

Table Of Contents

Part 1: Original Appeal - Followed by Affidavits

Part 2: State Response to Appeal

Part 3: Response to State - Followed by
Affidavits and Evidence

[Click above to jump to the listed
location](#)

STATE OF WISCONSIN,

PLAINTIFF

v.

CASE No.10-cf-431

ERIC G. KOULA,

DEFENDANT

NOTICE OF MOTION AND MOTION FOR POST CONVICTION RELIEF
PURSUANT TO § 974.06, STATS.

Please take notice that the above court will entertain the below motion at the instance of the undersigned, at the date and time to be assigned by the court.

The above named defendant, Eric Koula, appearing Pro Se, hereby moves this court for post conviction relief pursuant to § 974.06 , Stats. , as follows:

1. That the court set a date for an evidentiary hearing on this post conviction motion pursuant to State v. Machner, 92 Wis. 2d 797, 285 NW. 2d 905 (Ct. App 1979), State v. Curtis, 218 Wis. 2d 550, 582 NW. 2d 409 (Ct. App 1998), and Rothering v. McCaughtry, 205 Wis. 2d 675, 556 N.W. 2d 136 (Ct. App 1996). At the hearing, Mr. Koula will testify and will present the testimony of his trial counsel (James Koby, Keith Belzer, Christopher Dyer, Nicholas Thompson), and post conviction counsel (Susan Alesia and Shelley Fite), as well as multiple witnesses including William Nelson, Laurie Juedes, Dexter Koula, Hadley Koula, Dawn Noah, Patrick and Cindy Cowell, and selected law enforcement officials employed by

the Lacrosse County Sheriff's Department. These individuals will provide the testimony necessary to develop the record herein to demonstrate: (1) Ineffective Assistance of Counsel under the law; (2) that newly discovered evidence exists which would warrant a new trial; and (3) that the real controversy has not been fully tried such that, in the interest of justice, Mr. Koula deserves a new trial.

At the evidentiary hearing, the record in this case will be supplemented and Mr. Koula will present testimony and evidence in support of his claims set out more fully below, all of which cumulatively support his request for a new trial. An evidentiary hearing is required so that the court can hear the testimony and meaningfully assess the evidence which supports Mr. Koula's claims herein. Through this evidence, Mr. Koula will demonstrate that the claims raised herein are clearly stronger than the claims previously raised by his post conviction attorneys and that relief in the forum of a new trial is appropriate under the law.

2. That after the requested evidentiary hearing, the court issue an order vacating Mr. Koula's judgments of conviction and sentences and order a new trial, as well as such other relief as may be appropriate.

As ground for this motion, Mr. Koula asserts that he has Constitutional and Statutory rights to Due Process, to Confrontation and adequate examination of the State's witnesses, to subpoena and present witnesses, to present a defense and evidence in support of same, and to a fair trial, under both the Federal and Wisconsin Constitutions. Mr Koula also has a constitutional right to the

Effective Assistance of Counsel. Strickland v. Washington , 466 U.S. 668 (1984); State v. Pitsch , 124 Wis. 2d 628, 369 N.W. 2d 711 (1985), and State v. Thiel , 264 Wis. 2d 571, 665 N.W. 2d 305 (2003).

Mr. Koula hereby moves the court for an evidentiary hearing and a new trial based upon the ineffective assistance of counsel as described more fully below, based upon newly-discovered evidence as described more fully below, and in the interest of justice. Given the cumulative effect of the IAC issues raised herein, there is a reasonable doubt as to Mr. Koula's guilt. Likewise, a reasonable probability of a different outcome exists in light of the newly-discovered evidence.

BACKGROUND

The following assertions are supported by the record herein, as well as the affidavits which accompany this motion.

The complaint in this matter arises out of the deaths of Merna and Dennis Koula in May of 2010. Autopsies revealed several possible dates of death. In this complaint, and at trial, the State took the position that the homicides occurred on the evening of Friday, May 21, 2010 — Merna at 5:41pm and Dennis around 6:00pm. The time of death relied on by the State was based upon the conclusion reached by a single law enforcement official (Sergeant Mike Blockhuis) who examined the desktop computer owned by Merna and Dennis Koula and concluded that it showed evidence that Merna was killed at 5:41pm. The State's entire case against Eric Koula was based around this time of death. Mr. Koula's attorneys did not hire

an expert to review the conclusions reached by Sergeant Blockhuis. This is without justifiable explanation.

One of the neighbors of Merna and Dennis (Jeff Elliot) immediately told police that he saw Merna and Dennis standing in their driveway with two other people at 8:00pm on Friday evening, May 21, 2010. This independent witness testified under oath that he is 100% certain that he saw four people standing in the driveway at 8:00 that evening. He is 90% certain that two of them were Dennis and Merna. He produced corroborating evidence in the form of a receipt connected to a errand he had just finished upon observing Dennis and Merna in their driveway with two others. The State has absolutely no answer for this. Either Mr. Elliot is lying or Sergeant Blockhuis is wrong. Mr. Koula has now obtained virtually indisputable evidence that Sergeant Blockhuis was indeed wrong. This evidence was not presented at trial.

The State took the position that Merna suffered fatal injuries as a result of a single gunshot wound to the back of her head which she sustained while working at her computer. The State identified a .22 caliber J.C. Higgins rifle owned by Dennis Koula as the weapon used in the homicides. The lead investigator (John Christopherson) testified to this at trial. The State theorized that Eric Koula was familiar with this gun and its location in Dennis and Merna's bedroom closet. The evidence went unchallenged by Mr. Koula's trial attorneys. Mr. Koula presently has information which demonstrates with 100% certainty that S.A. Christopherson was wrong and that this gun could not have been used to shoot Merma Koula as the State maintained.

Mr. Koula had every reason to believe that the issue was properly investigated on his behalf, but it was not and the jury was seriously misled as a result.

Additionally, the State introduced evidence at trial suggesting that it had obtained a partial fingerprint from the gun's trigger. The State presented the testimony of State Crime Lab technician Laura Matson, who told the jury that Mr. Koula could not be excluded based on this print. Mr. Koula's trial attorneys had retained an expert from California by the name of _____. Mr. Koula was verbally advised that Mr. _____ has been involved in over 700 homicide investigations and that his analysis indeed excluded Mr. Koula based on the fingerprint evidence. Mr. Koula had every reason to believe that his attorneys would present this evidence at trial but they failed to do so without reasonable justification.

It is Mr. Koula's position that the State was permitted to display this gun to the jury throughout the trial with the direct implication that Mr. Koula used the gun to take the lives of his parents. This was grossly misleading and highly prejudicial to Mr. Koula. Mr. Koula's trial attorneys failed to properly object to this use of the gun at trial without reasonable justification and thereby gave the State a tremendously unfair advantage.

It is Mr. Koula's position that the State deliberately misled the jury by suggesting that Mr. Koula was not even inside Dennis and Merna's residence of the time he placed the 911 call upon finding his parents deceased in their home on May 24th, 2010. This

testimony was very damaging to Mr. Koula. In fact one of his attorneys (James Koby) was contacted by an alternate juror following the trial who stated " one of the most significant facts before the jury was the lack of any T.V. background noise on the 911 tape." (Affidavit of Eric Koula). Investigators claimed that the T.V. volume was very loud and yet it could not be heard on the 911 call. It is undisputed that investigator Fritz Lienfelder almost immediately created a walk-thru video recording and testified that this was to preserve the crime scene and document exactly how everything was found (Lienfelder testimony, p.88). He further testified that they are specifically trained on the importance of preserving everything as they find it.

The prosecutor presented Investigator Lienfelder's video as evidence by showing it to the jury at trial (exhibit 166). When he did this, the prosecutor stated:

" Just So you know , there is no audio."

(Lienfelder testimony, p. 159).

Mr. Koula believed the prosecutor was being truthful when he made this representation in the courtroom. Approximately one month ago, Mr. Koula learned for the very first time that the prosecutor's statement was not truthful. He learned that there is indeed audio and that, in fact, it is identical to the 911 call relative to the T.V. volume (ie., it can not be heard). The jury was grossly misled by the prosecutor in respect to the matter described by one of the jurors as " one of the most significant facts ," one with which the jury was " particularly impressed." There is no reasonable justification

for Mr. Koula's trial attorneys to allow this to happen and yet they did, to Mr. Koula's severe detriment.

Mr. Koula is in a position today to show several instances in which the prosecutor and law enforcement officials acted improperly in connection with this matter. It is Mr. Koula's position that the State officials did so in a concerted effort to paint Mr. Koula as the person responsible for the homicides. Mr. Koula is in a position to demonstrate that the improper activity started very early on in the investigation and caused other law enforcement officials to improperly focus their attention on Mr. Koula. Examples of this include the following:

(1) Chief Deputy Improperly Manipulated Evidence

It is indisputable that one of the lead investigators (Chief Deputy Wolf) improperly manipulated evidence in a way that was extremely misleading and extremely prejudicial to Mr. Koula. Mr. Wolf testified to prior to being promoted to Chief Deputy he was Captain of the investigation Division, he had been an investigator, he had training in evidence collection, specifically in evidence collection at the scene of a crime and death scene collection specifically (Wolf testimony, p.172). Chief Deputy Wolf took a large block of wood (railroad tie) that was used by Eric's family for target practice and for splitting wood, he split the wood into pieces and placed those pieces into the firepit in Mr. Koula's backyard. The firepit was then photographed with the split pieces of wood. This was done for the purpose of giving viewers of the photos the impression that Mr. Koula was attempting to destroy evidence. This was a hugely

improper manipulation of evidence clearly designed to "implicate" Mr. Koula. Chief Deputy Wolf allowed other detectives and other members of the investigation to believe that Mr. Koula had engaged in highly suspicious activity directly connected to the involved crimes (the block of wood was shown to contain .22 caliber bullets). The fallacious nature of this "evidence" was never disclosed to anyone by Chief Deputy Wolf prior to trial.

Attached to the affidavit of Eric Koula are 5 photographs depicting the block of wood in question, as well as that portion of Mr. Koula's yard from which the block of wood was moved by Chief Deputy Wolf.

(2) Highly Misleading Photos of Mr. Koula's Truck

Both law enforcement officials and the prosecutor engaged in highly deceptive conduct relative to a key piece of evidence in the case. One of Dennis and Merna's neighbors (Mike Lenz) told police and testified at trial he had observed a "Black" or "dark-colored" truck at Dennis and Merna's residence on Friday evening, May 21, 2010. This was the one and only vehicle described by anyone to have been seen at the residence that evening (other than Dennis's vehicle). Therefore the evidence carried a tremendous amount of weight.

Eric Koula does not own a "Black" or "dark-colored" truck yet the police and prosecutor told the jury that he did! What is more, the prosecutor actually showed the jury a photograph of Mr. Koula's truck which proved that the truck was "black" or "dark-colored". The problem is that the photograph used by the prosecutor was extremely misleading relative to the truck's color. The photo was

taken by law enforcement and depicted the truck while parked inside Mr. Koula's garage. Due to the lighting and shadows, Mr. Koula's truck appeared to be "black" or "dark-colored". In truth, Mr. Koula's truck is tan/gold in color. Any honest description of the truck would describe it as such. Under no circumstances can his truck be characterized as "black" or "dark-colored" because it is not.

This was not an innocent mistake by the prosecutor. First, there is a record of the truck's color which directly contradicts the representations made by the prosecutor at trial. Second, there happens to be another photo taken by law enforcement from a different angle in which the truck's tailgate is exposed to natural light (exactly how it would have been had it been the truck that was observed by Dennis and Merna's neighbor). The photo clearly shows the true color of the truck and both the police and the prosecution would have known this. The police observed Mr. Koula's truck on multiple occasions. Yet they chose to deliberately mislead the jury.

Mr. Koula's trial attorneys possessed true and accurate information relative to the truck's color but failed to correct the deceptive tactics of the prosecutor without reasonable justification. A copy of the photo showing the truck's tailgate in natural lighting is attached to the affidavit of Eric Koula. Also attached is a copy of the media report published by The Pioneer Press and the LaCrosse Tribune on June 7, 2012, titled "Witness: Truck matching Eric Koula's at parent's house." The articles state "Koula, on trial for his parent's deaths, drives a black pickup truck." The article is false but correctly describes the prosecutor's deceptive representations.

(3) Misleading Photo Of Mr. Koula's Key To His Parent's House

The prosecutor also used a misleading photograph which depicted Eric Koula's key to his parent's in the door — suggesting that it was found by police in that fashion. It was not — and the prosecutor knew this but chose to deceive the jury instead. This misleading fact was an important one (because it was designed to make Mr. Koula appear guilty) but his trial attorneys failed to object to the use of the photo. A copy of the photograph is attached to the affidavit of Eric Koula.

(4) Multiple Deceptive Actions by law enforcement and prosecutor.

Mr. Koula is in a position to demonstrate that the police and prosecutor engaged in a wide array of deceptive practices which were clearly designed to build a case against Mr. Koula. The practices were disingenuous at best, dishonest at worst. Mr. Koula's trial attorneys knew or should have known about these practices, and the highly misleading and prejudicial nature thereof, and should have taken action to prevent and / or correct them. His attorneys failed to do so without reasonable justification.

Examples of those practices include the following:

1. Sergeant Mike Blockhuis claims to have examined the desktop computer owned by Dennis and Merna Koula on May 25th, 2010, Records show that the computer had not even been delivered to him at this time.

2. Sergeant Blockhuis utilized a document (Continuation Report - incident # 10-22490) which he claimed had been generated by EnCase Software. It was not. It is purely a man-made document

designed to appear as though it was generated electronically.

3. Several pieces of evidence were collected for which the necessity of further testing and analysis were obvious and significant. Those items of evidence which would have clearly tended to exonerate Mr. Koula, allegedly and inexplicably went untested. Examples of this include multiple cigarette butts found in the vicinity of the crime scene and floor mats from a vehicle owned by Patrick and Cindy Cowell.

4. Authorities clearly failed to swab several important items for DNA including Dennis and Merna's T.V. remote, the garage door buttons, the door knobs, the entrance area, and the water bottle found under the body of Dennis Koula.

5. Chain of Custody paperwork relating to property obtained by law enforcement from Eric Koula on May 25th was fraudulently completed. For instance, the actual paperwork completed by INV. Lienfelder included serial numbers of Mr. Koula's Ruger .22 rifle and Browning shotgun as well as his signature, but the Chain of Custody paperwork used by the prosecution did not.

6. Testimony from various police officers included many falsehoods. For example, S.A. Christopherson testified dishonestly about having driven from Loomis Street (home where Eric Koula had been working on the evening of May 21st) to Bridgeview Shopko to the Dennis and Merna Koula residence. He also gave significantly contradictory testimony at trial in comparison to his reports and his testimony at the preliminary hearing. Police officers testified (and the

prosecutor argued) that Mr. Koula chose the flowershop closest to his house when that is flatly untrue. The police failed to report that the roads taken by Mr. Koula on May 21st were under construction at the time which would have increased the drivetime and, thereby, reduced the period of time used by the State in its efforts to defeat Mr. Koula's alibi. Law enforcements testimony and prosecution's argument which attempted to portray Mr. Koula's description of the state in which he found his father's body as untrue, was itself contradictory and grossly misleading. Law enforcement officials failed to accurately report important information generated by the interviews of Mr. Koula's sister, Cindy, and her husband, Patrick Cowell. Law enforcement officials likewise misreported (and incorrectly testified about) information and important details concerning Mr. Koula's finances. The presecution exploited all of these efforts and tactics of law enforcement in a way that enabled the State to paint Mr. Koula in a negative light even though significant and material aspects of the evidence and argument were completely and utterly false.

Mr. Koula's trial attorneys could have and should have fully investigated these specious practices and tactics of law enforcement in order to properly prevent or otherwise defend against them at trial. Trial counsel failed to do so without reasonable justification. Counsel's failures in this respect resulted in very serious and significant prejudice to Mr. Koula. There is no question that this adversely impacted the outcome of the trial.

The State's case against Mr. Koula is purely circumstantial and devoid of physical evidence or eyewitness testimony. The State has more than simply taken liberties with the truth in its efforts to generate circumstantial "evidence" against Mr. Koula. In many crucial instances, the State was allowed to do so with impunity and without appropriate and necessary challenge by Mr. Koula's trial attorneys. At the requested hearing, Mr. Koula will be in a position to set the record straight in respect to the State's mishandling of important information in the case, a problem compounded by the inaction of his trial attorneys in critical areas of testimony.

There is no question that the State's case against Mr. Koula was based extensively on his financial circumstances in 2010, as well as the several preceding years. Mr. Koula will demonstrate that the State was, improperly and without justification, allowed to mischaracterize his financial circumstances in a very significant way. For example, the State presented evidence at trial that the police were able to determine that Mr. Koula had received gifts of \$500,000 in 2006 and 2007. This was a complete falsehood and should have been entirely disproven by the defense. Not only would this have dramatically changed the jury's perspective relative to Mr. Koula, it would have given the jury reason to question the credibility of those individuals involved in perpetuating this falsehood. Likewise, one law enforcement official testified that a \$100,00 payment Mr. Koula received in October of 2009 was lost in its entirety by January of 2010. This is utterly false and Mr. Koula's trial attorneys

had the responsibility to reveal this dishonest testimony to the jury.

At the hearing in this matter, Mr. Koula will present evidence to irrefutably demonstrate that the State's evidence concerning his finances was untruthful. Not only did the jury rely on this evidence, but the Court of Appeals did as well. This includes:

- (1) Proof that Mr. Koula did not receive \$500,000 in 2006;
- (2) Proof that Mr. Koula did not lose \$100,000 (or anything close to \$100,000) between October of 2009 and January of 2010;
- (3) Proof that Mr. Koula was generating an income in 2010 contrary to the testimony of law enforcement officials at trial;
- (4) Proof that as of May, 2010, Mr. Koula was still scheduled to receive payment from his father in the total amount of \$125,000 based upon the balance due from that amount which Mr. Koula was to receive from the sale of Ford dealership in 2006 (the evidence, which included funds to be received in lieu of distributions from a defunct API account, was misconstrued by the State and misunderstood by Mr. Koula's trial attorneys);
- (5) Proof respecting Mr. Koula's general finances which contradicts the State's so-called "evidence", as well as clarification and details surrounding his trading practices, his debt, his taxes, and the State's erroneous portrayal of his communications with his credit card company (ie., not for a cash advance as the State claimed).

Not only did the State falsely portray details surrounding Mr. Koula's finances (in an effort to establish a motive) and the \$50,000 check he received from his father in May of 2010, the State was also allowed to place undue weight on a note written by Mr. Koula

and placed in his mailbox. While Mr. Koula's trial attorneys elicited testimony from Mr. Koula to explain that the note had been written to get the police to stop focusing (wrongly) on Mr. Koula's family— they failed to appreciate the significance of this issue and, as a result, they failed to introduce significant and persuasive evidence which supported Mr. Koula's motivation in writing the note. More specifically they failed to introduce evidence showing the extent to which law enforcement appeared to be concentrating its investigation on Mr. Koula's son, Dexter, and the effect this had on Mr. Koula. Once the details are understood, Mr. Koula's perspective and conduct become far more understandable.

Finally, the State placed great emphasis on certain aspects of Mr. Koula's conduct and statements which the State portrayed as dishonest and/or suspicious. Mr. Koula's trial attorneys had the information necessary to completely and credibly rebut this "evidence" but failed to do so without justification. Mr. Koula will be in a position to set the record straight in respect to a number of these issues.

For example, the State called Shopko's head of security, Tim Placek, to establish that the store had no additional security camera's beyond the camera from which the police had obtained footage (which purportedly failed to show Mr. Koula's visit to the store on May 21st), which is in comparison to previous years when additional camera's were added to cover the "blindspot areas". At the evidentiary hearing, Mr. Koula will present evidence from a private investigator hired by his trial attorneys (Randy Haller) to establish that Mr. Placek had provided information to Mr. Haller which directly contradicted his trial testimony. In particular, Mr. Placek told Mr. Haller that Shopko

had indeed (in previous years) installed camera's along the "blind-spot areas" that the privacy camera did not capture footage. Mr. Placek told Mr. Haller that the decision to do so was made to address a pervasive problem with theft from its parking lot nursery.

This information from Mr. Haller would have rebutted Mr. Placek's testimony that he had not placed additional camera's along the "blind-spot areas" in previous years. The stores camera, that was shown in trial, did not adequately record footage of all the blindspots. This additional testimony would show that there was more than one blindspot and in the previous years the canopy and other areas were covered by additional camera's due to this problem. Mr. Koula's trial attorneys had this information and failed to present it at trial without reasonable justification.

Another example of this includes evidence which completely undermines the State's position that Mr. Koula had stated that he had a receipt from the night of the murders at a time when it was unknown to anyone that Dennis and Merna had been killed on Friday evening. This evidence includes statements made to Mr. Koula by law enforcement and a newspaper article from The La Crosse Tribune dated May 29th, 2010, (just prior to Mr. Koula's remarks) in which it was publicly reported that the police were focusing on Friday (May 21st) as the relevant timeframe. A copy of this article is attached to the affidavit of Eric Koula. All of this information was readily available to Mr Koula's attorneys who failed to present it without justification. Furthermore, the testimony from Glen Grady and Bryan Wegner validate that the conversations about the receipt had occurred after the Paper had published the article on May 29th, 2010.

As a result of the State's improper attempts to generate evidence in its efforts to convince a jury that Mr. Koula was guilty of killing his parents, the State (law enforcement and prosecution) wrongly and improperly concentrated on Mr. Koula. Mr. Koula is in a position to show that this was a very problematic and faulty in two respects. First, it caused the State to do more than simply shade the evidence. It is indisputable that the State engaged in tactics that were less than honest and far from trustworthy in order to build a case against Mr. Koula. The case that was presented to the jury and to The Court of Appeals was extremely misleading as a result. Secondly, it caused the State to conduct a biased investigation and to shift its focus away from other individuals who are far more likely suspects. Mr Koula had a deeply loving and uniquely strong relationship with his parents. By the same token, he had an unwavering certainty that his parents would be there for him whenever he needed their help— just as he would be there for his own children.

This is precisely why the State was forced to go to such extraordinary lengths to try to build a case against Mr. Koula. The reality is that his only motive would be to take care of his parents at any cost — exactly as he did. The reality is that Mr. Koula was busy with the normal activities of his life when his parents were killed. The reality is, that Mr. Koula's character is not that of a violent person who could ever be capable of taking a life — let alone the lives of the people he loved more than anything in the world. These realities do not, however, apply to other individuals.

It is Mr. Koula's position that his trial attorneys failed to properly investigate, file, and argue a Denny motion in order to introduce evidence relating to Cindy and Patrick Cowell. Had this been done and been done properly, no one can seriously question that the outcome of the case would have been different. No reasonable justification exists for Mr. Koula's attorneys to have failed to obtain and evaluate all of the information relating to Cindy and Patrick and to have failed to move forward with a Denny motion which would have prevailed given the nature and extent of the actual and valid evidence pertaining to those two individuals, especially Patrick Cowell.

At the requested hearing, Mr. Koula will present credible and solid evidence which unequivocally demonstrates the following:

- (1) Patrick has a history of violence including domestic violence against his wife (Dennis and Merna's daughter);
- (2) Patrick has held a gun to his wife's head;
- (3) Patrick has threatened to kill his wife and told her that the only way she is leaving is "in a body bag";
- (4) Patrick has a history of alcohol abuse and an inability to maintain gainful employment;
- (5) Patrick has a history of demonstrating violence towards others, including family members;
- (6) Patrick has demonstrated severe and disturbing anti-social traits;
- (7) Patrick has a propensity for lying;
- (8) Patrick had an exceedingly poor relationship with Dennis and Merna Koula. It is not an overstatement to say that Patrick

- and Dennis despised each other;
- (9) Dennis, who rarely spoke a negative word of anyone, repeatedly expressed disdain for Patrick and, shortly before May 21, 2010, referred to him as a "bastard";
 - (10) Dennis and Merna supported Cindy and Patrick financially and yet Patrick could not bring himself to express an ounce of gratitude and continuously created turmoil in their lives and the lives of the entire family;
 - (11) Those closest to Dennis and Merna will testify very, very unfavorably toward Patrick;
 - (12) Cindy and Patrick were exceptionally jealous of the relationship Dennis and Merna enjoyed with Mr. Koula and his family;
 - (13) Patrick was very dishonest with the police about his relationship with Dennis and Merna and about the problems he created in the family as a whole;
 - (14) Strong evidence exists that, on or shortly before May 21st, Dennis told his daughter (Cindy) that he was cutting them (Cindy and Patrick) off financially while leading her to believe that he was continuing to pay Mr. Koula for amounts that had been promised in connection with the sale of the dealership;
 - (15) In May of 2010, Cindy and Patrick were financially devastated. They were on the verge of losing their home. Their bank account at State Bank Financial (Account No. 7184948) showed a balance of \$ - 0.01. They were receiving money from at least three different individuals (including Dennis, Mr. Koula, and one of Patrick's relatives);

- (16) Cindy and Patrick had a fight on the morning of Friday, May 21, 2010;
- (17) Patrick has no alibi for Friday night or Saturday morning. He told police he was playing X-BOX video games throughout the night. Cindy was home but she told police she had consumed alcohol and was not feeling well so she went to bed. Patrick stated that he did not sleep in the bed with Cindy that night because she was snoring;
- (18) Cindy and Patrick both gave accounts to the police which contained a number of inconsistencies (ie., what they did for dinner and what they did after dinner). Patrick told police he did not remember what he had for dinner;
- (19) Patrick's neighbor (Ernest Smith) told police that he had plans to go to a football game with Patrick that Friday (May 21st) night. He stated that Patrick called his house that afternoon and told him that he (Patrick) was not feeling well and cancelled their plans to go to the game. Patrick never mentioned any of this to the police;
- (20) When law enforcement officials asked to see Cindy's key to Dennis and Merna's house, she reported that it was "missing". She searched her house and it was never found. The key was kept on a compression key ring which would require manual manipulation to remove the key;
- (21) Police found Camel cigarette butts near the scene of the crime. Patrick is reported to "chain smoke" Camel cigarettes. The cigarette butts were never tested by the State for DNA;

- (22) Patrick had told police that it had been 5 or 6 years since he had been upstairs in Dennis and Merna's house and (while laughing) states " I don't think (laughing) That may or may not hurt me" (5/26/2010 Interview transcription, p.11). The statement that he had not been upstairs in years is a complete and total lie. In fact, Patrick had not only been upstairs, he was seen in Dennis and Merna's bedroom closet(in an area where Dennis kept his guns) just weeks before the murders;
- (23) The funeral director for Dennis and Merna's funeral (Dennis Jandt) told police that Mr. Koula was "very emotional" throughout the entire funeral proceedings" and described Mr. Koula's behavior as appropriate in all respects. Mr. Jandt described Patrick's behavior very differently stating that he "appeared to be alienated from the rest of the family." ;
- (24) Patrick's next door neighbor (Bruce Sherman) brought food to Cindy and Patrick on Monday (May 24th), after hearing about what happened to Cindy's parents. Mr. Sherman told police that Patrick kept "going into and out of his house" and it seemed "very odd" to him;
- (25) The managing pharmacist at the pharmacy where Dennis was employed (Douglas Beaver) told police that Dennis always spoke "with high regards about his son Eric." He stated that Dennis absolutely "trusted Eric implicitly" and gave him alot of money. He stated that Dennis loved his daughter, Cindy, but "she's in love with a bum." Dennis told him that Patrick would be very upset if he ever learned about the discrepancy in the amount of money Mr. Koula was receiving in comparison to Cindy.

- (26) In a statement dated May 26, 2010, Mr. Beaver told law enforcement that Dennis had expressly stated that "the situation between (Dennis and Patrick) was heating up just prior to Dennis and Merna's deaths."
- (27) Patrick's neighbor (Sarah A. Smith) told police that Patrick Cowell had called her husband (Ernest Smith) and that he had walked over to the Smith's residence on Friday May 21st, 2010, to cancel their plans. Patrick never mentioned any of this to the police.
- (28) On June 15, 2010, Patrick began to point the finger at others. Patrick told police that Dennis's brother (LeRoy) was at the American Legion stating that he was the one who found Dennis and Merna dead and that Leroy had a "rough family" and that someone had a criminal record.
- (29) During the same interview (6/15/10), Patrick brought up the subject of gold coins completely on his own, stating that he had no idea that they existed. When Cindy was asked about the gold coins belonging to her father, she stated that she "has never seen or heard of any gold coins." Both were being dishonest with the police concerning the gold coins which were missing following Dennis and Merna's deaths.
- (30) Cindy not only showed the coins to her best friend (Dawn Noah) but had also showed Ms. Noah her parents' safe and contents thereof, including their will and insurance documents. Cindy told Ms. Noah that she would receive everything in the event of her parents' death (information she undoubtedly shared with her husband, Patrick, as well.)

- (31) On June 11, 2010, Captain Kurt Papenfuss of the Lacrosse County Sheriffs Department made contact with Patrick concerning a statement Patrick made to his wife, Cindy, during a prior interview. The statement was that "they will figure it out on their own." The police also questioned Patrick about another part of the interview in which Cindy "whispered something to Patrick" and it appeared that she was referring to "something about a lie." There is no indication that the police were ever able to get to the bottom of this as the focus was shifted away from Patrick based largely on the wrongful and improper tactics of certain law enforcement personell.
- (32) On or about June 11th of 2010, Mr. Koula received a call from his sister, Cindy, who was crying and hysterical at the time. Although she was rambling through most of the conversation, she did make the remark that "They (police) are going to arrest us (Cindy and Patrick) for lying to them." When questioned about this by Mr. Koula, Cindy denied that she had lied but did not seem to be completely willing to defend Patrick. This was unusual because Cindy was normally overprotective of Patrick at almost any cost in virtually every conversation she ever had with Mr. Koula.
- (33) The interviews given to police by Cindy and Patrick contain a significant number of inconsistencies and contradictory statements. A large number of these do not appear anywhere in the typed police reports or investigatory materials. It is not clear that they were ever identified by the State or defense counsel. On a issue Central to trial and appeal (relating to

Dennis' remarks about "cutting off the kids", the interviews contain several very clear references to Cindy's understanding that Dennis had, in fact, intended to cut off Cindy and Patrick, and that this is indeed what Dennis was referring to in his comments about cutting off the kids. In one instance, Cindy comes right out and admits that, shortly before her fathers death, she pleaded with him to change his mind:

" Dad, please don't cut him out... I love my husband."

(Cindy's interview with police May 24th, 2010
transcribed interview, p. 7).

At one point, Cindy made the remark that she told Patrick that her dad was "really pissed off." (Cindy's interview with police May 26th 2010, transcribed interview, p.7). In one interview, Cindy raised the issue on her own four separate times and was repeatedly interrupted by the interviewer and not allowed to finish. None of these statements to the police (including Cindy's pleading with Dennis not to cut her off financially) were included in any of the typed police reports. One is required to go through the interview content itself to find this information. It does not appear that Mr. Koula's trial attorneys did so, and if they did, they clearly failed to follow up in an appropriate manner without justification.

(34) Any fair and reasonable review of Patrick's interviews with the police reveals that Patrick's demeanor was that of a sneaky and suspicious person. He goes out of his way to avoid dates, times, and details. In many instances, he fails to disclose information that he obviously should have disclosed and, instead, injects information that is extremely questionable. For example, he fails to tell the

police about cancelling his plans to go to a football game on Friday night (May 21st), about calling the neighbor or walking over to his residence to do this and then tells the police that he "didn't go anywhere" repeatedly or the fight he had with Cindy that day -- but he does tell the police about the most trivial incident imaginable (Merna urging her grandson to get better grades) and exaggerates about this to the point Patrick claims he had never been so uncomfortable in his life!

(35) Patrick told a lie on National T.V. when he falsely created an alibi for himself during a 48 HOURS interview by stating that the police had "tested" his X-BOX and confirmed that he was playing video games at the time of the murders.

Those people closest to Dennis and Merna do not believe Patrick and strongly believe that the State wrongly focused its efforts to build a case against Mr. Koula based upon the check he received from his father on May 20th. At the requested hearing, Mr. Koula will show, as asserted in this motion, that (1) Dennis never intended to, nor did he, renege on his promise to pay Mr. Koula for those amounts Mr. Koula was to receive as proceeds from the sale of the dealership (\$50,000 check); (2) Dennis trusted Mr. Koula implicitly and unconditionally; (3) Dennis did not trust Patrick and, in fact, despised him; (4) Dennis spoke a day or two before the murders during which he informed her of his intentions to cut her and Patrick off financially; (5) it can be reasonably inferred that Cindy was made aware of the check Mr. Koula received, or at least the fact that Mr. Koula was continuing to receive money from Dennis; (6) Cindy relayed this information to Patrick and the two of them fought

about it on May 21st; (7) Patrick cancelled plans for Friday night, but kept this information from the police; (8) Patrick has no real alibi; (9) By his own words, Patrick is capable of murder, including the murder of his own wife; (10) Patrick lied to authorities and engaged in deceptive behavior, including a lie about being in Dennis and Merna's bedroom closet just weeks before the murders; (11) independent witnesses described "the situation" between Dennis and Patrick as "heating up" in the weeks before the murders; (12) independent witnesses stated that Patrick did not console his wife when she learned that they had been murdered, engaged in "very odd" behavior afterwards and alienated himself from the family at the funeral proceedings; (13) Patrick's wife, Cindy, became hysterical and expressed a belief that she and Patrick were going to be arrested; (14) Patrick made absurd accusations against others while dishonestly deflecting attention away from himself.

It is Mr. Koula's position that his trial attorneys could have and should have investigated the matter in such a way as to disclose all of this information (and more), and then proceeded with a Denny motion in order that the jury be allowed to hear and weigh this evidence as part of its determination of Mr. Koula's innocence or guilt. The State of Wisconsin should be required to prove its case beyond a reasonable doubt in a view of all of the evidence reflecting reality, and not merely that evidence (as misconstrued by the State) which conforms to its position in the case.

Trial counsel's deficient performance in the above noted areas significantly and cumulatively prejudiced Mr. Koula, both pretrial

and during his jury trial, which seriously undermined the reliability of the trial proceedings. This contributed to the guilty verdict and the prison sentence. State v. Thiel , 2003 Wi 111, 264 Wis 2d at 605. Trial counsel's deficient performance denied Mr. Koula his right to the effective assistance of counsel, due process, to adequate confrontation and cross examination of the State's witnesses, and to subpoena and present witnesses and present a defense at a fair trial, as guaranteed by the Fifth, Sixth, Seventh, and Fourteenth Amendments of the United States and the correlative provisions in the Wisconsin Constitution.

Mr. Koula raises the issues set forth in this postconviction motion and requests a new trial pursuant to sec. 904.06, Stats. Mr. Koula reserves the right to raise other issues and claims during this postconviction process as postconviction proceedings ensue and the results of additional investigation and potential examination become known.

Further factual and legal grounds for this motion appear in the accompanying affidavits, argument contained herein, and evidence to be proffered at the requested hearing. Mr. Koula respectfully requests that the court allow for additional arguments and briefs to be submitted following the evidentiary hearing.

ARGUMENT

- I. MR. Koula's Right To Effective Assistance of Counsel, To Present Defense Witnesses And Evidence, And To A Fair Trial .

Mr. Koula is ensured the right to effective assistance of counsel by article I, Sections 7 and 8 of the Wisconsin Constitution and the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution. See Strickland v. Washington, 466 U.S. 668(1984); State v. Thiel, 2003 Wi 111, 264 Wis. 2d 571,665 N.W. 2d 305; State v. Pitsch, 124 Wis. 2d 628, 369 N.W. 2d 711 (1985). Mr. Koula was denied the effective assistance of counsel at trial. There was no legitimate tactical basis for the identified failures of counsel, such failures were unreasonable under prevailing professional norms, and counsel's failures prejudiced Mr. Koula's defense. Mr. Koula was represented pretrial and at trial by more than one attorney (as identified above). Mr. Koula refers to those attorneys collectively as his trial attorneys or defense counsel as, together, these attorneys failed to meet the necessary standard such that trial counsels' representation "fell below an objective standard of reasonableness." Wiggins v. Smith, 539 U.S. 510 (2003)

A. Standard For Ineffectiveness

A defendant alleging ineffective assistance of counsel first "must show the counsel's representation fell below an objective standard of reasonableness." State v. Johnson, 133 Wis. 2d 207, 395 N.W. 2d 176 (1986), quoting Strickland. It is not necessary to demonstrate total incompetence of counsel, and Mr. Koula makes no such claim here. Rather, a single serious error may justify reversal. Kimmelman v. Morrison, 477 U.S. 365 (1986). The deficiency prong of the Strickland test is met when counsel's performance was the result of oversight rather than a reasoned defense strategy.

Wiggins, 539 U.S. at 534; Dixon v. Snyder, 266 F.3d 693 (7th cir.2001).

Second, a defendant generally must show that counsel's deficient performance prejudiced his defense. "The defendant is not required" (under Strickland) to show "that counsel's deficient conduct more likely than not altered the outcome of the case." State v. Moffett, 147 Wis. 2d 343, 433 N.W.2d 572(1989), quoting Strickland, 466 U.S. at 693. Rather, the "question on review is whether there is a reasonable probability that a jury viewing the evidence untainted by counsel's errors would have a reasonable doubt respecting guilt." Id., at 357

"Reasonable probability" under this standard is defined as "probability sufficient to undermine confidence in the outcome." Id., quoting Strickland, 466 U.S. at 694

If this test is satisfied, relief is required; no supplemental, abstract inquiry into the "fairness" of the proceedings is permissible. Williams v. Taylor, 529 U.S. 362 (2000). In addressing this issue, the court normally must consider the totality of the circumstances. Strickland, 466 U.S. 695.

In assessing resulting prejudice, the Court must assess the cumulative effect of all errors, and may not merely review the effect of each in isolation. Alvarez v. Boyd, 225 F.3d 820, 824 (7th cir.2000); State v. Thiel, 2003 Wi 111, 264 Wis. 2d 571, 665 N.W. 2d. 305. The Strickland test is not an outcome determinative test but addresses whether counsel's deficient performance render the result of the proceedings unreliable or fundamentally unfair. Thiel, 264 Wis. 2d 571 (2003).

Mr. Koula is in a position to show that trial counsels' representation fell below an objective standard of reasonableness. Reasonable effective assistance of criminal defense counsel must be based on professional decisions and informed legal choices, which can only be made after an adequate investigation of the facts and researching the applicable law regarding the case, through review of the State's discovery materials, evidence to be submitted at trial, along with expert witness disclosures, lay witness disclosure, discussions with the client, investigating and speaking with potential witnesses, retaining and consulting with experts, preparing and arguing appropriate motions and presenting a defendant with his various options, so that he can understand and give his informed consent. Strickland, 466 U.S. at 690; Thiel, 264 Wis. 2d at 595 ; SCR 20: 1.0(f), 1.1, 1.3 and 1.4 .

B. Trial Counsel's performance was deficient
and PREJUDICED
and PREJUDICED Mr. Koula.

Mr. Koula's motion identifies a number of areas where trial Counsel's performance was deficient, which seriously prejudiced Mr. Koula and, when taken cummulatively, denied him effective assistance of counsel. Those areas of deficient performance include, but are not limited to, the following:

- (a.) Failure to properly investigate, file, and argue a Denny motion in order to introduce evidence relative to Cindy and Patrick Cowell;
- (b.) Failure to properly investigate and present evidence to show that the State's " Time of Death" was not correct.

- (c.) Failed to demonstrate that Merna Koula could not possibly have been shot in the manner the State maintained at trial simply based upon the physical dimensions of the room and the circumstances presented.
- (d.) Failed to introduce evidence from a fingerprint analyst consulted by the defense which excluded Mr. Koula based upon a the partial print identified on the gun used in the homicides (according to authorities).
- (e.) Failed to object to repeated and continuous display of the gun at trial by the prosecution.
- (f.) Failed to present accurate and complete financial evidence directly contradicting the State's representations to the jury.
- (g.) Failed to properly cross examine law enforcement officials relative to very misleading and deceptive tactics and to demonstrate the misuse of evidence by the State.

These deficiencies cummulatively acted to prejudice Mr. Koula and constitute ineffective assistance of counsel, which also violated his Constitutional rights to present a defense, to a fair trial, and to have the jury presented with significant evidence that was directly material to important issues and elements of the case.

- (a.) Failure to Properly Investigate, File, and Argue a Denny Motion in Order to Introduce Evidence Relative to Cindy and Patrick Cowell.

For the reasons stated above, an abundance of circumstantial evidence exists to establish that Patrick Cowell was involved in the deaths of Dennis and Merna Koula. The State claims that it built a

circumstantial case against Mr. Koula, but it did so wrongfully and through improper and deceptive tactics. This took the State' (and the jury) down the wrong path. When it comes down to it, the State's case against Mr. Koula amounts to little more than the \$50,000 check.

The State relies on other peripheral evidence such as the note he placed in his mailbox, his financial status, and a alleged window of opportunity to commit these crimes. These few items formed the basis for mounting an unimaginable attack against Mr. Koula in an effort to prove that he was the person responsible for killing his parents.

The problem with the State's case against Mr. Koula is that the State got almost everything wrong. The State's so-called "evidence" against Mr. Koula is overwhelming faulty. Some of the problems with this "evidence" were addressed by the defense at trial. Many were not. Some of the more serious shortcomings with the defense are raised in this motion and will be presented in great detail at the requested hearing. In addition, some of the more glaring omissions by trial counsel will be fully developed by Mr Koula. For instance, the State is not, and never has been, in a position to show that Mr. Koula is a violent man capable of murder. Nor is the State in a position to show that he had anything but a deeply loving and mutually respectful relationship with his parents. The State has no answer for this.

Instead, the State has taken the position that Mr. Koula was financially strapped, so he murdered his parents for money. The State's position completely ignores a lifetime of evidence reflecting

the love and support Mr. Koula received from his parents. Not a shred of evidence exists from which to suggest that their mutual relationship was anything but loving. If Mr. Koula ever needed anything, he need only ask. But the State's position also requires one to believe that Mr. Koula was completely incapable of even the slightest amount of thought. Why would he deposit the \$50,000 check from his parents if he knew that they had just been murdered?

What actually makes sense is Mr. Koula's inclination not to bring the check to the attention of the police. One can easily fault that decision in as much as being less than candid with the police is almost certainly an imprudent decision. Rather, he is seeking to make the point that, while imprudent, the decision is understandable and does not represent believable evidence that he is guilty of murdering his parents.

To make a case against Mr. Koula, the State went to great lengths to bend and contort reality in order to shape the "facts" together in such a way as to be able to point the finger at him and claim that it had developed a circumstantial case for murder. But even with all of the bending and twisting and even deceit and deception, the State is still left in the position of having to explain away all sorts of true evidence that it cannot possibly explain away. Multiple witnesses credibly establish Mr. Koula's alibi. A next door neighbor sees Dennis and Merna standing in their driveway at 8:00pm. Another neighbor sees a black pickup truck at their house. The State has no answers for any of this because it represents the truth. So what does the State do? It claims that all of these honest individuals are lying. Then the State dishonestly claims that Mr.

Koula owns a black pickup truck. And despite all of the years and all of the lawyers, the State is never held to account for any of this.

Through this motion, Mr. Koula respectfully asserts that his trial counsel's performance fell below an objective standard of reasonableness relative to their failure to properly investigate and develop the record necessary to prevail on a Denny motion in connection with Patrick Cowell. When the entirety of the State's investigation is considered, coupled with information to be proffered by friends and family members, a veritable mountain of compelling circumstantial evidence appears which implicates Patrick Cowell in the deaths of Dennis and Merna Koula. Indeed, the so-called circumstantial case against Mr. Koula pales in comparison to the case which can, and should have been, made against Patrick.

The Constitution guarantees a defendant a meaningful opportunity to present a complete defense. Holmes v. South Carolina, 547 U.S. 319, 324 (2006). This right includes the right to introduce evidence tending to identify another as the perpetrator of the crime. Id. and State v. Denny, 120 Wis. 2d 614, 357 N.W. 2d 12 (Ct. App. 1984) In Denny, the court adopted the "legitimate tendency" test for admission of third party evidence from Alexander v. United States, 138 U.S. 353 (1891). When a defendant seeks to present evidence that a third party committed the crime for which the defendant is being tried, the defendant must show a "legitimate tendency" that the third party committed the crime; in other words, that the third party had motive, opportunity, and a direct connection to the crime. Id. at 624. The evidence implicating Patrick Cowell in Dennis and Merna's deaths

easily meets this test.

In this case, there is ample evidence of motive and opportunity pertaining to Patrick. In fact, that evidence is abundant and persuasive in comparison to the so-called evidence of motive and opportunity pertaining to Mr. Koula. The circumstantial evidence directly connecting Patrick to the crime is timely and abundant in comparison to the so-called circumstantial case connecting Mr. Koula to the commission of the crime.

The State argued that Mr. Koula's financial circumstances, coupled with Dennis' decision to "cut the kids off," constituted proof of motive beyond a reasonable doubt. The problem is that (1) There is no credible evidence that Dennis intended to cut off Mr. Koula; (2) there is significant and persuasive evidence to the contrary; (3) there is not a shred of evidence to suggest that Mr. Koula believed that any needed financial assistance would not be available to him; and (4) there is a lifetime of evidence to suggest just the opposite. None of this applies to Patrick. It is indisputable that Patrick's financial circumstances were extremely dire. He lived off Cindy and the financial assistance they received from Dennis. Unlike the situation with Mr. Koula, there is no question that Dennis intended to cut off Cindy and Patrick. He expressed this directly and Cindy begged him not to do it.

But it is much more than that. Dennis despised Patrick and called him a bum. He confided in a friend about these feelings for Patrick

while, at the very same time, expressing nothing but praise and trust for Mr. Koula. Douglas Beaver told police that Dennis had expressly stated that "the situation" between Dennis and Patrick was "heating up just prior to Dennis and Merna's deaths." Dennis also told him that Patrick would be very upset if he ever found out that Mr. Koula was receiving more money from Dennis than he and Cindy were.

The best evidence, including reasonable inferences, is that on or about May 21st, 2010, Patrick learned that Dennis was cutting him out while continuing to give money to Mr. Koula. This was more than simply a discrepancy in amount and, undoubtedly Patrick was more than very upset about it. Yet he withheld this from the police and blatantly lied to them about his relationship with Dennis in order to cover up his obvious motive.

With respect to opportunity, the State engaged in acrobatics and deception simply to be in a position to even argue that there existed the slightest of opportunity for Mr. Koula to have committed the crime. The evidence in this respect was shockingly thin. It required the State to "create" a time of death and discard the significant and credible testimony of multiple independent witnesses who had no reason to provide untruthful information.

None of this applies to Patrick. He has no alibi. He sure felt the need to have one because he attempted to create one for himself by stating on national TV that the police had "confirmed" that he was playing X-BOX video games. The reality is that no such testing ever took place and there is not a soul who can or will account for

Patrick's whereabouts on Friday night and early Saturday morning. Additionally, Patrick provides the flimsiest of excuses as to why he does not have an alibi. While he and his wife had clearly attempted to coordinate their stories, the number of inconsistencies about the details speaks volumes. In her police interviews, Cindy gives varying accounts about drinking and being sick on Friday morning/night. Patrick goes out of his way to avoid any details and claims a lack of recollection when convenient. Ultimately, however, he must come up with an explanation for the reason he was not in his bed that night. The reason he gives is that his wife was snoring.

Finally, an objective and balanced analysis of the evidence as a whole presents reasonable inferences directly connecting Patrick to these crimes. First, he is an unstable individual who has a severely dysfunctional relationship with his wife's family, and especially her father. Second, the tensions escalate significantly in the weeks leading up to the murders. Third, something very significant happens on Friday, May 21st. Cindy tells Patrick that Dennis is "really pissed off" and has cut them out financially. Dennis had just told a friend that the situation between he and Patrick had reached a boiling point. The underlying problem related to money and Dennis confided that Patrick would not react well to the news. Dennis is right. Cindy and Patrick had a fight. Patrick then cancels his plans to go to a football game with his neighbor that night. He has virtually no contact with others after that. Fourth, Patrick conceals all of this from the police and resorts to various red herrings. Fifth, Patrick has already revealed his character by holding a gun to his wife's head and threatening to put her in a body bag. Sixth,

Patrick had been seen in Dennis and Merna's bedroom closet just weeks before the murders (and denies this). Seventh, camel cigarette butts are found near the scene and Patrick chain smokes camel cigarettes. Eighth, in the days following the murders, Patrick's behavior is " very odd " and he does not console his wife. Ninth, Patrick alienates himself from the family at the funeral proceedings. Tenth, Cindy is dishonest with the police about her knowledge of Dennis' gold coins. Eleventh, Cindy and Patrick behave suspiciously during a police interview after which Cindy becomes hysterical and expresses her belief that she and Patrick are going to be arrested.

Given the overwhelming amount of circumstantial evidence connecting Patrick to these crimes, trial counsel reasonably could and should have conducted further investigation and filed a Denny motion in order to present this evidence to the jury. Instead, trial counsel focused exclusively on a plausible (but less likely) scenario involving mistaken identity by a hit man. In comparison to the serious and very real evidence which exists relative to Patrick Cowell, counsels' decision to proceed in that fashion is both inexplicable and unreasonable by any objective measure.

Had trial counsel proceeded on this issue in a reasonable and appropriate manner, the jury would have seen and heard credible evidence respecting the likelihood of Patrick's involvement in the murders. Therefore, there is a reasonable probability that a jury viewing the evidence untainted by counsels' errors would have had a reasonable doubt respecting Mr. Koula's guilt.

(b.) Failure To Properly Investigate And Present Evidence To Show That The State's " Time Of Death " Was Not Correct.

The State's entire case against Mr. Koula is built around a time of death for Merna of 5:41pm on May 21st. This is important because the State has already determined that Mr. Koula would not possibly have been able to commit these crimes at any other time. The State's entire position is based on the opinion of one police officer (Sergeant Blockhuis). Sergeant Blockhuis has opined that Merna was working at her computer when she was killed causing her to slump forward and strike the Q and W keys on her computer keyboard. He claims to have examined the computer on a date before it was even delivered to him. He also utilized evidence which he suggested had been generated electronically when it clearly and probably was not. It was man-made and this is irrefutable.

Subsequent to his conviction Mr. Koula was contacted by an individual who had looked at the evidence and determined that an inordinate number of irregularities existed. Her name is Laurie Juedes. Ms. Juedes took it upon herself to conduct a detailed review of the police interviews and the evidence as a whole. Her affidavit accompanies this motion. Through her investigation, Ms. Juedes was able to uncover a very large number of inconsistencies, contradictory statements, and highly pertinent information that did not find it's way into the typed police reports. The information she was able to uncover had not previously been put together in the manner in which Ms. Juedes was able to do, even by defense counsel.

During the course of her investigation, Ms. Juedes became very

intrigued by the State's focus on 5:41pm as a time of death. Her questions were heightened by the fact that Dennis and Merna's neighbor (totally independent) offered highly credible evidence which directly conflicted with the time of death established by Sergeant Blockhuis.

As a result, Ms. Juedes undertook a digital analysis of the mirrored hard drive. Upon her findings, she contacted a person (William Nelson) with extensive training and experience in computer analysis. She supplied him with information and material necessary to evaluate the opinions generated by Sergeant Blockhuis. Based on their evaluation, both Ms. Juedes and Mr. Nelson have determined that, without - question, Sergeant Blockhuis's analysis was flawed and that his opinion concerning Merna's time of death is incorrect. Ms Juedes and Mr. Nelson will be available to testify at the requested hearing respecting their findings and conclusions. See Affidavit of Laurie Juedes.

In essence, they have determined that Sergeant Blockhuis mistakenly employed an improper technique in his analysis. Ms. Juedes and Mr. Nelson conducted a proper and complete analysis of the mirrored harddrive from the subject computer. They have determined that it contains unexplained activity that is outside of routine computer function. These activities are outside of the regular scheduled updates and the time out generated activity for software maintenance (when the computer was supposedly not in use). They determined that the activities are not indicative of a computer that was left unattended until it was turned off by law enforcement on May 24th.

There are two possible reasons for these activities after 5:41:52pm on May 21st : (1) Manual activity on the computer after 5:41pm and prior to its removal by authorities; and (2) Corruption of the harddrive after removal from the crime scene and prior to the time the mirrored copy was created. In either case, the opinions reached by Sergeant Blockhuis are flawed and unreliable.

Ms. Juedes and Mr. Nelson have also determined that, contrary to Sergeant Blockhuis' opinions, the search for "planning qw" was actually a completed search. They were able to confirm that the "enter" (carriage return) key had been pressed. Therefore, they have been able to establish that Merna's hands did not fall onto the Q and W keys at 5:41pm, as the State maintains. Parenthetically, there is a photograph taken by law enforcement at the crime scene that, when enlarged, confirms that Merna's hand was not on or near the Q and W keys at the time of her death. Moreover, the evidence shows that Merna had searched "planning qw" on a LaCrosse County website (www.co.la-crosse.wi.us). This would have required her to manually click on the appropriate choice. See affidavits of Laurie Juedes and Eric Koula which also confirm that Merna was indeed conducting a search in connection with a rezoning hearing at the LaCrosse County Planning Department.

All of this evidence serves to render the State's position erroneous. The State's position that Merna's hand struck the q and w keys at 5:41pm and that no further activity occurred is a complete fallacy. The issue is central to the State's case. Mr. Koula's trial counsel clearly should have retained a computer expert to

evaluate the analysis performed by Sergeant Blockhuis- particularly in view of the testimony of independent witnesses who made personal observations that flew directly in the face of his opinions. The analysis is not overly complicated, but the result of the analysis had profound consequences on the investigation, as well as Mr. Koula's conviction. Therefore, trial counsels' failure to retain a computer expert to counter Sergeant Blockhuis' opinions fell below an objective standard of reasonableness and constitutes deficient performance.

Trial counsels' failure to retain a computer expert clearly prejudiced Mr. Koula's defense. There can be no question that the jury chose to believe Sergeant Blockhuis and the prosecutor's position that Merna was killed at 5:41pm on May 21st. The State called (and cross examined) a number of witnesses in its effort to prove that Mr. Koula had an opportunity to commit these crimes. That window of opportunity was extremely small (and only existed if one were to view the evidence in a light most favorable to the State). The State's position on the issue of opportunity would have completely fallen apart (and failed) if credible evidence had been presented which showed that Sergeant Blockhuis was wrong (and the other witnesses were right) in respect to the time of death relied on by the prosecution. Apart from this very small window of opportunity, law enforcement had acknowledged that Mr. Koula would not have had an opportunity to commit the crimes. The only way for the State's case against Mr. Koula to be viable was for the State to prove that Merna was killed at 5:41pm May, 21, 2010.

Mr. Koula can prove that substantial and credible evidence could and should have been presented by his trial counsel to show that Sergeant Blockhuis' analysis was faulty and incorrect. With this evidence, the jury would have been far less likely to believe the State's case. It is almost certain that once Sergeant Blockhuis' opinion was shown to be wrong, the jury, would have been strongly inclined to believe the witness (Jeff Elliot) who saw four people standing in the driveway at 8:00pm, as well as the witnesses (Mike Genz Jr, Randy Dayton and Tammy Keating) who testified that Mr. Koula was working until 5:30pm and was completely covered in grouting material (which was on Mr. Koula's clothing and in his vehicle but not at the crime scene).

There is no reasonable justification for counsels' failure to retain a computer expert to rebut Sergeant Blockhuis' testimony. The 7th Circuit Court of Appeals has addressed counsels' duty to retain an expert in detail. Miller v. Anderson, 255 F. 3d 455 (Ca 7th,2001). In that case, the defendant's lawyer failed to consult with a hair expert (as well as experts on tire treads and footprints). While acknowledging that defense counsel does not have a duty in every case to consult experts (ie.,where there is no reason to question the validity of the State's experts), in a case where there is no objective evidence placing a defendant at the crime scene, the opinion evidence of a defense expert may prove critical.

Such was the case here. There was no evidence placing Mr. Koula at the crime scene. There was, however, plenty of evidence placing him elsewhere on May 21st, May 22nd, and May 23rd. In order for the

State to prevail, it had to prove that Merna died during that one and only arguable timeframe. Because the evidence was so critical (and other witnesses gave defense counsel reason to scrutinize the State's evidence), Mr. Koula's trial counsel clearly had a duty to evaluate the single witness (Blockhuis) on whom the State's entire position rested. Doing so would have required counsel to retain a computer analyst, like William Nelson and/or Laurie Juedes. Counsel's failure to do so undermines confidence in the reliability of the proceedings.

The Wisconsin Court of Appeals has taken a similar view. In State v. Olson, 296 Wis.2d 934, 724 N.W. 2d 273 (Ct. App. 2006), the court determined that counsel was ineffective in failing to retain an accident reconstruction expert. In that case, the defendant was convicted of homicide by intoxicated use of a vehicle. The defendant maintained that the accident was caused by weather conditions. Defense counsel hired no expert. At the post conviction hearing, an engineer testified that he had performed an evaluation and determined that, in his opinion, the accident was due to slippery road conditions. The Court of Appeals reversed the conviction based on its finding that defense counsel's failure to retain an expert constituted ineffective assistance of counsel.

Because trial counsel in this case failed to adequately investigate the time of death issue by having an expert evaluate the opinions offered by Sergeant Blockhuis, counsel's performance was objectively deficient and undermined confidence in the reliability of the proceedings. Like the court in Olson, Mr. Koula respectfully requests

that this court find counsels' failure to retain a computer expert to constitute ineffective assistance of counsel.

(d) Failure To Call Fingerprint Expert As A Witness.

The lead investigator on this case testified that he believes that Dennis' J.C. Higgins .22 caliber rifle was the gun used in the homicides. Law enforcement/State crime lab lifted a partial fingerprint from the trigger of that rifle immediately afterwards. The State believed that this evidence was significant enough to have the State crime lab analyze the print. Had the results implicated Mr. Koula, the State would have undoubtedly placed great emphasis on that fact in arguing that it represented strong proof of Mr. Koula's guilt. The results were, however, inconclusive according to the State crime lab. Even this finding was presented to the jury as part of the State's case.

Mr. Koula's trial counsel either retained or consulted with a fingerprint expert out of California. Mr. Koula has seen, but does not presently possess, a copy of an invoice generated by that individual for his professional services in this matter. Mr. Koula was advised by counsel that the expert had arrived at a professional opinion that the fingerprint obtained by law enforcement excluded Mr. Koula. Mr. Koula was of the impression that the expert would be called upon to testify at trial. He was not and counsels' failure to do so rises to the level of ineffective assistance.

The jury in this case was led to believe that Mr. Koula likely retrieved his father's .22 rifle from the bedroom closet and used

it to kill his parents. A number of witnesses testified in connection with this theory which the prosecution espoused throughout trial, including display of the gun to the jury.

Courts have underscored just how critical it is to present evidence relating to fingerprint analysis. U.S. v. Rose, 672 F. Supp. 2d 723 (2009). In that case, the federal court emphasized defense counsel's duty to adequately and fully challenge fingerprint evidence to include independent forensic testing. Failure to do so may be the basis of ineffective assistance of counsel. In this case, the evidence had been generated and would have undermined the State's case against Mr. Koula. There was no reasonable justification not to present it and failure to do so contributes to the cumulative prejudice to Mr. Koula attributable to counsels' unreasonable errors and omissions.

(e.) Failure To Object To State's Display Of Gun To The Jury.

The State cannot have this issue both ways. It cannot argue that defense counsels' failure to present the fingerprint evidence was not significant, and yet defend its decision to display the gun to the jury throughout the trial. It is indisputable that the State sought to connect Mr. Koula to the gun and the gun to the murders. There is no other explanation for the State's presentation of evidence and display of the gun. Yet the State lacked the evidence necessary to connect the gun to Mr. Koula. It lacked the evidence necessary to connect the gun to the crimes as well. But the State proceeded at trial as though it had indeed established the required nexus. If the State admits that the nexus was not established, it would have

had no basis to bring up the gun in the first place, as it would then constitute pure speculation camouflaged as evidence. If the State argues that the nexxus was indeed established, trial counsels' failures to make the opposing record and demonstrate otherwise would clearly rise to the level of deficient performance which significantly prejudiced Mr. Koula.

No one can seriously dispute that the portrayal of the gun as the likely murder weapon would have had a significant impact on the jury. Under sec. 904.03, Stats., even relevant evidence is to be excluded where its probative value is substantially outweighed by its prejudicial effect. Because the State could not connect the gun to Mr. Koula or to the crimes, defense counsel should have objected and sought to exclude both the testimony and the State's use of the gun at trial. If relevant at all, the probative value of the gun was exceedingly minimal but its prejudicial effect to Mr. Koula (based on both the implied nexxus and the strong visual it created) was very significant.

The 7th Circuit Court of Appeals has addressed the importance of defense counsels' objection to evidence that is not relevant (or minimally relevant) and prejudicial to the defendant. Martin v. Grosshans, 424 F.3d 588 (7th Cir., 2005). In that case, the defendant was charged with sexual assault. At trial, the prosecution called a woman who was a member of the parish where the defendant worked. She had worked to develop a policy for dealing with sexual abuse in the parish and testified that the defendant strongly disagreed with her policy recommendations. She also testified that the defendant became very agitated and felt the policy needed to ensure that people

accusing ministers of sexual abuse were telling the truth before involving the police. Defense counsel did not object to the testimony, The Seventh Circuit Court of Appeals determined that the probative value of the evidence was nil and that it was prejudicial to the defendant. The court concluded that defense counsel performed deficiently for failing to make the proper objections and reversed the conviction.

In our case, the prosecutor's use of the gun at trial, and the related testimony, were very prejudicial to Mr. Koula. Through its use of the gun, the State repeatedly gave the jury the impression that it knew more than it really did and used this to its unfair advantage by linking Mr. Koula to the gun and the gun to the crime. The State even had witnesses demonstrate how the casings could easily be removed and discarded. There is no question that this would have improperly influenced the jury and the defense counsel should have objected to the testimony and to the prosecutor's repeated display of the gun at trial. Like defense counsel in Martin, defense counsel in this case performed deficiently in a way that prejudiced Mr. Koula by failing to make the proper objections. Counsels' performance undermines confidence in the reliability of the proceedings.

(c.) Failure To Demonstrate That The Pertinent Physical Dimensions Rendered The State's Theory Impossible .

