JOHN PRIOR:

I promise you I've got about about 15 slides, not gonna be long. I want to touch on a few points and then I want to spend a little bit of time talking to you folks a little bit about the case, okay? I promise you this isn't going to take two hours. It'll be briefer but there are some points that I need to touch on and then I would respectfully ask for your attention in regards to that.

I want to go to the first slide and the reason I did this is because in order for there to be a conviction, it's a chain of links that the prosecutor attorney has to go through. Chad Daybell, the first link is that he's presumed innocent. He's presumed innocent now, he was presumed innocent during the trial, he's presumed innocent throughout the trial. When it goes back to the jury and you consider the evidence that's when you make the decision and that's how that works.

Throughout the trial, from the very beginning to the middle to the end of today, the entire burden has been on the state, okay? And the definition of what has to be proven by the state is beyond a reasonable doubt. The state must prove every element beyond a reasonable doubt. Now, you've heard some information previously from the other attorney about what the state has to prove. One of the things the state has to prove in regards to the conspiracy charges is that there was an agreement, okay? And if you recall, when we were going through the voir dire process – that fancy French word that talks about when we were trying to select the jury – I talked to a number of you, what an agreement is, what do you believe an agreement is, okay? The state has to prove that Chad Daybell – with Lori Vallow, or with Alex Cox, or with other co-conspirators that they haven't named, with one of them – entered into some sort of an agreement to kill the children, and to kill Tammy Daybell.

And then you have to show that Chad's involvement in that. That's the next thing the state has to show. Then they have to show that there was evidence of the murder. Jury instruction number three talks about, again, what I just talked about. The defendant Chad Guy Daybell has been charged in the amended indictment with certain counts of conspiracy with Lori Vallow and or Alex Cox, who's deceased, and or other conspirators, both known and unknown. And then it goes on, and I'll talk about this a little bit. The

crime of conspiracy involves an agreement by two or more persons to commit a crime, okay? It can't be an agreement that we have consistent religious beliefs. It can't be an agreement that we talk about religion without, unless there's an extra step, and that extra step has to be, “we are going to kill these children.” “We are going to agree to kill Tammy Daybell.”

You can hear all the testimony in the world about dark spirits. You can hear all the testimony in the world about light and dark. You can hear all the testimony in the world about death percentages. And if you remember when we talked about death percentages with Officer K, who I think is here today, one of the text messages or the messages that he put up that he pulled off when he did his Google search is about Tammy and Chad talking about death percentages, talking about light and dark. You heard from Emma Murray how Emma Murray talks to her father. Now, they used a different term, but in Chad's traditional religion, his traditional LDS faith, it was not uncommon to talk about light and dark. It was not uncommon because we showed you the message between Tammy and Mark and Chad where they talked about death percentages, okay?

Now, the state brings up, yes, oh, **Chad** put a death percentage on Tylee and JJ and Tammy, and they're all dead. But you also heard testimony from one of the state's experts that said, we don't know if it was a high number or a low number, and there's confusion as to what that means. And I'd like to go back to the discussion that we had with one of the FBI agents who mentioned that there were thousands and thousands of messages, an enormous amount of evidence here. You heard from my expert, Patrick Eller. He talked about, I think, the Library of Congress holds one terabyte of evidence if we went paper to paper through the whole building, and we had six terabytes, six mounds of paper that would fit in six libraries of Congress. And what has happened is you've been shown a handful of text messages that talk about a plan, that talk about death percentages, that talk about light and dark, talk about a variety of subjects, but what you didn't hear is you didn't hear about the thousands and thousands of messages that talked about religious beliefs, talked about a variety of other topics.

And if we look at each and every one of ours position, you can always find a text message or a message of some kind that may be slanted or turned in a way to benefit one position or another, and that's not particularly uncommon. How often is it that you send out a text message to somebody and it's misconstrued? How often is it that you send an electronic message to somebody through an email and it's misunderstood, or

maybe it's looked at in a different way? You know, as a society, we've lost our ability to communicate. Doing what I'm doing today is a lost art. Lawyers have to do this, especially in our position. But many people who are in jobs, what it's done is send me a quick email. Send me a text message. Tell me what you feel... And sometimes those messages can be misconstrued. The prosecuting attorney talked about, oh, there was a plan, and insinuating to you, suggesting to you that this plan was to kill the children. And at no time did the prosecuting attorney show you a text message that said, "let's kill the kids, let's kill Tammy." Okay? Instead, they talked about a plan. This is what we're looking to do in the future. Okay? That's what they said to you, and they're trying to insinuate or suggest to you that this plan was to kill the children. Let's kill the kids. Let's kill Tammy. Okay? Instead, they talked about a plan. This is what we're looking to do in the future. Okay? That's what they said to you, and they're trying to insinuate or suggest to you that in some way that means, well, that means that we're going to kill the kids.

No, the plan was, and whether you believe with Chad's religious beliefs or not, whether you accept his religious beliefs, 144,000, that's his beliefs. He was a gatherer. He was a gatherer of the 144,000, and he said, "I want to gather people." The sick, the elderly, the children, the impoverished, those that can't handle for themselves and those that may be able to go on and become a part and parcel as this gatherer that he suggests would put together the 144,000 in Rexburg. Now, whether you think that's crazy or not, it doesn't matter. Whether you agree with light and dark, it doesn't matter. Whether you agree with death percentages, it doesn't matter. He's entitled to his beliefs. Every one of us has beliefs. Every one of us believes, has a certain core set of beliefs that we believe in and think about. Are they all rational? Maybe not. Maybe not. Everybody has pursuits that they want to pursue and things they want to do in their future. You know. I wanted to be a professional fisherman. Not really good at fishing. Wasn't going to work out. Wasn't going to make a lot of money. But it could still be a dream. I always wanted a 30-inch waist. That's not happening, folks. It's just not going to happen. I'm too old and maybe not as motivated as I should be.

