

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
BRANCH 3

---

STATE OF WISCONSIN,

PLAINTIFF,

MOTION HEARING

vs.

Case No. 06 CF 88

BRENDAN R. DASSEY,

DEFENDANT.

---

**DATE:** MAY 4, 2006

**BEFORE:** Hon. Jerome L. Fox  
Circuit Court Judge

**APPEARANCES:**

KENNETH R. KRATZ  
Special Prosecutor  
On behalf of the State of Wisconsin.

LEONARD D. KACHINSKY  
Attorney at Law  
On behalf of the Defendant.

BRENDAN R. DASSEY  
Defendant  
Appeared in person.

\* \* \* \* \*

**TRANSCRIPT OF PROCEEDINGS**

Reported by Jennifer K. Hau, RPR

Official Court Reporter

45

I N D E X

WITNESSES

PAGE

MARK WIEGERT

Direct Examination by ATTORNEY KRATZ 8-48  
Cross-Examination by ATTORNEY KACHINSKY 48-62  
Redirect Examination by ATTORNEY KRATZ 62-63

BARBARA JANDA

Direct Examination by ATTORNEY KACHINSKY 64-68  
Cross-Examination by ATTORNEY KRATZ 68-79  
Redirect Examination by ATTORNEY KACHINSKY 79-80

KRIS SCHOENENBERGER-GROSS

Direct Examination by ATTORNEY KACHINSKY 81-91  
Cross-Examination by ATTORNEY KRATZ 91-99  
Redirect Examination by ATTORNEY KACHINSKY 99-100

EXHIBITS

MARKED

MOVED

ADMITTED

1	16	16-17	17
2	26	28	28
3	81	91	91
4	83	91	91
5	103	103	103

1 THE COURT: Good morning. Uh, this is the  
2 State of Wisconsin vs. Brendan R. Dassey. It's case  
3 No. 06 CF 88. Appearances, please, counsel?

4 ATTORNEY KRATZ: The State appears by  
5 Calumet County District Attorney Ken Kratz appearing  
6 as special prosecutor. Also appearing this morning  
7 on behalf of the State is Tom Fallon from the  
8 Department of Justice.

9 ATTORNEY KACHINSKY: And the defendant  
10 appears personally with Attorney Len Kachinsky.

11 THE COURT: This matter was last in court  
12 on March 17, 2006, at which time the defendant's  
13 continued arraignment was concluded and he  
14 reaffirmed his previously entered not guilty pleas.  
15 At that time, the Court set today as the date to  
16 hear any motions to suppress any statements given by  
17 this defendant.

18 On April 19, defendant filed a motion  
19 seeking to suppress certain statements which  
20 contend, uh -- he contends that these statements  
21 were involuntarily given. We are here today to  
22 hear that motion.

23 While this is the defendant's motion,  
24 the State has the burden of proof to show by a  
25 preponderance of the evidence that the statements

1 given were voluntary. The motion that's before  
2 the Court today is not directly concerned with  
3 the truthfulness or the falsity of the statements  
4 given, but, rather, their voluntariness.

5 The Court will render a decision on this  
6 motion, uh, May 12 -- Friday, May 12, at  
7 9:00 a.m. Gentlemen, any stipulations? The  
8 State?

9 ATTORNEY KRATZ: Judge, uh, there are some  
10 stipulations that, uh, have been entered into.  
11 First of all, the record should reflect that prior  
12 to this morning's hearing, the State had transmitted  
13 to the Court, uh, several audio and videotapes.  
14 They are the subject of the, uh, motions. Although  
15 the State is offering the March 1, uh, admission by  
16 Mr. Dassey, we've included, uh, those interviews of,  
17 uh, February 27, as Mr. Kachinsky included those in,  
18 uh, his motion.

19 The, uh, State, uh, is asking, uh -- and  
20 I believe the Court has agreed to accept those  
21 audio and, uh, videotape, uh, statements -- to  
22 have them marked for purposes of this hearing,  
23 and to be, uh, placed, uh, in the record at the  
24 conclusion of the Court's, uh, decision on May 12  
25 to avoid any, uh, possibility of, uh, pretrial

1 publicity that, uh, may adversely affect the, uh,  
2 fair trial of this and a related matter.

3 It's my understanding that the Court,  
4 uh, has decided to have those, uh, matters or,  
5 excuse me, have those, uh, tapes sealed. That  
6 is, uh, remained part of the court record;  
7 however, without, uh, access to the general  
8 public.

9 THE COURT: Uh, Mr. Kachinsky, is -- is  
10 that your understanding as well?

11 ATTORNEY KACHINSKY: Uh, it is, Your Honor,  
12 and that applies both to, uh, the, uh -- the tapes,  
13 uh, electronically preserved evidence, as well as  
14 the written summaries of that evidence which the  
15 Court also has.

16 THE COURT: All right. The Court will have  
17 those marked as an exhibit. It will use the cover  
18 letters; one in the case of, uh -- one from the  
19 district attorney -- or one from, uh, Mr. Kratz, uh,  
20 as the inventory of the exhibit, and one from you,  
21 Mr. Kachinsky, relating to the transcript of the  
22 February 27 interview.

23 The Court will review those documents in  
24 camera, which means in chambers. They will not  
25 be part of the -- the public record. And I

1 believe that's the understanding we have -- have  
2 here. Is that correct, gentlemen?

3 ATTORNEY KRATZ: That is, Judge. It's also  
4 my understanding that, as we sit here this morning,  
5 uh, certainly the State, uh, and the defense have  
6 reviewed the contents of those audio and, uh, video,  
7 uh, representations, and I understand the Court has  
8 had some opportunity to review those as well.

9 THE COURT: That is correct.  
10 Mr. Kachinsky, any further -- any further  
11 stipulations?

12 ATTORNEY KACHINSKY: Uh, that is  
13 correct, also, and, uh, I think, as we discussed  
14 in chambers, based on the review of those tapes,  
15 uh, and the transcripts, and also consultations  
16 with my client, investigator, and other  
17 witnesses, uh, the question of whether or not  
18 this is a custodial interrogation is not, uh, at  
19 issue in this case. It's not a custodial, uh,  
20 interrogation, although, the, uh, giving of the  
21 **Miranda** rights, or failure to do the same during  
22 portions of the, uh, statements, would be  
23 relevant in determining voluntariness.

24 THE COURT: So, the -- the -- the parties  
25 agree that this is not a cus -- uh, custodial

1 interview. And are you referring just to the  
2 March 1 or both dates, February 27 and March 1?

3 ATTORNEY KACHINSKY: Both, Your Honor.  
4 Because --

5 THE COURT: All right.

6 ATTORNEY KACHINSKY: -- it's not  
7 custodial **Miranda**, we're not required to, uh, nor  
8 are --

9 THE COURT: So -- so, **Miranda** warnings are  
10 not an issue, or Mirandizing is not an issue here,  
11 neither is the -- the custodial or noncustodial  
12 nature of the -- of the -- of the, uh, interviews.  
13 All right. Any other stipulations or anything else  
14 we -- we should do here, gentlemen, before we start?

15 ATTORNEY KRATZ: Not before the hearing,  
16 Judge, no.

17 THE COURT: From you, Mr. Kachinsky,  
18 anything?

19 ATTORNEY KACHINSKY: No, Your Honor, that's  
20 it.

21 THE COURT: Proceed, Mr. Kratz.

22 ATTORNEY KRATZ: Thank you, Judge. The  
23 State will call Investigator Mark Wiegert to the  
24 stand.

25 THE CLERK: Raise your right hand.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**MARK WIEGERT,**

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

THE CLERK: Please be seated. Please state your name and spell your last name for the record.

THE WITNESS: Mark Wiegert, W-i-e-g-e-r-t.

**DIRECT EXAMINATION**

BY ATTORNEY KRATZ:

Q Mr. Wiegert, how are you employed?

A I'm an investigator with the Calumet County Sheriff's Department.

Q How long have you been a police officer?

A About 13-and-a-half years.

Q And how long have you acted in the capacity as and investigator?

A Um, three-and-a-half.

Q What are your general duties as a Calumet County sheriff's investigator?

A To investigate a number of crimes, um, including misdemeanors, felonies, um, and a range from burglaries up to homicides.

Q Investigator Wiegert, uh, were you involved, specifically, with the investigation into the homicide of Teresa Halbach?

A Yes, I was.



1 Q Prior to that investigation, have you had  
2 specific training and do you have specific  
3 experience in, uh, interview techniques? That  
4 is, interviewing witnesses and suspects?

5 A Yes, I do. I've attended, um, numerous classes and  
6 trainings on interviews and interrogations.

7 Q How was it that you became involved in this  
8 investigation?

9 A Um, I was first notified, I believe it was, on  
10 November 3 of '05, of a missing person's report from  
11 one of our deputies, and she requested my assistance  
12 in, um, the missing person's report.

13 Um, as time went on during that missing  
14 person's report, um, after the vehicle was  
15 discovered, at that point, um, I was appointed  
16 co-lead investigator along with, uh, Special  
17 Agent Fassbender from the Department of Justice.  
18 Um, after the discovery of the vehicle, I was  
19 requested by the Manitowoc County Sheriff's  
20 Department to head up the investigation.

21 Q Now, this vehicle, as I understand, was  
22 discovered here in Manitowoc County; is that  
23 correct?

24 A That's correct.

25 Q And because of at least a perceived conflict that

1 the Manitowoc County Sheriff's Department had,  
2 your agency, the Calumet County Sheriff's  
3 Department, was named as one of the lead  
4 investigating agencies; is that right?

5 A That's correct.

6 Q At the scene of the recovery of the vehicle, uh,  
7 as we know, at the Avery salvage property, uh,  
8 did you assist in the coordination of the  
9 execution of several search warrants at that  
10 property?

11 A Yes, I did.

12 Q After coordinating that search effort, uh, were  
13 you involved in directing the collection,  
14 processing, uh, and later request for analysis of  
15 physical evidence found upon that property?

16 A Yes, I was.

17 Q As part of this investigation, also, Investigator  
18 Wiegert, were you, uh, involved in  
19 decision-making regarding interviews of witnesses  
20 and possible suspects, uh, regarding, uh,  
21 surrounding criminal activity?

22 A Yes.

23 Q On the 9th of November, 2005, were you involved  
24 in an arrest of, and subsequent interview of, a  
25 gentleman by the name of Steven Avery?

1 A Yes. Myself, along with Agent Fassbender.

2 Q And after that interview -- after that arrest

3 and, in fact, after several further days of

4 investigation, did you become aware of

5 Mr. Avery's, um, being charged with offenses,

6 including first degree intentional homicide?

7 A Yes.

8 Q Between November and February, 2006, did this

9 investigation continue?

10 A The investigation continued, um, with the numerous,

11 um, interviews during that time period. We also, um,

12 continued with the evidence and, uh, the sending of

13 evidence to the crime lab, the analysis of evidence,

14 talking to experts about the evidence.

15 Q All right. Did you follow up interviews as well?

16 A Yes. We had numerous interviews. Follow-up

17 interviews.

18 Q Are you familiar with, uh, Brendan Dassey?

19 A Yes, I am.

20 Q Is he in the courtroom here this morning?

21 A Yes, he's seated --

22 Q Identify him for the record, please.

23 A Seated at the table to your immediate right, um,

24 wearing a green jumpsuit, uh, next to his attorney.

25 ATTORNEY KRATZ: Judge, would ask that the

1 record reflect Mr. Dassey's identification.

2 THE COURT: It will so reflect.

3 Q (By Attorney Kratz) In spring of, uh, 2006, were  
4 you aware of Mr. Dassey's age?

5 A Yes. He would have been, uh, I believe,  
6 16-years-old.

7 Q The time of the homicide of Ms. Halbach, were you  
8 familiar with where Mr. Dassey lived?

9 A Yes. Um, his exact address, I believe, is 12930-A  
10 Avery Road, which would be, um, directly next to, uh,  
11 the Steven Avery trailer where Steven Avery was  
12 living.

13 Q Were you familiar with his relationship with  
14 Mr. Avery?

15 A Yes. It would be, um, Mr. Avery's nephew.

16 Q Prior to, um, the end of February, 2006, had  
17 Mr. Dassey been interviewed by any law  
18 enforcement officials regarding this  
19 investigation?

20 A Yes. He was interviewed, um, initially, in Marinette  
21 County by a detective from Marinette County Sheriff's  
22 Department. I believe it was Detective O'Neil. Um,  
23 there was another interview done by Special Agent  
24 Skorlinski and Investigator Baldwin, um, after the  
25 interview in Marinette County.

1 Q I believe the records reflect that the Marinette  
2 County interview of Mr. Dassey first occurred  
3 on -- I think it's the 6th of November? On or  
4 about the 6th?

5 A Yes, that's correct.

6 Q And the follow-up interview with Agent Skorlinski  
7 and Deputy Baldwin occurred on the 10th; is that  
8 right?

9 A Yes.

10 Q Both of these interviews were with Mr. Dassey and  
11 law enforcement officials. Were they of the, uh,  
12 subject matter, again, uh, relating to and  
13 surrounding the disappearance and subsequent  
14 homicide of Miss Halbach?

15 A Yes. It was -- They were done to, uh, try to gain  
16 more information about that case.

17 Q On February 27, 2006, did you have occasion to  
18 re-interview Mr. Dassey?

19 A Yes. Myself and, uh, Agent Fassbender did  
20 re-interview Mr. Dassey on the 27th.

21 Q Where did that occur?

22 A Um, it occurred at the, uh, Mishicot High School.

23 Q And what was the purpose of that interview?

24 A It was, again, a -- a fact finding mission, um, to  
25 determine what he knew about the case. We had

1           previously learned that he had been, um, near the  
2           fire, um, where bones were discovered, so, we wanted  
3           to see if he knew any other information about it at  
4           that time.

5   Q       Describe for the Court the difference between a  
6           witness interview and a suspect interview if, in  
7           fact, there are any differences?

8   A       Well, there's several differences. A witness  
9           interview, basically, is when a person is not in  
10          custody. They're free to leave. They can stop  
11          answering questions at any time. Um, they're treated  
12          as somebody who may have information about a case.  
13          Or a suspect interview, sometimes they're not free to  
14          go. Um, they're sometimes, um, you know more  
15          information, you know that they're involved in  
16          something, they're treated as that you already know  
17          something has occurred and they are involved in it.  
18          That's the difference between the two.

19   Q       So, these are -- are different kinds of  
20          interviews?

21   A       Yes.

22   Q       They -- They look different? They feel  
23          different?

24   A       Correct.

25   Q       What -- what is, uh, the kind of interview you

1 performed with Mr. Dassey on the 27th of  
2 February?

