



Received: 2025-SC-0435 07/30/2026
Filed: 2025-SC-0435 07/30/2026
M. Katherine Bing, Clerk
Supreme Court of Kentucky

Supreme Court of Kentucky

No. 2025-SC-0435-MR

JOSEPH LAWSON

Appellant

v.

On direct appeal from
Nelson Circuit Court,
No. 23-CR-0183 & -0239

COMMONWEALTH OF KENTUCKY

Appellee

BRIEF FOR THE COMMONWEALTH OF KENTUCKY

RUSSELL COLEMAN

Attorney General of Kentucky

MATTHEW F. KUHN (No. 94241)

Solicitor General

SHAWN D. CHAPMAN (No. 89499)

Deputy Solicitor General

Office of the Attorney General

1024 Capital Center Drive, Suite 200

Frankfort, Kentucky 40601

Matt.Kuhn@ky.gov

ShawnD.Chapman@ky.gov

(502) 696-5300

Counsel for the Commonwealth of Kentucky

Certificate of Service

I certify that on July 30, 2026, I electronically filed this brief in the Office of the Clerk of the Kentucky Supreme Court and that I served a copy of this brief on: Hon. Charles C. Simms III, Chief Circuit Judge, Nelson County Justice Center, 200 Nelson County Plaza, Bardstown, KY 40004 (by U.S. mail); Hon. Kayla D. Detherage, Assistant Public Advocate, Department of Public Advocacy, 5 Mill Creek Park, Section 100, Frankfort, KY 40601 (by state messenger mail); Hon. Kyle Williamson, Nelson County Commonwealth's Attorney (by email); and Hon. Shane Young, Special Prosecutor (by email). I further certify that the record was returned to the clerk of this Court.

/s/ Shawn D. Chapman

INTRODUCTION

On July 3, 2015, Crystal Rogers disappeared. She has never been found and is, no doubt, dead. Although Brooks Houck was the main culprit in her disappearance, he didn't act alone. He had help from several co-conspirators, including Joseph "Joey" Lawson, one of his employees. In the trial below, the Commonwealth showed that Joey helped dispose of Crystal's body and her car. Indeed, he bragged that he would bury the car and feed her body to hogs. For his part, Joey was convicted of conspiracy to commit murder and tampering with physical evidence. He now appeals his convictions. This Court should reject his claims and affirm.

STATEMENT CONCERNING ORAL ARGUMENT

Although Joey did not request oral argument, the Commonwealth does. Oral argument would help the Court navigate the extensive record, which includes a ten-day trial, and resolving this appeal.

STATEMENT CONCERNING CITATIONS TO THE RECORD

The Commonwealth generally cites the video record as “VR.[date], [time].” When the date or time stamp is not legible, the video citation will be to the video filename and the counter-time: e.g., “2025-06-27_12.59.32.242, 41:05-44:00.” The written record appears in two sets of volumes under different case numbers. Citations to the written record will appear as “TR-138, [page number]” or “TR-239, [page number].” Trial exhibits are generally cited as “Com.Ex.[number]” or “Def.Ex.[number].” Many exhibits, especially video and audio recordings were played into the trial record; although some of those exhibits are more audible when played directly, the Commonwealth generally cites the certified video record for quotations and specific facts, after citing the exhibit, for citation consistency and to reduce the already large number of record cites. And Joey’s brief is cited as “Br.[page number].”

COUNTERSTATEMENT OF POINTS AND AUTHORITIES

INTRODUCTION	i
STATEMENT CONCERNING ORAL ARGUMENT	i
STATEMENT CONCERNING CITATIONS TO THE RECORD.....	ii
COUNTERSTATEMENT OF POINTS AND AUTHORITIES.....	iii
COUNTERSTATEMENT OF THE CASE.....	1
Crystal and Houck.	1
July 3, 2015—Crystal disappears.	2
July 5—Crystal is reported missing.	5
July 5—Houck’s First Police Interview.	6
July 6—Snow continues investigating.	8
Thompson Hill Road dump.	11
July 7—Houck’s Second Interview.	11
July 8—Houck’s Third Interview and Written Statement.	12
July 9—Houck goes on Nancy Grace..	18
July 8 and 9—Snow keeps investigating.....	19
Houck gets his windows tinted.	19
Crystal’s car was on the Bluegrass Parkway Friday night.....	20
Houck’s audio recorders.	21
RCr 5.54(1).....	23

2026 House Bill 305	23
Houck’s statement falls apart.....	23
Danny Singleton.	25
Phone evidence connects Steve to Crystal’s car.....	25
Phone evidence disproves Houck’s story.	27
Phone evidence of the Lawson-Houck conspiracy.....	28
Nick Houck’s odd behavior.	29
Heather Snellen.....	30
Charlie Girdley.	31
The white Buick.....	33
Rebecca Greer.	35
Stacy Cranmer.	35
Barbara Coulter.....	36
Indictment and Trial.	37
ARGUMENT	37
I. The trial court rightly denied Joey’s directed-verdict motion.	37
A. Standard of Review	37
<i>Commonwealth v. Benham,</i> 816 S.W.2d 186 (Ky. 1991)	37
<i>Riggle v. Commonwealth,</i> 686 S.W.3d 105 (Ky. 2023)	38

	<i>Southworth v. Commonwealth</i> , 435 S.W.3d 32 (Ky. 2014)	38
B.	The Commonwealth proved that Joey conspired to kill Crystal.....	38
	KRS 506.040(1)(a)-(b).	38
	KRS 506.050(1).	38
	<i>Fulton v. Commonwealth</i> , 849 S.W.2d 553 (Ky. App. 1992)	39
	<i>Pinkerton v. United States</i> , 328 U.S. 640 (1946).....	39
	<i>Iannelli v. United States</i> , 420 U.S. 770 (1975).....	39, 43
	<i>Arnett v. Meade</i> , 462 S.W.2d 940 (Ky. 1971)	39
	<i>United States v. Iribe</i> , 564 F.3d 1155 (9th Cir. 2009).....	39
	<i>Commonwealth v. Speakes</i> , 740 S.W.2d 941 (Ky. 1987)	39
	<i>Warmke v. Commonwealth</i> , 180 S.W.2d 872 (Ky. 1944)	40
	<i>Polly v. Commonwealth</i> , 2023-SC-0125-MR, 2024 WL 3929734 (Ky. Aug. 22, 2024).....	40
	<i>Johnson v. Commonwealth</i> , 81 Ky. 325 (Ky. 1883)	40
	<i>Laughlin v. Commonwealth</i> , 37 S.W. 590 (Ky. 1896).....	40

Kentucky Penal Code Final Draft § 755 Commentary (Nov. 1971)	40
KRS 506.110(2)	40
<i>Phillips v. Commonwealth</i> , 2004-SC-000936-MR, 2006 WL 3386575 (Ky. Nov. 22, 2006)	41, 42
<i>Hurley v. State</i> , 483 A.2d 1298 (Md. App. 1984).....	42
<i>Wyatt v. Commonwealth</i> , 219 S.W.3d 751 (Ky. 2007)	43
KRS 506.050(1)	43
Carl Sagan, <i>The Demon-Haunted World</i> (1996).....	44
<i>Brown v. Commonwealth</i> , 555 S.W.2d 252 (Ky. 1977)	46
C. The trial court properly denied Joey’s directed-verdict motion for tampering with physical evidence.	46
KRS 524.100(1)(a).....	47
<i>Commonwealth v. James</i> , 586 S.W.3d 717 (Ky. 2019).....	47, 48
<i>Clark v. Commonwealth</i> , 567 S.W.3d 565 (Ky. 2019)	48, 49
<i>Newton v. Commonwealth</i> , 2006-CA-001298-MR, 2008 WL 540741 (Ky. App. Feb. 29, 2008).....	48, 49
<i>Haynes v. Commonwealth</i> , 2010-CA-002232-MR, 2011 WL 5245207 (Ky. App. Nov. 4, 2011).....	48, 49

<i>Acosta v. Commonwealth</i> , 391 S.W.3d 809 (Ky. 2013)	49
<i>Ray v. Commonwealth</i> , 611 S.W.3d 250 (Ky. 2020)	49
<i>Johnson v. Commonwealth</i> , 694 S.W.3d 232 (Ky. 2023)	49
<i>Smith v. Commonwealth</i> , 636 S.W.3d 421 (Ky. 2021)	50
<i>Johnson v. Commonwealth</i> , 105 S.W.3d 430 (Ky. 2003)	50
<i>Smith v. Commonwealth</i> , 370 S.W.3d 871 (Ky. 2012)	50
RCr. 6.16	51
<i>Commonwealth v. Combs</i> , 316 S.W.3d 877 (Ky. 2010)	51
<i>Clark v. Commonwealth</i> , 267 S.W.3d 668 (Ky. 2008)	51
<i>Schultise v. Commonwealth</i> , 2014-CA-000214-MR, 2016 WL 447743 (Ky. App. Feb. 5, 2016)	51
II. The trial court correctly tried Joey and Houck together.	51
RCr 6.20	51
RCr 9.12	51
<i>Darcy v. Commonwealth</i> , 441 S.W.3d 77 (Ky. 2014)	51
<i>Sexton v. Commonwealth</i> , 647 S.W.3d 227 (Ky. 2022)	51

<i>Peacher v. Commonwealth</i> , 391 S.W.3d 821 (Ky. 2013)	51, 54
<i>Schambon v. Commonwealth</i> , 821 S.W.2d 804 (Ky. 1991)	52
<i>Groppi v. Wisconsin</i> , 400 U.S. 505 (1971)	52
Caitlin Huff and Brennan Cain, <i>What we learned during the first day of Steve Lawson's trial</i> , WBKO News (May 27, 2025), https://www.wbko.com/2025/05/27/jury-selection-underway- trial-against-steve-lawson-crystal-rogers-case/	53
<i>Ross v. Commonwealth</i> , 531 S.W.3d 471 (Ky. 2017)	53
<i>United States v. Garner</i> , 837 F.2d 1404 (7th Cir. 1987)	53, 54
KRE 404(b)	54
<i>Commonwealth v. Rogers</i> , 698 S.W.2d 839 (Ky. 1985)	55
<i>Gill v. Commonwealth</i> , 7 S.W.3d 365 (Ky. 1999)	55
<i>Paulley v. Commonwealth</i> , 323 S.W.3d 715 (Ky. 2010)	55
<i>Ratliff v. Commonwealth</i> , 194 S.W.3d 258 (Ky. 2006)	55, 56
III. No error occurred during jury selection	56
A. Joey failed to preserve this issue	56

<i>Gabbard v. Commonwealth</i> , 297 S.W.3d 844 (Ky. 2009)	56, 57, 58
<i>Floyd v. Neal</i> , 590 S.W.3d 245 (Ky. 2019)	56, 57, 58, 59, 60
<i>Ward v. Commonwealth</i> , 587 S.W.3d 312 (Ky. 2019)	57
<i>Hurt v. Commonwealth</i> , 409 S.W.3d 327 (Ky. 2013)	57
<i>Grubb v. Norton Hosps., Inc.</i> , 401 S.W.3d 483 (Ky. 2013)	58
<i>Mulazim v. Commonwealth</i> , 2020-SC-0087, 2021 WL 1681267 (Ky. Apr. 29, 2021)	59
<i>Exantus v. Commonwealth</i> , 612 S.W.3d 871 (Ky. 2020)	59
<i>Mulazim v. Commonwealth</i> , 600 S.W.3d 183 (Ky. 2020))	59
<i>Reis v. Commonwealth</i> , 2024-SC-0396-MR, 2026 WL 1841899 (Ky. June 25, 2026)	59
B. The court did not abuse its discretion by denying the for-cause strikes.	60
<i>Mabe v. Commonwealth</i> , 884 S.W.2d 668 (Ky. 1994)	60
RCr 9.36(1).....	60
<i>Hubers v. Commonwealth</i> , 617 S.W.3d 750 (Ky. 2020)	60, 61, 64

<i>Dunlap v. Commonwealth</i> , 435 S.W.3d 537 (Ky. 2013)	61
<i>Abbott, Inc. v. Guirguis</i> , 626 S.W.3d 475 (Ky. 2021)	61
RCr 9.40	61
<i>Mulazim v. Commonwealth</i> , 600 S.W.3d 183 (Ky. 2020)).....	61
<i>King v. Commonwealth</i> , 276 S.W.3d 270 (Ky. 2009)	63
<i>Gullett v. Commonwealth</i> , 514 S.W.3d 518 (Ky. 2017)	64, 65
<i>Paenitz v. Commonwealth</i> , 820 S.W.2d 480 (Ky. 1991)	65
IV. The jury instructions did not violate Joey’s right to a unanimous verdict.	66
KRS 506.050(1)(a)-(b)	67
KRS 506.050(1).....	67
<i>Stewart v. Commonwealth</i> , 2020-CA-0496-MR, 2022 WL 1051763 (Ky. App. Apr. 8, 2022).....	67, 68, 69
<i>King v. Commonwealth</i> , 554 S.W.3d 343 (Ky. 2018)	67
<i>Cox v. Commonwealth</i> , 553 S.W.3d 808 (Ky. 2018)	67, 68
<i>Robinson v. Commonwealth</i> , 325 S.W.3d 368 (Ky. 2010)	68

	<i>Johnson v. Commonwealth</i> , 405 S.W.3d 439 (Ky. 2013)	68, 69
	<i>Behrens v. Commonwealth</i> , 677 S.W.3d 424 (Ky. 2023)	69, 70
	<i>Heightchew v. Commonwealth</i> , 2024-SC-0304-MR, 2025 WL 3768896 (Ky. Dec. 18, 2025)	70
	<i>Hackett v. Commonwealth</i> , 2012-SC-000773-MR, 2014 WL 2809876 (Ky. June 19, 2014)	70
	<i>Whitfield v. Commonwealth</i> , 2022-CA-1346-MR, 2024 WL 1471408 (Ky. App. Apr. 5, 2024)	70
V.	There was no double-jeopardy violation.....	71
	<i>Commonwealth v. Burge</i> , 947 S.W.2d 805 (Ky. 1996)	71
	<i>Blockburger v. United States</i> , 284 U.S. 299 (1932)	71
	<i>Kelly v. Commonwealth</i> , 655 S.W.3d 154 (Ky. 2022)	71
	KRS 506.040(1)(a)-(b)	72
	KRS 524.100(1)	73
	<i>McKinney v. Commonwealth</i> , 60 S.W.3d 499 (Ky. 2001)	73
	<i>Kiper v. Commonwealth</i> , 399 S.W.3d 736 (Ky. 2012)	73
VI.	The Commonwealth did not place improper inferences before the jury through defense expert Neuschatz.	74

03700038-3A97-4450-B512-73FC6C42D57F : 000013 of 000097

<i>Dickerson v. Commonwealth</i> , 485 S.W.3d 310 (Ky. 2016)	74
<i>Murphy v. Commonwealth</i> , 509 S.W.3d 34 (Ky. 2017)	74
<i>Duncan v. Commonwealth</i> , 322 S.W.3d 81 (Ky. 2010)	75
<i>Gill v. Commonwealth</i> , 374 S.W.2d 848 (Ky. 1964)	75
<i>Warman v. Commonwealth</i> , 270 S.W. 48 (Ky. 1925).....	75
<i>Durrum v. Commonwealth</i> , 2019-SC-0591-MR, 2021 WL 1133616 (Ky. Mar. 25, 2021)	76
<i>Slaven v. Commonwealth</i> , 962 S.W.2d 845 (Ky. 1997)	77
<i>Vontrees v. Commonwealth</i> , 165 S.W.2d 145 (Ky. 1942)	77
<i>Barrett v. Commonwealth</i> , 677 S.W.3d 326 (Ky. 2023)	77
<i>Murphy v. Commonwealth</i> , 509 S.W.3d 34 (Ky. 2017)	77, 78

VII. The Commonwealth’s questioning of Neuschatz about Girdley and Snellen’s in-court testimony was proper..... 78

<i>Simpson v. Commonwealth</i> , 718 S.W.3d 900 (Ky. 2025)	79
<i>Murphy v. Commonwealth</i> , 509 S.W.3d 34 (Ky. 2017)	81

000013 of 000097

VIII. There was no cumulative error	82
<i>Brown v. Commonwealth</i> , 313 S.W.3d 577 (Ky. 2010)	82
CONCLUSION	82
WORD-COUNT CERTIFICATE	83

A

COUNTERSTATEMENT OF THE CASE

In his brief, Appellant Joseph “Joey” Lawson makes the case for the “Houck Family Conspiracy.” Br.28. Recounting the proof showing that Brooks Houck was behind Crystal Rogers’s death and disappearance, Joey claims that “the majority of the evidence related to Brooks or the Houck family.” Br.30. He’s right. The Commonwealth doesn’t disagree that Houck is the man behind it all.

