that on the record, that we did request that.

10 THE COURT: Mr. Earley?

11 MR. EARLEY: And I did not attempt to introduce as  
12 evidence those text exchanges. I intended to use those merely to  
13 refresh the witness's recollection, if that was necessary, and  
14 that was the only purpose for them. They were not substantively  
15 referred to in the testimony, just for dates.

16 THE COURT: Well, I do -- I think it's in chamber's  
17 rules, but if not, it will be. I do ask that if there is  
18 anything that either party intends to show a witness, I want to  
19 be sure that the other side has the opportunity to review it,  
20 whether they have a copy or -- be presented with the opportunity  
21 to review it prior to the witness seeing it and listening to any  
22 testimony about it, or even for refreshing recollection, and I  
23 would ask that both parties please do that.

24 MR. EARLEY: And I would just point out, those have  
25 been in our exhibit book since it was turned over to the

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1 government before trial started.

2 THE COURT: But not 160, correct?

3 MR. EARLEY: That is correct, that --

4 THE COURT: That series?

5 MR. EARLEY: Yes.

6 THE COURT: Ms. Green, anything else?

7 MS. MAXFIELD-GREEN: And, Your Honor, just for the  
8 record, I would like to point out that the purpose of reciprocal  
9 discovery is not just to advise the government of what's going to  
10 actually be introduced as an exhibit at trial. It's -- at any  
11 rate, we would make a formal request on the record now under Rule  
12 16 for reciprocal discovery for any remaining witnesses that the  
13 defense intends to put on, that they provide us with any  
14 discovery to which we're entitled under Rule 16 prior to Monday.

15 THE COURT: Mr. Earley, do you -- is there any such  
16 information?

17 MR. EARLEY: No. Everything else is in that book.

18 THE COURT: Okay. Thank you.

19 Mr. Earley, do you want to proceed at this point with your  
20 Rule 29 argument?

21 Ms. Green, go ahead.

22 MS. MAXFIELD-GREEN: I'm sorry, Your Honor. I hate to  
23 interrupt you.

24 THE COURT: That's fine.

25 MS. MAXFIELD-GREEN: I just want to -- before

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1 Mr. Earley proceeds with his Rule 29, I think this will  
2 streamline it a tiny bit. We would announce that the government  
3 is dismissing Count 13 and 14 of the indictment.

4 THE COURT: I have the superseding in front of me,  
5 Ms. Green.

6 MS. MAXFIELD-GREEN: Yes. Count 13 is a Lacey Act  
7 count that relates to the delivery of a lion to Monterey Zoo, and  
8 Count 14 -- and it charges the falsification of a delivery form;  
9 and Count 14 relates to the same delivery to the Monterey Zoo and  
10 counts -- and describes that falsification of a CVI, or  
11 certificate of veterinary inspection, and we are dismissing those  
12 two counts at this time.

13 THE COURT: Okay. Any response in that regard,  
14 Mr. Earley?

15 MR. EARLEY: No, Your Honor.

16 THE COURT: You can proceed with your Rule 29 motion  
17 with respect to the remaining counts. We'll cover the -- we'll  
18 have to make some amendment in the jury instructions, but we'll  
19 take care of that at the jury instruction conference.

20 MR. EARLEY: Your Honor, with respect to Counts 1 and  
21 2, I'll address those first. And the Court is aware of the  
22 essential elements of those offenses, obviously. I don't think  
23 there's a lot of disagreement between the two parties on what  
24 those elements are. But the requirements for both of those  
25 counts are that the defendant traveled or caused someone to

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1 travel in interstate or foreign commerce, or use a facility in  
2 interstate commerce. And I think Count 1, as I understand it  
3 from the government's theory of defense -- or theory of the  
4 offense, is that Mr. Passage caused Mr. Glover to travel in  
5 interstate commerce when he left Oklahoma to South Carolina. The  
6 second element of the offense with respect to Count 1 would be  
7 that the travel was done with the intent that a murder be  
8 committed; and, third, that the murder was intended to be as  
9 consideration for the receipt of something of value.

10 My argument is that the government's evidence has failed on  
11 each of those elements for Count 1. While Mr. Glover may have  
12 traveled in interstate commerce, there certainly was insufficient  
13 evidence to suggest that his travel was with the intent to the --  
14 that a murder be committed.

15 I think that the evidence is lacking on showing that at that  
16 particular time, on November the 25th, which I believe is the  
17 date of travel, that there's insufficient evidence to show  
18 Mr. Passage had the intent that a murder be committed at that  
19 time. And I would submit that the evidence is insufficient and  
20 should not -- this count should not be submitted to the jury.

21 With respect to Count 2, it's more along the lines of, I  
22 guess, the use of a facility -- or interstate facility. That  
23 would be -- as I understand it from the evidence and from the  
24 discovery material, that that use would be of telephones or cell  
25 phone communications.

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1 I made a motion on this earlier in the case, a motion to  
2 dismiss about, you know, what's appropriate for purposes of this  
3 prosecution, and I'm not going to bring all that up again. I  
4 would just say that based on the evidence that was introduced  
5 that it fails to show that an interstate facility was used at the  
6 same time that there was an intent that a murder be committed.

7 I think on Count 2, I don't even think there was an  
8 agreement between the parties that anything happen, and certainly  
9 there wasn't sufficient evidence to show that this use of the  
10 interstate facility was done with the intent that a murder be  
11 committed.

12 So I think in Count 2, it lacks on that element, but also on  
13 the third element in that it was intended to be committed as  
14 consideration for the receipt of anything of value. And I think  
15 from what we heard yesterday from the undercover agent, there  
16 were some discussions between the undercover agent and  
17 Mr. Passage, but there was no agreement whatsoever entered into.  
18 There were preliminary discussions, I think at best. And I  
19 believe, as the agent testified, the things that would have  
20 essentially solidified the agreement that were discussed as far  
21 as the money itself, getting a -- a firearm, and perhaps even  
22 getting burner phones, none of those things that you might  
23 consider preparatory to the actual agreement itself were ever  
24 undertaken. So I think the evidence on Count 2 is insufficient  
25 as a matter of law and the Court should dismiss those violations.

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1 With respect to Counts 3 through 7, those are the taking of  
2 endangered species, of wildlife, by shooting and killing them.  
3 My argument essentially is that the facts of this case do not fit  
4 the violation.

5 In the definitions that are provided with respect to this  
6 offense in the regulations, the term "take" is specifically  
7 defined as meaning to harass, harm, pursue, hunt, shoot, wound,  
8 kill, capture or collect. I think if you look at the definition  
9 of a take, these examples of take that are listed in the  
10 regulations and statute indicate that these particular violations  
11 are meant for animals that are in the wild. They have nothing to  
12 do with captive animals. And I would submit that as a matter of  
13 law the facts of this case do not fit within this particular  
14 statute.

15 Count 8 is the offer to sell. That was, I think,  
16 Ms. Cervantes. And the government contends that this preliminary  
17 discussion through text exchange with Ms. Cervantes was an offer  
18 to sell. I submit that that evidence that was presented from her  
19 is not sufficient to show that these animals were actually  
20 offered for sale in interstate commerce.

21 With respect to Counts 9 through 11, these are the actual  
22 sales. I would just state that with respect to 9 and 11, I  
23 believe that the government's theory is that the money that was  
24 exchanged for purposes of the animals being moved from one  
25 location to another was actually provided as compensation for the

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1 animal itself.

2 The individuals who received these animals and who provided  
3 the money to the transporter, if you will, were not called as  
4 witnesses in this case and their intent on what the money was  
5 being provided for, I think, would be critical for a  
6 determination whether there was actually a sale. So I would  
7 submit that without that evidence the facts underlying Counts 9  
8 through 11 are insufficient as a matter of law and those should  
9 as well be dismissed.

10 Counts 12 through -- I'll just call it 12 through 21, but  
11 Counts 12 through 20, as listed in the indictment, minus 13 and  
12 14 now, these are based upon the alleged false identification or  
13 false labeling that we saw with respect to these transfer forms.  
14 I would submit that the evidence shows that, first of all, with  
15 respect to the disposition forms themselves, there's really no  
16 requirement under the rules or regulations that there be  
17 specified why they're being exchanged.

18 We went through this with Dr. Boone on the stand. The  
19 regulations that apply to this particular scenario do not require  
20 an individual to say whether these were being sold, exchanged or  
21 donated at all. So the fact that there may have been a notation  
22 on one of these forms, or all of these forms, that may have said  
23 "donated" is really irrelevant. It is not a requirement under  
24 the regulation that that be noted on those forms. And as a  
25 result it's -- it's hard to say that there was false information

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1 that was passed on. So I think they all fail as a matter of law  
2 on that particular basis.

3 In addition, it seems to me that if you are charging someone  
4 for submitting a false record or false identification under this  
5 particular statute -- and most of the cases that deal with this  
6 concern where someone falsely labels or misidentifies a product,  
7 involving you know, fish or perhaps even wildlife of some sort,  
8 but it's falsely labeled in -- with respect to what it actually  
9 is.

10 These forms all contain what was supposedly being  
11 transferred from one person to another. There was nothing false  
12 about the -- the person who was transferring the item. There was  
13 nothing false about the receiver of the item. There was nothing  
14 false about the identification of the actual animals that were  
15 the subject of these particular forms, the number of animals that  
16 were the subject of these forms; or with respect to their  
17 condition, if it was noted, nothing false about that, at least no  
18 evidence to support that. And there's just nothing on these  
19 forms that you could say represents a false labeling under these  
20 circumstances.

21 In addition, it is our contention that it -- whatever false  
22 information may be on a form, it must be material. And with  
23 respect to materiality, I would go back again to Dr. Boone's  
24 testimony about the regulations that govern this particular  
25 situation, and none of them require there be a specification of

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1 whether this was a sale, an exchange or a donation, or any other  
2 type of transfer. So I think as a matter of law those particular  
3 counts fail as well.

4 The CVIs, I think those make up Counts -- well, just Count  
5 18 now, I believe. And I would just submit that Dr. Green's  
6 testimony was that, number one, she wasn't sure who wrote all  
7 that on that form, whether it was provided by Mr. Passage or  
8 someone else at the -- at the park. We just don't know where  
9 that information came from. So to say that Mr. Passage is guilty  
10 of providing false information without more is simply  
11 insufficient.

12 But I would submit, in addition, Dr. Green's testimony was  
13 that, you know, as far as she was concerned, she didn't really  
14 even need to fill that out on that form. It really wasn't a  
15 requirement. The requirements for that form are for her to  
16 identify the parties involved. But particularly, the importance  
17 of that document is to advise that the animal is in good health  
18 so that it may cross state lines and not cause a problem in the  
19 place of destination.

20 So I think given the -- the evidence on each of those  
21 counts, and I think the intent of the law on each of those  
22 counts, that the government's evidence fails to support a finding  
23 that they should be submitted to the jury.

24 THE COURT: Mr. Earley, relating back to the  
25 materiality requirement, the statute doesn't require materiality,

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1 does it?

2 MR. EARLEY: It does not specifically state.

3 THE COURT: Are you aware of any controlling authority,  
4 the Tenth Circuit, the Supreme Court, that includes materiality  
5 as a requirement?

6 MR. EARLEY: Well, the only case -- and I think we --  
7 we had this cited in our proposed jury instruction, but there is  
8 a -- a district court case -- United States vs. Kokesh, it is a  
9 district court case, Northern District of Florida, the Westlaw  
10 cite is 2013 WL6001052. And district -- Senior District Judge  
11 Roger Vincent wrote that order in response to a motion for  
12 judgment of acquittal in a case. And based upon his reasoning,  
13 he concluded that materiality is a required element for the  
14 offense and took the appropriate action, but that's the only  
15 authority that I have to support that.

16 THE COURT: Okay. Thank you.  
17 Government, response?

18 MR. EARLEY: Whoops, I did forget Count 21. Thank you,  
19 Ms. Green.

20 And I kind of lumped them all together, but I think I will  
21 just argue that with respect to Count 21 that the evidence is  
22 insufficient as a matter of law. The -- this, if the Court will  
23 recall, is the testimony from Mr. Garretson with respect to the  
24 lemur form that was the subject of a recorded conversation. And  
25 I would submit that Mr. Passage's intent with respect to that

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1 particular item was to provide Mr. Garretson a form so that he  
2 would have it available for the USDA. And I don't believe that  
3 he knowingly made and submitted, or caused to be made or  
4 submitted a false record.

5 It was a record that was going to Mr. Garretson for whatever  
6 his purpose was. That was never explained, although there was  
7 some reference to Mr. Garretson needing something for the USDA.  
8 But I believe that the evidence is insufficient as a matter of  
9 law with respect to the knowing element of that offense as well.

10 THE COURT: Thank you.

11 Government?

12 MS. MAXFIELD-GREEN: Your Honor, the government submits  
13 that the evidence that the government has submitted in its case  
14 in chief has been fully sufficient to meet the standards of Rule  
15 29, and we'll go count by count.

16 As for Count 1, Mr. Earley argues that the travel element is  
17 not satisfied because he -- and he refers only to the travel by  
18 Mr. Glover to South Carolina. The government submits that the --  
19 there was sufficient evidence of Mr. Passage's intent of sending  
20 Mr. Glover to South Carolina to satisfy the element -- that  
21 element.

22 However, the Government also submits that the travel element  
23 is satisfied as alleged in the indictment, in Paragraph 20, that  
24 the travel that Mr. Passage caused Mr. Glover to do, and  
25 Mr. Finlay to do, in going to Dallas, Texas, to obtain a fake ID

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1 in order to commit the murder for hire satisfies the travel  
2 element as well.

3 Where there was testimony from both Mr. Finlay and  
4 Mr. Glover, as well as Mr. Garretson about that trip,  
5 Mr. Finlay -- Mr. Glover certainly testified that he knew the  
6 purpose of the fake ID was to allow him to travel surreptitiously  
7 to Florida to kill Carole Baskin. Mr. Finlay testified that on  
8 the way down to Dallas he had a conversation with Mr. Passage  
9 that revealed that to be the purpose and the intent behind the  
10 travel. And so the Government submits that the travel element is  
11 fully satisfied.

12 Mr. Earley also overlooks the allegations in the indictment  
13 of the use of the mail, which satisfies Section 1958's elements  
14 as well. It's alleged in Paragraph 21 of the indictment that  
15 Mr. Passage used the U.S. Postal Service to mail Mr. Glover's  
16 cell phone from Oklahoma to Nevada to conceal his involvement in  
17 the plot and that the -- his intent at the time that he mailed  
18 the phone and used the U.S. mail was to -- that the murder be  
19 committed. And so the government submits that that element of  
20 Section 1958 is satisfied by the government's proof as well.

21 The government would also assert that the evidence that came  
22 in during trial establishes use of interstate facilities -- use  
23 of facilities of interstate commerce, namely cell phones, in  
24 relation to Count 1. Mr. Finlay testified that Mr. Passage  
25 called him on a cell phone to convey to him the purpose of the

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1 trip to Dallas. There was communication back and forth with him  
2 during that trip.

3 Also, there was evidence that Mr. Passage used a cell phone,  
4 which is itself a facility of interstate commerce, to put images  
5 on a cell phone for Mr. Glover to take with him to South  
6 Carolina, and ultimately to Florida, and that the purpose of  
7 placing those images on the cell phone was -- the intent was that  
8 the murder of Carole Baskin be committed. So the use of cell  
9 phones in that regard satisfies the elements of Section 1958.

10 As for Count 2, again, the interstate -- the facilities of  
11 interstate commerce at issue in that count are the use of the  
12 cell phones between Mr. Passage and Mr. Garretson to arrange the  
13 meeting with the purported hit man. And the -- there was  
14 certainly evidence, included recorded cell phone calls, namely  
15 the one on December 5th of 2018 between Mr. Passage and  
16 Mr. Garretson agreeing that Mr. Passage would meet the  
17 purported -- the proposed hit man a few days later.

18 Mr. Earley also asserts that the Government's proof has  
19 failed as to establishing an agreement between the purported hit  
20 man and Mr. Passage sufficient for Section 1958. And as --  
21 importantly to the analysis of all of that, the -- the statute  
22 states that the murder for hire is the -- the proof of that  
23 requires that there be consideration for the receipt of or  
24 consideration for a promise and agreement to pay anything of  
25 pecuniary value.

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1           Now, the undercover agent testified that he -- it was his  
2 understanding that, at certain points in the conversation, that  
3 he had been hired, that there was an agreement between he and  
4 Mr. Passage for him to go commit the murder. And he pointed to  
5 specific moments in the conversation when he believed that  
6 agreement had been reached. And, in fact, the -- there was a  
7 discussion of a specific amount of money, there was an agreement  
8 to a specific amount of money, there was a discussion at the end  
9 of the conversation of a specific date to hand off that money.  
10 And, therefore, the -- it was the undercover agent's testimony  
11 that that conversation ended with a promise or an agreement to  
12 pay something of pecuniary value for a murder.

13           Moving on to Counts 3 through 7, the shooting of the tigers  
14 as a violation of the Endangered Species Act, Mr. Earley's  
15 argument is a legal argument. He is arguing that the Endangered  
16 Species Act does not somehow apply to Mr. Passage's situation of  
17 captive-bred animals. That is a legal argument that should have  
18 been raised at the motion to dismiss stage. That is simply not  
19 an argument about whether the government's proof has been  
20 sufficient in this matter. We would submit the government's  
21 proof has been fully sufficient in this matter. There was  
22 extensive testimony about the shooting of the tigers and their  
23 cause of death.

24           And also, Your Honor -- I'm sorry -- moving back up to Count  
25 2, to the extent -- ultimately, whether there was an agreement

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1 reached between the undercover and Mr. Passage during that  
2 conversation is a matter for the jury to decide.

3 As for Count 8 that relates to the offer to sell tiger cubs  
4 to Ms. Cervantes. Mr. Earley characterizes that as preliminary  
5 discussions. The jury was able to see the entire text message  
6 exchange between Mr. Passage and Ms. Cervantes about the price of  
7 tiger cubs and the possible delivery of tiger cubs. And we would  
8 submit that the government's proof on that point is fully  
9 sufficient and should be a matter for the jury to decide whether  
10 it constituted an offer to sell.

11 Counts 9 through 11, the sales of various tiger cubs in  
12 violation of the Endangered Species Act. The government produced  
13 the forms that documented the transfer of those animals to  
14 someone else. Mr. Finlay testified that he transported those  
15 animals that were specifically listed in those forms. He  
16 testified that he received money for the animals that he then  
17 conveyed directly back to Mr. Passage.

18 We -- the government submits that that evidence fully  
19 satisfies the requirements of Rule 29. And the fact that the  
20 buyers were not called as witnesses does not defeat the  
21 Government's proof on that point.

22 Counts 12 through 20, minus Counts 13 and 14, which are all  
23 false labeling. And I -- this is something to be clarified, the  
24 crime is referred to sort of generically as "false labeling of  
25 wildlife." Now, the actual statute as it's quoted in the

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1 indictment enumerates several types of falsification of wildlife,  
2 one of which is what Mr. Earley is referring to, the classic case  
3 of misidentification of the actual wildlife, when you are, you  
4 know, shipping an animal and you label it as shoes or something,  
5 or you say that this is, you know, a -- you label it as a  
6 domestic cat and it's really a tiger. The actual  
7 misidentification of the wildlife itself is a type of  
8 falsification under the Lacey Act, false recordkeeping violation.

9       However, the statute lists various types of falsifications.  
10 It lists a false record, a false account, a false label for, and  
11 a false identification of wildlife as being crimes. And in this  
12 case, the government is alleging that these documents, these  
13 transfer forms are false records of -- of wildlife -- and "of"  
14 meaning essentially relating to or concerning -- and that meaning  
15 is consistent in the case law that interprets the Lacey Act.

16       Mr. Earley argues that there is no specific -- there's no  
17 requirement to specify the reason for an exchange of animals.  
18 First of all, the government disagrees with that characterization  
19 as to whether that is required or not. The -- the forms that  
20 Mr. Earley pointed out during testimony, I believe that's for the  
21 jury to decide as to whether check boxes on a form should be a --  
22 are required to be checked or not.

23       Regardless of any of that, regardless of whether it would  
24 have been permissible under the regulations to leave that  
25 information blank, the fact of the matter is there was false

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1 information written on a form that is to be maintained for  
2 purposes of the government, namely USDA inspections. Writing  
3 information on a form that is false makes it a false record  
4 regardless of whether it was required to be provided or not. And  
5 indicating donation -- the testimony has shown that indicating  
6 "donation" on a form, one of the particular forms at issue, was a  
7 false statement because of the testimony that shows that those  
8 were actually sales.

9 And really what Mr. Earley's argument is about whether  
10 there's a requirement to -- to indicate a sale versus a donation  
11 is the materiality argument he's trying to make. As the Court  
12 noted, materiality is not an element of this Lacey Act violation.  
13 The -- the Tenth Circuit has no case law on this point. However,  
14 the Fifth Circuit has specifically rejected the materiality --  
15 attempt to impose a materiality requirement onto the Lacey Act.

16 The Kokesh decision is an unpublished decision from the -- a  
17 district court in Florida that has not been adopted by any other  
18 Court. And even if this Court were to run -- decide to run  
19 counter to the Fifth Circuit on this point and impose a  
20 materiality requirement into the Lacey Act, the materiality would  
21 be for the jury to decide.

22 Okay. Count 18, which is the falsification of a CVI, the  
23 government submitted evidence that the information that was  
24 placed on that form came from someone at the zoo, and to  
25 Dr. Green's office, and there was sufficient evidence that

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1 Mr. Passage controlled all aspects of the zoo, especially to  
2 include the transfers and sales of animals. And so it's for the  
3 jury to decide whether there is -- whether that information came  
4 directly from Mr. Passage or from someone acting at his behest.

5 As for Count 21, we have -- that relates to the  
6 falsification of the form relating to the lemur. We have  
7 Mr. Garretson's testimony about the lemur and that he needed a  
8 form, that Mr. Passage offered to make him a form to reflect that  
9 he did not, in fact, buy the animal from someone in Texas, that  
10 he would make him a form that reflected the animal was born at  
11 Mr. Passage's zoo, thereby making it a legal transfer because it  
12 was an intrastate transfer. There's video of Mr. Passage writing  
13 the form, falsifying it, asking questions like, "Do you want me  
14 to back date it about a month?"

15 The knowingly element of the falsification crime is not --  
16 does not relate to whether Mr. Passage knew what the form was  
17 going to be used for or how the form was going to be used, it was  
18 whether at the time he was making it he knew he was making a  
19 false statement. And we would submit there was more than  
20 sufficient evidence to reflect that.

21 THE COURT: Thank you, Counsel.

22 Anything further from the defendant?

23 MR. EARLEY: Just briefly.

24 As it concerns Count 1, Your Honor, with respect to the --  
25 the trip to Dallas, that is the allegation that was -- that

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1 occurred on November the 6th. I would just simply remind the  
2 Court that the requirements under the law are that there be the  
3 intent that the murder be committed at the very same time or  
4 simultaneous to the actual either travel or use of the interstate  
5 facility. So I think based on that, the evidence is  
6 insufficient.

7 And particularly with respect to Count 21, the same thing,  
8 we heard evidence that a phone was sent from Wynnewood, Oklahoma,  
9 to Las Vegas, Nevada. The testimony basically did not establish  
10 how it got mailed or how it ended up in the mail, but there's  
11 certainly nothing connecting evidentiary-wise Mr. Passage with  
12 the actual mailing of that phone. It was received, according to  
13 Lauren Lowe, by her and was never turned on. It was put in a  
14 drawer or a box, never to be heard from again until they moved  
15 and came down here and found it.

16 So with respect to the use of the mails as an interstate  
17 facility to further a murder-for-hire plot, I certainly think  
18 that the phone issue has absolutely no -- doesn't provide any  
19 evidentiary support for that particular charge.

20 THE COURT: Thank you.

21 MS. MAXFIELD-GREEN: May I respond, Your Honor?

22 THE COURT: Briefly, yes.

23 MS. MAXFIELD-GREEN: Your Honor, with regard to  
24 Mr. Earley's argument that the intent to commit the murder must  
25 be simultaneous with the travel alleged, we would submit that

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1 there was more than sufficient evidence of that. Mr. Glover  
2 testified that that was the plan between he and Mr. Passage, that  
3 he was sending him to Dallas to obtain a fake ID so that the  
4 murder could be committed. And so Mr. -- there was no evidence  
5 of any other intent for this trip to Dallas other than the murder  
6 be committed.

7 Mr. Finlay testified substantially the same, that he  
8 understood from Mr. Passage that's why they were going.  
9 Mr. Garretson also testified that that was his understanding of  
10 the purpose of the trip. So I think it's fair to say there was  
11 sufficient evidence of Mr. Passage's intent at the time of the  
12 travel.

13 As for how the cell phone got mailed, there was evidence,  
14 including a recorded call with Mr. Passage in which he described  
15 his plan to mail a cell phone to Las Vegas in order to conceal  
16 the crime and in order to conceal the murder of Carole Baskin,  
17 and there was sufficient circumstantial evidence for the jury to  
18 link the mailings together.

19 We -- the government provided evidence that a package was,  
20 in fact, mailed on November 25th of 2017 to the Lowe's address.  
21 Mrs. Lowe testified that they received a package on or about that  
22 time that contained a cell phone. The government provided the  
23 evidence of the check that was used to pay for that mailing, that  
24 was a check drawn on the account of Greater Wynnewood Exotic  
25 Animal Park and it was signed with a stamp of Jeff Lowe's

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1 signature that was left in the custody of Mr. Passage. And,  
2 therefore, we submit there's sufficient evidence under Rule 29 to  
3 support those counts.

4 THE COURT: Thank you.

5 I think that the -- the government has accurately described  
6 ample cites in the record and in the evidence that for purposes  
7 of Rule 29 the defendant's motion for judgment of acquittal will  
8 be overruled as to each count. I think the record will bear out  
9 that it's clear that there's more than ample evidence for each of  
10 these to be submitted to -- for consideration to the jury.

11 Let's talk about instructions -- jury instruction  
12 conference. Do you-all need a little time? Do you want to meet  
13 immediately after we adjourn? I know that they're going to have  
14 to have a little bit of work, at least based on the dismissals of  
15 Counts 13 and 14. Would you prefer after lunch?

16 MS. MAXFIELD-GREEN: That would be good for the  
17 government, Your Honor.

18 THE COURT: Mr. Earley?

19 MR. EARLEY: That's fine, Your Honor.

20 THE COURT: Okay. Why don't we say -- why don't we say  
21 1:30 -- I'm getting a signal -- 2 o'clock in my conference room,  
22 if you-all will meet with Mr. Morris.

23 Anything else from either party?

24 MS. MAXFIELD-GREEN: No, Your Honor.

25 MR. EARLEY: No, Your Honor.

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THE COURT: Court will be in recess.

(Court adjourned.)

REPORTER'S CERTIFICATION

I, Emily Eakle, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Oklahoma, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 6th day of March 2020.

**/S/ Emily Eakle**  
**EMILY EAKLE, RMR, CRR**  
Federal Official Court Reporter



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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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INDEX

PAGE

EVIDENCE ON BEHALF OF THE DEFENDANT

Robert Engesser  
 Direct Examination by Mr. Earley..... 881  
 Cross-Examination by Mr. Brown..... 884

Matthew Bryant  
 Direct Examination by Mr. Earley..... 885  
 Cross-Examination by Ms. Maxfield-Green..... 912  
 Redirect Examination by Mr. Earley..... 918  
 Recross Examination by Ms. Maxfield-Green..... 920

Joseph Maldonado-Passage  
 Direct Examination by Mr. Earley..... 927  
 Cross-Examination by Ms. Maxfield-Green.....1017  
 Redirect Examination by Mr. Earley.....1035  
 Recross Examination by Ms. Maxfield-Green.....1045

Defense rests.....1049  
 Rule 29 motion.....1052  
 Reporter's certificate.....1053

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1 (The following record was made in open court on April 1,  
2 2019, in the presence of all parties, counsel, and out of the  
3 presence and hearing of the jury.)

4 THE COURT: Record would reflect the parties are  
5 present, the jury has not been brought in yet.

6 It was brought to my attention that there is a potential  
7 witness issue this morning with one of your witnesses,  
8 Mr. Earley.

9 MR. EARLEY: That's correct, Your Honor.

10 THE COURT: And what -- can you tell me where we're at  
11 on that?

12 MR. EARLEY: Well, Your Honor, it is our intention to  
13 call an individual by the name of Robert Engesser. This concerns  
14 part of the allegations in the indictment with respect to the  
15 government's assertion that there was the sale of a tiger cub for  
16 \$3,000 around the time that Mr. Glover was leaving for South  
17 Carolina.

18 We, obviously, received reports in discovery concerning this  
19 particular matter. Those reports indicated and led to the  
20 conclusion that the person was Robert Engesser. We investigated  
21 that aspect of it and determined that Mr. Engesser, if he were  
22 called to testify, would say that he was not in Wynnewood,  
23 Oklahoma, in November of 2017 and did not provide any money to  
24 Mr. Passage during that time frame. And as a result of that, we  
25 issued a subpoena for Mr. Engesser and he responded to that.

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1           Now, it's my understanding that, if Mr. Engesser is called  
2 as a witness, the government may seek to try to impeach him with  
3 respect to his involvement in either submitting forms or  
4 conducting sales or receipt of tigers in interstate commerce,  
5 something that could potentially incriminate him. It is my  
6 intention to limit my inquiry from Mr. Engesser to a very limited  
7 set of circumstances. Were you there, is that your picture, and  
8 that's about it; no business relationship with Mr. Passage,  
9 nothing to that degree.

10           So when the government advised, however, that they may seek  
11 to impeach him with some sort of potential incriminating  
12 information, I did advise Mr. Engesser of that. I felt a  
13 professional and ethical obligation to let him know that, you  
14 know, I don't control how things go in court. I can make  
15 objections and things like that, but I can't promise you that you  
16 will not be asked questions that if, in your mind, you believe  
17 they could incriminate yourself -- incriminate you, then you may  
18 be required to answer.

19           So given that, Mr. Engesser expressed to me a desire to  
20 speak to an attorney before he testified. And I kind of started  
21 that process over the weekend. But he is here and he has not  
22 changed his mind about that and --

23           THE COURT: Has not changed his mind about testifying  
24 or has not changed his mind about wanting to speak to an  
25 attorney?

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1 MR. EARLEY: About wanting to speak to an attorney. To  
2 be perfectly honest, you know, as far as direct examination, I  
3 can't imagine anything that would be requested of Mr. Engesser  
4 that is in any way, shape or form incriminating. It's the  
5 cross-examination that I have no control over.

6 THE COURT: You don't have any indication he's going to  
7 assert some type of blanket refusal to testify?

8 MR. EARLEY: I don't know that. I can ask him.

9 THE COURT: Okay. Well, be that as it may, I -- you  
10 know, obviously, I want to be sure that he is aware that he has  
11 rights. It sounds like you have, at least in some limited  
12 fashion, kind of started along that process. He has not, I don't  
13 believe at this point in time, invoked his right to counsel or  
14 invoked a Fifth Amendment privilege.

15 We'll -- I mean, while I am certainly obligated to protect  
16 his right, I also want to be a good custodian of the taxpayer  
17 dollars and I don't want to appoint him an attorney without him  
18 having requested one, much less a court-appointed attorney. We  
19 have kind of started that process. And so if we get to that  
20 position, we can -- we'll cross that bridge when we come to it.  
21 I want to minimize as much as we can any delay for the jury, but  
22 -- the government have anything additional, Mr. Brown?

23 MR. BROWN: Judge, to the extent Mr. Earley is going to  
24 actually limit the scope of his direct to conduct right around  
25 Thanksgiving of 2017, we don't anticipate asking Mr. Engesser

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1 anything. And I would remind the Court that to the extent that  
2 is, indeed, all the testimony that will be elicited, we have  
3 offered all along to stipulate to specifically everything  
4 Mr. Earley just explained, Judge.

5 THE COURT: Anything further, Mr. Earley?

6 MR. EARLEY: Just that, you know, I think their offer  
7 was sometime last week, if I'm not mistaken. But anyway,  
8 let's -- we can just -- but it sounds to me like this may not be  
9 an issue at all.

10 THE COURT: I understand. And I appreciate the parties  
11 working toward that end. So I just wanted to have my head  
12 wrapped around it before we got him on the stand. So in the  
13 event that that does come up, I will excuse the jury prior to us  
14 dealing with any kind of issue like that, just so the parties are  
15 aware.

16 Marcia, you can go ahead and bring the jury in.

17 (Jury entered.)

18 (The following record was made in open court, in the  
19 presence of all parties, counsel, and in the presence and hearing  
20 of the jury.)

21 THE COURT: Good morning, welcome back. Hope you had a  
22 good and relaxing weekend.

23 I had to get -- I was anxious to get back to work to rest.  
24 My wife had me doing yard work all day yesterday. I can't hardly  
25 move today.

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1           Anyway, welcome back. We'll get down to business.

2           Mr. Earley, defendant's next witness.

3                   MR. EARLEY: Yes. We'll call Robert Engesser.

4           (WITNESS SWORN.)

5                   THE COURT: Good morning, Mr. Engesser. If you could,  
6 just feel free to adjust that chair or that mic. I just want to  
7 be sure that everybody can hear you.

8   ROBERT ENGESSER,

9   DIRECT EXAMINATION

10 BY MR. EARLEY:

11 Q.    Could you state your name, please?

12 A.    Robert Engesser.

13 Q.    And go ahead and spell your last name for the court  
14 reporter.

15 A.    E-N-G-E-S-S-E-R.

16 Q.    All right. And, Mr. Engesser, where do you live?

17 A.    Trenton, Florida.

18 Q.    And what is your occupation?

19 A.    Now? Driving a truck.

20 Q.    Okay. Prior to driving a truck, what did you do for a  
21 living?

22 A.    Me and my family owned and operated a petting zoo.

23 Q.    Now, are you familiar with the GW Animal Park or zoo in  
24 Wynnewood, Oklahoma?

25 A.    Yes, sir.

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Robert Engesser - Direct by Mr. Earley

1 Q. All right. Now, I think in front of you may be an exhibit  
2 book. If you could, please turn to Tab No. 62, Defendant's  
3 Exhibit 62.

4 A. Okay.

5 Q. And what is that?

6 A. I think -- what it is here is a -- a picture of a text from  
7 a phone.

8 Q. Okay.

9 MR. EARLEY: Your Honor, may I assist the witness?

10 THE COURT: You may.

11 Q. (By Mr. Earley) Okay. That's Defendant's Exhibit 62. What  
12 is that?

13 A. That's a picture of me, sir.

14 Q. All right. And I -- it's been previously introduced, but do  
15 you know where that picture came from?

16 A. Probably from a social media, like Facebook.

17 Q. You have a Facebook page or account?

18 A. Yes, sir.

19 Q. All right. Now, back in the fall of 2018 were you contacted  
20 by law enforcement agents?

21 A. Yes, sir.

22 Q. And what did the officers want to know from you?

23 A. They questioned me about animals that we had on hand.

24 Q. Did they ask you anything about your location in November  
25 of 2017?

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Robert Engesser - Direct by Mr. Earley

1 A. Correct, yes, sir.

2 Q. All right. And where did they want to know if you had -- or  
3 what location did they want to know if you had been there in  
4 November of 2017?

5 A. Well, I was in Palestine, Texas, and the week before that we  
6 was in Big Springs, and the week after that we was in Lufkin,  
7 Texas.

8 Q. Did they ask you if you were in Wynnewood, Oklahoma, in  
9 November of 2017?

10 A. Yes, sir.

11 Q. And what did you tell them?

12 A. I was in Palestine, in Big Springs. And when we went to  
13 Palestine, I had to go to Kokomo, Indiana, to pick up a truck  
14 that had been in an accident from a Dodge dealer, Button's Dodge  
15 Dealer.

16 Q. So you told them your specific whereabouts during the month  
17 of November of 2017?

18 A. They asked about the end of -- around Thanksgiving, yes,  
19 sir.

20 Q. All right. Were you in Wynnewood, Oklahoma, in November  
21 of 2017?

22 A. Not to my knowledge, no, sir.

23 Q. And you provided the agents every location you thought you  
24 had been in November of 2017, correct?

25 A. Yes, sir.

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Robert Engesser - Direct by Mr. Earley

1 MR. EARLEY: Nothing further.

2 THE COURT: Cross-examination, Mr. Brown?

3 **CROSS-EXAMINATION**

4 **BY MR. BROWN:**

5 Q. Good morning, Mr. Engesser.

6 A. Good morning, sir.

7 Q. The interview Mr. Earley is discussing with the agents, did  
8 that take place up in, I think Indiana?

9 A. No, sir. Illinois.

10 Q. Illinois. I'm sorry. Yes. And do you remember the exact  
11 date of the interview?

12 A. No, sir, I do not.

13 Q. If I told you it was September 13th, would you have any  
14 reason to disagree with me?

15 A. No, sir, I don't.

16 Q. And when you were interviewed, do you know whether or not  
17 Mr. Passage had already been charged in this case?

18 A. Not to my recollection. I don't know.

19 Q. But if I were to tell you that the interview took place  
20 after Mr. Passage -- after the grand jury had already deliberated  
21 and returned an indictment, would you disagree with me?

22 A. I wouldn't know.

23 MR. BROWN: Thank you.

24 No questions, Judge.

25 THE COURT: Anything further, Mr. Earley?

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Robert Engesser - Cross by Mr. Brown

1 MR. EARLEY: No, sir.

2 THE COURT: Thank you, Mr. Engesser. You may step  
3 down.

4 Defendant's next witness.

5 MR. EARLEY: Call Agent Matthew Bryant.

6 (WITNESS SWORN.)

7 MATTHEW BRYANT,

8 DIRECT EXAMINATION

9 BY MR. EARLEY:

10 Q. State your name, please.

11 A. Matthew Bryant.

12 Q. And, Mr. Bryant, how are you employed?

13 A. I'm a special agent with the U.S. Fish & Wildlife Service.

14 Q. How long have you been with the Fish & Wildlife Service?

15 A. I have been in law enforcement with Fish & Wildlife Service  
16 for approximately 25 years, the last 18 as a special agent.

17 Q. And what kind of training do you receive with respect to  
18 being an agent with the Fish & Wildlife Service?

19 A. We attend the Federal Law Enforcement Training Center  
20 criminal investigation investigator's course, and then follow-up  
21 training related to specific wildlife laws that we enforce.

22 Q. All right. And we have heard a couple of terms. We have  
23 heard the Endangered Species Act. Are you familiar with that?

24 A. Yes, sir.

25 Q. Does that come within your -- the purview of the Fish &

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Matthew Bryant - Direct by Mr. Earley

1 Wildlife Service?

2 A. Yes, sir.

3 Q. And we have also heard about the Lacey Act. Do you know  
4 about that?

5 A. Yes, sir.

6 Q. And does that come within the purview of the Fish & Wildlife  
7 Service?

8 A. Yes, sir.

9 Q. Okay. Can you explain what the difference is between the  
10 two acts, I mean what their focus is?

11 A. I'll try, Mr. Earley. The Endangered Species Act is an act  
12 by Congress to protect endangered species. Endangered species  
13 are species that are indigenous to the U.S. and species of  
14 concern that may be of international importance. It prohibits  
15 the -- the take or commercialization, among other things, to  
16 include habitat for various species.

17 Q. So the Endangered Species Act is aimed at trying to protect  
18 animals that I guess there's been some agreement on that are in  
19 danger of being -- either going into extinction or something  
20 similar to that, correct?