3 A It was a witness interview. Um, he was advised that  
4 he did not have to answer any questions. He was  
5 advised that he could leave at any time. So, it was  
6 a witness interview, not a suspect interview at that  
7 time.

8 Q Now, after receiving some information from  
9 Mr. Dassey at the high school, was it decided to,  
10 um, further, electronically, record that  
11 interview?

12 A Uh, yes. Uh, it was initially audiotaped at the high  
13 school, um, and after speaking with Mr. Dassey and  
14 him providing us a written statement, we decided that  
15 we would do a videotape interview of Mr. Dassey, at  
16 which time, uh, we did contact Mr. Dassey's mother,  
17 um, and she actually came to the school and rode with  
18 us to the Two Rivers Police Department where a  
19 videotape interview was done of Mr. Dassey.

20 Q During the course of, uh -- or prior to either of  
21 these interviews, was Mr. Dassey provided with  
22 common -- with what's commonly referred to as his  
23 **Miranda** warnings?

24 A Um, prior to the interview that took place at the Two  
25 Rivers Police Department, um, Mr. Dassey was given

1 his **Miranda** warnings. Correct.

2 Q Provided you what's been marked for  
3 identification as Exhibit No. 1. Could you tell  
4 us what that is, please?

5 A Yeah. It's a copy of the City of Two Rivers Police  
6 Department's, uh, **Miranda** warnings form.

7 Q That **Miranda** form in -- instructs an individual,  
8 uh, that you are interviewing that they have a  
9 right not to speak with you. That they have a  
10 right to have a lawyer present. And those other,  
11 uh, rights that are enumerated on that form; is  
12 that right?

13 A That's right.

14 Q And those were all read to Mr. Dassey?

15 A Yes. Mr. Dassey, in fact, signed the, uh, **Miranda**  
16 waiver form and also initialed where I read the  
17 information to him from that form.

18 Q Mr. Dassey indicate that he was willing to speak  
19 with you?

20 A Yes, he did.

21 Q Did that orally and, also, in writing, as shown  
22 on Exhibit No. 1; is that correct?

23 A That's correct.

24 ATTORNEY KRATZ: For purposes, and to  
25 complete the record in this case, Judge, I would ask



1 the Court receive Exhibit No. 1 at this time.

2 THE COURT: Any objection to that offer?

3 ATTORNEY KACHINSKY: Uh, no, Your Honor.

4 THE COURT: Exhibit is received.

5 Q (By Attorney Kratz) Now, you said that not only  
6 did Mr. Dassey agree to being interviewed, but a  
7 discussion was held with his mother on that day;  
8 is that right?

9 A Yes, we did discuss it with, uh, Brendan's mother,  
10 Barb, um, and she actually came to the school and  
11 rode with us down to the Two Rivers Police  
12 Department.

13 Q Did she agree to allow her son to be interviewed?

14 A Yes. And we, um, actually offered for her to sit in  
15 on that interview at the police department, and she  
16 had told us that it was not necessary for her to do  
17 that at that point.

18 Q How long did that interview take at the, uh, Two  
19 Rivers Police Department?

20 A Uh, the best of my recollection, maybe an hour.  
21 Somewhere in there.

22 Q What happened after the interview?

23 A Um, Mr. Dassey and -- and Barb were transported over  
24 to, actually, um, Fox Hills Resort where we had  
25 arranged for a room for them to stay for the night.

1 Q Tell the Judge why you thought that a hotel room  
2 was necessary for Barb and her son after that  
3 interview?

4 A Well, there were several reasons that we had done  
5 that. Uh, number one, was to protect the integrity  
6 of the investigation. We wanted to interview the  
7 rest of the people who lived out on Avery Road  
8 property, and we didn't want Brendan or Barb going  
9 back there and giving them information about the  
10 previous interview. We wanted to --

11 Q Just -- not that we're going into any details  
12 about the September -- excuse me -- the, uh,  
13 February 27 interview, but, uh, I understand that  
14 there were, uh, some specific details provided by  
15 Brendan on the 27th that, um, implicated, uh,  
16 Steven Avery in not only homicide, but, uh, the  
17 mutilation of the corpse of Teresa Halbach; is  
18 that correct?

19 A That's correct. Yes.

20 Q And this was information that you had not  
21 received up to that point. In other words, this  
22 was new information from, uh, a witness who had  
23 now come forward, uh, indicating that he actually  
24 saw, uh, some specific, um, things and, uh,  
25 relayed some specific evidence to you, again,

1           that you hadn't had up to that point; is that  
2           correct?

3    A       Yes, that's correct.

4    Q       Can you describe that, um, newly discovered  
5           evidence as significant?

6    A       Very significant, yes.

7    Q       And, again, significant enough that you believed  
8           that Brendan shouldn't go back to where he was  
9           previously living; is that right?

10   A       Yes.

11   Q       So this Court understands as well, prior to the  
12          27th of February, had you been aware of, uh, some  
13          attempts -- whether they were veiled or direct  
14          attempts -- by Steven Avery and other Avery  
15          members to discourage or dissuade witnesses from  
16          coming forward with information?

17   A       Yes.

18   Q       Did, uh, Brendan's mother and Brendan then agree,  
19          uh, to, uh, be put up in a hotel that night?

20   A       Yes, they did.

21   Q       After Brendan's, um, statement, and after your  
22          analysis of the information that he had provided  
23          to you, uh, did you, um, review some of that  
24          information and compare it to some of the  
25          physical evidence that you had obtained in this

1 case?

2 A Yes.

3 Q After reviewing some of the things that Brendan  
4 told you on the 27th of February, and after  
5 considering some of the physical evidence, did  
6 you and Investigator Fassbender decide to  
7 re-interview Brendan Dassey?

8 A We did, yes.

9 Q When did that interview occur?

10 A That interview occurred on March 1 of 2006.

11 Q Could you tell the Court, please, what the  
12 purpose of that interview was?

13 A Well, we had, uh -- After the initial interview that,  
14 uh, Mr. Fassbender and myself conducted on Brendan,  
15 there were discrepancies in his story, um, from  
16 previous interviews as well, and the purpose of that  
17 interview on the first, again, was to try to, um,  
18 have Brendan come forth with the truth and tell us  
19 exactly what he knew. It appeared that there was  
20 more things that happened there than -- that Brendan,  
21 um, admitted to knowing about.

22 Q Now, on the 1st of March, would you consider that  
23 to still be more of a witness interview or was  
24 that a suspect interview, at least when it began?

25 A The -- Based on the information that Brendan had

1 provided us on the 27th, we still considered him a --  
2 a witness and not a suspect at that time based on the  
3 information which he provided.

4 Q As I heard, uh, Investigator Wiegert, there were  
5 some details he provided on the 27th that were  
6 either inconsistent or what you believed were  
7 implausible? Is that a fair statement?

8 A Yes.

9 Q Did you intend on the 1st of March to ask Brendan  
10 what he had seen on or about the 31st of October?

11 A Yes. That was the purpose of talking with him.

12 Q Did you intend to ask him what he may have been  
13 told by Steven Avery regarding Mr. Avery's  
14 involvement in the homicide and related charges?

15 A Yes.

16 Q You had talked about attempts to dissuade  
17 witnesses by Steven Avery and others. Had  
18 Brendan told you at that point what direction his  
19 Uncle Steven had specifically given him regarding  
20 cooperation with the police?

21 A Yes. Um, when speaking with Brendan, he had told us  
22 that Steve had told him not to talk to the police.  
23 Specifically, not to talk to the police.

24 Q On March 1, and prior to the interview with  
25 Brendan, did you, again, have, uh, contact with

1 Brendan's mother, Barbara?

2 A Uh, yes, we did. Um, prior to going to the high  
3 school on the 1st of March, um, Agent Fassbender had  
4 contacted Barb, um, and spoke with her and gained her  
5 permission to speak with Brendan at the school, and,  
6 also, to take Brendan to the Manitowoc Sheriff's  
7 Department for another videotaped interview, and she  
8 did give us permission to do that.

9 Q Now, is it your intent, prior to the 1st of March  
10 and prior to that interview occurring, that  
11 Brendan would be released or that Barb would be  
12 able to take Brendan home after that interview?

13 ATTORNEY KACHINSKY: I'm going to object.  
14 I think the officer's subjective intent at that  
15 point is really not relevant.

16 ATTORNEY KRATZ: I -- If I can be heard,  
17 Judge. Uh, the issue of whether it is a custodial  
18 interrogation is a factor for this Court to  
19 consider. When this officer had a conversation with  
20 Barb Janda that he expected after the interview,  
21 even, that Brendan was going home, uh, that's as  
22 clear a indication as we can have that it was a  
23 noncustodial interrogation.

24 THE COURT: Yeah. The objection is  
25 overruled. You may answer.

1 THE WITNESS: Yes. Um, in -- When we  
2 spoke with, um, Barb on the phone, um, Agent  
3 Fassbender informed her that we would bring  
4 Barbara -- excuse me -- bring Brendan back to  
5 her, um, after the interview was concluded.

6 Q (By Attorney Kratz) All right. So that the  
7 Judge is clear, um, when walking into that  
8 interview on the 1st of March, not only was this  
9 a witness interview rather than a suspect  
10 interview, but there were some details, and, as  
11 it turns out, some things that developed through  
12 this interview that surprised you regarding  
13 Brendan's involvement; is that right?

14 A Oh, absolutely. Yes.

15 Q Prior to removing Brendan from school on the 1st  
16 of March, did you also have contact with school  
17 officials at the Mishicot High School?

18 A Yes. After speaking with Barb, um, Brendan's mother,  
19 and gaining her permission, uh, we spoke with the  
20 dean of students, um, and informed him of our, um,  
21 decision to take Brendan to the sheriff's department  
22 for the interview. And we advised the dean of  
23 students at that time that, uh, we had gained  
24 Brendan's mother's permission to do that.

25 Q Did you make contact, then, with Brendan on the

1           1st of March?

2    A    Yes, we did.

3    Q    Where did that happen?

4    A    Um, it initially happened, um, at the high school  
5           office, and we had asked Brendan at that time if he'd  
6           be willing to go with us to the Manitowoc Sheriff's  
7           Department to do another interview.  And, again, we  
8           told him that it was going be a videotaped interview,  
9           and he agreed to do that.

10   Q    While in the, um, squad car -- By the way, uh,  
11           whose -- whose vehicle did you -- did you take?

12   A    Uh, we had taken, uh, Special Agent Fassbender's  
13           unmarked, um, squad car.

14   Q    All right.  And we call it a squad car, but does  
15           it look like a police car?

16   A    No.  It doesn't have any lights on it.  Um, it's got  
17           regular license plates on it.  You can -- You get in  
18           the backseat, you can get out of the backseat.  The  
19           doors are not secured from the inside.  Um, it's just  
20           like a regular car.

21   Q    While in that regular car, uh, where was Brendan  
22           seated?

23   A    Brendan was seated in the backseat of that car.

24   Q    Was Brendan handcuffed or otherwise restrained?

25   A    No, he was not.



1 Q Were the doors locked?

2 A No, they were not.

3 Q While Brendan, uh, was with you, was he advised

4 that he was not in custody and that he, in fact,

5 was free to leave?

6 A Yes, he was.

7 Q Were any guns brandished? In other words, did

8 you take out your weapon? Show your weapon to

9 Brendan or point your weapon at him?

10 A No. As a matter of fact, um, both my weapon, and, I

11 believe, Agent Fassbender's weapon, were covered by

12 jackets, so --

13 Q Prior to having Brendan, um, step into Special

14 Agent Fassbender's vehicle, was he frisked?

15 A No, he was not.

16 Q What is a frisk?

17 A Um, a frisk is when you pat somebody down to check

18 them for weapons, um, to make sure that, uh, they're

19 don't have -- carrying anything that can harm either

20 the officers or the person that we're frisking. Um,

21 we generally do that when somebody's in custody.

22 Q And just so -- so we're clear as to how this

23 looks and feels differently from a suspect

24 interview, if you have a suspect and you take him

25 into custody and you're putting him in the back

1 of your squad car, that person frisked?

2 A Oh, absolutely. I mean, uh, anytime you take  
3 somebody into custody, it's -- it's basic police  
4 work. You always frisk them. And that was not done  
5 that day.

6 Q That didn't happen with Brendan.

7 A No.

8 Q But in a squad car, uh, you still advised Brendan  
9 of what's commonly referred to as his **Miranda**  
10 warnings. In other words, the same warnings that  
11 were provided to him on the 27th; is that  
12 correct?

13 A Yes, we did, um, read him his **Miranda** warnings from  
14 our **Miranda** warnings form, um, and that was when we  
15 started the audiotape also in the squad car.

16 (Exhibit No. 2 marked for identification.)

17 Q I showed you what's been marked for  
18 identification as Exhibit No. 2. Could you tell  
19 us what that is, please?

20 A Yes, the Calumet County Sheriff's Department Warning  
21 and Waiver of Rights form.

22 Q And were those the same rights that were read to  
23 Brendan on the 1st of March?

24 A Yes, they were.

25 Q That document appear to be a true and accurate

1 document or copy of the same document that you  
2 read to Brendan on the 1st of March?

3 A Yes, it is.

4 Q Again, informing him that he didn't have to talk  
5 to you, but he had the right to have a lawyer, he  
6 could stop questioning any time, and those other,  
7 um, commonly, uh, given **Miranda** warnings; is that  
8 right?

9 A Yes.

10 Q Brendan seemed to understand those warnings?

11 A Yes. Brendan, uh, indicated he understood them, and  
12 he signed the form, and he also initialed where I  
13 read to him from that form.

14 Q By the way, either on the 27th or on the 1st, did  
15 Brendan express to you any difficulty in  
16 understanding either his rights or the questions  
17 that you were asking him?

18 A No. As a matter of fact, um, one of the questions  
19 are: Do you understand these rights? And he  
20 indicated he understood them.

21 Q And, again, on Exhibit No. 2, Brendan waived  
22 those rights and signed that form; is that right?

23 A Yes, he did.

24 Q He agreed to answer your questions both without  
25 the assistance of an attorney, again in the squad

1 car, and, also -- I'm fast forwarding just a  
2 little bit -- but you renewed or refreshed those  
3 rights when you eventually got to the Manitowoc  
4 Sheriff's Department; is that right?

5 A Yes.

6 ATTORNEY KRATZ: And, again, Judge, for  
7 purposes of this hearing and to complete the record,  
8 I'm asking the Court, uh, accept Exhibit No. 2 at  
9 this time.

10 THE COURT: Any objection?

11 ATTORNEY KACHINSKY: No, Your Honor.

12 THE COURT: The offered exhibit is  
13 accepted. Received.

14 Q (By Attorney Kratz) You said that in the squad  
15 car you began electronically recording your  
16 interview or your meeting with Brendan; is that  
17 right?

