

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

**MARY WEBB, individually, and in
her capacity as Administratrix of the
Estate of Robert A. Webb,**

Plaintiff,

v.

Civil Action No. 5:09-cv-1253

**RALEIGH COUNTY COMMISSION;
SHERIFF DANNY MOORE, individually, and in his
official capacity; CHIEF DEPUTY STEVE TANNER,
individually and in his official capacity;
DEPUTY GREG S. KADE, individually and in his
official capacity; and DEPUTY JOHN E. HAJASH,
individually and in his official capacity,**

Defendants.

**DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION IN LIMINE TO PRECLUDE REFERENCE
TO OR EVIDENCE CONCERNING TAPE RECORDED
CONVERSATIONS BETWEEN THE DEFENDANTS**

NOW COME the Defendants, the Raleigh County Commission, Sheriff Danny Moore, individually and in his official capacity, Chief Deputy Steve Tanner, individually and in his official capacity, and Deputy Greg S. Kade, individually and in his official capacity (hereinafter collectively referred to as "Defendants"), by and through their counsel, Chip E. Williams, Ashley L. Justice and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, pursuant to the Federal Rules of Evidence, and for their Reply to Plaintiff's Response to their Motion in Limine to Preclude Reference to or Evidence Concerning Tape Recorded Conversations Between the Defendants, state as follows:

The Plaintiff's Response fails to set forth any basis for which the audio tapes at issue are relevant to making the existence of any consequential fact more or less probable than it

would be without the tapes. Furthermore, even if the tapes are found to be relevant, the probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues and misleading the jury.

Although the Plaintiff asserts that the substance of the conversations supports Plaintiff's allegations of negligence, civil conspiracy, negligent hiring, training and supervision and intentional infliction of emotional distress, the Plaintiff does not delineate any valid explanation as to how the private conversations bear any weight on any element of these causes of action. Rather, the Plaintiff asserts that the conversations call into question the internal investigation into the shooting, cause emotional distress to the Plaintiff and call into question the hiring, supervision and retention of deputies for the Raleigh County Sheriff's Department. In actuality, these conversations have no bearing on any element of the causes of action asserted by the Plaintiff.

First, the tape recorded conversations took place many months after the incident of which the Plaintiff complains and after the investigation into the incident was complete. As indicated by Deputy Hajash's Responses to Requests for Admissions, Deputy Hajash continued working for the Raleigh County Sheriff's Department for eight and a half months before taking medical leave. [See Plaintiff's Exhibit C, Deputy Hajash's Responses to Requests for Admissions, Response to Request No. 21.] The substance of the conversations between Deputy Hajash and Defendants Moore and Tanner concerned Deputy Hajash's return to work from medical leave. In order to assist Deputy Hajash in dealing with the psychological impact of a shooting, Chief Deputy Tanner encouraged Deputy Hajash to talk about the shooting incident. Specifically, Defendant Tanner stated as follows:

Q: Well, if it's the shooting, it's how you need to come

to terms with the shooting; right? Okay. So what do you think is the best way to come to terms with it?

A: Talk about it with somebody.

Q: So when are you going to do that? It's been long enough now.

A: I just don't know if (inaudible) can help me though.

Q: Well, you need to talk about it. You've never talked about it. Why not?

A: Nobody's ever asked me here about it and I remember we was told not to talk about it.

Q: That isn't true John. Your mother's asked to hear about it, your girlfriend's had to ask you what happened, tell me about it; your mother hasn't said that (inaudible) happen to asked you if you wanted to talk it through?

A: I can't remember.

Q: A lot of people have. A lot of people have. You've not heard it, but they're asking.

A: And nobody didn't want to talk about it, because they just didn't want to, and then —

Q: Well, they don't have to. They don't have to (inaudible).

A: I really wasn't supposed to say nothing about it.

Q: That isn't true. No, that isn't true. Tell me about the shooting?

A: Where do you want me to start?

[See Transcript of Hajash and Tanner, attached hereto as Exhibit A, pp. 42-43.] Obviously, the purpose of the conversation was the assist Deputy Hajash in dealing with the psychological repercussions of being forced to shoot in the line of duty. The conversations were not part of any internal investigation into the shooting.

The Plaintiff asserts that the tape recorded conversations give a different account of the events than the official investigation; however, the Plaintiff is apparently unable to cite to any specific portions of the conversations that differ from the official investigation as they are consistent. The Plaintiff's assertion that the audio tapes "explain that the deputies waited until Robert Webb was turned away from them at which point they ran down the dark street to cut the distance between them" is unfounded. In the audio tape of Deputy Hajash and Chief Deputy Tanner, Deputy Hajash states that after Robert Webb's music cut off and they could see that he didn't appear to have anything in his hands, they decided to approach him so as not to startle him. [Id. at pp. 48.] Plaintiff is attempting to create a discrepancy between the audio tape conversation and the internal investigation where there is none.

Second, the Plaintiff asserts that Sheriff Moore "admits during these audio tapes that he was hesitant to hire John Hajash to work as a deputy and asserts that Mr. Hajash may not have the skills necessary to perform that type of work." Once again, the Plaintiff has mischaracterized the substance of the conversation. The content of the conversation reveals that Sheriff Moore advised Deputy Hajash that he was hesitant about his age, but Sheriff Moore does not state that he did not believe Deputy Hajash had the skills necessary to

perform the job. The portion of conversation dealing with this issue is as follows:

Sheriff Moore: Yeah, we have a chain-of-command, but something like this, though, it's not—we talk about you all the time and we talk about you (inaudible) and all. Do you remember the first time you came up here?

Deputy Hajash: Yeah.

Sheriff Moore: Wanted us to hire you. You was, what, 18?

Deputy Hajash: Yeah.

Sheriff Moore: Passed everything. And what did I tell you?

Deputy Hajash: Too young.

Sheriff Moore: Yeah. And I was hesitant. The second time I was real hesitant about hiring you because of your age and but, by law, you were considered an adult. Do you remember some of the things we talked about.

Deputy Hajash: Some of them.

Sheriff Moore: About what could happen?

Deputy Hajash: Yeah.

Sheriff Moore: Okay. If you couldn't handle it or not, yeah, you know, you assured me. Well, the first thing I want to ask you, and you explain it to me because I'm having a hard time understanding. What makes you

think you took the life of Webb?

Deputy Hajash: What do you mean?

Sheriff Moore: Just think. What makes you think you took
his life? You shot him.

Deputy Hajash: And one of my bullets hit him.

Sheriff Moore: Yeah, but it hit him. That's all it did. He
was shot first by who?

Deputy Hajash: Kade.

[See Transcript of Hajash and Moore, attached hereto as Exhibit B, pp. 3-4.] After reviewing the substance of the conversation, it is obvious that Sheriff Moore was explaining to Deputy Hajash that due to Deputy Hajash's young age, Sheriff Moore was concerned about Deputy Hajash's ability to deal with the psychological impact of being forced to shoot a subject. Sheriff Moore specifically stated that Deputy Hajash passed all of the requirements to become a deputy sheriff. During Deputy Hajash's deposition, he further explained that although he made it through to the final stages of the interview process, his age originally prevented him from being hired by the Raleigh County Sheriff's Department:

Q: Okay. Did you ever speak to Sheriff Moore at all
about a position at that point?

A: Not that time, I don't believe. I didn't speak with
him.

Q: And you were 18 at that time. Correct?

A: Yes.

Q: Do you know why you didn't get the oral interview?

A: They said because I still had a junior operator's license because I got them when I was 16. And where I turned 18, you don't renew them till you're 21 which that means it's an adult operators and I still had juniors.

Q: Okay.

A: They said insurance wouldn't cover it for me to drive their vehicles.

[See Dep. Tr. of Hajash, attached to Plaintiff's Response as Exhibit A, pp. 15-17.] Sheriff Moore does not indicate that he felt Deputy Hajash did not have the skills to perform his job as a deputy. In addition, the Plaintiff asked Sheriff Moore about his concern over Deputy Hajash's age, and Sheriff Moore acknowledged that he was concerned about Defendant Hajash's age:

Q: Okay. Let's talk about Deputy Hajash for a couple minutes?

A: Okay.

Q: Apparently, he, at one point, tried to get a job with you and you refused to hire him as an officer?

A: Correct.

Q: Can you tell me when that was?

A: Well, I don't know when it was, but he was about 18 years old.

Q: Okay.

A: And I was uncomfortable with that.

Q: Okay. Why were you uncomfortable with that?

A: Because he was 18 years old.

Q: You felt like he was too young?

A: Yes, sir.

[See Dep. Tr. of Sheriff Moore, attached to hereto as Exhibit C, p. 15.] If the Plaintiff wishes to use Sheriff Moore's concern about Deputy Hajash's age to assist in proving some element of a cause of action, this evidence has already been obtained through the deposition testimony of Defendants Moore and Hajash. Presenting the audio tape would be a waste of time and needless presentation of cumulative evidence, in addition to being prejudicial to the Defendants.

Third, the Plaintiff asserts that the tapes are relevant to proving that the Defendants "were conspiring to have a deputy place (sic) on the street whom they knew had been found unstable and unfit for duty." Although the Plaintiff's assertion is untrue, even if it were true, it is difficult to imagine how such allegation is relevant to the shooting incident with Robert Webb that occurred over 8 months prior. Any psychological condition or impact suffered by Deputy Hajash as a result of the shooting would not have been present at the time of the shooting. Therefore, such evidence has no relevancy to this action.

Fourth, the Plaintiff asserts that "the jury should be made aware that the officers have said these things regarding the deceased and explained to a young officer that part of his job is to execute the citizens of Raleigh County on their own property." Such a statement was not made by any of the Defendants and is unsupported by any of the transcripts of depositions and conversations in this case.

Finally, the Plaintiff asserts that the statements on the audio tapes “were recorded by one of the Defendants and later delivered to the Webb family only by and through the acts of that Defendant.” Although the Plaintiff apparently wants the Court to believe that Defendant Hajash recorded the conversations in order to provide them to the Plaintiff, that is not the case. Deputy Hajash testified during his deposition that he recorded the conversations because he believed he may be fired for being off on medical leave. [See Dep. Tr. of Hajash, attached to Plaintiff’s Response as Exhibit A, pp. 138-139.] Deputy Hajash further testified as follows:

Q: When you gave these tapes to this third party, did you explain you wanted these tapes preserved for the Webb family in case something happened to you?

A: No, I never said that.

Q: Okay. Why did you tell this third party—well, how many third parties did you give them to?

A: I tried to get them transcribed one time through Keith Harold and Bob McComas was supposed to keep them just in case something happened to me or somebody broke in my house and took them.

Q: Okay. What were you concerned about happening to you that would require you to give these tapes to a third party?

A: He just said something like they might try to come and kill me or something, just put all kinds of crazy

ideas out in the air for me to reach up and grab, I guess.

Q: Okay.

A: So I told him to keep them at his house. That way nothing could happen to them.

Q: Okay. And what were the discussions that occurred on these audiotapes?

A: Just about me being off on medical leave.

Q: Okay. Was the shooting of Robert Webb discussed on these audiotapes?

A: The shooting itself because that's what was part of my problem.

[Id. at pp. 141-143.]

Robert McComas, who had possession of the tapes given to him by Deputy Hajash, confirmed during his deposition that Deputy Hajash was concerned about being fired from his job because he was off work with health issues, he asked for Mr. McComas's assistance in finding an attorney, and he asked Mr. McComas to keep the tapes as he was afraid they would go missing. [See Dep. Tr. of McComas, attached to Plaintiff's Response as Exhibit B, pp. 18-22.] When asked about the substance of the conversations on the audio tapes, Mr. McComas testified as follows:

Q: And, again, from the tapes you heard of both Sheriff Moore and Chief Deputy Tanner, in the context that

those conversations occurred, would you agree with me that it appeared that both Chief Deputy Tanner and Sheriff Moore were simply trying to get Deputy Hajash back into a frame of mind to where he would be able to come back to work?

A: Yes, sir. I would agree with that.

[Id. at p. 25.] When asked about the manner in which the audio tapes were provided to the Plaintiff, it was revealed that it was Robert McComas, not the Defendants, who disclosed the substance of the audio tapes to the Plaintiff and her attorneys:

Q: How did you first get in contact with Mary Webb concerning this matter?

A: A friend of mine, who is no longer working for me, which is in the Philippines, moved to the Philippines, named Mac McMillion, knew Elmer Redden, and was at the house when John Hajash come to my house one evening and was talking about all this stuff. And he went and told Elmer Redden that, you know, what John Hajash had said to him. And then, you know, I was contacted, you know, by Mr. Redden about it and I told him, I said, you know, I'm not really—you know, if you want to talk to Mr. Hajash about it, or whatever, you can, but I said—at this point, I didn't really have much to say to him, I

just kind of blew him off.

Q: So Mr. Redden contacts you, asks you about your conversation with Hajash and at that point you blew him off?

A: I blew him off and then he called me back again and he said he understood there were some tapes. And he had got that information from Mr. McMillion which, like I said, is no longer in the country, he's in the Philippines with a Philippine woman, living over there. And I told him, yeah, that there is some tapes and that, you know, John Hajash has some tapes. And, you know, pretty much, at that point, I had told him the truth, I said, yeah, there's some tapes floating around that has a conversation with the sheriff and Chief Deputy on it. And Mr. Redden, in the course of his conversations with me, was relatively pretty upset with the Sheriff's Department because they had let Rob Webb lay in the driveway and wouldn't let nobody touch him, and in front of Ms. Webb's family and wouldn't get any counseling or anybody up there to soothe the family, because he's a neighbor and he's good friends with the Webbs, and he told me all this.

[Id. at pp. 30-32.] The Defendants did not provide the audio tapes to the Plaintiff and

certainly did not request that such tapes be provided to the Plaintiff. Therefore, the Plaintiff's argument that the tapes are admissible as they were provided to the Webbs by the Defendants is inaccurate. Furthermore, the manner in which the tapes came into the possession of the Plaintiff has no bearing on whether the tapes are relevant.

In conclusion, it is clear from all of the testimony in this case as well as the substance of the audio tapes that Sheriff Moore and Chief Deputy Tanner believed that they were having private conversations with Deputy Hajash and were attempting to assist him with the psychological ramifications of being forced to shoot in the line of duty. The Plaintiff has failed to show how these tapes are relevant to making the existence of any consequential fact more or less probable. Furthermore, even if the tapes have some relevance, their probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, misleading the jury, waste of time and needless presentation of cumulative evidence. Accordingly, the tapes should be excluded from the trial of this matter.

WHEREFORE, pursuant to the Federal Rules of Civil Procedure, the Defendants pray that this Honorable Court grant Defendants' Motion in Limine to Preclude Reference to or Evidence Concerning Tape Recorded Conversations Between the Defendants. The Defendants also request any other and further relief as this Honorable Court may deem just and proper.

RALEIGH COUNTY COMMISSION; SHERIFF
DANNY MOORE, individually and in his official
capacity; CHIEF DEPUTY STEVE TANNER,
individually and in his official capacity; and
DEPUTY GREG S. KADE, individually and in his
official capacity
By Counsel,

/s/Ashley L. Justice

Chip E. Williams, WV State Bar No. 8116

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individually and in his official capacity,**

Defendants.

CERTIFICATE OF SERVICE

The undersigned, counsel of record for Defendants, does hereby certify on this 24th day of November, 2010, that a true copy of the foregoing **“Defendants’ Reply to Plaintiff’s Response to Defendants’ Motion in Limine to Preclude Reference to or Evidence Concerning Tape Recorded Conversations Between the Defendants”** was served upon opposing counsel via electronic filing and by depositing same to them in the U.S. Mail, postage prepaid, sealed in an envelope, and addressed as follows:

Michael A. Olivio, Esquire
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/s/Ashley L. Justice

Chip E. Williams, WV State Bar No. 8116

Ashley L. Justice, WV State Bar No. 10238

(Background noise and inaudible conversation between unknown parties prior to the conversation between Chief Deputy Tanner and Deputy Hajash.)

BY CHIEF DEPUTY TANNER:

Q I've got a couple things in here, and I'm just to make sure that things are where they need to be. What is happening with you? I've got two different letters of -- I've had it here on my desk somewhere. I'm not losing my mind. I've got two different -- one from Yee for a sick slip and one from Appalachian Psychiatric for sick slip. What's going on?

A Dr. Yee, I had him do all the tests, the medical tests.

Q What medical tests?

A He did two stress tests, an echocardiogram, blood work. In the hospital, the night I went up there to the emergency room, that was the last night I worked, they did blood work and they gave me an echocardiogram, another one, I think, they did that. I didn't tell Dr. Yee what my problems were. I thought maybe I was having heart trouble, because the hospital said fluid around my heart. I never told him about the shooting, my dreams and stuff like that that's bothering me.

1 Q Uh-huh.

2 A And when he did the test results, he said
3 everything come back normal.

4 Q Uh-huh.

5 A And that's when I told him about that, and he
6 said, "Well, that's a psychological thing. You need to
7 go see a psychiatrist."

8 Q Okay.

9 A And Michael Johnson or -- that's his name,
10 Mike Johnson?

11 Q Mike Johnson.

12 A He hasn't returned my calls in a month.

13 Q Okay. So I have one doctor saying you're
14 unfit for duty, psychologically, which is not true at
15 all, that absolutely will destroy your career, the very
16 thing we're avoiding. I've got another doctor saying
17 you're indefinitely to have time off for chest pain, and
18 that's not true.

19 A Well, he said he was going to take me off
20 until he seen what they can do further with me.

21 Q Do you have chest problems?

22 A It hurts. I mean, I don't have a heart
23 condition, but --

24 Q You don't have fluid on the heart?

A It hurts. I mean, I don't have a heart condition, but --

Q You don't have fluid on the heart?

A No, they couldn't find nothing.

Q You didn't have a massive coronary?

A No.

Q Okay. That's the first rumors, that you've had a coronary, which isn't true; and that you have fluid on your heart, which isn't true. Dr. Yee cannot give you an indefinite sick slip. There's no such thing, unless there's a diagnosis of a problem. You can't just say you're not going to come to work. So Dr. Yee's out of line, and that is not valid.

The next thing is: You applied for Worker's Comp. I would have appreciated it, if you'd checked in and let me know what you're doing. I thought everything's fine. Then I get two doctors' slips, find out that you have a heart condition, that you're not fit for duty psychologically, and that you've applied for Worker's Comp. None of that qualifies for Worker's Comp. Your claim was denied. Do you know what that does to you?

A Huh-uh.

Q It eats all your vacation and sick time up,

and right now, it's not sick time, it's vacation. Do you know you just lost a month of vacation time?

A No.

Q Yeah. It sucks, which is not fair to you; it's not right, and I'm not going to let that happen. Okay? So that's not happening to you, but that is what the law requires, because you're not checking in with anybody. You're calling your own shots and screwing your department, and that was never anyone's intent here.

Who are you seeing, in the way of a psychiatrist, since we've been paying that charge for you?

A Dr. Syed. That doctor seen me the first day that Yee sent me out there.

Q Okay.

A And the next day, I told him about my chest hurting, and he only seen me for about five minutes, and he said to come back later on or call him when I started like that.

Q Well, it's extremely common to have stress-induced chest problems; that's like extremely common. Even I know that, and I didn't stay at a Holiday Inn Express. That's a joke and you can laugh.

Now, my problem is, you are gone until

further notice, you're growing a beard, you're out cutting grass and running around. Meanwhile, you don't have an explanation for being gone, John.