But we all have dreams. Now, how do we know these are dreams that Chad talks about? Because for 15 years, he was writing books. He was writing books about things that he was passionate about. And if you know anything about authors, when they're passionate about something, anybody comes up to them and brings up a subject and says, "let's talk about religion." You've opened the floodgates. And it's very easy for you to go out there and say, "I want to talk about my religion. I want to tell you all about all of these things." And at some point, when you start writing books and you go to these Preparing the

People conferences, and you meet all of these people, and you feel like, well, maybe I've become a little bit of a celebrity. In this case, I don't want to become a celebrity. I've had enough now at this point. But Chad writes books, and he goes to these conferences, and he talks about all of these religious beliefs. He talks about his premonitions. He talks about things that he thinks he can predict. Do you believe him? You don't have to. You don't have to believe anything he stands for. Nobody does. But he has a right to talk about it. And he has a right to say what he wants to say.

And that's one of the distinctions, folks. Requires, involves, and agreement. It requires an agreement. You don't get to the overt acts. You don't get to all of the things the prosecutor has said about all of the things these people have done until you establish that Chad Daybell, by evidence and testimony, in the last two months, has shown that there's been an agreement between him and Lori, him and Alex, or anyone else. There's no agreement. Show me the text message that says there's an agreement. Show me the text message that says this is what we're going to do. You were shown some things that talk about plans. Yeah, the plans of the 144,000. The plans of putting together this village of people to help all of these people out and do all of this. Traditional Mormon faith beliefs. Traditional Mormon faith beliefs. Those traditional Mormon faith beliefs that also included things like celestial marriages. Being able to marry someone in the celestial realm and do that. Going to a temple and saying, “up there, I'm allowed to get married in the celestial because that's what we were taught.” That's traditional. I'm allowed to do all of these things. Now, whether you agree with that or not, it doesn't matter. But if you have a core set of beliefs, and those are things you believe in, that's not a crime.

The crime only comes into play. The crime of conspiracy involves an agreement to commit a crime. You should only consider the evidence against the defendant, Chad Guy Daybell, in this case, and should not speculate as to any other case or legal proceedings involving alleged co-conspirators. When I first started with you folks with the Voir Dire process, again, that fancy French word that I always mispronounce, I talked to you a little bit about speculation. I talked to you about hunch. I talked to you about conjecture. I talked to you about guess. They all mean the same thing. The judge's instruction, and what this judge has told us we have to do, and I put it up there for a reason. You must only consider the evidence against the defendant, Chad Guy Daybell, in this case. It says it in the third instruction that you're going to read. **Only in this case**.

The evidence that you have heard, they have not established an agreement. They have not given you any proof that there's any kind of an agreement. Read the overt acts. They

espoused religious beliefs. That's what it says in the conspiracy charges. We espoused religious beliefs. Chad espoused his religious beliefs. Unless there's agreement, it doesn't matter whether he espoused his religious beliefs or not, because everybody's allowed to espouse their religious beliefs. I can tell you all about my religious beliefs. I can tell anybody. You can all talk all day long about our religious beliefs, but unless there's an agreement to commit a crime, you can talk all day long about your religious beliefs. You can say anything you want. I can say there's a little green man in my backyard, and I get to dance around with him and talk about religion all day long, and whether you believe it or not, it doesn't matter, but I'm entitled to my opinion to say that. Unless I can get into an agreement to commit a conspiracy, all the overt acts in the world don't matter.

So, there are two overt acts in the conspiracy that they talked about with JJ and Tylee. They killed these kids because of Chad's religious beliefs. That's what they're saying. His religious beliefs and all of this talk about dark and light was the reason Chad, Lori, and Alex killed these kids. And then, oh, by the way, the other overt act. Chad Googled south southwest wind, and yet we heard from Emma Murray. She said, “I Googled south southwest wind.” I had an event like Joe Murray's 5K race to see what the weather was going to be like, or another event that Joe was involved in, and she Googled it a short time before that event. You have to have an agreement. Again, do not speculate as to any other case or legal proceedings involving the alleged co-conspirator. What that's telling you is this. Judges' instruction.

You heard testimony about Charles Vallow. We've heard about that. We've heard a lot about it. Counsel brought it up again today. Brought it up again today, and I believe, if I remember right, I don't see him. Officer Duncan's here today. And Officer Duncan got on the stand, and when I pressed him, remember, folks, I brought the paper out. I brought the sheet of paper out, and I said, Officer Duncan, read this to the jury. Read what this prosecuting attorney in Arizona stated about the status of the case. And what did he say? Chad Daybell, with this in regards to Charles Vallow, no reasonable likelihood of conviction. What that means, they don't have any evidence. They don't have any reason. So, you know, you don't get to say, well, you know, he's guilty because he must have been involved *[feed cut]* Charles Vallow, except the prosecutor said no reasonable likelihood of conviction. Lori Vallow's involved with Charles Vallow. Alex Cox, if he was not deceased, involved with Charles Vallow. Then we go to Brandon Boudreaux. We go to Brandon Boudreaux. Chad Daybell, not implicated in regards to Brandon Boudreaux. You know what Chad did? You know why he's not implicated? He carried a tire from a

storage unit from a Jeep, and the prosecutor down there recognized, you don't have an agreement there because you carried a tire. You don't have an agreement because Chad Daybell has religious beliefs that we don't believe in. What they have is they have Alex Cox shooting at Brandon Boudreaux and Lori Vallow down there involved. And that's what you have down there. Do not speculate as to any other case or legal proceeding involving the alleged co-conspirator. It's in black and white. Facts, evidence.

Again, that fancy French word, voir dire. I talked to you folks about that. I talked about facts and evidence. Fact, Chad Daybell was not involved with Charles Vallow. Fact, Chad Daybell is not implicated with Brandon Boudreaux. Fact, Chad Daybell espoused religious beliefs. And if you want to believe the prosecutor, well, maybe Chad Daybell did a southwest search. Where's the agreement? Where is the agreement? It's not there. You must remember, the defendant Chad Guy Daybell has the presumption of innocence and you must consider his innocence based solely on the evidence provided in this case. It's the judge's instruction. It's not their instruction. It's not the four of them over there. It's the guy that matters here who sets the instruction and tells us the rules we have to follow. And the rule is, you must remember the defendant Chad Guy Daybell has the presumption of innocence and you must decide, consider his innocence based solely on the evidence, the facts and evidence that you have been presented. That's what you have to consider. We don't speculate. We do not guess. We do not engage in conjecture. We don't do any of those things. Facts and evidence.

