

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT OF FLORIDA

KATHERINE MAGBANUA,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

CASE NO. 1D22-2733

AMENDED APPENDIX

Ex. A. Transcript of Wendi Adelson's 2019 Trial Testimony from
1D19-4005

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing appendix has been furnished by electronic mail to John L. Broling, at john.broling@rc1.myflorida.com this 20th day of December 2023.

/s/ Charlie Lee
By: Robert Charles Lee
Attorney for the State of Florida

EXHIBIT

A

1 but have you -- is her attorney here?

2 MS. CAPPLEMAN: I do not know the answer. All I
3 know is that I made arrangements for Ms. Adelson to
4 testify and I'm going to have --

5 MR. ZANGENEH: Yes, Judge, they're here.

6 MS. CAPPLEMAN: No, I think you're asking about
7 Mr. Rivera's attorneys; correct?

8 THE COURT: No, Adelson's.

9 MS. CAPPLEMAN: Oh, I'm sorry, yes.

10 THE COURT: So we need to have some discussion about
11 immunity. Is she here? Let's have the witness take the
12 stand.

13 MR. DECOSTE: Your Honor, should I call off my
14 reporter? I'd like to mitigate costs and I don't think
15 that we'll be --

16 THE COURT: Wait a little while.

17 MR. DECOSTE: -- I don't think we'll be able to
18 complete the depositions today then because we're going
19 to lose the reporter at about 6:00.

20 THE COURT: Come on up, ma'am.

21 Place her under oath, please.

22 Whereupon,

23 WENDI ADELSON

24 was called as a witness, having been first duly sworn, was
25 examined and testified as follows:

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1 THE COURT: And can I get your name for the record,
2 please?

3 MR. LAURO: Yes, Your Honor, it's --

4 THE COURT: Go to the podium.

5 MR. LAURO: Good afternoon, Your Honor. It's John
6 Lauro, L-A-U-R-O, and I'm counsel for Ms. Adelson.

7 THE COURT: All right. And it's my understanding
8 that the State is requesting the Court to compel
9 Ms. Adelson's testimony. Is that correct, Ms. Cappleman?

10 MS. CAPPLEMAN: Yes, Your Honor.

11 THE COURT: And based upon that, Ms. Adelson, the
12 testimony you provide and anything derived from this
13 testimony cannot be used against you, but you will be
14 required to answer all relevant questions.

15 Do you understand that?

16 THE WITNESS: Yes, Your Honor.

17 THE COURT: All right. Anything else you want to
18 make of record?

19 MR. LAURO: No, Your Honor, thank you.

20 THE COURT: All right. Anything else?

21 MS. CAPPLEMAN: No, sir.

22 THE COURT: All right. Let's have the jury, please.

23 (Pause.)

24 MR. DECOSTE: Your Honor, can we get an estimate so
25 I can tell the reporter?

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1 THE COURT: I think she said about 45 minutes.

2 MR. DECOSTE: Would we then break after theirs and
3 reserve cross for Tuesday?

4 THE COURT: No. We're going to finish today with
5 this witness.

6 MR. DECOSTE: I understand. I don't believe that
7 we're going to be able to do the deposition today.

8 THE COURT: That's up to you.

9 (Jury returned to the courtroom at 3:51 p.m.)

10 THE COURT: Everybody be seated, please.

11 You may proceed, Ms. Capplemán.

12 MS. CAPPLEMAN: Thank you, sir.

13 DIRECT EXAMINATION

14 BY MS. CAPPLEMAN:

15 Q All right. Please introduce yourself and spell your
16 name.

17 A My name is Wendi Adelson, W-E-N-D-I, A-D-E-L-S-O-N.

18 Q How are you employed, Ms. Adelson?

19 A I'm an attorney.

20 Q All right. And do you know --

21 THE COURT: Move that microphone up just a little
22 bit if you would, please, ma'am. All right.

23 THE WITNESS: I'm an attorney.

24 BY MS. CAPPLEMAN:

25 Q All right. How were you employed back in 2014?

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1 A I was employed at FSU Law School.

2 Q Okay. And were you a member of the Florida Bar at
3 that time?

4 A I was.

5 Q All right. And do you know -- did you know Dan
6 Markel?

7 A Yes, I did.

8 Q How did you know Mr. Markel?

9 A He was my husband.

10 Q When did you meet him?

11 A We met in 2004.

12 Q Okay. And when did you marry?

13 A We married in 2006.

14 Q Did you ever live in Tallahassee?

15 A I did live in Tallahassee.

16 Q When did you first move to Tallahassee?

17 A We moved to Tallahassee in 2000 -- in the fall,
18 August, of 2005. And we lived in Tallahassee that academic
19 year, so from 2005 until the summer of 2006. And then we
20 spent a year living in Miami from 2006 to 2007. And then I
21 lived back in Tallahassee from 2007 to 2014.

22 Q Why did you move to Tallahassee the first time?

23 A The first time we moved to Tallahassee for Danny's
24 job. He got a job at FSU Law School.

25 Q All right. And what about the second time?

1 A And the second time, we moved back to Tallahassee
2 because he had tried to get a job at University of Miami Law
3 School and it didn't work out.

4 Q All right. So both times it was for his employment?

5 A Yes.

6 Q Okay. Did you like living in Tallahassee?

7 A I did.

8 Q All right. And did you live on Trescott Drive?

9 A We did.

10 Q I'm showing you State's Exhibit 6. Is that an image
11 of the home -- the marital home that you lived in here in
12 Tallahassee?

13 A That was -- that was our home.

14 Q Okay. And where are you from, Ms. Adelson?

15 A I'm from Broward County originally.

16 Q Okay. And do you have family members in Broward
17 currently?

18 A I have one family member in Broward.

19 Q Where do you live currently? Or you can just tell
20 us the county.

21 A I live in Miami-Dade County.

22 Q And what about your parents? Where do they live?

23 A They currently live in Miami-Dade County.

24 Q All right. And what about your brother Charles
25 Adelson?

1 A He lives in Broward County.

2 Q All right. And do you have any children?

3 A I do.

4 Q And how many children do you have?

5 A I have two children.

6 Q What are their ages?

7 A They are ten and eight, turning nine soon.

8 Q Okay. Both boys?

9 A Both boys.

10 Q And both the biological children of Dan Markel?

11 A Yes.

12 Q How is your -- are your family members employed;
13 specifically, your parents and your brother?

14 A My mom is not currently working very much. She
15 helps out with my dad's office. My dad is a dentist. And my
16 brother Charlie is a periodontist.

17 Q And does your family have a dental practice in South
18 Florida?

19 A They do.

20 Q That they own and operate?

21 A They do.

22 Q Okay. Is your family in South Florida wealthy? I
23 know it's a relative term.

24 A Are you asking me to speculate?

25 Q No, I'm asking if they're wealthy. If you don't

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1 know, you can just say you don't know.

2 A It depends how you define wealthy.

3 Q Okay. Are they millionaires?

4 A No.

5 Q Okay. When did you separate from Mr. Markel?

6 A We separated in the fall of 2012.

7 Q And was part of the reason for your disagreement or
8 separation having to do with how to raise the children in
9 terms of your faith?

10 A Yes. We had different ways of practicing our faith.

11 Q Okay. Do you know when you filed for divorce?

12 A I believe it was the fall of 2012.

13 Q Okay. 9/10/2012 sound right to you?

14 A That sounds right.

15 Q Okay. And when you separated initially in the fall
16 of 2012, did you move to South Florida with the kids?

17 A No, I did not.

18 Q You didn't go to South Florida with the kids?

19 A No, I did not.

20 Q Okay. Was it your desire during that time to move
21 with the children to South Florida?

22 A I would say right then, no, it wasn't.

23 Q Are you familiar with a court order ordering you to
24 come back to Tallahassee from South Florida?

25 A I'm not familiar with that.

1 Q Okay. When you moved out from the marital home
2 there on Trescott Drive, you lived at another residence in
3 Tallahassee; is that correct?

4 A I did.

5 Q And do you recall the address there?

6 A I do, 3303 Aqua Ridge Way.

7 Q Okay. And was there a time during the time that you
8 were living there at Aqua Ridge that you determined that you
9 would like to move to South Florida with the children?

10 A There was.

11 Q All right. And were your parents very involved in
12 trying to facilitate that relocation?

13 A My parents were supportive of me moving to South
14 Florida.

15 Q Would you describe your parents as being over
16 involved in your personal business?

17 A As compared to other people's parents?

18 Q Yeah.

19 A I don't know.

20 Q What was the child custody schedule when you were
21 living at Aqua Ridge and -- I assume Mr. Markel continued to
22 live in the marital home on Trescott?

23 A He did.

24 Q Okay. What was the custody situation with the kids?

25 A So the custody situation changed over time and

1 depending on the part of the year, but I think in the
2 beginning we would -- we would do a wednesday night overnight.
3 we had -- it was about 50/50 shared custody, but I don't
4 remember the exact arrangement. I do remember in the
5 summertime it would switch to week on/week off, but during the
6 school year it was slightly different.

7 Q So still 50/50, but not necessarily every other
8 week. It was mixed up within the week?

9 A It was.

10 Q Okay. And you mentioned that you did develop a
11 desire to move to South Florida. Did you file a motion to
12 that effect on January 14th, 2013?

13 A That sounds -- that sounds -- I did file a motion.
14 I don't remember the exact date.

15 Q Okay.

16 A But that sounds about right.

17 Q All right. And in that motion, did you make some
18 allegations that Mr. Markel was making things difficult for
19 you at work?

20 A I did.

21 Q Okay. And was that motion granted or denied?

22 A That motion was denied.

23 Q All right. Denied with prejudice?

24 A I don't remember.

25 Q Okay.

1 A If you have it, you can -- I'm happy to take a look.

2 Q Okay. But in any event, you were not able to move
3 at that time?

4 A I did not move.

5 Q And were you upset about being stuck in Tallahassee?

6 A I was relieved.

7 Q You were relieved. You wanted to stay in
8 Tallahassee?

9 A I was happy at my job.

10 Q Okay. Do you recall when your divorce to Mr. Markel
11 became final?

12 A The summer of 2013.

13 Q Okay. July 31st sound about right?

14 A That sounds right.

15 Q Okay. Would you consider your divorce with
16 Mr. Markel to be a nasty divorce?

17 A I think most divorces aren't very pleasant.

18 Q Okay. But this one was, like, really unpleasant;
19 right?

20 A I found getting divorced to be unpleasant, yes.

21 Q And in the litigation that ensued between the two of
22 you, you guys argued over things as small as a tennis racket,
23 I noticed in one pleading.

