

<div>1</div> <div>IN THE ELEVENTH JUDICIAL DISTRICT OF KANSAS</div> <div>COUNTY OF CRAWFORD</div> <div>SITTING AT GIRARD</div> <div>BEFORE: HON. LORI A. BOLTON FLEMING, JUDGE</div> <div>STATE OF KANSAS,</div> <div>Plaintiff,</div> <div>-vs- No. 15CR 65 G</div> <div>TODD KIDWELL,</div> <div>Defendant(s). /</div> <div>TRANSCRIPT OF PROCEEDINGS</div> <div>SENTENCING HEARING</div> <div>Taken Before CHAS. M. SMITH KS CSR NO. 325 MO CCR NO. 247 January 9, 2017 1:40 PM</div> <div>CHAS. M. SMITH, CSR Official Shorthand Reporter District Court, 111 East Forest Avenue Girard, Kansas 66743 (620) 724-6211</div> <div>CHUCK SMITH, CSR, CCR</div>	<div>2</div> <div>APPEARANCES</div> <div>MICHAEL GAYOSO, JUNIOR, Crawford County Attorney, Crawford County Attorney's Office, Courthouse, 111 E. Forest Street, Suite A, Girard, Kansas 66743, was present on behalf of the Plaintiffs.</div> <div>LINUS THUSTON, Attorney at Law, 211 West Main, Chanute, KS., 66720, was present on behalf of the Defendant.</div> <div>--oOo--</div> <div>CHUCK SMITH, CSR, CCR</div>
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<div>5</div> <div>1 <u>DEFENDANT'S RIGHT OF ALLOCUTION BY THE DEFENDANT</u> 65</div> <div>2 <u>VICTIM IMPACT STATEMENT BY MR. JOE SAIA, SPOUSE OF</u> 70</div> <div>3 <u>DECEASED, GLENDA TAYLOR</u></div> <div>4</div> <div>5 <u>CLOSING ARGUMENT BY MR. THUSTON</u> 91</div> <div>6 <u>CLOSING STATEMENT BY MR. GAYOSO</u> 99</div> <div>7 <u>COURT'S RULING/ORDER</u> 101</div> <div>8</div> <div>9 <u>EXHIBITS</u></div> <div>10 <u>No. Description Page</u></div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15 <u>INFORMATION REQUESTED</u></div> <div>16 <u>CERTIFIED QUESTIONS</u></div> <div>17</div> <div>18 <u>Page Line</u></div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>6</div> <div>1 THE COURT: This is State of Kansas</div> <div>2 versus Todd Kidwell, 15CR 65 G.</div> <div>3 Will you state your appearances, please.</div> <div>4 MR. GAYOSO: May it please the Court,</div> <div>5 the State of Kansas appears by and through Crawford</div> <div>6 County Attorney, Michael Gayoso, Junior.</div> <div>7 MR. THUSTON: Your Honor, Todd Kidwell</div> <div>8 appears in person with Counsel, Linus Thuston.</div> <div>9 THE COURT: Thank you.</div> <div>10 We are here today for sentencing.</div> <div>11 Presentence investigation was completed.</div> <div>12 Are there any objections or corrections?</div> <div>13 MR. GAYOSO: None noted by the State,</div> <div>14 Your Honor.</div> <div>15 MR. THUSTON: Not that I know of, Your</div> <div>16 Honor.</div> <div>17 THE COURT: Criminal History Score is</div> <div>18 I.</div> <div>19 Any comments from the State?</div> <div>20 MR. GAYOSO: Your Honor, the defendant</div> <div>21 has a pending motion to impose a non-prison sentence.</div> <div>22 The State, as part of the plea agreement in this</div> <div>23 matter, will stand silent on that issue.</div> <div>24 THE COURT: Thank you. The defense may</div> <div>25 proceed with comments.</div>
<div>7</div> <div>1 MR. THUSTON: Your Honor, thank you.</div> <div>2 Your Honor, I would call Ken Kraxberger.</div> <div>3 THE COURT: Say the name again?</div> <div>4 MR. THUSTON: Ken Kraxberger.</div> <div>5</div> <div>6 <u>KENNETH KRAXBERGER,</u></div> <div>7</div> <div>8</div> <div>9 Having been sworn as a witness to tell the truth, the</div> <div>10 whole truth and nothing but the truth, was examined</div> <div>11 and testified as follows:</div> <div>12</div> <div>13 <u>DIRECT EXAMINATION BY MR. THUSTON</u></div> <div>14</div> <div>13:47:10 15 MR. THUSTON:</div> <div>16 Q. Would you state your name for the record,</div> <div>17 please, sir?</div> <div>18 A. My name is Kenneth Kraxberger.</div> <div>19 Q. And where do you live?</div> <div>13:47:36 20 A. I live in Chanute, Kansas.</div> <div>21 Q. And what do you do for a living?</div> <div>22 A. I work full time with Countryside Funeral</div> <div>23 Home right now.</div> <div>24 Q. Did you have a job before that?</div> <div>13:47:46 25 A. Yes, I did.</div>	<div>8</div> <div>1 Q. What did you do before you started working</div> <div>2 in the funeral business?</div> <div>3 A. Well, for 36 and a half years, I was a</div> <div>4 probation officer in Neosho County until December 15th</div> <div>13:47:58 5 of 2016.</div> <div>6 Q. Are you familiar with Mr. Todd Kidwell?</div> <div>7 A. Yes.</div> <div>8 Q. How did you get to know Mr. Kidwell?</div> <div>9 A. I supervised the bond supervision for</div> <div>13:48:06 10 Crawford County on him on this case.</div> <div>11 Q. For a little over a year, year and a half?</div> <div>12 A. The first time I accepted supervision, or I</div> <div>13 saw Todd, was June 16th of 2015.</div> <div>14 Q. And you have seen people through bond and</div> <div>13:48:24 15 people that you supervised over the -- the years?</div> <div>16 A. Oh, yeah.</div> <div>17 Q. How did Mr. Kidwell perform when he was on</div> <div>18 bond?</div> <div>19 A. There was virtually no problems with Todd</div> <div>13:48:36 20 whatsoever. We had a -- one time where he didn't</div> <div>21 report in because he was in the hospital, but he</div> <div>22 always communicated with me and he always reported in</div> <div>23 at 8:15 every Tuesday morning.</div> <div>24 Q. And that was for -- it was weekly?</div> <div>13:48:50 25 A. Yes. Every Tuesday. His bond -- my bond</div>

9

1 **supervision was every Tuesday at 8:15 for everyone.**

2 Q. Now, are you familiar with what an LSIR is?

3 A. **Oh, yes.**

4 Q. What is an LSIR?

13:49:04 5 A. **That's a document that's created and are**

6 **scored out by a Court Service Officer or a Field**

7 **Corrections Officer. It gives a level of supervision**

8 **for -- for that officer.**

9 Q. Does that also determine like a threat level

13:49:20 10 chance of re-offending?

11 A. **Yes, it does.**

12 Q. How is that scored on that numerical --

13 A. **Well, up to 23 and above, a client is placed**

14 **on Community Corrections; 23 and below, a client goes**

13:49:36 15 **to Court Services.**

16 Q. Now, Mr. Kidwell scored on his LSIR at a 10.

17 What would that mean?

18 A. **That's a very low risk offender. That would**

19 **go to Court Services, by rule.**

13:49:50 20 Q. Now, in your time of seeing LSIRs, how

21 frequently did you see people's scores as low as a 10?

22 A. **That's extremely rare. I don't recall ever**

23 **seeing a 10. There might be one. We have been doing**

24 **LSIRs for, what, probably two or three years now at**

13:50:18 25 **least. That's very low.**

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11

1 **have to live with that fact for the rest of his life.**

2 Q. And he has, in fact, told you that?

3 A. **Yeah. We talked about that.**

4 Q. Have you helped to counsel him some --

13:51:44 5 A. **Well, I am not a therapist. I am just a**

6 **probation officer.**

7 Q. But you're a minister, too, is that --

8 A. **Pardon?**

9 Q. -- correct?

13:51:50 10 Are you a minister as well?

11 A. **No. Not anymore.**

12 Q. Not anymore?

13 A. **Yes.**

14 Q. But he has come to you for some advice where

13:52:00 15 you discussed this situation?

16 A. **We talked about things he needs to do to put**

17 **his life back together and go forward.**

18 Q. And you live in Chanute where Mr. Kidwell

19 lives?

13:52:10 20 A. **Oh, yes. I have since 1980.**

21 Q. And, to your knowledge, does Mr. Kidwell

22 benefit the community of Chanute, Kansas?

23 A. **I think this has been a tremendous wake-up**

24 **call for him. He has made changes in his life in the**

13:52:24 25 **time that I saw him. He is far more cautious. I**

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1 Q. So a score of 10 is low as far as the risk

2 goes?

3 A. **He is very low risk. Very low risk.**

4 Q. So does that indicate anything to you about

13:50:30 5 his potential or his behavior in the community?

6 A. **Yeah. He would be considered as a -- not**

7 **considered a threat at all to the community.**

8 Q. So that would promote the community safety

9 by him being reformed in the community as opposed to

13:50:48 10 going to prison?

11 A. **Yes.**

12 Q. And do you believe he would be successful if

13 he was given an opportunity to be on probation?

14 A. **Knowing his demeanor, yeah, I think he would**

13:50:58 15 **be.**

16 Q. Has he ever not expressed remorse for why he

17 was in this situation?

18 A. **No. We have talked about what this -- what**

19 **happened extensively over the year that I saw him;**

13:51:12 20 **what, year and a half.**

21 Q. And what would he indicate his

22 responsibility would have been for this incident?

23 A. **Well, he knows that a person lost their life**

24 **over this thing, and it's a tragic accident, or**

13:51:26 25 **whatever you want to consider it. Todd's going to**

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12

1 **believe that he -- this has been a life-changing event**

2 **for him.**

3 MR. THUSTON: I have no further

4 questions, Your Honor.

13:52:36 5 THE COURT: Mr. Gayoso, do you want to

6 ask any questions?

7 And I will just ask you this once for

8 all the witnesses.

9 The State will choose to stand silent,

13:52:44 10 correct?

11 MR. GAYOSO: Correct, Your Honor.

12 THE COURT: All right. You may step

13 down. Thank you.

14 Call your next witness.

13:52:52 15 MR. THUSTON: Call John Johnson.

16

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1
2
3 **JOHN JOHNSON,**
4
5 **Having been sworn as a witness to tell the truth, the**
6 **whole truth and nothing but the truth, was examined**
7 **and testified as follows:**
8
9 **DIRECT EXAMINATION BY MR. THUSTON**
10
11 MR. THUSTON:
12 Q. State your name for the record, please, sir.
13 A. **Jonathan J. Johnson.**
14 Q. And what do you do for a living?
15 A. **I am a -- presidency of a bank in Chanute.**
16 **Plus I served as a chaplin at a race track. Been**
17 **there about twenty years of Races for Christ. And I**
18 **am a retired military chaplin.**
19 Q. Are you familiar with Mr. Todd Kidwell?
20 A. **Yes.**
21 Q. How long have you known Mr. Kidwell?
22 A. **Fifteen-plus years.**
23 Q. How did you get to know Mr. Kidwell?
24 A. **First contact, I think, was through the race**
25 **track. I got to meet him there, and witness his**
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15

1 **which is pretty common today, even with soldiers, when**
2 **I did that with them. It's pretty common activity,**
3 **and so --**
4 Q. So he had difficulty -- when he is dealing
5 with his anxiety or his depression, are you one of the
6 people he comes to?
7 A. **Yes.**
8 Q. And that happens consistently or just as
9 needed?
10 A. **I would say as needed. I mean, there is --**
11 **at times we have interacted more, and then we might**
12 **go, you know, weeks or even a month or so where we**
13 **don't interact. But I think he knows I am there for**
14 **him.**
15 Q. And you are willing to continue and to
16 provide that assistance --
17 A. **Definitely --**
18 Q. -- to him?
19 And so he suffers from something that
20 there is a treatment program available?
21 A. **Yes.**
22 Q. And you are willing to be a treatment
23 provider?
24 A. **Uh-huh. (Witness Indicating Affirmatively).**
25 Q. Now, are you familiar with Tom Eastman?
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14

1 **spirit and positive attitude out there and willingness**
2 **to help others and work together with track**
3 **configuration and just a --**
4 Q. Now did you become aware of his medical and
5 psychological condition he may or may not have?
6 A. **Not in depth. But we have interacted with**
7 **counseling, you know, via some -- mainly electronic**
8 **forms and just some communication, but not massive**
9 **in-depth, no.**
10 Q. Are you aware he suffers from depression?
11 A. **Yes.**
12 Q. Have you learned that he suffers from
13 anxiety?
14 A. **Yes. Both of those.**
15 Q. How long have you known that?
16 A. **Oh, probably 36 months, I would guess. I**
17 **mean, I am not -- beyond that, no, I don't remember**
18 **for sure.**
19 Q. All right. And so he has come to you to
20 help to deal with that on a --
21 A. **We have the interaction on the -- you know,**
22 **on whether it's, you know -- if you're familiar with**
23 **the racing history with us, in the pits before races**
24 **we have talked and had some prayers. And I have also**
25 **interacted with him via various electronic forms,**
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16