I know that you're acting in good faith, and I know you don't have a devious bone in your body; I know that. I know you're not trying to get away with anything, and I know that; I honestly do. But Dr. Yee can't give you unlimited time off simply because you want it. If he did, how many people would be working here?

A None.

Q Exactly. You think I don't have chest pains every day I come to work? And boy, if I don't have them, when I get here I do. I mean, that's just life.

If there's an organic problem, a physical problem, you have every right to have sick time and time off until you heal up. Now, if it's not an organic physical problem, you don't have fluid on your lungs or your heart, or whatever, then a medical doctor cannot give you an indefinite time off. There's no such thing.

So a doctor can't just give you a free pass to never have to work until you want to. That's not what sick time is. And a doctor's excuse doesn't cover everything. If you have a legitimate condition, it does.

A Uh-huh.

Q He's not giving you a legitimate condition. Your chest has pressure on it. Okay, well, don't go back to work. Okay, that doesn't work. They tested you and you're normal.

A Well, his thing was, he was taking me off, until the psychiatrist seen me and see what he said.

Q It's the psychiatrist's place to do that, not Dr. Yee's place to do that. Dr. Yee can't take you off work for a mental condition, because he's a medical doctor. Do you understand the problems that I'm running into?

A Uh-huh.

Q Dr. Yee has no authority --

A Because he don't practice in that field?

Q -- to take you off work, because you have a mental problem and he's not helping you with it. So what authority, if he's not helping you with it, does he have to take you off work?

A He don't.

Q He doesn't, so that one's out. So the next one is this Dr. Syed work excuse: "John Hajash is under treatment and may be," I'm assuming that's an attempt to spell, "'excused' from work indefinitely until stable."

A He said he wasn't going to write three, six

months, he said, but he needs to see how counseling moves.

Q Okay. That is a real problem. Three to six months off work for what? Don't you think you have a right to know?

A He said he wants me to see somebody else, because he talked to me for probably about an hour, I'd say.

Q Okay.

A And he said that he wants me to come back and see a counselor and, they'll, I think, do tests, whatever kind of tests they do. I don't know. He said the multiple choice test, I guess, to see how I'm thinking and something.

Q You've been off work for a month. Our agreement, that you and I had, was that you were going to go see Mike Johnson and talk to him; that you were going to do that on duty, if you needed to, it just depends on when they set the appointment and that we were going to cover. We would let you -- if I recall, I told you, you could wear blue jeans and drive the cruiser and park away from the place and walk over, or you could take your truck and then do it and drive home, and we would cover the time, and, if you were gone an hour, two hours, it

didn't matter; we were going to take care of it. All that meant you weren't off work, that we were giving you an opportunity to talk and work this out, and get some tools in dealing with your stress.

Now, somehow it went from that to unlimited time off, and I don't see what the issue is; and then I'm asking you and you can't tell me what the issue is. So I'm really concerned on what Dr. Syed --

A Syed, right.

Q All right. Why does Dr. Syed say that you're mentally unstable and not fit for duty?

A He says PTSD.

Q PTSD.

A Post-traumatic stress disorder.

Q Post -- okay.

A He said that's what he thinks its stemming from.

Q When did you go?

A The night of the 14th. My chest was just hurting real, really bad.

Q Now, that's gone. Okay? That's a month ago; right? Since then you're out running around, you're cutting grass, you're doing your chores and activities. How are you doing it?

A Because when I'm off, my chest ain't hurting as bad.

Q Don't be deceptive with me, young man, and tell me what's going on

A What do you mean?

Q -- and how are you doing. Do you want to come back to work here?

A I want to.

Q That's not my question. Are you going to come back to work here?

A Yes.

Q Okay. What is your intention?

A I just want something -- I was wanting help for the chest pains.

Q Okay.

A And I think it's just worrying about coming and --

Q I'm sure it's stress, but you have to deal with that. My problem is, this doesn't seem to have manifested itself until you went to get help. While you didn't have any help and couldn't deal with it, you're doing better than when you get help. That's kind of like you have an illness and you go get the medication to make you better, and you turn to crap. That's not how it's

supposed to work. It's supposed to make you better, you're supposed to get stronger, you're supposed to have tools to be able to deal with this. Instead, what you're doing is, you're spiraling away.

We've lost contact with you. You moved. I don't have a phone number. We don't have any contact. We don't have any history of what's going on. You drop these off. I haven't even seen you in a month, and now it looks like you're taking the summer off. Why aren't you checking in and telling us what's happening and keep us in the loop?

A I didn't know until here -- well, when was it, just a couple of days ago -- I didn't know, I think it was that day, that's when I found out about my test results, because where ARH went on strike, so it's took them forever to get the results back. So I didn't know nothing until then.

Q That isn't my question at all. My question is: Why aren't you checking in and telling us what's going on.

A I didn't know until --

Q Until you know, you could check in, in that month you've been gone and say, "Hey, I don't know, I'm checking my test results; everything seems to be going

okay," or you could have told me, "I talked to Mike Johnson once and turned to crap." We've paid him twice now. If you've seen him once --

A I went twice, and the second time was only just a couple minutes though.

Q Right. So we paid him twice. You could have come in and told me, "This ain't working out, Chief. I've gone from him to him, and here's how it's progressing and what I see going on." What happened there? What happened to the communication flow, that it just completely, instantly stopped?

A I don't know.

Q Sure you do. You're the only who does know, because you're the only one who cut it off. I could have called you, except you changed your cell phone, you changed your home number, you changed your address, and you didn't tell anybody?

A I just changed my cell phone number Saturday.

Q Maybe. I just know when I finally got this and tried to call you, I don't have any information on you now. You don't even have an updated file. So what's going on?

A What do you mean?

Q I mean, what's going on? I don't have an

address for you; I don't have a phone number for you; I don't have a contact for you. If there was a major incident, how would I let you know? If I needed you, how would I let you know?

A I don't know, since I changed my number.

Q I don't either, and that's what I'm asking you.

A I don't guess you could.

Q That's right. How old are you now?

A Twenty-three.

Q At 23 years old, I don't call your mom to get hold of you. You're a deputy; you're a man; you're full grown. This is good as life gets, and I still have to call your mommy. John, that's really not good. I expect more from you. (inaudible) You are a number one, good guy. (inaudible) You're going to be first rate, but this is really -- I don't know if you appreciate how badly you're tearing down everything we're working for, and it's an individual effort on your part.

You went from Mike Johnson to this guy and didn't tell me. So when I get billed I'm not having a clue what they're talking about. We went from handling this internally, when you're at work, to you're suddenly off a month and then give me something, until further

notice, I ain't working here. You come in with a beard, so you have no intentions of coming back to work immediately.

A (inaudible) before I come to work.

Q That's right, brother.

A I mean, that day, that's what I say?

Q Yeah. And my point is, your state of mind is, you ain't coming back to work; that's your state of mind. I don't have an address for you; I don't have a phone number for you; I don't have a way to get in contact with you. You ain't telling me what's going on and you're not stopping by the office, I'm sure, except to pick up your paycheck. You filed for Worker's Comp and you didn't tell anybody. How did you file for Worker's Comp?

A I filled the papers out and sent them in.

Q Uh-huh. Why didn't you let somebody know what you're doing, or did you feel that was a private thing?

A No. I was like everybody was going to hate me, if I told them I was going to do this.

Q Well, if you thought they were going to hate you, why wouldn't you buck up and tell them, rather than let them find out about it when Worker's Comp called and

asked me out of the blue, and I don't know what they're talking about. I'm your employer. You have to let us know what's going on. We're the ones who pay for Worker's Comp. That comes out of the budget here. No one's going to hate you, but I could have saved your (inaudible). Your claim was denied, because it's not a physical injury, and that's what Worker's Comp pays. We have other avenues to take care of you, but you've got to let us in on what's going on. We're here to support you. What happened to you is not your fault on any level, not on any level. It is a horrible, tragic thing that happened to you. It happened to Kade, as well. And we take care of our own. We're here to support and to help you. We're really a family, but you don't get to disown your family and then expect us to (inaudible) everything. It doesn't work like that. It is a family, but you've got to communicate.

A Yeah.

Q Now, I'm really concerned with Syed saying you're unfit for duty. Okay? A little extreme. The problem with that is, is that then he has to say, now that you're fit for duty, you can't come back. If you decided I feel fine, the stress is off and I'm dealing with this and I want to move on with life, you don't get

to come back.

Here's your problem: You have 24 vacation days and 36 sick days. We work a 20-day a month cycle. Since this isn't Worker's Comp, and we subtract your vacation and sick days, guess how many days you have left before you don't get a paycheck here?

A How many?

Q At the end of this month, you don't get paid; you're broke. Then what happens to you? He's going to give you six months off, because you weren't fit for duty and you're not going to get paid? What happens to you, John?

A Lose everything.

Q You lose everything. So we've got to address that. Now, I'm not going to try to get into your head psychologically, because that's not my place, but it is my place to be concerned about you as the Chief, but more as your friend. You, because of your age and your life experience, you're one of the people who can be easily manipulated, because you just haven't seen enough from all angles. It comes with life; it comes with age. It's not against you, but Syed has -- I assume Mike Johnson referred you to Syed and you just didn't pick Syed out of the phone book.

A It's also where Dr. Yee sends -- he send people.

Q So you went from Mike Johnson, under Yee's advice, to Syed.

A Yeah. Mike Johnson never called me back.

Q Well, when you went from Dr. Yee to Dr. Syed, how did you cover that with your insurance?

A What do you mean?

Q I mean, how did it get paid?

A I assumed I was going to have to pay it, since I did it.

Q Okay. Well, we're back to this again. This is what you've done, you've initiated it, and you did this on your own accord. So you tell me what your intentions are?

A I'm wanting -- I want the dreams to go away, is what I want.

Q Okay. That's fine.

A And Mike Johnson is -- he didn't even talk about them, really.

Q And you gave him a whole one-hour lesson. He didn't get to it in time.

A Well, the second time -- he ain't called me though since after the second time.

Q I know about that. But, if you went from him to another doctor, I don't know that he would have any legal right to call you.

If you race cars and Ford is your sponsorship, and you dump your Ford and jump in a Chevy and put a 350 in it, are you going to complain because Ford doesn't call you back? Not if you're in a Chevrolet.

If you're supposed to see Mike Johnson, and Mike Johnson is supposed to help you and walk you through this, and we're supposed to foot the bill, and then you go see Yee, and go from Yee to Syed on your own standard, under another banner of psychiatric services, I'm not sure what Mike Johnson's supposed to do.

Mike Johnson has dealt with this stuff before, with officer-involved shootings, and has cleared a number of officers who have gone under this particular problem, which is why I like Mike Johnson, he's got experience, and he may not have addressed it in what you consider a timely manner.

Now, what I'm stuck with is this: You've gone to a psychiatrist, who is a legitimate MD, who says you are not fit for duty. Now, Mike's not a psychiatrist. Okay?

A Uh-huh.

Q So he's not -- this guy outweighs him. Now, he says you're not fit for duty, you're not stable. What is your intention?

A I hope they can help me out, or whatever, to get rid of the dreams, because when I have dreams, the next day I'm sick, have to go to the bathroom a whole lot and my chest hurts. I just worry a whole lot.

Q Yeah.

A But if I don't have dreams, I'm fine.

Q Okay.

A I just want somebody to help me get rid of them, however --

Q That's what you want?

A That's what I want.

Q I'm asking you what your intentions are. I want world peace, I want to be rich, I want to sell my other house so I'm not indebted. We have (inaudible), and I know what your long-term goal is to secure. I know what's eating at you. I'm talking about what you've done and what you're going to do.

I'm asking you as the co-employer here, your immediate line supervisor and the Chief Deputy, what is your intention? If you're gone three to six months to

undergo this, I'm replacing you. I'll hold your position, but I ain't waiting. If this says your unfit for duty, because you're mentally unstable, which is what this is that you want me to go by, then, yeah, I've got issues. You're screwing yourself to death. What are you going to do?

A I just want help with the dreams. I don't know what to do.

Q You don't have a clue what you're going to do, do you?

A That's all I want.

Q I don't know how to fix it. You kind of passed me over in the chain of things, got into a private sector and got yourself -- you cut your legs out from under you, and I'm not sure I can put them back on you. If you go to a psychiatrist who says you're nuts, and then you give it to me in writing that he says you're not fit for duty, how do I help you? How do I pay for the bill? How do I keep your benefits in place? How do I keep your job open, when it's your doctor, you went to see, without telling me, that says you're not fit.

A I don't know.

Q I don't either and it's a serious issue to you like it is for me. When are you going to see Syed

again?

A I think May 14th is the soonest they can get me in.

Q John, help me out here. If you couldn't get the help you needed from Mike Johnson, after you met him once, so you go to see him, and he can't even get you in until May 14th --

A Well, Mike hadn't called me back in like a month though.

Q Syed hasn't helped you either, has he, other than terminating your career?

A No.

Q Okay. So how did he better you? At least Mike Johnson is handling it under the table, where we can take care of this just out of our pocket and budget and not tell a soul, and keep everything running, and keep all your benefits in place. We've had life going on as usual. This guy ain't even seeing you and shot you out from under everything. There's a huge difference here. The help's exactly the same: none.

A Yeah.

Q But one takes your career away; that would be this one. You've got me really concerned here. What has happened in the month you've been gone? Are your dreams

as frequent?

A No.

Q Okay.

A I think I've two or three, maybe; that's it.

Q Okay. So you've had maybe two or three dreams in a month. You have changed rather dramatically in the last month, have you not? Moved out or moved in?

A No. I moved out -- I think I moved into this house the beginning of February.

Q Okay.

A I'm still working on it.

Q Okay. Now, is this girl living with you?

A Yes.

Q Is this a recent thing? Does it coincide with this?

A What do you mean "recent," like living together or dating or --

Q This girl that's moved in with you recently.

A She moved in when I moved in.

Q I was wondering, when you talk about stress, you have the stress from the shooting. There are life stresses. Going into -- moving out of your mother's home into your own home is a major stress inducement.

A I think it helped me.

Q It does, but that doesn't -- there's good and bad stress, but stress is the same. There's good and there's bad. Okay? I go fishing. I catch me a 25-inch trout. There is stress while I'm fighting it, even though it's a good stress, but it's still stress. Heart rate still goes up, pressure's still there, (inaudible) change, life's different, your body recognizes it, and you change your eating and your sleeping patterns. It's stress. It's not a bad thing. You look forward to it, but it's still that change. It's still the same stress; it's just not a negative.

Now, on top of that, she has moved in with you; another new stress factor. That can also be a very positive stress, but it is still a factor. So you're multiplying your stress.

Here's what happens: When everything else in your life is in check and you have a single stress factor, like the shooting, then the shooting is a single (inaudible). So there's no doubt where that stress is coming from. Okay? It's the shooting. It has to be, because everything is like it was before, when things were fine. Okay?

Now, if there's the shooting and it starts symptoms, but on top of that you move out, you go out on

your own and your girlfriend moves in with you, you're adding other stress factors. It's not a single factor any more. Is it because you're out on your own? Is it because you're footing the bills? Or is it because your girlfriend's moved in with you? Is it because you're picking up those with that, and you have to adjust your schedule to her schedule and have some more accountability in your life? Those are also stressors.

That's also part of an issue, especially if this one is about to break your back and you add more, then you've got real weight coming down. So you're adding stress factors here. That's the only reason I asked. I don't care. It's your place, it's your life and I hope it works great and it's wonderful.

I'm just saying these are other stress inducers. I'm wondering if there's other stress. I know for a fact there's other stress inducers. Your shift.

A I don't think it's that bad. I'd rather stay on that shift than any of the other ones.

Q I have no intention of moving you.

A But, yeah, that shift just didn't -- the 2:00 to 10:00, that's what I like.

Q I have no intention of moving you. How did it go at work?

A I mean, honestly, (inaudible) was a pain when he first took over. I guess, he was micro managing, or whatever you call that.

Q How was that for a stressor?

A It does stress me out, but he quit.

Q And he started again, and I'm sure you've heard it, we got rid of (inaudible). He takes clean conversations and (inaudible) and terminate people.

A I heard he's always done that.

Q Really?

A I've heard he talks a lot and makes -- I don't know.

Q It's just weird. I'm taking him off the road. Kevin Hopkins is taking over the shift the first of May. Okay? (inaudible) That's going to be at least a stressor removed. So the stressors I can control, I can fix.

A Uh-huh.

Q What it leaves me with is, I want, and the Sheriff has demanded from me today, an explanation from you why the change, what your intentions are. I can understand the change. You went to Yee, Yee told you to see (inaudible). I'm with that.

Now, a man has to decide what's in is best

interests: Not Dr. Yee's best interests, not Syed's best interests, his best interests. You did that when you decided Mike Johnson wasn't meeting your needs efficiently, quickly enough, that you went to Syed. So I respect you're trying to help yourself and better yourself and get healed as quickly as you can. I'm with that. Okay?

A Yes.

Q But, now, when Syed says, well, take the summer off, you stop. You don't see him until May, the middle of May, which means a month from now; but in that month, you're hanging out, but you're doing this to help yourself. How's he helping you? I know how he's screwing me.

A He's not helping at all.

Q You've a month off, and you haven't seen a damn soul. But you've got two months, but you haven't gotten any help, nothing; but you got two months off. So now that it's not Worker's Comp, your two months cost you all your vacation and your sick time. So now, you're without a paycheck.

So when the Sheriff asked me, what's your intention, I can't tell him you want the dreams to go away; that's not an answer. That's like saying a

screwdriver works better than a hammer. That may be true in some applications, but it doesn't address my question to you: What are you going to do?

A I don't know what kind of answer you're looking for on that.

Q Are you going to wait until May 14th to see him and see what he suggests and go from there?

A No. I want to work, but I want the dreams to go away. It seems like when I work, the dreams are just there every night.

Q Sure. You're adding stress, because the situation could happen again. So you're adding stress back on, and I guarantee you that will happen. But that was the whole point in going to seeing Mike Johnson, to learn how to deal with the issue. You haven't dealt with it yet. I saved you a lot of (inaudible) that these guys may really (inaudible) and see that looking at your vacation and sick time, you don't have a lot of (inaudible) time left.

You haven't dealt with taking the guy's life. You haven't dealt with it. You haven't faced it. You haven't talked about it. You haven't come to terms with it. And until you do, the dreams aren't going anywhere. That's just life. Don't matter what you think about it.

You deal with it or they're going to stay. That's your option.

Now, you haven't talked to anyone at any length about it. I asked your fiancé, who is the closest person in this world to you, and she said you just sit around, Johnny. If you can't sit down and talk about it, the dreams won't go away. The dream is your mind screaming, as loud as it can, telling you get this out of your system, talk about it, get it out in the open and live it. That's what it's telling you. That happens to everybody.

Now, you're going to have to talk about it. That's what Mike Johnson was leading you into, is talking to him about it. The fact that he didn't do it the first meeting, just means you're impatient. It doesn't mean he doesn't (inaudible), you're impatient.

A He never called me back though, so I thought he (inaudible) care.

Q Do you know how many times I called him to get you in?

A How many?

Q Six.

A But he told me to call him though.

Q Yeah, well, I think he's probably busy. How

many times did you call him?

A Twice.

Q Did you go up there?

A No.

Q Okay. If you don't learn to be persistent in life, you're not going to get anywhere. Have you ever got a message here that started out with "I called you before," and they didn't give you the message to call him.

A Oh, yeah.