The State introduced evidence and argued extensively that Mr. Koula was standing behind Merna and shot her in the back of the head with

the J.C. Higgins rifle. Since receiving and analyzing all of the evidence in detail, Mr. Koula has been able to determine that the State's description of how Merna was killed is physically impossible for the reasons:

- (1) The physical dimensions of the room have been established and are not in dispute.
- (2) The physical dimensions of the furniture in the room, including the computer desk, have been established and are not in dispute.
- (3) The physical dimensions of the gun (J.C. Higgins), have been established and are not in dispute.
- (4) The physical dimensions of any known .22 caliber rifle (ie., other than the J.C. Higgins) would make no material difference to this analysis.
- (5) It is undisputed that the pathologists specifically looked for gunshot residue and determined that there was none on Merna, her clothes, or the chair. This is undisputed and it means that, according to the State's own witnesses, the distance from the end of the barrel of the gun to the wound entrance was a minimum of three feet.
- (6) Attached to the Affidavit of Eric Koula is a true and correct copy of the scaled diagram created by the LaCrosse County Sheriffs Department using a Total Station to show the actual dimensions of the computer room in which Merna was killed.
- (7) The scaled diagram shows a distance of 5.24 feet of space behind Merna. This dimension is not in dispute and converts to 62.88 inches. This means that there was a total distance of less than

63 inches for the shooter to be standing behind Merna with the murder weapon.

- (8) The length of the J.C. Higgin rifle is 41 inches. The required distance from the end of the barrel to the entrance wound is 36 inches. The total of those two known distances is 77 inches. Additional space would be required to account for the shooter. Even if a distance of 6 inches were used to account for the shooter, the combined measurement would total 83 inches. But there was a maximum of only 62.88 inches available, leaving a deficit of more than 20 inches.
- (9) These dimensions are irrefutable and based upon the State's own investigation and witnesses who testified on behalf of the State at trial.
- (10) The State's position that Mr. Koula was standing behind Merna in the computer room is a physical impossibility based entirely upon the State's dimensions and testimony proffered by the State at trial.

This information was available to Mr. Koula's trial counsel. No justifiable reason exists for counsel to have failed to adequately evaluate this evidence and perform the basic mathematical computations necessary to unequivocally demonstrate that the State's position in this case was 100% physically impossible. Instead, counsel proceeded through the entire trial without using the State's own evidence to show the jury just how wrong the prosecution really was. No one can seriously dispute that trial counsel's performance fell below an objective standard of reasonableness. This represented the essence

of the State's case against Mr. Koula. It was generated through an extensive and comprehensive investigation and forensic analysis with all of the resources of the State of Wisconsin. Witness after witness testified and the prosecution presented vivid accusations against Mr. Koula. Trial counsel had a clear duty to educate themselves about the State's evidence and the State's case. Counsel either failed to do that here or completely dropped the ball in failing to show the State's case in its true light.

No one can seriously dispute that counsel's deficient performance prejudiced Mr. Koula. The jury in this case was led down a very specific path by the prosecutor. Clearly, there are certain law enforcement officials who made up their minds about what happened to Dennis and Merna and were very determined to establish details to support their point of view. Unfortunately, those law enforcement officials made erroneous decisions along the way and, ultimately, reached the wrong conclusion. Mr. Koula placed great faith in his trial counsel to carefully review the work of those officials and to perform a detailed analysis of the evidence. He fully expected them, not only to uncover those errors, but to impeach the State's witnesses and expose the State's case for what it was-- a flawed effort to paint Mr. Koula as the perpetrator of these horrific crimes.

The path the jury was taken down by the prosecutor was one in which the jury was repeatedly told that Mr. Koula left his work site, drove to his parents home, retrieved a rifle from their closet, then stood behind his mother as she typed at her computer

and fired a shot into the back of her head. The State pretended that it had obtained very solid evidence following an extraordinary investigation which fully supported the prosecutor's description of what had occurred. Defense counsel could and should have dismantled the State's case by proving with absolute certitude that the State's position was fatally flawed. Had counsel demonstrated that it would have been physically impossible for this to have happened as the State claimed, the State's case would have been weakened considerably.

Defense counsel already had the information before them but failed to properly assess it and follow up on the issue accordingly. At a minimum, defense counsel should have cross-examined the State's witnesses on this. Zealous representation would have probably entailed the retainer of a forensic witness to perform the calculations, lay out the evidence, and physically demonstrate that the State's position would literally be impossible. In one case, the Seventh Circuit faulted counsel for failing to consult a qualified expert even where at least seven different pathologists held the same opinion (that the subject bullet wound would cause the immediate collapse of the victim). In our case, the evidence necessary to challenge the State's position was already available and represents evidence far stronger than opinion evidence as it is based principally in fact.

Once again, counsels' professional errors contributed significantly to the cumulative prejudice to Mr. Koula. There is a reasonable probability that a jury viewing the evidence untainted by counsels'

would have a reasonable doubt respecting guilt. That is, this error, in combination with the other errors raised herein, can easily be seen as "probably sufficient to undermine confidence in the outcome."

(f.) Failed To Present Accurate And Complete Financial Evidence Directly Contradicting The State's Representations To The Jury.

At the time of trial, the State took great pains to show the jury (1) that Mr. Koula had received a substantial amount of money from his parents; and (2) that Mr. Koula had lost substantial sums of money through his investment practices. The State used this evidence in a couple of different ways. First, it used the evidence, coupled with Dennis' statements about "cutting off" the kids, to try to establish some motive on the part of Mr. Koula to kill his parents, eventhough there was no showing that the statements had been communicated to Mr. Koula. Second, it used the evidence to try to smear Mr. Koula and portray him as a self-centered individual. Mr. Koula's trial counsel made only half-hearted efforts to rebut the State's position on this issue though it called for a head-on attack. In previous circuit court rulings, it said whats particularly important is whether Dennis' statements were said to Patrick and Cindy or Eric Koula. We now know that Cindy had this conversation with her father (Dennis) on or about Friday, May 21st, 2010 pertaining to "cutting off" financial support. In her interview on May,24, 2010, she told police she pleaded with her dad- I said to dad "Dad, please don't cut him out..I love my husband." These facts give meaning to other facts and show a direct connection of the communication from

Dennis to Cindy about "cutting off" financial support. Furthermore, Cindy told police that she had called and talked to Patrick that morning about the conversation she had with her father. The police had this information on May 24th, 2010, in Cindy's very first interview and didn't even reference it in the report.

Mr. Koula's trial counsel was supplied by Mr. Koula with the information necessary to attack the State's position and persuasively show it to be false. Counsel presented some evidence to rebut the State's case but far too little was done and there can be no reasonable justification for the failure to adequately cross-examine the State's witnesses and present additional defense evidence in order to provide the jury with a complete and accurate picture of Mr. Koula's financial circumstances and the fact that his father did not cut him off. In Cindy's interview, May 24, 2010, she was asked if anyone or anybody stands out for a possible motive. Her response was "NO, even if Eric had a problem mom and dad would have helped, if Eric's ticked off for something they would have gotten it for him...." This is an example of another fact that didn't make its way onto the police report. Mr. Koula respectfully requests an opportunity to provide a more complete and accurate record at the time of the requested hearing. In so doing, Mr. Koula will present a compelling case which will discredit the State's position in a way that should have been done at trial.

Part of this issue is quite complicated, part of it is not. For instance, Mr. Koula can present evidence (that was not and should have been presented at trial) to lay out in great detail the

uncontrovertible fact that the subject funds were indeed connected to Dennis' intentions to pass on to Mr. Koula the financial benefits stemming from the sale of the dealership. This evidence was not fully presented and Mr. Koula's attorneys, therefore, allowed the State to improperly portray Mr. Koula in respect to the issue of motive and the \$50,000 check. Had counsel fully and properly addressed the issue, the State's position that Mr. Koula had fabricated the financial arrangement would have been weakened considerably.

In addition, an abundance of evidence could have been presented to persuasively demonstrate that Mr. Koula's relationship with his parents was such that, if he were in need of financial assistance, they would absolutely, positively be there for him. Had trial counsel pursued this issue with the strength and force it required, the State's entire theory of motive would have been completely obliterated. There is no reasonable justification for counsel to have inadequately addressed this issue. Mr. Koula's position in this respect is supported by more than his own testimony and will include the testimony of others uniquely familiar with the mutual relationship, as well as documentation generated both by the State's investigation and by defense counsel.

Mr. Koula will be in a position to prove, among other things:

- (1) His parents expressed to him unequivocally that he need not stress over finances and that they would assist him, if necessary;
- (2) His father clearly intended him to have the funds he had received and was to continue to receive;
- (3) His father trusted him unconditionally and had no intention to "cut him off;"

- (4) His father had reached the end of his rope with Cindy and Patrick, and made a conscious and deliberate decision to cut them off financially (something Dennis expressly told Cindy);
- (5) All of the circumstantial evidence is consistent with Mr. Koula's position relative to this particular issue, but not with the State's position;
- (6) Some of the sworn testimony of the State's witnesses concerning Mr. Koula's finances was completely and utterly false;
- (7) The State's presentation of this evidence was deceptive and misleading. This gave the State a tremendously unfair advantage- something that could and should have been prevented by trial counsel.

Because the State used this evidence to "create" a theory of motive- an issue absolutely central to the State's case- and to portray Mr. Koula in such a negative light, trial counsels' mishandling of the issue falls below an objective standard of reasonableness. The prejudice to Mr. Koula is self-evident. The jury undoubtedly drew conclusions from the evidence on material issues that it would not have drawn, but for counsel's deficient performance. When added to the cumulative effect of all errors, the collective prejudice undermines confidence in the proceedings.

- (g.) Failed To Properly Cross-Examine Law Enforcement Officials Relative To Very Misleading And Deceptive Tactics And To Demonstrate The Misuse Of Evidence By The State.

Mr. Koula's motion addresses in some detail a number of circumstances in which law enforcement officials engaged in very

misleading and deceptive tactics and in which evidence was misused by the State. Mr. Koula's motion is already lengthy and comprehensive and so it has included only some examples of this conduct (the investigatory materials are replete with others).

(1) 911 Call/Police Video Has No Audio.

The prosecutor deliberately misled the jury in a way that was (falsely) very damaging to Mr. Koula. The prosecutor told the Court and the jury that the police video contained no audio. This statement was untruthful. It is a critical issue because one of the jurors told defense counsel after trial that the lack of the TV noise in the background of the 911 call was one of the more important facts of the case. Yet, the State's videotaped evidence contradicted its own position and supported the defense. The State misled the jury without correction by the defense counsel. This violates one of the most fundamental principles of law. It is one of a constitutional dimension. The U.S. Supreme Court long ago determined that a prosecutor who knowingly misrepresented a material fact has violated the due process rights of the accused in a way that is capable of rendering the trial constitutionally invalid. Miller v. Pate, 386 U.S. 2, 17 L. Ed. 2d 690, 87 S.Ct. 785 (1967). In that case, the prosecutor knowingly misrepresented a pair of men's under shorts as "bloody shorts." In truth, the prosecutor knew the red stains were paint.

In our case, the prosecutor knowingly misrepresented the video in order to conceal evidence from the jury that would have been very favorable to Mr. Koula.

(2) Chief Deputy Improperly Manipulated Evidence.

It is indisputable that Chief Deputy Jeff Wolf improperly manipulated evidence in a way that was extremely misleading and extremely prejudicial to Mr. Koula. There can be no excuse for this conduct which should easily meet the test of rendering the proceedings against Mr. Koula unreliable.

(3) Highly Misleading Photos Of Mr.Koula's Truck.

An independent witness saw a black truck at Dennis and Merna's house on the evening of Friday, May 21st, during daylight hours. The prosecutor directly misled the jury by using a photo that did not fairly and accurately represent the color of Mr. Koula's pickup truck (tan/gold), and claiming that Mr. Koula drove a black truck.

The conduct of the prosecutor in this case is indistinguishable from the conduct of the prosecutor in the Miller v. Pate. Rules are particularly exacting for prosecutors, as they act with governmental authority and can put people in prison. The Courts have warned for decades that misconduct by prosecutors threatens the Constitution's promise of a fair trial. While some mistakes are inevitable, many are not. Those violations which go beyond everyday missteps should not be allowed to stand.

(4) Misleading Photo of Mr. Koula's Key to His Parents Home.

The prosecutor used a misleading photo which depicted Mr. Koula's key to his parents home in the door, suggesting it was found in the dead-bolt lock. The prosecutor knowingly misled the jury to believe that Mr. Koula had used it to unlock the dead-bolt, even though he told police that the dead-bolt was not locked. This was important

enough to the jury because they asked the question of how the key got there. They were told, by Investigator Lienfelder, it was put there so it wouldn't get lost. Crime scene photos show that the key was plainly labeled and it would not have been lost, plus a police report stated that Mr. Koula had handed the key to law enforcement. This is another example of the mishandling of evidence.

(5) Multiple Deceptive Actions by Law Enforcement and Prosecutor.

The background section of this motion has identified numerous examples of deceptive and improper actions by law enforcement and the prosecutor. These practices were disingenuous at best, dishonest at worst. They went uncorrected by trial counsel without reasonable justification. It cannot be seriously argued that trial counsel made a deliberate decision to let the State off the hook on these issues. Their conduct in this regard easily rises to the level of ineffective assistance of counsel.

In the American legal system, the role of cross-examination has paramount importance to a criminal trial's core truth-seeking function. The U.S. Supreme Court has called cross-examination "the greatest legal engine ever invented for the discovery of the truth." California v. Green, 399 U.S. 149 (1970). The Seventh Circuit Court of Appeals agrees and has quoted the U.S. Supreme Court when explaining the importance of rigorous cross-examination in order to bring to light a variety of reasons to doubt a witness's testimony, ranging from innocent failures in perceptions and memories to biases, prejudices, or ulterior motives, or outright inconsistencies and falsehoods. Jones v. Basinger, 635 F.3d 1030 (7th Cir. , 2011).

The issues raised herein are anything but insignificant. Few rules are more central to an accurate determination of innocence or guilt than the requirement that one should not be convicted on false testimony. Mr. Koula was. At the requested hearing, Mr. Koula will be in a position to show that his trial counsel inexplicably failed to impeach the State's witnesses on the issues raised in the preceding section relative to deceptive and misleading tactics and testimony. For one, this allowed the State to unfairly portray Mr. Koula in a negative light and invited the jury to draw inferences that should never have been drawn. Moreover, proper cross-examination would have shown a prototypical form of bias on the part of law enforcement witnesses and exposed the jury to information from which jurors could have appropriately drawn inference related to the reliability of these witnesses.

A failure on the part of counsel and the State to correct false testimony of key witnesses, therefore, resulted in significant prejudice to Mr. Koula. The jury likely placed great weight on the stature of the law enforcement officials who testified at trial. Counsels' failure to follow up on so many issues requiring impeachment sacrificed Mr. Koula's one opportunity to weaken that testimony by exposing both the truth, as well as the witnesses' biases. At stake was the weight of the evidence upon which a determination would be made respecting Mr. Koula's innocence or guilt.

Trial counsels' failure to properly expose the deceptive practices on the part of law enforcement allowed the evidence to be overly and unduly infected with false and misleading information. At the same time, the very individuals responsible for misleading the jury

were inexplicably allowed to escape what should have been mandatory and rather devastating impeachment. It is well-settled in the law that defense counsel has not represented the defendant to the satisfaction of the Sixth Amendment when counsel fails to pursue an impeaching cross-examination or present additional evidence that would, in all reasonable probability, cast a reasonable doubt on the testimony of the government's witnesses. U.S. Ex. Rel. McCall v. O'Grady, 908 F2d 170 (7th Cir. , 1990). There can be no real question that a proper and thorough cross-examination of law enforcement officials in this case would have, in all reasonable probability, cast a reasonable doubt on the testimony of those witnesses.

II. Post-Conviction Counsels' Failure To Challenge Trial
Counsels' Ineffectiveness Denied Mr. Koula The
Effective Assistance Of Post-Conviction Counsel.

Mr. Koula was denied the effective assistance of post-conviction counsel. State ex. rel. Rothering v. McCaughtry, 205 Wis. 2d 675, 556 N.W. 2d 136 (Ct.App. 1996) (ineffective assistance of post-conviction counsel properly raised under sec. 974.06, Stats.). Specifically, Mr. Koula's post-conviction counsel, Shelley Fite and Susan Alesia, failed to properly evaluate, identify, and raise trial counsels' ineffectiveness as set forth in this motion.

Although post-conviction counsel is not constitutionally ineffective solely because the attorney fails to raise every potentially meritorious issue, counsel's decision in choosing among issues cannot be isolated from review. Smith v. Robbins, 528 U.S. 259 (2000),

Gray v. Greer, 800 F. 2d 644 (7th Cir. , 1986). The same Strickland standard for ineffectiveness applies, with appropriate modifications, to assess the constitutional effectiveness of post-conviction or appellate counsel. Smith, supra; see State v. Ziebart, 2003 Wi App 258, 268 Wis. 2d 468, 673 N.W. 2d 369.

The Seventh Circuit has summarized the standard as follows:

"When appellate counsel omits (without legitimate strategic purpose) a significant and obvious issue, we will deem his performance deficient... and when that omitted issue "may have resulted in reversal of the conviction, or an order for a new trial, we will deem the lack of assistance prejudiced."
Mason v. Hanks, 97 F.3d 887, 893 (7th Cir. 1996).

In our case, the issues that post-conviction counsel failed to raise as set forth in this motion are obvious and very strong, and the failure of post-conviction counsel to raise them cannot be reasonably explained or justified. All of the information contained within this motion either was, or should have been, readily available to post-conviction counsel. Mr. Koula did everything he possibly could to educate post-conviction counsel about these issues and about the need to pursue them for post-conviction and appellate purposes. He fully and reasonably expected his post-conviction attorneys to pursue these issues aggressively and with zealous advocacy on his behalf. He relied on his post-conviction attorneys to do so. He relied on his post-conviction attorneys to comprehensively investigate and evaluate each and every one of the issues raised

herein. No reasonable justification exists for post-conviction counsel to have proceeded as they did without including the most important issues for post-conviction purposes--that is, those issues previously set forth in this motion relating to the ineffective assistance of trial counsel.

Mr. Koula fully cooperated with his post-conviction attorneys and had every motivation to do so. He met and spoke with counsel on multiple occasions and drew the impression that they, as professional counsel on his behalf, would fully, adequately and aggressively pursue these issues. Given the magnitude of the case and his lack of formal legal training, Mr Koula did everything he reasonably could do under the circumstances to ensure that post-conviction counsel was in the position to properly and successfully advocate on his behalf. It is Mr. Koula's understanding that his post-conviction attorneys obtained all of the discovery and trial materials in the case, met with trial counsel, and conducted the review and legal analysis necessary to properly proceed on his behalf. He did not perceive that he had an obligation to micro manage the professional work of his post-conviction counsel and trusted that they would indeed proceed in his best interests.

Mr. Koula most respectfully asserts that that did not happen here. It is his position that, for whatever reason, his post-conviction attorneys failed to proceed on the most important issues for post-conviction purposes-- those issues set forth in this motion. Not only are these issues "clearly stronger" than the issues raised by his post-conviction attorneys, they are significant and obvious

issues based on the record in this case and the information available to post-conviction counsel through Mr. Koula and his trial counsel.

As a result, the conduct of post-conviction counsel clearly fell below an objective standard of reasonableness for an attorney representing an individual in Mr. Koula's position. The deficient performance of post-conviction counsel prejudiced Mr. Koula because it precluded the proper review of these critically important issues for post-conviction and appellate purposes. Had these issues been included, Mr. Koula believes there is more than a substantial probability or likelihood that he would have prevailed. That is, it is Mr. Koula's position that, but for the omission of these issues by his post-conviction counsel, Mr. Koula's conviction would have been vacated and a new trial ordered. That is what he has shown here and it is what he will prove at the requested evidentiary hearing.

The Wisconsin Supreme Court has adopted the "clearly stronger" pleading standard. State v. Starks, 349 Wis. 2d 274, 833 N.W. 2d 146 (2013). Unlike the claims of ineffective assistance of trial counsel raised by the defendant in Starks, Mr. Koula's claims are substantiated, persuasive and not previously adjudicated. While the Wisconsin Supreme Court has held that Mr. Koula's claims must be "clearly Stronger" than those raised by post-conviction counsel, it has fully acknowledged that the purpose of the §974.06 motion is to allege sufficient facts which, if true, would entitle Mr. Koula to a new trial. State v. Balliette, 336 Wis.2d 358, 805 N.W.

2d 334 (2011). The motion must do more than "point to issues post-conviction counsel did not raise." That is why Mr. Koula's motion sets forth in detail both the factual and the legal bases which support the issues post-conviction counsel should have, but did not raise.

At the same time, the Supreme Court has made it perfectly clear that the \$974.06 motion does not itself represent all of the proof needed in order for a new trial to be ordered. In Balliette, the Supreme Court described the evidentiary hearing as an important intermediate step toward this objective. The Court explained that if the motion contained all of the proof necessary to show that the defendant was entitled to a new trial, he would not need an evidentiary hearing. This is exactly the type of case where such a hearing is necessary and appropriate. Given the magnitude of the case and the complexity of the issues, coupled with the Sixth Amendment guarantee to counsel, Mr. Koula most respectfully requests that counsel be appointed to represent him at the requested hearing. A trained professional will be in a far better position to navigate both the complex legal and factual issues presented by this motion.

Mr. Koula's motion includes sufficient material facts for reviewing courts to meaningfully assess his claims. He has set forth in detail the bases for his claims of IAC. Mr. Koula's post-conviction counsel was in a position to raise these very issues but failed to do so. Counsel's failure to do so was unjustifiable. Even if post-conviction counsel were to take the position that they had conducted a full and proper investigation and evaluation of potential post-conviction

issues, and made a deliberate selection of issues to pursue, that would not be enough to defeat Mr. Koula's motion. That is because post-conviction counsel must have a legitimate reason not to have raised these issues which are clearly stronger than the issues actually raised. No such reason can possibly exist here.

Post-conviction counsel raised three issues on appeal:

- (1) Erroneous admission of Dennis' hearsay statement that he wanted to "cut off" the kids financially.
- (2) Trial Counsels' ineffectiveness in agreeing to a jury instruction that highlighted Dennis' hearsay statements; and
- (3) Erroneous exclusion of evidence suggesting that Google Maps directed a user who searched for the neighbor's address to Dennis and Merna's house.

First, these were issues selected entirely and exclusively by Attorneys Fite and Alesia. Neither of these attorneys went through the record in detail with Mr. Koula. Neither of them sufficiently identified the issues raised by Mr. Koula and discussed them with Mr. Koula. Both of these attorneys had complete and unfettered access to all of the information necessary to identify and raise the issues that should have been raised. A reasonably competent attorney should have identified these issues, conducted a detailed legal analysis respecting these issues, discussed the issues in detail with Mr. Koula in order to put him in a position to make a decision based upon informed consent, and then to proceed to raise these issues fully and adequately by way of a motion for post-conviction relief. Attorneys Fite and Alesia failed to do just that. Their

failures in this respect rise to the level of ineffective assistance of counsel.

That is the who, what, when, where and why. The how is set forth in detail in Section I above. That is, post-conviction counsel clearly should have, but did not, raise the issue of ineffective assistance of trial counsel respecting issues (a.) through (g.) for the reasons set forth in detail in Section I above. These issues were significant, obvious, substantiated by the record, and persuasive. A failure to raise them easily falls below an objective standard of reasonableness and the prejudice to Mr. Koula could not be greater. After all, he has been wrongfully convicted and had no other way to raise the most important issues challenging that conviction. By proceeding as they did, Mr. Koula lost his appeal. Had post-conviction counsel properly investigated and raised the issues raised by Mr. Koula in this motion, there is at least a reasonable probability that the outcome would have been different.

That is because the issues raised by Mr. Koula are clearly stronger than the issues raised by post-conviction counsel. Moreover, there is no reasonable justification not to have included these issues as the "cumulative" effect is to be considered, not each issue in isolation. Post-conviction counsel did raise the issue of ineffective assistance of trial counsel, but only with respect to a single, narrow issue involving the language of a single jury instruction. The Court Of Appeals rejected the argument and determined that counsel had not even "presented a developed argument that there is a reasonable probability that the result of the trial would have

been different had counsel objected to the instruction." Attorneys Fite and Alesia should have at least developed the argument. That would seem to represent the most basic and fundamental task at hand. They failed to do even that.

The Court of Appeals went on to explain it would not have been persuaded even if the argument had been properly developed. Part of the ~~problem~~ here (as this motion asserts) is that post-conviction counsel failed to do far, far more than simply failing to develop this one argument to show prejudice. Post-conviction counsel raised perhaps 10% of what should have been raised to challenge the conviction. Had counsel properly raised all of these important issues (i.e., the other 90%), the Court of Appeals would likely have been persuaded differently. Not only would the Court have been presented with additional, more persuasive issues, but the record would have been clarified and developed to the extent that the Court would have had a completely different view of the evidence (one that was far more accurate and complete and one that explained why much of the evidence on which the Court relied was faulty). This would have changed everything.

Standing alone, the three issues raised by post-conviction counsel were not especially strong, and the Court Of Appeals said as much. The issues raised in this motion cannot be characterized as such. They are very strong and persuasive issues, entirely substantiated by the record and by those accompanying materials which supplement the record (affidavits and attachments). Obviously, if the issues raised by this motion indeed warrant a new trial as Mr. Koula claims, they are clearly stronger than the issues raised by Attorneys Fite

and Alesia which the Courts have already determined do not warrant a new trial.

The only real way to weigh the respective strength of the issues is to first conduct a evidentiary hearing to develop the record necessary to properly and fully address the merits of the new issues and compare them to the merits of the issues previously raised. We already know that the courts were unimpressed with the issues previously raised and no one can, therefore, take a position that they were especially strong in the eyes of the courts. On the other hand, the new issues raised by this motion are in a completely different category. Rather than tinkering around the edges of a fraction of the evidence presented at trial, the issues raised in this motion by Mr. Koula confront the most significant evidence head-on. The issues raised by Mr. Koula:

- (1) Challenge much of the State's critical evidence as flawed and misleading;
- (2) demonstrate that trial counsel allowed the State to present a case to the jury that was based on deception and not the truth;
- (3) demonstrate that trial counsel failed to impeach the State's witnesses on matters for which impeachment was mandatory and would have been decisive;
- (4) Show that trial counsel failed to investigate and properly persue tremendous and persuasive evidence tending to show that someone other than Mr. Koula had committed these crimes;
- (5) Show that trial counsel completely failed to persue a viable defense;

- (6) demonstrate that trial counsel failed to adequately investigate and retain a computer expert to show the State's critical "time of death" was not correct;
- (7) demonstrate That counsel failed to call a witness who would have presented evidence excluding Mr. Koula from the fingerprint found on the gun identified by the State;
- (8) demonstrate that the State was allowed to engage in highly unfair and prejudicial conduct which gave the State an improper advantage;
- (9) demonstrate that counsel was in a position to prove that the State's theory was physically impossible but failed to do so;
- (10) demonstrate that counsel improperly allowed the State to misrepresent and mischaracterize evidence pertaining to Mr. Koula which wrongly and unfairly cast Mr. Koula in a negative light (based on disinformation, half-truths, and outright falsehoods).

These issues, unlike those raised by post-conviction counsel, present overwhelming and powerful reasons to question both the reliability of the proceedings and the ultimate outcome of the trial. No one can seriously dispute that they are clearly stronger than the issues raised by post-conviction counsel. Based on the applicable law cited herein, Mr. Koula respectfully requests that (1) counsel be appointed; (2) an evidentiary hearing be held; and (3) the cumulative effect of all the errors be assessed and factored in to the determination of whether there exists a reasonable probability sufficient to undermine confidence in the outcome.

III. Sufficient Reasons Exist For Raising Mr. Koula's Claims.

Although the issues raised herein were not raised in Mr. Koula's appeal, he is not barred from raising them under Sec. 974.06(4), Stats. as construed in State v. Escalona-Naranjo, 185 Wis.2d 168, 517 N.W.2d 157 (1994). A motion under 974.06, Stats remains appropriate where, as here, the defendant has "sufficient reason" for not having raised, or for having inadequately raised, the issue on a prior motion or appeal. State v. Howard, 211 Wis.2d 269, 564 N.W.2d 753 (1997).

The fact that Attorneys Fite and Alesia cannot challenge their own ineffectiveness constitutes sufficient reason under §974.06, authorizing Mr. Koula to raise his post-conviction counsel ineffectiveness claim now. Mr. Koula relied on his attorneys to act with reasonable diligence and zealous advocacy on his behalf, to his own severe detriment. Mr. Koula was not in a position to override the decisions made and actions taken by his attorneys. He did not control them in a professional capacity.

For the reasons stated above, Attorneys Fite and Alesia did not act reasonably in failing to raise the identified issues in a post-conviction motion and that failure prejudiced Mr. Koula. Mr. Koula relied on his trial counsel to act with professional responsibility and counsels' failure to raise the issues raised herein represent a violation of those responsibilities to Mr. Koula's severe detriment. In other words, Mr. Koula was wrongly convicted due to the ineffectiveness of trial counsel (all four of his trial attorneys failed individually and collectively in respect to the issues set forth in this motion). Mr. Koula then relied upon Attorneys Fite and

Alesia to perform with professional responsibility and properly demonstrate that Mr. Koula was wrongfully convicted due to the ineffective assistance of attorneys Koby, Belzer, Dyer and Thompson, prosecutorial misconduct, and other constitutional violations identified herein. These failures by Attorneys Fite and Alesia resulted in the conviction being affirmed when it should have been reversed.

IV. Newly - Discovered Evidence.

To the extent the State would argue that any of the information which forms a part of this motion was not available to Mr. Koula's attorneys at the time, Mr. Koula would respectfully request that the issue then also be considered from the standpoint of newly-discovered evidence. A possible example of this would be the fact that Cindy Cowell's best friend (Dawn Noah) has recently come forward on her own to provide information to Mr. Koula which she knew to be factually untrue. See Affidavit of Dawn Noah. That information may on its own constitute newly-discovered evidence, as would the evidence from friends and family relating to Patrick Cowell. Some of the evidence raised in these issues may be new, but treated as evidence that was available to (or should have been available to) counsel at the time--had reasonable professional diligence been employed to discover, access or assemble it. For instance, Mr. Koula believes that counsel would have uncovered this information relating to Patrick Cowell had it conducted a routine and basic investigation into the issue, something that clearly should have been done given the existing record in this case and

the information that was made available to counsel at the time.

When moving for a new trial based on the allegation of newly-discovered evidence, a defendant must prove: (1) the evidence was discovered after conviction; (2) the defendant was not negligent in seeking the evidence; (3) the evidence is material to an issue in the case; and (4) the evidence is not merely cumulative. State v. McCallum, 208 Wis.2d 463, 561 N.W.2d 707 (1997). If the defendant is able to prove all four of these criteria, then it must be determined whether a reasonable probability exists that had the jury heard the newly-discovered evidence, it would have a reasonable doubt as to the defendant's guilt. A reasonable probability of a different outcome exists if there is a reasonable probability that a jury, looking at both the old and the new evidence would have a reasonable doubt as to the defendant's guilt. State v. Love, 284 Wis.2d 111, 700 N.W.2d 62 (2005).

A Court reviewing newly-discovered evidence should consider whether a jury would find that the newly-discovered evidence had a significant impact on the other evidence presented at trial that a jury would have a reasonable doubt as to the defendant's guilt. McCallum, 208 Wis.2d at 474. This later determination is a question of law. Id. Manifest injustice has been shown and a new trial must be ordered when: (1) the four factors of newly-discovered evidence are established; and (2) a court determines that had a jury heard the newly-discovered evidence, it would have had a reasonable doubt as to the defendant's guilt. State v. Krieger, 163 Wis.2d 241, 471 N.W.2d 599 (1991).

Again, it is Mr. Koula's position that the evidence which forms

the basis for his current motion is evidence that either was, or should have been, available to counsel on a reasonably diligent investigation and analysis. However, to the extent it may be argued that the information was not available to counsel at the time, Mr. Koula takes the position that any evidence deemed not available should be treated as newly-discovered evidence. While the computer analysis of Laurie Juedes and William Nelson had not been generated at the time of the appeal, it is Mr. Koula's position that counsel should have obtained a computer analysis to evaluate the opinions of Sergeant Blockhuis. Nevertheless, if the State were to take the position that the information set forth in the attached affidavit's represents new information, Mr. Koula would take the position that this information meets the test for newly-discovered evidence. That is because it meets each part of the four part test established in McCallum. Additionally, for the reasons set forth in the preceding sections of this motion, a reasonable probability of a different outcome exists because a jury looking at both the old evidence and the new evidence (when factored on a cumulative basis) would have a reasonable doubt as to Mr. Koula's guilt.

Interest of Justice

In the alternative, should this Court find that the post-conviction evidence proffered by the defendant does not meet the test for newly-discovered evidence, this Court should grant a new trial in the interest of justice. In this regard, a new trial may be proper in the interest of justice in as much as the real controversy has not been tried. The case presented to the jury that convicted Mr. Koula did not represent an accurate portrayal of even the record

developed by law enforcement, let alone the facts. Given the magnitude and significance of the evidence that should have been, but was not, presented to the jury, as well as the magnitude and significance of the flawed, misleading, deceitful and prejudicial evidence that was presented to the jury, the jury decided the case on a record that was grossly unfair to Mr. Koula. In the interest of justice, the State should be required to prove its case without violating an individuals constitutional rights in so many different ways.

Appointment Of Counsel .

Mr. Koula most respectfully requests that the Court appoint counsel to represent him at the requested evidentiary hearing based on the complexity of the issues, the number of witnesses and the amount of information involved. It is Mr. Koula's position that the appointment of counsel would serve not only his interests, but the interests of the State and the justice system as a whole. A trained professional is not only better equipped to deal with the evidentiary and legal issues involved, the professional would have far greater access to witnesses, evidence, the prosecutor's office and the Court. This would be far more conducive to proceedings that are efficient without compromising the need for greater accuracy and completeness.

Conclusion

Mr. Koula believes it is very important to emphasize that the "cumulative effect" of all the errors and omissions raised in this motion is to be assessed in determining the resulting prejudice, not each one in isolation. When all of the errors and omissions

are combined in this case, the cumulative prejudicial effect to Mr. Koula is extraordinary. Some of the issues standing alone are quite extraordinary. That would include the failure to investigate and pursue a Denny motion relative to Patrick Cowell. It would also include the dishonesty and deception engaged in by both the prosecutor and certain law enforcement officials. Those errors originated from much more than simple mistakes. With an individuals' liberty at stake, some of the people involved in the investigation and prosecution behaved in ways that should be sternly rejected by the criminal justice system. The Courts should not tolerate the conviction and imprisonment of people based on cases built on suspicion and speculation--especially when the suspicion and speculation are generated dishonestly and through flawed evidence and pure deception.

The district attorney's office wields tremendous power, as does law enforcement. The fact that Mr. Koula was represented by a number of attorneys (a meaningless fact by itself but one the State will undoubtedly wish to raise) only means that the failure to identify and properly pursue these issues seems, in some ways, even more egregious. At some point, someone must look at what has happened here and decide that it simply cannot be permitted to stand. Mr. Koula most humbly and most respectfully asks this Court to carefully scrutinize the issues presented by this motion, for they are very real. A bulk of the State's case is not, and a manifest injustice that has resulted hangs in the balance. Mr. Koula respectfully asks this Court an opportunity to amend this motion if he has not met the procedural technicalities. State v. Sutton, 2012 WI 23, 339

Wis.2d 27, 810 N.W. 2d 210. See paragraphs (19-20). See also Zuehl v. State, 69 Wis.2d 355, 359, 230 N.W.2d 673 (1975).

Respectfully Submitted This _____ day of _____, 2017.

Eric Koula

STATE OF WISCONSIN
COUNTY

CIRCUIT COURT

LA CROSSE

STATE OF WISCONSIN,

Plaintiff

v.

ERIC G. KOULA,

Defendant

Affidavit of Laurie M. Juedes

STATE OF WASHINGTON)

COUNTY OF KING)

I, Laurie M. Juedes, Being Duly Sworn on Oath, Deposes and States as Follows:

1. I am an adult resident of the State of Washington. My date of birth is May 2, 1957. I currently reside at 2412 175th Avenue NE, Redmond, Washington, 98052.
2. I became involved in this case while attaining my Certificate in Digital Forensics, as a student at the University of Washington CCE. While preparing a research presentation on the use of digital forensics in *State of Wisconsin vs. Eric G. Koula*, I became concerned about the conclusions drawn by the state, based on the digital forensic analysis of the computer found at the crime scene. During this time, I was under the supervision of William Nelson who is a nationally respected digital forensic examiner, instructor and technical researcher/contributor.
3. After attaining my Certificate, I contacted the defendant in the case, Eric G. Koula, to share my research with him. He has agreed to provide me with additional facts and documents related to the case so that I might continue to assist him and continue to clarify aspects of the case, especially those related to digital forensics.
4. As part of my efforts to familiarize myself with this case, I have personally reviewed the statement given to the police by Cindy and Patrick Cowell. At the request of Mr. Koula, I informally transcribed the audio recording of four interviews given by the Cowells so that Mr. Koula could access the text of those interviews. When I

compared the transcription of those interviews the text of the law enforcement summary reports, I found significant inconsistencies. A list of some of the most significant inconsistencies are summarized in Exhibit B, attached to this affidavit.

5. After an extensive study of all investigatory materials, trial transcripts and other related documents and testimony, it is clear that the State successfully convinced the jury that Merna Koula was killed shortly after 5:41PM on Friday, May 21, 2010. Based primarily on that time of death, the State then successfully convinced the jury that Dennis Koula died at about 6:00PM on Friday, May 21, 2010. Establishing this time of death was crucial to the State's case since it was within the 45 minutes that evening during which Eric had no verified alibi.
6. I am aware of the fact that these times of death are absolutely critical to the State's case against Eric Koula.
7. I am also aware of the sworn testimony of an independent witness, Jeff Elliott, who saw four people standing in the yard of the residence of Dennis and Merna Koula, which is on Fox Hollow Drive, after 8:00PM on Friday, May 21, 2010. Mr. Elliott was certain that this happened after 8:00PM on Friday, May 21, 2010, because he had purchased items earlier that he was using at his home that evening and could verify the time of purchase on his receipt. Mr. Elliott was also certain that he saw four people at the residence and was almost certain that one of the four people was Dennis Koula. Mr. Elliott was a neighbor of Dennis Koula had had witnessed him working in his back yard prior to the night of the murder. Mr. Elliott recognized Dennis by his hair, gait and general personal appearance.
8. The testimony of Mr. Elliott brings into question the time of death attributed to both Dennis and Merna Koula, since the State claimed that Eric Koula had already killed them when Dennis was observed by Mr. Elliott.
9. If Dennis and Merna were killed sometime that evening after being seen by Mr. Elliott, then Eric Koula must be determined to be innocent. After 6:15PM on Friday, May 21st, 2010, Eric Koula could verify his whereabouts with documentation and witness testimony.
10. Therefore, the State's assertion that Merna, and therefore Dennis, were killed at about 6:00PM was essential to Eric Koula's conviction. If Dennis and Merna were killed sometime that evening after being seen by Mr. Elliott, then Eric Koula could not have killed them beforehand and should not have been convicted.

11. The State's assertion that Merna was killed within minutes of 5:41PM was based on the testimony of Sergeant Mike Blockhuis, a police officer with the City of La Crosse. Sergeant Blockhuis was asked by the La Crosse County Sheriff's Office (who had jurisdiction over the investigation) to analyze the computer found near Merna's body on Monday, May 24th, 2010. At trial, the State relied on the testimony of Sgt. Blockhuis to establish that Merna was using the forensically examined computer at the time of her death.
12. Sgt. Blockhuis used digital forensic software to examine the disk embedded in this computer and concluded that a search had been done by the internet browser at 5:41PM and this was the last internet search to have been done on the computer. The software was able to determine that the search was for the string, "planning qw."
13. Crime scene photos of the computer screen established that the search was done through a site maintained by the La Crosse County Planning Department.
14. Crime scene photos also established that Merna's left hand was resting on the keyboard when her body was found, although no fingers of her left hand were touching either the "q" key or the "w" key.
15. Crime scene photos of the computer screen also established that the search for "planning qw" produced no results from the La Crosse County Planning Department site.
16. After establishing these forensically established facts, the State concluded that these facts proved that Merna had been killed instantly between the time that she manually, and consciously, typed "planning" and the time that she spasmodically, and unconsciously, typed "qw," and that the time of death coincided exactly with the time of the search.
17. To reach this conclusion, the State made three assumptions:
 - a. Since the search string, "planning qw" returned no results the State assumed that the entire search string could not have been typed in consciously. The State concluded that the search phrase, "planning" must have been done before death and the remaining part of the search phrase, "<space>qw" was nonsensical and, therefore, must have been typed after death.
 - b. Since, according to the State's first assumption, the search phrase, "<space>qw" must have been typed, unconsciously, after death the State then assumed that the keys were, unconsciously typed in sequence. They concluded

that one of Merna's fingers first struck the "q" key and then one of her fingers struck the "w" key. Furthermore, they asserted that the "w" key was the last character typed on the computer, that it was typed at the moment that Merna was killed, and that the time of the search, 5:41PM, on Friday, May 21st, coincided with Merna's time of death.

- c. Since, according to the State's first and second assumptions, the "w" key was the last character typed on the computer, they also would have to conclude that the files on the disk were never contaminated by subsequent manual activity. If evidence on the disk exists that suggests the computer was used manually after the search for "planning qw" was executed, then the files on the disk must be considered contaminated and invalid as evidence, making assumptions (b) and (c) invalid as well. For State to make the assumption that the computer disk was not contaminated, a further digital forensic analysis would have to determine that all files modified or accessed on the computer after 5:41PM, Friday, May 21st, were modified and accessed as a result of automatic activity such as automatic updates or pre-set timers.

18. My analysis of this computer, under the direction of William Nelson, challenges all three of the State's assumptions.

19. The State's first assumption, (a), that the remaining part of the search phrase, "<space>qw" was nonsensical and, therefore, must have been typed after death is problematic given the circumstances of this search. The State did not consider the possibility that the string could have been mistyped, or that the string did, in fact, make sense to the person typing but was simply not found on the site being searched.

20. As an example of how the phrase, "qw" may have been meaningful, the paperwork found at the crime scene immediately adjacent and left of the computer monitor, indicated that the La Crosse County Planning department would be holding an upcoming meeting regarding the golf course that near Dennis and Merna's house. The golf course had wetlands and water quality may have been an issue related to this meeting. (see attached Exhibit C). The US Geological Service collected and distributed water quality data through the use of Quality of Water (QW) Basic Data files. (see attached Exhibit D). It is possible that Merna was attempting to research these files on the La Crosse County website. It cannot be concluded that the search, "planning qw," would have been so nonsensical that it would need to be explained as a strictly unconscious set of sequential keystrokes.

21. It is evident that Merna Koula was likely seeking to find information on water quality data through the La Crosse County website and that this highly reason for her search was not portrayed by the State. This information was not presented to the jury along with information concerning Dennis and Merna's involvement in the development of their neighborhood.
22. The State's second assumption, (b), that the "w" key was the last character typed on the computer, that it was typed at the moment that Merna was killed, and that the time of the search, 5:41PM, on Friday, May 21st, coincided with Merna's time of death, is not supported by evidence found by examination of the computer.
23. Both the evidence of the search found on the computer disk and the crime scene photo of the computer monitor indicate that the "w" key could not have been the last character typed on the computer. The evidence of the search found on the computer disk indicates that the search, "planning qw" was executed. The evidence of the search found on crime scene photos of the computer monitor also indicates that the search, "planning qw" was executed and, furthermore, returned no results.
24. Searches are executed by search engines only after the search engines are instructed to initiate the search, typically by pressing the carriage return key or by moving the cursor over a virtual key on the screen and then clicking on that virtual key. For example, such a key might be labeled, "Go," or "Search."
25. Therefore, typing only "planning qw" into the search field would have filled the search field with characters but would not have initiated the search. To initiate the search, further manual input would have been necessary: either pressing "Enter" or manipulation of the mouse or touchpad.
26. The State asserted that all keystrokes after the word "planning" were evidence of unconscious and involuntary post mortem hand movements. Given the evidence, both on the disk and on the crime scene photos of the computer, to complete and execute this search post mortem, the computer user would have had to perform one of two scenarios of the following scenarios.
27. In the first possible scenario, the body of the victim would have to involuntarily perform the following actions:
 - a. One of the victim's fingers, presumably on the left hand, would have had to fall without direction onto only the "q" key on the keyboard,

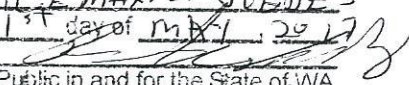
- b. Then, in a sequential motion, one of the victim's fingers, again presumably on the left hand, would have had to fall without direction (unconsciously) onto only the "w" key on the keyboard,
 - c. Then, in a sequential motion, one finger, from either hand, would have to fall without direction (unconsciously) onto only the "Enter" key.
28. In the second scenario, the body of the victim would have to involuntarily perform exactly the same actions as (a) and (b) above but, rather than (c) the victim's body would have to involuntarily move the cursor over the screen until it remained on top of the virtual key next to the search field and then also involuntarily "click" either the mouse button or the touchpad key.
29. If we are to assume that Merna's body was able to perform either of these scenarios, then, in addition, the fingers on Merna's left hand would have to involuntarily shift off of the "q" key and "w" key and, without pressing any further keys, move to the center of the keypad while the fingers on Merna's right hand would have to involuntarily shift off of the "Enter" key and, without pressing any subsequent keys, fall off of the keyboard and move to the left so that it came to rest directly under the keyboard drawer.
30. Both of these scenarios, which formed the basis of the State's case, are so unlikely as to be nearly impossible.
31. A more likely scenario that would explain the findings of the digital forensic analysis and the status of the screen as seen on the crime scene photos is that Merna was doing research relating to the paperwork for the upcoming La Crosse County planning meeting on the La Crosse County website, executed a search on the website looking for planning related issues, and then got up from the computer and left the browser on the website for further research at a later date.
32. The evidence of this search found on the computer contradicts the State's assumptions that Merna was killed at or near the time of this search. The only assumption that can be made was that Merna was killed sometime after this search was manually, and consciously, completed, perhaps hours or days later.
33. The digital forensic analysis of this computer is only able to prove that Merna used the computer, executed a search at 5:41PM, on Friday, May 21st, and then was killed sometime later, possibly leaving the computer between the time of the search and the time when she was killed.

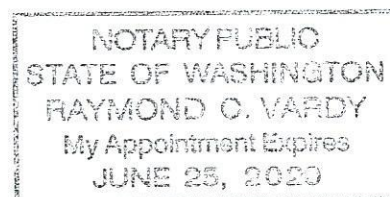
34. This disproves the State's assertion (b) that the digital forensic analysis of the computer "proved" the time of death of Merna Koula.
35. In addition, an analysis of the mirrored hard drive from the subject HP Pavillion M9000 desktop model computer contains unexplained activity that is outside of routine computer function. These activities are prevalent on Monday, May 24th, 2010, and occur after the bodies were found and Eric Koula had left the crime scene but before the computer was turned off for forensic preservation and examination.
36. These activities are not consistent with automatic updates, normal computer mode switching or security related system checks. The most likely explanation for this unusual activity is manual activity of some type following the victim's last manual activity but prior to the computer being protected by sound forensic practices. My research into this activity is on-going and may result in the conclusion that the data on the disk has been corrupted to the point where it should not be allowed as evidence.
37. After the evidence found on the computer regarding the search on the La Crosse County website is examined, along with related evidence, such as the crime photos taken of the computer monitor and the contents of the documentation found adjacent to the computer, it is clear that this totality of evidence does not support the State's assertion that the computer could be used to determine the time of death for Merna Koula and it supports the testimony of Jeff Elliott's eyewitness account.
38. This represents absolutely critical information that the State was allowed to wrongly discredit in such a way that was greatly misleading to the jury.
39. I make this affidavit on my accord and with the sole purpose of presenting the court with accurate information in order to correct a mistaken and misleading record so that justice may be truly served in respect to the deaths of Dennis and Merna Koula.

Dated this 29th day of May, 2017

Laurie M. Juedes



Subscribed and sworn to before me
LAURIE MARIE JUDES
 This 31st day of MAY, 2017

 Notary Public in and for the State of WA
 residing at Mill Creek



STATE OF WISCONSIN

CIRCUIT COURT

LA CROSSE COUNTY

STATE OF WISCONSIN,

PLAINTIFF

v.

Case No.10-CF-431

ERIC G. KOULA,

DEFENDANT

AFFIDAVIT OF
DEXTER KOULA

STATE OF WASHINGTON)
COUNTY OF KING)

Dexter Koula, being first duly sworn on oath, deposes and states as follows :

1. I am the son of Eric Koula. My date of birth is November 7, 1993. I currently reside at 2412 175th AVE NE, Redmond, Washington, 98052.
2. I have personal knowledge that I believe may be important to this case.
3. On Easter Sunday in the spring of 2010, my family went to my Grandparents' house (Dennis and Merna Koula) for brunch. Other family members were there as well.
4. My Grandparents had hidden Easter baskets throughout the house and I was going from room to room with my sister (Hadley). When we went into my Grandparents' bedroom, I saw my uncle Patrick (Cowell) in my Grandparents' closet with my cousin (Jossalyn). My uncle Patrick was going through my Grandparents' personal belongings in an area of the closet where I know my Grandpa kept his guns.

5. In May of 2010, I was Present on more than one occasion when my Dad requested and was denied protection from the police.

6. In late May of 2010, I overheard a conversation at our house between my Dad and his friend, Mike Genz . My Dad was very, very angry because the police were questioning me and seemed to be concentrating on me and not conducting a proper investigation.

7. I make this affidavit completely on my accord and without Threats or Promises from anyone.

8. I will Truthfully Testify to these facts in a court of Law based upon my own personal knowledge.

DATED THIS 26 DAY OF May, 2017

Dexter Koula

DEXTER KOULA

Notary Public

Subscribed and sworn to before me

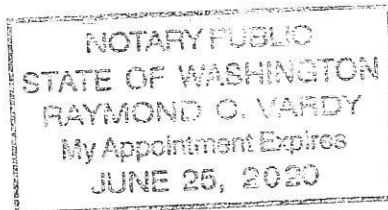
DEXTER THOMPSON KOULA

This 26th day of May, 2017

Raymond O. Vardy

Notary Public in and for the State of WA

residing at mill creek



STATE OF WISCONSIN

CIRCUIT COURT

LA CROSSE COUNTY

STATE OF WISCONSIN,

PLAINTIFF

v.

Case No.10-CF-431

ERIC G. KOULA,

DEFENDANT

AFFIDAVIT OF
HADLEY KOULA

STATE OF WISCONSIN)
COUNTY OF MARATHON)

Hadley Koula, Being Duly Sworn On Oath, Deposes and States as Follows :

1. I am the Daughter of Eric Koula. My date of birth is September 29, 1998. I currently reside at 205 N. Wisconsin Street, Spencer, Wisconsin, 54479.

2. I have personal knowledge that I believe may be important to this case.

3. On Easter Sunday in the spring 2010, my family went to my Grandparents' house (Dennis and Merna Koula) for brunch. Other family members were there as well.

4. My Grandparents' hid Easter baskets throughout the house. While we were looking for our Easter baskets, my brother (Dexter) and I were going through the bedrooms and closets. We walked into

my Grandparents' bedroom and saw my uncle Patrick in my Grandparents' closet. He was going through everything himself.

5. I make this affidavit completely on my own accord and without Threats or Promises from anyone.

6. I will truthfully Testify to these Facts in a court of Law based upon my own personal knowledge.

Dated this 25 day of May, 2017

Hadley Koula
HADLEY Koula

Subscribed and sworn to before me,
This 26 day of May, 2017

Bret T. Heiting

NOTARY PUBLIC, STATE OF WISCONSIN
My commission expires on 9-26-20



STATE OF WISCONSIN

CIRCUIT COURT

LA CROSSE COUNTY

STATE OF WISCONSIN,

PLAINTIFF

v.

Case No.10-CF-431

ERIC G. KOULA,

DEFENDANT

AFFIDAVIT OF
DAWN NOAH

STATE OF WISCONSIN)
COUNTY OF CLARK)

Dawn Noah, Being First Duly Sworn On Oath, Depos And States
As Follows :

1. I am a resident of the state of Wisconsin currently residing at 1009 Bruley St. Neillsville, WI 54456. My date of birth is 01-19-1972.
2. I am a long-time friend of the Koula family. Cindy (Koula) Cowell had been one of my closet friends since childhood.
3. I recently made contact with Eric Koula who is presently incarcerated at Dodge Correctional Institution in Waupun. Many things have been weighing on my mind since the trial which took place in 2012.
4. During those portions of the trial at which I was present I heard and saw a number of things which I knew did not comport with reality . I was Shocked by the extent to which this happended and

I expressed this to Cindy Cowell as we were leaving the courtroom one day. Cindy turned to me and said " you are supposed to be on my side no matter what-- You can burn in HELL. "

5. I observed the prosecutor in the case paint a picture in which both Cindy and Eric were Portrayed in a similar light relative to a decision by Dennis and Merna Koula to cut off the kids Financially. I have personal knowledge that this was not factually an accurate portrayal. The whole image the state attempted to portray was inaccurate. The relationship between Eric and his parents was positive good, and strong. The relationship between Cindy and her parents was not. To say that Cindy was Very Jealous and Bitter about this would be an understatement.

6. Another glaring example involved statements by the prosecutor and the state's witnesses to the effect that Eric had been dishonest with the police about his father owning GOLD coins. Not only was the state's position completely false, but Cindy knew this and did nothing about it. I have personally seen the GOLD coins at the residence of Dennis and Merna koula. They were shown to me by Cindy on more than one occasion.

7. Cindy also showed me a small safe in the Dennis and Merna's closet that contained wills, insurance policies, and other personal and legal papers that Cindy would go through. She did this in the context of telling me how well off she would be if anything ever happened to her parents.

8. I make this affidavit on my personal knowledge and completely on my own accord. I have received NO threats or PROMISES of any kind and I present this affidavit only because I Know it is the right thing to do.

9. I am willing to testify in court to matters set forth in this affidavit in order to set the record straight on some of the things that took place at trial that were false and very misleading.

DATED THIS 26 DAY OF May, 2017

Dawn Noah

DAWN NOAH

NOTARY PUBLIC

5/26/17

Lori Abel
Clark County, WI
expires: 10-18-19

LORI ABEL
NOTARY PUBLIC
STATE OF WISCONSIN

STATE OF WISCONSIN

CIRCUIT COURT

LA CROSSE COUNTY

STATE OF WISCONSIN,

PLAINTIFF

v.

Case No.10-CF-431

ERIC G. KOULA,

DEFENDANT

AFFIDAVIT OF
ERIC KOULA

STATE OF WISCONSIN
COUNTY OF DODGE

}
}
}

Eric G. Koula, being first duly Sworn on oath, deposes and states as follows:

1. I am the defendant in the above-captioned action. I make this affidavit in support of my motion for post-conviction relief.
2. From the date I was charged by the State of Wisconsin through the date of my sentencing, I fully and completely relied upon my trial counsel (James Koby, Keith Belzer, Christopher Dyer, and Nicholas Thompson) to represent my best interest's. At all times, I had full expectations that my trial counsel would review the State's investigation materials in detail and conduct a comprehensive investigation in order to zealously advocate on my behalf.
3. At all times, I fully and completely expected my trial counsel to perform a comprehensive and detailed legal analysis in order to aggressively challenge the accusations made against me by the State of Wisconsin. Because I have no legal training whatsoever, I really had no choice but to rely on the legal expertise of my trial counsel and trust that they would perform their work diligently and thoroughly on my behalf.

4. During the post-conviction and appellate proceedings in my case, I relied fully and completely upon my post-conviction attorneys (Shelley Fite and Susan Alesia) to conduct a detailed and comprehensive review and analysis of my case. I also relied upon them to follow up with the necessary and appropriate investigation and to identify, pursue, and fully develop all appropriate post-conviction and appellate issues on my behalf.
5. I fully and completely relied upon my post-conviction attorneys to perform their work diligently and completely and to represent my best interests to the fullest extent of the law.
6. Given my lack of legal training and experience, I really had no choice but to rely fully and completely on the legal judgment of my post-conviction attorneys.
7. I fully cooperated with both my trial attorneys and my post-conviction attorneys in every possible respect. I was told very early on that they were the Captains of the ship, however, and that my interests would be best served by allowing them as the professional to make the important decisions. For all interests and purposes, my trial attorneys made all of the decisions about my case through the date of sentencing and my post-conviction attorneys made all of the decisions about my case thereafter through the final appellate decision. I was afforded very little to no opportunity to object or intervene in their work. While all my attorneys were very professional and very candid with me at all times, they clearly and deliberately kept me in the backseat and did the driving on their own-- taking input from me only on occasion and almost exclusively with respect to factual matters.
8. When I questioned or disagreed with any of my attorneys, they sometimes responded with a substantive explanation, but often their response amounted to either avoiding my intervention or giving me the impression that I simply needed to trust them.
9. At all times material hereto, I provided all of my attorneys with the information they needed to aggressively investigate, evaluate, and pursue each and every issue raised in my § 974.06 Motion for Post- Conviction Relief. I have absolutely no question that my attorneys should have pursued the issues raised in my motion. They were in a position to do so but failed to do so without any justifiable explanation. Their collective failure to do so, despite my reliance thereon, has worked to my severe detriment. Issues that were clearly supposed to be raised were not and no justifiable reason exists to explain the failures to raise and pursue those issues.
10. Since my attorneys have withdrawn from representation or been discharged, I have undertaken to do whatever I feasibly can to

educate myself on the law. In conjunction with my own legal training (self-taught in the prison law library) I have sought the assistance of others incarcerated with me at DCI. I have spent many, many hours reviewing the police investigatory materials and "evidence" generated by the State of Wisconsin. This included detailed review of raw data, police interviews, reports, transcripts, and the like. It was through my own legal training and analysis, coupled with my detailed review of the case as a whole, that I was able to gain a more thorough and detailed understanding of those issues which now form a part of my §974.06 motion. These are issues which could and should have been raised by my respective counsel but were not.

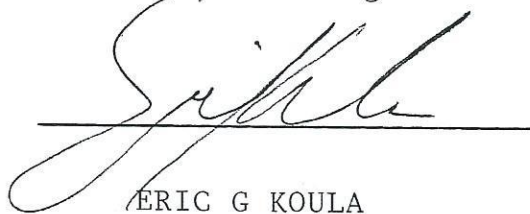
11. The assertions made throughout my motion, including all the assertions made in both the Background and Argument sections of the motion, are true and accurate and entirely supported by the record in this case, the investigation materials generated on behalf of the State, the investigation materials generated by my attorneys, and/or information I have received from third parties as set forth in my motion and the accompanying affidavits. All of these assertions can and will be proven at an evidentiary hearing through my testimony, the testimony of witnesses identified specifically in my motion, the testimony of others including (Jim Ingold), as well as documentation and information from the police investigation, the State's file and the files of the attorneys who have represented me.
12. I have requested that the Court appoint an attorney to represent me at the evidentiary hearing to assist me with evidentiary matters and the complex legal issues involved. This will ensure that the record is properly and fully developed in order that the issues raised in my §974.06 motion can be properly evaluated and addressed by the Courts.
13. I have attached hereto a number of affidavit's which I have drafted including Dawn Noah, Dexter Koula, Hadley Koula, Laurie Juedes, and Eric Koula. I have personally confirmed that the witnesses will sign the affidavits and appear in Court to testify to those matters set forth in both the affidavits and the §974.06 motion. The signed and notarized affidavits will be filed with the Court immediately upon receipt.
14. I was contacted by an individual named Laurie Juedes following my conviction. She had concerns regarding the so-called last key stroke and time of death associated with it. She agreed to analyze the harddrive (she has a background in digital forensic analysis) and to review the investigation materials and graciously did so in an extremely detailed and comprehensive manner. It was with her assistance that I was able to identify and document a number of issues raised in my §974.06 motion.

15. Attached hereto as exhibit "B" is a true and correct copy of transcribed portions of recorded interviews of Cindy and Patrick Cowell plus portions from other police reports.
16. Attached hereto as exhibit "C" is a true and correct copy of Fox Hollow Golf Course, that contains two areas of wetlands.
17. Attached hereto as exhibit "D" is a true and correct copy of the USGS web based interface "qw" portal.
18. Attached hereto as exhibit "E" is a true and correct copy of the letter from Koby dated 10/5/12 relating to (1) 911 call background noise and(2) Patrick's camel cigarettes.
19. Attached hereto as exhibit "F" is a true and correct copy of the Total Station drawings and dimensions of the computer room at Dennis and Merna Koula's home.
20. Attached hereto as exhibit "G" is a true and correct copy of the photo of Merna's hand not anywhere near the q and w keys.
21. Attached hereto as exhibit "H" is a true and correct copy of the three graduation invitations on the counter at Dennis and Merna's home as described in Cindy's 5/24/10 interview.
22. Attached hereto as exhibit "I" is a true and correct copy of the photo of a hummingbird feeder in the sink, an activity Cindy described in her 5/24/10 interview.
23. Attached hereto as exhibit "J" is a true and correct copy of a copy of Sergeant Blockhuis' report generated by EnCase software.
24. Attached hereto as exhibit "K" is a true and correct copy of the photo showing the computer screen and the words "planning qw" in the search query and underneath the box is the county web site that was searched.
25. Attached hereto as exhibit "L" is a true and correct copy of the Article published in the La Crosse Tribune on June 7, 2012 and the Pioneer Press as well.
26. Attached hereto as exhibit "M" is a true and correct copy of the distance to the closest flowershop from Dennis and Merna's home (Hansen's IGA had a green house in their lot) and is 1.3 miles closer than the Shopko Onalaska.
27. Attached hereto as exhibit "N" is a true and correct copy of the Summary of the newspaper article from 5/29/10 that the police are focusing on the afternoon and evening of Friday May 21st.