24 A I don't remember that.

25 Q Did he threaten to press kidnapping charges against

1 you?

2 MS. KAWASS: Objection, hearsay.

3 THE COURT: Overruled.

4 THE WITNESS: I don't remember that.

5 BY MS. CAPPLEMAN:

6 Q Do you remember that?

7 A No.

8 Q Did he threaten to go after your law license? Do
9 you remember that?

10 A I don't remember that, no.

11 Q Do you remember him saying you failed to disclose a
12 bunch of assets in the divorce process?

13 A I do remember that.

14 Q Okay. Did you guys have any mediations as part of
15 your divorce?

16 A We did have mediations leading up to settlement.

17 Q Two eight-hour mediations; correct?

18 A I don't remember how long they were, but they seemed
19 very long.

20 Q Yeah. And they both did not result in a resolution?

21 A They did not.

22 Q All right. But you did reach a settlement, I think
23 kind of just on the eve of a trial on the matter; correct?

24 A That sounds right.

25 Q Do you remember this motion that was filed by your

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1 deceased ex-husband on March 26th, 2014, involving -- among
2 other things, it had to do with your mother, an allegation
3 that your mother was disparaging the children [sic]?

4 MS. KAWASS: Objection, motion in limine, hearsay.

5 THE COURT: Overruled.

6 BY MS. CAPPLEMAN:

7 Q I'm sorry, disparaging him to the children is what I
8 meant to say. Are you familiar with that pleading?

9 A I am familiar with that pleading.

10 Q All right. And in that pleading, did he allege that
11 you were depriving him of physical access to the children?

12 A I don't remember the specifics.

13 Q Do you recall whether he was complaining about you
14 refusing to communicate with him about right of first refusal
15 to the children during your time with them?

16 A I know he was frustrated about the Skyping.

17 Q Lack of communication via Skype between he and the
18 children?

19 A Hard to Skype with two toddlers, yes.

20 Q All right. And in that motion, do you recall him
21 being upset about an allegation that you let the kids eat
22 nonkosher foods?

23 A I remember him being upset about that in general,
24 but I don't remember whether it was in a motion or not.

25 Q What does that mean, nonkosher foods?

1 A So kosher rules have to do with the separation of
2 milk and meat or dairy and meat. So nonkosher foods would be
3 meat that hasn't been killed in a way that conforms with
4 Jewish law, or the mixing of the two.

5 Q And is observing those types of eating habits
6 something that's important to you?

7 A It is not important to me.

8 Q And was it something that was important to Dan
9 Markel?

10 A It was important to Danny.

11 Q And it was important to him that the children
12 observe that way of eating; correct?

13 A It was.

14 Q And in that motion, did he seek to restrict your
15 mother's contact with the kids to supervised visits only?

16 A I don't remember. But if you'd like to show me the
17 motion, I can take a look.

18 Q Okay. But you don't remember that portion?

19 A No.

20 Q All right. Do you remember the allegation that your
21 mother made statements to the children that Grandma hates
22 you --

23 MS. KAWASS: Objection, hearsay within hearsay,
24 Judge.

25 THE COURT: Overruled.

1 BY MS. CAPPLEMAN:

2 Q -- Grandma says you're stupid, your father is trying
3 to take my sunshines away, anything like that; do you recall?

4 A No. But again, I'm happy to look at it if you'd
5 like to show me.

6 Q I understand.

7 Do you recall that Mr. Markel was seeking sanctions
8 against you personally in that motion?

9 A I don't remember that.

10 Q Do you know whether this would have been a motion
11 that you would have shown to your mother? would she have been
12 aware of it?

13 A I probably would have shown my mom the motion.

14 Q Is it fair to say that your parents are very
15 protective of you?

16 A I think that's fair to say.

17 Q Is it fair to say that your brother is very
18 protective of you?

19 A I think that's fair to say.

20 Q Okay. What about Dan Markel, did your family like
21 him?

22 A Do you want to specify a point in time?

23 Q well, I'm specifically thinking of a statement you
24 made in the interview after his death where you indicated that
25 your parents were very angry with him. Is that accurate?

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1 A At that point in time, during our divorce, I do
2 think they were angry with them. They felt like he had
3 treated me badly.

4 Q And the motion to preclude your mom from having
5 unsupervised contact with your kids, that was still pending at
6 the time of his murder; correct?

7 A That's possible. I mean, I don't think anyone took
8 that motion very seriously.

9 Q Okay. Did your mom take it seriously?

10 A I don't think so.

11 Q Did Dan Markel take it seriously?

12 A I don't know how Danny felt about a motion. If he
13 wrote the motion, he was probably taking it seriously.

14 Q I want to approach with some e-mails. Have you had
15 an opportunity to review State's Exhibit 80?

16 MS. KAWASS: Your Honor, could I see what the State
17 is approaching with the witness, please?

18 (Exhibit shown to counsel).

19 MS. KAWASS: Your Honor, and I'm going to -- I don't
20 know if you want to do it now or I'm going to request a
21 sidebar on this.

22 THE COURT: What's that?

23 MS. KAWASS: I'm going to request a sidebar on this,
24 Judge.

25 THE COURT: We'll let her identify it first.

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1 MS. KAWASS: Okay.

2 BY MS. CAPPLEMAN:

3 Q This is State's Exhibit 80. Just take a moment and
4 flip through, make sure this is the exhibit you reviewed
5 previously.

6 A I've been shown these exhibits.

7 Q Okay. And are these exhibits fair and accurate
8 copies of e-mails between yourself and your mother Donna
9 Adelson?

10 A They are.

11 Q And the e-mail addresses on this exhibit,
12 DonnaHarvey@gmail.com, whose address is that?

13 A My parents have a joint e-mail address.

14 Q Okay. But you were communicating with one of them
15 in particular in these e-mails?

16 A Whoever signed the e-mail, but it could be from
17 either or both of them.

18 Q Okay. Either could have used it, but we can deduce
19 from who signed it who this one was from?

20 A That sounds right.

21 Q Okay. And WendiAdelson@gmail.com, is that you?

22 A That is me.

23 MS. CAPPLEMAN: All right. Judge, at this time, I'd
24 ask to move into evidence State's Exhibit 80.

25 THE COURT: All right. We'll go sidebar.

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1 AT THE BENCH

2 MS. KAWASS: Your Honor, the State can correct me if
3 I'm misrepresenting the evidence. This is an e-mail from
4 Donna Adelson, who will not be testifying in this trial
5 and therefore not subject to cross-examination. There is
6 no hearsay exception that this falls under.

7 MS. CAPPLEMAN: It's not offered for the truth of
8 the matter asserted, Judge. It's offered to go to
9 motive.

10 THE COURT: That's my understanding. I'll overrule
11 the objection.

12 Do you want me to instruct the jury as to its
13 purpose?

14 MS. KAWASS: No, I would ask that I be allowed to
15 cross -- it would still be over my objection, but I'd
16 like to cross Ms. Adelson about the whereabouts of her
17 mother and that she is not testifying in this trial.

18 THE COURT: I'll deal with that when the question
19 comes up.

20 Do you want me to give a curative instruction to the
21 jury explaining that these are not being offered --

22 MS. KAWASS: Yes.

23 THE COURT: -- to prove the truth of the matter
24 asserted, but simply to show these people's state of
25 mind?

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1 MS. KAWASS: Yes, Judge, I just want to make sure
2 for the record that that -- I will take that, but it's
3 still -- it would be over my objection. But, yes, I
4 would request that.

5 THE COURT: Okay. I understand. Okay.

6 IN OPEN COURT

7 THE COURT: Let me give a brief legal explanation to
8 the jury. You've heard a number of hearsay objections
9 about things that were said by Mr. Markel, things that
10 are in these e-mails by another person who may not be
11 testifying.

12 Normally we refer to those things as hearsay and
13 they're not allowed without the person actually
14 testifying, but there are a whole bunch of exceptions to
15 that. And one of the exceptions to that is when it's not
16 being offered to prove that what's said is true but
17 simply to show that it has been said because there's some
18 relevance to the fact that these statements were made.

19 So I am not offering these statements to show
20 they're true. These persons -- I mean, obviously,
21 Mr. Markel can't be here for us to have cross-examination
22 of him. We don't anticipate that the other Ms. Adelson
23 will be here as a witness. We can't test -- the
24 attorneys will not be able to test that to see whether
25 that's true or not, but I am allowing it for the limited

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1 purposes to show state of mind of these persons.

2 So you may proceed, Ms. Capplemán.

3 MS. CAPPLEMAN: Yes, Your Honor.

4 BY MS. CAPPLEMAN:

5 Q I noticed in the e-mails your mother referring to
6 who I think is Dan Markel as Jibbers. What does that mean?

7 A Jibbers was a nickname that I gave Danny when he was
8 being really difficult and causing me a lot of pain. It was
9 sort of nickname I gave him to make him feel less threatening.

10 Q So it was a derogatory thing?

11 A I wouldn't say it was derogatory.

12 Q Did you call him that to his face?

13 A No, I called him Danny to his face.

14 THE COURT: And Jibbers would be what? How would
15 you spell that?

16 THE WITNESS: I don't know that I ever spelled it
17 out. In the e-mails, I think it's spelled with a J, but
18 I guess you could spell it with a G.

19 THE COURT: J-I-B-B-E-R-S?

20 THE WITNESS: That would be one way to spell it.

21 BY MS. CAPPLEMAN:

22 Q Ms. Adelson, you had Mr. Markel's phone number
23 programmed into your phone as J-I-B-B-E-R-S; didn't you?

24 A That's right.

25 Q Do you know much about your brother Charles

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1 Adelson's business practices?

