

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, PINELLAS COUNTY

STATE OF FLORIDA,

Plaintiff,

Case No. 22-09348-CF

vs.

JUAN ARIEL MOLINA-SALLES,

Defendant.

PROCEEDINGS: Sentencing

DATE: March 4, 2025

BEFORE: The Honorable Pat Siracusa
Circuit Court Judge

PLACE: Pinellas County Justice Center
14250 49th Street North
Clearwater, Florida 33762

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I N D E X

Page

WITNESSES FOR DEFENSE:

Allan Gomez Zelaya	
Direct by Ms. Blaquire.....	12
Cross by Mr. Vonderheide.....	23

Laura Caudill	
Direct by Ms. Blaquire.....	33
Cross by Ms. Constantine.....	44

Juan Patricia Molina	
Direct by Ms. Deliberato.....	50

Elidia Cruz	
Direct by Ms. Deliberato.....	58

WITNESSES FOR STATE:

Ceasar Barrientos	
Direct by Ms. Constantine.....	77
Cross by Ms. Deliberato.....	79

Bryan Hirshman	
Direct by Mr. Vonderheide.....	81

John Syers	
Direct by Ms. Constantine.....	98
Cross by Ms. Deliberato.....	122
Redirect by Ms. Constantine.....	131

CLOSING ARGUMENT

State.....	145
Defense.....	156
Rebuttal.....	171

SENTENCE.....	175
---------------	-----

E X H I B I T S

EXHIBITS FOR THE STATE:

S1 - Body worn camera footage	95
S2A - Deputy Hirshman body worn camera footage	96
S2B - Scene photos	96

EXHIBITS FOR THE DEFENSE:

D1 - photo	43
D2 - 911 call	67
D3 - Body worn camera footage	67
D4 - Photograph	67
D5 - Deposition of Alan Clark	67

P R O C E E D I N G S

THE COURT: All right. Good morning, everyone. We are here today for sentencing in the state of Florida versus Juan Molina-Salles. Case number 22-9348. The State is represented by Ms. Constantine and Mr. Vonderheide. And the defense is represented by Ms. Deliberato, Ms. Blaquire and Mr. Duncan. And the defendant is in custody and present in the courtroom. Because English is not the defendant's primary language, an interpreter has been provided. The defendant entered a plea on February -- what was actually the date of the plea?

MS. COSTANTINE: February 21st.

THE COURT: February 21st to the crime of leaving the scene of an accident involving death. And sentencing was set for today, March 4th, 2025.

The statutory maximum for such an offense is 30 years in prison, and there is a four year minimum mandatory sentence that must be imposed. The Court capped the maximum possible sentence at 20 years over the State's objection at sentencing because at the time the State -- the Court could not contemplate a sentence where I would give more than 20 years based on his lack of prior record

1 and my 18 year history of sentencing on the crime
2 of leaving the scene of an accident involving
3 death.

4 There are obviously many people here that are
5 interested in the case today and feel strongly
6 about the case. Please be considerate of others
7 that are trying to listen to the proceedings as
8 you observe today's presentations.

9 The case will proceed today in this order.
10 First, the State is going to give a brief opening.
11 I'm going to hear the State's requested sentence,
12 clearly stated. I'm going to hear the number of
13 witnesses they plan to call and exhibits they
14 prepare to enter. Briefly, I want to know how
15 long everybody's going to take to testify. Then
16 I'm going to hear a brief opening from the
17 defense. An outline of the sentence they are
18 requesting, if not the exact number. I want to
19 hear the number of witnesses they plan to call and
20 exhibits they plan to enter.

21 I'm going to allow the defense to present
22 first. I'm doing this because over the past 18
23 years, this is the order that I've always
24 followed. We'll hear from the witnesses. I will
25 allow witnesses either to testify from the podium

1 if they're more comfortable at the podium, or from
2 the witness box if they want to testify from the
3 witness box. It doesn't matter to me.

4 After the defense has presented their
5 witnesses, the State can present their witnesses.
6 State, if you have victim's family members that
7 wish to testify, and they wish to have a victim
8 advocate accompany them they can do so. Or if
9 they just want a family member to come up with
10 them they can do so. Again, podium or witness
11 stand, wherever they feel comfortable. For the
12 deputy's benefit, I'm the one that's swearing in
13 the witnesses, so I'll do the swearing in.

14 The defendant may testify if he wishes. He
15 does not have to make that decision until the end.
16 If he just wants to allocate or provide a written
17 statement, he can do that as well. It's entirely
18 up to him.

19 Please remember if you are addressing the
20 Court, speak nice and loud so that everybody can
21 hear. And slowly so the interpreters have a
22 chance to represent to the defendant the things
23 that are being said. I know we might need
24 interpreters for some of the witnesses, as well,
25 and we will figure our way through that at that

1 time.

2 After the witnesses have been heard from,
3 then we'll go to the State's closing on
4 sentencing. Then you can tell me anything you
5 want. Case law, history, whatever you want. That
6 will be the more comprehensive closing.

7 Then the defense gets to give me their
8 closing. And then finally a brief rebuttal by the
9 State, if there is any that's necessary. So,
10 that's the plan for this morning, and I guess we
11 will begin with State. What sentence are you
12 asking for today and what witnesses will you have
13 testifying and how long do you think they'll take
14 approximately, and then what exhibits?

15 MS. CONSTANTINE: Yes, Your Honor. Good
16 morning. Elizabeth Constantine for the State. We
17 are seeking a 20 years in the Department of
18 Corrections sentence. I anticipate three
19 witnesses testify. They're going to be exhibits
20 that are going to be entered. In addition to the
21 witness testimony, as well as the two exhibits
22 offered by the State, we do have two witness
23 statements. I anticipate our total presentation
24 being approximately an hour and a half.

25 THE COURT: And one of the exhibits is a

1 video, is that correct?

2 MS. CONSTANTINE: That's correct, Your Honor.

3 THE COURT: And have you already shown it to
4 the defense?

5 MS. CONSTANTINE: I have, Your Honor.

6 THE COURT: Thank you. All right. Defense,
7 an outline of what you're seeking, how many
8 witnesses you're going to have and exhibits?

9 MS. DELIBERATO: Yes, Your Honor. Good
10 morning. We are going to be asking the Court to
11 impose a sentence in the range of the 4 year
12 minimum mandatory. No more than 10.3 years, which
13 is the bottom of the guidelines, notwithstanding
14 our prior arguments to the addition of the death
15 points. We will be calling four witnesses and
16 introducing a few pieces of evidence, including a
17 911 call, the body worn camera footage from Mr.
18 Molina-Salles' arrest, a photograph of Mr. Molina-
19 Salles working construction and a photograph from
20 Deputy Hartwick's vehicle. We expect our
21 presentation to take approximately an hour and a
22 half.

23 THE COURT: Okay. We will take a break at an
24 appropriate time. So, if both sides can agree on
25 what that appropriate time is then we'll go with

1 that. If not, then I'll just figure it out when I
2 believe courtroom staff needs a comfort break.

3 And --

4 MS. DELIBERATO: And Judge, if Your Honor
5 could admit me to the zoom that way when I'm
6 questioning the zoom witnesses they will -- I'll
7 mute myself but that way they can see my face.
8 They are not our first witnesses, but just to get
9 it ready.

10 THE COURT: Okay. There is no -- there it
11 is.

12 MS. DELIBERATO: WE have two live witnesses
13 first, so it's okay, but.

14 THE COURT: I've almost got this figured out.
15 Five years into the Covid, I'm still figuring it
16 out. I think I just admitted you.

17 MS. DELIBERATO: Yeah.

18 THE COURT: I did? Okay. There are others
19 waiting to be admitted. Lucy Mara-Diego (ph)
20 wants to be admitted. Is that somebody I should
21 admit.

22 MS. DELIBERATO: Yes. We have -- there's
23 only two testifying witnesses, but several members
24 of Mr. Molina-Salless' family would like to be
25 present and listening on the zoom.

1 THE COURT: And then Yanas Yicksaw (ph)?

2 MS. DELIBERATO: Yes. We only shared the
3 link with family members. So yes, those are
4 family members.

5 THE COURT: All right, so I should admit
6 them. And then it just says Senia. S-E-N-I-A?
7 Also admit?

8 MS. DELIBERATO: Yes.

9 THE COURT: Okay. Ms. Constantine, do you
10 want to be admitted?

11 MS. CONSTANTINE: Yes.

12 THE COURT: Okay. And then there's something
13 that says TCL9137W. I don't know what that means.

14 MS. DELIBERATO: It's a cell phone. Family
15 member.

16 THE COURT: It's a family member? Okay.

17 MS. DELIBERATO: And we may want to have --
18 all the witnesses on the zoom are Spanish
19 speaking, so we may want to just remind the folks
20 on zoom to keep their camera muted and that we'll
21 call for them when ready.

22 THE COURT: Okay. Everybody on the zoom, I
23 don't see myself on the zoom. Am I -- I must be
24 on the zoom. Am I on that camera? Wow, one guy's
25 driving. All right. I'm not used to zoom. All

1 right. Everybody on the zoom, please remember to
2 keep your zoom's muted until it's your time to
3 testify. Okay?

4 MS. DELIBERATO: Can we just have an
5 interpreter just interpret that for the folks on
6 the zoom so that they can hear?

7 THE COURT: Yes. All right. State, do you
8 wish to give a brief opening? You don't have to
9 if you don't want to. Otherwise, we'll go
10 straight into witnesses.

11 MS. CONSTANTINE: I'll save argument.

12 THE COURT: Save argument? Okay. Defense,
13 do you wish to give a brief opening?

14 MS. BLAQUIRE: No, Judge.

15 THE COURT: Then defense, who do you wish to
16 call at your first witness?

17 MS. BLAQUIRE: Allan Gomez Zelaya. He's in
18 custody?

19 THE COURT: Allan Gomez Zelaya. You said
20 he's in custody? Oh, it seems like you've
21 anticipated this. Good. Okay.

22 MS. BLAQUIRE: And his attorney, just for the
23 record, Hunter Chamberlain is present.

24 THE COURT: Okay. Who's Hunter Chamberlain?
25 Hello? Hello, Mr. Chamberlain. Thank you.

1 MR. CHAMBERLAIN: Yep.

2 THE COURT: All right. And you've already
3 spoken to your client and you're okay with him
4 testifying?

5 MR. CHAMBERLAIN: Absolutely, Judge.

6 THE COURT: Okay. Does he speak English?

7 MS. BLAQUIRE: Spanish.

8 THE COURT: Spanish. So, an interpreter?

9 He can remain seated. I have to swear in the
10 interpreter first.

11 (Interpreter sworn.)

12 THE COURT: Ask him.

13 ALLAN GOMEZ ZELAYA

14 Being called as a witness, and having first been duly
15 sworn, testifies as follows:

16 THE WITNESS: Yes.

17 THE COURT: Ms. Blaquire, you may inquire.

18 MS. BLAQUIRE: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. BLAQUIRE:

21 Q Good morning, Mr. Gomez Zelaya. Can you please
22 state your full name for the record?

23 A Allan Gomez Zelaya.

24 Q Have you gone by the alias Pedro Davila Benitos?
25 (ph) .

1 A Pedro Davila Benitos, yes.

2 Q Okay. In September, 2022, were you working for
3 the company Archer Western?

4 A Yes.

5 Q What was your position with Archer Western at
6 that time?

7 A I was supervising a group in the construction of
8 roadways.

9 Q Were you equivalent to a foreman for your group?

10 A Yes.

11 Q When did you start working for Archer Western?

12 A In October of 2018.

13 Q When you applied to Archer Western, how did you
14 find out they were hiring?

15 A I passed by the street, and I saw that they had
16 signs outside their office that they were hiring.

17 Q Okay. What paperwork did they ask from you to
18 get hired?

19 A A Texas id and social security.

20 Q Okay. Did Archer Western ever ask you about
21 your immigration status?

22 A No.

23 Q When you started working for Archer Western, did
24 you have any prior experience operating heavy machinery?

25 A No.

1 Q Through work at Archer Western, did you get the
2 chance to learn how to operate heavy machinery like
3 bulldozers, excavators and loaders?

4 A Yes. Yes.

5 Q When did you start working with Laura Caudill?

6 A The day of the accident. That was the last day.

7 Q What did you -- did you start working with Laura
8 Caudill before the pandemic?

9 A Yes.

10 Q Could Laura speak both English and Spanish?

11 A Yes.

12 Q Did Laura also operate heavy machinery for
13 Archer Western?

14 A Yes.

15 Q When did you learn of Juan Malino-Salles, and
16 how did he get assigned to your group of workers?

17 A Through a friend who told me that he was a good
18 worker. That friend recommended him to me, and I spoke to
19 my bosses. And then my boss requested to see if he could
20 be transferred to my group, and that's how he came to be
21 in my group.

22 Q Okay. Were you Juan's foreman?

23 A Yes.

24 Q As Juan's foreman, was Juan a good machine
25 operator?

1 A Yes.

2 Q Can you give us an example of how you know Juan
3 was a good machine operator?

4 A When they brought him to me, we did a test of
5 loading truck with a loader. He was a very good operator.
6 It looked like he had a lot of experience because he
7 worked slowly when he was loading the trucks.

8 Q Why was working slowly important?

9 A Because of the accidents.

10 Q So, did you feel safe around Juan when he was
11 operating heavy machinery?

12 A Yes. So, yes, that night we were going to lay
13 stones on the roadway. And we were at the bottom putting
14 pins and he's on the top laying the stones. And we felt
15 safe on the bottom because he would lay the stones slowly.

16 Q And also, is that a sign of him being very
17 careful and mindful to the human beings he's working with
18 in his group?

19 A Yes. That's correct. And the time that we were
20 working with him we never had an issue. We never had an
21 accident.

22 Q Okay. Well, let's go to the date that Deputy
23 Hartwick died.

24 A Okay.

25 Q Who were you working with that day?

1 A With my daughter, Cynthia, and with my brother-
2 in-law Jose -- no, Douglas.

3 Q Okay. Who was Laura working with that day, do
4 you remember?

5 A Yes. So, Laura and I, we were working together
6 but in different groups because we were doing two separate
7 jobs. So, she had her group and, in my group, it was
8 Juan. It was my daughter Cynthia and my brother-in-law,
9 Douglas.

10 Q Okay. Was Glydon Baria Sota (ph) and Alias Amia
11 Enriquez (ph) working with Laura that evening?

12 A Yes.

13 Q Tell us about the accident and what you saw.

14 A So that morning at 10:45 in the morning, Laura
15 called me that the trucks were ready to offload the
16 stones. I was working in another area with Juan and my
17 daughter Cynthia and my brother-in-law when I got that
18 call. So, we stopped working. We grabbed the loader, and
19 we didn't grab the bag because we were only going to use
20 the forks. So, we grabbed the forklift forks, and it was
21 on Roosevelt. I don't remember the exit on 275, but it
22 was on Roosevelt and 275 and we were going to go the
23 opposite direction, against traffic in that area right
24 there.

25 Q What time of the day was this? Was this

1 nighttime by now?

2 A It was at night.

3 Q Carry on.

4 A So I was driving the machine, the truck, with
5 the lights on because we were going against traffic, and
6 we were going on the shoulder of the road. Then we
7 crossed the area where we were going to go work. So, then
8 I stopped and moved to the side a little bit so that Juan
9 go could ahead of me and then I could still be behind him
10 escorting him. So further down the road there was a white
11 truck. An inspector's truck. The inspectors that were
12 going to inspect the work that we were going to do that
13 night. So, he, that inspector, the truck gave us the
14 right of way. He let us pass so that we could continue
15 with the loader. The machinery. And then further down
16 the road the patrol cars were there with their lights on.
17 Then the loader passed the patrol car, but the patrol car
18 didn't stop. It was some miles down the road. Then when
19 we crossed, then I saw like an object further down the
20 road, and it was the body of the officer that was in the
21 ground. I stopped at like a distance of about 40 feet
22 with the truck. Then I looked and I saw that it was a
23 body. I stopped. I got out. I didn't touch the body
24 because I saw that the body was not moving. It wasn't
25 alive. I was in shock. I was nervous. And I called

1 Laura so that she could call 911 to come and see the body.

2 Q To be clear, Deputy Hartwick was the person that
3 was on the ground lifeless. Correct?

4 A Yes.

5 Q And his vehicle was stationary parked on the
6 shoulder. Correct?

7 A Yes. When we work on freeways, on roads, two
8 lanes are closed, and the officers are there parked on the
9 shoulder to protect us while we're working.

10 Q Were Deputy Hartwick's vehicles lights on? His
11 flashing lights?

12 A The lights were on and that makes us focus on
13 the area because the area is dark and the lights are
14 continuously flashing.

15 Q How do the deputies flashing lights make it
16 harder to see, if it makes it harder to see?

17 A Well, if you're heading towards that area and
18 that area is dark and the lights are flashing in your
19 eyes, you cannot see well if you are heading towards that
20 area.

21 Q Was it difficult to see the deputy down at
22 first?

23 A Yes. Because at first it looked to me like a
24 dark object. Like it was a garbage bag or something.
25 Like a dark object. It wasn't until I got close that I

1 saw and that it was a body.

2 Q Were you out of your vehicle when you realized
3 that it was a body?

4 A Yes.

5 Q Were Juan's front loader lights on that night?

6 A Yes, they were also on.

7 Q Okay. And you could tell that when you were at
8 first in front of the front loader driving your truck?

9 A What was your question again?

10 Q You could tell Juan's lights were on the front
11 loader because before the accident you were driving in
12 front of him in the front loader. Is that correct?

13 A Yes.

14 Q Then, did you call Juan next?

15 A Yes.

16 Q What did you say to Juan when you called him?

17 A So, I asked him if he had seen -- I told him
18 that there's a body of an officer here in the road. Did
19 you see the body? And then he got in his shock and
20 started -- he went in shock and he started crying.

21 Q Did he seem surprised that he hit the deputy?

22 A I think so. You know when after I told him
23 about the body, when you live through something like that
24 you feel bad.

25 Q In that conversation did you tell Juan that you

1 had already called for the police?

2 A No.

3 Q Did you tell him that Laura was going to call
4 for the police or that the police were being contacted?

5 A Neither. I didn't tell him any of that.

6 Q Okay. But you had already called Laura for the
7 police before you even talked to Juan. Is that correct?

8 A Yes. That's correct.

9 Q Was Deputy Hartwick wearing any protective or
10 reflective vests that night that you would typically see
11 in a construction area?

12 A No. When I saw the officer, he was face down.
13 He was wearing the same uniform that this officer that's
14 in front of me right now is wearing. And I didn't see him
15 wearing any vests or any reflector vests.

16 Q Okay. He did not have a yellow safety vest on
17 him that night?

18 A No. Not a thing.

19 Q Okay. Did you see Juan the next morning when
20 the police took him in custody on the interstate?

21 A Yes. I saw him at a distance. I couldn't talk
22 to him or have a conversation with him. It was at a
23 distance and the officers already had him under arrest.

24 Q What did he look like? Could you tell?

25 A Yes. His clothes were muddy or dirty or wet.

1 His clothes were like muddy.

2 Q After this night did you ever go back to work
3 for Archer Western?

4 A No.

5 Q Why not?

6 A So this happened in the early morning hours of
7 Friday. My boss sent me a message that we were supposed
8 to do a job on Saturday. But then he sent me another
9 message for me to show up on Monday. So, I showed up
10 Monday to the office. I showed up but my boss didn't.
11 Then we got a message that the company needed verification
12 of documentation to work.

13 Q To work with legal status in the states, is that
14 correct?

15 A Yes. They needed to verify the social security
16 and the id to make sure that the social security and the
17 id belonged to us. But then I got a message from the
18 person in charge of security that if we didn't bring those
19 documents -- if we didn't go and show up with those
20 documents that we could not work anymore.

21 Q And you did not work any further for Archer
22 Western, is that correct?

23 A Yes, sorry, I did not. Keep going.

24 Q Have you talked to Juan about the accident since
25 his arrest?

1 A So I saw him at church. I saw him at
2 recreational areas. We spoke about court, like what day
3 he had court, things like that. But we did not speak
4 about -- we did not talk about the accident.

5 Q And you saw him at church and court inside the
6 Pinellas County Jail, is that correct?

7 A Yes.

8 Q During those few months that you worked with
9 Juan at Archer Western, did you ever have him over to your
10 house as a guest?

11 A Yes.

12 Q Can you briefly tell us about that?

13 A So, a mutual friend of ours, who is a mechanic,
14 that friend and Juan came over to my house to fix my car.
15 Then Juan was in my house on two other occasions. And
16 then the last time when he was in my house was for my
17 birthday party. I invited him to my birthday party. That
18 was the last time.

19 Q In the time that you've known Juan, what kind of
20 person is Juan?

21 A He's very humble. Very respectful. All the
22 time that he was in my house, you know, I have a wife,
23 kids. He was never disrespectful to my wife, because
24 there's people like that that around women, they can get
25 disrespectful. He was never disrespectful.

1 MS. BLAQUIRE: May I have a moment, Your Honor,
2 please?

3 THE COURT: You may.

4 BY MS. BLAQUIRE:

5 Q Do you remember how many months before the
6 accident Juan started working with your group?

7 A I don't know exactly, but more or less like
8 three months.

9 Q Okay. Thank you.

10 MS. BLAQUIRE: I don't have any further
11 questions.

12 THE COURT: Actually, I've got to swear her in
13 now.

14 (Interpreter sworn.)

15 THE COURT: Counselor, you may continue.

16 MR. VANDERHEIDE: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MR. VONDERHEIDE:

19 Q Good morning, sir. I just have a few questions
20 for you. So, the evening of September 22nd, 2022, you were
21 driving a Ford F150?

22 A Yes.

23 Q All right. And who was in the truck with you
24 and where were they positioned in the truck?

25 A My daughter was in the co-pilot and my sister-

1 in-law was in the back.

2 Q Okay. Your sister-in-law or your brother-in-
3 law?

4 A No. My brother-in-law.

5 Q Okay. Headlights working on that F150?

6 A Yes.

7 Q And they were just normal headlights for a car?
8 Nothing was wrong with them? They weren't dim?

9 A No. They were normal.

10 Q And you were behind Juan, and he was driving the
11 front end loader. Is that right?

12 A Yes.

13 Q And he had lights on the front end loader?

14 A Yes.

15 Q And were they headlights that would illuminate
16 the road, as well?

17 A Yes.

18 Q And were there safety lights or orange lights on
19 it as well so you knew where the corners of the vehicle
20 were?

21 A Yes.

22 Q And were those lights working?

23 A Yes.

24 Q Did it have brake lights on it so when he would
25 stop or slow down you would notice with the lights in the

1 back?

2 A Yes.

3 Q And had you driven on, if not on that shoulder,
4 other shoulders on the highway at night when you were
5 getting to another location on the job site?

