



JUDGE LEO BOWMAN
PEOPLE v CODENDISKIN,K

STATE OF MICHIGAN

IN THE 48th JUDICIAL DISTRICT COURT

PEOPLE OF THE STATE OF MICHIGAN,

vs

District Court No. 16-20028

KIMBERLY CASEY CODEN-DISKIN,

Circuit Court No. 16-257774-FH

Defendant.

PEOPLE OF THE STATE OF MICHIGAN,

vs

District Court No. 16-20029

KIMBERLY CASEY CODEN-DISKIN,

Circuit Court No. 16-257775-FH

Defendant.

PRELIMINARY EXAMINATION

BEFORE THE HONORABLE DIANE D'AGOSTINI

Bloomfield Hills, Michigan - Tuesday, February 23, 2016

APPEARANCES:

For the People:

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EXHIBITS

Introduced

Admitted

None.

1 Bloomfield Hills, Michigan

2 Tuesday, February 23, 2016

3 - - -

4 (At 2:14 p.m., proceedings begin)

5 MS. JACOBS: Calling the case of People v
6 Kimberly Coden-Diskin, case number -- there's two cases.
7 I'll call the first one, which is case number 16-20028.
8 Darcey Jacobs on behalf of the People.

9 THE COURT: Good morning, counsel. Good
10 afternoon.

11 MR. ANDREOFF: Your Honor, Christopher Andreoff
12 appearing on Ms. Kimberly Casey Coden-Diskin.

13 We -- before we start, Your Honor, the clerk of
14 the Court, and maybe the West Bloomfield Police Department
15 had added the name Diskin at the end of the name of Coden.
16 That is not my client's legal name. The Diskin is her
17 married name, but she never, I don't believe, has
18 registered that name, either at the Oakland County
19 register where -- or clerk's office, I should say, for
20 marriage -- a marriage certificate. So the -- I'm asking
21 the Court to amend the complaint, if it wishes to do so,
22 to read Cas -- Kimberly Casey Coden, C-o-d-e-n. The
23 police department, I noticed in the reports, added the
24 name Diskin, thinking maybe because they were married.
25 But according to my client, that name has not been added,

1 so --

2 THE COURT: Okay. Ms. Jacobs?

3 MS. JACOBS: I guess if we want to just add it
4 as an alias, I don't know if we can do an a/k/a. I don't
5 know exactly why that name was added by the police
6 department, but I'd certainly want to look into that a
7 little further before I just agree to amend the name.

8 THE COURT: Right. Maybe some type of
9 verification, counsel. If you could provide that to the
10 prosecutor, like a driver's license or Social Security
11 number or something?

12 MR. ANDREOFF: Do you have a driver's license?
13 She has her passport here, which will show it as well.

14 THE COURT: Well, I don't want to -- you know --

15 MR. ANDREOFF: I don't want to take up time with
16 that.

17 THE COURT: -- interfere with the prosecutor --

18 MR. ANDREOFF: I just -- I -- as an officer of
19 the Court, I'm bringing it to your attention.

20 THE COURT: I appreciate that. Maybe that's
21 something that you should show to the prosecutor and we
22 can go from there.

23 MR. ANDREOFF: Sure.

24 THE COURT: But even if it's on -- I suppose the
25 prosecutor -- perhaps it was amended later, perhaps not,

1 but I can't answer why the complaint or the police wrote
2 it that way.

3 MR. ANDREOFF: I understand.

4 THE COURT: So if -- if there's no objection
5 from the prosecutor, that's one thing. But if there's an
6 objection and she wants to look into it, we may have to do
7 this on a later date.

8 MR. ANDREOFF: That's fine, Your Honor.

9 THE COURT: I think the other issue we have from
10 last week too is the positive drug test. You were going
11 to provide some verification of --

12 MR. ANDREOFF: May I approach?

13 THE COURT: Sure. You can show it to Ms. Jacobs
14 --

15 MR. ANDREOFF: I have -- I have a copy for her.

16 MS. JACOBS: Thank you.

17 MR. ANDREOFF: It's from Dr. Garcia.

18 THE COURT: Okay, thank you.

19 MR. ANDREOFF: You're welcome.

20 THE COURT: Okay. For the record then, without
21 stating everything for the record, I do have verification
22 that a particular medication would have resulted in the
23 positive test.

24 Do you have any issues with this, Ms. Jacobs?

25 MS. JACOBS: No, Your Honor.

1 THE COURT: Okay. And I will note that for the
2 file.

3 MR. ANDREOFF: There's another issue that
4 relates to the Court's added order about where she's to
5 test. If I could bring it to the Court's attention?

6 THE COURT: Okay.

7 MR. ANDREOFF: The Court requested -- changed
8 actually where she's to test, and she's now registered, I
9 think in Madison Heights at the JAMS facility. And since
10 the last day we were here with the Court, her -- her color
11 has not been called.

12 KIMBERLY CASEY CODEN-DISKIN: It got called
13 today.

14 MR. ANDREOFF: But I guess it was called today?

15 KIMBERLY CASEY CODEN-DISKIN: Mm-hmm.

16 MR. ANDREOFF: She's been calling, be -- the --
17 the facility, but it got called today, so I guess that's a
18 non-issue. She tested today I -- I believe, so --

19 THE COURT: Okay.

20 MR. ANDREOFF: -- I -- I wanted to bring it to
21 the atten -- because I was concerned that maybe it didn't
22 get recorded --

23 THE COURT: Well, it's -- it's a random color.

24 MR. ANDREOFF: Random calling? Okay; all right,
25 Your Honor.

1 THE COURT: Okay.

2 MS. JACOBS: Your Honor, the People have two
3 minor things. First, we would ask for a mutual
4 sequestration order in this matter, so any witnesses that
5 were subpoenaed, except for the one witness we plan on
6 calling today, we'd ask that the -- not be allowed in the
7 courtroom for the testimony.

8 THE COURT: Okay. I assume there's no
9 objection, mutual?

10 MR. ANDREOFF: No objection. I assume it's on
11 both parts -- both sides, yes.

12 THE COURT: Sure. A mutual sequestration order.
13 Go ahead.

14 MS. JACOBS: I think that requires Mr. Joshua
15 Diskin too.

16 MR. ANDREOFF: He's not a witness.

17 MS. JACOBS: He is on this -- he's listed in the
18 People's complaint and on the witness list.

19 MR. ANDREOFF: Well, there's a spousal
20 privilege; I -- I don't know why he would be added, and I
21 would ask that that be struck then, because he's --
22 there's a spousal privilege between both of them, so he's
23 -- they can't call him if they wanted to.

24 THE COURT: Mm-hmm.

25 MR. ANDREOFF: So I don't understand why --

1 THE COURT: Well, at this point, I don't know
2 who's testifying today or -- or eventually in circuit if
3 this goes to circuit, but the fact that he's listed as a
4 witness, privilege or not, would mean he comes under the
5 sequestration order. You can argue that particular
6 privilege issue later. But right now, he's listed as a
7 witness, so --

8 MR. ANDREOFF: All right.

9 THE COURT: -- he needs to be sequestered.

10 MR. ANDREOFF: Ask him to leave.

11 THE COURT: Okay.

12 MR. ANDREOFF: Your Honor -- go ahead.

13 MS. JACOBS: Okay. And I'll ask defense counsel
14 to correct me if I'm wrong, my understanding this is
15 actually going to be a waiver of the exam. The People did
16 request it to demand on one witness in this matter.

17 THE COURT: Okay. Mr. Andreoff?

18 MR. ANDREOFF: I -- are we talking about two
19 separate cases now, or -- my understanding is you were
20 having two witnesses called, right?

21 MS. JACOBS: No, one in each case.

22 MR. ANDREOFF: One in each case.

23 MS. JACOBS: And -- yes.

24 MR. ANDREOFF: So the Court knows.

25 THE COURT: Okay. So it's a -- just preserving

1 testimony and then a waiver?

2 MR. ANDREOFF: Yes, Your Honor.

3 THE COURT: Okay.

4 MS. JACOBS: Thank you. At this time, the
5 People call Cynthia Diskin, and we would just ask
6 permission for her sister to be able to assist her up to
7 the chair.

8 THE COURT: Sure.

9 Good afternoon, Ms. Diskin. I'm going to place
10 you under oath, please. If you could just raise your
11 right hand?

12 Do you solemnly swear or affirm the testimony
13 you're about to provide is the truth, so help you God?

14 CYNTHIA DISKIN: Yes.

15 THE COURT: If you could just speak up, please?

16 CYNTHIA DISKIN: Yes.

17 (At 2:21 p.m., witness sworn)

18 THE COURT: Thank you very much. You can have a
19 seat right there, and if you can try and speak as loud as
20 you can, because we are recording.

21 CYNTHIA DISKIN

22 called as a witness, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. JACOBS:

25 Q I apologize; Ms. Diskin, did you state your name for the

1 record?

2 A Cynthia Borovoy Diskin.

3 Q And can you spell your last name?

4 A D-i-s-k-i-n.

5 Q Thank you. Ms. Diskin, do you know an individual named
6 Kimberly Casey Coden?

7 A Yes.

8 Q And what name do you know her by?

9 A Casey.

10 Q And how long have you known Casey?

11 A Three years; close to three years.

12 Q Close to three years? And how do you know her?

13 MR. ANDREOFF: I'll stipulate as to
14 identification, but go ahead.

15 MS. JACOBS: Thank you.

16 THE COURT: Okay.

17 BY MS. JACOBS:

18 Q How do you know her?

19 A She's married to my son.

20 Q Okay. And over that past three years, did you develop a
21 relationship with Casey?

22 A Yes.

23 Q And how would you describe that relationship that you had
24 with her?

25 A It was great in the beginning.

1 Q Okay. Did you trust her?

2 A Yes.

3 Q Okay. And did she have access to your home while you were
4 away?

5 A Yes.

6 Q And did she have access while you were there as well?

7 A Yes.

8 Q And did you have --

9 MR. ANDREOFF: Again, foundation; I don't know
10 what time -- period of time we're talking about.

11 THE COURT: Okay; sustained.

12 BY MS. JACOBS:

13 Q Over that three-year period, at some point did she have
14 access to your home?

15 A Yes.

16 Q Both when you were present and when you weren't present?

17 A Yes.

18 Q Did she ever have keys to your house?

19 A Combination to our keypad for our garage; the comb -- the
20 keys, the door, alarm system, yes.

21 Q And that information you had provided to her?

22 A Yes.

23 Q Okay. I want to draw your attention to September of 2015.

24 A Mm-hmm.

25 Q In September of 2015, did you have a Saks First credit

1 card?

