

Description	Judge Boyce * S. Holstine * Tiffany Fisher * 04/14/23 * Fremont Co. Case	
Date	4/14/2023	Location 1A-CRT400
Time	Speaker	Note
8:31:48 AM		CR22-21-1624 St v Lori Vallow Jury Trial - Day Five
8:31:49 AM	State Attys	Lindsay Blake - Robert Wood - Rachel Smith for the State
8:31:51 AM	Def Attys	Jim Archibald - John Thomas for the Defense
8:31:58 AM	Defendant	Is present in custody
8:32:43 AM		Simulcast On
8:32:52 AM	Judge Boyce	Calls case. All counsel and parties present. Jurors are present and have signed their juror affirmations
8:33:31 AM	Judge Boyce	Will we be continuing with SW#7
8:33:33 AM	Ms. Blake	Yes, Your Honor
8:33:52 AM	Judge Boyce	Is the State ready to proceed
8:33:55 AM	Ms. Blake	We left with a pending objection yesterday
8:34:09 AM	Judge Boyce	Addresses SE#49. Has the defense had a chance to review this
8:34:37 AM	Mr. Thomas	Yes, no objection
8:34:42 AM	Judge Boyce	I'll bring the jurors in and put on the record it was not objected to and we'll continue with testimony
8:35:02 AM	Ms. Blake	We're ready to proceed
8:35:04 AM	Mr. Thomas	We're ready to proceed as well
8:35:11 AM	Judge Boyce	Bring the jury in please
8:35:13 AM	Judge Boyce	Admonishes the gallery and reminder of the courtroom conduct order
8:37:27 AM		The jury is present
8:37:42 AM	Ms. Blake	Requests sidebar
8:37:53 AM		SIDEBAR - Simulcast Off
8:39:23 AM		Simulcast On
8:39:40 AM	Judge Boyce	The State may continue examination of Officer Duncan, who remains under oath
8:40:05 AM	Ms. Blake	Continues Direct Examination of SW#7 - Nate Duncan
8:41:57 AM	Ms. Blake	Moves to admit SE #49

8:42:07 AM	Judge Boyce	Any objection
8:42:15 AM	Mr. Thomas	No objection
8:42:19 AM	Judge Boyce	STATE'S EXHIBIT #49 IS ADMITTED (Digital File)
8:42:27 AM	Ms. Blake	Moves to publish SE #49
8:42:29 AM	Judge Boyce	You may publish SE #49
8:42:31 AM		SE #49 IS PUBLISHED
8:44:06 AM	Ms. Blake	Provides paper copy of SE#49 for review by witness
8:44:16 AM	Ms. Blake	CDX of SW#7
9:01:39 AM	Mr. Thomas	Objection - non-responsive
9:01:41 AM	Judge Boyce	Objection is Sustained
9:01:44 AM	Ms. Blake	CDX of SW#7
9:02:15 AM	Ms. Blake	State's Exhibit #48 previously marked is handed to the witness for identification
9:03:17 AM	Ms. Blake	CDX of SW#7
9:06:26 AM	Ms. Blake	Moves to admit SE #48
9:06:35 AM	Mr. Thomas	Objection on the record was overruled by the court
9:06:48 AM	Judge Boyce	Objection and ruling on the record. STATE'S EXHIBIT #48 IS ADMITTED (Digital File)
9:07:26 AM	Ms. Blake	Moves to publish SE #48
9:07:41 AM	Judge Boyce	You may publish SE #48
9:07:44 AM		SE #48 IS PUBLISHED
9:07:47 AM	Ms. Blake	CDX of SW#7
9:14:32 AM	Mr. Thomas	Objection - Speculation
9:14:35 AM	Judge Boyce	Objection is Sustained
9:14:39 AM	Ms. Blake	CDX of SW#7
9:24:03 AM	Mr. Thomas	Objection -
9:24:11 AM	Judge Boyce	Let me review the record
9:24:17 AM	Ms. Blake	Responds - I can have the witness reread the last line
9:24:26 AM	Mr. Thomas	That's fine
9:24:29 AM	Judge Boyce	Let's reread the that line
9:24:31 AM	Ms. Blake	CDX of SW#7
9:24:37 AM	Mr. Thomas	That comports. Thank you

