

Description	Judge Boyce * S. Holstine * Patricia Bath * 5/2/23 * Fremont Co. Case		
Date	5/2/2023	Location	1A-CRT400
Time	Speaker	Note	
8:03:37 AM		CR22-21-1624 St v Lori Vallow Jury Trial - Day 15	
8:28:48 AM	State Attys	Lindsey Blake - Robert Wood - Rachel Smith for the State	
8:33:52 AM	Def Attys	Jim Archibald - John Thomas for the Defense	
8:33:54 AM	Defendant	Is present in custody	
8:34:07 AM	Judge Boyce	Bring the jury in please	
8:34:36 AM		Simulcast On	
8:38:34 AM		The jury is present	
8:38:36 AM	Judge Boyce	Calls case. Counsel and all parties are present. Jurors are present and have signed their juror affirmation forms. The State is continuing with their case in chief.	
8:39:44 AM	Judge Boyce	The State's witness is back on the stand and remains under oath. The defense may begin their cross examination	
8:39:46 AM	Mr. Thomas	Cross Examination of SW#49 - Erik Christensen	
8:51:50 AM	Mr. Thomas	Has witness review his report to refresh his recollection	
8:52:13 AM	Mr. Thomas	CCX of SW#49	
9:02:24 AM	Mr. Thomas	Defendant's Exhibit #E previously marked is identified	
9:03:19 AM	Mr. Thomas	I'll withdraw that	
9:03:24 AM	Mr. Thomas	No further questions of this witness	
9:03:49 AM	Judge Boyce	Any redirect examination	
9:03:51 AM	Ms. Blake	RDX of SW#49	
9:13:17 AM	Ms. Blake	No further questions of this witness	
9:13:23 AM	Judge Boyce	May this witness step down and be excused	
9:13:30 AM	Ms. Blake	No objection	
9:13:34 AM	Mr. Thomas	No objection	
9:13:37 AM	Judge Boyce	Witness may step down and be excused	
9:14:26 AM	Judge Boyce	The State may call their next witness	
9:14:28 AM	Ms. Blake	CALLS STATE'S WITNESS #50 - Detective Bruce Mattingly/Sworn (Previously testified as SW#22 on 4/20/23)	

9:16:01 AM	Ms. Blake	Direct Examination of SW#50
9:18:20 AM	Mr. Archibald	Objection - Hearsay
9:18:23 AM	Judge Boyce	Objection is Sustained
9:18:24 AM	Ms. Blake	CDX of SW#50
9:19:14 AM	Mr. Archibald	Objection - Hearsay
9:19:15 AM	Judge Boyce	Objection is Overruled
9:19:17 AM	Ms. Blake	CDX of SW#50
9:23:34 AM	Ms. Blake	Moves to admit SE #38A, 39A, 40A by stipulation
9:24:22 AM	Judge Boyce	Any objection by the defense
9:25:10 AM	Mr. Archibald	No objection
9:25:46 AM	Ms. Blake	We do not intend to publish those exhibits at this time
9:26:05 AM	Judge Boyce	Let's show those to the defense
9:26:15 AM	Ms. Blake	Hands the defense copies of the exhibits
9:27:31 AM	Judge Boyce	The defense may maintain a provisional objection and the State may continue questioning their witness
9:27:47 AM	Ms. Blake	CDX of SW#50
9:28:34 AM	Mr. Archibald	Objection - Foundation
9:28:35 AM	Ms. Blake	Argument
9:28:53 AM	Judge Boyce	Objection is Overruled
9:28:59 AM	Ms. Blake	CDX of SW#50
9:31:04 AM	Ms. Blake	State's Exhibit #108A previously marked is handed to the witness for identification
9:32:20 AM	Ms. Blake	CDX of SW#50
9:32:27 AM	Ms. Blake	Moves to admit SE #108A
9:32:41 AM	Mr. Archibald	Questions SW# in aid of objection
9:32:42 AM	Judge Boyce	STATE'S EXHIBIT #108A IS ADMITTED (Jump Drive w/printouts)
9:32:44 AM	Ms. Blake	Moves to publish SE #108A
9:32:45 AM	Judge Boyce	You may publish SE #108A
9:32:47 AM		SE #108A IS PUBLISHED
9:33:11 AM	Ms. Blake	CDX of SW#50
9:37:27 AM	Mr. Archibald	Objection - Hearsay