1 Do you know the pastor of First
2 Christian of Chanute?
3 A. **Yes. Yes.**
4 Q. Is that someone --
5 A. **Eastman, I didn't know -- sorry.**
6 Q. All right. Is that someone that you are
7 familiar -- familiar with him?
8 A. **Uh-huh. (Witness Indicating Affirmatively).**
9 Q. Are you aware of Mr. Kidwell going to him
10 for advice and spiritual advice as well?
11 A. **Didn't know that, but that's good. I mean,**
12 **that's dispositive of some interaction we would have,**
13 **that he can plug into some people who can listen and**
14 **help him through the times.**
15 Q. Now, you used to be a school board member in
16 Chanute?
17 A. **Yes.**
18 Q. Are you still a school board member?
19 A. **No. I did two terms, and I believe in term**
20 **limits, so I got off.**
21 Q. But you're in touch with the community in
22 Chanute?
23 A. **Yes. Active in the Chamber Main Street,**
24 **CRDA.**
25 Q. Now, is Mr. Kidwell of benefit to the
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<div>17</div> <div>1 community, and would he help with the community safety</div> <div>2 interest in Chanute, Kansas be given the opportunity?</div> <div>3 A. Definitely benefit. Good father, and the</div> <div>4 kind of people we need to give a chance; let them work</div> <div>13:56:44 5 through these things and raise their kids.</div> <div>6 Q. Does he raise kids?</div> <div>7 A. Yes.</div> <div>8 Q. Do you know his kids?</div> <div>9 A. Yes. My wife has two of -- two of them in</div> <div>13:56:54 10 class. Good young men.</div> <div>11 Q. And his youngest two kids, are they twin</div> <div>12 boys?</div> <div>13 A. Uh-huh. (Witness Indicating Affirmatively).</div> <div>14 Q. And do they have some special needs?</div> <div>13:57:04 15 A. Yes.</div> <div>16 Q. Do you know what their condition is?</div> <div>17 A. My understanding is some autistic things. I</div> <div>18 know they are working through that and making good</div> <div>19 strides.</div> <div>13:57:12 20 Q. And does that require a real activity and</div> <div>21 involvement of Mr. Kidwell?</div> <div>22 A. Yes. It requires a family core to deal</div> <div>23 with that and help work through that. That's --</div> <div>24 Q. Now, if Mr. Kidwell were gone for -- gone</div> <div>13:57:28 25 for an extended period of time, would that -- prison</div> <div>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER</div> <div>111 EAST FOREST, GIRARD, KS. 66743</div> <div>(620) 724-6211</div>	<div>18</div> <div>1 -- would that benefit the community and Neosho County</div> <div>2 or Chanute?</div> <div>3 A. No. It will not.</div> <div>4 MR. THUSTON: I have no further</div> <div>13:57:34 5 questions.</div> <div>6 THE COURT: You may step down. Thank</div> <div>7 you.</div> <div>8 You may call your next witness.</div> <div>9 MR. THUSTON: Call Josh King.</div> <div>10</div> <div>11</div> <div>12 <u>JOSH KING,</u></div> <div>13</div> <div>14 Having been sworn as a witness to tell the truth, the</div> <div>15 whole truth and nothing but the truth, was examined</div> <div>16 and testified as follows:</div> <div>17</div> <div>18 <u>DIRECT EXAMINATION BY MR. THUSTON</u></div> <div>19</div> <div>13:58:16 20 MR. THUSTON:</div> <div>21 Q. State your name for the record, please, sir.</div> <div>22 A. Josh King.</div> <div>23 Q. Where do you live?</div> <div>24 A. Chanute, Kansas.</div> <div>13:58:20 25 Q. And what do you do for a living?</div> <div>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER</div> <div>111 EAST FOREST, GIRARD, KS. 66743</div> <div>(620) 724-6211</div>
<div>19</div> <div>1 A. I am a sergeant for the police department.</div> <div>2 Q. How long have you been a law enforcement</div> <div>3 officer?</div> <div>4 A. Since '03.</div> <div>13:58:30 5 Q. Has that all been in Neosho County?</div> <div>6 A. Yes.</div> <div>7 Q. Are you familiar with Todd Kidwell?</div> <div>8 A. Yes.</div> <div>9 Q. How do you happen to know Todd Kidwell?</div> <div>13:58:38 10 A. Just as a member of the community. His twin</div> <div>11 boys and my boys go to an autism group together at</div> <div>12 this time. I have an autistic son also.</div> <div>13 Q. So you're familiar with Todd?</div> <div>14 A. Yes.</div> <div>13:58:54 15 Q. If you know, are these Todd's biological</div> <div>16 children?</div> <div>17 A. I am not sure. I mean, I couldn't tell you</div> <div>18 that yes or no.</div> <div>19 Q. So how are his sons behavior-wise?</div> <div>13:59:08 20 A. When Todd's around, pretty good. I mean,</div> <div>21 without having the father figure around, it would be</div> <div>22 pretty hectic.</div> <div>23 Q. And have you, as a law enforcement officer,</div> <div>24 had to respond to people with autism or issues of that</div> <div>13:59:26 25 nature?</div> <div>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER</div> <div>111 EAST FOREST, GIRARD, KS. 66743</div> <div>(620) 724-6211</div>	<div>20</div> <div>1 A. Yes, sir.</div> <div>2 Q. Is your response different than other</div> <div>3 officers may or may not be?</div> <div>4 A. Yes.</div> <div>13:59:32 5 Q. Why is your response different?</div> <div>6 A. Because I am familiar with autism, you know,</div> <div>7 parts of it. You know, not all aspects of it. But</div> <div>8 I tend to know some of the stuff that can help deal</div> <div>9 with it.</div> <div>13:59:44 10 Q. And how does Todd help to deal with his twin</div> <div>11 sons?</div> <div>12 A. Just being there as a father. He spends</div> <div>13 lots of time with them, does plenty of activities.</div> <div>14 Helps them, you know, each cope with different things</div> <div>13:59:58 15 that they need to cope with.</div> <div>16 Q. Does he help them with consistency?</div> <div>17 A. Yes.</div> <div>18 Q. Is consistency something that's required for</div> <div>19 an autistic child to be successful?</div> <div>14:00:10 20 A. Yes.</div> <div>21 Q. And so, if Mr. Kidwell was gone for an</div> <div>22 extended period of time, how would that affect the</div> <div>23 children?</div> <div>24 A. It would be pretty damaging to the boys.</div> <div>14:00:20 25 Q. Would it be difficult for his wife to handle</div> <div>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER</div> <div>111 EAST FOREST, GIRARD, KS. 66743</div> <div>(620) 724-6211</div>

21

1 those boys in that situation?

2 **A. Yes.**

3 **Q.** Now, you have also seen Todd in the

4 community.

14:00:28 5 Does he have interaction with other

6 young people?

7 **A. Yes.**

8 **Q.** What's he do with other young people?

9 **A. He tries to help them out with, you know,**

14:00:38 10 **jobs. You know, become friends with them. If they**

11 **are kind of down and out, he kind of brings them in**

12 **and helps them out.**

13 **Q.** So there are a myriad of other young men as

14 well?

14:00:50 15 **A. Yes.**

16 **Q.** How does he do that?

17 **A. Just trying to help them out. You know.**

18 **Give them a job. I have noticed some of the people**

19 **that I know by names that have went -- been around**

14:01:00 20 **Todd for periods of time, and you can see changes**

21 **throughout them.**

22 **Q.** Changed for the better or changes --

23 **A. For the good, yes.**

24 **Q.** And so he helps with younger men.

14:01:10 25 Where does he do this?

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23

1 **A. Yes.**

2 **Q.** How would that affect the community's

3 safety?

4 **A. It would affect the community because a lot**

14:02:30 5 **of kids look up to Todd as a safe place to go.**

6 **Q.** If he is not there, what happens to that?

7 **A. They kind of wander, do their own thing, and**

8 **then we end up --**

9 THE REPORTER: I am sorry.

14:02:46 10 "We end up" what?

11 THE WITNESS: Then we end up dealing

12 with them.

13 MR. THUSTON:

14 **Q.** When you say "we end up dealing with them,"

14:02:52 15 you mean the police department?

16 **A. Yes.**

17 **Q.** And he serves as a father figure to a lot of

18 young men?

19 **A. Yes.**

14:02:58 20 MR. THUSTON: I don't think I have any

21 other questions of this witness at this time, Your

22 Honor.

23 THE COURT: Thank you. You may step

24 down.

14:03:04 25 I want the record to continue to reflect

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22

1 **A. He has got a shop there on the north end of**

2 **town that he -- they build race cars, does it at home.**

3 **You know, he has a cleaning service, I -- I guess you**

4 **want to call it. He helps them out there too.**

14:01:26 5 **Q.** At the shop, is that where you principally

6 see the other kids; the younger people?

7 **A. Yeah.**

8 **Q.** Do you know who Michael Grayson was?

9 **A. I knew of him; yes, sir.**

14:01:40 10 **Q.** Okay. Who was Michael Grayson?

11 **A. He was an individual that lived there in**

12 **Chanute with Pastor Wade (Phonetically) here a few**

13 **years ago.**

14 **Q.** Okay. Were there any charity events or

14:01:52 15 things that were done surrounding his death?

16 **A. Yes. I don't know what, but I remember**

17 **Mr. Kidwell -- they had T-shirts made up and different**

18 **things to help raise money for the family.**

19 **Q.** And that was, what, a police officer's son?

14:02:08 20 **A. Yes.**

21 **Q.** Now, in your experience as a law enforcement

22 officer, both Neosho County and Chanute, would the

23 community benefit from Mr. Kidwell going to prison?

24 **A. No.**

14:02:20 25 **Q.** How -- would that hurt the community?

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24

1 the State is standing silent. It's not that I am

2 stiffing him in the questioning. It's just that's the

3 agreement between the parties.

4 You may call your next witness.

14:03:16 5 MR. THUSTON: Call Matt Morgan.

6

7

8 **MATT MORGAN,**

9

10 **Having been sworn as a witness to tell the truth, the**

11 **whole truth and nothing but the truth, was examined**

12 **and testified as follows:**

13

14 **DIRECT EXAMINATION BY MR. THUSTON**

15

16 MR. THUSTON:

17 **Q.** State your name for the record, please, sir?

18 **A. Matt Morgan.**

19 **Q.** Where do you live?

14:03:50 20 **A. Chanute, Kansas.**

21 **Q.** What do you do for a living?

22 **A. I am a Patrol Captain for the City of**

23 **Chanute Police Department.**

24 **Q.** How long have you worked as a police

14:03:58 25 officer?