6 A Yes.

7 Q And when you would drive on the shoulders, would
8 you frequently encounter other deputies that were in
9 police cruisers?

10 A Yes. But the patrol cars or the police were
11 always usually in their police cars. I never saw a
12 police.

13 Q Did they usually have their lights going? Their
14 strobe lights and their red and blue lights?

15 A Yes.

16 Q And would it be -- on those other occasions and
17 also on the night that this occurred, would it be
18 difficult for you to see while on the shoulder?

19 A Yes.

20 Q Had you ever driven a front end loader like the
21 one Juan was driving in September, 2022?

22 A Yes.

23 Q And had you driven one prior to on the similar
24 situation on a shoulder with police cruisers being
25 present?

1 A Yes.

2 Q And when you would approach the police cruiser
3 with its lights going, would it be difficult to see --
4 would it be difficult to see with the lights going?

5 A Yes. But on other occasions there would be
6 lamps on close to the patrol car that would provide more
7 illumination and clarity, but that night there were no
8 lights.

9 Q If there were lights providing clarity and
10 illumination, would you go faster past that?

11 A No. Normal. You can't go fast because always
12 in the areas where there's an officer you go slower.

13 Q Okay. So, that's even with bright lights you
14 would go slower if you were passing a police cruiser?

15 A Yes.

16 Q All right. Now, let's talk about if you were in
17 the F150 instead of the front end loader. Did the F150
18 have better headlights than the front loader?

19 A No. Same. Just in the machine sometimes the
20 glass gets foggy or if it's dirty. But in the truck I can
21 see fine.

22 Q All right. Would you go faster past a deputy
23 when they parked on the side of the road.

24 A No, I would go slow.

25 Q All right. So, even in the F150 you would go

1 slower?

2 A Yes. We go slow. 10-15 miles, we go slow.

3 Q So, when you were following Juan and he was in
4 the front end loader, did he ever get out of your sight
5 before he hit Deputy Hartwick? Were you right behind the
6 whole time is my question?

7 A Yes.

8 Q When he got near Deputy Hartwick's police
9 cruiser did he stop? Did he use his brights?

10 A No. Since he was going slowly, he continued.
11 But no, he did not stop.

12 Q But he was going the same speed that you had
13 been going the whole time. He did not slow down next to
14 the police cruiser.

15 A No, as I explained to the other lady, there was
16 a truck in front of the patrol, and so their he stopped
17 and went slow. So, no, it's not like we came straight
18 because there was truck in front, so we slowed down
19 because they let us pass. So, it's not like he came
20 straight, so he stopped first.

21 Q But by the police cruiser he did not slow down?

22 A No, because the inspector's truck was close
23 there. It was a close distance.

24 Q So, he stopped for the inspector's truck, but he
25 did not slow down at the police cruiser, is what you're

1 saying?

2 A He started from where the inspector's truck is
3 to what is normal, like 10-15 miles.

4 Q All right. And so, the inspector's truck, he
5 keeps driving normal, as you said.

6 A And so, well he started and started off, like
7 starting off slowly, and slowly increasing speed but like
8 15 miles because I am in the truck, and I could see that
9 we were going slowly.

10 Q All right. He's going 15 miles an hour the
11 whole time past Deputy Hartwick's police cruiser and he
12 never hits the brakes?

13 A No. No.

14 Q And in fact, Juan called you first, didn't he?

15 A I don't remember. I don't know if -- I don't
16 remember if it was him or me, but we spoke. Yes.

17 Q Okay. So, would you agree with me that a
18 download of his phone that would show the records would be
19 more accurate than your memory, perhaps?

20 A Yes.

21 Q So, if the record showed that he actually called
22 you first after Deputy Hartwick was hit that the records
23 would be more accurate?

24 A Yes. They would be correct.

25 Q And -- but you did have a conversation with

1 Juan, informing him what had occurred?

2 A Yes. About the officer that was on the ground.

3 Q When you first saw Deputy Hartwick, was he ever
4 standing when you were able to observe him?

5 A No. Because I was behind the machine. The
6 machine is tall, and I couldn't see until the machine
7 passed and when he was on the floor.

8 Q And you stopped the F150 right? Pretty
9 immediately?

10 A Immediately.

11 Q And you end up having a conversation with him,
12 right?

13 A I spoke to him. I don't know if in that
14 instant, but I spoke to him.

15 Q And you talked to Laura Caudill as well, right?

16 A As well, yes.

17 Q As a result of that, you knew that the police
18 were going to be coming to the scene, right? To the area
19 where you were at?

20 A Yes. Yes. Yes.

21 THE COURT: Wait. Clarification. You said
22 spoke to him?

23 MR. VONDERHEIDE: I meant Juan Molina-Salles,
24 yes.

25 THE COURT: Okay. Thank you.

1 BY MR. VONDERHEIDE:

2 Q So, you parked the F150, and you waited for
3 police to arrive?

4 A Yes.

5 Q How long -- at that point, at that moment in
6 time in 2022, how long had you been in the United States?

7 A I came in 2013 for the second time. I had been
8 here a first time, also.

9 Q And you were not documented, right?

10 A No.

11 Q And did you have a residence in Florida that you
12 were living at?

13 A Yes.

14 Q I don't need the address, but if you could tell
15 me the city or neighborhood?

16 A Tampa, Florida and Sligh.

17 Q And was it an apartment or a house?

18 A House.

19 Q And how many years had you lived in that house?

20 A It was new. That was in September, and I had
21 moved in June.

22 Q Who lived with you?

23 A My wife, my two daughters, my son, my brother-
24 in-law and my brother.

25 Q And how long had your family been in the United

1 States with you?

2 A From 2018.

3 Q And did they have documentation? Were they
4 legally able to be in the United States?

5 A They came requesting asylum from my country.
6 Running away from my country. My wife already had a work
7 permit. And my daughter, I believe, was in the process --
8 one of them already had a work permit. The other one was
9 in the process. And my son, I believe, also had a work
10 permit.

11 Q So the family that was living with you could
12 stay in the United States?

13 A Yes.

14 Q But you couldn't?

15 A Not me. But I did request asylum in May of 2022
16 so that I could stop living this life illegally to at
17 least have a work permit to work legally.

18 Q In September of 2022 your asylum permit had not
19 been granted. Is that right?

20 A Not yet.

21 Q And as far as it relates to Juan Molina-Salles,
22 he had been over to your house. Is that correct?

23 A Yes.

24 Q And he didn't have, as far as you could tell,
25 any family here in the United States?

1 A No.

2 Q And you stayed, and you talked to the police.
3 Isn't that right?

4 THE INTERPRETER: I apologize. This is the
5 interpreter. Could you please repeat?

6 MR. VONDERHEIDE: Yes.

7 BY MR. VONDERHEIDE:

8 Q And after Deputy Hartwick was hit by Juan
9 Molina-Salles, you stopped and you waited and you spoke
10 with the police?

11 A Yes.

12 MR. VONDERHEIDE: I have nothing else.

13 THE COURT: Thank you. Defense, do you wish to
14 ask any further questions of this witness?

15 MS. BLAQUIRE: No, Your Honor.

16 THE COURT: Nobody else asked, but somebody at
17 least tell me, why is he in custody? Yeah, I saw, I
18 just want to know. Oh, his attorney is here.

19 MR. CHAMBERLAIN: Judge, he has a federal case,
20 related to identity documents.

21 THE COURT: Okay.

22 MS. BLAQUIRE: From this case.

23 THE COURT: From this case?

24 MS. BLAQUIRE: Correct.

25 THE COURT: All right. Okay. Thank you. He

1 can go. Anybody need a comfort break or we're going
2 to the next witness? Next witness it is. Who do you
3 wish to call next?

4 MS. BLAQUIRE: Ms. Laura Caudill.

5 THE COURT: I don't know -- oh, no, she speaks
6 English. I heard from the last witness that she
7 speaks English.

8 LAURA CAUDILL

9 Being called as a witness, and having first been duly
10 sworn, testifies as follows:

11 THE WITNESS: Yes, sir.

12 THE COURT: Defense, you may inquire.

13 DIRECT EXAMINATION

14 BY MS. BLAQUIRE:

15 Q Ms. Caudill, please state your full name for the
16 record?

17 A Laura Dawn Caudill.

18 Q Where do you work now?

19 A For Demoya Highway Infractions.

20 THE COURT: Would you do me a favor and angle
21 the mic down at you a little bit. Perfect. And how
22 do I spell your last name?

23 THE WITNESS: C-A-U-D-I-L-L.

24 THE COURT: Thank you.

25 BY MS. BLAQUIRE:

1 Q On September 22nd, 2022, did you work for Archer
2 Western?

3 A Yes, ma'am.

4 Q When did you start working for Archer Western?

5 A Right around the pandemic time. 2020. 2019.

6 Q Okay. What did you -- did you have any
7 experience operating heavy machinery when you started with
8 Archer Western?

9 A No, ma'am.

10 Q Did you get experience operating heavy machinery
11 on the job?

12 A Yes, ma'am.

13 Q What are some of the machines that you can
14 operate?

15 A I operate roller, front end loader, excavator
16 and I have some C time with dozer.

17 Q You speak both English and Spanish. Is that
18 right?

19 A Yes, ma'am.

20 Q How did you learn Spanish?

21 A My mother-in-law.

22 Q When did you join Pedro's crew? That's his
23 alias. Allan Gomez Zelaya on the Gateway Expressway
24 project?

25 A From the first day that I got transferred to

1 that project.

2 Q Okay. Was that in 2020?

3 A Yes, ma'am.

4 Q I'll use his legal name, Allan Gomez Zelaya,
5 okay?

6 A Yes, ma'am.

7 Q Can you tell the Court when Allan and you first
8 learned about Juan and his ability to operate heavy
9 machinery?

10 A We were -- because he was working. He was doing
11 some pipe work and I had seen him and he was on an
12 excavator. And I -- he was peeling the asphalt back. And
13 he was stacking it in perfect little piles. And I
14 remember telling Pedro that he was a really good operator.
15 He was, in fact, the best operator I ever seen. And I
16 wanted him to work with us to make our job easier.

17 Q How did Allan and you get Juan to join your
18 crew?

19 A Talked to my superintendent and then his -- our
20 superintendent talked to his superintendent. But it took
21 a while because his superintendent didn't want to let him
22 go with us because they said that he was the best operator
23 that they had that was doing the pipe work.

24 Q What were the machines that Juan could operate?

25 A Front end loader. Just basically any machine

1 you put him on, he operated.

2 Q Did he indicate to you how long he had been
3 operating heavy machinery ever?

4 A He said that he had -- he didn't tell me how
5 long, but I know he even said he could operate a crane.

6 Q Did Juan also work the loader with a bucket at
7 times?

8 A Yes.

9 Q Did you feel safe working with Juan when he was
10 operating heavy machinery like the bucket and you're down
11 in the pit?

12 A Yes, ma'am. I had -- plenty of times I've
13 worked right beside him moving equipment. I felt safe.

14 Q Why do you feel safe?

15 A Because he paid attention. He's very -- you
16 just had to -- I don't know. When he operated, he paid --
17 like he'd make sure he didn't go fast. He didn't try to
18 hurry. He took his time.

19 Q So going slowly and taking your time was a key
20 for safety?

21 A Yeah, it's very big on safety because that's a
22 very dangerous job.

23 Q What does the general term MOT mean?

24 A They're the ones who come and places the highway
25 cones. The lane closures. Flagging.

1 Q Does that maintenance of traffic?

2 A Control. Yes.

3 Q Was Cody Gardner the maintenance of traffic for
4 the Gateway Expressway project the night of Deputy
5 Hartwick's death?

6 A Yes. He was the foreman in charge.

7 Q So he would have been in charge of ensuring the
8 lanes were closed properly and placing the deputies
9 safely?

10 A Yes.

11 Q Let's go to the night of Deputy Hartwick's
12 passing. Who was working with you that night?

13 A I had Glydon and Elias with me.

14 Q Take us back to that night and tell us how you
15 learn about the accident, please.

16 A I was escorting Glydon on a front end loader for
17 us to go unload the barrier wall off of some flatbeds that
18 was on 275. And I got a call from Mr. Juan, which I call
19 him Panda. But I couldn't understand what he was saying.
20 It was staticky and then at the same time Pedro had called
21 too, so I answered the phone for Pedro, which Allan, and
22 that's how I learned from Allan.

23 Q So, you never actually talked to Juan?

24 A No, I could not. No, we never talked.

25 Q You just called him Panda. Why do you call him

1 Panda?

2 A Because we worked together. He was always like
3 a very happy person and he -- we would dig these --
4 excavate the big holes. Although he wasn't required, he
5 would get off of there and get in those holes with us and
6 help us do whatever we had to do. And he jumped out of
7 the holes like the -- off the little panda off Kung Fu
8 Panda so I started calling him Panda because that's what
9 he reminded me of.

10 Q That's from the movie King Fu Panda?

11 A Yes. The way he just jumped around.

12 Q Yeah. That's nice. When you got the call from
13 Pedro, who we know as Allan, what did you do after that?

14 A I went down to where he told me he was at, and
15 when I pulled up I jumped out of the car and I just
16 started like screaming at them, what happened? They said
17 they didn't know. And I went to where the officer was,
18 and I was like, sir, are you okay? All I could hear was
19 the chatter of his police radio. And I tried to call 911,
20 and then it said like press 1. It was giving you two
21 different language options, and I just like, I don't know,
22 so I just took off to the inspector screaming for him to
23 help me.

24 Q Did you bang on the inspector's front door.

25 A Yes, ma'am.

1 Q And ask him to call 911?

2 A Yes, ma'am.

3 Q It was difficult in that moment for you with the
4 emotions and the stress to make that call yourself?

5 A Yes, ma'am. I was screaming for Pedro and his
6 daughter then to help me.

7 Q Did you see Juan interact with law enforcement
8 the next morning after the crash?

9 A I seen when they were bringing him to like a
10 command trailer.

11 Q Can you tell the Court what you saw?

12 A I saw him. He was like, he was crying. And his
13 face, his face was puffy just like he was crying and
14 stuff.

15 Q Okay. So, you had stayed on scene all night?

16 A Yes, ma'am.

17 Q You didn't actually see the crash occur though,
18 correct?

19 A No, ma'am.

20 Q You did see Deputy Hartwick's dead body on the
21 shoulder, correct?

22 A Yes, ma'am.

23 Q He was not wearing any safety vest or reflective
24 hard hats?

25 A No, ma'am.

1 Q Where his body was found, what was the lighting
2 like?

3 A There was -- the only lighting was from his
4 patrol car and how I could -- there was no street lights
5 or anything. There was no one around. There was just the
6 patrol car was there and then Pedro's truck was like right
7 in front of where the deputy's body was.

8 Q Deputy Hartwick's body was almost off the
9 shoulder, near the edge of the shoulder, correct?

10 A Yes, ma'am. His top torso was on the shoulder
11 and his legs were more towards the grassy area.

12 Q Were Deputy Hartwick's flashing lights on his
13 vehicle on at the time of the accident?

14 A Yes, ma'am.

15 Q How did the flashing lights affect your ability
16 to see Deputy Hartwick?

17 A I almost didn't see him when I was pulling up
18 either. The passenger started screaming and I just like
19 locked on brakes.

20 Q Did the flashing lights make it more difficult
21 to see Deputy Hartwick?

22 A Yes, ma'am. Not once like when I got out and
23 got over there up close, but like when I was coming up, I
24 didn't see him at first.

25 Q In your vehicle?

1 A Yes, ma'am.

2 Q Okay. How close did you get to Deputy Hartwick
3 when you first saw him laying on the ground lifeless?

4 A Maybe -- I was pretty close because I was trying
5 to scream to get his attention. To see if he would like
6 respond.

7 Q No response?

8 A No, ma'am.

9 Q I'd like to go back to Juan, okay?

10 A Mmm-hmm.

11 THE COURT: Well, hold on a second. You didn't
12 actually indicate how close you got. Two feet? Ten
13 feet? Twenty feet?

14 THE WITNESS: Maybe two feet. I was up pretty
15 close. Yes, sir.

16 THE COURT: Okay. Thank you.

17 BY MS. BLAQUIRE:

18 Q How long did you work with Juan before the
19 accident?

20 A Three or four months.

21 Q How many days a week do you work together?

22 A Six.

23 Q That you're aware of during the time you worked
24 with Juan, did he have any safety violations?

25 A No, ma'am.

1 Q Can you tell me what kind of a person Juan was
2 during the time period that you worked with him?

3 A He was always happy. He was friendly. He would
4 help anybody that needed help.

5 MS. BLAQUIRE: Your Honor, may I approach?

6 THE COURT: You may.

7 MS. CONSTANTINE: No objection.

8 BY MS. BLAQUIRE:

9 Q I'm going to put a photo on this white screen to
10 your right.

11 A Yes, ma'am.

12 Q Do you recognize this photo?

13 A Yes, ma'am.

14 Q How do you recognize this photo?

15 A I took the photo.

16 Q And what is depicted within the photo?

17 A We were digging out a -- it's a concrete block
18 that holds the big highway scenes across 275. And once
19 they take it down, we have to demo it. So, we dig down to
20 find the bottom and we have to cut rebar that's in it.

21 MS. BLAQUIRE: This is defense Exhibit 1, for
22 the record.

23 THE COURT: All right. Any objection to Defense
24 Exhibit 1?

25 MS. CONSTANTINE: No, Your Honor.

1 THE COURT: Shall be admitted as Defense Exhibit
2 1 in evidence.

3 (Defense Exhibit 1 admitted into evidence.)

4 MS. BLAQUIRE: Thank you.

5 BY MS. BLAQUIRE:

6 Q What does this photo represent to you?

7 A My job was to be down to cut that -- in that
8 hole to cut that and because -- he didn't want me to go
9 down there so he went down in the hole and cut the rebar
10 for me, so I wouldn't have to go in and do it.

11 Q Is this another example of Juan helping others?

12 A Yes.

13 Q That you saw, was Juan ever in a bad mood?

14 A No, ma'am.

15 Q Did Juan talk with you about his kids at work?

16 A Yes, ma'am.

17 Q His family back home in Honduras?

18 A Yes, ma'am.

19 Q Did you ever hang out with Juan outside of work?

20 A No, ma'am.

21 Q Would you have if you had more time with him?

22 A Yes, ma'am, I would.

23 Q Okay. Have you had any contact with Juan since
24 his arrest?

25 A No. No, ma'am.

1 Q Is today the first time you're seeing him since
2 his arrest?

3 A Yes, ma'am.

4 MS. BLAQUIRE: May I have a second please, Your
5 Honor?

6 THE COURT: Of course.

7 MS. BLAQUIRE: I don't have any further
8 questions.

9 THE COURT: State, you may inquire.

10 MS. CONSTANTINE: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MS. CONSTANTINE:

13 Q Good morning.

14 A Morning.

15 Q All right. Good to see you again.

16 A You too.

17 Q So, first I want to talk a little bit about the
18 front end loader that we're talking about, okay?

19 A Mmm-hmm.

20 Q This is a large piece of equipment. Is that
21 fair to say?

22 A Yes, ma'am.

23 Q Bigger than the truck that you're in the night
24 that this crash happens?

25 A Yes, ma'am.

1 Q So, when defense is asking you about visually
2 you being able to see Deputy Hartwick, you would agree
3 with me that someone that's in a front end loader that's
4 very large and high above the ground has a better vantage
5 point to see than you would, correct?

6 A On the ground? No.

7 Q Would they be able to see --

8 A You can see everything, but down below it's kind
9 of hard. You usually when -- well, not when you're
10 escorting, but when you're doing groundwork. Like say you
11 would have to pick something up or you have what you call
12 a spotter. That spotter is going to help you to guide you
13 where you need to go because there is blind spots that you
14 can't see.

15 Q That would be on the ground.

16 A Yeah, but driving it, yeah, he would be up
17 higher, so you would have a better advantage, I would
18 assume when you're driving it.

19 Q Yeah, you're driving it.

20 A Yes, ma'am.

21 Q You're sitting up on the loader. Right?

22 A Yes. You can --

23 Q And that person would be higher up than you
24 would be in your vehicle, right?

25 A Yes, ma'am.

1 Q Now, you talked a little bit on direct
2 examination about the state of these types of vehicles.
3 Can you tell the Court how large, how much does these
4 vehicles weigh?

5 A I couldn't tell you how much they weigh, but
6 they are very large.

7 Q Hundreds of pounds? Thousands of pounds?

8 A Thousands of pounds. Yes.

9 Q And you talked a little bit about the safety.
10 Can you tell the Court, would it be safe for someone who's
11 lights aren't operational to be driving a thousands of
12 pound piece of equipment down the roadway when they can't
13 see?

14 A No. No.

15 Q Would that be safe?

16 A No.

17 Q Would that be safe for them?

18 A That wouldn't be safe for anybody.

19 Q It wouldn't be safe for the public, right?

20 A No, ma'am.

21 Q It certainly wouldn't be safe for police
22 officer's who are out there protecting everyone, right?

23 A Yes, ma'am.

24 Q And that's why Deputy Hartwick was out there
25 that night, right?

1 A Yes, ma'am.

2 Q He was there to protect the road workers?
3 Right? Keep them safe?

4 A Yes, ma'am.

5 Q So, when defense asked you about Juan helping
6 others, just to very clear, at any point when you're out
7 there the night that this happened, did you see the
8 defendant in this case stop to help Deputy Hartwick?

9 A No, ma'am.

10 MS. CONSTANTINE: A moment to confer?

11 THE COURT: Yes.

12 MS. CONSTANTINE: Nothing further.

13 THE COURT: Any redirect?

14 MS. BLAQUIRE: No, Your Honor.

15 THE COURT: Thank you for coming in today,
16 ma'am. You're excused.

17 THE WITNESS: Thank you.

18 THE COURT: Defense, would do you wish to call
19 for your third witness?

20 MS. DELIBERATO: Your Honor, our next two
21 witnesses will be on the zoom, and I'll just need a
22 moment to get a few things set up.

23 THE COURT: Set that up? Okay. Maybe it would
24 be appropriate to take a ten minute recess then, so
25 you can get that set up and we can test the

1 technology, and you can practice the -- I know you
2 already tested the technology but measure twice, cut
3 once. All right. So, we'll be in recess for ten
4 minutes.

5 THE DEPUTY: All rise.

6 (Court stands in recess.)

7 (Court is back in session.)

8 THE COURT: All right. We had a chance to test
9 the technology so that we can handle the witnesses
10 that are by zoom. Where is the witness by zoom
11 that's being called next testifying from?

12 MS. DELIBERATO: Juana Patricia Molina. So, I
13 think the best for my second witness on zoom, I'm
14 going to play an audio clip. I'm fine. I have the
15 zoom up here. The interpreter is going to stand next
16 to me. If the Court can see, I think we don't need
17 to put the zoom on the screen. Although, I guess
18 maybe we do because of the sound. I'm not sure if it
19 will come out. That's what I don't know.