9:24:45 AM	Ms. Blake	CDX of SW#7
9:27:52 AM	Mr. Thomas	Objection - Form of question. Withdraws objection
9:28:03 AM	Ms. Blake	CDX of SW#7
9:29:41 AM	Ms. Blake	State's Exhibit #51 previously marked is handed to the witness for identification
9:30:22 AM	Ms. Blake	CDX of SW#7
9:31:32 AM	Ms. Blake	Moves to admit SE #51
9:31:36 AM	Mr. Thomas	Objection on the record was overruled by the court
9:31:48 AM	Judge Boyce	Objection and ruling on the record. STATE'S EXHIBIT #51 IS ADMITTED
9:32:12 AM	Ms. Blake	Moves to publish SE #51
9:32:13 AM	Judge Boyce	You may publish SE #51
9:32:15 AM		SE #51 IS PUBLISHED
9:33:02 AM	Ms. Blake	CDX of SW#7
9:34:07 AM	Ms. Blake	Asks for brief recess (to swap out computers)
9:35:23 AM	Ms. Blake	CDX of SW#7
9:43:16 AM	Ms. Blake	No further questions of this witness
9:43:32 AM	Judge Boyce	Counsel may cross
9:44:10 AM	Mr. Thomas	Based on prior objection - we have no questions for this witness
9:44:26 AM	Judge Boyce	This witness may step down
9:44:32 AM	Ms. Blake	May this witness be excused
9:44:35 AM	Mr. Thomas	No objection
9:44:37 AM	Judge Boyce	Witness may be excused
9:44:42 AM	Ms. Blake	May we have a brief sidebar
9:44:47 AM		SIDEBAR - Simulcast Off
9:47:32 AM		Simulcast On
9:47:45 AM	Judge Boyce	Back on the record. We'll excuse the jurors for a mid-morning break so we can discuss matters outside their presence
9:48:23 AM		Jurors Exit
9:49:16 AM		SIDEBAR - Simulcast Off
9:51:04 AM		Simulcast On

9:51:16 AM	Ms. Blake	Addresses the court
9:51:30 AM	Judge Boyce	Go ahead
9:51:38 AM	Mr. Rammell	Issue has arisen on next witness re: criminal history. Witness has counsel in town. Comments further - ICR 16(b)(2)
9:53:50 AM	Judge Boyce	Comments
9:54:03 AM	Mr. Rammell	Further comments. Feels we have complied with the rule
9:55:03 AM	Judge Boyce	Is there a response from the defense
9:55:12 AM	Mr. Thomas	Responds - We're not going to bring it up.
9:56:13 AM	Judge Boyce	Court finds it would be inappropriate to bring it up. Comments further re: attorney
9:57:11 AM	Mr. Rammell	Ms. Smith will argue this matter
9:57:15 AM	Ms. Smith	Comments on attorney - here for aid of witness.
9:58:49 AM	Judge Boyce	He'll be permitted to be here as her personal counsel in the case, specifically as it relates to matters that occurred in AZ. Comments further. I don't think it's an issue
9:59:20 AM	Ms. Smith	There's been no suggestion of that at all
9:59:31 AM	Judge Boyce	Anything other issues or matters to put on the record
9:59:40 AM	Ms. Smith	Those are the three
9:59:47 AM	Judge Boyce	That was not on the record. There was some special accommodations requested by the State. Defense did not agree. Court sustains the defense objection. I'll view the testimony to see how it's going and consider it during her testimony
10:00:12 AM	Ms. Smith	Thank you, Judge
10:00:19 AM	Judge Boyce	Before you call your witness, let's take our mid-morning break
10:00:36 AM		COURT RECESSES - Simulcast Off
10:25:55 AM		COURT RESUMES. Jury is not present
10:26:31 AM		Simulcast On
10:26:45 AM	Judge Boyce	Bring the jury in please
10:28:11 AM		The jury is present
10:28:19 AM	Judge Boyce	Back on the record. State is continuing with their case in chief
10:28:38 AM	Ms. Smith	CALLS STATE'S WITNESS #8 - Zulema Pastenes/Sworn
10:30:00 AM	Ms. Blake	Direct Examination of SW#8 – Zulema Pastenes

