

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

IN RE: THE MATTER OF:

ASHLEY CHRISTINA BENEFIELD,

Petitioner,

and

CASE NO.: 2018-DR-01823

DOUGLAS GLASS BENEFIELD,

Respondent.

_____/

DEPOSITION OF: DOUGLAS GLASS BENEFIELD

TAKEN BY: Petitioner Herein

BEFORE: MELISSA GROMKO
Notary Public
State of Florida

DATE: July 17, 2018
Commencing at 10:03 a.m.

PLACE: Vincent Lucente & Associates
526 12th Street West
Bradenton, Florida

APPEARANCES:

MARK A. SESSUMS, ESQUIRE
3014 W. Palmira Avenue
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Tampa, Florida 33629
Appearing on Behalf of
the Petitioner

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Appearing on Behalf of
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1 DOUGLAS GLASS BENEFIELD,
2 having been produced and first duly sworn as a
3 witness on Behalf of the Petitioner, testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. SESSUMS:

7 Q. State your full name for the record, please,
8 sir.

9 A. Douglas Glass Benefield.

10 Q. Sir, we sent you a notice of taking
11 deposition duces tecum, and I saw last night that
12 there was an objection to some of the paragraphs, but
13 did you bring any documents with you today?

14 A. Yes.

15 Q. So the notice of taking deposition duces
16 tecum that we sent we'll mark as Exhibit 1 here
17 today. Let me see what you brought with you, if we
18 could.

19 A. (Hands documents).

20 Q. You brought a list of medications. We'll
21 mark what you've produced as Exhibit 2, just for the
22 record. Do you have a copy of it, sir? Do you have
23 a copy of it?

24 A. I'm sorry. Say it again, Mark.

25 Q. Do you have a copy of what you handed me, or

1 no?

2 A. That I handed you?

3 MS. MURPHY: He's seen all the copies, if
4 you want to just go through them and show
5 him --

6 MS. SESSUMS: I'll run through them with
7 him. Do you have a copy for him, or no?

8 MS. MURPHY: Not just free like that.

9 BY MR. SESSUMS:

10 Q. All right. The first is it says my
11 medication list. This is for yourself personally?

12 A. Yes.

13 Q. These are medications you're on currently?

14 A. I'm on no medications currently. Those are
15 medications from when I had back surgery.

16 Q. Okay. You're on no medications; is that
17 what you just said?

18 A. I'm on no medications.

19 Q. Okay. The last time you took medications
20 that had any narcotics was when, sir?

21 A. It would -- I can't remember exactly, but it
22 would have been in the medical notes where I was
23 actually at the VA with Ashley, and it's actually in
24 the medical notes, whatever the date that was.

25 Q. Do you recollect the date?

1 A. I can't remember.

2 Q. Do you remember the year?

3 A. Yeah. It would have been early 2017.

4 Q. Since early 2017 is your testimony you
5 haven't taken any narcotic drugs?

6 A. Correct. This was February 14th, and
7 there's actually notes in here, his wife endorses
8 most days he's miserable, was because I was not
9 taking pain medications, I was just taking mostly
10 Tylenol.

11 Q. And you took the pain medications, your
12 testimony, due to a back surgery?

13 A. I had a disc fused, yes.

14 Q. What level?

15 A. It's in there. Lower two discs.

16 Q. In the lumbar?

17 A. Yeah.

18 Q. Okay.

19 A. It would be in the medical notes.

20 Q. In terms of alcohol, what's your alcohol use
21 pattern currently?

22 A. Almost no alcohol, and when I drink, very
23 infrequently, it's beer, and it's always been the
24 case.

25 Q. When you drink beer, how much do you

1 typically consume in terms of --

2 A. If I drink beer, maybe a beer or two.

3 Q. You mean one or two literally?

4 A. Yes. That's what I said, one or two
5 literally. That's it.

6 Q. People mean different things by those
7 comments, believe it or not. You mean one or two
8 glasses of beer at a time is what you're saying is
9 what you currently drink.

10 A. When I sit down at a meal, such as with
11 Ashley, I would drink maybe one or two beers when I
12 had a beer.

13 Q. Okay. In the course of a day when you were
14 married and living with Ashley did you ever consume a
15 beer to excess such that you were intoxicated?

16 A. Never, ever.

17 Q. So it's your testimony that when living with
18 Ashley Benefield you were never, ever intoxicated at
19 any point in time?

20 A. I was never intoxicated.

21 Q. What's your present residential address,
22 sir?

23 A. 701 Preservation Place.

24 Q. What city is that in?

25 A. Mount Pleasant, South Carolina.

1 Q. Do you have a residence in the state of
2 Florida?

3 A. No, I do not.

4 Q. Have you looked for a residence in the state
5 of Florida?

6 A. I've begun looking, yes.

7 Q. When you say you've begun looking, what have
8 you done to look for a residence in the state of
9 Florida?

10 A. I hired -- have a realtor that has looked
11 for houses for me.

12 Q. Have you actually gone and physically looked
13 at houses?

14 A. Yes, I've looked at a couple houses, mostly
15 townhouses.

16 Q. What's your intention?

17 A. My intention is to be near my baby.

18 Q. All right. So is it your intention to
19 purchase real estate such that you can reside in
20 proximity to Ashley Benefield?

21 A. My intention is to be in proximity to my
22 child.

23 Q. Okay. But focus on my question. Do you
24 have an intention to live proximate to Ashley
25 Benefield?

1 A. I said my intention was to live proximate to
2 my child.

3 Q. But that wasn't my question. You're
4 answering something that's different from my
5 question. I want to make sure we're on track and
6 we're communicating. Do you know where Ashley lives?

7 A. Yes, I do.

8 Q. Have you been there?

9 A. Yes.

10 Q. Have you stood outside of her residence
11 where she lives currently?

12 A. Yes. While we were married and were
13 together.

14 Q. Okay. So since you were -- what do you fix
15 as your date of separation?

16 A. The day that Ashley left us, on September
17 18th, the same day the ballet started, and she left
18 me with 40 dancers.

19 Q. You're getting off track. I just asked you
20 the date of separation and now you want to talk about
21 the ballet company. We have a limited amount of time
22 today. We're just going to focus on the domestic
23 violence, so just answer my question if you don't
24 mind.

25 A. Sure.

1 Q. I understand you're emotional. I understand
2 you're upset, but I want answers to my question if
3 you can do it for me, okay?

4 A. Absolutely.

5 Q. So on September 18th she left and returned
6 to Florida?

7 A. On September -- August 25th I drove her to
8 Florida, but on September 18th is when she came back
9 to Charleston to leave a note.

10 Q. Okay. Did she come in the residence?

11 A. Yes, she did.

12 Q. Did she take things of hers?

13 A. Yes, she did.

14 Q. Did she only take her personal items?

15 A. As far as I know, yes.

16 Q. She left a note saying she wasn't coming
17 back?

18 A. She did not specifically say she wasn't
19 coming back, as far as I remember the note.

20 Q. What do you remember the note saying?

21 A. It was a laundry list of allegations against
22 me.

23 Q. Do you have the note?

24 A. No, I do not.

25 Q. Where's the note?

1 A. Well, I tore up the note, but apparently she
2 kept a picture of it because she turned it in when --
3 she already had it when she went to the doctor and
4 left it with the doctor.