2 A September 2015? Yes.

3 Q And how long had you had that account with Saks?

4 A We opened up that account March 4th weekend 2015 when we
5 went to New York.

6 Q And when you say when we, who are you referring to?

7 A My daughter, Rachel Diskin, we took Casey, my husband was
8 there, my future daughter in-law (indiscernible). We were
9 buying stuff for Casey and Josh's wedding for shower
10 outfits and my dress for the wedding and so forth, so we
11 opened up a Saks card that weekend.

12 Q And why did you open up the Saks card?

13 A Because we -- I was spending so much money that they get --
14 -- allowed you to have -- I can't remember if it was 10 or
15 15 percent off of what the total was at that time period.

16 Q And after you opened up that card for the savings, did you
17 ever use it again?

18 A I did not use the card ever again.

19 Q And when you opened it up -- when you opened up the
20 account, did you receive an actual credit card?

21 A Yes.

22 Q And how many did you receive?

23 A Just one, in my name.

24 Q In your name only?

25 A Only my name.

1 Q And where did you keep that card?

2 A In my purse.

3 Q And you indicated you opened that account in March of
4 2015?

5 A It was the weekend of March 4th, 2015.

6 Q And you didn't use it after that?

7 A No.

8 Q Okay. In September 2015, did you receive a bill from the
9 Saks First credit card company?

10 A Yes.

11 Q What was that bill for?

12 A The bill was dated August 29th, and I received it
13 somewhere around September 23rd, and it was for women's
14 clothing, gown, purse, Spanx -- I -- all women's clothing.

15 Q And does the date August 29th mean anything to you?

16 A Absolutely.

17 Q And what does that mean?

18 A It was the day before my son's wedding --

19 Q And --

20 A -- and we had our -- we were at synagogue that morning,
21 and we had what was called an aufruf, so I know that day
22 like it was yesterday.

23 Q Sure. And when you say your son, what son are you
24 referring to?

25 A Joshua Ian Diskin.

1 Q And Joshua is the one that's married to Casey?

2 A Casey.

3 Q All right. Mrs. Diskin, did you make those purchases at
4 Saks on August 29th?

5 A No, I did not.

6 Q Did you give permission to Casey to use your card on
7 August 29th?

8 A No, I did not.

9 Q Did you give her permission to make those purchases on
10 August 29th?

11 A No, I did not.

12 Q Once you received this statement, what did you do?

13 A I called the Saks number on the -- the sheet of the paper
14 of Saks where you call -- where there's -- if you're
15 questioning fraud or whatever, the -- the customer service
16 number.

17 Q And did you make a report?

18 A They said they were going to investigate it; they would
19 put a hold on it, and I received information back a couple
20 months afterwards that it was -- we didn't have to pay for
21 anything.

22 Q Okay. So they determined that they were fraudulent
23 purchases?

24 A Yes.

25 Q And you were not held responsible for any of those

1 purchases?

2 A Correct.

3 Q Did you make a police report at that time?

4 A No.

5 Q And why is that?

6 A Didn't even come to my mind. They said they were
7 investigating it.

8 Q And did you ultimately cancel that Saks card?

9 A Yes.

10 Q Now, around that time -- from that time frame in 2015, did
11 you have any other credit cards at that time?

12 A Yes.

13 Q And did you notice any charges that seemed strange to you
14 on those cards?

15 A Yes. We have -- added a Chase case, we have an E*Trade
16 card, we -- we -- my husband and I checked through all of
17 our credit cards, and there was multiple, multiple
18 transactions on multiple credit cards that we had no idea
19 what they were.

20 Q And what did you do with those cards?

21 A Called customer service. Had new -- actually had the
22 cards cancelled, had new cards re-sent out. I assumed --
23 the assumption was someone stole my identity or my credit
24 cards or something at that point in time, because it was
25 more than one card.

1 Q Sure. Mrs. Diskin, are you familiar with a bank called
2 PNC Bank?

3 A Yes, I am.

4 Q And did you ever have an account with PNC Bank?

5 A Yes, I did.

6 Q And what kind of account did you have?

7 A I had an account for my previous practice, which is called
8 Adult Primary Care Associates, and I opened that specific
9 account for PNC, it was somewhere around the fall of 2014,
10 and I was going to be opening up a satellite office in
11 Commerce, and I just needed it for a checking account,
12 because I needed to purchase items for my office that I
13 was going to be opening up in Commerce.

14 Q Okay. And you indicated you opened that in around fall of
15 2014?

16 A Yes.

17 Q Did you ultimately end up closing that account?

18 A Yes, I did.

19 Q Do you recall when?

20 A I went to Florida in December of 2015, and came home the
21 first week of April 2015 --

22 Q Okay, let me clarify that. You went to Florida at -- in
23 December of 2014 or '15?

24 A '15.

25 Q Okay.

1 A And -- because I -- it was the fall -- I'm sorry, I might
2 have -- I -- I apologize.

3 Q No, take a minute. Think about when you closed that
4 account --

5 A I closed -- I closed that account -- it was when I came
6 back from Florida before they got married. They got
7 married in 2015. I closed that account somewhere in
8 between May and June of 2015. I apologize.

9 Q No, you're fine.

10 A So I opened that account -- it was in August of 2014,
11 because of -- yeah, that's correct.

12 Q Now, after you closed that account, did you ever receive
13 correspondence from C -- PNC Bank?

14 A No.

15 Q Even after you closed it; did you receive something --

16 A After I closed the account, I -- I could have received
17 statements of -- I -- honestly, I do not recall, but I
18 closed the account, I had maybe \$500.00 left in that
19 account --

20 Q Sure.

21 A -- and it was money that I had put in there for purchasing
22 computers and things like that for my office --

23 Q Sure.

24 A -- and there was maybe \$500.00 in there, and I closed the
25 account, and that was it, and I --

1 Q Now, after you closed the account, did you ever hear from
2 PNC Bank again?

3 A I got a letter in the mail when I was in Florida this year
4 -- I just got back yesterday for this hearing. I got a
5 letter in the mail, it was somewhere right before
6 Thanksgiving, so it might have been around the 23rd-ish or
7 maybe the -- it was like the third week of November --

8 Q So in November of 2015 you received correspondence from
9 PNC Bank?

10 A Correct.

11 Q Were you surprised by this?

12 A Absolutely.

13 Q Okay. Because as far as you knew, this account had been
14 closed?

15 A Oh, the account was closed, and the letter was stating as
16 -- my name was spelled incorrectly, it had my business
17 name on there, my home address, Adult Primary Care
18 Associates, Incorporated is what my business was, and it
19 had two pages of all of these transactions over a two -- I
20 would have to probably if I recall the dates correctly, it
21 was somewhere maybe October 12th to the middle of -- maybe
22 the second week of November.

23 Q Okay. Let me break that down a little bit, so I make sure
24 I understand. In November of 2015, you received it sounds
25 like a bill from PNC Bank?

1 A It was not a bill.

2 Q What was it?

3 A It was stating -- it was a letter --

4 Q Okay.

5 A -- and it was a three-page letter and the front of the

6 letter said -- it was spelled incorrectly, it was C-y-n-d-

7 i Diskin --

8 Q Let me stop you. So one of the first things you noticed

9 about this letter from PNC Bank is your name spelled

10 incorrectly?

11 A I was shocked to get a letter -- correct.

12 Q Okay. And what was it about your name that was spelled

13 incorrectly?

14 A It was spelled C-y-n-d-i.

15 Q And have you ever spelled your name like that?

16 A Never.

17 Q Okay. So what else do you notice about this letter that

18 you received?

19 A I started reading the letter that evening when I opened up

20 my mail, and it was saying that we were clearing you for

21 all these fraudulent charges, and I kept rereading that

22 front page saying -- it wasn't clicking to me what -- who

23 -- I did -- how that occurred.

24 Q Okay. So if I'm understanding right, a -- a new account

25 with PNC Bank had been opened --

1 A Correct.

2 Q -- in your name?

3 A Correct.

4 Q And it was your name that was spelled incorrectly?

5 A Correct.

6 Q All right. And Mrs. Diskin, had you given Casey
7 permission to open up a PNC account in your name?

8 A Never.

9 Q Okay. Have you given Casey permission to use your
10 personal information to order an account with PNC?

11 A Never.

12 Q And have you given Casey permission to make charges on
13 this account that had been opened in your name?

14 A Never.

15 Q In fact, you didn't know this account existed?

16 A I had no idea it existed until I got it in the mail.

17 Q Okay. You indicated that you read this letter over and
18 over, correct?

19 A Yes.

20 Q What did you do after that?

21 A I didn't sleep all night long, and I kept thinking about
22 some of the transactions, and one transaction came -- kept
23 coming to my mind, because Casey would call me every day,
24 hi mom, how are you doing, and she told me she was going
25 to have a date night with my son, taking him to an

1 Ethiopian restaurant, and she even took a picture of my
 2 son at the Ethiopian restaurant on the cell phone and
 3 would send it to me in Florida, and -- on my phone, and I
 4 took my cell phone and looked at the picture, and I then
 5 looked at that PNC pages -- there was two pages of
 6 transactions, and the date was on there of the date that
 7 she had date night with my son, amongst other transactions
 8 that were on there as well too. And I did not sleep at
 9 all; then things started coming to me, because there was
 10 many things that were missing and -- and so forth, and --
 11 Q We'll get into that. I promise. Okay. So at some point,
 12 do you contact PNC?
 13 A No, I contact Casey that morning first.
 14 Q Okay. All right.
 15 A Oh, I did contact PNC, there's no question. But I contact
 16 --
 17 Q Okay.
 18 A -- I contacted Casey that morning.
 19 Q So the morning after you received the letter?
 20 A I received that letter -- I got my mail probably at six
 21 o'clock that night, when I went and opened up my mail,
 22 right before I went to sleep, and I contacted her, must
 23 have been around 6:30 in the morning.
 24 Q Okay.
 25 A And --

1 Q And how did you contact her?

2 A By cell.

3 Q And did you use the number you've always used for her?

4 A She only had one cell number.

5 Q Okay. And did you speak to someone when you made that
6 call?

7 A Casey.

8 Q You recognized her voice?

9 A Absolutely.

10 Q Okay. And did you have a conversation with her?

11 A Absolutely.

12 Q And what was that conversation about?

13 A I asked her if she was up, and she said yes, and I told
14 her -- I asked her that -- that -- I can't remember
15 verbatim for words, but I had asked her if she had
16 utilized -- had -- had opened up an account that was in my
17 business name. And she goes I took care of that. And I
18 said what are you talking about; how would you -- what did
19 you take care of, and she started making up some kind of
20 story, and I didn't understand what she was saying. I
21 said Casey, I said you didn't even know that I had a PNC
22 account with my previous practice; how would you know.
23 And I didn't get an answer, and I said Casey, I'm looking
24 at these two pages of documents, these two pages of
25 transactions, I noticed the one picture that you sent to

1 me of that restaurant and it jumps out to me that
2 obviously it's on there amongst multiple other
3 transactions. And I said you have two choices -- I was in
4 Juno Beach Florida at my condo, and I said you have two
5 choices, you either -- you have two -- basically I -- I
6 didn't -- I wasn't threatening, but I gave her -- as a
7 healthcare professional, I said you have two choices, you
8 can go to your psychiatrist and see if you can get
9 admitted -- because I caught her in so many lies -- to a
10 psych ward, and maybe someone can get you some help, or
11 you're going to go to the police.

