

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, . CRIMINAL NO. 1:07-cr-60(3)  
 .  
Plaintiff, . Cincinnati, Ohio  
 .  
- v - . Monday, March 7, 2011  
 . Afternoon Session  
PAUL H. VOLKMAN, .  
 .  
Defendant. . **Day 4 of Jury Trial**  
. . . . .

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE SANDRA S. BECKWITH, SENIOR JUDGE, and a  
JURY

APPEARANCES:

For the Plaintiff: UNITED STATES ATTORNEY'S OFFICE  
BY: Timothy D. Oakley, Esq. (AUSA)  
and Adam L. Wright, Esq. (AUSA)  
221 East Fourth Street, Suite 400  
Cincinnati, Ohio 45202

For the Defendant:

W.C. CROSS & ASSOCIATES, LLC	STRAUSS & TROY, LPA
BY: Wende C. Cross, Esq.	BY: Candace C. Crouse, Esq.
3460 Reading Road	The Federal Reserve Building
Cincinnati, Ohio 45202	150 East Fourth Street
	Cincinnati, Ohio 45202

Also present: Agent Christopher A. Kresnak (DEA)

Law Clerk: Laurie J. Nicholson, Esq.

Courtroom Deputy: Mary C. Brown

Court Reporter: Luke T. Lavin, RDR, CRR  
838 Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio 45202

P R O C E E D I N G S

(In open court at 1:35 PM, with jury present.)

THE COURT: All right. Is the government ready to call your next witness?

MR. OAKLEY: We are, Your Honor. Mary Newman.

THE COURT: All right.

COURTROOM DEPUTY: Please raise your right hand.

(Mary Newman is duly sworn by the courtroom deputy.)

COURTROOM DEPUTY: Please be seated.

THE COURT: Please proceed, Mr. Oakley.

And, Ms. Newman, if you'll speak directly into the microphone.

THE WITNESS: Yes, ma'am.

DIRECT EXAMINATION

BY MR. OAKLEY:

Q. Ms. Newman, could you please tell us your name and where you work.

A. My name is Mary Newman. I work for the State Medical Board of Ohio in Columbus.

Q. And how long have you been so employed?

A. Since April 12th of 1999, so approximately 12 years.

Q. And what are your duties?

A. I'm a medical record reviewer. I review medical records.

And also I'm a QUIP panel adviser, which a panel of physicians meet every other month and I direct the meetings for that, for

1 minimal standards of care.

2 Q. Okay. What type of training or education do you have?

3 A. I have my associate's degree in nursing.

4 Q. Okay. You're a registered nurse?

5 A. Yes, I am.

6 Q. As part of your duties do you take part or do you attend  
7 search warrants when they're executed?

8 A. I have attended a few.

9 Q. And these are search warrants of doctors' offices?

10 A. Correct.

11 Q. Do you remember when you started doing that?

12 A. I think approximately back in 2003.

13 Q. And why do you do that?

14 A. I was asked to attend by, I believe, the FBI or the DEA.  
15 They needed a nurse to go along with to kind of evaluate the  
16 offices and see if the equipment that would normally be in a  
17 doctor's office is there, a stethoscope, blood pressure cuff,  
18 things of that sort, if there was stuff to look at X-rays.

19 Q. Okay. Now let's go back to June 7th, 2005. Did you take  
20 part in the execution of a search warrant at a place called  
21 Tri-State Health Care in Portsmouth, Ohio?

22 A. Yes.

23 Q. And why were you at that particular location? The same  
24 reason?

25 A. Correct.

1 Q. And did you actually go into the building at Tri-State?

2 A. Yes.

3 Q. And what did you find?

4 A. Umm --

5 Q. Let me ask you, were there problems with the facility?

6 A. There was, yes. There were a few odd things there. Do you  
7 want me to elaborate?

8 Q. What were the odd things?

9 A. Urine specimen cups on the floor with urine in them, a  
10 refrigerator that had like a bottle of wine in it, medical  
11 records in a kitchen not normally where you find them, like in  
12 a stove. I believe there was an apartment up above, which  
13 there was some medical records up there too. There wasn't any  
14 equipment to view X-rays.

15 Q. Okay.

16 A. And there wasn't anything to wash your hands.

17 Q. Let me stop you. What type of equipment would you have  
18 expected to look at X-rays or MRIs?

19 A. It's something called a light box. Usually if you go into  
20 a doctor's office, you'll see a clear plastic thing on the wall  
21 that, you know, the doctor takes and slides the X-ray film up  
22 into it and then lights come on so he can view.

23 Q. Okay. And there were none of those there?

24 A. No, there were not.

25 Q. Okay. Now, I think I interrupted you about soap.

1 A. Oh, sorry. There was nothing to wash your hands with.

2 Q. Did you find prescription bottles already named or filled  
3 out for individuals?

4 A. Yes, I did. I remember there was a safe of some sort, and  
5 there was a couple of prescription bottles in the safe. There  
6 were odd-and-end pills laying different places, in drawers and  
7 containers and other places. I remember there was also like  
8 sterile cutdown trays with nowhere to sterilize anything or do  
9 any kind of procedures of that sort.

10 Q. Let me stop you there. You said there was a safe with  
11 pills in it or pill bottles in it?

12 A. Yes.

13 Q. Did some of these pill bottles have names on them?

14 A. Yes, they did.

15 Q. Okay. Do you remember the names?

16 A. Not at this moment. I -- Debbie comes to mind, or Deborah  
17 or something like that maybe.

18 Q. But these were prescription bottles that had been filled  
19 out to somebody?

20 A. Correct.

21 Q. And were they -- you said in a safe. Was this with the  
22 rest of the pills?

23 A. I believe so, yes.

24 Q. And I think you mentioned loose pills. Could you please  
25 tell us about that.

1 A. In desk drawers, just odd-and-end pills at places.

2 Q. Now, did you take a look at the pills that you saw?

3 A. Some of them, yes.

4 Q. And what was your -- what did they look like?

5 A. Some of them you could tell were antibiotics by the way  
6 they smelled. Others I believe were narcotics.

7 Q. Now, the loose pills, were they packaged or were they --

8 A. No, just loose white pills.

9 Q. Okay. Did you find any thermometers?

10 A. No, I did not.

11 Q. Did you find any blood pressure cuffs?

12 A. Just medium sized ones. I don't believe there was anything  
13 for any patient of any -- you know, overweight or anything, or  
14 anything for children or pediatric or a smaller patient.

15 Q. What would be a medium size arm for a cuff?

16 A. That would be like the average person, say the -- probably  
17 the normal size adult.

18 Q. Nothing for anybody who was --

19 A. Overweight.

20 Q. -- overweight?

21 A. No.

22 Q. Is that an issue?

23 A. It can be, because variations of the blood pressure, if  
24 it's too tight or too small or too large, you'll get inaccurate  
25 readings.

1 Q. Now, did you review any of the patient files?

2 A. A few of them, yes.

3 Q. Was there anything about your review that gave you concern?

4 A. No physical evaluations.

5 Q. Would that be something you would expect to see?

6 A. Yes.

7 Q. Did you find boxes of medication that had been recalled?

8 A. I believe there was Celebrex.

9 Q. And where did you find the Celebrex?

10 A. I think one of the agents actually noticed it. It was like  
11 in a cupboard or something.

12 Q. And if you're aware, when a medication is recalled, what's  
13 supposed to be done with it?

14 A. I believe it's supposed to be either sent back to the FDA  
15 or DEA or, you know, the company, I would assume. I'm not  
16 quite sure.

17 Q. In the files that you reviewed, were the patients  
18 prescribed an NSAID?

19 A. No.

20 Q. What's an NSAID?

21 A. Non-steroidal anti-inflammatory.

22 Q. And in this particular business does that cause you some  
23 concern?

24 A. Yes, it does.

25 Q. Why?

1 A. Normally that's the first line of treatment for pain.

2 Q. And do you know if what you found -- did you discuss your  
3 findings with Dr. Volkman?

4 A. No, I did not.

5 Q. Did you discuss them with anyone associated with Tri-State?

6 A. No, I did not.

7 Q. Okay. Now, sometime later were you involved in another  
8 search of a clinic operated by Dr. Paul Volkman?

9 A. Yes.

10 Q. And where was that?

11 A. I believe that was in Chillicothe.

12 Q. Okay.

13 A. I remember it was on 23.

14 Q. Okay. That would have been approximately February 10,  
15 2006?

16 A. Yes, I believe so.

17 Q. And what did you do that day?

18 A. Basically the same thing we did at the other clinic.

19 Q. Okay. Is that why you were there, was to assist?

20 A. Yes.

21 Q. Okay. Did you talk to any of the patients?

22 A. Yes.

23 Q. And I don't want to know the conversation, but did they  
24 appear to be in pain to you?

25 MS. CROUSE: Objection.



1 THE COURT: Overruled.

2 Q. Did the patients you spoke to appear to be in some type of  
3 distress?

4 A. Yes.

5 Q. Did you also speak to the staff?

6 A. Yes.

7 Q. And, again, did you conduct a search or assist in the  
8 search of Tri-State?

9 A. Yes.

10 Q. I'm sorry. Not Tri-State. The clinic on 23.

11 A. Correct, yes.

12 Q. And what did you find?

13 A. Basically the same type of issues. Lack of, you know,  
14 viewing equipment for X-rays.

15 Q. Did you find urine samples?

16 A. Yes, I believe so. There were urine cups, things of that  
17 sort, but not where they should normally be kept.

18 Q. Where did you find them?

19 A. I believe they were on the floor there or in the  
20 refrigerator with other items of like food, but I can't  
21 remember for sure.

22 Q. Okay. Did you learn, were you able to learn the hours of  
23 the clinic?

24 A. There was variations of what we were told from the patients  
25 and from the workers at the clinic.

1 Q. Starting from when to when?

2 A. Somewhere around 8:00 o'clock in the morning till 5:00 or  
3 6:00 in the evening, and other things said until 1:00 or 2:00  
4 AM.

5 Q. Did they accept insurance at that clinic?

6 A. No. It was strictly a cash only. And I believe it was  
7 \$200 the first visit, or more than that, and then 75 from there  
8 on out.

9 Q. Okay. Now, just a question about the X-ray boxes. I know  
10 you've told us this, but why is that important in a pain  
11 clinic, to be able to see an X-ray or an MRI?

12 A. Well, the physician looking at the X-ray or MRI can tell  
13 whether or not there's damage to the spinal area or if there's  
14 a need to be treated.

15 MR. OAKLEY: No other questions, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. CROUSE:

18 Q. Good afternoon, Ms. Newman.

19 A. Hi.

20 Q. When you attended the search warrant execution in June of  
21 2005 were you the first to go into the building with the  
22 agents?

23 A. No.

24 Q. Were you there when the agents initially went into the  
25 building? Were you at the premises when the FBI agents went

1 into the building to execute the search warrant initially at  
2 the beginning?

3 A. On the premises of --

4 Q. Of Tri-State.

5 A. -- the office?

6 Q. Yes.

7 A. No.

8 Q. Where were you?

9 A. We were waiting in a vehicle with some of the other agents.

10 Q. Okay. So you were in the parking lot?

11 A. I don't remember if it was the parking lot or not. It  
12 might have been a side street.

13 Q. Okay. How long did you wait in that vehicle before you  
14 were allowed in?

15 A. I'm not sure. Probably 15 minutes, maybe not even that  
16 long.

17 Q. Okay. So within about 15 minutes after the first agents  
18 went into the building, you came into the building?

19 A. I believe so.

20 Q. Okay. What was your procedure when you went in there? How  
21 did you decide where to go and what you were going to look at?

22 A. I would normally just ask one of the investigators, DEA,  
23 what would you want me to do, what do you want me to look at,  
24 where do you want to start?

25 I know they would start with different rooms, and they put

1 labels on the rooms of what was in what room, say room one,  
2 room two, or room three, things of that sort.

3 Q. Okay. So you had DEA agents, when you walked in, tell you  
4 where they wanted you to go and take an inventory, basically?

5 A. Just look to see what was -- what should or should not be  
6 there out of the ordinary.

7 Q. Okay. And did you keep an inventory, like a list, or did  
8 you just keep a mental note, or what did you do?

9 A. I think it was more of a mental note.

10 Q. Okay. So your testimony today is based upon your  
11 recollection of what you saw during the search warrant  
12 execution in June of 2005?

13 A. Yes.

14 Q. Okay. Now, you talk about equipment to view X-rays, and  
15 then you said something about needing this equipment to look at  
16 X-rays and MRIs.

