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COUNSEL FOR STATE

**MONTANA FIFTH JUDICIAL DISTRICT COURT
 MADISON COUNTY**

<p>STATE OF MONTANA, Plaintiff, v. CARTER NORMAN PHILLIPS, Defendant(s).</p>	<p>Cause No(s). DC-29-2022-22 STATE'S RESPONSE TO DEFENDANT'S MOTION IN LIMINE CLARIFICATION</p>
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COMES NOW the State of Montana, by and through Assistant Attorney General Thorin A. Geist and Madison County Attorney David Buchler, and hereby responds to Defendant's *Motion in Limine Clarification* and *Brief in Support of Motion in Limine Clarification*.

I. Factual & Procedural Background.

1. On November 28, 2022, the State of Montana charged the Defendant, Carter Norman Phillips, with Assault with a Weapon, a felony in

violation of §§ 45-5-213(1)(a) and (2)(a), MCA. *Info.*¹ at pp. 1-4. The *Information* alleges that “[o]n or about November 12, 2022, the Defendant purposely or knowingly caused bodily injury to one Bradley Terrell by hitting him with a large wooden cross.” *Id.*

2. The Defendant’s companions, Jesse Michael Boyd, Bethany Grace Boyd, and Eric Anthony Trent were also charged with Assault with a Weapon², a felony in violation of §§ 45-5-213(1)(a) and (2)(a), MCA. *Info.*³ at pp. 1-4. The facts which form the basis for the charges against all four Defendants are set forth in the State’s *Motion for Leave to File Information and Affidavit in Support*⁴ and are incorporated herein by reference.
3. On January 4, 2023, the District Court joined the cases for trial. *Or.*⁵ at pp. 1-5.
4. On January 20, 2023, the State filed its *First Motion in Limine & Brief in Support*⁶ (hereinafter “*First MIL*”). In pertinent part, the State sought to prohibit the Defendant from asserting the affirmative defense of Justifiable Use of Force (hereinafter “JUOF”) unless he testified at trial. *First MIL* at pp. 10-13. The State’s *First MIL* was

¹ Ct. Doc. #3.

² Defendant Trent was charged under a theory of accountability.

³ Ct. Doc. #3.

⁴ Ct. Doc. #1.

⁵ Ct. Doc. #13.

⁶ Ct. Doc. #24.

fully briefed and on August 10, 2023, the District Court granted the State's request. *Or.*⁷ at 26:23-29:21.

5. On September 1, 2023, the Defendant's previous attorneys of record were permitted to withdraw, and new counsel was subsequently appointed through the Montana Office of the Public Defender. *Or.*⁸ at p.1; *OPD Notice*⁹ at p.1.
6. On December 15, 2023, the District Court held a status conference during which defense counsel was advised that they had until January 15, 2024 "to file status reports regarding the previously filed motions and [to make] any other requests." *Minutes*¹⁰ at p.1.
7. On February 23, 2024, the Defendant filed his *Motion in Limine Clarification*¹¹ (hereinafter "*Motion*") and *Brief in Support of Motion in Limine Clarification* (hereinafter "*Brief*")¹².

II. Discussion.

- a. **The District Court should deny the Defendant's *Motion in Limine Clarification*.**
 - i. **Motions for reconsideration do not exist under Montana law.**

The Montana Supreme Court has repeatedly warned the bar that

⁷ Ct. Doc. #87.

⁸ Ct. Doc. #95.

⁹ Ct. Doc. #97.

¹⁰ Ct. Doc. #103.

¹¹ Ct. Doc. #111.

¹² Ct. Doc. #112.

motions for reconsideration do not exist under Montana law. *State v. Polejewski*, 2021 Mont. LEXIS 361 at 2-3 (citing *Nelson v. Driscoll*, 285 Mont. 355, 359-360, 948 P.2d 256, 258-59 (1997)); *State v. Polejewski*, 2021 Mont. LEXIS 500; *State v. Wagner*, 2013 MT 47, ¶ 18, 369 Mont. 139, 296 P.3d 1142 (The law of the case doctrine "expresses the practice of courts generally to refuse to reopen what has been decided").

Even though the Defendant's *Motion* is styled as one that seeks "clarification," substantively it seeks reconsideration of the District Court's prior *Order* concluding that the Defendant must testify if he intends on asserting a JUOF defense. It is well settled that motions for reconsideration do not exist under Montana law and the Defendant's *Motion* should therefore be denied.

ii. Even if the District Court were to entertain the Defendant's *Motion*, the Defendant's interpretation of the law is incorrect.

The District Court granted the State's *First MIL* holding:

The Court agrees with the State here because absent Defendants testifying, there is no proper foundation to assert JUOF and therefore Defendants must testify and admit to the alleged offenses. To lay proper foundation, a witness must have personal knowledge of the matter to which they are testifying. The JUOF defense requires a showing the person "reasonably believes the conduct is necessary for self-defense or defense of another against the other person's imminent use of unlawful force." Mont. Code Ann. § 45-3-115. It rationally follows then the only individuals with personal knowledge of why the conduct was necessary for self-defense is the Defendants themselves each individually. Without this testimony, foundation cannot be laid, and thus Defendants must admit and testify they committed the alleged offenses. While

each Defendant can testify about their observations, only each individual defendant themselves can testify as to their personal feelings and thinking.

Absent testimony laying proper foundation, a defendant may not present evidence when asserting JUOF. In *State v. Daniels*, a case relied on by the State, the defendant shot his son with a firearm after an intoxicated altercation ensued. 2011 MT 278, ¶ 7, 362 Mont. 426, 265 P.3d 623. The defendant was charged with deliberate homicide and intended to rely on JUOF as an affirmative defense because the victim was the initial aggressor. *Id.* ¶ 1. The trial court refused to allow the defendant to argue the violent nature of the victim before laying proper foundation in support of the JUOF defense therefore requiring Daniels to testify. *Id.* ¶ 18. On appeal, the Montana Supreme Court affirmed the trial court's decision and explained "if the defendant offers no evidence of JUOF, then he fails to satisfy his initial burden and the defense fails." *Id.* ¶ 15. The Supreme Court held the district court properly determined Daniels' testimony was necessary to provide proper foundation for the evidence of his son's past and without it the defendant would fail to meet the burden required when asserting JUOF. *Id.* ¶¶ 15–17. This case is analogous here, as without Defendants' testimony as to why their conduct was necessary for self-defense, proper foundation cannot be laid.

Next, a defendant, when asserting JUOF, has the initial burden of offering evidence of JUOF and for this burden to shift, the defendant must first admit to the offense, thus relinquishing his constitutional right to refrain from testifying at trial. Relying on the Court's reasoning in *Daniels*, in *State v. R.S.A.*, the defendant hit, kicked, and spat on two hardware store employees. 2015 MT 202, ¶ 8, 380 Mont. 118, 357 P.3d 899. The defendant relied on using JUOF as an affirmative defense while also exercising his constitutional right to refrain from testifying at trial. *Id.* ¶ 33. The district court held "for the burden to shift, the defendant must first admit the offense" and thus relinquish his constitutional right. *Id.* Further, the district court concluded that a cross examination of the State's witnesses was not enough to lay proper foundation. *Id.* The Montana Supreme Court affirmed the district court's conclusion by reiterating the foundational logic in *Daniels*, that "testimony was necessary to provide the requisite foundation for the evidence of the victim's past which he initially intended to offer." *Id.* ¶ 36 (citing *Daniels* at ¶ 28).

Here, Defendants will not be able to lay proper foundation for the defense of JUOF unless they testify as to why the conduct was necessary for self-defense. Like *Daniels*, Defendants have not met their initial burden because they cannot offer evidence of JUOF without testifying at trial. Similar to *R.S.A.*, at this point in the case Defendants argue they intend to maintain the constitutional right to refrain from testifying at trial. However, as seen in *R.S.A.*, Defendants will not be able to lay proper foundation while maintaining this right and also asserting JUOF. Also, as established in *R.S.A.*, Defendants must admit to the offense before claiming JUOF. Only then will the burden shift to the State to prove beyond a reasonable doubt the use of force was not justified.