2 A I know that he does implant surgery.

3 Q Do you know anything about whether he offers
4 discounts for cash or does a lot of business in cash?

5 A I have no idea.

6 Q Do you know if there's a safe in your parents' house
7 that has stacks of cash inside?

8 A I don't know about a safe with stacks of cash.

9 Q So you don't have a stack of cash in your parents'
10 safe that's wendi's stack?

11 A No.

12 Q Okay. Did Charlie Adelson like Dan Markel? And
13 again, I'm referring to the timeframe before his death.

14 A I mean, I think he was also -- he would listen to me
15 when I would tell him about things I was upset about at the
16 time with the divorce. So whether he liked him or didn't like
17 him, he certainly was supportive of me.

18 Q But he never expressed any dislike?

19 A No.

20 Q Did he mention hiring a hitman to kill your husband?

21 MS. KAWASS: Objection, hearsay.

22 THE COURT: Overruled.

23 THE WITNESS: No.

24 BY MS. CAPPLEMAN:

25 Q Did he ever joke about he looked into hiring a

1 hitman but buying you a TV as a divorce present would be
2 cheaper?

3 A He did make that joke. He tended to repeat himself
4 and sometimes he would make jokes that weren't very funny
5 about all kinds of things.

6 Q All right. And was that -- did he buy you a TV as a
7 divorce present?

8 A He did.

9 Q And was that TV the same TV that was being repaired
10 at your residence at the time that your husband was murdered?

11 A It was.

12 Q Who made the arrangements for that TV repair?

13 A I did.

14 Q Your mom didn't make those arrangements?

15 A I don't believe so.

16 Q And the repairman was at your house that morning
17 that your husband died between 8:30 and 9:15. Do you agree
18 with that?

19 A I remember he was supposed to come between 8:00 and
20 noon, and then he ended up coming on the early side.

21 Q That's when he arrived, between 8:30 and 9:15?

22 A That's my best recollection.

23 Q Did Charlie ever say that he considered all possible
24 options to take care of the problem, the problem being Dan
25 Marke1?

1 MS. KAWASS: Objection, hearsay. And, Your Honor,
2 can I just have a standing objection so I don't keep
3 interrupting Ms. Capplemán?

4 THE COURT: You may.

5 MS. KAWASS: Thank you.

6 THE COURT: Overruled.

7 BY MS. CAPPLEMAN:

8 Q Did he ever say that?

9 A No.

10 Q After the murder of Mr. Markel, did Charlie Adelson
11 take you out for a celebration dinner?

12 A No.

13 Q Do you recall any dinner where -- shortly after
14 Mr. Markel's death where you were with Mr. Charlie Adelson and
15 vomited?

16 A I do remember that dinner. I --

17 Q That was --

18 A I'm sorry?

19 Q Go ahead. I interrupted you.

20 A After -- after Danny died, I was terrified that
21 someone was going to come after me or my children and harm us
22 as well. And so I didn't leave my house for about a month.
23 And when I finally felt ready to leave the house and have
24 dinner, I told my brother that I wanted -- I wanted to have
25 dinner, that I was ready to finally go to a restaurant and eat

1 a meal again. And I had barely eaten for a full month just
2 out of grief and shock.

3 And so that night when I finally ate for the first
4 time, they ended up taking a while before they sat us. And
5 they sat us at the bar and I had a drink. And I wasn't used
6 to eating anything or drinking alcohol, and I threw up at the
7 table, the only time in my life I've done something like that.
8 But it was certainly not a celebration.

9 Q And you never heard your brother refer to it in that
10 way?

11 A No.

12 Q Okay. Were you involved in any way in a plot to
13 kill Dan Markel?

14 A No.

15 Q Do you have any knowledge, other than the statements
16 you've said your brother made or the jokes your brother made,
17 do you have any knowledge of anyone being involved in a plot
18 to kill your husband?

19 A No.

20 Q Do you know Katherine Magbanua?

21 A I have met her before.

22 Q How do you know her?

23 A We met one time at dinner when I came home and my
24 brother introduced me to her. And I think we might have gone
25 to the beach once with her and a friend for a few hours.

1 Q I'm going to show you what I've marked as State's
2 Exhibit 36.

3 Is that a photograph of you and Katherine Magbanua
4 at the beach?

5 A With her friend, yes.

6 Q Okay. And do you remember the friend's name?

7 A I don't.

8 Q All right. Is this a fair and accurate photograph
9 from that event?

10 A That looks like the three of us at the beach, yes.

11 Q Do you recall when this was taken?

12 A I don't.

13 Q Does Father's Day Weekend 2014 sound correct?

14 A So June, 2014?

15 Q Yes, ma'am.

16 A That's possible.

17 Q All right. Would it refresh your memory to look at
18 the data associated with that photograph?

19 A Sure.

20 Q Okay. I'm approaching -- let me show defense this.

21 (Exhibit shown to defense counsel.)

22 BY MS. CAPPLEMAN:

23 Q All right. Take a look at this top block there that
24 references this photo and tell me if you can advise when the
25 photo was taken.

1 A It looks like it was taken on June 15th, 2014.

2 Q All right. And do you know where the photo was
3 taken?

4 A I think that's South Beach.

5 Q Close to where your parents were living in the
6 condo?

7 A Yes.

8 Q And did you say how you know Ms. Magbanua?

9 A I -- she was dating my brother.

10 MS. CAPPLEMAN: Judge, at this time, I'd ask to
11 introduce State's 36.

12 THE COURT: Is there objection?

13 MR. ZANGENEH: None from Mr. Garcia, Judge.

14 MS. KAWASS: None from Ms. Magbanua, Your Honor.

15 THE COURT: It'll be admitted.

16 (State's Exhibit No. 36 received in evidence.)

17 MS. CAPPLEMAN: We might have to do the lights.

18 It's a little dark.

19 BY MS. CAPPLEMAN:

20 Q All right. So which one is you?

21 A I'm the one in the middle.

22 Q Okay. And which one is Ms. Magbanua?

23 A The one on the left-hand side to the right of me in
24 the photo.

25 Q And this is one of her friends?

JULIE L. DOHERTY, RMR, OFFICIAL COURT REPORTER

1 A Yes.

2 Q Ms. Magbanua's friends?

3 A Yes.

4 Q I'll approach and show you one more photo, State's
5 Exhibit 37.

6 Do you recognize this photo?

7 A I don't recognize that photo, but I recognize the
8 people in it.

9 Q Okay. Who's in it?

10 A That's my brother and I think that's Katie.

11 Q All right. Is Katie Katherine Magbanua?

12 A Yes.

13 Q And is this a fair and accurate photo of the two of
14 them when -- I guess during the time that they were dating?

15 A That looks right.

16 MS. CAPPLEMAN: Judge, at this time, I'd ask to move
17 into evidence State's 37.

18 THE COURT: Is there objection?

19 MS. KAWASS: Yes, Your Honor. This witness is not
20 able to properly authenticate that picture in terms of
21 when it was taken and where it was taken. So I would
22 object on that basis.

23 THE COURT: Sustained.

24 BY MS. CAPPLEMAN:

25 Q Your brother dated Katherine Magbanua?

JULIE L. DOHERTY, RMR, OFFICIAL COURT REPORTER

1 A Yes.

2 Q Okay. And was that the context in which you became
3 acquainted with her was through your brother?

4 A Yes.

5 Q Okay. Do you know when they began seeing each
6 other, your brother and Ms. Magbanua?

7 A I have no idea.

8 Q Do you know when they stopped seeing each other?

9 A I have no idea.

10 Q Do you know whether the relationship between your
11 brother and Ms. Magbanua was a serious relationship?

12 A I met many, many girlfriends of my brother's over
13 the years. I didn't get any indication that it was a serious
14 relationship.

15 Q Okay. He's a guy that has a lot of girlfriends?

16 A He has had a lot of girlfriends.

17 Q How many girlfriends has he had since Katherine
18 Magbanua?

19 A I have no idea.

20 Q Several?

21 A Probably.

22 Q And does he have a child with someone now?

23 A He does have a child.

24 Q How old is your brother?

25 A Forty-three.

1 Q Has he ever been married?

2 A No.

3 Q Do you know whether your brother makes a practice of
4 giving gifts to his former girlfriends?

5 A I have no idea.

6 Q Are you aware of any specific gift he's ever given
7 to a former girlfriend?

8 A No.

9 Q Do you know Sigfredo Garcia?

10 A No.

11 Q Have you ever met him?

12 A No.

13 Q I want to ask you about the week prior to
14 Mr. Markel's murder, like June 30th through July 10th, 2014.
15 Were you in South Florida that week?

16 A I know I was in South Florida for my father's 70th
17 birthday. My dad's birthday is July 5th. I don't remember if
18 his party was on his actual birthday or a little before or a
19 little after, but I remember I went down for his birthday.

20 Q Can you tell the jury whether or not you were in
21 South Florida on July 1st, 2014?

22 A I couldn't say for sure.

23 Q Okay. But it would --

24 A I may have traveled that day. I don't remember
25 exactly when I went down. I only remember I was there for

1 probably about a week and that I went down for my dad's
2 birthday, but I couldn't tell you more exactly than that.

3 Q Your dad's birthday is on the 5th?

4 A It is.

5 THE COURT: What month?

6 THE WITNESS: Of July.

7 BY MS. CAPPLEMAN:

8 Q Was Mr. Markel planning to leave town the day after
9 he was murdered?

10 A I believe he was.

11 Q Do you know where he was going?

12 A I believe he was going to New York to visit his
13 girlfriend.

14 Q How old was Mr. Markel when he was killed?

15 A He was born in 1972 and he died in July of 2014
16 before -- his birthday is in October. He was 41.

17 Q Forty-one-years old?

18 A Yes.

19 Q Did the -- did law enforcement in this case analyze
20 your cell phone?

21 A I gave them my cell phone.

22 Q Okay. And in your cell phone, you have some
23 contacts for Donna Adelson, Harvey Adelson and Charlie
24 Adelson, as well as Jibbers, who we've established is Dan
25 Markel. Are all the phone numbers in your phone for them

1 accurate phone numbers for those folks?

2 A I would imagine so.

3 Q And I want to ask you about some recorded phone
4 calls that were taken in association with this case. Did you
5 have an opportunity to review a disc of some of those phone
6 calls?