Reasonable doubt. Under our law and system this is jury instruction number five. Again this isn't me speculating or saying anything you know, maybe making guesses or giving you facts that maybe aren't consistent with what you remember in your notes. You all took notes you all have a memory. I know it's been a couple of months but you all took notes and you all have a memory and the judge's other instruction would be rely on your memory. Rely on your notes about what you remembered not what the lawyers say – that includes me. If I say something that's different than what you remember in your notes you rely on your notes. They said something different than what you remember you rely on your notes, you rely on your memory. That's the way this works that's why we all have memories, that's why we all take notes. That's why we all document what has been said for the last two months. I watched all of you take very careful notes. I watched all of you document what was being said. Rely on your notes. Rely on your memories.

Under our law and system of justice the defendant is presumed to be innocent the presumption of innocent means two things the state has the burden proving the

defendant guilty. The state has the burden throughout the trial. The defendant is never required to prove his innocence nor does the defendant ever have to produce any evidence at all. Chad doesn't have to do anything he can sit back there and just let the state do their thing and if he did that and they never proved that there was an agreement you can't say they put on more evidence than the defense did. That's not the way this works. They have the burden to prove that there was an agreement. They have a burden of proving that Chad in some way was involved in the murder. Now the insurance cases go back to, well if Chad was planning a murder that way he lied and he took advantage of the insurance, and that's how that works. Because if you folks find that he wasn't involved in the conspiracy of the murder of anybody, there's no insurance fraud case.

Doesn't have to provide any evidence at all. Now you know, four experts. Dr. Bartelik, we're gonna get to that in a little bit. Dr. Hampikian. Dr. Raven. Patrick Eller. He didn't have to do that. Chad didn't – it's not his job to prove innocence. It's their job and it's their burden to prove guilt. They have the obligation to prove guilt.

Second. The state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not mere possible or imaginary doubt. It's based on reason and common sense. So when you think about reasonable doubt, what you're doing is you're saying, okay do I have a reason to believe or doubt whether Mr. Daybell is guilty whether Chad did this do I have a using my common sense and reason is it possible Chad's not guilty of this? That's reasonable doubt. If you're saying to yourself, "I don't know what happened. I don't know the truth. I have no idea really maybe we will never know what happened here." If that's going through your head folks and you don't know which way this is supposed to go or you have some doubt in your mind whether the state proved their case, the verdict is not guilty and under our system of justice it **has** to be not guilty because you can't just bring a bunch of people in from a school who suddenly espoused that Tammy was perfectly fine and *one after another after another* and bringing the principal in and bringing anybody who ever even spoke to Tammy once or once a week or anybody else and saying, "oh, she was healthy." And yet they didn't show there was a significant discussion about her health. And we're not supposed to believe her family. We're not supposed to believe her son and her daughter who knew her better than anybody else and then I guess what the state would like to do is well believe all of these nine, ten, twelve, fifteen teachers and principals and everybody else who was who was dragged in and said "oh yeah, healthy as a horse."

Okay. Common sense. Common sense. That's what you need to do. It may arise from careful and impartial consideration of all the evidence or from the lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt you **must** find the defendant not guilty. If you have a doubt and you don't know what happened you **must** find Chad not guilty. That's not from me. It's not from them. It's from the one that matters. The one who sets the rules and tells you what the instruction is and read it for yourself you're gonna get a copy of the instruction. It's jury instruction number five. You must if you have doubt – Chad doesn't have to prove anything – but if you have doubt about what happened here the verdict has to be not guilty. That's what the law says.

This is jury instruction number eight and I want to – when you pull up jury instruction number eight with you folks and then the booklets that you get – you'll see that I only took a couple of sentences out of that. In all fairness jury instruction number eight is much longer than this and there's a lot more information in there. But what I did is I pulled out what the theme and what I wanted to talk to you about and on jury instruction number eight as part of it, it says “in determining the facts you may consider only the evidence admitted in this trial.”

You consider the evidence that has been presented to you. There has not been any evidence saying “we're gonna kill the kids, we're gonna kill Tammy.” There is talk about a plan. Yeah 144,000 building a village for the children, the infirm, the sick, the other people that Chad is able to gather. There's the plan and if you go through the evidence you'll see there's reference to the plan. It wasn't a plan to kill folks, it was a plan to gather. A plan to gather by a gentleman who's a traditional Mormon. And yes you don't have to like his beliefs you don't have to agree with his beliefs but he sure has the right to believe.

Second line. And again you'll see the dot dot dots is because I didn't publish the entire jury instruction number eight. I took these two paragraphs out and when you read the rest of it you'll see it it's it basically covers the same subject. There's other topics in there that talk about it but under the second sentence: “do not attempt to guess what the answer might have been or what the exhibit might have shown.” That goes back to what I talked to in the very beginning of the trial. You can't speculate. You can't guess. You can't engage in conjecture. You can't say this is what he must have meant or this is what she must have met or this is what they meant by this. No. You look at the evidence and unless it tells you something you take the evidence as you take the evidence. Again, the judge’s instructions.

This talks about jury instruction number 18 and the state talked about this a little bit and I'm gonna go through the whole thing. I'll be quick, okay? “The law makes no distinction between a person who directly participates in the acts constituting a crime and a person who either before or during the commission intentionally aids, assists, facilitates, promotes, encourages, counsels, solicits, invites, helps, or hires another to commit a crime with the intent to promote or assist in its commission.” That was a lot. I can talk but that was a lot. In other words, what that's saying is that if there *was* a murder and someone did something to help along aided in that that that's a problem and it is. Okay.