12 Q Okay. And was there anything else about that conversation
13 --

14 A She was crying hysterically on the phone.

15 Q Okay.

16 A And I said -- I -- I asked her many times did you steal my
17 jewelry, did you steal my cards, did you steal -- were you
18 the one that opened up this credit card; yes, yes, yes.
19 And I said you have -- again, go to the police and/or go
20 see Dr. Rhona Ahmad and get -- another psychiatrist, and
21 get yourself -- and I can make some calls for you --

22 Q Okay.

23 A -- get yourself admitted to Providence Hospital and see if
24 they'll admit you into a psych ward, because you need
25 help. As a healthcare professional, and because I have --

1 adored her and trusted her, and felt that maybe she could
2 get some help.

3 Q Okay. Did you also contact PNC --

4 A Yes, absolutely.

5 Q -- Bank? And do you recall, did you contact them before
6 or after you spoke with Casey on the phone?

7 A I spoke to Casey first that morning; it was 6:30 in the
8 morning.

9 Q All right. And then eventually you contacted PNC?

10 A Yes, I contacted PNC -- I can't tell you at what time
11 period, but the letter -- the letter that I received in
12 the mail was acting as though I had opened up an account,
13 I had made all these charges, I had called and cancelled
14 as they were fraud charges, which I had never done any of
15 these things.

16 Q Okay.

17 A And she admitted to me on the phone that she was the one
18 that did all of those things.

19 Q And she also indicated -- indicated she had taken care of
20 it?

21 A And she had definitely said she took care of it.

22 Q Were you able to determine what she meant by she had taken
23 care of it?

24 A That she took care of -- honestly, no. That she took care
25 of these fraudulent charges and opened and closed an

1 account; I don't know how someone -- I can't think --

2 Q Sure.

3 A -- how people would do something like that, so --

4 Q Sure.

5 A -- no, I couldn't think of how she would have done
6 something like that, no.

7 Q Fair enough. Did you ultimately cancel this account with
8 PNC?

9 A I -- I never opened up the account --

10 Q So what --

11 A -- so she --

12 Q -- what did you have to do in order to --

13 A Oh --

14 Q -- resolve this matter?

15 A -- I had -- obviously we -- I called PNC. The -- they
16 were investigating it. The letter had said that me, it
17 wasn't me, it was C-y-n-d-i Diskin who had opened up the
18 account and had did all of these charges had called and
19 closed up the account for the fraudulent charges.

20 Q Okay. So you were ultimately successful in getting that
21 account closed?

22 A I never opened the account.

23 Q Understandable. But that account that was opened in your
24 name was ultimately closed by PNC?

25 A I sup -- I -- I never even had a card number or the

1 account number --

2 Q Sure.

3 A -- so it had to have been Casey said -- when she said I
4 took care of it all.

5 Q Okay.

6 A It was already closed, according to the letter.

7 Q Okay. And so you didn't have to provide any documentation
8 to PNC Bank?

9 A They ended up sending me information of all the
10 transactions, and I had to sign, and I documented -- in
11 the healthcare field, we sign, date, and time whatever we
12 do --

13 Q Sure.

14 A -- and I signed, dated, and timed it, and went over to Fed
15 Ex and faxed it over to them, because I didn't have a fax
16 in my condo, and then that morning, within so many hours -
17 - well, it wasn't so many hours, by the afternoon, I still
18 didn't trust that she was going to Providence Hospital,
19 and when she went to Providence Hospital, I had her -- she
20 called me from her cell phone. I'm very familiar with
21 Providence Hospital, I used to do rounds there, and she --
22 I had her take a selfie picture in front -- in the waiting
23 room of the ER of Providence Hospital.

24 Q Okay. Now at any point after this PNC account that you
25 hadn't opened came to your attention, did you contact the

1 police?

2 A That was at that -- yes, I did.

3 Q And which police department did you contact first?

4 A At first, I called the Juno Beach Police, and I said I
 5 would -- how do you handle a -- what do I when you --
 6 there's a fraudulent -- when someone has stolen my
 7 identity. And they said where -- what address is on your
 8 -- on this account, and I said it's my West Bloomfield
 9 address. And they said well, it's best to go to where the
 10 -- your address is obviously in West Bloomfield, 5449
 11 Avalon Court, so I then called my husband and got on an
 12 airplane and that was -- must have been around the 30th of
 13 -- it was a Sunday -- the 30th of November, and I went
 14 that next morning, Monday, so it would have been December
 15 1st, if it was that Monday, December 1st, or the -- I know
 16 there was 29 days -- I was home from Sunday night to the
 17 next -- December 5th I flew back to Florida.

18 Q Okay.

19 A So I went that Monday morning and I met Detective --

20 Q An officer --

21 A Officer.

22 Q -- at the West Bloomfield Police Department?

23 A Yes.

24 Q And you had explained to her what had been going on?

25 A Yes.

1 Q All right. Now, you indicated earlier that when you spoke
2 to Casey, she talked about some jewelry that she had
3 taken, correct?

4 A I asked her when I -- when she had told me -- when I asked
5 her about the PNC account, and she admitted to me what she
6 had done, I said I also want to know have you stolen other
7 pieces of jewelry that I have been asking -- that have
8 been missing on and off for the last year and half,
9 specifically one I saw on her neck and -- and that was in
10 May of -- right -- prior to the summer -- it was a David
11 Yurman necklace.

12 Q And -- okay. So you -- in the summer of -- is it 2015?

13 A Mm-hmm.

14 Q You observed her wearing a David Yurman necklace?

15 A Mm-hmm.

16 Q And can you describe to the Court -- if you -- sorry. Did
17 you also have a David Yurman necklace?

18 A Yes.

19 Q And was that necklace missing?

20 A I -- the necklace and the matching stud earrings were
21 missing, amongst many other articles of jewelry.

22 Q All right. Now, Mrs. Diskin, while you were at home
23 during that period of time -- when you were in Michigan
24 during that period of time, did the police ask you to come
25 back to the station to look at some items?

1 A Yes, December 4th.

2 Q On December 4th?

3 A It was Friday.

4 Q And did you recognize any of the items that you were shown

5 on December 4th?

6 A I saw one of the stud earrings that matched --

7 Q The David Yurman?

8 A David Yurman stud earrings that matched my set. I saw an

9 old watch that I used to wear when I worked at Sinai

10 Hospital.

11 Q Do you recall what kind of watch it was?

12 A It was a Citizens watch that I would take patients' pulses

13 with. I saw a pair of hoop earrings that were in there --

14 Q And --

15 A -- I saw my Comerica piece of paperwork that had my

16 accounts on there; I saw actually a credit card with her

17 mother's name on her, Renee Coden was in there, amongst a

18 lot of other articles that I had no idea what they were.

19 Q Okay. I want to talk about the ones that you did

20 recognize as being yours. Let's start with that one David

21 Yurman earring. Had you given Casey permission to take

22 that earring?

23 A Never.

24 Q And where was that earring the last time you saw it?

25 A It was in my jewelry box.

- 1 Q And is your jewelry in your home?
- 2 A Yes.
- 3 Q And you never gave her permission to take that -- that
- 4 earring --
- 5 A Never.
- 6 Q -- out of your home?
- 7 A Never.
- 8 Q What about the Citizens watch? Where was that watch the
- 9 last time you had seen it?
- 10 A In my jewelry box.
- 11 Q Same jewelry box?
- 12 A Same jewelry box in my closet in my bedroom.
- 13 Q Also in -- in your bedroom?
- 14 A Yes.
- 15 Q And did you give Casey permission to take that watch?
- 16 A Never.
- 17 Q Did you give her permission to take that watch from your
- 18 home?
- 19 A Never.
- 20 Q Okay. And finally those hoop earrings. Where were the
- 21 hoop earrings the last time you saw them?
- 22 A In my jewelry box.
- 23 Q Okay. And had you given Casey permission to take those
- 24 earrings?
- 25 A Never.

- 1 Q Did she have your permission to take them from your home?
- 2 A Never.
- 3 Q Besides the items shown to you at the police station, were
- 4 you shown any items that were retrieved from a pawn shop?
- 5 A We had asked Detective Hamilton to investigate --
- 6 Q Let's -- let's focus on the question.
- 7 A Okay.
- 8 Q Did you ever see items that were retrieved from a pawn
- 9 shop?
- 10 A After?
- 11 Q Yeah. Yes.
- 12 A Yes, my husband's bar mitzvah ring that's on my finger
- 13 right now --
- 14 Q Okay. We'll --
- 15 A -- that she stole.
- 16 Q Yep. Let's talk about that. Who retrieved those items
- 17 from the pawn shop?
- 18 A My husband found from Detective Hamilton which pawn shop -
- 19 - we didn't know what ring it was, there was two rings
- 20 there, and he told my husband where to go --
- 21 Q Okay. And we got to be careful about hearsay. Just did
- 22 you -- do you have personal knowledge, did your husband go
- 23 to that --
- 24 A Yes.
- 25 Q -- pawn shop? And after he went to that pawn shop, did

1 you see items that you recognized as belonging to you?

2 A I'm wearing it.

3 Q Okay. What was that item?

4 A This is my husband's bar mitzvah ring that he gave me when
5 I was 16 years old; I've had it all my life, and it was
6 missing for about a month and a half or -- or so, and I
7 was looking in every nook and cranny in my house. It's
8 part of my body. And I didn't get it back until my
9 husband found out from Detective -- we didn't even know
10 what ring was there, but when my husband went there to
11 whatever pawn shop it was, I can't even tell you the name,
12 because I was in Florida --

13 Q And did you recognize that ring immediately when you saw
14 it afterwards?

15 A Immediately.

16 Q And you're wearing it today?

17 A I -- it's on my hand.

18 Q And did you give -- where was that ring the last time you
19 had saw it before it went missing?

20 A It was home in Michigan.

21 Q Okay. Did you give Casey permission to take that ring?

22 A Never.

23 Q Did you give her permission to take that ring from your
24 house?

25 A Never.

1 MS. JACOBS: No further questions for this
2 witness.

3 THE COURT: Thank you. Mr. Andreoff.

4 CROSS-EXAMINATION

5 BY MR. ANDREOFF:

6 Q When did you first meet my client, Casey Coden; what year?

7 A I would probably say the spring when she was dating --
8 probably the spring of 2000 and -- it's almost three years
9 -- so the spring of 2013.