28. Attached hereto as exhibit "O" is a true and correct copy of photos of Eric Koula's Truck taken by law enforcement while executing a search warrant on 7/29/10, (2 photos).
29. Attached hereto as exhibit "Q" is a true and correct copy of photos of The Koula's backyard and firepit where evidence was manipulated by law enforcement and photographed on 7/29/10, while executing a search warrant at the Koula's home.(5 photos)
30. Attached hereto as exhibit "P" is a true and correct copy of photos of cigarette butts found near the crime scene by law enforcement that were never tested, see exhibit "E", (7 photos).
31. Attached hereto as exhibit "R" is a true and correct copy of photos taken at the crime scene of the key Eric Koula gave law enforcement which was placed in the door and photographed. (2 photos)
32. Attached hereto as exhibit "S" is a true and correct copy of trial testimony from (1) LeRoy Koula and (2) statements from LeRoy Koula which are on a DVD disk in the discovery that he alerts law enforcement to Patrick Cowell as a suspect and (3) part of LeRoy's interview from 5/24/10.
33. Attached hereto as exhibit "T" is a true and correct copy of report No. 10-1954/165 Cowell Bank Records and the balance from their account as of 5/18/10--5/24/10 of -.01 (negative).
34. Attached hereto as exhibit "U" is a true and correct copy of Cindy Cowells 5/24/10 interview, p. 1-7, Patrick Cowells 5/24/10 interview(p.1-3) and Cindy Cowells 5/26/10 interview (p. 1-6) and Patrick Cowells 5/26/10 interview(p. 1-3)
35. Attached hereto as exhibit "V" is a true and correct copy of Jossie Cowells interview 5/26/10(p. 1-2) and the interview of Cindy and Patrick Cowell on 5/26/10 at 5:20pm(p. 1-2) and the interview of Cindy and Patrick Cowell on 5/27/10(p. 1-7) and interview of Sarah Smith 5/29/10 and Ernest Smith 6/2/10.
36. Attached hereto as exhibit "W" is a true and correct copy of the report of the drive time from the Cowells to Dennis and Merna Koula residence, the report and drive times of the route Cindy Cowell took on 5/21/10, the report of the time Cindy Cowell left Quillins/video review, the Ronald and Mary Jo Pegg interview 6/1/10, the 6/11/10 report about the statement pertaining to a lie, the 6/15/10 interview with Patrick Cowell and the 2/16/11 interview with Cindy and Patrick Cowell(never seen or heard of the gold coins)

- 37. Attached hereto as exhibit "X" is a true and correct copy of one page of the interview with The Walters 5/24/10, the interview of Tina Froeba 5/24/10, the interview of Douglas Beaver 5/26/10, the interview of Dawn Wojtyla 5/24/10, one page of the interview of Bruce Sherman 5/26/10, two pages of the interview of Walter Hoppe II (John Hoppe) 5/26/10, and of the interview with Dennis Jandt (Funeral Home Director) 6/7/10.
- 38. Attached hereto as exhibit "Y" is a true and correct copy of one page of the interview with Carrie Huffman-Faas 5/28/10, of two pages of the interview with Linc Middlebrook 5/26/10, and the report of the recovery of the cigarette butts 5/27/10.
- 39. Attached hereto as exhibit "Z" is a true and correct copy of the optionsXpress statement as of the end of January 2010.
- 40. Attached hereto as exhibit "BA" is a true and correct copy of a crime scene photo of a pair of binoculars left out at Dennis and Merna's home (supposedly on Friday May 21st, 2010 according to the police) a day that the weather was not nice or warm and wouldn't be good for "bird watching", introduced at trial was the National Weather Service Report for 5/21/10 that supports this.
- 41. I will testify to all of the information contained in this affidavit and in my §974.06 Motion and will produce corroborating support as indicated.

Dated 8 day of JUNE, 2017



ERIC G KOULA

Subscribed and sworn to before me
 on June 8, 2017
Michael R. Butts
 Notary Public State of Wisconsin
 My commission expires 11/23/2021

5/24/10 Interview with Cindy Cowell by Deputy Yehle
Audio-Video

5/24/2010 Interview- Cindy Cowell (transcribed) portions)

p.1 Yep, called mom on Saturday and I talked to my mom. I let her know what was going on with josie..."that was the last time I talked to my mom."

Q. Was this last Saturday?

A. It was Saturday.

Q. Okay

p.1 "Dad called me on Tuesday last week he wanted to take me out to lunch"

p.6 "And he had asked me, I think it was Monday this past week, he asked me if I could have lunch with him. And I said, "Dad" , no, it was Friday, the Friday before.

Q. The Friday before?

A. Yeah. the Friday before I took Jossie. And I told him on Tuesday I couldn't because my schedule had already been turned in....

p4. " I talked to him last Thursday, I called him to let him know what the guy said from unemployment." And this is Thursday, this is last Thursday I called.... No, its Friday its Friday.... And I told him what the guy said about unemployment, and Dad says, "That's bullshit." And I said whad'ya mean Dad? He said "he's suppose to be calling Pat back."

Q. So Jossie was out there Friday and Saturday?

A. No, no. I was kinda sick on Friday. My voice was kinda horse. My Dad says, "Are you crying?" And I said, "I'm trying not to Dad." Just getting really sick.

p.5-6

Q. So that day was Sunday. When was the next time you spoke with either person?

A. I, think I spoke with my mom.

Q. O.K. Do you know when that was? A couple of days? A day later?

A. No, no, it was probably Tuesday.

Q. O.K. By phone?

A. Yeah, I had to call her. If I remember right. I called her Tuesday. And then I talked to my dad later on this past week.

Q. And thats Thursday like you were talking about?

A. I'm thinking that's either Thursday or Friday.

Q. So this conversation on Thursday, you were on your way to work?

A. On my way to work.

Q. You're talking to him on your cell phone? You said he was at home?

A. He was at work. It was Friday, It was Friday, he was at work.....

p.7

Q. And you said you had this conversation when your dad was at work. I'm just trying to get back to it. You said that was last Thursday or Friday?

A. It was last Thursday or Friday.

Q. On your way to work?

A. I was on my way to work....

Q. And you said he said something about applying for unemployment, or did that.....?

A. I mentioned to him.... And we just got the unemployment checks today, And Dad said, you know, well, I said to Dad, "Dad, please don't cut him out.... I love my husband."

p.8

A. They were fine when I last talked to them on Sunday and after that I didn't phone her.....

p.9

Q. So can I get back to this.... last week?

Q. Did you talk to them then, since the last....

A. I talked to them on Thursday or Friday and that was the last time I talked to my father.

Q. Then you said you spoke to your mom since then?

A. Not since Thursday or Friday.

Q. This last Thursday or Friday?

A. I haven't talked to anyone since I last talked to my dad.

Q. Cuz' you said something about calling her on Sunday?

A. That was Monday I called.

Q. Monday?

A. Monday I called. I didn't talk to her yesterday and I didn't talk to her Saturday.

Q. It's Monday the 24th today, so you're talking one week ago?

A. Monday was the last time I talked to my mother and the last time I talked to my father, he told me he was at work.....

p.3 "My husband is unemployed and I work for a collection agency."

Q. Well, you got a job to do.

A. "I have to do my job and I don't have the money to pay the bills and debt collectors calling me and I know... know my dad was very upset and hurt when Patrick lost his job the last time."

Q. Was your dad upset with him?

A. NO, no.

Q. That he couldn't find a job, or, you know....

A. Frustrated. Just frustrated. My dad was upset, straight upset. But dads gonna help me, he's gonna help me now.

p.12

" The last time they gave us, me, money out of their checking account I could cash the check at the bank by the mall. At M and I."

Q. M and I thats were they had the account or....?

A. That's were I think their joint account is, M and I. And I think that my dads account, the bigger amounts that they'd give us, like last year for christmas cuz my dad was so proud that we were all doing so well, he was so proud, he wrote us a check from his fidelity account just so that we could get Jossie everything on her list. My dad would help us out like that but my mom didn't like it.

Q. She didn't like it?

A. No.

Q. Because he's spending that kind of money, or?

A. She didn't... She couldn't... She basically told us one time if we can't take care of ourselves we'd better learn to take care of ourselves.

Q. And he wouldn't let her know?

A. No. He wouldn't let her know. He'd always go, Shhhh, don't tell your mom.....

Q. So he gave you a couple grand, when was that, a couple weeks ago?

A. No, it would have been back in March. It was \$2000. Five grand was right before Christmas.

p.13

" And then I was out in school in Colorado at the time".....

" And then I got into trouble in school and basically flunked out. Drinking to much and partying. Then Dad basically pulled the rug out from under me and basically said, " " Your coming home and you're gonna work".... So I moved back home.

p.6 ..."we had dinner with him for mother's day up at Ridges. And my mom, my mom, my mom caused a scene with my nephew. I don't know what it was about. I asked my dad that, I mean when I dropped Jossie off. Dexter..... and he said,yeah, she apologized.

Q. When did you say the conversation was?

A. "Dad was doing something in the kitchen and Mom was doing something... birds. Fresh water bath. You know fresh water. Got to take care of the birds. "I don't think she knew what she was half talking about."

Q. When was the argument, again? I'm sorry.

A. That was on Mother's Day... "But my nephew wouldn't hurt my mom or my dad either." "But he wouldn't hurt my mother or my dad." ... "He's still a good boy."

p.8

"I'm the black sheep of the family."

Q. Why is that?

A. Because I drink and smoke.

Q. They didn't approve of that?

Q. Do your parents drink?

A. "My dad yes, But my mom doesn't."

p.4

....He gave us some money and he said, "For you guys to take care of your bills and....."

Q. How much did he give you?

A. He gave us \$2000

Q. That was just for karate, or for everything?

A. "NO, that was to pay bills, to help with the mortgage, you know it's just, so that, cuz you know I stress a lot".... My dad and my mom loved each other. They fought, but my dad's like " your mother's driving me insane."

Q. Just like any marriage,I imagine. They weren't physically...?

A. NO, no, no, no, no, no, no, no..... " I'm closer to my dad. My brothers close to my mom..."

Q. Okay.

A. ...And dad. We both know that!

p.11 "All I know is my dad, the last time when he gave me \$2000 for me to take care of my bills.... And then he goes, "Shhhh, don't tell your mother." And I said, "I won't." Because mom doesn't, mom didn't approve that I married Patrick.

Q. Why?

A. Cuz he doesn't stay at a job for more than a couple of years. He plays video games. He spends more time with the kids, playing, than with the grown ups. My mom likes my sister-in-law, I think, more than she likes me.

5/26/10 Interview(Cindy)reference to \$2000 interview Transcribed

p.6

He gave us money for Jossie's for her karate stuff. He wrote me a check for \$2000 back in maybe March or April and wrote it on wells fargo because Jossie needed karate gear....

p.8 So, yeah. So it's been tough. And then, thats why my dad helped us out. Pay for her advanced lessons. He didn't have to, but he wanted to. Ya know.

5/27/10 Interview(Cindy/Pat) reference to \$2000 S/A Wilson Rpt. No. 10-1954/54

P.3

Cynthia was asked about the \$2000 she had received from her father DENNIS KOULA in March 2010. Cynthia said the money was for karate equipment for her daughter Jossalyn, car insurance, a cellular telephone bill and various odds and ends.

5/24/10 disc 2 Cindy Cowell Interview

p.4

" They got invited to, like three graduation parties this weekend. They were invited..... to the Burgesses girl graduation on the 21st or 22nd.....The invitations were right out on the counter. I know they were. My mom even mentioned it. It was just this past Saturday."

p.5

Jossie didn't like guns so I quit and the last time I shot was eight years ago.

p.6

Q. So you guys don't target practice? It's been many years since you shot?

A. We don't have the money for it.

6/01/10 Interview(Ronald and Mary Jo Pegg)
S/A Forsythe Rpt.No. 10-1954/64

Mr. Pegg stated: "In June of 2009, he was shooting with his nephew PAT COWELL and PAT'S daughter, JOSIE, as well as his (RON'S) son DAN and DAN'S son ZACHARY from California....PAT asked RON if he and JOSIE could come along and shoot too....According to RON, PAT was helping JOSIE shoot while they were at the range.

p.10 (disc 1)

" Eric's her favorite."..... "Eric's 3 years older than me and he's perfect."

p.7 (disc 2)

Q. So, you're kinda jealous of him?

A. Yeah, Yeah who wouldn't be..... We don't hang out together..... We never really connected. He does his thing and I do my thing.

Q. So there no standing family fight?

A. No, just that brother and sister, " You're older and mom loves you more."

p.8

Q. Was there any animosity between your brother and your parents? Is there any strong fights?

A. To tell you the truth, it was me that was the trouble maker.

Q. Why is that?

A. They didn't approve of my life, my husband.

Q. This they accept that after awhile, or not?

A. Pretty much. My mom would still make snide comments..... The last time my parents got onto me was maybe four or five years ago because Pat and I got into a huge fight.....

Q. The police called?

A. No, just a screaming match..... " WE aren't physical now."

p.12

Q. There's no motivation for anybody that stands out in your mind? Even a possibility?

A. No. If Eric had a problem mom and dad they would have helped. Mom especially. If Eric's ticked off for something, they would have gotten it for him.

p.2 (disc 3) 5/24/10

Sunday was just one of those kind of "blah" days cuz we had drank on Friday and Saturday.

p.3

.....so he borrowed John and Bruce's. So he could finish the yard. " And Jossie and I put down wood chips in my flower bed."

5/24/10 Interview-Patrick Cowell (transcribed)

p.9 (Talking about Sundays activites)

" I mowed lawn,I put the sprinkler out, I put wood chips in the flower bed, watched the brewers. Yep 4-3."

5/24/10(Cindy Cowell Interview) transcribed

P.11 " He had a coin collection."

5/26/10(Cindy Cowell Interview) transcribed

p.23 " coin collections, stamp collections. I didn't know anything about the gold coins until Eric said," Didn't you tell them about dad's gold coins?" I'm like " What gold coins?" Like I said my dads stuff is my dads stuff. I knew about the stamp collection because mom went, My mom had my brother and I come up to the house and basically she said "which rocking chair do you want?"..... " do you want this, do you want that." And Eric said, " I want dad's stamp collection." And I said, "and I said I get dad's Indian head nickel collection".....

6/15/10(Patrick Cowell Interview) S/A Christopherson 10-1954/100

COWELL on his own mentioned that he had no idea that there were any type of "coins" that Dennis Koula had.....

2/16/11(Cindy and Patrick Cowell Int.) S/A Christopherson
10-1954/167

Cindy Cowell- "has never seen or heard of any gold coins"

(Glen Grady Trial Testimony P. 12,13)

.....him and Cindy, his sister--stopped at our house. They had been visiting a lawyer over in Marshfield..... you know-- Neillsville is close to Marshfield so it's, kind of, on their way. And he talked about these gold coins and he had said that they were missing. And he said that Denny had had them on the bed one time when Dexter was little. And said, "These are going to be yours some day when I die." He said, "Do you remember them?" and I said "No, I don't have any recollection of that at all."

Q. Dennis never talked to you about having any gold coins?

A. NO, but thats not unusual. He just wouldn't of.

5/26/10(Cindy Cowell Int.) transcribed
S/A Christopherson and Inv. Lienfelder
(Audio)

p.3

Q. It's fine. So Jossie spent the night that Saturday night. O.K. And you brought her out? (5/15/10)

A. I brought her out that night.

Q. And then who picked her up on Sunday?

A. Nobody, my mom... well, Jossie called from my parents house. A night without Jose for me is like " I can be stupid. Yeah, I can party and get drunk and I don't have to worry about whether Jossie has to go to bed or putting Jossie to bed." Mom and Dad dropped Jossie off.

p.4

Cindy- The last time I talked to my Dad it was either Thursday or Friday. I was on my cellphone.....

p.5

Cindy- I know Doug was going to be gone the week before Memorial Day so dad was complaining that he had to work.....

p.6

A. That's what I'm thinking.

Q. O.k.

A. And then I remember talking to him again, because we couldn't do lunch here, I think it was on the 21st,.....

Q. What kind of things would you need to call and talk to him about?

A. Stupid stuff. You know, if I give Jossie this can she take this... " I don't talk finances with my dad." Cuz I always come out laughing because I... He was always asking me if I'm OK. Yeah I'm OK. I'm paying my bills. I don't have a lot of spending money but we're getting by.....He gave us money for Jossie's karate stuff.....

p.7 "when we'd go out there, for family stuff, Pat would mostly talk sports with chris, and Eric and dad and I would fart around and talk about finances."

5/26/10

p.7

Q. On that Friday when you had the talk with your dad, you indicated that he showed some frustration. Can you explain to me what he was frustrated about?

A. My dad grew up dirt poor. Dirt poor. And um My dad felt strongly that the man should be the one bringing home the money. The man should be the one to do what he needs to do to make sure there's food on the table. I think he was frustrated about, I think he was frustrated that um, that um, Pat wasn't supporting us, I guess.

Q. Did he express that during the phone call?

A. A little bit, A little bit. " I'd shovel shit if i had to, to support my family." I said " Dad, it's not Pat's fault." And he said " Well he needs to find a carrer."..... And I called Pat later on that day. On Thursday, I think it was.And I said " Dad's really pissed off.".....And I called Pat and asked him if there was anything he needed from the store. He said he needed cigarettes. And I said OK.....And then I came home. And I think we may have played a game of scrabble outside and watched some t.v. And then I kinda got tipsy and I went up to bed. Pat was up playing his war-games on the internet. He plays on his X-BOX all night and I was in bed and I snore. So I guess Pat came up to bed about 1, 1:30, I don't know. I was asleep. He said I was snoring so loud he couldn't sleep so he slept on the couch. And then it was Saturday.

Q. How did Pat react when you called him and told him about the conversation with your Dad?

A. Upset with himself. Very upset with himself. Really upset he'd let me down.....

p.12

Q. And you had mentioned on that day that Pat called and asked him to pick up cigarettes. Do you remember what time he called?

A.I called him I think that morning and told him about the contest.... But I talked to him on my cellphone I think. He called me from home on my cellphone. He called me and asked whether I was on my way home or not." When are you going to get here." quote

Q. And when did he call you?

A. I was on my way back from getting cigarettes and I said " I'm just crossing over the bridge now. I gotta go to the gro.. get beer and ice, do you need anything else?"

p.13

Q. Did you talk to him earlier in the day and then on your way home?

A. I talked to him at least twice....

p.11

Q. O.K. so you got to sneak out at 4:45

A. I clocked out at 4:45, I walked with my co-worker Kara. We pay \$15 a month to park there. And she's like "It's a HOT one, it's gonna be a beer drinking night" and I'm like, "Yeah"

At trial a National Weather Service Print out for Friday, May 21, 2010 was introduced into evidence. Friday's weather was cool and it had rained in the morning. Not even close to how Cindy explained this conversation. IT WAS NOT A HOT ONE....

p.14

Cindy's talking---I don't know. and then.. I don't know. " My brother and my mom and dad spend a lot more time together than we did.Eric and mom. and dad.....

p.24

Q. No need to apologize.

A. And I know this can't be used against me because, you know, it's like a bad acid trip.....

P.11

A.but I remember putting it on my discover card....

Q. So, cigarettes, Kwik Trip, Quillins and then home after that.

S.A. Wilson Interview Continued

P.1-2

S/A Wilson then produced a blank "consent for Release of Information" form... to obtain information and records pertaining to Cynthia relating to a list of items. On this list of items, S/A Wilson wrote in " 9 credit card companies for which I have a credit card such as a Discover".....

P.2

Cynthia said she and Patrick had a joint checking account with no savings account.

Quoted From The Report

5/27/10 Report 10-09101 6/1/10 2pm.

S/A Sogla and Depuy Chief Wolf drove from the residence of Patrick and Cynthia Cowell to N3071 Fox Hollow Drive.... taking us 14 minutes.

6/1/10 S/A Christopherson and Investigator Lienfelder
Rpt. No. 10-1954/101

They drove the routes that Cynthia Cowell took on her way home and documented the drive times to each of her stops.

From her work to Smoke's 4 Less, then to Kwik Trip, then to Quillins on Mormon Coulee Road and then they drove from Quillins Grocery store to Cowell's residence located at 2809 Robinsdale Avenue, " and takes a travel time of 1 minute." (Quillins to Home)

6/3/10 S/A Sogla reviewed Quillins Video from May 21st,2010
Rpt. No. 10-1954/93

Cynthia Cowell arrived at Quillins at 5:15pm.....she was observed on video in the liquor aisle at 5:16pm....she was last observed on video leaving the exit doors at 5:18pm.

S/A Sogla had Deputy Chief Wolf view the video " he confirmed that it was Cynthia Cowell on the video..."

2/15/11 S/A Christopherson Rpt. and Cowell Bank Records

Bank statement shows that there was no money available to withdraw that weekend. In fact the balance was negative.

5/27/10 S/A Wilson, S/A Sogla, Deputy Chief Wolf Interview
Cindy and Patrick Cowell
Rpt. No. 10/1954/54

They searched the Cowell residence for Cindys "missing house keys"

Chief Deputy Wolf took into evidence-floor mats form their vehicle, a karate receipt and a gun cleaning kit

S/A Christopherson and Investigator Lienfelder joined the interview at some point.

Cindy was asked again about the argument between Dexter and Merna on Mothers Day. "Cynthia said something to the effect that Merna was possibly (pushing on him), Cynthia said she did not think this was a big deal."

S/A Christopherson asked Cynthia about problems she and Patrick have had in their relationship.

" Cynthia said her and Patrick's problems were"alcohol induced fighting."

Cynthia said "her father has made statements about being angry and frustrated with Patrick" which "has made her angry and frustrated towards Patrick."

5/24/10 Interview with Patrick Cowell by Inv. Lienfelder

5/24/10 Interview Patrick-Audio/video
(transcribed portions)

Prior to this Interview.
Initial contact by Deputy Yehle

Yehle made contact with Patrick at their home. " he was made aware that his in-laws were found deceased.."he asked how it happened and I did tell him that it appeared that they had been shot. he kept saying no, no, no several times. He said " I don't even think they have a gun." Patrick then called school.....while on the phone I asked him if he knew if they had any troubles recently? He said that they argued once and a while, marriage stuff. He said something about an argument with their nephew Dexter, and to me that "He and Cindy were kind of outcasts in the family."

P.1

Q. And your cell?

A. I don't know that. Its my wife's. I don't even know her cell.

P.2

Q. Umm, When's the last time that you were out at, ah, Cindy's parents' house?

A.Easter. We all had Easter dinner, er lunch, that we always did every year.

Q. That your brunch?

A. Yeah, we ate at noon, yeah. She makes her turkey and ham every year. That's the last time I've been out there, yeah.....

P.2

Q. Umm, What was your relationship like with your in-laws?

A. Good, didn't have any problems, I think they wished I was a little more successful, but thats all.

P.2-3

Q. They ever say anything about that?

A. No,no,no. No,they were always very nice to me. They never said anything cross.....

P.3

Q. Ok, umm, how are you financially right now?

A. Not Great.

Q. You get unemployment or anything right now?

A. Yeah

Q. How long you been pullin' on that?

A. I just started getting it, I've got three weeks worth.

** See Cindys interview (just received the checks 5/24/10) **

P.4

A. I sold insurance.

Q. Who'd ya work for there?

A. On my own, ya know.....

Q. Was there a company you were working for, or sumptin' ?

A. Yeah, umm, I can't even think of the name now, I can't remember.....

Q. How's your relationship with Cindy, pretty good?

A. Good.

P.6

Q. Umm, Anything you guys like to do together?

A. We kind of do our own thing. I mean, we like to go shoppin'..... we're always together....we're not necessarily really doing anything....Then she'll read books on the deck, I'll go play a video game.....

Q. You a big video game guy?

A. I am, Yeah.....

P.7

Q.How did you feel about Cindy every now and again would get some money from her mom or dad. How'z that, sounds like its kinda a sore spot with you, maybe?

A. It helped. We needed it. I felt pretty worthless, umm, but what can you do, ya know....But even when we're workin' hard, and workin'and he would still.

P.7 Continued

Q. He'd still?

A. Absolutely, one year he gave her ten grand for Cristmas.....

Q. That's not too unusual?

A. No, I think he kinda liked it. Mom didn't like it.....

P:7 yeah, just made her nervous (laughs). Let me ask you something. Does it look like somebody broke in?

Q. (Inv. Lienfelder) We're not sure at this point. Umm, we really are just.....Wisconsin crime lab's up... I was at the house earlier and it didn't look like any forced entry or anything like that.

A. Where were they found?

Q. (Inv. Lienfelder) Cindy's mom was at the computer and her dad was in the kitchen.....Remember what you did on Friday?

A. I didn't do anything on Friday. I was home....

P.8

Q. And Friday evening?

A. Just hung out at home. We didn't go anywhere.

P.8

A. Nicholas Martial Arts over in the...

Q. 9 to noon.

A. Yeah, almost noon

Q. And your mom went with?

A. Yeah. And we were home all day Saturday, we didn't go anywhere.

Q. Cindy and everybodys home all day?

A.Saturday we didn't go anywhere at all.

Q. Remember what you had for dinner or watching shows?

A. Geez, Saturday!!!!

P.8-9 Continued

Q. Karate?

A. We went to karate, Jossie played outside, Cindy read her book.
I played games, we watched.....

Q. That was Saturday night?

A. Yeah, I believe so.

P.9

Q. (in reference to Sunday) What'd you guys do?

A. I mowed lawn, Cindy got gas, I put the sprinkler out.....
put wood chips in the flower bed, watched the brewers...
** see Cindy's interview (she did wood-chips) **

P.10

Q. Cindy's mom and dad ever talk about any problems with anybody
that they had?

A. If they had any, they wouldn't talk to me about it.

P.10

Q. How many times you been up at their house?

A. Oh, tons, at Easter, Christmas, when I was workin' for Peps they
would pick her up from school, I'd drive by and take her home.
Tons of times.....

Q. Anything you could think of that seemed, maybe, seemed out of
the ordinary, since Easter or anything that Cindy would've
mentioned to you?

A. Well on Easter, or not Easter, or maybe Mothers Day.....

Q. Where'd you go out to dinner?

A. The Ridge.....(argument between Merna and Dexter about school)....

Q. So they got along with your kids real well?

A. Oh, yeah, yeah....." They would've upset my kid that would have
been a different story"....We just know it was a very uncomfortable
situation. "Probably the most uncomfortable I've been in."

P.11

Q. I started on Friday, do you remember your Thursday?

P.11 Continued

A. Oh, god, no. I'm gonns tell you it wasn't much....So I don't know what I did Thursday.

Q So you don't know if Cindy had the car on Thursday?

A. I would assume she did....

Q. You don't remember if you had to go pick her up?

A. I don't know, I couldn't tell ya.....

Q. Did you go anywhere on Thursday night?

A. NO, we hadn't gone anywhere at night.....

P.11

Q. Anything else that you can think of that I didn't ask ya, thats?

A. I mean I knew 'em quite well I just didn't know them personal..... they'd..you know, they wouldn't confide in me in that kind of stuff. They just wouldn't. They didn't confide in Cindy in that kind of stuff. Me and Cindy are kind of the..not with her dad, we are kinda here and Eric and Chris are on the inside. He was the one that takes care of the house when they are on vacation. He's over there all the time!

P.11-12

Q. Cindy ever say anything about that?

A. Oh, she's very jealous. Cindy's jealous you know. Not, I don't want to say jealous.

Q. Maybe bothered?

A. Eric gets a little better treatment.....But we were just kind of outcasts. We hated that! That kinda thing!

P.12

Q. Alright, umm, do you stay logged on to that, when you're on? Like if you're playing and you gotta go do something, you just stay logged on, or do you usually log off?

A. I usually turn the game off when i'm playing. I guess that would log me out because then it automatically logs me on when I start it. So, I don't log or unlog, I just turn it on or off.....

Q. What kind of system is it?

A. X-BOX

5/26/10 Interview Patrick Cowell (audio) with
S.A. Christopherson and Inv. Lienfelder
transcribed portions

P.1

Q. umm, Pat, when is the last time you can remember that you were at Dennis and Merna's house?

A. Easter

Q. Easter?

A. That's the last time I think I was there. We got there for dinner.

Q. Who was all there for Easter dinner?

A. Me, Cindy, Josslyn, Eric, Chris, Dexter, Hadley, Merna and Dennis.....

P.2

Q. Ok. Alright, umm, did Cindy tell you about a phone call that she had with her dad that morning of Friday the 21st?

A. Yes.

Q. Tell me what the phone call was about?

P.2-3

A. She said that my dad, er, her dad was frustrated that I lost my job but he'll always be there for her. That's pretty much what she said...She called me from work, it was a very quick conversation, and then we just never really talked about it that night. We just never brought it up or anything.

Q. Can you walk me through your Friday? On the 21st?

A. I was home all day.....We didn't go anywhere. We stayed home. I couldn't even tell you what we ate or anything. I've no clue.

Q. Alright. I'm gonna tax your memory a little bit more, if that's alright? Do you remember what time you got up on that Friday? And don't make it up if you don't know.

A. No, I would've.....it would have to be before 7.

Q. (How did Jossie get to school that morning)

A. (pause) I'm gonna assume she walked on Friday or mom could have taken her. I don't remember.

P.4

Q. Ok, Jossie goes to work Friday morning, Cindy goes to work Friday morning. What do you do then?

A. I was home, uhh, I played video games, I watched TV, umm I mopped

P.4 Continuation

the floor....pretty uneventful to be honest.

Q. Any visitors come over?

A. No, not on Friday.

Q. Friends? Relatives?

A. I don't think so.

Q. Do you remember talking to anybody on the phone?

A. Oh, god, (pause), on Friday..... I don't know who I would have talked to on Friday.

Q. So nothing stands out?

A. Unh, Unh (negative)

Q. Did you call any employers, or potential employers I should say, or did any potential employers call you? Either way?

A. No, no.....

Q. You don't remember talking to your mom on Friday?

A. Umm, I don't know. Umm, I doubt it, I don't think so.

Q. Nothin's standing out anyway?

A. Nuttin, nuttin at all.

Q. OK, so after Cindy goes to work and Jossie goes to school, you're home all day. Did you run any errands, did you.?

A. I didn't have the car, I didn't go anywhere.

Q. Did you go for a walk , a bike ride?

A. Nope!

Q. Walked down the street to visit a neighbor?

A. Nope!

Q. Ok, just holed up in the house for the whole Day?

A. Yeah..... nobody came by, I didn't do anything (laughs)

P.6

Q. Ok, you talked to Cindy earlier in the day and she said that she talked to her dad?

P.6 Continued

A. Ummm. Ummm(affirms)

Q. Did you talk to her at all again that day?

P.6 into 7

A. I don't think so, I don't believe so.... And I think that was the last time I talked to her all day.

Q. Do you remember when the conversation was?

A. I don't... I don't remember when the conversation was.

Q. I'm sorry. Do you remember when that conversation was between you and her?

A. NO, I don't know when that is.... I don't even know when me and Cindy talked about it. I have no clue. I don't even know what phone she called me from. It could have been the cell phone, it could have been the work phone. I just don't know.

Q. Ok, Alright, and you remember that discussion with her but you don't remember talking to her later on in the day?

A. We didn't. I don't think, we did.

P.8

Q. Ok, alright, and she gets home from work. What happens next?

A. Eee, umm, She usually reads, sits on the bed, she may have a beer and read books....I watched TV, played video games.

Q. umm, did you or her leave at all that evening?

A. No, Not on Friday....

P.8

Q. Do you know if Dennis or Merna had any weapons?

A. I didn't know of any. Dennis said he used to years ago. He got rid of 'em.....I didn't know anything about it, I thought he had none. I only thought he had none, too, cuz Cindy said he had none.

Q. Ok so you thought he had a .22?

A. Just from yesterday.

Q. Oh, Right, right. I'm sorry let me rephrase that. Umm, until yesterday you didn't know that he had a...

A. Correct, I didn't know he had any.

P.9

Q. OK, What is your understanding of how they passed away?

A. Eric said he didn't know, umm, but I was told that they were shot.

Q. OK, Who told you that they were shot? (soft talking) OH, Fritz told you that they were shot!

A. Yeah, on the first day, Monday.

A. I was told that, like I said....." I didn't even know how they were found or where until Eric told me yesterday."

** See Page 7 of (Patrick's Interview Transcribed) **
Investigator Lienfelder told him this information
5/24/10

P.11

A. I don't remember..... I'll tell you this, my fingerprints shouldn't be upstairs, at all (laughing) I haven't probably been upstairs in the house in 5 or 6 years. I don't think (laughing) That may or may not hurt me.

P.12

Q. Do you know anybody that drives a dark colored pickup truck?

A. Dark colored pickup truck.....Dark colored truck. NOPE.....

P.13

Q. Did any of the neighbors come over Friday night and have some beers with you guys or Saturday night?

A. The neighbors generally do but they, but I

Q. Which neighbors is that?

A. Jon and Bruce. "They're our buddies", but they don't, I couldn't tell ya if they came over Friday or Saturday. I, I don't...

** 5/24/10 Interview Cindy Cowell (Disc 3 Page2) **
Transcribed Audio/Video

A. We were home all night. I think our next door neighbors came over Friday night. (John Hoppe and Bruce Sherman)

** 5/26/10 Interview of Walter J Hoppe II Rpt. No. 10-1954/6 **
S.A. Welsch Interviewed Hoppe

"S/A Welsch asked Hoppe what he had done on Friday, May 21, 1010.

Hoppe said he returned home from work approximately 4:30 or 5:00pm. Hoppe and him and Sherman went to the Hungary Peddler Restuarant on South Avenue and arrived there at approximately 6:00pm because he thought on a Friday it would have been very busy and they would have needed reservations but they were able to get at a table immediately. After they ate at Hungary Peddler, they went to Menards and returned home immediately after going to Menards. Between 8:00 and 9:00pm Hoppe and Sherman went to the My Place Tavern on South avenue".....

Quoted From Report No. 10-1954/6 5/26/10

** 5/26/10 Interview of Linc Middlebrook Rpt. No. 10-1951/2 **
S.A. Spallees and S.A. Sleeman

Quote " Middlebrook only saw Patrick Cowell upset one time when they worked at the Youth Center together. The incident was described as Pat Cowell and a juvenile resident getting into an argument with raised voices. This argument eventually "came to blows" between Patrick Cowell and the juvenile. Subsequently Patrick Cowell quit..."

Quote " Middlebrook indicated that he was sure that Cindy Cowell's parents (the Koula's) financially helped Pat and Cindy Cowell. Middlebrook stated there were times when Cindy and Pat Cowell were both not working."

** 5/27/10 Interview of Ronald Pegg Rpt. No. 10-1954/23 **
S.A. Spallees and S.A. Forsythe

Quote " Cindy and Pat Cowell were "getting along" but they were struggling financially....."

Quote " On one occasion, approximately 3 years ago, Patrick and Cindy Cowell asked Daniel Pegg for some financial assistance."

Quote " Patrick Cowell had a cell phone through U.S. Cellular in the past, however, that phone line was disconnected for nonpayment."

EXHIBIT "C"

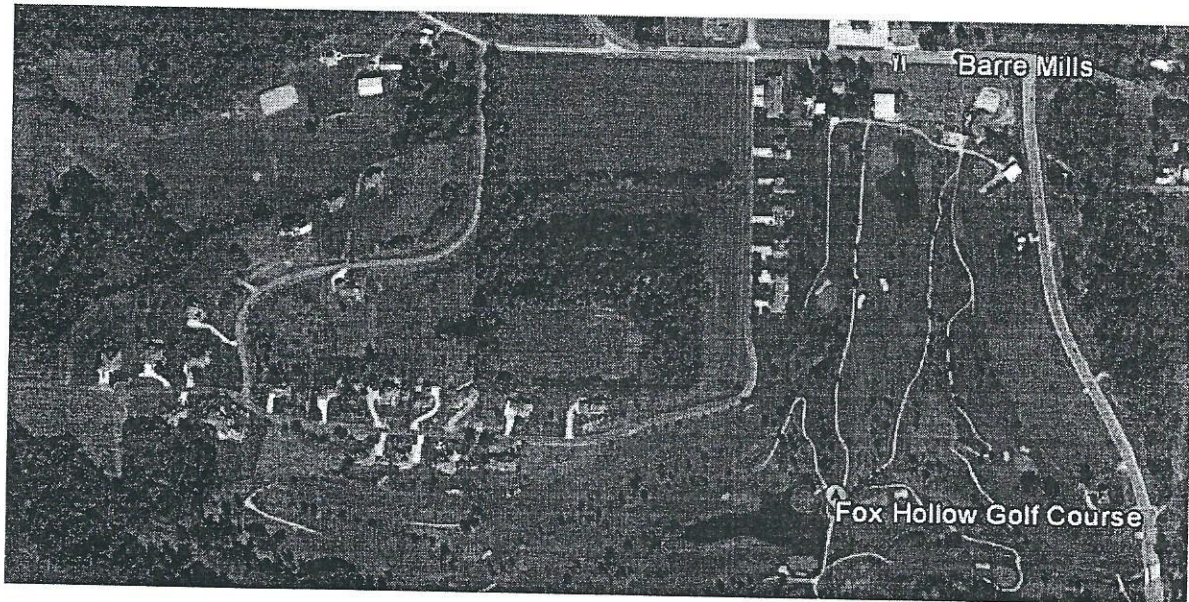


FIGURE 11: AERIAL VIEW OF THE FOXHOLLOW GOLF COURSE

In 2009, the USGS began a project to collect water quality data, and make available to the public and to planning agencies through a web-based interface called "QW Portal." From the USGS website:

EXHIBIT "D"

qw Portal Roll Out Plan

A broad community of users have needs to obtain water-quality data for national, regional, and (or) local studies. The data have been managed separately by the collecting organizations. Users had to retrieve data from the sources and determine how best to combine those data for analysis. The two largest holdings are maintained by the USGS and the USEPA, and these organizations have deployed consistent web services to facilitate retrieval and aggregation of water-quality data. Other organizations have expressed an interest in development of similar web services.

The qw Portal project (begun in 2009) provides a web-based interface for the retrieval of data from these two web-service-connected databases. The purpose of this document is to describe a plan for deploying the qw Portal for public use via the internet.

(<https://my.usgs.gov/confluence/display/qwdp/Roll+Out+Plan>)

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Of Counsel / Trial Counsel
James R. Koby*

October 5, 2012

Eric Koula, DOC # 00591672
c/o Dodge Correctional Institution
P.O. Box 661
Waupun, WI 53963-0661

**RE: State of Wisconsin vs. Eric Koula
Case No. 10-CF-431**

Dear Eric:

I have your letter of October 1, 2012. I hope this letter finds you well.

The materials that were provided are the only materials that were produced.

As you know, the issue surrounding the death certificates stems from the timing related to the autopsies and subsequent reports. It is probably worth talking to Steers, however, who I have found to be fairly helpful in the past, just out of an abundance of caution.

Keith and I both did interviews with 48 Hours. I am doing an interview with Investigation Discovery on Tuesday the 9th. They seem "particularly interested in Patrick".

I received a call from Patrick and Cindy's neighbor. The call was to alert me to the fact that Patrick "chain smokes" Camel filters and wears a black hoodie.

Additionally, I received a call from the "gun guy" on the jury dumped as an alternate. He indicated to me that one of the most significant "facts" before the jury, even before the deliberations commenced, was the lack of any TV background noise on the 911 tape. He indicated that he was particularly impressed with that fact or lack thereof. I think it may make sense to investigate whether or not the 911 system "filters" background noise so as to allow for accurate recording of the call.

I am also trying to coordinate the interviews of Christine and Dexter by 48 Hours. I have agreed to be present for both interviews and I want to make sure both Christine and Dexter are prepared before being interviewed.

Eric Koula, DOC # 00591672

October 5, 2012

Page 2

I will let you know what I find out about the foregoing, and in the interim, let me know as soon as you are assigned.

Very truly yours,

O'Flaherty Heim Egan & Birnbaum, Ltd.



James R. Koby

JRK/nt

cc: Attorney Keith Belzer
Attorney Christopher Dyer
Attorney Nick Thompson

La Crosse County Sheriff's Department

Drawn By
J. Siegel

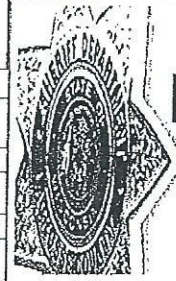
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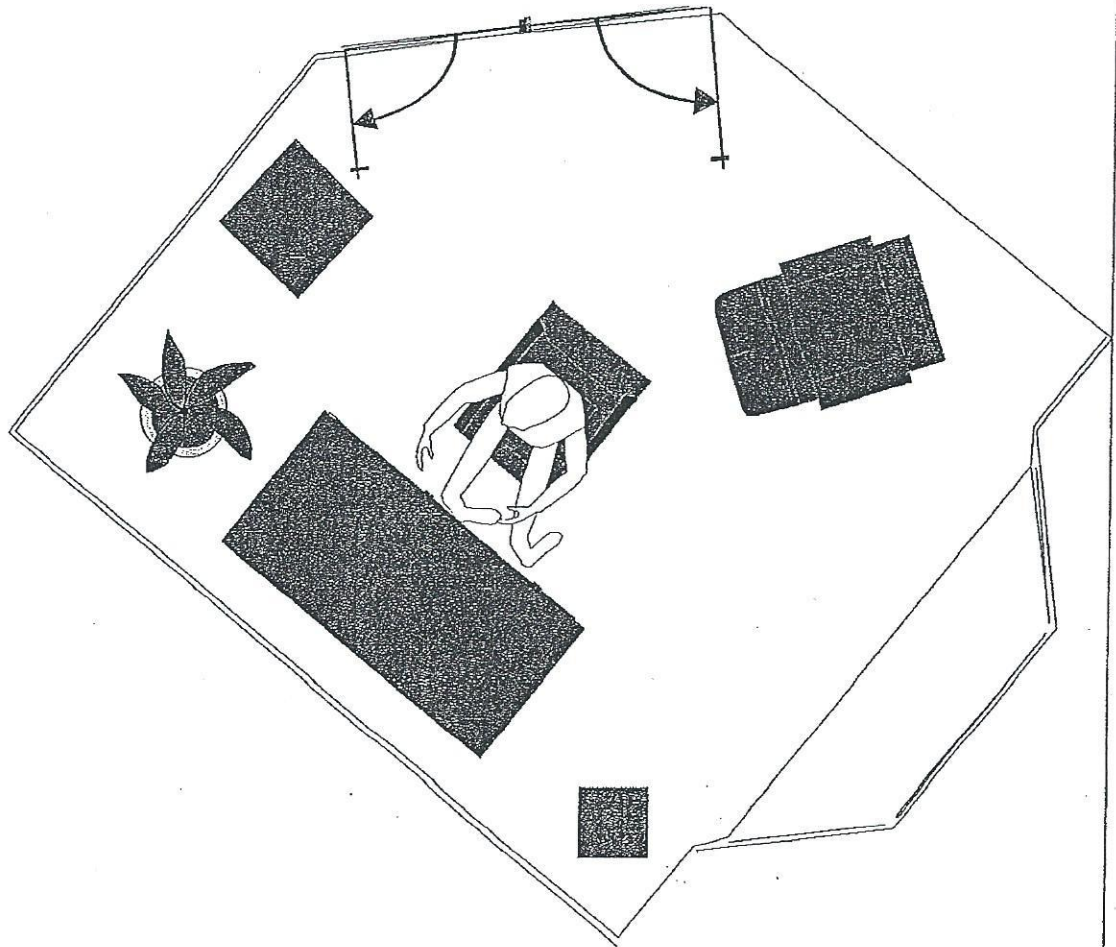
Location:
N 3071 Fox Hollow Drive

Incident Date:
5/24/2010

Case
10-09101



LA CROSSE COUNTY
Sheriff's Department



DISCOVERY
JAN 12 2011
1102 1 2

Drawn By
j siegel

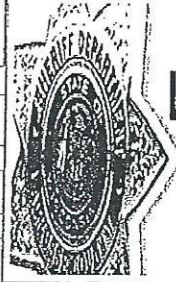
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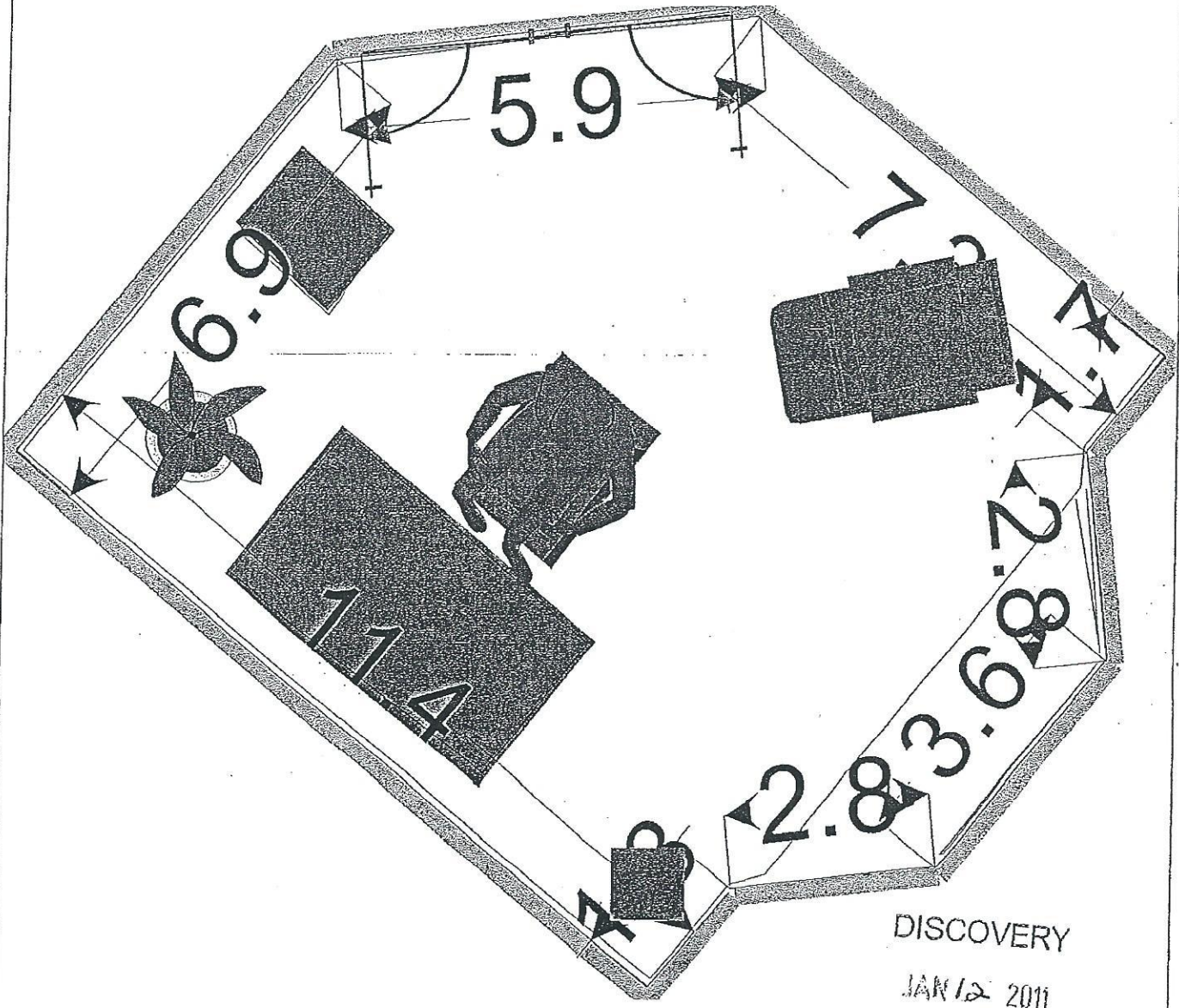
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Incident Date:

Case
10-09101



LA CROSSE COUNTY
Sheriff's Department

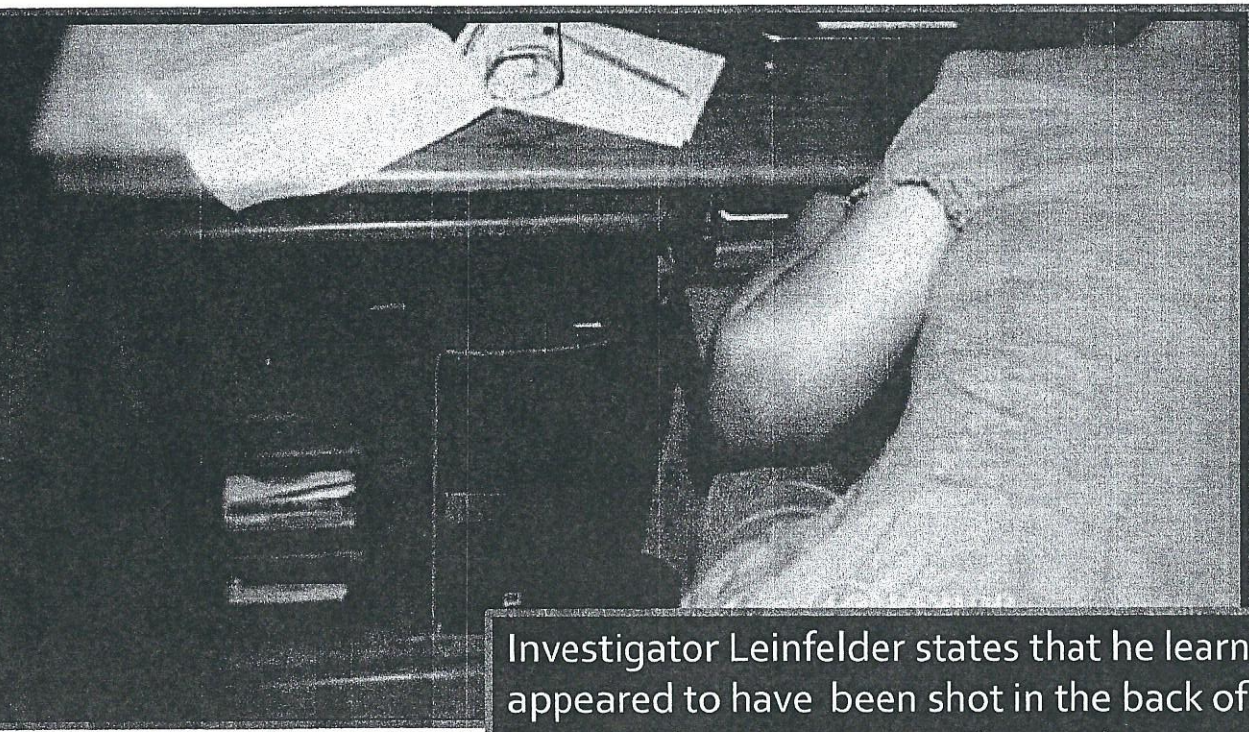


DISCOVERY
JAN 12 2011

EXHIBIT "G"

A closer look at the crime scene

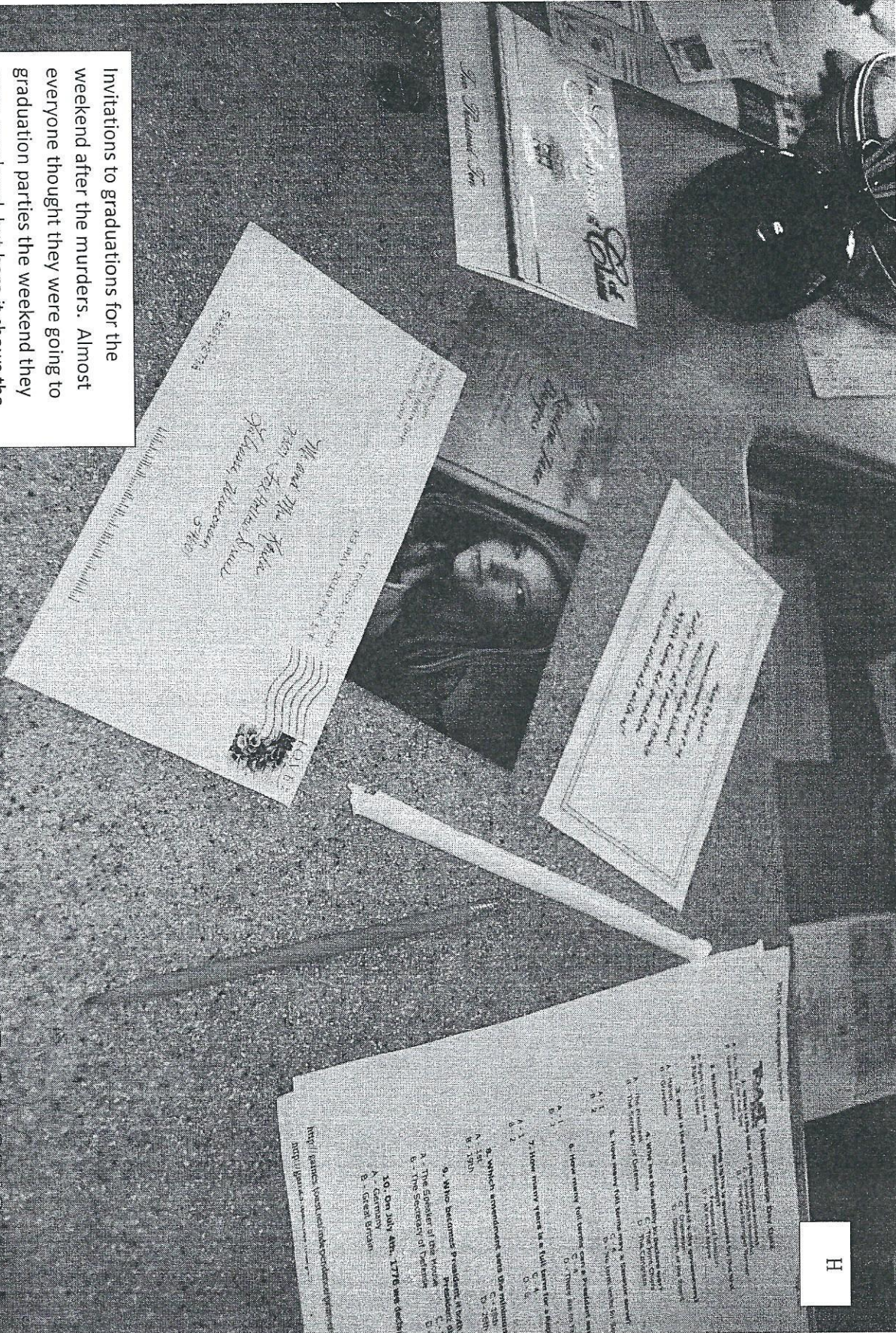
The HP Pavillion, mg000, SN cnx8211x87 at the center of it all



Investigator Leinfelder states that he learned that Merna Koula appeared to have been shot in the back of the head while sitting at her computer and according to a computer analysis the last key stroke on that computer occurred at 5:41 p.m. on May 21, 2010.

From the Criminal Complaint entered in Case No. 10CF431

H



Invitations to graduations for the weekend after the murders. Almost everyone thought they were going to graduation parties the weekend they were murdered, but here it shows the Burgess grad party was for the following weekend.

05 24 2010

10. On July 4th, 1776 was declared
 A. Germany
 B. Great Britain

9. Who became President in 1901?
 A. The Speaker of the House
 B. The Secretary of Defense
 C. The President

8. Which amendment sets the retirement age?
 A. 18th
 B. 20th
 C. 22nd
 D. 25th

7. How many years is a full term for a king?
 A. 4
 B. 5
 C. 6
 D. 7

6. How many full terms did a President serve?
 A. 2
 B. 3
 C. 4
 D. 5

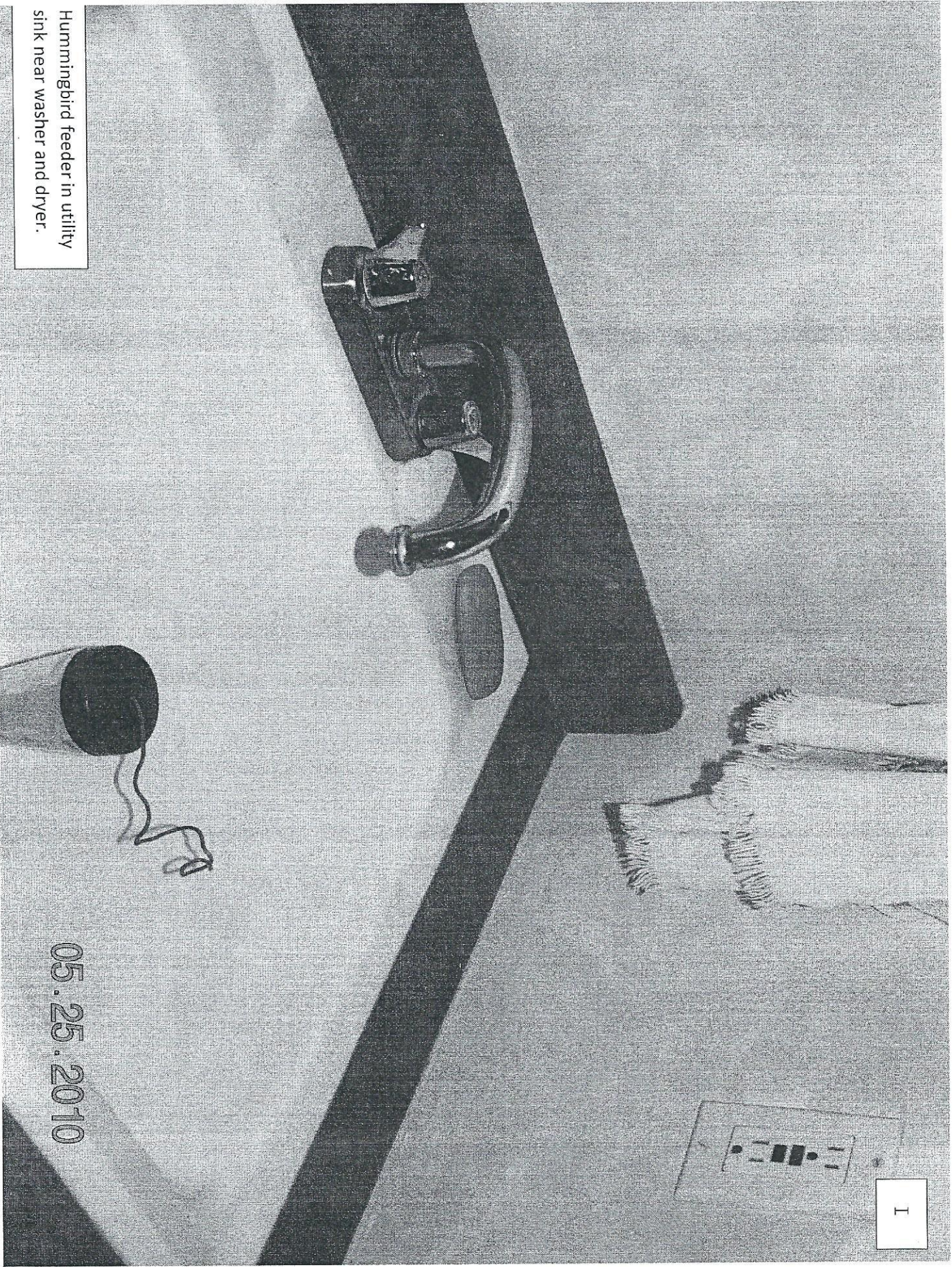
5. How many full terms did a President serve?
 A. 2
 B. 3
 C. 4
 D. 5

4. Which year was the first time a President was elected?
 A. 1789
 B. 1791
 C. 1793
 D. 1795

3. How many years is a full term for a President?
 A. 4
 B. 5
 C. 6
 D. 7

2. How many years is a full term for a President?
 A. 4
 B. 5
 C. 6
 D. 7

1. How many years is a full term for a President?
 A. 4
 B. 5
 C. 6
 D. 7



I

Hummingbird feeder in utility sink near washer and dryer.

05.25.2010

A member of the La Crosse Police Department prepared a report for the La Crosse County Sheriff's Department to be used in the investigation.

CONTINUATION REPORT
LA CROSSE POLICE DEPARTMENT

INCIDENT #
10-222490

6:53:25am- MS Outlook express mail msg. reading a email from ggrady48@gmail.com to demmet@charter.net

***No manual activities on the computer until 5:04:39pm.

5:14:28pm- Open Office/Office executed.

5:25:21pm- Internet Explore executed and websites visited.

5:26:34pm- optionsxpress.com

5:26:41pm- La Crosse County website

bigcharts.marketwatch.com

5:26:51pm- fidelity.com

5:27:09pm- login.fidelity.com

5:40:26pm- msn.com

5:41:52pm- Google search, with the search of "planning qw" in the search terms.

***No manual activities on the computer after 5:41:52pm.

6:23:50pm- Computer performs a PropertyPage.3.cpl

6:38:01pm- snapshot.efi, file archiving (this repeats itself until 5/24/10 at 9:03:35pm)

5/24/10 - 9:03:35pm- the computer has loss of power.

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Google



Planning qw

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Why it's Our Favorite For 2010
And Why it Could Run Higher!
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Options - Talk to a Registered Nurse
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of award

Article Published by the La Crosse Tribune on June 7, 2012:

A dark-colored pickup truck matching one owned by Eric Koula may have pulled into his parents' driveway on the evening they were executed, a neighbor testified Thursday. Koula, on trial for his parents' deaths, drives a black pickup truck. His attorneys have said no witness places him at his parents' house that day. But neighbor Michael Lenz said that he was mowing his grass when he "believes" he saw a full-size truck pull into the driveway at N3071 Fox Hollow Drive between 5 and 6 p.m. on May 21, 2010, the day Merna and Dennis Koula were shot and killed (JUNGEN, 2012).

JUNGEN, A. (2012, June 8). La Crosse Tribune News: Witness Truck Matching Koula's at Parents (sic) House. Retrieved April 7, 2015, from La Crosse Tribune: http://LaCrossetribune.com/news/local/witness-truck-matching-koula-s-at-parents-house/article_488c17d4-b11e-11e1-a232-0019bb2963f4.html

EXHIBIT "L" page 2 of 2

NEWS

Witness: Truck matching Eric Koula's at parents' house

By PIONEER PRESS | news@pioneerpress.com |

PUBLISHED: June 7, 2012 at 11:01 pm | UPDATED: November 10, 2015 at 8:04 am

A dark-colored pickup truck matching one owned by Eric Koula may have pulled into his parents' western Wisconsin driveway on the evening they were executed, a neighbor testified Thursday, June 7.

Koula, on trial for his parents' deaths, drives a black pickup truck.

His attorneys have said no witness places him at his parents' house that day.