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1 A. **Twenty-two years.**
 2 Q. Are you familiar with Mr. Todd Kidwell?
 3 A. **I am.**
 4 Q. How did you get to know Mr. Kidwell?
 14:04:06 5 A. **Oh, several years ago, I think about 1994, I**
 6 **lived two houses north of where his parents owned a**
 7 **trailer park where they resided.**
 8 Q. You got to know him when you were both
 9 somewhat young?
 14:04:26 10 A. **Well, he was somewhat young.**
 11 Q. And has that relationship continued?
 12 A. **Yes. I have known Todd since then. We**
 13 **didn't stop staying in touch. So, yes.**
 14 Q. Are there any places that you continue to
 14:04:44 15 interact with Todd?
 16 A. **At the Humboldt, Kansas, dirt track;**
 17 **Humboldt Speedway. We interact quite a bit there.**
 18 **And I have also had some -- well, whatever -- whenever**
 19 **we see each other on the street or whatever, we**
 14:05:00 20 **definitely exchange pleasantries. And we have had**
 21 **some interaction at a -- oh, a slot car drag strip**
 22 **that is up on main street in Chanute that he spends a**
 23 **lot of time at. And I stopped in at his mechanic shop**
 24 **and his rake shop, and we visited there quite a bit.**
 14:05:22 25 Q. So you see him through the town currently?
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1 Q. Did you know Michael Grayson?
 2 A. **I knew Michael Grayson.**
 3 Q. And you understood the circumstances of how
 4 he met his demise?
 14:06:30 5 A. **Yes.**
 6 Q. Were there fund raisers that were set up for
 7 him?
 8 A. **There were.**
 9 Q. Do you know who it was that set those up?
 14:06:36 10 A. **As I remember, the Kidwell family set those**
 11 **up.**
 12 Q. And that continued for more than --
 13 A. **It continued for quite a while, yes.**
 14 Q. And whether it went to his family or to
 14:06:48 15 other families, that was something Mr. Kidwell
 16 continues to do?
 17 A. **Yes. Mr. Kidwell and his family did that,**
 18 **yes.**
 19 Q. Now, have you seen Mr. Kidwell interact with
 14:07:06 20 younger men in the community?
 21 A. **I have.**
 22 Q. And where do you see him interact with them?
 23 A. **Well, at the race track, he always helps**
 24 **the up-and-coming dirt track racers, and at his**
 14:07:20 25 **mechanic shop where they build race cars and keep the**
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1 A. **See him through town quite a bit, yes.**
 2 Q. Now, you knew Todd in the past.
 3 Did he have any issues with drink or
 4 anything of that nature?
 14:05:32 5 A. **Several years ago he -- he had -- he drank.**
 6 Q. Quite a bit?
 7 A. **Yes. Yeah. He would get -- I believe he**
 8 **would get intoxicated.**
 9 Q. He had a drinking problem?
 14:05:50 10 A. **Yeah. I don't know in -- how frequent it**
 11 **was, but I knew that he would drink and he would get**
 12 **intoxicated.**
 13 Q. Has he taken steps to deal with that?
 14 A. **I really -- I haven't known Todd to have any**
 14:06:02 15 **alcohol at all for the past, at least four years, that**
 16 **I know of.**
 17 Q. So he -- and he did that on his own, to your
 18 knowledge?
 19 A. **To my knowledge, he did.**
 14:06:12 20 Q. Issues that would have occurred when he was
 21 drinking have not been an issue since then?
 22 A. **No.**
 23 Q. Now, you heard the question asked of
 24 Mr. King about Michael Grayson?
 14:06:24 25 A. **Uh-huh. (Witness Indicating Affirmatively).**
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1 **race cars running. He will let the young kids go in**
 2 **there and help him out, and just teaching different**
 3 **things about mechanic work -- general mechanic work --**
 4 **and let them just get their hands dirty and help them**
 14:07:34 5 **out there at the shop.**
 6 Q. And does that -- does that -- does that help
 7 the kids or those young men?
 8 A. **They sure seem to like it. I know a lot of**
 9 **them look forward to going to his shop just to go help**
 14:07:44 10 **him work on race cars.**
 11 Q. Are those kids you see getting in trouble?
 12 A. **No.**
 13 Q. So he helps -- he helps to teach them life
 14 lessons and --
 14:07:52 15 A. **I believe so. I mean, they seem to enjoy**
 16 **going to getting their hands dirty and learning how to**
 17 **work on machines.**
 18 Q. If Todd were gone, would that really be able
 19 to continue?
 14:08:04 20 A. **I don't know of any other mechanic shop in**
 21 **Chanute that allows kids to go in in the evenings and**
 22 **work on vehicles. So I think that would come to an**
 23 **end.**
 24 Q. Would that be of benefit to our community?
 14:08:16 25 A. **I don't believe so.**
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1 Q. If Mr. Kidwell were allowed to remain out
 2 and serve his time on probation, would that be a
 3 benefit to the community?
 4 A. I think that it would be much more
 14:08:26 5 beneficial for everyone.
 6 Q. As opposed to him going to prison?
 7 A. Correct.
 8 Q. Now, at some point, were there some
 9 burglaries that were around where Mr. Kidwell's shop
 14:08:38 10 was within the last few months?
 11 A. Burglaries all over the community.
 12 Q. Was it Mr. Kidwell who set up the Facebook
 13 page to try to help apprehend the people that did
 14 that?
 14:08:52 15 A. Yes. There was a Facebook page set up
 16 where there was -- people were able to interact with
 17 each other pertaining just to that.
 18 Q. Is that beneficial?
 19 A. Seemed to be.
 14:09:04 20 Q. Seem to slow down --
 21 A. Well, yeah. Once I think word started
 22 getting out that there were a lot more people
 23 watching, and things started slowing down, I guess,
 24 because word got out community-wide.
 14:09:18 25 Q. But, to your knowledge, that was put out by
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1 A. Detective for the Chanute Police Department.
 2 Q. How long have you worked for the police
 3 department?
 4 A. Seventeen years.
 14:10:12 5 Q. Are you familiar with Mr. Kidwell?
 6 A. Yes, sir.
 7 Q. How long have you known Mr. Kidwell?
 8 A. Seven to ten years.
 9 Q. And how well do you know Mr. Kidwell?
 14:10:22 10 A. Pretty well.
 11 Q. Do you have any children?
 12 A. Yes, I do.
 13 Q. And is Gariton (Phonetically) Allen your
 14 son?
 14:10:28 15 A. Yes, he is.
 16 Q. Your oldest -- is your oldest minor child?
 17 A. Yes.
 18 Q. What's his relationship with Mr. Kidwell?
 19 A. Well, he goes down to the shop about every
 14:10:38 20 day. Rather, guts cars; helps him with motors.
 21 Whatever Todd needs him to do.
 22 Q. He has had a pretty long relationship with
 23 Todd?
 24 A. Yes.
 14:10:50 25 Q. At times does he seem to spend as much time
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1 Mr. Kidwell?
 2 A. As far as I know.
 3 MR. THUSTON: I don't think I have any
 4 further questions of this witness.
 14:09:30 5 THE COURT: You may step down.
 6 THE WITNESS: Thank you.
 7 THE COURT: Call your next witness.
 8 MR. THUSTON: Call Gary Allen.
 9
 10
 11 **GARY ALLEN,**
 12
 13 **Having been sworn as a witness to tell the truth, the**
 14 **whole truth and nothing but the truth, was examined**
 15 **and testified as follows:**
 16
 17 **DIRECT EXAMINATION BY MR. THUSTON**
 18
 19 MR. THUSTON:
 14:09:58 20 Q. Would you state your name for the record,
 21 please, sir?
 22 A. Gary Allen.
 23 Q. Where do you live?
 24 A. Chanute, Kansas.
 14:10:06 25 Q. What do you do for a living, sir?
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1 at Mr. Kidwell's house as yours?
 2 A. Probably more.
 3 Q. And that continued on to be Mr. Kidwell
 4 trying to help teach him life lessons, to your
 14:11:04 5 knowledge?
 6 A. Yes. He has taught him quite a bit. The
 7 kid loves racing. Not only does he work on the race
 8 cars, he goes and helps Todd clean.
 9 Q. How old is your son?
 14:11:14 10 A. Fifteen.
 11 Q. So with the exposure that he receives, is
 12 there any place else in Chanute that he could get that
 13 other than through Mr. Kidwell?
 14 A. No.
 14:11:24 15 Q. Now, are there other kids that -- your son's
 16 age that come around and do the same things?
 17 A. Yeah. I think there is one a couple of
 18 years older. Younger-wise, I don't know. But I know
 19 there is kids that go down there and clean the shop or
 14:11:40 20 just to have something to do but sitting around the
 21 streets.
 22 Q. So the kids that come and work in
 23 Mr. Kidwell's shop, are they the kids that you guys
 24 typically run into with problems in the community?
 14:11:52 25 A. No. Not very often, if we do at all.
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1 Q. Are some of those kids ones that don't
 2 really have good family units?
 3 A. **Parenting could be better, yes.**
 4 Q. But Mr. Kidwell tries to cover up for some
 14:12:06 5 of that?
 6 A. **It keeps them out of trouble, gives them**
 7 **something to do.**
 8 Q. If he were to be incarcerated for an
 9 extended period of time, would that be able to
 14:12:16 10 continue?
 11 A. **No.**
 12 Q. Now, would that be beneficial to our
 13 community?
 14 A. **No.**
 14:12:18 15 Q. It would be more harmful?
 16 A. **Yes.**
 17 Q. And you think it would be promoting
 18 community safety interest if Mr. Kidwell were allowed
 19 to have a probation sentence?
 14:12:30 20 A. **I think it would. He is a good guy. Like**
 21 **somebody else said, it was a freak accident and no way**
 22 **was it meant to happen. I think it would be -- it**
 23 **would be wrong.**
 24 MR. THUSTON: No further questions of
 14:12:44 25 this witness, Your Honor.
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1 Q. How do you know Mr. Kidwell?
 2 A. **Known Todd about seven years, mainly from**
 3 **the race track.**
 4 Q. And do you know him from the race track in
 14:13:44 5 Humboldt or --
 6 A. **Humboldt, Caney. It used to be South**
 7 **Coffeyville.**
 8 Q. And did you know him when he lived in
 9 Independence?
 14:13:50 10 A. **No.**
 11 Q. So have you seen Mr. Kidwell interact with
 12 younger people?
 13 A. **My son.**
 14 Q. How old is your son?
 14:14:00 15 A. **He is 18 now, or he will be 18.**
 16 Q. What's the interaction that Mr. Kidwell had
 17 with your son?
 18 A. **Casin probably met him when he was eleven.**
 19 **I, for certain, remember that. But just through the**
 14:14:12 20 **pits. He was a kid that asked -- everybody that would**
 21 **listen that was a driver -- questions. And Todd was**
 22 **always -- he was always real good to spend his time**
 23 **with him when he probably had better things to do.**
 24 Q. You had seen him do that with other young
 14:14:28 25 people?
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1 THE COURT: You may step down. Thank
 2 you.
 3 You may call your next witness.
 4 MR. THUSTON: Call Brad Carroll.
 5
 6
 7 **BRAD CARROLL,**
 8
 9 **Having been sworn as a witness to tell the truth, the**
 10 **whole truth and nothing but the truth, was examined**
 11 **and testified as follows:**
 12
 13 **DIRECT EXAMINATION BY MR. THUSTON**
 14
 15 MR. THUSTON:
 16 Q. State your name for the record, please.
 17 A. **Brad Carroll.**
 18 Q. And where do you live?
 19 A. **Independence, Kansas.**
 14:13:26 20 Q. And what do you do for a living?
 21 A. **I am an elementary principal.**
 22 Q. Independence?
 23 A. **Yes.**
 24 Q. Are you familiar with Mr. Todd Kidwell?
 14:13:34 25 A. **Yes.**
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1 A. **Yes. He still does it with mine. He is a**
 2 **competitor at times, and he still gives him the same**
 3 **time when he was eleven.**
 4 Q. Are you aware -- is that something that Todd
 14:14:40 5 does just by nature, or the --
 6 A. **Yes.**
 7 Q. And you have seen that in his shop?
 8 A. **Numerous times. I haven't been there when**
 9 **there has been other kids there, but I am sure it**
 14:14:52 10 **carries over there as well.**
 11 Q. But you have seen him do it at the race
 12 track regularly?
 13 A. **Yes.**
 14 Q. Now, you're an elementary school principal?
 14:14:58 15 A. **Yes, sir.**
 16 Q. Do you see many people who are willing to
 17 help kids the way Mr. Kidwell is?
 18 A. **It's rare any more, especially dirt racing**
 19 **community. It -- it's happened a lot more than I see**
 14:15:16 20 **in the regular society, say. Just it's more of a**
 21 **family, even though you're racing against somebody --**
 22 Q. But even though --
 23 A. **-- willing to have --**
 24 Q. But even it would be in a family piece,
 14:15:26 25 Mr. Kidwell goes above and beyond other people?
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1 **A. Oh, yeah. Yeah. He didn't have to spend**
2 **the time he spent with either myself or my son early**
3 **on. He didn't know us. That's just the way he was.**
4 **Q.** Now, would you like to have more people like
14:15:42 5 that in your community?
6 **A. That would be a very positive thing for me**
7 **as an administrator, as a teacher, as an educator, if**
8 **we had more folks like that.**
9 **Q.** So would you believe it would be in the
14:15:56 10 community's safety interest if Mr. Kidwell were to be
11 able to remain in the community?
12 **A. I believe so.**
13 **Q.** Why would you say that?
14 **A. Just gives kids an avenue to go to somebody**
14:16:04 15 **that they trust and that will know that they are there**
16 **for them. Just safety net.**
17 **Q.** And it would be harmful to the community if
18 he were to be gone?
19 **A. I believe so, yes, sir.**
14:16:16 20 **MR. THUSTON:** I don't think I have any
21 further questions.
22 **THE COURT:** You may step down. Thank
23 you.
24 **Call your next witness.**
14:16:24 25 **MR. THUSTON:** Call Jacob Ellison.
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1 **much since.**
2 **Q.** Now, what is your relationship with
3 Mr. Kidwell?
4 **A. He -- basically, my father figure, really.**
14:17:30 5 **Like he -- I don't have a father. I don't have a real**
6 **father, and he has just played that role.**
7 **Q.** Did you ask him to do that?
8 **A. No.**
9 **Q.** He just took you in?
14:17:40 10 **A. Yes.**
11 **Q.** You spent time at the house?
12 **A. Yes.**
13 **Q.** How much time did you spend at his house?
14 **A. Depends on the week. Usually, I mean, I**
14:17:48 15 **could stay two or three nights a week that I can --**
16 **whenever I was in 7th grade. I just go there and stay**
17 **the night, play X-Box or whatever.**
18 **Q.** Are you the -- now, are you the only person
19 that Mr. Kidwell has done that to?
14:18:16 20 **A. No. More --**
21 **Q.** I am sorry?
22 **A. I believe there is a few more. Just I am**
23 **the only one that basically is -- I thought he is my**
24 **-- almost like he is my father figure. He is a role**
14:18:28 25 **model to other people.**
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1
2
3 **JACOB ELLISON,**
4
5 **Having been sworn as a witness to tell the truth, the**
6 **whole truth and nothing but the truth, was examined**
7 **and testified as follows:**
8
9 **DIRECT EXAMINATION BY MR. THUSTON**
10
11 **MR. THUSTON**
12 **Q.** State your name for the record?
13 **A. Jacob Ellison.**
14 **Q.** And where do you live?
14:16:54 15 **A. Chanute, Kansas.**
16 **Q.** And what do you do?
17 **A. I go to high school and then work at a local**
18 **grocery store part time.**
19 **Q.** Are you familiar with Todd Kidwell?
14:17:06 20 **A. Yes, I am.**
21 **Q.** How do you know Todd Kidwell?
22 **A. I met him about eight to nine years ago, I**
23 **believe. I was just one of those kids riding by on my**
24 **bike and seen the race car and stopped in, and he gave**
14:17:20 25 **me the time of day, and been going every day pretty**
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1 **Q.** You have seen him do some stuff with other
2 boys?
3 **A. Yes.**
4 **Q.** Now, when you started hanging out with
14:18:34 5 Mr. Kidwell, have you been in any trouble or had any
6 issues since you were there?
7 **A. I have not.**
8 **Q.** Has that been somewhat because of
9 Mr. Kidwell's influence?
14:18:44 10 **A. Yes, sir.**
11 **Q.** Has that been the case with other kids that
12 come and hang out at the shop?
13 **A. I believe so, yes.**
14 **Q.** Has he tried teaching you guys life lessons?
15 **A. Yeah. He -- he -- you know, a lot of life's**
16 **lessons take place. Well, then, stuff like that.**
17 **Q.** How about how you're supposed to be as a
18 man?
19 **A. Yes.**
14:19:02 20 **Q.** What does he teach you about that?
21 **A. Just everyday responsibilities and just**
22 **don't mess up. You know.**
23 **Q.** Now, have you seen Todd after the accident?
24 **A. Yes.**
14:19:14 25 **Q.** How has that affected him?
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1 **A. Very quiet and stressed out all the time.**
2 **It's not Todd; not himself.**
3 **Q. Is he remorseful about the incident?**
4 **A. Very much so.**
14:19:30 5 **Q. Does he accept responsibility for it?**
6 **A. Yes.**
7 **Q. Now, has he talked to you or the other guys**
8 **that come around the shop about how you're supposed to**
9 **behave that -- that he learned from the accident?**
14:19:40 10 **A. Yeah. He always preaches to us, be smart**
11 **and make good decisions and stuff like that.**
12 **Q. And so you look to him as an example on how**
13 **to do that?**
14 **A. Very much so.**
14:19:50 15 **Q. Now, there are other kids that will be**
16 **coming up behind you if Mr. Kidwell gets a chance to**
17 **follow the same circumstances that you are?**
18 **A. Yeah. I believe so.**
19 **Q. If he were to be gone, would that be**
14:20:02 20 **beneficial to the younger people in our community?**
21 **A. No.**
22 **Q. So you would ask the Court to give him an**
23 **opportunity to be -- give him a chance on probation?**
24 **A. Yes. Very much.**
14:20:12 25 MR. THUSTON: I think that will be all
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1 **Q. Are your parents here today?**
2 **A. No.**
3 **Q. Why are your parents not here?**
4 **A. They are both deceased.**
14:21:38 5 **Q. When did your father pass away?**
6 **A. I was ten.**
7 **Q. And since your father has been gone, who has**
8 **been your father figure?**
9 **A. My brother.**
14:21:48 10 **Q. When did your mother pass away?**
11 **A. Going into my sophomore year of high school.**
12 **Q. When your mother passed away, where did you**
13 **go to live?**
14 **A. Todd's house.**
14:21:58 15 **Q. And is that who basically raised you as a**
16 **teenager?**
17 **A. Yeah. Been a father figure pretty much my**
18 **whole life.**
19 **Q. Where do you live now?**
14:22:04 20 **A. On my own.**
21 **Q. Where is your house located?**
22 **A. On the south end of town in Chanute, Kansas.**
23 **Q. For some time did you live at -- in**
24 **Mr. Kidwell's property?**
14:22:18 25 **A. Yes.**
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1 the questions of this witness, Your Honor.
2 THE COURT: You may step down. Thank
3 you.
4 You may call your next witness.
14:20:20 5 MR. THUSTON: Call Tyler Kidwell.
6
7
8 **TYLER KIDWELL,**
9
10 **Having been sworn as a witness to tell the truth, the**
11 **whole truth and nothing but the truth, was examined**
12 **and testified as follows:**
13
14 **DIRECT EXAMINATION BY MR. THUSTON**
14:20:24 15
16 MR. THUSTON:
17 **Q. State you name for the record, please, sir.**
18 **A. Tyler Kidwell.**
19 **Q. Where do you live?**
14:21:20 20 **A. Chanute, Kansas.**
21 **Q. What's your relationship to**
22 **Mr. Todd Kidwell?**
23 **A. He is my older brother.**
24 **Q. I take it you have known him all your life?**
14:21:30 25 **A. Yes.**
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1 **Q. Where did you live?**
2 **A. In Chanute, Kansas.**
3 **Q. Was it the apartment attached to his shop?**
4 **A. No. His house.**
14:22:24 5 **Q. His house?**
6 **A. Yes.**
7 **Q. And so what type of man is Todd Kidwell?**
8 **A. He is a good man, good father. He is a good**
9 **person for the outdoors and all the people around. He**
14:22:42 10 **is -- he is a pretty good guy.**
11 **Q. Are you aware of him being a father figure**
12 **to other people other than just you and Jacob?**
13 **A. Yes, sir.**
14 **Q. Can you think of other people who he serves**
14:22:54 15 **in that role or in that capacity?**
16 **A. Jacob is one of them. He has come around**
17 **since he was a kid. He has always looked up to Todd,**
18 **and Todd's always taught him how to do things, and how**
19 **to do the right things.**
14:23:06 20 **And Grayson, Michael Grayson, he was**
21 **going the wrong way in life and started to come around**
22 **when he was a teenager, and started helping around the**
23 **shop, and just, you know, he went to work -- he went**
24 **to work for Todd at a rock quarry there in Chanute.**
14:23:24 25 **And Todd was a pretty good person for him to --**
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1 Q. Turn his life around?
 2 A. **Yeah.**
 3 Q. How many other young men would you say
 4 that's happened to --
 14:23:34 5 A. **Several. Too many to -- too many to name.**
 6 Q. Too many to name?
 7 A. **Too many to count, yes.**
 8 Q. And that continues on today?
 9 A. **Yes.**
 14:23:42 10 Q. How is Todd doing now?
 11 A. **How?**
 12 Q. Yes. How does he do that?
 13 A. **Well, just -- you know, in the racing world,**
 14 **and just being outside of work or outside of the shop.**
 14:23:56 15 **He -- he is just always there for somebody.**
 16 **If anybody needs help, he is always**
 17 **there to help them out no matter what. He -- if he**
 18 **has to stop doing something of his own, he will do it.**
 19 **He is always there for anybody.**
 14:24:10 20 Q. Does he help our community?
 21 A. **Yes.**
 22 Q. How has he helped our community?
 23 A. **If there is any kind of community thing**
 24 **going on and he is asked to do it, he will do it. He**
 14:24:22 25 **is just a good role model on it, on everything that he**
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1 A. **Oh, yeah.**
 2 Q. Does he encourage you to be more careful?
 3 A. **Oh, yeah.**
 4 Q. Is that something that he tells the people
 14:25:30 5 in his shop --
 6 A. **Yeah. Oh, yeah.**
 7 Q. So, that is something --
 8 A. **Yeah --**
 9 Q. -- that he --
 14:25:32 10 A. **Yeah. Yeah.**
 11 Q. And that's been actually something that's
 12 been beneficial to other people?
 13 A. **Oh, yeah.**
 14 Q. Now, are you familiar with his sons?
 14:25:40 15 A. **Uh-huh. (Witness Indicating Affirmatively).**
 16 **My nephews.**
 17 Q. Excuse me?
 18 A. **My nephews.**
 19 Q. Are those Todd's biological kids?
 14:25:48 20 A. **He adopted them, so might as well be, yeah.**
 21 Q. So, he adopted them?
 22 A. **Yes.**
 23 Q. Did they know they were autistic when he
 24 adopted them?
 14:25:56 25 A. **Did he know?**
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1 **does.**
 2 Q. Okay. Have there been any changes in Todd
 3 after the accident?
 4 A. **Several.**
 14:24:32 5 Q. Like what changes have occurred?
 6 A. **Well, just, you know, he has been my brother**
 7 **my whole life, and he just hasn't been the same since.**
 8 **This affected him really bad.**
 9 Q. Has he changed his behavior or --
 14:24:44 10 A. **Oh, yeah.**
 11 Q. How has that happened or how has that
 12 changed?
 13 A. **Just stress. You know, just -- just**
 14 **stressed out, depressed. Just hardly ever smiles any**
 14:24:58 15 **more, really.**
 16 Q. Okay. Is that because of the remorse he
 17 feels of the accident?
 18 A. **I am sure.**
 19 Q. Now, has he discussed with other people what
 14:25:08 20 things they need to do as a result of this incident?
 21 A. **I -- probably. Yeah.**
 22 Q. Has he talked to you?
 23 A. **A little bit. Yeah. I mean, we talk all**
 24 **the time.**
 14:25:18 25 Q. Is he more careful now?
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1 Q. Uh-huh. (Mr. Thuston indicating
 2 Affirmatively).
 3 A. **Maybe not as soon as he did. But, I mean,**
 4 **when he did find out -- I mean --**
 14:26:04 5 Q. So how is he interactive or how does he
 6 respond?
 7 A. **He is a good father. He is there for them.**
 8 **They need something, he is there.**
 9 Q. They have special needs?
 14:26:16 10 A. **Oh, yeah.**
 11 Q. Do you have the patience to deal with them
 12 like Todd does?
 13 A. **Yeah.**
 14 Q. Do they still react better to Todd?
 14:26:22 15 A. **Oh, yeah. Yeah. It's their dad. They**
 16 **should.**
 17 Q. If Todd were gone, what would happened to
 18 them?
 19 A. **They would be lost.**
 14:26:30 20 Q. What type of behaviors or issues do they
 21 have?
 22 A. **Just -- I don't know. I mean, they are**
 23 **just -- what do you mean? Like --**
 24 Q. Do they get angry?
 14:26:48 25 A. **Oh, yeah.**
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1 Q. What behaviors do they --
 2 A. **Yeah. They get -- they get angry. Sad.**
 3 Q. Do they both talk a lot?
 4 A. **Yeah.**
 14:26:54 5 Q. And then --
 6 A. **Well, they are shy, too. They are shy.**
 7 **Just depends on who you are.**
 8 Q. But you agree they would suffer if --
 9 A. **Oh, yeah --**
 14:27:04 10 Q. -- Mr. Kidwell were to be gone?
 11 A. **Yeah. Oh, yeah.**
 12 Q. So, Todd would benefit the community in
 13 Chanute?
 14 A. **Yes.**
 14:27:10 15 Q. And you are asking that he have a chance to
 16 continue to help the safety and community interest in
 17 Chanute by being able to stay out on probation?
 18 A. **Yes.**
 19 MR. THUSTON: I don't have any other
 14:27:22 20 questions.
 21 THE COURT: You may step down. Thank
 22 you.
 23 You may call your next witness.
 24 MR. THUSTON: Call Leslie Kidwell.
 25 **///**
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1 **two and a half years old.**
 2 Q. Did that change the way Todd behaved at all?
 3 A. **Made him more aware of what that diagnosis**
 4 **is and the needs behind it.**
 14:28:34 5 Q. What are the issues that your sons have?
 6 A. **Cognition, speech, and some of their**
 7 **physical aspect as far as coordination skills.**
 8 Q. How about their emotional state or issues
 9 with anger?
 14:28:52 10 A. **There is when things aren't going their way,**
 11 **and if Todd or I is not home at a certain time, we**
 12 **have not been home, and they don't see their dad for a**
 13 **long period of time or myself, that we have extreme**
 14 **meltdown, confusion and behaviors.**
 14:29:10 15 Q. Is that because they need consistency?
 16 A. **Very much so.**
 17 Q. Now, how does Todd contribute to their
 18 maintaining?
 19 A. **He helps maintain their structure, their**
 14:29:22 20 **time schedules. Everything that they need.**
 21 Q. Are you gone quite a bit because of your
 22 job?
 23 A. **I am. And I also do a lot of training for**
 24 **autism as well.**
 14:29:32 25 Q. And so if Todd is gone, how does that affect
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1
 2
 3 **LESLIE KIDWELL,**
 4
 5 **Having been sworn as a witness to tell the truth, the**
 6 **whole truth and nothing but the truth, was examined**
 7 **and testified as follows:**
 8
 9 **DIRECT EXAMINATION BY MR. THUSTON**
 14:27:46 10
 11 Q. State your name for the record.
 12 A. **Leslie Kidwell.**
 13 Q. Where do you live?
 14 A. **Chanute, Kansas.**
 14:27:52 15 Q. What's your relationship with Mr. Kidwell?
 16 A. **He is my husband.**
 17 Q. What do you do for a living?
 18 A. **I am a Permanency Worker for KVC in Chanute.**
 19 Q. How long you and Todd been married?
 14:28:04 20 A. **Twelve years.**
 21 Q. And when did Todd adopt your sons?
 22 A. **They were almost a year and a half.**
 23 Q. At that time, did you know the issues that
 24 the boys would have later on?
 14:28:18 25 A. **I don't -- Todd and I found that out about**
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1 your sons?
 2 A. **Tremendously. Their whole structure will be**
 3 **gone. He is their rock. He is the one that just**
 4 **keeps them calm when they are fighting and they don't**
 14:29:48 5 **listen to me.**
 6 Q. How big are they now?
 7 A. **My size.**
 8 Q. Okay. Can you --
 9 A. **And they are 13.**
 14:29:54 10 Q. Can you physically control them now if they
 11 have a breakdown?
 12 A. **No.**
 13 Q. So you have to have Todd there to do that?
 14 A. **I do.**
 14:30:04 15 Q. How frequently can that happen?
 16 A. **Well, it can happen in a split second. But**
 17 **normally, once -- at least once a week. If something**
 18 **happens at school that is out of their routine or**
 19 **something --**
 14:30:18 20 **When Todd, for instance, got sick over**
 21 **the summertime, that was a huge stress on them.**
 22 Q. And Todd was hospitalized?
 23 A. **He was.**
 24 Q. And how long was he in the hospital?
 14:30:28 25 A. **I think we were in there almost a day shy of**
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1 **a week.**
 2 **Q.** And that set your sons back?
 3 **A.** **Tremendously. We relapsed a month in**
 4 **speech.**
 14:30:40 5 **Q.** What do you mean by "relapsed a month in
 6 speech"?
 7 **A.** **From talking almost in fifth grade level, we**
 8 **went back to a third grade level or below speech and**
 9 **hardly understood anything.**
 14:30:50 10 **Q.** Is that both boys that --
 11 **A.** **Both boys, yes.**
 12 **Q.** They both have those cognitive issues?
 13 **A.** **Yes.**
 14 **Q.** So you have seen problems that come with
 14:30:58 15 that?
 16 **A.** **Yes.**
 17 **Q.** Now, how is Todd's relationship to other
 18 young men?
 19 **A.** **I guess you can call him a role model. He**