21 A. Endangered or threatened. There is a list of species.

22 Q. Now -- and the Lacey Act, what's the focus of that  
23 particular area of law?

24 A. The Lacey Act is a -- an act to prohibit the interstate  
25 commerce of illegally possessed, transported or -- wildlife.

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Matthew Bryant - Direct by Mr. Earley

1 Q. Now, we heard from some USDA inspectors, United States  
2 Department of Agriculture inspector, I think Debbie Boone, if I'm  
3 not mistaken. Is that correct?

4 A. Yes, sir.

5 Q. And so is she in your department?

6 A. No, sir. She works for the Department of Agriculture.

7 Q. Completely separate agency, correct?

8 A. Yes, sir.

9 Q. All right. And as far as the USDA inspectors, are you  
10 familiar with their role with respect to either one of these  
11 acts?

12 A. Limited.

13 Q. All right. Now, during your employment with Fish &  
14 Wildlife, how many Lacey Act investigations have you been  
15 involved with?

16 A. I would have to give you an estimate, Mr. Earley, of  
17 probably at least 30 to 40.

18 Q. All right. And out of that 30 to 40, how many have been  
19 criminally prosecuted?

20 A. All of them.

21 Q. And when you say "criminally prosecuted," which venue are  
22 they prosecuted in? In district court?

23 A. Yes, sir.

24 Q. All right. So they have all resulted in criminal  
25 prosecutions?

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Matthew Bryant - Direct by Mr. Earley

1 A. Yes, sir, either through violation notices or criminal  
2 informations or indictments.

3 Q. Okay. So how many of them have resulted in felony  
4 prosecutions?

5 A. I would say probably ten, perhaps.

6 Q. Now, how many endangered species investigations that you  
7 participated in have resulted in criminal prosecutions?

8 A. Oh, I would -- that's tough. I'm trying to remember all the  
9 various cases that I have worked. I think it would be fair to  
10 say six to eight.

11 Q. All right. Over your career with Fish & Wildlife, correct?

12 A. Yes, sir. Those are just a couple of the acts that we  
13 enforce.

14 Q. All right. Now, there's also been some terms that we have  
15 heard about with respect to tigers. "Generic tiger," can you  
16 explain what that term is?

17 A. There are several species of tigers. I'll probably not be  
18 able to list them all. But two species of tigers that breed  
19 together, the offspring is referred to as a generic tiger.

20 Q. All right. So we're talking about -- at least for purposes  
21 of this case, are we talking about tigers and lions that have  
22 basically been in the United States for -- for their lives?

23 A. Well, used -- the Tiger Exemption Act only applies to  
24 tigers.

25 Q. So as far as the animals involved in this case that you have

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Matthew Bryant - Direct by Mr. Earley

1 been investigating, have any of these tigers or lions or any  
2 other species that you have come across during this  
3 investigation, have any of those been actually imported into the  
4 United States?

5 A. Not to my knowledge.

6 Q. All right. Would it be fair to say that most of the animals  
7 that you have dealt with in this case have been in captivity for  
8 a number of years?

9 A. Yes, sir.

10 Q. And probably born in captivity?

11 A. Probably so.

12 Q. And may go back several generations in captivity?

13 A. Yes, sir.

14 Q. All right. Now, with respect to the Endangered Species Act,  
15 does that act allow a citizen to sue an individual or entity for  
16 a -- for a perceived violation of the Act?

17 A. It does have a civil side, yes, sir.

18 Q. All right. So can organizations such as PETA or other  
19 animal rights organizations bring lawsuits against individuals?

20 A. Yes, sir.

21 Q. All right. Do these organizations sometimes work hand in  
22 hand with the USDA and Fish & Wildlife?

23 A. I agree with you to a point, Mr. Earley, except for the  
24 "hand in hand."

25 Q. Well, let me ask you about this particular investigation.

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Matthew Bryant - Direct by Mr. Earley

1 Did any animal rights organizations provide you with information  
2 during the course of your investigation of this case?

3 A. There was information supplied to my agency from these  
4 organizations regarding information that they had learned about  
5 Greater Wynnewood Exotic Animal Park.

6 Q. All right. And which organizations were those?

7 A. PETA is one, Humane Society of the United States is another,  
8 and then I believe it's Animal Legal Defense Fund is another one.

9 Q. All right. Were you provided information by Carole or  
10 Harold -- Howard Baskin during this investigation?

11 A. Yes, sir.

12 Q. And as far as the investigation itself, were you provided  
13 information from them prior to any of this murder-for-hire  
14 investigation beginning?

15 A. Not that I recall.

16 Q. Now, prior to you entering into your agreement with  
17 Mr. Garretson, had Fish & Wildlife, you or any other officer from  
18 Fish & Wildlife been to the park?

19 A. Yes, sir.

20 Q. For what purpose?

21 A. I believe it was in approximately -- and, again, I state  
22 approximately -- 2009. I went to the Greater Wynnewood Exotic  
23 Animal Park with a USDA investigator who had to conduct an  
24 interview. It was USDA policy that an armed person accompany  
25 them on any investigation that happened at the Greater Wynnewood

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Matthew Bryant - Direct by Mr. Earley

1 Exotic Animal Park.

2 Q. Okay. So that was in 2009?

3 A. And I say approximately, Mr. Earley.

4 Q. Okay. Well, and that's fine.

5 Now, between whenever that was, 2009 or '10, whenever, had  
6 you or any other officer been back to that park prior to getting  
7 involved with Mr. Garretson and his undercover activities?

8 A. No, sir.

9 Q. So I take it that Fish & Wildlife agents don't routinely do  
10 inspections or -- or look at places that have exotic animals in  
11 their facility?

12 A. I would agree with you when you say "routinely," yes, sir.

13 Q. All right. Now, prior to February of 2017, were you  
14 investigating Mr. Passage and this park?

15 A. Yes, sir.

16 Q. All right. And what was your investigation primarily  
17 focused on?

18 A. The illegal movement of wildlife.

19 Q. All right. And when did that change -- or when was the  
20 additional focus of threats to Carole Baskin developed?

21 A. During the initial stage of the investigation, even when it  
22 was focused on wildlife, I began to have knowledge of some social  
23 media threats that existed. In February of 2017, information was  
24 gained indicating that there was a person that had information  
25 regarding someone wanting to harm Ms. Baskin.

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Matthew Bryant - Direct by Mr. Earley

1 Q. So is that kind of when the focus started to shift over to  
2 include this investigation for the murder-for-hire plot?

3 A. Yes, sir.

4 Q. All right. So about February of 2017.

5 Now, were you a part of the discussion in March of 2017 with  
6 the U.S. attorney's office and Agent Farabow about how best to  
7 proceed in this matter?

8 A. Yes, sir.

9 Q. All right. And was there a suggestion by one of you that  
10 you just bring Mr. Passage and Mr. Lowe and his wife in to have a  
11 little sit-down about these -- these alleged threats?

12 A. Yes, sir.

13 Q. And what is your recollection as to why that course of  
14 action was not taken?

15 A. Collectively it was decided that it would be best for the  
16 investigation to continue to gather evidence.

17 Q. So Mr. Passage was never contacted about these -- these  
18 things that were being seen on social media or about this  
19 telephone call that prompted the switch in -- in the focus of his  
20 investigation?

21 A. Not at that time.

22 Q. Now, Garretson, I think we -- we have in evidence that he  
23 made this call to Carole Baskin, I guess around August 24th or  
24 so; is that right?

25 A. Yes, sir.

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Matthew Bryant - Direct by Mr. Earley

1 Q. Okay. So what was going on between, you know, February and  
2 August with respect to the investigation?

3 A. You talking about -- can you repeat that, Mr. Earley? I'm  
4 sorry.

5 Q. What was going on between February and August with respect  
6 to your investigation? What were you doing?

7 A. I was looking at information, trying to understand how  
8 Greater Wynnewood Exotic Animal Park worked, who were the owners.  
9 I was researching the civil litigation to try to determine how  
10 all of the changes at Greater Wynnewood Exotic Animal Park had  
11 happened, kind of the history of that, who was involved in the  
12 management of the park.

13 I started making contact with USDA, started to look at  
14 records. I believed at the time that records were going to be an  
15 important part of the investigation, so I spent time doing  
16 background work and trying to develop the case at the -- at the  
17 floor level to have a good understanding of what I would be  
18 looking into.

19 Q. Now, the Baskins referred you to this telephone call that  
20 they had received, correct, in August?

21 A. Yes, sir.

22 Q. All right. So you called back and you contacted  
23 Mr. Garretson, right?

24 A. Yes, sir.

25 Q. And did you at that time, in August, ask Garretson who the

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Oklahoma City, OK 73102 \* 405.609.5403

Matthew Bryant - Direct by Mr. Earley

1 bad guy was in this scenario? Do you remember that?

2 A. Those exact words, I do not remember.

3 Q. Okay. Well, do you remember having a discussion with  
4 Garretson as to who was the person you should focus on?

5 A. If you're speaking about the initial interview with  
6 Mr. Garretson.

7 Q. Yes.

8 A. Yes, sir. I had that discussion about how things worked at  
9 the park. He had involvement with Mr. Maldonado and Mr. Lowe and  
10 shed light on how the park operated, who ran the park, who was  
11 doing what.

12 Q. All right. And so is it fair to say, then, after your  
13 discussions with Garretson that you decided you would focus on  
14 Mr. Passage?

15 A. Not at all, sir.

16 Q. All right. So -- well, what steps were taken to include  
17 Lowe in the investigation of this murder-for-hire plot?

18 A. It was my belief at the time, at the onset of the  
19 investigation, that Mr. Lowe and Mr. Maldonado -- excuse me --  
20 Mr. Passage were both involved in the operation of the park. I  
21 asked the CI to find out information about the park. And let me  
22 also add, I also knew that both of them possessed exotic animals  
23 and that all the exotic animals were at the park property. I  
24 asked Mr. Lowe to make contact -- excuse me -- I asked  
25 Mr. Garretson to make contact with Mr. Lowe and Mr. Passage and

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Matthew Bryant - Direct by Mr. Earley

1 to record phone calls with each.

2 Q. All right. There was an initial recording at -- on  
3 September 29th with Mr. Passage, correct?

4 A. Yes, sir.

5 Q. All right. And I believe the first phone call that was  
6 recorded with Mr. Lowe was not until November, correct?

7 A. Yes, sir.

8 Q. Do you know why there were no recorded meetings or recorded  
9 telephone conversations between Garretson and Lowe prior to  
10 November?

11 A. I do not know other than Mr. Garretson, at times, informed  
12 me that Mr. Lowe was hard to get ahold of. And Mr. Lowe, at the  
13 time, I believe, was in -- in Las -- Las Vegas.

14 Q. Well, Mr. Lowe had spent a lot of time in Las Vegas prior to  
15 the fall of 2017, hadn't he?

16 A. That's what I began to learn, yes, sir.

17 Q. Yes. And did Mr. Garretson indicate to you that he had  
18 frequent contact with Mr. Lowe?

19 A. Yes. He and Mr. Lowe did have frequent contact, as  
20 explained to me during our initial meeting, but at times Mr. Lowe  
21 would be hard to get ahold of.

22 Q. So apparently, after Mr. Garretson decides to get on board  
23 with your investigation, it was extremely difficult for him to  
24 get into contact with Mr. Lowe, apparently? Would that be fair  
25 to say?

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Matthew Bryant - Direct by Mr. Earley

1 A. I would agree that at times it was difficult for  
2 Mr. Garretson to get in touch with Mr. Lowe.

3 Q. Now, does your agency normally investigate murder-for-hire  
4 charges?

5 A. No, sir.

6 Q. Is that why you asked the FBI to assist?

7 A. Yes, sir.

8 Q. And now, in spite of the FBI's involvement, was your agency  
9 still the primary investigating agency?

10 A. We initiated the investigation. So by that, yes, we were  
11 still the primary.

12 Q. Now, we heard evidence that on November 16th, 2017, there  
13 was some belief on the part of law enforcement that this plan for  
14 Glover to do something had kind of fizzled out; is that right?

15 A. That's what we believed.

16 Q. And what was the reason behind your belief?

17 A. There was a text message between Mr. Glover and  
18 Mr. Garretson where Mr. Glover informed Mr. Garretson that things  
19 had changed.

20 Q. Now, during the course of your investigation were you made  
21 aware of something that occurred with Jeff Lowe on that very same  
22 day, November 16th, 2017?

23 A. On November 16th, Mr. Lowe, who was then operating in Las  
24 Vegas, Nevada, was the subject of an investigation by the Animal  
25 Control department for the city of Las Vegas.

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Matthew Bryant - Direct by Mr. Earley

1 Q. Was there a search warrant executed at the place where he  
2 was residing?

3 A. Yes, sir.

4 Q. Do you know if he was charged for any activities out there?

5 A. My understanding at the time, he was written citations and  
6 requested to appear in court.

7 Q. So that's the same day that he got in trouble out in Las  
8 Vegas, correct, that this plot supposedly fizzled out based on  
9 Glover's communications?

10 A. Yes, sir.

11 Q. All right.

12 A. Mr. Earley, may I pour a glass of water?

13 Q. Sure. Go ahead. I'm sorry.

14 A. Thank you.

15 Q. Sure.

16 Now, although the Glover situation had apparently resolved  
17 itself on November 16th, you asked Garretson to continue to  
18 attempt to make a meeting happen between Mr. Passage and an  
19 undercover FBI agent, correct?

20 A. Yes -- yes, I did. Mr. Garretson had been previously  
21 contacted by Mr. Maldonado and requested to find a hit man. My  
22 belief, that Mr. Maldonado had asked Mr. Garretson several times.

23 Q. And when were those conversations supposedly had?

24 A. During the -- I believe April through July of 2017.

25 Q. That preceded the date that Mr. Lowe and Mr. Garretson

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Matthew Bryant - Direct by Mr. Earley

1 apparently had a conversation about contacting Carole Baskin,  
2 correct?

3 A. Yes, sir.

4 Q. All right. And with respect to Mr. Garretson's efforts,  
5 were those efforts going on simultaneously to the investigation  
6 with respect to Glover and his activities?

7 A. I didn't follow you, Mr. Earley.

8 Q. Well, I mean, Garretson at some point figures out that  
9 there's some plot, or at least he tells you that he's figured out  
10 that there's some plot involving Alan Glover, correct?

11 A. Yes, sir. We learned that from recorded phone calls.

12 Q. And so you -- you have got that going on, but were your --  
13 were you continuing to try to get somebody involved that was in  
14 an undercover capacity with Mr. Passage?

15 A. Yes, sir.

16 Q. And those things were kind of going along in tandem, were  
17 they not?

18 A. Yes, sir. Our initial goal was to try to get an undercover  
19 officer in there to meet the requests that Mr. Maldonado had made  
20 towards Mr. Garretson. We wanted to do that to gain control over  
21 the situation so that the undercover would know Mr. Maldonado's  
22 plans or potential plans or any changes in plans.

23 During that process we learned that Mr. Maldonado -- excuse  
24 me, I apologize -- that's the way that I have learned his name.  
25 I'll do better to try to remember Mr. Passage.

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Matthew Bryant - Direct by Mr. Earley

1 Mr. Passage had -- had -- while we were in the process of  
2 trying to do that, I believe in September, we had initial  
3 conversations with Mr. Maldonado -- Mr. Passage regarding the use  
4 of an undercover. During that time, between September and  
5 November, we learned that Mr. Passage had planned to use  
6 Mr. Glover.

7 Q. At least that's what Garretson advised you, correct?

8 A. Also Mr. Maldonado -- Mr. Passage made those statements  
9 and -- in recordings.

10 Q. Sure. And so Garretson apparently had known about that,  
11 correct, that Glover issue, correct?

12 A. Yes, sir.

13 Q. And -- but from the very beginning, in September through  
14 October and November, you were focused on him trying to get an  
15 undercover agent in to see Mr. Passage, correct?

16 A. Yes, sir. I -- I agree with that.

17 Q. You know, those efforts began after he was signed up to try  
18 to help you-all, I mean Garretson, correct?

19 A. Yes, sir.

20 Q. And so those efforts were ongoing for at least two, maybe  
21 two and a half months before a meeting was ever agreed to by  
22 Mr. Passage, correct?

23 A. That's correct, but Mr. Passage did have plans to use  
24 Mr. Glover in between then in their interaction with  
25 Mr. Garretson and Mr. Maldonado. That's when we were trying to

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Matthew Bryant - Direct by Mr. Earley

1 encourage Mr. Passage not to use Mr. Glover but to use our  
2 undercover, so that we could gain control over the plan.

3 Q. Mr. Passage was never arrested for any activity involving  
4 this alleged Glover murder-for-hire scheme in -- in 2017,  
5 correct?

6 A. Correct.

7 Q. In fact, he wasn't arrested for anything until the  
8 indictment was returned in this case; is that correct?

9 A. Yes, sir.

10 Q. All right. Now, with respect to the undercover meeting, you  
11 were involved in that part of the investigation, correct?

12 A. Yes, sir.

13 Q. They didn't leave you out just because it was an FBI agent  
14 going in?

15 A. I was present and learning, yes, sir.

16 Q. Okay. So you were involved in pretty much everything,  
17 right?

18 A. Yes, sir.

19 Q. So Mr. Passage was not arrested immediately following that  
20 December 8th meeting with the undercover agent, was he?

21 A. No, sir.

22 Q. He wasn't arrested anytime near the conclusion of that  
23 December 8th meeting, correct?

24 A. Yes, sir.

25 Q. Now, at the very beginning of this case we heard about the

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Matthew Bryant - Direct by Mr. Earley

1 deaths of these five tigers. Do you recall all that?

2 A. Yes, sir.

3 Q. And you were involved in that part of the investigation?

4 A. Yes, sir.

5 Q. Now, did you interview Erik Cowie, Dylan West and Amber  
6 Estep about their recollection of the events?

7 A. Yes, sir.

8 Q. And that was around August 2nd, 2018?

9 A. Yes, sir.

10 Q. All right. And did you interview them individually?

11 A. I had previously, I believe -- I think I have my interview  
12 dates correct. I believe I interviewed Ms. Estep prior to that,  
13 and on that day I interviewed Mr. Cowie and Mr. Dylan separately  
14 first.

15 Q. Now, who suggested the Culpepper Merriweather animals with  
16 respect to kind of tying in the time frame?

17 A. I believe it was Dylan West that remembered that portion of  
18 it.

19 Q. All right. And as far as your other conversations with  
20 either Erik Cowie or Amber Estep, was there some confusion about  
21 the actual dates?

22 A. There was a lot of confusion there, sir. I -- I  
23 eventually -- after I interviewed each one of them, I had facts  
24 that each one of them shared that were similar and facts that --  
25 that were not. There was confusion because there was a -- a

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Matthew Bryant - Direct by Mr. Earley

1 short period of time, I believe it would have been June through  
2 October, where there were multiple animals that had been killed  
3 at the park. Some were euthanized when Dr. Green was present,  
4 some had medical concerns. Some of the hides from -- or some of  
5 these carcasses were buried, some of these carcasses were placed  
6 in a truck and carried to Terry's Taxidermy here in Oklahoma City  
7 for their hides to be tanned. Some teeth were taken out of some  
8 skulls. And, again, there was a lot of confusion between the  
9 people on the events that happened.

10 My point was to get to the truth and the facts and to  
11 clarify some of the concerns. So I did bring them all together,  
12 after interviewing them each individually, to try to have a  
13 discussion, okay, on what facts each remembered, not to get  
14 anybody to change their story, but to see if the certain facts  
15 between these would help clarify the events that happened  
16 concerning the -- what I now believed to be the truth, five to  
17 six tigers that were euthanized in June and five tigers that were  
18 killed in October.

19 Q. Now, were each one of them still working for Mr. Lowe at  
20 that time?

21 A. Yes, sir.

22 Q. All right. So you had a group conversation so that everyone  
23 could kind of come to a consensus on what they remembered?

24 A. I agree with you to a point, Mr. Earley, that we had a group  
25 conversation. It was not so that we could come to a consensus.

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Matthew Bryant - Direct by Mr. Earley

1 If anyone did not agree with the facts, I did not want them to  
2 change their story. But if something somebody else remembered  
3 helped them clarify the time of events, I wanted to know what  
4 factually happened and at what period of time.

5 Q. And they all got to hear what the other person had to say  
6 about their recollection, correct?

7 A. I'll agree with that, yes, sir.

8 Q. All right. Did Jeff Lowe participate in those discussions?

9 A. Jeff Lowe was present. I don't remember him participating  
10 in those group discussions.

11 Q. But he was in the room with his three employees, correct?

12 A. He did come into the room, yes, sir.

13 Q. Now, you heard testimony from Alan Glover that the money  
14 that he said he got for this trip to South Carolina came from the  
15 sale of a cub. Do you recall that?

16 A. Yes, sir.

17 Q. And did your agency, and perhaps other agencies, spend time  
18 and resources trying to identify the person that Glover had said  
19 was the source of that money?

20 A. Yes, sir.

21 Q. All right. Did that investigation include interviewing  
22 several park employees?

23 A. Yes, sir.

24 Q. All right. At some point did Jeff Lowe provide you  
25 information about the identity of that person?

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Matthew Bryant - Direct by Mr. Earley

1 A. Yes, sir.

2 Q. And what do you recall Jeff Lowe doing to provide you that?

3 A. I received information from Mr. Lowe that he had figured out  
4 who the person was in the parking lot that Mr. Glover took the  
5 cub to. He provided me a photograph of a gentleman by the name  
6 of Robert Engesser. It was -- I'm sorry. Go ahead, sir.

7 Q. Let me put that up. Is this -- is this the photograph that  
8 he provided to you?

9 A. Yes, sir.

10 Q. He actually texted that to you, correct?

11 A. Yes, sir.

12 Q. All right. And he also confirmed that he had shown that to  
13 Glover; is that right?

14 A. He did say that.

15 Q. And he informed you that Glover identified that person as  
16 well?

17 A. That's what he said.

18 Q. All right. Now, did you ask Glover to look at that picture?

19 A. I later interviewed Mr. Glover with Special Agent Farabow,  
20 and I believe it was in July. During a portion of that interview  
21 I had that photograph and I asked Mr. Glover, is this the guy  
22 that you remember in the parking lot, and Mr. Glover did again  
23 confirm that that was the guy he saw in the parking lot.

24 Q. Okay. And supposedly that was the guy who handed over this  
25 thick envelope full of cash, correct?

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Matthew Bryant - Direct by Mr. Earley

1 A. That is according to Mr. Glover.

2 Q. Did you ask Garretson to contact Mr. Engesser?

3 A. Yes, I did. I knew Mr. Garretson was from Florida. The  
4 information that we had initially received during the  
5 investigation was that a lady from Florida was coming up to pick  
6 the tiger up, or liliger, and that's the money that Mr. Passage  
7 was going to use to pay Mr. Glover.

8 So I had a Florida base, I believed. And when this  
9 information was supplied to me, I asked the CI, or Mr. Garretson,  
10 if he knew of Mr. Engesser or anybody like that in Florida that  
11 dealt with Mr. Passage routinely.

12 Q. So did Mr. Garretson provide you some contact information on  
13 Mr. Engesser?

14 A. I don't remember if he provided contact information. I --  
15 my memory is that he was going to try to reach out to  
16 Mr. Engesser to try to make contact with him covertly, but that  
17 never resulted.

18 Q. Now, you were able to contact Mr. Engesser, correct?

19 A. Yes, sir.

20 Q. All right. And did you ask him about his whereabouts?

21 A. Yes.

22 Q. In November of 2017?

23 A. Yes, sir.

24 Q. And did you send requests to other law enforcement agencies  
25 to try to verify the information that he provided to you?

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Matthew Bryant - Direct by Mr. Earley

1 A. Yes, sir.

2 Q. To your knowledge, did those collateral investigations  
3 suggest that Mr. Engesser was not telling you the truth?

4 A. There was some -- some confusion. One of the -- there was  
5 some -- Mr. Engesser believed that during the time in question,  
6 the period of Thanksgiving, the first part of the week of  
7 Thanksgiving, that he was in Indiana -- yes, I believe that's  
8 correct. I wanted to know what dates he was actually in Indiana.  
9 The information I had was that the cub had been -- or the --  
10 yeah, the cub had been put in, what we believed at the time  
11 Mr. Engesser's vehicle, around November 22nd.

12 Mr. Engesser thought that he was in Indiana at the time  
13 getting a truck worked on or picking up a truck. So I wanted to  
14 verify that information. I was able to verify that on November  
15 21st Mr. Engesser was in Indiana.

16 Q. So was there any other information that you obtained from  
17 other law enforcement agencies that suggested that Mr. Engesser's  
18 denial that he was at the park in November of 2017 was false?

19 A. I wouldn't say false. I did ask USDA -- Mr. Engesser, as  
20 part of his business, is required to submit an itinerary. He has  
21 a traveling animal petting business and he must submit an  
22 itinerary to USDA where he's going to be the following week. And  
23 if memory serves, I believe every Friday he sends an itinerary to  
24 USDA setting what animals he possesses, is going to be  
25 exhibiting, and what location he is going to be traveling to and

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Matthew Bryant - Direct by Mr. Earley

1 for the duration and the dates.

2 So I did work with USDA to try to figure out where  
3 Mr. Engesser was during the month of November. And I learned  
4 that during the first part of November, I believe he was in Big  
5 Spring, Texas. And while in Big Spring, Texas, he submitted an  
6 itinerary stating that -- I'm going to do the best I can with  
7 these dates, Mr. Earley -- but I believe he suggested then he was  
8 going to Palestine, Texas, I believe it was, and he would be in  
9 Palestine the 26th -- or the 22nd through the 26th. Then after  
10 he left there he'd be going to Lufkin,, Texas, and then after  
11 there he would be going to Odessa. And I may have Lufkin and  
12 Odessa mixed up, but he was traveling throughout Texas during the  
13 period of November.

14 Q. Now, you had already testified at the grand jury before you  
15 talked to Mr. Engesser, correct?

16 A. Yes, sir.

17 Q. And your testimony before the grand jury was that it was  
18 Mr. Engesser who had purchased a cub and provided the money to  
19 Mr. Passage that was subsequently given back over to Mr. Glover  
20 for his trip to South Carolina, correct?

21 A. Yes, sir.

22 Q. All right. So your investigation -- after you testified to  
23 those things before the grand jury, did you question whether or  
24 not that was correct, after you investigated it?

25 A. I believed it was correct at the time. There was also, as

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Matthew Bryant - Direct by Mr. Earley

1 you mentioned earlier, other interviews done with park employees.  
2 And one of the park employees remembered seeing Engesser on  
3 November 22nd at the facility, prepared an affidavit, and in the  
4 affidavit said that she remembered Mr. Engesser stating his name  
5 and that he was there to see Mr. Passage, and Mr. Passage had  
6 asked Mr. Engesser to come to the back of the park. So I had the  
7 information from Mr. Glover, referenced this photograph in his  
8 memory, and then the other information from another park employee  
9 that stated she specifically remembered talking to Mr. Engesser.

10 Q. Who was that?

11 A. Brenda Verger (phonetic) -- wait. That's not correct,  
12 Mr. Earley. It was Verger or Varga.

13 Q. Okay. Well, do you -- as you sit here today, do you believe  
14 that Mr. Engesser was at the park that day?

15 A. I had peers interview Mr. Engesser in Illinois.  
16 Mr. Engesser denied that he was at the park during that time  
17 period. I and Special Agent Farabow conducted a follow-up  
18 interview with Mr. Engesser. During the follow-up interview we  
19 discussed his interaction with the car dealership in Indiana on  
20 the 21st, his plans for his movement of his petting business, the  
21 different facilities, and his schedule, and Mr. Engesser again  
22 denied that it was him.

23 Q. Well, the question was, as you sit here today, do you  
24 believe that Mr. Engesser was at the park in the end of November  
25 and providing money to Mr. Passage in exchange for a cub?

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Matthew Bryant - Direct by Mr. Earley

1 A. I have no reason to believe that it -- Mr. Engesser could  
2 not have been there, that it could not have been him also, based  
3 on his statements.

4 Q. So who have you identified as this person who supposedly  
5 picked up a cub and exchanged money with Mr. Passage that was  
6 subsequently given to Mr. Glover?

7 A. Initially we believed it was Mr. Engesser, but as -- today  
8 it could be Mr. Engesser, it may not be Mr. Engesser. We do not  
9 know.

10 Q. So your testimony is that you haven't discounted him as the  
11 possible source of that money?

12 A. Just say we have conflicting statements. Some people said  
13 he was there; Mr. Engesser said he was not. We cannot verify the  
14 total truth of either.

15 Q. When did you come to this conclusion that maybe -- maybe I  
16 was wrong, maybe I wasn't wrong? When did you and Mr. Farabow  
17 discuss this and come to the conclusion that, well, maybe it  
18 wasn't him?

19 A. Well, there's kind of two different time periods. One of my  
20 peers who did the interview with Mr. Engesser I respect very much  
21 and I asked him specifically, "Do you believe Mr. Engesser?" He  
22 said that his gut feeling -- and he had been doing this type of  
23 work for about the same period that I have and has interviewed  
24 numerous people. He did say that he felt Mr. Engesser was being  
25 truthful, and this was during the face-to-face interview.

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Matthew Bryant - Direct by Mr. Earley

1 Q. When was that?

2 A. Oh, Mr. Earley, you might have to help me with dates, but I  
3 believe it was in September of -- late September of 2018. It was  
4 the -- it was the lead request I sent to agents in Illinois.

5 Q. Okay.

6 A. And then when Agent Farabow and I interviewed him, I did  
7 have the same feeling, that Mr. Engesser may be telling the truth  
8 that it wasn't him.

9 Q. So the grand jury incorporated that allegation with respect  
10 to the sale of a cub for \$3,000 subsequently going to Glover to  
11 fund the trip to South Carolina, the grand jury incorporated that  
12 allegation in their indictment, correct?

13 A. Yes, sir.

14 Q. All right. So you testified twice in front of a grand jury,  
15 correct?

16 A. Yes, sir.

17 Q. Once around September 5th, or somewhere in that  
18 neighborhood; is that correct?

19 A. Yes, sir.

20 Q. All right. And then you testified again in front of the  
21 grand jury in November, correct?

22 A. Yes, sir.

23 Q. So when you testified the second time in front of the grand  
24 jury, did you advise the grand jury that the allegation they  
25 made, based on your testimony in September, the allegation

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Matthew Bryant - Direct by Mr. Earley

1 concerning the source of these funds might be questionable at  
2 this point in time?

3 A. I don't remember that from the second grand jury.

4 Q. In fact, none of that was discussed during your testimony  
5 with the second grand jury, correct?

6 A. I don't believe so.

7 Q. None of the prior testimony concerning the alleged  
8 murder-for-hire plot was revisited during this second grand jury  
9 session, was it?

10 A. No, sir.

11 Q. And no one asked you any questions in front of the grand  
12 jury to advise them that the previous information they received  
13 may have been erroneous, correct?

14 A. Correct.

15 MR. EARLEY: May I have just a moment, Your Honor?

16 THE COURT: You may.

17 Q. (By Mr. Earley) I believe that the exhibits that concern  
18 the transportation of the animals by Mr. Finlay, his testimony,  
19 all of those postdate the passage of the generic tiger loophole  
20 closure, would that be fair to say?

21 A. Yes, sir.

22 Q. So Mr. Finlay testified that he took maybe a hundred trips  
23 transporting animals across state lines, correct?

24 A. Yes, sir.

25 Q. Over a number of years' period, correct?

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Matthew Bryant - Cross by Ms. Maxfield-Green

1 A. Yes, sir.

2 Q. With respect to these transports, all of the charged acts  
3 are in November 2016 or later. Why is that?

4 A. The generic tiger change in the law happened in May of 2016.  
5 We felt it best to use those transports in support of this  
6 investigation. Prior to that, tigers that were transported would  
7 have -- had they been generic tigers and not been able to  
8 determine that they were purebred tigers, would not have been  
9 covered by the Endangered Species Act.

10 Q. So it's possible, then, that when Mr. Finlay testified about  
11 these numerous trips that he made, a good number of those trips  
12 were probably not in violation of the law, correct?

13 A. I would not know that.

14 Q. Well, prior to 2016 for sure, correct?

15 A. I can state if the tigers were not purebreds that he  
16 transported.

17 Q. Did you find any purebred tigers at the facility?

18 A. I have not looked, no, sir.

19 MR. EARLEY: Nothing further.

20 THE COURT: Cross-examination?

21 CROSS-EXAMINATION

22 BY MS. MAXFIELD-GREEN:

23 Q. Good morning, Special Agent Bryant.

24 A. Good morning.

25 Q. Just going to go through a few things that you discussed

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Matthew Bryant - Cross by Ms. Maxfield-Green

1 with Mr. Earley. So Mr. Earley asked you about whether animal  
2 welfare organizations had provided some information to you about  
3 the GW Zoo, correct?

4 A. Yes, ma'am.

5 Q. Okay. And, in fact, did some animal welfare organizations  
6 provide you with allegations of specific violations they thought  
7 Mr. Passage had committed?

8 A. Yes, ma'am.

9 Q. And were those wildlife trafficking violations?

10 A. Yes, ma'am.

11 Q. And are any of those allegations that were brought to you by  
12 those animal welfare organizations, are any of those alleged  
13 violations being prosecuted in this case?

14 A. No, ma'am.

15 Q. Now, Mr. Earley asked you about your -- your initial  
16 conversations with Mr. Garretson in August of 2017. And at that  
17 time Mr. Garretson provided you knowledge about the plot to  
18 murder Ms. Baskin, correct?

19 A. Yes, ma'am.

20 Q. Did he also provide you with information about Mr. Passage's  
21 illegal wildlife trafficking?

22 A. Yes, ma'am.

23 Q. So he was able to provide you with two different types of  
24 information, correct?

25 A. Yes, ma'am.

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Matthew Bryant - Cross by Ms. Maxfield-Green

1 Q. And so -- and as the investigation proceeded from the time  
2 you met Mr. Garretson forward, were you essentially -- did you  
3 essentially have two different investigations going; one into  
4 murder for hire and one into wildlife trafficking?

5 A. Yes, ma'am. And I will also add, too, that Mr. Garretson,  
6 on the initial meeting, alleged that Mr. Lowe was also illegally  
7 moving wildlife.

8 Q. Okay. So -- and at that time you described for Mr. Earley  
9 on direct, if you recall, that you had to do some kind of  
10 background research into this park, correct?

11 A. Yes, ma'am.

12 Q. At the time in -- in August of 2017, when you first kind of  
13 met Mr. Garretson, he was an insider, correct?

14 A. Yes, ma'am.

15 Q. And at that time would -- was it correct that you were  
16 looking at at least three possible owners of the park, Mr. --  
17 sorry. Go ahead.

18 A. That was my impression, yes, ma'am.

19 Q. Were there multiple employees that were arguably management  
20 at the park over the wildlife?

21 A. Yes, ma'am. I believe -- I was trying to figure out the  
22 ownership, who was owning, and who were the -- the people that  
23 management was using in day-to-day operations, who were the  
24 people that were at the lower end of the spectrum that were not  
25 really involved in day-to-day operations.

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Matthew Bryant - Cross by Ms. Maxfield-Green

1 Q. Now, Mr. Earley talked to you about the course of the  
2 investigation through the fall of 2017. And he established with  
3 you that there were no recorded calls from the time you met  
4 Mr. Garretson in September of 2017 until November 7th of 2017  
5 with Mr. Lowe; is that correct?

6 A. That's correct.

7 Q. And Mr. Earley also established with you that from -- it was  
8 a -- about two and a half months from when you met Mr. Garretson  
9 in August -- or September, I should say, until December, that it  
10 took that length of time to introduce the undercover agent. Do  
11 you recall that testimony?

12 A. Yes, ma'am.

13 Q. Now, the whole -- was the whole investigation of this case  
14 functionally on hold for basically the entire month of October?

15 A. Yes, ma'am. I learned that Mr. Passage's husband had passed  
16 and out of respect for that we put the case on hold for  
17 approximately a month.

18 Q. Did you instruct Mr. Garretson to essentially lay off with  
19 the trying to introduce an undercover agent?

20 A. Yes, ma'am.

21 Q. Did you essentially instruct Mr. Garretson to lay off of  
22 trying to talk to him about illegal wildlife trafficking during  
23 that time?

24 A. Yes, ma'am.

25 Q. Mr. Earley asked you -- he talked to you about November 16th

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Matthew Bryant - Cross by Ms. Maxfield-Green

1 of 2017. And that was the day that -- that the investigators,  
2 including you, believed that the Glover plan had been set aside,  
3 correct?

4 A. Yes, ma'am.

5 Q. And Mr. Earley also asked you if it was on November 16th of  
6 2017 that Mr. Lowe was the subject of an investigation in -- or a  
7 search warrant, at least, in Las Vegas, correct?

8 A. Yes, ma'am.

9 Q. Now, did you know about Mr. Lowe's Las Vegas issues on  
10 November 16th or later?

11 A. Later.

12 Q. How much later?

13 A. I believe it was in -- in December, or at least the latter  
14 part of November that I learned Mr. Lowe got in trouble in Las  
15 Vegas.

16 Q. Okay. So Mr. Passage was indicted on the murder-for-hire  
17 charges on September 5th of 2018, correct?

18 A. Yes, ma'am.

19 Q. And you sent the lead for the contact of Mr. Engesser after  
20 that, correct?

21 A. Yes, ma'am.

22 Q. And so Mr. Engesser was not interviewed until September 13th  
23 of 2018, correct?

24 A. Yes, ma'am.

25 Q. Is that about nine days after the indictment?

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Matthew Bryant - Cross by Ms. Maxfield-Green

1 A. Yes, ma'am.

2 Q. And was it a conscious decision to hold off on contacting  
3 Mr. Engesser until after the indictment?

4 A. Yes, ma'am.

5 Q. And why was that?

6 A. At the time we felt Mr. Engesser had a close relationship  
7 with Mr. Passage. And if we interviewed Mr. Engesser prior to  
8 the indictment, Mr. Engesser may inform Mr. Passage of the  
9 investigation.

10 Q. So that -- that face-to-face interview you described by  
11 agents in Illinois that you respect, that happened on  
12 September 13th of 2018, correct?

13 A. Yes, ma'am.

14 Q. Now, when Mr. Glover had initially described the person who  
15 bought the cub in November of 2017 that was the source of the  
16 money to fund the hit, what kind of description did he provide?

17 A. Mr. Glover described him as a "scruffy looking dude."

18 Q. Did he describe him as a white man?

19 A. Yes, ma'am.

20 Q. Now, did anyone ever present a photo array to Mr. Glover,  
21 like several photos for him to pick from?

22 A. No, ma'am.

23 Q. Or was he just presented with that one Facebook photo?

24 A. Just presented with that one.

25 Q. And in your 25-year career of investigating crimes, have you

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Matthew Bryant - Redirect by Mr. Earley

1 ever had a witness mistake something that was later determined to  
2 be incorrect, such as an identification, a date or an amount,  
3 something like that?

4 A. Yes, ma'am.

5 MS. MAXFIELD-GREEN: No further questions, Your Honor.

6 THE COURT: Redirect?

7 **REDIRECT EXAMINATION**

8 **BY MR. EARLEY:**

9 Q. So prior to Mr. Passage's loss October 6th, 2017, there was  
10 an active investigation on a murder-for-hire scheme, correct?

11 A. Yes, sir.

12 Q. All right. And so the agents, if I understand your  
13 testimony, because of this loss suffered by Mr. Passage, who was  
14 the target of this investigation, correct?