ADVERTISING

EXHIBIT "M" part 2 of 2

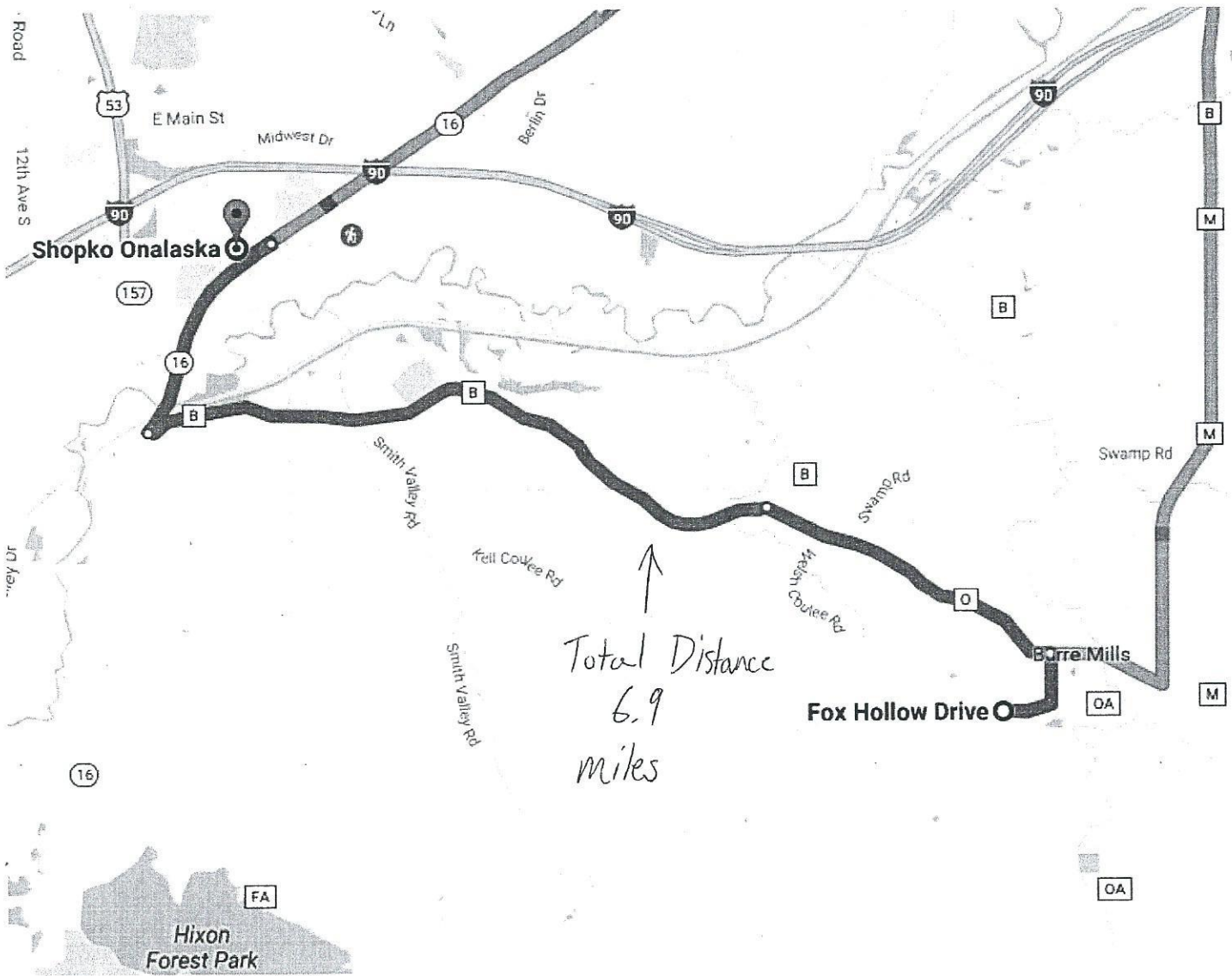


EXHIBIT "N"

Couple found dead in home

ewspaper La Crosse Tribune
Date 2010-05-25
Page # A1
Abstract The bodies of Dennis and Merna Koula were found in their home at N3071 Fox Hollow Road. Authorities say the couple did not die from natural causes and are investigating to determine if foul play was involved.
Subjects Murders Koula Dennis and Merna

Deaths ruled homicide

ewspaper La Crosse Tribune
Date 2010-05-26
Page # A1
Abstract Authorities have ruled that the deaths of Dennis and Merna Koula, whose bodies were found in their home at N3071 Fox Hollow Drive, were homicides.
Subjects Murders Koula Dennis and Merna

'Doing everything we can'

ewspaper La Crosse Tribune
Date 2010-05-27
Page # A1
Abstract Authorities are releasing few details as they investigate the homicide of Dennis and Merna Koula. Authorities expressed concerns that making more details public in the case could contaminate their investigation.
Subjects Murders Koula Dennis and Merna

Focus turns to Friday

ewspaper La Crosse Tribune
Date 2010-05-29
Page # A1
Abstract Investigators working on the Koula homicide case have interviewed people in four counties and two states and are focusing on the afternoon and evening of May 21.
Subjects Murders Koula Dennis and Merna

Remembering Dennis and Merna Koula

ewspaper La Crosse Tribune
Date 2010-06-04
Page # A1
Abstract The lives of murder victims Dennis and Merna Koula are celebrated at their funeral.
Subjects Murders Koula Dennis and Merna

Judge seals Koula warrant

ewspaper La Crosse Tribune
Date 2010-06-05
Page # D1
Abstract A search warrant filed for the home of murder victims Dennis and Merna Koula was immediately sealed by Judge Ramona Gonzalez
Subjects Murders Koula Dennis and Merna

Homicide evidence could take months to process

ewspaper La Crosse Tribune
Date 2010-06-16
Page # B1
Abstract La Crosse County Sheriff Steve Helgeson says that potential DNA and trace evidence from the home of murder victims Dennis and Merna Koula could take months to analyze at the State Crime Laboratory.
Subjects Murders Koula Dennis and Merna

Record: Koulas shot in head

ewspaper La Crosse Tribune
Date 2010-07-22
Page # A1
Abstract The death certificates for town of Barre murder victims Dennis and Merna Koula shows both had been shot in the head.
Subjects Murders Koula Dennis and Merna

The motive is money

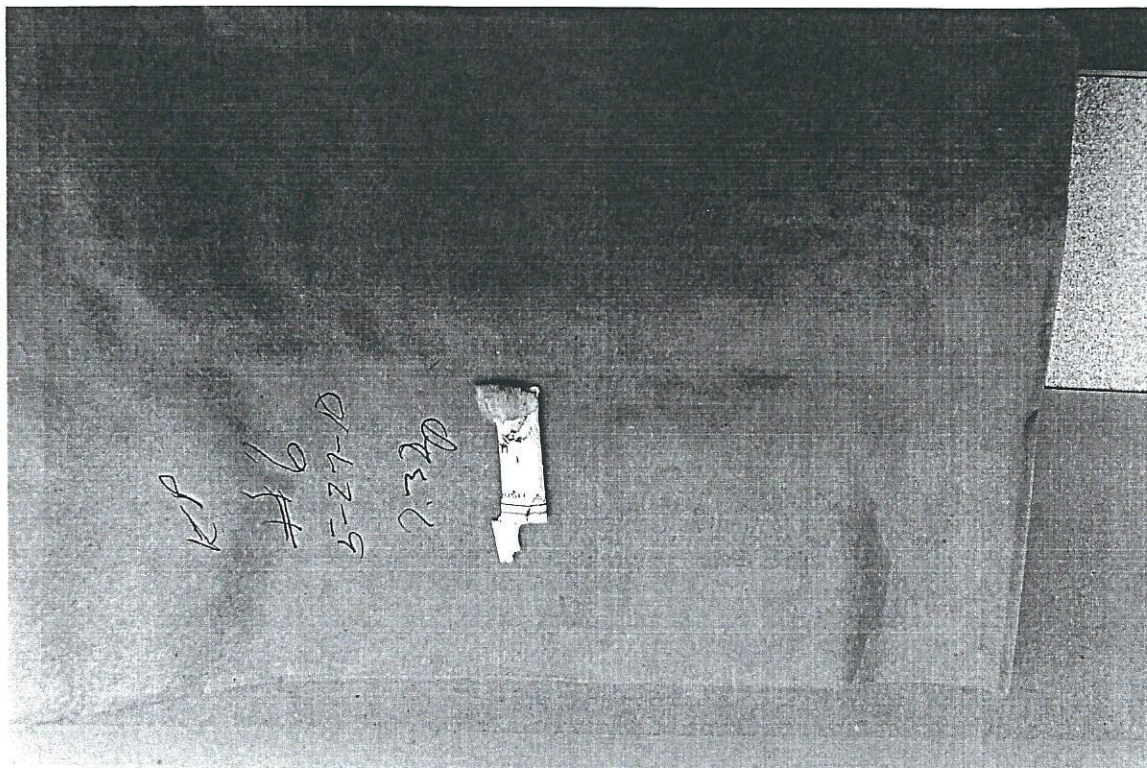
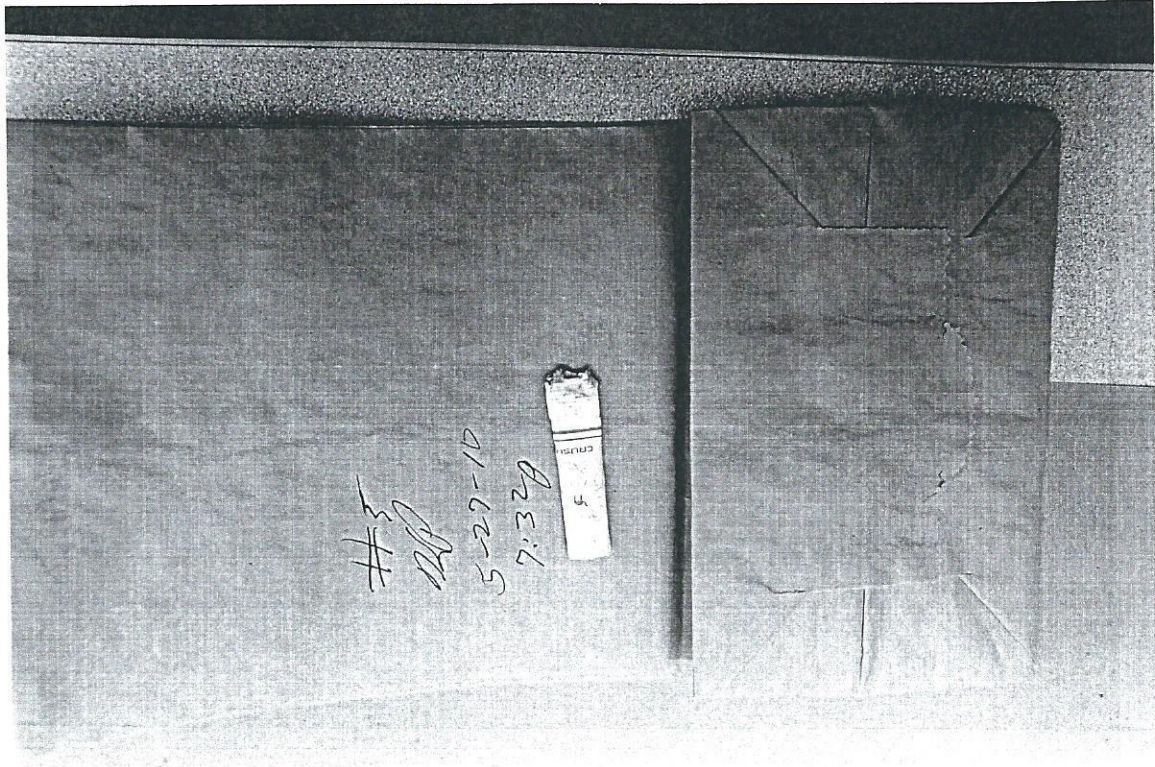
ewspaper La Crosse Tribune
Date 2010-07-30
Page # A1
Abstract Eric Koula, 40, is expected to be charged with two counts of first-degree intentional homicide after he was accused of fatally shooting his parents, Dennis and Merna Koula.
Subjects Murders Koula Dennis and Merna

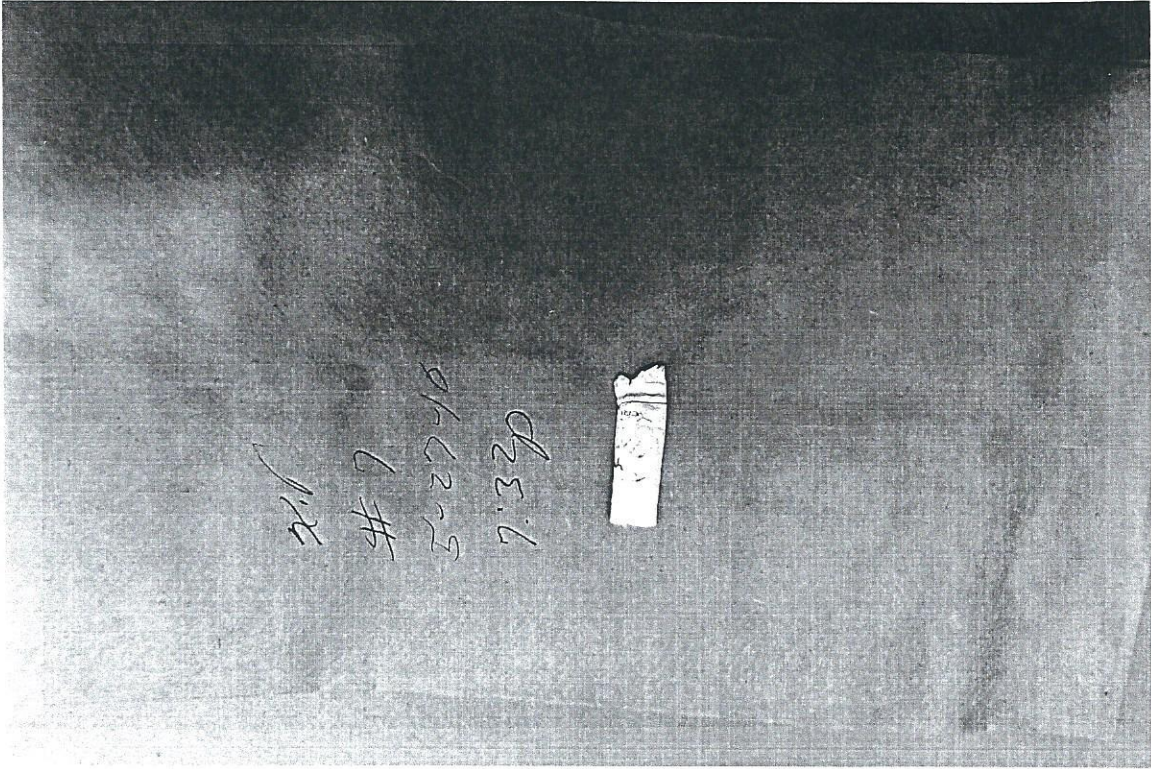
HIGHLY MISLEADING PHOTO DUE TO LIGHTING AND SHADOWS
TRUCK APPEARS TO BE DARK COLORED OR BLACK

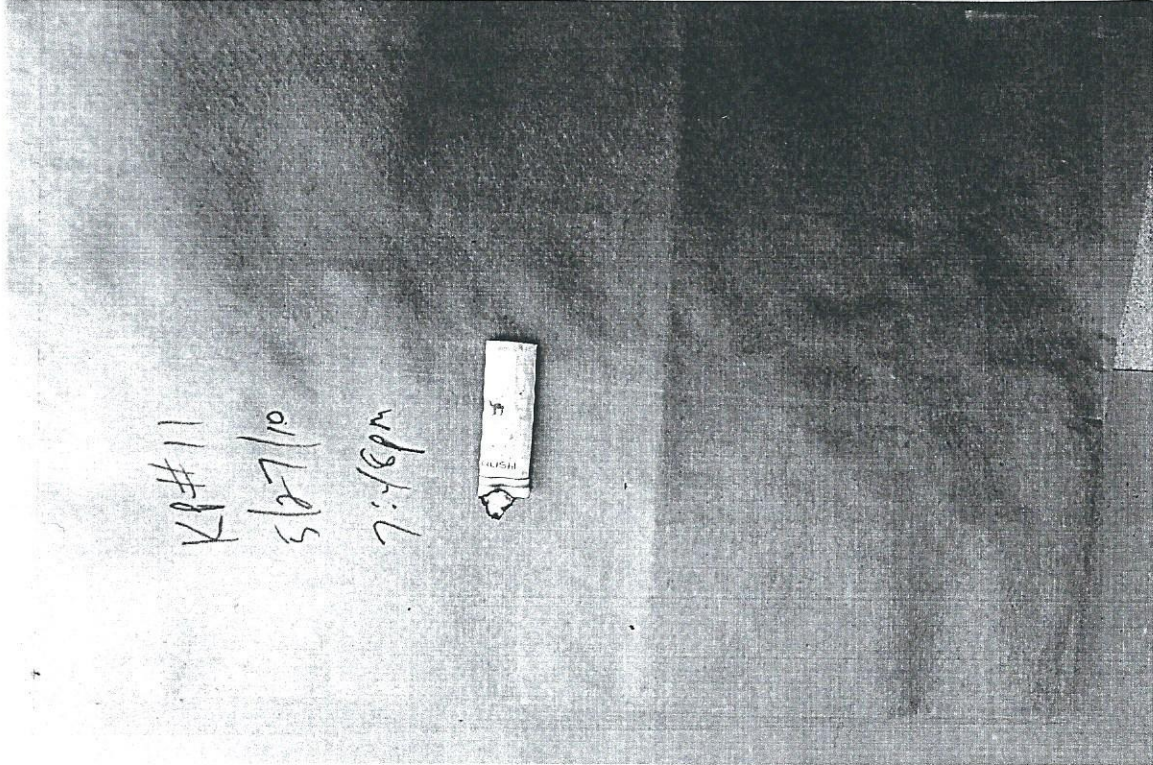


PHOTO OF TRUCKS TAILGATE EXPOSED TO NATURAL LIGHTING
IT CLEARLY SHOWS THE TRUE COLOR NOT EVEN CLOSE
TO DARK COLORED OR BLACK.









KR#11

5/27/10

7:46pm







NOT EVEN CLOSE TO THE ORIGINAL CONDITION OR THE
ORIGINAL POSITION IT WAS FOUND AT.







AUDIO RECORDING of INTERVIEW with (LE ROY KOULA early on)
MAY or JUNE 2010

In the discovery evidence is a audio recording of an interview with LeRoy Koula, he tells investigators that he believes they should be looking at(Patrick Cowell) as the person responsible for the deaths of Dennis and Merna Koula.

*** THERE IS NO REPORT TYPED FROM THIS INTERVIEW ***

LeRoy Koula's Testimony at Trial
paragraph 14 direct testimony

Q. Did he ever talk about Cindy's husband, Patrick?

A. Well, he told me he was a little upset with him because of the way he treated his daughter.

Q. Was this on May 19th or some other time?

A. That was the time before that.

CROSS-EXAMINATION paragraph 22

Q. Okay. So he, Dennis was dissatisfied that he hadn't been holding a job?

A. Right.

Q. Patrick Cowell hadn't been holding a job?

A. Right, Right, yes.

Q. And you would have to agree that that, that type of conversation was a frequent theme with your brother, his dissatisfaction with Patrick Cowell's not having a job?

A. Yeah.

KATHY PETERSON, age late 50s, resides in Sheboygan, WI
GILBERT KOULA, resides in Appleton, WI

DENNIS KOULA is married to MERNA KOULA DENNIS and MERNA KOULA have two children, as follows

ERIC KOULA, who is married to CHRISTINE KOULA
CYNTHIA KOULA who is married, however, LEROY KOULA could not remember CINDY KOULA's husband's name

LEROY KOULA stated he had played golf with DENNIS KOULA last Wednesday (May 19, 2010) KOULA stated he and DENNIS KOULA play golf every Wednesday at the Fox Hollow Golf Course On Wednesday, May 19, 2010, was the last time that LEROY KOULA had spoken to or seen DENNIS KOULA

The last time KOULA had spoken to MERNA KOULA was on Tuesday, May 18, 2010 KOULA had telephoned MERNA and DENNIS KOULA's residence to speak to DENNIS KOULA about golfing. MERNA KOULA had answered the telephone at that time and seemed to be fine

DENNIS KOULA works part time as a pharmacist in Black River Falls, WI at the Reservation. MERNA KOULA is a substitute teacher in the La Crosse School District and LEROY KOULA believes MERNA KOULA teaches elementary school.

LEROY KOULA was asked if he knew who had keys to DENNIS KOULA's residence LEROY KOULA stated as far as he knew ERIC and CINDY KOULA were the only ones that had keys to the residence

LEROY KOULA stated he knows of no one that DENNIS KOULA or MERNA KOULA had problems with and knew of no one that had any grudges against them. KOULA did state that DENNIS KOULA used to be in business with Valley View Ford in West Salem, WI One of DENNIS KOULA's partners was his nephew, NICK HARRING LEROY KOULA stated there was talk years ago that there were money problems with NICK HARRING based on how NICK HARRING managed the business

KOULA stated he believes DENNIS KOULA had a shotgun in the residence but does not know of any handguns

KOULA also stated that DENNIS KOULA was upset with his son-in-law (PATRICK W COWELL - married to CYNTHIA KOULA) as he has not been holding a job Other than that KOULA knows of no problems that DENNIS KOULA was having with his children or their spouses

DISCOVERY

SEP 07 2010

10-1954/165

Date: 02/22/2011

KOULA DEATH INVESTIGATION

Cowell Bank Records

On Tuesday, February 15, 2011, S/A John E. Christophersen received via Analyst Alyssa M. Crane a summary of the PATRICK and CYNTHIA COWELL bank records. The bank records are for the COWELL's checking account from April 27, 2009 through May 24, 2010 and the COWELL's savings account from April 1, 2009 through March 31, 2010.

A copy of the analysis will be attached to this report. In reviewing the report there are no significant transactions to either account.

JEC:dmg: 02/23/2011

10-1954.165 Cowell bank records 02152011

DISCOVERY

MAR 30 2011

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

DISCOVERY

10-09101 5-24-10 1:48 p.m.

SEP 02 2010

SUMMARY:

On 5-24-10 I was assigned to notify Patrick and Cynthia Cowell of the death of Cynthia's parents in Barre Mills. After notification they agreed to come to the sheriff's department. I interviewed Cynthia Cowell and Inv Leinfelder interviewed Patrick Cowell. Cynthia provided background information as well as a time line of her last contact with her parents.

INITIAL INFORMATION:

Cpt Papenfuss called me and assigned me to go to the Cowell residence and attempt to locate Cynthia to notify her of the death of her parents. At this point I was only aware that they had been shot and that Cynthia's brother Eric had found them earlier in the morning. Cpt Papenfuss wanted me to conduct initial interviews with them regarding any knowledge they may have about Cynthia's parents.

NOTIFICATION:

On 5-24-10 at 1:48 p.m. I went to 2809 Robinsdale Avenue in the city of La Crosse. I was met at the door by a male party later identified as Patrick Cowell. Patrick invited me into the house and I asked him whether Cynthia was home. He advised that she was at work. He asked why I was there and I told him that her parents were found deceased in their home. He replied by initially saying "what" and several times during the conversation said "no way." He asked how it happened and I did tell him that it appeared that they had been shot. He kept saying "no, no, no" several times. He said "I don't even think they have a gun."

Patrick then called the school and made arrangements for his daughter. While on the phone I asked him if he knew if they had any troubles recently. He said that they argued once in a while, marriage stuff. He said something about an argument with their nephew Dexter and told me that he and Cindy are kind of the outcasts in the family. He said Eric and Chris watch the house when the Koula's are on vacation.

Patrick and I went to his wife's place of employment, which is Credit Bureau Data, at 115 6th Street South. We spoke in a small conference room with just the three of us there. Patrick wanted to tell his wife what happened. Upon being notified Cynthia became hysterical, screaming and crying. She bent over and started dry heaving. She wanted to know how it happened and she was told that it appeared they had been shot. A short time later she burst from the room, ran into the rest room of the business and screamed that her parents had been murdered. She took some time along with co-workers in the bathroom and came back to the conference room.

DISCOVERY

SEP 02 2010

I advised her and Patrick that we would like to speak with them in regard to this further and I told them that I realized that now might not be a good time. Cynthia volunteered that she could come down and speak with us. Patrick drove Cynthia to the sheriff's department and I conducted an interview with her there.

It should be noted that Inv Leinfelder after returning to the sheriff's department conducted the interview with Patrick Cowell.

INTERVIEW SUMMARY OF CYNTHIA COWELL:

OBSERVATIONS OF CYNTHIA COWELL:

Throughout the interview with Cindy she was appropriately shaken by the news that her parents were deceased. She showed that she was in denial over their deaths by saying that she could not believe it and that she wanted to see them. Throughout the interview, she was physically shaking and crying consistent with someone who had just learned of a close relative's death. It appeared to me that she could not have refrained from this type of physical reaction and would have been obvious to others prior to today, when she learned of their deaths.

TIME LINE:

Throughout the interview Cindy gave me pieces of information regarding the time line surrounding her parents' death. I began to speak with her about her activities and the last time that she saw or had contact with her parents before the interview.

Cindy said the last time she saw them would have been the weekend of 5-15 and 5-16. She initially thought it was Friday and then realized that she had taken her 7 year old daughter Jossie, to the Koula's so that Jossie could stay overnight. Cindy said that she arrived at her parents' house on Saturday, 5-15-10, between 11 and 11:30 a.m. and left the residence at approximately 2 p.m. She said while she was there she helped her mother pull out grackles nests as they were a nuisance. She said during her time there that Eric had come by and that Eric and her mother had discussed the market and the fact that Eric said that it was going to be a rough Tuesday because of the BP Oil Spill in the gulf. She said that her husband Patrick was at home playing video games.

Cindy told me that the next time she saw her parents was the following day, Sunday, the 16th. She said that her parents had tickets to a play at the La Crosse Community Theater at 2 p.m. in La Crosse to see a show. She said that they told her about this the previous day and they dropped her daughter Jossie off at the Cowell residence at approximately 1:30 p.m. She said they stayed a couple of minutes and then left. She said the next time that she spoke with either of her parents was either a Monday or Tuesday with her mother by phone. She said nothing was out of the ordinary during that conversation. Cindy said she spoke with her dad on 5-21-10 shortly before the time that she got to

DISCOVERY

SEP 02 2010

work. She said she called him and he answered his cell phone. He told her that he was at work.

During part of the interview she characterized the conversation as a good conversation. However, in describing the content of the conversation she said it was in regard to Patrick and his unemployment check and the fact that he had not received it. She told me that her dad said "I know you love your husband and he is a good man and father, but as far as taking care of you, I don't think he does." She said that there was a misunderstanding about Patrick's unemployment situation and Patrick had applied for unemployment compensation, but that the unemployment compensation case worker said that he had been paid severance, but in fact Patrick had not been. She said that Patrick was paid two weeks' vacation pay and the company did not respond to unemployment compensation inquiries. Cindy said Patrick just got his unemployment checks today; the day of the interview.

Cindy went over for me what she and Patrick had done this past weekend, 5-21 through 5-23. She told me that on Friday she had gotten out of work a little early at 4:45 p.m. She had the family car and she believed that she went to the "smoke for less" store on the pike between La Crosse and La Crescent. She said she then went to pick up ice and beer at the grocery store on Mormon Coulee Road, which she thought was Kwik Trip. She said from there she went home and believed that she arrived between 5:30 and 6 p.m. She said her husband Patrick was at home and they remained home all evening. She said they had drinks and stuff and believed that their neighbors John and Bruce came over and visited with them.

She advised she fixed her daughter Jossie dinner and Jossie went and played. She said they did not leave that night and then recalled that they possibly watched a show. She was not sure about this.

Cindy said that they slept in Saturday morning and that Patrick took their daughter Jossie to karate class between 9:15 a.m. and 11:15 a.m. She said that she believed that Jossie went to play at a friend's house by the name of Quincy. Cindy told me that on Saturday at approximately lunch time, which she said would have been noon, she and Jossie went to the main branch library and picked up some books. She said that Patrick stayed home during this time. She advised that he hung out and played video games including Xbox on-line. She did not know the name of the game.

Cindy said that Sunday was kind of a blah day due to the fact that they had been drinking the two days before. She said that Jossie had played at some friends' house and she recalled that Patrick had stayed home all day. She said that their lawnmower was not working so Patrick borrowed John and Bruce's lawnmower and mowed the lawn. She remembered this because Patrick could not get the mower started. Cindy said that she had to go to the Kwik Trip to pick up a gas can. She thought that this was the Kwik Trip on Mormon Coulee Road and she had gone there between 3 and 4 p.m. She said that she used her Discover card to pay for that.

DISCOVERY

SEP 02 2010

Cindy only recalled that Patrick had left once between the time that she arrived home on Friday through Sunday evening when he went to bed at 8 p.m. and that would have been to take Jossie to the karate class. She would have only left for the library on Saturday and to pick up gas at the Kwik Trip on Sunday.

KOULA'S FRIENDS:

In speaking to Cindy about who may have been at the residence of the Koula's over the weekend or what their schedule might be. She told me that her parents went out with two couples, a Dave and Audrey Growt and Barb and Ken Herlitzka. She said that they always go out on Friday night. Cindy then told me that she didn't know this for a fact, but that it is routine. She said that they either went out with them or they may have gone out with her uncle Pete and Aunt Marlene Koula. Cindy said that she did not know what her parents would have done Saturday or Sunday. She said that it would be routine for them to go to church, which she thought was the Olivet Lutheran Church in West Salem; the same one that her brother Eric and sister-in-law Christine attend on Saturday night. She said that Merna likes to have her Sunday mornings open.

Cindy told me that other than that she recalled that her parents had three graduation party invitations on the table in their house from her visit on the 15th and 16th. She recalled that she had told her dad that they were popular joking about the graduation invitations. She said that her father told her that they had intended to go to the Burgess girls' graduation party this past Saturday indicating that it was the 22nd of May. She didn't know whether they had attended, but thought that we should check with the Burgess'.

RELATIONSHIPS:

I went through the various family relationships with Cindy. This is a summary of what she told me in regard to that.

1) Eric Koula

Cindy told me that she thinks that Eric is the favorite child in the family. She said that Eric is closer to their mother and she is closer to her father. Cindy told me that Eric is the favorite child and she is the black sheep. She said that part of the reason her dad got into a dealership business; that being Valley View Ford, was to provide a job for Eric.

Cindy said that she and Eric are not particularly close, but they have no out of the ordinary animosity toward each other. She said that the last time that Eric and Chris have been at Cindy and Pat's house was for her daughter Jossie's 2nd birthday, which would be about 6 years ago. She did say that Eric had bailed her out for a DUI the last time that she was arrested for that. Cindy mentioned that her mother Merna was not happy about Eric's wife Chris becoming pregnant out of wedlock as this was something in her opinion that you just don't do.

2) Relationship with Cindy and Patrick

DISCOVERY

SEP 02 2010

As stated earlier Cindy felt that she was the black sheep of the family, but that her dad looked out for her. Cindy told me that in March of 2010 when Pat lost his job they needed money for Jossie's karate class. She said that it required equipment that they could not afford. Cindy said that her father wrote them a check in the amount of \$2000. She said that the check was used for the karate class as well as mortgage payments and other bills that they had. She said that her father wrote her a check for the \$2000 and that his name was only name on the checking account. She said that her father told her not to tell her mother about this. She said in addition to this they received \$5000 just prior to Christmas 2009. She said that her dad told her that they should get everything that Jossie had on her Christmas wish list. She said that he wrote her a check from their Fidelity account for this and it was a joint checking account with her mother from the M&I Bank by Valley View Mall. She also told me that her father paid off her student loans as well as Eric's.

Cindy said that her mother had a way of saying things to her and she could not tell her whether it was a comment or criticism. She gave me an example that she had dyed her hair blonde and Cindy liked it, but her mother asked her "what did you do to your hair; you look like Dolly Parton." She also told me that it took her a long time to graduate from college, but she finally did with a 3.75 grade point average in business. She said that her dad told her that he was proud of her because she finally buckled down and graduated. Her mother on the other hand pointed out to her that she now had a job for \$12 an hour working at a collection agency.

Cindy spoke of her husband Patrick's relationship with her parents. Her parents clearly did not like the fact that he was not working and that he did not provide for the family. She said her mother told her that she did not like the fact that he did not have a job, that he plays computer games all the time and that when there were family gatherings Patrick seems to play with the kids more than visit with the adults.

3) **Dexter Koula**

Cindy told me that her nephew, Dexter Koula, and her mother had some type of an argument on Mother's Day this year. She said that while they were at the restaurant Dexter suddenly got up and walked out of the restaurant. She said that Eric and Chris went after him. She said they all three came back a short time later and that Dexter made his sister Hadley sit next to Merna. Cindy said that Merna was crying. Cindy said that the weekend of the 15th and 16th when she and Jossie had been at her parents' house she asked her dad what was going on. Her dad had told her that her mother Merna was pushing Dexter to do something big with his life. He told her that Merna had been nagging Dexter to be some sort of a scientist and that she wanted Dexter to get good grades so that he could get into a good school. Cindy said that her parents had set aside money for all of their grandkids to go to school. In questioning her about where those funds were, she said she didn't know

4) **Dennis Koula's businesses**

DISCOVERY

SEP 02 2010

Cindy told me that her father while living in Neillsville owned 12 pharmacies. She said that he was in a business with Mike and Karen Mioffer. She said that her dad was looking for something new and that he decided to purchase the Ford dealership in West Salem, which became Nick Haring's Valley View Ford. She said this was her dad's way of providing her brother Eric with a job. This was also a way to provide Nick Haring, which is Dennis' nephew, with some business experience.

Cindy told me that she also worked at the dealership. She came to be there as she had been out at college at the time the dealership opened. She was burned out by partying and her grades had dropped so she moved home in 1996. She said that her parents brought her home and that they told her she needed to straighten out. Cindy said that when she had moved home her father moved in with her in La Crosse as he needed to be within a certain amount of miles from the dealership as a residency requirement. Cindy said that she worked at the Valley View dealership detailing cars and after that began working in the office. She said that she did not like Nick Haring as he was greasy, oily and told me that she meant that he could not be trusted and he had flirted with office women while he was married. Cindy said Nick Haring fired her, but did not elaborate why he had. She said her dad told her to go to unemployment to look for a new job.

Cindy told me that her dad controlled the investment capital for Valley View Ford and that it was his intent that Nick Haring and Eric Koula run the business. She said that her dad told her that he was spending too much time running the business and decided to get out. She said she had heard that Nick Haring would whine to Dennis' sister Mary about the business as well. Cindy told me that her father told her that he had just received the last payment for the Valley View Ford Dealership from Harry Dahl and he was happy about it.

5) House Security

I spoke briefly about her knowledge of how her parents secured their house. She said that her mom referred to locking the house as "bolting things down for the night." She said there was a sliding door off of the deck of the house they had sticks and a lock, but they wouldn't use the sticks. She said during the day the front door would be left open to let the sun in and at night they would lock it. She said there were two doors in the garage; was led to the outside and one to the basement. She said that typically the Thunderbird would be kept inside as well as the Mountaineer and that her father's pickup truck would be left outside. She said in the winter they would park all three vehicles in the garage. She said that they only insured the Thunderbird during the summer months.

6) Finances

I asked Cindy whether she knew if her parents had a will. She said her parents had one and that it was with a lawyer from Marshfield, but she didn't know anything more about it. She spoke of her dad wanting herself and husband Patrick to have a will regarding Jossie's custody to protect Cindy and Jossie so that Patrick's ex-wife couldn't come after them. Cindy mentioned that her

mother went through the house with Cindy and Eric asking them what they wanted. She said that her mother Merna would ask her do you want this chair or that chair and etc. She said that Merna told her that she didn't want a fight like she (Merna) and her sisters did over their parents' things. In questioning Cindy about life insurance policies, she said that she and Eric have a life insurance policy on them. She said she did not know if her parents had life insurance policies, but thought that Eric would know.

7) Dennis Koula's employment problems

Cindy brought up the fact that her father had mentioned to her that there were two pharmacy tech's that her father Dennis thought were not doing a good job. He also told her that he recently had to hang-up a phone call with one of their customers. He said that the person was irate. He didn't elaborate on what the context of the conversation was. She said Dennis told her that he had confided in another pharmacist by the name of Doug what the phone call was about. Dennis was substituting the previous week, May 17th through May 21st.

8) Vehicles

Cindy told me that she and Patrick only have one vehicle, which is a silver Ford Focus. Her parents have the vehicles described that were in the garage and driveway and her brother Eric had two cars; a white pickup and a SUV.

9) Phone numbers

Cindy gave me the following list of phone numbers: Dennis Koula's cell phone 608-397-0010, Dennis and Merna's home land line 608-786-1034, Cindy Cowell's cell phone 608-397-3793, Cindy and Patrick Cowell's home land line 608-787-7478 and Cindy Cowell's work number 608-791-2129. Cindy also told me that they have an inactive phone that had been through Verizon.

10) Other Individuals

Cindy said that she knew that her parents recently had the basement remodeled. Also just before Mother's Day they had the living room painted. She did not know the name of the person that did the remodeling or the name of the painter and she said that River City Landscape had recently reset the sprinklers.

OTHER INFORMATION:

During the interview Cindy was trying to figure out how this would happen. She said she did not believe that her dad would kill her mother or that her mother would kill her dad saying that they had trips planned and had spoken about possibly moving to Arizona because of their driveway. She told me that she didn't think that her brother Eric or Dexter could have done this.

No further information.

Sgt Mark Yehle #1181.

km

DISCOVERY

SEP 02 2010

DISCOVERY

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

SEP 02 2010

10-09101 5-24-10 3:30 p.m.

FI: PATRICK W. COWELL, M/W, DOB 01-22-72, 2809 ROBINSDALE AVE., LA CROSSE, WI., 54601, PHONE #787-7478, UNEMPLOYED

On Monday, 5-24-10, at 3:30 p.m. I interviewed Patrick Cowell. Patrick is the husband of Cynthia Cowell and the son-in-law to Dennis and Merna Koula. Patrick stated that he has been married to Cindy for 10 years. He stated they have a 7 year old daughter named Jossalyn and he has a 12 year old daughter from a previous relationship. Patrick stated that he had been unemployed for approximately 2 months since he lost his job with Pub's Pizza. Patrick stated that his wife Cindy works at Credit Bureau Data in downtown La Crosse.

I asked Patrick when he had last been at his mother and father-in-law's residence on Fox Hollow Drive. Patrick stated that he had gone there on Easter with his family. He stated that his mother and father-in-law had Easter brunch at their residence. Patrick stated that he got along with his mother and father-in-law and that they did not have any problems. He did state that his mother and father-in-law wished that Patrick was more successful. Patrick stated that one of the last times he had gone out to dinner with his mother and father-in-law was on Mother's Day. He believed they had gone to the Ridgeview Restaurant. Patrick stated that his daughter Jossalyn had stayed at his mother and father-in-law's house on the previous Saturday, which would have been 5/15/10. Patrick stated that his wife Cindy had taken Jossalyn to their house and he did not go along with them. He said that his mother and father-in-law had dropped Jossalyn off back at his residence on Robinsdale Avenue on Sunday, 5-16-10, at approximately 1 p.m. He stated he did not have much contact with his in-laws because they were on their way to a play.

Patrick said that since he has been out of work he has been able to collect unemployment for the last 3 weeks. Patrick stated that he was looking at going back to school to become an EMT. Patrick told me that he had moved from California to La Crosse in 1990 with his family. He stated he had already completed high school and had a few jobs while he was living in La Crosse. He stated that in 1992 he joined the Marine Corp and stayed in the Marine Corp until 1996. He stated that while he was in the Marine Corp he had met a woman and did get married. He stated in 1996 he moved back to La Crosse and did meet Cindy. Patrick stated that he and Cindy got married in April of 2000. Patrick told me that his wife Cindy has been working at Credit Bureau Data for approximately 3 years and he stated that she does not really enjoy her job.

I asked Patrick what he and his wife do together. He stated that they watch TV and play scrabble. Patrick stated that he used to fish with his father, but since his father has passed away he has not done much fishing. I asked Patrick if he owned any firearms and he stated that he used to own a 9MM Taurus handgun, a 308 Savage Scout rifle and he now owns a 357 Magnum Taurus. He stated that Cindy also used to own a 22 caliber

DISCOVERY

SEP 02 2010

rifle. Patrick told me that approximately 4 or 5 years ago he had sold the 9MM and the 308 Savage Scout to Ace Hardware and he also advised that Cindy had sold the 22 caliber rifle as well to Ace Hardware. He stated that he still has the 357 Magnum that has a trigger lock on it. He explained that he and Cindy had lost the key to the trigger lock and that is probably the reason why they had not sold this gun also.

Patrick told me that during some of his time at home he does spend playing on-line video games. He stated that he owns an Xbox 360 and does play Modern Warfare the majority of the time on-line. Patrick told me the only vehicle they have now is the Ford Focus, gray in color, registered to Cindy. Patrick stated that while he was working for Pub's Pizza he had a white Chevy Impala that was a company car. Patrick said that Cindy's mom would sometimes be judgmental with the two of them telling them that they both could be doing more with their life.

I started a time line with Patrick starting with Friday, 5-21-10. Patrick stated that he knew that his wife had taken the car to work with her and he was home all day long either on the computer or on-line gaming. Patrick stated he got out of bed between 6 and 6:30 a.m. and stated that his daughter Jossalyn either walked to school by herself or that somebody had given her a ride. He stated that he was home all day long and did not go anywhere. Patrick said that his wife Cindy had gotten back home from work at approximately 5:15 to 5:30 p.m. Patrick said they had all stayed home that night. Patrick said he got out of bed on Saturday morning and took his daughter Jossalyn to karate class at from 9 a.m. to 12 p.m. Patrick stated that Patrick's mother was at karate with them. He stated they came home after that and stayed around the house for the rest of the day. Patrick told me on Saturday night he, Jossalyn and Cindy had watched two episodes of What Would You Do and also an episode of CSI Miami.

Patrick said between 9 and 9:30 p.m. that Cindy and Jossalyn had gone to bed. He said he stayed up after them and played Modern Warfare on-line and went to bed at approximately midnight. On Sunday Patrick told me that he had gotten out of bed some time before 7 a.m. He advised that on Sunday he had mowed the lawn and put out the sprinkler. He also put some wood chips on some of the bushes. Patrick recalled watching the Brewer game during the day and he went to bed to read at approximately 8 p.m. and fell asleep. On Monday Patrick said he woke up at approximately 3 a.m. and couldn't sleep. He said he went downstairs and played Modern Warfare on-line. Patrick said he watched the show Mike and Mike in the morning and he had taken Jossalyn to school and also took Cindy to work.

Patrick said he came home from dropping his wife Cindy off at work and ate breakfast. He said he watched ESPN and played video games on-line. I asked Patrick if he recalled what he had done on Thursday, 5-20-10. He told me he could not remember. Cindy had taken the car to work. I asked him if he had driven the vehicle a different time on Thursday night and he stated no. Patrick said on Thursday morning he had played video games on-line. Patrick told me that the computer system that he uses to play games is the Xbox 360 and they use Centurylink for their internet service. He plays under the name Bytemyshorts. During the interview Patrick did tell me that he and Cindy had

received money from Cindy's father. He stated that Cindy's father would give them this money without Cindy's mother knowing. Patrick said that this money helped them a bit although it did make him feel somewhat worthless. He also described an incident on Mother's Day at the Ridgeview Restaurant when they had all gone out to dinner for Mother's Day that his nephew Dexter and his mother-in-law Merna had some type of a problem at the dinner table. He stated that Dexter got up from dinner and walked out of the restaurant and Merna had begun crying. Patrick said that he did not hear the conversation. He just explained that this was strange and Merna had been crying about it. He was unaware of what was said or what occurred.

Patrick told me the only issue that he ever had with his mother and father-in-law was that they did not like the fact that he and Cindy smoked. I then concluded my interview with Patrick.

No further information.

Investigator Fritz Leinfelder #1091

km

MLF 1431

DISCOVERY

SEP 02 2010

10-1954/76

Date 05/29/2010

KOULA DEATH INVESTIGATION

Interview/Cynthia Cowell

SUBJECT INTERVIEWED

NAME	CYNTHIA A. COWELL
DATE OF BIRTH	10/31/1972
ADDRESS	2809 Robmsdale Ave, La Crosse, WI 54601
CELL PHONE	608-397-3438
HOME PHONE	608-787-7478
EMPLOYMENT	Credit Bureau Data, 115 6 th St N, La Crosse, WI
WORK PHONE	608-785-2222

On Wednesday, May 26, 2010, at 11:58 a.m., S/A John E. Christophersen and Det. Fritz Lemfelder of the La Crosse County Sheriff's Department interviewed CYNTHIA COWELL while sitting in Det. Lemfelder's vehicle outside COWELL's residence. Det. Lemfelder audio recorded the interview with CYNTHIA COWELL. Det. Lemfelder will provide S/A Christophersen a copy of the recording.

The following is a synopsis of the interview conducted:

CYNTHIA COWELL was frustrated because they were getting pressure from the funeral home to make a decision on the funeral arrangements.

COWELL stated that her mother and father (DENNIS and MERNA KOULA) had a laptop and a desk top computer in the house. She believes their email address was denmer@charter.net. Several family members have used the desk top computer, including COWELL's daughter, JOSIE COWELL, HADLEY KOULA, DEXTER KOULA and ERIC KOULA as well as CYNTHIA COWELL.

JOSIE COWELL had used the computer last week and spent the night at DENNIS and MERNA KOULA's residence on May 8, 2010. COWELL had taken JOSIE out to the residence at about noon and they had lunch, which included bratwurst, sweet corn and sauerkraut. Just JOSIE and CYNTHIA COWELL went out to the residence as PAT COWELL did not accompany them.

DISCOVERY

SEP 07 2010

MERNA KOULA was complaining about problems with grackle birds. COWELL helped her mother remove bird nests from the trees. JOSIE COWELL took a ride on the lawnmower with her grandfather.

COWELL remembers a neighbor, NYGILL, had used DENNIS KOULA's truck as he was moving his son back from school.

COWELL stated "I said to myself, this is not how I want to be spending my Saturday" COWELL told her mother that she would come out next weekend to help get rid of the birds.

JOSIE COWELL called CYNTHIA COWELL on Sunday morning and said that she would be dropped off at home around 1:30 p.m. COWELL did not call JOSIE as she had been out partying the night before. DENNIS and MERNA KOULA dropped JOSIE off at home (May 9th). The KOULAS did not like COWELL smoking so COWELL had to clean up the cigarette butts at her house.

The last time COWELL talked to her father was Thursday or Friday (May 20 or 21, 2010). Through the conversation it was determined that the last contact was on Friday, May 21, 2010. COWELL stated she teased her father about being at work when she called and answering his phone. A portion of the conversation centered around making plans to go to lunch together. KOULA was complaining that he would have to work the entire week before Memorial Day as one of his supervisors, DOUG, was on vacation.

COWELL discussed with her father that PATRICK COWELL's old company was giving him the run around on unemployment. DENNIS KOULA suggested obtaining an attorney.

DENNIS KOULA also asked COWELL about going out for fish. COWELL declined. The discussion also talked about work, family life and DENNIS KOULA's frustration with PAT COWELL not working. KOULA stated that PAT COWELL needed to "man up". DENNIS KOULA said he loved COWELL and supported her and any time COWELL needed him, he was there for her to talk to.

COWELL was asked what types of things she would talk to her father about and COWELL stated there were many things, including what types of medications JOSIE could take, guidance and opinions on certain things but stated they did not talk about finances. COWELL admitted that she and her husband were paying their bills and were getting by.

In March, 2010 DENNIS KOULA provided the COWELLS with \$2,000 via check that was written from the Wells Fargo Bank. The majority of the money was used for JOSIE's Karate lessons.

In 2008 the KOULAS paid for a trip to Walt Disney. PAT COWELL did not attend the trip as he had to work.

DISCOVERY

SEP 07 2010

COWELL was asked what types of frustrations her father had with PAT COWELL. COWELL stated that her father grew up dirt poor and he believed that it is the man who is the one to bring home the money. She believes that is why her father is frustrated with PAT COWELL. COWELL explained to her father that it is not PAT COWELL's fault and that PAT COWELL had been looking into going to school.

COWELL has told her husband that DENNIS KOULA is "pissed off" and that PAT COWELL needs to get moving and look for colleges.

On Friday, May 21, 2010, COWELL got off work 15 minutes early (4:45 p.m.) COWELL believes that she called PAT COWELL and asked if he needed anything. PAT COWELL stated that he needed cigarettes. COWELL got cigarettes at Smokes for Less in Minnesota. She also stopped and got beer and ice at Kwik Trip as they were having a special. She then ran to Quillans Grocery and got Rum. Once COWELL got home she and PAT COWELL played a game of scrabble and watched television. COWELL then got tipsy and went to bed. PAT COWELL apparently stayed up for a while. He eventually tried to go to bed but stated that CYNTHIA COWELL was snoring so PAT COWELL slept on the couch.

PAT COWELL was upset with himself over the conversation that CYNTHIA COWELL had with DENNIS KOULA. COWELL stated that her parents and PAT COWELL got along and that DENNIS KOULA wanted to take PAT COWELL under his arm and help him out after PAT COWELL's father had passed away. COWELL stated that PAT COWELL liked and respected her parents.

PAT COWELL had a good job with Peps Pizza but once the son of one of the owners got out of college he took over PAT COWELL's job. Since then it has been tough and DENNIS KOULA has had to help the COWELLS out.

When COWELL uses her parent's computer she uses it for Mapquest, viewing photographs and Google. COWELL is not sure if PAT COWELL uses the computer.

The last time PAT COWELL was at the KOULA residence was Easter.

COWELL stated that PAT COWELL "does his own thing". PAT COWELL plays X-Box and Scrabble while JOSIE and CYNTHIA COWELL will go to the KOULA residence. PAT COWELL generally doesn't go to the residence.

COWELL and her mother, MERNA KOULA, both like to read books. They will both share books back and forth.

DISCOVERY

SEP 07 2010

COWELL drives a gray Ford Focus, WI registration 514-PBT. At one point DENNIS KOULA was going to cosign for a new vehicle, however, PAT COWELL lost his job so he did not do so.

Going back to May 21, 2010, COWELL stated that she had earned some time off and was able to leave work at 4:45 p.m. Her team member that day was KELLY RITTER (ph). COWELL parks in the parking lot across from the Associated Bank. COWELL walked to her vehicle and then went and got cigarettes in Minnesota. COWELL does not remember which Kwik Trip she had stopped at for beer and ice. It may have been the Kwik Trip on South Avenue in La Crosse, WI. She then went to Quillans for the Run and then home. All of the purchases were made on her Discover Card. COWELL believes it took 1/2 to 45 minutes to do these errands before arriving at home. She believes she arrived home somewhere around 5:30 p.m., possibly as late as 6:00 p.m. Both her husband, PAT COWELL, and her daughter, JOSIE COWELL, were home when she arrived. JOSIE gets home from school around 2:45 to 3:00 p.m.

At this point COWELL stated it may have been on her way back from getting cigarettes that PAT COWELL had called her. He used the home telephone to do this. There are two cell numbers on the Verizon plan that the COWELLS have. However, only one cell phone is activated, the one that COWELL has. The other cell phone is deactivated as that phone had been paid for through PAT COWELL's previous employer.

COWELL was asked if her parents had any concerns. She stated that her father had a problem at work with a caller that her father eventually hung up on. COWELL was told about this on Saturday, May 15, 2010.

When asked about keys to the residence of her parents, COWELL stated that she has a key, her brother, ERIC KOULA, has a key and possibly her mother's sister, CAROL SCHUELKE, may have a key. When asked about a hide-a-key, COWELL thought that there was one back behind the garage but she was unsure where. She believes that her parents just had the key hidden underneath something.

COWELL does not know anyone who has a dark colored truck.

During the conversation with COWELL she stated, "I'll give you everything you need."

COWELL was asked if her parents had any guns. COWELL stated she never saw one but her father may have one to shoot critters.

COWELL was asked if her brother, ERIC KOULA, had any weapons and she stated she thought he had one for "plinking rabbits".

DISCOVERY

SEP 07 2010

COWELL stated that she has a snub nose 357, which she would be willing to provide to law enforcement. She and her husband also used to have a 308, a 22 rifle and a 9mm handgun, which were sold years ago for money. The 9mm was sold at Monsoor Sport Shop and the 22 and 308 were sold at Ace Hardware.

COWELL stated she used to have a BB gun but believes it is at her parent's residence stored in the spare bedroom. She does not know if it is still there.

COWELL described her husband's typical day as getting up, turning on the television, eating breakfast, playing video games, eating, maybe look for a job on the computer and sleeping.

Their home telephone is through Century Tel.

DENNIS and MERNA KOULA would keep the following soft drinks in their residence:

- Diet Dr Pepper
- Diet Pepsi
- Spring Grove pop
- Coffee

MERNA KOULA would drink coffee with milk and DENNIS KOULA would drink his coffee black.

Both MERNA and DENNIS KOULA were breakfast eaters.

DENNIS KOULA would keep sodas and maybe beer in the basement refrigerator.

COWELL stated her biggest thing is how long (her parents had been dead) and if she was there, could she have helped.

COWELL stated that she does not know anything about a coin collection that her father had but knew that he had a stamp collection.

COWELL also made the statement, "I know this can't be used against me."

When asked if she had any ideas as to how her parents died, COWELL stated she thought that her Mom had been shot in the back of the head and her father had been shot in the back. She also believed that this happened on Friday (May 21, 2010). She based this on conversations she had with her brother, ERIC KOULA. She learned that her mother had been slumped over the computer and her father was on the floor.

DISCOVERY

SEP 07 2010

CYNTHIA COWELL was asked if she would be willing to provide a buccal swab for DNA purposes. COWELL signed an Authorization form allowing for a buccal swab, which was obtained by Det. Lemfelder. A copy of the Authorization form will be attached to this report.

JEC dmj: 06/02/2010
10-1954 76 Interview Cindy Cowell 05262010

DISCOVERY

SEP 07 2010

10-1954/55

Date 05/29/2010

KOULA DEATH INVESTIGATION

Interview/Patrick W Cowell

SUBJECT INTERVIEWED

NAME PATRICK W COWELL
DATE OF BIRTH 01/22/1972
ADDRESS 2809 Robmsdale Avenue, La Crosse, WI
TELEPHONE 608-787-7478

On Wednesday, May 26, 2010, at 2 04 p m., S/A John E Christophersen and Det. Fritz Lemfelder of the La Crosse County Sheriff's Department interviewed PATRICK W COWELL while sitting in Det. Lemfelder's vehicle outside of COWELL's residence Det. Lemfelder audio recorded the conversation with COWELL Det. Lemfelder will provide S/A Christophersen with a copy of the audio recording that will be attached to this report.

The following is a synopsis of the interview with COWELL

COWELL stated that he has been in contact with his uncle who is a retired homicide detective from California. COWELL's uncle told COWELL to cooperate with law enforcement officers and that there were a lot of questions that would be asked

The last time COWELL was at DENNIS and MERNA KOULA's residence was at Easter There was a family gathering during that time with the immediate family being there

COWELL stated that he has been at the KOULA computer with DEXTER KOULA COWELL stated he does not remember ever sitting at the computer or typing on it but has stood over DEXTER KOULA while DEXTER KOULA was on the computer COWELL does not know of a password being needed to use the computer

COWELL was asked about a phone call his wife, CINDY COWELL, had with her father, DENNIS KOULA on the morning of May 21, 2010 COWELL stated that he talked to his wife about the phone call DENNIS KOULA was frustrated because COWELL had lost his job and had not yet obtained one DENNIS KOULA stated that he would be there for his daughter, CINDY COWELL

COWELL was asked to go through his day on May 21, 2010 again (COWELL has been interviewed by law enforcement regarding May 21st)

DISCOVERY
SEP 07 2010

COWELL stated that he had stayed home all day as his wife, CINDY COWELL, had their only vehicle COWELL stated that he got his daughter, JOSIE, from school that day

COWELL got up on May 21, 2010 before 7 00 a.m. and watched "Pet Star" with his daughter, JOSIE COWELL stated he was going to assume that JOSIE COWELL walked to school at about 7 45 a.m. and that CINDY COWELL went to work at 8 00 or 8 30 a.m. During the day, COWELL played video games, watched television, mopped the kitchen floor and does not remember talking to anyone and did not go anywhere

JOSIE COWELL came home from school between 2 40 and 2 45 p.m. JOSIE COWELL would have done homework if she had it (PAT and CINDY have her do her homework on Friday rather than Sunday) JOSIE COWELL would then have gotten a snack and then gone out to play with her neighborhood friends During this time COWELL stated he did not go anywhere

CINDY COWELL returned home from work later that afternoon.

COWELL stated he does not remember talking to CINDY COWELL after the morning conversation regarding DENNIS KOULA.

COWELL does not remember if CINDY COWELL stopped anywhere on the way home from work on Friday afternoon.

COWELL was asked if DENNIS KOULA had any guns COWELL stated he thought DENNIS KOULA used to but he had gotten rid of them. ERIC KOULA had told COWELL that DENNIS KOULA had a 22

COWELL stated that he has a 357 Magnum handgun in a case and a sword Several years ago COWELL sold his 22, 308 and 9mm.

When asked what COWELL knew regarding DENNIS and MERNA KOULA's death, COWELL stated that ERIC KOULA stated he didn't know However, COWELL stated that he knows they were shot because Det. ~~Lemfelder~~ had told him that.

COWELL was asked about voluntarily surrendering his X-Box. COWELL stated he would be willing to do so and in fact did turn the X-Box over to Det. Lemfelder

COWELL stated that his fingerprints should not be upstairs at the DENNIS and MERNA KOULA residence as he had never been up there

COWELL's fingerprints would be on file as he had been in the Marnes and he also volunteered to provide his fingerprints if law enforcement officers wanted them.

DISCOVERY

SEP 07 2010

At 2 31 p m., Det Lemfelder obtained a buccal swab from COWELL for DNA purposes COWELL had signed an Authorization form allowing law enforcement officers to obtain the buccal swab A copy of that form will be attached to this report

COWELL was asked who had keys to the DENNIS and MERNA KOULA residence COWELL stated that his wife, CINDY, has a key but is unsure of anybody else COWELL stated he did not know if anyone else had a hide-a-key

COWELL's best friend is LINC MIDDLEBROOK who resides in Genoa, WI

The COWELLS also associate with JOHN HOPPE and his friend, BRUCE, who reside in the red house next door to the COWELLS

COWELL stated that his uncle, RON PEGG, owns a 22 pistol. RON PEGG resides on French Island and just got back from California where he had been staying for the last 2 weeks

JEC drng 06/01/2010

10-1954 55 Interview Pat Cowell 05262010

DISCOVERY

SEP 07 2010

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

DISCOVERY
SEP 02 2010

10-09101 5-26-10 5:05 p.m.

FI: JOSSIE M. COWELL, FAW, DOB 07-30-02, 2809 ROBINSDALE AVE., LA CROSSE, WI., 54601, PHONE #787-7478

SUMMARY:

On 5-26-10 Jossie Cowell, the daughter of Cynthia and Patrick Cowell, was interviewed at the Stepping Stones Child Advocacy Center. During the interview she related what she recalled of events on Friday, 5-21-10, through Sunday, 5-23-10.

TRUTH VERIFICATION:

After introducing myself to Jossie and getting some basic background information I verified with Jossie that she knew the difference between a truth and lie. In asking Jossie to describe for me what it is to tell the truth, she said "don't tell a lie." I asked her what a lie was and she said it was like saying that you have a puppy when you don't. I also asked her if it included leaving things out that you know is true and she agreed that it was. I asked her if she promised to only speak about the truth and she said "I promise."

BACKGROUND INFORMATION:

Jossie was able to correctly spell her entire name and give me her date of birth along with the year of birth. She was able to tell me that she lived on Robinsdale Avenue; however, did not know the house number. She told me that she went to Hintgen Elementary School and was in second grade. She advised that her favorite teacher was Mrs. Dunford. I wrote this on a piece of paper and Jossie corrected me saying that it was Dunford. At that point I advised her that it was good for her to correct me and that if I said anything or asked questions that she did not understand that she should correct me. She agreed to do this.

INTERVIEW SUMMARY:

I began the interview by asking Jossie when she last went to school. She told me that it was this past Monday. I then asked her what she had done this weekend and she recalled that she had gone to Karate at 9 a.m. on Saturday morning. I then asked her if she knew the days of the week and she said that she did. I asked her what the day was before Saturday and she initially told me Sunday, but then corrected herself and said that it was Friday. I then spoke with her about what she did on Friday. Jossie told me that she goes to school at 7:40 a.m. and did so Friday. She started school at 8 a.m. She said that she walked to school on Friday by herself, which is a short distance from home. She said at school that day she had math and she learned about swale and humus. She said that she gets done with school at 2:30 p.m. and she walked home alone. She said after

DISCOVERY

SEP 02 2010

getting home she did homework, which included math and reading, and she then went to her friend's house by the name of Julia. She said she thinks Julia lives on James Street about a block from her house. She told me after she went to Julia's she watched TV and she usually watches the show "Sweet Life." In clarifying what the show is about later in the interview she told me that it was about two boys, Zach and Cody, that were teaching a girl how to play a video game, but the girl was a con-artist. Jossie told me that she went to bed at 9:30 or 10 p.m. I asked her if she ate any time between getting home at 2:30 p.m. and going to bed and she told me that she had supper, but could not remember what she ate. She recalled that she usually has a popsicle after supper.

Jossie told me that her mom was at work when she came home from school and that she usually works until 5:30 p.m. or 8 p.m. She told me that her dad was on the Xbox when she got home. I asked her if anyone else was at the house when she got home from school. She told me "I am not sure, but I think my dad's friend was there." I asked her who that would be and she said "Lync." She did not know his last name. In questioning her about Lync being there I asked her if he had been there for supper and she said he was not. I asked her if she remembered when he left and she told me it was 3 p.m. She said she remembered Lync telling her dad that he had to go pick up his wife. I asked her how Lync got there and she said he drives a red car. She advised she has seen what kind of car it was, but could not remember. She said that he parks it on the street. I also asked her in clarifying this how many times Lync comes to visit and she said once a week.

I reminded Jossie that she told me she went to bed at 9:30 or 10 p.m. and asked her what she did the next morning. She said she had cereal for breakfast and that her dad took her to karate at 9 a.m. She advised that Patrick drove her there. She told me that her mother worked that morning and she seemed confused about how her mother got to work. She explained that she thought her mother came with to karate and that she was dropped off at work or that her dad stayed with her at karate and her mom took the car to work. In speaking with her about Sunday she said that she remembered that she played at Anna's house.