But Joey had a key role in Crystal’s death and disappearance. As a conspirator in Crystal’s death and disappearance, his guilt is Houck’s guilt. At the same time, his involvement cannot be understood without the full context of what happened. For that reason, the Commonwealth doesn’t accept Joey’s statement of the case and offers its own account of the events shown at trial.

* * *

Crystal was an “amazing mother” and was with her five children “all the time.” VR.6/25/25, 11:36:55-11:37:06, 1:02:30-36; VR.6/27/25, 8:45:50-56; VR.6/26/25, 3:23:20-32. On July 3, 2015, she disappeared and was never seen again.

Crystal and Houck.

Crystal began dating Brooks Houck. VR.6/25/25, 11:38:26-54, 1:03:28. Houck built and rented homes. VR.6/26/25, 3:23:50-24:03. Crystal ran Houck’s rental business. VR.6/26/25, 3:19:37-58.

Crystal eventually became pregnant with her fifth child, Eli, and moved in with Houck. VR.6/25/25, 11:38:30-54. At first, Houck was nice to Crystal's other children. VR.6/25/25, 11:38:54-39:21. When Eli was born, things "got rough" and "deteriorated." VR.6/25/25, 11:39:30-40:34.

Houck rarely went out publicly with Crystal. VR.6/25/26, 1:20:25-35. His mother, Rosemary, didn't like Crystal—didn't like her hair or her having four children with other men. VR.6/25/25, 1:20:50-21:16. Houck once remarked, "Momma don't like that." VR.6/25/25, 1:21:09-11.

Houck and Crystal fought and argued. VR.6/27/25, 8:46:48-47:45. Crystal worried Houck would end things, so she prepared for that possibility. VR.6/26/25, 3:28:13-50. When asked why he didn't leave Crystal, Houck answered, "Because I won't lose Eli." VR.6/27/25, 8:47:02-45, 8:54:07. Another time, when a friend said it would be "hard to get a child away from the mother" if they broke up, Houck said he "ha[d] enough money to do it" and "would always be in Eli's life, no matter what." VR.6/25/25, 1:12:30-55, 1:15:40.

July 3, 2015—Crystal disappears.

Friday, July 3 was rainy. VR.6/25/25, 1:34:30. Around midday, Crystal's friend, Kristina Holley, visited her and discussed going for pizza that night. VR.6/25/25, 1:04:39-06:25, 1:07:15-11:08, 1:22:45-23:48. Crystal later texted that she couldn't go because she had a child-free date night with Houck but might be

available Sunday. VR.6/25/25, 1:07:15-11:08, 1:22:45-23:48; VR.6/30/25, 9:45:20; Com.Ex.4.

Crystal went to Walmart that afternoon. VR.6/25/25, 1:31:28, 1:37:28, 3:29:55-32:50; Com.Ex.18. There, she told her cousin, Amanda Greenwell, about her “surprise date night”; Crystal didn’t know where they were going but “was excited about it.” VR.6/25/25, 1:31:28-34:30. Crystal left Walmart around 4:39 p.m. VR.6/25/25, 3:32:40; Com.Ex.18.

After Walmart, Crystal left two of her children, Trenton and Tori, with their father. VR.6/25/25, 3:35:35-36:08. Her other daughters, Kyleigh and Ashley, were with relatives that night. VR.6/25/25, 11:41:45-42:00, 2:40. That left Eli, who was always with Crystal. VR.6/25/25, 11:49:10-20, 1:02:35-48.

July 3 was the last time anyone saw Crystal. VR.6/26/25, 10:57:50. State and federal law enforcement found no trace of her after that day. VR.6/26/25, 10:55:45-57:30. She was placed on missing-persons databases, including NCIC and VICAP, with no results. VR.6/26/25, 10:55:45-57:30.

Houck was indifferent. He didn’t report Crystal as missing. VR.6/25/25, 2:05:00-15. He blew off attempts to contact him. On July 4, Crystal’s sister called, but Houck didn’t answer. VR.6/30/25, 9:59:26-55; Com.Ex.56. Crystal’s daughter, Tori, texted around 9:16 p.m., asking if he was “with mom”—no response.

VR.6/30/25, 10:02:14; Com.Ex.56. Another daughter, Ashley, called twice that night—no answer. VR.6/30/25, 10:02:30; Com.Ex.56.

Houck answered one call that day—from Rosemary. VR.6/30/25, 10:02:00; Com.Ex.56.

Most tellingly, Houck ignored Kyleigh. She stayed with her grandmother on July 3 and 4. On July 4, she called Crystal and texted, “Hope y’all had fun last night.” VR.6/25/25, 11:42:26-44:21; Com.Ex.1. She also texted about visiting a friend. VR.6/25/25, 11:43:15-44:30; Com.Ex.1. Crystal never answered. VR.6/25/25, 11:44:28, 11:46:20. So Kyleigh called and texted Houck; he never responded. VR.6/25/25, 11:46:18; VR.6/30/25, 10:01:05-02:00; Com.Ex.56.

Kyleigh still visited the friend that evening. VR.6/25/25, 11:46:55; Com.Exs.1, 56. That night, she went home for a dress for Sunday church. VR.6/25/25, 11:47:10-30. The house had no lights on. VR.6/25/25, 11:47:38-50. Kyleigh opened the door to Crystal and Houck’s room, and Houck jumped out of bed. *Id.*, 11:47:50-48:00. They went to the living room, and Kyleigh asked where Crystal was. VR.6/25/25, 11:48:00-15. Houck said she was with Sabrina (a cousin). VR.6/25/25, 11:48:05. Kyleigh didn’t question that because Crystal and Sabrina were close. VR.6/25/25, 11:48:20-30. Without seeing Eli, she got the dress and left. VR.6/25/25, 11:48:30-50.

Houck lied to Kyleigh about Crystal's whereabouts. In fact, he texted Sabrina the next day, asking if she'd seen Crystal, VR.6/30/25, 10:04:05-05:00; Com.Ex.56. She had not. VR.6/26/25, 1:28:27-29:44; 6/30/25, 10:04:20-25; Com.Ex.56.

Houck's phone activity showed utter indifference. He made three calls and sent one text to Crystal after she disappeared. VR.6/26/25, 2:03:31; 6/30/25, 10:05:00-06:50; Com.Ex.57. On July 4, he called her at 9:06 a.m. and around noon. VR.6/30/25, 10:05:53-06:30; Com. Ex 57. He called her on July 5, at 6:41 a.m., and finally texted at 4:33 p.m., saying everyone was "worried" and asking her to call. VR.6/30/25, 10:06:36-07:10; Com.Ex.57.

July 5—Crystal is reported missing.

Houck still didn't report Crystal missing. Crystal's mother, Sherry Ballard, had tried contacting Crystal and Houck, with no luck. VR.6/25/25, 2:03:10. Houck saw Sherry at a gas station on Sunday, July 5, and she asked if he'd seen Crystal. VR.6/26/25, 10:20:55-23:17. He said he hadn't. VR.6/26/25, 10:21:40. She said she was going to the police. VR.6/26/25, 10:23:06-17. She reported Crystal missing that afternoon. VR.6/25/25, 1:48:08-30. This was around the time Houck finally texted Crystal.

Family friends found Crystal's car around 5:00 p.m. on the westbound side of the Bluegrass Parkway, near mile marker 14 outside Bardstown, with a flat

tire. VR.6/25/25, 1:48:30, 1:51:44-54:45. Crystal's purse and cellphone were inside; the keys were in the ignition. VR.6/25/25, 1:55:12; Com.Ex.9. Her purse contained her ID, EBT and credit cards, a few dollars and change, and Walmart receipts. VR.6/25/25, 3:29:20, Com.Exs.15-17.

Crystal didn't walk away—she'd made plans. Richie Riggs, a neighbor and Houck's real-estate agent, had post-July 4 plans with Crystal to move items from a house Houck bought. VR.6/26/25, 3:20:15-45, 3:25:18-33. Another neighbor made plans with Crystal to borrow a baby swing. VR.6/27/25, 2:48:00-50:20. And Crystal intended to help her cousin plan an August birthday party. VR.6/25/25, 1:32:05.

Houck also made plans—to cut Crystal out of his rental business. Shortly before she disappeared, Houck met with a CPA to discuss taking over his bookkeeping and tax work, which he claimed his mother did. VR.7/1/25, 1:33:31-59, 1:35:05-30.

July 5—Houck's First Police Interview.

Police thought Houck was the last person to see Crystal. VR.6/25/25, 2:36:15. Detective Jon Snow talked with Houck on July 5, around 8:00 p.m. VR.6/25/25, 2:06:15. Snow said police wanted to “build a timeline.” VR.6/25/25, 2:36:15. He asked if Crystal had ever moved out in the four years they lived together. VR.6/25/25, 2:38:05. Houck's response: “The reason why I

didn't get alarmed just immediately, she's done this about four or five times, it just has never went this period of time." VR.6/25/25, 2:38:05. He claimed that she'd previously stayed with relatives. VR.6/25/25, 2:38:05-39:30. He acknowledged their relationship had been "rocky" and "strained," partly because Crystal thought he treated Eli better than her other children. VR.6/25/25, 2:39:35.

Houck claimed July 3 was the "same as always." VR.6/25/25, 2:45:13. He claimed he got up around 6:30 a.m. while Crystal stayed in bed, and he went to work and didn't see her until around 5:00 p.m. VR.6/25/25, 2:47:54, 2:49:24. He claimed she wasn't home when he got there, so he drove a tractor for gas to not waste time. VR.6/25/25, 2:49:24-50:48, 2:53:00.

When asked about that night's plans, Houck claimed Crystal suggested taking Eli to his family farm to feed cows. VR.6/25/25, 2:53:22, 3:22:55. He claimed they left home around 7:30 p.m., arrived around 7:45, stayed until 11:00, and returned home around 11:30. VR.6/25/25, 2:06:34-07:10, 2:56:12-40, 2:59:38-55.

Houck claimed he went to bed by midnight, but Crystal and Eli stayed up. VR.6/25/25, 3:00:10-56. When asked what happened when they got home, Houck said that Crystal "usually" played games on her phone. VR.6/25/25, 2:59:55-3:00:32, 3:21:44. Eli didn't go to bed with him and would stay up if anyone else was up. VR.6/25/25, 3:01:23, 3:21:50.

Houck claimed he awoke on Saturday “about 6:45.” VR.6/25/25, 3:02:31. Eli was in the bed; Crystal wasn’t. VR.6/25/25, 3:02:47-59. Houck claimed he immediately wondered where Crystal was and called and texted her,¹ but she didn’t reply. VR.6/25/25, 3:03:00. The call went to voicemail, so he thought Crystal had turned off her phone. VR.6/25/25, 3:03:17.

Houck said Crystal had received no calls Friday on the way home, VR.6/25/25, 3:11:50, and he didn’t mention a call he received, VR.6/25/25, 3:22:44. Police later discovered that Houck had answered a call just after midnight from Steve Lawson. VR.6/25/25, 3:22:25, 3:22:48.

July 6—Snow continues investigating.

On July 6, Snow examined Crystal’s phone, which wouldn’t power on. VR.6/25/25, 3:27:26-50. An expert testified that it lost power and shut off at 9:23:10 p.m. on July 3, turned on again at 11:57:25 p.m., and was manually shut down 14 seconds later. VR.7/1/25, 10:03:30-05:45, 10:08:32-09:22, 10:11:27-13:49; Com.Ex.79. No games were played on it after midnight because the phone was off then. VR.7/1/25, 10:23:30-45. It stayed off until July 6, VR.7/1/25, 10:13:49, when police turned it on.

¹ He didn’t call until after 9:00 a.m. and texted the next day. VR.6/30/25, 10:05:53-07:10; Com. Ex 57.

But police found it with a charger. VR.6/25/25, 3:28:00-05. And the car's only problem was the flat. VR.6/25/25, 3:28:05-15.

Snow began vetting Houck's story. VR.6/25/25, 3:33:30. He had deputies review local security video. VR.6/25/25, 3:30:00.

At some point, Kevin Terrell told police he may have seen Crystal beside a broken-down vehicle on KY 49 in Bardstown on Sunday afternoon. VR.6/25/25, 3:36:08, 3:38:35; 6/26/25, 12:02:30-03:35.

On July 6, Houck bought a digital recorder, requesting "the best." VR.6/26/25, 2:28:38-30:54; Com.Ex.33-34. During the transaction, Houck kept forcing Eli's head down, which the store manager found "odd." VR.6/26/25, 2:29:00-42. But surveillance cameras caught Houck's face. Com.Ex.33.

Police collected security-camera videos showing Bardstown generally on July 3. VR.6/25/25, 4:02:48; Com.Ex.22. They showed consistently rainy weather that evening. VR.6/25/25, 4:02:40-05:30. They also showed Houck's vehicle moving around town that day. VR.6/25/25, 4:05:45-07:30; Com.Ex.23.

One video showed Houck's truck traveling north on KY 49 from his family farm's direction around 4:00 p.m. VR.6/25/25, 4:08:15-09:15; 6/26/25, 1:58:05. The farm is reached from Bardstown by traveling south on KY 49, turning right onto 46 and then left onto Paschal Ballard Lane. VR.6/25/25, 2:53:58, 4:08:53. That lane goes past the farm, but Houck's family were the only residents

on it in 2015. VR.6/26/25, 8:52:05. During his first interview and in his later written statement, Houck never said he'd been to the farm earlier that day. VR.6/25/25, 4:08:59-09:10; 6/26/25 1:57:23-58:04.

Videos from a gas station, storage facility, and church showed Houck's truck leaving and returning home around 5:30 to 5:45 p.m., proving Houck was gone 15 minutes. VR.6/30/25, 2:47:20-49:45; Com.Ex.72. Phone records showed Houck's phone at home then. VR.7/1/25, 8:32:22-57. Houck never mentioned this trip in his later statement.

Later videos showed Houck's truck leaving his neighborhood, passing the church, gas station, storage facility, and other locations en route to the farm around 7:00 p.m. VR.6/25/25, 4:09:27-10:57. Video from Lawrence Ballard's house near the corner of KY 46 and Paschal Ballard Lane showed Houck's truck around 7:05. VR.6/25/25, 4:10:52.

Videos from Ballard's house, the church, and the rest showed Houck's truck returning home from the farm just after midnight. VR.6/25/25, 4:12:25-14:40. Video from Ballard's house showed a vehicle turning onto Paschal Ballard Lane toward the farm, the road's only residence, around 3:30 a.m. on July 4. VR.6/25/25, 3:26:35-28:30; Com.Ex.73. The unidentified vehicle left the farm 13 minutes later. VR.6/25/25, 3:28:00; Com.Ex.73.

Thompson Hill Road dump.

Lon Spalding saw “very strange” activity near his Cox’s Creek home on Thompson Hill Road in the early morning hours of July 4. VR.7/1/25, 10:31:00-38:59. Spalding’s neighbor ran an illegal dump on the property across the road. VR.7/1/25, 10:32:00-33:40. But the night of July 3-4, someone began digging and burying things on the other side of the road, which they’d never done before. VR.7/1/25, 10:34:15-35:10. They used a bulldozer-like “highlift” to dig a ten-foot squarish hole and buried things in the early morning hours. VR.7/1/25, 10:35:10-36:34. About a week later, the operation moved back across the road. VR.7/1/25, 10:36:34.

