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enforcement. There is no context to these findings—no showing of why Avery, under noncontrolled conditions, could not have deposited more sweat than the volunteers, much less any showing that the DNA was therefore planted. Without such context, this evidence is not exculpatory or even particularly relevant, and Avery’s attempt to link it to the alleged reassignment of his groin swab is wholly unsupported by any facts of record.

¶33 Avery’s seventh and final claim is that trial counsel was ineffective for not presenting a forensic fire expert, who would have found that Halbach’s “body was not burned in the Avery burn pit and [that] her bones were therefore planted.” Avery’s cited factual support once again does not live up to the advance billing. His forensic fire expert did state that he “disagree[d] with [the State’s expert’s] opinion that the main destruction of the body took place in” the Avery burn pit. But Avery does not explain why, from this conclusion, it follows that Halbach’s remains were planted, because he does not explain why he himself would have been unable to cremate some portion of Halbach’s body in another location—including in his burn barrel, where additional bone fragments were found. More important, Avery does not explain where or how prejudice arises, given that his own forensic anthropologist testified to this same conclusion at trial. Avery’s expert further concluded that, contrary to the State’s theory at trial, Halbach’s body could not have been burned to the extent it was burned in only four hours. Again, this is a fact without context; at most, presenting such evidence at trial would have enabled the jury to weigh two competing expert opinions on how Halbach was cremated. Avery again has presented no reasoned basis for concluding that the outcome of trial would have been different.

¶34 In sum, the seven ineffectiveness claims in Avery’s June 2017 motion that are based on new investigations fail on the merits. Avery has not

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shown that trial counsel provided objectively deficient representation by not hiring experts similar to those he later hired. Instead, Avery merely assumes that the need for such experts should have been obvious at the time, based on the later findings of his own experts. These later findings, however, are either equivocal, irrelevant, or both. In addition, Avery has not explained how these findings would have negated or undermined the cumulative effect of the other trial evidence. Thus, Avery has failed to show that, even if all these findings were admitted at trial, the result would have been different. Consequently, Avery has not alleged sufficient material facts entitling him to a hearing on his claims of ineffective assistance of counsel.

Brady Violations

¶35 Avery next argues that the State withheld favorable evidence in its possession, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). He first alleges that the State suppressed a voicemail recording that Halbach left on the answering machine of her photography client, whom she met on the same day that she visited Avery's property. Next, he alleges that the State withheld an unedited video of flyover footage of Avery's property, and instead released to Avery an edited version with just three minutes of footage. Finally, Avery argues that "investigators concealed their knowledge that [Halbach's] RAV4 was driven onto" the property of Avery's next door neighbor.

¶36 Avery does not claim that these alleged *Brady* violations were unknown and undiscoverable at the time of his 2013 motion or on direct appeal. His given explanation for not raising any of his new claims in 2013 is general and relates to his status as a pro se prisoner litigant; his explanation for not raising his new claims on direct appeal does not reference the *Brady* claims. Thus, Avery has

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not overcome the procedural bar of *Escalona-Naranjo* by demonstrating a sufficient reason for not raising his *Brady* claims earlier. See *Escalona-Naranjo*, 185 Wis. 2d at 181-82.

¶37 In any case, Avery's June 2017 motion does not sufficiently allege any *Brady* violations. "A defendant has a due process right to any favorable evidence 'material either to guilt or to punishment' that is in the State's possession" *State v. Wayerski*, 2019 WI 11, ¶35, 385 Wis. 2d 344, 922 N.W.2d 468 (quoting *Brady*, 373 U.S. at 87). A defendant is entitled to a new trial based on the denial of such right by showing that: (1) the evidence is favorable to the defendant, either because it is exculpatory or impeaching; (2) the evidence was suppressed by the state, either willfully or inadvertently; and (3) the evidence is material. *Wayerski*, 385 Wis. 2d 344, ¶35. The standard for materiality is the same as under the prejudice prong of *Strickland*: "evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *State v. (Kevin) Harris*, 2004 WI 64, ¶14, 272 Wis. 2d 80, 680 N.W.2d 737.

¶38 Avery has not demonstrated any of the above elements for any of his claims, but what is clearest on its face is that this evidence—where it even exists—is immaterial. Avery's first claim centers on the fact that, on the day Halbach visited his property, she left a voicemail that she could not locate the residence of one of her other photography clients, whom she also visited that day. Avery argues that had this voicemail been played at trial, it would have "refuted the[] theory that [Halbach's] final appointment was [with] Mr. Avery." At trial, however, the photography client testified that, after Halbach left the voicemail on the client's answering machine, she found the client's house, took photographs, and left within fifteen minutes. Then, approximately twenty to thirty minutes after

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Halbach left the voicemail (as established through her phone records), other witness testimony placed her as driving to, and then on, Avery's property. The voicemail is therefore consistent with the evidence, which is that Halbach left a voicemail, visited a client, and then visited Avery's property. There is no basis for Avery's assumption that the content of the voicemail would have refuted the State's theory about when or how Halbach was killed.

¶39 Avery's next claim is that he received an edited version of a flyover video of his property that may have contained favorable evidence. As far as we can tell, this claim is based only on Avery's unsubstantiated belief that a second video must exist because the airplane was in the air for four hours but the video he received was only three minutes long. There is no evidence of a *Brady* violation here because Avery merely speculates that evidence not even known to exist was suppressed.

¶40 Finally, Avery argues that investigators knew, but did not disclose to him, that Halbach's RAV4 was driven onto the property of Avery's next door neighbor. It is difficult to follow this argument, but it is based on an affidavit from the neighbor, who does *not* state that the RAV4 was on his property, but rather attests to a conversation with law enforcement agents in which *they* stated their belief as to how Halbach's vehicle was driven onto Avery's property (presumably, after Halbach's death, but the agents could have been referring to Halbach's driving route on the day of her death). Avery suggests that the information in the affidavit supports his claim that law enforcement framed him for the crime by driving the RAV4 through the neighbor's property and planting it on his. This argument is unintelligible and, in any case, we cannot perceive any *Brady* violation. There was no evidence here to suppress, and the facts in the affidavit are inconsequential.

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Newly Discovered Evidence

¶41 Finally, Avery raises two¹¹ claims based on newly discovered evidence. He contends that “new scientific evidence demonstrates that the damaged bullet ... in Mr. Avery’s garage was not shot through [Halbach’s] head causing her death.” He also argues that, according to new tests, the swab labeled as coming from Halbach’s hood latch (containing Avery’s DNA) was not, in fact, taken from the hood latch.¹²

¶42 In theory, a defendant should be able to more easily overcome the *Escalona-Naranjo* procedural bar when basing claims on newly discovered evidence—which, after all, concern evidence not available in prior proceedings. This is not the case here, however, as is demonstrated by simply turning to the merits of Avery’s claims.

¶43 To obtain a new trial based on newly discovered evidence, a defendant must show that: “(1) the evidence was discovered after conviction; (2) the defendant was not negligent in seeking evidence; (3) the evidence is material to an issue in the case; and (4) the evidence is not merely cumulative.” *State v. Edmunds*, 2008 WI App 33, ¶13, 308 Wis. 2d 374, 746 N.W.2d 590

¹¹ A third claim repackages one of Avery’s ineffectiveness claims, arguing that the results of the experiment with the RAV4 hood latch (wherein volunteers touched an identical RAV4, which was then swabbed and tested) constitute newly discovered evidence. Avery cannot have it both ways. Above, we assumed for the purpose of this motion that trial counsel’s failure to obtain such results might constitute ineffective assistance of counsel. We will not now analyze a claim based on the premise that these same results were undiscoverable at the time of trial. In any case, it seems evident that trial counsel could have performed this simple experiment, so it is not apparent how the results of this experiment could constitute newly discovered evidence.

¹² This claim is based on different evidence than that forming the basis for Avery’s ineffective assistance claim on this same issue.

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(citation omitted). If the defendant meets these criteria, then the circuit court must determine “whether a reasonable probability exists that a different result would be reached in a trial.” *Id.* (citation omitted). To be entitled to a hearing on postconviction claims of newly discovered evidence, the defendant must allege sufficient material facts satisfying these elements. *John Allen*, 274 Wis. 2d 568, ¶2.

¶44 Avery cannot meet one of more of these elements for either of his claims. As a threshold matter, he has not shown that his purportedly “new” evidence is, in fact, new. Avery asserts that the equipment yielding his test results was “previously unavailable,” was “new technology,” and/or was manufactured in 2016. But aside from these cursory statements, Avery does not address whether technology available at the time of trial could have yielded the same results.¹³

¶45 Beyond that, Avery’s evidence is largely irrelevant. The premise of his first claim is that, if the damaged bullet found in his garage did not deliver Halbach’s fatal shot to the head, then he could not be the perpetrator. But the State never argued that either of the bullets recovered from Avery’s garage killed Halbach. At trial, the State showed that Avery’s gun fired the bullet and that the bullet had Halbach’s DNA on it. But the State did not argue that this specific bullet entered Halbach’s skull or killed her (nor was it necessary that it do so in order to implicate Avery in her murder). There is nothing to suggest that shots fired into Halbach’s skull were the only shots fired at her or that every bullet fired

¹³ For example, the State points out that its trace expert at trial used the exact same technology and performed the same type of elemental analysis on charred bone fragments before trial that Avery’s expert performed in 2017. Both experts used a “scanning electron microscope with an energy dispersive x-ray analyzer” for their analysis, and there is no statement in the affidavit of Avery’s expert as to why his test could not have been performed in 2006.

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at her contained skull fragments—there were, after all, eleven casings and only two bullets found in the garage. The presence of Halbach’s DNA on a bullet found in Avery’s garage is particularly damning evidence—regardless of whether it was the bullet that entered her skull—and strongly implicates Avery absent evidence that Halbach’s DNA was planted (a supposition that, even now, Avery has done little to develop). At the very least, Avery’s new evidence—if it in fact is new—is consistent with the State’s theory of the crime.

¶46 Avery next argues that his expert observed the hood latch swab and determined that “[s]wabs collected from the hood latches of two exemplar vehicles (a 2012 Rav 4 and a 2007 Volvo S60) each showed a considerably heavier loading of debris” than the swab from the RAV4 hood latch. The expert apparently reached this result, however, by observation alone, concluding that “[w]hereas particles on the [RAV4] hood latch swab ... could only be seen with the aid of a microscope, a swab from each exemplar vehicle showed a heavy, dark streak of collected debris that is clearly visible to the unaided eye.” We are left to wonder how new testing methods or equipment could possibly aid this analysis. In any event, the expert did not determine that the purported RAV4 swab “was not used to swab the hood latch,” as Avery claims—much less that this swab was reassigned or otherwise used to frame Avery. There is no possibility that the presentation of this evidence would have yielded a different trial result.

Conclusion As To The June 2017 Motion

¶47 Because Avery has not shown that he is entitled to a hearing on any claim, we review the circuit court’s denial of a hearing for an erroneous exercise of discretion. *See Romero-Georgana*, 360 Wis. 2d 522, ¶30. We find that the court did not err in this regard. We agree with the court’s assessment that, had

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Avery's "equivocal" and "ambiguous" conclusions been introduced at trial, there would have been no reasonable probability of a different result. The circuit court appropriately exercised its discretion.

¶48 We have given Avery the benefit of several doubts as to why he did not raise these claims earlier. Even considered on the merits, the claims asserted in his June 2017 motion are speculative, conclusory, and in some cases misleading. The circuit court did not err in denying these claims without a hearing.

MOTION #2: OCTOBER 2017 MOTION FOR RELIEF FROM ORDER

¶49 Three days after the circuit court denied his WIS. STAT. § 974.06 motion, Avery filed a motion for relief pursuant to WIS. STAT. § 806.07(1)(a). The stated basis for the motion was that, a month prior to the court's order, defense counsel and prosecutors had agreed to additional testing of Halbach's RAV4 and of bones found in the Manitowoc County gravel pit, that the parties had agreed that Avery would amend the June 2017 motion, and that Avery "intended to inform the court that an amended motion would be filed" but "did not anticipate the court filing its order" before he could do so.¹⁴

¹⁴ On appeal, Avery implies that the State misled him about the need to expeditiously inform the circuit court of his wish to amend/supplement the June 2017 motion. For example, Avery states, "When current postconviction counsel inquired as to whether the circuit court should immediately be informed of the agreement, [the prosecutor] stated that once he had finalized the scheduling of the RAV-4 examination ... a stipulated order could be presented to the circuit court." This statement appears to be Avery's counsel's own uncorroborated description of events; there is no basis in the record for this or any related argument that the State misrepresented the postconviction process. In any case, as the circuit court explained, the State cannot determine whether and how motions to the court are amended or supplemented, and Avery had no grounds for assuming otherwise. Moreover, this argument was not presented to the circuit court and is thereby forfeited. *See Huebner*, 235 Wis. 2d 486, ¶¶10-12 & n.2. Accordingly, we address this point no further.

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¶50 The circuit court denied the motion, explaining that, after receiving the June 2017 motion, “[n]o communication” was made “requesting that the court withhold its final decision [or] indicating that the original motion was incomplete and would be supplemented.” The court acknowledged that the defense and prosecution might very well have discussed amending the June 2017 motion in anticipation of the court’s granting a hearing, but

the court was not informed of any such negotiations until after the final ruling in this matter had been issued. None of the agreements were submitted to the court for its approval until after the final decision was made in the defendant’s original motion. It is for the court, and not the parties, to determine if amendments to motions previously filed will be permitted [and] to establish scheduling for matters pending before it.... Agreements should have been submitted for approval of the court prior to the final decision on the original motion being reached. The defense cannot try to amend a motion that was filed without reservation only after it receives an adverse ruling.

¶51 WISCONSIN STAT. § 806.07(1)(a) provides that the court “may relieve a party ... from a judgment, order or stipulation for ... [m]istake, inadvertence, surprise, or excusable neglect.” We review the circuit court’s decision on a motion for relief under § 806.07(1) for an erroneous exercise of discretion, meaning we will sustain the court’s ruling where it applied the appropriate law to the facts on record so as to “achiev[e] a reasoned and reasonable determination.” *Milwaukee Women’s Med. Serv., Inc. v. Scheidler*, 228 Wis. 2d 514, 524, 598 N.W.2d 588 (Ct. App. 1999) (citation omitted).

¶52 As explained above, a movant is not entitled to an evidentiary hearing merely because he or she filed a WIS. STAT. § 974.06 motion. In the typical case, the circuit court will evaluate the facial sufficiency of the motion before ordering the State’s response or scheduling a hearing. *See* § 974.06(3); *Romero-Georgana*, 360 Wis. 2d 522, ¶¶30, 37. Thus, circuit courts routinely

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receive and deny § 974.06 motions where there is no basis for a hearing; as one would expect, courts are not required to, and generally do not, update the movant about when a decision on the motion is forthcoming.

¶53 Avery appears to acknowledge these basic principles of postconviction procedure. Nonetheless, he argues that the circuit court erroneously exercised its discretion here because, in denying his motion for relief, it ignored the existence of a 2007 order.¹⁵ This 2007 “order on preservation of blood evidence and independent defense testing” directs the State to preserve swabs and bloodstain samples collected from the RAV4 and containing Avery’s DNA, and allows such items to be submitted for independent testing “without further order of this Court.”

¶54 Avery’s argument with respect to the 2007 order misses the mark entirely. *Even if* all of the items the parties contemplated testing in 2017 had been described in this order, the order has no bearing on the presentation, timing, or amendment of any WIS. STAT. § 974.06 motion. The circuit court correctly concluded that it was not required to revisit its decision on the June 2017 motion upon being belatedly informed that Avery wished to amend that motion. Thus, the court did not erroneously exercise its discretion in declining to vacate an order adverse to Avery so as to allow amendment of “a motion that was filed without reservation.”

¹⁵ The State argues that this argument was forfeited because it was raised for the first time on appeal. We agree that, at the very least, the argument was not well developed below. For completeness, however, we will exercise our discretion to address this argument on the merits. *See Huebner*, 235 Wis. 2d 486, ¶¶10-12 & n.2.

MOTION #3: OCTOBER 2017 MOTION FOR RECONSIDERATION

¶55 Shortly after filing his Wis. STAT. § 806.07 motion, Avery filed a motion to reconsider.¹⁶ As relevant to this appeal,¹⁷ he alleges that newly discovered evidence warrants reconsideration of the court's denial of his June 2017 motion.

¶56 A party may prevail on a motion for reconsideration by presenting newly discovered evidence, but such motion is not a platform “to introduce new evidence that could have been introduced” as part of the original proceeding. *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶¶44, 46, 275 Wis. 2d 397, 685 N.W.2d 853. The term “newly discovered” presupposes that the evidence was unknown at the time of final judgment—that is, it was not under the control or knowledge of the movant, or discoverable by reasonable diligence. *See id.*, ¶¶46-48. “We review a trial

¹⁶ The motion to reconsider was followed by several subsequent “supplements,” in which the motion was revised. For convenience, we discuss these as a single motion.

¹⁷ In addition to the arguments addressed in this section, Avery's motion for reconsideration argues that the circuit court made manifest errors of fact and law in denying his June 2017 motion. We review the June 2017 motion in the first portion of this decision and conclude that the court did not err, except as noted in this footnote. Therefore, we address in this section only those arguments based on claims of newly discovered evidence.

In its decision on the June 2017 motion, the circuit court mischaracterized Avery's allegations relating to ineffective assistance of postconviction counsel. Avery raised these allegations so as to explain why his claims were not procedurally barred by *Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994) (that is, why he did not raise his claims on direct appeal). The circuit court misconstrued Avery to allege ineffective assistance of *appellate* counsel and concluded that Avery was required to file a *Knight* petition with this court in order to do so. *See State v. Knight*, 168 Wis. 2d 509, 484 N.W.2d 540 (1992). On appeal, Avery correctly points out that this was an error. Regardless, our review of the sufficiency of the June 2017 motion is de novo, and we conclude that Avery did not demonstrate ineffective assistance of postconviction counsel. Therefore, the circuit court's error was harmless.

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court's decision on a motion for reconsideration under the erroneous exercise of discretion standard." *Id.*, ¶6.

¶57 A motion to reconsider on the basis of new evidence would seem to be of doubtful utility in cases, like this, where the movant is free to file successive motions. *See* WIS. STAT. § 974.06(2), (4). Nonetheless, we perceive no legal barrier to Avery's bringing such a motion, and the State does not argue as much, except to point out that this motion cannot be the means of avoiding the procedural bar of *Escalona-Naranjo*. In this context, to be entitled to reconsideration on the basis of newly discovered evidence, the movant must show that the evidence was unknown and not reasonably discoverable when the first § 974.06 motion was filed and that the evidence reasonably relates to those claims brought in the first motion. *See Koepsell's Olde Popcorn Wagons, Inc.*, 275 Wis. 2d 397, ¶¶44, 46-48. Alternatively, the movant may simply bring a new § 974.06 motion and demonstrate his or her "sufficient reason" for not raising the claim in the prior § 974.06 motion by showing that the evidence underlying that claim was then unknown and not reasonably discoverable.

¶58 Avery makes no showing in his motion to reconsider as to why he could not, with reasonable diligence, have included this "new" evidence in his June 2017 motion. Instead, he uses this third motion as a vehicle for raising new claims. None of these claims or evidence, however, have any bearing on the claims raised in the June 2017 motion, so it is unclear which *original claims* the circuit court was being asked to reconsider, or why. In any case, the majority of this evidence cannot reasonably be considered unavailable or undiscoverable at the

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time Avery filed his June 2017 motion.¹⁸ Nor, if we simply treat this motion as a new WIS. STAT. § 974.06 motion, does Avery demonstrate why these claims are

¹⁸ Avery's motion for reconsideration raises claims based on evidence that cannot reasonably be considered "newly discovered" (i.e., unavailable and not discoverable through reasonable diligence at the time of the June 2017 motion). See *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶¶44, 46-48, 27 Wis. 2d 397, 685 N.W.2d 853. Therefore, we will not address these claims further, except to list and briefly discuss them here. These are that: (1) the State withheld evidence that Halbach's vehicle was seen on the street days after her disappearance (claim based on 2017 affidavit of witness attesting that, in 2005, he observed a vehicle matching a missing person's poster description of Halbach's car and informed law enforcement of that fact, but with no showing that Avery was unable, through reasonable diligence, to discover this information prior to filing the June 2017 motion); (2) trial and postconviction counsel were ineffective for not presenting impeachment testimony on key witnesses, or, in the alternative, the State violated Avery's right to due process by knowingly using false testimony at trial (claims based on evidence collected at the time of Halbach's disappearance and presumably known to Avery at the time of trial, with no representation that Avery learned of this evidence only after filing the June 2017 motion and could not reasonably have discovered it earlier); (3) there is another possible suspect meeting the *Denny* test (claim based on evidence showing how long it takes to drive away from Avery's property); (4) there is another possible suspect meeting the *Denny* test (claim based on evidence gathered by examining images found on a computer; Avery states that the computer search was the result of "2017 technology" but does not explain whether technology available earlier would have uncovered these images or why, through reasonable diligence, he could not have uncovered these images prior to filing the June 2017 motion); (5) alleged *Brady* violation based on 2005 evidence purportedly withheld, concerning who might have had possession of Halbach's day planner after her death (Avery does not explain when he received this evidence or why it was not reasonably discoverable prior to June 2017); (6) there is another possible suspect meeting the *Denny* test (claim based on statements made to police in 2005 about Avery's sister, and not Avery, requesting that Halbach photograph a car on Avery's property, but with no showing that this evidence was unknown or not reasonably discoverable prior to June 2017); (7) there is another possible suspect meeting the *Denny* test (based on evidence that Avery's sister attempted to hide files on her computer that might link her son to the crime; this information was reported to the police prior to trial and Avery does not allege that he was unaware of this evidence at trial or explain why the evidence was not reasonably discoverable prior to June 2017). Motion #3 also contains arguments that are the subject of Motion #4, and which we will therefore discuss in the following section.

Because these claims were brought in a motion to reconsider, we conclude only that the circuit court did not erroneously exercise its discretion in declining to revisit the June 2017 motion in light of the content of this motion. Neither we nor the circuit court have squarely considered whether these claims are procedurally barred under *Escalona-Naranjo* or whether Avery pled sufficient material facts entitling him to a hearing (although our analysis overlaps with the former inquiry). Such consideration would have to come on a separately filed WIS. STAT. § 974.06 motion, and we express no opinion as to whether such claims would be barred in the event such a motion is filed.

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not procedurally barred under *Escalona-Naranjo* (setting aside the question of why the claims were not alleged in the June 2017 motion, Avery has not explained why they were not alleged in the 2013 motion or on direct appeal).¹⁹

¶59 We do note that buried in the motion are two claims based on evidence that appears on the face of the claims to be “newly discovered.” According to Avery, in October 2017, his sister, Barb Tadych (who lived on the Avery property and whose son, Bobby Dassey, Avery identifies as an alternative suspect in the crime) told him two pieces of information that would impeach her son’s testimony about last seeing Halbach walk toward Avery’s trailer on the day of her disappearance. In Avery’s view, his sister “admitted that she knew that [Halbach] had left the property” on the day in question. This evidence, however, is equivocal and does not clearly establish that Halbach in fact left the property on the day of her death or that any witness was aware of or lied about this fact at trial.²⁰ Moreover, the evidence does not bolster any claim in the June 2017 motion

¹⁹ On appeal, Avery inexplicably argues that the State is “estopped from raising ... procedural bar arguments” relating, presumably, to *both* this October 2017 motion to reconsider *and* his earlier June 2017 motion—based on the sole fact that the State represented in September 2017 that it would not oppose amendment of the June 2017 motion. Assuming without deciding that the doctrine of estoppel might apply to the postconviction process under some circumstances, here, the State’s representation clearly had no bearing on a motion already filed and, as a matter of law, could not relieve Avery of his burden in any subsequent WIS. STAT. § 974.06 motion to demonstrate why newly raised claims were not procedurally barred.

²⁰ The first piece of evidence is recorded statements in an October 2017 phone call between Avery and Barb Tadych and her husband, Scott Tadych. Avery identifies the full relevant portion of the transcript as follows:

Steven Avery: Bobby’s home.
 Barb Tadych : He wasn’t always home.
 Steven Avery: Well, you—well, most of the time he was home.
 Barb Tadych : No.
 Scott Tadych: He doesn’t know fucking shit.
 Steven Avery: And he said he [sic] left. She left.
 Scott Tadych: That’s right.

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so as to warrant reconsideration of that motion. Even viewed on its own merits, the evidence does not entitle Avery to a WIS. STAT. § 974.06 hearing because he has not shown that it is material. *See Edmunds*, 308 Wis. 2d 374, ¶13. At best, we have two unsworn statements by Barb Tadych that Dassey told *her* something that is potentially inconsistent with his trial testimony. This is hearsay that would be inadmissible at a new trial, meaning that it cannot constitute newly discovered evidence as a matter of law. *See State v. Bembenek*, 140 Wis. 2d 248, 253, 409 N.W.2d 432 (Ct. App. 1987).

