

IN AND FOR THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA

STATE OF OKLAHOMA,

Plaintiff,

CASE NO. CF-2021-304  
JUDGE THOMAS

v.

MICHAEL ERIC NELSON,

Defendant.

DISTRICT COURT WASHINGTON CO OK  
JILL L. SPITZER, COURT CLERK

**COPY**

FILED

JUN 1 2023

Shelly Bates

BY \_\_\_\_\_ DEPUTY

PARTIAL TRANSCRIPT OF JURY TRIAL

HELD ON FEBRUARY 7, 2023, AND FEBRUARY 8, 2023

BEFORE THE HONORABLE LINDA THOMAS

DISTRICT JUDGE

VOLUME 2 OF 2

A P P E A R A N C E S

For the state of Oklahoma:  
Ms. Zoe Gullett, Assistant District Attorney  
420 South Johnstone Avenue  
Bartlesville, Oklahoma 74003

For the Defendant:  
Mr. Kevin Adams, Attorney at Law  
36 East Cameron Street, Number 16  
Tulsa, Oklahoma 74103

Reported by: Dee Dee Tanner, CSR

Jill L. Spitzer, Court Clerk for Washington County, Oklahoma  
Hereby certify that the foregoing is a true correct and full copy of  
the instrument herewith set out as appears of record in the Court  
Clerk's Offices in Washington County, Oklahoma this  
day of \_\_\_\_\_ 2023  
By: *[Signature]*  
Jill L. Spitzer  
COURT CLERK

I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PLAINTIFF'S WITNESSES:

WITNESS

PAGE NO.

Mark Ritter

Direct Examination by Ms. Gullett. . . . 191

Cross-Examination by Mr. Adams . . . . 195

Detective William Miles Lewis

Direct Examination by Ms. Gullett. . . . 199

Cross-Examination by Mr. Adams . . . . 212

Redirect Examination by Ms. Gullett. . . 221

Recross-Examination by Mr. Adams . . . . 222

EXHIBIT INVENTORY

STATE'S EXHIBITS

<u>EX. NO.</u>	<u>EXHIBIT DESCRIPTION</u>	<u>OFFERED</u>	<u>RULING</u>
11	Voicemail - Ritter	194	194
12	Search warrant	204	204
13	pdf from Nelson's phone	206	206

DEFENDANT'S EXHIBITS

3	pdf from phone	215	215
---	----------------	-----	-----

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 (On February 8, 2023, all parties present, the following  
2 transpired in open court within the presence of the  
3 potential jury. This transcript contains only testimony  
4 and closing argument. Bench conferences and any other  
5 part of the record was not requested and is not  
6 transcribed herein.)

7 THE COURT: We are now back on the record. It's  
8 the third day of trial. Washington County District Court  
9 Case Number CF-2021-304, State of Oklahoma versus Michael  
10 Eric Nelson.

11 Ms. Gullett, are you ready to proceed?

12 MS. GULLETT: Yes, Judge.

13 THE COURT: Mr. Adams, are you ready?

14 MR. ADAMS: Yes, Judge.

15 THE COURT: Okay. Madam Bailiff, will you  
16 please direct the jurors to their place in the jury box.

17 (Whereupon, following the evening recess,  
18 the jurors returned to the courtroom.

19 Thereafter, proceedings resumed as follows:)

20 THE COURT: Good morning, ladies and gentlemen.

21 Ms. Gullett, State may call its next witness.

22 MS. GULLETT: Thank you, Judge.

23 At this time, the State would call Mark Ritter.

24 (This is via video conference Teams app.)

25 THE COURT: Obviously, Mr. Ritter is appearing

1 by video conference. Can all of the jurors see Mr. Ritter  
2 without any problems?

3 (Jurors indicating.)

4 THE COURT: Okay. All right. Mr. Ritter, if  
5 you'd raise your right hand, please.

6 Do you swear the testimony you're about to give is  
7 the truth, the whole truth, and nothing but the truth, so  
8 help me God?

9 THE WITNESS: Yes.

10 THE COURT: Thank you, sir.

11 Ms. Gullett --

12 THE WITNESS: Thank you.

13 THE COURT: -- you may inquire.

14 MS. GULLETT: Thank you, Judge.

15 THE COURT: Just -- wait just one moment.

16 Mr. Ritter, because you're on video conference, I  
17 want you to listen carefully to the question, maybe pause  
18 for a second before you begin to answer, because our court  
19 reporter takes down everything. There may be a little bit  
20 of bleedover where you're talking over one another, and  
21 that makes it really difficult. So we'll try to take care  
22 of that on our end as well, but if you'll just keep that  
23 in mind, please.

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Thank you.

1 WHEREUPON, MARK RITTER, having been duly sworn to tell  
2 the truth, the whole truth, and nothing but the truth,  
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. GULLETT:

6 Q. Mr. Ritter, could you please state your name and  
7 spell your last name for the record.

8 A. Mark Ritter, R-I-T-E-R.

9 Q. Thank you, sir.

10 Mr. Ritter, are you familiar with Cynthia and  
11 Anthem Blanchard?

12 A. Yes, ma'am.

13 Q. Are you familiar with a company named Herasoft?

14 A. Yes, I am.

15 Q. Okay. And why are you familiar with this company?

16 A. I am an investor in that company.

17 Q. Okay. And, Mr. Ritter, do you live in Oklahoma?

18 A. No, ma'am, I don't.

19 Q. What state do you live in?

20 A. Kansas.

21 Q. Okay. And, Mr. Ritter, do you know a Michael Eric  
22 Nelson?

23 A. I don't know him personally. I have heard of him,  
24 but I don't know of him personally.

25 Q. Okay. Have you had any sort of contact from

1 Mr. Nelson?

2 A. I can't remember the exact date, but I got a phone  
3 call -- and normally, like I had said before, I -- if I  
4 see a phone call come over my phone and I don't recognize  
5 it, I don't answer it and I let it go to voicemail. So I  
6 didn't recognize the number, which was a Tulsa number, so  
7 I didn't answer it and it went to my voicemail.

8 Q. Okay. Was this approximately around September of  
9 2022?

10 A. Yes, ma'am.

11 Q. Okay. And do you recall kind of the substance of  
12 that voicemail, what it was about?

13 A. Well, I was -- literally -- I was literally shocked  
14 when I listened to it because, first of all, I didn't know  
15 who this guy was. And then when he became -- when he  
16 started, basically, harassing me and harassing my family  
17 and saying things that got my attention, you know, and so  
18 I listened to it again, and I'm going, you know, who is  
19 this goofball. And I didn't -- that was before I knew who  
20 he was. And then, you know, the rest is pretty  
21 self-explanatory.

22 Q. Okay.

23 A. I -- he was just, basically, calling to harass me,  
24 I guess.

25 Q. Have you at any time provided Mr. Nelson with your

1 contact information?

2 A. No, ma'am. I would have had no reason to.

3 Q. Okay. As far as this voicemail goes -- I know that  
4 you are testifying over video -- have you and I --

5 A. Right.

6 Q. -- communicated about this voicemail?

7 A. Other than the fact that I had the voicemail, that  
8 you knew that I had the voicemail, no.

9 Q. Well, I mean, recently, before testifying?

10 A. Yeah. Yes. Yes. Yes.

11 Q. Okay. And were you able to send me a copy of that  
12 voicemail?

13 A. Yes, ma'am.

14 Q. And how did you do that? What medium did you use?

15 A. By my e-mail.

16 Q. Okay. And so if I were to present the Court with a  
17 copy of the voicemail, would you be able to recognize it?

18 A. Yes, ma'am.

19 Q. Okay.

20 MS. GULLETT: Your Honor, Mr. Ritter sent me a  
21 copy of the voicemail. I downloaded that voicemail to  
22 State's Exhibit 11.

23 THE COURT: Make sure the jurors can hear you.

24 MS. GULLETT: I downloaded that to State's  
25 Exhibit 11. At this time, I'd move to admit it and



1 publish it for the jury.

2 THE COURT: Mr. Adams?

3 MR. ADAMS: It's a little unusual. Because of  
4 the circumstances, I understand. If she's representing  
5 it's a voicemail, I have no objection to the introduction.

6 THE COURT: Okay. So State's Number 11 shall be  
7 admitted.

8 Q. (By Ms. Gullett) So, Mr. Ritter, since you're not  
9 here, I'm going to play -- just so you know what we're  
10 doing, I'm playing the voicemail. Okay?

11 A. Yeah. I would prefer not to listen to it, but I  
12 will.

13 (State's Exhibit 11 published.)

14 Q. (By Ms. Gullett) Mr. Ritter, were you able to hear  
15 that voicemail?

16 THE COURT: We can't hear him now.

17 MS. GULLETT: Sorry, sir, I think you're muted.

18 A. I'm sorry. I could not hear any of it.

19 Q. (By Ms. Gullett) Okay. I was just going to ask you  
20 if it was the voicemail that you sent, but if you couldn't  
21 hear it, ignore that question.

22 MS. GULLETT: Judge, I'd strike that question.

23 With the admission of the voicemail in State's  
24 Exhibit 11, the State would pass this witness.

25 THE COURT: Okay. Mr. Adams, you may inquire.

1 MR. ADAMS: I guess I need to come around.

2 CROSS-EXAMINATION

3 BY MR. ADAMS:

4 Q. Mr. Ritter, can you see me?

5 A. Yes, sir.

6 Q. Okay. Now, are you friends with Chad Koehn?

7 A. I know Chad Koehn as a financial -- one of my  
8 financial advisors.

9 Q. Okay. But the question I asked is, are you friends  
10 with him?

11 A. I mean, he's my -- I entrust my financial portfolio  
12 in him. I would say, yes, I -- as a -- on a business  
13 relationship, yes, we're friends.

14 Q. When's the last time you spoke to him?

15 A. We -- I mean, we speak weekly about the stock  
16 market, about, you know, what's going on in the financial  
17 world.

18 Q. Did you talk about the fact that this trial was  
19 coming up and you were going to be a witness?

20 A. I knew that, yes.

21 Q. Did you talk about the fact that Mr. Koehn was  
22 going to attend the trial?

23 MS. GULLETT: Objection, Your Honor; not  
24 relevant.

25 MR. ADAMS: Biased.

1 THE COURT: Just a moment, please.

2 That's not relevant as to who attends this trial.  
3 It's a public trial. Sustained.

4 Q. (By Mr. Adams) Now, what Mr. Nelson said in that  
5 voicemail about you being friends with the same lawyer  
6 involved in this lawsuit with Mr. Koehn, that's true,  
7 isn't it?

8 A. Who's the lawyer?

9 Q. James Angel?

10 A. I know Mr. Angel.

11 Q. Am I missaying -- it's Angel?

12 A. Yes, you are misstating his last name. It's Angel.

13 Q. Okay. And it's Kennedy Burke or Berkley Law Firm?

14 A. Yes, sir.

15 Q. And they've represented you?

16 MS. GULLETT: Objection, Your Honor, it's not  
17 relevant.

18 THE COURT: Just a moment, Mr. Ritter.

19 How is any of that relevant?

20 MR. ADAMS: I'm trying to show the bias in his  
21 testimony that he has relationships and he's associated  
22 with Mr. Koehn. They have the same lawyer and the same  
23 lawsuit --

24 THE COURT: This is lawsuit that involves the  
25 Blanchards, not Mr. Koehn.

1 MR. ADAMS: It's bias, motive to lie.

2 THE COURT: It's not relevant who his lawyer is  
3 in some other arena.

4 Q. (By Mr. Adams) Now, sir, are you aware that in this  
5 lawsuit that he called you up about, that Mr. Nelson is  
6 having to represent himself?

7 MS. GULLETT: Also not relevant, Judge.

8 MR. ADAMS: It explains why he called.

9 THE COURT: Sustained.

10 THE WITNESS: He called to harass me.

11 THE COURT: Just a moment, sir. We've had an  
12 objection.

13 He probably can't hear you, Ms. Gullett.

14 MS. GULLETT: Sorry, Judge.

15 THE COURT: If Ms. Gullett objects, then I'm  
16 going to make a ruling. So once you hear an objection, if  
17 you hear it, if you'd just stop speaking for a moment.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Okay. Sustained.

20 Ask your next question, please.

21 Q. (By Mr. Adams) Are you aware that there was  
22 actually a subpoena issued for your testimony in that case  
23 -- that federal lawsuit in Kansas, where Mr. Nelson is  
24 counter-suing Mr. Koehn?

25 A. I know nothing about what else is going on. I was

1 actually quite surprised I got subpoenaed for this, to  
2 begin with. I mean, I -- I don't know Michael Nelson. I  
3 don't care to know him. And this is -- I'm not on trial,  
4 he is.

5 Q. And -- but you do know Mr. Koehn?

6 A. Yes, sir, I do, as my financial advisor.

7 Q. Yeah. Is he still your finance advisor?

8 A. Yes, sir, he is.

9 Q. Even after --

10 A. His company.

11 Q. Even after he got suspended?

12 MS. GULLETT: Objection, Your Honor; misstates  
13 facts not in evidence. No one has testified that he has  
14 been suspended.

15 THE COURT: That --

16 MR. ADAMS: I think Mr. Piercy admitted that he  
17 got suspended.

18 THE COURT: He did not. Sustained.

19 Ask your next question.

20 MR. ADAMS: No further questions.

21 THE WITNESS: Thank you.

22 MS. GULLETT: No, thank you, Judge.

23 THE COURT: Thank you, Mr. Ritter. I appreciate  
24 your time and effort trying to get on video with us.

25 THE WITNESS: Thank you, Judge.

1 MS. GULLETT: Thank you, sir.

2 THE WITNESS: Thank you.

3 THE COURT: State my call its next witness.

4 MS. GULLETT: Your Honor, at this time the State  
5 would call Detective Miles Lewis.

6 THE COURT: Sir, if you'd raise your right hand.

7 Swear the testimony you're about to give is the  
8 truth, the whole truth, and nothing but the truth, so help  
9 me God?

10 THE WITNESS: I do.

11 THE COURT: Mr. Lewis, you've been present  
12 throughout the entire trial, so I'm not going to repeat  
13 the instructions with respect to speaking into the mic and  
14 clearly, et cetera, so I know you've done that before.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: You may inquire.

17 MS. GULLETT: Thank you, Judge.

18 WHEREUPON, DETECTIVE WILLIAM MILES LEWIS, having been  
19 duly sworn to tell the truth, the whole truth, and  
20 nothing but the truth, was examined and testified as  
21 follows:

22 DIRECT EXAMINATION

23 BY MS. GULLETT:

24 Q. All right. Detective Lewis, will you please state  
25 your name for record and spell your last name for the

1 record.

2 A. Detective William Miles Lewis. Last name spelled  
3 L-E-W-I-S.

4 Q. Thank you, sir.

5 And, Detective Lewis, how are you employed?

6 A. I'm a detective with the Bartlesville Police  
7 Department.

8 Q. And how long have you been employed with the  
9 Bartlesville Police Department?

10 A. Just under seven years.

11 Q. Okay. And how long have you been a detective?

12 A. Just under two.

13 Q. And you have the training and experience necessary  
14 to work for the Bartlesville Police Department?

15 A. Yes.

16 Q. And do you have the training and experience  
17 necessary to be a detective?

18 A. Yes.

19 Q. Are you CLEET certified?

20 A. Yes.

21 Q. And do you have continuing education?

22 A. Yes.

23 Q. And are you up to date on your continuing  
24 education?

25 A. Yes.

1 Q. All right. So, sir, are you familiar with a  
2 Michael Eric Nelson?

3 A. Yes, ma'am.

4 Q. And are you familiar with Cynthia and Anthem  
5 Blanchard?

6 A. Yes, ma'am.

7 Q. How did you come to be involved with this case?

8 A. I was assigned this case in December of '21, for  
9 refinement.

10 Q. Okay. What does that mean?

11 A. It means my boss told me to take another look at  
12 this case and see if there's anything more to it.

13 Q. All right. So did this case get started in the  
14 detective division or did it start somewhere else?

15 A. It started in the patrol division.

16 Q. All right. And does that -- how does that work?  
17 Can you explain to the jury how a complaint like that  
18 would work at the Bartlesville Police Department?

19 A. So if there is a criminal complaint, generally, one  
20 would either go to the police department or call the  
21 police or generate an online report to just make the  
22 initial report. And if it's something that requires  
23 additional follow-up, it will be signed out to an  
24 investigator.

25 Q. All right. And is that what happened in this case?



1 A. Yes.

2 Q. Okay. So you got involved in December of '21?

3 A. Yes.

4 Q. All right. And what did you start doing in this  
5 case?

6 A. I interviewed Ms. Blanchard, and I reviewed the  
7 information submitted from Ms. Blanchard from the original  
8 report and Investigator Morvant's reports.