10:45:08 AM	Ms. Smith	State's Exhibit #53A-C previously marked is handed to the witness for identification. Updated exhibit list will be provided to the court
10:45:44 AM	Mr. Thomas	We haven't received an exhibit list
10:45:56 AM	Ms. Smith	Responds
10:46:05 AM	Judge Boyce	We'll take this up outside the presence of the jury
10:46:20 AM	Ms. Smith	CDX of SW#8
10:47:46 AM	Mr. Thomas	Objection - mis-states testimony
10:47:56 AM	Ms. Smith	If I can clean that up
10:47:59 AM	Judge Boyce	Yes
10:48:01 AM	Ms. Smith	CDX of SW#8
10:48:48 AM	Ms. Smith	Moves to admit SE #53A & 53C
10:48:50 AM	Mr. Thomas	No objection
10:48:53 AM	Judge Boyce	STATE'S EXHIBITS #53A & 53C ARE ADMITTED and may be published
10:49:09 AM		SE #53A & 53C ARE PUBLISHED
10:49:48 AM	Ms. Smith	CDX of SW#8
10:51:50 AM	Mr. Thomas	This is SE#53A not 53C
10:51:56 AM	Ms. Smith	He's correct, thank you. CDX of SW#8
11:18:08 AM	Mr. Thomas	I think we're getting into impermissible testimony regarding 404(b)
11:18:12 AM	Ms. Smith	I'm not going there
11:18:17 AM	Mr. Thomas	I'll withdraw
11:18:21 AM	Ms. Smith	CDX of SW#8
11:32:26 AM	Ms. Smith	State's Exhibits #52A & 52B previously marked are handed to the witness for identification
11:32:56 AM	Ms. Smith	CDX of SW#8
11:33:37 AM	Ms. Smith	Moves to admit SE #52A & 52B
11:33:40 AM	Mr. Thomas	No objection
11:33:42 AM	Judge Boyce	STATE'S EXHIBITS #52A & 52B ARE ADMITTED and may be published
11:33:49 AM		SE #52A & 52B ARE PUBLISHED
11:34:30 AM	Ms. Smith	CDX of SW#8

