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**OFFICE OF
APPELLATE COURTS**

1 asked the male to leave the room.

2 Q Okay. I'll go on. I'll move on. Now -- okay, Now you sat
3 close to the Defendant by his -- you sat close to the
4 Defendant by his bed at that time you were there. Is that
5 correct to say?

6 A Like I said I thought I was standing, but maybe I was
7 sitting. I'm not sure. Sorry.

8 Q I would say you sat close to him, that's what I said. You
9 sat down close to him.

10 A And I said I don't remember if I was standing or sitting.

11 Q Okay. Do you remember -- you placed your tape recorder by
12 the Defendant?

13 A I don't remember that portion.

14 Q Now you started speaking to the Defendant in English?

15 A Yes, I did.

16 Q But because he could not understand you, you felt the need
17 to call an interpreter?

18 A Correct.

19 Q Okay. You didn't use your cell phone -- you used your cell
20 phone to dial the interpreter?

21 A Yes. My work cell phone.

22 Q Yes. And then when you dialed the interpreter you were --
23 you were talking to the interpreter and the interpreter was
24 interpreting to the Defendant and it was through your cell
25 phone. In other words the call was through your cell phone?

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1 A Yes.

2 Q And some of the time it is correct to say that the Defendant
3 would not understand what you were saying or what the
4 interpreter was saying? So --

5 A Well, he responded to the things that I was telling the
6 interpreter before the interpreter could say things to him.
7 So I think it's fair to say that he understood some of the
8 things that I was saying.

9 Q There were times during the interview that the Defendant
10 would pause and then you would interject and ask him to
11 answer the question?

12 A Say that again.

13 Q Okay. There were times you would talk to the interpreter
14 and the interpreter would translate to the Defendant and
15 Defendant would say nothing and then there would be a pause
16 for a while in other words --

17 A Yes.

18 Q -- during the interview there were pauses from the
19 Defendant?

20 A Yes, there was.

21 Q And during those long pauses you would be the one to ask him
22 to answer the question?

23 A That's the shame that I saw. Those pauses, that's the
24 reason I asked him again, twice. Now remember I said that
25 he would answer questions that I asked the interpreter

1 before the interpreter could interpret it to him. So
2 there's two times during the interview at those pauses that
3 I felt like he was so full of shame and it was a very
4 difficult topic to talk about -- at least this is what I'm
5 seeing and this is what I thought -- and that's why I asked
6 him again if he wanted to talk to me or if he wanted to
7 leave. That's stated in my report.

8 Q And that was your -- that was your thoughts?

9 A You're right. It's my perception. That's why I said it.
10 That's why I prefaced that.

11 Q Is it possible -- it is possible that the Defendant did not
12 immediately respond because he could not comprehend what was
13 being said?

14 A I guess anything's possible, right?

15 THE COURT: Did you have any reason to think
16 that --

17 THE WITNESS: No.

18 THE COURT: -- the pauses were the result of him
19 not understanding?

20 THE WITNESS: No, I did not, Your Honor.

21 THE COURT: Okay.

22 BY MR. ANUNOBI:

23 Q At the time you interviewed the Defendant the accident had
24 happened just 24 hours before the interview or less than
25 that.

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1 A Okay.

2 Q Correct?

3 A I don't know the timeline, but yep, probably.

4 Q And at that time you interviewed the Defendant, like I said
5 earlier, he was -- he had come out of a coma. He had come
6 out of an unconscious state.

7 A Unconscious. Sleeping. I don't know.

8 Q Okay.

9 THE COURT: Okay. Counsel, let's -- let's take a
10 time out here. I understand you have medical folks coming
11 --

12 MR. ANUNOBI: Yeah.

13 THE COURT: -- who are going to be able to tell us
14 whether or not the Defendant was unconscious or intubated or
15 in an induced coma. I think we've clearly established that
16 this witness doesn't know those answers. Can we possibly
17 get that information from someone who does know?

18 MR. ANUNOBI: Yes, we will, Your Honor.

19 THE COURT: I think that might be more effective.

20 MR. ANUNOBI: I believe so, Your Honor.

21 THE COURT: Let's move on.

22 MR. ANUNOBI: Thank you.

23 BY MR. ANUNOBI:

24 Q Now, Officer, at the time you interviewed the Defendant he
25 was exhausted, he appeared weak and exhausted.

1 MR. ANUNOBI: Okay. That's fine, Your Honor.

2 That's fine.

3 BY MR. ANUNOBI:

4 Q Officer, before -- at the time you interviewed the
5 Defendant, there were none of his friends or relations that
6 were in the room, just you?

7 A Yeah, I believe it was just me.

8 Q Okay. Now you did not advise the Defendant that he had a
9 right to remain silent?

10 A I told him he did not need to speak with me and he could ask
11 me to leave and I would leave.

12 Q My question is you did not advise him that he had a right to
13 remain silent?

14 THE COURT: Counsel, we've been through this.

15 THE WITNESS: He was not in custody.

16 THE COURT: He was not in custody, there was no
17 Miranda warning. We've gone over this several times.

18 MR. ANUNOBI: Okay.

19 THE COURT: Is there some new information that
20 you're seeking?

21 MR. ANUNOBI: At this stage that is all for the
22 witness, Your Honor.

23 THE COURT: Is there an intention to offer the
24 actual recording?

25 MR. ANUNOBI: Yes. I'm sorry. I forgot that.

1 Your Honor, I want to offer the record -- audio recording of
2 the interview into evidence.

3 THE COURT: All right. That's Exhibit 8 and I
4 believe that's been uploaded to MNDES.

5 MR. ANUNOBI: Yes, Your Honor.

6 THE COURT: I'll receive Exhibit 8 which is the
7 recording. Any objection by the State?

8 MR. KELM: No objection, Your Honor.

9 THE COURT: Very good. Anything else from Officer
10 McLain -- excuse me, Detective McLain, Mr. Kelm?

11 MR. KELM: Just very briefly, Your Honor.

12 THE COURT: Go ahead.

13 **REDIRECT EXAMINATION**

14 BY MR. KELM:

15 Q Detective McLain, you were asked about going to see the
16 Defendant the day before you questioned him on the 29th,
17 correct?

18 A Yes.

19 Q And you did not interview him that day, correct?

20 A Yes, you're correct. I did not.

21 Q Why did you not interview him that day?

22 A If I recall correctly he was intubated. I don't think I
23 could.

24 Q And so when you interviewed him on the 30th was he in a
25 completely different condition?

1 A Yes.

2 MR. KELM: Nothing further, Your Honor.

3 THE COURT: Anything else, Mr. Anunobi?

4 MR. ANUNOBI: Nothing else, no.

5 THE COURT: Thanks, Detective, you can step down.

6 THE WITNESS: Do you want me to leave these here,
7 Your Honor?

8 THE COURT: Yes, please.

9 THE WITNESS: Those are theirs, these are mine.
10 (Indicating.)

11 THE COURT: You can have yours. We will let you
12 take that.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: All right. Anything further on behalf
15 of State?

