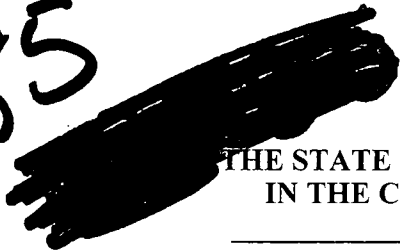


19185



THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM YORK COUNTY
In the Court of Common Pleas

Honorable William H. Seals, Jr., Circuit Court Judge

Case No. 2009-GS-46-02834
Case No. 2009-GS-46-02835

The State Respondent

vs

Francis Larmand Appellant

RECORD ON APPEAL
VOLUME ONE

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

DEBORAH R.J. SHUPE
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

KEVIN S. BRACKETT
Solicitor, Sixteenth Judicial Circuit

Moss Justice Center
1675-1A York Highway
York, SC 29745
(803) 628-3025

ATTORNEYS FOR RESPONDENT

C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010

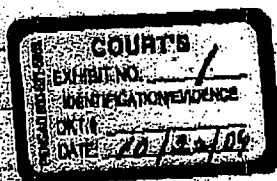
JOHN D. RHEA
McKinney Givens Tucker & Rhea
P.O. Box 11784
Rock Hill, SC 29731
(803) 328-1848

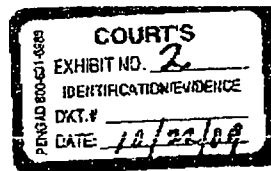
Attorneys for Appellant

INDEX VOLUME 1

Court Exhibit 1	1
Court's Exhibit 2	2
Court's Exhibit 3	3
Court's Exhibit 5 (to be deliver to court by order of transportation)	
Court Reporter's hand written notes	4
Transcript of Record pp 1, 14-15, 53-606	5

If you think one
of the charges do us have
to put a really note
that the other party
is also guilty.



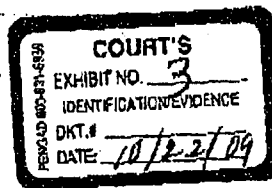


Are you close to reaching a verdict or
Would you like for us to order dinner?
It will take approx. 45 mins to 1 hour.

Order dinner - not close on verdict

Can we have a copy-print out of the
statutes of 3 charges?

Reached verdict on 3 charges.
Deadlocked on the remaining
charges.



Denial of continuance & return
motion for directed verdict.
Denied!

11:13am Trial at ease.

2:30pm Trial resumes w/
Jury to courtroom.

Closings

1) Defense - J. Rhea 2:30pm

2) Defense - L. Greely 3:00pm

3) State - E. Joyner 3:30pm

4:20pm Jury to juryroom
awaiting deliberations.

5:00pm Jury to courtroom
for recharge on all
charges.

6:14pm Trial at ease
awaiting verdict.

7:50pm trial resumes w/jury

question -

Foreperson brought to courtroom
and given copy of charge

3:10pm trial at ease awaiting
verdict -

9:04pm trial resumes w/jury
question

Jury to juryroom for Allen charge

1:09pm Jury to juryroom to resume
deliberations

2:50pm trial resumes w/verdicts
Jury to juryroom

09-2833 - Guilty

09-2834 - Guilty

09-2835 - Guilty

Leo Lemire

09-2837 Guilty

09-2838 Guilty

09-2839 Guilty

Defense motion (Larmand) for new
trial - motion

Defense motion (Lemire) for new
trial - motion

C O P Y

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF YORK) SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
PLAINTIFF,)
VERSUS)
FRANCIS VICTOR LARMAND, JR.,)
LEO DAVID LEMIRE,)
DEFENDANTS.)
TRANSCRIPT OF RECORD
09-GS-46-02833
09-GS-46-02834
09-GS-46-02835
09-GS-46-02837
09-GS-46-02838
09-GS-46-02839

VOLUME I
OCTOBER 20, 2009
YORK, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE, AND A JURY

A P P E A R A N C E S:

FOR THE STATE:
ERIN JOYNER, ESQ., ASSISTANT SOLICITOR
JENNIFER COLTON, ASSISTANT SOLICITOR

FOR THE DEFENDANT, FRANCIS VICTOR LARMAND, JR.:
JOHN D. RHEA, ESQ.