¶60 Avery chose to frame these claims in the context of a motion to reconsider, but without applying that legal standard or (in the alternative) explaining why he had a “sufficient reason” for not bringing the claims in previous motions, pursuant to *Escalona-Naranjo*. As discussed in the above section on the

Barb Tadych : Yeah, she left.
 Steven Avery: Yeah.
 Barb Tadych : Yeah.
 Steven Avery: Well, he didn't testify for [sic] that.
 Barb Tadych : [sighs]

The second piece of evidence is an October 2017 posting on Barb Tadych's Facebook page. Avery identifies the full relevant portion of the posting as follows:

Barb Tadych: Well I have your answer for all of you that was wondering, just got off the phone with Bobby and I asked him and he told me that: He seen her [presumably, Halbach] pull in but that was it because he left to go hunting then. He said that is the truth.

[Commenter or Facebook friend]: so he never seen her walk towards steven home

Barb Tadych: No.

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June 2017 motion, we are willing to give Avery the benefit of the doubt, where possible, as to why he did not raise certain claims in 2013 or on direct appeal. But we cannot ignore the law, and thus we cannot simply determine whether the merits of his motion-to-reconsider claims warrant an evidentiary hearing, where the only (narrow) question before us is whether the circuit court erroneously exercised its discretion in not reconsidering *the June 2017 motion* on the basis of purported new evidence contained within those claims.²¹

¶61 We conclude that the circuit court did not erroneously exercise its discretion in denying this motion. The court noted that Avery provided no explanation for filing the June 2017 motion while “considerable investigation was still being conducted by the defense”:

Knowing that not all the facts were ... ready for presentation to the court, and with no deadline for filing his motion set by the court or statute, the defendant proceeded to file the motion prematurely....

The motion was pending before this court for a few months before the court issued its ruling. During that period, the defendant did not ask the court to stay its ruling pending the conclusion of testing, request time to supplement the motion or take any other action requesting that the court delay its final decision in this matter. The motion was submitted to this court and the court ruled on the motion.

²¹ Although the merits of these claims are not properly before us, we have reviewed them in our broader review of this appeal. We note that the evidentiary basis for some of these claims is lacking. For example, one claim is based on Avery’s assertion that Ryan Hillegas, Halbach’s ex-boyfriend, later possessed a day planner that was in her car on the day of her death. The evidence Avery submits, however, does not and cannot reasonably be construed to support this conclusion. Moreover, other claims do not appear on their face to entitle Avery to a hearing. For example, one claim, as far as we can tell, is based on a recreation of what Halbach’s movements would have been had she driven away from Avery’s property on the date of her death. From this experiment—which is unsupported by any explanation as to how Avery might prove the underlying hypothetical scenario, that Halbach did in fact leave—Avery seeks to implicate Bobby Dassey and Scott Tadych, his brother-in-law, in Halbach’s murder.

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This explanation is reasonable and sound, and represents an appropriate exercise of discretion.

MOTION #4: JULY 2018 SUPPLEMENTAL MOTION

¶62 Avery appealed from the circuit court's October 2017 and November 2017 orders denying his June 2017 motion and his motions to vacate and reconsider, respectively. In May 2018, Avery moved this court directly "to supplement the Record on Appeal with a CD disclosed to Defendant for the first time on April 17, 2018." Avery asserted that supplementation of the appellate record was appropriate because the contents of the CD related to claims already presented to the circuit court. We stated that this assertion "misses the point, which is that we are not a fact-finding court and cannot consider items not presented to the circuit court." We determined, however:

Based on the assertion that Avery recently received previously withheld discovery or other new information, we retain jurisdiction but remand this case to enable Avery to file an appropriate supplemental postconviction motion in the circuit court ... within thirty days of the date of this order. The circuit court shall hold proceedings on the supplemental postconviction motion within sixty days after the motion is filed.

¶63 In July 2018, Avery filed his motion to supplement (the July 2018 motion), alleging a *Brady* violation.²² Recall that, prior to trial, Avery unsuccessfully moved to introduce third-party liability evidence, pursuant to *State v. Denny*, 120 Wis. 2d 614, 357 N.W.2d 12 (Ct. App. 1984). In his July 2018

²² The State points out that a motion already decided (i.e., the June 2017 motion) cannot be "supplemented" and that, therefore, the July 2018 motion is a successive motion. Regardless, this court has determined and ordered that the July 2018 motion (as well as the subsequent March 2019 motion, or Motion #5) shall be treated as a supplement to the June 2017 motion.

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motion, Avery alleges that the State withheld significant evidence both favorable to his *Denny* motion and relevant for impeachment purposes: a final investigative report of Detective Mike Velie, saved on a CD (the Velie CD). Velie created the report through forensic examination of the hard drive of a computer used by Dassey, whom Avery identifies as a possible *Denny* suspect. The Velie CD contains “thousands of images” of violent pornography that, Avery argues, “reveal a propensity for sexual violence” by Dassey (Avery elsewhere attempts to explain why, of several people who used the computer, only Dassey could have downloaded these images). The CD also contains “a timeline” that purportedly “impeaches [Dassey’s] trial testimony” and “criteria, word searches, registry, recovered pornography, internet history, windows registry, and all MSN messages.” According to Avery, he did not receive the Velie CD until April 2018.

¶64 The circuit court determined that there was no *Brady* violation because there was no evidence suppressed. We agree.²³ It is undisputed that the computer was examined and its contents copied to seven DVDs. It is undisputed that Avery’s counsel received these seven DVDs prior to trial. Finally, it is undisputed that, with limited and irrelevant exception,²⁴ the Velie CD does not

²³ As this claim was to be treated as a supplemental motion, pursuant to this court’s order, Avery was not required to allege a “sufficient reason” under *Escalona-Naranjo* for not raising the claim in his June 2017 motion. We assume without deciding that Avery had a sufficient reason for not raising this claim in his 2013 motion or on direct appeal, based on the purported unavailability of the evidence.

²⁴ Velie attests:

The only information on the CD titled “Dassey computer, Final Report, Investigative Copy” that is not contained in the 7 DVDs would be the typical administrative and procedural files, folders, and techniques routinely used by a digital forensic examiner during a forensic examination of digital evidence.

(continued)

contain any additional information than what is on the seven DVDs. Consequently, the Velie CD is not suppressed evidence but merely an investigative summary of evidence provided to Avery.

¶65 Avery appears to acknowledge these facts on appeal but argues that he should have had access to information derived from Velie's "unique word searches," pornographic images "refined" for relevancy, and the like. This is not the law: *Brady* on its terms applies to favorable and material suppressed evidence, and Avery has presented no authority extending this principle to the prosecution's withholding of *secondary compilations or analyses* of such. See *United States v. McGuinness*, 764 F. Supp. 888, 896 (S.D.N.Y. 1991) ("*Brady* applies only to facts that are not already known to the defendant. The government need not facilitate the compilation of exculpatory material that, with some industry, defense counsel could marshal on their own." (citations omitted)).

Avery's computer expert attests that Avery did not receive "critical information" about how Velie analyzed the computer but does not conclude that the Velie CD contains additional information not provided to Avery:

In my opinion, based upon a reasonable degree of certainty in the field of computer forensic science, the CD contains information and files extracted from the 7 DVDs that, in Detective Velie's opinion, were relevant to the investigation of Ms. Halbach's murder.

While the information contained on the CDs is derived from the forensic image contained across the DVDs, trial defense counsel was not provided critical information including *the criteria used* by Detective Velie in performing his forensic computer examination as well as *the results of that examination*.

(Emphasis added.)

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¶66 Avery raises two related arguments concerning the disclosure of the DVDs themselves. He argues that the State deliberately misled him about the importance of the DVDs by stating in an email that they “did not include much of evidentiary value.” Even if this statement mischaracterized the evidence, however, an off-the-cuff description of disclosed evidence cannot form the basis for a *Brady* violation. Avery further argues that he was only provided the DVDs approximately one month before his *Denny* hearing, leaving him “completely impaired” in his ability to introduce relevant evidence in that proceeding. But this argument properly concerns alleged ineffective assistance of trial counsel (see below), because such conclusory statements do not adequately explain why trial counsel could not have analyzed the DVDs in time for the motion hearing, sought to postpone the hearing, or taken any number of other steps to effectively leverage this evidence.

¶67 In the July 2018 motion, Avery does indeed argue that trial counsel was ineffective for failing to forensically examine the seven DVDs prior to trial. He does so summarily, however, and in a manner that leaves us unable to meaningfully analyze this claim. Regarding potential use of this evidence in his *Denny* motion, Avery does not address the prejudice prong of the *Strickland* test, which, in our view, encompasses at least two key inquiries. To admit evidence at trial that Dassey could have killed Halbach, Avery would have had to provide some evidence at the pretrial *Denny* hearing *directly connecting* Dassey to the crime. See *State v. Scheidell*, 227 Wis. 2d 285, 296, 595 N.W.2d 661 (1999) (evidence that another party committed the crime may be admissible pursuant to *Denny* if the defendant can show: (1) the third party’s motive, (2) the third party’s opportunity to commit the crime, and (3) some evidence directly connecting the third party to the crime). That Dassey possibly possessed violent pornographic

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images might have conceivably satisfied a separate requirement, motive, but is insufficient in and of itself to allow admission of third-party liability evidence.²⁵ *See id.* Avery failed to meet the “direct connection” requirement in his original *Denny* motion and has not presented additional evidence on this point in Motion #4. Thus, even assuming trial counsel was deficient in not analyzing the DVDs, Avery cannot demonstrate a reasonable probability of a different outcome at the *Denny* hearing or at trial.²⁶ *See Strickland*, 466 U.S. at 694.

¶68 Regarding the use of this evidence for impeachment purposes, even accepting that the CD contains “a timeline that impeaches [Dassey’s] trial testimony” (we are skeptical of this point, *see* note 25), Avery does not explain how impeaching Dassey about his use of the computer would have changed the

²⁵ Although only tangentially relevant to our decision, we note that Avery’s counsel misrepresented some key facts underlying this claim in the motion to the circuit court and briefing to this court. Avery asserts that only Dassey could have downloaded the images, created folders containing photographs of Halbach, and “search[ed] for key terms relevant to the murder.” He states that Dassey “was the only individual at home” when this computer activity took place, but references for support only the affidavit of his computer expert, who does not and cannot opine on Dassey’s schedule, and a sheriff’s department interview with Dassey containing none of this information. Avery also characterizes the pornographic images as “bear[ing] a striking resemblance to [Halbach] and to the nature of the crime committed against her.” As far as we can tell, there is no support for this conclusion in the evidence on record. That Avery misrepresented the facts is immaterial to deciding his *Brady* and ineffectiveness claims. We point them out because of the high-profile nature of this case, the greater possibility that interested members of the public will read the briefing and motions, and the resulting need, where misrepresentations are particularly egregious, to note where Avery’s arguments wholly stray from the facts.

²⁶ As discussed below, we are not addressing Avery’s most recent filing to *this* court (*see* our discussion of Motion #6), which seeks to directly connect Dassey to Halbach’s murder. If Avery wishes to raise that claim, he will need to bring a new WIS. STAT. § 974.06 motion. That motion would need to survive both *Escalona-Naranjo* scrutiny *and* be found to have merit—in which case, the evidence presented might supply the missing “direct connection.” In that event, the Velie CD evidence might become relevant to showing Dassey’s motive, and might bear on whether Dassey is, or should have been, a viable *Denny* suspect. We express no opinion on the merit of any such § 974.06 motion, as all such issues would be for the circuit court to decide in the first instance.

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outcome of the trial. At most, the jury would have disbelieved Dassey's testimony that, on the day Halbach last visited the Avery property: he saw Halbach walk towards Avery's trailer, he did not see her leave the property, Halbach's RAV4 was in the driveway when he left to go hunting, and the RAV4 was gone when he returned several hours later (Avery identifies these as the key pieces of testimony). Certainly, this testimony bolstered the State's theory that Halbach visited Avery on that day and did not leave the Avery property thereafter, but absent this testimony, the State still possessed significant forensic (and other) evidence implicating Avery in a crime committed on his property. Without any showing or argument as to why the impeachment of Dassey would have undermined the cumulative effect of the other evidence, we cannot conclude that the trial's outcome would have been different. We conclude that the circuit court did not err in denying the July 2018 motion without a hearing.

MOTION #5: MARCH 2019 SUPPLEMENTAL MOTION

¶69 In January 2019, Avery again moved this court directly to stay the appeal and remand for the circuit court's consideration of specific claims relating to the State's 2011 release to Halbach's family of suspected human bone fragments. We determined that, "given the specific circumstances of this case," we would stay the appeal and remand, pursuant to WIS. STAT. § 808.075(5), for action on this issue. We again ordered remand to the circuit court to permit Avery to pursue a supplemental postconviction motion on specific claims, and we directed the court to conduct any necessary proceedings. The circuit court denied the motion without a hearing.

¶70 The gist of Motion #5 is that the State released to Halbach's family suspected human bone fragments recovered from the Manitowoc County gravel

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pit, thereby violating: (1) a circuit court order; (2) WIS. STAT. § 968.205, requiring the state to preserve certain biological material evidence connected to a criminal conviction; and (3) Avery's constitutional rights. As a WIS. STAT. § 974.06 motion may raise only jurisdictional, constitutional, and like claims, we consider only the third argument. *See* § 974.06(1); *Balliette*, 336 Wis. 2d 358, ¶¶34; *State v. Carter*, 131 Wis. 2d 69, 81-82, 389 N.W.2d 1 (1986).

¶71 Avery alleges that, in 2011, the State improperly released to Halbach's family bone fragments from the gravel pit, which Avery wished to test to determine if they contained Halbach's DNA and might thereby indicate that Halbach was not killed on Avery's property. Avery argues that "[t]he State, by its actions in returning [the] bones ... has implicitly admitted that the bones were not only human but that they belonged to Ms. Halbach." Avery frames this as a violation of *Arizona v. Youngblood*, 488 U.S. 51, 57-58 (1998), under which a defendant's due process rights are violated where the state either (1) fails to preserve "apparently exculpatory" evidence or (2) acts in bad faith by failing to present "potentially exculpatory" evidence. *See State v. Greenwold*, 189 Wis. 2d 59, 67-68, 525 N.W.2d 294 (Ct. App. 1994).

¶72 Avery represents that he was not aware, and could not reasonably have been aware, of the release of the bones until after he filed his fourth motion. We will assume, therefore, that this claim is not procedurally barred under *Escalona-Naranjo*.

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¶73 The State argues that the *Youngblood* analysis only properly applies to the destruction of pretrial evidence. We agree generally but need not explore this point, because Avery's claim fails on its own terms.²⁷

¶74 The premise of Avery's argument is that the State released to Halbach's family evidence that was either apparently or potentially exculpatory: bone fragments from the gravel pit that may have been Halbach's. This evidence, when first collected, was labeled as containing some human bone fragments. At trial, however, the undisputed testimony of the State's forensic anthropologist was that, on further analysis, the bone fragments could not be definitively identified as human, much less as belonging to Halbach. On this record, therefore, this evidence is not apparently exculpatory: it does not indicate that another person killed Halbach. See *Youngblood*, 488 U.S. at 56 n.* (evidence is not "apparently exculpatory" where those having custody over it did not know of its exculpatory

²⁷ *Youngblood* and progeny concern whether the destruction of pretrial evidence violates a defendant's due process right to a fair trial, the remedy being dismissal of charges. See *Arizona v. Youngblood*, 488 U.S. 51, 54-58 (1998); *State v. Greenwold*, 189 Wis. 2d 59, 65-69, 525 N.W.2d 294 (Ct. App. 1994). We recognize that *State v. Parker*, 2002 WI App 159, ¶¶13-14, 256 Wis. 2d 154, 647 N.W.2d 430, somewhat summarily states, "We see no reason why this line of cases [addressing the pretrial destruction of evidence] should not apply to the situation at hand"—that situation being the destruction of evidence posttrial but before the direct appeal was concluded. As there the defendant's argument was merely that the destruction of evidence deprived him of his *right to appeal* and the *right to effective assistance of appellate counsel*, it appears that the *Parker* court was simply noting a potential constitutional violation separate and apart from any *Youngblood* violation. *Parker*, 256 Wis. 2d 154, ¶4. We do not readily perceive how *Youngblood* itself—concerning the right to a fair trial and dismissal of charges as a potential remedy—applies to a claim brought on a collateral attack. We agree with the State that *District Attorney's Office for Third Judicial District v. Osborne*, 557 U.S. 52, 67-72 (2009), supports this conclusion; there the United States Supreme Court found that respondent did not have the same due process right in the postconviction context to access evidence in control of the state. See *Reid v. State*, 984 N.E.2d 1264, 1267 (Ind. Ct. App. 2013) ("*Osborne* ... indicates that an individual does not have a right under the Due Process Clause to access lost or destroyed evidence during post-conviction proceedings." (citation omitted)). Because Avery has not alleged a *Youngblood* violation, we need not delve more fully into this point.

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value and the evidence “was simply an avenue of investigation that might have led in any number of directions”).

¶75 Nor can Avery establish that this evidence is potentially exculpatory, because even assuming that these bone fragments are Halbach’s, Avery does not explain the significance of this fact. The apparent thrust of Avery’s claim is that, if Halbach’s bones were found in the gravel pit, then she was killed by someone else. But as Avery never explains why he himself would have been unable to dispose of Halbach’s remains in the gravel pit, this line of reasoning is wholly speculative. Moreover, Avery cannot show bad faith, meaning “(1) the officers were aware of the potentially exculpatory value or usefulness of the evidence they failed to preserve; and (2) the officers acted with official animus or made a conscious effort to suppress exculpatory evidence.” See *State v. Luedtke*, 2015 WI 42, ¶46, 362 Wis. 2d 1, 863 N.W.2d 592 (citation omitted). The record reflects only that the State released bone fragments of indeterminate origin after Avery’s direct appeal was fully litigated, when there appeared no direct or immediate need to preserve this evidence. And contrary to Avery’s argument, the very fact that the State released the bones does not mean that these are Halbach’s or that the State acted in bad faith to “destroy” this evidence. The Halbach family requested these bone fragments for purposes of its own—likely for closure—but that does not vest these fragments with evidentiary significance.²⁸

²⁸ Avery suggests that the State also acted in bad faith in 2018, during the postconviction process, by actively misleading him about whether it still possessed the bone fragments. The point at which to measure the State’s bad faith, however, is when it allegedly destroyed the evidence—here, in 2011, when it released the bone fragments to Halbach’s family. See *State v. Luedtke*, 2015 WI 42, ¶41, 362 Wis. 2d 1, 863 N.W.2d 592 (defendant must show that “the State acted in bad faith by destroying evidence that was potentially exculpatory” (emphasis added; citations omitted)).

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MOTION #6: APRIL 2021 MOTION TO STAY AND REMAND

¶76 On November 9, 2020, we notified the parties that this case had been submitted to the court for decision on briefs. On April 12, 2021, Avery filed another motion with this court to stay his appeal and remand for evaluation of a new claim. This claim concerns an alleged *Brady* violation, the factual basis for which Avery purportedly obtained on April 11, 2021. Specifically, the claim is based on the affidavit of Thomas Sowinski, a Manitowoc motor route driver who attests that, days after Halbach's death, while on his paper route in the early morning hours, he spotted a shirtless Dassey and an unidentified older man pushing Halbach's vehicle down Avery Road towards the junkyard. Sowinski further attests that, after he delivered the paper, Dassey attempted to block his exit, causing him to swerve and drive into a shallow ditch. Sowinski claimed to have called the Manitowoc sheriff's office later that day to report what he had seen but was told they "already know who did it." He also claims to have attempted to contact Avery's trial attorneys after Season 1 of *Making a Murderer*, but never heard back from them.

¶77 When Avery filed this motion, we had already twice stayed his appeal, each time because he asserted that the new claims related to those previously litigated and that it would be most expeditious to resolve them as part of the instant appeal. By the time Avery filed this new motion, however, we had already evaluated the legal and factual bases for claims already raised. We therefore were, and are, in the position to conclude that this newly raised *Brady* claim bears little or no relation to those claims already before us. This is, instead, a distinct issue that that the circuit court should resolve on a standalone basis through a new WIS. STAT. § 974.06 motion.

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¶78 Moreover, Avery's latest motion arrived while our decision on his appeal was forthcoming. It would be an inefficient use of court resources to now, and once again, delay this appeal's resolution. We appreciate that Avery likely wishes us to consider this new *Brady* claim in the context of claims previously raised, but we must weigh that implicit consideration against those discussed above. Simply put, Avery's appeal cannot continue indefinitely. Accordingly, this decision operates as an order denying Avery's April 12, 2021 motion to stay and remand. If Avery wishes to raise this claim, he must file a new WIS. STAT. § 974.06 motion with the circuit court. Pursuant to *Escalona-Naranjo*, Avery will need to demonstrate why he could not have previously raised this claim, including in his June 2017 motion, before the merits can be reached.

CONCLUSION

¶79 Avery raises a variety of alternative theories about who killed Halbach and how, but as the State correctly notes, a WIS. STAT. § 974.06 motion is not a vehicle to retry a case to a jury. A criminal defendant is constitutionally entitled as of right to a jury trial and, if convicted, a direct appeal. If he or she later seeks to collaterally attack the conviction on constitutional or jurisdictional grounds, a § 974.06 motion is appropriate. But key to any § 974.06 motion are sufficient, nonconclusory showings both as to why the issue was not raised in an earlier postconviction proceeding *and* why the claim has facial merit. These requirements are not optional and cannot be met through broad conclusions or by misstating evidence.

¶80 We express no opinion about who committed this crime: the jury has decided this question, and our review is confined to whether the claims before us entitle Avery to an evidentiary hearing. We conclude that the circuit court did

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not erroneously exercise its discretion in denying hearings on Motions #1, #4, and #5; in not vacating its order on Motion #1; and in not reconsidering its ruling on Motion #1. As for Motion #6 and the portion of Motion #3 (the motion to reconsider) raising new claims, we leave open the possibility that Avery may raise these claims in a new WIS. STAT. § 974.06 motion. We remind Avery, however, that he will need to overcome the *Escalona-Naranjo* procedural bar on these claims, which includes providing a sufficient reason for not raising them in his June 2017 motion. Moreover, Avery will need to satisfy the previously discussed specificity requirements before such claims may proceed to a hearing. *See John Allen*, 274 Wis. 2d 568, ¶¶2, 23.

By the Court.—Orders affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

shirtless, even though it was early November. The second man appeared to be in his 50's or early 60's, had a long grey beard, was wearing a worn puffy jacket, had a larger frame, and was around 6 feet in height. The RAV-4 did not have its lights on. Attached and incorporated herein as Exhibit A are photographs marked where I saw the RAV-4.

5. I drove down Avery Road towards the mailboxes, left the Herald Times in the mailbox, and turned back around. I felt very afraid as I approached the two individuals because Bobby Dassey attempted to step in front of my car, blocking my exit. I was within 5 feet of Bobby Dassey and my headlights were on the entire time. The older man ducked down behind the open passenger door. I swerved to the right and drove in the shallow ditch to avoid hitting Bobby Dassey. I called out, "Paperboy. Gotta go" because I was afraid for my safety. Bobby Dassey looked me in the eye, and I could tell with the look in his eyes that he was not happy to see me there. I knew that Bobby Dassey and the older individual were doing something creepy.
6. After I learned that Teresa Halbach's car was found on November 5, 2005, I contacted the Manitowoc Sheriff's Office and spoke to a female officer. I reported everything I have stated in this affidavit to the officer. The officer said, "We already know who did it." I provided my phone number and they said they would contact me soon. I never heard back from the police.
7. After watching Season 1 of Making a Murderer, I contacted Avery's trial attorneys to inform them of what I saw. I never heard back.
8. Nothing has been promised or given to me in exchange for this affidavit.

FURTHER AFFIANT SAYETH NAUGHT

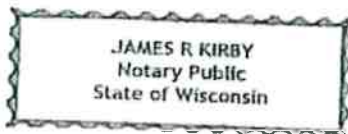
Thomas Sowinski
Thomas Sowinski

State of Wisconsin
County of MANITOWOC

Subscribed and sworn before me
this 10 day of April, 2021.

James R Kirby
Notary Public

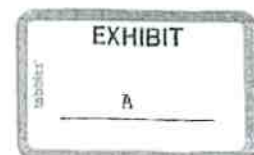
My Commission Expires: 7/29/2022





X Avery's Auto Salvage
 Salvage yard in Manitowish County, Wisconsin

Thomas Swartz



1 shower and left to go deer hunting, bow hunting,
2 about 15 minutes later. You are going to hear
3 from Bobby that when he left 15 minutes later,
4 Teresa's SUV was there, but Teresa was nowhere to
5 be found.