But then we go down to the last sentence and this is what's important this is what you need to look at. And in all fairness I wanted to put the entire jury instruction so you could put it into perspective. “Mere presence at, acquiescence in, or silent consent to the planning or commissioning of a crime is not sufficient to make one an accomplice.” Okay? What that's saying is this Chad Daybell can talk about religion all day long. Chad Daybell can espouse his beliefs and he could talk about zombies with [Zaluma] or Melanie Gibb. Can teach about zombies and Chad can talk about dark spirits. Chad can talk about light and dark. Chad could talk about all sorts of religious beliefs, okay. But when the time comes if something happened to those children, *even if* Chad had knowledge, acquiesced, or silently said “well I may know about this I may know what have happened,” what that instruction the number 18 is saying “mere presence at, acquiescence in, or silent consent to the planning or commission of a crime, is not sufficient to make one an accomplice.” Accomplice means no conspiracy unless he took some sort of a step to make an agreement. There has to be an agreement. We're going back to that again. There has to be an agreement. There is no agreement.

Chad Daybell – testimony he met Tylee a couple times met JJ a couple of times. There was not a lot of contact. There was not a lot of encounter from when they first met to the time they moved to Rexburg. And you heard the testimony. I want you to go back and listen to the testimony, okay. I want you to look back at Jason Gwilliam and really listen to one of the exhibits that's been admitted state provided a little bit, provided a portion of it anyway. Lori Vallow is talking about a family attorney. Now, for those of us who know what a family attorney is they deal with divorce they deal with custody fights they deal with all of those topics. Chad said “the kids are okay, it'll be cleared up in time. There's a simple solution.” He calls Melanie Gibb talking to her, you know, and if you listen back to the tape recording, basically in essence he's saying “where are the kids Melanie? What's going on? I thought they were with you.” He did say “don't lie to the police.” Well you

know why? Because he thought [Kate] and Larry were in the process of trying to take the kids from Lori. Where did he get that from? Guess where. Lori Vallow. Chad didn't know where the kids were. Chad didn't know where the kids were until that fateful day on June 9th when they're discovered on his property.

Up until that time Lori Vallow was selling to Jason Gwilliam and anybody else who would listen, the family attorney line. "The kids are fine." And you heard Lori Vallow talk about it. If nobody knows about it the better. She said that. Only I need to know what was going on. *I'm* the one who needs to know what's going on and if nobody else knows anything they can't do anything about it. That was the dupe on Chad Daybell. The kids are fine. It's all gonna be cleared up. There's a simple solution. We're hiring a family law attorney to deal with it. They're not hiring a criminal defense attorney. They're not hiring a defense attorney. So Lori Vallow's decision to hire a family law attorney and Chad going along with it because there's a simple solution. Kids are safe. Everything's going to be fine.

Mere presence, acquiescence, silent consent doesn't get you there. Even if he knew there was a crime. Even if Chad Daybell knew, well maybe the kids aren't safe. The testimony is he was, everything's fine. Simple solution. But even if you don't believe that, even if you don't accept that and say "how could he not know where the kids were?" I want you to look at jury instruction number 18.

Mere presence at, acquiescence in, silent consent to it doesn't get you there and it doesn't mean he committed a crime. He's saying the kids are safe because Lori told him the kids are safe. He's saying it was a simple solution because this was a custody fight because Kay and Larry were trying to take the kids – JJ anyway – from Lori. Lori talked about that with.. with Detective with one of the detectives on the 26th of November. He talked – Ron Ball. Excuse me. Officer Ball's here, I think. Front row. Talked about it with Ron Ball.

The other thing about that tape that you need to understand, the other thing about the tape and I didn't mean to go on this long and I'm sorry I guess I may not have been completely forthright. It's gonna take a little longer than I thought, but I want to emphasize this stuff. Apologize for that. The other thing is when you listen to the tape with Ron Ball and the other officer, okay, you hear Lori Vallow talk about, "well I'm only here for a short while." And this is in September when they first started looking for where the kids are and go back to your notes, go back to your memory, but then go back to the tape and listen to the tape where Lori Vallow says, "well I'm also going to be planning to

move back with my friend Melanie Gibb." That was in September when she moved here, the kids were here, and she's already planning – she hadn't even been here for very long a couple months – and she's already planning on moving back and she said it in her own words: "with my friend Melanie Gibb." Okay, after being two months here and that's important. Keep – remember that.

Jury instruction 18: acquiescence – and it's a big word okay, and I looked it up in the dictionary. I'll admit that, okay. I looked it up because I know what silent consent is but when you look up acquiescence it says awareness, acceptance, compliance. I'm aware of it. Alright, I'm accepting it. I'm gonna go along with it. That's acquiescence. I'm gonna just go along with what is going on. So even if you think Chad Daybell should have known, but there was no agreement. There was no evidence that he entered into this plan to do this. The prosecutors' overt acts talk about espousing religious beliefs. They don't mention an agreement, but they know, they know you got to have an agreement first before you get to the overt acts. I showed you that earlier. And acquiescence means I'm aware, I accept, I'll even comply. Mere presence, acquiescence in, or silent consent, the planning or commission of crime is not sufficient to make one an accomplice.

Acquiescence, if there's no agreement, there's no plan to do that, and you don't have Chad Daybell with any evidence, the evidence that you're only supposed to consider that you have, he didn't commit a crime if that's what you believe. Now he's saying the kids were fine. They were being kept and Lori Vallow was doing that. It was a simple solution. But if you don't believe that, acquiescence does not make it a crime, folks. And this isn't me saying this. This isn't some lawyer's argument. This is this judge's instruction. Acquiescence, and or silent consent to, is not sufficient to make one an accomplice. Okay.

We're going to go back to the jury instruction 20 and talks about, again, the amended indictment against Mr. Daybell for first-degree murder and grand theft by deception. And the important, oops, skips. I was expecting it at some point. The important part here, is, involves an agreement. Once again, it involves an agreement. Once again, conspiracy *involves an agreement*. You have to have an agreement for there to be a conspiracy. *You have to have an agreement*. There is no agreement.