20 THE COURT: Is it -- did we test putting them up
21 on the screen?

22 MS. DELIBERTO: It just works. I tested the
23 audio that I'm going to play, and it works.

24 THE COURT: Okay. But can we put the picture up
25 there or we can't put the picture up there?

1 MS. DELIBERTO: I don't think we can do both at
2 the same time.

3 THE COURT: Okay. Then we won't do both. Sound
4 is more important.

5 MS. DELIBERATO: But we should be able to -- you
6 should be able to hear once -- I believe you should
7 be able to hear the zoom witness from your computer.

8 THE COURT: All right. Does that work for you,
9 State?

10 MS. CONSTANTINE: Yes, Your Honor.

11 THE COURT: Okay. And what is the name of this
12 witness now?

13 MS. DELIBERATO: Juana Patricia Molina. I'm not
14 certain if they can hear us.

15 THE COURT: Ms. Patricia Molina, can you hear
16 us?

17 MS. DELIBERATO: She's on mute.

18 THE WITNESS: I can hear you.

19 THE COURT: Is that her?

20 MS. DELIBERTO: Yes.

21 THE COURT: Okay. Hello, can you see me?

22 THE WITNESS: No.

23 THE COURT: Okay.

24 MS. DELIBERTO: So, your camera somehow is
25 facing the back of the courtroom. But I can turn my

1 computer to you so that.

2 THE COURT: Okay. It is not necessary.

3 MS. DELIBERTO: Okay. We just need to swear her
4 in. You need to swear her in.

5 THE COURT: Where is she, though? Where are
6 you, ma'am.

7 THE WITNESS: Now I see you. I'm in Madrid,
8 Spain.

9 THE COURT: Madrid, Spain. Okay. Raise your
10 right hand.

11 JUANA PATRICIA MOLINA-SALLES

12 Being called as a witness, and having first been duly
13 sworn, testifies as follows:

14 THE WITNESS: I swear before God.

15 THE COURT: Okay. You can put your hand down.
16 Defense, you may inquire.

17 DIRECT EXAMINATION

18 BY MS. DELIBERATO:

19 Q Good morning, can you please state and spell
20 your name for the record?

21 A Good morning. My name is Juana Patricia Molina-
22 Salles.

23 Q And where do you live?

24 A I'm currently living in Madrid, Spain.

25 Q What do you do for work?

1 A Right now I'm a supervisor at a store chain.

2 Q Do you know Juan Molina-Salles?

3 A Yes.

4 Q How do you know him?

5 A I'm the third sibling of five siblings.

6 Q Can you explain to the Court the birth order?

7 The names of your siblings and the order in which they
8 arrived.

9 A The first one, her name is Ruth Amiya Molina-
10 Salles. The second one is Anna Christina Molina-Salles.
11 I'm the third one, Juana Patricia Molina-Salles. The
12 fourth one is Juan Ariel Molina-Salles. The fifth one is
13 Noel Gabriel Molina-Salles.

14 Q Where were you born?

15 A I was born in the city of Choluteca, Honduras.

16 Q And is that also where Juan was born?

17 A Yes.

18 Q Did you grow up in the same household with Juan?

19 A Yes.

20 Q With both of your parents?

21 A Both parents.

22 Q What was the neighborhood like that you lived
23 in? Was it a rich neighborhood or a poor neighborhood?

24 A It was a working class, humble neighborhood.

25 Q What did your parents do for work?

1 A My father, he worked in operating heavy
2 machinery. And my mother, she was a salesperson. She was
3 a saleswoman.

4 Q How far did Juan go in school?

5 A Second year of high school.

6 Q And in Honduras, is that about the sixth grade?

7 A No, eighth grade.

8 Q Eighth grade. Why did he drop out of school?

9 A Because since he was little, our father worked
10 in heavy machinery, and he got interested in it.

11 Q Was going beyond the eighth grade to a higher
12 education expensive?

13 A It's expensive. Coming from a working class
14 family with five children, it was expensive.

15 Q So, instead of spending the money to send Juan
16 to a higher education, did he start working with your
17 father?

18 A No. He wanted to -- he left school because he
19 wanted to pursue that trade. Because it really interested
20 him a lot.

21 Q Okay. And did he start doing that work when he
22 was about how old?

23 A Sixteen years old.

24 Q What did Juan do with the money that he made
25 working? Did he use it to support the family?

1 A Yes.

2 Q In your observation, was Juan a hard worker?

3 A No. Initially he wasn't working a lot. It was
4 part time. My father only allowed him to work certain
5 hours. It was not until he turned 18 that he focused
6 completely on the trade.

7 Q And when he started working full time at 18, did
8 you know or observe that he was a hard worker?

9 A It was the focus and the upbringing that our
10 parents gave. You know, my father would say, if you're
11 going to do a job you have to do it, you have to make sure
12 and pay attention that you do it right,

13 Q What was Juan like to you as a younger brother?

14 A Very polite. Very loving. More than a brother,
15 I had a friend.

16 Q When did you leave Honduras?

17 A I left April of 2018.

18 Q Why did you leave Honduras?

19 A So, I was working in the sugar distribution
20 company, and I was also involved in juvenile politics,
21 youth politics. And I noticed that the economy was going
22 down. They were not paying me well.

23 Q Do you know Juan's wife, Cindy, the mother of
24 his children?

25 A Yes. Perfect.

1 Q Did you know her when you were growing up in
2 Honduras?

3 A Yes. He brought her home to introduce her to
4 our parents.

5 Q And they have two children together, is that
6 right?

7 A Yes.

8 Q And is his daughter biologically belong to Juan?

9 A No. He raised her as his own since she was
10 pregnant because he knew that she was pregnant.

11 Q He started dating her when she was pregnant. Is
12 that right?

13 A Correct.

14 Q And he raised that daughter as his own daughter?

15 A Yes.

16 Q And did they have a son together?

17 A Yes.

18 Q Did you have an opportunity to observe Juan as a
19 father?

20 A Yes.

21 Q How was he as a father?

22 A So, I had a chance to live with them for a while
23 when they came to visit. He's a very loving, very
24 attentive father. Always paying attention that his kids
25 did not lack for anything. What can I tell you? He was a

1 loving father.

2 Q Do you know why Juan left Honduras?

3 A Yes. Because of the same reason. The economy.
4 Wages are too low. And they're firing people.

5 Q Did you stay in touch with Juan on his journey
6 to the United States?

7 A I only had a chance to speak with him when he
8 was leaving Honduras when he was saying goodbye to our
9 mother.

10 Q And did he eventually make it to the United
11 States to see your brother, who was in Tennessee?

12 A Yes.

13 Q And did you speak with him when he was working
14 there with your brother?

15 A Yes.

16 Q Was he working construction work with your
17 brother in Tennessee?

18 A Yes.

19 Q And did you learn that he eventually came to
20 Florida and was working construction here?

21 A Correct.

22 Q And did you talk to him on the phone?

23 A That's correct.

24 Q And stayed in touch with him while he was living
25 here working. Is that right?

1 A Correct.

2 Q And the money that he was making, was he sending
3 that money back to his wife and children in Honduras?

4 A Yes. That's correct.

5 Q When in Honduras, has Juan every gotten into any
6 trouble in Honduras? Any legal trouble?

7 A No.

8 Q When did you first learn that Juan had been
9 arrested and was in jail in Florida?

10 A Within 24 hours. There were time zone
11 differences, but within 24 hours I got the call from my
12 brother.

13 Q Were you eventually able to speak to Juan on the
14 telephone from the jail?

15 A No.

16 Q Since his arrest, you've never spoken to him on
17 the phone in the jail?

18 A I spoke to him six months later.

19 Q Okay. So, the first time you spoke with him
20 after his arrest was about six months later? Is that
21 right?

22 A Yes.

23 Q When you talked to him on the phone, did he
24 express regret for leaving the scene of the accident?

25 A I couldn't speak about any other topic besides

1 how he was doing.

2 Q Okay. So, you didn't talk to him about the
3 facts of the case or anything like that?

4 A No.

5 Q How was he emotionally?

6 A Destroyed.

7 Q When Juan finished whatever sentence the Court
8 gives him and when he's deported back to Honduras, will
9 your family continue to support Juan?

10 A Yes. I personally will travel, God willing, to
11 receive him over there.

12 MS. DELIBERATO: May I have a moment, Judge?

13 THE COURT: Of course.

14 MS. DELIBERATO: I don't have any further
15 questions.

16 THE COURT: Can the State use your computer to
17 keep it simple?

18 MS. DELIBERATO: Of course.

19 THE COURT: Do you have any questions?

20 MS. CONSTANTINE: I don't, Your Honor. Thank
21 you.

22 THE COURT: Oh, okay. Tell her thank you. She
23 is excused as a witness. And to her mute her
24 computer again.

25 MS. DELIBERATO: But she can stay?

1 THE COURT: She can stay.

2 THE WITNESS: Thank you.

3 THE COURT: I think she left.

4 MS. DELIBERATO: No, she just turned her
5 computer off.

6 THE COURT: Oh, okay.

7 MS. DELIBERATO: Eladia Cruz is our next
8 witness. Ms. Cruz?

9 THE COURT: There's a Garcia.

10 MS. DELIBERATO: It's the video (indiscernible).

11 THE COURT: I have a different thing up here on
12 my computer. Which one? That one? I think that's
13 -- yep, I got her. All right. See if I have to --
14 Ms. Cruz, raise your right hand.

15 ELADIA CRUZ

16 Being called as a witness, and having first been duly
17 sworn, testifies as follows:

18 THE WITNESS: Yes, I swear, so help me God.

19 THE COURT: You may inquire.

20 DIRECT EXAMINATION

21 BY MS. DELIBERATO:

22 Q Good morning, Ms. Cruz, can you please state
23 your name for the record?

24 A My name is Eladia Batista Cruz Morales.

25 Q Where do you live?

1 A I'm in Barcelona, Spain.

2 Q What do you do for work?

3 A In the morning I work at home, and I go to
4 school in the evenings.

5 Q What are you going to school for?

6 A Nurse's aide.

7 Q Do you know Juan Molina-Salles?

8 A Yes, I do.

9 Q How do you know him?

10 A He's my brother-in-law.

11 Q And what is your sister's name?

12 A Cindy Benenica Cruz Morales (ph).

13 Q When did you first meet Juan?

14 A Around 2015.

15 Q How did you meet him?

16 A At that time he was my sister's boyfriend. My
17 sister brought him home and that's when I met him.

18 Q And what did you think about him dating your
19 sister?

20 A Well, he went -- she brought him home. We met
21 him. We saw that he was an excellent person. A good
22 human being. Then we took some time, a good amount of
23 time to get to know him and then we opened up the doors of
24 our home to him.

25 Q Was Juan working at the time he was dating your

1 sister?

2 A Yes. He was working in heavy machinery. And
3 they were doing a construction project at that time in
4 Olancho, building a bridge.

5 Q Have you always known Juan to work with heavy
6 machinery for his job?

7 A Yes. When we met him, that's how we met him.
8 He was working in heavy machinery. And all that time
9 since he was going out with my sister up until the end
10 he'd been working in heavy machinery.

11 Q Your sister and Juan have two children. Is that
12 right?

13 A Yes.

14 Q Can you tell me their names and ages?

15 A Okay. The oldest is Ashley Desell Cantonia Cruz
16 (ph) and she's 11 years old. And Joshua Ariel Molina
17 Cruz, he's the youngest child.

18 Q How old is he?

19 A Five years.

20 Q And it's my understanding that Ashley is not
21 Juan's biological daughter. Is that right?

22 A He's not.

23 Q But he started dating your sister while she was
24 pregnant with Ashley, right?

25 A They met each other. They were going out for

1 some time, then my sister got pregnant. Then they resumed
2 their relationship and then the child was born.

3 Q And has he always treated Ashley as his own
4 daughter?

5 A More than a daughter. Like if it was his own
6 blood.

7 Q And does she feel the same way about Juan? Does
8 she see him as her father?

9 A Yes.

10 Q Now, your sister is still living in Honduras
11 with the two children?

12 A Yes.

13 Q And the internet service is not always reliable
14 there, is that right?

15 A It's not and in that area where we live there's
16 not enough coverage.

17 Q So there would be no way for her to come and
18 testify on the zoom. Is that correct?

19 A No, she could not.

20 Q Did she want to be here?

21 A She wanted to, yes.

22 Q And did she and the children send you some voice
23 messages on What's App?

24 A Yes.

25 Q In a moment I'm going to play the audio message

1 from Cindy only. And after it's over I want you to listen
2 to it and then I'll ask you some questions about it.

3 Okay?

4 A Yes.

5 Q Can you hear it?

6 A Yes.

7 (Audio played.)

8 THE COURT: Well, if he followed all that and is
9 about to recite it to me in English, I'm going to be
10 very impressed.

11 MS. DELIBERATO: So, my understanding, when I
12 spoke with the interpreter is they will not
13 interpret, pursuant to administrative order, they
14 will not interpret a live video. So, because of
15 that, I opted to play it this way, and then I would
16 have Ms. Cruz just summarize for it. I will put it
17 into evidence with the translation. Then I will work
18 through the State so that it's part of the record,
19 just for clarity's sake. But that is why we did it
20 that way.

21 THE COURT: Okay. I knew there was a reason. I
22 figured I'd find out what that reason was.

23 MS. DELIBERATO: I didn't know that --

24 THE INTERPRETER: Some recordings have to be
25 transcribed then translated.

1 THE COURT: Okay. I learned something new
2 today.

3 MS. DELIBERATO: Me too.

4 THE COURT: Yep. You may continue.

5 BY MS. DELIBERATO:

6 Q Ms. Cruz, did you have an opportunity to hear
7 that?

8 A Yes, I heard it.

9 Q And is that your sister's voice?

10 A Yes.

11 Q And can you just summarize that two and a half
12 minutes that she said, can you summarize what it is she
13 told -- wanted the Court to know?

14 A She's just saying that Ariel has been a great
15 husband. That he's given his life for them. That he's
16 made many sacrifices for them, and she has so many other
17 things to say about him.

18 Q Anything else?

19 A She just wants to convey the message that he's
20 an excellent person. That he's an excellent father. And
21 excellent husband. He's been an example to his children.
22 A role model for his children and that he would give his
23 life for them.

24 Q Ms. Cruz, if you know, why did Juan leave
25 Honduras to come to the United States in 2021?

1 A It's the family spoke about it. He left because
2 he wanted a better future. He wanted to build a better
3 future for his -- my sister, for his children, for us, for
4 his family. That's the reason why he left.

5 Q And were there limited work opportunities for
6 him in Honduras after the pandemic?

7 A He was always working, but after the pandemic,
8 he started working less and less so he made the decision
9 to leave.

10 Q Did you stay -- was Juan's brother already in
11 the United States working in Tennessee, if you know?

12 A Yes, that's correct.

13 Q Did you stay in touch with Juan on his journey
14 to the United States?

15 A Yes.

16 Q And did you learn that Juan eventually made his
17 way to Florida in about March of 2022 to work
18 construction?

19 A Yes.

20 Q All the time he was working in the United
21 States, was Juan sending money to your sister and her
22 children?

23 A Always. Ever since he arrived until what
24 happened.

25 Q When did you first learn that Juan had been

1 arrested?

2 A The next day.

3 Q Did you get a chance to speak with him in the
4 jail?

5 A Yes.

6 Q Do you know when that was?

7 A I don't remember exactly, but I believe like two
8 or three months later.

9 Q How was he emotionally?

10 A Very bad.

11 Q How so?

12 A He was sad. He was down about what happened.
13 He's remorseful.

14 Q In your -- all the time that you've known Juan
15 and his relationship with your sister, did he always try
16 to provide for them as best as he could?

17 A Correct.

18 Q And are your sister and her children struggling
19 since he's been in jail, unable to work for the last two
20 and a half years?

21 A Yes. Because he was the support of their
22 household.

23 Q Will your sister and his children welcome him
24 home after his prison sentence when he's deported?

25 A Yes. He's always welcome, whatever time God

1 permits.

2 Q And will you, as his family, and the remainder of
3 his family, continue to support him?

4 A All our life.

5 MS. DELIBERATO: One moment. I have no further
6 questions.

7 THE COURT: Thank you. Counsel, any questions?

8 MS. CONSTANTINE: No.

9 THE COURT: No?

10 MS. CONSTANTINE: No, Your Honor.

11 THE COURT: Thank you, ma'am. You are excused
12 as a witness.

13 MS. DELIBERATO: If we could let the witnesses
14 on zoom know, nobody is going to testify anymore, but
15 they are welcome to stay and listen. I would ask the
16 Court to keep the zoom link open.

17 THE COURT: I'm going to keep the zoom up until.

18 MS. DELIBERATO: And keep them muted as needed.

19 THE COURT: Defense, who do you wish to call as
20 your next witness.

21 MS. DELIBERATO: Those are our last witnesses.

22 I have a few pieces of evidence to put in and
23 publish. Defense Exhibit 2, the 911 call. Defense
24 Exhibit 3, Corporal Aitken's body worn camera
25 footage. Defense Exhibit 4, which is a photograph

1 inside Deputy Hartwick's car of a safety vest.

2 THE COURT: Okay.

3 MS. DELIBERATO: And defense Exhibit 5, which is
4 the deposition of Alan Clark. We'll put a
5 stipulation on the record when -- at the close of our
6 presentation about the depo. But at this time, I
7 would like to play the 911 call and the body worn
8 camera footage.

9 THE COURT: All right. Let's do it this way.
10 Do you have any objection to 2, 3 4, and 5?

11 MS. CONSTANTINE: No, Your Honor.

12 THE COURT: All shall be admitted. So, 1
13 through 5 of the defense is admitted into evidence.

14 (Defense Exhibits 2, 3, 4 and 5 admitted into
15 evidence.)

16 THE COURT: You may publish whatever exhibit you
17 wish next, just tell me what it is.

18 MS. DELIBERATO: This is defense Exhibit 2. It's
19 the 911 call by Kenny Rogers.

20 THE COURT: Approximately how long is this phone
21 call?

22 MS. DELIBERATO: That's a great question.

23 THE COURT: For once I try to ask.

24 (The following is a transcription of audio
25 published in open court transcribed to the best of the

1 transcriber's ability.)

2 911 OPERATOR: Wednesday, September 22, 2022.
3 22:52 and 38 seconds.

4 (Audio paused.)

5 MS. DELIBERATO: I don't know. It's short.

6 THE COURT: It's short? Short is a qualitative
7 word rather than a quantitative word. Two minutes?
8 Five minutes? Ten minutes?

9 MS. DELIBERATO: Two to five minutes.

10 THE COURT: Two to five minutes. Okay. Play.

11 (Audio resumes.)

12 911 OPERATOR: 911, what is the address of your
13 emergency?

14 THE CALLER: It's on southbound I-275, just
15 before exit 30, which is Roosevelt. I am being told
16 by a female that an officer, an off-duty officer,
17 just got struck by a vehicle, and I'm going down to
18 it now.

19 911 OPERATOR: Okay. Is it a vehicle versus a
20 pedestrian?

21 THE CALLER: Well, I think it was, from what I
22 understand it was a car and an off duty officer was
23 outside of the vehicle and got struck.

24 911 OPERATOR: Okay. So, it's southbound. Is
25 it before or after the exit.

1 THE CALLER: It's still on I-275. It's 54 and
2 (indiscernible).

3 911 OPERATOR: So, it's before. So, you're just
4 south of Franklin Bridge. At the Ulmerton, right
5 there at the Ulmerton Exit, it's right there? That's
6 by the --

7 THE CALLER: Uh, yes. Yep. Pass over 10th.
8 10th and before Roosevelt.

9 911 OPERATOR: Okay. And it's southbound lane.

10 THE CALLER: Yep. Southbound lane. Hey, call
11 somebody and get some --

12 911 OPERATOR: Let me know when you find him.

13 THE CALLER: All right. I'm walking up to it.

14 911 OPERATOR: You're walking up to it now?

15 THE CALLER: Yeah, but I can't -- ah, fuck me.
16 What do you think?

17 911 OPERATOR: What's your name?

18 THE CALLER: My name is Kenny.

19 911 OPERATOR: Kenny?

20 THE CALLER: Yeah.

21 911 OPERATOR: Okay. So, you're the southbound
22 lanes, north of Roosevelt. Roll over crash. What
23 kind of vehicle is involved?

24 THE CALLER: Well, I think it was a hit and run.
25 I think it was a hit and run because the officer was

1 out of his vehicle and is laying on the ground now.

2 911 OPERATOR: And whose car? FHP?

3 THE CALLER: No, Sierra. He's probably DOA,
4 right?

5 (Audio paused.)

6 THE COURT: Counsel, pause it for a second.
7 What is going on. What's that 22 and 50 -- why is it
8 doing that?

9 MS. DELIBERATO: It's the -- just the 911, as
10 the 911 call supporting, it continuously plays for
11 the time stamp. It's just the 911 call.

12 THE COURT: Okay. So, this isn't a mistake?
13 This is the way it is.

14 MS. DELIBERATO: It's like when you call 911,
15 it's like -- you're on a recorded line. It just
16 tells you the time like every few --

17 THE COURT: Is that on your copy?

18 MS. CONSTANTINE: I don't think so. I can go
19 grab mine from my office if you'd like.

20 MS. DELIBERATO: That's the only copy that I was
21 provided that --

22 THE COURT: I have never heard that before. And
23 --

24 MS. DELIBERATO: I'm almost done, but I can --

25 THE COURT: Okay. All right. You can keep

1 going. I was just trying to figure if there was a
2 way we could do it without that, but I've never heard
3 that before. It's okay. I'll try and phase it out.

4 MS. DELIBERATO: The purpose of the 911 call was
5 just to establish that the first responders on scene,
6 the status of Deputy Hartwick. That's the sole
7 person, and I'm just about done.

8 THE COURT: Okay. Okay.

9 (Audio resumes.)

10 THE CALLER: Right now.

11 911 OPERATOR: Who are you talking to?

12 THE CALLER: I'm talking to (indiscernible).
13 Did you call them? Did you call someone? Oh man,
14 it's going down the wrong --

15 911 OPERATOR: Who are you -- what are you
16 looking --

17 THE CALLER: Well, I'm seeing your fire
18 department, they're coming down Exit 30 going north,
19 when they could have come up the wrong way driving on
20 the --

21 911 OPERATOR: Well, some of -- no, they don't
22 go the wrong -- they'll come around. They have a
23 turnaround that they use and they have everything
24 that they need. But they're going to pass right by
25 that because they're going to come around the other

1 way.

2 THE CALLER: Yeah, I used to be a firefighter.

3 (Audio ends.)

4 MS. DELIBERATO: That's all the part I want to
5 publish. Just when he came up to the body and what
6 he described to the 911 operator. It just wasn't
7 good and he was DOA. Just the comment that he made
8 so what I wanted to publish.