15 A. Yes, sir.

16 Q. You decided, well, we'll just take the month of October off,  
17 correct?

18 A. I learned that Mr. Passage was extremely distraught. I did  
19 not think Mr. Passage was going to be involved in the day-to-day  
20 operations of the zoo or any plans that we believe he -- he had  
21 during this time period. And it was my opinion that we did not  
22 need to be continuing contact with Mr. Passage until he was done  
23 grieving and got back into the operation of the park business.

24 Q. So I assume, then, that this -- the decision to kind of put  
25 things on hold took into account your belief that he didn't pose

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Matthew Bryant - Redirect by Mr. Earley

1 a risk to Ms. Baskin at all, correct?

2 A. Not necessarily. My decision to -- to put things on hold  
3 was strictly because I did not believe at the time that  
4 Mr. Passage was going to be involved in the day-to-day operations  
5 or completing plans that he had previously suggested during that  
6 time period.

7 Q. Now, you were asked by Ms. Green about your knowledge of  
8 Lowe and his problems that arose on November 16th, 2017, correct?

9 A. Yes, sir.

10 Q. All right. And my question is, during your discussions with  
11 Mr. Glover, did he advise you whether or not he was aware of  
12 Mr. Lowe's problems that occurred on that very day that he  
13 apparently decided he wasn't following through with anything?

14 A. Not to my knowledge.

15 Q. Well, subsequent to your somewhat change of heart about  
16 whether that was Engesser in November or not, did you revisit  
17 that issue with Mr. Glover?

18 A. No, sir.

19 Q. Did you show him a -- an array of photographs and say, you  
20 know, hey, I know you already picked this one out, but are you  
21 sure you can't find this person in this group of people?

22 A. No, sir.

23 MR. EARLEY: I have no further questions.

24 THE COURT: Thank you.

25 Any additional questions, Ms. Green?

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Matthew Bryant - Recross by Ms. Maxfield-Green

1 MS. MAXFIELD-GREEN: Please, Your Honor.

2 **RECROSS EXAMINATION**

3 **BY MS. GREEN:**

4 Q. Special Agent Bryant, let me direct your attention back to  
5 October of 2017. Now, does -- although you had instructed  
6 Mr. Garretson to not push for information from Mr. Passage while  
7 he was grieving after October 6th, that's -- that's correct,  
8 right, right?

9 A. Yes, ma'am.

10 Q. Did you still -- you did still instruct him to provide any  
11 information that he heard or obtained during that time period,  
12 correct?

13 A. Right -- that's correct. Excuse me.

14 Q. Okay. Now, as of -- Mr. Passage's husband passed away on  
15 October 6th of 2017, correct?

16 A. Yes, ma'am.

17 Q. And as of that date you only had one recorded conversation  
18 between Mr. Garretson and Mr. Passage, correct?

19 A. Yes, ma'am.

20 Q. And that was the video we saw of them walking around the  
21 park on September 29th of 2017, correct?

22 A. Yes, ma'am.

23 Q. In that video was there -- did Mr. Passage make any mention  
24 of a plan to use Alan Glover?

25 A. No, ma'am.

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1 Q. Was the only discussion of Ms. Baskin at all in context of  
2 Mr. Garretson proposing his hit man?

3 A. Yes, ma'am.

4 Q. And Mr. Garretson's hit man was going to be an undercover  
5 agent, correct?

6 A. Yes, ma'am.

7 MS. MAXFIELD-GREEN: No further questions.

8 THE COURT: Thank you.

9 Special agent, you may step down.

10 Defendant's next.

11 MR. EARLEY: May we approach, Your Honor?

12 THE COURT: You may.

13 (The following bench conference was held outside the hearing  
14 of the jury.)

15 MR. EARLEY: Our next witness will be Mr. Passage, and  
16 I'm not sure how the Court handles this. Usually the Court will  
17 inquire about whether or not he's been advised of his right to  
18 testify and to not testify and make sure he understands that on  
19 the record. And so I don't know if you want him to just come up  
20 here before we start or --

21 THE COURT: We're probably close enough to a morning  
22 break. We can just excuse the jury and make that record with  
23 them out of the courtroom. And, you know, I -- I actually don't  
24 have a practice.

25 MR. EARLEY: Okay.

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1 THE COURT: I have been on both ends of it. I would be  
2 happy to make the inquiry. Do you want to make a -- just a  
3 record about it and I can ask for his confirmation?

4 MR. EARLEY: That would be fine. Yeah, we could do it  
5 that way. Just as long as it's on the record.

6 THE COURT: Sure.

7 Government, is that --

8 MS. MAXFIELD-GREEN: That's fine.

9 MR. EARLEY: And my other question, and this is  
10 probably directed at the marshals, but as far as him being in the  
11 witness chair, I don't know if they're going to escort him. I'm  
12 not sure how all that's going to go.

13 THE COURT: Yeah. I don't want a bunch of movement  
14 when he -- would you have any concerns if, prior to the jury  
15 coming back, we went ahead and had him in the witness chair?

16 MR. EARLEY: I think that's fine.

17 MR. WACKENHEIM: That's fine. I don't know if the  
18 marshals would also sit directly behind him. That might be a bit  
19 of a distraction.

20 THE COURT: I'm sure they will go over there.

21 MR. WACKENHEIM: I have seen it both ways, that's --

22 THE COURT: I'm sure they'll sit over there. And then  
23 I assume he's going to take us through the lunch break and after  
24 the lunch break, so -- in which case we could do that process the  
25 same way, where he is always there when the jury comes and goes.

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1 What I was thinking was if his testimony wrapped up, how we'll  
2 get him back to the table without causing the same concern, but  
3 I'll mull that over. It sounds -- I expect we'll go into the  
4 afternoon with him.

5 MR. EARLEY: Well, and maybe -- maybe what we could do,  
6 after he's all done, is just -- I could just announce rest and  
7 then, depending on what time it is, whether they're having  
8 rebuttal --

9 THE COURT: Is he your last witness?

10 MR. EARLEY: Yes. We can kind of make it work somehow.

11 THE COURT: We may -- well, we may also make any  
12 necessary record about jury instructions maybe at the -- I don't  
13 want to kill your entire lunch break, but maybe we could make it  
14 -- my understanding is that we don't have a whole lot on  
15 instructions, so maybe we -- our record may be kind of quick, so  
16 anyway -- okay. We'll take a break.

17 MS. MAXFIELD-GREEN: Your Honor, the government just  
18 wants to put on the record sort of in advance, for a heads-up for  
19 the Court and defense counsel, so Mr. Passage has stated in calls  
20 over the weekend that he is very intent on getting his story out  
21 and that he, I believe, has said he doesn't care if there are  
22 objections or if he's held in contempt of court, he's getting it  
23 all out. And based on our review of depositions and hearings in  
24 which Mr. Passage has participated in the past, it is -- from  
25 my -- our experience of reading those transcripts, he tends to

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1 continue talking when instructed to answer, he continues to  
2 repeatedly disregard the Court's instructions about when and how  
3 to answer a question. And just to the extent that he attempts to  
4 put in a rambling narrative of his entire life story, we -- the  
5 government intends to create at that time a standing objection  
6 to -- to his -- just a narrative that has no stop and no -- and  
7 no respect for the rules of hearsay and such things. So we're  
8 just kind of giving notice of that.

9 THE COURT: Well, I don't want to -- thank you. I  
10 don't want to prejudge it. I mean, what you say on the phone and  
11 what you do on the stand may be two very different things. I  
12 would ask that, as we get into that scenario, to please do not  
13 correct or argue with him on the record. If his answer is  
14 nonresponsive, simply lodge an objection for being nonresponsive.  
15 I'll advise him.

16 If, in fact, we go down the road of where he is becoming  
17 difficult, in terms of process, my intent would be if it -- if a  
18 mild reminder as I have done with other witnesses is ineffective,  
19 I would be likely to excuse the jury and have an increased  
20 admonishment outside the presence of the jury, talk to him about  
21 the ramifications.

22 I assume, Mr. Earley and Mr. Wackenheim, I assume you guys  
23 have visited with him about testimony and -- and honestly, some  
24 of that stuff may hurt him more than it helps him. So we'll just  
25 kind of play it -- see how it goes, but thank you.

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1 MS. MAXFIELD-GREEN: Thank you, Your Honor.

2 (The following record was made in open court, in the  
3 presence of all parties, counsel, and in the presence and hearing  
4 of the jury.)

5 THE COURT: Ladies and gentlemen of the jury, we'll  
6 take our morning break, again with the usual admonition. We'll  
7 break for 15 minutes. And we're going to handle some things on  
8 the record so you don't have to just keep waiting during that.  
9 We'll get a little housekeeping done.

10 So we'll break for 15 minutes. Please remain seated as the  
11 jury leaves the courtroom.

12 (Jury exited.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and out of the presence and  
15 hearing of the jury.)

16 THE COURT: Record will reflect the jury has left the  
17 courtroom.

18 Mr. Earley, do you have an announcement in terms of your  
19 next witness?

20 MR. EARLEY: Yes, Your Honor. With respect to  
21 Mr. Passage, Mr. Wackenheim and I have explained to him his right  
22 to remain silent as guaranteed by the Fifth Amendment to the  
23 Constitution. We have explained that he has an absolute right  
24 not to testify in his own defense, but also that he does have a  
25 right to testify in his own defense if he chooses to do so. We

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1 have explained those choices to him, and I believe that he  
2 understands the two choices. And it's my understanding that  
3 Mr. Passage elects to testify in his own defense. And I just  
4 think the Court needs to ensure or verify on the record that he  
5 understands his choices and that it is, indeed, his choice to  
6 make.

7 THE COURT: Thank you, Mr. Earley.

8 Mr. Passage, you can remain seated. Did you understand  
9 everything that your attorney just said?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And have you fully discussed with  
12 Mr. Earley and Mr. Wackenheim your rights in that regard?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And can you confirm for the record that you  
15 do understand that you have an absolute right not to testify  
16 should you choose not to and that the jury would be instructed  
17 that they cannot hold that against you?

18 THE DEFENDANT: I do, Your Honor.

19 THE COURT: Knowing all of that, is it your choice to  
20 testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you have any questions of your counsel  
23 or have any need to consult with your counsel further prior to  
24 doing that?

25 THE DEFENDANT: No, sir.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 THE COURT: Do you have any questions of me at all?

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. Anything else, Mr. Earley?

4 MR. EARLEY: No, Your Honor.

5 THE COURT: Government, is there any additional inquiry  
6 that you would request the Court to make?

7 MS. MAXFIELD-GREEN: No, Your Honor.

8 THE COURT: Okay. Court will be in recess for -- we'll  
9 still go ahead and take the full 15.

10 (Break taken.)

11 (The following record was made in open court, in the  
12 presence of all parties, counsel, and in the presence and hearing  
13 of the jury.)

14 (WITNESS SWORN.)

15 THE COURT: Mr. Earley, you may proceed.

16 MR. EARLEY: And for the record, Your Honor, we are  
17 calling Joseph Passage as a witness.

18 **JOSEPH MALDONADO-PASSAGE**

19 **DIRECT EXAMINATION**

20 **BY MR. EARLEY:**

21 Q. Would you state your name, please?

22 A. Joseph Maldonado-Passage.

23 Q. Now, Mr. Passage -- can I refer to you as Mr. Passage?

24 A. Yes, sir.

25 Q. All right. Now, we have also heard another name, I believe

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 it's Schreibvogel, if I'm not mistaken.

2 A. That was my birth name, yes, sir.

3 Q. All right. And I don't know if the court reporter has ever  
4 had it spelled for her. So, if you would, just spell that for  
5 the court reporter.

6 A. Schreibvogel?

7 Q. Yes.

8 A. S-C-H-R-E-I-B, as in boy, V as in victor, O-G-E-L.

9 Q. So Mr. Passage, what type of employment have you had during  
10 your adult life?

11 A. When I was in high school, I worked at a nursing home as a  
12 nurse's aide. When I graduated high school, I went through the  
13 Texoma Police Academy in Dennison, Texas, and graduated as the  
14 youngest police chief in the state of Texas's history.

15 In 1986, me and my brother and my first husband bought a pet  
16 store in Arlington, Texas. Did that for 16 years. My brother  
17 got killed in 1997, and me and my parents built the zoo there in  
18 Wynnewood, Oklahoma, in memory of him. And we opened in 1999.

19 Q. All right. So the zoo, the park that we have heard about in  
20 testimony was something that you started?

21 A. Yes, sir.

22 Q. And that was based on -- on what?

23 A. Well, when my brother got killed, he was the biggest part of  
24 the pet store, so it was never the same. So me and mama and dad  
25 and Brian decided to sell the pet store. And mom and dad got

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 \$140,000 from the insurance company from my brother being killed  
2 in a car wreck. And my dad called it blood money, and he didn't  
3 want anybody making any money off of that. So he was going to  
4 donate it to charity.

5 And you hear on TV how all the charities misuse money and  
6 stuff, so we all kind of agreed to build this rescue zoo in  
7 memory of my brother because one of his dreams was to go to  
8 Africa and see the animals running free. So we built -- built  
9 the animal park there in Wynnewood, Oklahoma.

10 Q. So describe the park.

11 A. It's right off of I-35 and Exit 64. It's 16 -- started out  
12 with 16 acres. It came with just an exterior fence and a roping  
13 arena and an old barn and an old farmhouse. And we started  
14 building cages, and animals started coming in and they never  
15 stopped.

16 Q. So what was the source of these animals?

17 A. Most of all the animals come from people that rehomed them  
18 there because they had exotic animals, and they either couldn't  
19 take care of them anymore, or they got too big, or the city laws  
20 changed, or some state laws changed. And over the course of 20  
21 years, we probably rescued and rehomed more animals than anybody  
22 in the United States.

23 Q. So is it fair to say that over the years the facility grew?

24 A. It grew tremendous, yes, sir.

25 Q. All right. So what was offered at the park as far as what

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 could the public do at your park?

2 A. When we first started, we just had a gift shop and a few  
3 cages and a -- in the gift shop we had a -- kind of a Subway shop  
4 where my mom would actually be the cashier and make the Subway  
5 sandwiches and stuff. And over the years we incorporated a  
6 traveling show where we did fairs and malls and stuff like that.  
7 And people built cages in memory of people that they have lost,  
8 so we called it a memorial park because animals got to live in  
9 honor of people that passed away. And there was actually three  
10 people buried underneath their exhibits there at the zoo.

11 So it turned into 152 memorials as of when I left the zoo  
12 last year. And we turned it into a traveling magic show and  
13 tiger show for nine years.

14 Q. So did you offer any educational programs at the park?

15 A. We -- after -- after we did the -- retired the magic show  
16 and the traveling educational show, we built a stage that had  
17 bleachers, and I did an educational show twice a day.

18 Q. Now, at some point was there a video production facility  
19 built at the park?

20 A. I believe that started late 2011, maybe 2012. We had a TV  
21 studio where we videotaped everything going on in the park, and  
22 we broadcasted it on a website called Joe Exotic TV. And we  
23 did -- brought animals on the show and taught people about  
24 animals.

25 Q. So Joe Exotic TV, was that something that was broadcast over

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 the Internet, essentially?

2 A. Yes, sir. It was -- it was on YouTube and the website, yes,  
3 sir.

4 Q. Okay. And you talked about some of the things that you put  
5 on the show to include things about animals. What other things  
6 were on the show?

7 A. We did online auctions. We raised money. And in 2008, I  
8 formed a corporation called the United States Zoological  
9 Association, where we went around and helped people rebuild their  
10 zoos instead of taking their animals away from them. We taught  
11 them how to -- to fix up their zoo so they could keep their  
12 animals instead of always sending them to a sanctuary. So we  
13 raised money for that organization.

14 And then we had another thing online that we called the  
15 Animal Miracle Network, where we reached out to people that were  
16 terminally ill and dying, and we granted last wishes with animals  
17 for people all over the United States for one of their last  
18 wishes. So we kind of did all of that on our TV show.

19 Q. Did you have sponsors?

20 A. We did have sponsors.

21 Q. For example, who would sponsor your show?

22 A. Seth Wadley Ford, the local Sonics, and the local  
23 McDonald's.

24 Q. Now, at some point was there another show developed for  
25 broadcast?

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1 A. We did. We created a second show with a complete separate  
2 website called Joe Gone Wild.

3 Q. So when was that developed?

4 A. I want to believe maybe late 2013.

5 Q. Okay. And what was the content of the Joe Gone Wild show?

6 A. It was -- it was pretty out there. I don't know if you have  
7 ever watched the movie Jackass, but we kind of incorporated it to  
8 be after the movie Jackass because the crazier you got, the more  
9 people watched it. We ended up with 64 million viewers.

10 But the website had an age restriction to where you had to  
11 be 18 years old, and you had to verify your date of birth in  
12 order to watch the show. And the webmaster that designed the  
13 website had a chat room on one side, and people all over the  
14 world could chat with each other during the show, and then they  
15 could call into the zoo office and request requests or dare us to  
16 do different things on the show for donations for the animals.  
17 And at times we raised \$20,000 in two hours.

18 Q. Now, if you would, just -- and keep it as tame as possible,  
19 but what kind of outlandish material would you -- would you do on  
20 these shows?

21 A. We had tons of costumes underneath the desk. There was  
22 times that we dressed up like we were in Jamaica, and we had big  
23 drink glasses that we got at the state fair, and we put dry ice  
24 in them and made them look like bongos, smoking weed on the thing,  
25 even though I don't smoke weed.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 We had -- I don't know if you have ever run into the diaper  
2 people on Facebook, but there's a huge community of adult diaper  
3 people on Facebook, and they called in and dared us to wear adult  
4 diapers one night. We did that for 500 bucks. We had blowup  
5 dolls. It was -- it was pretty crazy.

6 Q. All right. Now, we saw a number of videos that the  
7 government played during their case in chief. Do you recall  
8 those?

9 A. Yes, sir.

10 Q. All right. And, obviously, all of those were kind of  
11 centered on either animal rights or Carole Baskin, correct?

12 A. Correct.

13 Q. Where were those shows? I mean, were they within the Joe  
14 Exotic, or were they on the Joe Gone Wild?

15 A. I can't be exactly because they didn't play the entire video  
16 of the show. Every show was recorded live. And at the beginning  
17 of every show it had disclaimers saying it was for entertainment  
18 purposes only and viewer discretion advised and foul language  
19 would be involved and all that, and some would go to YouTube  
20 after they were recorded.

21 Q. All right. So were there shows that you produced or got  
22 yourself involved in that had nothing to do with Carole Baskin?

23 A. Thousands.

24 Q. Give us an example of a show that you would do that didn't  
25 have anything to do with Carole Baskin.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 A. On Joe Gone Wild or Joe Exotic TV?

2 Q. Both.

3 A. On Joe Exotic TV, we had little kid shows, where we had  
4 little baby ducks and chickens and baby animals, and we taught  
5 kids about, you know, how long they stay in the egg and how they  
6 hatch and stuff like that. And then on Joe Gone Wild, I picked  
7 on Governor Kasich, I picked on PETA. I mean, we -- it was about  
8 anybody that had issues with having animals in cages or zoos or  
9 anything or other facilities that thought that they could do  
10 things and we couldn't.

11 Q. So when these -- these videos that we saw here in court,  
12 would you agree that there was some pretty outrageous stuff going  
13 on in those videos?

14 A. There was some pretty outrageous stuff going on.

15 Q. Was there a purpose behind those videos?

16 A. Yeah. In the animal world, if I could make you look like  
17 you're an abuser -- and -- and Carole made this website called  
18 911animalabuse.org, or .com, where she had 92 of us on this  
19 website. And her opinion, to get around free speech, was that it  
20 was her opinion that we abused baby tigers for allowing you to  
21 pet them. And the more that they can make you look bad, the more  
22 money they can raise because people think that you are going to  
23 stop them from doing that.

24 So I could take any one of you tonight and put you on my  
25 website and say you chained a pit bull to your tree in your

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 backyard, and you never feed him, and by midnight tonight I bet I  
2 could raise \$2,000 on something that you're not even doing wrong.  
3 In the animal industry, that's the key way to raise money is  
4 they'll put stuff on each other's websites and badmouth people.  
5 And the more viewers you have, the more money you raise.

6 And that's -- so the bad thing about that, though, is the  
7 Humane Society of the United States, you know, sent in spies and  
8 made videos about us. The PETA sent in spies, and we have got  
9 four FBI records to verify some of this. And they would send in  
10 spies to make videos, and they would put a video online and edit  
11 it and make it look like the Humane Society videos that you see  
12 on dogs shivering on TV right now. That's all pre-made videos.  
13 Okay? And we could do the same thing with tigers and lions. But  
14 what they do is they prey on the mentally unstable to carry out  
15 their crimes for them, and that is, to break into the zoo, cut  
16 the cages open at night.

17 One morning, at 8 o'clock in the morning -- our manager,  
18 John Reineke, has two prosthetic legs -- and a man drove all the  
19 way from Mustang, Oklahoma, down there to cut the animals out of  
20 their cages and kill -- kill John Reineke. And it took 29  
21 minutes on 911 to get the first officer at the park.

22 So a lot of the stuff that we portray on TV and our videos  
23 is to look like these dangerous psycho mutts that you didn't want  
24 to break into our zoo in the middle of the night because we are  
25 armed, and we're not going to tolerate you coming in and cutting

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 our cages open. And that was our -- our simple line of defense.

2 Q. Now, in spite of the content of those shows, did you want  
3 Carole Baskin dead?

4 A. No.

5 Q. Did Carole Baskin and your ongoing dispute with her actually  
6 help you in some strange way?

7 A. I -- I didn't know who Carole Baskin was until 2006, when I  
8 picked up a newspaper in Oklahoma City, and here's this article  
9 about this trashy little roadside zoo, and it was me, and the  
10 person that they interviewed was Carole Baskin. And over the  
11 years, I would say we both probably made each other pretty  
12 famous.

13 Q. What was Big Cat Rescue Entertainment?

14 A. Okay. Big Cat Rescue Entertainment, I believe that come  
15 about 2009 maybe, somewhere around there. We had growed into two  
16 road shows, two 18-wheelers and a tour bus. And one 18-wheeler  
17 was the animal show, and one 18-wheeler was my illusions, my  
18 magic show. And some of the malls -- we always did malls because  
19 it was easy to market and you were guaranteed customers because  
20 people came to the mall.

21 Okay. So some of the malls wanted just the animal show, and  
22 some wanted just the magic show, and some wanted both of them at  
23 the same time. So the animal show was Tigers In Need, and the  
24 magic show was Mystical Magic of the Endangered. Okay. And then  
25 whenever we both were at one location, instead of having two

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 posters and confusing people and everything else, we came up with  
2 one name. Okay. And during that time, Big Cat Rescue had a  
3 program called Cat Whiz. Okay. And anytime you showed up  
4 somewhere, this program would flood the mall with 70, 80,000  
5 emails and jam all of their computers up and their website up and  
6 everything else with this, "Oh, these people are so horrible to  
7 these baby tigers and this is abuse and you shouldn't allow  
8 this."

9 Okay. So I had a marketing director named Darren Stone that  
10 came up with the idea, well, if she's going to send out 70,000  
11 emails, let's make everybody think that it's her at the mall. So  
12 we called the Trade Commission and verified that she didn't own  
13 the three words "Big Cat Rescue." Okay. She had a logo, and she  
14 only owned it with the tiger jumping over the logo. So he  
15 created a logo with Big Cat Rescue, and we used the eyeballs from  
16 a facility we had permission to in Colorado called Serenity  
17 Springs.

18 Okay. And when both shows were at one location, we used the  
19 word and -- and the logo Big Cat Rescue Entertainment because it  
20 was magic, and it was with big cats. Made sense to us. And then  
21 everybody called back down to Florida and bitched at Carole. Was  
22 just a marketing way to pay back for flooding our clients with  
23 70,000 emails.

24 Q. Okay. So as you were explaining that, my understanding  
25 would be that Big Cat Rescue, the Carole Baskin entity --

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1 A. Correct.

2 Q. -- they would contact the locations where you were doing a  
3 show and do this email flood; is that correct?

4 A. Yes, sir.

5 Q. Okay. So your purpose in forming this entity, Big Cat  
6 Rescue Entertainment, was to kind of throw them off their game,  
7 correct?

8 A. Correct.

9 Q. All right. Did you get sued by Ms. Baskin for that?

10 A. We got sued for trademark infringement, and then she  
11 testified the other day that she sued me for copyright  
12 infringement as well. And that had absolutely nothing to do with  
13 putting her face picture on anything. It was a picture that I  
14 got off of Facebook of three of her employees bashing rabbits in  
15 the head and bloody, dead rabbits to feed to the tigers and  
16 laughing about it. So kind of give her a little taste of her own  
17 medicine -- and I sent that picture to every rabbit rescue in the  
18 country I could find, and she got a taste of her own medicine.

19 So she went and bought the picture for \$5 from the employee.  
20 Three months after I posted it, she filed a copyright and  
21 copyrighted it, and then she just out-moneyed me in a lawsuit.

22 Q. Now, did she get a judgment from you -- or against you?

23 A. Our lawyers at one point just said, you need to just quit  
24 spending bad money after bad money, and just give her a judgment  
25 of whatever she wants. And so she got a million-dollar judgment.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 And we didn't expect her to move that judgment to Oklahoma. So  
2 she moved that judgment to Oklahoma, and my lawyers recommended  
3 just filing bankruptcy on the judgment, and she sued the  
4 bankruptcy court as well.

5 Q. All right. So that initial lawsuit, the trademark and the  
6 copyright, those were being litigated in Florida; is that  
7 correct?

8 A. That's where it started, yes, sir.

9 Q. All right. And before the case was moved here for  
10 collection, were you required to litigate the case in the state  
11 of Florida?

12 A. Yes, sir.

13 Q. So did it become pretty costly?

14 A. We have -- we spent close to a quarter-million dollars.

15 Q. All right. Now, did that judgment affect you and the zoo at  
16 that time?

17 A. As in how?

18 Q. Financially.

19 A. We -- we spent a lot of money on lawyers, but we kept  
20 operating.

21 Q. All right. Now, aside from the -- the lawsuits and the  
22 judgment that Ms. Baskin has against you, what's your problem  
23 with her?

24 A. My problem is she's a hypocrite. You know, just like some  
25 of her other facilities in her -- within her little organization

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 she's created. Her facility is in the middle of Tampa, Florida.  
2 It's right next to a major highway. She sells every kind of tour  
3 under the sun: Bone tour, feeding tour, kid tour, adult tour.  
4 It doesn't matter. I mean, I have taken one of her tours.

5 Her animals are on exhibit. She can complain one month in  
6 public, writing that there's too many tigers in America, and then  
7 the next month she's rescuing one from Peru because there's none  
8 in America that can hold a good story to raise donations, so  
9 she's bringing in this tiger from Peru. And she'll drive clear  
10 across the United States to rescue a baby bobcat because baby  
11 animals raise money better because everybody likes baby  
12 everything, especially if you're going to rescue one.

13 So there's absolutely nothing except petting animals, which  
14 she used to do before she made her millions, that -- that we do  
15 any different than she does, except she wants to make every state  
16 illegal except Florida so she can corner the market on exhibiting  
17 tigers.

18 Q. Now, did you have any disagreements with her position on  
19 certain legislation?

20 A. I -- I'm probably one of the biggest, most outspoken critics  
21 of her legislation push that she's -- she's continuing to push  
22 because -- like the Big Cat Safety Act that they are trying to  
23 introduce right now, her organization that she started, which is  
24 the global federation of animal sanctuaries, is the only one  
25 exempt from this law they're trying to introduce. And the way

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1 that they're doing this is by making political donations to  
2 different politicians in order to get these laws passed.

3 But the big thing was in Ohio, when Zanesville, Ohio,  
4 happened with Terry Thompson, the guy that supposedly let all of  
5 his animals out and shot himself and killed himself in  
6 Zanesville, Ohio. And that right there is what started the  
7 controversy of -- I knew Terry and that wasn't something Terry  
8 would have done, especially if you love your animals because you  
9 know they're going to be massacred the minute you open the door  
10 and let them run.

11 Not to mention that I do investigative reporting because I'm  
12 a member of the United States Press, and I belly-crawled that  
13 farm to do my story. And to this day I don't believe that he  
14 killed himself. It was what they needed in order to make exotic  
15 animal owners look crazy and passed a law in Ohio to make it  
16 illegal to own exotic animals.

17 So after they started that, I testified in front of the  
18 Senate and in front of the House on -- to try and stop that bill  
19 that they were pushing through. And they got it pushed through,  
20 and they sent SWAT teams in peoples' homes and they took their  
21 animals, and Carole's organization got quarter-million dollar  
22 contracts to move animals from Ohio to California, and from Ohio  
23 to Florida to their facilities, which are absolutely no different  
24 than the facilities they were taking them from, except they came  
25 with quarter-million dollar contracts of taxpayer money. And

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 that's why I went after John Kasich, Governor Kasich.

2 Q. So these disagreements that you were having with Ms. Baskin  
3 about legislation, about what you did, did those things get  
4 incorporated into your -- your on-air shows, so to speak?

5 A. Absolutely. Big time, because we raised money for peoples'  
6 lawyers over in Ohio and everywhere else in the United States  
7 that were fighting laws. And we used the TV show to educate the  
8 general public, such as you, of what's going on. And -- and you  
9 have a right under the Constitution of the United States to own  
10 personal property. And, unfortunately, tigers and lions and  
11 animals are personal property.

12 Q. And you may have already spoken to this, but with respect to  
13 your on-air antics, did the viewership go up the nuttier it all  
14 got?

15 A. When we first started out, our -- our viewership was  
16 pathetic because people just got bored with the same antics every  
17 day. Okay. And that's where we tried the Joe Gone Wild thing,  
18 and we started getting 60, 70,000 viewers a night, and it went  
19 into the millions. And the last time I saw the counter on our  
20 YouTube was we had 64 million viewers from all over the world  
21 that would sit up at 2 or 3 o'clock in the morning their time  
22 just to watch our show at 7 o'clock our time. And the crazier it  
23 got, the more money we raised and the more people watched. And  
24 that flowed over even to my political thing is -- I tried to be  
25 serious in politics, and I got no support, and the more

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 outlandish I got, the more real I got, the more support I got.

2 Q. Now, as far as the park is concerned, did you discuss your  
3 difficulties with Ms. Baskin at the park?

4 A. I -- I never spoke to Carole Baskin at the park. The only  
5 time I have ever spoke to Ms. Baskin was face-to-face in Ohio at  
6 one of the hearings, and I never even spoke to her during any of  
7 the depositions. It was always Mr. Howard.

8 Q. But as far as your problem that you were having with her,  
9 either legal or philosophical, did you talk about those things  
10 with people at your park?

11 A. Oh, every -- every day.

12 Q. All right. So who would be involved in those conversations?

13 A. You know, the staff, at morning meetings or night meetings  
14 or the management in the office. It was no secret that, you  
15 know, we're being sued, we're being watched. And you never know  
16 which employee is a plant because she had a bad habit of hiring  
17 spies, and she had no problem bragging about that on her website.

18 So we -- we discussed, you know, what was right and what was  
19 wrong going on at the park that -- that we needed to be careful  
20 with.

21 Q. Now, did you ever mention to park employees that you wish  
22 Carole Baskin was dead?

23 A. You know, there was -- there was never a time that I wished  
24 she was dead. There was many times of -- and I say this about a  
25 lot of people -- is I don't understand why -- you know, I was --

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1 I was raised to believe in God, and I don't understand why little  
2 kids have to suffer so bad, and people that treat people like  
3 that just get to live on and on and on without ever being in a  
4 car wreck or something like that, and -- and why so many little  
5 kids have to suffer.

6 Q. Did you yourself get death threats?

7 A. I had many death threats, and I turned them in to the  
8 sheriff's office. We sent them in to the FBI. I actually have  
9 the -- the FBI agent's number on my cell phone from the Norman  
10 office.

11 Q. All right. Now, was your ability to run the park impaired  
12 somewhat in 2014?

13 A. I was extremely ill. I threw up for 188 days. And I went  
14 to the doctors and my T-cell count was off the chart, and my  
15 white blood cell count was off the chart. So they automatically  
16 thought I had AIDS. And I took nine HIV tests within probably  
17 four months, and every one of them came back negative.

18 So the next step was to think that I had cancer. And so  
19 they did several tests, and we never got to a PET scan, but they  
20 did prostate surgery on me on October the 21st of 2014. And all  
21 of my -- I did that at Baptist Hospital, and two days later all  
22 of my organs quit. I went into kidney and liver failure and  
23 spent almost 37 days in ICU and in the hospital there. And the  
24 doctors actually gave me -- because I would not take dialysis,  
25 the doctors gave me two days to live.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1           So they did all they could with IVs and stuff. And I sat  
2 there and made God a deal because I had a really bad breakup with  
3 John Finlay, and I was just an ugly person at that time. And I  
4 made a deal with God that if he let me walk out of that hospital,  
5 that I would completely change my attitude. And He let me walk  
6 out of that hospital, and I practically raised John Finlay's  
7 daughter. And to this day, me and her are connected at the hip.  
8 And from that time on I -- we quit the Joe Exotic Gone Wild, and  
9 I tried to do what was right.

10 Q. Now, did that cause you to reflect on whether or not you  
11 were able to run this park by yourself?

12 A. Well, I -- it was no secret on social media that -- that I  
13 was in rough shape. I was on IVs for the next year. While I was  
14 at work, I carried an IV bag with me. I did my shows with IVs in  
15 my arms.

16           And a gentleman by the name of Jeff Lowe contacted me on  
17 Facebook. He had tigers in South Carolina. And we got to  
18 talking, and he ended up buying a baby tiliger from me. So him  
19 and his original wife, Cathy, came to the park and picked up the  
20 baby tiliger and stayed for an hour or so, and then they left.

21           Okay. And then I get this phone call from this reporter out  
22 in South Carolina that said that Jeff Lowe said that he owned  
23 tigers in Wynnewood, Oklahoma, and in Colorado. And I was like,  
24 there is nobody that owns tigers in Wynnewood, Oklahoma, except  
25 me. So we kind of had a little disagreement there. And then he

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 started to buy a facility out in Colorado. And that was when me  
2 and Travis Maldonado got married. And Jeff flew us out to his  
3 place to see his house and the facility that he was working on  
4 buying and -- and we went skydiving for our honeymoon.

5 And he had this gigantic house. I mean, it was a mansion,  
6 and it had an indoor swimming pool in it and a Ferrari in the  
7 driveway and a Hummer and flashing money. And -- and he asked me  
8 if I wanted to sell the zoo. And I didn't exactly want to sell  
9 the zoo, but I said, "Hey, I'm open for a partner, you know."  
10 And I had IVs in my arm at the time when we flew out there and --  
11 and he knew I was sick, and I was concerned whether or not I was  
12 actually going to make it or not.

13 So we had talked about Carole and the lawsuits. And my mom  
14 and dad were adamant that my brothers and sisters were not going  
15 to get possession of that property in order to sell it, and tear  
16 it apart if something happened to me or mom and dad. So Jeff  
17 talked me into putting his name -- having mom put his name on the  
18 deed of the land, a quitclaim deed. And then through the  
19 lawsuits with Carole, she had always said that -- my life  
20 insurance policies were being paid by the zoo, so she had a  
21 judgment against the original zoo. So if I was to die, the  
22 judgment should get my million-dollar life insurance policies,  
23 okay, to pay off the judgment, since they were paying the  
24 premiums.

25 So Jeff talked me into putting him on as 25 percent of the

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 life insurance and he would pay the premiums, so that way the zoo  
2 was out of my life insurance, and it was in Jeff's hands. So,  
3 yeah, I -- I thought -- I just took him for face value, and I  
4 thought, you know, these -- this man's got all this money, he can  
5 take care of the animals if something happened to me, and he was  
6 going to buy this place out in Colorado and help the place in  
7 Oklahoma.

8 And so we went home. And he called me again and asked if we  
9 wanted to come out for a Halloween party. So we flew -- he flew  
10 us back there for a Halloween party. And by then his name was  
11 already on the land, and his name was already on all the health  
12 insurance and all that. And that's when I got the first taste of  
13 how he treated his -- his original wife. We came --

14 Q. Let me back up for one minute because I want to go back to  
15 something you said a little bit earlier. When you originally met  
16 him, you said that he purchased a baby tiliger.

17 A. Correct.

18 Q. What's a tiliger?

19 A. Amongst everything else I do, I am the only person on this  
20 planet who has produced a liger, a tiliger, a liliger and a  
21 tigon. And I worked very closely with the scientists of the  
22 National Institute of Health and Texas A&M, providing DNA testing  
23 and umbilical cords so they can study big cats and how they  
24 evolved and how they're going to handle the climate change and  
25 stuff.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1           And a tiliger is a tiger -- and you can do it in different  
2 colors; you can use a white tiger; you can use an orange tiger or  
3 a tabby tiger or a snow tiger -- and you breed that with a female  
4 liger and you get a tiliger. And the color variation depends on  
5 what color of father you use. For years it was believed that  
6 ligers are sterile, and it's only male ligers that are sterile,  
7 not female ligers. But the trick is you can't put two adults  
8 together or they're going to kill each other, so you have to  
9 raise them together. And that takes five years before they  
10 become fertile enough and adult enough to breed, but the  
11 discrimination between the two species is gone. And that's why  
12 nobody does it because there's no money in it because you have to  
13 wait five years in between each step. And I'm the only person in  
14 America that has made that fourth step -- actually, I'm the only  
15 person in the world that has made that fourth step, because after  
16 you hybrid them four times, the males are no longer sterile.  
17 It's just like a bengal cat or a Savannah cat that's bred with  
18 exotic animals.

19           Okay. And the theory that the animal rights people like to  
20 use out there is they outgrow their bones. I think you have  
21 heard that in here before. Okay. Or they're deformed or they're  
22 too big for their parents.

23           There has never been a recorded incident in our world of a  
24 hybrid cat born with a genetic flaw. Okay. A lot of people  
25 confuse genetics and birth defects, okay, as -- as the same

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 thing, and it's not. A birth defect happens from being cramped  
2 in the womb or something like that versus a genetic defect that  
3 is actually passed down a blood line.

4 Q. Now, you sold this to Mr. Lowe; is that right?

5 A. I did.

6 Q. Was it legal to sell that?

7 A. It's absolutely legal to sell any hybrid.

8 Q. Now, Mr. Lowe has managed to kind of get into your business  
9 at this point; is that right?

10 A. Yes, sir.

11 Q. Were you still in the process of litigation with Carole  
12 Baskin?

13 A. Yes, sir.

14 Q. Were you, at this time when Mr. Lowe starts to get on the  
15 scene, still in settlement talks with the Baskins?

16 A. When we were out there for Halloween, for his Halloween  
17 party, when we flew back to Oklahoma City, we stayed in Oklahoma  
18 City that night because the next morning I had mediation with  
19 Howard Baskin, and we spent 10 or 11 hours in -- in mediation.  
20 And me and Howard actually had it worked out to where he was  
21 going to allow me to continue for the year, and then we would  
22 stop cub petting and we'd stop breeding and we would simply  
23 slowly close the zoo down. But I needed to make sure that we  
24 could pay our outstanding bills, you know, throughout that  
25 period, and he understood that.

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1           So at the end of the day, we had come to an agreement to do  
2 all of this until he picked up the phone and called Carole. And  
3 part of that was a \$5,000 payment every month toward the  
4 settlement, okay, toward the judgment. Okay. But the thing that  
5 we were worried about was we are cutting our funding of play  
6 cages and everything else to make that \$5,000 payment. And in  
7 case we couldn't, Carole wanted my mom and dad's house and  
8 property that was completely paid for. And that's when the  
9 lawyer stepped in and said, absolutely not. So that kind of went  
10 to -- went to crap.