17 A. Correct.

18 Q. You need an X-ray box to look at MRI results? Do you need  
19 an X-ray light box to look at an MRI result?

20 A. The actual film.

21 Q. Okay. When you looked through the files that you looked  
22 through from Tri-State, did you see a lot of files with actual  
23 X-ray film and MRI film in them?

24 A. No.

25 Q. Okay. Did you, instead, see reports from doctors who

1 conducted the X-rays and the MRIs in the files?

2 A. I'm not real -- I don't recall.

3 Q. Okay.

4 A. I know there was a sign up that said that the patient must  
5 bring them in with them, the actual films.

6 Q. The actual films?

7 A. Correct.

8 Q. You did not see the actual films in the files?

9 A. No. Files are kind of small for films.

10 Q. Okay. You talked about blood pressure cuffs. Isn't it  
11 true that when you have a person who's a larger person that you  
12 can use a regular medium size blood pressure cuff on their  
13 forearm to take their blood pressure?

14 A. I suppose you could.

15 Q. Okay. And you said you didn't see blood pressure cuffs for  
16 kids. Did you know that Dr. Volkman did not see children?

17 A. No.

18 Q. Did you know what kind of practice this was when you went  
19 in to it?

20 A. Yes.

21 Q. You knew this was a pain practice?

22 A. Yes.

23 Q. Okay. Now, you said you reviewed some medical files. How  
24 many medical files did you review?

25 A. I don't know a number.

1 Q. Was it ten, 20, 30, 40?

2 A. Just randomly pull a few to look. Usually if you can pull  
3 one or two, you know somewhat of a pattern of what's going on.  
4 It tends to be a cookie cutter pattern.

5 Q. So by looking at one or two files of the files that were  
6 taken from Tri-State, you can know a pattern of how he  
7 practiced?

8 A. Somewhat, yes.

9 Q. With one or two files?

10 A. I'm sure it wasn't exactly one or two.

11 Q. You don't remember how many?

12 A. I know they took boxes of files out. And I looked at files  
13 there, so the files weren't necessarily with me for any amount  
14 of time.

15 Q. So you wouldn't recall who the patients were either, would  
16 you?

17 A. No.

18 Q. And when you were looking at these files and you said that  
19 you didn't notice any physical evaluations or examinations, did  
20 you know that he was -- you did know he was a pain doctor, a  
21 pain clinic doctor; right?

22 A. Yes.

23 Q. And did you see that he would see his patients every 30  
24 days?

25 A. I don't recall.

1 Q. You don't recall that?

2 A. No.

3 Q. Okay. You said that you saw Celebrex that was recalled in  
4 the office; right?

5 A. Correct.

6 Q. What's Celebrex?

7 A. It's a non-steroidal anti-inflammatory.

8 Q. It's a non-steroidal anti-inflammatory. What was the  
9 abbreviation you used for that?

10 A. NSAID.

11 Q. NSAID, okay. And this was a medication that had been  
12 recalled?

13 A. I believe so.

14 Q. Do you remember when it had been recalled?

15 A. No, I don't.

16 Q. This is not a controlled substance, is it?

17 A. No, it's not.

18 Q. And it's not a narcotic?

19 A. No, it's not.

20 MS. CROUSE: Okay.

21 Your Honor, may I have a moment, please?

22 THE COURT: Yes.

23 (Ms. Crouse, Ms. Cross, and the defendant confer  
24 privately.)

25

1 BY MS. CROUSE:

2 Q. When you were conducting your evaluation of the clinic, did  
3 you go anywhere in the clinic that the DEA did not instruct you  
4 to go?

5 A. No.

6 Q. And when you were reviewing some of these medical files,  
7 did you see in the files any indication that Dr. Volkman  
8 prescribed something called Disalcid?

9 A. I -- I don't remember.

10 Q. Do you know what Disalcid is?

11 A. Not off the bat. I would have to look it up right now.

12 Q. If I told you it was an anti-inflammatory, a nonsteroidal  
13 anti-inflammatory, would that ring a bell? Does that sound  
14 right?

15 A. I would have to look it up.

16 MS. CROUSE: Okay. You don't know what it is, okay.

17 Thank you. No further questions.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY MR. OAKLEY:

21 Q. Ms. Newman, you told us earlier about a cookie cutter  
22 pattern.

23 A. Correct.

24 Q. What's that?

25 A. That's when you typically see the same medication



1 prescribed for every patient, normally called maybe a cocktail.

2 Q. And did you look at enough files to get the impression that  
3 there was a cookie cutter pattern?

4 A. Yes.

5 MR. OAKLEY: No other questions, Your Honor.

6 THE COURT: Recross?

7 RECROSS-EXAMINATION

8 BY MS. CROUSE:

9 Q. And when you say you looked at enough files, you think two  
10 files is enough?

11 A. I looked at more than two.

12 Q. How many?

13 A. I'm not sure. There were several boxes of files.

14 MS. CROUSE: No further questions.

15 THE COURT: All right. Counselors, is there any  
16 reason for Ms. Newman to remain available for recall?

17 MR. OAKLEY: Not by the United States, Your Honor.

18 MS. CROUSE: No, Your Honor. Thank you.

19 THE COURT: Thank you, ma'am. You may step down.  
20 You're excused.

21 (Witness excused.)

22 THE COURT: The next witness?

23 MR. OAKLEY: Chris Kresnak.

24 Your Honor, I notice that a person who has been subpoenaed  
25 is in this courtroom and would ask that they leave.

1 THE COURT: All right.

2 MR. OAKLEY: Mr. Eil is in the courtroom. I just  
3 noticed that he's here.

4 THE COURT: Okay. Mr. Eil, I'm afraid you will have  
5 to step out in the hall at this time. There has been a  
6 separation of witnesses requested, and it's my understanding  
7 that you may be a witness in this matter.

8 MR. EIL: Yes, Your Honor. May I speak with Ms. Brown  
9 at the break, however?

10 THE COURT: Who?

11 MR. EIL: May I speak with Ms. Brown at the break?

12 THE COURT: Possibly.

13 MR. EIL: Okay.

14 THE COURT: 3:00 o'clock.

15 MR. EIL: Okay. Thank you.

16 (Mr. Eil leaves the courtroom.)

17 COURTROOM DEPUTY: Please raise your right hand.

18 (Christopher A. Kresnak is duly sworn by the courtroom  
19 deputy.)

20 COURTROOM DEPUTY: Please be seated.

21 DIRECT EXAMINATION

22 BY MR. OAKLEY:

23 Q. Agent Kresnak, could you please tell us your name and spell  
24 your last name for the record.

25 A. Christopher A. Kresnak, K-r-e-s-n-a-k.

1 Q. And where do you work?

2 A. I work for the Drug Enforcement Administration here in  
3 Cincinnati.

4 Q. And what do you do?

5 A. I'm a diversion investigator.

6 Q. How long?

7 A. I've been a diversion investigator for seven years.

8 Q. And what does a diversion investigator do?

9 A. We're charged with the investigation and the compliance of  
10 the Controlled Substances Act dealing with pharmaceutical  
11 products and List I chemicals.

12 Q. And prior to joining the DEA what did you do?

13 A. I spent 22 years in the United States Marine Corps, retired  
14 as a master sergeant.

15 Q. As part of your duties with the DEA, did you take part in  
16 the investigation of Tri-State Health Care and Dr. Paul H.  
17 Volkman?

18 A. Yes, I did.

19 Q. Did that investigation eventually lead to the execution of  
20 a search warrant of Tri-State Health Care at 1219 and a half  
21 Findlay Street in Portsmouth, Ohio, on June 7th, 2005?

22 A. Yes, it did.

23 Q. Approximately what time did that search start?

24 A. Right around 9:00 AM.

25 Q. Why 9:00 AM?

1 A. I believe that's what the business hours were at the time.  
2 DEA's policy would be on a business is that, instead of  
3 breaking down a door, that we try to knock on the door, if we  
4 have to, for a business.

5 Q. Now, did you actually go to Findlay Street or did you go  
6 someplace else?

7 A. No. I was assigned to try to interview Dr. Volkman at his  
8 residence at 1310 Center Street in Portsmouth, Ohio.

9 Q. And what time did you get to the residence?

10 A. We arrived right around 10:15 or so.

11 Q. And was Dr. Volkman present at 1310 Center Street?

12 A. He was present.

13 Q. What happened when you got there?

14 A. We knocked on the door, the front door of 1310 Center  
15 Street, and Special Agent Smith and Group Supervisor Ron  
16 Rodriguez were the lead. There was the three of us.

17 Knocked at the front door. There was no answer. Special  
18 Agent Smith noticed lights and the television on, so they  
19 proceeded to the backyard and knocked on the back door.

20 Q. And what happened then?

21 A. Dr. Volkman came to the door. Both GS Rodriguez and  
22 Special Agent Smith identified themselves, explained that a  
23 search warrant was being conducted and that they wanted a  
24 moment of his time.

25 Q. What does "GS" mean?

1 A. Group supervisor. I apologize.

2 Q. So there were the three of you?

3 A. Yes.

4 Q. And at that time did you interview Dr. Volkman?

5 A. No. We entered the premises. We would not have gone in  
6 unless Dr. Volkman allowed us to come in. We explained that a  
7 search warrant was being conducted at Tri-State Health Care  
8 and, if he wanted to be interviewed, this would be a good time  
9 for him to be interviewed.

10 Q. Why did you want to do it at his home?

11 A. We wanted to avoid any -- there was a lot of agents,  
12 patients, people, a lot of people running around the clinic.  
13 We thought it would be easier to interview Dr. Volkman at his  
14 home.

15 Q. And did you then interview the doctor at his home?

16 A. No, we did not. Dr. Volkman asked if we had a search  
17 warrant for his home. We said no. And he says, "Well, then I  
18 won't -- then there's no need for you to be here, and I'll talk  
19 to you down at the clinic."

20 Q. And what happened then?

21 A. Special Agent Smith informed Dr. Volkman that there was no  
22 need for him to come down to the clinic. If he didn't want to  
23 speak to us at his home, there's no need for him to come down  
24 there, and we exited the premises.

25 Q. Where did you go?

1 A. We went back to the clinic to assist in the search warrant.

2 Q. How far is the Center Street residence to Findlay Street?

3 A. Two and a half, three miles. Not that far.

4 Q. Now, what did you do when you got back to the Tri-State  
5 Health Care at Findlay?

6 A. I began to assist in the seizure of things that were  
7 granted in the search warrant, medical records, documents that  
8 pertained to payment, business records.

9 Q. And were there firearms at the clinic?

10 A. Yes, there was.

11 Q. Could you please describe them.

12 A. I'm sorry?

13 Q. Could you please tell us where they were and what it was.

14 A. One firearm was found in the controlled substance safe in  
15 the pharmacy.

16 Q. Were there other guns upstairs?

17 A. Yes, there are. There were. I believe there was a small  
18 .22 rifle on the floor, I believe it was Denise Huffman's  
19 office, and another rifle propped up in the corner in the  
20 kitchen area.

21 Q. Did you see Dr. Volkman later that day?

22 A. Yes, we did.

23 Q. Where and why?

24 A. Dr. Volkman arrived at the clinic right around 11:15,  
25 11:30. He was told that he wasn't going to be interviewed but

1 he could have a seat in the waiting room.

2 Q. And what did he do?

3 A. He waited in the waiting room. Someone told me that Dr.  
4 Volkman was present, so I went out there and asked him if he  
5 wanted to speak to us.

6 Q. And what did he tell you?

7 A. He said, yes, he'll talk to us. Actually, I'll recant  
8 that. He didn't say he wanted to speak to us. He wanted to  
9 hear what we had to say.

10 Q. So did you find an area where you could speak with Dr.  
11 Volkman?

12 A. Yes.

13 Q. And what happened?

14 A. In one of his examination rooms -- I believe it was the  
15 first one; as you're walking down the hall, it would be on the  
16 left -- there's a small desk in there, an examination table.  
17 And myself, Special Agent Smith, my group supervisor Roy Head,  
18 Edward Douglas from the medical board, and a Mr. Henderson from  
19 the medical board followed Dr. Volkman into the examination  
20 room.

21 Q. You had a crowd.

22 A. It was pretty crowded.

23 Q. What happened when you got in there?

24 A. Special Agent Smith again informed him that, you know, he  
25 was here on his own free will, he didn't have to talk to us,

1 and he was not under arrest.

2 Q. And what was Dr. Volkman's response?

3 A. Dr. Volkman responded -- he looked around the room at the  
4 five of us, or I guess there would have been -- and said, "It  
5 doesn't look like I'm not under arrest."