6 You are going to hear that Bobby Dassey
7 was the last person, the last citizen that will
8 have seen Teresa Halbach alive. You are going to
9 hear from other citizens like that, other people
10 that will help place this case into context for
11 us.

12 Juries are triers of fact. You don't
13 decide what the law is, the judge does that. But
14 you decide what the facts of the case are. And
15 the facts in this case aren't just going to point
16 to who did it; it's not just a who done it case.
17 It's a what happened and where it happened and
18 when it happened.

19 But we're also going to provide you
20 evidence, not just that Steven Avery did it, but
21 to the exclusion of other people as well. In
22 other words, positive evidence about who done
23 know it, but also negative evidence of why that
24 necessarily excludes others. And so you get to
25 find those facts and at the end of this case, you

1 understand where some of these evidence -- or
2 some of this evidence was found.

3 Finally, the kinds of witnesses that you
4 are going to hear from, include citizens and law
5 enforcement officers and records kinds of people;
6 although, most of those will be agreed to between
7 Mr. Strang and us, as well as expert witnesses.

8 You will hear from various kinds of
9 citizens like Bobby Dassey, who is one of the
10 sons of Barb Janda, who you will hear testimony
11 about, that at about 2:45 on the 31st of October,
12 Bobby saw a young girl drive up to the Avery
13 property.

14 Bobby Dassey saw this young girl, later
15 identified as Teresa Halbach, get out of her
16 teal, or blue, or green colored SUV and actually
17 take pictures of the van that her mom had for
18 sale. Bobby Dassey is going to tell you, that
19 after looking out the window and after seeing
20 Teresa Halbach take these photographs of this
21 vehicle and finish her job, that Teresa walked
22 towards Steven Avery's trailer.

23 You will hear evidence that she was
24 walking towards the main entrance of Steven
25 Avery's trailer and that Bobby thereafter took a

1 shower and left to go deer hunting, bow hunting,
2 about 15 minutes later. You are going to hear
3 from Bobby that when he left 15 minutes later,
4 Teresa's SUV was there, but Teresa was nowhere to
5 be found.

6 You are going to hear that Bobby Dassey
7 was the last person, the last citizen that will
8 have seen Teresa Halbach alive. You are going to
9 hear from other citizens like that, other people
10 that will help place this case into context for
11 us.

12 Juries are triers of fact. You don't
13 decide what the law is, the judge does that. But
14 you decide what the facts of the case are. And
15 the facts in this case aren't just going to point
16 to who did it; it's not just a who done it case.
17 It's a what happened and where it happened and
18 when it happened.

19 But we're also going to provide you
20 evidence, not just that Steven Avery did it, but
21 to the exclusion of other people as well. In
22 other words, positive evidence about who done
23 know it, but also negative evidence of why that
24 necessarily excludes others. And so you get to
25 find those facts and at the end of this case, you

1 still sleeping? Or did you wake up?

2 A I was up by 2:30, yeah.

3 Q At 2:30, did you see something?

4 A Yes.

5 Q What did you see?

6 A I seen a vehicle pull up in our driveway.

7 Q Do you recall which window you were looking from?

8 A Through the front window, in front of the kitchen
9 table.

10 Q Bobby, could you describe that vehicle for the
11 jury please?

12 A It was a light green SUV, like a "teal" color.

13 Q How do you know that it was about 2:30 in the
14 afternoon?

15 A Because I was going hunting that night, so that was
16 the time I wanted to get up. I got up at "two".

17 Q All right. From which way did this blue or teal
18 SUV drive in, as you were looking out the window?

19 A Toward the west it would be.

20 Q Can you tell the jury please from which
21 direction your uncle's trailer is from your house?

22 A The west.

23 Q Did you know what kind of SUV it was?

24 A Not at the time.

25 Q All right. After seeing that vehicle driving up

1 the roadway, tell the jury what you saw then?

2 A I seen Teresa Halbach get out of the vehicle, and

3 started taking pictures.

4 Q What was she taking pictures of?

5 A A maroon van.

6 Q A what?

7 A A maroon van.

8 Q Can you tell us about this vehicle? Where was it

9 parked?

10 A It was parked right in front of our house.

11 Q Now you told this jury it was Teresa Halbach that

12 had taken the pictures. How do you know that?

13 A Now, I know that. At the time, I didn't.

14 Q What did this woman look like?

15 A She was about maybe five-eight. She had brown,

16 shorter-like hair. She had a black coat on, that

17 went past the hips.

18 Q Was she wearing pants, or a skirt?

19 A She was wearing pants.

20 Q Now, about this van, what can you tell the jury

21 about that van?

22 A It was a 1989 Plymouth Voyager. It had lots of

23 miles on it. It was my mom's van. She had it for

24 a couple of years. I don't know really much more

25 about it.

1 Q All right. As you were looking out the window,
2 you said that you saw a woman taking pictures.
3 Can you describe that please?
4 A Well, I seen her take one picture of the front of
5 the van. Then I went in and took a shower.
6 Q Okay. After seeing her taking some pictures, did
7 you see her do anything else?
8 A She started -- Before I got in the shower, she
9 actually started walking over to Steven's trailer.
10 Q You could see that from your location?
11 A Yeah. Through the window, yeah.
12 Q You said, "walking toward Steven's trailer". What
13 does that mean?
14 A She walked toward it, to the door.
15 Q How close to the door did she get, before you
16 stopped watching?
17 A Maybe 25 yards.
18 Q Did you see her enter your uncle's trailer?
19 A No.
20 Q Why not?
21 A Because I wanted to take a shower. I didn't pay no
22 attention to it.
23 Q All right. Was there anybody with her at that
24 time?
25 A No.

1 Q Was there anybody outside, or making contact with
2 her, outside by the vehicle?
3 A No.
4 Q After seeing this woman walking toward your Uncle
5 Steven's trailer, did you ever see this woman
6 again?
7 A No.
8 Q How long was it that you were in the shower? Do
9 you remember?
10 A Maybe three minutes, or four minutes.
11 Q Okay. What did you do then?
12 A Got dressed, and left, to go hunting.
13 Q Now, when you left to go hunting, did you have a
14 vehicle on the premises?
15 A Yes.
16 Q Can you tell the jury what kind of vehicle it was?
17 A A black Chevy Blazer.
18 Q Where was that parked?
19 A It was parked right between the house and the
20 garage.
21 Q About what time do you think you left to go
22 hunting?
23 A Probably twenty to three, quarter to three.
24 Q Quarter to three? Bobby, how do you know that
25 was the time? Why is that time important as it



PATRICK L. WILLIS, CIRCUIT JUDGE

MANITOWOC COUNTY COURTHOUSE
1010 SOUTH 8TH STREET, BOX 2000
MANITOWOC, WISCONSIN 54221-2000
PHONE (920) 683-2758

DIANE TESHENECK
REPORTER — (920) 683-4043

CIRCUIT COURT
BRANCH 1

State of Wisconsin v. Steven A. Avery

Case No. 05 CF 381

Re: Jury Question No. 1

Dear Jury Members:

This is in response to your request for a transcript of Bobby Dassey's testimony.

As the court has instructed you:

"You will not have a copy of the written transcript of the trial testimony available for use during your deliberations. You may ask to have specific portions of the testimony read to you. You must continue to rely primarily on your memory of the evidence and testimony introduced during the trial."

The court does not have and cannot provide you with a transcript of Bobby Dassey's entire testimony. If you can identify a specific portion of his testimony, the court will attempt to address your request.

Please do not disclose the state of your deliberations in any such request.

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

MAR 16 2007

CLERK OF CIRCUIT COURT

Patrick L. Willis

Judge Patrick L. Willis

3/16/07

254
(1)

Could we please read
of hear a transcript
of Bobby Dassey's testimony?

Thank you
Dan Blawie

3/16/07
1:29 pm

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

MAR 16 2007

CLERK OF CIRCUIT COURT

(2)

384-2

Case 2005CF000381

Document 1074

Filed 03-16-2022

Page 48 of 154

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

05-1176/273

COPY

SEARCH WARRANT

TO THE SHERIFF OR ANY CONSTABLE OR ANY PEACE OFFICER OF SAID COUNTY:

WHEREAS, Special Agent Tom Fassbender of the Wisconsin Department of Justice, being duly sworn, has this day complained, in writing, to the said Court, that on April 21, 2006, in and upon certain premises located at 12930A Avery Road, Town of Gibson, County of Manitowoc, State of Wisconsin, occupied and maintained by Barbara Janda (DOB: 11-07-1964), and also occupied by Brendan R. Dassey (DOB: 10-19-1989), evidence more particularly described as follows:

a single family trailer with gray vinyl siding with maroon shutters. The numbers 12930A are located on the front of the residence. 12930A Avery Road has a detached garage with gray siding, two white garage doors and white trim around the windows and doors.

There are now located and concealed certain things, to-wit:

A computer currently located in the residence at 12930A Avery Road in the Town of Gibson, County of Manitowoc, State of Wisconsin, which items to be searched are more particularly described as:

Electronic processing and storage devices, central processing units; internal and peripheral storage devices such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drives and tapes, optical storage devices or other memory devices; peripheral input/output devices such as keyboards, mouse, printers, video display monitors, optical readers, digital/photograph scanners and related communication devices such as modems together with system documentation, operating logs and documentation, software and instruction manuals and password documentation. Also included would be CD roms and all records, whether stored on paper, on magnetic media such as tape, cassette, disk, diskette or on memory storage devices such as optical disks, or any other storage media together with indicia of use, ownership, possession or control of such records;

Personal records and information, as well as computer hardware and magnetic media capable of storing data which may be utilized to store information including but not limited to, personal activities, criminal activities, electronic and e-mail communications; images of sexually explicit material including, but not limited to, images, records and messages;

which things may constitute evidence of crimes committed, including but not limited to: violations of sec. 940.01, 940.225, 940.30, 940.31 Wis. Stats., and prays that a Search Warrant be issued to allow officers to seize the computer and peripheral devices.

NOW, THEREFORE, in the name of the State of Wisconsin, you are commanded forthwith to search said residence for said evidence, and if the same or any portion thereof are found, to safely process, search and keep said material so long as necessary for the purpose of being produced as evidence on any trial or until further order of the Court.



STATE7087

Case 2005CF000381

Document 1074

Filed 03-16-2022

Page 16 of 104

Dated this 21 day of April, 2006.



 JUDGE
 MANITOWOC COUNTY, WISCONSIN

ENDORSEMENT

Received by me, _____ April _____, 2006.

at _____ o'clock ____ M.

- a. Information about the acquisition of the Seagate 40 GB HDD SN 5LAG2KR6 removed from an HP Pavilion computer tower, along with photos and evidence intake forms;
- b. 14,099 images recovered from the computer categorized as "Recovered Images"
- c. 1,625 additional images categorized as "Recovered Pornography;"
- d. 2,632 search results for terms:
 - i. Blood (1 result);
 - ii. Body (2083 results);
 - iii. Bondage (3 results);
 - iv. Bullet (10 results);
 - v. Cement (23 results);
 - vi. DNA (3 results);
 - vii. Fire (51 results);
 - viii. Gas (50 results);
 - ix. Gun (75 results);
 - x. Handcuff (2 results);
 - xi. Journal (106 results);
 - xii. MySpace (61 results);
 - xiii. News (54 results);
 - xiv. Rav (74 results);
 - xv. Stab (32 results);
 - xvi. Throat (2 results); and
 - xvii. Tires (2 results).
- e. 317 entries identified as Internet History;
- f. 9 documents identified as "Nigerforlife Chat Logs" as well as parsed "MSN Chat Logs;" and
- g. Miscellaneous data retrieved from the Windows Registry.

Inspector and all twelve CD's contained audio files on each of the CD's. That information was also recorded and attached to the final report."

Conclusion

22. In my opinion, based upon a reasonable degree of certainty in the field of computer forensic science, the CD contains information and files extracted from the 7 DVDs that, in Detective Velic's opinion, were relevant to the investigation of Ms. Halbach's murder.

23. While the information contained on the CDs is derived from the forensic image contained across the DVDs, trial defense counsel was not provided critical information including the criteria used by Detective Velic in performing his forensic computer examination as well as the results of that examination.

FURTHER AFFIANT SAYETH NAUGHT



Gary Hunt

State of Illinois
County of Cook

Subscribed and ~~sworn~~ before me
this 2 day of July, 2018.



Notary Public



STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)	
)	
Plaintiff,)	
	)	Case No. 05-CF-381
v.)	
	)	Honorable Judge Angela Sutkiewicz,
STEVEN A. AVERY,	)	Judge Presiding
)	
Defendant.)	

SUPPLEMENTAL AFFIDAVIT OF GARY HUNT

Now comes your affiant, Gary Hunt, and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge and to a reasonable degree of certainty in the field of computer science. The factual statements herein are true and correct to the best of my knowledge, information, and belief.
2. In my original affidavit (Exhibit Q to Motion for Reconsideration), I made a typographical error at ¶ 11(c). My affidavit should read: "On September 18, 2005, between 5:57 AM and 10:04 AM, the HP_Owner user conducted 75 unique Google searches."
3. Using 2017 technology, I have detected eight periods in 2005 when computer records are missing and presumably deleted from the Dassey computer: August 23-26; August 28-September 11; September 14-15; September 24-



October 22; October 23-24; October 26-November 2; November 4-13; and
November 15- December 3.

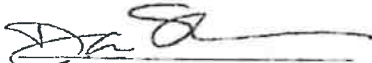
- 4. On October 31, 2005, the Dassey computer was used to access the internet at
6:05 a.m., 6:28 a.m., 6:31 a.m., 7:00 a.m., 9:33 a.m., 10:09 a.m., 1:08 p.m., and
1:51 p.m.

FURTHER AFFIANT SAYETH NAUGHT



Gary Hunt

Subscribed and sworn before me
this 30th day of October, 2017.


Notary Public

CALUMET COUNTY SHERIFF'S DEPARTMENT

Complaint No.
LCA17-009022

Page 36

TYPE OF ACTIVITY: Interview of Bryan J. Dassey

DATE OF ACTIVITY: 11/03/17

REPORTING OFFICER: Special Inv. John Dederling

On Friday, 11/03/17 at 0959 hours, I (Special Inv. JOHN DEDERING of the CALUMET COUNTY SHERIFF'S DEPARTMENT), along with Sgt. Inv. ERIC VOLAND of the CALUMET COUNTY SHERIFF'S DEPARTMENT, interviewed BRYAN J. DASSEY, DOB 07/15/85, at his residence of 1516 Crystal Spring Road, Two Rivers, Wisconsin, 54241. BRYAN's current phone number is 920-973-2125.

BRYAN was initially reluctant to be interviewed concerning this matter and indicated he was not much of a witness and really had nothing to offer. BRYAN ultimately agreed to let us speak with him for approximately ten minutes.

BRYAN started out the interview by stating that he had never trusted law enforcement and was in fear of law enforcement even while we were seated at his dining room table. BRYAN stated, while he has no criminal record, this was just something he could not get past. BRYAN stated he had a lot of exposure to dishonest law enforcement in the past.

I questioned BRYAN regarding his affidavit, which is incorporated with this report. I asked BRYAN to review the affidavit to ensure that it was accurate. BRYAN stated that he, in fact, had reviewed the affidavit before signing it. BRYAN stated the signing was done with a notary at WELLS FARGO BANK in Two Rivers. I asked BRYAN if the individuals he talked with concerning the affidavit seemed pushy and overbearing to him and he indicated they were not. I asked BRYAN if the individuals had attempted to put words in his mouth and he indicated they had not.

I asked BRYAN about the statement of "on or about 11/04/05" and he indicated that he meant he recalled BOBBY telling him concerning seeing TERESA HALBACH driving away from the AVERY property sometime during the week of 10/31/05 through 11/06/05.

I asked BRYAN to describe his normal day and specifically if he had any recollections of 10/31/05. BRYAN indicated he normally left for work at approximately 0600 hours and then would come back to his mother's trailer to shower, change clothes and then leave for his girlfriend's residence. BRYAN stated he was not home on 10/31/05, other than waking up, leaving for work and returning to clean up after work. BRYAN stated he had no other memory of 10/31/05.

BRYAN indicated he has basically been on his own since he was approximately 17 and one-half years old. BRYAN indicated the reason he did not spend any time around his mother's, BARBARA JANDA, residence was that he could not stand SCOTT TADYCH and was not



CALUMET COUNTY SHERIFF'S DEPARTMENT

Complaint No.
LCA17-009022

Page 37

happy with his mother's conduct of still being married while being involved with SCOTT. BRYAN stated he spent enough time at his mother's residence to clean up and then leave on the majority of the days.

I asked BRYAN if he could remember what day the deer carcass was placed in the DASSEY garage and he indicated he could not remember.

I asked BRYAN about the statement concerning BOBBY DASSEY indicating he had seen TERESA leave the AVERY property. BRYAN stated he could not remember where the conversation took place and further indicated that he could not recall if it was in person or over the phone. BRYAN indicated it was sometime within the week of 11/04/05. I asked BRYAN if the conversation took place before or after TERESA's car was found and he indicated that he was unsure about that. I asked BRYAN if BOBBY could have possibly said that he left and not TERESA. BRYAN indicated he was sure BOBBY said he saw TERESA leave.

I, again, asked BRYAN if he had any recollection of when and where this conversation took place and he indicated he was not at all sure. BRYAN stated he remember "bits and pieces." At one point during the conversation, BRYAN made the statement that if "he did it he should stay in prison and if not, someone is still out there who needs to answer for this."

I asked BRYAN how long he would stay at his mother's residence if he was not sleeping there. BRYAN indicated he would basically just clean up and go. BRYAN stated sometimes he would have a meal but indicated that did not happen very often. I asked BRYAN if he could recall whether he had seen BOBBY at the residence on Halloween, 10/31/05. BRYAN stated he could not recall if he was even there on Halloween. BRYAN stated it was common to see BOBBY because he believed that, at that time, BOBBY was working second shift.

I asked BRYAN where the computers were located in his mother's house. BRYAN stated he had no idea. I asked BRYAN how many computers were at his mother's residence and BRYAN had no idea about that either. BRYAN stated, however, he recalled one laptop computer being at the residence.

I asked BRYAN if he had been at STEVEN AVERY's bonfire anytime on 10/31/05 and he indicated "no." I asked BRYAN if he recalled seeing smoke coming from behind STEVEN's garage on 10/31/05 and he indicated he "did not recall." I asked BRYAN if he recalled saying that STEVEN seemed odd during the time they were in Crivitz on 11/04/05 through 11/06/05. BRYAN indicated it was not unusual for STEVEN to act odd, which he attributed to being incarcerated for something he had not done.

I asked BRYAN about him stating that STEVEN "freaked out" when he heard authorities were coming to the cabin in Marinette. BRYAN stated he had no memory of this statement.

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)
)
 Plaintiff.)
) Case No. 05-CF-381
 v.)
) Honorable Judge Angela Sulkiewicz.
 STEVEN A. AVERY.) Judge Presiding
)
 Defendant.)

SECOND SUPPLEMENTAL AFFIDAVIT OF GARY HUNT

Now comes your affiant, Gary Hunt, and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge and to a reasonable degree of certainty in the field of computer science. The factual statements herein are true and correct to the best of my knowledge, information, and belief.

Steven Avery's computer

2. I have reviewed a computer forensic report of Steven Avery's computer prepared by Detective Mike Velie of the Grand Chute Police Department. Based upon my review of Det. Velie's report, I can find no records of internet searches for pornographic and/or sexual images being accessed. Specifically, based upon my review of the internet browser, cache, and cookie history



outlined in Det. Velie's report of Steven Avery's computer, no apparent searches for pornographic and/or sexual images were made and no websites with apparent pornographic and/or sexual content were accessed. (Internet History Report of Steven Avery's computer and computer forensic report of Detective Velie, attached and/or incorporated herein as Group Exhibit 11).

Dassey computer

3. I have conducted further analyses of the internet records from the Dassey computer, specifically the searches performed on a weekday between the hours of 6:00 a.m. and 3:45 p.m.:
 - a. 667 searches related to sexual content were performed on weekdays from 6:00 a.m. to 3:45 p.m. 562 of the searches were performed on 10 weekdays: 8/16/2005 (4 searches); 9/13/2005 (12 searches); 2/23/2005 (45 searches); 3/29/2006 (37 searches); 3/30/2006 (23 searches); 4/3/2006 (93 searches); 4/5/2006 (96 searches); 4/6/2006 (14 searches); 4/13/2006 (39 searches); 4/19/2006 (196 searches). (Spreadsheet listing weekday from 6:00 a.m. to 3:45 p.m. searches attached and incorporated herein as part of Group Exhibit 12 to this affidavit);
4. I identified the following categories of searches:
 - a. 22 search terms describing forcing sex toys and objects into vaginas;
 - b. 37 searches for terms describing violent accidents, specifically violent car crashes with images of dead bodies;

- c. 13 searches for terms describing drowned, dead, or diseased female bodies; and
- d. 65 searches for terms describing the infliction of violence on females, including fisting and images of females in pain.

(Spreadsheets listing searches for categorized terms, attached and incorporated herein as Group Exhibit 18).

- 5. I would like to clarify my opinion regarding the images of Teresa Halbach stored on the Dassey computer as expressed in ¶ 11(e) of my original affidavit. The primary purpose of my opinion was to refute the assertion made by Special Agent Thomas Fassbender in his report labeled #05-1776/304, wherein he stated that the photographs of Teresa Halbach and Steven Avery had an "apparent date of April 18, 2006." Based upon my examination of the Dassey computer, there is no evidence that the images of Teresa Halbach which I discovered were saved to the Dassey computer on April 18, 2006. Det. Velie did not provide copies of the images he discovered. If they are indeed the same images, Det. Velie could not have determined the images' original path, file name, and created, accessed, or modified timestamps.
- 6. Additionally, in my supplemental affidavit, I made a typographical error when correcting ¶ 11(e) of the original affidavit. My affidavit should read "On

September 18, 2005, between 5:57AM and 10:04 PM, the HP_Owner user conducted 75 unique Google searches."

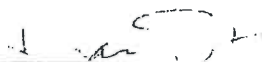
FURTHER AFFIANT SAYETH NAUGHT



Gary Hunt

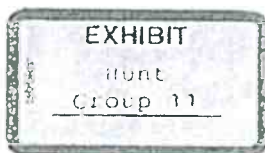
State of Illinois
County of Cook

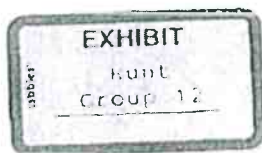
Subscribed and sworn before me
this 16th day of November, 2017.



