

1 THE COURT: Very good. There's your copy
2 back.

3 (End of discussion at the bench.)

4 THE COURT: Please call your next witness.

5 MR. OTTO: State calls Tuan Pham.

6 THE BAILIFF: He has not been sworn in.

7 THE COURT: Thank you. If you would, please
8 raise your right hand.

9 (Witness sworn.)

10 THE COURT: If you would, please state and
11 spell your name for my court reporter.

12 THE WITNESS: Yes, ma'am. First name is Tuan,
13 T-U-A-N, last name Pham, P-H-A-M.

14 THE COURT: And you may proceed.

15 MR. OTTO: Thank you, Your Honor.

16 **TUAN PHAM,**

17 having been first duly sworn, testified as follows:

18 **DIRECT EXAMINATION**

19 Q. (BY MR. OTTO) Good afternoon, Mr. Pham. How are
20 you doing?

21 A. Good, sir. How are you?

22 Q. I'm doing well. I guess let's start at the
23 beginning. What do you do for a living?

24 A. I work here at the Harris County District
25 Attorney's Office as a computer forensic examiner.

1 Q. What is a computer forensic examiner?

2 A. I take all digital forensic devices such as
3 computers, tablets, iPads, cell phones and conduct digital
4 forensics on those items.

5 Q. What is digital forensics?

6 A. It is basically any digital data that's found on
7 devices electronically and I take all of the data from that
8 and put it in a nice, neat report for court purposes.

9 Q. And how long have you been employed as a forensic
10 examiner -- computer forensic examiner here?

11 A. Three years.

12 Q. And did you have to go through any training in
13 order to become a computer forensic examiner?

14 A. Yes, sir, I have.

15 Q. Okay. Tell us a little bit about your training.

16 A. Just go off recently, I've been trained, quite a
17 few classes by the United States Secret Service, they sent
18 me off to basic computer evidence recovery. I've been sent
19 to advanced forensic training classes. I also have
20 experience and training in mobile device recovery and taking
21 evidence off of those devices as well.

22 Q. What do you mean by "mobile device"?

23 A. Cell phones or tablets that are mobile that you
24 carry on with you.

25 Q. As opposed to, like, a big computer that I might

1 keep at home?

2 A. Yes, sir.

3 Q. Okay. Now, you say that these are your recent --
4 that's your recent training. Do you have a degree?

5 A. Yes, sir, I do.

6 Q. Where'd you go?

7 A. I went to Midwestern State University.

8 Q. And what did you study at Midwestern?

9 A. Criminal justice.

10 Q. And did you go into any training after that for
11 this computer forensics?

12 A. Yes, sir, I've gone to vendor specific training,
13 such as EnCase, which is a software that specializes in
14 extracting digital data, and also Cellebrite, UFED, which
15 stands for Universal Forensic Extraction Device, that is a
16 hardware device that takes digital data from mobile devices.

17 Q. So you've done a lot of different trainings on a
18 lot of different types of computer equipment; is that fair
19 to say?

20 A. Yes, sir.

21 Q. Let me ask you this. In all, kind of from the
22 beginning to the end, about how much training in hours do
23 you think you had?

24 A. If I had to put a number on it, I'd probably say
25 over 400 hours.

1 Q. And whenever you -- is there any certification for
2 a computer forensic examiner?

3 A. Yes, sir, there are several.

4 Q. Okay. And do you -- what certifications do you
5 have?

6 A. I have the Cellebrite UFED mobile device
7 investigator one. I also have the ACE certification from
8 AccessData, which is an AccessData certified examiner. I
9 also have the EnCE from EnCase, which is the EnCE certified
10 to use their software and I also have my digital forensic
11 examiner one from -- it's called, I believe, Mobile IT Group
12 as well.

13 Q. Now, before you worked as a computer forensic
14 examiner here, what did you do?

15 A. I worked for the Pasadena Independent School
16 District Police Department.

17 Q. And what did you do with Pasadena Independent
18 School District Police Department?

19 A. I was assigned to the Houston Metro Internet Crimes
20 Against Children Task Force.

21 Q. And do you do the same type of computer forensics
22 with them?

23 A. Yes, sir.

24 Q. How long were you at that job?

25 A. I was with that job for six years.

1 Q. Did you have any other jobs before you came here?

2 A. Not in law enforcement.

3 Q. Did you have any other jobs before Pasadena ISD?

4 A. Yes, sir.

5 Q. What was that?

6 A. I was a sales rep for Verizon Wireless.

7 Q. So you kind of got started with Verizon?

8 A. Yes, sir.

9 Q. Fair enough. In your six years with Pasadena ISD
10 Police and your three years, how many -- if you can even
11 estimate -- how many of these forensic reports have you
12 done?