11 Q.    About what time period is this going on?

12 A.    November of 2015.

13 Q.    All right. So in early 2016, who took over as the owner of  
14 the park?

15 A.    Late February of 2015, Jeff Lowe created --

16 Q.    '15 or '16?

17 A.    '16. I'm sorry. Created three companies: One was the  
18 Greater Wynnewood Exotic Animal Park, which operated the zoo; one  
19 was called Big Cat Institute, which was supposed to be a  
20 nonprofit that trained interns to do what we do -- it turned out  
21 to be nothing but a way to hide payroll. The third one was the  
22 Greater Wynnewood Development Group, which was in charge of the  
23 land.

24 Q.    All right. So who actually owned the zoo after February  
25 of 2016?

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

- 1 A. Jeff Lowe.
- 2 Q. Now, did the name of the park change?
- 3 A. It did. It was -- it was the Garold Wayne Interactive  
4 Zoological Park until February when they -- the board voted to  
5 dissolution and close it.
- 6 Q. Was there a reason behind the name change?
- 7 A. Well, in order to shut one organization down and escape  
8 the -- another judgment, it closed and had to, by law, change the  
9 name to open up another organization. So Carole would have to  
10 start the lawsuits all over again.
- 11 Q. At least that was the thought?
- 12 A. That was the thought.
- 13 Q. Now, had Lowe already got his name onto the insurance  
14 policies at this time?
- 15 A. Yes, sir.
- 16 Q. Who all was on those policies?
- 17 A. It was Jeff Lowe; in 2016, it was my husband, Travis  
18 Maldonado; and then 25 percent went to John's little girl  
19 Kimberlin.
- 20 Q. All right. What was your role at the park after Lowe took  
21 over?
- 22 A. Entertainment director.
- 23 Q. And what did that mean as far as your daily work?
- 24 A. Well, the -- the park had been basically branded with my  
25 face for 20 years, close to 20 years. So I put on all the shows.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 I did the big tours twice a day at 11:30 and 2:30 every day. I  
2 did the ordering. Most of the merchandise was all private  
3 labeled with my picture on it and my name.

4 The bad part was my license was -- was there, along with  
5 Beth Corley's license and Trey Key's license and Ryan Easley's  
6 license. And Jeff didn't have a license there at that time  
7 because his license was still in South Carolina, but his cats  
8 were there. So we put all of his cats under my license, not Beth  
9 Corley's license. They were under my license. And the reason  
10 for that was is because he knew that I wanted to quit. Okay. So  
11 it didn't matter how many noncompliant citations we got from the  
12 USDA under my license, it wasn't going to affect anybody else  
13 because I was going to turn my license in eventually because I  
14 wanted out of it. So almost everything that we did had to be  
15 under my license, whether I owned the animals or not.

16 Q. So how close in time to when Jeff Lowe took over had you  
17 started having these thoughts about "I'm on my way out"?

18 A. Well, they moved to Wynnewood the last part of November  
19 of 2015, and they didn't have a place to stay. They were in a  
20 hotel for --

21 Q. Who is "they"?

22 A. Jeff and Lauren. They left Cathy in Colorado that time  
23 because Jeff got arrested for beating her up. So they had to  
24 rush out of Colorado. Okay. So they moved in my house with me  
25 and Travis, and they stayed there for probably two, three months.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 And that's when I found out everything in Colorado was rented.  
2 He didn't own nothing. He was behind on his payments on the  
3 Ferrari and the house was rented. He skipped out on the lease of  
4 the house. And by that time it was already too late because his  
5 name was on everything in Wynnewood.

6 So I went to Tampa, Florida, to do a music video. I think  
7 it was in March of 2016. And I did a music video with elephants  
8 there at the Two Tail Ranch, and then I was a speaker at a  
9 convention called Take Back the Conversation convention there in  
10 Tampa. And then I had a political rally at the same time, then I  
11 came home. And I came home and sat in the office and wanted to  
12 quit. I was just going to walk away at that point. And he  
13 talked me into staying there.

14 Okay. So he builds this little cabin out of storage  
15 buildings and -- for him and Lauren to move into. So they  
16 finally move into their own cabin. And by that time the criminal  
17 side started coming out, and I started seeing what kind of scams  
18 they're running and -- and they turned the park into a front for  
19 his criminal side. And then it turned into their own little  
20 private hunting ranch of young girls, and it just escalated from  
21 there until I just couldn't stomach it anymore.

22 Q. Now, about this time did Alan Glover show up on the scene?

23 A. Alan showed up, I want to think it was probably April  
24 of 2016. He came from South Carolina. He had worked for Jeff  
25 out there with some liquidation companies or some -- some

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 liquidation stores or something. But anyway, he came to work at  
2 the zoo as a yard guy.

3 Q. All right. Was he your employee?

4 A. He made it very clear he wasn't my employee.

5 Q. Okay. Now, was Lowe at the park on a daily basis?

6 A. They lived on the -- on the park, and he was pretty much at  
7 the park all the time through 2016. And that's where they  
8 started -- they had a little old lady in town that made clothes  
9 for the funeral home. And Jeff, in his liquidation history,  
10 somehow or another got ahold of some -- of the singer Prince's  
11 outfits and got sued by Prince.

12 MS. MAXFIELD-GREEN: Your Honor, may we approach?

13 THE COURT: You may.

14 (The following bench conference was held outside the hearing  
15 of the jury.)

16 MS. MAXFIELD-GREEN: Your Honor, I think we're starting  
17 down a line of Mr. Passage -- he has a lot of what he believes  
18 are criminal allegations against Jeff Lowe that are totally  
19 unfounded and have -- there's no evidentiary support for at all.  
20 He does not -- there's no good faith basis or extrinsic evidence  
21 available to offer any of that, not that it would be admissible  
22 anyway. And I just don't think we can go down the line of let's  
23 bring out every theory we have about Jeff Lowe's criminal -- we  
24 have already had -- he's already said -- made comments about him  
25 beating up his wife and the young girls at the park. And I think

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 we're just headed down a road here that is: A, irrelevant under  
2 Rule 401; and, B, prejudicial, a waste of time, speculative, and  
3 a variety of other things under Rule 403.

4 THE COURT: Well, what immediately comes to mind is the  
5 question was is Mr. Lowe at the park very often, and then I don't  
6 know how that got to Prince, but -- all right.

7 Mr. Earley, I'll give you a chance to respond.

8 MR. EARLEY: Well, that was not the answer that I was  
9 seeking to solicit, but I will go back and maybe rephrase the  
10 question.

11 THE COURT: And I'm going to ask him to think about  
12 your questions, and please answer your questions and then if you  
13 have additional inquiry you will ask.

14 The objection is sustained.

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and in the presence and hearing  
17 of the jury.)

18 THE COURT: Mr. Passage, I want to ask you to listen  
19 very carefully to your lawyer's question and only answer that  
20 question. I think the question that Mr. Earley had asked you was  
21 whether or not Mr. Lowe was at the park very often. Please just  
22 answer his question. And then if Mr. Earley has -- wants  
23 additional information, he'll ask you some followup questions.  
24 Okay?

25 THE DEFENDANT: Yes, sir.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 THE COURT: Thank you.

2 Q. (By Mr. Earley) All right. I believe you did answer that  
3 question, that he was there pretty much daily. Would that be  
4 fair to say?

5 A. Through 2016, yes, sir.

6 Q. All right. And during that period of time was there an  
7 off-site business with respect to either animal petting or a show  
8 that Mr. Lowe was involved with?

9 A. That started, I believe, along about March of 2017. He had  
10 a place in Oklahoma City called the Neon Jungle.

11 Q. All right. And was that basically just an offshoot of the  
12 business down there in Wynnewood?

13 A. It was set up in a -- in a mall there in Oklahoma City to  
14 play with baby tigers, yes, sir.

15 Q. All right. Now, as far as Mr. Lowe is concerned, and his  
16 activities, did he eventually move out of state for long periods  
17 of time?

18 A. March, April -- March through June is when the Neon Jungle  
19 was there. And he hooked up with this lady from Las Vegas in the  
20 middle of that and started human trafficking in Las Vegas.

21 THE COURT: Mr. Passage, again, the question was did he  
22 eventually move out of state for long periods of time. I want  
23 you to listen to the lawyer's questions and answer those  
24 questions.

25 THE WITNESS: He did.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. (By Mr. Earley) And where did he go?

2 A. Las Vegas.

3 Q. All right. And as it concerns the park's business, and I  
4 mean animal business, what was your understanding of what  
5 Mr. Lowe was doing out in Las Vegas?

6 A. He was supposed to go out there and -- and open up a company  
7 called The Jungle Bus and --

8 Q. And what was that supposed to be?

9 A. It was supposed to be where people could pay to get on this  
10 bus with the animals on the bus and go on, like, an hour or  
11 two-hour drive and play with the animals on the bus, kind of like  
12 you would a party bus.

13 Q. All right. Now, as far as his business interest out in Las  
14 Vegas, was that contributing substantially to the park's income?

15 A. It didn't contribute at all.

16 Q. Now, I think you testified that you considered leaving the  
17 park after Lowe got ingrained in it in 2016; is that correct?

18 A. Yes, sir.

19 Q. Did your desire to remain at the park change in 2017?

20 A. It did.

21 Q. What changed?

22 A. The -- the more that they used the park as a front for  
23 everything, the more the meaning of it being a memorial park and  
24 representing people that have died went away. And it just -- the  
25 whole morals of what we worked 20 years for is -- was gone.

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1 Q. So you were even more inclined to get out of the business at  
2 that point?

3 A. Absolutely.

4 Q. All right. I want to switch gears with you for just a  
5 moment and address some of the specific counts in the indictment.  
6 Okay?

7 A. Okay.

8 Q. And the first set of counts I want to address are Counts 8,  
9 and then 9 through 11.

10 So Count 8, if you recall, concerns an offer for sale to, I  
11 think it was Darlene Cervantes; is that correct?

12 A. Correct.

13 Q. Do you remember that testimony?

14 A. Yes.

15 Q. All right. And with respect to that particular text  
16 exchange you had with Ms. Cervantes, explain that to the jury.

17 A. Well, I have 19 Facebooks because they limit you to 5,000  
18 friends. So my office people would run all of my Facebooks and  
19 answer my messages for me because I had to be out on the park  
20 most of the time.

21 So I was in the office one day and Darlene, who is kind of  
22 out there anyway, asked me if -- if she could buy a tiger. And  
23 that's when I asked her if she had a USDA license and asked her  
24 which state and all that. And I went to work and -- and Amber  
25 continued that conversation via a radio because we carried

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1 radios. So it was between me and Amber.

2 But the easiest way -- and I probably have done this a  
3 thousand times in the history of this park and being on the  
4 road -- is somebody always walks up and say, how much would a  
5 tiger cost me. And the easiest way to end the conversation is  
6 jack up a price to where you know they can't afford it, and the  
7 conversation ended right there and you didn't have to go through  
8 all of the legalities and spend 30 minutes with everybody that  
9 wanted to buy a tiger.

10 So, you know, I would -- I told her a thousand bucks because  
11 she was homeless. She didn't have a thousand dollars and I knew  
12 that conversation would stop. No different than a conversation  
13 at a magic show when I tell people it was \$20,000, because you  
14 know they ain't got it, and the conversation just ended right  
15 there.

16 Q. So was it your intention to offer these cubs for sale to  
17 Darlene Cervantes?

18 A. Pardon?

19 Q. Was it your intention to offer those cubs for sale to  
20 Darlene?

21 A. No. It was my intention to just say a price and she'd go  
22 away, which she did.

23 Q. Now, Counts 9 through 11 concerned a number of what  
24 Mr. Finlay, I think, determined were sales. Count 9,  
25 November 16, 2016, a male tiger cub to Brown Zoo in Illinois. Do

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 you recall that?

2 A. I recall -- I recall that.

3 Q. All right. Was that a zoo-to-zoo transfer?

4 A. It was.

5 Q. What kind of license do you have?

6 A. I have a Class C exhibitor's license by the United States  
7 Department of Agriculture, the Animal Welfare Act, which allows  
8 me the right to exhibit, breed, sell and transfer. Because they  
9 only have three licenses: And it's an exhibitor's license, which  
10 does it all; a breeder's license that only allows you to breed  
11 and sell; or a broker's license so you can be the middleman in  
12 between all the sales.

13 Q. Mr. Finlay testified that, I guess in his opinion, the  
14 transaction or this zoo-to-zoo transfer was a sale. What is your  
15 testimony with respect to this transaction?

16 A. I don't remember every transaction, but, I mean, it could  
17 have been. But can I explain the forms?

18 Q. Sure.

19 A. Okay. Under my license, I had peoples' animals that were  
20 from Louisiana; I had Jeff's animals; I had some of my animals; I  
21 had some of the circus animals because in order for them to be at  
22 the zoo and us be open to the public, it doesn't matter who owns  
23 them, you could bring your bobcat to my zoo, and I could exhibit  
24 it and it still remain yours, but it's got to be on my inventory  
25 in order to be legal.

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1           Okay. So anytime an animal or a baby tiger or anything was  
2 taken off of my inventory, it has to come from Joe Maldonado.  
3 Okay. It can't come from you in Louisiana, because you're not an  
4 exhibitor. I'm the exhibitor, even though it's under my license  
5 and you own the animal. Okay. So it's got to be from me to the  
6 Brown Zoo. All right. And I don't sell that. I didn't sell  
7 that. Jeff, the owner of the zoo, sold those.

8           So that's why they say donation on there, because I  
9 transferred them off of my license to someone else for no charge,  
10 and he made the sale between them and him. And from day one,  
11 when I knew what he was all about, I kept ledgers of my own to  
12 verify every dollar and every sale. And I logged in QuickBooks;  
13 I earmarked every deposit that was made from cubs so I could  
14 defend myself one day.

15 Q. With respect to Count 10, that is a tiger female, 11 weeks  
16 old, to TS in Indiana. Do you recall that transaction?

17 A. That one would be Tim Stark, and I remember that one very  
18 well.

19 Q. All right. So was that the sale in interstate commerce?

20 A. That one was actually free. Depending on your inspector --  
21 our inspector allowed us to use cubs between four weeks and 16  
22 weeks. Tim Stark's inspector's only allowed him to use cubs up  
23 to 12 weeks old. And that's the problem with the vague laws is  
24 every inspector can read into what they want it to read in.

25           So the zoo made him a deal, if he took this one that was 11

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 weeks old that he could only use for one week, we would give him  
2 a younger one for free, and that would get a bigger one out of  
3 our zoo that we didn't have to grow up and feed for the rest of  
4 his life.

5 Q. All right.

6 A. So that was not a sale.

7 Q. And then also Count 11 is March 6, 2018, tiger, female, six  
8 weeks old, again to Brown's, which is referred to as Oakridge Zoo  
9 in Illinois. Is that the same Brown's?

10 A. It is the same folks.

11 Q. So the same as Count 9. Do you recall that?

12 A. Without looking at my notes in QuickBooks and verifying that  
13 deposit, but I would probably say it probably was.

14 Q. A sale?

15 A. Probably so.

16 Q. By who?

17 A. By the zoo.

18 Q. But not you?

19 A. Not me.

20 Q. So if I'm understanding you correctly -- and -- of course,  
21 we don't know what Brown's or Tim -- TS, whoever that is, has to  
22 say about this, but you are simply passing them off of your  
23 inventory to another zoo's inventory by creating the paperwork  
24 that's associated with this; is that correct?

25 A. Yes, sir. And we did that with Beth Corley's inventory as

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 well.

2 Q. All right. And so whether or not this was being sold or  
3 someone was providing a donation back for the animal, that was  
4 between Mr. Lowe and that entity; is that correct?

5 A. Correct.

6 Q. All right. So that's the substance of your testimony as to  
7 why you're not selling anything, correct?

8 A. I didn't sell anything and I didn't collect a dime for  
9 myself, no. It all went in his bank account.

10 Q. So if Mr. Finlay, after one or all of these trips, came back  
11 with cash or check or however these people may have been paying,  
12 what -- and he handed it over to you, is that what happened?

13 A. He would either give it to me, or if I wasn't there he'd  
14 give it to one of the girls in the office.

15 Q. What would happen to the money from there?

16 A. It would be put on a deposit slip for the park, and on the  
17 very bottom I would write "Jeff" so I knew what -- where the  
18 money come from, and I would put it in the bank and I would log  
19 it in QuickBooks as "cash Jeff."

20 Q. All right. I want to talk a little bit now about Counts 12  
21 through 20, and these are labeled in the indictment as Lacey Act  
22 false labeling of wildlife charges. Do you remember the  
23 substance of the testimony concerning these allegations against  
24 you?

25 A. Is that the vet certificates or the forms?

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. The forms and the -- the certificate of veterinary  
2 inspection.

3 A. I believe I do.

4 Q. All right. Now, I don't really plan to go through each one  
5 of these individually with you, but, in substance, with the  
6 exception of one of the counts, which involves a CVI form and  
7 we'll talk about that separately.

8 A. Okay.

9 Q. But these are all counts dealing with what is alleged to be  
10 a falsification of those delivery and receipt forms. Do you  
11 understand that?

12 A. Yes, sir.

13 Q. All right. So with respect to those particular allegations,  
14 tell us about your understanding of the forms and the information  
15 that's required.

16 A. The form is simply, like I explained before, to get it off  
17 of inventory. That's all the USDA cares about is where the  
18 animal ended up. Okay. We were supposed to get where it's  
19 coming from, where it's going to, both of our license numbers,  
20 the animal information of what species it was, what sex it was,  
21 approximately how old it was and what condition it's in, and then  
22 who transported it and how it was transported, if it was  
23 transported. And that's all they required. And we got some of  
24 those on napkins from people. I mean, they didn't even put them  
25 on actual pieces of paper.

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1 Q. Well, there were forms that were introduced. Do you recall  
2 these?

3 A. I do.

4 Q. And, I mean, were those your forms?

5 A. The ones -- okay. Which ones are you talking about that  
6 were introduced?

7 Q. For example, the delivery form that went to Brown's Zoo.

8 A. Okay. Those were the zoo's forms, yes.

9 Q. All right. So the delivery forms would have been developed  
10 by who?

11 A. Whatever secretary was in the office that created them on  
12 Microsoft Word.

13 Q. All right. Now, there are -- on some of the forms there's  
14 little boxes to check for sale, donation, exchange; on others  
15 there's nothing, but there appears to be something written on  
16 them about it's a donation. Explain -- explain how that happens.

17 A. How it gets written on there or how the forms are different?

18 Q. How the forms are different.

19 A. It depends on -- it was like whoever works in the office,  
20 gives themselves the title as the office manager, redoes  
21 everything. Every time you hire one, they had to redo  
22 everything. And some of the forms would -- would come out with  
23 the boxes on there.

24 But what never made sense was if you put "sale" on there, it  
25 never asked you how much you sold it for. And it wasn't required

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 on the -- on the official form for the USDA, so nobody really  
2 paid any attention to that. And the reason why it was always  
3 written "donation" on there is because the person that had the  
4 license never got the money. So the people whose license it was  
5 actually did donate it.

6 Q. Do you know why those options were even provided or why that  
7 word was written on there if it wasn't required?

8 A. I think -- I think Jeff and Lauren had done one inspection  
9 one time while I wasn't at the zoo, and the inspector talked to  
10 them about something, and they had the office girl redo the  
11 forms.

12 Q. All right. To your knowledge, is that information, whether  
13 it was a sale, an exchange or a donation, is that information  
14 required by the United States Department of Agriculture?

15 A. No.

16 Q. Now, Count 18 is the certificate of veterinary inspection.  
17 Have you seen those forms before?

18 A. I have.

19 Q. And how are those forms created?

20 A. Those stay at the veterinarian office and either me or  
21 Reineke or one of the girls in the office would call the vet and  
22 give them what -- you know, the animal, the sex, the species, how  
23 old it is. And -- and then either Reineke -- Reineke done most  
24 of it, John Reineke, as far as running the animal over to the vet  
25 so Dr. Green can see it and then finish the exam, and bring back

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 the pink copy that we give the receiver at the other end.

2 So after the transaction is completely done, we don't even  
3 have a copy of the certificate of veterinarian because the vet  
4 keeps one to send to the state, she keeps one for her records,  
5 and the pink one goes to the people to prove that they got it at  
6 that end.

7 There was -- there was times that we would be actually in a  
8 cage with an animal and we would be calling on the radio to the  
9 office the information for them to call in to the -- to the vet.  
10 And in 20 years, I don't ever remember telling a vet whether it  
11 was an exchange, a donation or an exhibition or transfer. We  
12 never even -- we never even discussed that ever.

13 Q. Well, with respect to Count 18, the June 12th, 2018, form  
14 that Dr. Green testified about, did you advise her to place  
15 "donation" or any other type of exchange on that form?

16 A. Which animals are on there?

17 Q. It's an African lion, male, eight years old, and an African  
18 lion, female, eight years old.

19 A. I did not even call that one in. I had nothing to do with  
20 that one or the transfer form.

21 Q. All right. That was in June -- specifically, the form is  
22 dated June 12th, 2018.

23 A. Correct.

24 Q. Were you at the park that day?

25 A. I was at the park, yes, sir.

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1 Q. But you don't recall having anything to do with the  
2 information?

3 A. I know I didn't.

4 Q. Now, finally, with respect to the false labeling  
5 allegations, there's Count 21. And you may recall that is a form  
6 that you were asked by Mr. Garretson to generate. Do you  
7 remember that?

8 A. Yes, sir.

9 Q. Do you remember that particular interaction with  
10 Mr. Garretson?

11 A. I don't remember it except for watching the video.

12 Q. Okay. So tell us about what you remember, why you created  
13 the form, what the situation was with that.

14 A. Apparently, by watching the video -- and to this day, all I  
15 can do is be honest, I don't even remember that -- that video.  
16 But he had asked for a copy of a disposition form for his lemur.  
17 Okay. And at that time he had a gentleman work for him that  
18 stole all of his records and a bunch of other equipment, and he  
19 was having trouble finding all of his receipts from where his  
20 animals came from. And he had previously purchased a lemur from  
21 us, and that's why on the video I say, is this one the one we  
22 lost, because I thought he was needing one to replace the one  
23 that we lost.

24 And so apparently he said, no, it's the one from Omar. And  
25 I wasn't even thinking about an animal coming across state lines

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 being an endangered lemur. I was more thinking because he was in  
2 a hurry, because he claimed that he was going to be inspected by  
3 the USDA, and he just needed to show that he had a lemur on a  
4 disposition form. It wasn't to get around the Fish & Wildlife or  
5 anything, because in 20 years I have never seen them people. So  
6 it was just for that form.

7 And then I walked over, on the video, and Xeroxed it so we  
8 had a copy of it, which even confuses me more because my  
9 inspector knows exactly how many animals I got and what animals I  
10 got. And I would have not figured out how I would have covered  
11 having a lemur, because he has the same inspector. So the whole  
12 damn thing was confusing to me. I can't really answer why the  
13 hell I did that. I'm sorry about my language.

14 Q. Well, did you create that form to create a false record to  
15 try to fool the USDA somehow?

16 A. Apparently I did.

17 Q. Now, before we get into the remaining counts in the  
18 indictment, I want to talk to you a little bit about late summer  
19 of 2017 and then going into the fall. What was your relationship  
20 with Mr. Lowe like at that time? How would you describe it?

21 A. He was in Vegas primarily, most of the time. And it was  
22 really rocky because we got to know him and James real well.  
23 They talked to each other, and James comes to the park and  
24 they -- they just constantly are tape-recording each other and  
25 tape-recording everybody they talk to, and it's just like a big

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1 circle of drama. And every time I would talk to James about how  
2 bad I couldn't stand Lauren and what was going on with all of the  
3 illegal stuff and -- and Vegas draining that zoo and money, he  
4 would play that to Jeff. And within a couple of hours of talking  
5 to James, I would get a phone call getting an ass-chewing from  
6 Jeff of why I'm talking about his wife or why I'm bitching about  
7 money and so forth. So it was -- it was pretty rocky.

8 Q. Okay.

9 THE COURT: Mr. Earley, is this a logical time for us  
10 to take our lunch break or --

11 MR. EARLEY: It's as good a time as any, yes.

12 THE COURT: Okay. Ladies and gentlemen of the jury, we  
13 will take our -- counsel approach for just a moment.

14 (The following bench conference was held outside the hearing  
15 of the jury.)

16 THE COURT: Do you know -- I don't see by any stretch  
17 of the imagination that we're going to instruct today.

18 MS. MAXFIELD-GREEN: We would love that. I don't know  
19 how much longer he's going to go on.

20 THE COURT: Well, what I'm trying to figure out is if  
21 it makes sense for me to give the jury a little bit longer of a  
22 lunch break and we do -- make our record about instructions  
23 before we start back, which would give you-all a lunch hour,  
24 still get it done without making them wait, or if it makes more  
25 sense that we do it -- you know, I hate to do it on the afternoon

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1 break because that takes the whole break up. But if it looked  
2 like this was going to last until near the end of the day, we  
3 could do our instructions at the end of the day. But if I'm  
4 hearing that there is a possibility that we could instruct and  
5 close, then why don't we do it -- I'll give them an hour and a  
6 half for lunch.

7 Mr. Earley, do you -- how long do you think your record will  
8 take on instructions?

9 MR. WACKENHEIM: Not terribly long. Yes, I'll be  
10 handling that part.

11 THE COURT: I'll give them an hour and a half for  
12 lunch. Does that work for everybody?

13 MR. EARLEY: Yes.

14 MS. MAXFIELD-GREEN: Certainly.

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and in the presence and hearing  
17 of the jury.)

18 THE COURT: Ladies and gentlemen, what we'll do today  
19 for our lunch break -- and this will prevent a premature or a  
20 long break and having you guys wait in the afternoon -- I'm going  
21 to give you a little bit longer break today for lunch. We'll do  
22 an hour and a half for lunch. That will permit us to be able to  
23 get back here before you, take care of some things before you  
24 return, and then that way we'll just sail through the rest of the  
25 day without having to have an interruption. That's me knocking

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1 wood.

2 So that being said, we'll -- ladies and gentlemen, for an  
3 hour and a half. Again, the admonition applies. Court will  
4 remain in attendance while the jury leaves.

5 (Jury exited.)

6 THE COURT: Counsel, so they're coming back at 1:30.  
7 If we come back at 1:15, we could make a record on instructions.  
8 Is that sufficient time for everybody?

9 MS. MAXFIELD-GREEN: Sounds good, Your Honor.

10 MR. WACKENHEIM: Yes, Your Honor.

11 THE COURT: Okay. We'll be in recess until 1:15.

12 (Lunch break.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and out of the presence and  
15 hearing of the jury.)

16 THE COURT: Record will reflect that the jury has not  
17 been brought back in yet.

18 Counsel has been provided with -- and I understand that we  
19 may be a tad bit premature, so I'll give both parties the  
20 opportunity to re-raise anything that might develop from here on  
21 out. But for housekeeping purposes, I thought we could go ahead  
22 and address jury instructions.

23 Counsel has each been provided with a draft copy of the  
24 proposed instructions, which will be a collective of those  
25 submitted by each side and those crafted by the Court.

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1 With regard to the draft instructions, at least as we are  
2 right now, government, do you have any objections to the  
3 instructions as proposed?

4 MS. MAXFIELD-GREEN: Your Honor, just one more second,  
5 please.

6 THE COURT: Sure.

7 MS. MAXFIELD-GREEN: I don't believe we have any  
8 objections, Your Honor.

9 THE COURT: Thank you.

10 Mr. Wackenheim, I understand you were going to address the  
11 jury instructions.

12 MR. WACKENHEIM: Yes, please.

13 THE COURT: Any objections by the defendant?

14 MR. WACKENHEIM: Yes.

15 Now looking to Instruction No. 18 in the draft instructions,  
16 this is a non-stock -- it's not a Tenth Circuit uniform jury  
17 instruction on investigative techniques. We're objecting to the  
18 inclusion of that instruction. Do acknowledge that there is an  
19 unpublished decision from 2012, Johnson, at 479 Fed Appendix 811,  
20 where at most the Court said it was not an abuse of discretion to  
21 give it. I know the government also cited there was a district  
22 court case, Faust, which another judge in this district gave. I  
23 went back and looked, I did not see that it was objected to. So  
24 I don't know if it was at issue. Just know that it's not a  
25 uniform jury instruction; it's not needed in this case; and it

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1 unnecessarily suggests that the government does not need to use  
2 all investigative techniques.

3       If it is -- I'm not exactly sure why it needs to be stated  
4 to begin with. At some level it appears to diminish the  
5 responsibility of the government to investigate its case. And,  
6 of course, it does include a sentence that the issue is whether  
7 or not the government has presented sufficient evidence to  
8 convince the jury of the defendant's guilt beyond a reasonable  
9 doubt. Part of the defendant's theory here is that the  
10 government's investigative techniques resulted in the  
11 investigation of Mr. Passage to the exclusion of others, and even  
12 that is covered in a different instruction, that the guilt of  
13 others is not concerned.

14       So if it's not an abuse of discretion to give it, I don't  
15 necessarily understand why it needs to be given at all,  
16 particularly when it's not a uniform instruction from the Tenth  
17 Circuit.

18               THE COURT: Okay. That's the proposed 18. Okay.

19               MR. WACKENHEIM: Yes, sir. And then probably the more  
20 important, at least with respect to the Lacey Act counts, is our  
21 proposed instruction included a materiality requirement. I know  
22 the Court's reviewed our proposed instruction. And there is a  
23 split in authority at two different court levels, both of which  
24 are not binding on this Court.

25       There's a Fifth Circuit case from 2001 which states that the

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Oklahoma City, OK 73102 \* 405.609.5403

1 Lacey Act does not have a materiality requirement. What we're  
2 asking for is an instruction that requires the jury to find that  
3 any of those false statements as alleged are material, which,  
4 whether or not they have a natural tendency to influence, or if  
5 it's capable of influencing the decision of the decision-making  
6 body to which it's addressed. We submit that that is a  
7 requirement of the Lacey Act in spite of the Fifth Circuit's  
8 decision from 2001.

9 I'll note that we cited a case, Kokesh, it is a district  
10 court order. It's from the Northern District of Florida. It  
11 comes 12 years after Fountain and does take a look at Fountain.  
12 And the senior judge -- it wasn't even at issue; both parties  
13 seemed to agree that materiality was not an issue, but this judge  
14 decided that it was. And I think it was well reasoned.

15 It began with discussion that materiality is an essential  
16 element of most, if not all, fraud offenses. But even more  
17 important than that, if materiality is not a requirement of the  
18 Lacey Act, which is a felony punishable up to five years for each  
19 false statement, then it could apply to and criminalize all sorts  
20 of innocuous falsehoods. Now, I suspect the government will say  
21 that the falsehoods here are not innocuous, but that is a  
22 question for the jury, and that's why we submit that materiality  
23 should be an element of the offense.

24 THE COURT: So just 18, and then I believe 23 and 24,  
25 which are the Lacey Act instructions?

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1 MR. WACKENHEIM: Yes, Your Honor.

2 And then if the Court doesn't have any questions about that,  
3 we had proposed the Tenth Circuit pattern Instruction 1.16, which  
4 was witness's use of addictive drugs. That's a pattern  
5 instruction. We think that Mr. Glover's testimony was pretty  
6 clear on the variety of substances that he ingested and was  
7 addicted to, including at least cocaine and alcohol. We think  
8 that it's something for the jury to properly consider when it's  
9 evaluating his credibility. So we would request that that  
10 instruction be used, modified to include alcohol as well.

11 THE COURT: Wasn't his testimony, though, consistent  
12 with that? Didn't he readily admit, oh, yeah, I was using  
13 alcohol and drugs and I don't remember but if that's what the  
14 recording says I said, I said it?

15 MR. WACKENHEIM: Right. Well, there was -- I think  
16 there is in dispute some testimony relating to events that were  
17 not recorded, some conversations that he had with other  
18 individuals, his motivations to give the story that he gave to  
19 law enforcement, and just general credibility issues. I mean, I  
20 believe he testified that when he drove to Florida he was drunk  
21 and/or high, intoxicated the whole way through.

22 So I think for that part of it, it's true that it undermines  
23 his credibility. And that is, in light of the pattern  
24 instruction, an additional criteria that the jury should be able  
25 to evaluate.

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1 THE COURT: Okay. I know there was some discussion  
2 about the definition for "consideration" in Instruction 19 in the  
3 murder-for-hire elements, and there was some discussion about  
4 whether or not there would be a replacement for "as consideration  
5 for," and I believe the government was originally talking about  
6 changing that to "in exchange for."

7 Do you still have an objection in terms of the  
8 murder-for-hire instruction, No. 19?

9 MR. WACKENHEIM: As proposed, we do not. We believe  
10 the definition --

11 THE COURT: As proposed, no?

12 MR. WACKENHEIM: Yeah. The consideration definition  
13 which was supplied, we believe covers the law on that.

14 THE COURT: Okay. Anything else?

15 MR. WACKENHEIM: No, Your Honor.

16 THE COURT: Thank you.

17 Response from the government.

18 MS. MAXFIELD-GREEN: Yes, Your Honor. I will try to go  
19 in the order that Mr. Wackenheim did. As to Instruction No. 18,  
20 the government does propose that to -- as an instruction that  
21 should be included on investigative techniques. It is not a  
22 uniform instruction, but it has been utilized a number of times  
23 in this courthouse, as well as other courthouses. It's kind of  
24 become known as the CSI instruction. It has become fairly  
25 standard in the modern era where there's much more awareness and

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1 publicity about various types of investigative techniques that  
2 the government could use. And I think it -- those issues have  
3 been touched on in this case and it would be an appropriate  
4 instruction here.

5 As for the materiality requirement, the only case that has  
6 imposed a materiality requirement onto the Lacey Act is the  
7 Kokesch decision, which is an unpublished district court decision  
8 from the Middle District of Florida. No other courts have  
9 adopted the reasoning of that case. And, in fact, the Fifth  
10 Circuit in Fountain specifically addressed the issue of whether  
11 there was a materiality requirement in the Lacey Act. And in  
12 very detailed reasoning, the Fifth Circuit explained that the  
13 materiality requirement is not in the language of the statute of  
14 the Lacey Act, and that if Congress had wanted to impose a  
15 materiality requirement, it certainly could have and knows how,  
16 as it has in numerous other criminal statutes. And, therefore,  
17 we don't -- the government does not believe that this Court  
18 should impose any kind of materiality requirement onto the Lacey  
19 Act.

20 THE COURT: I think the final one was Pattern  
21 Instruction 1.16, the use of --

22 MS. MAXFIELD-GREEN: Yes, on the use of addictive  
23 drugs. The pattern instruction refers to the use of addictive --  
24 actually, the abuse of addictive drugs. The pattern instruction  
25 does not address alcohol at all. I think Mr. Glover's testimony

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1 was certainly that -- that he was a user of alcohol, I believe he  
2 also testified that he had used drugs. I don't believe there was  
3 any evidence or even testimony by him that he abused the drugs.  
4 I think that might be an inference the jury could draw. But to  
5 the extent that they can assess his credibility based on what he  
6 was -- had already testified to, I think his credibility could  
7 very well be covered by the basic credibility of witnesses  
8 instruction without having to impose the addictive drug  
9 instruction and then also alter it with the inference of  
10 addiction to alcohol. So the government would object to that as  
11 well.

12 THE COURT: Okay. Thank you.

13 Anything further, Mr. Wackenheim?

14 MR. WACKENHEIM: No, Your Honor.

15 THE COURT: Thank you. I appreciate both parties' work  
16 on this.

17 With regard to the objection by the defendant as to  
18 Instruction No. 19 on the investigative techniques instruction, I  
19 tend to agree with the government in that case, that that current  
20 language, that instruction, while a non-pattern instruction, has,  
21 in fact, been used here in the Western District on a number of  
22 times; but also, as both counsel I think pointed out, in the  
23 Johnson case, in the Tenth Circuit case, as the Court had held  
24 that was, in fact -- that instruction was an accurate statement  
25 of the law, and that objection will be overruled.

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1           As to the materiality element in the Lacey Act instructions,  
2 you know, again, I don't know that -- I mean, I understand  
3 there's some -- at least some mild split out there. The Fifth  
4 Circuit does appear to be most on point. And I agree with the  
5 government that, you know, in the wisdom of Congress, if they  
6 wanted -- if they wanted a materiality element, they would have  
7 included it, and they certainly still could. The -- you know,  
8 the Kokesh decision, again, also is not particularly persuasive.  
9 It's been, oh, I don't know, more than five years since that  
10 decision came down. And at least to our knowledge, no court has  
11 relied on Kokesh for including a materiality requirement in a  
12 Lacey Act violation. And for that reason, the defendant's  
13 objection to the Lacey Act instructions, inasmuch as wanting to  
14 include a materiality component, will be overruled.

15           With regard to the defendant's proposed 1.16, the use of  
16 addictive drugs, I also think that, for the reasons already in  
17 the record and as described by the government, I think the  
18 credibility of a witness instruction covers that. I think the  
19 parties fully cross-examined Mr. Glover on his drug and alcohol  
20 abuse and his ability to recall or not recall, I think, was very  
21 clearly -- for the jury to weigh. So that request for that  
22 instruction will be overruled.

23           As I said also, I understand we have some testimony  
24 remaining and defendant has not rested, and so we can certainly  
25 revisit the instructions if we need to, should something arise

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 that was not incorporated in your argument today. I'll permit  
2 the parties an opportunity to re-raise or add to any objections  
3 or requests based on the testimony from here on out.

4 Anything else from either party in terms of the  
5 instructions?

6 MS. MAXFIELD-GREEN: No, Your Honor.

7 MR. WACKENHEIM: No, Your Honor.

8 THE COURT: Thank you.

9 Mr. Passage, if you want to take the stand.

10 (The following record was made in open court, in the  
11 presence of all parties, counsel, and in the presence and hearing  
12 of the jury.)

13 THE COURT: Ladies and gentlemen, how are we doing on  
14 temperature? I have gotten reports that it is cold in here, but,  
15 you know, this robe's like a parka so sometimes I'm a little  
16 oblivious to that. Are you-all cold? Little mixed bag? Maybe  
17 we'll make a little minor adjustment and see how that goes.

18 Mr. Earley, you may proceed.

19 Q. (By Mr. Earley) Mr. Passage, I think we left off with your  
20 relationship with Mr. Lowe, but I want to back up just for a  
21 moment to go back to what we were discussing before, and that's  
22 Counts 12 through 21.

23 Now, with respect to Government Exhibit 12, I believe this  
24 deals with Count 19 in a delivery form. Do you recognize that?

25 A. Yes, sir.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. All right. Now, is this your handwriting on the form?

2 A. Yes, it is.

3 Q. And were you involved in the transaction itself?

4 A. Yes, sir.

5 Q. All right. Tell us about that.

6 A. This was right at the time that I was actually leaving the  
7 zoo for good. And I had this pair of lions that we were donating  
8 to the Animal Haven Zoo up in Wisconsin. And we -- what I done  
9 was I billed them for the two drivers and the gasoline and the  
10 truck to get -- to take them up there, and I -- if I remember  
11 right, it was \$3,200. And we ended up blowing an engine on one  
12 of the trucks and we had to send another truck to go get that  
13 truck and another driver to go up there and rescue the other  
14 drivers. And we finally got it all done.