5 Q. She left it with the doctor in South
6 Carolina?

7 A. Correct. On September 18th.

8 Q. The OB/GYN you're talking about?

9 A. Correct.

10 Q. But you tore up your note?

11 A. Absolutely.

12 Q. Okay. And do you remember what her
13 allegations were against you at that time?

14 A. To the best of my memory, it was -- kind of
15 categorizing it. It was a long list of repairs that
16 needed to be made in the house, which I -- it's a
17 25-year-old house and --

18 Q. I'm not asking you justification for why the
19 repairs weren't made. I'm asking what did the note
20 say?

21 A. It was a laundry list of repairs that needed
22 to be made on the house. It was allegations that I
23 was controlling and manipulative and a few other
24 descriptive words, but in that general category.

25 Q. Anything about abuse?

1 A. I don't remember it saying anything about
2 abuse, but that will be in the copy she left with the
3 doctor.

4 Q. Up until that time, up until September 18th,
5 do you believe you'd been abusive to her in any way,
6 shape or form?

7 A. Absolutely not.

8 Q. Tell me about the incident in terms of the
9 shooting of the gun into the ceiling.

10 A. On that day --

11 Q. What date was that?

12 A. It will be in the -- can we go back and look
13 at --

14 Q. You can look at whatever you want to.

15 A. Okay. In her notes, in her allegations, she
16 said June 15th.

17 Q. Do you believe that was the date?

18 A. It was -- would have been there or
19 thereabouts because it was --

20 Q. I'm not asking you why. I'm asking you do
21 you believe that to be the date?

22 A. Yes, I believe that would be about the date.

23 Q. June 15th of what year?

24 A. 2017.

25 Q. What's the date of your marriage?

1 A. September 7, 2016.

2 Q. Okay. What's the date you met; do you know?

3 A. August 25, 2016.

4 Q. All right. And you fixed the date you
5 separated as the date she came and took her items and
6 left the note; is that what you were saying?

7 A. I don't know what the legal definition of
8 separated is.

9 Q. I'm not asking you the legal definition. Do
10 you fix the date that you separated from Ashley
11 Benefield as the date she came back and took her
12 items?

13 A. Yes. Yeah.

14 Q. Have you seen her again?

15 A. No, I have not seen her since September
16 18th.

17 Q. Since September 18th have you physically
18 gone to any location that you believe to be her
19 residence?

20 A. No.

21 Q. So if neighbors have seen you in proximity
22 to her residence is it your testimony you haven't
23 been there?

24 A. Absolutely. I have not been there.

25 Q. You haven't driven by her residence?

1 A. I drove by with the realtor one time when we
2 were looking in Central Park.

3 Q. When you were looking in Central Park; is
4 that what you said?

5 A. Correct, which is the neighborhood her
6 mother lives in.

7 Q. Did you know it to be the neighborhood her
8 mother lived in?

9 A. Yes.

10 Q. And you didn't try to avoid going by?

11 A. I didn't say anything to the realtor, so he
12 just drove me around.

13 Q. And when was that, date-wise?

14 A. I don't remember. It would have been in the
15 timeframe of probably January or February.

16 Q. Of?

17 A. The realtor -- it would probably be in the
18 realtor's notes or my notes or e-mails.

19 Q. January, February of 2018?

20 A. Correct.

21 Q. Okay. And did you stop in front of her
22 residence?

23 A. No, we did not.

24 Q. So you -- it's your testimony other than
25 that one time that the realtor -- you're saying the

1 realtor was driving?

2 A. Correct.

3 Q. Other than the time the realtor drove by her
4 residence without knowing that it was your wife's
5 residence, obviously, you're saying that's the only
6 time you've been within 500 feet of her residence?

7 A. Correct.

8 Q. If neighbors have seen you, your testimony
9 is that wasn't you?

10 A. Correct.

11 Q. Okay. Did you send her any package after
12 September 18th?

13 A. I sent her a birthday package.

14 Q. When did you send it?

15 A. I sent that on November 27th.

16 Q. So on November 27th you put a package in the
17 mail in South Carolina?

18 A. Yes.

19 Q. And what were the contents of the package?

20 A. It was a -- tea cups and plates matching
21 from Pottery Barn, a set of four for her and her
22 mother. It was a tea press from Teavana and some
23 organic tea for pregnant women from Teavana.

24 Q. Is that it?

25 A. Yes. And a note card.

1 Q. What's the note card say?

2 A. A handmade note card.

3 Q. Sorry?

4 A. A handmade note card.

5 Q. What did it say?

6 A. I'll read it. It was a handmade note card
7 and it said happy birthday to the apple of God's eye,
8 dated 11/27/17. Dear, Ashley. Beyond anything in
9 the world right now I wanted you to know how much I
10 appreciated and still daily recognize how much you
11 did to show Eva love, to make this home special, and
12 to be a great wife while balancing so much in this
13 complex life we found ourselves in. I hope you have
14 a good birthday and are feeling well and enjoy the
15 beauty of pregnancy. I know God has a great plan for
16 you and I thank him for creating you. With love,
17 Doug.

18 Q. Was that all true when you wrote it?

19 A. Yes, it was true.

20 Q. Still true?

21 A. Yes. For the most part true, yes.

22 Q. When you say for the most part, is it all
23 true?

24 A. In retrospect, not all true.

25 Q. What's not all true?

1 A. Understanding some of what she caused to
2 happen in our home.

3 Q. You said she was a good mother to your
4 daughter, Eva, right?

5 A. I said I appreciated --

6 Q. Correct? Did you say she was a good mother
7 to Eva?

8 A. Let's see what I said. I said I appreciated
9 and still daily recognize how much you did to show
10 Eva love.

11 Q. Right.

12 A. Yes.

13 Q. Does that mean she was a good mother figure
14 to Eva?

15 A. No, it does not.

16 Q. What does it mean?

17 A. A good mother figure or what I said to her?

18 Q. What does it mean that you said to her about
19 Eva?

20 A. Ashley, in her own way, not necessarily that
21 I agreed with, but I gave her the latitude because I
22 trusted her. As having been a stepfather, she truly,
23 in her way, tried to show Eva love. She failed,
24 especially as a step-parent, to recognize Eva's
25 mother had just died and she failed to understand

1 what a 14-year-old, going on 15-year-old teenager
 2 needed and what she didn't need, so she did try
 3 and -- on several occasions, but Eva rejected her.

4 Q. She did her best in a difficult situation,
 5 fair?

6 A. I would not say she did her best in a
 7 difficult situation. She tried in a difficult
 8 situation.

9 Q. She tried to do her best in a difficult
 10 situation?

11 A. Within the limits of her experience.

12 Q. Right.

13 A. But she did not necessarily try to do her
 14 best and I do not agree with that.

15 Q. She didn't do anything wrong?

16 A. Yes, she did do things wrong.

17 Q. You didn't fuss at her at anything she did
 18 wrong when you wrote that letter to her on November
 19 27th, correct?

20 A. No, because I'm a loving husband.

21 Q. Okay. And you wanted your wife to stay with
 22 you because you loved her?

23 A. That is correct.

24 Q. Do you still love her?

25 A. I would have to think about that. Do you

1 want an answer right now?