9 THE COURT: Okay.

10 MS. DELIBERATO: And I don't have any more to
11 publish. I will publish a portion of the body worn
12 camera, which is defense Exhibit 3, which will show
13 Mr. Molina-Salles arrest, and I will play about five
14 minutes. It's a ten minute video. I'm not going to
15 play the whole video. I will play about three to
16 five minutes of it.

17 THE COURT: Okay.

18 MS. DELIBERATO: So, not the whole thing. Just
19 part of it.

20 (Audio of the body worn camera footage.)

21 OFFICER AITKEN: On the overpass right here.
22 1055. He's down. We're going 1015 now. We're 10-4.
23 Subject is still wearing the long sleeved grey t-
24 shirt.

25 We are 1015, secure.

1 DISPATCH: Copy that. Why don't you guys get
2 him loaded up and we're going to send folks down just
3 to confirm. And then we'll have you bring him back
4 to TP.

5 OFFICER AITKEN: Stand up. Stand the fuck up.
6 You hear me? Where can we get out here. Turn
7 around. Far north end. Don't move. Far north end,
8 up at the overpass. I'm walking him up the overpass
9 now. There's a cruiser. A school bus is passing you
10 right now. I'm coming to you.

11 10-4. Cruiser. Two cars that just passed you.
12 School bus in front of them. I'm coming right to
13 you. My footprint's so big. (Indiscernible.)
14 That's what it was.

15 (Video ends.)

16 MS. DELIBERATO: And that's all that I'm going
17 to play, Your Honor. I will put the rest in evidence
18 just to show the distance that he -- the distance
19 that he was from the accident.

20 THE COURT: Okay.

21 MS. DELIBERATO: And the circumstances of his
22 capture in terms of being compliant and not
23 (indiscernible). But I won't publish any more for
24 the Court.

25 THE COURT: All right. Okay. So that concludes

1 the presentation of the defense?

2 MS. DELIBERATO: Yes. And then defense will
3 publish the images of the photograph of Deputy
4 Hartwick of the safety vest in Deputy Hartwick's
5 patrol cruiser. And then the deposition of Alan
6 Clark, which I will direct the Court to attention --

7 THE COURT: The deposition of Alan Clark?

8 MS. DELIBERATO: Yes. Sargeant Alan Clark. And
9 I'm approaching with that. And it's Exhibits 5 and
10 6.

11 THE COURT: Okay.

12 MS. DELIBERATO: And that's indicating that
13 Deputy Hartwick was feeling under the weather. Was
14 ill, and that Sargent Clark had sent him to a slower
15 area the night before the accident. And then the
16 State and the defense have stipulated that Deputy
17 Hartwick has over the counter cold medicine in his
18 system at the time of his death. And that would
19 conclude the defense's presentation.

20 THE COURT: Okay. Well, it is 12:15. I'm going
21 to hand this over. It is 12:15. Is this the
22 appropriate time to break for lunch? Or do we want
23 to keep going? I'm okay either way. Do the two
24 sides want to have a conversation about it?

25 MS. DELIBERATO: Just ask the family, Your

1 Honor.

2 THE COURT: Why don't you take a moment to talk
3 to them. I can keep going. I brought a Fit Crunch
4 Bar, so I can make it through lunch. But if you
5 would all rather have a moment. I only have the one
6 bar. I can go get some more. I got a case.

7 We can take 45 minutes for lunch, or an hour.
8 Whatever you prefer.

9 MS. CONSTANTINE: Can we do 30 minutes, Your
10 Honor?

11 THE COURT: We can do 30 minutes for lunch. I
12 can. 30 minutes for lunch?

13 MS. CONSTANTINE: Yes, Your Honor.

14 THE COURT: Okay. We're going to take a lunch
15 break for 30 minutes. Those of you that are
16 watching, normally I prohibit food in the courtroom,
17 but as long as you clean up after yourselves, you're
18 welcome to bring anything, as long as it's neither
19 obnoxiously loud or particular pungent. So, don't go
20 out and get raw fish or anything like that, but if
21 you want to bring back a snickers bar or something
22 like that or a cup of coffee, I have no objection to
23 any of that. And we'll come back and reassemble at
24 ten minutes to one o'clock. So, we'll be in recess
25 until ten minutes to one o'clock. I'll leave the

1 zoom up.

2 MS. DELIBERATO: I'm going to have the
3 interpreter tell the folks on zoom that that's what
4 we're doing.

5 THE COURT: Tell the folks on zoom.

6 THE DEPUTY: All rise. Court is in recess until
7 ten minutes to one.

8 (Court stands in recess.)

9 (Court is back in session.)

10 THE COURT: Okay. The State, the defense,
11 having made their presentation of witnesses and
12 evidence, what says the State?

13 MS. CONSTANTINE: Yes, Your Honor. At this
14 time, the State calls Agent Ceasar Barrientos.

15 MS. DELIBERATO: Your Honor, if you would let me
16 back into the zoom, I would appreciate.

17 THE COURT: I will let you back into the zoom.
18 If I can figure out how to do that, I will appreciate
19 it too.

20 MS. DELIBERATO: You can do it. I have full
21 faith and confidence.

22 THE COURT: I'm getting better.

23 CEASAR BARRIENTOS

24 Being called as a witness, and having first been duly
25 sworn, testifies as follows:

1 THE WITNESS: I do.

2 THE COURT: Come on up and have a seat. State,
3 you may inquire.

4 MS. CONSTANTINE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. CONSTANTINE:

7 Q Would you please introduce yourself to the
8 Court, spelling your last name for the record?

9 A My name is Ceasar Barrientos. B-A-R-R-I-E-N-T-
10 O-S.

11 Q And who do you work for?

12 A I'm a federal agent with the Border Patrol.

13 Q And how long have you worked there?

14 A I've been working for the Border Patrol for the
15 last 24 and a half years.

16 Q How are you assigned?

17 A I'm assigned through Miami sector, at the West
18 Palm Beach Border Patrol station.

19 Q Directing your attention to the case we're here
20 on today involving Juana Molina-Salles, back in September
21 of 2022, did you assist officers with Pinellas County
22 Sheriff's Office in identifying the defendant?

23 A Yes, I did.

24 Q And can you please explain to the Court how you
25 helped out?

1 A Yes. I obtained biometrics from a detective. I
2 read the biometrics through Border Patrol databases, and I
3 was able to get a positive hit on those biometrics.

4 Q Okay. And when you say biometrics, can you
5 explain to the Court what you mean?

6 A It was a photograph that was sent to me. Like a
7 booking picture. A square. I submitted that into the
8 database, and I was able to get a positive hit.

9 Q Okay. And running him through the database, how
10 was it that his information was in the Homeland Security
11 database?

12 A The hit revealed that the subject was arrested
13 at the border, coming into the country illegally. Through
14 Eagle Pass, Texas.

15 Q Okay.

16 A He was arrested and then placed in hold for
17 Title 42 expound, which happened the next day. The
18 subject was expelled back to Mexico under Title 42.

19 Q And can you tell the Court when was Juan Molina-
20 Salles arrested when he was trying to get in illegally?

21 A I think the date is 10/25/2022. 10/25/2022.

22 Q Okay.

23 A And he was arrested at Eagle Pass, Texas. '21,
24 I'm sorry. '21.

25 Q '21. Okay. So, roughly about a year prior to -

1 -

2 A Yes, ma'am.

3 Q -- this case occurring. He's now back at this
4 point?

5 A Yes.

6 Q And can you tell the Court, on September 22nd of
7 2022, was Juan Molina-Salles in the United States legally?

8 A No, he wasn't.

9 MS. CONSTANTINE: A moment to confer?

10 THE COURT: You may.

11 MS. CONSTANTINE: Nothing further.

12 THE COURT: Okay. You may inquire.

13 MS. DELIBERTO: Just briefly.

14 CROSS EXAMINATION

15 BY MS. DELIBERTO:

16 Q Good afternoon. Can you explain a Title 42
17 immediate expulsion? What is that?

18 A It's a health concern. The authority that we
19 were delegated by the president in order to remove
20 subjects without a hearing. He was arrested, deemed a
21 public health and removed back to Mexico.

22 Q And that happened the next day?

23 A Yes, ma'am.

24 Q So, he was detained on 10 -- or arrested on
25 10/25 and then sent back the next day. Is that correct?

1 A Approximately, yes.

2 Q Okay. And he wasn't given any paperwork or
3 anything like that. Correct?

4 A No. It's an expelling. We just remove the
5 subject without any procedures under Title 42.

6 Q To be clear, there's never an order of removal
7 from any U.S. immigration court?

8 A No, ma'am. No.

9 Q And you have never had any contact with my
10 client, Mr. Molina-Salles, correct?

11 A No, I haven't.

12 Q You got a contact from law enforcement, pulled
13 something up the computer, and shared the information?

14 A Yes, ma'am.

15 MS. DELIBERATO: One second.

16 BY MS. DELIBERATO:

17 Q Just to clarify, the health concern is not
18 specifically related to Mr. Molina-Salles, it's just from
19 where he --

20 A It was COVID. It was during COVID.

21 Q Okay. So, from where he was coming from and
22 during the pandemic?

23 A Yes, ma'am.

24 MS. DELIBERATO: No further questions.

25 THE COURT: State, any other questions for this

1 witness?

2 MS. CONSTANTINE: No, Your Honor.

3 THE COURT: Thank you for coming in today,
4 agent. And State, who do you wish you call as your
5 second witness?

6 MR. VONDERHEIDE: State calls Deputy Bryan
7 Hirshman.

8 THE COURT: Hirschman. Okay.

9 DEPUTY BRYAN HIRSHMAN

10 Being called as a witness, and having first been duly
11 sworn, testifies as follows:

12 THE WITNESS: I do.

13 THE COURT: Come on up. State, you may inquire.

14 DIRECT EXAMINATION

15 BY MR. VONDERHEIDE:

16 Q Deputy, could you please state your full name
17 and spell your last name for the digital court reporter?

18 A Corporal Bryan Hirshman. H-I-R-S-H-M-A-N.

19 Q And sir, where are you presently employed?

20 A Currently work for the Pinellas County Sheriff's
21 Office.

22 Q And how long have you been with PCSO?

23 A Six and a half years.

24 Q Did you know Deputy Michael Hartwick?

25 A I did.

1 Q And how did you know him?

2 A I came to the sheriff's office in 2018, and
3 worked with Mike probably for one bid, which is a six
4 month time back in 2019, 2020. And was also on the crowd
5 management team with Mike, and I also worked with him on
6 many traffic details.

7 Q Okay. So, you guys worked pretty closely for
8 those four years, five years, give or take? All right.
9 Would you consider him a friend, as well?

10 A A work friend, yeah.

11 Q Okay. September 22nd, 2022, were you working
12 that evening?

13 A I was working, yeah.

14 Q All right. And what was your assignment that
15 night?

16 A I was a deputy at the time in the DUI unit.

17 Q All right. So, as being part of the DUI unit,
18 did you have anything to do with the security that was
19 provided on the interstate related to the construction of
20 the new Gateway Expressway?

21 A No. The DUI unit is tasked with stopping drunk
22 drivers, so that's basically what our mandate is. We
23 assist patrol at times with whatever they may need. If
24 they need assistance with a call.

25 THE COURT: Is it the old step unit?

1 THE WITNESS: It is step.

2 THE COURT: It is step? Okay.

3 BY MR. VONDERHEIDE:

4 Q Have you ever done or had you ever done at the
5 time, the detail on the interstate that would involve
6 providing protection for the workers for the Gateway
7 Expressway?

8 A I did.

9 Q All right. And how many times do you think you
10 did that?

11 A Prior to that day, probably two or three dozen
12 times.

13 Q Okay. Did you ever do that detail with Mike?

14 A It's tough to say. There's a lot of solitude
15 out there. You're not really around other deputies or
16 them. At the time, when I was working it, they had other
17 law enforcement agencies working it. Florida Highway
18 Patrol and FWC and FDLE.

19 Q Okay. When you would do that detail, where
20 would you all meet in order to get your assignment for the
21 evening?

22 A At that time we were meeting at the center
23 medium on Roosevelt, just off of Arlington Road.

24 Q All right. So, you would meet there. And would
25 everybody just kind of park in the medium and wait for

1 instructions?

2 A Correct.

3 Q And who would give you instructions as to where
4 to go?

5 A A foreman of some type. It varied. I think
6 there were two different people that had that task.

7 Q Okay. And so, somebody who worked for the
8 corporation would come out and tell you where to go?

9 A Correct.

10 Q And what is your role out there on the
11 interstate during the evening hours?

12 A We were out there to protect the workers who
13 were working on the Gateway. Watch their back and
14 basically just sit there and be visible.

15 Q Okay. And so, when you say be visible, does
16 that your cruiser would have -- you would have your lights
17 going?

18 A Correct.

19 Q With strobe lights, alternating headlights, and
20 the blue and reds. All of it?

21 A Yes. At that time, that's the light packages in
22 all our vehicles had. They had flashing lights. They
23 didn't have the lights that they have now that just kind
24 of stay on.

25 Q Okay. And would you be wearing your full

1 uniform.

2 A Yes.

3 Q Let me ask you about reflective vests. Would
4 you be required to wear reflective vests when you were out
5 there?

6 A Agency policy states that we don't have to wear
7 -- well, it doesn't say we don't have to wear, what it
8 states is that reflective vests will be worn if you're
9 directing traffic. On a crash scene I've been reminded
10 numerous times to put my vest on by command staff and
11 supervisors. But crash scenes and if we're directing
12 traffic. Which is not part of the job description at
13 those particular details.

14 Q Okay. How long is that detail? In other words,
15 from when you get to the median, to when you are done at
16 the end of the shift, how long do you think that would be?

17 A As I recall it was from seven to seven, I think.

18 Q Okay.

19 A Scheduled. However, I think Archer was required
20 to have all of their equipment out of the roadway by a
21 certain time or they would receive a fine. Either for
22 each minute or every fifteen minutes. And it's a pretty
23 hefty fine. So, by five a.m. they had to have everything
24 removed from the roadway. And the roadway had to be
25 opened.

1 Q And are you all out there until -- when you say
2 remove everything from the roadway, do you mean equipment?
3 Construction equipment?

4 A Correct. Cones. Everything.

5 Q Okay. So, they would at night block off
6 different lanes of traffic that wouldn't be blocked off
7 during the day?

8 A Correct.

9 Q So all that's removed and then you guys can go?

10 A Correct.

11 Q In that -- so let's say it's not, maybe it's not
12 12 hours. Maybe it's not 7p to 7a. Maybe it's 7p -- is
13 it always 7 p.m.?

14 A Correct.

15 Q All right. So, always from 1900 hours to at
16 least 0500, right?

17 A Correct.

18 Q So, we're talking a period of what, ten hours?

19 A Yes.

20 Q Are you expected to stay in your Chevy Tahoe,
21 police cruiser, the entire ten hours of that shift?

22 A There's no instructions stating that you have to
23 stay in your vehicle. I'm -- on a regular basis I would
24 exit my vehicle to stretch or to clean my car. The
25 inside. The outside. I would do calisthenics on the

1 side of the road to stay awake. Things like that.

2 Q Okay. So you would keep -- get out and stretch.
3 It's kind of not a good idea to sit in your car for ten
4 hours, right?

5 A Probably not.

6 Q I mean, I know my watch tells me every hour to
7 get up. I don't know if you have Apple watch.

8 A Mine does, as well. It runs my life.

9 Q So, every hour you're told to get up and you're
10 going to get up and move around. Right?

11 A Correct.

12 Q So, that's not an atypical practice?

13 A No, not at all.

14 Q Would you say it would be the typical practice
15 of somebody to get out of their vehicle and maybe walk
16 around and stretch during those time periods of being on
17 the highway?

18 A I can't speak for anybody else, but for me, I
19 couldn't sit in my car for that long without getting out.

20 Q Okay.

21 A I would have to get out at some point.

22 Q On September 22 -- well, let me ask you this.
23 When you're doing the detail, you said you're wearing your
24 full uniform. Do you have your radio too?

25 A Yes, sir.

1 Q Is your radio on?

2 A It is.

3 Q And is your radio on the entire time that you're
4 out there for detail?

5 A It is. Yes. We have two radios. So, we have
6 in car radio, and we have our portable or mobile radio.
7 Typically, if I'm sitting in my vehicle, I have my in car
8 radio on. I'm listening to whatever area that I'm in.
9 I'm not scanning other areas because I'm stationary. I'm
10 not leaving that spot until I'm relieved, so, it would
11 take a very serious kind of act of God moment for me to
12 leave that spot.

13 Q But you'll be monitoring the traffic just to
14 make sure?

15 A Of course.

16 Q When you're out there on a detail like that, you
17 said they close lanes, but does it ever go down to one
18 lane?

19 A Probably so. It's been two and half years since
20 I've worked that particular detail, but yeah, probably so.

21 Q And then the traffic at that time period at
22 night, how would you characterize the traffic?

23 A Deadly.

24 Q Okay. Why is that? How fast are cars going?
25 Are they going the normal speed they normally do out

1 there?

2 A The area that Mike was working that night,
3 people are going 80, 90, 100 miles an hour. Like it's
4 nothing. Drunk drivers. Distracted drivers. Reckless
5 drivers. I mean, again, it runs the gamut.

6 Q Is the traffic, is it making noise? Is it --

7 A Most definitely. Most definitely making a lot
8 of noise out there.

9 Q Okay. So, let's go back to September 22 of
10 2022. You said you were working the DUI detail that
11 night. Where were you located when you got the call there
12 might be an issue up on the interstate?

13 A I was on the frontage road for Gandy Boulevard.
14 I was heading east on Gandy. I had not reached the main
15 part of Gandy. Like I said, I was on the frontage road,
16 just coming off of Roosevelt.

17 Q All right. So, had you made it to 4th Street
18 yet?

19 A Yes. I was at 4th Street and Gandy Boulevard.
20 On the frontage road of Gandy.

21 Q 4th Street, Gandy Boulevard, but you hadn't made
22 it to Durby Lane yet?

23 A Correct.

24 Q So you get the call out, where do you go from
25 there?

1 A I immediately turn, I guess you could call it,
2 north on 4th and started towards the call.

3 Q All right. And then, I mean it's, as the crow
4 flies, it's not that far, right? It's pretty close?

5 A It's a couple miles.

6 Q And how quickly do you think you made it to the
7 interstate?

8 A Probably took me a minute. Minute and a half.

9 Q Okay. When you -- did you know what you were
10 going to? In other words, did you have enough detail to
11 know what you were getting into?

12 A Not really.

13 Q Okay. When you got to the interstate, were you
14 on -- which side of the span were you on?

15 A I was on, what would be considered, the
16 eastbound or northbound side of the road.

17 Q All right. And the location you were going to
18 where Mike was, which side of the highway was he on?

19 A He was on the southbound side of the road.

20 Q Okay. Were you the first member of Pinellas
21 County Sheriff's Office to get there and observe?

22 A I was.

23 Q Okay. Was your bodycam activated?

24 A It was.

25 Q All right. At one point did you have to get

1 back in your Tahoe and move the car because it was in the
2 way on the northbound side?

3 A My vehicle that I currently drive still, is kind
4 of dark in color. That roadway was not very well lit at
5 the time and I pulled in a very awkward position, where my
6 vehicle was facing like a T in traffic, so I made it to
7 the Jersey wall and decided to go back and move it so it
8 didn't cause another crash, or a crash. And once I moved
9 it into a better position, I went back to the Jersey Wall
10 and went over the Jersey Wall again.

11 Q And did you have to climb some barriers to get
12 over there?

13 A Yeah, it was like a double Jersey Wall because
14 there was a space in the middle.

15 Q Okay. And once you climbed that, was there
16 oncoming traffic that you to deal with before you got to
17 the side of the road?

18 A I don't really recall playing Frogger out there
19 for very long.

20 Q Okay.

21 THE COURT: I'm unfamiliar with the expression
22 of Jersey Wall. What does that mean?

23 THE WITNESS: Jersey Wall is like a cement wall.
24 In this case it separates, it's the dividing portion
25 of the divided highway.

1 THE COURT: Okay.

2 THE WITNESS: It comes in sections of about 12
3 to 15 feet long. It's probably about two and a half,
4 three feet high. It prevents vehicles from crossing
5 over from one side of the road to the other. So, if
6 they strike that Jersey Wall at a high rate of speed,
7 more than likely, depending on how fast they are
8 going, they may eventually go over, but it's meant to
9 kind of angle them up and then back onto the roadway
10 rather than going over into oncoming traffic and
11 causing more mayhem.

12 THE COURT: Okay.

13 BY MR. VONDERHEIDE:

14 Q And when you say -- are they the height of your
15 normal concrete barriers that divide lanes, or did you
16 have to maybe lift up a little bit to go over?

17 A I think those particular Jersey Walls, for
18 whatever reason, are a little bit higher. Probably three
19 and a half to four feet high. So, I did have to push up a
20 little bit to get over them.

21 Q Okay. So, what do you first observe before you
22 see anything of note when you get over across the barrier?

23 A I think I saw an Archer truck. I saw Mike's
24 patrol vehicle with its lights on.

25 Q Did you recognize it as Mike's patrol vehicle?

1 A No.

2 Q No? Okay.

3 A All our cars, I mean the marked cars, look
4 pretty much the same. I saw St. Pete Fire Rescue pulling
5 up. They apparently had gone all the way down and around.
6 I don't know if they went all the way into Tampa or not,
7 because there is a turn around prior to the end of the
8 Howard Franklin, for whoever knows that it's there.
9 Employees and law enforcement. I don't know if they can
10 make the turn with that truck though. It's a pretty tight
11 turn. Very low clearance.

12 Q Okay. So, you see the fire truck and you see
13 Mike's cruiser. What else did you observe when you got
14 there?

15 A I saw Mike lying on the ground.

16 Q Okay. Were there fire rescue employees and
17 paramedics attempting to render aide to him?

18 A We kind of came up upon him, I want to say, at
19 the same time. I'm maybe off by a couple seconds, but I
20 think we kind of came up on him at the same time.

21 Q And what did you observe about him?

22 A His -- he was face down, so didn't immediately -
23 - wasn't immediately able to tell who it was. And his
24 upper part of his body was on the shoulder and the lower
25 part, his lower part, his legs, were on the grass. Off

1 the roadway.

2 Q And did he appear to be responding to the fire
3 rescue employees?

4 A They rolled him over and it was kind of like --
5 I kind of got a look from their lieutenant or captain like
6 it was nothing that they could do for him.

7 Q Did you find his firearm on the side of the
8 road?

9 A I did. Well, not on the side of the road. I
10 think it was still in his holster. If I recall correctly,
11 they said that they couldn't render aide unless his
12 firearm was removed. I don't know if it's their policy or
13 what, but I think at some point I removed it, but then put
14 it back in its holster. I don't recall when that
15 happened.