9:37:31 AM	Judge Boyce	Objection is Sustained
9:37:33 AM	Ms. Blake	CDX of SW#50
9:39:19 AM	Ms. Blake	State's Exhibits #122A & 151 previously marked are handed to the witness for identification
9:40:48 AM	Mr. Archibald	Reviews exhibits
9:41:22 AM	Ms. Blake	State's Exhibit #152 & 153 previously marked is handed to the witness for identification
9:41:54 AM	Mr. Archibald	No objection
9:42:01 AM	Judge Boyce	STATE'S EXHIBITS #122A, 151, 152 & 153 ARE ADMITTED
9:42:31 AM	Ms. Blake	CDX of SW#50
9:44:40 AM	Ms. Blake	No further questions of this witness
9:44:51 AM	Judge Boyce	Counsel may cross
9:44:58 AM	Mr. Archibald	Cross Examination of SW#50
9:52:20 AM	Mr. Archibald	No further questions of this witness
9:52:37 AM	Judge Boyce	Any redirect
9:52:38 AM	Ms. Blake	May we approach
9:52:47 AM		SIDEBAR - Simulcast Off
9:57:45 AM		Simulcast On
9:57:47 AM	Judge Boyce	Inquires on SE#38A, 39A & 40A, is there an objection
9:58:16 AM	Judge Boyce	STATE'S EXHIBIT #38A, 39A & 40A IS ADMITTED
9:58:31 AM	Ms. Blake	CDX of SW#50
10:00:02 AM	Judge Boyce	May this witness step down and be excused
10:00:08 AM	Ms. Blake	No objection
10:00:12 AM	Mr. Archibald	No objection
10:00:14 AM	Judge Boyce	Witness may step down and be excused
10:00:19 AM	Judge Boyce	The State may call their next witness
10:00:46 AM	Ms. Blake	CALLS STATE'S WITNESS #51 - Alice Gilbert/Sworn
10:02:32 AM	Ms. Blake	CDX of SW#51
10:07:37 AM	Mr. Thomas	Objection - Hearsay
10:07:42 AM	Judge Boyce	Objection is Sustained
10:07:44 AM	Ms. Blake	CDX of SW#51

10:17:08 AM	Mr. Thomas	Objection - Hearsay
10:17:10 AM	Judge Boyce	Objection is Sustained
10:17:12 AM	Ms. Blake	CDX of SW#51
10:18:31 AM	Judge Boyce	Inquires of court re: mid-morning break
10:18:39 AM	Judge Boyce	Let's go ahead and take a 20-minute recess
10:19:01 AM		Jurors Exit
10:19:31 AM		COURT RECESSES - Simulcast Off
10:48:28 AM		Simulcast On
10:48:32 AM	Judge Boyce	Bring the jury in please
10:50:39 AM		The jury is present
10:50:42 AM	Judge Boyce	Back on the record. All counsel and parties are present. The State may continue their examination
10:50:59 AM	Ms. Blake	CDX of SW#51
10:51:44 AM	Mr. Thomas	Objection - Speculative
10:51:45 AM	Judge Boyce	Objection is Sustained
10:51:46 AM	Ms. Blake	CDX of SW#51
11:00:31 AM	Mr. Thomas	Objection - Hearsay
11:00:33 AM	Judge Boyce	Objection is Sustained
11:00:38 AM	Ms. Blake	CDX of SW#51
11:00:46 AM	Mr. Thomas	Objection - Hearsay
11:00:47 AM	Judge Boyce	Objection is Overruled
11:00:51 AM	Ms. Blake	CDX of SW#51
11:01:18 AM	Mr. Thomas	Objection - Hearsay
11:01:20 AM	Judge Boyce	Objection is Overruled - comment wasn't made yet
11:01:26 AM	Ms. Blake	CDX of SW#51
11:06:37 AM	Mr. Thomas	Objection - Relevance
11:06:41 AM	Ms. Blake	I'll ask a different question
11:06:45 AM	Judge Boyce	Go ahead
11:06:46 AM	Ms. Blake	CDX of SW#51
11:07:09 AM	Mr. Thomas	Objection - Relevance
11:07:13 AM	Ms. Blake	Request sidebar