10 Q Okay. From 2013 -- is that when she started dating your
11 son, or did you know her before she started dating --

12 A Oh, I never knew her before.

13 Q I'm sorry?

14 A I never knew her before.

15 Q So it was after she started dating your son?

16 A Yes.

17 Q Okay. And from 2013 up to -- up to and through 2014, did
18 you have a cordial relationship with her?

19 A Yes.

20 Q Did you discover any items missing from the home in 2013
21 that were yours?

22 A Yes.

23 Q What item did you say that you were missing in 2013?

24 A There was a lot of items missing between 2013 and '14. My
25 engagement ring.

1 Q Did you report that to the police in 2013?

2 A Went through the insurance company.

3 Q Okay. So you made a claim?

4 A Yes.

5 Q All right. And could you have misplaced it or lost it?

6 A Absolutely no way.

7 Q Okay. And how many children do you have?

8 A Four.

9 Q Okay. And in 2014, did it come to your attention that my
10 client suffers from certain mental related illnesses?

11 A Yes. She had --

12 Q Could you indicate to the Court what they are?

13 A She had told me that she had ADHD.

14 Q Anything else; did she suffer from depression?

15 A Some depression occasionally.

16 Q I'm sorry?

17 A She would say she would suffer depression prior to her
18 periods when she would be -- a couple days before she
19 would have -- menstruate, she would be in bed for a couple
20 days --

21 Q And so in 2014, when she was dating your son, you knew
22 that she had a certain medical condition of some kind,
23 right?

24 A Yes.

25 Q Was she the under -- under the care of any psychiatrist or

1 psychologist?

2 MS. JACOBS: Your Honor, I'm going to object to
3 relevance.

4 MR. ANDREOFF: I'm going to tie it up in a
5 moment.

6 THE COURT: Okay; go ahead. Sus -- overruled.

7 THE WITNESS: She was -- I can tell you that she
8 saw Dr. Rhona Ahmad once that I know of. She told me that
9 she was seeing other --

10 BY MR. ANDREOFF:

11 Q And what year was that, please?

12 A 2000 -- at some point in 2014, '15.

13 Q All right. Is that your doctor that you have a good
14 relationship with?

15 A Yes.

16 Q Okay. And what is your background; do you have a -- any
17 kind of medical-related degrees of any kind?

18 A Yes, I do.

19 Q What --

20 MS. JACOBS: Your Honor, I'm going to object
21 again to relevance.

22 MR. ANDREOFF: I'm going to tie it up in a
23 second.

24 THE COURT: Well, I mean were -- this is an
25 exam, keep in mind --

1 MR. ANDREOFF: I understand. I'm -- I'm --

2 THE COURT: -- I -- I don't know what -- what
3 relevance that has to these offenses.

4 MR. ANDREOFF: I can move it on.

5 BY MR. ANDREOFF:

6 Q Do you have a certain certification by the State of
7 Michigan?

8 A Yes, I do.

9 Q What is it, please?

10 A Nurse practitioner.

11 Q Okay. And are you under -- the State of Michigan, are you
12 allowed to prescribe medications to an individual?

13 MS. JACOBS: Your Honor, I'm going to object
14 again to relevance. Unrelated to these charges.

15 MR. ANDREOFF: It is --

16 THE COURT: Sustained.

17 MR. ANDREOFF: -- it's very related, because it
18 goes to what happened to my client's state of mind in 2014
19 --

20 THE COURT: Counsel, this is not the trial.
21 This is a probable cause hearing. The objection is
22 sustained.

23 MR. ANDREOFF: Your Honor, this -- this witness
24 prescribed numerous medications --

25 THE COURT: Mm-hmm.

1 MR. ANDREOFF: -- that were psychotropic to my
2 client during the time when these incidences occurred.
3 She was not licensed to do so, nor had authority to do so
4 unless she was under the care of a supervising physician,
5 and she -- she caused the issues that happened here with
6 the use of this medication.

7 THE COURT: Okay. You've made your record.
8 I've ruled. Thank you.

9 MR. ANDREOFF: Can I ask those questions --

10 THE COURT: No. I've ruled. I sustained the
11 objection. You've made a record. Thank you.

12 BY MR. ANDREOFF:

13 Q The Saks Fifth Avenue credit card that you testified to on
14 direct examination, the date that was used was the day
15 before her -- her -- my client's wedding; is that correct?

16 A Yes.

17 Q Did you give her authorization to use the Saks Fifth
18 Avenue credit card?

19 A No.

20 Q Do you know one of the gifts that was purchased on -- by
21 the Saks Fifth Avenue was a purse that went to your
22 daughter, Rachel?

23 A I didn't give her permission to use the Saks Fifth Avenue
24 card, but there was --

25 Q Would you answer my question? Do you know whether or not

1 one of the items she purchased at Saks Fifth Avenue went
2 to your daughter, which was 800 and -- \$800.00?

3 A All I can tell you is that one -- when I received a
4 statement in the mail in September, it said a pouch or a
5 purse or something --

6 Q Right.

7 A -- as a women's item, and a gown, and a bra, and underwear
8 --

9 Q Before the day of her -- her wedding?

10 A It was the day of the -- before the wedding, and did I
11 know that she purchased a purse -- that she used my credit
12 card and purchased --

13 Q To this -- to this date --

14 A -- for my daughter, no I did not.

15 Q Ms. Diskin, to this day, do you know that that pouch --

16 A No, I did not give her --

17 Q Do you know what -- do you know whether -- well, you're
18 not answering my question. Listen to my question. Do you
19 know that this \$800.00 pouch that was purchased on August
20 29th, 2015, was given as a gift from my client to your
21 daughter as being a bridesmaid at --

22 MS. JACOBS: Your Honor, I'm going to object as
23 to relevance --

24 MR. ANDREOFF: It's relevant.

25 THE COURT: Overruled. Go ahead.

1 THE WITNESS: I --

2 BY MR. ANDREOFF:

3 Q Do you know that -- whether that pouch was given to your
4 daughter as a gift --

5 A That pouch? No.

6 Q You --

7 A I know she gave a gift of -- that was a purse to my
8 daughter, because my daughter showed me the day --

9 Q Right.

10 A -- of the wedding.

11 Q And that was Rachel, correct?

12 A Correct. I had no idea --

13 Q And did Rachel tell you that that came from my client?

14 MS. JACOBS: Your Honor, I'm going to object as
15 to hearsay.

16 THE WITNESS: I -- I don't even know what --

17 THE COURT: Okay; hold on. That's --

18 THE WITNESS: -- pouch looked like.

19 THE COURT: -- that's hearsay, counsel. So I'm
20 going to sustain the objection.

21 THE WITNESS: I don't even know what the pouch
22 or purse looked like. I'm telling you what the piece of
23 paper looked like. It wasn't given to me --

24 BY MR. ANDREOFF:

25 Q Did you authorize my client at any time to use this credit

1 card --

2 A No, I did not.

3 Q Okay. The P -- the PNC credit card that was opened and
4 then subsequently closed, do you know whether my client
5 closed that account?

6 A I never opened it or closed it.

7 Q Do you know whether --

8 A She told me on the phone she did. And she took care of
9 it.

10 Q Right. So my client informed you that she closed that
11 account; is that correct?

12 A After --

13 Q The PNC --

14 A After --

15 Q The P --

16 A -- I asked her what --

17 Q Ms. Diskin --

18 A -- this piece of paper was.

19 Q -- you're going to have to allow me to answer -- ask the
20 question before you answer, please. Let me ask the
21 question. Did my client inform you that she had opened
22 and then closed that account at PNC?

23 A She did not inform me at all. I called her on the phone
24 from Juno Beach Florida and asked her multiple times on
25 the phone if in fact this piece -- these three pieces of

1 paper -- Cyndi Diskin that was spelled incorrectly with my
2 practice name on there, fraudulent charges, was taken care
3 of. Did you do this.

4 Q And she admitted it?

5 A She said yes.

6 Q And did she tell you she also closed the account?

7 A She just said I took care of it.

8 Q Care of it. And did you find out when you got the letter
9 that the account was closed because of fraudulent --
10 because of the so-called letter you got from PNC, that the
11 -- the account was closed?

12 A That -- I -- it was the letter that I received that day.

13 Q Said that the account was closed, right, because of -- of
14 transactions that took place?

15 A Yes.

16 Q Okay. Now, when you had this conversation with her on
17 November 24th, 2015 -- and just for the record, do you
18 know what the total number of purchases were for the Saks
19 Fifth Avenue credit card?

20 A There were four items on there.

21 Q All right. If I told you for -- it was right around
22 \$1,298.00, would you disagree with me, or do you need to
23 see a copy of this statement?

24 A It was somewhere around that, that I recall.

25 MR. ANDREOFF: May I approach without -- just to

1 refresh recollection?

2 THE COURT: Sure.

3 BY MR. ANDREOFF:

4 Q Here's a two page statement. See if these refreshes your
5 recollection to the total that was put on that Saks Fifth
6 Avenue account.

7 A Yeah. That's what it said, pouch, so I had no idea,
8 Spanx, gown, and there was another thing that was on
9 there.

10 Q The total, ma'am, see if that refreshes your recollection
11 of \$1,298.00?

12 A Yes.

13 Q Is that correct; is that what you --

14 A \$1,279.92.

15 Q If you look at the bottom of the second sheet?

16 A I am right here.

17 Q It's --

18 A I'm looking. It says \$1,279.92.

19 Q There's another line below it.

20 A Minimum payment due \$52.00? Payment due October 13th,
21 2015 --

22 Q Here, ma'am. Right here.

23 A Okay. We're going above here now. \$1,290.50.

24 Q Right. That was the total amount that was put on that
25 credit card on or about August 29th, 2015; is that

1 correct? And you can look at that to see if that
2 refreshes your recollection.

3 A This is the exact copy of what I have in my --

4 Q Okay. Now direct your attention then to the -- to the --

5 A Oh, and if you see on the top, it even says I -- as I --
6 as most healthcare professionals do, I spoke with customer
7 service -- that's my handwriting on the top there.

8 Q I understand.

9 A About the fraudulent whatever I received in the mail.

10 Q Now when you talked to her about -- after the PNC letter
11 was received, and according to my notes, you received it
12 according to what you told the police department on or
13 about November 25th, 2015; is that correct?