18 A That's correct.

19 Q And it was audiotaped, at least in the beginning,  
20 from the squad car?

21 A It was audiotaped from the point we got in the squad  
22 car all the way 'til we, um, got to the sheriff's  
23 department. Actually, we made a stop along the way.  
24 We stopped at his house to collect some things and  
25 then went from his house to the Manitowoc Sheriff's

1 Department. And the entire time, um, it was  
2 audiotaped.

3 Q And so that the Court and everybody else is aware  
4 and clear, from the time that you made contact,  
5 then, with Brendan in the squad car until the  
6 entire interview process was completed, this  
7 whole event was electronically recorded; is that  
8 right?

9 A Yes, that's correct.

10 Q There wasn't any break in the action, wasn't any,  
11 uh, opportunity for you to discuss or to have  
12 conversations with Brendan that weren't  
13 electronically recorded; is that right?

14 A There's one short break in it, and that is where, um,  
15 we got to Mr. Dassey's house where he went into the  
16 house with Agent Fassbender and retrieved some items  
17 and when -- came back to the squad car. And that  
18 lasted, um, probably less than a minute. That's the  
19 only time. Other than that, everything was recorded.

20 Q Okay. And so that everybody else and the Judge  
21 is clear, there were -- was there any  
22 interrogation, interviewing, or questioning of  
23 Brendan that occurred during that time other than  
24 as related to picking up -- I think, it was his  
25 jeans that you were picking --

1 A Yes.

2 Q -- up; is that right?

3 A Yes.

4 Q All right. Now, Investigator Wiegert, while in  
5 the squad car while traveling both to Brendan's  
6 house and then, also, to the Manitowoc, uh,  
7 Sheriff's Department, what kinds of discussions  
8 and -- and, uh, conversation occurred at that  
9 time?

10 A It was mostly small talk. As -- as -- What I  
11 recollect, we had a snowstorm maybe a week prior to  
12 that. I know we talked about the snowstorm. Uh, we  
13 had talked about whether Brendan had to go to school  
14 that day of the snowstorm. I remember him saying  
15 that he did go to school that day. That um, Mishicot  
16 High School was not called off that day. And it was  
17 small talk about things like that. Um --

18 Q Nothing of substance? Or at least nothing as it  
19 relates to this investigation --

20 A No.

21 Q -- is that correct? When you, rec -- uh -- when  
22 you arrived at the, uh, Manitowoc Sheriff's  
23 Department, could you tell us where you went?

24 A Um, when we arrived there, we went up into a  
25 interview room on the -- I believe it's the second

1 floor of the sheriff's department, which is in the  
2 investigator's area. We went into, uh, what's  
3 commonly referred to as a soft interview room.

4 Q What does that mean?

5 A Um, a soft interview room -- generally, what you'll  
6 have in there is carpeting, you'll have soft  
7 furniture, couches, um, soft chairs, things like  
8 that. There's two different types of interview  
9 rooms; there's a soft one, there's a hard one. And  
10 we chose to use that soft interview room.

11 The hard one generally is -- they don't  
12 have carpeting. You have hard chairs, maybe a  
13 table. Um, but we used the one with the couches  
14 and carpeting in.

15 Q And, again, this was a room that was capable of,  
16 uh, supporting a videotaped, uh, statement; is  
17 that right?

18 A Yes.

19 Q Again, Brendan was told that the entire interview  
20 was going to be videotaped; is that right?

21 A Yes, he was advised of that.

22 Q How many officers were involved in this, uh,  
23 interview process?

24 A Uh, during the entire, uh, interview, it was just two  
25 of us. Myself and Special Agent Fassbender were the

1           only two that were involved in it.

2    Q       So the Court is clear, these were the same two  
3           officers involved in the, um, February 27  
4           interview; is that correct?

5    A       Yes, that's correct.

6    Q       Brendan had known both of you. And do you  
7           believe on the 27th of February you had gained  
8           some familiarity with each other? Some, at  
9           least, professional rapport with him?

10   A       Yes. Um-hmm.

11   Q       The beginning of the interview with Brendan on  
12           the 1st of March, was Brendan reminded of the  
13           importance to tell the truth?

14   A       Yes, he was reminded of that several times.

15   Q       Was that a common, uh, strategy? Or at least is  
16           that a, uh, common part of, uh, all of your  
17           interviews, whether witnesses or suspects?

18   A       Yes.

19   Q       Seems kind of obvious. Is that the, uh, obvious  
20           statement that you give? In other words, you're  
21           not hoping that you're going to be lied to; is  
22           that right?

23                    ATTORNEY KACHINSKY: Objection.

24                    Argumentative.

25                    THE COURT: Well, I don't know that it's --



1 I don't know that it's argumentative. I don't know  
2 that it's relevant either. Uh, but objection's  
3 sustained.

4 ATTORNEY KRATZ: That's fine.

5 Q (By Attorney Kratz) What was the length of the  
6 interview with Brendan?

7 A Um, on the 1st, um, the length of the interview, I  
8 believe -- The interview portion, itself, where we  
9 were actually interviewing, not including the breaks,  
10 would have been approximately 2 hours and 52 minutes.  
11 Somewhere in there. Just short of three hours.

12 Q All right. You had mentioned breaks. Were  
13 breaks, uh, offered to Brendan during the course  
14 of this interview process?

15 A Yes, um, he was provided with, um, bottled water. At  
16 one point he was provided with a soda. At one point,  
17 um, he was offered to use the bathroom. Um, he even  
18 had a sandwich at one point.

19 Q So, refreshments were not only offered but  
20 received by Brendan during this interview; is  
21 that right?

22 A Yes.

23 Q And, then, there were also breaks. In other  
24 words, it wasn't a -- a continuous questioning  
25 session; is that --

1 A No.

2 Q -- right?

3 A No.

4 Q I think we mentioned -- at least we touched on it  
5 briefly -- that, uh, during the initial portions  
6 of the interview, Brendan was reminded of his  
7 **Miranda** warnings, reminded of his opportunity to  
8 have an attorney present; is that right?

9 A Yes. Uh, when we first got into the interview room  
10 at the sheriff's office, um, I did remind him of his  
11 **Miranda** warnings and he agreed at that point to  
12 continue talking with us.

13 Q Now, at some point during this interview process,  
14 Brendan was also offered an opportunity to speak  
15 with his mother; is that right?

16 A Yes.

17 Q And, in fact, that occurred during this  
18 interview; didn't it?

19 A Yes, his brother -- his -- his mother, um, Barb, did,  
20 uh, present herself at the sheriff's department, was  
21 allowed to speak with Brendan.

22 Q At anytime during the course of this, uh, 2-hour  
23 and 52-minute, uh, interview, were there any  
24 instances of violence? In other words, was  
25 Brendan ever, um, struck, or, uh, any violence

1           that came to Brendan during that time?

2    A    No.

3    Q    Any threats of violence by either you or

4           Investigator Fassbender?

5    A    No.

6    Q    Were there any threats at all?  In other words,

7           was Brendan ever told that if you refuse to talk

8           to us, or if you don't tell us what we want to

9           hear, or anything to that effect, that something

10          bad would happen to him?

11   A    No.

12   Q    Any forms of, uh, intimidation used with Brendan?

13           In other words, did you or Agent Fassbender ever

14          raise up out of your chair or become physically

15          intimidating towards him?

16   A    No, there was nothing like that that occurred.  Um,

17          commonly in interviews you'll see the good cop/bad

18          cop roles used.  And that wasn't used either.  There

19          was none of that.

20   Q    Good cops; right?

21   A    Both good cops.

22   Q    No raised voices at all?  At least as far as you

23          can recall?

24   A    No.

25   Q    Now, obviously, those of us that, uh, have

1 reviewed these, um, tapes -- and -- and,  
2 specifically, now, we're talking about March 1,  
3 uh, videotapes, since that's the, um, interview  
4 that the State's offering in the case, uh, there  
5 were points when Mr. Dassey, um, provided you  
6 with information that you believed was either not  
7 truthful or wasn't the whole truth. Is that a  
8 fair statement?

9 A Yes.

10 Q Investigator Wiegert, I'm going to ask you to  
11 draw a little bit on your experience. Especially  
12 your experience in serious felony investigations.  
13 Is it unusual for suspects in serious felony  
14 investigations to, perhaps, minimize their  
15 involvement or not tell you the complete, um,  
16 story or the complete truthful story the first  
17 time that you go through that version?

18 A No. Pardon me. No. It's -- it's common. And the  
19 more serious -- In my experience, the more serious  
20 the crime, uh, the more that it takes for them to  
21 tell you that. And, um, they'll give you a lot of  
22 untruths, initially. And, usually, the more serious  
23 the crime, the more of that you have.

24 Q So, interviewing suspects, at least on serious  
25 cases, is, uh -- it's a process. It takes a

1           while; is that right?

2    A    Yes.

3    Q    You had talked about the more serious the crime,  
4           the more reluctant suspects may be to, what's  
5           called, inculcate themselves. What that means is  
6           that they're more reluctant to, um, confess or to  
7           tell you that they were involved; is that right?

8    A    Yes, that's correct.

9    Q    The subject matter of this interview included  
10           homicide; is that right?

11   A    Yes.

12   Q    It included rape?

13   A    Yes.

14   Q    Included, uh, some very serious -- in fact,  
15           perhaps, the most serious charges we have in the  
16           state of Wisconsin; is that right?

17   A    Yes, I would say so.

18   Q    Investigator Wiegert, during the course -- or  
19           prior to Mr. Dassey's, um, explanation to you  
20           about his involvement in these crimes, his  
21           involvement, uh, in the homicide and related  
22           cases, were there any specific promises made to  
23           him to encourage his cooperation?

24   A    No, he was never promised anything.

25   Q    Any promises of leniency?

1 A No.

2 Q Any promises of specific charges he'd be facing  
3 if he made statements to you?

4 A No.

5 Q Any promises of specific sentencing  
6 recommendations that the D.A.'s office might make  
7 at the conclusion of the case?

8 A No.

9 Q You did suggest, uh, Investigator Wiegert, at one  
10 point, that he'd feel better once he, uh, in  
11 essence, got this story off his chest; is that --  
12 is that fair?

13 A That's correct. Yes.

14 Q You believe that to be a true statement?

15 A Yes.

16 Q One of the, uh, specific statements, and I know  
17 that Mr. Kachinsky included this in his motion,  
18 uh, was that investigators had agreed, uh, if  
19 Brendan was honest, if he was cooperative and  
20 truthful with you, that, uh, investigators would,  
21 uh, I think, the term was, go to bat for him, uh,  
22 during this, uh, process; is that right?

23 A Yes, we -- we did say that.

24 Q Was that a truthful statement as well?

25 A Yes, it was.

1 Q Were you willing to do that at the time?

2 A We were and we did.

3 Q And, in fact, just so the Court understands,  
4 after Brendan, uh, indicated his involvement in  
5 these cases, you and Investigator Fassbender met  
6 with me; is that right?

7 A We did, yes.

8 Q To share the details of Brendan's cooperation,  
9 with me?

10 A We did.

11 Q Did you advance your opinion to me that Brendan  
12 should be provided with some credit, at least, as  
13 compared to, perhaps, other actors in this case  
14 that haven't taken as much responsibility, that  
15 he should be given some credit for his honesty  
16 and his remorse?

17 A Yes, we did.

18 Q So, the statement that we'll go to bat for you,  
19 uh, not only was a true statement before the, uh,  
20 statement was given but, in fact, was fulfilled  
21 or followed through by investigators; is that  
22 right?

23 A Yes.

24 Q Investigator Wiegert, prior to the March 1  
25 interview process, uh, you had, I think,

1           previously mentioned that some, um, physical  
2           evidence had been examined and some findings had  
3           been made by some experts in the case; is that  
4           right?

5    A    That's correct.  Yes.

6    Q    Had you determined, or did you have a reasonable  
7           idea, of who was involved in the homicide and  
8           surrounding crimes regarding Teresa Halbach?

9    A    Well, based on the evidence that we had collected and  
10           the evidence that we had examined, and in speaking  
11           with the experts who were involved with examining  
12           that evidence, we kind of had a good idea who was  
13           involved and a basic idea of what had occurred, um,  
14           on October 31, yes.

15   Q    And just so this Court is, uh -- is aware, and  
16           those that might be listening to it, much of the  
17           physical evidence that you had obtained at that  
18           point had not at that point been made public; is  
19           that right?

20   A    That's correct.

21   Q    And --

22   A    And some of it still hasn't been made public.

23   Q    In fact, much of it hasn't yet been made public;  
24           is that correct?

25   A    That's correct.  Yes.



1 Q Were you aware at that time, or at least were  
2 told by experts as to their opinion, as to the  
3 method of homicide? That is, how -- or at least  
4 partially -- how, uh, Teresa Halbach was killed?  
5 A Yes. At least one of the methods, correct. Yes.  
6 Q And, again, that hadn't been made public at that  
7 time?  
8 A No.  
9 Q Were you familiar, and were you told by experts,  
10 as to the place of the homicide? That is, the --  
11 uh, where some specific evidence was found that  
12 suggested that this crime may have been committed  
13 in that location --  
14 A Um, based --  
15 Q -- or locations?  
16 A Yes. Yes.  
17 Q One of the charges that, uh, Mr. Avery faced at  
18 that point included a crime that's called  
19 "mutilation of a corpse." Has to do with the  
20 disposal, uh, of, uh, a body after a homicide,  
21 uh, and the hiding of it for purposes of  
22 investigations. Were you given specific  
23 information by expert witnesses, uh, as to that  
24 particular crime and as to how those things may  
25 have occurred?

1 A Yes, we were.

2 Q Now, other than the, um, specific physical  
3 evidence that you had received, were you also in  
4 a position to draw inferences, not just as an  
5 investigator but with the assistance of lots of  
6 experts that you spoke with, uh, as to, uh, what,  
7 perhaps, motivated this homicide?

8 A Uh, yes, we were.

9 Q And we know now, and I'm going to ask you, on the  
10 1st of March, uh, was it an inference and a  
11 theory by investigators that this was a, um,  
12 sexually-motivated homicide?

13 A Absolutely, yes.

14 Q Consistent with that, Investigator, uh, did you  
15 believe that there may be, uh, related charges or  
16 related crimes that occurred, including sexual  
17 assault, uh, or, uh, being, uh, held against her  
18 will or other kinds of related matters?

19 A Yes.

20 Q And those were inferences. Again, not just  
21 speculation by you, but consistent with the  
22 physical evidence and with what you knew at the  
23 time on March 1; is that right?