Notary Public







Category A — Search terms describing forcing sex toys and objects into vaginas

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 big things in pussy	http://images.google.com/images?q=big+things+in+pussy+&btnG=Search	4/13/2006 13:22	Thursday
2 big things in pussy	http://images.google.com/images?q=big+things+in+pussy+&svnum=1	4/13/2006 13:23	Thursday
3 big woman naked	http://images.google.com/images?q=big+woman+naked&svnum=108	4/20/2006 12:40	Thursday
4 huge dildo in pussys	http://images.google.com/images?q=huge+dildo+in+pussys&svnum=	4/13/2006 13:24	Thursday
5 huge dildo in pussys	http://images.google.com/images?q=huge+dildo+in+pussys&svnum=	4/13/2006 13:24	Thursday
6 huge dildo in pussys	http://images.google.com/images?q=huge+dildo+in+pussys&svnum=	4/13/2006 13:26	Thursday
7 stretching pussy	http://images.google.com/images?q=stretching+pussy&svnum=10&hl=en&sa=X&btnG=Search	4/19/2006 11:41	Wednesday
8 stretching pussy	http://images.google.com/images?q=stretching+pussy+toys&svnum=	4/19/2006 11:42	Wednesday
9 stretching pussy toys	http://images.google.com/images?q=stretching+pussy+toys&svnum=	8/14/2005 8:39	Sunday
10 woman dildo	http://images.google.com/images?svnum=10&hl=en&lr=&q=woman+	8/14/2005 8:38	Sunday
11 womans dildo	http://images.google.com/images?svnum=10&hl=en&lr=&q=womans	8/14/2005 8:38	Sunday
12 woman's dildo	http://images.google.com/images?svnum=10&hl=en&q=woman%27s	8/14/2005 8:38	Sunday
13 woman's dildo	http://images.google.com/images?svnum=10&hl=en&lr=&q=woman?	8/14/2005 8:39	Sunday
14 slut using sex objects	http://images.google.com/images?q=slut+using+sex+objects&svnum=	9/14/2005 19:47	Wednesday
15 slut sex objects	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	9/14/2005 19:48	Wednesday
16 Extreme anal toys	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	4/18/2006 16:57	Tuesday
17 Extreme anal toy	http://images.google.com/images?q=Extreme+anal+toy&btnG=Search	4/18/2006 17:00	Tuesday
18 Extreme anal toys	http://images.google.com/images?q=Extreme+anal+toys&svnum=10&	4/18/2006 17:00	Tuesday
19 Extreme anal toy	http://images.google.com/images?q=Extreme+anal+toy&svnum=10&	4/18/2006 17:03	Tuesday
20 object pussy	http://images.google.com/images?q=object+pussy&svnum=10&hl=en	4/18/2006 17:10	Tuesday
21 stretching pussy	http://images.google.com/images?q=stretching+pussy&svnum=10&hl=	4/18/2006 17:16	Tuesday
22 stretching pussy	http://images.google.com/images?svnum=10&hl=en&safe=off&sa=X&	4/18/2006 17:17	Tuesday



Category B — Searches for terms describing violent accidents

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 accident	http://images.google.com/images?q=accident&svnum=10&hl=en&lr=	4/16/2006 10:17	Sunday
2 car accident	http://images.google.com/images?q=car+accident&btnG=Search&svn	4/16/2006 10:16	Sunday
3 fast accident	http://images.google.com/images?q=fast+accident&svnum=10&hl=en&lr=	4/16/2006 10:17	Sunday
4 fast car accident	http://images.google.com/images?svnum=10&hl=en&lr=&newwindow=	4/16/2006 10:17	Sunday
5 ford empo car accident	http://images.google.com/images?q=ford+empo+car+accident&svnur	4/16/2006 10:16	Sunday
6 ford tempo accident	http://images.google.com/images?q=ford+tempo++accident&svnum=	4/16/2006 10:17	Sunday
7 ford tempo car accident	http://images.google.com/images?svnum=10&hl=en&newwindow=1	4/16/2006 10:16	Sunday
8 race car accident	http://images.google.com/images?q=race+car+accident&svnum=10&	4/16/2006 10:15	Sunday
9 race car accidents	http://images.google.com/images?svnum=10&hl=en&newwindow=1	4/16/2006 10:14	Sunday
10 race car accsidents	http://images.google.com/images?q=race+car+accidents&svnum=10	4/16/2006 10:14	Sunday
11 seeing bones hot girls	http://images.google.com/images?svnum=10&hl=en&safe=off&q=see	2/23/2006 12:20	Thursday
12 seeing bones hot girls	http://images.google.com/images?q=seeing+bones+hot+girls&svnur	2/23/2006 12:20	Thursday
13 tempo car accident	http://images.google.com/images?q=tempo+car+accident&svnum=10	4/16/2006 10:16	Sunday
14 car accidents	http://images.google.com/images?svnum=10&hl=en&safe=off&q=car	2/22/2006 20:14	Wednesday
15 car accidents	http://images.google.com/images?svnum=10&hl=en&safe=off&q=car	2/22/2006 20:14	Wednesday
16 car accidents	http://images.google.com/images?q=car+accidents&svnum=10&hl=en	2/22/2006 20:15	Wednesday
17 car accidents	http://images.google.com/images?q=car+accidents&svnum=10&hl=en	2/22/2006 20:15	Wednesday
18 car accidents	http://images.google.com/images?q=car+accidents&svnum=10&hl=en	2/22/2006 20:18	Wednesday
19 car accident	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/22/2006 20:25	Wednesday
20 car accident	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/22/2006 20:25	Wednesday
21 alive skeleton	http://images.google.com/images?q=alive+skeleton&hl=en	9/17/2005 20:24	Saturday
22 alive skeleton	http://images.google.com/images?q=alive+skeleton&hl=en	9/17/2005 20:24	Saturday
23 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=e	9/17/2005 20:24	Saturday
24 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=e	9/17/2005 20:24	Saturday
25 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=e	9/17/2005 20:24	Saturday
26 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=e	9/17/2005 20:24	Saturday
27 skeleton	http://images.google.com/images?q=skeleton&hl=en	9/17/2005 20:24	Saturday
28 skeleton	http://images.google.com/images?q=skeleton&hl=en	9/17/2005 20:25	Saturday

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Category C -- Searches for terms describing drowned or dead female bodies

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 drawned girls	http://images.google.com/images?q=drawned+girls&svnum=10&hl=e	4/19/2006 10:43	Wednesday
2 drawned pussy	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	4/19/2006 10:48	Wednesday
3 drowned	http://images.google.com/images?q=drowned&svnum=10&hl=en&lr=	4/19/2006 10:47	Wednesday
4 drowned girl	http://images.google.com/images?q=drowned+girl&svnum=10&hl=en	4/19/2006 10:44	Wednesday
5 drowned girl	http://images.google.com/images?q=drowned+girl&svnum=10&hl=en	4/19/2006 10:45	Wednesday
6 drowned girl nude	http://images.google.com/images?q=drowned+girl+nude&svnum=10	4/19/2006 10:44	Wednesday
7 drowned girls	http://images.google.com/images?svnum=10&hl=en&safe=off&sa=X&	4/19/2006 10:43	Wednesday
8 drowned pussy	http://images.google.com/images?svnum=10&hl=en&safe=off&sa=X&	4/19/2006 10:48	Wednesday
9 deseised girls	http://images.google.com/images?q=deseised+girls&svnum=10&hl=e	2/27/2006 19:07	Monday
10 desessed girls	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/27/2006 19:07	Monday
11 diseased girls	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/27/2006 19:08	Monday
12 diseased girl	http://images.google.com/images?q=diseased+girl&svnum=10&hl=en	2/27/2006 19:09	Monday
13 rotten	http://images.google.com/images?hl=en&lr=&safe=off&q=rotton&sa=	2/19/2006 21:30	Sunday

Category D --- Searches for terms describing the infliction of violence on females, including fistfing and images of females in pain

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 fist	http://images.google.com/images?svnum=10&hl=en&lr=&newwindow	4/9/2006 11:02	Sunday
2 fist	http://images.google.com/images?svnum=10&hl=en&lr=&newwindow	4/9/2006 11:02	Sunday
3 fist fucking sluts	http://images.google.com/images?q=fist+fucking+sluts&hl=en	9/15/2005 7:54	Thursday
4 fist fucky	http://images.google.com/images?q=fist+fucky&svnum=10&hl=en&lr=	4/9/2006 11:01	Sunday
5 fist fucky	http://images.google.com/images?q=fist+fucky&svnum=10&hl=en&lr=	4/9/2006 11:01	Sunday
6 fist sex	http://images.google.com/images?q=fist+sex&svnum=10&hl=en&lr=	9/13/2005 8:14	Tuesday
7 fist sex	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	9/13/2005 8:14	Tuesday
8 fistfing	http://images.google.com/images?q=fisting&svnum=10&hl=en&lr=&lr=	4/9/2006 11:02	Sunday
9 fistfing	http://images.google.com/images?q=fisting&svnum=10&hl=en&lr=&lr=	4/9/2006 11:02	Sunday
10 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/30/2006 9:21	Thursday
11 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/30/2006 9:21	Thursday
12 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&lr=	3/30/2006 9:22	Thursday
13 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&lr=	3/30/2006 9:22	Thursday
14 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr=	3/30/2006 9:21	Thursday
15 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr=	3/30/2006 9:21	Thursday
16 girls moon face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/20/2006 16:34	Monday
17 hot girls moon	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/20/2006 16:34	Monday
18 girls grooming face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/20/2006 16:35	Monday
19 girls mooning	http://images.google.com/images?q=girls+mooning&svnum=10&hl=en&lr=	3/20/2006 16:38	Monday
20 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:10	Tuesday
21 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:10	Tuesday
22 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=	3/28/2006 16:10	Tuesday
23 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=	3/28/2006 16:10	Tuesday
24 fist fuck	http://images.google.com/setprefs?hl=en&lang=all&safe=off&num=1	3/28/2006 16:10	Tuesday
25 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10	3/28/2006 16:11	Tuesday
26 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10	3/28/2006 16:15	Tuesday
27 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:15	Tuesday
28 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:15	Tuesday
29 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:16	Tuesday
30 fist fuck	http://images.google.com/advanced_image_search?q=fist+fuck&svnu	3/28/2006 16:17	Tuesday
31 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:17	Tuesday
32 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&start=40&	3/28/2006 16:17	Tuesday

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
33 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&start=40&	3/28/2006 16:17	Tuesday
34 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=&safe=	3/28/2006 16:17	Tuesday
35 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=&safe=	3/28/2006 16:17	Tuesday
36 fist fuck	http://images.google.com/setprefs?hl=en&lang=all&safe=images&nu	3/28/2006 16:17	Tuesday
37 fist	http://images.google.com/images?q=fist+&svnum=10&hl=en&lr=	3/28/2006 16:18	Tuesday
38 fist	http://images.google.com/images?q=fist+&svnum=10&hl=en&lr=	3/28/2006 16:18	Tuesday
39 Girl action hert	http://images.google.com/images?q=Girl+action+hert&svnum=10&hl	3/29/2006 16:11	Wednesday
40 Girl action hert	http://images.google.com/images?q=Girl+action+hert&svnum=10&hl	3/29/2006 16:11	Wednesday
41 Girl action hert	http://images.google.com/images?q=Girl+action+hert&svnum=10&hl	3/29/2006 16:11	Wednesday
42 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:12	Wednesday
43 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:12	Wednesday
44 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:12	Wednesday
45 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr	3/29/2006 16:12	Wednesday
46 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr	3/29/2006 16:12	Wednesday
47 Girl hurt	http://images.google.com/images?q=Girl+hurt&svnum=10&hl=en&lr=	3/29/2006 16:13	Wednesday
48 Girl hurt	http://images.google.com/images?q=Girl+hurt&svnum=10&hl=en&lr=	3/29/2006 16:13	Wednesday
49 Girl hurt	http://images.google.com/images?q=Girl+hurt&svnum=10&hl=en&lr=	3/29/2006 16:13	Wednesday
50 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&	3/29/2006 16:13	Wednesday
51 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&	3/29/2006 16:13	Wednesday
52 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr	3/29/2006 16:13	Wednesday
53 Girl hurting	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&	3/29/2006 16:14	Wednesday
54 Girl moning face\	http://images.google.com/images?q=Girl+moning+face%5C&svnum=	3/29/2006 16:16	Wednesday
55 Girl moning face\	http://images.google.com/images?q=Girl+moning+face%5C&svnum=	3/29/2006 16:16	Wednesday
56 Girl moning face\	http://images.google.com/images?q=Girl+moning+face%5C&svnum=	3/29/2006 16:16	Wednesday
57 Girl moning face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:17	Wednesday
58 Girl moning face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:17	Wednesday
59 Girl moning face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:17	Wednesday
60 girl guts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:29	Wednesday
61 girl guts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:29	Wednesday
62 girl guts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:29	Wednesday
63 girl gut	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:30	Wednesday
64 girl gut	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:30	Wednesday
65 girl gut	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:30	Wednesday

at the Dassey residence. Bobby's younger brothers, Blaine and Brendan, were at school, Bobby's mother was at work, his older brother, Bryan, no longer lived at the residence, and Tom Janda, who moved out on October 15, 2005, was at work.

4. Based upon Mr. Hunt's findings, 667 sexual image searches were performed on weekdays from 6:00 a.m. to 3:45 p.m. Of those searches, 562 were performed on 10 weekdays: 8/16/2005 (4 searches); 9/13/2005 (12 searches); 2/23/2005 (48 searches); 3/29/2006 (37 searches); 3/30/2006 (23 searches); 4/3/2006 (93 searches); 4/5/2006 (96 searches); 4/6/2006 (14 searches); 4/13/2006 (39 searches); 4/19/2006 (196 searches).
5. The 562 searches on 10 days demonstrate the obsessively compulsive nature of Bobby Dassey's internet searches and his fascination with sexual acts that involve the infliction of pain, torture and humiliation on females and an equally disturbing fascination with viewing dead female bodies.
6. The internet searches done on the Dassey computer, which were focused on viewing images in which pain, torture, humiliation and death are inflicted upon women, should have raised a red flag about Bobby's involvement in Ms. Halbach's murder. Bobby cannot be excluded from the following searches:
 - a. 22 search terms describing forcing sex toys and objects into vaginas;
 - b. 28 searches for terms describing violent accidents, specifically violent car crashes with images of dead bodies;

1 at that time?

2 A Yes, I was. I worked at Fischer Hamilton's, third
3 shift.

4 Q What time would you start work on any day?

5 A I would start at ten at night and work until six in
6 the morning.

7 Q On October thirty-first of 2005, could you tell
8 the jury if you were home during the daytime
9 hours?

10 A Yes, I was.

11 Q And how late, or how long were you home until?

12 A I was home until 2:30 that day.

13 Q What were you doing before 2:30?

14 A I was sleeping.

15 Q When you say "2:30", are you talking about the
16 afternoon or morning?

17 A In the afternoon.

18 Q To your knowledge, Bobby, was anybody else at home
19 with you?

20 A No.

21 Q Do you remember anything unusual that happened at
22 about 2:30 that afternoon?

23 A A vehicle had drove up, and started taking pictures
24 of the van.

25 Q All right. Let's back up just a minute. Were you

1 my grandma's house, right there.

2 Q. Same place?

3 A. Mm-hmm.

4 Q. You have to say yes or no.

5 A. Yes.

6 Q. Now, your trailer is a little bit west, or a
7 little bit further down from that intersection;
8 do you know why the bus picks you up and drops
9 you off up near your grandma's trailer?

10 A. I'm not sure.

11 Q. They just do?

12 A. Yeah.

13 Q. Blaine, how do you get to and from the bus from
14 your house?

15 A. I walk down the road.

16 Q. Okay. Now, back in October of 2005, was there
17 somebody else in your house who also went to
18 school with you?

19 A. Yes.

20 Q. Who was that?

21 A. Brendan.

22 Q. And who's Brendan?

23 A. My brother.

24 Q. At Mishicot School, Blaine, do you know about
25 what time school lets out?

1 A. 3:05.

2 Q. And after school lets out, and I'm going to
3 specifically ask you about October 31st of 2005;
4 do you remember what time you came home that day?

5 A. 3:40.

6 Q. 3:40? That's 20 to 4 in the afternoon; is that
7 right?

8 A. Yup.

9 Q. You have to answer out loud?

10 A. Yes.

11 Q. Do you remember coming home that day, Blaine?

12 A. Yes.

13 Q. And could you tell the jury how you got home that
14 day?

15 A. The school bus.

16 Q. And did anybody come home on the school bus with
17 you?

18 A. Yes, Brendan.

19 Q. After you and Brendan got home, at about 3:40,
20 can you tell the jury what you did, please?

21 A. We walked down the road.

22 Q. And why don't you use your laser pointer again
23 and tell the jury, when you walked down the road,
24 where did you walk?

25 A. Down here, right there.

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On Sunday, November 6, 2005, at approximately 12:20 p.m., S/A Kim J. Skorlinski and S/A Debra K. Strauss interviewed Bryan J. Dassey, DOB 07/15/1985, the nephew of Steven Avery, regarding this investigation. Bryan lives with his mother, Barbara Janda, and three brothers on the Avery Auto Salvage property. His house is adjacent to Steven's house. Prior to the interview, Bryan was driving Steven's blue 1993 Pontiac Grand Am and was stopped by the Marinette County Sheriff's Department pursuant to a search warrant for that vehicle.

At first Bryan said he did not know anything about what was going on, but then agreed to talk to the special agents. During the interview, S/A Skorlinski and Bryan sat in the front seat of S/A Skorlinski's state vehicle and S/A Strauss sat in the backseat. S/A Skorlinski explained to Bryan the search warrant for the Pontiac Grand Am, and he stated he understood why the car had to be seized. He said he and his brother Brendan were on their way to a local store, Tall Oaks, to buy soda when they were stopped.

Bryan said he rode up to the Avery residence at N9493 Highline Road, Town of Stephenson (Crivitz), on Saturday morning, November 5, 2005, with Steven and his grandmother, Delores Avery. He said when they got to the residence, his grandfather, Allan Avery; and his uncle, Charles "Chuck" Avery; and his brother, Brendan were already there. Bryan said his grandfather came to the residence on Thursday night, November 3, 2005, and Chuck and Brendan came on Friday night, November 4, 2005. Bryan said the plan was for all family members to stay at the residence until today and then travel back to their residences at Avery's Auto Salvage in Two Rivers, Manitowoc County.

S/A Skorlinski asked how he could contact Bryan's mother, Barb, and he said S/A Skorlinski said he could call her on her cell phone, 920-973-1740, or else her boyfriend, Scott's cell phone (b/w Scott Tadych), 920-973-2222. Bryan said his mom and step-dad are getting a divorced. He said his biological dad is not around much.

Bryan lives at Avery's Auto Salvage property with his mom, and brothers Brendan (15½ years old), Blaine (16 years old) and Bobby (19 years old). Bryan said he is not around the residence or the auto salvage yard much because he works at Woodland Face Veneer, Two Rivers. He said he leaves for work at 6:00 a.m. and then after work he is usually at his girlfriend's house until late in the evening.

Bryan was asked about the other vehicles at the Avery residence on Highline Lane, and he said Chuck's flatbed tow truck and Allan's Chevrolet pick up truck are still there. Bryan was asked about a black Ford pick up truck at Steven's residence at the auto salvage yard. He said that pick up truck is owned by Steven and should be at the residence because Steven drove his Pontiac Grand Am.

Bryan was asked about the events of Monday, October 31, 2005, which was Halloween. He said

he was not home at all during that day, except for waking up and going to work. Bryan said he got home sometime after supper, but could not recall when that was. He was asked why the Avery family members chose to come to their residence on Highline Lane this weekend, and he said they were going to butcher chickens and cut firewood. Bryan was asked about a deer they had hanging at their residence at the auto salvage yard. He said Bobby picked up that deer from a car/deer accident and it is hanging in the garage at his mom's house. Bryan believed this accident occurred on Friday night, November 4, 2005. Bryan said he is not certain, because he stayed with his girlfriend Friday night and did not get home until about 5:30 a.m. on Saturday, November 5, 2005.

Bryan said he heard from his mom and Steven that Halbach was only at their residence about 5 minutes. He heard she just took the photo of the van and left. Bryan said the investigators should also talk to his brother Bobby, because he saw her leave their property.

Bryan was asked about access into the back of the salvage yard, and he said anyone can drive a car back there. He said a car can be driven through Radant Sand and Gravel pit to the back of the salvage yard. He recalled a time when 4 kids were caught driving back there.

Bryan said he also heard that his uncle, Earl Avery and his brother-in-law, Bob, were hunting rabbits in the salvage yard on Wednesday, November 2, 2005, and they did not see Halbach's vehicle in the back of the salvage yard.

The interview was terminated at approximately 1:00 p.m., however, Bryan remained in S/A Skorlinski's vehicle until Investigators Tony O'Neil and Todd Baldwin, of the Marinette County Sheriff's Department, had completed their interview of Brendan. When that was completed, both Bryan and Brendan were transported back to the Avery residence at Highline Lane, which was approximately 1:45 p.m.

which was near the entry door. BARBARA JANDA sat at a chair with her back to the entryway door while S/A Holmes sat on JANDA's right side and S/A Kapitany sat on JANDA's left side.

For clarity purposes within this report, the JANDA and AVERY family members will be referred to by their first names throughout this report.

INITIAL STATEMENTS MADE BY BARBARA JANDA

Initially when the agents met with JANDA at the Y-Go-By Restaurant, S/A Holmes asked JANDA if she knew why the agents wanted to speak to her. JANDA told the agents that she believed the agents wanted to speak with her regarding the girl who was missing who took pictures "out there." JANDA told the agents she believed that the girl had been missing since Monday (10/31/2005), but that BARBARA was working on Monday. JANDA also told the agents that she believed that the girl was at "our house, I guess" on Monday when BARBARA was at work.

BARBARA told the agents that she believed her brother, STEVEN AVERY, was being framed for the missing woman's disappearance.

S/A Holmes told BARBARA that the agents appreciated her meeting with them. S/A Holmes also told BARBARA that law enforcement officers would be interviewing a lot of people regarding TERESA M. HALBACH'S (DOB: 03/22/1980) disappearance, and that the investigation was not focused on STEVEN AVERY. S/A Holmes told BARBARA that the investigation was focused on finding HALBACH first, and then learning what might have happened to HALBACH. BARBARA stated that she understood.

BARBARA JANDA'S WORK SCHEDULE

S/A Holmes asked JANDA to provide the agents with her work schedule beginning on Monday, 10/31/2005, and ending on Friday, 11/04/2005. JANDA stated that her normal work schedule was from 6:00 a.m. until 4:30 p.m. every day Monday through Thursday of every week. JANDA believed that she went to work at 5:30 a.m. on Monday, 10/31/2005. BARBARA stated that she always ended her work day at 4:30 p.m. and that she was usually always home at her residence by 5:00 p.m. at the latest.

BARBARA JANDA'S CHILDREN

S/A Holmes asked BARBARA if anyone lived with her at her residence on Avery Drive. BARBARA told the agents that all of her kids lived with her. S/A Holmes asked BARBARA if she could give the names of all of her children to the agents as well as their contact information. BARBARA provided the following names to the agents.

CALUM COUNTY SHERIFF'S DEPARTMENT

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WIEGERT: OK. Who do you all live with Brendan?

BRENDAN: My mom and my three brothers.

WIEGERT: Your mom and your three brothers? What are your three brothers' names?
Blaine, Bobby and Bryan.

WIEGERT: OK. Who lived next door to you?

BRENDAN: Steven.

WIEGERT: Steven who?

BRENDAN: Avery.

WIEGERT: OK. And how is he related to you.

BRENDAN: Um, my sister's brother.

WIEGERT: So that makes him what to you?

BRENDAN: My uncle.

WIEGERT: OK. Well what we want to talk to you about Brendan, like we had talked
about before, is October 31st of 2005. OK. Do you remember that day?

BRENDAN: Yeah.

WIEGERT: OK. Tell us about that day when you came home from school, OK? Let's
start with when you came home from school. How did you get home from school?

BRENDAN: I got off the bus at 3:45 and I walked, I seen a jeep down by our house and
I went into my house and I played Playstation 2 for two hour, three hours. I ate at 8:00 and I got
a phone from Steven, a phone call from Steven and he asked me if I wanted ta go to the bonfire
next to Dassey's garage and I said yeah and then he told me to bring the golf cart over so I did
and then he drove us, drove me around to find some stuff and I got the van seat and some wood
and I seen her toe when I, when we dropped the, the seat off and later on, I seen her forehead and
her belly.

WIEGERT: OK. I'm just gonna stop you there. You said when you got home, you
saw her jeep. Whose jeep was that do you think?

Dassey computer. Thus, the Defendant had the pornography within his possession well before trial. To establish a *Brady* violation, he has to establish that the evidence withheld – the Velie CD – was favorable to the defense. He makes no such argument. Rather, he focuses on the pornography. As trial neared, neither side thought the Velie analysis was relevant. Both sides were correct. The Velie CD, in and of itself, was not favorable to the defense. There was no *Brady* violation here.

For the sake of argument, but not relevant to the *Brady* analysis, the Dassey computer (and the pornography it contained) was not favorable to the defense either. The computer was accessible to numerous people. Brendan Dassey, Blaine Dassey, Scott Tadych, Bryan Dassey, Bobby Dassey, Barb Janda, and Tom Janda all either lived in the house or had visited the house up until October 15, 2005, when Tom Janda moved out. The four Dassey brothers and Barb Janda lived in the residence from October 31, 2005, to March 1, 2006, when Brendan Dassey was arrested. Steven Avery was a regular visitor to the Dassey house, giving him access to the computer as well.

Context is important here. Attorneys Strang or Buting likely did not ask for the Velie CD because it was not relevant to their theory of defense, which centered on the recently discovered vial of Avery's blood. The seven DVDs and the Fassbender Report were provided right after the defense revealed the existence of "the blood vial" containing a sample of Avery's blood. The defense team made the strategic decision to focus on the blood planting defense, making the Dassey computer irrelevant. And the Defendant has not established any logical nexus to the murder of Theresa

which was near the entry door. BARBARA JANDA sat at a chair with her back to the entryway door while S/A Holmes sat on JANDA's right side and S/A Kapitany sat on JANDA's left side.

For clarity purposes within this report, the JANDA and AVERY family members will be referred to by their first names throughout this report.

INITIAL STATEMENTS MADE BY BARBARA JANDA

Initially when the agents met with JANDA at the Y-Go-By Restaurant, S/A Holmes asked JANDA if she knew why the agents wanted to speak to her. JANDA told the agents that she believed the agents wanted to speak with her regarding the girl who was missing who took pictures "out there." JANDA told the agents she believed that the girl had been missing since Monday (10/31/2005), but that BARBARA was working on Monday. JANDA also told the agents that she believed that the girl was at "our house, I guess" on Monday when BARBARA was at work.