6 Q. And what was the response from the agents?

7 A. Special Agent Smith opened the door and explained to Dr.  
8 Volkman he was not under arrest and he's welcome to leave now.

9 Q. And what happened?

10 A. Dr. Volkman looked at me and says, "No, I'd like to hear  
11 what DEA has to say," and he sat down.

12 Q. Okay. Did any of the agents leave?

13 A. Yes. Special Agent Smith, Group Supervisor Roy Head left,  
14 which left me and the two medical board people inside the room.

15 Q. With Dr. Volkman?

16 A. Yes, sir.

17 Q. And what did you talk about?

18 A. We went into a little bit -- I started asking him a little  
19 about his background. I had had his curriculum vitae, his  
20 résumé. We went through that he was the director of  
21 pharmacology at the Chicago School of Medicine. He had been  
22 the head of anesthesiology at a hospital, the name escapes me  
23 at this time. And some of the other things on his résumé, his  
24 curriculum vitae, such as he was certified in pediatrics, he  
25 was certified in emergency room medicine.



1 Q. Now, what was his degree in?

2 A. Well, he had a degree as a medical doctor, or I should say  
3 he has one and is a medical doctor.

4 Q. Okay. Was there an area of practice?

5 A. Yes. I believe the first thing on his curriculum vitae was  
6 that he was certified in pediatrics.

7 Q. Okay. Did he also have a degree in pharmacology?

8 A. Yes, he did. And at one time, I think I might have already  
9 said this, that he was the director of pharmacology at the  
10 Chicago School of Medicine.

11 Q. And did you ask him about patient charts?

12 A. Well, we -- yes. I did ask Dr. Volkman in regards to not  
13 necessarily patient charts but would he like to talk about  
14 patients. Dr. Volkman, and in all fairness, said he wouldn't  
15 feel comfortable talking about patients without having the  
16 chart in front of him.

17 Q. And did you press that issue?

18 A. No, sir.

19 Q. And did you also ask him about any patient who had died?

20 A. I did. I asked him if he had ever had a patient die under  
21 his care. Again, he didn't want to address any issues without  
22 a patient chart. I respected that and moved on to another  
23 question.

24 Q. Did you ask him if he used his degree in pharmacology as  
25 far as pain management?

1 A. Yes, I did. And he schooled me in regards to pain  
2 management was a practice and pharmacology was not a practice.

3 Q. Did you ask him about malpractice insurance?

4 A. Yes. I asked him if he carried malpractice insurance. Dr.  
5 Volkman said he did not carry malpractice insurance and --

6 Q. Why?

7 A. He said --

8 MS. CROSS: Objection, Your Honor.

9 THE COURT: Would you like to be heard?

10 MS. CROSS: Yes.

11 THE COURT: Okay.

12 SIDEBAR CONFERENCE

13 MS. CROSS: Your Honor, we objected because I think  
14 this was the area that was the subject of a former motion *in*  
15 *limine*, and I believe that we discussed that we can talk about  
16 evidence that Dr. Volkman didn't have insurance and notified  
17 his patients but not why he didn't have medical malpractice  
18 insurance, and Mr. Oakley just asked the question why.

19 MR. OAKLEY: Your Honor, the answer from Agent Kresnak  
20 is that he didn't want to have malpractice insurance, that he  
21 didn't need it, that his patients wouldn't sue him. That's the  
22 answer we're expecting to hear.

23 THE COURT: Okay. Based on that representation, I'll  
24 overrule your objection. If something unusual or if it  
25 deviates from that representation comes out, we'll have to talk

1 again.

2 MR. OAKLEY: That's my only question on the issue.

3 THE COURT: Okay.

4 CONCLUSION OF SIDEBAR CONFERENCE

5 BY MR. OAKLEY:

6 Q. And what did he tell you about malpractice insurance?

7 A. He said he didn't need it, that his patients needed him and  
8 they wouldn't sue him.

9 Q. Did you talk about the clinic?

10 A. Yes, we did.

11 Q. Who owned the clinic?

12 A. Denise Huffman.

13 Q. And who was in charge of the clinic?

14 A. Denise Huffman.

15 Q. Who developed new patients?

16 A. According to Dr. Volkman, Denise Huffman did.

17 Q. And did you ask Dr. Volkman what a person had to be to  
18 become a new patient at Tri-State?

19 A. Yes. He explained that new patients were decided by Denise  
20 Huffman because she happened to know them personally, knew  
21 their family history, knew their medical history, knew what  
22 they did in the community.

23 Q. Did he rely on that knowledge from Ms. Huffman to determine  
24 who got in?

25 A. He led me to believe that was very important in his

1 decision-making.

2 Q. Did you ask him whether or not he consulted with other  
3 physicians to coordinate care with his patients?

4 A. Yes, I did.

5 Q. And what was his response?

6 A. His response was he did not coordinate with other  
7 physicians.

8 Q. What were the forms of treatment that he used?

9 A. He used -- his pain management practice would be  
10 pharmaceuticals and yoga.

11 Q. Did he offer any counseling?

12 A. No. I asked him if he used other forms of therapy,  
13 physical therapy, vocational therapy, the coordinating efforts  
14 with physical therapy. I'm sorry. I repeated that. But, yes,  
15 we discussed those. He did not say he used those things.

16 Q. Pills and yoga?

17 A. Pills and yoga.

18 Q. What was his status at the clinic?

19 A. He was an employee.

20 Q. Did you ask him about whether or not he knew the  
21 qualifications of the staff at Tri-State?

22 A. Yes, I did.

23 Q. And did he know their qualifications?

24 A. He did not know the qualifications. He said if any -- if I  
25 should ask anything about staff, that those questions should be

1 deferred to Denise Huffman.

2 Q. How did he handle -- did you ask him about handling drug  
3 seekers?

4 A. Yes, I did. He was pretty proud of the program him and Ms.  
5 Huffman had put in place.

6 Q. And what was that program?

7 A. The program was they had a very tight urinalysis screening.  
8 The screens would be taken at a local hospital and sent to the  
9 Mayo Clinic.

10 Q. Okay. And did the screens involve levels?

11 A. Yes, it did. He says he could determine if a patient was  
12 seeking drugs or diverting drugs by how high a level was or how  
13 low a level was.

14 Q. And did he have any addicts at that time in the clinic?

15 A. He told me he had no addicts because of the strict  
16 urinalysis screens that he had. He also had pill counts, Mr.  
17 Oakley.

18 Q. And did Denise help him screen out the drug seekers?

19 A. Yes. I asked him in regards to how does he determine the  
20 drug screens -- "Who comes, who goes?" I believe were more my  
21 words -- and he says he relies heavily on Ms. Huffman's knowing  
22 the patient.

23 Q. Now, did he explain how the tests were conducted? Were  
24 they random?

25 A. Yes. I asked him about random screenings. My previous

1 jobs I've had that required drug screening, you know, typically  
2 you might use the last digit of your social security number for  
3 an employee. You know, eight would be -- everybody ending with  
4 an eight would have a drug screening. And he didn't have a  
5 standing operating procedure, but he says it was random.

6 Q. Now, would these screens be that day, or would you be given  
7 an appointment?

8 A. Sir, I don't know the answer to that question.

9 Q. Now, who would review the results of the drug screens?

10 A. Both him and Denise Huffman.

11 Q. Did he say why Denise would review them?

12 A. Because Denise knew the patients, knew their backgrounds  
13 and knew their medical history, knew their family history.

14 Q. And who had the final say on who stayed and who left?

15 A. I asked Dr. Volkman that. He said the final word came from  
16 Denise Huffman.

17 Q. As far as the dispens-- did you ask him about the  
18 dispensary?

19 A. Yes, I did.

20 Q. Whose responsibility was the dispensary?

21 A. Dr. Volkman said the dispensary was the Huffmans'  
22 responsibility.

23 Q. And did you ask him about the pill counts?

24 A. As far as an audit, sir, or --

25 Q. No. As far as part of the drug seeking.

1 A. Yes. I asked him, and he said he did random pill counts on  
2 individuals.

3 Q. And were people discharged on pill counts?

4 A. Yes.

5 Q. What was a pill count?

6 A. A pill count, from my understanding, is that -- we've seen  
7 examples of prescriptions given. A prescription's given on the  
8 1st of the month, and you're given 480 oxycodone 5s, 240  
9 Lorcets, 120 Xanax, and 350 Somas, and you get called in on the  
10 15th. The pill count -- you get called in, and the pill count  
11 should reflect 15 days of medicine remaining and 15 days have  
12 been -- are not available because they've been taken.

13 Q. And who made the call on discharging a patient over a pill  
14 count?

15 A. That would be Ms. Huffman.

16 Q. Now, did you ask Dr. Volkman about whether or not he shared  
17 the medical records of a patient to a new clinic if that  
18 patient were to leave?

19 A. Yes, I did, and he said he didn't share the medical  
20 records.

21 Q. Why?

22 A. I didn't -- I didn't pursue the answer, sir.

23 Q. Did you ask him whether or not he stayed abreast of  
24 pharmacology?

25 A. Yes, I did.

1 Q. What was his response?

2 A. His response was at first he said no. And then he changed  
3 his mind and said that he used the Internet to keep abreast of  
4 the pharmacology field.

5 Q. Okay. Now I want to get back to the dispensary. When he  
6 told you it was not his responsibility, did you confront him  
7 about that?

8 A. Yes, I did. As a diversion investigator, I'm well versed  
9 on whose responsibility it is when using their DEA registration  
10 to order controlled substances.

11 Q. And what was his response?

12 A. Well, his response was that he -- at first it was if you  
13 have any questions in regards to the dispensary, they should be  
14 addressed to the Huffmans.

15 Again I persisted in regards to his responsibility as the  
16 registration holder to be able to account for every pill.

17 Q. And what was his response?

18 A. He said he could account for every single pill.

19 Q. Did you ask him if there had been any thefts or spillages  
20 at the clinic?

21 A. Yes, I did. He said there were no reported thefts, no  
22 reported losses.

23 Q. At that point what happened?

24 A. Well, again I reminded him of his responsibility with --  
25 because we were counting, we were doing an inventory audit of



1 the dispensary, and I wanted to reiterate that it was his  
2 responsibility. And he says if there's any problem in the  
3 pharmacy, it's the pharmacy board's fault.

4 Q. Now, did you ask him any more questions?

5 A. No. I felt -- actually, I think he concluded the  
6 interview, that he had heard enough, answered enough questions,  
7 and he asked if he could leave. I thanked him for his time and  
8 he left the interview room.

9 Q. Did you hear from him later that day?

10 A. Yes. Later on that evening the Cincinnati resident office,  
11 the DEA Cincinnati resident office, received a phone call from  
12 him wanting to talk to the agent in charge. Well, I had  
13 interviewed him, so I picked up the phone and I gave him a  
14 return phone call.

15 Q. And what did you talk about?

16 A. Dr. Volkman wanted to know why I had lied to him in regards  
17 to who was in the room. I explained -- I think he misunder-  
18 stood and he probably thought they were pharmacy board agents  
19 inside the room. I explained to him it was not, that they were  
20 medical board investigators. He wanted to know if he was still  
21 in business. I explained to him that we had not restricted his  
22 DEA registration at that time.

23 He wanted to know if there was any charges pending. I  
24 explained to him I could not answer that, that he should call  
25 the U.S. Attorney's office. And there was probably one other

1 item, but that was referred again to -- it was a legal  
2 question, and I wanted -- and I referred it to the U.S.  
3 Attorney's office.

4 Q. Now, did you also take part in the search of the clinic?

5 A. Yes, I did.

6 Q. And if we could go through some of the items we've marked.  
7 If you could look at what's been marked Government's Exhibit 8.

8 A. I have a copy of Exhibit 8 in front of me, sir.

9 Q. Do you recognize that?

10 A. Yes. These were -- this was a copy of a book that we  
11 seized from the dispensary area.

12 MR. OAKLEY: We would move to admit Exhibit 8.

13 THE COURT: Mr. Oakley, my book has Exhibits 8a  
14 through 8, it looks to be, h. Are you offering --

15 MR. OAKLEY: We would be offering all: a through h.

16 THE COURT: Okay.

17 THE WITNESS: Mr. Oakley, if I may --

18 THE COURT: I'm sorry.

19 MR. OAKLEY: You'll have to wait.

20 THE WITNESS: Oh, okay.

21 My tab is also marked 8a. I had my glasses on.

22 THE COURT: Is there an 8?

23 MR. OAKLEY: 8a through h.

24 THE WITNESS: No, I do not have an 8. I have 8a.

25 THE COURT: Neither do I.

1 THE WITNESS: I'm sorry, ma'am.

2 THE COURT: That's okay.

3 Ms. Cross?

4 MS. CROSS: Your Honor, we would object to foundation.  
5 He's only looked at 8a.

6 Q. Agent, if you could take a few minutes and look through a,  
7 b, c, d, e, f, g and h and see if you recognize those.