 14:31:08 20 **is all the time helping anybody out, whether it's**
 21 **something of financially helping them out or just with**
 22 **knowledge.**
 23 **Q.** Has he got -- have you got to taking any
 24 kids in?
 14:31:18 25 **A.** **Many.**
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1 **A.** **Yes, he does.**
 2 **Q.** Now, you talked about -- earlier about some
 3 group of autism. What is that?
 4 **A.** **I belong to a local chapter, Autism Hope for**
 14:32:28 5 **Families, that we help our local surrounding areas,**
 6 **advocate and help them in any way with their children**
 7 **with disabilities. I am also a member of the Talk**
 8 **Good (Phonetically). It's a national organization as**
 9 **well.**
 14:32:38 10 **Q.** Is Todd a member as well?
 11 **A.** **He is of our local organization, yes.**
 12 **Q.** Now, how does he help the local
 13 organization?
 14 **A.** **By being there and helping other fathers and**
 14:32:48 15 **siblings pretty much cope with being in an autistic**
 16 **environment.**
 17 **Q.** How does this group raise money?
 18 **A.** **We do charities, whether it's T-shirt sales.**
 19 **Every April we do an Autism Awareness Month with**
 14:33:08 20 **raffles. This year, we are looking to expand things.**
 21 **Last year, we were a part of raising money for the**
 22 **group as well.**
 23 **Q.** How does Todd -- or how would Todd be
 24 involved in that?
 14:33:16 25 **A.** **He is my right hand. Anything I need, he is**
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1 **Q.** Name some.
 2 **A.** **Well, our brother-in-law, Tyler; Jacob**
 3 **Ellison. He has helped Michael Grayson out. Devin**
 4 **and Levi Phillips.**
 14:31:32 5 **Q.** How did he take them in?
 6 **A.** **Just by teaching them racing, giving them a**
 7 **place to hang out, learn mechanics. Just to be there**
 8 **to help them in any way, whether it's working on a car**
 9 **or just general knowledge.**
 14:31:48 10 **Q.** Now, you work for KVC?
 11 **A.** **I do.**
 12 **Q.** And you see kids that are in need on a
 13 regular basis?
 14 **A.** **I do.**
 14:31:56 15 **Q.** How many people do you see in the community
 16 that do things that Todd does for young people --
 17 THE REPORTER: I am sorry, Counsel. I
 18 couldn't hear --
 19 MR. THUSTON:
 14:32:04 20 **Q.** How many people in the communities do you
 21 see that do what Todd does to help younger people,
 22 especially those that are in trouble?
 23 **A.** **Less than a handful.**
 24 **Q.** So does Todd help in that part of the
 14:32:16 25 community?
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1 **jumping on board. And --**
 2 **Q.** You got anything to do with race cars or
 3 anything?
 4 **A.** **We are this year. He is wanting to make it**
 14:33:28 5 **his boys' idea that bring his race car down there and**
 6 **let his boys do a picnic and invite the community and**
 7 **get police and everything else involved in it as well,**
 8 **to make it a community-wide event.**
 9 **Q.** Now, not only does Todd have your sons, does
 14:33:44 10 he have any other children?
 11 **A.** **We have three girls.**
 12 **Q.** How old are the girls?
 13 **A.** **Nineteen tomorrow -- we almost -- got an**
 14 **18-year-old, then a 15-year-old.**
 14:33:54 15 **Q.** What is their relationship with their
 16 father?
 17 **A.** **They are very close.**
 18 **Q.** Are you aware of when they came to be with
 19 their father?
 14:34:04 20 **A.** **From the day we got married. When they**
 21 **were already living there before that.**
 22 **Q.** Was there an issue with their mother taking
 23 care of them?
 24 **A.** **Yes, there was.**
 14:34:14 25 **Q.** What was the issue?
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1 **A. She was not take taking care of them and not**
2 **feeding them. Lack of care all in general all the**
3 **way around.**
4 **Q.** Todd immediately stepped up?
14:34:26 5 **A. Yes.**
6 **Q.** And never stopped taking care of the kids?
7 **A. Yes.**
8 **Q.** As well as other kids?
9 **A. Correct.**
14:34:34 10 **Q.** Now, you guys also have a business?
11 **A. Yes, we do. We actually have a mechanic**
12 **business and a property preservation business.**
13 **Q.** Who runs those two businesses?
14 **A. Todd does.**
14:34:44 15 **Q.** And is he the only employee?
16 **A. No. We have two other employees, plus**
17 **myself.**
18 **Q.** And who are the two other employees?
19 **A. Harold Schuldt and Josh Pitt.**
14:34:56 20 **Q.** Who is Josh Pitt?
21 **A. He is a guy that we have known for too many**
22 **years to count.**
23 **Q.** Does he have problems?
24 **A. He ran into the wrong crowd a few years ago,**
14:35:08 25 **got addicted to meth, was also stealing stuff in the**
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1 **therapies that even just the boys made and helping to**
2 **support our girls, that would all be gone. I wouldn't**
3 **have that resource.**
4 **Q.** Now, in addition to the two employees, does
14:36:28 5 Todd kind of just bring on other people to help?
6 **A. Uh-huh. In the summertime we hire high**
7 **school students that are pretty much just always show**
8 **up at the shop. And they always look like they want**
9 **money or board, so we put them to work, whether it's**
14:36:44 10 **going with one of us to mow the lawn or whatever is**
11 **needed.**
12 **Q.** Are those kids, or some of them kids been in
13 trouble?
14 **A. Not that I know of. But they probably**
14:36:52 15 **could as they get older.**
16 **Q.** Todd's influence helps with that?
17 **A. I think so.**
18 **Q.** Has someone told you that?
19 **A. Yes. Some of them.**
14:37:02 20 **Q.** So you're asking the Court to allow Todd to
21 stay in the community because it would help community
22 safety interest?
23 **A. Yes.**
24 **Q.** And why would you say that? Why are you
14:37:14 25 asking the Court to do that?
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1 **community. He decided to get himself some help, get**
2 **clean and looked to Todd and I to keep him clean. So**
3 **Todd put him to work and make sure that he stays clean**
4 **and on the right path.**
14:35:24 5 **Q.** So, Todd -- he is about you guys' age?
6 **A. He is younger. He is closer to Tyler, our**
7 **brother.**
8 **Q.** But that's somebody else that Todd has tried
9 to father help to stay out of trouble?
14:35:36 10 **A. Yes.**
11 **Q.** Now, if Todd were gone for an extended
12 period of time, what would happen to the business?
13 **A. It would probably end up disintegrating.**
14 **Q.** Why is that?
14:35:50 15 **A. Because I'm not the person -- the job, I**
16 **cannot do. I can do the sending the guys where they**
17 **need to go, but he is the main contact. He is the one**
18 **that knows how to do all of the orders that they put**
19 **in.**
14:36:04 20 **Q.** If the business was gone, that would have a
21 detrimental effect on your family?
22 **A. It would.**
23 **Q.** What would that effect be?
24 **A. We would lose the property that we own that**
14:36:14 25 **the shop's on and not alone financially for the**
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1 **A. There is not many people like Todd that are**
2 **actually willing to help teach others what needs to be**
3 **done, whether it's an example of this accident; teach**
4 **people to be more aware.**
14:37:26 5 **Q.** How is that, the accident, teaching people
6 to be aware? How is Todd doing that?
7 **A. Any kid that he sees that drives, he is**
8 **always making them aware of more caution. You don't**
9 **care if you have to follow somebody, whether it's a**
14:37:42 10 **tractor, a bicycle or anything, for five miles, just**
11 **stay behind them, get off on the first road and go a**
12 **different route; to watch their line, to make sure**
13 **they don't ever get on the phone while you are**
14 **driving, don't drink while you're driving. Everything**
14:37:58 15 **in general related to driving and safety.**
16 **Q.** Now, you're talking about drinking and
17 driving. Did Todd have a drinking problem at one
18 point?
19 **A. He did.**
14:38:04 20 **Q.** And what happened to that?
21 **A. He, about three and a half years ago,**
22 **decided to quit.**
23 **Q.** Okay.
24 **A. After Michael Grayson passed away, that's**
14:38:14 25 **when he kind of went a little bit more drinking hard.**
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1 Q. He decided on his own he that needed to
 2 quit?
 3 A. Yes.
 4 Q. And how did he do that?
 14:38:22 5 A. **Just cold turkey. He had the will and he**
 6 **wanted to quit and he has not touched a drop since**
 7 **then.**
 8 Q. And so, Mr. Kidwell discovers that something
 9 is going on and he has done wrong, does he correct it?
 10 A. Yes.
 11 Q. He doesn't try to stay on that same path?
 12 A. Yes.
 13 Q. Now, you had talked about that -- with
 14 other -- I'd interrupted you -- but you were saying
 14:38:46 15 the things of that nature that he helped with in
 16 talking --
 17 Has he had any other issue that have
 18 come as a result of this accident?
 19 A. **Sleepless nights and anxiety and depression**
 14:39:04 20 **have increased.**
 21 Q. So what does he do about his depression and
 22 anxiety?
 23 A. **Right now we have increased his medication,**
 24 **but he has also talked to a few of our friends and**
 14:39:14 25 **relatives about it. He also had counseling and**
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1 Q. He recognizes that he is the one that's
 2 responsible?
 3 A. Yes.
 4 Q. What has he told you about how he feels or
 14:40:10 5 what he would like to say or do?
 6 A. **He has wanted from day one to apologize to**
 7 **the family and express his remorse. He wanted to go**
 8 **to the funeral and do anything he could to let them**
 9 **know it was an accident, and he knows that it was his**
 14:40:28 10 **vehicle that created that.**
 11 Q. He didn't go because I told him?
 12 A. Right.
 13 Q. We were talking the other day. He said
 14 something about a cross?
 14:40:38 15 A. Yes.
 16 Q. What was he indicating he wanted to do about
 17 a cross?
 18 A. **We drove by the area. I believe we were out**
 19 **there for work. And he noticed that there was not a**
 14:40:48 20 **cross on that site, and he wanted to go out there and**
 21 **put a cross in her honor.**
 22 Q. Is that something that is new or is that
 23 something that's been for sometime?
 24 A. **I think it's been on his mind for some time,**
 14:41:00 25 **but we haven't drove that area for quite sometime. So**
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1 **talked to Kansas Mental Health for a short time.**
 2 Q. And if he needs it, can he still go back to
 3 that?
 4 A. Yes.
 14:39:22 5 Q. Do you know who his counselor was at Mental
 6 Health?
 7 A. **Doug Wright.**
 8 Q. That's a PhD-level psychology?
 9 A. Yes.
 14:39:28 10 Q. So, he has -- the reason he is having these
 11 issues is because of the remorse?
 12 A. Yes.
 13 Q. What has he expressed to you about the
 14 responsibility for this accident?
 14:39:38 15 A. **He takes full responsibility for it. He is**
 16 **upset daily about it. He wakes up in the middle of**
 17 **the night with terrors always on his mind. He can't**
 18 **move past it right now.**
 19 Q. And then that's different from the way he
 14:39:54 20 had processed things before?
 21 A. Yes.
 22 Q. And so he has great regret?
 23 A. Yes.
 24 Q. Has he expressed that to you?
 14:40:00 25 A. **Many times. Almost daily.**
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1 **when we drove by and there was nothing there in her**
 2 **memory, he mentioned it and wanted to put one out**
 3 **there.**
 4 Q. Is he -- he said -- you said you hadn't
 5 driven that route in some time. Is there a reason why
 6 you guys haven't taken that route?
 7 A. **Because it's haunting to him, I guess you**
 8 **could say. Flashbacks.**
 9 Q. Because he took somebody else's life?
 14:41:26 10 A. **Uh-huh. (Witness Indicating Affirmatively).**
 11 Q. Is there anything else you would like to
 12 tell the Court about why you want your husband to have
 13 a chance in the community?
 14 A. **He is just a typical -- or I shouldn't say**
 14:41:36 15 **"typical." He -- he is a good citizen and needs to**
 16 **be out in the community, not only for his autistic**
 17 **sons, but he -- if he is not there, it -- he will**
 18 **affect a lot more than just two boys' routine. A lot**
 19 **of the kids he helps will probably end up in trouble.**
 14:41:54 20 MR. THUSTON: I think that I have no
 21 further questions of this witness.
 22 THE COURT: You may step down.
 23 Call your next witness.
 24 MR. THUSTON: Other than an opportunity
 14:42:08 25 to allocute, we are finished.
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<p style="text-align: right;">65</p> <p>1</p> <p>2 <u>DEFENDANT'S RIGHT OF ALLOCUTION BY THE DEFENDANT</u></p> <p>3</p> <p>4 THE COURT: Mr. Kidwell, you have the</p> <p>14:42:16 5 right of allocution. That means that you have the</p> <p>6 right to make a statement or present evidence to</p> <p>7 lessen your sentence.</p> <p>8 Is there anything you would like to</p> <p>9 state or present?</p> <p>14:42:26 10 THE DEFENDANT: Yes. I would -- I</p> <p>11 just, basically, wanted to take the time to apologize</p> <p>12 to the family.</p> <p>13 Ultimately, I was driving the vehicle,</p> <p>14 and I shouldn't have passed that day. I thought I had</p> <p>14:42:52 15 room, and things happened as I moved to go around her</p> <p>16 and, ultimately, she lost her life, and I am saddened</p> <p>17 by that and have been ever since the day it happened.</p> <p>18 And there is really nothing I can do or say. But I --</p> <p>19 I am sorry. I wish I wouldn't have made the decision</p> <p>14:43:34 20 I made that day.</p> <p>21 THE COURT: Thank you.</p> <p>22 I didn't want to cut you off. I didn't</p> <p>23 know if you were done.</p> <p>24 THE DEFENDANT: Yeah. I mean, I have</p> <p>14:43:56 25 changed my driving totally. I am way more cautious</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">66</p> <p>1 about everything, every little thing now, of course,</p> <p>2 I would hope.</p> <p>3 I do get nervous now when I come up on</p> <p>4 bicyclists and kind of get -- I -- well, I work around</p> <p>14:44:18 5 them bicyclists daily. I mean, Topeka, Lawrence,</p> <p>6 Manhattan, so I am still around bicyclists daily, and</p> <p>7 I am -- I just -- I don't know -- I just pay more</p> <p>8 attention than I ever did, and I try to avoid places</p> <p>9 that they might have something going on. If I see</p> <p>14:44:44 10 them, a group of them, I -- I try to avoid being in</p> <p>11 the area to give them their space.</p> <p>12 Oh, I have had some infractions that --</p> <p>13 I have had a couple of speeding tickets since the</p> <p>14 accident, but it would -- it was nothing that was -- I</p> <p>14:45:16 15 mean, one of them was a new truck that I had got from</p> <p>16 the car lot, had different size tires on it, and it</p> <p>17 threw my speedometer off. We paid for the ticket. I</p> <p>18 paid my fine on that.</p> <p>19 The other one was -- I guess they</p> <p>14:45:36 20 both -- it's the same thing, basically. One was the</p> <p>21 speedometer issue, one is tire issue on the truck. I</p> <p>22 mean, I am responsible for that issue.</p> <p>23 Yeah. I talked to the kids, all of</p> <p>24 them, since we have been on the highway. If they are</p> <p>14:46:04 25 on the highway, certain things to look for since the</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p style="text-align: right;">67</p> <p>1 accident.</p> <p>2 My son, we go through a routine now when</p> <p>3 we get in the vehicle and go somewhere about certain</p> <p>4 things to watch for, certain things to do when you're</p> <p>14:46:20 5 driving. They are getting -- they are turning in</p> <p>6 their teens, they are getting interested in -- in</p> <p>7 getting their learner's permit, so we have been going</p> <p>8 through all the things you should and shouldn't do</p> <p>9 when you're driving.</p> <p>14:46:38 10 Yeah. I am going to read what I have</p> <p>11 written down.</p> <p>12 THE COURT: All right.</p> <p>13 THE DEFENDANT: Your Honor, on June 7th</p> <p>14 last year I was driving to do some work. It was a</p> <p>14:46:56 15 normal day. It will change my life forever.</p> <p>16 I went through Walnut and noticed people</p> <p>17 on bicycles. I knew that I needed to be more</p> <p>18 attentive and careful.</p> <p>19 Judge, I have a CDL I have carried three</p> <p>14:47:16 20 years and I know my responsibilities when driving. I</p> <p>21 know how I should respond when driving.</p> <p>22 I passed one person on a bicycle and</p> <p>23 then I approached Miss Taylor. And as I went to pass</p> <p>24 her, a hill come up in front of me at the same time</p> <p>14:47:40 25 and I had the responsibility to Miss Taylor; I should</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">68</p> <p>1 have stopped trying to pass her.</p> <p>2 Once I saw the hill, I didn't -- I</p> <p>3 didn't, and that was reckless and that decision led to</p> <p>4 the accident and took Miss Taylor's life.</p> <p>14:48:04 5 My attorney had told me he thinks we</p> <p>6 could do better at trial but, ultimately, I have took</p> <p>7 responsibility from day one. I have felt that way</p> <p>8 since the moment that the accident happened.</p> <p>9 I wanted to go to the family on it. My</p> <p>14:48:26 10 attorney advised me that it wouldn't be for the best</p> <p>11 at the time.</p> <p>12 Once again, I just want to apologize to</p> <p>13 the family. My driving took your loved one. I know</p> <p>14 you hate me, and have every right to, but I must make</p> <p>14:48:56 15 amends. Words cannot express how sorry I am for your</p> <p>16 loss that I caused.</p> <p>17 I try to teach my two sons that we have</p> <p>18 to take responsibility for our actions, and I don't</p> <p>19 believe I am an example.</p> <p>14:49:12 20 Things happened so fast and I didn't --</p> <p>21 I did not have enough room to pass Miss Taylor safely.</p> <p>22 This doesn't matter. I am responsible for her death,</p> <p>23 and I will live with that fact that I have killed</p> <p>24 someone for the rest of my life.</p> <p>14:49:30 25 I wish I could go back to that day and</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<p style="text-align: right;">69</p> <p>1 change what happened, but I cannot. Now I must face</p> <p>2 the consequences of my actions, and like I try to</p> <p>3 teach my sons.</p> <p>4 And, actually, I was on that route that</p> <p>14:49:50 5 day because, since you guys know that are from here, I</p> <p>6 am sure -- that St. Paul has a bridge being rebuilt,</p> <p>7 so I normally don't take that route because of the</p> <p>8 narrow highway. But I took that route to avoid going</p> <p>9 through the detour, because, you know, the traffic</p> <p>14:50:10 10 where the bridge was being rebuilt. I had no idea</p> <p>11 the race was going on until I got to Walnut.</p> <p>12 Ultimately, if I had known the race was</p> <p>13 going on, I probably wouldn't have took that route,</p> <p>14 just for courteousness, but I did.</p> <p>14:50:34 15 That's all I got.</p> <p>16 MR. THUSTON: Who told you to take that</p> <p>17 route, to go that way?</p> <p>18 THE DEFENDANT: My attorney. Because</p> <p>19 we talked about the bridge being out. We talked</p> <p>14:50:42 20 before it ever happened. I stayed in touch with him</p> <p>21 about things, about work, and he told me that bridge</p> <p>22 was out. If I had to go that way, I probably should</p> <p>23 take the Walnut cutoff, and that's the reason that I</p> <p>24 did. I didn't even realize the bridge was out. But I</p> <p>14:51:04 25 took the cutoff. That's all I have.</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">70</p> <p>1 THE COURT: Thank you.</p> <p>2 Mr. Gayoso, do we have victim</p> <p>3 notification?</p> <p>4 MR. GAYOSO: We do, Your Honor.</p> <p>14:51:14 5 THE COURT: Do we have victims present</p> <p>6 that wishes to speak?</p> <p>7 MR. GAYOSO: Yes, Your Honor.</p> <p>8 THE COURT: You may begin.</p> <p>9</p> <p>10</p> <p>11 <u>VICTIM IMPACT STATEMENT BY MR. JOE SAIA</u></p> <p>12 <u>SPOUSE OF DECEASED, GLENDA TAYLOR</u></p> <p>13</p> <p>14 MR. JOE SAIA: My name is Joe Saia,</p> <p>14:51:58 15 and I am Glenda's husband.</p> <p>16 Your Honor, thank you for allowing me to</p> <p>17 speak today. I have the honor of speaking to you on</p> <p>18 behalf of myself as Glenda's husband and also on</p> <p>19 behalf of her workplace and her family.</p> <p>14:52:22 20 It is my desire to share a bit of my</p> <p>21 wife's personality and specialness with you in order</p> <p>22 to help you understand what a loss her death</p> <p>23 represented to myself, our family, her workplace and</p> <p>24 our entire community.</p> <p>14:52:42 25 I will begin with Washburn University.</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p style="text-align: right;">71</p> <p>1 Glenda was a Professor and Chair of the</p> <p>2 Washburn Art Department for 28 years. I, myself, have</p> <p>3 been working in the Purchasing Department at Washburn</p> <p>4 for the last five years and have considered it a dream</p> <p>14:53:02 5 position as my office is only about three hundred</p> <p>6 yards or so from her art building. My office window</p> <p>7 overlooks the main office, the main open space and</p> <p>8 walkway on campus. It's a beautiful view. Whenever I</p> <p>9 talk on the telephone, I turn and look out the window.</p> <p>14:53:26 10 There are so many beautiful things to see.</p> <p>11 I have seen Glenda walking across this</p> <p>12 space many times from this window and sometimes with</p> <p>13 colleagues, sometimes by herself. It seems that she</p> <p>14 always walks a half step or so in front of anybody she</p> <p>14:53:42 15 is walking with. She always had the big smile on her</p> <p>16 face and she is always motioning with her arms and</p> <p>17 hands. Her unbridled enthusiasm is actually evident</p> <p>18 from over 200 yards away.</p> <p>19 I am also an alumni from the Class of</p> <p>14:54:02 20 1975 from the Washburn School of Business, so Glenda</p> <p>21 and I shared something very special pertaining to our</p> <p>22 jobs and the University on a daily basis.</p> <p>23 We often spent our lunch breaks together</p> <p>24 and had a great time running small errands around</p> <p>14:54:22 25 campus and around town.</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">72</p> <p>1 Several of the Washburn faculty and</p> <p>2 staff are here today along with some of her ceramic</p> <p>3 students. There is also one of her ex-students on</p> <p>4 whom Glenda had a significant impact, who flew all the</p> <p>14:54:40 5 way from California to be present today.</p> <p>6 This is just -- this is indicative of</p> <p>7 the kind of positive influence that Glenda had on the</p> <p>8 students she taught and the co-workers with whom she</p> <p>9 shared her work days.</p> <p>14:54:58 10 The students present today have been</p> <p>11 involved in the last few months in creating a very</p> <p>12 large ceramic sculpture that is dedicated to Glenda on</p> <p>13 the wall surrounding the entrance to the Ceramics Room</p> <p>14 in the Art Building. Their enthusiasm, talent and</p> <p>14:55:20 15 dedication to Glenda's memory is something to behold.</p> <p>16 A couple of weeks ago I was even invited</p> <p>17 to contribute to the construction of the sculpture by</p> <p>18 providing some of Glenda's ashes with which they mixed</p> <p>19 a special glaze to adorn the clay. They named this</p> <p>14:55:44 20 sculpture -- they named it gusto. It was one of</p> <p>21 Glenda's favorite expressions when interacting with</p> <p>22 the students.</p> <p>23 The Washburn Art Department asked me to</p> <p>24 share this following short message.</p> <p>14:56:04 25 I quote: "As an Art Professor and Art</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<p style="text-align: center;">73</p> <p>1 Department Chair, Glenda made everyone feel special. 2 She would take time from writing a budget report, 3 cleaning kiln shelves or sending e-mails to help and 4 mentor students. Absolutely no appointment necessary 14:56:28 5 ever. They could always drop in and see this woman. 6 "She touched the lives of students with 7 her ability to understand what each individual student 8 needed at that point in time and then provide 9 direction to them. 14:56:40 10 "We are saddened that many will never 11 experience the gift of her knowledge and love. She 12 was not only our artistic leader, she was our creative 13 spirit." 14 And that was just a statement that the 14:56:56 15 students gave me just last week. 16 Next, I want to read the statement 17 prepared by Glenda's family. 18 "Dear Honorable Judge: We are Glenda's 19 family. Her dad, Gordon; her mom, Joyce; her younger 14:57:16 20 brother, Roger; her oldest brother, Terry; and her 21 younger sister, Nina. 22 "Over the course of Glenda's life we 23 have had the honor and privilege of being her family 24 before she was so senselessly and cruelly taken from 14:57:36 25 our lives. It was a day and moment in time that we <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>	<p style="text-align: center;">74</p> <p>1 will never forget. We continue to be there for each 2 other, but there remains an emptiness inside of us 3 that will be there for the rest of our lives. 4 "We want you to know that the name 14:57:50 5 "Glenda" means "good." She was good to her family, 6 her friends, her students, her fellow cyclists and 7 co-workers. She was a shining example of good things 8 happen to good people until this tragic crime. 9 "So, over the last 18 months our family 14:58:14 10 has suffered greatly with the loss of our dear Glenda. 11 The actions of Mr. Kidwell have greatly affected our 12 lives. Since he committed this crime, we have longed 13 for the day when he was required to face the 14 consequences of his reckless behavior. Please do not 14:58:32 15 mistake our absence in the courtroom today as lack of 16 concern or interest in this process. We are grief 17 stricken and cannot bring ourselves to face the man 18 who has taken Glenda from our lives. He has ripped 19 away the core of our family while aging her parents 14:58:52 20 who should never have had to bury their child. 21 "The family asked that today you use 22 your experience and heart in sentencing this man to 23 prison for the crime he has committed. Society needs 24 to be protected from individuals like Mr. Kidwell, who 14:59:10 25 have no regard for the gift of life. We pray that God <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>
<p style="text-align: center;">75</p> <p>1 guides you in this process. Sincerely, the family of 2 Glenda Taylor." 3 And I do want to mention that Glenda's 4 father has early onset Alzheimer's, and because of 14:59:28 5 him, they wanted to be with him today, and he was just 6 not able to make the trip. 7 The other people just could not bring 8 themselves to be -- to be in this situation today. 9 And then, finally, Your Honor, I want to 14:59:48 10 close with some of my own thoughts. 11 Two hours before my father died after 12 mom had left his hospital room for the day, dad looked 13 at me and said, "I never deserved a woman like that." 14 I feel exactly the same way about my adorable wife, 15:00:10 15 Glenda Taylor. She was by far the best human being I 16 have ever known. She was a wonderful companion, 17 confidant, training partner, teacher, mentor and wife. 18 She was truly excited about everything that life had 19 to offer, whether it was hiking, running, teaching at 15:00:32 20 Washburn, cycling, throwing pots, canning vegetables, 21 sewing, golfing, gardening or cooking. She did it 22 with gusto. She made me want to be a better person by 23 showing me how to color outside of the lines of life. 24 Early in our marriage, I would try to 15:00:54 25 help her buy Christmas gifts, birthday gifts for our <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>	<p style="text-align: center;">76</p> <p>1 young nieces and nephews. One time I picked up a 2 couple of kids' coloring books. And she said, "No. 3 You never buy kids' coloring books. You don't want to 4 confine their imagination. You want to give something 15:01:16 5 that they can create themselves." So, coloring books 6 was a no, no. I learned that lesson very early. 7 Many, many people miss Glenda's warm 8 smile and encouraging personality. She was a great 9 person. My time with her seemed short and I miss her 15:01:32 10 terribly, but I consider myself lucky to have had her 11 in my life. 12 Glenda and I were married for 27 years 13 and 360 days. Our 28th anniversary was on the Friday 14 after she was killed. 15:01:48 15 There are powerful triggers that remind 16 me of her that pop up in daily routine activities. 17 It could be a song on the radio, an item on TV, or a 18 reference to her mentioned in everyday conversation. 19 Whenever I get a haircut -- and I only 15:02:06 20 get about three or four a year -- one thing that I am 21 typically asked by my barber is, did I want my 22 eyebrows trimmed? I have always declined with 23 explanation that my wife enjoys doing this and I will 24 save the task for her. The truth is, that I enjoyed 15:02:26 25 it a whole lot more than Glenda. <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>