Q Do you believe he's lying or do you believe they forgot to give you the message?

A That could have.

Q They could have, and, if it happens a dozen times, everybody ain't lying; they forgot to give you the message. Is that your fault?

A No.

Q Could you cut him that much slack, Mike Johnson?

A Yeah.

Q He probably gets 500 messages a day. Here's the thing: You have a legitimate issue that probably needs help with it. He's dealing with nuts, as well as people like you who have legitimate issues. What could

that (inaudible) do if he's off his medication and no job? He's going to call Mike 50 times.

A Because he's got the time.

Q He's got the time to call and call and call and call and call and call and call. Now, if you've had a month off and you've called him twice, that's once every two weeks; that don't impress me a whole lot. You haven't even gone by. You need to be more assertive.

These are your problems that's killing you, but, as long as you're on easy street and the dreams aren't bugging you and you've got the summer off to come and go as you choose, and the pay's the same, I understand why you're not at work. But that's getting cut out from under you now. Now it costs you your vacation and it costs you your sick time, and it's about to cost you your paycheck. Now, how motivated are you to get hold of somebody and say, "I ain't waiting until May 14th. I want help and I want it now"?

A Really motivated.

Q Yeah. If you had had the decent courtesy of checking in with me to tell me what's going on, we could have prevented all this, instead of shoving this down my throat and not giving me any options, and that's what you did. It's disrespectful, it's discourteous, and it's

very stupid on your part. You don't give me any leeway, you don't give me any options. I thought about going today to the -- (inaudible) wanted to go to the Sheriff and say, "I don't care what the psychiatrist said, he's fine, he's ready to go come back to work, and give him his vacation and sick time back." The Sheriff would say, "Yeah, okay, Steve, what did you stay at a Holiday Inn Express? You know more than his psychiatrist? He's put in writing, he's still unstable." You did read that; right?

A Yeah.

Q That you couldn't come back to work until you're stable? How's a psychiatrist saying you're not fit to work until you're stable. How do you interpret that? Would you take that as that currently you're unstable?

A Yeah.

Q Is that a good thing for you?

A No. I can explain what he meant by that, but --

Q There's one way to interpret it, and if you know another one, that you went to see a psychiatrist who said you can't come to work until you're stable, if there's any other way for him to state that you're

unstable, tell me what it is. He's a psychiatrist, Appalachian Psychiatric Services, Dr. Syed, says you are unstable and not fit for duty. If there's another way to interpret this, the thing that you gave me, I'm listening. Was there any other way you can interpret this?

A No, sir.

Q And that's the very thing you and I talked about avoiding?

A Yes.

Q With Mike Johnson?

A Yes. That way it didn't shut me down.

Q Yeah, exactly. So we didn't have the meeting that you and I are currently having.

Now, John, it's your life. You're 23. I'll respect your decision with what you decide to do, and I will not question it. Okay? It's your life; it's your life, it's your time, but you're about to run out of time.

Now, when you run out of time and you're still not fit for duty, the Sheriff has (inaudible), but almost (inaudible) to terminate you as being unfit. The Sheriff would never do that. He would support you to the end, but he ain't going to pay you. That doesn't help

you. Holding a job open indefinitely while you're starving is not a whole lot of help.

A Huh-uh.

Q Okay. If Syed cannot see you until May 14th, you need to make a decision. You need to make a decision what you're going to do. You have a couple of options that I see. I will suggest these to you and let you decide.

You can wait until the 14th, talk to him on the 14th, and say, "Look, I'm not covered by Worker's Comp and I've almost burned up all my vacation and sick time. July 1 -- June 1, I no longer have a paycheck. So I've got next month off, I've got six weeks off and then I'm out of pay," because I actually went in yesterday and counted your time off, and I'm being generous in not counting some of your other days. And, I mean, if push comes to shove, you don't have that much time, but enough (inaudible) you have, that the most you can have through the end of April and May, come June 1, you're out of time, which means you don't get paid any more. It also means you don't earn any time while you're not getting paid.

So you can go in on the 14th, "you've got to cure me, solve me, get me back by July 1." I can tell

you what he's going to tell you: "No. You can go back to work when I'm satisfied you can go back to work. The next meeting will be June 13th." That's one of your options.

The other option is, you still have to overcome what you've given me. I can't ignore this. You've turned this in, as a matter of your personal record now, and I still have to address this. So you have to overcome this, you're "not stable." Okay? You've got to be able to go and see Dr. Syed and say, "Look, there's a clear misunderstanding. I turned in the work excuse saying I'm not stable, not fit for duty. You need to clarify that, that it would be," you know, "that I have a work excuse to come back to work." I don't know how you're going to get him to phrase it. I don't know.

A Like I'm going to be under his care, but I can still work. Something like that?

Q Something like that. It's okay with me. I don't care what he says. But he says you can't come back to work until he says. You've turned that in as official.

A And then you know (inaudible) we'll probably end up having to reword it.

Q You've got to go to get one from him that

says, "This was misphrasing on my part, and what I meant is, he is fit for duty, but because it's stress related, he needs treatment and I would like to continue his treatment, and schedule it accordingly." That's fine. Or you go back and see Mike Johnson. I don't much care what you do to get your help that you need. What I don't want to see happen is you, in the beginning of your life, at 23-years old with a fiancé and this new place you just set up, you've got now utilities and a house payment and a truck payment and all the things adults have, then you're about to lose your job. You don't need that. And if there's stress, boy.

A That's going to add to it.

Q Well, you multiply your sleepless nights by about ten, and then suddenly you don't have enough (inaudible) to deal with all the pressure. So we've got to figure out a way to avoid this kind of stressor. Are you with me?

A Yes.

Q The last thing you need, when you're talking about all your other pressures, your pressures, what you don't need to do is come to pick up your paycheck and find out you don't have a paycheck. So we've got about six weeks to figure it out before your paycheck runs out.

I had absolutely no intentions of you taking sick time; none. I expected you to work and see Mike Johnson to work this out. But if you needed stress days and you needed to take days and cut your grass, that's fine, absolutely no problem. I told you we'd work with you anyway we could. I didn't mean take the summer off and not tell anybody and grow a beard and hang out and have a good time. That is not what I meant. I meant, you be a man, to grow a set, and to deal with your problems.

You are going to have to sit down, John, and talk about this. It's not going to get better; it's not going to go away; it's not going to fade into the background. It's going to get worse and worse until you sit down and talk about it, period. Eventually, everyone of these guys is going to tell you that. Okay?

A Uh-huh.

Q Until you can honestly deal with this, out loud, then the dreams aren't going away. Let me tell you something else, and I promise you this: The day you sit down -- and I don't care if you talk to me, I don't care if you talk to Syed, I don't care if you talk to Johnson, the day you can sit down and say, "Let me tell you what's killing me," is the day you're going to have (inaudible).

The day you can tell me what's eating at you, is the day the dreams are going way back. Then, the tools they give you to deal with it will work. Until you talk about it, it ain't. And I don't mean talk about it in a superficial general terms. I'm talking about details. I'm talking about searching your soul and really talking about it.

If you want to talk about it, we'll talk. And you can talk to me, you can talk to a friend, you can talk to a doctor, you can talk to a counselor; it doesn't matter to me who you talk to. It's the nature of the talking itself, the opportunity to talk it through; and when you talk, it takes that whole weight off of you. When you share it with somebody, all of a sudden it's a load you can bear.

Now, we have this philosophy that you're already addicted to. It's this (inaudible) macho image, but that's part of the job and it's life and we deal with it, and you do what you have to do, and that's just too bad for you. It's absolute crap. It isn't true, and you know it, and anybody who really feels that way needs to turn in their badge and become a terrorist somewhere, because that's what you are.

The fact is, you were put in circumstances

you had no control over, but you still were there. You still had choices.

A Uh-huh.

Q You still made choices. You can always question your choices, you just can't change them. As I see it, from my perspective, you had a choice. You could hope he'd drop the gun and it was (inaudible) or he just talked trash or it fell out of his hand, because he was drunk; you could hope he didn't shoot; you could hope that he shot and missed. There are a lot of hopes you could have made, but your two options were: Shoot or don't shoot. If you had another one, I don't know it. It comes down to this: You could either shoot or not.

A Uh-huh.

Q You chose to shoot. We'll never know what would have happened, if you had chose not to shoot. Would he would have dropped the gun, surrendered, changed his mind or would he killed Greg or you, or both? We don't know. So you have to decide what point is your life more valuable than the one (inaudible). These are the things you're going to have to talk about.

You're going to have to talk about when you chose to pull the trigger. You're going to have to talk about whether you shot because Greg did, or you shot

because you were (inaudible). It doesn't matter which one it is, because, hey, it was still the right thing to do. If you followed his lead and he fired, so you fired, that's okay; but you have to know that. You have to know it's okay. Until you say, "It bugs me that I fired after he hit the ground," and I'm thinking one of those shots ricocheted," whether it's true or not, and we don't know if it's true or not, yeah, it could be either one. It could have bounced up and hit him and it could have been a line of fire. It could have been directly within your line of fire. We don't know exactly where you were, we don't know exactly where (inaudible). We know where (inaudible) looked like when we got there, but that's not the same thing.

Until you address -- you have to address these things. You have to go into every piece of that shooting and break it down and talk about what you remember.

A I look back at it now, I can (inaudible), because I remember that I had him drawing down, I can remember I was drawing down on him and I just glanced over and just looked at Greg to see what he was doing, and Greg was drawing down on him, too, and that was right before Greg yelled at him. Greg yelled at him, he turned

around, and I couldn't see the gun then. It looked like he was holding something.

Q (inaudible)

A Well, I'm short, I couldn't see it. And then when he was raising up I realized what it was, and now that I remember, it's like Greg shot -- and I didn't look at Greg when he shot, but when he shot, I seen him bounce back and it was like it still didn't phase him. Then it's like when I shot, that's when he dropped.

Q Uh-huh.

A And so I guess because Greg's hit him up in this area, I think it just kind of bounced him back a little bit and that was it. I can look back and see that now.

Q Uh-huh.

A It's like when mine hit him, it was like he got shot with a big sandbag or something, and knocked the breath out of him and he fell.

Q But you know what actually happens (inaudible)?

A Huh-uh.

Q Okay. You have time distortions. You have tunnel vision. Time actually slows down and it's a survival mechanic the body goes through.

A It seemed like ten minutes after he shot that I shot.

Q Yeah, it does. It seems like it was forever. So what's amazing to me, because I've been in a couple of shootings where I couldn't believe how clearly my (inaudible) was, and how (inaudible) was, but I was thinking, (inaudible), and I'm just sitting, going, I (inaudible). I'm not scared, I'm not shaking, everything's working. And when the gun (inaudible), it's just boom. You see the round go, but it's not like -- it's like everything is just super slow motion. But you know (inaudible)? You know why I know what?

A I don't know.

Q (inaudible).

A He just hadn't fallen yet. That one second seemed so long.

Q He hadn't fallen yet. What it is, is you distorted perception is milliseconds. You're in a survival mode. Okay? You lose your hearing, you lose your smell, but your sight becomes incredible. It's incredible how clear it is. It can be total darkness and you can see what time it is on your watch. It's your body adjusting to survive. It's giving the necessary instincts that you have.

You've got your sight, the most important thing. Everything's slows but your sight. Time becomes distorted, it slows down, and everything goes in slow motion, but you're actually going up to speed, everything else is in slow motion. It's just perception and it's normal. But what really gets you the most about the shooting, if there was a single thing?

A I really don't know, just -- I've just had so many dreams since then, and none of them have him in them.

Q Right.

A It's just made up stuff in my head.

Q Right.

A Not even situations I've ever been in or anything.

Q But why do you -- okay. What gets you the most? Is it the shooting itself? Is it the aftermath of the shooting? Is it the vulnerability? What is it?

A It just -- I don't know. It just wakes me up all the time scared, feel like I'm having a heart attack, I can't sleep, and I guess that makes me irritable. And then it's just like I'm sick afterwards. Like every time I have a dream, it's like I'm real sick.

Q And the problems multiply each other. One

falls onto another one, it's like a domino. You think it is from the shooting?

A I never had dreams like that until afterwards.

Q Okay.

A I had one where --

Q Well, if it's the shooting, it's how you need to come to terms with the shooting; right? Okay. So what do you think is the best way to come to terms with it?

A Talk about it with somebody.

Q So when are you going to do that? It's been long enough now.

A I just don't know if (inaudible) can help me though.

Q Well, you need to talk about it. You've never talked about it. Why not?

A Nobody's ever asked me here about it and I remember we was told not to talk about it.

Q That isn't true, John. Your mother's asked to hear about it, your girlfriend's had to ask you what happened, tell me about it; your mother hasn't said that. (inaudible) happen to asked you if you wanted to talk it through?

A I can't remember.

Q A lot of people have. A lot of people have. You've not heard it, but they're asking.

A And nobody didn't want to talk about it, because they just didn't want to, and then --

Q Well, they don't have to. They don't have to (inaudible).

A I really wasn't supposed to say nothing about it.

Q That isn't true. No, that isn't true. Tell me about the shooting?

A Where do you want me to start?

Q What you had for breakfast that day. I don't care where you start.

A I can't remember nothing that day. I can just remember, I don't know, but I think Greg may have called me, I went up to the hotel, he's up there on construction, sitting right where the front door is, actually to the left of it. I think he was in the -- I don't remember what cruiser. He may have been in an older cruiser, I think.

We were up there talking and one of the -- they had called Bair and he was going somewhere, and I told him, I said, "Greg said for you to come up here,"

and he said, "Well, I have a car wreck to go to," or something like that, "and I'll be up there," I think, if I recall that right. I may be getting things mixed up here.

And I remember that, and we're up there talking, they give me the call of a guy with a handgun shooting at his own house or something like that. I think that's what I recall them saying. I thought that was kind of weird, apparently something stupid, not true.

Q Why?

A (inaudible) through the area, everybody was gone, quiet, drove back on, looking for something else to do. Well, Greg said, "I can't let you go there by yourself." Well, we're out, standing outside the car when we're talking, you know, with the door open.

Q Uh-huh.

A Well, Greg says, "I better get my vest on." So he opens up his truck, puts his vest on over top of his uniform, because he didn't have it on.

Q Oh.

A I may have done mine then, I think. Yeah, I think I put mine on then, because I don't think I had it on that night. No, I didn't. I can't remember if I put it on then or in Cabell Heights. I think I did it then

just in case we drive into it. Put that on, I don't know why, and this has really made me wonder: Why did we leave the hotel, instead of going down Harper Park Drive right up to it? Why did we go down the interstate, the long way? I don't know why.

Q The interstate to Old Eccles?

A Yeah.

Q Is that what you did?

A I don't know why, but going the back way would have led us right to the place a whole lot quicker.

Q Sure.

A I don't know. I was leading. I went that way. Greg followed me. I remember getting off at the clover leaf right there off the interstate, going around the real sharp turns. I can remember we was running a code, just in case it was a real shooting or something. I remember cars getting out of the way. I can remember me and Greg turning up Old Eccles, and we shut our lights down once we got to the top of hill, so nobody would hear us coming or see us coming.

Q Uh-huh. You're talking about Cabell Heights?

A Well, we was coming up Old Eccles. Once we got to the top of the first little hill right there, that's where we turned our lights off, there was no

traffic, 1:00 in the morning. We turned our lights off there.

We pull up into Cabell Heights. Greg yelled at me and told me to pull over right there. It turned out to be (inaudible) driveway. I didn't know that then. Well, he parked there, I don't know what I was going to do, where I was going to go, but he said pull on over. So we pulled over there and there's a wide spot right in front of her house, and we just thought the house was just, you know, 50 feet around the corner there, because I think they said the second right or first right. I didn't know where the first right was and we didn't want to pull right up to it.

We got 20 feet away from the car or so, and Greg said, "Well, I'm taking the shotgun." I don't know why, but I just took the pistol. I'm just not a shotgun person. I've only shot them here.

Q Yes.

A And a rifle in a neighborhood probably ain't a good idea, you know, a close neighborhood like that, plus, it's dark. You can't see the sights anyways like that, with a rifle. So Greg gets the shotgun and I sit there and wait for him in the middle of the road. He walks back up. We're walking down the road. There's

one car goes by, you know. We wave them by with the flashlight. We get to right where you start going down the hill, where it levels off, where you can see his house, and you can smell alcohol real bad right there. It wasn't from him, I don't guess, but --

Q I don't know. Spilled beer.

A It was real far away, but, like I said, I smell alcohol real bad, like somebody was drinking inside of the house was in front of or something. We got a little bit farther and we hear the music. That's when we asked EOC to make sure, that way we knew we was going to the right place, at 1:00 in the morning and we figured we was, until we got to the house before his with big pine trees.

Right when we got there, we seen him walking and then Greg told me, "Watch out, there he is." So we jumped behind the tree. I thought he seen us, the way Greg acted, but the guy was walking from his garage and behind his house, you couldn't see it, (inaudible) his truck or something. I don't know, probably just a little visual of him. The street light was right on top of him, so we could see him plain as day.

We head to his gate and there's a padlock on the gate or some kind of lock and we couldn't get in. We

didn't want to jump the fence, for the fact, you know, you jump his, the whole fence rattles all the way around, you wonder who's coming in your yard and we get shot with nowhere to run. I mean, there's no cover in there.

Q Right.

A So we talk on through there and peep around the house, and between the house and that little hedge row, you would see the truck. Well, I think about that time the radio cut off and he says, "What the hell." That's when he come walking and got in the truck. He didn't have nothing in his hands when he walked to the truck. It was like, well, he's unarmed, let's go, and plus the music stopped and he can hear us yell at him. It ain't like he ain't going to hear us, we're going to surprise him and all that and scare him.

Q (inaudible).

A So we hurried up and like jogged, really, like I held my keys -- I always hold my keys when I run. So I held my keys, took off. I don't even think I had my pistol out then. I think I drew it out while we was running, just in case.

Well, we got around that corner and Greg had his shotgun aimed down, and the guy's just still piddling (inaudible), and Greg walked around this way and Greg was

aimed at him, and I was angled at him, and whenever Greg said, "Police, Sheriff's Department," whatever -- he said police or something, I think he said police, Greg thinks he said "Sheriff's Department." He identified himself as law enforcement and said, "Let's see your hands." That's when he turned around with the rifle in his hands. We never seen the rifle.

Q You didn't see the rifle?

A I mean, we never seen him with it. That's why we approached him then.

Q Right, right.

A But we thought it was in the garage or something. Apparently he left it in the truck. That's when he turned around and I could see he had something, and then once he lifted it above the bed, because I was behind the bed part of it, that's when we seen what it was, Greg shot and then I shot.

Q (inaudible) shot?

A Chest, I think about right here.

Q (inaudible)

A I could probably see him from about here up, maybe. I can't recall. Got him right in the middle of (inaudible) as far as I could see.

Q Uh-huh.

A I shot twice and he hit the ground. When he hit the ground, it's like he was rolling real fast, you know, like it's a roll-and-shoot deal, and I shot one more, but that's when Greg said, "Stop shooting." And right when Greg said that, I think his hands drops over or something. But I never seen the gun until I walked on around and seen that he had already dropped it, but I didn't know if he still had it and was going to roll and shoot, like the guy did to Bircham or Snead, because that's what I was thinking. He was going to do that and start shooting at our legs or something and drop us. I mean, I didn't know if he'd actually got hit or not.

Q That's reasonable, sure.

