

1 JAMIE BELL: No, it was the state police.  
2 ANGIE: State? Okay.  
3 JAMIE BELL: Yeah. The state trooper almost  
4 lost it when he turned down the road too.  
5 ANGIE: Yeah, I've heard of that happening.  
6 Yup.  
7 JAMIE BELL: When he got out of his car, he  
8 almost fell. It was nasty.  
9 ANGIE: Yeah. Yeah, I've had one--I had an  
10 accident that was reported where somebody had had an  
11 accident, then our policy holder had an accident  
12 there, and then the police are trying to respond and  
13 they're havin' an acc--you know, it was just one of  
14 those bad--  
15 JAMIE BELL: Oh, it was bad out the other night.  
16 ANGIE: Yeah. And this was all in Michigan,  
17 right?  
18 JAMIE BELL: Yes.  
19 ANGIE: Okay. Okay. Now, for the company  
20 itself, so for Earth, Inc., who do we--who is the  
21 contact person? Who--  
22 JAMIE BELL: Is it Michael Terpening?  
23 ANGIE: Okay. And what's his phone number?  
24 JAMIE BELL: Tryin' to think, which one do I  
25 give you. Do I give you his cell, or do I give

1 you the office?  
2 ANGIE: You can give me both. What--What's the  
3 office number?  
4 JAMIE BELL: The office number is ~~905-251-1111~~--hold  
5 on. Gotta think. I got a brain bubble.  
6 ANGIE: That's okay.  
7 JAMIE BELL: ~~905-251-1111~~.  
8 ANGIE: And then what's his cell number?  
9 JAMIE BELL: ~~The cell nine two zero nine seven~~  
10 ~~four nine one~~.  
11 ANGIE: And I've got the--the address for the  
12 business at a P.O. box?  
13 JAMIE BELL: P.O. Box 25?  
14 ANGIE: Uh-huh.  
15 JAMIE BELL: (inaudible)  
16 ANGIE: What's the physical address?  
17 JAMIE BELL: Um--  
18 ANGIE: Or do you know?  
19 JAMIE BELL: 14585 Jenkins Road.  
20 ANGIE: Okay.  
21 JAMIE BELL: Bellevue, Michigan.  
22 ANGIE: And it's still the four nine--  
23 JAMIE BELL: Zero two one.  
24 ANGIE: Oh two one. Okay. There we go. Okay.  
25 And then let's look here at the vehicles. Give me--

1 Give me just a second. I wanna get all the cars  
 2 pulled up. Not sure how many you guys have, but give  
 3 me one moment. There we go. All right. And then  
 4 what--what's--what's the year, make, and model of the  
 5 vehicle you were in?  
 6 JAMIE BELL: It's a Chevy dually truck, pickup  
 7 truck. I'm thinkin' it's like a 2006.  
 8 ANGIE: Okay. I s--And you don't have more than  
 9 one '06 dually, do you?  
 10 JAMIE BELL: No.  
 11 ANGIE: Okay. Here we go. Is the truck  
 12 drivable?  
 13 JAMIE BELL: Yes.  
 14 ANGIE: 'Kay.  
 15 JAMIE BELL: It's gonna need some work,  
 16 but--  
 17 ANGIE: Uh-huh. And then what color is that  
 18 truck?  
 19 JAMIE BELL: White.  
 20 ANGIE: Any idea what the license plate number  
 21 was?  
 22 JAMIE BELL: Oh, no. That one I don't know.  
 23 ANGIE: That's okay. And then it asks if there  
 24 were car seats for kids. I know you weren't carryin'  
 25 around any--

1 JAMIE BELL: No, I wasn't.  
 2 ANGIE: --kids in your work big ol' truck like  
 3 that. Yup. Skip that. What was the point of impact  
 4 on the truck?  
 5 JAMIE BELL: Behind the driver's side tire,  
 6 rear.  
 7 ANGIE: Driver rear. Okay. So like that bed  
 8 side panel is--  
 9 JAMIE BELL: Yes.  
 10 ANGIE: --dented. Is there any damage on the  
 11 tires or the--they're not blown or anything like  
 12 that.  
 13 JAMIE BELL: No. The tires didn't blow.  
 14 ANGIE: Okay. Did it get the doors, or is it  
 15 just on the panel?  
 16 JAMIE BELL: Just the bed of the truck and the  
 17 panel.  
 18 ANGIE: Okay.  
 19 JAMIE BELL: The bed looks to be like it's bent,  
 20 so I don't know.  
 21 ANGIE: Okay. Okay. And then I'm gonna put  
 22 that you were the driver--  
 23 JAMIE BELL: Yup.  
 24 ANGIE: --and what's your first name?  
 25 JAMIE BELL: Jamie.