FOR THE DEFENDANT, LEO DAVID LEMIRE:
LELAND GREELEY, ESQ.

PHYLLIS S. BARRETT
CIRCUIT COURT REPORTER

1 THE COURT: SOLICITOR.

2 MS. JOYNER: YOUR HONOR, MY PRIMARY CONCERN WAS THAT
3 THEY'RE WOULD BE ON A FISHING EXPEDITION---

4 MR. GREELEY: NO, YOUR HONOR, ---

5 THE COURT: WELL, THEY WOULD BE LIMITED TO EXACTLY WHAT THE
6 INCIDENT BROUGHT OUT.

7 MR. JOYNER: YES SIR.

8 THE COURT: AND I THINK THAT WOULD BE COVERED. ANY OBJECTION
9 FROM THE STATE?

10 MS. JOYNER: NO, YOUR HONOR. THANK YOU.

11 THE COURT: YOUR NEXT MOTION?

12 MS. JOYNER: YOUR HONOR, WE WOULD LIKE TO PUT ON THE RECORD--
13 AND I'VE SPOKEN WITH MR. GREELEY AND MR. RHEA ABOUT THIS, AND
14 FRANKLY, THEY WERE NOT GOING TO OBJECT TO THE AMENDMENT TO THE
15 LYNCHING INDICTMENT, YOUR HONOR.

16 THERE IS A SCRIVENER'S ERROR TO THE DATES LISTED ON EACH OF
17 THE LYNCHING INDICTMENTS, FOR MR. LARMAND, 2009-GS-46-2833, AND FOR
18 MR. LEMIRE, 2009-GS-46-2838. I'VE INCORRECTLY LISTED THE INCIDENT DATE
19 AS MARCH 1, WHEN THOSE INDICTMENTS SHOULD ALLEGE MAY 1. AND I
20 WOULD ASK THE COURT TO AMEND THOSE INDICTMENTS AT THIS TIME.

21 THE COURT: FROM MARCH 1, 2009, TO MAY 1, 2009?

22 MS. JOYNER: YES SIR.

23 THE COURT: ANY OBJECTION?

24 MR. RHEA: WITHOUT OBJECTION.

25 THE COURT: ANY OBJECTION?

1 MR. GREELEY: NO OBJECTION, YOUR HONOR. AS THE STATE HAS
2 ACCURATELY DESCRIBED, IT WAS A SCRIVENER'S ERROR.

3 THE COURT: THAT MOTION IS GRANTED, AND THE INDICTMENTS WILL
4 BE AMENDED TO SHOW THE CORRECT DATE. ANYTHING FURTHER?

5 MS. JOYNER: YES SIR, YOUR HONOR. ON THE THIRD LINE OF THE
6 SHOOTING INDICTMENT THERE ARE WORDS THAT-- THE THIRD LINE BEGINS,
7 "ANOTHER RESULTING IN PHYSICAL INJURY TO THE VICTIM." ALTHOUGH
8 PHYSICAL INJURY IS NOT AN ELEMENT OF LYNCHING, IT IS JUST POOR
9 DRAFTING ON MY PART. AND I WOULD ASK, TO AVOID ANY CONFUSION
10 WHEN THE INDICTMENTS ARE READ TO THE JURY, THAT THE COURT STRIKE
11 THAT LANGUAGE OF RESULTING IN PHYSICAL INJURY TO THE VICTIM, AS
12 THE INDICTMENT AS OTHERWISE ALLEGED ALL THE ELEMENTS OF
13 LYNCHING, SECOND DEGREE.

