

2017

**State of Utah, Plaintiff/Appellee, v. Jacquan David Wilson,
Defendant/Appellant : Brief of Appellee**

Utah Court of Appeals

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Recommended Citation

Brief of Appellee, *Utah v. Wilson*, No. 20171011 (Utah Court of Appeals, 2017).
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Case No. 20171011-CA

IN THE
UTAH COURT OF APPEALS

STATE OF UTAH,
Plaintiff/Appellee,

v.

JACQUAN DAVID WILSON,
Defendant/Appellant.

Brief of Appellee

Appeal from convictions for attempted murder, a first degree felony; and obstruction of justice, a second degree felony, in the Second Judicial District, Davis County, the Honorable Robert J. Dale presiding

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Case No. 20171011-CA

IN THE
UTAH COURT OF APPEALS

STATE OF UTAH,
Plaintiff/Appellee,

v.

JACQUAN DAVID WILSON,
Defendant/Appellant.

Brief of Appellee

INTRODUCTION

When Defendant's friend, Donte, said he would tell Defendant's pregnant girlfriend, Tia, about Defendant's infidelity, and then moved to open the passenger door of the car where Tia sat in the driver's seat waiting for Defendant, Defendant stabbed the unarmed Donte six times: four times in the back, once in the right arm, and once in the face.

A jury convicted Defendant of attempted murder, rejecting Defendant's defense-of-others defense.

Defendant raises three unpreserved claims on appeal, arguing that his trial counsel was ineffective for (1) withdrawing an unfair-prejudice objection to Defendant's incriminating statements about the stabbing while talking on

the jail phone to another girlfriend, Victoria; (2) saying in opening statement that he hoped to show Defendant's recorded jail-phone statements were untrue and allegedly not following through on that alleged promise; and (3) not asking for a lesser-included-offense instruction on attempted manslaughter. Defendant's claims all fail because he has not shown – and cannot show – either deficient performance or prejudice.

While awaiting trial in jail, Defendant had several recorded phone conversations with Victoria about stabbing Donte during which he used coarse language and acknowledged, among other things, that Donte never threatened him, that “all” Donte “did was push” him but he “stabbed” Donte, and that he felt like he “used a little too much force” in stabbing Donte. Defendant also said he needed to “think of a reason as to why [his] life was in danger. Because, obviously, my story, me telling the truth doesn't sound believable.”

Defense counsel cautioned the jury in opening statement that the jail recordings contained language they may not like. But counsel expressed his “hope” the defense could show that Defendant was just “trying to puff himself up,” or that, in counsel's “opinion,” Defendant was saying “things that are absolutely not true in order to make himself seem tougher and better and bigger than what he really was” because he was in jail.

Before the jail recordings were played for the jury, however, and after learning the State would not call Victoria, defense counsel objected to the jail recordings, arguing they were unduly prejudicial. Counsel later withdrew the objection after confirming that Victoria would testify for the defense.

The trial court instructed the jury on both perfect defense of others and imperfect defense of others – the latter being a partial defense to attempted murder, which, if accepted by the jury, would reduce attempted murder to attempted manslaughter. The trial court also instructed the jury on the lesser-included offense of aggravated assault. The trial court asked if Defendant also wanted an instruction on the lesser-included offense of attempted manslaughter, but defense counsel declined because he believed that lesser-included offense was covered by the imperfect-defense-of-others instruction.

In closing argument, defense counsel asked the jury to acquit Defendant on a perfect-defense-of-others theory, arguing that Defendant stabbed Donte to protect Tia; alternatively, counsel asked the jury to consider the partial defense of imperfect defense of others. And failing that, counsel asked the jury to consider the lesser-included-offense of aggravated assault. Referencing the jail-clip evidence, counsel said the prosecutor painted Defendant “as a thug, a gangster, a monster, a killer,” but, counsel argued, “That’s not him.” Counsel emphasized that a number of the State’s witnesses,

including both Tia and Victoria, had not characterized Defendant that way and that they did not think he “was the individual the State want[ed]” the jury to think he was: “The State wants to make him out to be a sinner. I want to make him out to be a saint. He’s probably somewhere in the middle, like all of us.”

On this record, Defendant has not shown and cannot show that defense counsel was deficient for withdrawing an unfair-prejudice objection to the jail-clip evidence because competent counsel could reasonably conclude the objection was unlikely to succeed. Competent counsel could conclude that Defendant’s discussions of the stabbing with Victoria in the jail clips were highly probative of his mental state at the time of the stabbing, and that the evidence’s high probative value was not substantially outweighed by the danger of any unfair prejudice resulting from Defendant’s language. Indeed, this Court has repeatedly recognized that coarse language has “lost much of [its] shock value in contemporary culture.” Competent counsel could thus reasonably conclude that an unfair-prejudice or rule 403 objection to the jail recordings would be unavailing.

Defendant’s ineffectiveness claim also fails for lack of prejudice. Even without the jail-clip evidence, Defendant cannot show any reasonable likelihood of a different result given the strength of the State’s evidence.

Donte testified that Defendant assaulted him from behind, stabbing him four times in the back, once in the arm, and once in the face. Defendant's continued stabbing refuted his claim that he was merely trying to neutralize a threat. And while Defendant told one friend that he stabbed Donte to protect Tia, he did not tell anyone else that, including the police. Rather, Defendant told the police that he did not see Donte with a weapon and that all Donte had done was push him.

Nor has Defendant shown that his counsel performed deficiently by referencing the jail-clip evidence in opening statement and expressing his "hope" the defense could show that Defendant was just trying to "puff himself up" and saying "things" in the recordings that "are absolutely not true" to bolster his confidence while he was in jail. Defendant claims that his counsel "essentially promised" to introduce direct evidence to refute the truthfulness of Defendant's statements in the jail recordings, and then did not introduce that evidence. Defendant's characterization of counsel's opening statement is unsupported. The most the record reasonably supports is that counsel hoped to show the jury that Defendant's coarse statements were "absolutely not true" only in the sense that they did not reflect the real Defendant. And as counsel argued in closing, the evidence showed that many of the State's witnesses did not view Defendant as the "monster" the

State painted him to be. At any rate, this claim also fails for lack of prejudice given the strength of the evidence against Defendant, including his incriminating statements in the jail recordings.

Last, Defendant asserts his counsel was ineffective for not requesting an instruction on the lesser-included offense of attempted manslaughter. But Defendant makes no attempt to show that the chivalrous-protector or defense-of-others strategy counsel actually employed was objectively unreasonable, as he must. Competent counsel could reasonably conclude that a chivalrous-protector or defense-of-others defense was a viable defense—if not the most viable defense on this record. In any event, Defendant’s claim fails for lack of prejudice. The same jury that rejected Defendant’s chivalrous-protector defense was just as likely – if not more so – to reject a jealous-lover or attempted-manslaughter defense.

STATEMENT OF THE ISSUES

1. Has Defendant proven that his counsel rendered ineffective assistance by either:

(a) withdrawing an unfair-prejudice objection to the jail recordings; or

(b) saying in opening statement that he hoped to show the jury that Defendant’s statements in the jail recordings were untrue?

2. Has Defendant proven that his counsel's decision not to seek a lesser-included-offense instruction on attempted manslaughter constituted ineffective assistance?

Standard of Review. Ineffective assistance of counsel claims raised for the first time on appeal present a question of law. *State v. Ott*, 2010 UT 1, ¶16, 247 P.3d 344.

STATEMENT OF THE CASE

A. Summary of relevant facts.

Defendant stabbed an unarmed Donte six times, nearly killing him, when Donte attempted to enter the front-passenger door of a car where Defendant's pregnant girlfriend, Tia, sat in the driver seat. *See* R735-744. Defendant stabbed Donte four times in the back, chipping Donte's scapula, breaking his sixth rib, and puncturing at least one lung. *See* R735-739,848-857. As Donte turned to protect himself, Defendant stabbed him twice more, once in the right arm—severing Donte's cephalic vein, and once in face—filleting Donte's right cheek from eye socket to earlobe. *See* R739-744,857-863.

Defendant and Donte met through work and quickly became friends in the spring of 2015. R708. Defendant even lived with Donte and Donte's parents and sister for a while that summer, before moving in with his girlfriend, Tia. R709; *see also* R648-49. When Defendant moved out of Donte's

house and into Tia's apartment, he took with him an expensive pair of True Religion jeans Donte let him borrow. R709,713-14. After Defendant moved out, Donte periodically asked him to return the jeans, without success. R714.

Throughout their friendship—"boys being boys"—Defendant sent Donte "[p]ornographic" pictures of himself having sex with different women, "[b]asically validating his conquests." R711. Donte thought Defendant was trying to show that his (Defendant's) "game was stronger than" Donte's, or that Defendant was better at attracting—and having sex with—women. R712

The Saturday before the Tuesday-evening stabbing, Defendant dropped by Donte's house with a new girlfriend, Amanda, whom he had met two weeks earlier, via Facebook. R715; *see also* 936. Defendant told Donte that he had gotten Tia pregnant and that he would thus have "a place to lay his head for nine months." R716. Defendant then told Donte that he was going "to smash that too"—have sex with Amanda. R717. Donte told Defendant that he was an "ass," and that he was "irresponsible because he didn't care about the child, or that a child would be born with no dad." R717. But Donte was not mad at Defendant and they parted on good terms. R718.

The next day, Sunday, Donte tried calling Defendant about returning the jeans, again without success. R720. Donte also went to Tia's apartment

to try and retrieve his jeans. R720. But only Tia's roommates were home. R720; *see also* R652.

On Monday, Donte received a text from Tia asking why he had been at her apartment. R721. Donte explained that he had been trying to retrieve his jeans. R721. He also said Defendant had told him about the baby and he encouraged Tia keep it. R721; *see also* R651. And Donte cautioned Tia that Defendant "may not be the person [she] think[s] he is." R652.

About this same time, Donte's friend Crystal contacted him about Defendant. R722. She told Donte that Defendant had been sending her "dick pics," and telling her that "he fucks better than [Donte]." R722. Crystal asked Donte "to put [his] boy in check." R723. After Donte confronted Defendant about his behavior toward Crystal, Defendant blocked Donte on Facebook. R724-25.

Donte returned to Tia's apartment around midnight Monday, and, finding Defendant there, again asked for his jeans. R725. Defendant agreed to return the jeans but said he had to get them from his other "crib." R726. Tia and Defendant then drove off. R726. Donte waited for them until about 6 a.m., before giving up and returning home. R727. Donte later told Tia that he would be "[h]otter than hell's flames" if he did not get his jeans back. R727. Tia assured Donte that she and Defendant would return the jeans

around 5 o'clock that Tuesday evening, and they did. R728; *see also* R641,647,650,687.

Tia drove Defendant to Donte's home and waited while he walked to the front door to return the jeans. R729. After Defendant handed the jeans to Donte, Donte dropped them on the floor. R729. Because Defendant remained on the porch, Donte asked, "What are you still standing here for?" R730. Defendant responded, "What's [your] problem?" R730. Donte reminded Defendant that he (Defendant) blocked him on Facebook and said, "This between me and you is over as soon as you walk off my porch." R730. And because the confrontation was becoming loud and vulgar, Donte stepped out on the porch and closed the door behind him. R731-32; *see also* R642.

Defendant said, "Fuck you." R732. Donte responded that he "was going to be a real fuck nigga right then and there." R731. When Defendant asked what that meant, Donte said he was going to show Tia the photos of Defendant's "sexual conquests." R732. Defendant said Donte "wasn't gonna do nothing." R733.

Donte pushed past Defendant—"just enough to like move him"—and headed for Tia's car. R655,734. He moved quickly because he wanted to reach the car before Defendant. R734. Upon reaching the car, Donte opened the front passenger door, said Tia's name, and ducked his head inside. R735;

see also R657-58. As he did so, Defendant stabbed him in his left shoulder. R736. Donte's first thought that Defendant punched him; it was only after Defendant struck him three more times in the back that Donte realized he was being stabbed. R736-38. Donte turned toward Defendant and slammed him against the car. R738-40. But as he did so, Defendant stabbed Donte a fifth time in the right arm. R740. As Donte continued rotating toward Defendant, he saw Defendant with a knife "[c]locked" at his "face." R741. Donte crossed his arms in front of face and kicked Defendant, but Defendant still managed to stab him near the eye: "I don't know if he hit bone and it turned the blade or my glasses saved my eyeball, but you can see it. He just filleted my cheek off like I was some fish." R742.

Donte lay on the ground trying to scramble away from Defendant when he saw Defendant look toward the house. R744-45. Donte's father, Irving, hearing Donte's cries for help, came outside, and saw Donte "down on the ground," with Defendant standing next to him. R635-36. Defendant made eye contact with Irving before he got in the passenger side of Tia's car. R637. Irving watched as Tia made a U-turn and hit a curb before speeding

away. R638,660. Irving immediately loaded Donte in his car and drove to the ER. R640,746.¹

When Defendant got in Tia's car, she noticed he had one of her roommate's serrated-kitchen knives in his hand: "Not like your normal steak knife but like one you would probably use for cutting meats." R659. He also had a "sizeable" cut on the palm of his hand, which he held "like he was in pain." R662; *see also* R659. Although Tia popped a tire when she hit the curb, Defendant told her to keep going; he was upset and thought she had done it on purpose. R661. Tia made it as far as the Hill Field onramp to I-15 before having to pull over. R661. Defendant stayed with her only until he was able to call someone to "pick him up somewhere." R662. Defendant "said the police were going to be looking for him" as he walked away. R663.

¹ Donte was at risk of bleeding to death when he arrived in the ER. R840. His right lung was collapsed, preventing him from breathing and putting him at risk for heart failure. R841-42. His left lung was also likely collapsed, and he had lost and continued to lose, a lot of blood. R845-47. The trauma surgeon treated six stab wounds in all, including four on Donte's back. R848-851,854; SE7-8,10. Donte's sixth rib was also broken—which would have required "high velocity" force like that usually seen in "[c]ar accidents," or high falls. R852-56; SE7-8. The wound on Donte's right upper arm cut across his deltoid muscle and severed the cephalic vein, a major carrier of blood to the arm, putting Donte at increased risk of bleeding to death. R858-59; SE9. Another stab wound extended from Donte's right eye socket to his right earlobe, slicing his jaw muscle and salivary glands and creating a flap or fillet of his cheek. R860-61; SE5-6.

After abandoning Tia on the onramp, Defendant continued to text her, asking if she “was talking to police.” R664. He was “really adamant,” “[l]ike almost threatening,” that she not talk to the police. R666. Tia “thought something really bad would happen to” her if she “talked to police” – that she would “[b]asically end up in Donte’s situation, which was obviously a very bad one.” R666. Tia assured Defendant that she was not talking to the police, but also told Defendant that he needed to move out of her apartment because she “was scared.” R665.

During a text exchange with Defendant the next day, Wednesday, Tia asked, “You ditched that thingy, right?” R669; SE39. Defendant responded: “Huh? You can’t text things like that,” to which Tia responded that she was sorry and that she would delete it. R670. Defendant sent a follow-up text: “Delete all these messages between us,” which Tia agreed to do. R670.

At the behest of her stepmother, Tia called police that same day and told them everything she knew. R670-71. Tia’s goal was to “stay safe” – she did not want Defendant to know she was talking to police, but she also “wanted to help because [she] felt so bad for just basically running away because I was scared and that wasn’t fair to anyone.” R671. She gave an oral statement to police, *see* R672-673, but she did not feel comfortable and did not tell them anything they did not already know – in case Defendant found out.

R675. Tia thus told police that she could tell Defendant and Donte were arguing on the porch and that she saw Donte push Defendant out of the way and run toward her car. R673,689. She said she “froze,” and that Donte was “like reaching for [her],” before Defendant “just pulled him out of the car.” R673. She also told police that she did not see Defendant stab Donte, and that she did not know what happened until her stepmom told her about the stabbing. R673.

But Tia did not tell police that she saw Defendant with a knife, that she recognized it as a kitchen knife that belonged to her roommate, that she heard Donte say he had been stabbed, that she saw Defendant appear to punch Donte while Donte was on the ground, that she saw the cut on Defendant’s hand, and that she heard Defendant say he needed “to get out of there” before he abandoned her on the onramp. R674.

Tia also gave police a written statement. R675; SE1. In that statement, Tia initially said that she thought Donte was going to “hurt” her. SE1; R675. But she clarified at trial that she no longer thought that and affirmed that all Donte had done was try to sit in her car and tell her something about Defendant. R676,701,704. She also testified that she regretted what she said in her written statement because it was untruthful. R676. Tia explained that when she gave her written statement, she was uncomfortable saying

anything against Defendant because he had yet to be apprehended, she was pregnant with his child, and she still loved him and did not want to “make [him] mad.” R701-02,704.

Defendant’s friend, Russell, picked him up after Defendant abandoned Tia on the onramp. R889. Defendant was carrying a knife in a piece of cloth and asked Russell to drive him to Kearns. R890,893,895. The knife was approximately 6-10 inches long with a silver metal blade; Defendant had wiped it clean of any blood. R897. Defendant told Russell that he stabbed Donte to protect his girlfriend, who, Defendant said, Donte grabbed or pushed. R917. On the way to Kearns, Russell stopped to buy bandages for Defendant’s hand. R891-94. After Defendant repeatedly told Russell that they had to get rid of the knife, Russell stopped again at a church parking lot near the house where Defendant asked to be taken and—at Defendant’s behest—threw the knife, and another knife Defendant had previously left in Russell’s car, in a dumpster. R894-96,903-04. Russell later tried to retrieve both knives, but the dumpster had been emptied. R906-07. Russell did not contact police because he was scared and did not want to be involved. R908,910. But Police contacted him several months later, after discovering his text messages with Defendant, including one where Russell asked

Defendant to tell police that he (Defendant) had thrown the knives in the dumpster and to keep Russell “out of it.” R907-08.

Before Russell came to get him, Defendant called his new girlfriend, Amanda, around 5:30 p.m., and asked her to come and get him, but she was unavailable. R938. Angered by her response, Defendant hung up on her. R938. But he called Amanda again the next day, Wednesday, and asked her to pick him up in Kearns. R939. When she arrived, Defendant came out with all his belongings. R939. Unaware of the stabbing, Amanda took Defendant back to her apartment where they hung out with her kids. R940.

Later that day, Russell picked Defendant up from Amanda’s place. R904-05. Russell and Defendant knew the police were looking for Defendant and Russell encouraged Defendant to turn himself, but Defendant declined. R904-05; *see also* R940. Russell did not turn Defendant in because he “was scared to death and didn’t want to get any more involved than” he already was. R906.

While Defendant was with Russell, Amanda got on her phone and saw on Twitter that the Layton Police Department had a felony warrant out for him. R940. She immediately took her children to her mother’s house. R941. When Defendant returned, Amanda asked about the warrant: “He just claimed it was self defense – that the dude pushed him.” R941; *see also* R943

(recalling Defendant said “dude pushed me first”). Defendant also said the “dude” was Donte, who Amanda remembered meeting a few days earlier, when she had driven Defendant to Donte’s home. R942.

Amanda and Defendant spent the next day, Thanksgiving Day, together; Amanda’s children remained with her mother. R944. According to Amanda, Defendant was “just paranoid, just stuck to [her] hip” while she ran errands; she felt “[c]onfused,” “scared,” and “worried” because he was “wanted for a violent crime.” R944. Unbeknownst to Defendant, Amanda “texted the crime stoppers tip line.” R944,966,993; SE41. By the time Amanda and Defendant returned to her apartment that afternoon, they “saw a few police so he ran inside the apartment”; Amanda followed him inside. R946,968-69. Amanda immediately threw her cell phone behind the fridge because the police kept texting her and she did not want Defendant to know. R947.

The police “banged” on the door, but Defendant refused to let Amanda open it. R947. Although the police continued knocking and verbally commanding them to open the door, Defendant refused for several hours. R948,970-71. While they were in the apartment, Defendant told Amanda that he stabbed Donte. R948. He did not give her details, but he did say that a knife and his bloody clothing were in a dumpster in Kearns, and that it

“would go to a landfill and nobody would find it.” R948,952-53. The police eventually called Defendant’s cell phone. R952. With the help of a hostage negotiator, Amanda convinced Defendant to “open the door.” R952,957,971. Within a week of Defendant’s arrest, Amanda found his bloody gloves in her children’s bedroom; the gloves “were sliced where his finger had been cut.” R953-54,995-96; SE42-44.

Although Amanda turned Defendant in, she still had feelings for him and wrote to him twice while he was in jail. *See* DE2-3. And at trial, she affirmed that Defendant had never been violent toward her or her children and said that she still wanted a relationship with him. R956,963.

Detective Smith and another officer interviewed Defendant. R999; R1300 (Transcript of Police Interview (Addendum B)); SE45,46,47,48.² Defendant was “elusive” and “calculated” during the interview. R1000. When the officers asked about the stabbing, Defendant asked about “the

² State’s Exhibit 45, a DVD, contains the entire 2.5-hour interview, but it was not played at trial. *See* R1004. State’s Exhibits 46, 47, and 48, are clips from the interview that were played at trial. *See* R1005,1008,1113. State’s Exhibit 46 corresponds to R1300:38-41; State’s Exhibit 47 corresponds to R1300:55-57; and State’s Exhibit 48 corresponds to R1300:70-118, but State’s Exhibit 48 is missing. The approximate hour-long portion of the interview played at trial as State’s Exhibit 48 is contained in State’s Exhibit 45, from 10:04:57 to 11:06:30, with Defendant’s statement at 10:40:50 (“I’m not the best person in the world. I have some misdemeanors.”), being muted. *See* Order dated 1 March 2019.

probability for him walking out the police department that night.” R1001; R1300:24. Defendant also asked about protecting himself, but never mentioned protecting Tia. R1002. For example, Defendant asked if it was “okay if somebody begins to push and punch me that I respond by I’m able to stab them?”; “if someone comes at me, attacking me, and I defend myself and I use a pocket knife, or a fist, does that mean I’m wrong?”; if he could “defend himself if someone’s going to beat the hell out of him”?; and “if someone were to push me, punch me and I were to stab them, is that not allowed?” R1002,1009; R1300:38,39,70. Defendant said that Donte had been coming over to Tia’s house, that Defendant’s contacting Crystal upset Donte, and that he felt threatened by Donte—even though he admitted that Donte had not directly threatened him. R1013; R1300:81. Defendant instead said that Donte was “acting weird and that this mother fucker was pissing me off.” R1015,1017; R1300:96. Defendant also said Tia was pregnant but did not say who the father was and suggested that it may be Donte. R1017; R1300:104.

As for the stabbing itself, Defendant acknowledged that he did not see Donte with a weapon and that he did not know how many times he stabbed Donte: “I don’t know. I didn’t really give him a chance to like get me, get me.” R1013; R1300:82. Defendant said he was walking back to Tia’s car when

Donte said, "if you're going to be a dick about the girls I talk to, I'm going to be a dick too." R1019; R1300:109. According to Defendant, Donte then "rushed to the car," and "pushed him [in] an attempt to get to the car." R1019; R1300:109. Defendant said Donte got into the car, but never explained how Donte came to be outside the car. R1019-20; R1300:109-110. According to Defendant, Donte was the first aggressor, or "began swinging on him." R1019; R1300:109. Defendant also said, "hypothetically speaking, I happen to have a knife on me," and "hypothetically speaking [I] didn't stick around to make sure that [he] got to the hospital." R1019; R1300:109.

After giving his explanation for the stabbing, Defendant asked the officers if they thought it was justified. R1020; R1300:116. He declined to discuss the knife he used, but eventually said, "hypothetically if the knife was in a dumpster and the dumpster was already unloaded at that point, he wouldn't know where the knife would be." R1020; R1300:110-111,116-117.

While awaiting trial in jail, Defendant had several recorded telephone conversations with his girlfriend Victoria in which he made inculpatory statements about the stabbing, often using coarse language. SE3,5-6,30. He admitted that he "eliminat[ed]" people that "fuck[ed]" with him "real quick," that Donte "never threatened" him, that he (Defendant) needed to "think of a good reason why [his] life was in danger," and that he felt like he "used a

little too much force” in stabbing Donte. SR3,5-6,30. Defendant also differentiated himself from Donte: “Let me tell you how I’m different, because I don’t call the cops. I handle shit on my own. And I never will.” R1170; SR6-7. Defendant also acknowledged that his inculpatory statements would be used against him: “...You don’t think I know that they’re recording these conversations? That it’s going to be used against me?” R1170-71; SR7.

B. Summary of proceedings and disposition of the court.

The State charged Defendant with first-degree-felony attempted murder, Utah Code Ann. § 76-3-203.8 (West 2015); and second-degree-felony obstruction of justice, Utah Code Ann. § 76-8-306(1) (West 2015). R231-32.

At trial, defense counsel referenced the jail recordings in opening statement. R622. He cautioned jurors that they may not “like” Defendant’s language but that he “hope[d]” to show the jury that Defendant was just “trying to puff himself up,” and say “things that are absolutely not true in order to make himself seem tougher and better and bigger than what he really is.” R622. Counsel said Defendant was “not the man” jurors would “hear on the phone”; rather, in counsel’s “opinion,” the “man on the phone” was “someone who is trying to preserve himself, self-preservation,” and that someone in jail “need[s] to be tough. You’re going to say things that make you sound tougher and stronger than what you really are.” R623.

However, before the State presented the jail recordings, defense counsel learned the State would not call Victoria to testify. R1159. Counsel thus objected to the jail-clip evidence on the basis that – without Victoria’s testimony – the clips reflected poorly on Defendant’s character and would therefore be “unduly prejudicial.” R1159. Both sides asked the court to listen to the clips in camera before ruling on the objection. *See* R1161-63. But after a brief recess, defense counsel withdrew the objection because Victoria would testify for the defense. R1164.

Victoria was the lone defense witness. R1176-1178. She testified that she started dating Defendant in October 2015, and that while she had not spoken to him in the last 30 days, they had “always been there for each other, one way or another.” R1176,1178. When counsel asked about her jail-phone conversations with Defendant, Victoria said Defendant was “very put together and eloquent,” but that she could tell “the effects of being incarcerated and not having the support that he deserves could be hard for him at moments.” R1177. While Defendant did not use the type of language she typically used, Victoria explained that “as millennials we all like varying language in our personal and professional lives.” R1178. When counsel asked if Defendant had ever threatened her, she said, “Nothing that I took serious.” R1178.

The trial court instructed the jury on both perfect and imperfect defense of others. R317. Defendant also asked for an instruction on the lesser-included offense of aggravated assault. R1104-05; *see also* R307-309. But counsel declined an instruction on the lesser-included offense of attempted manslaughter because that would come “under the imperfect defense” instruction, which, if the jury accepted, would reduce attempted murder to attempted manslaughter. R1104; *see also* R324.

In closing argument, defense counsel asked the jury to put themselves in Tia’s shoes — “the young lady who was in a relationship with” Defendant and pregnant with their child. R1241-43. Tia knew Donte was looking to get his jeans back and that he would be “hotter than hell’s flames,” if he didn’t. R1244. Counsel posited that if Defendant had wanted to kill Donte, he would have stabbed him “in the heart” “as he (Donte) opened the door.” R1246. But because Defendant waited to stab Donte until he saw him getting into Tia’s car, counsel argued the stabbing was “an act to protect somebody who was frozen in fear and not knowing what was going to happen.” R1249; *see also* R1251 (“His mental state at that time wasn’t to kill him, it wasn’t to attempt to kill him, it was an attempt to get him away from the girl who he wanted to be with and his unborn child”).

Counsel also referenced the jail clips and argued that the “snippets” played at trial “weren’t anything that tried to make my client look good. They wanted you to get a picture of him as a thug, a gangster, a monster, a killer. That’s not him.” R1255. Counsel emphasized that neither Tia, Amanda, Russell, nor Victoria testified they thought Defendant was any of those things. R1255. To the contrary, Russell “believed” Defendant “when he told him what happened”; Tia “had nothing really bad to say about” him; Amanda wrote love letters to him even “after ... she turned him into the cops”; and Victoria “called him vibrant” —she “had no problem with him.” R1255. Counsel thus argued that Defendant was not the “monster” prosecutors painted him to be. R1254.

Counsel therefore asked the jury to acquit Defendant under a perfect-defense-of-others theory because Defendant acted reasonably in stabbing Donte to protect Tia. R1252-53. Alternatively, counsel asked the jury to consider imperfect defense of others, if they were persuaded that Defendant reasonably—but mistakenly—believed stabbing Donte to protect Tia was justified. R1253-54. And failing that, counsel asked the jury to consider the lesser-included offense of aggravated assault, admitting that Defendant “did cause some pretty severe injuries,” and arguing that if Defendant truly

intended to kill Donte “he would have done it the minute” Donte came to the front door. R1254.

Following a three-day trial, the jury convicted Defendant of both attempted murder—including a dangerous-weapon enhancement—and obstruction of justice. R245,247. The trial court imposed an enhanced prison term of four years to life for attempted murder, and a consecutive term of one-to-fifteen years for obstruction. R344-45.³ Defendant timely appealed. R360-62.

SUMMARY OF ARGUMENT

Point I(a). Defendant argues that his counsel was ineffective for withdrawing an unfair-prejudice objection to the jail-clip evidence. His claim fails because competent counsel could reasonably conclude the objection was unlikely to succeed. Indeed, counsel could conclude that Defendant’s discussions of the stabbing in the jail recordings were highly probative of his mental state at the time of the stabbing, and that the danger

³ To the extent Defendant suggests that the jail recordings played at sentencing were the same as those played at trial, the suggestion is unsupported. While there is some overlap, the jail recordings played at trial were snippets taken from the extended versions played at sentencing. *See State v. Boyle*, 2019 UT App 28, ¶27 n.4, 440 P.3d 720 (recognizing evidence inadmissible at trial may be admissible at sentencing). And the last call played at sentencing was not made or recorded until the day before sentencing and thus could not have been played at trial. *See* R1083.

of any unfair prejudice was, consequently, unlikely to substantially outweigh the evidence's high probative value. Moreover, by the time the jail recordings were played, jurors had already heard Donte testify using the same kind of language Defendant used in the jail recordings. And this Court has repeatedly recognized that language like that used by both Donte and Defendant no longer has the "shock value" it once did.

In any event, Defendant's ineffectiveness claim fails for lack of prejudice. First, as shown, Defendant fails to show any reasonable likelihood that a rule 403 objection would have succeeded in excluding the jail-clip evidence. Moreover, the State's evidence was strong even without the jail-clip evidence. Donte described Defendant assaulting him from behind, stabbing him four times in the back, once in the arm and once in the face. Defendant's continued stabbing refuted his claim that he was merely trying to neutralize a threat. And while Defendant told Russell that he stabbed Donte to protect his girlfriend, he did not tell anyone else that, including the police. Rather, Defendant told Amanda that he stabbed Donte because Donte pushed him first. And he admitted to police that he had not seen Donte with a weapon, and that all Donte had done was push him. Finally, Defendant's conduct in fleeing the scene, evading the police for two days, demanding that Tia not talk to police and delete his text messages, and disposing of the knife

and his bloody clothing, among other things, all demonstrated an intent to kill Donte, not to protect Tia.

Point I(b). Defendant also claims that his counsel was ineffective for referencing the jail-clip evidence in opening statement and expressing his “hope” the defense could show that Defendant was just trying to “puff himself up” or that Defendant said “things” in the recordings that “are absolutely not true” to bolster his reputation while in jail. Defendant claims that counsel “essentially promised” to put on direct evidence to refute the truthfulness of Defendant’s statements in the jail recordings that counsel then did not present. But counsel never promised anything, let alone, to put on direct evidence that would refute the truthfulness of Defendant’s statements. The most the record reasonably supports is that counsel “hope[d]” to show the jury that Defendant’s statements were “absolutely not true” only in the sense that they did not reflect the real Defendant. And counsel effectively realized his “hope” because, as counsel argued in closing, other than Donte and the police, the State’s witnesses did not view Defendant as the “monster” the prosecutors painted him to be. Defendant thus fails to show that counsel performed deficiently in opening statement.