11:07:21 AM		SIDEBAR - Simulcast Off
11:10:45 AM		Simulcast On
11:10:47 AM	Ms. Blake	We will withdraw our question and ask it a different way
11:10:54 AM	Ms. Blake	CDX of SW#51
11:12:50 AM	Mr. Thomas	Objection - Foundation
11:12:57 AM	Judge Boyce	I would agree. Lay more foundation
11:13:01 AM	Ms. Blake	CDX of SW#51
11:13:49 AM	Ms. Blake	No further questions of this witness
11:13:51 AM	Judge Boyce	Any cross
11:14:05 AM	Mr. Thomas	May I have a moment to confer
11:14:36 AM	Mr. Archibald	Cross Examination of SW#51
11:17:17 AM	Ms. Blake	Objection - Relevance and beyond the scope
11:17:21 AM	Judge Boyce	Objection is Overruled
11:17:24 AM	Mr. Archibald	CCX of SW#51
11:24:30 AM	Ms. Blake	Objection -
11:24:40 AM	Judge Boyce	Outside scope of direct - Objection is Sustained
11:24:53 AM	Mr. Archibald	CCX of SW#51
11:26:46 AM	Mr. Archibald	No further questions of this witness
11:27:09 AM	Judge Boyce	Any redirect
11:27:11 AM	Ms. Blake	RDX of SW#51
11:27:52 AM	Ms. Blake	No further questions of this witness
11:27:55 AM	Judge Boyce	May this witness step down and be excused
11:27:59 AM	Ms. Blake	No objection
11:28:05 AM	Mr. Archibald	No objection
11:28:08 AM	Judge Boyce	Witness may step down and be excused
11:28:38 AM	Ms. Blake	CALLS STATE'S WITNESS #52 - Todd Gilbert/Sworn
11:29:20 AM	Ms. Blake	Direct Examination of SW#52
11:43:45 AM	Judge Boyce	Ms. Blake, I'm sorry to interrupt. We have a technical issue to sort out here real quick. Okay, you may continue
11:44:24 AM	Ms. Blake	CDX of SW#52
11:48:42 AM	Mr. Archibald	Objection -

11:48:44 AM	Judge Boyce	Answer stricken and not to be considered by the jurors
11:48:53 AM	Ms. Blake	CDX of SW#52
11:49:45 AM	Mr. Archibald	Objection - Hearsay
11:49:49 AM	Ms. Blake	Argument
11:49:53 AM	Judge Boyce	Objection is Overruled
11:49:58 AM	Ms. Blake	CDX of SW#52
11:52:46 AM	Ms. Blake	No further questions of this witness
11:52:54 AM	Judge Boyce	Would you refer to cross before or after lunch
11:53:02 AM	Mr. Archibald	We can do that after lunch
11:53:08 AM	Judge Boyce	We will take our lunch recess until 12:45
11:53:27 AM		Jurors Exit
11:53:31 AM		COURT RECESSES - Simulcast Off
1:01:46 PM		COURT RESUMES. Jury is not present
1:01:58 PM		Simulcast On
1:02:00 PM	Judge Boyce	Bring the jury in please
1:04:12 PM		The jury is present
1:04:13 PM	Judge Boyce	Back on the record. Counsel and all parties are present. The State has just finished direct examination. The defense may begin their cross examination. The witness has retaken the stand and remains under oath
1:05:02 PM	Mr. Archibald	Cross Examination of SW#52 - Todd Gilbert
1:13:26 PM	Ms. Blake	Objection - Relevance
1:13:36 PM	Mr. Archibald	Argument
1:13:48 PM	Ms. Blake	Responds
1:14:06 PM	Judge Boyce	I will allow you a bit of latitude
1:14:15 PM	Mr. Archibald	CCX of SW#52
1:14:35 PM	Ms. Blake	Objection - Relevance
1:14:36 PM	Judge Boyce	You are outside the scope
1:14:40 PM	Mr. Archibald	CCX of SW#52
1:15:25 PM	Mr. Archibald	Defendant's Exhibit #E previously marked is identified. Moves to admit DE#E
1:15:37 PM	Ms. Blake	May we approach