14 THE COURT: ANY OBJECTION?

15 MR. RHEA: NO OBJECTION.

16 THE COURT: MR. GREELEY, ANY OBJECTION?

17 MR. GREELEY: NO OBJECTION ON BEHALF OF MR. LEMIRE.

18 THE COURT: THAT MOTION IS GRANTED. ANYTHING FURTHER FROM
19 THE STATE?

20 MS. JOYNER: YES SIR, YOUR HONOR. I JUST WANT TO MAKE THE
21 COURT AWARE THAT THERE WILL BE A GUN IN THE COURTROOM. IT HAS
22 BEEN SHOWN TO THE DEFENSE ATTORNEYS. AND I KNOW THERE IS AN
23 ADMINISTRATIVE COURT ORDER ON HOW THESE GUNS ARE TO BE SECURED.
24 WE, FOR SOME REASON, DO NOT HAVE THE GUN LOCKS, BUT THEY ARE

1 MIDNIGHT THAT NIGHT. SO, THERE'S MORE TO THIS THAN THE SIMPLY
2 RECITATION GIVEN BY THE STATE.

3 DID MY CLIENT HAVE A GUN THAT NIGHT? HE DID. YOU'RE GOING TO
4 HEAR ABOUT THAT. DID MY CLIENT CARRY A GUN UP THERE? HE DID.
5 YOU'RE GOING TO HEAR ABOUT THAT, TOO. THE GUN WAS NEVER FIRED.
6 THANK HEAVENS FOR THAT, THAT NOBODY FIRED THE GUN.

7 THERE'S MORE TO THIS CASE THAN THE STATE'S RECITATION AND
8 YOU'RE GOING TO HEAR IT. YOU'RE GOING TO BE ABLE TO MAKE THE
9 DETERMINATION AS TO WHETHER OR NOT THE STATE, WHICH IS ON TRIAL
10 FOR THE ALLEGATIONS THROUGH MR. LOCHBAUM, FOR THE MOST PART, HIS
11 ALLEGATIONS, IS PROVEN TO YOUR SATISFACTION.

12 I'LL BE UP TO TALK WITH YOU AGAIN AT THE END OF THE TRIAL.
13 THANK Y'ALL FOR BEING HERE. MY CLIENT APPRECIATES IT AND I DO, TOO.

14 THE COURT: SOLICITOR, CALL YOUR FIRST WITNESS.

15 MS. JOYNER: THANK YOU, YOUR HONOR. THE STATE CALLS OFFICER
16 WATSON.

17 WILLIAM WATSON, DULY SWORN, TESTIFIED
18 AS FOLLOWS:

19 DIRECT EXAMINATION BY MS. JOYNER:

20 Q PLEASE STATE YOUR NAME FOR THE RECORD.

21 A WILLIAM SEAN WATSON.

22 Q WHAT IS YOUR OCCUPATION?

23 A POLICE OFFICER WITH THE ROCK HILL POLICE DEPARTMENT.

24 Q WHAT'S YOUR RANK?

25 A POLICE OFFICER ONE.

1 Q WHAT ARE YOUR GENERAL JOB DUTIES?

2 A RESPOND TO CALLS, TRAFFIC ENFORCEMENT, TRY TO DO A
3 LITTLE BIT OF EVERYTHING WHILE WE'RE ON THE ROAD.

4 Q NOW, WHEN YOU SAY RESPOND TO CALLS, THAT'S CITIZENS'
5 CALLS FOR ASSISTANCE WHO CONTACT THE POLICE DEPARTMENT?

6 A YES MA'AM.

7 Q WERE YOU WORKING FOR THE ROCK HILL POLICE DEPARTMENT
8 APRIL 30-MAY 1 OF THIS YEAR?

9 A YES MA'AM.

10 Q ABOUT MIDNIGHT ON THAT NIGHT, MAY 1, DID YOU BECOME
11 INVOLVED OR SOMEHOW INITIATE A TRAFFIC STOP ON A VEHICLE
12 DRIVEN BY FRANK LARMAND?

13 A YES MA'AM.

14 Q WHAT WAS THE REASON FOR THAT TRAFFIC STOP?

15 A WE RECEIVED A TELEPHONE CALL IN REFERENCE TO
16 INDIVIDUALS BEING DISORDERLY. THERE HAD BEEN SOME TYPE OF
17 FIGHT AND THERE WAS A GUN. SO, MYSELF AND ANOTHER OFFICER
18 WERE ON OUR WAY THERE.

19 THEY HAD GIVEN OUT A DESCRIPTION OF AN SUV LEAVING THE
20 SCENE, AND WE NOTICED THAT SUV WHY WE WERE DRIVING TO THE
21 SCENE. AND HE ALSO WAS DRIVING ABOUT SIXTY MILES PER HOUR IN
22 A THIRTY-FIVE.