16 Q And all of this was recorded on your bodycam?

17 A I believe so. I've never watched it.

18 Q Thank you, sir.

19 MR. VONDERHEIDE: I have no further questions.

20 THE COURT: Any questions for the corporal?

21 MS. DELIBERATO: I have no questions.

22 THE COURT: Thank you for coming in, sir. You
23 can be excused.

24 THE WITNESS: Thank you, sir.

25 THE COURT: You're welcome. State, who do you

1 wish to call as your next witness?

2 MS. CONSTANTINE: Just need a brief moment so I
3 can queue up the body worn camera.

4 THE COURT: Okay.

5 MS. CONSTANTINE: And then we would just ask,
6 obviously, at this point, if anybody wants to step
7 out before we play it.

8 THE COURT: All right. Yeah, give them the
9 options.

10 THE COURT: Has it been marked as an exhibit?

11 MS. CONSTANTINE: It is, Your Honor.

12 THE COURT: What number?

13 MS. CONSTANTINE: So, at this time, the State's
14 going to introduce what's been premarked for
15 identification as State's 1. It's entered as State's
16 1. It's the compilation video that the Court
17 reviewed at the prior pleas.

18 THE COURT: Any objection to State's 1?

19 MS. DELIBERATO: No objection.

20 THE COURT: State's 1 shall be admitted.

21 (State's Exhibit 1 entered into evidence.)

22 MS. CONSTANTINE: And the State is also asking
23 to introduce what's been premarked for identification
24 at 2A, which is going to be Deputy Hirshman's body
25 worn camera, and 2B, the scene photographs, into

1 evidence as 2A and 2B.

2 THE COURT: Okay. Any objection to 2A, which is
3 Corporal Hirshman's body worn camera?

4 MS. DELIBERATO: No, Judge.

5 THE COURT: And any objection to 2B, which is
6 some scene photos?

7 MS. DELIBERATO: No, Judge.

8 THE COURT: All right. Both shall be admitted
9 into evidence.

10 (State's Exhibits 2A and 2B admitted into
11 evidence.)

12 MS. CONSTANTINE: And then permission to publish
13 what's been entered now as State's 2A, Your Honor?

14 THE COURT: You may so do.

15 MS. CONSTANTINE: Thank you.

16 THE COURT: That should be west. That should be
17 west. Okay?

18 MS. CONSTANTINE: There it goes.

19 (The following is a transcription of audio
20 published in open court transcribed to the best of the
21 transcriber's ability.)

22 CORPORAL HIRSHMAN: I've got fire and rescue on
23 scene and I've got Archer Western people flagging
24 them down. Standby. Yes, go, don't hit my car.

25 FIRE RESCUE: Hey buddy. Roll him over.

1 CORPORAL HIRSHMAN: Echo four break, I've got a
2 deputy down. We've got fire and rescue attending him
3 to him now.

4 FIRE RESCUE: Grab his gun. Grab his gun. I've
5 got no pulse.

6 CORPORAL HIRSHMAN: Echo four, we are westbound
7 at Exit 30. Echo four, CPR in progress.

8 FIRE RESCUE: I need it shut down.

9 CORPORAL HIRSHMAN: We need to shut the road
10 down. Can you guys help me out with that possibly?
11 Echo four, any units coming in this area we need to
12 shut this road down completely. As far back as you
13 can get it shut down, shut it down.

14 FIRE RESCUE: What hit him? You got his gun?

15 CORPORAL HIRSCHMAN: Yeah. I don't know. I
16 need a sheet to cover him up. Echo four, six seven.
17 It's his gun, not mine.

18 PATROL OFFICER: Okay.

19 CORPORAL HIRSHMAN: Come on, we need to get out
20 of this area. You guys, leave everything where it's
21 at. Don't touch anything. Back out. You're
22 stepping in blood right now. Back out. I need you
23 to go --

24 (Video ends.)

25 THE COURT: All right. What next?

1 MS. CONSTANTINE: Yes, Your Honor. At this time
2 the State calls Detective John Syers.

3 THE COURT: Detective John Syers, please.

4 DETECTIVE JOHN SYERS
5 Being called as a witness, and having first been duly
6 sworn, testifies as follows:

7 THE WITNESS: I do.

8 THE COURT: Come on up and have a seat. State,
9 you may inquire.

10 DIRECT EXAMINATION

11 BY MS. CONSTANTINE:

12 Q Good afternoon. Could you please introduced
13 yourself to the Court and spell your last name for the
14 record?

15 A Yes. My name is John F. Syers Jr. S-Y-E-R-S.
16 Currently employed at the Pinellas County Sheriff's Office
17 and I'm assigned to the Robbery/Homicide Unit.

18 Q How long have you been with the sheriff's
19 office?

20 A About 25 and a half years now.

21 Q How long have you been a detective with
22 robbery/homicide?

23 A I've been there a total of about 7 and a half
24 years.

25 Q Back in September of 2022, were you assigned to

1 that unit?

2 A I was.

3 Q Can you tell the Court how that you became
4 involved in the case?

5 A My squad was on call that night. It was
6 approximately 2330 or 1130 p.m. I received a call from
7 Lieutenant Zies (ph), informing me that a deputy was
8 deceased, and he gave me a location of I-275 around Exit
9 30 to respond to.

10 Q And did you respond out to that location?

11 A I did. I got there approximately 0030, which is
12 1230 a.m. on the 23rd.

13 Q Can you tell the Court what information, if any,
14 you had when you arrived on scene?

15 A There was not a lot of information given.
16 Typically, when the robbery/homicide unit responds, there
17 is a deputy or supervisor on scene that knows the most
18 information and provides it to us. That didn't
19 necessarily occur here. The most that I got at the time
20 of my arrival was that Deputy Hartwick was deceased and
21 there was possibly a drunk driver or a hit and run that
22 might be involved.

23 Q And as part of your investigation, is it fair to
24 say that you kind of reviewed the scene and then started
25 speaking with witnesses that were out there?

1 A Yes.

2 MS. CONSTANTINE: Your Honor, permission at this
3 time to publish what's been introduced as State's 2B,
4 the scene photographs?

5 THE COURT: You may publish.

6 MR. VONDERHEIDE: We checked all this yesterday,
7 and it worked.

8 BY MS. CONSTANTINE:

9 Q Can you walk me through, you indicated that when
10 you arrived out there on scene that day, maybe start
11 making contact with witnesses. What initial witnesses did
12 you speak to you in your investigation?

13 A I spoke with Deputy Hirshman. We spoke with
14 Deputy Plumb, Deputy Boateng. They were -- obviously
15 Deputy Hirshman was the first one to arrive. The other
16 ones were other members of the detail. Just again, in a
17 fact-finding mode at that point.

18 Q And initially, at some point, during your
19 investigation, did you learn that there were some workers
20 of the construction company that may or may not have
21 witnesses something?

22 A Yes, I did. At some point during the
23 interviews, I was summoned, and I was showed Deputy
24 Hartwick's in-car camera, or fleet camera. And that's
25 viewing from the front of his vehicle. And at that time,

1 you see the small wheel loader driver passed and then
2 there's a white pickup truck that stops short. So,
3 someone had identified who was inside that truck. That
4 was Allan, Cynthia and Douglas. And they were the next
5 people that we wanted to speak to.

6 Q And the people that were in that truck, you
7 conducted interviews that day. Is that fair to say?

8 A Yes.

9 Q Okay. After speaking with them, were you able
10 to gather information about what night have occurred out
11 there on the road?

12 A Yes. At that point, really based on what Allan
13 told us, was that Juan Molina-Salles, which at that time
14 was identified as Victor Vasquez Rial or Victor Rial
15 Vasquez, was operating the small wheel loader. They were
16 driving behind him, escorting him. And what Allan told me
17 was that Juan Molina-Salles kept driving north and he saw
18 a dark shape to the left of the loader, of the small wheel
19 loader. He stopped, which is witnessed on video. Gets
20 out and observes that to be Deputy Hartwick, which he
21 believes to be deceased.

22 Q Now, after speaking with the people that were
23 inside that pickup truck, did you guys also obtain some
24 video surveillance out there that gave you further insight
25 as to what happened?

1 A Yes. Again, I can't say exactly when, but
2 during the interviews, we received some more information.
3 I'm called to view some video. And that video was from
4 two semi trucks. They are parked north of the crash site.
5 And they have those Jersey barriers that Deputy Hirshman
6 was talking about. They have cameras that are outfitted.
7 So, we had media forensic specialists download this video.
8 And while watching the video you can see Juan Molina-
9 Salles take off his vest and helmet, hand it to another
10 individual who was driving a separate small wheel loader,
11 Alicia Gomez Alia (ph) and then he walks north out of the
12 frame and flees the scene.

13 Q Now, can you tell the Court, or at least walk us
14 through, what efforts did the sheriff's office go through
15 in attempts to locate Juan Molina-Salles?

16 A So, again, in my role, I wasn't into the
17 locating of him, but I do know that there were efforts
18 going on during that time to A, get him identified as you
19 heard from the Border Patrol agent, and then I know that
20 the entire canine unit was utilized to try to track him,
21 because now, from the semi video, we knew where his last
22 known point was. Apparently, the entire unit was
23 exhausted. The dogs were exhausted trying to find this
24 person. And Pasco County Sheriff's Office was called
25 because they have bloodhounds. The bloodhounds came and

1 they found Juan Molina-Salles north of that location at
2 approximately 0820.

3 Q Okay.

4 MS. CONSTANTINE: Okay. And now that we've
5 gotten our photo up, Your Honor, permission to have
6 the witness step down?

7 THE COURT: You may do so.

8 MS. CONSTANTINE: Okay.

9 THE COURT: Do you have a long pointer?

10 BY MS. CONSTANTINE:

11 Q All right. So, taking a look at slide 1 of
12 what's been introduced in evidence as State's 2B, can you
13 tell us what we're looking at here in this photograph?

14 A So, I'll start with Deputy Hartwick's vehicle.
15 This is his marked cruiser. It's a Tahoe. You can see
16 it's in that lane of travel, which was originally coned
17 off, I believe. And he's facing southbound. This is I-
18 275. That exit right there takes you to Roosevelt
19 Boulevard and Ulmerton Boulevard is off screen here to the
20 north. The command bus where we conducted interviews.
21 This would be the truck driven by Allan that stopped
22 short. This actual blanket is Deputy Hartwick's final
23 resting spot. The two semis that I told you about that
24 were equipped with cameras were down here and these are
25 the two small wheel loaders. This is somewhat of an

1 equipment pit, dirt pit. You can see the concrete
2 barriers. The semi trucks bring them in, they drop them
3 there and I assume they take them to where they want them.
4 This one towards the north and facing west was driven by
5 Juan Molina-Salles. And the other one that's facing the
6 opposite direction on the south was driven by Alicia.

7 Q Now you had mentioned that you had spoken with
8 the people that were in that truck. Did you also review
9 video surveillance that would have been taken from Deputy
10 Hartwick's vehicle?

11 A I did.

12 Q Okay. And was that video significant in your
13 investigation?

14 A Yes. At that point, at that point I didn't know
15 still what we were dealing with. And once we saw the
16 video from Deputy Hartwick's Tahoe, obviously it made
17 sense. Right here, at 2246 hours, this small wheel loader
18 most likely struck him and then the truck escorting behind
19 had come to a stop because obviously something happened.

20 Q Okay. And is that this whole, not only the
21 fleet camera, but you also said that two semi trucks
22 videos were able to capture parts of that?

23 A It does capture it. It's not as clear, of
24 course, as the video camera coming from Deputy Hartwick's,
25 but this camera is not as good as the red one, as far as

1 pointing back towards the south, but yes, it does point
2 south.

3 Q Okay. Thank you. Now as you indicated that you
4 got canine units out there, officers out there, Pasco
5 County Sheriff's Office. Was there also a helicopter
6 (indiscernible)?

7 A Yes.

8 Q Okay. And you said this happened at
9 approximately 10:46 p.m. on September 22nd of 2022?

10 A That's correct. According to the fleet camera
11 from Deputy Hartwick's vehicle.

12 Q Okay. And can you tell the Court approximately
13 what date and time is the defendant in this case taken
14 into custody?

15 A On the 23rd, which is the following day.
16 September 23rd, 2022, and it was approximately 0820 hours,
17 as you saw from the body cam from Corporal Aiken.

18 Q Okay. Now, while this manhunt, if you will, is
19 going on, everyone's out there looking for the defendant,
20 are you aware that people or other officers from your
21 agency are actively attempting to get an arrest warrant?

22 A I was not involved with that, but I was aware
23 that a arrest warrant was being drafted. I believe it was
24 Detective Paden might have been involved with that for the
25 Viktor Vasquez Rial or Rial Vasquez. I forget which one

1 it was.

2 Q And that was the alias that the defendant in
3 this case was using. Is that correct?

4 A My understanding is that the Archer Western
5 company provided law enforcement -- once we determined,
6 hey, this small wheel loader is involved, Archer Western
7 personnel provided us employment records. That said that
8 this person, whom Allan and all them knew as Viktor, this
9 is Viktor and here's his employment -- I don't know if it
10 was his application, but some type of paperwork that
11 identified him as that person.

12 Q Okay. And later on in your investigation,
13 obviously, you learned that that wasn't his real identity,
14 correct?

15 A That's correct.

16 Q That this Victor Rial Vasquez was another
17 separate individual from this one?

18 A That's correct.

19 Q Okay. And so, this warrant's being drafted. It
20 ultimately doesn't end up getting executed because of
21 (indiscernible)?

22 A That's correct.

23 Q Can you tell the Court, upon the defendant being
24 arrested by officers of the sheriff's office, you guys
25 conducted the interview?

1 A We do.

2 Q All right. And can you tell the Court how that
3 comes about?

4 A So, once I learned that he was taken into
5 custody, we decided to bring him back to the sheriff's
6 administration building for a video taped interview.
7 Myself, Detective Sosa at the time because he speaks
8 Spanish talk with him inside a video taped interview room.
9 He waived his Miranda Rights via a Spanish Miranda waiver,
10 a written waiver, and we began talking with him and he
11 speaks with us.

12 Q Okay. And can you summarize for the Court what
13 he tells you during that interview about what happened?

14 A Summary of what he says is that he was driving
15 the small wheel loader. Allan, who he calls Pedro, is
16 following him. Escorting him. And he's driving north
17 towards that equipment pit because he's going to help with
18 the concrete barriers, what they call rocks. He says as
19 he gets close to the police vehicle, meaning Deputy
20 Hartwick's, he says that he pulls, you know, kind of gives
21 it space. Pulls towards the left or so, and keeps
22 driving. He makes it down to the equipment pit he says.
23 Pulls in and he says that Allan calls him and tells him
24 that the killed a deputy. During our questioning he said
25 that he didn't know that it happened. That he didn't feel

1 anything, see anything. Nothing until Allan calls him and
2 tells him that he's killed a deputy. He then tells us
3 that he's in shock. He's nervous and he admits to us that
4 he gives away his vest and helmet to Alicia and he leaves.

5 Q So, he left the scene?

6 A He left the scene. Yes. I think he told us he
7 was in some water at some time.

8 Q And I want to break down a little bit about what
9 he tells you during that interview. I think you said that
10 at the time that he says that he's driving that truck
11 loader, that he doesn't see. Is that correct?

12 A As far as Deputy Hartwick?

13 Q He didn't see the deputy.

14 A No.

15 Q Okay. What did he tell you, if anything, during
16 that interview, about the condition of the front end
17 loader that he was driving?

18 A He told us, he told us that it has two lights on
19 it, which are obviously verified by video from the two
20 semi trailers when he pulls into the equipment pit. And
21 he says there is also a light that's up top, but that was
22 either not working or not on. I think he told us that it
23 wasn't working.

24 Q Okay. Did he indicate to you that he was having
25 a hard time seeing that night when he was driving the

1 front end loader?

2 A I don't recall him telling us that he had a hard
3 time. He mentioned that it was dark there and the lights
4 from the sheriff's office vehicle were bright.

5 Q Okay. You indicated you said that you couldn't
6 feel anything. Do you yourself have experience in
7 operating vehicles like this front end loader?

8 A I do. And I challenged him on that. For over
9 ten years, while I was in the army, I was a combat
10 engineer. I've driven bulldozers, road graders, front end
11 loaders, back hoes, and all types of equipment. And it is
12 not reasonable to me whatsoever. As a matter of fact,
13 I've seen soldiers killed by this equipment before. It is
14 unreasonable for me to believe that you could hit a man-
15 sized object, even much smaller, and not know it. So, I
16 challenged him on that during the interview and he
17 maintained that he never felt anything or never knew
18 anything and just kept driving until he was alerted by
19 Allan.

20 Q Now, in preparation for trial and today's
21 hearing, you had the opportunity to review Cynthia Gomez's
22 statement?

23 A Yes, ma'am, I did.

24 Q Okay. And can you tell the Court, who is Ms.
25 Gomez?

1 A She is Allan Gomez Alia's 19 year old at the
2 time daughter.

3 Q Okay. And she was the in the front right
4 passenger seat of that white pickup that was following the
5 defendant's front loader that day?

6 A Yes, she was.

7 Q Okay. And what, if anything, did she say that
8 she saw as the front end loader makes contact with what we
9 know now to be Deputy Hartwick?

10 A During her sworn statement, she advised us she
11 was looking at her phone, so she can see over the top of
12 it. And she saw the loader, I think she motioned to you
13 all that she saw the loader go up and down.

14 Q And would that be consistent with your own
15 personal experiences with these types of equipment?

16 A If you ran over a person, you would know it, and
17 it would definitely go up and down. Yes.

18 Q Okay. Now, have you also had the opportunity to
19 review some of the photographs that were taken of Deputy
20 Hartwick that day, as well as (indiscernible)?

21 A Yes, ma'am, I have.

22 Q And I want to take a look now at State's 2B.

23 MS. CONSTANTINE: It's going to be, for the
24 record, it's going to be slide 2.

25 BY MS. CONSTANTINE:

1 Q Can you tell the Court what we're looking at
2 here?

3 A This is Deputy Hartwick's uniform shirt that he
4 was wearing on the evening of September 22nd, 2022. And
5 it's a -- this is basically the back portion of the shirt
6 as it's (indiscernible).

7 Q Okay. And slide 3? And what are we looking at
8 in this photograph?

9 A This is the same shirt, but this is on the scene
10 with Deputy Hartwick.

11 Q Okay. And then lastly, slide 4.

12 A So, this is the photograph of the two small
13 wheel loaders. This was the one that was driven by Juan
14 Molina-Salles, and this is the one that Alicia Aliaz was
15 in.

16 Q And can you tell the Court why are the wheels
17 specifically of these front end loaders (indiscernible)
18 with the images that we just looked at?

19 A Could you go back to the first?

20 Q Yes. Slide 2?

21 A So, reviewing the photographs, you can see the
22 patterns right here. Those are the distinct, what I call
23 dog leg in this pattern. It stops right here because
24 that's where his uniform belt is and his pants. And if
25 you could go back to the last one for me, please?

1 MS. CONSTANTINE: Slide 4, for the record.

2 BY MS. CONSTANTINE:

3 A So, I'll show it on this one because the tread
4 patterns are the same. But you can see that same distinct
5 pattern. So, that's indicative -- so, this one that Juan
6 Molina-Salles was driving, three of the tires have that
7 tread pattern, the front right tire has a different one.
8 But it's indicative to me that one of these three tires
9 ran over Deputy Hartwick, based on the tread pattern on
10 this shirt.

11 Q Thanks. Now, you indicated in speaking with the
12 defendant in this case, that you said that he didn't
13 realize anything had occurred until he got back to that
14 dirt pit area.

15 A Yes. Yes, he said that.

16 Q Can you tell the Court what, if anything, you
17 were able to discover during your investigation that was
18 inconsistent to that?

19 A So, there was actually two separate things.
20 Unknown to me at the time, the two semis were -- the video
21 was gathered by two different people. One was a media
22 forensic specialist, and one wasn't. So, the one -- the
23 video that I got from the white semi shows a time stamp.
24 I knew what the time off set was. Meaning, like what's
25 the true time of what's going on there. And the red semi,

1 all I had was a 14 and a half minute Windows media file
2 that has no time stamp or anything like that. It's also
3 based on the computer and the software that I have is just
4 a jumble of lights down there. So, pretty much as the
5 investigation was closing, we like to get a geo-spatial
6 presentation, which kind of puts together all the
7 evidence. Puts it into an understandable format. And
8 while we were doing that, the media forensic specialist,
9 Angela Ellis (ph), she was able to take the two videos and
10 visually sync it within one or two frames and then
11 therefore give me a timestamp for the one that did not
12 have a timestamp on it. She was also able to, using her
13 software, to isolate the headlights on the small wheel
14 loader from its position south of the red semi. And she
15 was able to isolate that and basically informed me, did
16 you know that the small wheel loader was stopped for two
17 minutes and 42 seconds from the time stamp and from the
18 visual representation of the lights. Which I did not know
19 at that point.

20 In addition, I wrote several search warrants for
21 the small wheel loader, to see if I could determine speeds
22 or anything else like that. I got a lot of data, but most
23 of it is basically equipment orientated. What's the fluid
24 levels and all that, but there were GPS coordinates for
25 the small wheel loader and the relevant portions were

1 between 22:44 and 22:49 when the engine shuts off at the
2 equipment pit. And 22:44 was basically down by Exit 30 on
3 ramp. So, it wasn't -- I wasn't able to extrapolate the
4 speed from that or anything but basically with straight
5 line distance it told me 2227 feet was covered within
6 those five minutes. When the engine shut off. That was
7 the other GPS thing. So, both of those things tell me
8 that Allan was lying and Jose or Juan Molina-Salles were
9 lying about him not knowing that he hit him and that he
10 just kept going without knowing. I mean, he stopped for 2
11 minutes and 42 seconds.

12 Q And when we say he stopped, just to be clear, in
13 Slide 1 in State's 2B, he stopped before he makes it to
14 this dirt pit that we see here in Slide 1. Is that
15 correct?

16 A Absolutely. I can't say exactly where he
17 stopped. I can't say how close he was to the crash site.
18 He was definitely a distance from the equipment pit,
19 because that's where the camera is originating from that
20 I'm getting the video.

21 Q Okay. And that's something that Juan denied,
22 not something that Allan denied?

23 A That's correct.

24 Q Okay. But that's what the video shows?

25 A That's what the video shows, yes.

1 Q Okay.

2 A And the GPS.

3 Q And then now, going into the equipment pit, did
4 you gather evidence to show that the defendant actually
5 stayed there for some time, as well?

6 A It was almost exactly eight minutes he was down
7 in the equipment pit. The video shows him and Alicia
8 walking around, obviously having conversations or
9 something and then like I said, eventually he hands his
10 vest and helmet to Alicia. Pulls out his phone, because I
11 see it light up, and walks north out of frame.