2 Q. I'm trying to take your deposition, so if
3 you can't answer it, I'll take that as an answer.

4 A. I'll say I don't know right now.

5 Q. Okay. You didn't say anything about mental
6 instability in that note, correct?

7 A. No, I did not.

8 Q. You didn't believe her to be mentally
9 unstable at that time, correct?

10 A. No, I did not.

11 Q. Okay. On November 27th when you wrote that
12 note card was there an injunction in place from South
13 Carolina?

14 A. To my understanding at the time there was
15 not.

16 Q. Did you attend a hearing in South Carolina?

17 A. Yes, I did.

18 Q. What was the date of that hearing?

19 A. I don't know exactly. It would be on the
20 documents from the court.

21 Q. The 23rd of November?

22 A. The court hearing?

23 Q. Yeah. You don't remember?

24 A. I don't. I think it was about a month or
25 five weeks earlier than that.

1 Q. Okay.

2 A. It was a good --

3 Q. You were present?

4 A. Yes, I was present.

5 Q. And you heard what the judge said?

6 A. I heard what the judge said does not equal I
7 understood everything the judge said.

8 Q. Okay. The judge said that the two of you
9 would be restrained from communicating with each
10 other?

11 A. I don't remember exactly what the judge
12 said. I remember mostly that the judge refused to
13 hear testimony. The judge refused to go through her
14 allegations and the judge chastised her and her
15 attorney. That's what I remember the most.

16 Q. Okay. But none of that was what I asked
17 you.

18 A. I'm sorry.

19 Q. Can you focus on what I asked you?

20 A. I don't remember specifically. You could go
21 through the transcript.

22 Q. In the mutual restraining order both of you
23 were prohibited from contacting, stalking or harming
24 each other, correct?

25 A. That is the restraining order the judge

1 wrote, if that's what you're reading from, not what
2 he said at the court.

3 Q. You don't believe he said that in court?

4 A. I honestly don't remember what he said
5 specifically in court. I was sort of in a daze.

6 Q. So are you telling me that you're not
7 responsible for it if he said it at the hearing?

8 A. I'm not a lawyer, and what he said at the
9 hearing was that he would draft his own retraining
10 order, mutual retraining order, and what I remember
11 the most was his irritation at what was being done.

12 Q. What you remember is what?

13 A. His irritation at what was being done, and
14 that's also in the transcript.

15 Q. Why were you saying he was irritated at what
16 was being done?

17 A. Because of Ashley and her attorney filing an
18 emergency protective order, and he chastised them,
19 and it's also in the retraining order where the judge
20 chastised them, finding no grounds for an emergency
21 protective order.

22 Q. But he did issue a retraining order,
23 correct?

24 A. He issued a mutual restraining order
25 applicable to both parties, which took about five

1 weeks for him to send.

2 Q. And the parties stipulated to that
3 retraining order at the hearing, correct?

4 A. I have no idea what stipulated means.

5 Q. Agreed to it. It was announced to the judge
6 that the parties had an agreement and that was what
7 the agreement was, correct?

8 A. My understanding what was stipulated was to
9 the agreement of what Ashley desired with me paying
10 bills.

11 Q. How did the judge reach this conclusion that
12 the two of you wouldn't contact each other; was that
13 based on an agreement between the lawyers, or are you
14 just simply saying you don't remember?

15 A. I don't remember. I can tell you what I
16 recall, but I don't remember specifically.

17 Q. Regardless, you were present for the whole
18 hearing?

19 A. Yes, I was present.

20 Q. You've filed a South Carolina action,
21 correct, for divorce?

22 A. No, I did not file an action for divorce.

23 Q. You filed a complaint which asks for
24 separate maintenance?

25 A. My limited understanding of a separate

1 support and maintenance agreement was to establish
2 financial separation. That was in response to the
3 things that Ashley had already started doing when I
4 found out about her injunction and the allegations
5 that she was making in Florida and the allegations
6 she had made to the sheriff's department.

7 Q. When you filed this you understood she was a
8 resident of the state of Florida, correct, and that
9 she resided in Florida since August 26, 2017?

10 A. Yes, but I live in South Carolina.

11 Q. When you filed this you allege that you were
12 a resident of South Carolina, correct?

13 A. Yes, that's correct.

14 Q. And that's where you intend to remain at the
15 present time, correct?

16 A. For present, yes. I'll say pending what
17 happens with my daughter and the court.

18 Q. Have you -- do you attend church in Florida?

19 A. Yes, I do.

20 Q. Where?

21 A. At Bayside Community Church.

22 Q. And is that a church that Ashley also
23 attends?

24 A. It was the church Ashley attended, yes,
25 Ashley introduced me to.

1 Q. What's the last thing you said?

2 A. And Ashley introduced me to. It is a plant
3 church of a church I go to in Charleston.

4 Q. If you live in Charleston, or the Charleston
5 area, why are you attending church in Florida?

6 A. When I come to town I go to church there
7 and --

8 Q. Why do you come to town?

9 A. Because I'm doing business with the
10 church.

11 Q. Why are you doing business with the
12 church?

13 A. Two levels. When I was attending church
14 there and meeting with the pastors when Ashley -- the
15 reason I started communicating with them again was
16 when Ashley left and I tried to get Pastor Bernard to
17 communicate with Ashley, because she left completely
18 out of the blue with me having absolutely no
19 understanding of what was going on, so I asked Pastor
20 Bernard, who she loved dearly, to contact her. I
21 even spoke to Pastor Randy, but Pastor Bernard
22 reached out to her a couple times. In the process of
23 speaking to Pastor Bernard, and I went to a prayer
24 meeting with Pastor Bernard that was sort of a launch
25 for the church's new year, and in the process met the

1 provost of the college they have there, the Bible
2 college they have there, and one of the things the
3 foundation that -- a partner and I founded acquires
4 and uses ancient manuscripts, like Torahs, to use for
5 churches to understand evidence based apologetics.

6 I brought the Torah back to the college and met
7 with them, and the timing was that they were at the
8 very beginning of desiring to have an apologetics
9 program at the college. One thing leading to
10 another, they were very interested in what we were
11 doing with our foundation in ancient manuscripts. I
12 connected them to a number of fairly well-known
13 apologists that are experts in the area of written
14 books, as well as our partner in some of the
15 businesses. Again, one thing leading to another,
16 they had just decided to grow the college and acquire
17 a 100-acre piece of property to build a new campus
18 for the college. On top of that, they wanted to
19 build an apologetic center, so I connected them with
20 more people in that community, mostly through my
21 partner, Dan, and then began coming down here to plan
22 out this apologetic center, as well as a large launch
23 of a new campus in November.

24 Then on the technology side, I've worked with
25 their property development in-house folks to put some

1 of our 5G technology onto the campus, as well as some
2 of our energy technologies on the campus and make it
3 a green campus.