I want to talk a little bit about Exhibit 35 and 36. And those are exhibits that I submitted for your consideration. And if you remember, I had the officer on the stand, and I believe it was one of the state police officers, and I had them show you the handle of the shovel

that was one of the many tools that were provided to them. And I zeroed in on the shovel, and this was the shovel that was at the scene of the crime. And it had dirt on it, like it had been used, like someone had been shoveling with it on June 9th and June 10th, the day the bodies were removed from the ground.

But I provided your Exhibit 35 and 36 for a reason. Because when you look at the very first pictures of the tools lined up in the corner in the barn, and you zoom in on that picture of the black shovel, you'll notice there's no dirt on the handle. And then on June 9th, later in the day, you see the shovel on the ground. Zoom in on the shovel, black shovel handles, folks, and magically there's dirt on the handle of the shovel. And then the subsequent pictures again on the 10th, there's dirt on the shovel. And then when the shovel gets to the state police and the officers up there from the lab, surprisingly no dirt on the shovel handle, the black handle, the high end of the handle. No dirt in the beginning, dirt in the middle, no dirt in the end. And magically, surprisingly, those pictures are from June 9th and June 10th. The shovel and tools were used to dig. You heard from Officer Schmitt, “grab some shovels and start digging.” They didn't say “grab shovels that we brought.” They didn't say anything like that. They said, “grab the shovels and start digging.” Now, how do we know he's telling the truth?

Because 35 and 36, and take the time and go over the pictures, expand on those pictures of that black handled shovel and tell me clean first picture, dirty, dirty, clean. They use the shovels. The police who were investigating this case used the shovels and then magically we get a pickaxe and magically we get another shovel. And guess what? Surprisingly, of the 18 tools, you heard from Dr. Hampikian, not a drop of DNA of Chad Daybell is on any of the tools. Nothing else was tested. But ironically, you know, we found Tylee Ryan's DNA on a shovel and a pickaxe that were found right next to the shed with that black shovel that was used on June 9th and June 10th. Okay.

Motive. I want to talk to you a little bit about motive. Alex Cox. He killed Charles Vallow in front of Tylee and JJ. You heard testimony. Alex Cox shot Charles Vallow once. And then he walks up to Charles Vallow while he's dying and puts another bullet in him. And who are two of the witnesses? Lori Vallow is not going to say anything against her protector. Lori Vallow is not going to do anything about her beloved brother. But Alex Cox knows there are two people, two expendable people – in Alex Cox's mind – who witnessed the murder of Charles Vallow. That would be Tylee Ryan and JJ Vallow. Tylee Ryan and JJ Vallow, the murder of Charles Vallow. They become expendable because the one thing that could cause Alex Cox to spend the rest of his life – or far worse in Arizona – is a

16-year-old girl and an autistic 7-year-old little boy. Chad Daybell was not charged in that. Lori Vallow's charged. Again, what I told you before, we had Officer Duncan. No reasonable likelihood of conviction of Chad.

Lori Vallow cared about a couple of things. Lori Vallow cared about money and she cared about Lori Vallow and she cared about Alex Cox. Now, how do we know Lori Vallow cared about money? We know Lori Vallow cared about money because I believe it was the third husband, Joseph Ryan. You heard evidence from the witnesses. Lori Vallow collected the insurance proceeds from the death of Joseph Ryan. Then the state went on and put on a tremendous amount of evidence, *tremendous* amount of evidence. Charles Vallow, she was mad. She was really mad. She didn't get the money. Kay Woodcock is on top of it. She stopped that and even when Lori tried to get the beneficiary changed, Lori didn't get her greedy hands on the money. And then what happens? The next victim, the next victim, husband number five, *number five*, "just get insurance. Don't worry about saying there's any kids or any beneficiaries or anything like that. Honey, just say it's me and you." And while all of this is going on, all of this is happening. Chad's really good friend, Alex Cox, *really close friend*, is Googling how to put a bullet through the windshield in the side of a black Dodge Dakota that Chad Daybell primarily drives. The target was not Tammy Daybell. It was not Tammy Daybell. You heard testimony about the insurance. The target was not Tammy Daybell. He was the target. The driver of the black Dodge, how do we get it through the window? How do we get it through the side?

Because once Chad is gone, once Chad is out of the way, guess what? Ryan's insurance. Kay Woodcock stopped the insurance from Charles Vallow and she put an end to that. Lori Vallow's next victim, Chad Daybell, because Alex Cox was going to do something to him and that gave Lori the straight line to pick up the next proceeds. And according to Lori Vallow's own statement on November 26th, with our friend Ron Ball there, I'm going to get back with Lori. I'm going to go back with Melanie. I'm going to go back with Melanie. Okay. So Alex Cox had a motive. The motive was Alex Cox would be either spending the rest of his life in prison, or a far worse fate, if JJ or Tylee even opened their mouth and said anything about observing or being there when Alex Cox decided to put the finishing touches and do the final bullet into Charles Vallow's chest while he was laying there dying.

I want to talk a little bit about confirmation bias. We talked a little bit about that. It's when somebody starts an investigation or gears themselves. We talked a little bit about that with Dr. Christensen, how he made the determination at the end. And he said, "well, you

know it's between, you know, we don't know what happened or homicide. But then I looked at all the police reports and the police officers provided me with all of the police reports. They provided me with *all* of the evidence. And when I looked at *all* of this massive pile that Ms. Blake went through of all the evidence that they provided and my request, I said, you know, this is going to be homicide instead of undetermined."

Then you ask him, why didn't you call the kids? Because you requested information from the police. Why didn't you request information from the kids? Why didn't you ask them? Because they wanted to know why their mother was exhumed with no basis or explanation to them for doing it. They didn't hear anything for 14 months. No explanation. So *call,* Dr. Christensen, *call* these children and say, "can you tell me anything about their medical history? Can you tell me anything about whether your mother was feeling ill, whether she was fainting, whether she was having seizures, whether her anemia was inflamed, whether, – and the last questioning was, – whether she had inflammation of the lungs that was never brought up and why her lungs were filled. Give us something. Tell me something." But that didn't happen. Confirmation bias means you pick a target and you go after whatever evidence you have to, to make that target look like that person is guilty.