15 But anyway, by the time it was all over with, we didn't even  
16 make any money to pay the gas and stuff to get it all done. And  
17 that is part of what our license allows me to do. It's the same  
18 as if I had FedEx do it or American Airlines or anybody else.  
19 They would have charged the people for the gas and the trouble to  
20 go up there and back because they couldn't come get them.

21 Q. So was this form inaccurate with respect to any information  
22 on it?

23 A. Absolutely not.

24 MR. EARLEY: Could you pull up Government Exhibit 13?

25 Q. (By Mr. Earley) Now, this is Count 20, which deals with the

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 form associated with the delivery to Branson Wild World, correct?

2 A. Correct.

3 Q. Do you remember the testimony about that?

4 A. From who?

5 Q. Mr. Finlay, I believe.

6 A. I remember him saying that he's the one that delivered  
7 these, yes, sir.

8 Q. And that there was some money that was counted out and -- I  
9 think by his girlfriend at the time. Do you recall that?

10 A. Yes, sir.

11 Q. Okay. What about this form? Is that your handwriting?

12 A. No. This is not mine. And actually, I wasn't even in the  
13 state of Oklahoma when this transfer was done.

14 Q. All right. Did you have any participation in getting this  
15 transfer arranged?

16 A. I did. Before I left the state -- and we'll probably get  
17 into that later because I was threatened is the reason why I left  
18 for a few days -- Branson Wildlife Park wanted to purchase the  
19 serval and the African cat and the bats and everything else. And  
20 because I was leaving the park, we had a bunch of babies that I  
21 had to get rid of because Jeff couldn't take care of them without  
22 killing them, and nobody else at the park could raise them being  
23 that little.

24 All right. So I told Jim with Branson Wildlife Park on the  
25 telephone that I had some baby lions that I would give him

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Oklahoma City, OK 73102 \* 405.609.5403

JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 because they were illegal to sell baby lions. Since he was  
2 buying the bats and everything else, if he would take these  
3 babies because the rent house that I had up in Yukon at the time  
4 ready to go to, we couldn't have the tigers or lions up there in  
5 the rent house.

6 So technically, if you really want to complain about this  
7 form, it should have said donate and sell instead of whoever  
8 filled this out and just hit the donate box, because everything  
9 on there was sold except for the two lion cubs.

10 Q. All right. Now, I believe your testimony right before we  
11 broke was that in the summer of 2017 your relationship with  
12 Mr. Lowe was pretty rocky.

13 A. Very rocky.

14 Q. All right. What was your relationship with Mr. Garretson  
15 like at this time?

16 A. Me and -- me and James was never friends or close friends.  
17 And I referred to him as a giant Chucky Doll because he's just  
18 eerie all the time. He's always up to no good. Everything he  
19 done was criminal. And him and Jeff were tight, they were very  
20 tight in everything they did. So mine and his relationship,  
21 there was none.

22 Q. All right. Now, what about Mr. Glover? We haven't really  
23 talked about him. What was your relationship like with Alan  
24 Glover?

25 A. We hated each other.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. Was there any time that you-all kind of got along?

2 A. You know, he helped me with Travis's memorial for a few  
3 days, and that's probably about the only time we got along.

4 Q. All right. What was your problem with Mr. Glover?

5 A. Well, I mean, constantly drunk, would not come to a staff  
6 meeting, sleeping with my mother-in-law, both of them doing meth.  
7 I had to fire her from smoking meth in the commissary. He just  
8 wouldn't listen. And he came with Jeff and they don't know  
9 anything about the Oklahoma weather, and he just starts chopping  
10 trees down and bamboo down, and this is protection that the  
11 animals need from the wintertime, and it was October. And -- and  
12 he just wouldn't listen to anything.

13 Q. Well, why didn't you fire him?

14 A. I couldn't fire him. He was -- they made that pretty clear,  
15 that he worked for Jeff. And in his testimony you heard that he  
16 had nobody to save him all the time, like I was going to hurt him  
17 or something.

18 Q. Now, during this time period, did you believe that maybe  
19 there was something going on between Lowe and Garretson as far as  
20 it affected you and the park?

21 A. Well, I mean, it started out that they were -- they were  
22 manufacturing fake Prince clothes in the office and --

23 Q. But --

24 A. I mean, all of that is why we didn't get along, everything  
25 they done criminal at the park.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. Okay. But did you think that they were spending a lot of  
2 time together?

3 A. They spent a bunch of time together.

4 Q. All right. And with respect to, you know, anything that  
5 subsequently happened, were you aware that they were talking with  
6 each other about ways to get you out of the park?

7 A. I mean, at first, in late 2016, it didn't affect James, but  
8 Jeff -- at that time I was taking CBD oil without THC in it  
9 because I don't like smoking weed because I just can't handle the  
10 high. So I would open up a capsule of Amoxicillin -- this is  
11 real important to --

12 MS. MAXFIELD-GREEN: May we approach, Your Honor --

13 (The following bench conference was held outside the hearing  
14 of the jury.)

15 MS. MAXFIELD-GREEN: Your Honor, again, we have already  
16 gotten Prince clothes back in, which seems apropos to nothing  
17 that was asked. He's now attempting to insert a story I know  
18 very well that he wants to get out there about, again, totally  
19 unfounded accusations, things we have no evidence for other than  
20 his accusations. There's no extrinsic evidence of any of this.  
21 And I just don't -- and it doesn't seem relevant to anything  
22 that's being asked.

23 I don't think that defendant can just give a rambling  
24 narrative of every terrible thing he thinks someone who is not  
25 subject to cross-examination has done. That's --

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 THE COURT: Well, and the question was is he aware  
2 about these two talking about ways to get him out of the park,  
3 which I understand has been part of the context of all of this.  
4 But, Mr. Earley, where are we going -- we were getting -- it was  
5 getting a little far afield.

6 MR. EARLEY: Well, actually, I think -- what I  
7 anticipate Mr. Passage testifying to is a couple of occasions at  
8 the park: One where he believed that someone, I think he thinks  
9 it was Lowe, had put some hash oil into his medication. He was  
10 doing a show inside a tiger cage with some tigers in there, it  
11 affected him, and it could have resulted in him being seriously  
12 injured or killed. The second thing that I anticipate he'll get  
13 into is that there was at some point some perfume placed on his  
14 boots. Tigers react very aggressively to certain smells and  
15 the -- the time that he went into the tiger pen, he was basically  
16 attacked by a tiger. This is actually on a video.

17 So there is a basis for it, at least the tiger attacking his  
18 shoes. And he believes that Mr. Lowe, with the assistance of  
19 someone else, had put that into motion so that they could, you  
20 know, have him seriously injured, somehow removed from the park  
21 based on that.

22 THE COURT: But is that not all just rank speculation  
23 on his part?

24 MR. EARLEY: Mr. Passage would testify that Mr. Lowe  
25 actually admitted on Facebook or social media that he had

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Oklahoma City, OK 73102 \* 405.609.5403

JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 switched out his medication. And the -- you know, I have seen a  
2 video where the lions did go after his boots and after him, or at  
3 least one of them. He actually had to fire his weapon to get the  
4 lion to get away before he could get out of the cage.

5 MS. MAXFIELD-GREEN: Your Honor, number one, hearsay.  
6 Whatever Mr. Lowe may have posted on Facebook about it is clearly  
7 hearsay. Any admission he made to anybody about it is hearsay.  
8 I mean, there -- I will concede, on the government's side, we  
9 have seen a video of him being dragged by his foot by an animal,  
10 but there is just simply no way -- we can't -- we can't have a  
11 trial of every perceived wrong that Mr. Passage believes is  
12 attributable to Mr. Lowe.

13 THE COURT: Yeah. Mr. Earley, I just think it's -- I  
14 think it's well established in the evidence, at least the jury  
15 could believe or disbelieve that there's ample testimony that  
16 Mr. Passage and Mr. Lowe were at odds at various times on various  
17 ends of the extremities. And I don't think it is a mystery, and  
18 it's clearly established that there's testimony that Mr. Lowe  
19 wanted him out of the park. I think it's getting a little far  
20 afield to get into all these other things in terms of these  
21 individual steps that he may or may not have taken. It seems a  
22 little tenuous to me, so I'm going to sustain the objection.

23 MR. EARLEY: May I just sort of do a very summary  
24 question to move him off this topic and move on?

25 THE COURT: Well, it's hard for me to know what the

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 question's going to be, but we'll see what -- Ms. Green?

2 MS. MAXFIELD-GREEN: I think that it has been  
3 established, and maybe one more question would establish to his  
4 satisfaction that he believed Mr. Lowe was out to get him or  
5 trying to get him off the park in a variety of ways. If that's  
6 his belief, that's his belief, but all of this specific detail  
7 that cannot be substantiated is irrelevant and prejudicial.

8 THE COURT: I think that's fair.

9 (The following record was made in open court, in the  
10 presence of all parties, counsel, and in the presence and hearing  
11 of the jury.)

12 THE COURT: I have made no progress on getting elevator  
13 music instead of the white noise sound, but...

14 Q. (By Mr. Earley) Mr. Passage, was it your belief that  
15 Mr. Lowe was trying to get you off the park?

16 A. Yes.

17 Q. All right. Now, with respect to Fish & Wildlife Service,  
18 you had frequent inspections by the USDA; is that correct?

19 A. Very frequent.

20 Q. Okay. About how often did they come out to your park?

21 A. Sometimes every month, sometimes you didn't see them for a  
22 couple of months. The inspectors have to show up every time  
23 somebody calls in a complaint on you. So that's another thing in  
24 this industry is it's fun for one facility to keep calling in  
25 fake complaints to another facility because it keeps the

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 inspectors coming and it just ties you up with paperwork.

2 Q. Now, they would come at whatever frequency they would, but  
3 did Fish & Wildlife ever inspect your premises?

4 A. The Oklahoma Fish & Wildlife, I had to have an exhibitor's  
5 license from them for native animals, like raccoons or black  
6 bears or mountain lions and foxes and stuff like that. The  
7 Federal Fish & Wildlife, in 20 years I never seen a person from  
8 the Federal Fish & Wildlife. And that goes down to the  
9 Endangered Species Act. For 20 years nobody was concerned  
10 whether or not I had a purebred Siberian tiger or a Sumatran  
11 tiger. And we sold tigers up until 2016, and then they -- they  
12 put on this generic thing, okay, which is really just a policy,  
13 it's not even a law by Congress. And to this day, they still  
14 don't have a form to tell how many tigers you have, how many are  
15 born, how many die, where their bodies are after they die. In 20  
16 years, I have had probably 50-plus tigers pass away or  
17 euthanized, buried in that back pasture, and nobody gives a damn.  
18 Nobody.

19 Q. All right. I want to change the topic here to the fall,  
20 now, of 2017. Did anything happen during that time frame that  
21 changed your entire way of thinking?

22 A. I went to town to get my car fixed, and I got a phone call  
23 that my husband shot and killed himself inside the gift shop.

24 Q. When did that happen?

25 A. October the 6th of 2017.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. May sound like a silly question, but how did that affect  
2 you?

3 A. My entire soul died.

4 Q. In the days following, did you get a chance to stay by  
5 yourself and grieve your loss?

6 A. I held a press conference the very next day, and I did my  
7 show at 11:30, just like I was supposed to. And I never took a  
8 day off. And I was even his preacher at his funeral.

9 Q. Did you ever contemplate harming yourself?

10 A. Yeah.

11 Q. Who helped you get through the first few days of that?

12 A. John and his daughter.

13 Q. Now, we have heard testimony, a lot of testimony, about  
14 these five tigers being put down in October 2017. Do you recall  
15 that?

16 A. Yes, sir.

17 Q. Did you do that?

18 A. I did.

19 Q. All right. Tell the jury why you did that.

20 A. After Travis died, I walked through the park every morning  
21 looking at the clouds trying to see his face because I couldn't  
22 dream about him or anything. And I walked through and checked  
23 the animals every morning, and I would have to ask myself what  
24 the hell am I doing because I have all these crippled animals  
25 that I am making suffer to be on display to suck donations out of

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

- 1 people. And I was no better than -- than the facilities that we  
2 talk bad about, or the people that we took the animals away from.  
3 And me -- me and John Reineke talked about it. And we owed  
4 the vet so many thousand dollars already. And to tranquilize a  
5 tiger so a vet can give it a shot takes 45 minutes sometimes, and  
6 it takes several hundred dollars worth of medicine, and then the  
7 animal is just convulsing and throwing up and seizing until the  
8 vet can even get to it. And the shotgun was a half a second and  
9 it was twice as fast. And I had legal right, according to the  
10 state of Oklahoma and the USDA, to do that.
- 11 Q. How many years have you dealt with tigers and big cats?  
12 A. Close to 25.
- 13 Q. Do you consider yourself very familiar with that species?  
14 A. I consider myself one of the world's experts in tigers.
- 15 Q. Now, you had a veterinarian associated with the park,  
16 correct?  
17 A. Yes, sir.
- 18 Q. And that was Dr. Green?  
19 A. Dr. Green.
- 20 Q. And you and Dr. Green, through your agreement, had developed  
21 a euthanasia protocol, correct?  
22 A. Yes, sir.
- 23 Q. And that protocol required Dr. Green to euthanize any animal  
24 that needed it, correct?  
25 A. For the USDA license, yes.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. All right. Did you violate that protocol in October?

2 A. The USDA license -- I would have gotten cited by the USDA as  
3 a noncompliance for not calling the vet. Wouldn't have been  
4 anything criminal, but I was giving up my license anyway, so I  
5 didn't care if I get wrote up. The idea was to quit making all  
6 these animals suffer for money.

7 Q. Did you violate the law by euthanizing those animals?

8 A. Absolutely not.

9 Q. Now, explain why you think you did not violate the law by  
10 euthanizing those five tigers.

11 A. Because the state of Oklahoma says that you have the right  
12 to shoot -- or euthanize your own livestock as long as it doesn't  
13 -- "instantaneously" is the word that they use for it. And this  
14 law that they have charged me with is absolutely a law that is  
15 extremely vague because Congress didn't enact this right, and  
16 that's why the Trump administration is working on redoing this  
17 law right now.

18 The word "take" is to pursue, harass, harm, shoot, kill,  
19 wound, capture, or collect an endangered species. That is for  
20 something in the wild, that's not something born in a zoo or  
21 every zoo owner would be arrested by now, and every circus owner  
22 would be arrested for harassing an animal to make them jump  
23 through a hoop. This is for animals in the wild, has nothing to  
24 do with this. And if it did have something to do with animals in  
25 captivity, I had 50 born, according to the last testimony you

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 heard the other day, and I euthanized five, so I should be  
2 getting credit for 45 more.

3 Q. After Travis died, what did you decide you were going to do?

4 A. I was done. I called Brittany Peet several times, crying  
5 because of what Jeff put me through and James always holding my  
6 teeth over my head because I have stolen teeth in my head thanks  
7 to them two.

8 Q. Now, had you met Ms. Peet before?

9 A. Not before -- not before the Dade City Wild Things thing.

10 Q. All right.

11 A. Talked to her on the phone.

12 Q. What was -- what was it like for you to meet Brittany Peet?

13 A. I wished I'd have met her ten years ago.

14 Q. Why?

15 A. Because she was nothing like we all portray each other to  
16 be. She was a real human being with real feelings, and she  
17 understood what position I was in, and she wasn't about just  
18 killing animals like we all think PETA is about.

19 Q. Did you think that she was someone who could help you get  
20 yourself out of the park?

21 A. She was helping me get out of the park.

22 Q. All right. Now, as far as your arrangements with Ms. Peet,  
23 tell the jury what you had in mind.

24 A. Me and my mom had a plan, and it was going to take a little  
25 while because we had to jump through all of the civil litigation

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 hoops to do it. But Carole was suing my mom for illegal transfer  
2 of assets of the land because we changed the name from the first  
3 park to the Garold Wayne Interactive Zoological Park. So the  
4 transfer of the land was an issue.

5 And we came up with the idea and the plan, and we ran that  
6 by Howard Baskin, through a third person because we couldn't talk  
7 direct to him because of the lawsuit, that mom was going to quit  
8 fighting it and quit paying the lawyers. So that way, Carole  
9 could get -- win the judgment on the illegal transfer of assets,  
10 which would void the land deed that Jeff was on and it would go  
11 back to 100 percent of my mom owning the property. And because  
12 Jeff never paid the lease like they had a contract, she was going  
13 to evict him. And that would have got Jeff off the park. And we  
14 were working out a deal with PETA to work out with Carole to move  
15 all the animals out, and let John Finlay cut the cages apart and  
16 sell them for scrap iron in order to have us some private money  
17 to move because Carole would have owned the land with that deal.  
18 And that was our plan.

19 Q. So effectively shut down the entire operation?

20 A. Correct.

21 Q. While this was going on, you're trying to work with PETA and  
22 resolve issues with Ms. Baskin, was there still a lot of drama  
23 going on at the park?

24 A. It was constantly drama going on at the park. I couldn't  
25 even go to town. I couldn't even go home and eat lunch. My

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 house is inside the zoo. And I would go home and eat lunch, and  
2 I hear this screaming on the radio. And I run out in the park  
3 and here's one of my female workers laying there without an arm  
4 and everybody standing there just looking at her like she has  
5 some kind of disease. And I kill myself trying to train my staff  
6 for medical emergencies and animal emergencies, and then they let  
7 the chimpanzees out, then they let the tigers out, then they let  
8 the leopards out. And then I go to town and my husband dies. I  
9 just couldn't take any more.

10 Q. Now, during this same period of time, even prior to Travis's  
11 death, did you become involved in some outside activities?

12 A. I ran for public office, yes.

13 Q. What did you run for?

14 A. In 2016, I just -- I write a lot of letters to senators and  
15 congressmen, and you never hear anything back ever. You get a  
16 form letter if you're lucky. And I laid in bed one night and I  
17 was like, how do a normal person like me and you ever get heard  
18 in this country. And I woke up the next morning and I filled out  
19 my federal papers to run for president against Donald Trump as an  
20 independent. And I didn't know what I was getting into really.  
21 And we didn't do it as a joke. I was very serious about it. And  
22 I probably learned more in 11 months running for president than I  
23 did in 12 years of school. And an independent is not recognized  
24 in this country, so you have to go to every state and get 140,000  
25 signatures in order to get access to the ballot and pay a fee.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 And I was the first person to ever make 37 ballots when it come  
2 election time in November.

3 So after that, the night of the election, the Libertarian  
4 party that had Gary Johnson running for president against Donald  
5 Trump called me and asked me if I would change parties and run  
6 for 2020. And I thought, hell, yeah, if they're calling me from  
7 the national Libertarian office to run for president, I'm game.  
8 So the next morning I changed my parties and I was like, I don't  
9 know if I can keep my mouth shut for four more years.

10 So the governor race in Oklahoma was up because she had  
11 termed out. So I signed up to run for governor of the state of  
12 Oklahoma. And for a year and a half they had to put up with me  
13 on that stage with 15 others debating them. So we as American  
14 people that normally pay taxes and work out here for a living had  
15 a voice.

16 Q. Were you kept busy during the fall of 2017 with that as  
17 well?

18 A. I was in, I believe, six parades between Thanksgiving and  
19 the first week of Christmas. And I had Amber, John's girlfriend  
20 at the time, and her three kids living in my house to keep me  
21 alive. And the -- you know, a lot of people give me a hard time  
22 about getting married so soon, but I studied regression and I was  
23 looking for every reason for Travis to come back. And I believed  
24 that God gave me Dillon to keep me alive.

25 Q. Now, I believe you testified earlier that you have been to

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

- 1 Tampa, Florida, correct?
- 2 A. Many times.
- 3 Q. Okay. Tell me what years you have been in Tampa, Florida.
- 4 A. The entire time that we were fighting this litigation, we
- 5 went down there for depositions several times. I flew down there
- 6 and went shark fishing and parasailing. I took John and another
- 7 kid on a -- on a trip down there deep sea fishing. I flew down
- 8 there to do the music video. I actually flew down there to do a
- 9 protest in front of Carole's road that goes to her place.
- 10 Q. When was that?
- 11 A. Maybe 2012, somewhere around there.
- 12 Q. Okay. How about 2015 or '16, had you been down to Tampa?
- 13 A. I think '15 -- I think '16 is when I did the music video
- 14 and -- and was running for president. I did a presidential rally
- 15 there in Clearwater.
- 16 Q. During those visits to Tampa, Florida, and particularly the
- 17 visits after the lawsuit and things started getting acrimonious
- 18 between the two of you, did you ever try to approach Carole
- 19 Baskin?
- 20 A. I even went on a tour. I paid a tour -- to go on a tour at
- 21 her facility to see what it looked like compared to ours. I
- 22 never even saw Carole Baskin. And -- and I have never emailed
- 23 her; I have never called her; I have never sent her a message on
- 24 social media.
- 25 Q. Well, have you ever called her and threatened her?

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 A. Absolutely not.

2 Q. Have you ever delivered or sought to have delivered a threat  
3 in writing?

4 A. No, sir.

5 Q. Now, prior to the fall of 2017, had anyone ever approached  
6 you about hiring someone to kill Carole Baskin?

7 A. Not that I can recall.

8 Q. Now, let's talk about Count 1 of the indictment. Count 1  
9 charges that in November you inquired of Alan Glover if he would  
10 travel to Florida to murder Carole Baskin in exchange for some  
11 money. Did you do that?

12 A. I never talked to Alan Glover about this.

13 Q. It also says that you told Glover that -- or that Glover  
14 told you he would go to Florida to murder Carole Baskin in  
15 exchange for some money. Did he ever say that to you?

16 A. No, sir.

17 Q. Now, the indictment charges that on or about November 6th  
18 you caused Mr. Glover to travel to Dallas to get a fake ID for  
19 use in this proposed plot for him to go to Florida and kill  
20 Carole Baskin. Tell us about this ID situation.

21 A. Okay. In October, the last -- last week of October, Jeff  
22 called me from Las Vegas and told me to call James and get the  
23 address of where he goes and gets these fake driver's licenses  
24 that they make to go lease fake addresses, and have Alan go down  
25 there and get a fake driver's license because he needed to get a

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Oklahoma City, OK 73102 \* 405.609.5403

JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 bus to go back to South Carolina and fix all of his legal  
2 problems and everything else he had back there. And Jeff said,  
3 and I may send him to Florida to take care of my problem. That  
4 was his exact words. And we --

5 Q. Was that in October?

6 A. That was in October. And we all forgot about it. Jeff and  
7 James never responded to me. I -- we just forgot about it. And  
8 then Jeff called about a week, week and a half later and said,  
9 did you ever get Alan that address. So I called James again and  
10 James sent me the address. And I asked John if he'd take him to  
11 Dallas because I didn't want anything to do with Alan in a car  
12 for five hours, and I didn't want any part of whatever they were  
13 up to because I had already received a tip through the little  
14 canary grapevine there at the park that they were up to  
15 something. So that's when I called John on his way to Dallas and  
16 told him to keep at least a block away from that place and do not  
17 go in.

18 Q. Now, according to your testimony, you were aware that Lowe  
19 wanted him to travel to Dallas and get this ID, potentially for  
20 going to Florida; is that right?

21 A. That's what Jeff said, yes, sir.

22 Q. Okay. So did you provide Finlay a vehicle to go down there?

23 A. That's the vehicle he always drove.

24 Q. All right. And did you tell him maybe find a different  
25 vehicle, don't take one associated with the park?

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 A. No. We didn't have any other vehicles.

2 Q. All right. So it didn't bother you that there was a bumper  
3 sticker or something on that vehicle that would associate the  
4 vehicle with the park?

5 A. No.

6 Q. All right. And what was your intention of keeping  
7 Mr. Finlay a block or so away from the business?

8 A. Because whatever they were up to, I didn't want John being  
9 implicated in that. And I think I said that on one of them  
10 videos too, that we didn't want any part of it because mom's  
11 nurse told me that they were up to something.

12 Q. Now, what did you think they were up to?

13 A. You know, between him and James, you never know what they're  
14 up to because, I mean, they'll look on social media, at each  
15 other, like they're fighting and they're best of friends. It's  
16 just -- it's a constant game between them two.

17 Q. Well, did you question in your mind, why is Jeff telling me  
18 things? I mean --

19 A. I questioned in my mind why Jeff was telling me things all  
20 along because on September the 30th he sold a tiger in Las Vegas  
21 to Paul Logan, the YouTube star. And I got him to wire \$2,000  
22 back to the park so I would have a receipt of him selling that  
23 tiger. And he did. And, I mean, it was -- it was just the  
24 craziest thing because everything that they did they kept  
25 providing me with exactly what I needed, copies of leases and the

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 whole nine yards.

2 Q. Well, I believe Mr. Glover said something to the effect that  
3 he thought you were trying to gather information or something  
4 like that. Do you recall that testimony?

5 A. I remember him saying that I was fishing, and that's exactly  
6 what I was doing.

7 Q. So when you provided the information that would allow Finlay  
8 and Glover to go down to Dallas and pick up an ID, did you do  
9 that with the intention that Alan Glover used that to assist in a  
10 plot to murder Carole Baskin?

11 A. I didn't exactly know what they was going to use it for  
12 because it was -- it was a toy ID. I didn't even know if he  
13 could get on a bus with it.

14 Q. Now, the indictment also alleges that as part of this --  
15 this plot that on November 25th you used the mail to send a cell  
16 phone out to Las Vegas to conceal Glover's, I guess participation  
17 or involvement in this plot. What do you recall about the cell  
18 phone?

19 A. Okay. Before all that -- there was a lot that happened  
20 before that. Jeff had -- Jeff had called me several times,  
21 talking about him going to -- to South Carolina and him going to  
22 Florida and --

23 Q. Who's "him"?

24 A. Alan.

25 Q. All right.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 A. Okay. And then Jeff gets arrested. In between that all, I  
2 think, was -- if I have got my timeline right -- I don't remember  
3 when he got arrested. It was -- it was close to Thanksgiving he  
4 gets arrested. And I had talked to James, and I repeated exactly  
5 what Jeff told me because I know they're talking to each other.  
6 And that made them both feel like, yeah, they got me in this  
7 little web, but I was also consulting a police officer that --  
8 that drove for me and -- and was my bodyguard. And he kept  
9 telling me, just don't cross the line, you can fish all you want  
10 to get the information, but don't cross the line. And I thought  
11 crossing the line was actually hiring a man to go do this, you  
12 know. I didn't think asking questions was crossing the line  
13 because I just wanted to know what the hell they were up to. But  
14 they were -- they were like high-pressure salesmen trying to sell  
15 you a vacuum cleaner with extra parts. They just nonstop.

16 It was all about Carole, Carole, Carole, Carole. And then  
17 Jeff said, give him three -- I mean, at that time I was texting  
18 Jeff and saying, the man won't work for me, he won't come to a  
19 meeting, he won't do this, he won't do that. And I guess Jeff --  
20 Alan was bitching at Jeff too about the same thing. He didn't  
21 want to work for me anymore. He wanted to go home.

22 So Jeff calls me and says, give Alan \$3,000 so he can get  
23 his ass back to South Carolina and get his legal mess cleaned up,  
24 and he'll be out of your hair. Okay. So --

25 Q. Okay. So we're covering a couple of extra things here. So

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 hang with me.

2 A. All right.

3 Q. And we'll just cover that while we're on it. Did you give  
4 Alan Glover some money?

5 A. I did.

6 Q. And you did that because you were told to?

7 A. I was directed by Jeff to give him 3,000 bucks to go home so  
8 he had traveling money and living money because Jeff had retail  
9 stores out in the east coast and he was going to go work for Jeff  
10 out there.

11 Q. All right. So where did the money come from that you gave  
12 to Glover?

13 A. Out of the night deposits, just like Jeff told me to take it  
14 out of the night deposits.

15 Q. And what do you mean "night deposits"?

16 A. Every night, and especially during the holidays, we just  
17 kept every day's income in an envelope in the safe until the end  
18 of the holiday, and then combine it all together and put it in  
19 one deposit.

20 Q. So are these like park admission fees and things like that?

21 A. And the pizza restaurant money and both gift shop money,  
22 uh-huh.

23 Q. So the cash that you provided came from the business,  
24 correct?

25 A. Correct.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. All right. Now, along with that there's this allegation  
2 about the cell phone. Tell me what your participation was with  
3 respect to this cell phone allegedly being mailed to Mr. Lowe as  
4 part of this plot.

5 A. After -- after I gave Alan the money, a couple hours later  
6 he walks over into the office and he lays his cell phone on the  
7 desk, and to this day I swear it didn't have a charger. It was  
8 just a cell phone. And he says, here, we're supposed to mail  
9 this to Jeff. And I carried it in, and I give it to Brenda  
10 because I didn't have his address. And I said, Brenda, Jeff  
11 wants you to mail this cell phone to him. And that was the end  
12 of it.

13 Q. Was there any other discussion between you and Alan about  
14 this cell phone?

15 A. No.

16 Q. Any discussion with Jeff about this cell phone?

17 A. No, sir.

18 Q. Now, there was testimony from Mr. Glover that you gave him  
19 another cell phone.

20 A. That was all a lie.

21 Q. Did you give him another cell phone?

22 A. Absolutely not, especially a company phone that we just  
23 advertised several thousand dollars to order pizza with.

24 Q. So did you see a phone on the day that he was leaving town?

25 A. No, sir.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. Did you use a phone that belonged to Glover to take screen  
2 shots of information about Carole Baskin and her place?

3 A. No, sir.

4 Q. When did -- did you know that Alan Glover was leaving the  
5 park on November 25th?

6 A. I didn't even know he left.

7 Q. When was the first time you figured out that he actually  
8 left the park?

9 A. Probably two or three days later.

10 Q. Did you have anything to do with him making arrangements to  
11 fly back to South Carolina?

12 A. I didn't even know he took an airplane until this all  
13 started.

14 Q. Did you hire Alan Glover to kill Carole Baskin?

15 A. Absolutely not.

16 Q. Well, let's talk about the second count. Do you recall the  
17 recordings that were played between Mr. Garretson and you that --  
18 in which Garretson is talking to you about this guy that he had  
19 that could do things? Do you remember that?

20 A. Yes, sir.

21 Q. Do you remember those conversations with Garretson?

22 A. Pretty much.

23 Q. When did you first hear from Garretson about this guy  
24 that -- that he supposedly had?

25 A. I don't even remember exactly, maybe mid September after I

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Oklahoma City, OK 73102 \* 405.609.5403

JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 had my teeth.

2 Q. All right. And so how did that come up?

3 A. Well, can I back up just a little bit and fill you in on  
4 that?

5 Q. Well, if it has something to do with how this topic came up,  
6 go ahead.

7 A. I believe that -- that's the reason why this topic come up  
8 is in -- in late June or August -- or July, I had a horrible,  
9 horrible toothache and I needed two root canals and two crowns.  
10 And James says, I have a CareCredit card that's about to  
11 expire --

12 MS. MAXFIELD-GREEN: Your Honor we'd object. Same  
13 objection as before; relevance and hearsay and prejudicial.

14 THE COURT: Sustained.

15 Q. (By Mr. Earley) Okay. Mr. Passage, what I need you to do  
16 is talk about how this topic of Mr. Garretson's guy came up and  
17 when it first came up.

18 A. We were on the phone talking about my teeth.

19 Q. Okay. And that's fine. And when was that?

20 A. August -- September, August. August, I think.

21 Q. Okay. So that's the first time that you heard Mr. Garretson  
22 bring up some guy that he might have to -- to do something. What  
23 was it that this guy could do?

24 A. Well, he called me; I didn't call him.

25 Q. Okay.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 A. Okay. And every time he called you, it was about Carole or  
2 Jeff. Okay. So it was -- it was what information you know about  
3 Carole, or what -- you know, is Jeff paying any bills, or what's  
4 Jeff doing in Las Vegas. And if I remember right, he just -- he  
5 just said, is Carole still F'g with you. And I said, yeah,  
6 obviously, she never stops. And he says, well, I know a guy that  
7 can take care of it.

8 And -- and through this entire process -- you can watch  
9 these videos -- and every time I use the excuse I have to sell a  
10 cub or I ain't got no babies born, I ain't got no money. It was  
11 the easiest way to get rid of the man.

12 Q. Well, just thinking back, maybe including the recordings and  
13 maybe non-recorded contacts you had with Garretson, how many  
14 times do you think he brought up his guy during the fall of 2017?

15 A. Probably 10 or 12, at least.

16 Q. Okay. Did those remarks continue into December?

17 A. Yes, sir.

18 Q. All right. Were those conversations that you started or was  
19 the topic brought up by Garretson?

20 A. It was always him calling. And I believe one of them in  
21 early December even -- I even lied to him and told him I had a  
22 photo shoot in Dallas to get out of even the conversation, but I  
23 was actually at a parade in Davis, Oklahoma.

24 Q. Now, when he was contacting you in December and November  
25 about this, were you still in discussions with Ms. Peet about

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 extricating yourself from the park?

2 A. We were still moving tigers out and -- and cutting cages  
3 apart.

4 Q. Your decision to leave the park, how did that -- how did  
5 that affect your thoughts about Carole Baskin?

6 A. You know, after Travis died and dealing with that and  
7 dealing with PETA's lawsuit to come get them first 19 tigers  
8 and -- and having three kids that I'm not used to in the house  
9 screaming and hollering and meeting Dillon on the 28th and six  
10 parades to do and running for office and doing debates at the  
11 same time, Carole Baskin didn't even enter my mind unless one of  
12 them called and brought it up.

13 Q. Did you ever agree, whether it's recorded or not, to meet  
14 this guy before this December 8th meeting?

15 A. He only had one recording of that, but he called like two or  
16 three times, hey, I'm going to bring my guy up tomorrow. And he  
17 never shows up. I'm going to bring him up Thursday, and he never  
18 shows up. Well, hey, you going to be around Friday. You know  
19 what, it's the same as always. The man never done what he said  
20 he was going to do. So I just said, sure. And I'll be damned if  
21 they didn't show up.

22 Q. Yeah. Well, let's talk about December 8th. Did you plan on  
23 meeting with this person?

24 A. No.

25 Q. Now, he obviously did show up at the park.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

- 1 A. Yes, sir.
- 2 Q. What were you doing at the time that they popped in on you?
- 3 A. I don't recall, but I'm sure I was working the park doing  
4 something.
- 5 Q. Were you continuing to do your daily duties and do tours and  
6 take care of animals and all that other stuff?
- 7 A. Yes, sir.
- 8 Q. Was that in addition to your concentration on your campaign?
- 9 A. It was during the concentration on everything. I mean, that  
10 was the first day actually that -- well, no, Dillon had already  
11 moved in and -- and even he was -- I mean, everybody was in and  
12 out of the office the entire time.
- 13 Q. Now, where did that -- where did most of that conversation  
14 take place?
- 15 A. In the office away from the gift shop.
- 16 Q. Is that sort of a secretive, closed-off place?
- 17 A. No, it's open. Everybody had access to it. It's just a  
18 portable building that we had next to the big gift shop office  
19 because we outgrew the gift shop office.
- 20 Q. Now, what was your -- your gut feeling about this  
21 conversation?
- 22 A. I had a gut feeling it was an undercover cop.
- 23 Q. Why?
- 24 A. Because they were so high pressure. I mean, it -- first of  
25 all, they blocked the door. I couldn't get out the door. They

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 stood in front of the door. I don't recall anybody ever sitting  
2 down. And you have got a giant Chucky and a guy that looks like  
3 hell blocking the only door to get out of the building. And  
4 they're like, oh, we can kill her, we can do this, we can -- we  
5 can drop the price down to 5,000 bucks. You're really going to  
6 drive to Tampa, Florida and stay there and -- and kill somebody  
7 and come back on 5,000 bucks? I can't even deliver a tiger that  
8 cheap.

9 Q. Did you think it was a setup?

10 A. I believed it was a setup.

11 Q. Now, there was a discussion about getting some money  
12 together. Do you remember that?

13 A. I do.

14 Q. Did you ever get money together?

15 A. No. And I told them -- I told them on the recording that I  
16 had to sell some cubs to get some money, but I kept telling them  
17 the same thing I heard from Jeff during his little setup because  
18 at the same time he's -- he's trucking around with an undercover  
19 FBI guy using stolen credit cards.

20 Q. Did you ever provide Garretson money for the services of  
21 Marc?

22 A. Not a dime.

23 Q. Now, there was this discussion about getting a gun for  
24 purposes of carrying out this plot. Do you remember that?

25 A. That was their idea.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. All right. So did you ever try to go get a gun for Mark?

2 A. No.

3 Q. Now, there was also some discussion about getting some  
4 phones, a phone for you and a phone for Mark so that you two  
5 could communicate, and it wouldn't have anything to do with the  
6 park. Do you remember that?

7 A. Yep.

8 Q. Did you ever go and purchase any phones for you and Mark?

9 A. Never even thought about it after they left.

10 Q. So did you hire Mark to kill Carole Baskin?

11 A. Absolutely not.

12 Q. Did you take any further steps, as far as collecting money,  
13 making inquiry about guns, inquiry about phones, anything that  
14 would suggest you had any interest at all in carrying through  
15 with what Mark and Mr. Garretson had proposed?

16 A. Nope.

17 Q. Now, we heard a little bit of testimony from Ms. Peet about  
18 her trying to intervene and perhaps reach some sort of settlement  
19 that would, you know, basically take care of not only them but  
20 also the Baskin situation.

21 A. Okay.

22 Q. What was your understanding of what she was trying to broker  
23 for you?

24 A. Okay. PETA had a separate contract of their own where I had  
25 to get rid of all of the animals, and I could not ever own an

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 exotic animal again, couldn't have anything to do with anybody  
2 that had exotic animals. So I couldn't go to work for anybody  
3 that had exotic animals. And we were going to move all the  
4 animals. We were going to allow John Finlay to move into the  
5 main house and cut the cages apart, and that's where we were  
6 going to get our extra money.

7 Plus she had no problem coming up with \$100,000 to replace  
8 the money that mom paid for the land, but they didn't want Jeff  
9 Lowe making a dime. And that's what broke the deal was Jeff  
10 wouldn't agree to anything because he wanted \$400,000 to walk  
11 away from it. So we couldn't get Jeff out. So that's why we  
12 needed mine and my mom's plan to work on through. And that's  
13 what we were working on. Between the lawyers and PETA and me and  
14 mom, we were actually working on that plan up until I got  
15 snatched out of having them investigated.

16 Q. All right. So there wasn't a settlement?

17 A. No, sir.

18 Q. And at least from your view, was that because Jeff Lowe  
19 wouldn't sign on?

20 A. It is because Jeff Lowe wouldn't sign off on it.

21 Q. So after the first of the year, going into February, March  
22 of 2018, what was your plan as it pertains to the park?

23 A. Well, January the 2nd of 2018, I got my first traffic ticket  
24 in my life -- running a stop sign -- and broke my neck and my  
25 back and my right leg. And I was in OU Medical Center for a few

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 days there. And then I get home and I'm in braces. And the --  
2 the whole thing of leaving the zoo was still priority on my mind.

3 So we move some bears and some monkeys and some more tigers,  
4 and then -- because Alan was finally out of my hair. Every time  
5 I moved an animal before Alan left, he'd call Jeff and Jeff would  
6 call and say, what are you doing moving this animal or getting  
7 rid of this animal. So I couldn't get rid of most of the animals  
8 that were under my license until Alan was gone.

9 So after Alan was gone, and after I got out of the hospital  
10 of having my wreck, we moved almost every primate in that zoo to  
11 other facilities, except for the two chimpanzees and the one  
12 primate pigtail macaque that John Reineke, the manager --  
13 actually, it was his monkey. So we got rid of all the primates.  
14 We got rid of almost all the bears. We only had three bears  
15 left. And we were still placing tigers at different private  
16 facilities.