13 A. I would say several hundred.

14 Q. Now, and do you -- have you testified as an expert
15 in computer forensics before?

16 A. Yes, sir.

17 Q. Many or few times?

18 A. Many.

19 Q. Now, you talked to us about being able to extract
20 data out of a device, whether it's a computer or a mobile
21 device. Can you tell us a little bit about what your
22 process might be on, let's say, a cell phone?

23 A. Yes, sir. Once I receive a cell phone, I check it
24 to make sure it's in good working condition and then put it
25 on the charger, turn it on, I make sure it's off the

1 network, that way it's on airplane mode or a way where it
2 can't access onto the network, and then I proceed from there
3 by checking if there's a passcode or anything that would
4 refrain me from plugging it up and tracking the data.

5 Q. When you say that you "make sure it's in good
6 working condition," basically it's not broken?

7 A. Yes, sir.

8 Q. Okay. Is it harder to extract data from something
9 that's broken?

10 A. Yes, sir.

11 Q. Okay. And then you say that you wanted to be off
12 the network so that it can't communicate. Why do you do
13 that?

14 A. I make sure it's off the network because a lot of
15 times if your phone is lost or stolen, you can call your
16 carrier and actually tell them, Someone stole my phone, can
17 you go ahead and just remotely wipe everything that's on the
18 device, and therefore it would make my job pretty hard.

19 Q. Whenever you -- after you get it plugged in, you
20 have it charged, what do you do next?

21 A. At that point I get on my Cellebrite UFED device, I
22 plug in the model number, the make and model of the phone,
23 and it will tell me what cable I need to plug up into the
24 device itself.

25 Q. And the Cellebrite UFED device, can you give us,

1 for me, a layman's view of what that is?

2 A. Yes, sir. It's basically a tablet computer with
3 the Cellebrite software preloaded onto it so you can carry
4 it wherever you like and it's basically just a minitab
5 computer that I can just use for cell phone extractions.

6 Q. Is it used for all different types of cell phones,
7 from kind of the old -- you know, the ones I might play
8 Snake on all the way up to the iPhones nowadays?

9 A. Yes, sir.

10 Q. It's kind of universal?

11 A. Yes, sir.

12 Q. After you've plugged it up to this Cellebrite
13 machine, to this UFED device, what happens?

14 A. At that point it will give you prompts to make sure
15 that it's in developer mode, which is USB debugging to make
16 sure that it can talk to the phone, and at that point
17 uploads a client and then extracts the data and puts it in a
18 nice report for you.

19 Q. So the device will be able to look at the phone,
20 see what's on it and give it to you?

21 A. Yes, sir.

22 Q. Now, were you asked to examine a cell phone with
23 the Serial No. 268435460102660955?

24 A. Yes, sir.

25 MR. OTTO: May I approach the witness, Your

1 Honor?

2 *THE COURT:* You may.

3 Q. (BY MR. OTTO) Now, whenever you're asked to look
4 at a phone, what gives you permission to do that?

5 A. I have to have one of two things, either a signed
6 consent form or a signed search warrant from the Judge.

7 Q. Do you remember in this case which of those two
8 things you had?

9 A. Yes, sir.

10 Q. And which one was it?

11 A. The search warrant.

12 Q. I'm showing you what's been marked as State's
13 Exhibit 5. Do you recognize this?

14 A. Yes, sir, I do.

15 Q. Without going into the contents, what is it?

16 A. That is a search warrant in order to extract the
17 data from the cell phone that I was given.

18 Q. Okay. And do you -- I'm also going to show you
19 State's Exhibit 5. Is this the cell phone which you were
20 given permission to extract data from?

21 A. Yes, sir.

22 Q. How do you know that?

23 A. By sight.

24 Q. Okay. Is there any identifying information on the
25 cell phone that would also let you know that you're looking

1 at the right cell phone?