23 Q DO YOU RECALL EXACTLY WHERE THIS TRAFFIC STOP WAS
24 INITIATED OR THE APPROXIMATE AREA?

25 A IT WAS ON OGDEN ROAD IN ROCK HILL, SOUTH CAROLINA.

- 1 Q DO YOU KNOW HOW CLOSE OGDEN ROAD IS TO THE ULTIMATE
- 2 SCENE OF THE CRIME HERE ON GENTLE BREEZE LANE?
- 3 A IT WAS ROUGHLY BETWEEN ONE TO TWO MILES AWAY.
- 4 Q WHEN YOU INITIATED THE TRAFFIC STOP WAS MR. LARMAND
- 5 THE DRIVER?
- 6 A YES MA'AM.
- 7 Q WAS THERE A PASSENGER?
- 8 A YES MA'AM.
- 9 Q WHO WAS THE PASSENGER?
- 10 A LEO LEMIRE.
- 11 Q DO YOU SEE THE TWO GENTLEMAN THAT WERE IN THE CAR
- 12 THAT EVENING IN THE COURTROOM?
- 13 A YES MA'AM.
- 14 Q COULD YOU PLEASE POINT THEM OUT, THE DRIVER?
- 15 A THE DRIVER WAS MR. FRANK LARMAND, RIGHT THERE. AND MR.
- 16 LEMIRE WAS THE PASSENGER IN THE FRONT PASSENGER SEAT.
- 17 Q DO YOU RECALL HOW THESE INDIVIDUALS WERE DRESSED?
- 18 A THEY WERE WEARING DARK CLOTHING, DARK TEE SHIRT AND
- 19 DARK JEANS.
- 20 Q NOW, YOU MENTIONED EARLIER YOU WERE WITH ANOTHER
- 21 OFFICER.
- 22 A YES MA'AM.
- 23 Q WHO WAS THAT OTHER OFFICER?
- 24 A OFFICER MIKE REID.

1 Q AND OFFICER REID WAS HEADING OUT TO THE SCENE WITH
2 YOU?

3 A YES MA'AM.

4 Q IN THE SAME CAR OR SEPARATELY?

5 A WE WERE IN SEPARATE VEHICLES.

6 Q TO THE BEST OF YOUR KNOWLEDGE, WERE ANY OTHER EN
7 ROUTE TO GENTLE BREEZE LANE?

8 A YES MA'AM. OFFICER OLIVER WENT TO GENTLE BREEZE LANE
9 SINCE MYSELF AND REID WERE ON THE TRAFFIC STOP SPEAKING TO
10 LARMAND AND LEMIRE.

11 Q AT THE CONCLUSION OF THIS TRAFFIC STOP DID YOU PLACE
12 ANYBODY UNDER ARREST?

13 A YES MA'AM.

14 Q WHO DID YOU PLACE UNDER ARREST?

15 A LEO LEMIRE.

16 Q DO YOU REMEMBER WHAT CHARGE?

17 A POINTING AND PRESENTING A FIREARM.

18 Q NOW, AT THAT POINT IN TIME, APPROXIMATELY HOW LONG DID
19 YOUR TRAFFIC STOP LAST?

20 A APPROXIMATELY, PROBABLY TEN MINUTES, TEN TO FIFTEEN
21 MINUTES.

22 Q VERY BRIEF?

23 A YES MA'AM.

1 Q AND THE OFFICER THAT RESPONDED TO THE SCENE, OFFICER
2 OLIVER, WAS SHE STILL AT GENTLE BREEZE AT THAT POINT IN TIME
3 INVESTIGATING THE CASE?

4 A YES MA'AM.

5 Q DID YOU AT THAT TIME-- AT THE TIME YOU HAD DETERMINED
6 TO ARREST MR. LEMIRE, DID YOU HAVE ALL THE INFORMATION ABOUT
7 THE CASE?