17 And Brittany was helping me organize all this, but we were  
18 having troubles finding sanctuaries that had room for 200 tigers.  
19 I mean, moving 200 tigers is a process, you just don't do it  
20 overnight. And June -- June -- I mean, they -- they come up with  
21 this Carole thing, you know, a couple more times. And then May  
22 he got in some more legal trouble out there and -- and I was  
23 feeding information to Brittany. I was feeding information to  
24 the district attorney in Las Vegas. I was feeding information to  
25 another man that was piping it up the USDA to -- Bernadette

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Juarez is the top USDA for us, and she was supposed to be giving  
2 some of this stuff to the FBI because he was selling skins and  
3 teeth and everything out in Vegas from tigers. And -- and so I  
4 have got these screen shots and all of the information I needed.  
5 If somebody would have just come and ask me, we could have  
6 avoided this whole thing.

7 Q. Well, did anybody ever come and ask you?

8 A. To this day, nobody has.

9 Q. Now, we heard a recording of a phone call that you had with  
10 Mr. Finlay while you were being held in custody. Do you recall  
11 that?

12 A. Yes, sir. Yes, sir.

13 Q. And during that phone call you suggested that he had told on  
14 you. Do you remember --

15 A. Yes, sir.

16 Q. Do you remember what -- what you said?

17 A. I asked him -- I asked him who he's been talking to and he  
18 said the FBI. And I -- John, the only thing John knew was he was  
19 taking Alan to Dallas to go to Florida. Because if he'd have  
20 told John the truth, John has a very low self-esteem, so he  
21 always attaches himself to the wrong people because they become  
22 his friend fast. And he just wouldn't keep his mouth shut if I  
23 would have told him the truth, so that's why I told him to park a  
24 block away from the damn place so he didn't get implicated in  
25 anything. And what's he do, he walks right in the damn building.

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JOSEPH MALDONADO-PASSAGE - Direct by Mr. Earley

1 Q. So what did you mean during this conversation when you  
2 accused him of selling you out, or whatever the exact words were?

3 A. Well, I mean, he knew that the -- the direct orders came  
4 from Jeff. And I wanted to make sure that when he talked to the  
5 FBI he didn't say it was just my -- my sending him down there,  
6 that I wanted to make sure that he told them that Jeff is the one  
7 who told us to send him down there.

8 Q. All right. Now, at any time did you intend for someone to  
9 kill Carole Baskin in exchange for money or any other thing of  
10 value?

11 A. No.

12 MR. EARLEY: May I have just a moment?

13 THE COURT: You may.

14 MR. EARLEY: Pass the witness.

15 MS. MAXFIELD-GREEN: Your Honor, if I could just have  
16 an extra couple of minutes.

17 THE COURT: Sure. Actually, ladies and gentlemen, it's  
18 sometimes a lot better if we don't interrupt you as -- we're at a  
19 natural break here, so let's take our afternoon break just a  
20 little bit early. We'll break for 15 minutes, and please  
21 remember the admonition.

22 If those in the courtroom would please remain seated as the  
23 jury exits.

24 (Jury exited.)

25 THE COURT: Counsel, my -- so we'll start back up at

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 about five 'til. My intent is that we power through and -- and  
2 finish at least with testimony today, even if that means we may  
3 end up having to stay just a little bit late.

4 I don't know how much you have, Ms. Green, or any redirect,  
5 but my plan is is that we get this wrapped up. I don't see any  
6 way that we're going to instruct and close this afternoon. I  
7 don't want to break those things up, but I also don't want to  
8 break early today. But at the pace we're going, I'm expecting  
9 this will probably run us all the way to 5:00 anyway. So even if  
10 we go over a little bit, I'm going to assess that with the jury.

11 But my intent is that we finish Mr. Passage's testimony  
12 today. And then I don't know if you have anything additional  
13 after that, Mr. Earley. But anyway, so we'll be in recess until  
14 about five 'til.

15 (Break taken.)

16 (The following record was made in open court, in the  
17 presence of all parties, counsel, and in the presence and hearing  
18 of the jury.)

19 THE COURT: Ms. Green, cross-examination.

20 MS. MAXFIELD-GREEN: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 **BY MS. GREEN:**

23 Q. Good afternoon, Mr. Passage.

24 Mr. Passage, since you have been in jail, you have been  
25 working on selling your life story to several different members

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 of the media, correct?

2 A. I have been working on selling some of the footage from the  
3 zoo and -- and the past. And -- and one of them I had a contract  
4 with in, like, 2017.

5 Q. And Rebecca Chaiklin, is that how you say it?

6 A. I have no idea how to say her last name.

7 Q. Chaiklin is the best I can do. Rebecca Chaiklin is one of  
8 your filmmakers, correct?

9 A. Correct.

10 Q. And what about Eric Goode, he's one of your filmmakers,  
11 correct?

12 A. They're together.

13 Q. Rebecca and Eric work together?

14 A. Correct.

15 Q. Is Rebecca in the courtroom today?

16 A. Eric is.

17 Q. So Rebecca and Eric, they're working on a film about your  
18 life, right?

19 A. We started a documentary way before Travis died.

20 Q. Okay. What about Teresa McCown? She's one of your  
21 filmmakers, correct?

22 A. She used to be my producer before my studio burnt down.

23 Q. And is she making a film about you as well?

24 A. She hasn't asked for any footage or anything yet. She  
25 hadn't done anything. I don't know what she's doing.

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 Q. Well, you have gotten several thousands of dollars already  
2 from Rebecca and Eric, correct?

3 A. Correct.

4 Q. And have you gotten several thousand dollars from Teresa  
5 McCown for your story?

6 A. I haven't gotten a dime from Theresa. My husband has.

7 Q. Okay. And that's up into the several thousands of dollars,  
8 correct?

9 A. Correct.

10 Q. And you have been negotiating with them ever since you have  
11 been in jail, correct?

12 A. Correct.

13 Q. And it was Rebecca Chaiklin and Eric Goode who paid John  
14 Finlay for an interview about you, correct?

15 A. From my understanding, they paid a lot of people.

16 Q. And this is all in connection with a film about your life,  
17 correct?

18 A. Correct.

19 Q. Now, you and Mr. Earley covered a lot of stuff. So I'm  
20 going to try to go a little bit in order but --

21 A. Okay.

22 Q. Now, Mr. Earley talked to you about Darlene Cervantes. Do  
23 you recall that?

24 A. Yes, ma'am.

25 Q. And your testimony was -- and he talked to you about

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 Government's Exhibit 21, which is that text exchange with her,  
2 correct?

3 A. Yes, ma'am.

4 Q. Now, your testimony was that you told -- you told her that  
5 the cubs would be a thousand dollars just to get rid of her,  
6 correct?

7 A. Correct.

8 Q. Okay. But that -- you saw that text exchange in the  
9 government's part of the case, right?

10 A. I saw it, yes, ma'am.

11 Q. Now, that text exchange went on from October to February,  
12 correct?

13 A. That -- that should explain that it wasn't a very serious  
14 sale, was it?

15 Q. But that whole text exchange was all about selling a couple  
16 of tigers for a thousand dollars, correct?

17 A. Correct.

18 Q. Okay. Now -- you have got to forgive me, I have got a lot  
19 of notes here.

20 A. You're all right.

21 Q. So you told -- you said on direct that in 2014, in October  
22 of 2014, you got extremely ill; is that right?

23 A. Very ill.

24 Q. And you got so ill, it sounds like you were on your  
25 deathbed; is that right?

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

- 1 A. I was.
- 2 Q. And you made a deal with God, correct?
- 3 A. I did.
- 4 Q. That if you walked out of that hospital you were going to be  
5 different and -- and kind of -- I can't remember what words you  
6 used, but you were going to do better, I think you said.
- 7 A. I was going to try and change, yes, ma'am.
- 8 Q. And that was in October of 2014?
- 9 A. That was. October the 21st, to be exact.
- 10 Q. Okay. So do you remember on -- when we were talking to  
11 Ms. Baskin, and during the government's case, we looked at a lot  
12 of posts and videos of yours, correct?
- 13 A. Correct.
- 14 MS. MAXFIELD-GREEN: Can we see Government's  
15 Exhibit 97, Jane? Just blow that up.
- 16 Q. (By Ms. Maxfield-Green) Now, that's a post on your Facebook  
17 page, right?
- 18 A. It's a post on one of my Facebook pages.
- 19 Q. And you had several, correct?
- 20 A. I had 19 of them.
- 21 Q. So this is one of them, correct?
- 22 A. That is one of them.
- 23 Q. Is that a photo of you standing at the coffin?
- 24 A. That is.
- 25 Q. And now, as I recall -- this one says, "I bought my good

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 friend Carole in Florida a Christmas present. It even came with  
2 me singing a farewell song." That was posted on December 28th of  
3 2014, correct?

4 A. Mine says 21 hours.

5 Q. Okay. I think if you look in the lower right-hand corner  
6 of when that's -- shows when that screen shot was --

7 A. Oh, when the screen shot was taken. Well, I mean, that  
8 shows when the screen shot was taken, but that don't show when  
9 the post was put up.

10 Q. Okay. Well, you heard the testimony on direct that Ms.  
11 Baskin believed it was posted on about December 28th of 2014?

12 A. I heard a lot about what Ms. Baskin believes.

13 Q. So December 28th of 2014 would have been after you made your  
14 deal with God, correct?

15 A. Would have been a long time after that, but may I elaborate  
16 on that?

17 Q. No. That -- I just -- December is after -- December 14 is  
18 after October 14, correct?

19 A. I was way too sick to be on top of that casket in December  
20 of '14.

21 Q. Okay. If we can see Government's Exhibit 100, which was  
22 also played during the government's case.

23 (Video played in open court.)

24 Q. (By Ms. Maxfield-Green) Okay. So that video was posted on  
25 September 17th of 2015, correct?

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 A. All right.

2 Q. Okay. And that would have been after October of '14,  
3 correct?

4 A. Correct.

5 Q. Okay.

6 A. Can we play the music video?

7 Q. I don't think we need to.

8 A. Well, it shows that --

9 THE COURT: Mr. Passage, Mr. Passage, please just  
10 answer the questions. Your -- Mr. Earley will have the  
11 opportunity to ask you additional questions if he wants to  
12 elaborate for some additional information, but please just answer  
13 the questions before you.

14 THE WITNESS: Yes, sir.

15 Q. (By Ms. Maxfield-Green) Okay. Mr. Passage, the best as I  
16 understood your testimony on direct, you're telling us that you  
17 never sold a tiger across state lines, right?

18 A. Up until 2016 I sold a bunch of them.

19 Q. Okay. So you're -- let me get this right then. Your  
20 testimony is that after 2016 when the generic tiger loophole  
21 closed --

22 A. And I didn't own a zoo at that time.

23 Q. So your testimony is that, after that point in 2016, you  
24 never sold tigers, correct?

25 A. I did not.

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 Q. Okay. And you -- is your testimony also that you never, in  
2 the same regard, would have never falsified any documents to  
3 cover up a sale like that, correct?

4 A. I mean, all of the -- all of the documents that we fill out  
5 are transfer forms and those are donated from whoever owned the  
6 animal.

7 Q. Now, Jeff and Lauren Lowe were back at the park by May  
8 of 2018, correct?

9 A. Yes, somewhere around there.

10 Q. And you had a conversation with the two of them when you  
11 were sitting at a desk in their house at the zoo, correct, on  
12 about May 3rd of 2018?

13 A. I think that conversation started in the office.

14 Q. Okay.

15 A. And overflowed through the house.

16 Q. So you recall that conversation?

17 A. I think so, if you're talking about the same one.

18 Q. Okay. And you're aware that conversation was recorded,  
19 correct?

20 A. Yes, ma'am.

21 Q. Okay.

22 MS. MAXFIELD-GREEN: The government moves to admit  
23 Exhibit 62-1, -2 and -3, which are clips of that conversation,  
24 Your Honor.

25 THE COURT: Is there any objection from the defendant?

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 MR. EARLEY: Well, we haven't actually seen these  
2 exhibits, Your Honor.

3 THE COURT: Parties approach.

4 (The following bench conference was held outside the hearing  
5 of the jury.)

6 THE COURT: These were not produced in discovery?

7 MS. MAXFIELD-GREEN: They were produced in discovery,  
8 Your Honor. They have had this video for a long time. What we  
9 were discussing is that this is a conversation, kind of a  
10 long-ranging conversation between Mr. and Mrs. Lowe and  
11 Mr. Passage. And the reason it is clipped into three little  
12 parts is because we made every attempt to get as much of  
13 Mr. Lowe's comments out of it, just enough for the context of  
14 what they're talking about. There are long sections where  
15 Mr. Lowe is talking and making accusations. We cut all that out.  
16 It is pretty much cut down to just Mr. Passage's statements.

17 MR. EARLEY: The only concern was that this -- this  
18 particular video covered a lot of territory, to include  
19 allegations of campaign finance --

20 MS. MAXFIELD-GREEN: There is nothing in this exhibit  
21 about campaign finance, embezzlement. This is all -- the  
22 comments that are being offered are being used to directly  
23 impeach what Mr. Passage has said. He is talking about sales of  
24 tiger cubs to Mr. Engesser that had clearly happened at the few  
25 months prior and his falsification of documents to cover that up.

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 THE COURT: So, Mr. Earley, your concern was that it  
2 went into some other areas?

3 MR. EARLEY: Correct.

4 THE COURT: And if the government's representing that's  
5 not the case, do you have any objection to the exhibits?

6 MR. EARLEY: No.

7 THE COURT: Okay.

8 (The following record was made in open court, in the  
9 presence of all parties, counsel, and in the presence and hearing  
10 of the jury.)

11 THE COURT: Ms. Green, could you repeat those numbers  
12 again?

13 MS. MAXFIELD-GREEN: Yes, Your Honor, the government's  
14 moving to admit 61-1, 61-2, 61-3.

15 THE COURT: Those will be admitted without objection.

16 (Video played in open court.)

17 Q. (By Ms. Maxfield-Green) Okay. And that conversation was on  
18 May 3rd of 2018, correct?

19 A. I guess, yes.

20 Q. Now, Mr. Passage, again, you -- it was your testimony that  
21 you never sold endangered species cubs, lions or tigers, correct?

22 A. According to this video right here, he was accusing me of  
23 stealing his money from selling a cub.

24 Q. Okay. Were you intending to broker the sale of a litter of  
25 lions from your jail cell?

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 A. Do what?

2 Q. Were you intending to broker the sale of a litter of lions  
3 from your jail cell?

4 A. Broker a litter of lions from my jail cell? I don't have  
5 any lions.

6 Q. Now, you made phone calls from jail, right?

7 A. Made a couple hundred.

8 Q. Okay. And you're aware that those calls are recorded,  
9 right?

10 A. I am.

11 MS. MAXFIELD-GREEN: Government moves to admit  
12 Exhibit 162 and 163.

13 THE COURT: Any objection?

14 MR. EARLEY: I'm sure they're among the thousands that  
15 there are, but if Ms. Green's representing that they're phone  
16 calls from the jail and that Mr. Passage is on them, I have no  
17 reason to disbelieve her.

18 THE COURT: So no objection?

19 MR. EARLEY: No.

20 THE COURT: 162 and 163 will be admitted.

21 MS. MAXFIELD-GREEN: 162, Jane.

22 (Audio played in open court.)

23 MS. MAXFIELD-GREEN: And if we can have 163, please.

24 (Audio played in open court.)

25 Q. (By Ms. Maxfield-Green) Okay. Mr. Passage, on direct you

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

- 1 testified that -- that Jeff Lowe was selling tiger cubs, correct?
- 2 A. At the zoo.
- 3 Q. Okay. And that you even kept a ledger where you kept track
- 4 of his tiger cub sales, right?
- 5 A. I did.
- 6 Q. Okay. Now, so you knew, you know, back last year that Jeff
- 7 Lowe was selling tiger cubs. Is that your testimony?
- 8 A. Yes.
- 9 Q. Why didn't you report that to law enforcement?
- 10 A. I tried to report a whole bunch of stuff.
- 11 Q. Who did you report the fact that Jeff Lowe was selling tiger
- 12 cubs to? Did you report it to the U.S. Fish & Wildlife Service?
- 13 A. I didn't report it to the U.S. Fish & Wildlife Service
- 14 because I have never seen one of them guys. And when you call
- 15 the U.S. Fish & Wildlife, nobody ever knows nothing. They
- 16 transfer you ten different times. So I told the Garvin County
- 17 Sheriff's Department, I told the USDA, and --
- 18 Q. Who did you tell at the USDA?
- 19 A. I told the guy that was sending everything to Bernadette
- 20 Juarez. And I told the investigator and the district attorney
- 21 out in Las Vegas because I had screen shots of him selling cubs
- 22 out there.
- 23 Q. Okay.
- 24 A. May I comment on your video?
- 25 Q. I didn't have any questions about that.

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 A. Okay.

2 Q. Now, and just to understand the timeline and everything, so  
3 Jeff Lowe -- it was your testimony that Jeff Lowe was in Las  
4 Vegas from about May, June of 2017. Is that when he left for Las  
5 Vegas?

6 A. Somewhere around there.

7 Q. Okay. And he -- sounds like he came back and forth a little  
8 bit, correct?

9 A. Whenever he run out of cubs.

10 Q. So he came back about in April of 2018, correct, or came  
11 back --

12 A. For a little bit or for good?

13 Q. For good.

14 A. I think it was closer to May. I'm not sure.

15 Q. And that would have been 2018 when he came back for good?

16 A. Well, he came back, supposedly for good, and then he left  
17 again.

18 Q. Now, you talked about this proposal from PETA, correct? You  
19 talked about that on direct?

20 A. Yes, ma'am.

21 Q. And you were here for Ms. Peet's testimony last Friday,  
22 correct?

23 A. Yes, ma'am.

24 Q. Okay. And so you heard her testify that any negotiation  
25 with you that she was proposing did not involve Carole Baskin.

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 Did you hear that testimony?

2 A. Okay. She -- I forget exactly what she said, but the -- the  
3 negotiations that she was working with me was with PETA, and  
4 Carole would not agree to anything unless I agreed to PETA's  
5 thing first. That's what was going on.

6 Q. Okay. But Ms. Peet testified that the Baskins were not part  
7 of a draft proposal she was giving you in January of '18,  
8 correct?

9 A. The draft proposal was PETA's draft, PETA's side of it.

10 Q. Okay. And you saw the email between you and Ms. Peet from  
11 January 24th of 2018, correct?

12 A. I don't recall we saw that email.

13 Q. Well, it's Government Exhibit 160. We can just look at it.  
14 It's already been admitted.

15 Okay. Now, this is an email from you to Ms. Peet on  
16 January 24th, 2018, right?

17 A. Yes, ma'am.

18 Q. And it says, "Brittany, unless I'm blind or stupid, this  
19 does not get rid of the judgment." And it was Ms. Peet's  
20 testimony that that judgment meant the litigation between you and  
21 Carole Baskin. Did you hear that testimony?

22 A. Yes, ma'am.

23 Q. Okay. And it says, "nor help in any way to pay off our  
24 legal bills and to make any money." And that's what it says,  
25 right?

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

- 1 A. Yes, ma'am.
- 2 Q. Okay. And that email was from you to Ms. Peet in January  
3 of 2018, correct?
- 4 A. Correct.
- 5 Q. Okay. And you also testified that as part of your working  
6 with PETA through the, I guess winter of 2017, 2018, you gave up  
7 40 tigers, correct?
- 8 A. Nineteen the first time and 20 the second time.
- 9 Q. Okay. Now, that first 19, were those -- those were the Dade  
10 City tigers, right?
- 11 A. Yes, ma'am.
- 12 Q. Okay. The ones that came in on the cattle trailer in July  
13 of '17?
- 14 A. Yes, ma'am.
- 15 Q. Okay. Now, you gave those up because PETA sued you to force  
16 you to give them up, correct?
- 17 A. Correct.
- 18 Q. And then you gave them an additional 20, 21 tigers at some  
19 other point?
- 20 A. After I met Ms. Peet in person, yes.
- 21 Q. Okay. Now the tigers you gave them, those were your  
22 nonbreeding males, right?
- 23 A. No. We gave them some pairs.
- 24 Q. Okay.
- 25 A. I believe we did.

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

- 1 Q. Okay. And we spoke about the passing of your husband on  
2 October 6th of 2017, correct?
- 3 A. Yes, ma'am.
- 4 Q. And then -- that was Mr. Maldonado, correct?
- 5 A. Correct.
- 6 Q. And you're currently married to Mr. Passage, correct?
- 7 A. Correct.
- 8 Q. And you remarried him on -- I'm sorry -- you married him on  
9 December 11th of 2017; is that correct?
- 10 A. Correct.
- 11 Q. So is that about eight weeks after Mr. Maldonado died?
- 12 A. Couple of months.
- 13 Q. And, in fact, the conversation that we listened to between  
14 you and James Garretson and Mark Williams, the undercover, that  
15 was just a few days prior to -- to your being married, correct?
- 16 A. Correct.
- 17 Q. Okay. So you testified on direct with Mr. Earley that James  
18 Garretson kept telling you that he could get you a hit man. Is  
19 that your testimony?
- 20 A. Yes, ma'am.
- 21 Q. Okay. And you kept telling him that you needed to sell a  
22 cub to get rid of him. Is that your testimony?
- 23 A. That is my excuse to always get rid of him, yes.
- 24 Q. Now, when James Garretson kept coming to you and offering  
25 you a hit man, you didn't report that to law enforcement,

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 correct?

2 A. No.

3 Q. You testified on direct you had a FBI agent's phone number  
4 in your phone, correct?

5 A. Correct.

6 Q. But you never reported it to him, right?

7 A. Never got any good response out of the last four things we  
8 reported to him.

9 Q. Okay. And you're saying -- your testimony on direct was  
10 that James Garretson brought you -- or brought Mark Williams to  
11 the park to meet you. We heard that whole recording, correct?

12 A. Correct.

13 Q. And that you -- I understand your testimony to be that you  
14 knew that he was an undercover officer, correct?

15 A. I had a gut feeling.

16 Q. Okay. And you didn't contact law enforcement about that,  
17 did you?

18 A. No.

19 Q. You didn't confront James Garretson about it, did you?

20 A. No, because I still needed to get some information of where  
21 these girls were being held.

22 Q. You didn't try to -- you didn't blow the undercover cop's  
23 cover, did you?

24 A. No. He was still using stolen credit cards hauling that cop  
25 around. Why would I tell him I knew anything?

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JOSEPH MALDONADO-PASSAGE - Cross by Ms. Maxfield-Green

1 Q. Okay. And so the best I understand the remainder of the  
2 testimony you did with Mr. Earley is that, essentially, pretty  
3 much all of the government witnesses were lying about something,  
4 correct?

5 A. They were definitely lying about Robert Engesser.

6 Q. Okay. And Alan Glover's lying about pretty much everything?

7 A. He's protecting his boss.

8 Q. Okay. And James Garretson's lying about pretty much  
9 everything?

10 A. About -- all I heard him testify was to the recordings that  
11 we heard.

12 Q. Okay. John Finlay, is he lying?

13 A. John Finlay was pretty on point except for he said we  
14 delivered a hundred cubs over state lines, which is probably  
15 right, but they weren't all after 2016. But other than that,  
16 John was probably your most honest witness you have had so far.

17 Q. Okay. Including the part where he said you called him when  
18 he was on the way to Dallas and told him that the fake ID was so  
19 that Glover could kill Carole Baskin? Was he right about that?

20 A. He had that backwards. I told him that first, and I called  
21 him and told him to stay away from that building on the way.

22 Q. Okay.

23 A. And Carole Baskin was lying.

24 Q. Okay. Thank you. But you're telling the truth, correct?

25 A. Yeah. The -- the --

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 Q. That's my question, Mr. Passage. You're telling the truth?

2 A. Yes, ma'am.

3 MS. MAXFIELD-GREEN: No further questions, Your Honor.

4 THE COURT: Redirect.

5 **REDIRECT EXAMINATION**

6 **BY MR. EARLEY:**

7 Q. Mr. Passage, how long have you been working with documentary  
8 filmmakers?

9 A. Since probably 2009, 2010.

10 Q. Okay. Let's -- let's just use the time frame of 2009 up  
11 until you left in 2018. In the spring of 2018, were -- was there  
12 anybody there filming you or trying to document what you did at  
13 the park?

14 A. The last part of 2017, we documented when Travis died. I  
15 had to re-act spreading his ashes and the whole bit. And then in  
16 2018, they were out filming other people for the same  
17 documentary. And then when it got close to June and all hell  
18 broke loose and I hid some animals out in Tulsa at a facility  
19 over there, they videotaped me moving and hauling the animals  
20 there and spent all day there. And then I -- I ain't got nothing  
21 to hide -- and then the next day they took me to a motel, and we  
22 did a little bit of soft porn for the same documentary in my  
23 underwear. So I -- I've filmed with Allison Eastwood; I've  
24 filmed with Japanese people for a Japanese film. I have filmed a  
25 lot of films.

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 Q. So -- and apparently some news outfit, CNN or somebody came  
2 and talked to you, right? We saw a video clip of that.

3 A. Years ago.

4 Q. Yeah. I mean, has that continued throughout the years?

5 A. I -- I have been all over the world on TV, yes. Yes, sir.  
6 And talk shows.

7 Q. So is the fact that someone is collecting footage that you  
8 have from the park, is that something unusual?

9 A. Not at all.

10 Q. So what -- what is somebody working on right now, to your  
11 knowledge?

12 A. Well, Eric Goode and Rebecca is still working on the same  
13 documentary we started two and a half years ago. And after I  
14 left the zoo, they downloaded several computers with probably  
15 30,000 hours of video from -- because we filmed everything at the  
16 park -- I have got the girl losing her arm on tape; I have got it  
17 all. Everything that happened at that zoo is on tape.

18 And -- and I signed a contract back in early 2016, '17 with  
19 Mr. Goode. And he owed me 20 more thousand bucks, and that's  
20 what my husband has been living on since this all started because  
21 we -- they bulldozed my house; they bulldozed everything I own.  
22 I lost my car. We have nowhere to live. He's living with his  
23 mom and his sister in Texas.

24 And, you know, Mr. Goode even has Ms. Baskin on videotape  
25 that he has offered once or twice to show she was lying about

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 that assault in Tampa, Florida, that happened in 2006 before I  
2 even knew her.

3 Q. So this business about you collecting money or what have you  
4 from people, that's old news?

5 A. It's from people that owe me money, yes, sir.

6 Q. All right. And I guess you have already said this, you have  
7 nothing?

8 A. I have nothing. If I walk out of here today, I have got to  
9 give this suit back.

10 Q. Now, Ms. Green asked you about Government's Exhibit 97,  
11 which was this -- this photo that was supposedly posted on  
12 Facebook December 28th, 2014. You had some disagreement with the  
13 date.

14 A. Okay. Well, first of all, Joe Schreibvogel's Facebook page  
15 was being run by somebody out of the office. Okay? I run the  
16 Joseph Maldonado-Passage page.

17 Second of all, we quit the magic show in 2011. We retired  
18 the magic show. And that's me standing on top of a casket in one  
19 of our main illusion shows, and they're trying to tell me that  
20 was in 2014.

21 Q. So, to your recollection, even though some screen shot may  
22 show that it's in 2014, you believe that photo was actually from  
23 2011, or thereabouts?

24 A. Or thereabouts.

25 Q. All right. Now, Ms. Green showed you a video clip from

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

- 1 September 17th, 2015, suggesting that you -- you broke your deal  
2 with God and you weren't changing your ways; you were going back  
3 to your old ways. Do you remember seeing that?
- 4 A. I do.
- 5 Q. Is that what that represents?
- 6 A. No, it doesn't.
- 7 Q. What do you think it represents?
- 8 A. It represents a very, very professional music video that we  
9 put out that she hates, and it's about her feeding her husband to  
10 the tigers.
- 11 Q. So this -- this is a music video?
- 12 A. It is a music video.
- 13 Q. All right. Is that all that follows that introductory  
14 comment by you?
- 15 A. That is all that follows.
- 16 Q. Now, your testimony is that up to 2016 you probably sold a  
17 bunch of tigers; is that right?
- 18 A. Yeah.
- 19 Q. And it wasn't illegal then?
- 20 A. Nobody ever DNA tested them to see if they were purebred  
21 Siberian or Bengal.
- 22 Q. Well, if they did would they have found that out?
- 23 A. If they had something to compare it to.
- 24 Q. All right. So after 2016, your -- your story is that, hey,  
25 I never sold any tigers. Why are you saying that?

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 A. Because Jeff claimed everything, whether he touched it,  
2 whether he used it, whether he bought it, it become Jeff's. And  
3 I tried to get some of those animals out of there, and he told me  
4 I owed \$4.6 million for boarding, and that was through my legal  
5 team.

6 Q. Now, we saw that little video, or actually three little  
7 clips of that video that Lauren Lowe had recorded. Do you  
8 remember that?

9 A. Yes, sir.

10 Q. Okay. Do you remember that day?

11 A. I do remember that day.

12 Q. What do you remember about that day?

13 A. That day started in the office, and he was throwing shit  
14 around and hitting file cabinets. I thought they were going to  
15 beat the hell out of me because I have seen him beat up an  
16 employee before. And we finally got out of that office, and then  
17 I took the paperwork and the bank statements down to his house to  
18 prove to him that he didn't know what the hell he was talking  
19 about, and it escalated there until I left.

20 Q. Now, you said something to the effect that you had sold  
21 something to Mr. Engesser, a cub?

22 A. I do remember saying that, but I made that up just to get  
23 out of the situation.

24 Q. Okay. So had you, on behalf of the zoo, had any  
25 transactions with Mr. Engesser?

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 A. Yes, sir.

2 Q. Okay. Let me ask you this: Whatever transactions you may  
3 have had with him, did they occur in November of 2017?

4 A. I don't believe so at all, no, sir.

5 Q. And I want to just go back. Is it your testimony that you  
6 did not receive any money from Mr. Engesser in November of 2017?

7 A. I know I did not.

8 Q. The money that Lowe asked you to give to Glover came from  
9 where?

10 A. The cash register deposits.

11 Q. So if Mr. Engesser testified, and you heard him, that he  
12 hadn't been there and he didn't buy a cub from you in November  
13 of 2017, would that be true?

14 A. That would be true.

15 Q. Now, Ms. Green asked you about some phone calls that were  
16 recorded --

17 A. Yes, sir.

18 Q. -- where you're brokering the sale of a litter of lions.  
19 Did you hear that?

20 A. I heard that.

21 Q. All right. So the first one, Government's Exhibit 162, had  
22 something to do with Charlie somebody and some lions. Tell the  
23 jury what the conversation is about.

24 A. Okay. Dillon was living at his mom's and his sister's down  
25 in Belton, Texas. And Charlie over in Amarillo, Texas, used to

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 have a zoo open to the public, but PETA harassed him to the point  
2 that he lost his USDA license, and he closed to the public, but  
3 he still has his animals. And every time he has a litter of baby  
4 lions born, they end up dying because he don't know how to take  
5 care of them.

6 So he would have -- call us and Reineke would -- because  
7 Reineke lives in Texas, he would run over to Amarillo and pick  
8 them up and save them. Okay. And we'd take them back to the  
9 zoo. So he was expecting a litter of babies, and we're all gone  
10 from the zoo. So I was going to have Dillon go pick them up over  
11 there. And it's perfectly legal; we're not selling anything  
12 across state lines. And I would have found a buyer from them --  
13 for them from jail in Texas so Dillon had some money to live on.  
14 Simple as that. You don't even need a USDA license because  
15 you're in the same state.

16 Q. So there really wasn't anything illegal or underhanded or  
17 anything having to do with that --

18 A. Absolutely not. And if -- if he would have got some cubs  
19 and came to Oklahoma to stay and start -- because the laws in  
20 Oklahoma are -- are better, he still wouldn't have been breaking  
21 no laws because he's not going to be open to the public. So he  
22 doesn't need a USDA license.

23 And he doesn't need any license from the state of Oklahoma  
24 because in 2006 we did have licenses here. Okay. And you had to  
25 have a \$50 permit to have a bear or a cat that grew to weigh over

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 50 pounds to keep or maintain on your premises. And in 2006 I  
2 was doing magic shows, and the game wardens wrote me some tickets  
3 for leaving my property with my animals because they thought it  
4 said keep them maintained on premises. You couldn't leave your  
5 premises with the animals.

6 So I hired a law firm in Pauls Valley, Oklahoma, and I filed  
7 a lawsuit against the state of Oklahoma because in 1952 they  
8 wrote a law that said they own all wildlife. So if they're going  
9 to own it and sell you a deer hunting license for a deer on your  
10 property, they're going to pay to take care of it. And I filed a  
11 \$380,000 boarding lawsuit against the state of Oklahoma and they  
12 wrote me a \$20,000 check and told me to go away, and they got rid  
13 of all the laws. And that's why we don't have any laws here.

14 Q. Now, Government's Exhibit 163 was some reference to Charlie  
15 and Greg Woody. What was that about? Do you remember that call?

16 A. It was the same conversation.

17 Q. Okay.

18 A. It's just they cut it apart.

19 Q. All right. Now, I want to make sure I understand what this  
20 situation was and what your testimony is with respect to PETA.

21 Now, this email, what were you talking about as far as the  
22 proposal from PETA?

23 A. Okay. She sent me the draft. Okay. And it didn't have any  
24 dollar figure in it. It was just to close and quit doing all  
25 this and that. Okay. And I sent that email back to her. And

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 PETA, in order to get a place to close in Texas, paid the man  
2 six -- and all he had was two bears -- paid the man \$60,000 for  
3 those bears, okay, and some of his circus equipment to move to  
4 their facility, which is the Black Beauty Ranch in south Texas.  
5 And that was -- I was referring to, because Jeff just wouldn't do  
6 anything without any money.

7 So I put in there, I'm like, hell, you paid 60,000 bucks for  
8 two bears. I said, you're getting an entire zoo, the property  
9 and everything. And I needed some money to pay off the bills so  
10 we didn't just stick everybody -- owing them money.

11 Q. So if I understand correctly, you had to agree to PETA's  
12 proposal, correct?

13 A. Before we moved on to Big Cat Rescue's proposal.

14 Q. All right. So unless you and Mr. Lowe agreed to that  
15 proposal that was sent to you by Ms. Peet?

16 A. Correct.

17 Q. Ms. Baskin wasn't going to enter into any negotiations with  
18 you to resolve your problem with her?

19 A. You are right.

20 Q. All right. Now, Ms. Green asked you about the transfer of  
21 tigers, the second transfer. The first one had to do with the  
22 Dade City tigers, correct?

23 A. Yes, sir.

24 Q. So the second group that went out, that was you getting rid  
25 of your own, correct?

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JOSEPH MALDONADO-PASSAGE - Redirect by Mr. Earley

1 A. Yes, sir.

2 Q. You weren't paid for that?

3 A. No, sir.

4 Q. And you thought that there were some pairs, correct?

5 A. I believe there was, yes.

6 Q. But what else was included in that transfer?

7 A. Three bears, I believe. Three black bears and some baboons.

8 I think there was a trio of baboons.

9 Q. So as far as reducing your -- your inventory, did that lead  
10 to you almost getting rid of all of the primates on your  
11 property?

12 A. That got rid of the big primates, and then we sent a bunch  
13 of littler primates over to Tulsa.

14 Q. Who assisted with that?

15 A. Just the park staff that helped catch them.

16 Q. So was that part of your agreement to -- with PETA to try to  
17 reduce your inventory?

18 A. Well, I told her that I was going to, and she was having  
19 troubles finding a place to send everything. And to this day,  
20 because of the litigation, I haven't spoke to her directly. We  
21 have been going through somebody.

22 Q. All right.

23 MR. EARLEY: I believe that's it, Your Honor.

24 THE COURT: Redirect -- I'm sorry -- recross.

25 MS. MAXFIELD-GREEN: While we figure out what exhibit

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JOSEPH MALDONADO-PASSAGE - Recross by Ms. Maxfield-Green

1 number this is, I'm going to give it to defense.

2 THE COURT: Okay.

3 RECROSS EXAMINATION

4 BY MS. MAXFIELD-GREEN:

5 Q. Okay. Mr. Passage.

6 A. Yes, ma'am.

7 Q. You just testified that the filmmakers that you have been  
8 communicating with, those were people from your past, correct?

9 A. Yes, ma'am.

10 Q. Okay. And people that got in touch with you prior to all of  
11 this, correct?

12 A. Most of them, uh-huh.

13 Q. Okay. But you have been soliciting to shop your story  
14 around to people since you have been in jail too, correct?

15 A. I haven't been soliciting nobody because I can't reach out  
16 to nobody. There's been a whole lot of people email me to the  
17 jail, yes.

18 Q. Okay. And so you're familiar -- you have been sending and  
19 receiving emails in jail, correct?

20 A. Yes.

21 Q. And you're familiar that all those are logged, correct?

22 A. Yes, ma'am.

23 MS. MAXFIELD-GREEN: Okay. Government's going to  
24 introduce -- well, first let me lay a little more foundation  
25 here.

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JOSEPH MALDONADO-PASSAGE - Recross by Ms. Maxfield-Green

1 Q. (By Ms. Maxfield-Green) Do you know Manuel Oteyza?

2 A. I do.

3 Q. Is he in the courtroom today?

4 A. He is.

5 Q. Have you emailed back and forth with him?

6 A. Not as much as we have talked on the phone.

7 Q. Okay.

8 MS. MAXFIELD-GREEN: Government moves to admit Exhibit  
9 165.

10 THE COURT: Any objection?

11 MR. EARLEY: No objection.

12 THE COURT: 165 will be admitted.

13 Q. (By Ms. Maxfield-Green) Now, this is an email from you to  
14 Manuel Oteyza, correct?

15 A. It is.

16 Q. And are you familiar with Mr. Oteyza's other films?

17 A. Blackfish.

18 Q. That's one.

19 A. Yes, ma'am.

20 Q. And this was on November 17th, 2018, correct?

21 A. It looks -- appear to be.

22 Q. Does it say, "Manuel, just curious if you ever buy material  
23 for your film. I am desperate to get a rent house before my bond  
24 hearing so I can go home until trial. I have thousands of hours  
25 of footage on computers from my studio at the zoo and on hard

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JOSEPH MALDONADO-PASSAGE - Recross by Ms. Maxfield-Green

1 drives, along with over 70 pages of my diary from the age of five  
2 until now and after this experience. I will make the biggest  
3 advocate for animals you have ever seen. I'm in need of \$7,000  
4 for deposits and rent to cover me until trial, or until I can get  
5 home. Just curious, Joe."

6 Is that what you wrote?

7 A. Yes, ma'am.

8 Q. Now, Mr. Earley asked you about that conversation with the  
9 Lowes that we saw earlier, right?

10 A. Yes, ma'am.

11 Q. And your testimony, when Mr. Earley asked you about that, is  
12 that I believe you said that you made that up to get out of the  
13 situation. Is that what you said?

14 A. I did. And it started in the office and I made up one in  
15 there too.

16 Q. That -- that was my only question.

17 A. Okay.

18 Q. Thank you.

19 THE COURT: Parties approach.

20 (The following bench conference was held outside the hearing  
21 of the jury.)

22 THE COURT: I'm going to let Mr. Passage return to the  
23 table. I don't think that that's that big of a deal that the  
24 marshal follows him. You guys fine with that?