9 Q. Okay. And did you do anything with that  
10 information as far as the district attorney's office is  
11 concerned?

12 A. I did. I -- I reviewed it, and I believed I found  
13 probable cause for stalking and violations of the Computer  
14 Crimes Act.

15 Q. And when you do that, when you find probable cause,  
16 what's your next step as a law enforcement officer?

17 A. I filed an affidavit with the Washington County  
18 D.A.'s office.

19 Q. All right. Are you aware -- I asked a silly  
20 question.

21 Are you aware if charges were filed against  
22 Mr. Nelson?

23 A. I am aware.

24 Q. Okay. What's your understanding as to what  
25 happened next in this case?

1 A. Mr. Nelson was arrested in New Jersey, I believe,  
2 on my warrant.

3 Q. And did Mr. Nelson eventually find his way back to  
4 Oklahoma?

5 A. Yes.

6 Q. And are you aware as to where he was being housed  
7 in Oklahoma?

8 A. The Washington County Sheriff's office.

9 Q. Okay. And did you -- while he was there, did you  
10 have a chance to get any evidentiary property from him?

11 A. Yes. I seized his phones from the property room.

12 Q. Okay. And with seizing his phones, what did you do  
13 next?

14 A. I wrote a search warrant for the content of the  
15 phones and then submitted those to OSBI for further  
16 analysis.

17 Q. Okay. I'm going to hand you what's marked as  
18 State's Exhibit 12.

19 A. That's my search warrant.

20 Q. Okay. So do you recognize that?

21 A. Yes.

22 Q. Is that a true and accurate depiction of a document  
23 that you've seen before?

24 A. Yes.

25 Q. And then, what is that?

1 A. That is my search warrant for Michael Nelson's  
2 phone.

3 Q. And which phone -- phones or phone is listed on  
4 there?

5 A. The iPhone in the gold case with an external  
6 battery and an iPhone in a black case with an external  
7 battery.

8 MS. GULLETT: Your Honor, I would move to admit  
9 State's Exhibit 12 at this time.

10 MR. ADAMS: No objection.

11 THE COURT: State's 12 shall be admitted.

12 Q. (By Ms. Gullett) Okay. So you said that you then  
13 sent the phones off to OSBI?

14 A. Yes, ma'am.

15 Q. Did you, at any time, get anything back from OSBI?

16 A. I did.

17 Q. Okay. What did you receive back from OSBI?

18 A. The USB downloads of both phones.

19 Q. All right. And we've talked a little bit about  
20 that through another witness.

21 How big was that USB download?

22 A. The USB download for the iPhone 8 Plus was over  
23 90,000 pages.

24 Q. Okay. And who had the pleasure of looking through  
25 that?

1 A. I did.

2 Q. All right. Did you -- during your search of the  
3 phone data, did you locate anything of evidentiary value?

4 A. I did.

5 Q. All right. What type of things did you locate?

6 A. I located Google searches from that phone of the  
7 Blanchards, Blanchards' property in Bartlesville, and  
8 tracking numbers for a certified letter to Cynthia  
9 Blanchard.

10 Q. Okay. Okay. I'm going to --

11 MS. GULLETT: Can -- may I approach?

12 THE COURT: Yes.

13 MS. GULLETT: Thank you, Judge.

14 Q. (By Ms. Gullett) I'm going to hand you what's  
15 marked as State's Exhibit 13.

16 All right. So have you seen this document before.

17 A. I have.

18 Q. And does this look like -- can you look through all  
19 of it and make sure that you recognize it.

20 A. I do recognize it.

21 Q. Does it look like a true and accurate depiction of  
22 something that you've seen before?

23 A. Yes.

24 Q. Okay. So will you look at the bottom of the very  
25 first page and tell me what that page number is.

1 A. 52068.

2 Q. Okay. And will you look at the very last page and  
3 tell me what that page number is?

4 A. 52073.

5 Q. And are the pages in between, do they go in order?

6 A. Correct.

7 Q. Okay. And from your knowledge, what is this  
8 document?

9 A. This is a portion of the PDF downloaded by OSBI  
10 from Michael Nelson's phones.

11 Q. And you've actually looked at this before?

12 A. Yes.

13 Q. Okay.

14 MS. GULLETT: Your Honor, I move to admit  
15 State's Exhibit Number 13.

16 MR. ADAMS: No objection.

17 THE COURT: State's Number 13 shall be admitted.

18 MS. GULLETT: Hang on.

19 THE WITNESS: Okay.

20 Q. (By Ms. Gullett) Mr. Lewis -- or Detective Lewis,  
21 I'd like for to you turn to page 52071.

22 will you please go to line item 70017?

23 Are you there?

24 A. Yes.

25 Q. All right. will you please read next to 70017,

- 1 what it says.
- 2 A. Anthem and Cynthia Blanchard fraud-Google search.
- 3 Q. All right. And then next to that, what does that
- 4 large text box look like to you?
- 5 A. A very large URL.
- 6 Q. Okay. And then the next box over, what is that?
- 7 A. That is a date and timestamp.
- 8 Q. Okay. And what is the date?
- 9 A. 8-28 of 2021.
- 10 Q. And the time?
- 11 A. Is 12:23 p.m. UTC.
- 12 Q. All right. Go down one line to line item 70018.
- 13 will you please tell the jury what the next line item says
- 14 it is.
- 15 A. Anthem and Cynthia Blanchard fraud-Google search.
- 16 Q. Okay. And then the box next to that one --
- 17 A. Also a very large URL.
- 18 Q. -- and then the next box over, what is that?
- 19 A. That is a date and timestamp.
- 20 Q. What's the date on that one?
- 21 A. 8-28 of '21.
- 22 Q. Time?
- 23 A. 12:23 p.m. UTC.
- 24 Q. Thank you, sir.
- 25 I'll have you turn to the next page, which is five

- 1 -- 52072.
- 2 Are you there?
- 3 A. Yes, ma'am.
- 4 Q. All right. Will you go to line item 70030 and tell  
5 me what is in that box beside that number?
- 6 A. Anthem Gold fraud-Google search.
- 7 Q. The next box over is what?
- 8 A. The URL.
- 9 Q. And then the next box after that?
- 10 A. That's the date and timestamp?
- 11 Q. And what is the date?
- 12 A. 8-28 of '21.
- 13 Q. What time?
- 14 A. 12:11:55 p.m. UTC.
- 15 Q. Okay. Go one line down to 70031.  
16 what is that search -- or what is that for? Sorry.
- 17 A. Anthem Gold fraud-Google search.
- 18 Q. The next box over, what is that?
- 19 A. That is the URL.
- 20 Q. And what is the box following that?
- 21 A. The date and timestamp.
- 22 Q. And what is that date?
- 23 A. 8-28 of '21.
- 24 Q. what is that time?
- 25 A. 12:11:54 p.m. UTC.

- 1 Q. Thank you, sir.
- 2 I ask you to go to line item 70034.
- 3 Now, it appears the box next to that, is it blank?
- 4 A. It is.
- 5 Q. All right. Will you go to the -- the box where
- 6 we've been talking about a URL. Do you see that one?
- 7 A. Yes.
- 8 Q. Okay. Will you read off that URL.
- 9 A. [HTTP://bartlesvilleradio.com//caffiene/upload/](http://bartlesvilleradio.com//caffiene/upload/)
- 10 [files/138HSC\(2\).mp3](http://files/138HSC(2).mp3).
- 11 Q. All right. And will -- the next box over, what is
- 12 that?
- 13 A. That is the date and timestamp.
- 14 Q. What is the date?
- 15 A. 8-26 of '21.
- 16 Q. What is the time?
- 17 A. 11:53:11 a.m. UTC time.
- 18 Q. Thank you, sir.
- 19 One more line down, the line number is 70035. Will
- 20 you please read the first -- the second box.
- 21 A. The Bartlesville Radio News.
- 22 Q. And then next to that is what?
- 23 A. The URL.
- 24 Q. And what's that URL appear to go to?
- 25 A. [HTTP://m.bartlesvilleradio.com/pages/news/](http://m.bartlesvilleradio.com/pages/news/)



- 1 307022021/cybersecuritycompany picks bartlesville as new home.
- 2 Q. And then the box next to it?
- 3 A. It's a date and timestamp.
- 4 Q. What's the date?
- 5 A. 8-26 of '21.
- 6 Q. What's the time?
- 7 A. 11:52:59 a.m. UTC time.
- 8 Q. Thank you, sir.
- 9 One more line down. 70036, what is in the box
- 10 directly next to the line item?
- 11 A. It is a Google search, HeraSoft Acquires Building
- 12 Bartlesville.
- 13 Q. Okay. And then the box next to that, what does
- 14 that appear to be?
- 15 A. It is the URL associated with that Google search.
- 16 Q. Okay. And what is the next box?
- 17 A. It is the date and timestamp.
- 18 Q. And what is the date?
- 19 A. 8-26 of '21.
- 20 Q. What is the time?
- 21 A. 11:52:49 a.m. UTC.
- 22 Q. Thank you, sir.
- 23 And then the next item down, line item 70037, what
- 24 is that?
- 25 A. HeraSoft Acquires Building Bartlesville-Google

1 search.

2 Q. And then the very next line or the box over?

3 A. Is the URL.

4 Q. And then the final box next to that?

5 A. Is the date and timestamp.

6 Q. And what is the date?

7 A. 8-26 of '21.

8 Q. And what is the time?

9 A. 11:52:48 a.m. UTC time.

10 Q. Thank you, sir.

11 when you testified about finding things on the  
12 phone having to do with Bartlesville Radio, Cynthia and  
13 Anthem Blanchard, and the HeraSoft, is this what you were  
14 referencing?

15 A. Yes.

16 Q. Thank you, sir. You can put that up there.

17 And then just to be clear, I don't know that I've  
18 asked anyone this question, where is the old -- we've been  
19 talking about the old county courthouse or HeraSoft. We  
20 talked about it being over on Frank Phillips. Where is  
21 that located? What city?

22 A. Bartlesville.

23 Q. And in what county?

24 A. Washington.

25 MS. GULLETT: Thank you, Judge. No further

1 questions.

2 THE COURT: Mr. Adams, you may cross-examine the  
3 witness.

4 CROSS-EXAMINATION

5 BY MR. ADAMS:

6 Q. All right. Sir, you knew that Michael Nelson had  
7 sent the letter to Cynthia because he sent it certified  
8 mail and he signed it, right?

9 A. I don't remember if he signed it. I do know that  
10 they received a certified letter.

11 Q. From Michael Nelson?

12 A. Yes.

13 Q. Okay. So it was no surprise that Michael Nelson's  
14 the one that sent it?

15 A. Correct.

16 Q. And now, would you agree with me, sir, that a  
17 citizen has the right to report suspected criminal  
18 behavior to authorities?

19 A. Yes.

20 Q. Did you investigate to see if some of the things  
21 that he said in his letter and his other communications,  
22 were true?

23 A. I did not have reasonable suspicion that the  
24 Blanchards had committed a crime in my jurisdiction, so  
25 no.

1 Q. Okay. Did -- you didn't have reasonable suspicion?  
2 Did you investigate it?

3 A. I -- I can't investigate a crime unless I have  
4 reasonable suspicion that a crime has occurred.

5 Q. But you're the one that just decided, Hey, I don't  
6 have reasonable suspicion?

7 A. If I have a victim come and report that they are  
8 the victim of a crime committed by the Blanchards in this  
9 jurisdiction, I'll be happy to investigate that, but I  
10 didn't have that.

11 Q. Okay. So you're saying you didn't have reasonable  
12 suspicion that a crime was committed in your jurisdiction?

13 A. Correct.

14 Q. He's claiming that they're defrauding people all  
15 over the country and the world, right?

16 A. Did he report that?

17 Q. Yes. On -- in --

18 THE COURT: Mr. Adams, ask your question, but  
19 don't testify.

20 Q. (By Mr. Adams) Did you find -- look through that  
21 96,000 pages and see things where he reported things to  
22 the FTC -- the SEC and the CFTC?

23 A. The scope of my warrant was to look for evidence in  
24 reference to stalking. So when I was going through that  
25 phone, I was looking for evidence to substantiate the

1 claims made by the Blanchards.

2 Q. So you were trying to substantiate the claims made  
3 by the Blanchards, but you weren't investigating to  
4 determine if what he was saying was true?

5 A. True.

6 Q. Sir, do you think it's a fair criticism to say that  
7 you put blinders on?

8 A. No.

9 Q. Now, that MP3 file that you read off that he got on  
10 the Bartlesville website, that was a copy of the city  
11 counsel meeting where they were approving giving the  
12 Blanchards tax-payer funds, wasn't it?

13 A. I did not view it.

14 Q. Do you know the Blanchards?

15 A. I had not met them until I got assigned this case.

16 Q. And who was it that asked you to look at this?

17 A. My boss.

18 Q. And who is your boss?

19 A. At the time, it was Sergeant Ward.

20 Q. Does he know the Blanchards?

21 A. I don't know.

22 MR. ADAMS: Judge, may I approach?

23 THE COURT: Yes.

24 Q. (By Mr. Adams) Sir, I'm handing you a couple of  
25 pages. Do you recognize those two pages?

1 A. Yes.

2 Q. Okay. And is that from the same 96,000-plus-page  
3 PDF that you got back from the OSBI regarding Mr. Nelson's  
4 cell phone?

5 A. Yes, sir.

6 Q. Okay. Now, sir, unlike Ms. Gullett, my pages are  
7 not sequential. Those pages in there are not sequential,  
8 but can you -- and before I do that, so that comes from  
9 that 96,000 pages and that shows e-mails incoming and  
10 outgoing?

11 A. Okay.

12 Q. Would you agree with that?

13 A. I agree.

14 Q. Okay.

15 MR. ADAMS: Judge, at this time, I would move to  
16 admit Defendant's Exhibit 3, which is page 53846 and page  
17 53727.

18 MS. GULLETT: No objection, Judge.

19 Q. (By Mr. Adams) Now, sir, along this --

20 THE COURT: It shall be admitted.

21 Q. (By Mr. Adams) -- along the side --

22 THE REPORTER: Hang on.

23 THE COURT: Hold on.

24 Q. (By Mr. Adams) Along this side there are numbers.

25 It looks like it's some kind of sequential number to keep

1 track. Do you see that on the left side --

2 A. Yes, sir.

3 Q. -- of the column?

4 And it's basically, like -- it's, like, a  
5 spreadsheet, like, an Excel spreadsheet, right?

6 A. Yes.

7 Q. All right. So if I could get you to look on the  
8 first page at 17446. It's the -- it's the fourth one  
9 down. Do you see that entry, sir?

10 A. Yes, sir.

11 Q. All right. And if you'll go over to the date.  
12 Will you read that for us.

13 A. It is 2-27 of 2019.

14 Q. Okay. And -- and that is a -- will you show us who  
15 that's from and who that's to.

16 A. It's from e-mail address michael@anthemvault.com,  
17 to paulaubert@mac.com, says Paul Aubert.

18 Q. Okay. Or maybe pronounced Aubert?

19 A. Possibly.

20 Q. Okay. Isn't that what -- isn't that how  
21 Ms. Blanchard spelled Paul Aubert's name when you were  
22 sitting here and she testified?

23 A. Probably.

24 Q. Okay. Now, can you tell us -- explain to the  
25 ladies and gentlemen of the jury what the UTC time is?

1 A. So it's similar -- well, it is the Greenwich time.  
2 It is five hours ahead of Central Daylight Time and six  
3 hours ahead of Central Standard Time.

4 Q. Okay. So if the phone is recording the time using  
5 UTC or the call log is recording it or the e-mail log is  
6 recording it using UTC, but when it's sent out via e-mail,  
7 could that cause a difference in the dates if it were  
8 close to midnight?

9 A. So if we're within five hours to midnight during  
10 daylight saving's time, yes; six hours if it's not  
11 daylight saving's time, yes.

12 Q. Okay. That's just -- now, can you tell us the --  
13 over here on the far right-hand side on that same entry,  
14 can you tell us what the subject of that is?

15 A. It says, Forward call ... remember this? The  
16 market manipulation is wrong/illegal. You had agreed.

17 Q. Okay. So that is --

18 Now, the first e-mail address, the  
19 michael@anthemvault.com, it's also this Michael Nelson,  
20 right?

21 A. Yes.

22 Q. Okay. Now, so do you have any doubt that that is  
23 the recording from the OSBI's report when they did the  
24 phone dump, and it shows that Michael Nelson sent an  
25 e-mail to Paul Aubert, the general counsel, after he was



1 fired, saying -- reminding him market manipulation is  
2 wrong?