8 A NO MA'AM, DEFINITELY NOT ALL OF IT.

9 Q DID THIS TRAFFIC STOP OCCUR IN YORK COUNTY?

10 A YES MA'AM.

11 Q ARE YOU FAMILIAR WITH WHERE GENTLE BREEZE LANE IS?

12 A YES MA'AM.

13 Q IS THAT ALSO IN YORK COUNTY?

14 A YES.

15 Q IS THAT IN ROCK HILL'S JURISDICTION?

16 A YES MA'AM.

17 Q THANK YOU VERY MUCH. PLEASE ANSWER ANY QUESTIONS MR.
18 RHEA OR MR. GREELEY HAS FOR YOU.

19 THE COURT: MR. RHEA, CROSS EXAMINATION.

20 MR. RHEA: THANK YOU, YOUR HONOR.

21 **CROSS EXAMINATION BY MR. RHEA:**

22 Q OFFICER WATSON, DID YOU RECEIVE, LIKE, A BOLO CALL, TO BE
23 ON THE LOOK OUT FOR?

24 A YEAH. WHEN THE CALL WENT OUT THEY STATED THAT A DARK

25 SUV WAS LEAVING THE SCENE. AND ONCE WE RECOGNIZED A DARK

1 SUV WE STOPPED IT. AND IT WAS ALSO TRAVELING AT A HIGH RATE
2 OF SPEED IN A THIRTY-FIVE PER HOUR ZONE, AND THAT WAS ANOTHER
3 INDICATION THAT IT COULD BE THE VEHICLE FLEEING THE SCENE.

4 Q DO YOU RECALL WHAT KIND OF SUV IT WAS?

5 A I BELIEVE IT WAS A TOYOTA FORERUNNER, IF I'M NOT
6 MISTAKEN.

7 Q THERE'S NO QUESTION IT WAS AN SUV?

8 A CORRECT.

9 Q NOT A SMALL COMPACT CAR?

10 A CORRECT.

11 Q DID YOU IN FACT DISCUSS THE MATTER WITH MR. LARMAND?

12 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT. MAY WE
13 APPROACH BRIEFLY?

14 THE COURT: SURE.

15 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

16 MS. JOYNER: YOUR HONOR, THE STATE WILL WITHDRAW ITS
17 OBJECTION.

18 Q DID YOU DISCUSS THE MATTER WITH MR. LARMAND?

19 A YES SIR.

20 Q WHO WAS TALKING WITH MR. LEMIRE? DID YOU SPEAK WITH
21 MR. LEMIRE AS WELL?

22 A I DID. INITIALLY, OFFICER REID SPOKE, WAS SPEAKING TO MR.
23 LEMIRE, AND I WAS SPEAKING TO MR. LARMAND.

24 Q DID OFFICER REID EVER SPEAK TO MR. LARMAND?

25 A TO MY KNOWLEDGE, I DON'T BELIEVE HE DID.

- 1 Q BASED UPON YOUR CONVERSATIONS WITH MR. LARMAND
2 CONCERNING WHAT OCCURRED, DID YOU ARREST MR. LARMAND?
- 3 A NO SIR.
- 4 Q WAS MR. LEMIRE ARRESTED?
- 5 A YES SIR.
- 6 Q WHAT WAS HE CHARGED WITH AT THAT TIME?
- 7 A POINTING AND PRESENTING A FIREARM.
- 8 Q WAS THAT THE ONLY CHARGE?
- 9 A AT THE TIME, YES SIR.
- 10 Q THAT MR. LEMIRE WAS CHARGED WITH AT THE TIME. CORRECT?
- 11 A YES SIR.
- 12 Q AND MR. LARMAND WAS ALLOWED TO LEAVE. CORRECT?
- 13 A YES SIR.
- 14 Q NOW, YOU STATED THAT THIS LASTED APPROXIMATELY TEN
15 MINUTES, MAYBE MORE?
- 16 A YEAH, MAYBE MORE.
- 17 Q DID YOU, IN TERMS OF THE CALL THAT YOU GOT IN, DID YOU
18 INVESTIGATE THIS CASE AS YOU WOULD ANY OTHER BOLO CALL THAT
19 YOU GOT WITH A SIMILAR BOLO ON IT?
- 20 A YES SIR.
- 21 Q IT CAME IN AS A DISORDERLY IN PROGRESS. IS THAT CORRECT?
- 22 A IF I'M MISTAKEN, THAT'S WHAT IT WAS FOR.
- 23 Q AND YOU'VE HANDLED THOSE BEFORE?
- 24 A YES SIR.
- 25 Q PLEASE ANSWER ANY QUESTIONS MR. GREELEY HAS.