A At the time, I didn't think he got hit, you know, it just never crossed my mind, or he did get hit and it just barely phased him.

And then we went up and I looked at him, and realized he wasn't (inaudible), and I hurried up and ran up to the garage and checked the garage to make sure nobody else was in there. I remember that's when we told them we needed an ambulance sent.

Q You did?

A And that's when everybody started coming.

Q Did you realize then that you'd shot him?

A Yeah, when Greg, because, you know, they call me Muffin, Greg said, "Muffin, we just shot that guy." I think that was actually before I checked the garage.

Q (inaudible)

A And we're still aiming on him, still have him (inaudible) down.

Q Naturally, that's your (inaudible). So he says, "Muffin, I think we just shot the guy." You call for an ambulance, you check the garage, the ambulance is called for him, everybody starts coming to back you up.

A It seemed like an hour before anybody got there.

Q His wife come out?

A I wasn't with her then. Oh, you mean, his wife?

Q Uh-huh.

A I thought you meant did she come out that night and talk to me or anything. I guess while we were standing there waiting for the ambulance or somebody to get there, she come out and never told nobody that is was his house. I just thought it was a neighbor.

She said, "What's going on?" and we told her to go back in the house. And she come up with some smart-ass comment, you know, "It's my property. I don't

have to go in." Me, not knowing who she was, I told her if she didn't listen to us, she was going to go to jail for obstructing, for not listening to our orders.

Q Okay.

A Because I told her it was a crime scene and she didn't need to be out here. And then she -- from where she was, she could see under the truck, she could see him plain as day from where she was, probably, but we didn't think about that at the time. And she just looked at him and she said, "Who shot who," just as calm, like she didn't care, just curious. Like a damn paintball game or something, who shot who? Like she had no concern, no care, nothing. She just stood and went back inside. Then the neighbor come out in his underwear and told his dog to shut up, right behind us. I remember that. I was standing right in the middle of the road.

Q Did you (inaudible).

A Off his breath?

Q (inaudible).

A Not until I was pulling it out later on. Then, I didn't. I knew where mine was, because I actually looked for mine and that way nobody messed with it, because I got the mentality don't let anybody move it, and that way they can see where my stuff's at. So I

told EMS not to step on it or kick it around.

Q Do you really think you did anything wrong?

A No.

Q If you had anything to do again, other than just not being working that night, would you have done anything differently?

A Knowing what I know now?

Q No.

A Or that night?

Q (inaudible).

A No.

Q How about knowing what you know now?

A Waited until he didn't have the gun, walking or something, take off running, tackle him, if nothing else. If you knew he had the AK and --

Q Knowing what you know now, how would you have accomplished that?

A If you knew where the gun was and knew he was --

Q Knowing what you know now, where was the gun?

A In the truck.

Q No. You're assuming it was in the truck, because you didn't see it.

A He could have had it down to his leg for that

matter.

Q Could have, and you couldn't have seen it. Did he have the gun with him? Was he reloading the gun? Did he have it sitting in the truck? Did he go back to the truck, because the music stopped and it was actually the truck playing the music? So he did he go back to get the music and had the rifle with him, or did he go back to play with the music and when you identified yourself, picked up the rifle, (inaudible) and pulled the trigger. You're guessing it all there. So even with hindsight, we know he was more than (inaudible). We know that now. We know he was doing pot. We know that now. We know now that he liked to point his gun in the vicinity of people. We know now he shot the neighborhood up that day. He fired in excess of 30 rounds and reloaded. We know that now. (inaudible).

A I mean --

Q You said you would have gone up and tackled him now.

A Well, see, if we knew where the gun was.

Q Well, if you knew what you know now, (inaudible).

A We don't know where it was.

Q You don't. Would you have tried to tackle

him?

A Probably not.

Q What would you have done differently then?

A Wait him out a little bit and see what he was going to do or --

Q Would you have waited in cover?

A Yeah.

Q There's a huge problem you're not thinking about.

A With my cover.

Q That's the first problem, there was concealment; right?

A Yeah.

Q What would Kade have done? Would you have gone and hidden if Kade didn't?

A No.

Q If Kade had engaged him, would you have not engaged him? Would you have hidden while Kade took him on by himself then?

A Huh-uh.

Q Knowing what you know now, would you have left Kade?

A No.

Q So it's not just what you would have done,

but what you-all would have done. Would it be reasonable that you could have hidden and waited until you were in a position (inaudible).

A Another thing I thought about, going through the bushes or jumping the fence when the music was playing, and going up to the truck and looking inside, not saying -- you know, while he's piddling, looking into that window to see what he's touching.

Q Yeah.

A And then if he don't have nothing, then hurry up and get behind him.

Q Sure. You could have done that. Of course, the other turnaround is, he could have seen you do that, picked up the rifle and shoot you in the face.

A Yeah. I hadn't thought about that.

Q You're thinking about him reacting in a specific way you're controlling and you react to it. And if you do that, you'll win every time without ever hurting anybody, but that's not real life.

Real life is, if I had changed the facts, let's keep the facts, whatever they are, could I have waited longer, had him further from the truck and then engaged him? Possibly. Possibly though, if you had done that, he could have dove into the truck and (inaudible)

face; right?

A Yeah.

Q His truck would have (inaudible). You were (inaudible). He had you tactically up (inaudible). The only advantage you have is your firing first. Think of the advantage you had. The shotgun was right toward the circumstance, but with the assault rifle, even with your vest on, it wouldn't have mattered if he'd shot.

A Uh-huh.

Q You did the only thing you could do to survive, and tactically speaking, it was the right thing to do. How do you feel about your survival of it? Do you feel like you did good?

A Yeah. We walked away from it. That's the important thing.

Q Is that feeling good or is that merely surviving? Is it an accomplishment or is it something to strive for?

A We just survived, really, and didn't accomplish nothing.

Q Okay.

A Other than killing him.

Q Well, that's good.

A I guess we accomplished something for

the neighborhood, but killing somebody ain't an accomplishment, if that makes any sense.

Q What did you accomplish for the neighborhood?

A Well, from their point of view, they hated him. He's gone now, but that's not nothing for us to say is an accomplishment.

Q That's not an accomplishment. Evicting him would have been an accomplishment to the neighborhood. Taking his life's not; right?

A Right.

Q What did you do that was an accomplishment?

A We didn't accomplish nothing.

Q Yeah. You survived. That is an accomplishment. You survived and he didn't. (inaudible) under the circumstances, but that is an accomplishment, John. You protected your partner and that is an accomplishment. Okay? And while it's a horrible thing, you did do right. You protected your partner. You protected your own life and you protected the community. You took an oath and promised that you would be willing to lay your life on the line to protect the innocent, did you not?

A Yeah.

Q Did you really mean that you would protect

the innocent with your very life? That if it came down to it, you would protect those that can't protect themselves? Would that be (inaudible)?

A That's a possibility.

Q You knew it was a possibility.

A I never really thought --

Q And now it's real.

A You don't know it's real until you get in that situation.

Q That's very true, and it's kind of a like a standing joke until it really happens.

A You just tell yourself, yeah, that might happen, but I doubt it.

Q I know guys that in their whole career never pulled their guns. You want to be one of those guys. You know there's this thought in your mind that you (inaudible), because it's such an accomplishment, it's something that most cops don't talk about, taking a man's life to protect yourself and protecting your partner, using lethal force. It's not an accomplishment with cop stuff, that's up here, but when you get there, you realize that it's (inaudible) here and it's horrible for us to do. And I think that's what's happened to you.

I think you saw this as an achievement, but

then when you get into the reality of someone, this woman doesn't have a husband and these kids don't have a father, then I think you realize this is not an accomplishment. I protected the community like I gave an oath to, I protected my partner and my life, but he forced us to kill him. He forced us by pointing his gun and threatening our very lives.

You couldn't wait for him to shoot (inaudible). You couldn't wait to see if he was going to bluff you-all.

A No.

Q Okay. You did everything textbook right. You really did. (inaudible) If you'll go to the doctor, then possibly you'll get the help you should. You've taken probably your first major step just now, and (inaudible) how tough is it to talk about it.

A Once you start, it's not.

Q It's not at all.

A At first.

Q That's what we've got to do. You have to break down the things you're not talking about, the thought processes you're (inaudible). (inaudible) those girls and his wife.

A I don't know.

Q That's what's so crazy in all of it. It's not totally that, that's tough. (inaudible) Somehow in my mind, this is the only choice I had (inaudible).

A Them little girls don't understand that.

Q Those little girls had their father taken away from them by me. They don't understand he was trying to kill me or my partner.

A And they probably hate us, because they know who killed him.

Q I don't know if they hate you. I don't if little girls hate like that. Adults do, but I don't know if children hate like that. Children don't understand it. See, when they call you the bad guys, (inaudible) the bad guys took Daddy away. That's not true. (inaudible). (inaudible) about her dad. That's tough. That's got to be tough.

A Greg said somebody told him that the wife said that she don't hold no hard feelings against us, because we had to do what we had to do.

Q Well, I can tell you a couple things you don't know. There is a sister who is the bitch, not the wife, but his wife and his sister are apparently trying to sue us. They tried to go to every attorney, a couple of my dad (inaudible). The attorney (inaudible), we

could probably get some money. One attorney told them, "Did the cop shoot him the front or back?" (inaudible). "If he picks up a gun and challenges him and points a gun at him, what do you expect a cop to do; run away?" What if they shot him? Yeah, that's why he's dead. Deal with it. This is an attorney who has no morals. He's a billionaire, he's a millionaire, because he sues, whether he needs to or not. (inaudible)

A (inaudible)

Q Even if (inaudible) called me and said (inaudible), if I thought I could win it, then I'd take you to court. (inaudible) The wife actually does understand, and I'm going to tell you something: One of their very best friends, he's a mutual friend -- I don't know him, but one of my real good friends knows him real well -- and one of my real good friends, I was shocked by it, but said, "You guys didn't have to shoot him."

"Yeah, they could have died, you're right, they could have given up their lives, then I'd gone up there and killed him, but you know, I'm glad they killed him so I didn't have to bury my friends."

He said, "Well, he's one of the nicest guys in the world, Steve. I fished with him." (inaudible) working that night (inaudible). I said, "He wasn't that

night. That night he was a psychotic killer. He had an assault rifle, had been shooting up the neighborhood. They caught him with his hand against it, and told him to step away from the truck with his hands up, and he reached in the truck and grabbed his rifle. They told him don't do it, and he raised his rifle, from like 30 feet away, 10 yards. They had to shoot him."

When we got the blood alcohol back, this guy's best friend, who is my buddy's (inaudible), best friend, said, "I think (inaudible) I have seen, but he's the meanest SOB I ever dealt with in my life when was drunk. He fought everybody and terrified others (inaudible).

A And that's the one that took up for him?

Q He does.

A What about the other one?

Q His best friend is telling my friend, he is challenging me --

A That's the best friend saying that?

Q Yes, what the best friend says. (inaudible)

A (inaudible)

Q He was three times legally drunk. He'd been drinking all day.

A He had marijuana in his system, didn't he?

Q About an ounce, about an ounce of marijuana, he'd smoked a joint or two, but when it comes to him being drunk, he still has got the function to walk but not to think clearly --

A No. He just wanted to --

Q -- clear thought, you see somebody pointing a shotgun (inaudible) get a rifle and tries to beat them to the draw, you're just dead.

A He didn't realize the best thing to do was stick your hands up if they're already aimed down on you.

Q But we do. You've got to view, you really honestly have to look in the mirror and accept that you did right, John. It's not bad and it's not wrong. You did right. But you have to accept that for yourself.

Now, one of the things that really bothered me about you, and we talked about this and you mostly ignored me, because you weren't talking or dealing with it, and Greg totally is crying about it, and you were all stoic, all chest stuck out, "Oh, I'm fine, it ain't no big deal." You told me. I'm sure I remember this. I said, "Should we talk about this?" And you said, "No, it ain't no big deal." I said, "John, we need to talk," and you said, "(inaudible)." And I thought (inaudible), but it's cost a life, but it's okay to talk about it and it's

okay to be upset about it.

It's really normal to feel like you are (inaudible) and look at the possibilities regarding how stupid they are to have avoided this. The fact is, you had no options. Your options were shoot or don't shoot. If you didn't shoot, (inaudible) and that ain't the guy to let choose.

A No.

Q So you did nothing wrong. The reason Kade is okay, and the reason Kade is well, is because he broke down that very night in my office, and he sat here and cried about it and he got it out. He said, "My God, this is terrible. Do you understand what we did?" (inaudible) Now it's done and it's gone.

A It's not starting to bother him like it is me now.

Q Right. You let it fester. You sucked it in. You're like, I'm tough, I can handle it, I don't need to cry, no need to worry, (inaudible) God, it's me, I'm fine. You think about. God saved you that night, because you needed Greg, because you both put your vests on and took a long way around, and he knows what he was doing.

A And parked the car down the street.

Q Yeah. Think about it, the fact that you took the long way around. Do you know what he was doing when you go the long around? He was shooting up the neighborhood.

A We'd saw it, him shooting.

Q How would you like to drive up to a shoot out, with a cruiser, with that AR that's making Swiss cheese out of your car.

A All we could do is lay down in the seat and hope to God he don't aim low.

Q All you could have done is backed up, and then it's over. Tactically, the (inaudible) is gone. And then you park away and walk in, you couldn't (inaudible) yourself and walking and wearing black at night. Greg stopped, for some reason he to this day can't explain, turned around and went back and got his shotgun.

Everything that night was about Divine Intervention and about him dying so that you can (inaudible), and (inaudible) few things greater than God letting you live, you won't (inaudible). It doesn't come any higher up, and if you don't believe in miracles, you look at how the whole thing happened. From you stopping to see Greg, who just happened to be there, that just

happened to put your vest on, just happened to go the long way, just happened to park in the wrong spot and have to walk and stop and go back and get your shotgun, happened to catch him right after he finished shooting and had the gun set down. If all those are coincidence, (inaudible). Okay?

A That all happened for a reason.

Q It really did. That has to be that you just did what God provided you to do. It really has to be that way, John. There's no other way this is going to play. But more than that, you did everything textbook right, too. You didn't fail on any of it, and it isn't your fault on any level, none of it. If it hadn't been you who had been there, (inaudible), I don't know if Bircham, whoever else had been working.

A Me, him, Bircham and Joe, I think.

Q Yeah, I think it was. I think that's all it was.

A Greg wasn't (inaudible).

Q I know he was off duty. Think about that for a second.

A If I'd a been leaving Mom and Dad's, I'd been right there at it and run right into it.

Q You wouldn't have had a backup. You'd walked

into it. If you could change one factor in this entire formula, and it would change the entire formula dramatically, the fact is, I truly believe God protected and guided you-all. What had to happen, had to, and I believe that's why it happened. But look what has to come to (inaudible). Okay?

I wouldn't lie to you. I would not call you in here to tell you you did good if I thought you did bad. I think you missed your first two shots (inaudible). I think (inaudible) near Greg's shotgun blast, and I think when you get the gun, you hit him with a dead center (inaudible) shot in the (inaudible). He couldn't have survived your third shot or Greg's first shot. They were unsurvivable. You share in what happened, but I think it was totally, totally justifiable, but until you come to terms with that, that's exactly what I think. But it will need (inaudible).

If you want to sit down and talk about it some time just to make it easier, tell him you want to come up here, any time. If you want to talk to your team, you talk to team. If you want to talk to him, you talk to Dr. Syed; but you get Syed to change this crap that you're not stable. I would trust you today

protecting my life, this very moment, without a qualm.

You are as stable as any guy I know. Okay?

There is not post-traumatic stress syndrome. You have a hard time dealing with it, because you never talked about it and let it out. You just talked about it. You (inaudible) and you get the right tools to deal with it. You can get that from Mike Johnson or from Syed, but you're going to have to do that, and you're going to have to get hold of Syed and have him recant this, have him send a work excuse that says you are fit, but he would like to talk to you and that important first step for intervention or what. I don't care what he puts, but not that you're unfit for duty. I want that relieved. I want him to send a note that this is a misstatement on his part, because you are stable, not that you're unstable. Okay? Because I don't want that -- I want that to be totally a misunderstanding.

A I want to work, but I want help. I don't know what to do.

Q You can talk. You can talk to Syed and get this fixed, but you need to decide: Are you going to stay with Syed? Are you going to stay off work until you talk to him or you going to talk to Mike Johnson? You made your choices, now you have to fix them, and you're

going to have to decide. It's up to you.

A I know. They're hard.

Q You fix it. You tell -- you go to Syed and you tell him that.

A Because I like doing what I do.

Q You tell him: "You've taken me off and (inaudible) me mentally unstable, that I have post-traumatic stress syndrome, but you haven't even talked to me yet. Now, you're burning up all my sick and vacation time, and I'm going to go without a paycheck before I get to see you. So you get your schedule, you sit down, you talk to me, and you tell me to go back to work, so I can keep an income coming in," and then you set up -- get your appointments as needed. This is a fact of life. "I'm not starving, losing my house and my truck because you think I have post-traumatic stress, because you talked to me once." That's true, isn't it? He's talked with you once.

A Yeah.

Q And he's going to give you the next three to six months off? He must be a freaking miracle worker. (inaudible) But, unfortunately, BrickStreet says you're already past your 10-day's notice and they've already closed your claim down. So he can't give you six months

off; you can't afford it. You just give him facts of life. This is you. He just (inaudible) and your future, your home, new truck, new girlfriend. But apparently he thinks everything is hunky-dory, we have a 5000-man department and we don't need you. That isn't true. The doctor thinks you have an unlimited (inaudible) and we're paying all the bills. None of that's true.

So give Dr. Syed the facts of life. He needs to see you now, he needs to clear you for work, and, if you need future follow-up appointments, then you schedule them and we'll do it.

A Okay.

Q Is that doable?

A Yes, sir.

Q John, don't sweat the small stuff, but deal with this like a man. And don't you ever turn around again and move and not tell me where you are, or change your phone number and not tell me what your phone number is and disappear, and then when you're supposed to be going to work and seeing this guy on the side, suddenly you start to go see a different doctor and get a 3- to 6-month excuse from work, and not even give me the courtesy of letting me know, drop it off on Gordon's desk and walk away like I'm just supposed to deal with it. (inaudible)

A Okay.

Q Okay?

A Okay.

Q You have a responsibility to the man
(inaudible) and not just drop stuff off and walk away;
right?

A Yeah.

Q Does that seem unfair and unreasonable of me?

A No.

Q Okay. Put my shoes on and walk a
(inaudible). Suddenly, I don't know where you moved to,
I don't know where you are, I don't have your phone
number, I have no way of contacting you, and you go from
having chest pains to heart diseases to two doctors'
excuses that say you're off indefinitely. There's no
explanation. You can't do that to me. Be reasonable.

Come in and tell me what's going on. You
need to tell me you need your time. You need help to get
your (inaudible). Anything you need, we'll do, but don't
drop a bombshell like this and turn around and walk off,
and have no way for me to get a hold of you. That sucks.
Now, speaking of that, how do I get a hold of you?

A 228-

Q Now, this is your phone?

A Yeah.

Q You have a phone at home?

A No.

Q Cell only?

A Yeah. 8947. That's new.

Q Yeah. Where do you live now?

A 117 Ranger Road.

Q Where is that?

A MacArthur, up off of Bethel.

Q What's that girl's name?

A Trish Hill.

Q That phone is so when I call and she happens to be there, I can say, "Hi, Trish," instead of saying, "Hello, ma'am," and sounding like an idiot. Okay. Get hold of Syed and let me know what's going on. Do you want a copy of this (inaudible) it really gets in your file.