8 A. I will.

9 Q. Have you had a chance to look at all the items?

10 A. Yes, sir.

11 Q. Do you recognize all the items?

12 A. Yes, I do.

13 Q. Where did they come from?

14 A. They came from the dispensary area of the Tri-State Health  
15 Care.

16 MR. OAKLEY: Your Honor, we would again move for  
17 admission of Exhibit 8a through h.

18 THE COURT: Any objection?

19 MS. CROUSE: No objection.

20 THE COURT: It will be admitted.

21 (Government's Exhibit 8a through 8h was admitted.)

22 Q. If you will go to Exhibit 9: a, b, c and d. If you could  
23 take a moment, Agent Kresnak, and just look through 9a, b, c  
24 and d.

25 A. Yes, sir.

1 Q. Have you had a chance to go through?

2 A. Yes, sir.

3 Q. And do you recognize 9a, b, c and d?

4 A. Yes, I do, sir.

5 Q. What are they?

6 A. They are -- when you received a prescription at the  
7 dispensary, these books were used to show who signed for the  
8 medication.

9 Q. Were these loose-bound books?

10 A. They were put inside three-ring binders.

11 Q. And where were they found?

12 A. Found in the -- I'm sorry, the dispensary.

13 MR. OAKLEY: Your Honor, we would move to admit  
14 Exhibit 9a, b, c and d.

15 MS. CROSS: No objection, Your Honor.

16 THE COURT: They will be admitted.

17 (Government's Exhibit 9a through 9d was admitted.)

18 Q. Now, Agent Kresnak, if you could please look at what's been  
19 marked Exhibit 12. Do you recognize what's been marked as 12?

20 A. Yes, I do.

21 Q. And what is it?

22 A. It is a Utilization Review Notice Of Denial. It says to  
23 Dr. Volkman, Paul Volkman, 1219 Findlay Street. It's from  
24 Liberty Mutual.

25 Q. Where was it found?

1 A. It was found during the search warrant, sir.

2 MR. OAKLEY: Your Honor, we'd move to admit 12.

3 MS. CROSS: Objection, Your Honor.

4 THE COURT: Okay. Do you want to be heard on that?

5 MS. CROSS: Yes.

6 SIDEBAR CONFERENCE

7 MS. CROSS: Your Honor, I understand that this was  
8 found in the search warrant, but it is a letter that contains  
9 hearsay. I understand that the hearsay portion of it may be  
10 testified to by the author, the person who wrote it, but trying  
11 to get it in through this agent at this time is improper, based  
12 on hearsay.

13 MR. OAKLEY: Your Honor, we're admitting the document  
14 for what it is right now. It's not hearsay. It's simply --  
15 we've had this argument before on this particular document.  
16 This is just simply giving him notice of a problem with  
17 prescriptions for one person. It's not for the truth of the  
18 matter asserted. But either way, it's been properly identi-  
19 fied, and we'll have witnesses coming on to talk about the  
20 contents of the letter. We won't get into the contents with  
21 this particular witness.

22 MS. CROSS: Your Honor, if this is not being offered  
23 for the truth of the matter asserted, then I would request  
24 redaction of the hearsay part and --

25 THE COURT: Okay. Objection overruled; redaction

1 denied. I will give a curative instruction to the jury at this  
2 point in time that this is not admitted for the truth of the  
3 facts contained in this letter but, rather, for the purpose of  
4 showing that the Doctor received such a letter at the time  
5 indicated.

6 MR. OAKLEY: That's fine.

7 THE COURT: Okay?

8 MR. OAKLEY: That's fine.

9 MS. CROSS: Your Honor, may I just, for the record,  
10 state that at this point we have no knowledge as to whether or  
11 not Dr. Volkman received this letter. It was just found in the  
12 clinic.

13 THE COURT: Okay. All right.

14 MR. OAKLEY: Your Honor, just for the record, we have  
15 provided defense counsel with a response to that letter from  
16 Dr. Volkman. Clearly he received it.

17 THE COURT: Okay. Thank you.

18 CONCLUSION OF SIDEBAR CONFERENCE

19 THE COURT: Ladies and gentlemen, this exhibit will be  
20 admitted not for the truth of the information contained in the  
21 letter but, rather, for the fact that it was sent to Dr.  
22 Volkman at the clinic. Anything else surrounding this letter  
23 remains to be seen.

24 MR. OAKLEY: Thank you, Your Honor.

25 (Government's Exhibit 12 was admitted.)

1 Q. The next exhibit, Agent Kresnak, let's move to 17a.

2 A. Yes, sir.

3 Q. Do you recognize 17a?

4 A. It is a medical record for Connie Pack.

5 Q. Where was it found?

6 A. At the search warrant.

7 MR. OAKLEY: We'd move to admit 17a.

8 MS. CROSS: No objection.

9 THE COURT: All right. It will be admitted.

10 (Government's Exhibit 17a was admitted.)

11 Q. And, Agent Kresnak -- maybe we should wait.

12 I want to jump ahead to Exhibit 21a through o. Take a look  
13 at those real quick.

14 MR. OAKLEY: In my defense, Marcus Welby didn't have a  
15 lot of this other stuff, either.

16 Q. Agent Kresnak, have you had a chance to look at what's been  
17 marked 21a through o?

18 A. I have one tab marked 21 and several loose-leaf papers, a  
19 through o.

20 Q. Do you recognize those?

21 A. Yes, sir.

22 Q. And what are they?

23 A. These are copies of photographs taken at the -- or I should  
24 say at Tri-State during the search warrant.

25 MR. OAKLEY: Your Honor, I would move to admit 21a

1 through o.

2 MS. CROSS: No objection, Your Honor.

3 THE COURT: All right. They will be admitted.

4 (Government's Exhibit 21a through 21o was admitted.)

5 MR. OAKLEY: Your Honor, we would move to publish.

6 THE COURT: You may.

7 MR. OAKLEY: Thank you.

8 Q. Agent, let's first look at what's been marked 21a. What  
9 was this?

10 A. This was found on the wall in one of the rooms.

11 Q. I'm going to put up 21b.

12 A. Again, this was found on the wall at Tri-State.

13 Q. It's a certificate of some type of diplomate?

14 A. Yes, sir. It's from American Pain Management, American --  
15 ACA. I'm sorry.

16 Q. And 21c?

17 A. These are notices found throughout the patient waiting  
18 area.

19 Q. And 21d?

20 A. This is Denise Huffman's certificate as a medical assistant  
21 that was found in a frame on her desk.

22 Q. From the St. Augustine School of Medical Assistants?

23 A. Yes, sir.

24 Q. 21e?

25 A. 21e is a picture of Alice Huffman during the search, and



1 this would have been taken inside the dispensary.

2 Q. Now, you see at what would be the photo's bottom -- or  
3 mid-right "Sentry." Is that the drug safe?

4 A. Yes, it is.

5 Q. And on top of that, the box marked "PMC"?

6 A. PMC is a manufacturer of ammunition.

7 Q. And who is Alice Huffman?

8 A. Alice Huffman is Denise Huffman's daughter. She also  
9 managed the clinic, and I believe she also managed the  
10 dispensary.

11 Q. 21f?

12 A. I do recognize it.

13 Q. And what is it?

14 A. It's a register that was kept inside the dispensary.

15 Q. Let's look at 21g. What is this?

16 A. Well, I recognize 21g as posted on the wall in the  
17 dispensary. They're actually how much they charge patients for  
18 controlled substances.

19 Q. This is a price list?

20 A. Price list. Thank you, sir.

21 Q. This is a price list. We're looking now or narrowed in on  
22 a price list for the oxycodone five-milligram. If someone were  
23 to get 480 of those pills -- it seems to stop at 300. 300  
24 pills was \$240?

25 A. That's what the price list indicates, correct.

1 Q. And then I guess we'd find 180 in there someplace?

2 A. Probably about halfway down.

3 Q. So that would be roughly -- the 180 seems to be at \$144?

4 A. That's what I see, sir.

5 Q. So we might add those two together for about \$390 for one  
6 prescription?

7 A. Yes, sir. I won't ask for a pencil.

8 Q. I don't have one.

9 A. No. There will be others.

10 Q. And for the oxycodone 30s?

11 A. What number would you like me to read, sir?

12 Q. The bottom number. It seems to stop again at 300 dosage  
13 units.

14 A. Yes, it seems to stop that way.

15 Q. And that's for how much?

16 A. \$540.

17 Q. So a prescription for 60 is \$108?

18 A. I'm sorry. One more time, please.

19 Q. Does 60 pills look to be \$108?

20 A. Yes, sir.

21 Q. And the 300 is \$540?

22 A. Yes, sir.

23 Q. So best guess on a prescription of 360 oxycodone 30s is  
24 \$650?

25 A. Yes, sir.

1 Q. Just for that one type of medication?

2 A. Yes, sir.

3 Q. Let's look at 21h. What is this?

4 A. It's a picture taken inside the cabinet. If you were  
5 entering the dispensary, it would be to the left of the  
6 dispensary.

7 Q. And who is James Russell?

8 A. James Russell was a patient of Dr. Volkman's.

9 Q. And we also see the name of John Huffman.

10 A. Yes. That would have been the husband of Denise Huffman.

11 Q. And I can't read the -- I can't read the name on the third  
12 bottle.

13 A. No, sir. I cannot either.

14 Q. Now, where were these found, again?

15 A. They're in what we would consider the Schedule III cabinet,  
16 Schedule IIIs being like Vicodin and Lortab, Lorcets. They  
17 could be schedule -- they actually could be stored in a locked  
18 medical cabinet for safety.

19 Q. Okay. 21i?

20 A. Yes, sir.

21 Q. What is it?

22 A. These are books we found later to be identified as  
23 controlled substance logs.

24 Q. I see what look to be smaller hardbound books.

25 A. The bottom green one. Oh. I'm sorry, sir. Can you point

1 it out one more time?

2 Q. There's these smaller hardbound books.

3 A. Yes. That's what I was -- those look like controlled  
4 substance logbooks that we have here.

5 Q. And what were these (indicating)?

6 A. Those are the exhibits you just showed me.

7 Q. Those are the three-ring binders?

8 A. Three-ring binders that a patient would sign for receiving  
9 those medications.

10 Q. And what's this, 21j?

11 A. This was a small lockbox found inside the dispensary. We  
12 actually had to bust it open because no one knew the -- or had  
13 a key for it, and it controlled these pill bottles. It  
14 contained these pill bottles.

15 Q. And 21k?

16 A. Yes, sir. That's the price -- the price ledger for, it  
17 looks like, the hydrocodone products.

18 Q. Okay. And the price for the 360 Norco 10/325s is how much?

19 A. What was the count, 360?

20 Q. 360.

21 A. \$245.

22 Q. And this would be in addition to the price for 360  
23 oxycodone 30s?

24 A. I would say yes.

25 Q. 21l.

1 A. Yes, sir.

2 Q. I think we've discussed this from the other photo; correct?

3 A. Yes, sir. When you blew up the first one, this would be an  
4 indication of that.

5 Q. And this is 21m.

6 A. 21m is a list of other controlled substances, although I  
7 don't think Trental is a controlled substance, and Disalcid was  
8 not a controlled substance, but Demerol and Dilaudid are  
9 controlled substances.

10 Q. So he did actually sell Disalcid?

11 A. Yes, sir.

12 Q. Do you have any idea what Trental is?

13 A. I think it thins your blood. But no. You're asking the  
14 wrong person, sir.

15 Q. 21n?

16 A. 21n lists the -- the price listings for Xanax two  
17 milligrams, Xanax one milligram, Valium ten milligrams, and  
18 Soma 350 milligrams.

19 Q. So in addition to what we paid for the Norco 10/325s, the  
20 360, the 360 oxycodone 30s, we also see the cost of Xanax and  
21 the Somas?

22 A. Yes, sir. If he prescribed all four of those prescriptions  
23 and they got a pill here, this is the price listing that they  
24 would use.