1 ANGIE: J-A-N-I-E?

2 JAMIE BELL: J-A-M-I-E.

3 ANGIE: Oh. Jamie. J-E-M-I-E. Gotcha. There

4 we go. What's your last name, Jamie?

5 JAMIE BELL: Moore-Bell. M-O-O-R-E hyphen

6 B-E-L-L.

7 ANGIE: And your date of birth?

8 JAMIE BELL: ~~XXXXXXXXXX~~.

9 ANGIE: And then you said you're not gonna

10 require any medical treatment, right?

11 JAMIE BELL: No. No.

12 ANGIE: And then--

13 (At 3:15 p.m., playback of CD stopped)

14 MS. PAYNE: Your Honor, I'll stop the tape right

15 now unless everyone would like to hear it--

16 MR. ELDRED: No, I'm gonna--

17 MS. PAYNE: --Defense Counsel, in the entirety.

18 MR. ELDRED: I'm gonna object, your Honor. I

19 want the--the document played in entirety if--

20 MS. PAYNE: That's fine.

21 MR. ELDRED: --we're gonna consider any of it.

22 MS. PAYNE: I'll continue.

23 MR. ELDRED: Very good. Thank you.

24 (At 3:15 p.m., playback of CD continued)

25 ANGIE: --what's a good phone number to get a

1 hold of you if they need to?

2 JAMIE BELL: Two six nine nine eight six six oh

3 three nine.

4 ANGIE: Okay. And that's your call?

5 JAMIE BELL: Yes. (inaudible)

6 ANGIE: Okay. And no passengers, right?

7 JAMIE BELL: Yes. We did have one of our

8 residents with us.

9 ANGIE: Okay.

10 JAMIE BELL: No injuries.

11 ANGIE: Okay.

12 JAMIE BELL: The police didn't even take his

13 information.

14 ANGIE: Okay. Do you have a first and last

15 name?

16 JAMIE BELL: On him?

17 ANGIE: Yeah.

18 JAMIE BELL: John ~~XXXXXXXXXX~~.

19 ANGIE: And is that--did you say a like ~~XXX~~?

20 JAMIE BELL: Yup.

21 ANGIE: Okay. I'm just gonna put that he was

22 a passenger. So right front passenger seat, right?

23 JAMIE BELL: Yes.

24 ANGIE: 'Kay. Now, it asks for his date of

25 birth. You don't have that, you don't know, right?

1 JAMIE BELL:   
2 ANGIE: Oh.  
3 JAMIE BELL: Oh, I'm thinking. I think it's   
4   
5 ANGIE: Okay.  
6 JAMIE BELL: Wait a minute. Ninety-four.  
7 ANGIE: Okay.  
8 JAMIE BELL: You do the math. He's gonna be  
9 seventeen.  
10 ANGIE: Okay.  
11 JAMIE BELL: So yeah.  
12 ANGIE: So if he's sixteen, gonna be seventeen--  
13 JAMIE BELL: Yes, .  
14 ANGIE: Yeah. All right. And then you said no  
15 injury or anything to him?  
16 JAMIE BELL: Nope.  
17 ANGIE: 'Kay. Now, when you said he's one of  
18 your--your residents, what--is this a--(dog  
19 barking)--  
20 JAMIE BELL: It's a residential facility.  
21 ANGIE: Okay.  
22 JAMIE BELL: He--He resides in a residential  
23 facility.  
24 ANGIE: Okay.  
25 JAMIE BELL: I was driving him to something.

1 ANGIE: Okay. Gotcha. 'Cause normally like for  
2 a minor, whatever, we get their parents and stuff,  
3 but you guys are the--are like his guardians or  
4 whatever--  
5 JAMIE BELL: Yes.  
6 ANGIE: You take care of him. Okay.  
7 JAMIE BELL: Yes.  
8 ANGIE: Okay. So no--then no--at this point  
9 nobody else, then, that we need to add to the claim,  
10 right?  
11 JAMIE BELL: Nope.  
12 ANGIE: Okay. Now, for any written  
13 communication on the claim many of our customers  
14 prefer to get that information by email. Did you  
15 wanna leave an email address, or do you think that  
16 the boss would want that or just regular--  
17 JAMIE BELL: He would probably prefer a paper  
18 trail.  
19 ANGIE: Okay. So we'll do it that way then.  
20 Okay. Give me just a second I'm gonna have you the  
21 claim number.  
22 JAMIE BELL: Okay.  
23 ANGIE: Just a second. Okay. The--The claim  
24 number's gonna be 1018100677.  
25 JAMIE BELL: Okay.