16 MR. KELM: No, Your Honor.

17 THE COURT: All right. I note there's been a
18 couple of witnesses --

19 MR. ANUNOBI: Your Honor, I believe I have Dr. --
20 Dr. Heath and Dr. Randy Ward.

21 THE COURT: All right. Why don't you go ahead and
22 call your first witness. Good afternoon. I will have you
23 pause right there for a moment and raise your right hand.

24 RANDY WARD,

25 the Witness in the above-entitled

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1 matter, after having been duly sworn,
2 testifies and says as follows:

3 THE WITNESS: I do.

4 THE COURT: Thanks. Have a seat. Once you're
5 settled there, can you give me your full name, spelling your
6 last.

7 THE WITNESS: Sure. Randy, R-A-N-D-Y, middle
8 initial K, Ward, W-A-R-D.

9 THE COURT: All right. And you're a doctor?

10 THE WITNESS: MD.

11 THE COURT: MD. I'm going to have you move up,
12 Doctor, a little bit closer to that microphone.

13 THE WITNESS: Oh, sure.

14 THE COURT: And I'll let you go ahead with your
15 questioning, Mr. Anunobi.

16 **DIRECT EXAMINATION**

17 BY MR. ANUNOBI:

18 Q Yes, good afternoon, sir.

19 A Good afternoon.

20 Q And what is your profession?

21 A I'm a psychiatrist. I'm a director of consultation liaison
22 psychiatry at Hennepin County Medical Center.

23 Q Okay. You're a medical doctor?

24 A Yes.

25 Q Okay. So how long have you been a medical doctor, Doctor?

1 A Since '87, however long that is. It's a long time.

2 Q Okay. And where did you receive your training?

3 A Northwestern University Medical School.

4 Q Okay. And did you have any kind of postgraduate training?

5 A Yes.

6 Q Okay. Where would that be?

7 A It was at Northwestern University Medical School. I did
8 general psychiatry, geriatric psychiatry, and an extra year
9 of internal medicine there, and I also did family medicine
10 residency through the Rush University system.

11 Q Okay. And, Doctor, are you board certified?

12 A Yes.

13 Q And could you explain to the Court what board certification
14 requires?

15 A You take your -- after you finish residency, which in
16 psychiatry is four years, then you take a written exam. And
17 we used to have to take oral exam, but they did away with
18 that and then you have to take certain classes on a regular
19 basis to maintain certification, unless you are board
20 certified before a certain time.

21 Q Okay. And you're licensed in Minnesota, right?

22 A Yes.

23 Q Are you licensed in any other jurisdiction?

24 A No.

25 Q Okay. And you have -- do you have diplomates in any other

1 speciality?

2 A Yeah. I'm boarded in general psychiatry and family medicine
3 and then I'm subspeciality boarded in behavioral neurology
4 and neuropsychiatry and consultation liaison psychiatry.

5 Q Okay. Can you explain what psychiatry deals with?

6 THE COURT: I -- I think we can go past that.

7 MR. ANUNOBI: Okay. That's fine.

8 THE COURT: I'm pretty sure I know that one.

9 THE WITNESS: That would take a long time.

10 BY MR. ANUNOBI:

11 Q Doctor, I was going to ask you whether you have any academic
12 appointments?

13 A I'm not --

14 Q I'm just -- I'm just -- okay.

15 THE COURT: We don't need this.

16 MR. ANUNOBI: All right. That's fine.

17 BY MR. ANUNOBI:

18 Q Okay. Doctor, before we came to the court today you
19 provided a copy of your CV?

20 A Yes.

21 Q Curriculum vitae. And if you see a copy of it will you
22 recognize it?

23 A Pardon?

24 Q If you see a copy of it --

25 THE COURT: You can just offer it.

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1 THE WITNESS: Yeah. I know what I sent. I don't
2 think --

3 MR. ANUNOBI: Okay. That's fine. Your Honor,
4 it's already in evidence -- it's already part of stipulated
5 evidence. All right.

6 THE COURT: Very good. What number is it?

7 MR. ANUNOBI: I'm sorry?

8 THE COURT: What exhibit number?

9 MR. ANUNOBI: Exhibit Number 4 -- 6. Exhibit
10 Number 6, Your Honor. 6.

11 THE COURT: Very good. Any objection?

12 MR. KELM: No objection, Your Honor.

13 THE COURT: 6 is the CV of Dr. Ward and it's
14 received. Go on, please.

15 BY MR. ANUNOBI:

16 Q Dr. Ward, do you -- do you know Mr. Michael Huynh?

17 A I --

18 Q Defendant.

19 A -- encountered him as a patient at Hennepin County Medical
20 Center.

21 Q So you had cause to examine him, correct?

22 A Yes.

23 Q Okay. Under what -- under what circumstances did you
24 examine him? What led to your examination of Mr. Huynh?

25 A I was consulted by the surgical team to evaluate him for

1 suicidal ideation.

2 Q Okay. And was there anything else apart from suicidal
3 ideation?

4 A That was the consultation question.

5 Q Okay. And when you did examine him you indicated your
6 findings on a record?

7 A Yes.

8 Q And those findings are part of medical records, right?

9 A Yes.

10 Q Okay. I'm going to show you some -- well, okay. Before I
11 do that I'm going to go ahead and ask you some questions.

12 A Mm-hmm.

13 Q What were your findings of Mr. Huynh when you examined him?

14 A Well, you know, just in terms of a brief diagnosis it was
15 depression unspecified and suicide attempt.

16 Q Okay. Now from your experience you have seen this kind of
17 situation before? Would that be correct to say? Have you
18 seen this kind of situation before?

19 A Well, I have seen patients who are suicidal and I've seen
20 patients who try to commit suicide and I've seen patients
21 who are depressed.

22 Q Okay. And then is it also correct to say that when you
23 examined him that there was a finding of mental illness?

24 A Well, that's, you know, depression unspecified is a
25 diagnosis in the DSM-5.

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1 Q Okay. And as part of this diagnosis did you also find that
2 he had any mood disorder?

3 A Well, that's what mood disorder unspecified is. You know, I
4 can go on a little bit. You know, there was this situation
5 where there had been this event, you know, the accident and
6 we were to come in after he was somewhat stabilized and
7 would agree to talk to us and, you know, assess. Yeah it
8 was -- did he appear depressed at the time and was he
9 actively suicidal?