July 7—Houck’s Second Interview

On July 7, KSP interviewed Houck. VR.6/26/25, 8:32:05; Com.Ex.24. Detectives asked Houck, “What’s the worst thing that ever happened to you?” VR.6/26/25, 8:35:16. Houck was silent for 20 seconds before responding, “I guess I’m more of a positive thinker. I always focus my efforts and energies on the good stuff in life, and I don’t dwell on—I don’t really dwell on the bad stuff. You ask me that again. No one specific thing draws out to me. Everybody has ups or peaks and troughs, and like I’m kind of consistent, right in the middle, moving forward.” VR.6/26/25, 8:35:36.

When asked about his last time seeing Crystal “that day,” he gave a compressed account of his day: going to work, getting off around 5:00 p.m., Crystal showing a property, and taking his tractor for fuel. VR.6/26/25, 8:36:40-37:55. He said Crystal got home around 5:30, but they couldn’t leave because Kyleigh was waiting for her grandmother. VR.6/26/25, 8:38:15-39:01. He claimed again that they left for the farm around 7:30, VR.6/26/25, 8:39:01, and spent three-and-a-half hours walking the farm and feeding cows, VR.6/26/25, 8:39:01-41:30, 8:48:05. Houck claimed the night had been clear and they had “no issues” seeing. VR.6/26/25, 8:44:44. He said they left around 11:30 p.m. and were home by midnight. VR.6/26/25, 8:44:00, 8:44:56-45:30.

Again, he said that when they got home, he went to bed and Crystal stayed up. VR.6/26/25, 8:45:35. This time, however, he was sure Crystal stayed “in the living room” with Eli “playing games on her phone.” VR.6/26/25, 8:46:10-41. He said that when he woke up, Crystal and her car were gone, and Eli was in the bed. VR.6/26/25, 8:47:01.

July 8—Houck’s Third Interview and Written Statement.

Snow reviewed “call-detail records” for Houck’s and Crystal’s phones on July 8. VR.6/26/25, 8:53:43. They showed the numbers, dates, and times of calls and texts. VR.6/26/25, 8:54:05.

Snow noticed a call to Houck's phone just after midnight on July 4. VR.6/26/25, 8:54:38. He didn't know who made it but found out later. VR.6/26/25, 8:54:57. Houck hadn't mentioned it before. VR.6/26/25, 8:54:57-55:25.

Snow interviewed Houck again on July 8. VR.6/26/25, 8:55:27; Com.Ex.26.

Early on, Snow mentioned a then-unverified tip about a woman matching Crystal's appearance on KY 49 on July 5. VR.6/26/25, 9:02:16, 9:56:39; VR.6/30/25, 3:53:34-54:24. Houck paid attention, asking whether they knew the tipster's identity and saying it was "promising." VR.6/26/25, 9:02:26-37. This was the Kevin Terrell tip. VR.6/26/25, 9:56:23; 12:03:35. Later, Snow noted the importance of "validating or invalidating" that tip. VR.6/26/25, 10:24:49-25:00.

Snow asked Houck to "write a statement" and "be as detailed as possible" about "Friday morning until Sunday," including the jobs he worked on Friday. VR.6/26/25, 9:04:16-05:21. Snow also asked Houck for specifics about the farm on July 3. VR.6/26/25, 9:06:14. When Snow noted that spending so long with a young child in rainy weather seemed unusual, Houck responded, "I understand what you're saying." VR.6/26/25, 9:05:33-06:13.

Snow took Houck's phone for downloading, leaving Houck to write his statement. VR.6/26/25, 9:07:55. Curiously, Houck began reading his statement

aloud. VR.6/26/25, 9:09:07. When Snow reviewed the interview recording, he noticed Houck adjust something in his pocket later found to be an audio recorder. VR.6/26/25, 8:57:50-58:05.

The statement began with Houck's describing paying his phone bill around 4:00 p.m., going to Buzick's Lumber around 4:30, and then arriving home around 5:00. Com.Ex.27, at 1. It then described taking the tractor for gas and Crystal's arriving home at 5:30. *Id.* at 1. It did not mention Houck's 15-minute truck trip around 5:30 that was caught on video. VR.6/30/25, 2:47:20-49:45; Com.Ex.72. The statement said that Houck, Crystal, Eli, and Kyleigh were home from 5:30 to 7:30, and that he, Crystal, and Eli went to the farm from 7:30 to 11:30. *Id.* at 2.

Houck's statement listed about 20 workers and their work on construction jobs, *id.* at 2-3, and subdivisions where work was being done, *id.* at 3-4. It also listed work Houck did, including mowing vacant lots, keeping curbs and gutters clear, hauling trash, and managing an HOA. *Id.* at 3-4. He listed getting addresses for streetlight-bulb replacements to "Peggy Smith" at "Salt River" and organizing a utility layout for Horizon Engineers. *Id.* at 4.

The statement included a vacant-properties list, noting that evictions were forthcoming and listing "warrant for possession" and "forcible detainer." *Id.* at 5. It listed making deposits at several banks. *Id.* at 6. Houck signed and dated the

statement in the middle of page 6. To that point, his focus had been on his activities during the day. He had mentioned the farm only once, referencing hauling trash there. *Id.* at 4.

After his signature, Houck described what they did at the farm that night. *Id.* at 6-8. They arrived around 7:30 p.m. and went to get cow feed. *Id.* at 6. The feed was low, so they left to get more from Tractor Supply. *Id.* at 7. Because it was “close to closing time,” they weren’t sure they’d get there in time, so they turned around at the KY-49/46 intersection, not far from Paschal Ballard Lane. *Id.*

Surveillance video from Lawrence Ballard’s house confirmed Houck’s truck leaving around 7:50 p.m. and returning minutes later. VR.6/26/25, 10:54:28-55:10. But Houck’s explanation defied reality. Tractor Supply was only 15 minutes away. VR.6/26/25, 10:55:23. And it didn’t close until 9:00, nearly an hour later. VR.6/26/25, 1:56:48-57:20.

He wrote that when they returned to the farm, they fed cows in the back lot and walked to the end of the gravel road past the farm’s three lots. Com.Ex.27, at 7-8. It was getting dark when the cows finished eating, so they walked back up the gravel road and started a fire. *Id.* at 8.

After Houck finished the statement, Snow asked whether he had been “working on new construction on Friday”; Houck said, “Yes.” VR.6/26/25,

9:19:14. He agreed that the houses listed were the ones he was working on and that he would have spoken to the listed workers. VR.6/26/25, 9:19:26-43. He explained that he grouped the work by subdivision, listing the work for each property, and that his phone would verify his location. VR.6/26/25, 9:20:00-50.

When asked about walking the farm that night, Houck said that they walked about a mile down the road, well past a turnaround near the barn. VR.6/26/25, 9:35:48-38:54, 9:57:15-58:33; Com.Ex.28.

Houck said that after returning from the farm, he “went to bed immediately.” VR.6/26/25, 10:05:28. He claimed that Crystal and Eli stayed up, and that Eli refused to bed if anyone is up. VR.6/26/25, 10:05:30-06:14. He again said Crystal stayed up “on her phone playing.” VR.6/26/25, 10:06:50-07:01.

Houck said Crystal wasn’t there when he awoke, though Eli was. VR.6/26/25, 10:10:39-11:19. When pressed about his indifference to Crystal’s absence, Houck said it wasn’t uncommon for Crystal, her sister, and a cousin to stay out all night at “fantasy parties.” VR.6/26/25, 10:13:05. He offered this suggestion for Crystal’s absence because he “want[ed] to get everything cleared up as quickly as [he] c[ould].” VR.6/26/25, 10:13:20.

Although Crystal had been missing only four days, Houck slipped and essentially admitted knowing she was dead: “What I’ve got to be faced with now is, as good a mother as Crystal has been, now, nobody is going to love you like a

mother, now Eli is in an atmosphere where I've got all the hope in the world, *but now, I'm a single parent.*" VR.6/26/25, 10:15:54 (emphasis added). Later, he tried walking that back, saying he'd be a single parent only if Crystal wasn't "brought back safely." VR.6/26/25, 1:54:37.

Houck claimed that he went about his business on July 4. He took Eli to the farm again. VR.6/26/25, 10:12:13, 10:16:11. That night, they went to Fabian Ballard's house for fireworks. VR.6/26/25, 10:19:58-20:54.

Houck also claimed that when he returned home on July 4, his neighbor, Richie Riggs, came over. VR.6/26/25, 10:23:24-23:52. But Riggs had been away at the lake. VR.6/26/25, 3:21:10-23:15; 3:25:00.

When Snow raised the midnight phone call, Houck claimed not to remember it and asked Snow to call the number. VR.6/26/25, 10:08:20-55. It belonged to Steve Lawson, one of Houck's workers. VR.6/26/25, 10:31:31-32:25.

With Snow in the room, Houck called Steve about the midnight call. VR.6/26/25, 10:32:25-34:36. Houck first asked Steve about working the upcoming week. VR.6/26/25, 10:32:50. Steve answered unresponsively (and prematurely), launching into having not moved and saying he was still "looking for a place," which was why he got "numbers" from Houck. VR.6/26/25, 10:32:53, 11:50:10. Houck then asked about the late-night call, claiming not to remember. VR.6/26/25, 10:33:39. Steve continued the ready-to-go answer he'd opened

with: he'd called about rental-house numbers, and Houck had said Crystal handles that and would contact him. VR.6/26/25, 10:34:00. Houck had answered Steve's call while supposedly in the truck with Crystal, but he hadn't handed her the phone. VR.6/26/25, 10:34:46-36:03.

Later in the interview, Houck got a call from his brother, Nick, a police officer. VR.6/26/25, 10:38:00, 10:38:20, 10:41:50. After hanging up, Houck said, "He thinks y'all are going to fuck us is what he thinks." VR.6/26/25, 10:38:15. The interview ended soon after. VR.6/26/25, 10:42:23.

July 9: Houck goes on *Nancy Grace*.

Houck appeared on *Nancy Grace* the next day. VR.6/26/25, 10:42:35; Com.Ex.29. He recapped his story: Crystal showed a property, went to Walmart, and dropped two children with their father; then, they ate at home before going to the farm. VR.6/26/25, 10:43:50-44:53. When asked whether Crystal cooked, Houck said no, "it wasn't any big fancy special deal or anything like that," and they weren't "gonna kill a lot of time" because they had plans at the farm. VR.6/26/25, 10:44:53.

Houck twice claimed that when he went to bed around midnight, Crystal "was playing games on her phone." VR.6/26/25, 10:45:11-14, 10:45:40-53. He again said Eli was up and wouldn't go to bed if anyone was up. VR.6/26/25, 10:45:15-40.

July 8 and 9—Snow keeps investigating.

Security footage showed Houck's truck and Nick's cruiser going to the family farm shortly after Houck's July 8 interview. VR.6/26/25, 10:51:29-53:26; Com.Ex.32.

Although he wasn't suspicious of Nick on July 8, VR.6/26/25, 10:42:25, Snow tried to interview him on July 9, VR.6/26/25, 10:46:47. That day, police took Nick's police cruiser for forensics testing but found nothing of evidentiary value. VR.6/26/25, 10:46:59-10:47:45. They did, however, find a moving blanket in the trunk, Com.Exs.30-31, which became important later.

The week after Crystal disappeared, Nick and Rosemary began going to Houck's house "almost every day." VR.6/27/25, 2:52:09-35. The neighbor seeing this was good friends with Crystal, VR.6/27/25, 2:48:17-49:15, but had never seen Nick or Rosemary at the house, VR.6/27/25, 2:52:20. One day, Nick and Rosemary pulled into the driveway and later turned their cars so the trunks faced the house. VR.6/27/25, 2:53:06-54:00. Nick carried four white bags to their cars. VR.6/27/25, 2:54:00. That same week, Rosemary inexplicably dug up flowers Crystal had planted beside the house. VR.6/27/25, 2:54:25.

Houck gets his windows tinted.

The week before Crystal disappeared, Houck contacted two window-tinting services. VR.6/26/25, 4:29:00-33:23, 4:36:02-37:50; VR.6/30/25, 9:47:42-

49:55; Com.Ex.53. The day before Crystal disappeared, Steve and his wife also called both services. Com.Ex.53. Houck was in a hurry to get his vehicle tinted, VR.6/26/25, 4:32:04, and got it done on July 2 despite the business being booked, VR.6/26/25, 4:32:09. Houck got illegally dark “limo tint” and investigated getting it removed just months later. VR.6/26/25, 4:33:00-44.

Crystal’s car was on the Bluegrass Parkway Friday night.

Witnesses saw Crystal’s car on the Bluegrass Parkway after 10:00 p.m. on July 3—when she was supposedly with Houck at the farm. One witness saw the car after leaving work at 10:00 while driving home, VR.6/27/25, 2:57:00-59:28, 3:01:05, 3:10:07, and again on Sunday, surrounded by police, VR.6/27/25, 2:59:33-31:05. Another saw a car he was “100% sure” was Crystal’s on the parkway shoulder after leaving work around 10:15 that night, VR.6/30/25, 10:17:53-:21:35, and again the next morning, around 7:00, VR.6/30/25, 10:18:55-19:15.

A Hardin County deputy coroner saw Crystal’s car on the parkway on July 4. VR.6/30/25, 4:35:34-36:33. Right behind it was a Chevy Silverado pickup truck with a dual-wheeled trailer for hauling cars, also with a flat tire. VR.6/30/25, 4:36:33-50.

The Terrell tip falls through.

After Houck’s third interview, police found the woman Terrell reported seeing on KY 49 on July 5. VR.6/26/25, 10:49:59. Terrell had been mistaken. *Id.*

Houck's audio recorders.

Police found two digital recorders in Rosemary's house at the farm. VR.6/30/25, 8:33:20-38:18, 8:42:08-46:48. The Houcks had recorded their interactions with police, the grand jury, and, inadvertently, each other. VR.6/25/25, 3:50:00-29; VR.7/1/25, 11:03:04-18, 11:07:14-28.

Houck recorded his July 8 interview with Snow, as his actions suggested. VR.6/30/25, 2:52:50-53:25. He also recorded other matters. *See* Com.Ex.59 (seven snippets).

He recorded Snow on July 7 telling him about the Terrell tip that Snow would mention again on July 8. VR.6/30/25, 2:50:05, 2:52:07; VR.6/26/25, 9:56:23. That tip had been "kept ... from everyone" because it had not yet been confirmed. VR.6/30/25, 2:52:11.

Houck recorded a July 9 conversation between himself and Rosemary after Nick's cruiser was seized. VR.6/30/25, 2:53:25-48. They said:

Houck: So they took his car from him?

Rosemary: You know that blanket in the trunk? He was worried about that at first. Does it have anything on it?

Houck: Huh-uh [negative].

Rosemary: Okay. What about that thing from yesterday?

Houck: Don't matter.

VR.6/30/25, 2:54:08-29; Com.Ex.59. Police had seized a blanket from Nick's cruiser. VR.6/30/25, 2:55:07; Com.Ex.30-31. They also joked about Houck's tinted windows:

Rosemary: I wish my windows were black.

Houck: [laughing] Blacked out. [laughing]

VR.7/1/25, 11:00:06-22.

Houck told Rosemary: "You know, a bad tip's jacked them all up." VR.7/1/25, 11:01:41-48. He was referring to the then-unresolved Terrell tip. VR.7/1/25, 11:01:56-02:19. But Houck wasn't told the tip was bad until July 13, VR.6/26/25, 10:50:21, so he had only one way to know it was "bad" on July 9.

The recordings included Rosemary's then-boyfriend leaving the grand jury, saying: "I didn't screw up, boss." VR.7/1/25, 11:02:32-57.

The recorders caught Houck and Rhonda McElroy, his sister, just before her grand-jury testimony. VR.6/30/25, 2:58:02-38. They discussed operating the recorder; McElroy worried about getting caught; Houck pushed her to record anyway, saying, "we need to hear it"; and Houck wanted a copy. VR.7/1/25, 11:03:31-07:06.

McElroy recorded her grand-jury testimony. VR.7/1/25, 11:03:04-18. Nick recorded his. VR.7/1/25, 11:07:14-28. But grand-jury proceedings are

secret, and witnesses' recording them was unlawful even then.² VR.7/1/25, 11:09:03-20; RCr 5.54(1).