1           ANGIE: Okay.  
2           JAMIE BELL: He asked me to see--We wanted to  
3 take the truck--want to take the truck up to  
4 Elliott Body Shop in Dowling.  
5           ANGIE: Uh-huh.  
6           JAMIE BELL: Does he have to have a claim  
7 adjuster meet him there?  
8           ANGIE: We can. I mean, to be honest, the--the  
9 best way--I mean we would prefer to do those inspec-  
10 tions at the shop, so if you're wanting to--are you  
11 planning on just takin' it and leavin' it there, or  
12 you--  
13           JAMIE BELL: Probably.  
14           ANGIE: 'Kay.  
15           JAMIE BELL: Well, actually, no. He said to set  
16 up an appointment so--  
17           ANGIE: Okay.  
18           JAMIE BELL: --I'm assuming he wants--He's gonna  
19 drive it in and--  
20           ANGIE: Okay. Well, let's go ahead then. Let  
21 me fill in that you wanna do it at the--and he wants  
22 to do it at the shop, right?  
23           JAMIE BELL: Yes. Elliott Body Shop.  
24           ANGIE: Elliott Body Shop. Do you happen to  
25 have their phone number?

1           JAMIE BELL: No, I don't.  
2           ANGIE: Okay. Let me--I'm gonna look it up. I  
3 can pull it up online, I'm sure.  
4           JAMIE BELL: It's in Dowling, Michigan.  
5           ANGIE: In where?  
6           JAMIE BELL: Dowling, Michigan. Day--  
7 D-Q-W-L-I-N-G.  
8           ANGIE: Uh-huh. Gotcha. Okay. Let's see here.  
9 There we go. Now, what I pulled up on the Internet  
10 was an address of 8942 South M-37 Highway?  
11           JAMIE BELL: Yes.  
12           ANGIE: That sound right? Okay. Give me just a  
13 second, let me copy that info over. Now, since I've  
14 got their phone number right in front of me, do you  
15 want it?  
16           JAMIE BELL: Sure.  
17           ANGIE: Just to have it?  
18           JAMIE BELL: Thank you.  
19           ANGIE: And it's the--the 269 area code--  
20           JAMIE BELL: Yes.  
21           ANGIE: --and then ~~734~~.  
22           JAMIE BELL: Okay.  
23           ANGIE: Okay? And then let's see here, I'm just  
24 pullin' up our field scheduler, and we'll try to see  
25 what we can do. Okay. Now, Monday looks like it's

1 pretty much wide open as far as appointment times.  
2 JAMIE BELL: Okay.  
3 ANGIE: They're set up in two-hour windows of  
4 time, but the--so it's not a specific. So like if we  
5 do--let's say the first appointment is an eight to  
6 ten--  
7 JAMIE BELL: Right.  
8 ANGIE: --it doesn't necessarily mean that  
9 they're gonna be there right at ten, but I'll let you  
10 know. Usually the earlier in the day, the closer  
11 they are to that beginning slot.  
12 JAMIE BELL: Okay.  
13 ANGIE: Do you think that your boss would want  
14 somethin' earlier, or afternoon?  
15 JAMIE BELL: Probably afternoon.  
16 ANGIE: Afternoon? Okay. In the afternoon  
17 there's--and it kinda goes every hour. There's a one  
18 to three, a two to four, three to five, four to six,  
19 and then I can--  
20 JAMIE BELL: So--  
21 ANGIE: Go ahead.  
22 JAMIE BELL: How 'bout a one to three.  
23 ANGIE: Okay. So we'll do the--we'll do that,  
24 and then I'm gonna put--now, they--normally they call  
25 the shop to make sure that the vehicle's there--

1 JAMIE BELL: Yeah.  
2 ANGIE: --but I'm also gonna put your boss's  
3 cell phone number on this--  
4 JAMIE BELL: Yeah.  
5 ANGIE: --that they can call him when they're on  
6 their way, just to make sure that he's goin' up  
7 there. That he asked to be there.  
8 JAMIE BELL: Okay.  
9 ANGIE: So give me one--  
10 JAMIE BELL: Um--  
11 ANGIE: Go ahead.  
12 JAMIE BELL: On second thought now, if it's a  
13 problem for him--  
14 ANGIE: Uh-huh. You can ca--Yeah, all he has to  
15 do, you or him, anybody can call back and reschedule  
16 it.  
17 JAMIE BELL: Okay.  
18 ANGIE: Do you think it would be better to call  
19 his cell or the office number?  
20 JAMIE BELL: His cell.  
21 ANGIE: Okay. So I'll just put that, and give  
22 me one second here. There we go. Yup, and all you  
23 have to do is you just reference the claim number--  
24 JAMIE BELL: Yup.  
25 ANGIE: Pretty much anybody can help you if