7 A I did. The phone calls weren't played --

8 Q I'm sorry. Hold on just a moment, please.

9 A Yeah.

10 Q All right. So I provided you with a disc; correct?

11 A Yes.

12 Q And a list of the specific phone calls and the
13 voices on the specific phone calls that I was asking you
14 whether you could identify?

15 A Yes.

16 Q All right. And did you initial next to the letters
17 of those calls that you were able to identify?

18 A I did.

19 Q I'm going to approach and show you State's
20 Exhibit 175, 175.

21 A I just wanted to clarify that we didn't listen to
22 the phone calls from beginning to end for each one, but that
23 we were able to listen to parts of the phone calls so that we
24 could authenticate who was speaking on the phone call.

25 Q Okay. And when you say "we," who are you referring

1 to?

2 A Myself and my attorney.

3 Q Okay. So you listened to, you felt, enough of the
4 phone call in order to be able to tell me whose voice was on
5 the call?

6 A That's right.

7 Q Okay. And when you initial next to the highlighted
8 portions -- okay. I guess I should say, the calls are listed
9 by letter and number, each call. And then I have highlighted
10 the names that I am asking you to authenticate; is that
11 correct?

12 A That's correct.

13 Q All right. And if you've initialed next to that
14 call, does that signify that you were able to authenticate
15 that the highlighted names on that call were the voices of
16 those people?

17 A Correct.

18 Q Okay. So namely, Donna Adelson and Charlie Adelson;
19 correct?

20 A Correct.

21 MS. CAPPLEMAN: All right. Thank you.

22 Judge, at this time, I'd ask to move into evidence
23 State's 175.

24 MR. ZANGENEH: No objection from Mr. Garcia.

25 MS. KAWASS: There's an objection from Ms. Magbanua,

JULIE L. DOHERTY, RMR, OFFICIAL COURT REPORTER

1 Judge. I can't --

2 THE COURT: Your legal objection?

3 MS. KAWASS: Your Honor, I think it would require a
4 speaking objection so I'm not sure how you'd like to
5 handle it.

6 THE COURT: State your legal objection.

7 MS. KAWASS: The legal objection is going to be
8 relevance at this point and improper foundation.

9 THE COURT: All right. I'll overrule that
10 objection. I'll admit State's Exhibit 175.

11 (State's Exhibit No. 175 received in evidence.)

12 BY MS. CAPPLEMAN:

13 Q I want to talk about your location on the day of
14 Mr. Markel's murder. You know that law enforcement looked at
15 your phone and sort of looked at your movements that day?

16 A Yes.

17 Q Okay. And that information indicates you were home
18 at the Aqua Ridge residence at approximately 12:27, after noon
19 that day; is that correct?

20 A I don't remember exactly what time but that sounds
21 right. I know I had left to meet some friends for lunch, so I
22 guess it was -- I had left -- I was home until that time.
23 That sounds right.

24 Q All right. So it seems like kind of around
25 lunchtime, about half after noon?

JULIE L. DOHERTY, RMR, OFFICIAL COURT REPORTER

1 A Sure.

2 Q All right. And then shortly after that at 12:29, it
3 appears you were traveling on Centerville Road. Is that a
4 normal way that you would ingress and egress from your Aqua
5 Ridge residence?

6 A That sounds right.

7 Q All right. And when you left there -- when you left
8 your residence, you said you were going to lunch. Did you go
9 directly to lunch?

10 A No. I stopped and made a purchase for a party that
11 I was supposed to attend first.

12 Q And what was that purchase?

13 A It was -- it was my first time purchasing bourbon.
14 It was for -- it was for, like, a -- not a bridal shower. It
15 was for a bachelor -- no. It was for a wedding party, but it
16 was the bride and groom together, and they had asked for
17 people to buy certain alcohol to help them --

18 Q Like a stock the bar party?

19 A A stock the bar party. I forgot what it was called.

20 Q Okay. And do you remember what type of bourbon you
21 purchased?

22 A I don't.

23 Q Does Bullet Bourbon sound familiar?

24 A Maybe. It was -- they had a list of what they
25 wanted, and so I asked the person at the store if they had

1 whatever kind it was.

2 Q Okay. And do you recall where you went to purchase
3 the alcohol?

4 A I think I went on Thomasville Road at ABC Liquor.

5 Q Okay. Is there a reason you went to that particular
6 store?

7 A No, I just -- I don't know many liquor stores. That
8 was the first one that popped up.

9 Q All right. And you made that purchase, according to
10 the receipt that was in your vehicle, at 12:49. Does that
11 sound about right to you?

12 A That sounds right.

13 Q Okay. And did you make any stops between leaving
14 your residence and going to the liquor store?

15 A Did I -- maybe I purchased gas?

16 Q I don't know if you did or not, but I'm referring to
17 your visit to the crime scene.

18 A I did not visit the crime scene.

19 Q Okay. You did not pull up to the crime scene tape
20 on Trescott Drive?

21 A No. I was driving on Centerville Road, and
22 sometimes I would take the shortcut through Trescott.

23 Q Yes, ma'am.

24 A But when I was driving on Centerville Road, I saw
25 some sort of tape or obstruction and so I didn't turn.

1 Q Okay. And then you went from the liquor store
2 straight to the restaurant?

3 A Uh-huh, yes.

4 Q What restaurant was that?

5 A What was the name of that restaurant.

6 Q Mozaik?

7 A Mozaik.

8 Q Okay. Have you seen the photographs that were taken
9 of your vehicle?

10 A I have not.

11 Q Is that your vehicle, Ms. Adelson, or was it at the
12 time?

13 A That looks like my car.

14 Q And does that look like the bourbon that you
15 purchased that day?

16 A That looks like bourbon, yeah.

17 Q Who had your kids the morning that Mr. Markel was
18 killed?

19 A The kids were at preschool.

20 Q But, I mean, who -- at what home did they wake up
21 that day?

22 A That morning I think they were at Danny's house.

23 Q Did you stand to gain anything from your husband's
24 death, like financially?

25 A No.

1 Q Do you know how much the lawyers that assisted you
2 with the divorce process and litigation that followed the
3 divorce, do you know how much they cost?

4 A How much my lawyers or Danny's lawyers?

5 Q How much you spent on lawyers, yeah.

6 A I honestly don't remember.

7 Q Fair to say it was a lot of money?

8 A It felt like a lot of money to me.

9 Q How many different lawyers did you have during the
10 pendency of your divorce and the litigation that followed?

11 A I had three.

12 Q Do you know how many Mr. MarkeI had?

13 A I don't remember.

14 Q Do you remember your mom suggesting a plan to offer
15 Danny a million dollars to allow the relocation of you and the
16 children to South Florida?

17 MS. KAWASS: Objection, hearsay.

18 THE COURT: Overruled.

19 THE WITNESS: I'm sure I knew about it at the time
20 that it happened, and then I had my memory refreshed
21 about it recently.

22 BY MS. CAPPLEMAN:

23 Q Did you ever make the offer to Mr. MarkeI?

24 A No.

25 Q Did you move to South Florida after their father was

1 killed, with the children?

2 A So after he was killed, I went to -- I packed a
3 weekend bag and went to South Florida for what I thought would
4 be a couple of days, maybe a week. My son's birthday was
5 July 29th and I thought we'd be back in Tallahassee by then.

6 Q Did you ever come back?

7 A I did come back a few times, but not permanently.

8 Q Okay. So you ended up moving there permanently?

9 A I wouldn't say it's permanent, but I'm living there
10 right now.

11 Q Okay. Well, it's been five years.

12 A It has been a while. I've been exploring options
13 for employment in many different places.

14 Q Okay. And when you initially left to go to South
15 Florida, was that the same day as the funeral service for your
16 husband?

17 A No.

18 Q Was it the day after?

19 A It might have been the day after or the day after
20 that. I don't remember.

21 Q Did you change your children's last name from Marke
22 to Adelson?

23 A I did.

24 Q When was that done?

25 A So after Danny died, there was a lot of press

1 coverage. And CNN put pictures of my children's faces,
2 un-blurred, on national television. Newspapers put their
3 names, without any consideration to the fact that they're
4 children. And I thought --

5 Q I appreciate that, but the question is when. When
6 did you change their names?

7 A When they started school, I registered them under my
8 name, hoping it would keep them safe. And then --

9 Q Was that approximately a year after their dad was
10 killed?

11 A It was whenever I registered them for school so it
12 was -- it was soon after. But I didn't legally change their
13 name until after that.

14 Q Okay. And where did they start school? When you
15 say you changed their name when they started school, was that
16 here in Tallahassee or somewhere else?

17 A No, it was in South Florida.

18 Q So that fall, they started regular enrollment like
19 you would in the normal beginning of the school year?

20 A That's right.

21 Q Okay. And did you also eliminate your older son's
22 middle name?

23 A When I legally changed their names, I did.

24 Q And you just dropped that from the name?

25 A I did.

1 Q Okay. And that was a name that came from Dan
2 Markel's deceased maternal grandmother; is that correct?

3 A The name started with an A, which was to honor my
4 grandfather, Aaron Adelson. And the second half of his name
5 was to honor Danny's grandmother.

6 Q Okay.

7 A So we lost an honor to both families.

8 MS. CAPPLEMAN: Okay. Thank you.

9 No further questions.

10 THE COURT: Cross, Garcia.

11 (Attorneys confer.)

12 MR. ZANGENEH: Thank you, Judge.

13 CROSS EXAMINATION

14 BY MR. ZANGENEH:

15 Q Ms. Adelson, I represent Mr. Garcia and I'm going to
16 ask you some questions. Okay?

17 A Okay.

18 Q Charlie is your older brother or younger brother?

19 A I'm the youngest in the family, so both my brothers
20 are my older brothers.

21 Q And how many years older is Charlie than you?

22 A He's approximately three years older.

23 Q Would you describe your relationship with your
24 brother as a close relationship?

25 A I would.

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1 Q And the brother I'm referring to is Charlie. And
2 just for the record, all the questions I have with regards to
3 brothers is going to be focused just on your brother, Charlie;
4 okay?