At any rate, this claim also fails for lack of prejudice, given the strength of the evidence against Defendant, including his incriminating statements in the jail clips.

Point II. Defendant asserts that his counsel was ineffective for not requesting a lesser-included-offense instruction on attempted manslaughter. But Defendant makes no attempt to show that the chivalrous-protector or defense-of-others strategy counsel actually employed was objectively unreasonable. Moreover, competent counsel could reasonably conclude that a chivalrous-protector defense was a viable defense—if not the most viable defense on this record.

In any event, as with his other ineffectiveness claims, this claim also fails for lack of prejudice. Given the strength of the evidence supporting an attempt to kill Donte, the same jury that rejected Defendant's chivalrous-protector defense was just as likely—if not more so—to reject a jealous-lover or attempted-manslaughter defense.

ARGUMENT

I.

Defendant has not overcome the strong presumption that his counsel performed effectively in withdrawing an unfair-prejudice objection to the jail-recording evidence or in addressing the jail recordings in opening statement.

While awaiting trial in jail, Defendant had multiple recorded phone conversations with Victoria about the stabbing wherein he made inculpatory statements, frequently using coarse language. *See* SR1-37 (SE53-57, & 62-68). The State prepared clips from those calls for use at trial.

Both sides referenced the jail clips in their opening statements. *See* R611,613,620,622. Defense counsel cautioned the jury that they may dislike Defendant's language, but that he "hope[d]" to show that Defendant, who was in jail at the time, was "just trying to puff himself up," and said "things" that "are absolutely not true in order to make himself seem tougher and better and bigger than what he is really is." R622.

Before the jail clips were played for the jury, however, and after learning that the State would not call Victoria to testify, defense counsel objected to the evidence on the basis that it would be unduly prejudicial. R1159-63. But counsel withdrew the objection after confirming that Victoria would testify for the defense: "I think I've been able to fix the objection I had and so we can go forward as planned." R1164.

Defendant now asserts two claims of ineffective assistance of counsel regarding the jail-clip evidence: He first argues that defense counsel was ineffective for withdrawing an unfair-prejudice objection to the evidence. Aplt.Br.18-40. Defendant argues the objection would have succeeded because the content of the jail-clips evidence was—on “balance”—unfairly prejudicial and thus inadmissible under rule 403, Utah Rules of Evidence. Aplt.Br.30-33.

Defendant next argues that his counsel was ineffective for referencing the jail clips in opening statement because counsel allegedly, “essentially promised” to put on “evidence that would demonstrate [Defendant’s] statements made in the jail recordings ‘are absolutely not true,’” and then failed to present the allegedly promised evidence. Aplt.Br.33-35. The allegedly unfulfilled promise, Defendant posits, “may well have” caused jurors to draw adverse inferences and question defense counsel’s “credibility.” Aplt.Br.37.

Defendant’s ineffectiveness claims fail because he cannot prove either deficient performance or prejudice.

To prove ineffective assistance, Defendant “has the difficult burden” of proving both that his counsel performed deficiently and that he was prejudiced. *State v. Tyler*, 850 P.2d 1250, 1259 (Utah 1993); *see also Strickland*

v. Washington, 466 U.S. 668, 687, 690, 694 (1984). This is “never an easy task.” *Padilla v. Kentucky*, 559 U.S. 356, 371 (2010). Defendant must make “both showings.” *Strickland*, 466 U.S. at 687-89.

Deficient performance requires Defendant to prove that his counsel acted unreasonably. To meet that burden, he must overcome “a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” *Strickland*, 466 U.S. at 687-89. And “counsel is strongly presumed to have rendered adequate assistance.” *Id.* at 690. This high standard is rooted in the recognition that there “are countless ways to provide effective assistance in any given case,” and that “[e]ven the best criminal defense attorneys would not defend a particular client in the same way.” *Id.* at 689. Accordingly, in reviewing counsel’s performance, “every effort” must “be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time.” *Id.* at 689. The determinative question under *Strickland*, then, “is not whether counsel’s choices were strategic, but whether they were reasonable.” *Roe v. Flores-Ortega*, 528 U.S. 470, 481 (2000). “The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (per curiam); accord

Strickland, 466 U.S. at 687. Counsel’s performance is objectively reasonable under *Strickland* unless the defendant can prove that “no competent attorney” would have proceeded as his attorney did. *Premo v. Moore*, 562 U.S. 115, 124 (2011); accord *State v. Coombs*, 2019 UT App 7, ¶20, 438 P.3d 967 (same).

A. Competent counsel could reasonably conclude that a rule 403 objection was unlikely to succeed.

Defendant argues that his counsel was ineffective for withdrawing an unfair-prejudice objection to the jail-clip evidence because the “balance” of the evidence showed Defendant’s “state of mind” only “at the time the calls were made,” as opposed to the time of the stabbing. Aplt.Br.30. In support, Defendant cites the following excerpts from the jail-clip evidence:

... I’m not Donte, I don’t call the cops to help me out with shit. I handle shit like a man, on my own. People ... fuck with me, I eliminate them real quick. It’s over and done with. ...

R1166-67; SR3; compare Aplt.Br.24 (citing SE53);

... I’m going to play it cool, like, you know what I’m saying and I can’t do too much talking, but I have no problem taking somebody’s life, at all. So that’s not a big deal to me, it really isn’t. ...

R1167; SR4; compare Aplt.Br.24 (citing SE54);

... I gotta think of a good reason as to why my life was in danger. ... Because, obviously, my story, me telling the truth doesn’t sound believable.

R1169; SR6; compare Aplt.Br.25 (citing SE63);

... You ain't playing; you getting played. I'm like whatever. So I'm not even tripping off of it and if he tries something, I'm going to put this nigger in the hospital, I don't care. So that's how I'm laughing. ...

R1172: SR8-25; *compare* Aplt.Br.25 (citing SE64);

I'm not him, I don't go on Facebook and portray something I'm not. I really put niggers down y'all. I really—I really have the capacity to kill somebody, understand? And think nothing of it.

R1171; SR8; *compare* Aplt.Br.25 (citing SE56-57);⁴

Just talking all greesy (sic) like—like he some type of stupid gangster-ass nigger like—like whatever.

So I'm already in my mind, like okay, well, don't think you about to, like, fuck me up because I ain't going to let that happen. And so I'm, like—I'm like 'Yo, let's go over to his house right now.'

Tia's dumb ass says, 'We're on our way to your house right now,' da-da-da-da.

I'm like, 'Bitch, why would you tell him that?' We already know by his tone and demeanor that he wants confrontation. You see what I'm saying? I'm hoping that I can just drop off the shit because I know—I already know how I am. If he touch (sic) me, I'm going to try to kill him. You see what I'm saying?

R1171-72; SR27; *compare* Aplt.Br.25 (citing SE65).

... And he's trying to act like I was a coward because he got stabbed in the back. Okay. So if you hit me and push me and turn your back to me when I attack you that's your fault—that's your fault. If you would have kept facing me, I would have

⁴ Defendant cites both State's Exhibits 56 & 57, but the excerpt is in only State's Exhibit 57.

stabbed you in the fucking—well, I did stab him in the face. I mean, what do you—what more do you want?

R1172; SR29; *compare* Aplt.Br.26 (citing SE66);

If somebody stabbed me, I'd kill them. That's it. Serious. All he did was push me and I stabbed him up. ... All he did was push me and hit me and he got stabbed the fuck up. Because you think it's the [inaudible]. Because I'm educated and I talk—you know, I talk this way, so I'm soft. Get the fuck out of here. ...

... I do feel as though I used a little too much force—...

R1172; SR29-30; *compare* Aplt.Br.29-30 (citing SE67).⁵

Defendant protests that the jail clips showed his “callousness” to the stabbing because he expresses himself in “profane and vulgar language,” and because of the “repulsiveness of his expressions toward” both Donte and Victoria.⁶ Aplt.Br.30. Consequently, Defendant argues, the jail recordings were largely irrelevant to the issue of his mental state when he stabbed Donte—and to the extent they were relevant—any probative value was “greatly and clearly outweighed” by the danger of unfair prejudice because the recordings are laced with “obscenities, ethnic slurs, and otherwise coarse

⁵ As clarified by the Supplemental Record—SR1-30, Defendant's brief is over inclusive of the jail clips played for the jury in State's Exhibits 66 and 67. *See* Aplt.Br.26-30. Of the clips quoted in Defendant's brief, only the above quoted portions were in fact played for the jury. *See* SR29-30.

⁶ As it turns out, the jury did not hear Defendant's alleged “vulgar” “expressions toward” Victoria. *See* n.5, above.

language, warped and suffused with an aura of nonspecific criminality.’” Aplt.Br.33 (quoting *State v. Maurer*, 770 P.2d 981, 985 (1989)); see also Aplt.Br.31,35. Defendant thus broadly concludes that there “is no reasonable trial strategy that could explain trial counsel’s performance in failing to object” to the jail recordings, and that “[t]here was only an upside in the preclusion of the repulsive statements particularly when the primary defense theory was the defense of others.” Aplt.Br.33 (citing *State v. Barela*, 2015 UT 22, ¶¶25-30, 349 P.3d 676).⁷

⁷ To the extent *Barela* supports that counsel may be deficient for not making an objection where “[t]here is only upside” in doing so, 2015 UT 22, ¶¶27, it conflicts with established *Strickland* analysis. As shown, the measure of deficient performance is not whether there was a reasonable trial strategy or tactical advantage for counsel’s act or omission in any given case. Rather, the real question is whether an alleged error is so obvious, and its potential for prejudice so great, that counsel’s failure to act is objectively unreasonable. See *Strickland*, 466 U.S. at 688. The United States Supreme Court “has never established anything akin to the ... ‘nothing to lose’ standard for evaluating *Strickland* claims.” *Knowles v. Mirzayance*, 556 U.S. 111, 122 (2009); accord *State v. Houston*, 2015 UT 40, ¶¶76, 353 P.3d 55 (noting that when a defendant claims his counsel was ineffective for not objecting to prosecutor’s closing argument, “the question is ‘not whether the prosecutor’s comments were proper, but whether they were so improper that counsel’s only defensible choice was to interrupt those comments with an objection’” (quoting *Bussard v. Lockhart*, 32 F.3d 322, 324 (8th Cir. 1994) (emphasis added))). In any event, two cases involving the parameters of *Strickland* analysis are pending before the Utah Supreme Court. See *State v. Scott*, Case No. 20170518-SC, and *State v. Ray*, Case No. 20170524-SC, both argued 11 April 2018.

Defendant's ineffectiveness claim fails because he has not shown – and cannot show – that a rule 403 objection was so unassailable that “no competent attorney” would have decided to withdraw it. *See Premo*, 562 U.S. at 124; *Coombs*, 2019 UT App 7, ¶20.

Evidence is presumptively admissible under rule 403 and excludable only when its probative value is “substantially outweighed” by a danger of unfair prejudice. Utah R. Evid. 403. Rule 403 thus “imposes ... the heavy burden not only to show that the risk of unfair prejudice is greater than the probative value, but that it ‘substantially outweighs’ the probative value.” *State v. Thompson*, 2017 UT App 183, ¶26 (quoting *State v. Jones*, 2015 UT 19, ¶29, 345 P.3d 1195). And “unfair prejudice results only where the evidence has an undue tendency to suggest decision upon an improper basis.” *State v. Lucero*, 2014 UT 15, ¶32, 328 P.3d 841 (cleaned up), *abrogated on other grounds by State v. Thornton*, 2017 UT 9, 391 P.3d 1016. “Given this bar,” Utah courts “indulge a presumption in favor of admissibility.” *Id.*; *see also State v. Johnson*, 2016 UT App 223, ¶35, 387 P.3d 1048 (same). Rule 403 is therefore, “at its heart, a balancing test.” *Thompson*, 2017 UT App 183, ¶27.

To succeed on a rule 403 objection, then, counsel would have had to show that the jail clips' probative value was “substantially outweighed by a danger of ... unfair prejudice.” Utah R. Evid. 403. But Defendant takes no

pains to show that all competent counsel would have concluded that they could make this difficult showing here; Defendant's brief glosses over the high probative value of the jail clips, focusing only on the potential risk they may have had. *See* Aplt.Br.24-30 (quoting SE53,54,56,57,63,64,65,66,67-68). And Defendant's broad assertion that the "balance" of the jail-clip evidence was probative of his mental state *only* at the time the recordings were made, is unsupported by the jail clips themselves.

Contrary to Defendant's conclusory characterization of the jail-clip evidence, competent counsel could reasonably conclude that the clips were highly probative of Defendant's mental state *both* at the time he discussed the stabbing with Victoria in their recorded phone calls *and* when Defendant stabbed Donte. For example, Defendant told Victoria about the events of the stabbing and his thoughts during those events. He recounted that all Donte did was "push" and "hit" him and that he reacted by stabbing Donte: "All he did was push me and hit me and I stabbed the fuck up." SR30; *see also* SR27 ("I'm hoping I can just drop off the shit because I know – I already know how I am. If he touch (sic) me, I'm going to try to kill him. You see what I am saying?"); SR29 ("And he's trying to act like I was the coward because he got stabbed in the back. Okay. So if you hit me and push me and you turn your back to me when I attack you, that's your – that's your fault. If you would

have kept facing me, I would have stabbed you in the fucking—well, I did stab you in the face.”).

The jail calls also allowed the jury to hear how Defendant differentiated himself from Donte: Donte calls the police for help, but Defendant handles his own problems: “I’m not Donte. I don’t call the cops to help me out with shit. I handle shit like a man, on my own. People ... fuck with me, I eliminate them real quick. It’s over and done with.” SR3; R1166. Competent counsel could thus conclude that Defendant’s statements in the clips were both relevant and highly probative of Defendant’s state of mind when he stabbed Donte, even if the statements were made two to five months after the stabbing.

Moreover, the jail recordings allowed the jury to get a sense of Defendant’s animosity toward Donte. *See* SR1-30. The fact that Defendant was still hostile toward Donte months after the stabbing made it more likely that he stabbed Donte in an attempt to kill him, not because he was concerned about Tia’s welfare—or that of their unborn baby. Defendant repeatedly characterized his mental state at the time of the stabbing—and any time he handles “shit” like that he perceived Donte was giving him—when he explained that in those situations he aims to kill. *See e.g.*, SR4,23,26,29. Defendant talked in terms of eliminating anyone he perceived as a threat to

him. *See, e.g.,* SR4. He nowhere talked in terms of protecting others. The jail recordings thus went to the heart of the State's case—Defendant's mental state when he stabbed Donte. Given these circumstances, competent counsel could reasonably conclude that the jail recordings were highly probative of the central trial issue. As Defendant repeatedly acknowledges in his brief, his statements in the jail clips "directly undermined" his "defense-of-others defense." Aplt.Br.33; *see also* Aplt.Br.36 (stating the jail recordings "substantially—if not totally—undermined the primary defense theory ... that the stabbing occurred in the defense of others"); *and* Aplt.Br.39 (stating "the jail recordings directly undermined the primary defense theory at trial").

Competent counsel could further reasonably conclude that any danger of unfair prejudice that might arise from Defendant's use of language that the jury may have disliked did not substantially outweigh the jail-clip evidence's high probative value. Defendant argues that letting the jury hear him using "'obscenities, ethnic slurs, and otherwise coarse language,'" raised the risk the jury would base their verdict "'on a generalized assessment of character.'" Aplt.Br.33 (quoting *Maurer*, 770 P.2d at 985). But by the time the jail clips were played at trial, the jury had already heard Donte recount what he said to Defendant the night of the stabbing, using the terms "fuck" and "nigga." R732. Given these circumstances, competent counsel could reasonably

conclude that he could not successfully argue that the risk of unfair prejudice substantially outweighed the evidence's high probative value.

In any event, this Court has recently twice recognized that language like that used by Defendant in the jail clips – and by Donte at trial – has “lost much of [its] shock value in contemporary culture.” *Johnson*, 2016 UT App 223, ¶38 (quoting *State v. Alzaga*, 2015 UT App 133, ¶51, 352 P.3d 107). In *Alzaga*, for example, this Court affirmed the admission of Alzaga's recorded statement in which he employed a variety of profanity, including saying fuck five times in just two sentences. 2015 UT App 133, ¶44, 51. This Court held that these “words alone were unlikely to induce the jury to return a conviction based on a generalized assessment of character.” *Id.* (cleaned up).

And in *Johnson*, the Court upheld the admission of an approximate 4-minute voicemail Johnson sent his domestic-violence victim that “exposed the jury to [Johnson's] use of the words ‘fuck’ and ‘fucking.’” 2016 UT App 223, ¶34. This Court held that the voicemail was probative of Johnson's state of mind “and cast light on the likelihood that he might have tried to assault the victim or steal from her.” *Id.* at ¶38. And to the extent Johnson argued “that the jury might have convicted him for using coarse language,” the Court reiterated “that such words ‘have lost much of their shock value in contemporary culture.’” *Id.* (quoting *Alzaga*, 2015 UT App 133, ¶51).

Defendant nevertheless relies on *Maurer* to argue that his counsel should have raised a rule 403 objection to the jail clips. Apl't.Br.16,21-22,31,33,36. But competent counsel could reasonably conclude that *Maurer* bears little resemblance to this case and that it would not therefore support a rule 403 objection. There, over Maurer's objection, the trial court admitted the entirety of a taunting letter Maurer wrote to his murder-victim's father. See 770 P.2d at 982. Maurer's letter proclaimed his satisfaction in killing the victim – his ex fiancé –boasting that it was “a great feeling to watch her die,” that she kept saying, “It hurts, it hurts,” that he hoped so because he used “a 13-inch kitchen knife,” and that her new boyfriend “got to watch her die too. It was great.” *Id.* Maurer also denigrated his victim as “nothing but a fucking whore,” who drifted “from one man to another.” *Id.* He declared his hope that the victim's death “hurt” her father, and Maurer concluded with, the “laugh[']s on you.” *Id.*

Defendant's recorded-jail-phone conversations with Victoria bear little resemblance to Maurer's letter. As this Court observed in *Alzaga*, Maurer wrote his letter “to inflict additional emotional pain upon the victim's father.” 2015 UT App 133, ¶51. Competent counsel could reasonably conclude that Defendant's jail recordings lacked that characteristic; indeed, Defendant likely never intended either Donte or Donte's family to hear his jail-phone

conversations recounting the stabbing to Victoria. At worst, the jail clips played at Defendant's trial evidenced his anger and frustration with Donte. And whereas Maurer's feelings toward his victim's father were irrelevant to the homicide at issue in that case, Defendant's feelings toward Donte were relevant to his state of mind when he stabbed Donte six times outside Tia's car. Defendant's reliance on *Maurer* to show that his counsel was ineffective for not making a rule 403 objection to the jail-recording evidence is therefore misplaced.

In sum, Defendant fails to show that competent counsel could not reasonably conclude that the jail recordings were highly probative of the central trial issue—Defendant's mental state when he stabbed Donte—and that to the extent there was any danger of unfair prejudice, it was unlikely to substantially outweigh the evidence's high probative value. *See* Utah R. Evid. 403. Defendant thus fails to show that a rule 403 objection was so clearly meritorious that "no competent attorney" would have proceeded as his attorney did. *Premo*, 562 U.S. at 124 (2011).

In any event, Defendant's ineffectiveness claim may also be rejected for lack of prejudice. *Strickland*, 466 U.S. at 687-89. Defendant fails to prove prejudice for essentially the same reason he fails to prove deficient

performance – he has not shown and cannot show any reasonable likelihood that a rule 403 objection would have succeeded on this record.

But even if a rule 403 objection could have succeeded in excluding the jail-clip evidence, Defendant still has not shown, and cannot show, any reasonable likelihood of a different result. Defendant has not shown that, without the jail clips, there was a reasonable probability the jury would have acquitted Defendant of attempted murder.

Donte testified that Defendant assaulted him from behind and stabbed him six times, including four times in the back, after he (Donte) told Defendant that he was going to tell Tia about – and show her pictures of – Defendant’s infidelity. R732. And to the extent Tia initially told the police that she thought Donte “was going to hurt” her “or something,” she acknowledged at trial that she “didn’t have any reason to think that,” R656. She further affirmed that Donte did not “do anything, any action, that would have been inconsistent with just going to sit down in [her] passenger seat.” R656,658; *see also* R676,701-03. Tia also said she regretted what she had said in her written statement because it was untruthful. R675-76,701,704. And she explained that when she gave the police her written statement, she felt uncomfortable saying anything against Defendant because he had yet to be

apprehended, she was pregnant with his child, and she still loved him and did not want to “make [him] mad.” R701-02,704.

As for the stabbing itself, Tia described seeing Donte push past Defendant on the porch to quickly approach her car, and then seeing Defendant pull Donte out of the car, throw him on the ground, and, from what she could see from inside the car, repeatedly punch Donte in the face while he remained on the ground. R658-59. Defendant’s continued stabbing refuted his claim that he was merely trying to neutralize a threat. According to Tia, Defendant continued assaulting Donte until he (Defendant) jumped in her car and demanded that she drive him away—at which time she heard Donte “yell ‘He stabbed me.’” R658-59.

Although Defendant told Russell that he stabbed Donte to “protect” Tia and that Donte “grabbed” and “pushed” Tia, *see* R913,917, Defendant never offered any version of this explanation to the police—when it really mattered, *see* R999-1021,1112-1125. The most Defendant said to police was that “if” he “in fact” did “stab somebody, it wasn’t out of malice behavior. It was to defend [him]self or whoever was present.” R1115,1121. For the most part, Defendant auditioned “hypothetical” scenarios in an attempt to ascertain whether the police thought the stabbing was justified as self-defense, not defense of others. *See* R1002-1003,1009,1011; *see also* R1300.

Although Defendant claimed to feel threatened by Donte, he admitted that Donte had not directly threatened him and that he had not seen Donte with a weapon. R1013. When the officers asked Defendant how many times he stabbed Donte, he said, “I don’t know. I didn’t really give him a chance to like get me, get me.” R1013.

And while Defendant told Amanda that he stabbed Donte in “self-defense,” he repeatedly said “that the dude pushed him”; Defendant never told Amanda that he stabbed Donte to protect Tia or their unborn child. R941; *see also* R943 (affirming Defendant said, “dude pushed me first”).

The medical evidence demonstrated that Defendant attempted to kill Donte. According to the trauma surgeon, anyone of the six stab wounds would have been fatal if not immediately treated. *See* R840-42. The four stab wounds in Donte’s back went all the way to the bone, including one that cut into his right shoulder blade. R851. Another of these stab wounds collapsed Donte’s right lung and broke his sixth rib—requiring “high velocity” force like that usually seen in “[c]ar accidents,” or high falls. R852-56. And the stab wound to Donte’s face barely missed his eyeball, filleting his cheek all the way to his earlobe. R860-61.

Finally, Defendant’s conduct in fleeing the scene, abandoning Tia on the onramp, asking her not to talk to the police in an “almost threatening”

manner, disposing of the knife and his bloody clothing, evading police for two days—including holding Amanda hostage for several hours—also demonstrates that Defendant intended to kill Donte, not to protect Tia.

In sum, even without the jail-clip evidence, Defendant fails to show that the jury could not have reasonably convicted him for attempted murder. He therefore has not shown *Strickland* prejudice.

B. The record does not support that counsel made any promise, let alone an unfulfilled promise, to put on direct evidence that would refute Defendant's statements in the jail recordings.

In opening statement, defense counsel referenced the jail-clip evidence and both cautioned the jury that they may hear “language” they disliked, and expressed the “hope” that “we can get out to you” that Defendant—who was jailed at the time—was just “trying to puff himself up” and was thus saying “things that are absolutely not true in order to make himself seem tougher and better and bigger than what he really is.” R622-23. Counsel explained that someone in jail wants “to be the toughest guy in there. You want to have the reputation to protect yourself[f].” R623. Counsel continued that “the man” jurors saw in the courtroom was “not the man” they would “hear on the phone.” R623. “The man on the phone,” was, in counsel’s “opinion, ... someone who is trying to preserve himself, self-preservation.” R623.

Defendant now argues that counsel performed deficiently during opening statement because he “essentially promised a presentation of evidence that would demonstrate [Defendant’s] statements made in the jail records ‘are absolutely not true,’” and then failed to present the allegedly promised evidence. Aplt.Br.34-35 (quoting R622). Defendant’s ineffectiveness claim fails at the outset because it is not supported by the record.

In claiming that counsel “essentially promised” to put on direct evidence that would refute Defendant’s statements in the jail-clips, Aplt.Br.34, Defendant overlooks the words counsel actually used to preface his discussion of the jail-clip evidence—“*I hope* we can get out there to you ...” R622. Counsel’s expressing “hope” that he could convey something to the jury is a far cry from *promising* to do so. R622. At most, counsel merely expressed the “hope” that he could convince the jury that “the man” in the courtroom was “not the man” they would “hear on the phone,” or that the “man on the phone ... is someone who is trying to preserve himself, self-preservation” while awaiting trial in jail. R623. Defendant thus fails to establish that counsel made any promise here, express or implied. R622.

Defendant also takes counsel’s statement out of context and misconstrues its meaning. In an attempt to diffuse the jail-clip evidence,

counsel stated that “these phone calls [are] from an individual who is in jail; who is trying to puff himself up,” and that Defendant thus “says things that are absolutely not true in order to make himself seem tougher and better and bigger than what he really is.” R622. Viewing counsel’s statement in context, the fairest interpretation of that statement is that counsel was characterizing Defendant’s jail-clip statements as being “absolutely not true” only in the sense that the statements did not, in counsel’s “opinion,” accurately reflect who Defendant really was. R622-23. Contrary to Defendant’s characterization, counsel was not promising that he could or would attempt to directly refute the truthfulness of Defendant’s jail-clip statements. *See* Appt.Br.34 (arguing “trial counsel essentially promised a presentation of evidence that would demonstrate [Defendant’s] statements in the jail records “are absolutely not true”).

Counsel’s closing argument drove home the point he hoped to make in opening statement—that the man sitting next to him in the courtroom was not the same man the jury heard in the jail recordings. *See* R1255-56. Counsel argued that the State relied on the jail clips to paint a “picture of [Defendant] as a thug, a gangster, a monster, a killer,” but, counsel continued, “That’s not him.” R1255. Counsel reminded the jury that neither Tia, Amanda, Russell, nor Victoria thought Defendant was a “monster,” “thug,” or “killer.” R1255.

To the contrary, Russell “believed” Defendant “when he told him what happened”; Tia “had nothing really bad to say about” him; Amanda wrote him love letters while he was in jail; and Victoria thought he was “vibrant” and had “no problem with him.” R1255.

Given the above, Defendant’s assertion that trial counsel made any promise in his opening statement, implied or otherwise, let alone an unfulfilled promise to present direct evidence refuting Defendant’s statements in the jail clips, is not supported in the record. *See* R622-23,1255-56. His ineffectiveness claim may be rejected on this ground alone.⁸ On this record, the most reasonable characterization of counsel’s opening statement, if not the only reasonable characterization, is that counsel made no promises

⁸Defendant cites extra-jurisdictional authority for the proposition that “[t]he failure of counsel to produce evidence which he promised the jury during his opening statement that he would produce is indeed a damaging failure sufficient of itself to support a claim of ineffectiveness of counsel.” *Aplt.Br.34* (quoting *McAleese v. Mazurkiewicz*, 1 F.3d 159, 166-67 (3rd Cir. 1993)); *see also* *Aplt.Br.34* (citing *State v. Zaborski*, 452 N.E.2d 1255 (N.Y. 1983) (mem.); *Commonwealth v. Lambeth*, 417 A.2d 739 (Pa. Super. 1979)). But as demonstrated, Defendant has not shown and cannot show the necessary factual predicate for his ineffectiveness claim—that his counsel made *any* promise to the jury in opening statement, implied or otherwise, let alone an unfulfilled promise, to produce direct evidence that Defendant’s jail-clip statements were “absolutely not true.” *See* R622-23. Thus, even if the Court were compelled to follow the extra-jurisdictional authority, Defendant’s reliance on it is unavailing.

whatsoever. *See* R622-23. Rather, counsel merely “hope[d]” to “get out to” the jury that “the man” in the courtroom was “not the man” they would “hear on the phone,” or that the “man on the phone ... is someone who is trying to preserve himself, self-preservation” while awaiting trial in jail. R623. And as counsel’s closing argument illustrates, his “hope” was largely realized because Tia, Russell, Amanda, and Victoria all still, more or less, supported Defendant. *See* R1255-56.

At any rate, as with Defendant’s rule 403 claim, any argument that counsel performed deficiently during opening statement fails for lack of prejudice. *Strickland*, 466 U.S. at 687-89. As shown, given the strength of the evidence refuting Defendant’s defense-of-others justification for the stabbing, including his incriminating statements in the jail recordings, there is no reasonable likelihood of a different result if counsel had not made the challenged statement.

II.

Defendant has not overcome the strong presumption that trial counsel’s strategic decisions to run a defense-of-others defense and to forgo an instruction on the lesser-included offense of attempted manslaughter was objectively reasonable.

The trial court instructed the jury on both perfect and imperfect defense of others, which, if accepted by the jury would have resulted in, respectively,

either acquittal, or the reduction of attempted murder to attempted manslaughter. R317-325; *see also* Utah Code Ann. § 76-5-203(4)(c)(ii) (West 2018). Defendant also asked for an instruction on the lesser-included offense of aggravated assault. R307-309,1104-05. But counsel declined an instruction on the lesser-included offense of attempted manslaughter, affirming that was covered “under the imperfect defense” instruction. R1104.

Counsel asked the jury in closing to acquit because Defendant reasonably – and correctly – believed that stabbing Donte was necessary to protect Tia from imminent harm. R1253-54. Alternatively, counsel asked the jury to consider imperfect defense of others because Defendant reasonably – but mistakenly – believed that stabbing Donte to protect Tia was justified. R1253-54. And failing that, counsel asked the jury to consider the lesser-included offense of aggravated assault, admitting Defendant “did cause some pretty severe injuries,” but arguing that if Defendant intended to kill Donte “he would have done it the minute” Donte came to the front door. R1254.

Defendant now argues that his counsel was ineffective because he did not ask for an instruction on attempted manslaughter as a lesser-included offense of attempted murder. Aplt.Br.40-51. In support, Defendant points to, among other things, Tia’s testimony that Defendant “was ‘pretty upset’

because he thought” she and Donte “had ‘something going on.’” Aplt.Br.47 (quoting R653). Defendant’s ineffectiveness claim fails primarily because he has not even attempted to show that the defense-of-others strategy counsel actually employed was objectively unreasonable. This is reason alone to reject his ineffectiveness claim.

Second, competent counsel could reasonably conclude that a defense-of-others defense was a viable defense—if not the most viable defense—on this record.

In any event, Defendant’s claim also fails for lack of prejudice.

As shown, to prevail on his ineffectiveness claim, Defendant must show *both* deficient performance and prejudice. *Strickland*, 466 U.S. at 687-89. This Court’s assessment of counsel’s performance “must be highly deferential.” *Id.* at 689. Given the “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance,” *id.*, courts are “required not simply to ‘give [the] attorneys the benefit of the doubt,’ but to affirmatively entertain the range of possible ‘reasons [defense] counsel may have had for proceeding as they did.’” *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011) (alterations in original) (citation omitted). “This presumption accounts for the widely varying ‘circumstances faced by defense counsel [and] the range of legitimate decisions regarding how best to

represent a criminal defendant.’” *Met v. State*, 2016 UT 51, ¶113, 388 P.3d 447 (quoting *State v. Houston*, 2015 UT 40, ¶70, 353 P.3d 55 (alteration in original) (citation omitted)). It also accounts for the fact that “[u]nlike a later reviewing court, the attorney observed the relevant proceedings, knew of materials outside the record, and interacted with the client, with opposing counsel, and with the judge.” *Harrington v. Richter*, 562 U.S. 86, 105 (2011). And because objective reasonableness is the benchmark for assessing counsel’s performance, Defendant cannot rebut the strong presumption of competent representation unless he persuades the Court that his counsel’s strategic decision to run a defense-of-others defense in lieu of an attempted manslaughter defense was so unreasonable that “no competent attorney” would have proceeded as his attorney did. *Premo v. Moore*, 562 U.S. 115, 124 (2011); accord *State v. Coombs*, 2019 UT App 7, ¶20, 438 P.3d 967 (same).