BARBARA told the agents that she believed her brother, STEVEN AVERY, was being framed for the missing woman's disappearance.

S/A Holmes told BARBARA that the agents appreciated her meeting with them. S/A Holmes also told BARBARA that law enforcement officers would be interviewing a lot of people regarding TERESA M. HALBACH'S (DOB: 03/22/1980) disappearance, and that the investigation was not focused on STEVEN AVERY. S/A Holmes told BARBARA that the investigation was focused on finding HALBACH first, and then learning what might have happened to HALBACH. BARBARA stated that she understood.

BARBARA JANDA'S WORK SCHEDULE

S/A Holmes asked JANDA to provide the agents with her work schedule beginning on Monday, 10/31/2005, and ending on Friday, 11/04/2005. JANDA stated that her normal work schedule was from 6:00 a.m. until 4:30 p.m. every day Monday through Thursday of every week. JANDA believed that she went to work at 5:30 a.m. on Monday, 10/31/2005. BARBARA stated that she always ended her work day at 4:30 p.m. and that she was usually always home at her residence by 5:00 p.m. at the latest.

BARBARA JANDA'S CHILDREN

S/A Holmes asked BARBARA if anyone lived with her at her residence on Avery Drive. BARBARA told the agents that all of her kids lived with her. S/A Holmes asked BARBARA if she could give the names of all of her children to the agents as well as their contact information. BARBARA provided the following names to the agents.

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On Monday, November 7, 2005, at approximately 10:11 a.m., S/A Debra K. Strauss and S/A Lisa Wilson interviewed Blaine A. Dassey, DOB 12/03/1988. Dassey is currently in 11th grade at Mishicot High School. Dassey lives with his mother, Barbara Dassey (a/k/a Barbara Janda), 12930A Avery Road, Two Rivers, WI. This interview was conducted at the residence of Michael J. Kornely, DOB 10/27/1949, located at 104 Lilac Avenue, Francis Creek, WI, 920-684-7309. Dassey has been staying with Kornely since Friday, 11/04/2005. The purpose of this interview was to obtain information Dassey would have regarding his activities during the week of 10/31/2005.

For the purposes of this interview, the Averys and Dasseys will be referred to by their first names.

Blaine said on Monday, 10/31/2005, he got out of bed at 6:30 a.m. like he normally does. The bus picks him and his brother, Brendan Dassey (Brendan), up at the end of the gravel driveway sometime between 7:08 and 7:13 a.m. Blaine was asked if he was one of the first to be picked up by the bus driver or the last, and Blaine responded he was somewhere in the middle. Blaine was asked if he knew the name of his bus driver and he said he did not. Blaine described his bus driver as a young, nice female. Blaine thought he rode on Bus #3 but he was not sure. Blaine's school day starts at 8:00 and concludes at 3:05 p.m. Blaine described this day as a normal school day, with nothing out of the ordinary occurring. Blaine stated that, when school was over, he and Brendan rode the bus home and they were dropped off sometime between 3:30 and 4:00 p.m. Blaine said he and Brendan were dropped off at the same spot where they are picked up. Blaine was asked to describe where the bus drops him off and picks him up, and Blaine responded it was where the red/black Blazer is currently located.

Kornely stated that on some occasions, when Blaine arrived home from school, Blaine will call him. Blaine normally calls Kornely sometime between 3:40 and 3:50 p.m.

Blaine was asked if he recalled seeing anyone on the Avery property when he got off the bus on the afternoon of Monday, 10/31/2005. Blaine responded "not really." When asked what he meant by "not really," Blaine said he did not see anybody.

On 10/31/2005, the red/black Blazer and the Monte Carlo were for sale at the end of the driveway. Blaine said he can recall those vehicles being there.

Blaine indicated when he got off the bus, he and Brendan walked directly to their house. Blaine said he did not talk to anyone except for Brendan, he did not see anyone, he does not recall seeing a vehicle that does not normally belong in the driveway, and he did not see Steve Avery (Steve).

When Blaine and Brendan walked into their house, Bobby Dassey (Bobby) was sleeping in his bedroom. Blaine explained that he and Brendan coming home woke Bobby up.

At approximately 5:00 that evening, Blaine received a telephone call from his friend, Jason Kresco.

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)
))
Plaintiff,)
))
v.) Case No. 05-CF-381
))
STEVEN A. AVERY.) Honorable Judge Angela Sutkiewicz.
) Judge Presiding
Defendant.)

SECOND SUPPLEMENTAL AFFIDAVIT OF GARY HUNT

Now comes your affiant, Gary Hunt, and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge and to a reasonable degree of certainty in the field of computer science. The factual statements herein are true and correct to the best of my knowledge, information, and belief.

Steven Avery's computer

2. I have reviewed a computer forensic report of Steven Avery's computer prepared by Detective Mike Velie of the Grand Chute Police Department. Based upon my review of Det. Velie's report, I can find no records of internet searches for pornographic and/or sexual images being accessed. Specifically, based upon my review of the internet browser, cache, and cookie history



outlined in Det. Velie's report of Steven Avery's computer, no apparent searches for pornographic and/or sexual images were made and no websites with apparent pornographic and/or sexual content were accessed. (Internet History Report of Steven Avery's computer and computer forensic report of Detective Velie, attached and/or incorporated herein as Group Exhibit 11).

Dassey computer

3. I have conducted further analyses of the internet records from the Dassey computer, specifically the searches performed on a weekday between the hours of 6:00 a.m. and 3:45 p.m.:
 - a. 667 searches related to sexual content were performed on weekdays from 6:00 a.m. to 3:45 p.m. 562 of the searches were performed on 10 weekdays: 8/16/2005 (4 searches); 9/13/2005 (12 searches); 2/23/2005 (46 searches); 3/29/2006 (37 searches); 3/30/2006 (23 searches); 4/3/2006 (93 searches); 4/5/2006 (96 searches); 4/6/2006 (14 searches); 4/13/2006 (39 searches); 4/19/2006 (196 searches). (Spreadsheet listing weekday from 6:00 a.m. to 3:45 p.m. searches attached and incorporated herein as part of Group Exhibit 12 to this affidavit);
4. I identified the following categories of searches:
 - a. 22 search terms describing forcing sex toys and objects into vaginas;
 - b. 37 searches for terms describing violent accidents, specifically violent car crashes with images of dead bodies;

c. 13 searches for terms describing drowned, dead, or diseased female bodies; and

d. 65 searches for terms describing the infliction of violence on females, including fisting and images of females in pain.

(Spreadsheets listing searches for categorized terms, attached and incorporated herein as Group Exhibit 13).

5. I would like to clarify my opinion regarding the images of Teresa Halbach stored on the Dassey computer as expressed in ¶ 11(e) of my original affidavit. The primary purpose of my opinion was to refute the assertion made by Special Agent Thomas Fassbender in his report labeled #05-1776/304, wherein he stated that the photographs of Teresa Halbach and Steven Avery had an "apparent date of April 18, 2006." Based upon my examination of the Dassey computer, there is no evidence that the images of Teresa Halbach which I discovered were saved to the Dassey computer on April 18, 2006. Det. Velie did not provide copies of the images he discovered. If they are indeed the same images, Det. Velie could not have determined the images' original path, file name, and created, accessed, or modified timestamps.
6. Additionally, in my supplemental affidavit, I made a typographical error when correcting ¶ 11(c) of the original affidavit. My affidavit should read "On

September 18, 2005. between 5:57AM and 10:01 PM, the HP_Owner user conducted 75 unique Google searches."


FURTHER AFFIANT SAYETH NAUGHT



Gary Hunt

State of Illinois
County of Cook

Subscribed and sworn before me
this 16th day of November, 2017.



Notary Public







Category A — Search terms describing forcing sex toys and objects into vaginas

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 big things in pussy	http://images.google.com/images?q=big+things+in+pussy+&btnG=Search	4/13/2006 13:22	Thursday
2 big things in pussy	http://images.google.com/images?q=big+things+in+pussy+&svnum=1	4/13/2006 13:23	Thursday
3 big woman naked	http://images.google.com/images?q=big+woman+naked&svnum=108	4/20/2006 12:40	Thursday
4 huge dildo in pussys	http://images.google.com/images?q=huge+dildo+in+pussys&svnum=1	4/13/2006 13:24	Thursday
5 huge dildo in pussys	http://images.google.com/images?q=huge+dildo+in+pussys&svnum=1	4/13/2006 13:24	Thursday
6 huge dildo in pussys	http://images.google.com/images?q=huge+dildo+in+pussys&svnum=1	4/13/2006 13:26	Thursday
7 stretching pussy	http://images.google.com/images?q=stretching+pussy&svnum=10&hl=en&safe=off&sa=X&ved=0ahUKEw...	4/19/2006 11:40	Wednesday
8 stretching pussy	http://images.google.com/images?q=stretching+pussy+toys&svnum=1	4/19/2006 11:42	Wednesday
9 stretching pussy toys	http://images.google.com/images?q=stretching+pussy+toys&svnum=1	4/19/2006 11:42	Wednesday
10 woman dildo	http://images.google.com/images?svnum=10&hl=en&lr=&q=woman+toys&sa=X&ved=0ahUKEw...	8/14/2005 8:39	Sunday
11 womans dildo	http://images.google.com/images?svnum=10&hl=en&lr=&q=womans+toys&sa=X&ved=0ahUKEw...	8/14/2005 8:38	Sunday
12 woman's dildo	http://images.google.com/images?svnum=10&hl=en&q=woman%27s+toys&sa=X&ved=0ahUKEw...	8/14/2005 8:38	Sunday
13 woman's dildo	http://images.google.com/images?svnum=10&hl=en&lr=&q=woman%27s+toys&sa=X&ved=0ahUKEw...	8/14/2005 8:39	Sunday
14 slut using sex objects	http://images.google.com/images?q=slut+using+sex+objects&svnum=1	9/14/2005 19:47	Wednesday
15 slut sex objects	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q=slut+sex+objects&sa=X&ved=0ahUKEw...	9/14/2005 19:48	Wednesday
16 Extreme anal toys	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q=Extreme+anal+toys&sa=X&ved=0ahUKEw...	4/18/2006 16:57	Tuesday
17 Extreme anal toy	http://images.google.com/images?q=Extreme+anal+toy&btnG=Search	4/18/2006 17:00	Tuesday
18 Extreme anal toys	http://images.google.com/images?q=Extreme+anal+toys&svnum=10&hl=en&lr=&safe=off&q=Extreme+anal+toys&sa=X&ved=0ahUKEw...	4/18/2006 17:00	Tuesday
19 Extreme anal toy	http://images.google.com/images?q=Extreme+anal+toy&svnum=10&hl=en&lr=&safe=off&q=Extreme+anal+toy&sa=X&ved=0ahUKEw...	4/18/2006 17:03	Tuesday
20 object pussy	http://images.google.com/images?q=object+pussy&svnum=10&hl=en&lr=&safe=off&q=object+pussy&sa=X&ved=0ahUKEw...	4/18/2006 17:10	Tuesday
21 stretching pussy	http://images.google.com/images?q=stretching+pussy&svnum=10&hl=en&lr=&safe=off&q=stretching+pussy&sa=X&ved=0ahUKEw...	4/18/2006 17:16	Tuesday
22 stretching pussy	http://images.google.com/images?svnum=10&hl=en&safe=off&sa=X&ved=0ahUKEw...	4/18/2006 17:17	Tuesday



Category B — Searches for terms describing violent accidents

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 accident	http://images.google.com/images?q=accident&svnum=10&hl=en&lr=	4/16/2006 10:17	Sunday
2 car accident	http://images.google.com/images?q=car+accident&btnG=Search&svn	4/16/2006 10:16	Sunday
3 fast accident	http://images.google.com/images?q=fast+accident&svnum=10&hl=en	4/16/2006 10:17	Sunday
4 fast car accident	http://images.google.com/images?svnum=10&hl=en&lr=&newwindow=	4/16/2006 10:17	Sunday
5 ford tempo car accident	http://images.google.com/images?q=ford+tempo+car+accident&svnum=	4/16/2006 10:16	Sunday
6 ford tempo accident	http://images.google.com/images?q=ford+tempo+accident&svnum=	4/16/2006 10:17	Sunday
7 ford tempo car accident	http://images.google.com/images?svnum=10&hl=en&newwindow=1	4/16/2006 10:16	Sunday
8 race car accident	http://images.google.com/images?q=race+car+accident&svnum=10&	4/16/2006 10:15	Sunday
9 race car accidents	http://images.google.com/images?svnum=10&hl=en&newwindow=1	4/16/2006 10:14	Sunday
10 race car accidents	http://images.google.com/images?q=race+car+accidents&svnum=10	4/16/2006 10:14	Sunday
11 seeing bones hot girls	http://images.google.com/images?svnum=10&hl=en&safe=off&q=see	2/23/2006 12:20	Thursday
12 seeing bones hot girls	http://images.google.com/images?q=seeing+bones+hot+girls&svnum=	2/23/2006 12:20	Thursday
13 tempo car accident	http://images.google.com/images?q=tempo+car+accident&svnum=10	4/16/2006 10:16	Sunday
14 car accidents	http://images.google.com/images?svnum=10&hl=en&safe=off&q=car	2/22/2006 20:14	Wednesday
15 car accidents	http://images.google.com/images?svnum=10&hl=en&safe=off&q=car	2/22/2006 20:14	Wednesday
16 car accidents	http://images.google.com/images?q=car+accidents&svnum=10&hl=en	2/22/2006 20:15	Wednesday
17 car accidents	http://images.google.com/images?q=car+accidents&svnum=10&hl=en	2/22/2006 20:15	Wednesday
18 car accidents	http://images.google.com/images?q=car+accidents&svnum=10&hl=en	2/22/2006 20:18	Wednesday
19 car accident	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/22/2006 20:25	Wednesday
20 car accident	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/22/2006 20:25	Wednesday
21 alive skeleton	http://images.google.com/images?q=alive+skeleton&hl=en	9/17/2005 20:24	Saturday
22 alive skeleton	http://images.google.com/images?q=alive+skeleton&hl=en	9/17/2005 20:24	Saturday
23 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=en	9/17/2005 20:24	Saturday
24 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=en	9/17/2005 20:24	Saturday
25 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=en	9/17/2005 20:24	Saturday
26 alive skeleton	http://images.google.com/images?q=alive+skeleton&svnum=10&hl=en	9/17/2005 20:24	Saturday
27 skeleton	http://images.google.com/images?q=skeleton&hl=en	9/17/2005 20:24	Saturday
28 skeleton	http://images.google.com/images?q=skeleton&hl=en	9/17/2005 20:25	Saturday

Category C — Searches for terms describing drowned or dead female bodies

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 drawn girls	http://images.google.com/images?q=drawn+girls&svnum=10&hl=e	4/19/2006 10:43	Wednesday
2 drawn pussy	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	4/19/2006 10:48	Wednesday
3 drowned	http://images.google.com/images?q=drowned&svnum=10&hl=en&lr=	4/19/2006 10:47	Wednesday
4 drowned girl	http://images.google.com/images?q=drowned+girl&svnum=10&hl=en	4/19/2006 10:44	Wednesday
5 drowned girl	http://images.google.com/images?q=drowned+girl&svnum=10&hl=en	4/19/2006 10:45	Wednesday
6 drowned girl nude	http://images.google.com/images?q=drowned+girl+nude&svnum=10	4/19/2006 10:44	Wednesday
7 drowned girls	http://images.google.com/images?svnum=10&hl=en&safe=off&sa=X&	4/19/2006 10:43	Wednesday
8 drowned pussy	http://images.google.com/images?svnum=10&hl=en&safe=off&sa=X&	4/19/2006 10:48	Wednesday
9 deseised girls	http://images.google.com/images?q=deseised+girls&svnum=10&hl=e	2/27/2006 19:07	Monday
10 desessed girls	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/27/2006 19:07	Monday
11 diseased girls	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	2/27/2006 19:08	Monday
12 diseased girl	http://images.google.com/images?q=diseased+girl&svnum=10&hl=en	2/27/2006 19:09	Monday
13 rotton	http://images.google.com/images?hl=en&lr=&safe=off&q=rotton&sa=	2/19/2006 21:30	Sunday

Category D — Searches for terms describing the infliction of violence on females, including fisting and images of females in pain

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
1 fist	http://images.google.com/images?svnum=10&hl=en&lr=&newwindow	4/9/2006 11:02	Sunday
2 fist	http://images.google.com/images?svnum=10&hl=en&lr=&newwindow	4/9/2006 11:02	Sunday
3 fist fucking sluts	http://images.google.com/images?q=fist+fucking+sluts&hl=en	9/15/2005 7:54	Thursday
4 fist fucky	http://images.google.com/images?q=fist+fucky&svnum=10&hl=en&lr=	4/9/2006 11:01	Sunday
5 fist fucky	http://images.google.com/images?q=fist+fucky&svnum=10&hl=en&lr=	4/9/2006 11:01	Sunday
6 fist sex	http://images.google.com/images?q=fist+sex&svnum=10&hl=en&lr=	9/13/2005 8:14	Tuesday
7 fist sex	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	9/13/2005 8:14	Tuesday
8 fisting	http://images.google.com/images?q=fisting&svnum=10&hl=en&lr=&lr=	4/9/2006 11:02	Sunday
9 fisting	http://images.google.com/images?q=fisting&svnum=10&hl=en&lr=&lr=	4/9/2006 11:02	Sunday
10 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/30/2006 9:21	Thursday
11 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/30/2006 9:21	Thursday
12 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&lr=	3/30/2006 9:22	Thursday
13 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&lr=	3/30/2006 9:22	Thursday
14 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr=	3/30/2006 9:21	Thursday
15 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr=	3/30/2006 9:21	Thursday
16 girls moon face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/20/2006 16:34	Monday
17 hot girls moon	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/20/2006 16:34	Monday
18 girls grooming face	http://images.google.com/images?q=girls+mooning&svnum=10&hl=en&lr=	3/20/2006 16:35	Monday
19 girls mooning	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/20/2006 16:38	Monday
20 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:10	Tuesday
21 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=	3/28/2006 16:10	Tuesday
22 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=	3/28/2006 16:10	Tuesday
23 fist fuck	http://images.google.com/setprefs?hl=en&lang=all&safe=off&num=1	3/28/2006 16:10	Tuesday
24 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10	3/28/2006 16:11	Tuesday
25 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10	3/28/2006 16:15	Tuesday
26 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:15	Tuesday
27 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:15	Tuesday
28 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:15	Tuesday
29 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:16	Tuesday
30 fist fuck	http://images.google.com/advanced_image_search?q=fist+fuck&svnu	3/28/2006 16:17	Tuesday
31 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&hl=en&lr=	3/28/2006 16:17	Tuesday
32 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&start=40&	3/28/2006 16:17	Tuesday

Search Term	URL	Date/Time - (mm/dd/yy)	Day of Week
33 fist fuck	http://images.google.com/images?q=fist+fuck&svnum=10&start=40&	3/28/2006 16:17	Tuesday
34 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=&safe=	3/28/2006 16:17	Tuesday
35 fist fuck	http://images.google.com/preferences?q=fist+fuck&hl=en&lr=&safe=	3/28/2006 16:17	Tuesday
36 fist fuck	http://images.google.com/setprefs?hl=en&lang=all&safe=images&nu	3/28/2006 16:17	Tuesday
37 fist	http://images.google.com/images?q=fist+&svnum=10&hl=en&lr=	3/28/2006 16:18	Tuesday
38 fist	http://images.google.com/images?q=fist+&svnum=10&hl=en&lr=	3/28/2006 16:18	Tuesday
39 Girl action hert	http://images.google.com/images?q=Girl+action+hert&svnum=10&hl	3/29/2006 16:11	Wednesday
40 Girl action hert	http://images.google.com/images?q=Girl+action+hert&svnum=10&hl	3/29/2006 16:11	Wednesday
41 Girl action hert	http://images.google.com/images?q=Girl+action+hert&svnum=10&hl	3/29/2006 16:11	Wednesday
42 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:12	Wednesday
43 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:12	Wednesday
44 Girl action hurts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:12	Wednesday
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46 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr	3/29/2006 16:12	Wednesday
47 Girl hurt	http://images.google.com/images?q=Girl+hurt&svnum=10&hl=en&lr=	3/29/2006 16:13	Wednesday
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49 Girl hurt	http://images.google.com/images?q=Girl+hurt&svnum=10&hl=en&lr=	3/29/2006 16:13	Wednesday
50 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&	3/29/2006 16:13	Wednesday
51 Girl hurting	http://images.google.com/images?q=Girl+hurting&svnum=10&hl=en&	3/29/2006 16:13	Wednesday
52 Girl hurts	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr	3/29/2006 16:13	Wednesday
53 Girl hurting	http://images.google.com/images?q=Girl+hurts&svnum=10&hl=en&lr	3/29/2006 16:13	Wednesday
54 Girl moning face\	http://images.google.com/images?q=Girl+moning+face%5C&svnum=	3/29/2006 16:14	Wednesday
55 Girl moning face\	http://images.google.com/images?q=Girl+moning+face%5C&svnum=	3/29/2006 16:16	Wednesday
56 Girl moning face\	http://images.google.com/images?q=Girl+moning+face%5C&svnum=	3/29/2006 16:16	Wednesday
57 Girl moning face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:17	Wednesday
58 Girl moning face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:17	Wednesday
59 Girl moning face	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:17	Wednesday
60 girl guts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:29	Wednesday
61 girl guts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:29	Wednesday
62 girl guts	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:29	Wednesday
63 girl gut	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:30	Wednesday
64 girl gut	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:30	Wednesday
65 girl gut	http://images.google.com/images?svnum=10&hl=en&lr=&safe=off&q	3/29/2006 16:30	Wednesday

at the Dassey residence. Bobby's younger brothers, Blaine and Brendan, were at school, Bobby's mother was at work, his older brother, Bryan, no longer lived at the residence, and Tom Janda, who moved out on October 15, 2005, was at work.

4. Based upon Mr. Hunt's findings, 667 sexual image searches were performed on weekdays from 6:00 a.m. to 3:45 p.m. Of those searches, 562 were performed on 10 weekdays: 8/16/2005 (4 searches); 9/13/2005 (12 searches); 2/23/2005 (48 searches); 3/29/2006 (37 searches); 3/30/2006 (23 searches); 4/3/2006 (93 searches); 4/5/2006 (96 searches); 4/6/2006 (14 searches); 4/13/2006 (39 searches); 4/19/2006 (196 searches).
5. The 562 searches on 10 days demonstrate the obsessively compulsive nature of Bobby Dassey's internet searches and his fascination with sexual acts that involve the infliction of pain, torture and humiliation on females and an equally disturbing fascination with viewing dead female bodies.
6. The internet searches done on the Dassey computer, which were focused on viewing images in which pain, torture, humiliation and death are inflicted upon women, should have raised a red flag about Bobby's involvement in Ms. Halbach's murder. Bobby cannot be excluded from the following searches:
 - a. 22 search terms describing forcing sex toys and objects into vaginas;
 - b. 28 searches for terms describing violent accidents, specifically violent car crashes with images of dead bodies;

1 at that time?

2 A Yes, I was. I worked at Fischer Hamilton's, third
3 shift.

4 Q What time would you start work on any day?

5 A I would start at ten at night and work until six in
6 the morning.

7 Q On October thirty-first of 2005, could you tell
8 the jury if you were home during the daytime
9 hours?

10 A Yes, I was.

11 Q And how late, or how long were you home until?

12 A I was home until 2:30 that day.

13 Q What were you doing before 2:30?

14 A I was sleeping.

15 Q When you say "2:30", are you talking about the
16 afternoon or morning?

17 A In the afternoon.

18 Q To your knowledge, Bobby, was anybody else at home
19 with you?

20 A No.

21 Q Do you remember anything unusual that happened at
22 about 2:30 that afternoon?

23 A A vehicle had drove up, and started taking pictures
24 of the van.

25 Q All right. Let's back up just a minute. Were you

1 my grandma's house, right there.

2 Q. Same place?

3 A. Mm-hmm.

4 Q. You have to say yes or no.

5 A. Yes.

6 Q. Now, your trailer is a little bit west, or a
7 little bit further down from that intersection;
8 do you know why the bus picks you up and drops
9 you off up near your grandma's trailer?