1 THE COURT: MR. GREELEY.

2 CROSS EXAMINATION BY MR. GREELEY:

3 Q OFFICER WATSON, AFTER YOU-- YOU TRANSPORTED MY CLIENT.
4 IS THAT CORRECT?

5 A YES SIR.

6 Q AND THAT EVENING DID YOU EVER GO TO GENTLE BREEZE---

7 A NO SIR.

8 Q ---YOURSELF?

9 A NO SIR.

10 Q DID YOU HAVE ANY CONVERSATIONS THAT EVENING-- WERE
11 YOU WORKING THIRD SHIFT?

12 A AT THE TIME, NO SIR, WE WERE ON SECOND SHIFT. WE WERE ON
13 WHAT IS CALLED MID-SHIFT.

14 Q WHAT TIME DID YOU GET OFF?

15 A OUR SCHEDULE RECENTLY CHANGED. SO, IT WOULD HAVE
16 BEEN ABOUT THREE TO ONE, ROUGHLY, AT THAT TIME.

17 Q OKAY.

18 A OUR SCHEDULES HAD CHANGED AND---

19 Q THREE IN THE AFTERNOON TILL ONE IN THE MORNING?

20 A CORRECT, CORRECT.

21 Q AT ANY TIME BETWEEN WHEN YOU STOPPED THE VEHICLE AND
22 LATER IN THE MORNING, DID YOU HAVE ANY CONVERSATIONS OR AT
23 ANY TIME TALK WITH MR. LOCHBAUM?

24 A LATER THAT NIGHT I SPOKE TO HIM BY TELEPHONE.

25 Q YOU SPOKE TO HIM BY TELEPHONE?

- 1 A YES SIR.
- 2 Q DID HE CALL YOU OR DID YOU CALL HIM?
- 3 A I BELIEVE I SPOKE TO HIM-- I BELIEVE OUR DISPATCHER ASKED
- 4 ME TO GIVE HIM A CALL BECAUSE HE HAD SOME QUESTIONS FOR ME.
- 5 Q SO, HE HAD CALLED YOU---
- 6 A HE HAD CALLED THE POLICE---
- 7 Q AND WANTED---
- 8 A ---DEPARTMENT.
- 9 Q ---A CALL BACK?
- 10 A CORRECT.
- 11 Q DO YOU REMEMBER ABOUT WHAT TIME THAT WAS?
- 12 A PROBABLY AN HOUR OR SO AFTER THE INCIDENT HAD
- 13 OCCURRED.
- 14 Q DID HE ASK YOU ABOUT WHETHER OR NOT FRANK HAD BEEN
- 15 ARRESTED?
- 16 A YES.
- 17 Q AND WAS THAT WHAT THE CONVERSATION WAS ABOUT, WHY
- 18 FRANK WAS NOT ARRESTED?
- 19 A YEAH, HE DID ASK ME WHY HE WAS NOT ARRESTED.
- 20 Q IS IT A FAIR STATEMENT TO SAY MR. LOCHBAUM WAS
- 21 QUESTIONING YOUR DECISION IN NOT ARRESTING FRANK?
- 22 A IF YOU WANT TO SAY IT THAT WAY. HE WAS JUST WONDERING
- 23 WHY MR. LARMAND WAS NOT ARRESTED.
- 24 Q MR. LARMAND?
- 25 A YES, WHY MR. LARMAND WAS NOT ARRESTED.

1 Q DID YOU TALK WITH ANYBODY ELSE REGARDING THIS WHO
2 WAS NOT LAW ENFORCEMENT THAT NIGHT?

3 A NO SIR.

4 MR. GREELEY: NOTHING FURTHER AT THIS TIME, YOUR HONOR.
5 THANK YOU.

6 THE COURT: RE-DIRECT?

7 MS. JOYNER: YES SIR, YOUR HONOR.

8 **RE-DIRECT EXAMINATION BY MS. JOYNER:**

9 Q WHAT LAW ENFORCEMENT-- WHAT OTHER LAW ENFORCEMENT
10 OFFICERS DID YOU SPEAK WITH THAT NIGHT?

11 A I BELIEVE OFFICER REID IS THE ONE WHO SPOKE TO OFFICER
12 OLIVER. AND HE WAS THE ONE THAT WAS TRANSFERRING
13 INFORMATION BACK TO ME.