10 Q Okay. Now, you made a report as part of a process to obtain
11 a judicial commitment of Mr. Michael?

12 A Yes, I did.

13 Q Okay. And in this report that was made, it relied
14 essentially on your statements, correct?

15 A Yes.

16 Q The reports relied on your statements?

17 A Yes.

18 Q Okay. And before you made the statement you had examined
19 the Defendant, right?

20 A Yes, I -- that's all part of filling out an -- civil
21 commitment papers. You put the salient parts of the mental
22 status exam generally for psychiatry.

23 Q Okay. At the time you examined the Defendant, did you find
24 that he was psychotic?

25 A At the time we initial -- the first time we went to see him

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1 I think it was on the 30th, he didn't -- he didn't want to
2 speak to us. The second time we went and saw him -- and
3 when I say we I mean my medical student with me, we see the
4 patients together -- and he made a statement that he had
5 voices before the accident telling him to kill himself.

6 Q Okay.

7 A And I don't believe he was having them at the time we talked
8 to him.

9 Q And what time did you talk to him?

10 A I don't know. I'd have to look at my records. Want me to?
11 I have them here.

12 Q Yes, please.

13 MR. ANUNOBI: To refresh his memory, Your Honor.

14 THE COURT: Are you planning to offer these?

15 MR. ANUNOBI: Your Honor, the record already --
16 well, the records are part of the evidence.

17 THE WITNESS: These are copies I made of consult
18 sheets that we did.

19 THE COURT: You're totally fine, Doctor. What
20 exhibit is that, Counsel?

21 MR. ANUNOBI: Your Honor, I'm talking about
22 Exhibit 2.

23 THE COURT: Very well. Exhibit 2 is the medical
24 record from HCMC stay. Any objection, Mr. Kelm?

25 MR. KELM: No objection.

ADDENDUM 54

1 THE COURT: 2 is received.

2 MR. ANUNOBI: Your Honor, may I approach the
3 witness, please?

4 THE COURT: You may and you don't have to ask for
5 permission, but I would like you to start giving me the
6 received exhibits to the Court.

7 MR. ANUNOBI: Yes, Your Honor.

8 THE COURT: At some point. Okay. Great.

9 BY MR. ANUNOBI:

10 Q I'm talking about this document. Yeah.

11 A Would you like me to comment on what this is or --

12 THE COURT: He wants to know what time you saw
13 him.

14 THE WITNESS: Oh, I've got that right here. The
15 first time we tried to see him was at 3:30 and this is
16 roughly when the -- I believe it was in the morning, but the
17 note was done at 1:00 p.m. and at that time he did not want
18 to meet with us. And so we said we'd come back the next
19 day, the next note is 3:31 and again that is written at
20 11:00, we probably saw him an hour or two before then.

21 THE COURT: 11:00 a.m.?

22 THE WITNESS: A.m. I'm sorry, yes.

23 THE COURT: Got it. Go ahead, Mr. --

24 BY MR. ANUNOBI:

25 Q And that was the time he told you from what you said that he

ADDENDUM 55

1 was hearing voices?

2 THE COURT: No. He said he was hearing voices at
3 the time of the accident. He wasn't hearing voices at the
4 time the doctor saw him.

5 THE WITNESS: Would you like me to read the
6 relevant parts of what I wrote?

7 MR. ANUNOBI: Yes, please.

8 THE COURT: No. No. The evidence speaks for
9 itself. It's already in the record. So just ask questions
10 that you need answered.

11 BY MR. ANUNOBI:

12 Q Doctor, at the time that Defendant --

13 MR. ANUNOBI: Just to confirm this, Your Honor. I
14 want to be sure.

15 BY MR. ANUNOBI:

16 Q -- at the time you spoke to the Defendant, was he actively
17 hearing voices in his head?

18 A No, he was not.

19 Q Okay. Doctor, I am going to refer you to page 231. It's
20 part of the record I gave to you.

21 A 200 and --

22 Q 31.

23 A 31. Okay. Well, just a second here. Yes, I have that in
24 front of me. Page 231.

25 Q Yes.

ADDENDUM 56

1 A It's just a trauma note.

2 Q Yes. So, Doctor, looking at the -- at page 231, is it
3 correct to say that the Defendant had what is described as
4 hypoxic brain injury?

5 A Well, I couldn't say that from this.

6 Q At the very bottom of the record.

7 A Well, that's somebody else's opinion, right.

8 Q Yes.

9 A Yeah. "This is an encouraging sign of the initial concern
10 from report." So, you know, they're not even really saying
11 he had a hypoxic injury, they're saying there was a concern
12 of a report that he had a hypoxic brain injury. So it's not
13 a definitive statement.

14 Q Okay. Okay. Doctor -- Doctor, I am going to ask you at the
15 time -- at the time you wrote this report, which was
16 April 1, would that be correct?

17 A I don't know -- which report --

18 Q The reports --

19 A -- you're referring to.

20 Q -- the reports regarding the commitment. The report that --
21 at the commitment at the time you wrote the report?

22 A Well, let me look here because there's some, you know,
23 documents in here that other people wrote that they present.
24 So here's a Dr. Randy Ward, this is dated 3/31/22.

25 Q Yes.

ADDENDUM 57

1 A This was the district court petition for commitment.

2 Q Yes.

3 A It's page 284.

4 Q Yes. And then -- and then there's a report -- the report
5 was signed by you on page 285, but I'm just saying at the
6 time of this report.

7 A What about at the time?

8 Q At the time you wrote this report, was the Defendant in a
9 proper mental state to understand questions asked of him?

10 A Well, I wrote this report at a different time.

11 Q Yes.

12 A You know, when I look through our serial mental status exams
13 which were done from the -- there was done on the 31st and
14 then there were two more done after that which -- let's see,
15 one was on 4/1.

16 Q Yes.

17 A And one was 4/5, I believe. Yeah, you know, our mental
18 status exams which were done through interpreters all of
19 those indicated that, you know, we look at things like
20 speech rate, volume, you know, sensorium, are they alert to
21 person, place. Are they able to attend and concentrate, all
22 the kinds of things that would make up somebody's ability to
23 understand information and those were all, you know, listed
24 as either average or within normal -- essentially within
25 normal limits. Let's see, memory intact, short -- you know,

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1 immediate recall intact, short term intact, long term
2 intact, fund of knowledge, average, that's kind of a guess,
3 judgment insight, adequate. There was no evidence of
4 psychosis at those times, at least at the one I'm reading of
5 the 4/1.

6 Q Okay. Now at the time -- March 30th, 2021, Defendant was
7 also given medications that -- he was given medications for
8 mental health, would that be correct?