Houck recorded a meeting with an attorney where he described Nick's grand-jury testimony: "My brother is a patrolman, police officer for the city of Bardstown here. He has also been subpoenaed to the grand jury. He did talk. He did exactly what you're saying. He had five answers, and it was: I don't know, your guess is as good as mine, and I can't remember. The jury was extremely upset over his responses." VR.7/1/25, 11:07:28-08:15.

Houck's statement falls apart.

The police investigation disproved much of Houck's written statement. He claimed to have worked on evictions and forcible detainers on July 3. Com.Ex.27, at 5. But the circuit clerk had no eviction or forcible-detainer filings or any contact with Houck that day because her office was closed. VR.6/26/25, 2:34:05-39:27, 2:43:58-45:18; Com.Ex.35.

Houck also listed Steve Auberry doing trim work on July 3. Com.Ex.27, at 2. But Auberry did no work for Houck that day. VR.6/26/25, 2:46:38-48:50.

Houck listed getting information to "Peggy Smith" at Salt River Electric for streetlight work. Com.Ex.27, at 4. Salt River was the local electric company

² The Crystal Rogers Act, 2026 House Bill 305, has now criminalized it.

according to Peggy Parent, who was the only Peggy there. VR.6/26/25, 2:50:35-51:41, 2:52:25-53:00. She had no contact with Houck on July 3 because Salt River was closed. VR.6/26/25, 2:53:20-56:25.

Houck also claimed he'd mowed vacant lots and cleaned trash at a subdivision and worked with the HOA to keep residents happy. Com.Ex.27, at 3-4. But on July 3, Houck's properties were non-compliant with the HOA's grass-mowing and other rules. VR.6/26/25, 3:00:43-3:16:00. The HOA texted Houck on July 3 that he needed to get his properties "cut ASAP." VR.6/26/25, 3:12:58-15:12; Com.Ex.37.

Houck referenced "haul[ing] trash to landfill." Com.Ex.27, at 4. But Houck brought nothing in on July 3, which landfill records confirmed. VR.6/26/25, 3:31:35-39:25; Com.Ex.38.

Houck claimed "Mike at Buzick's" worked for him on July 3. Com.Ex.27, at 2. But that person, Mike Powers, didn't work that day. VR.6/26/25, 3:55:08-59:35.

Houck also listed preparing utility information for "Prin. Eng. Robin Mills" "at Horizon Engineers." Com.Ex.27, at 4. But Mills wasn't at work and had no dealings with Houck on July 3. VR.6/27/25, 8:32:30-40:15.

Danny Singleton

Singleton worked for Houck for 15 years. VR.6/26/25, 4:01:00-55. Unlike other employees, he rode in Houck's truck around jobs. VR.7/1/25, 1:04:45-05:08. Before Crystal disappeared, Rosemary asked him about "Crystal and wanting to find somebody to help get rid of her." VR.6/26/25, 4:01:55-03:25. She "didn't ask [him] to do it, but she asked [him] if [he] knowed any way of getting it done." VR.6/26/25, 4:03:25-35, 4:26:40-55. He responded: "Around this town, you got the right kind of money, you could probably get anything done." VR.6/26/25, 4:03:35-42.

Phone evidence connects Steve to Crystal's car.

LMPD Detective Tim O'Daniel used cell-phone records to determine where Steve's phone was on July 3 and 4. VR.6/27/25, 11:03:00-36:50; Com.Ex.46.

Steve's phone was in Bardstown around 11:00 p.m. VR.6/27/25, 11:19:40. It moved east to west shortly before midnight until 12:29 a.m. VR.6/27/25, 11:20:35-24:27. Steve made the 13-second 12:07 a.m. call to Houck during this time, and that call hit a southwest (and Bluegrass Parkway) facing cell-tower antenna. VR.6/27/25, 11:23:43. Meanwhile, Houck's phone was nearby on Loretto Road (KY 49) at 12:06 and then just north, near the My Old Kentucky Home campground, at 12:08. VR.6/27/25, 11:24:45.

At 12:18, Steve's phone pinged the north-facing sector of a cell tower just south of the Bluegrass Parkway/US 31-E intersection. VR.6/27/25, 11:25:34, 11:29:07. The phone then moved west, hitting two other towers near the parkway. VR.6/27/25, 11:26:15. Crystal's car was found between these two towers. VR.6/27/25, 11:29:13; *e.g.*, Com.Ex.46, at 15, 20, 21. AT&T's records showed that both towers were located just north of the parkway but didn't show the direction the relevant antennas pointed. VR.6/27/25, 11:27:05. O'Daniel used a database to determine that they faced north but testified that they could be hit from the south through bleed-over. VR.6/27/25, 11:28:22-30:31; 2025-06-27_12.59.32.242, 41:05-44:00.

When asked whether a phone on the parkway could hit a north-facing antenna from the south, O'Daniel said: "Yes, it is somewhat possible." VR.6/27/25, 11:30:31. He noted that factors like topography affect cell-phone signals and there is bleed-over. VR.6/27/25, 11:31:17. O'Daniel again agreed it was possible for Steve's phone to have been traveling east to west on the parkway when it contacted the last two towers. VR.6/27/25, 11:31:27.

Steve's phone then moved west to east, returning to Bardstown from 12:25 to 12:31 a.m., and hit the Bluegrass Parkway/31-E tower at 12:43. VR.6/27/25, 11:32:16-33:13. From 3:12 to 5:24 a.m., Steve's phone moved north

from Bardstown to near Cox's Creek.³ VR.6/27/25, 11:33:28-34:42. Over the next six hours, it returned to Bardstown, then Cox's Creek, and finally Bardstown again. VR.6/27/25, 11:33:54-36:30.

O'Daniel also reviewed law-enforcement records. VR.6/27/25, 1:11:17. Based on those and the phone records, he opined that Steve's phone was "in the general area of the Bluegrass Parkway" and "near Crystal Rogers's car." VR.6/27/25, 1:11:30-12:05.

Phone evidence disproves Houck's story.

O'Daniel tracked Houck's phone with "very accurate" Google data. VR.6/27/25, 11:38:08-39:29, 11:44:08-50; Com.Ex.47. Houck's phone was at the farm from 9:29 a.m. until around 4:00 p.m. on July 3. VR.6/27/25, 11:47:05-48:17. It then left the farm, heading north and was home from 4:43 to 7:05 p.m. VR.6/27/25, 11:48:17-59. The phone returned to the farm, where, with one exception, it stayed from 7:24 to 11:57 p.m. VR.6/27/25, 11:48:59-52:48. Houck's phone left the farm for a few minutes just before 8:00, VR.6/27/25, 1:01:05-58, coinciding with the alleged Tractor Supply trip. Otherwise, the phone stayed within an approximately 1,000-foot radius, no farther than a turnaround near the

³ As noted above, Lon Spalding saw unusual burying activity near Cox's Creek on Thompson Hill Road on July 4. VR.7/1/25, 10:31:00-38:59

barn, Com.Ex.47, at 13, VR.6/27/25, 1:02:00-03:47, meaning the phone did not move the mile down the road that Houck claimed they walked in his July 8 interview.

The phone left the farm at 11:58 p.m., traveled north via KY 49, and arrived at Houck's home at 12:19 a.m. VR.6/27/25, 1:04:12-05:57. The phone was on KY 49 just north of the parkway at 12:06 a.m. VR.6/27/25, 1:06:50. Steve's call to Houck was at 12:07. VR.6/27/25, 1:06:54. At 12:08, Houck's phone deviated from 49 to the My Old Kentucky Home campground, VR.6/27/25, 1:05:57-07:05, not far from where Steve's phone was then, VR.6/27/25, 11:23:43.

Phone evidence of the Lawson-Houck conspiracy.

Houck called and texted Steve and Tammy Lawson (Steve's then wife), and vice versa, many times from May 12 to July 8, 2015, when those communications ended. VR.6/30/25, 9:52:10-53:30; Com.Ex.54. Phone records showed numerous calls between Steve and Tammy and Joey (Steve's son) between 11:06 p.m., July 3, and 12:43 a.m., July 4, and a call between Steve and Tammy around 1:00 a.m. VR.6/30/25, 9:53:32-58:12; Com.Ex.55. Importantly, Steve's 12:07 a.m. call to Houck came only a minute after a three-minute call from Joey to Steve and was followed by a call from Steve to Joey 35 minutes later. VR.6/30/25, 9:56:15-57:48; Com.Ex.55.

Nick Houck's odd behavior.

On July 3, Nick lived with Amber Bowman on Houck and Crystal's street but was moving to a new house. VR.6/25/25, 3:20:07; VR.6/30/25, 8:51:13. Nick and Amber planned to move that Friday and had to be out by Monday. VR.6/30/25, 8:52:08-53:00. But Friday morning, Nick said he had to help Houck at a rental property, leaving Amber to move by herself and causing an argument because their new house needed repairs. VR.6/30/25, 8:53:00-27. When Amber went to the new house that afternoon, Nick wasn't there; she didn't see him the rest of the day. VR.6/30/25, 8:53:42-55:29. She tried calling Nick several times, but the calls went to voicemail. VR.6/30/25, 8:55:29, 8:57:25-59:20; Com.Ex.52. Nick never came home that night and was still gone Saturday morning, which wasn't normal. VR.6/30/25, 8:56:07-57:10. Amber tried calling him again that morning but got no answer. VR.6/30/25, 8:56:07-57. She called Nick 15 times on July 3 and 4. Com.Ex.52.

Phone records showed Nick's phone as "call forwarding not reachable," meaning calls went directly to voicemail and it wouldn't receive calls, from 11:00 p.m., July 2, to 1:47 p.m., July 4. VR.6/27/25, 1:08:17-10:20. The phone couldn't get a signal or was turned off then. VR.6/27/25, 1:10:50.

At one point, Amber drove to see if Nick had gone to the new house after helping Houck, but his car wasn't there. VR.6/30/25, 8:56:07-57. When she went

to the new house on Saturday, Nick's phone was there. VR.6/30/25, 9:00:13-38. Nick normally didn't let his phone run down or turn it off for 24 hours. VR.6/30/25, 9:00:39-01:00, 9:23:24-35.

Nick turned up when Amber returned to the old house for another load. VR.6/30/25, 9:01:00. He claimed he had been "working at the house," meaning the new house. VR.6/30/25, 9:01:18-40. He gave no other reason for his absence. VR.6/30/25, 9:24:18. But no work had been done at the new house. VR.6/30/25, 9:01:42.

Nick was close with his grandmother, Anna Whitesides. VR.6/30/25, 4:28:50-59. In 2015, he had a key to her house and access to a spare key to her white Buick. VR.6/30/25, 4:29:28-55. On July 4, Whitesides was with her daughter, Francie Holt. VR.6/30/25, 4:29:55-30:55. When they returned to Whitesides's home, her key didn't work, so she stayed with Holt. VR.6/30/25, 4:30:55-31:23. Holt tried calling Nick, who didn't answer. VR.6/30/25, 4:31:23-40. She also went by his house, likely after fireworks, but he wasn't there. VR.6/30/25, 4:31:40-58.

Heather Snellen

Snellen previously dated Steve. VR.6/27/25, 8:58:26-59. They bought a Chrysler 300, which she kept when they broke up. VR.6/27/25, 8:59:10-58. Steve took the car from her in early 2015. VR.6/27/25, 9:00:18. On July 3, she found

and re-took it around 10:00 p.m. and drove it to a house on Boston Road. VR.6/27/25, 9:03:15-04:59. The car was missing again on Sunday morning. VR.6/27/25, 9:05:50.

Snellen reconnected with Steve in 2017. VR.6/27/25, 9:06:40-56. Once during that time, Snellen overheard Joey and Steve discussing “moving a body at the Houck farm” “with a skidsteer.” VR.6/27/25, 9:13:44-14:15, 9:22:20-40.

Charlie Girdley

In 2015, Girdley worked for Houck and knew Joey and Steve. VR.6/30/25, 10:32:44-35:40. Girdley talked with Steve at some point: “Steve had come up to me and said something about, Brooks wanted to get rid of his old lady and he wasn’t the man for the job, that I was.” VR.6/30/25, 10:38:11-42, 12:04:49-05:18. Around July 4, Joey talked to Girdley about Crystal’s car, saying “he would bury it with a skidsteer and nobody’d ever find it.”⁴ VR.6/30/25, 10:37:44-38:03.

Girdley worked July 3 and went to a “pre-party” that afternoon and then a bar with Joey, who was driving a Chrysler 300. VR.6/30/25, 10:38:42-39:43. After the bar but before dark, they met Houck to get paid; Houck gave Joey a

⁴ “Skidsteer” is another term for a “Bobcat.” VR.6/30/25, 10:35:20. Joey and Steve did skidsteer work for Houck. VR.6/30/25, 10:35:15-40; VR.7/1/25, 1:11:49.

set of keys; and Joey said he had to work on Crystal's car. VR.6/30/25, 10:39:27-40:43. This likely coincided with Houck's leaving his house in his truck, without his phone, for 15 minutes around 5:00 p.m. VR.6/30/25, 2:47:20-49:45; Com.Ex.72

Girdley and Joey returned to the bar, then went to Girdley's house, picked up Steve on Thompson Hill Road, and went back to the bar. VR.6/30/25, 10:40:43-10:41:30. Girdley saw Crystal's car when they picked up Steve. VR.6/30/25, 1:19:08-21:37. At some point, Joey told Girdley that "he'd shave her head and pull⁵ her teeth, and the hogs would do the rest." VR.6/30/25, 10:41:50-42.

Later, Girdley left the bar and returned to the pre-party. VR.6/30/25, 10:41:25. That night, Joey contacted him, possibly on his daughter's phone, saying his car had broken down on the Bluegrass Parkway and asking for a truck and trailer to move it; Girdley had been drinking and couldn't help. VR.6/30/25, 10:42:09-42:36, 1:24:55. Joey never said it was *his* car, just that he'd asked for a truck and trailer to move *a* car. VR.6/30/25, 11:42:10.

⁵ Girdley's speech isn't completely clear (just after this, a juror expressed difficulty hearing Girdley, VR.6/30/25, 10:42:47-43:05); he may have said "shaved" and "pulled."

The white Buick.

Two witnesses saw a white Buick near the Houck farm overnight on July 3. They had been coon hunting nearby, and the weather was rainy and nasty. VR.6/30/25 1:58:30-2:00:08, 2:30:27-31:35. On a logging road, they came upon a white four-door Buick with gray interior. VR.6/30/25 2:01:48-02:18, 2:02:35, 2:31:45. It had no mud on it and Nelson County plates. VR.6/30/25, 2:02:25, 2:32:10-33:40. After hearing about Crystal, the “random,” “odd” car in the woods stood out, so they told Casey Ballard about it. VR.6/30/25, 2:05:20-40, 2:33:43-34:28. They didn’t know whose car it was or its connection to Crystal—just that the farm adjoined the Houck farm. VR.6/30/25, 2:05:41-55.

On April 28, 2016, Tommy Ballard, Crystal’s father, posted on Facebook looking for information about a “white Buick” involved in Crystal’s disappearance. VR.6/30/25, 3:05:16-07:14; Com.Ex.60. The coon hunters’ tip had lain dormant with police, but Ballard’s post worked quickly, and he called the police on May 1 with information. VR.6/30/25, 3:04:44, 3:06:55. With that information, police obtained a search warrant for a white Buick belonging to Whitesides and served it on May 4. VR.6/30/25, 3:07:14-45. But the Buick was gone: Whitesides had sold it in Louisville two days before (only two days after Tommy’s post). VR.6/30/25, 3:07:45-11:20; Com.Ex.61.

Whitesides and Nick had tried selling the Buick at another dealership first. VR.6/30/25 3:19:28-21:59, 3:22:00; Com.Ex.70. But they made an “odd request”: they were “not going to give [the dealership] access to” the car before the sale, didn’t want the dealership “in the car, in the trunk, under the hood,” and “didn’t give [them] keys to do an appraisal.” VR.6/30/25, 4:24:52-25:18.