5 A Okay.

6 Q Charlie graduated high school?

7 A He did.

8 Q College?

9 A He did.

10 Q Dental school?

11 A He did.

12 Q So he has a substantial educational background?

13 A Yes.

14 Q Would you consider him to be book smart?

15 A He did very well in his classes.

16 Q So that would -- that would potentially be yes?

17 A Yes.

18 Q What about street-smart? Do you think he was kind
19 of street-smart?

20 A I think he's good with people.

21 Q And would it be fair to say that he has a wide range
22 of friends, different types of friends?

23 A He has a lot of friends.

24 Q Would you say -- are there certain friends that he
25 goes out nightclubbing with?

1 A I don't know. He doesn't talk to me about
2 nightclubbing.

3 Q Okay. Well, when you have -- when he has social
4 events, do you ever go out with him socially?

5 A I haven't in a long time. I'm pretty busy with my
6 kids. But I have once or twice gone out with him.

7 Q And is it the same types of friends that he goes out
8 to these -- to these social events with?

9 A He would usually go with his roommate, who's -- I
10 don't think they're living together anymore, but they lived
11 together for a while.

12 Q Would you agree with me that your brother, Charlie,
13 was a -- I don't want to call him like a socialite, but he
14 would be -- he would frequent the nightclub scene?

15 A I honestly don't know that.

16 Q So your single brother is a pretty handsome guy;
17 right?

18 A I think he's handsome.

19 Q Right. We've seen his pictures. Good-looking guy.
20 Never been married; right?

21 A No.

22 Q And what kind of car does he have?

23 A For a while -- what does he have. What is he
24 driving right now? He likes cars. Like, he --

25 Q He has a lot of cars; right?

1 A (Nods affirmatively.)

2 Q And these aren't like Hondas or Toyotas? They're
3 Mercedeses and Ferraris; right?

4 A He drove an unmarked police car for a while.

5 Q But that wasn't my question. My question was, does
6 he have a -- did he ever have a Mercedes?

7 A I think so, yeah.

8 Q Okay. And it wasn't like a C300. It was like a
9 5 Series; right?

10 A I honestly don't know anything about cars.

11 Q Well, it was the bigger Mercedes; right?

12 A Yeah, it was big.

13 Q It was the bigger one? And he also had a Ferrari;
14 right?

15 A I know he had one really fancy car, but I don't
16 remember what brand it was.

17 Q So you're telling this jury that you don't remember
18 if your brother had a Ferrari?

19 A Cars are really not important to me. You saw mine.
20 I drive a minivan.

21 Q Well, but you're not your brother; right?

22 A I am not my brother. No, I knew he had a fancy car.
23 I just don't remember if it was a Porsche or if it was a
24 Ferrari. It was something fancy.

25 Q Something kind of fancy; right?

1 A Yeah.

2 Q Okay. So you have a pretty successful brother;
3 right?

4 A He's successful, yeah.

5 Q And he likes to show off his success with his
6 extravagant cars; correct?

7 A He likes fancy cars.

8 Q Okay. Handsome guy, in good shape; right?

9 A He's handsome.

10 Q And you indicated that he had a lot of girlfriends;
11 right?

12 A Yes.

13 Q Now, I know you didn't go clubbing with him, but
14 were you aware that he would go to, like, Miami Beach a lot?

15 A I mean --

16 Q Or South Beach?

17 A Sure. I mean, I couldn't say how often he went out
18 or where he was going. It's just not something I would really
19 talk to him about.

20 Q When he took -- when your brother took you out to
21 dinner and you vomited, do you remember what the restaurant
22 was?

23 A I do.

24 Q Which restaurant was it?

25 A It's called Juvia.

1 Q Okay. Where's that located?

2 A It's on Lincoln Road.

3 Q Okay. And Lincoln Road is in South Beach; right?

4 A Lincoln Road is in South Beach.

5 Q Are you aware if your brother took steroids?

6 A No, I'm not aware if he took steroids.

7 Q What about if your brother used illicit drugs?

8 A I'm not aware of my brother using illicit drugs.

9 Q And the fact that you're not aware if he used it
10 doesn't mean he didn't use it; correct?

11 A No, I'm just saying I don't -- I don't know.

12 Q Do you know when Luis Rivera started serving your
13 brother drugs?

14 A I don't know anything about that.

15 Q Your brother would frequent South Beach and Miami
16 Beach sometimes; correct?

17 A I don't know.

18 Q You don't know?

19 The restaurant that he took you to was in South
20 Beach; correct?

21 A I was living close to that restaurant at the time.

22 Q And your parents had a home in South Beach also;
23 correct?

24 A My parents did not have a home in South Beach. They
25 were renting an apartment.

1 Q I'll rephrase it.
2 They had a place to stay in South Beach; correct?

3 A Correct.

4 (Attorneys confer.)

5 MR. ZANGENEH: I have no further questions.

6 THE COURT: Magbanua.

7 MS. KAWASS: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MS. KAWASS:

10 Q Good afternoon, Ms. Adelson.

11 A Good afternoon.

12 Q How are you doing today? Are you doing okay?

13 A I'm fine.

14 Q Are you nervous?

15 A Am I nervous?

16 Q Yeah.

17 A Yes, I'm nervous.

18 Q Okay. Now, you stated on direct examination that
19 you are a lawyer?

20 A I am a lawyer.

21 Q All right. So you understand the oath that you took
22 before you took the stand; correct?

23 A Yes.

24 Q You know the consequences of not being truthful
25 here?

JULIE L. DOHERTY, RMR, OFFICIAL COURT REPORTER

1 A Of course.

2 Q And you also have a separate obligation as an
3 attorney to tell the truth; right?

4 A Of course.

5 Q Okay. Now, do you know who killed Dan Markel?

6 A No.

7 Q Did your brother have anything to do with killing
8 Dan Markel?

9 A I don't believe so.

10 Q Your mother is Donna Adelson?

11 A She is.

12 Q Where is she right now?

13 A Right now she's with my children.

14 Q In -- not in Tallahassee?

15 A In Miami.

16 Q Okay. She's not in jail?

17 A No.

18 Q She's never been arrested before?

19 A No.

20 Q Okay. She's not even testifying in this case; is
21 she?

22 A No.

23 Q To your knowledge.

24 A To my knowledge, no.

25 Q What about your brother, Charlie? Is he in Miami

1 right now?

2 A He's probably in Fort Lauderdale right now.

3 Q Okay. But he hasn't been arrested?

4 A No.

5 Q Hasn't been charged?

6 A No.

7 Q And he's not testifying in this case; is he?

8 A No.

9 Q Okay. Are you aware if the State has attempted to
10 subpoena them to come to court?

11 A I believe they have received a subpoena to come to
12 court.

13 Q Okay. And it was for them to come and testify in
14 this trial, or you don't know?

15 A I don't know for certain.

16 Q Okay. But you know they have received some form of
17 subpoena?

18 A I heard about that.

19 Q When is the last time you spoke to your family, your
20 mom in particular?

21 A This morning. I called to check in on the boys.

22 Q Okay. How is your relationship with your parents
23 now? Is it estranged in any way, or you still have a good
24 relationship with your parents?

25 A I still have a good relationship.

- 1 Q what about your brother, Charlie?
- 2 A I still have a good relationship.
- 3 Q when is the last time you spoke to Charlie?
- 4 A Probably last week at some point.
- 5 Q Okay. Now, you had mentioned that Charlie is a
- 6 father?
- 7 A He is.
- 8 Q when did he have his child?
- 9 Is it a boy or a girl?
- 10 A It's a boy.
- 11 Q Okay.
- 12 A He was born in December, 2017.
- 13 Q Okay. So about -- I would say that's over a year
- 14 after Ms. Magbanua's arrest?
- 15 A I couldn't say.
- 16 Q Okay. Do you know who the mother of that child is?
- 17 A I do.
- 18 Q who is she?
- 19 A You want her name?
- 20 Q Yes.
- 21 A Her name is Brie Price.
- 22 Q Okay. And is he married to her now?
- 23 A He's not married.
- 24 Q Are they still together?
- 25 A Depends on the day.

JULIE L. DOHERTY, RMR, OFFICIAL COURT REPORTER

1 Q And do you know if he has any other girlfriends at
2 this point?

3 A I have no idea.

4 Q All right. Have you been keeping up with the media
5 coverage in this case?

6 A I don't watch any media related to this case.

7 Q Okay. So -- but you are aware of the attention that
8 has been brought on this case?

9 A I'm aware only because of the constant death threats
10 that I receive, yes.

11 Q So just to specify, you haven't watched any of the
12 specials that have been on air about this case?

13 A I have not watched any of them.

14 Q Do you know if your parents have watched any of the
15 specials on this case?

16 A I advised them not to. They may have seen bits of
17 them, but I don't know for certain.

18 Q What about your brother, Charlie?

19 A I don't know.

20 Q Did you watch the State's opening statement in this
21 case?

22 A I did not.

23 Q You did not?

24 A I did not.

25 Q Okay. So you're not aware of what the State's

1 theory is in this case?

2 A I'm not.

3 Q Now, you mentioned on direct examination something
4 about listening to some recordings that the State provided to
5 you.

6 A Yes.

7 Q Okay. Is that the first time you ever listened to
8 those recordings?

9 A Yes.

10 Q Do you know what those recordings are about?

11 A There are many, many recordings.

12 Q Okay. Did they give you all of the recordings?

13 A I don't know. I listened to what I was given, but I
14 don't know if there's more.

15 Q How much time did it take you to listen to the
16 recordings that you were given?

17 A Again, I didn't listen to the entire thing. So
18 probably about an hour to go through all of the recordings and
19 listen to excerpts of each of them.

20 Q Of each of them.

21 So you're not aware if the State gave you all of the
22 recordings that they provide -- that they have in their
23 possession?

24 A I have no idea.

25 Q Okay. Did they have you listen to any recordings

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1 that occurred before April 19th of 2016? Sorry -- yeah, 2016?

2 A So I'd have to see the document to remember the
3 exact date on it. I do remember -- my birthday's in April so
4 I remember the dates being close to that, but I don't remember
5 exactly.