1 you--if you just follow the prompts like you did this  
2 time.  
3 JAMIE BELL: Right.  
4 ANGIE: And just give the claim number and  
5 pretty much anybody that you get can help you  
6 reschedule the appointment. Okay?  
7 JAMIE BELL: Okay.  
8 ANGIE: Now, I will let you know all of these  
9 appointments, they are done through like a GPS  
10 system, so it doesn't give me the name of the  
11 adjuster yet.  
12 JAMIE BELL: Right.  
13 ANGIE: That's usually assigned that--that  
14 morning of the appointment. And then again, if you  
15 need to reschedule, give us a call back. Likewise,  
16 if something unforeseen were to happen for the  
17 adjuster and they weren't gonna make it, they would  
18 call you to reschedule at your convenience. Okay?  
19 JAMIE BELL: Okay.  
20 ANGIE: Anything else I could do for you guys?  
21 JAMIE BELL: Nope. Thank you very much.  
22 ANGIE: Well, you're welcome. You have a good  
23 day. Thanks for calling.  
24 JAMIE BELL: You too.  
25 ANGIE: Bye-bye.

1 (At 3:25 p.m., playback of CD stopped)  
2 MS. PAYNE: Your Honor, if I may approach with  
3 Exhibit Number 4?  
4 THE COURT: Yeah. You may.  
5 BY MS. PAYNE:  
6 Q Derek, did you recognize the voice in the recording we  
7 just heard?  
8 A Yes, I did.  
9 Q And whose voice was that?  
10 A Jamie Bell.  
11 Q You stated earlier that Michael Terpening asked you to  
12 change the incident report that you had originally  
13 written.  
14 A Yes.  
15 Q What did he want you to change about it?  
16 A He wanted it so that Jamie was driving.  
17 Q Jamie Bell and Michael Terpening, are they related?  
18 A Yes, they are.  
19 Q How are they related?  
20 A Jamie is his aunt.  
21 MS. PAYNE: Okay. No further questions, your  
22 Honor.  
23 THE COURT: Cross-exam?  
24 CROSS-EXAMINATION  
25 BY MR. ELDRED:

1 Q Mr. ~~XXXXXX~~, what report was it that you filled out?  
2 A A incident report.  
3 Q Okay. Is that state report?  
4 A It's a standard report that Earth Services has. When  
5 somethin' substantial happened with one of the boys, we  
6 would fill it out for them.  
7 Q And where would it go after you prepared it?  
8 A Into a supervisor's box.  
9 Q And who would the supervisor be?  
10 A Christy Smith--  
11 Q So it went from you to Christy Smith?  
12 A At the time, I don't know if we were doin' that yet. At  
13 the end, that's how it went.  
14 Q Well, on February 25th, what were you doin'?  
15 A I put it on the computer, and it just stayed on the  
16 computer.  
17 Q On what computer?  
18 A The main computer, because you have to wait for somebody  
19 to check it over first and sign it.  
20 Q So you--  
21 A And then you sign it afterwards.  
22 Q So you put it into Earth Services' computer?  
23 A Yes.  
24 Q 'Kay. Wasn't your computer.  
25 A No.

1 Q Where was that computer--  
2 A In--  
3 Q Where was the--  
4 A In--  
5 Q --computer located--  
6 A --the main office--  
7 Q Wait till I'm done, please. Where was it located at that  
8 you were using.  
9 A The main office--  
10 Q Okay.  
11 A --of Earth Services.  
12 Q All right. You weren't present at the accident?  
13 A No, I wasn't.  
14 Q No one called you there to help get the truck outta the  
15 ditch or anything like that?  
16 A Nope. I was on staff with the rest of the boys.  
17 Q Would it be more usual for the person that was at the  
18 accident, the staff member that was there, to prepare the  
19 report?  
20 A There wasn't any staff member present when he crashed the  
21 truck.  
22 Q Jamie Bell's not a staff member?  
23 A She is.  
24 Q Okay. She was there at the accident scene, correct?  
25 A I was reported that Buddy crashed the truck.



1 Q Would it be more usual for the person that was there to do  
2 the report?  
3 A I--I don't know. I guess. Somebody did the reports. I  
4 mean--  
5 Q All right. So it's your testimony that--  
6 A I was on staff.  
7 Q --you prepared--Wait till I'm done, please. Okay? It's  
8 your testimony that you prepared a report, correct?  
9 A Yes.  
10 Q When did--You prepared it that night--  
11 A Yes.  
12 Q --February 25th.  
13 A After the phone call came.  
14 Q What time would that have been?  
15 A I--I don't wanna say exactly. I'm not sure.  
16 Q Well--  
17 A I don't remember--  
18 Q --would it have been after midnight?  
19 A The phone call came?  
20 Q That you prepared the report, sir.  
21 A No.  
22 Q No? So it've been before midnight.  
23 A Yes.  
24 Q 'Kay. Would it been before ten o'clock?  
25 A I don't remember.