Or. at 26:23-29:21.

The Defendant disagrees with the District Court's analysis and argues that he should not be required to testify because: (1) his interview with law enforcement constitutes sufficient evidence to assert the affirmative defense of JUOF; and (2) the State must introduce his interview to the jury pursuant to § 45-3-112, MCA. *Br.* at pp. 1-3. Each issue is addressed in turn.

1. The Defendant's interview does not establish the necessary foundation to assert the affirmative defense of JUOF.

The Defendant argues that his recorded interview with law enforcement establishes the necessary foundation to assert the affirmative defense of JUOF. *Br.* at pp. 1-3. As authority, the Defendant cites to *State v. Thomas*, 147 Mont. 325, 413 P.2d 315 (1966) and *State v. Buckley*, 171 Mont. 238, 557 P.2d 283 (1976) for the proposition that "[i]f there is evidence presented at trial to support any theory, a court must instruct the jury on that theory." *Br.* at p.1. However, neither case dealt with the issue of whether a defendant must

testify in support of the affirmative defense of JUOF.¹³ These cases dealt with whether a lesser included offense instruction should have been given based on the evidence that was presented at trial. Regardless, the Montana Supreme Court's analysis in *State v. Marquez*, 2021 MT 263, 406 Mont. 9, 496 P.3d 963, is directly on point.

In *Marquez*, the defendant was in custody on unrelated charges when the toilet in his cell flooded. *Marquez* at ¶¶ 4-13. The defendant was handcuffed so that he could be escorted out of the cell while the overflow was being cleaned up. *Id.* The defendant jerked forward and tried to headbutt one of the detention officers. *Id.* Once outside of the cell, the defendant continued to struggle, and his knee hit one of the officers in the chest. *Id.* Surveillance cameras captured the incident on video and the Defendant was subsequently convicted at trial for assault on a peace officer. *Id.*

On appeal, the Defendant argued that the District Court abused its discretion when it refused to instruct the jury on the affirmative defense of JUOF. *Id.* at ¶¶ 15-24. The Supreme Court held:

When a criminal defendant has offered evidence of JUOF, the effect is to create for the State an additional burden of proving beyond a reasonable doubt that the defendant's actions were not justified. Thus, the duty of the district court is to correctly instruct the jury on JUOF if it applies. If the theory is supported by evidence presented at trial, even if conflicting evidence is also presented, then the district court must give the instruction. This

¹³ Notably, both defendants asserted a JUOF defense and testified at trial as they were required to do under the existing JUOF statutes.

is true whether the support comes from direct evidence or from some logical inference from the evidence presented.

...

We have previously noted that JUOF is a defense that admits doing an act but seeks to justify it. And we have said that if the defendant offers no evidence, then he fails to satisfy his initial burden and the defense fails.

Id at ¶ 17-19 (Internal quotes and citations omitted).

The Supreme Court affirmed the conviction noting that the defendant rested after the prosecutions' case-in-chief and that he did not admit to the violence or point out evidence indicating why his actions were justified. *Id*. The Supreme Court also took the opportunity to consider whether the State's evidence, in and of itself, was sufficient to support a logical inference of JUOF.

Id at ¶¶ 20-24.

Rejecting the argument, the Supreme Court reaffirmed that "it is the defendant's burden to raise JUOF before being entitled to instructions on the State's additional burden in response." *Id*. The Supreme Court concluded that the video evidence was insufficient to show that the detention officer made a deliberate attempt to jeopardize the defendant's safety and/or that the defendant reasonably believed that "defensive force was necessary in response." *Id*. The Supreme Court also concluded that the defendant provided no evidence to contradict the claim that he instigated the confrontation.¹⁴ *Id*.

¹⁴ Pursuant to § 45-3-103(2), MCA, the affirmative defense of JUOF is not available to a person who purposely or knowing provokes the use of force against the person unless: (a) the force is so great that the person reasonably believes that the person is in imminent danger of death or serious bodily harm and that the person has exhausted every reasonable means to escape the danger other than the use of force that is likely to cause death or serious bodily harm to the assailant; or (b) in good faith, the person

Here, the Defendant argues that his recorded interview with law enforcement establishes the necessary foundation to assert the affirmative defense of JUOF without the need for him to waive his right to remain silent at trial. *Br.* at pp. 1-3. A copy of the recorded interview was attached to the State's *First MIL* as Exhibit 2¹⁵, and a transcript of the interview is attached hereto as **Exhibit 1**. Although the Defendant admits to providing a firearm to Jesse Boyd and thought that Mr. Boyd was in fear for his life, that is not the conduct for which the Defendant has been charged. *Interview* at 8:8 to 21:8. The Defendant has been charged with Assault with a Weapon for purposely or knowingly causing bodily injury to Bradley Terrell with a large wooden cross. *Info.*¹⁶ at pp. 1-4. At no time does the Defendant acknowledge or even address this conduct. As such, the Defendant's interview does not establish foundation for an instruction on the affirmative defense of JUOF.

2. The State is not required to present evidence of JUOF at trial until the Defendant establishes the proper foundation.

The Defendant argues that he would be entitled to a mistrial if the State does not offer his interview with law enforcement during its case in chief. *Br.* at p.3. As authority, the defendant cites to § 45-3-112, MCA, which provides:

When an investigation is conducted by a peace officer of an incident that appears to have or is alleged to have involved

withdraws from physical contact with the assailant and indicates clearly to the assailant that the person desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

¹⁵ Exhibit 2 at 16:40 (15:24 hrs) to 26:52 (15:34 hrs).

¹⁶ Ct. Doc. #3.


justifiable use of force, the investigation must be conducted so as to disclose all evidence, including testimony concerning the alleged offense and that might support the apparent or alleged justifiable use of force.

However, the Defendant is mistaken. The Montana Supreme Court has reviewed § 45-3-112, MCA, several times and has consistently held that “§ 45-3-112, MCA, is consistent with existing obligations of prosecutors and law enforcement to disclose evidence to the defense.” *State v. Mont. Ninth Judicial Dist. Court*, 2014 MT 188, ¶ 11, 375 Mont. 488, 329 P.3d 603 (Citing *State v. Mitchell*, 2012 MT 227, ¶ 16, 366 Mont. 379, 286 P.3d 1196; *State v. Cooksey*, 2012 MT 226, ¶ 37, 366 Mont. 346, 286 P.3d 1174). “The statute does **not** mandate disclosure of investigative materials to the jury.” *Id* (Emphasis supplied).

III. Conclusion.

Based on the foregoing, the State of Montana respectfully requests that the Defendant’s *Motion in Limine Clarification* and *Brief in Support of Motion in Limine Clarification* be DENIED.

DATED this 1 day of March, 2024.

By: 

THORIN A. GEIST
DAVID BUCHLER
Attorney for the State of Montana

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of March, 2024, a true and correct copy of the foregoing document was served:

- U.S. Mail
- Email
- Fax
- MT Court E-filing
- Other: _____

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EXHIBIT 1

TRANSCRIPT

STATE OF MONTANA V. BOYD, ET AL.

TRANSCRIPT OF AV 19 - DAN WYATT

1 DISPATCH: Sounds like they are stopped at this moment. He
2 does (inaudible).

3 DEPUTY WYATT: Copy. 3 11 10, if you can go to the RP and
4 try and get eyes on this vehicle it'd be great.

5 DISPATCH: Units responding SG 32 is gonna go check this ERP
6 at the fly shop. He did just get eyes on the vehicle, they are
7 still parked on the right side of the road, northbound 287 at
8 mile post 36.

9 DEPUTY WYATT: 10 copies. Passing Cameron now.

10 DISPATCH: 10, I copy.

11 DEPUTY WYATT: Two miles out.

12 DISPATCH: (Inaudible).

13 DEPUTY: (On radio) 222 25 21, I'm also right by 10, did he
14 catch that?

15 DISPATCH: I copy right behind 10.

16 DEPUTY WYATT: That might be our silver Subaru.

17 DISPATCH: Copy that 10.

18 DEPUTY: Hey, I'm gonna flip around.

19 DEPUTY WYATT: Can you confirm if, uh, Fish and Game still
20 has the eyes on that vehicle and if it has a rack on top?