I questioned Jossie as to the moods of her parents as she recalled asking them if they were in a good mood, bad mood or somewhere in between. She said that sometimes they get mad, but she thought on Friday they were in a good mood. I also asked her if there were any guns in her house and she told me that her dad has one in his room in the very back of his closet, but that she never goes in there. I asked her how she knew it was in the closet and she told me that she heard her dad tell her mom that it was there. She told me that she never saw the gun. She said that she heard her dad tell her mom that today and had not heard that any other time. In asking her what her dad told her mother she said the police were at her house and after the police left her dad told her mom that the police asked if they had any guns. She said she was pretty sure that is what he said.

I concluded the interview by asking her if she had any questions of me and she said she did not and the interview was ended.

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number 10-1954/42

On Wednesday, May 26, 2010, at approximately 5.20 p.m., S/A Lisa A. Wilson met with CYNTHIA COWELL and PATRICK COWELL at the Stepping Stones Child Advocacy Center in La Crosse, Wisconsin. S/A Wilson spoke with CYNTHIA COWELL and PATRICK COWELL while their daughter JOSSALYN COWELL was being interviewed. S/A Wilson was meeting with CYNTHIA COWELL and PATRICK COWELL at the request of S/A John Christophersen for follow-up.

S/A Wilson arrived and introduced herself to CYNTHIA and PATRICK COWELL. S/A Wilson offered condolences to them and explained that S/A Christophersen had asked S/A Wilson to follow up with them on some things. S/A Wilson told CYNTHIA COWELL that it was her understanding that both she and her brother, ERIC G. KOULA, had been given a key to the residence of their parents, DENNIS and MERNA KOULA. S/A Wilson asked CYNTHIA if she had the key to her parents' residence. CYNTHIA said she did and then began to rummage through her purse. CYNTHIA produced from her purse a butterfly keychain that had several compression rings on it including a key fob for a vehicle and a vehicle key. S/A Wilson saw no other keys attached to this set of keys or this keychain. CYNTHIA explained that she has two separate keys for her residence - one for the deadbolt and one for the doorknob itself and that her parents' key was attached with these two keys on a compression ring that should be on her butterfly keychain, however, was not there. CYNTHIA continued to rummage through her purse in an attempt to locate this key ring with the three keys on it. CYNTHIA ultimately did not locate these three keys within her purse.

S/A Wilson asked CYNTHIA when she thought she last used her own house keys to access her and PATRICK'S house. CYNTHIA explained that she usually didn't have to use her own house keys because PATRICK was usually at home when she arrived home from work. CYNTHIA said the last time she may have had to use her keys was two to three weeks ago. S/A Wilson asked CYNTHIA if she had some type of clip device which made it easier for a person to separate various sets of keys such as house keys from work keys. CYNTHIA said she did not have that and did not separate her keys. PATRICK had commented that this set of keys was probably at their home. S/A Wilson told CYNTHIA to check her vehicle including the glove box and the vehicle interior and to check around her house for the set of keys and to contact S/A Christophersen or La Crosse County Sheriff's Department Investigator Fritz Lemfelder should she find this set of keys.

S/A Wilson explained to CYNTHIA that she was also there to ask about her Discover credit card as it was S/A Wilson's understanding that she had used her Discover credit card to purchase various items while running errands on her way home from work on May 21, 2010. CYNTHIA produced her Discover card and provided it to S/A Wilson for review. S/A Wilson asked CYNTHIA for permission to photocopy her Discover credit card. CYNTHIA said S/A Wilson could, provided she protect this information. S/A Wilson assured CYNTHIA that she would protect her Discover credit card information. S/A Wilson then produced a blank "Consent for Release of Information" form. This form authorizes any employee of the Division of Criminal Investigation bearing this release to, within one year of its date, to obtain information and records pertaining to CYNTHIA relating to a list of items. On this

Narrative Page 1

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DISCOVERY

SEP 07 2010

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number 10-1954/42

list of items, S/A Wilson wrote in "9, credit card companies for which I have a credit card such as a Discover" S/A Wilson also wrote in at the bottom of the form "To obtain information and records pertaining to residential and cellular telephone records to include messaging such as text messaging." S/A Wilson asked CYNTHIA if she would be willing to review this form and provide her consent. CYNTHIA stated at this time and at various times throughout this interview that whatever investigators needed in this case, she was willing to provide.

S/A Wilson went through this form with CYNTHIA, reading it to her as CYNTHIA looked on. As S/A Wilson and CYNTHIA read the form together, a couple of items were crossed out at CYNTHIA'S request. The first item crossed out and not authorized to obtain information and records for CYNTHIA was item #1, military records. CYNTHIA said that was because she was never in the military and therefore this request was irrelevant. Also crossed out while going through the form with CYNTHIA was #5, which listed any previous employers. CYNTHIA said she was willing to provide her previous employee/employer records, however, said she had worked at the same place for the last four years and didn't know if records for her employment were needed beyond this four-year window. No exceptions to the blanket authorization were noted between S/A Wilson and CYNTHIA. S/A Wilson told CYNTHIA that should she change her mind on this form or any aspect of this form, she could contact S/A Wilson and note it. S/A Wilson then provided this form to CYNTHIA who filled out the lower portion including her name, social security number, maiden name, her current address, and then signed the form. S/A Wilson signed the form as a witness.

S/A Wilson reviewed the form and asked CYNTHIA and PATRICK whether their banking or financial accounts were held solely or jointly. CYNTHIA said she and PATRICK had a joint checking account with no savings account. S/A Wilson asked PATRICK if he was willing to sign this form as he and CYNTHIA held a joint checking account together. PATRICK agreed to sign the form and did so on the line denoted as "Spouses Signature". A copy of this form is attached to this report and made a part of this case file.

Once this form was signed, JOSSALYN came out from her interview a short time later and the interview with CYNTHIA and PATRICK was concluded at approximately 5:45 p.m.

tlb

DISCOVERY

SEP 07 2010

Narrative Page 2

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Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954/54

On Thursday, May 27, 1010, at the request of S/A John Christophersen, S/A Lisa A. Wilson, S/A Paul Sogla and La Crosse County Sheriff's Department Deputy Chief Jeff Wolf went to the residence of CYNTHIA and PATRICK COWELL, 2809 Robinsdale, La Crosse, Wisconsin. S/A Christophersen asked S/A Wilson to go there to meet with CYNTHIA COWELL regarding a search of her house and talking with her regarding her set of missing keys which included two keys for her residence and one key for the residence of her parents, DENNIS M. KOULA and MERNA J. KOULA.

S/A Wilson, S/A Sogla, and Deputy Chief Wolf arrived at the COWELL'S residence and were invited in by CYNTHIA. Also present was PATRICK. CYNTHIA told S/A Wilson that she was willing to provide investigators whatever assistance she could and invited us in to search their residence. CYNTHIA said numerous times throughout this time at her residence that she was willing to help investigators and that investigators should "help yourselves" as far as searching their residence. S/A Wilson spoke with CYNTHIA while S/A Sogla and Deputy Chief Wolf searched their residence and, with CYNTHIA'S permission, her vehicle which was located in their driveway outside. S/A Wilson spoke with CYNTHIA regarding the following:

S/A Wilson showed CYNTHIA a compression ring that S/A Wilson had on her keychain and verified with CYNTHIA that was the type of ring that held her two keys and the key to her parents' residence on her butterfly keychain. CYNTHIA examined the compression ring on S/A Wilson's keychain and said it was. By compression key ring, S/A Wilson is referring to the type of keychain in which the key ring is pulled apart to insert a key, and then the key is moved around the circular loop of the key ring until the key is secured on the key ring. CYNTHIA showed S/A Wilson her butterfly keychain which included several compression key loops which held no keys and the vehicle fob and vehicle key. CYNTHIA told S/A Wilson that she had searched their residence and her vehicle and did not find the three missing keys on the compression key ring. CYNTHIA stated she hadn't even known they were missing nor did she know how long they had been missing. CYNTHIA said that after arriving at home from speaking with S/A Wilson the previous day, she and PATRICK tried to think where the keys could be within their residence.

CYNTHIA and PATRICK told S/A Wilson they had called a locksmith over to their residence this morning and had their locks re-keyed and added a lock onto their garage door. PATRICK preserved his old keys to their residence and provided them to S/A Wilson. PATRICK said of these three keys, two were for his and CYNTHIA'S residence, and the third key was to his mother's residence though PATRICK did not specifically know which keys were for which lock. S/A Wilson took custody of these keys and later tried them at DENNIS and MERNA'S residence. None of the keys fit the lock there. S/A Wilson retained possession of these keys until entering them into evidence at DCI.

S/A Wilson then interviewed CYNTHIA regarding her usual practices with her keys, asking her what she did with her keys when arriving home from work. S/A Wilson asked CYNTHIA if she kept her vehicle locked when it was in their driveway. CYNTHIA said she tried to keep her vehicle locked at

Narrative Page 1

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DISCOVERY
SEP 03 2010

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954/54

night as PATRICK had experienced a break-in to his work vehicle several months prior. CYNTHIA said she kept her vehicle unlocked during the day when it was in their driveway. CYNTHIA said she tried to keep her car locked when it was parked at her place of employment. S/A Wilson asked CYNTHIA if she left her keys in her vehicle when it was parked in her driveway. CYNTHIA said she did not. CYNTHIA said that if she was running into the house for something real quick and then returning to her vehicle, she might leave the keys in the vehicle or leave the vehicle running.

S/A Wilson asked CYNTHIA if she had "junk drawers" within their residence that maybe the keys were in. CYNTHIA said she did have two junk drawers which were in her kitchen and opened them for S/A Wilson, saying she had searched these drawers and did not locate any keys.

S/A Wilson asked CYNTHIA where she usually placed her keys. CYNTHIA said she usually put her keys in the middle pocket of her purse. CYNTHIA said her keys usually went into her purse when she was done with her vehicle whether she was going into work or going into her residence. S/A Wilson asked CYNTHIA where she kept her purse at home. CYNTHIA said she kept her purse at various places within her residence. CYNTHIA said she usually had her purse with her when she was going somewhere unless she went for a walk in her neighborhood; then she would leave her purse at home.

S/A Wilson asked CYNTHIA about what she did with her purse when she was at work. CYNTHIA explained that if she arrived at work early, prior to her start time at 8:30 a.m., she would place her purse into a work hallway where additional blank paper was stored by her employer. CYNTHIA said she would grab her cigarettes and her cellular telephone from her purse and go outside to the alley to smoke and/or make phone calls prior to the start of her work shift. CYNTHIA stated that upon the start of her shift, she would go back inside, get her purse and go to her workstation where she would hang her purse on a coat rack within ten feet of her workstation and within her view. CYNTHIA said employees needed an access card to get to the area where her work station was located.

CYNTHIA said she had a morning break, a lunch break, and an afternoon break. CYNTHIA stated that usually on her two 15-minute breaks, she would grab her cellular telephone and her cigarettes from her purse and go outside in the alley and smoke and/or make telephone calls. CYNTHIA said on her lunch break, she would grab her cellular telephone and her cigarettes and then get her lunch and go eat in the break room area.

CYNTHIA mentioned a woman at her workplace named ADRIAN LOCKINGTON. CYNTHIA said ADRIAN had told her that she used to work at her father's car dealership, Valley View Ford. CYNTHIA said some of her neighbors were LOCKINGTON'S and she thought that they were possibly related to ADRIAN LOCKINGTON.

CYNTHIA said she was not good with possessions as she frequently lost things, forgot things, or forgot where she put things.

Narrative Page 2

DISCOVERY

SEP 03 2010

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Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954/54

S/A Wilson asked CYNTHIA who came over to her and PATRICK'S house. CYNTHIA mentioned PATRICK'S friend, LINC MIDDLEBROOK, and their next door neighbors, JOHN and BRUCE, identified in this investigation as BRUCE R. SHERMAN and WALTER JOHN HOPPE II. CYNTHIA did not mention any other visitors to her and PATRICK'S house.

S/A Wilson asked CYNTHIA when she had last remembered using her house keys, reminding her that she had said yesterday that she thought it had been two to three weeks ago. CYNTHIA said she thought about it last night and thought it might have been longer than two to three weeks ago. CYNTHIA said the last time she definitively remembered using her house keys to access her residence was when PATRICK was still employed as she recalled that his white work car wasn't in the driveway.

CYNTHIA said she realized that it sounded "dumb" to not realize that she didn't have this set of keys. However, CYNTHIA said she did not realize until yesterday when S/A Wilson had asked her about these keys that they were gone. CYNTHIA said that her brother, ERIC KOULA, had called her a "moron" last night when she told him that she had lost her residential keys and the key to their parents' residence as well.

CYNTHIA said she didn't want investigators to think that she and PATRICK were not cooperating in this investigation. CYNTHIA said it was hard for her to move forward in light of her parents' murders because she and ERIC didn't know what happened to their parents. CYNTHIA said that her and PATRICK'S house was an open book to investigators. CYNTHIA again told S/A Wilson that investigators could look at whatever they needed to and she was willing to do whatever investigators needed.

CYNTHIA mentioned that she had a Facebook page.

During this interview with CYNTHIA, S/A Christophersen and Investigator Fritz Leinfelder of the La Crosse County Sheriff's Department came to the residence and sat down in the interview of CYNTHIA.

CYNTHIA was asked about \$2000 she had received from her father, DENNIS KOULA, in March 2010. CYNTHIA said this money was for karate equipment for her daughter JOSSALYN, car insurance, a cellular telephone bill, and various odds and ends. CYNTHIA said DENNIS had written the check to her. CYNTHIA said her mother, MERNA KOULA, and DENNIS had a joint checking account for household expenses, but DENNIS had his own account at Wells Fargo and that was where the \$2000 came from. CYNTHIA said DENNIS told her not to say anything to MERNA regarding the \$2000 check he provided her.

DISCOVERY

Narrative Page 3

SEP 03 2010

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Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954/54

S/A Wilson asked CYNTHIA where she and PATRICK did their banking. CYNTHIA said she and PATRICK had a joint checking account through the State Bank of La Crosse. CYNTHIA provided S/A Wilson a voided check from their checking account for S/A Wilson to obtain bank and financial records. S/A Wilson thanked CYNTHIA for this voided check and CYNTHIA said, "Whatever I can do," "Whatever you need."

CYNTHIA was asked if anybody else at her workplace knew her family. CYNTHIA stated that she thought that a coworker by the name of SHELLY GHELFI (phonetic) knew ERIC. CYNTHIA didn't know if GHELFI knew her parents. CYNTHIA said a coworker named MARY BARRIS also knew ERIC, but she wasn't sure if BARRIS knew her parents.

S/A Wilson asked CYNTHIA if she brought her purse with her when she went out. CYNTHIA laughed and stated that she and PATRICK did not go out. CYNTHIA stated that her neighbors, JOHN and BRUCE did bring her out the previous evening, but she didn't have her purse with her. CYNTHIA said PATRICK did not go out often; the last time being several weeks ago for some type of sports draft in which he went out with his friend named LINK.

CYNTHIA said she and PATRICK went to Ridges for Mother's Day with her family. CYNTHIA said that was the last time she could think of where she and PATRICK had went out and did something together socially. CYNTHIA was asked if she and PATRICK locked their house. CYNTHIA said not usually, but again added if she was gone from the house, she usually had her purse with her. CYNTHIA said they locked their house in the evening, but not usually during the day. CYNTHIA said that PATRICK had his own set of keys for the house and for her car. CYNTHIA was asked who drove if she and PATRICK went somewhere together. CYNTHIA said PATRICK usually drove. However, CYNTHIA said she would have her purse with her if PATRICK was driving.

CYNTHIA was asked if PATRICK ever had use of her vehicle. CYNTHIA said sometimes PATRICK did, depending on JOSSALYN'S karate schedule and her work schedule. CYNTHIA said there were times where she worked a double shift and JOSSALYN had karate on the days she worked a double shift, so PATRICK would have the vehicle and drop her off at work, run JOSSALYN to karate, and then pick her up from work. CYNTHIA was asked if PATRICK had the car the previous week, the week of May 16-22, 2010. CYNTHIA didn't think PATRICK had the car that week except possibly on Tuesday, May 18, 2010. CYNTHIA said that PATRICK had her vehicle on Monday, May 24, 2010.

CYNTHIA was asked if she had loaned her car to anybody else to use. CYNTHIA said she hadn't. CYNTHIA was asked if she had given her parents' key to anyone else to use. CYNTHIA said she only went to her parents' house when they were there. CYNTHIA said ERIC would care-take their parents' house if they gone for an extended period of time. CYNTHIA said she did not give the key

Narrative Page 4

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SEP 03 2010

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954/54

back to DENNIS or MERNA. CYNTHIA said the key to her parents' house couldn't have been on any other set of keys as she did not have any other set of keys.

CYNTHIA was asked about any other activities in which she would have had her purse with, but it may have been left unattended. CYNTHIA said there were no other school activities or social activities that she attended. CYNTHIA was asked if she had her car serviced recently. CYNTHIA said she had work done on her car's brake light at the Midas located by her workplace in La Crosse within the last couple of months. CYNTHIA said her keys would have been left at the Midas workshop while they worked on her car.

While talking with CYNTHIA, S/A Wilson noted a local telephone book with a handwritten name and number on there of "Dan" at "646-370-6540."

CYNTHIA was asked more about ADRIAN LOCKINGTON. CYNTHIA said ADRIAN worked at Valley View Ford and would have known ERIC and her cousin, NICK HARRING. CYNTHIA thought that LOCKINGTON worked at Valley View Ford for approximately two years. CYNTHIA said LOCKINGTON hadn't shown any dislike for her father.

CYNTHIA was asked what type of vehicle PATRICK'S mother had. CYNTHIA said that PATRICK'S mother, who she identified as SUSAN COWELL, had a red vehicle. CYNTHIA said that SUSAN COWELL was an AODA counselor who worked in the evenings and "does her own thing."

CYNTHIA was asked about PATRICK'S uncle, RON PEGG. CYNTHIA said that PEGG'S wife, MARY JO, was the sister to PATRICK'S mother, SUSAN COWELL. CYNTHIA was asked the last time that she and PATRICK had visited the PEGG'S. CYNTHIA said that it was at Christmas and she had possibly been there in February 2010 to get quilting scraps from MARY JO. CYNTHIA was asked if PEGG and PATRICK talked to each other frequently. CYNTHIA said PATRICK and PEGG don't usually talk to each other. CYNTHIA was asked if PATRICK and PEGG got along well. CYNTHIA said they got along fine. CYNTHIA was asked if the PEGG'S knew her parents. CYNTHIA said the PEGG'S had met her parents at her bridal shower and at her and PATRICK'S baby shower for JOSSALYN, which was about seven years ago.

S/A Christophersen asked CYNTHIA about an incident on Mother's Day at the Ridges when MERNA got into an argument with CYNTHIA'S nephew, DEXTER KOULA. CYNTHIA said MERNA said something upsetting to DEXTER and DEXTER left the restaurant. CYNTHIA said DEXTER'S parents, ERIC and CHRISTINE KOULA, went outside and talked with DEXTER. CYNTHIA said they all came back inside and DEXTER returned to his seat by MERNA. CYNTHIA said it appeared that MERNA was upset and crying. CYNTHIA said something to the effect that

Narrative Page 5

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SEP 03 2010

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954/54

MERNA was possibly "pushing on him." CYNTHIA said she did not think this argument was a big deal.

CYNTHIA was asked if she ever loaned her car to DEXTER. CYNTHIA said she hadn't. CYNTHIA was asked if she ever loaned her car to PEGG. CYNTHIA said she hadn't.

CYNTHIA was asked who PATRICK called if he needed a ride while she was at work with the car. CYNTHIA said nobody, as PATRICK doesn't go anywhere. CYNTHIA said PATRICK has her pick up groceries, rum, or other items on his behalf.

Regarding JOSSALYN'S karate schedule, CYNTHIA said that PATRICK had her car on Mondays if JOSSALYN went to karate on Monday at 4:30 p.m. CYNTHIA said PATRICK would pick her up after work as she usually worked a double shift on Mondays. CYNTHIA said JOSSALYN can also have karate class on Wednesdays and PATRICK might have the car on Wednesdays as well. However, CYNTHIA said that JOSSALYN also has karate on Saturdays and if she does not attend her Monday and Wednesday classes, she will do all three karate classes on Saturdays.

CYNTHIA said that her father DENNIS last loaned his truck to CYNTHIA for her and PATRICK to use at Christmas when they hauled their Christmas tree to their residence.

S/A Christophersen asked CYNTHIA about problems she and PATRICK have had in their relationship. CYNTHIA said when she was pregnant with JOSSALYN, she and PATRICK were having marital problems. CYNTHIA said PATRICK was on the road a lot. CYNTHIA said she moved in with her parents for a short period at the time. CYNTHIA said her and PATRICK'S problems were "alcohol induced fighting." CYNTHIA said her parents were concerned. CYNTHIA said she and PATRICK were able to talk and reconcile. CYNTHIA said her parents told her that she needed to work things out with PATRICK. CYNTHIA said she decided to be grown up and she and PATRICK talked about the various things that bothered each other and were able to work it out. CYNTHIA said she and PATRICK have been together since, though they still have had some "big fights" since their reconciliation which CYNTHIA attributed to being alcohol induced. CYNTHIA said the last big fight between she and PATRICK was approximately four to five years ago.

S/A Christophersen asked CYNTHIA if PATRICK and DENNIS ever had an argument. CYNTHIA said DENNIS usually directed his thoughts regarding PATRICK to her rather than to PATRICK. CYNTHIA said her father has made statements about being angry and frustrated with PATRICK, which CYNTHIA said has made her feel angry and frustrated towards PATRICK.

S/A Christophersen asked CYNTHIA if she knew who would want to hurt her parents. CYNTHIA said there was, "a lot of bad blood" over the Valley View Ford dealership and that it turned her aunt against her father as there was bad blood between her father and her nephew, NICK HARRING, over

Narrative Page 6

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DISCOVERY
SEP 03 2010

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954/54

this car dealership. CYNTHIA was asked if she had had any recent contact with HARRING. CYNTHIA said the last time she saw HARRING was last summer in the liquor section of the Quillan's store. CYNTHIA said she didn't know the details of the Valley View Car Dealership "mess."

CYNTHIA was asked if she could think of any reason why somebody would want to hurt her parents. CYNTHIA said no.

The interview with CYNTHIA was concluded at approximately 4:13 p.m.

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SEP 03 2010

Narrative Page 7

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LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 6-2-10

On 5-29-10 at 11:10 a.m. I received a call from Sarah A. Smith. Sarah is the wife of Ernest O. Smith. The Smith's had been interviewed by Sgt Yehle at an earlier date.

On the 29th Sarah wished to tell me that during the earlier interviews that her husband had neglected to tell the investigators that Patrick Cowell and her husband Ernest had planned to attend a La Crosse Spartan football game on Friday, 5-21-10. She said that Patrick Cowell had called and left a message on the Smith's phone earlier during the day on the 21st telling Ernest that he was sick and would be unable to attend the football game. Sarah said that Patrick also came over to the Smith residence between 2 and 2:30 p.m. on Friday, the 21st, and again re-stated that he would not be able to attend the Spartan football game with Ernest due to an illness.

On 6-2-10 I did contact Ernest Smith by phone. Ernest advised me that what his wife had told me was correct. He said that he did believe that Patrick Cowell was sick because he observed Patrick to be coughing. Ernest told me he is currently a student at Upper Iowa University and is unemployed. He advised that his wife Sarah is employed by Logistics Health. Ernest Smith's date of birth is 08/02/79 and his wife Sarah's date of birth is 05/15/82. Their address is 2822 Robinsdale Avenue, La Crosse, Wisconsin, 54601, phone #796-0202.

No further information.

Cpt Kurt Papenfuss #1431

km

Kurt Papenfuss 1431

DISCOVERY

SEP 02 2010

EXHIBIT: "W"

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 6-1-10 2 p.m.

DRIVE TIME FROM ROBINSDALE AVE TO N3071 FOX HOLLOW DR:

On 5-27-10 at 10:38 a.m. Special Agent Sogla from the Wisconsin Department of Criminal Investigation and I drove from the residence of Patrick and Cynthia Cowell to N3071 Fox Hollow Drive.

We took a route from Robinsdale Avenue north and then subsequently traveled west to Losey Boulevard. We subsequently proceeded northbound on Losey Boulevard and east on Ward Avenue to Hwy 33. We subsequently traveled east on Hwy 33 taking CTH F, CTH FO, CTH OA to CTH O to Fox Hollow Drive.

~~It should be noted that this would be one of the most direct routes from the Cowell residence to the Koula residence at which time it was measured at 9.9 miles taking us 14 minutes.~~

No further information.

Chief Deputy Jeff Wolf #1021

km

DISCOVERY

SEP 02 2010

EXHIBIT "W"

10-1954/101

Date 06/02/2010

KOULA DEATH INVESTIGATION

Route Traveled/Cindy Cowell

On Tuesday, June 1, 2010, S/A John E Christophersen and Det Fritz Lemfelder of the La Crosse County Sheriff's Department traveled the route that CINDY COWELL stated she took subsequent to leaving work on Friday afternoon, May 21, 2010

From the parking lot where COWELL stated she parked near her place of employment, Credit Bureau Data on 6th Street in La Crosse, WI to the Smokes for Less store located on STH 14/61 in La Crescent, MN is 3.1 miles The travel time is 7 minutes

From the Smokes for Less store to the Kwik Trip store located on South Avenue in La Crosse, WI is 3.9 miles and a travel time of 8 minutes

From the Kwik Trip on South Avenue to the Quilms Grocery store on Mormon Coulee Road in La Crosse, WI is 1.4 miles and takes a travel time of 5 minutes

From the Quilms Grocery store to COWELL's residence located at 2809 Robinsdale Avenue, La Crosse, WI is .5 miles and takes a travel time of 1 minute

JEC dmj: 06/14/2010

10-1954 101 Route traveled Cindy Cowell 06012010

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SEP 07 2010

EXHIBIT "W"

10-1954/93

Date: 06/02/2010

KOULA DEATH INVESTIGATION

Review Video - Quillins/Cynthia Cowell present

SUBJECT:

NAME: CYNTHIA A. COWELL
DATE OF BIRTH: 10/31/1972
ADDRESS: 2809 Robinsdale Ave, La Crosse, WI 54601
CELL PHONE: 608-397-3438
HOME PHONE: 608-787-7478

On Thursday, June 3, 2010, S/A Paul H. Sogla viewed videos that had been downloaded on to a thumb drive. The videos were from Quillin's Grocery located at 3954 Mormon Coulee Road, La Crosse, WI.

In viewing the video S/A Sogla was able to determine that CYNTHIA COWELL arrived at Quillin's on video at approximately 5:15 p.m. on May 21, 2010. She was observed on video in the liquor aisle at 5:16 p.m. She was observed on video going to the checkout aisle #6 or #7 area at 5:17 p.m. She was last observed leaving the facility exit doors at 5:18 p.m.

S/A Sogla had Chief Deputy Jeff Wolf of the La Crosse County Sheriff's Department view the video as well. He confirmed that it was CYNTHIA COWELL on the video at 5:16 p.m. in the liquor aisle.

PHS:dmg 06/07/2010

10-1954.93 Review Quillins video 06032010

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SEP 07 2010

DISCOVERY

SEP 07

DCI Case #10-1954/64 Interview - Ronald & Mary Jo Pegg - 06/01/2010

On Tuesday, 06/01/2010 from approximately 11 20 - 11 55 a.m., DCI Special Agent David Forsythe and La Crosse County Sheriff Investigator Mark Yehle interviewed RONALD and MARY JO PEGG at their residence located at 502 Winona Street, La Crosse, WI S/A Forsythe had previously interviewed the PEGGS regarding the deaths of DENNIS and MERNA KOULA and he introduced Inv Yehle to them. RON stated that their neighbor, ED KAMROWSKI, saw a suspicious person at their (PEGG'S) door when they were on vacation. KAMROWSKI described the person as older with gray hair. KAMROWSKI told the person that there wasn't anyone home at the PEGG'S house at that time and the person said something about looking for a note. KAMROWSKI told RON and MARY JO that he hadn't seen a vehicle associated with the male subject at the door.

RON said that they usually have a mowing service take care of their yard while they are on vacation. He provided S/A Forsythe with a business card for JOHNSON LANDSCAPING LLC with the contact name and information shown as

DOUG JOHNSON
N3329 Miller Road
La Crosse, WI
608-781-1566

RON also advised that, while he and his wife were on vacation, he called some of his neighbors to see if they could check to see if a UPS package had been delivered to his residence. One of the PEGG'S neighbors, ARLAN OLSON, told RON when he and his wife got back from vacation that he'd seen a guy mowing the PEGG'S lawn the first week they were gone and then he saw someone trimming the yard on the second week of their vacation.

RON said that he'd called to check on who would have mowed their yard while they were on vacation on Thursday, 05/27/2010. He talked with a female subject who identified herself as DOUG JOHNSON'S wife. She told RON that they may have sub-contracted that mowing job out to someone and they wouldn't have that information available until bills were submitted in early June, 2010.

RON said that he sometimes shoots firearms with ARLAN OLSON at the HOLMEN ROD AND GUN CLUB. He added that he has never loaned out any of his firearms to anyone. He recalled that, in June of 2009, he was shooting with his nephew PAT COWELL and PAT'S daughter, JOSIE, as well as his (RON'S) son DAN and DAN'S son ZACHARY from California. RON remembered that he had been talking to his son about going shooting at the shooting range when PAT had overheard the conversation. PAT asked RON if he and JOSIE could come along and shoot, too. RON remembered that he brought out his Smith and Wesson Model 22A semi automatic handgun and a 9mm for them to shoot. He fondly spoke of himself, DAN and PAT as "The Three ExMannes". According to RON, PAT was helping JOSIE shoot while they were at the range. He also remembered when PAT brought a 308 Savage rifle out to the HOLMEN ROD AND GUN CLUB about 5 or 6 years prior to this interview.

MARY JO and RON said that SUSIE (PAT'S mother and MARY JO'S sister) watered the PEGG'S plants one time while they were gone on vacation. She didn't have anyone else do it for her and she didn't give anyone else the PEGG'S house key.

RON and MARY JO said that on Saturday, 05/29/2010, PAT, CINDY, JOSIE and SUSIE came over to their residence for dinner. The PEGGS said that CINDY was feeling a lot of guilt about the situation of her parent's deaths because her brother was the one that had found them dead. CINDY was crying a lot while she was at the PEGG'S and seemed to be "all torn up". She told RON that she was sorry that he'd had to get involved and have the police take his guns.

DISCOVERY

SEP 07 2010

RON and MARYJO said that PAT was upset and was worried that the police would think of him as a suspect in the case. He told them that the police took his X Box. According to the PEGGS, PAT seemed to be quiet and down.

While they were all together, they talked about DENNIS' relative talking to the press about who he suspected. RON said that he thought everyone should just keep their mouths shut and let the police do their investigation. MARYJO said that she thought they were talking about PAT when the relative was on the news.

MARYJO said that PAT had just lost his job and CINDY had been sick to her stomach. According to MARYJO, CINDY had lost about 12 pounds in 3 days and she'd been off work since finding out about her parent's deaths.

This concluded the information provided to S/A Forsythe and Inv. Yehle at this time and the interview was ended.

dpf 06092010

DISCOVERY

SEP 07 2010

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 06/11/10 1041

2809 ROBINSDALE AVE, LA CROSSE, WI 54601

INTERVIEW OF PATRICK COWELL

On Friday, June 11, 2010 at 10:40 A.M., myself, along with Captain Kurt Papenfuss, went to speak with PATRICK COWELL. The purpose of our interview with COWELL was to determine if he could explain what was said between him and his wife, CINDY, during a prior taped interview that occurred at the Law Enforcement Center. Captain Papenfuss explained to PATRICK that he was concerned that information was being withheld that they may know. PATRICK said that if he had any information or received any information, he would definitely let us know.

PAT COWELL was asked what he meant by telling his wife CINDY during the prior interview that 'they will figure it out on their own'. PAT explained that his wife CINDY is very concerned that this case will not be solved and he was reassuring her that law enforcement would figure out who did this to DENNIS & MYRNA KOULA.

There was a portion of the taped interview prior with PAT & CINDY in which CINDY whispered something to PAT. In listening to the tape, it appeared that CINDY mentioned something about a lie. PAT said that he does not remember CINDY saying anything like that and was not sure of what we were referring to.

I told PAT that I would bring a copy of the taped interview we were referring to and allow him to listen to it. We then concluded our interview of PAT at this time.

I did return to PAT & CINDY COWELL's residence with a copy of the taped interview we were referring to. I allowed PAT to listen to the portions in question several times. PAT said that he was still unable to clearly hear the portion that CINDY did whisper to him and PAT had no explanation as to what she had said. I told PAT that we would be sending the interview in to have the recording enhanced and would allow him to listen to it after that has been done.

I concluded my interview with PAT COWELL.

No further information.

Investigator Fritz Leinfelder #1091

rlf

[Handwritten signature] 1431

DISCOVERY

SEP 02 2010

EXHIBIT "W"

10-1954/100

Date 06/16/2010

KOULA DEATH INVESTIGATION

Contact/Patrick Cowell

On Tuesday, June 15, 2010, at 2 00 p m., S/A John E Christophersen had a discussion with PATRICK COWELL while sitting on the front porch of his residence. S/A Christophersen asked COWELL if he could think of anyone that may have a problem with either DENNIS or MERNA KOULA. COWELL stated he did not want to point fingers at anyone nor did he want to implicate anyone in the KOULA's homicides. However, COWELL stated that DENNIS KOULA's brother, LeROY KOULA apparently has a "rough family". COWELL stated that LeROY KOULA's stepson (COWELL could not recall his name) was at the wake and funeral. COWELL does not know if that is the individual in LeROY KOULA's family but apparently someone in the family has a criminal record.

Additionally COWELL stated that there is a rumor that LeROY KOULA was at the America Legion in La Crosse stating that he was the one that had found DENNIS and MERNA KOULA dead.

COWELL also stated that there was "family talk" that there was a dislike between DENNIS KOULA and NICK HARRING due to the family car business.

COWELL on his own mentioned that he had no idea that there were any type of "coms" that DENNIS KOULA had until he heard S/A Christophersen and Det. Fritz Lemfelder of the La Crosse County Sheriff's Department talking to ERIC and CHRISTINE KOULA about them.

JEC dmj: 06/18/2010
10-1954 100 Interview Pat Cowell 06152010

DISCOVERY

SEP 07 2010

EXHIBIT "W"

the account, which ERIC KOULA stated would be in a separate account by itself. Eventually ERIC KOULA stated that the reward money would not work out because Crime Stoppers never called ERIC KOULA back about working the fund out. CYNTHIA COWELL had conversations with other individuals (her uncle, GIB and the GRADYS) who offered to put money in the account as well.

ERIC KOULA told CYNTHIA COWELL to call him every time law enforcement officers contacted her and further stated that CYNTHIA COWELL did not need an attorney.

The COWELLS stated it was sometime between the homicide and the arrest of ERIC KOULA that they were at ERIC KOULA's residence for dinner. ERIC KOULA was cooking pork tenderloins on the grill. At that time ERIC KOULA said he had made \$18,000 that day trading and that if he had sat another half hour he would have made \$25,000.

CYNTHIA COWELL was asked again about gold coins her father had. CYNTHIA COWELL stated that she has never seen or heard of any gold coins and no one has ever said to her that they knew of or had heard of the gold coins in question.

The interview was concluded at 2:00 p.m.

JEC:dmg: 02/23/2011
10-1954.167 Interview Cowells 02162011

DISCOVERY

MAR 30 2011

10-1954/1167

EXHIBIT "X"

that the last time he'd seen this subject at PAT and CINDY'S was in the fall of 2009. He remembered that the subject was at a Fourth of July party at PAT and CINDY'S in 2009.

SHERMAN said that he and HOPPE got some food for COWELL'S on Monday night after they'd heard what happened to CINDY'S parents and brought it to them. When he talked with CINDY Monday night, SHERMAN said that she seemed distraught and was crying. She was wondering who would have done that to her parents. CINDY said that her brother had found her parents earlier on Monday, 05/24/2010. Her brother had said that he'd opened the door to the house and saw one of his parents on the floor in a pool of what looked like blood. SHERMAN said that PAT was present with CINDY and his demeanor seemed like he should have been more sad. According to SHERMAN, PAT wasn't consoling CINDY at all. While SHERMAN was talking with CINDY on Monday night, PAT was going into and out of his house and it just seemed very odd to SHERMAN.

On Tuesday, 05/25/2010, SHERMAN stated that he talked with CINDY for a few minutes after he got home from work. He asked her how she was holding up and she was talking about whether she wanted to see her parent's bodies, if their bodies should be cremated, and other similar things.

According to SHERMAN, it seemed like CINDY had a good relationship with her parents. He remembered her talking about them co-signing a loan with her for a car. SHERMAN said that he'd never met her parents or brother, personally. SHERMAN remembered that PAT used to have a red car when he had a job before he worked for PEP'S PIZZA. SHERMAN thought that when PAT got the job with PEP'S, he got a light-colored company car. SHERMAN thought that PAT worked for PEP'S for under a year when he was let go by PEP'S.

SHERMAN stated that CINDY told him that the whole family went out to THE RIDGE RESTAURANT for Mother's Day.

According to SHERMAN, PAT is pretty laid back and likes to play his X Box games. From SHERMAN'S bedroom window, he can see into Pat's office and often sees PAT playing games on X Box. SHERMAN also said that CINDY likes to drink her Miller Lite beer. She's usually alone when she's drinking, but she doesn't get sloshed-drunk too often.

This concluded the information provided to Special Agents Forsythe and Welch at this time and the interview was ended.

dpf 06082010

DISCOVERY
SEP 07 2010

10-1954/6

KOULA DEATH INVESTIGATION

Interview/Walter J. Hoppe

SUBJECT INTERVIEWED:

NAME: WALTER J. HOPPE, II
ALIAS: JOHN HOPPE
DESCRIPTION: W/M
DATE OF BIRTH: 02/03/1973
ADDRESS: 3217 28th Street South, La Crosse, WI 54601
CELL PHONE: 507-254-2521

On May 26, 2010, at approximately 5:40 p.m., S/A Joseph W. Welsch and S/A David Forsythe went to 3217 28th Street South, La Crosse, WI and met with BRUCE R. SHERMAN, Dob: 09/07/1967, the roommate of WALTER HOPPE, II. S/A Forsythe interviewed SHERMAN and a short time later HOPPE arrived at the residence from work. S/A Welsch interviewed HOPPE. S/A Welsch identified himself with his Department of Justice credentials and badge to HOPPE. HOPPE said he was willing to speak with investigators. S/A Welsch explained to HOPPE that he was being interviewed because he is the neighbor to PATRICK and CYNTHIA COWELL and her parents were found dead on May 24, 2010 as a result of a homicide. HOPPE said he was aware of the deaths of CYNTHIA COWELL's parents.

HOPPE said he moved into the house at 3217 28th Street South with his friend, BRUCE SHERMAN in April, 2007. PATRICK and CINDY COWELL have lived next door and were living there when they moved in April, 2007. HOPPE said he would consider him and SHERMAN friends with PATRICK and CYNTHIA COWELL but did not describe themselves as close friends. He said if he and SHERMAN were outside and the COWELLS were outside at they same time, the four of them would talk and on occasion have drinks together. HOPPE said he knows PATRICK COWELL has a daughter from a previous marriage named KYLIE (HUFFMAN) and believes she is in her teens. The COWELLS have a daughter together by the name of JOSIE (JOSSALYN COWELL) and she lives with them at the residence. The COWELLS have one vehicle, which he believed was a gray Ford Focus station wagon. PATRICK COWELL was laid off from his job approximately 1 month ago and he believed that CINDY COWELL works for a collection agency but he is not sure exactly where that is located.

HOPPE said he is the manager at Barnes & Nobles in La Crosse, WI. On May 24, 2010 at approximately 3:30 p.m. he arrived home from work. Between approximately 4:00 and 5:00 p.m., HOPPE was outside and was setting up sprinklers in his yard when he was approached

DISCOVERY

SEP 03 2010

by PATRICK COWELL. HOPPE said he has never seen PATRICK COWELL mad before but when he looked at COWELL's face and described COWELL as looking very angry. PATRICK COWELL told his daughter, JOSIE, to go inside the house. COWELL told HOPPE that CINDY COWELL's parents were shot and killed. HOPPE asked where CINDY's parents were killed. COWELL said it happened at their home and CINDY COWELL was currently with the detective at the police station. COWELL said CINDY COWELL would tell HOPPE more about it when she returned home. PATRICK COWELL went on to tell HOPPE that on Monday morning (May 24, 2010) a person in a suit came to his door and it was a detective from the sheriff's department. The detective told PATRICK COWELL that CINDY COWELL's brother found the bodies of her parents and both of them had been shot. Both the sheriff's department detective and PATRICK COWELL then went to CINDY COWELL's work to tell her that her parents had been killed.

On Monday evening (May 24, 2010) when CINDY COWELL returned home, HOPPE described her as being hysterical. She said that people probably thought her parents' death was a murder/suicide like the deaths in Nodine, MN where a prominent business person killed his family and then killed himself. HOPPE said CINDY COWELL continued to repeat herself saying, "my parents were murdered". HOPPE said he and SHERMAN took food to CYNTHIA and PATRICK COWELL's house. CINDY COWELL was on the patio having drinks and talking to friends who had stopped over. When the news report came on about DENNIS and MERNA KOULA on the television news, PATRICK COWELL went into the house to watch the news and CYNTHIA COWELL stayed against and was speaking to friends. HOPPE watched the newscast and said it seemed that DENNIS KOULA's brother, who the news reported interviewed, seemed to know a lot about the murders. HOPPE thought it was strange that DENNIS KOULA's brother was making a comment on the news report about the homicides. HOPPE described both CINDY and PATRICK COWELL's reaction to the news report and to the events that had happened that week as "acting appropriately" to the news they had received.

S/A Welsch asked HOPPE what he had done on Friday, May 21, 2010. HOPPE said he returned home from work at approximately 4:30 or 5:00 p.m. HOPPE and him and SHERMAN went to the Hungry Peddler Restaurant on South Avenue and arrived there at approximately 6:00 p.m. HOPPE said he remembered it was 6:00 p.m. because he thought on a Friday it would have been very busy and they would have needed reservations but they were able to get at table immediately. After they ate at the Hungry Peddler, they went to Menards and returned home immediately after going to Menards. Between 8:00 and 9:00 p.m. HOPPE and SHERMAN went to the My Place Tavern on South Avenue and they were there until approximately 2:30 a.m. on Saturday morning, May 22, 2010, and they walked home and arrived home at approximately 3:00 a.m. HOPPE said on Saturday morning he slept until approximately noon and between 2:00 and 3:00 p.m. he saw PATRICK and CINDY COWELL sitting in their back yard playing Scrabble. Both PATRICK and CINDY COWELL often play Scrabble while they are sitting outside at their residence.

DISCOVERY

SEP 03 2010

EXHIBIT "X"

The WALTERS could not remember any solicitors in the area recently nor have they seen any deliveries in the area or have they accepted packages for anyone in the neighborhood. DEB WALTERS stated she works during the day so she does not see the KOULAS as often.

At no time during the weekend from Friday through Monday (May 21-24, 2010) did the WALTERS observe any unusual cars, people or noises in the neighborhood. On Friday evening, May 21, 2010, several family members, which did not include DEB WALTERS, went out for fish. They left at 5:00 p.m. and returned at 8:30 p.m. Nothing regarding that evening or the KOULAS residence sticks out in their mind.

The WALTERS stated that JIM KNOPE who lives at N3008 Fox Hollow Drive, La Crosse, WI rides his golf cart on the road quite often and may have observed something.

NICK WALTERS' father, JIM WALTERS, had mentioned seeing the KOULAS on either Friday or Saturday (May 21 or 22, 2010).

Friday morning (May 21, 2010) was garbage day and none of the WALTERS could remember seeing a garbage can outside of the KOULA residence.

NICK WALTERS stated that he knows the KOULA's son, ERIC KOULA. NICK WALTERS stated he knows ERIC KOULA as they bump into each other at the golf course during Men's League. NICK WALTERS stated they know each other just enough to acknowledge each other but there is never any discussion.

The WALTERS stated that DENNIS KOULA used to own Valley View Ford and is currently a part-time pharmacist in Black River Falls, WI.

DEB WALTERS stated that she did not observe the KOULAS out in their yard working on Saturday (May 22, 2010) and upon further discussion the WALTERS realized that none of them had seen the KOULAS out during the weekend.

The interview was concluded at 4:40 p.m.

JEC dmj 06/02/2010

10-1954 57 Interview Walters 05242010

DISCOVERY
SEP 07 2010

DCI Case #10-1954/7 Interview with Tina M Froeba - 05/24/2010

On Monday, 05/24/2010 from approximately 2:30 - 3:00 p.m., DCI Special Agent David Forsythe and Jackson County Sheriff Department Captain Timothy Nichols met with TINA M FROEBA at her place of employment - Ho Chunk Nation Pharmacy - located at N6520 Guy Road, Black River Falls, WI. The purpose of the contact was to interview FROEBA regarding her knowledge of DENNIS and MERNA KOULA due to their recent deaths. S/A Forsythe and Captain Nichols identified themselves to FROEBA. FROEBA stated that she was the Medical Services Coordinator for the facility and provided her contact information as follows:

TINA M FROEBA
 DOB 06/11/1965
 3800 McKinney Lane
 Wisconsin Rapids, WI 54495
 715-424-3829 (home)
 715-284-9851 ext 5344 (work)

FROEBA advised that she was aware that DENNIS and MERNA KOULA were dead and that their deaths may have been under suspicious circumstances. She advised that DENNIS was employed at the Ho Chunk Nation Pharmacy as a part time pharmacist and had been scheduled to work from 8:00 a.m. to 5:00 p.m. on Friday, 05/21/2010. He had checked into work on that day at 7:45 a.m. and had checked out at 4:59 p.m.

A male subject who identified himself as the Executive Director of Health at the facility introduced himself to S/A Forsythe and Capt. Nichols at this time and provided his name and contact information as follows:

ALEC T THUNDERCLOUD
 DOB 06/04/1970
 113 Mead Avenue
 Black River Falls, WI
 917-523-6325 (cell)

THUNDERCLOUD advised that he had just started at the facility in the position as Executive Director approximately one month prior to this interview and said that he knew who DENNIS KOULA was, but not very well.

FROEBA stated that DENNIS actually worked as a "locum tenens" pharmacist for HEALTH PRO, which was based out of Blue Mound, WI (608-767-4208). She explained that basically meant that he sub-contracted for them through HEALTH PRO in order to work as their pharmacist in a part time position. She said that during the week of May 17 - 21, DENNIS had been scheduled to work a total of 16 hours - 8 on Monday, 05/17/2010 and 8 on Friday, 05/21/2010. He had been scheduled to work the week of May 24 - 28 for 40 hours - 8 hours each day. FROEBA explained that the pharmacy usually scheduled 2 pharmacists and 3 pharmacy technicians to work at a time when at full staffing.

FROEBA said that she had received an e-mail message from DAWN WOJTYLA on Monday, 05/24/2010 at 1:44 p.m. advising her that DENNIS hadn't shown up for work that day. FROEBA provided S/A Forsythe with a copy of that e-mail (see attachment). FROEBA advised that she has known DENNIS since the day he started at the Ho Chunk Pharmacy and he was never late. She stated that DENNIS was usually early for work. She checked her records and found that DENNIS had started his job as pharmacist at the Ho Chunk Pharmacy on 07/03/2006.

When S/A Forsythe asked FROEBA if she remembered anything out of the ordinary in the past few weeks in relation to DENNIS, she responded that on Friday, 05/21/2010 at about 8:00 or 8:10 a.m., she had been talking to DENNIS and asked him how he was doing. DENNIS talked with FROEBA about a telephone call he had just received earlier that morning from his daughter. During the phone call, his daughter advised him that she was very upset about her husband losing his job. DENNIS told FROEBA that he had

DISCOVERY

SEP 07 2010

daughter and her family out by assisting them in paying for their mortgage and other bills. According to FROEBA, DENNIS was upset about the phone call. FROEBA recalled that DENNIS had talked in the past about his daughter, her husband and his grandchild. She thought that the family lived in the La Crosse, WI area and said that she thought his daughter may have been a sign language interpreter. She added that DENNIS had told her that his son-in-law just played video games and couldn't even take care of getting DENNIS' granddaughter's eye glasses fixed.

About 2 weeks prior to this interview, DENNIS had mentioned to FROEBA a telephone conversation he'd had with a pharmacy patient that was very upset. According to DENNIS, the patient had said that he was possibly going to file a complaint. FROEBA said that she thought that DOUG BEAVER or DAWN WOJTYLA might know more about that telephone conversation.

FROEBA believed that DENNIS and his wife had a positive relationship with each other and enjoyed travelling and spending time with each other.

This concluded the information provided by FROEBA to Special Agent Forsythe and Captain Nichols at this time and the interview was ended.

dpf 05272010

DISCOVERY

SEP 07 2010

DCI Case #10-1954/19 Telephone contact - Douglas Beaver - 05/26/2010

On Wednesday, 05/26/2010 from approximately 10 35 - 11 05 a m., DCI Special Agent David Forsythe spoke telephonically with DOUGLAS BEAVER. S/A Forsythe had previously spoken to BEAVER for a short time but had been driving and was unable to take notes or get into more detail on BEAVER'S relationship with and knowledge of DENNIS and MERNA KOULA and their deaths. BEAVER provided his name and contact information as

DOUGLAS P BEAVER
DOB 12/28/1957
W13165 Old Hwy 21
Coloma, WI 54930
608-369-1608 (cell)
715-228-3472 (home)

BEAVER advised that he was the managing pharmacist at the HO CHUNK NATION PHARMACY located at N6520 Guy Road, Black River Falls, WI 54615. He stated that he had known DENNIS KOULA for about four years, when DENNIS started working as a pharmacist there. BEAVER stated that DENNIS usually worked at the HO CHUNK PHARMACY on Mondays and Fridays, but would also "backfill" for BEAVER when he was on vacation. He added that DENNIS was a contract employee for the pharmacy through HEALTHPRO.

BEAVER said that he had met DENNIS' wife, MERNA, at a pharmacy Christmas party, but otherwise just had a work-related relationship with DENNIS. DENNIS had invited BEAVER over to his and MERNA'S residence on occasion, but BEAVER had never gone to KOULA'S residence. BEAVER said that he had met DENNIS' son, ERIC KOULA, on one occasion a few months prior to this interview when ERIC had stopped at the pharmacy for a short time. BEAVER recalled DENNIS always talking with high regards about his son, ERIC.

BEAVER also recalled DENNIS talking about his nephew (sister's son) who had a Ford Dealership that DENNIS had been the primary funding source for. DENNIS had talked with BEAVER about cars and money from the safe that started to disappear over time. DENNIS' suspicions were that his nephew was stealing from the dealership. DENNIS told BEAVER that he bought out his nephew's portion of the dealership and he said that he (DENNIS) didn't get along very well with his sister because of the problems with the dealership deal with his nephew.

BEAVER characterized DENNIS as a true "pillar of society" and the fairest person BEAVER had ever known. He said that DENNIS was a great pharmacist who always came to work on time, worked hard and really contributed to society.

DENNIS also talked with BEAVER about his son-in-law and BEAVER said that the situation between DENNIS and his son-in-law was heating up just prior to DENNIS and MERNA'S deaths. DENNIS had been asking BEAVER for his advice on how to deal with his daughter and son-in-law. He told BEAVER about paying off credit card bills, other outstanding debts, helping pay off the mortgage on their house and getting a car for his daughter. DENNIS told BEAVER that he loved his daughter and granddaughter, but "she's in love with a bum". According to BEAVER, DENNIS was trying his best to honor his daughter's feelings towards her husband in spite of his own thoughts/feelings about him.

According to BEAVER, DENNIS had met with his daughter about 2-3 weeks prior to this interview and she had told him that she needed \$2,000 for bills. DENNIS told his daughter that he'd had it and told her that she needed to get her husband off his butt to get a job. BEAVER thought that DENNIS had told him that he did give his daughter the \$2,000 she'd requested. BEAVER also said that DENNIS told him that his son-in-law always tried to avoid him, but his daughter was the one who was always asking him for financial assistance for the family.

DISCOVERY

SEP 07 2010

BEA VER said that he remembered a patient named LOWELL DEAN MORTON who would go to DENNIS' house to get prescription medications. For about the past year, MORTON would get his 3 month supply of prescription medications which were covered by the government, so there was no payment required. Basically, DENNIS saved MORTON a trip to the pharmacy by taking the medications to his house for MORTON to pick up there. BEA VER had no idea if there was any connection with MORTON and the deaths of DENNIS and MERNA, he just wanted to give the information to S/A Forsythe.

BEA VER said that DENNIS was constantly trying to show him how to make money on the stock market. Apparently DENNIS was quite good at it and BEA VER never really caught on to how to make money that way.

One other subject that BEA VER discussed was a pharmacy patient named JAMES MUSSMAN. DENNIS had recently called BEA VER about a phone conversation he'd had with MUSSMAN in order to give BEA VER a "heads up" that MUSSMAN might file a complaint. Apparently, MUSSMAN had dropped off a prescription from the VA and left the pharmacy. When DENNIS got to the prescription, he realized that it couldn't be filled at the HO CHUNK PHARMACY. When DENNIS spoke with MUSSMAN on the telephone about his inability to fill the prescription, MUSSMAN got upset. MUSSMAN later called BEA VER to complain that DENNIS was rude to him on the phone.

BEA VER stated that DENNIS trusted ERIC implicitly and that he gave ERIC a lot of money. He also said that he was aware that DENNIS gave ERIC more money than he gave to his (DENNIS') daughter. BEA VER felt that if DENNIS' daughter or her husband were aware of the discrepancy between the money ERIC was getting compared to what they were getting, they would probably be quite upset with DENNIS.

This concluded the information provided to S/A Forsythe, by DOUGLAS BEA VER, at this time and the contact was ended.

dpf 06082010

DISCOVERY

SEP 07 2010

DCI Case #10-1954/9 Interview with Dawn M. Wojtyla - 05/24/2010

On Monday, 05/24/2010 from approximately 3:20 - 3:40 p.m., DCI Special Agent David Forsythe and Jackson County Sheriff Department Captain Timothy Nichols met with DAWN M. WOJTYLA at her place of employment - Ho Chunk Nation Pharmacy - located at N6520 Gry Road, Black River Falls, WI. The purpose of the contact was to interview WOJTYLA regarding her knowledge of DENNIS and MERNA KOULA due to their recent deaths. S/A Forsythe and Captain Nichols identified themselves to WOJTYLA who stated that she was a Pharmacy Technician for the facility (started on 12/07/2009) and provided her contact information as follows:

DAWN M. WOJTYLA
DOB 12/10/1966
W6530 Woodland Road
Black River Falls, WI 54615
715-299-6368 (cell)

WOJTYLA advised that she had just learned about the deaths of DENNIS and MERNA KOULA a short time prior to this interview. It appeared that she had been crying and she was visibly distraught about the situation. She said that DENNIS was a great, wonderful guy. She said that she had worked at the Ho Chunk Pharmacy on Friday, 05/21/2010, with HELEN, CHAD and DENNIS from about 8:15 a.m. until 5:00 p.m. when they all walked out together to leave for the day. She recalled DENNIS saying that he and his wife were planning on going out for "dead fish" (DENNIS' term for a Friday night fish fry supper) that night. She thought that they usually went out for a fish fry at a restaurant close to their residence. WOJTYLA said that DENNIS was planning on working the following Monday, 05/24/2010 and had told the others that he would take them all out for Chinese food for lunch on Tuesday, 05/25/2010.

WOJTYLA said that she found out that DENNIS used to own the pharmacy in Neillsville, WI where she grew up. She recognized his wife, MERNA, when she met her at the Ho Chunk pharmacy's Christmas party. WOJTYLA remembered MERNA from when she was a teacher or teacher's aide at the Neillsville school district.

WOJTYLA said that DENNIS was proud of his son when he talked about him. When DENNIS talked about his son-in-law, he voiced his disappointment in him and his inability to keep a job. He was disappointed that his daughter had chosen him. WOJTYLA said that it seemed like DENNIS helped out his daughter and son-in-law quite a bit, financially.

WOJTYLA was aware that DENNIS was well off financially and that he had money in the stock market. She recalled that he checked out the money market quite a bit, but he never mentioned having expensive items at his house and he didn't carry around a lot of money.

WOJTYLA said that it was fairly common for DENNIS to leave the pharmacy during his lunch hour and go to the parking lot by the Orange Moose near the Perkins Restaurant just down the road. She recalled that he usually parked his vehicle by the water, ate some Slim Fast for lunch and took a short nap during the hour lunch break. She didn't believe that he would meet anyone else there and she recalled that she'd seen his truck there alone when she was on her lunch break on the previous Monday, 05/17/2010 or Friday, 05/21/2010.

WOJTYLA said that DENNIS was very well-liked, that he was looking forward to his retirement and that he would never hurt a soul.

This concluded the information provided by WOJTYLA to Special Agent Forsythe and Captain Nichols at this time and the interview was ended.

dpf 05272010

DISCOVERY

SEP 07 2010

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 6-7-10 11:05 a.m.

WITN: DENNIS H. JANDT, M/W, DOB 02-09-48, 215 COUNTRY CLUB LN., LA CROSSE, WI., 54601, PHONE #784-8054, WORK #786-1990, EMPLOYER: JANDT FUNERAL HOMES, WEST SALEM, WI

On Monday, 6-7-10, I contacted Dennis Jandt by phone. I had been advised that Jandt had been the funeral director for the Koula family funeral. Jandt said that he had been present during the funeral; however, he was not in direct contact with the Koula family initially. He said that his on-call worker had been Michelle Moore. Jandt said he could not get into too many specifics as to the arrangements since Michelle had handled all of those arrangements; however, he believed that Michelle had first met with the family at the West Salem Funeral Home and that Jandt Funeral Home had first been notified of the death of the Koula's by the medical examiner's office.

He said that it was his understanding that the family was not ready to come in and make arrangements with the funeral home until after the weekend of the homicides. Dennis said that he attended the visitation and the funeral and did not notice any person(s) that stood out. He said it appeared that the family's reactions were normal. He said it was quite emotional for Eric and his sister. He said that Eric remained very emotional throughout the entire funeral proceedings. Jandt also noted at the grave side Eric had put his hand on his father's coffin and said "I love you, dad." Jandt said that Cindy also appeared to be a basket case. He said he noted that her hands were quivering during the entire funeral proceedings. Jandt said that he did not notice any individuals that stood out. Jandt said that Eric's wife appeared to be interactive and was appropriate. She helped with delivering pictures and arranging them for the visitation.

Jandt said that Cindy's husband was less interactive and appeared to be alienated from the rest of the family. Jandt said that his office has not received any information from insurance or a family attorney yet. He said that it is his understanding that any bills for the funeral should be sent to Eric and Eric would handle the arrangements for paying the funeral expenses.

No further information.

Cpt Kurt Papenfuss #1431

km

Kurt Papenfuss 1431

DISCOVERY

SEP 02 2010

10-1954/45

Date 05/29/2010

KOULA DEATH INVESTIGATION

Interview/Carrie L. Huffman-Faas

SUBJECT INTERVIEWED:

NAME CARRIE L HUFFMAN-FAAS
DESCRIPTION W/F
ADDRESS N5585 CTH MM, Lot 405, La Crosse, WI 54601
TELEPHONE 608-790-2483
CHILDREN KYLIE A HUFFMAN, W/F, DOB 08/05/1997

On Friday, May 28, 2010, at 2 10 p m, S/A John E Christophersen and Det. Fritz Lemfelder of the La Crosse County Sheriff's Department interviewed CARRIE L HUFFMAN-FAAS regarding PATRICK COWELL

The interview was conducted in Det. Lemfelder's vehicle Det. Lemfelder audio recorded the interview and will provide S/A Christophersen a copy of the recording The following is a synopsis of the interview

FAAS stated that she had a relationship with PAT COWELL in 1996 FAAS did not know COWELL prior to meeting him in 1996 FAAS and COWELL met as a result of a group of friends who associated in bars together and FAAS had a friend who introduced her to COWELL FAAS stated that after knowing COWELL for 2 weeks she found out that she was pregnant and gave birth to KYLIE HUFFMAN FAAS and COWELL tried to have a relationship but COWELL was detrimental to FAAS (verbally) and the relationship did not work COWELL had nothing to do with KYLIE HUFFMAN until she was approximately 5 months old

COWELL's closest friend is LINC MIDDLEBROOK and at the time they met FAAS and COWELL had the same circle of friends in the bar scene FAAS could not specifically remember the names of those individuals FAAS stated the bars they frequented at the time were Legends, Sneakers and Coconut Joes

After KYLIE HUFFMAN was 5 months old, COWELL and FAAS began dating again. COWELL worked at the Coulee Region Children's Center at the time FAAS also worked there as did COWELL's mother, SUZIE COWELL

DISCOVERY

SEP 07 2010

VALERIE MIDDLEBROOK is described as having two children; one female 27-28 years old and one son who was approximately 18 years of age. MIDDLEBROOK has a stepson identified as ISAAC and a daughter identified as LAI LONI. MIDDLEBROOK identified the subjects at VALERIE MIDDLEBROOK's residence for dinner and playing cards on Friday, May 21, 2010 as his niece, TINA, TINA's two small children (3 and 5), TINA's niece (unnamed) and her boyfriend, KENNEDY, and MIDDLEBROOK's nephew, TONY.

MIDDLEBROOK stated he talked with CINDY COWELL on Sunday (May 23, 2010). S/A Spallees suspects MIDDLEBROOK may have meant Monday, May 24, 2010. MIDDLEBROOK stated he talked to CINDY COWELL after initially talking with PAT COWELL when COWELL alerted MIDDLEBROOK of the death of DENNIS and MERNA KOULA. CINDY COWELL was crying on the phone. She was upset and described as being incoherent and "babbling". PATRICK COWELL was described as being "a little off", "trying to be there for CINDY".

PAT COWELL is described as outgoing, friendly and drinks on weekends. PAT COWELL's drink of choice was described as Captain Morgan and Coke. PAT COWELL is also described as even-keeled. MIDDLEBROOK only saw PAT COWELL upset one time when they worked at the Youth Center together. The incident was described as PAT COWELL and a juvenile resident getting into an argument with raised voices. This argument eventually "came to blows" between PATRICK COWELL and the juvenile. Subsequently PATRICK COWELL quit working at the Youth Center after that incident. CINDY COWELL is described as good hearted and nice.

PAT COWELL worked for a number of employers, including Brothers Coffee, Frito Lay and Peps Pizza. COWELL had overnight travel when working for Brothers Coffee. COWELL was reported to have been fired/terminated from Frito Lay after COWELL obtained a DWI charge.