14 A It was before Thanksgiving.

15 Q Okay.

16 A Correct.

17 Q And do you need anything to refresh your recollection; do
18 you need to see a copy of your statement?

19 A What is the question you are going to ask me?

20 Q The exact date -- the exact date that you received the
21 letter from PNC?

22 A I don't remember the exact date; it was somewhere before
23 Thanks -- before -- around Thanksgiving.

24 Q You gave a statement to the West Bloomfield Police
25 Department; would you like to take a look at that, see if

1 that refreshes your recollection?

2 A I --

3 Q Yes or no?

4 A Yes, I suppose.

5 Q Okay. I'm sorry, November 24th, 2015; this is your
6 statement that you provided to the police department. I
7 highlighted it for you, the last paragraph.

8 A Okay, it was right before Thanksgiving.

9 Q So -- so November 24, 2015, you received communication
10 from PNC, right?

11 A I received in the mail the PNC account for my business
12 that was closed -- APCA is Adult Primary Care Associates,
13 there were fraudulent charges on my credit card over the
14 last two to three week period, which I never used,
15 correct.

16 Q My question is was it on November 24th, 2015?

17 A On November 24th, that's what I have written here.

18 Q Okay. And you then called and contacted my client and had
19 a conversation with her, and then you gave her an
20 ultimatum; is that correct?

21 A Yes.

22 Q And the ultimatum was either you would report these series
23 of transactions, including the other items, to the police
24 department, or you wanted her to see a psychiatrist and
25 commit herself to a psychiatric ward; is that correct?

1 A That would be up to the psychiatrist to admit her.

2 Q Right.

3 A But I -- I -- as a healthcare professional in the goodness
4 of my heart, I said to her you have two choices are the
5 best way to do it, either you're going to go to the police
6 and turn yourself in, or you can go to the hospital and
7 get yourself admitted to the psych ward to get some help.

8 Q And did she go to the hospital?

9 A Yes, she did eventually by the afternoon.

10 Q And four or five days later, you then went to the police
11 department anyway, correct?

12 A I flew home the next morning because I had to make a
13 statement.

14 Q Well no, you didn't go to the police department until
15 November 30th.

16 A I spoke to her --

17 Q If you want me to show you that statement; that was five
18 days later. I'll show it to you, see if that refreshes
19 your recollection. Five days -- six days later, if you'll
20 look here, you had an in-person interview with the
21 detective on November -- November 30th --

22 A Correct.

23 Q -- 2015.

24 A I flew home that Sunday night.

25 Q So five -- six days later you still went to the police

1 department, even while she was sitting in Providence
2 Hospital in the inpatient; is that correct?

3 A I went there that next morning on -- I can tell you I flew
4 home on Sunday night and went there on Monday morning.

5 Q My question is, is did you go to the West Bloomfield
6 Police Department on November 30th, 2015, and report --

7 A Yes.

8 Q -- the incidences?

9 A Yes.

10 Q All right. Did my client follow the directive of
11 committing herself or going to the police department, but
12 you did both, correct?

13 A I can't tell you what your client did, if she went to a
14 police department or not --

15 Q No.

16 A -- I do know that she went to the hospital.

17 Q Ms. Diskin, she was in the hospital --

18 A I know that.

19 Q -- for five or six days and -- and she took your
20 recommendation because she was heavily medicated and on
21 medication, some of which you gave her --

22 MS. JACOBS: Your Honor, I'm going to object to
23 that question. It's --

24 MR. ANDREOFF: I'll withdraw it.

25 THE COURT: It sounds like you're testifying.

1 MR. ANDREOFF: I'll rephrase and withdraw.

2 THE COURT: Sustained. Go ahead.

3 BY MR. ANDREOFF:

4 Q Did my client confirm with you before you went to the West
5 Bloomfield Police Department that she was at Providence
6 Hospital receiving psychiatric care?

7 A Yes.

8 Q And you knew she followed one of your directions and
9 demands, correct?

10 A One of my directions of being admitted to --

11 Q You suggested to her --

12 A Yes.

13 Q -- to see a physician, which she did, a Dr. Reynolds --

14 A Oh, I can't tell you who Dr. Reynolds is, but I know that
15 she saw Dr. Rhona Ahmad and Dr. Rhona Ahmad asked her to
16 go to Providence Hospital in Southfield.

17 Q And -- and that's the doctor you have a very close
18 relationship with, correct?

19 A I -- I --

20 MS. JACOBS: Your Honor, I'm going to object as
21 to relevance. Sorry.

22 THE COURT: Sustained.

23 MR. ANDREOFF: I just can't get an answer. I'm
24 trying --

25 THE COURT: Well, I -- it's just not relevant

1 whether she has a close relationship with this doctor.

2 MR. ANDREOFF: I'll -- I'll withdraw and
3 rephrase.

4 THE COURT: Okay.

5 THE WITNESS: I mean I've referred patients and
6 peo -- over my 30 years of practicing --

7 BY MR. ANDREOFF:

8 Q You have a relationship with her, do you not?

9 A Multiple physicians.

10 Q Okay. And do you know whether or not my client went to
11 the hospital -- you said yes, correct?

12 A Yes, because --

13 Q Right?

14 A -- I have a picture that she was there --

15 Q Right.

16 A -- and yes, I spoke to her on the --

17 Q Right.

18 A -- phone even multiple times --

19 Q And then could --

20 A -- when she was there.

21 Q -- you tell me since she -- she committed herself and prov
22 -- and followed your direction as her -- as your daughter-
23 in-law, you still went to the police department five days
24 later; is that correct?

25 MS. JACOBS: Your Honor, asked and answered

1 numerous times now.

2 MR. ANDREOFF: I haven't got an answer from her.

3 THE COURT: Overruled. Go ahead.

4 BY MR. ANDREOFF:

5 Q You still went to the police --

6 MS. JACOBS: Can you please restate --

7 BY MR. ANDREOFF:

8 Q -- department five days later, correct?

9 A I was told that I had to fly home to West Bloomfield to
10 turn in the information for my PNC account, because my
11 identity was stolen, which I did what I was asked to do.

12 Q And you knew that my client did that, correct?

13 A She -- on the phone when I had called her with the piece
14 of papers in front of me, yes, she agreed -- not agreed.
15 Yes, she tried to get out there first, and then she said
16 she was the one that did this.

17 Q Right. And she admitted it to you?

18 A Yes.

19 Q Okay. And then six -- within six days after that
20 telephone call and her being at Providence Hospital, you
21 still went to the police department, did you not?

22 A Of course I did.

23 Q Because you wanted her charged, criminally?

24 MS. JACOBS: Your Honor, objection.

25 MR. ANDREOFF: No, I'm -- I'm asking the

1 question.

2 THE COURT: What's wrong with the question?

3 MS. JACOBS: What is the relevance of whether
4 she wants her charged? The charging ability comes from
5 the prosecutor's office. She could say yes or not --

6 THE COURT: Maybe because of the conversations
7 she had earlier with her, so the objection is overruled.

8 BY MR. ANDREOFF:

9 Q Did you want her criminally charged?

10 A I wanted her to get help.

11 Q At the West Bloomfield Police Department?

12 A I went to the West Bloomfield Police Department because I
13 was told my identity was stolen from PNC and I had to go
14 and make a statement. And there was multiple things that
15 were stolen throughout the previous year. And so I made
16 notes as I typically do and brought copies of my notes to
17 --

18 MR. ANDREOFF: May I ask about the mediations
19 that Ms. Diskin had given my client improperly and
20 illegally that drove this woman into the hospital?

21 THE COURT: Okay. Is that a closing argument?
22 No.

23 MR. ANDREOFF: No. It's -- it's a question --
24 permission --

25 THE COURT: It's -- counsel, I have a job to do.

1 I'm going to do it. You're going --

2 MR. ANDREOFF: All right.

3 THE COURT: -- way off. You were originally
4 preserving testimony, and this is a waiver --

5 MR. ANDREOFF: All right.

6 THE COURT: -- look, I understand those are
7 issues you may bring up later. They're just not relevant
8 --

9 MR. ANDREOFF: I understand.

10 THE COURT: -- for what I have to decide.

11 MR. ANDREOFF: Judge, I have no further
12 questions.

13 THE COURT: All right.

14 MS. JACOBS: Nothing further, Your Honor.

15 THE COURT: All right. Thank you very much, Ms.
16 Coden; you may step down. Thank you. I'm sorry --

17 THE WITNESS: I'm not Ms. Coden.

18 THE COURT: -- Ms. Diskin. I apologize. I
19 apologize. You may step down; thank you.

20 (At 3:04 p.m., witness excused)

21 MS. JACOBS: Your Honor, and I would just ask
22 for -- if I could just have a brief recess so I can go get
23 the other OIC and the other --

24 THE COURT: Sure.

25 MS. JACOBS: Thank you, Your Honor, for that

1 brief recess.

2 Calling the case of People v Kimberly Casey
3 Coden-Diskin, case number 16-20029; Darcey Jacobs on
4 behalf of the People.

5 MR. ANDREOFF: Christopher Andreoff appearing on
6 behalf of the Defendant, Kimberly Casey Coden-Diskin, also
7 known as Kimberly Coden, Your Honor. We're present for
8 this exam. My under -- I -- I wanted to waive the
9 examination; my understanding is the prosecutor is asking
10 to preserve testimony.

11 THE COURT: Okay.

12 MS. JACOBS: That's correct, Your Honor.

13 MR. ANDREOFF: I have no objection.

14 MS. JACOBS: And the People would just ask for
15 that mutual sequestration order for this case as well.

16 MR. ANDREOFF: So agreed.

17 THE COURT: Yes. Go ahead.

18 MS. JACOBS: Thank you. At this time, the
19 People call Andrew Coden.

20 THE COURT: Mr. Coden, I will place you under
21 oath, please. If you could raise your right hand?

22 ANDREW CODEN: Do I face you?

23 THE COURT: Yes, please.

24 Do you solemnly swear or affirm the testimony
25 you're about to provide is the truth, so help you God?

1 ANDREW CODEN: I do.

2 (At 3:07 p.m., witness sworn)

3 THE COURT: Thank you. Please be seated.

4 ANDREW CODEN

5 called as a witness, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. JACOBS:

8 Q Mr. Coden, can you state your full name and spell your
9 last name for the record?

10 A It's Andrew Coden, C-o-d-e-n.

11 Q And Mr. Coden, where do you live?

12 A I live at 6655 Carlyle Court in West Bloomfield.

13 Q And who lives there with you?

14 A My wife and four children.

15 Q Okay. Do you know an individual named Kimberly Casey
16 Coden?

17 A I do.

18 Q And how do you know her?

19 A She's my cousin.

20 Q All right. And how long have you known her?

21 A I met her maybe as a kid, but most recently probably five,
22 six years ago at a -- at a party that she was working at,
23 and then more recently two or three years ago, she became
24 friendly with my daughter, when they both volunteered at
25 the Friendship Circle.