21 DISPATCH: Negative. Sorry, I disconnected because the game
22 warden was up there at 3 Cameron Drive. The RP does have a rack
23 on top, silver Ascent from North Carolina with a rack on top.

24 DEPUTY: 222 25 21, that's the RP in the Subaru?
25

1 DISPATCH: Negative. That would be the people that assaulted
2 him and left him.

3 DEPUTY: I copy. I'm gonna initiate, (inaudible) copy.

4 DISPATCH: Got that.

5 DEPUTY WYATT: (Inaudible).

6 DEPUTY: 222 25 5 97.

7 DISPATCH: I copy, 15 11.

8 DEPUTY: (Inaudible) traffic.

9 DEPUTY WYATT: (Arrives, exits vehicle - speaks to officer
10 who arrived) Stay there. Go to your car.

11 OFFICER: All right.

12 DEPUTY WYATT: Driver.

13 JESSE BOYD: Yes sir.

14 DEPUTY WYATT: With your left hand open the door. With your
15 right hand and your right hand only throw the keys out the
16 window.

17 DEPUTY: Already on the ground.

18 DEPUTY WYATT: Step out of the vehicle. Face away from me.
19 Hands in the air. With your right hand and your right hand only,
20 pick up your coat so I can see your waistband. Turn around. All
21 the way around. Face away from me. Interlock your fingers on top
22 of your head. Walk back to the sound of my voice. Stop right
23 there. Three steps left. Walk back to the sound of my voice.
24 Keep walking. Stop right there. Down on your knees. Hands on top

25

1 of your head. Put your right ankle over the top of your left
2 ankle. Want to grab him?

3 DEPUTY: That's what the door is open.

4 DEPUTY WYATT: Got it.

5 DEPUTY: All right. Stand you up and we walk back to my
6 vehicle. Understand?

7 DEPUTY WYATT: Go back to the truck behind you.

8 DEPUTY: Huh?

9 DEPUTY WYATT: Nothing. You're good.

10 DEPUTY: I'm sorry.

11 DEPUTY: You got it Danford?

12 DEPUTY WYATT: Yup.

13 DEPUTY: All right. (Inaudible).

14 DEPUTY WYATT: Right front passenger, step out of the
15 vehicle with your hands in the air. Face away from me. With your
16 right hand and your right hand only, lift up your shirt so I can
17 see your waistband. Turn around. Now turn around and face away
18 from me. Walk back to the sound of my voice.

19 DEPUTY: You got room in your truck, Dan?

20 DEPUTY WYATT: Uh, right side, yup. Keep coming. Stop right
21 there. Three steps to your left. Walk back to the sound of my
22 voice. Stop right there, three steps to your left. Walk back to
23 the sound of my voice. Tim, you want to grab him? Stop right
24 there. Down on your knees. Cross your ankles. Don't go in front

25

1 of me. Interlock your fingers on the top of your head. How many
2 others are in the vehicle? Three?

3 ERIC TRENT: Yes sir.

4 DEPUTY WYATT: Are they kids?

5 ERIC TRENT: Yes sir.

6 DEPUTY WYATT: All of them?

7 ERIC TRENT: Yes sir.

8 DEPUTY: How old?

9 DEPUTY WYATT: Go Tim.

10 ERIC TRENT: Uh, eighteen, another is thirteen, and there's
11 one twenty.

12 DEPUTY: Eighteen, thirteen, and what?

13 ERIC TRENT: Twenty.

14 DEPUTY: Twenty? (Inaudible).

15 ERIC TRENT: (Inaudible).

16 DEPUTY: The male in the back? Okay.

17 DEPUTY WYATT: Which one has the gun sir?

18 DEPUTY: Who's got the gun?

19 ERIC TRENT: (Inaudible).

20 DEPUTY: Nobody does?

21 ERIC TRENT: (Inaudible). Right here.

22 DEPUTY: Oh, Carter Phillips? Carter Phillips. Maybe.

23 DEPUTY: Dan, you got your keys.

24 DEPUTY: Carter Phillips might have the gun.

25 ERIC TRENT: (Inaudible).

1 DEPUTY: Okay.

2 DEPUTY WYATT: Oh, but. Right rear passenger, step out of
3 the vehicle with your hands in the air. With your right hand and
4 your right hand only lift up your shirt so I can see your
5 waistband. Turn around. Turn around now. Walk back to the sound
6 of my voice. Hands in the air.

7 DEPUTY: Thirteen year old (inaudible).

8 DEPUTY WYATT: Keep walking. Keep walking. Stop right there.
9 Matt, are you good there? Keep walking backwards. Stop right
10 there. Down on your knees. Cross your ankles, keep your hands in
11 the air. Interlock your fingers on the top of your head. Go
12 ahead, go. Tim, you here? Left rear passenger step out of the
13 vehicle. Kiddo, keep your hands in the air. Walk back to the
14 sound of my voice. Keep walking, buddy. Keep walking. Keep
15 walking. Stop right there, go down on your knees. Interlock your
16 ankles. Now interlock your fingers on the top of your head. Tim.

17 DEPUTY: (Inaudible) right there. (Inaudible). Right there,
18 yeah. (Inaudible).

19 DEPUTY WYATT: Rear passenger, step out of the vehicle with
20 your hands in the air. With your right hand and your right hand
21 only lift up your shirt and coat so I can see your waistband.
22 Keep your hands in the air. Pistol on its side.

23 DEPUTY: Yup.

24 DEPUTY WYATT: I want you to interlock your fingers on the
25 top of your head. Do not attempt to touch that pistol. Walk back

1 to the sound of my voice. Keep walking. Come to the center. Stop
2 right there. Three steps to your left. Two more. Walk back to
3 the sound of my voice. Stop right there. Down on your knees.
4 Cross your ankles. Do not move. No.

5 DEPUTY: Don't move, stay right there. You want us to keep
6 the firearm?

7 DEPUTY WYATT: Yup.

8 DEPUTY: Stay right there.

9 DEPUTY WYATT: Anybody else inside the vehicle?

10 CARTER PHILLIPS: No sir.

11 DEPUTY WYATT: Stand up.

12 CARTER PHILLIPS: Yes sir.

13 DEPUTY WYATT: No idea why he put those cuffs on the top of
14 your head like that.

15 CARTER PHILLIPS: It's a little weird.

16 DEPUTY WYATT: It's all right. We're get you figured. Right
17 here in front of this truck.

18 CARTER PHILLIPS: Okay.

19 DEPUTY WYATT: Do you have any other weapons on your person?

20 CARTER PHILLIPS: No sir.

21 DEPUTY WYATT: Anything that's gonna stick me, poke me,
22 otherwise hurt me, guns, knives, needles?

23 CARTER PHILLIPS: There's a little, there's a little
24 scissors in a bag in my left pocket.

25

1 DEPUTY WYATT: I'm gonna take this off and we're gonna put
2 it back around the back, on your back, okay?

3 CARTER PHILLIPS: Yes sir. Yeah, there's some, there's some,
4 like my phone's in my pocket and there's a little bag with my
5 coat, some little scissors and (inaudible).

6 DEPUTY WYATT: You guys want to clear that car?

7 DEPUTY: We did.

8 DEPUTY WYATT: Okay. Okay. What's your name?

9 CARTER PHILLIPS: Carter.

10 DEPUTY WYATT: Carter. Good to meet you, Carter.

11 CARTER PHILLIPS: You too.

12 DEPUTY WYATT: Okay. We're gonna go ahead and have you go
13 sit by this vehicle for a minute...

14 CARTER PHILLIPS: Okay.

15 DEPUTY WYATT: So we can open up this road a little bit.

16 CARTER PHILLIPS: Okay.

17 DEPUTY WYATT: Stand right here. I'll get the vehicle moved.
18 (Moves vehicle). . . . Do you want to go to the RP or do you
19 want me to?