1 Q 'Kay. When did Mr. Terpening ask you to change the  
2 report?  
3 A It w--It was probably the day after, or a couple days  
4 after. I don't know exact date.  
5 Q February 26th or 27--  
6 A I don't know exact date.  
7 Q Well, you knew the date of the accident, right?  
8 A Yeah, because of--  
9 Q All right. So you're sayin' it was the day after the  
10 accident?  
11 A It was shortly after the accident. Yes.  
12 Q 'Kay. So February 26th would be the day after the  
13 accident?  
14 A I don't know for sure.  
15 Q You don't know--  
16 A I don't wanna say--I don't wanna say a for sure date.  
17 Q Okay. All right. Were you taking prescription  
18 medications at that time?  
19 A I--  
20 MS. PAYNE: Objection, your Honor.  
21 MR. ELDRED: Well, it goes to--  
22 MS. PAYNE: How's that relevant?  
23 MR. ELDRED: It goes to his memory, your Honor,  
24 and his ability to remember incidents correctly during  
25 this time frame.

1 THE COURT: Sustained.  
2 THE WITNESS: I don't know.  
3 BY MR. ELDRED:  
4 Q Were you abusing--  
5 A Most likely.  
6 Q --prescription drugs?  
7 A No.  
8 THE COURT: I sustained the objection.  
9 MR. ELDRED: Oh, you did sustain--I'm sorry.  
10 THE COURT: I did sustain--  
11 MR. ELDRED: I thought you overruled it.  
12 THE COURT: I sustained the objection.  
13 MR. ELDRED: Very good, your Honor. I would ask  
14 that it be reconsidered, your Honor. It goes to the  
15 witness's credibility, his ability to remember correctly.  
16 I think it's clearly relevant evidence that should be  
17 presented to the Court in making a determination today.  
18 And I'll--And I won't object again, your Honor. I'll  
19 abide by your ruling as it stands.  
20 THE COURT: I--I--I'll give you a little leeway.  
21 MR. ELDRED: Thank you.  
22 BY MR. ELDRED:  
23 Q Sir, you've testified in this court before that you've  
24 used heroin at that--while on duty there, correct?  
25 A Yes, I did.

1 Q Did you use heroin that night?  
2 A No. I testified that that was the only time that I've  
3 ever done heroin.  
4 Q Okay. So on February 25th you hadn't used heroin?  
5 A No.  
6 Q Were you under the influence of any other drugs that  
7 night?  
8 A I couldn't tell you. I--I had blood clots, so I don't  
9 know. I could've been--  
10 Q Is it possible--  
11 A --takin'--  
12 Q Oh, I'm sorry. Go ahead.  
13 A I could've been.  
14 Q Okay. Is it possible that it clouded your memory--  
15 A No.  
16 Q --of this incident?  
17 A No.  
18 Q No? So the report, you put it into the computer, woulda  
19 went to Christy Smith?  
20 A Or Michael Terpening.  
21 Q You testified that the report disappeared.  
22 A Yes.  
23 Q How are you aware of that?  
24 A It was--disappeared. It was gone.  
25 Q When did you look for it?

1 A It's not--It wasn't in the computer anymore. Jamie redid  
2 it.  
3 Q When did you look for it, I said.  
4 A I don't know. I don't remember. I just know that Jamie  
5 redid my report and--  
6 Q Well--  
7 A --so I wasn't--  
8 Q --is it possible that Miss Bell wrote a different report--  
9 A She could've.  
10 Q --and left yours in there?  
11 A I don't think mine was left in there.  
12 Q You don't think so, or you know that it wasn't?  
13 A I'm pretty sure it wasn't.  
14 Q So you're speculating about that. Did you look to see if  
15 the report was there?  
16 A No. I guess I--I didn't specifically look to see if it  
17 was there, but I didn't remember seeing it there after-  
18 wards. There wasn't a time that I specifically went to  
19 the computer and looked for it.  
20 Q Okay. So you're just speculating that it wasn't there  
21 then, correct?  
22 A Yeah. I looked in the file and it w--I mean, it wasn't  
23 there.  
24 Q What did Mr. Terpening say to you about the report? What  
25 were his words to you?