10 A. I'm not sure.

11 Q. They just do?

12 A. Yeah.

13 Q. Blaine, how do you get to and from the bus from
14 your house?

15 A. I walk down the road.

16 Q. Okay. Now, back in October of 2005, was there
17 somebody else in your house who also went to
18 school with you?

19 A. Yes.

20 Q. Who was that?

21 A. Brendan.

22 Q. And who's Brendan?

23 A. My brother.

24 Q. At Mishicot School, Blaine, do you know about
25 what time school lets out?

1 A. 3:05.

2 Q. And after school lets out, and I'm going to
3 specifically ask you about October 31st of 2005;
4 do you remember what time you came home that day?

5 A. 3:40.

6 Q. 3:40? That's 20 to 4 in the afternoon; is that
7 right?

8 A. Yup.

9 Q. You have to answer out loud?

10 A. Yes.

11 Q. Do you remember coming home that day, Blaine?

12 A. Yes.

13 Q. And could you tell the jury how you got home that
14 day?

15 A. The school bus.

16 Q. And did anybody come home on the school bus with
17 you?

18 A. Yes, Brendan.

19 Q. After you and Brendan got home, at about 3:40,
20 can you tell the jury what you did, please?

21 A. We walked down the road.

22 Q. And why don't you use your laser pointer again
23 and tell the jury, when you walked down the road,
24 where did you walk?

25 A. Down here, right there.

On Sunday, November 6, 2005, at approximately 12:20 p.m., S/A Kim J. Skorlinski and S/A Debra K. Strauss interviewed Bryan J. Dassey, DOB 07/15/1985, the nephew of Steven Avery, regarding this investigation. Bryan lives with his mother, Barbara Janda, and three brothers on the Avery Auto Salvage property. His house is adjacent to Steven's house. Prior to the interview, Bryan was driving Steven's blue 1993 Pontiac Grand Am and was stopped by the Marinette County Sheriff's Department pursuant to a search warrant for that vehicle.

At first Bryan said he did not know anything about what was going on, but then agreed to talk to the special agents. During the interview, S/A Skorlinski and Bryan sat in the front seat of S/A Skorlinski's state vehicle and S/A Strauss sat in the backseat. S/A Skorlinski explained to Bryan the search warrant for the Pontiac Grand Am, and he stated he understood why the car had to be seized. He said he and his brother Brendan were on their way to a local store, Tall Oaks, to buy soda when they were stopped.

Bryan said he rode up to the Avery residence at N9493 Highline Road, Town of Stephenson (Crivitz), on Saturday morning, November 5, 2005, with Steven and his grandmother, Delores Avery. He said when they got to the residence, his grandfather, Allan Avery; and his uncle, Charles "Chuck" Avery; and his brother, Brendan were already there. Bryan said his grandfather came to the residence on Thursday night, November 3, 2005, and Chuck and Brendan came on Friday night, November 4, 2005. Bryan said the plan was for all family members to stay at the residence until today and then travel back to their residences at Avery's Auto Salvage in Two Rivers, Manitowoc County.

S/A Skorlinski asked how he could contact Bryan's mother, Barb, and he said S/A Skorlinski said he could call her on her cell phone, 920-973-1740, or else her boyfriend, Scott's cell phone (b/wb Scott Tadych), 920-973-2222. Bryan said his mom and step-dad are getting a divorced. He said his biological dad is not around much.

Bryan lives at Avery's Auto Salvage property with his mom, and brothers Brendan (15½ years old), Blaine (16 years old) and Bobby (19 years old). Bryan said he is not around the residence or the auto salvage yard much because he works at Woodland Face Veneer, Two Rivers. He said he leaves for work at 6:00 a.m. and then after work he is usually at his girlfriend's house until late in the evening.

Bryan was asked about the other vehicles at the Avery residence on Highline Lane, and he said Chuck's flatbed tow truck and Allan's Chevrolet pick up truck are still there. Bryan was asked about a black Ford pick up truck at Steven's residence at the auto salvage yard. He said that pick up truck is owned by Steven and should be at the residence because Steven drove his Pontiac Grand Am.

Bryan was asked about the events of Monday, October 31, 2005, which was Halloween. He said

he was not home at all during that day, except for waking up and going to work. Bryan said he got home sometime after supper, but could not recall when that was. He was asked why the Avery family members chose to come to their residence on Highline Lane this weekend, and he said they were going to butcher chickens and cut firewood. Bryan was asked about a deer they had hanging at their residence at the auto salvage yard. He said Bobby picked up that deer from a car/deer accident and it is hanging in the garage at his mom's house. Bryan believed this accident occurred on Friday night, November 4, 2005. Bryan said he is not certain, because he stayed with his girlfriend Friday night and did not get home until about 5:30 a.m. on Saturday, November 5, 2005.

Bryan said he heard from his mom and Steven that Halbach was only at their residence about 5 minutes. He heard she just took the photo of the van and left. Bryan said the investigators should also talk to his brother Bobby, because he saw her leave their property.

Bryan was asked about access into the back of the salvage yard, and he said anyone can drive a car back there. He said a car can be driven through Radant Sand and Gravel pit to the back of the salvage yard. He recalled a time when 4 kids were caught driving back there.

Bryan said he also heard that his uncle, Earl Avery and his brother-in-law, Bob, were hunting rabbits in the salvage yard on Wednesday, November 2, 2005, and they did not see Halbach's vehicle in the back of the salvage yard.

The interview was terminated at approximately 1:00 p.m., however, Bryan remained in S/A Skorlinski's vehicle until Investigators Tony O'Neill and Todd Baldwin, of the Marinette County Sheriff's Department, had completed their interview of Brendan. When that was completed, both Bryan and Brendan were transported back to the Avery residence at Highline Lane, which was approximately 1:45 p.m.

which was near the entry door. BARBARA JANDA sat at a chair with her back to the entryway door while S/A Holmes sat on JANDA's right side and S/A Kapitany sat on JANDA's left side.

For clarity purposes within this report, the JANDA and AVERY family members will be referred to by their first names throughout this report.

INITIAL STATEMENTS MADE BY BARBARA JANDA

Initially when the agents met with JANDA at the Y-Go-By Restaurant, S/A Holmes asked JANDA if she knew why the agents wanted to speak to her. JANDA told the agents that she believed the agents wanted to speak with her regarding the girl who was missing who took pictures "out there." JANDA told the agents she believed that the girl had been missing since Monday (10/31/2005), but that BARBARA was working on Monday. JANDA also told the agents that she believed that the girl was at "our house, I guess" on Monday when BARBARA was at work.

BARBARA told the agents that she believed her brother, STEVEN AVERY, was being framed for the missing woman's disappearance.

S/A Holmes told BARBARA that the agents appreciated her meeting with them. S/A Holmes also told BARBARA that law enforcement officers would be interviewing a lot of people regarding TERESA M. HALBACH'S (DOB: 03/22/1980) disappearance, and that the investigation was not focused on STEVEN AVERY. S/A Holmes told BARBARA that the investigation was focused on finding HALBACH first, and then learning what might have happened to HALBACH. BARBARA stated that she understood.

BARBARA JANDA'S WORK SCHEDULE

S/A Holmes asked JANDA to provide the agents with her work schedule beginning on Monday, 10/31/2005, and ending on Friday, 11/04/2005. JANDA stated that her normal work schedule was from 6:00 a.m. until 4:30 p.m. every day Monday through Thursday of every week. JANDA believed that she went to work at 5:30 a.m. on Monday, 10/31/2005. BARBARA stated that she always ended her work day at 4:30 p.m. and that she was usually always home at her residence by 5:00 p.m. at the latest.

BARBARA JANDA'S CHILDREN

S/A Holmes asked BARBARA if anyone lived with her at her residence on Avery Drive. BARBARA told the agents that all of her kids lived with her. S/A Holmes asked BARBARA if she could give the names of all of her children to the agents as well as their contact information. BARBARA provided the following names to the agents.

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STATE OF WISCONSIN

v.

STEVEN A. AVERY

)
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)
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Case No. 05 CF 381

AFFIDAVIT OF BLAINE DASSEY

Now comes your affiant, Blaine Dassey, and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge. The factual statements herein are true and correct to the best of my knowledge, information and belief. I am of sound mind and I am not taking any medication, nor have I ingested any alcohol that would impair my memory of the facts stated in this affidavit.

2. In October 2005, I lived with my mother and brothers at 12930A Avery Road, Two Rivers, WI 54241. My brothers' names are Brendan, Bryan, and Bobby Dassey. Brendan and I shared a bedroom. Bobby had his own bedroom. Bryan kept some clothes at the house but lived with his girlfriend and was rarely at the residence. Tom Janda had moved out of the residence in early 2005.

3. When none of us were home, the residence was always locked.

1



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BARBARA indicated she never saw TOM view pornography on the computer.

BARBARA stated TOM moved out of the residence on 10/15/05 and went to a residence somewhere in Manitowoc. BARBARA stated TOM knew the doors to her residence would be unlocked. BARBARA stated TOM was not welcomed on the property by BARBARA, but TOM used to visit BARBARA's parents after she and TOM separated. BARBARA also stated that TOM would go "up north" with her parents. BARBARA indicated her parents did not like and still do not like SCOTT TADYCH.

Dassey computer. Thus, the Defendant had the pornography within his possession well before trial. To establish a *Brady* violation, he has to establish that the evidence withheld – the Velie CD – was favorable to the defense. He makes no such argument. Rather, he focuses on the pornography. As trial neared, neither side thought the Velie analysis was relevant. Both sides were correct. The Velie CD, in and of itself, was not favorable to the defense. There was no *Brady* violation here.

For the sake of argument, but not relevant to the *Brady* analysis, the Dassey computer (and the pornography it contained) was not favorable to the defense either. The computer was accessible to numerous people. Brendan Dassey, Blaine Dassey, Scott Tadych, Bryan Dassey, Bobby Dassey, Barb Janda, and Tom Janda all either lived in the house or had visited the house up until October 15, 2005, when Tom Janda moved out. The four Dassey brothers and Barb Janda lived in the residence from October 31, 2005, to March 1, 2006, when Brendan Dassey was arrested. Steven Avery was a regular visitor to the Dassey house, giving him access to the computer as well.

Context is important here. Attorneys Strang or Buting likely did not ask for the Velie CD because it was not relevant to their theory of defense, which centered on the recently discovered vial of Avery's blood. The seven DVDs and the Fassbender Report were provided right after the defense revealed the existence of "the blood vial" containing a sample of Avery's blood. The defense team made the strategic decision to focus on the blood planting defense, making the Dassey computer irrelevant. And the Defendant has not established any logical nexus to the murder of Theresa

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)	
)	
Plaintiff,)	
	)	Case No. 05-CF-381
v.)	
	)	Honorable Judge Angela Sukiewicz,
STEVEN A. AVERY,	)	Judge Presiding
)	
Defendant.)	

SUPPLEMENTAL AFFIDAVIT OF STEVEN A. AVERY, SR.

Now comes your affiant, Steven A. Avery, Sr., and under oath hereby states as follows:

1. I am the defendant in this case. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge. The factual statements herein are true and correct to the best of my knowledge, information, and belief. I am of sound mind and I am not taking any medication nor have I ingested any alcohol that would impair my memory of the facts stated in this affidavit.
2. Bobby Dassey, in his November 5, 2005 police interview, lied when he denied having ever seen Teresa Halbach before October 31, 2005. (SAO 1295). I distinctly remember that every time Teresa Halbach came to our property to photograph vehicles, Bobby would always say, "I see that your girlfriend was over yesterday," the following day.
3. After I moved into my trailer, I never entered my sister Barb's residence at 1290 A Avery Road when no one else was home. The only occasions when I was in Barb's residence were when I had been admitted into the residence by Barb or one of my nephews. I did not have a key to Barb's residence, and the residence was locked when no one was home.



4. I was aware that my sister Barb had a computer in her trailer. I was present one time when Barb turned on the computer which was in Bobby's room. Another woman, whom I did not know, was present at the time.
5. I never turned on Barb's computer and used her computer in any way. I did not have the password for the computer. On one occasion, I observed Blaine on the computer communicating with his girlfriend.
6. I had my own computer with internet service. There would be no reason that I would need to be on Barb's computer.
7. My computer was never used to do Google searches. My girlfriend, Jodi, and my sister, Barb, did Yahoo searches. I was present with my sister, Barb, who did a search of dating sites for my brother, Chuck, and for property. The only other searches were done by my girlfriend, Jodi. At no time were searches ever done on my computer for images of Teresa Halbach or images of violent pornography.
8. The only adult films I have ever viewed were on DirecTV. On my computer, the only nude photographs I had were ones uploaded by my girlfriend of her and me.
9. After I was arrested, the authorities put an inmate in my cell who was trying to get me to make incriminating statements. I have reviewed the police report of Orville Jacobs. The statements in that report are false. I never told Mr. Jacobs that my sister, Barb, had porn on her computer or that there would be trouble if the porn were found. I know that my attorneys told me they wanted to inspect the Dassey computer and immediately after that telephone conversation with them, the Dassey computer was seized by the authorities.
(Attached and incorporated herein as Exhibit A is the 4/14/06 CCSD report.

towards the Dassey residence in his green truck on several occasions during the time period. Mr. Avery never accessed the Dassey computer and did not have the password for the computer. Mr. Avery did not have a key to the Dassey residence and the residence was locked when no one was home. Mr. Avery only entered the residence with permission of a Dassey family member. Mr. Avery worked during the weekdays from 8:00 a.m. to 5:00 p.m. The Supplemental Affidavit of Steven A. Avery is attached and incorporated herein as Exhibit D, at ¶¶ 3, 5, 10.¹

Mr. Buting describes the significance of the State's concealment of Detective Velie's "Final Report" in his affidavit. At the time the voluminous discovery was tendered on December 14, 2006, defense counsel was preparing to litigate a *Denny* motion to introduce evidence of third-party suspects at Mr. Avery's trial. Judge Willis ruled against the defense on this *Denny* motion because the defense failed to present any evidence of the motive for the murder. Had the defense been able to use Detective Velie's report to link Bobby Dassey to the violent, sexual, and deceased body images on the Dassey computer, the defense would have been able to establish sexual assault as the motive for Ms. Halbach's murder.

Violent, Sexual, and Deceased Body Images on the Dassey Computer Were Admissible Evidence in Mr. Avery's Trial to establish the Denny requirement of Motive

¹ Mr. Avery has given an affidavit wherein he states that he never made statements to Orville Jacobs about pornography on Barb's computer. Mr. Jacobs was planted in Mr. Avery's cell by law enforcement and Mr. Avery did not communicate with him about his case. Mr. Avery's attorneys wanted to inspect the Dassey computer and told him so in a telephone conversation. The Dassey computer was seized shortly after this telephone conversation. See Supplemental Affidavit of Steven Avery, Exhibit D at ¶ 9.

STATE5682-83).

10. My work schedule at the salvage yard was from 8:00 a.m. until 5:00 p.m., Monday through Friday. Several times when I was at work, I noticed Scott Tadych enter the property in his green truck and proceed to Barb's trailer, where Bobby was at home.
11. I am aware that Prosecutor Kratz has said that I was sweating a lot on October 31, 2005, because I had raped and murdered Ms. Halbach in my bedroom. Mr. Kratz's story is completely and totally false. I never harmed Ms. Halbach in any way. There was no forensic evidence in my trailer that would have shown that a rape and murder occurred there, so Mr. Kratz had to drop the rape charge. Mr. Kratz changed the story to say that the murder of Teresa Halbach was in my garage. Mr. Kratz said I shot Ms. Halbach in the head after carrying her to the garage. After carrying her to the garage, Mr. Kratz said that I threw Teresa Halbach into the rear of her vehicle, then took her out of the vehicle, shot her in the head on my garage floor, put her on a creeper, and threw her body into my fire pit where I started a huge bonfire. Mr. Kratz's ridiculous story is totally false.
12. In order to support his false story, Mr. Kratz added the detail that I was sweating a lot on October 31, 2005, when I supposedly propped a car hood and put branches on Ms. Halbach's vehicle to conceal it. Mr. Kratz's claim about me concealing the vehicle is totally false, and his claim about me sweating a lot is totally false. I did not drink alcohol or take medication which may have caused me to sweat. I did not sweat when I did manual labor for up to eight hours a day at the salvage yard. On October 31, 2005, the outside temperature was about 48 to 50 degrees, so there was no heat which would cause me to sweat.

1 Q. And then your mom had a bolt action .22 rifle in
2 her bedroom, right?

3 A. Yes.

4 Q. You kept your Marlin .22 semi-automatic in your
5 bedroom?

6 A. Yes.

7 Q. Mr. Dassey, just to finish, are you quite sure
8 now whatever details you don't remember of
9 Halloween, 2005, today, are you quite sure now
10 that you woke up and got up sometime by 2:30, or
11 a little before?

12 A. Yes.

13 Q. You said yesterday that Blaine and Brendan were
14 still in high school, got home usually what,
15 3:40, 3:45, somewhere in there?

16 A. Yes.

17 Q. And that was regular every day?

18 A. Yes, every day.

19 Q. Because they took a school bus to and from
20 school?

21 A. Yes.

22 Q. School lets out at the same time, the bus runs
23 the same route, that they were pretty regular.

24 A. Yes.

25 Q. And are you quite sure that Blaine and Brendan,

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)	
)	
Plaintiff,)	
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STEVENA. AVERY,)	Judge Presiding
)	
Defendant.)	

SUPPLEMENTAL AFFIDAVIT OF GARY HUNT

Now comes your affiant, Gary Hunt, and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge and to a reasonable degree of certainty in the field of computer science. The factual statements herein are true and correct to the best of my knowledge, information, and belief.
2. In my original affidavit (Exhibit Q to Motion for Reconsideration), I made a typographical error at ¶ 11(c). My affidavit should read: "On September 18, 2005, between 5:57 AM and 10:04 AM, the HP_Owner user conducted 75 unique Google searches."
3. Using 2017 technology, I have detected eight periods in 2005 when computer records are missing and presumably deleted from the Dassey computer: August 23-26; August 28-September 11; September 14-15; September 24-



October 22; October 23-24; October 26-November 2; November 4-13; and
November 15- December 3.

- 4. On October 31, 2005, the Dassey computer was used to access the internet at 6:05 a.m., 6:28 a.m., 6:31 a.m., 7:00 a.m., 9:33 a.m., 10:09 a.m., 1:08 p.m., and 1:51 p.m.

FURTHER AFFIANT SAYETH NAUGHT



Gary Hunt

Subscribed and sworn before me
this 30th day of October, 2017.


Notary Public

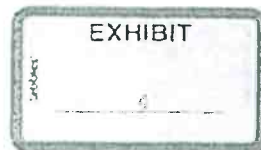
STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)
)
 Plaintiff,)
) Case No. 05-CF-381
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 STEVEN A. AVERY,)
) Judge Presiding
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FURTHER AFFIANT SAYETH NAUGHT



Gary Hunt

Subscribed and sworn before me
this 30th day of October, 2017.


Notary Public

1 at that time?

2 A Yes, I was. I worked at Fischer Hamilton's, third
3 shift.

4 Q What time would you start work on any day?

5 A I would start at ten at night and work until six in
6 the morning.

7 Q On October thirty-first of 2005, could you tell
8 the jury if you were home during the daytime
9 hours?

10 A Yes, I was.

11 Q And how late, or how long were you home until?

12 A I was home until 2:30 that day.

13 Q What were you doing before 2:30?

14 A I was sleeping.

15 Q When you say "2:30", are you talking about the
16 afternoon or morning?

17 A In the afternoon.

18 Q To your knowledge, Bobby, was anybody else at home
19 with you?

20 A No.

21 Q Do you remember anything unusual that happened at
22 about 2:30 that afternoon?

23 A A vehicle had drove up, and started taking pictures
24 of the van.

25 Q All right. Let's back up just a minute. Were you

CALUMET COUNTY SHERIFF'S DEPARTMENT

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to his vehicle and he did not see her when he got into his vehicle. BOBBY stated he had no idea who she was so he really did not pay a lot of attention. BOBBY stated the vehicle was still there when he left to go hunting. BOBBY stated he did not hear anything during the time when he was walking to his vehicle. BOBBY indicated he did not see TERESA leave the property. BOBBY was asked if he ever saw TERESA after he saw her walking toward STEVEN's trailer and he stated he had never seen her after that. BOBBY stated he never saw TERESA leave the property.

BOBBY then drew a map of the area where he witnessed these events and a copy can be found attached to this report.

BOBBY stated he did not recall seeing anyone when he got home from hunting, but when he left to go to work at 2120 to 2125 hours, he saw a fire behind STEVEN's garage and two people were standing by the fire. BOBBY indicated he was unsure who these two people were. BOBBY was asked if he saw TERESA's vehicle when he got back from hunting. BOBBY stated her vehicle was gone from the area where he saw it parked earlier when he returned from hunting at approximately 5:30 p.m.

BOBBY was asked if he remembered at any time talking to BRYAN DASSEY about TERESA leaving. BOBBY stated he never talked with BRYAN about seeing TERESA leave. BOBBY stated he never talked with BRYAN at any time about this. BOBBY was asked why BRYAN would say something like this and BOBBY responded, "Your guess is as good as mine." BOBBY stated he has no idea why BRYAN had stated that he had said this. BOBBY stated he never talked to BRYAN about these matters at all.

BOBBY stated he spoke with his mother about the fact that he had seen someone taking pictures of the van. BOBBY stated this was within a day or two of 10/31/05. BOBBY stated he recalled asking his mother why she was selling the van, as it was pretty much junk.

BOBBY was asked if he used the computer and the internet, while he was living at his mother's residence. BOBBY stated he did not recall, but stated, "If I did, it wasn't often." Initially, BOBBY indicated he did not recall if they had the internet at his mother's residence. BOBBY stated the tower computer was the only computer in the residence "I think." BOBBY stated everyone was on the computer, but he stated BLAINE and BRENDAN were the main users, as they used it for games. BOBBY stated he thought the computer was on a desk in the living room at the time.

BOBBY was asked if he ever downloaded or viewed pornography on his mother's computer. BOBBY stated he never downloaded any pornography. BOBBY stated he may have watched porn at some point on it, but indicated "I don't know." BOBBY stated there were five guys with access to the computer and he doesn't know if they would have downloaded or viewed pornography. I asked BOBBY who the fifth person was. BOBBY identified his brothers, BLAINE, BRENDAN, BRYAN, himself and TOM JANDA, as being the individuals with access

CALUMET COUNTY SHERIFF'S DEPARTMENT

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Page 50

to the computer. BOBBY stated he did not use the computer much, as he was working third shift at the time.

BOBBY was asked where his mother's computer was located in his mother's residence in October, 2005. BOBBY stated he thought it was in the living room. BOBBY was asked if it was ever in his bedroom and he stated it was not. BOBBY stated he had a 10'x12' bedroom and there was not much room in the bedroom after putting in dressers and beds. BOBBY stated he thought he shared the bedroom with his brother, BRYAN. BOBBY stated BRYAN eventually moved to the downstairs portion of the residence and this may have taken place before 10/31/05.

I asked BOBBY how he got along with TOM JANDA and he stated he got along with TOM, but he did not get along with SCOTT TADYCH at this time. BOBBY stated SCOTT did not like kids. BOBBY indicated that he believed TOM JANDA moved out of BARBARA's residence sometime in September. BOBBY stated SCOTT TADYCH did not come over to his mother's residence very often, but that BARBARA would go to SCOTT's residence.

BOBBY was asked if STEVEN had internet at his residence and he indicated he was not certain. BOBBY stated he was not at STEVEN's residence that often.

BOBBY was asked if he knew who created the folder with the page depicting STEVEN and TERESA's photographs. BOBBY indicated he knew how to create folders, but he had no idea as to who created those folders. BOBBY was specifically asked who created "TERESA" and "HALBACH" and "DNA" folders that were on the computer and he stated he had no idea who did this. BOBBY was asked if he did it and he indicated, "No."

BOBBY was asked if he ever hunted on the RADANDT property or gravel pit or in the area off Kuss Road in Two Rivers. BOBBY was unfamiliar with where I was talking about when I mentioned Kuss Road. I then produced a map that I had from the JOSH RADANDT interview and showed him where Kuss Road was located. BOBBY indicated he had never hunted on the RADANDT property or in the gravel pit. BOBBY stated he had never hunted on the area off of Kuss Road.

I asked BOBBY if he ever met RYAN HILLEGAS and SCOTT BLOEDORN. BOBBY stated he had never met RYAN or SCOTT and did not know either of them.

BOBBY was asked why he and SCOTT TADYCH were being singled out as suspects and he indicated "I don't know." BOBBY then indicated he thought it was perhaps because he and SCOTT testified at STEVEN's trial.

I asked BOBBY if he had made anything up or had lied during his testimony. BOBBY stated everything he had said was true and he had no reason to lie during the trial.



STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

STATE OF WISCONSIN,
Plaintiff

vs.

CLERK'S CERTIFICATE
CASE NO: 2005 CF 381
APPELLATE COURT NO.: 17 AP 2288

STEVEN A. AVERY,
Defendant.