20 DEPUTY: I can.

21 DEPUTY WYATT: It's up to you, bud.

22 DEPUTY: I can. I just, I have the juvenile in my car.

23 DEPUTY WYATT: No problem.

24 DEPUTY: Okay.

25

1 DEPUTY WYATT: Okay. If you want to go there I'll stay with
2 these guys.

3 DEPUTY: Okay. Do you want to, do you want me to just take
4 the juvenile with me or you want to leave him here?

5 DEPUTY WYATT: Yeah. Take him with you. Okay. 222 25 10,
6 we're code 4, 5 detained.

7 DEPUTY: Do you clear emergency traffic?

8 DEPUTY WYATT: Yeah. Carter.

9 CARTER PHILLIPS: Yes sir.

10 DEPUTY WYATT: Due to the fact you are in handcuffs and not
11 free to go right now, I'm gonna advise you of your Miranda
12 rights, okay?

13 CARTER PHILLIPS: Yes sir.

14 DEPUTY WYATT: You have the right to remain silent. Anything
15 you say can and will be used against you in a court of law. You
16 have the right to an attorney, if you cannot afford an attorney
17 one will be appointed to you. If at any point in time during
18 questioning, you may stop questioning and have a lawyer present,
19 you may do so. Do you understand?

20 CARTER PHILLIPS: Yes sir.

21 DEPUTY WYATT: What is going on?

22 CARTER PHILLIPS: There was just a confrontation and
23 scuffle.

24 DEPUTY WYATT: Okay. Confrontation and a scuffle with...
25

1 CARTER PHILLIPS: And my, my friend was threatened by a guy
2 in a truck, and then it just, as things do they just got heated.

3 DEPUTY WYATT: Um hmm.

4 CARTER PHILLIPS: And he shoved him, and the guy shoved my
5 friend, and then it...

6 DEPUTY WYATT: Yeah.

7 CARTER PHILLIPS: ..., just a scuffle.

8 DEPUTY WYATT: What happened to you?

9 CARTER PHILLIPS: What happened to me is I was over there
10 and got brushed up by one of, we carry some flags out here
11 walking.

12 DEPUTY WYATT: Um hmm.

13 CARTER PHILLIPS: And this guy was on my friend beating him,
14 and my other friend was trying to get him off with a stick, and
15 I came too close and got I guess backlashed by the stick.

16 DEPUTY WYATT: Got swacked by a stick? What's the deal with
17 the gun?

18 CARTER PHILLIPS: Um, I just always carry one in self-
19 defense.

20 DEPUTY WYATT: Nothing wrong with that. Did you do anything
21 in particular with it?

22 CARTER PHILLIPS: No, other than when he was threatening my
23 friend did ask me for it because he did seem very threatening,
24 so I did take it out of my holster and give it to him, but I
25 didn't, other than that nothing.

1 DEPUTY WYATT: You took it out of your holster, gave it to
2 your friend.

3 CARTER PHILLIPS: Yes sir.

4 DEPUTY WYATT: What's your friend's name?

5 CARTER PHILLIPS: Jesse Boyd.

6 DEPUTY WYATT: Jesse what?

7 CARTER PHILLIPS: Boyd.

8 DEPUTY WYATT: Boyd. Okay. All right. Is that Jesse there?

9 CARTER PHILLIPS: Yes sir.

10 DEPUTY WYATT: Okay. Whose car is it?

11 CARTER PHILLIPS: Uh, it's Jesse's.

12 DEPUTY WYATT: Did Jesse use it?

13 CARTER PHILLIPS: No.

14 DEPUTY WYATT: Did he do anything with it?

15 CARTER PHILLIPS: He did brandish it.

16 DEPUTY WYATT: Like what do you mean by brandish?

17 CARTER PHILLIPS: Or say, or just say he, the guy was, the
18 guy had backed up but still appeared threatening, and he just
19 had it in his hand and just said, you know, don't come, don't do
20 anything, you know.

21 DEPUTY WYATT: Um hmm. You know that's actually against the
22 law, right?

23 CARTER PHILLIPS: No.

24 DEPUTY WYATT: To do that.

25 CARTER PHILLIPS: No sir.

1 DEPUTY WYATT: To pull that weapon out and...

2 CARTER PHILLIPS: No sir.

3 DEPUTY WYATT: ... did a display like that, that is, it's
4 illegal to do that.

5 CARTER PHILLIPS: Oh.

6 DEPUTY WYATT: You know that, right?

7 CARTER PHILLIPS: No sir.

8 DEPUTY WYATT: Yeah.

9 DEPUTY WINN: (Background conversation - muffled) Okay. I'll
10 just have you sit in the back of my truck for now (moves Josiah
11 Boyd to another truck).

12 JOSIAH BOYD: Um hmm.

13 DEPUTY WINN: It's gonna be warmer, okay?

14 JOSIAH BOYD: Okay.

15 DEPUTY WYATT: What's the deal with you guys walking down
16 the road?

17 CARTER PHILLIPS: Um, so we're actually walking all the way
18 across America from the East Coast to the West.

19 DEPUTY WYATT: Okay.

20 CARTER PHILLIPS: It's kind of a missionary thing, just
21 trying to spread the gospel.

22 DEPUTY WYATT: Uh huh.

23 CARTER PHILLIPS: Of Jesus Christ. And so we've been walking
24 since the Atlantic trying to get to the Pacific and gonna take a
25

1 break here in a few days, go back home for Thanksgiving,
2 Christmas and stuff. Hmm.

3 DEPUTY WYATT: I'm enjoying watching this. No idea why he
4 drove in the ditch. (Laughs) Look at that. See that?

5 CARTER PHILLIPS: Um hmm. We don't...

6 DEPUTY WYATT: Doggone training.

7 CARTER PHILLIPS: I'm from Missouri, and we don't have snow
8 like that.

9 DEPUTY WYATT: See? That's what experience gets you right
10 there, okay?

11 CARTER PHILLIPS: Um hmm.

12 DEPUTY WYATT: All right. What did you think was gonna
13 happen today?

14 CARTER PHILLIPS: Like this morning or in the scuffle?

15 DEPUTY WYATT: Yeah, all.

16 CARTER PHILLIPS: This morning I just thought we were gonna
17 walk down the road, try to...

18 DEPUTY WYATT: Yeah.

19 CARTER PHILLIPS: ... talk to some people, hand out some
20 tracts, share the gospel...

21 DEPUTY WYATT: Yeah.

22 CARTER PHILLIPS: ..., and then we'd probably go home and
23 cook supper and...

24 DEPUTY WYATT: Yeah.

25 CARTER PHILLIPS: ... rest up.

1 DEPUTY WYATT: And what did you happen when the stuff
2 started going on? What started the incident?

3 CARTER PHILLIPS: Well, so we were parked down there where
4 that pull off is.

5 DEPUTY WYATT: Where's down there exactly?

6 CARTER PHILLIPS: Uh, I wouldn't know the mile markers. Down
7 there at the road there's kind of a subdivision there.

8 DEPUTY WYATT: Okay.

9 CARTER PHILLIPS: And so, we usually walk, like we'll tag
10 team. Some of us will walk and then the others of us will wait
11 in the support vehicle.

12 DEPUTY WYATT: Yeah.

13 CARTER PHILLIPS: And then we'll trade off. So me and
14 Bethany, the girl, we were, we had pulled off there to wait for
15 them because they were walking.

16 DEPUTY WYATT: Um hmm.

17 CARTER PHILLIPS: And we had pulled in and we turned around
18 and we were sitting right up by the road, and when they had
19 arrived the truck pulled in, and he rolled down his window and
20 my friend said, sorry, we're pulled off here, there's not very
21 many places to pull off. And he started cussing him out.

22 DEPUTY WYATT: Um hmm.

23 CARTER PHILLIPS: And just saying, you know, why the F are
24 you here and all this stuff and such. And then he ca..., got out
25 of the truck and came around.

1 DEPUTY WYATT: Okay.

2 CARTER PHILLIPS: And then they, and then he was threatening
3 and cussing, and then so my friend just told him, you know,
4 we're sorry we're here but we gotta, we don't have many places
5 to pull off, don't get, you know, mad, don't get angry, don't
6 get heated. And then they were kind of up close to each other,
7 just, you know.