12 Q Okay. And tell the Court, did you speak to his
13 co-defendant Alicia about the hat and the vest?

14 A I did.

15 Q Okay. And was he initially forthcoming with law
16 enforcement about that conversation you had regarding the
17 defendant?

18 A My first conversation or interview with him we
19 did not know about the vest and the helmet. He was
20 obviously being deceptive about something. But no, he was
21 not forthright. Then we see the video. We tell him that
22 we know about it and then basically he tells me that Juan
23 Molina-Salles pulled in there, asked him to get down from
24 his small wheel loader. Told him that he killed a police
25 officer and I'm sure they had more conversation but

1 eventually gives him the vest and helmet and tells him to
2 get rid it and he's leaving. Which he does.

3 Q And Alicia then dumps the hat and the vest in
4 the wooded area, correct?

5 A Just directly west of those two loaders there's
6 a cut in the fence or something, and the helmet and the
7 vest were found there.

8 Q Okay. And were those hat and vest, those
9 actually have Vasquez on them, which is the alias the
10 defendant we saw wearing those?

11 A I don't recall about the vest, but on the back
12 of the helmet, I believe, it says Vasquez.

13 Q Okay. And did you also confront the defendant
14 about that exchange during the interview?

15 A I'm sorry?

16 Q Did you also confront the defendant about that
17 exchange during the interview?

18 A I did. I did.

19 Q Now, in addition to the video evidence being
20 inconsistent, did you also author search warrants for the
21 defendant's cellular phone?

22 A I did.

23 Q Okay. And can you tell the Court the results of
24 that?

25 A I'm sorry. I didn't author them. I believe

1 that it was Detective Paden, but I was made aware of the
2 search warrant results for his cellular phone.

3 Q Have you had the opportunity to review those
4 results?

5 A I have.

6 Q Okay. And can you tell the Court what, if
7 anything, significant came out of the defendant's phone
8 records?

9 A So again, looking at the time period of this
10 happening, we know now that around 10:46 or 2246 is when
11 this happened. At 10:44 he appears to be on the phone
12 with Allan, which is built in his phone as Pedro. And
13 then I believe he hangs up or they stop speaking around
14 that time. And the according to the video, 10:46, with 21
15 seconds is when that small wheel loader disappears from
16 Deputy Hartwick's video. So, you can extrapolate maybe it
17 happens somewhere right around there. And then 21 seconds
18 later, according to the Cellebrite records, Juan Molina-
19 Salles calls Pedro/Allan.

20 Q Okay. And so, it's the defendant that initiates
21 this call, correct?

22 A Absolutely. Yes.

23 Q Okay. So, about two minutes prior to the crash,
24 the defendant is on the phone with Pedro, right?

25 A Correct.

1 Q He hangs up the phone. The crash happens and
2 within about 20 seconds of the crash he's calling Pedro?

3 A Correct.

4 Q And the video evidence shows that he stops, and
5 he stays there for two minutes.

6 A He stops. Again, I can't say exactly where he
7 stops, but he stops and he's making a 21 or within 21
8 seconds he's making a call to Allan.

9 Q Okay. And then he goes down to the equipment
10 pit?

11 A Two minutes and 42 seconds later. Yes.

12 Q Now, during the duration of your investigation,
13 did you speak to people that were reaching out to the
14 defendant as this was going on?

15 A Yes, we did.

16 Q Okay. And were they able to tell you -- were
17 they able to make any kind of contact with the defendant
18 as you guys were out there looking for him that day?

19 A Yes. I did not interview him, but there is
20 another individual named Allen Miles Amador (ph) I
21 believe, who Juan Molina-Salles contact via the phone,
22 asks him to come pick him up. Tells him that he killed a
23 police officer or deputy. And I believe Allen drives over
24 to this area and he advises Juan Molina-Salles to turn
25 himself in several times.

1 Q Okay. And did the defendant in this case ever
2 willingly turn himself into law enforcement?

3 A Did he ever in that span? No, he did not.

4 Q Okay. And can you tell the Court at the
5 conclusion of all of this, in speaking with him and
6 speaking with all those that spoke to him that day, at any
7 point in time did he ever indicate that he expressed any
8 kind of remorse or concern for Deputy Hartwick to you?

9 A There was remorse, but I don't know that it was
10 directed towards Deputy Hartwick. You know, in Detective
11 Sosa's and I's interview he was -- he tells us that he was
12 shocked. He was nervous. I think at one point he asked
13 Alicia to put him in the small wheel loader and throw him
14 over a bridge. I mean, he was definitely emotional about
15 it, but from my opinion I don't see that it was directed
16 at Hartwick. It was directed at his life was now affected
17 and impacted.

18 MS. CONSTANTINE: A moment to confer?

19 THE COURT: Of course. Everybody is welcome to
20 stand if it will help. While we're just taking a
21 break because I just got to. There we go. It just
22 seemed like a good time to stand. Okay. All right.
23 Do you have any further questions for this witness?

24 You may proceed.

25 BY MS. CONSTANTINE:

1 Q You talked about some of those phone calls. Can
2 you tell the Court, in reviewing the Cellebrite, as well
3 as the cell phone records in this case, what is the total
4 of number of calls that were taking place during the
5 manhunt?

6 A I did not count all the way up until his
7 capture, but the Cellebrite -- so there's a difference.
8 Call data records or call detail records are from the
9 subscriber, meaning AT&T or Verizon or whatever. And
10 those are the only calls that you see. So, those don't
11 give you everything. The Cellebrite actual physical
12 download of the cellular device will give you some other
13 apps and stuff that are going. So, I can't tell you
14 calls, text messages or whatever because he apparently
15 uses a Whats App quite a bit. But what I counted in
16 between the 10:44 p.m., which is just prior to the
17 incident until approximately like 0309 hours, I counted at
18 least 51 -- can I refer to my notes real quick?

19 Q Absolutely.

20 A 18 incoming calls or texts and 51 outgoing calls
21 or texts.

22 Q And were any of those to 911?

23 A No.

24 Q Now, in addition to reviewing those records, did
25 you also have the opportunity to review the autopsy in

1 this case?

2 A I did.

3 Q And can you tell the Court what the cause and
4 manner of death was?

5 A Can I refer to the report?

6 THE COURT: Of course.

7 BY MS. CONSTANTINE:

8 A So the autopsy was conducted on September 23rd,
9 2022, at 1139 hours by Doctor Andrew Coopeminors (ph).
10 His cause of death for Deputy Michael Hartwick was
11 multiple blunt force injuries. The manner of death was
12 accident. And how injury occurred says that deputy was
13 struck by heavy front loader while performing traffic
14 safety for road construction project.

15 Q And what injuries were noted underneath the
16 autopsy findings.

17 A Underneath the autopsy findings, there's nine
18 different injuries noted. The first one is a subarachnoid
19 hemorrhage. The second is a fracture of the skull base.
20 The third is fracture of all ribs. The fourth is
21 fractures of the sternum. The fifth is fractures of the
22 seventh thoracic vertebrae and transection of the spinal
23 column and aorta. The sixth is lacerations of the liver
24 and diaphragm. The seventh is fractures of the pelvis.
25 Eighth is abrasions of the face, scalp, torso and

1 extremities. And nine is contusions of the scalp, abdomen
2 and left leg.

3 MS. CONSTANTINE: Nothing further.

4 THE COURT: Counsel, do you wish to inquire?

5 MS. DELIBERATO: Yes.

6 THE COURT: You may proceed.

7 CROSS EXAMINATION

8 BY MS. DELIBERATO:

9 Q Good afternoon.

10 A Good afternoon.

11 Q A couple of questions for you. The distance
12 that Mr. Molina-Salles was located from the accident was
13 3657 feet. Does that right? You may refer.

14 A Can I double check it, please? You're saying
15 the distance he was from his arrest location?

16 Q To the accident.

17 A Yeah, I have straight line distance, according
18 to Google Earth, I have straight line as 3657.05 feet.

19 Q So, it's a little under a quarter of a mile.
20 Three quarters of a mile. Correct?

21 A I think it's .7. .69.

22 Q Okay. Fair to say that when a deputy is killed,
23 the importance of the investigation is paramount.

24 Everyone is trying to find answers right away. Is that
25 fair to say?

1 A That's fair to say.

2 Q And as you're lead case agent, that was your job
3 to try to get answers right away?

4 A I wouldn't frame it as right away, but we're
5 there to determine what happens, yes. That's why robbery
6 homicide was called in this case.

7 Q And this was sort of an all hands on deck event.
8 Is that right?

9 A There was quite a few people there, yes.

10 Q Deputies arriving from other counties, from
11 other jurisdictions to assist?

12 A Yes. Federal agencies.

13 Q Federal agencies. And you're aware the Deputy
14 Hartwick wore a hearing aide and glasses. Is that right?

15 A I am aware of that now, yes.

16 Q Okay. And this off duty traffic detail, this is
17 a detail -- you had never worked this particular detail.
18 Correct?

19 A No, ma'am.

20 Q Okay. My understanding though, is it's kind of
21 an off-duty kind of volunteer basis thing. Correct?

22 A Well, yeah, off duty detail people sign up.

23 Q Okay. Deputy Hartwick wasn't like assigned to
24 this location by the Pinellas County Sheriff. Is that
25 right?

1 A No, ma'am.

2 Q Okay. And a couple questions about the video.
3 The video from -- you have the video from the trucks and
4 the video from Deputy Hartwick's car. There are no videos
5 showing the perspective of Juan driving towards Deputy
6 Hartwick's car. Correct?

7 A No, ma'am.

8 Q No way to show the Court sort of what Juan's
9 perspective would have been.

10 A Again, I wrote search warrants for that vehicle.
11 We checked with Archer Western about the vehicle that
12 Allan was driving, but there's no cameras that were
13 available to give that view. No, ma'am.

14 Q Okay. And part of your investigation here was
15 try to determine the circumstances surrounding the
16 accident. Is that right?

17 A How do you mean?

18 Q Like if someone was driving recklessly?

19 A Yes.

20 Q Allan Gomez Zelaya describes Deputy Hartwick's
21 lights to you as sort of blinding and flashing. Do you
22 remember that?

23 A During my interview with him?

24 Q Yes.

25 A Yes, ma'am.

1 Q Okay. He also talked about Juan, when he spoke
2 to him on the phone -- I understand there's a discrepancy
3 as far as who called who, but he expressed that Juan was
4 nervous and upset and crying. Correct?

5 A I think so. I know Laura said she couldn't make
6 sense when he called her, so there was definitely an
7 emotional -- I don't recall exactly what Allan told me
8 about that though.

9 Q And Juan himself, during your interview, told
10 you that he was panicked. Right?

11 A Yes.

12 Q He told you that he didn't know the laws in this
13 country. Correct?

14 A Correct.

15 Q And he doesn't ever specifically tell you that
16 he ran because he was thinking about being deported.
17 Correct?

18 A He -- no, he never said anything about
19 deportation. I believe almost every time that came into
20 frame of reference is about killing a police officer.

21 Q Right. You in fact try to say, were you afraid
22 of being deported. And he denied that. Is that right?

23 A Yeah, I mean, reasonable assumption is it's part
24 of the equation, but he never asserted that that was his
25 primary reason.

1 Q Okay. And the two minutes and 42 seconds that
2 the front loader is stopped, you can't tell the distance
3 where that stopped from those semi trucks. Correct?

4 A I know it's farther away from the semi trucks
5 than it is from Deputy Hartwick's vehicle, but no, I have
6 no way of locating its exact position when it stops.

7 Q Okay. And you can't tell if he was like -- if
8 there was some other truck or vehicle off camera that he's
9 trying to wait to pass or anything like that. You can't
10 see if there's potentially another vehicle off camera,
11 correct? Like another construction vehicle or another
12 truck? As to why he might have stopped.

13 A Oh, no, you can see all the way down to his
14 headlights, which is how the media forensic specialist
15 discovered it. I don't see any vehicles that he would
16 stop for. No, I don't see that.

17 Q Sure. But you can only see obviously the line
18 of sight from the camera. There's a -- it's a broad
19 roadway. You can't see what was to the left or to the
20 right of where the camera's focused.

21 A No, but the semi-trailer view, I mean it
22 captures that roadway.

23 Q Okay. When Mr. Molina-Salles was arrested, he
24 had car keys in his pocket. Is that correct?

25 A I've learned that. Yes.

1 Q Okay. And is that in the supplement from Deputy
2 Leib?

3 A Leib?

4 Q Leib. L-E-I-B?

5 A Yes, ma'am.

6 Q And you had a chance to review that?

7 A I did.

8 Q And was there also the car that those keys
9 belonged to, the Honda, was that car also found on scene?

10 A It was.

11 Q And did you find items of Mr. Molina-Salles
12 personal affects in that vehicle?

13 A I learned of that. I did not. Yes.

14 Q Okay. So, he's taken into custody with the keys
15 for his own vehicle in his pocket. And the vehicle is on
16 scene. Correct?

17 A Yes. I believe the vehicle was south of the
18 incident.

19 Q Near the --

20 A Near the Exit 30 overpass.

21 Q Near the equipment pit?

22 A No. The other direction.

23 Q The other direction. The phone records come to
24 you from -- the phone records in the download Cellebrite -
25 - when you're talking about the times of the calls, you're

1 basing that on what the records give you, right? Or the
2 actual physical phone. Correct?

3 A What the program from the download tells me.
4 Yes, ma'am.

5 Q Okay. And then Deputy Hartwick's fleet cam has
6 its own timing and its own clock and timestamp. Correct?

7 A Correct.

8 Q And throughout part of this -- in some cases,
9 with the semi-truck videos and Deputy Hartwick's video,
10 you had to adjust for the error in the timestamp. Is that
11 correct?

12 A I think the white semi-trailer had a time
13 offset. Yes.

14 Q Okay. But there's -- we're talking three
15 separate markings of time. The phone records, Deputy
16 Hartwick's fleet vehicle and then the semi trucks?

17 A That's correct.

18 Q Okay. In Juan's interview, when you were
19 confronting him about not feeling the accident, not
20 knowing that the accident happened because you had said
21 you didn't believe that that was true, when you were
22 confronting him about that, he remained adamant that what
23 he was trying to do was move onto the shoulder away from
24 Deputy Hartwick's vehicle. Correct?

25 A That's what he told us. Yes.

1 Q That he was trying to avoid actually running
2 into the deputy's vehicle.

3 A Yes.

4 Q And he was adamant that he never saw Deputy
5 Hartwick in the roadway prior to the accident, standing
6 upright?

7 A His statement to us was that he never saw Deputy
8 Hartwick and never knew that he hit him.

9 Q Right. So, he was always adamant that he never
10 saw and what he was trying to do was avoid hitting the
11 police car.

12 A Correct.

13 Q Did he talk -- he talked to you about expecting
14 the police officers to be inside their cars, correct?

15 A I'm sorry?

16 Q He talked to you in the interview about the
17 police officers who do traffic detail generally speaking,
18 staying inside of their cars.

19 A I remember someone telling us that. That they
20 don't expect the police officer to be outside of the car.
21 I don't remember if it was him or Allan or somebody.

22 Q Okay.

23 A But somebody did tell us that. Perhaps it was
24 him. I can't --

25 Q Okay. So, through your investigation you

1 learned that that was an unexpected place for a deputy to
2 me?

3 A To the person that told me that. Yes.

4 Q Okay. And it was your job as the lead case
5 agent to determine the ultimate charges that you had
6 probable cause for. Is that correct?

7 A Yes, ma'am.

8 Q And I think you -- I think she said on direct,
9 but you've been a deputy for 25 years?

10 A Yes, ma'am.

11 Q Okay. And based on your training, everything
12 that you've observed, the interviews that you did,
13 everything you learned from other officers, if you had
14 probable cause to charge him with something other than
15 leaving the scene of the accident, you would have done so,
16 correct?

17 A I went down several investigative avenues,
18 attempting to determine if I could find out the speed, if
19 that was a factor. If there was something else. There
20 was not evidence to support any additional charge. No.

21 Q And so the only charge was leaving the scene of
22 an accident with death?

23 A Yes, ma'am.

24 MS. DELIBERATO: May I have a moment, Judge?

25 THE COURT: Of course.

1 MS. DELIBERATO: I have no further questions.

2 THE COURT: State, do you wish to ask any
3 further questions of this witness?

4 MS. CONSTANTINE: Just a couple.

5 THE COURT: Okay.

6 REDIRECT EXAMINATION

7 BY MS. CONSTANTINE:

8 Q All right. Just to be clear, during your
9 interview with the defendant in this case, he never denied
10 striking Deputy Hartwick that day with the front loader.
11 Correct?

12 A No. His -- I guess what I wanted to get from
13 him was whether he was lying to me about Allan calling him
14 or him actually knowing that he struck Deputy Hartwick.
15 Either way, prior to him leaving the scene, he was
16 convinced that he had killed a deputy. He told several
17 people on the phone, and Alicia at the equipment pit that
18 he killed him. So, my understanding is that he believed
19 that.

20 Q That he'd struck and killed him?

21 A That he'd struck and killed -- yes. Deputy
22 Hartwick.

23 Q Defense also asked you about Deputy Hartwick
24 having hearing aids and glasses. What impact, if any, did
25 you find that that had as to his cause of death?

1 A Deputy Hartwicks?

2 Q Correct.

3 A I have no evidence to tell me that that helped
4 cause or didn't help cause. Once that small wheel loader
5 comes out of frame of that in car video, I can't tell you
6 what happens there other than he gets struck and run over.

7 Q And then lastly, can you tell us what is the
8 weight or approximate weight of that front end loader
9 we're talking about?

10 A It's just over 31,000 pounds, which equates to
11 14.2 tons.

12 MS. CONSTANTINE: Nothing further.

13 THE COURT: Okay. Thank you for coming in
14 today, detective. You are excused. State, who do
15 you wish to call as your next witness?

16 MS. CONSTANTINE: The State rests, Your Honor.

17 THE COURT: Okay. Did you have any rebuttal
18 witnesses that you wanted to call before we go into
19 closings?

20 MS. DELIBERATO: I don't, Your Honor. I would
21 be willing to possibly allocate, but I think the
22 appropriate time for that is after argument, prior to
23 the Court's pronouncing a sentence. I imagine the
24 State has also family members that want to speak at
25 that time. So, I thought we would do that at the

1 same time. I would assume that would be after
2 argument.

3 THE COURT: Oh, I assume we heard from
4 everybody. So --

5 MS. CONSTANTINE: I was waiting to let the
6 witnesses speak until after the defendant allocates.

7 MS. DELIBERATO: I have the family.

8 THE COURT: Okay. Usually, I let the defendant
9 speak last, since he's the guy that's getting
10 sentenced or the girl that's getting sentenced.

11 MS. DELIBERATO: Yes, Your Honor.

12 THE COURT: So, if you have family members that
13 want to speak, now is the time. Do you want ten
14 minutes to line up the order in which you want me to
15 hear from them, and where they want to speak from in
16 the room? Because I can do that now.

17 MS. CONSTANTINE: Yes, Your Honor.

18 THE COURT: All right. We'll call a ten minute
19 recess. You'll prepare your witnesses. After your
20 witnesses speak, if he wants to allocate or if you
21 want to read a statement from him, he doesn't have to
22 say it himself if he'd rather have you read it.

23 MS. DELIBERATO: He would like to.

24 MS. BLAQUIRE: And it will be in Spanish, so
25 we'll ask that it be translated.

1 THE COURT: Obviously. And then after we hear
2 from everybody, then we can roll right into closings
3 if both sides are comfortable with that.

4 MS. CONSTANTINE: Yes, Judge.

5 THE COURT: Is ten minutes enough? You want to
6 call it 2:30? Will that work?

7 MS. CONSTANTINE: That's perfect.

8 THE COURT: 2:30. All right. We'll be in
9 recess until 2:30.

10 THE DEPUTY: All rise.

11 (Court stands in recess.)

12 (Court is back in session.)

13 THE COURT: We are back. We've given a chance
14 for everybody to get acclimated. Get an order for
15 presentation. And State, who do you want me to hear
16 from the victim's family first?

17 MS. CONSTANTINE: Yes, Your Honor. At this
18 time, the State would call Jeff Snyder.

19 THE COURT: Okay. Mr. Snyder. And whatever's
20 more comfortable. If he'd rather be at the podium,
21 he can make his statement from the podium or if he
22 wants to come up.

23 MR. SNYDER: If it's okay with you Judge, I'll
24 come up.

25 THE COURT: Okay. Wherever you feel more

1 comfortable. I don't usually swear in victim's
2 family so unless you want me to administer an oath, I
3 don't think it's necessary.

4 MS. CONSTANTINE: I don't think it's necessary,
5 Your Honor.

6 THE COURT: Okay. All right. Yeah, I don't
7 need to give you an oath. This is different. All
8 right. You want him just to speak or do you want to
9 ask questions?

10 MS. CONSTANTINE: Yes, Your Honor.

11 THE COURT: Okay. What would you like to tell
12 me, sir?

13 MR. SNYDER: Good afternoon, Judge and Court.
14 My name is Jeffrey Snyder. S-N-Y-D-E-R. I met
15 Deputy Hartwick several years ago as a retired law
16 officer myself, and a retired military. Mike and I
17 had a lot in common. The first time I met Mike, I
18 saw him vacuuming a masonic lodge and I was wondering
19 if he was brand new and they said, no, no, he's high
20 up in the lodge. I said, why is he vacuuming? They
21 said, because that's what he does. He always did
22 what was right at the right time, for whatever
23 reason. Nothing that motivated him more was himself.

24 If it's okay, sir, I would like to tell a quick
25 story about his future granddaughter.

1 THE COURT: Okay.

2 MR. SNYDER: Mike and I were both very proud,
3 very alpha males. And the last movie we saw together
4 was Top Gun:Maverick. And I recall sitting next to
5 Mike or there was a seat between us, and being a
6 proud fellow soldier, there was a sad part that came
7 up. Very sad in the movie. And I got very weepy.
8 I'm a little emotional. I didn't want to show it
9 because my best friend, Mike, is going to give me a
10 rash about it. Like good soldiers and officers do
11 for each other. But I kind of sneaked up to the left
12 and I took a little peek, and Mike was crying also.
13 And Mike was trying to take a peek at me also, to see
14 if I was crying because neither of us would admit to
15 each other that we had feelings. Once we both
16 realized we were both a little teary, the tears
17 flowed. And we realized that we were deeper friends
18 than we ever thought.

19 Mike was someone that you could be aware of his
20 presence from a long distance. It was because when
21 you approached a room or a building and you heard
22 raucous laughter and good times, you knew Mike was in
23 the middle of it. Mike embodied life and happiness
24 wherever he went. And not only did he do that for
25 himself, he did it for others around him.