Police recovered the Buick and processed it. VR.6/30/25, 3:11:40. It was a white, four-door, gray-interior Buick with Nelson County plates. Com.Ex.62-68. In the trunk was a “head hair with Caucasian characteristics” that police “microscopically compared with,” and “determined to be similar in color and limited microscopic characteristics” to, Crystal’s hair. VR.6/30/25, 3:17:28-18:29; Com.Ex.69, at 2. Police excluded it as a match for Whitesides. VR.6/30/25, 3:17:28-18:29. But it was insufficient for DNA testing. VR.6/30/25, 4:09:50.

Police later had a trained cadaver dog sniff the car. VR.6/30/25, 3:22:35-24:40; VR.7/1/25, 8:44:40-45:43, 8:55:05-21. The dog did a blind search: it was released into an impound lot containing the Buick and 10 to 15 other cars, with no information about what was being sought. VR.6/30/25, 3:23:36-24:40; VR.7/1/25, 8:57:10-59:59, 9:35:48. The dog gave his “trained final alert” for human remains (different from his live-human alert) on the Buick’s right rear, “where he had the strongest scent of human remains.” VR.7/1/25, 9:02:43-04:08, 9:32:05-53, 9:33:38-35:24.

Rebecca Greer

Greer is Steve's ex-wife, and her daughter, Elizabeth, has a child with Joey. VR.7/1/25, 12:45:22-48:05. Once, at Elizabeth's house, Greer overheard Joey say "that there was \$50,000 collected for moving the car but it didn't need to be discussed any further." VR.7/1/25, 12:49:00-50. A few months later, she confronted Joey, asking: "Did you tell Elizabeth that y'all got \$50,000 for moving a car?" VR.7/1/25, 12:50:31-39. He answered, "Yeah, but if you wanna know any details, you need to ask Steve." VR.7/1/25, 12:50:39-45.

When Greer was first around Steve in 2015, "he had money all the time." VR.7/1/25, 12:56:36. And Steve had money all the time the first few weeks they dated (in 2017) but then was broke. VR.7/1/25 12:56:10-23.

She also once saw Joey and Steve physically fight. Joey said, "you keep on and I'm gonna let everybody know about this car and all your involvement," and "kept saying he was gonna let it [be] known about this car and just how involved he was." VR.7/1/25, 12:58:15-35.

Stacy Cranmer

Cranmer worked for Houck and knew the Lawsons. VR.7/1/25, 1:00:29-1:01:00. The week before July 4, she talked with Steve after he rode around with Houck for 45 minutes, which was unusual because Houck didn't drive workers around, except for Singleton. VR.7/1/25, 1:03:13-05:08. After Steve left Houck's

truck, Cranmer asked him if she was in trouble. VR.7/1/25, 1:05:08-06:08. He said, “No, ... that’s not what we were talking about.” VR.7/1/25, 1:05:59-06:08. “He said, we were talking about—he said they were talking about a girl that they—that he had to take care of.” VR.7/1/25, 1:06:08-21. Cranmer pushed for more information, and Steve said, “she wasn’t doing very well, ... she’s got five kids.” VR.7/1/25, 1:06:27. He said the woman “was on drugs, meth,” and when Cranmer asked about putting her in rehab, he said, “I wish that was the case.” VR.7/1/25, 1:06:52-07:07.

Steve was “bragging” with these statements. VR.7/1/25, 1:07:07. Cranmer was worried enough that she tried calling police the night Crystal was reported missing. VR.7/1/25, 1:07:28-08:56; VR.6/25/25, 3:25:15 (voicemail for Snow); Com.Ex.14. She later recorded Steve for the FBI, though he’d had his own FBI encounter and claimed he had been talking about Joey’s girlfriend. VR.7/1/25, 1:09:03-58.

Barbara Coulter

Coulter is Steve’s mother and Joey’s grandmother. VR.7/1/25, 1:24:45-25:02. In 2022, Joey told her that “Stevie had killed Crystal.” VR.7/1/25, 1:25:51-26:00.

Indictment and Trial

On July 6, 2023, more than eight years after Crystal disappeared, a grand jury indicted Joey for tampering with physical evidence. TR-183, 2. On July 24, it indicted him for conspiracy to commit murder. TR-239, 2.

Joey was tried with Houck. After a ten-day trial, the jury found Joey guilty as charged and fixed his sentence at 25 years, which the trial court imposed. TR-183, 374-75; TR-239, 392-93.

ARGUMENT

I. The trial court rightly denied Joey's directed-verdict motion.

Joey claims the trial court erred by denying his directed-verdict motion. (Br.31-39.) He is wrong.

A. Standard of Review

For the trial court to deny Joey's directed-verdict motion, the evidence had only to be "sufficient to induce a reasonable juror to believe beyond a reasonable doubt that [he] [wa]s guilty." *Commonwealth v. Benham*, 816 S.W.2d 186, 187 (Ky. 1991). The court had to "draw all fair and reasonable inferences" favoring the Commonwealth, "assume that the evidence for the Commonwealth is true," and "reserv[e] to the jury questions as to the credibility and weight" of the evidence. *Id.*

The appellate-review standard “is perhaps even more deferential than that used by the trial court.” *Riggle v. Commonwealth*, 686 S.W.3d 105, 118 (Ky. 2023). Thus, “a directed-verdict decision will be reversed only ‘if under the evidence as a whole, it would be *clearly* unreasonable for a jury to find guilt.’” *Southworth v. Commonwealth*, 435 S.W.3d at 32, 42 (Ky. 2014) (citation omitted).

B. The Commonwealth proved that Joey conspired to kill Crystal.

Joey first claims the Commonwealth failed to prove he entered an agreement with another person as to Crystal’s murder. Br.32. He also suggests she wasn’t murdered but ultimately claims the Commonwealth failed to prove he had a role in her death. Br.33. The Commonwealth proved that Crystal was murdered *and* that Joey agreed to and had a role in it.

A person commits criminal conspiracy when he has “the intention of promoting or facilitating the commission of a crime” and either “[a]grees with one (1) or more persons that at least one (1) of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime,” or “[a]grees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.” KRS 506.040(1)(a)-(b). Conspiracy also requires “an overt act in furtherance of the conspiracy ... committed by one (1) of the conspirators.” KRS 506.050(1).

Conspiracy “is a different offense from the crime that is the object of the conspiracy.” *Fulton v. Commonwealth*, 849 S.W.2d 553, 555 (Ky. App. 1992) (citation omitted); *Pinkerton v. United States*, 328 U.S. 640, 643 (1946) (noting conspiracy is “separate and distinct” from “the substantive offense”). Conspiracy is “an inchoate offense, the essence of which is an agreement to commit an unlawful act.” *Iannelli v. United States*, 420 U.S. 770, 777 (1975). That’s why the criminal conspiracy is housed in a KRS chapter titled “Inchoate Offenses.”

Joey suggests the Commonwealth had to prove that Crystal was dead and that her death resulted from someone’s criminal agency. (Br.32-33.) The Commonwealth was not required to prove that Crystal was murdered, only that Joey agreed that a conspirator would kill, or try to kill, her and that an overt act furthering the conspiracy was taken. The object offense need not have been committed for conspiracy liability to arise. See *Arnett v. Meade*, 462 S.W.2d 940, 944 (Ky. 1971) (“[P]roof of consummation of the conspiracy by commission of the planned crime is not necessary to sustain a conviction of a conspiracy”); *United States v. Iribe*, 564 F.3d 1155, 1160 (9th Cir. 2009) (“By definition, conspiracy and attempt are inchoate crimes that do not require completion of the criminal objective.”); cf. *Commonwealth v. Speakes*, 740 S.W.2d 941, 942 (Ky. 1987)

(“[T]hat the overt act alleged may also be the substantive offense is of no consequence to the conspiracy conviction”).⁶

That said, the proof showed that Crystal was murdered. A murder may be shown entirely by circumstantial proof—even without a body. *Warmke v. Commonwealth*, 180 S.W.2d 872, 873 (Ky. 1944). “[T]he law does not subscribe to the rigid formula that the body must be found or seen after death.” *Id.*; see also *Polly v. Commonwealth*, 2023-SC-0125-MR, 2024 WL 3929734, at *5 (Ky. Aug. 22, 2024) (nonbinding). Kentucky has long recognized “that circumstantial evidence is competent to establish the fact that the person charged to have been murdered is dead.” *Johnson v. Commonwealth*, 81 Ky. 325, 327 (Ky. 1883); see also *Laughlin v. Commonwealth*, 37 S.W. 590, 592 (Ky. 1896) (“[T]he accused may be found guilty solely upon [circumstantial evidence], equally in murder and other crimes.”).

Here, the proof showed that Crystal is dead. A cadaver dog alerted on the Buick, where a hair like Crystal’s was found. VR.6/30/25, 3:17:28-18:29,

⁶ That the murder was consummated is no defense to conspiracy. Although some jurisdictions take an “absolute defense” view, others take the “view that conspiracy and its underlying crime are distinct offenses and that conviction of one has no effect whatsoever on disposition of the other.” *Kentucky Penal Code Final Draft* § 755 Commentary (Nov. 1971). Kentucky chose “a middle position,” *id.*, and thus allows conviction for both conspiracy and the object crime in some circumstances, KRS 506.110(2). That said, Joey doesn’t suggest that he cannot be convicted of conspiracy because the murder occurred. Indeed, he claims the Commonwealth had to prove the murder.

VR.7/1/25, 9:32-35:24. Plus, Crystal disappeared without explanation over a decade ago, leaving behind five children. *E.g.*, VR.6/25/25, 10:55:45-57:20, 10:57:50, 11:36:55-37:06, 1:02:25-36. That is evidence of “death and criminal agency.” *Phillips v. Commonwealth*, 2004-SC-000936-MR, 2006 WL 3386575, at *5 (Ky. Nov. 22, 2006) (nonbinding).

Indeed, this case generally mirrors *Phillips*. There, the Commonwealth had direct proof of “neither ... body nor any other physical evidence of death or injury.” *Id.* at *4. But as here, the “evidence included [the victim’s] leaving her children and disappearing without a trace.” *Id.* at *5. That “was strong circumstantial evidence of her death by criminal agency,” especially since she was “a good mother, which would suggest that she would be unlikely to abandon her children.” *Id.* at *5 n.16.

Crystal also was a good mother and altogether unlikely to abandon her children. *E.g.*, VR.6/25/25, 11:36:55-37:06, 1:02:25-36; VR.6/27/25, 8:45:50. Her complete and sudden disappearance is strong proof she was killed “equal to that of bloodstains and concealment of evidence.” *Phillips*, 2006 WL 3386575, at *5 n.16 (citation omitted).

The similarity to *Phillips* doesn’t end there. For example, in *Phillips*, the defendant made “inconsistent statements to law enforcement personnel concerning [his wife’s] whereabouts.” *Id.* at *5. *Phillips* cited with approval *Hurley v.*

State, 483 A.2d 1298 (Md. App. 1984), in which similar evidence, including the defendant’s inconsistent statements about his whereabouts the night his wife disappeared, “supported a murder conviction.” *Phillips*, 2006 WL 3386575, at *5 n.17.

Much of the proof here detailed Houck’s inconsistent, and often-impossible, claims. For example, his claims about his activities the days Crystal disappeared were disproven, *see, e.g.*, VR.6/27/25, 11:47:05-48:59 (phone data showing Houck at farm all day); VR.6/26/25, 2:53:20-56:25 (no July 3 business with electric company), as was his claim that Crystal was on her phone playing games after midnight, *see* VR.7/1/25, 10:23:30-45 (phone off then). That echoes the proof in *Phillips* and *Hurley*.

Still other proof—e.g., Rosemary’s asking about getting rid of Crystal, VR.6/26/25, 4:01:55-03:25; Houck’s statement about getting rid of Crystal, VR.6/30/25, 10:38:11; Steve’s statements about “tak[ing] care” of a woman, VR.7/1/25, 1:06:08-21; and Houck’s foreknowledge of the Terrell tip’s mistakenness, VR.7/1/25, 11:01:41-48—showed that Crystal was murdered.

Although much of that proof goes to Houck’s guilt, it still answers Joey’s half-argument that the Commonwealth failed to prove murder. It’s more than enough proof of an overt act required for conspiracy. Even Joey admits there was proof of a conspiracy. *See* Br.1 (acknowledging “[s]ome sort of conspiracy

seemed to exist” among the Houcks), Br.28-29 (noting the “Houck Family Conspiracy”).

As for Joey’s guilt, the question is whether he entered into an agreement with the intent to promote or facilitate Crystal’s murder. Indeed, the heart of Joey’s claim is not that Crystal wasn’t murdered but that the Commonwealth failed to prove that he entered into an agreement about the murder. He’s right that “the essence of conspiracy is the agreement to commit the crime.” *Wyatt v. Commonwealth*, 219 S.W.3d 751, 758 (Ky. 2007). But the agreement supporting a criminal conspiracy “need not be shown to have been explicit” and “can instead be inferred from the facts and circumstances of the case.” *Iannelli*, 420 U.S. at 778 n.10.

Joey also complains that the Commonwealth failed to show *he* “acted in agreement” with anyone. Br.33. But the Commonwealth didn’t have to show that he acted, only that any conspirator acted. KRS 506.050(1). And the act need only “further[] the conspiracy,” *id.*, rather than the object crime itself.

Still, there was ample evidence from which a jury could infer that Joey agreed to Crystal’s murder, including his involvement in the object crime and overt acts.

Take Girdley’s testimony. On July 3, Girdley saw Houck give Joey car keys, and Joey said he had to work on Crystal’s car. VR.6/30/25, 10:39:27-40:43.

Girdley saw Crystal's car that night when he and Joey picked up Steve. VR.6/30/25, 1:19:08-21:37. Later that night, Joey contacted Girdley seeking help moving a broken-down car on the Bluegrass Parkway, VR.6/30/25, 10:42:09-42:36, 1:24:55, doubtless referring to Crystal's car. Around July 4, Joey talked about "bury[ing] [Crystal's car] with a skidsteer." VR.6/30/25, 10:37:44-38:03. And at some point, Joey said "he'd shave her head and pull her teeth, and the hogs would do the rest," VR.6/30/25, 10:41:50, describing how he would dispose of Crystal's body (or possibly had done so).

Joey generally dismisses Girdley's testimony as "disproven," referring to the lack of phone evidence confirming Joey's presence on the parkway and physical evidence placing him in Crystal's car. Br.34. But "absence of evidence is not evidence of absence." Carl Sagan, *The Demon-Haunted World* 213 (1996). And no evidence placed Joey elsewhere.⁷ Even then, any conflict in the proof would create a jury question, allowing the case to go to verdict.

⁷ There was no evidence about Joey's phone location. The Commonwealth's expert was provided no records from Joey's phone. VR.6/27/25, 11:16:15. He testified that the absence of Joey's phone number on other records, including from AT&T's towers near Bluegrass Parkway, may have been because data "falls off" over time and records were not requested until years later. *Id.*, 2:03:26-04:52. At the time, Joey had been using a borrowed phone from a different carrier. VR.7/1/25, 1:09:58-1:10:38. Even the defense's expert testified that the "odds are slim" that data showing Joey's borrowed phone on those towers would be available years later. VR.7/2/25, 2:48:40-49:44.

Joey also dismisses Girdley's testimony about disposing of Crystal's body as a "pop culture trope." Br.16 n.16. But in the directed-verdict context, the Commonwealth's proof is assumed true and viewed in the light most favorable to the Commonwealth. Deciding Girdley's credibility was for the jury alone—and it believed him because it convicted Joey. Joey claims that it's "plausible" his hogs statement was "speculating what he believed someone else did to Crystal," Br.34, but that doesn't view the proof favorably to the Commonwealth.

The jury also heard Greer testify that Joey and Steve had received \$50,000 for moving a car. VR.7/1/25, 12:49:00-50:45. Joey dismisses that as showing only that he believed Steve was involved, Br.34, but he ignores that Greer confronted Joey about both men—"y'all," as she put it to him—receiving the money, which Joey confirmed. *Id.* Greer's testimony, especially about Joey's admitting receiving the money, is damning proof of Joey's participation in Crystal's disappearance.