24 A Correct.

25 Q Finally, Investigator, did you believe that it

1           was possible, or even likely, that Brendan Dassey  
2           had seen more than he had previously told you or  
3           may, in fact, have been involved at least at some  
4           portion of these particular crimes?

5    A    Based on the interviews that we have done, based on  
6           the, um, evidence which was collected, yes, we did  
7           believe that.

8    Q    I ask you these questions because during the  
9           course of this interview, um, you tell Brendan,  
10          or you suggest to Brendan, that, uh, we already  
11          know what happened. Uh, was that an expression  
12          of not only the physical evidence that you knew  
13          at the time, but also these inferences,  
14          connecting the dots, if you will, uh, from what,  
15          uh, you'd already learned?

16   A    Yes, both of those. Um, um, after reviewing and --  
17          the evidence which we had collected, and, again,  
18          after speaking with the experts about the evidence  
19          that was collected, and after they had a chance to  
20          examine that evidence, along with the interviews, uh,  
21          we had come up with a theory on what had taken place  
22          there.

23   Q    During the interview of Brendan, or if you  
24          believed that Mr. Dassey was not being totally  
25          honest with you, were -- was he reminded to,

1           uh -- to remain honest during the -- the  
2           interview?

3   A    Yeah, he was reminded of that several times.

4   Q    Now, there were some details that Mr. Dassey  
5       provided you that you didn't know. Or, I mean,  
6       in all candor, as you sit here, came to somewhat  
7       of a surprise to you; is that right?

8   A    Yes.

9   Q    Fair to say that that's purpose of interviews?  
10       That is, to find stuff out that you don't know  
11       yet?

12   A    Absolutely. That's why we interview people.

13   Q    Now, Investigator Wiegert, to ensure the accuracy  
14       or truthfulness of information you're receiving  
15       sometimes from either witnesses or suspects,  
16       there's a tactic or a strategy which includes  
17       providing deliberately false information. That  
18       is, providing information about the case that you  
19       very well know never happened. That it didn't  
20       happen. Are you familiar with that strategy or  
21       tactic?

22   A    Yes.

23   Q    Was that employed in this case?

24   A    Yes, it was.

25   Q    And, uh, could you describe for the Court why

1           that was used and, uh, what, uh, results you got  
2           therefrom?

3       A     Well, the reason you do things like that is to, um,  
4           see if the witness is going to go along with the  
5           false statements or if he's going to stop you and  
6           correct you. Um, and when we did that with  
7           Mr. Dassey, when we gave him false information, he  
8           would deny it, stop us, and he would correct that  
9           information. And that the purpose is to make sure  
10          that he's not just going along with everything we're  
11          saying and to see that he is telling us the truth.  
12          And we did that.

13       Q     So that would -- could be more specific. And at  
14          least what this Court has to determine what's  
15          called, uh, demonstrating a free and  
16          unconstrained will. If it's -- if you tell  
17          somebody something that you know didn't happen in  
18          this case --

19       A     Uh-hum.

20       Q     -- just so the Court understands, and if there's  
21          anything secret about this, you had told Brendan  
22          that you believed Teresa had a tattoo on her  
23          stomach. Remember telling him that?

24       A     We did tell him that.

25       Q     You knew that not to be true; isn't that right?

1 A We knew that not to be true, correct.

2 Q Rather than just go along with that or just say,  
3 oh, yeah, I remember that, or that happened,  
4 Brendan told you, I don't remember seeing that --

5 A Yes.

6 Q -- isn't that correct?

7 A That is correct.

8 Q That when provided with, on a couple of  
9 occasions, false statements or things that you  
10 knew didn't happen, Brendan was able to resist  
11 those suggestions or to resist your, um, attempts  
12 to just get him to go along with stuff; is that  
13 right?

14 ATTORNEY KACHINSKY: Objection. Leading  
15 question.

16 ATTORNEY KRATZ: I'm not sure how else to  
17 ask it, Judge.

18 THE COURT: Yeah. The objection is  
19 sustained. Uh, it -- it -- it's a leading question.  
20 Can you reframe it in a nonleading way?

21 ATTORNEY KRATZ: I can certainly try,  
22 Judge.

23 Q (By Attorney Kratz) Was Mr. Dassey able, or did  
24 he demonstrate the ability to resist these  
25 suggestions?

1 A Yes, he did.

2 Q At one point you had suggested to Brendan that,  
3 we know that, uh, the gun that was used in this  
4 case was in your hands. Do you remember  
5 suggesting that to him?

6 A Yes, I do.

7 Q Was he able to resist that suggestion?

8 A Yes, he did. He indicated to us that the gun was  
9 never in his hand.

10 Q So, any suggestions, then, that he just went  
11 along with whatever it was you were trying to  
12 tell him, or that you were putting these words in  
13 his mouth, you believe that to be false; is  
14 that --

15 ATTORNEY KACHINSKY: Objection.  
16 Argumentative. Asks the witness to invade the  
17 province of the Court.

18 THE COURT: Well, the questioner is, in  
19 effect, testifying here. The objection is  
20 sustained. Can we move -- I think I see where  
21 you've gone and where you're going. Can we move on?

22 ATTORNEY KRATZ: We certainly can,  
23 Judge. I'd be happy to.

24 Q (By Attorney Kratz) Finally, uh, Investigator  
25 Wiegert, at anytime during this interview

1 process, uh, did you, uh, employ overly leading  
2 questions? That is, did you suggest answers  
3 within your questions to Brendan?

4 A No.

5 ATTORNEY KRATZ: For purposes of this  
6 hearing, Judge, that's all the questions I have of  
7 Investigator Wiegert.

8 THE COURT: All right. Cross?

9 CROSS-EXAMINATION

10 BY ATTORNEY KACHINSKY:

11 Q Investigator Wiegert, uh, you're aware, as a  
12 result of your professional experience, that  
13 there was a decision by the Wisconsin Supreme  
14 Court in July of last year that required that  
15 suspect interviews of, uh, juveniles be recorded  
16 electronically; is that correct?

17 A Yes.

18 Q And is it correct that, uh, after that decision  
19 came down, that, uh, you complied with the  
20 decision and you electronically record, uh,  
21 questioning of suspects when they're juveniles;  
22 correct?

23 A Yes, we do.

24 Q Uh, juvenile is defined, for purposes of that  
25 particular, uh, decision, as being those, uh,



1           under the age of 18; is that right?

2    A    Yes.

3    Q    And I think -- and -- and Mr. Dassey was a -- a  
4           little bit over the age of 16 at the time of the  
5           interviews of February 27 and March 1, 2006; is  
6           that right?

7    A    Yes.

8    Q    Now, it's also not required, however, that  
9           interviews of juveniles, where the juvenile is  
10          simply a witness to someone else committing a  
11          crime, uh, be recorded; is that correct?

12   A    That's correct.

13   Q    Uh, and, in fact, uh, if an interview of a  
14          juvenile occurs, for example, near a crime scene,  
15          or in their home, or something like that, uh, and  
16          they're not, uh, a suspect in an offense, uh,  
17          those typically are still not recorded; is that  
18          correct?

19   A    I wouldn't say typically, no. Um, we record a lot of  
20          interviews whether they're interrogations or not, um,  
21          with juveniles now.

22   Q    And that's just to be cautious so that in case an  
23          interview changes its character that, uh, you're  
24          protected and in compliance with that court  
25          decision; is that right?

1 A That's correct. Yes.

2 Q Now, you've indicated that, uh, between the time  
3 of Mr. Dassey's, uh, first interview with law  
4 enforcement regarding this case in November of  
5 2005, and, uh, February of 2006, uh, that he was,  
6 uh, someone that you thought, uh, would be of  
7 interest and might provide more information than  
8 he had originally provided; is that right?

9 A That's correct.

10 Q And, in fact, uh, shortly before the February 27,  
11 2006, interview, you had some information that  
12 Mr. Dassey may have revealed some details  
13 involving the offense to a relative of his; is  
14 that right?

15 A Yes.

16 Q Um, and it was within a day or two of that that  
17 you arranged this, uh, February 27 interview; is  
18 that correct?

19 A Yes.

20 Q Um, now, the information that you had  
21 specifically from a relative of, uh,  
22 Mr. Dassey's, was that, uh, he had seen, uh, body  
23 parts in a bonfire near his, uh, residence; is  
24 that correct?

25 A Um, along with that he had been losing weight and

1 crying a lot.

2 Q Sure. He was emotionally upset, disturbed,  
3 something to that effect?

4 A My understanding.

5 Q Um, now, knowing that there is some information  
6 that Mr. Dassey, uh, was aware of the, um,  
7 destruction of a -- a human corpse by fire, uh,  
8 led you to at least suspect that he might have  
9 been involved, uh, in the, uh, disposal of that  
10 corpse, uh, by -- in conjunction with Mr. Avery;  
11 is that right?

12 A Yes.

13 Q And, in fact, that's the reason why you decided  
14 from the beginning of the February 27, uh,  
15 interview to, uh, audiotape it; correct?

16 A Uh, no, I would disagree with that. It was, um, to  
17 protect him, to protect us, um, because of the -- the  
18 enormity of the case, um, we did not want to make any  
19 mistakes in the case. And that was the primary  
20 reason that we decided to do that.

21 Q Um, now, during the course of the, uh,  
22 February 27, 2006, interview, then, at Mishicot  
23 High School, Mr. Dassey, uh, gave information  
24 regarding some observations he'd made of, uh,  
25 human body parts in a bonfire at or near his,

1           uh -- his residence, uh, on Avery Road; is that  
2           correct?

3       A     Near his residence, yes.

4       Q     And when Mr. Dassey, uh, told you that during the  
5           interview at, uh, Mishicot High School, uh, that  
6           led you to believe that he, at a minimum, might  
7           have been involved in, uh, helping Mr. Avery in  
8           some way dispose of the corpse of Mr. -- of, uh,  
9           Teresa Halbach; is that right?

10      A     Well, led us to believe that he observed, you know,  
11           her body in the fire. Um, we didn't know at that  
12           point whether he had anything to do with helping get  
13           the body in the fire.

14      Q     But you knew, as a result of your experience,  
15           that frequently witnesses, um, to events like  
16           that might initially not tell you all the  
17           information they knew, and there might be more  
18           that, uh, Mr. Dassey knew about the disposal of,  
19           uh, body parts than what he had initially  
20           provided at the high school; is that correct?

21      A     Yes.

22      Q     And that's the reason why -- one of the reasons  
23           why, when you got over to the, uh, Two Rivers  
24           Police Department, you read him his **Miranda**  
25           rights; is that correct?

1 A Um, again, because of the enormity of the case is the  
2 reason that we read him his **Miranda** rights and to  
3 protect him as well.

4 Q Um, now, the **Miranda** rights that you read to  
5 Mr. Dassey, uh, did not include any reference as  
6 to what offenses, if any, you suspected him of,  
7 did -- did they?

8 A No.

9 Q And, in fact, the standard **Miranda** warnings don't  
10 contain any sort of, uh, warning to a suspect of  
11 the offense that you, uh, believe someone may  
12 have committed before you do the interview; is  
13 that correct?

14 A That's correct.

15 Q Now, after the -- When you did the videotape  
16 interview at the Two Rivers, uh, Police  
17 Department, um, Mr. Dassey basically told you  
18 the -- the same information he'd told you over at  
19 the, uh, high school earlier that day; is that  
20 correct?

21 A Uh, essentially the same, yes.

22 Q Now, you've indicated today that the -- the  
23 reason you set up the, um, motel room at the, uh,  
24 Mishicot hills resort was because you wanted to  
25 protect the integrity of the, uh, investigation;

1 is that right?

2 A As I had started, um, explaining earlier, there were  
3 two reasons. That was one of them, yes.

4 Q Okay. And there's second reason were you  
5 concerned about Brendan possibly harming himself?

6 A Uh, not harming himself as much as maybe somebody,  
7 um, on the Avery property harming him after finding  
8 out that he had told us information.

9 Q Had you told, uh, Barb Janda, uh, though, that  
10 you were concerned about Brendan possibly harming  
11 himself?

12 A Oh, I'm sure, yes. I mean, that was, um, an issue,  
13 but the -- the bigger issue is we were worried that  
14 somebody else would harm him.

15 Q Now, going to the, uh -- the March 21 -- or,  
16 excuse me -- the March 1 interview, part of the  
17 interview process, uh, both on March 1 and on  
18 February 27, was a period of time at the  
19 beginning of the interview when you and  
20 Mr. Fassbender, uh, made statements to, uh,  
21 Mr. Dassey regarding, uh, the purpose of the  
22 interview and stressing the needs why, uh, he  
23 should cooperate with you and Mr. Fassbender; is  
24 that correct?

25 A Yes.

1 Q As a standard technique during questioning to  
2 have kind of an initial pep talk with a -- a  
3 subject of an interview before going into greater  
4 detail as to the events you're interviewing him  
5 about; is that correct?

6 A I don't know that I would call it a pep talk, but we  
7 do, um, talk to them initially to tell them why we  
8 are talking with them and the importance, um, of them  
9 being truthful to us.

10 Q And one of the techniques that's, uh, used with  
11 suspects of all ages to try to persuade them to,  
12 uh, provide you information is to minimize the  
13 seriousness of the offenses that you, uh, suspect  
14 them of; is that correct?

15 A Yes.

16 Q And in this particular case, uh, one example of  
17 that technique that was used was, uh,  
18 Mr. Fassbender telling Brendan that he thought,  
19 uh, Brendan was all right, did not have to worry  
20 about things; is that correct?

21 A Um, I believe that statement was made, yes.

22 Q Uh, there was also a statement I believe you made  
23 to Mr. Dassey that you could work through  
24 whatever Brendan did; is that right?

25 A Yes.

1 Q You also told him that the honest person's the  
2 one who get the better deal out of everything?

3 A Yes.

4 Q Um, these were all made on, uh, March 1; is that  
5 right?

6 A I believe so, yes.

7 Q And you had a chance to prepare for this hearing  
8 today by reviewing the tapes and the transcripts  
9 of the March 1 interview; is that correct?

10 A I have.

11 Q Um -- And there was another statement made to  
12 Brendan to the effect, um -- and made by you --  
13 that honesty was the only thing that could set  
14 him free; is that correct?

15 A Yes, and -- and by that I meant his -- his feelings,  
16 um -- He had indicated to us he could not sleep. Um,  
17 we had information he had been losing weight. Um, by  
18 free, getting the weight off his shoulders. We  
19 commonly say that type of thing. We knew he wasn't  
20 going to be able to get through this until he  
21 admitted it to somebody. It was bothering him,  
22 obviously.

23 Q You don't know from your own knowledge, uh, what  
24 it -- how it was that Brendan perceived that  
25 particular statement, do you?