4 Q. So this is a church Ashley's attended since
5 2011?

6 A. I don't know how long she's attended there,
7 but I don't believe it was 2011, but I can't tell you
8 for sure.

9 Q. When do you think it was?

10 A. I don't know.

11 Q. So you have no idea how long she's attended
12 that church?

13 A. I don't.

14 Q. You said she attended the church before you
15 met her, correct?

16 A. Correct.

17 Q. Do you have any idea how long that was for?

18 A. I would have to guess, just based on
19 impressions.

20 Q. For years?

21 A. I don't know.

22 Q. You said based on impressions. What's your
23 impression?

24 A. She had desired to become --

25 Q. I'm not asking about desire. What was your

1 impression about timing?

2 A. My impression's based on the fact that she
3 tried to --

4 Q. I'm not asking what it's based on. I'm
5 asking what do you think the timing was?

6 A. The timing?

7 Q. You said she attended the church before you.

8 A. Yeah.

9 Q. So my question was what was your impression
10 of how long she had attended the church?

11 A. My guess would be, again, this is just a
12 guess, but on the order of between one to two years
13 maybe.

14 Q. So after the two of you separated in what
15 you said is September 18, 2017 --

16 A. Uh-huh.

17 Q. -- you reached out to the pastor of the
18 church, Bayside Community Church being here in the
19 Bradenton area, correct?

20 A. Correct.

21 Q. You reached out to the pastor of the church
22 where you knew she'd attended in the past?

23 A. Correct.

24 Q. As a part of a reconciliation effort?

25 A. Yes.

1 Q. And you asked the pastor to get in touch
2 with your wife?

3 A. Yes, I did.

4 Q. And did you think that was violative of the
5 retraining order from South Carolina?

6 A. This was before that. This was literally
7 right after she left and before we had -- she had
8 filed this emergency protective order.

9 Q. I'm not sure when you reached out to the
10 pastor of the community church; when are you saying
11 it was?

12 A. It would have been right after September
13 18th, so it would have been --

14 Q. Okay.

15 A. -- late -- between the 18th and the end of
16 September.

17 Q. So then the first time you came down to go
18 to Bayside Community Church was when?

19 A. I can't remember exactly.

20 Q. Just give me your best idea.

21 A. Yeah. Let me think for a second. Yeah, it
22 probably would have been the end of September,
23 beginning of November, sometime in that timeframe.

24 Q. September to November, is that what you
25 said?

1 A. Somewhere in late September, because as soon
2 as I --

3 Q. I'm just asking you dates, sir.

4 A. It would have been -- my best guess, late
5 September, maybe early October.

6 Q. Okay. And you have attended that church how
7 many times?

8 A. Maybe four or five times since September.

9 Q. In September of 2017?

10 A. Four or five times between now and
11 September.

12 Q. Okay. And you're doing that regardless of
13 not living in Bradenton?

14 A. Correct.

15 Q. At no time since September 18th have you
16 lived in Bradenton, correct?

17 A. No, I have not lived, except to obviously
18 stay -- when I stay in town.

19 Q. Where do you stay in town?

20 A. Airbnb and hotels.

21 Q. How would we know the dates you stayed here?

22 A. How could we know?

23 Q. Yeah.

24 A. Look at the -- I can look at the Airbnb
25 account. Hotel charge cards maybe.

1 Q. You could print that out for me?

2 A. I can -- sure. I can look and find them,
3 yes.

4 Q. And have you stayed proximate to her
5 mother's residence at all?

6 A. When you say proximate, do you mean in the
7 same town?

8 Q. I'm saying how far away have you stayed in
9 these Airbnbs?

10 A. The closest, maybe four miles, five miles.

11 Q. Did anybody come with you?

12 A. One time one of the folks from the Artifact
13 Foundation came down with me for a meeting with
14 Bayside.

15 Q. Okay. All right. When we look at the
16 temporary order of protection pursuant to the
17 domestic abuse action in South Carolina, the court
18 says specifically that at the call of the case the
19 parties informed the court they had reached an
20 agreement, so the agreement was recited in front of
21 the judge that day, correct?

22 A. I could not remember exactly. Again, I was
23 in a daze and I had minimum understanding of what was
24 being said.

25 Q. But it specifically says in Paragraph 6 the

1 parties shall have -- or Respondent, meaning you,
2 will have no contact, to include through third
3 parties with SOM, meaning your wife, unless and until
4 it's approved -- I apologize. Hold on one second.

5 It goes on and says in lieu of dismissing this
6 case, and especially since the parties have reached
7 an agreement on certain temporary issues, that the
8 Court declines to take the testimony and approve
9 their agreement and further order as follows: The
10 petitioner/responded are mutually restrained from
11 harassing, threatening, abusing, hurting or harming
12 each other. Paragraph 2, both are restrained from
13 communicating or attempting to communicate with each
14 other and are restrained from entering or attempting
15 to enter the other party's place of residence,
16 employment or other locations when the other is
17 present.

18 You heard that announced before the Court on the
19 date of the hearing, which was November 3, 2017,
20 correct?

21 A. I do not remember that. I'll tell you what
22 I do remember.

23 Q. I'm not asking you what you do remember.

24 A. I don't remember that specifically, and I
25 don't recall in my understanding of what was being

1 said that that was the --

2 Q. But you recognize from the verbiage in the
3 order that the hearing was on November 3rd, correct?

4 A. That sound about right, but I don't know.

5 Q. This order was signed November 27th, the
6 same day you sent your package, correct?

7 A. Correct. That I did not receive until
8 afterwards, and everything with Pastor Bernard was
9 before all that.

10 Q. But you attended the church in November?

11 A. Attending the church is not the same as
12 asking --

13 Q. I didn't ask you whether it was the same or
14 not. Did you attend the church in November?

15 A. I don't remember if I attended in
16 November.

17 Q. Do you have the dates you attended?

18 A. I would have to look back and see what the
19 dates are. Those are the dates I'll get to you.

20 Q. Was attending the church part of your effort
21 for reconciling with your wife?

22 A. Not specifically, but --

23 Q. Generally?

24 A. I was trying to find out what was going on
25 with my wife and reconcile.

1 Q. Okay.

2 A. That was my desire.

3 Q. All right. Let's go back to the incident
4 with the gun; that occurred when?

5 A. Let's go back to it. According to Ashley,
6 she put in her allegations June 15th.

7 Q. Okay. Of 2017, correct?

8 A. Correct.

9 Q. All right. And what happened that day in
10 terms of the gun?

11 A. The day was already high tension because
12 Ashley had found some things that my daughter had
13 done which effectively rejected her.

14 Q. What had your daughter done that effectively
15 rejected Ashley?

16 A. Ashley had found a note, a diary, a journal
17 of my daughter's that made reference to I hate
18 Ashley. It was sort of a 14-year-old rant. Ashley
19 found that. I believe that morning was the morning,
20 and I believe that because of the picture I took of
21 the shadowbox that Ashley had made. In an attempt to
22 show my daughter sympathy she had made a shadowbox
23 with a sand dollar in it and some -- Ashley was very
24 artistic, and she had made -- it's a shadowbox with a
25 sand dollar in it. It just had a sweet saying in it

1 and had a sweet note on the back, and she had given
2 it to my daughter maybe a few weeks before. I'm not
3 sure how much before, but maybe a few weeks. Ashley,
4 going through Eva's room looking for things that Eva
5 might have done, because at the time Eva and the girl
6 we had taken legal custody of --

7 Q. Sidney?

8 A. Yes, sir. Sidney. They had been smoking --
9 I don't know what you call those little vapes. Ever
10 since Sidney moved in Eva had been -- her habits
11 weren't the best and she been introduced to pot, and
12 so Ashley was going through --

13 Q. Were they vaping marijuana?

14 A. I don't believe that was the case. I think
15 Eva had just started doing the vapes.

16 Q. With marijuana?

17 A. No, not to my knowledge. We found Sidney
18 with pot, because she had been smoking pot from the
19 day she moved in my house, which we found out later.
20 She was also doing other things, which is sex and
21 bringing alcohol in our house.