3 MS. GULLETT: Objection, Your Honor. That calls  
4 for him to speculate as to what was in the e-mail. He can  
5 testify as to what is on this page.

6 THE COURT: Sustained.

7 MR. ADAMS: Okay.

8 Q. (By Mr. Adams) would you agree with me, sir, that  
9 this reflects that Michael Nelson, after he was fired,  
10 sent an e-mail to the general counsel, Paul Aubert, with a  
11 subject that said, forward call, remember this, the market  
12 manipulation is wrong/illegal and you agreed? At least he  
13 reported in the subject matter that that was what the  
14 content of the e-mail was.

15 A. I can agree that that's the subject and it's  
16 forwarded, so I don't know what the content of the e-mail  
17 is nor the context.

18 Q. Okay. Well, if you'll flip over to the next page  
19 and look at an entry -- and this is 16279. It's the third  
20 one down. Do you see that?

21 A. I do.

22 Q. All right. Now, will you tell us the date of that.

23 A. 11-7 of '18.

24 Q. And that's also doing the UTC time?

25 A. Yes, sir.

1 Q. All right. Now, that -- if you'll look over there,  
2 can you tell who that's from?

3 A. It's from michael@anthemvault.com, Michael Nelson.

4 Q. Okay. And who's that being sent to?

5 A. Paul@herc.one Cynthia@herc.one Cynthia Blanchard.

6 Q. Okay. And is it blind CC'd to any e-mail  
7 addresses?

8 A. Nelsontelco@gmail.com, twice.

9 Q. Twice.

10 Now, can you explain for us what the blind CC is or  
11 -- I'm saying -- I'm saying blind CC, but can you explain  
12 what BCC is?

13 A. It's blind courtesy copy.

14 Q. So you send a courtesy copy, but the person that  
15 receives it doesn't see that you're sending it? Isn't  
16 that how it works?

17 A. I would say -- well, the other people wouldn't see  
18 that the -- so Michael -- or, sorry, Paul and Cynthia  
19 would not see that nelsontelco@gmail would be receiving  
20 that, but that's what you're getting at.

21 Q. Okay. So you can send a copy to yourself and they  
22 don't know --

23 A. Right.

24 Q. -- you're getting a copy?

25 A. Right.

1 Q. Now, can you tell us what the -- so that was on  
2 November the 7th, that was like three and a half months  
3 before, right?

4 A. Yes, in 2018.

5 Q. Yeah.

6 And the call -- I mean, can you tell us what the  
7 subject of that e-mail was?

8 A. It says call.

9 Q. Yeah, re: regarding call?

10 A. Right.

11 Q. And that was sent to Paul Aubert, but this one was  
12 also sent to Cynthia Blanchard, right?

13 MS. GULLETT: Objection, Your Honor; asked and  
14 answered. He answered who it was sent to.

15 THE COURT: I believe it was, so sustained.

16 Q. (By Mr. Adams) will you agree, sir, maybe I missed  
17 it, but there's no dispute that cynthia@herc.one is the  
18 e-mail address for Cynthia Blanchard, is there?

19 A. No dispute.

20 Q. Now, and so that reflects that Michael Nelson sent  
21 an e-mail to Cynthia Blanchard and to Paul Aubert on  
22 November the 7th, regarding a call?

23 A. I would assume so.

24 MR. ADAMS: No further questions.

25 Thank you, sir.

1 THE COURT: Ms. Gullett, you may redirect.

2 MS. GULLETT: Just briefly, Judge. Thank you.

3 REDIRECT EXAMINATION

4 BY MS. GULLETT:

5 Q. Detective Lewis?

6 A. Yes, ma'am.

7 Q. How many police reports has Bartlesville Police  
8 Department received from Michael Eric Nelson?

9 A. Zero.

10 Q. How many police reports has Bartlesville Police  
11 Department received concerning Cynthia Blanchard as a  
12 suspect?

13 A. As a suspect, zero.

14 Q. How many police reports has the Bartlesville Police  
15 Department received as far as Anthem Blanchard is  
16 concerned as a suspect?

17 A. Zero.

18 Q. And since we can't get away from his name, how many  
19 police reports has the Bartlesville Police Department  
20 received concerning a Chad Koehn as a suspect?

21 A. Zero.

22 Q. Based on those answers, why did you not look  
23 further into this line item 17446 that says the market  
24 manipulation is wrong and illegal?

25 A. I mean, I did not have reasonable suspicion that

1 the Blanchards committed a crime in my jurisdiction.

2 Q. And then, as far as you're aware, it says this  
3 e-mail was sent in 2019. You were sitting here through  
4 this entire trial. Do you believe that anyone involved in  
5 this e-mail was living in Washington County at that time?

6 A. No.

7 Q. Thank you, sir.

8 MS. GULLETT: No further questions.

9 THE COURT: Mr. Adams and Ms. Gullett, if you  
10 would come forward just a moment.

11 (Whereupon, a bench conference was had outside the  
12 hearing of the jury. This bench conference was not  
13 a requested part of this transcript.)

14 RECROSS-EXAMINATION

15 BY MR. ADAMS:

16 Q. Sir, you don't have, in Bartlesville, jurisdiction  
17 to investigate federal money laundering, do you?

18 A. No.

19 Q. You don't have jurisdiction to investigate Ponzi  
20 schemes that span multiple states and multiple countries,  
21 do you?

22 A. No, I don't.

23 MR. ADAMS: No further questions.

24 THE COURT: Thank you, sir. You may step down.

25 THE WITNESS: Thank you.

1 THE COURT: State -- the State my call its next  
2 witness.

3 MS. GULLETT: Your Honor, with all of the  
4 admissions and the witnesses, the State, at this time,  
5 would rest.

6 THE COURT: Okay. Mr. Adams, the State has  
7 rested.

8 MR. ADAMS: Yes. Can we approach?

9 (Whereupon, a bench conference was had outside the  
10 hearing of the jury. This bench conference was not  
11 a requested part of this transcript.)

12 THE COURT: Ladies and gentlemen, the State has  
13 rested.

14 And, at this time, Mr. Adams, you may call your  
15 first witness.

16 MR. ADAMS: Your Honor, the defense rests.

17 THE COURT: Okay. Thank you, sir.

18 (Proceedings continued, but were not a requested  
19 part of this transcription.)

20 THE COURT: Ms. Gullett, you may give your  
21 closing argument.

22 MS. GULLETT: Thank you, Judge.

23 All right. Thank you, ladies and gentlemen, for  
24 being here. My job is almost over and your job is about  
25 to begin. You guys have gotten to sit through the

1 testimony yesterday, there was a lot of back and forth  
2 about a lot of different things.

3 So this is my opportunity to get to talk to you  
4 about these jury instructions, what Judge just read to  
5 you, because it's your first time seeing them. And this  
6 is my opportunity to kind of get to point out a couple of  
7 the jury instructions that I think are important and that  
8 I think need a little extra consideration when you guys go  
9 back to your room to deliberate.

10 So one of the very first ones I like to always  
11 point out is Instruction Number 2, where we talked about  
12 -- on the very first day, we talked about not checking  
13 your common sense at the door. We also talked about  
14 whether or not you have common sense, and nobody on this  
15 jury raised their hand and said, I don't have any common  
16 sense. Nobody on this jury raised their hand and said,  
17 Nope -- or said, Yeah, people have always accused me of  
18 not having common sense. You guys have all said that you  
19 have common sense and that you can approach this case with  
20 common sense.

21 So here's the jury instruction that specifically  
22 says that you may make deductions and reach conclusions  
23 that reason and common sense lead you to draw from the  
24 fact that you find the defendant -- established by  
25 testimony and evidence the case.

1 Talking about evidence -- and there's been a lot of  
2 testimony in this case, also, that there's been a lot of  
3 different things admitted in this case. The State of  
4 Oklahoma has admitted up to 13 and I believe the defendant  
5 was up to three. So you have a lot of things to look at.  
6 And there's a lot of information sitting over there and a  
7 lot of e-mails that didn't get read to you. I'd ask that  
8 you guys go back there and you read them. Read everything  
9 in its entirety. Read the defendant's exhibits.

10 The -- one of the big ones I think is absolutely  
11 important is to take a look at Defendant's Exhibit Number  
12 2. This big packet right here, the protective order  
13 petition that was applied for by Ms. Blanchard out of  
14 California. This was admitted by the defendant. There's  
15 a lot of information in here that is important that you  
16 now get to consider because this has come in.

17 I ask that you read the e-mails that were sent as a  
18 group e-mail in October of 2020. We talked about two  
19 different e-mails that were sent to -- she testified to  
20 maybe fifty-plus people. That includes individuals such  
21 as editor@cryptonews.com, press-release@cryptonews.com,  
22 kpender@sfchronicle.com, editors@thenextweb.com, and  
23 support@tdameritradenetwork.com, are all on this large  
24 e-mail chain that was sent out about the Blanchards and  
25 their company and what terrible people they are and the



1 terrible, horrible things they're doing to this man right  
2 here.

3 I'd ask that you take a look at all that evidence,  
4 but you can also -- I know we listened to the voicemails  
5 yesterday. You have the opportunity to ask to hear those  
6 voicemails again. You only got to hear them once. If you  
7 want, you go back in that room, you write out on a piece  
8 of paper, the way that you ask a question, and say, we'd  
9 like to hear the voicemails again. We bring you back in  
10 here, you sit down in your chair, and we play the  
11 voicemails for you again.

12 There's always a question if you guys can have  
13 them, keep them, listen to them, slow them down, play  
14 them, things like that. You can't do that, but you can  
15 hear them again.

16 I'd point out that in those voicemails that  
17 Ms. Blanchard received in January of 2021, there was talk  
18 of a blood feud a couple of times, about a blood feud  
19 between my children -- that was referring to Mr. Nelson's  
20 children -- and lying, that will have continued the blood  
21 feud with the Blanchards -- with Ms. Cynthia Blanchard's  
22 children and her line, and it'll just keep going on and  
23 on.

24 Then there was talk about a prince of the United  
25 Arab Emirates, and I think that that's a pretty concerning

1 thing to catch up on because when you think about a  
2 country like the UAE, that's a lot of money sitting in a  
3 country over there. And then you think about someone like  
4 a prince from the UAE. That is a person with means. So  
5 whenever someone is saying to you on the phone, I have a  
6 connection, I was bunkmates with, I'm buddies with this  
7 person who is from a arguably very powerful country, who  
8 had access to we would say as a prince, lots of money,  
9 that would be scary. I wouldn't want to receive that  
10 voicemail.

11 The interesting thing about those voicemails,  
12 though, is also that in them he talks about preventing him  
13 from getting jobs, preventing him from businesses. But  
14 what there's not in there is no mention of going to the  
15 FBI, the SEC. What you have in those voicemails are the  
16 rantings of an unstable person. You have a person who has  
17 latched onto some idea that he thinks is true and is  
18 following it through to the end, and he can't let it go.

19 I'd ask that you look at the Bartlesville Radio  
20 article that comes out on August 25th, and then I'd ask  
21 that you read the *Bartlesville Examiner* article that comes  
22 out on August 26th, and pay special attention to the fact  
23 that the *Examiner* article hits the web at 6 a.m., and the  
24 e-mail to the City of Bartlesville is at 7:30 that morning  
25 from Mr. Nelson.

1           Because -- we know that, one, because the e-mail  
2 says so, but two, we have the phone searches where he's  
3 looking at Bartlesville, at HeraSoft, and Cynthia and  
4 Anthem Blanchard. Mr. Nelson, who's never been to  
5 Oklahoma, who's never been to Bartlesville, who should  
6 shouldn't really know about HeraSoft, the company wasn't  
7 formed until he had no more dealings with this company,  
8 with these people. He worked for a completely different  
9 company. How does he know about HeraSoft, a company in  
10 Bartlesville, Oklahoma? Because he's obsessed with the  
11 Blanchards. He's angry, he's obsessed, and he can't let  
12 it go.

13           It's no surprise to you -- you've heard that  
14 charges were filed in December of '21 in this case.  
15 Mr. Nelson was brought to Oklahoma on these charges, and  
16 so this case got going. It got rolling. We started off  
17 with this criminal case. So what happens?

18           September of '22, he reaches out to shareholders  
19 because he can't let it go. So then he calls Mr. Piercy  
20 and he has a conversation with him about, Do you know who  
21 you're in business with? Well, let me tell you. Ponzi  
22 scheme artists. Terrible people. They got all this stuff  
23 going on. That's what he tells you -- tells Craig Piercy.

24           Craig Piercy's like, who are you and why are you  
25 calling me? How did you get my information? How do you

1 know my wife's name?

2 And then he calls Mark Ritter and leaves Mark a  
3 voicemail. And you heard that voicemail because Mark  
4 doesn't answer his phone for numbers he doesn't know. I  
5 don't blame him. And so you hear him say in there --  
6 starts off with, well, I want to talk to you about someone  
7 who -- or about this company you're invested in. And then  
8 he goes on to say, well, I know all this information about  
9 you. I know that you and your sister had this company  
10 that you sold, and then, you know, I want to talk to you  
11 man to man. And then your name keeps popping up in all of  
12 these filings or all these things about underage girls.

13 Who says that stuff when you're calling someone to  
14 warn them that they have invested in a Ponzi scheme? Who  
15 says, "I have filed 16 subpoenas up and down the east  
16 coast" when you're calling this person because you're a  
17 whistle-blower? Because are trying to save them?

18 I want to talk to you about you get to consider  
19 direct and circumstantial evidence. Direct evidence, like  
20 we said, is everything from that stand, everything that's  
21 been admitted, everything you've heard as far as  
22 voicemails go.

23 You also get to consider circumstantial evidence,  
24 which is you guys putting inference -- some inferences  
25 together such as the phone was found on him. It was

1 seized. It was taken to the Washington County -- or both  
2 of them were taken to the Washington County Sheriff's  
3 Department where this detective took it out of property,  
4 then this detective sent it to OSBI, who then did their  
5 magical technology on it. Got 96,000 pages off of it.  
6 And then from that 96,000 pages, we were able to locate  
7 the different searches on that phone.

8           You could put all those steps together. Just  
9 because someone can't stand there and say, I saw  
10 Mr. Nelson sending this e-mail, the phones were on him.  
11 They're under his e-mail address.

12           Arguably, a lot of the questions have been, Didn't  
13 you receive this e-mail from Mr. Nelson? And the answers  
14 have been, Yes, yes, I did. There's been no real denial  
15 that these e-mails, this letter, these voicemails were  
16 Mr. Nelson.

17           So that brings me to the elements of this crime.  
18 We talked at the very beginning that this crime is an  
19 interesting one. The Oklahoma legislature has carved out  
20 an interesting crime. So I would take you to Jury  
21 Instruction Number 19 where it talks about the crime is  
22 you use a computer to violate an Oklahoma statute.

23           So you'll see here that we have the elements of  
24 first, second, third, and fourth. And when you look under  
25 number 4, there are seven more elements listed. That's

1 because one through four are the elements of using a  
2 computer, one through seven are the elements of stalking,  
3 because I have alleged that he used a computer to stalk  
4 Cynthia Blanchard.

5 So element number one of the first section:  
6 Communicated with. You kind of have to look at element  
7 number two to understand what communicated with means; a  
8 computer system or a network. So whenever -- we all  
9 talked about understanding computers, a basic  
10 understanding. So communicated with means, when you get  
11 on your phone and you go to Google, you are communicating  
12 with Google because you're sending them some data, they're  
13 sending you data. So you're communicating back and forth  
14 through a computer or through that system.

15 Second: A computer system or a network, a phone, a  
16 smart phone, an iPhone 8 Plus, an iPhone 7 Plus, is a  
17 computer. We carry tiny computers in our pockets every  
18 day for the purpose of using the access. So it has to do  
19 with what did he use this phone to do. Arguably, he used  
20 the phone to send an e-mail, multiple e-mails, search for  
21 the Blanchards, search for their three businesses, search  
22 for Bartlesville, all sorts of stuff like that.

23 And fourth: To do the following things. So you  
24 use this computer for the purpose of looking for people to  
25 do this stuff.

1           So this is the elements for stalking. Willfully,  
2 maliciously -- we have definitions for both of those,  
3 pretty self-explanatory -- repeatedly -- so that would  
4 mean everything we have evidence of. That would be  
5 e-mails, voicemails, certified letter, more e-mails,  
6 everything that's repeated.

7           Harass another person, Ms. Blanchard. Love her.  
8 Hate her. She talks a lot. I tried to cut her off  
9 sometimes. That's still who we're talking about, though,  
10 that's Ms. Blanchard.