Greer also testified about seeing Joey yelling at Steve mid-fight that he would "let everybody know about this car and all [his] involvement" and "was gonna let it [be] known about this car and just how involved [Steve] was." VR.7/1/25, 12:58:15-35. And Joey told his grandmother that Steve "killed Crystal." VR.7/1/25, 1:25:51-26:00. A jury could infer from that proof that Joey was aware of Steve's involvement because he too was involved in the crimes.

And two years after Crystal disappeared, Snellen overheard Joey and Steve talking about what they'd done: "moving a body at the Houck farm" "with a skidsteer." VR.6/27/25, 9:06:40-56, 9:13:44-14:15, 9:22:20-40. Joey dismisses this, claiming, among other things, that Snellen previously lied and was high. Br.35. Again, her testimony must be assumed true and viewed favorably to the Commonwealth.

Joey's agreement about Crystal's murder need not be proven explicitly. The Commonwealth wasn't required to produce a contract or a witness to Joey and Houck's agreement. "It is not necessary ... to produce evidence of the actual conversations or communications between the conspirators." *Brown v. Commonwealth*, 555 S.W.2d 252, 256 (Ky. 1977). As in *Brown*, the proof here "clearly evinced a mutually-understood community of purpose," *id.*, among Houck, Steve, and Joey. That's enough to show the required criminal-conspiracy agreement and thus avoid a directed verdict.

C. The trial court properly denied Joey's directed-verdict motion for tampering with physical evidence.

The Commonwealth proved that Joey tampered with physical evidence by helping dispose of Crystal's body and car. Thus, his directed-verdict claim fails.

Relevant here, a person tampers with physical evidence "when, believing that an official proceeding is pending or may be instituted, he ... [d]estroys, mutilates, conceals, removes or alters physical evidence which he believes is about

to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding.” KRS 524.100(1)(a).

Joey’s role in Crystal’s murder was helping dispose of Crystal’s body and car. That was also the crux of his tampering conviction. Although Joey concedes that proof of moving Crystal’s car or body “could support a conviction of ... tampering,” Br.33, he still challenges his tampering conviction.

Joey complains that his DNA wasn’t found in the car and that cell-phone data didn’t place him near it. Br.36-37. But that ignores Girdley’s testimony that Joey asked him for help moving a car stranded on the parkway. A jury could easily infer that the car was Crystal’s.

Joey notes that the car was not destroyed, mutilated, etc., so the question is whether it “was removed or concealed.” Br.37. This, he claims, wasn’t shown because the car was “left in plain sight for law enforcement to find.” Br.37. He compares his case to *Commonwealth v. James*, in which the defendant dropped drug paraphernalia on the ground in front of police. 586 S.W.3d 717, 725 (Ky. 2019).

But *James* was limited to its “unique set of facts,” *id.* at 729, and doesn’t apply here. Joey did not just drop the car on the ground—he helped move it from another location. Although *James* held that merely abandoning evidence is not a crime, it also recognized that “moving an object from the scene of the crime, or from any location where its evidentiary value can be deduced, to some

other place where its evidentiary significance may not be detected” is. *Id.* at 727 n.34 (citation omitted).

The conspirators here did just that. Crystal’s car was taken from her home, was seen when Joey picked up Steve, and was left stranded on the Bluegrass Parkway. Once the car was moved, the crime was completed. That moving the car left it undiscovered until July 5 shows that it was an act of removal or concealment. And that the car was left with a flat tire, seemingly abandoned by Crystal, affected its evidentiary significance, because investigators were initially unsure whether she had left the car there herself. Making evidence appear to be something that it isn’t is tampering.

This case is like *Clark v. Commonwealth*, in which the Court upheld a tampering conviction for moving a body from inside a residence to outside, where the defendant tried to burn and bury it. 567 S.W.3d 565, 569 (Ky. 2019). Moving the car from Crystal’s home to dispose of it was tampering with physical evidence. *See Newton v. Commonwealth*, 2006-CA-001298-MR, 2008 WL 540741, at *2 (Ky. App. Feb. 29, 2008) (nonbinding) (upholding tampering conviction based partly on moving victim’s body); *Haynes v. Commonwealth*, 2010-CA-002232-MR, 2011 WL 5245207, at *2 (Ky. App. Nov. 4, 2011) (nonbinding) (stating proof the defendant “moved the body from the site of the shooting,” among other things, “was more than sufficient to support his tampering with evidence conviction”).

Joey also claims that the Commonwealth failed to show that he had any reason to think Houck planned to harm Crystal, undermining the requirement that he believe an official proceeding might be instituted. He ignores that he told Girdley about both burying the car *and* disposing of Crystal's body. He would also have this Court view the proof in the light most favorable to him, rather than drawing reasonable inferences about why Houck might have asked him to dispose of Crystal's car.

Joey's participation in moving the car was sufficient to deny his tampering directed-verdict motion. When the proof is "sufficient under at least one theory," the defendant is "not entitled to a directed verdict." *Acosta v. Commonwealth*, 391 S.W.3d 809, 820 (Ky. 2013), *overruled on other grounds by Ray v. Commonwealth*, 611 S.W.3d 250, 265 & n.27 (Ky. 2020). A directed verdict is required only "when, looking at the evidence as a whole, it would be clearly unreasonable for a jury to find the defendant guilty, under any possible theory, of any of the crimes charged." *Johnson v. Commonwealth*, 694 S.W.3d 232, 254 (Ky. 2023) (citation omitted).

Still, Joey complains that the Commonwealth failed to prove that he participated in moving Crystal's body. But Joey told Girdley what he would (or did) do: feed it to hogs. The jury could infer from that and the other proof that Joey moved and helped dispose of Crystal's body. Under *Clark*, *Newton*, and *Haynes*,

discussed above, that was tampering with physical evidence. And unlike her car, Crystal's body is still missing.

Finally, Joey complains that the jury was not instructed on complicity to tampering, even though the indictment and final judgment reflect that his conviction is for complicity to tampering. Br.38. Joey didn't raise this issue in his directed-verdict motion, which focused instead on whether there was any evidence to be tampered with (the body) or concealment (the car). VR.7/1/25, 2:32:44-34:48. Even then, the directed-verdict analysis looks only at whether the proof shows the elements in the "statutes creating the offense," *Smith v. Commonwealth*, 636 S.W.3d 421, 434 (Ky. 2021) (citation omitted), not as they might appear in instructions. However characterized, it's not an error because "the indictment and jury instructions need not be perfectly matched so long as they describe the same offense: 'If the guts are there the feathers are inconsequential.'" *Johnson v. Commonwealth*, 105 S.W.3d 430, 443 (Ky. 2003) (citation omitted).

That the indictment and judgment referenced complicity also doesn't matter because complicity is just "a means by which a crime may be committed." *Smith v. Commonwealth*, 370 S.W.3d 871, 873 n.1 (Ky. 2012). Although the indictment's caption referred to complicity, the body charged alternative principal and accomplice theories, TR-183, 2, and "the body of an indictment ... controls" over "the caption," *Johnson*, 105 S.W.3d at 445. If the indictment had presented

an issue, it could have been amended to reflect the proof. RCr. 6.16; *Commonwealth v. Combs*, 316 S.W.3d 877, 880 (Ky. 2010). Any failure to do so was harmless. *Clark v. Commonwealth*, 267 S.W.3d 668, 680 (Ky. 2008). And the judgment at most includes a clerical error in the offense's name, which isn't reversible error. *See Schultise v. Commonwealth*, 2014-CA-000214-MR, 2016 WL 447743, at *4 (Ky. App. Feb. 5, 2016) (nonbinding) (judgment listing complicity to theft rather than theft is clerical error). Joey was in no way prejudiced by this.

II. The trial court correctly tried Joey and Houck together.

Joey claims the trial court erred in trying him with Houck because of media coverage Houck, the disparity of evidence, and evidence admitted against Houck was inadmissible against him. Br.40. This claim fails.

Multiple defendants may be tried together. RCr 6.20, 9.12. Indeed, our law has long preferred “jointly trying defendants who are, or could have been, jointly indicted.” *Darcy v. Commonwealth*, 441 S.W.3d 77, 79 (Ky. 2014). “To warrant severance, a joint trial must be so prejudicial as to be ‘unnecessarily or unreasonably hurtful.’” *Sexton v. Commonwealth*, 647 S.W.3d 227, 230 (Ky. 2022) (citation omitted).

The Court reviews this issue “for abuse of discretion, and the burden is on the appellant to show that the denial was in fact unfairly prejudicial.” *Peacher v. Commonwealth*, 391 S.W.3d 821, 834 (Ky. 2013) (citation omitted). The decision

“will not be disturbed unless clear abuse and prejudice are shown.” *Schambon v. Commonwealth*, 821 S.W.2d 804, 809 (Ky. 1991). Joey shows neither.

Joey’s first complains that media coverage of Houck meant that he should have been tried separately. Br.40-41. His claim wrongly assumes that media were interested in only Houck. There is little question that media also would have intensely covered a separate trial for Joey, just as they did the trial of Joey’s father, Steve Lawson.⁸

Even then, Joey fails to explain how media coverage prejudiced him. Pre-trial publicity’s cure is not severance but change of venue. Here, the court changed venue to Warren County. TR-183, 49, 65; TR-239, 62, 77. The court also used a voir dire questionnaire to filter jurors who had heard about the case and formed an opinion. *E.g.*, VR.6/24/25, 9:24:51-25:55 (reading publicity questions), 10:13:35-50 (stating jurors would be asked questions individually about their knowledge of case). That’s another cure for pretrial publicity. *See Groppi v. Wisconsin*, 400 U.S. 505, 510 (1971) (approving “method of jury qualification that

⁸ Joey downplays media coverage of him and Steve by referencing searches of IMDb.com for their names. Br.22 n.18 But IMDb.com is an entertainment database, not a news-media database. A simple Google search returns numerous stories about Steve’s trial. *E.g.*, Caitlin Huff and Brennan Cain, *What we learned during the first day of Steve Lawson’s trial*, WBKO News (May 27, 2025), <https://www.wbko.com/2025/05/27/jury-selection-underway-trial-against-steve-lawson-crystal-rogers-case/>.

will promote ... the exclusion of prospective jurors infected with the prejudice of the community from which they come”). So Joey got two remedies for pretrial publicity.

As for publicity during trial, the court repeatedly admonished the jury not to research the case and to avoid media about it. *E.g.*, VR.6/24/25, 9:21:38-22:22, 4:16:32, 4:45:00-15; VR.6/25/25, 4:16:30-17:15; VR.6/26/25, 4:39:35-45. The jury was presumed to follow admonitions to avoid media coverage and not research the case. *See Ross v. Commonwealth*, 531 S.W.3d 471, 478 (Ky. 2017) (noting jury had been admonished “to avoid any news accounts about the trial,” which jury was presumed to follow).

Joey also argues that the volume of evidence required severance, citing the more than two terabytes of discovery data and more than 40 trial witnesses. Br.41. But massive or complex evidence is not a severance consideration under Kentucky law, which looks at whether joinder would be prejudicial. Indeed, Joey cites only a Seventh Circuit case about evidentiary complexity. Br.41. And even that case, *United States v. Garner*, found that the massive evidence did *not* require severance. 837 F.2d 1404, 1414 (7th Cir. 1987). It added that the nature of the charges (conspiracy) meant “each individual trial would have required the government to put forth evidence of custom and practice, and parallel conduct” and thus “the individual trials would themselves have been massive, and judicial

resources would have been wasted.” *Id.* So too here. Joey’s separate conspiracy trial likely would have involved much of the same evidence.

Joey also complains that the trial court did not review the terabytes of data before deciding the joinder-severance question, while acknowledging that this Court has never required that practice. Br.42. And it shouldn’t, because requiring a trial court to preview the entire trial would waste more judicial resources than would separate trials.

Finally, Joey argues that much of the evidence about Houck would have been inadmissible against him under KRE 404(b). Br.42. First, the evidence—such as Houck’s motive for wanting Crystal dead and the Houck family’s bad behavior—was not KRE 404(b) evidence because it was not evidence of Joey’s other crimes or bad acts. Rather, it was evidence tending to show both the murder and the conspiracy surrounding it.

Even then, Joey invokes a criterion considered mainly for joining charges, not defendants. When considering joining multiple charges against one defendant, courts consider “the extent to which evidence of the two offenses would be mutually admissible at separate trials,” with mutual inadmissibility disfavoring joinder. *Peacher*, 391 S.W.3d at 839.

When joining multiple *defendants*, mutual inadmissibility is less a concern. “[T]he mere fact that evidence competent as to one defendant but incompetent

as to the other may be introduced is not alone sufficient to establish such prejudice as to require ... separate trials.” *Commonwealth v. Rogers*, 698 S.W.2d 839, 840 (Ky. 1985) (citation omitted). To justify separate trials, Joey had to show “some additional factor,” such as that he and Houck “have antagonistic defenses, or that the evidence as to one defendant tends directly to incriminate the other, *e.g.*, one defendant’s admissions directly implicate the other.” *Id.* (citation omitted). Joey “must show that antagonism prevented a jury from being able to separate and treat distinctively evidence that is relevant to each particular defendant at trial and that the antagonism between codefendants will mislead or confuse the jury.” *Gill v. Commonwealth*, 7 S.W.3d 365, 369 (Ky. 1999) (citation omitted). Even then, “antagonistic defenses, including defendants casting blame on each other, standing alone, are not unfairly prejudicial and do not invariably mandate separate trials.” *Paulley v. Commonwealth*, 323 S.W.3d 715, 728 (Ky. 2010).

Joey shows no additional factor, like extreme antagonism. At trial, he mostly hoped the jury would overlook him. *See* VR.7/7/25, 9:20:20-23:15. And both he and Houck relied largely on the proof’s circumstantial nature.

Ultimately, Joey and Houck were alleged to have conspired together. “That different defendants alleged to have been involved in the same transaction have conflicting versions of what took place, or the extent to which they participated in it, *vel non*, is a reason for rather than against a joint trial.” *Ratliff v.*

Commonwealth, 194 S.W.3d 258, 265 (Ky. 2006) (citation omitted). In other words, the overlap in the proof in a case like this, even if some evidence may be admissible against one defendant but not the other, favors a joint trial. Thus, the trial court did not abuse its discretion in trying Joey with Houck.

III. No error occurred during jury selection.

Joey argues that the trial court erred by not striking jurors 16, 41, 48, and 77 for cause, meaning he lacked peremptory strikes for jurors 4 and 50, who served on the jury. Br.42-47. Joey didn't preserve this issue, but even if he did, the court acted within its discretion.

A. Joey failed to preserve this issue.

Kentucky law has strict requirements for preserving the denial of a motion to strike a juror for cause. The defendant “must identify on his strike sheet any additional jurors he would have struck” with peremptory strikes. *Gabbard v. Commonwealth*, 297 S.W.3d 844, 854 (Ky. 2009). He must “clearly write” who “[h]e would have used a peremptory strike on.” *Floyd v. Neal*, 590 S.W.3d 245, 250 (Ky. 2019). That enables an appellate court to trace a for-cause-motion denial to a juror who would not have sat on the jury. *Id.* at 251. Just as importantly, “the number of jurors a litigant identifies on h[is] strike sheet must be the same number of jurors the litigant originally moved to strike for cause.” *Id.* Finally, the

A

A

A

A

A

A

000071 of 000097

000071 of 000097

peremptorily because the defense's for-cause strikes were denied. If so, neither 72 nor 100 make sense because neither was drawn from the box, meaning neither could have been struck. Still, that's not exactly what the strike sheet says. But even giving Joey the benefit of the doubt, only four jurors listed (16, 41, 48, and 77) were ones the defense moved to strike for cause.