*Franks liquor
Standfield
Insurance deal*

CINDY COWELL began working 1 to 1 ½ years ago at a collection agency (unknown name). Prior to working CINDY COWELL was described as a stay at home Mom with children. CINDY COWELL is supposed to be finishing a degree in child development at Viterbo College currently.

PAT COWELL has one sister in the Milwaukee, WI area. That sister (unnamed) is married. CINDY COWELL has one brother, ERIC KOULA. MIDDLEBROOK met ERIC KOULA on one occasion at PAT COWELL's bachelor party.

MIDDLEBROOK stated that the revolver handgun that PAT and CINDY COWELL had was actually owned by CINDY COWELL.

MIDDLEBROOK has had firearms in the past. PAT COWELL and MIDDLEBROOK have gone to the Holman Rod & Gun Club in the past to shoot firearms. MIDDLEBROOK recalled

DISCOVERY

SEP 03 2010

that PAT COWELL had a 30-06 rifle with a scope. Both MIDDLEBROOK and COWELL had 9mm pistols. The last time MIDDLEBROOK recalled shooting with PAT COWELL at the range was approximately 6-7 years ago.

PAT COWELL's mother lives in the La Crosse area. MIDDLEBROOK did not know the mother's name. PAT COWELL's father died a couple of years ago.

MIDDLEBROOK identified one other subject that he was aware of that would probably know PATRICK COWELL. MIDDLEBROOK identified that subject as JAMES TOWNSEND of Dubuque, IA. MIDDLEBROOK listed TOWNSEND's telephone number as 563-542-6822.

PAT COWELL's first daughter (not born to PAT and CINDY COWELL) lives with her mother. It was the daughter's choice to live with the mother. She is approximately 13 years of age. PAT COWELL does pay an unknown amount of child support to his child's mother. (Mother's name unknown.)

MIDDLEBROOK said he had been at CINDY COWELL's parent's residence on one occasion in the past when PAT and CINDY COWELL were opening wedding presents.

MIDDLEBROOK indicated that he was sure that CINDY COWELL's parents (the KOULAS) financially helped PAT and CINDY COWELL. MIDDLEBROOK stated there were times when CINDY and PAT COWELL were both not working. CINDY and PAT COWELL purchased the home they currently live in.

MIDDLEBROOK stated that CINDY COWELL's parents were "generous" with CINDY and PATRICK COWELL. MIDDLEBROOK recalled that the KUOLAS paid for a trip to Florida and Disney World approximately 2 years ago for CINDY and PAT's family. DENNIS and MERNA KOULA were also described as having treated PATRICK COWELL's first daughter like their own grandchild.

S/A Spallees asked MIDDLEBROOK for his consent to obtain a DNA sample from MIDDLEBROOK using a Buccal swab. MIDDLEBROOK consented to providing a DNA sample to law enforcement. S/A Spallees obtained 2 DNA samples from MIDDLEBROOK by rubbing two new/fresh cotton tipped swabs inside both cheeks of MIDDLEBROOK's mouth. S/A Spallees placed these swabs back into the paper container from which he obtained them. S/A Spallees maintained custody of these swabs until surrendering them to Investigative Sergeant Mark Yehle of the La Crosse County Sheriff's Department.

MIDDLEBROOK did not have any further information to provide law enforcement at this time. The interview with MIDDLEBROOK was terminated.

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 5-27-10 7:27 to 7:47 p.m.

On the above date and time myself and other officers began a search of the roadside near N3071 Fox Hollow Drive in the town of Barre. I began my search on the north side of the road 1/10 of a mile east of the Koula residence. During the course of the search along the roadside I recovered 11 cigarette butts of various brands. These cigarette butts were recovered by me, placed in individual paper bags and brought to the sheriff's department evidence room for further examination at a later time. Cigarette butts were picked up both on the north and south side of the road again in an approximate one tenth mile range from the Koula residence to the east.

No further information.

~~Cpt Kurt Papenfuss #1431~~

km

K. Papenfuss 14 31

DISCOVERY
SEP 02 2010

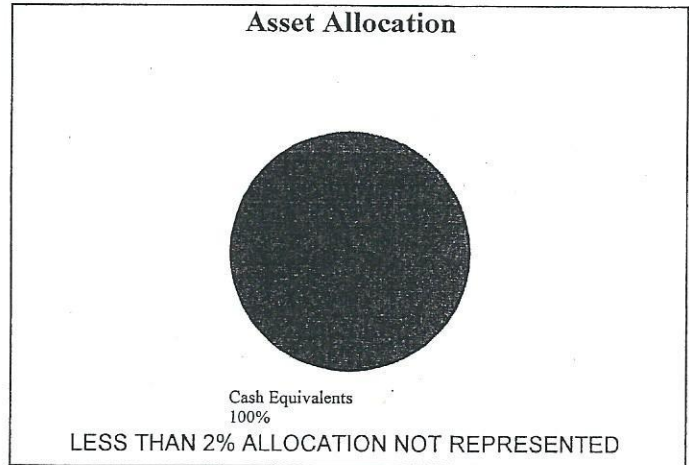
238021 238021 73165_OX99

ERIC G KOULA
N5546 CTY RD C
WEST SALEM, WI 54669

From Your Investment Professional:
OPTIONSXPRESS
Telephone: (888) 280-8020

Account Value Summary	
Money Markets	\$9,622.42
Cash	\$27,149.00
Options	\$0.00
Stocks	\$510.00
Mutual Funds	\$0.00
Fixed Income	\$0.00
Other	\$0.00
Total Account Value	\$37,281.42

Change In Value Summary	
Change in Value Since Dec. 2009	\$4,880.67



Account Activity Summary		
Type of Activity	This Period	YTD
Opening Balance - Net Cash Equivalents	\$29,853.42	
Assets Bought	-384,715.60	
Assets Sold Redeemed	385,205.31	
Other Activity	26,115.36	
Money Market Activity	-19,687.52	
Interest Taxable/Non-Taxable	0.45	0.45
Dividends Taxable/Non-Taxable	0.00	0.00
Margin Interest	0.00	0.00
Withholding	0.00	0.00
Foreign Taxes Paid	0.00	0.00
Ending Balance - Net Cash Equivalents	\$36,771.42	

Positions

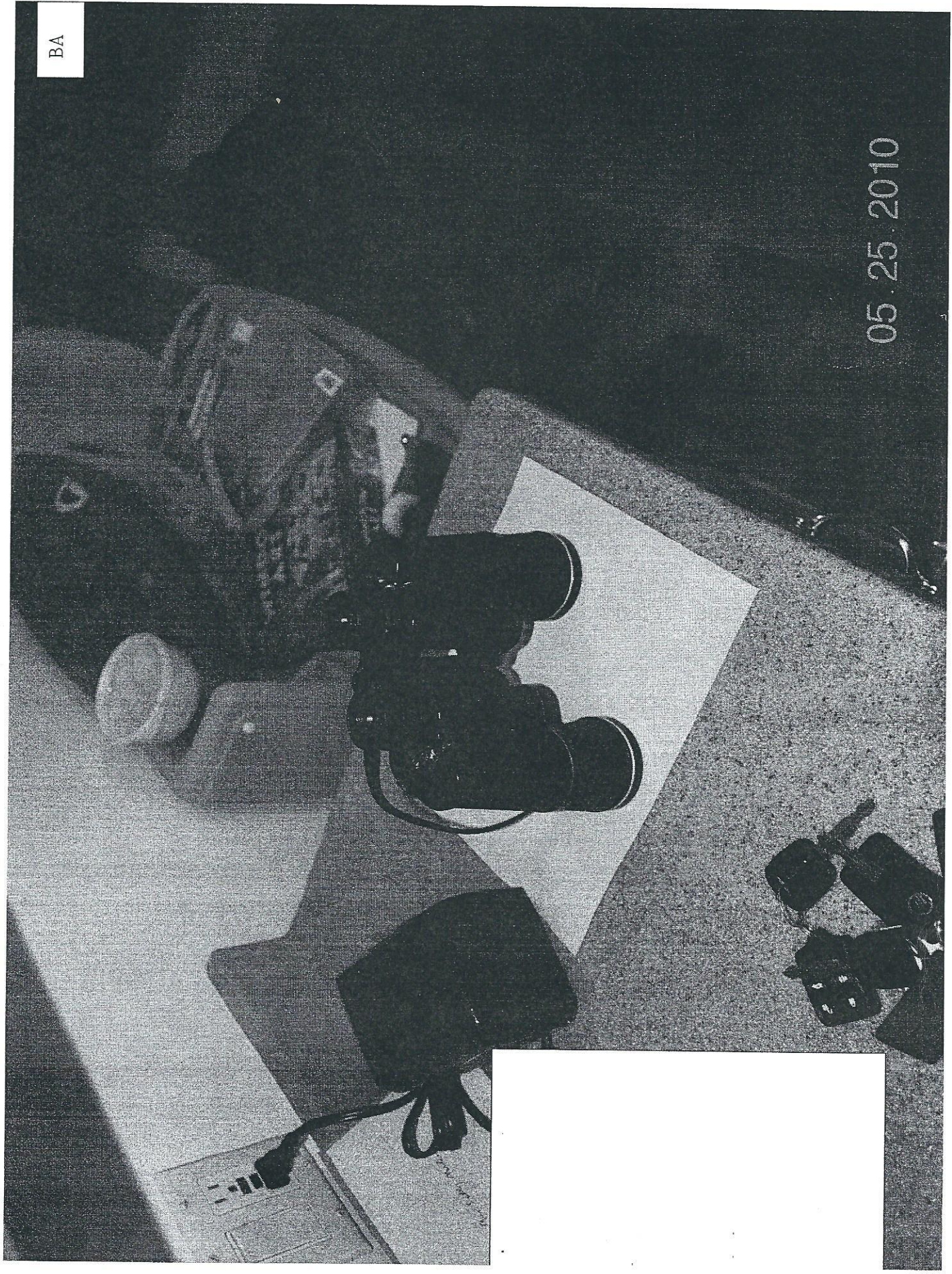
STOCKS

Symbol/Cusip	Acct Type	Description	Quantity Long/Short	Price	Market Value
SSTP	1	SUSTAINABLE POWER CORP COM	50000 L	0.0102	510.00

Money Markets and Cash	36,771.42
Total Account Value	37,281.42

EXHIBIT "BA"

BA



05.25.2010

STATE OF WISCONSIN CIRCUIT COURT LA CROSSE COUNTY

STATE OF WISCONSIN
Plaintiff,

DA Case No.: 2010LC003276
Court Case No.: 2010CF000431

vs.

ERIC G KOULA
DOB: 09/29/1969

Defendant.

**RESPONSE TO
DEFENDANT'S POST-
CONVICTION MOTION**

COPY

The State asks the Court to deny the defendant's post-conviction motion without the need for an evidentiary hearing.

The Defendant's motion should be denied under *State v. Escalona-Naranjo*, 185 Wis.2d 168, 517 N.W.2d 157 (1994), because he does not show any sufficient reason why these claims were not raised previously. In *Escalona-Naranjo*, the issue presented to the court was whether the defendant was prohibited from raising his claim of ineffective assistance of trial counsel in a post-conviction motion under § 974.06, if such claim could have been raised in a previously filed § 974.02 motion and/or direct appeal. *Escalona*, at 173.

The court denied the defendant's motion by reading the plain language of § 974.06(4):

"All grounds for relief available to a person under this section must be raised in his or her original, supplemental or amended motion. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the person has taken to secure relief may not be the basis for a subsequent motion, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended motion."

First, the court stated all grounds for relief under § 974.06 "must be raised in a petitioner's original, supplemental, or amended motion. *Id.* at 181. Second, if the defendant's grounds for relief have been finally adjudicated, waived or not raised in a prior post-conviction motion, they may not become the basis for a § 974.06 motion. The one exception to this is if "the court ascertains that a 'sufficient reason' exists for either the failure to allege or to adequately raise the [constitutional] issue in the original, supplemental, or amended motion." *Id.* at 181-2.

State v. Escalona-Naranjo was readdressed in *State v. Lo*, 2003 WI 107, 264 Wis.2d 1, 665 N.W.2d 756. The court went through a lengthy analysis of the history behind the drafting of § 974.06 and case law that has interpreted it over the years, ending with *Escalona*. It concluded by upholding *Escanola* as good law, stating:

Consequently, we reaffirm our holding in *Escalona* that all claims of error that a criminal defendant can bring should be consolidated into one motion or appeal, and claims that could have been raised on direct appeal or in a previous § 974.06 motion are barred from being raised in a subsequent § 974.06 post-conviction motion absent a showing of a sufficient reason for why the claims were not raised on direct appeal or in a previous §974.06 motion. *Escalona*, 185 Wis.2d 168, 517 N.W.2d 157. *Lo*, ¶44.

Even if the court found there was a “sufficient reason” for the defendant not raising this issue before, his motion should be denied on the merits. He cannot show that his trial attorneys were deficient, or that any claimed deficiency caused any prejudice.

To establish ineffective assistance of counsel, a defendant must show *both* that counsel's performance was deficient *and* that he was prejudiced by the deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). A reviewing court may dispose of a claim of ineffective assistance of counsel on either ground. *Id.* at 697. To prove deficient performance, a defendant must show that his lawyer's acts or omissions were not reasonable under the prevailing professional norms. *Id.* at 688. To prove prejudice, a defendant must demonstrate that the lawyer's errors were so serious that the defendant was deprived of a fair trial and a reliable outcome. *Id.* at 689. Thus, in order to succeed on the prejudice aspect of the *Strickland* analysis, “[t]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id.* at 694.

Trial counsel is presumed to have rendered adequate assistance within the bounds of professional judgment. *Strickland* at 690. Courts should guard against hindsight and give great deference to the judgment of trial counsel. Under *Strickland*, “counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” 466 U.S. at 690.

An attorney's trial strategy is to be given great deference:

Indeed, the Court in *Strickland* went so far as to say that 'strategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable.' *Strickland*, 466 U.S. at 690, 104 S.Ct. 2052. Even decisions made with less than a thorough investigation may be sustained if reasonable, given the strong presumption of effective assistance and deference to strategic decisions. *State v. Carter*, 2010 WI 40, ¶ 23, 324 Wis. 2d 640, 782 N.W.2d 695 (citing *Strickland*, 466 U.S. at 690-91, 104 S.Ct. 2052).

State v. Balliette, 2011 WI 79, ¶ 26, 336 Wis. 2d 358, 805 N.W.2d 334.

In *Balliette*, the Wisconsin Supreme Court addressed a situation where there was no evidentiary hearing, but the trial court found there was no ineffective assistance of counsel.

The court stated that a motion requires some particularity of how the defendant intends to show that his attorney's performance was objectively deficient and how that performance prejudiced the defendant. *Id.* at ¶ 40. A defendant must show how he intends to establish deficient performance at an evidentiary hearing in order for a court to grant one. "The evidentiary hearing is not a fishing expedition to discover ineffective assistance; it is a forum to prove ineffective assistance. Both the court and the State are entitled to know *what* is expected to happen at the hearing, and *what* the defendant intends to prove." *Id.* at ¶ 68.

When a "motion fails to allege sufficient facts, the circuit court has the discretion to deny a postconviction motion without a hearing based on any one of the three factors enumerated in *Nelson*." *State v. Bentley*, 201 Wis. 2d 303, 310-11, 548 N.W.2d 50 (1996). The three *Nelson* factors are: "if the defendant fails to allege sufficient facts in his motion to raise a question of fact, or presents only conclusory allegations, or if the record conclusively demonstrates that the defendant is not entitled to relief, the trial court may in the exercise of its legal discretion deny the motion without a hearing." *Nelson v. State*, 54 Wis. 2d 489, 497-98, 195 N.W.2d 629 (1972).

In *State v. Allen*, 2004 WI 106, 274 Wis. 2d 568, 682 N.W.2d 433, the Wisconsin Supreme Court noted that both pretrial and postconviction motions must state with particularity the factual and legal grounds for the motion, and must provide a good faith argument that the relevant law entitles the movant to relief. *Allen*, at ¶ 10. The court noted further that not all motions require evidentiary hearings, and that the court does not have to hold an evidentiary hearing just because a party asks for one. *Id.*

The sufficiency standard for a postconviction motion is higher than that for a pretrial motion. *Allen, Id* at ¶ 11.

If the Court decides the Defendant's claims are without merit, it follows that his post-conviction attorneys were also not ineffective for failing to raise claims the Court finds without merit.

In *State v. Romero-Georgana*, 2014 WI 83, 360 Wis.2d 522, 849 N.W.2d 886, the question the court was presented with was "whether the defendant is entitled to an evidentiary hearing based on his Wis. Stat. § 974.06 motion alleging ineffective assistance of post-conviction counsel for failing to raise a strong argument for plea withdrawal." *Romero*, at 530.

They first addressed his ineffective assistance of post-conviction counsel. The defendant was alleging his post-conviction counsel was ineffective because they failed to bring a claim he now wishes to assert- basically, that they brought claims, but brought up the wrong claims. *Id.* ¶42. To evaluate this kind of claim (under the deficiency prong of *Strickland*), the court adopted the "clearly stronger" standard from *State v. Starks*, 2013 WI 69, ¶6 ("the defendant must show that 'a particular non-frivolous issue was *clearly stronger* than issues that counsel did present.'" *Starks*, ¶59). *Starks* used this standard to evaluate ineffective assistance of appellate counsel claims; the court here is now adopting it for post-conviction claims as well. They reason that this standard is appropriate when post-conviction counsel raised other issues before the circuit court, thereby making it possible to compare previous arguments to proposed ones now. *Id.* ¶46. However, "the clearly stronger standard may not be adequate when counsel has valid reasons for choosing one set of arguments over another. These reasons may include preferences, even the directives, of the defendant." ¶46.

The court ends this lengthy discussion by coming to the conclusion that, "a defendant who alleges in a § 974.06 motion that his post-conviction counsel was ineffective for failing to bring certain viable claims must demonstrate that the claims he wishes to bring are clearly stronger than the claims post-conviction counsel actually brought (citing *State v. Starks*, 2013 WI 69, ¶6).

Before addressing the Defendant's claims, the State will reiterate the strongest evidence against the Defendant to put the weakness of his claims in context.

1. Dennis and Merna Koula were shot to death on May 21, 2010, a Friday evening, at their home at N3071 Fox Hollow Dr., La Crosse, WI. (6/5/12 at 97; 6/12/12 at 77).

2. The crime scene was "staged" to look like a burglary. Dresser drawers throughout the house were partially pulled out, except for one dresser containing only cookbooks. The contents of the dressers did not appear to have been gone through or disturbed. (6/6/12 at 34-38)

3. Merna Koula, age 65, was shot in the back of her head (6/8/12 at 117-118) while typing at her computer. (6/6/12 at 25). Police were able to conclude the last keystroke she made was at 5:41:52 PM. (6/7/12 at 62).

4. Dennis Koula, age 68, was shot in the head (6/7/12 at 75) apparently while coming home from work. He left work at 4:59 PM in Black River Falls, WI. (6/20/12 at 12). Dennis was found with his jacket on and his vehicle keys in his hand, (6/6/12 at 40) just inside the door from the garage. (6/6/12 at 22). Investigators determined it took about 58 minutes to drive from Dennis' workplace to his home, while driving at or below the speed limit. (6/11/12 at 28).

5. There were no signs of forced entry to the home, (6/6/12 at 17) no signs of a struggle, (6/6/12 at 23) and no valuables missing such as TV's, credit cards, cash, narcotics, or firearms. Dennis' wallet was still on him, and Merna's purse was unopened and contained cash and credit cards. (6/6/12 at 24, 40).

6. Both Dennis and Merna were shot with .22 caliber bullets (6/12/12 at 150, 159) and a .22 caliber rifle was found at the crime scene. (6/6/12 at 31). Only the bullet removed from Dennis was intact enough to analyze, (6/6/12 at 43) and it had the same class characteristics as the rifle, both being identified as .22 caliber and having six lands and grooves with a right hand twist. (6/12/12 at 150, 172-173). The defendant testified he shot at rabbits and raccoons with a .22 caliber rifle and was able to shoot them at a distance of 20 feet or so. (6/19/12 at 109).

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7. On Monday morning, 5/24/2010, the defendant, Dennis and Merna's son Eric Koula, called 911 from his parent's home to report he had found their bodies. (Exhibit #111).

8. On the recorded 911 call the defendant does not ask for an ambulance. (Exhibit #111; 6/19/12 at 14). At trial the defendant admitted discussing four different things with the dispatcher before mentioning his father. (6/18/12 at 316). He testified that he found his mother while speaking to the 911 dispatcher, but admitted he had told police that he saw his mother at the computer first, then called 911 (6/19/12 at 14-15).

9. The defendant knew Dennis' usual arrival time at home from work was 6:00 PM. (6/6/12 at 6).

10. The defendant mentioned going into the dresser drawers that were opened at his parent's house earlier that week to help his mom with laundry, including folding his parents underwear. (6/6/12 at 90, 6/6/12 at 100).

11. The defendant volunteered a receipt for a hanging plant from a Shopko store in Onalaska, WI, indicating he made a purchase at 6:15 PM on May 21, 2010. (6/6/12 at 93, exhibit #507).

12. The defendant told police that Dennis kept a collection of gold coins in a dresser drawer that police never found. (6/6/12 at 95). He described them as 20-25 coins kept in a 9" by 3" box and marked with the word "liberty," and he said that not a lot of people knew about them, not even his sister. (Exhibit #167). Nobody else who testified had ever heard or seen of any gold coins, and later at trial the defendant testified he may have misunderstood whether or not his father actually had these gold coins in 2010. (6/18/12 at 203).

13. The defendant maintained throughout the case he was at the Bridgeview Plaza Shopko store during the time of the murders, looking for a plant for his wedding anniversary. (Exhibit #167). He stated he looked around for a while and could not find

anything he liked, so he drove to the Shopko store in Onalaska where he purchased a hanging plant and kept the receipt. (6/6/12 at 93).

14. Neither the defendant nor his truck were ever seen on surveillance video at the Bridgeview Shopko store at any time on May 21, 2010. (6/8/12 at 96-97).

15. The defendant said on May 21, 2010, he was at 2021 Loomis Street in La Crosse helping a friend grout a bathroom, leaving that location to go look for a hanging plant. (6/5/12 at 92-93). Mike Genz Jr., the friend who he helped, testified that he twice told police that the defendant left between 5:00PM and 5:30 PM. (6/15/12 at 91, 94).

16. Police determined it took 14 minutes and 55 seconds, driving at or under the speed limit, from 2021 Loomis St. to Dennis and Merna's residence on Fox Hollow Drive. (6/6/12 at 106).

17. Police determined it took 10 minutes and 15 seconds driving at or under the speed limit from Dennis and Merna's house on Fox Hollow Drive to the Shopko store in Onalaska where the defendant bought a hanging plant at 6:15 PM. (6/6/12 at 106).

18. On May 27, 2010, the defendant signed a consent form for police to gain access to his bank records. (6/11/12 at 119-121). He testified that on that same day he provided a DNA sample and was nervous about providing that sample. (6/19/12 at 67).

19. The next day, May 28, 2010, the defendant placed a note in his mailbox saying "fixed you" and appeared to be upset when police arrived. (6/8/12 at 193, 195). At trial, the defendant admitted that this was planting false evidence (6/18/12 at 297). The defendant testified that he knew it would hinder the investigation and was designed to keep them from focusing on him and family. (6/19/12 at 86).

20. The defendant testified he knew the "fixed you" note was making the police chase someone who didn't exist. (6/19/12 at 87).

21. In June, 2010, the police discovered that the defendant cashed a \$50,000 check from Dennis Koula's checking account in the morning of 5/22/10 at 9:10 AM.

(6/6/12 at 101-102; 6/7/12 at 39). The check was dated 5/21/10, the date of the homicides. (Exhibit # 106).

22. Jane Lewis, a handwriting analyst from the Wisconsin State Crime Lab determined it was not Dennis' signature on the check. (6/11/12 at 78). Ms. Lewis determined the signature was a "simulation" written slowly and re-traced to make it look like Dennis' signature. (6/11/12 at 76-78).

23. The defendant admitted that he started lying the first time he talked to police on May 24, 2010, when he didn't tell them about the \$50,000 check (6/18/12 at 309). The defendant did not mention having the check in any of his subsequent interviews; not until his final police interview on July 29, 2010, did he admit having the check, and that was only after he knew police had his bank records (6/19/12 at 28-29). He stated four times during that interview that Dennis was the person who signed the check (6/19/12 at 29), and that Dennis had signed the check and given it to him to fill out the rest (6/19/12 at 30).

24. At trial the defendant changed his story to say that he signed the check, but had permission from his father, and he admitted that he repeatedly lied to police about his father having signed the check. (6/19/12 at 27). He admitted that he did not tell police that his father had given him permission to sign the check (6/19/12 at 31).

25. The defendant first claimed that the reason he didn't deposit the check on Friday, May 21, 2010, was that he was too busy to go to the bank (6/18/12 at 168; 6/19/12 at 39). But later, he admitted that he drove right past his bank on three occasions during the afternoon of May 21. (6/19/12 at 42).

26. Until July, 29, 2010, after two months of investigation, the defendant never mentioned getting a check from his father or cashing any check during interviews with police. (6/11/12 at 155). He also did not mention the check to his wife (6/18/12 at 168-69).

27. When confronted about the check on July 29, 2010, the defendant told investigators that he didn't tell them about the check sooner because he thought it didn't matter. (6/19/12 at 26). He then stated at trial that he started lying about the check because he thought it wouldn't make him look good. (6/19/12 at 25-26).

28. At trial, the defendant admitted that at the time he started lying about the check, only the killer knew what time his parents had died (6/19/12 at 44), and that if his parents had been murdered on Saturday night or Sunday, his cashing the check on Saturday morning would not have made him look guilty at all. (6/19/12 at 44).

29. On May 24, 2010, the defendant told police that he was doing well financially and he was up \$40,000 for the year. (6/6/12 at 100).

30. In May of 2010 neither the defendant nor his wife had any income other than trading options. (6/18/12 at 252). The defendant agreed that he was not successful at day trading. (6/18/12 at 269).

31. Even in 2009, the defendant was in rough shape financially; he had spent or lost in trading all of the money his father had given him (6/18/12 at 262). In 2009, the defendant obtained a \$3,000 loan on his vehicle at 150% interest. (6/14/12 at 54). He admitted that this was "a little desperate." (6/18/12 at 264). In 2009 and 2010, the defendant was making credit card cash advances at high interest rates. (6/13/12 at 256-258).

32. At approximately 4:00 PM on Thursday, May 20, 2010, the defendant made a call to his Discover Card on May, 20, 2010, asking for a cash advance on his credit card. (6/11/12 at 126). The defendant made a phone call at 12:08 PM on Friday, May 21, 2010, to Options Express to talk about a check that had bounced. (Exhibit #216; 6/11/12 at 129).

33. The defendant claimed that his father was going to pay him money that he supposedly lost in a bankruptcy proceeding involving Valley View Ford Reinsurance (VVFRE). (6/11/12 at 156). The state's financial expert Mary Jo Werner disputed the

defendant had lost any money, and no corroboration of the defendant's claims that Dennis agreed to pay any amount to the defendant was ever found. (6/13/12 at 271).

34. When confronted about the check, the defendant tried to explain it by saying it was money from an account relating to VVFRE, but he admitted that there was only his word for that, and there was nothing to corroborate that statement. (6/19 /12 at 47-48).

35. The defendant's total credit card balance in May 2010 was \$34,715. (6/13/12 at 255).

36. The money available in the defendant's bank accounts was \$1,342 in May, 2010. (6/13/12 at 240).

38. The defendant admitted that in 2010 the world looked scary to him from an economic standpoint. (6/18/12 at 292). He admitted that on May 21, 2010, he needed money and he knew it. (6/19/12 at 149).

Turning to the Defendant's various claims, the State will try to address them in order. It may be somewhat repetitive given the order of his motion and some issues appear to be numbered inaccurately.

In his "BACKGROUND" section the defendant raises a few issues:

1. The Defendant re-argues an issue from trial that a witness, Jeff Elliott, provided testimony contrary to the State's case. This evidence was heard and rejected by the jury for whatever reason they saw fit, and the Court doesn't need to consider this testimony again.
2. That there is an unnamed expert that allegedly came to a conclusion about a partial fingerprint on the gun. No expert is named in his motion and nothing is submitted from any expert. In any event, that evidence is cumulative since no DNA or fingerprints linked the Defendant to anything in the house including the gun. The State's fingerprint expert

only testified that there was a partial fingerprint on the gun not suitable for examination.
(6/11/12 at 20.)

3. That a rifle was displayed throughout the trial, but the State is not sure what that means. The gun was introduced into evidence, but there is nothing in the record to indicate the gun was shown to the jury more than needed or displayed in any unusual way.
4. That the State lied about the existence of audio on a video exhibit played to the jury. The Defendant apparently learned after trial that a video of the crime scene had audio on it. The prosecutor obviously was informing the jury, the Court, and the court reporter there was no audio so nobody would be expecting any sound. There was no intention to make anyone think otherwise. (There would be no reason – the defense would have a copy of the recording as well.) This is a minor point, and when taken in context of the evidence against the Defendant it is of such low probative value as to be irrelevant.
5. The Defendant then talks about a number of things he calls “improper activity” by law enforcement or the State.

(a) That Chief Deputy Jeff Wolf mishandled evidence by splitting a block of wood in half and moving it from its original position. This was obvious from the testimony, and the State can't find any reference accusing the defendant of hiding any evidence. The State has no idea what this means or why it matters. (6/8/12 at 163).

(b) The Defendant has compared a photo of his truck – used to show the size of the truck to be watched for on the Shopko video - to a different photo not introduced into evidence. The testimony of Mr. Lenz, who testified he thought he saw a truck at the victims' residence, was weak and not central to any issue in the State's case. It wasn't clear Mr. Lenz even saw a truck, much less the color, and the photo and Lenz' testimony were never presented together.
(6/7/12 at 26 and 30)

(c) The Defendant complains the photo of a key in a door at the crime scene was misleading. But from the testimony the key was clearly put there by the police for safekeeping and the State never argued otherwise. (6/6/12 at 176.)

(d) Multiple "deceptive actions." including:

1. That Sgt. Blokhuis testified falsely about receiving a computer on May 25, 2010. But his testimony was that he received it on May 26, 2010. (6/7/12 at 45.)

2. That Sgt. Blokhuis testified falsely about a document, but the attachment noted was never introduced into evidence and not testified about. It isn't clear what the importance of this fact would be.

3. That cigarette butts and floor mats were not analyzed. It isn't clear what would that prove.

4. That the police failed to swab certain items for DNA. This is not "deceptive" and also not clear what it would prove.

5. That a chain of custody form was filled out wrong. The State has no idea what this is and it appears it was not introduced into evidence.

6. That DCI agent John Christophersen testified falsely about performing a driving test. There is no indication what part of his testimony is false, and there were other witnesses, including the defense expert Max Scott, who also drove that route.

7. That ShopKo wasn't the closest place to buy flowers by about a mile. This is such a minor point it is irrelevant. There is no dispute the Defendant went to the Onalaska ShopKo, and the State and Defense were free to make whatever arguments they wanted about his reasons for going there consistent with the evidence.

8. That some of the roads the Defendant drove that day were under construction in May of 2010. The State is not sure what the Defendant is referring to or what the importance would be of this.

9. That there was deception over how the Defendant found his father's body. It isn't clear what the Defendant means, but the jury heard his own explanation of this event during his testimony.

10. That the police failed to transcribe some interviews with witnesses that did not testify. The recorded interviews were obviously given to the defense and whether

there was a transcript or not, the interviews were received in discovery, and the subjects of these interviews were not witnesses in trial.

At page 13 of his motion, the Defendant shifts his focus to the financial evidence and says at a hearing he can provide proof of a number of issues:

1. Proof he did not receive \$500,000 in 2006. There isn't a claim the State has found that he did. The State's expert, Mary Jo Werner, says in 2007 he received \$500,000, but nothing about 2006. (6/13/12 at 264)
2. Proof he did not lose \$100,000 in 2010. The Defendant admitted that most of the \$100,000 was lost or spent. (6/15/12 at 288). Also, that he essentially was out of money in May of 2010. (6/15/12 at 295).
3. That he was generating an income in 2010. He testified about his income status at length at trial.
4. That he was still scheduled to receive a payment from his dad. The Defendant already testified to this at trial at length.
5. That the communications for his credit card was not for a cash advance. The jury heard a recording of his phone call with his card company and judged it for whatever it was worth. (6/11/12 P. 126- 129).

In no particular order the Defendant makes a few other random claims:

1. That the State was allowed to place undue weight on his fake note. It is not clear what "undue weight" is, but the State appropriately argued his planting of false evidence was important evidence of his guilt.
2. That Tim Placek of Shopko told an investigator about previous years and the placement of cameras. The State isn't sure how that helps the Defendant or why it is important.
3. That the Defendant didn't say anything about a receipt before it was known Friday was the day of the murders. The record is clear he told police the first day of the

investigation, Monday, May 24th, that he still had the receipt and he lied about the check on that same day. (6/15/12 at 309).

At page 18 of his motion the Defendant starts a long discussion about what he considers *Denny* evidence. The admissibility of this kind of evidence is determined under the principles set forth in *State v. Denny*, 120 Wis. 2d 614, 357 N.W.2d 12 (Ct. App. 1984). There the court noted that “evidence that simply affords a possible ground of suspicion against another person should not be admissible. Otherwise, a defendant could conceivably produce evidence tending to show that hundreds of other persons had some motive or *animus* against the deceased—degenerating the proceedings into a trial of collateral issues.” 120 Wis. 2d at 623-24. The court held that in order for evidence of a specific third party perpetrator to be admissible, there needs to be evidence of motive, opportunity and a “legitimate tendency,” that is, evidence to directly connect a third person to the crime charged that is not remote in time, place or circumstance. 120 Wis. 2d at 624.

The Defendant spends a great deal of time focusing on the argument that this trial attorneys should have filed a *Denny* motion to introduce evidence that another suspect committed the murders. First, the defense did try to introduce most of the evidence outlined in his brief by way of motion heard on 3/19/12. (3/19/12 at 26-33). The Court addressed all of the issues and inquired if there would be a *Denny* motion. The defense wanted to argue Pat Cowell was an alternative suspect of Dennis’ statements of cutting off kids, and that the law enforcement didn’t focus on Pat Cowell. The Court made rulings and indicated without a *Denny* motion any further evidence would not come in.

Second, the trial attorneys clearly rejected pursuing that *Denny* evidence further as evidenced by the fact their trial strategy was to argue a hit man got the wrong house.

If a *Denny* motion had been filed it would have been denied. The Court had already found that most of the evidence irrelevant, and also the alternative suspect (Pat Cowell) has an alibi for the night of Friday May 21st. The attachments to the Defendant’s motion (various police reports) show that Cindy Cowell was in La Crescent, MN, or the South Side of La Crosse buying different items, and unlike the defendant she was seen on surveillance video. Pat Cowell said he was at home with their daughter Jossie, and then joined by Cindy for the night. Jossie corroborates that statement. The three of them

14

corroborate each other's alibi for the night, and there is no "legitimate tendency" to show Pat or Cindy had the opportunity to drive to the victims' home on that Friday night.

Given this obvious and so far steadfast alibi, it made sense why the trial attorneys did not file a *Denny* motion to argue there was a legitimate tendency for either of the Cowells to be alternative suspects. The other arguments the Defendant makes about motive weigh as much against the defendant as do the Cowell's – he was also broke, he had no alibi for the time in question, he was not seen on video where he should have been, and he forged a \$50,000 check and lied about it to police. Although the Defendant claims the State has never shown him to be violent and capable of murder, on June 27, 2012 the Defendant was convicted by a jury of two counts of homicide.

The Defendant's ARGUMENT section is mostly repetitive of claims he already made:

- a. *Denny* motion – see above argument.
- b. The time of death was not correct. The Defendant relies on an affidavit from a woman who examined his hard drive to claim the time of death of 5:41 PM on May 21, 2010 is not accurate. However, in her affidavit there is no dispute the last manual keystroke was made at 5:41 PM. She speculates about other scenarios (such as Merna getting up and walking around) but there is nothing to indicate the time of death is wrong.

Even without the computer time, there is strong circumstantial evidence that both victims were killed on Friday evening before 6:00 PM. A good friend of Dennis' testified he left a voice mail and e-mail for Dennis Friday night and got no response. There were mail and newspapers from the weekend not picked up, indicating Friday night was the time of death. Finally, the fact Dennis was found in work clothes, with a water bottle and car keys under him corroborates that he did not get home, do something else for a few hours; then walk back out with car keys, jacket and water bottle while his wife went to sit at the computer with a killer in the house with her. (6/15 at 30) (6/11/12 at 145 –146).

- c. That the dimensions of the room prevented Merna from being shot from behind. The Defendant doesn't understand that the diagram he references shows a doorway opening -

not a solid wall - behind Merna. The Defendant could have just stood in the hallway outside the open doors to the room.

- d. Fingerprint analysis – see above argument.
- e. Repeated display of gun – see above argument.
- f. Financial evidence – see above

Finally, in one of his exhibits, the Defendant makes an odd observation that there is a photo that proves that the victims did not attend any graduation parties that weekend. The only reason the police believed that they did go to graduation parties that weekend is because the Defendant on multiple occasions said Dennis told him that. (See 6/15/12 at 132, 6/19 at 71 and 72). If there were in fact no such graduation parties as the Defendant now claims, then Dennis would not have said that to the Defendant. That means either the Defendant lied about that conversation just to create a reason why he did not see his parents that weekend, or something else the State can't reason. Either way, it has very little to do with the defendant's arguments.

The Defendant also attaches Exhibit "Z" which apparently is meant to show he had money in January of 2010 in his Options account. Of course the important date would be May of 2010 after the Defendant lost all that money. It isn't clear what this exhibit is supposed to show.

In Conclusion, there is no "sufficient reason" all these claims were not raised in the Defendant's first post-conviction motion and his motion should be denied. Even if the Court can find there is some sufficient reason, all of his claims are without merit and are not "clearly stronger" than his prior post-conviction issues.

Respectfully submitted,

Tim Gruneke

STATE OF WISCONSIN,

PLAINTIFF

CASE No.10-CF-431

v.

ERIC G. KOULA,

DEFENDANT

REPLY TO STATE'S RESPONSE TO DEFENDANT'S
POST CONVICTION MOTION

- 1) Mr. Koula most respectfully requests that the matter be scheduled for an evidentiary hearing in order that the record may be fully and accurately developed in respect to the issues raised in his motion. Mr. Koula's motion and supporting affidavits set forth in detail how Mr. Koula intends to establish deficient performance on the part of counsel. The motion raises a number of significant factual issues which should not be resolved without an evidentiary hearing. Indeed, the assertions of the motion are to be taken as true for the purposes of this determination (contrary to the State's position herein). The State cites the Balliette case, but the Balliette case supports Mr. Koula's position -- not the State's position. In Balliette, the defendant merely "pointed to issues post conviction counsel did not raise" without providing the factual and legal reasons why those issues should have been raised. In that case, The Supreme Court described the evidentiary hearing as an "important intermediate step" in the process but fully acknowledged that the motion was

required to contain all of the proof necessary to show the defendant was entitled to a new trial. If the law required that, there would be no need for evidentiary hearings as the motion could simply be decided on the paperwork. While there are some instances that an evidentiary hearing is unnecessary (as in Balliette where the defendant simply makes conclusory allegations by pointing to the issues) such hearings are not to be denied where the motion sets forth specific allegations and raises multiple factual issues. The State's strong (but legally unjustified) resistance to this important step in the process is very curious.

- 2) The first several pages of the State's response appear to be boilerplate in nature. The State provides citations to the usual cases on which the State customarily relies to argue in favor of a procedural bar. These cases collectively support such a disposition where the defendant fails to show a sufficient reason why the claims were not raised previously. However, both the Federal and State courts have made it perfectly clear that post conviction counsel's failure to raise important issues constitutes a sufficient reason. State ex. rel. Rothering v. Mc Caughtry , 205 WIS. 2d 675, 556 N.W. 2d 136 (ct. App. 1996); Mason v. Hanks , 97 F.3d 887 (7th Cir. 1996). Mr. Koula's motion includes a discussion of these cases and alleges with great specificity that post conviction counsel unjustifiably failed to raise multiple issues that were obvious and very strong -- and includes a very lengthy and detailed discussion of those issues, together with the factual and legal bases in support of same. Under these circumstances, a procedural bar is wholly

inappropriate. Once again, the State's position flies in the face of very clear State and Federal case law. The State's reason for taking such a position in this matter is very curious.

- 3) The State cites to State v. Starks , 2013 WI 69, and notes that the court adopted the " clearly stronger " standard. The State then provides absolutely no discussion of what the " clearly stronger " standard actually means. The State notes that the reason for the standard is to make it possible to " compare previous arguments to proposed ones now." The State then fails to even identify the previous issues raised by Mr. Koula's post conviction counsel, let alone provide any sort of comparison or qualitative analysis. In fact, the State's entire position consists of the conclusory remark that " all of his claims are without merit and are not clearly stronger than his prior post conviction issues." Of course, the State previously took the position that the issues previously raised were extremely weak (and, in fact, groundless). The Court of Appeals agreed. The issues raised by Mr. Koula, however, are substantially stronger and entirely supported by the law. If proven at an evidentiary hearing, Mr. Koula will be entitled to a new trial. Once again, the State has taken position that flies directly in the face of well-established law. The State's efforts to wrongly deprive Mr. Koula of the appropriate review of his conviction as recognized by both State and Federal courts, is highly curious.
- 4) The State then goes on to devote the next several pages of its brief to the prosecutor's viewpoint of the case it made against Mr. Koula. This section of the State's response contains nothing new

and nothing especially pertinent to any of the issues raised by Mr. Koula. If Mr. Koula had raised the issue of "insufficiency of evidence," the State's response would be appropriate. That is because the standard for review would have been the required that the evidence be considered "in a light most favorable to the State." But Mr. Koula's motion did not raise a "sufficiency of evidence" issue. So the State's tacit assertion that the court must treat the evidence in a light most favorable to the State for purposes of deciding the issues raised in Mr. Koula's motion is wholly inappropriate and legally erroneous. Why would an individual charged with the responsibility of prosecuting and imprisoning people make so many legally erroneous arguments in an effort to improperly and prematurely shut down a legitimate review of the conviction in question? The State's position is highly curious, to say the least.

- 5) Contrary to the State's position, even the prosecutor's summary of what he describes as "the strongest evidence" against Mr. Koula is anything but strong. Had the misleading tactics of the prosecutor and law enforcement been revealed to the jury by defense counsel, and had defense counsel properly presented the issues identified in Mr. Koula's motion, the State's case would have been shown for what it really is -- an extremely flawed effort to portray Mr. Koula as a cold-blooded killer who took the lives of the people he loved the most by shooting them in the head. The State lists 38 "pieces of evidence" to support its position. Not one of those enumerated paragraphs actually connects Mr. Koula to these horrific

crimes. The State's summary only highlights the indisputable fact that law enforcement and the prosecutor believed Mr. Koula must have been guilty based on the \$50,000.00 check and the "fixed you" note. For if those two items are removed from the State's summary of the "strongest evidence," the State is left with virtually nothing from which to argue that Mr. Koula murdered his own parents.

6) Mr. Koula has asserted in his motion that his trial counsel's handling of those two pieces of so-called evidence was seriously deficient in a way that greatly prejudiced Mr. Koula. First, counsel could and should have introduced supporting, persuasive evidence demonstrating that (1) Dennis fully intended to honor his word and give Mr. Koula the \$50,000.00 and, because in fact, it was proven he had given Mr. Koula much more than that previously, and that Dennis had never once refused (or would refuse) to provide Mr. Koula with financial assistance when needed; and (2) the fact that Dennis was willing to give this money to Mr. Koula but not to Cindy and Patrick is the truly significant fact because it was obviously the final straw in Patrick's eyes. This is what the evidence clearly shows when all of the evidence is truthfully and accurately taken into account.

7) The person who murdered Dennis and Merna must have been filled with such hatred toward them that he was willing to walk into their house and shoot them in the head. There is not a person on the earth who has ever said (or would ever say) that Mr. Koula did not love his parents deeply or that they did not feel exactly the same way toward him. Indeed, every single piece of evidence in this

world proved that Mr. Koula and his parents had a loving and trusting relationship. The relationship between Dennis and Merna and Patrick Cowell was just the opposite. This is irrefutable and so is the fact that Patrick lied about it to the police.

- 8) The person who murdered Dennis and Merna must have been capable of holding a gun to a person's head and killing them. There is not a shred of evidence in this world to suggest that Mr. Koula is such a person. There is, however, direct and irrefutable evidence to show that Patrick Cowell is exactly such a person.
- 9) The State argues that evidence of financial motive cuts both ways, but nothing could be further from the truth. There is direct and indisputable evidence that Dennis told his daughter that he was cutting them (Cindy and Patrick) off financially. There is no ~~any~~ evidence to support the argument that Dennis ever made such a statement to Mr. Koula. Even more importantly, there is an abundance of evidence to show that the disparity in the way Dennis treated Mr. Koula (as compared to Cindy and Patrick) was a tremendous point of contention between Patrick and Dennis. Indeed, all of the credible evidence that should have been but was never presented shows that their relationship had severely deteriorated and that the situation between Dennis and Patrick was really "heating up" just prior to Dennis and Merna's deaths " (Dennis' own words to his colleague). In fact, Dennis' own brother Leroy Koula told police that they should be looking at Patrick Cowell as a suspect and interviewed with the news. The only evidence relative to Mr. Koula is that Dennis always spoke with the highest regard about

him, trusted him implicitly, and would do anything for him. It is indisputable that Dennis told his colleague that, from a financial standpoint, he treated Mr. Koula very differently.

- 10) It is very telling that the State avoids the issue of Patrick Cowell like the plague. In fact, the State does not even mention the issue until the last couple pages of its response. And when it does, it does so in a way that is completely disingenuous and both factually and legally erroneous. First, the State attempts to simply deflect the issue by suggesting that evidence which merely affords a possible ground of suspicion against another person should not be admissible as this could conceivably produce evidence tending to show that hundreds of other persons might have been responsible. The problem with the State's position is that this is not at all applicable to Mr. Koula's motion respecting the evidence against Patrick Cowell. Mr. Koula has never suggested that evidence relating to every (or any) person with some possible motive or animus toward Dennis and Merna should have been introduced at trial. Mr. Koula fully agrees that, were that to happen, proceedings could degenerate into a trial of collateral issues. But that is not, and never has been, Mr. Koula's position.
- 11) Next, the State falsely asserts that the defense did try to introduce " most " of the evidence outlined in Mr. Koula's motion. This assertion seems to take things to a whole new level. The prosecutor is directly misrepresenting the record in an effort to deprive Mr. Koula of rights afforded him under both State and Federal law, as well as the U.S. Constitution. Anyone can read the record

in this matter (and specifically defense counsel's efforts to pursue a Denny motion or introduce evidence relative to Patrick Cowell) and compare that record to Mr. Koula's motion. Any comparison will demonstrate unequivocally that the defense did not try to introduce most of the evidence outlined in Mr. Koula's motion. In reality, the record indisputably shows that the defense did very little in respect to the introduction of evidence relative to Patrick Cowell and, at best, sought to introduce a fraction of the evidence outlined in Mr. Koula's motion (and even that was not in connection with a Denny motion). It is impossible to overstate the significance of the prosecutor's explicit misrepresentation of the record in this regard.

- 12) The fact that the Court ruled that, without a Denny motion, evidence relating to Patrick Cowell would not come in only supports Mr. Koula's assertion that trial counsel provided ineffective assistance by failing to properly investigate and file such a motion in this case. Had defense counsel thoroughly reviewed all of the actual interviews (not merely the transcribed reports), and had defense counsel properly investigated the matter in respect to Patrick Cowell, defense counsel would actually have been in a position to file a Denny motion and seek to introduce all of the evidence outlined in Mr. Koula's motion. The fact that defense counsel did try to introduce some evidence relative to Patrick Cowell on a different issue (statements by Dennis about cutting off the kids) further supports Mr. Koula's position on this issue. For it evidences defense counsel's lack of investigation and analysis.

Had defense counsel simply done the investigation Mr. Koula has done, they would have been able to argue for the introduction of much, much more (and far more compelling) evidence relative to Patrick Cowell. The fact that they failed to do so is unequivocally demonstrated by the record and cannot possibly be justified in this case.

- 13) The State goes on to take the absurd position that defense counsel considered and rejected pursuing a Denny motion and that it was a strategic decision to do so (and to instead argue that a hit man got the wrong house). First of all, the State's entire argument in this respect consists of a single sentence. It is entirely conclusory in nature and completely unsupported by any evidence whatsoever. In other words, the prosecutor is now pretending that he knows something factually that he doesn't know at all. Secondly, both Federal and State law make it very clear that defense counsel cannot take the position that it was trial strategy when the record shows that counsel failed to properly investigate. And this only makes sense -- but apparently not to the prosecutor who is perfectly willing to manufacture a non-existent trial strategy on behalf of the defense counsel (without even a single word of testimony from them by way of an evidentiary hearing). Thirdly, both State and Federal law clearly establish that counsel's decision to pursue one possible theory of defense does not excuse counsel's failure to properly investigate and pursue other possible theories of defense. Mr. Koula's motion asserts that, in view of all of the evidence, the hit man defense actually pursued by counsel was

considerably weaker (although plausible) than the defense they could and absolutely should have pursued relative to Patrick Cowell.

- 14) The State then takes the position that it knows how the Court would have ruled had counsel properly investigated and properly filed a complete and thoroughly--documented Denny motion. The State does this without any meaningful discussion of the evidence raised in Mr. Koula's motion and after claiming (falsely) that the defense did try to introduce most of the evidence outlined in Mr. Koula's motion. Because most of the evidence outlined in Mr. Koula's motion has never been presented previously, Mr. Koula respectfully submits that the important intermediate step of an evidentiary is necessary in order that this evidence may be fully and properly presented. It is only then that the Court will fairly be in a position to consider and evaluate this evidence in the context of Mr. Koula's assertion that a Denny motion should have been (and was not) properly investigated, analyzed and pursued.
- 15) If misstating the record by suggesting that the Court had already found " most " of the evidence irrelevant (even though a Denny motion was admittedly never filed) weren't enough, the prosecutor goes on to misstate the actual record in order to create a " steadfast " alibi for Patrick Cowell where no such alibi exists. The prosecutor's representations in this regard are problematic at many different levels. First, the prosecutor's representation that Patrick Cowell has an alibi for Friday night is untrue. The actual interviews (not just the typed police reports) show that Patrick

does not have an alibi. It is not truthful nor accurate to say that Patrick, Cindy and Jossie " corroborate each other's alibi for the night, " as the State suggests. The three of them give completely different statements about that Friday. For example, Jossie tells the police that Patrick's friend, Linc, was at their house on Friday when she got home. Neither Patrick nor Cindy make any reference to this (although we do know that an independent witness, Jeff Elliot, is 100% certain that he observed 4 people in Dennis and Merna's Driveway that Friday evening and was almost positive that two of them were Dennis and Merna). Jossie does not corroborate Patrick's alibi and it is not at all clear why the prosecutor makes this bold but false representation to the Court. Jossie told police that she got home from school around 2:45p.m. She says she did her homework and then went to friends house (Julia). At no time does she provide an alibi for Patrick apart from her arrival at home at 2:45pm. Both Cindy and Patrick give accounts of that Friday which conflict in multiple respects. Accompanying this is an Affidavit of Eric Koula which includes a synopsis of some of the conflicting, contradictory and falsified statements made by Cindy and Patrick in their interviews with the police. Most of this information was omitted from the police reports. As merely some examples:

- . In her 5/26/10 interview, Cindy states that she got home around 5:30 or 6:00 pm. The reports reflect, however, that she was seen on a video leaving Quillians parking lot at 5:18 pm. The drive time to their home from the store was one minute (per police

- report). The drive time (per police report) from the Cowell's to Dennis and Merna's house is 14 minutes. That could put Patrick at Dennis and Merna's house by 5:35pm.
- . No one actually accounts for Patrick's whereabouts at any times other than 2:45pm (Jossie) and 5:19pm (Cindy). All other statements are very general and conflict with other statements.
 - . No one accounts for Patrick's whereabouts at the time Jeff Elliot observed four people standing in Dennis and Merna's driveway.
 - . In her first interview (5/24/10), Cindy states that she got home and fed Jossie dinner and then Jossie went and played. She then states "And then, what else did I do Friday night? We watched a show, but I can't remember if we watched a show or not. We have a TV where Pat has his XBOX set up. And then we have a TV set up in Jossie's room." Patrick never says anything like that and claims he was playing XBOX all day and night.
 - . In her next interview (5/26/10), Cindy gives a different description of Friday night stating "and then I came home, and I think we may have played a game of scrabble outside and watched TV, then I got tipsy....". Patrick says nothing about playing scrabble.
 - . In her 5/26/10 interview, Cindy denied that her father expressed any concerns about anyone and withheld information about Dennis' decision to cut her and Patrick out financially, as well as the fight she and Patrick had that very day (Friday). The fight was undeniably significant and left Cindy in tears.
 - . In his 5/24/10 interview, Patrick denied that he and Dennis had any problems whatsoever. This was a very dishonest statement to

to the police (and one that can easily be shown to be a blatant lie).

- . In both his 5/24/10 and 5/26/10 interviews, Patrick specifically stated that he stayed home on Friday and did not leave the house. We know this was untruthful and we know he went to Ernest Smith's house and cancelled plans to go to a football game with Ernest that Friday night. Patrick never mentioned any of this to the police.
- . Both Patrick and Cindy make various and conflicting statements about what they did for dinner, after dinner, and during the course of the evening. In his 5/26/10 interview, the police asked Patrick "Alright, and she gets home from work. What happens next?" Patrick responds " Eee, Umm, she usually reads, sits on the bed... she may have a beer and read her books..." Both Patrick and Cindy describe themselves as being sick or not feeling well that night, or describe Cindy as having to much to drink and going to bed and snoring so loud that Patrick slept on the couch (in another interview he says that he got out of his bed on Saturday morning).

The State's claim that Patrick has an alibi is a very bold position of advocacy on Patrick's behalf, but a position that falters very badly upon even the slightest amount of scrutiny. Moreover, it is indisputable that Patrick felt compelled to lie about his alibi on National TV when he stated that police had tested his XBOX and confirmed that he was playing at the time of the murders (something Patrick knew was impossible and untrue). If he really had a steadfast alibi, he would have had no reason to lie.

16) Mr. Koula's motion is already very lengthy, but it does not list or include every single piece of evidence which has a tendency to implicate Patrick Cowell. For example, Patrick and Cindy's neighbors (The Harders) told police that since the deaths of the Koula's that both Cindy and Patrick have been partying all night, Cindy was heard laughing and they thought that this particular behavior was unusual for someone grieving the deaths of their parents. SEE EXHIBIT "BD". Patrick's uncle, Ronald Pegg, stated to the police that he was told by his daughter that Dennis and Merna were shot in the head. Mr. Pegg stated that his daughter heard it from her aunt who heard from Patrick's mother. SEE EXHIBIT "BB". The police reports and interviews, however, appear to show that Cindy and Patrick were told that Dennis and Merna were shot, but not told that they were shot in the head. This would seem to be a fact that only the killer would have known at the time. See EXHIBIT "U" 1 of 7.

The list of evidence that strongly links Patrick Cowell to the deaths of Dennis and Merna goes on and on. It is so perfectly obvious from a reading of the actual police interviews that Patrick is being extremely sneaky, extremely evasive and extremely untruthful. Contrary to the prosecutor's bold statement, Patrick does not have a credible alibi. Indeed, the circumstances surrounding his so-called alibi actually present rather strong evidence of guilt -- not innocence. Moreover, the so-called alibi suggested by the State (but unsupported by the credible evidence) would never hold up in a courtroom before a jury. When the Totality of circumstances are considered, the evidence against Patrick Cowell is overwhelming.

17) While the State makes the conclusory statement that there is no "legitimate tendency" showing with respect to Patrick, the actual evidence says otherwise. Conspicuous by it's absence from the State's response is any discussion (not even a passing reference) to 99% of the evidence connected to Patrick Cowell. To this day, the State has never truly weighed in on this evidence in any meaningful way. If the case against Patrick was truly weak, the State would immediately acknowledge the evidence and address it head-on. Here, the State does just the opposite. His response is drafted in such a way as to avoid any discussion of the evidence, including:

- . Patrick's history of violence which includes holding a gun to his wife's head (precise method of killing in this case);
- . Patrick's pathological dishonesty and severe anti-social traits;
- . Patrick's horrible relationship with Dennis, one that was rapidly descending even further in the weeks leading up to the murders;
- . Dennis' perception that Patrick would not react well to the news that Mr. Koula was being treated very differently from a financial standpoint;
- . Dennis' conversation with Cindy just prior to the murders and the fight that ensued between Cindy and Patrick on the day Dennis and Merna were killed. The fact that Patrick subsequently cancelled plans to attend a football game that very night;
- . Patrick and Cindy's withholding of hugely important information from the police, while Patrick repeatedly peppers the police with one piece of trivial nonsense after another and actually seeks to implicate others in the crime;

- . Patrick's "very odd" and disturbing behavior (as described by his neighbors) on Monday May 24th, as well as his utter lack of sympathy to others, one of which he displayed at Dennis and Merna's funeral;
- . Patrick's incessant dishonesty with the police, and conversations with family members about details of Dennis and Merna's death that it would seem only the killer would know;
- . The fact that Cindy's key to Dennis and Merna's house was missing immediately after the murders;
- . The fact that Patrick chain smokes Camel cigarettes and Camel cigarette butts were found at the scene;
- . Unusual behavior between Patrick and Cindy during a police interview which lead Cindy to become hysterical and communicate her belief that she and Patrick were about to be arrested;
- . Patrick's need to tell a bald-faced lie on National TV in order to create the perception that he had an air-tight alibi when, in reality, he had no such thing.

The State's deliberate avoidance of the mountain of evidence against Patrick Cowell speaks volumes.

- 18) The State's response to Mr. Koula's assertion that he is anything but a violent person and wholly incapable of taking the life of another human being-- let alone two people in the world he cared about the most-- is to say " the Defendant was convicted by a jury of two counts of homicide." The problem with the State's position would seem to be self-evident. Mr. Koula has asserted that he was wrongly convicted. Had the jury been presented with the evidence

raised in Mr. Koula's motion, he would not have been convicted. So, the prosecutor's logic is circular. In essence, he argues that Mr. Koula was not wrongly convicted because he is a violent man who is capable of murder, the evidence of that being his conviction. Unlike Patrick Cowell, there is not a single person who would testify that Mr. Koula was violent or capable of murder at any time in his life (all descriptions would be just the opposite).

- 19) The State is at a loss in responding to the Affidavit of Laurie Juedes and the assertions of Mr. Koula's motion relative to the "time of death" issue. First, Ms Juedes' qualifications and training meet or exceed that of Sergeant Blockhuis. Second, there is no question that Sergeant Blockhuis got it wrong and that erroneous information was presented to the jury on the matter of key importance. Third, it is indisputable that without Sergeant Blockhuis' erroneous testimony, the State's entire case is called into question. This raises serious factual issues that the prosecutor does not even attempt to address.
- 20) Instead, the prosecutor chooses to take the position that even without Blockhuis' testimony "there is strong circumstantial evidence that both victims were killed on Friday evening before 6:00 pm." This is a preposterous statement. The fact that Dennis did not return a phone call is not evidence that he was murdered before 6:00pm. The State's position that there were newspapers in the mailbox that were not picked up is based on Lienfelder's testimony. Lienfelder testified that he had collected three newspapers and mail from the mailbox that morning of the 24th of May.

That the newspaper from Saturday May 22nd was one of the papers. He wrote a police report about this. EXHIBIT "BI". The rural paper delivery person (Tammy Houlihan) was interviewed and she stated that when she delivered the Monday paper that the Sunday paper was in the box but she didn't think that the Saturday was. EXHIBIT "BH". She delivers the paper between 4 and 4:30am in the morning. Crime scene photograph taken on Monday, May 24th, in the afternoon by DCI S/A Powell backup Ms. Houilhan's statements and directly contradict Lienfelder's sworn testimony. See EXHIBIT "BT" which includes a zoomed in photo of the mailbox with the papers in it in the afternoon hours, a further zoomed in photo of the two papers in the box and a time stamp of when the photo was taken by DCI S/A Powell on the 24th of May at 2:35pm. EXHIBIT "BK" and EXHIBIT "BL" reference times to when the officers were at N3071 Fox Hollow Drive. Parenthetically, both the prosecutor and the defense counsel had the photographs, the reports as well as Ms. Houlihan's statement's -- but neither were presented to the jury-- and the prosecutor instead presented Lienfelder's false testimony (which went uncorrected by defense counsel). Finally, the State says that Dennis was found in work clothes but this is a fact created by the prosecutor. There is no evidence that Dennis was wearing the clothes he wore to work that day, and even if there was, there is nothing to suggest that this means he was killed on or about 6pm. In reality, Dennis was wearing clothes that he could just as easily be wearing for a graduation party, for church, or for countless other reasons. The water bottle and car keys do not further the State's position.

Neither represent evidence that Dennis was killed on or about 6pm and Dennis could have just as easily taken the water bottle from the refrigerator moments before he was killed. The car keys allow an inference that he had used or was about to use the car-- but they do not provide evidence that Dennis was killed on or about 6pm. All of this argument further demonstrates the extent of tunnel vision on the part of the State-- nothing more. The truth of the matter is that Jeff Elliot's testimony was improperly and wrongly attacked by the State in a way that was very misleading to the jury. If only accurate and factual testimony had been presented (or if the State's flawed evidence had been properly challenged by defense counsel), there is very little doubt that the jury would have believed Jeff Elliot, and the State's entire case would have unraveled.

- 21) The State's position on the dimensions of the room is that Mr. Koula must have been standing in the hallway outside the computer room. Of course, that is different than what the State argued to the jury. More importantly, it doesn't make any sense. This would mean that Merna was not facing the computer but looking at closed blinds when she was shot. All of the evidence the State presented contradicts that. In fact, the State told the jury that the "only shades that were pulled were in this, the computer room, appearing to hide her body". This was a false misleading statement made by the prosecutor and raised twice during closing arguments. EXHIBIT "BU" shows that other shades were pulled in the livingroom contrary to the State's claim. Other windows in the same room did not have the shades pulled so if a person would have walked onto the deck and looked in, Dennis would have been seen. This factual evidence was available to both

the State and to the defense counsel, yet this went uncorrected when it was presented to the jury. The photographs and the physical evidence contradict the State. This represents another example of the prosecutor reaching and reaching, further and further, to try to shut down a legitimate review of Mr. Koula's conviction. In this instance, he is doing so by performing his own forensic analysis--an analysis that contradicts the evidence he presented to the jury.