FILED

TO: Clerk of Court of Appeals
110 E. Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701-1688

SEP 25 2018

CLERK OF CIRCUIT COURT
MANITOWOC COUNTY, WI

I hereby transmit the record in the above-entitled case compiled pursuant to Rule 809.15. The original file is an electronic file. Pursuant to Rule 809.15(4)(a), this record does include items that are not electronically maintained and must be sent by traditional methods.

- Envelope containing VHS video tape of 5 stories on Avery case and CD Rom copies of taped telephone call from the 'Sturms' to Sheriff Pagel;
- Envelope containing DVD of narrative of Tim Austin, DVD with final version of animations and reconstruction report images-4X6 prints;
- Envelope containing CD Rom bearing four recorded interviews conducted primarily by the Marinette County Sheriff's Department;
- Envelope containing CD Rom containing audio recordings on recorded phone lines from Manitowoc County Sheriff's Department;
- Envelope containing VHS tape of Teresa Halbach investigation press conference published by WFRV.com;
- White binder containing photographs;
- Black binder containing documents/diagrams;
- White binder containing photographs;

- Black binder containing documents/diagrams;
- Five CD's that are part of the Amendments & Supplements to Motion for Reconsideration and Motion to Vacate;
- DVD's and jump drive containing exhibits from postconviction motion filed on 06-06-17;
- CD containing videos showing views from the north facing windows of the Dassey-Janda residence.
- CD containing Cellcom tower maps with distances relative to the Kuss Rd/Hwy Q intersection and Bobby's hunting spot;
- DVD of Dassey-Janda trailer and garage walk through video by Sgt. Tyson;
- DVD of Detective Velie Final Report Investigative Copy with Bates numbering (AverySupp0001-AverySupp02449)
- CD of Detective Velie report disk contents AverySupp2450-6545;
- CD-Exhibit 4: Audio of Bobby's 11-17-17 Calumet County interview

Dated: September 25, 2018

Submitted by,

Roberta Brice

Roberta Brice
Deputy Clerk of Court – Criminal Unit
Manitowoc County Clerk of Court Office
1010 South 8th Street
Manitowoc, WI 54220
(920) 683-4034

cc: Thomas Fallon, Ass't. Attorney General
Kathleen Zellner, Defense counsel

4. My uncle Steven Avery ("Uncle Steven") only came to the residence when my mother and his sister Barb was home. I never remember my uncle Steven entering the residence when my mother was not home.

5. I remember that my Uncle Steven had cut his finger 1-2 weeks before October 31, 2005.

6. I remember, on October 31, 2005, seeing my Uncle Steven carry a white plastic bag to his burn barrel. I did not see a fire in the burn barrel. However, the police pressured me into saying that there was a fire in the burn barrel and visible smoke coming from the burn barrel. My testimony about the fire and smoke coming from the burn barrel was not true.

7. I remember, on October 31, 2005, seeing a bonfire behind my Uncle Steven's garage that was about 3-feet high. The police tried to pressure me into saying that the flames of the bonfire were much higher, so at trial I testified that the flames of the bonfire were 4-5 feet high but that testimony was not true. The police put the height of the flames "in my head and I agreed to it."

8. On October 31, 2005, I was with Brendan up until I left to go trick-or-treating. I distinctly remember Brendan wanted to use the computer at slightly before 5 p.m. because I wanted to make a phone call and his use of the dial-up internet computer would have prevented me from doing that. I know that Brendan was not at Uncle Steven's trailer up until I left to go trick-or-treating.

9. There was only one computer at the residence and it was always in Bobby's room sitting near a desk.

10. The computer had a password.
11. The computer had an AOL dial-up internet connection.
12. Bobby was the primary user of the computer.
13. At no time did I ever do searches for pornographic images or words related to pornography, words related to violence, words related to death, words related to mutilations, words related to torture, words related to guns or knives, words related to Teresa Halbach, words related to Steven Avery, words related to DNA, or words related to dead, mutilated or dismembered female bodies.
14. At no time did I ever create a folder for Teresa Halbach, my Uncle Steven, DNA, or news stories on the murder.
15. The only time I used the computer was to do my homework and occasionally send instant messages.
16. I remember my mother Barb hiring someone to "reformat the computer" but I'm not sure who that person was.
17. I do not have any personal knowledge of who made the appointment with AutoTrader to have my mother's van photographed but I did help clean the van so that it could be sold.
18. At the time, my family had two burn barrels located behind our house.
19. I was familiar with the gravel pits to the south of the Avery salvage yard but I did not go to the gravel pits to hunt. I stopped hunting when I was 22.
20. On October 31, 2005 when the school bus driver brought Brendan and me home as we travelled west on STH 147 I saw Bobby on STH 147 in a bluish or

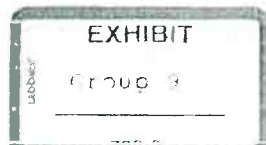
STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)
)
 Plaintiff,)
) Case No. 05-CF-381
 v.)
) Honorable Judge Angela Sutkiewicz,
 STEVEN A. AVERY,) Judge Presiding
)
 Defendant.)

AFFIDAVIT OF ANN BURGESS, DNSc.

Now comes your affiant, Ann Burgess, Ph.D., and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my education, experience, and training in the field of psychiatric nursing. All of the opinions offered within this affidavit are based upon a reasonable degree of scientific certainty in the field of psychiatric nursing.
2. I have been recognized by courts as an expert in the areas of child pornography, crime classification, offender typology, rape victims, rape trauma, and serial offenders. Attached and incorporated herein as Exhibit A is a copy of my curriculum vitae.
3. I have published extensively, including co-authoring 24 books, 30 book chapters, and over 164 peer-reviewed articles. The most relevant books to the issues in the Steven Avery case are *Sexual Homicide: Patterns and*



Motivations, The Crime Classification Manual, Understanding Violence Against Women, Violence Through a Forensic Lens, and Forensic Science Lab Manual. The most relevant articles are listed in my CV, including: "The presumptive role of fantasy in serial sexual homicide" in the *American Journal of Psychiatry*, and "Internet Patterns of Federal Offenders" in the *Journal of Forensic Nursing*.

4. I was retained by the law firm of Kathleen T. Zellner and Associates, P.C. to review materials prepared by computer forensic analyst Gary Hunt ("Mr. Hunt"), including Motion to Supplement Exhibit 8, which extracted, categorized, and documented the violent pornographic images, word and internet searches for pornography and deceased and dismembered female bodies, and sexual MSN messages that were sent to under-age females. It is my understanding that all of this evidence was found on the Dassey computer and preserved in 7 DVDs containing a forensic image of the computer, and a CD containing a forensic analysis performed by Detective Michael Velie of the Grand Chute Police Department.
5. I am familiar with, and have reviewed, the most current literature on the relationship between pornography consumption and violent behaviors. Attached incorporated herein as Exhibit B is a sample of 5 key articles of 30 years of empirical research that clearly establishes the relationship between pornography consumption and rape and other violence towards women.
6. A recent meta-analysis by Wright, Tokunaga, and Krause (2016), analyzing 22 studies from 7 different countries, revealed that pornography consumption

was associated with sexual aggression in both men and women in the United States and internationally.

7. Both experimental and non-experimental studies have confirmed the relationship between pornography and violence. Experimental studies have shown that male participants who are exposed to pornography endorse increased rape fantasies, willingness to rape, aggression against females, and acceptance of rape myths. (Allen, De'Alessio, & Brezgei, 1995; Malamuth et al. 2000). Further, a meta-analysis by Hald, Malamutu, and Yuen (2010) showed a significant positive association between pornography use and attitudes supporting violence against women in non-experimental studies.
8. Use of sexually violent pornography as well as acceptance of interpersonal violence against women has been shown to be related to self-reported likelihood of raping or using sexual force (Demare, Briere, & Lips, 1988).
9. According to a survey conducted at a rape crisis center, almost a third of women who had been raped indicated that their abuser used pornography (Bergen & Bogle, 2000).
10. In the book *Sexual Homicide: Patterns and Motives*, which I co-authored with FBI Agents Robert K. Ressler and John E. Douglas, one chapter focused on "Preoccupation with Murder: Pattern Responses." As a part of this chapter, we interviewed 36 sexual murderers and we concluded that, as a group, they had several traits in common: 1) They had a long standing pre-occupation and preference for a very active fantasy life: 2) They were preoccupied with violent, sexualized thoughts and fantasies. In my opinion, in reviewing Mr.

Hunt's affidavits, the obvious preoccupation with violent pornography, which includes torturing young females and dismembering and/or mutilating female bodies, overtime would result in a "justification for killing." (*Sexual Homicide: Patterns and Motives*, p. 35).

11. My opinion is based, in part, upon a review of sexual images contained in the Dassey CD and 7 DVDs, Mr. Greg McCrary's Second Supplemental Affidavit (Motion to Supplement Exhibit 24), and Mr. Hunt's analysis of the internet searches, including the timing and frequency of the searches, as well as description of the violent pornographic images.
12. I agree with Mr. McCrary that law enforcement should have considered that the Teresa Halbach murder was a "sexually motivated homicide." (Exhibit 24, ¶ 9). The Dassey computer examination by Mr. Hunt also revealed that Bobby Dassey ("Bobby") was untruthful when he testified that he had been asleep on October 31, 2005 until 2:30 p.m. I also agree with Mr. McCrary that Bobby should have been considered "a prime suspect because of his untruthful statements during the investigation, combined with the nature of his internet searches." (Exhibit 24, ¶ 9).
13. Specifically, Mr. Hunt describes the following categories of searches:
 - a. 22 search terms describing forcing sex toys and objects into vaginas;
 - b. 37 searches for terms describing violent accidents, specifically violent car crashes with images of dead bodies;
 - c. 13 searches for terms describing drowned, dead, or diseased female bodies;

- d. 65 searches for terms describing the infliction of violence on females, including fisting and images of females in pain.

14. Further, Mr. Hunt determined that 562 of searches were performed on 10 weekdays: 8/16/2005 (4 searches); 9/13/2005 (12 searches); 2/23/2005 (48 searches); 3/29/2006 (37 searches); 3/30/2006 (23 searches); 4/3/2006 (93 searches); 4/5/2006 (96 searches); 4/6/2006 (14 searches); 4/13/2006 (39 searches); 4/19/2006 (196 searches). Mr. Hunt described folders created on the Dassey computer entitled, "Teresa Halbach," "Steven Avery," and "DNA."

15. The Dassey computer reveals significant searches for teenage pornography.

It is my understanding that, under Wisconsin law, that the person performing these searches would be in violation of the Wisconsin statute governing child pornography (W.S.A.948.12). The CD contains references to these child pornography images (AverySupp 00028-30, 36, 43, 45, 46, 47, 48, 49, 86, 127, 148, 154-58, 160-190, 193, 213, 214-16, 219, 270, 286, 288-90, 297, 302, 340, 366, 395-96, 410, 414, 419, 429, 439-40). The CD contains numerous references to teenage pornography. (AverySupp 807-10, 813, 818, 830, 920-22, 924, 927, 933, 944, 945). The CD also contains conversations between Bobby and 14 and 15 year old girls. Bobby identifies himself and states that he is 19 years old. The conversation has explicit sexual content. (Hunt 51-55). Additionally, in that conversation, Bobby asks that the girls "flash" him using a webcam. (Hunt 54). The searches speak to the compulsive nature of the offender, specifically the sadism as the fantasy life translates into the compulsion to act out the sadistic fantasy, e.g., a sexual

homicide. A person obsessed with violence is more likely to commit a murder than someone not so obsessed.

16. The images on the CD also contain blindfolded (AverySupp 103) and bound (AverySupp 78, 116-17, 395, 435) girls, dismembered bodies (AverySupp 247), and bestiality (AverySupp 315). All of these images display a fascination with dominance, control, and mutilation, which is characteristic of many sexual homicides. The mutilation of Ms. Halbach's body is consistent with a fascination with the morbid images found on the Dassey computer of dead and dismembered human bodies.

17. I have also reviewed Steven Avery's second supplemental affidavit, which is Motion to Supplement Exhibit 11, in which he describes Bobby commenting on Teresa Halbach after each appointment that she had at the Avery Salvage Yard. Specifically, Mr. Avery says that Bobby would say, "I see that your girlfriend was here again." Since Bobby was never present when Ms. Halbach was on the property, Mr. Avery concluded that he must have been watching her from a window. Clearly, Bobby had developed an unhealthy obsession with Ms. Halbach. It is also significant that Bobby has always maintained that he did not know that Ms. Halbach was coming to the property, but there is a conflicting report from the Wisconsin Public Defender Office dated November 23, 2005 in which Bobby admitted that he knew Ms. Halbach was coming to the property that day. (Motion to Supplement Exhibit 10).

18. The Dassey computer examination by Mr. Hunt revealed 8 significant periods of deletions related to the times that Ms. Halbach visited the Avery property.

(Exhibit 24, ¶ 7). It is not unusual for an organized offender would try to cover up his fantasies by deleting files from a computer. Furthermore, I agree with Mr. McCrary that it is "highly significant in any investigation if there is an attempt to delete or destroy records." (Exhibit 24, ¶ 7). Clearly, the person deleting or destroying records has to be considered as a suspect in any homicide investigation.

19. The offender in the Halbach murder would be classified as an organized offender who plans, thinks things through and tries to cover his tracks by deleting incriminating files, interjecting himself into the investigation as a primary witness for the State, misleading the investigators about the timeline and events surrounding the murder, and would be very likely to attempt to plant evidence and frame another for the murder. The offender would keep secret his commission of the sadistic murder of Ms. Halbach.

20. The police should have considered Bobby a prime suspect in the murder of Ms. Halbach and should not have eliminated him as quickly as they did.

FURTHER AFFIANT SAYETH NAUGHT

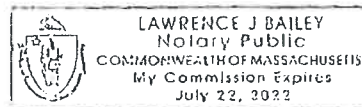
Ann Burgess

Ann Burgess

State of Massachusetts
County of Suffolk

Subscribed and sworn before me
this 5 day of July, 2018.

Lawrence J. Bailey



STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)	
)	
Plaintiff,)	
	)	Case No. 05-CF-381
v.)	
	)	Honorable Judge Angela Sutkiewicz,
STEVEN A. AVERY,	)	Judge Presiding
)	
Defendant.)	

SUPPLEMENTAL AFFIDAVIT OF GREGG McCRARY

Now comes your affiant, Gregg McCrary, and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge. The factual statements herein are true and correct to the best of my knowledge, information, and belief. I am of sound mind and I am not taking any medication nor have I ingested any alcohol that would impair my memory of the facts stated in this affidavit.
2. I have reviewed new evidence in the above-captioned case. Specifically, I have reviewed the forensic computer examiner's report of the images found on the Dassey computer (Ex. 1) and the testimony of Bobby Dassey (Ex. 2). I have also been provided with a graph prepared by Kathleen T. Zeller & Associates (Ex. 3). The graph illustrates the timeline of the pornographic searches and, based upon other evidence, restricts this computer activity to Bobby Dassey.
3. I have reviewed the Wisconsin DOJ report summarizing the forensic computer examination of the Dassey computer (Ex. 4). It is my opinion based upon this report, in addition to the report of Kathleen T. Zellner & Associates forensic computer examiner,



that Bobby Dassey's internet searches reflects a co-morbidity of sexual paraphilias. The sexual and violent content he was searching for and viewing should have alerted investigators to Bobby Dassey as a possible perpetrator of Teresa Halbach's murder.

4. Based upon the computer activity logged on September 18, 2005, it is my opinion that Bobby Dassey was becoming obsessively deviant in his viewing of violent pornography. On that date, there were 75 searches of violent, child, or underage pornography that start at 5:57 a.m. and continue to 10:04 p.m. The content of these images, combined with the obsessive use of the computer to view these images, and Bobby Dassey's entanglement in the investigation into the murder of Teresa Halbach should have alerted the investigators to Bobby Dassey as someone having an elevated risk to perpetrate a sexually motivated violent crime such as the violent crime perpetrated on Teresa Halbach.
5. The fact that Bobby Dassey became the key witness for the prosecution and that his testimony placed Teresa Halbach on the property, "walking over to Steven's trailer" after she completed her assignment, interjected him into the prosecution in a way that should have raised the suspicions of reasonably trained detectives if that testimony is untrue. Based upon the affidavit of Bryan Dassey, it appears that Bobby Dassey's testimony was untrue.
6. In my opinion, a prudent investigator would have considered Bobby Dassey a suspect and would have investigated him as such. There is no evidence that authorities ever investigated, much less eliminated, him as a suspect or investigated the discrepancies in his trial testimony.

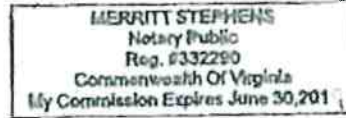
FURTHER AFFIANT SAYETH NAUGHT

Gregg McCrary
Gregg McCrary

State of Virginia
County of Stafford

Subscribed and sworn before me
this 24 day of October, 2017.

Merritt Stephens
Notary Public



STATE OF WISCONSIN CIRCUIT COURT MANITOWOC COUNTY

STATE OF WISCONSIN,
Plaintiff,

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

vs.

JAN 25 2010

Case No. 05 CF 381

STEVEN A. AVERY,

CLERK OF CIRCUIT COURT

Defendant.

**DECISION AND ORDER ON DEFENDANT'S MOTION FOR
POSTCONVICTION RELIEF**

The defendant, Steven A. Avery, was convicted following a jury trial on charges of party to the crime of first degree intentional homicide and felon in possession of a firearm on March 18, 2007. On June 29, 2009 the defendant filed a motion for postconviction relief seeking a new trial on grounds that (1) the court improperly excused a juror during the course of the jury's deliberations, and (2) the court improperly excluded evidence of third party liability. The defendant's argument includes a claim of ineffective assistance of counsel. An evidentiary hearing on the defendant's postconviction motion was held on September 28, 2009. Following that hearing the court received written briefs from both parties.

FINDINGS OF FACT

From evidence introduced at the postconviction motion hearing and the court record in this case, the court makes the following factual findings:

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two prongs of the legitimate tendency test. Without any admissible evidence of motive, however, the defendant's attempt to meet the *Denny* requirements fails.

Bobby Dassey. The only evidence offered by the defendant to show motive on the part of Bobby Dassey consisted of evidence allegedly supporting a motive to frame Steven Avery. No evidence is offered to suggest Bobby Dassey had a motive to murder Teresa Halbach. Avery suggests that if Brendan Dassey, Bobby's brother, or Scott Tadych were involved in the crimes, Bobby would have had a motive to help them frame Steven Avery for the crimes, presumably based on his relationship with his brother and Scott Tadych. The defendant also offers that Bobby did not like Steven Avery and stated that Steven "would lie in order to 'stab ya in the back.'" Defendant's postconviction motion at p. 57. The speculation that if Brendan Dassey or Scott Tadych had committed the crimes, Bobby Dassey would have had a motive to frame Steven Avery, unsupported by any evidence whatsoever, is too speculative to meet the motive requirement. Likewise, even if Bobby Dassey thought his Uncle Steven was a liar, that is not enough to constitute motive to commit murder. The connection is simply too tenuous. Avery's proffered evidence is not sufficient to show that Bobby Dassey had motive to murder Teresa Halbach.

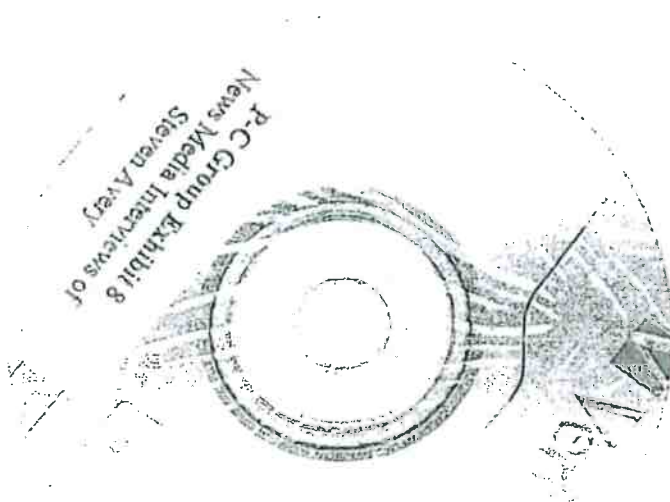
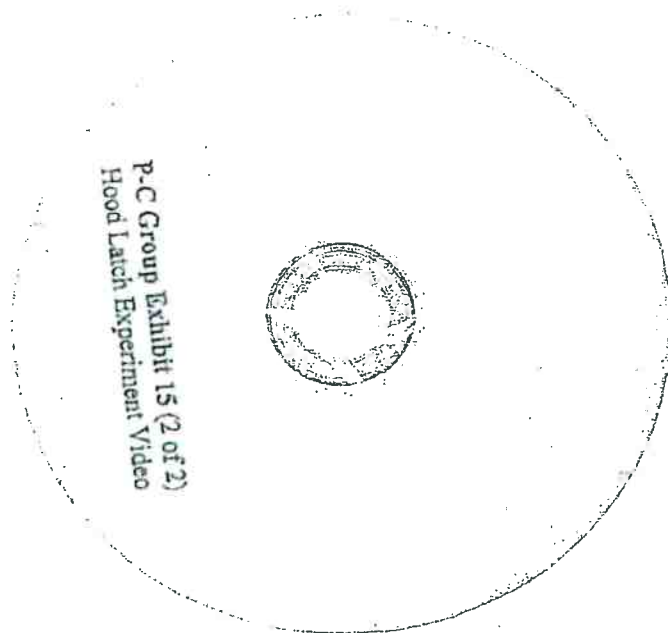
The evidence offered against Bobby Dassey probably did meet the opportunity and direct connection to the crime requirements of the legitimate

tendency test because of his presence on the property at the time Teresa Halbach was there. However, without any showing of motive, third party evidence against Bobby Dassey is precluded under *Denny*.

In conclusion, the court stands by its original determination that the defendant was not entitled to introduce *Denny* evidence against any third party because he acknowledged at the time that he could not demonstrate any party had a motive to kill Teresa Halbach. The additional arguments and offers of proof Avery now raises in his postconviction motion were waived by not being presented to the court in a timely manner. Even if those arguments and offers of proof have not been waived, they are still not sufficient to justify the admission of direct third-party liability evidence under *Denny* against Scott Tadych, Charles Avery, Earl Avery or Bobby Dassey.

G. If Denny does not apply, what rules determine the admissibility of Avery's proffered third-party evidence?

For reasons already stated the court concludes that, despite Avery's claimed inability to demonstrate a motive on the part of anyone else to murder Teresa Halbach, his offer of third-party liability evidence is subject to the legitimate tendency test established by the court in *Denny*. Like the defendant in *Denny*,



FILED

DEC 15 2017

CLERK OF CIRCUIT COURT
MANITOWOC COUNTY, WI

App. 264

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

STATE OF WISCONSIN,
Plaintiff

vs.

CLERK'S CERTIFICATE
CASE NO: 2005 CF 381
APPELLATE COURT NO. : 17 AP 2288

STEVEN A. AVERY,
Defendant.

FILED

DEC 18 2017

TO: Clerk of Court of Appeals
110 E. Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701-1688

CLERK OF CIRCUIT COU
MANITOWOC COUNTY,

I hereby transmit the record in the above-entitled case compiled pursuant to Rule 809.15. The original file is an electronic file. Pursuant to Rule 809.15(4)(a), this record does include items that are not electronically maintained and must be sent by traditional methods.

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- White binder containing photographs;
- Black binder containing documents/diagrams;
- White binder containing photographs;
- Black binder containing documents/diagrams;

Case 2005CF000381

Document 1074

Filed 06-18-2017

Page 130 of 154

- **Five CD's that are part of the Amendments & Supplements to Motion for Reconsideration and Motion to Vacate;**
- **DVD's and jump drive containing exhibits from postconviction motion filed on 06-06-17.**

Dated: December 18, 2017

Submitted by,



Roberta Brice
Deputy Clerk of Court – Criminal Unit
Manitowoc County Clerk of Court Office
1010 South 8th Street
Manitowoc, WI 54220
(920) 683-4034

cc: Thomas Fallon, Ass't. Attorney General
Kathleen Zellner, Defense counsel

1 A Could have been.

2 Q Do you remember, Mr. Johnson, being interviewed
3 by law enforcement officers in this case?

4 A Yes, I do.

5 Q And do you remember being interviewed on February
6 6 of 2006?

7 A Yes. That was at my house in Jackson.

8 Q Okay. At that time, Mr., uh, Johnson, do you
9 remember telling law enforcement officers that
10 you must have seen Steven Avery just prior to
11 October 31 of 2005?