The strike-sheet confusion doesn't stop there. The sheet also says, "had our cause motions been granted, would have struck #'s 67, 120, 50, 90, 4." But the defense peremptorily struck 90 and 120. Thus, of the five jurors identified as ones Joey would have peremptorily struck, only three are possibilities. And of those, only two (4 and 50) ultimately served on the jury.¹¹

Joey's strike sheet does not strictly comply with *Gabbard*. The point of *Gabbard* is to let an appellate court easily trace a for-cause motion's denial to a juror who would not have sat on the jury if the motion were granted. That's impossible here, so "it is impossible to determine whether [Joey]'s substantive rights were violated." *Floyd*, 590 S.W.3d at 251.

The strike sheet does not specifically connect a for-cause denial to a juror who sat on the jury. A defendant's strike sheet cannot "generally" list the jurors

¹¹ Juror 67 was an alternate. VR.7/07/25, 4:59:53-05:00:35; VR.7/08/25, 8:14:18-15:14, 8:31:34-35:03; see *Grubb v. Norton Hosps., Inc.*, 401 S.W.3d 483, 488 (Ky. 2013) (lacking peremptory strike for alternate is not reversible error).

he would have peremptorily struck. *Mulazim v. Commonwealth*, 2020-SC-0087, 2021 WL 1681267, at *8 (Ky. Apr. 29, 2021) (nonbinding). The sheet must “specify or link one of these different jurors with the juror not struck for cause.” *Id.* The defendant must “identify a different juror upon which he would have otherwise used that peremptory strike.” *Exantus v. Commonwealth*, 612 S.W.3d 871, 891 (Ky. 2020). Joey’s sheet “only generally listed [five] different jurors he would have peremptorily struck” without “specify[ing] or link[ing] one of these different jurors with the juror not struck for cause.” *Mulazim*, 2021 WL 1681267, at *8.

Also, “a one-to-one ratio ... of for cause strikes and would-be peremptory strikes is necessary.” *Floyd*, 590 S.W.3d at 251; accord *Mulazim v. Commonwealth*, 600 S.W.3d 183, 195 n.4 (Ky. 2020). The Court recently reiterated that rule, rejecting a defendant’s preservation claim, after he identified different numbers of would-have-struck and moved-to-strike-for-cause jurors, because his argument ignored the “holding in *Floyd* that the number of jurors a litigant identifies on her strike sheet must be the same number of jurors the litigant originally moved to strike for cause.” *Reis v. Commonwealth*, 2024-SC-0396-MR, 2026 WL 1841899, at *3 (Ky. June 25, 2026) (nonbinding) (cleaned up). Joey’s strike sheet fails this rule. He apparently listed six strike-for-cause motions but identified only five

jurors he would have peremptorily struck (two of whom were peremptorily struck).

Joey also had to make his “would-be peremptory strikes ... known to the court prior to the jury being empaneled.” *See Floyd*, 590 S.W.3d at 252. This is separate from noting would-be strikes on the strike sheet, *id.*, which may not come to the trial court’s attention before the jury is empaneled. After completing his strike sheet, Joey did not alert the court of his would-be peremptory strikes. VR.6/24/25, 4:34:30-42:40.

In short, Joey didn’t preserve this issue.

B. The court did not abuse its discretion by denying the for-cause strikes.

Even if Joey preserved this issue, the circuit court acted within its discretion. That discretion is “broad.” *Mabe v. Commonwealth*, 884 S.W.2d 668, 670 (Ky. 1994). The standard is whether “there is reasonable ground to believe that a prospective juror cannot render a fair and impartial verdict on the evidence.” RCr 9.36(1). A potential juror’s pretrial media exposure is not “per se” disqualifying. *Hubers v. Commonwealth*, 617 S.W.3d 750, 762 (Ky. 2020) (citation omitted). “Mere exposure to information about a case is not enough to constitute implied bias.” *Id.* at 764. The exposure must “actually bias[] the juror.” *Id.* (citation omitted). To merit for-cause removal, the “media reports must engender a predisposition or bias that cannot be put aside.” *Id.* at 762 (citation omitted).

Under this high standard, Joey shows nothing approaching abuse of discretion.¹² He objects to four jurors (16, 41 48, and 77) who knew various bits about Steve’s trial, which concluded weeks earlier. But knowledge of Steve’s trial and conviction “does not automatically equate to bias.” *Id.* And no evidence suggests any identified juror was actually biased.

Juror 16 heard about the case on NPR while driving to work. VR.6/24/25, 12:15:43-45. He knew that Houck was “alleged” to have participated in Crystal’s disappearance and had been “charged.” *Id.*, 12:15:49-16:11. He knew from being in the jury pool that an “accomplice” had been “tried and convicted.” *Id.*, 12:16:30-44. But he didn’t know who that person was. *Id.*, 12:16:43-45. He didn’t know “anything about the case” and knew “nothing” about the evidence from the trial. *Id.*, 12:16:45-50. He “undoubtedly” could decide this case based solely on the evidence presented. *Id.*, 12:16:51-17:00. And he was “certain” he “could put [the other trial] out of the back of [his] mind.” *Id.*, 12:17:02-20. To quote Juror 16, the other trial “should have no bearing, just the facts presented here.” *Id.*, 12:17:23-26.

¹² Even if Joey shows abuse of discretion as to one juror, the defense’s receiving an extra peremptory strike cured it. See *Dunlap v. Commonwealth*, 435 S.W.3d 537, 582 (Ky. 2013), *abrogated on other grounds by Abbott, Inc. v. Guirguis*, 626 S.W.3d 475 (Ky. 2021). The court gave the defense 14 strikes, VR.6/24/25, 3:27:29-44, not the 13 allowed under RCr 9.40, *Mulazim*, 600 S.W.3d at 196-97.

Juror 41 heard minor details from a co-worker but the conversation would have no effect on her deliberations. *Id.*, 12:21:20-22:23. Joey claims 41 was untruthful, because her husband, 42, was also on the panel, knew more about the case, and said he'd discussed it with her. Br.49 (citing VR.6/24/25, 11:08:52, 11:08:56). Joey fails to mention that 42 said he and 41 discussed the case *that morning* on the way to court and had wondered, "what even was this thing even about?" VR.6/24/25, 11:10:10-19.

That description of the limited, recent conversation tracks 41's answers when questioned again. When asked if she and 42 had discussed the case, she said, "Just, not really anything but today." *Id.*, 3:36:05-23. She said, "We spoke about, since we both had it this month, that maybe we would be on this together, but we didn't really speak about the details about what happened [inaudible crosstalk]." *Id.*, 3:36:38-47. After more questioning, she said, "I just don't recall anything in particular." *Id.*, 3:37:01. She again said she could decide solely on the evidence in court and anything she'd heard would not affect her decision. *Id.*, 3:37:04-20.

Before trial, Juror 48 saw local reporting about Crystal's case on TV and online. VR.6/24/25, 12:17:54-18:05. From that, he knew *a* Lawson had been convicted of conspiracy to commit murder and tampering but knew nothing about that trial's evidence. *Id.*, 12:18:05-33. Juror 48 confirmed he could "set all

that aside” and “make [his] decision based solely on the evidence presented in the courtroom.” *Id.*, 12:18:51-19:01. He stated without reservation: “Whatever evidence is presented to me in the courtroom, and that evidence only, is what I would determine.” *Id.* at 12:20:34-44.

Juror 77 heard about the case from “local news.” *Id.* at 11:31:01-28. She “th[ought] someone was found guilty maybe a week or two ago.” *Id.*, 11:31:33-42, 3:29:25-36. She didn’t know that person’s name, *id.*, 11:31:45, what the person was found guilty of, *id.*, 3:29:35-53, or anything else, *id.*, 11:31:51-53. She twice confirmed she could decide based solely on what she heard in the courtroom. *Id.*, 11:32:01-08, 3:30:18-27. She also averred that anything she’d heard about the prior case would have no influence here. *Id.*, 3:30:27-33. She similarly stated there was not “any chance in [her] mind” her knowledge might affect how she approached this case. *Id.*, 3:30:02-11.

The circuit court did not abuse its discretion by not striking these jurors for cause. Although some knew varying details about Steve’s trial, none knew anything about the evidence presented there. And all stated—more than once, without equivocating—that they could set aside any prior knowledge and decide based solely on the evidence presented. On these facts, the court acted within its discretion by denying Joey’s for-cause motions. *See King v. Commonwealth*, 276 S.W.3d 270, 278 (Ky. 2009) (juror who read about case in newspaper but

“indicated that this would not affect his ability to render a fair and impartial opinion” and “could set aside any preconceived notions” wasn’t disqualified).

This Court’s *Hubers* decision supports this conclusion, especially considering Joey’s complaint that jurors 16, 48, and 77 were aware of Steve’s trial and conviction. In *Hubers*, a juror knew that the *same defendant* had been convicted of the *same crime*, 617 S.W.3d at 764-67, 769-71, far more than the jurors knew here. Even on those facts, this Court found no abuse of discretion, reasoning that “the clear majority of [the juror’s] responses indicated that he could disregard his prior knowledge, listen to the evidence presented and be a fair and impartial juror.” *Id.* at 766. Joey’s case pales in comparison.

The other juror, 41, had some knowledge of this case’s facts, though she didn’t mention any knowledge of Steve’s trial. Joey claims she was deceitful given her husband’s answers about discussing the case. Br.50. To succeed here, Joey “must first demonstrate that a juror failed to answer honestly a material question on voir dire, and then further show that a correct response would have provided a valid basis for a challenge for cause.” *Gullett v. Commonwealth*, 514 S.W.3d 518, 524 (Ky. 2017) (citation omitted) (emphasis omitted).

Joey’s claim fails. First, it is not clear that the couple had discussed the case before that day as they drove to court, and even then, the conversation appeared driven by curiosity about “what even was this thing even about,”

VR.6/24/25, 11:10:10-19, not the case's details. Even the husband's answers don't show in-depth discussion.

Juror 41 did not “remain[] deceitfully silent” like the *Gullett* juror. 514 S.W.3d at 527. That juror failed to disclose on her juror-qualification form and in voir dire that close relatives, including two siblings, had criminal backgrounds. *Id.* at 522-23. Worse still, it was “certain” that the juror “knew of her siblings’ prior criminal prosecutions.” *Id.* at 524.

In contrast, it is not certain that Juror 41 knew more than she let on, and nothing suggests that she was intentionally deceptive about what she might have discussed with 42. She did not display the “mendacity” or “deceptive silence” in *Gullett*. *Id.* at 525. She was open when questioned a second time and showed no “tacit dishonesty [that] prevented the trial court and counsel from asking the additional questions needed to ascertain whether she harbored disqualifying biases.” *Id.*

And 41 didn't act like the juror in *Paenitz v. Commonwealth*, 820 S.W.2d 480, 481 (Ky. 1991). That juror discussed the case just before trial with the Commonwealth's expert witness and knowingly failed to disclose that contact during voir dire—“a flagrant abuse of juror responsibility.” *Id.* Juror 41 was open with the court and counsel both times she answered questions. She did not “carefully conceal[] her discussion of the case” like the *Paenitz* juror did. *Id.*

And Joey's suggestion that 41's husband "disclosed this information [about their discussions] on her behalf," Br.50, is just shocking. Evaluating a juror's qualifications to sit based on the answers of another juror is a dangerous path to take. Juror 41 answered for herself and gave answers about what she recalled about the case. Besides, her husband did not state that they had discussed anything that she did not mention. That her answers and recollection differed from her husband's do not show dishonesty.

The trial court made the right call on these jurors, finding that all four could be fair and impartial. Joey has not shown otherwise.

IV. The jury instructions did not violate Joey's right to a unanimous verdict.

Joey next claims that the conspiracy and tampering jury instructions violated his right to a unanimous verdict by including "two distinct and separate actions for which Joey could have participated in to complete either crime: moving a car or moving a body." Br.54-56. He argues that including both acts made the instructions duplicitous and improperly presented alternative theories, and that both instructions wrongly included "two separate and distinct criminal acts." Br.57. Both instructions were proper.

The conspiracy instruction neither improperly joined two instances of conspiracy nor improperly offered the jury alternative theories. If Joey were right, the Commonwealth could properly have charged him with two counts of

conspiracy—one for each of the “two distinct criminal acts.” But that misunderstands that conspiracy is an inchoate crime, the crux of which is an agreement to commit another crime. KRS 506.050(1)(a)-(b). That said, conspiracy does require “an overt act in furtherance of the conspiracy” by at least “one (1) of the conspirators,” KRS 506.050(1), but that act need not be committed by the defendant.

An overt act furthering the conspiracy can be committed by any conspirator. And a conspiracy is not limited to one overt act. Indeed, conspiracy is “a unique offense since multiple overt acts may be taken by the co-conspirators in furtherance of a lone conspiracy.” *Stewart v. Commonwealth*, 2020-CA-0496-MR, 2022 WL 1051763, at *8 (Ky. App. Apr. 8, 2022) (nonbinding). That the conspirators commit “multiple overt acts ... does not mean a new conspiracy offense occurs with the undertaking of each overt act,” meaning “a guilty verdict could be properly based upon multiple overt acts.” *Id.*; see also *King v. Commonwealth*, 554 S.W.3d 343, 369 (Ky. 2018) (Keller, J., concurring in part) (conspiracy can be shown by multiple acts).

No Kentucky case requires that “each juror must agree on the same overt act to find a defendant guilty of conspiracy.” *Stewart*, 2022 WL 1051763, at *8. That makes sense because a defendant can “be convicted under multiple alternative theories of how [he] committed the crime, provided each is supported by the evidence.” *Id.* (citing *Cox v. Commonwealth*, 553 S.W.3d 808, 812 (Ky. 2018)).

In *Cox*, the Court approved a combination murder instruction premised on the defendant's "hitting, shaking or both" the child victim. 553 S.W.3d at 811, 813. That instruction satisfied unanimity because the murder statute "does not require the fact-finder to determine the precise physical act ... that was the actual cause of [the victim's] death" and, instead, requires only that "the defendant did *something* to cause the death of the victim." *Id.* at 813.

In *Robinson v. Commonwealth*, this Court approved a combination instruction charging that the defendant killed the victim by "beating her, overmedicating her, and/or failing to provide proper medical care to her." 325 S.W.3d 368, 370 (Ky. 2010). The instruction was proper because the jury could have found guilt "under either or both theories of cause of death." *Id.* at 372.

Like murder, conspiracy does not require the jury to agree on the act used to commit the crime. Proof of multiple over acts "does not present a unanimity problem" because "the jury is required only to determine unanimously that an overt act was taken in furtherance of the conspiracy." *Stewart*, 2022 WL 1051763, at *8 n.6.

The conspiracy instruction was not duplicitous because it outlined a single conspiracy. Compare *Johnson v. Commonwealth*, 405 S.W.3d 439, 449 (Ky. 2013) (error in combining "two or more separate instances of a criminal offense"),

with Stewart, 2022 WL 1051763, at *7 (distinguishing *Johnson* “because only one criminal count of conspiracy was at issue”).

As discussed above, the jury heard proof from which it could find that Joey committed both overt acts. Thus, the combination instruction was proper.

The tampering instruction was also proper. First, it did not improperly combine multiple crimes. This Court has generally approved tampering instructions involving multiple items of evidence. For example, in *Behrens v. Commonwealth*, the Court found no unanimity problem with a conviction for the defendant’s “eras[ing] files from his iPad, wip[ing] his MacBook, and ask[ing] his girlfriend ... to change the password to his iCloud account.” 677 S.W.3d 424, 429 (Ky. 2023). The Court found that the “tampering charge was neither the iPad, the MacBook, nor the iCloud account individually, but rather the whole ensemble of incriminating data that Behrens sought to hide.” *Id.* at 431. The Court explained that there are certain “crimes for which separate actions, taken together, constitute a common scheme towards an indivisible criminal consequence.” *Id.* In *Behrens*, that consequence was erasing “the incriminating components of [the defendant’s] digital footprint.” *Id.* at 432.

Here, that consequence was hiding Crystal’s murder. Joey’s separate actions, helping move Crystal’s car and body, constituted a common scheme

directed toward that consequence. As in *Behrens*, including those actions in one instruction posed no unanimity problem.