11:36:10 AM	Mr. Thomas	Objection - non-responsive
11:36:16 AM	Judge Boyce	Objection is Sustained
11:36:20 AM	Ms. Smith	CDX of SW#8
11:40:29 AM	Mr. Thomas	Objection - Speculation
11:40:31 AM	Judge Boyce	Objection is Sustained
11:40:34 AM	Ms. Smith	CDX of SW#8
11:58:52 AM	Judge Boyce	If there's a logical breaking point, it's close to the lunch hour
11:59:03 AM	Ms. Smith	This is a good time
11:59:07 AM	Judge Boyce	We'll take our lunch recess now and plan to return at 12:45
11:59:35 AM		Jurors exit
12:00:02 PM		COURT RECESSES - Simulcast Off
12:49:49 PM		COURT RESUMES. Jury is not present
12:50:01 PM	Judge Boyce	Bring the jury in please
12:50:10 PM		Simulcast On
12:51:50 PM	Ms. Smith	May we have a brief sidebar
12:51:53 PM		SIDEBAR - Simulcast Off
12:53:37 PM		Simulcast On
12:54:25 PM		The jury is present
12:54:29 PM	Judge Boyce	Back on the record. Counsel and all parties are present. The State may continue their DX. Are the parties ready to proceed
12:55:09 PM		Parties are ready to proceed
12:55:29 PM	Judge Boyce	Witness has retaken the stand and remains under oath
12:55:43 PM	Ms. Smith	CDX of SW#8 - Zulema Pastenes
1:35:40 PM	Ms. Smith	State's Exhibit #54 previously marked is handed to the witness for identification
1:36:20 PM	Judge Boyce	Reviews the proposed exhibit
1:38:18 PM	Ms. Smith	CDX of SW#8
1:38:42 PM	Ms. Smith	Moves to admit SE #54
1:38:44 PM	Mr. Thomas	No objection
1:38:48 PM	Judge Boyce	STATE'S EXHIBIT #54 IS ADMITTED
1:39:00 PM	Ms. Smith	Moves to publish SE #54
1:39:01 PM	Judge Boyce	You may publish SE #54

1:39:03 PM	Ms. Smith	SE #54 IS PUBLISHED
1:39:20 PM	Ms. Smith	CDX of SW#8
1:48:44 PM		State's Exhibits #8M & 8N previously admitted are handed to the witness
1:49:11 PM	Ms. Smith	CDX of SW#8
1:51:13 PM	Mr. Thomas	May I question SW#8 in aid of objection
1:51:15 PM	Judge Boyce	You may
1:51:16 PM	Mr. Thomas	Questions SW#8 in aid of objection
1:53:04 PM	Mr. Thomas	No objection
1:53:06 PM	Judge Boyce	The State may continue
1:53:07 PM	Ms. Smith	CDX of SW#8
1:54:54 PM	Ms. Blake	State's Exhibits #52C-E previously marked are handed to the witness for identification
1:55:25 PM	Ms. Smith	CDX of SW#8
1:56:41 PM	Ms. Smith	Moves to admit SE #52C-E
1:56:45 PM	Mr. Thomas	No objection
1:56:46 PM	Judge Boyce	STATE'S EXHIBITS #52C-E ARE ADMITTED
1:57:11 PM	Ms. Smith	Moves to publish SE #52C-E
1:57:13 PM	Judge Boyce	You may publish SE #5C-E
1:57:14 PM		SE #52C-E ARE PUBLISHED
1:57:42 PM	Ms. Smith	CDX of SW#8
1:59:13 PM	Ms. Smith	State's Exhibit #53B previously marked is handed to the witness for identification
1:59:25 PM	Ms. Smith	CDX of SW#8
2:00:00 PM	Ms. Smith	Moves to admit SE #53B
2:00:03 PM	Mr. Thomas	Objection -
2:00:08 PM	Judge Boyce	Notes the objection. What is the relevance to the State's case
2:00:31 PM	Ms. Smith	Responds
2:00:34 PM	Mr. Thomas	Argument
2:00:54 PM	Judge Boyce	Objection is Sustained
2:00:59 PM	Ms. Smith	CDX of SW#8
2:04:11 PM	Judge Boyce	Are you still laying foundation