1 A No.

2 Q Now, after that, um, statement about honesty,  
3 concept of the free, Brendan then told you about  
4 seeing Mr. Avery and Miss Halbach talking on the  
5 porch; uh, is that correct?

6 A Um, it was some time after that. Correct.

7 Q Uh, and you had other information that led you to  
8 believe that, um, Mr. Dassey could not have seen  
9 Steve Avery and Teresa Halbach talking on the  
10 porch, correct?

11 A Uh, based on the other witness' statements, um,  
12 people who were there around that time, yes, that's  
13 correct.

14 Q Um, and, initially, back in November of 2005,  
15 Brendan had made the statement about seeing, uh,  
16 Steve Avery and Teresa Halbach talking on the  
17 porch; correct?

18 A I really can't answer that question. I'm not sure  
19 exactly what was all said during that interview.

20 Q Uh, at some point early in -- in the  
21 investigation you'd received information from a  
22 person that was claimed to be Brendan Dassey's,  
23 uh, bus driver from school who also claimed to  
24 have seen, uh, Steve Avery and Teresa Halbach,  
25 uh, talking on the porch at the time that, uh,

1 Mr. Dassey was let out of the school bus; is that  
2 correct?

3 A I don't recall the, uh, bus driver saying that. I  
4 recall the bus driver telling us how she came down  
5 and dropped the kids off and saw several vehicles. I  
6 don't recall her saying anything about seeing Steve  
7 and Teresa talking.

8 Q Now, at another point during the March 1  
9 interview, uh, there was a discussion about how  
10 Teresa Halbach got in the back of the jeep that  
11 was, uh, on Steve Avery's property; is that  
12 correct?

13 A Yes.

14 Q And, uh, during the discussion of that, is it,  
15 uh, correct that you told Mr. Dassey that if you  
16 helped him, referring to Steve Avery, that it was  
17 okay because, uh, he, referring to Steve Avery,  
18 was telling you to do it?

19 A Yes.

20 Q You also made, uh, assurances to Mr. Dassey that,  
21 uh, referring to him as a buddy; is that correct?

22 A Uh, yes.

23 Q Now, before Brendan Dassey told you that he had  
24 sex with Teresa Halbach, uh, you made a statement  
25 to Mr. Dassey, quote, what happens next? Do you

1 remember? We already know, but we need to hear  
2 it from you. It's okay. It's not your fault.  
3 What happens next? Is that -- Did you say  
4 something to that effect before Mr. Dassey  
5 admitted having sex with, uh, Teresa Halbach?

6 A Yes.

7 Q Um, and -- but, as a matter of fact, is it, uh,  
8 correct that you really, uh, had nothing at that  
9 point, other than a theory, that, uh, Mr. Dassey  
10 had, uh, been involved in a sexual assault?

11 A In regards to the sexual assault portion, yes, that's  
12 correct.

13 Q Now, the videotaped interview of March 1, uh,  
14 2006, you say it took place in what's called a  
15 soft-type, uh, interview room at the Manitowoc  
16 County Sheriff's Department; is that correct?

17 A That's correct.

18 Q Um, even though it's a so-called soft, uh,  
19 interview room, it's still, essentially, a closed  
20 off small area; is that correct?

21 A It's a smaller room, yes.

22 Q Uh, during the interview, the door was closed; is  
23 that right?

24 A Yes.

25 Q During the interview, there were, uh, three of

1           you in the room; you, Mr. Fassbender, and  
2           Mr. Dassey; is that right?

3    A       That's correct.

4    Q       Uh, during your interviews of, uh, Mr. -- Mr.  
5           Dassey, uh, did you ever discuss with him how  
6           well he was doing in school?

7    A       Um, we -- we discussed school a lot. I don't know  
8           that we specifically asked him how well he was doing  
9           in school. I -- I don't recall that.

10   Q       Uh, did you also check records that were  
11          available to you as a law enforcement, uh, person  
12          to determine whether or not Mr. Dassey had any  
13          prior involvement, uh, with the criminal justice  
14          system?

15   A       Uh, we did, yes.

16   Q       And is it correct that, uh, you -- From those law  
17          enforcement records, you discovered that Mr.  
18          Dassey had never been, uh, arrested or titled for  
19          any sort of, uh, offense?

20   A       He was, uh, labeled as a suspect in one offense.  
21          However, from reviewing that report, does not appear  
22          that he was ever interviewed on that.

23   Q       You've indicated that during the interview, um,  
24          of March 1, Brendan was allowed to speak to his  
25          mother; is that correct?

1 A Yes.

2 Q Now, the point in time during the interview when  
3 that occurred was after Brendan had already made  
4 statements implicating himself in the homicide,  
5 mutilation of a corpse, and sexual assault; is  
6 that right?

7 A That's correct.

8 Q And would it be fair to characterize that portion  
9 of the interview where Barbara Janda was there as  
10 a -- basically a -- a mother saying -- having her  
11 last words with her son before he was going to be  
12 put into custody?

13 A It was near the end of the interview.

14 Q You've indicated that a couple times during the  
15 interview you deliberately provided false  
16 information to Mr. Dassey to determine whether or  
17 not he was simply, uh, saying things that you  
18 expected him or wanted him to say; is that  
19 correct?

20 A Yes.

21 Q And one example you've got -- you gave was  
22 whether or not, uh, Teresa Halbach had a tattoo;  
23 is that correct?

24 A That's correct.

25 Q And the other one was whether or not Mr. Dassey

1 had ever handled a firearm during the offense; is  
2 that right?

3 A Yes.

4 Q Were there any other examples, other than that,  
5 where you provided, uh, incorrect information to  
6 Mr. Dassey to determine whether or not, uh, he  
7 was, um, responding to a suggestion or giving you  
8 his honest recollections?

9 A Um, those would be the two instances that I can think  
10 of. Um, but we would say certain things, he would  
11 say, no, that didn't happen, or, yes, that did  
12 happen.

13 ATTORNEY KACHINSKY: That's all the  
14 questions I have, Your Honor.

15 THE COURT: Any redirect?

16 ATTORNEY KRATZ: Just a few questions.

17 **REDIRECT EXAMINATION**

18 BY ATTORNEY KRATZ:

19 Q Did Brendan ever ask for an attorney?

20 A He did not.

21 Q Brendan ever ask to speak with his mother? Or  
22 was he ever denied the chance to speak with his  
23 mother?

24 A He was not.

25 THE COURT: That really was two questions;

1 Did he ever ask to speak with his mother and --

2 ATTORNEY KRATZ: Sorry, Judge.

3 THE COURT: Why don't you just ask him  
4 as two simple questions.

5 Q (By Attorney Kratz) Did he ever ask to speak to  
6 the mother?

7 A No.

8 Q Was he ever denied access to his mother?

9 A He was not.

10 Q Finally, the detail of the version of events, who  
11 did the detail come from?

12 A Uh, the detail came from Brendan.

13 Q That detail include his involvement in the  
14 homicide?

15 A It did, yes.

16 Q Did it include his involvement in the surrounding  
17 crimes as well?

18 A It did, yes.

19 Q Did the detail also involve his Uncle Steven  
20 Avery's involvement?

21 A Yes.

22 Q These weren't suggestions by you where he just  
23 had to say the word "yes," right?

24 A No, it was not.

25 ATTORNEY KRATZ: All right. That's all for

1 this hearing, Judge.

2 THE COURT: Any recross?

3 ATTORNEY KACHINSKY: Uh, no, Your Honor.

4 THE COURT: You may step down. Do you have  
5 any further witnesses?

6 ATTORNEY KRATZ: Uh, not -- not for, uh,  
7 our case in chief, Judge, no.

8 THE COURT: I think we'll take about a  
9 ten-minute break at this time. We'll be back ten  
10 minutes from now. Then we can proceed with the  
11 defendant.

12 (Recess had at 10:20 a.m.)

13 (Reconvened at 10:36 a.m.)

14 THE COURT: Mr. Kratz, you have no further  
15 witnesses?

16 ATTORNEY KRATZ: I don't, Judge.

17 THE COURT: Mr. Kachinsky.

18 ATTORNEY KACHINSKY: Uh, yes, we'd call to  
19 the stand, Barbara Janda.

20 THE CLERK: Would you raise your right  
21 hand?

22 **BARBARA JANDA,**

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

25 THE CLERK: Please be seated. Please state



1 your name and spell your last name for the record.

2 THE WITNESS: Barb Janda, J-a-n-d-a.

3 **DIRECT EXAMINATION**

4 BY ATTORNEY KACHINSKY:

5 Q Okay. Barb, are you related to the person  
6 that's, uh -- uh, has a hearing here today?

7 A Yeah.

8 Q Uh, and, uh, what's your relationship to, uh,  
9 Brendan Dassey?

10 A He's my son.

11 Q When was, uh, Brendan Dassey born?

12 A October 19 of '89.

13 Q Uh, as of February 27 and March 1 of 2006, how  
14 old was Brendan?

15 A Sixteen.

16 Q Um, what school does Brendan attend?

17 A Mishicot High School.

18 Q How long had Brendan been attending school as of,  
19 uh, February and March of this year?

20 A In Mishicot?

21 Q Right.

22 A Um, I moved out there in 2001. So, it would be 2001.

23 Q Uh, now, as, uh -- Have you always had, uh,  
24 physical placement of, uh, Brendan Dassey?

25 A Yes.

1 Q Uh, uh, were you married at some point to Brendan  
2 Dassey's father?

3 A Yes.

4 Q Uh, did that marriage terminate?

5 A Yes.

6 Q Uh, when did that marriage terminate?

7 A Ninety-two.

8 Q Now, um, as -- as Brendan's, uh, parent, have you  
9 been apprised from time to time as to his  
10 progress in school?

11 A Brendan's a very slow learner. I mean, his grades  
12 are really, really bad.

13 Q Uh, has Brendan been subject to, uh,  
14 psychological testing in school?

15 A Um, he had some testing done.

16 Q Uh, is -- is Brendan in regular classes in  
17 school?

18 A Um, some, I think, and some he's in special ed.

19 Q Um, now, in connection with, uh, the motion that  
20 we're bringing in this particular case regarding  
21 Brendan Dassen's -- Dassey's statements to, uh,  
22 uh, law enforcement officials, uh, are you aware  
23 that the issue of his school performance was  
24 going to be part of the motion?

25 A Yes.

1 Q In connection with that, did you receive a form  
2 for transmittal to the, uh, Mishicot School  
3 District, uh, permitting release of information  
4 regarding Brendan's, uh, behavioral and, uh,  
5 other records from the Mishicot School District?

6 A Yes.

7 Q Did that, uh, authorization for release of  
8 information include, uh, release of information  
9 not only to me but also to the Court?

10 A Yes.

11 Q And, uh, do you reaffirm, uh, your willingness to  
12 permit that information to be released so that  
13 this, uh, motion can be fairly decided by the  
14 Court?

15 A Yes.

16 Q Um, uh, your observations of Brendan's  
17 personality, uh, have you been able to, uh, make  
18 any observation regarding whether or not, uh,  
19 he's someone that responds readily to suggestions  
20 from others?

21 A Usually he does. Um, he's a very shy boy. Um, he  
22 doesn't say too much.

23 Q Um, have you been able to make any observations  
24 regarding Brendan's, uh, level, of, uh,  
25 self-esteem or assertiveness?

1 A Not really.

2 ATTORNEY KACHINSKY: That's all the  
3 questions I have.

4 THE COURT: Cross, if any?

5 CROSS-EXAMINATION

6 BY ATTORNEY KRATZ:

7 Q Barb, you remember that, um, since this case  
8 began, that Brendan has been subjected to some  
9 questioning by police officers; is that right?

10 A Yes.

11 Q In fact -- You have to speak up just a little bit  
12 if you can, please. In fact, uh, your whole  
13 family, you, your other sons, um, other members  
14 of, uh -- of your family have also been  
15 questioned; is that right?

16 A Yes.

17 Q And that questioning has occurred, really, since  
18 the time that, uh, search warrants were starting  
19 to be executed sometime after the 5th of  
20 November. Does that sound about right?

21 A Yes.

22 Q And that's really continued through -- well,  
23 March 1 when -- when Brendan was interviewed by  
24 these officers, uh, but it's maybe even continued  
25 after that. You've talked to police after that

1 as well; is that right?

2 A Um, I think once.

3 Q When officers had sought to interview Brendan or  
4 your other son, Blain, as an example, would you  
5 provide them with permission? Allow them to  
6 interview your sons?

7 A Um, my two older ones, they're old enough to do what  
8 they want. Um, Blain, they talked to, but I usually  
9 went along, and, with Brendan, they more or less  
10 didn't want me in there.

11 Q My question, though -- My question to you, Barb,  
12 is you had, at least up until March 1, attempted  
13 to be cooperative with law enforcement efforts to  
14 interview not only yourself but other family  
15 members; is that right?

16 A Yes.

17 Q Now, until March 1, were there any questions of  
18 threats or promises or intimidation either to  
19 yourself or to your sons that you knew about that  
20 made you want to stop, uh, cooperating or stop  
21 the interviews with your family?

22 A No.

23 Q So, as far as you knew, officers were respectful.  
24 I know -- I know the questions were hard and  
25 the -- and the topic was difficult to talk about,

1           uh, but you understood that they were doing their  
2           job and they were trying to be respectful to you  
3           and your family. Is that -- is that a fair  
4           statement?

5       A     Yes.

6       Q     Okay. And prior to March 1, did Brendan ever  
7           complain to you how he was treated by any police  
8           officers? Prior to March 1.

9       A     Not really, no.

10      Q     On March 1, then, that's the subject of -- of --  
11           of this hearing, officers asked you for  
12           permission to interview Brendan at the sheriff's  
13           department in Manitowoc. Do you remember that?

14      A     Yes.

15      Q     And you gave them permission to transport him  
16           from the school to the police station; is that  
17           right?

18      A     Yes.

19      Q     Officers invite you to come along? Did they  
20           invite you to the police station as well?

21      A     No.

22      Q     During the interview, itself, were you invited to  
23           come to the police station?

24      A     The Manitowoc one or the Two Rivers one?

25      Q     The Manitowoc one.

1 A No.

2 Q Well, you were there, weren't you?

3 A I was there, yes, but that was after it was all done  
4 and over with.

5 Q Okay. How did you get there?

6 A I walked over there.

7 Q Who --

8 A The -- the day that they took him to Manitowoc, I was  
9 at the courthouse because I was getting a divorce  
10 that day.

11 Q Okay. So, rather than being invited, you just  
12 happened to show up at the station; is that  
13 right?

14 A I had called them to see if they were done with  
15 Brendan or if they had brung him back to school or  
16 not and that's when they told me that they had  
17 arrested him.