In other words, merely showing that “another lawyer ... would have taken a different course” does not prove deficient performance. *Parsons v. Barnes*, 871 P.2d 516, 524 (Utah 1994). Nor is it enough to point out an alternative course of action that in retrospect might have been more beneficial. As the Utah Supreme Court has explained, the “question of deficient performance is not whether some strategy other than the one that counsel employed looks superior given the actual results of trial. It is

whether a reasonable, competent lawyer could have chosen the strategy that was employed in the real-time context of trial.” *State v. Nelson*, 2015 UT 62, ¶14, 355 P.3d 1031 (cleaned up).

Indeed, counsel’s actions are not unreasonable simply because “another, possibly more reasonable or effective strategy could have been employed.” *Lucero*, 2014 UT 15, ¶43; *see also Roe v. Flores-Ortega*, 528 U.S. 470, 481 (2000) (“The relevant question is not whether counsel’s choices were strategic, but whether they were reasonable.”). Thus, even “if many reasonable lawyers would not have done as defense counsel did at trial, no relief can be granted on ineffectiveness grounds unless it is shown that no reasonable lawyer, in the circumstances, would have done so.” *Rogers v. Zant*, 13 F.3d 384, 386 (11th Cir. 1994); *accord Premo*, 562 U.S. at 124 (recognizing performance is deficient under *Strickland* only when “no competent attorney” would have proceeded similarly).

Defendant has not even attempted to make this showing here. For example, Defendant nowhere acknowledges the defense-of-others defense his counsel employed at trial, let alone, attempted to show that no competent attorney would have used the same strategy. *See* Aplt.Br.46-51. Instead, because his counsel’s chosen strategy did not ultimately succeed, Defendant now merely second-guesses his counsel—in largely conclusory fashion—for

not choosing a different strategy that appears superior only in hindsight—asking for an instruction on the lesser-included offense of attempted manslaughter. *See* Aplt.Br. 46-51. At best, Defendant shows only that another attorney might have chosen a different trial strategy. But as *Strickland* makes clear, there are “countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular case in the same way.” *Strickland*, 466 U.S. at 689. And “strategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable[.]” *Id.* at 690. For these reasons alone, Defendant fails to prove that his counsel performed deficiently.

In any event, under the facts of this case, trial counsel’s decision to assert a defense-of-others defense was *as* objectively reasonable—if not more so—than a decision to assert an attempted-manslaughter defense Defendant now says his counsel should have adopted. *See* Aplt.Br.40-51. That said, regardless of which defense trial counsel ultimately decided to run, he had his work cut out for him. Given the strength of the evidence against Defendant, including Donte’s testimony describing the stabbing, Defendant’s flight and evasion of authorities for two days—including holding Amanda hostage for several hours—his disposal of the knife, and his incriminating statements both to police and to Victoria in the jail recordings, neither a

defense-of-others defense nor an attempted-manslaughter defense would be an easy sell.

But the defense-of-others defense had at least two arguable advantages over an attempted-manslaughter defense. First, a defense-of-others defense allowed trial counsel to cast Defendant in a much more favorable light—the chivalrous protector of Tia and their unborn child—than would a jealous-lover or attempted-manslaughter defense. *See, e.g.*, R1251 (counsel arguing in closing: Defendant’s “mental state” was not “to kill” Donte, “it wasn’t an attempt to kill him. It was an attempt to get him away from the girl who he wanted to be with and his unborn child”).

Second, because defense-of-others is an affirmative defense, counsel would not bear the burden of having to prove that Defendant acted reasonably in stabbing Donte; rather, the State would bear the burden of proving beyond a reasonable doubt that Defendant acted *unreasonably* in stabbing Donte, or that Defendant did not reasonably believe he was justified in stabbing Donte to protect Tia and their unborn baby. *See* Utah Code Ann. § 76-1-502 (West 2018) (requiring State to negate a defense “[b]y proof” when “[t]he defense is an affirmative defense); *State v. Drej*, 2010 UT 35, ¶16, 233 P.3d 476 (recognizing State must “disprove all affirmative defenses that have been properly raised by a criminal defendant”); *see also* R316,324 (Jury

Instructions on State's burden to disprove Defendant's defense-of-others defense). Had counsel chosen to run an attempted-manslaughter defense, however, he would have had the burden of proving by a preponderance of the evidence that Defendant—in a jealous fit—attempted to murder Donte “under the influence of extreme emotional distress for which there is a reasonable explanation or excuse.” Utah Code Ann. § 76-5-205.5(1)(b), & (5)(a) (West 2018).⁹

Given the above, Defendant has not overcome the strong presumption that counsel's decision to forgo an attempted-manslaughter defense was

⁹ Defendant cites two different subsections of the Manslaughter statute, subsection (1)(a) (reckless homicide), and subsection (1)(c) (special-mitigation), but analyzes neither. See Aplt.Br.46-47 (citing Utah Code Ann. § 76-5-205(1)(a), & (c) (West 2015)). Special-mitigation manslaughter “exists when the actor ... attempts to cause the death of another: ... under the influence of extreme emotional distress for which there is a reasonable explanation or excuse.” Utah Code Ann. § 76-5-205.5(1)(b) (West 2018). Attempted special-mitigation—or extreme-emotional-distress—manslaughter is a lesser included offense of attempted murder, but attempted *reckless* manslaughter is not. See *State v. Howell*, 649 P.2d 91, 93-94 (Utah 1982) (recognizing that because the crime of attempted manslaughter requires intentional conduct, there can be no crime of attempted *reckless* manslaughter); accord *State v. Casey*, 2003 UT 55, ¶23, 82 P.3d 1106. Thus, to the extent Defendant faults his counsel for not requesting an instruction on attempted *reckless* manslaughter, his ineffectiveness claim fails from the get-go. See Aplt.Br.46-51. “As a matter of law, counsel cannot be ineffective for failing to raise and rely on bad law.” *State v. Wilder*, 2018 UT 17, ¶18, 420 P.3d 1064 (citing *Lockhart v. Fretwell*, 506 U.S. 364, 366 (1993) (“To hold otherwise would grant criminal defendants a windfall to which they are not entitled.”)).

objectively reasonable. His ineffectiveness claim should therefore be rejected. *Strickland*, 466 U.S. at 697.

Last, Defendant's ineffectiveness claim may also be rejected for lack of prejudice. To prove prejudice, Defendant must show a reasonable probability of a different outcome if his counsel had run an attempted-manslaughter defense. *See Strickland*, 466 U.S. at 694. His prejudice claim "may not be speculative, but must be a demonstrative reality." *State v. Frame*, 723 P.2d 401, 405 (Utah 1986). Defendant has not attempted to make this showing. As with his deficient-performance analysis, his prejudice analysis is largely conclusory. Aplt.Br.49-51. This is reason alone to reject his claim.

In any event, given the strength of the evidence against Defendant, the same jurors who rejected the theory that Defendant reasonably believed stabbing Donte was necessary to protect Tia, were just as likely to reject the idea that there could be any "reasonable explanation or excuse" for Defendant stabbing Donte in a jealous fit—"under extreme emotional distress." Utah Code Ann. § 76-5-205.5(1)(b). In other words, Defendant has not shown, and cannot show, any reasonable likelihood that—having *rejected* the theory that Defendant reasonably stabbed Donte to protect Tia—the jury would have *accepted* the theory that Defendant reasonably stabbed Donte in

a jealous fit. Defendant therefore fails to prove *Strickland* prejudice. 466 U.S. at 694.

CONCLUSION

For the foregoing reasons, the Court should affirm.

Respectfully submitted on July 29, 2019.

SEAN D. REYES
Utah Attorney General

/s/ Marian Decker
MARIAN DECKER
Assistant Solicitor General
Counsel for Appellee

CERTIFICATE OF COMPLIANCE

I certify that in compliance with rule 24(g), Utah Rules of Appellate Procedure, this brief contains 13,230 excluding the table of contents, table of authorities, addenda, and certificate of counsel. I also certify that in compliance with rule 21(g), Utah Rules of Appellate Procedure, this brief, including the addenda:

☒ does not contain private, controlled, protected, safeguarded, sealed, juvenile court legal, juvenile court social, or any other information to which the right of public access is restricted by statute, rule, order, or case law (non-public information).

☐ contains non-public information and is marked accordingly, and that a public copy of the brief has been filed with all non-public information removed.

/s/ Marian Decker

MARIAN DECKER

Assistant Solicitor General

CERTIFICATE OF SERVICE

I certify that on July 29, 2019, the Brief of Appellee was served upon appellant's counsel of record by ☐ mail ☒ email ☐ hand-delivery at:

Scott L. Wiggins
Arnold & Wiggins, P.C.
American Plaza II, Suite 105
Salt Lake City, UT 84101

I further certify that an electronic copy of the brief in searchable portable document format (pdf):

☒ was filed with the Court and served on appellant by email, and the appropriate number of hard copies have been or will be mailed or hand-delivered upon the Court and counsel within 7 days.

☐ was filed with the Court on a CD or by email and served on appellant.

☐ will be filed with the Court on a CD or by email and served on appellant within 14 days.

/s/ Melanie Kendrick

Addenda

Addendum A

MAY 21 2019

Marian Decker

From: Nathan Lyon <nlyon@co.davis.ut.us>
Sent: Thursday, December 13, 2018 10:54 AM
To: Marian Decker
Subject: Wilson Time Stamps

Exhibit #53 (slide #2): 5:30 - 6:20 on court audio. Played twice b/c juror couldn't hear

Exhibit #54 (slide #3): 8:20 - 10:20

Exhibit #55 (slide #4): 11:02 - 12:05

Exhibit #63 (slide #5): 12:40 - 13:40

Exhibit #62 (slide #6): 14:18 - 14:30

Exhibit #56 (slide #7): 15:27 - 16:50

Exhibit #57 (slide #8): 15:27 - 16:50

Exhibit #64 (slide #9): 18:30 - 39:00

Exhibit #65 (slide #10): 39:45 - 43:00

Exhibit #66 (slide #11): 43:48 - 45:50

Exhibit #67 (slide #12): 43:48 - 45:50

Exhibit #68 (slide #13): 46:11 - 47:12

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Nathan D. Lyon
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800 West State Street
P.O.Box 618
Farmington, UT 84014
Phone: 801-451-4300
Fax: 801-451-4328

SR1

* * *

Jacquan Wilson Jail Calls

TRANSCRIPT: POWERPOINT AUDIO

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SLIDE 2

January 9, 2016

* * *

AMANDA: Work on the weekend, but this (inaudible) weekend.

JACQUAN: I'm sorry. Like, I don't know cops says it was. I'm not Donte. I don't call the cops to help me out with shit. I handle shit like a man, on my own. People --

AMANDA: Correct.

JACQUAN: -- fuck with me, I eliminate them real quick. It's over and done with. If I was out there right now, it would be a whole different (inaudible). Yo --

AMANDA: It wouldn't be a whole different --

* * *

SLIDE 3

January 9, 2016 continued

* * *

JACQUAN: So I was just -- um, I don't know, you just made it seem, like, you know he is winning because I'm in jail and he's out there.

VICTORIA: I am -- the thing is I -- that's what frustrating to me though is that he gets to fucking pop off and say all this shit and he gets to be a certain type of way and talk all this fucking mad shit about you, but, like, he can't

1 handle shit like a man. And he has to fucking text me and
2 he -- and he, like, I -- I want you home, that's what I want.

3 I don't want to be in this situation. I don't want
4 us to have to be fighting because you think that something is
5 going on that isn't. I'm -- like and I'm trying to do
6 everything I can to be here. That's why if -- I've been trying
7 to retain Shapiro when I get my taxes. Like, I'm going to go
8 get my concealed weapon's permit. I'm going to get a gun.
9 I've already looked into that. I already know what class I
10 have to take. I already know what I have to do that.

11 **JACQUAN:** Yeah. Because, um, I'm going to play it cool,
12 like, you know what I'm saying and I can't do too much talking,
13 but I have no problem taking somebody's life, at all. So
14 that's not a big deal to me, it really isn't. So I mean, ask
15 Tyrese, ask anybody. You might have been surprised when you
16 saw the news and saw me on there, but he wasn't.

17 * * *

18 SLIDE 4

19 January 14, 2016

20 * * *

21 **JACQUAN:** What is -- hold on. When did you talk to
22 this -- when did you talk about this to my cousin? You didn't
23 tell me about this.

24 **VICTORIA:** When everything first happened, I called and
25 talked to Tyrese.

1 **JACQUAN:** And what did Tyrese say?

2 **VICTORIA:** Tyrese told me that, like, you went over --
3 like, that you went over there because you had something of his
4 and he was already lit at you and he'd already been mad at you,
5 like, prior to that and had been upset at you. And that as far
6 as Tyrese, you know, like, things had just escalated. Like, he
7 was already fucking pissed at you and had already started,
8 like, going off on you as it was.

9 **JACQUAN:** Well, yeah. He did start going off on me, but
10 he never said -- he never threatened me. He might have said,
11 "Oh, fuck you; you're a lame-ass nigger." He might have said
12 all types of derogatory shit, but he never said, "Oh, I'm going
13 to find you and I'm going to get you." You understand?

14 * * *

15 SLIDE 5

16 January 14, 2016 continued

17 * * *

18 **JACQUAN:** That's not trying to get (inaudible) with
19 somebody?

20 **VICTORIA:** And I agree.

21 **PHONE SYSTEM:** You have one minute left.

22 **VICTORIA:** I should -- I agree. I should be better. I
23 should call more frequently, and I will. I promise you that.
24 That is the next important thing. That's, like -- like, that
25 is basically No. 1 over the one thing that you asked me to do.

1 **JACQUAN:** And everything that you're telling me, like, you
2 talk to my cousin and all that shit and you -- all that. Like,
3 know what I'm saying? Like, everything that we're talking
4 about, like, why he was mad (inaudible) and tell him. Like --

5 **VICTORIA:** Okay.

6 **JACQUAN:** -- you can't just talk to him, and send him some
7 screen shots. He doesn't care.

8 **VICTORIA:** Okay.

9 **JACQUAN:** A screen shot of him threatening Tia is not
10 going to get me off. A screen shot of him saying I'm a
11 fagot-ass nigger is not going to give me off. It's not going
12 to -- that's not going to do shit.

13 **VICTORIA:** Okay.

14 **JACQUAN:** That ain't going to -- so, like, I don't know,
15 but I gotta think of a good reason as to why my life was in
16 danger.

17 **VICTORIA:** Okay.

18 **JACQUAN:** Because, obviously, my story, me telling the
19 truth doesn't sound believable.

20 * * *

21 SLIDE 6

22 JANUARY 15, 2016

23 * * *

24 **JACQUAN:** Let me tell you how I'm different, because I
25 don't call the cops. I handle shit on my own. And I never

1 will.

2 * * *

3 SLIDE 7

4 JANUARY 16, 2016

5 * * *

6 **JACQUAN:** You think I'm not crazy? You don't think I know
7 that they're recording these conversations? That it's going to
8 be used against me? You think I don't got -- I'm in my right
9 state of mind right now? I'm serious. I'm dead-fucking
10 serious. I don't know how else to tell you. And him too.

11 So I don't -- I don't -- I don't know what to tell
12 you. Shouldn't have to fucking --

13 **VICTORIA:** (inaudible).

14 **JACQUAN:** -- physically threaten you so you don't hang out
15 with another dude. And that's why we not -- that's why I would
16 never say to you in that type of situation. I hope you bump
17 into a rich, rich white dude that doesn't mind fat girls
18 because that's what -- that's what you going to get. Because
19 I'm not -- I'm not marrying you, not with -- I shouldn't have
20 to fucking force you to do some shit like this.

21 Like, that's not -- that's off the fucking wall.
22 Like, if you didn't want me hanging out with somebody, you
23 didn't want me hanging out with a girl and I'm fuck -- you got
24 to argue with me for two hours. We don't need to fucking be
25 together. You don't understand that?

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SLIDE 8

January 16, 2016 continued

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JACQUAN: I'm not him, I don't go on Facebook and portray something I'm not. I really put niggers down y'all. I really -- I really have the capacity to kill somebody, you understand? And think nothing of it.

* * *

SLIDE 9

January 18, 2016

* * *

PHONE SYSTEM: Hello this is prepaid collect call from --

JACQUAN: Jacquen Wilson.

PHONE SYSTEM: An inmate at Davis County Jail, Utah. This call is subject to recording and monitoring. To accept charges, press one. To refuse -- thank you for using Securis. You may start the conversation now.

JACQUAN: Hello?

VICTORIA: Hello.

JACQUAN: Hey, I was thinking last night, like, you know what I'm saying, like, me and -- me and CJ was talking. And I was, like, so I was, like, "Man" -- I know I sound retarded as fuck right now. I'm trying to get my thoughts on it. When the -- when the conversation is timed and you got to remember

1 shit on queue, it's crazy.

2 All right. I was like, "Why do you think he was
3 acting crazy in the first place?"

4 And CJ was, like, "He had to have been fucking her or
5 something." Because he was like you -- he was, "Like, he ain't
6 start acting crazy until you told him that Tia was pregnant."
7 Because I had came over and told him that. I was with Amanda
8 and I had came over and told him. And that's when everything
9 started happening. You know what I'm saying?

10 So he was, like, "That's why he was popping it at the
11 house looking for her because he wanted to talk to her in
12 private, but you just happened to be with Tia at the time.
13 Because later on the next day, he popped up over at Tia's
14 house. But he thought I was still with Amanda. He wasn't
15 expecting me to be with Tia. You know what I'm saying?

16 **VICTORIA:** Yeah.

17 **JACQUAN:** So I'm thinking that if you can tell -- if you
18 can tell, like -- aren't you supposed to be meeting my -- with
19 the lawyer today?

20 **VICTORIA:** Yeah.

21 **JACQUAN:** What's wrong now?

22 **VICTORIA:** Nothing. I'm just listening to you.

23 **JACQUAN:** What's wrong?

24 **VICTORIA:** So did you want me -- what?

25 **JACQUAN:** What's wrong?

1 **VICTORIA:** Nothing. I'm listening to you.

2 **JACQUAN:** All right. Yeah. I wanted you to bring that up
3 to him. You know what I'm saying? Because, like,
4 I can't -- it's really to fight a case in jail when you can't
5 contract nobody, gather evidence, go through your phone, get
6 text messages, prove anything.

7 **VICTORIA:** Right.

8 **JACQUAN:** I'm fighting against somebody who has the
9 comforts of living at home with their parents, have people to
10 back up their story, have all the support in the world, and
11 then I don't have the same luxuries as they have to fight. You
12 see what I'm saying?

13 **VICTORIA:** I understand exactly what you're saying.

14 **JACQUAN:** So that's why I'm trying to think of a way to
15 get my story to him because me having 25 minutes to talk to him
16 every three weeks is not a good enough way to get my defense
17 game up for what the fuck they trying to hit me with. So I
18 was -- I was paying, like --

19 **VICTORIA:** Um --

20 **JACQUAN:** Huh?

21 **VICTORIA:** No, go ahead.

22 **JACQUAN:** I was just saying, like, if you could bring that
23 up to him, like, you know, that maybe -- like, Jacquan still
24 hasn't figured out to this day why, you know what I'm saying,
25 he was acting like this. Or you could just explain to him

1 what's going on.

2 **VICTORIA:** Okay.

3 **JACQUAN:** You know what I'm saying? Like what do you
4 think?

5 **VICTORIA:** I mean, that would make sense to me. Did they
6 have --

7 **JACQUAN:** I mean, you even said my cousin even said,
8 "Well, he was already mad before Jacquen got there. Why would
9 he be mad?" I don't do shit but fuck bitches, chop, and get
10 money. Why would somebody be mad at me? Unless it's over the
11 money that I'm getting or the bitches that I'm fucking.

12 I don't go out and start shit with people. If I
13 wanted to go out and (inaudible) people, by God, it would be
14 easy as fuck. I don't do that. I don't do that type of stuff.
15 You know what I'm saying? I don't go --

16 **VICTORIA:** So --

17 **JACQUAN:** What?

18 **VICTORIA:** Did him and Tia have a relationship that you
19 know of?

20 **JACQUAN:** No, they don't. But here is the deal: I was
21 hanging out with Amanda from Friday until, like, Sunday.
22 Saturday night Tia had texted me and was like, "I just took a
23 birth control test and I failed it." And was like, "I'm going
24 to go get the baby taken care of, don't worry about it." Blah,
25 blah, blah.

1 That's when I called her. I was like, "Hey, should
2 we talk about this? It's my kid too." And she was -- start
3 crying and was like, "I don't know what to do (inaudible) shit.
4 So she's like, "Can I see you tonight when I get off work?"

5 I was like, "Maybe." I was chilling with Amanda,
6 kind of like -- but wasn't feeling like, you know what I'm
7 saying, going all the way back to Salt Lake at that time. So I
8 ignored Tia that night.

9 Saturday morning, me and Amanda went over to see
10 Donte, since he lives, like, a couple of minutes away and I
11 hadn't seen him in a month. Because I've been ignoring him
12 because dude was tripping off of the Erika situation. You feel
13 me?

14 **VICTORIA:** The what?

15 **JACQUAN:** Remember how me and him got into it over the
16 Erika situation?

17 **VICTORIA:** Yeah.

18 **JACQUAN:** Remember how he was trying to be funny and be
19 like, "You trying to talk to my bitch." Then as far as Tiffany
20 is concerned and then he was trying to, like, talk shit about
21 Erika. He was like, "Yeah, she give good head."

22 And my cousin was like, "Just leave him alone, so
23 you're not fucking him up."

24 **VICTORIA:** Right.

25 **JACQUAN:** Right. So I hadn't talked to him for a month.

1 So I thought, ah, gave him a month, maybe I can just stop by
2 and say hi. What's the harm in saying hi, right?

3 **VICTORIA:** Correct.

4 **JACQUAN:** So I leave -- so I stop by and say hi to
5 him (inaudible) with Amanda. And he's like -- he's
6 like -- he's like, "Who this?"

7 I was like, "Oh, this is Amanda," blah, blah, blah.

8 He's like, "Oh, that's what is up." So then we walk
9 away from the car because Amanda -- I just (inaudible)
10 yesterday. So I mean and I just met Amanda, like, a couple
11 days before that. So, like, I didn't think it was pertinent
12 for Amanda to know that I might have a child on the way. You
13 know what I'm saying? What can she say? She got two kids by
14 two different dudes that are, like, half my size down there.

15 But anyway, so I pulled him aside and I'm like, "Yo,
16 Tia is pregnant."

17 And that's when he's like, "Yo, you should keep the
18 kid. And it's going to be a pretty baby. And don't make her
19 get an abortion."

20 And I ain't even said nothing other than "Tia is
21 pregnant," and this dude coming out of the woodworks and all
22 this shit. You know what I'm saying? I'm like, okay, like,
23 why does he care so much? You know what I'm saying?

24 Hello?

25 **VICTORIA:** I'm -- yeah, I'm here. I'm listening to you.

1 **JACQUAN:** All right. I'm telling you this so you can tell
2 him.

3 **VICTORIA:** I know.

4 **JACQUAN:** Are you, like, hearing what I'm saying?

5 **VICTORIA:** Yes. I'm listening to everything that you're
6 saying to me.

7 **JACQUAN:** All right. I know you at work and stuff. I was
8 just trying to, like, get -- like, talk to you because --

9 **VICTORIA:** I'm listening to you. Because what?

10 **JACQUAN:** Because I don't -- because I don't know when you
11 will be able to schedule another fucking appointment with
12 Shapiro before my preliminary. If I can prove that -- that
13 this was self-defense, they will just dismiss my shit right
14 now, as soon as I go to court. That's why I'm trying so hard
15 to -- to convey this to you right now. So...

16 **VICTORIA:** Well, when you're telling me --

17 **JACQUAN:** I thought today was a holiday.

18 **VICTORIA:** No, we're working. I'm doing catch-up work,
19 essentially.

20 **JACQUAN:** All right.

21 **VICTORIA:** So I'm listening to you. When you're just
22 trying to convey something to me I'm, obviously, not going to
23 talk over you. I'm going to listen to what you have to say so
24 that I can make sure --

25 **JACQUAN:** It just seemed like you were so engrossed in

1 your work, you couldn't -- you wasn't even, like, paying
2 attention to me.

3 **VICTORIA:** Do you want me to repeat everything back to
4 you?

5 **JACQUAN:** No, it's not like -- never mind. I was, like,
6 "You understand what I'm saying?" And you were just, like,
7 silent, like you were stuck in thought of something else.

8 **VICTORIA:** Like what?

9 **JACQUAN:** Like you were stuck in thought of something
10 else.

11 **VICTORIA:** No, I'm listening to what it is that you're
12 telling me.

13 **JACQUAN:** I mean, this is important. Like, I'm not
14 calling you to badger you about -- all right. Anyway, let me
15 not get on that because that will take up the whole phone call.

16 **VICTORIA:** Well...

17 **JACQUAN:** I'm trying to give you an understanding of what
18 the fuck happened and you're fucking, like, just acting like
19 everything is more important than my life right now. All
20 right. You know -- all right. So basically --

21 **VICTORIA:** You don't know that. Okay. I'm listening to
22 what it is that you're conveying to me, but I'm also sitting at
23 my desk and I'm trying to get work done --

24 **JACQUAN:** I know, you got to get work done, so --

25 **VICTORIA:** So that I can be off --

1 JACQUAN: -- you don't get fired and all that shit.
2 VICTORIA: -- so that I can be off at 3:00 --
3 JACQUAN: I get it. I get it. I get it.
4 VICTORIA: -- and I can go talk to Shapiro.
5 JACQUAN: You sound just like some bitch I know in
6 Maryland --
7 VICTORIA: But I'm not going to sit and --
8 JACQUAN: -- whose career was always more important than
9 me.
10 VICTORIA: -- talk -- I'm not going to sit and talk over
11 you --
12 JACQUAN: Whatever. All right. I'm not going to sit here
13 and argue with you. I'm not going to argue with you.
14 Whatever.
15 VICTORIA: Jacquan.
16 JACQUAN: I'm not going to fucking argue with you about
17 this.
18 VICTORIA: I'm not going to talk over when you are telling
19 me something. I'm going to do that. You want and you need me
20 to listen. When you ask me to do something, I'm going to do
21 it.
22 JACQUAN: But if you're not listening, so then what's the
23 point of me fucking talking to you?
24 VICTORIA: I am listening to you. I understand exactly
25 what you're saying and that makes sense. Obviously, that's

1 going to be something that I discuss with Shapiro.

2 **JACQUAN:** We trying to prove that this is not something I
3 do on a daily basis. I don't go out and stab people for a
4 fucking living. I'm not Jack the fucking ripper.

5 **VICTORIA:** No, and you don't.

6 **JACQUAN:** Okay then. And I'm trying to convey the fucking
7 message and your punk ass is over there typing some bullshit
8 for your fucking job.

9 **VICTORIA:** And since I've known you -- and since I've
10 known you, you have never been in a fight since I've known you.

11 **JACQUAN:** All right. Look, I don't got time to argue with
12 you. I'm trying to get the story out so you can know what the
13 fuck happened, so you can understand.

14 So anyway so, motherfucking -- we've been
15 arguing -- we argued, like, \$100 worth phone conversation away.
16 I'm not arguing with you no more about this shit.

17 So anyway, fucking -- and then I also tell him while
18 we over there, I'm, like -- you know what I'm saying? "I still
19 got your pants. You know what I'm saying? Do you mind" --

20 And he was like, "Don't worry about the pants, like,
21 it's cool. Like, I can't even really fit those anyway."

22 I was like, "Yeah, I just wanted to wash them and
23 bring them up to you."

24 And he was like, "Nah, don't even worry about that.
25 I'm not tripping" (inaudible) right?

1 And then he walked up to Amanda and was, like, "Do
2 you smoke?"

3 And she was like, "Nah, I don't smoke or drink." And
4 then we bounce.

5 You hear me?

6 **VICTORIA:** Yes.

7 **JACQUAN:** This is Saturday. Sunday, you need to listen to
8 this. Sunday -- Sunday Amanda's kids -- her daughter is
9 getting on my fucking nerves, so I leave. I meet with up with
10 Tia. Tia's dog had to get euthanized, so me and Tia end up
11 going to the vet.

12 While we're at the vet late at night -- she didn't go
13 to work this day, while at the vet late at night, she gets a
14 phone call -- a text message from her roommate saying, "One of
15 J's friends came over." And I'm like, okay, I don't have any
16 friends that know where Tia lives.

17 And then so after the dog is put down or whatever, on
18 our way back to the house, and then we get to the house and
19 then I asked a friend, I'm like, "Yo, what is the friend's name
20 or whatever?"

21 And she was like, "Oh, his name -- his begins with a
22 "D" or something like that."

23 And I was like, "Well, what did he look like?"

24 He's like, "Oh, he's tall. Dreads, kind of buff."

25 And then I was like, "Oh, that's Donte." And I was

1 like, "Well, what did he want?"

2 He was like, "Oh, he was looking for Tia, not you. I
3 thought he was looking for you because he was your friend, and
4 he was looking for Tia."

5 And that's when I looked at Tia and I was like,
6 "First of all, how the fuck does he know where you live by
7 (inaudible). This motherfucker doesn't even drive. I could
8 see if he drove over here before and put it in his GPS system.
9 You know what I'm saying?

10 **VICTORIA:** Yeah.

11 **JACQUAN:** Driving, like, 35, 40 minutes away from Layton.
12 How the fuck does he know where the fuck you live? She's --
13 you know how I am, I'm in or out. But she's like (noise). So
14 she texting him or hitting him up on Facebook blah, blah, blah
15 because his cell is off and he is not responding.

16 So the roommate was this gay guy that I didn't like.
17 Like, I didn't like him. He would always say little slick
18 racist shit. I done already smacked him up and everything. So
19 he has no problem putting her dirty laundry in the air because
20 he's hoping that I don't fucking see her again anyway, because
21 he don't want to see my face. You feel me?

22 **VICTORIA:** Yeah.

23 **JACQUAN:** So he like -- he, like, "oh, yeah, he was here
24 for her, not" -- you know what I'm saying? He couldn't wait to
25 do that shit. You know what I'm saying?

1 So she like -- she like, "I'm going to hit him up
2 right now." So she's like, "Why are you -- you're putting me
3 in deep water. I don't need this right now. I'm pregnant.
4 Why are you popping up at my house looking for me at 11:00 at
5 night," blah, blah, blah.

6 So I'm like fuck this, we going to his house. So we
7 go all the way to this house, 40-minute drive to Layton. His
8 dad answered all scared and shit like, "Donte is not here."

9 I'm like, "Well, why is he popping up at Tia's house?
10 Why is he popping off at her house looking for me?"

11 And he is like, "I don't know. Last time I checked,
12 he was in Salt Lake."

13 So on the way back to Tia's house, Tia's same
14 roommate texted her and was "Oh, I thought y'all was at work
15 today. I don't know y'all -- I didn't know that Tia" -- he's
16 like, "I thought Tia was at work. I didn't know that y'all
17 went to the vet." So he was like, "I told Donte that she was
18 at the Taco Bell in Sugarhouse, or whatever."

19 So I'm like, "All right. Let's go." We go to -- we
20 go to Taco Bell. And her workers, they all know me. So
21 they're, like, "Oh, yeah, some dude was looking for you." He
22 said he wants his jeans back. I was like, "I just (inaudible).
23 I just thought that was (inaudible). But I think that he got
24 the messages and was trying to come up with an excuse to cover
25 his ass.

1 Does that make sense?

2 **VICTORIA:** Yeah.