14 Q SO, YOU-- OFFICER REID SPOKE TO THE OFFICER ON THE SCENE
15 AND RELAYED THAT TO YOU?

16 A YES.

17 Q DID HE THEN AFTER LEAVING THE ROADSIDE WITH YOU GO TO
18 GENTLE BREEZE?

19 A YES MA'AM.

20 Q SO, WHO WAS THE PRIMARY OFFICER ON THE SCENE AT GENTLE
21 BREEZE LANE?

22 A OFFICER OLIVER.

23 Q SO, TO THE BEST OF YOUR KNOWLEDGE, WHO WAS SPEAKING AT
24 THE WITNESSES ON THE SCENE AT GENTLE BREEZE LANE?

25 A OLIVER.

1 Q AND YOU WERE RECEIVING YOUR INFORMATION THIRD-HAND
2 FROM OFFICER REID?

3 A YES MA'AM.

4 Q AND HE WAS RELAYING WHAT ANOTHER OFFICER HAD TOLD
5 HIM?

6 A YES MA'AM.

7 Q IS IT YOUR PRIMARY DUTY TO INVESTIGATE CASES?

8 A WE DO SOME, LIKE, BASIC INVESTIGATIONS. WE DON'T
9 NECESSARILY GO IN DEPTH AS A DETECTIVE WOULD.

10 Q SO, IS THERE A DETECTIVE DIVISION THAT IS ASSIGNED TO
11 FOLLOW UP SERIOUS CASES?

12 A YES MA'AM.

13 Q WOULD THERE BE A DETECTIVE CHARGE THAT YOU WOULD
14 COMMONLY MAKE AS A ROAD OFFICER?

15 A NO MA'AM.

16 Q AND YOUR DECISION TO ONLY CHARGE ONE DEFENDANT, AT
17 THE POINT IN TIME WHEN YOU MADE THAT DECISION, HAD YOU
18 RECEIVED A LOT OF INFORMATION FROM OFFICER OLIVER?

19 A NO MA'AM.

20 Q HAD YOU RECEIVED ANY INFORMATION FROM OFFICER OLIVER?

21 A NO MA'AM.

22 Q HAD YOU HAD THE BENEFIT OF SPEAKING WITH THE WITNESSES
23 THAT OFFICER OLIVER SPOKE WITH?

24 A NO MA'AM.

25 Q THANK YOU VERY MUCH.

1 THE COURT: MR. RHEA.

2 RE-CROSS EXAMINATION BY MR. RHEA:

3 Q ONCE AGAIN, THIS CALL CAME OVER THE RADIO AS A
4 DISORDERLY. IS THAT CORRECT?

5 A YES SIR.

6 Q AND THAT CALL HAD TO ORIGINATE FROM OBVIOUSLY
7 SOMEONE ON THE SCENE CALLING IT IN. CORRECT?

8 A CORRECT.

9 Q DO YOU KNOW WHO THE PERSON WAS WHO CALLED IT IN?

10 A NO SIR.

11 Q YOU DON'T KNOW WHERE THE ORIGINAL CALL CAME FROM?

12 A NO SIR.

13 Q FROM MR. LOCHBAUM OR WHOMEVER?

14 A NO, I DON'T KNOW.

15 Q BUT IT WAS DESCRIBED AS A, ON THE BOLO SYSTEM AS A
16 DISORDERLY. CORRECT?

17 A CORRECT.

18 Q IN YOUR EXPERIENCE AS A LAW ENFORCEMENT OFFICER, HAVE
19 YOU HAD OCCASION TO HANDLE DISORDERLY CONDUCT CALLS?

20 A YES SIR.

21 Q THANK YOU.

22 MR. GREELEY: BRIEFLY, YOUR HONOR.

23

24

25

1 RE-CROSS EXAMINATION BY MR. GREELEY:

2 Q ON THE TRANSMISSIONS OF THE TELEPHONE CALLS THAT GO
3 INTO THE POLICE STATION, THERE IS A RECORD THAT IS KEPT OF
4 THOSE. IS THAT CORRECT?