12 A Yes, I do, because he had a cut on his hand.

13 Q Who's he?

14 A Steve.

15 Q Can you describe that cut for us, please?

16 A I can't even -- It's not uncommon to have your hands
17 cut in the junkyard, but I can't -- it was across --
18 it was a pretty nasty gash.

19 Q Across which finger? Do you remember?

20 A I think it was across the knuckle or the hand. I
21 can't swear to it.

22 ATTORNEY BUTING: Record should reflect
23 the witness was pointing to the, um -- Do that
24 again, sir?

25 ATTORNEY KRATZ: Well, no, I asked him

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)	
)	
Plaintiff,)	
	)	Case No. 05-CF-381
v.)	
	)	Honorable Judge Angela Sutkiewicz,
STEVEN A. AVERY,	)	Judge Presiding
)	
Defendant.)	

AFFIDAVIT OF STEVEN A. AVERY, SR.

Now comes your affiant, Steven A. Avery, Sr., and under oath hereby states as follows:

1. I am of legal majority and can truthfully and competently testify to the matters contained herein based upon my personal knowledge. The factual statements herein are true and correct to the best of my knowledge, information, and belief. I am of sound mind and I am not taking any medication nor have I ingested any alcohol that would impair my memory of the facts stated in this affidavit.
2. I told my trial defense lawyers that my blood in the RAV had been taken from my sink.
3. Whenever I had to crush a vehicle, I used a front-end loader. I would not keep a key for any vehicle that I intended to crush. Even if I did not use a loader to move a vehicle, I would not need the key to start it because I could hot-wire it.
4. I made a number of appointments for AutoTrader photo shoots with Teresa Halbach before October 31, 2005. On days when we had scheduled appointments, Teresa Halbach would call me if she was running late.

1



5. No guns were shot in the garage except Rollie Johnson's .22 rifle. I know that Rollie would shoot his rifle into gopher holes near the garage door. Sometimes bullet fragments and shell casings ended up on the floor of the garage. Sometimes, Jodi Stachowski would fire Rollie Johnson's Marlin .22 caliber rifle into the floor of the garage.
6. There were seven burn barrels on the Avery property. Barb had four, Chuck had one, Allan and Delores had one, and I had one.
7. The back panel of Roland Johnson's wooden record case in my bedroom was not loose in early November 2005. Whoever damaged that piece of furniture did it after I left the Avery property on November 5. The back of that piece of furniture was held on by nails and was very sturdy.
8. I noticed my toothbrush was missing in photographs taken by investigators (Trial exhibit 206). My toothbrush must have been taken from my bathroom after law enforcement began their occupation of the Avery property on November 5, 2005.

Events of October 31, 2005

9. When I called AutoTrader on October 31, 2005, at 8:12 a.m., I told the receptionist that the appointment was for Barbara Janda. I told her my sister's full name, not her first initial, because Barb owned the minivan to be listed in AutoTrader. I told the AutoTrader employee that the appointment was at 12932 Avery Road.
10. I called AutoTrader at 11:04 a.m. on October 31, 2005, to find out if the appointment was that day. I again told the AutoTrader employee my sister Barb's full name because Barb owned the vehicle to be listed in AutoTrader. I did the same when I listed a vehicle owned by Thomas Janda in AutoTrader. The AutoTrader employee told me that the

photographer was coming to the property around 2:00 p.m. I told the AutoTrader employee that the photographer should come to 12932 Avery Road.

11. Sometimes, I used the *67 features when I made calls from my cell phone. When I called Ms. Halbach at 2:24 p.m. before she arrived and 2:35 p.m. on October 31, 2005, after she left, I dialed *67 so that if Ms. Halbach did not answer, she would not see my number and feel like she had to return my call. I called at 2:24 p.m. to see when she would get there, but she didn't answer the call.
12. Ms. Halbach got to our property around 2:31 p.m. When I looked out of the window of my trailer, I saw her taking a picture of my sister's van. I put on my shoes to go outside and pay her. I saw her start to walk toward my trailer when I was going outside, but when she saw me she waved and turned around and walked to her car. I went over to her car and I remember she was sitting in the driver's seat with door open and the engine was running. I went over and handed her \$40.00 in cash for the ad. She gave me an AutoTrader magazine and drove away. I remember she turned left on Highway 147 from Avery Road.
13. I noticed that the exterior of her car was very clean. There were no visible dirt or mud stains and it looked clean. Her driver's side parking light was not broken. Ms. Halbach got to our property within a few minutes after I called her at 2:24 p.m.
14. I looked at the AutoTrader magazine that Ms. Halbach gave me and saw that they had front loaders for sale. I called at 2:35 p.m. to see if she could come back to take a picture of a front loader I wanted to sell in AutoTrader magazine. I hung up before Ms. Halbach picked up the phone.

15. When I called Teresa Halbach at 4:35 p.m. on October 31, 2005, I got an automatic message that said that her voice mailbox was full. I told Jodi this information in one of our phone calls that evening. I called at 4:35 p.m. to set up an appointment for the front loader.
16. I had a bonfire on October 31, 2005. The fire started around 7:00 p.m. The fire burned for about two or two and a half hours. I invited my nephew, Brendan, to come over. Brendan went home before Jodi called at 8:57 p.m. The fire burned quickly because we were burning brush. I used gas to start the fire. By the time Jodi Stachowski called at 8:57 p.m., the fire was almost over.
17. I would burn trash from my kitchen, like plastic milk jugs and boxes, in the burn barrel north of my trailer every two weeks. I did not use gas or any other fuel to start the fire. I used a lighter and some brush to start the fire. I did not burn garbage in my burn barrel on the evening of October 31, 2005. I had burned garbage a week before Halloween and did not have enough trash on Halloween to warrant burning garbage. When I burned garbage a week before Halloween, Robert Fabian, my brother Earl's brother-in-law, had come over to shoot rabbits with Earl. They drove up to my trailer in my mother's golf cart and we made small talk. I know that Robert Fabian testified that this event took place on Halloween, but I know that it took place a week before because I did not burn any garbage in the burn barrel north of my house on Halloween.

Events of November 3, 2005

18. On the evening of November 3, 2005, Manitowoc County Sheriff's Department Sergeant Colborn visited the Avery property to ask if I knew anything about the disappearance of

Teresa Halbach.

19. After that conversation, I drove my Pontiac Grand Am from my parents' residence to its usual parking spot outside of my garage. I got out of my car and walked to my sister's trailer, which was right next to mine. There, I broke open a cut on the outside of the middle finger of my right hand as I was attempting to unhitch my sister Barb's trailer. Before going to my trailer to put masking tape on my finger, I went into my Pontiac to grab my phone charger. I dripped blood in my Pontiac on the gearshift and other places. Anyone who looked through the windows of my Pontiac could have seen the blood on the gearshift, and known there was a cut on my hand. I left my Pontiac unlocked.
20. Then, I entered my trailer through the south door because it was closest to the bathroom. I did not lock the south door of my trailer after I entered through it. A large amount of blood dripped onto the rim and sink and the floor of the bathroom. I did not wash away or wipe up because my brother Chuckie was waiting for me to go to Menards in Manitowoc with him. I think I left somewhere between 7:15 and 7:30 p.m. I quickly wrapped my finger in duct tape and left the trailer to meet Chuckie. I left through the front door of my trailer.
21. I tried to tell my trial defense attorneys about the blood in the sink. They did not listen to me and told the jury the blood came from a blood tube at the Courthouse.
22. While Chuckie and I were leaving Avery property, driving a flatbed to Menards in Manitowoc, I saw taillights in front of my trailer. The taillights were further apart and higher off the ground than sedan taillights. I told my brother, who was driving, about the taillights. We turned around and drove to my trailer, but the vehicle was gone.

23. I believe the vehicle was facing my trailer from the northwest. The vehicle would be facing this direction if it drove to my trailer from Kuss Road east across the field between Kuss Road and my trailer. The shape of the taillights was like a RAV-4, not a police squad car. They were wider apart and higher off the ground.
24. After leaving Menards, Chuckie and I stopped by the Manitowoc County Jail, where I left some money for Jodi. By the time we got home, sometime around 10:00 or 10:30 p.m., I was real tired. I went into my trailer through the front door and went straight to bed. I did not go back into my bathroom on November 3.
25. I did not call the AutoTrader office on November 3, 2005. I did not tell anyone that Ms. Halbach missed our October 31 appointment. I told every person who asked whether Ms. Halbach made our October 31 appointment that she arrived between 2:00 p.m. and 2:30 p.m., completed the appointment, and left shortly after.

Events of November 4, 2005

26. On November 4, I woke up at 6:00 a.m. and went into the bathroom to take a shower. I saw that most of the blood on my sink, which I had not cleaned up the previous night, was gone. It seemed to me that the blood had been cleaned up. I did not clean the blood and none of my family members had been in my trailer.
27. Two police officers in an unmarked car were by my trailer when I went to my trailer on a golf cart on the morning of November 4. They asked me if they could search my trailer. I let them search my trailer. After they left, I locked my trailer and went back to work.
28. I smelled cigarette smoke in my trailer on November 4. This was very strange because I did not smoke and Jodi, who lived with me, did not smoke. I thought that because my

trailer smelled like smoke, someone else had been in my trailer and I said that in one of my interviews.

29. My brother Chuck called me on the evening of November 2005 and told me that there were headlights down by his house. I checked my phone records and know that he called my at 7:20 p.m. I went down by his trailer but didn't see any headlights.

Events of November 5, 2005

30. Early in the morning on November 5, 2005, before I left for the family property in Crivitz, WI, I opened the south door of my trailer and observed pry marks near the door latch. I left for the family cabin in Crivitz shortly after that.

Events of November 9, 2005

31. During the physical examination of my body on November 9, 2005, the nurse took two swabs near my groin at the request of Calumet County Investigator Wiegert. I saw the nurse who took the groin swabs hand them to Investigator Wiegert. As I was being taken out of the exam room by Agent Fassbender and the nurse, I saw Investigator Wiegert pretend to put the swabs in the hospital-type waste basket but I did not actually see the swabs leave his hands and fall into the basket.

Pro Se Post-Conviction Proceedings

32. When I was preparing my *pro se* post-conviction motion, I did not have any way to contact labs because I could not get in contact with an attorney. I sent letters to labs whose addresses I could find. When labs did write back, they told me they could not help because I did not have an attorney. Many attorneys informed me that they would not represent me. Some law firms even returned my letters without opening and reading

them. I sent letters to and called attorneys in Wisconsin, Illinois, Minnesota, and Iowa.

Some of the attorneys told me that my case was too hard for them to take. I had no money to get an attorney, investigator, or independent lab. I even wrote to Dean Strang's ex-wife for help because she was an investigator. She did not write back.

33. One of my attorneys, Steven Glynn, told me that being my lawyer would hurt his law firm.

34. I dropped out of high school after 11th grade to help out with the family business. I had always been in special education classes.

35. Prison law library only had Lexis Nexis. I had no other way to look at case law or get an investigator.

Correspondence with Ken Kratz

36. Ken Kratz, the prosecutor from my 2007 criminal trial, contacted me in 2013. He wanted to meet with me to talk about writing a book together. Copies of the letters Mr. Kratz wrote me and I wrote Mr. Kratz are attached as Exhibit A to this affidavit.

Current Post-Conviction Proceedings and Testing

37. I really wanted every form of testing suggested by my current post-conviction counsel.

For example, I did brainwave testing to see if I was lying. I would not do these tests if I were guilty. I have nothing to hide because I did not kill Ms. Halbach.

38. My current attorney, Kathleen Zellner, brought a Toyota key with her when visiting me. She told me to hold it in my hand for twelve minutes, which I did.

Steven Avery
 Steven Avery

Subscribed and Sworn

to before me this *23rd*

day of November, 2016.

Carol C. Hibel
 Notary Public

Expires 8-26-2020

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4. During the week, Bobby was the only person home at the Dassey residence between 6 a.m. and 3:15 p.m.

5. I never turned on Barb's computer and used her computer in any way. I did not have the password for the computer. On one occasion, I observed Blaine on the computer communicating with his girlfriend.

6. I had my own computer with internet service. There would be no reason that I would need to be on Barb's computer.

7. My computer was never used to do Google searches. My girlfriend, Jodi, and my sister, Barb, did Yahoo searches. I was present with my sister, Barb, who did a search of dating sites for my brother, Chuck, and for property. The only other searches were done by my girlfriend, Jodi. At no time were searches ever done on my computer for images of Teresa Halbach or images of violent pornography.

8. The only adult films I have ever viewed were on DirecTV. On my computer, the only nude photographs I had were ones uploaded by my girlfriend of her and me.

9. I believe that my nephew, Bobby Dassey ("Bobby") and Scott Tadych ("Tadych"), my sister's third husband, are involved in the murder of Teresa Halbach ("Ms. Halbach") for the following reasons:

- a. On the evening of November 3, 2005, after I left my mother's place, I stopped at my sister, Barb Dassey-Janda's ("Barb"), property and broke open a cut on the outside of the middle finger of my right hand as I was attempting to unhitch her trailer for her.
- b. I went into my Pontiac, parked on my driveway, to grab my phone charger. I dripped blood in my Pontiac on the gearshift and other places. Anyone who looked through the windows of my Pontiac could have seen the blood on the gearshift, and known there was a cut on my hand. I left my Pontiac unlocked.

- c. After reviewing police reports and thinking about the fact that Blaine Dassey ("Blaine") went with Chuck Avery ("Chuck") and me to Menards, I remembered that I went to Barb's door to see if any of her sons wanted to go with me to Menards.
- d. Bobby and Blaine were home. I asked Bobby and Blaine if they wanted to go with me and my brother, Chuck, to Menards. I told both of them that a law enforcement officer had just left the property after asking me questions about Ms. Halbach's visit to photograph Barb's van on October 31, 2005. I noticed that Bobby was immediately nervous after I mentioned the visit by the officer. He said that he could not go with me to Menards and that he had "things to do." There is no doubt in my mind that Bobby saw that my finger was bleeding. My memory is that Blaine said that he wanted to go to Menards and he went with Chuck and me.
- e. Prior to leaving for Menards, I returned to my trailer to put tape on my bleeding finger. I entered my trailer through the south door because it was closest to the bathroom. I did not lock the south door of my trailer after I entered through it. A large amount of blood dripped onto the rim and sink and the floor of the bathroom. I did not wash away or wipe up because Chuck was waiting for me to go to Menards in Manitowoc with him. I think I left somewhere between 7:15 and 7:30 p.m. I quickly wrapped my finger in duct tape and left the trailer to meet Chuck. I left through the front door of my trailer.
- f. While we were leaving Avery property, driving a flatbed to Menards in Manitowoc, I saw taillights in front of my trailer. The taillights were further apart and higher off the ground than sedan taillights. I told my brother, who was driving, about the taillights. We turned around and drove to my trailer, but the vehicle was gone.
- g. On November 4, I woke up at 6:00 a.m. and went into the bathroom to take a shower. I saw that most of the blood on my sink, which I had not cleaned up the previous night, was gone. It seemed to me that the blood had been cleaned up. After reviewing more case documents and thinking about what happened on November 3, 2005, I do not believe that law enforcement broke into my trailer and took blood from my sink and planted it in Ms. Halbach's vehicle. I believe that Bobby removed the blood from my sink and planted it in the RAV-4. Law enforcement would not remove the blood from the sink because they would not know that the blood belonged to me and would believe that it belonged to Ms. Halbach. Only the killer would know that the blood did not belong to Ms. Halbach and only someone who saw my finger bleeding would know that the blood was mine, so I think that the only person who was there and knew my finger was bleeding and could have gotten into my trailer was Bobby. He would have taken the blood to frame me and save himself. Bobby drove his Blazer to the front of my trailer and it was his Blazer taillights that I observed as Chuck

turned on STH 147. I do not believe that the vehicle could have come from any other location than the Dassey-Janda place because the vehicle was gone in the two minutes it took Chuck, Blaine, and I to return to my trailer. The vehicle had to already be on the property when we left, and Bobby's vehicle was the only vehicle that was present at the time we left. I believe that my trailer door was unlocked, but, even if it were locked, the Dasseys had a key to my trailer at their place.

- h. In my prior Supplemental Affidavit, at paragraphs 14-17, I stated that Bobby lied about leaving the Avery Salvage Yard ("ASY") prior to Ms. Halbach. As I have stated in my Supplemental Affidavit, Bobby left the ASY property immediately after Ms. Halbach in his black Blazer. (See R. 636:92. at ¶¶ 14-17). Bobby lied at trial when he testified for the State that he left the property before Ms. Halbach.
- i. I reviewed Bobby's November 17, 2017 interview with Special Investigator John Dederling ("Inv. Dederling") of the Calumet County Sheriff's Department. In the November 17, 2017 report, Bobby misrepresented the location of Ms. Halbach's vehicle when she was photographing Barb's van. Bobby misrepresented in his map that Ms. Halbach's car was parked east of Barb's van. In fact, Ms. Halbach's car was parked in such a position that Barb's van would have obstructed Bobby's view of at least part of Ms. Halbach's activities at the van and her walking towards my trailer. (Attached and incorporated as Exhibit A is a copy of my correction of the location of Ms. Halbach's vehicle in relation to Barb's van).
- j. As I have stated in my Supplemental Affidavit, Bobby commented to me every time Ms. Halbach visited the property, with words to the effect of "I see that your girlfriend was over yesterday." (See R. 636:89, at ¶ 2).
- k. Bobby misrepresented that he did not know Ms. Halbach was coming to take photographs on October 31, 2005. Current post-conviction counsel provided me with a copy of my cell phone records. Reviewing those records refreshed my recollection about the fact that I spoke to Bobby around 8:39 a.m. and told him to get the battery in the van charged because the photographer was coming to take pictures of the van. Current post-conviction counsel provided me with a transcript of my November 6, 2005 interview with Marinette County Sheriff's Department. After reading the transcript, my recollection was refreshed that I stopped by Barb's residence and talked to Bobby around 11 a.m. I specifically recall talking to Bobby about charging the van, and I believe that we actually tried to charge the van.
- l. In one of his first police interviews, Bobby said he had seen me, and not Ms. Halbach, walking back to my trailer which is true. I came out the door and walking to Ms. Halbach's vehicle to pay her on October

**Marinette County Sheriff's Department
Investigations Division
Original Report**

Date: November 7, 2005
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Officer: Sgt. Michael Sievert
Case: 05-4120

Avery was there, and he said yes; however, he didn't want to come out. Mr. Avery then went back into the cabin, and came out a short time later and told me that Steven would like to see me inside the cabin. I did go inside the cabin, and I introduced myself to Steven Avery. I explained to him that we were looking for a missing person and that since he was the last person to see her, we had been requested by the Manitowoc Sheriff's Department to try to get some more information to locate this female.

At that time, Steve Avery agreed to talk with us, and he went out with Detective O'Neill to his unmarked police vehicle. I then asked Charles Avery to come outside and talk with me. Charles and I went to my black F150 pickup truck, which is an unmarked police vehicle. At the time of this interview and the second interview, I had very limited knowledge of what was going on in Manitowoc County. I did obtain the first statement from him, which reads as follows:

I am the owner of Avery's Auto Salvage in Two Rivers Wisconsin. I was at the salvage yard the day the girl came to take a picture of the Dodge mini-van. Steven went down to the trailer house that he is staying in with the girl. I don't know the girl's name but she is the one who normally came to take pictures. I don't know if Steven was in the girl's vehicle or if he took his own. Steve was gone for about 10 minutes and I did not see the girl after they went to take the pictures or before. I asked Steven where he went and he told me to take pictures with the girl to place in a magazine to sell the van. Steven told me that the girl left. Just Steve, my brother Earl and I were at the salvage yard that day.

END OF STATEMENT (please find a copy of that original statement attached to this report)

After about 10 minutes, I then made contact with Charles Avery and obtained a second statement which reads as follows:

On Thursday 11-03-05 around 6:30 p.m. Steven and I were going to Menards and Steven saw taillights by the trailer that he is staying in. I turned around on Jambo Creek Road. We went back and pulled into my sister's driveway. I did not see the taillights. Steven checked around by his trailer but didn't find anything. I stayed by my sister's house. If there was a vehicle back there the only road out was past my sister Barbara's house. A vehicle could get out by driving across the field.

On Friday 11-04-05 when I was leaving to come up to the cabin in Marinette County I saw headlights behind my house on Avery Road, I called Steven and asked him to check it out. Steven called me back and said he didn't find anything.

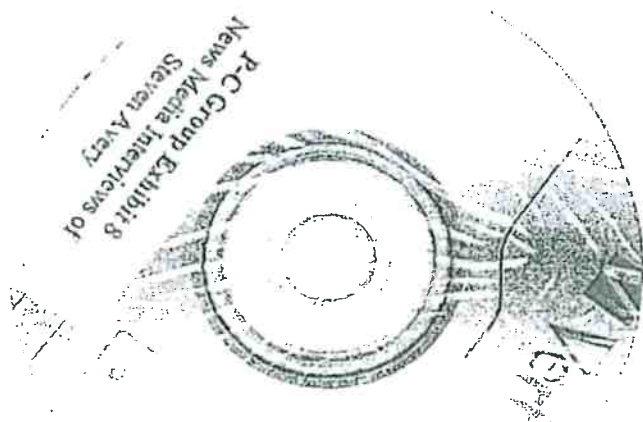
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25. I did not call the AutoTrader office on November 3, 2005. I did not tell anyone that Ms. Halbach missed our October 31 appointment. I told every person who asked whether Ms. Halbach made our October 31 appointment that she arrived between 2:00 p.m. and 2:30 p.m., completed the appointment, and left shortly after.

Events of November 4, 2005

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27. Two police officers in an unmarked car were by my trailer when I went to my trailer on a golf cart on the morning of November 4. They asked me if they could search my trailer. I let them search my trailer. After they left, I locked my trailer and went back to work.
28. I smelled cigarette smoke in my trailer on November 4. This was very strange because I did not smoke and Jodi, who lived with me, did not smoke. I thought that because my



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MANITOWOC COUNTY, WI

1 seeing any particular vehicle that later it
2 became of interest of -- to you?

3 A Uh, yes. I recall seeing a green SUV.

4 Q Okay. When you say "a green SUV", um, how big
5 was it?

6 A Uh, midsize SUV. Not the large size.

7 Q What kind of vehicle do you have?

8 A I have a Tahoe.

9 Q And is that a full size --

10 A Uh, generally speaking, yeah.

11 Q Okay. And the -- and the vehicle you saw, was it
12 as big as that? Or smaller? Or what?

13 A It was smaller.

14 Q Okay. Um, so tell us what you saw?

15 A I seen a vehicle pass by the front of my truck, and I
16 just glanced up, and it was just a green SUV, and
17 that -- that's all.

18 Q Well, which direction was it going?

19 A Back towards Avery Road. So that would be to the
20 north. I mean, towards 147.

21 Q Can you just show us on the -- with your pointer,
22 and -- and just with your pointer kind of draw
23 direction -- the direction that it was going? So
24 did it look like it was going into the Avery Auto
25 Salvage area or out of the Avery --

1 A It was leaving.

2 Q Okay. And are you familiar with the Avery Auto
3 Salvage?

4 A Yes.

5 Q Do you know them personally?

6 A Uh, somewhat.

7 Q Are you -- Would you consider yourself a friend
8 of any of the Averys?

9 A No.

10 Q Have you ever done business there?

11 A I was there, yes.

12 Q How many times?

13 A Um, three or four times.

14 Q Okay. Um, and did you happen to see which
15 direction that green SUV went when it got to the
16 intersection of Highway 147?

17 A No, I didn't pay attention.

18 Q Did there come a time when this, um -- this
19 recollection that you have became of interest or
20 importance?

21 A Uh, not necessarily. I -- I mean, I -- I -- At
22 first, I said I recalled seeing a green SUV, but that
23 was about it. I -- I didn't think nothing of it.

24 Q Okay. Well, let -- let me -- I'm -- Let me ask
25 it this way: Did you later learn or see any kind

1 Q Or how he got your name to call?

2 A He got my name from that -- that check-in log I

3 think.

4 Q Okay. You mean the -- the -- the roadblock?

5 A Yes.

6 Q And did you tell him what you saw?

7 A Yes.

8 Q What did you tell him?

9 A That it was possible that I seen a -- Well, I told

10 him that I seen a green SUV leave, but I wasn't sure

11 if it was hers or not.

12 Q All right. Did you tell him what time?

13 A Uh, yeah.

14 Q And --

15 A Yes.

16 Q -- I'm not sure you told us what time. What time

17 was it on the 31st?

18 A In between 3:30 and 4.

19 Q And how do you know that?

20 A Because that's when I loaded my truck.

21 Q All right. Thank you. That's all I have, sir.

22 THE COURT: Mr. Fallon?

23 ATTORNEY FALLON: Yes. I'm going to try

24 this mike if it doesn't work. Test. Test. Try

25 it again.