2 A. Yes, sir, there is.

3 Q. And what's that?

4 A. That would be the DEC number, basically the serial
5 number of the phone.

6 Q. Okay. Now, after you examined this phone, did it
7 produce a report that you were talking about?

8 A. Yes, sir, it did.

9 Q. I'm going to show you State's Exhibit No. 7.
10 Without going into its contents, can you tell us what this
11 is?

12 A. Yes, sir. That is the report that the program UFED
13 pushed out.

14 Q. Is this report, State's Exhibit No. 7, is this
15 connected with State's Exhibit No. 5, the cell phone?

16 A. Yes.

17 Q. How do you know that?

18 A. That's the report I extracted from the phone.

19 Q. Does it contain any identification information that
20 says this is the same phone from which this report was
21 generated?

22 A. Yes, sir, it does.

23 Q. What is that?

24 A. That is under the device information with the same
25 DEC number.

1 Q. Okay. And is this report -- you can take a second
2 to look through it if you need to. Is this report the same
3 or substantially the same as the report that you produced
4 for this cell phone?

5 A. Yes, sir, it is.

6 Q. Has it been altered in any way?

7 A. No, sir.

8 Q. Okay. I'm also going to show you State's Exhibit
9 No. 8. Is this another copy of that report?

10 A. Yes, sir.

11 Q. And has it been altered; specifically, I'll direct
12 you to pages 13, 14 and 12 and 11.

13 A. Yes, there are some text messages that have been
14 blacked out.

15 Q. Okay.

16 MR. OTTO: Your Honor, at this time State
17 offers State's Exhibit 6 and 8 and tenders to opposing
18 counsel.

19 MR. OTTO: And Your Honor, for clarification,
20 State's offering State's Exhibit 8 conditionally, once the
21 Court's instructions have been carried out.

22 THE COURT: Okay.

23 MR. OTTO: And until then it wouldn't be
24 published to the jury.

25 THE COURT: Very well.

1 MR. JOHNSON: No objection to 6 and 7 nor 8,
2 should the Court's instructions be carried out.

3 THE COURT: Not 7. 7's just for the record.

4 MR. JOHNSON: Then it's just 6 and 8?

5 THE COURT: Yes.

6 MR. JOHNSON: Pending the instruction. Sorry,
7 Judge.

8 THE COURT: No, I just wanted to make sure we
9 were clear on that.

10 MR. JOHNSON: Yes, Judge.

11 THE COURT: All right. 6 and 8 are admitted.

12 Q. (BY MR. OTTO) Now, Mr. Pham, I'm going to let you
13 have State's Exhibit No. 8 so you have the ability to look
14 at it while we're asking these questions. The number that
15 you said ties that report to that phone, is the number on
16 that report, that identifying number, the same as the number
17 on the phone?

18 A. Yes, sir, it is.

19 Q. Okay. And does your report tell you what phone
20 number is associated with State's Exhibit No. 5?

21 A. Yes, sir, it does.

22 Q. What is that phone number?

23 A. 323-382-9466.

24 Q. And how do you know that?

25 A. Because it states it as the MSISDN, which is the

1 mobile identifier number for this phone.

2 Q. So, what I might call a phone number?

3 A. Yes, sir.

4 Q. Okay. And does this -- does this phone have any
5 other numbers associated with it as far as I can call to
6 reach that phone?

7 A. No, sir.

8 Q. Would this be the only phone that has that number?

9 A. Yes, sir.

10 Q. I'd also like to ask you, do you know what *67 is?

11 A. Yes, sir.

12 Q. What is it?

13 A. *67 is a feature that if you dial in front of the
14 number that you're dialing, it will show up as a blocked
15 number on the other end instead of your Caller ID.

16 Q. Okay. So whenever -- if I was to try to call
17 someone but I don't want them to see on their little -- the
18 number that pops up, *67 is what I might use?

19 A. Yes, sir.

20 Q. I'd also -- do you know the carrier of this
21 particular phone, like, who provided it?

22 A. Yes, sir.

23 Q. Who is that?

24 A. BoostMobile.

25 Q. What is BoostMobile?

1 A. Boost Mobile is a prepaid phone service.

2 Q. And what is prepaid phone service?

3 A. Prepaid is basically when you don't have a
4 contract, you just pay for the minutes you use up front and
5 you use it. Once you're out, you have to pay more before
6 they will load minutes onto your phone.