<p style="text-align: right;">77</p> <p>1 She used to sit me down, comb the brows 2 up and then trim them with very short scissors. I 3 would complain dutifully and warn not to cut them off 4 completely, and she would warn me to hold still or my 15:02:42 5 eye could get poked out, indicating one of many little 6 rituals which always got us laughing. 7 So when my barber asked if I wanted my 8 eyebrows trimmed a few weeks ago, tears immediately 9 welled up in my eyes. She asked me what was wrong, 15:03:00 10 and I could simply say, I had to tell her it reminded 11 me of better times, which are forever gone. 12 The very next day after she was killed, 13 there was a beautiful candlelight vigil on the 14 Washburn University campus evening after Kidwell took 15:03:22 15 her life. Almost a hundred fifty of Glenda's 16 students, faculty and friends shared their favorite 17 stories about her. I was kind of standing in the 18 background and many people didn't know who I was. 19 And, finally, there was an opening and I could say my 15:03:40 20 favorite story about Glenda. It was incredible to 21 hear how she influenced the lives of so many of these 22 people, whether it was a fellow professor who was 23 touched by her energy and excellence, a student whom 24 she influenced in many positive ways, or one of the 15:03:58 25 many people who admired and loved the wonderful art <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>	<p style="text-align: right;">78</p> <p>1 that she created. 2 One of my favorite stories about Glenda 3 was the first weekend we met at the Topeka Ten-Men 4 Triathlon in 1986. 5 My strategy for meeting women had 6 recently changed from frequenting bars to a stated 7 goal of meeting fit Kansas farm girls at athletic 8 events. That turned out to be an incredibly 9 successful strategy beyond my wildest dreams. 15:04:32 10 The night before the Triathlon, I got a 11 call from a very good friend and he wanted me to come 12 over to his house to eat some pasta to carbo load for 13 the Triathlon and to meet this girl. And I tried very 14 hard to talk him out of it. I was messing around with 15:04:52 15 my bicycle and my equipment and I wanted to be sure I 16 was ready to go the following morning. But, finally, 17 he just said, "Joe, get over here." 18 I went over there and met her that 19 evening. The next day I spoke to her briefly in the 15:05:10 20 lake before the swim with both of us wishing the other 21 luck. At the time, I was still under the misguided 22 impression that any fit man can beat any fit woman, 23 thus thinking about just how I would best Glenda on 24 that morning. 15:05:30 25 The swim was not my strong event of the <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>
<p style="text-align: right;">79</p> <p>1 three, but I planned to make great time in the bike 2 portion and maintain a lead over her in the seven-mile 3 run. Several times during the swim, as I was doing 4 the breast stroke and side stroke I would have 15:05:46 5 lifeguards from the kayaks paddle up to me and ask me 6 if I needed assistance. I would simply reply, no, 7 this is the way I swim. 8 So, anyway, after the swim, when I got 9 to the transition area, there was no sign of her bike. 15:06:04 10 She was long gone. I jumped on my bike and sped down 11 the road. I finally caught her towards the end of the 12 bike course. We entered the transition together, 13 changed into our running shoes and headed out on to 14 the run around Lake Shawnee. After about three miles 15:06:24 15 or so running side by side, I decided it was time to 16 show this girl the natural order of things. I had 17 mentioned earlier that I was in -- (Person in the 18 audience coughed). 19 I upped my pace to a point which should 15:06:38 20 have dropped her, but she kept her position easily. A 21 short time later I upped my pace again to a speed 22 which was too fast for me but was easily managed by 23 her long stride. 24 After she pulled away, I ended up 15:06:52 25 crossing the line about six minutes behind her, <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>	<p style="text-align: right;">80</p> <p>1 finding her with a big smile at the finish line. She 2 immediately complemented me on my effort, talking 3 about the excessive heat, without a hint of gloating. 4 We were faithfully together from 1986 15:07:08 5 until she was killed by Mr. Kidwell in June of 2015. 6 Crawford County has impressed myself and 7 many friends in Topeka and Kansas City with it's 8 willingness to hold Kidwell accountable for his 9 actions on that day. 15:07:28 10 Cresting hills in the on-coming lane on 11 a two-way highway indicates disturbing behavior. 12 As Your Honor likely recalls from 13 earlier hearings in this case, Sherry Hahn, who 14 testified that day, observed Mr. Kidwell driving in 15:07:46 15 the on-coming traffic lanes each time he crested a 16 hill. After he crested the hill, he moved over into 17 the right-hand lane and drove -- wasn't speeding -- 18 but he continued on in the right-hand lane. But each 19 time there was a grade, he moved over into the 15:08:06 20 on-coming lane while driving his large pickup truck 21 and towing a trailer. There was no reason given for 22 this driving behavior. What could have possibly been 23 in his head as he endangered the lives of unsuspecting 24 motorists that morning? We will probably never know. 15:08:28 25 As he left Walnut that morning, <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>