6 Q Did they ask you to listen to the phone call where
7 Charlie Adelson is talking to Ms. Magbanua about work?

8 A I listened to something --

9 MS. CAPPLEMAN: I'm going to object, Judge.

10 THE COURT: Sustained.

11 BY MS. KAWASS:

12 Q So it's fair to say that they only let you listen to
13 portions of the phone calls that they think are important?

14 A I was given conversations and I listened to some of
15 them to authenticate voices, but I don't know -- I imagine
16 they thought it was important for me to listen. That's why I
17 did.

18 Q Did you listen to a phone call --

19 MS. CAPPLEMAN: Objection.

20 THE COURT: Ask your question.

21 Don't answer until I rule, please, ma'am.

22 MS. CAPPLEMAN: Judge, the bell will be rung if the
23 question contains hearsay.

24 THE COURT: Let's go sidebar.

25 AT THE BENCH

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1 THE COURT: Give me your question.

2 MS. CAPPLEMAN: That's my concern.

3 THE COURT: I want to hear the question.

4 MS. CAPPLEMAN: Oh, yes, sir.

5 THE COURT: And step over here so the jury is not
6 hearing you.

7 MS. KAWASS: Well, that's true, Judge, but they can
8 see me over there.

9 THE COURT: Oh, sorry.

10 MS. KAWASS: I actually got thrown now that we're at
11 sidebar. I think I was asking -- I was going to ask,
12 have you listened -- have they asked you to listen to any
13 phone calls between your mother and your brother.

14 MS. CAPPLEMAN: I don't object to that, but I'm
15 afraid that the intent of this examination is to proceed
16 into asking questions that contain the substance of the
17 self-serving hearsay that they're trying to elicit under
18 the subterfuge of asking this witness if she's listened
19 to the calls.

20 THE COURT: So there's no objection to the question.

21 MS. CAPPLEMAN: No, sir.

22 THE COURT: So what the State is saying, we're not
23 going to get into the substance --

24 MS. KAWASS: The substance.

25 THE COURT: -- of any statements by your client.

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1 MS. KAWASS: I will just ask that question, Judge,
2 that I said to you and not go into the substance. That's
3 what I'll ask.

4 THE COURT: But as to any others, we're not going
5 to --

6 MS. KAWASS: No, I will move on from that topic now,
7 Judge.

8 THE COURT: Okay.

9 IN OPEN COURT

10 THE COURT: Go ahead, Ms. Kawass.

11 BY MS. KAWASS:

12 Q So the question was, Ms. Adelson, did they have you
13 listen to any phone calls where they -- it was a conversation
14 between your brother and your mother, if you were able to
15 identify any conversations like this?

16 A I think I did between -- yes.

17 Q Okay. Now, I want to talk about the circumstances
18 surrounding your actual divorce.

19 A Okay.

20 Q which I believe you said was finalized in 2013;
21 right?

22 A Yes.

23 Q You just left your divorce papers on a mattress for
24 Dan Markel in the house and left town; is that correct?

25 A No.

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1 Q How is it that you delivered the divorce papers to
2 him?

3 A I called him to let him know that I wanted a
4 divorce. It wasn't the first time I asked for a divorce, but
5 it was the last time. And told him that I would see him when
6 he got home -- not home, but back to Tallahassee. And then I
7 did leave the papers for him, but I didn't leave town. I was
8 still in Tallahassee.

9 Q Okay. So he was actually aware of the fact that you
10 were going to be seeking a divorce before you actually
11 delivered the papers to him?

12 A I had asked for a divorce several months earlier.

13 Q Okay.

14 A That's when we started going to counseling. And he
15 told me that if I -- if I tried to get divorced from him, that
16 I could leave with the clothes on my back and that he would
17 take the kids and that I would be penniless. And so when I
18 actually asked for a divorce, I thought it best not to be
19 there.

20 Q So is it fair to say that this was not a mutual
21 thing between the two of you, that Danny did not want a
22 divorce?

23 A I don't think he wanted to get divorced.

24 Q How close is your brother's relationship, Charlie
25 Adelson, with your mother Donna Adelson?

1 A I think they're close.

2 Q would you characterize their relationship as closer
3 than you are with your mother?

4 A No, I wouldn't say that. I mean, I do think they
5 talk more frequently than I do, but I don't think closeness
6 always has to do with the frequency of communication.

7 Q And you had said on direct that your parents were
8 not happy with Dan Markel's behavior during the divorce?

9 A No. They didn't think he was treating me well.

10 Q And is this just Donna Adelson, your mom, or was it
11 both Donna and Harvey Adelson?

12 A I'm sure both of my parents felt that way.

13 Q Did they ever express those feelings to you?

14 A Yes.

15 Q Did they call him names?

16 A Yes.

17 Q Okay. Did one parent do that more than the other,
18 or it was consistent between the two?

19 A I think it was consistent between the two.

20 Q Okay. What kinds of names did they call him?

21 A I mean, I've had my memory recently refreshed so I
22 saw things. But my memory is -- I don't remember
23 name-calling, but I did recently see e-mails where they called
24 him names.

25 Q Okay. Now, after the divorce, you started dating --

1 A I did.

2 Q -- other people; right?

3 A (Nods affirmatively.)

4 Q When is it that you had your first, I wouldn't say
5 serious boyfriend, but your first boyfriend after Dan Markel?

6 A Probably within -- within a month.

7 Q Okay. When did he -- if you know, did he start
8 seeing anybody else after the divorce?

9 A He did, but I don't know when it started.

10 Q And is that Amy or was it some other person?

11 A I know about Amy, but I don't know if there were
12 other people before Amy.

13 Q Did you know what -- at the time of the murder, do
14 you know what, if any, future plans Dan Markel had?

15 A I couldn't really say about his future plans, but I
16 felt like by then he and Amy were pretty serious. And he was
17 trying to spend as much time in New York as possible.

18 Q Do you know if his intention was -- and it's only if
19 you know. Was his intention to remain in Tallahassee or do
20 you know if he was planning to leave the state?

21 A I think he always planned on leaving Tallahassee.
22 It was just a question of when.

23 Q Okay. Do you know why? Did he have an aversion to
24 Tallahassee or it just --

25 A No, it wasn't an aversion to Tallahassee. He

1 just -- he was a very ambitious person. And so from the
2 moment we arrived in Tallahassee, he was always looking for a
3 stepping-stone toward a better university where he could
4 teach.

5 Q And he took a very special interest in what he did,
6 which is a -- you know, he was a law professor?

7 A Right.

8 Q He graduated from Harvard and he studied criminal
9 law?

10 A Right, that was his specialty.

11 Q Okay. And did there come a time where you were
12 dating someone by the name of Jeffrey Lacasse?

13 A Yes.

14 Q You know who that is?

15 A I do.

16 Q Do you remember when you started dating Jeffrey
17 Lacasse?

18 A I don't remember exactly, but 2013.

19 Q Okay. Do you remember how long you dated him for?

20 A I remember it was less than a year but probably more
21 than six months.

22 Q Were you dating him at the time leading up to the
23 homicide, which would be July 18th, 2014?

24 A We broke up a few weeks before Danny was killed, or
25 a week or so. We broke up before Danny was killed.

1 Q How would you describe your relationship with
2 Jeffrey Lacasse?

3 A I mean, I think it took different turns at -- I
4 think it was more casual in the beginning and then it was
5 getting more serious. And then I was feeling more committed
6 to the relationship. And then in late June, I just -- we had
7 this big fight, and after that point I didn't really want to
8 be with him anymore.

9 Q Do you know what the fight was about --

10 A I do.

11 Q -- do you remember?

12 A I remember what the fight was about.

13 Q What was it about?

14 A He didn't trust me.

15 Q In terms of seeing other people?

16 A He thought I was -- he thought I was cheating on
17 him.

18 Q Okay. And you said you broke up. When was that?

19 A We broke up -- it was -- it would have been one of
20 the last weekends in June.

21 Q So fairly close to when the homicide was --
22 occurred?

23 A Right.

24 Q Now, that spring break, which would have been the
25 month of March, didn't you and Jeffrey Lacasse come down to

1 Miami?

2 A We did.

3 Q Okay. And you stayed with your brother, Charlie?

4 A We did.

5 Q Okay. And do you know at that time who he was
6 dating?

7 A I don't.

8 Q Okay. Does it sound -- do you -- if I say that was
9 when he was dating Katherine Magbanua, is that a correct
10 statement or you don't remember?

11 A I don't remember.

12 Q Okay. Do you remember having dinner with Jeffrey
13 Lacasse at a restaurant and -- with your brother and that
14 Katherine Magbanua was there?

15 A I have a vague recollection of it.

16 Q Okay. And do you remember if this restaurant had
17 outside seating?

18 A We always used to go to the same restaurant, and so
19 I know the restaurant and it has outside seating.

20 Q Okay. And when you met Katherine Magbanua, Charlie
21 introduced you to her as his girlfriend?

22 A Probably.

23 Q Okay.

24 A Definitely as someone that he was seeing. Right? I
25 don't remember if he used the term "girlfriend," but in a

1 romantic kind of way.

2 Q Okay.

3 A Not as just a friend.

4 Q And am I characterizing Mr. Charlie Adelson
5 correctly when I say, you know -- you had said he has lots of
6 girlfriends?

7 A I've met lots of girls over the years which is why
8 it's hard to remember whether I had dinner with one person
9 versus another.

10 Q Do you know what his thoughts and beliefs are in
11 marriage? Does he not believe in marriage?

12 A I don't think he's so pro marriage, no.

13 Q Okay. Do you know how many times you spent -- how
14 many times you met Katie? We talked about the time on the
15 beach and then we've already now talked about a dinner.

16 A I remember vaguely those two. I don't remember any
17 other time.

18 Q Do you remember the name of the person that was in
19 that picture with you?

20 A No.

21 Q Does Yindra Velazquez-Mascaro sound familiar?

22 A No.

23 Q Now, you didn't have a really close relationship
24 with Katie; right?

25 A No.

1 Q Okay. Did you know that Katie has two kids?

2 A I did.

3 THE COURT: Remember, Ms. Kawass, we're not going to
4 get on first names.

5 MS. KAWASS: Oh, I'm sorry, Judge. I apologize.

6 BY MS. KAWASS:

7 Q Did you know that Ms. Magbanua had children?

8 A I did know that.

9 Q Okay. Did you ever discuss with Ms. Magbanua the
10 details of the divorce that you had before she even knew who
11 your brother was?