9 A I don't know. I wasn't involved in giving him medications.

10 Q Okay. At this -- at this -- okay. Doctor, I am going ask
11 you, do you --

12 MR. ANUNOBI: I have no further questions, Your
13 Honor.

14 THE COURT: I'm sorry?

15 MR. ANUNOBI: I have no further questions for Dr.
16 Ward.

17 THE COURT: All right. Anything -- any cross from
18 the State?

19 MR. KELM: Just a little bit, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MR. KELM:

22 Q So you testified you attempted to see the Defendant on March
23 30th, correct?

24 A Yes, that's correct.

25 Q But he refused to talk to you that day?

1 A Yes.

2 Q Did you have any contact with him that day, do you recall?

3 A I believe that was my medical student went in there and as
4 kind of when we go on rounds some times the student will go
5 in to see if the patient's, you know, either in shape
6 because of whatever is going on or they will talk to us.
7 And he didn't want to meet with a psychiatry team at this
8 time is what the -- the quote was from my student.

9 Q And so he told somebody on your staff that he doesn't want
10 to talk?

11 A Yes.

12 Q And when did you actually meet with him?

13 A On the 31st.

14 Q And do you recall -- do you have an actual recollection of
15 that or was that only through your records?

16 A Yeah. If I read the records, you know, you kind of get a
17 gestalt of things, you get some memories but nothing real
18 specific. I mean, when I read it I -- it brings back the
19 memories in a sense.

20 Q Sure. I mean, it was a long time ago. I'm sure --

21 A Yea, if it wasn't for this I'd be kind of very vague.

22 Q Okay. Do you recall at all, as best as you can and if you
23 can't that's fine --

24 A Yeah.

25 Q -- what his state of mind was at that time, as far as his

ADDENDUM 60

1 mental state?

2 A Okay. On the 31st?

3 Q Yes.

4 A Okay.

5 Q When you met with him?

6 A So the way we write these reports, you know, we'll have a
7 mental status exam and we'll also have a narrative and then
8 we'll have kind of an impression. And so, you know, I could
9 read off what I think are some of the relevant issues from
10 the --

11 Q Well --

12 A -- or, I mean I didn't find any evidence of psychosis. "It
13 denies any current suicidal ideation or plan to kill
14 himself. Denies having any past history of suicide." I
15 don't know if this is helpful, but "he describes over the
16 last month feeling desperate about a stressor in his life,
17 saying, quote, I didn't feel I could get through it, end
18 quote, when I asked to elaborate he refused, he said it was,
19 quote, personal, end quote, or, quote, private, end quote,
20 multiple attempts to reask the question led to the same
21 answer. He was very dismissive of our team in a sense and
22 that's when he said he did describe a voice during the
23 suicide attempt, quote, telling me to do it, end quote."

24 Q So at that time you were talking to him he was not in some
25 kind of psychosis?

ADDENDUM 61

1 A No, he was not.

2 Q And he was able to understand you?

3 A Yes.

4 Q And he was able to understand what was going on around him?

5 A (Witness nods head.)

6 Q Can you answer out loud?

7 A I'm sorry. Yes.

8 Q Just a formality.

9 A As shrinks we nod.

10 Q So --

11 A Yeah.

12 Q Just to ask that question again --

13 A Yes.

14 Q -- he could understand what was going on?

15 A Yes. You know, in our mental status exam we talk about him
16 being, you know, his sensorium being clear, his attention to
17 concentration being intact, his memory being intact, things
18 of that sort that would point to somebody not being kind of
19 able to --

20 Q Okay. So this isn't just a gut feeling?

21 A No. No. This was not.

22 Q You examined him, you used your medical training, you had
23 parameters, and based on all that, your medical opinion is
24 he knew what was going on, correct?

25 A Yes.

ADDENDUM 62

1 MR. KELM: I have nothing further, Your Honor.

2 THE COURT: So, Doctor, the -- the necessity of
3 the 72-hour hold was based on his suicide attempt.

4 THE WITNESS: Yes. That was a very serious
5 attempt. We do, you know, 72-hour hold allows us to keep
6 somebody in the hospital as we file civil commitment papers.

7 THE COURT: Yep. And so the fact that you file a
8 civil commitment paper -- civil commitment on someone
9 doesn't necessarily mean that you think they are
10 incompetent.

11 THE WITNESS: No. It gives -- it's -- essentially
12 the reason for a 72-hour hold in a certain sense is a time
13 for us to do further assessment of the patient. And during
14 that time, you know, a team from the county comes in and
15 examines the patient and presents that to the county that
16 decides whether they support or don't support our
17 commitment.

18 THE COURT: Okay. Very good. Any other questions
19 for this witness --

20 MR. ANUNOBI: Yes.

21 THE COURT: -- Mr. Anunobi.

22 MR. ANUNOBI: Yes, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. ANUNOBI:

25 Q Doctor, I wanted to just refer to -- to the note I gave you

ADDENDUM 63

1 -- to the document I gave you. Page 230.

2 A Sure.

3 Q Yes.

4 A Okay. 230.

5 Q Yes. Now if you look at the -- at the top, you know, if you
6 look at the top page, line three it indicates that he was
7 put on Propofol, do you see that?

8 A Arrives with -- place -- court (inaudible) --

9 THE COURT: Doctor, I have to have you do that to
10 yourself.

11 THE WITNESS: I'm sorry.

12 THE COURT: This poor Court Reporter to your left
13 here --

14 THE WITNESS: I'm sorry. I apologize. I tend to
15 sometimes do that. Yeah, intubated --

16 BY MR. ANUNOBI:

17 Q Yes. And then it also says that, you know, because he was
18 moving his extremities you have to increase the sedation?

19 A Well, whoever was there must have felt that was the case.

20 Q All right. Doctor, what does Propofol do?

21 A It's a sedative, half-life sedative. So if you give it to
22 somebody, we use it IV and so it's one of many different
23 types of sedatives we have. This one works on the ADRA
24 neurological system and so the advantage to it is -- it is
25 relatively short term so we can turn it on and off. And so

1 that's why they use it in this setting.

2 Q And it is said that it also indicated that he was increased;
3 is that correct?

4 A If that's what it says there.

5 Q Yeah. And what date was that, please, just from your
6 record? What date was that?

7 A It says 11:00 a.m. on the 29th.

8 Q Okay.

9 A That's when it was signed and then it says 11:06 at the top,
10 I don't know, somewhere around 11:00.

11 MR. ANUNOBI: All right. I have no further
12 questions.

13 THE COURT: Anything else, Mr. Kelm?

14 MR. KELM: Just briefly about that.

15 RECROSS-EXAMINATION

16 BY MR. KELM:

17 Q So when he was given this and that and dosage was increased,
18 that was on the 29th of March?

19 A (Witness nods head.)

20 Q Not the 30th of March, correct?

21 A Yes, that's the best I can tell from reading this. Mm-hmm.

22 Q And so if someone was given that on the 29th and not on the
23 30th, would they still be under the effects of that
24 sedative?