1 It was always a running joke to, where's Mike?
2 Oh, there he is, where all the laughter and happiness
3 is. The night of the incident, my wife and I had
4 called Mike to ask him to go to dinner. And he said
5 he had a detail. And being the retired officer I am,
6 and I don't have the same duties that Mike did I
7 said, come on, can't you get out of it it's a detail?
8 Can't you get someone else to work it or can't you
9 just blow off the details? And he said no, I have to
10 make some money for a motorcycle trip that I've got
11 on Monday coming up and I can't wait to go on
12 vacation coming up and I need this money. And I
13 said, yeah, but you've got the money. You're fine.
14 He said no, if I don't show up, they're short-handed
15 and they need me out there.

16 Mike didn't do the detail for the money. He did
17 the detail because his fellow officers and the public
18 needed him to be there. And he knew that. And he
19 took that as more than a job. A duty to his
20 community and his fellow officers and those who were
21 working to keep them safe. And that was his mindset.
22 When Mike passed, it affected so many people. I'm a
23 proud Florida mason and it caused a rift in
24 friendships, in masonry because of the stress that we
25 were all trying to wrap our heads around and why this

1 would happen to Mike, of all people, who demanded to
2 take care of others before himself.

3 I met Will and Skyler and the family near the
4 funeral and before that. And I told the story about
5 Top Gun:Maverick. If Mike's grandchild had been a
6 boy, and I don't know if this is true, but they told
7 me that they would have named him Maverick after that
8 movie because they knew how much it affected Mike and
9 everyone around him. Unfortunately, well not
10 unfortunately, fortunately they had a daughter. A
11 beautiful girl named Ellie and her nickname is
12 Mavericka because we just had to make sure that that
13 name had stuck a little bit. The reason that I tell
14 that story is because I got to the very fortunate
15 opportunity to hold and care for Ellie, I like to
16 call her Mavericka, during Will's wedding. And I sat
17 and watched these two incredible people get married,
18 and I held Mike's granddaughter on my lap and in my
19 arms and realized that Mike is not available. That
20 Mike was too busy giving of himself to his community
21 to be available when his family and friends needed
22 him the most.

23 Mike was a giving person, in and out of the
24 uniform. I knew him in both capacities. I knew what
25 a dedicated law enforcement officer he was. And I

1 knew what a dedicated and incredible person he was
2 outside the uniform. And I understand that actions
3 have consequences. Sir, Mike's actions, protecting
4 his community, caused the consequences of his death.
5 And we will never recover knowing that that man gave
6 himself to the very last second for his family, his
7 community and the defendant, who he was trying to
8 protect that night. I am sorry that we are here. I
9 wish this never happened. But please understand that
10 Mike's absence will affect thousands of people for
11 the rest of our natural lives. Thank you.

12 THE COURT: Okay. Any questions from either
13 side? Thank you for being here, Mr. Snyder.

14 MR. SNYDER: Thank you, sir.

15 THE COURT: State, who do you wish to call next?

16 MS. CONSTANTINE: Yes, Your Honor. At this
17 time, we're going to have the victim advocate come
18 forward. Bobby.

19 THE COURT: Okay.

20 MS. CONSTANTINE: And Deputy Hartwick's son,
21 Brandon Hartwick.

22 THE COURT: Okay. Are you comfortable from
23 there or would you -- okay. All right. Good
24 afternoon, sir. Would you like to tell me.

25 MR. HARTWICK: I'm sorry if this comes off a

1 little bit messed up. We wrote this in the third
2 person, not expecting to have the courage to write
3 it, to say it in person.

4 As mentioned in our previous statement, my
5 brother and I were lucky enough to have called the
6 man you know as Deputy Michael Hartwick, dad, for
7 just over 20 years of our life. While our dad is
8 commonly referred to as deputy, he was so much more
9 than a badge. Along with the sheriff's deputy, he
10 was a mason, navy veteran, a member of the American
11 Legion, and volunteer in the community.

12 He dedicated his life to service for others and
13 gave the ultimate sacrifice. Our dad was a friend to
14 many, several of which are here today. And not only
15 stand by our side, but to be here for their friend
16 they had grown to love and had made several fond
17 memories with.

18 Since our father's passing, our family has
19 missed the opportunity of having our dad around for
20 one of our weddings, and the birth of not one, but
21 two of his three grandchildren. He never got the
22 opportunity to retire and build his dream home in
23 Tennessee, which he had been hand drawing the floor
24 plan of. More so than anything, due to the pure
25 negligence displayed by the defendant, our family has

1 been stripped of so much time with our dad, in
2 addition to the chance of saying a proper goodbye.

3 Your Honor, the last time we were in this room,
4 you mentioned that there are several factors that you
5 look at when considering how to sentence a person in
6 a case like this. We would like to point out that
7 while the defendant has no formal criminal history,
8 in our family's opinion, he does show a history of
9 negligence and disregard for our country's laws
10 regarding immigration. While immigration is not the
11 issue being discussed today, we feel the need to
12 address again that we cannot help but consider how
13 our father was taken by someone who did not have the
14 proper documentation to be here in the first place.

15 The defendant was here unlawfully after already
16 had been sent back to his home country. This alone
17 shows a pattern of disrespect and disregard for our
18 laws.

19 The defendant has also shown a lack of
20 consideration for anyone but himself. In addition to
21 using a false identification to obtain work here,
22 which resulted in someone else getting arrested for a
23 crime they didn't commit, he fled the scene of an
24 accident that resulted in death. Proceeded to run
25 and hide, ensuing a very long man hunt and dragged

1 others into his mess.

2 Even after having hours well in hiding to
3 reflect on his actions, it appears as though he never
4 once stopped to think about anyone but himself. At
5 any point he could have called 911 or come out of
6 hiding and turned himself in, but he never did.
7 Instead, he left our father lying on the pavement and
8 others were left to clean up his mess.

9 No matter where you come from, the concepts of
10 right and wrong are pretty universal. There is no
11 way that the defendant thought that running and
12 hiding after hitting and killing our dad was the
13 right thing to do. Running from a crime and remorse
14 are not two things that you would typically associate
15 with one another. However, accepting responsibility
16 and being remorseful are. Through our eyes it
17 appears as though neither of these things took place
18 until the defendant considered entering a plea of
19 guilty and could possibly get his maximum sentence
20 reduced. Again, only looking out for himself. No
21 remorse shown.

22 In our eyes, there has never been a question of
23 the defendant's guilt in regard to the crime. As
24 scared as he may have been, he chose to run and hide
25 while other people in the same circumstance choose to

1 stop, render aide and call 911. His actions show
2 major flaws in character, questionable morals, lack
3 of regard for the law and little remorse.

4 There is not a day that goes by that we don't
5 think about how our dad's life was senselessly taken.
6 And how so many lives were changed forever because he
7 is no longer here. After almost three years our
8 family would like the ability to move forward. In
9 order to truly move forward without fear of the
10 defendant repeating his actions and causing another
11 family pain in the way he did ours, we respectfully
12 ask that you consider enforcing the maximum sentence
13 of 20 years. Thank you.

14 THE COURT: Thank you, sir. State, who else
15 would you like me hear from today?

16 MS. CONSTANTINE: No one else today, Your Honor.

17 THE COURT: Okay. Do you want me to let him
18 speak from there or would you rather him come up to
19 the podium? It's wherever you're more comfortable.

20 MS. DELIBERATO: Here is fine.

21 THE COURT: Okay.

22 MS. DELIBERATO: He's soft-spoken, but the
23 interpreter will interpret, so.

24 THE COURT: All right. I'll ask him to stand so
25 that he projects his voice a little bit.

1 THE DEFENDANT: I am very sorry for leaving the
2 scene of the accident where Deputy Hartwick died. I
3 was afraid. Not because I was afraid of being
4 deported, but because I was afraid that no one would
5 believe me. Or understand that it had been an
6 accident. I just needed time to think and pray. So,
7 I ran and hid. My work mates said that he had died
8 and that he could not be saved. I know I should have
9 waited. That it was wrong to leave. And I would
10 like to be able to take it back. I had only been in
11 this country for about ten months, and I did
12 everything possible to work hard every day and send
13 money to my wife and children in Honduras. I plan on
14 going back there when I get out of prison. I don't
15 want to fight against my deportation. I won't. I
16 came here because my country had very few work
17 opportunities during and after COVID. I knew that I
18 could work in construction here. It's the only work
19 that I've had since I was 14 years old. I've been
20 driving heavy machinery for 15 years and I've never
21 had an accident. I made a mistake, and I'm humbly
22 request that the Court take into account my fear, my
23 lack of confidence in thinking that I wouldn't be
24 believed. And have compassion when sentencing me to
25 a lower prison sentence to be able to return to my

1 country. I am sorry.

2 THE COURT: Okay. All right. Thank you. All
3 right. Remaining, we will have State give their
4 closing argument and request their sentence and why,
5 and any case law they want me to consider if they
6 have case law they want me to consider. And then
7 I'll have the defense give their closing argument,
8 request the sentence they want to request and why.
9 And then State, if there's any brief rebuttal, you
10 can give brief rebuttal. Okay? So, State, from the
11 podium or there. Wherever you're more comfortable.

12 MS. CONSTANTINE: Yes, Your Honor.

13 CLOSING ARGUMENTS

14 MS. CONSTANTINE: Your Honor, as the Court's
15 aware, the basic premise behind the sentencing
16 guidelines is the sentencing range is thought to be a
17 fair measure of what a particular crime's punishment
18 should be. As we all know, property crimes are
19 ranked lower than personal violence crimes and lower
20 than more dangerous crimes. And that's because it's
21 long been thought and recognized that non-violent
22 crimes and crimes that don't pose a danger to society
23 should be getting lower sentences. On the other
24 hand, for those crimes that are violent in nature or
25 those that do pose a danger to society, long prison

1 sentences are in order. The punishments in those
2 cases are meant to punish. They're not meant to be
3 easy and they're not meant to be rehabilitative in
4 nature.

5 The defense's position in this case is that it
6 does not warrant a guideline disposition. That the
7 Court should somehow depart in giving this defendant
8 between four year minimum mandatory sentence and the
9 below the bottom of the guidelines which is about ten
10 years in change.

11 As the Court knows that any departure is going
12 to be a two-step legal process. One, does the Court
13 have a legal basis to depart, and two, should the
14 Court depart? I agree that the Court obviously,
15 legally can give a departure down to the four year
16 minimum mandatory in this case, however, I would
17 submit to the Court based on the facts and
18 circumstances here that this isn't a situation where
19 the Court should depart.

20 As far the -- so the question becomes then for
21 this Court that knowing all the relevant factors in
22 this case, should the Court depart? And is there
23 mitigation in this case that rises to the level that
24 the presumptively -- the presumptively fair
25 sentencing guidelines in this case is somehow unfair.

1 And I would submit to this Court that it's absolutely
2 not. Not even close.

3 The defense has suggested through the
4 introduction of various items throughout the course
5 of today's sentencing, through the trafficking vest,
6 cold medicine, hearing aids, glasses, that somehow
7 how Deputy Hartwick was somehow responsible for his
8 own death and therefore that the Court should see
9 that as mitigation or somehow not impose the death
10 points in this case. Not only is this suggestion not
11 based on evidence, because there is nothing that
12 would be introduced in trial or that was introduced
13 in this hearing that would suggest that somehow
14 Deputy Hartwick was somehow at fault, or had he done
15 these things that he would have lived. The reality
16 is but for this defendant running Deputy Hartwick
17 over with that front end loader he would be here
18 today. To suggest otherwise is just offensive.

19 The defense has provided counsel and the Court a
20 list also of past sentences given for similar crimes,
21 and I assume to make some sort of equity argument,
22 that was provided to the State Attorney's Office
23 about 4:30 yesterday afternoon. And what I will say
24 is that as the Court and this case is well aware,
25 practicing 18 years, that no case is created equal.

1 Each case, as it's presented, has its own unique set
2 of facts, circumstances, next of kin and evidence and
3 aggravators. As does this case.

4 And that's why the Court is given the discretion
5 that it has to consider the range of the minimum
6 versus the maximum. The sentence should be
7 determined based on the specific fact pattern of the
8 case, as well as other factors that the Court or the
9 State determines appropriate for that particular
10 case. I would submit that these prior cases that
11 have been provided by the defense aren't a basis for
12 this Court to look at for departing from the
13 guidelines.

14 So, that just basically just brings us back to
15 full circle as to where we began, is that back to the
16 presumption that the sentencing guidelines are a fair
17 way to judge a case.

18 THE COURT: All right. We'll put a pin in that
19 before we go on. Sorry, but I have a habit of asking
20 questions so I'm going to. You said similar crimes,
21 but I at least checked the first couple, and it's the
22 same crime. It's not a similar crime, it's the same
23 criminal statue, leaving the scene of an accident
24 involving death.

25 MS. CONSTANTINE: That's correct. It's the --

1 THE COURT: They're not similar. It's the same
2 crime. As you pointed out, and as I have said from
3 the bench many times, there are 8 billion on this
4 planet. We all stand in different positions but as
5 far as a guide to the Court, is it not fair to
6 consider what has happened in the Sixth Judicial
7 Circuit over the last five years for the same crime?

8 MS. CONSTANTINE: I would submit that it has to
9 be based on the individual facts and circumstances.
10 For instance, one of the first cases, I think, that
11 was provided by the list from defense involved a
12 passenger in the car. So, just because that
13 someone's charged with the same crime, in and of
14 itself, I don't think is a basis for the Court to
15 look at that and justify departing because it's not
16 an equity thing. Those cases are all going to be
17 different next of kins, different families, different
18 factual scenarios, different aggravators, and each
19 individual case is going to be unique. And the
20 legislature takes that into account when they create
21 these guidelines. That's why, when you're looking at
22 the guidelines for instance, in this case, you're
23 talking about 10.375 years up to the 30 year maximum
24 sentence. So, the legislature is even giving the
25 Court the ability to take all of these things into

1 consideration and determine what the appropriate
2 sentence is. If we were just going to give everybody
3 that committed the exact same crime the exact same
4 sentence, there would be no point in having the
5 guidelines. There would be no point in the Court
6 having the discretion to be able to take these things
7 into consideration.

8 THE COURT: I agree with you. I was just asking
9 about whether or not it was something I should look
10 to. All right. I said put a pin in it, so go back
11 to where you were. I didn't mean to take you out of
12 your order, I just have that habit of asking
13 questions.

14 MS. CONSTANTINE: Yes, Your Honor.

15 THE COURT: The defense will get some too.

16 MS. CONSTANTINE: All right. For this
17 particular case, obviously, the testimony that we
18 heard from Detective Syers is that we have a
19 defendant in this case who knowingly drove a front
20 end loader weighing over 30,000 pounds down the
21 shoulder of a roadway while, according to what he
22 says during the interview he can't see, and he's
23 going about 15 miles an hour when he strikes into
24 Deputy Hartwick. We have a defendant in this case
25 who claims to not know what he did, and yet phone

1 records in this case show that within 20 seconds of
2 striking the deputy he's calling his friend, who is
3 directly behind him. And why? Because I would
4 submit that he knew exactly what he did. He knew
5 he'd just hit a deputy and so he immediately calls
6 his friend.

7 He claims to not know what he did to law
8 enforcement, and yet within 20 seconds of committing
9 this crime, the video evidence shows the defendant
10 stops there at the scene between where Deputy
11 Hartwick's body's found and the pit where he returns
12 the front loader. And he sits there for over two
13 minutes. And why? Why make the call? Why sit
14 there? Because he's sitting there and he's thinking,
15 he's reflecting about what he just did. And he
16 leaves.

17 Why he would leave? He says he doesn't know
18 what happened, and yet we heard testimony today from
19 Detective Syers that that's completely inconsistent
20 with his own experiences. Despite the fact that this
21 vehicle is a 30,000 pound vehicle, he absolutely felt
22 it when he crushed Deputy Hartwick's body. You heard
23 testimony today from Detective Syers that he reviewed
24 Cynthia Gomez's statement. Cynthia Gomez is in the
25 truck directly behind the front loader and watches

1 this vehicle literally go up and down over Deputy
2 Hartwick's body. I submit to Your Honor that this
3 defendant felt it when he fractured Deputy Hartwick's
4 skull. He felt it when he fractured every rib in his
5 body. He felt it when he fractured his sternum, his
6 pelvis, his vertebrae and when he transected his
7 spinal column and his aorta. He felt every bit of
8 that. Which is why he made that phone and which is
9 why he stopped.

10 We have a defendant in this particular case that
11 despite knowing what he did, that he had struck and
12 killed a police officer. He didn't get out of his
13 front loader to render aide. He didn't provide his
14 information. He left. And you heard testimony, or
15 at least a statement today, that he did that because
16 was scared and he didn't know what to do, but this
17 defendant had time to reflect. The video evidence
18 shows he sat there for two minutes and he thought
19 about it and he left. He goes to the vehicle pit,
20 and he gets rid of his front loader. He sits there
21 for eight minutes, and he leaves. He then goes and
22 hides in the brush. This accident happened at 10:46
23 p.m. The defendant's not arrested until 8 a.m. the
24 next day. That's hours. And the testimony and
25 evidence that's been elicited throughout the course

1 of this sentencing is making 50 plus -- is involved
2 in 50 plus phone calls to people. Text messages to
3 people. And none of that is, oh, I'm so afraid, I
4 need to time to think. It's how the heck do I get
5 out of here. How do I get away from what I just
6 caused. How do I distance myself from this
7 situation. Me, me, me.

8 The defendant in this case expressed no concern
9 for anyone out there that night, least of all Deputy
10 Hartwick. His manhunt led into a multi -- as I said,
11 multi-hour-long chase involving multiple police
12 agencies. You heard testimony that the Pinellas
13 County Sheriff's Office is involved, canine is
14 involved, Pasco is involved, a helicopter is
15 involved. They're all out there looking for him.
16 Having calls made to him. People are telling him to
17 turn himself in, and he still hides. During none of
18 these calls he doesn't inquire about the life he
19 took, he doesn't call about 911, he doesn't call to
20 say, hey, is this guy okay? What happened? What can
21 I do to help? He's just concerned about himself. At
22 that point, it's self-preservation.

23 This defendant was here illegally and had
24 previously, as we heard testimony from the Border
25 Patrol today, had been arrested at the border. And

1 selfishly was using someone else's identity. An
2 innocent person who didn't commit this crime, who
3 very well could have been arrested for leaving the
4 scene of a crash involving death of a police officer
5 that he didn't commit. Because again, this
6 defendant, who had came here illegally before, was in
7 here using someone else's identity and very well
8 could have had them arrested for this crime. But
9 again, he didn't care about that. He was more
10 concerned about himself and getting himself to
11 safety.

12 We heard testimony throughout the course of the
13 sentencing about what an excellent person and father
14 the defendant is. And I submit to the Court that so
15 was Deputy Hartwick. And unlike this defendant, who
16 has the opportunity to continue to be that for his
17 family, Deputy Hartwick doesn't have that chance
18 because of the actions of this defendant.

19 The defense submits the defendant in this case
20 has shown remorse. He has shown absolutely no
21 remorse whatsoever. He showed no remorse when he
22 fled. He showed no remorse in that interview. The
23 only emotion that I would submit that this defendant
24 has shown is for his own safety, his own
25 perseverance. Taking care of himself and worried

1 about what's going to happen to him.

2 The defense has put up witnesses throughout the
3 course of this sentencing, discussing what a role
4 model this defendant is. But when the rubber meets
5 the road, that's when you find out who that person
6 is. And when this defendant was faced with the
7 decision to leave or to stay when he struck and
8 killed a deputy, he left. That's the role model he
9 is. And he left not once, but he left twice. He sat
10 there after the crash happened. He sat there for two
11 minutes and forty-two seconds. He left. He goes to
12 the pit where the front loaders are located. He sits
13 there for eight minutes, and then he leaves again.

14 Your Honor, this is an individual that lacks
15 respect for the law, for this country or for the life
16 of the first responder he took, and that's why the
17 State is asking this Court to impose the maximum
18 sentence of 20 years in the Department of
19 Corrections. Because that is the only fair and just
20 sentence in this case. Thank you.

21 THE COURT: I have a question before you sit. If
22 he doesn't panic and go into his self-preservation
23 mode and run, if he stops like he did in that front
24 loader and sits for two minutes. He gets out of the
25 front loader and walks back to the scene, he wouldn't

1 have been charged with any crime according to the
2 lead detective that testified, right? If he doesn't
3 run, there's no crime because this was, as you said,
4 an accident. So, the crime that I'm going to be
5 sentencing him for today is purely for leaving the
6 scene of the crime of an accident but -- an accident
7 involving death, but if he stayed, he wouldn't have
8 been charged with anything.

9 MS. CONSTANTINE: Are you talking about in
10 regard to the accident?

11 THE COURT: In regard to the accident.

12 MS. CONSTANTINE: In regard to the accident,
13 yes, he was charged with aggravated identify theft
14 federally, so there would have been a crime, but not
15 this crime. Yes.

16 THE COURT: Yes. Right. Okay. And he would
17 have been deported in all likelihood also?

18 MS. CONSTANTINE: Yes.

19 THE COURT: Okay. All right. Thank you, State.
20 Defense, what lawful sentence would you ask the Court
21 to impose and why?

22 MS. DELIBERATO: Judge, this is a terrible
23 tragedy accident. We are mindful that there's no way
24 to compensate for the loss of Deputy Hartwick, who
25 served our community with honor for many years. But

1 as the Court noted, the law requires this Court to
2 issue sentences fairly, based on the facts and
3 circumstances of the crime charged and based only on
4 those facts. I will get into my argument, but what
5 I'm asking the Court to impose is a sentence between
6 the four year minimum mandatory and the bottom of the
7 guidelines, which we do continue to dispute. 10.3
8 years.

9 The facts --

10 THE COURT: What would the guidelines be if they
11 were as you asked me to sentence?

12 MS. DELIBERATO: Below the four year minimum
13 mandatory? 34 months would be the bottom of the
14 guidelines, which is part of the reason for the
15 judicial notice. It has all the score sheets.

16 THE COURT: Right. Okay.

17 MS. DELIBERATO: But I'm not asking the Court in
18 any event to depart from the four year minimum
19 mandatory, which would be above the guidelines,
20 without the death points.

21 The facts here are relatively not in dispute.
22 We know that the accident took place at night. Was
23 not well lit. There were no additional lamps.
24 Deputy Hartwick's cruiser lights were flashing,
25 swirling into the oncoming front loader that Juan was

1 driving. And I want to address -- we are in no way
2 suggesting -- I put on the evidence about the facts
3 and the circumstances. The lack of the vest, his
4 conditions, his medical conditions. Those are all
5 factors to contribute for the legal position about
6 the death points and about whether or not his death
7 was immediate. I just wanted to be clear that we are
8 in no way blaming Deputy Hartwick for his death here.

9 He was in an area he was not expected to be.
10 Mr. Zelaya, Allan Gomez Zelaya and the truck behind
11 him stopped, because he, in a much lower to the
12 ground vehicle, saw the dark mass near the shoulder.
13 Even he could not immediately tell it was a person
14 until he got out of the truck. The people on the
15 scene, all described within seconds and minutes,
16 Laura, Kenny Rogers on the 911 call, Allan, and the
17 State's not disputing that Deputy Hartwick succumbed
18 to his injuries immediately. Immediately upon being
19 rolled over, crushed by the front loader.