12 A That wouldn't be possible because I only met her
13 with my brother.

14 Q Okay. So you didn't talk -- your relationship
15 wasn't a close relationship where you would talk to her about
16 Dan Markel?

17 A No.

18 Q Do you ever remember having a conversation with
19 Ms. Magbanua about Dan Markel and your divorce?

20 A It's very possible that I brought it up, but not --

21 Q Nothing stands out?

22 A No, not at all.

23 Q Now, I want to talk to you about the time of the
24 murder, okay, the day before the homicide. All right?

25 A Okay.

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1 Q You had talked about your custody situation with Dan
2 Markel, that it was a week on/week off; is that correct?

3 A That's right at that time.

4 Q And an overnight stay switch on a wednesday?

5 A That's my best memory.

6 Q So it's -- a better way to describe it would be if
7 it's your week, you have the boys, but on wednesday night they
8 will sleep at Dan -- do an overnight sleepover at Dan
9 Markel's?

10 A Right.

11 Q And then return them to you the next day?

12 A Or return them to school and then --

13 Q And then you pick them up in the evening?

14 A Right.

15 Q So the day of the homicide, do you remember what day
16 of the week that was?

17 A I believe it was Friday.

18 Q Okay. So the day before would have been a Thursday?

19 A Right.

20 Q Okay. Do you remember what you were doing that day?

21 A I don't.

22 Q Is there any way that you would have been walking
23 down Trescott Drive with your two sons the day before his
24 murder?

25 A No. I -- I don't live in walking distance so

1 there's no reason why I would have been walking down the
2 street, no.

3 Q You and Mr. Marke1 weren't on that kind of talking
4 or speaking terms where you would be at the Trescott home and
5 he wasn't there?

6 A No.

7 Q You wouldn't go and take the boys for a walk on
8 Trescott Drive?

9 A I don't think so, no.

10 Q Okay. And as far as you knew at that time, the
11 kids -- what school were they attending?

12 A They went to Creative Preschool.

13 Q Okay. And when you would drop the kids off at
14 Creative Preschool, do you have to sign them in?

15 A You do have to sign them in.

16 Q Okay. And then so there should be a record of the
17 days that the boys would have been at the preschool?

18 A That's right.

19 Q What time would you drop the boys off, if you
20 remember? Is it an early morning thing or --

21 A I would drop them off in the morning. I don't
22 remember -- maybe it was 8:00, maybe it was 9:00. I --

23 Q Oh, but nothing late, like 11:00?

24 A I don't think so.

25 Q And then what would be the usual time you pick them

1 up in the afternoon?

2 A I think it would depend on whether I was teaching or
3 if I had court, what I was up to. But my guess is sometime
4 between 3:00 and 6:00 I would pick them up.

5 Q So would it be fair to say that, you know, around
6 11:00 in the morning, the boys would probably be in school on
7 a weekday?

8 A That would be right.

9 Q Okay. Do you know someone by the name of Whitney?

10 A I do know Whitney.

11 Q Who is Whitney?

12 A Whitney was a girlfriend of my brother's.

13 Q Okay. Do you know who introduced Charlie to --
14 Mr. Adelson to Whitney?

15 A I don't.

16 Q Do you know how long they were dating?

17 A I don't.

18 Q Do you remember when they started dating?

19 A I don't remember when they started dating.

20 Q Okay. When did your brother buy you that TV?

21 A I remember having the TV in the house on Aqua Ridge.
22 So sometime -- sometime after the fall of 2012. And then I --
23 sometime between 2012, 2013, something like that.

24 Q Do you remember making a phone call to Charlie that
25 morning and having a conversation with him, without going into

1 the details of that conversation?

2 A which morning?

3 Q The morning of Danny's murder.

4 A Yes.

5 MS. KAWASS: I'm sorry, Judge. Mr. Markel's murder.

6 BY MS. KAWASS:

7 Q Do you remember how long you spoke for?

8 A I don't remember how long I spoke for.

9 Q Now, you had described your brother as a talker. Is
10 that fair to say?

11 A Yeah. I think I described him as a -- more of a
12 joker --

13 Q Joker?

14 A -- than a talker, but he does talk.

15 Q Do you remember the circumstances under which he
16 made that statement that the State talked about, about hiring
17 a hitman, but instead I got you this TV? Who else was around
18 when this statement was made?

19 A Well, he tends to repeat himself so he kept
20 repeating that joke because he thought it was funny.

21 Q Okay. But do you remember the timeframe of when
22 that happened? Like, was this way before -- you know, during
23 the course of your divorce or was this after?

24 A It would have been when he bought the TV.

25 Q When he bought the TV. And that would be after the

1 divorce?

2 A well, not -- after I filed for divorce, right, but
3 not after the divorce was finalized. So sometime after -- I
4 really don't remember when I got the TV, but maybe sometime
5 starting with the fall of 2012, sometime around then, but it
6 could have been 2013.

7 Q Do you know -- now, your parents' apartment on South
8 Beach, are they still living there?

9 A No.

10 Q Okay. So they moved?

11 A They did.

12 Q At the time, do you know how much their rent was in
13 that apartment?

14 A I have no idea.

15 Q You said they did not own that property?

16 A No.

17 Q Okay. And -- now you said that you stayed in
18 Tallahassee after the homicide?

19 A I stayed for a few days.

20 Q Okay. And do you recall if Detective Isom tried to
21 call you?

22 A After I had left?

23 Q Before you left and -- before you left Tallahassee
24 but after the memorial service for Mr. Markel?

25 A He did not call me before I left Tallahassee, no.

1 Q Did he try to call you?

2 A He called me when I was already on the road --

3 Q Okay.

4 A -- about four hours away from Tallahassee.

5 Q All right. Did he ever try to talk to again?

6 A No.

7 Q Has the prosecution -- when is the last -- when is
8 the first time the prosecution reached out to you to speak to
9 you about what happened?

10 A I don't remember ever talking with the prosecution.

11 MS. CAPPLEMAN: Judge, I'm going to object; improper
12 question.

13 THE COURT: Let's go sidebar.

14 AT THE BENCH

15 THE COURT: So what is your basis that it's an
16 improper question?

17 MS. CAPPLEMAN: Because Ms. Adelson didn't speak to
18 law enforcement because she invoked her right to remain
19 silent. And I don't think that's a proper topic for
20 defense to cover --

21 MS. KAWASS: My question is when did they reach out
22 to her. I'm not talking about the depo. I want to
23 establish when they've made any attempts to reach out to
24 her to conduct an interview. She's their witness.

25 THE COURT: Well, she --

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1 MS. CAPPLEMAN: Well, Ms. Kawass knows that she had
2 invoked and I haven't interviewed her ever.

3 THE COURT: Right.

4 MS. KAWASS: And you never made any attempt to.

5 MS. CAPPLEMAN: Yeah, I've made an attempt.

6 THE COURT: Well, she is a represented party so it
7 would be improper for the State to reach out to her. So
8 I'll sustain the objection.

9 IN OPEN COURT

10 MS. KAWASS: Proceed, Your Honor?

11 THE COURT: Yes.

12 BY MS. KAWASS:

13 Q Do you know if Detective Isom ever tried to reach
14 out to your parents?

15 A I don't think he did.

16 Q Do you know if Detective Isom ever tried to speak to
17 your brother, Charlie?

18 A I don't think he did.

19 Q Now you are testifying today under a State subpoena;
20 correct?

21 A Correct.

22 Q And that State subpoena gives you immunity for your
23 testimony; right?

24 A Yes.

25 Q Can you explain to the jury, since you're an

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1 attorney, what immunity is?

2 A Immunity is freedom from prosecution.

3 Q So that means that anything you say today can't be
4 used against you if the state decides to arrest you later on?

5 A The State isn't going to decide to arrest me.

6 Q Do you know if they consider you a suspect?

7 A I don't know.

8 Q Now the life insurance policy that the State was
9 asking you about, have you received any money from the life
10 insurance policy from Mr. Markel?

11 A I don't know if maybe in the beginning the life
12 insurance that -- Danny owed me about \$100,000 when he died.
13 I do think that his family made that disbursement. I don't
14 know if they paid that through the life insurance policy, but
15 other than that, there's been -- the life insurance policy is
16 money put away for the kids. I've never seen it.

17 Q Are you -- do you have access to that, or you have
18 no control over that?

19 A I have no control over that.

20 Q All right. And I have -- where did you say -- so
21 your boys are now down in Miami with your mother; correct?

22 A At the moment, yes.

23 Q And you stopped letting Danny's parents -- or
24 Mr. Markel's parents see the boys; is that correct?

25 A Two years after Danny died, I stopped visitation.

1 Q Okay. Do you have any intention of letting them see
2 their grandchildren again?

3 A I do. We've actually been in discussion the last
4 few weeks.

5 MS. KAWASS: No further questions, Judge.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY MS. CAPPLEMAN:

9 Q How many times have Dan's parents been able to see
10 your boys in the last five years?

11 A In the last two years after they [sic] died, they've
12 been able to see them every time they've asked to see them.

13 Q Okay. What about the last three years?

14 A Since 2016 they have been -- not been permitted to
15 see the boys.

16 Q They have not been permitted?

17 A That's right.

18 Q By you?

19 A By me, yes.

20 Q Right. And that's not through lack of trying on
21 their part?

22 A No, that's because of what they did.

23 Q Okay. But they want to see those boys; don't they?

24 A They very much want to see the boys.

25 Q All right. And Dan Markel's sister is the -- I'm

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1 not sure if this is the right word, but the executor of that
2 trust for the boys; is that right?

3 A I think she has fiduciary responsibility over the
4 trust for the boys.

5 Q All right. Thank you. That sounds -- that sounds
6 right.

7 Did you, at one time, hold that position in Dan's
8 will?

9 A Oh, before we got divorced, I probably did.

10 Q But sometime after the divorce, he changed that over
11 to the sister?

12 A He must have, yes.

13 Q Okay. And did you initiate proceedings to try to
14 fight that decision that he made to make the sister the
15 executor or the beneficiary -- have the fiduciary duty for
16 this money over your -- for the disbursement to your children?