25 A With that particular sedative, you know, I refer to it

ADDENDUM 65

1 having a short half-life. That means it leaves your body
2 relatively quickly. So then like I was saying, that's the
3 advantage of the drug. So you can kind of almost turn it on
4 and off. So I would not expect much if any to be active
5 24 hours later.

6 MR. KELM: I have nothing further, Your Honor.

7 THE COURT: Very well. Thank you so much, Dr.
8 Ward, you can step down. Now I don't want you to take any
9 of my exhibits with you.

10 THE WITNESS: Oh.

11 THE COURT: So don't take anything you didn't
12 bring.

13 THE WITNESS: No. I just have my own exhibits
14 here or whatever.

15 THE COURT: All right. You can take your own
16 home, but not ours.

17 THE WITNESS: Sorry about that. I'm used to
18 putting things in folders.

19 THE COURT: We're going to take a break for the
20 benefit of our hardworking interpreter here as well as our
21 hardworking Court Reporter. Let's take about 15 minutes.
22 While we're on the break, Mr. Anunobi, if you would just
23 gather the exhibits that have been received so far. So 8A,
24 8, 6, and 2. And I can have those. We're off the record.

25 (A brief break was taken.)

ADDENDUM 66

1 THE COURT: All right. We're back on the record.
2 And about to hear the testimony of Dr. Ian Heath. If you
3 could please raise your right hand.

4 IAN HEATH,

5 the Witness in the above-entitled
6 matter, after having been duly sworn,
7 testifies and says as follows:

8 THE WITNESS: Yes, I do.

9 THE COURT: Thanks, please have a seat.

10 THE WITNESS: Thank you.

11 THE COURT: Once you're settled there, can you
12 give us your last -- your full name, spelling your last.

13 THE WITNESS: Certainly. It's Ian James Heath and
14 last name is spelled H-E-A-T-H.

15 THE COURT: Very well. Go ahead, Mr. Anunobi.

16 MR. ANUNOBI: Yes.

17 DIRECT EXAMINATION

18 BY MR. ANUNOBI:

19 Q And what is your profession, please?

20 A I'm a psychiatrist.

21 Q Okay. And you're an MD, right?

22 A Correct.

23 Q Okay. And just very briefly so that I'll just give the
24 court a little bit about your background. And what medical
25 school did you attend?

ADDENDUM 67

1 A I went to the McGill University Faculty of Medicine in
2 Montreal.

3 Q Okay. And are you board certified?

4 A I am.

5 Q Okay. And what does that mean, board certification?

6 THE COURT: We -- we don't need that. I have his
7 CV and I don't think there is any objection to his
8 qualifications. Mr. Kelm?

9 MR. KELM: I would stipulate to that, Your Honor.

10 THE COURT: Thanks.

11 BY MR. ANUNOBI:

12 Q All right. So, Dr. Heath, you know Michael Huynh?

13 A Yes.

14 Q He's sitting down right here, correct?

15 A Correct.

16 Q Okay. So -- and how do you know Michael Huynh?

17 A Mr. Huynh was on my treatment team from approximately
18 April 5th through April 15th of 2022.

19 Q Okay. And then how did he come to be seen by you?

20 A He was transferred from the trauma service. So over in the
21 nonpsychiatric part of the hospital and transferred to an
22 inpatient psychiatric bed.

23 Q Okay. Is it -- was he referred to you by a particular
24 doctor?

25 A He was followed by the consult service, Dr. Ward was one

ADDENDUM 68

1 individual that had seen him, yes.

2 Q Okay. And then you saw him between April 5th to April 15th?

3 A Yes. I think I saw him on approximately seven occasions.

4 Q Okay. And why was he referred to you?

5 A He was admitted due to concern about suicidality.

6 Q Okay. Doctor, I'm going to refer you to a medical record
7 that has been marked for identification as Exhibit 3.

8 MR. ANUNOBI: Your Honor, may I approach the
9 witness?

10 THE COURT: As I've said, you do not need to
11 request permission.

12 MR. ANUNOBI: Okay. That's fine, Your Honor.

13 MR. KELM: Which one is it?

14 THE COURT: Exhibit 3.

15 BY MR. ANUNOBI:

16 Q Are you familiar with that record?

17 A Yes, I am.

18 Q Would that be -- would it be correct that those are your
19 discharge instructions?

20 A This is a discharge summary which includes diagnosis, course
21 of treatment, discharge medications, et cetera.

22 Q Okay. And is this typical -- typically provided by your
23 office after treatment of a patient?

24 A Yes.

25 Q Okay. All right. So --

ADDENDUM 69

1 THE COURT: Okay. Court will receive Exhibit 3.
2 Go ahead.

3 MR. ANUNOBI: Thank you, Your Honor.

4 BY MR. ANUNOBI:

5 Q Now regarding this document I want you to look at page one
6 of the document.

7 A Okay.

8 Q And looking at the page could you tell us from page one what
9 the diagnosis was of Mr. Huynh at the time he was admitted?

10 A The admission and discharge diagnosis was of a major
11 depressive episode, a single episode with psychotic
12 features.

13 Q So what does psychotic features mean to you? I mean, what
14 do you understand psychotic features?

15 A Psychosis is not necessarily diagnostic of a specific
16 illness, it really refers to a group of symptoms that a
17 patient can manifest that include disorganized thinking,
18 hallucinations, delusions which are false fixed beliefs that
19 aren't held by others.

20 Q Okay. So please tell the Court whether you diagnose --
21 whether you found him to have psychotic features when you
22 checked him out? When you examined him?

23 A So Mr. Huynh had reported hearing a voice that he at times
24 characterized as a ghost in his head or an urge and other
25 times a voice. And so that diagnosis is -- well, the

ADDENDUM 70

1 inclusion of the psychotic features qualifies is intended to
2 capture that manifestation of his illness.

3 Q And I noticed that when he was discharged the same things
4 were found, correct?

5 A Yes.

6 Q So is this an active finding from you or is it just what he
7 told you? I want you clarify to the Court was he -- when
8 you examined him was he found to have some level of --

9 MR. ANUNOBI: Your Honor, I apologize. Sorry. I
10 will just take it off. I'm so sorry.

11 BY MR. ANUNOBI:

12 Q Now at the time you examined him, was it a finding you made
13 that he had psychosis? Will you tell the Court one way or
14 the other?

15 A It -- it was. Often times that is related to what a patient
16 states to you. He also exhibited a positive full output
17 consistent with someone who's had some psychosis.

18 Q So it is correct to say that he had psychosis?

19 A Yes.

20 Q Now, Doctor, and this was what you saw between the 5th and
21 the 15th?

22 A We saw it from approximately the 5th to around the 10th. I
23 think he -- he had significant improvement with the
24 treatment and the psychosis remitted.