A I think I have a copy of that one.

Q If they don't, I've got one.

A I'll take that when I go in.

Q I'll make a copy of that if you want to take it and say, "I have a real problem here. I feel I'm stable. Are you saying I'm unstable? Are you telling me I'm not fit for duty and, therefore, I'm not going to get

a paycheck. Let's sit down and talk here, son. You've talked to me once. How can you show me unfit for duty?" Put him on the defensive. "I am fit for duty and I am going to work. I do need to (inaudible) and, if I need help and we need to talk, let's talk." Okay?

One of the things I want you to remember as you go through life, when you go to see Dr. Syed, he works for you. He's not the boss; you are. He's there to help you, but you're paying for it. That makes him working for you. Act that way when you talk to him. I want to know what you see as the problem. I want to know what the treatment plan is. I want to know how long it's going to take. You have every right to expect him (inaudible) for him to say, "I'll see you this month and then I'm going to schedule you for next month." "Well, how's it going?" "I'll let you know then." Then get rid of him, because he ain't doing nothing for you except taking your money. You have a right (inaudible).

A I'm on my way right there, right now.

Q Huh?

A I'm going down right there, right now.

Q Well, be respectful, but be clear.

A Okay.

Q He doesn't have one interview and it gives

him the right to do this crap.

(Inaudible background noise and unidentified voices.)

A Chief, I'll be back here shortly.

Q I'm going to bring you a copy right now.

A Okay. Thank you, sir.

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

MARY WEBB, individually, and in her
capacity as Administratrix of the
Estate of Robert A. Webb,

Plaintiff,

vs.

CIVIL ACTION NO. 08-C-406-H
Honorable John A. Hutchinson

RALEIGH COUNTY SHERIFF'S DEPARTMENT;
RALEIGH COUNTY COMMISSION;
SHERIFF DANNY MOORE, individually and
in his official capacity; CHIEF DEPUTY
STEVE TANNER, individually and in his
official capacity; DEPUTY GREG S. KADE,
individually and in his official capacity;
and DEPUTY JOHN E. HAJASH, individually and
in his official capacity,

Defendants.

The following is a transcript of a taped
conversation between Sheriff Danny Moore and Deputy
John E. Hajash.

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1 DEPUTY HAJASH: I wanted you to meet my fiancé
2 before she ran off.

3 SHERIFF MOORE: How are you?

4 FEMALE VOICE: Fine. How are you?

5 DEPUTY HAJASH: Sheriff, this is (inaudible.)

6 SHERIFF MOORE: You doing okay?

7 FEMALE VOICE: Yeah, I'm (inaudible.)

8 DEPUTY HAJASH: I wanted to come to you, I was
9 wanting to tell you this, but I was afraid if I went over
10 Steve's head, you know how Steve is.

11 SHERIFF MOORE: Uh-huh.

12 DEPUTY HAJASH: If you go over his head, it's
13 going to be on, probably the end of the world.

14 SHERIFF MOORE: Right.

15 DEPUTY HAJASH: That's why I didn't want to come
16 to you. Because he's fussed at everybody for going over
17 each others' heads and stuff like that.

18 SHERIFF MOORE: Yeah, we have a chain-of-
19 command, but something like this, though, it's not -- we
20 talk about you all the time and we talk about you
21 (inaudible) and all. Do you remember the first time you
22 came up here?

23 DEPUTY HAJASH: Yeah.

24 SHERIFF MOORE: Wanted us to hire you. You was,

1 what, 18?

2 DEPUTY HAJASH: Yeah.

3 SHERIFF MOORE: Passed everything. And what did
4 I tell you?

5 DEPUTY HAJASH: Too young.

6 SHERIFF MOORE: Yeah. And I was hesitant. The
7 second time I was real hesitant about hiring you because
8 of your age and but, by law, you were considered an adult.
9 Do you remember some of the things we talked about?

10 DEPUTY HAJASH: Some of them.

11 SHERIFF MOORE: About what could happen?

12 DEPUTY HAJASH: Yeah.

13 SHERIFF MOORE: Okay. If you couldn't handle it
14 or not, yeah, you know, you assured me. Well, the first
15 thing I want to ask you, and you explain it to me because
16 I'm having a hard time understanding. What makes you
17 think that you took the life of Webb?

18 DEPUTY HAJASH: What do you mean?

19 SHERIFF MOORE: Just think. What makes you
20 think you took his life? You shot him.

21 DEPUTY HAJASH: And one of my bullets hit him.

22 SHERIFF MOORE: Yeah, but it hit him. That's
23 all it did. He was shot first by who?

24 DEPUTY HAJASH: Kade.

1 SHERIFF MOORE: With what?

2 DEPUTY HAJASH: Shotgun.

3 SHERIFF MOORE: He was dead before he hit the
4 ground. You just shot into a nothing, a piece of clay.
5 You know? And now, for some reason, you can't let loose
6 of it and go on about your job, going about saving other
7 people. You saved -- you saved peoples' lives that night.
8 You saved your own life, you saved Kade's life, you saved
9 your, you know, your future. Because if it had been
10 reversed, this young lady wouldn't be sitting here, you
11 wouldn't be sitting here, and you know, I don't know what
12 you -- why you are punishing yourself when if the drug and
13 everything come back that this man was drunk and on drugs,
14 that if you hadn't have done your duty, somebody would
15 have died that night. An innocent person.

16 DEPUTY HAJASH: Yeah.

17 SHERIFF MOORE: Somebody. Because he was having
18 it in his mind he was shooting up the neighborhood. And
19 why you're punishing yourself, I don't know. I don't
20 understand it. Because, you know, we talked about this
21 when you were first hired here. And you're much older
22 now, and you've seen a lot of things that, you know, the
23 Bible says, "Renderance of Caesar for other Caesars, and
24 what is God, what is God's." Well, you know, you've done

1 your job, your duty. You've rendered unto Caesar, how is
2 the government, what you're supposed to do. Your job.
3 Now, God will forgive you. Read your Bible. It ain't
4 something you're going to go to hell over. God don't send
5 people to hell for doing their duty for society. He makes
6 that plain. He makes that plain. And he's had -- God has
7 had, when he come -- when Moses went on the mountain to
8 get the Ten Commandments --

9 DEPUTY HAJASH: Uh-huh.

10 SHERIFF MOORE: -- the people that he left down
11 there, they made a golden (inaudible) to worship. Well,
12 when he come down and found out what God did, God had
13 3,000 people killed. God did. God kills people every
14 day. So he's not going to hold that against you for doing
15 your job. And, no, technically, you ain't killed nobody
16 on paper, you know. I mean, you shot a guy, but he was
17 dead before he hit the ground. My lord, he had a .00 --

18 DEPUTY HAJASH: Buckshot in him.

19 SHERIFF MOORE: Yeah, .38 slugs is what they
20 are. And then, I know you're having problems dealing with
21 it, but you shouldn't. Yeah, it's a horrible thing, but,
22 you know, you're a young man. You're going to -- you got
23 another years and years on this job, if you desire to
24 stay. Which we hope you do. But we got to get you

1 through this mess. And here there's right ways and wrong
2 ways to do things. Okay? And you're going to have to get
3 your mind straight because the letter that that guy wrote,
4 technically, I'm supposed to relieve you of duty. Period.
5 I mean, didn't Tanner explain that to you?

6 DEPUTY HAJASH: Not like that.

7 SHERIFF MOORE: I've got to take your gun and
8 badge because it says that -- well, you know what the
9 letter said. And I don't know, now, we set you up with
10 the guy that, you know, that you said he wasn't helping.
11 Well, no, he, you know, he -- psychology, you have got to
12 get another person. This guy don't you from Adam. You
13 walk in here, I don't know you from Adam. Let's say I'm a
14 psychologist. I've got to talk to you about everything in
15 the world to get an insight to who you are, what kind of
16 personality you are. All the stuff, personal about you,
17 before I can ever start to treat you. We've got to talk
18 about everything. I don't have a clue what he's talking
19 -- but he's supposed to talk to you about everything under
20 the sun trying to get your (inaudible) life.

21 DEPUTY HAJASH: It is --

22 SHERIFF MOORE: To get to know you. That's what
23 -- you keep going back and back and back so you develop a
24 relationship. Then by developing a relationship, you get

1 to open up more to each other.

2 DEPUTY HAJASH: Uh-huh.

3 SHERIFF MOORE: You know, why is this bothering
4 you? I mean, you know, you technically done the world a
5 favor. Period. And the thing is, you have got to take --
6 when you talked and you were first hired, you know, we
7 talked about you could be -- you know, you have -- you, as
8 carrying a badge and a gun, and you took an oath. You
9 fulfilled that oath and that obligation to the best of
10 your ability. You went home that night. That's the
11 number one rule. Go home.

12 DEPUTY HAJASH: Yeah.

13 SHERIFF MOORE: Because you got a -- you're a
14 young man. You got your whole life -- yeah, I feel bad
15 for the kids and all that, but those children can't help
16 because their daddy was a --

17 DEPUTY HAJASH: Lunatic.

18 SHERIFF MOORE: Yeah. They can't help it. He
19 was a loony. And momma knows it. That's the reason she
20 divorced him. Everybody knew it.

21 DEPUTY HAJASH: What, they were divorced?

22 SHERIFF MOORE: Yeah, I think so.

23 DEPUTY HAJASH: I didn't know that.

24 SHERIFF MOORE: Or were getting ready to get a

1 divorce or something. I don't know. I've heard awful
2 rumors. But you did what you had to do. Nobody said,
3 "We're going to give you a choice here." Okay? But thank
4 God you reacted the way you did, the way you were supposed
5 to, the way you was trained to. Okay? And I'm thankful
6 for that. You did the right choice, you made the right
7 choices. Now, it bothers you. How much more would it
8 bother you if you all had not even went and he killed --
9 went through some door up there and killed some kid,
10 because you would refuse to go?

11 DEPUTY HAJASH: It would have been bad.

12 SHERIFF MOORE: Absolutely. Absolutely. But
13 you're, you know, I don't know, this is a man's job. Any
14 way you look at it. This ain't for wimps. And you wasn't
15 a wimp. You did your job. But now you have to deal with
16 it. You have to get over it. Because if you stay in
17 you're liable to have to do it again. And I don't want
18 you going out there and try to second guess and get
19 yourself blowed away. You watch enough TV, you know what
20 can happen.

21 DEPUTY HAJASH: Yeah.

22 SHERIFF MOORE: You know. You're a grown man.
23 And you did what you were supposed to do. What we pay you
24 to do.

1 DEPUTY HAJASH: My thing is, I mean, I don't
2 want this to come out the wrong way, but, you know, being
3 involved in the shooting, that -- it don't bother me at
4 all. But I have dreams. I has nothing to do with that.
5 But ever since then I've just had shooting dreams. Like I
6 make them up in my mind when I'm sleeping. I mean,
7 situations I've never been in, never seen the
8 surroundings. Like, I make up like it's -- I had a dream
9 two or three nights ago that I was in a car trying to get
10 away from somebody on Cranberry Road, but it was a
11 different road.

12 SHERIFF MOORE: Everybody dreams. When I
13 -- thank God, I've been shot at, but I've never had, thank
14 God I've never had to kill anybody. But everybody has
15 dreams. I mean, you're not the only one.

16 DEPUTY HAJASH: And it's an every night thing,
17 too.

18 SHERIFF MOORE: Well, but that's because you're
19 -- you, for some reason, why is it fuel? What are you
20 doing to keep it fresh in your memory?

21 DEPUTY HAJASH: I have no idea.

22 SHERIFF MOORE: Do you keep a diary or anything?

23 DEPUTY HAJASH: No. I never wrote anything down
24 about the actual shooting or anything. I never done

1 nothing about it.

2 SHERIFF MOORE: But dreams are dreams. But now
3 when you let dreams start to control you, as a man, then
4 that's when the problem -- you know, everybody dreams.
5 Everybody, you know, different dreams, different things.

6 DEPUTY HAJASH: That's why I went to --

7 SHERIFF MOORE: But when you -- well, they might
8 not have the answer for you. It's something you might
9 have to do. Something you might have to live with, you
10 know, psychologists are only good for so much. You know?

11 DEPUTY HAJASH: Yeah.

12 SHERIFF MOORE: But until you let go of the
13 guilt that you feel, then you'll never be able to do your
14 job.

15 DEPUTY HAJASH: True.

16 SHERIFF MOORE: And, you know, there's a right
17 way and wrong way to do things here. And I hope Tanner
18 explained the right way here. But that letter that your
19 doctor sent, you know, I'm supposed to take your gun and
20 badge. What did that letter say?

21 DEPUTY HAJASH: I'll need to return to work when
22 I'm stable.

23 SHERIFF MOORE: Yeah. I'm not supposed to let
24 an unstable person carry a gun and a badge, right? I

1 mean, you know, you correct me if you think I'm wrong.

2 And I don't think you're unstable.

3 DEPUTY HAJASH: Not like that, no.

4 SHERIFF MOORE: No, no. I still think you can
5 do your job out here. But, you know, sick time and
6 vacation time, if I take your gun and badge you're going
7 to be on sick leave. And if it's indefinite, then I don't
8 know what you're going to do. You all are getting ready
9 to get married, your sick time is going to run out and
10 then you're just going to be absent without pay. Because
11 nobody want -- you know, and another thing you're going to
12 have to do, quit listening to shit house ?? rumors. My
13 God, every Tom, Dick and Harry has got dreams. And the
14 only opinion that counts around here is mine.

15 DEPUTY HAJASH: Well, I don't pay any attention
16 to them. I hear them, but I don't pay attention to them.

17 SHERIFF MOORE: Well, don't. But there's a
18 right way and a wrong way. You don't just take off and
19 don't show up and nobody knows why. We're here to help
20 you. We don't want to lose you. But, you know, if we do
21 what, you know, you need to go see a doctor. Because if
22 you don't, here in the next day or two I'm going to have
23 to relieve you and put you on sick time, and take your gun
24 and badge until I get a clear report from him that you are

1 stable enough to come back to work. But I don't know what
2 he was thinking he was doing you a favor, but he didn't.
3 I don't know, you know, he might be -- is he a friend of
4 yours or something?

5 DEPUTY HAJASH: No.

6 SHERIFF MOORE: I mean, you dump our guy. Our
7 guy has dealt with this thing before.

8 DEPUTY HAJASH: Well, he didn't call me back for
9 a month and --

10 SHERIFF MOORE: Yeah.

11 DEPUTY HAJASH: He just never called me back.

12 SHERIFF MOORE: Yeah. Well, you need to call
13 him and say, "Listen, I still need to talk to you some
14 more."

15 DEPUTY HAJASH: I called him twice. He said
16 call and leave him a message.

17 SHERIFF MOORE: Well, did you tell Tanner that?
18 Because Tanner can call him and put a fire under him.

19 DEPUTY HAJASH: Yeah, I told Tanner.

20 SHERIFF MOORE: Okay.

21 DEPUTY HAJASH: He told me I should have called
22 every day and went out there in person and --

23 SHERIFF MOORE: Yeah. Looks like you got a
24 problem. But we're paying him, you know. I'm trying to

1 help you because Workers' Comp won't pay for it. It will
2 come out of your pocket.

3 DEPUTY HAJASH: Yeah.

4 SHERIFF MOORE: And Johnson's done this thing
5 before. He treats people like this. And I don't know the
6 man personally, never met him, never talked to him. But I
7 know I got him to help people. The thing is, you ain't
8 killed nobody. (Inaudible) hit the ground. And, you
9 know, you're going to have to, well, pardon my French, but
10 you're going to have to grow a pair of balls and say,
11 "Hey, I did the world a favor." And, you know, a lot of
12 people don't like the way we look at things, and a lot of
13 people -- but it's a fact. Because I would rather have
14 been up there and him laying there than you laying there.

15 DEPUTY HAJASH: Yeah.

16 SHERIFF MOORE: Especially, you know, under
17 circumstances that he was a nut, on pills and on drugs and
18 liquor, his alcohol content.

19 DEPUTY HAJASH: .220?

20 SHERIFF MOORE: Yeah. But you've got to get
21 going with your life and get it out of your mind. It's
22 over. It's done. There's nothing -- there's nothing in
23 the world that can change it. Nothing. Absolutely
24 nothing. It's done. So don't ruin your life because of

1 this idiot. And these kids, they're going to grow up,
2 they're going to know that he was an idiot when the facts
3 come out.

4 DEPUTY HAJASH: Yeah.

5 SHERIFF MOORE: And you're going to look them
6 dead in the eye and say, "Hey, guys, he made the decision.
7 I didn't." You ain't killed nobody. You know, he was
8 dead before he hit the ground. And, you know, you -- this
9 is what you do. And you ain't the first that's ever done
10 it and you won't be the last. But that's what you get
11 paid to do, your duty.

12 DEPUTY HAJASH: Yeah.

13 SHERIFF MOORE: And if you have any, I mean any
14 qualms, any questions about being able to do it, then you
15 need to maybe take a harder look at finding another
16 profession. So if you like this profession you're going
17 to have to get over it and buckle up and do it. And
18 tearing yourself apart for no reason. For no reason.
19 Because people are going to be illegal, they're going to
20 keep doing it, keep doing it and keep doing it. But
21 people like you, me and everybody else that wears a gun
22 and a badge stops it. But, you know, this sheriff is one
23 of the oldest professions in history. There's been
24 sheriffs since 16 -- way back before 1600s, in England.

1 And here in (inaudible) since 1850, when we were still
2 Virginia, there's been a sheriff here. Except before the
3 Civil War, there's no sheriff in Raleigh County. But, you
4 know, there's tradition there that (inaudible) and you did
5 it. But now you've got to let it go and go on about your
6 life. You all are getting married, you're going to have a
7 family, you should have a family, you're going to have
8 children. And think about them. You did what you had to
9 do. And there's -- and the only person that can do that,
10 you can go to a psychologist all you want, but it's going
11 to have to come from within you. You're going to have to
12 let it go. Let it go. And quit, when you go to bed, quit
13 -- you're subconsciously thinking about it. And I'm going
14 to tell you a story about me. Carl Jones was a sergeant
15 back in the police department and, of course, I was, too.
16 We grew up together at Mabscott. I knew him my whole
17 life. He was my best friend. We shot together.