3 **JACQUAN:** So then so -- anyway, so then I'm still arguing
4 with Tia. I'm like, "I don't believe that." I was like,
5 "First of all, how does he know where you live? And you know
6 I'm saying, third of all, you know what I'm saying, why would
7 he come over at 11:00 to your house asking for you, not asking
8 me to get jeans from me. Why didn't he come to where I was
9 at?"

10 She didn't have nothing to say. So I chill off, you
11 know what I'm saying? Around this time period, you're fucking
12 best friend with the cops and filing reports against me,
13 against (inaudible). So I'm not really talking to you.

14 But anyway so --

15 **VICTORIA:** Well, but that Sunday, you had even texted me
16 and said that you and her got in an argument and you weren't
17 having the kid.

18 **JACQUAN:** Yeah. Did I tell -- yeah. Yeah. That was the
19 argument. Oh, so it all makes sense now. Okay. I'm just
20 making sure we're on the same page. That was the freaking
21 argument right there. I was like, "Bitch, like, something
22 ain't right."

23 So now he -- he had been to her house, like, a month
24 and a half before me and Tia had picked him up from Layton and
25 brought him to Tia's house because Tia has another girl

1 roommate that was single at the time and likes black guys and
2 that was the only reason. But that was a month and a half
3 before.

4 So you remembered -- so I know when you left Tia's
5 house the last time, the first initial time, he left and caught
6 the train. So remembered what route to take. Mind you, the
7 train doesn't run on fucking Sunday. So he had to know her
8 exact address to have somebody take him to Tia's house on
9 Sunday. You get what I'm saying?

10 **VICTORIA:** Yeah.

11 **JACQUAN:** It doesn't make sense. I mean, as soon as he
12 remembered what route he took to walk to the train and then
13 take the train back. But he didn't take the train on Sunday.
14 He couldn't retrace his steps. You see what I'm saying?
15 Because the train ain't running on Sunday. So he would have to
16 know Tia's exact address by heart, give it to somebody, and
17 have him -- have somebody drop him off.

18 Unless he remembered exactly how the fuck every left
19 and right and street and tee it took that he -- when he was in
20 the car. It just make sense. So I'm like -- I'm like, all
21 right, you know I'm -- I'm like -- I'm not even tripping
22 because I'm like Tia -- I had just been chilling with Amanda
23 fucking her all weekend, so I don't really give a fuck. I'm
24 like whatever bitch.

25 So I'm just chilling, like: You ain't playing; you

1 getting played. I'm like whatever. So I'm not even tripping
2 off of it and if he tries something, I'm going to put this
3 nigger in the hospital, I don't care. So that's how I'm
4 laughing.

5 So the next day me and Tia are together still. I
6 don't think she went to work again. Some shit text something
7 about Donte and I was, like, "I don't know," blah, blah, blah.
8 Then Donte texts --

9 Are you listening?

10 **VICTORIA:** Yeah.

11 **JACQUAN:** And Donte texted me -- basically, we had got
12 into an argument over some girl. He was, like, basically,
13 like -- basically like, some bullshit like -- some argument
14 (inaudible) and he was, like, "You a lame-ass nigger," blah,
15 blah, blah. So I blocked him off Facebook and then he is mad
16 about that.

17 And he was like, "Step your game up when you talking
18 to me." Because the girl, like, me and him, but she was
19 badmouthing him. You see what I'm saying? So I screen shot
20 the girl saying, "I don't like Donte. He live with his
21 parents." You know what I'm saying? He a dumb -- all this
22 other shit she was saying. And I sent it to him. I blocked
23 him, he was mad about that because he probably playing both
24 sides of the fence. You see what I'm saying?

25 Like, she was probably saying to him, like, "I like

1 you," blah, blah, blah. And then saying to me the same thing.
2 But meanwhile she's bagging on him to me, you know what I'm
3 saying, for her to (inaudible), so now he know.

4 You listening?

5 **VICTORIA:** Yes.

6 **JACQUAN:** Well, this is around 10:00, next day.

7 10:45 Tia's downstairs with her roommate smoking cigarettes.

8 She's on the stairs. She's like, "Jacquan, Donte is outside."

9 I'm like, "All right." So you know what I am saying?
10 I go downstairs, I'm like, "Yo, what you want?"

11 He like, "Oh, I just want my jeans back."

12 I'm looking at him like -- I was like, "Man, I
13 haven't washed them yet." I was like, "You know what, I'm not
14 going to argue with you." I was like Tia, "Let's go. We're
15 going to go to my house and get the motherfucking jeans."

16 So we go to -- we go -- but he -- I'm like, "Yo,
17 Donte, you might want to" -- because you know -- and he's like,
18 "Nah, I follow you." And I'm thinking in my head, in what
19 vehicle?

20 So he starts walking down the street and we ride past
21 him. You know what I'm saying? And he still walking. So I
22 tell -- I was like, "Yo, something is up with that nigger. He
23 acting weird. He showed up to the house in, like, an all-black
24 hoodie with (inaudible).

25 **PHONE SYSTEM:** You have one minute left.

1 **JACQUAN:** You know what I'm saying? I was like, "Yo,
2 (inaudible) he can't come into Tia's house, none of that shit
3 until -- you know what I'm saying? (inaudible) her roommate
4 said (inaudible) fucking, we never let him in.
5 So that motherfucker stood outside Tia's house until
6 I came back down there. I didn't get back until 3:30 in the
7 morning. I was like, "He not going to rush me. He want to sit
8 there and wait." When I came back, he was gone. So now he
9 (inaudible) everything, but he had to sit outside for fucking
10 3:00 in the fucking morning.
11 You still there?
12 **VICTORIA:** Yes.
13 **JACQUAN:** Hey, so if you working, how you going to meet up
14 with dude at 3:00?
15 **VICTORIA:** Because I'm getting off early.
16 **JACQUAN:** What time are you getting off?
17 **VICTORIA:** At 3:00. I meet him at 3:30. I may get off
18 earlier than that though. It just depends.
19 **JACQUAN:** I never got the chance to tell you this because
20 it has to do with my case, but I would have -- you were not
21 talking to me, so you know what I'm saying, I have -- I have no
22 sense (inaudible).
23 **PHONE SYSTEM:** Thank you for using Securis. Good-bye.
24 The caller has hang up. Thank you for using Securis.
25 Good-bye.

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SLIDE 10

January 18, 2016

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PHONE SYSTEM: Hello. This is a prepaid collect call
from --

JACQUAN: Jacquan Wilson.

PHONE SYSTEM: An inmate at Davis County Jail, Utah. This
call is subject to recording and monitoring. To accept charges
press one. To refuse charges -- thank you for using Securis.
You may start the conversation now.

JACQUAN: All right. So -- so can we get back to the crib
(inaudible) crib, he not there. Meanwhile, I'm trying to
make --

VICTORIA: (inaudible).

JACQUAN: I'm trying to make amends with you. You ain't
having it. I'm telling you I'm telling Tia to kill the kid so
we can work things out with us. You ignoring me, blah, blah,
blah. Totally different from the way you acting right now.

This is -- this is -- this point of time, so you can
get a gage of what's going on. So I'm like, all right, fuck
it. She want to keep calling the cops, ignoring me, what all
(inaudible) what am I supposed to do? You know what I'm
saying?

So, um, okay. So then the next -- so I basically

1 (inaudible) I wake up. And as soon as I wake up, I wake up at,
2 like, 1:00 p.m. Freaking -- oh, I take a shower. I get out of
3 the shower and she's like, "Donte is just hitting me back. So
4 he text me all this shit, like fuck that dude, he had me sit
5 outside, blah, blah, blah. I want my jeans. I ain't playing.
6 And I'm going to get my jeans.

7 Don't worry about it. I ain't trying to stress you
8 out because you pregnant, I don't want you to lose the kid, but
9 there are some thing I got -- I got to tell you about Jacquen."
10 Just talking all greesy like -- like he some type of stupid
11 gangster-ass nigger like -- like whatever.

12 So I'm already in my mind, like, okay, well, don't
13 think you about to, like, fuck me up because I ain't going to
14 let that happen. And so I'm, like -- I'm like "Yo, let's go
15 over to his house right now."

16 Tia's dumb ass says, "We're on our way to your house
17 right now," da-da-da-da.

18 I'm like, "Bitch, why would you tell him that?" We
19 already know by his tone and demeanor that he wants
20 confrontation. You see what I'm saying? I'm hoping that I can
21 just drop off the shit because I know -- I already know how I
22 am. If he touch me, I'm going to try to kill him. You see
23 what I'm saying?

24 **VICTORIA:** Right.

25 **JACQUAN:** So -- so we go -- we go to his motherfucking

1 crib. You know what I'm saying? When we get there, that's
2 when the whole -- that's when the whole thing -- that's when
3 the whole thing happened. He got all up in my face, pushed me,
4 put his hands on me, all that shit. I was just trying to get
5 return some shit. You know what I'm saying? But why was he
6 that mad?

7 And after he pushed me and hit me and hopped in the
8 car with her, what was he trying to tell them? Like, why was
9 he -- what was he so mad about? He wasn't mad when I just
10 talked him three days ago. Stopped by his house. He was all
11 Gucci. See what I'm saying?

12 **VICTORIA:** Yeah.

13 **JACQUAN:** (inaudible) for a minute.

14 **VICTORIA:** Well, I agree and I understand what you're
15 telling me. I mean, that only makes sense.

16 **JACQUAN:** All right. Well, I gotta -- let me call you
17 back in, like, ten minutes. They going to lock us down just to
18 take two minutes to pass out some fucking (inaudible) so let me
19 call you right back. Okay?

20 * * *

21 Slide 11

22 March 5, 2016

23 * * *

24 **VICTORIA:** Well, don't you think that shoving you and hit
25 you and then him getting in the car with Tia, I can only

1 imagine the way that he was fucking talking to you. If he was
2 talking to you the way that he was talking to you when we were
3 at fucking court --

4 **JACQUAN:** He wasn't talking to me like that.

5 **VICTORIA:** I can only imagine.

6 **JACQUAN:** He's only been talking like -- like he's tough
7 Tony since I got in jail, you stupid motherfucker. He was
8 acting like everything was cool. (inaudible).

9 I was always buying shit for him and shit like that.
10 And now he wants to play the role like I'm broke. He's trying
11 to play the role like I'm some homeless black guy from the hood
12 or some shit.

13 **VICTORIA:** Which you're not. Which everybody knows that.

14 **JACQUAN:** (inaudible) he's talking shit. And he's trying
15 to act like I was a coward because he got stabbed in the back.
16 Okay. So if you hit me and push me and you turn your back to
17 me when I attack you, that's your -- that's your fault. If you
18 would have kept facing me, I would have you stabbed in the
19 fucking -- well, I did stab him in the face. I mean, what do
20 you -- what more do you want?

21 * * *

22 SLIDE 12

23 March 5 2016; 11:08

24 * * *

25 **JACQUAN:** If somebody stabbed me, I'd kill them. That's

1 it. Serious. All he did was push me and I stabbed him up. I
2 mean, what you think it is (inaudible) thin. All he did was
3 push me and hit me and he got stabbed the fuck up. Because you
4 think it's the [inaudible]. Because I'm educated and I
5 talk -- you know, I talk this way, so I'm soft. Get the fuck
6 out of here.

7 **VICTORIA:** I never once said that you're soft --

8 **JACQUAN:** (inaudible).

9 **VICTORIA:** -- or that you're a bitch. What I was trying
10 to fucking say to you is that I know that actually it wouldn't
11 have fucking happened, had Donteus have not done what Donteus
12 had did. That's what I'm trying to say to you. Him putting
13 his fucking hands on you was not okay. That's the fucking
14 point here.

15 **JACQUAN:** I do feel as though I used a little too much
16 force --

17 **VICTORIA:** You --

18 **JACQUAN:** -- but I do --

19 * * *

20 SLIDE 13

21 March 5 2016 11:08

22 * * *

23 **JACQUAN:** -- a good job, but his dad, he never even saw
24 me. I saw who stabbed me stab me. And nobody saw me
25 (inaudible) but him. I clearly watched it. I clearly knew --

1 know my surroundings when I'm stabbing somebody the fuck up. I
2 was prepared, he wasn't. He lost. He's mad about it.

3 His ego is fucked up. That's why he's going out the
4 way to post shit on my wall. I don't place shit on niggers'
5 walls. I really don't. You know, you going to see a situation
6 where a person -- some shit on some dude's (inaudible).

7 Because everything that I got a problem with, I go handle shit.

8 He got handled, dog, straight East Coast style. He
9 thought I was one of these Utah motherfuckers that I was going
10 to tell the cops, or get bitch slapped or some shit like that,
11 and he got stabbed the fuck up. What do -- what do you want me
12 to say?

13 (End of Powerpoint.)

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C E R T I F I C A T E

STATE OF UTAH)
) SS
COUNTY OF SALT LAKE)

I, KATIE HARMON, a Certified Shorthand Reporter in
and for the State of Utah, do hereby certify that I received
the audio recording in this matter, and that I transcribed it
into typewriting and that a full, true and correct
transcription of said audio recording so recorded and
transcribed is set forth in the foregoing pages, inclusive
except where it is indicated that the recording was inaudible.

DATED this 12th day of April, 2019.

Katie Harmon

KATIE HARMON, RPR, CSR.
License No. 7386959-7801

AMANDA: [3] 2/3 2/9 2/13 PHONE SYSTEM: [7] 4/20 7/11 7/14 23/24 24/22 25/3 25/7	also [2] 14/22 16/17 always [3] 15/8 18/17 28/9 am [6] 2/22 15/24 18/13 23/9 25/23 26/22 Amanda [12] Amanda's [1] 17/8 amends [1] 25/16 and tee [1] 21/19 another [3] 6/15 13/11 20/25 answered [1] 19/8 anybody [1] 3/15 anything [1] 9/6 anyway [8] appointment [1] 13/11 April [1] 31/20 are [9] aren't [1] 8/18 argue [6] 6/24 15/13 15/13 15/16 16/11 23/14 argued [1] 16/15 arguing [3] 16/15 16/16 20/3 argument [5] 20/16 20/19 20/21 22/12 22/13 around [2] 20/11 23/6 aside [1] 12/15 ask [3] 3/14 3/15 15/20 asked [2] 4/25 17/19 asking [2] 20/7 20/7 ass [7] 4/11 5/11 16/7 19/25 22/14 26/11 26/16 attack [1] 28/17 attention [1] 14/2 audio [3] 1/6 31/12 31/14 away [4] 11/10 12/9 16/15 18/11	bump [1] 6/16 buying [1] 28/9 bye [2] 24/23 24/25	crying [1] 11/3 CSR [1] 31/23
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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2019, a true and correct copy of the foregoing ORDER was deposited in the United States mail or was sent by electronic mail to be delivered to:

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By 
Jeffrey Ricks
Appellate Court Coordinator

Case No. 20171011
SECOND DISTRICT, FARMINGTON, 151702212

Addendum B

Police Interview - November 26, 2015

IN THE SECOND JUDICIAL DISTRICT COURT OF DAVIS COUNTY
STATE OF UTAH

STATE OF UTAH,

Plaintiff/Appellee, Case No. 151702212FS

v.

JACQUAN DAVID WILSON,

Defendant/Appellant.

~~~~~  
TRANSCRIPT OF POLICE INTERVIEW  
~~~~~

NOVEMBER 26, 2015

Police Interview - November 26, 2015

2

1 DETECTIVE SMITH: We're going to head straight back
2 here. Want some water again? Yeah? Sure? Yeah? I don't know,
3 it's up to you, man.

4 JDW: I think I can get to that.

5 DETECTIVE SMITH: What was that? Sorry.

6 JDW: I said I think I can get to it.

7 DETECTIVE SMITH: All right. Get to it? Get you this
8 or water? This?

9 JDW: Yeah. That would be fine. All right, whatever is
10 easy enough.

11 DETECTIVE SMITH: Okay.

12 JDW: Unless you need--

13 DETECTIVE SMITH: Nope.

14 JDW: --water.

15 [Inaudible discussion.]

16 DETECTIVE SMITH: I didn't introduce myself. I'm
17 Detective Smith from the Layton Police Department. So I'm
18 Detective Skane's partner for the week. So I'm sure you
19 understand why you're here and what's going on.

20 Before we get into anything, I'd like to borrow that
21 real quick. We're going to read you your rights, okay? It's
22 standard procedure when we're going to talk to people, okay?

23 So Jacquan, you do have the right to remain silent.
24 Anything you say can and will be used against you in a court of
25 law. You have the right to talk to a lawyer and have them

Police Interview - November 26, 2015

3

1 present with you while you're being questioned. If you cannot
2 afford a lawyer, one will be appointed to represent you before
3 any questioning if you wish. You can decide at any time to
4 exercise these rights, not answering any questions or make any
5 statements.

6 JDW: Can I ask you a question?

7 DETECTIVE SMITH: Yeah.

8 JDW: What kind of watch is that?

9 DETECTIVE SKANE: Nixon.

10 JDW: I thought I saw those in [inaudible].

11 DETECTIVE SKANE: I may have got it from there. Yeah,
12 I think so. I like watches.

13 DETECTIVE SMITH: A watch collection. Yeah.

14 JDW: Sorry, about that.

15 DETECTIVE SMITH: It's all right, I'm not, they don't
16 look good on me. Nothing I've found goes well with orange.
17 So do you need me to read these again?

18 JDW: No.

19 DETECTIVE SMITH: Do you understand each of these
20 rights?

21 JDW: [Inaudible.]

22 DETECTIVE SKANE: How many watches you got?

23 JDW: I got--when I was a kid, my parents--I saw my
24 step-dad get like a Movado and [inaudible].

25 DETECTIVE SKANE: Movado. I have one of those. I think

1 I do.

2 JDW: [Inaudible.] But like ever since then, I've been
3 collecting watches. So a good number.

4 DETECTIVE SKANE: Yeah. I've got--well, I don't have a
5 huge collection, but I've probably got, I don't know, maybe
6 somewhere around 15 or so. I love Nixon watches though. That's
7 my thing.

8 JDW: I feel like they've only been a huge thing for
9 like the last couple of years, around [inaudible].

10 DETECTIVE SKANE: The Nixon one?

11 JDW: The Nixon one became big around that time, yeah.

12 DETECTIVE SKANE: I got my first Nixon probably 11, 12
13 years ago, the one with the little diamond in it at the bottom
14 there. I think it's called The Player. The little diamond at the
15 6 o'clock.

16 JDW: Right.

17 DETECTIVE SKANE: That was my first one roughly 12
18 years ago.

19 DETECTIVE SMITH: Were you collecting before that?

20 DETECTIVE SKANE: No. That was my first one. I went,
21 "This is for me."

22 DETECTIVE SMITH: What was your first watch?

23 JDW: My first watch was probably a Fossil.

24 DETECTIVE SKANE: Yeah?

25 JDW: My parents, they wouldn't get me anything really

1 nice like a Movado because I'm a young kid. Anything like Seiko,
2 Citizen. I have an echo drive.

3 DETECTIVE SKANE: I don't have that.

4 JDW: They're not expensive. They're like 300 or
5 something like that. Then Guess. I have a couple of Guess. They
6 make decent watches.

7 DETECTIVE SKANE: Uh-huh [affirmative].

8 JDW: And the other watches don't really count. I have
9 an aunt that went overseas. And she was working--I don't know
10 what department, but she was working for--with the Nike
11 factories.

12 DETECTIVE SMITH: Okay.

13 JDW: So when she came back, she had all these stories
14 to tell like how--that she only paid so much for it, like \$3.00
15 to make it, or something like that. She was also talking about
16 she had all these fake Rolexes and stuff like that. So, the ones
17 that don't do the motion, they actually [inaudible]. Yeah. So I
18 have like a hundred of them.

19 DETECTIVE SMITH: That's how you tell a fake Rolex or
20 not?

21 JDW: Uh-huh [affirmative].

22 DETECTIVE SMITH: If they do a solid rotation around.

23 DETECTIVE SKANE: Yep.

24 JDW: Is somebody ever tries to sell you anything that
25 ticks, that's a Rolex, or they say it's a Rolex, it's not true.

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1 DETECTIVE SKANE: Just take a close look at it.

2 JDW: And then the sad thing is Rolex is not even the
3 upper echelon of watches. It's just one of the watches that we
4 can better pronounce over here. So that's why it sells so well
5 over here. But there are watches--everything is finer over
6 there. So there are watches that, I mean, that can go up into
7 the millions, hundreds of thousands. I mean, it depends on what
8 you're looking for.

9 DETECTIVE SMITH: So what's the nicest watch? What's
10 the nicest watch company?

11 JDW: The nicest watch?

12 DETECTIVE SMITH: Like the Mercedes or--

13 JDW: A Mercedes watch?

14 DETECTIVE SMITH: --or Bugatti of watches?

15 JDW: In my opinion, I don't know. There's probably
16 like three [inaudible] class. I mean, Baccarat and Constantine
17 is pretty nice.

18 DETECTIVE SMITH: Anybody you know have those?

19 JDW: Yeah.

20 DETECTIVE SMITH: Yeah?

21 JDW: Yeah. Whether they're real or not, I can't say.
22 Because I know a guy--I know a guy--I don't know. Like most
23 people that are in my entertainment will not rock a \$200,000 or
24 \$300,000 watch. I mean, I know--

25 DETECTIVE SMITH: Like maybe a businessman. But

1 outside of that--

2 JDW: Even businessmen, especially not to be racial,
3 but especially a white person that's a little bit older, they
4 understand the value of the dollar. So they're not going to
5 spend a ton, even if they're millionaires, they're not going to
6 spend it. It just doesn't make sense.

7 DETECTIVE SMITH: To buy a Rolex?

8 JDW: Yeah. They'll go buy a Rolex and somebody will
9 complement the Rolex before they would complement their Hubler,
10 or [inaudible] or Peugeot watch. Do you see what I'm saying? So
11 it's kind of pointless. I don't know. What do you think is the
12 Bugatti of watches?

13 DETECTIVE SKANE: Gosh, I don't know. That's the
14 thing, is I probably don't even know that brand, you know what I
15 mean? To be quite honest with you, because all that stuff is way
16 out of my price range. It's like a car dealership, you know what
17 I mean? I don't go to the Bugatti car dealership. I'm going to
18 the Ford dealership, or the Lincoln, you know?

19 JDW: You can imagine that now people are enamored by
20 nice cars. They go to car stores. I mean, they might not ever
21 own a Rolls Royce, but they want to see the new colors.

22 DETECTIVE SMITH: They want to see what it is.

23 JDW: So like if they had a watch show, I'm pretty
24 show you would attend [inaudible].

25 DETECTIVE SKANE: Yeah.

1 DETECTIVE SMITH: That's a good point.

2 DETECTIVE SKANE: It would just make me sad, you know?
3 Look at it and go, "I'll never have that ever, ever, ever,
4 ever."

5 JDW: I was going to do some house shopping. And they
6 have something called the Parade of Homes out here in Utah. Have
7 you heard of that?

8 DETECTIVE SMITH: A parade of?

9 JDW: Homes? So pretty much it's just a bunch of
10 manufacturers who built homes.

11 DETECTIVE SKANE: In different areas.

12 JDW: In different areas? They say, "Hey, come look
13 through our model home." So you can walk through and say, "Yeah.
14 I like the way these guys do this," and that kind of thing. But
15 I felt like, I don't know, because I'm from the east coast. But
16 you know, growing up, you know, I lived in pretty decent
17 neighborhoods. And to say the name of the neighborhood was
18 called macho sporting. They would have a house maybe two houses
19 down that would be called the machos, and it would be the model
20 home. They might sell their house when they met their quota--

21 DETECTIVE SMITH: [Inaudible.]

22 JDW: --yeah, after they quota a hundred of the
23 houses, or all the houses of built. Maybe they're still building
24 houses or what have you, but most of the decent neighborhoods in
25 the Maryland, Virginia and D.C. area, they have like always like

1 a model home, or something like that, to give you a perspective
2 of what you would feel like to be in that house.

3 DETECTIVE SMITH: And that's what it's kind of like
4 out here when they go to set up a community. They will have a
5 model home for that community, and then they will have hundreds
6 of lots marked off. But then they will have a variety of
7 different styles of homes that can be built, like three or four
8 different styles of homes that can be built within that
9 community.

10 And so I was looking through the parade of homes and I
11 just got depressed because I realized what I couldn't afford.

12 DETECTIVE SKANE: They do the top-notch thing, you
13 know? Like, man, I could--so what's this, you know, what's this
14 running?

15 DETECTIVE SMITH: Six hundred. Oh. You're like, I'm
16 good.

17 JDW: You get a lot of house for that out here, you
18 know?

19 DETECTIVE SKANE: Oh, yeah.

20 DETECTIVE SMITH: They do.

21 JDW: I'm from Maryland, you know? A one-bedroom
22 apartment, an efficiency studio would cost you almost that.

23 DETECTIVE SMITH: I meant to ask you, where are you
24 from? Because I grew up out there too.

25 JDW: I'm from Maryland. What part of Maryland?

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1 DETECTIVE SMITH: Uh-huh [affirmative]?

2 JDW: You're from--

3 DETECTIVE SMITH: I'm not from Maryland. I'm from
4 Virginia.

5 JDW: Oh. My granddad, he lived in Loudon County.

6 DETECTIVE SMITH: Okay.

7 JDW: And then I'm from Waldorf, Maryland.

8 DETECTIVE SMITH: Got you. I lived in McClane,
9 Virginia for a while up by Tysons Corner.

10 JDW: That's pretty close to Loudon County. And, you
11 know, it's not the same county actually.

12 DETECTIVE SMITH: No. It's not. Is it Arlington? No,
13 it's not Arlington County. I can't remember what the name of the
14 county is.

15 JDW: Loudon County is the county right next to
16 Fairfax, you know? Where George Mason University is.

17 DETECTIVE SMITH: Actually, no. I think it is Loudon
18 County, then.

19 JDW: Yeah. There's like--yeah, I think my granddad
20 lived in Loudon.

21 DETECTIVE SMITH: Yeah. Yeah, it's in Loudon County
22 and [inaudible]. Yeah, you're right.

23 JDW: Well, my granddad, he's been doing blueprints
24 for houses since I was a kid. So he has a good--he can--he's
25 probably one of the few people in the family that can afford a

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1 house out there.

2 DETECTIVE SMITH: Got you. So, well, good. How long
3 have you been out here then?

4 JDW: Fourteen months.

5 DETECTIVE SMITH: What brought you out here?

6 JDW: Okay. I was doing door-to-door sales?

7 DETECTIVE SMITH: Yeah?

8 JDW: Okay. So I know you've seen those random colored
9 guys that knock on your door, and they try to sell you something
10 like a wonder cleaner that's not really a wonder cleaner.

11 DETECTIVE SMITH: We may have come across them before.

12 DETECTIVE SKANE: In the vans?

13 JDW: Yes. I did that for like--ended up for maybe a
14 week. And then it was hot. It was hot. It was like last summer.
15 So I was not--I had just passed the summer before that.

16 DETECTIVE SMITH: The summer before that. So--

17 JDW: Right. So I was, you know, I was like, you know
18 what? I can't do this. And, you know, I bumped into a young lady
19 and, you know, I met her parents. Her parents liked me. Her
20 parents are just like, look, you could actually rent a room out
21 of this house if you get a job with me and pay me out of your
22 first check. And I had to basically commit to them that I wasn't
23 going to like leave or, you know, and that worked out. I stayed
24 there since then.

25 DETECTIVE SMITH: Okay.

1 JDW: So, I mean, it was a--I don't know. It was a no-
2 brainer. The cost of living is cheaper here, you know? I don't
3 have a four-year education. So, I mean, to get a job here is
4 pretty quick. I feel like to meet their quota on nationality,
5 how many people they have to hire, I think they'd just hired me.
6 I was to go apply at a Target, or Convergys, or whatever.
7 They're like, okay, we've only got like four black people. Okay?
8 You know, so like I think they would just hire me.

9 DETECTIVE SMITH: So if you check the box African-
10 American, you've got yourself a job?

11 JDW: Yeah. I think in some ways I think people try
12 too hard to make up for things that happened in the past. In
13 some ways there are unfair advantages. And then I think that in
14 a way I think it is kind of fair. But of course I would say that
15 because I'm black, you know? So.

16 DETECTIVE SMITH: I don't know. I can't speak to that
17 point of view.

18 DETECTIVE SKANE: I can't either.

19 JDW: Well, no. I feel like a lot of--

20 DETECTIVE SKANE: I get what you're saying, though.

21 JDW: I feel like a lot of things are handed--a lot of
22 people are cautious about different things, what they say at
23 times, or their job.

24 DETECTIVE SMITH: Politically correct?

25 JDW: Yeah, what's the correct. Okay, I'm going to

1 give you an example. I know this girl. She works at the Sub Zero
2 in Ogden, the one near the--where the movie theater is?

3 DETECTIVE SMITH: The Junction.

4 JDW: The Junction, where the movie theater is.

5 DETECTIVE SMITH: What's Sub Zero again?

6 DETECTIVE SKANE: Ice cream.

7 JDW: It's like an ice cream place.

8 DETECTIVE SMITH: Okay.

9 JDW: And she hates Mexicans. White lady, right? But
10 she hires--I think she's hired like four in the last six or
11 seven months because everybody that knows her knows she hates
12 Mexicans. But she's the hiring manager, so she can't--it gets
13 her out of the loop. Do you see what I'm saying? Nobody can say
14 anything about her, you know? So I think that's good and that's
15 bad. I think that's good because there's Mexican people that
16 didn't have a job before, now they have a job. Do you see what
17 I'm saying?

18 DETECTIVE SMITH: Yeah.

19 JDW: I think--why I think it's bad because there
20 might have been some white people that were more qualified for
21 the job. They might have--but she didn't even read it. She saw
22 they are Mexicans. She's like, okay, I've got all the people
23 that I know that I'm cool with. If that makes--that sounds too
24 harsh, or--

25 DETECTIVE SMITH: That's their opinion.

1 JDW: Yeah. So, but I've been here for about 14
2 months.

3 DETECTIVE SMITH: Fourteen months?

4 JDW: I was about to leave, too. Y'all are lucky. I
5 was about [inaudible]. Well, no, because I want to have a game
6 plan, you know? I don't want to come in here and, you know? You
7 know, there's people out there, their job is to convict me, you
8 know? And I don't want to, you know, come in here without proper
9 defense and, you know?

10 DETECTIVE SMITH: So what you've got to also
11 understand, on our side of stuff, we're not here for--we're not
12 the convicting side.

13 JDW: I know. You're just the investigators.

14 DETECTIVE SMITH: Exactly. We are gatherers of
15 information.

16 JDW: Right. I'm not talking about y'all. I'm talking
17 about like say this goes to court. Say whatever. There's people
18 who are paid to put me in jail. Do you see what I'm saying? The
19 prosecutors. And so before I turn myself in for such a high
20 degree of crime, I wanted to, you know, make sure I had talked
21 to my family. Let them know what was going on.

22 A lot of times people--you know, I don't know if
23 you've ever been locked up before, but a lot of times people
24 they get locked up and they're not smart enough to have cash on
25 them. So therefore they only get that 60-second phone call, you

1 know? That's not enough time to let somebody know what's going
2 on in your life.

3 So they go--that's a whole--it takes them about a week
4 to get in contact with people and sometimes they don't remember
5 the numbers. It's just a lot of craziness, and you're sitting in
6 there until your court date. So a lot of stress. You lose your
7 job. You know, so it's--you want to have a game plan. And
8 anybody that's intelligent would obviously not commit a crime at
9 all.

10 But what I'm saying is anybody that's intelligent
11 would, before just turning themselves in, would get a lawyer,
12 you know? Get all the facts together. Always tell the truth and,
13 you know, and go from there because you can't get away from a
14 warrant. Especially of this magnitude. I mean, this is a
15 misdemeanor. I think the statute of limitation, I think it goes
16 away in like seven to eight years.

17 If you was to give me a misdemeanor right now, and I
18 was to go to New York, and I would never have got pulled over,
19 they're not going to expedite me for a misdemeanor all the way
20 to Utah anyway. But I'm just saying if it would--I think it was
21 like seven to eight years, it would just go away. If it was like
22 possession of an open bottle, false informant, if it was just a
23 misdemeanor, it would go away.