25 Q Okay. Now -- now I also note that -- and I will refer you

1 to page four of that record. And if you look at
2 paragraph four of that record on page four -- if you look at
3 paragraph four.

4 A Okay.

5 Q Looking at paragraph four does it say -- looking at
6 paragraph four, line three -- does it say anything about
7 when his hallucination -- well, when his auditory
8 hallucinations and psychosis resolved? Did it say anything
9 about when it resolved?

10 A It noted, "the auditory hallucinations slash psychotic
11 features resolved by day five."

12 Q And by day five of admission, correct?

13 A Of admission to inpatient psychiatry.

14 Q And if he was admitted inpatient psychiatric on the 5th of
15 April from what you said, that means it would have resolved
16 by the 10th of April?

17 A Correct.

18 Q That means that before the 10th of April he had psychosis?

19 A Yes.

20 Q And I also would refer you to page four, line two. And on
21 page four, line two it talks about -- sorry. Page four,
22 paragraph two, line two, right? It talks about depressive
23 ruminations. Could you explain that, Doctor, in a way so
24 that we can understand you?

25 A Certainly. The depressive ruminations would be basically

ADDENDUM 72

1 someone perseverates on, I guess -- how to put it -- macabre
2 thoughts or some such negative thoughts that the person just
3 continues to -- to persevere over.

4 Q Okay. And then you also stated that -- and that is in
5 paragraph two also line two, that -- okay. You've already
6 explained auditory hallucinations and in line three you
7 talked about voices and/or ego-dystonic urges. Do you see
8 that?

9 A Yes.

10 Q What does that mean?

11 A So an individual can complain of hallucination or report
12 that they hear a voice in their head.

13 Q Okay.

14 A That could be a hallucination or it could be their own
15 self-talk. In other words, a lot of people may hear a voice
16 in their head, but it's not necessarily a true
17 hallucination.

18 Q Yes.

19 A Typically most people describe it as emanating from outside
20 themselves.

21 Q And it is correct to say that these things were happening to
22 him?

23 A As he reported, yes.

24 Q Okay. Now it also states in line four that he had insomnia
25 and early morning awakening. Would that be typical of

ADDENDUM 73

1 people in that condition?

2 A Typical of depression, yes.

3 Q Okay. So insomnia means that -- is it correct to say that
4 insomnia means that he could not sleep?

5 A Yes. Yes. A disturbed sleep pattern.

6 Q And that's if he does sleep he wakes up very early in the
7 morning?

8 A Yes.

9 Q Okay. And then you also -- there is also stated in
10 paragraph five that he had what is described as psychomotor
11 slowing. What is psychomotor slowing?

12 A Psychomotor slowing is a literal slowing down of typical
13 voluntary motor movements. So individuals who are severely
14 depressed literally move slower or have less spontaneous
15 movement as compared to individuals who are not depressed.

16 Q And how does it affect their ability to perceive words
17 spoken to them?

18 A It wouldn't necessarily affect that capacity, it's more
19 motor manifestation of depression.

20 Q Is there a slow down in their thinking when they have this
21 situation?

22 A It's possible, yes.

23 Q Okay. And because of that slow down is it correct to say
24 that the brain communicates slowly to the body what to do?

25 A Yes.

1 Q Now, Doctor, it is also mentioned in line -- line five that
2 he was given a medication called Mirtazapine?

3 A Correct.

4 Q Could you please tell us what Mirtazapine does?

5 A Mirtazapine is a antidepressant medication.

6 Q Okay. And does Mirtazapine have side effects?

7 A Certainly, yes.

8 Q Would drowsiness be part of the side effects?

9 A It's a potential side effect, correct.

10 Q Would dizziness be part of it?

11 A Possible but less frequent.

12 Q How about abnormal dreams?

13 A Not a typical side effect of Mirtazapine, but possible.

14 Q Okay. Now essentially if you look at that document the last
15 line is -- it says he was given medication. The last line
16 of page four, sorry.

17 A Oh, okay.

18 Q Yes.

19 A Correct.

20 Q That he was given some medication, right?

21 A Yes.

22 Q And it says he was given a 30-day supply of medication,
23 correct?

24 A Yes.

25 Q Okay. And, Doctor, for the medication what kind of

ADDENDUM 75

1 medication would he typically be given?

2 A He was given -- and if I can refer to a later page in the
3 document -- he was given a supply of Remeron which is the
4 antidepressant medication.

5 Q Yes.

6 A Plus a medication to use as needed called Ativan or
7 Lorazepam, it's an antianxiety medication and also Melatonin
8 to assist with sleep. There were other nonpsychiatric
9 medication also given.

10 Q And do these medication any way cause sleepiness?

11 A Melatonin is a natural hormone that people use to try to
12 induce sleep, Remeron could have the potential side effect
13 of sleep, and Ativan also could make you drowsy.

14 Q Okay. So if -- and of course you also referred him to -- is
15 it correct to say that upon discharged he was referred to be
16 seen by Scott County?

17 A Yes.

18 Q And that means he will be receiving medication from Scott
19 County?

20 A Yes. He would essentially -- his management would be taken
21 over by Scott County Mental Health Services.

22 Q Okay. Now, Doctor, the next thing I was going to ask you
23 had to do with the same page four, under paragraph two. And
24 if you look at the -- at the last -- line five actually.
25 You said you discussed with the patient various options

1 about treatments. In other words, there is options of
2 antidepressants or anxiety medications we discussed. Would
3 that be correct?

4 A Yes.

5 Q Okay. And so you also mentioned you given the option of
6 ECT?

7 A Correct. That was discussed.

8 Q What is ECT, doctor?

9 A ECT is electro convulsive therapy. It's putatively the most
10 affective antidepressant treatment there is.

11 Q And how does it work?

12 A It's --

13 THE COURT: Counsel, I'm sorry. I'm going to
14 interrupt this. This is treatment he received after the
15 date of the statement?

16 MR. ANUNOBI: That is correct.

17 THE COURT: How is this relevant to my analysis
18 about the voluntariness of the March 30th statement?

19 MR. ANUNOBI: Your Honor, it is relevant because
20 it shows what he was experiencing at that time and the
21 treatment he was getting was part of his condition before
22 the -- I mean before and after the date he was interviewed.

23 THE COURT: Okay. But I don't need to know -- I
24 don't need the doctor to explain to me a treatment that was
25 discussed with him that he didn't have. I don't know why

ADDENDUM 77

1 this doctor needs to explain ECT to me when this patient did
2 not have it.