11           In a manner that would cause a reasonable person --  
12 We talked on Monday about what it means -- reasonableness  
13 means. You guys wouldn't be sitting on this jury if you  
14 weren't reasonable people. So that -- you guys have to  
15 come up with, would everything that Mr. Nelson have done  
16 cause a reasonable person, in this case, yourselves, to  
17 feel frightened, intimidated, threatened, or harassed?  
18 You don't have to feel all four. You can feel three of  
19 four. You can feel one of four. I'd argue she said she  
20 testified to all four. And then that actually causes the  
21 person being harassed to feel frightened, intimidated,  
22 threatened, or harassed.

23           So Cynthia told you from that stand that she has  
24 been in fear from approximately 2019, but especially since  
25 the State of Oklahoma's had jurisdiction in May of 2020.

1 she told you that she doesn't know what this man is going  
2 to do. Every day, doesn't know what's going to happen  
3 next. She doesn't know what she's going to wake up to  
4 tomorrow.

5 So you have to decide if you think that these --  
6 this behavior has risen to these levels. And that's where  
7 you get to go back and you can look at that Defendant's  
8 Exhibit Number 2. You can consider the information that's  
9 in there.

10 Specifically inside that, I draw your attention  
11 towards the end of Defendant's Exhibit Number 2. I don't  
12 know the page numbers, but it's kind of towards the end.  
13 There is a reference to a civil case called *Renzello v*  
14 *Nelson*, and you can read through this about what was  
15 alleged to have happened in this case.

16 Now, spoiler alert, the case was eventually sent  
17 back because there was no adequate service on Mr. Nelson.  
18 But there are allegations that Mr. Nelson had posted  
19 defamatory statements online about this man named Damian  
20 Renzello in May of -- let's see, May 16 of 2007, that they  
21 had been in some sort of contract or business together,  
22 that the individual in this civil case testified that the  
23 defendant had continued to post defamatory comments about  
24 himself and his company on the Internet, that he defamed  
25 Mr. Nelson, defamed this man in the comments section of an



1 online popular science article devoted to this man's  
2 products, and on numerous other websites, including a  
3 website entitled Ripoff Report. He testified that he had  
4 lost business due to his comments.

5 This is not an accident what he is doing to the  
6 Blanchards. This is old hat. He's done it before. And  
7 you can look at all that. You can read all about that.

8 Ladies and gentlemen, I will get to respond one  
9 more time because the State of Oklahoma has the burden, as  
10 you know. As we talked about, it's beyond a reasonable  
11 doubt. So I get to come up here one more time and talk to  
12 you again. But at the end of this, as you know, I'm going  
13 to be asking that you find Mr. Nelson guilty and that you  
14 assess a punishment appropriate with the behavior that he  
15 has displayed.

16 Thank you.

17 THE COURT: Mr. Adams, you may give your closing  
18 argument.

19 MR. ADAMS: The brilliance of the United States  
20 Constitution is the separation of power. Politicians and  
21 government officials are always trying to consolidate  
22 power.

23 MS. GULLETT: Objection, Your Honor. States  
24 facts not in evidence. We didn't talk about the  
25 government, the Constitution.

1 (whereupon, a sidebar conference ensued and was  
2 recorded outside the hearing of the jury. This was  
3 not a requested part of this transcription.)

4 MR. ADAMS: The separation of the powers  
5 protects us as citizens against the government. You got  
6 to have three functions to have a government. You've got  
7 to have somebody make the law, you got to have somebody  
8 decide when the law applies, and you got to have somebody  
9 enforce the law. And our founding father's knew, through  
10 a study of history, that as -- as humans we have a  
11 tendency to become tyrannical. And if any one group got  
12 too much of that power, they would have a tendency to  
13 become tyrannical. So that's why we have the three  
14 branches of government and the separation of powers.

15 The brilliance of the United States Constitution is  
16 that separation of power. But when it came to criminal  
17 cases, in addition to our Bill of Rights -- which we will  
18 be talking about, especially the first one. In addition  
19 to the Bill of Rights, the United States Constitution  
20 gives us an additional power. It gives us an additional  
21 protection from the government, because the Constitution  
22 is about restricting the power of the government to act  
23 against its citizens.

24 The additional protection is found in the Sixth  
25 Amendment of the Constitution, and that's the right to

1 trial by jury, and that's you. You guys are the finders  
2 of fact, meaning that you guys determine what you believe  
3 to be true or not true. And, more specifically, you  
4 determine whether the State of Oklahoma has proved every  
5 single element beyond a reasonable doubt. And if they  
6 haven't, then your duty is to find Mr. Nelson not guilty.

7 Not because you have sympathy or empathy for Mr.  
8 Nelson, we're not -- you shouldn't make a decision because  
9 you find him to be an annoying Yankee from New England.  
10 It's because it protects us. It protects our system. And  
11 who knows, you might need it one day.

12 A lot of times when you meet somebody in your life,  
13 you come across somebody, you start asking yourself the  
14 question of who's the bad guy in this situation, you know?  
15 who's the bad guy in this situation? And you can't expect  
16 people to act logically, but, you know, you can expect  
17 them to act sensibly.

18 And at the beginning, I just want -- as I start to  
19 go through the evidence and argue, I just want to remind  
20 you what the instructions are.

21 Instruction 5 gives you the definition -- and these  
22 are a little out of order, but, hey --

23 It says evidence is the testimony received from the  
24 witnesses under oath and stipulations by the attorneys and  
25 exhibits admitted into the evidence. The exhibits,

1 including Defendant's Exhibit 1 and Defendant's Exhibit 2,  
2 and Defendant's Exhibit 3, are evidence, including all the  
3 stuff they introduced. They're writings. The statements  
4 that they write in there are evidence. And I would --  
5 they also give you the definition of direct evidence,  
6 which is an exhibit such as a photograph, which  
7 demonstrates the existence of a fact. It's proof which  
8 points immediately to a question at issue and which proves  
9 the existence of a fact, without inference. That's  
10 direct.

11           And then you've got circumstantial evidence.  
12 Circumstantial evidence allows for reasonable inferences.  
13 And so I just want to touch on this before I get into  
14 arguing what I think are reasonable inferences or what the  
15 evidence may conclude. And when you get so much into  
16 arguing -- it's not a question of do I believe this or do  
17 I believe that, that's not the duty. The duty is has the  
18 State of Oklahoma proved every element of the crime beyond  
19 a reasonable doubt.

20           Mr. Nelson has to prove nothing. And in doing  
21 this, we'll talk about the instruction that Ms. Gullett  
22 likes. You are permitted to draw such reasonable  
23 inferences from the testimony that you feel are justified,  
24 considered with the aid of your knowledge which you each  
25 possess in common with each other. This is the common

1 sense.

2 We'll go back to the genesis of the whole thing.  
3 Go back to the beginning of the whole thing. When did the  
4 controversy between Mr. Nelson and the Blanchards begin?  
5 And you might have to jump around a little, but it's here.

6 You've got Defendant's Exhibit Number 1. On the  
7 first page, you've got -- and if you recall, when  
8 Ms. Blanchard sat up there, I went through each phone  
9 number and said "Is this your phone number?" "Is this  
10 your husband's phone number?" And she says, "Yes." And I  
11 was going through this, and it was about that time  
12 Ms. Gullett stood up and said, "I believe there's a text  
13 message that we can introduce it," which sped things up.  
14 But you'll see the blue part is from Mr. Nelson, the gray  
15 part is from either Ms. Blanchard or Mr. -- Mr. or Mrs.  
16 Blanchard. And you've got to look at the number to see  
17 who's saying what, but it's all in there.

18 The first part of it, he's talking about, I asked  
19 for her tokens to be able to use the platform, and was  
20 told to go buy them, which did with my own money at 40  
21 cents each. Now, for some reason, when we asked that,  
22 that seems to be a big mystery or something she can't seem  
23 to recall. It's on the exhibit, 40 cents each, that's  
24 what he's buying them for.

25 The 3-1-0 number, which is the Los Angeles number,

1 which is hers, sends back, who told you that, question  
2 mark? well, her husband --

3 MS. GULLETT: Objection, Your Honor, assumes  
4 facts not in evidence. She never acknowledged that she  
5 was actually on this text message chain. She, in fact,  
6 said she didn't believe she was.

7 MR. ADAMS: Judge, I'm arguing evidence from the  
8 text message here.

9 THE COURT: You're arguing evidence, but I  
10 believe -- and maybe I'm wrong -- that you referenced what  
11 she said in relationship to that.

12 MR. ADAMS: I don't have to believe what she  
13 said.

14 THE COURT: I understand that. Argue the --  
15 argue the exhibit, but not what she said in reference to  
16 that exhibit because I believe Ms. Gullett's right.

17 MR. ADAMS: "who told you that?" That was the  
18 conversation going between the three of them. Then on  
19 February the 24th, 2019 --

20 And by the way, while we're here, let me -- there's  
21 an instruction on there judging the credibility of the  
22 witness's testimony. You guys can believe as much or as  
23 little or part of anybody's witness testimony as it is.  
24 You don't have to take -- you don't have to accept their word  
25 for it. You guys are the finders of fact. There's no

1 other 12 people in this world that can decide what you  
2 believe and what you don't believe. And as far as the  
3 credibility of the witness -- and it gives you the things  
4 including their ability to remember the statements as one  
5 of the things to consider.

6 So it goes to them and it starts talking about how  
7 Mr. Nelson's complaining, you know, that other people got  
8 the tokens and he didn't, and it's a slap in the face and  
9 all that. But then we get down to the relevant part.  
10 Who's the bad guy? At the beginning, who's right in this  
11 situation and who's wrong in this situation? Where is the  
12 three million dollars, exclamation mark, question,  
13 question, question, question. I know it's not making  
14 market, cause I have e-mails to Paul warning him that's  
15 illegal. And a phone convo -- which I think a reasonable  
16 explanation would be conversation -- with Paul. He  
17 assured me that the company would not make market, which  
18 is illegal.

19 Now, fast-forward to today, the detective gets on  
20 the stand. Defendant's Exhibit Number 3. You know what  
21 there is? There is an e-mail -- I've got it backwards --  
22 on the second page, third line -- from Michael to Paul  
23 Aubert, which Ms. Blanchard testified was the general  
24 counsel, and to Cynthia, which the testimony was on the  
25 stand that she doesn't remember the e-mail. She doesn't

1 remember it. She doesn't remember. But then there's one  
2 point she stopped me and said, well, I think it's November  
3 the 7th. No matter how much she read it, she couldn't  
4 remember it.

5 Now, I would suggest to you or maybe just ask the  
6 question, have you ever seen one of those politicians get  
7 in trouble for something and they're up on -- like,  
8 testifying in front of a committee and every single  
9 question they ask them, it's, like, I don't recall, I  
10 don't recall, I don't recall, I don't recall? why is  
11 that?

12 We all know, because you can dodge the question if  
13 you just sit there and continue to say that I don't  
14 recall, I don't recall, I don't recall. And ability to  
15 recall is one of the issues that you're going to use to  
16 decide the credibility of the witness. That's within the  
17 jury instructions. But you know who does recall or who  
18 can prove it -- and this is direct evidence -- it's direct  
19 evidence that there was an e-mail and a reasonable  
20 inference, so it's direct -- both direct and  
21 circumstantial evidence in here that Mr. Nelson sent this  
22 e-mail to them because he was concerned about the illegal  
23 activity that they were engaged in.

24 And then this conversation goes through. After he  
25 says that, I had a phone convo with Paul, he assured me



1 the company would not make market. Mr. Blanchard, which I  
2 think it was -- I think she said it was a Texas number, I  
3 don't know. No, Las Vegas. She said it was a Las Vegas  
4 number. I thought it was Texas, she said it was Las  
5 Vegas. But 7-0-2 number.

6 Calm the F down or you're fired right now. He's  
7 asking where's the money. Are you making market? Are you  
8 doing something illegal? I discussed this with the  
9 general counsel. Calm the F down or you're fired right  
10 now. It's like a threat. MF'er. B, and I will make sure  
11 all you have earned is given back to the company, you  
12 better shape the -- shape up right the F now. That's a  
13 financial threat. I'll ruin you if you don't shut up  
14 about this.

15 To which Michael responds, that's a threat. That  
16 all my years you think you can take from my family. You  
17 are going to take from my family after all the years I've  
18 given you and everything, you think you take from my  
19 family. That's a threat. And it was a threat.

20 Listen to the wording. The wording. Sometimes the  
21 way people say things tells you a lot about them.  
22 According to the company accountant -- not that it's true,  
23 but according to the company accountant that he controls,  
24 as Cynthia said, he doesn't have -- he doesn't have proof  
25 or evidence of what he's saying because he doesn't have

1 our books. Almost as if to say, if we had our books --  
2 you know, if he's got them, they were hacked.

3 The companies had been way -- capital -- way  
4 overpaying you. You work so little that admin thought  
5 that you were on a sabbatical, LOL.

6 Now, this is on the day he gets fired. Remember  
7 the first e-mail to Aubert and then are on -- is on  
8 November the 7th, about, you know, when he's sending to  
9 general counsel and when he's sending to Cynthia.

10 So, yeah, I'm sure for the last few months they  
11 haven't been having to do a whole lot because he basically  
12 told them, I'm not down with what you guys are planning on  
13 doing.

14 You haven't done S for months, literally. And his  
15 response: Federal court then. Okay? Federal court. Why  
16 federal court? Why not State court? Because it's  
17 securities fraud. It's -- it's a federal jurisdiction.

18 You're lucky if the company doesn't take back --  
19 all caps -- hundreds of thousands. Loony bin for you.  
20 Instantly he's attacking him. He's attacking him in a way  
21 that would try to discredit him.

22 According to the federal courts, they love you  
23 there. Calm the F down right now. You are on the  
24 thinnest ice ever.

25 You should see who I'm meeting with right now.

1 He responds, You A hole? And then he corrects it  
2 below and he says, You're -- he says, you're --

3 That's Defendant's Exhibit Number 1. That tells  
4 you right there who's the bad guy.

5 And then I've -- I skipped this section, but I want  
6 to go -- the last page. On the last page of Defendant's  
7 Exhibit 1, he says -- he starts telling --- he calls him  
8 short bus. He starts telling him to go ask for a job from  
9 his brother. He says, "Because if you try anything, these  
10 texts already prove" -- but do you see, instead of hitting  
11 the space bar, he hit the V and so prove and you are  
12 connected together -- "guilty of collusion."

13 Well, it's that thing that's, like, it assumes a  
14 certain fact. When you say you -- these text messages  
15 prove you guilty of collusion. They mean that -- if he  
16 was guilty of collusion, colluding with who? Anthem.  
17 He's basically saying, If you turn me in, you're in  
18 trouble, too. I'll use these text messages to get you.

19 And then when he comes back, that's when he says,  
20 where's the three million dollars? And then Anthem  
21 responds and says, You're fired.

22 He's trying to back him off. He's trying to scare  
23 him off. He won't shut up.

24 And then that is on February the 24th, depending on  
25 whether you do the UTC or whatever. On the first page of

1 Defendant's Exhibit Number 3 -- well, actually, before  
2 that, let me tie this other into it because it's there,  
3 you just got to jump around a little bit.

4 In Defendant's Exhibit Number 2, you've got Paul  
5 Aubert's spin on this whole thing -- or not Paul Aubert,  
6 you've got Mark Heatwole who filed a police report. She  
7 attached all this stuff to her request for restraining  
8 order. And he puts in there -- he rewrites the quote that  
9 he received from Mr. Nelson on February the 24th of 2019.  
10 And he explains that he's -- he gets this text from  
11 Mr. Nelson, then he calls him, and then while he's talking  
12 to Mr. Nelson, that Mr. Nelson is texting with  
13 Mr. Blanchard, and then he's texting with Anthem, and that  
14 during that conversation he gets fired.

15 Well, he didn't get fired because he threatened  
16 anybody. They came back trying to claim that he  
17 threatened somebody to cover the fact of why they really  
18 fired him.

19 And then he comes back and he says -- but he quotes  
20 this text, Hey, Mark, I sent you a birthday text though I  
21 didn't hear back ... I received an e-mail I would like to  
22 discuss with you on the DL, down low, privately concerning  
23 three million investment. This is Michael Nelson. And  
24 then he says, I just landed at LAX. It explains what  
25 happened there when you do it.

1           The other fascinating thing is when you start  
2 looking at this and you start going through it, the e-mail  
3 that starts on page 1 of 6, it was from Anthem to all  
4 their shareholders, well, the e-mail that's attached here  
5 for her was forwarded from Cynthia Blanchard to  
6 kgunter@anthemvault.com. "Please print this, too, for the  
7 file. Thank you." Print this, too. She was printing  
8 other stuff, too.

9           So Cynthia is obviously involved, whether or not  
10 she remembers it or wants to admit because she didn't want  
11 to answer questions about it. But, basically -- and they  
12 have it down here, but when you start reading down there,  
13 they change it. Now, they're saying, Oh, he was fired  
14 because he threatened this guy. He threatened Mark.