25 Q. It would be close to a thousand dollars?

1 A. Yes, sir.

2 Q. And then this is 21o.

3 A. I'm sorry. What number?

4 Q. 21o.

5 A. O, yes, sir.

6 Q. What is 21o?

7 A. A picture. Actually, this is -- if you walked into the  
8 dispensary, it would be on the far right-hand side. It's an  
9 exit door to the pharmacy. Attached to it is a barbed door,  
10 and attached to that is one police style nightstick, and behind  
11 that -- I know it's been described as a walking tall stick.

12 Q. Agent Kresnak, was a video done of the search at Tri-State?

13 A. Yes, there was.

14 Q. Have you had a chance to review that video?

15 A. Yes, I did.

16 Q. Is that video a fair and accurate representation of the way  
17 the clinic looked that day that you went in to conduct the  
18 search?

19 A. Yes, sir.

20 MR. OAKLEY: Your Honor, at this point we would ask to  
21 play what's been marked Exhibit 20.

22 THE COURT: Counselors, can I see you at sidebar.

23 SIDEBAR CONFERENCE

24 THE COURT: Well, I guess preliminarily, is there  
25 going to be an objection to playing this?

1 MS. CROSS: No, Your Honor.

2 THE COURT: Okay. Then, B, how long does it run?

3 MR. OAKLEY: It's probably 45 minutes.

4 THE COURT: Do you want to take the midafternoon break  
5 now and play it straight through, or does it matter?

6 MR. OAKLEY: That's fine. Either way is fine with me.

7 THE COURT: Okay. Well, why don't we take the break  
8 now. We can also take up Mr. Eil now and then start the video  
9 right around 3:00 o'clock and you can play it straight through.

10 MR. OAKLEY: That's fine.

11 THE COURT: Okay. Thanks.

12 CONCLUSION OF SIDEBAR CONFERENCE

13 THE COURT: All right. Ladies and gentlemen, my brief  
14 conference with counsel indicates that the video will be  
15 admitted and played without objection. However, it's 45  
16 minutes long. So I suggest that we take a 15-minute break,  
17 midafternoon break now, and then you can watch that video  
18 straight through without interruption. So let's break now  
19 until 3:05.

20 And I'll remind you not to discuss the case among  
21 yourselves or with anyone else or permit anyone to discuss it  
22 with you or in your presence. Report any violation to Ms.  
23 Brown. Make no attempt to do any research, investigation on  
24 your own, and no Internet chitchat of any kind regarding the  
25 trial. We'll see you back in 15 minutes.

1 COURTROOM DEPUTY: All rise.

2 (Jury out at 2:46 PM.)

3 BEFORE THE COURT

4 COURTROOM DEPUTY: Please be seated.

5 THE COURT: Okay. Agent, you can step down if you  
6 like.

7 (Witness temporarily excused.)

8 THE COURT: Folks, over the lunch break Ms. Brown and,  
9 I think, Ms. Nicholson brought to my attention that Mr. Eil has  
10 been subpoenaed by the government. Correct?

11 MR. OAKLEY: Your Honor, he has.

12 THE COURT: Okay. And somewhat naturally, I suppose,  
13 he seems to have some trepidation about that. He indicated he  
14 might like to secure the advice of counsel, and I, of course,  
15 am curious to know the drift of the government's subpoena since  
16 he doesn't appear to have any firsthand knowledge of the case.

17 MR. OAKLEY: Well, Your Honor, I don't know if that's  
18 the case or not. We know that Mr. Eil has been talking to  
19 witnesses in the Portsmouth area. He would have only known  
20 about those people from the witness list or from Dr. Volkman.  
21 We believe that he's been in communication with Dr. Volkman  
22 over the time of this.

23 We also were concerned that the one juror that he found to  
24 speak to in the venire was also a reporter, and we had some  
25 concern that --



1       And I'm not blaming Ms. Cross or Ms. Crouse. That's not  
2 the purpose.

3       -- that he may have had some access to a jury venire,  
4 although we don't know. But we do have a good faith to believe  
5 that he's been in communication with Mr. Volkman.

6       We approached Mr. Eil Thursday and asked him if he would  
7 please speak with us. We asked him about whether or not he had  
8 received a list of the witnesses. He respectfully declined to  
9 answer. We asked him if he had seen a jury venire and he  
10 respectfully declined to answer. At that point he asked if he  
11 was free to leave and we said yes, and he left.

12       So we felt that at this point we would subpoena him and  
13 would put him on the witness list because we believe that he  
14 may have information about what has transpired, and he may wish  
15 to speak to counsel.

16       THE COURT: Okay. It seems to me, Mr. Oakley, curious  
17 as we might all be about this matter or these matters, that  
18 calling him to the witness stand under oath in front of the  
19 jury could be a disastrous undertaking since I think we would  
20 have to all agree we don't know the answers to questions that  
21 might be put to him.

22       I haven't heard from defense counsel as yet, but it seems  
23 to me perhaps some interrogation outside the hearing of the  
24 jury before he was placed on the witness stand in front of the  
25 jury might be a cautious, prudent approach.

1 But Ms. Cross, Ms. Crouse?

2 MS. CROSS: Your Honor, I concur. We concur with that  
3 suggestion that he be -- I understand Mr. Oakley's concern, and  
4 based on his representations, now I'm concerned.

5 I will represent to the Court on behalf of my client that  
6 neither Dr. Volkman nor anyone from the defense team has been  
7 providing any information to this young man. Why he would try  
8 to interject himself into this case I don't know, but we have  
9 not given him a witness list, any information about the jury  
10 panel, or anything about our case. In fact, as I stated on, I  
11 believe, the first day that an issue arose with him, I had sent  
12 an e-mail to him, after I had discovered that he had been in  
13 Portsmouth asking questions about this case, that he not do so,  
14 that he had no permission on behalf of Dr. Volkman or anybody  
15 on the defense team, at least, and that we asked him not to do  
16 that.

17 I never got a response or anything back from him, but I do  
18 think that we concur with the Court's suggestion that examining  
19 him outside the presence of the jury would be a more prudent  
20 way to handle it.

21 THE COURT: He seems to have very few compunctions  
22 about contacting court personnel and asking questions that  
23 include, essentially, legal advice.

24 Ms. Nicholson, am I accurately portraying your interface  
25 with him?

1           THE LAW CLERK: I think I had maybe two or three  
2 conversations with him many months ago, and then he sort of  
3 gave up. I wouldn't tell him things. And I think he wanted to  
4 come to one conference with the attorneys. I forget if it was  
5 a pretrial or some conference he wanted to come sit in, and I  
6 told him that's not our standard practice. And then he went  
7 away, and I haven't heard from him until he showed up here  
8 again.

9           THE COURT: Ms. Brown, what, if any, interface have  
10 you had with Mr. Eil?

11           COURTROOM DEPUTY: Well, I guess most recently he had  
12 left me a voice mail over lunch. I returned his call, and he  
13 was wanting to know whether he could obtain an extension of the  
14 subpoena date so that he could contact an attorney and what  
15 ramifications -- he wanted to discuss the ramifications of him  
16 testifying and whether he would be permitted to be present in  
17 the courtroom until he does testify tomorrow. I think at 9:30  
18 he was subpoenaed.

19           MR. OAKLEY: Your Honor, we put a date on the subpoena  
20 for the date of the trial. We did that to every one of them,  
21 trying to make adjustments. We don't anticipate him testifying  
22 tomorrow. We needed to put a date on the trial subpoena.

23           We have no objection to him going to see counsel, and if he  
24 does, then maybe that counsel can speak with us. And we would  
25 love to get an interview with him. It may turn out that he's a

1 rebuttal witness. I don't know at this stage.

2 But the Court is correct that we have tried to talk to him.  
3 He has respectfully declined so far. Counsel may help that.  
4 But I don't have any schedule for him to testify this week, but  
5 like any other witness, he must be separated from the rest of  
6 the witnesses and for the rest of the trial.

7 THE COURT: Well, he's not a target of any sort of  
8 federal investigation at this point?

9 MR. OAKLEY: At this point, no.

10 THE COURT: So he's not entitled to counsel, appointed  
11 counsel. And I don't know his financial situation, but it  
12 seems to be fairly good if he can afford to travel here and  
13 stay for seven to 12 weeks.

14 So he might need to get counsel on his own. I suspect, on  
15 his part, he would feel aggrieved if he were kept out of the  
16 proceedings for an extended period of time, so perhaps that's  
17 an incentive to him to get counsel if he wants it.

18 We could have a short informal chat with him on the record  
19 but after today's proceedings to get some lay of the land, not  
20 anything under oath. I do have a 4:30 phone conference which  
21 shouldn't be very long. So if you want to do that, I can have  
22 Ms. Brown tell him to stay around until 4:45 or something of  
23 that nature.

24 MR. OAKLEY: Your Honor, what I would suggest is that  
25 he be advised that if he feels the need to seek counsel, that

1 he should talk to counsel and then go from there. I don't see  
2 the point in bringing him in for another interview not under  
3 oath right now. I think that just simply distracts from what  
4 else everyone else has to do.

5 THE COURT: I think we need to give him some sort of  
6 deadline by which he needs to have either conferred with  
7 counsel or concluded he doesn't need to. I'm just checking.

8 I suppose he's got the rest of the afternoon off to go  
9 looking for an attorney.

10 COURTROOM DEPUTY: He also mentioned that his mother  
11 is an attorney, and I think he's going to seek her advice.

12 THE COURT: Well, suppose we tell him that he will be  
13 called in at noon tomorrow after the end of the morning break  
14 to see what his status is and he could anticipate being put  
15 under oath at that time for a preliminary examination.

16 Mr. Oakley?

17 MR. OAKLEY: That's fine.

18 THE COURT: It may be that you will elicit testimony  
19 that's harmless to both sides and irrelevant to the overall  
20 proceedings, in which case we don't need to take up the jury's  
21 time.

22 On the other hand, if it begins to look very pertinent as  
23 to what he might have to say, then we might have to terminate  
24 his examination pending his appearance before the jury as part  
25 of the trial.

1 Does that make sense to everybody or --

2 MS. CROSS: Uh-huh.

3 MR. OAKLEY: That's fine; that's fine.

4 THE COURT: All right. And may I designate or  
5 deputize Ms. Brown to make him aware that he needs to decide  
6 whether he's going to have counsel present or consult counsel  
7 at noon tomorrow?

8 MS. CROSS: We have no objection to that, Your Honor.

9 THE COURT: Mr. Oakley, does that meet your needs and  
10 expectations?

11 MR. OAKLEY: That's fine, Your Honor.

12 THE COURT: All right. Okay. Then I'll just take  
13 care of the 4:30 conference at 4:30 today.

14 Folks, do you need a quick break before we head into the  
15 video?

16 MS. CROSS: Yes, please.

17 MR. OAKLEY: Yes, Your Honor.

18 THE COURT: Okay. Can we hurry back.

19 COURTROOM DEPUTY: All rise. This court is in recess  
20 until five after 3:00.

21 (Recess taken: 3:00 PM - 3:10 PM.)

22 (Christopher A. Kresnick resumes the witness stand.)

23 (Jury in at 3:10 PM.)

24 DIRECT EXAMINATION (Continued)

25 BY MR. OAKLEY:

1 THE COURT: I think we are ready to run the video.

2 MR. OAKLEY: Thank you, Your Honor. At this point we  
3 would ask to publish what has been identified as Exhibit 20,  
4 the search video.

5 THE COURT: You may.

6 MR. OAKLEY: If we could stop it for just a second.

7 Q. Agent Kresnak, what are we about to watch?

8 A. This would have been after the premise was secured for  
9 officer safety, an agent or a diversion investigator walk  
10 around taking photographs and a video of the entrance and of  
11 the building to ensure that, you know, we record what the  
12 premise was like when we go in there and then when we leave.

13 (Government's Exhibit 20 is played in open court.)

14 Q. Agent Kresnak, where are we now?

15 A. You're on the second floor of the clinic. It's an  
16 apartment, so it is the living room area.

17 Q. Did your investigation reveal that this was the yoga room?

18 A. Yes, it did.

19 MR. OAKLEY: You can stop it right there. Or go back  
20 just a hair.

21 Right there; right there.

22 Q. What are we looking at in the photo?

23 A. It's a rifle.

24 MR. OAKLEY: Okay. If you'd start playing it again.

25 Q. And what's this area?

1 A. It's an office area upstairs.

2 MR. OAKLEY: Will you stop it, please.

3 Q. We see some binders on the table. What are those?

4 A. The one in the center which is kind of maroonish is the  
5 signature log for dispensary, one of the several we found.