18 DEPUTY HAJASH: Is that street named after him?

19 SHERIFF MOORE: Yeah, it sure is. That's him.

20 DEPUTY HAJASH: I'm sorry about that.

21 SHERIFF MOORE: He was a sergeant. Yeah.

22 That's where he lived, up on that street.

23 DEPUTY HAJASH: Was it?

24 SHERIFF MOORE: Uh-huh. Well, and (inaudible.)

1 And so we traveled everywhere together and we always
2 roomed together. Okay. But we didn't sleep together. We
3 always roomed together in twin beds, so I could cut costs.
4 We would go shooting out west, because I used to shoot
5 pistols, competition, and he did, too. Well, I took him
6 out there, there was an FOP Convention in Bluefield. So
7 he said he was feeling bad. He said he went to the doctor
8 that day and was feeling bad. And he said, "We'll take my
9 car if you'll drive." I said okay. So he come and got me
10 and I drove down. And he had been to the doctor
11 (inaudible) and he always high blood pressure. Well, the
12 doctor put him on some medication. Well, the next night
13 he wouldn't eat supper. We had our FOP meeting all day,
14 and he said, "No, my chest is killing me. I'm hurting
15 bad." So I got him a plate after supper and took it to
16 him, and he still wouldn't eat. So I went down and was
17 playing cards. It was about 11 or 12 at night. I went to
18 the room and he was sitting up in bed. He said, "My chest
19 is killing me." I said, "Well, let's go to the hospital."
20 He said, "All right. Let's go." So he put his clothes
21 on, I put mine on, we got down to the car, got in the car
22 and was going over to the hospital. And he said, "Well,
23 let's go to Princeton Hospital. That's a pretty good
24 hospital." Well, we got over there and he said, "Man," he

1 said, "I feel a whole lot better." He said, "Just take me
2 home." Because this is at Princeton, he lived at Shady.
3 He said, "Danny, just -- I'll tell you what he said. He
4 said, "I feel better now. It must have been indigestion
5 or something." So he said, "Just take me home. We'll go
6 home." It's like 12 or 1 by this time. He said, "Let's
7 go home and let's, in the morning, if I don't feel any
8 better, I'll go see my doctor as soon as come back down
9 tomorrow." I said, "Are you sure?" He said, "Yeah."
10 Well, we passed the Princeton Hospital, got on the
11 interstate coming home. Right there at Flat Top, you
12 know, on the Turnpike?

13 DEPUTY HAJASH: Uh-huh.

14 SHERIFF MOORE: The towers on the right?

15 DEPUTY HAJASH: Yeah.

16 SHERIFF MOORE: Got right along in there and he
17 said, "Danny," he said, "This is the best I have felt all
18 day long." And I said, "Boy, I'm glad." Within five
19 seconds, he screamed the top of his voice, my name, and
20 went like that. Fell. Fell over. I swerved off the
21 Turnpike, got on those gravels, got out of the car, ran
22 over there, pulled him out, he wasn't breathing. I did
23 CPR on him forever and a day. I was wringing wet. Scared
24 he was dead. I don't even remember who, what, some

1 passerby come by and I screamed at him, you know, we
2 didn't have cell phones in them days. I screamed
3 (inaudible) but we did. I screamed at him to call for an
4 ambulance. Well, when I was doing CPR on him, after God
5 knows how long, the gas what I was breathing into him, it
6 was going plum through him and out his rectum. I knew he
7 was dead. Heart attack. And I'm sitting there shaking,
8 sweating, by best friend laying there dead. Well, the
9 ambulance came took him. I went to see the doctor. And
10 the doctor said that his heart exploded. Massive. He
11 said, "He could have been right here in our emergency
12 room, we could not have saved him." Knowing that, that
13 there was nothing I could have done, for six months that's
14 all I dreamed about, I had panic attacks, I ended up in a
15 hospital, getting my heart checked because I thought it
16 was going to happen to me. I did all of this stuff. I
17 mean, you -- I mean, I know what you're going through. I
18 had panic attacks. I was having -- I was having heart
19 attacks. I went to the hospital, they done all these
20 tests, heart monitor, EKG, kept me over there in the
21 hospital.

22 DEPUTY HAJASH: I went through all that, too.

23 SHERIFF MOORE: And they said, "There's nothing
24 wrong with you. It's up here." So I went home, told my

1 wife, I said, "Danny's got to straighten this out." I'm
2 not going to -- I might die, I'm going to die, I know, but
3 it ain't going to be my heart. It ain't going to -- now,
4 this has been some 10 or 15 years ago. So I thought I was
5 -- my heart was busting. I couldn't get it out of my
6 mind. Finally, I just said, I just said, "Lord, you're
7 going to have to help me. I ain't going to have no heart
8 attack." If I do, it's going to be down the road. I
9 mean, I might, now I might. But back then, and I put it
10 in its place. It took me a while. It took me a couple
11 weeks, but I put it in its place. You did all -- I did
12 all I could do to save him. I can't change it. It's
13 done. The Good Lord brought him home. The Good Lord
14 called this man, wherever he's going to go, the Good Lord
15 got tired of it. Up there, out in his underwear and T-
16 shirt and scaring the kids, scaring the neighbors. And
17 this had been going on, as you know, for a long time.

18 DEPUTY HAJASH: Uh-huh.

19 SHERIFF MOORE: And I just had to put it in its
20 place. I had to say, "Listen, shape up." And, you know,
21 "It's done and you had to -- "You did the best you could.
22 Let it rest." And I did. And now, you know, I see kids
23 all the time and I'll -- you know, they were supportive,
24 but the thing is, you did all you could do. You can't

1 change it. (Inaudible) You've got to live your life.
2 You guys are going to have a life together. And you've
3 got to turn loose of this one so you can have a new one.
4 You got to have, you know, especially if you have a child.
5 Which I hope you do. They're wonderful. My grandkids are
6 better, but that's 40 years down the road, or 50. And,
7 you know, and things is -- so here's where we stand. You
8 need to make an appointment with this doctor that wrote
9 that you're unfit for duty. Talk to him, find out does he
10 think you're unfit. Because if he does, then I'm going to
11 have to put you on sick leave until he clears you.
12 Because if you come back on duty with that slip, and you
13 have to do it again, then I'm going to be sued for letting
14 you out there. Nobody is trying to get rid of you.
15 Shoot, you done it. I didn't. You know, we had you fixed
16 up. So you're going -- now, if he says, no, that you
17 still need some help, well, then say, "Well, let's have a
18 session every day or every week until I can get cleared."
19 And then if he doesn't clear you, and then you come back
20 here and see me, with your gun and badge, and I'll put you
21 on sick leave. And then I don't know how much sick leave,
22 vacation can last. When it runs out you ain't going to be
23 paid. But you've got to put it behind you and get it
24 straightened out. Because no employer, I don't care if

1 it's any field, I don't care if you're a secretary
2 somewhere, you bring in a slip like that they can't let
3 you work. They just can't do it. It's just -- you're
4 kind of tying my hands on it, as what I can do and can't
5 do.

6 DEPUTY HAJASH: Yeah.

7 SHERIFF MOORE: But, you know, panic attacks,
8 I've had it all. I'm telling you what, I -- but it was
9 all uphill. Then I finally said, "Hey, get a hold of
10 yourself." And I got my -- get your Bible out and read a
11 little bit of the Bible. I believe -- I believe that will
12 help. I know it helped me. And a lot of people around
13 here and, you know, drink and carry on and do drugs, and
14 be on alcohol. But those are just substitutes. And I
15 know your family, they're good religious people. And, of
16 course, I'm a religious man. I ain't always been, but I
17 know it worked for me. There's nothing you can do that
18 it's not covered in the Bible. But you can go and -- but
19 you do what you feel is right. But if I don't get a slip
20 that clears you to work, then you're just going to have to
21 go on sick time, and I don't know how much you got left,
22 sick time, vacation time until -- and then after so many
23 months you can't find out your problem, you don't have
24 enough time vested to get a pension.

1 DEPUTY HAJASH: Yeah.

2 SHERIFF MOORE: But now, now you've heard me run
3 off at the mouth. Now you tell me what you want.

4 DEPUTY HAJASH: I want to work. I just want
5 some help with the dreams. That's the only thing I want.

6 SHERIFF MOORE: Well, two things. The Lord
7 helps those who help their self. You're going to have to
8 get -- you're going to have to make up your mind to get it
9 out of your mind. Because it's you. It ain't nobody
10 else. It's, you know -- and nobody might be able to help
11 you. You know, who knows. But I know where I would be
12 going. I would be getting my Bible and I would be praying
13 about it. And if you ain't -- if you've never been saved
14 then you need to get some of your friends to pray for you.
15 Because God don't listen to people that's not saved. And
16 I can show you that in the Bible. Okay? So if that's the
17 case, then you need to get some of your family to pray for
18 you. And they don't have to come to your house and they
19 don't have to lay hands on your if they want to or you
20 want them to. But to pray for you. I mean, (inaudible)
21 go to bed and say their prayers, I believe in it. And one
22 day every human being will come to the point they need
23 prayer, because they have got nowhere to turn, they have
24 got nobody to help. Then all of the sudden they realize

1 there is a real God. And, of course, when I was young I
2 didn't think about it. I was too busy drinking and
3 everything. But you're to a point now, you're going to
4 have to have some extra help. We don't want to lose you.
5 We need to make an appointment as soon as possible with
6 this doctor, with that excuse, take it to him and say,
7 "Does this mean what the Sheriff thinks it means?" And if
8 he says, "Well, I'm not going to release you," then if you
9 don't find another doctor to counteract that or whatever,
10 then bring me your gun and badge and we'll put you on sick
11 leave until you come back with something that says you're
12 capable of returning to work. Because I can't. I can't
13 be responsible if a doctor feels that way.

14 DEPUTY HAJASH: Yeah.

15 SHERIFF MOORE: I mean, you know, it's nothing
16 against you or anybody else. It's the facts of life. But
17 you're going to have to buckle up and, you know, make up
18 your mind who you want to go see and whatever. You want
19 to go back to Johnson, that's fine. I'll ask Tanner to
20 call him and make you another quick appointment. But you
21 need to go back to this one doctor there and get some kind
22 of a release or something.

23 DEPUTY HAJASH: Mr. Johnson never called me back
24 in a month. And he just -- like he didn't care. Like he

1 forgot about me.

2 SHERIFF MOORE: Okay. Well, I'll --

3 DEPUTY HAJASH: And we seen each other once a
4 week or once every two weeks, wasn't it?

5 FEMALE VOICE: Once every two weeks, then once
6 you went back to (inaudible.)

7 SHERIFF MOORE: I'll make --

8 FEMALE VOICE: The last one (inaudible) about
9 five minutes.

10 SHERIFF MOORE: I'll make a phone call.

11 FEMALE VOICE: The first one he was in, what,
12 30, 45 minutes. And then the second time he was in there
13 five minutes.

14 SHERIFF MOORE: Uh-huh.

15 DEPUTY HAJASH: I told him I was having real bad
16 chest pain a couple days before. And he said, "Well,
17 let's see what the test results are before we have another
18 meeting."

19 FEMALE VOICE: (Inaudible) or whatever it is,
20 and if he don't get help then (inaudible) someone else or
21 (inaudible.)

22 SHERIFF MOORE: Now, do what now?

23 FEMALE VOICE: PTSD, Post Traumatic Stress
24 Disorder.

1 SHERIFF MOORE: Yeah. Well, they got fancy
2 words. But the bottom line is, you got to remember two
3 things when dealing with psychologists and psychiatrists.
4 Their job is to take the worst extreme and attack it,
5 trying to, you know, downplay it to the level that he
6 feels comfortable with. Now, if they still feel that way,
7 that's why I've got to take his gun and badge, and your
8 career in law enforcement is over. If they don't, you
9 know, clear you. Somebody, whoever you go to, I mean,
10 that, you know, they made the statement. I didn't. And
11 then, you know, it's just up to you. I mean, I can't
12 change what you've already done. So -- and we don't want
13 to lose you because you're a good officer, a good deputy.
14 But you have -- but the thing is, it could happen again.
15 You come back to work tomorrow, it could happen tomorrow
16 night. Who knows.

17 DEPUTY HAJASH: Yeah. It's the luck of the
18 draw.

19 SHERIFF MOORE: And that's something you -- when
20 I hire people, and they're married, I bring their wife in,
21 too. Because I don't -- I don't want no misunderstanding.
22 I want you to remember, you know, when you come here and
23 talk to me, because I don't want no illusions about this
24 job. This is a big time job. You have, like we talked,

1 you know, you have life and death in your hands. And that
2 is the job. And it's a job that nobody wants. Only
3 special -- you might not think it, but only special people
4 can do this job. And then I talked to the wives, too.

5 "Wonder if this does happen, can you live with it?"

6 FEMALE VOICE: I'm going to be honest with you.
7 I don't like his job, but I will support him in what he
8 wants to do.

9 SHERIFF MOORE: Well, and you should because
10 it's his life. It's going to be your livelihood, it's
11 going to pay the bills, raise your children.

12 FEMALE VOICE: I know.

13 SHERIFF MOORE: And it's a good job, but, yeah,
14 sometimes it's an unfortunate job.

15 FEMALE VOICE: I know.

16 SHERIFF MOORE: And like he and I talked when he
17 first -- the first time he come in, he was 18 years old.
18 I wouldn't hire him. Too young. I don't think you -- I
19 didn't even want to hire him the second time because of
20 his age. And we had that conversation, you know, "Can you
21 handle this?" And, of course, everybody says the same,
22 "Oh, yeah, I can do it." You know, "I can do it." But in
23 realty --

24 FEMALE VOICE: It's different.

1 SHERIFF MOORE: Well, sure, it's different when
2 you have to do it. It's a lot different. Reality sets
3 in. Police officers get killed. Unfortunately, I've seen
4 two in my time. Just here in Raleigh County. And two
5 killed and one shot up real bad. And it's worse when one
6 of them gets killed because then you say, "What a waste.
7 The guy is protecting, doing his job protecting people,
8 gets killed." You know, it's a lot different than a crud
9 ball out here.

10 DEPUTY HAJASH: Yeah.

11 SHERIFF MOORE: Well, that's about the only
12 thing I can tell you. You know, don't come back to work
13 until -- if he can't change that, just bring that in here
14 and put on your record until we can get one -- because
15 I've got to have something to show that you're off sick.
16 And then when your sick time or vacation time run out, you
17 know, there's nothing I can do. You know, you're just off
18 sick without pay.

19 DEPUTY HAJASH: Yeah.

20 SHERIFF MOORE: So, and I, you know, you might
21 -- whatever that doctor's name was, you might take that
22 and say, you know, you want to just tell him whatever it
23 is that you feel is right in your heart. I mean, I can't
24 tell you what (inaudible) and I can't make that decision.

1 That's between you and the doctor. That's out of my
2 hands. But I don't want you to do something that you
3 don't feel comfortable with or you don't feel comfortable
4 with.

5 DEPUTY HAJASH: Here's another question I was
6 going to ask you. Is there any off road positions maybe I
7 could do just to try to see if it goes away?

8 SHERIFF MOORE: No. Well, the problem is, if I
9 do that for you then somebody else gets sick or breaks a
10 leg, they're going to expect the same treatment. And I
11 can't. I can't. See, when I had my back surgery, that's
12 what I thought. I go back and -- but they wouldn't do it
13 (inaudible.) You know, you're either fit to do your duty
14 or you're not.

15 DEPUTY HAJASH: Yeah.

16 SHERIFF MOORE: There ain't no in between. We
17 have secretaries out there. That's what we pay them for.
18 We have, you know, you're a police officer. If you cannot
19 do your duty, then you got to make other arrangements.
20 You know, there's just no in between. You're a deputy
21 sheriff. You cannot perform your duties in safety of
22 yourself and others, then you can't do it. And I don't
23 know that. Only you know what you can do and can't do,
24 you know. You know, you go back, if it's just the dreams,

1 you don't think it would -- you know, you need to speak
2 up, take charge. You need to take charge. Just like you
3 would if you went to a scene somewhere. You have to take
4 charge. Say, "Doc, I'm having these dreams, and I don't
5 think it will, you know," if you feel this way. If you
6 don't think that will effect you doing your duties, tell
7 him. Say, "I'm having dreams, but I don't think it's
8 going to effect -- but I'm not scared to do my duty." I
9 mean, you got to communicate with these people. And then
10 if you don't, if you say, "Doc, I don't think I can do my
11 duty," well, fine. That's between you and him. I'm not
12 going to be judgmental here. Whatever you want, is what
13 you need to do. Whatever you feel is right for you and
14 your future family. I can't, you know, I don't -- you
15 know, I just told you what I went through and I -- and I
16 didn't go to no psychiatrist, I didn't go to psychology, I
17 didn't do nothing. I said, "Lord, help me because this is
18 all in my mind. I know it " And, Carl, I love him. He
19 was like a brother to me. I done all I can do and I can't
20 change it. And it happens. And you're going to -- and if
21 you come back on this job, you're going to see some things
22 a lot worse than that. You know, you might not be
23 involved in it, but you're going to see things. Suicide,
24 heads blown off, I mean, all kinds of stuff out here.

1 Murders. I mean, you know, you're young, you got a long
2 career to go.

3 DEPUTY HAJASH: That stuff don't even bother me.

4 SHERIFF MOORE: Yeah, that's what I'm saying.

5 And it shouldn't, either. You know, first of all, you
6 didn't kill the man. He was dead before he hit the
7 ground. And second of all, you did, you did what you get
8 paid to do. What you took an oath to do. And you went
9 home.

10 DEPUTY HAJASH: That's the important part.

11 SHERIFF MOORE: That is the most important part.

12 Right?

13 FEMALE VOICE: He better come home.

14 SHERIFF MOORE: Absolutely. That's the most
15 important part. I've got to go teach a class. But, you
16 know, think about it this evening. If you think you can
17 do your duty, then go to the doctor and tell him. Say,
18 "I'm having dreams about this, but I can still perform my
19 duty. I mean, I want to go back to work here." If not,
20 just bring it back in to me and I'll take it over to
21 Steve, and you can take sick time or vacation time until
22 you run out, until you can find out what you want to do.
23 Just so you keep getting pay. I don't have any idea how
24 much you got left, sick time or --

1 DEPUTY HAJASH: I think Steve said until June
2 1st. June 1st -- I brought it in the 15th, I wouldn't get
3 paid.

4 SHERIFF MOORE: Okay. So you do what John needs
5 to do, because we're supporting you. We don't want you to
6 -- if I wasn't supporting you I wouldn't have got this --
7 paying this doctor out of my -- our pocket, my budget. I
8 wouldn't be doing it. I would say, "Yeah, you're on your
9 own." But we care about you and, you know, you're a good
10 officer. But it's up to you. I mean, I can't
11 (inaudible.) You can make this thing work. Alcohol and
12 drugs is not the answer. I don't know what to (inaudible)
13 You ought to be proud of that fact. Not be worried about
14 having dreams about it. You ought to be proud of the fact
15 you did what you're supposed to do. And you did something
16 that very few men will ever have to do. But at least you
17 can stand up like a man and say, "Yeah, I did my duty."
18 Ain't nobody here say you didn't, because you did. If you
19 went up there and shrieked your duties and hid and fell
20 down and ran or something, you would have been the
21 laughing stock of every police agency in the state. And
22 then fired to begin with. But you didn't. And these
23 guys, you know, they know you did your duty and they look
24 up to. They won't admit it, but they look up to you

1 because you did your duty. And they ask their self,
2 "Could I do my duty if I'm ever called upon?" And it will
3 be, some day, one of them, "Can I do what John did when
4 it's my turn." And I hope the answer is yes. (Inaudible)
5 if it's not. They'll be very lucky.

6 DEPUTY HAJASH: (Inaudible) a person will.

7 SHERIFF MOORE: That's right. But, guys, get
8 your Bibles out and read them. Start reading the Bible a
9 little bit. It ain't going to hurt you. There's a lot of
10 interesting stories in there, you know. People had to
11 kill people all the time then. They didn't go to hell for
12 it. And you're not. You did exactly what Caesar, the
13 man, you took an oath for God and (inaudible.) Just like
14 them boys overseas, getting shot at, killing people,
15 running up to them and shooting. God's not going to hold
16 them responsible for that.