22 Q. When did Sidney move into your home?

23 A. In January -- last week of December,
24 January, right about the new year.

25 Q. Of?

1 A. Of 2017. The beginning of 2017.

2 Q. December of -- either December '16 or
3 January '17?

4 A. Yes, sir.

5 Q. So over that five or six-month period Sidney
6 was a significant stressor in your home?

7 A. Significant is an understatement.

8 Q. Okay. Caused a lot of problems?

9 A. She brought a lot of her problems into our
10 house because of the way she had grown up.

11 Q. All right. And you and your wife Ashley
12 were guardians for Sidney?

13 A. Yes. We had become -- I think in June we
14 were awarded legal guardianship. I think that's
15 about the date.

16 Q. Sidney came to your attention because she
17 was friends with Eva, right?

18 A. She was not a good friend, but she was a
19 friend of Eva, and Eva brought her to the house and
20 Ashley met her in, I'd say, late December before
21 Christmas.

22 Q. Okay. So Ashley finds this journal or diary
23 of Eva where?

24 A. I assume she found it in her bedroom because
25 she would go through her bedroom and Sidney's bedroom

1 on a regular basis looking for stuff.

2 Q. Like pot?

3 A. Pot, yeah. Just things they might have
4 done.

5 Q. That was a legitimate concern and a
6 legitimate effort on her part to search the room,
7 fair?

8 A. I believe it was legitimate, yes.

9 Q. All right. So she finds this diary and
10 she's upset. Does she confront Eva?

11 A. She did not confront Eva. She brought me
12 the diary and showed me that she was extremely upset,
13 and I understand why.

14 Q. She was upset because she had done things
15 like give her the shadowbox with the nice saying and
16 the sand dollar?

17 A. Sure, she was upset for finding those
18 things.

19 Q. I didn't understand what you --

20 A. Yes, she was upset for finding those, and
21 that morning --

22 Q. She made a big effort with Eva to take care
23 of her and be maternal towards her, fair? She felt
24 rejected, right?

25 A. I'd say Ashley did feel rejected.

1 Q. She's upset and she brings it to you, and
2 what's your response?

3 A. Well, that morning, again, going by a
4 photograph I took of the shadowbox, which was that
5 morning, was that she did not bring me the shadowbox.
6 I was downstairs and I remember hearing her crying
7 upstairs and I didn't know what had happened. I
8 thought she maybe hurt herself.

9 Q. She being Ashley?

10 A. Yes, correct.

11 Q. You went and found Ashley crying alone?

12 A. She was on her -- the floor with her face
13 buried and screaming out why would she do this.

14 Q. Okay. Is Eva there, or no?

15 A. No. They were at school.

16 Q. All right. So what happens from there?

17 A. I took a picture of the shadowbox and was
18 dumbfounded and we tried to get ourselves together.

19 Q. I'm sorry to interrupt, but why did you take
20 a picture of the shadowbox?

21 A. I was upset with my daughter.

22 Q. I thought the daughter's note was in the
23 diary.

24 A. There's two different things. There was a
25 note in a diary and then that morning was the

1 shadowbox.

2 Q. I thought Ashley made the shadowbox for Eva
3 with the nice loving saying in it.

4 A. Right.

5 Q. With the sand dollar.

6 A. There's two different things going on.
7 There was a note she had found prior.

8 Q. Right.

9 A. And then there was a shadowbox that if my
10 camera was right, obviously, that it was the same day
11 that Ashley's saying was the date of the gun.

12 Q. I'm lost in terms of the shadowbox, the
13 significance.

14 A. It was a very emotional day that started off
15 with Ashley crying.

16 Q. Had Ashley already made the shadowbox before
17 June 15th?

18 A. Yes. That was probably --

19 Q. How does the shadowbox play into this?

20 A. Because that's how the day started.

21 Q. What started with the shadowbox? Had she
22 given the shadowbox to Eva that day?

23 A. No. She'd given Eva the shadowbox several
24 weeks before, like maybe late May, early June, I
25 don't remember exactly. I just remember her giving

1 it to Eva.

2 Q. You said the day started with the shadowbox.
3 I'm not getting it. What happened with the shadowbox
4 on June 15th.

5 A. You asked about the date of the gun.

6 Q. Yeah.

7 A. The day started off with what was already
8 emotional with Ashley finding the shadowbox.

9 Q. She found the shadowbox. What was the
10 problem with the shadowbox?

11 A. Eva had taken the sand dollar out and put
12 the rose from her mother's grave.

13 Q. Okay. I missed that part. Okay. And she
14 found the diary that said I hate you Ashley?

15 A. That had been before, so there was already
16 significant challenges between her and Eva.

17 Q. Okay. So she's crying facedown in the
18 ground or in the carpet, whatever, and what happens
19 from there?

20 A. She kept screaming why would she do this,
21 and so I tried to console Ashley. We eventually, you
22 know, recovered from it. I was very upset, again,
23 not understanding all the dynamics, as a male, that
24 were going on in the house. Obviously, we had gotten
25 married very fast and Ashley had never even had a

1 child, much less had stepchildren, much less had a
2 stepdaughter whose mother just died, much less on top
3 of that having started a ballet and adopted a little
4 girl with problems, so there was intense stress in
5 the house.

6 Q. Time out. She didn't adopt Sidney. She had
7 guardianship.

8 A. Legal guardianship. Right. Summarizing.
9 We were contemplating the adoption, but we were only
10 going so far as guardianship, hoping her mother would
11 recover. The day started off that way, very highly
12 charged, a lot of stress in the house. Any more
13 questions about that?

14 Q. Yeah. I want to know how the gun got
15 discharged.

16 A. So we had -- I had -- on that day we had a
17 lot of -- most of my life at this point was revolving
18 around the ballet, so we -- I had planned on doing
19 some banking for the ballet and then we had a
20 meeting. We were going to go to the bank and then go
21 get something to eat and then -- I don't remember
22 what the meeting was specifically after that. We had
23 recovered, gotten in the car, but what had happened
24 in between was something else had happened that
25 Ashley suspected that -- because at that point

1 already the girls were under some form of
2 restriction, I don't remember specifically what was
3 going on, or they were coming out of some
4 restriction. Ashley was always the one that came up
5 with what restrictions were whenever they did
6 something.

7 We left the house, basically already beginning to
8 argue about whatever it was that Eva might have done
9 that Ashley felt needed to be punished. We got maybe
10 a quarter mile down the road and she literally
11 wouldn't stop, and at that point I was stressed
12 beyond.