25 MS. MAXFIELD-GREEN: I think that's all right.

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1 MR. WACKENHEIM: Yeah.

2 (The following record was made in open court, in the  
3 presence of all parties, counsel, and in the presence and hearing  
4 of the jury.)

5 THE COURT: Mr. Passage, you may step down.

6 (The following proceedings were had at the bench and out of  
7 the hearing of the jury.)

8 THE COURT: Mr. Earley, are you calling any additional  
9 witnesses?

10 MR. EARLEY: No.

11 THE COURT: Any rebuttal from the government?

12 MS. MAXFIELD-GREEN: No.

13 THE COURT: I don't know that it's a cardinal sin for  
14 us to instruct and then close in the morning. I don't prefer  
15 that, but I also hate -- I mean, it's 4 o'clock. I think I can  
16 get the instructions read and -- parties all in agreement with  
17 that?

18 MS. MAXFIELD-GREEN: Does not bother the government.

19 MR. EARLEY: That's fine, Your Honor.

20 THE COURT: I mean, they're -- in terms of instructing,  
21 they have been an extremely attentive jury, so I think they're  
22 not worried about this all flying out of their heads before  
23 morning, so --

24 MR. EARLEY: And they'll know that you have -- you're  
25 going to provide them a copy anyway, correct?

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1 THE COURT: Yeah.

2 MR. EARLEY: That's part of the instruction. Okay. Do  
3 we have the final set? --

4 THE COURT: In that case, if you'll return to the  
5 table, I'll ask you-all if you have any further witnesses and  
6 then I'll ask the government for rebuttal and we'll move right  
7 into instructions.

8 MS. MAXFIELD-GREEN: Perfect.

9 THE COURT: How much time are you-all going to ask for  
10 closing?

11 MS. MAXFIELD-GREEN: I think government needs like an  
12 hour total, 50 minutes and ten. It's been a seven-day trial.

13 MR. EARLEY: Well, whatever she gets, we'll take.

14 THE COURT: We'll talk about it.

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and in the presence and hearing  
17 of the jury.)

18 THE COURT: Mr. Earley, do you have any additional  
19 witnesses?

20 MR. EARLEY: No. We'll rest, Your Honor.

21 THE COURT: Ms. Green, does the government intend to  
22 put on any rebuttal?

23 MS. MAXFIELD-GREEN: No, Your Honor.

24 THE COURT: Ladies and gentlemen, that concludes the  
25 evidence that will be submitted to you in this case. We are at a

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1 little bit of a crossroads. I typically prefer that, you know,  
2 we usually go right into the instructions, and then the parties,  
3 as I instructed you earlier, would deliver closing argument. It  
4 is not as normal that we would instruct and then break and then  
5 you would hear closing arguments in the morning, but I am also,  
6 again, wanting to be sensitive to your time. Any work we can get  
7 done before 5:00 saves you from work you're doing later.

8 So my intent is is that we will now read to you the  
9 instructions for deliberations, we will break and then we'll see  
10 you back in the morning for closing argument and to begin  
11 deliberations.

12 (Jury instructions taken but not transcribed herein.)

13 THE COURT: Ladies and gentlemen, we will begin closing  
14 arguments and deliberations tomorrow morning at 9:00. I remind  
15 you of the admonishment. In accordance with the instructions,  
16 please be very, very careful. Keep an open mind. The case has  
17 still not been submitted to you for deliberations. Don't  
18 communicate with anyone about it, don't let anyone communicate  
19 with you, no media coverage, no online research, nothing. It is  
20 very important that you come in tomorrow morning pristine,  
21 considering only the evidence that you have heard from the stand  
22 and been admitted here in court.

23 With that in mind, we'll see you tomorrow morning at  
24 9 o'clock. Please remain seated while the jury leaves the  
25 courtroom.

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1 (Jury exited.)

2 (The following record was made in open court, in the  
3 presence of all parties, counsel, and out of the presence and  
4 hearing of the jury.)

5 THE COURT: Record can reflect the jury has left the  
6 courtroom.

7 Counsel, tell me again how much time you want for closing.  
8 Keep in mind, what's the general rule in the courthouse? I  
9 forgot it was either -- was it five minutes per day per trial?

10 MS. MAXFIELD-GREEN: I heard it was ten minutes per  
11 day, Your Honor. But bear in mind that we are looking at, let's  
12 see, 19 counts of three different statutes and we have had six  
13 days of testimony. The government would ask for 45 minutes for  
14 opening -- for first close and reserving ten minutes for second  
15 close, so a total of 55 minutes.

16 THE COURT: Mr. Earley? Mr. Wackenheim?

17 MR. EARLEY: Whatever --

18 THE COURT: Just whatever they get?

19 MR. EARLEY: Yeah. That's all I ask.

20 THE COURT: All right. Fifty-five minutes it is for  
21 each side. There's no penalty for finishing early.

22 MS. MAXFIELD-GREEN: Understood.

23 THE COURT: Anything else from either party that we  
24 need to take care of?

25 MR. EARLEY: I do, Your Honor. Just briefly. I think

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1 this seems to be the most convenient time, at least for today, to  
2 reurge the Rule 29 motion. The case has yet to be submitted to  
3 the jury.

4 I would just reurge the motion on the grounds that I made  
5 earlier after the government's close of their evidence and ask  
6 the Court to dismiss the counts prior to submission of the jury.

7 THE COURT: Thank you, Mr. Earley. The motion will be  
8 denied for the same reasons as our earlier ruling. And also, by  
9 way of explanation, I deliberately did not read the count numbers  
10 in -- in the instructions because I know the government had moved  
11 to dismiss -- the numbers escape me, but two of the counts. And  
12 we may very well get a question when the jury realizes that those  
13 two counts aren't in there, but I thought I would at least not go  
14 ahead and tee it up right now. But we'll cross that bridge when  
15 we come to it, but that was, for the record, why I did not read  
16 the count numbers. And hopefully that didn't add to any kind of  
17 confusion.

18 In any event, anything else?

19 MS. MAXFIELD-GREEN: No, Your Honor.

20 MR. EARLEY: No, Your Honor.

21 THE COURT: Court will be in recess.

22 (Court adjourned.)  
23  
24  
25

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REPORTER'S CERTIFICATION

I, Emily Eakle, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Oklahoma, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 6th day of March 2020.

**/S/ Emily Eakle**  
EMILY EAKLE, RMR, CRR  
Federal Official Court Reporter

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CASE NO. CR-18-227-SLP

JOSEPH MALDONADO-PASSAGE,

Defendant.

\* \* \* \* \*

**VOLUME VII OF VII**

TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE SCOTT L. PALK

UNITED STATES DISTRICT JUDGE

APRIL 2, 2019

\* \* \* \* \*

Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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INDEX

PAGE

Closing argument by the Government.....1055  
Closing argument by the Defense.....1078  
Final closing by the Government.....1095  
Verdict.....1101  
Reporter's Certificate.....1107

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1 (The following record was made in open court on April 2, 2019, in  
2 the presence of all parties, counsel, and in the presence and  
3 hearing of the jury.)

4 THE COURT: Good morning, ladies and gentlemen. I  
5 remind you, you have now heard all the evidence in this case, and  
6 the two important parts of the trial to be completed, before it's  
7 given to you for your deliberations and verdict, are the closing  
8 arguments by each side.

9 Counsel will now make closing arguments. I again remind you  
10 that what the lawyers say is not evidence, but is intended to  
11 assist you in recalling the evidence and to suggest what you  
12 might conclude from the evidence if you interpret the evidence in  
13 the same way. You are not bound by what the lawyers say. It is  
14 your recollections and inferences that will control. Because the  
15 government has the burden of proof, it has the right to both open  
16 and close the closing arguments.

17 Counsel.

18 MS. MAXFIELD-GREEN: The tiger king; that's how  
19 Mr. Passage marketed himself, and that's how he has lived his  
20 life. Mr. Passage built his own kingdom, the GW Exotic Animal  
21 Park. He started with a couple of animals and a tract of land in  
22 Wynnewood, Oklahoma, and he grew it into an attraction with  
23 hundreds of animals, quite possibly the largest population of big  
24 cats in captivity in the United States.

25 He owned the zoo. He operated the zoo. He lived at the

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1 zoo. He gave the tours. He hired and fired the employees. It  
2 was Mr. Passage's face on the zoo billboards and the zoo  
3 merchandise, everything from T-shirts to underwear.

4 He took a -- undertook a massive social media presence on  
5 Facebook and Youtube, with Joe Exotic TV and Joe Gone Wild shows,  
6 with hundreds of videos starring Mr. Passage, of course. As far  
7 as the employees and the public were concerned, Mr. Passage was  
8 the king of the GW Exotic Animal Park.

9 Mr. Passage also made himself king over the animals at the  
10 zoo. He handled the tigers and lions like domestic pets. At  
11 some point he decided not just to exhibit the big cats, but to  
12 breed them. After all, he needed a constant supply of cubs for  
13 play times. The opportunity to make \$50 every eight minutes was  
14 too good to pass up. So he bred his tigers, and he bred his  
15 lions, and he removed the cubs from their mothers at birth and  
16 bottle raised them so that they would be used to human handling.

17 And he was, in fact, successful. He produced 40 to 50 cubs  
18 a year. It became well known in exotic animal circles that, if  
19 you needed a tiger cub or a lion cub, you could buy one from  
20 Mr. Passage. And it appears that in 20 years of handling lions  
21 and tigers, he never sustained a serious injury. He was the  
22 tiger king.

23 But here's the problem with kings, they get used to making  
24 all the rules and they start to believe that they are above the  
25 law. And that's how Mr. Passage came to think of himself. At

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1 some point he came to believe that he didn't have to comply with  
2 the federal laws governing endangered species and wildlife in  
3 general.

4 Now, during Mr. Passage's testimony, he gave you his opinion  
5 about what the Endangered Species Act says, or what he wants it  
6 to say or what the Trump administration is going to change it to  
7 say. But Mr. Passage's opinions on the Endangered Species Act  
8 are totally irrelevant. The judge has given instructions, No.  
9 20, 21 and 22, on what the ESA actually says. It says that  
10 unless you have specific permission from the U.S. Fish & Wildlife  
11 Service, you can't sell tigers and you can't offer them for sale.  
12 It says you can't kill tigers anywhere in the United States.  
13 There is no exception for animals in captivity.

14 It's true that the protections of the ESA were not fully  
15 applied to generic tigers until May of 2016. You will notice  
16 that all of the ESA violations charged by the government occurred  
17 after that date.

18 Let's talk about Count 8. You heard the testimony of John  
19 Finlay -- back up to Count 8. Sorry.

20 You heard the testimony of Darlene Cervantes and saw her  
21 text message exchange with Mr. Passage. That's at Exhibit 21.  
22 On October 30th, 2017, when she was living in Indiana,  
23 Mr. Passage offered to sell her two of his five-month-old male  
24 tiger cubs for a thousand dollars, a sale across state lines that  
25 violated the Endangered Species Act.

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1 Mr. Passage testified both that it wasn't him communicating  
2 with Ms. Cervantes, and even if it was him, he just told her a  
3 thousand dollars to get her to go away because he doesn't sell  
4 tigers. Read Exhibit 21 again, see what you think. And ask  
5 yourselves, why didn't Mr. Passage just tell people it's illegal  
6 to sell tigers to end that conversation? Does it make sense that  
7 he would tell people a price?

8 Let's talk about Counts 9, 10 and 11. You heard the  
9 testimony of John Finlay. At Mr. Passage's direction, he drove  
10 these tiger cubs across state lines and dropped them off at zoos  
11 in Illinois and Indiana. You saw the transfer forms, Exhibits 7,  
12 8 and 9. And even though those forms showed the animals were  
13 donated, Mr. Finlay told you that wasn't true. That he collected  
14 envelopes of cash for the animals, always more than \$350, and he  
15 took the cash directly back to Mr. Passage, not back to Mr. Lowe.  
16 That violated the Endangered Species Act. Why did the transfer  
17 forms say donate? Because it's not illegal to donate tigers  
18 across state lines, it's only illegal to sell them.

19 Let's talk about Counts 3 through 7 of the indictment. You  
20 heard testimony from Eric Cowie and Dylan West about how in  
21 October 2017 Mr. Passage shot five tigers with a .410 shotgun.  
22 These are the same tigers that Dylan West told you he buried in  
23 the back property of the zoo, the same tigers that Special Agent  
24 James Markley told you that the U.S. Fish & Wildlife Service dug  
25 up last fall.

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1           The skulls were examined by Dr. Tabitha Viner, who testified  
2 that those tigers had been shot in the head. Mr. Passage  
3 admitted that he shot these tigers with a .410 shotgun, and  
4 Mr. Passage has admitted that the DNA of these animals showed  
5 that they were tigers. They were adult tigers, and there was  
6 nothing wrong with them. Dylan West and Eric Cowie, who knew  
7 those cats, told you that.

8           Dr. Tabitha Viner is a forensic veterinary pathologist with  
9 years of experience examining precisely this kind of evidence.  
10 She examined their skulls and teeth and told you that, in her  
11 opinion, they were middle-aged and in normal health.

12           Dr. Joanne Green, the zoo's veterinarian, told you she  
13 didn't authorize Mr. Passage to shoot those animals and that  
14 Mr. Passage was only authorized to shoot animals when there was  
15 an extreme emergency. As Mr. Cowie and Mr. West told you,  
16 Mr. Passage shot them because he couldn't use them to make money.  
17 They were too big for play times and they weren't producing cubs.  
18 And his cages were at capacity; he needed to make room for cats  
19 that would make him money.

20           He needed space for Trey Key's cats from the Merryweather  
21 service -- Merryweather Circus. He needed that \$5,000 that Trey  
22 Key donated each year when he dropped off the animals. So Mr.  
23 Passage shot these five tigers, which was consistent with what he  
24 told James Garretson in a recorded conversation you heard at  
25 Exhibit 50. When James asked him how to get rid of a tiger that

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1 he had, Mr. Passage said, "Just off him and say they died." This  
2 violated the Endangered Species Act.

3 You have also been instructed that it's a federal crime to  
4 make false records concerning the sale of any wildlife, not just  
5 endangered species, but any wildlife with a market value greater  
6 than \$350 that is transported in interstate commerce.

7 Mr. Passage ignored that law too because it didn't suit his  
8 status as the tiger king.

9 Mr. Passage was breeding new animals all the time. He had  
10 them to spare, and he had a reputation to uphold as a breeder.  
11 He was going to illegally sell tigers and lions across state  
12 lines if he wanted to. And the way to hide that fact was to  
13 falsify the records that he and the other USDA license holders  
14 were required to keep. He simply wrote, or directed someone else  
15 to write, "donate" on the transfer forms because donations of  
16 endangered species across state lines aren't illegal.

17 But we know that these weren't donations. You heard a  
18 recording of Mr. Passage bragging to James Garretson about how he  
19 would falsify the documents to hide the births and sales of tiger  
20 cubs. In Exhibit 55 he instructs Mr. Garretson that, if he wants  
21 some tiger cubs, he can just say his tigers gave birth to them  
22 and date the transfer forms however he wants. Mr. Passage says,  
23 "That's my secret. Why are they on the Endangered Species Act?  
24 Because nobody can track them."

25 Yesterday you saw a recording of Mr. Passage from May

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1 of 2018, explaining how he falsified his cub book and the  
2 transfer forms so there won't be a trail, paper trail, of the  
3 sale of an orange tiger cub to Robert Engesser for \$2,000.

4 Let's talk about Count 12 and Counts 15 through 20 of the  
5 indictment. Again, you heard the testimony of John Finlay about  
6 these lions and tigers. Mr. Finlay told you that at  
7 Mr. Passage's direction he drove those animals across state  
8 lines, dropped them off at zoos in Illinois, Indiana, Wisconsin  
9 and Missouri, he collected envelopes of cash, and he took the  
10 cash directly back to Mr. Passage, not directly back to Mr. Lowe.  
11 He told you that he always collected more than \$350 for these  
12 animals. And you'll note that Count 12 is the same sale as Count  
13 9, and Count 16 is the same sale as Count 10, and Count 17 is the  
14 same sale as Count 11. And they're charged this way because  
15 these transactions were illegal for two reasons, because they  
16 involved false documents and because sales of tigers are illegal  
17 under the Endangered Species Act.

18 Now, with regard to Count 20, Marsha David told you that she  
19 went along for the trip with John Finlay to deliver those lions  
20 and that she counted the cash in the envelope. There was \$5,000.  
21 With regard to Count 18, the only certificate of veterinary  
22 inspection, Dr. Green testified that the information on those  
23 forms had to come from Mr. Passage himself or one of his staff.

24 And if you have any question in your mind about the value of  
25 these lions and tigers, all you have to do is look at

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1 Mr. Passage's own valuation of the animals; look at Exhibit 139.  
2 The inventory of animals that Leesa Sparks told you she had  
3 copied from Mr. Passage's handwritten notes from jail. He wasn't  
4 thinking about the ESA or the Lacey Act then. He was trying to  
5 prove to a Garvin County judge that Jeff Lowe had stolen valuable  
6 property from him, and he wrote down the values for pages and  
7 pages of tigers and lions.

8 We know these were sales of these animals directed by  
9 Mr. Passage and that he got the money. And the transfer forms  
10 say donate, and the CVI says for exhibition. Mr. Passage put  
11 that on the forms to hide the sales. And when he directed false  
12 information to be written on forms that were required for USDA  
13 inspection, Mr. Passage violated the Lacey Act.

14 And finally, the false document that's -- that is the  
15 subject of Count 21, the falsified transfer form for a lemur  
16 which showed a lemur was transferred from Mr. Passage himself to  
17 Mr. Garretson's wife. James Garretson told you his wife wanted a  
18 lemur and that Mr. Passage arranged for him to buy a lemur from  
19 Omar in Texas, and that when the lemur arrived in Oklahoma, he  
20 paid \$1,500 for it.

21 You saw actual video of Mr. Passage creating and falsifying  
22 that form. You heard him ask the sex of the lemur; ask him  
23 whether Mr. Garretson wanted it made out to Ringling Animal Care,  
24 his wife's entity; asking whether Mr. Garretson wanted him to  
25 backdate it about a month. Why did Mr. Passage create this form?

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1 To hide the fact that buying and selling lemurs -- which are  
2 endangered species -- across state lines is illegal under the  
3 ESA.

4 You have heard all the evidence you need to find Mr. Passage  
5 guilty of Counts 3 through 12 and 15 through 20 because the fact  
6 is that Mr. Passage was not above the federal wildlife laws. As  
7 it turns out, the GW Exotic Animal Park was not a kingdom. It  
8 was a zoo in the United States of America, and it was built by  
9 capitalizing off of animals that are valued and protected by  
10 specific federal statutes. And in the United States of America,  
11 you can own endangered species, you can breed endangered species,  
12 you can own and operate a private zoo that charges the public for  
13 admission, you can charge people to pet tiger cubs, but, if  
14 you're going to do all of that, you're required to follow the  
15 laws that Congress has enacted to make sure that the individual  
16 animals and the species as a whole are protected. Mr. Passage  
17 didn't do that, and it's your duty to enforce those laws.

18 Now, another quality of kings is that they defend the  
19 kingdom, oftentimes at all costs. And starting in about 2010,  
20 Mr. Passage believed that his kingdom, the GW Exotic Animal Park,  
21 was under attack. In 2010 Mr. Passage was building his business  
22 and his reputation. He had the zoo in Wynnewood going and he was  
23 also traveling the country to malls and fairs with his magic show  
24 and cub-petting business.

25 As she told you, this is a practice that Carole Baskin was

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Oklahoma City, OK 73102 \* 405.609.5403

1 and is deeply opposed to. She believes that exploiting tiger and  
2 lion cubs with human handling is not only inhumane to that cub,  
3 but also that it leads to the further inhumane treatment of adult  
4 tigers and to the illegal trafficking of tigers. And as we have  
5 just discussed, in the case of Mr. Passage, she was correct.

6 When Ms. Baskin became aware of Mr. Passage, she began her  
7 activism against him, as she had against others in the industry.  
8 She contacted the malls that were booking his shows and urged  
9 them to cancel. She organized protests. She posted on the  
10 Internet asking for regulators or the public to shut him down.

11 As Mr. Passage viewed it, this was Ms. Baskin's first attack  
12 on his kingdom. So he fired back. He criticized Ms. Baskin's  
13 animal sanctuary, Big Cat Rescue, in Tampa, Florida. He posted  
14 some threatening things on social media.

15 When Ms. Baskin's criticisms didn't let up, Mr. Passage  
16 increased his firepower. He started using the name Big Cat  
17 Rescue Entertainment and her logo, and even Florida phone numbers  
18 to market his own cub-petting shows. And that's pretty clever,  
19 right? Use your enemy's name to advertise the very thing that  
20 they oppose most.

21 Mr. Passage testified yesterday it was a way to pay her back  
22 for sending emails to the malls about him. And he also used  
23 photographs from her website to, what he said, "give her a taste  
24 of her own medicine." But this was another instance in which  
25 Mr. Passage thought he was above the law. He believed that he

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Oklahoma City, OK 73102 \* 405.609.5403

1 could violate federal trademark and copyright laws without any  
2 consequences.

3 But in 2012 -- in 2011 and 2012 Ms. Baskin responded to  
4 Mr. Passage's clever marketing with three civil lawsuits against  
5 him and the zoo, a fresh attack. And in 2013, not only did  
6 Ms. Baskin win the lawsuits, she won a more than \$1 million  
7 judgment against Mr. Passage and she set about using the civil  
8 legal system to collect that judgment, another attack.

9 In fact, this became an ongoing campaign that could  
10 financially destroy the zoo between the judgment itself and the  
11 legal fees. It was a campaign that threatened to snap up every  
12 asset Mr. Passage had and every dollar he had made or would make.  
13 Now he wasn't hiding animal sales as donations just to evade the  
14 federal wildlife laws, he was also hiding them so that Ms. Baskin  
15 couldn't latch onto the money he received from selling the  
16 animals.

17 So Mr. Passage attacked back with his mouth. He talked to  
18 everyone around him about his hate for Ms. Baskin. He developed  
19 a multi-front war against her on social media. Facebook,  
20 Youtube, whole Joe Exotic TV shows dedicated to airing his  
21 vitriol against Ms. Baskin, humiliating remarks about Ms. Baskin,  
22 violent remarks about Ms. Baskin, direct threats. He rallied his  
23 followers to hate her.

24 And Mr. Passage says he's a showman and this was all for  
25 show, to get clicks and shares on social media, and that having a

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Oklahoma City, OK 73102 \* 405.609.5403

1 big mouth isn't a crime. That may be true. It's possible that  
2 Mr. Passage could have continued to just run his mouth about  
3 Ms. Baskin, even threatening to harm her, without ever committing  
4 a federal crime. But we aren't here today because of what  
5 Mr. Passage said online. We're here today because of what he  
6 said when he thought no one was listening, because at some point  
7 Mr. Passage wasn't just running his mouth. He decided to put his  
8 money where his mouth was.

9 By 2017 Mr. Passage's kingdom was still under attack and he  
10 was losing. Carole Baskin's money judgment was nowhere close to  
11 paid off. He had tried various ways of maneuvering the zoo out  
12 from under the judgment, new entities, bankruptcies, transfers of  
13 assets, and they hadn't worked. In 2016 he'd even sold the zoo  
14 to Jeff Lowe, a new owner, in the hopes that a new name and  
15 corporate entity would defeat the judgment. It didn't. It had  
16 been six years of litigation and legal fees and Ms. Baskin was  
17 still pursuing him.

18 The years of online intimidation hadn't worked. In May  
19 of 2017, multiple organizations, including Big Cat Rescue,  
20 proposed regulation changes that were designed to end  
21 Mr. Passage's claim to fame, the breeding of lion-tiger hybrids.

22 In July of 2017, Mr. Passage took in a shipment of 19 tigers  
23 from Dade City Wild Things in Florida, in violation of a court  
24 order. When those animals were transported from Florida to  
25 Oklahoma in July, three cubs were stillborn. Ms. Baskin told you

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Oklahoma City, OK 73102 \* 405.609.5403

1 she had nothing to do with that litigation, but in Mr. Passage's  
2 mind this was a joint attack by PETA and Carole Baskin on exotic  
3 animal owners that caused animals to die. And you heard  
4 Mr. Passage on his own Facebook videos ranting about Carole  
5 Baskin, Exhibits 108 through 111. He said, "I'm threatening you,  
6 Carole." Showing the dead cubs on the ground, he says, "There  
7 you go, Carole, you better never see me in a dark alley, bitch."  
8 As he showed a video of unloading the cats from the back of the  
9 trailer, he says, "Come get me, Carole, three baby tigers died  
10 today because of your bullshit." And he closes by saying, "I  
11 think it's time that other people start dying instead of  
12 animals."

13 Mr. Passage had reached his breaking point and he decided  
14 that, as the king, he would protect the kingdom at all costs. He  
15 decided that the laws didn't apply to him. He was going to  
16 simply assassinate his rival to stop the attacks, her attacks on  
17 his animal handling practices, her attacks on his finances, her  
18 attack on his kingdom, the zoo that was his life's work.

19 James Garretson told you that it was soon after those 19  
20 tigers arrived in August of 2017, that Mr. Passage was again  
21 talking to him about finding someone to kill Carole Baskin, and  
22 that this had been an ongoing conversation with him since 2016,  
23 that Mr. Passage had asked him a dozen times whether he knew any  
24 hit men. In August 2017 Mr. Garretson was involved in a  
25 conversation with Mr. Passage where they were looking at maps of

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1 Ms. Baskin's property and her bike path in the context of how she  
2 could be murdered.

3 And shortly after that, Mr. Garretson called Carole Baskin's  
4 phone, but it wasn't Carole Baskin that called him back. It was  
5 Special Agent Matt Bryant with the U.S. Fish & Wildlife Service.  
6 And during his first face-to-face interview, Mr. Garretson told  
7 Special Agent Bryant everything he knew about Mr. Passage, the  
8 wildlife trafficking, and that he was looking for a hit man. And  
9 Mr. Garretson agreed to record his conversations, and he agreed  
10 to try to interest Mr. Passage in meeting his hit man, who would  
11 be an undercover FBI agent.

12 And so through those recorded conversations we have  
13 Mr. Passage, in his own words, describing in detail his plans for  
14 hiring someone to murder Carole Baskin. And almost everything  
15 you need to know about Count 1 of the superseding indictment,  
16 Mr. Passage's plan to hire Alan Glover to kill Carole Baskin, is  
17 contained in the recorded phone call between James Garretson and  
18 Mr. Passage on November 7th of 2017. It's Exhibit 51. And  
19 before we listen to that call again, bear this in mind,  
20 Mr. Passage's lawyer didn't ask him about this call because not  
21 even Mr. Passage can explain it away.

22 (Audio played in open court.)

23 MS. MAXFIELD-GREEN: And you saw in the government's  
24 evidence that pretty much everything that Mr. Passage planned to  
25 happen in that call actually happened. You have the jury

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Oklahoma City, OK 73102 \* 405.609.5403

1 instruction for Count 1 and Count 2, murder for hire. It's  
2 Instruction No. 19. The government can satisfy that first  
3 element by proving that Mr. Passage caused another person to  
4 travel in interstate commerce with intent that a murder be  
5 committed.

6 Mr. Passage states in the November 7th call that John Finlay  
7 drove Alan Glover to go get a fake ID. Alan Glover told us that  
8 Mr. Finlay drove him to Texas to buy a fake ID so that he could  
9 get to Florida to kill Ms. Baskin, and that was Mr. Passage's  
10 idea. John Finlay told you he drove Alan Glover to Texas to get  
11 a fake ID and that he knew, from a phone call with Mr. Passage on  
12 the way there, that it was part of the plot for Mr. Glover to  
13 kill Ms. Baskin.

14 James Garretson told you that Mr. Passage asked him for a  
15 place to get a fake ID. James Garretson saw Finlay and Glover on  
16 their way back from Texas up to Oklahoma with the fake ID. We  
17 saw a picture of them in Mr. Glover's store in Ardmore. Special  
18 Agent James Markle showed you the ID photos of Mr. Glover that  
19 were found on the cameras and computer at Smith Electric in  
20 Texas, and you saw the picture of the fake ID that Mr. Garretson  
21 managed to take a lay dater.

22 So we know that Mr. Passage caused Mr. Glover and Mr. Finlay  
23 to drive across state lines to Texas to get a fake ID, and we  
24 know that he caused them to travel with the intent that the  
25 murder of Carole Baskin be committed, because that's what the ID

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1 was for.

2 Now, the government can also satisfy that first element by  
3 proving that the defendant used or caused another person to use  
4 the mail or any facility of interstate commerce with intent that  
5 a murder be committed. Mr. Passage states in the November 7th  
6 call that he was going to overnight Mr. Glover's phone to Las  
7 Vegas and, in fact, we know that he did this. Alan Glover told  
8 you that, right before he left the zoo on November 25th,  
9 Mr. Passage took his personal cell phone from him.

10 Postal Inspector Brian Hess told you that on November 25th  
11 at 10:13 a.m. a package was dropped off at the U.S. Post Office  
12 in Wynnewood to Lauren Lowe's address in Las Vegas and that it  
13 was paid for with a \$212 check. We know from Lauren Lowe's  
14 testimony that a check was written on the zoo's bank account  
15 dated November 25th to the U.S. Postal Service for \$212, and that  
16 this check was signed with a Jeff Lowe rubber stamp that had been  
17 left in Mr. Passage's possession.

18 And we also know from Lauren Lowe's testimony that a package  
19 arrived at her house in Las Vegas containing an old cell phone,  
20 and ultimately that phone was turned over to the FBI. And once  
21 that phone was analyzed, it was discovered that it had belonged  
22 to Alan Glover.

23 So we know that Mr. Passage used the mail, or caused another  
24 person to use the mail. And we know that it was with the intent  
25 that the murder of Ms. Baskin be committed because the mailing

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U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403



1 was all part of his plot to conceal his hit man's whereabouts,  
2 the plot he described to James Garretson on November 7th.

3 And with regard to cell phones, Mr. Glover told you that  
4 right before he left South Carolina -- left for South Carolina on  
5 November 25th, when Mr. Passage took his cell phone, Mr. Passage  
6 gave him a different cell phone that belonged to the pizza  
7 restaurant. And that phone was still in his possession in July  
8 2018 when he was interviewed by the FBI and Fish & Wildlife  
9 Service.

10 And Special Agent Farabow testified that the FBI analyzed  
11 that phone and it contains the photos Mr. Glover said it would  
12 have on it, photos of Carole Baskin and her address that were  
13 taken on November 25th, 2017, at 9:05 a.m. This is about an hour  
14 before Mr. Glover's cell phone is mailed to Las Vegas, at the  
15 post office just down the road, about six hours before Mr. Glover  
16 left Oklahoma for South Carolina. Photos Mr. Passage took of his  
17 computer screen so that, as Mr. Glover put it, he wouldn't kill  
18 the wrong person. And that cell phone, which is itself a  
19 facility of interstate commerce, traveled with Mr. Glover to  
20 South Carolina.

21 The third element of the crime is that the murder in  
22 question was intended to be committed as consideration for the  
23 receipt of anything of pecuniary value. All that means is that  
24 the hit man was going to be paid for the murder. And we know  
25 this was the case. Mr. Passage states in the November 7th call

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 that he was waiting on this lady to get this money for the  
2 liligers because that's what I'm paying for it with. And he  
3 expressed his belief that all the hundred dollar bills would be  
4 out of a bank in Florida, and so long as he doesn't touch them  
5 then they can't be traced to him.

6 Note that seven days later, during that text exchange with  
7 Darlene Cervantes, Mr. Passage said to her, "Any luck on the  
8 money? I'm in a hell of a bind." And again, what Mr. Passage  
9 stated as his plan in that call to James Garretson became a  
10 reality. Mr. Glover told you that, right before he left the zoo,  
11 Mr. Passage sold a big cat cub. Mr. Glover told you he put the  
12 cub in a man's car and saw that man hand a thick envelope of cash  
13 to Mr. Passage. And he told you that Mr. Passage took \$3,000 of  
14 that money and gave it to him. And the reason he gave it to him  
15 was as a down payment on the murder of Carole Baskin, and that  
16 Mr. Passage had promised him thousands of -- thousands more in  
17 room and board without working if he successfully committed the  
18 murder.

19 Now, Mr. Passage's lawyers went to great pains to point out  
20 that Mr. Glover identified a person named Robert Engesser as the  
21 man who bought the cub, and that on the date of the indictment in  
22 this case, the government believed it was Robert Engesser who  
23 bought the cub. Mr. Glover was wrong and the government was  
24 wrong that it was Robert Engesser who bought the cub. Mr. Glover  
25 misidentified a single photo of a heavysset white man with a

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Oklahoma City, OK 73102 \* 405.609.5403

1 beard, when he was trying to recall a scruffy looking heavysset  
2 white man that he had seen seven months before for a total of two  
3 minutes while he was holding a wild animal, but that doesn't  
4 disprove that Mr. Passage sold the animal, and it doesn't  
5 disprove that he gave Mr. Glover the money.

6 In fact, Mr. Passage's own words confirm that he gave  
7 Mr. Glover the money. On February 26th of 2018, about three  
8 months after Mr. Glover left the zoo, Mr. Passage texted  
9 Mr. Glover on his new phone and asked, "Hey, you got any of the  
10 cash left?" Mr. Glover responds no, but that he can get cash  
11 because Social Security owes him \$3,760, which would have  
12 indicated to Mr. Passage that he could pay him back that \$3,000  
13 down payment on the hit.

14 On February 11th, 2018, Mr. Passage is talking to  
15 Mr. Garretson about getting together money to take care of Carole  
16 Baskin, and he says that the last guy went to North Carolina and  
17 drank it all. He meant Alan Glover.

18 On March 8, 2018, in a recorded conversation, Mr. Passage is  
19 again talking to Mr. Garretson about paying Mark to do the hit,  
20 and Mr. Passage says, "That one of Jeff's run off with my money,  
21 never heard from him again." He meant Alan Glover.

22 On March 28th, 2018, in a recorded conversation, Mr. Passage  
23 is still talking to Mr. Garretson about paying Mark to kill  
24 Carole Baskin. And Mr. Garretson said -- says that his guy Mark  
25 is not like that other dipshit, meaning Mr. Glover. And

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 Mr. Passage says, "He took \$4,000 and never came back." And that  
2 was true. Mr. Glover told you that he ran off with Mr. Passage's  
3 money.

4 So we know, not just from Mr. Glover's testimony but from  
5 Mr. Passage's own words, that Mr. Passage paid Mr. Glover to kill  
6 Carole Baskin. And so this was the type of murder plot that's  
7 criminalized by this statute, a murder for hire.

8 Now, Mr. Glover left Oklahoma for South Carolina on November  
9 25th, 2017, as you saw from the American Airlines records, a  
10 flight that was booked using the email of Anne Patrick, a close  
11 friend of Mr. Passage. And Mr. Glover told you that he never  
12 intended to murder Carole Baskin, that all he wanted was to  
13 swindle Mr. Passage out of some money and go home. And it  
14 doesn't matter what Mr. Glover intended.

15 You're here to decide what Mr. Passage intended. Mr. Glover  
16 made Mr. Passage believe that he was capable of murdering Carole  
17 Baskin. Mr. Glover let Mr. Passage believe that that teardrop  
18 tattoo by his eye meant he had killed someone. He told  
19 Mr. Passage that he would kill Carole Baskin with a knife and cut  
20 her head off, and Mr. Passage was fine with that plan.

21 Mr. Glover talked to Mr. Passage like he talked to James  
22 Garretson in the recording of him that you saw. He was  
23 convincing. He sounded like a man capable of murder, and that's  
24 what Mr. Passage wanted. And when Mr. Glover left Oklahoma and  
25 traveled to South Carolina, that's what Mr. Passage thought he

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Oklahoma City, OK 73102 \* 405.609.5403

1 was getting.

2 Now, Special Agent Farabow explained to you that throughout  
3 November 2017 the government was following all of the recorded  
4 conversations between Mr. Garretson and Mr. Passage and  
5 Mr. Glover. They were following it so closely that they were  
6 ready with search warrants and arrest warrants to arrest  
7 Mr. Passage and Mr. Glover if it appeared that Mr. Glover was  
8 headed to a bus station. Suddenly, Mr. Glover indicated to  
9 Mr. Garretson that plans had changed, that he was just going back  
10 home to South Carolina to do something else. Neither  
11 Mr. Garretson nor the investigators knew at that point that  
12 Mr. Passage had paid Mr. Glover, or about Mr. Passage mailing the  
13 cell phone, or about Mr. Passage giving a new phone to Glover  
14 with pictures of Carole Baskin on it.

15 When they found out that Mr. Glover had left the zoo, they  
16 believed that that plot had fizzled. They believed that  
17 Mr. Garretson had been successful in convincing Mr. Passage that  
18 Mr. Glover couldn't pull it off and that he should use  
19 Mr. Garretson's guy instead. And so Mr. Garretson offered to  
20 introduce Mr. Passage to his guy Mark, a guy that Mr. Passage had  
21 been asking him to find for over a year.

22 And Mr. Passage agreed to that meeting at least twice during  
23 a recorded conversation on November 17th, 2017. It's Exhibit 52.  
24 Mr. Garretson says, "If you want me to bring that dude, just let  
25 me know." And Mr. Passage immediately asked, "How much that dude

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Oklahoma City, OK 73102 \* 405.609.5403

1 cost us?"

2 When Mr. Garretson offers to just bring him to the zoo,  
3 Mr. Passage says, "If he wants to do that," and again asks, "How  
4 much does he want down?"

5 Later in the conversation Mr. Passage is talking about  
6 Mr. Glover and says, "See, what I was going to do is send him  
7 with four and then give him six when it was done. So if your guy  
8 wants to do it, you can take that white over there and I'll give  
9 you the rest in cash." And then you heard the call on December  
10 5th where Mr. Garretson was talking on his cell phone to  
11 Mr. Passage, who was talking on his cell phone, and Mr. Passage  
12 agreed to meet Mr. Garretson's guy. And the judge has instructed  
13 you that those cell phones are facilities of interstate commerce.

14 And, of course, we know that Mr. Garretson's guy was an  
15 undercover FBI agent. And on December 8th that agent, Mark  
16 Williams, went with Mr. Garretson to the zoo and met with  
17 Mr. Passage. They discussed in detail Mr. Passage's history with  
18 Carole Baskin, possible ways of killing her and covering it up,  
19 and the price of the hit. You listened to that whole  
20 conversation. It's Exhibit 63.

21 You heard Mr. Passage talk about the best place to do it, on  
22 the bike path that she takes to work. You heard the place in the  
23 conversation where Mr. Passage showed Mark the address of Big Cat  
24 Rescue. You heard Mr. Passage suggest that Mark, "follow her  
25 into a mall parking lot and just cap her and drive off." You

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Oklahoma City, OK 73102 \* 405.609.5403

1 heard Mr. Passage say he could get a clean pistol from the flea  
2 market in Sulphur. You heard them agree on a price, \$10,000 with  
3 5,000 down and 5,000 when, as Mr. Passage put it, "she's on the  
4 news, she's dead." You heard Mark say, "Hey, man, if you're  
5 serious about it, you let me know." To which Mr. Passage  
6 immediately responded, "We'll get James the money."

7 This meeting happened on a Friday where Mr. Passage said,  
8 "let me put the money together by Wednesday," and he said that to  
9 get the other half he would just sell a bunch of tigers. That  
10 meeting ended with an agreement and a promise by Mark to commit  
11 the murder and Mr. Passage's agreement and promise to pay him for  
12 it. And that meets the elements of the jury instruction for  
13 Count 2.