24 But something like this, first of all, I can't leave
25 the country. There's not too much I could do. If I go to--if I

1 went to Georgia, Florida, Cali, it's going to follow me. They're
2 going to bring me back here within the first 72 hours that they
3 get me, you know? So it's not something that you can actually
4 run from. That's why--so I was trying to figure out how I wanted
5 to go about doing this.

6 That was my whole thing with the whole thing, because
7 you can't--I can't say this happened, or that happened. Or I
8 can't say, you know, like--you just--anything can be
9 misconstrued and viewed, you know--I'm pretty sure both of you
10 are Christians. Let's use either the Bible or the Book of
11 Mormon. It could be interpreted and--

12 DETECTIVE SMITH: [Inaudible.]

13 JDW: You know what I'm saying? The way it's
14 presented, who is saying it, who is relaying the message, all
15 that is important. Do you see what I'm saying? So this is
16 serious, this is very serious. I know I seem chill and
17 nonchalant. And, I mean, there's nothing I can do about it.
18 There's no point in crying. There's no point in me like, oh,
19 that's crazy.

20 DETECTIVE SKANE: That's good. That's good. I mean, it
21 sounds like--I mean, you've had some time to think about it. I
22 mean, you just know that you've got to move forward from here. I
23 mean, let's--

24 JDW: Right.

25 DETECTIVE SKANE: There's nothing else. And that's why

1 we're here, is just to--we got two sides of the story. That's
2 why we're here with you. And we want you to just shoot and give
3 us--

4 DETECTIVE SMITH: We're presenting our plan for you to
5 be able to tell your side of the story.

6 JDW: Well like here, it's because, you know, I want
7 to just be able to say, okay. You know, it was a rainy day and
8 this happened. But see the thing is that I know people, and I've
9 heard this too from other friends. They might have not done
10 anything wrong. So they're like, "You know what? I'm going to
11 turn myself in. I'm going to give a statement. I'm going to say
12 everything that happened from me waking up and brushing my teeth
13 with Crest and an Oral B toothbrush, to me kissing my wife on
14 the cheek after work, to playing with the kids, and everything
15 that happened in between. I'm going to give them the great
16 dynamic breakdown," okay?

17 And then they say one thing wrong, or one thing that
18 can be taken out of context, or that could be used against them,
19 and they didn't mean anything by it. And in their mind, you
20 know, ignorance is bliss. In their mind they're like, "Oh. I
21 didn't do anything wrong," but that one line out of that
22 sentence or paragraph right there is what gets them a charge
23 that they don't deserve. Do you understand what I'm saying?

24 DETECTIVE SMITH: Uh-huh [affirmative].

25 JDW: So it's kind of like I'm not saying I'm bright,

1 or I'm smart, or anything like that. I'm just saying like you
2 want to put your best foot forward and you want to think about
3 things before you just jump, jump the gun, if that makes sense.

4 DETECTIVE SMITH: So we're--we're roughly--I don't
5 know what time it is right now. I think it's probably about 9:00
6 at night. So we're about 51 hours after what had happened,
7 right?

8 JDW: So that gives say about 21 more hours to
9 deliberate or serve me a warrant?

10 DETECTIVE SMITH: No. The warrant has been served.

11 JDW: I thought it was like a 72-hour process.

12 DETECTIVE SMITH: Uh-uh [negative].

13 JDW: You can't just say somebody did something crazy
14 and just lock them up?

15 DETECTIVE SMITH: Well, so the deal with all that, and
16 Stan will correct me if I'm wrong, we didn't have your side of
17 the story. We didn't have anything. All we had is that he--of
18 what happened to Donteus, and that you were the involved party.
19 With that information we took that and we were able to obtain a
20 warrant for your arrest because of that.

21 We bring you here, and this is that platform, the
22 opportunity for you--

23 JDW: What--okay. So explain that, the story. You
24 said that you got a story from Donteus and that was enough
25 information to detain me on a warrant.

1 DETECTIVE SMITH: That's not what I said. What I said
2 is that we had a situation, okay? And you were the involved
3 party in that situation. So when we bring you here, this is your
4 opportunity to tell us your side of that situation. And that's
5 why we want to speak to you about what occurred.

6 How long have you known Donteus?

7 JDW: I've known him--what's this month, November?
8 It's almost the end of November. It's almost over. So basically
9 this month counts for a month. I've known him not even that
10 long. Probably about--I felt as though he was one of my closer
11 friends here. I've known him for about seven, eight, I would say
12 I met him like around June, Mayish, June. No, probably--my
13 birthday's in May, so I met him after my birthday.

14 DETECTIVE SMITH: May or June?

15 JDW: So far I've probably known him for about four
16 months, five months, six months?

17 DETECTIVE SMITH: Yeah, around there, four or five
18 months. What was the context in which you came in contact with
19 him?

20 JDW: You can't laugh.

21 DETECTIVE SKANE: Can we smirk?

22 DETECTIVE SMITH: Before we start talking, just know
23 when we ask you questions--

24 JDW: You're documenting it.

25 DETECTIVE SMITH: No, not documenting. Yeah, we're

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1 documenting everything, but we already know most of the answers
2 to these questions, too. We know the answers to some of these
3 questions, but we want your side of the story, too.

4 JDW: Do you know because you know the truth, or you
5 know what somebody's told you?

6 DETECTIVE SMITH: Exactly. So, yeah, we know what
7 people have told us, okay? So--

8 JDW: See? Because now you're making me sound like--

9 DETECTIVE SMITH: No. Part of the reason why we do
10 that is we just want people to be honest with us.

11 JDW: Well, I mean, there's no point in lying to you.

12 DETECTIVE SMITH: Okay. I agree.

13 JDW: I mean, I heard you all was in my Facebook. You
14 were calling my phone, you know if I'm at some site. Gee, not
15 even my girl--you were at her house. How do you know I'm at her
16 house? You know you're recording me on every store I go into,
17 you know? So I'm not trying to outsmart you here. That's not my
18 intention.

19 DETECTIVE SKANE: I don't--no. We don't think you are.
20 And like you said, we--so from Tuesday night, I think that's
21 when the whole incident took place, right? It was Tuesday night?

22 JDW: Uh-huh [affirmative].

23 DETECTIVE SKANE: Everything is one big day to me
24 right now. I'll tell you, from the time that that happened to--

25 DETECTIVE SMITH: Right now.

1 DETECTIVE SKANE: --to right now, we worked until like
2 12:45, 1:00 that night. Slept for four hours and was back in the
3 office like 8:00 or 9:00. We worked until 4:00 the next morning.
4 And then we, you know--

5 DETECTIVE SMITH: We left at 1:00 last night.

6 DETECTIVE SKANE: Yeah, 1:00 last night. Got some, you
7 know, a little bit of rest today, Thanksgiving Day.

8 JDW: Why ain't y'all with your family? I was thinking
9 that, too, when y'all were banging on the door. I was like,
10 "These people don't do Thanksgiving like the rest of the world?"

11 DETECTIVE SMITH: It's important. It's important.

12 DETECTIVE SKANE: What's Thanksgiving, you know? Right
13 now, we have--so yeah. Like you say, I mean, we did our
14 homework. We did our research. We worked two days straight and
15 had like eight hours of sleep.

16 JDW: And what did you like come up with?

17 DETECTIVE SKANE: Well, we're not going to tell you
18 what we came up with.

19 JDW: Why not?

20 DETECTIVE SKANE: Here we are.

21 DETECTIVE SMITH: Here's the deal. Here's the deal.

22 JDW: All right.

23 DETECTIVE SMITH: If we were to come out and lay it
24 down on the table for you and say, "Hey, look, this is what we
25 have," everything that you just said, the question you just

1 asked me, "Do you know that for truth or did somebody tell you
2 this?" Everything that we were to lay out, it doesn't come from
3 you, right?

4 JDW: My point is that me talking--

5 DETECTIVE SMITH: That's why we're only going to go
6 into everything that what we've learned over this. What we want
7 to know is learn from you.

8 JDW: But see? Like I know anything I say can be used
9 against me. But I can't--nobody--if you were to be like, "How
10 long have you known Donteus," and I'm like, "I don't know who
11 you're talking about," that's not believable. You understand?

12 DETECTIVE SMITH: Right.

13 JDW: So I can't sit here and say I don't know this
14 guy.

15 DETECTIVE SMITH: Okay. So let's just go back to the
16 question when you said, "Don't laugh." How did you meet him?

17 JDW: Okay. Club Wet has male strippers on Tuesday. I
18 was a stripper there probably about a month. You know, I'd come
19 in with dress clothes on. My nickname was Tailor Made because I
20 would come in with like a dress shirt, vest, you know, nice
21 watch, dress shoes, Steve Maddens or what have you. And, you
22 know, make a couple hundred dollars that night. And then if they
23 ask where a private party is going on, I'll make money from
24 that.

25 When I saw him, I was excited because dancing from

1 9:30 to 1:00 or whatever they decide to let us out is
2 excruciating. It's excruciating, strenuous exercise for me. So
3 with me being the only black guy dancing, it's kind of like, you
4 know, whenever they want to see a black guy, that's who got to
5 go up on stage, you know? They got a lot of varieties of vanilla
6 and one chocolate.

7 DETECTIVE SMITH: It's torture for a black guy for
8 stripping.

9 [Laughter.]

10 JDW: So when I saw Donteus, I was like, "Yeah, I can
11 dance less." I didn't care, you know? It was fun for me. I got
12 to meet new girls. When they meet me, it's in a sexual realm. So
13 it's a good probability--it's not like I'm meeting them at a bar
14 or a [inaudible]. It's a good probability I can sleep with them.
15 You know how single, young guys think, you know? So it was fun
16 for me, you know?

17 So when I met him I was like, yeah, you know? We can
18 do this together, you know? And, you know, when girls are
19 hitting me up I'll be like, "Yo, Donteus." This is before I like
20 met him, met his family, you know? Stuff like that. I was like,
21 "Yo, we can do this together," stuff like that. And then that
22 died down.

23 We both stopped stripping there at around--I probably
24 stopped stripping there three months ago. He stopped stripping
25 there like two. Things you probably already know. So that's how

1 that worked out.

2 I have a question.

3 DETECTIVE SMITH: Uh-huh [affirmative]?

4 JDW: Were you all both good at math?

5 DETECTIVE SMITH: I wouldn't call me a math whiz, no.

6 JDW: Were you good?

7 DETECTIVE SKANE: Not great.

8 JDW: All right.

9 DETECTIVE SKANE: I can add and subtract.

10 JDW: All right. So the probability of me leaving
11 today, percentage numbers-wise, would be what?

12 DETECTIVE SKANE: Do you want me to do that math? Or
13 do you want to do that math?

14 JDW: Go ahead and do that math.

15 DETECTIVE SKANE: We're not going to sit here and
16 bullshit with you.

17 JDW: Right.

18 DETECTIVE SKANE: Zero.

19 JDW: Okay. The probability--

20 DETECTIVE SKANE: I'm not trying to lead you on.
21 That's the thing.

22 JDW: No, no, no, no. Like that's cool. That's cool.

23 DETECTIVE SKANE: Leaving free, zero.

24 JDW: Why zero?

25 DETECTIVE SKANE: Why zero? Because as I explained to

1 you, the investigation that we did, and the information we
2 gathered, I mean we just didn't talk to one person. I mean, we
3 know what happened there. We know that you know what happened
4 there. And that's why we want you to tell us the shake-down from
5 your point of view. Because right now we've got everybody else's
6 point of view. We've got everybody else looking at a different
7 angle.

8 The only piece of the puzzle we don't have right now
9 is your piece so that we can see clearly. See? If you're
10 building a puzzle, and you've got the middle piece of the
11 puzzle, the big crucial piece, and you're trying to figure out
12 what that picture is, and we never put that piece in the middle,
13 we're not going to know what it is.

14 JDW: So what if you get the piece?

15 DETECTIVE SKANE: What if we get the piece?

16 JDW: Would the probability still be zero?

17 DETECTIVE SKANE: Zero because--

18 JDW: You guys got a lot of pieces already, huh?

19 DETECTIVE SKANE: Yeah. Let's say we got all the
20 pieces, and we're just trying to figure out if the face is a cat
21 or a lion. We can see round and go, that's probably a lion so
22 let's just put the face on there. And let's make it complete so
23 that we understand it fully. Does that make sense?

24 JDW: Well, if the consensus is that I attempted to
25 kill someone, then that's what is presumed. So what do you want

1 me to say exactly? What would make this, what would give me 20
2 years and make this an easy job for you all?

3 DETECTIVE SMITH: So we're not looking for that,
4 whether or not this is easy or whether or not it's hard we're
5 here. And that's not--we don't look at stuff as easy and hard.
6 We look at stuff as truth and fact, okay? We don't care how
7 difficult the truth is. We don't care how easy the truth is. We
8 care about the truth. We care about the information that's
9 presented to us, okay?

10 Right now, there's no question in our mind, there's no
11 doubt in our mind, and it's not even a discussion whether or not
12 you stabbed him. That's off the table, okay? The issue is we
13 need to get to and understand, is what led up to it, what was
14 the purpose for it.

15 Because right now, you're right. We have it blasted on
16 the internet. We have it blasted throughout all news articles
17 saying Jacquan Wilson, attempted murderer, all right? And what
18 are your friends reading? That's what they're reading. People,
19 I'm sure, have been blowing you up over the last 48 hours.

20 JDW: Every girl I've met in the last--

21 DETECTIVE SMITH: Is saying why did you [inaudible]?
22 Right? What's going on?

23 JDW: [Inaudible] what the cops, you know, they know?
24 Yeah. I think that's ludicrous.

25 DETECTIVE SMITH: So that's the deal. We're not

1 debating it. That happened. He was stabbed six times, okay?

2 JDW: Six?

3 DETECTIVE SMITH: That's a fact.

4 JDW: But is it--but you're saying I did it. You know
5 for a fact that I did it?

6 DETECTIVE SMITH: Yes.

7 JDW: That's what you're telling me?

8 DETECTIVE SMITH: Yes.

9 JDW: Okay.

10 DETECTIVE SMITH: What we're trying to get to and
11 trying to understand--

12 JDW: Because two or three people said that I did it.

13 DETECTIVE SKANE: Yeah. We know you did it. Again,
14 that's off the table. We just want your side, man. We want to
15 know, like he said, we want to know what led up to it, the
16 events of why, and how, and what happened after.

17 JDW: So you can complete the case and feel like it
18 was [inaudible].

19 DETECTIVE SMITH: So here's the situation. Everything
20 that we put down, and stuff that we put in, we're going to
21 compile a file, right? You're not dumb. You're articulate.
22 You're speaking to us. You're running probabilities in your
23 head, and you're thinking about your future, and you took the
24 last 51 hours to figure out what you want to do, okay?

25 JDW: Well, see--

1 DETECTIVE SMITH: Hold on a second. Give me a sec.

2 JDW: Sorry about that.

3 DETECTIVE SMITH: You've taken all this time, okay?
4 And it's good. I don't mind people being meticulous and taking
5 their steps towards what they want to do.

6 JDW: I'm not trying to make your job hard.

7 DETECTIVE SMITH: And you haven't made our job hard.

8 JDW: I'm not trying to go to jail until I'm 57
9 either.

10 DETECTIVE SMITH: Okay and I'm not--look, we're not
11 trying to put you in jail until you're 57.

12 JDW: I know that. I just--

13 DETECTIVE SMITH: Hold on. I didn't finish my thought.
14 And I promise I'll let you talk. The deal is this.

15 JDW: Right.

16 DETECTIVE SMITH: Right? All this stuff that we've
17 compiled, everything that we have, that happened. What we need
18 to do, when we can play everything. Because there's a certain
19 point where our file has to be complete and turned over to those
20 people that are going to deliberate and talk, right?

21 JDW: Uh-huh [affirmative].

22 DETECTIVE SMITH: And they're going to try to decide
23 your future, right?

24 JDW: Right.

25 DETECTIVE SMITH: If we are to close our file right

1 now and send that over to them, what he's talking about, that
2 piece that's missing is your side, is your story. And that is a
3 very crucial piece because what that does--look, they don't look
4 at something and say, "Well, no." And slam it down in that
5 sense.

6 There's a human element to everything that we do, and
7 there's a human side to everything we do. And lawyers and
8 judges, they understand humanity, okay? So all that stuff that
9 we're going to compile in this file and send over to them, if it
10 doesn't have your side of the story, what is there? That you two
11 got in an argument. He was stabbed six times, but why? We don't
12 have that. And that's all they can go on.

13 JDW: Maybe I'm a crazy person that just goes around
14 stabbing people.

15 DETECTIVE SKANE: Are you? Are you a crazy person that
16 goes around and stabs somebody? Because I think just talking
17 with you, I think, again, like I said, you're a smart dude. And
18 we can hold a conversation because I've talked to people that,
19 you might as well ram your head into the wall because it's like
20 are you kidding me?

21 JDW: Me being smart, me, if it was a bad day, if it
22 was a reaction to something that he did, anything that--at this
23 point in time, it's a numbers thing. At this point in time it's
24 about how much money I'm willing to spend for an attorney. It's
25 about--

1 I could say, you know, I could say I didn't meet up
2 with him the day he was stabbed. I could say the day he was
3 stabbed he hit me in the face 15 times, and while I was on the
4 ground, I realized that I had a knife on me and I stabbed him.
5 Whatever story I give you, y'all already have enough information
6 right now to basically lock me away. So I don't understand
7 what--

8 DETECTIVE SKANE: So what it comes down to is are you
9 an honest man, or are you a liar? Are you an honest man, or are
10 you a liar? Do you feel bad about stabbing him, or do you not
11 feel bad? Are you a monster, or are you a human being? Monster?
12 Human being? Do you feel bad? Monster? Human being? That's what
13 it comes down to. Conscience. Do you have any of that? Are you a
14 truthful dude? Are you not? That's what it comes down to. That
15 stuff comes into play, okay?

16 JDW: Well, here's my thing with you. Just because
17 somebody corroborates the story doesn't mean it's true. It just
18 doesn't.

19 DETECTIVE SKANE: So if we've got--we've got one
20 person saying one thing, we don't just jump off with that. If
21 we've got two, three, four, five, six, seven, eight, I mean, if
22 we've got all the people saying the same thing--

23 JDW: But you're supposed to tell me.

24 DETECTIVE SKANE: I don't have to tell you anything.

25 JDW: No. No. I'm saying you're supposed to tell me

1 that I'm facing all this time, and I might as well tell you--

2 DETECTIVE SKANE: I don't know time. I don't know what
3 they're going to do. We don't deal with that. That ain't my job.

4 JDW: How many times have you sentenced somebody?

5 DETECTIVE SKANE: Zero.

6 DETECTIVE SMITH: Do you know how many times I have?
7 Zero.

8 JDW: But it all starts with this.

9 DETECTIVE SMITH: It starts with this because we're
10 the ground level. And if we start at the ground level and send
11 it up to the next level, and it's not complete, and all we have
12 in there is facts of the case--

13 JDW: Can I ask you a question? So if this is you say
14 a dispute between me and him, and I'm here for stabbing that one
15 person, how is there 30 people saying that I stabbed him up? Did
16 I do it at a Walmart?

17 DETECTIVE SMITH: We didn't say 30 people.

18 JDW: Well 10.

19 DETECTIVE SMITH: We didn't say 10 either.

20 DETECTIVE SKANE: What I'm saying, see, I'm giving an
21 example, but things happen fast, all right? I understand
22 emotions were running high, all right? People do things that are
23 out of the ordinary. Did you go there to kill him?

24 JDW: What do you think?

25 DETECTIVE SKANE: I asked you. Did you go there to

1 kill him?

2 JDW: I mean, it doesn't--at this point in time--

3 DETECTIVE SKANE: Did you go there to kill him?

4 JDW: At this point in time it looks like I did. So
5 there's no point in me saying I didn't.

6 DETECTIVE SKANE: It comes down to if did you go there
7 to kill him, or were emotions running high? People make
8 mistakes.

9 JDW: You mean like attempted murder?

10 DETECTIVE SKANE: Well, did you go there to murder
11 him? It's a simple question.

12 [Inaudible. Everyone speaking at once.]

13 JDW: --return a pair of pants.

14 DETECTIVE SKANE: Did you go there to murder him, or
15 did you go there to return a pair of pants? That's the question.
16 Did you go there to murder him or--

17 JDW: Is this an interrogation or an investigation?

18 DETECTIVE SMITH: Both.

19 JDW: It's both?

20 DETECTIVE SKANE: No. We're just trying to get to the
21 bottom of this. So if you don't want to talk, it comes down to
22 this as well. If this was to go to court, and we have what
23 information we have, and it goes to a jury trial--

24 JDW: I already know I'll get like 30 or 25 years.

25 DETECTIVE SKANE: No. If this goes to a jury trial,

1 all right? We've got Jacquan, the liar.

2 JDW: I haven't lied about anything.

3 DETECTIVE SMITH: He's giving an example.

4 DETECTIVE SKANE: We've got Jacquan, the person that's
5 honest and can say, you know what?

6 JDW: But how do you know--

7 DETECTIVE SKANE: Hold it. And there's the Jacquan
8 that made a mistake, what are you going to look at and say,
9 "Well, this guy is a piece of crap." Or, "This guy, obviously,
10 there was a mistake. Has a conscience." And you know what? "I
11 wasn't trying to go there to murder him."

12 JDW: Uh-huh [affirmative].

13 DETECTIVE SKANE: "Things got out of hand."

14 JDW: Can I ask you a question?

15 DETECTIVE SKANE: Hold on. "Things got out of hand,
16 and this is what happened. Things got out of hand. I didn't go
17 there to murder him because I'm not a murderer." Are you a
18 murderer?

19 JDW: I guess. I guess so, right? I'm a murderer,
20 right? That's what this is about.

21 DETECTIVE SKANE: I'm not telling you. I'm asking you.
22 It's not an "I guess." We're not dancing around. Can you answer
23 a yes or no question?

24 JDW: And you're not going to put it back on me. I
25 don't think I murdered anybody. So I don't think I'm a murderer.

1 DETECTIVE SMITH: So that's something I wanted to talk
2 to you about, right? When you asked and you said, "Hey, am I a
3 crazy psycho person that goes around stabbing people?" No,
4 because in the last 51 hours we have no other report of you
5 stabbing anybody, okay?

6 JDW: Maybe I'm not going to [inaudible] I stab
7 people, but he attacked me first.

8 DETECTIVE SMITH: Do you? Do you?

9 JDW: I'm just asking. This may be--

10 DETECTIVE SKANE: We're done with you asking the
11 questions.

12 JDW: Why can't I ask questions?

13 DETECTIVE SKANE: Because right now we're--

14 JDW: Well, I mean, those are the questions I was
15 going to ask you because [inaudible].

16 DETECTIVE SKANE: Hold up. Hold up. We're running the
17 interview here, okay?

18 JDW: Why are you getting upset with me?

19 DETECTIVE SKANE: Well, because--

20 JDW: Because I'm not saying what you want me to say?

21 DETECTIVE SKANE: No. No. It's because you're
22 basically just dancing around.

23 JDW: Dancing around what?

24 DETECTIVE SKANE: Hold up, stop with the questions,
25 okay? You're just dancing around.

1 JDW: Uh-huh [affirmative].

2 DETECTIVE SKANE: And you either want to tell us what
3 happened and give your side, or you don't want to. That's what
4 it comes down to. And so that's on you. And that's on you to
5 figure out if you want to have--to tell us, and if you have a
6 conscience, if you feel bad about what happened. Or you want to
7 tell us that there was some sort of an altercation or not.

8 And so that's what it comes down to. And so what we're
9 going to do is I'm going to let you think about that. Do you
10 want to tell us what happened, or do you not? Because that's
11 what it comes down to. Do you want to give us that piece, your
12 perspective? That's on you. And we're in here--

13 JDW: Well, personally I think that it's hard to talk
14 to somebody who already thinks I'm guilty of a crime. And I
15 think that you, you know what I'm saying? I think that you think
16 we had some type of confrontation, and I stabbed him up, and
17 fled the scene. Basically what [inaudible]. And I think that
18 you--I wouldn't even say it's a skin color thing, I just think
19 you presume that I'm guilty. You're just as bad as the cop that
20 asked Emily when I was in the hospital. "Are you okay? Did he
21 rape you," just because she's crying. I'm a rapist because--

22 DETECTIVE SKANE: I don't know what that person said.

23 JDW: But I'm just saying.

24 DETECTIVE SKANE: It's hard for me to get the full
25 picture. I've got what I have. So, yeah, this is what I have.

1 This is the piece that I have. So of course I'm going to say I
2 know what happened, because I only have what I've got.

3 JDW: But you weren't there. You don't know what the
4 dynamics of our relationship.

5 DETECTIVE SKANE: I don't. And that's why we need you
6 to tell us. I don't know any of that. You basically just said
7 what we've been trying to do. I don't know your dynamics or your
8 relationship, but you keep asking us questions and not telling
9 us. And that's all we want.

10 JDW: So what was the purpose of going over to
11 Donteus'? The purpose of going to his house?

12 DETECTIVE SKANE: Uh-huh [affirmative]?

13 JDW: Donte had--Donte had basically--Donte had been
14 going--had been looking for me. I don't know what it was. But he
15 was making a young lady from [inaudible] uncomfortable. Well,
16 that's what she said. I don't know. I don't know what he was
17 actually looking for. But when confronted, he said he wanted
18 some pants that he had loaned me a couple of months ago.

19 DETECTIVE SMITH: Uh-huh [affirmative].

20 JDW: So, I mean, if I was to have went to his house,
21 that would probably be a good reason to go over there.

22 DETECTIVE SMITH: Is that why you went over there?

23 JDW: I think certain questions like that, I would
24 probably need an attorney present. Don't you think? Do you think
25 that would be smart? I mean, if you were in my position, what

1 would you do?

2 DETECTIVE SMITH: I'm not in your position. I'm asking
3 you.

4 JDW: I know you're not. And you never probably will
5 be because you're smarter than that. But I'm just saying if you
6 were.

7 DETECTIVE SMITH: I'm not thinking of myself as being
8 smarter, and I'm not thinking of myself as a higher road person.
9 I just want to know if you took the pants over there that day.
10 If that was the purpose of going over to the home.

11 JDW: I believe that me answering questions right now,
12 saying I went over to his house, or saying I did not go over to
13 his house, whether it was to return pants, whether or not we got
14 into a confrontation while the pants were being returned,
15 whether I say it was self-defense, I feel like all that can be
16 used for me and as well as against me. Don't you think? Oh, you
17 told me not to ask you anymore questions. I understand.

18 DETECTIVE SMITH: I didn't tell you that.

19 JDW: So I won't ask you no more questions. So I told
20 you so--

21 DETECTIVE SMITH: I'll tell you what. I'll answer
22 questions, but I'm not going to answer the questions and try to
23 put myself in your shoes. So when you ask me a question of if I
24 should do this, those are the questions that I'm not going
25 answer.

1 JDW: This is what I will say, since I'm not leaving
2 tonight anyway. I will say that I'm not--I don't have a history
3 of stabbing people. I don't have any felonies to my name, which
4 I'm pretty sure you did an extensive background check. I've
5 never had a felony before. I'm not a murderer. I'm not a killer.

6 In the event--and anybody could be caught in this
7 situation, you know? In the event that I'm threatened, or I had
8 been assaulted, or something was done to me, and I need to
9 defend myself, if that person doesn't come out the successor, it
10 doesn't make me the murderer, okay? And that's my statement.

11 No, I did not go to his house to stab him. That would
12 be stupid. That doesn't make any sense to me, and I just don't
13 understand that.

14 Now, if somebody who is 6'2", built, attacks me, and I
15 just happen to have a weapon on me, it might not be his lucky
16 day. And that's all that--and it's not--and that--and everything
17 happened so fast, you know? I don't really have a great story to
18 tell you.

19 I'm not that type of person. So no. If somebody--it
20 could happen to you. It could happen--what happened that day
21 could happen to anybody. No, I'm not that type of person.

22 So, I mean, if somebody comes at me, and you know--
23 everything that I'm saying is being recorded. So, I mean, if
24 somebody comes at me, attacking me, and I defend myself, and I
25 use a pocket knife, or I use my fist, or whatever, what have

1 you, that doesn't make me--that doesn't mean that I was wrong.

2 And because that person ended up in the hospital, and
3 I don't, that makes me the murderer or killer? You know, I think
4 this justice system isn't right. I mean, all y'all are trying to
5 do is get me to say some shit that's going to put me away. And
6 you don't even know--you know what I'm saying? You're not giving
7 people the benefit of the doubt. You know what I'm saying?

8 Do I probably make dumb decisions? Yeah. Am I some
9 killer? No. Am I a really, really, bad person, a liar and a
10 monster? No. But if I got to do something to protect myself, or
11 if I'm married, my wife, or if I have kids in the future, you
12 know, I'm going to do whatever it takes. And I hope that
13 everybody is like that, you know? And that's all it is.

14 I don't have beef with people. Like I said, I really
15 like the guy. But when somebody is coming at you, or if it's not
16 really about pants in the first place, you know, or somebody is
17 coming at you, you know, what do you do? Just let them beat the
18 hell out of you so you don't get an attempted murder charge, or
19 you don't get an assault charge? What do you do?

20 DETECTIVE SMITH: I feel like everybody has the right
21 to defend themselves.

22 JDW: But see? My problem is that, you know, you
23 already have your--you already have your whole game plan laid
24 out. You already have in your mind what type of person I am,
25 what I did that day, who I did it to, why, why I came there,

1 whatever the case was, you know? The fact that it would even be
2 thought of that I went there to do something to the guy, or if I
3 did show up there, that's crazy. I feel like--

4 DETECTIVE SMITH: We're not saying that's what
5 happened.

6 JDW: I think between me and Donte, it was a
7 confrontation I couldn't avoid. The smart thing to do, you know,
8 would have probably, you know, had one of those three or four
9 people that's giving you stories other than Donte, deliver the
10 pants after like--

11 You know when you break up with a girl? You're
12 married, I'm sure. But you know when you break up with a girl,
13 or a girl breaks up with you, and you really still like that
14 girl. So you're like, "Hey. I want those pants I left over
15 there," you know? Or, "I brought my T.V. over so you could have
16 a T.V. when you first moved into your apartment. So let me come
17 back and get my T.V." And you go over there, and you really just
18 want to ask her about some guy you thought she was sleeping
19 with. Or, you know, you really just don't want it to end at that
20 point in time.

21 And at that point in time, you know, before that day
22 happened, I blocked him on Facebook. I don't think his cell
23 phone was on. So I didn't have to worry about him calling me. I
24 eliminated him from my life. And the only way he could start
25 some shit, the only way he could start a fight with me, or a

1 confrontation, was to be like, "Oh, yeah. I loaned that dude
2 some pants two months ago."

3 If you loaned somebody some pants, and you don't ask
4 for it back for two months, that means, to me that means that
5 you wasn't really worried about those pants. You know what I'm
6 saying? You don't wear the same pants every day. You loan
7 somebody some pants, they wear it for a day, and that's it.

8 But if you want to see that person, or if you need an
9 excuse, you'd be like, "Oh, yeah. I let them use my pants. I let
10 them use my shirt. Oh, let me--yeah. I could use that as
11 leverage to sever the ties."

12 DETECTIVE SMITH: So when did you and Donteus have a
13 falling out?

14 JDW: That question I don't mind asking--answering. We
15 became--we were really tight, and probably around three months
16 ago. And then around two months ago, we both--well, we were
17 both--he was chatting with this girl, and I was chatting with
18 her. And the girl basically--I was at Donteus' house. Donteus
19 was with his girlfriend. I was there, and the girl, she had
20 chatted with Donteus like months ago, but like had stopped
21 chatting with him. And then she was chatting with me. It was
22 just like a dating site.