8 DEPUTY WYATT: Um hmm.

9 CARTER PHILLIPS: And he just said, you know, don't lay a
10 hand on me, my friend said don't lay a hand on me, like, you
11 know, I don't want to have to hurt you, don't want to have to
12 anything, but don't lay a hand on me.

13 DEPUTY WYATT: Um hmm.

14 CARTER PHILLIPS: And bantered back and forth for a while,
15 and then I was kind of where is and they were like right over
16 there, so I can't, I couldn't see everything that happened. But
17 he, either he shoved my friend or something and they got
18 scuffling. And then he, and then he backed, they kind of parted
19 and my friend said don't, don't do anything, just stay away.

20 DEPUTY WYATT: Uh huh.

21 CARTER PHILLIPS: And then he shoved him on the ground and
22 jumped on top of him.

23 DEPUTY WYATT: Okay.
24
25

1 CARTER PHILLIPS: And then we were trying to pull him off,
2 and then he got up and he had kind of a bloody nose, I think my
3 friend hit him.

4 DEPUTY WYATT: Um hmm.

5 CARTER PHILLIPS: Um, in that.

6 DEPUTY WYATT: Okay.

7 CARTER PHILLIPS: And then that was when, and before that
8 and then after, after that, he pretty much said well, I'm gonna
9 call the police, and my friend said, well I'm gonna call the
10 police, and then.

11 DEPUTY WYATT: Um hmm. Were you guys calling?

12 CARTER PHILLIPS: Me?

13 DEPUTY WYATT: Were you guys? Anybody in your car.

14 CARTER PHILLIPS: Called the police?

15 DEPUTY WYATT: Yeah.

16 CARTER PHILLIPS: No.

17 DEPUTY WYATT: Why?

18 CARTER PHILLIPS: Oh, oh, Jesse did, yeah.

19 DEPUTY WYATT: He, Jesse did.

20 CARTER PHILLIPS: Yeah, Jesse did as soon as it happened. He
21 called the police.

22 DEPUTY WYATT: Okay.

23 CARTER PHILLIPS: I didn't call the police.

24 DEPUTY WYATT: Okay. All right. Okay. So what escalated to
25 the point where you thought he needed your gun?

1 CARTER PHILLIPS: Well they were on the ground hitting each
2 other and... 1st

3 DEPUTY WYATT: Um hmm.

4 CARTER PHILLIPS: And I didn't know, and I didn't, like I
5 wouldn't have normally at all pulled it out, like unless I, and
6 like I was in fear for my friend's life, but I wasn't, like I'm
7 not gonna pull my gun out unless I'm actually in fear for my
8 life.

9 DEPUTY WYATT: Uh huh.

10 CARTER PHILLIPS: But I, he asked, he just asked me for it,
11 um, and so I gave it to him.

12 DEPUTY WYATT: He asked you for your gun.

13 CARTER PHILLIPS: Yes sir.

14 DEPUTY WYATT: So he's getting his butt kicked and he's like
15 hey, give me your gun.

16 CARTER PHILLIPS: Yeah, well not, not quite, but it was
17 just, I, I, I think that he was probably in fear for his life.

18 DEPUTY WYATT: Uh huh.

19 CARTER PHILLIPS: And wanted it in case the guy came again.

20 DEPUTY WYATT: Came at him again?

21 CARTER PHILLIPS: And attacked again, yes sir.

22 DEPUTY WYATT: So they separated for a little bit?

23 CARTER PHILLIPS: Separated for a minute.

24 DEPUTY WYATT: How far apart?

25 CARTER PHILLIPS: Uh, five feet, six feet maybe, seven.

1 DEPUTY WYATT: Okay. It's just confusing to me, a couple
2 things.

3 CARTER PHILLIPS: Yes sir.

4 DEPUTY WYATT: Okay, I'm not gonna lie to you. It's
5 confusing to me how you guys call yourselves evangelists.

6 CARTER PHILLIPS: Yes sir.

7 DEPUTY WYATT: So you're evangelists. How an evangelist
8 could be walking across America and spread the word of god,
9 carrying a gun.

10 CARTER PHILLIPS: Yes sir.

11 DEPUTY WYATT: Which is perfectly legal, nothing wrong with
12 that. Get into a fight in the middle of Montana on the middle of
13 road nowhere and decide that, you know what, I think I need my
14 gun to shoot somebody.

15 CARTER PHILLIPS: I don't, I don't believe that my friend
16 was, was ever intending to shoot someone.

17 DEPUTY WYATT: But he took, you gave him your gun.

18 CARTER PHILLIPS: Yes sir.

19 DEPUTY WYATT: You gave it to him. What's wrong with your
20 eye?

21 CARTER PHILLIPS: Uh, that was where the flag...

22 DEPUTY WYATT: No, the other one.

23 CARTER PHILLIPS: Which one?

24 DEPUTY WYATT: Your right one, you got it all closed.

25 CARTER PHILLIPS: This one?

1 DEPUTY WYATT: Yup. That was closed like that. I thought
2 maybe your...

3 CARTER PHILLIPS: I generally squint with this eye and leave
4 my left eye open.

5 DEPUTY WYATT: Okay.

6 CARTER PHILLIPS: Generally. It's just the way I've always
7 been.

8 DEPUTY WYATT: All right. Okay.

9 CARTER PHILLIPS: But I don't think the, my left eye
10 actually had some injuries in recently and that's why the pupil
11 is bigger.

12 DEPUTY WYATT: Well, you definitely got a mark up above your
13 head.

14 CARTER PHILLIPS: But, uh...

15 DEPUTY WYATT: Do you think you need medical attention?

16 CARTER PHILLIPS: No.

17 DEPUTY WYATT: No?

18 CARTER PHILLIPS: No, that's okay, so I'll...

19 DEPUTY WYATT: All right. Are you cold?

20 CARTER PHILLIPS: A little bit. Hands are a little cold but.

21 DEPUTY WYATT: All right. I would like to be able to take
22 those handcuffs off you but...

23 CARTER PHILLIPS: Yes sir.

24 DEPUTY WYATT: ... due to the cir..., due to the
25 circumstances...

1 CARTER PHILLIPS: I know. No, I get it.

2 DEPUTY WYATT: ... I'll apologize. I will tell you this much
3 though. If you have a way to, if you have a way to, uh, put
4 those hands in your pocket I'll remove you these deals here so
5 you can stick them in your pocket, help keep them a little
6 co..., warmer.

7 CARTER PHILLIPS: Okay.

8 DEPUTY WYATT: You know what I mean?

9 CARTER PHILLIPS: Yes sir.

10 DEPUTY WYATT: Should be nothing in this one, right? You
11 have the ability to put your hands in your pockets back there,
12 keep them a little bit warmer that'd be good. I'll stick there
13 right up here so you don't lose them, all right?

14 CARTER PHILLIPS: Okay.

15 DEPUTY WYATT: Okay. All right. Does that make sense what
16 I'm trying to say to you?

17 CARTER PHILLIPS: Yeah. I think it was just, to me it was
18 one of those situations that just escalated very quickly.

19 DEPUTY WYATT: Uh huh.

20 CARTER PHILLIPS: And was very, almost in the moment you
21 don't really know what's happening.

22 DEPUTY WYATT: Sure.

23 CARTER PHILLIPS: And then afterwards, I don't know. It
24 just, it seemed like it escalated very quickly.

25

1 DEPUTY WYATT: Turned a good day into a really bad day
2 quick, didn't it.

3 CARTER PHILLIPS: Yeah. Very quickly.

4 DEPUTY WYATT: Okay. All right. And you don't need any
5 medical attention for your head?

6 CARTER PHILLIPS: I don't believe so. I mean...

7 DEPUTY WYATT: Let me get a look at that real quick. You got
8 any whacked anywhere else?

9 CARTER PHILLIPS: No.

10 DEPUTY WYATT: Nowhere's else?

11 CARTER PHILLIPS: No sir.

12 DEPUTY WYATT: Okay. What's the deal with the crosses and
13 stuff and the flags?

14 CARTER PHILLIPS: Um, it's just, it...

15 DEPUTY WYATT: Part of your walk across?

16 CARTER PHILLIPS: It's part of the walk. It's a way to
17 visually, you know, people will stop to talk to you, you can
18 just share when, you can share the gospel, you can give them, we
19 carry little cards. They're, they're in the car.