1:15:49 PM		SIDEBAR - Simulcast Off
1:18:52 PM		Simulcast On
1:18:57 PM	Judge Boyce	Back on the record. We need to hear a motion outside the presence of the jurors.
1:19:40 PM		Jurors Exit
1:20:24 PM	Judge Boyce	Defense has offered DE#E which is a Podcast. State has objected. Podcast is 1 hour and 49 minutes long. Do you plan to publish the entire thing to the jury
1:21:06 PM	Mr. Archibald	Yes
1:21:10 PM	Judge Boyce	I need a proffer from the defense on what is contained that would make this admissible evidence at trial
1:21:34 PM	Ms. Blake	I would ask the witness be excused at this time while we argue the motion
1:21:45 PM	Judge Boyce	That's a good point. Asks the witness wait outside while we take up this procedural issue
1:22:22 PM	Judge Boyce	Asks the defense to make a proffer
1:22:34 PM	Mr. Archibald	Exhibit was provided to us in discovery, it's dated 11/4/2018, it's a recording. Melanie Gibb is the first speaker and she introduces and welcomes everyone. Continues to make proffer to the court
1:25:54 PM	Judge Boyce	Inquires how this relates to CX of the witness
1:25:58 PM	Mr. Archibald	Responds
1:26:59 PM	Judge Boyce	Is it necessary to publish the entire podcast
1:27:18 PM	Mr. Archibald	Responds - first 40 minutes are distinct and then it repeats itself. I would be okay with the first 40 minutes being played
1:28:01 PM	Judge Boyce	Thank you. I'll hear from the State
1:28:09 PM	Ms. Blake	We object for multiple reasons. This was not listed on the exhibit list provided to the State. Lack of foundation. It contains hearsay. Further argument. State objects to the introduction of this exhibit. State hasn't reviewed this exhibit yet and would request time to review it if the court were to admit it.
1:30:40 PM	Judge Boyce	Defense indicated as part of its exhibit list would be all the State exhibits, is that correct
1:31:03 PM	Mr. Archibald	Yes
1:31:05 PM	Judge Boyce	And was this on a State exhibit list

1:31:10 PM	Ms. Blake	No, this was not on the State's exhibit list
1:31:22 PM	Judge Boyce	Was this disclosed as an exhibit or not? I thought I heard that representation
1:31:27 PM	Mr. Archibald	It was disclosed in discovery. I don't think we put this on our exhibit list because we didn't know Mr. Gilbert was going to say what he said
1:31:48 PM	Judge Boyce	Makes ruling - I will allow the initial publishing of DE#E to see if a foundation can be laid for its admissibility and may then allow the first 40 minutes of the exhibit to be published. Comments further on ruling - religious beliefs have been brought into the case and are relevant for the jury to consider
1:36:18 PM	Ms. Blake	Clarifies their objection and asks the court to reconsider - she is barred from introducing her own statements
1:36:51 PM	Judge Boyce	Responds. I haven't heard this exhibit. I will keep that objection under advisement. Let's have the witness return to the stand and then we'll bring the jury back in
1:39:26 PM	Judge Boyce	Let's begin with the foundational questions of the witness before the jury is brought in
1:39:56 PM	Mr. Archibald	CCX of SW#52
1:40:08 PM	Ms. Blake	Objection - Leading
1:40:16 PM	Judge Boyce	Objection is Overruled - this is for identification purposes
1:40:28 PM	Mr. Archibald	CCX of SW#52
1:41:27 PM		PUBLISHES DE #E
1:43:15 PM	Mr. Archibald	CCX of SW#52
1:44:44 PM	Ms. Blake	Objection to continued playing of this. I have questions in aid of objection
1:44:55 PM	Judge Boyce	Do you have further foundational questions
1:45:23 PM	Mr. Archibald	I could play some of each of the speaker's voice if that would help the court meet the foundational requirements
1:45:24 PM	Judge Boyce	If you want to play for the witness a brief excerpt of the speakers and ask your foundational questions, then I'll hear additional argument from the State
1:45:42 PM	Ms. Blake	I would object and ask that I be able to inquire in aid of objection