<p style="text-align: right;">81</p> <p>1 testimony in a previous hearing indicated that 2 Mr. Kidwell was aware of a bike event happening in the 3 area. He observed the registration tent and riders 4 in the area. He said in his testimony that he noticed 15:08:48 5 Glenda on the road one half mile away when he was a 6 half mile away from her, and he noticed her again at 7 one-fourth mile away. 8 As he drew close to her, absolutely 9 aware she was there, with no evasive actions, he 15:09:06 10 struck her from behind with his truck hard enough to 11 throw her body 169 feet into the roadside ditch. 12 Most of her bones in both legs, arms and 13 torso were instantly broken from the vicious impact. 14 The coroner's report indicated that 15:09:28 15 bones in her left arm below her elbow were broken. 16 Bones in her left arm between her elbow and shoulder 17 were broken. Bones in her right arm between her elbow 18 and wrist were broken. Bones in her right arm between 19 the elbow and shoulder were broken. Same way holds 15:09:52 20 true for both of her legs. Bones below her knee and 21 her left leg and above her knee, and bones below her 22 right knee and bones above her right knee on her right 23 leg were also broken. 24 Her aortic artery was torn from her 15:10:12 25 heart and her pelvis was crushed. <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>	<p style="text-align: right;">82</p> <p>1 The absence of tire marks on the highway 2 indicates that he made no evasive actions before he 3 struck her. The damage to the truck was not on the 4 right quarter panel or rearview mirror, as you would 15:10:30 5 expect. It was on the front of the grill. 6 In order to strike Glenda in this 7 position on the front of his truck, his right tires 8 would have had to have been close to, if not on the 9 right white line on the right side of the road in 15:10:50 10 order to have struck her in this location. 11 Glenda was riding in the correct 12 position. Kidwell's actions was in total disregard of 13 the Kansas three-foot law as well as common sense. 14 Gouge marks from her bicycle broken seat 15:11:14 15 tube in the new asphalt indicate that Glenda was with 16 (sic) 13 inches of the right side of the road when she 17 was struck by Mr. Kidwell. This shows that she was 18 riding in the correct position. 19 I went out there a couple of weeks 15:11:30 20 later. I could see the gouges on the road. I took 21 my foot, which is 12 inches long with my shoe, I lined 22 it up between the white line and the gouge mark there, 23 and there was one inch. So that's how I got the 24 estimate that the closest gouge mark was 13 inches 15:11:50 25 from the right side of the road. She was in the <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>
<p style="text-align: right;">83</p> <p>1 correct position on the road. 2 Highway 146 through Walnut is on one of 3 the most popular routes for bicyclists riding across 4 the Continental United States. I have been told it's 15:12:14 5 on many people's bucket list. The Transamerica Trail 6 is a sanctioned, nationally-recognized route which 7 draws thousands of cyclists per year. The route was 8 planned with the goal of using the safest highways 9 possible. Obviously, the route planners were not 15:12:30 10 aware that Mr. Kidwell resided in the area and 11 recklessly drives his truck around Southeast Kansas 12 while accumulating speeding tickets and performing 13 insane stunts on the highway. 14 Will he slow down, use caution, obey the 15:12:52 15 three-foot passing rule if he encounters cyclists on 16 this trail in the future? I, for one, do not think 17 that he will. 18 Your Honor, I know that you must weigh 19 many factors in reaching your decision today. I know 15:13:10 20 you must balance the safety to the community with the 21 aspect of punishment and also the likelihood of 22 rehabilitation of Mr. Kidwell while he is in prison. 23 We know you have a range in the sentence to choose 24 from. Please know that we, myself, Glenda's family, 15:13:34 25 and the cycling community seek prison time. How much <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>	<p style="text-align: right;">84</p> <p>1 time is up to you. We hope that it will be 2 substantial. 3 Please consider the likelihood that 4 Mr. Kidwell will not correct his driving behavior if 15:13:52 5 he is not in prison. 6 After he hit and killed my wife in June 7 of 2015, Kidwell went on to acquire at least two more 8 driving citations convictions, one of which occurred 9 on March 12th, 2016, in Neosho County in which he was 15:14:16 10 cited for driving 84 in a 55 mile-an-hour zone. 11 A few months later, on June 23rd, 2016, 12 in Wichita County, he was cited for going 54 in a 40. 13 These are just two documented examples in which he was 14 caught, of how Kidwell operates his vehicle on the 15:14:44 15 roads of Kansas. There are likely many more times in 16 which he was not caught. Odds are, that would be 17 true. 18 The fact that he would continue driving 19 in this careless and reckless fashion, after he hit 15:15:04 20 and killed my wife, clearly demonstrates that he is a 21 menace on our roads, and I ask you to please protect 22 our communities. 23 As part of the sentence you impose, 24 please also consider revoking Mr. Kidwell's driver's 15:15:24 25 license permanently, as there is no reason to believe <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p> </p>