13 Q. Stop talking?

14 A. Stop -- not talking, stop complaining, you
15 might say, about Eva, and punishment and what had
16 happened. I had so much going on in my mind. One, I
17 just was dealing with the behavior of my own
18 daughter, who up until this point had been pretty
19 much a straight A all-American child.

20 Q. Pretty much to the point of your wife's
21 dying?

22 A. Yeah, and even after that. She was the one
23 who found my wife and she did an amazing job of
24 handling it.

25 Q. When did she start to cycle down?

1 A. Her problems did not start until -- her real
2 problems didn't start until I brought Ashley home
3 and --

4 Q. Would you agree that it has to do with
5 bringing another woman home rather than it being
6 Ashley?

7 A. No, I do not agree.

8 Q. You think it was Ashley's fault?

9 A. I didn't say that.

10 Q. I'm asking you.

11 A. My opinion, based on talking to counselors,
12 was that there was a lot of factors involved, and a
13 big portion of it was in fact Ashley, witting or
14 unwitting, and how she handled dealing with a 14,
15 15-year-old whose mother had just died.

16 Q. Okay. All right. We'll come back to that.
17 You're stressed. Ashley's stressed. You're in the
18 car. You want Ashley to stop obsessing about your
19 daughter, and so what do you do?

20 A. I slammed on the brakes, felt nauseated. I
21 wanted to throw up outside the window. I turned the
22 car around and went back to the house.

23 Q. At a high rate of speed?

24 A. Probably broke the speed limit, but I
25 wouldn't say it was a high rate of speed. I was only

1 a quarter mile away right in front of a hospital.

2 Q. So you drive back, and then what?

3 A. We -- she's still talking.

4 Q. Are you saying anything to her?

5 A. I'm trying to, but logic did not work, it
6 only made her mad.

7 Q. Were you yelling at her?

8 A. I think we were both borderline loud voices,
9 but not necessarily yelling yet.

10 Q. Okay.

11 A. I was mostly just in an utter state of
12 complete disbelief that this was going on in my
13 life.

14 Q. Okay. So you go in the house?

15 A. We sat in the driveway and continued, I'd
16 say, arguing, and it was -- it was an intense
17 argument. We only had maybe five real arguments our
18 entire marriage and they were pretty much all to do
19 with either the ballet or Eva. I don't get mad easy,
20 if ever, and yet -- and I wasn't even mad, I was sick
21 to my stomach. I wasn't mad at Ashley and I wasn't
22 even necessarily mad at Eva, I was just sad. We were
23 still arguing in the car. Again, definitely intense,
24 but the problem was Ashley would not let it go and
25 she would not stop talking. I tried to be quiet and

1 to stop talking. I literally was just sitting there
2 in complete and utter disbelief, but she wouldn't
3 stop. I must have said 15 times, Ashley, please
4 stop, I am having a nervous breakdown.

5 It continued to sort of escalate. I was trying
6 to just completely stop the conversation, and when we
7 got out I, for whatever reason -- I don't physically
8 carry a gun, but I kept a small gun in the car.

9 Q. What kind of gun?

10 A. A small nine-millimeter.

11 Q. Maker?

12 A. That one was a SIG.

13 Q. Okay.

14 A. So for whatever reason --

15 Q. In the glove compartment, or where was it?

16 A. Yeah. It was down in the armrest, kind of
17 down at the bottom.

18 Q. In a holster or free?

19 A. In a little -- just a sleeve, kind of a --
20 it's kind of like a holster, but it's not a holster,
21 it's just a --

22 Q. Right.

23 A. -- the sleeve I put it in to stay in the
24 car. I took it out. I have no reason why I had the
25 impulse to take it out. I think at that point I

1 realized I was --

2 Q. So you were still in the car?

3 A. Correct. Yes.

4 Q. Ashley seated next to you?

5 A. Correct.

6 Q. You're in the middle of an argument about
7 Eva?

8 A. We had stopped, and I think -- finally I had
9 just almost quit talking because I had nothing left
10 to say, and so we just --

11 Q. But Eva is still talking. I'm sorry.
12 Strike that. Ashley's still talking?

13 A. She's still trying to talk, but I think
14 we're both a little bit talked out.

15 Q. And you wanted her to stop talking?

16 A. Absolutely I wanted her to stop talking.

17 Q. So you reach in the console and pull out the
18 nine-millimeter?

19 A. Well, I had other things in the car, and so
20 I had --

21 Q. What does that mean?

22 A. I had, like, banking stuff. I had a
23 checkbook down the center console, because we'd --

24 Q. But you -- listen to my question. You
25 reached into the glove compartment at that moment an

1 pulled out this nine-millimeter SIG?

2 A. No. I opened up the glove compartment to
3 get my checkbook out of the console and grabbed
4 several things, including the gun, out of the center
5 console.

6 Q. And you grabbed it out of the sleeve?

7 A. No, I did not.

8 Q. You took it with the sleeve on it?

9 A. Yes, I did.

10 Q. And did what with it?

11 A. I took it, with everything else in my hands,
12 the banking, the checkbook, a few little things in
13 the center console. I just grabbed it and we went
14 inside and sat at the kitchen table.

15 Q. In the house, obviously, right?

16 A. Yes. Correct.

17 Q. And then what happens? I don't want you to
18 read anything right this second. I just want you to
19 answer my questions if you could.

20 A. Okay. So we sat at the kitchen --

21 Q. Can you stop looking at your notes and just
22 focus on the question?

23 A. Sure. I just have a picture here. We came
24 in -- this is for you, not for me. We came in the
25 house, in the back door, and you kind of have to

1 appreciate the layout of the house. When you come in
2 the back of the laundry room door you go through
3 another little door and it opens up into the living
4 area. To the left is a kitchen and straightaway,
5 straight ahead, is sort of the family room, but right
6 there is also a kitchen table. We literally came in
7 and I sat down at the head of the kitchen table with
8 the kitchen to my left and the family room in front
9 of me, and I just dropped everything on the kitchen
10 table.

11 Q. Including the gun?

12 A. Yes, the gun included. And so -- and then
13 Ashley sat just to my left, but the conversation had
14 started back up, and, again, it was all about Eva.

15 Q. Meaning Ashley was continuing to talk about
16 Eva?

17 A. Yes.

18 Q. Were you responding?

19 A. I was trying to with logic. I was trying to
20 tone it down, to put some perspective on it. Part of
21 what she was saying, she was assuming.

22 Q. So you're telling me that she was emotional
23 and you were logical, is what you were telling me?

24 A. I was very emotional, but I'm a very logical
25 person and I was trying to, in the argument, be

1 logical.

2 Q. You were telling me you were having a
3 nervous breakdown. At any time did you call 911 that
4 day?

5 A. No.

6 Q. Did you seek any sort of medical or
7 psychological assistance that day?

8 A. No, I did not.

9 Q. All right. So you're sitting there and it's
10 continuing and you're wanting it to stop, correct?

11 A. That's correct.

12 Q. You desperately want it to stop?

13 A. That's --

14 Q. So what happens with the gun?

15 A. So she won't stop, and at this point --

16 Q. You've asked her how many times at this
17 point to stop?

18 A. At least 15, 20. I think that's pretty
19 much, at that point, the majority of what I was
20 saying, was please stop.