1 A I can't say exact words, you know, it was a long time ago,  
2 but it was--he meant he wanted me to change the report so  
3 that Jamie was driving.  
4 Q Did he say you wrote the report incorrectly, that Jamie  
5 was driving? Is that what he said to you?  
6 A No.  
7 Q No? What did he say?  
8 A I--He said that I need to change the report so that Jamie  
9 was driving.  
10 Q 'Kay. Did he say I want you to do that so I can defraud  
11 the insurance company, or did he say I want you to do that  
12 because Jamie was driving?  
13 A He said it was for insurance purposes.  
14 Q Okay. Did he indicate to you that he knew that Jamie  
15 wasn't driving that night?  
16 A No.  
17 Q No?  
18 A That he knew--  
19 Q Yes, that he knew when he asked you to do that--  
20 A No, he didn't--  
21 Q --that he knew Miss Bell wasn't driving that night.  
22 A He did not say--  
23 Q So he could've very well--just as well been askin' you to  
24 change it because he thought your report was incorrect  
25 then.

1 A He could've, I guess.

2 Q 'Kay. When did you report to the police that you had done

3 this report?

4 A You don't report those to the police.

5 Q Well, what--at some point you made a--the police aware

6 that you had done this report; when did you do that?

7 A I don't--I don't know.

8 Q Do you--

9 A I don't know--

10 Q --remember--

11 A --a date.

12 Q --month?

13 A It's--It's--No. I don't know.

14 Q So--

15 A I've talked to 'em so much, I can't tell you exactly when

16 that happened.

17 Q Okay. Was it quite a while after the incident?

18 A Yeah.

19 Q Okay. So you went on--February you didn't report it to

20 the police, March you didn't report it--

21 A Uh-huh.

22 Q Right?

23 A Uh-huh.

24 Q April you didn't report it?

25 A Mmm--I don't think so. No.

1 Q May, did you report it in May?

2 A I don't know. It's gettin' closer, probably, to when it

3 was asked of me.

4 Q So some four or five months later--

5 A Yeah.

6 Q --you told the police you wrote this report, correct?

7 A Yes.

8 Q That it disappeared.

9 A Yes.

10 Q Did you tell the police that you knew the report had

11 disappeared, or did you tell them what you told the Court

12 here today and maybe it was gone and maybe it wasn't?

13 A I don't remember exactly what I said.

14 Q Okay. Do you believe it's important to tell the truth

15 here today?

16 A Yes. Obvi--Yeah, of course.

17 Q Did you believe it was important to tell the police the

18 truth?

19 A Yes.

20 Q 'Kay. How long did you work at Earth Services?

21 A From November until the boys were being removed.

22 Q When was that?

23 A I don't remember.

24 Q Was it around the time that you'd called the police and

25 said that this report was missing?

1 A No. It w--That was after the boys were removed.  
2 Q So--  
3 A It was after I wasn't working there when--and I--I didn't  
4 make a specific call to the police--  
5 Q Excuse me.  
6 A --and say that.  
7 Q Okay. But you reported it to the police--  
8 A Yes.  
9 Q --after you were no longer working at Earth Services?  
10 A Yes.  
11 Q 'Kay. And it's fair to say you had difficulties with  
12 Earth Services, correct?  
13 A Yes.  
14 Q In your employment.  
15 A Yes.  
16 Q That you had been accused of stealing an iPod from them,  
17 that you had been accused of using drugs there.  
18 A I didn't--I've never heard anything of me stealing an iPod  
19 from there.  
20 Q Okay. All right. So you're denying that you took one of  
21 the resident's iPods and sold it?  
22 A Yeah.  
23 Q 'Kay. And that Earth Services had to pay for it?  
24 A Yeah. I paid for the iPod.  
25 Q What iPod?

1 A The iPod that was at Earth Services. It wasn't one of the  
2 boys', it was one of the old employees'.  
3 Q So you did take an iPod from Earth Services?  
4 A Yeah. I paid for the iPod.  
5 Q Okay. You'd been accused of taking other things from  
6 Earth Services? Dog food and other supplies?  
7 A Not that I remember.  
8 Q Okay.  
9 A I--I didn't--  
10 Q You--  
11 A --take anything from there.  
12 Q You--You don't recall that ever being discussed with you?  
13 A I remember hearing it, that Jamie had said something--  
14 Q Okay.  
15 A --about me taking supplies.  
16 Q And did Miss Smith, Christy Smith, ever talk to you about  
17 these issues?  
18 A I don't think so.  
19 Q 'Kay. Did Mr. [REDACTED]--Did Earth Services pay him to do  
20 chores and work on the farm?  
21 A I believe so. Yeah.  
22 Q Do you know how much he got paid?  
23 A I couldn't say exact amount.  
24 Q Okay. But they did pay him to do things around the farm,  
25 correct?