15           And then they start -- they're sending this to all  
16 these shareholders. They're attacking him. It says,  
17 Mr. Nelson has apparently teamed up with Tom Winger, a  
18 former disgruntled contractor -- everybody that objects to  
19 what they're doing, they're disgruntled -- current  
20 shareholder and former director whom the company has  
21 successfully fended off against aggressive, threatening  
22 actions by him, who has had his own police report filed  
23 against him in Oklahoma for making threats against the  
24 company back in 2017. She always runs them over here, not  
25 because there's a connection. She files against Tom

1 winger in Oklahoma in 2017. She's trying to build a  
2 record so that she can get up here and play like she's a  
3 victim.

4 And then she says -- she goes down towards the  
5 bottom of this and says that Mr. Nelson is making false  
6 claims of nefarious activities being committed by the  
7 companies and that Mr. Winger is trying to extort a large  
8 money (sic) supposed to fund a lawsuit against the  
9 company. To their local authorities -- and she's talking  
10 about filing with local authorities. She even accuses him  
11 of hacking all the --

12 She sends this out to all these people that he  
13 knows. They send this out to the investors. Now, think  
14 about this for a second. Why do you think he sends these  
15 letters later on about all these people attacking him and  
16 these death threats and stuff like that? These people  
17 invest this money into this company, and then they sent  
18 out an e-mail to these people and say, Hey, Michael Nelson  
19 is threatening our company, he's threatening your  
20 investment. And you heard Piercy say, I love my money  
21 more than I love my friends.

22 He's turning -- they're turning these people loose  
23 on Mr. Nelson. That's why he's calling up. That's why he  
24 sends these letters later on when he sends them certified  
25 letter and her saying, we've shared meals together.

1 You're threatening my family. These threats against my  
2 family have got to stop.

3 And just so I can make this point, you need -- she  
4 claims that she didn't know where he was at. But you know  
5 the address that she puts for him -- and he puts this in  
6 that letter to her, that certified letter he writes about  
7 it. You put my parents' address, my elderly parents'  
8 address on that document, publicly filed. Then they send  
9 this letter out to all these people saying this guy's  
10 threatening our investment.

11 And then he's talking in these letters about how  
12 he's getting threatened, how his life's getting  
13 threatened. And he's talking about -- he talks about this  
14 stuff. And that's evidence, too. And it's up to you guys  
15 to decide what weight and credibility to give that.

16 But that's in evidence. I'd ask you not to put  
17 blinders on, because their entire case rests upon one  
18 assumption. The assumption is the Blanchards are  
19 straight-up honest. Because this case is an entirely  
20 different case if you can't -- if you can't make that  
21 assumption that the Blanchards are straight-up honest,  
22 which I would suggest to you that you can't make that  
23 assumption when you read Defendant's Exhibit Number 1.

24 When you read what Blanchards saying, "You're  
25 guilty of collusion, too," which is why you get this other

1 e-mail on the first page, the subject forward to call.  
2 Remember this? The market manipulation is wrong/illegal  
3 and you agreed? Back to the general counsel. Because  
4 he's being threatened with collusion. So he's, like, Hey,  
5 I got proof. I told you guys not to be doing this. And  
6 he sends it back to the general counsel. Remember this?

7 Then there's an interesting -- and you get the  
8 Bartlesville police report. Bartlesville police report's  
9 in there, too. And you look at the date and, like I said,  
10 these don't have numbers, I wish they had numbers. But  
11 it's towards the back. You'll see it. Files a police  
12 report in Bartlesville, just like when she filed the  
13 police report in Bartlesville in 2017 against Tom Winger  
14 when they fought him off.

15 Former member of the board of directors, he was a  
16 member of the board of directors, the people that are  
17 greatly associated with this company. Some of them get  
18 indicted, which we'll talk about in the other evidence.  
19 Some of them get charged with Ponzi schemes, which we'll  
20 talk about in the other evidence that's already admitted.  
21 Some of them leave.

22 Filed a police report on March the 29th of 2019.  
23 well, she told us that she didn't move here until May of  
24 2020. well, why does she keep coming back to  
25 Bartlesville? what's this got to do with Bartlesville?



1 well, she's from around here and he's not.

2           Then towards the back you get an e-mail from  
3 Cynthia Blanchard. Cynthia@anthemvault.com. Seems to be  
4 quite a bit more involved than we were able to get out of  
5 her here in this courtroom. And she's sending it to Brett  
6 Dunnaway and she's sending it to Paul, Paul Aubert, the  
7 general counsel. And its, Re: Mike and Tom. Thank you,  
8 Brett. I appreciate you taking the time to do that. We  
9 will give you an update after we meet the with the FBI  
10 tomorrow. Thank you, again. Sent from her iPhone.

11           Then Anthem chimes in there, too. But they got  
12 this e-mail from Brett Dunnaway on March the 28th of 2019,  
13 at 4:18 p.m., and he says, Cynthia, I'm sending this  
14 e-mail to let you know I was contacted by Tom Winger the  
15 week of March 11th. He stated he was aware I was  
16 contacted by Michael Nelson in reference to our investment  
17 with Anthem Vault and Hercules being a scam.

18           The same company he was complaining about the  
19 pump-and-dump, about where's the three million dollars, I  
20 know it's not making market. You know, the thing about  
21 Cynthia and Anthem is they don't -- neither one of them  
22 want to talk about it. And the State didn't want -- chose  
23 not to present Anthem either.

24           MS. GULLETT: Objection, Your Honor. He's  
25 commenting on the State's evidence.

1 THE COURT: Come forward, please.

2 (Whereupon, a sidebar conference ensued and was  
3 recorded outside the hearing of the jury. This was  
4 not a requested portion of this transcription.)

5 THE COURT: Before Mr. Adams continues, I would  
6 just simply remind the jury of the instruction that you  
7 heard early on, that nothing I say is evidence and nothing  
8 that the attorneys say is evidence, and it is your job to  
9 weigh the evidence that you heard in this case.

10 So you may continue.

11 MR. ADAMS: So while we don't -- didn't get to  
12 hear from Anthem in this case, we do hear from Anthem in  
13 the evidence because it's already been admitted.

14 Thanks, Brett, for printing out these texts and  
15 texts you forwarded me as well from Michael sent you.

16 He stated that -- okay. So back to this e-mail.  
17 The -- the Anthem Vault and Hercules is being a scam.  
18 Anthem doesn't like to discuss this issue, as you can tell  
19 in this text message. He does it in a very threatening  
20 way, Shut the F up you FM'er, B, and I'll sue you and  
21 you'll be guilty and you'll be in trouble, too.

22 Cynthia doesn't like to discuss it either. Of  
23 course, she uses a different approach and different  
24 strategies. Hers is, like, I don't remember, I don't know  
25 why, I don't know any of this thing has ever happened to

1 me.

2 If you have ever talked to a young child when they  
3 come up to you and they say something that happened, like,  
4 Hey, he bit me, and you say, well, why did he do that? I  
5 don't know. No idea. Okay. Well, do that -- well, what  
6 were you doing to him right before he bit you? Okay?

7 If you ever talk to a young guy, well, why did that  
8 happen? I don't know. Did you do this? I don't know. I  
9 don't remember. That's what we saw. I don't know which  
10 is more childish, threatening somebody or just playing the  
11 "I don't recall, I don't remember" card.

12 And then -- you see, Cynthia, what she says in the  
13 letters or Paul Aubert says in the letters, they tried to  
14 extort \$250,000 in order to file a lawsuit, but Dunnaway  
15 doesn't tell them that in the e-mail. What Dunnaway says  
16 is that, He then proceeded to tell me that they had all  
17 the evidence they needed, but needed \$250,000 to continue.

18 He's trying to fund the lawsuit.

19 I very quickly told him that legal action needed to  
20 be taken. We have our legal team. Then I received a  
21 series of e-mails from Michael with a number of  
22 allegations, and I told him that I have our own legal  
23 team.

24 what is he trying to do? He's trying to go about  
25 things and he's trying to report it.

1           Just like with her complaint -- I'll digress for a  
2 second -- where she's saying -- she's complaining in her  
3 closing argument, oh, well, he's reporting this to a  
4 reporter at Cryptocurrency, and, Oh, he's reporting this  
5 to the Techtron Compress Release. Well, you know what, we  
6 have a constitutional right to freedom of speech in this  
7 country. And they don't get to decide that what we're  
8 saying isn't true, therefore, we can't say it. They're  
9 not the final arbiters of the truth.

10           And if you have any question about whether or not  
11 he is sincere about what he says, it's right here in  
12 Defendant's Exhibit 1. Here's a guy that stood up for the  
13 right thing, and look where it got him. He got fired. He  
14 got thrown in jail. He's been in jail here, he's never  
15 been to Oklahoma. And all of a sudden, they're wanting to  
16 lock him up because they don't like what he's got to say.

17           Well, our government doesn't get to decide what it  
18 is that we say. They don't get to decide what the truth  
19 is, what the truth is not. It's the first amendment to  
20 the United States' Constitution, along with freedom of  
21 association and freedom of press. And good men and women  
22 died for that right. And it's ironic that the State would  
23 stand up here in their first closing argument and talk  
24 about the threats from some foreign country, because  
25 that's what we'll become if we ever let our --

1 MS. GULLETT: Objection.

2 THE COURT: Mr. Adams, come forward please.

3 (Whereupon, a sidebar conference ensued and was  
4 recorded outside the hearing of the jury. This  
5 was not a requested part of this transcription.)

6 MR. ADAMS: So you get down here to this part of  
7 the evidence. And you'll see the last two lines where he  
8 says, Paul and Anthem -- this is Dunnaway -- I am sending  
9 you -- this e-mail to you due to the amount we have  
10 invested in this project and the actions of these two  
11 individuals.

12 I think that's -- they have -- he has a investment  
13 -- or invested or vested interest.

14 They need to be stopped. I am concerned about the  
15 overall state of mind of them. I truly believe the  
16 company needs to put a stop to this so it does not impact  
17 our investment and the future of the company.

18 It sounds like a guy that values money over right  
19 and wrong. Sounds like a guy that's not willing to take a  
20 stand no matter what the consequences are.

21 When I was in the Navy, there was an admiral that  
22 was famous for saying, "Damn the torpedoes; full speed  
23 ahead." If I'd have paid attention, I'd be able to tell  
24 you the guy's name. Well, that's Mr. Nelson over here. I  
25 think the world would be a better place if people had a

1 little bit more courage in their convictions.

2 You can tell this story from the evidence, the  
3 three exhibits that we introduced. But if you're not  
4 convinced, you can skip over to the evidence the State  
5 introduced and it'll tell the story, too. He sends this  
6 e-mail, Defendant's Exhibit 1, on October the 21st of  
7 2020. He said, I want to tell everybody in this company I  
8 have never threatened anyone. You-all should be aware  
9 that Anthem Hayek Blanchard and his sidekick, Logan Ryan  
10 Golema, have been defaming me all over Twitter and other  
11 forums.

12 They're trying to discredit him so people won't  
13 believe him about them involved in this pump-and-dump  
14 Ponzi scheme. We'll get to the Ponzi schemes from the  
15 former board members, because it's in the evidence, too.

16 I'll be setting up a Twitter account today to  
17 respond to this BS --

18 He didn't say BS, but, you know.

19 -- spewed forth using company resources.

20 They attack him; he's responded.

21 I have communicated the threats levied by Anthem  
22 Blanchard regarding Mark Heatwole, whose name appears at  
23 least 6,000 times on Twitter as being murdered.

24 I don't have any idea what that's about.

25 I have never murdered anyone, I've never threatened

1 the same. A criminal denunciation in the country of Spain  
2 has been filed.

3 He was living in Spain with his brother. This is  
4 -- you got the e-mail with the prompt on the -- I can't  
5 remember the lady that came from the OSBI.

6 And filed in the U.S. Territory of Puerto Rico.

7 Where Cynthia and Anthem had filled out this tax  
8 deal that she talked about and explained to you, she had  
9 to be there for six months and three days, but didn't  
10 really stay there much.

11 And, I'm sorry, but, look, the only time that a  
12 hundred thousand dollars is not a lot of money is when  
13 it's somebody else's money. If it's your money, a hundred  
14 grand is a lot of money. \$19,000 is a lot of money. And  
15 if a hundred thousand dollars is not a lot of money to  
16 people like you, then why are you getting sued for a  
17 hundred grand? If it ain't a lot of money, if \$19,000's a  
18 small -- just a tiny amount of money, then why are you  
19 getting sued for it?

20 And is it relevant to notify a city that might not  
21 know this stuff, Hey, you just gave tax-payer money to  
22 these people that are getting sued -- that are getting  
23 sued for a hundred grand? Are these the people you ought  
24 to be entrusting tax-payer money with? You just gave  
25 tax-payer money to people that are being sued for 19,000.

1 And the reason that they're being sued -- it's American  
2 Express. You run up over a hundred thousand dollars on a  
3 credit card in a month?

4 He talks about this. Part of the reason that he's  
5 interested in this -- in the State's Exhibit 1, FYI, my  
6 ownership in all these companies is approximately -- is  
7 1.7 million shares of stock -- probably greatly diluted at  
8 this point -- which should tell you something about the  
9 investment. This guy has every reason in the world to  
10 want the company to succeed because, if it succeeds, he  
11 makes a fortune. But he knows that it's not going to  
12 succeed and he knows that they're running a scam and he's  
13 trying to tell other people to beware. And he says, The  
14 truth will come out eventually. Be wary of giving Anthem  
15 Blanchard any more of your time or money.

16 Then the second one he talks about the same thing.  
17 This is the one that he sent two days later.

18 I really appreciate the support and understanding I  
19 and my family have been through for the last one and a  
20 half years of hell. Anthem Blanchard, his wife, and their  
21 family associates have really put the fear in us for our  
22 physical safety. They have continued to hunt us down, no  
23 matter what we do with our lives.

24 And then he -- he just goes through and he talks  
25 about it. He just lays it out. And then he gives them,



1 like a whistle-blower -- if anyone wants to protect any  
2 investment, you may please use the following links, Nevada  
3 Investigations, they like to take phone calls and have you  
4 send them documents. Nevada has a pile of complaints and  
5 even two dedicated investigators to work on the case.

6 He's referring other people to authorities. No  
7 wonder that Brett Dunnaway, with all his money invested,  
8 told the Anthems (sic) they need to be stopped, that he  
9 beliefs it's going to impact our investment, because not  
10 only is this guy speaking out, this guy is encouraging  
11 other people to speak out.

12 Then this letter that he sent certified mail,  
13 there's nothing nefarious about this letter. He put his  
14 name on it and wanted to make sure that he could prove  
15 that she got it.

16 Mrs. Cynthia Diane French Blanchard and Mr. Chad  
17 Koehn. I think that's kind of interesting. He reaches  
18 out to Cynthia more than he reaches out to Anthem because  
19 I think that he feels like that Cynthia might -- like, he  
20 might be able to reach her, I think -- you know. But  
21 that's your own thing that you can think about.

22 Mr. Chad Koehn, the death threats from you and/or  
23 your associates must end.

24 Just like when he was talking about going through a  
25 year and a half of hell and they put his parents' stuff on

1 the Internet, you guys got to stop this.

2 Just like that letter that they put in there that  
3 he sent out to all their investors of he's threatening  
4 your investment.

5 The death threats have got to end. I'm afraid that  
6 you will follow through or your criminal associates will  
7 follow through on the threats to end my life and that of  
8 my family members. Note related to the threat related to  
9 Dale Takio's case involving Simon Property where the lead  
10 whistle-blower was found dead.

11 Do you remember when I kept trying to ask her about  
12 Dale Takio and we got this whole dancing around thing?  
13 And I think that's the one I even had to pull the website  
14 up on. He puts it in his letter. And I'm just trying to  
15 put a little context into it. Here's a guy you guys are  
16 associated with. He goes through and he talks in this  
17 letter: Having your associates contact me and others  
18 pointing out this article saying a whistle-blower was  
19 found dead in estate boarding, your parents' family, and  
20 we know where your family is. Well, we know where your  
21 family is because we put it in a public filing in  
22 California when you knew that he didn't live in Rhode  
23 Island, you put his parents' home address. He had a Vegas  
24 address. And if you have any doubt about that, you can  
25 look on the second page -- or you can look on the page

1 here where Mark Heatwole -- when he files his police  
2 report, he gives the address for Michael Nelson as 4952  
3 South Rainbow Boulevard, Suite 250, Las Vegas, Nevada,  
4 8918 last known address. He gives a cell phone number and  
5 gives his e-mail address. And they talk about in the text  
6 that he's in Vegas and he's thinking about going to live  
7 with his brother in Spain. It's all in there. You've got  
8 to pull it out.