23 So me and Donteus, his girlfriend is at the house, and
24 then she lived down the street. We go pick her up. Needless to
25 say, she was flirting with me and Donteus while Donteus'

1 girlfriend was there. Donteus' girlfriend wants to leave because
2 she's upset because Donteus is flirting with the girl right in
3 front of her.

4 DETECTIVE SMITH: So there's four of you there at the
5 time?

6 JDW: At that time, yeah. Donteus--now at this time
7 Donteus has had so many girls over to his house, I didn't know
8 that his mom had put a rule in place that he's not allowed to
9 have girls over there because of it.

10 DETECTIVE SMITH: Is this when you were living there?

11 JDW: I was never living there.

12 DETECTIVE SMITH: You didn't live there?

13 JDW: No.

14 DETECTIVE SMITH: Okay.

15 JDW: Why would you assume that I was living there?

16 DETECTIVE SMITH: The only reason I asked that is
17 because Irving and Elizabeth stated that you had stayed there
18 for a couple of weeks or a bit of time.

19 JDW: I was there--okay. So in Ogden I went through--I
20 went through--I wouldn't say an eviction. Basically, the person
21 that was renting the room out to me didn't have my name on the
22 lease. So they could just ask me to leave at the drop of a dime
23 and not get in trouble for it by law.

24 DETECTIVE SMITH: Got you.

25 JDW: And so at that time, Donte was the closest--I

1 was an orphan. Donte was the closest person that I knew, and I
2 was there for the max four days. I don't think his parents would
3 have been cool if I had been there for a couple of weeks. But,
4 you've got--yeah. It's a true story.

5 DETECTIVE SMITH: You've been over there before. So--

6 JDW: I had been over there a little bit. And anyway,
7 this was around that time period, if that's what you're asking.

8 DETECTIVE SMITH: Yeah. That was just a different time
9 period.

10 JDW: So--and this was around the time we had a
11 falling out. I wasn't aware that he was not allowed to have
12 girls over there because he already had his girlfriend over
13 there. He had different girls over there all the time, you know?
14 And I didn't know. And I didn't even, never put it in my head
15 that every time he has a girl over there, his parents aren't
16 home. I never processed that. They're not my parents. I don't
17 have to hide from them.

18 So bring the girl over. Needless to say, he drops his
19 girlfriend off because she's upset with him about his behavior,
20 flirting with the other girl. And while he's dropping the girl
21 off, I'm sleeping--I'm having sex with the girl. And I would say
22 about 15 minutes into it, he opens the door, like quietly, and
23 starts recording it. And things transpired.

24 She realized he was in the room. She was flirting with
25 him. She likes both of us. She goes on with it.

1 At the end of the night--now, his sister, he has a
2 sister, the one that works at Intermountain Health Care. I'm
3 pretty sure you know everybody. I forgot her name. But she's not
4 too fond of me. So I have my own personal reasons, but that's
5 not what you're here to learn. So she didn't know Donteus slept
6 with the girl as well. She thought it was just me because Donteus
7 basically did what he needed to do and left, because he knows
8 how his sister is. And his sister basically said, "Oh, Jacquan
9 slept with this." And that was pretty much the end. "Jacquan
10 slept with this girl," and blah, blah, blah.

11 And I told his mom right in front of him. I was like--
12 this is when we had a falling out, right about here. I was like,
13 "Look. I'm not even going to lie to you. I'm not going to take
14 the fall for this guy. We both slept with them in the house. I
15 didn't know it was a big deal because he brings girls here all
16 the time. He's going to have--I know he's going to have a girl
17 here tomorrow when you're at work." I mean, he doesn't work. So
18 what do you expect?

19 So at that point in time he was like, "Oh, you're a
20 snitch." And, you know, he had animosity towards me at that
21 time.

22 DETECTIVE SMITH: For telling the truth to the mom?

23 JDW: Yeah, basically. I mean, I didn't lie. So I
24 don't really live--you know, urban culture, black culture, they
25 have this thing where oh, if you call the cops, you're a snitch

1 or whatever. I mean, I don't really call the cops. But I mean if
2 some--I'm not going to sit here and look like the bad guy
3 because you want to make yourself look good.

4 And that was--I feel like if he was a friend, he would
5 have been like, "Mom, we both slept with the girl," you know?
6 "You know Jacquan is going through a bad situation, his
7 situation. Don't put him out because of something we both did
8 and something that I do all the time behind your back anyway."
9 That's what I feel like a good friend would have did.

10 And I wasn't going to sit there and look like--because
11 she doesn't really know me like that at this point in time. You
12 know, I'm not going to really--because I felt like she was
13 making it seem like, well, Donte would never do nothing like
14 this if you wasn't around. And I was like--

15 DETECTIVE SMITH: So you were the reason for Donte's
16 bad behavior?

17 JDW: Yeah. That's what she was basically--that's what
18 I felt like. And I'm like, "Look, you're not going to paint this
19 picture about me to make me look like this super bad person."
20 And I'm sorry that I dragged this thing out, but--

21 So basically it started there. And what that girl, she
22 was, you know, I apologized to her. She said she wished that
23 night never happened, you know? It's not like we raped her or
24 nothing, but she felt kind of slutty afterwards. She kind of did
25 feel trapped. Just being honest. And she called--you know, she

1 wasn't really that mad at me I guess because I was already the
2 one sleeping with her. And with Donte coming in after we were
3 already sleeping together, it makes him look like the guilty
4 party, if that makes sense. Like I didn't stop having sex with
5 her and say, "Okay, Donte, you can come in now." Like I was
6 already in the middle of it. And unless it was planned before
7 that, then that was the only way I could be guilty.

8 And Donte, she called him yelling at him. Like, "I
9 can't believe you did that." To save himself, he was like, "Oh,
10 Jacquan said you like doing stuff like that. And so I didn't
11 think it was a big deal." You know, "It was his idea." Things
12 that weren't true.

13 And that was when I was like--I felt like he did that
14 because she lived down the street from him. And if he blocked
15 me, or she hates me, then, you know, it would--

16 DETECTIVE SMITH: You're away from her.

17 JDW: I'm out of the equation. He can just mess with
18 her whenever he wants to. You know what I'm saying?

19 DETECTIVE SMITH: Saving face in front of her.

20 JDW: Right. And I felt like--I'm like, "Look, man.
21 You already had a girlfriend over there that you should have
22 been paying attention to. Yeah. I'm not going to lie. You made
23 me feel kind of weird just walking in there. I kind of like this
24 girl, number two."

25 Yeah, she could have said stop. Yeah, I could have

1 said, "Hey, I feel uncomfortable. Would you leave the room?" But
2 the fact that she was cool with it showed me what kind of person
3 she was and maybe I shouldn't get serious with her. But she's
4 not a bad person because she wanted to sleep with two guys at
5 the same time. I don't know. I'm not judging.

6 DETECTIVE SMITH: [Inaudible.]

7 JDW: Yeah. I'm not judging her. But I felt like man,
8 you know? Lying on me. Like I just feel like that was--like I
9 didn't lie to your mom. Like I told her the truth. You can't get
10 mad at me for that. You understand? You know, I could see if it
11 was like something crazy. But it was--your mom ain't going to
12 kick you out. You're 32 years old. If she was going to kick you
13 out of the house for being a loser, she would have already did
14 it. Do you see what I'm saying?

15 Like all she wanted to do is exert all the anger from
16 you on me because I'm not her kid, and then I'm going to be out
17 of the equation. Like, you're not going to--but you're not going
18 to make me look like, to some people that are helping me, like
19 I--because they felt like they were disrespected and all this
20 other stuff because they let me come into their house.

21 And I'm not going to let you make me look crazy while
22 you're out here doing the same thing I'm doing, plus more, and
23 you look like the angel. No, that's not cool. And he didn't like
24 that. But I told the truth. But for you to lie on me to make
25 yourself look good, that's what I didn't like.

1 And I was like you know what? She's probably banging
2 two guys at the same time, twice a month, you know? Maybe that's
3 not a big loss. I didn't want to fight him over that.

4 Okay. I used to date this girl named Erika, which I'm
5 sure you all know this. I have a protection order against her.
6 You all know this too.

7 DETECTIVE SMITH: Uh-huh [affirmative].

8 JDW: Okay. I looked for her on Erika's Facebook.
9 Didn't message her. Didn't contact her. I looked on her
10 Facebook, and I realized in September she had went to D.C.
11 Maryland, D.C., basically my hometown without me, and it kind of
12 hurt my feelings because I was like we didn't work out. We had
13 planned to go to D.C. a little bit earlier than September. But,
14 you know, I was just looking back and like dang. I wish things
15 could have went differently.

16 So I tell him about her. This is maybe a week after
17 that whole girl situation I told you about. So I tell him about
18 her. And I'm like, "Hey, you know? There's this girl I used to
19 talk to. And she went to D.C. about"--you know, we were like
20 friends. I could call him about my problems, you know? I gave
21 him--I'm like, "Oh, he lied on me. But maybe he felt pressured
22 and he felt like he had to lie." You know, people react
23 different in different situations. You don't know.

24 DETECTIVE SMITH: Yeah.

25 JDW: So I give him another chance, you know? And I

1 tell him about her. He's like, he's like, he's like, "Yo, you're
2 not going to believe this." I'm like, "What?" He's like, "Uh,
3 she uh, she had been talking to me on Tinder." It's one of those
4 little date sites. I know you've heard about it. So, I'm like,
5 I'm like, I'm like, "You're just saying that." And he's like,
6 "No. For real. I can screenshot the messages."

7 So I'm like, "Dude, we dated seriously. I met her
8 parents and her grandparents. We went snowboarding together." So
9 I sent him videos of me and the girl going snowboarding, like
10 just a lot of pictures to let him know that, okay. Me and this
11 girl were serious. And if he wants to pursue her, you know,
12 that's cool. She's my past. But I'm just letting him know that
13 it would be kind of weird for probably me and her for you to
14 seriously date her after I seriously dated her, and we're kind
15 of close, me and him.

16 So he's like, "Whoa." Now at this time I didn't really
17 tell him about what happened between me her or the protection
18 order because I just felt like that was none of his business,
19 you know? I don't know what kind of conversations they had had.
20 And I was like, "Look. If you just want to have sex with her," I
21 was like, "don't say nothing about me. Don't say you know me."
22 You know, I didn't say anything about a protection order. But I
23 figured if she knows that he had a--that she has a protection
24 order against me, she might be thinking I'm using him to get to
25 her.

1 DETECTIVE SMITH: A third-party contact?

2 JDW: Yeah. So I'm thinking in my head like, you know,
3 don't mention me because that might hurt your chances. So in my
4 mind, I'm not trying to prevent him from sleeping with her
5 because let's keep it 100, you know? If she broke up with me in
6 March or, you know, and she's going to meet me with him, and
7 he's a guy that I know, statistics say that she's talking to a
8 lot of guys. I just happen to know this one.

9 DETECTIVE SMITH: Yeah.

10 JDW: Come on. So I'm thinking in my head like, you
11 know, meet up with her. So we all talked, me and him. Because we
12 didn't talk like all the time. We don't talk for like a couple
13 of days. And one of his girlfriends, the girlfriend that was at
14 the house--

15 DETECTIVE SMITH: This is still in September, correct?
16 Is that what that--

17 JDW: September or October. This is end of September,
18 closer to the beginning of October at this point in time. This
19 is a few weeks into when I started the story. And I started the
20 story probably like a couple of months.

21 DETECTIVE SMITH: June? Beginning of September or
22 later?

23 JDW: Yeah. So he--hold on. What was the last thing I
24 told you?

25 DETECTIVE SMITH: You told me that it had been a

1 couple of days that you had talked. Some of his girls had--

2 JDW: Oh, okay, yeah. So now I can't remember if he
3 went out of town to Denver or something like that. That's
4 another thing. He went out of town to Denver for--I don't know
5 if it was to pick up drugs and re-sell, or drugs to use. That's
6 not my business. But he went to Denver to pick up some items.
7 And he asked me if I had cash to give to him around this time.
8 And I was like, "Dude, I don't have the luxury of living with
9 mommy and daddy. You live rent free. I'm not giving you no
10 couple hundred dollars. You must have lost your mind." And, you
11 know, so he had attitude with me about that. He felt like he was
12 entitled to get money from me. You know what I'm saying?

13 He wasn't mad like "I want to fight you, Jacquan,"
14 mad. He was just--you know when somebody--you have a friend of
15 yours who is accustomed to--and you say that "no" that one time.
16 They're like, "Oh, forget you, then." They might have a little
17 fit for like a day or two. He was upset about that.

18 Now, there was this girl at the club that I slept with
19 named Amy. And I slept with her. And I realized after a couple
20 of times of sleeping with her that she's crazy. So I told Donte
21 I was--Donte, I was there before him. So I--basically all of--
22 most of the black girls--I mean, most of the white girls that
23 like black guys I have probably already gotten their number. I
24 might have slept with them. I kind of knew who to tell him not
25 to mess with by the time he had got there.

1 So I was like, "Hey. Don't mess with Amy. She's crazy.
2 She's single for a reason." And, you know, I guess he looked at
3 it like, "Oh, you just don't want me to talk to her because you
4 slept with her or," I'm like, you know, "she's crazy. She told
5 me that she dated some dude"--or one of the father of her kids,
6 they got into an argument. And the dude left in her car. And she
7 called the cops and reported the car stolen like that he was
8 going to take it to the east coast or something.

9 No, for real. And when she told me that, that's all I
10 needed to know. I was like--

11 DETECTIVE SMITH: That's pretty lowbrow. That's
12 [inaudible] right there.

13 JDW: So, but when I tell you the rest of the story,
14 you're going to really laugh. So I said, "Don't mess with her."
15 So like this is when we first met in like June. So like every
16 month--and she told me, she text me one day too. She's like,
17 "Yeah. We got a sexy guy at the club now. His name is Donte."
18 You know what I'm saying? We got into an argument. I was like
19 whatever.

20 I was like, "Donte, you can mess with that crazy chick
21 if you want to. But I'll tell you right now, if you make her"--
22 she's going to be nice at the beginning, because everybody is.
23 But you make her mad, she'll leave you somewhere. She'll leave
24 you jacked-up. She's not right. And he's like, whatever.

25 So like every month that I met him, I'm like--I would

1 bring it up to him. Like, "Hey. You be messing with that girl?"
2 He's like, "No, man. I don't talk to her. She want me bad,
3 though."

4 So he went to Denver. He wanted to use the money to
5 get to Denver, or get back from Denver, or something like that.

6 DETECTIVE SMITH: The money he asked you for?

7 JDW: Yeah. I think it was either for that--I think it
8 was that. And so he ended up going to Denver with Amy. And this
9 is how I found out.

10 That week I was at his house is what I meant to tell
11 you. That week that I stayed at his house, I think it was the
12 second day I was there, his mom was like, "He don't never listen
13 to me. That's how he got stuck in Denver." And I was like, "He
14 didn't tell me he got stuck in Denver." I was like--it was
15 actually that week that I was at his house was like the week he
16 had came back, or something like that. Or he had been back a
17 couple of days before that.

18 So I was like, you know, "You didn't ever tell me you
19 got stuck in Denver. You made it seem like you had the best time
20 in the world. Like, hey, fool. How did you get stuck in Denver?"

21 And then he's looking at his mom like--so I'm like,
22 "No, tell me." I'm smiling now because I got throne. Like, "Why
23 did you get stuck in Denver?" He's like, "Man, that girl Amy,
24 you know?" So I don't process it immediately because I'm like I
25 know you didn't go to Denver with Amy--

1 DETECTIVE SMITH: The Amy.

2 JDW: It's crazy. Like he's just not that stupid. He
3 just can't be. He's older than me. He can't be stupid. So he's
4 like, "You know Amy." I'm like, "Dude, I don't know Amy." He's
5 like, "You know Amy, man. Amy." I'm like, "Amy from the club?
6 The Amy that I told you not to talk to? The Amy I told you not
7 to mess with because she's crazy?" "Yeah, man. We got into an
8 argument and she just left me in Denver with no money." I was
9 like--

10 DETECTIVE SKANE: Told you so?

11 JDW: I was like, "I don't understand you, dude. What
12 do you think was the whole purpose for me telling you not to
13 talk to her? He was like, "Oh, no. I just slept with her a
14 couple of times." I was like, "All of your girls,"--I'm like,
15 "You know, whatever."

16 That's when I realized, I'm not trying to go
17 overboard, but maybe you might not see it from our perspective.
18 He should be worried about his daughter and getting his life
19 together. His parents are really trying for him, something that
20 I don't have. I come from a decent background as well, but my
21 parents, they're not going to let me be 27 and living under
22 their roof. You know, I've got to do door-to-door sales, work at
23 Target. They're not going to--they don't believe in that, you
24 know?

25 So that's when I realized this guy really has a

1 problem. Like he just chases girls. And he'll lie on somebody to
2 get them. He'll lie to his parents to get them. And that's when
3 I told him--I have a little cousin named Tyrek that lives in
4 D.C. He's not that much younger. He's about 25. He does UPS
5 routes from like 5:00 a.m. to whenever. He's a contractor. So he
6 doesn't have a set schedule. Whenever he's done with all his
7 drop-offs.

8 So I talked to him on the phone and I'm telling him
9 all of this. And he's like, "You don't need"--I mean, "I know
10 you feel comfortable because you're black, and he's black, and
11 y'all are both from the east coast, and I can relate. But y'all
12 have a totally different mindset. He doesn't seem that bright to
13 me, and he doesn't seem like he has your best interest in mind.
14 And it seems like only one thing matters to him in his life, and
15 that's sex with women."

16 Like I said, I don't think he's a bad person. He might
17 be saying whatever he's saying about me, and that's cool. I
18 don't think he's a bad person. I don't have nothing against him.
19 You know, but when somebody like--

20 All I have is myself. I don't have mom and dad, a
21 cousin, a brother. I don't have anybody out here. You know, I
22 just wanted to be here and start my life over. I don't have a
23 gang of friends. I don't have a great support team. And I'm not
24 trying to make myself sound like a victim, and that's not what
25 I'm trying to tell you.

1 But what I'm saying is that I'm used to having to
2 stick up for myself and, you know, having to keep myself
3 protected.

4 DETECTIVE SMITH: Watch out for number 1.

5 JDW: Right. And you've seen the movie where Lawrence
6 Fishburn was like, "Self-preservation is the first rule," or
7 whatever. So when somebody is coming at me, or attacking me--I'm
8 not going to go looking for a fight. Because I feel as though in
9 a state that's 90 percent white or caucasian, me getting locked
10 up, it could happen, you know? This is a numbers game. It could
11 happen, you know? It could just happen.

12 So if I'm looking for a fight, now I'm just being
13 stupid. Now I'm increasing those numbers. Do you see what I'm
14 saying? But if I'm put in a position where I have to defend
15 myself, what am I--there's nothing I can do about that. And I
16 know people could be like, well--

17 Hypothetically let's say I did go to his house. Let's
18 say I did go to return some pants. Let's say he attacked me
19 first. Let's say I just wanted to return some pants. I already
20 blocked him. I wanted to just get him out of my life. He had
21 been popping up at her job. He had been popping up at our house.
22 You know what I'm saying?

23 Things you already know, and I just wanted to give
24 him, you know, let's just say hypothetically, because there's
25 something else I wanted to say leading up to this. I was going

1 to get into this because this is what you want to know. But just
2 hypothetically, because you need to know the whole story. If I
3 just say, oh, I did this and that, you can't--you need to know
4 everything that happened, you understand?

5 So hypothetically, I still look bad because people
6 would be like, well, if hypothetically you did show up just to
7 return some pants, if hypothetically you are the type of person,
8 if hypothetically you don't have any ill-will against this
9 person, why have a knife on me?" Do you see what I'm saying? And
10 that's what the problem is, you know?

11 Some things are by chance. You know, I know married
12 couples, men. They have guns on their waist because they have a
13 license to carry. That could happen, you know? And if a problem
14 was to arise, in the heat of the moment they feel like their
15 wife is threatened or their life is threatened, you know, they
16 might shoot that person. Do you see what I'm saying?

17 Like you, you can't put me in a box. I know I might
18 fit a demographic or a stereotype, and that's all great. But it
19 could happen. Certain things could happen to anybody if that
20 makes any sense.

21 DETECTIVE SMITH: There's nothing illegal and there's
22 nothing to second-guess about somebody carrying a knife. There's
23 nothing wrong with that.

24 JDW: But still, if somebody was--

25 DETECTIVE SMITH: I have a question for you real

1 quick.

2 JDW: Okay.

3 DETECTIVE SMITH: If that falling out happens--

4 JDW: Yeah. I wasn't done with that. I mean, are y'all
5 on a time crunch right now?

6 DETECTIVE SMITH: No.

7 JDW: Oh, okay. We'll keep on talking.

8 DETECTIVE SMITH: So the falling out happens late
9 September, early October.

10 JDW: Yeah, but there was more to it. But yeah, keep
11 going. I know I'm probably dragging it out.

12 DETECTIVE SMITH: No. I mean, if there's more to it,
13 by all means expound.

14 JDW: I feel like the more details, the better your
15 case will be. The better it would be for them to either--

16 DETECTIVE SMITH: It's not about the case. It's about
17 your information. That's what it's about. So go ahead and
18 expound on that.

19 JDW: No. Like honestly, I just feel like at this
20 point in time it would be smart for me to tell you nothing. Like
21 I will just tell you what I know.

22 I know, right now, like I know for a fact it would be
23 smart for me to tell you I'm not going to talk to you until I
24 have proper representation. And leave, and go to my cell and
25 chill there until I have court and they give you a high-ass bond

1 or no bond. That's what would be the smart thing.

2 But for real, for real, like I just feel like there's
3 certain things that you--I just feel like there's certain things
4 that you need to know. And say I do get 20 years, you know, and
5 y'all see it, or y'all hear about it or whatever, I want you all
6 to know like, okay, he might have been a dick. He might not have
7 answered all the questions how we wanted him to, but I really
8 feel like he was a genuine person, you know? I really feel like
9 he could have been telling the truth. I really feel like that
10 justice maybe wasn't in his favor, or the way that things
11 happened wasn't in his favor.

12 That's the reason why I'm telling you all this, if
13 that makes any sense.

14 DETECTIVE SMITH: Sure.

15 JDW: I know this is as dumb as fuck. Excuse my
16 French. This is dumb as heck for me to even talk to y'all. I
17 know this. I've been in situations before where I've been
18 charged with things. Not this magnitude, but I've been charged
19 with things and I told the person, "Hey. I'm not going to talk
20 to you. I'm not." And they're, like, "Okay, you have that
21 right," you know? And they leave. And the charges are dropped.

22 It's happened to me before. They did all the same
23 stuff. This carries up to whatever, and I already have your
24 friend over there in the room to say this and that. Hey, they
25 did all that mind game stuff. It's happened to me before. But at

1 this point in time--

2 It's Thanksgiving Day and I'm here talking to y'all
3 about this. I mean, I know this is your job, and you get paid
4 for it. And you probably would rather be with your families too.
5 But this is not what anybody asks for, you know? So I just feel
6 like I would, you know, just tell y'all the fair truth, you
7 know? The truth of what led up to what's going on.

8 Because if you just say, "Chris Brown and Rihanna got
9 into it," you know, everybody's going to be like, "Chris Brown
10 is the one who beat her," or whatever. But they don't know if
11 Rihanna gave this guy some type of life-threatening disease, or
12 she fucked his cousin, or you don't know why he snapped like
13 that. Like are y'all getting this right now?

14 DETECTIVE SMITH: Uh-huh [affirmative].

15 JDW: Like, well, what happened? Well, she hit him
16 first and he had to retaliate. If he didn't knock her out, she
17 was going to keep hitting him. You don't know what--you can't
18 judge. And right now, for somebody to not know me and judge the
19 situation is just as bad as--that's like me looking at Bruce
20 Jenner and being like, "Oh, you're just gay. You're just--you
21 feel like you're a woman, but you just wanted attention. Your
22 career has been over. You just wanted the campaign." But that's
23 not--does that make sense a little bit?

24 DETECTIVE SMITH: Yeah.

25 JDW: Can I ask what you're thinking? Can I ask that?

1 DETECTIVE SMITH: I'm thinking I want to know more
2 about what you said. You said you wanted to expound.

3 JDW: Can I ask what you're thinking? Because you look
4 really pissed off.

5 DETECTIVE SKANE: Oh, no. I'm sorry. Maybe it's the
6 beard that makes me looked pissed off. No, but I am. I'm
7 thinking the same thing because you said you weren't quite done
8 when he asked you that question. And you were like, "I'm not
9 quite done."

10 JDW: So just be honest with me because I don't really
11 think I'm going anywhere for a long time. So it doesn't matter
12 what you tell me. But what you--the stories you've gotten, and
13 what I've told you so far, do I sound like--

14 DETECTIVE SMITH: I think everything that you've told
15 me up to this point has been truthful.

16 JDW: It doesn't sound like liar of the year?

17 DETECTIVE SMITH: I don't think you're lying to us. I
18 don't think right now I would say that you're being deceitful or
19 untruthful about what's going on, okay? And I don't blame you
20 for not wanting to open up and sing like it's an opera. I don't
21 blame you for that, okay? If I was in your situation, I don't
22 know how I'd feel. So I can't empathize with you. I can
23 sympathize with your situation, but I don't know. So I'm not
24 blaming you for any of the action that you're taking.

25 You asked me why we acted the way we did for the last

1 48 hours of contacting you. So one thing you've got to
2 understand is what were the facts that were given to us? Fact:
3 he got stabbed, right? That's a fact. That's not disputable.
4 That's a fact.

5 JDW: Yeah. I think he was in the hospital, according
6 to a report.

7 DETECTIVE SMITH: Yeah. So he got stabbed. That's a
8 fact. He got taken to the hospital, okay? The other fact was
9 that you were there at that place, at that time. And now you're
10 not, and we can't find you, okay? The wounds and everything that
11 happened, they were life-threatening wounds, okay?

12 At that time, at that place, and the way we acted for
13 the last 51 hours trying to locate you, that's the only way we
14 could think; is this is what happened because we had no other
15 intelligence to tell us otherwise.

16 JDW: And I felt like--

17 DETECTIVE SMITH: So that's when I say when we come
18 here--and I'm not trying to cut you off right there. It's not a
19 matter of what we're thinking. Because we don't think. We don't
20 formulate opinions. We formulate ideas of what happened, and we
21 try to investigate those ideas. But in the end, the number one
22 thing that our goal is, and the number one way we try to go
23 about it is gathering facts, and that's it. So that's why we've
24 acted the way we have in the last 24-48 hours.

25 JDW: All I know is that I told you the truth. And I

1 don't know if it could probably be used against me. I'm pretty
2 sure you're going to go over these tapes and, you know, I don't
3 know.

4 DETECTIVE SMITH: They'll rake through them, sure.

5 JDW: All I know is that, you know, if in fact I did
6 stab somebody, it wasn't out of malice behavior. It was to
7 defend myself or whoever was present.

8 DETECTIVE SMITH: So let's get into that.

9 JDW: Can I like tell the story leading up to that? Or
10 do I have to--

11 DETECTIVE SMITH: Sure.

12 JDW: --just get into that?

13 DETECTIVE SMITH: No. Go ahead.

14 JDW: So where was I? Do you remember?

15 DETECTIVE SMITH: You were--you said you wanted to
16 expound a little bit more on--

17 JDW: Because when I usually talk to people, and they
18 talk for five minutes, and I be like, "So where was I?" They be
19 like--I'll be like, "You weren't even listening."

20 DETECTIVE SMITH: No. You said you were about to
21 expand on--when I asked you about the rifts that had been
22 formed--

23 JDW: Right.

24 DETECTIVE SMITH: Between you two, what was the rest
25 of that that goes into it, because we--

1 JDW: I was in the middle of talking about something
2 though. Was it Erika?

3 DETECTIVE SMITH: No. You told--yeah. You finished all
4 of that with Erika. You're right. You did. She had gone to D.C.

5 JDW: But it was something else too.

6 DETECTIVE SKANE: It was past that. So she went to
7 D.C.

8 DETECTIVE SMITH: You were sad.

9 JDW: Yeah. I was pretty sad about that.

10 DETECTIVE SMITH: He finally made the move and you
11 found out about Amy and him going to Denver. And so you had just
12 decided--you had spoken to Tyreke. Is that right?

13 JDW: So I had spoken to my cousin, right? And he was
14 like, you know, "Leave that guy alone. It seems like"--

15 DETECTIVE SMITH: Where were you living after you left
16 then? Where did you live after you left his house?

17 JDW: The married couple that y'all spoke with--

18 DETECTIVE SMITH: What, out in Kearns?

19 JDW: Yes.

20 DETECTIVE SMITH: Okay.

21 JDW: They let me be there for about a week. Now, a
22 lot of places that I called to rent rooms and stuff like that,
23 they would say online that they're available. But when I would
24 call, they'd be like, "Oh. We're not available." I need
25 something immediately. They're like, "Oh, we're not available

1 for a couple of weeks." Or, "We're not available until the first
2 of next month." They just have all these excuses. And I'm like--

3 I don't want to sound stupid and say it's because my
4 name is Jacquan. But how come your ad says you're available and
5 now you're not?

6 DETECTIVE SMITH: Maybe they have a tenant and they're
7 just trying to fill it.

8 JDW: Yeah. So maybe it was filled by the time I
9 called or I don't know. But it was hard. My bottom line is it
10 was hard for me to find a place, whether it was bad luck, dumb
11 luck, whatever it was. Because dumb luck can happen if something
12 good happens. And you're like that was dumb luck, okay? Well, it
13 was just bad luck.

14 So I feel like at that point in time me--the wife
15 there was like, you know, "I kind of have a weird feeling about
16 Donte. I feel like from talking with him, he's trying to compete
17 with you, or he's hating on you for some reason." And I was
18 like, "Wow. He has everything. He has parents that have decent
19 jobs. They let him live there. He's in a plush situation. Why
20 would he hate on me? I have to, you know, I have to provide for
21 myself. I don't--like why would he hate on me?"

22 And, you know, I don't know. I didn't see it until,
23 you know, certain things started happening. We would hang out,
24 and he would be trying to like peacock himself, you know? Like,
25 you know, like he'll flirt with a girl and then say a little

1 joke about me to try to demean me. And I was like--

2 And she'll even say that. She was like, "Why do you
3 act like that towards your friend?" Do you know what I'm saying?
4 And he'd be like, "Oh, I'm just playing with him, you know?" Or
5 he'll be like, "You dress like a fag." Or he'll just say
6 something weird to make himself look cooler. And when I would
7 say something to him, he's like, "Well, that's what I do with my
8 friends." And I'd be like, "I've never seen you do that with
9 anybody else." He's like, "You've never seen me around my other
10 friends."

11 I'm like, "Why can't you"--I was like, "this is what
12 really makes me think that you're doing it on purpose. You only
13 do it when we're around other girls."

14 DETECTIVE SMITH: Uh-huh [affirmative].

15 JDW: You never do it when we're alone. We're just
16 chilling, shooting the jive. You only--

17 DETECTIVE SMITH: You enter in the component with
18 girls.

19 JDW: Yeah. You try to make it seem like you're the
20 baddest thing. And that's cool, but like it's like how he lied
21 on me. Like but a fraction of that, you know? It's like a
22 smaller, more subtle, something that you would have to catch on
23 to, not just blatant if that makes any sense.

24 DETECTIVE SMITH: It gets stored back here.

25 JDW: Yeah. So I'm thinking in my head like, "What's

1 wrong with this dude?" And I'm not going to lie. I come off not
2 humble, but I come off a little meek. I don't come off as much
3 of a fighter, you know? He's insinuated to me that he thinks
4 that he could beat me in a fight, or things of that nature.

5 He's always--when other girls came over, he was like,
6 "You might meet my family one day. But if you're a punk or a
7 bitch, then, you know, they might not like you." And I'm like,
8 "I'm not a punk or a bitch." And he looked at me up and down and
9 was like, "We can get the gloves right now."