6 Q. Okay. What about the green book toward the top center?

7 A. Up right about 11:00 o'clock there's a green ledger book.  
8 That's a controlled substance log.

9 MR. OAKLEY: Go ahead and play it.

10 Q. And which room is this?

11 A. I think that's the north side office.

12 Q. And which room is this?

13 A. This would be the owner's -- Denise Huffman's -- office.

14 Q. Another rifle on the floor?

15 A. Yes, sir.

16 Q. And where is this?

17 A. This is the -- it's a room kind of like a sunroom on the  
18 back of the building. It would be really close to being  
19 directly above the dispensary.

20 Q. Where are we now?

21 A. We are now downstairs, and this is one of the examination  
22 rooms.

23 Q. Where are we now?

24 A. I'm trying get my bearings. That looks like the assessment  
25 room. That's where patients would first be assessed.



1 Q. That would be the height, weight, blood pressure?

2 A. Yes, sir.

3 Q. What's that?

4 A. It's a camera for a security system, sir.

5 Q. What's the purpose of the newspaper clipping?

6 A. We've learned in training that illicit operations will keep  
7 newspaper clippings of -- in this case there would be newspaper  
8 clippings involving diversion cases. A doctor might be  
9 arrested or he might have a trial which made the headlines.

10 It's not uncommon to see that.

11 Q. And which room is this?

12 A. Again, it's an examination room.

13 Q. Is this the downstairs restroom?

14 A. It seems to be, yes, sir.

15 Q. Well, maybe not.

16 A. Yes, that's the downstairs bathroom.

17 Q. Where are we headed now?

18 A. To the basement.

19 Q. Agent Kresnak, what are you looking at now?

20 A. The basement had numerous, I'm going to say hundreds and  
21 thousands of medical records in the bottom, in the basement in  
22 boxes. At the time we didn't know why they were there.

23 Q. Did they appear to be current patients?

24 A. They did not. We've learned since the search warrant what  
25 they were.

1 Q. What were they?

2 A. They were -- this building was used by a prior doctor that  
3 occupied the building, and the landlord told us that those  
4 records had been down there for years.

5 Q. Agent, were any of these files seized?

6 A. Not that I'm aware of, no.

7 Q. Were they reviewed?

8 A. I couldn't attest to that.

9 Q. If they were, you don't know anything about it?

10 A. That's correct.

11 Q. Now where are we now?

12 A. We're now upstairs. This would be the working area where  
13 the employees would -- it's their filing system. The employees  
14 would be able to get a file there.

15 Q. Where are we now?

16 A. It looks to me like we're concluding the search later on in  
17 the afternoon and they're doing an exit video.

18 Q. So we're back upstairs?

19 A. We're back upstairs. I'm sorry.

20 Mr. Oakley, I don't think this is the exit video. I think  
21 they've just continued to film.

22 Q. Okay. So what room would this be?

23 A. That's upstairs.

24 Q. We're back upstairs?

25 A. We're back upstairs.

1 Q. And this was the yoga room?

2 A. I believe that was the yoga room, yes, sir.

3 Q. Where are we now?

4 A. We are now down into the dispensary.

5 Q. What are we looking at now?

6 A. They're invoices for numerous things. Soma I noticed on  
7 there.

8 These are 222 forms. These forms are used to order  
9 Schedule II narcotics. More invoices.

10 Q. What's this part?

11 A. I believe I testified earlier in regards to the filing  
12 cabinet, the steel container that's not a safe. That's where  
13 you can store your Schedule IIIs. They looked to store  
14 prescriptions there. That's where those bottles of Mr. Russell  
15 and John Huffman were found.

16 Q. And what are those?

17 A. This is the dispensing area where they would dispense the  
18 medicines. These are warning labels: Don't drink and drive  
19 with these, don't add alcohol.

20 Q. Take with food?

21 A. Don't take with food. Those labels there.

22 Q. What are these?

23 A. Those are prefilled bottles with -- well, the one on the  
24 left there is Soma. I'm sorry. Xanax. And you'll see 30.  
25 There will be 30 count, 60, 60 count, 90 Valium, 90 Lorazepam,

1 Lortabs.

2 Q. Why would you have precounted bottles?

3 A. Well, it's against the board of pharmacy without specific  
4 labeling on those. You would know what was going to be  
5 dispensed that day.

6 Q. And what are these?

7 A. Manufacturer bottles. Those come from the distributors  
8 that way. An order is placed and the distributor sends the  
9 bulk amount to you in these bottles.

10 Q. What are we looking at there?

11 A. That's the inside of the Schedule II safe where the  
12 oxycodone products and other Schedule II medication would be  
13 there. There was also a handgun.

14 Q. What are these?

15 A. It looks like a cabinet containing medicine, Schedule IIIs  
16 I noticed were on the top, like Lorcet, Lortab, Vicodin, and  
17 bottles.

18 Q. Now where are we?

19 A. I believe we just left the dispensary, and they're taking  
20 shots of things hanging on the wall. That's a security warning  
21 as far as employees. "Don't touch the recording." It looks to  
22 be made out by Denise.

23 Q. What's this area?

24 A. This is where the security monitors were kept. There's  
25 several cameras inside the building, outside the building. So

1 that looks like to be Denise Huffman's office.

2 Q. Is this the hallway back upstairs?

3 A. It's actually downstairs, leading to the upstairs. So  
4 that's right behind the reception area where customers would  
5 come in, fill out their paperwork, and then go have a seat in  
6 the waiting room.

7 Q. Now, Agent Kresnak, I want you to look or take a look at  
8 what's been marked as Exhibit 22b through h.

9 A. 22b through h?

10 Q. Yes.

11 A. Yes, sir.

12 Q. Do you recognize those?

13 A. Yes, I do.

14 Q. What are they?

15 A. 22b is an audit that Investigator Bornstein did in regards,  
16 in relationship to the dispensary. 22 is the price listing or  
17 a copy of the price listing for oxycodone products. 22d --

18 Did I skip one, sir?

19 Q. No. B was the audit.

20 A. Okay.

21 Q. C was a price list for oxycodone.

22 A. Okay.

23 Q. D?

24 A. D is the hydrocodone price list, which would include  
25 Lortab, Norco, Vicodin and Lorcets.

1 Q. And e?

2 A. E is a price list for Dilaudid, Demoral, Trental and  
3 Disalcid.

4 Q. There's also four things listed underneath that. Can you  
5 make out what they are?

6 A. Number 1 I cannot make out. Number 2, "M-y" -- my -- and  
7 then the last two words "Cough Syrup," ten dollars.

8 Number 3, I cannot make that out. It's \$25. Number 4,  
9 something with codeine.

10 Q. 22f?

11 A. 22f is a price listing for Xanax, two milligrams and one  
12 milligrams, Valium 10 milligrams, and Soma 350 milligrams.

13 Q. 22g?

14 A. 22g is a list of pharmacies in the area with their  
15 telephone numbers.

16 Q. And 22h?

17 A. 22h is a similar list of pharmacies with their telephone  
18 numbers.

19 MR. OAKLEY: I would move to admit 22b through h.

20 MS. CROSS: Your Honor, we have an objection. May we  
21 be heard?

22 THE COURT: Yes.

23 SIDEBAR CONFERENCE

24 MS. CROSS: Your Honor, regarding 22b, it appears from  
25 the witness' testimony that this was drafted by another agent,

1 not that it was found at Tri-State. So I don't know how  
2 they're able to lay a foundation for admitting this 22b.

3 MR. OAKLEY: I can ask him if he's aware of it and how  
4 it was done if he is. I hadn't planned on publishing it.

5 THE COURT: All right.

6 MR. OAKLEY: But I can do that.

7 THE COURT: All right. C through h, any objections?

8 MS. CROSS: F and h, Your Honor, we're not clear from  
9 the testimony where these items were found.

10 MR. OAKLEY: Okay. I can ask.

11 THE COURT: All right.

12 CONCLUSION OF SIDEBAR CONFERENCE

13 BY MR. OAKLEY:

14 Q. Agent, with regards to 22b, you've identified it as an  
15 audit. Are you aware how that audit was performed?

16 A. Can you restate your question.

17 Q. 22b you identified as an audit.

18 A. That's correct.

19 Q. Do you know how that audit was conducted?

20 A. Yes. It was conducted by Investigator Bornstein and  
21 several other diversion investigators. Initially when we went  
22 in we counted all the pills that were on hand. How this audit  
23 is done is like all the other audits, is if you have no initial  
24 inventory, a beginning inventory, the best way to start is at  
25 zero. Then you add -- it's very much like a checkbook. You

1 add what you've received, and then you get a total. Then we do  
2 a closing inventory, and the closing inventory indicates what  
3 we found on hand. Taking that and you subtract that from  
4 what's been ordered, and you come up with a difference, plus or  
5 minus.

6 Q. Okay. Now, was that done in this case?

7 A. Yes.

8 Q. And how did you learn about what was ordered?

9 A. You could do that -- we can use it through the ARCOS  
10 system, and we also -- whatever available documents, because  
11 when you're a DEA registrant, you have to have accurate and  
12 complete records, complete and accurate records, so you use  
13 whatever's on hand. As a registrant you maintain those records  
14 very much like a receipt log for your checkbook. If they have  
15 incomplete records or not accurate records, we have to rely on  
16 those invoices that are submitted to DEA through the ARCOS  
17 system.

18 Q. And were the records available at Tri-State complete?

19 A. No, they were not.

20 Q. So did you go to the ARCOS system?

21 A. Mr. Oakley, you'll have to ask Investigator Bornstein that.

22 Q. Okay. But you know this was done that way?

23 A. Yes, sir. That's the way we do all of our audits.

24 MR. OAKLEY: Okay. Your Honor, we would move to admit  
25 22b.



1 MS. CROSS: Note our objection for the same reasons,  
2 Your Honor. Foundation.

3 THE COURT: Could I see counsel at sidebar.

4 SIDEBAR CONFERENCE

5 THE COURT: My question is, is Agent Bornstein going  
6 to be testifying?

7 MR. OAKLEY: Yes.

8 THE COURT: Okay. I can handle this one of two ways.  
9 I can sustain the objection and withhold a ruling on b until  
10 after Agent Bornstein has testified, or I could admit it  
11 conditionally on the government's representation that Agent  
12 Bornstein will be testifying about it, the government running  
13 the risk of some --

14 MR. OAKLEY: I understand.

15 THE COURT: -- default between now and then.

16 MR. OAKLEY: I understand, Your Honor. And I did not  
17 anticipate publishing it today, but we anticipate -- she's been  
18 subpoenaed. She would have been here today but had to be out  
19 of town. She's anticipated to testify next week.

20 THE COURT: Okay. Well, why don't I sustain the  
21 objection at this point in time in an abundance of caution, and  
22 you can talk about whatever you want to elicit regarding it  
23 based on his understanding of what it is and how it was done.

24 Do we still have -- we still have defects, in the defense  
25 view, with regard to 22f and --

1 What was the other one?

2 MR. OAKLEY: Is it g or h?

3 MS. CROSS: H.

4 MR. OAKLEY: F and h?

5 MS. CROSS: Uh-huh.

6 MR. OAKLEY: Okay.

7 THE COURT: F is the price list for Xanax, Valium and  
8 Soma, and h is the pharmacy list, one of two pharmacy lists  
9 with phone numbers. That's what you want to object to?

10 MS. CROSS: Right, Your Honor. C through h we just  
11 don't know where they were found. He hasn't testified as to  
12 where they were found.

13 MR. OAKLEY: They were in the video.

14 THE COURT: Well, I'm going to overrule the objection.  
15 I think that between his testimony and the video it's clear  
16 where these things were found, so I'm going to admit them.

17 MR. OAKLEY: Thank you, Your Honor.

18 THE COURT: All but b.

19 (Government's Exhibits 22c through 22h were admitted.)

20 CONCLUSION OF SIDEBAR CONFERENCE

21 MR. OAKLEY: Okay. Agent Kresnak, I'm going to  
22 withdraw my question about 22b.

23 With regards to the remainder of the exhibits, do I need to  
24 go into those, Your Honor, based on the Court's ruling?

25 THE COURT: No.

1 MR. OAKLEY: Thank you.

2 Q. Let's move to 23.

3 A. Yes, sir.

4 Q. Do you recognize that item?

5 A. Yes, sir.

6 Q. What is it?

7 A. It is a medical record of Phil Smith, Phillip Smith.

8 Q. Do you know where it was found?

9 A. It was found at Tri-State.

10 MR. OAKLEY: We would move to admit 23.

11 MS. CROSS: We do have objection, Your Honor.

12 THE COURT: Okay.

13 SIDEBAR CONFERENCE

14 MS. CROSS: Your Honor, our objection is twofold.

15 First of all, there's been no testimony that this is a  
16 complete, accurate record. He just said -- he identified it  
17 and that's it. So we would object to foundation.