1 Q Okay.

2 A Which is a place in West Bloomfield.

3 Q And what name do you know Kimberly Casey Coden by?

4 A Casey.

5 Q And do you see Casey in the courtroom today?

6 A I do.

7 Q Can you describe --

8 MR. ANDREOFF: Stipulate as to identification.

9 MS. JACOBS: Thank you.

10 THE COURT: Okay, thank you.

11 BY MS. JACOBS:

12 Q Now you indicated that in the last few years, Casey had
13 become friendly -- or became friends with your daughter?

14 A Yes.

15 Q Okay. And as a result of that friendship, has Casey ever
16 been to your home?

17 A Yes. Mostly though I think only in the setting where we
18 left her to stay with my daughter. My daughter is
19 younger. My daughter is 18 now.

20 Q Okay. And Casey's a little older than your daughter?

21 A Yes.

22 Q And so you would often -- on occasion Casey would stay
23 with your daughter when you and your wife weren't there?

24 A That's right.

25 Q Okay.

- 1 A We paid her.
- 2 Q You paid her to do that?
- 3 A Yes.
- 4 Q I want to draw your attention to on or about July 23rd of
- 5 2014. Did you discover an item or multiple items missing
- 6 from your bedroom?
- 7 A I discovered multiple items missing from my bedroom, and
- 8 also at other times, other areas of the home.
- 9 Q Okay.
- 10 A I'm not positive on that date, but in that -- in that
- 11 area.
- 12 Q Okay. In that general time frame, you noticed some items
- 13 missing. Did that include a credit card?
- 14 A Yes.
- 15 Q And what type of credit card was that?
- 16 A American Express.
- 17 Q And where was that American Express card the last time you
- 18 had seen it?
- 19 A It was kept in a blue Velcro-closing wallet, which was
- 20 kept in the upper left-hand drawer of my closet in my
- 21 bedroom.
- 22 Q And if you recall, was there anything in that wallet
- 23 besides the American Express card?
- 24 A There were other papers; nothing I recall of value.
- 25 Q Okay. And that American Express card; how long have you

1 had an account with American Express?

2 A At least ten years.

3 Q Okay. And do you know how many cards you had with that
4 account?

5 A I think -- I had only one card with that account. I've
6 got other American Express cards, but that account one
7 card.

8 Q Thank you for clarifying that. So let's talk specifically
9 about that American Express card that was in the blue
10 wallet. Only one card?

11 A Yes.

12 Q All right. And whose name was on that card?

13 A My name.

14 Q Anyone else's name?

15 A You know, I'm going from memory, and I think was actually
16 the name of a company which I used to run called Prestwick
17 Enterprises.

18 Q Okay.

19 A I think maybe that name, I'm not positive, and my own were
20 on there.

21 Q Okay. And prior to the date when you noticed it -- that
22 American Express card missing, do you know when you had
23 seen it prior?

24 A I didn't use the card very much. I used it to buy office
25 supplies, because it had a larger cash rebate than other

1 cards, and my memory is that I had used it to purchase
2 something online from Staples in the month or two before
3 that.

4 Q Okay. Now, at any point, had you given Casey permission
5 to take that American Express card out of the blue wallet?

6 A No.

7 Q Have you ever given her permission to take it out of your
8 house?

9 A No. She shouldn't be aware that it existed.

10 Q Okay. After you noticed that that American Express card
11 was missing, were you ever contacted by American Express?

12 A I was.

13 Q Do you remember how long after you noticed it missing you
14 were contacted by American Express?

15 A Oh, I'm sorry. Within a couple weeks.

16 Q And how were you contacted?

17 A By phone.

18 Q And do you recall the reason they contacted you?

19 A I was on vacation, and either the day I came back or the
20 day before I came back, there was a message that the -- it
21 was from the fraud department saying that there were a
22 number of charges and to call them about the charges.

23 Q And do you recall where those charges had been made?

24 A I do. One was at I think an Exxon gas station, one was at
25 Moosejaw, one was at Federal Express, I believe downtown.

1 I think one was at a CVS store.

2 Q And --

3 A Those come to mind.

4 Q I'm sorry.

5 A There may have been another one, but those -- those come
6 to mind.

7 Q And you didn't make those charges on that American Express
8 card?

9 A I did not.

10 Q And have you ever given Casey permission to use your
11 American Express card?

12 A No.

13 Q Did you give her permission to use your American Express
14 card at any of those locations?

15 A No.

16 Q Was there a period of time in 2014 where you noticed other
17 items that were missing?

18 A Yes.

19 Q And generally, what type of items would you notice
20 missing?

21 MR. ANDREOFF: Objection as to foundation, time.

22 THE COURT: Sustained.

23 MR. ANDREOFF: Whether my client was even
24 present or -- or had access to the -- to the items. It's
25 relevant --

1 THE COURT: Thank you.

2 MR. ANDREOFF: -- irrelevant.

3 THE COURT: Sustained.

4 BY MS. JACOBS:

5 Q Around July of 2014, were there any other items that you
6 noticed missing from your home?

7 A Yes.

8 Q And what were those items?

9 MR. ANDREOFF: Same objection, again, Your
10 Honor, unless she can tie it to the client.

11 THE COURT: Well, she -- the question is were
12 any items missing July of '14.

13 MR. ANDREOFF: Right. But -- but it's a very
14 broad-based question. A lot of people had access to the
15 home. Unless they can tie it to the --

16 THE COURT: Well, I -- I assume she will follow
17 up --

18 MR. ANDREOFF: All right. Okay.

19 THE COURT: -- on that, otherwise, I'll hear
20 from you.

21 MR. ANDREOFF: Okay.

22 THE COURT: So go ahead.

23 THE WITNESS: Yes. Items were -- that were
24 missing were cash, gold coins, a platinum bar, some silver
25 coins, some gift cards, and cash from a few different

1 locations in the home.

2 MS. JACOBS: Okay.

3 BY MS. JACOBS:

4 Q Let's talk specifically about the gift cards. Do you
5 recall what kind of gift cards had been missing -- that
6 you noticed missing?

7 A Three that I can point to and two that I can point to in
8 that time --

9 Q Okay.

10 A -- I discovered three more, but I'm not sure when --

11 Q Okay. Let's focus on the two that you remember from that
12 time frame, I think probably summer of 2014.

13 A My wife discovered that she was missing a Kohl's cash
14 card, which I think is like a merchandise return type
15 thing, and I was missing an Apple iTunes gift card.

16 Q Okay. And you indicated you were missing an Apple iTunes
17 gift card. Do you know where that gift card had been the
18 last time you had seen it?

19 A It was taped to the kitchen cabinet openly --

20 Q And --

21 A -- openly out.

22 Q So can you -- what -- so it was taped to a kitchen
23 cabinet; on the door of the cabinet?

24 A On the exterior door.

25 Q Okay. And was it -- so it was taped on the exterior of

1 the door or inside?

2 A Outside.

3 Q Okay. And why was it taped there?

4 A I had it there for a couple months. My daughter bought a
5 computer and that was what they gave you when you bought
6 it, so I had it taped there until I either used it or sold
7 it somewhere --

8 Q Okay.

9 A -- on eBay or something.

10 Q All right. And around that time frame is when you noticed
11 that was missing?

12 A Mm-hmm.

13 Q And had you given Casey permission to take that Apple
14 iTunes gift card?

15 A No.

16 Q And did you give her permission to take --

17 MR. ANDREOFF: There's no evidence that she took
18 the Apple iTunes credit card.

19 MS. JACOBS: Your Honor, if there's a waiver of
20 exam and she made a statement to the police that she had
21 taken an Apple gift card from --

22 THE COURT: Well, right now whether there's a
23 waiver or not, this is your opportunity to preserve, but --
24 - but you will have to, you know, I guess present your --
25 your evidence logically. So it -- it -- it sounds like

1 you're making conclusions there. So if you're going to
2 present further evidence that wraps that up, and you're
3 waiving, I -- I guess I don't need to know that, but it's
4 a little confusing, Mr. Andreoff, because on the one hand
5 you said you're just preserving and you're waiving the
6 balance, but you're arguing this case as if you are
7 actually holding a full-blown exam and you're asking me to
8 dismiss the case at the end.

9 So I -- I guess I need some direction from you
10 on where this is going.

11 MR. ANDREOFF: No, I -- we're preserving
12 testimony, but I -- it's my opportunity to cross-examine -
13 -

14 THE COURT: Of course.

15 MR. ANDREOFF: -- and if for some reason
16 something happens in the future, I'm not suggesting that
17 would ever happen, but this is my only right to cross-
18 examine, then I -- I didn't ask for this hearing, Your
19 Honor --

20 THE COURT: I understand. I understand that,
21 but --

22 MR. ANDREOFF: And she's put me in a position
23 where she's expanding beyond the scope of --

24 THE COURT: Well --

25 MR. ANDREOFF: -- even the charges.

1 THE COURT: -- that -- that's what I'm wondering
2 about you, Ms. Jacobs. I mean if this is just to preserve
3 testimony, you're going way further than preserving
4 testimony, so --

5 MS. JACOBS: That -- I --

6 MR. ANDREOFF: Can I give the Court just one
7 example?

8 MS. JACOBS: No. Can I -- can I clarify why I
9 asked that question?

10 MR. ANDREOFF: My cl --

11 MS. JACOBS: If you will look --

12 THE COURT: One at a time, please.

13 MS. JACOBS: Thank you. If you will look at
14 count one, which is the larceny in the building, it's
15 charged as stealing a credit card and/or money and/or gift
16 cards, so that's why there's the question on the Apple
17 gift card.

18 MR. ANDREOFF: I'll withdraw it, Your Honor.

19 MS. JACOBS: (Indiscernible)

20 MR. ANDREOFF: I'm going to withdraw. Let it --
21 let it go on.

22 THE COURT: Okay, go ahead.

23 Are -- are you done, Ms. Jacobs?

24 MS. JACOBS: I am. I'm sorry, Your Honor.

25 MR. ANDREOFF: Oh, I'm sorry. I didn't know.

1 THE COURT: Okay. Mr. Andreoff.

2 MR. ANDREOFF: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. ANDREOFF:

5 Q Good afternoon.

6 A Good afternoon.

7 Q Mr. Coden, what is your profession?

8 A I'm a real estate attorney.

9 Q Have you been practicing as a real estate attorney for a
10 number of years?

11 A Off and on.

12 Q I'm sorry?

13 A Yes, and then off and on. I was also in real estate as a
14 business as well.

15 Q Okay. All right. The home that you're -- where you live,
16 and according to what I understand, you discovered some
17 items missing on or about July 24th -- or I'm sorry,
18 sometime in July, I believe, of 2014; is that correct?