17 A Can you repeat the -- can you rephrase the question
18 for me?

19 Q So did you initiate any type of proceeding at any
20 point to try to contest or fight Dan Markel's sister being
21 appointed as this fiduciary for the life insurance for the
22 boys?

23 A I don't believe that I did.

24 Q You did not?

25 A I don't remember doing that, no.

1 MS. CAPPLEMAN: No further questions.

2 THE COURT: All right. Any juror have a question of
3 this witness? If you do, write it down. We'll go
4 sidebar.

5 AT THE BENCH

6 THE COURT: I didn't think they'd have questions at
7 this hour of the day, but they do.

8 MS. NORRIS: That means they're listening.

9 MS. CAPPLEMAN: They're starting to get interested.

10 THE COURT: Question: What do you mean when you say
11 you've had your memory refreshed?

12 MS. CAPPLEMAN: No objection.

13 THE COURT: I don't know what subject they're
14 talking about.

15 MS. CAPPLEMAN: She's referring to the e-mails.

16 MR. ZANGENEH: To the e-mails, yeah.

17 THE COURT: Do you have an objection?

18 MS. KAWASS: No, Judge.

19 THE COURT: I'll get you guys ferret out about
20 refreshed about what.

21 What was wrong with the television? Either side
22 object?

23 MS. CAPPLEMAN: No.

24 MS. KAWASS: No objection.

25 MR. ZANGENEH: No objection.

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1 THE COURT: Can she be arrested or is the immunity
2 limited to what she says in her testimony today?

3 I think I'm going to answer that question after
4 she --

5 MR. ZANGENEH: I think that's improper.

6 THE COURT: -- finishes. Give a little explanation
7 of what immunity means.

8 MR. ZANGENEH: Your Honor, if you don't mind, how
9 are you going to answer that question?

10 THE COURT: I'm going to say there's three types of
11 immunity: Transactional immunity, use immunity, use and
12 derivative use immunity. The type of immunity she has
13 received is use and derivative use immunity. She does
14 not have transactional immunity, which means she could be
15 charged in the case, but anything she says or anything
16 derived from what she says cannot be used against her.

17 MR. ZANGENEH: Wonderful.

18 THE COURT: Why are Dan's parents not allowed to see
19 their grandchildren?

20 I think we have foraged that sufficiently unless
21 somebody has strong feelings about that.

22 MR. ZANGENEH: I agree, Judge.

23 MS. CAPPLEMAN: I would let them ask it. I would
24 like you to ask it.

25 MR. ZANGENEH: It's post-homicide; correct? So it's

1 not really relevant.

2 MS. CAPPLEMAN: I don't think it's relevant, but the
3 problem is we asked the question.

4 THE COURT: What's your position, Ms. Kawass?

5 MS. CAPPLEMAN: There's a story to it.

6 MS. KAWASS: I would object to --

7 THE COURT: I'm sorry, I can't --

8 MS. KAWASS: -- answering that question because I
9 know the answer is going to be because she believes that
10 the Markel family, you know, did something in terms of
11 trying to get to adopt the boys because of an e-mail from
12 the State. So this is actually going to open up, I
13 think, like, a slew of doors no one wants opened.

14 MS. CAPPLEMAN: The answer is she's mad at them
15 because they sent me an e-mail trying to make
16 arrangements for what would happen to these children if
17 we came and arrested all the Adelsons.

18 THE COURT: If we arrested what?

19 MS. CAPPLEMAN: So the e-mail was: will you please
20 contact this Jewish children's organization in the
21 event -- they had no idea what I was going to do -- in
22 the event that I arrest Wendi and Donna and Harvey and
23 there's no guardian for the children temporarily until
24 they could get down here from where they reside in
25 Canada.

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1 So that's what she was mad about. She thought they
2 were trying to make arrangements to put her children
3 into, you know, foster care basically, but that wasn't
4 the intent.

5 THE COURT: And you object?

6 (Pause.)

7 MS. KAWASS: Your Honor, I have an objection to
8 asking the question.

9 THE COURT: All right. I don't think this affects
10 Mr. Garcia to a great extent. So I note you objected,
11 but the other sides both want me to ask the question. I
12 will ask it.

13 So they wanted clarification when she first had a
14 boyfriend was -- was it a month after filing for divorce
15 or a month after it was finalized. I guess they are not
16 clear on that. Either side object?

17 MR. ZANGENEH: No, Judge.

18 MS. KAWASS: No, Judge.

19 MS. CAPPLEMAN: No objection.

20 THE COURT: Those are the questions.

21 IN OPEN COURT

22 THE COURT: Ms. Adelson, I don't remember what it
23 related to exactly. I mean, I remember you saying this
24 and one of the jurors had a question about it.

25 You said your memory had been refreshed about

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1 something. What did you mean by that?

2 THE WITNESS: So five -- over five years have passed
3 since Danny died and --

4 THE COURT: Speak to them.

5 THE WITNESS: -- sorry. So more than five years
6 have passed since Danny died, and a lot of the things
7 that we're talking about today I just don't remember at
8 all. And so to refresh my memory, to make sure that I
9 could remember things, certain documents were shown to
10 me; e-mails, legal pleadings from the case, so that I
11 could remember what was happening at that time.

12 THE COURT: One of the jurors was a little confused
13 with the timing. You had said you had a boyfriend and it
14 was not clear to them whether you said it was a month
15 after your separation and filing for divorce or a month
16 after it was finalized.

17 THE WITNESS: Sure. So I started dating someone who
18 was a friend of mine for many years, and it didn't become
19 romantic until after I had filed for divorce. So about a
20 month after I filed for divorce, someone who was a friend
21 in my life became more like a boyfriend than a friend.

22 THE COURT: Okay. And what was wrong with the
23 television that had to be repaired?

24 THE WITNESS: I think one of my kids might have
25 thrown something at it so there was a crack in the TV.

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1 THE COURT: And why have Mr. Markel's parents not
2 been allowed to see the grandchildren?

3 THE WITNESS: well, they were allowed to see the
4 grandchildren for two full years. And I used to cook
5 meals for them and arrange play dates; we had sleepovers.

6 And then I found out that Ruth Markel had reached
7 out to a foster care agency to try to place my children
8 with that agency. And I became very worried that they
9 were trying to take my children away from me. And so
10 after that time, I didn't feel a level of trust that they
11 could spend time with the kids. I was afraid they were
12 trying to take them from me.

13 THE COURT: Follow-up, Ms. Cappleman?

14 FURTHER EXAMINATION

15 BY MS. CAPPLEMAN:

16 Q Your reference to the foster care agency, does that
17 have to do with an e-mail that was sent to me from your
18 mother-in-law?

19 A Yes, it does.

20 Q All right. Dan's mother?

21 A Yes.

22 Q And that e-mail was in reference to, in the event
23 that you and your parents were arrested in association with
24 this crime, could I please contact that particular agency to
25 assist with the children, in the event they have no guardian

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1 temporarily until they could get down here from where they
2 reside in Canada; is that correct?

3 A That's correct.

4 Q So they were not trying to take your children unless
5 there was an event where you were unable to care for them?

6 A But because there's no event in which I would be
7 unable to care for them, that feels like trying to take away
8 my children.

9 MS. CAPPLEMAN: Okay. Thank you.

10 THE COURT: Garcia?

11 MR. ZANGENEH: No follow-up questions from me,
12 Judge.

13 THE COURT: Magbanua?

14 FURTHER EXAMINATION

15 BY MS. KAWASS:

16 Q And this e-mail about you -- about there being
17 possible arrests of you and your family, that came right after
18 Katherine Magbanua was arrested; right?

19 A I don't remember exactly the timeline of that.

20 MS. KAWASS: Okay. Thank you.

21 THE COURT: Further, Ms. Cappleman?

22 MS. CAPPLEMAN: No, sir.

23 THE COURT: All right. You can step down.

24 Do we need to keep this witness any further?

25 MS. CAPPLEMAN: No, Your Honor.

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1 THE COURT: Anybody need her any further?

2 MR. ZANGENEH: No, Judge.

3 THE COURT: Magbanua?

4 MR. DECOSTE: One brief moment, Your Honor.

5 (Attorneys confer.)

6 THE COURT: Hold on a second, Ms. Adelson.

7 MR. DECOSTE: Under subpoena, Your Honor.

8 THE COURT: All right. You remain under their
9 subpoena.

10 MS. CAPPLEMAN: Your Honor, Ms. Adelson has a flight
11 tonight at 7:00 p.m. May she return home and be subject
12 to recall?

13 THE COURT: You can communicate with her about any
14 arrangements if you need her to come back, but she's free
15 to go at this point.

16 MS. KAWASS: Your Honor, we'll reach out to her
17 attorneys when we need her to come back.

18 THE COURT: All right.

19 The last thing you're going to get this afternoon is
20 probably not what you want to hear, but it was a little
21 legal lesson that one of the jurors raised. They asked a
22 question about the type of immunity that was discussed by
23 Ms. Adelson. It's really not a fact question, it's a
24 legal question, so this is a little legal lesson.

25 In the state of Florida, there are three kinds of

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1 immunity. There's transactional immunity, there's use
2 immunity, there's use and derivative use immunity.

3 Transactional immunity means that some person cannot
4 be prosecuted for an offense. Use immunity means that
5 what the person says cannot directly be used against
6 them. Use and derivative use immunity means that what
7 they say cannot be used against them, nor can it be used
8 to develop leads to gather evidence against them.

9 The type of immunity that Ms. Adelson has received,
10 because I've been the one that explained it to her, is
11 use and derivative use immunity. In other words, what
12 she says today cannot be used directly against her, nor
13 can it be used to develop leads against her.

14 She does not have transactional immunity. That
15 means she could be prosecuted for the crimes involved,
16 but what she said cannot be used against her, nor used
17 for any leads to develop information. So hopefully that
18 answers the juror's question that asked the question.

19 Time to call it a weekend. Remember, we won't be
20 meeting Monday. You need to be back here, same place,
21 same time, 8:45 Tuesday morning. Don't discuss the case
22 with anyone. Don't watch any TV accounts, read any
23 newspaper accounts. We've invested a lot of time and
24 energy in you. Please, you know, keep it -- keep it that
25 way for us, please.

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