22) With respect to the fingerprint evidence, Mr. Koula's motion asserts that his attorneys had a expert conduct an analysis and that the analysis contradicted the opinion of the State's expert that the partial fingerprint was not suitable for examination. Mr. Koula was not provided with a copy of the expert's report by counsel so he cannot produce it at this time (as his motion alleges). However, the expert could have and should have been called to testify with respect to this exonerating evidence.

23) Mr. Koula's motion asserts that the State should not have been allowed to use the gun at trial. In other words, the State should not have been allowed to introduce it or display it to the jury. In a case with evidence far more incriminating, the Seventh Circuit Court of Appeals reversed a conviction on grounds that the evidence was too speculative because it only connected the defendant to the gun used in the crime but without evidence connecting him to the gun at the time of the crime. U.S. v. Katz , 582 F.3d 749 (7th Cir. 2009). In that case, the State relied on forensic evidence that the defendant's fingerprints were on the gun. The Court of Appeals rejected the use of this evidence because it was not possible to

determine how long the fingerprints had been on the gun (it could have been that day or a month earlier). The Court reasoned as follows: " The point is we have nothing but pure speculation as to when Katz was in physical contact with the shotgun. A jury cannot speculate it's way out of reasonable doubt." ID. In our case, the State's forensic witness could not even connect Mr. Koula's fingerprint to the gun. Defense counsel should never had allowed the State to introduce and display the gun at trial. The State dodges the issue altogether because its use of the gun was clearly improper and misleading.

- 23) Mr. Koula's motion asserts that the prosecutor misled the jury when he stated that there was no audio on the police video. The statement was not factually correct. This is indisputable. While the prosecutor now says he was " obviously informing the jury that there was no audio," this does not address the issue raised by Mr. Koula, nor excuse the prosecutor's conduct (or the lack of response by counsel). The prosecutor seeks to testify in his response by stating " there was no intention to make anyone think otherwise." But that sort of " state of mind " evidence should be the subject of an evidentiary hearing. The fact of the matter is that the prosecutor did mislead the jury (and he misled Mr. Koula as well). He directly stated that there is no audio on the videotape when, in fact, there was. He simply (and for unknown reasons) chose not to play it. But that's not what he told the jury. It is indisputable that the jury was misled. One of the alternate jurors contacted defense counsel and confirmed this. That juror also

confirmed that, contrary to the State's position, this was not a minor point at all. In fact, the juror described it as one of the more significant pieces of evidence at trial. Anyway the issue is viewed, defense counsels' failure to address it at trial allowed the jury to be misled about something the jury considered to be of critical importance. There is no possible justification for this, and Mr. Koula was clearly prejudiced as a result.

- 24) Suffice to say that Mr. Koula and the State have exceedingly different views about the practices of law enforcement (and the prosecution) in this matter. Mr. Koula has already provided a significant amount of information in respect to this issue -- and the record is replete with other examples. The State attempts to explain things away but the State's explanations are themselves faulty and fall short of what would be required to defeat Mr. Koula's motion.
- 25) Chief Deputy Wolf not only mishandled evidence (as the prosecutor acknowledges) -- he manipulated it in a way that was designed to make Mr. Koula appear guilty. His conduct was appalling and defense counsel was in a position establish this clearly and definitively, but failed to do so. As a result, the State was let off the hook and the prosecutor was allowed to suggest (as he does now) that evidence was simply "mishandled" when, in reality, the conduct of Chief Deputy Wolf was far more nefarious.
- 26) The State's position concerning its representations of the color of Mr. Koula's truck is alarming. The State now claims the photo was only used to show the size of the truck. The prosecutor's

position is absurd. There is nothing in the photo to show height or size -- no measurement and nothing even to provide scale. In other words, the State continues to mislead about this. The State clearly sought to suggest (untruthfully) that Mr. Koula drove a black truck. The prosecution convinced the jury, members of the gallery, and the Press that Mr. Koula drove a black pickup truck and that a black pickup truck was observed at Dennis and Merna's house on Friday. If this is not what the prosecutor sought to do, then why did everybody draw this conclusion (and why would the State have used a misleading photo depicting Mr. Koula's truck in the dark shadows of his garage)?

- 27) With respect to the key, the photo should never have been allowed to be introduced at all. If the key was evidence, it should have been bagged and tagged and treated as such. The manner in which the State presented the evidence was very misleading. If it was not intended to be -- it should not have been used in that fashion.
- 28) The State's response on some of the other examples of improper activity is just as misleading and erroneous.
- (1) Sergeant Blockhuis' testimony was extremely problematic in many respects. The simple fact that during his preliminary testimony he claimed to have examined the computer before he had even received it from the Sheriffs Department is questionable. There is no question that his trial testimony was different.
 - (2) Sergeant Blockhuis did testify falsely about a document which he claimed had been generated by Encase software. Defense counsel referred to what he called screen shots that was on Blockhuis'

continuation report. Sergeant Blockhuis said that the document was made by Encase. This is irrefutable and the State's position is erroneous and misleading. See Blockhuis' testimony.

- (3) The cigarette butts would almost certainly prove that Patrick Cowell was at Dennis and Merna's house at times pertinent.
- (4) It is deceptive in nature for law enforcement to improperly focus its attention on Mr. Koula to the exclusion of others. This resulted in a trial where the jury was deceptively led to believe that the State conducted a fair and thorough investigation that led to prove beyond a reasonable doubt that Mr. Koula had killed his parents. Had trial counsel demonstrated the improper activity and flawed investigation on the part of law enforcement -- the jury would have been enlightened (rather than deceived) and the outcome almost certainly would have been different.
- (5) The chain of custody issue involves fraudulent or deceptive activity -- not a simple mistake.
- (6) It is indisputable that S/A Christopherson testified untruthfully, as did Sergeant Blockhuis, Chief Deputy Wolf and Investigator Lienfelder. Mr. Koula's motion establishes this beyond any doubt whatsoever and will be proven unequivocally at the requested hearing.
- (7) The prosecutor now claims that his representation that Mr. Koula chose the closest flowershop is "irrelevant." If its irrelevant, why did the prosecutor not only raise it in his closing argument, but raise it two separate times?
- (8) With respect to the construction, Mr. Koula's motion clearly

establishes that this would increase driving time and reduce the time the State claimed at trial that Mr. Koula would have had to commit this crime.

- (9) The State misrepresented the evidence and misled the jury respecting Mr. Koula's description of his father's body (and related evidence). Why would Mr. Koula be untruthful about finding his father's body when he did (more than 13 hours before police actually moved Dennis that evening)?
- (10) It is indisputable that the police failed to transcribe some of the most important interviews. What is more, the police omitted a large amount of significant information and evidence from the typed police reports. Given the manner in which defense counsel handled the issue involving Patrick Cowell, it is evident that counsel also failed to transcribe and/or closely review and evaluate so much of the most important evidence in the case.
- (11) The State misrepresents the evidence in respect to the receipt. The receipt was brought up in conversation on the 5/24/10 interview in response to questions from law enforcement. In fact, the exact conversation was read into record, at trial, by S/A Christopherson. Upon review of the record it is apparent that the State takes this out of context. The conversations with Glen Grady and Bryan Wegner, in respect to the receipt, occurred after the media had published articles on May 29th, 2010 in regards to the focus turns to Friday afternoon / Friday evening. Furthermore, their testimony supports Mr. Koula.
- (12) Mr. Koula's motion is far from exhaustive on this issue. As

alleged, Mr. Koula is in a position to demonstrate that the State's focus on him caused law enforcement to lose sight of and, therefore, miss a substantial amount of important evidence. Moreover, the State became overly aggressive in its efforts to the point it caused those involved to engage in misleading, deceptive (and in at least one instance, corrupt) practices. Certain individuals made erroneous and mistaken decisions early on which caused the entire investigation, and subsequent prosecution, to travel down the wrong path. In order to win at any cost, the State was compelled to deceive and mislead in order to accomplish its goal--undoubtedly believing it was doing the right thing when, in reality, it was not.

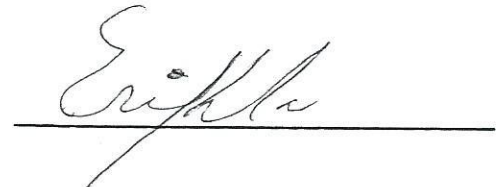
29) One thing that is perfectly evident from the State's response is that the State is not interested in a search for the truth. The State has made up its mind and it has no interest in allowing an appropriate and legitimate review of Mr. Koula's conviction. Given its response, it is highly unlikely that the State would consider anything to be cause to review Mr. Koula's conviction. The State has decided that it did what it did and now it must shut down any attempt by Mr. Koula to expose the truth. The prosecutor has made it very clear that, when presented with serious questions, issues, and facts, his strategy is to try to sweep it all under the rug and not have to deal with it at all.

30) The State's approach carries over in the manner in which it has decided to address the financial issues raised by Mr. Koula's motion. The State downplays the assertions without providing any sort of direct or meaningful response. Mr. Koula's assertions are

rather straightforward, the State's response is not. Mr. Koula has attached EXHIBIT "BX" in support of some of the financial issues raised.

3f) Mr. Koula hereby renews his request for the appointment of counsel. Mr. Koula is indigent and unable to afford counsel. Counsel is necessary, however, given the complexity of the issues and Mr. Koula's complete lack of legal training. Without the appointment of counsel, Mr. Koula would be at a gross disadvantage for purposes of presenting the evidence necessary for a fair and proper decision on his motion.

Dated 18 day of AUGUST 2017

A handwritten signature in cursive script, appearing to read "Eric Koula", is written over a horizontal line.

ERIC G. KOULA

STATE OF WISCONSIN,

PLAINTIFF

V.

Case No. 10-CF-431

ERIC G. KOULA,

DEFENDANT

AFFIDAVIT OF
ERIC KOULA

STATE OF WISCONSIN)
COUNTY OF DODGE)
)

Eric G. Koula, being first duly Sworn on Oath, deposes and states as follows:

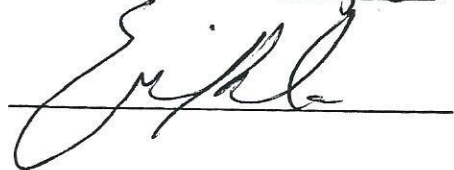
1. I am the defendant in the above-captioned action. I make this affidavit in support of my response to the State's reply and in support of my motion.
2. The assertions made throughout my motion, including all the assertions made in both the background and argument sections of the motion, are true and accurate and entirely supported by the record in this case, the investigation materials generated on behalf of the State, and investigation materials from my attorney's and/or information I have received from third parties as set forth in my motion.
3. The additional exhibits that are attached are in reply to the State's response motion. They are true and accurate copies. They are made for further support in my reply to the State's response to my motion.
4. Attached hereto as exhibit "BB" is a true and correct copy of Ronald Peggs interview from May 27, 2010 pages 1 thru 4 and has the reference of Dennis and Merna being shot in the head.

5. Attached hereto as exhibit "BC" is a true and correct copy of an interview with Patrick Cowell, changing his statement of when he had talked to Dexter about playing XBOX.
6. Attached hereto as exhibit "BD" is a true and correct copy of The HARDERS interview with police about the Cowells' partying all night long.
7. Attached hereto as exhibit "BE" is a true and correct copy of JOSSALYN COWELLS bank statement that shows someone had taken all of the money out of her account over the course of the summer of 2009, desperation!
8. Attached hereto as exhibit "BF" is a true and correct copy of an interview of Susan Cowell, she says Cindy and Patrick had financial problems in the past, Susan has helped them out in the past, points toward Dennis' relative at the car-dealership as a suspect, and states "I'm hoping it was a stranger that worked in their home"
9. Attached hereto as exhibit "BG" is a true and correct copy of a telephone interview with Douglas Beaver who says the police should be looking at Dennis' son-in-law and Dennis' nephew.
10. Attached hereto as exhibit "BH" is a true and correct copy of an interview with Tammy Houlihan who delivered the newspapers to Dennis and Merna's home on the weekend of May 22,23,24 2010, and told police she believed that Saturday's paper was not in the box when she delivered Monday's.
11. Attached hereto as exhibit "BI" is a true and correct copy of Investigator Lienfelders collection of evidence from the mail-box on Monday morning.
12. Attached hereto as exhibit "BJ" is a true and correct copy of Lienfelders report of collection of DNA swab from the residence of Dennis and Merna Koula's, contrary to his testimony that he didn't collect evidence from the residence and wasn't involved in that.
13. Attached hereto as exhibit "BK" is a true and correct copy of S/A Powells death scene / crime scene activity report showing when he arrived and what time he started taking photographs, front and back sides.
14. Attached hereto as exhibit "BL" is a true and correct copy of the death scene entry log that shows when officers enter and when they leave the scene, and any other personel that have authorization to enter the death scene such as the district attorney.

15. Attached hereto as exhibit "BM" is a true and correct copy of Helen Van Roo interview on 5/25/2010, with references to Cindys statements made to Dennis about her and Patricks fight on that morning of 5/21/2010.
16. Attached hereto as exhibit "BN" is a true and correct copy of an interview with David and Audrey Growt, and references made about Patrick Cowell.
17. Attached hereto as exhibit "BO" is a true and correct copy of S/A Christopherson's select testimony in reference to his reports and how he relied on them and would dispute it if it was different than his report said, also examples of his reports not being accurate to the recorded audio.
18. Attached hereto as exhibit "BP" is a true and correct copy of transcribed portions of recorded interviews of Cindy and Patrick Cowell supplemented in response to the State's reply motion, pages 1 - 13
19. Attached hereto as exhibit "BQ" is a true and correct copy of the options xpress statement (partial) for April , for support of EXHIBIT BX.
20. Attached hereto as exhibit "BR" is a true and correct copy of all trades bought and sold for January and February 2010 in the proper format that they are to be listed for the IRS for tax reporting purposes, for support of EXHIBIT BX
21. Attached hereto as exhibit "BS" is a true and correct copy of a portion of the tax return prepared by JK Harris and how they inaccurately prepared the option portion, for support of EXHIBIT BX.
22. Attached hereto as exhibit "BT" are true and correct photographs from the crime scene that show the newspapers still in the mail-box in the afternoon hours, a photograph zoomed in on that shows two newspapers in the box, another photograph zoomed further in to show two papers in the box and the time stamp of when the photograph was taken (2:35pm) way after they were collected per trial testimony.
23. Attached hereto as exhibit "BU" are true and correct photographs from the crime scene that show other shades were closed on other windows contrary to what the prosecution told the jury, also that the other windows along the deck would allow a person to see in and discover Dennis, and the door that attaches to the deck was not a sliding door as Cindy told the police.


- 24. Attached hereto as exhibit "BV" is a true and correct photograph from the crime scene that shows the lab top and a tablet of paper next to the labtop with figures written on it in Dennis' handwriting with a number that was around the price of gold at that time, defense attorneys had spoken to a gold dealer and this had been confirmed.
- 25. Attached hereto as exhibit "BW" is a true and correct copy of transcribed interview portions and police report information for both Cindy and Patrick Cowell that show some of the Major untruthful statements, inconsistant statements and lies, which support that they are not credible.
- 26. Attached hereto as exhibit "BX" is a true and correct copy of Mr. Koula's supporting information that he was generating an income in the spring of 2010.
- 27. Attached hereto as exhibit "BY" is a true and correct copy of transcribed interview with Cindy Cowell on 5/26/10 in reference to Uncle Leroy going on TV, and that Patricks relatives believed he was referring to Patrick, this also supplements the existing EXHIBIT"S" .
- 28. I will testify to all of the information contained in this affidavit and in my § 974.06 motion and will produce corroborating support as indicated.

Dated 17 day of August, 2017



ERIC G. KOULA

Subscribed and sworn to before me

on August 17, 2017


Notary Public State of Wisconsin

My commission expires 12/31/2021

10-1954/23

Date: 05/29/2010

KOULA DEATH INVESTIGATION

Interview/Ronald L. Pegg

SUBJECT INTERVIEWED:

NAME: RONALD L. PEGG
DESCRIPTION: W/M
DATE OF BIRTH: 03/08/1944
ADDRESS: 502 Winona Street, La Crosse, WI
HOME PHONE: 608-783-2363
CELL PHONE: 608-792-2363

SPOUSE: MARY JO PEGG
DESCRIPTION: W/F
DATE OF BIRTH: 06/11/1946

On May 27, 2010, S/A Jon P. Spallees and S/A David Forsythe met with RONALD L. PEGG at his residence, 502 Winona Street, La Crosse, WI. The agents met with PEGG to interview him regarding the death of MERNA and DENNIS KOULA. The interview commenced at approximately 11:29 a.m. The agents terminated the interview with PEGG at approximately 12:25 p.m.

The following information was provided by PEGG:

PATRICK COWELL is the nephew of RONALD PEGG. COWELL's mother is SUE (b/t/b COWELL).

PEGG and his wife, MARY JO PEGG, were on vacation in the Los Angeles, CA, area from May 8, 2010, to May 25, 2010. RONALD PEGG first learned about the deaths of the KOULA's from his daughter, identified as CHRISTINE R. MURILO, who is also from the State of California. MURILO is a California District Attorney's investigator (law enforcement) at the San Bernardino County District Attorney's office in California.

MURILO contacted PEGG by telephone at the Marriot Motel that they were vacationing at. MURILO explained that she discovered that the KOULA's were found either Sunday or Monday (May 23 or 24, 2010) by CINDY COWELL's brother, ERIC KOULA. MURILO reported that DENNIS and MERNA KOULA were shot in the head. MURILO received this

DISCOVERY

SEP 03 2010

information from MARY JO PEGG's sister (MURILO's aunt) JUDY TURNER of Lake Havasu, AZ.

MURILO advised RONALD PEGG, "Dad, I have bad news. KOULA's folks were shot in the head and found by their son". RONALD PEGG listed his wife's sisters as JUDY TURNER from Arizona and SUE COWELL from La Crosse, WI.

The last time RONALD PEGG observed or saw the KOULA's alive was approximately 3 years ago. RONALD PEGG reported that MARY JO PEGG went to CINDY COWELL's baby shower.

SUE COWELL's father passed away in the past and DENNIS and MERNA KOULA were at his funeral. (Deceased, DAN COWELL)

RONALD PEGG stated that he would frequently see PATRICK and CINDY COWELL.

RONALD PEGG described the relationship with CINDY and PAT COWELL and DENNIS and MERNA KOULA as close. CINDY and PAT COWELL were "getting along" but they were struggling financially somewhat. PAT COWELL was reported to like CINDY COWELL's parents. CINDY COWELL's parents (KOULA's) financially assisted CINDY and PAT COWELL on two occasions that RONALD PEGG was aware of. PEGG described DENNIS and MERNA KOULA as "well to do". RONALD PEGG had no idea of the amount of financial assistance that the KOULAS provided to PAT and CINDY COWELL.

PATRICK COWELL sold all his firearms in the past. The only firearm that RONALD PEGG was aware of that PAT COWELL still possessed was a .357 Magnum revolver. That firearm had a trigger lock attached to it and PAT COWELL lost the key to the trigger lock. PEGG reported that PAT COWELL purchased the firearm for CINDY COWELL's protection and as a house gun. PAT COWELL was also reported to have one Savage brand .308 rifle. COWELL sold this rifle. PAT COWELL also had a pistol that was described as a 9mm semi automatic handgun (either Beretta or Taurus brand).

RONALD PEGG said he has never provided, or borrowed a firearm to PAT or CINDY COWELL. PEGG indicated that none of his firearms are missing from his collection. PEGG is a firearms enthusiast and confirmed that he accounted for and took an inventory of his firearms upon his return trip from California. PEGG also indicated that he took two handguns with him on vacation to Los Angeles. PEGG described the two handguns as a .380 Ruger LCP and a .40 Smith & Wesson M & P compact semi-automatic pistol.

SUE COWELL had a key to the PEGG residence while the PEGG's were in Los Angeles. SUE COWELL agreed to water the plants and tend the house while the PEGG's were on vacation. The PEGG's owned two dogs. The dogs were kenneled by the PEGG's while they were on vacation in Los Angeles.

DISCOVERY

SEP 03 2010

PEGG listed the firearms he owns as follows:

- Ten pistols ranging in caliber from .22 to .45
- One Stoeger brand 12-gauge Coach shotgun
- Four rifles including one bolt action .22 caliber rifle, and two semi automatic rifles with brands as follows: Marlin bolt action, Remington 597 semi automatic, Mossberg Model 702 semi automatic and one Keltec 9mm rifle.

RONALD PEGG also indicated that he had a son, DANIEL L. PEGG, who lives in Orange, CA. DANIEL PEGG's date of birth was 06/27 (PEGG could not recall the year of date of birth), however, PEGG listed his son as 43 years of age. On one occasion, approximately 3 years ago, PATRICK and CINDY COWELL asked DANIEL PEGG for some financial assistance. PATRICK COWELL indicated that he was having a custody issue with his first child's mother. DANIEL PEGG sent \$700 to PATRICK COWELL for attorney fees. RONALD PEGG indicated that no one was supposed to know about PAT and CINDY COWELL asking DANIEL PEGG for money. RONALD PEGG indicated that DANIEL PEGG brought that incident up to his father in confidence.

CINDY COWELL was reported to be a good mother. She was also stated to adore her parents, and she was very close to her parents. PATRICK COWELL never had any conversations with RONALD PEGG about DENNIS or MERNA KOULA. SUE COWELL watches both of PATRICK COWELL's children (one child outside the marriage with CINDY COWELL, and one with CINDY COWELL). PEGG stated that PATRICK COWELL's first child was a "one-nighter" and that PAT COWELL never had a relationship with the woman who bore his first child.

It was RONALD PEGG's understanding from talking to CHRISTINE MURILO that one of the victims (not indicated who) was found in a computer room at their residence and the other victim was found in the kitchen (not indicated who). PEGG was also told that a break-in to the residence was ruled out, according to the information he received. The order in which this information came forward was as follows:

SUE COWELL called JUDY TURNER in Arizona. TURNER called CHRISTINE MURILO in San Bernardino County and MURILO called the PEGGS while they were on vacation in Los Angeles.

MARY JO PEGG was not initially at the residence when law enforcement arrived and began interviewing RONALD PEGG. Approximately 20-25 minutes into the interview MARY JO PEGG arrived at the residence. MARY JO PEGG also provided the following information to law enforcement:

DISCOVERY

SEP 03 2010

MARY JO PEGG has met CINDY COWELL's brother (ERIC KOULA) on one occasion in the past.

PATRICK COWELL had a cell phone through U.S. Cellular in the past, however, that phone line was disconnected for nonpayment.

PATRICK COWELL lost his job in January, or February, 2010. SUE COWELL said that PAT COWELL may go on to school.

MARY JO PEGG hasn't talked with CINDY and PAT COWELL since her arrival back to La Crosse from vacation in Los Angeles. (RONALD PEGG also indicated that he hasn't spoken to CINDY or PAT COWELL since his return to La Crosse from Los Angeles.)

The next door neighbor to PEGG's, listed as BETTY LNU, indicated that she stopped an unknown male subject who was knocking at the PEGG's door while they were on vacation. BETTY LNU indicated to MARY JO PEGG that this unknown subject stated he wanted to leave a note for the PEGG's. S/A Spallees and S/A Forsythe attempted to make contact with BETTY LNU at the conclusion of the interview with the PEGG's, however, she was not home at that time.

RONALD PEGG stated, "I don't think PAT or CINDY (COWELL) could do this or were capable of this" (causing the death of the KOULA's).

RONALD PEGG also indicated that he has fired weapons in the past with PATRICK COWELL and his daughter, JOSIE COWELL, at the Holman Rod & Gun Club. RONALD PEGG recalled that he took a 9mm pistol and the .22 caliber firearm.

S/A Spallees asked RONALD PEGG if he would voluntarily surrender any firearms that he owned so that law enforcement could conduct a test or research of the firearms. PEGG indicated that he was more than willing to surrender his firearms to law enforcement at any time and would provide consent for them to conduct a search of his firearms.

Law enforcement terminated the interview with the PEGG's at that time.

JPS:dmg 06/03/2010

10-1954.23 Interview Pegg 05272010

DISCOVERY
SEP 03 2010

EXHIBIT "BC"

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 6-1-10 10:20 a.m.

FI: PATRICK COWELL

On Tuesday, 6-1-10, at 10:20 a.m. Special Agent John Christopherson of the Division of Criminal Investigation and I went to speak with Pat Cowell regarding the name of his friend that we only knew as Mike and also to re-interview him regarding his conversation with Dexter Koula.

SA Christopherson and I were met at the door by Pat Cowell and he was interviewed in the dining room area of his residence. I asked Pat about his friend Mike. Patrick said that his last name was LaJeunesse and that Mike lived in West Salem and had a cell phone number of 608-738-1642. Pat described that Mike lives kitty corner from the Snap Fitness on Garland and Leonard Streets.

I was able to find Michael LaJeunesse in the local computer and his information is: Michael C. LaJeunesse, DOB 09-20-66, 717 Garland Street, #5, West Salem, Wisconsin, 54669.

I then asked Pat about how he was aware that Dexter was playing video games on-line on Saturday. Pat explained that it was approximately midnight to 1 a.m. on Saturday going into Sunday and he had been playing Modern Warfare. Pat said while he was playing video games on his Xbox if any of his friends are playing it will show up on the computer screen. Pat said that while he was playing video games Dexter's screen name popped up on the screen telling him that Dexter was playing Fall Out 3 at the time. Pat's wife Cindy said that they had a conversation on Sunday and she had asked him how late he was up playing video games. Cindy said that Pat made the comment that he was unsure, but he thought it was around 1 a.m. and that his nephew Dexter was also on-line playing. I asked Pat if he had any conversations with Dexter about being up late on Saturday night/early Sunday morning with Dexter. Pat stated he believed he had talked to Dexter about this on Thursday, 5-27-10, when he was at Dexter's house.

Pat said that he believed this was the only conversation that he had with Dexter in the past week.

No further information.

Investigator Fritz Leinfelder #1091

km

[Handwritten signature] 14 3/11

DISCOVERY

SEP 02 2010

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 6-1-10 3:50 p.m.

SUMMARY:

Wisconsin DCI Agent Dave Forsythe and I interviewed David and Ione Harder at 2814 Robinsdale Avenue, La Crosse, Wisconsin. This was a second follow-up interview with them. They had additional information for us.

Ione Harder told us that this past Friday, 5-28-10, at about noon she was out gardening and was approached by her neighbor to the east, Sarah Smith. Sarah told Ione that Ernest Smith, her husband, had forgotten to tell investigators a piece of information when they spoke with him. Sarah told Ione that Ernest had two tickets to the Spartan's indoor football game on Friday, 5-21-10, and that he planned on attending with Pat Cowell. Sarah told Ione that Ernest had informed her that Patrick had cancelled for an unknown reason either Thursday or the morning of the game, which would have been Friday.

Dave and Ione told us that since the deaths of the Koula's that both Cindy and Patrick have been partying all night. They said especially his past Friday, 5-28-10. She advised that they party with the two neighbors to the west; this being the red house. They also said that there was one other female who left the house southbound on 28th Street. They had no vehicle description. They told us that Cindy was laughing and they thought that all this particular behavior is unusual for someone grieving the death of their parents.

The Harder's also told us that the only other person that they saw since then was an older lady with a cane and possible leg brace that was there yesterday, Memorial Day.

It should be noted that earlier in the day Cpt Papenfuss said that he had spoken with Sarah Smith by phone and she informed him of the information that Ione was referring to.

No further information.

Sgt Mark Yehle #1181

km

WMM
[Signature] 14 31

DISCOVERY
SEP 02 2010

EXHIBIT "BE"

DRAFT

STATE BANK FINANCIAL
 PATRICK, CYNTHIA AND JOSSALYN COWELL
 SAVINGS ACCOUNT - 2099950
 4/01/09 - 3/31/10

DRAFT

STATEMENT PERIOD	TRANSACTION DATE	TRANSACTION	AMOUNT	DESCRIPTION
4/01/09 - 06/30/09	04/01/09	BEGINNING BALANCE	\$ 67.78	
4/01/09 - 06/30/09	06/01/09	Deposit	\$ 2,000.00	
4/01/09 - 06/30/09	06/15/09	Withdrawal	\$ (500.00)	*See checking account
4/01/09 - 06/30/09	06/19/09	Withdrawal	\$ (2.00)	Telephone Transfer Fee
4/01/09 - 06/30/09	06/19/09	Withdrawal	\$ (500.00)	Telephone Transfer Dr
4/01/09 - 06/30/09	06/23/09	Withdrawal	\$ (500.00)	*See checking account
4/01/09 - 06/30/09	06/30/09	Deposit	\$ 0.24	Interest
4/01/09 - 06/30/09	06/30/09	Withdrawal	\$ (200.00)	
7/01/09 - 9/30/09	07/03/09	Withdrawal	\$ (250.00)	*See checking account
7/01/09 - 9/30/09	08/04/09	Withdrawal	\$ (100.00)	*See checking account
7/01/09 - 9/30/09	09/30/09	Deposit	\$ 0.03	Interest
10/01/09 - 12/31/09	12/31/09	Withdrawal	\$ 0.01	Interest
10/01/09 - 12/31/09	12/31/09	Withdrawal	\$ 0.01	Interest
1/01/10 - 3/31/10	03/31/09	Deposit	\$ 0.01	Interest
1/01/10 - 3/31/10	03/31/09	Deposit	\$ 0.01	Interest

10-1954/36

Date 06/01/2010

KOULA DEATH INVESTIGATION

Interview/Susan J Cowell

SUBJECTS INTERVIEWED.

NAME	SUSAN J COWELL
DATE OF BIRTH	01/01/1945
ADDRESS	318 Crestwood Lane, Onalaska, WI
HOME PHONE	608-781-5225
CELL PHONE	608-317-5190

On Friday, May 28, 2010, S/A Tam M. Sleeman and Det. Sgt. John Zimmerman of the La Crosse County Sheriff's Department met with SUSAN J COWELL at her residence. COWELL is the mother of PATRICK W COWELL who is the son-in-law of DENNIS and MERNA KOULA.

SUSAN COWELL stated she has known the KOULAS for over 10 years, back when her son first began dating the KOULA's daughter, CYNTHIA KOULA COWELL. SUSAN COWELL has been to the KOULA's residence many times and DENNIS and MERNA KOULA have always included SUSAN COWELL and her husband, who passed away 3 years ago, to all family events and holidays. SUSAN COWELL stated she has not spent a lot of time with the KOULA's in the past 3 years. SUSAN COWELL stated when her husband passed away she became kind of distanced from people and did not go out of the house a lot besides going to work. The last time SUSAN COWELL had seen DENNIS and MERNA KOULA was in the fall of 2009 at one of their granddaughter, JOSSALYN (JOSIE) COWELL's functions.

SUSAN COWELL described the KOULAS as being very nice people but didn't know many of their friends. SUSAN COWELL knew MERNA KOULA worked at the school and that DENNIS KOULA worked at the pharmacy on the Ho-Chunk Reservation and both of the KOULAS enjoyed traveling. The KOULAS were very dedicated to their children and grandchildren.

SUSAN COWELL stated that she also has another granddaughter, KYLIE HUFFMAN, DOB 08/05/1997. KYLIE HUFFMAN is PATRICK COWELL's first daughter and KYLIE HUFFMAN's mother is CARRIE HUFFMAN, telephone 608-385-6821 or 608-790-2483. SUSAN COWELL stays in contact with CARRIE HUFFMAN and the KOULAS also.

DISCOVERY

SEP 07 2010

included KYLIE HUFFMAN at all family events and believed that the KOULAS also had a college fund set up for KYLIE HUFFMAN

SUSAN COWELL stated that her son, PATRICK COWELL, has joint custody of KYLIE HUFFMAN and that he also pays child support.

SUSAN COWELL described PATRICK and CINDY COWELL's relationship as "they love each other dearly" PATRICK COWELL is currently not working, he was just laid off from his job at Peps Pizza and worked there for over 1 year

SUSAN COWELL stated PATRICK COWELL was in the Marine Corps for 4 years and was not exactly sure what he did there and while he was in the Service, he got married to a female by the name TERRI LNU and they were married in Alexandria, Virginia and the marriage lasted for 1 month. SUSAN COWELL stated CINDY COWELL works at a collection agency full time. CINDY AND PATRICK COWELL own their own home and that CINDY and PATRICK COWELL have had financial problems in the past but CINDY COWELL's parents (DENNIS and MERNA KOULA) have helped them out and have been very generous with PATRICK and CINDY COWELL.

SUSAN COWELL said her and her deceased husband have helped PATRICK and CINDY COWELL on occasion financially but have not done so in the past 3 years. SUSAN COWELL believed that CINDY COWELL and her parents have a good relationship. SUSAN COWELL also believed that DENNIS KOULA and PATRICK COWELL got along fine and they both loved to play golf and they talked about golf. SUSAN COWELL does not know if they ever played golf together.

SUSAN COWELL stated PATRICK COWELL's friends are LINC MIDDLEBROOK and JAMES TOWNSEND who lived in La Crosse and moved away approximately 8 years ago, and now lives in Iowa. PATRICK and CINDY COWELL went to Iowa recently to visit TOWNSEND because he and his wife just had a new baby. PATRICK COWELL also hangs out with a guy by the name of MIKE LNU who lives in West Salem, WI and MILE LNU does maintenance work and is self employed. SUSAN COWELL stated that she also has a daughter, TONYA FORDHAM, DOB 03/12/1964 who resides in West Bend, WI. FORDHAM is married and has five children. FORDHAM's cell phone number is 262-339-7775 and home phone is 262-306-9077.

SUSAN COWELL stated that she watched her sister and brother-in-law, RON and MARY JO PEGG's house from May 8 to May 25, 2010. The PEGGS were out of town and SUSAN COWELL's sister asked SUSAN COWELL to watch the residence and to water the flowers while they were out of town. SUSAN COWELL stated she went to the PEGG's residence on Friday, May 21, 2010 to water the plants in the afternoon. SUSAN COWELL

DISCOVERY

SEP 07 2010

had a key and did not give anyone the key to the residence SUSAN COWELL stated that she told her friends that her sister and brother-in-law were out of town.

SUSAN COWELL stated she has no idea who could have done this to the KOULAS but that DENNIS and MERNA KOULA have family members that have been in trouble with the law SUSAN COWELL did not provide any further information. SUSAN COWELL stated she knows ERIC and CHRISTINE KOULA and ERIC KOULA had come to her husband's funeral and she believes ERIC COWELL has the same type of relationship with his parents as CINDY COWELL does SUE COWELL is aware that ERIC KOULA has two children, HADLEY and DEXTER KOULA (age 16 and has his driver's license) SUSAN COWELL described the children as being "nice kids"

SUSAN COWELL stated she does not have any guns and the last time she had a gun was approximately 3 years ago SUSAN COWELL stated the gun was a shotgun and was her husband's She stated she had her brother-in-law, RON PEGG sell the gun for her after her husband died

SUSAN COWELL described MERNA KOULA as a very strong, meticulous person and stated that CINDY COWELL is just the opposite of her mother SUSAN COWELL said CINDY COWELL respected both of her parents SUSAN COWELL described MERNA KOULA as being perfect and she doesn't think MERNA KOULA ever did anything wrong but on the other hand CINDY COWELL is human and has made mistakes DENNIS and MERNA KOULA were very family oriented SUSAN COWELL was also aware that there had been some problems between DENNIS KOULA and his partner, who is a relative, at the Ford dealership but she had no other ideas of who may have done this SUSAN COWELL did state, "I'm hoping it was a stranger that worked in their home"

SUSAN COWELL does own a vehicle She owns a 2008 Saturn Vue, metallic red COWELL does not allow anyone else to use her vehicle

TMS dmg. 06/07/2010
10-1954 36 Interview Sue Cowell 05282010

DISCOVERY
SEP 07 2010

EXHIBIT "BG"

DCI Case #10-1954/10 Telephone contact with Douglas Beaver— 05/24/2010

On Monday, 05/24/2010 at approximately 4:35 p.m., DCI Special Agent David Forsythe spoke telephonically with a male subject who identified himself as DOUG BEAVER. BEAVER stated that he was the managing pharmacist at the Ho Chunk Nation Pharmacy and that he had been notified of the deaths of DENNIS and MERNA KOULA earlier in the day.

Due to the fact that S/A Forsythe was driving his vehicle at the time, he was only able to take a few notes of the information provided by BEAVER and made arrangements to make contact with BEAVER at a later time. BEAVER provided his telephone numbers as 715-228-3472 (home) and 608-369-1608 (cell).

BEAVER also stated that some of the things that should be looked into regarding the deaths of DENNIS and MERNA KOULA would be DENNIS' nephew and the "bad blood" between them due to the car dealership situation, DENNIS' son-in-law, LOWELL "DEAN MORTON" who went to DENNIS' residence to pick up prescription medications from DENNIS, and JAMES MUSSMAN who was a patient who had a verbal argument with DENNIS on the telephone related to a prescription in the not too distant past.

This concluded the information provided by BEAVER to Special Agent Forsythe at this time and the telephone contact was ended with the understanding that S/A Forsythe would re-contact BEAVER at a later time to get more detailed information.

dpf 05272010

DISCOVERY

SEP 07 2010

EXHIBIT "BH"

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 6-8-10 7:20 a.m.

FI: TAMMY M. HOUILHAN, FW, DOB 11-21-69, 2620 LONGVIEW CT., LA CROSSE, WI., 54601, PHONE #783-7540, CELL #317-3312

On 6-1-10 at 1 p.m. I made phone contact with Tammy Houlihan, who is the rural paper delivery person for the La Crosse Tribune. I explained to Tammy that we were investigating the homicide at the Koula residence on Fox Hollow Drive to which she was familiar with.

Tammy advised me that she did in fact deliver newspapers throughout that weekend and it was her belief that when she delivered the Monday paper that the Sunday paper was in the box; however, she did not think that the Saturday newspaper was there.

I asked Tammy if she saw anything out of the ordinary at the Koula residence on that evening and she immediately indicated that it appeared that there was some type of light on in one of the south rooms to the residence and she stated that it appeared to her to be a "computer screen." Tammy did not state whether the blinds or shades were open or closed.

Tammy advised that she delivers the La Crosse Tribune between 4 and 4:30 a.m. depending on whether the Tribune is available for delivery.

No further information.

Chief Deputy Jeff Wolf #1021

km

DISCOVERY

SEP 02 2010

EXHIBIT "BI"

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 5-24-10 9:20 p.m.

COLLECTION OF EVIDENCE:

On Monday, 5-24-10, I was assisting at the crime scene located at N3071 Fox Hollow Drive. I did remove the following pieces of evidence located in the mailbox at this address: three La Crosse Tribune newspapers in plastic; one dated 5-22-10, one dated 5-23-10 and one dated 5-24-10. There were four pieces of mail removed from the mailbox; one being to Dennis and Merna Koula at this address from Schuelke at N7314 CTH K, Ogdensburg, Wisconsin, 54962 postmarked 5-20-10 in Manawa, Wisconsin; one piece of mail to Merna Koula from Fidelity Investments, Dallas, Texas, postmarked 5-19-10; one piece of mail to Merna Koula from Alliant Energy, St Paul, Minnesota, postmarked 5-20-10 and a piece of mail from Hallmark Crown Rewards to Merna Koula with no postmark.

I removed all of the items from the mailbox and placed them into evidence at the LEC.

No further information.

Investigator Fritz Leinfelder #1091

km

W. P. L. 1931

DISCOVERY

SEP 02 2010

LA CROSSE COUNTY SHERIFF DEPARTMENT
Follow-up Report

10-09101 5-27-10 10:35 a.m.

COLLECTION OF DNA SWAB

On Thursday, 5-27-10, Special Agent John Christopherson of the Division of Criminal Investigation and I went to W3071 Fox Hollow Drive to walk through the residence. While walking through the residence I did take a swab for DNA from a fake flower and flower pot that was located in the upstairs bedroom closet. This is the closet that did contain the 22 ammunition and also the 22 long rifle owned by Dennis Koula.

I took a sample from the flower pot and did place this into evidence.

No further information.

Investigator Fritz Leinfelder #1091

km

W. P. 14 31

DISCOVERY

SEP 02 2010

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 10-1954 Koula Death Investigation

DATE: JUNE 8, 2010

CRIME SCENE ACTIVITY

SYNOPSIS

On May 24, 2010 S/A Robert C. Powell was assigned to assist the WI State Crime Laboratory Mobile Response Team at a death investigation located at N3071 Fox Hollow Drive in La Crosse County, WI. S/A Powell responded to the scene and assisted crime lab personnel with investigative activities.

LOCATION DESCRIPTION

The crime scene was located at N3071 Fox Hollow Drive in La Crosse County's Township of Barre. Access to the property was gained via a driveway positioned along the west side of the residence that traveled north off of Fox Hollow Drive at an elevation overlooking a well maintained, well established sub-division and adjoining golf course. The large multi-story single family dwelling appeared to have been built within the past 10 years utilizing modern construction techniques. The residence faced south with an attached garage positioned on the south side of the structure. A detached garage and tool shed was located on the west property line. The landscaped yard was neatly manicured and maintained.

OWNERSHIP / OCCUPANCY

The residence at N3071 Fox Hollow Drive was owned and occupied by DENNIS M. KOULA and MERNA J. KOULA.

AUTHORITY FOR CONDUCTING A CRIME SCENE EXAMINATION

On May 24, 2010, La Crosse County Sheriff's Captain Kurt Papenfuss applied for and was granted a search warrant allowing law enforcement officers and assisting crime scene personnel authority to enter the aforementioned property for purposes of conducting a criminal investigation. A digital copy of the search warrant will be attached to this report. A copy will be submitted to DCIR for addition to the case file.

ACTIVITY

S/A Powell arrived at the scene on May 24, 2010 at approximately 1:30 p.m. S/A Powell observed that the property at N3071 Fox Hollow Drive was cordoned off with yellow barrier

Narrative Page 1

This document contains neither recommendations nor conclusions of the Division of Criminal Investigation. It is the property of this Division, and is loaned to your agency. Its contents are not to be distributed outside your agency.

DISCOVERY
SEP 03 2010

DEATH SCENE ENTRY LOG

Location: N3071 FOX HOLLOW DR

Officer Initialing Log: DEPUTY AMUNDSEN #1241 Time: 09:19

NOTICE: ALL PERSONS ENTERING DEATH SCENE MUST READ AND SIGN.

Only persons authorized by an LA CREST LAWN SERVICE supervisor, or detective in charge, shall be permitted to enter the death scene. Those persons may be required to give hair, fiber, etc. samples.

Admitting officer will fill out all spaces except the signature of entering person.

PERSONS ENTERING SCENE 5/24/2010

NAME	RANK/TITLE	TIME IN	REASON FOR ENTRY
John Zimmerman	SGT INN.	0919	Investigation
	AGENCY	TIME OUT	
SIGNATURE	LCSD	1034	ADMITTING OFFICER'S INITIALS RCA #1241
FRITZ LEINFELDER	INVESTIGATOR	0919	Investigation
	AGENCY	TIME OUT	
SIGNATURE	LCSD	1034	ADMITTING OFFICER'S INITIALS RCA #1241
JAMES JACOBSON	SGT	0919	Investigation
	AGENCY	TIME OUT	
SIGNATURE	LCSD	1034	ADMITTING OFFICER'S INITIALS RCA #1241
KURT PADENFUSS	CAPTAIN	0945	Investigation - Supervisory
	AGENCY	TIME OUT	
SIGNATURE	LCSD	1056	ADMITTING OFFICER'S INITIALS

DISCOVERY

SEP 03 2010

NAME ROBERT POWELL	RANK/TITLE SPECIAL AGENT	TIME IN 1433	REASON FOR ENTRY
SIGNATURE <i>[Signature]</i>	AGENCY DCI	TIME OUT 1043	ADMITTING OFFICER'S INITIALS RCA #1241
NAME JOHN ZIMMERMAN	RANK/TITLE SER	TIME IN 1433	REASON FOR ENTRY
SIGNATURE <i>[Signature]</i>	AGENCY LCSO	TIME OUT 1054	ADMITTING OFFICER'S INITIALS RCA #1241
NAME JOHN ERTL	RANK/TITLE	TIME IN 1433	REASON FOR ENTRY
SIGNATURE <i>[Signature]</i>	AGENCY DCI/Crim Lab	TIME OUT 1054	ADMITTING OFFICER'S INITIALS RCA #1241
NAME LISA A. WILSON	RANK/TITLE SA	TIME IN 5:05 PM	REASON FOR ENTRY
SIGNATURE <i>[Signature]</i>	AGENCY DCI	TIME OUT 7:30 PM	ADMITTING OFFICER'S INITIALS NEIGHBOR CANVAS MTH #1481
NAME DANN FORSYTHE	RANK/TITLE S/A	TIME IN 5:21 PM	REASON FOR ENTRY
SIGNATURE <i>[Signature]</i>	AGENCY DCI	TIME OUT 7:30 PM	ADMITTING OFFICER'S INITIALS NEIGHBOR CANVAS MTH #1481
NAME Louredes FERNANDEZ	RANK/TITLE S/A	TIME IN 5:47	REASON FOR ENTRY
SIGNATURE <i>[Signature]</i>	AGENCY DCI	TIME OUT 1042	ADMITTING OFFICER'S INITIALS MTH #1481
NAME John Siegel	RANK/TITLE Deputy	TIME IN 6:30	REASON FOR ENTRY
SIGNATURE <i>[Signature]</i>	AGENCY LCSO	TIME OUT 10:08	ADMITTING OFFICER'S INITIALS Total Station MTH #1481

DISCOVERY

SEP 03 2010

****DEATH SCENE ENTRY LOG****

Location: N3071 Fox Hollow Dr.
 Officer Initialing Log: Sgt. B. Weyzbick Time: 2114

*****NOTICE: ALL PERSONS ENTERING DEATH SCENE MUST READ AND SIGN.*****

Only persons authorized by an LCSO supervisor, or detective in charge, shall be permitted to enter the death scene. Those persons may be required to give hair, fiber, etc. samples.

Admitting officer will fill out all spaces except the signature of entering person.

PERSONS ENTERING SCENE 5/24/10 CONTINUED

NAME	RANK/TITLE	TIME IN	REASON FOR ENTRY
Steve Helgeson	Sheriff	9:17 PM	Investigation
SIGNATURE	AGENCY LCSO	TIME OUT 1041	ADMITTING OFFICER'S INITIALS B PW 1201
John Wood	CH. 104	9:17 PM	Invest.
SIGNATURE	AGENCY LCSO	TIME OUT 1041	ADMITTING OFFICER'S INITIALS B PW 1201
John Stiles		9:52	Removal of Body
SIGNATURE	AGENCY M.E.	TIME OUT 1038	ADMITTING OFFICER'S INITIALS B PW 1201
Jennifer Marks		9:52	Removal of Bodies
SIGNATURE	AGENCY DEPUTY M.E.	TIME OUT 1038	ADMITTING OFFICER'S INITIALS B PW 1201

DISCOVERY

SEP 03 2010

DISCOVERY

SEP 02 2010

05/26/10
12:25

Jackson County Sheriff Department
Law Supplemental Narrative:

Page: 219
1

Incident Number: 10-03365 Name: Ti Nichols
Sequence Number: 1 Date: 12:24:28 05/26/10
Narrative
(See below)

= = = = =

Narrative:

HELEN VAN ROO-Interview

On 05-25-10 at around 1235 hours I was notified by the Jackson County Sheriff's Office that a female party was at the office to speak with me in regards to an investigation that I was assisting the Wisconsin Department of Criminal Investigation with. The female party was identified to me as HELEN VAN ROO. I remembered VAN ROO'S name as being one person that we were not able to speak with on 05-24-10 when DCI Agent Dave Forsythe and I conducted interviews at the Ho-Chunk Health Care Clinic.

At around 1244 hours I met with VAN ROO in the interview room located at the Jackson County Sheriff's Office. VAN ROO provided me with her personal identifying information and told me that she has worked with DENNIS KOULA since around November of 2007. VAN ROO said that she is a Pharmacy Technician at the Ho-Chunk Clinic Pharmacy.

VAN ROO told me that on Friday morning, May 21, 2010, KOULA came into work and immediately told her about a phone conversation that he had with his daughter. VAN ROO said that she did not know KOULA'S daughter's name. KOULA told VAN ROO that he had spoken with his daughter about her husband. VAN ROO said that KOULA'S daughter was upset and crying because she and her husband just had an argument. VAN ROO said that KOULA told her that his daughter told her husband to "get off his lazy ass and get a job" because she was "sick of her parents bailing them out."

VAN ROO said that she knew that KOULA had given money in the past to his daughter and son-in-law to help pay for the mortgage on their house. VAN ROO said that KOULA gave them about \$3000.00 a couple of months ago to assist with mortgage payments. VAN ROO said that she has also had a conversation with KOULA in the past about some money that he gave to his daughter for repairs to her or her husband's vehicle. KOULA told VAN ROO at that time that he did not think that the vehicle would run that much longer and that he would probably have to pay for a new vehicle too.

VAN ROO told me that she would often have lunch with KOULA in the pharmacy as the pharmacy would close from noon to 1:00 PM everyday. VAN ROO said that during this time they would talk about families. VAN ROO said that she knew that KOULA owned a pharmacy in Neillsville at one time and that he also had owned a car dealership with a relative and that KOULA had found out that the relative was stealing money from the business.

I asked VAN ROO if she had ever been to KOULA'S residence and she said that she had not. I asked her if she knew or heard KOULA talk about any collectibles or antiques that might be in his residence. VAN ROO told me that she did not think that KOULA had anything like that and that she was told by KOULA that most of his money is tied up in IRA's and the stock market. VAN ROO said that KOULA had shared with her at one time that KOULA did not even have a savings account.

VAN ROO said that on 05-21-10 KOULA gave a Graduation card to her to give to her son as he was not going to be able to make it to the graduation party. VAN ROO said that her son's name was on the check and identified her son as NICHOLAS VAN ROO and that the check has been cashed. The check was in the amount of \$25.00.

VAN ROO then told me that KOULA would talk about the issues with his daughter and son-in-law but that KOULA stated that he did not really know his son-in-law that well and did not talk to him on a regular basis. VAN ROO said that KOULA often referred to his son-in-law as the "lazy bum." KOULA spoke to VAN ROO about how he would sometimes go to the school that his granddaughter attended to pick her up. VAN ROO thought that the granddaughter's name is JOSIE. KOULA ~~would have to drive around 10 miles to the school to pick JOSIE up and would~~ drive by the daughter and son-in-laws house on the way. When KOULA would go by the residence, the son-in-law's vehicle would be parked there. KOULA told VAN ROO that it angered him that his son-in-law could not go 1 mile to the school to pick JOSIE up and he would instead have to drive 10 miles.

I asked VAN ROO if there were any patients or patrons at work that had any type of issues with KOULA. She spoke of one instance a few weeks ago and a phone conversation that KOULA had over the phone with a patient. VAN ROO said that the following Monday however, DOUG BEAVER called the patient and everything was settled.

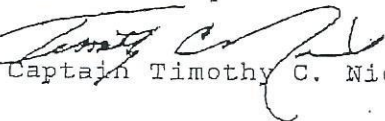
VAN ROO said that she worked with KOULA on 05-21-10 and that she walked out of the clinic with him at around 1700 hours. She said that KOULA reminded her when saying good-bye about the fact that he was going to take them all out for Chinese food on Tuesday for lunch.

My conversation with VAN ROO ended and I provided her with my business card in case she thought of any further information. It should be noted that also present during this interview with VAN ROO was her husband. He was identified verbally as ALLEN P. VAN ROO (DOB: 02-22-51; M/W).

A copy of this report will be forwarded to the La Crosse County Sheriff's Office for their records.

No further information at this time.

Submitted by:


Captain Timothy C. Nichols

DISCOVERY

SEP 02 2010

10-1954/35

Date 06/01/2010

KOULA DEATH INVESTIGATION

Interview/David G Growt and Audrey C Growt

SUBJECTS INTERVIEWED.

NAME DAVID G GROWT
DATE OF BIRTH 05/27/1941

NAME AUDREY C GROWT
DATE OF BIRTH 06/21/1941
TELEPHONE 608-783-1001
ADDRESS 636 Winter Street, La Crosse, WI 54601

On Thursday, May 26, 2010, S/A Tam M Sleeman and Det Sgt John Zimmerman of the La Crosse County Sheriff's Department met with DAVID and AUDREY GROWT at their residence, 636 Winter Street, La Crosse, WI

DAVID GROWT stated he has been good friends with DENNIS KOULA, who he refers to as "DENNY" throughout this report, since they were in high school. They also went to graduate school together and were roommates while they were in grad school in Madison, WI

Through the years they have traveled together and almost every Friday night they go to the Ridge Restaurant with the KOULAS. They usually meet between 6:10 and 6:15 p.m. The GROWTS usually go to the Ridge Restaurant a little bit earlier to get a table and then they meet the KOULAS. After dinner they usually go to the KOULAS to play cards. The last time they were all together was Friday, May 14, 2010 where they had dinner at the Ridge together. The GROWTS stated on Friday, May 24, 2010, the GROWTS were on vacation and that is the reason why they missed dinner on that night.

DAVID GROWT stated DENNY KOULA usually gets home from work just before 6:00 p.m., will stop at the house and pick up MERNA KOULA and then they go directly to the Ridge.

DAVID GROWT stated he is aware that DENNY KOULA is into day trading and both of the KOULAS have an interest in investing and trading. The GROWTS are also aware that MERNA KOULA enjoys doing some day trading but both DENNY and MERNA KOULA are very conservative with the day trading.

DISCOVERY

SEP 07 2010

The GROWTS stated that the KOULAS did not care for their son-in-law, PATRICK COWELL but did not talk about it very much.

The GROWTS were aware that CINDY COWELL had been separated from PATRICK COWELL sometime before JOSSALYN (JOSIE) COWELL was born but then they got back together

The KOULAS were upset because PATRICK COWELL was not able to keep a job for a very long time and most of the time was not working. PATRICK COWELL was always invited to family functions but rarely went to any family functions. DENNY KOULA described PATRICK COWELL as not having any ambition. Both the KOULAS were very disappointed in PATRICK COWELL.

DAVID GROWT stated he was aware that CINDY COWELL and DENNY KOULA had lunch at least once a week and that DENNY KOULA had recently bought new windows for PAT and CINDY COWELL's house and while DENNY KOULA was at the house putting the windows in, PATRICK COWELL never even offered to help put the windows in. During family functions when PATRICK COWELL did not show up, CINDY and JOSIE COWELL always attended family functions without PATRICK COWELL. The KOULAS were very close with their grandchildren and the grandchildren stayed at their residence often. The GROWTS were aware that ERIC KOULA's son, DEXTER KOULA would go to the grandparent's residence and cut the grass and DENNY KOULA would pay DEXTER KOULA for cutting the grass.

The GROWTS stated MERNA KOULA had their house painted recently and they had recommended the painter, TOM HEGG. They stated HEGG painted the stairway and bathroom, then came back and painted the living room and dining room area. This was sometime in early May 2010. The GROWTS stated they got HEGG's name and reference from Mautz Paint. The GROWTS were also aware that HEGG's son also helped paint the KOULAS residence.

The GROWTS were not aware of any type of cleaning personnel that came to the KOULAS residence. The GROWTS had no information on PATRICK COWELL's daughter from a different relationship. The GROWTS stated when they went to the KOULAS residence they usually went through the garage door if it was in the summer time, the big garage door would be open and they would enter through the garage. They never used the front door when visiting. They also believed that the window shades in front of the house would be open.

The GROWTS were also aware that approximately 5-6 years ago MERNA KOULA had a falling out with her two brothers over her parent's estate and that MERNA KOULA and her sisters were not talking with their brothers. They were also aware that within the last 6 months DENNY KOULA had paid the final payment to NICK HARRING (nephew) on the Ford dealership.

DISCOVERY

SEP 07 2010

The GROWTS said MERNA KOULA was not into expensive jewelry and that type of stuff was not important to MERNA KOULA. The GROWTS were not sure if DENNY KOULA had any guns and they don't believe he goes to a range to shoot guns but believe that DENNY KOULA used to hunt when he lived in Neillsville.

TMS drng 06/07/2010

10-1954 35 Interview Growts 05282010

DISCOVERY

SEP 07 2010

*** S/A Christopherson relied on the accuracy of his reports ***
and would dispute things if his report said different.
The following are examples.

Preliminary Hearing August 27, 2010
Testimony S/A John Christopherson

Q. Mr. Genz told you on multiple occasions that Mr. Koula was there tiling and grouting with him throughout the course of the afternoon; true?

A. Yes.

Q. Mr. Genz told you that Mr. Koula departed his residence at or about 5:30 in the afternoon; true?

A. Yes, but I thought it was between 5 and 5:30 he said.

Q. If Mr. Genz testified that he told you that Eric left his house at 5:30, would you dispute that?

A. I would if it's different in my report.

(¶ 77-78)

Testimony of S/A Christopherson 6-12-12
(¶ 86)

Q. When he spoke to you,-- and let me know if you need to see this -- that would have been back on May 25 of 2010, correct?

A. Is that what it states on the top of my report? Then Yes.

Testimony of S/A Christopherson 6-13-12
(¶ 68)

Q. Or again, maybe mine. Okay, nervous wasn't in the order. How about a sighting?

A. If it's in my report then yes.

Discrepancies in S/A Christophersons report of the interview
of Cindy Cowell on 5/26/2010 (10-1954/76)
versus the audio recording.

EXHIBIT "U" (page 1 c.c.)

S/A Christopherson report states: JOSIE COWELL had used the computer
last week and spent the night at DENNIS and MERNA KOULA'S residence
on May 8, 2010.

*** In the audio recording the Detective clearly acknowledges that
Jossie was dropped off on the 15th (Saturday).***

EXHIBIT "U" (page 2 c.c.)

S/A Christopherson report states: DENNIS and MERNA KOULA dropped
JOSIE off at home (May 9th)

*** In the audio recording the Detective clearly acknowledges that
on Sunday the 16th she was brought home to the COWELLS by DENNIS
and MERNA KOULA.***

EXHIBIT "U" (page 5 c.c.)

S/A Christopherson report states: COWELL stated that she does not
know anything about a coin collection that her father had but that
he had a stamp collection.

*** In the audio recording Cindy Cowell states that in the past that
her mother, her brother and herself had disscussed who gets what
after their parents would pass away(so there would be no fights
about who gets what.) Cindy explained that Eric said," And I want
Dad's stamp collection,"and I said(meaning Cindy)"and I said I get
Dad's Indian Head Nickel Collection." And Mom said,"Fine you can
have the coin collection and Eric can have the stamp collection."***

NO PHOTOS WERE TAKEN OF THE INDIAN HEAD NICKEL COLLECTION
IT IS MISSING JUST AS THE GOLD COINS ARE

Discrepancies in S/A Christophersons report of the interview
of Patrick Cowell on 5/26/2010 (10-1954-55)
versus the audio recording.

EXHIBIT "U" (page 2 p.c.)

S/A Christopherson's report states: COWELL stated he was going to assume that JOSIE COWELL walked to school at about 745a.m. and that CINDY COWELL went to work at 800 or 830a.m.

*** In the audio recording Patrick states "I'm gonna assume she walked on Friday or Mom could have taken her. I don't remember.***

EXHIBIT "U" (page 2 p.c.)

S/A Christopherson's report states: COWELL stated that his fingerprints should not be upstairs at the DENNIS and MERNA KOULA residence as he had never been up there.

*** In the audio recording Patrick states "My fingerprints shouldn't be upstairs, at all (laughing) I haven't probably been upstairs in the house in 5 or 6 years." "I don't think (laughing) that may or may not hurt me."

Supplemental to 5/24/2010 Interview with Cindy Cowell
Informally Transcribed Audio

Q. Well like we said that is what were trying to find out.

A. Was she shot? She was shot.

Q. That's what it sounds like.

Q. Well that's possible.

A. But how did you find them? How did you find them? Were they together? My dad should have left for work this morning at 6:30. He should have been there. He leaves at about 6:30, 7 at the very latest. When Jossie - when I used to bring Jossie out there because it takes about 20 minutes to get from my house to my parent's house. And we used to leave early enough so dad could see Jossie before he goes, and then he'd say, "Hi," and then I'd try to stay long enough so that she could see, see him when he got home from work cuz he'd get home from work about 6.

Q. So he'd leave about 6:30, 7 and be back at 6 at night.

Q. You spoke about your mother saying she bolted thing down for the night. What would she--would she--bolt a lot of doors?

A. They have a sliding glass door on their porch. Got a twisty lock, and a stick.

Q. Ok, does it lock completely?

A. It locks completely but it is hard to get it open and unlocked.

Q. Did they put the stick in that door to keep it shut?

A. Not that I'm aware of, No. Iv'e never seen them do it.

Q. How about the other doors?

A. The front door, sometimes they would leave the front door open because they had a really nice door.....

Q. Did she lock that at night?

A. Usually at night they'd shut the inside door and lock it.

Q. That's a bolt lock? Do you turn it or do you have to turn it with a key?

A. I think it is one of those that has the little knobby thing.

Q. Pull the handle?

A. Yeah, I think so.

Q. Alright.

Cindy describing the room by Mom and Dads Bedroom

....And then there's the room I stayed in when I first found out that I was pregnant with Jossie and Pat and I were having difficulties with it. She called the room and then there is the master bedroom bath. I stayed in, "The Blue Room." And there is a dresser in there, and a top dresser.....

Cindy's reference to the Friday phone call with Dennis

Several different explanations

1st

And my dad understood that. And my dad's like--anti depressants, and yeah, I know.....but as far as taking care of you--I don't think he does and finally he's like(cut off by officers question)

Q. Was he trying to get a job somewhere else?

A. Yeah, he's been looking.....

Q. Was your dad upset with him?

A. No. No.

Q. That he couldn't find a job or you know?

A.My dad was upset. Straight upset.--my daughter--But Dad's gonna help me. He's gonna help me now.

Second explanation

I called him on--to let him know what the guy had said from unemployment. And this is thursday. This is last thursday, I called. Called him on my cell phone. I talked to him on his cell phone. No, it's Friday. It's Friday, he was at work. Work on Friday. He's supposed to work every day this week and then Memorial Day. And I told him what the guy at unemployment had said. And Dad say's "That's bullshit." And I said "whad'ya mean Dad." He said he's supposed to be callin' Pat back.