18 Q And at that point you were invited to the  
19 station?

20 A Yes.

21 Q You were allowed to meet with Brendan at the  
22 station; is that right?

23 A Yes.

24 Q And were you informed at the station, uh, what  
25 Brendan had told them? That is, his involvement

1 in these crimes?

2 A More or less, yes.

3 Q And that Brendan had also implicated his Uncle  
4 Steve in this murder as well; is that right?  
5 Were you told that then?

6 A I don't remember.

7 Q Okay. But you knew that Brendan told the  
8 officers that he was involved; right?

9 A That's what they had told me, that he was involved.

10 Q All right. After the interview is over and, in  
11 fact, several times since this interview,  
12 officers have invited you to watch the tape,  
13 haven't they?

14 A Yes.

15 Q And have you done that?

16 A No.

17 Q Barb, the, um, police describe some concerns that  
18 they had after Brendan had implicated Steven in  
19 this homicide. Concerns about, um, attempts that  
20 some family members might make to get Brendan to  
21 change his story or to not talk. Do you remember  
22 hearing Investigator Wiegert say that today?

23 A Yes.

24 Q Do you recall having that conversation with  
25 Investigator Wiegert that you also were concerned



1           about what might happen to Brendan if he went  
2           back home to the Avery compound?

3    A    On the first?

4    Q    Before the first.

5    A    I mean --

6    Q    The 27th.

7    A    -- the 27th?

8    Q    Uh-huh.

9    A    Um, I had told them that I didn't have to go home. I  
10       had other places that I could go.

11   Q    My question --

12   A    They suggested that I go to Fox Hills.

13   Q    My question is: Did you also share with them  
14       your concern about what might happen to Brendan  
15       if he went back home?

16   A    I don't remember.

17   Q    You told investigators that day, on the first,  
18       and you've told them after that, that Brendan's a  
19       honest kid, that he's a truthful kid. Do you  
20       remember telling them that?

21   A    Yes.

22   Q    In fact, I think you used the words, he doesn't  
23       lie. Remember saying that?

24   A    Yes.

25   Q    And you believed, at least up until March 1, that

1           Brendan was truthful and honest, didn't you?

2   A    Yes.

3   Q    And that when he told people something, when he  
4       told authority figures something, he should be  
5       believed. You thought that, didn't you?

6   A    Yes.

7           THE COURT: Counsel, I'm going to stop you  
8       there. Uh, I understand the purposes of your  
9       question, but this is a hearing on voluntariness.  
10      We're -- we're not -- the -- the -- the truth -- the  
11      factual truth of -- of what was -- what was or  
12      wasn't uttered there is not the subject of this  
13      hearing, so, where are we going with this line of  
14      questioning?

15           ATTORNEY KRATZ: Well, Judge, the  
16      suggestion will be that he was threatened, or  
17      coerced, or promised to say something, uh, that, uh,  
18      he either didn't, um, want to say or that there were  
19      problems within that. The fact that Brendan was  
20      truthful and honest, didn't complain about any  
21      coercion, or threats, or the like, I think, is  
22      relevant. It isn't for the truth of the -- the  
23      underlying statement, Judge.

24           THE COURT: Well, insofar as it goes to  
25      the -- the voluntariness, you can ask a couple of

1 more questions, but --

2 ATTORNEY KRATZ: That's all I was going to  
3 ask --

4 THE COURT: All right.

5 ATTORNEY KRATZ: -- as -- as to that,  
6 Judge. I appreciate that.

7 Q (By Attorney Kratz) You talked about Brendan's,  
8 uh, school, and we'll hear from, I think, members  
9 of the, uh -- the school hereafter, but,  
10 basically, Brendan was in regular classes. You  
11 were aware of that, weren't you?

12 A Some of them, yes.

13 Q Brendan was in the process of getting his  
14 driver's license, wasn't he?

15 A Yes.

16 Q You have to answer a little louder, please.

17 A Yes.

18 Q And to get your driver's license, you have to  
19 take some tests; is that right?

20 A Yes.

21 Q And you, I think, if I remember correctly, have  
22 to have a parent sign for you that, uh, indicates  
23 that this is a person that is smart enough to get  
24 their driver's license and makes good enough  
25 decisions to get their license. Did you have to

1 sign something like that?

2 A At -- at the motor vehicle, yes.

3 Q All right. And you, in fact, thought at that  
4 time, back, uh, in the fall, that Brendan was  
5 mature enough to drive an automobile, didn't you?

6 A Yes.

7 Q You thought he was bright enough, that he was  
8 smart enough to understand what went with driving  
9 an automobile, didn't you?

10 A Yes.

11 Q Was Brendan on any kind of medications at the  
12 time?

13 A No.

14 Q To your knowledge, was Brendan intoxicated or  
15 otherwise impaired when he spoke with, uh, law  
16 enforcement officers?

17 A No.

18 Q You have a computer at your home; is that right?

19 A Yes.

20 Q Brendan have access to that computer?

21 A Yes.

22 Q Brendan was able to use that computer, to use the  
23 internet and, uh, otherwise operate that piece of  
24 machinery; is that right?

25 A Yes.

1 Q Do you know if Brendan had any e-mail accounts?  
2 If he would e -- use the e-mail?

3 A I couldn't tell you.

4 Q Send messages, or instant messages, or anything  
5 like that? Did you know --

6 A MSN.

7 Q -- if he did that or not?

8 A That's about it. MSN.

9 Q And send instant messages?

10 A Yeah, I think that's what it's called, yeah.

11 Q And that's communicating to other people? That's  
12 actually typing or writing answers to questions  
13 and communicating?

14 A Yes.

15 Q You're aware of that, aren't you?

16 A Yes.

17 Q And Brendan's able to do that; isn't he?

18 A Yes.

19 Q You believe Brendan's able to remember things  
20 that happened and tell you what happened? Like  
21 when you'd ask what happened at school today,  
22 would he answer those questions for you?

23 A Yes.

24 Q He was able to observe things, to process them,  
25 to understand them, and then to tell you at least

1           about what happened? That's all true, isn't it?

2    A       Yeah. It takes him a while, though.

3    Q       Okay. Well, he's not, um, ever been diagnosed as

4           being incompetent or not understanding what's

5           going on in his surroundings, has he?

6    A       No.

7    Q       You're aware that Brendan also gave a written

8           statement to the police about, um, some of his

9           involvement? Some of the things that he had seen

10          in this case?

11   A       I guess so.

12   Q       You don't know?

13   A       Not really. I don't know too much.

14   Q       All right. At school, would Brendan have to

15          write things out, whether it was homework, or

16          some papers, or theme papers? Or, at least, um,

17          homework was in a written form for Brendan; isn't

18          that right?

19   A       Yes.

20   Q       He was able to do that?

21   A       Honestly, I couldn't really tell you because he never

22          brung any homework home.

23   Q       Finally, Miss Janda, um, March 1, after the

24          interview, was it your expectation that Brendan

25          would be coming home with you? In other words,

1 um, did the officers believe that after that  
2 statement was given, you'd be able to take him  
3 home with you?

4 ATTORNEY KACHINSKY: Objection. That asks,  
5 uh, something that this witness would have no  
6 knowledge as to what the officers believed. She  
7 might know what the officers told her.

8 ATTONREY KRATZ: I can rephrase that,  
9 Judge.

10 THE COURT: Please do.

11 Q (By Attorney Kratz) Did the officers tell you  
12 that after the interview that Brendan would be  
13 going home with you?

14 A Yes.

15 Q Did they then also tell you that it was because  
16 of his admissions, because the details that he  
17 gave that day, that he couldn't go home? That  
18 they weren't going to allow him to go home?

19 A Yes.

20 ATTONREY KRATZ: Thank you, ma'am. That's  
21 all I have, Judge.

22 THE COURT: Any redirect?

23 ATTORNEY KACHINSKY: Yes.

24 **REDIRECT EXAMINATION**

25 BY ATTORNEY KACHINSKY:

1 Q On March 1, had the officers contacted you before  
2 they removed Brendan from Mishicot High School to  
3 take him over to the Manitowoc County Sheriff's  
4 Department for an interview?

5 A Yes, they did.

6 Q And was that the time when the officers told you  
7 that they expected that Brendan was going to be  
8 coming home after the interview?

9 A Yes.

10 Q And, then, later on, when they contacted you  
11 after Brendan had made some admissions regarding  
12 involvement in the death of Teresa Halbach, is  
13 that when they made the contrary statement that  
14 they were going to arrest him and he would not be  
15 coming home?

16 A Yes.

17 ATTORNEY KACHINSKY: That's all I have,  
18 Your Honor.

19 ATTORNEY KRATZ: I have nothing further.  
20 Thank you, Judge.

21 THE COURT: You may step down.

22 ATTORNEY KACHINSKY: Uh, we call, uh, Kris  
23 Schoen -- Schoenenberger-Gross.

24 THE CLERK: If you would raise your right  
25 hand.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**KRIS SCHOENENBERGER-GROSS,**

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

THE CLERK: Please be seated. Please state your name and spell your last name for the record.

THE WITNESS: Kris Schoenenberger-Gross, S-c-h-o-e-n-e-n-b-e-r-g-e-r hypen G-r-o-s-s.

**DIRECT EXAMINATION**

BY ATTORNEY KACHINSKY:

Q Uh, Kris, by whom are you employed?

A Mishicot School District.

Q What is the nature of your employment there?

A I'm the school psychologist and the coordinator of alternative services.

Q How long have you worked for the Mishicot School District?

A Eight years.

Q Um, have you prepared a resumé of your, uh, educational background and, uh, uh, professional positions?

A Yes.

(Exhibit No. 3 marked for identification.)

ATTORNEY KACHINSKY: May I approach, Your Honor?

THE COURT: You may.

1 Q (By Attorney Kachinsky) I'll show you here  
2 what's, uh, been marked as Exhibit No. 3. Is  
3 that a copy of your, uh -- your resumé?  
4 A Yes.  
5 Q And was that prepared for purposes of this  
6 hearing today?  
7 A Yes.  
8 Q Now, in the course of your professional duties as  
9 a school psychologist for the, uh, Mishicot  
10 School district, um, have you had occasion to  
11 deal with, uh, evaluations and, uh, concerns  
12 regarding the person that's the defendant in this  
13 case, Brendan Dassey?  
14 A Yes.  
15 Q Um, are you also -- Are you the custodian of his,  
16 uh, records in the Mishicot School District?  
17 A Yes, I am.  
18 Q What kind of records does, uh, the Mishicot  
19 School District, uh, maintain on Brendan Dassey?  
20 A We have special education records, cumulative  
21 records, um, behavioral records.  
22 Q Uh, has Brendan Dassey's, uh, mother, Barbara  
23 Janda, signed a release permitting those records  
24 to be released and information regarding those  
25 records to be released for purposes of this court

1 hearing?

2 A Yes, she has.

3 Q Um, uh, now, did you have occasion, uh,  
4 personally, to conduct an evaluation of  
5 Mr. Dassey for purposes of his, uh, educational,  
6 uh, placement and progress?

7 A Yes, in October of 2002.

8 Q Uh, before you I believe is an exhibit, uh,  
9 Exhibit No. 4, uh, is that a copy of the report  
10 that you prepared as a result of that, uh,  
11 evaluation?

12 A Yes, it is.

13 Q Uh, and is everything contained in that report,  
14 uh, true and correct to the best of your  
15 knowledge and belief?

16 A It is with one exception. There was one word omitted  
17 in the final typed version. In the observation  
18 section on page 2, the word "eye" was omitted. It  
19 should read "direct eye contact."

20 Q Uh, now, in preparing this, uh, report, uh, was  
21 this -- how did you, uh, go about doing that in  
22 terms of obtaining the information regarding  
23 Brendan Dassey?

24 A Um, through the evaluation processes? Is -- is that  
25 your question?

1 Q Right.

2 A Okay. Um, it was a reevaluation. So, we reviewed  
3 the school records to determine what type of testing  
4 was needed, and, um, intelligence testing was one  
5 area that we decided we wanted to look at as far as  
6 his overall intellectual ability and how he processes  
7 information.

8 Q According to the records that, uh, were available  
9 to you in preparing that evaluation, was -- when  
10 was the first time that Brendan Dassey was  
11 evaluated for purposes of a school district?

12 A Um, his initial evaluation, first time, was in 1996.  
13 September of 1996.

14 Q What sort of tests, uh, were used in evaluating,  
15 uh, Mr. Dassey's, um, potential performance in  
16 school?

17 A Um, and my personal evaluation was done in October of  
18 2002. The 1996 and 1999 evaluations were done by  
19 other psychologists in the Reedsville School  
20 District. Um, but we did do intelligence testing.  
21 Ninety-six and '99 they used the Wechsler  
22 Intelligence Scale for Children.

23 THE REPORTER: Could you slow down,  
24 please?

25 THE COURT: Could you --

1 ATTORNEY KACHINSKY: Oops, slow down.

2 THE WITNESS: Sorry.

3 Q (By Attorney Kachinsky) Okay. Sure. What --  
4 what -- what was -- what was the test that was  
5 used by the, uh, uh -- by the, uh, Reedsville  
6 School District?

7 A The Wechsler Intelligence Scale for Children, Third  
8 Edition.

9 Q What does that test, in particular, measure?

10 A It's an intelligence test that measures a student's  
11 thinking ability, their ability to problem solve, and  
12 reason.

13 Q Uh, what were the res -- Is there a -- a measure  
14 of someone's, uh, intelligence and performance  
15 known as IQ?

16 A Yes.

17 Q And what does IQ stand for?

18 A Intelligence quotients.

19 Q What does that, uh, mean?

20 A Again, it -- it looks at the student's overall, um,  
21 intellectual ability, their ability to think, problem  
22 solve, reason, ability to learn.

23 Q Uh, does that particular measure, uh, compare a  
24 given -- child of a given age against, uh, his or  
25 her peers?

1 A Right. It is -- is based on age. Um-hmm.

2 Q Um, if you were an average -- had average ability  
3 in school, what would your, uh, IQ score be?

4 A Anywhere from a 90 to a 109 is an average range.

5 Q Uh, when the tests were conducted of, uh, Brendan  
6 in the Reedsville School District in, uh, 1996,  
7 uh, what -- what did it indicate in terms of  
8 Mr. Dassey's, uh, IQ, uh, verbal performance, and  
9 full scale?

10 A May I please refer --

11 Q Sure.

12 A -- to the record? In 1996, Brendan's full scale, his  
13 overall IQ was a 74, his verbal IQ was a 65, and his  
14 performance IQ was an 87.

15 Q What do those particular measures of Mr. Dassey's  
16 IQ indicate in terms of his ability to  
17 communicate and to, uh, understand, uh,  
18 information?