14 When you're trying to figure out what happened here, just go  
15 back to Mr. Passage's own words. He laid it all out for you in  
16 conversations he didn't know were being recorded. Now, once he  
17 found out they were recorded, he came up with stories to explain  
18 it all away. For instance, Mr. Passage testified yesterday he  
19 knew that Mark Williams was an undercover cop, but that he didn't  
20 blow his cover or report it to law enforcement or even ask him  
21 during the conversation, "Are you an undercover cop?" No, he  
22 played along, he said, in great detail. Ask yourselves if this  
23 makes any actual sense. Mr. Passage tried to explain it all  
24 away, all except that call with Mr. Garretson on November 7th.  
25 That's at Exhibit 51.

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1           There's one conversation that Mr. Passage knew was being  
2 recorded, the call he made to John Finlay from jail right after  
3 he'd been arrested on these charges. He called John Finlay, a  
4 man who had been his de facto husband for 11 years, a man who had  
5 worked for him for 15 years, a man he still trusted and called in  
6 his darkest hour. And even though Mr. Passage knew that that  
7 call was being recorded, John Finlay surprised him so much so  
8 that, again, Mr. Passage's mouth became his own worst enemy. You  
9 can hear it happen at Exhibit 61.

10           (Audio played in open court.)

11           MS. MAXFIELD-GREEN: "You hung me out to dry?" "No, I  
12 told the truth."

13           The truth is that Mr. Passage is guilty of all counts of the  
14 indictment, and it's your job now to make sure that no one, not  
15 even the tiger king, is allowed to be above the laws of the  
16 United States.

17           THE COURT: Defense may proceed with their closing  
18 argument.

19           MR. EARLEY: Revenge. Remember over a week ago when  
20 Mr. Brown told you that this case was all about revenge? Well,  
21 he was right. This case is about revenge, a revenge by animal  
22 rights groups who have contempt for Mr. Passage because he  
23 engages in completely legal activity that they just don't like,  
24 revenge by a couple of individuals who got stiffed on their  
25 investment in Mr. Passage's business and were desperate to get

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1 rid of him, and revenge by a disgruntled drug and alcohol abuser  
2 who hated the way that Mr. Passage treated him at the park.

3 Now, I want to begin by addressing what I'll refer to,  
4 generally, as the paperwork violations, that's Counts 3 through  
5 12 and 15 through 21, because they're separate and apart from  
6 that revenge that makes up most of this case.

7 Now, the investigation was commenced by federal agents as  
8 early as 2015, 2016. Mr. Passage was a lightning rod for animal  
9 activist organizations. With their help and years of inspections  
10 and combing through laws and regulations, they came up with what  
11 you find in Counts 3 through 12 and 15 through 21.

12 Now, the government started this trial off with the  
13 violations in Counts 3 through 7, the charges of taking  
14 endangered species by killing them, the five dead tigers from  
15 October of 2017. We spent the first couple of days on those  
16 charges, and that was by design.

17 We spent hours talking about how the tigers died, digging  
18 them up, removing their skulls, sending them to a lab to  
19 determine how they actually died. I submit that elaborate  
20 presentation with respect to how these tigers died was for one  
21 purpose and one purpose only, and that was to inflame your  
22 passions at the very beginning of this case and to color your  
23 view of Mr. Passage from day one. For what end? Well, in the  
24 hopes that your disgust with what happened would allow you to  
25 overlook the shortcomings in the rest of the government's case.

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Oklahoma City, OK 73102 \* 405.609.5403

1           What did you hear? These tigers were put down properly.  
2 Was it done to the technical specifications of Dr. Viner? Well,  
3 perhaps not completely, but it was done with instantaneous death,  
4 which is all the Veterinary Association regulations require for  
5 purposes of a proper euthanization. That's really all that fancy  
6 laboratory evidence showed you. It showed you what exactly  
7 happened. Those tigers were put down with a gunshot to the head.

8           What the government didn't bother to do was find out, well,  
9 was there a reason for them to be put down. They didn't bother  
10 to examine the bodies of these tigers to see if they had suffered  
11 from other health issues, if they had issues with their paws.  
12 They didn't bother to see if euthanization was a reasonable  
13 alternative under the circumstances.

14           Mr. Passage told you why, and the only evidence to the  
15 contrary is what a couple of individuals who were on Team USA  
16 came to tell you about what they thought was the reason. And  
17 really, in the end, what are the charges concerning the deaths of  
18 these tigers? The charges are that he killed tigers, the charges  
19 are not killing tigers for cage space. That was a theory  
20 developed by the government after a group discussion of witnesses  
21 about the timing of the event.

22           The charges are killing tigers without a permit. These are  
23 permit charges, ladies and gentlemen. There are separate  
24 regulations that play in almost every aspect of the paperwork  
25 violations in this case, regulations you can't get a straight

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Oklahoma City, OK 73102 \* 405.609.5403

1 answer on when you call the agency, regulations confusing not  
2 only to the uninformed, but also to those who have to deal with  
3 those regulations on a daily basis. And I want you to ask  
4 yourself, does the law that the judge is giving you on these  
5 violations really apply in this case? The judge informed you of  
6 what the law is. That's his job. He gives you the law, but it's  
7 your job to apply the law to the facts as you see them. And you  
8 need to take a hard look at this law in this case. The law the  
9 judge has given you with respect to these particular counts, the  
10 taking, is as follows.

11       The term "take" means to harass, to harm, pursue, hunt,  
12 shoot, wound, kill, capture or collect. The language of this  
13 statute appears in the Endangered Species Act, an act designed to  
14 protect animals in the wild that may suffer if they are  
15 continued -- or if it's continued to be the situation where  
16 they're harassed, where they're harmed, where they're pursued,  
17 where they're hunted, where they're shot, wounded, killed,  
18 captured or collected.

19       The animals in this case were captive animals. They are the  
20 offspring of captive animals. They're likely generations removed  
21 from their brothers and sisters in the wild. Ask yourselves if  
22 you think that the law the judge gave you on these crimes applies  
23 to a situation in which a private zoo owner is euthanizing his  
24 own animals. I submit it is not.

25       A look at the charges for sale or selling endangered

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Oklahoma City, OK 73102 \* 405.609.5403

1 species. Now, it's important to recall each of these  
2 transactions the government has charged in this case are between  
3 licensed exhibitors, except for one. The last one, the one  
4 that's not is the Darlene Cervantes transaction. That  
5 transaction was never concluded because Mr. Passage had no  
6 intention of it ever being a transaction. He or someone from his  
7 office shot this lady a price to shut her up. That's what he  
8 testified to. And recall the great lengths to which he went to  
9 make sure that, if she was going to do this, she had to have  
10 certain permission, she had to have a certain location. And he  
11 kept warning her, you may be in violation of rules and  
12 regulations. She persisted. He priced her out of further  
13 conversations to get her out of the way.

14 On Counts 9, 10 and 11, these are zoo-to-zoo transfers.  
15 These types of exchanges are common and there's certainly nothing  
16 unusual about them. Now, the government wants to say that these  
17 were sales. Mr. Passage, as he testified to, says they were  
18 donations. They're donations because he's getting them off his  
19 license onto somebody else's license with no financial incentive  
20 to him. Mr. Passage, as he told you, was simply the transferrer.

21 If there was a sale, that was between the receiver of those  
22 animals and Jeff Lowe, the owner of the park. As far as he was  
23 concerned, the money that was provided by whoever was on the  
24 other end of this transaction was a donation that went right into  
25 the zoo's bank account, Mr. Lowe's bank account.

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Oklahoma City, OK 73102 \* 405.609.5403

1           What is missing in the government's proof on these charges  
2 is the intent of the person on the receiving end. You heard  
3 nothing from Brown's Zoo or TS, as that person is referred to in  
4 the indictment, as to their characterization of the transaction  
5 when money was transferred from them to John Finlay. While  
6 Finlay may want to speculate that, hey, these were sales, the  
7 nature of the transaction really, in the end, is dependent upon  
8 the person who's receiving the animals and handing over the  
9 money. The government failed to produce any evidence on that  
10 critical issue.

11           Now, the charges of falsifying records in association with  
12 the interstate movement of wildlife, Counts 12 through 21 minus a  
13 couple. Now, you heard evidence from Dr. Boone and Dr. Green  
14 about these forms that the government contends are false records.  
15 Dr. Boone testified that, while in compliance with the government  
16 form, as she mentioned in this letter, Defendant's Exhibit 11,  
17 isn't, you know, required, you don't have to hit all those  
18 categories, but you got to hit some of them. And she highlighted  
19 in her letter, which was -- and she spelled that out in  
20 Defendant's Exhibit 11. "Hey, you need a vehicle license number  
21 and state driver's license if the person isn't registered under  
22 the Animal Welfare Act, the full name and address of the  
23 buyer/receiver must be -- in addition to the city and state."

24           She mentioned those things to them -- she mentioned those  
25 things because it's necessary for the facility to do these

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 acquisition and disposition records to be able to accurately  
2 track the animals, to ensure that they're legal acquisitions,  
3 that there's proper care and humane transportation. Well, the  
4 form, as you'll recall, that they're supposed to aspire to but  
5 not required to meet in every aspect, provides a number of boxes  
6 that the form itself says, fill these out, make sure that you hit  
7 these boxes.

8 Well, you know, if the government is going to insist on  
9 information that most everyone in this case testified is  
10 completely irrelevant, whether this was a sale or exchange or  
11 donation, then the government should have told the people who are  
12 filling out these forms that this is required information. This  
13 form specifically says, by the government, that that information  
14 is not required on this form.

15 All of the evidence you have heard about the acquisition and  
16 disposition forms and the CVI form that Dr. Green has to fill out  
17 reflects that whether there is a sale, exchange, donation, that  
18 information isn't required and it's irrelevant. The government  
19 is asking you to convict a person of a serious crime based on  
20 placing information on a form that's not even required or  
21 relevant. So it's up to you to decide if a citizen of this  
22 country should be faced with criminal prosecution and the  
23 potential loss of his or her liberty for something that's not  
24 even addressed on a form, in a regulation or the law.

25 Count 21, I'll just refer to it as the lemur form. Well,

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 the only thing I can tell you is, you know, Mr. Passage testified  
2 he didn't do that for a bad purpose. He was trying to help  
3 Garretson out, based on an impending inspection. I'll leave that  
4 for your consideration.

5 Now, let's talk about what this case is really about,  
6 alleged murder-for-hire plots.

7 Now, some preliminary observations. We have heard a great  
8 deal about Jeff Lowe, a government cooperator. We haven't heard  
9 from him, but what we do know is that Jeff Lowe had become very,  
10 wary and weary of Mr. Passage's legal problems. His weariness is  
11 evidenced by the fact that he, too, apparently began to verbalize  
12 his extreme dislike for Ms. Baskin; and if you believe Garretson,  
13 to the point of having an office discussion with Garretson,  
14 during which he pulled up on the computer screen Ms. Baskin's  
15 location, where she usually walked, her trail and all sorts of  
16 identifying things. That was Mr. Lowe who did that for  
17 Mr. Garretson.

18 So, you know, Lowe sat out on a path to rid himself of the  
19 legal quagmire that Mr. Passage represented. Lowe and Garretson  
20 had become close during this time and Lowe discussed with  
21 Garretson perhaps a way to get rid of Mr. Passage and his legal  
22 problems. One discussion was, "hey, let's have Carole Baskin buy  
23 the zoo in exchange for him serving up Joe on a platter to  
24 Ms. Baskin." We learned that -- from Garretson -- that a  
25 successful plot that got rid of Joe Passage would net him,

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 Garretson, a cool hundred thousand dollars from Lowe.

2 Well, unfortunately, you know, this deal of trying to get  
3 Carole Baskin to buy the park, well, it didn't gain any traction,  
4 so off we go to the next plan.

5 Now, I want you to think about this. Do you find it just a  
6 little suspicious that after four or five years of Carole-bashing  
7 by this man, that the very first effort by anyone to try to  
8 involve him in a murder-for-hire scheme resulted in two  
9 simultaneous plots? What are the odds of that? I mean, people  
10 testified that Mr. Passage ran his mouth about Carole and they  
11 took it as his wish that she was dead. You can take whatever you  
12 want from his worldwide web rants over the years. But I ask you,  
13 do you believe two separate plans to ensnare Mr. Passage in a  
14 murder-for-hire plot would commence at exactly the same time  
15 without some collusion on someone's part?

16 Who is right smack in the middle of both of these plots?  
17 James Garretson. And who's circling above like a vulture? Jeff  
18 Lowe. Keep that in mind while you sort out what's going on and  
19 who has a motive to snare Mr. Passage in a trap.

20 Now, the judge is going to give you the instructions, and  
21 has already instructed you that you must use your common sense  
22 while evaluating the evidence and determining if someone is  
23 guilty of an offense. The murder for hire, under the facts of  
24 this case, requires the government to prove beyond a reasonable  
25 doubt the elements that Ms. Green went through with you.

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Oklahoma City, OK 73102 \* 405.609.5403



1           So let's look at Count 1 and some of the other factors in  
2 this incredible confluence of efforts by several people. First  
3 of all, Lowe's associate and confidant, his old-time South  
4 Carolina buddy Alan Glover, a convicted felon, that supposedly  
5 looks the part; he enters on stage left here. Other than his  
6 looks, I think the idea that anyone would seriously consider  
7 Glover capable of carrying out a plot to kill anyone is pretty  
8 much preposterous. You would be lucky if he made it to  
9 Interstate 35 from that park without spending whatever money he  
10 got on booze, drugs and women.

11           All his shortcomings aside, it's entirely likely that  
12 Mr. Passage's dislike for Alan Glover exceeded that of his  
13 dislike for Carole Baskin. Mr. Passage repeatedly advised Jeff  
14 Lowe of his dislike for Glover and his attitude. He wanted  
15 Glover out of the park. Is someone like Alan Glover a person  
16 that someone would go to in Mr. Passage's position to ask them to  
17 kill somebody?

18           And how convenient, there's no witnesses, no recordings,  
19 none of that to Mr. Passage's supposed solicitation of Alan  
20 Glover to kill Baskin, just the word of Alan Glover. And, you  
21 know, going through these things that led up to Alan Glover  
22 leaving, I mean, isn't it curious that Garretson -- here he is  
23 again, swimming around in this thing -- isn't it curious  
24 Garretson is the man to call to get a fake ID? No, it's not  
25 curious. It's all set up by Lowe and Garretson.

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United States Court Reporter  
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Oklahoma City, OK 73102 \* 405.609.5403

1           Now, isn't it curious that the government tells the grand  
2 jury in this case the money for Glover to go to Florida came from  
3 a sale of a cub by Robert Engesser. We know that's not true.  
4 The government admits that that's not true. But guess who came  
5 up with Robert Engesser? Oh, that would be Jeff Lowe. Because  
6 that's what Jeff Lowe wanted them to believe, because he got  
7 Engesser's name from that tape he and his wife gemmed up trying  
8 to get Mr. Passage to say something to get himself in trouble.  
9 And how convenient that the phone that is mailed to Lowe's  
10 address in Vegas was never turned on. Well, it was never turned  
11 on to give Alan Glover an alibi because there was never a plan  
12 for Alan Glover to go anywhere.

13           Now, Ms. Green says, well, gee, Mr. Passage got up there and  
14 his lawyer never asked him about that November 7th, 2017, phone  
15 call. Well, Mr. Passage explained all of his contacts that he  
16 had with Garretson during this time frame. He was saying things  
17 to Mr. Garretson to see if they would get back to Mr. Lowe  
18 because he knew something was going on between the two of them.  
19 So the more he talks to Mr. Garretson about something, if it  
20 comes back to him in the next conversation from Mr. Lowe, yeah,  
21 I'm right; they are colluding. They are doing something.  
22 They're up to no good. He's explained that.

23           And really this phone, this mailing this phone, I mean,  
24 think about this. Lauren Lowe testified about that. I submit  
25 her story was dismantled almost immediately by the postal

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U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 inspector. I mean, she got up there and claimed, oh, I get  
2 packages all the time, stuff comes in all the time.

3 Well, during the relevant period that they had asked the  
4 postal inspector to look at, she only got four deliveries.  
5 Moreover, she claims that this cell phone and charger came to her  
6 in a 10-by-12 yellow envelope. That's all that was in the  
7 envelope, a cell phone and the charger. Remember the weight of  
8 the parcel? Almost five pounds. Now, I doubt that there's ever  
9 been a cell phone that weighs four or five pounds, and I'm  
10 spotting the charger maybe a pound, given her observation. I  
11 doubt there's ever been a cell phone that weighed anything close  
12 to that even in the 1980s. Lowe never intended to turn on a cell  
13 phone when it got to Las Vegas at his direction because Glover  
14 didn't need an alibi because he was never going anywhere and none  
15 of this was ever going to happen.

16 Now, how convenient too, you know, that Alan Glover  
17 supposedly drove hundreds of miles from South Carolina to Florida  
18 and didn't have a phone. Well, how was he supposed to know where  
19 to go? I mean, without the phone he wouldn't have had pictures,  
20 he didn't have the address to Big Cat Rescue. It's because he  
21 never went.

22 And how convenient that Alan Glover comes in here and tells  
23 you, yeah, I went to Florida, but, gosh, I was so intoxicated the  
24 whole way I was driving down there, or I was on cocaine, alcohol  
25 or whatever else he was abusing at the time, I just -- I don't

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 know where I went in Florida, I couldn't tell you. Well, you  
2 know, how convenient that he can drive hundreds of miles in that  
3 state, never have an accident, kill someone, or even get pulled  
4 over by the highway patrol.

5 It's all so convenient because it's impossible to  
6 corroborate or not corroborate what his story is. The evidence  
7 shows, ladies and gentlemen, that from February of 2018 to July  
8 10, 2018, Mr. Glover got to get his story straight, and with who,  
9 Jeff Lowe. That was before Jeff Lowe presented him to the  
10 federal agents so that he could provide them some additional  
11 information to revive this plot that they had already thought had  
12 died on the vine last November of 2017. Because, remember, at  
13 this time, in July of 2018, not only had the Glover plot  
14 supposedly fizzled out, but the Mark plot never went anywhere  
15 either.

16 The absurdity of all of this supports what Mr. Passage told  
17 you, that it was clear to him that beginning in the summer of  
18 2017 Lowe was trying to find a way to get rid of him one way or  
19 another. He participated in this little charade of theirs,  
20 talking to Garretson, talking to Alan Glover, not with the intent  
21 that Glover travel to Florida to kill Carole Baskin, but with the  
22 intent that Alan Glover go home and get out of his hair once and  
23 for all.

24 You know, the evidence supporting this charge in Count 1 is  
25 based almost exclusively on the word of Glover, that he actually

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 went to Florida and that he did these other things with respect  
2 to obtaining money for the purpose of fulfilling Mr. Passage's  
3 desire that Carole Baskin die. I submit to you that  
4 Mr. Passage's version of this is much more plausible, and that  
5 version is that he knew that this was a setup from the beginning  
6 and that he had no intention of ever having anyone kill Carole  
7 Baskin.

8 Now, let's go to Count 2, the evidence about the Mark plot,  
9 as I'll refer to it. Now, the evidence shows that, at the  
10 beginning of November 2017, Mr. Passage was putting his exit  
11 strategy in place. He decided to leave the zoo and all the  
12 negative effects that it was having on him. He had had a tragedy  
13 visited upon him and that tragedy had resulted in a lot of soul  
14 searching on his part. And this isn't just Mr. Passage saying  
15 this. Brittany Peet verified this.

16 The evidence shows Mr. Passage did more than just talk about  
17 changing his ways. He put his words into action. He shook hands  
18 with the very people that he viewed as his enemy, PETA. He  
19 prevailed upon Ms. Peet to try to work something out for him.  
20 She testified to those efforts. At the same time he continued to  
21 run for governor. You know, whether he had a realistic shot or  
22 not, at least he felt that he was a voice for those without one.

23 The testimony shows that Garretson -- Garretson attempted to  
24 introduce Mark to Mr. Passage on numerous occasions prior to  
25 December 8. To shut Garretson up, Mr. Passage spoke with the guy

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 on December the 8th. And it's clear from the recording  
2 Mr. Passage responded to Mark's efforts only when he was directed  
3 to the subject of killing Carole Baskin. He constantly veered  
4 off onto other topics only to be steered back into the lane by  
5 Garretson.

6 You heard that Mr. Passage, during this -- this meeting with  
7 Mark, gleefully went and grabbed a whole pile of stuff and he  
8 goes and he puts it on the table. "Hey, look, I know all this  
9 about Carole Baskin." I mean, he's bragging about it, all this  
10 stuff he had collected. But you know what, not one piece of  
11 paper goes with Mark out the door. Oddly, there was no recording  
12 of the only time the government can point to that Mr. Passage  
13 called Garretson, supposedly, about this. Even then, even if  
14 that occurred, we have no idea how that conversation evolved and  
15 whether Garretson was true to form in steering the conversation  
16 right into the direction of, hey, how about my guy Mark.

17 You know, contrary to Ms. Green's assertion, I submit there  
18 was no agreement that was reached at that meeting on December the  
19 8th. There was no causing a use of interstate facility with the  
20 intent that a murder be committed. There was no offer, there was  
21 no acceptance, there was no consideration, there was no  
22 agreement. Mr. Passage never intended and never did give money  
23 to Mark or to Mr. Garretson for Mark's services.

24 Remember what the -- the testimony and what was on the tape,  
25 December the 8th. Mr. Passage is getting married the following

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U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 Monday. And they had set up, well, we'll meet about this again  
2 that next Wednesday. There was no meeting that next Wednesday.  
3 There was never another meeting at all between Mr. Passage and  
4 Mark. That's because Mr. Passage was simply not interested in  
5 anything that Garretson or Mark had to offer.

6 And I want you to ask yourselves when you're thinking about  
7 that, if the evidence of what happened on December the 8th, 2017,  
8 was enough to support the completion of that crime, why didn't  
9 they arrest him that day? Why didn't they arrest him the next  
10 day, or a week later, or a month later? If what Ms. Green was  
11 telling you, well, it's all said and done December 8th, boom,  
12 crime completed, why wasn't he ever arrested? Because even they  
13 knew that to solidify an intent on his part or an agreement, that  
14 Mr. Passage needed to do something else.

15 They needed some concrete acts such as giving money to  
16 Garretson or Mark, such as buying a gun like they had discussed,  
17 such as buying two phones so that they could communicate as they  
18 had discussed. They needed something more that would show an  
19 intent and an agreement on Mr. Passage's part. But nothing ever  
20 solidified their case because Mr. Passage never had the intent to  
21 hire this guy to kill Carole Baskin.

22 And let us not forget, killing Carole Baskin would not solve  
23 his problem. The judgment against him would live on and on and  
24 her death would have absolutely no effect on that. You have all  
25 those tapes. I urge you to listen to them again. And I urge you

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U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 to listen to them bearing in mind what Mr. Passage testified  
2 about was going on at the time that he made those statements and  
3 the circumstances that existed at the time those statements were  
4 made.

5 And remember to consider who called who and who came to who.  
6 More importantly, I think you need to take into consideration the  
7 circumstances going on in Mr. Passage's life during this time.  
8 After all, it's his head you're trying to get into to determine  
9 whether he intended to commit any criminal act.

10 And you think about it. In November and December of 2017,  
11 this man was grieving. This man, because of his loss, had  
12 serious regrets about the way that his life had proceeded to that  
13 point. This man was in the middle of leaving his life's work  
14 behind, extricating him from a place that he had built for over  
15 two decades. This man was running for statewide office. Just  
16 making it through to one -- one day at a time was really about  
17 all he could handle during this period of time. That's the stuff  
18 he had in his mind. And I submit to you that an intent or desire  
19 or a motive to kill Carole Baskin was never even a thought during  
20 that particular period of his life.

21 This case is replete with reasonable doubt. This case is  
22 polluted with outside interests that want more than anything to  
23 see this man humiliated, marginalized and locked away. You know,  
24 Mr. Passage's lifestyle and work may be subject to honest  
25 criticism, but these murder-for-hire allegations were

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403



1 manufactured. They were manufactured by individuals who want to  
2 get him out of the way. They're manufactured by individuals who  
3 cooperated to protect themselves. And they're manufactured by  
4 the Fish & Wildlife agency that wanted to make a splashy case  
5 instead of a bunch of paperwork violations.

6 The government has the burden of proving each one of these  
7 offenses and each element of these offenses beyond a reasonable  
8 doubt. I ask you to hold them to that burden. The only verdict  
9 that is warranted under the facts and the law in this case is a  
10 verdict of not guilty on each and every count in the indictment.

11 THE COURT: Government's rebuttal and final closing.

12 MS. MAXFIELD-GREEN: First, with regard to the false  
13 document charges, so the saying goes, a rose by any other name  
14 would smell just as sweet. And a sale, regardless of whether you  
15 call it a donation, results in money. In this case, that's cash,  
16 cash that was delivered directly to Mr. Passage.

17 And Mr. Passage wants you to know about all the allegations  
18 of criminal wrongdoing and plotting and bad things about Mr. Lowe  
19 and Mr. Garretson and Mr. Glover. You don't have to think about  
20 any of that. The judge has instructed you not to think about  
21 that. Jury Instruction No. 25 says there at the bottom, "The  
22 question of the possible guilt of others should not enter your  
23 thinking as you decide whether this defendant has been proved  
24 guilty of the crimes charged."

25 John Finlay testified that at one point in time Mr. Passage

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United States Court Reporter  
U.S. Courthouse, 200 N.W. 4th St.  
Oklahoma City, OK 73102 \* 405.609.5403

1 had a magic show. He said that the show involved, quote, a bunch  
2 of big illusions that Joe performed. And that's what Mr. Passage  
3 is trying to do now, he's trying to pull off the biggest illusion  
4 of them all. Mr. Passage's explanation for all the recorded  
5 conversations and text messages is that he knew what was going  
6 on, he knew that Jeff Lowe and James Garretson and Alan Glover  
7 were trying to get rid of him and that they were up to no good  
8 and so he played them. He said all those things you heard on all  
9 of those recordings and sent all of those text messages to see if  
10 James Garretson was leaking information to Jeff Lowe. That it  
11 was all a charade and so was the meeting with Mark Williams;  
12 everything you heard on that recording was just him playing along  
13 for a charade because he knew. And it was a charade that the FBI  
14 and the U.S. Fish & Wildlife Service got caught up in, his  
15 charade. Basically, Mr. Passage is telling you that we're all  
16 playing checkers and that he's playing three-dimensional chess  
17 and that he should get an Oscar for his performance in all of  
18 those recordings.

19 If Mr. Passage thought that people were trying to frame him,  
20 why didn't he just call law enforcement and tell them? If he  
21 just wanted revenge on these bad guys that he didn't like, why  
22 didn't he just call law enforcement and report that Lowe and  
23 Garretson and Glover were plotting a murder for hire of their  
24 own? Why didn't he tape record any conversations with Lowe or  
25 Glover or James if he knew they were up to no good?

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1 Mr. Passage's explanation for a number of things during his  
2 testimony yesterday was that he just made up a story to get out  
3 of it, and that's what he's doing here.

4 You heard the recordings, you saw the text messages, you saw  
5 and heard all of the witnesses testify, including Mr. Passage.  
6 It's up to you to use your common sense to decide who's telling  
7 the truth, and who's just using smoke and mirrors.

8 THE COURT: Thank you, Counsel.

9 Ladies and gentlemen, it would be, I think, prudent at this  
10 time to -- I want to reread to you the final instruction that I  
11 gave you yesterday.

12 In a moment the bailiff will escort you to the jury room and  
13 provide each of you with a copy of the instructions that I have  
14 read. Any exhibits admitted into evidence will also be placed in  
15 the jury room for your review.

16 If any of you have cell phones or similar devices with you,  
17 you are instructed to be sure they are turned off and then to  
18 turn them over to the bailiff as you enter the jury deliberation  
19 room. They will be held by the bailiff for you and returned to  
20 you after your deliberations are completed, and after any break  
21 or similar period when you are not deliberating. The purpose of  
22 this requirement is to avoid any interruption or distraction  
23 during your deliberations and to avoid any question of outside  
24 contact with the jury during your deliberations.

25 You will note from the oath about to be taken by the bailiff

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Oklahoma City, OK 73102 \* 405.609.5403

1 that, during the course of your deliberations, the bailiff and  
2 other persons are forbidden from communicating in any way or  
3 manner with any member of the jury on any subject touching the  
4 merits of this case.

5 When you go to the jury room, you should first select a  
6 foreperson who will help to guide your deliberations and who will  
7 speak for you here in the courtroom. The second thing you should  
8 do is review the instructions. Not only will your deliberations  
9 be more productive if you understand the legal principles upon  
10 which your verdict must be based, but for your verdict to be  
11 valid you must follow the instructions throughout your  
12 deliberations.

13 Remember, you are the judges of the facts, but you are bound  
14 by your oath to follow the law stated in the instructions. To  
15 reach a verdict, whether it is guilty or not guilty, all of you  
16 must agree. Your verdict must be unanimous on each count of the  
17 superseding indictment.

18 Your deliberations will be secret. You will never have to  
19 explain your verdict to anyone. You must consult with one  
20 another and deliberate in an effort to reach agreement, if you  
21 can do so. Each of you must decide the case for yourself, but  
22 only after an impartial consideration of the evidence with your  
23 fellow jurors.

24 During your deliberations, do not hesitate to re-examine  
25 your own opinions and change your mind if convinced that you are

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1 wrong, but do not give up your honest belief solely because of  
2 the opinion of your fellow jurors or for the mere purpose of  
3 returning a verdict. Remember, at all times, you are judges,  
4 judges of the facts. You must decide whether the government has  
5 proved the defendant guilty beyond a reasonable doubt.

6 A verdict form has been prepared for your convenience. The  
7 foreperson will write the unanimous answer of the jury in the  
8 space provided for each count of the superseding indictment,  
9 either guilty or not guilty. At the conclusion of your  
10 deliberations, the foreperson should date and sign the verdict.

11 If you need to communicate with me during your  
12 deliberations, the foreperson should write the message and give  
13 it to the bailiff. I will either reply in writing or bring you  
14 back into the court to respond to your message. Under no  
15 circumstances should you reveal to me the numerical division of  
16 the jury.

17 The bailiff will come forward and be sworn.

18 (Bailiff sworn.)

19 THE COURT: Members of the jury, please follow the  
20 bailiff to the deliberation room where you will commence your  
21 deliberations. The alternate jurors will remain in the  
22 courtroom.

23 All persons in the courtroom, please remain seated until the  
24 jury has retired.

25 (Jury retired to deliberate at 10:30 a.m.)

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1 THE COURT: To the alternates, I always like to say you  
2 have one of the most difficult jobs of the jury panel, having to  
3 listen attentively to all of the evidence and then sometimes not  
4 ultimately deliberate. I cannot emphasize to you enough how  
5 important the job of an alternate is. Particularly of a case of  
6 this length, it is not unusual at all that for one reason or  
7 another we lose a juror, and alternates are placed into service.  
8 In the absence of alternates, if we were to lose a juror,  
9 everything that has been done has been for nothing, and we would  
10 have to start back over. That is precisely how important your  
11 jobs are. I cannot thank you enough, nor can I express my  
12 appreciation for you being here.

13 Now, that being said, you will be released, but please  
14 continue under the admonition previously given. There is always  
15 a chance that you could be called back into service, but -- so  
16 please remain with your -- be mindful of the admonition and not  
17 discuss the case with anyone until a verdict has been reached.  
18 You'll be excused to the jury assembly room.

19 Again, the court will remain seated as the alternate jurors  
20 leave the courtroom.

21 (Alternate jurors exited.)

22 THE COURT: I want to compliment counsel on both sides,  
23 for the government and for the defense, on a job well done. The  
24 case was well-presented. I appreciate your efforts.

25 Ms. Eagleston, I know in your capacity you juggle both roles

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1 in terms of presenting a great deal of evidence and making it  
2 available for the jury for both sides, and I understand precisely  
3 how stressful that job is, and I appreciate your efforts.

4 Anything else from either party?

5 MS. MAXFIELD-GREEN: No, Your Honor.

6 MR. EARLEY: No, Your Honor.

7 THE COURT: Court will be in recess.

8 (Break taken from 10:33 to 2:23.)

9 (The following proceedings were had in open court, with all  
10 parties and counsel present, and out of the presence and hearing  
11 of the jury.)

12 THE COURT: Court will come to order. It's my  
13 understanding that the jury has reached a verdict. The record  
14 will reflect the defendant is in the courtroom.

15 The parties are present and ready?

16 MS. MAXFIELD-GREEN: Yes, Your Honor.

17 MR. EARLEY: Yes, Your Honor.

18 THE COURT: Marcia, if you would get the jury, please.  
19 (Jury entered.)

20 (The following proceedings were had in open court, with all  
21 parties and counsel present, and in the presence and hearing of  
22 the jury.)

23 THE COURT: Record will reflect that the jury has  
24 returned to the courtroom.

25 Ladies and gentlemen of the jury, has the jury reached a

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1 unanimous verdict?

2 JUROR BUSKEY: Yes, Your Honor, we have.

3 THE COURT: After the verdict is read, all persons in  
4 the courtroom will remain in the courtroom and seated until the  
5 jury is discharged and has left the courtroom.

6 Mr. Foreman, if you could. Thank you.

7 In the United States District Court for the Western District  
8 of Oklahoma, the United States of America, plaintiff, vs. Joseph  
9 Maldonado-Passage, defendant, verdict: We the jury, duly  
10 empanelled and sworn in the above-entitled cause, upon our oaths,  
11 find defendant Joseph Maldonado-Passage, as follows.

12 Count 1, alleged use of interstate commerce facilities in  
13 the commission of a murder for hire, in violation of Title 18,  
14 United States Code, Section 1958(a), guilty.

15 Count 2, alleged use of interstate commerce facilities in  
16 the commission of a murder for hire, in violation of 18, USC,  
17 Section 1958(a), guilty.

18 Count 3, alleged violation of the Endangered Species Act by  
19 illegal taking, in violation of Title 16, United States Code,  
20 Section 1538(a)(1)(B), guilty.

21 Count 4, alleged violation of the Endangered Species Act by  
22 illegal taking, in violation of Title 16, United States Code,  
23 Section 1538(a)(1)(B), guilty.

24 Count 5, alleged violation of the Endangered Species Act by  
25 illegal taking, in violation of Title 16, United States Code,

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1 Section 1538(a)(1)(B), guilty.

2 Count 6, alleged violation of the Endangered Species Act by  
3 illegal taking, in violation of Title 16, United States Code,  
4 Section 1538(a)(1)(B), guilty.

5 Count 7, alleged violation of the Endangered Species Act by  
6 illegal taking, in violation of Title 16, United States Code,  
7 Section 1538(a)(1)(B), guilty.

8 Count 8, alleged violation of the Endangered Species Act by  
9 illegal offering for sale, in violation of Title 16, United  
10 States Code, Section 1538(a)(1)(F), guilty.

11 Count 9, alleged violation of the Endangered Species Act by  
12 illegal sale, in violation of Title 16, United States Code,  
13 Section 1538(a)(1)(F), guilty.

14 Count 10, alleged violation of the Endangered Species Act by  
15 illegal sale, in violation of Title 16, United States Code,  
16 Section 1538(a)(1)(F), guilty.

17 Count 11, alleged violation of the Endangered Species Act by  
18 illegal sale, in violation of Title 16, United States Code,  
19 Section 1538(a)(1)(F), guilty.

20 Count 12, alleged violation of the Lacey Act for false  
21 records of wildlife, in violation of Title 16, United States Code  
22 Section 3372(d)(2), guilty.

23 Count 15, alleged violation of the Lacey Act for false  
24 records of wildlife, in violation of Title 16, United States  
25 Code, Section 3372(d)(2), guilty.

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1 Count 16, alleged violation of the Lacey Act for false  
2 records of wildlife, in violation of Title 16, United States  
3 Code, Section 3372(d)(2), guilty.

4 Count 17, alleged violation of the Lacey Act for false  
5 records of wildlife, in violation of Title 16, United States  
6 Code, Section 3372(d)(2), guilty.

7 Count 18, alleged violation of the Lacey Act for false  
8 records of wildlife, in violation of Title 16, United States  
9 Code, Section 3372(d)(2), guilty.

10 Count 19, alleged violation of the Lacey Act for false  
11 records of wildlife, in violation of Title 16, United States  
12 Code, Section 3372(d)(2), guilty.

13 Count 20, alleged violation of the Lacey Act for false  
14 records of wildlife, in violation of Title 16, United States  
15 Code, Section 3372(d)(2) guilty.

16 Count 21, alleged violation of the Lacey Act for false  
17 records of wildlife, in violation of Title 16, United States Code  
18 Section 3372(d)(2), guilty.

19 Dated April 2nd of 2019, signed by the foreperson.

20 Ladies and gentlemen of the jury, as you know, your verdict  
21 must be unanimous. Is that the verdict of each of you?

22 (All jurors affirmed.)

23 THE COURT: Counsel, anything else before the Court  
24 discharges the jury?

25 MS. MAXFIELD-GREEN: No, Your Honor.

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1 THE COURT: Counsel for the defendant?

2 MR. EARLEY: No, Your Honor.

3 THE COURT: Ladies and gentlemen, your service as  
4 jurors in this case has demonstrated your willingness to accept  
5 an important responsibility and contribute to the administration  
6 of justice. I hope that your service as a juror has been  
7 pleasant and beneficial to you in providing an opportunity to  
8 learn more about our courts and our system of justice. You have  
9 provided dedicated service to your community, and I personally  
10 thank you for your service as jurors in our court.

11 You are free to discuss your jury service; you are not  
12 obligated to discuss your jury service. If anyone attempts to  
13 question your verdict or anything you have done in this case,  
14 please make that known to me as soon as possible. The rules of  
15 this Court prohibit the lawyers, or anyone on their behalf, from  
16 talking to you without my permission. If any such thing is  
17 attempted, that should be made known to me as soon as possible.

18 I am available to meet in my chambers with all of you,  
19 should you wish to. You certainly don't have to. For those of  
20 you that are interested in doing that, Ms. Osborn will take you  
21 to my chambers. For those of you that would prefer to go on  
22 home, please return to the jury assembly room, but you are  
23 discharged from further duties in this case.

24 Thank you.

25 (Jury exited.)

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1 THE COURT: The clerk will file the verdict with the  
2 court.

3 Mr. Passage, you have heard the verdict. The Court will  
4 refer your case to the probation officer for the preparation of a  
5 presentence report. I would ask for your cooperation in doing  
6 that. We will -- you will be afforded the opportunity to read  
7 that presentence report prior to sentencing and file any  
8 objections you have to the information that's contained in that  
9 report. A date for sentencing will be set and you will have the  
10 opportunity to be heard at your sentencing.

11 You'll be remanded to the custody of the U.S. marshals.

12 Anything further from either party?

13 MS. MAXFIELD-GREEN: No, Your Honor.

14 MR. EARLEY: Not at this time, Your Honor.

15 THE COURT: Court is in recess.

16 The exhibits are withdrawn and retained -- the parties who  
17 admitted them are to retain custody of them.

18 MR. WACKENHEIM: Pursuant to local Court order, we'll  
19 withdraw our exhibits.

20 (Court adjourned.)

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REPORTER'S CERTIFICATION

I, Emily Eakle, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Oklahoma, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 6th day of March, 2020.

**/S/ Emily Eakle**  
EMILY EAKLE, RMR, CRR  
Federal Official Court Reporter