20 DEPUTY WYATT: Okay.

21 CARTER PHILLIPS: That you can hand out.

22 DEPUTY WYATT: Okay.

23 CARTER PHILLIPS: And it's just a visual thing.

24 DEPUTY WYATT: Just trying to understand.

25 CARTER PHILLIPS: It's just a visual thing.

1 DEPUTY WYATT: And trying to figure out how it is you got
2 whacked by one of your own people...
3 CARTER PHILLIPS: Yeah.
4 DEPUTY WYATT: ... with one of those. Okay? No problem.
5 CARTER PHILLIPS: Yeah.
6 DEPUTY WYATT: All right.
7 CARTER PHILLIPS: Yeah, it's just a visual thing we carry.
8 DEPUTY WYATT: No worries.
9 DEPUTY: (Inaudible).
10 DEPUTY WYATT: Is it locked? Yeah.
11 DEPUTY: Okay.
12 DEPUTY WYATT: Can I have you just come stand with this guy
13 for a little bit? Miss, how are you?
14 BETHANY BOYD: Yes. Doing all right.
15 DEPUTY WYATT: Yeah, you're okay? We didn't scare you too
16 bad I hope.
17 BETHANY BOYD: No, I'm fine. I promise.
18 DEPUTY WYATT: What, what is your name?
19 BETHANY BOYD: Bethany.
20 DEPUTY WYATT: Bethany?
21 BETHANY BOYD: Yes sir.
22 DEPUTY WYATT: My name's Dan, I'm with the Madison County
23 Sheriff's Department.
24 BETHANY BOYD: Nice to meet you, Dan.
25 DEPUTY WYATT: Sorry for meeting on this, like this.

1 BETHANY BOYD: It's okay.

2 DEPUTY WYATT: However, due to the fact you're in handcuffs
3 in a car and not free to go...

4 BETHANY BOYD: Yes sir.

5 DEPUTY WYATT: ... I'm gonna advise you of your Miranda
6 rights, okay?

7 BETHANY BOYD: Okay.

8 DEPUTY WYATT: Because I have no idea what happened here
9 today.

10 BETHANY BOYD: Yes sir.

11 DEPUTY WYATT: Okay. You have the right to remain silent.
12 Anything you say can and will be used against you in a court of
13 law. You have a right to an attorney. If you cannot afford an
14 attorney one will be appointed to you. If at any point in time
15 during questioning you wish to have questioning stop to have a
16 lawyer present you may do so. Do you understand that?

17 BETHANY BOYD: Yes sir, I do.

18 DEPUTY WYATT: Okay. Can you tell me what the heck happened?

19 BETHANY BOYD: Well, as you probably already figured out
20 we're walking across America, okay?

21 DEPUTY WYATT: Yeah.

22 BETHANY BOYD: And so me and my boyfriend pulled off on a
23 side road.

24 DEPUTY WYATT: Who's your boyfriend?

25 BETHANY BOYD: Uh, Carter Phillips. Yes sir.

1 DEPUTY WYATT: Carter, okay.

2 BETHANY BOYD: Yes sir. Pulled off on a side road, and I
3 noticed there were some signs that said no trespassing, so I
4 made sure to pull over outside of the gate and to pull off the
5 side so it wouldn't be blocking anybody.

6 DEPUTY WYATT: Um hmm.

7 BETHANY BOYD: Well, we were sitting waiting and nobody
8 bothered us or said anything, and then my dad and Eric and
9 Josiah, my little brother, walked up.

10 DEPUTY WYATT: That's your dad?

11 BETHANY BOYD: Yes sir, that's my dad, Jesse. And they
12 walked up, and so we were getting ready to switch off with him,
13 so me and Carter would start walking with the flags.

14 DEPUTY WYATT: Uh huh.

15 BETHANY BOYD: And so, as we were doing that a guy in a
16 pickup pulled up, and I waived and smiled, but he looked kind of
17 angry inside, and he was mouthing off, and so he got out of the
18 vehicle, and he started just dropping the F bomb really loud.
19 Didn't give us a chance to say anything about what we were
20 doing.

21 DEPUTY WYATT: Okay.

22 BETHANY BOYD: And so he's real mad, his demeanor is kind of
23 a little bit strange, a little bit scary at the point because
24 he's just, we don't know what he's gonna do. And so he comes
25 around the car with his hands flailing all over the place, and

1 so my dad pulls the gun. Because we couldn't see where his hands
2 were exactly, we didn't know what he was about to do, just...

3 DEPUTY WYATT: Okay. So di...

4 BETHANY BOYD: We were in fear of our life.

5 DEPUTY WYATT: Does your dad have a gun and Carter has a
6 gun?

7 BETHANY BOYD: Yes sir. He had a gun at the time but it got
8 back, put in the car or something after the incident.

9 DEPUTY WYATT: Okay.

10 BETHANY BOYD: But he pulled the gun, he said don't come any
11 closer, you're too close, let me explain what we're doing. And
12 the guy started to get angry. Well, we put the gun away because
13 we didn't see a need to keep it out.

14 DEPUTY WYATT: Um hmm.

15 BETHANY BOYD: And the guy keeps pushing his chest forward,
16 getting closer, and my dad warns him again, hey, don't come any
17 closer, you're making me uncomfortable. Well, the guy shoves up
18 against my dad and so my dad pushed him back. Well, the guy fell
19 and then he got back up really angry again. And then he started
20 pushing my dad again and swinging at him.

21 DEPUTY WYATT: Okay.

22 BETHANY BOYD: And so we trained in martial arts, so my dad
23 just did a simple technique on him and he went to the ground.
24 Well, he stood up again, and dad was like don't, don't come at
25 me again, and we were all telling him the same thing. Don't, no

1 more, stop, this is enough, we're moving on. And he swung at him
2 again, and that's when everybody tussled to the ground and the
3 guy was down on the ground on top of my dad, and so Eric stepped
4 in and tried to manhandle him off.

5 DEPUTY WYATT: Um hmm.

6 BETHANY BOYD: And so I stepped in with a flag and started
7 hitting him because he was on top of my dad, he was tussling
8 with Eric.

9 DEPUTY WYATT: Uh huh.

10 BETHANY BOYD: And then finally he stood up, and he's like
11 you gave me a cheap shot, you gave me a cheap shot, and his nose
12 was bleeding because it must have got hit in the thing. And so
13 he's trying to call the F'ing police, this, this and that. You
14 all need to get out of the place, da, da, da, da. And so, it was
15 just basically that, just a tussle, and so I guess he called you
16 guys and then.

17 DEPUTY WYATT: Um hmm.

18 BETHANY BOYD: But it was just the way the guy acted, his
19 demeanor and stuff made us feel in fear of our life. And so when
20 he took a shot at my dad it made me concerned for my little
21 brother who was standing there too. This foul mouthed guy
22 hitting and going crazy. And so it was, it was a mess.