21 Q. Okay. And what happens?

22 A. She wouldn't stop, so I literally grabbed
23 the first thing on the table in front of me, which
24 happened to be the gun and I sort of --

25 Q. Wait a second. Are you testifying it could

1 have been the checkbook but you just happened to hit
2 the gun? You weren't reaching for the gun; is that
3 what you're telling me?

4 A. I do not remember specifically reaching for
5 the gun.

6 Q. What were you reaching for?

7 A. I was very upset and I wanted her to stop.

8 Q. Was the checkbook going to make her stop?

9 A. No.

10 Q. What else was on the table?

11 A. A bunch of paperwork for the bank. My
12 checkbook, keys.

13 Q. Was the banking paperwork going to make her
14 stop? You were reaching for the gun, were you not,
15 sir?

16 A. Yes, I was.

17 Q. You were going to make her stop with the
18 gun?

19 A. No, you're -- that's not -- was not my
20 intention, was not what I would say. That's your
21 words.

22 Q. Why would you say you were just reaching for
23 the first thing that you could get your hands on?

24 A. Because I was frustrated and I wanted -- had
25 a reaction, and my reaction was to throw the gun.

1 Q. Right. You were reaching for the gun to
2 make her stop, fair?

3 A. If the gun had not been there it would have
4 been something else, but I grabbed the gun because it
5 was in front of me.

6 Q. On purpose, correct?

7 A. Not on purpose.

8 Q. You're saying it was accidental that the gun
9 happened to be in front of you and that you wanted
10 her to stop?

11 A. You're using your words and those aren't my
12 words.

13 Q. It's a question.

14 A. I was very emotional --

15 Q. You said -- stop for a second. You said you
16 reached for the first thing you could grab.

17 A. Yes, which happened to be the gun.

18 Q. Which begs the question, what else could it
19 have been to make her stop? What else was in front
20 of you that you thought you would reach for that
21 would help make her stop besides the gun?

22 A. You're saying to make her stop, and I would
23 say that wasn't specifically or even close to my
24 intentions. My intention --

25 Q. Then what was your intention in reaching

1 forward, to get something?

2 A. I was frustrated.

3 Q. And what were you reaching forward to do in
4 your moment of frustration?

5 A. I was upset and my reaction was to throw the
6 gun. That was just an instantaneous reaction.

7 Q. You said throw the gun?

8 A. Yes.

9 Q. Did you throw the gun?

10 A. Yes.

11 Q. Your testimony is you threw the gun?

12 A. Yes. My testimony is I picked the gun up
13 and --

14 Q. In the holster?

15 A. Yes.

16 Q. And threw the gun in the holster?

17 A. Yes.

18 Q. And the gun discharged?

19 A. No, it did not discharge.

20 Q. So you threw the gun where?

21 A. I grabbed the gun. I sort of halfway stood
22 up, but mostly I just threw it left, over my left
23 shoulder, and right there, right behind me, is an
24 antique cabinet. Then the kitchen sort of juts out,
25 and when I threw it, it hit the sheetrock to my back

1 left where sort of the kitchen pantry is and it hit
2 the -- that wall and fell to the ground, and at that
3 point --

4 Q. Hold on a second. When you threw the gun
5 over your left shoulder you're using your right
6 hand?

7 A. Right.

8 Q. You're right-hand dominant, correct?

9 A. Correct.

10 Q. You threw it over your shoulder and Ashley's
11 seated to your left?

12 A. Ashley is seated about as close as the court
13 reporter is to me to my left.

14 Q. You're at a corner of a table and she's at a
15 different corner of --

16 A. I'm at the head --

17 Q. Hold on a second. Ashley's a different
18 corner of a geometric shape of the table?

19 A. Correct.

20 Q. But she's facing you to your left, correct?

21 A. Yes.

22 Q. You throw it over your left shoulder, so
23 your movement is towards her with your hand but then
24 is goes over your shoulder is your testimony,
25 correct?

1 A. No.

2 Q. Well, she's seated to your left.

3 A. You're rephrasing what I'm saying and that's
4 not what I said.

5 Q. Correct, I am rephrasing what you're saying.
6 It's a question.

7 A. Okay.

8 Q. That's what we do in depositions?

9 A. Okay.

10 Q. So when you reach for the gun with your
11 right hand in front of you, you throw it over your
12 left shoulder, Ashley's to your left, correct?

13 A. Would you like me to tell the story?

14 Q. No. I'm asking a question. Ashley's to
15 your left when you throw the gun over your left
16 shoulder, correct?

17 A. That is not the exact motion, no.

18 Q. What is the exact motion, is my question
19 then.

20 A. What I was saying was I was -- she was to my
21 left, approximately where the court reporter is at
22 the -- around the corner of the --

23 Q. The court reporter's about two or three feet
24 from you?

25 A. Three to four feet.

1 Q. Okay.

2 A. Maybe five feet, yeah.

3 Q. Okay. Whatever. What is your motion?

4 A. So I grab the gun in the holster and I spin
5 away from Ashley.

6 Q. But you turned towards her initially,
7 correct?

8 A. Yes, because the window is to the right and
9 there's no way to turn to --

10 Q. That's all I'm after. Does the gun get
11 discharged during that day?

12 A. I want to put it into perspective
13 because there's --

14 Q. I don't want the perspective. I want the
15 answer to the question.

16 A. I'm giving you the answer and it includes
17 perspective. I could not turn to the right because
18 there was a window.

19 Q. I don't care. I just want the fact that you
20 turned towards her with the gun in your hand and
21 threw it over your shoulder in the direction that she
22 was. That's all I'm looking for. Does the gun --

23 A. It was --

24 Q. -- discharge --

25 A. It was -- as far as left or right it was in

1 the direction of her, but it was not in her direction
2 specifically.

3 Q. You threw it behind you. She was not behind
4 you, correct?

5 A. Right.

6 Q. But you threw it over your left shoulder.
7 She was to your left, correct?

8 A. Correct.

9 Q. That's the only point.

10 A. Okay.

11 Q. Did the gun discharge that day?

12 A. It did. That day or at that point?

13 Q. Did it discharge that day?

14 A. That day it did, yes.

15 Q. Okay. So after the gun --

16 A. Not at that point.

17 Q. I'm sorry?

18 A. Not at that point.

19 Q. Okay. So you throw the gun over your
20 shoulder?

21 A. Correct.

22 Q. And you hit the sheetrock and the gun falls
23 to the ground in the holster, correct?

24 A. Correct.

25 Q. Or in the sleeve, as you called it?

1 A. Right.

2 Q. What's Ashley's reaction?

3 A. Absolutely no reaction whatsoever. Staring
4 at me.

5 Q. Does she continue talking?

6 A. Yes. Well, for a second. For that second
7 there was a moment of silence because she saw how
8 upset I was, and if she didn't she was blind.

9 Q. Okay. There's a moment of silence but she
10 continues?

11 A. I get up -- she starts talking and I have no
12 idea what she's saying. I get up and almost
13 robotically pick the gun up off the floor. I cannot
14 believe this is my life. I can't believe this is
15 happening in my life. I can't believe any of it. I
16 can't believe my daughter. I can't believe what's
17 happening with Ashley.