And all of them in the audience with the suits, that's exactly what they did. That's exactly what they did. Gibb and Warwick were ignored. *Gibb and Warwick were ignored.* They didn't get DNA evidence from them. They didn't get phone records from them. They did nothing. At the end, they took a hair sample for, I think, Melanie in 2020. There was a hair sample in 2020 for Melanie. Didn't do anything with it. On the 22nd and 23rd in Lori Vallow's apartment, there were four people in that apartment on the day that JJ Vallow was murdered. Lori Vallow was there. JJ Vallow was there. Melanie Gibb was there. David Warwick was there. And the prosecutor talked about a phone call to Chad. Go back and look at the notes, folks, and you'll see that it was actually a text message that Melanie sent to Chad. It went unanswered for eight or nine hours. Melanie was trying to cover her tracks. She was trying to say, well, you know, I know I'm here. This is what's going on. Me and my good friend, this is what happened to JJ. You know, oh, there – all of this stuff. And the biggest complaining witness against Chad Daybell, all of this religious stuff, all of these facts, all of this stuff about, you know, Chad teaching people about his religious beliefs. It came from Melanie Gibb, the one person who has *everything* to lose. David Warwick and Melanie Gibb were present at the time that JJ Vallow was murdered.

Chad Daybell's phone on the 23rd. No location information. No Google information. Now, you heard from the officer, I think it was Stubbs who said, well, he turned the Google off. What about the phone? What about all the apps? What about all the other ways that Patrick Eller talked about you could find and locate a phone on a piece of property if he was there? And yet we didn't hear anything about that. Because on the 23rd, when JJ's body was dumped in the ground by Alex Cox and dug that hole, Chad Daybell was not there.

And ironically enough, *look back at your notes,* look back at your notes and look back when Melanie Gibb and David Warwick said well we left town that morning, Alex Cox left at 9:21 to drive toward Chad Daybell's property. Melanie Gibb and David Warwick claim – *claim* – that at 9:30, well we were on our way to Pocatello, show me the phone records, David. Show me the phone records, Melanie Gibb. Because Melanie Gibb and David Warwick went on a little ride to Chad Daybell's property and David's construction consultant, and they had to say whatever they have to say to get out of this, offer whatever information they need to this prosecuting attorney to convince them that, oh, we weren't involved, even though we were there at the night of the murder. We have *nothing* to do with this. We know nothing. And yet, ironically, within 10 minutes after Alex Cox leaves, 10 minutes later, Melanie Gibb and David Warwick. So how did the body of JJ get in the back of the trunk from Lori Vallow's apartment with Melanie and David there? Hmm. Ten minutes later, three people, simple as can be.

Now, September 9th, again, same cast of characters, same folks, same people, Alex Cox, Lori Vallow, Tylee Ryan. You saw a text message from Chad Daybell at 10:56, 10:57: "shot a raccoon, burned some limbs." Okay. No location device on September 9th with Chad Daybell on the property. No Google information, no apps, no evidence to show that Chad Daybell was there. Earlier in the day, yeah, he buried a raccoon. He started a small fire, burned some limbs, and he told his wife about it. And we know that he shot a raccoon. Reegen Price. Remember Reegen Price? Reegen Price is the one who said early in the morning she heard a shot. She didn't see anything else. She didn't see anything else out there. But Reegen Price heard a shot in the morning. And if there's a hole to be dug in the pet cemetery we know why. If there's ground that was disturbed, we know why. Because Chad Daybell, in his text message to his wife, said, "I shot a raccoon." And Reegen heard the shot. Reegen heard the shot. But Reegen didn't see anything else.

Then we get to Dr. Eric Bartelink. Dr. Bartelink, remember? Forensic anthropologist? The fire guy. The guy who tested the bodies that are contributed to his program to see how long it would take to burn. What did he say? He didn't say you needed a lot of accelerant. It wasn't as much accelerant. What it was was a bonfire, folks. Where was the bonfire on September 9th? 'Cause Reegen Price didn't see anything. Because there was no bonfire. There was no bonfire. It wasn't there. The body was burned as a whole. I can't prove to you where Alex Cox burned this body. I don't know. What I do know is that the body was burned as a whole. I do know the body was burned as a whole. Because that's what Dr. Bartelink said. I also know that what Dr. Bartelink said is there is no explanation, and it couldn't have just been the fire, that a large number of remains of Tylee were not found at the scene. They were not discovered there. Now, you can't say the police didn't try. You can't say the police didn't try. They brought out a bulldozer. They had a bulldozer. Look at the pictures. They made an effort to try to find whatever they could find, but they couldn't find all the pieces. And they didn't find all the pieces. And then you saw in Alex Cox's garage, Lori Vallow's garage. You'll see the pictures of Lori Vallow's garage in the exhibit. And there's a container of quikrete. And you talked about how one of the people said that while trying to dig it up, it looked like there was some sort of concrete or quikrete or hard, you know? Because Alex Cox poured a box of quikrete in there.

But the question remains, is this. If Alex Cox put the body in the ground and put quikrete to cover up the burial, when did the carnivore bite take place? When did we get the carnivore bite? If Alex Cox took the body directly from his apartment, brought it over to Chad's like they're suggesting, threw it in the ground, threw it in the quikrete, when did the carnivore bite take place? Alex Cox murdered Tylee Ryan. Lori Vallow knew what was going on because her beloved little brother – or her beloved big brother could be tagged for the murder of Charles Vallow. And those two kids saw it. And Alex Cox took the body after he murdered Tylee Ryan, he took it out somewhere and he burned the body. And while out in the middle of Fremont County or Madison County or wherever he went, where there are thousands and thousands of acres of open ground, Yellowstone Park is just a short way away, folks. This is a wildlife heaven for hunters. Great place for hunters. The body was burned, it was subjected to a carnivore bite, and then it was put in the ground.