3 MR. ANUNOBI: No, the patient had ECT after --
4 after the doctor saw him. After he was seen by the doctor.

5 THE COURT: You gave him ECT?

6 THE WITNESS: No.

7 THE COURT: Okay.

8 MR. ANUNOBI: Oh, okay. Okay. Okay.

9 THE COURT: All right. Let's move on.

10 BY MR. ANUNOBI:

11 Q Now, Doctor, in the light of all your examinations of the
12 patient and all your treatments, I would like you to say
13 what is probably likely true or not true about him
14 considering all the circumstances from what you saw. Could
15 you comment on his mental health condition before you saw
16 him?

17 A I could not. I mean, it would be supposition on my part to
18 proffer any statement regarding -- I hadn't evaluated him at
19 that point.

20 Q Okay. Now after you evaluated him is it correct to say --
21 you've already said he's suffered from psychosis at the time
22 you evaluated him. Would that be a continuing situation
23 from the time that he had the accident?

24 A It's -- I can -- perhaps I can answer that the consult
25 service, Dr. Ward had also made an observation of that or

1 had brought that up as a potential.

2 Q Possible potential?

3 A As a potential that he was manifesting.

4 Q Okay. So he was manifesting psychosis before he saw you?

5 A According to the record, yes.

6 Q Okay. And you reviewed the records of this patient before
7 coming here, right?

8 A Yes.

9 Q And from what you saw of the patient's records and your
10 examination -- your examination of him and all the records
11 in totality he had -- he had a type of psychosis?

12 A When I saw him, yes. Yeah, he manifested those symptoms.

13 Q And from your experience in this field and from what you
14 saw, did the psychosis -- is it correct to say the psychosis
15 manifested from the time he had the accident?

16 A I don't know that. I don't think I can state that is true
17 or not true.

18 Q Okay. But on the day you saw him you --

19 A Yeah, the day I saw him I can answer to that.

20 MR. ANUNOBI: I have no further questions.

21 THE COURT: Mr. Kelm?

22 MR. KELM: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. KELM:

25 Q So some of this it's a little over my head, I get a little

ADDENDUM 79

1 confused. So I just want to clarify a few things.

2 A Okay.

3 Q Technically what was the diagnosis that you gave the
4 Defendant?

5 A It was of a major depressive episode with psychotic
6 features.

7 Q So when you say psychotic features, that means he
8 self-reported hearing voices, correct?

9 A Correct.

10 Q Was there anything else that leads you to call it featuring
11 psychotic features or whatever?

12 A Yeah. There was -- there's a question as to of course with
13 anyone who reports that, are they truly hallucinating or
14 not.

15 Q Mm-hmm.

16 A He did not manifest any abnormality of thought form, which
17 is something that we do look for. He did show other aspects
18 that we tend to see in more severe depression such as
19 psychomotor slowing. So it would be consistent as potential
20 psychotic manifestation of the depression.

21 Q So that's what you used to try to distinguish was it a voice
22 inside his head or a true psychotic kind of voice?

23 A Yes.

24 Q And so again you're just kind of going off of that and what
25 he tells you?

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1 A Correct. Yeah.

2 Q But you said -- maybe I don't state this right so correct me
3 if I'm wrong -- but you're saying his thought process at the
4 time though was normal?

5 A His thought process was normal in terms of stringing
6 thoughts together and the output. It was on the whole
7 reduced which is typical in depression.

8 Q Okay. So he could understand what you were telling him,
9 correct?

10 A Yes.

11 Q And he could answer questions that you asked him, correct?

12 A Correct.

13 Q And he understood what you were talking about based on what
14 you were observing?

15 A I believe so, yes.

16 Q And again, this wasn't until April 5th, correct?

17 A I first saw him April 6th. So yes.

18 Q Okay. So you never did see him on March 30th, correct?

19 A I did not.

20 Q And just to clarify, you say that psychomotor slowing is
21 just what it sounds like. His motor functions slow down,
22 not necessarily his brain function?

23 A Correct. Yep.

24 Q And counsel asked you about a time you were speaking about
25 different treatment that was possible. Would you talk to

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1 someone about possible treatment options. If you didn't.
2 think they understood what you were talking about?

3 A No. Well, I mean you'd explain the options, the question of
4 their capacity to make a decision would begin another
5 discussion of course.

6 Q And so in this case you had that discussion with him, you
7 didn't note that he was not understanding you, correct?

8 A Correct. Correct. Yeah.

9 Q So you felt discussing with him personally treatment
10 options?

11 A Yes.

12 Q And again just to clarify, sitting here even though you have
13 a ton of training, been a doctor for a long time, you
14 couldn't give any opinion on his mental state on March 30th,
15 could you?

16 A Not in my current role.

17 MR. KELM: I have nothing further, Your Honor.

18 THE COURT: Anything else, Mr. Anunobi?

19 MR. ANUNOBI: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. ANUNOBI:

22 Q Doctor, when somebody's motor functions slow down, it could
23 be a result of brain function?

24 A The -- the two -- yes. So yes -- okay.

25 Q So they're connected?

1 A Yes.

2 Q Okay. Now, Doctor, also from what you said -- or from what
3 you saw on March 5th, it is consistent -- it is possible
4 that he had -- he had that condition as of March 30th? What
5 you saw on April 5th it is very possible that he had that
6 condition on April 30th?

7 THE COURT: On April 30?

8 MR. ANUNOBI: In other words -- sorry.

9 THE COURT: March 30th.

10 MR. ANUNOBI: March 30th. Forgive me, Your Honor.

11 BY MR. ANUNOBI:

12 Q So from what you saw on March 5th?

13 THE COURT: Nope.

14 BY MR. ANUNOBI:

15 Q It is correct to say that -- is it correct to say it didn't
16 just start March 5th that that started before then?

17 THE COURT: I'm sorry. He's screwing up those
18 dates for you. It's making it confusing.

19 MR. ANUNOBI: I'm sorry.

20 THE COURT: We're -- we're trying to establish his
21 mental capacity on March 30th.

22 THE WITNESS: Right.

23 THE COURT: You saw him on April 5th. Can you --
24 can you extrapolate back and say he might have been better,
25 he might have been worse, he might have been the same?

1 THE WITNESS: It would be in some ways
2 supposition, but he probably was about the same as when I
3 saw him. I don't think he had a ton of -- a lot of
4 intervention prior to transferring over to psychiatry.
5 So --

6 THE COURT: Thank you.

7 BY MR. ANUNOBI:

8 Q In fact the reason why he was transferred to you was because
9 there was a need for further intervention on him; is that
10 correct?