A.He works as a pharmacist at a clinic up in Black River Falls and I don't have the number. I know that Eric used to stop there all the time when Dad was working. And Dad told me if you ever get to Black River..... you need to stop by.

Third explanation

- Q. And that's Thursday like you were talkin about?
- A. I'm thinking it's Thursday or Friday. And I asked him, "Aren't you supposed to be at work?" And he said, "I am at work." And it's shortly after 8 and I said, "Well I don't want to get you in trouble with your boss." And he just laughed. Then we had a good talk at work and he told me, "I love you very much," and then he told me he's always there for me for moral support, and if I should need him I should call him anytime, called--weekend.
- Q. You can't blame yourself. So this conversation on Thursday, you were on your way to work?
- A. On my way to work.
- Q. You were talking to him on your cell phone? You said he was at home?
- A. He was at work. It was Friday, it was Friday and he said he was at work.

Fourth explanation

- A. It was last Thursday or Friday.
- Q. On your way to work?
- A. I was on my way to work. It was a little bit after 8 cuz I remember cuz I had dropped Jossie off at school.
- Q. And you said he said something about applying for unemployment or did that--?
- A. I mentioned to him--I mentioned to him that Pat, he'd applied for unemployment but then the case worker had told him that they would get back to it, about it, because Pep's was saying that Pat was paid severance pay. But he wasn't. He was paid in two weeks vacation time that he was suppose to have gotten and they never responded to him, the unemployment inquiries and we just got the unemployment checks today. And Dad said, you know, well, I said to Dad, "Dad please don't cut him out--I love my husband." He told me the last time we talked that he would always be here for me for moral support and I could call him at any time day or night he'd be there. Why would somebody hurt him? Maybe the grackles took revenge on my mother and told him what to do.....

See supplemental to 5/26/10 interview with Cindy Cowell

Informally transcribed Audio recording

Explanation of Friday phone call

Q. What time did you get home, do you know?

A. 5:30, 6:00

Q. Was Pat there then?

A. Yeah, he was there. Other than that we had some drinks and stuff. Fed Jossie dinner and she played a little bit.

A. And then, what else did I do on Friday night. We watched a show but I can't remember if we watched a show or not. We have a TV where Pat has his XBOX set up. And then we have a TV up in Jossies room. We were home all night. I think our next door neighbors came over Friday night.

Q. John and Bruce?

A. They're our next door neighbors. Then Saturday we slept in and bummed.

Q. So then you told me--?

A. Pat doesn't do a lot. I don't mean that in a bad way. He Doesn't. He mowed the lawn on Friday. Played his XBOX. Played his XBOX. I did have to go out on Sunday. Our lawn mower broke, so he got Bruce and John's lawnmower so we could finish our lawn. Neither one of us really went anywhere.....

Q. So I'm clear then that pretty much after Friday, Pat stayed home?

A. He was pretty much home, yeah.

Q. Friday night through Sunday, when he went to bed, never went anywhere with the car?

A. I'm trying to think, if he went anywhere with the car. Saturday, Saturday, he took Jossie to Karate. Saturday morning Jossie's karate started at 9:30 (mumbling "That's through Tuesday morning throughout".) So he took the car, he took Jossie to her karate class and he was there with her, after karate class until it ended at 11:00, 11 O'clock, and he came home. And Jossie was with him the whole time.

Q. So 9 to 11?

A. I'd say more like 9:15 to about 11:15.... But we were both home after that.

Q. On your way to work?

A. I was on my way to work. It was a little bit after 8 cuz I remember cuz I remember I had dropped Jossie off at school.

Supplemental to 5/26/2010 Interview with Cindy Cowell
Informally transcribed Audio recording

First explanation: ***Phone call***

A. The last time I talked to my Dad, it was either Thursday or Friday, I was on my cell phone. I called his cell and I talked to him and I remember teasing him cuz it was a little bit after 8 in the morning and I said, "Hey aren't you supposed to be at work," and he said, "I am at work,".....

Second explanation:

A. And I remember talking to him again, because we couldn't do lunch here, I think it was on the 21st, because Pat's old company was giving us the run around with unemployment. I remember talking to my Dad while he was at work. We were talking and I asked him, you know, what he thought we should do and he said, "get a lawyer" I said, Dad were not getting unemployment, we can't afford a lawyer. If worse comes to worse I might have to do that. I remember Dad saying something about, "Do you want to go out for fish?" and I remember telling him "No that's OK, I don't want to go out for fish." Think it was Friday night and I just wanted to go home, decompress.....

Third explanation:

Q. What other things did you guys talk about during that phone conversation?

A. Work, family life, Pat already knows that my Dad was frustrated with him. Pat needed to man up and Pat knows that. Just basic stuff. He mentioned that he loves me. That, um, if I needed to I could call him. He is there for me, he'll support me and he said that he is there for me to talk about stuff. And that I had his cell phone, and if I needed to talk I could call him.

Cindy talks about giving books to Merna

I'd go through books and if I found something that I thought my mom would like I'd give it to my mom. And so when they dropped Jossie off I had a pie pan from my Mom and Dad's house, a glass pie pan that we had washed up I had put a bunch of books inside of it.....

Q. So there are hardcover books?

A. Hardcover Books.

Q. There were a bunch of books.

A. Cuz there were some books on the counter. It's written by an author she's jewish, she died in, let's see, Dachau, she died in one of them camps. There was a book about French village life. There were 3 or 4 books of them....

Q. Some of those books that were on the counter could have been from you, OK.

Q. We can definately do that later. When you had your conversation with your dad on Friday, did he mention any problems with anybody?

A. "Daddy, I want to whine to you." I called him to whine.

Q. Has your mom or dad expressed any concerns with anybody lately?

A. Not to me, No.....

Q. And you used to have one? (In reference to a bb gun)

A. I used to have one but I think I left it at my mom and dad's house.

Q. You think it's at your mom and dad's.

A. I think so. I think it's in one of those drawers, one of the top drawers.

Q. Top drawers in which room?

A. Here's my mom and dad's bedroom. There's a room across the hall and to the side of it.

Q. As your're facing toward your mom and dad's room, the room to the left?

A. Blue carpeting, there's a dresser. I think it's in the top drawer.

Q. And it's just a bb pistol?

A. Cuz I remember thinking, Mom, why not just kill the grackles with that? I don't know if it's still there though.

Q. If it's not there, who would have that do you think?

A. I left it there. Honest to God, I don't know. I would've put it there because a long time ago Pat and I went through a rough patch in our marriage and I went to stay with Mom and Dad.

Cindy stayed in the room next to Mom and Dads
The room where the supposed murder weapon was found

A.We have a TV set up in Jossie's room.....

Q. Just swab the inside your cheek there.

A. Just trying to think of anything else I can tell you about where you can find me so that you know that is me. Drink of water. Outside on the table. On that pull thing.

See 5/24/10 Supplemental report
*** Front Door***
Informally transcribed

Q. When you hurt you get angry. That's natural?

A. I don't know. I just--I want you guys to have all the information you need. And I'll give it to ya. I'll give you everything you need
I just--I can't cry anymore and I feel like I'm not doing anything. What can I do?

Q. Best thing you can do is be a strong person for your daughter and there is nothing wrong with grieving, it's only natural.

A. I know. I just wish there is something I could do, something I could remember that's gonna help you.

Q. Well, I've got a couple more questions.....

See Exhibit BD, Interview with David and Ione Harder

"Dave and Ione told us that since to deaths of the Koula's that both Cindy and Patrick have been partying all night. They said especially his past Friday, 5-28-10." "They told us Cindy was laughing and they thought that all this particular behavior is unusual for someone grieving the death of their parents."

A. 5/26/2010 interview continued

A. That's fine. That's fine. Good thing they clarified(sounds like the signing of paperwork, DNA consent) The fact that I was drinkin' last night, that's not gonna influence anything is it? And you're like, "Ooohh, she was drinkin' last night!"

Q. No not at all.....

**See Exhibit "W" pages 1 and 2 r/mj.p **

Saturday 5/29/2010 Cindy and Patrick went to Ron and Mary Jo Pegg's residence for dinner. "Cindy was crying a lot while she was at the Pegg's and seemed to be "all torn up", " "Pat seemed to be quite and down" " Pat was upset and was worried that the police would think of him as a suspect in the case." " That the police took his XBOX"

- Q. Would she use the coffee maker for that?
- A. She'd use the coffee maker for that. She'd use a half packet because Mom didn't like her coffee too strong and she always took it with milk, my Dad drank his coffee black.
- Q. Mom with milk.
- A. Dad black. Dad didn't drink coffee usually in the evenings. Dad drank coffee in the morning. Mom usually wouldn't make coffee at night unless it was for company and there was desert.....
- Q. Would they both drink coffee in the morning?
- A. Mom and Dad would drink coffee in the morning.
- Q. Both drink coffee.
- A. Umm-Hmm, My Mom was (sigh) I don't know what my Mom was suppose to do. I don't know. She was supposed to work Monday. I think she might have been working Friday.....he would have been up early because he would have had to be to work by 8.

Cindy tells the Investigators that she doesn't know how or doesn't know when her parents were killed. 5/26/2010

"I don't know. I don't know how. I don't even know when."

***See EXHIBIT "V" page 3 of 7 ***

"Cynthia said it was hard for her to move forward in the light of her parent's murders because she and Eric didn't know what happened to their parents".

See supplemental 5/24/2010 interview of Cindy Cowell
informally transcribed

- A. (Cindy) Was she shot? She was shot.
- Q. (Sheriffs Deputy) That's what it sounds like.

Supplemental to 5/24/2010 interview with Patrick Cowell

Page 6 of informally transcribed interview

Q. You and Cindy go out?

A. Dinner is all. We don't go to the taverns and don't go out. Used to. Think the last time we were actually out maybe a year ago for my buddies weddin'.

EXHIBIT "V" page 4 DCI Report # 10-1954/54

"Cynthia said Patrick did not go out often; the last time being several weeks ago for some type of sports draft in which he went out with his friend named LINK."

DCI Report # 10-1954/165 Bank Record of The COWELLS
(Contains pages 1-39)
(SEE DISCOVERY)

4/22/2010 -- Withdrawl/Transaction at Mirage Sports Bar for \$41.00
from card # 5751 (Patrick Cowell)

11/06/2009 -- Withdrawl/Transaction at Mirage Sports Bar for \$21.00
from card # 5751

10/3/2009 -- Withdrawl/Transaction at Mirage Sports Bar for \$81.00
from card # 5751

*** Many more in earlier months ***
*** See Bank Statements ***

Page 7 of informally transcribed interview

Q. So her relationship with them was pretty good? (reference to Dennis and Merna)

A. Little rough, good, I never seen them fight.

Page 8 of informally transcribed interview

Q. What time did Cindy get home on Friday?

A. I think she got off at 5. So think she would have come home right after that, 5:30 I would imagine.

*** Patrick stated that he got out of bed on Saturday morning and took Jossie to Karate.***

** See EXHIBIT "U" page 3 of 6 c.c. (Cindy says Patrick slept on the couch Friday Night) **

- Q. I started on Friday, do you remember your Thursday?
- A. Oh, God No. I'm gonna tell you it wasn't much because I didn't have the car. Cindy would have had the car Thurs--Well I took Jossie to Karate on Wednesday night. I took her to Karate on Wednesday not Thursday. So I don't know what I did Thursday.

****Later on in the same interview 5/24/2010****

- A. One of those days I dropped an application at Manley Video. One of those days, I don't remember if it was Wednesday or Thursday. I think it was the day I took Jossie to Karate, which would have been Wednesday.

*****See supplemental 5/24/2010 interview Cindy Cowell***
Lessons from 9:15 to 11:15 on Saturday**

Patrick Cowell's interview 5/24/2010

Q. 9 to noon?

- A. Yeah, almost noon. She had three classes that day.

*****See EXHIBIT "V" 4 of 7 -and 6 of 7 *****

p.(4)"Cynthia didn't think Patrick had the car that week except possibly on Tuesday, May 18, 2010."

p.(6)"Cynthia said Patrick had her car on Mondays is Jossalyn went to Karate on Monday at 4:30 pm" "Cynthia said Jossalyn can also have karate class on Wednesdays and Patrick might have the car as well."
"However, Cynthia said that Jossalyn also has karate on Saturdays and if she does not attend her Monday and Wednesday classes, she will do all three classes on Saturday."

Q. Last week Sunday?

- A. And they brought her to our house on Sunday afternoon.(Cell phone rings and Patrick answers) "Hey I'll have to call you back. Well not yet Mom. Don't pick her up yet, OK I'll call you. OK alright bye, bye." (Patrick returns to interview.)

Supplemental to 5/26/2010 Interview of Patrick Cowell
with S/A Chritopherson and Inv. Lienfelder

page 2 of informally transcribed interview

Patrick states that Chris's mother (referring to Christine Koula) was along on Mother's Day when we all went to Mother's Day Dinner out at the Restuarant.

*** No, Betty Trunkel was not along ***

page 9 of informally transcribed interview

Q. Alright. Have you told anybody that? (reference to how they were killed)

A. NO....."We say we don't know anything."

Q. We'd prefer that you'd keep it that way.

A. that's why we just tell friends "We don't know", "I didn't even know how they were found or where until Eric told me yesterday."

Q. Okay.

A. Where he explained to Cindy and where he found them.

*** See EXHIBIT "X" 2 of 2 j.h. ***

"COWELL told HOPPE that CINDY COWELL's parents were shot and killed."

"COWELL said it happened at their home...."

"The detective told PATRICK COWELL that CINDY COWELL's brother found the bodies of her parents and both of them had been shot."

*** See EXHIBIT "BB" 1,2,3 R.P. M.P. (5/27/2010)***

Ronald Pegg first learned about the deaths of the Koula's from his daughter, identified as Christine R. Murillo, who is also from the State of California. Murillo is a California District Attorney's investigator(law enforcement) at the San Bernardino County District Attorney's office in California.

Murillo contacted Pegg by telephone at the Marriot Motel that they were vacationing at. Murillo explained that she discovered that the Koula's were found either Sunday or Monday(May 23 or 24,2010) by Cindy Cowell's brother , Eric Koula. Murillo reported that Dennis and Merna Koula were shot in the head. Murillo received this information from Mary Jo Pegg's sister(Murillo's Aunt) Judy Turner of Lake Havasu,Az.

Murillo advised Ronald Pegg, "Dad. I have bad news. Koula's folks were shot in the head and found by their son". Ronald Pegg listed his wife's sisters as Judy Turner from Arizona and Sue Cowell from Lacrosse, Wi. (Patrick Cowell's Mother)

It was Ronald Pegg's understanding from talking to Christine Murillo that one of the victims(not indicated who) was found in a computer room at their residence and the other victim was found in the kitchen (not indicated who). Pegg was also told that a break-in to the residence was ruled out, according to the information he received. The order in which this information came forward was as follows:

Sue Cowell called Judy Turner in Arizona. Turner called Christine Murillo in San Bernardino County and Murillo called the Peggs while they were on vacation in Los Angeles.

Mary Jo Pegg and Ronald Pegg both indicated that they have not spoken to Cindy or Patrick Cowell since they arrived home.

P.11 Informally transcribed interview 5/26/2010

Patrick tells the investigators that they will "mainly get" his prints off of the TV remote and the ping pong table in the basement.

P.7 Patrick says " in fact, me and Dexter, the nephew, were just talking, him and I were online at 2 in the morning, Saturday playing."

Investigator: Oh, you were?

Patrick says: he's like "Boy you were up late" I'm like "Whaaatt?" He goes "Two in the morning, we were playing." I'm like, "Oh, yeah thats right, how'd you know that?"

***See Exhibit "BC" *** 6/1/10

Patrick was asked about how he aware that Dexter was playing on the XBOX on Saturday.

Pat stated he had talked to Dexter about this on Thursday, 5/27/10, when he was at Dexter's house. Pat said this was the only conversation that he had with Dexter in the past week.

A. Um, I think she may have gone to the store after work. I could be wrong on that. Picked up milk or beer or somethin' like that. I'm not exactly sure, I don't remember.

Q. OK

A. I don't remember Friday if she went straight home or if she went shoppin'.Maybe she did, I don't know.

SUPPLEMENTAL TO 5/24/10 Interview with Patrick Cowell
Informally Transcribed Audio

Q. Patrick?

A. Yes.

Q. Fritz Lienfelder Investigator, Sheriffs department. Um, You. I don't know how much you know.

A. I just know that they are gone, gunshot, thats all I know.

Q. Yeah, both, ah, both your mother-in-law and father-in-law, umm, we're just talking to everybody first of all I'm sorry for your loss. Umm. Is it Patrick?

A. Yes.

Mr. Koula was generating an income in 2010. Looking at the trading account statements (in the discovery) they show opening balances on the first day of the month and ending balances on the last day of the month. Any positions that are held over the subsequent value is reflected on the ending balance of that month. January 2010 had an opening balance of \$29853.42 and April's opening balance was \$61,438.89. See EXHIBIT "BQ". April's ending balance on the 30th of the month is misleading do to the fact that several positions had been bought and held over and not sold that day. After these positions were purchased they had decreased in value by the end of the day on the 30th. It is for this reason that April's balance at the end of the month was lower than it's opening balance at the start of the month and the start of that last day, the 30th. In order to show a more accurate dollar amount of how much income had been generated in April, one must work backwards on that day with those trades. See EXHIBIT "BQ" page 3 for the positions purchased on the 30th. See EXHIBIT "BQ" page 1 for remaining cash.

Testimony from the Accounting Experts showed that over forty thousand had been distributed (January thru May) from the account. The checks that had been written had already been deducted from the account as they cleared. In other words they had already been subtracted from the month end account value.

The defense called an Investment trader as a witness who testified that there was enough money in the account to trade. He said that the sky's the limit as to how much can be made with that balance. A trade on May 21, 2010 showed that over 100% return on capital had

been generated. Furthermore, the company who had been hired by Eric and Christine Koula to resolve their tax issue with the IRS, had incorrectly filed their 2010 tax return. Had JK Harris done the taxes properly they would have shown that an income had been generated before being offset by the previous loss carryovers.

JK Harris corporation did not follow the proper IRS rules and regulations for filing option trades in 2010. They lumped groups of trades together and lumped groups of sales together and just subtracted the difference, ending in highly inaccurate and wrong figures. They also did not follow the IRS rule called " Wash Sale Rule " that does not allow a loss to be taken against income (if that same position had been traded within the last 30 day time period.) The lumped groups of trades are not even close to the actual amounts that were bought and sold each month. See EXHIBIT "BS"

See the following example for the proper way to show positions acquired and sold on a trade by trade analysis for tax reporting. It also includes an example of a disallowed wash sale loss. Please see the next page.

Section 1256 Contracts Marked to Market Attachment to Form 6781
(Part 1) 2017

Name(s) shown on return

Eric Koula/Christine Koula

Identifying number

s.s# _____

(a) description of property	Dated acquired	Date sold	Gross sale price	Cost or other basis	Gain or (loss)
RUT May 740 call	5/1/2017	5/1/2017	17,000.00	15,000.00	2000.00
RUT May 740 call (wash S.) traded 5-1-2017	5/2/2017	5/2/2017	8,000.00	14,000.00	disallowed loss
RUT May 740 call	5/3/2017	5/3/2017	15,000.00	14,000.00	1000.00

*** The example is not based on real trades done ***

The above example shows how to properly list and document each trade according to IRS Rules and Regulations and how a wash sale loss can not be taken to offset other capital gains. In other words had J.K.Harris properly listed and documented and filed Eric and Christine Koula's 2010 taxes, the return would've shown an income had been generated trading, a capital gains income. This amount is from January thru May of 2010 and corresponds to those trades only.

EXHIBIT "BR " shows all of the trades for January and February of 2010, listed and documented properly. This is how J.K. Harris should have reported the trades. The list shows real trading activity, such as on 1/13/10 and 1/14/10, 1/19/10, 1/21/10, 1/22/10 (multiple buys and sales on the same day). The list also shows trading activity on dates such as 1/4/10, 1/5/10, 1/11/10 (days that only one buy and sell occur). No matter what type of trading occurred, this is the proper way to document the trades for the IRS. Had J.K.Harris done this, Mr. Koula would have had supporting evidence backing up his position that he had been generating an income, (additional supporting evidence).

PO Box 2197
1-888-280-8020

Chicago, IL 60690-2197
www.optionsxpress.com

Account Number: 0557-3605

Page: 1 of 11

Statement Period: 04/01/2010 to 04/30/2010

Last Statement: March 31, 2010

240008 240008 73307_OX99

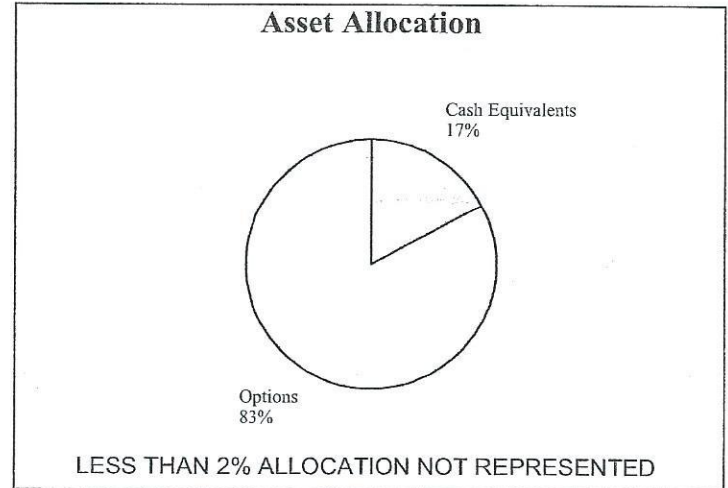
ERIC G KOULA
N5546 CTY RD C
WEST SALEM, WI 54669

From Your Investment Professional:

OPTIONSXPRESS

Telephone: (888) 280-8020

Account Value Summary	
Money Markets	\$94,887.11
Cash	(\$84,648.21)
Options	\$49,462.13
Stocks	\$292.50
Mutual Funds	\$0.00
Fixed Income	\$0.00
Other	\$0.00
Total Account Value	\$59,993.53



Change in Value Summary	
Change in Value Since Mar. 2010	(\$1,585.36)
Change in Value Since Dec. 2009	\$27,592.78

Account Activity Summary		
Type of Activity	This Period	YTD
Opening Balance - Net Cash Equivalents	\$61,348.89	
Assets Bought	-1,277,998.87	
Assets Sold Redeemed	1,243,987.75	
Other Activity	-51,683.63	
Money Market Activity	34,583.63	
Interest Taxable/Non-Taxable	1.13	2.86
Dividends Taxable/Non-Taxable	0.00	0.00
Margin Interest	0.00	0.00
Withholding	0.00	0.00
Foreign Taxes Paid	0.00	0.00
Ending Balance - Net Cash Equivalents	\$10,238.90	

Positions

STOCKS

Symbol/Cusip	Acct Type	Description	Quantity Long/Short	Price	Market Value
SSTP	1	SUSTAINABLE POWER CORP COM	75000 L	0.0039	292.50

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Account Number: 0557-3605

Page: 2 of 11
Statement Period: 04/01/2010 to 04/30/2010
Last Statement: March 31, 2010

From Your Investment Professional:
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Positions

OPTIONS

Acct Type	Description	Quantity Long/Short	Price	Market Value
1	CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	10 L	10.1712	10,171.25
1	CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 740 CALL	55 L	6.5025	35,764.01
1	CITIGROUP INC DEC 18,2010 4 CALL	20 L	0.9016	1,803.27
1	SPDR TR MAY 22,2010 121 CALL	15 L	1.1490	1,723.60

Option position pricing is based on Options Clearing Corp. (OCC) data approximating value and may not reflect actual market pricing

Money Markets and Cash

	10,238.90
Total Account Value	59,993.53

Activity Details

ASSETS BOUGHT/ SOLD

Date	Activity	Quantity	Symbol	Description	Price	Total
04/01/10	Bought	11.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 680 CALL	12.7000	(\$13,986.62) ✓
04/01/10	Sold	-11.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 680 CALL	14	\$15,383.38 ✓
04/01/10	Bought	25.00		SPDR TR APR 17, 2010 118 PUT	1.3100	(\$3,312.77) ✓
04/01/10	Sold	-25.00		SPDR TR APR 17, 2010 118 PUT	1.2600	\$3,112.17 ✓
04/01/10	Bought	11.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 680 CALL	13.2000	(\$14,536.62) ✓
04/01/10	Bought	7.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 680 CALL	12.9000	(\$9,045.03) ✓
04/05/10	Bought	10.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 680 CALL	13.8000	(\$13,815.11) ✓
04/05/10	Sold	-28.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 680 CALL	15.6000	\$43,637.69 ✓
04/05/10	Bought	15.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 690 CALL	9.6000	(\$14,422.66) ✓
04/05/10	Sold	-15.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 690 CALL	10.4000	\$15,577.34 ✓
04/05/10	Bought	25.00		SPDR DOW JONES INDL AVRG ETF APR 17,2010 109 CALL	1.4400	(\$3,637.77) ✓
04/05/10	Bought	12.00		SPDR DOW JONES INDL AVRG ETF APR 17,2010 109 CALL	1.4400	(\$1,746.13) ✓
04/05/10	Bought	15.00		SPDR DOW JONES INDL AVRG ETF APR 17,2010 109 CALL	1.3700	(\$2,077.66) ✓
04/06/10	Bought	12.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 690 CALL	11.4700	(\$13,782.13) ✓
04/06/10	Bought	5.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 690 CALL	11.5000	(\$5,765.00) ✓
04/06/10	Sold	-17.00		CBOE RUSSELL 2000 INDEX-RUT APR 17, 2010 690 CALL	12.6000	\$21,394.31 ✓

From Your Investment Professional:
OPTIONSXPRESS

240016 240016 73307_OX99

Activity Details

ASSETS BOUGHT/ SOLD

Date	Activity	Quantity	Symbol	Description	Price	Total
04/29/10	Bought	10.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	13.4000	(\$13,415.11)
04/29/10	Bought	14.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	12.7000	(\$17,801.15)
04/29/10	Bought	6.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	12.1000	(\$7,275.02)
04/29/10	Sold	-50.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	13.9000	\$69,424.45
04/29/10	Bought	10.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	16.1000	(\$16,115.11)
04/29/10	Bought	6.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	17	(\$10,215.02)
04/29/10	Sold	-16.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	18	\$28,775.82
04/29/10	Bought	15.00		SPDR TR MAY 22,2010 121 CALL	1.7800	(\$2,692.66)
04/30/10	Bought	20.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 740 CALL	12.4000	(\$24,830.22)
04/30/10	Bought	10.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 740 CALL	12.6000	(\$12,615.11)
04/30/10	Bought	10.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 740 CALL	12.9000	(\$12,915.11)
04/30/10	Bought	15.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 740 CALL	11.9000	(\$17,872.66)
04/30/10	Bought	10.00		CBOE RUSSELL 2000 INDEX-RUT MAY 22,2010 730 CALL	16.4000	(\$16,415.11)

MONEY MARKET ACTIVITY

Date	Activity	Quantity	Symbol	Description	Total
04/01/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$1,046.54
04/05/10	Cash Disbursed			REDEEM: FDIC INSURED DEPOSIT	(\$22,385.49)
04/05/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$750.00)
04/05/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$50.00)
04/06/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$23,515.70
04/07/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$9,113.84
04/08/10	Cash Disbursed			REDEEM: FDIC INSURED DEPOSIT	(\$178.04)
04/08/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$2,000.00)
04/09/10	Cash Disbursed			REDEEM: FDIC INSURED DEPOSIT	(\$8,154.49)
04/12/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$2,321.99
04/13/10	Cash Disbursed			REDEEM: FDIC INSURED DEPOSIT	(\$1,768.31)
04/13/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$600.00)
04/14/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$1,000.00)
04/14/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$1,090.85
04/15/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$25,803.58
04/16/10	Cash Disbursed			REDEEM: FDIC INSURED DEPOSIT	(\$5,877.61)
04/16/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$3,500.00)
04/16/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$1,000.00)
04/19/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$2,095.40
04/20/10	Cash Disbursed			REDEEM: FDIC INSURED DEPOSIT	(\$45,906.60)
04/21/10	Cash Received			DEPOSIT: FDIC INSURED DEPOSIT	\$49,763.30
04/22/10	Cash Disbursed			REDEEM: FDIC INSURED DEPOSIT	(\$16,467.12)
04/23/10	Cash Disbursed			REDEEM SD FDIC INSURED DEPOSIT	(\$1,700.00)

The following three pages of this exhibit are from Mr. Koula's 2010 tax return. They show that JK Harris had prepared the tax return for the year of 2010 and that they inaccurately reported the option trades. For example see page 4 of this exhibit. Look at the Advanced Micro Devices Inc trade. JK Harris reported it was acquired on 1/14/10 and sold on 7/17/10 for a profit of \$1935.00, in fact it was acquired on 12/30/09 and sold on 1/14/10 for a smaller profit. JK Harris listed CBOE Russell positions acquired on 1/14/10 for the amount of \$144,445.00 and sold on 1/31/10 for 144,049.00 (when the total account value of Mr. Koula's trading account is \$37,281.42 on the 31st of January.) See EXHIBIT "Z". They also only list three trades for the month of January when there are many more than that. In fact the Options Xpress statement shows the total dollar amount of trades for the month. See EXHIBIT "Z", which shows January 2010 (total assets bought) the figure is \$384,715.60 worth of trades acquired for the month. JK Harris' figures do not even add up to anything close to this. Another strikingly false number is April's trades. JK Harris' number for CBOE RUSSELL positions acquired on 4/17/10 is 836,378.00 and they are sold on 4/17/10 for 873,436.00. Mr. Koula did not purchase over 800,000.00 worth of positions on 4/17/10 and the actual dollar amount acquired and sold for April (the entire month) is much higher than what they reported. See EXHIBIT "BQ" page 1 for the accurate dollar amount traded for the month of April. JK Harris just lumps positions and dollar amounts together and doing so inaccurately prepared the whole 2010 tax return when it did the option portion.

**SCHEDULE D
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Capital Gains and Losses

▶ Attach to Form 1040 or Form 1040NR. ▶ See Instructions for Schedule D (Form 1040).
▶ Use Schedule D-1 to list additional transactions for lines 1 and 8.

OMB No. 1545-0074

2010
Attachment
Sequence No. **12**

Name(s) shown on return

ERIC G & CHRISTINE KOULA

Your social security number
399-78-4368

Part I Short-Term Capital Gains and Losses - Assets Held One Year or Less

(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Yr., mo., day)	(c) Date sold (Yr., mo., day)	(d) Sales price (see page D-7 of the instructions)	(e) Cost or other basis (see page D-7 of the instructions)	(f) Gain or (loss) Subtract (e) from (d)	
1 STCGL					(7,160)	
2 Enter your short-term totals, if any, from Schedule D-1, line 2			2			
3 Total short-term sales price amounts. Add lines 1 and 2 in column (d)			3	3,488,086		
4 Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824					4	
5 Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1					5	
6 Short-term capital loss carryover. Enter the amount, if any, from line 10 of your Capital Loss Carryover Worksheet on page D-7 of the instructions					6	()
7 Net short-term capital gain or (loss). Combine lines 1 through 6 in column (f)					7	(7,160)

Part II Long-Term Capital Gains and Losses - Assets Held More Than One Year

(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Yr., mo., day)	(c) Date sold (Yr., mo., day)	(d) Sales price (see page D-7 of the instructions)	(e) Cost or other basis (see page D-7 of the instructions)	(f) Gain or (loss) Subtract (e) from (d)	
8 FIDELITY PURITAN		20101119	12		12	
9 Enter your long-term totals, if any, from Schedule D-1, line 9			9			
10 Total long-term sales price amounts. Add lines 8 and 9 in column (d)			10	12		
11 Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824					11	
12 Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1					12	
13 Capital gain distributions. See page D-2 of the instructions					13	
14 Long-term capital loss carryover. Enter the amount, if any, from line 15 of your Capital Loss Carryover Worksheet on page D-7 of the instructions					14	()
15 Net long-term capital gain or (loss). Combine lines 8 through 14 in column (f). Then go to Part III on page 2					15	12

Federal Supporting Statements

2010 PG01

Name(s) as shown on return

Your Social Security Number

ERIC G & CHRISTINE KOULA

399-78-4368

SCHEDULE D SHORT TERM GAINS/LOSSES

STCGL

Description	Acquired	Sold	Price	Cost	Gain/Loss
SUSTAINABLE POWER CORP	2010-04-07	2010-05-20	214	128	86
ADVANCED MICRO DEVICES INC	2010-01-14	2010-07-17	1,935	0	1,935
APPLE COMPUTER INC	2010-04-09	2010-07-17	2,470	4,015	(1,545)
ADR BAIDU INC	2010-04-12	2010-04-17	2,465	2,435	30
CBOE RUSSEL	2010-05-20	2010-05-22	863,841	929,238	(65,397)
CBOE RUSSELL	2010-07-15	2010-07-17	264,271	246,120	18,151
CBOE RUSSELL	2010-04-17	2010-04-17	873,436	836,378	37,058
CBOE RUSSELL	2010-08-23	2010-08-21	140,188	155,916	(15,728)
CBOE RUSSELL	2010-02-18	2010-02-20	453,400	441,202	12,198
CBOE RUSSELL	2010-01-14	2010-01-31	144,049	144,455	(406)
CBOE RUSSELL	2010-03-18	2010-03-20	445,151	418,410	26,741
CBOE RUSSELL	2010-03-11	2010-03-22	51,287	47,153	4,134
CBOE RUSSELL	2010-06-17	2010-06-19	74,671	85,554	(10,883)
CISCO SYS INC	2010-02-04	2010-02-20	2,055	1,965	90
CITIGROUP INC	2010-05-06	2010-12-18	1,450	2,610	(1,160)
FIRST SOLAR	2010-01-21	2010-02-20	6,055	10,605	(4,550)
GOOGLE INC	2010-04-19	2010-05-22	1,625	9,895	(8,270)
ISHARES TR	2010-05-21	2010-05-22	1,681	815	866
ISHARES TR	2010-07-22	2010-08-21	8,615	8,468	147
PALM INC NEW	2010-03-22	2010-04-17	2,810	2,370	440
POWERSHARES QQQ	2010-04-12	2010-04-17	862	838	24
POWERSHARES QQQ	2010-03-16	2010-03-20	922	878	44
SPDR TR	2010-05-07	2010-05-22	5,061	6,547	(1,486)
SPDR TR	2010-07-13	2010-07-17	2,755	1,795	960
SPDR TR	2010-02-19	2010-02-20	28,985	29,045	(60)
SPDR TR	2010-06-18	2010-06-19	8,048	12,002	(3,954)
SPDR TR	2010-02-08	2010-02-20	37,119	35,112	2,007
SPDR TR	2010-03-23	2010-04-17	6,524	7,916	(1,392)
SPDR TR	2010-03-16	2010-03-20	37,987	35,963	2,024
SPDR GOLD TRUST	2010-04-08	2010-04-17	2,437	2,348	89
SPDR DOW JONES	2010-03-16	2010-03-20	2,530	1,748	782
SPDR DOW JONES	2010-04-09	2010-04-17	8,807	10,012	(1,205)
SPDR DOW JONES	2010-07-13	2010-07-17	2,015	1,055	960
WYNN RESORTS LTD	2010-04-09	2010-04-17	2,365	2,255	110
TOTAL			<u>3,488,086</u>	<u>3,495,246</u>	<u>(7,160)</u>

Section 1256 Contracts Marked to Market Attachment to Form 6781
(Part 1) 2010Name(s) shown on return
ERIC KOULA/CHRISTINE KOULAIdentifying number
399-78-4368

(a) description of property	Date acquired	Dated sold	Gross sales price	Cost or other basis	Gain or (loss)
RUT Jan 630 call	1/4/2010	1/4/2010	31,769.78	28,354.67	3415.11
RUT Jan 640 call	1/5/2010	1/7/2010	16,454.68	24,910.22	(8455.54)
RUT Jan 630 put (Wash Sale Rule) (previously traded 12/28/2009)	1/7/2010	1/8/2010	750.02	1,664.98	Disallowed Loss
RUT Jan 640 put (Wash Sale Rule) (previously traded 12/29/2009)	1/8/2010	1/8/2010	10,569.78	14,730.22	Disallowed Loss
RUT Jan 650 put	1/11/2010	1/11/2010	15,127.34	13,522.66	1604.68
RUT Jan 630 put	1/12/2010	1/12/2010	17,084.89	15,915.11	1169.78
RUT Jan 650 put	1/13/2010	1/13/2010	18,941.87	16,818.13	2123.74
RUT Jan 630 call	1/13/2010	1/13/2010	19,177.34	17,722.65	1454.69
RUT Jan 630 call	1/14/2010	1/14/2010	31,258.27	26,731.72	4526.55
RUT Feb 650 call	1/14/2010	1/14/2010	11,424.96	11,055.04	369.92
AMD Jul 10 put	12/30/2009	1/14/2010	1,934.84	1,765.04	169.80
First Solar Feb 125 call	1/15/2010	1/21/2010	6,054.84	10,605.11	(4550.27)
RUT Feb 640 call	1/19/2010	1/19/2010	28,295.83	28,031.62	264.21
RUT Feb 640 call	1/19/2010	1/21/2010	17,913.38	16,186.62	1726.76
RUT Feb 640 put	1/21/2010	1/21/2010	15,684.89	14,315.11	1369.78
RUT Feb 620 put	1/21/2010	1/21/2010	1,095.04	1,334.96	(239.92)
RUT Feb 620 call	1/22/2010	1/22/2010	17,584.89	19,805.11	(2220.22)
RUT Feb 620 put (Wash Sale Rule) (previously traded 1/21/2010)	1/22/2010	1/22/2010	14,741.87	17,658.13	Disallowed Loss
RUT Feb 630 call	1/22/2010	1/22/2010	2,385.03	2,974.97	(589.94)
RUT Feb 620 put	1/25/2010	1/26/2010	28,477.34	25,680.11	2797.23
SHDR TRUST 108 put	1/25/2010	1/27/2010	8,539.45	7,850.44	689.01

Section 1256 Contracts Marked to Market Attachment to Form 6781
(Part 1) 2010

ERIC KOULA

Identifying number
399-79-4368

(a) description of property	Date acquired	Date sold	Gross sales price	Cost or other basis	Gain or (loss)
RUT Feb 610 call	1/27/2010	1/27/2010	15,389.99	14,915.11	474.88
RUT Feb 610 call	1/27/2010	1/27/2010	18,084.89	14,915.11	3169.78
RUT Feb 620 call (Wash Sale Rule) (previously traded 1/22/2010)	1/28/2010	1/28/2010	23,179.21	29,702.71	Disallowed Loss
RUT Feb 600 put	1/29/2010	1/29/2010	13,284.89	9,315.11	3969.78
RUT Feb 610 call	2/1/2010	2/1/2010	26,695.82	24,351.62	2344.20
RUT Feb 610 put	2/2/2010	2/2/2010	26,689.21	33,908.24	(7219.03)
RUT Feb 610 call	2/2/2010	2/2/2010	5,585.01	5,174.99	410.02
SPDR TRUST Feb 110 put	2/3/2010	2/3/2010	3,629.73	3,410.22	219.51
RUT Feb 600 put	2/3/2010	2/3/2010	23,054.67	21,045.33	2009.34
CISCO SYS Feb 23 call	2/3/2010	2/4/2010	2,054.65	1,965.33	89.32
RUT Feb 610 call	2/3/2010	2/3/2010	5,235.00	5,165.00	70.00
RUT Feb 600 put	2/4/2010	2/4/2010	31,169.78	23,530.22	7639.56
SPDR TRUST Feb 107 put	2/4/2010	2/4/2010	8,529.44	8,140.43	389.01
SPDR TRUST Feb 106 call	2/5/2010	2/5/2010	9,921.88	9,367.99	553.89
SPDR TRUST Feb 107 put	2/5/2010	2/5/2010	7,935.56	6,615.33	1320.23
SPDR TRUST Feb 107 put (Wash Sale) (previously traded 2/4/2010)	2/5/2010	2/5/2010	1,944.86	2,635.11	Disallowed Loss
RUT Feb 590 put	2/8/2010	2/8/2010	11,533.38	14,756.62	(3223.24)
RUT Feb 590 call	2/8/2010	2/8/2010	20,377.34	17,866.11	2511.23
SPDR TRUST Feb 106 put	2/8/2010	2/8/2010	6,539.48	6,460.44	79.04
SPDR TRUST Feb 107 call	2/9/2010	2/9/2010	9,224.33	8,675.55	548.78
RUT Feb 600 call	2/9/2010	2/11/2010	28,916.54	27,556.86	1359.68
RUT Feb 600 put	2/11/2010	2/12/2010	10,061.87	9,258.13	803.74

Section 1256 Contracts Marked to Market Attachment to Form 6781
(Part 1) 2010

ERIC KOULA

Identifying number
399-78-4368

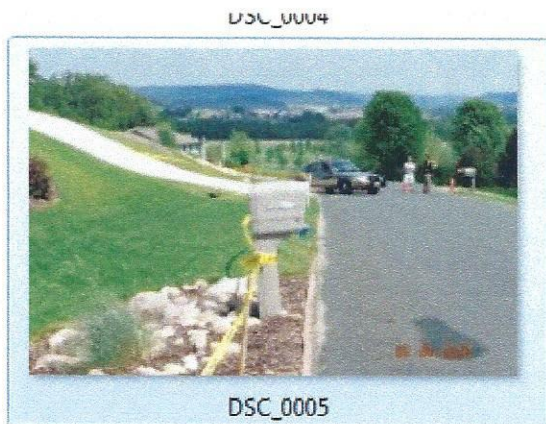
(a) description of property	Date acquired	Date Sold	Gross Sales price	Cost or other basis	Gain or (loss)
SPDR TRUST Feb 106 call	2/12/2010	2/12/2010	7,419.56	7,020.43	399.03
RUT Feb 620 call	2/17/2010	2/12/2010	22,671.55	20,972.89	1698.66
RUT Feb 620 call	2/18/2010	2/18/2010	16,783.19	15,810.88	972.31
SPDR TRUST Feb 110 call	2/19/2010	2/19/2010	2,419.40	3,980.56	(1561.16)
RUT Mar 620 call	2/19/2010	2/19/2010	23,381.84	21,738.17	1643.67
RUT Mar 630 call	2/19/2010	2/22/2010	23,975.78	23,190.17	785.61
SPDR TRUST Mar 110 call	2/24/2010	2/24/2010	14,129.16	13,950.66	178.50
RUT Mar 620 put	2/25/2010	2/26/2010	19,879.98	26,266.61	(6386.63)
RUT Mar 630 call	2/25/2010	2/25/2010	18,695.82	17,967.62	728.20
RUT Mar 630 call	2/26/2010	2/26/2010	17,824.31	17,535.69	288.62



CRIME SCENE PHOTO (ZOOMED IN ON)







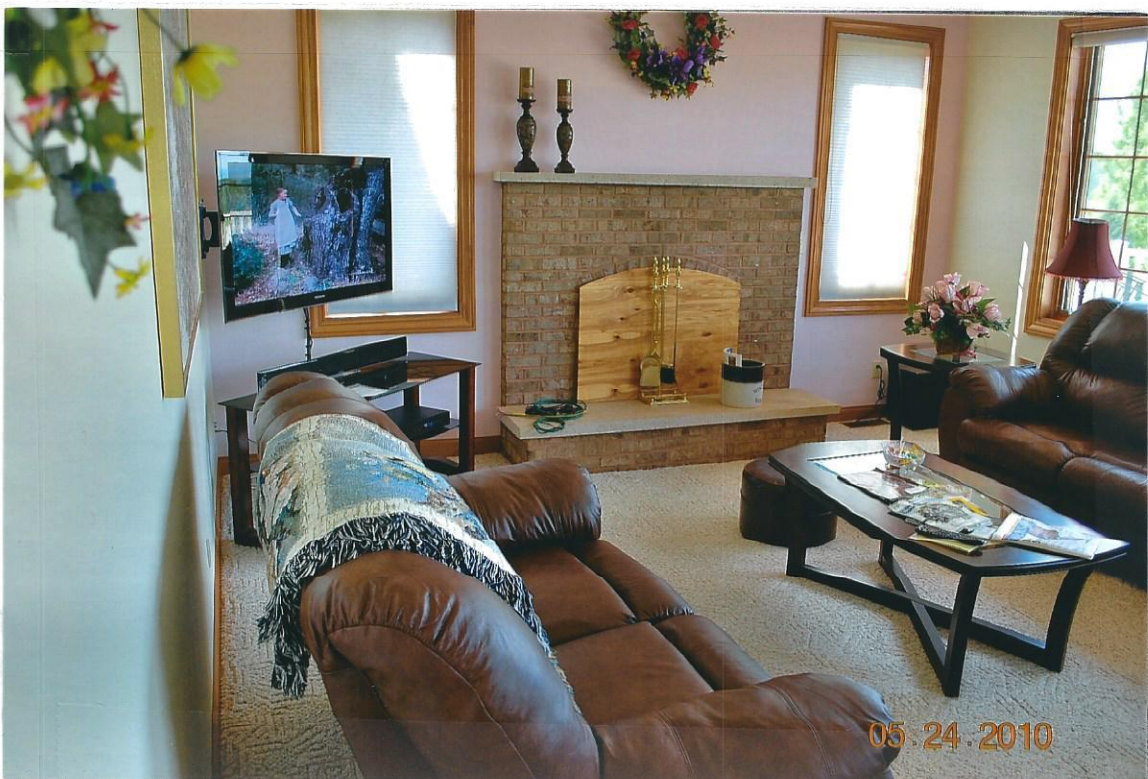
DSC_0005 Properties

General Details

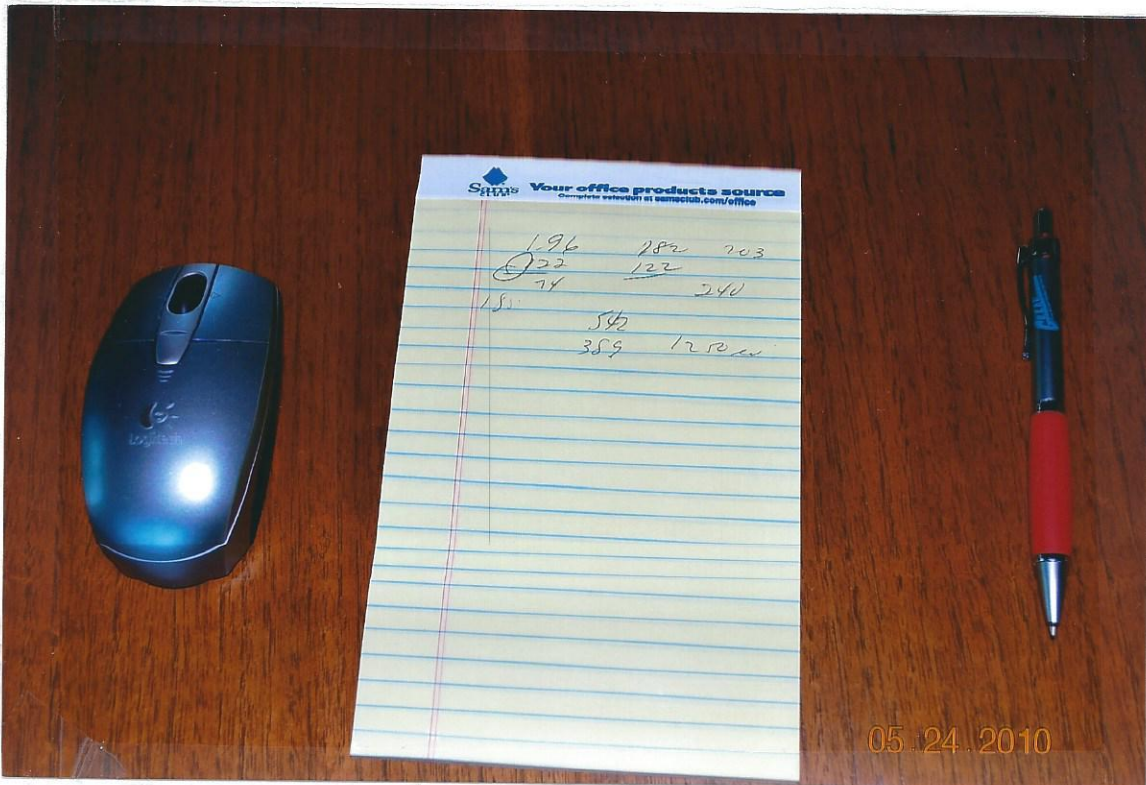
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Subject	
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Tags	
Comments	
Origin	
Authors	
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Program name	Ver. 1.01
Date acquired	
Copyright	
Image	
Image ID	
Dimensions	3872 x 2592
Width	3872 pixels
Height	2592 pixels
Horizontal resolution	300 dpi

[Remove Properties and Personal Information](#)

OK Cancel Apply







Patrick lied to police when he told them that he got along with his Mother and Father-in-law and that they did not have any problems. See EXHIBIT U 1 of 3 p.c.

Patrick lied to the police when he said the only issue that he ever had with his Mother and Father-in-law was that they did not like the fact that he and Cindy smoked. See EXHIBIT U 3 of 3 p.c.

Patrick misrepresented his unemployment checks by saying that he has been able to collect unemployment for the last three weeks. See EXHIBIT U 1 of 3 p.c. See Cindys 5/24/10 interview EXHIBIT U 3 of 7 (PATRICK just got his unemployment checks today, the day of the interview.)

Patrick lied to the police when he said he was home all day long either on the computer or on-line gaming. EXHIBIT U 2 of 3 p.c.

Patrick lied to the police when he said he was home all day long and did not go anywhere. EXHIBIT U 2 of 3 p.c. SEE EXHIBIT V SMITH INT.

Patrick lied to the police when he said he got out of bed on Saturday morning. EXHIBIT U 2 of 3 p.c. (Cindy Cowell said Patrick had slept on the couch on Friday night, per Patrick, because she was snoring.) See EXHIBIT U 3 of 6 c.c.

Patrick told police that on Saturday nite he played on-line and went to bed at approximately midnight. EXHIBIT U 2 of 3 p.c. This changes in his 5/26/10 interview to: his nephew just joked with him about being up so late on Saturday nite, two in the morning playing. See EXHIBIT"BP"p12. This changes in his 6/1/10 interview to: Patrick says he talked to his nephew Dexter about this on Thursday 5/27/10, when he was at Dexter's house and that this was the only conversation that he had with Dexter in the past week. See EXHIBIT BC

Patrick says that on Sunday 5/23/10 he had put some wood chips down in the flower bed. See EXHIBIT B p.17 Cindy Cowell says that on Sunday 5/23/10 her and Jossie had put some wood chips down in the flower bed when Pat mowed the lawn. See EXHIBIT B p.7

Patrick says he doesn't go to taverns, used to. The last time being maybe a year ago. EXHIBIT"BP" p. 9

Patrick says that Saturday after they came back from karate, they were home all day Saturday, We didn't go anywhere. Saturday we didn't go

anywhere at all. EXHIBIT B p.16 Cindy Cowell says that she and Jossie went to the main library at noon on Saturday. EXHIBIT U 3 of 7

Patrick lied to the police when he said that Christine Koula's mother was along for Mothers Day Dinner at the RIDGES. EXHIBIT "BP" p. 11

Patrick was untruthful with the police about being home all day long. EXHIBIT "B" p.19, EXHIBIT "V" (Smith)

Patrick was being untruthful when he said "I didn't go anywhere". EXHIBIT "B" p.19, EXHIBIT "V" (Smith)

Patrick told the police that he hadn't called anyone on Friday, he was being untruthful. EXHIBIT "B" p.20, EXHIBIT "V" (Smith)

He was also being untruthful when he said that he hadn't gone for a walk. EXHIBIT "B" p.20, EXHIBIT "V" (Smith)

Patrick lied when he said he didn't walk down the street to visit a neighbor. EXHIBIT B p. 20 Also see EXHIBIT V

Patrick lied when he agreed with the question " Just holed up in the house for the whole day?" He said Yeah. EXHIBIT B p. 20

Patrick lied when he said he didn't do anything. EXHIBIT B p. 20
See EXHIBIT V

Patrick was untruthful when he said he had not spoke to Cindy later on in the day on 5/21/10. EXHIBIT B p. 21 Cindy told police that Patrick had in fact called her when she was on her way home from getting cigarettes and asked "When are you going to get here?" See EXHIBIT B p10,11. Patrick told police that he didn't know if Cindy had stopped anywhere on her way home from work. EXHIBIT "BP" p. 12

Patrick had been told on Monday 5/24/10 that Dennis and Merna Koula had been shot and found by Cindy's brother. See EXHIBIT "U" 1 of 7. During the interview on 5/26/10 Patrick was asked if he had told anybody that, he said no. Patrick had lied to the police when he said this. EXHIBIT "BP" 11-12 shows different. He also lies to Detective Lienfelder and S/A Christopherson about not knowing how they were found or where (until he had been told by his brother-in-law.) In fact Patrick had been told by Detective Lienfelder where Dennis and Merna were found and that he didn't think there was forced entry. EXHIBIT B p. 16, EXHIBIT B p.22 (5/24/10 interview.) It can be inferred that Patrick Cowell told his mother the above information. EXHIBIT "BB" , EXHIBIT "BP" p.10 (bottom of page) Also see EXHIBIT "BP" page 13.

Patrick Cowell untruthfully told police that he had not been upstairs at Dennis and Merna's home in five or six years. EXHIBIT B p.22 Also see EXHIBIT "BO" page 3 of 3 (Christopherson inaccurately reports what Patrick stated in his interview.) See Affidavits of Dexter Koula, Hadley Koula. He also said he didn't know of any guns. EXHIBIT B p.21

Patrick states that he took Jossie to karate lessons on Wednesday May 19, 2010.(5/24/10 interview) He also says he took Jossie to karate lessons on Saturday morning, three lessons from 9 to noon.(5/24/10). EXHIBIT "BP" p. 10 Cindy tells police that Jossie has karate lessons on Mondays, Wednesdays and Saturday. If she misses the lessons during the week she can make them all up on Saturday. EXHIBIT "V" 4 of 7 and 6 of 7. Since Jossie went to karate on Wednesday why did she have three classes on Saturday.

Patrick withholds the information that he and Cindy had a big fight on Friday morning 5/21/10, that left her crying. He withholds and fails to to police that he was ill on Friday like he told a friend and fails to tell police that he cancelled plans to go to a football game with a friend. EXHIBIT V (Smith interview), EXHIBIT BM

Patrick lies on National TV, a 48 HOURS show, when he created an alibi for himself.

In Patrick's 5/24/10 interview he told Law enforcement that Dennis gave Cindy ten grand for Christmas, he was being untruthful when he said this. EXHIBIT "B" p.16 He was then asked if that's not unusual, he replied NO. This was an untruthful statement.

In Patrick's 5/24/10 interview he told Law enforcement that on Friday he didn't do anything, he was at home. On Friday evening he "JUST HUNG OUT AT HOME" and they didn't go anywhere. EXHIBIT"B" page. 16 His 5/26/10 interview changes, he watched TV and played video games and that he didn't really know what Cindy did after she got home because he said "Eee, Uhm, she usually reads, sits on the bed, she may have a beer and read books....that's what our nights usually entail." EXHIBIT"B" page 21. Patrick also said that he couldn't even tell them what he ate on Friday, "I've no clue." EXHIBIT"B" page 19

Cindy Cowell gives inconsistent statements to the police about when she last had spoken with her parents. EXHIBIT B pages 1,2,3 and EXHIBIT BP pages 2,3,5

Cindy Cowell withholds the information that she and Patrick had a big fight on Friday morning 5/21/10, that left her crying. Law enforcement later finds this out from Dennis' co-workers. Trial testimony of Helen Van Roo and Tina Froeba also see Exhibit X (Froeba) and EXHIBIT BM .

Cindy gives inconsistent statements about her Friday phone call with Dennis. EXHIBIT BP pages 2,3,5. Cindy characterizes the phone call as a good conversation and then tells law enforcement that she pleaded with her Dad to not "cut out" her husband. EXHIBIT BP p.3

Cindy tells the police that she doesn't have the money to pay the bills and debt collectors are calling EXHIBIT B p.3 (on the 5/24/10 interview) This changes on her 5/26/10 interview to: "Yeah I'm OK. I'm paying my bills." EXHIBIT B p.9

Cindy gives inconsistent statements to police about Dennis' supporting them after her 5/21/10 phone call. EXHIBIT BP pages 2,3,5. Cindy goes on National TV and states during a 48HOURS show that One of the last conversations I had with my Father, he told me that I could count on him, " I'm always there for you " Love you Honey, Bye. See 48 HOURS SHOW.

Cindy lies to the police when she tells why she was crying on the phone call with her Father. She said " I was kinda sick on Friday" that " My voice was kinda horse" and " Just getting really sick " See EXHIBIT B p.1 Cindy tells police that Sunday was one of those "Blah" days because she was drinking on Friday and Saturday. EXHIBIT B p.7 Cindy tells police on 5/26/10 that she got "Topsy" and went to bed on Friday night. EXHIBIT B p.10

Cindy lied to the police when she said that the last big fight that she and Patrick had was four or five years ago. EXHIBIT B p.7 Also see EXHIBIT V 6 of 7. Cindy had a big fight on Friday morning because she was in fact crying when she called Dennis.

Cindy told Law enforcement that she had a key to her parents home. EXHIBIT "U" 4 of 6 c.c.(5/26/10) Cindy was asked for her key to her parents home later on 5/26/10 in a different interview. She could not produce the key for the police. EXHIBIT "V" 1 of 2 p/c.c

When Cindy said to the police that her Dad drank but her Mom doesn't, she was being untruthful. EXHIBIT B pages 4,5

In Cindy's 5/24/10 interview she said that her Dad had a coin collection. EXHIBIT B p.8 Then in her 5/26/10 interview she says she doesn't know anything about any gold coins but that her Dad had a Indian Head nickel collection. EXHIBIT B p.8 Then on 2/16/11 she says she "has never seen or heard of any gold coins" EXHIBIT B p.8 Dawn Noah states different, see Affidavit of Dawn Noah. Cindy was being untruthful to the police. Also see EXHIBIT "BQ" page 2 (Chritophersons inaccurate report.)

Cynthia Cowell flat out lied to Law enforcement when she said Dennis had paid off her brothers student loans. EXHIBIT "U" 5 of 7.

In one of Cindy's interviews she said that her Dad just got the last payment for Valley View Ford from Harry Dahl, this is not true. EXHIBIT "U" 6 of 7.

She spoke about her parents having a will from a lawyer from a town called Marshfield but didn't know anything about it. Cindy was being untruthful to the police. See Affidavit Dawn Noah, Cindy also lied about her lack of knowledge of the life insurance. EXHIBIT "U" p. 7 of 7

Cindy also told police that her Father was working all of the previous week, May 17th through May 21st, this is not true. EXHIBIT U 7 of 7.

Throughout various interviews Cindy's statements about the \$2000.00 check they had got from Dennis, changes. EXHIBIT B p.5

In describing her walk to her vehicle on Friday afternoon with her co-worker, Cindy flat-out lies to police. Cindy says that her co-worker made the statement "It's a HOT ONE, it's gonna be a beer drinking night" and Cindy says "Yeah". EXHIBIT B p.11 AT trial on 6-12-2012 S/A Christopherson read Exhibit 549 from the National Weather Service of Lacrosse, the official temperatures for May 21, 2010. The high that Day was 63 degrees and the low was 54 degrees. ¶120

Cindy tells Law enforcement, on 5/24/10, that when she got home from her errands she fixed her daughter dinner and then Jossie went and played. That they had drinks and stuff and thinks they watched a show that night but was not sure. EXHIBIT "U" 3 of 7. Then in her next interview 5/26/10, she says that when she got home " I think we may have played a game of scrabble" and watched some TV. Then I kinda got Tippy and went up to bed. EXHIBIT B p.10

Cindy was asked if her Dad had mentioned any problems with anyone when they talked on Friday 5/21/10. She says that she called her Dad to whine to him. She was asked again if her Mom or Dad had any concerns with anybody lately, " Not to me " , NO. EXHIBIT "BP" p.6
Cindy fails to discuss the problems her Dad had with Patrick.

Cindy tells the police that she can't cry anymore and feels like she isn't doing anything(5/26/10) Her neighbors tell Law enforcement that since the deaths of the Koula's that both Cindy and Patrick have been partying all night, They heard Cindy laughing and that this particular behavior was unusual for someone grieving the death of their parents. EXHIBIT "BP" p.7, EXHIBIT "BD" , EXHIBIT "W" pages 1 and 2 r/mj.p

Cindy tells police that she doesn't know what happened to her parents, I don't know how, I don't even know when. EXHIBIT BP p.8 Cindy had been told that they were shot. EXHIBIT BP p.1

Cindy tells police that she dropped Jossie off at school on Friday morning 5/21/10. EXHIBIT BP p.3 Patrick tells police that Jossie either walked to school or that her mom took her. EXHIBIT B p.19 Jossie tells police that she walked to school that morning and that she walked home alone after school. That when she got home her Dad was playing XBOX. EXHIBIT "V" 1,2 of j.c.

Cindy tells Law enforcement that her parents have a sliding door off their deck, it has a twisty lock and a stick. However, they do not use the stick. Cindy was being untruthful with this statement. See EXHIBIT "U" p.6 of 7, also see EXHIBIT"BU" page 2 that shows it is a regular door.

EXHIBIT "BY"

Supplemental to EXHIBIT "S" page 1

During Cindy Cowell's interview on May 26, 2010 with S/A Christopherson and Inv. Lienfelder, she talks about Uncle Leroy and Aunt Marlene being the ones in the news last night "shooting their mouth off"

Cindy says "Why talk like that? What the hell suspicions, you have your suspicions?" (imitating a different voice she says) "If they follow my suspicions, then they'll have the killer in no time." (Then angrily she says) OK, well why don't you tell me what it is, Pete, since you obviously know so much more than me!

After Cindy's Interview is when they Interview Leroy and Marlene Koula. Audio recording that has no report written. Leroy Koula is also known as "Pete".

*** See EXHIBIT W" page 2 r/mj.p. ***

Ron and Mary Jo said that Pat was upset and was worried that the police would think of him as a suspect in the case. He told them the police took his XBOX. According to the Pegg's Pat seemed to be quite and down.

While they were all together, they had talked about the relative who was talking to the press. Mary Jo said that she thought that the relative was talking about Pat, the relative that was on the news.