1 A Yes.

2 Q And you're aware of that as--in your capacity as--

3 A Yes.

4 Q --as a--monitor there? Is that your title? What was your

5 title, I guess?

6 A Direct care staff.

7 Q 'Kay. All right. So Mr. [REDACTED] would do chores, do work

8 at the farm and received money in exchange for that from

9 Earth Services?

10 A Yes.

11 Q Who called you on the night of the accident?

12 A I don't remember. I don't wanna say for sure.

13 Q You have no idea?

14 A It was a staff member.

15 Q Was it Miss Bell?

16 A I don't think so.

17 Q Did Mr. Terpening call you that night? Mike Terpening?

18 A No.

19 Q No?

20 A It wasn't him.

21 MR. ELDRED: Nothing further, your Honor.

22 THE COURT: Any redirect?

23 MS. PAYNE: No, your Honor.

24 THE COURT: You may step down.

25 MS. PAYNE: Your Honor, may this witness leave?

1 THE COURT: Pardon?

2 MS. PAYNE: May this witness leave?

3 THE COURT: Any reason why this witness can't be

4 excused?

5 MR. ELDRED: No objection, your Honor.

6 THE COURT: Okay. Mr. [REDACTED], you may be

7 excused. You may stay, you can leave, whatever you prefer

8 to do.

9 (At 3:38 p.m., witness excused)

10 THE COURT: Anything further from Prosecution?

11 MS. PAYNE: No, your Honor.

12 THE COURT: Anything from the Defense?

13 MR. ELDRED: No, no proofs, your Honor.

14 THE COURT: 'Kay. Arguments?

15 MS. PAYNE: Yes. At this time I make a motion

16 to bind over on fraudulent acts for insurance purposes.

17 The statute reads, "A fraudulent insuran--insurance act

18 includes, but is not limited to, acts or omissions

19 committed by any person who knowingly and with intent to

20 injure, defraud, or deceive...."

21 In this case we've heard evidence that would

22 lead one to believe that Michael Terpening did cause an

23 oral or written statement to be presented to an insurer,

24 in this case Farmers Insurance, or an agent of an insurer,

25 and/or caused an oral or written statement to be presented

1 to an insurer or in part of--support of a claim for  
2 payment or other insurance benefit, and/or knowingly and  
3 willfully urged Jamie Bell, another person, to violate  
4 this act by making a false statement knowing that it  
5 contained false information concerning a fact material to  
6 insurance claim, and did so intending to injure, defraud,  
7 or deceive.

8 In this case, this is a preliminary examination.  
9 The standard is probable cause. There's evidence that was  
10 presented through the tape, Exhibit Number 4. [REDACTED]  
11 testimony that he was told to not say he was the driver  
12 for insurance and license reasons. [REDACTED] testified  
13 that he was asked to change the report by Michael Terpen-  
14 ing several times for insurance purposes. We heard the  
15 tape, Jamie Bell calls in and says her boss asked her to  
16 call in and make the claim. I believe that there is  
17 probable cause to show that this offense has occurred,  
18 your Honor.

19 THE COURT: Mr. Eldred?

20 MR. ELDRED: Your Honor, I would disagree with  
21 the Prosecution--Prosecution's summation. I don't believe  
22 they've shown that Mr. Terpening has done any acts that  
23 would meet this--these requirements of this statute. He  
24 has not made any reports, there's no evidence he's made  
25 any reports to the police; that he made any reports to the

1 insurance company; that he even had any--there's not even  
2 credible evidence that he had any information that Jamie  
3 Bell was not driving the vehicle that day. There's no  
4 indication that Mr. Terpening has done anything to gain--  
5 fraudulently to gain in this matter.

6 Your Honor, the evidence is that that on that  
7 night Mr. Terpening wasn't present; that Jamie Bell  
8 apparently indicated that she was driving; that he was not  
9 present, had no personal knowledge to that effect; that  
10 Jamie Bell apparently called the insurance company and  
11 made a claim; that Jamie Bell talked to the police and  
12 made a report.

13 Mr. [REDACTED], who we believe to be highly non-  
14 credible, even he reports that he had no information about  
15 whether Mr. Terpening thought he was incorrect when he  
16 asked him to change the report or if he was simply askin'  
17 him to change a report because he thought Mr. [REDACTED]  
18 filled it out incorrectly, that he believed Jamie Bell was  
19 driving.