23 DEPUTY WYATT: Um hmm.

24 BETHANY BOYD: But that's basically what happened.

25 DEPUTY WYATT: Okay. Just a...

1 BETHANY BOYD: Yes sir. Just a little, little tussle or
2 brawl fight sort of thing.

3 DEPUTY WYATT: No worries. I understand a lot of things. I
4 asked Carter earlier.

5 BETHANY BOYD: Yes sir.

6 DEPUTY WYATT: I was like I, I understand certain things,
7 but...

8 BETHANY BOYD: Yup.

9 DEPUTY WYATT: I don't understand how evangelists, you,
10 evangelists, right?

11 BETHANY BOYD: Yes sir, right, yes sir. God believing
12 Christians.

13 DEPUTY WYATT: In the middle of Montana, nowhere out here.

14 BETHANY BOYD: Yes sir.

15 DEPUTY WYATT: Get into a, basically a gunfight and a tussle
16 with somebody.

17 BETHANY BOYD: I know. Right.

18 DEPUTY WYATT: It just...

19 BETHANY BOYD: It, it shocked me because like throughout
20 this whole thing we haven't really had any hostility.

21 DEPUTY WYATT: Uh huh.

22 BETHANY BOYD: And we've had a few people get mad, like this
23 guy just came out mad.

24 DEPUTY WYATT: Um hmm.

25 BETHANY BOYD: Like he didn't give us a chance to explain.

1 DEPUTY WYATT: Sure.

2 BETHANY BOYD: And normally once we tell people hey, we're
3 really sorry, we didn't mean to get on your property, you know.

4 DEPUTY WYATT: Yeah.

5 BETHANY BOYD: They're like, okay, cool, we understand, you
6 know, no big deal. Well, he didn't really give us a chance to
7 explain. Again, like I said, we weren't on his property.

8 DEPUTY WYATT: Right. You're (inaudible) yeah.

9 BETHANY BOYD: Like I made sure. His signs were behind the
10 gate and so we weren't in the gate...

11 DEPUTY WYATT: Yeah.

12 BETHANY BOYD: ... and we were off to the side.

13 DEPUTY WYATT: Yeah.

14 BETHANY BOYD: And he just came out mad.

15 DEPUTY WYATT: Did he say it was his property?

16 BETHANY BOYD: Yeah, he said you're on my F-ing property,
17 you're on my F-ing business, this, this and that, which there
18 wasn't a house really close to where we were at.

19 DEPUTY WYATT: Hmm.

20 BETHANY BOYD: So, I'm not really sure what he was talking
21 about, but.

22 DEPUTY WYATT: Okay. You said there's other guns in the car?

23 BETHANY BOYD: Yes.

24 DEPUTY WYATT: Any idea where they're at?

25

1 BETHANY BOYD: There is, I believe my dad has one in there
2 somewhere. It might be in the console.
3 DEPUTY WYATT: Okay.
4 BETHANY BOYD: And then I know Eric might have a gun, it's
5 probably in his backpack.
6 DEPUTY WYATT: Eric's your brother?
7 BETHANY BOYD: Eric's just a friend. He's the other guy.
8 DEPUTY WYATT: Okay. He, might be in his backpack?
9 BETHANY BOYD: Yes sir.
10 DEPUTY WYATT: Okay.
11 BETHANY BOYD: It might be. I'm not positive, but.
12 DEPUTY WYATT: Okay. All right.
13 BETHANY BOYD: Yes sir.
14 DEPUTY WYATT: Do you have any concerns, are you injured?
15 BETHANY BOYD: No sir.
16 DEPUTY WYATT: Do you need any medical attention?
17 BETHANY BOYD: I don't think so.
18 DEPUTY WYATT: Okay. I'll be right back with you.
19 BETHANY BOYD: Okay. I appreciate it.
20 DEPUTY WYATT: Thank you. (Leaves)
21 JESSE BOYD: I'm not interested in that. I'm not trying to
22 get somebody back or anything like that.
23 DEPUTY WYATT: Gentlemen, I apologize. Where'd the little
24 kid go?
25 DEPUTY: He's in the back of my truck. Yup.

1 DEPUTY WYATT: Okay. Thank you.

2 JESSE BOYD: I'm just...

3 DEPUTY WYATT: It's Eric, right?

4 ERIC TRENT: It's Eric.

5 DEPUTY WYATT: Eric, I'm cold. I ain't gonna lie to you, I'm
6 cold. You're cold back here?

7 ERIC TRENT: No, not back here, but out there I am.

8 DEPUTY WYATT: Yeah. Are you, it's kind of a tight spot,
9 huh?

10 ERIC TRENT: That's fine.

11 DEPUTY WYATT: Okay. Eric.

12 ERIC TRENT: Yes sir.

13 DEPUTY WYATT: You're not free to go.

14 ERIC TRENT: Okay.

15 DEPUTY WYATT: Okay, you're not under arrest yet either,
16 you're just being detained.

17 ERIC TRENT: Oh, okay. I understand.

18 DEPUTY WYATT: Because you're in handcuffs, you're in the
19 back in my car, and you are not free to go, I am going to advice
20 you of your Miranda rights.

21 ERIC TRENT: Okay.

22 DEPUTY WYATT: You have the right to remain silent. Anything
23 you say can and will be used against you in a court of law. You
24 have the right to an attorney. If you cannot afford an attorney
25 one will be appointed to you. If at any point in time during

1 questioning you wish to stop questioning to have a lawyer
2 present you may do so. Do you understand these rights?

3 ERIC TRENT: Yes sir.

4 DEPUTY WYATT: Okay. First off, why did you guys pick
5 November to walk across Montana?

6 ERIC TRENT: It's just the timing right now, I guess.

7 DEPUTY WYATT: Good lord. All right, so check it out. What
8 the heck happened?

9 ERIC TRENT: It was chaos. I hate that it all happened, but
10 we, uh, Jesse over there and, uh, me and his son Josiah we were
11 walking.

12 DEPUTY WYATT: Yeah.

13 ERIC TRENT: And these other two guys were parked at the end
14 of that road at that guy's driveway.

15 DEPUTY WYATT: Okay.

16 ERIC TRENT: I don't know who he was. White hair, he had
17 white hair.

18 DEPUTY WYATT: Okay.

19 ERIC TRENT: And like a green sweater or something.

20 DEPUTY WYATT: Okay.

21 ERIC TRENT: And he pulls up in his truck. By this time we
22 had all walked up to the scene, and we were getting ready to...

23 DEPUTY WYATT: And you're just on the road.

24 ERIC TRENT: Yes sir.

25 DEPUTY WYATT: Okay.

1 ERIC TRENT: And, uh, the Subaru's parked off to the side,
2 wherever the mailboxes were I guess.

3 DEPUTY WYATT: Okay.

4 ERIC TRENT: You could still get past.

5 DEPUTY WYATT: Sure.

6 ERIC TRENT: Well, uh, white haired guy, he comes up in his
7 truck, and he pulls in, and he rolls down his window, and he
8 starts yelling at Jesse. Yelling and cussing at him, something
9 about, I couldn't, I couldn't really hear because I was kind of
10 a ways away, but I think it was something about he couldn't get
11 past or he's blocking the road, this is my property.

12 DEPUTY WYATT: Uh huh.

13 ERIC TRENT: This, this kind of stuff. Well, Jesse's like,
14 well, we're getting ready to leave, you know, we're gonna be
15 getting out of here. And a couple words were exchanged. Well,
16 this white haired guy gets out of his truck, he's still cussing,
17 and he gets out of his truck in a pretty aggressive manner.

18 DEPUTY WYATT: Um hmm.

19 ERIC TRENT: And he starts coming around the front. Well, he
20 gets around, then he comes right up to Jesse. By this time Jesse
21 had pulled out his little Derringer, his little pistol.

22 DEPUTY WYATT: Um hmm.

23 ERIC TRENT: Just like hey, back off, you know, I'm gonna...

24 DEPUTY WYATT: So, hold on, hold on. So he pulls out a
25 pistol because this guy's yelling at him?

1 ERIC TRENT: Well, he looked like he was getting ready to
2 come out and do something, like he's gonna swing at him.
3 DEPUTY WYATT: What did you think was gonna happen?
4 ERIC TRENT: Uh, it looked, it looked pretty threatening, so
5 I had gotten up, and I had gotten between Jesse and white haired
6 guy.
7 DEPUTY WYATT: Okay.
8 ERIC TRENT: And, uh.
9 DEPUTY WYATT: So then Jesse pulls his pistol? Okay, go on.
10 ERIC TRENT: Well, he had, he had it out for a little bit.
11 DEPUTY WYATT: Uh huh.
12 ERIC TRENT: And, uh...
13 DEPUTY WYATT: Did he point it at him?
14 ERIC TRENT: Yeah, he, well, he kind of had it pointed down
15 kind of like at his gut, you know.
16 DEPUTY WYATT: Down like this?
17 ERIC TRENT: Yes sir.
18 DEPUTY WYATT: Okay.
19 ERIC TRENT: And, uh, by this time white haired guy comes
20 up, and he's still cussing at us, telling us to leave, you know,
21 going on and on about, you know, you're a big tough man for
22 pulling out a gun and all this different stuff.
23 DEPUTY WYATT: Um hmm.