19 A I discovered items missing then and also before and after.

20 Q And -- but you didn't report anything to the Wash -- the
21 West Bloomfield Police Department until October; is that
22 correct?

23 A I'm not sure when, but I know there's a lag in time from
24 when the credit card company contacted me until --

25 Q And --

1 A -- I reported it.

2 Q -- the people that had -- had access to your home for
3 these periods of time that you're talking about in 2014,
4 did you have people that came and serviced or -- or
5 performed any services at your home that were
6 unsupervised?

7 A Yes.

8 Q Could you give me their names or occupations?

9 A Well, ones that come to mind, because I -- when I
10 initially discovered the -- some of the money missing, I
11 was trying to think who had been there, and there was a
12 carpet cleaning company, which was a dad and his uncle --
13 I'm sorry, a -- a younger guy and his uncle, and they were
14 not unsupervised for any length of time in my bedroom, but
15 they were unsupervised in the home in other areas. They
16 cleaned the entire house.

17 Q You weren't physically present, correct?

18 A I was physically present.

19 Q All right. And did they have access to areas of your
20 home, such as your bedroom?

21 A They had access to every area of the home.

22 Q And the bedroom contained some of the items that you
23 talked about here, these gift cards, cash, other items; is
24 that correct?

25 A Some of them.

1 Q All right.

2 A Not -- not -- not the gift cards.

3 Q And -- and -- and did you also have a handyman by the name
4 of Drew Borkowski --

5 A Yes.

6 Q -- who came and visited your home during this time frame?

7 A During various time frames.

8 Q Okay. And that would be in 2014?

9 A My guess is yes. I don't recall the exact dates.

10 Q All right. So sometime between spring and summer when you
11 discovered these items, Mr. Borkowski had performed
12 services at your home in these various locations?

13 A I don't know that, but I can check my checkbook and find
14 when I paid him, then I'd know when he was there.

15 Q Right. According to your statement that you gave to the -
16 - to the West Bloomfield Police Department, Mr. Borkowski
17 was unsupervised, correct?

18 A At various times.

19 Q Well, were you home?

20 A Mostly. Actually, almost every time, yes, I was.

21 Q Well, I mean I've got your statement here, and -- this is
22 the last page --

23 MR. ANDREOFF: May I approach and just refresh?

24 THE COURT: Sure. Yes.

25 BY MR. ANDREOFF:

1 Q Does this refresh -- this is the last paragraph in your
2 statement, page five of five, does it not indicate that
3 your -- Mr. Borkowski was at least home -- at your home
4 one occasion unsupervised?

5 A He was at my home on more than one occasion and in each
6 case, I was home, but the definition of unsupervised to me
7 is that I may have been in one area of the home and he was
8 in another doing work.

9 Q Well, why -- why didn't you put that in your report --

10 A So -- so --

11 Q -- the police in October of 2014?

12 A I got tired of writing; I was just trying to get the
13 information out there.

14 Q You were tired -- tired of writing?

15 A I -- I wrote a long report by hand and I didn't have every
16 detail in there.

17 Q Okay.

18 A But to answer your question, he was there in the home with
19 me in other areas many times.

20 Q Did he have access to your bedroom or any other location
21 in the house?

22 A He had access to many locations and specifically as to the
23 bedroom, I don't recall.

24 Q Okay. How about your cleaning woman named Vera, V-e-r-a.

25 A Yes.

1 Q How often would she come and clean your home in 2014?

2 A Every other week.

3 Q So we're talking twice a month for how many months?

4 A She's been coming for 20 years, so I'd say in that case
5 she came 26 times.

6 Q I'm sorry; how many?

7 A Let's say 25 times.

8 Q 25 times in your home during 2014, that would include the
9 month of July, correct?

10 A Yes.

11 Q And --

12 A Actually, I -- I don't know that, and I'll tell you why.
13 She goes every year for a month to -- back to Yugoslavia,
14 where she's from, and it's possible that she was gone,
15 because she goes in the summer. I don't recall which
16 month she went that year.

17 Q All right. Did you also indicate that she was
18 unsupervised?

19 A Yes.

20 Q During the time she was in your home?

21 A Yes.

22 Q So we're approximating sometime -- let's make it
23 conservative, somewhere between 15 and 20 times during the
24 -- during that -- the months of spring, which would be
25 March, April, May, through the summer that she would have

1 access to your home and she was unsupervised, correct?

2 A Every other week.

3 Q Does your daughter -- you have children that reside at the

4 home?

5 A I do.

6 Q And how many children do you have residing at the home?

7 A Two now and two are away at college.

8 Q How about in 2014?

9 A There were three at home then.

10 Q Three at home? And did your daughter or your -- your

11 children, I should say, have friends come over to the home

12 that were unsupervised?

13 A From time to time.

14 Q And this would be in 2014 during the months we're

15 discussing, correct?

16 A Well, the answer to your question is that we're home

17 almost all the time. I -- I work out of the house, my

18 wife is home, and she's not employed. When we were gone

19 on various trips on a weekend away or on a week away, if

20 Kendall stayed home, Kendall would have been home with

21 Casey, but Casey wasn't there, I don't believe, all the

22 time, so it's very possible that there were friends over

23 when Casey was not over.

24 Q All right.

25 A To answer your question. In that situation, my -- my

1 daughter would be home alone with friends.

2 Q How about other relatives of yours; other relatives have
3 access to your home during that time frame?

4 A I don't recall.

5 Q Okay.

6 A I -- I -- to answer your question, my -- my mother has a
7 key, my mother-in-law has a key. Did they come in that
8 situation? I doubt it, because we're -- we're at home,
9 but --

10 Q Well, you don't know; I mean you don't know --

11 A I don't know.

12 Q -- whether they came or not?

13 A I don't know.

14 Q And that's in 2014, correct?

15 A Yes.

16 Q Okay. The incident concerning the American Express card,
17 do you know whether or not my client was babysitting or --
18 or with your daughter on the date that the -- the American
19 Express card was used?

20 A Date it was used?

21 Q Yes. I -- you need to know the dates --

22 A No, because I -- my memory is that it was used, as I said
23 either the day or two before I came home from the vacation
24 or the -- the first day that I was back --

25 Q Right.

1 A -- and the trip that we were on -- we go to a family camp
2 once a year up north, and that week my daughter Kendall
3 came -- she was home for the first day by herself, because
4 she was in a forensics tournament, and then she came a day
5 later than us, so I remember pretty distinctly about that
6 situation; there was nobody home on the days the card --
7 the card was used, or we had just gotten home.

8 Q Well, you indicate, did you not, in this transaction --
9 let me get to the right page -- it said the credit card
10 was used on August 6th and 7th, 2014, I'm talking about
11 the American Express card ending in 1004.

12 A Okay.

13 Q Do you remember whether you were home or not on those
14 dates in 2014?

15 A Well, again, I don't remember the exact dates of usage,
16 but when you go on a vacation that goes from Saturday to
17 Saturday, we come home either on Saturday or Sunday, and
18 I'd have to look at a calendar to see which date I came
19 home.

20 Q Right. Did you --

21 A It was --

22 Q -- inform the police department that your -- your daughter
23 was being watched by my daug -- my client on -- on or
24 about those dates of August 6th/7th of 2014?

25 A She was not being.

1 Q She was not?

2 A She was not.

3 Q All right. And --

4 A On the -- on the dates -- on the dates of usage, she was

5 not.

6 Q You indicated in your statement to the police department

7 on October 1st, 2014, various people may have had access

8 to my drawer during this time --

9 A Drawer?

10 Q -- but not with my permission; is that correct?

11 A Did you saw drawer?

12 Q Yeah. The drawer where the wallet was found.

13 A I don't think too many people would have had permission to

14 go in that drawer, other than myself.

15 Q No. Let -- let me show you your last --

16 A Sure.

17 Q -- the last sentence of your statement on page two of

18 five. Did you indicate in your statement to the police

19 department on October 1st, 2014, that many people --

20 A There -- you --

21 Q -- had access -- the last line, sir. The last sentence.

22 A Of paragraph three?

23 Q Yes, sir. It's the last sentence on that page.

24 A Oh, I'm sorry, it's not highlighted.

25 Q Yeah.

1 A I apologize.

2 Q The sentence starts with the charges were refunded to me,
3 various people may have had access to my drawer during
4 this time, but not with permission?

5 A Yeah, the time that's being referred to her is at the
6 beginning of the paragraph; it says that it was taken
7 between -- the wallet was taken between June 27th and July
8 23rd, when I discovered it missing. You -- you --

9 Q So two months --

10 A -- you keep referring --

11 Q -- two months went by without you accessing or even
12 looking at that credit card or your wallet, correct?

13 A No. It was from June 27th to July 23rd that it -- that it
14 would have been taken, and we went on vacation the last --

15 Q You don't know when it was taken, do you?

16 A No, I'm saying it was in that interval.

17 Q How do you know it was June 23rd to July 23rd?

18 A Well, I --

19 Q June -- I'm sorry, June 27th to July 23rd. How did you
20 know -- or how would you know that someone took your
21 credit card during those four or five weeks?

22 A Well, it's been a year and a half, but I think the last
23 time I used the card was on June 27th for that Staples
24 purchase that I mentioned. It didn't leave my drawer or
25 my house other than that for that purpose --

1 Q Right.

2 A -- the two things that were billed to it were my cable
3 charges, which was auto pay, and Staples charges that I
4 made --

5 Q Well --

6 A -- and I --

7 Q -- can you indicate specifically -- you -- you indicate in
8 your last sentence, if you'll please read the last
9 sentence of this page --

10 A Mm-hmm.

11 Q -- various people may have had access to my drawer during
12 this time.

13 A The time being June 27th to July 23rd --

14 Q Right. Could you tell me -- could you tell me which
15 various people had access to that drawer?

16 A Well, my wife, my daughter, I believe Casey, I don't
17 remember when she was there, I believe --

18 Q How could you say Casey --

19 A I believe --

20 Q -- when you don't know when she was there?

21 A What I'm telling is that there were various -- I guess --
22 I guess I could go back -- I wasn't told to prepare in
23 this regard date-wise, but I can go back and find the
24 dates that she was home -

25 Q Mr. Coden, you're an attorney, are you not?

1 A Yeah.

2 Q Did you review your statement before coming to court?

3 A Not the dates.

4 Q Did you review this five-page statement before coming to
5 court?

6 A I read the statement.

7 Q Right. And did you -- did you at -- spend some time
8 reading it over?

9 A I did.

10 Q All right. My question to you is you don't know whether
11 Casey Coden was in or had access to that drawer between
12 those five weeks, do you?