9 But you file a police report in California, it's a  
10 public record, listing his parents' address in Rhode  
11 Island, but the -- the letter that you got attached that  
12 the guy sent to the police says that his address is Las  
13 Vegas. Why do you do that? And then the next thing you  
14 know people start calling him and contacting him and  
15 threatening his family, including his parents. These are  
16 all reasonable inferences, but it's also direct evidence  
17 that's in this case.

18 The whistle-blower's death remains under  
19 investigation. And then it goes through and he actually  
20 -- he quotes it. He attaches a link which nobody bothered  
21 to read, nobody bothered to investigate, nobody bothered  
22 to look into to determine who the good guy or bad guy is.  
23 But he attaches a link for the *Orlando Sentinel*, news --  
24 breaking news. Simon Property Group theft ring.

25 why would you have somebody like that, that was

1 involved with that, on the board of your company? And if  
2 you were a city investing and giving tax breaks to  
3 somebody like -- some company that had somebody like that  
4 on the board, wouldn't you want to know, especially if  
5 you're giving them out tax-payer incentives? I don't care  
6 if it is only a quarter cent of a penny in the sales tax,  
7 it's tax-payer money and it should be used properly.

8 But he quotes in here, "Days after authority  
9 announced arrest in a theft ring that allegedly bilked 20  
10 million dollars from America's largest commercial real  
11 estate company, officials discover only four million is  
12 now allegedly missing, and the lead witness in the case is  
13 now dead." The whistle-blower's now dead. That guy.

14 And I'm sure it was just fortuitous, just  
15 fortuitous, just a coincidence, but something happened to  
16 the whistle-blower against a member of their board, and  
17 then people -- somebody starts sending this to him. Just  
18 luck -- good luck for the defendant there, gets off,  
19 whistle-blower's dead, no problem.

20 Cynthia, please call off your people. Please don't  
21 kill my parents or family. Please stop your harassment  
22 and death threats. We feel threatened. Cynthia, we were  
23 friends at one time and we have shared a number of meals  
24 together. You even shared dinner with my mother and my  
25 father. It concerns me greatly that you would enter my

1 father -- mother and father's personal address on a court  
2 document when you know I've not resided with the people I  
3 call my mother and father -- he was adopted -- my parents  
4 since I was 17 years old.

5 A forty-something-year-old man and they're listing  
6 his parents' address. You would be mad if somebody listed  
7 your parents' address on something when people hated you.  
8 And they published your parents -- I think they call it --  
9 is that doxxing or gaslighting or whatever, one of them  
10 things that they talk about.

11 And then CC'd to this letter -- he CC's it to the  
12 Bartlesville Police Department. I'm sure they -- because  
13 he's not very good at sending communication. He's not  
14 very determined, so I'm sure he never sent it to  
15 Bartlesville, the Federal Bureau of Investigation, U.S.  
16 Attorney's, states of California, Kansas, Louisiana, and  
17 Nevada, Oklahoma, and Texas.

18 And you remember when we had Cynthia on there who  
19 was, at least at one point in time -- it seems rather  
20 confusing to me -- but at one point in time was the  
21 president of HeraSoft, and I keep asking her about Chad  
22 Koehn and about the raising of the money, and she couldn't  
23 -- she couldn't -- couldn't agree with me. At first, I  
24 asked her about 1.45 million, then I asked her about five  
25 million.

1           This Bartlesville article that the State of  
2 Oklahoma introduced as State's Exhibit Number 6 on August  
3 the 25th of 2021, says, In March of 2021, HeraSoft  
4 announced the receipt of five million dollars in Series A  
5 financial funding led by United Capital Management of  
6 Kansas, using a funding scale that the company -- funding  
7 scale, the company added to its sales and marketing and  
8 continued software development via its teams in Brazil,  
9 Europe, Grand Cayman -- where they got sued, and she told  
10 us they didn't have anything in the Grand Cayman, but  
11 she's telling the Bartlesville paper she does -- Kansas  
12 City, New York, Houston, Orlando, Oklahoma City, and other  
13 locations.

14           What? They got all these -- all these places?

15           HeraSoft's diversified client base includes  
16 Holland-based Gold-Florin and Tourism Board of Qatar.

17           Do you remember what Mr. Nelson said on that  
18 voicemail to Mr. Ritter?

19           Hey, I wrote that software, and now I don't have  
20 it. They took what he did for them and they're rolling  
21 out their deal. And you go from gold to selling portions  
22 of gold, to cryptocurrency --

23           And these articles, by the way, Ms. -- we weren't  
24 able to get it out here in live testimony, but there are  
25 -- but it is in here that they're claiming they're doing

1 security, cybersecurity. Of course, in the letters, they  
2 accuse him of being able to hack them, but to other  
3 people, they claim that they're experts on cybersecurity.

4 And then they talk about this State's Exhibit  
5 Number 5, about how they're going to bring an additional  
6 50 employees to Bartlesville. Huh? That was August the  
7 26th of 2021. I wonder how that's working out?

8 MS. GULLETT: Objection, Your Honor. Asking the  
9 jury to speculate.

10 THE COURT: Mr. Adams, again, I would just  
11 remind you to argue the evidence, please.

12 MR. ADAMS: And then it starts talking about in  
13 this article about how much money's going to be paid to  
14 them. And it starts talking about how the Bartlesville  
15 Development Agency to curv the loss of potential  
16 residents and their tax dollars. It's kind of sad.

17 Then you get to this e-mail that was sent the next  
18 day to the city attorney, and he talks about it here.  
19 This would be the first identifiable --

20 He talks about buying the old courthouse and the  
21 company that it's listed under.

22 This would be the first identifiable asset in the  
23 alleged international Ponzi scheme. As you were certainly  
24 aware, several of their advisors and leaderships have  
25 already been federally convicted in the 722 million dollar

1 Bitclub Ponzi.

2           Where's the three million? I know it's not making  
3 market because I have e-mails to Paul warning him that's  
4 illegal and a phone call convo with Paul assured me the  
5 company would not make market.

6           And then, don't take his word for it, just click  
7 away because he attaches in their State's Exhibit Number 9  
8 that they introduced, this is one of the e-mails that  
9 they're complaining about, [ajustice.gov/usaon-nj/bitclub](http://ajustice.gov/usaon-nj/bitclub).  
10 United State's Attorney's Office disclosure showing that  
11 an individual associated -- well, it says several of their  
12 advisors and leadership have already been federally  
13 convicted. He's going, Hey, you don't know who these  
14 people are, I do. It took him a while to figure it out,  
15 but he definitely figured it out when Anthem started  
16 responding calm the F down or you're fired right now and  
17 then threatened to say that he was, you know --

18           I'm not saying that they're not good at what they  
19 do, but, eventually, you get down to the point that  
20 there's no "they're" there. And then he's trying to tell  
21 them -- he's giving them the road map, the road map that's  
22 cost him who knows how much of his time, of -- you know,  
23 of his money, of all this. He's giving them what he paid  
24 a dear price to get, and he's trying to warn the people or  
25 the leaders or the people of this community, and they will



1 not hear. They've got blinders on. They've been snowed.  
2 They don't want to admit that they've been snowed.

3 He says, As you know, through due diligence,  
4 HeraSoft was formed with money from Anthem Holdings, a  
5 series of mergers and disputes stemming from Anthem Vault.  
6 And Blanchard Vault in Las Vegas, Nevada, where this group  
7 has -- fled several years ago, and many angry customers  
8 and investors are looking for them.

9 And then it gives the Better Business Bureau for  
10 Las Vegas, a link. Don't take my word for it, look at  
11 what the U.S. Attorney did. Don't take my word for it,  
12 here's the Better Business Bureau. Don't take my word for  
13 it, here's a link to these articles about the dead  
14 whistle-blower.

15 Then -- then he gives them a link to the American  
16 Express lawsuit. Okay. Don't take my word for it, look  
17 what American Express did with these people. Then he  
18 gives them a link to a place called OffshoreAlert.com  
19 Cayman Enterprises, the Cayman Islands's lawsuit. Don't  
20 take my word for it, here's where he got sued in the  
21 Cayman Islands.

22 Then he starts to tell them about another guy  
23 that's associated with them, Russ Albert Medlin, a  
24 Blanchard associate, integral part of the Bitclub and  
25 Hercules, so HERC, this supposed token of HeraSoft. Then

1 he goes and starts talking about Anthem Vault left Nevada  
2 and had its employees running HeraSoft located in  
3 Bartlesville for many years. They're supposed to get  
4 money for bringing this, but they actually had some people  
5 here.

6 This is State's Exhibit Number 9. Then he talks to  
7 -- there in Exhibit Number 10 is the City of Bartlesville  
8 attorney contact information. Please. Michael Nelson to  
9 Mike Bailey, and I think the lady that testified before  
10 said she was the assistant and it was bounced over to  
11 them. So if you're trying to figure out how this comes in  
12 -- in relation to the woman -- and, I'm sorry, I don't  
13 know her name, but the blonde lady that worked for him  
14 for, like, 20 years, she's the first one that got it and  
15 decided to forward it.

16 He talks about his lawyers would like to file  
17 letters concerning HeraSoft company. He wants the  
18 information from the city attorney.

19 Who are you supposed to report this stuff to?

20 I want to go through some of these instructions and  
21 point some of these out. I've already talked about the  
22 definition of evidence, which is in there. It's Exhibit  
23 Number 5. The inferences from the evidence is the common  
24 sense one we keep talking about. The circumstantial  
25 nature, the direct nature, that the law makes no

1 distinction between the two, and the weight.

2 Now, there is something that's interesting here  
3 when you start looking at the circumstantial evidence  
4 instructions. And that's at Number 11-F. It says, The  
5 State relies in part for a conviction upon the  
6 circumstantial evidence. In order to warrant a conviction  
7 of a crime upon circumstantial evidence, each fact  
8 necessary to prove the guilt of the defendant must be  
9 established by the evidence beyond a reasonable doubt.  
10 All the facts and circumstances taken together must  
11 establish to your satisfaction beyond a reasonable doubt.  
12 Each fact necessary to prove the defendant must be --

13 They're relying on circumstantial evidence to the  
14 facts of the evidence introduced in this case to weave  
15 this story together to support -- and I would argue it  
16 does not. There are lots of facts, especially that first  
17 text message, where he's -- it's clear that he's calling  
18 them out.

19 Number 12 is where they talk about the credibility  
20 of the witnesses. And it tells you it -- and this isn't  
21 an exhaustive list -- but the law goes through and tries  
22 to explain things that you may want to consider in judging  
23 the witnesses' credibility. They talk about the interest,  
24 if any, of the witnesses which have -- in the result of  
25 the trial.

1           Like the man that values his money more than his  
2 friends, like the man that testified today from -- and I'm  
3 not even sure what that's about. And it's in this -- it's  
4 in all these letters and e-mails and stuff of Koehn. He's  
5 involved in a lawsuit with Chad Koehn. We can't get  
6 anybody to say it out loud in court, but he's involved  
7 with a lawsuit involved with Chad Koehn.

8           And he's calling people that he might want to  
9 depose as witnesses of Koehn. Now, he's picking bad  
10 people because he's picking his friends, and his friends  
11 are running to Koehn. But how in the world does him  
12 defending himself against a lawsuit in Kansas, apparently  
13 a significant lawsuit, but how does that have anything to  
14 do with him harassing -- and I'll -- I'm about to get to  
15 these elements -- harassing Cynthia Blanchard?

16           It has nothing to do with it. Oh, you can't say  
17 anything that could even possibly infer anything to make  
18 somebody look bad. You can't defend yourself in this  
19 civil suit because Chad Koehn knows Cynthia Blanchard.  
20 How's that get the State's peanut one inch further down  
21 the road? He's got a right to defend himself against that  
22 lawsuit.

23           It talks in here about candor, fairness. It talks  
24 about their ability to remember. And I'm not saying she  
25 can't remember. I think she does remember. She remembers

1 all too well. She doesn't want to admit because she  
2 doesn't want to answer questions about it. She's  
3 deflecting.

4 So let's get to -- and here's the way this works  
5 and I just want to keep touching on it. He's presumed  
6 innocent. It's one of our birth rights as citizens of  
7 this country that we have the constitutional right to the  
8 presumption of innocence, and we have a constitutional  
9 right to a trial by jury. And, you know, you see a lot of  
10 people -- I didn't voir dire on how you feel about  
11 criminal defense attorneys because people don't really  
12 like to say with me standing here. Okay? But you hear a  
13 lot of people saying stuff in the media, and you'll have  
14 people saying in conversations where they complain about  
15 criminal defense attorneys like we're some kind of  
16 destructionist. Okay?

17 Well, you know what; I'm in the Constitution. Law  
18 enforcement is not in the Constitution. Local prosecutors  
19 are not in the Constitution. I don't even know if a judge  
20 is the Constitution. I'm in the Constitution. And if  
21 you're looking for me, I'm in the he Sixth Amendment,  
22 right to counsel and right to trial by jury.

23 Am I an obstructionist? If you're doing it right.  
24 That's what you're supposed to be doing, you're supposed  
25 to be slowing down and trying to stop and restrict the

1 power of the government so -- because that's what protects  
2 us from tyranny.

3 I think 18 is an important instruction. If you  
4 look at it, it goes through and it talks, once again,  
5 about beyond a reasonable doubt, and then it carries from  
6 zero to five years and up to a \$5,000 fine.

7 Now, look, I'm not presuming to tell you how to do  
8 your job. I could make arguments with a reasonable  
9 inference, but, ultimately, it's your call. It's you guys  
10 that are going to have to live with the decision. But I  
11 would argue, and I certainly, in no way, shape, or form  
12 are ever suggesting that I believe for a minute -- you  
13 know that -- I'm not conceding that Mr. Nelson's guilty,  
14 that's not what I'm saying. What I'm saying is, it  
15 carries from zero to five years.

16 And I only get one opportunity to talk, she gets  
17 two. Zero is less than five. It says not more than five  
18 years. Well, zero is a number less than five.

19 And then I'd like to get into 19, which is the  
20 elements. It gives a little introduction. No person may  
21 be convicted of violating Oklahoma Computer Crimes Act  
22 unless the State has proved beyond a reasonable doubt each  
23 element of the crime. These are: First, communicated  
24 with; a computer system or network; third, for the purpose  
25 of using the access. And then it gets into the stalking

1 aspect of it.

2           Yeah, Mr. Nelson used a computer system. He  
3 communicated with it, which is oddly written the way that  
4 the legislature wrote it. Communicated with. But I agree  
5 with what she's argued on those first two elements, that  
6 that's what they meant. For the purpose of using access.  
7 No, he did it for the purpose of protecting people from  
8 being taken advantage of like he had been taken advantage  
9 of. He did it for the purpose of exercising his  
10 constitutionally-protected right to free speech. He had a  
11 legitimate basis to do it.

12           And, second, you get in there -- so I would argue  
13 that the third element, that the state of Oklahoma has not  
14 met. How easy would it be? Just think about it. How  
15 easy would it be? You're involved with these people. You  
16 write this program. You send your letter on November the  
17 7th. You have a phone call with the general counsel, and  
18 you can prove it. You say, Don't be self-dealing, guys.  
19 Don't do that. That -- that's against the law. Don't do  
20 that. And you send your e-mail out. And then months  
21 later, you find out, you know, these guys are doing it  
22 again. They're doing it. Even though I told them not to  
23 do it, I said I'm not down for it, I'm not involved, I  
24 don't want to be involved, these guys are doing it again.  
25 what should I do?

1           How easy would it be to just turn a blind eye? Say  
2 well, you know, I own 1.5 million shares of the stock.  
3 You know, maybe, who knows. I don't know if it'll work,  
4 but they seem dead set on doing it and maybe they'll hit a  
5 home run. I'll be sitting pretty then. Just turn a blind  
6 eye to it. I've got my protection. I've got this e-mail.  
7 I even sent it blind CC to somewhere else so I could make  
8 sure I could prove that nothing's going to happen. I've  
9 got this e-mail, and I didn't do anything wrong. I've got  
10 my get-out-of-jail-free card. And if they get caught and  
11 they get indicted, I'll say not me. Just go along with  
12 your life. That would have been easy.

13           Mr. Nelson doesn't do easy. What does he do?  
14 Where's the three million dollars? I know it's not making  
15 market. I've talked to Paul about the e-mail. He catches  
16 them doing it again, and he confronts them on it. And he  
17 paid a great price for character and for principle,  
18 something we used to believe in in this country.

19           Then it gets in here and talks about willfully.  
20 Now, that's a couple of pages later. There's two pages of  
21 definitions. And after willfully, it says maliciously.  
22 That's interesting. And there's a definition of  
23 maliciously in 21.