18 And then the other objection is based on a former motion *in*  
19 *limine* that we had about evidence coming in about other  
20 deceased patients which the government's experts did not give  
21 an opinion about.

22 MR. OAKLEY: Your Honor, I believe that these were all  
23 reviewed by Dr. Kennedy. It's not charged in the indictment,  
24 but it's certainly reviewed, and it's noted in his reports.

25 As to foundation, what is necessary is to identify this as

1 an item that was found in the search and that's it. Whether or  
2 not it's incomplete, I don't think anybody can say that, and I  
3 don't think that's what's required. He can just simply  
4 identify it for what it is.

5 THE COURT: Okay. What is the purpose of this  
6 exhibit?

7 MR. OAKLEY: It was found in the search and it was  
8 reviewed by Dr. Kennedy.

9 THE COURT: So it's not particularly pertinent as to  
10 the fact that he's deceased?

11 MR. OAKLEY: No.

12 THE COURT: What it's pertinent to is that he was a  
13 patient --

14 MR. OAKLEY: He was a patient.

15 THE COURT: -- and during the course of his treatment,  
16 the prescriptions written for him over the course of his  
17 treatment.

18 MR. OAKLEY: Yes. It's put in for the review of the  
19 standard of care and whether or not it was for a legitimate  
20 medical purpose.

21 THE COURT: Okay.

22 Last word from the defense?

23 MS. CROSS: Nothing further, Your Honor.

24 MR. OAKLEY: Your Honor, we'll have a series of  
25 these --

1 THE COURT: Okay.

2 MR. OAKLEY: -- files that were reviewed. Some have  
3 died. All of those are noted in Dr. Kennedy's reports as to  
4 what he's looked at.

5 THE COURT: Okay. The objection's overruled. The  
6 exhibit will be admitted.

7 (Government's Exhibit 23 was admitted.)

8 CONCLUSION OF SIDEBAR CONFERENCE

9 BY MR. OAKLEY:

10 Q. Agent, if you can please look at 24. Do you recognize that  
11 item?

12 A. Yes, I do.

13 Q. And what is it?

14 A. It is a medical record for Mary Staton.

15 Q. And where was that recovered?

16 A. That was recovered at Tri-State Health Care.

17 MR. OAKLEY: We would move to admit.

18 MS. CROSS: The same objection, Your Honor.

19 THE COURT: Overruled. It will be admitted.

20 MR. OAKLEY: Thank you, Your Honor.

21 (Government's Exhibit 24 was admitted.)

22 Q. Let's look at what's been marked as Exhibit 25.

23 A. We'll have to switch books.

24 Q. Let's look at 25a. Do you recognize this?

25 A. Yes, sir.

1 Q. And what is it?

2 A. It is a medical record.

3 Q. For who?

4 A. I would have to --

5 Q. I think we may have actually redacted the name on this one.

6 A. This particular one -- I'm sorry. William E. --

7 Q. I think the last name was redacted for privacy.

8 A. Okay. And I'm sorry. I can't read it, so --

9 MR. OAKLEY: We would move to admit 25a.

10 MS. CROSS: Note our same objection, Your Honor.

11 THE COURT: All right. Overruled. It will be  
12 admitted.

13 (Government's Exhibit 25a was admitted.)

14 Q. Agent Kresnak, at some point did you become aware that a  
15 search had been conducted by the Portsmouth police department  
16 of Dr. Volkman's office on Center Street?

17 A. Yes, sir, we did.

18 Q. And did you speak to the officers after that search warrant  
19 was conducted?

20 A. Yes, we did.

21 Q. And did they recover items?

22 A. Yes, they did.

23 Q. As a result of your investigation, did you recover those  
24 items from that department?

25 A. Yes, I did.

1 Q. Take a look at 25b.

2 A. Yes, sir.

3 Q. Do you recognize it?

4 A. Yes, sir, as one of the items Portsmouth PD seized in their  
5 search warrant.

6 Q. And was that recovered by you at sometime after?

7 A. Yes, sir.

8 MR. OAKLEY: Move to admit 25b.

9 MS. CROSS: Your Honor, we would object. Chain of  
10 custody.

11 THE COURT: Mr. Oakley, would you like to be heard on  
12 that?

13 MR. OAKLEY: Your Honor, if it's an issue -- we  
14 anticipate those agents coming in. If it's an issue right now,  
15 we'll withdraw the request.

16 THE COURT: Okay.

17 Q. And let's go to 25c.

18 A. Yes, sir.

19 Q. Do you recognize it?

20 A. Yes, sir.

21 Q. At some point, Agent, as part of this investigation,  
22 approximately February 6th, 2006, did the DEA conduct a search  
23 of the clinic operated by Dr. Volkman in Chillicothe?

24 A. Yes, sir.

25 Q. What's the address of that, was that of that clinic?

1 A. I'll have to look at the cover sheet on this document.

2 It was 5565 U.S. Highway 23, Chillicothe, Ohio 45601.

3 Q. And were records, medical records, recovered as part of  
4 that search?

5 A. Yes, sir.

6 Q. Is 25c one of those records?

7 A. 25c is a record, yes, sir.

8 Q. Was it recovered from Chillicothe?

9 A. Yes, it was.

10 Q. After a search by the DEA?

11 A. Yes, sir.

12 MR. OAKLEY: We would move to admit 25c.

13 MS. CROSS: The same objection, Your Honor.

14 THE COURT: Overruled. It will be admitted.

15 MR. OAKLEY: Thank you, Your Honor.

16 (Government's Exhibit 25c was admitted.)

17 Q. Let's move to 26.

18 A. Yes, sir.

19 Q. Do you recognize Exhibit 26?

20 A. Yes, sir.

21 Q. Where did it come from?

22 A. It's a medical record from Tri-State Health Care.

23 Q. Was that taken in the search?

24 A. Yes, sir.

25 MR. OAKLEY: We would move to admit.



1 MS. CROSS: The same objection, Your Honor.

2 THE COURT: Overruled. It will be admitted.

3 (Government's Exhibit 26 was admitted.)

4 Q. Let's move to what's been marked Exhibit 27.

5 A. Sir, we'll have to switch books.

6 Q. Switch books.

7 A. Yes, sir.

8 Q. Do you recognize this item?

9 A. Yes, sir.

10 Q. What is it?

11 A. It is a medical record.

12 Q. And where was it found?

13 A. It was found at Tri-State Health Care.

14 MR. OAKLEY: We would move to admit 27, Your Honor.

15 MS. CROSS: No objection to 27, Your Honor.

16 THE COURT: All right. It will be admitted without  
17 objection.

18 (Government's Exhibit 27 was admitted.)

19 Q. With regards to 27, if you could go to page two.

20 A. Yes, sir.

21 Q. Is there a notation about a failed drug screen?

22 A. Yes, sir, there is.

23 Q. What's the date of that?

24 A. 8/11/03.

25 MR. OAKLEY: Your Honor, at this point if we could

1 please move to publish page two.

2 THE COURT: You may.

3 Q. This is on the folder of this particular file?

4 A. Yes, sir.

5 Q. Okay. If you could take a look at page 42 through 45.

6 A. 42 through 45?

7 Q. Page 42 through 45.

8 A. I have 42 in front of me, sir.

9 Q. And what is 42?

10 A. 42 is a copy of a prescription made out to the gentleman or  
11 lady.

12 MR. OAKLEY: I would move to publish 42 through 45.

13 THE COURT: You may.

14 Q. What's 42?

15 A. Yes, sir. That's what I'm looking at.

16 Q. Okay. That's a prescription for oxycodone 30s?

17 A. Yes, sir.

18 Q. What's the date on that?

19 A. January 8, 2004.

20 Q. And that would have been after the failed drug test?

21 A. Yes, sir.

22 Q. Page 43.

23 A. Yes, sir.

24 Q. What is it?

25 A. It is a prescription, a copy of a prescription for the same

1 person, written for Lorcets 10/650s, 180.

2 Q. What is the date?

3 A. I'm sorry. I can't see it because of the redaction.

4 Q. You redact too good. How about 44?

5 A. 44 is a copy of the prescription for the same person, dated  
6 1/8/04.

7 Q. For what?

8 A. For Somas, 350 milligrams, 180 count.

9 Q. And 45?

10 A. 45, a copy of a prescription for the same person, dated  
11 1/8/04, for Valium 10s, and I believe that's 120.

12 Q. All these would have been issued after a failed drug test  
13 for illegal drugs?

14 A. According to the file folder, yes, sir.

15 Q. Who is the issuing physician?

16 A. The script, the header reads "Paul Volkman, M.D.," and it  
17 is signed.

18 Q. Does that appear to be the signature of Dr. Volkman?

19 A. Yes, sir.

20 Q. And what about -- let's move to 28.

21 A. 28a?

22 Q. 28a. And what is that?

23 A. It is a medical record.

24 Q. Where was it found?

25 A. Tri-State Health Care.

1 Q. Was that found during the search by the DEA?

2 A. Yes, sir.

3 MR. OAKLEY: We would move to admit.

4 THE COURT: Ms. Cross?

5 MS. CROSS: Sorry, Your Honor. No objection.

6 THE COURT: All right. It will be admitted. Thank  
7 you.

8 (Government's Exhibit 28a was admitted.)

9 Q. And 28b, are you familiar with 28b?

10 A. It is a copy of a medical record.

11 Q. And where did it come from?

12 A. It came from Tri-State Health Care.

13 Q. Was that found in the search?

14 A. Yes, sir.

15 MR. OAKLEY: We would move to admit.

16 MS. CROSS: No objection.

17 THE COURT: It will be admitted.

18 (Government's Exhibit 28b was admitted.)

19 Q. And these are the same person; correct?

20 A. I'm sorry, sir?

21 Q. Are these to the same person?

22 A. When you say "these" --

23 Q. 28a and b are to the same patient?

24 A. It seems to be, yes, sir.

25 Q. Let's go to 29. Take a look at what's been marked 29a.

1 A. Yes, sir.

2 Q. Have you seen it before?

3 A. Yes, sir.

4 Q. And what is it?

5 A. It's a copy of a record that was seized by Portsmouth  
6 police department.

7 Q. How about 29b?

8 A. Yes, sir.

9 Q. And do you recognize this?

10 A. Yes, sir. It's a copy of a medical record seized in our  
11 search in June of 2005.

12 MR. OAKLEY: We would move to admit what's been marked  
13 29b.

14 MS. CROSS: No objection, Your Honor.

15 THE COURT: It will be admitted.

16 (Government's Exhibit 29b was admitted.)

17 Q. Then if you can please look at 29c.

18 A. Yes, sir.

19 Q. What is 29c?

20 A. 29c is a copy of a medical record, and it was seized by DEA  
21 in the June 2005 search warrant.

22 MR. OAKLEY: We would move to admit, Your Honor.

23 MS. CROSS: No objection.

24 THE COURT: It will be admitted.

25 MR. OAKLEY: Thank you, Your Honor.

1 (Government's Exhibit 29c was admitted.)

2 Q. 29d, do you recognize 29d?

3 A. Yes, sir.

4 Q. And what is it?

5 A. It is a copy of a medical record seized at Tri-State Health  
6 Care by DEA.

7 MR. OAKLEY: We would move to admit.

8 MS. CROSS: No objection, Your Honor.

9 THE COURT: It will be admitted.

10 (Government's Exhibit 29d was admitted.)

11 Q. And finally with this particular exhibit, 29e.

12 A. Yes, sir.

13 Q. And what is 29e?

14 A. 29e is a copy of a medical record seized at the Chillicothe  
15 location.

16 MR. OAKLEY: We would move to admit.

17 MS. CROSS: No objection, Your Honor.

18 THE COURT: All right. It will be admitted.

19 (Government's Exhibit 29e was admitted.)

20 A. Mr. Oakley, I think I misspoke. This was a medical record  
21 from Tri-State Health Care.

22 Q. Well, if you look at the dates, I think we may have  
23 mismarked it from Tri-State.

24 A. One second.

25 Q. Let's go to 30, 30a.

1 A. Okay.

2 30a, yes, sir.

3 Q. 30a. Do you recognize 30a?

4 A. Yes, sir.

5 Q. And what is it?

6 A. It's a medical record seized from Tri-State medical -- or  
7 Tri-State Health Care in our June search warrant.

8 MR. OAKLEY: We would move to admit 30a.

9 MS. CROSS: No objection.

10 THE COURT: It will be admitted.

11 (Government's Exhibit 30a was admitted.)