20 For the--For him to have committed this act he  
21 had to intend to benefit from. That he had somehow had  
22 knowledge that he was--that Jamie Bell was not driving the  
23 vehicle that night. I don't believe that's been proven to  
24 this Court that he in some way made contact with the  
25 insurance company in an effort to gain from a fraudulent

1 report. I don't believe that's been shown to this Court.  
2 I just don't believe the Prosecution has met it's minimal  
3 burden of probable cause today.

4 Probable cause is some cause, your Honor. It  
5 isn't much, I agree, but it is some cause, and the  
6 Prosecution has failed to present to this Court any cause  
7 to believe that Mr. Terpening did anything in this matter  
8 other than--than have his vehicle driven by Jamie Bell or  
9 someone else and having people lie to him about it.

10 Mr. Terpening made no acts, made no effort to  
11 gain from this--this matter, made no reports to the  
12 insurance company or to the police. There is no proof  
13 presented to this Court, credible proof that he in any way  
14 influenced Jamie Bell to do anything in this matter.

15 Your Honor, the--the Prosecution is asking you  
16 to make a leap of--of conclusions in this matter. They  
17 played you a tape of Jamie Bell calling the insurance  
18 company, and reporting the accident, and makin' a claim,  
19 and then ask you to somehow attribute that to Michael  
20 Terpening. They present to you an accident report that  
21 Jamie Bell made to the police, and somehow ask you to  
22 attribute that to Mr. Terpening.

23 Your Honor, we don't believe that the  
24 Prosecution has met it's burden, and, once again, we would  
25 ask that these charges be dismissed as they pertain to Mr.

1 Terpening. Thank you.

2 THE COURT: Thank you, Mr. Eldred. Some of the  
3 key facts that--that I heard today, number one that Mr.  
4 Terpening gave the keys or the authorization, whether he  
5 physically gave the keys or not, gave the authorization to  
6 Mr. [REDACTED] to drive his truck to take his girlfriend to the  
7 dance that evening. There was no testimony or any reason  
8 to believe, whatsoever, that Ms. Bell would be driving the  
9 vehicle on that particular evening.

10 There was an accident, he was aware of the  
11 accident, made aware of the accident. Testimony is that  
12 he told Mr. [REDACTED] on at least two occasions to change  
13 the incident report to include that Ms. Bell was driving  
14 the vehicle, not Mr. [REDACTED]. And then it was clear from  
15 the recording that Miss Bell--at least Miss Bell said in  
16 the recording that she was instructed by the Defendant  
17 to--to make the call and make the claim to the insurance  
18 company.

19 Again, this is a probable cause hearing, this is  
20 not a trial. It's not beyond a reasonable doubt standard,  
21 it's probable cause standard. Given those uncontroverted  
22 facts, I do find probable cause to--To not find probable  
23 cause, you'd have to believe that Miss Bell acted entirely  
24 on her own in this matter, and there doesn't seem to be  
25 any testimony to that extent, and doesn't really seem to



1 be any reason for that to have taken place. I do find  
2 probable cause that this crime occurred and probable cause  
3 to believe the Defendant committed the crime. I also find  
4 there's proper--proper venue in this matter, so I'll bind  
5 this over. Do we have a date?

6 THE RECORDER: December 15th at 8:15.

7 MR. ELDRED: I'm sorry, your Honor. I missed  
8 that.

9 THE RECORDER: December 15th at 8:15.

10 MR. ELDRED: Eight-fifteen?

11 THE COURT: And is there any issue regarding  
12 bond in this matter? Let me clarify first. Bond has been  
13 set at 10,000 cash or surety; is that correct?

14 MS. PAYNE: That is correct, your Honor.

15 THE COURT: Okay. Is there any reason why bond  
16 should be changed?

17 MS. PAYNE: No, your Honor.

18 THE COURT: Bond will continue.

19 Anything else we need to do regarding this  
20 matter from the Prosecution's standpoint?

21 MS. PAYNE: No, your Honor.

22 THE COURT: From the Defense?

23 MR. ELDRED: No, sir.

24 THE COURT: Okay. Thank you very much.

25 MR. ELDRED: And that--

1 THE COURT: Court's in recess.

2 MR. ELDRED: That'll be a pretrial date--

3 MS. PAYNE: Yes.

4 MR. ELDRED: --in circuit court? Okay.

5 THE COURT: Yes.

6 (At 3:46 p.m. matter concluded)

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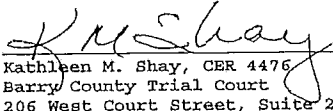
STATE OF MICHIGAN )

)

COUNTY OF BARRY )

I certify that this transcript, consisting of 85 pages, is  
a complete, true, and correct record of the proceedings and  
testimony taken in this matter on November 10, 2011.

January 4, 2012

  
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