10 So I felt like he always--he only did that--that
11 conversation only transpired because he had brought a chick
12 over. See what I'm saying? You're trying to make yourself--

13 DETECTIVE SMITH: Trying to maneuver.

14 JDW: Yeah. And I just--and this is not important
15 probably, but it put my guard up. Like, you know, I don't know.

16 DETECTIVE SMITH: What your intentions would be?

17 JDW: Yeah. So the whole Erika thing. He hit me up and
18 was like, "I messed with her," or something like that. And this
19 is where it got real bad. And I was like, "Oh. That's what's
20 up."

21 No. This is what I was talking about. His girlfriend
22 that was with him that day, when there was four of us in the
23 house, when he was in Denver, she was--she was like light way
24 flirting with me. Like I was like, "Yeah. You've been a bad
25 girl. You need a spanking." And she was like, "Come do it."

1 But I don't think she would have really did it. I
2 don't know, because it probably would have got back to Donte.
3 But she really likes Donte. She doesn't want to lose him for
4 like some one-time sex, you know?

5 So I guess somebody said some things on her Facebook
6 wall. And to cover her tracks when Donte came back, she was
7 like, "Oh. He was trying to holler at me." You know, this, that
8 and the third. I'm not saying I'm not guilty, because I was
9 flirting with her. But she was flirting with me as well. Do you
10 see what I'm saying?

11 DETECTIVE SMITH: Uh-huh [affirmative].

12 JDW: So that's when it really started. He's like,
13 "You can't get the girls I get." And "Step your game up," and
14 blah, blah, blah. And I was like, "Man, we were just playing
15 around." Like, "There's been a million times that me, you and
16 her been in the room, you know? We know each other, you know?
17 She met us at--you know? She's watched us both dance. I'm pretty
18 sure she found us both attractive. It's not that serious."

19 And I guess he felt threatened. He was like just going
20 on and on about it. And he's like, "Yeah, that girl Erika, she
21 gives good head," and all that. And I'm like, "All right. Well,
22 looks like you're tripping today." So I never talked to that
23 girl again. Not Erika, but I'm talking about--

24 DETECTIVE SMITH: His girlfriend.

25 JDW: Yeah. I never mentioned nothing. I never said

1 anything to her. And let's speed the story up. The young lady
2 that I was supposedly with that day.

3 DETECTIVE SMITH: What day?

4 JDW: The day he was stabbed.

5 DETECTIVE SMITH: Okay.

6 JDW: I started hanging out with her a lot. And she
7 has a friend of hers that's, you know, kind of promiscuous. And
8 like, "Hey, Jay, you got a friend?" You know? And I'm like,
9 "Yeah. I got one friend."

10 That's another reason why I did put up with stuff like
11 this, because I felt like he was my only friend. I felt like if
12 I was a situation, like a college situation where I had a lot of
13 friends, or I had been in Utah for 10 years and I knew a lot of
14 people, I think I probably would have X'd him. Not like that
15 happened, but I just feel like he was pretty negative and
16 whatever.

17 But anyway, I was like, "Yeah." So that's how he knew
18 where they lived. Me, her, we came and got him from Layton.

19 And--

20 DETECTIVE SMITH: And what's her name?

21 JDW: I'm not trying to get anybody--I know people
22 that don't mind having me locked up for life, but I'm not trying
23 to get people in trouble. But y'all know who--he knows who I'm
24 talking about. You know, I can't--she lives close to Tenth West.
25 Y'all know who I'm talking about.

1 DETECTIVE SKANE: You can say her name. It's not like
2 you're outing everybody.

3 DETECTIVE SMITH: She's not in any trouble.

4 JDW: Huh?

5 DETECTIVE SMITH: She's not in any trouble.

6 JDW: No?

7 DETECTIVE SMITH: She's not, not as far as we can
8 tell.

9 DETECTIVE SKANE: No.

10 JDW: Her name is Deanna. So--hey, I had a question
11 too. If someone was to push me, or punch me, or attack me, and I
12 stabbed him up, is that not allowed? Not shoot them, but just
13 stab them. And they are a noticeably larger person than me. Is
14 that not allowed in the U.S.? Or am I a murderer? Serious
15 question.

16 DETECTIVE SMITH: I understand.

17 JDW: I just wanted to know is that--because I don't--
18 I'm wondering.

19 DETECTIVE SMITH: So there's not a situation where I
20 can give you a black and white answer on that, right? That's
21 not--there's so many varying things that are in that.

22 JDW: But is that not allowed?

23 DETECTIVE SMITH: There's so many--that's the thing.
24 That's why we get into the equation.

25 JDW: I'm actually serious about that. If I go in jail

1 with inmates. They're not this bright. They're in the same
2 position as me. They don't know. You know? That's why I'm
3 asking. Is that not allowed, or is that wrong, or is somebody
4 not allowed to do that? Is somebody not--

5 DETECTIVE SMITH: So again, I'm going to tell you that
6 every single situation, every single one, there's not a black
7 and white answer. If you punch me four times, I can stab you
8 once. There's no equation like that. It doesn't come down to
9 numbers, okay?

10 What it comes down to is the situation. And every
11 single situation is different. This situation is different than
12 another that's going to occur. Things happen, but at the same
13 time we have to figure out with this. This is unique. Every
14 person is unique. You're unique from somebody else. Donteus is
15 unique from somebody else.

16 I'm not going to sit here and say, "Yeah, it's
17 allowed." Or, "No. You can't do that."

18 JDW: Or in the event of say someone--

19 DETECTIVE SMITH: Let's talk about your event. That's
20 what we're here for.

21 JDW: This is kind of relative, you know? Someone is
22 attacking that person, and you want to say, "Oh. He was stabbed
23 six times." What if he was stabbed enough times to the point
24 where he stopped attacking that person?

25 And you're probably thinking, "Oh, Jay, you're kind of

1 smart. So maybe you would manipulate this to make yourself look
2 like the not guilty party."

3 DETECTIVE SMITH: No. I'm not--

4 JDW: But if that was the case, would I still be a
5 guilty party?

6 DETECTIVE SMITH: I'm not trying to say that you're
7 trying to manipulate the situation and/or any of that. What I'm
8 trying to say is this situation is unique. And I can't give you
9 an answer based on everything that you're trying to say. We
10 can't answer that.

11 JDW: All right. Well, if that was the situation--

12 DETECTIVE SMITH: If you want to talk about your
13 situation, I want to talk about it. That's what I'm trying to
14 tell you.

15 JDW: But here's the deal. Like, here's the deal. Like
16 everything that I'm saying is being recorded, you know? So if I
17 really don't know something, and I get myself in trouble because
18 I didn't know something, I don't think that's fair to me. Does
19 that make sense?

20 DETECTIVE SMITH: No. I agree with you.

21 JDW: That's all I'm trying to say. Like if somebody
22 is attacking somebody, and that person gets stabbed once and
23 they are still attacking them; he gets stabbed twice, they're
24 still attacking him; or if he gets stabbed a couple more times
25 and the person stops, he might even lay down, but the person is

1 still screaming. So you know the person is not dead or whatever.
2 And you leave because you feel threatened, did that mean you
3 tried to kill that person? Or does that mean you tried to defend
4 yourself?

5 DETECTIVE SMITH: Is that what happened?

6 JDW: I'm asking you.

7 DETECTIVE SKANE: So maybe this might help clarify
8 some things. We got a warrant for you for attempted murder.

9 JDW: Right.

10 DETECTIVE SKANE: We couldn't track you down. We
11 couldn't talk to you. We got what we had, the facts. And the
12 only way for us to talk to you was to get this warrant. And let
13 me put it in a different way here. If it played out the way
14 you're saying--

15 JDW: And I talked to you the first day?

16 DETECTIVE SKANE: No one called us. There was a dude--
17 he, to be honest, straight up. He almost died in the hospital.

18 DETECTIVE SMITH: Three times.

19 DETECTIVE SKANE: Three times, almost died, okay? And
20 we're not lying to you. That is the honest to God truth.

21 DETECTIVE SMITH: He lost four liters of blood.

22 JDW: Can I say something real quick? Can I say
23 something real quick? Not that I don't care about my fellow man,
24 but if he attacked me--okay. Let's just say that's true. Because
25 I know it doesn't look like I'm--

1 DETECTIVE SMITH: Hold on. You posed a hypothetical
2 question.

3 JDW: You're right. You're right.

4 DETECTIVE SKANE: So he almost died three times in the
5 hospital, okay? We didn't get a phone call. We didn't have
6 somebody stick around. So we've got to look at it a different
7 way.

8 We've got a dude that got stabbed and it doesn't
9 appear to be self-defense. If I stab you a bunch of times, then
10 I take off running, what does that--that's not going to look
11 good.

12 So a dude gets stabbed. He's lying on the grass. Gets
13 taken to the hospital. Almost dies three times, and we don't
14 hear from the guy that stabbed him, how are we supposed to look
15 at that? Let me ask you that question? Does that look good in
16 your mind?

17 Put yourself in our shoes because you keep trying to
18 get us to go into your shoes. Come into our shoes. How does that
19 look?

20 JDW: And I'm going to ask you a question. That looks
21 horrible. It looks like some dude got mad over some jealousy
22 issue over some girl, and showed up at his house, and stabbed
23 him up. That's what it looks like. Does that make sense?

24 DETECTIVE SKANE: So, yes. And that's why we--when you
25 say, "You've already formed your opinions," how--what are we

1 supposed to do?

2 JDW: That's my whole--that's my whole--my whole point
3 is this. The fact that he was stabbed up, the fact that he
4 almost died, the fact that the perpetrator fled, even if it was
5 self-defense, even if I was to tell--say--tell the truth and say
6 what happened, and it was self-defense, I'm still getting 30
7 years.

8 DETECTIVE SKANE: Who told you that?

9 JDW: That's B.S. man.

10 DETECTIVE SMITH: Who told you that? Who told you that
11 if you defend yourself you're getting 30 years?

12 JDW: Because it doesn't look like I defended myself.
13 So if I did--the reason why I wanted to tell you every little
14 portion of the truth is so that when it got to that, you could
15 form a conception as to--

16 DETECTIVE SMITH: Okay. So--

17 JDW: --well maybe, maybe--I'm going to throw this out
18 there. Maybe Donte did almost die. But maybe he should have just
19 let Jacquan hypothetically drop his fucking pants off. Do you
20 see what I'm saying? Like maybe Jacquan knows that you already
21 felt like you wanted to--like how am I--

22 DETECTIVE SKANE: How is that going to look when you
23 say that?

24 JDW: Sure.

25 DETECTIVE SKANE: Does it look better three days later

1 when we--

2 JDW: Okay. When it first happened, I didn't know--
3 first of all I didn't see--first of all, let's just put it
4 hypothetically speaking. There wasn't blood all over the place.
5 I didn't know the person was almost dead. I don't know any of
6 this because I left. I didn't sit there and say, "Oh, I feel so
7 bad." If a person attacks me, and I defend myself, and I leave,
8 I'm trying to get out.

9 You've seen in all the movies when a serial killer,
10 you know what I'm saying? Even though I was on their property,
11 it makes it look worse. But when a serial killer attacks
12 somebody, and they just do what they've got to do, they don't
13 know if he did, if they just hurt him a little bit. They don't
14 give a fuck. They're just trying to get out of there. Do you see
15 what I'm saying?

16 DETECTIVE SMITH: So, Jacquan--

17 JDW: That's all I'm trying to say. Like--

18 DETECTIVE SMITH: Jacquan?

19 JDW: And I feel like if I--say I do say, "Oh, yeah. I
20 went to return some jeans," but when I tried to return the
21 jeans, he started arguing with me. Got in my face and was like,
22 "you know what? Just step." And he took me as stepping, instead
23 of confronting him and trying to fight him because I'm a punk.
24 And when I tried to get to Tia's car, he pushed me and hopped in
25 the car.

1 And what if I say I dragged him out of the car and he
2 tried to fight me. And I just happened to have a knife on me.
3 And I stabbed until he couldn't fight me anymore. And I just
4 left. And it just happened all like that.

5 If I was to say that, I'm still looked at as a
6 criminal because--

7 DETECTIVE SMITH: Why?

8 JDW: Because I didn't come forward and say it in
9 three days. But let's be real. It was on the news.

10 DETECTIVE SMITH: So you freaked out, you just stabbed
11 somebody.

12 JDW: Nobody's looking at it like that.

13 DETECTIVE SMITH: Okay.

14 JDW: Nobody is going to give me the benefit of the
15 doubt that that even happened.

16 DETECTIVE SMITH: Why?

17 JDW: All right. Let me just put it realistically
18 speaking. This stuff don't happen every day.

19 DETECTIVE SMITH: Did he threaten you before that day?

20 JDW: You know. You know darn well that he came--

21 DETECTIVE SMITH: Did he threaten you before that day?

22 JDW: All right. That's what I was trying to get to.

23 He had been looking for me. Did Tia not show you the messages on
24 Facebook? "If I ever see that dude, he better give me the
25 pants." And, "I got something to say to him." And, "I got

1 something to tell you."

2 DETECTIVE SMITH: No, but you did tell us that he had
3 been showing up at the house the week before.

4 JDW: It wasn't the week before.

5 DETECTIVE SMITH: Okay.

6 JDW: All right. So let me just [inaudible]. Okay. So
7 where did I leave off, at Tiffany? So, Tiffany. He's pissed off
8 about that. Okay. So then he came over. That's how he knows
9 where Tia lives. And he was like--what the hell did he say?
10 Because I know your job is just to get information. I'm trying
11 to think.

12 Okay. So him and Petra didn't get along. But I did see
13 him and Tia kind of like--

14 DETECTIVE SMITH: If I remember right, Petra is Tia's
15 roommate?

16 JDW: Correct.

17 DETECTIVE SMITH: All right.

18 JDW: So him and Tia was like flirting with each other
19 and whatnot. And I ain't gonna lie. You know what I'm saying? I
20 told a lot of my friends, when I was asking them for lawyer
21 money, I told them what happened and stuff like that. And they
22 were like, "Oh. I mean, even though you weren't necessarily in
23 the wrong, you're black, you're in Utah. The person almost died.
24 You had a knife on you. You showed up at their house. Pretty
25 good chance you're still going to do a lot of time."

1 DETECTIVE SMITH: Are any of those your judge, or are
2 any of those your lawyers?

3 JDW: No, they're not.

4 DETECTIVE SMITH: [Inaudible.]

5 JDW: If people felt like I was in the right, I
6 wouldn't be here. Y'all wouldn't, you know--it doesn't matter.
7 You've got to look at it from my point of view. I'm here on a
8 murder charge, and they are going to give me a high-ass bond.
9 I'm going to have to pay all this money I don't have for a
10 lawyer. And even if it was self-defense, right now I'm like ISIS
11 to Utah. I'm like a big terrorist. Do you know what I'm saying?
12 They got SWAT teams outside the house.

13 So all of this from my side isn't what matters. It's
14 the person who didn't get the best end of the fight who--it's
15 their side who matters.

16 DETECTIVE SKANE: Why didn't you call the police after
17 it happened?

18 JDW: In the event that it happened, I just--I don't
19 know. I don't really have a great explanation. I've never really
20 called the police on people. You know, I didn't--

21 DETECTIVE SKANE: When I say "people," I mean call the
22 police and say, "I just stabbed this dude. We got in a fight. He
23 attached me." We didn't get that phone call.

24 JDW: So that's the question people are going to ask,
25 and because I don't have a great explanation for that.

1 DETECTIVE SMITH: Were you scared afterwards?

2 JDW: Okay. In the event that that happened--let's
3 just say it hypothetically happened. Because I'm not going to
4 sit here and say anything. But this recording will have a
5 general conception of what happened.

6 In the event that that happened, Tia was frantic. Tyra
7 was gone. Barely made it back to Salt Lake. Made it--you know
8 what I'm saying? And I just needed--I just felt like I needed to
9 get away, you know? I know him. I know him. I know him. He'll be
10 all wrong. And he'll lie or say anything.

11 I remember his sister put a post on his wall about it.
12 She was missing some money and he was like, "I don't know what
13 she's talking about. She just doesn't like me." And he'll say
14 anything to make himself not look like he's a bad person. And
15 let's be real. He might look tougher. He might be bigger and
16 buffer, but who is the person that still lives at home with
17 their mom and dad? Who is the person out here surviving by
18 themselves?

19 You know, hypothetically speaking, when he was on the
20 ground, he called for his dad. But you weren't calling for your
21 dad when you pushed me, or when you punched me, or when you was
22 in my face, when you were popping up at Tia's house like you
23 were some type of gang member late at night, saying, "Hey,
24 where's my stuff?" Do you know what I'm saying?

25 Basically, the ma is threatening me, you know? But

1 now--

2 DETECTIVE SMITH: Was there a direct threat made to
3 you?

4 JDW: He was just like--there was no, like, "I'm going
5 to kill that person." And on my end, there was no threats made
6 to him. I blocked him on Facebook. I didn't--me and him both
7 know we would not have met up with each other, I would never
8 have saw him again, if he didn't pull that, "Oh, can I get my
9 jeans back?" Which my intentions were to wash--I never got a
10 chance to wash the jeans.

11 My intentions were to wash it. How you going to wear
12 somebody's shirt, stink it up, and then be like, "Oh. Here's
13 your shirt back." No, you're supposed to wash your stuff, their
14 stuff. And I never got a chance to do that.

15 Hypothetically speaking, when I showed up, I told him
16 all that. I was like, "Look. The reason why I hadn't returned
17 them back to you is because I wanted to wash them. I wanted to
18 give them back to you." But he wanted to argue.

19 There's a key element. The young lady, I forgot her
20 name. There was a big dispute. That's what really set him off.
21 That's why he wanted to fight me. That's why he wasn't going to
22 let me leave the house without a fight. He just didn't--he just
23 didn't win. That's all it is.

24 And yes. Yes. If I was a good old, perfect person that
25 doesn't make mistakes, yes. Hypothetically speaking, I would

1 have called the cops and said, "Hey. I stabbed up a guy in his
2 own front yard. I know it doesn't look good, but he was coming
3 at me. It's self-defense."

4 You know, I didn't think like that. I guess I'm not
5 that smart. I guess that's not a number. I guess that's not a
6 probability for me.

7 DETECTIVE SMITH: When he attacked you, did he have a
8 weapon?

9 JDW: See, that would play a part, too. I don't know.
10 I don't--I didn't see anything. Hypothetically, I didn't see
11 anything, you know?

12 DETECTIVE SMITH: How many times did he hit you?

13 JDW: I don't know. There's no--I didn't really give
14 him a chance to like get me, get me. Does that make sense?

15 DETECTIVE SMITH: Uh-huh [affirmative].

16 JDW: Hypothetically speaking, you know, for instance,
17 similar usage like [inaudible], I didn't show up to his house
18 and start stabbing him either. Because if you look at the
19 dynamics of where it happened, he got stabbed up all the way
20 where Tia's car is. His jeans were at the door. So obviously
21 somebody had walked up, dropped off his jeans, basically said
22 good-bye to him, but that wasn't enough.

23 Somebody followed somebody to the car and wanted a
24 confrontation, even when that person didn't want confrontation.
25 They just wanted to drop off some jeans. So think about it.

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1 Just think about it. How did it--did I stab him up and
2 drag him to the car? No. I gave him the jeans, and then he
3 didn't want to end it right there. He was mad.

4 DETECTIVE SMITH: So--

5 JDW: And another person that you interviewed knows
6 that I'm innocent. Another person that you interviewed knows
7 that she's the reason why he attacked me, hypothetically.

8 DETECTIVE SMITH: And who is that person?

9 JDW: I forgot her name, but her name on Facebook is
10 Too Grown.

11 DETECTIVE SMITH: Is Too Grown?

12 JDW: Yeah. Her name on Facebook is Too Grown.

13 DETECTIVE SMITH: Loke G-R-O-N? Like grown man or--

14 JDW: Too, T-O-O, Grown, as in grown man.

15 DETECTIVE SMITH: T-O-O Grown, okay. What did she--how
16 do you know that she would say that that's what evolved?

17 JDW: Because she hit me up on Facebook and she was
18 like--okay. So just to speed it up, okay? What day is it
19 Thursday? Friday?

20 DETECTIVE SMITH: Today's Thursday.

21 JDW: Thursday? All right.

22 DETECTIVE SMITH: All day.

23 JDW: All right. Hold on one moment. Saturday and
24 Sunday I was chilling with Amanda, the girl that was at the
25 house.

1 DETECTIVE SMITH: Uh-huh [affirmative]. Yeah. She
2 confirmed that.

3 JDW: Right. Okay? Saturday or Sunday I was with
4 Amanda. And does she think I'm a murderer? Or was she scared to
5 tell me the whole time?

6 DETECTIVE SMITH: Pretty much all she said was that
7 she kept asking you what happened, and you wouldn't really get
8 into any detail. She didn't give us an opinion of what happened.
9 But she just said that you never told her what happened. So, I
10 didn't say, "Do you think he did this and that he is a
11 murderer?" So, I'm sorry. I can't answer that question, as far
12 as that.

13 JDW: So what have I told you thus far?

14 DETECTIVE SMITH: So what do we have, just to re-cap?

15 JDW: It's not like it's Sports Center, but keep
16 going. You've got to have a sense of humor, man.

17 DETECTIVE SMITH: You do a little bit, sure. Scott Van
18 Pelt, I'll try to do my best impersonation. Not really. So what
19 happens is you guys meet in June. Both stripping. Became
20 friends.

21 At a certain point in late September, early October,
22 you guys have a falling out, all right? Okay. We don't need to
23 get into details of the falling out. But you guys had that
24 falling out, all right? At which point he downs you out to
25 another girl so he could save face, right?

1 JDW: But that's not really--I would be cool if that
2 was really what happened. I would be--

3 DETECTIVE SMITH: But he didn't listen to you counsel.
4 And then, pretty much at a certain point, you blocked him,
5 blocked his number, blocked Facebook.

6 JDW: So before I blocked his number, so now that
7 you've re-capped. Okay, now I need--this is what I'm going to
8 tell you. This Too Grown chick had hit me up within the last two
9 weeks. No, last two or three weeks she hit me up.

10 DETECTIVE SMITH: Okay.

11 JDW: And on her Facebook--and I could show you the
12 messages. I could show you--if I could get my phone out, I could
13 show you. She was, me and her, me and Donte were her mutual
14 friends on Facebook. Or she was mutual friends with me and
15 Donte, whatever way you want to look at it.

16 And she was like, "Hey, I talked to Donte for a bit.
17 Is that okay?" I was like, "Did you sleep with him?" She was
18 like, "No." I was like, "Have you ever done anything sexual?"
19 She was like, "No." She was like, "He was in my car. We talked.
20 I didn't like his five-year plan. And he didn't seem like a good
21 fit for me. And, you know, we just talk on Facebook now and
22 then. But I think he's a cool person, though. I just don't think
23 he's for me." I was like, okay. And--

24 DETECTIVE SMITH: This is before you had cut Donte off
25 as far as like phone and Facebook?

1 JDW: This was around--this was before I blocked him.
2 But all this time I was kind of like standing away from him, not
3 talking to him.

4 DETECTIVE SMITH: Okay. So I go on. She's telling you
5 he was in the car, and didn't like the five-year plan.

6 JDW: And so she starts talking to me. She never wants
7 to meet up, though. She acts like she's too busy, or whatever
8 the case may be. So I sent her a few pictures of me. And she's
9 like, "Oh. It sucks that I'm one of these girls that's not like
10 on you, wanting to be with you, whatever." I'm like, "Okay. Not
11 really." You know, and I make a little joke. I'm like, "You're
12 right where I want you to be," or whatever, you know?

13 And then one--I think it was one day last week, or
14 earlier--yeah, last week or this week. I made a comment, and I
15 was like, you know--I just wanted to see what the truth was
16 because I felt like she wasn't being nice. I know that sounds
17 horrible, but I felt like--

18 DETECTIVE SMITH: Do you need a glass of water?

19 JDW: Or a towel. But should I stop talking?

20 DETECTIVE SKANE: No, go ahead.

21 DETECTIVE SMITH: No. You're all right.

22 JDW: I've been incriminating myself a lot.

23 DETECTIVE SMITH: Truth doesn't incriminate.

24 JDW: Yes, it does.

25 DETECTIVE SMITH: No, it doesn't. Truth tells a story.

1 JDW: I have not admitted nor denied that I know Donte
2 or that I stabbed him up, correct?

3 DETECTIVE SMITH: Correct. Keep going with the girl.
4 She sent you a message.

5 JDW: And I said to her, you know--a couple days went
6 by. You know, she didn't get back to me. And I was like--I
7 wasn't--I thought her and Donte [inaudible]. So I was like,
8 "Donte said he hit that." Donte never told me that, but you
9 know? I didn't think it was wrong, since Donte lied to that one
10 girl that lived down the street. You know what I'm talking
11 about?

12 DETECTIVE SMITH: Uh-huh [affirmative]. Yeah. Yeah.

13 JDW: I was like--and if she says, "Well, we only did
14 one time." If she said that, then I knew, okay. Then I would
15 have been like why didn't you tell me? But she was like--she was
16 like--she was like, "Who said that?" Initially, I said a friend
17 of mine said that. And she was like, "What friend?" And I was
18 like, "The only mutual friend we have." And she was like, "Well,
19 I'm going to hit him up right now." And she's like, "Donte
20 [inaudible]" I was like, "Obviously, he's lying."

21 I was just playing the games that he played. When he
22 did it to me, it was cool. When I did it to him, he went--this
23 is the point in time where he wanted to fight.

24 He hit me up saying, "You are lame. You're a punk. You
25 this and that and a third." And he was like, "You need to step

1 your game up. Stop lying or [inaudible]." And I wish I could
2 show you the phone. And I blocked him. That's when I blocked
3 him. This was like earlier this week.

4 Literally 45 minutes later, he shows up at Tia's door.
5 Talk about, "Oh, where's my jeans." Or, "I need my jeans." This
6 is on a Monday. Then I went over there on Saturday and said,
7 "I'm going to get you your jeans back as soon as I wash them."
8 The jeans, if they fit me, they obviously can't fit you anyway.
9 Do you see where I'm going with this?

10 DETECTIVE SMITH: Uh-huh [affirmative].

11 JDW: Like it had nothing to do with jeans. But jeans
12 is the only thing that ties us together because he didn't want
13 to be messing with it.

14 DETECTIVE SKANE: I have like a towel, a couple
15 tissues, whatever. You can decide whatever you want.

16 JDW: Okay. Well, thanks. [Inaudible.]

17 DETECTIVE SKANE: No. You're all right.

18 JDW: So basically, like it's being recorded. So it
19 doesn't matter. But I told him--I told him basically--can you
20 explain it to him? [Inaudible] right now.

21 DETECTIVE SMITH: So pretty much Too Grown--he sent
22 Too Grown a message on there saying, "A friend said that Donte
23 slept with you." She said, "What friend?" He said, "The same
24 mutual friend we have." So she hits up Donte. Donte says, "You
25 never--I never said that." So he pretty much made up a lie to

1 see if he could catch her playing a game with Donte.

2 JDW: Yeah. I thought it was cool since Donte thinks
3 that--thought it was cool to lie about that other girl. Donte
4 lied on the girl that lived down the road. So 45 minutes later,
5 after sending that, he pops up at Tia's house.

6 Now Tia, this is what Tia has told you, I'm sure,
7 because this is what happened. Me and Tia was at the vet. When
8 her dog was euthanized, Donte showed up at her house. Her
9 roommate, Cody, hit her up and was like, "Oh, one of Jay's
10 friends here is looking for Jay." By the time we got back to her
11 house from the vet, the story changed from "he's looking for
12 Jay," to "he's looking for you."

13 She used to date a guy with dreads that looked similar
14 to Donte. So we're thinking--but he would went out of town like
15 New Mexico or Arizona or something like that. So we're thinking,
16 well, maybe it's not Donte. And why would my friend be looking
17 for you? And how did he remember where you lived at if he only
18 came that one time a couple of months ago to chill with Petra
19 and spend the night? And he doesn't have a car. So she went--
20 she's like chill.

21 So that night, which was I want to say Sunday. I want
22 to say it was Sunday night, we went to Donte's house, he wasn't
23 there.

24 On our way back from Donte's house, her roommates
25 decide to let her know, the same story that you got, "Oh. He

1 came by your job with some girl." It was Tiffany, because I
2 asked them what kind of car it was, and Tiffany drives a Subaru.
3 He was like--they were like, "Well, the Subaru, he came by
4 looking. And he asked about some jeans." That doesn't answer why
5 he came by the house looking for Tia.

6 So now I'm like, "Tia, are you sleeping with this guy
7 behind my back? Like, behind my back?" And she's like, "No."
8 She's like, "No." So I make her--well, I don't make her, because
9 I can be [inaudible]. I tell her like, "Message him on
10 Facebook."

11 So she messages him on Facebook. I message him, too.
12 Like, "Why did you come looking for Tia?" He ignores all
13 messages. Doesn't respond to them. So I'm like, okay. Whatever.
14 I'm thinking that, you know, I was like, you know--I'm thinking
15 I'm not paying any attention.

16 The next day is when I have Too Grown, the same lady--
17 the same young lady that was like, "Are you still talking to
18 Donte? But I really wasn't feeling him. But he's a cool person.
19 Does that bother you? I'll stop talking to him," that type of
20 stuff. And so I hit her up and I make up that lie. I'm like,
21 "Donte said he slept with you." And I wasn't trying to cop like
22 on Donte. I was trying to see if she had slept with Donte, but
23 wasn't trying to tell me because she was thinking maybe I
24 wouldn't mess with her because she slept with my friend. Does
25 that make sense?

1 DETECTIVE SMITH: Uh-huh [affirmative].

2 JDW: You know, girls are funny like that. Dudes, they
3 don't care if they slept with a friend, the grandma, the
4 cousins. It doesn't matter to them. So we--she hit up Donte.

5 Donte responded back. He was like, "You are lame for
6 that. Lie on my dick. I'm going to lie on your dick. I mean, not
7 mine." And just saying a whole wreck of jacked-up stuff. So I
8 blocked him on Facebook. No, and he said, "Step your game up
9 too." And I blocked him on Facebook.

10 Then I logged into one of my other Facebooks. You know
11 I got more than one Facebook. And I screen-shot the messages
12 where she was like, "I wasn't really feeling him, but he's cool
13 though. We never slept around. I didn't like his five-year
14 plan." And I was like, "It seems like you need to step your game
15 up."

16 And then that infuriated him. Because she probably
17 never--I don't think she ever told--what really pissed him off,
18 I think? I don't think she ever told him that she was never
19 feeling him. And I think he probably felt like she was acting
20 cool with me. But meanwhile telling Jacquan that I'm basically
21 laying, and she doesn't, you know?

22 And if a girl doesn't like your five-year plan, in my
23 eyes, she feels like you're not going to amount to anything, or
24 amount to what she thinks you should to be with her. So I think
25 he took offense to that. And he didn't know that she had said

1 that. So he felt--

2 So literally 45 minutes, and then I blocked him. 45
3 minutes later, after he sent all these rude messages and stuff
4 like that, he shows up at Tia's house. Now Tia told me--this is
5 another thing I don't like. Tia told me that she told y'all that
6 she hadn't seen me since Monday or something, some crazy story.
7 That's what she told me she told y'all. I know you can't tell me
8 what she said, but I'm wondering if I tell you the truth, does
9 that make me like a liar? Because she said she hadn't seen me
10 since Monday? Does that make sense a little bit?

11 DETECTIVE SMITH: Yeah. If you've seen her after
12 Monday, I mean, Tia is also [inaudible]. So--well, we know it's
13 been since Monday because Tia was with you the time in which it
14 happened. So it couldn't have been Monday was the last time she
15 saw you.

16 JDW: So, then she phoned me.

17 DETECTIVE SMITH: Yeah. That makes sense.

18 JDW: All right. So anyway--so Tia comes upstairs, and
19 she's like, I'm in the bed, because I don't smoke or drink. So
20 when they smoke, I'm not around them. And he came up on the
21 porch. I don't know how he got there so quick. But he came up
22 there on the porch, you know?