24           The term imports a wish to vex, annoy, or injure  
25 another person. To vex, annoy, or injure. What's the



1 purpose? Well, he's blowing the whistle. I'm not saying  
2 he's John the Baptist, but he's certainly a voice crying  
3 in the wilderness, and nobody's listening to him.

4 But when he sends that letter -- by the way, which  
5 is not an e-mail which we've talked about -- but when he  
6 sends this letter that Cynthia is so terrified of -- you  
7 realize for her to be a victim, she's got to be terrified?  
8 And we're going to get to that here in just a second.

9 He says, Cynthia, you need to really look at what  
10 you're doing to whom -- with my elderly parents -- I'm  
11 sorry -- what you're doing and with whom. My elderly  
12 parents do not deserve these sort of threats, nor do --  
13 did -- no one did anything which deserves death. You are  
14 making us all afraid for our lives. Is that the kind of  
15 letter you send to somebody that you're hoping to  
16 maliciously -- is that a malicious act? You're sending  
17 this to the city attorney. Is that a malicious act?

18 The term imports a wish to vex, annoy, or injure  
19 another person. He's asking them not to injure him. He's  
20 asking them not to injure his parents.

21 THE COURT: Mr. Adams, the court reporter has  
22 been doing this for about two and a half hours now, and I  
23 think she needs a break. I think our jurors may need a  
24 break. So I don't want to cut you off, but we've been in  
25 here for almost two and a half hours, and I know it wasn't

1 all you, but if you're going to be much longer, I think  
2 that it would be best to give the court reporter and the  
3 jurors a break.

4 MR. ADAMS: If the jurors would love a break,  
5 I'll be happy -- I've got 10, maybe 15 minutes.

6 THE COURT: Okay. Let's take a short break.  
7 And I hate to interrupt you, but I do -- it has been quite  
8 some time.

9 (Whereupon, a brief recess was taken.

10 Thereafter, proceedings resumed as follows:)

11 THE COURT: Okay. We are now back on the record  
12 in State of Oklahoma versus Michael Eric Nelson.

13 Is the State ready?

14 MS. GULLETT: Yes, Judge.

15 THE COURT: Mr. Adams, are you ready?

16 MR. ADAMS: Yes.

17 THE COURT: Madam Bailiff, would you please  
18 direct the jurors back to their place in the jury box.

19 (The following took place within the presence and  
20 hearing of the jury:)

21 THE COURT: Please be seated.

22 Mr. Adams, you may continue.

23 MR. ADAMS: When we stopped, we were on  
24 Instruction 19. I was going through the counts, the  
25 second count of the seven. And, maliciously, you know,

1 that's where the -- hey, this is where the free speech  
2 comes in. This is where our constitutional rights come  
3 in. He didn't -- he wasn't maliciously doing this. He  
4 was doing it to protect others. He did it at great  
5 sacrifice to himself. He could have went along to get  
6 along.

7 Harasses another person. I would submit to you  
8 that common sense, which we like to talk about common  
9 sense, just tells you -- you think the Oklahoma state  
10 legislature wanted to pass a law about harassment and they  
11 wanted to just say, hey, let's stop people from harassing  
12 folks, from harassing people that are committing crimes by  
13 reporting it to multiple agencies? Is that common sense?  
14 Is this what our statutes are for? That, hey, we're going  
15 to protect people that are defrauding, you know,  
16 hard-working folks that are trying to invest for their --  
17 their retirement or invest for the kids' future, the kids'  
18 college. We're going to protect those people from  
19 harassing whistle-blowers.

20 The big problem we got in this state is  
21 whistle-blowers just won't stop blowing the whistle, and  
22 we need to stop that, so we're going to stop that from  
23 harassing. Does that make common sense to you? No, it  
24 doesn't.

25 The State's trying to fit a square peg in a round

1 hole. Like my dad used to say, if it doesn't work, get a  
2 bigger hammer. But I don't think there's a big enough  
3 hammer to hammer this square peg into the round hole  
4 they're trying to fit it.

5 Fifth, in a manner that would cause a reasonable  
6 person. I would just submit to you, a reasonable person  
7 wouldn't be involved in a Ponzi scheme to begin with. The  
8 same issue. You think the legislature is passing a law to  
9 protect reasonable criminals, reasonable people to defraud  
10 folks? No.

11 The other issue on the free speech thing I want to  
12 address a little bit. Now, I know that the detective said  
13 there was no -- I think he said reasonable suspicion that  
14 anything had happened in his jurisdiction. And he  
15 disagreed when I asked him if it'd be a fair criticism to  
16 say he put blinders on, so --

17 Regardless, the question is: Does Mr. Nelson have  
18 a sincere belief that this is true? He lost his job over  
19 it. He walked away from a company he'd been there for  
20 years, that he owned a million and a half stock. He was  
21 harassed and harassed and harassed and had his parents'  
22 address doxxed out there.

23 This isn't a situation where you have to say, Hey,  
24 look, if you believe -- if he's right about them being --  
25 about them being corrupt and running a Ponzi scheme, then

1 he's not guilty. That's not what I'm saying. The  
2 question is was it -- did he believe it? Did he really --  
3 did he believe it? I'm trying to add reason in there.  
4 Was it a sincerely-held belief? Yeah. And you know why  
5 it's a sincerely-held believe? Because he put his money  
6 where his mouth is.

7 People would tell you anything, and they will. But  
8 the question is, when push -- what -- what you do speaks  
9 so loud, I can't hear what you say. And you can expect  
10 people -- you can't expect them to act logically, but you  
11 expect them to act consistently.

12 Go back and look at that e-mail, if you haven't  
13 already got it memorized, or that text message where he  
14 says, "where's the three million dollars?" and see his  
15 response. They wanted him to shut up about it because it  
16 would get them in trouble.

17 Sixth, to feel frightened, intimidated, threatened,  
18 or harassed. There's a definition of harassment. A  
19 pattern or course of conduct directed toward the person  
20 that would cause a reasonable person to suffer emotional  
21 distress and actually cause emotional distress.

22 I would argue two things. One is a reasonable  
23 person wouldn't be ripping people off. That's the very  
24 anti -- that's the -- I can't use these big words.  
25 That's the very opposite of reasonable when somebody is

1 ripping somebody off. And the other issue is, any  
2 emotional distress she may have suffered was a result of  
3 her fear about getting caught for the criminal -- criminal  
4 behavior that she was involved in. And that's not what  
5 the statute's there to protect. It's turning it on its  
6 head.

7           And the seventh: So it's both an objective and a  
8 subjective standard, and they got to prove each element.  
9 Seventh is: Actually causes the person being harassed to  
10 feel frightened, intimidated, threatened, or harassed. So  
11 one is: would it cause a reasonable person; the sixth, to  
12 feel frightened or intimidated. I would say no reasonable  
13 a person, it wouldn't cause them that because a reasonable  
14 person is not out stealing from people. And seventh, it  
15 didn't actually cause her anything that she felt was a  
16 result of fear of having to pay the consequences for her  
17 actions.

18           In voir dire -- and I don't know -- I can't  
19 remember if anybody said it or not -- but a lot of times  
20 lawyers and judges will say it. Voir dire. Voir dire is  
21 French, to speak the truth. And there are two judges in a  
22 case and it's that way in civil, too, I guess. But in a  
23 criminal case, there are two judges. The judge determines  
24 the law, judges the law, and you guys determine the facts.  
25 They call you the finder of fact. I wish they would

1 change it a little bit and call you guys the finder of the  
2 truth.

3 But, actually, that's just an idyllic view of it.  
4 The real issue is you have to decide whether the state of  
5 Oklahoma has proven every element of the offense beyond a  
6 reasonable doubt. But I hope that you make your verdict  
7 speak the truth.

8 what's really unusual about our criminal justice  
9 system and about the jury system itself is that most  
10 systems throughout humanity, in order to be in charge of  
11 the system, you have to have a lot of experience. To make  
12 the big decisions, you got to have a lot of experience.  
13 But they let you guys make the big decision or they let  
14 jurors make the big decision, exactly because they don't  
15 have any experience. That's the protection. It's between  
16 us and the government.

17 I'd ask you guys to end this nightmare for  
18 Mr. Nelson and let him get out of the state of Oklahoma  
19 where he didn't want to be in the first place.

20 THE COURT: Ms. Gullett.

21 MS. GULLETT: Thank you, Judge.

22 Ladies and gentlemen, I'm going to try to be as  
23 brief as possible. This is my second attempt -- second  
24 close. I get to talk to you one more time.

25 when we were here in voir dire on Monday, we talked

1 about accountability. And I believe if my count is  
2 correct, I think there are four of you on this jury that  
3 said that it is -- accountability is important. Being  
4 held accountable for your actions is important. That is  
5 what we're here for. We are here because Mr. Nelson is  
6 being held accountable for his actions.

7           There has been talk, after talk, after talk about  
8 these threats that Mr. Nelson has had against himself, his  
9 family, his livelihood, his home, his children, that I  
10 don't believe exist, and all these other things. Every  
11 single one of those threats come from something Mr. Nelson  
12 has written or said.

13           There has been one piece of evidence over here or  
14 in this stack that says anywhere that Mr. Nelson has been  
15 the victim of a single threat by the Blanchards. Or,  
16 because we can't seem to leave him out of this case, Mr.  
17 Cowan, who lives in Kansas.

18           We talked about this on Monday. The words of  
19 counsel is not evidence. Everything I'm saying to you  
20 right now, not evidence. That's all evidence. Everything  
21 you heard is evidence. If you believe what Mr. Nelson has  
22 written in his e-mails, what he has said in his  
23 voicemails, what he has alleged in these links that we  
24 don't have copies of, then maybe, just maybe, the City of  
25 Bartlesville, the community of Washington County, owes Mr.



1 Nelson a debt of gratitude because I guess he was trying  
2 to save us all. But I don't think that's what really was  
3 happening.

4 Mr. Nelson should have had absolutely nothing to do  
5 with the company HeraSoft. He shouldn't have even known  
6 they existed in Bartlesville without doing a specific  
7 Google search for Anthem and Cynthia Blanchard. You-all  
8 live here; we are not a large city. We are a smaller  
9 community with small businesses. How did Mr. Nelson get  
10 to be here?

11 Defense counsel makes a point to say that he  
12 reaches out to Cynthia more than Anthem. Oh, because he  
13 feels like he can contact her, he can relate to her, feels  
14 more comfortable reaching out to her. He reaches out to  
15 her because he's obsessed. He doesn't reach out to  
16 Anthem. He reaches out to Cynthia because he can't let it  
17 go. He got fired. He lost his job. He threatened to  
18 shoot someone on their board and they said, you know what,  
19 see you later. You don't get to be on this company any  
20 more because you're dangerous and you're scary.

21 There continues to be this talk about -- in this  
22 text message exchange about there being a conversation  
23 about them selling -- pumping up -- what was it, pumping  
24 it into the market, trying to get some money -- extra  
25 money on the stuff, Ponzi scheming, whatever that means.

1 You can read this word for word.

2 I asked for HERC tokens to be able to use -- I  
3 asked for HERC tokens to be able to use the platform and  
4 was told to go buy them.

5 So he apparently asked for some of these, whatever  
6 HERC tokens were, because it's very confusing. And then  
7 they said, No, you have to buy them. Okay. Which I did,  
8 with my own money at 40 cents each. Sounds pretty good.  
9 Number who (sic), we assume is from Cynthia, who told you  
10 that?

11 Response from Mr. Nelson: Anthem. And then he  
12 sent me to a link to buy them! And then Logan, whoever  
13 that is, said if I want to try the platform, I had to buy  
14 the tokens like everyone else.

15 Okay. I don't see a problem with that. You want  
16 to do whatever they're doing, you buy them like everybody  
17 else does. Sounds pretty normal.

18 And then I just found out that Katy and Shannon  
19 have over 25,000 each!

20 25,000 HERC tokens? \$25,000? Don't know. It  
21 doesn't say.

22 So is he mad because maybe somebody else in the  
23 company got a little incentive? I don't know. This is a  
24 company out of California. It has nothing to do with  
25 Washington County, has nothing to do with us.

1           They offered to send me tokens to demo the  
2 platforms. So maybe this Katy and Shannon offered to send  
3 him some tokens.

4           Then he goes on to say, That's a real slap in the  
5 face. And then today, Anthem sends some dude I don't know  
6 an e-mail, bastardized my brother's title when he up for  
7 partner at Deliotte -- I don't know how you say it --  
8 Global that owns the franchises.

9           what does that mean? Where does any of this say  
10 Ponzi scheme, dumping whatever into the market to make  
11 more money?

12           Next line. Where is the three million dollars? I  
13 know it's not making market because I have e-mails to Paul  
14 warning him that's illegal.

15           still no responses. This is all the same thread  
16 that Mr. Nelson is writing.

17           In a phone convo with Paul, he assured me the  
18 company would not make market.

19           Okay. Nowhere in here does it say, Anthem  
20 Blanchard, you son of a gun, how dare you dump stuff --  
21 pump-and-dump into this market to make more money. How  
22 dare you run a Ponzi scheme. How dare you steal money  
23 from little old people and take their money. How dare you  
24 do any of that. I'm reporting you. I'm calling the FCC.  
25 I'm calling the FBI. Doing all this stuff. Doesn't say

1 it. Doesn't say it anywhere in there. It sounds like  
2 Mr. Nelson's mad because he didn't get something that  
3 someone else got.

4 So then he gets pissed, so then he calls  
5 Mr. Heatwole. And then he tells Mr. Heatwole that he's  
6 going to shoot him, that he better get a bodyguard because  
7 then he's going to shoot him. Come to his house. That's  
8 in here, too. You can read what Mr. Heatwole said.

9 Ladies and gentlemen, this is an invention. All of  
10 this Ponzi scheme, all of this the Blanchards are bad, all  
11 of this they're out to get the money, they're coming to  
12 Bartlesville to get us, they came here to take advantage  
13 of our little town, it is all made up so that he can  
14 continue to harass the Blanchards. That is what he has  
15 done since he was fired, because he was mad because he  
16 made a threat, and then he has continued to harass and  
17 harass and follow them everywhere.

18 And finally, the State of Oklahoma, through the  
19 Bartlesville Police Department said, No, thank you, sir.  
20 We're done. If you have a problem with a company, if  
21 you're mad at Walmart, if you're mad at Frank & Lola's, if  
22 you're mad at anybody, this is not the way you go about  
23 reporting a crime.

24 If you're think -- if you think a Ponzi scheme is  
25 happening in a small little community you've never heard

1 of where you're going to help them out, don't you think  
2 you would contact local law enforcement and actually do a  
3 police report? I mean, it says in the letter he contacted  
4 them. That's what it says, but there is no record that  
5 that ever happened.

6 MR. ADAMS: Objection, Judge. That question was  
7 never asked and there's no evidence of it. She's  
8 testifying.

9 THE COURT: Come forward.

10 (Whereupon, a sidebar conference ensued and was  
11 recorded outside the hearing of the jury. This was  
12 not a requested part of this transcription.)

13 THE COURT: Once again, ladies and gentlemen, I  
14 will remind you that you are the determine -- it is your  
15 recollection of what was said on the stand that controls.  
16 Nothing I say, nothing that either of the attorneys say  
17 are -- is evidence.

18 You may continue.

19 MS. GULLETT: Thank you, Judge.

20 The point is, the State of Oklahoma is asking you  
21 to take a look at this letter that was written. Look at  
22 this letter in the entirety -- there's some interesting  
23 stuff written in here -- and see that it does say that  
24 there's a CC line here; Bartlesville Police Department  
25 FBI, U.S. attorneys. There are three U.S. attorneys

1 offices in Oklahoma, it doesn't designate which one.

2 State of California, Kansas, Louisiana, Nevada,  
3 Oklahoma, and Texas. Again, where did you send that?  
4 There are no actual addresses. So what this could be is a  
5 letter to threaten Cynthia to think that he is attempting  
6 to involve all of these people that he CCs on here. CCs  
7 on here.

8 Ladies and gentlemen, I am not going to belabor  
9 this point anymore. You have heard all the evidence in  
10 this case, you are the triers of fact, and so I ask you to  
11 find Mr. Nelson guilty of this case, of the crime of  
12 computer -- using a computer to stalk Cynthia Blanchard.  
13 And I ask that you sentence him to three years to do in  
14 the Department of Corrections because it has been three  
15 years that he has spent his time harassing, stalking,  
16 terrorizing Cynthia and Anthem.

17 But you heard from Cynthia. They moved here in May  
18 of 2020. We are now in February of 2023. I think that  
19 three years is an appropriate number and that's what I  
20 would ask that you follow.