<p style="text-align: right;">85</p> <p>1 that he will drive correctly after his release from 2 prison.</p> <p>3 Your Honor, I ask that you take judicial 4 notice of these subsequent driving violations as part 15:15:40 5 of your consideration today.</p> <p>6 May I bring the documents up to you?</p> <p>7 THE COURT: Sir, that's not a proper 8 method of admitting evidence. I am sorry the 9 prosecutors didn't speak to you about that. But the 15:15:58 10 State has taken the position that they will stand 11 silent. They can't avoid that obligation by having 12 you admit evidence on behalf of the State. It would 13 be a violation of the plea agreement. It would likely 14 result in a reversal of this case, unfortunately.</p> <p>15:16:14 15 I cannot accept those documents.</p> <p>16 MR. GAYOSO: For the record, Your Honor, 17 these documents were obtained by his attorney, and I 18 believe they are certified documents for the Court to 19 take. And he, as the victim, is asking the Court not 15:16:28 20 to make any --</p> <p>21 THE COURT: But it's still evidence 22 that has not been provided to the defendant as part of 23 discovery in the sentencing, and I will not consider 24 that.</p> <p>15:16:40 25 MR. SAIA: Mr. Kidwell's attorney, CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">86</p> <p>1 Mr. Thuston, is quoted in the Iola Register regarding 2 an accident that motivated him to run for the Allen 3 County Attorney's position. This is from a newspaper 4 article in 2008 in which Mr. Thuston describes an 15:17:04 5 accident that he witnessed on the highway.</p> <p>6 He was quoted in this newspaper article 7 as saying, "When someone dies, you should get jail 8 time."</p> <p>9 I do agree with Mr. Thuston on this 15:17:20 10 point, though we are asking you to impose prison time, 11 not jail time. I just wanted to mention that.</p> <p>12 I realize that incarcerating Mr. Kidwell 13 will never bring back my Glenda. I'm not out for 14 revenge. I do believe that the community needs 15:17:40 15 protection from a man who conducts himself in his 16 vehicle so recklessly.</p> <p>17 If there is to be any good from this, I 18 hope that Glenda's case will impact Kansas motorists 19 and that they will drive carefully around cyclists.</p> <p>15:17:58 20 Your sentence will send a message that 21 hitting and injuring or killing a cyclist who is 22 legally riding on the roadways of this State is 23 behavior that will not be tolerated.</p> <p>24 If our State has decided to enact the 15:18:16 25 three-foot passing law, as so many states have done, CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p style="text-align: right;">87</p> <p>1 let us please give the law some teeth by enforcing it. 2 Let the sentence speak to the severity of the crime 3 committed here in this case.</p> <p>4 I will never find another woman like 15:18:44 5 Glenda, and my life will never be the same without 6 her.</p> <p>7 Much like my dad's remark to me from his 8 death bed a couple of years ago, I truly did not 9 deserve a woman like Glenda. I loved her to the moon, 15:19:00 10 and now struggle every day to find meaning in my life, 11 while trying to find a reason to continue without her.</p> <p>12 She would be so impressed if she can see 13 all of her friends, students, and colleagues in this 14 courtroom today. I know that she would very much want 15:19:24 15 to safeguard other cyclists, pedestrians, and 16 motorists from Mr. Kidwell by seeing him taken off the 17 roads.</p> <p>18 I do not hate this man and know that 19 nothing will ever bring my wife back, but he must be 15:19:42 20 incarcerated in prison for the maximum allowed time in 21 order to safeguard innocent people.</p> <p>22 Time in the State penitentiary is 23 certainly warranted for this ignorant, reckless 24 person. So that is why I ask, and all of Glenda's 15:20:00 25 friends and family ask that he receive the maximum CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">88</p> <p>1 time allowed in the State Prison System. Only then 2 can this caring, lovely, exceptional woman named 3 Glenda Taylor truly rest in peace.</p> <p>4 I would like to add some additional 15:20:26 5 thoughts based on the witnesses speaking earlier. 6 These are not organized in an outline, but I just want 7 to mention some of these things.</p> <p>8 Concerning the LSIR risk assessment 9 testimony from the first witness.</p> <p>15:20:48 10 A low risk score of 10, which he has 11 rarely, if ever, seen, is absolutely contradicted by 12 the two tickets Mr. Kidwell received after he killed 13 Glenda.</p> <p>14 Concerning another comment by 15:21:10 15 Mr. Thuston with the fourth witness, this was not a 16 freak accident. It was not an accident at all. He 17 said he saw her on the road a half-mile away. This 18 was -- witness was from -- the policeman from Chanute 19 city.</p> <p>15:21:36 20 Concerning the high school student; how 21 does a role model, whom he says Mr. Kidwell is, kill a 22 cyclist on the road? Did they have a conversation 23 about this? Did Mr. Kidwell explain to him what 24 happened? I would not let my children near a man that 15:22:00 25 did this. Glenda and I did not have any children, but CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<p style="text-align: right;">89</p> <p>1 I don't think that I would let our children near him.</p> <p>2 The first thing that I would do if I hit</p> <p>3 someone on the road while being in my vehicle, I would</p> <p>4 call the victim's family and apologize. I wouldn't</p> <p>15:22:24 5 think about it or agonize about it. I wouldn't wonder</p> <p>6 if it's the right thing to do. It's what I would do.</p> <p>7 No one on my side of the family, none of</p> <p>8 the cycling community, none of my friends, none of my</p> <p>9 family has heard a peep out of this guy. Wouldn't a</p> <p>15:22:48 10 guy that is truly sorry and truly remorseful offer</p> <p>11 those feelings before the Sentencing Hearing? I think</p> <p>12 that he would have and should have.</p> <p>13 I just want to look back on today and</p> <p>14 know that I did the right thing by trying to protect</p> <p>15:23:16 15 innocent people. It is the right thing to do to</p> <p>16 remove this person from the position in which he can</p> <p>17 hurt people. The issue is not whether he is</p> <p>18 considered a good human being by some people.</p> <p>19 Everyone considers Glenda a good human being. There</p> <p>15:23:42 20 is good human beings all over the place.</p> <p>21 Is he teaching these young people how to</p> <p>22 drive? Is he offering them tips like don't talk on</p> <p>23 the cell phone, don't drink and drive, keep both hands</p> <p>24 on the wheel, kept your eyes on the road? How can a</p> <p>15:24:00 25 person such as this have anything constructive to</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">90</p> <p>1 teach a young person about driving?</p> <p>2 Back in the '90s, I commuted to Kansas</p> <p>3 City from Lawrence and drove in the neighborhood of</p> <p>4 270,000 miles back and forth to work every day in the</p> <p>15:24:24 5 rain, in the snow, on the ice. I didn't miss a day</p> <p>6 because of weather. This was on a treasured Honda</p> <p>7 Civic that got great gas mileage. I didn't receive</p> <p>8 any warnings, no tickets, no accidents. I had really</p> <p>9 not given this much of a thought until today, that I</p> <p>15:24:48 10 didn't get any tickets during that time. It's just</p> <p>11 what truly responsible people do, is how they drive</p> <p>12 their vehicles.</p> <p>13 He has had 19 months to erect a cross on</p> <p>14 the site or to apologize to someone. Nothing from him</p> <p>15:25:08 15 up to this point. I have been in Topeka the entire</p> <p>16 time.</p> <p>17 The oncoming car in the other lane was</p> <p>18 not mentioned today. Did he forget about this? I</p> <p>19 just notice that he did not mention that.</p> <p>15:25:40 20 The speedometer defense is incredibly</p> <p>21 lame and, naturally, I do not believe that, that you</p> <p>22 don't know how fast you're going because your</p> <p>23 speedometer has the wrong size tire on the wheel.</p> <p>24 This is a ex-professional driver who is</p> <p>15:26:02 25 supposed to have superior vision, superior reactions</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p style="text-align: right;">91</p> <p>1 and know exactly where he and his vehicle in relation</p> <p>2 to the road is at all times. I just don't believe</p> <p>3 that.</p> <p>4 And in a final closing statement, Todd</p> <p>15:26:22 5 Kidwell is wrong when he says that I hate him, or my</p> <p>6 family hates him or Glenda's family hates him. He is</p> <p>7 wrong. We want to protect the citizens of Kansas.</p> <p>8 And that's all I have, Your Honor.</p> <p>9 THE COURT: Thank you.</p> <p>15:26:42 10 Mr. Thuston, any comments from Counsel?</p> <p>11 MR. THUSTON: Your Honor, I assume this</p> <p>12 would be our closing.</p> <p>13 THE COURT: This would be our closing.</p> <p>14 Let me confirm with Mr. Gayoso. There</p> <p>15:26:58 15 was just one Victim Impact Statement today, is that</p> <p>16 correct?</p> <p>17 MR. GAYOSO: That's correct.</p> <p>18 THE COURT: Your closing argument, sir.</p> <p>19</p> <p>20</p> <p>21 <u>CLOSING ARGUMENT BY MR. THUSTON</u></p> <p>22</p> <p>23 MR. THUSTON: Now, as a duel Washburn</p> <p>24 Alum, I would like to offer my condolences to the</p> <p>15:27:14 25 family. In a profession in which we deal with</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">92</p> <p>1 people, and I deal with victims in the neighboring</p> <p>2 county on a regular basis, they don't always</p> <p>3 understand what goes into the legal process.</p> <p>4 Mr. Kidwell, from the moments after this</p> <p>15:27:30 5 accident occurred, you will recall at the preliminary</p> <p>6 hearing, the testimony was, the immediate response</p> <p>7 was, "I am sorry. I didn't mean to hurt her." He</p> <p>8 never stopped saying that.</p> <p>9 Now, when we look at what's going on</p> <p>15:27:50 10 here, to say this was not an accident may be</p> <p>11 applicable in other places, but the charge for which</p> <p>12 Mr. Kidwell has been convicted specifically requires</p> <p>13 it to be an accident. This is an accidental killing,</p> <p>14 not Mr. Kidwell's intention on that day in June to do</p> <p>15:28:16 15 it.</p> <p>16 I will tell you, as you heard</p> <p>17 Mr. Kidwell state earlier, the reason he was on this</p> <p>18 route was because of the advice I gave him. 47 had</p> <p>19 been torn up for some time and, as Mr. Kidwell said, I</p> <p>15:28:36 20 told him it would be safer to go the other route.</p> <p>21 The day of the accident, Todd called me</p> <p>22 at church, fairly hysterical, fairly -- extremely</p> <p>23 remorseful, and it bothered me. And I will tell you,</p> <p>24 I am probably fortunate that I was at church when he</p> <p>15:29:08 25 called me, because, as Todd has said, I am sure if</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<p style="text-align: right;">93</p> <p>1 Mr. Taylor himself -- Mr. Saia -- excuse me -- himself</p> <p>2 -- this day changed a lot of people. I still suffer</p> <p>3 personally. Because if I wouldn't have said go that</p> <p>4 way, Todd wouldn't have been there.</p> <p>15:29:42 5 You heard the people from our community</p> <p>6 and requesting non-prison sanction. The question is,</p> <p>7 is there a treatment program and would he benefit? He</p> <p>8 suffers from depression and anxiety.</p> <p>9 You heard the testimony that he</p> <p>15:30:00 10 receives medications for it and he goes to counseling.</p> <p>11 You heard countless people -- if you</p> <p>12 look in the courtroom, it's, what I would say, Your</p> <p>13 Honor, from my experience, has been truly rare when</p> <p>14 the victim is an exceptional person and the defendant</p> <p>15:30:18 15 is also a good person. You are people from different</p> <p>16 communities -- and this is a big courtroom -- and if</p> <p>17 you look on the right side all the way to the back,</p> <p>18 these are people here from the community that love</p> <p>19 Todd Kidwell and know the benefits that he gives the</p> <p>15:30:36 20 community and how he enhances to serve the community.</p> <p>21 His wife is here, his kids are here, his</p> <p>22 daughters' basketball coach is here, we had a school</p> <p>23 principal here, three cops were here, probation</p> <p>24 officer is here, there are other attorneys that are</p> <p>15:30:52 25 here that know Mr. Kidwell and know how he benefits</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">94</p> <p>1 the community.</p> <p>2 Now, this was a foreseeable accident and</p> <p>3 to think that it wasn't flies in the face of what we</p> <p>4 heard at the preliminary hearing where the first thing</p> <p>5 that the deputy said, he said, after receiving the</p> <p>6 call was, "Why do they have this race?" And that "One</p> <p>7 of these days someone is going to get hit." And</p> <p>8 "someone is going" -- "there is going to be an</p> <p>9 accident."</p> <p>15:31:26 10 Mr. Kidwell, although I may have tried</p> <p>11 to persuade him otherwise, has always said, "I am</p> <p>12 responsible." It's rare that you see someone who is</p> <p>13 willing to say specifically that they are responsible.</p> <p>14 Apparently, this accident, at least</p> <p>15:31:52 15 Miss Taylor's death, could maybe go to protect someone</p> <p>16 else of having this happen.</p> <p>17 If you will notice when you drive around</p> <p>18 Crawford County before this accident, there weren't</p> <p>19 any signs about what to do when approaching a bicycle.</p> <p>15:32:08 20 After this accident, there are signs, especially on</p> <p>21 146, that say the three-foot passing rule.</p> <p>22 Questions about Mr. Kidwell's driving</p> <p>23 before the incident to me are fairly incredible</p> <p>24 because, if there was that erratic driving on this</p> <p>15:32:28 25 Sunday morning on a very busy road, that there were no</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p style="text-align: right;">95</p> <p>1 calls made about an erratic driver.</p> <p>2 146 may have been in service in Crawford</p> <p>3 County if it had not been resurfaced in Neosho County.</p> <p>4 And if you drive on that road, especially if you are</p> <p>15:32:44 5 in a pickup, you bounce around quite a bit.</p> <p>6 The first date we had court, I drove</p> <p>7 Mr. Kidwell to court, and we bounced in my Avalanche</p> <p>8 considerably, and he had a bad emotional response</p> <p>9 because he said, "This is what I was -- would -- that</p> <p>10 day."</p> <p>11 THE REPORTER: "This is" -- You're going</p> <p>12 to have to keep your voice up, please.</p> <p>13 MR. THUSTON: This is what he was</p> <p>14 experiencing when he was driving on that day.</p> <p>15 THE REPORTER: Thank you.</p> <p>16 MR. THUSTON: We heard from Todd's</p> <p>17 family, we heard from the people in the community.</p> <p>18 Retired Judge Brazil used to say in</p> <p>19 certain cases, that we send people to prison for</p> <p>15:33:30 20 certain crimes and it seems as though we send people</p> <p>21 to criminal refinishing school.</p> <p>22 And the other Judge Fleming, I have</p> <p>23 heard on at least one occasion I heard say, that</p> <p>24 prison should be reserved for people who really affect</p> <p>15:33:44 25 in a nasty way in the community and don't really have</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">96</p> <p>1 a chance to advise and give benefit to the community.</p> <p>2 In the Victim Impact Statement that the</p> <p>3 defendant attached to the PSI, the family had</p> <p>4 indicated that they wanted Mr. Kidwell to do Community</p> <p>15:34:06 5 Service. You can't do that if you go to prison.</p> <p>6 Now, when asked a question about no</p> <p>7 regard for the gift of life, I would have to take</p> <p>8 issue with that.</p> <p>9 One of the things that, specifically</p> <p>15:34:18 10 after the accident happened, Mr. Kidwell did do was</p> <p>11 stopped. They stopped and attempted to render aid.</p> <p>12 They actually moved the victim, thinking that there</p> <p>13 was going to be a helicopter there coming to save her</p> <p>14 life. If Mr. Kidwell had no regard for the victim's</p> <p>15:34:36 15 life, he wouldn't have stopped.</p> <p>16 I will tell you that they quoted me on</p> <p>17 an incident that occurred where someone was driving a</p> <p>18 BMW past almost seven vehicles to include three semis</p> <p>19 and had a head-on collision and the person died, and</p> <p>15:34:56 20 they weren't charged and didn't take responsibility.</p> <p>21 There were two fatalities there. In that case, I did</p> <p>22 state somebody needs to go to jail, but it was because</p> <p>23 no one had been charged or no one had been held</p> <p>24 accountable. The facts of what you see in things like</p> <p>15:35:14 25 this are considerable and different. This was an</p> <p style="text-align: center;">CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<p style="text-align: right;">97</p> <p>1 accident, and you heard the preliminary hearing. 2 It wasn't quite as one-sided as some 3 would believe. This was a situation of things that 4 happened very quickly. And if you are familiar with 15:35:34 5 that road, or anyone who has started to pass someone 6 and perhaps come on a hill or pulls up thinking, I can 7 get around, there but by the grace of God go many of 8 us. 9 I think what may be very valuable is to 15:35:56 10 look at the LSIR. You heard Mr. Kraxberger testify 11 that a 10 is about the lowest he has seen. I tell you 12 in my time, I don't know that I have ever seen someone 13 charged with a Level 5 where a recommendation came 14 back from Court Services probation. 15:36:16 15 We have the LSIR for a reason; to see 16 what the potential is for someone to re-offend. And 17 looking at the standard for a border box here, I think 18 that there is an example of where we should be looking 19 for, it would be seen by the LSIR in looking at 15:36:36 20 Mr. Kidwell. 21 Essentially, Your Honor, we are asking 22 the Court to give Mr. Kidwell an opportunity. We have 23 already had one victim in this case and not to have 24 multiple other victims. 15:36:52 25 The sole issue, it's an issue, he needs CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">98</p> <p>1 treatment for depression and anxiety. There are 2 programs available with Mr. Johnson and the other 3 preacher who is from Chanute. And, more importantly, 4 offender reformation to provide better community 15:37:08 5 safety than him going to prison. 6 And I would point out that the issue on 7 the tickets, that this Court is well aware, were 8 reported to the Court because Mr. Kidwell told his 9 probation officer. In fact, one of those was an 15:37:28 10 issue of should his bond be revoked, and that came up 11 sometime ago. 12 But the question was asked earlier about 13 the LSIR. I would point out that all of those things 14 occurred after he had pled -- excuse me -- the LSIR 15:37:42 15 occurred after he had pled, in some instances six 16 months or longer after those incidents, and their 17 recommendation still is Court Services, Community 18 Corrections. 19 If the Court feels as though some 15:37:56 20 incarceration is necessary, the Court has the 21 authority as a condition of probation to order some 22 type of time in the county jail. If the Court were 23 to consider that, I would think allowing him to do 24 that on some type of work-related basis or to do it so 15:38:16 25 that they can make sure that they can accommodate so CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p style="text-align: right;">99</p> <p>1 that we don't put his children in a situation where it 2 makes it more difficult on the community. It's just 3 our request that the Court make a finding on the 4 record that are required for a border box and give 15:38:30 5 Mr. Kidwell the opportunity. 6 THE COURT: Thank you. 7 Mr. Gayoso? 8 9 10 <u>CLOSING STATEMENT BY MR. GAYOSO</u> 11 12 MR. GAYOSO: Thank you, Your Honor. 13 One quick correction. Mr. Thuston 14 stated to the Court that it's the recommendation of 15:38:40 15 the PSI for probation. That's incorrect. That's 16 just, as the court is well aware, the placement 17 options for the Court. So I just wanted to correct 18 that legal statement that Mr. Thuston was incorrect 19 about. 15:38:56 20 We would ask the Court, as the plea 21 agreement does state, Your Honor, that it is 22 completely up to the Court in making the findings; 23 that it's at the Court's discretion. The plea 24 agreement outlines what that standard is. 15:39:06 25 We would ask the Court to impose the CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p style="text-align: right;">100</p> <p>1 aggravated 34 months and leaving it to the Court's 2 discretion as to whether or not to impose the prison 3 sanction or the non-prison sanction, because it is a 4 presumptive imprisonment border box offense and what 15:39:22 5 the law allows the Court to consider at that time. 6 We would ask the Court to impose the 7 standard costs associated with the case. 8 Also take into consideration -- Your 9 Honor, I will state that the funeral expenses have 15:39:40 10 been covered from a prior civil litigation. I spoke 11 to Mr. Saia's attorney who represented him in that 12 matter, and all restitution has been paid in the civil 13 matter. So the State would not be seeking any 14 restitution. I know the PSI says "to be determined," 15:40:00 15 but that would actually be zero because of the 16 judgment that has already been obtained in the civil 17 action. 18 We would also ask the Court as to Count 19 2 -- that is a traffic infraction -- we would ask the 15:40:14 20 Court to impose the \$75 fine on Count 2, which is the 21 improper passing of a bicycle. 22 Ultimately, the Court would have to 23 impose post-release supervision either way of 24 24 months. We would ask the Court to order that. 15:40:30 25 There are zero days jail time credit CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<p>101</p> <p>1 that this defendant -- he is not entitled to any jail 2 time credit. 3 And like I mentioned as to the ultimate 4 issue of probation versus prison, we will leave that 15:40:48 5 -- we will stand silent and make no recommendation to 6 the Court. 7 THE COURT: Thank you. 8 Is there any legal reason why judgment 9 and sentence may not now be pronounced? 15:40:54 10 MR. GAYOSO: None known by the State. 11 MR. THUSTON: Nor by the defendant, Your 12 Honor. 13 14 15 <u>COURT'S RULING/ORDER</u> 16 17 THE COURT: I will establish -- let me 18 stop. 19 Let me say a few cautionary words to our 15:41:06 20 gallery. 21 First, let me commend you on your 22 attendance and your show of support for the respective 23 parties in this case. It's obviously very rare to 24 have this sort of attendance at a sentencing. 15:41:18 25 Obviously, this is a very emotional case with regard CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p>102</p> <p>1 to everyone involved. 2 Part of my job as a judge is to make 3 sure that our courtroom always remains a safe and 4 respectful place where everyone can participate. And 15:41:34 5 so to that end, when I announce the sentence, you are 6 required to refrain from reacting audibly in any way. 7 There will be no displays of emotion. If that should 8 happen, you would be removed from the courtroom. And 9 I know I can count on you to do that. 15:41:50 10 So, I will establish Count 1 as the base 11 sentence for the offense of involuntarily 12 manslaughter, a Severity Level 5 person felony, on 13 which the defendant has a Criminal History Score of 14 "I". 15:42:02 15 It's the judgment and sentence of the 16 Court that the defendant be sentenced to the 17 aggravated number of 34 months in the Department of 18 Corrections. On this sentence, the defendant may 19 earn up to 15 percent good-time credit. He is subject 15:42:20 20 to 24 months of post-release supervision. 21 With regard to Count 2, improper passing 22 of a bicycle, an infraction, and I will order a \$75 23 fine in accordance with the statute. 24 In Kansas, courts have little discretion 15:42:34 25 with regard to sentencing. We are bound by what is CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p>103</p> <p>1 called the sentencing grid. And in this particular 2 case, that grid means that this is a Level 5 person 3 felony. The defendant in this case has no criminal 4 history. It is a Level 5 and our Severity Level 15:42:54 5 ranges from one being the most serious grid offense to 6 ten, and so this lands in the middle of the grid. 7 So the fact that it is a 5-I grid box 8 means that it is a border box crime, and that means 9 unless the defendant can demonstrate that border box 15:43:14 10 criteria have been met, prison is typically the 11 sentence. 12 And so the criteria are as follows: 13 One, an appropriate treatment program 14 exists which is likely to be more effective than the 15:43:28 15 presumptive prison term in reducing the risk of 16 offender recidivism and, Two, the recommended 17 treatment program is available and the offender can be 18 admitted to such program within a reasonable period of 19 time or, Three, the non-prison sanction will serve 15:43:46 20 community safety interests by promoting offender 21 reformation. 22 And the Court finds that it's Factor 23 Three that is applicable in this situation, and that's 24 the analysis I will be doing. 15:43:58 25 Options One and Two have to be used CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p>104</p> <p>1 together, and it really contemplates a situation where 2 a defendant is in need of substance abuse treatment. 3 It's really not the situation in this particular case. 4 So the question before this Court is 15:44:14 5 whether a non-prison sanction will serve community 6 safety interests by promoting offender reformation. 7 Let me then start with the evidence that 8 has been brought up in this case that I cannot 9 consider. 15:44:28 10 The first being a letter, an ex parte 11 letter, that was sent to the Court, it was provided to 12 Counsel because it was an ex parte communication. 13 Naturally, those sorts of contacts with the Court will 14 not be considered at sentencing. They are not proper. 15:44:44 15 And so I state for the record that the letter from 16 Miss Heinbaugh (Phonetically) that was provided to 17 Counsel will not be considered by the Court. 18 Second, there was some short mention 19 today of additional speeding tickets the defendant may 15:44:58 20 have received. 21 There is no proper evidence before the 22 Court of such tickets. The defendant has been placed 23 on bond supervision. At no point during supervision 24 was his bond revoked. The State would have had the 15:45:14 25 option to consider whether they could argue that the CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<p>105</p> <p>1 plea agreement has been breached. If the defendant</p> <p>2 has committed any other traffic infractions today, the</p> <p>3 defendant offers an explanation. Those facts are</p> <p>4 certainly in dispute, and they don't serve a relative</p> <p>15:45:32 5 basis for the Court's decision. They are just not</p> <p>6 properly before the Court or legally before the Court.</p> <p>7 So then what does the Court consider?</p> <p>8 The Court considers evidence, the Court considers</p> <p>9 Victim Impact Statement to judge the degree of harm</p> <p>15:45:48 10 suffered by the victim and caused by the defendant,</p> <p>11 and I give great weight to the victim's statement in</p> <p>12 this case. I think it speaks volumes about the type</p> <p>13 of person Miss Taylor was and is that so many of you</p> <p>14 are here today and that her husband has spoken</p> <p>15:46:08 15 eloquently about her.</p> <p>16 At the same time, I am required to</p> <p>17 consider the evidence in the case presented by the</p> <p>18 defendant today.</p> <p>19 Sometimes in cases, parties reach plea</p> <p>15:46:18 20 agreements. The parties being the State and the</p> <p>21 defense. The State and the defense are the two</p> <p>22 parties in the case that are in possession of all the</p> <p>23 evidence, all the discovery. The Court does not have</p> <p>24 that information. The Court only receives what is</p> <p>15:46:36 25 admitted into evidence or as presented as a Victim</p> <p>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p>106</p> <p>1 Impact Statement. For that reason, the parties are in</p> <p>2 the best position to reach a plea agreement in the</p> <p>3 case.</p> <p>4 And, in this particular case, the</p> <p>15:46:48 5 parties have reached an agreement where the State will</p> <p>6 stand silent at sentencing. The State will not</p> <p>7 recommend prison. The State will not present any</p> <p>8 evidence at sentencing. The State will stand silent</p> <p>9 and allow the defendant to present all the evidence he</p> <p>15:47:06 10 desires and not contest any of it. And that sends a</p> <p>11 strong message to the Court.</p> <p>12 So, in considering the defendant's</p> <p>13 evidence today, the Court finds that the following</p> <p>14 evidence presented by the defendant is persuasive.</p> <p>15:47:24 15 First, again, the State's offered no</p> <p>16 evidence and the defendant did. The State has not</p> <p>17 controverted any of the defendant's evidence, so the</p> <p>18 Court is required to accept this as true.</p> <p>19 First, according to the Presentence</p> <p>15:47:40 20 Investigation, the defendant has no prior criminal</p> <p>21 history. He has an LSIR score of 10. An LSIR is a</p> <p>22 risk assessment tool that tells us if someone is</p> <p>23 amenable to rehabilitation, whether they are amenable</p> <p>24 to being placed on supervision versus prison.</p> <p>15:48:00 25 An LSIR Score of 10 is extremely low and</p> <p>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>
<p>107</p> <p>1 is quite rare.</p> <p>2 In this case, there has been evidence of</p> <p>3 distracted, irresponsible driving. There has not been</p> <p>4 any evidence of ill will or motive.</p> <p>15:48:16 5 I would also find that, based upon the</p> <p>6 Presentence Investigation, alcohol was not a factor in</p> <p>7 in accident. Drugs were not a factor in this</p> <p>8 accident. Very poor, reckless driving was a factor in</p> <p>9 this accident.</p> <p>15:48:30 10 I would also find that the defendant</p> <p>11 takes full responsibility for his actions. While,</p> <p>12 certainly, it would have been more comforting to the</p> <p>13 victims in this case to have heard it before today,</p> <p>14 the defendant's explanation and his Counsel's</p> <p>15:48:46 15 explanation on a legal basis is fairly typical, in</p> <p>16 that a defendant would not be encouraged to make any</p> <p>17 sort of statement until his criminal and civil matters</p> <p>18 are concluded. He takes responsibility today.</p> <p>19 The defendant has a strong employment</p> <p>15:49:04 20 history. According to the testimony today, he owns</p> <p>21 two businesses. He has employees. He is heavily</p> <p>22 involved in the community. He has served as a father</p> <p>23 figure to his own brother, to other children in the</p> <p>24 community. He has the support of family and a family</p> <p>15:49:20 25 to support, including two autistic children.</p> <p>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>	<p>108</p> <p>1 I also find that I have previously</p> <p>2 ordered the defendant to register on the Kansas</p> <p>3 Offender Registry due to this conviction for 15 years,</p> <p>4 and he will be required to do so.</p> <p>15:49:34 5 So, for those reasons, and the fact that</p> <p>6 the State does not contest any of this evidence, I</p> <p>7 will suspend the defendant's sentence.</p> <p>8 I will place him on supervision to Court</p> <p>9 Services for 36 months. However, I do think, despite</p> <p>15:49:50 10 the fact that there has not been any evidence offered</p> <p>11 by the State today, it is within my discretion to</p> <p>12 impose a jail sanction, and I think it's appropriate</p> <p>13 in this case, and it will begin immediately.</p> <p>14 So, I will order that the defendant</p> <p>15:50:04 15 serve a 60-day jail sanction. That is the maximum</p> <p>16 allowed by law, to begin immediately following this</p> <p>17 proceeding, in our county jail.</p> <p>18 I will adopt the conditions of probation</p> <p>19 from the PSI, including a letter of apology, including</p> <p>15:50:22 20 Community Service, including a Mental Health</p> <p>21 Assessment, all other conditions that are indicated in</p> <p>22 the PSI.</p> <p>23 I will order court costs of \$193, \$120</p> <p>24 Probation Fee, \$45 Book-in Fee, \$200 DNA Fee, and</p> <p>15:50:56 25 probation will not begin until he is released from the</p> <p>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER 111 EAST FOREST, GIRARD, KS. 66743 (620) 724-6211</p>