11 A Yes.

12 Q So it is correct to say that if he didn't have a problem, he
13 wouldn't have come to see you?

14 A Correct.

15 Q Now, Doctor, you -- when you were talking with him did you
16 note any -- any abnormalities in his behavior?

17 A He was somewhat regressed. Again didn't move much, was
18 sullen, but nothing that was bizarre or truly odd.

19 Q Okay.

20 MR. ANUNOBI: I have nothing else to ask. Thank
21 you.

22 THE COURT: Anything else, Mr. Kelm?

23 MR. KELM: No, Your Honor.

24 THE COURT: Thank you so much, Doctor. You may
25 step down.

1 THE WITNESS: Should I --

2 THE COURT: Is that your copy or is that mine?

3 THE WITNESS: It's the -- yeah. Court's copy.

4 THE COURT: You better leave it here on the --
5 just leave it here on the -- thank you.

6 THE WITNESS: You bet. Thank you.

7 THE COURT: Let's go off the record for a minute.

8 (Discussion was held off the record.)

9 THE COURT: Good afternoon, Ms. Thao. You need to
10 take whatever you have out and I'll have you approach the
11 Bench, please. Just come on up here. And raise your right
12 hand.

13 | THAO KAY HARVEY,

14 the Witness in the above-entitled
15 matter, after having been duly sworn,

16 testifies and says as follows:

17 THE WITNESS: Yes, I do.

18 THE COURT: Thanks. Have a seat. Once you're
19 settled there, can you give me your full name, spelling
20 first and last.

21 THE WITNESS: My full name is Thao Kay Harvey.
22 First name is Thao, T-H-A-O, my last name is Harvey,
23 H-A-R-V-E-Y.

24 THE COURT: Thank you. Go ahead, Mr. Anunobi.
25

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DIRECT EXAMINATION

BY MR. ANUNOBI:

Q You live in Minnesota, do you?

A I do live in Minnesota.

Q Okay. Burnsville?

A No, I live in Rosemount. Burnsville is my office.

Q Okay. What do you do for a living?

A Right now I self-employed. I own my business.

Q And what is your business?

A Right now I do travel agency. I do a lot visa and passport for Vietnamese people to go back home.

Q Okay. Now do you know Kim Huynh?

A Yeah, I do.

Q Who is Kim Huynh?

A Kim Huynh is -- before, actually seven years ago I been working for them in the nail salon before I own my business.

Q Okay. Is she related to Mr. Michael Huynh?

A Yeah.

Q And --

A I know them.

Q You know Michael Huynh?

A I do.

Q He's sitting here beside me?

A Yes.

Q Okay. Now -- and what are you to Ms. Huynh? You are

ADDENDUM 86

1 friends?

2 A Before it was a boss and later we are friend. We are
3 Vietnamese so sometimes we get together and we talk, but I
4 just work for them like a few months.

5 Q Okay.

6 A Yeah.

7 Q Okay. Now I want -- I wanted to go back to March 29th,
8 2022. Do you remember that date?

9 A That day around 4:00 in the morning I got a phone call from
10 Kim Huynh. She call me about Michael not home. Before that
11 she told me she had the meeting with the police in the
12 police station in Shakopee and she need me help to drive her
13 because she doesn't drive. So she called me in the morning
14 4:00, I remember early 4:00 morning she said Michael he not
15 home and he don't -- she don't know where's him. So she
16 tried to call me. Told Michael to find out where is he, but
17 I tried to call Michael but Michael never pick up the phone.
18 So next morning she got a meeting I remember 7:00 in the
19 police station. So I drove her there and my just outside
20 waiting for her when she go inside the police station and
21 then later about maybe hour or something she come back and I
22 drove her back home. When we back home we started to find
23 out we -- I saw the police -- state patrol in front of the
24 house to ring the door. So I told her to come down to take
25 a look to see why the state patrol looking something for

ADDENDUM 87

1 you. So the state patrol come down and say Michael he have
2 car accident around 6:00 something in the morning and that
3 time he in St. Michael [sic] hospital, the emergency room.

4 Q Okay.

5 A And then Kim Huynh last time she know what to do so I just
6 drove her to the hospital.

7 Q Where was the hospital?

8 A St. Michael [sic]. St. Michael [sic].

9 Q Are you sure? Would that be --

10 A St. Francis. St. Francis. Sorry.

11 Q Okay. And when you went to St. Francis Hospital, did you
12 and Kim see Michael?

13 A I don't see because it is in the emergency room.

14 Q Okay.

15 A They not let me in because I just a friend of Kim Huynh.

16 Only Kim Huynh go in there with him.

17 Q Did you understand -- did -- did you get to understand
18 anything about -- okay. From the hospital after she went
19 there, did you go anywhere else?

20 A Right by the St. Michael [sic] in there the doctor say he
21 need to HCMC downtown in Minneapolis. Be transferred. He
22 go to HCMC.

23 Q Okay.

24 A The hospital there.

25 Q Okay.

1 A So from there I drove Kim Huynh going to that hospital to
2 wait for, you know, for Michael.

3 Q Okay. And when -- when you got to HCMC, did you go in? Did
4 you see Michael?

5 A So when we come there they had one room, we sit there and
6 wait -- Kim Huynh sit there and wait -- and they had
7 interpreter over there too and the doctor come down and talk
8 to Kim Huynh about how his situation. And after then Kim
9 Huynh and I go up to the room to saw him in the room.

10 Q Okay. And when you went to the room, what did you see of
11 him? How did he look when you went to the room?

12 A That time I talk about he dead because all the tubes his
13 body and he don't know nothing and -- in the bed and whole
14 tube in the -- and all the wire around him and talk about he
15 dead. So -- but after then I go home, Kim Huynh and I go
16 home, because the doctor say he cannot do anything over
17 there. So we go home. So from there I didn't saw him for
18 maybe a few months later.

19 Q Okay. Were you asked to come back -- to your knowledge were
20 you asked to come back again?

21 A No, I didn't come back.

22 Q No, I mean was his wife asked to come back again? Do you
23 know?

24 A I -- you know, I'm really busy.

25 Q Okay.

1 A So I didn't ask to go. I said okay. I got so many things
2 going on in my business and she had her family -- his
3 family.

4 Q That's all. That's all I have for you.

5 MR. ANUNOBI: I have no further questions.

6 THE COURT: Okay. Any questions, Mr. Kelm?

7 MR. KELM: Just briefly, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. KELM:

10 Q Do you recall what day you saw the Defendant?

11 A I don't know it's -- I remember -- I don't remember exactly
12 the date at that time.

13 Q So would you say it was the first day he was at HCMC?

14 A That's the first time -- first day and the last day too.

15 Q And so if I told you that was March 29th, would you have any
16 reason to disagree with that?

17 A I'm -- because I'm not sure. I don't remember exactly. So
18 I'm --

19 Q Okay. But if that was the first day he was there, was
20 March 29th, you would agree --

21 A If the day is 29th that's the day I'm there.

22 Q Okay.

23 A Yeah.

24 Q And you didn't see him the next day, correct?

25 A No.

ADDENDUM 90