21 Thank you, ladies and gentlemen.

22 (Whereupon, further instructions of the Court  
23 were given. The bailiff was sworn. The alternate  
24 juror was excused. This was not a requested  
25 part of this record. No further record was

1 requested as a part of this transcription until the  
2 verdict.)

3 THE COURT: So we are now back on the record in  
4 State of Oklahoma versus Eric -- Michael Eric Nelson. The  
5 jury has sent out their second -- well, actually, their  
6 third question. The first two were rather easy to answer.  
7 One was requesting sticky notes and markers, and the other  
8 was, is a transcript available. Those were answered and  
9 sent back in.

10 However, this one is a little bit more complicated  
11 in that the question is, is a lesser charge possible? And  
12 that was sent out just moments ago.

13 Mr. Adams, I believe you responded by text that  
14 said you would renew your earlier request with respect to  
15 a lesser included, so -- this is gonna to take some  
16 discussion, so --

17 MR. ADAMS: I -- I could remake the argument if  
18 the Court feels it would assist the Court in making the  
19 decision. If I'm just doing it to preserve my record,  
20 then I would just refer back to what I'd argued before.  
21 But if the Court has questions that the Court feels it  
22 would assist, I'd be happy to -- to go through it again  
23 and explaining why I think it's the proper thing when you  
24 look at the elements. But if the Court remembers and  
25 understands it, then I -- you know, whatever the Court

1 would want.

2 THE COURT: I do remember and I do understand,  
3 however, based on the question, I believe that the State  
4 has an opportunity to weigh in on this as well. So it --  
5 originally, the request was made. I guess, I basically  
6 sustained the -- well, overruled your motion, if you want  
7 to call it that, based on the State's prerogative to  
8 charge under whichever statute they want to charge it.

9 what's your response at this point?

10 MS. GULLETT: The same argument for why no  
11 lesser included. And then, at this time, Judge, I think  
12 we would just respond that you have all -- you have  
13 everything you need to come to a verdict.

14 THE COURT: Okay.

15 MR. ADAMS: But, Judge, in hearing what the  
16 Court said -- and maybe I didn't pick up on it when the  
17 State said that the first time, if the State said it's  
18 their -- actually, I am kind of remembering it now. Maybe  
19 I just didn't address that. I don't think it is the  
20 State's prerogative. It's their prerogative to decide  
21 which case to charge, okay, which charge to charge, they  
22 can decide that, but if it's a legitimate, true,  
23 lesser-included offense, and evidence has been introduced  
24 where a reasonable jury could convict somebody on a  
25 lesser-included offense, I don't think -- and we're



1 requesting it, I don't think the State has the option --  
2 has the ability to object over or has the veto right.

3 Just because they can charge whatever they want,  
4 they can charge whatever they want, but it's a matter due  
5 process. Once it's submitted to the jury and once we're  
6 into the trial, I believe that we're entitled to all of  
7 these -- any lesser-included offense, where there's been  
8 evidence where a reasonable jury could conclude. Which is  
9 why I opened up my browser because I think there's case  
10 law on that, which occurs to me the easiest way might be  
11 to look for that OUI and send the lesser-included offense  
12 to the jury comments, I might find it there.

13 But -- but anyway, but I can find it on a computer,  
14 but I don't think -- and I think it's -- it certainly  
15 highlights and strengthens the problem. Of course, at  
16 this point what we'd have to do is we'd have to bring them  
17 back in and instruct, but that's another issue.

18 THE COURT: Well, and that -- that was, again,  
19 going to be part of my discussion is that if that  
20 ultimately is allowed, if we're going to do a lesser  
21 included, then I believe we have to bring all the jurors  
22 back in, recraft at least a specific instruction with  
23 respect to a lesser included, and then, of course, we  
24 would have another verdict form, a variety of things.

25 It's going to take a second.

1           would one of you look on your jury -- if you have  
2 your jury instructions down here, what jury instruction is  
3 the elements of the crime that was charged? That will  
4 help me find this one quicker.

5           MR. ADAMS: Are you talking --

6           MS. GULLETT: I didn't bring mine, Judge. I'm  
7 sorry.

8           MR. ADAMS: The lesser included -- are you  
9 asking for the lesser-included offense instruction?

10          THE COURT: No. What's the -- what's the  
11 instruction number for the one that was actually -- that  
12 we sent back to the jury? I don't have my copy here  
13 because I sent it back with the jury.

14          MR. ADAMS: Oh, I've got that. It's a little  
15 marked up.

16          THE COURT: That's all right. I just need the  
17 number off of it.

18          MR. ADAMS: Yeah, it's --

19          THE COURT: Computer crimes.

20          MR. ADAMS: But then we don't have the second --  
21 well, second one is going to be --

22          COURT REPORTER: The second one what?

23          MR. ADAMS: Well, you know, the computers  
24 references, the other one. So it's going to be -- is it  
25 1172, or --

1 THE COURT: Well, let's do this. I don't know  
2 that we need to have this discussion on the record. Do  
3 you believe -- when we come to a resolution, if we kind of  
4 find everything we're looking for, we'll go back on the  
5 record if we need to.

6 MS. GULLETT: We can, Judge, but I think --  
7 here's where the state is going to have a concern, if I  
8 may just kind of sum it up. So whenever you look at the  
9 computer crimes OUJI --

10 THE COURT: Right.

11 MS. GULLETT: -- and the one we use, it does not  
12 include any of the elements that are -- well, okay.

13 The fourth line would require you to specify the  
14 elements of another statute that he has violated, which  
15 would be the stalking. So are we saying that this is a  
16 lesser included of these two hybrid statutes or is it a  
17 lesser included of the Computer Crimes Act alone?

18 THE COURT: Well, I think it's going to have to  
19 be a lesser included of the crime charged.

20 MS. GULLETT: Right. Which --

21 THE COURT: Right.

22 MS. GULLETT: It is -- he is charged under the  
23 Computer Crimes Act.

24 THE COURT: Right.

25 MS. GULLETT: In the body it says he has

1 violated the Computer Crimes Act by stalking.

2 THE COURT: Yes.

3 MS. GULLETT: So he is not charged with  
4 stalking.

5 THE COURT: Yes.

6 MS. GULLETT: So the elements in the proposed  
7 misdemeanor, while they're not written out, would be  
8 willfully, maliciously, whatever, use a computer to annoy,  
9 abuse, or threaten. The elements of annoy, abuse, or  
10 threaten would have to come from stalking, of which he is  
11 not charged. It may be in there, but he is not charged  
12 with stalking.

13 THE COURT: So the -- what I -- what I believe I  
14 hear the State saying is that what -- there is no  
15 lesser-included charge to -- or no lesser-included crime  
16 to the crime charged.

17 MS. GULLETT: Correct. I don't believe you can  
18 have a lesser included Computer Crimes Act because you  
19 would be having to talk about the behavior that leads to  
20 violating another state statute that he's not charged  
21 with.

22 THE COURT: Okay.

23 MS. GULLETT: I didn't -- he's not charged with  
24 stalking; therefore, there's no lesser included. If he  
25 was charged with stalking, you could maybe -- and it's a

1 felony now. You could maybe get this Computer Crimes Act  
2 misdemeanor in by using a computer to do these things  
3 under the felony-now umbrella of stalking.

4 THE COURT: Mr. Adams, you're standing up, so  
5 I'm assuming you have something to say.

6 MR. ADAMS: Yes. I don't believe that's an  
7 accurate interpretation. It's a hypertechnical  
8 interpretation and it's missing the forest for the trees.  
9 okay?

10 He's charged with using a computer to do -- to do  
11 the stalking. Okay? It isn't like you have certain  
12 groups of crimes, these over here -- well, these all could  
13 be lesser-included offenses. You just have to apply it.  
14 The communication with a computer for the purpose of using  
15 access to willfully, maliciously, repeatedly harass  
16 another person.

17 when you look at what they've charged in the  
18 misdemeanor, the title -- I don't know if it was titled,  
19 but if you look at what they charged in the misdemeanor --  
20 and it's paragraph, I think, 8-A of whatever that statute  
21 is, it's there.

22 You're annoying a person by sending them an e-mail,  
23 it's there. That's a lesser-included offense. And the  
24 difference between the two is when you take off the fifth,  
25 the sixth, and the seventh elements. So would it be

1 possible for the jury to look at this and say, You know  
2 what, I don't think she was annoyed. I don't think she  
3 was frightened, intimidated, threatened, or harassed. I  
4 don't think she actually was, I don't think a reasonable  
5 person was, but I do think that maybe he was sending it  
6 just to annoy her. And these are the levels that the  
7 legislature has done. The fact that they want to charge  
8 the Computer Crimes Act is another issue because,  
9 basically, what it does is it just hypes it up from what  
10 would be a three-year felony under the stalking and it  
11 allows them to charge it as a five-year felony, is what  
12 they're doing. It's almost like an enhancement. Okay?

13 But it's still a lesser-included offense. And it's  
14 already written in there from the computer -- from the --  
15 in the statute that they charged with Count 2. And the  
16 fact that the State said, We need to dismiss Count 2,  
17 which wasn't a motion I made, but based upon the previous  
18 arguments, because it merges is an admission by the State  
19 that it's a lesser-included offense. Because if it wasn't  
20 a lesser-included offense and it was a separate element,  
21 it wouldn't merge.

22 THE COURT: Well, but am I -- am I correct,  
23 Ms. Gullett, that you dismissed the second count because  
24 it was one specific date out of numerous dates that you  
25 alleged in the first count?

1 MS. GULLETT: I dismissed the second count for  
2 the same specific reason that I dismissed counts that were  
3 originally having to do with both of the city people.  
4 That was, like, at one point, I think two and three,  
5 because I think Count 2 became -- was count 4. Which we  
6 dealt with with Mr. Newman where we read the Barnard --  
7 the *Barnard v State* case where it specifically talks about  
8 if the relationship between the charges arose from a  
9 single act such as the *Barnard* case, the sexual  
10 communication that was believed to be to a child through a  
11 computer, then you can't charge that person with both  
12 using the computer to attempt to, you know, entice the  
13 child away and charge that person with enticing a child  
14 away.

15 So that's why I said they merge. Because under the  
16 Barnard case -- or Ber -- yeah, *Barnard* case, it's under  
17 the same -- the relationship between the charges arise  
18 from the same act. So this -- while this is not a single  
19 act, it is an act -- acts over time that fall under the  
20 stalking umbrella. And so when I realized that it  
21 happened in October of 2020, instead of October 2021, that  
22 was in the middle of everything happening.

23 MR. ADAMS: And, Judge, just to respond to that.  
24 The fact that the State concedes that the same act -- same  
25 behavior that they're alleging to be criminal, if

1 believed, could serve as a basis for the conviction of a  
2 felony and a misdemeanor is in and of itself an admission  
3 that one must necessarily be a lesser-included offense.

4 THE COURT: I didn't take that from what she  
5 said. I didn't interpret that the same way.

6 Ms. Gullett, it looks like you have something?

7 MS. GULLETT: That is not what I'm saying,  
8 Judge. That is not at all what I am saying. I am saying  
9 that the felony itself is -- every single act put together  
10 over the amount of time that the State of Oklahoma put in  
11 our Information from June 1st of 2020, until September 6th  
12 of 2022, there were a multitude of acts that all come  
13 under felony -- or all come under the Computer Crimes Act  
14 by using a computer to stalk the Blanchards.

15 The only lesser included that maybe I could see --  
16 and I don't think this is right -- would be maybe a  
17 misdemeanor stalking. Because if you pretend like the  
18 computer didn't exist, but that's not possible in this  
19 case because he's never been to Oklahoma and he's never  
20 been to Bartlesville -- so that'd be like --

21 THE COURT: Right.

22 MS. GULLETT: -- pretending like a major element  
23 didn't exist. Because, otherwise, we have all these  
24 elements here, and it's up to the jury to decide if  
25 whether or not a reasonable person would be afraid or not.



1 THE COURT: Okay. So, again, I'm going to deny  
2 your request, Mr. Adams. I don't believe that what you're  
3 asking for is, in fact, a lesser included of this specific  
4 crime. It's a different crime altogether.

5 But the next question is: How do we address this  
6 question back to the jury, Is a lesser-charge possible? I  
7 think the easy answer is no, without going any further.

8 MR. ADAMS: No, you have all the law and the  
9 facts necessary to make a decision in this matter. You  
10 know, the standard response.

11 MS. GULLETT: Or --

12 MR. ADAMS: If the Court wants to sound nicer  
13 than the standard response, because I don't think the  
14 standard response is very nice, it's just the one that  
15 I've heard judges give --

16 THE COURT: Yes.

17 MR. ADAMS: -- you know, for twenty-something  
18 years. But, yeah. I mean, as long as -- as it's clear  
19 that the answer is no, and you must decide on the facts  
20 necessary and --

21 THE COURT: How about if we put: No. You must  
22 decide based upon the information presented at trial or  
23 evidence presented at trial, maybe?

24 MR. ADAMS: Well, they're not asking about  
25 evidence, they're asking about charges. But, regardless,

1 it's minor. It doesn't matter.

2 THE COURT: My inclination is just to put no.

3 MS. GULLETT: I think no is fine.

4 THE COURT: Is that going to satisfy you,  
5 Mr. Adams?

6 MR. ADAMS: I'm sorry?

7 THE COURT: If I just write the answer no --

8 MR. ADAMS: Yeah, I'm not --

9 THE COURT: -- does that satisfy you?

10 MR. ADAMS: Yeah.

11 THE COURT: Okay. We'll send this back in to  
12 the jury.

13 (The jury question is returned and deliberations  
14 continued. Thereafter, proceedings resumed as  
15 follows:)

16 THE COURT: So we are now back on the record.  
17 We have another question/comment from the jury. It came  
18 out at 6:28. It says, we are locked at 11 to 1. The one  
19 is quite firm. Do we continue deliberating? If so, how  
20 long?

21 And prior to going on the record, the attorneys and  
22 I had some conversation about the appropriate response,  
23 and we came up with, and correct me if I'm wrong, but to  
24 the question "Do we continue deliberating," I wrote,  
25 "Please continue to deliberate." And to the question, "If

1 so, how long?" "Take as long or short as you want. It's  
2 up to you."

3 Do you agree, Mr. Adams?

4 MR. ADAMS: I -- I agree.

5 THE COURT: And, Ms. Gullett?

6 MS. GULLETT: Yes, Judge.

7 THE COURT: Okay. Thank you.

8 That will conclude the record for this question.

9 (The jury question is returned and deliberations  
10 continued. Thereafter, proceedings resumed as  
11 follows:)

12 THE COURT: Okay. We are now back on the record  
13 in State of Oklahoma versus Michael Eric Nelson. We have  
14 received a note from the jury that says they have reached  
15 a verdict.

16 Anything we need to do before the jurors are  
17 brought in?

18 MR. ADAMS: No.

19 MS. GULLETT: No.

20 THE COURT: Madam Bailiff, would you please  
21 direct the jurors to their place in the jury box.

22 Mr. Fetterhoff, it looks like you are the  
23 foreperson. Am I correct?

24 JUROR FETTERHOFF: Yes.

25 THE COURT: Okay. Has the jury reached a

1 verdict in this case?

2 JUROR FETTERHOFF: Yes, we have.

3 THE COURT: Okay. Is it unanimous?

4 JUROR FETTERHOFF: Yes, it is.

5 THE COURT: Okay. Would you please hand all the  
6 verdict forms, instructions, exhibits, et cetera,  
7 everything that you have to the bailiff.

8 Madam Clerk, would you please read the verdict.

9 THE CLERK: In the District Court of Washington  
10 County, State of Oklahoma, the State of Oklahoma,  
11 plaintiff, versus Michael Eric Nelson, defendant, Case  
12 Number CF-2021-304. Verdict: We, the jury, impanelled  
13 and sworn in the above-entitled cause, do upon our oaths  
14 find as follows: Count 1, violation of Oklahoma statute  
15 via computer, the defendant is not guilty.

16 THE COURT: Thank you, ladies and gentlemen.  
17 Does either party wish me to poll the jury?

18 MR. ADAMS: Not on behalf of Mr. Nelson.

19 MS. GULLETT: No, Judge. Thank you.

20 (This concludes the requested proceedings.)  
21  
22  
23  
24  
25

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF OKLAHOMA     )  
                                  )  ss.  
COUNTY OF TULSA     )

I, Dee Dee Tanner, a Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the foregoing transcript in the above-styled case is a true, correct, and complete transcript of my shorthand notes of the proceedings in said cause.

Dated this 18th day of May, 2023.

*Dee Dee Tanner*  
Dee Dee Tanner, CSR, No. 01590

 Sharon D. Tanner  
State of Oklahoma  
Certified Shorthand Reporter  
CSR # 1590  
My Certificate Expires 12-31-23