<div>109</div> <div> <div>1</div> <div>sanction.</div> <div>2</div> <div>There is no restitution. I will not</div> <div>3</div> <div>order restitution.</div> <div>4</div> <div>Mr. Thuston is privately retained.</div> <div>15:51:12 5</div> <div>There is zero days' credit against his</div> <div>6</div> <div>sentence. Naturally, after the sanction, he will have</div> <div>7</div> <div>60-days' credit against his sentence.</div> <div>8</div> <div>Mr. Kidwell, I think you should consider</div> <div>9</div> <div>yourself lucky. I agree that you have a lot to offer</div> <div>15:51:28 10</div> <div>your community, and I hope you will do so.</div> <div>11</div> <div>But please be advised, you're serving 60</div> <div>12</div> <div>days of this sentence now, and then if we have any</div> <div>13</div> <div>further issues with you on probation, it's extremely</div> <div>14</div> <div>likely you will quickly be ordered to serve the</div> <div>15</div> <div>remainder of your sentence.</div> <div>16</div> <div>I am advising you of your right of</div> <div>17</div> <div>expungement pursuant to K.S.A. 21-6614. That means it</div> <div>18</div> <div>could be possible that this could be removed from your</div> <div>19</div> <div>record at a later date. You should consult with your</div> <div>20</div> <div>attorney, who can advise you whether or not that's the</div> <div>21</div> <div>case.</div> <div>22</div> <div>I am also advising you of your right to</div> <div>23</div> <div>appeal any of the decisions that have been made in</div> <div>24</div> <div>this case. If you would like to appeal, you must file</div> <div>15:52:04 25</div> <div>notice of appeal within 14 days of today's date.</div> <div>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER</div> <div>111 EAST FOREST, GIRARD, KS. 66743</div> <div>(620) 724-6211</div> </div>	<div>110</div> <div> <div>1</div> <div>If you would like to appeal, but cannot</div> <div>2</div> <div>afford to do so, I will provide you with an attorney</div> <div>3</div> <div>and transcripts of these proceedings.</div> <div>4</div> <div>Is there anything further at this time?</div> <div>15:52:16 5</div> <div>MR. GAYOSO: Your Honor, you did not</div> <div>6</div> <div>state a duration of probation.</div> <div>7</div> <div>THE COURT: Thirty-six months.</div> <div>8</div> <div>MR. THUSTON: And in my closing, I had</div> <div>9</div> <div>requested, if he was going to have to serve a county</div> <div>15:52:26 10</div> <div>jail sentence, that he serve work release, as</div> <div>11</div> <div>something that the Court would consider.</div> <div>12</div> <div>THE COURT: I will not consider it. It</div> <div>13</div> <div>is denied. He will be taken into custody at this</div> <div>14</div> <div>time.</div> <div>15:52:38 15</div> <div>MR. THUSTON: Thank you, Your Honor.</div> <div>16</div> <div>THE COURT: Thank you.</div> <div>17</div> <div>We are adjourned.</div> <div>18</div> <div></div> <div>19</div> <div></div> <div>20</div> <div></div> <div>21</div> <div></div> <div>22</div> <div></div> <div>23</div> <div></div> <div>24</div> <div></div> <div>25</div> <div></div> <div>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER</div> <div>111 EAST FOREST, GIRARD, KS. 66743</div> <div>(620) 724-6211</div> </div>
<div>111</div> <div> <div>1</div> <div>STATE OF KANSAS)</div> <div>2</div> <div>) ss.</div> <div>3</div> <div>CRAWFORD COUNTY)</div> <div>4</div> <div></div> <div>5</div> <div>I, CHAS. M. SMITH, Certified Shorthand</div> <div>6</div> <div>Reporter in the State of Kansas, do hereby certify:</div> <div>7</div> <div>That on January 9, 2017, I reported in</div> <div>8</div> <div>shorthand the proceedings in the foregoing entitled</div> <div>9</div> <div>action, Case Number 15CR 65 G, and thereafter had the</div> <div>10</div> <div>same transcribed under my direction into typewritten</div> <div>11</div> <div>form, and that the foregoing transcript constitutes a</div> <div>12</div> <div>full, true and correct transcription of my shorthand</div> <div>13</div> <div>notes as reported by me, except as otherwise noted, in</div> <div>14</div> <div>said case on said date.</div> <div>15</div> <div></div> <div>16</div> <div>That I am a disinterested person to the</div> <div>17</div> <div>said action.</div> <div>18</div> <div>IN WITNESS WHEREOF, I have hereunto</div> <div>19</div> <div>subscribed my hand this 13th day of January, 2017.</div> <div>20</div> <div></div> <div>21</div> <div></div> <div>22</div> <div></div> <div>23</div> <div></div> <div>24</div> <div>KS CSR NO. 325</div> <div>MO CCR NO. 247</div> <div>25</div> <div></div> <div>CHUCK SMITH, CSR, OFFICIAL COURT REPORTER</div> <div>1205 East Quincy Street, Pittsburg, Ks. 66762</div> <div>(620) 249-2921</div> </div>	

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