7 Q. These prepaid phone services, what kind of --
8 whenever I sign up for a phone with a nonprepaid service, do
9 I have to give identifying information?

10 A. Yes, sir, you do.

11 Q. Like what?

12 A. Like your name, your date of birth, your social
13 security number and your driver's license number so they can
14 run your credit check.

15 Q. Okay. Now, contrasting that with something like
16 Boost, a prepaid phone service, do I have to give that same
17 information?

18 A. No, sir.

19 Q. Why not?

20 A. Because they don't do --

21 MR. JOHNSON: Objection, Your Honor,
22 speculative.

23 THE COURT: If you can answer it based on your
24 training and experience.

25 A. No, you don't, because they don't require a credit

1 check for prepaid.

2 Q. (BY MR. OTTO) So if I'm going to get a prepaid
3 phone, I may never have to give them my information?

4 A. Correct.

5 Q. As long as I give them money?

6 A. Correct.

7 Q. In your examination of this phone, are you able to
8 tie this phone to any particular person?

9 A. No, sir.

10 Q. There's no record associated with the phone as far
11 as a BoostMobile application process, anything like that?

12 A. No, sir.

13 Q. So why do people use these type of phones?

14 MR. JOHNSON: Objection, Your Honor,
15 speculation.

16 THE COURT: Sustained.

17 Q. (BY MR. OTTO) In your experience with Pasadena ISD
18 Police, did you have an opportunity to examine prepaid
19 phones and why a person might get a prepaid phone as opposed
20 to a nonprepaid phone?

21 MR. JOHNSON: Objection, Your Honor,
22 relevance.

23 THE COURT: Sustained.

24 MR. OTTO: No further questions, Your Honor.

25 THE COURT: Mr. Johnson, any questions?

1 MR. JOHNSON: Nothing, Judge.

2 THE COURT: All right. May this witness be
3 excused?

4 MR. OTTO: Yes, Your Honor.

5 MR. JOHNSON: Court's pleasure.

6 THE COURT: On call, since he's right here?

7 MR. JOHNSON: Yes, ma'am.

8 THE COURT: Okay. All right. Thank you, sir.

9 You are free to go. Please don't discuss your testimony
10 with any of the other witnesses.

11 THE WITNESS: Yes, ma'am. Thank you, Your
12 Honor.

13 THE COURT: Thank you.

14 Ladies and gentlemen, we're going to go ahead
15 and recess for the day. We're going to start in the morning
16 at 9:30, so if you can all please be in the jury room ready
17 to go at 9:30. When you come up to 17, please don't go into
18 any other courtrooms, don't come into this courtroom, just
19 go straight into the jury room.

20 I might make a suggestion because you've
21 probably seen on the news the lines are long outside and
22 they'll let the jurors through but it's often better to come
23 in through the civil courthouse and Deputy McLendon can tell
24 you how to do that, to access that from the county garage
25 saves you a little bit of time.

Jury Trial
February 4, 2014

1 Please remember the admonishments. Don't talk
2 to anybody about anything that you've heard, don't do any of
3 your own independent investigation and please do not begin
4 any discussion among yourselves about any of the evidence
5 that you've heard today. So with that, y'all are excused.
6 I'll see everybody in the morning at 9:30.

7 *(Jury not present.)*

8 *THE COURT:* All right. The State had
9 identified State's Exhibit 7 and 8. And 8 is the redacted
10 cell phone records and I just want to make sure that it was
11 our agreement off the record, I'm afraid, and I want to make
12 sure it's clear, that 7 is admitted for record purposes
13 because it is the unredacted.

14 *MR. OTTO:* That's fine.

15 *MR. JOHNSON:* Yes, Judge.

16 *THE COURT:* But not for the jury's perusal.

17 *MR. JOHNSON:* Yes, ma'am.

18 *THE COURT:* I want to make sure we're all
19 clear on that. If y'all would please be here at 9:00, just
20 so if there's anything to take up, we can do it before the
21 jury comes in.

22 *(Court in recess for the day.)*

23

24

25