13 A Let me answer the question this way --

14 Q No, I want a direct answer; the answer is either yes or
15 no. Do you know whether she had access to that drawer
16 between June 27th and July 23rd?

17 A If you ask me this moment without referring to any notes
18 of when she was there staying with my children, my
19 daughter, if I know for sure that she was there in that
20 five week interval, I would have to tell you that -- let
21 me think -- she was there close to that time, but I can't
22 for sure if it was during that last day or not.

23 Q What other people had access to that drawer?

24 A My daughter told me, Kendall, who was home on the Saturday
25 before I went to -- before she came to the Camp Michigania

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Q How about the cleaning lady; did she have access to -- between the time of June 27th and July 23rd?

A She would have, unless that's when she was in Yugoslavia.

Q Okay. Anyone else in your family or friends or relatives or anyone else that you can -- that you know that would have had access -- because you used the word many people, so who are the many, other than the one or two that you've mentioned?

A Well, I mentioned in my report the ones that I could think of, but I live in a house with six people, and while I'm home a lot, I'm not home all the time --

Q Right.

A -- and I don't know for sure who's in and out.

Q All right. And the cash that you were talking about on direct examination, the cash would be in various locations in your house as well that were just in top drawers or on shelves, like in your closet, those would be accessible by many people; is that correct?

A Well, I hope not. I don't think so.

Q Mr. Coden, you -- you mentioned the fact that many people had access to your home, and I -- I just gave you examples. You're the one that wrote this down in the report.

A Okay. Well --

1 Q And it's the last page -- the last -- the last page of
2 your own statement where you indicate that you left cash
3 laying around in a -- in a desk in your living room and
4 cash elsewhere --

5 A Mm-hmm.

6 Q -- but people -- many people had access to that cash and
7 these other personal items you're talking about, correct?

8 A Look, I'm not accusing personally Casey of taking this,
9 because I don't know who took it. What I am telling you
10 is that in that four week interval, when I think that
11 wallet was taken, there were probably -- my -- my -- my
12 cleaning lady, unless she was in Yugoslavia was -- was --
13 had access to it. There were other friends of my children
14 who --

15 Q All right.

16 A -- could have been there.

17 Q Okay.

18 A Yeah, if that's your -- your question, sure.

19 Q Do -- do you know whether or not --

20 A But -- but I will say nobody had permission or access to
21 my drawer in my closet.

22 Q I understand that. I'm not --

23 A Okay.

24 Q -- quibbling about that. I just want to know how -- with
25 -- who are the people that you're referring to when you

1 use the word many people?

2 A The ones I can think of are the ones in the -- in the
3 report, and in addition, if my daughter had friends over,
4 conceivably them.

5 Q Would that also include Mr. Borkowski?

6 A I don't know if he was there in that five week interval --

7 Q All right.

8 A -- but I could go back and look.

9 Q Do you know whether -- and your -- your statement is you
10 don't remember whether or not your daughter Kendall was
11 with my client on -- on or about August 6th and 7th of
12 2014?

13 A Well again, when we returned from Camp Michigania, which
14 would have been Saturday, I don't know where that lies in
15 relation to the 6th and the 7th when apparently the
16 charges were made, so I'd have to look at a calendar and
17 then I could tell you if Kendall was even home or not at
18 that point.

19 Q All right. Did you attempt to refresh recollection when
20 you went to the West Bloomfield Police Department on
21 October 1st to indicate whether or not my client was with
22 your daughter on those two days, when the American Express
23 card was accessed?

24 A I'm sorry; explain the question again.

25 Q Before you went to the West Bloomfield Police Department

1 some two months -- almost two and a half months later --

2 A Mm-hmm.

3 Q -- two months later, plus some days, and made the report,
4 did you refresh recollection to know when you made the
5 statement whether or not my -- your daughter Kendall, who
6 was home many times, is that correct, during the times you
7 were gone, she had a sitter, or someone watching her,
8 right?

9 A The sitter that she had would have been Casey.

10 Q Right. And how many occasions during this one -- that
11 period of June, July, or August was my client there
12 watching your daughter; do you know?

13 A I don't know offhand.

14 Q All right. Did you refresh recollection back before you
15 went to the police department to make a report as to
16 whether or not your daughter was with my client when this
17 credit card was used on or about August 6th or 7th of
18 2014?

19 A I did not.

20 Q Okay.

21 MR. ANDREOFF: I have nothing further, Your
22 Honor.

23 THE COURT: Thank you. Ms. Jacobs, any
24 redirect?

25 MS. JACOBS: No redirect, Your Honor.

1 THE COURT: All right, thank you very much. Mr.
2 Coden, you may step down; thank you.

3 THE WITNESS: Thank you.

4 (At 3:32 p.m., witness excused)

5 THE COURT: Ms. Jacobs?

6 MS. JACOBS: No further witnesses, Your Honor.

7 THE COURT: Okay. Mr. Andreoff, do you wish to
8 place your waiver on the balance on the record?

9 MR. ANDREOFF: Yes. May I have my client come
10 to the podium as well, Your Honor?

11 THE COURT: Sure.

12 MR. ANDREOFF: Ms. Coden, you were advised that
13 you have a right to a preliminary examination, which would
14 be sufficient evidence to establish probable cause to
15 believe a crime has been committed, probable cause to
16 believe that you committed the crime concerning both
17 cases, both cases that the Court has called today, and
18 after discussion with me and reviewing the discovery
19 material, it's your decision that you want to waive the
20 preliminary -- this preliminary examination in both
21 matters, under both case numbers, based upon the fact that
22 this would be in your best interests to waive today; is
23 that correct?

24 KIMBERLY CASEY CODEN-DISKIN: That's correct.

25 MR. ANDREOFF: And are you waiving the

1 examination freely and voluntarily?

2 KIMBERLY CASEY CODEN-DISKIN: Yes, I am.

3 MR. ANDREOFF: Has any promises been made to you
4 in that regard?

5 KIMBERLY CASEY CODEN-DISKIN: No.

6 MR. ANDREOFF: Do you feel that you have a clear
7 understanding of what's going on today and your right to a
8 preliminary examination in both cases?

9 KIMBERLY CASEY CODEN-DISKIN: I do.

10 MR. ANDREOFF: All right. Your Honor, if the
11 Court wishes to ask any other questions --

12 THE COURT: Okay.

13 MR. ANDREOFF: -- of my client.

14 THE COURT: No, thank you very much. I find
15 that you do understand your right; you knowingly and
16 voluntarily waive the balance of these examinations.

17 I'm just going to reiterate the bond conditions.
18 No contact with Cynthia Diskin, by any means; no use of
19 alcohol or drugs, unless prescribed, and as well to
20 continue the random testing that you're under.

21 On the other file, I believe the no contact is
22 with Mr. Andrew Coden, as well as the testing.

23 You understand all of that?

24 KIMBERLY CASEY CODEN-DISKIN: I do.

25 THE COURT: Okay. Anything further on anyone's

1 behalf?

2 MS. JACOBS: No, Your Honor.

3 MR. ANDREOFF: Your Honor, I -- I -- there is
4 one matter. When she appeared before Judge Barron on or
5 about January 19th of 2016, the judge had set a 10 percent
6 cash bond, and she has appeared here on several occasions
7 since then, I had requested a personal bond, but he -- I
8 think if I remember correctly, set \$7,500.00 10 percent
9 bonds, and her husband posted those bonds on a credit
10 card, and I was wondering if the Court would reconsider
11 allowing a personal bond, so that the moneys could be
12 refunded back, minus any administrative fees, back to her
13 husband.

14 There's no reason to have that substantial bond.
15 The amount of money dealing here in terms of restitution
16 on both of the matters is probably \$3,000.00 or \$4,000.00,
17 if that, I don't even know what the value is, but it's --
18 if that -- I think it's less than that. I know on the one
19 matter, Mr. Coden's matter, it's about \$301.00 on the
20 American Express card. The other matter is closer to four
21 -- \$3,000.00 or \$4,000.00, I think. But of which, by the
22 way, Mr. Coden was refunded those charges on the American
23 Express card, so -- but I understand Ms. Diskin, the
24 jewelry issue and so forth.

25 So I'm asking -- she's got two degrees, she's

1 been gainfully employed, she's seeing a -- a -- counselors
2 -- I've advised the Court, both a psychiatrist and a
3 psychologist, her mother and father are here, she's
4 residing with her parents in Huntington Woods, so I'd ask
5 the Court to at least reconsider that.

6 THE COURT: Ms. Jacobs?

7 MS. JACOBS: Your Honor, I think the purpose of
8 bond is partially to ensure that a person continues to
9 appear, and I do indicate that yes, Ms. Coden has appeared
10 at every court date, but there's going to be several court
11 dates in the future, and I do think there needs to be
12 something that connects her to this case, so she continues
13 to appear.

14 Also, as defense counsel indicated, there is
15 going to be restitution in this matter. Bond can be
16 certainly put towards restitution, but if it becomes a
17 personal bond, all that may not be available once this
18 case is resolved or goes to trial, if she is indeed found
19 guilty. So the People would ask that it remain the same.

20 THE COURT: Thank you. I'll be frank with you,
21 I'm very troubled by this case. I am very troubled by the
22 allegations, the repeated allegations of these thefts and
23 just breach of complete trust, and -- and so forth.

24 I -- I probably would have gone higher. I'm
25 being candid with you. So no way, I'm not going to reduce

1 it. I'm sorry.

2 Let me also say, you are under some drug testing
3 conditions, and I'll tell you what, if I were keeping this
4 file, I'd be closely looking at this testing, because I
5 have concerns that a little bit more is going on here. So
6 that bond is there that you would forfeit if you violate
7 these bonds for any drug tests that come back positive for
8 anything else.

9 I'm just being candid with you, counsel. From
10 what I see, I have concerns here.

11 MR. ANDREOFF: Yes, Your Honor. I understand.

12 Thank you --

13 THE COURT: Okay?

14 MR. ANDREOFF: -- for the opportunity to --

15 THE COURT: Thank you.

16 MR. ANDREOFF: -- at least present the matter.

17 THE COURT: No problem at all. Thank you.

18 MS. JACOBS: Thank you, Your Honor.

19 (At 3:37 p.m., proceedings concluded)

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CERTIFICATION

I certify that this transcript, consisting of 85 pages, is a true and accurate transcription, to the best of my ability, of the video proceeding in this case before the Honorable Diane D'Agostini on Tuesday, February 23, 2016, as recorded by the clerk.

Videotape proceedings were recorded and were provided to this transcriptionist by the District Court and this certified reporter accepts no responsibility for any events that occurred during the above proceedings, for any inaudible and/or indiscernible responses by any person or party involved in the proceedings, or for the content of the videotape provided.

Date: April 29, 2016

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