17 DEPUTY HAJASH: The only thing I can do.

18 SHERIFF MOORE: Exactly right. And you need to
19 read your Bible. That will do you as much good as anybody
20 would. You're caught between a rock and a hard place.
21 I've been there. I had those feelings and I had the panic
22 attacks. Stood up in bed, sat up in bed, fall asleep
23 sitting there because I couldn't lay down. I mean, it was
24 all right here in my head, and I knew it. And I had a

1 hard time getting it out, but finally I did. "Lord, get
2 this thing out of my head." You need to get your family
3 to start praying for you. I believe in that. Get her
4 family to start praying for you. I do believe and, you
5 know, it's a divine intervention, and I believe.
6 (Inaudible) because I go to church regular and I believe
7 in it. And the older you get, especially when you have
8 children of your own, the more you will believe in it.
9 When you got them little fellows and they get sick, nobody
10 can help them sometimes, and you will be calling people to
11 pray for them. Because if you're not saved, God does not
12 listen to your prayers. And I can show you that in the
13 Bible. But once you're saved you become a child of God,
14 and he'll listen to your prayers because he knows you
15 believe in him. And if you believe in praying to him,
16 then what he said, if you -- well, "Why don't you go ahead
17 and repent your sins and become one of my children?" So
18 if you're not -- your saved then, go to your relatives
19 that are good Christian people and say, "Listen, I need
20 prayer. Pass the word. Get people to start praying for
21 me." Don't tell them why. Just tell them you need
22 prayer. Because you don't want this thing to get out in
23 the public, spread like wildfire, and people will say,
24 "Oh, John, yeah, he can't do this and he can't do that."

1 That's bull. It's nobody's business.

2 DEPUTY HAJASH: No.

3 SHERIFF MOORE: Just tell them that you need
4 prayer. God knows. Okay?

5 DEPUTY HAJASH: All right. Thank you, sir.

6 SHERIFF MOORE: I don't want to lose you.

7 {CONCLUSION}

8

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

MARY WEBB, individually, and in
her capacity as Administratrix of the
Estate of Robert A. Webb,

Plaintiffs,

v.

Civil Action No. 5:09-cv-01253
Honorable Irene C. Berger

RALEIGH COUNTY SHERIFF'S DEPARTMENT;
RALEIGH COUNTY COMMISSION;
SHERIFF DANNY MOORE, individually and in his
official capacity; CHIEF DEPUTY STEVE TANNER,
individually and in his official capacity;
DEPUTY GREG S. KADE, individually and in his
official capacity; and DEPUTY JOHN E. HAJASH,
individually and in his official capacity,

Defendants.

CERTIFICATE OF SERVICE

I, Travis A. Griffith, counsel for Plaintiff, Mary Webb, individually, and in her capacity
as Administratrix of the Estate of Robert A. Webb, do hereby certify that a true and exact copy
of the foregoing "*Plaintiffs' Response to Defendants' Motion in Limine to Preclude Reference
to or Evidence Concerning Tape Recorded Conversations Between the Defendants*" was made
upon the parties listed below by electronic filing this 17th day of November, 2010 to:

Chip E. Williams, Esquire
Pullin Fowler Flanagan Brown & Poe, PLLC
600 Neville Street, Suite 201
Beckley, West Virginia 25801

*Counsel for Raleigh County Sheriff's Department, Raleigh County
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and Deputy Greg S. Kade*

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IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
 AT BECKLEY

MARY WEBB, Individually,)
 and in her capacity as)
 Administratrix of the)
 Estate of Robert A. Webb,)
 Plaintiff,)
 VS.) CIVIL ACTION NO. 5:09-cv-1253
)
 RALEIGH COUNTY SHERIFF'S)
 DEPARTMENT; ET. AL.,)
 Defendants.)

The deposition of DANNY MOORE in the above-styled matter was taken pursuant to notice for discovery and/or evidentiary purposes, before H. David Stanley, a Notary Public within and for the State of West Virginia at Large, on the 9th day of August, 2010, commencing at 11:16 A.M., EDT, at Pullin, Fowler, Flanagan, Brown & Poe, 600 Neville Street, Suite 201, Beckley, West Virginia.

BROWN REPORTING AGENCY
 P.O. Box 5473
 Beckley, West Virginia 25801-7508
 304/252-4106

I N D E X

<u>Plaintiff's Witness:</u>	<u>Direct</u>	<u>Cross</u>
Danny Moore	4	40 (Williams)
Reporter's Certificate --	Page 42	
Signature Sheet --	Page 43	
Errata Sheet --	Page 44	

B.R.A.

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 Deputy John E. Hajash

B.R.A.

COPY

(Witness Sworn)

1 THEREUPON came,
 2 DANNY MOORE,
 3 called as a witness on behalf of the Plaintiff, herein,
 4 who, having been first duly sworn according to law,
 5 testified as follows:
 6 DIRECT EXAMINATION
 7 BY MR. GRIFFITH:
 8 Q Mr. Moore, my name's Travis Griffith.
 9 As you heard us this morning, Mr. Olivio and I represent
 10 the family of Mary Webb through the Estate of Rob Webb.
 11 Have you ever had your deposition taken before?
 12 A No, sir.
 13 Q Okay. Same ground rules that
 14 applied when your -- I guess it wouldn't be your
 15 predecessor, but Mr. Tanner's deposition. If you can,
 16 when I ask a question that you think needs a yes or a no
 17 answer, please try to say yes or no, rather than uh-huh
 18 and huh-uh, because we'll understand it as we sit here,
 19 but then when he puts uh-huh on there, who knows what
 20 that means later. If at anytime you have any questions
 21 for your lawyer, you can take a break. If anytime you
 22 need to use the restroom, get something to drink, we can

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1 do that. If at anytime I ask a question that doesn't
 2 make any sense to you, and believe me it's going to
 3 happen because my tongue will get tied somewhere along
 4 the line, then you feel free to stop and tell me that you
 5 didn't understand my question. Because if you try to
 6 pretend like you knew what it was and assume that you
 7 think the question meant this or that, then I may get a
 8 completely different answer out of there. Now, you said
 9 you've never had your deposition taken before?
 10 A Not that I can remember, no.
 11 Q Okay. Can you give me a little bit
 12 of your background? I mean, are you from Raleigh County
 13 originally?
 14 A I was born and raised in Raleigh
 15 County. I graduated from Woodrow Wilson High School.
 16 Q Okay. What year did you graduate
 17 from Woodrow?
 18 A In 1967.
 19 Q Any college?
 20 A Yes, sir. I took night classes and
 21 graduated with a Criminal Justice degree from Bluefield
 22 State.
 23 Q What year was that?

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1 A I can't remember.
 2 Q That's okay.
 3 A It took me 20-some years, I can't
 4 remember. This is not -- I worked and went to school.
 5 Q Okay. Having graduated from Woodrow
 6 Wilson in 1967, has law enforcement been what you've done
 7 all the way out?
 8 A No, sir. I entered the military in
 9 1967.
 10 Q Okay. What branch?
 11 A The Army.
 12 Q Okay. And how long did you serve in
 13 the military?
 14 A Three years.
 15 Q Did you receive an Honorable Discharge?
 16 A Yes, I did, sir.
 17 Q That period, that three years, I'm
 18 guessing that three years is about the only amount of
 19 time you spent a whole lot of time out of Raleigh County?
 20 A Yes, sir.
 21 Q When you got done with the military,
 22 what did you do?
 23 A I went to work for Fairchild Equipment

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1 Company.
 2 Q What did you do with them?
 3 A I was a clerk in their Parts
 4 Department.
 5 Q Okay. What about after that?
 6 A Then I went with the Beckley Police
 7 Department in 1973 until 1998 and I retired.
 8 Q Okay. At some point, you, I guess,
 9 ran for sheriff?
 10 A Yeah. I did in -- well, you run the
 11 year before in '99, but I was elected in 2000, and then
 12 again in 2004, then I retired at the end of 2008.
 13 Q So you went straight from the Beckley
 14 Police Department into the Raleigh County Sheriff's
 15 Department?
 16 A Well, it was two years.
 17 Q But in '98 you retired. Did you do
 18 anything between '98 and 2000?
 19 A No. No. I had surgery, back surgery
 20 in between.
 21 Q Did you review any documents to prepare
 22 for today's deposition?
 23 A Just what I read here and this morning

Page 8

1 the taped conversation that I've never bothered to listen
 2 to.
 3 Q Okay.
 4 A And the Faulkner report and then the
 5 pictures, I looked at those and skimmed over that, that's
 6 all.
 7 Q Okay. You said the things you looked
 8 at here, do you remember what documents you specifically
 9 looked at?
 10 A The tape recording of my --
 11 Q Okay. Just the transcript?
 12 A That's all.
 13 Q Okay. Did you meet with anybody?
 14 I don't want to talk about anything you've told your
 15 attorney, but did you meet with anybody, Mr. Tanner, in
 16 preparation for today?
 17 A No, sir.
 18 Q Okay. Did you meet with Deputy Kade?
 19 A No, sir. No one.
 20 Q Okay. When was the last time you saw
 21 Mr. Hajash?
 22 A I guess the last time I seen him is
 23 when he took the taped conversation.

Page 9

1 Q Okay. Were you at the scene at anytime
2 on the night of the shooting?
3 A Briefly, I was.
4 Q Okay. How did you learn that a
5 shooting had occurred?
6 A I had a phone call at home. I can't
7 tell you who, and I went up to the scene.
8 Q Okay. Were you asleep when you got
9 the phone call?
10 A I don't remember, probably.
11 Q Okay. Can you tell me what -- I mean,
12 you traveled to the scene of the death, about how long
13 did it take you to get there from your house?
14 A Probably 15, 20 minutes.
15 Q Do you know how far it is from your
16 house to the scene?
17 A No, sir. I don't.
18 Q Okay. What did you find when you came
19 upon the scene, what was going on?
20 A Well, there was a lot of people milling
21 around, the ambulances were there, the police were there.
22 Q Okay. Were there any -- was it all
23 Raleigh County Sheriff's deputies?

Page 10

1 A The best of my knowledge, yes.
2 Q Okay. Was there anybody there from the
3 State Police or anything like that?
4 A I don't think so.
5 Q Mabscott?
6 A I don't think so.
7 Q Okay. Did you speak to anybody when
8 you got on the scene?
9 A Yes.
10 Q Who did you speak to?
11 A If I'm not mistaken, I think Chief
12 Tanner gave me a big rundown on what happened. Then I
13 knew I stayed out of the way, and then after a few
14 minutes, I spoke to a woman at the far side of the house.
15 Mrs. Webb was with her priest and I guess her children
16 was talking. I couldn't tell you what she looked like.
17 And I went over there and spoke to them and then she was
18 being consoled by the priest, so I got out their way.
19 Q Okay. Did you talk to Deputy Kade?
20 A Yes, I did. I talked to Kade and
21 Hajash briefly. They were not at the scene, they were
22 parked up the road a little way, if I remember correctly.
23 And I went up and checked on their well-being and left

Page 11

1 there and went back to the scene. That was before I got
2 to the scene.
3 Q Before you got to the scene?
4 A Yes.
5 Q Okay. If you know, they were at their
6 vehicles when you came on the scene?
7 A Yes, yes.
8 Q Do you know if they had moved their
9 vehicles at any time?
10 A I don't know exactly where they had
11 parked before, so I couldn't tell you.
12 Q Okay. What were the words spoken
13 between you, Hajash and Kade?
14 A I just asked them, you know, are you
15 okay. That's what I was concerned about their well-
16 being, and that was basically it. And they said, yes,
17 and then I went back to the scene.
18 Q Okay. Did you speak to anybody else
19 at the scene?
20 A Let's see, no, I don't think so.
21 Q Backing up, what kind of training did
22 you receive when you were with the Beckley Police
23 Department?

Page 12

1 A Standard training that everyone
2 receives from the State Police Academy, and then our in-
3 service training.
4 Q Okay. You served with them for a long
5 time?
6 A Yes, sir.
7 Q Over 20 years. I mean, were there
8 updates, different things that went on?
9 A Yeah. Constantly, yes.
10 Q Did you ever receive any kind of
11 training on the use of a motor vehicle in pursuits?
12 A I don't think so.
13 Q Okay. Any kind of motor vehicle
14 driving training, approaching scene training, anything
15 like that? I realize we're covering a lot of time.
16 A No. Just your standard training that
17 you have at the Academy and then in-service training.
18 Q Once you arrived on the scene, I'll
19 just call it the scene, but we're talking about the
20 shooting?
21 A Right.
22 Q You were the sheriff, did you take
23 over the investigation?

Page 13

1 A No, sir.

2 Q Okay.

3 A No, sir.

4 Q Okay. Who was giving out tasks, who

5 was carrying -- who took pictures?

6 A I stayed out of the way. I don't know

7 who was barking out the orders, I stayed away. I walked

8 up, looked, walked to the end of the scene and back and

9 got out of the way.

10 Q Okay. At anytime did you question

11 Deputies Kade or Hajash regarding the events that had led

12 to the shooting?

13 A I don't think so. I don't think that

14 we went into detail about it when I checked on them. No,

15 I don't think so.

16 Q And there's an investigative report

17 that your counsel has provided to me, which have people

18 interviewing them, but you would not have been a part of

19 that process?

20 A No, sir. I would not.

21 Q Okay. Who made the determination of

22 who would perform the post-shooting investigation?

23 A Well, that's an assumption that we

Page 14

1 would do it our own self.

2 Q Okay. So there was never thoughts

3 of letting the West Virginia State Police do an

4 investigation?

5 A No, sir.

6 Q Do you remember when the investigation

7 was completed?

8 A No, sir. I do not.

9 Q Had you known of Robert Webb prior to

10 the shooting?

11 A No, sir.

12 Q Did you know the man at all?

13 A No, sir.

14 Q Did you know the Webbs, Mary Webb?

15 A No. From what I understand later on,

16 she knew me, but, you know, in office everybody knows

17 you.

18 Q Okay.

19 A If she walked right there, I would not

20 know. No, sir.

21 Q Okay. Would you have had to have

22 signed off, and I use that term really loosely, on the

23 investigation of the shooting of Robert Webb?

Page 15

1 A No, sir.

2 Q Okay. Would you have seen the report?

3 A If I wanted to, but, no, sir.

4 Q Okay. So have you ever seen the Robert

5 Webb report?

6 A No, sir. I have not.

7 Q Okay. Let's talk about Deputy Hajash

8 for a couple minutes?

9 A Okay.

10 Q Apparently, he, at one point, tried

11 to get a job with you and you refused to hire him as an

12 officer?

13 A Correct.

14 Q Can you tell me when that was?

15 A Well, I don't know when it was, but he

16 was about 18 years old.

17 Q Okay.

18 A And I was uncomfortable with that.

19 Q Okay. Why were you uncomfortable with

20 that?

21 A Because he was 18 years old.

22 Q You felt like he was too young?

23 A Yes, sir.

Page 16

1 Q Did you know Deputy Hajash? Well,

2 let's call him John Hajash because he wasn't Deputy

3 Hajash at the time. Did you know him prior to him being

4 18 years old?

5 A No, sir.

6 Q Had he grown up in an area near you?

7 A I don't remember where he grew up at.

8 Q Did you know his family at all?

9 A Only an uncle.

10 Q Okay. You knew his uncle?

11 A Yeah.

12 Q Okay. Can you tell me his name?

13 A He's a preacher. It escapes me right

14 now. I don't know him, I knew him, but not well.

15 Q Did Mr. Hajash come in and have an

16 interview when he was 18 to try to get a job?

17 A Yes, sir.

18 Q Was the Sheriff's Department hiring at

19 the time of this?

20 A Probably. For him to be in my office,

21 we probably were hiring.

22 Q Okay. And I know a lot of these are

23 redundant questions, but I've got to ask them, I can't

Page 17

1 assume?

2 A Sure, that's fine.

3 Q So do you know if he was looking for

4 jobs in law enforcement in other places?

5 A No, sir. I do not know that.

6 Q Do you have any specific recollection

7 of the communication you had with him when he was 18

8 about --

9 A No, sir. I do not.

10 Q Okay. So did he ever come back and try

11 to get a job?

12 A Well, we hired him the second time, but

13 that's the only time. The other time I've ever seen him

14 is the second time when he took the test.

15 Q Okay. When was that, how old was he?

16 A I think in his 20s, early 20s.

17 Q Okay. Was there anything specific when

18 he was 18 years old and you said you couldn't hire him,

19 about his mannerisms or anything?

20 A No. He was a nice, young man.

21 Q Okay. It was simply the age factor?

22 A Yes, sir.

23 Q When he came and took the test, I guess

Page 18

1 is there a pre-requisite test you can take before you

2 look to get a job?

3 A Yeah. The Civil Service test, they

4 have testing that we have to do before we can hire.

5 Q Okay. And he passed the test?

6 A Yes, sir.

7 Q Did he pass it the first time?

8 A Yes, sir.

9 Q What had changed about his mannerisms

10 the second time that caused you to want to give him a

11 job?

12 MR. WILLIAMS: Object to the form.

13 BY MR. GRIFFITH:

14 A I didn't base anything on mannerisms,

15 I just base them on age only.

16 Q Okay. I'm assuming you were more

17 comfortable the second time to hire him?

18 A With his age, yes.

19 Q Okay. Do you remember what kind of --

20 and I know we're going to get the records later, but do

21 you remember what kind of training he had?

22 A The standard training that everyone has

23 in the State.

Page 19

1 Q Okay. He would have gone to the State

2 Police Academy?

3 A Yes, sir.

4 Q And after he was done, would he have

5 been riding with a superior officer?

6 A With a training officer and completed

7 what we have and what's mandated by the State. And then,

8 of course, it's the officer's opinion that he's ready for

9 duty.

10 Q Okay. Do you remember who Mr. Hajash's

11 training officer was?

12 A No, sir.

13 Q Okay. And, again, we're going to get

14 the records, so I'm going to ask you today still, you

15 might not know it, but do you remember how long he had

16 been on the force when this incident occurred with

17 Mr. Webb?

18 A No, no, sir. I don't.

19 Q Okay. Do you know if it had been a

20 year?

21 A I would think it was over a year.

22 Maybe a couple of years, but I'm not sure.

23 Q Do you remember an incident that

Page 20

1 occurred while you were the sheriff involving Deputy

2 Hajash and another deputy at the Crossroads Mall?

3 A No, sir.

4 Q They'd had an incident where some

5 boys had gotten rowdy and pinned somebody down?

6 A No, sir.

7 Q Somebody was trying to get ahold of

8 Mr. Hajash's weapon?

9 A I don't remember. Huh-uh, (no).

10 Q I'm going to give it to your counsel to

11 look at, this is an article from the Register-Herald here

12 in Beckley involving a brawl, 30 people at the Crossroads

13 Mall?

14 THE WITNESS: Do you want me to read

15 it?

16 MR. WILLIAMS: No. I've read it

17 before.

18 BY MR. GRIFFITH:

19 Q I'm just going to see if you recall the

20 incident?

21 A Okay. Now, I recall that. I didn't

22 know that this happened, but I do recall that.

23 Q Okay. Did that refresh your memory of

Page 21

1 the incident?

2 A Well, I recall an incident with Deputy

3 Harold with the brawl, but I did not know all the

4 deputies involved in that situation. So, no to your

5 question, but yes to the brawl with Corporal Harold at

6 the time, Keith Harold.

7 Q Okay. Do you know if either Corporal

8 Harold or Deputy Hajash received any kind of disciplinary

9 action as a result of this incident?

10 A Not to my knowledge.

11 Q While you were the sheriff in Raleigh

12 County, do you remember having any kind of disciplinary

13 action with regard to Deputy Hajash?