12 Q. And 30 --

13 A. 30b?

14 Q. -- 30b, as in boy. Have you seen 30b before?

15 A. Yes, sir.

16 Q. What is it?

17 A. It's a copy of a medical record seized at Tri-State Health  
18 Care.

19 Q. Was that seized by the Portsmouth police department or  
20 during your search?

21 A. I believe it was during our search, sir.

22 MR. OAKLEY: Okay. We would move to admit 30b.

23 MS. CROSS: Your Honor, may we be heard on this?

24 THE COURT: Yes.

25 SIDEBAR CONFERENCE

1 MS. CROSS: Your Honor, we object. We were a little  
2 confused by the testimony. I think the agent just testified  
3 that this was found at Findlay Street during the execution of  
4 their search warrant in June '05, but on the cover it says  
5 "Portsmouth PD Search Warrant." And we've been lodging an  
6 objection as to chain of custody on all of the Portsmouth PD  
7 search warrants.

8 MR. OAKLEY: He identified it as to what it was. He's  
9 identified the letter. If there was a cover sheet put on  
10 there -- I can not admit it and bring in a Portsmouth police  
11 officer. They're coming in anyway.

12 One of the issues that was raised was after the first  
13 search we made copies of the progress notes and the  
14 prescriptions for Dr. Volkman, and these sometimes found their  
15 way back into becoming the medical file when the Portsmouth  
16 police went in and searched in October.

17 THE COURT: So what you're saying is some of exhibits  
18 are duplicated in the material seized by DEA and Portsmouth?

19 MR. OAKLEY: They are separate individual files but  
20 they contain duplicate information.

21 THE COURT: Okay. Do you want to try to clarify with  
22 the witness as to what this is?

23 MR. OAKLEY: I can not admit it. It's not a big deal.

24 THE COURT: Okay. We'll just hold it.

25 MR. OAKLEY: That's fine.



1 THE COURT: Okay. Sustained.

2 CONCLUSION OF SIDEBAR CONFERENCE

3 MR. OAKLEY: At this time we will withdraw 30b for a  
4 later time.

5 Q. Agent, if you could please look at what's been marked 31.

6 A. Yes, sir.

7 Q. Do you recognize that?

8 A. Yes, sir, I do.

9 Q. What is it?

10 A. It's a medical record seized from Tri-State Health Care.

11 Q. Is that during the search of the DEA?

12 A. Yes, sir.

13 MR. OAKLEY: We would move to admit 31.

14 MS. CROSS: No objection.

15 THE COURT: All right. It will be admitted.

16 (Government's Exhibit 31 was admitted.)

17 Q. Now let's go to 32. Let's start with 32a.

18 A. Yes, sir.

19 Q. Agent, are you familiar with that document?

20 A. I am.

21 Q. What is it?

22 A. It's a death certificate from the State of Ohio.

23 Q. For who?

24 A. For Mary Catherine Carver.

25 Q. And how was this recovered?

1 A. The DEA went out and requested death certificates from  
2 coroners in the state, and they sent it to us.

3 MR. OAKLEY: We would move to admit 32a.

4 MS. CROSS: Objection, Your Honor.

5 THE COURT: Sustained.

6 Q. Would this be an official document that you received from  
7 the State of Ohio?

8 A. Yes, sir.

9 Q. Is it a certified copy?

10 A. The copy in front of me is not certified, but the one we  
11 have on exhibits, yes.

12 MR. OAKLEY: Again we would move to admit.

13 MS. CROSS: Objection, Your Honor.

14 THE COURT: Would you like to be heard?

15 MS. CROSS: Yes, Your Honor.

16 SIDEBAR CONFERENCE

17 MS. CROSS: Your Honor, they're seeking to admit this  
18 death certificate, 32a. We object. I understand it's an  
19 official document, but it's wrought with hearsay. I understand  
20 that the coroners or medical examiners are going to be here to  
21 testify, and these should be properly admitted through them,  
22 not this witness. It's wrought with hearsay.

23 MR. OAKLEY: It's a certified public document.

24 THE COURT: Well, I understand that it is a public  
25 document and it is certified, but it happens to be an exception

1 to an exception because it contains medical opinions that are  
2 conclusory. And I think the law, case law is pretty clear that  
3 autopsy reports cannot be admitted as public records, and I  
4 think this is even one step beyond that. So I think in order  
5 to admit the death certificate as well as the autopsy reports,  
6 we'll have to hear from the coroner who did the autopsy and  
7 filled out certificate of death.

8 MR. OAKLEY: That's fine.

9 THE COURT: Okay.

10 CONCLUSION OF SIDEBAR CONFERENCE

11 BY MR. OAKLEY:

12 Q. Agent, let's go to 32d, as in David.

13 A. Yes, sir.

14 Q. What is it?

15 A. It is a medical record on Cathy Carver.

16 Q. And where was it found?

17 A. Doing the search warrant at Tri-State Health Care.

18 MR. OAKLEY: We would move to admit 32d.

19 MS. CROSS: No objection.

20 THE COURT: All right. It will be admitted.

21 (Government's Exhibit 32d was admitted.)

22 Q. Then please move to 33a.

23 A. Yes, sir.

24 Q. Do you recognize 33a?

25 A. Yes, sir, I do.

1 Q. And what is it?

2 A. It is a medical record on James Russell.

3 Q. Where was it found?

4 A. It was seized at Tri-State Health -- Tri-State Health Care  
5 by the DEA.

6 MR. OAKLEY: We would move to admit 33a.

7 MS. CROSS: Your Honor, note our previous objection on  
8 the same type of medical record.

9 THE COURT: Okay. Overruled. It will be admitted.

10 (Government's Exhibit 33a was admitted.)

11 Q. If you would take a look at 33b. It's in a separate  
12 binder.

13 A. Did you say 33b, sir?

14 Q. 33b, as in boy. Do you recognize what's been marked 33b?

15 A. Yes, sir.

16 Q. And what is it?

17 A. It's a medical record for James Russell.

18 MR. OAKLEY: We would move to admit.

19 MS. CROSS: The same objection, Your Honor.

20 Q. Where was it found?

21 A. I'm sorry. Tri-State Health Care doing the search warrant.

22 MR. OAKLEY: Thank you.

23 Now we would move to admit, Your Honor. I apologize.

24 THE COURT: It will be admitted.

25 (Government's Exhibit 33b was admitted.)

1 Q. Let's go to 34, and specifically 34d, as in David.

2 A. Yes, sir.

3 Q. Do you recognize this?

4 A. Yes, sir.

5 Q. What is it?

6 A. It's a medical record that was seized at Tri-State Health  
7 Care by the DEA.

8 Q. What's the name on the file?

9 A. The name of the file is Kristi Ross, Kristi Ross.

10 MR. OAKLEY: We would move to admit.

11 MS. CROSS: No objection.

12 THE COURT: It will be admitted.

13 (Government's Exhibit 34d was admitted.)

14 Q. Let's go to 35, beginning on 35e, as in Edward. Do you  
15 recognize this document?

16 A. Yes, sir.

17 Q. What is it?

18 A. It's a medical record.

19 Q. For who?

20 A. Steve Hieneman.

21 Q. And where was it found?

22 A. It was found in the search warrant at Tri-State Health Care  
23 in June by the DEA.

24 MR. OAKLEY: Your Honor, we would move to admit 35e.

25 MS. CROSS: No objection.

1 THE COURT: It will be admitted.

2 (Government's Exhibit 35e was admitted.)

3 Q. Let's jump to 36. Oh, I'm sorry. I do have one question  
4 on 35e.

5 A. 35e?

6 Q. 35e, the medical file that you've identified.

7 A. Yes, sir.

8 Q. Go to page 2.

9 A. Yes, sir.

10 Q. Is there a notation on there about this gentleman being  
11 dismissed as a patient?

12 A. There's an annotation that reads, "NLT, dot, patient."  
13 We've learned through the investigation that NLT stands for no  
14 longer treat. "Patient called in for pill count."

15 MR. OAKLEY: Your Honor, with the Court's permission,  
16 I'd like to publish page 2.

17 THE COURT: You may.

18 Q. Look at what you've identified as page 2 of 35e. Do you  
19 see some magic marker?

20 A. Yes, sir.

21 Q. "NLT"?

22 A. "NLT," as we've learned through the investigation, stands  
23 for no longer treat.

24 Q. "Patient called in for pill count"?

25 A. Yes, sir.

1 Q. Is there also a notation for allergies?

2 A. Yes, sir.

3 Q. Was he allergic to narcotics?

4 A. According to this file jacket, it says he was allergic to  
5 MS Contin and oxyContin.

6 Q. Agent, do you know the active ingredient for oxyContin?

7 A. The active ingredient is oxycodone.

8 Q. And if you could look at 36.

9 A. 36?

10 Q. 36.

11 A. Yes, sir.

12 Q. And what is it?

13 A. This is a medical record seized by the DEA in the June 2005  
14 search warrant, sir, from Tri-State Health Care.

15 MR. OAKLEY: Your Honor, we would move to admit.

16 MS. CROSS: No objection.

17 THE COURT: It will be admitted.

18 (Government's Exhibit 36 was admitted.)

19 MR. OAKLEY: Your Honor, may we approach?

20 THE COURT: You may.

21 SIDEBAR CONFERENCE

22 MR. OAKLEY: Your Honor, it's close now to about 4:30.  
23 Do you want to break now? I mean, this is -- I've got another  
24 60 exhibits or so to deal with this.

25 THE COURT: Yes. I was looking ahead at the next 50

1 or so.

2 MR. OAKLEY: I think they deserve five minutes' good  
3 time after this.

4 THE COURT: Any objection?

5 MS. CROSS: No, Your Honor.

6 THE COURT: All right. We'll break despite the  
7 fascinating nature of the testimony.

8 Okay. Thanks.

9 CONCLUSION OF SIDEBAR CONFERENCE

10 THE COURT: Okay. Folks, it's a couple of minutes of  
11 4:30, and Agent Kresnak has lots of additional files about  
12 which he intends to testify, so it seems opportune to break at  
13 this point. So we will let you go for the evening.

14 I remind you not to discuss the case among yourselves or  
15 with anyone else. Don't permit anyone to discuss it with you  
16 in your presence. Report any violation to Ms. Brown. Make no  
17 attempt to do any research or investigation on your own over  
18 the evening hours, and no Internet chitchat about the trial of  
19 any kind. We'll see you back here at 9:00 o'clock tomorrow  
20 morning.

21 COURTROOM DEPUTY: All rise.

22 (Jury out at 4:28 PM.)

23 BEFORE THE COURT

24 COURTROOM DEPUTY: Please be seated.

25 THE COURT: You can step down, Agent.



1 (Witness temporarily excused.)

2 THE COURT: Counselors, is there anything that you  
3 would like to place on the record in the absence of the jury  
4 before we take the break?

5 MR. OAKLEY: Not from the United States, Your Honor.

6 MS. CROSS: No, Your Honor.

7 THE COURT: Okay. I just have one question, and  
8 perhaps the government has the resources to answer the  
9 question. Is anyone certain that Mr. Eil is, in fact, a  
10 student at Columbia working toward any sort of degree, advanced  
11 or otherwise?

12 MR. OAKLEY: We asked him about that, and the answer  
13 was a little hazy. It's a master's thesis class on writing, I  
14 think. And beyond that, I'm not real sure.

15 THE COURT: What are the chances, say between now and  
16 noon tomorrow, someone in some other FBI or DEA office might be  
17 persuaded to go by Columbia University and see if Mr. Eil is  
18 registered and, if so, in what course, et cetera? And if not,  
19 that would be very important to know as well.

20 MR. OAKLEY: Well, we can ask, but that's going to  
21 require a New York office, who may have other things to do.

22 THE COURT: Okay. Well, can we give it a shot?

23 MR. OAKLEY: Yes, Your Honor.

24 THE COURT: And be prepared to let us all know  
25 tomorrow. And if there's no other matter we need to take up

right now, we'll be in recess.

MR. OAKLEY: Thank you, Your Honor.

COURTROOM DEPUTY: All rise. This court is in recess until tomorrow morning.

(At 4:30 PM, the trial was recessed, to be continued on Tuesday, March 8, 2011, at 9:00 AM.)

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## C E R T I F I C A T E

I, Luke T. Lavin, RDR, CRR, the undersigned, certify  
that the foregoing is a correct transcript from the record of  
proceedings in the above-entitled matter.

s/Luke T. Lavin  
Luke T. Lavin  
Official Court Reporter

- - -