2:04:27 PM	Ms. Smith	Comments
2:04:42 PM	Judge Boyce	Is there still an objection to the exhibit
2:04:47 PM	Mr. Thomas	No objection
2:04:52 PM	Judge Boyce	STATE'S EXHIBIT #53B IS ADMITTED
2:05:14 PM	Ms. Smith	CDX of SW#8
2:06:09 PM	Ms. Smith	Moves to admit SE#53B
2:06:13 PM	Judge Boyce	It's already been admitted
2:06:16 PM	Ms. Smith	Moves to publish SE #53B
2:06:21 PM	Judge Boyce	You may publish SE #53B
2:06:23 PM		SE #53B IS PUBLISHED
2:06:28 PM	Ms. Smith	CDX of SW#8
2:14:48 PM	Judge Boyce	Requests sidebar with the parties to discuss scheduling
2:14:52 PM		SIDEBAR - Simulcast Off
2:16:57 PM		Simulcast On
2:17:13 PM	Judge Boyce	I'll allow the State to complete their DX before taking our break
2:17:30 PM	Ms. Smith	CDX of SW#8
2:19:47 PM	Mr. Thomas	Objection -
2:19:52 PM	Judge Boyce	Objection is Sustained - vague
2:20:02 PM	Ms. Smith	CDX of SW#8
2:20:15 PM		Nothing further
2:20:17 PM	Judge Boyce	We'll take our afternoon recess at this time
2:20:28 PM		Jurors Exit
2:20:45 PM		COURT RECESSES - Simulcast Off
2:40:24 PM		COURT RESUMES. Jury is not present
2:40:46 PM		Simulcast On
2:40:54 PM	Judge Boyce	Back on the record. Admonishes the gallery. Reminder of courtroom conduct order
2:41:59 PM	Judge Boyce	Bring the jury in please
2:42:45 PM		The jury is present
2:42:46 PM	Judge Boyce	The State has completed their DX. The Defense may begin your cross
2:43:36 PM	Mr. Thomas	Cross Examination of SW#8 - Zulema Pastenes

2:48:46 PM	Ms. Smith	Objection - Relevance
2:48:49 PM	Mr. Thomas	Argument
2:48:57 PM	Judge Boyce	Objection is Overruled
2:49:01 PM	Mr. Thomas	CCX of SW#8
2:49:45 PM	Ms. Smith	Objection - Relevance
2:49:54 PM	Judge Boyce	Comments. Objection is Overruled
2:50:14 PM	Mr. Thomas	CCX of SW#8
2:54:13 PM	Ms. Smith	Objection -
2:54:17 PM	Mr. Thomas	Response
2:54:21 PM	Judge Boyce	Re-ask the question
2:54:30 PM	Mr. Thomas	CCX of SW#8
3:07:04 PM	Mr. Thomas	State's Exhibit #54 previously admitted is handed to the witness
3:07:43 PM	Mr. Thomas	CCX of SW#8
3:16:47 PM	Ms. Smith	Objection - misstates what witness said
3:16:50 PM	Judge Boyce	Objection is Sustained
3:16:52 PM	Mr. Thomas	CDX of SW#8
3:17:13 PM	Ms. Smith	Objection - Asked and Answered
3:17:18 PM	Judge Boyce	Objection is Overruled
3:17:20 PM	Mr. Thomas	CCX of SW#8
3:23:27 PM	Mr. Thomas	Asks the court to conclude for the day
3:23:48 PM	Judge Boyce	We will end examination of the witness for the day. Admonishes the jury and reminds them we have no court on Monday, 4/17. We will resume on Tuesday, 4/18 @ 8:30am.
3:25:11 PM		Jurors Exit
3:25:54 PM	Judge Boyce	Suggests to counsel that we utilize the 3:30 afternoon time to bring up any issues.
3:27:10 PM	Judge Boyce	
3:27:12 PM	Mr. Thomas	We are getting an exhibit list for the day or for two days
3:27:26 PM	Ms. Smith	We had to re-order the exhibit list due to the delay on Monday. I told the defense I would get it to them
3:28:22 PM	Judge Boyce	Timing is more important than the numbering. I'd ask you get that provided by Monday to defense and the court. I will continue to expect courtesy copies of the exhibits.

3:29:20 PM	Ms. Smith	Responds
3:29:21 PM	Judge Boyce	Comments. Anything further from the parties
3:29:50 PM		Parties indicate nothing to bring up
3:29:54 PM	Judge Boyce	Admonishes and excuses the witness
3:30:22 PM		END OF CASE
3:30:22 PM		