19 A Um, the -- the overall score is a little less  
20 meaningful, because there is such a big split between  
21 his verbal and his performance IQ's. The verbal is  
22 looking at his ability to think with words and to use  
23 his words and verbal skills and problem solving, and  
24 that was a well below average, um, score.

25 His performance IQ of an 87 is looking

1 more at visual kinds of tasks, um, and visual  
2 reasoning types of things. And that was in a  
3 below average to average range.

4 Q Uh, was another evaluation performed on  
5 Mr. Dassey in November, 1999, that you were aware  
6 of?

7 A Yes.

8 Q And by whom was that evaluation conducted?

9 A Um, that was done by another psychologist in the  
10 Reedsville School District.

11 Q Uh, what were the, uh, scores that were noted  
12 during the 1999 evaluation?

13 A Uh, the full scale IQ score was a 73, the verbal IQ  
14 was a 69, the performance IQ was an 82.

15 Q Uh, was there any significant change, uh, between  
16 1996 and 1999?

17 A No. The results are consistent. He shows stronger  
18 nonverbal or visual reasoning abilities than his  
19 verbal abilities.

20 Q Um, is it, uh, normal for these particular scores  
21 to remain fairly consistent over -- over time  
22 with, uh, someone who's a student?

23 A Typically, yes. There -- there can be variability  
24 but, in general, they tend to stay fairly consistent.

25 Q Uh, now, did you conduct your own evaluation of

1 Mr. Dassey in, uh, October of 2002?

2 A Yes, I did.

3 Q What test did you use to, uh, evaluate Mr. Dassey  
4 at that time?

5 A I used a test called the Woodcock-Johnson, Third  
6 Edition, tests of cognitive abilities.

7 Q And what, uh, specifically does that test, uh,  
8 measure?

9 A It measures his overall intelligence as well.

10 Q Uh, what were the, uh, scores that were obtained  
11 in that particular test?

12 A He obtained a general intellectual ability score of  
13 78, a verbal ability score of 81, a thinking ability  
14 score of 93, and a cognitive efficiency score of 73.

15 Q Now, what does the, uh -- Uh, was there a  
16 percentile ranking for those particular, uh, test  
17 results?

18 A Yes --

19 Q What is a percentile ranking?

20 A Um, for example, his general intellectual ability  
21 percentile rank was a seven. That means that Brendan  
22 scored as well as or better than seven out of one  
23 hundred students his age.

24 Q Um, so he was in -- could be characterized as  
25 being in the top 93 percent of his class?



1 A No. No. Um, showing that he has, um, some delays.  
2 That he's, um, on the lower end.

3 Q Um, were the results that you obtained from the  
4 Woodstock-Johnson (sic) test that you conducted  
5 in October of 2002, um, significantly different  
6 in any way than the two previous tests that you  
7 testified about from the Reedsville School  
8 District?

9 A No. Generally, results are consistent.

10 Q Uh, is, uh, there any reason to believe that, uh,  
11 there would be significant changes in  
12 Mr. Dassey's, uh, intellectual abilities between  
13 October, 2002 and February or March of 2006?

14 A No.

15 Q Um, from your review of Mr. Dassey's, uh, records  
16 from the Mishicot School District, uh, and your  
17 own evaluation, do you have, uh, any opinion as  
18 to what Mr. Dassey's overall cognitive ability  
19 is?

20 A Um, Brendan has an -- overall, some delays. Again,  
21 it's within a borderline to below average range,  
22 intellectually, overall. He does struggle more with  
23 the verbal abilities, um, as well as memory. He  
24 struggles with short-term memory kinds of tasks.  
25 Working memory.

1                   He has strengths in the area of visual  
2                   spacial problem solving. For example, solving  
3                   puzzles. Um, he had below average to average  
4                   score in that range, which is thinking ability.  
5                   And he does better there.

6                   There is a range of intelligence with a  
7                   cognitive disability being the lowest range, and  
8                   that was formally known as mental retardation.  
9                   Brendan's scores do not fall within that range.  
10                  He is not that low.

11                  He has been identified with a specific  
12                  learning disability and, as a result, has needs,  
13                  um, and delays in the area of reading, written  
14                  expression, and spelling skills related to his  
15                  cognitive levels. Um, math is an area of  
16                  strength for Brendan.

17    Q            Based on those scores and your observations of  
18                  Brendan, does he have a -- how would you describe  
19                  the difficulty he has, if any, in, uh,  
20                  communicating information, uh, to others?

21    A            Brendan has also been identified with a speech and  
22                  language impairment, particularly in the area of  
23                  language. He has difficulties expressing himself,  
24                  verbally, using his words, as well as understanding  
25                  some aspects of language. For example, in the school

1 setting, um, understanding some directions, um,  
2 without assistance.

3 Um, he also has difficulties in the area  
4 of the social aspects of communication, and that  
5 would be such as, um, understanding and using  
6 nonverbal cues, facial expressions, eye contact,  
7 body language, tone of voice.

8 ATTORNEY KACHINSKY: Um, I have no further  
9 questions. We'd move Exhibits, uh, 3 and 4 into  
10 evidence.

11 THE COURT: Any objection to Exhibits 3 and  
12 4?

13 ATTONREY KRATZ: No. That's fine, Judge.

14 THE COURT: Offered and received. May I  
15 have those, please? Thank you. Cross.

16 **CROSS-EXAMINATION**

17 BY ATTORNEY KRATZ:

18 Q Miss Schoenenberger-Gross, can you describe how  
19 children within your school district are  
20 identified as qualifying for special ed services?

21 A Um, initially a referral would need to be made by a  
22 parent or a teacher if there are concerns that there  
23 might be delays, and then we would go through an  
24 evaluation process, which includes interviews, review  
25 of school records, um, formal testing, observations,

1 and then we meet as an IEP team to determine whether  
2 or not the student meets the eligibility criteria  
3 that's been set by the state to --

4 THE REPORTER: You're going to have to  
5 slow down.

6 ATTORNEY KRATZ: Slow down.

7 THE WITNESS: Where should I -- Where  
8 should I back up?

9 THE REPORTER: Uh, "student meets the  
10 eligibility --

11 THE WITNESS: We determine, as a team,  
12 if, um, the student meets the state eligibility  
13 criteria for disability, and whether or not the  
14 student has a need for special education  
15 services.

16 Q (By Attorney Kratz) Okay. As I understand,  
17 Brendan was identified, prior to coming to  
18 Mishicot High School, as qualifying for special  
19 ed services; is that right?

20 A Yes.

21 Q Now, special ed services, um, is not just you get  
22 them or you don't. It's a whole continuum or a  
23 range of services that can be offered to  
24 students; is that right?

25 A Correct.

1 Q Some students have such disabilities or deficits  
2 that they can't be in regular classes; is that  
3 true?

4 A Correct.

5 Q Was Brendan one of those kids?

6 A No, he was not.

7 Q Some students have such emotional problems that  
8 they are in what's called a self-contained  
9 setting. Can you tell us what that is?

10 A Um, that would be if the student is, um, completely  
11 in a special education classroom and does not go into  
12 the regular education classroom at all.

13 Um, you were referring to some students  
14 with behavior problems and -- and those would be  
15 because of social and emotional behavioral  
16 difficulties --

17 THE COURT: Again, you're going to have --  
18 you're going to have to slow up.

19 THE WITNESS: Okay.

20 Q (By Attorney Kratz) You said that those would be  
21 some emotional or behavioral problems, uh, in  
22 addition to some special ed problems that would  
23 require them to be what's called self-contained;  
24 is that correct?

25 A Correct.

1 Q Was Brendan one of those kids?

2 A No, he was not.

3 Q Brendan was in regular classes; is that right?

4 A He had a combination. He was primarily in regular  
5 education classes with, um, a couple of classes that  
6 were in the special education classroom.

7 Q Is Brendan at all incompetent?

8 A No.

9 Q Is Brendan mentally retarded?

10 A No, he's not.

11 Q Is Brendan, to your knowledge, psychotic?

12 A Not to my knowledge.

13 Q Does Brendan suffer from ADD or ADHD to your  
14 knowledge?

15 A Not to my knowledge.

16 Q Does Brendan have such deficits that he needs to  
17 be medicated to your knowledge?

18 A Not to my knowledge.

19 Q Do you have an opinion as to whether Brendan can  
20 understand right from wrong?

21 A In the school setting, um, Brendan is a student who  
22 typically follows the school rules. He does not tend  
23 to get in trouble. Um, so, to me that demonstrates  
24 that he does understand right from wrong.

25 Q All right. So, in review of your school records

1 he was able to, if he chose to, follow a code of  
2 conduct; is that right?

3 A Yes.

4 Q Do you have an opinion as to whether Brendan has  
5 the ability to observe, and process, and recall,  
6 and later describe events?

7 A Yes.

8 Q Yes, he -- you have an --

9 A Yes.

10 Q -- opinion or, yes, he does.

11 A Oh, yes. Yes, I -- Yes, I believe that he can.

12 Q Okay.

13 A He does.

14 Q So, there's nothing about Brendan's deficits or  
15 lower than average abilities that affect his  
16 ability to tell somebody what happened yesterday;  
17 is that right?

18 A Right. Correct.

19 Q You said that Brendan's test scores, at least  
20 some of them, fall within simply the below  
21 average range. Is there a, um -- I think you  
22 mentioned the continuum of average and below  
23 average, but what comes after that?

24 A As far as with intellectual ability --

25 Q Yes.

1 A -- for example?

2 Q Um-hmm.

3 A Um, there's an average range. Then there would be a  
4 below average range. A borderline range. And well  
5 below average. Well below average being the area of  
6 cognitive disability.

7 Q Okay. Is there something below that?

8 A No.

9 Q Well below average is as low as -- as you go in  
10 cognitive ability?

11 A Um-hmm. Lower extreme, well below average. Um-hmm.

12 Q As I understand, Brendan was making progress  
13 through high school in some of these areas.  
14 Specifically, um, um, socially. His, uh, social  
15 skills were improving; is that right?

16 A Um-hmm. He -- as far as he was able to participate  
17 in primarily regular education classes throughout the  
18 day with his same-aged peers, and that -- in that  
19 way, I would say, yes, that he'd made progress. Yes,  
20 sir.

21 Q And -- and -- and, importantly, what I'm -- I  
22 need to ask you, Miss -- Miss  
23 Schoenenberger-Gross, is that he was placed with  
24 his peers, with other kids. He was integrated  
25 with the rest of these kids at school; is that



1 correct?

2 A Correct. Um-hmm.

3 Q Not every high school student is average; is --

4 is that true?

5 A That is true.

6 Q There's some above average and some below

7 average; is that right?

8 A Correct.

9 Q And although Brendan, um, may have been in the

10 below average range, uh, you're not suggesting

11 that he didn't understand things, or his

12 surroundings, or wasn't able to, uh, be

13 responsive; is that fair?

14 A Yes. Can I clarify something --

15 Q Please do.

16 A -- from a previous question?

17 Q Sure. Uh-huh.

18 A You had asked about, um, whether or not he'd be able

19 to tell you, for example, about his day. Um, to

20 be -- to be clear, yes, he is able to do that. But

21 he does have those communication needs which, um, in

22 the school setting, um, he might not look at you.

23 Those social communications just -- you know, aspects

24 would come into play, um, as far as, you know, when

25 talking with him. But he is capable of remembering

1           what happened and telling you about those things.

2   Q       My question is, if he chose to communicate

3           something to you about what had happened before,

4           uh, he would have the ability to do that --

5   A       Yes.

6   Q       -- is that right?

7   A       Yes.

8   Q       Now, you haven't watched this videotape? You

9           haven't watched the detail in which he provided

10          to law enforcement about, uh, things that he was

11          involved in, were you?

12  A       No.

13  Q       And there were no behavior intervention plans

14          with Brendan that were necessary at school, were

15          there?

16  A       No.

17  Q       This may be something you can or can't answer.

18          And if not, just let me know. But as you or

19          another teacher would see Brendan interacting at

20          school or functioning at school, would he

21          function just like a normal high school kid?

22  A       Um, yes. Um, aside from some of the communication

23          differences that you might see. Um, the -- the

24          diminished eye contact, for example, where other kids

25          are typically making eye contact more frequently.

1 But, otherwise, yes.

2 Q Otherwise looks pretty normal --

3 A Yes.

4 Q -- is that right? Okay.

5 ATTORNEY KRATZ: That's all I have for  
6 this witness, Judge. Thank you.

7 THE COURT: Any redirect?

8 ATTORNEY KACHINSKY: Um, yes.

9 **REDIRECT EXAMINATION**

10 BY ATTORNEY KACHINSKY:

11 Q You testified that, uh, Mr. Dassey had problems  
12 affecting his short-term memory. How would that  
13 affect him in -- in everyday life in terms of his  
14 ability to receive events or to communicate  
15 regarding them?

16 A Um, specifically, you know, looking at the short-term  
17 memory, um, you know, I can speak to it in the school  
18 setting as to how that can impact his ability to, um,  
19 learn to read and remember, um, and identify letters  
20 and -- and the sounds that go with those letters,  
21 and -- and words, and as far as getting that  
22 information into short-term memory. Um, in everyday  
23 life, um, perhaps -- I -- I guess -- I -- I don't  
24 want to speak to that. I can't -- I don't feel  
25 comfortable being able to answer that.

1 Q And you said that Mr. Dassey had difficulties,  
2 uh, in picking up nonverbal cues. If, uh, he's  
3 involved in a conversation with a couple of,  
4 uh -- of adults in some sort of setting, uh, how  
5 would that problem affect his ability to  
6 communicate either in terms of, uh, understanding  
7 information or being able to provide it to  
8 others?

9 A Um, to some of -- I think it's getting beyond my  
10 scope, because I'm not a speech and language  
11 pathologist who is the person that would specifically  
12 be working with Brendan on those aspects.

13 ATTORNEY KACHINSKY: That's all the  
14 questions I have.

15 THE COURT: All right. Any, uh -- any  
16 recross?

17 ATTONREY KRATZ: No, Judge. Although, uh,  
18 I know that Ms. Schoenenberger-Gross had brought,  
19 uh, a volume of records with -- with her. I didn't  
20 know if Mr., um, Kachinsky intended to complete the  
21 record by having those introduced, and I don't have  
22 any -- any objection if he's going to do that.

23 ATTORNEY KACHINSKY: Uh, I don't intend to  
24 introduce them, Your Honor.

25 THE COURT: Okay. Uh, you may step down.

1 You want to give her those records back?

2 ATTORNEY KACHINSKY: Right.

3 THE COURT: Yeah, why don't you come back  
4 here and pick up the records. Do you have any  
5 further witnesses, Mr. Kachinsky?