14 A No, sir.

15 Q Okay. How about Deputy Kade?

16 A No, sir.

17 Q Was Deputy Hajash ever subject to any

18 kind of disciplinary action for excessive force?

19 A Not to my knowledge.

20 MR. GRIFFITH: I'm looking for

21 something specific, give me a second.

22 BY MR. GRIFFITH:

23 Q So if Deputy Hajash had admitted to

Page 22

1 me, in documentation, that he was subject to claims of

2 excessive force prior to July 3rd, 2006, would you have

3 any recollection of what those excessive force claims

4 were?

5 A No, sir.

6 Q I'm trying to skip over a bunch of

7 stuff here, so we don't have to spend our whole day here.

8 You had nothing to do with the postshooting investigation

9 of Robert Webb?

10 A Nothing.

11 Q Okay. And as we sit here today, I

12 think you said you hadn't even read the report?

13 A Correct.

14 Q Okay. So you would have had nothing to

15 do with the interviews?

16 A Nothing.

17 Q Yeah, you got to say the words?

18 A No, sir.

19 Q Okay. You would have had nothing to do

20 with interviewing the officers?

21 A No, sir.

22 Q Nothing to do with interviewing the

23 neighbors?

Page 23

1 A No, sir.

2 Q Okay. You would have had no duties,

3 whatsoever?

4 A Correct.

5 Q You know, you took out about two pages

6 right there?

7 A Right.

8 Q I mean, my questions, you took them

9 out. As we sit here today, do you know if Deputies Kade

10 and Hajash were tested for drugs or alcohol after the

11 shooting?

12 A No, sir.

13 Q No, sir, you don't know, or no, sir,

14 they were not?

15 A As far as I know, no, sir, they were

16 not.

17 Q Okay. Were you aware that there is

18 a policy established by the Raleigh County Sheriff's

19 Department that every time a discharge of a firearm

20 occurs, the officers are to be drug tested?

21 A No, sir.

22 Q Okay. Had you known of that policy,

23 would you have drug tested?

Page 24

1 A No, sir.

2 Q Why not?

3 A This policy, if I may explain, changes.

4 A policy can change daily, according to Federal law. A

5 policy is put in place for an overall protection of

6 citizens and officers, but that may change. A law may

7 change that I do not know about, that I can't get the

8 policy changed to go along with the new ruling. So,

9 therefore, what I know now, sitting right here, and in

10 the last few years that, you know, drug testing for

11 police officers have changed, then probably not.

12 Q Okay. Now, this is the policy that

13 was in existence in July of 2006, and that was the policy

14 that existed then?

15 A Uh-huh, (yes).

16 Q What about if a deputy wrecks his

17 service cruiser, would you test them for drugs or

18 alcohol?

19 A No, sir. Not without probable cause.

20 Q Okay. How is it that Deputy Hajash was

21 on the evening duty of July 3rd and 4th, was that just in

22 the normal course of business how he got on the schedule,

23 or was there some reason he was given the night duty?

Page 25

Page 27

1 A That's the normal routine. It was
 2 probably his turn to work.
 3 Q Okay. I'm just making sure there's
 4 no disciplinary stuff that exists out there. Did your
 5 officers sometimes do off-duty security work?
 6 A Yes, sir.
 7 Q How did that work?
 8 A Well, when I took office, in order to
 9 have them in uniform and covered by the insurance and
 10 all, we done other off-duty work through my office.
 11 Q And they would pay the Raleigh County
 12 Sheriff's Department?
 13 A Correct.
 14 Q And then you would pay the officers?
 15 A Correct.
 16 Q Was that the same rate or a different
 17 rate?
 18 A I did not discuss rate, that was up to
 19 the officer and his employer.
 20 Q Okay. We've gone through when you got
 21 to the accident, the shooting scene, and all that. When
 22 did Deputy Hajash -- I guess, did he just stop showing up
 23 for work?

1 A I don't know, several weeks.
 2 Q It would be in the records, wouldn't
 3 it?
 4 A Yes. Yes, sir, it would be.
 5 Q Is it your understanding that he made a
 6 claim through Workers' Compensation for benefits?
 7 MR. WILLIAMS: I want to just pose a
 8 standing objection to the relevancy so I don't
 9 have to keep interrupting. You can answer
 10 MR. GRIFFITH: That's fine.
 11 BY MR. GRIFFITH:
 12 A I don't recall.
 13 Q Okay. Are you aware that there's a
 14 policy in the Raleigh County Sheriff's Department's
 15 manual that requires officers involved in shootings to
 16 have post-shooting psychological treatment if they need
 17 it?
 18 A I think that's standard policy. I
 19 don't remember reading it, no.
 20 Q And I'll just instruct you that's in
 21 there. What efforts did you take to get Deputies Kade
 22 and Hajash psychological counseling?
 23 A The chief arranged for them to have

Page 26

Page 28

1 A As far as I know, he just quit coming
 2 to work, period.
 3 Q Okay. Did you receive any kind of
 4 telephone call or note or any kind of leave request form
 5 from him?
 6 A Nothing.
 7 Q Okay. How long after the death of
 8 Robert Webb did that happen?
 9 A Over a year. I'm not sure, it was a
 10 long time.
 11 Q Okay. It was a long time after the
 12 shooting --
 13 A Right.
 14 Q -- that he stopped coming to work?
 15 A Yes, sir.
 16 Q Did Mr. Hajash ever come and talk to
 17 you about problems or dreams he was having as a result of
 18 the shooting?
 19 A Just on the tape.
 20 Q Just that one time?
 21 A Just that one time only.
 22 Q Okay. About how long had he been off
 23 work?

1 some counseling.
 2 Q Okay. Chief Tanner?
 3 A Yes, sir.
 4 Q Okay. Were you familiar with this Mike
 5 Johnson person that was going to be used?
 6 A I know who he is, but that's all.
 7 Q Okay. Have you ever met him?
 8 A I don't think so.
 9 Q Okay. Had you ever sent officers to
 10 him in the past?
 11 A Yes.
 12 Q Were there other shooting instances
 13 involved in that or --
 14 A There was a child that was -- the one
 15 I recall right off my mind here, that was -- his head
 16 blown off with a shotgun and we had to send a whole lot
 17 of officers.
 18 Q Okay. Okay. And, again, I don't want
 19 to ask specifics, because the only one I think I can
 20 specifics about is Hajash, based on what I can ask you
 21 here?
 22 A Yeah.
 23 Q Do you know if Deputy Hajash did, in

Page 29

1 fact, go and meet with Mike Johnson?
 2 A If I remember correctly, in our taped
 3 conversation, he told me he'd went and he didn't feel
 4 comfortable and he quit going.
 5 Q Okay. And, again, you're going off of
 6 what he told you?
 7 A Correct.
 8 Q What did he tell you he was not
 9 comfortable with?
 10 A I think he said he just didn't feel
 11 like he was helping him.
 12 Q Okay. So based on what he told you,
 13 did you get the understanding that he wasn't comfortable
 14 with counseling or that he wasn't comfortable with Mike
 15 Johnson performing the counseling?
 16 A I don't know how to answer that. I
 17 really don't know if he was uncomfortable with Mike
 18 Johnson. I don't know.
 19 Q And that's fair. If you don't know,
 20 you don't know?
 21 A I don't know.
 22 Q Would the Raleigh County Sheriff's
 23 Department, would they have received any kind of

Page 30

1 notification from Mike Johnson's office after any officer
 2 had been through counseling with him?
 3 A If the deputy would have brought it in.
 4 Q Okay. For example, and I'm not asking
 5 specifics, but the incident you discussed where the child
 6 was, unfortunately, had his head blown off?
 7 A Uh-huh, (yes).
 8 Q And you said officers, did officers
 9 then get cleared for duty to come back and work for the
 10 Raleigh County Sheriff's Department?
 11 A Well, they never were -- under those
 12 circumstances, they weren't involved, they just saw
 13 something. And they never were off from work, but that's
 14 something we felt like they needed to do. You know,
 15 after seeing a horrific sight like that, that they needed
 16 to, you know, vent it, get it out and go on about their
 17 business.
 18 Q Okay. Did you ever receive any kind of
 19 notation subsequent to Mike Johnson's interview from a
 20 Dr. Syed indicating that Deputy Hajash was unstable?
 21 A I don't remember. No.
 22 Q Okay. Do you remember any kind of
 23 notation talking about that he was not fit for duty,

Page 31

1 Deputy Hajash?
 2 A No, sir.
 3 Q Okay. What was your understanding of a
 4 meeting that occurred with you and Deputy Hajash that he
 5 taped? I don't know what date it was.
 6 A I don't know. He called me, he came
 7 in. I didn't call him.
 8 Q Okay.
 9 A He showed up with his girlfriend/
 10 fiancée, whoever, and wanted to talk to me.
 11 Q What did he want to talk to you
 12 about?
 13 A At that point, I really don't know,
 14 because he came into the office and had said that he was
 15 having trouble with nightmares. And we talked about his
 16 job and how come he was missing so much work.
 17 Q Okay. During your conversation with
 18 Deputy Kade, and I'm referring to Page 7, that you're
 19 speaking?
 20 MR. WILLIAMS: For the record, you say
 21 Kade, I think you meant Hajash.
 22 MR. GRIFFITH: I did mean Hajash.
 23 Thank you, Chip.

Page 32

1 BY MR. GRIFFITH:
 2 Q When you were speaking with Deputy
 3 Hajash, you indicated that he was going to have to get
 4 his mind straight, because the letter that that guy
 5 wrote, technically, I'm supposed to relieve you from
 6 duty. What letter are we talking about there?
 7 A It was a note he had, he had brought
 8 in, and it didn't say he could come back to work, it
 9 didn't say he couldn't work, it didn't say anything.
 10 And, therefore, I can't let him back to work unless he
 11 brings an excuse from the doctor that says he is fit for
 12 duty, which he did not.
 13 Q Okay. And you made a hand gesture,
 14 was it basically put on more like a prescription pad?
 15 A If I remember correctly, it was just
 16 a little note.
 17 Q Okay. Also, you indicate, at one point
 18 in your conversation with Deputy Hajash, that you'd heard
 19 a lot of rumors regarding Robert Webb; one, specifically,
 20 that he was going to -- that his wife was going to
 21 divorce him?
 22 A Uh-huh, (yes).
 23 Q Do you remember that?

Page 33

1 A I remember saying it, but I don't
 2 remember it, no.
 3 Q Okay. Do you remember who gave you
 4 that information?
 5 A No. No, sir.
 6 Q Do you remember any other rumors you
 7 were talk -- what other rumors you were talking about?
 8 A At that time, God, no. Just rumors,
 9 you know.
 10 Q Okay. At the time that you had this
 11 conversation with Deputy Hajash, based on this note we're
 12 talking about, and we're all using little hand gestures
 13 here --
 14 A Right.
 15 Q -- talking about a little scrap of
 16 paper. Because of that note, did you believe that you
 17 could not put him as an officer on the street with a
 18 badge and a gun?
 19 A I didn't have to worry about that, he
 20 didn't show back -- because he didn't never come back to
 21 the office. I've not seen him since.
 22 Q Okay. Had he come back to work, would
 23 you have put him back out on the streets?

Page 34

1 A No, sir.
 2 Q During this conversation you had with
 3 Mr. Hajash, you talked about a letter, or the note, that
 4 this Dr. Syed had sent. And you indicated that because
 5 of the letter you were supposed to take his gun and
 6 badge. Did you, in fact, take his gun and badge that
 7 day?
 8 A Not that day, no.
 9 Q Okay.
 10 A Because he was not working.
 11 Q Okay. Did he have it on him that day?
 12 A No, I didn't see it.
 13 Q Okay. When did you get his gun and
 14 badge?
 15 A I can't give you specific dates, he
 16 never showed back up for work. And then I finally had to
 17 terminate him and I sent him a letter, that I needed all
 18 his equipment, his gun, his badge.
 19 Q Did he use up all his sick and vacation
 20 time?
 21 A Yeah. Probably that and then some.
 22 Q Okay. I'm going to show you, and you
 23 heard the testimony from Sheriff Tanner regarding this,

Page 35

1 but this is the log sheet from the EMT workers who were
 2 at the scene, the Webb shooting that night. And I'm
 3 particularly looking at this first sentence here, this
 4 first little paragraph, where they're talking about how
 5 911 dispatcher put it out. And the significant portion
 6 is that, "We were told by Sheriff's Department not to
 7 touch the patient until pictures were taken." And I'll
 8 submit to you that they were told not -- they were taking
 9 pictures, crime scene photos, and at this point it sounds
 10 like the EMT workers consider Mr. Webb a patient, they
 11 have not declared death yet. Is that proper police
 12 procedure to take pictures prior to rendering aid to a
 13 patient?
 14 MR. WILLIAMS: Objection to form.
 15 You can answer.
 16 BY MR. GRIFFITH:
 17 A Well, first of all, I don't read all
 18 that into that. It seems to me if they've already
 19 rendered aid and couldn't move the body until after the
 20 photos were taken, I just can't --
 21 Q Okay. So what is your interpretation
 22 of that sentence?
 23 A That they went to remove the body and

Page 36

1 couldn't after they had already checked him, backed off.
 2 And they was going to load him up, and they said, no, you
 3 can't do that yet.
 4 Q Okay. When you've had instances
 5 involving officers that might require counseling, are you
 6 still sending officers to Mike Johnson?
 7 A I don't know why.
 8 Q That's right, you're no longer in
 9 there, are you?
 10 A No, sir. Thank God.
 11 Q During your conversation that you had
 12 with Deputy Hajash at the time, you were talking about
 13 pills and alcohol. Do you have any belief that Deputy
 14 Hajash was using pills and alcohol?
 15 A No, sir. I just skimmed over it
 16 briefly. If you'll see that, you'll know that's not what
 17 I mean.
 18 Q Okay. I was just asking. All right.
 19 You did not know you were being taped?
 20 A No, sir.
 21 Q Okay. Is there anything in this
 22 conversation with Hajash that, had you known it was going
 23 to be played for Mary Webb, you would have said or not

Page 37

1 said?

2 A I would have said probably the same

3 thing.

4 Q Okay. So you still would have said

5 that Deputy Hajash had done the world a favor by killing

6 Robert Webb?

7 A Probably. I'd have told him anything.

8 I would have told him the sun didn't shine in order to

9 help this young man get back to work and get back to, you

10 know, his responsibilities.

11 Q Okay. And only if you know, I'm not

12 asking you to speculate, do you know why Deputy Hajash

13 was audiotaping these conversations?

14 A The fact, no, sir, I do not know the

15 fact.

16 Q Okay.

17 MR. GRIFFITH: Give me a couple of

18 minutes. I think I may not have a whole lot.

19 (WHEREUPON, a short break

20 was taken)

21 BY MR. GRIFFITH:

22 Q I appreciate your time today, I just

23 have a couple of follow-up, clean-up questions. But one

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1 of the things I wanted, were you the last person on the

2 scene when the -- after the shooting of Robert Webb?

3 A I have no idea.

4 Q Okay. Did you see Robert Webb's body

5 that night?

6 A I glanced to it, to the right, where he

7 was at.

8 Q Is it an officer's duty to render aid

9 for somebody that's been shot, or do they wait for EMT?

10 MR. WILLIAMS: Objection to form.

11 BY MR. GRIFFITH:

12 A I don't know what kind of aid you could

13 render under the circumstances. They're not profession-

14 ally medically trained. I don't know what aid an

15 untrained person could render in a situation like that.

16 Q Okay. Is it a deputy's job to declare

17 death or is that the EMT people?

18 A No, the EMT.

19 Q Okay. During the time that there were

20 photos taken, and only if -- I mean, if you know, but the

21 pictures, the way they show Robert Webb's body, is it

22 your understanding that his body was not moved in any way

23 prior to those pictures being taken?

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1 A Not to my knowledge. I've never seen

2 the photographs.

3 Q Okay. So I'm just trying to make sure

4 that no deputy moved anything before those pictures?

5 A No. I was not there the whole time,

6 so I couldn't tell you.

7 Q Okay. You said that it was

8 approximately one year after Robert Webb's death that

9 Hajash was having problems not coming to work?

10 A That I was aware of. I didn't know,

11 but I think it was about a year. I really don't know,

12 I'd have to check the records.

13 Q During the year in between that time,

14 he was working for Raleigh County Sheriff's Department?

15 A Uh-huh, (yes).

16 Q Was he working as a deputy?

17 A Yes.

18 Q Did he have a cruiser and a handgun?

19 A I assume. You'd have to talk to the

20 chief at that time, he takes care of the road patrol.

21 Q Okay. But he was not under any kind of

22 special restricted duty?

23 A No, not to my knowledge.

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1 Q Okay. And you, as the sheriff, would

2 have been the person to put him on some kind of

3 restricted duty?

4 A No.

5 Q Who would have done that?

6 A That would be the chief.

7 Q Okay.

8 MR. GRIFFITH: That's all I've got.

9 MR. MOORE: I have nothing.

10 CROSS-EXAMINATION

11 BY MR. WILLIAMS:

12 Q Just one area that I want to clean up.

13 During break we discussed this, I don't think you heard

14 the end of Mr. Griffith's question when he asked you

15 about the tape and the statements that you had made in

16 there. And he said if you -- at the end of that question

17 it was if you had known the tape was going to be played

18 for Mary Webb. Obviously, you have never made any public

19 statement about this case?

20 A That conversation was done in private.

21 What I told him was for his ears only. I would never

22 make such a -- everybody knows me and my background, I

23 would never make a statement to Mrs. Webb or anyone under

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1 those circumstances. I mean, my God, I'm only human.
2 Q But just so the record's clear, that
3 conversation was between -- you thought that conversation
4 would go no further?

5 A Correct.

6 Q Okay.

7 MR. WILLIAMS: I don't have any further
8 questions.

9 MR. GRIFFITH: I gathered from that,
10 but, I'll tell you, Chip, I wouldn't have used
11 -- but I appreciate you cleaning it up.

12 MR. WILLIAMS: Okay. We will read and
13 sign.

14 (Witness Excused)
15 (WHEREUPON, the deposition
16 was concluded)

B.R.A.

interested in the action, or interested, directly or
indirectly, in the matter in controversy.

Given under my hand this 16th day of
August, 2010.

H. DAVID STANLEY, Reporter
Notary Public

My commission expires April 2, 2018.

STATE OF WEST VIRGINIA

COUNTY OF _____, to-wit:

I, DANNY MOORE, have read the
foregoing transcript of my testimony taken on August 9,
2010, and attach my signature in acknowledgment of same.

DANNY MOORE, Deponent

Notary Public

My commission expires: _____

B.R.A.

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REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to-wit:

I, H. DAVID STANLEY, a Notary Public
within and for the State aforesaid, duly commissioned
and qualified, do hereby certify that the foregoing
deposition of DANNY MOORE was duly taken by and before me
at the time and place and for the purpose specified in
the caption thereof, the said witness having been first
duly sworn by me to testify the whole truth and nothing
but the truth concerning the matter in controversy.

I do further certify that the said
deposition was taken by means of a Stenomask and tran-
scribed under my supervision.

I further certify that I am not con-
nected by blood or marriage with any of the parties to
this action, am not a relative or employee or attorney
or counsel of any of the parties, nor am I a relative
or employee of such attorney or counsel, or financially

B.R.A.

E R R A T A S H E E T

The following changes and/or corrections are
suggested for the deposition of DANNY MOORE, taken on
August 9, 2010.

PAGE NO. LINE NO. REFERENCE CORRECTION

B.R.A.