1:45:48 PM	Judge Boyce	Objection is Overruled. This is still just foundational for the witness. The jurors are not here. The defense may lay foundation
1:46:08 PM		CONTINUES TO PUBLISH DE #E and CCX of SW#52
1:48:15 PM	Mr. Archibald	Witness has identified the four speakers
1:48:27 PM	Judge Boyce	The State may inquire in aid of objection
1:48:32 PM	Ms. Blake	Questions SW#52 in aid of objection
1:51:16 PM	Ms. Blake	Renews objection for lack of foundation and objection for relevance and objection for hearsay. Makes argument
1:52:41 PM	Judge Boyce	Defense may make final argument
1:52:51 PM	Mr. Archibald	Makes final argument
1:53:40 PM	Judge Boyce	Makes ruling - Objection is Overruled. DEFENDANT'S EXHIBIT #E IS ADMITTED (Thumb Drive - First 40 Minutes Only)
1:56:30 PM	Judge Boyce	Bring the jury in please
1:56:32 PM	Ms. Blake	We believe this may open the door for introduction of additional evidence
1:57:01 PM	Judge Boyce	Responds
1:57:33 PM	Judge Boyce	Bring the jury in please
2:00:03 PM		The jury is present
2:00:10 PM	Judge Boyce	Addresses the jury. The defense may continue
2:00:33 PM	Mr. Archibald	CCX of SW#52
2:00:36 PM	Mr. Archibald	Moves to publish DE #E
2:00:51 PM	Judge Boyce	You may publish DE #E
2:01:06 PM		PUBLISHES DE#E
2:32:28 PM	Ms. Blake	Renews objection and asks to approach
2:32:28 PM		SIDEBAR - Simulcast Off
2:35:24 PM		Simulcast On
2:35:31 PM	Judge Boyce	There is a continuing objection. Court will need to make an in-camera review. We'll take our afternoon break at this time to do that
2:36:22 PM		Jurors Exit
2:36:54 PM		COURT RECESSES - Simulcast Off
3:07:50 PM		Simulcast On

3:07:52 PM	Judge Boyce	Back on the record. Court reviewed the last portion DE#E in camera. Inquires of the defense
3:08:44 PM	Mr. Archibald	Intends to introduce the full 40 minutes
3:09:01 PM	Ms. Blake	Argues objection
3:12:34 PM	Judge Boyce	Makes ruling: relevant evidence - not a self-serving statement. I will allow the final part of the podcast that is DE#E to be played for the jury
3:17:19 PM		The jury is present
3:17:54 PM	Judge Boyce	The defense may publish the final part of DE#E
3:18:22 PM		CONTINUES PUBLISHING DE#E
3:26:53 PM	Mr. Archibald	The exhibit was stopped at 39 minutes and 57 seconds
3:27:23 PM	Judge Boyce	We will supply that portion to the jurors
3:27:31 PM	Mr. Archibald	Does the court want me to continue or recess for the day
3:27:47 PM	Ms. Blake	I would ask that we proceed forward if at all possible
3:27:58 PM	Judge Boyce	Let's continue forward with this witness
3:28:05 PM	Mr. Archibald	CCX of SW#52
3:31:27 PM	Mr. Archibald	No further questions of this witness
3:31:40 PM	Judge Boyce	Any redirect
3:31:41 PM	Ms. Blake	Redirect Examination of SW#52
3:32:27 PM	Ms. Blake	No further questions of this witness
3:32:31 PM	Judge Boyce	May this witness step down and be excused
3:32:39 PM	Ms. Blake	No objection
3:32:40 PM	Mr. Archibald	No objection
3:32:47 PM	Judge Boyce	Witness may step down and be excused
3:33:06 PM	Judge Boyce	That concludes the proceedings for the day.
3:33:20 PM		Jurors Exit
3:33:55 PM		END OF CASE
3:33:55 PM		