18 Q. Your life's just a wreck in your opinion?

19 A. No, I wouldn't say it's a wreck. You're
20 using words I didn't use.

21 Q. You said you can't believe. You can't
22 believe what, the chaos in your life?

23 A. I can't believe I'm sitting there arguing
24 with my wife about my daughter and that I just threw
25 a gun.

1 Q. Okay. So you go pick up the gun?

2 A. I do.

3 Q. And do you take it out of the sleeve?

4 A. I do not.

5 Q. What happens?

6 A. I picked it up, and behind Ashley --

7 Q. Hold on a second. While you're picking it
8 up is Ashley still talking?

9 A. She's talking, but I could not tell you a
10 single word she's saying.

11 Q. You didn't hear anything else?

12 A. No. At that point my brain is almost numb.

13 Q. Okay. What happens with the gun after you
14 pick it up?

15 A. I pick it up. It's got sheetrock dust on
16 it. I walked behind Ashley. I put it on the kitchen
17 counter, which is a little bar that separates the
18 little dining area from the kitchen itself.

19 Q. Can she see where you are?

20 A. Sure. I'm right behind her.

21 Q. Okay. Do you take it out of the sleeve?

22 A. I do not.

23 Q. All right. And you put it there, and then
24 what?

25 A. I set it down. I'm like kind of dusting

1 the --

2 Q. The sheetrock off the gun?

3 A. The sheetrock off the gun, just off the
4 case, just staring at it. I put my head down on the
5 kitchen counter in just absolute disbelief, complete
6 utter absolute disbelief that all this is flashing
7 through my head of we're sitting there talking,
8 arguing nonstop about my daughter, frustrated what my
9 daughter did, frustrated at the last few months
10 before that with the drugs, frustrated that Ashley
11 and I are arguing about my daughter of all things.

12 Q. Okay. Now, I'm not asking you for a litany
13 of what you were upset about. You were upset.
14 Ashley's still saying something to you but you're not
15 hearing her, correct?

16 A. So I put my head down and Ashley starts
17 again, specifically now engaging me about Eva.

18 Q. Okay. So it's continuing despite the fact
19 that you threw a gun against the sheetrock to get her
20 attention, correct?

21 A. Correct. She's shown no emotion. She's
22 sitting there.

23 Q. Hold on a second. What happens with the
24 gun? Not why. What happens with the gun?

25 A. Well, Ashley continues to talk.

1 Q. I'm not asking what Ashley did. What
2 happens with the gun?

3 A. After a few maybe -- maybe another minute to
4 two minutes, I couldn't tell you the exact time.

5 Q. Of Ashley talking about Eva?

6 A. Of Ashley talking, and I am begging her to
7 stop talking and to please stop.

8 Q. And your head's on the counter?

9 A. My head's on the counter.

10 Q. What happens with the gun?

11 A. She wouldn't stop, just completely would not
12 stop, and so out of complete and utter frustration,
13 no anger whatsoever, I don't remember feeling a
14 single iota of anger, it was purely utter
15 frustration, and so --

16 Q. What happened?

17 A. I -- literally the gun's sitting in front of
18 me and I pull it out of the sleeve and I shot at the
19 ceiling.

20 Q. Did you say anything before you did it?

21 A. Did I saying anything?

22 Q. Yeah.

23 A. About -- I said nothing except for I was, up
24 to that point, asking her to please stop talking and
25 please give it a rest.

1 Q. Did you say anything to the effect of I'm
2 going to kill myself?

3 A. No, I did not say I was going to kill
4 myself.

5 Q. You made no remark that could be construed
6 as I intend to kill myself?

7 A. Absolutely not.

8 Q. So Ashley is seated in front of you with her
9 back to you this whole time?

10 A. I specifically -- I could not see her
11 because my back was to her.

12 Q. So your head's on the counter and she -- the
13 last I heard she was seated at the end of the table
14 behind you, fair?

15 A. Out of peripheral vision and situational
16 appreciation.

17 Q. What I'm focusing on is where is Ashley,
18 she's seated at the table still?

19 A. She's right -- she still seated at the
20 table.

21 Q. The same place she was before?

22 A. Correct.

23 Q. And so her back's to you, because you said
24 you were on the counter behind her?

25 A. Her back is to me as far as I know.

1 Q. Yeah.

2 A. Yeah.

3 Q. So she's seated -- the chair doesn't swivel
4 like the court reporter's chairs, right? It's a
5 fixed dining room table chair, right?

6 A. Correct.

7 Q. So she's seated there with her back to you
8 and you pull the gun out of the sleeve and don't say
9 anything and just discharge it into the air?

10 A. Pretty much exactly like that.

11 Q. When you say pretty much, was it exactly
12 like that?

13 A. I don't -- it was a blur and I -- I wouldn't
14 say exactly like that, but what I do remember was my
15 head was on the counter. I was begging her to stop.

16 Q. Is your head on the counter when you
17 discharged the firearm?

18 A. No. My head is on the counter and she
19 wouldn't stop and I picked up the gun, absolute
20 frustration, and shot it, but as I shot -- as I
21 raised my head up, I'm -- a good peripheral
22 situational awareness, I guess, and I realized Ashley
23 had stood up, because I could see her -- like this
24 all happened in the blink of an eye. I could see her
25 peripherally out of -- just to my left, back -- not

1 right behind me, but further to the left towards
2 where the cabinet was, which was maybe five feet
3 away, six feet away, and as I'm shooting it, pure
4 frustration, not an ounce of anger, I perceived she's
5 there, and almost the exact same second look around
6 at her and she's sitting there with her arms crossed
7 staring at me.

8 Q. I'm confused. She was seated at the table
9 and then you said she was standing behind you and now
10 you're telling me that she's seated again. Where was
11 she seated again?

12 A. No. That's not what I said.

13 Q. Where was she seated with her arms crossed
14 when you discharged the firearm?

15 A. She was not seated and that's not what I
16 said and the court reporter can play it back.

17 Q. Then explain to me what you were trying to
18 tell me when you said her arms were crossed. You
19 said seated with her arms crossed.

20 A. At the second I'm raising my head, up
21 grabbed the gun and shoot it, I'm now standing, and
22 in my periphery I'm now aware that Ashley, within the
23 last second, has stood up and is four, five feet away
24 right by the cabinet near where I threw the gun, and
25 I -- the same second again, this is all in

1 microseconds, I'm shooting the gun at the ceiling. I
2 notice her, she's not sitting anymore, she has stood
3 up, and when I look around, that exact same second
4 she's standing there and her arm are crossed and
5 she's just staring at me.

6 Q. Okay.

7 A. And she has quit talking and not saying a
8 word.

9 Q. Mission accomplished, right, you got her to
10 stop talking?

11 A. I'd say her mission accomplished.

12 Q. So is it your point that she was trying to
13 provoke you into doing something like discharge a
14 firearm?

15 A. Absolutely she was trying to provoke me.
16 Just like if you go into her text messages in
17 October, I've never in my life seen anybody that
18 provoked as intensely as she does.

19 Q. Okay.

20 A. Ever.

21 Q. You think it was her fault that you
22 discharged the firearm?

23 A. I would say absolutely. There's two parties
24 in a fight. There's two parties in an argument.
25 When one will not stop with the intent of getting