24
25

1 ERIC TRENT: By this time Jesse had put the gun, you know,
2 back down, and he had handed the pistol over to me, just said
3 hey, put this in your pocket, I will need this.

4 DEPUTY WYATT: Yeah.

5 ERIC TRENT: And so white haired guy's up in Jesse's face,
6 and, uh, I don't really remember. A lot of the nature of the
7 conversation was just a lot of, you know, white haired guy was
8 just, he was hot.

9 DEPUTY WYATT: Yeah.

10 ERIC TRENT: He, he was really hot. And I'm just kind of
11 standing there between.

12 DEPUTY WYATT: Yeah.

13 ERIC TRENT: Waiting for this whole thing to go down. And,
14 uh, you know, he's still making threats at us, and by this time
15 we're like, all right, we're gonna get out of here, we're gonna
16 get out of here, and, uh, this guy, a couple more words were
17 exch..., we were talking about like what we were doing.

18 DEPUTY WYATT: Yeah.

19 ERIC TRENT: You know, reaching, walking from Jersey.

20 DEPUTY WYATT: Yeah.

21 ERIC TRENT: Walking through Montana. He was telling us to
22 get out of Montana, just all this stuff.

23 DEPUTY WYATT: Yeah.

24

25

1 ERIC TRENT: Back and forth. And he doesn't, he doesn't cool
2 down, next thing you know he's getting right up on Jesse's face
3 and...

4 DEPUTY WYATT: Excuse me one second. Would you talk to kid
5 in back of truck.

6 DEPUTY: Alec's?

7 DEPUTY WYATT: Alec's truck, yup.

8 DEPUTY: Yup.

9 DEPUTY WYATT: Thanks. Sorry.

10 ERIC TRENT: So he starts, so he starts yelling real loud.
11 He's like, I'll yell real loud too, and if this was Jesse's head
12 right here he was about like that, you know, yelling.

13 DEPUTY WYATT: Yeah, um hmm.

14 ERIC TRENT: And so he, he bumps Jesse with his chest. So
15 that's when Jesse just shoved him off of him.

16 DEPUTY WYATT: Um hmm.

17 ERIC TRENT: Just like get off of me, you know. White haired
18 guy comes back swinging. He goes to swing and he misses Jesse.
19 Jesse gets out of the way, and Jesse returns with a tag. And I
20 don't really remember what all went down right there, but I
21 remember I got in and I shoved the white haired guy. I was just
22 like you need to stop, you need to stop. So he was there and
23 Jesse was behind me.

24 DEPUTY WYATT: Um hmm.

25

1 ERIC TRENT: And I just had both my hands up. It was just
2 like you've got to stop. You've got to stop.

3 DEPUTY WYATT: Yeah.

4 ERIC TRENT: And, uh, he comes up again for another swing
5 and misses. He misses me, and next think I know him and Jesse
6 are on the ground and white haired guy's on top of Jesse, and
7 he's got his, I don't know if they were around his throat or...

8 DEPUTY WYATT: Uh huh.

9 ERIC TRENT: ..., or around his collar or whatever. But he's
10 got Jesse's face like down in the snow, down in the snowbank.

11 DEPUTY WYATT: Yeah.

12 ERIC TRENT: And I was trying to shove him off, shove the
13 whitehaired guy off of him because I didn't know what he was
14 gonna end up doing to him. I don't know if he was choking him, I
15 don't know, I didn't know if he was getting ready to start, you
16 know, NMA.

17 DEPUTY WYATT: Yeah.

18 ERIC TRENT: Punching him on the head, you know. And, uh, I
19 was just like you've got to get off, you've got to get off, and
20 so I tried to shove him off, and it wasn't working, and so I
21 started hitting him in the back of his head. I think I hit in
22 like maybe four or five times...

23 DEPUTY WYATT: Uh huh.

24

25

1 ERIC TRENT: On the back of his head. And I was saying
2 you've got to let go, let go, let go, get off, get off, get off.
3 And finally I managed to grab around his neck and peel him off.
4 DEPUTY WYATT: Um hmm.
5 ERIC TRENT: And he had me by the neck, by my fleece.
6 DEPUTY WYATT: Yeah.
7 ERIC TRENT: And he, I couldn't, I couldn't turn him loose,
8 and I was just kind of sitting there really scared that he was
9 gonna, you know, clock me.
10 DEPUTY WYATT: Right.
11 ERIC TRENT: Because he had me pretty good. So I just
12 remember wriggling out of my backpack and my down coat.
13 DEPUTY WYATT: Yeah.
14 ERIC TRENT: And I managed to get out of his grip, you know.
15 DEPUTY WYATT: Yeah. Um hmm.
16 ERIC TRENT: And by this time it was all over. We were, it
17 wasn't anything else.
18 DEPUTY WYATT: Okay. Did you see any other guns come into
19 play?
20 ERIC TRENT: Uh, no sir.
21 DEPUTY WYATT: No?
22 ERIC TRENT: No, it was just that, it was just that silver
23 derringer.
24 DEPUTY WYATT: Just a silver derringer.
25 ERIC TRENT: Yes sir, and it was in my coat pocket.

1 DEPUTY WYATT: Okay.

2 ERIC TRENT: I gave it back to Jesse but it was like in the,
3 I think it's in the Subaru door or something, you all probably
4 already found it.

5 DEPUTY WYATT: In the door now?

6 ERIC TRENT: Yeah.

7 DEPUTY WYATT: No, we haven't looked, we haven't searched
8 your car.

9 ERIC TRENT: I think it's in the driver's side or something.

10 DEPUTY WYATT: Driver's side door?

11 ERIC TRENT: Yes sir.

12 DEPUTY WYATT: Okay. Is there anything else that I need to
13 know?

14 ERIC TRENT: Uh, I just, I really wish this didn't happen.

15 DEPUTY WYATT: You and me both.

16 ERIC TRENT: Just, we wanted to keep going, and we were
17 getting ready to leave, and I just wish he didn't get out and
18 escalate the whole thing.

19 DEPUTY WYATT: Yeah. Where you guys staying?

20 ERIC TRENT: We're staying at a little cabin down there in
21 Island Park.

22 DEPUTY WYATT: Cabin in Island Park.

23 ERIC TRENT: Yes sir. There's some little chalet's down
24 there.

25 DEPUTY WYATT: Okay.

1 ERIC TRENT: We just stayed a couple nights.
2 DEPUTY WYATT: Okay. So you walk, then drive back.
3 ERIC TRENT: Um hmm.
4 DEPUTY WYATT: And then walk where you left off, and then
5 drive back.
6 ERIC TRENT: Yes sir. So we, yeah, we kind of tag team.
7 DEPUTY WYATT: Kind of leap frog?
8 ERIC TRENT: Yeah, we relay it, yes sir.
9 DEPUTY WYATT: Yeah? Okay.
10 ERIC TRENT: Yeah, so we had a lady up in Bozeman we were
11 gonna, nice Christian lady we were gonna stay with up there, but
12 we were gonna stay with her tomorrow night, but.
13 DEPUTY WYATT: Okay.
14 ERIC TRENT: That's gonna end up having her, but...
15 DEPUTY WYATT: All right. Well, I'll have you put your feet
16 back in there, and I'll close the door so you can stay a little
17 bit warm. I'll be right back with you.
18 ERIC TRENT: Yes sir.

19 END

20 This is a true and correct transcript of the video recording of
21 the above proceeding to the best of my ability.

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CERTIFICATE OF SERVICE

I, Thorin Aidan Geist, hereby certify that I have served true and accurate copies of the foregoing Answer/Brief - Response to the following on 03-01-2024:

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