20 Mr. Molina-Salles was found about 3600 feet away
21 from the accident. And I say that because I think it
22 is worth noting when you look at the other sentences
23 and the other cases and the facts that this Court is
24 considering. There are cases where people left.
25 They cleaned their car. They left the state. They

1 left the country. They moved far away from the
2 scene. And I think it's relevant that he's 3600 feet
3 away.

4 THE COURT: Well, but that wasn't for a lack of
5 trying. I mean, he did hand over his vest and his
6 hat, or his, yeah, his hat. And he did try to get
7 away, he just wasn't able to, right?

8 MS. DELIBERATO: Well, that's the evidence that
9 the State submits. I think it's also plausible and
10 understandable based on the other testimony, he had
11 his car keys in his pocket. His car was on the
12 scene. At that point there were no deputies. It
13 took about 15 minutes for law enforcement to arrive.
14 If he really wanted to leave, he could have gotten in
15 his car and drove away. I think a fair reading of
16 the evidence is that he is panicked. We all know
17 that he is panicked. And he made a very, very
18 stupid, selfish decision to leave. I'm not disputing
19 that. But I don't think -- I do think that it is
20 relevant that he didn't get in his car, drive away,
21 and completely leave the scene. I think it's a minor
22 point, but I think it's a relevant fact for the Court
23 to consider when you're looking at imposing a
24 sentence.

25 THE COURT: Okay. I'm not sure that -- I'm not

1 sure how much I agree with you on it, but it's in the
2 record.

3 MS. DELIBERATO: Understood. Upon his arrest,
4 Mr. Molina-Salles was compliant. He was laying in a,
5 kind of a muddy bog, as you can see from the body
6 worn camera footage. While no one can know for sure
7 what was in his head except him, there is
8 circumstantial evidence and direct evidence from
9 people who spoke to him. He was scared. He was
10 crying. Corporal Syers said he had panicked. He
11 told the deputy he didn't know the laws of this
12 country. He had been here less than a year at the
13 time. He never told the deputy that he was afraid of
14 being deported or that that's why he fled. And what
15 he said today in Court in his allocation, which I
16 understand is not evidence, is that he was worried.
17 He didn't know that he would be believed. He knew
18 that he had killed a police officer. And he came
19 from Honduras. And he doesn't know the justice
20 system in this country. And he doesn't know what's
21 going to happen to him if he kills a police officer.
22 He doesn't know that there's going to be a courtroom
23 and justice and laws that have to be followed. He
24 doesn't know that. He's not thinking about that on
25 the side of the road. He's not thinking about the

1 American justice system, because he doesn't know it.
2 He doesn't know that he'll get a right and a lawyer
3 and an opportunity to argue for his actions.

4 And I think what the Court sort of pointed out,
5 and I'll highlight that as well. If he hadn't have
6 left, he would not have been charged with a crime.

7 THE COURT: I'm not pointing anything out, I'm
8 just asking questions. That's what I do.

9 MS. DELIBERATO: Yes. I mean, I -- then I would
10 point that out. There's no dispute that this was a
11 terrible, tragic accident. That if he had turned
12 around and walked back, he would have not been
13 charged with a crime. And so that is important that
14 while the circumstances of this accident have been
15 brought before the Court and it's incredibly
16 emotional, and understandably so, those factors
17 cannot be properly considered by this Court when
18 sentencing him for the leaving. And I submit that if
19 you look at the other, sort of, the whole purpose and
20 element of leaving the scene of the death is that
21 they knew and that they left. Not that they knew,
22 but that they left the scene and failed to provide
23 aid. So, everything LSA with that involved, a person
24 making a selfish or a cowardly choice to run and
25 flee, that is every single leaving the scene of an

1 accident with death. There is nothing additional or
2 specific about Mr. Molina-Salles panicking, running
3 into the words here. That is an element of the
4 crime, that he left and failed to render aid.

5 He has accepted responsibility for the crime
6 that he did commit. And I want to make sure the
7 record is clear. I know this Court has been on the
8 case from the beginning, as have I. When I took over
9 as lead counsel more than a year ago, we made an
10 offer, a guidelines offer of 10.3 years to resolve
11 this case. We have been trying desperately to accept
12 responsibility and resolve this case for well over a
13 year to avoid having both a trial and a painful,
14 lengthy sentencing proceeding like the one that we're
15 having today. So, I know the Court file reflects
16 that, but I want the record to reflect that since the
17 State mentioned his lack of responsibility.

18 THE COURT: I noticed that you mentioned the
19 negotiation thing. I had a question for you about
20 what you provided. All of these sentences that you
21 gave me here in your request for judicial notice,
22 these are all negotiated pleas between the State and
23 the defense, right? None of them are after trial?

24 MS. DELIBERATO: There was a couple that were
25 departure hearings.

1 THE COURT: Okay, well.

2 MS. DELIBERATO: With caps, much similar to
3 this. Nicole Carlson was one. William Gallahue was
4 a departure hearing. So, they weren't all -- they
5 were not all negotiated pleas. No.

6 THE COURT: They were not all negotiated pleas?
7 What were the caps set at? Do we know?

8 MS. DELIBERATO: The one in Carlson was 20 and
9 she received 8 years, followed by probation. And
10 then Gallahue, I'm not certain what the cap was, it
11 was a sentencing hearing. That case is actually
12 pending, ineffective assistance of counsel claim on a
13 failure to notify about a departure.

14 THE COURT: And that was the 12 year sentence?

15 MS. DELIBERATO: That -- which is the highest
16 sentence that any defendant has received in this
17 circuit in the last five years for this exact crime.

18 THE COURT: Well, the 4's and the probations
19 were all negotiated dispositions, though.

20 MS. DELIBERATO: So, I would have to go back and
21 look at every single one. I believe that the 4's --
22 most of the 4's and the probations and some of the
23 7's were negotiated sentences. I'm certainly not
24 disputing that they were, but I will say, and that's
25 the summary that I have is that with those cases, if

1 were looking at apples to apples here, when there's
2 no criminal record because some of these people have
3 prior criminal records, which account for the higher
4 scores and the higher score sheets. No prior record,
5 no concurrent traffic citations, right? So, in a lot
6 of these cases there's careless driving citations.
7 There's DUI's or other traffic citations. Not all
8 DUI's, but there's a couple of careless. There's a
9 couple of failure to have their insurance registered,
10 things like that. When you have no prior record, no
11 concurrent traffic citations, and no suggestion of
12 alcohol or other impairment -- there's a couple of
13 them in there where they didn't get charged with the
14 DUI because they were not found until days later, but
15 there was testimony that they were seen leaving the
16 bar at 1 o'clock in the morning or that there was
17 alcohol or marijuana in their system. So, those
18 three things, and I tried as diligently as I could to
19 put all of this evidence before the Court that in
20 those cases; no prior record, no concurrent traffic
21 citations, no suggestion of alcohol or other
22 impairment, the maximum sentence in those cases was
23 the four year minimum mandatory. They ranged from
24 probation to the maximum.

25 As the Court noted, the remainder of the

1 sentences ranged anywhere from months in the
2 Department of Corrections up to the maximum of 12
3 years. That was the highest sentence, and that case
4 did involve the suggestion of alcohol and a prior
5 criminal record.

6 THE COURT: Should I consider trying to enter
7 the country illegally a prior criminal record or
8 should I discount that in your estimation of how I
9 should proceed?

10 MS. DELIBERATO: I do not think that is a prior
11 criminal record that can be considered by this Court.
12 There was no order, as the Court heard testimony,
13 there was no order of deportation. There was no
14 order of removal. It was an immediate expulsion at
15 the border. He does not have a criminal charge. The
16 State has presented no evidence of that. I don't
17 think the Court can or should consider his prior
18 entry at the border and being turned away as far as a
19 prior criminal record.

20 THE COURT: Okay.

21 MS. DELIBERATO: As this Court has ruled, we
22 have not waived -- he has not waived his right to
23 challenge the imposition of any victim injury points.
24 I did want to place on the record in terms of the
25 departure, just so it's clear for the record for the

1 Court, I am asking a sentence between 4 and 10.3
2 years. If the Court imposes a 10.3 year sentence, no
3 party -- we would still argue that's above the
4 guidelines because we are disputing the guidelines.
5 But a 10.3 year sentence is not a departure.

6 THE COURT: I understand.

7 MS. DELIBERATO: If the Court would -- does
8 entertain a departure, which I have asked for between
9 4 and 10.3, I do submit that there is a legal basis
10 and that is 921.00262J, which would be that the
11 offense was committed in an unsophisticated manner,
12 was an isolated incident for which the defendant has
13 shown remorse. So, I think that is, if the Court is
14 going to depart from the 10.3, again, not conceding
15 that the 10.3 is even the appropriate guideline, I
16 just want to make sure that -- I know that I've said
17 that a lot but --

18 THE COURT: Your record is preserved for appeal.
19 Yes.

20 MS. DELIBERATO: But that that is a legal valid
21 basis for this Court to depart.

22 THE COURT: And what is it? Isolated incident
23 for which the defendant has shown remorse?

24 MS. DELIBERATO: And shown remorse. And the
25 testimony today from his sister-in-law who spoke with

1 him at the jail said that when she spoke with him in
2 the months after the jail he was sorry, he was
3 remorseful. He expressed such remorse today, and I
4 submit that he also, by offering to plead guilty, by
5 trying to resolve this case short of a trial, even
6 getting to the place where we are now, excepting the
7 risk. Giving up his right to a trial, his right to
8 be found guilty by a jury beyond a reasonable doubt
9 that he, in fact, all the way left the scene, that is
10 an acceptance of responsibility and there was
11 testimony today for which the Court could find that
12 he has expressed remorse for his conduct. And Deputy
13 Syers today said that he was -- he used the word
14 remorse. He's like, I don't know if it was remorse
15 for himself or remorse for Deputy Hartwick, but there
16 definitely is testimony in the record to base remorse
17 on for that departure. If that is where the Court is
18 going with it. Again, not perceiving that those
19 guidelines are appropriate.

20 THE COURT: Well, three parts of J under chapter
21 921; unsophisticated manner, isolated incident and
22 showing remorse.

23 MS. DELIBERATO: Yes, so I would say the
24 isolated -- the unsophisticated manner is this is a
25 man who has car keys in his pocket and a car on

1 scene, and he runs and hides in a muddy bog because
2 he panicked and scared and doesn't know what to do.
3 He's not leaving the scene, cleaning up the car,
4 changing his name, changing his identity. He's not
5 doing that. He's not doing those things after the
6 fact. Isolated incident? He has no prior criminal
7 record. You heard testimony that he's been driving
8 this heavy machinery --

9 THE COURT: Slow down. I'm not going to run out
10 of here but slow down.

11 MS. DELIBERATO: Sorry. He's been driving this
12 heavy machinery since he was a teenager. For more
13 than 15 years. He's never had an accident. This is
14 very clearly an isolated -- the traffic accident was
15 an isolated incident, and the leaving certainly was
16 since he doesn't have any prior criminal record.

17 At the end of whatever sentence Your Honor gives
18 him, he is going to be deported. He will not contest
19 his deportation. He came to this country because
20 there was no opportunity for work in his own. He has
21 a wife and young child to feed. He worked hard every
22 day until this accident. An accident which I
23 understand irrevocably changed the lives of two
24 families that night. We don't send people to prison
25 for decades because of accidents. We don't send

1 people to prison for decades because of their
2 irresponsible and thoughtless actions after the
3 accident. I understand those are his actions.
4 Decades in prison for that is not appropriate,
5 especially when here, the undisputed facts are that
6 Deputy Hartwick's injuries were so severe and so
7 immediate that nothing could have been done had he
8 stayed. The whole purpose of the leaving the scene
9 of the accident with death is to make sure that
10 people who are victims of accidents get help
11 immediately. That happened here. His leaving didn't
12 change that fact. Should he have stayed?
13 Absolutely.

14 THE COURT: I understand that the public policy,
15 but he wasn't in the position to know that Deputy
16 Hartwick was beyond saving at the time he left the
17 scene, was he?

18 MS. DELIBERATO: Before he went to the muddy bog
19 he knew that he was killed, and you knew that he was
20 deceased. That's the State's evidence. That's
21 everyone's evidence. Before he left the equipment
22 pit.

23 THE COURT: The equipment pit was quite a way
24 from the scene.

25 MS. DELIBERATO: It was a couple hundred feet.

1 He was there about three minutes after the accident.

2 THE COURT: Okay.

3 MS. DELIBERATO: And he knew that the people
4 behind him had also stopped and that he was deceased
5 immediately. It's also -- it is important what he
6 knew and didn't know, but it's also the facts of the
7 case and the understanding that the purpose of the
8 punishment and the purpose of the statute is could
9 the person have been saved. And unfortunately, the
10 answer here is an undisputed no. Should he have
11 stayed? Absolutely. Can we also understand why
12 someone in his position may have left? Absolutely.
13 Can we grieve the loss of Deputy Hartwick while not
14 handing down a sentence that is constitutionally
15 excessive? Yes. Justice is supposed to be blind,
16 and we have these guidelines for a reason.

17 I am asking the Court to take into account the
18 facts and the circumstances of the leaving. I'm
19 asking the Court to make this assessment. I'm asking
20 the Court to sentence Mr. Molina to a sentence that
21 comports with due process. And I submit to the Court
22 that any sentence far above the four year minimum
23 mandatory, which would be well outside the range of
24 the 17 leaving the scene cases within this last five
25 years would be an excessive sentence. In violation

1 of the 8th Amendment to the United States
2 Constitution.

3 THE COURT: Okay. Thank you. Ms. Constantine,
4 I know you have brief rebuttal you wish to offer, so
5 please, offer brief rebuttal.

6 MS. CONSTANTINE: I do, Your Honor. And I will
7 be brief. I just want to respond to a few of the
8 things that were brought up by defense.

9 First, defense has offered in multiple hearings
10 now that the defendant in this case isn't going to be
11 contesting his deportation as that's, I guess, an
12 additional punishment or fact that this Court can
13 consider. I mean, just to be clear, this defendant
14 previously tried to enter this country illegally. He
15 was arrested and sent back. And so the idea that
16 he's now going to offer his deportation at the end of
17 this as somehow some sort of punishment or thought
18 that he's not going to come back, I think would be
19 laughable. I mean, at this point, given his history.
20 He has a track history of ignoring the law and doing
21 what he's going to do anyways.

22 THE COURT: I'm a state judge, not a federal
23 judge.

24 MS. CONSTANTINE: I understand.

25 THE COURT: And the federal system is under new

1 management, so I'm not that worried about
2 deportation. I think that's going to happen either
3 way.

4 MS. CONSTANTINE: I also, to point out remorse.
5 Just to be very clear, this defendant, the only
6 remorse he's ever shown even as of today, is that
7 he's sorry he got caught. He doesn't express any
8 remorse. Looking through his interview at no point,
9 today even, did he say that he was sorry to the
10 family for what he did or that he took their father
11 away or anything like that. Instead, his concern and
12 always has been is himself and asking the Court to
13 give compassion. What he can get out of this. How
14 he can be less affected. Less impacted by this.

15 The defense says that the whole purpose behind
16 this statute is that well, he couldn't have helped
17 had he had stayed. The reality is he didn't, like
18 the Court said, he didn't know that when he left.
19 When the crash happens and he makes that call, Deputy
20 Hartwick is not pronounced deceased until as that
21 body worn camera shows from Deputy Hirshman. Until
22 minutes later. We're talking 10-15 minutes have gone
23 by from the time that he ends up getting out of there
24 until that ultimately happens. When he leaves that
25 scene, sure he knew he was hurt. Sure, he knew he

1 could have been dead. But he didn't know. And
2 that's because he didn't bother to get off the front
3 end loader and go check. He didn't know that maybe
4 had he, which he did die pretty immediately, had he
5 sat there for a minute, that maybe he could have told
6 that man sorry or he could have held his hand as he
7 took his final breath. Because again, he was worried
8 about himself and no one else.

9 The defense says that we're sending people to
10 prison for decades for accidents and that's simply
11 not the truth. He's not going to prison because he
12 did an accident. He's going to prison because he
13 struck and killed a deputy and he left them there on
14 the side of the road without rendering aide, without
15 offering help, without leaving his information. For
16 self-preservation. That's why he's going to prison.
17 Because of the choices and the actions that he took
18 that day. Not because it's an accident. So, I just
19 want that to clear.

20 I would ask the Court, again, to sentence him to
21 20 years in the Department of Corrections. I think
22 it's appropriate given the facts, the circumstances
23 and all the aggravators here and we would ask for
24 that sentence. Thank you.

25 THE COURT: Okay. Let's have Mr. Molina-Salles

1 up at the podium and I'll sentence him. Fees, fines
2 and cost, State? Were there any invest costs that
3 you were seeking?

4 MS. CONSTANTINE: It's going to be like \$700 and
5 change.

6 THE COURT: Do you want to make it \$700 even or
7 do you want to get the exact number?

8 MS. CONSTANTINE: I've got the exact number. It
9 is \$769.68 to the Pinellas County Sheriff's Office.
10 \$50,000 to crimes compensation. And then there's a
11 minimum of three year DL revocation under Florida
12 Statute 322.284B.

13 THE COURT: That's the minimum, I believe. I
14 have the discretion of doing a lifetime revocation if
15 I choose.

16 MS. CONSTANTINE: Yes, Your Honor. And we would
17 ask for that.

18 THE COURT: To be clear, I always do a lifetime
19 -- I have always done a lifetime revocation in these.
20 All right. Mr. Molina-Salles, let's start with this.
21 Having previously accepted your plea of guilty, I
22 adjudicate you guilty. I impose fees, fines and
23 costs in case number 22-9348 in the amount of \$550,
24 which is standard, plus \$100 cost of prosecution,
25 \$100 public defender fee, and the one time indigent

1 attorney fee of \$50. \$76 -- I'm sorry, \$7069.68?

2 MS. CONSTANTINE: \$769.68.

3 THE COURT: \$7769.68.

4 MS. CONSTANTINE: No. Not \$700. \$769.68.

5 THE COURT: Oh, just straight up \$700.

6 MS. CONSTANTINE: Yes.

7 THE COURT: Sorry. \$769.68 in cost of
8 investigation to the sheriff's office. \$7 for DNA.
9 I revoke your privilege to operate a motor vehicle
10 for the rest of your life here in the United States
11 of America. I don't know if it will be enforced in
12 any other country, but the Department of Highway,
13 Safety and Motor Vehicles will not give you your
14 driver's license back ever. If they do, that's their
15 decision. I can't stop them. But you will be
16 required to do certain things before they would be
17 willing to give it back. I don't think this will be
18 a major issue in your case, but your driver's license
19 is revoked for life here. \$50,000 lien to victim's
20 crimes comp and restitution.

21 So, Mr. Molina-Salles, in sentencing you I'm not
22 deciding who is a good person and who is a bad
23 person. I am not weighing the value of anybody's
24 life one way or another. That's not the Court's job
25 today. You're being sentenced for leaving the scene

1 of an accident involving death. I'm not pronouncing
2 that you caused the death. You were operating the
3 motor vehicle that killed the man, but I'm not
4 finding fault to that. As you heard from the lead
5 detective, if you had just stayed at the scene, you
6 would have been facing deportation and you would have
7 been facing a federal charge if they filed it, but
8 you would not be facing me.

9 Now, why am I giving you the sentence I am about
10 to give you? I have the discretion originally, to
11 give you a sentence of up to 30 years. I have been
12 doing this for 18 years now as a circuit court judge
13 and I pride myself on handing out sentences to
14 similar people in similar situations as best as I can
15 stay consistent. There is a value to consistency in
16 American law and that value is it allows litigants to
17 understand and reasonably predict what's going to
18 happen in a case when they make an informed decision.
19 I have an 18 year history and I plan on staying to it
20 today, without regard to all the other factors
21 involved that one side or the other want me to weigh
22 in.

23 I looked back at the sentences that I've given
24 out over the past 18 years involving this type of a
25 case, both people that have admitted their guilt and

1 entered a plea, as well as people that went to trial.
2 I often find myself entering a sentence that's been
3 based on the negotiations between the State and the
4 defense. Those negotiations, I try not to get in the
5 way of until I feel that the sentence is completely
6 inappropriate. Usually, I don't have as much
7 information as the State and the defense have, so
8 that's why I tend to go along with the sentence they
9 agree to. Very often, the only time I get to decide
10 what the sentence is going to be is after trial or in
11 the event that it's a violation of probation after
12 somebody has violated their probation. And in both
13 of those instances I know a lot more about the case
14 than I do when I simply go along with what the State
15 and the defense has agreed to.

16 So, while I look at these previously adjudicated
17 cases that are leaving the scene of an accident
18 involving death, I recognize that most of these
19 cases, the State and the defense had their reasons
20 for going along with them.

21 One of the things that I take into consideration
22 when I sentence you today is; you ran from what you
23 did. The person that died is a person that would
24 have run to what you did to try and help people. You
25 did the exact opposite of what the deputy who died

1 would have done. The deputies all run into the
2 problems to try and solve them. You ran away because
3 you got scared, and I have to punish you for that
4 today.

5 After I sentence you, you will have 30 days to
6 appeal this sentence. Should you desire to file an
7 appeal, an attorney could be appointed at no cost to
8 you for the purpose of that appeal. And we'll wind
9 up getting your fingerprints right over there.

10 Consistency is not always easy and it's not
11 always popular. I can't, in good conscience,
12 sentence you to more than the 12 years Florida State
13 Prison that I believe is appropriate in this matter.
14 Is it not a departure sentence because it would be
15 outside of the guidelines for both the leaving the
16 scene of the accident with death points or without.
17 And it exceeds the four year minimum mandatory, which
18 I do make part of this sentence. I give you credit
19 for the time that you've already served in the amount
20 of -- I don't know. How much credit does he have?

21 MS. DELIBERATO: 984 days.

22 THE COURT: 984 days. 894 days. You have
23 credit for 894 days towards the 12 year Florida State
24 Prison sentence that you're going to serve. As I
25 said, you'll have appellate rights and your

1 attorney's can explain those to you. At this time, I
2 remand you to the custody of Bob Gualtieri, sheriff
3 of Pinellas County. We're all done.

4 And we will be in recess until 8:30 tomorrow
5 morning when Division T will continue.

6 (Court is adjourned.)
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CERTIFICATE OF COURT TRANSCRIBER

STATE OF FLORIDA

COUNTY OF PINELLAS

I, Rebecca Kringlie, a court transcriber for the Sixth Judicial Circuit, do hereby certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true and correct record of said proceedings.

DATED this 9th day of April, 2025.

Rebecca Kringlie

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