And on September 9th, Alex Cox was on Chad Daybell's property. At least part of the time. If you remember what Patrick Eller said, he talked about the fact that there's a certain block of time, an hour, an hour and 15 minutes, an hour and 20 minutes or more, where we can't really identify where Alex Cox was. He was there, he was gone, he came

back. But then remember the testimony from the state's expert, and remember the testimony from Patrick Eller. Six or seven other times, Alex Cox was on the property of Chad Daybell. No location device with Chad Daybell at that time. No indication that Chad Daybell was on the property at that time when Alex Cox was there.

You commit murder of two kids, and the intent is to eventually finish off husband number five. What's the best place, the *ideal* place to bury bodies? The new husband. *Set him up.* Chad Daybell's electronics weren't there. Chad Daybell wasn't there. Other people were there, especially on the 23rd. The two people who were there when JJ Vallow was brutally murdered. But set Chad up. And then to make things nice and neat, Alex, finish him off like you were going to do Brandon Boudreaux, like you did Charles Vallow. Alex Cox is a murderer, and he is not shy about shooting people. He shot at Brandon Boudreaux. He murdered Charles Vallow. Chad Daybell was next, and to make the plan nice and neat, let's bury the bodies on Chad Daybell's property. Folks, this has nothing to do with religion. This has nothing.

You take a dozen or two dozen or even four or five dozen text messages or emails and communications with someone you're having an affair with, and you tell me that you're going to be able to construe them only one way? They can be construed a number of ways, and that's exactly what they did. Confirmation bias. Confirmation bias. You pick the target and you don't do your job. Text message. Gibb to Prosecutor Wood. “Keith, Dateline interview, and I want to make sure the church is protected.” You heard, Lori – you heard Melanie Gibb read that. Keith and I. Keith Morrison. Dateline. We want to make sure the church is *protected.* There were over 300 other messages between Prosecutor Wood and Melanie Gibb. Why are we, as Melanie Gibb, telling a prosecutor in a criminal case that we need to protect the church? We need to protect the church.

We know from Officer Kaaiakamanu, one of the messages he pulled off when he did his search was Julie Rowe and the stake president saying, “Julie, my stake president's going to call Chad's stake president. You need to stop publishing your books. You need to stop doing all of this stuff.” We need to make sure that the church doesn't get implicated in this because these subjects that we talk about, these dark and light spirits, these other subjects that might be uncomfortable to be exposed, these other subjects that nobody should want to hear about, we need to protect the church so we don't hear it. So what do you do? You pick a target. And rather than looking at where the evidence leads and the facts, you create a scenario saying, well, he's a religious zealot. Well, he's got all of these crazy ideas about all of this stuff. Yeah, he talked about death percentages, folks. He also

said Heather Daybell was dark. He said Aly Bloomer was dark. He said Samantha Gwilliam was dark. And he said our good friend over here, Officer Hermosillo, he was dark. He doesn't look dead to me. And Samantha Gwilliam isn't dead. Aly Bloomer's not dead. Heather Daybell's not dead.

Heather Daybell, that's the pot stirrer. That's the other one. That's the other one who said, you know, “I'm the stake president's part of this society, and I'm going to send it to all of the ward ladies, and they can decide whether they want to disseminate all this terrible stuff I've said about my brother, Chad Daybell, and we're going to spread it like fire.” The pot stirrer. The problem is the pot stirrer was in the organization of the LDS Church was doing it again.

Chad was the target. This author writes about uncomfortable things. He talks about uncomfortable things. He discusses topics that maybe make people uncomfortable. But you know what? He has every right to talk about it. And you cannot hold it against him because you don't like the topic, or you don't agree with the topic, or you don't even understand the topic. I don't understand half the stuff that's going on with some of this religious stuff. I don't have a clue. But I will defend his right to believe whatever he wants to believe.

Experts. Dr. Raven. Okay, you remember what Dr. Raven talked about. She talked about the results. She stood here very clearly and said, “you don’t get to engage in confirmatory bias.. It's undetermined.” And by looking at all of that other stuff, and in 25 or 30 years of doing it, she never did that. She never looked at the other stuff. Dr. Bartelink. We already talked about that. The body wasn't the whole body wasn't there. Where is it? Patrick Eller. No data showing Chad Daybell. No device location.

Dr. Hampikian. He talked about hair samples. And you remember from the state police talking about the 40 or 50 hair samples that they sent over to one of the laboratories. And some of those included blonde hairs. *Blonde* hairs. Now, the DNA evidence on the plastic on JJ showed that there was a fingerprint and a handprint of Alex Cox on the plastic. There was also Lori Vallow's hair. And they had her sample. And when he asked Dr. Hampikian, did they exclude those blonde hairs from that they found on the tape wrapped around JJ? Did they exclude Lori Vallow? It wasn't her. But you know what? Whose blonde hairs were there? I only know one other blonde. JJ Vallow and the other blonde. Well, it was the blonde who was with her, with him, in the apartment when he died named Melanie Gibb. But once again, we ignore that evidence. We don't test that

evidence. We don't look at that evidence. We don't examine that evidence. We don't get samples of that evidence. Instead, we ignore it, and we go right to Chad Daybell.

We talked about Dr. Hampikian talking about negative DNA results. And of the 18 tools that were found in Chad Daybell's garage, how many of them had his DNA? Zero. Did they test anything else? No. Magically, Tylee's remains are on a pickaxe and a shovel. The same thing that I talked to you about in Exhibit 35, and folks, please examine that. Please look carefully.

Casting. Religious beliefs. Dark light casting. He's a traditional Mormon. You may not like it. You may not believe what he believes. But he has every right to talk about it. He's written a number of books about it. And any chance anybody gets to even mention the word religion to him, he goes off on a 35- or 40-minute patriarchal prayer that I still don't even understand what he was talking about. But he does it, and goes into great detail about all sorts of things. Dark spirits. Death percentages. Castings. You heard from Emma Murray. You heard from Emma Murray, and she talked about the fact that she felt like she had something possessed in her, and Chad helped rid her of that spirit. Now, whether you believe it or not, it doesn't matter. But I asked her, does that mean you die? No. And when they're talking about inflicting pain, and inflicting discomfort, they're not talking about inflicting discomfort on the actual person. The discussion, if they took the time to look at it, is they're inflicting pain on the spirit that's inhabited the body, and they're trying to make it uncomfortable so that the body and the spirit are separated, and that spirit goes off. And you make it uncomfortable enough that that spirit disappears.