Just last year, this Court approved the type of instruction used here. *See Heightchew v. Commonwealth*, 2024-SC-0304-MR, 2025 WL 3768896, at *18 (Ky. Dec. 18, 2025) (nonbinding). That instruction allowed the jury to convict the defendant of tampering if he “destroyed a car or body or concealed and/or destroyed a cell phone or a ... handgun.” *Id.* at *15. The jury wasn’t required to agree on the exact act because the tampering-with-physical-evidence statute “does not require the identification of the exact evidence with which the defendant tampered.” *Id.* at *18. The jury instruction “permissibly allowed the jury to agree, based upon several included items, that ‘physical evidence’ was tampered with.” *Id.* at *19.

Our courts consistently approve tampering instructions like this. *See Hackett v. Commonwealth*, 2012-SC-000773-MR, 2014 WL 2809876, at *4 (Ky. June 19, 2014) (nonbinding); *Whitfield v. Commonwealth*, 2022-CA-1346-MR, 2024 WL 1471408, at *2 (Ky. App. Apr. 5, 2024) (nonbinding).

The Court should do so here too. The tampering instruction properly gave the jury two items of evidence—the car and body—that it could find Joey tampered with. It did not combine two tampering offenses, so it wasn’t duplicitous.

It was also a proper combination instruction because the jury heard proof that Joey participated in moving the car *and* the body.

V. There was no double-jeopardy violation.

Joey also claims that his convictions violate double jeopardy because tampering required proof of no element that conspiracy did not require. Br.58-63. He concedes this issue is unpreserved but requests palpable-error review and states that he couldn't waive a double-jeopardy issue. Br.59.

Joey's convictions do not violate double jeopardy because his crimes each required proof of an element the other did not. *See Commonwealth v. Burge*, 947 S.W.2d 805, 811 (Ky. 1996) (citing *Blockburger v. United States*, 284 U.S. 299, 304 (1932)).

Joey's double-jeopardy argument focuses on the jury instructions, which he claims show that his tampering crime "contained no additional elements" not in his conspiracy-to-commit-murder charge, Br.62, meaning his crimes "are incorporated into one another," Br.63. But double-jeopardy analysis looks at the statutory elements of the offense, "not the charging information, jury instruction, underlying proof needed, or the actual evidence presented at trial." *Kelly v. Commonwealth*, 655 S.W.3d 154, 162 (Ky. 2022) (citation omitted).

Joey fails to cite this rule, while quoting the jury instructions at length, Br.61-62, and focusing on whether the "instructions" required proof of

“additional elements,” Br.62. Doubtless, that’s because comparing the statutory elements eliminates any double-jeopardy concern.¹³

For one thing, conspiracy is an inchoate crime requiring that the person intend to promote or facilitate committing a crime and either “[a]grees with one (1) or more persons that at least one (1) of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime,” or “[a]grees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.” KRS 506.040(1)(a)-(b). So conspiracy to commit murder requires the person to intend to promote or facilitate a murder and make an agreement with another person to commit the murder.

Unlike conspiracy to commit murder, tampering with physical evidence occurs when the person “believe[es] that an official proceeding is pending or may

¹³ Even under the instructions, Joey’s claim fails. The conspiracy-to-murder instruction required that Joey have agreed with Houck that Crystal would be killed and that he intended that Crystal be killed. (TR-183, 197; TR-239, 210.) For tampering, Joey had to believe that the vehicle or body was about to be produced or used in a criminal proceeding and act with the intent to impair the proceeding, among other things. (TR-183, 199; TR-239, 212.) Even as instructed, both crimes required independent, non-overlapping mental states, with one directed to Crystal’s death and the other to criminal proceedings. At most, both crimes, as instructed, shared a common element (that Joey have moved Crystal’s body or her car), but that doesn’t violate double jeopardy.

be instituted” and, relevant here, “destroys, mutilates, conceals, removes, or alters physical evidence which he believes is about to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding.” KRS 524.100(1).

None of those elements—belief about an official proceeding, destroying evidence, or intending to impair the evidence’s verity or availability in an official proceeding—are elements of conspiracy to commit murder. And no conspiracy element identified above—intent to promote a murder and agreement with another person—is an element of tampering.

For similar reasons, this Court upheld convictions for second-degree arson, abusing a corpse, and tampering with evidence—all for burning a house containing three murder victims’ bodies. *See McKinney v. Commonwealth*, 60 S.W.3d 499, 509-10 (Ky. 2001). The convictions didn’t violate double jeopardy because each “requires proof of at least one fact which the other two do not.” *Id.*

So too here. Each crime requires proof of elements the other does not. There was no double jeopardy.

Finally, even if Joey were right about double jeopardy, he would be entitled at most to vacating the lesser tampering conviction, *Kiper v. Commonwealth*, 399 S.W.3d 736, 746 (Ky. 2012), leaving intact the conspiracy conviction and 20-year sentence.

VI. The Commonwealth did not place improper inferences before the jury through defense expert Neuschatz.

Joey next claims the Commonwealth committed misconduct while questioning defense expert Dr. Jeff Neuschatz, a cognitive psychologist who testified that Snellen and Girdley were coerced during police interviews. Br.63-66. He complains that the prosecutor first asked Neuschatz whether Snellen told police “she was scared of Joey Lawson and Stephen Lawson,” suggesting it “portray[ed] Joey as violent or someone who would threaten a witness.” Br.64 (citing VR.7/03/2025, 10:36:49). He next complains the prosecutor said Snellen “testified about the alibi that Joseph had asked her to give him,” claiming that mischaracterized her testimony. Br.64. These questions were proper.

“Prosecutorial misconduct is a ‘prosecutor’s improper or illegal act involving an attempt to persuade the jury to wrongly convict a defendant or assess an unjustified punishment.’” *Dickerson v. Commonwealth*, 485 S.W.3d 310, 329 (Ky. 2016) (citation omitted). When considering a prosecutorial-misconduct claim, the Court “view[s] that allegation in the context of the overall fairness of the trial.” *Murphy v. Commonwealth*, 509 S.W.3d 34, 49 (Ky. 2017). Reversal is warranted only if the misconduct is “so serious as to render the entire trial fundamentally unfair.” *Id.* (citation omitted). Although misconduct can involve “improper questioning,” *Dickerson*, 485 S.W.3d at 329, the defendant must prove the questioning was, in fact, improper to show misconduct.

Improper questioning might occur if a prosecutor asks a witness to characterize another witness as lying, *e.g.*, *Duncan v. Commonwealth*, 322 S.W.3d 81, 87 (Ky. 2010); propounds a hypothetical assuming the defendant guilty of misconduct without proof, *Gill v. Commonwealth*, 374 S.W.2d 848, 851 (Ky. 1964); or “repeatedly ask[s] questions after the court had ruled that they were improper,” *Warman v. Commonwealth*, 270 S.W. 48, 50 (Ky. 1925).

None of that happened here. The questions were not improper, so there was no misconduct.

Joey fails to explain how the first question even approached impropriety. He suggests it was misleading or created an improper inference that Joey threatened Snellen, Br.64, but that’s wrong. The prosecutor noted that he had asked only whether Snellen said she was scared, not whether she had been threatened, and the court directed him to rephrase to ask whether, if she was afraid, it might affect her. VR.7/03/2025, 10:38:51-39:10. So the prosecutor asked, “If someone, or if she, if someone is scared, could that affect their ability to give information?” to which Neuschatz answered, “Yes, sir.” VR.7/03/2025, 10:39:15. Joey didn’t object to the rephrased question.

Joey complains that the second question, about Joey’s asking for an alibi, misrepresented Snellen’s testimony. Br.64. Although the question did not replicate Snellen’s testimony word for word, it also did not misrepresent it. The

prosecutor was referring to testimony about Joey's asking Snellen where he had been "that day" when Crystal disappeared. VR.7/3/25, 10:40:55. That testimony—elicited by Houck's counsel—had been about whether Joey had contacted Snellen to find out where he had been on July 3 and 4. VR.6/27/25, 9:56:00-57:02, 10:01:45-02:15. That was part of the defense's attempt to show Snellen trying to ingratiate herself with police, who in turn had coerced her into incriminating Joey and Houck.

After the prosecutor identified the second question had been referring to, defense counsel said it was not about an "alibi," and the prosecutor agreed to rephrase it. VR.7/3/25, 10:40:59-41:25. Defense counsel didn't request an admonition then and seemed satisfied with the rephrasing solution. The prosecutor's rephrased question asked, "She testified that she was contacted by Joseph Lawson and he asked her if he was with her that day, but you don't know that?" before asking about whether Neuschartz believed Snellen's police-interview answers were coerced. VR.7/3/25, 10:41:10.

Joey did not object to either rephrased question. Even if the second question were somehow improper as first asked, because "defense counsel did not object to the rephrased question," the purported error could be reviewed only "for palpable error." *Durum v. Commonwealth*, 2019-SC-0591-MR, 2021 WL 1133616, at *5 (Ky. Mar. 25, 2021) (nonbinding).

But the questions weren't even error. They were good-faith questions and at most inartfully phrased. The prosecutor was not "asking improper and prejudicial questions for the purpose of getting evidence before the jury which the law does not permit them to hear." *Slaven v. Commonwealth*, 962 S.W.2d 845, 859 (Ky. 1997). In both instances, the prosecutor responded to the objection with a reasonable explanation and immediately rephrased his questions, curing any hint of impropriety.

Even then, the two isolated questions in a ten-day trial show no "pattern of persistent improper questioning." *Id.* "The mere asking of an occasional improper question is not grounds for reversal." *Id.*; see also *Vontrees v. Commonwealth*, 165 S.W.2d 145, 147 (Ky. 1942). That further shows that the prosecutor did not engage in misconduct.

And it certainly shows that the prosecutor did not act flagrantly. But when alleged misconduct is not preserved for review, this Court "will reverse only if the conduct was both flagrant and constitutes palpable error resulting in manifest injustice." *Barrett v. Commonwealth*, 677 S.W.3d 326, 333 (Ky. 2023).

Kentucky uses a four-factor flagrancy test: "(1) whether the remarks tended to mislead the jury or to prejudice the accused; (2) whether they were isolated or extensive; (3) whether they were deliberately or accidentally placed before the jury; and (4) the strength of the evidence against the accused." *Murphy*

v. Commonwealth, 509 S.W.3d 34, 54 (Ky. 2017) (citation omitted). The two questions did not mislead the jury and were isolated. And though they were intentionally asked, the evidence against Joey—which included his own statements about disposing of Crystal’s body and car, and being paid to participate—was strong, meaning the fourth factor favors affirming. So even if there was misconduct, it was not flagrant, and reversal is not appropriate.

VII. The Commonwealth’s questioning of Neuschatz about Girdley and Snellen’s in-court testimony was proper.

Joey also claims the Commonwealth improperly asked Neuschatz to assess whether its earlier examination of Girdley and Snellen was coercive. Joey concedes that this issue is unpreserved. Br.66. Thus, it is reviewable at most for palpable error. Reversal is not required.

First, there was no misconduct. Joey claims the prosecutor misled the jury and essentially asked the expert whether his direct examination of Girdley and Snellen was coercive. But that’s not what happened.

Neuschatz had testified that Snellen’s and Girdley’s police statements were coerced. *E.g.*, VR.7/3/25, 9:02:58, 9:03:30-46, 10:41:42. The defense worked diligently to undermine their testimony because it was so damning, as discussed above. The Commonwealth rehabilitated them by showing that their testimony in court, which matched their police statements, occurred in a different atmosphere than the police interrogations. In doing so, the prosecutor

essentially posed hypotheticals to the expert, expressed as how they had testified in court, and asked him whether the hypothetical showed coercion. That took any sting out of the alleged police coercion by showing that Snellen and Girdley made the same statements in the trial's non-coercive atmosphere.

“Hypothetical questions are commonly allowed during expert testimony.” *Simpson v. Commonwealth*, 718 S.W.3d 900, 912 (Ky. 2025). Such hypotheticals “must be based upon, or contain, a state of facts supported by some evidence.” *Id.* (citation omitted). But all the prosecutor did was “represent” the circumstances—essentially, hypotheticals about in-court statements—to the witnesses. VR.7/3/35, 10:42:05.

Joey also claims the prosecutor “misquote[d]” Girdley’s testimony. Br.70. But Joey fails to say how the prosecutor misquoted Girdley.

That’s because he didn’t. The prosecutor’s questions accurately reflected Girdley’s testimony. For example, the prosecutor said that Girdley “said that Joey Lawson said he would bury the fucking car.” VR.7/3/25, 10:54:18-21. The profanity aside, that’s exactly how Girdley had testified: “He said he would bury [Crystal’s car] with a skidsteer and nobody’d ever find it.” VR.6/30/25, 10:37:44-38:02.

The prosecutor also stated that Girdley “said that Joey Lawson said that ... he had pulled the hair and teeth and the hogs could get rid of the rest.”

VR.7/3/25, 10:54:18-29. Girdley had testified that at some point, around July 4, Joey said that “he’d shave her head and pull her teeth, and the hogs would do the rest.” VR.6/30/25, 10:41:50-42:08. At worst, Joey can quibble with using the past tense, but as noted above, Girdley’s speech was not completely clear, and he may have actually said “shaved” and “pulled,” referring to what Joey had done.

So the prosecutor didn’t misrepresent Girdley’s testimony. Even then, his point was not to recount Girdley’s testimony word for word but to illustrate that he’d inculpated Joey in the non-coercive courtroom environment, not just in a police interrogation. That’s why, just before the alleged misquote, the prosecutor noted that Girdley had been testifying in court, under oath, VR.7/3/25, 10:53:50-54:07, and, just after, recounted the testimony’s circumstances generally—“You’re not in an interrogation. I have no charges on you. You’re not on probation. Just please tell the ladies and gentlemen, the jury, the truth.”—then asked, “Now, is that a coercive environment?” VR.7/3/25, 10:54:33-44. Neuschatz answered, “No.” VR.7/3/25, 10:54:44.

That was proper cross-examination of a key defense witness, whose role was to undermine confidence in two key prosecution witnesses. Joey suggests that the prosecutor’s presence during some of Girdley’s police interrogation matters, claiming he “participated in conduct described as ‘coercive.’” Br.70. But this

claim is undeveloped, consisting of two sentences presenting this fact as “context.” And it fails to rebut that the prosecutor’s questions to Neuschatz were proper.

The prosecutor’s conduct was not reversible error because it was not misconduct. But that means it certainly was not flagrant misconduct, which would be required for reversal because Joey never objected to these questions.

Under Kentucky’s four-factor flagrancy test, *Murphy*, 509 S.W.3d at 54, the questioning was fine. First, it did not mislead the jury. The prosecutor was not trying to “rehabilitate his own reputation,” Br.70; he was establishing that Girdley and Snellen testified consistently with their police interviews in the non-coercive courtroom environment. Nor did the prosecutor make himself a witness. Br.71. Rather, he posed hypotheticals, grounded in the prior testimony. Second, the two questions were isolated instances in a ten-day trial—even considering the two other questions discussed above. And though these questions were intentionally asked, the evidence against Joey—particularly his own statements—was strong, so the fourth factor favors affirming.

The prosecutor’s questions to Neuschatz were not misconduct. Even if they were, they would not require reversal because any misconduct was not flagrant.

VIII. There was no cumulative error.

Because Joey fails to show any error, he cannot establish cumulative error.

Brown v. Commonwealth, 313 S.W.3d 577, 631 (Ky. 2010).

CONCLUSION

This Court should affirm.

Respectfully submitted,

RUSSELL COLEMAN

Attorney General of Kentucky

/s/ Shawn D. Chapman

MATTHEW F. KUHN (No. 94241)

Solicitor General

SHAWN D. CHAPMAN (No. 89499)

Deputy Solicitor General

Office of the Attorney General

1024 Capital Center Drive, Suite 200

Frankfort, Kentucky 40601

Matt.Kuhn@ky.gov

ShawnD.Chapman@ky.gov

(502) 696-5300

WORD-COUNT CERTIFICATE

This document complies with the 17,500-word limit of RAP 31(G)(3)(a) because, excluding the parts of the document exempted by RAP 15(d) and RAP 31(G)(5), this document contains 17,495 words.

/s/ Shawn D. Chapman
Deputy Solicitor General