23 His parents don't like to drive him anyplace, so he
24 must have had a girl pick him up, or he was already with a girl.
25 And he was like, "Man. He was just talking shit. I'm going to go

1 see him." And he was like, "I just want my pants."

2 So his pants were at--were in Kearns. So I'm like, I'm
3 getting dressed because I'm thinking he really came to fight me.
4 Because he ain't said nothing about no pants in that whole
5 discussion. He ain't said--he's never even mentioned pants to
6 me. I reminded him when I went to go see him on Saturday, when I
7 had Amanda drive to his house and that's how he met Amanda.

8 So I'm thinking in my head like, "He's telling you
9 that so when I go downstairs he can do a swing on me or
10 something." Do you see what I'm saying?

11 DETECTIVE SMITH: Uh-huh [affirmative].

12 JDW: I don't know. I know that's probably a messed-up
13 thing to think, but that's what I was thinking.

14 DETECTIVE SMITH: Sounds logical.

15 JDW: So I go outside, and he's just all quiet, acting
16 weird. And Tia's like, "I don't know what's wrong with him, but
17 he's acting weird." And I'm like, "I don't know either, but he
18 ain't gonna punk me out. I'm not going to rush and go get his
19 pants. I'm going to give him his pants. When I come out, I'll
20 give him his pants."

21 So we go to Kearns, and I have clothes at mine and
22 Tia's house. And I don't want him to steal my pants and be like,
23 yeah. Or I don't want him to go in Tia's house, take some stuff,
24 and then say, "You'll get your stuff back when you give me my
25 pants." You know, everything--I probably have a fucked-up way of

1 thinking, but I'm thinking stuff like that.

2 So I'm telling Petra--it was Petra, Petra's boyfriend
3 Jason, who works at the Taco Bell. Tia works at the one on 21st
4 in Sugarhouse. And Jason works at the one closest to that, but
5 it's not that one. Petra and Jason, they work at that same one.
6 And they are dating.

7 So it's Jason, Petra. Cody is upstairs in his room.
8 It's Jason and Petra downstairs with Donte. And when we--me and
9 Tia got to the car, I was like, "Donte, you know, you can ride
10 with us to go get your pants." And he's like, "No. I'll just
11 follow you y'all." So we didn't see another car. So I was like,
12 "Tia, what is he talking about, follow us?"

13 So he starts walking forward up the sidewalk. So I'm
14 like, "Was he supposed to follow us on foot?" Like, "What do you
15 think? It's in somebody's back yard down the street?"

16 So like we drive to Kearns. I'm like, "Yo, this dude
17 is tripping. I told you from day one he's been hating on me. I
18 think he really wants to fight me or something because he sent
19 me some crazy messages then he blocked me."

20 She's like, "Just give him the pants. Then it will be
21 all over with." Blah, blah, blah, blah, blah. And I'm like, "No.
22 It's not going to be over with." I was like, "He's going to say
23 something's wrong with it." I'm like, "Something doesn't sound
24 right."

25 So we go over to the house. Kathy hasn't seen me in a

1 few weeks. So me--she's never met Tia. Now this is the part of
2 the story that she didn't tell you. Tia is pregnant. Or maybe
3 she did tell you. I don't know. So I hadn't seen Kathy in weeks.
4 I was telling Kathy that Tia's pregnant. I'm telling Kathy that,
5 you know, I don't know if--like it's a lot of situations. It's a
6 lot of things that she probably did. I don't know.

7 So she's pregnant. She's supposed to be on a depo
8 shot, which I thought was like darn near 100 percent effective.
9 She spends a lot of time with me. So I don't it's by anybody
10 else. I don't know if she's already gotten taken care of. I
11 haven't seen her since Tuesday, or Monday, or whatever. So
12 Tuesday I think it is.

13 So we go over to Kathy's house. Time flies. She's kind
14 of like family to me. Time flies. I would say time flies. It's
15 like 3:00 a.m. Petra is blowing her phone up. "Donte is still
16 out here. He wants his"--the fact that he was still out there,
17 and she claims she didn't let him in the house, and he came over
18 at 11? Do you get where I'm going with this?

19 DETECTIVE SMITH: Uh-huh [affirmative].

20 JDW: Like he don't just want some pants. So I'm
21 actually trying to avoid this fool.

22 So by the time we get back, he's gone. So I'm like,
23 "Yeah, now he's really pissed." He got into it with a chick. He
24 found out the chick was dissing him behind his back. He's really
25 pissed. Even when he found out, when he that out about Erika,

1 and I dated her before he had got a chance to meet up with her.
2 Because he had--when he was talking to her on Meet Me, or
3 Tinder, or whatever, he hadn't met up with her yet. He was
4 chatting with her. And when he found out that I slept with her,
5 he was like, "Dang. Is there any girl in Utah that I could meet
6 that you haven't slept with?"

7 That, right there, sounds to me like what we call--
8 would likely be called being a hater, you know? Like I didn't
9 even know you when I was with her in March. Like, what do you
10 want me to do? Go back in time and take it back? You want me to
11 have y'all thing? Like, I don't know. It didn't end great. We
12 never got married. You know, we don't live together. I don't
13 know what you hate on that for, you know?

14 So sorry, I'm going off path. So we come back. He's
15 gone. I'm like, "Yo, Tia. Look, this motherfucker is pissing me
16 off. Like I really don't like--I don't like the fact that he's
17 just showing up."

18 Now mind you, this is day number two. He showed up
19 that one day when she was at the vet. This is when he called
20 looking for her. Then the next day he shows up, after we had
21 gotten into it over Facebook, which was stupid.

22 This whole thing is dumb. This whole thing is not
23 worth somebody getting stabbed up. This whole thing was not
24 worth somebody's life. What if he had died? This whole thing is
25 not worth him trying to fight me. This whole thing is just

1 stupid. This whole thing is not worth me going to jail. It's not
2 worth what happened to him. This whole thing is stupid.

3 I'm telling you the truth, like the truth. You want
4 the truth? This whole thing is dumb as hell. It's the dumbest.
5 That's why white people sit back and laugh at us, because we do
6 dumb shit. Shoot each other over girls. Argue about nothing. One
7 thing leads to another. And y'all are like, "Oh, those dumbass
8 niggers."

9 This is like one of those situations where people can
10 sit back and be like this dude's in the hospital. This dude
11 might go to jail for life, all over some messages. He's about to
12 lose his whole life. This is really stupid. This is like--if you
13 believe what I'm telling you, trust me. This is dumb as hell,
14 this whole situation.

15 DETECTIVE SKANE: We have no reason to not believe
16 you.

17 JDW: No, but I'm saying like just me looking back at
18 it, this is dumb as hell. This whole thing is dumb as hell. I
19 don't know if it could have been avoided, but it was just
20 stupid.

21 DETECTIVE SMITH: So--

22 JDW: And okay. So let me just--okay. So--

23 DETECTIVE SMITH: How long has Tia been pregnant?

24 JDW: That's what we didn't know. We were supposed to
25 go either--I think we probably would have went this week if

1 everything didn't go down. So for her to hit me up, you know,
2 after everything and be like, "You know"--

3 DETECTIVE SMITH: You would have gone to see how far
4 along she was? Is that--

5 JDW: Well, yeah. Like I'm not that type of person.
6 I'm not the best person in the world, okay? I'm not. I have some
7 misdemeanors.

8 DETECTIVE SMITH: No. I just didn't want to read
9 into--

10 JDW: No. Like we were--I don't know if she was--we
11 were going to get married, or we was the best fit for each
12 other. But I was going to be there at least for the kid, you
13 know? We weren't seriously official before. When she told me--I
14 never claimed her as my girl or nothing like that.

15 I'm not going to lie. I was sleeping with a lot of
16 other girls behind her back, you know? Obviously, Amanda and
17 other girls, you know? And I never really--

18 DETECTIVE SMITH: But it hits home when somebody tells
19 you they're pregnant, right?

20 JDW: Yeah. When she said, "I failed the birth control
21 test." And at first when she texted to me the messages, if you
22 want to look at my phone, she hit me up and said--she said--I
23 think it was either a Saturday or Sunday night. She was like, "I
24 might be pregnant. I failed the birth control test. Just stay
25 where you're at, you know, for a couple of days." Because I was

1 practically at her house every night, you know?

2 I hadn't find my own spot, and I was back and forth
3 between Kearns and there. But I was there like weeks on end. So
4 much to the point where her roommates--the roommates were like,
5 "This motherfucker needs to pay some rent." Like shit. You know
6 what I'm saying?

7 DETECTIVE SMITH: We get one or two nights, but--

8 JDW: Yeah. Like this dude is practically living here.
9 Do you know what I'm saying?

10 DETECTIVE SMITH: I got you.

11 JDW: He's out buying clothes all the time. Like he
12 can pay a couple hundred dollars for utilities. So, no.
13 Seriously. Like when she said that, you know, it made me--it
14 changed my way--it changed--I'm not saying I had an epiphany.
15 I'm not saying that. I'm just saying like it changed the way I
16 viewed her, or whatever was going on between me and her.

17 DETECTIVE SMITH: It took the next level.

18 JDW: Yeah. And when she was like, "You know, I'm
19 going to handle the baby." Because we had talked about it, you
20 know? Because we never used protection, ever. So she said she
21 did a double-shot. I slept with a lot of girls who double shot
22 and they never--half of them didn't even have periods.

23 But she said, you know, "if I ever wanted to get
24 pregnant"--because her dad is racist. Not my opinion, her
25 opinion. She said her dad is very racist. And I was like, "We

1 only see you with black guys." So like how is that going to work
2 out, you know? Seriously. She was like--she was like--and I
3 don't know.

4 Like I don't like this, but black guys got that
5 stigmatism that they are physically more--before I'll say it,
6 it's stupidity too, because it's stupid. I said, "Why does he
7 not feel comfortable with you dating black guys?" And she was
8 like, "Well, all the black guys that I dated in high school were
9 like way larger than him. And I guess he felt like if that black
10 guy was to do something to me, he couldn't defend me as his
11 daughter." I was like, "What if he was a with a big white guy?"
12 Like that doesn't make sense.

13 Like we're not getting into that. All I'm saying is
14 that we talked about it. And I felt like, you know, "Maybe if
15 you did have a kid, maybe you should know. It probably won't
16 happen because you're on depo shot. But how would your dad feel
17 about it?" And she was like, "My dad would just love it."

18 Now that it's in fruition, you know, she was like,
19 "Stay where you're at. See if you can chill somewhere else for a
20 couple of days." Which she never really asked me. She never
21 really asked me what my living situation was. She never really
22 asked me why I never went home. And I always asked her like have
23 I been here too long? She was like, "No. I like you being here,"
24 and, you know?

25 So, but at this particular moment, she was like "I

1 failed the birth control test. Stay where you're at," because we
2 had discussed it a little bit. And I did say, "Maybe we're both
3 not ready." But then when it happens, and then, you know, it
4 could be six weeks along. You never know. I mean, let's be
5 realistic. She's not the--it doesn't really show on a skinny
6 person for what, the first two months, or three months,
7 something like that? I don't know.

8 Well, you can't--I don't think you'd be able to look
9 at her and tell until she was like five or six months in. I'm
10 not trying to be rude or nothing.

11 DETECTIVE SMITH: She doesn't have a slim frame.

12 JDW: Right. So what I'm saying is, I don't know
13 definitely without talking to a doctor because you can't just
14 look at--I know there's been reports of skinny girls who have
15 been pregnant the whole nine months and they didn't even know.
16 You know what I'm saying? So I'm just trying to be as honest
17 with you as I can.

18 So she--that's when I was like--because I was going
19 to--we had gotten into a big argument the day before that,
20 before I even went over to Amanda's house for the weekend. And I
21 was--

22 DETECTIVE SMITH: So was it Thursday?

23 JDW: Yeah. And I was just going to chill with Amanda,
24 maybe go back to Kearns for a few days. And then I had already
25 made plans to have dinner with Amanda and her friend named

1 Sarah. But when she told me, "Oh, I'm having--I failed a birth
2 control test," first of all, I don't even know if that's true. I
3 haven't seen the test. I don't know. Maybe she felt like I'm not
4 going to see Jay again, you know? She probably knew the whole
5 time I was talking to other girls, you know? I don't know.

6 But she said her birth control test was on the T.V.--
7 or the night stand. There's no T.V. in her room, but I mean
8 there's a night stand there, or something like that, dresser. So
9 when I heard that, I was like, "You know, I'll chill with Amanda
10 for a little bit. Give me some days to think about it, I'll come
11 back." She picked me up on I think that Sunday. Because I wanted
12 to go see Donte on that Saturday. I chilled with Amanda that
13 night, and then I chilled with Amanda the next day.

14 The next day Amanda's daughter kept playing around.
15 Her daughter's friend slept over. They kept jumping on me and
16 stuff. After about an hour or two of it, I was like--I wanted to
17 go. So I called her up and was like, "You know what? Let's meet
18 up."

19 And we had already talked the night before, or I think
20 it was Friday night she told me, or Saturday morning, maybe at
21 one. We already talked, because she worked the night shift. We
22 had already talked and was like, "Before you kill your kid, can
23 we at least talk about it because is it a possibility where it's
24 my kid?" I even asked her. I was like, "Whose do you think it
25 is?" She's like, "I'm pretty sure it's yours. I haven't slept

1 with anybody, you know," of course she's going to say that. So
2 when she picked me up, we was more worried about that.

3 And on Saturday, now that I'm thinking about it, I
4 also told Donte that out of all the girls I've been sleeping
5 with--because me and Donte, we did. We were kind of competitive,
6 but it never got that serious. You know, he'll send me nude
7 picture of some new girl he's talking to. Then I send him nude
8 pictures, you know?

9 So I was like, "Remember that girl, Tia?" He's like,
10 "Which one?" I'm like, "You know Tia. You went over to her house
11 to meet her friend, you know, like a month and a half, couple
12 months ago?" He's like, "Oh, yeah. What about her?" I'm like,
13 "She says she's pregnant."

14 And he's like, "Oh, keep it, man. Because once they
15 have an abortion once"--these are his exact words. "Once they
16 have an abortion once, it's harder for them to actually have a
17 kid in the future," or something like that.

18 So he was like, "And then you might not ever get that
19 chance again with that person." And he said, "That happened to
20 me. I ended up having a kid with a different individual," which
21 is who he has his daughter by. Now I forgot her name, but he was
22 very adamant about me keeping the kid. And I didn't know if it
23 was because--

24 This might sound crazy, but after he came on a Sunday
25 night looking for her, and not looking for me, I was wondering

1 did Erika tell him something bad, and he wanted to inform Tia?
2 Like this guy--because you know what I'm saying, or whatever?

3 DETECTIVE SMITH: Yeah.

4 JDW: Or was he sleeping with Tia? And he wanted to
5 talk to her about it could possibly be his. I didn't know.

6 DETECTIVE SMITH: Yeah. A lot of things are unclear.

7 JDW: I had a lot of things running through my mind.
8 And no, this is not motivation to stab somebody, you know?
9 Because relatively speaking, I don't really think they slept
10 together. Honestly. I don't, but I did think it was weird that
11 he came to the--that he remembered how to get to the house, for
12 one. Because it was dark when we came and got him.

13 DETECTIVE SMITH: Yeah.

14 JDW: And so quickly. Like he didn't have to re--like,
15 I told Tia it doesn't make sense to me, but that's neither here
16 nor there. So after he came by the second time, and I basically
17 stood him up because I went back to the house, grabbed his
18 pants, put them in Tia's car, and brought them back.

19 DETECTIVE SMITH: And what night was that? Just to
20 confirm, what night was that?

21 JDW: The night before he got stabbed.

22 DETECTIVE SMITH: So Monday night is when he came over
23 the second time?

24 JDW: Right. When Tia picked me up on Sunday, Sunday
25 night around 6:00 or 7:00. Later on that night she had to go to

1 the vet. And literally, right when we went to the vet to
2 euthanize her dog--

3 DETECTIVE SMITH: He showed up.

4 JDW: --he showed up. And that's when--and then we
5 went took her dog, and all that, and went to his house. And then
6 the next day was when he just popped--we had an argument. He
7 popped up again. So I'm like--it's like after he found out that
8 Tia got pregnant, I feel like he already had some animosity. No,
9 not really because I saw him on Saturday. I feel like after he
10 found out Tia was pregnant, I think he was--I don't know.
11 Something up.

12 What really set him off, after he found out Tia was
13 pregnant, I think there was something he wanted to talk to Tia
14 about. And that's why he came--I met him on Saturday, and he
15 came over Sunday night. And he didn't think I was going to be
16 there because he just saw me Saturday with Amanda. And he knows
17 I don't have a car. Does that make sense?

18 DETECTIVE SMITH: Uh-huh [affirmative].

19 JDW: And he's probably thinking, "Oh, Jacquan is
20 going to be"--so he just popped up at her house. Which makes me
21 think--because he didn't say, "Hey, I'm coming over to talk to
22 Tia." He didn't say to Tia, "Hey, I'm coming over." Which makes
23 me think that he just pops over there when I'm not around.

24 Because a lot of times, when I would send him pictures
25 of girls like we used to go, when I was still messing with Tia,

1 but I would be with another girl, if I would send him a picture
2 of that other girl, he would be like, "Oh, which girl is that?
3 Who you with?" And now that I look back on it, he's trying to
4 make sure [inaudible].

5 Like the whole situation is stupid, but it's crazy. So
6 he wanted to talk to Tia Sunday night. And then when I got into
7 an argument with him, he popped up at Tia's house real quick.
8 And the only part I didn't understand is why Tia didn't say to
9 him, "Dude, stop popping up at my house like this. Jacquan
10 doesn't live here. It's not his place of residence. He doesn't
11 have your jeans here." She never did. And I thought that that
12 was weird.

13 So that was--when he was--the next day, after I stood
14 him up--so he came to her house on Sunday night. Then Monday
15 night he came again. And then--

16 DETECTIVE SMITH: And that was the night you stood him
17 up?

18 DETECTIVE SKANE: Yeah.

19 JDW: Tuesday afternoon she was like, "Oh he finally
20 messaged me." So he sent her a shit-ton of messages like,
21 "There's something I need to tell you. You don't know the truth
22 about Jacquan. I heard you were pregnant. The baby is going to
23 be cute. I feel like you should keep it. Jacquan is a lame-ass
24 nigger. And he better give me my jeans." And she's trying to
25 diffuse the situation.

1 She's like, "Look, we'll give you your jeans as soon
2 as possible." He's like, "No. I'm getting my jeans." He's
3 playing boyish, childish games. Like he really--if you like--I
4 can't. I don't know. I can't make her let you look at her phone.
5 But if you look at her Facebook and saw it, like he sounded--
6 from him popping up twice, and the way he was acting weird, he
7 just sounded like he wanted some type of commotion.

8 All of this is not hypothetical, by the way.

9 DETECTIVE SKANE: So then after that, so he wanted
10 commotion, confrontation. Let's get to the pants.

11 JDW: So hypothetically speaking, the pants were in
12 her--

13 DETECTIVE SKANE: In her car?

14 JDW: In her car.

15 DETECTIVE SKANE: Hypothetically, you say he gets
16 there?

17 JDW: Hypothetically, hypothetically, hypothetically I
18 was like, "Well, I don't care if he's at his house or not,"
19 which I was hoping he wasn't, by the way. I was like, "Let's get
20 him his pants."

21 So she looks on her GPS, and she pulls up his address
22 from when she went there before. And we get there. I heard
23 somebody walk through the garage. So I'm thinking that his dad
24 was home, because it was around five, almost six something,
25 around the time that it happened, hypothetically. And

1 hypothetically speaking, I had the pants.

2 I walked up. He answered the door. I guess he was the
3 only one home. I don't know when his dad gets home. He answered
4 the door. Maybe his dad was home, I don't know. Hypothetically
5 speaking, he was like--he was like, "Yeah?" And I was like--he
6 just stared at me like he was mad about something.

7 And I was like, "Look, there goes your pants. I don't
8 know what happened. I just saw you on Saturday. You know, the
9 reason why I haven't gotten them to you before is because I
10 wanted time to wash them. And that's when he went on a big rant
11 on me lying on him. It was not about the pants. Hypothetically
12 speaking, I was standing right here.

13 DETECTIVE SMITH: Where's right here?

14 JDW: Okay. So say his driveway is like this. Say you
15 go up the sidewalk and his door is right here, off the porch. I
16 was at the porch, and he was like facing me, still in the house
17 a little bit with the door open.

18 DETECTIVE SMITH: In the doorway?

19 JDW: In the doorway, but the pants is like right at
20 his feet. And--

21 DETECTIVE SMITH: Did you hand him the pants?

22 JDW: No. I put the pants in a plastic bag so they
23 didn't get more messed up than what they were because I don't
24 feel like they were in great condition when I brought them back
25 to him, but hypothetically speaking, they were like right at his

1 feet. And he, hypothetically speaking, got out of the house,
2 walked out of the house and got in my face, like face to face,
3 and was like--

4 DETECTIVE SMITH: On the porch?

5 JDW: Yeah. He was like, "What's up?" You know, "You
6 want to try all these childish games?" And that's when I got
7 defensive. And I was like, "Well, I mean, you're getting in my
8 face like you want to do something?" You know, like "What do you
9 want to do?" You know? And he was like, "Yeah, whatever. You're
10 a punk. You're this." He was like, "Man, just step."

11 And my first reaction was to be like, "No, make me
12 step." But honestly I thought, you know, "I'm on his property.
13 I'll step." On my way to the car, hypothetically speaking, he
14 was like, "You want to be a dick and lie to the girls I talk to?
15 I'm going to be a dick too." I was trying--he like rushed
16 towards her car, pushed me, tried to hop--and hopped in the car
17 with her. So that's when I was like, "What the fuck?"

18 So when I opened the car door, that's when he started
19 swinging on me, hypothetically speaking. Hypothetically speaking
20 I happened to have a knife on me. Hypothetically speaking, I
21 didn't stick around to make sure he got to the hospital.

22 DETECTIVE SMITH: How did he get out of the car?

23 JDW: Well, when I kind of like to tried pull him out,
24 hypothetically, he was kind of like--I didn't like lift him out
25 of the car. He was like getting out of the car like, "Oh, you

1 want to see me?" He didn't push me [inaudible] push me, you
2 know? That was all to get a reaction.

3 Hypothetically speaking, what are your thoughts on
4 this situation?

5 DETECTIVE SKANE: Well, what I want to know is what
6 happened to the knife.

7 JDW: What do you mean?

8 DETECTIVE SKANE: Where is the knife now?

9 JDW: I don't know.

10 DETECTIVE SMITH: What happened? Did you take the
11 knife in with you into the car?

12 JDW: I don't know where the knife is. I'm not going
13 to get into great details of all--where the knife is. But
14 hypothetically speaking, wherever I put the knife, I don't know
15 where it is now.

16 DETECTIVE SKANE: Okay. You're not helping yourself.
17 For somebody that's self-defense, and takes off from the
18 police--

19 JDW: But here's--here's--here's--here's [inaudible].

20 [Multiple voices speaking at once.]

21 JDW: Can I say something real quick? If I threw the
22 knife in the dumpster, in the trash now, would I know where the
23 knife is?

24 DETECTIVE SKANE: So you threw it in the dumpster?

25 JDW: I'm just saying.

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1 DETECTIVE SKANE: That's not what I'm asking. Did you
2 throw it in which dumpster?

3 JDW: But I'm saying, hypothetically speaking you're
4 not going to find it.

5 DETECTIVE SKANE: Hypothetically what dumpster did you
6 throw it in?

7 JDW: Hypothetically speaking, I went back the next
8 day and it wasn't there.

9 DETECTIVE SKANE: Where at? Are you going to do us
10 like that?

11 JDW: I'm not doing you guys anything because all--

12 DETECTIVE SKANE: Where did you get the cut on your
13 hand? How did that happen? Is that from the knife?

14 DETECTIVE SMITH: So here's [inaudible] and I will
15 tell you today. If you want to say it's self-defense, you can
16 say it's self-defense, all right?

17 JDW: I don't know--

18 DETECTIVE SMITH: If you consider it self-defense,
19 that's the whole thing. Just listen. Listen to what I'm saying.
20 You said self-defense the whole time, okay? And that's fine.

21 JDW: I don't know if it was self-defense. I would say
22 that I didn't go there, hypothetically speaking, to stab
23 somebody up.

24 DETECTIVE SMITH: Okay. So you said several times--

25 JDW: And I personally think that you think I did. I

1 do.

2 DETECTIVE SKANE: No. I don't.

3 JDW: I do. I think--

4 DETECTIVE SKANE: Okay. You can think what you want.

5 DETECTIVE SMITH: Can I finish?

6 JDW: Right.

7 DETECTIVE SMITH: Okay. Here's the deal. You go there,
8 it's self-defense. He pushes you. He goes after the girl. I
9 don't know what your thoughts were, but here's what my thought
10 is. She's pregnant. My kid. He's going to be a dick. I don't
11 know what he's--

12 JDW: She--

13 DETECTIVE SMITH: Hold on. Listen.

14 JDW: Okay. I'll have to tell you. Not hypothetically,
15 when I got back in the car, she did say that she was scared as
16 hell when she saw him pushing me and he jumped in the car.
17 That's a fact.

18 DETECTIVE SMITH: She said that?

19 DETECTIVE SKANE: But again, we want--you told us it
20 was in a dumpster. We're asking you what happened to your hand.
21 That's what it comes down to.

22 JDW: Well, it looks like a knife cut.

23 DETECTIVE SKANE: Okay. It doesn't take a rocket
24 scientist to figure out where it came from, right?

25 JDW: You just want me to say it. See what I'm saying?

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1 Like it looks like a knife--like what? I feel like people are
2 trying to make me--

3 DETECTIVE SMITH: I want you to--I want you to say if
4 you really feel like you're innocent from this situation--

5 JDW: I don't feel like the way--because I explained
6 it to somebody else and--

7 DETECTIVE SMITH: You've got to stop cutting me off. I
8 have listened to you speak for time on time. Stop cutting me
9 off.

10 JDW: All right.

11 DETECTIVE SMITH: You obviously know that I'm going to
12 listen to what you have to say, because I've done that.

13 JDW: All right.

14 DETECTIVE SKANE: We've done it for two hours.

15 DETECTIVE SMITH: And it's fine. I'm okay listening to
16 what you want to say. But every time, the whole time I try to
17 say something, you throw something back at me. So stop for one
18 second and listen.

19 You want to say it's self-defense, and you want to say
20 this is what happened. And if I felt threatened, if another man
21 pushes you, how can I not fight back to help myself? If you felt
22 like it's self-defense, that's fine. If you feel like you're
23 innocent from whatever charge that we're going to try to put on
24 you, because that's what we've done for the last 48 hours is try
25 to tag you as a murderer. If you feel like you're innocent from

1 that, this is your time to tell us. This is your time to say,
2 "Hey, look, this is what happened. He tackled me, he fought me.
3 He attacked me first, this is what I did, this is where the
4 knife is. This is what happened to my hand."

5 Because when all those things happened, and you take
6 that, and you take that to the investigators, or the attorney,
7 and you put that up there, that's also a case for you. That's
8 also a case for your actions, and a clarity on why you did what
9 you did.

10 But if you're going to sit here and say,
11 "Hypothetically it may be in a dumpster and I don't know where
12 it is," how can we say, "Yeah, it's self-defense?"

13 DETECTIVE SKANE: Okay. Let's step out.

14 [Detectives step outside to have a conversation.]

15 JDW: Well, I'm glad y'all feel like I'm BS-ing y'all.
16 But this is [inaudible].

17 DETECTIVE SMITH: At what point?

18 JDW: I heard everything you all just said. That's
19 probably intentional, but I heard it.

20 DETECTIVE SMITH: At what point have I ever said that
21 I felt like you were lying?

22 JDW: I don't think you think I lied. I just think
23 your job is not to determine whether I'm lying or not.

24 DETECTIVE SMITH: Sure. Absolutely. I told you my job
25 is to get the truth. And if I feel like somebody's lying, I'm

1 going to keep talking to them until I feel like I've gotten the
2 truth.

3 JDW: But I feel like I've, you know, I feel like
4 I've--

5 DETECTIVE SMITH: It's your life, and I feel like I
6 have given you the platform at this time to tell your side of
7 the story, to talk about how you felt like you were innocent in
8 what you did, why you justified the actions in which you took.
9 And that's what I feel like I've given you the platform to do.
10 And to be honest with you, I feel like you've not taken that
11 opportunity.

12 I've gotten a back story of why you and Donteus were
13 friends, had a falling out, and the threats that you feel like
14 he put on you for the last week.

15 JDW: Uh-huh [affirmative].

16 DETECTIVE SMITH: I feel like you showed up to that
17 house not with the intention of stabbing him, but it escalated
18 to that point. He attacked you, you guys fought, you stabbed
19 him, you got in the car, and you left. You were afraid because
20 in the last 48 hours you haven't made contact with us. I get it.
21 You're terrified. You don't know what's going to happen.

22 That's what I feel like happened. I feel like you've
23 been truthful with me, but I also feel like you're not willing
24 to talk about how you're innocent. And that's what it comes down
25 to.

1 We need to know where the knife is. And I need to know
2 how you got that cut on your hand. Will you be truthful in those
3 things? You've been truthful so far.

4 JDW: It looks like I cut myself with a knife.

5 DETECTIVE SMITH: See? That's not being truthful.

6 JDW: Yeah. It looks like a knife cut.

7 DETECTIVE SMITH: I'm giving you the opportunity.

8 JDW: You're giving me the opportunity to hang myself.

9 DETECTIVE SMITH: No, I'm not. Tell me why you're
10 innocent.

11 JDW: I'm not innocent. Obviously, you know, y'all
12 have enough evidence to say that I did the crime.

13 DETECTIVE SMITH: I have enough evidence to say that
14 you stabbed him. I don't have enough evidence--or I shouldn't
15 say that. I know you have enough evidence to say you stabbed
16 him.

17 JDW: I'm sure you had that much evidence before I
18 came into the room.

19 DETECTIVE SMITH: Right. But what we didn't have is
20 your story. I needed to know why you were innocent of murder, or
21 attempted murder. And that's what we gave you the platform to do
22 today.

23 JDW: Can I ask you, does that make--say the story is
24 true that I told you. Does that mean that it wasn't attempted
25 murder?

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1 DETECTIVE SMITH: I don't know. That's not my
2 decision.

3 JDW: So it could still be--

4 DETECTIVE SMITH: You know where the knife is?

5 JDW: No, I don't. I honestly don't know.

6 DETECTIVE SMITH: Do you know where you put it?

7 JDW: I gave it to somebody.

8 DETECTIVE SMITH: All right. How did you get that cut
9 on your hand?

10 JDW: From a knife.

11 DETECTIVE SMITH: From the knife?

12 JDW: Not "the" knife.

13 DETECTIVE SMITH: From a knife? How?

14 JDW: I don't think that's important.

15 DETECTIVE SMITH: Okay. So we need to ask him if we're
16 going to take at this point. We're going to--

17 JDW: You're going to put me in a cell.

18 DETECTIVE SMITH: Okay.

19 JDW: I already talked about it.

20 DETECTIVE SMITH: Okay. So we're going to put you in a
21 cell. We're going to give you over to Chance to put you down,
22 okay? All right.

23 DETECTIVE SKANE: Oh. We need pictures of the front of
24 his hands.

25 UNIDENTIFIED: Top of his hands?

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1 DETECTIVE SKANE: Top of hands, yeah.

2 UNIDENTIFIED: Do you want to hold it up just a
3 little? Okay.

4 [End of audio recording.]
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C E R T I F I C A T E

I, Ruby Rudisill, do hereby certify that the foregoing pages contain a true and accurate transcript of the electronically recorded proceedings and was transcribed by me to the best of my ability.

Ruby M. Rudisill

Ruby Rudisill

I, Scott Knight, do certify this transcription was prepared under my supervision and direction.

Scott M. Knight, RPR

Scott Knight

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