DNA evidence. I talked about this already. No Chad. Alex Cox, Lori Vallow, primary and secondary. And the important thing is here, folks, is this. At the time that JJ Vallow was buried, I talked to Dr. Hampikian about this, and some of you smiled because I said, is there anything else I'm missing? Sweat. Spit. Fingerprints. Breathing. Any kind of way to get DNA. And Dr. Hampikian said, a small little particle. That's all it takes. And yet, after the state lab did their examination, after they went through everything, nothing of Chad's. Nothing of Chad's. Hair's not tested. Dr. Hampikian said, DNA does not tell us where or when the DNA got there, when it occurred. Talks about presence.

Chad Daybell, you can't hold his silence against him. You can't do that. If he chooses not to talk, you can't even consider that. If that's going into your consideration, then the judge will give you an instruction on that. That's not something you do.

Reasonable doubt. Motive, Alex Cox. Alex Cox needed to cover for a murder. Lori and Alex, they're the two ones who were involved. Why is it that it's a woman like Lori Vallow, married five times? She pursued Chad. She's the one who pursued Chad. Remember when we talked about they were at the book, the book situation, where they're selling the books at the Preparing the People? And then subsequently, there was a basketball game and [Zaluma] talked about, "well, are you afraid of me?" And Chad goes walking off. She pursued Chad. I don't know what her agenda is, but ultimately, her agenda was to get another life insurance check after Chad Daybell was knocked off by Alex Cox.

I want to talk a little bit about Tammy, the Fitbit. Officer Mattingly went into great detail about all the mileage she was traveling and all these things she was doing. And then Emma Murray and Joe Murray talk about a simple thing. Tammy would lay in the bed and there was a competition. And Tammy, if anything, wonderful woman, very competitive. Real easy. Run that Fitbit up. Run that Fitbit up. And it doesn't matter. Even if she was walking, even if she was walking, you heard from Emma Murray how her health wasn't that great, from Garth how her health wasn't that great. And you can't speculate. You don't get to do what Dr. Christensen did, which is speculate that that's, well, we think that's what she died. Because if you're speculating, you're breaking the judge's rule. No speculation. Either you know what caused it or you don't know what caused it. And if you don't know what caused it, and one person says, undetermined, the other one says homicide because I was provided all the police reports, that doesn't get you there. You don't get to speculate.

Officer Colter. The prosecutor pointed out that at 9:30, Tammy Daybell did a search. And she did a search on her computer about paintball guns. And then ten minutes, nine, ten minutes later, she called the non-emergency line and said there was a paintball incident. And the prosecutor said, well, how did she show Officer Colter if she was Googling it? Because when Officer Colter eventually got there, as you remember the testimony, if you remember it this way, Garth and Tammy took Officer Colter to the computer and said, "this is what a paintball death looks like. This is what I Googled." And Tammy didn't Google AK-47. Tammy didn't Google all of that other stuff. She Googled paintball gun and told Officer Colter, that's where it is. And then Officer Colter fills out a very short police report. And lo and behold, at the urging of whoever his boss is out there, changed it a little bit. He included that Joe Murray saw and heard Tammy yelling. And Joe got up there and said, I did not hear that. I did not do any of that. You're wrong, Officer Colter. And he got his facts wrong. And you know where he gets facts wrong on? The *second*

report he did. Sometime later after he does the second report, that's where he got the facts wrong.

I want to clarify something else. When the police on the 26th contacted Melanie Gibb, she said, I have JJ. I have JJ. And it wasn't a short time later. There was a suggestion that it was a short time later. It was 10 days later. The gig was up. Melanie knew she was caught. She was there during the murder. And suddenly she starts singing. And she starts telling these long tales. And the biggest complaining witnesses against Chad Daybell: David Warwick, Melanie Gibb. They're the two that are saying all of this stuff, saying, oh, yeah, Chad, Chad, Chad, Chad. Well, they got the most to lose because they were there when JJ Vallow was killed. [Zaluma] Pastenes, another complainer, married to the murderer. Married to the murderer of JJ Vallow. Married to the murderer of Tylee Ryan. Married to the murderer of Charles Vallow. And married to the attempted murderer of Brandon Boudreaux.

Brenda Dye ordered the autopsy – said no autopsy. Emma Murray agreed. And then said "my dad didn't say anything one way or the other." Chad wasn't trying to hide anything. Steve Schultz. No bruising. The bruising on Tammy's body. Eight bruises on one arm from the book fair carrying the books. Emma talked about that. One bruise on the other with one up here. You carry a book in your arm. It leans against your chest on one point. You got eight bruises on the other arm. There's no asphyxiation here, folks. You heard Dr. Raven saying 600 pounds would have to sit on your chest to smother you the way they're suggesting. No marks on the neck. No indication of anything else. This was not homicide.

Steve Schultz. Chad's a good guy. He strayed. And he did have an affair, folks. He had an affair. But the affair doesn't mean he killed anybody. And maybe there was a plan. You tell me that you're having an affair with someone and you don't start discussing the possibility of a future, having a future, spending time together in the future? That doesn't mean you're going to murder.

Reasonable doubt. Motive Alex Cox. Lori and Alex. That's where all the trouble. You don't go being married for 29 or 30 years with nothing as much as a speeding ticket on your record. And then you marry someone who, "what are you afraid of me?" And five husbands later, no DNA. These officers failed this investigation. They absolutely failed in their investigation looking up the facts of this case. Folks, if there is reasonable doubt,

and *there is* reasonable doubt, you *must,* according to the judge's instructions, return a verdict of not guilty.

I am respectfully asking all of you to return a verdict of not guilty.