6 ATTORNEY KACHINSKY: No, Your Honor.

7 THE COURT: Uh, gentlemen, I have  
8 received -- Go ahead.

9 ATTORNEY KRATZ: Judge, the -- at any  
10 hearing, especially at a, um, uh, hearing to  
11 suppress statements, there would be the  
12 opportunity to call the defendant, Brendan, as a  
13 witness. It appears that Mr. Kachinsky is  
14 choosing, uh, by a trial strategy or other  
15 reason, not to do that. I'd ask the Court to  
16 engage in a brief colloquy with Counsel, and,  
17 perhaps, even Mr. Dassey as to their choice not  
18 to do that. I think we have to complete the  
19 record.

20 THE COURT: All right. Uh, Mr. Kachinsky,  
21 you heard what Mr. Kratz said; correct?

22 ATTORNEY KACHINSKY: Yes, I have, Your  
23 Honor.

24 THE COURT: Yeah. And you know you have  
25 the opportunity to call your client at this point

1 should you choose?

2 ATTORNEY KACHINSKY: Uh, yes, I do, and,  
3 uh, Mr. Dassey and I have discussed that.

4 THE COURT: You have had ample opportunity  
5 to discuss it with him?

6 ATTORNEY KACHINSKY: Yes, I have.

7 THE COURT: He understands that he could  
8 offer testimonial information today in this court  
9 proceeding?

10 ATTORNEY KACHINSKY: Yes, he does.

11 THE COURT: And, uh, I don't want to invade  
12 the lawyer/client relationship, but, presumably, for  
13 one reason or another, you are choosing, and he is  
14 choosing, not to do that.

15 ATTORNEY KACHINSKY: Correct, Your Honor.

16 THE COURT: All right. I -- I'm not going  
17 to make an inquiry of the defendant.

18 ATTONREY KRATZ: That's fine, Judge.

19 THE COURT: Um, either of you have anything  
20 else -- Both of you have submitted a number of,  
21 uh -- or submitted in written argument form the  
22 various, uh, cases and points of law that you think  
23 the Court ought to be relying on here. I certainly  
24 never would try to stop lawyers from arguing at the  
25 close of any kind of hearing, but, uh, don't feel

1 compelled to. Um, Mr. Kratz?

2 ATTORNEY KRATZ: Judge, I do have a brief  
3 argument if the Court would -- uh, would entertain  
4 that at this time. I'm certainly prepared if -- if,  
5 um -- if the Court prefers --

6 THE COURT: Sure.

7 ATTORNEY KRATZ: -- that we not do that,  
8 I can --

9 THE COURT: Well, that's fine, but  
10 before -- before you argue, uh, for the record, I'm  
11 going to, uh, number as Exhibit No. 5, I think, in  
12 this case, we've got four exhibits here, the, uh --  
13 the items that we had stipulated to, or that you had  
14 stipulated to at the, uh -- at the beginning of this  
15 hearing, specifically, Exhibit 5, will consist of  
16 the following:

17 A cover letter from Mr. Kratz dated, uh,  
18 April 7, 2006.

19 And a cover letter, uh, will be used as  
20 an inventory for a number of electronic  
21 recordings that accompanied that letter.

22 Uh, additionally, a transcript of --  
23 excuse me -- the March 1, 2006, hearing, or -- or  
24 interview, rather, with, uh, uh, that transcript,  
25 consisted of pages 525 to 677.

1 Uh, Exhibit 5 will be closed out with a  
2 cover letter from Attorney Kachinsky dated, uh,  
3 April 28, 2006, with the transcript of the, uh,  
4 March -- or of the February 27, 2006, interview  
5 bearing pages numbered 439 to 512. Anything  
6 else?

7 ATTONREY KRATZ: No.

8 THE COURT: Go ahead.

9 ATTONREY KRATZ: Thank you, Your Honor.  
10 This is a -- a case that includes a very detailed  
11 admission by a young man, uh, inculcating himself in  
12 some very serious criminal conduct.

13 When this Court considers the  
14 voluntariness of those statements, uh, the  
15 Wisconsin and U.S., uh, courts that are based,  
16 uh, in Wisconsin law, uh, suggest that the Court  
17 need first find some improper police conduct, uh,  
18 before the Court even does a balancing of the  
19 defendant's personal characteristics.

20 And that becomes, uh, uh, important in  
21 this case because the State argues there's  
22 absolutely no improper police conduct that has  
23 been suggested. Nothing by Mr. Kachinsky in his,  
24 brief, uh, or his, uh, response memorandum, nor  
25 anything elicited today that would rise to the



1 level of improper police conduct.

2 The interview on March 1 was clearly a  
3 witness interview, not a suspect interview. And  
4 it wasn't until, as this Court's reviewed that  
5 interview, about halfway through, when Mr.  
6 Dassey, himself, starts providing some very, uh,  
7 disturbing details about, uh, his involvement and  
8 Mr. Avery's involvement, uh, that more questions  
9 were asked, uh, about that.

10 Some cases involve confessions and  
11 admissions, and especially serious cases, even  
12 homicide cases, uh, I don't think it's a stretch  
13 to say there isn't any real criminal justice  
14 advantage or justification, uh, in making those,  
15 uh, confessions. And so when the Court wonders  
16 why, or considers why, an individual, uh,  
17 inculcates themselves, or confesses, or, uh,  
18 tells the police that they were involved in real  
19 serious behavior, the motive for those  
20 confessions become im -- uh, important to  
21 understand.

22 There can, of course, be emotional  
23 reasons why people confess. I feel guilty, or  
24 I'm going to feel better if I'm truthful and I'm  
25 confessing about this. A demonstration of

1           remorse.

2                       There can be a spiritual or moral reason  
3 to confess. The confession being good for the  
4 soul type of thing, or, uh, in a very base sense,  
5 the practical reason to confess. If a person  
6 thinks that the police are going to find out  
7 anyway, or they already know what happened, they  
8 hope to obtain some practical benefit in  
9 cooperation or honesty.

10                      But that, uh, number of reasons, or  
11 combination of reasons, usually is why we're in  
12 these circumstances, uh, in deciding, uh, why an  
13 individual confesses. But, again, it's only if  
14 those confessions or admissions are the product  
15 of improper police pressures, or improper  
16 strategies, uh, does the Court need to consider  
17 whether that statement should be suppressed as  
18 being involuntary.

19                      The success in law enforcement's efforts  
20 in obtaining truthful versions of events or, in  
21 this case, obtaining confessions is what law  
22 enforcement does. They try to get to the bottom,  
23 uh, of what happened.

24                      And, therefore, appellate courts, and  
25 circuit courts before them, recognize and that

1 society benefits from sanctioning permissible  
2 police strategies when encouraging a suspect to  
3 take responsibility, or to allow accountability  
4 for, uh -- for these acts.

5 When we compare what happened in the  
6 Dassey case to other cases in Wisconsin, other  
7 cases that have been sanctioned when deceit has  
8 been used in those other cases, when suspects  
9 have been lied to, when we've got the good cop,  
10 bad cop, uh, strategy, when suspect's been  
11 confronted with physical evidence, even when it  
12 doesn't exist, or when trickery, uh, occurs when,  
13 uh, we invite suspects down to the police  
14 station, all of those have been deemed to be  
15 permissible. We don't have anything that even  
16 approaches those tactics here.

17 When we consider and compare, uh,  
18 permissible strategies to what was used here,  
19 this is prac -- practically a -- a warm and fuzzy  
20 meeting with, uh -- with Mr. Dassey. And I don't  
21 mean at all to diminish the seriousness of -- of  
22 what happened, but I'm arguing, Judge, it isn't  
23 even close. It's not even a close call.

24 There were no threats. There were no  
25 violence. There were no specific promises. No

1 promises of leniency. And when Mr. Dassey's  
2 expected and told by the officers that he's  
3 expected to tell the truth, I think that's just  
4 a -- a common statement of what these officers  
5 believed would occur.

6 Under all of those circumstances, Judge,  
7 when the Court does apply the totality of the  
8 circumstances test, again, I believe there isn't  
9 any improper police conduct. But should the  
10 Court find that there were some subtle pressures  
11 used when compared to Mr. Dassey, when compared  
12 to his personal characteristics of being almost  
13 17, which I would note for the Court in this case  
14 includes original adult court jurisdiction, when  
15 we consider his education level, his intelligence  
16 as being just below average, and, certainly,  
17 functioning adequately within a school setting,  
18 his physical and emotional condition is not such  
19 that, uh, it made anything involuntary.

20 And when he has prior police contacts,  
21 when he demonstrates the ability to resist  
22 suggestion, when he demonstrates a free and  
23 unconstrained will, this Court should and must  
24 allow these statements to be admitted. I'm  
25 asking the Court deny Mr. Kachinsky's motion to

1 suppress these statements. Thank you, Judge.

2 THE COURT: Any response, Mr. Kachinsky?

3 ATTORNEY KACHINSKY: Um, yes, Your Honor.

4 In determining whether or not Mr. Dassey's statement  
5 was voluntary, uh, the Court, as, uh, repeatedly,  
6 uh, argued, has to consider the totality of the  
7 circumstances and not look at the tactics that were  
8 used, uh, in isolation in and of themselves.

9 Uh, certainly under the facts of this  
10 case, if the person that was the subject of the  
11 interrogation was 43-year-old -- 43 years old  
12 instead of, uh, 16 years old, if he had  
13 substantial criminal justice, uh, experience  
14 instead of having none, uh, if he had average or  
15 above average cognitive abilities, uh, instead  
16 of, um, below average as documented by school  
17 records from Mishicot and the testimony of  
18 psychologists, uh, clearly the State would be,  
19 uh -- be correct.

20 Of course, the person to meet those  
21 opposite characteristics of Mr. Dassey is his  
22 uncle, uh, Mr. Avery, but it's not Mr. Avery that  
23 was the subject of his interrogation. The  
24 subject of the interrogation and the questioning  
25 was Brendan Dassey, and the fact that, uh,

1           Detective Wiegert chooses to characterize this as  
2           a witness versus a suspect interview is not at  
3           all determinative as to whether or not it was,  
4           uh, voluntary or not.

5                         Certainly, the Court's, uh, seen the  
6           tapes, reviewed the transcripts, knows from its  
7           own observations this was not the classic third  
8           degree sort of, uh, interview that you'd see on,  
9           uh -- on TV shows where someone is isolated in a  
10          room with a couple of detectives, where there's  
11          spotlights and suggestive questioning, and  
12          things, uh, of that nature. But this is,  
13          instead, uh, much subtler, uh, and, uh, from the  
14          results, uh, much more effective means, of  
15          interrogation of someone.

16                        Uh, and I think it's important to listen  
17          to specific wording, and the Court has, uh -- has  
18          the benefit of the videotape, and I'm sure has  
19          reviewed it and can see the context into which  
20          those statements were made to Mr. Dassey on a  
21          continuum starting with the 27th of -- of  
22          February.

23                        I think it's clear that when the police  
24          decide to interview, uh, Mr. Dassey on the 27th  
25          of February they certainly strongly had at least

1 a theory that he might have been involved in some  
2 respects, and, to some extent, Mr. Dassey  
3 confirmed that on the 27th when he indicated his  
4 observations of seeing body parts in a, uh,  
5 bonfire, which would have, at a minimum, perhaps,  
6 implicated him in the participation in the  
7 burning of a -- burning of a corpse, which is one  
8 of the three charges that he's now, uh -- now  
9 facing.

10 He was -- Uh, the police, both on  
11 February 27, and, to an even greater extent on  
12 March 1, uh, minimized the seriousness of the  
13 trouble that Mr. Dassey, uh, was in, and not  
14 having had any criminal justice experience  
15 Mr. Dassey, uh, didn't have any reason to, uh,  
16 not -- not believe them. They had -- they said  
17 they would be an advocate for him, um, uh, go to  
18 bat for him. Well, what, exactly, did that mean?  
19 And what expectations did that create in Mr.  
20 Dassey as to whether or not he'd be facing the  
21 sort of trouble that he's facing, uh, at this  
22 time?

23 And the Court, then, makes -- or, excuse  
24 me, not the Court. But they make the statement  
25 to Mr. Dassey, well, honesty will set you free.

1           The Court has seen the tape, seen the context  
2           into which, uh, that particular statement was  
3           made, uh, and it's not at all clear that that's  
4           a -- a reference to some sort of psychological  
5           or, uh, spiritual freedom as opposed to the  
6           physical freedom of not being surrounded by  
7           police officers even in a soft, uh, interview  
8           room and being subjected to questioning about  
9           some of the most serious charges that anybody can  
10          face, uh, in state of Wisconsin.

11                       Um, so we ask the Court to look at all  
12          the circumstances of this. Both Brendan's  
13          characteristics in terms of his age, uh, his lack  
14          of experience with the criminal justice system,  
15          uh, and, um, intellectual abilities, as well as  
16          the unrealistic, uh, impressions that were  
17          fostered upon him by continuous, uh, statements  
18          made by both detectives and find that, under  
19          those circumstances dealing with the suspect of  
20          Brendan's characteristics, that those were, uh,  
21          improper by giving him far greater expectations  
22          of leniency and favorable treatment than he was  
23          entitled to receive, find that those statements  
24          were involuntary and should not be admissible at  
25          the trial in this case.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Any response?

ATTORNEY KRATZ: No, Judge, nothing. Thank you.

THE COURT: All right. Uh, the Court will render a decision on this motion on May 12 at 9:00 a.m. At that time, or shortly after that, uh, you have another motion filed here, Mr. Kachinsky, relating to the property bond, we'll take that up as well.

ATTORNEY KACHINSKY: Okay.

THE COURT: Uh, any further proceedings today, gentlemen?

ATTORNEY KRATZ: Not for today, Judge. Thank you.

ATTORNEY KACHINSKY: No, Your Honor.

THE COURT: All right. We're adjourned.

(PROCEEDINGS CONCLUDED.)

1 STATE OF WISCONSIN )  
2 )SS.  
3 COUNTY OF MANITOWOC )

4 I, Jennifer K. Hau, Official Court  
5 Reporter for Circuit Court Branch 3 and the State  
6 of Wisconsin, do hereby certify that I reported  
7 the foregoing matter and that the foregoing  
8 transcript has been carefully prepared by me with  
9 my computerized stenographic notes as taken by me  
10 in machine shorthand, and by computer-assisted  
11 transcription thereafter transcribed, and that it  
12 is a true and correct transcript of the  
13 proceedings had in said matter to the best of my  
14 knowledge and ability.

15 Dated this 29th day of August, 2006.

16  
17  
18 *Jennifer K. Hau*  
19 Jennifer K. Hau, RPR  
20 Official Court Reporter  
21  
22  
23  
24  
25