5 A YES SIR.

6 Q AND IT IS A CAD REPORT. DO YOU KNOW WHAT A CAD REPORT
7 IS?

8 A YES SIR.

9 Q WHAT IS A CAD REPORT? TELL THE JURY WHAT A CAD REPORT
10 IS.

11 A BASICALLY WHEN WE GET CALLS, IT LOGS TYPICALLY WHO IT'S
12 FROM, THE NAME OF THE INDIVIDUAL, THEIR PHONE NUMBER, ANY,
13 LIKE, PERTINENT INFORMATION; VEHICLE DESCRIPTION, ANY PLATE
14 NUMBERS WITH ALL THE VEHICLE DESCRIPTION ON THERE.

15 THAT WAY WE CAN LOOK IT UP ON OUR COMPUTERS, IN-CAR
16 COMPUTERS AND THAT WAY WE KNOW WHAT WE'RE LOOKING FOR.
17 MAYBE THEY GIVE OUT A DESCRIPTION OF AN INDIVIDUAL AND WE
18 DON'T HEAR ALL OF IT, WE CAN LOOK ON THE SCREEN AND KNOW
19 WHAT'S GOING ON. AND IT'S KEPT FOREVER.

20 Q AND IT DOES RECORD THE LOCATION AS TO WHERE THE CALL
21 ORIGINATED FROM?

22 A YES SIR.

23 Q AND THE TIME IT CAME IN?

24 A YES SIR.

1 Q AND IT ALSO GIVES REPORTS AS TO YOUR DISPATCH TIME, YOUR
2 ARRIVAL TIME ON THE SCENE. IT KEEPS ALL OF THOSE TRACKING.
3 ISN'T THAT CORRECT?

4 A CORRECT.

5 Q AND THAT'S CALLED A CAD REPORT?

6 A YES SIR.

7 Q THANK YOU.

8 THE COURT: SOLICITOR, CALL YOUR NEXT WITNESS.

9 MS. JOYNER: YOUR HONOR, WE CALL MARK WHITTINGTON.
10 AND WE ASK THAT OFFICER WATSON BE EXCUSED.

11 THE COURT: ANY OBJECTION?

12 MR. GREELEY: NO OBJECTION.

13 MR. RHEA: NO OBJECTION.

14 THE COURT: THANK YOU, OFFICER. YOU ARE EXCUSED.

15 MARK WHITTINGTON, DULY SWORN,

16 TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION BY MS. JOYNER:

18 Q MR. WHITTINGTON, WOULD YOU STATE YOUR FULL NAME,
19 PLEASE?

20 A MARK ANTHONY WHITTINGTON.

21 Q WHAT IS YOUR ADDRESS?

22 A MY CURRENT ADDRESS AT THE TIME IS 123 HIGHLAND STREET,
23 ROCK HILL, SOUTH CAROLINA.

24 Q BACK IN APRIL AND MAY OF THIS YEAR WHERE DID YOU LIVE?

25 A AT 2611 APRIL SHOWERS LANE IN ROCK HILL, SOUTH CAROLINA.

- 1 Q NOW, IN APRIL, YOU WERE LIVING ON APRIL SHOWERS LANE?
- 2 A YES MA'AM.
- 3 Q WAS THAT IN A NEIGHBORHOOD OR SUBDIVISION?
- 4 A YES MA'AM.
- 5 Q WHAT WAS THE NAME OF THAT SUBDIVISION?
- 6 A SOUTH WINDS VILLAGE.
- 7 Q SOUTH WINDS VILLAGE. WHERE-- JUST SO THE JURY IS ABLE TO
- 8 GET A PICTURE IN THEIR HEAD, WHERE IS SOUTH WINDS VILLAGE
- 9 LOCATED?
- 10 A DOWN IN THE SOUTHWEST AREA OF ROCK HILL, FAR
- 11 SOUTHWEST.
- 12 Q NOW, IF YOU WERE TO GO TO SOUTH WINDS VILLAGE FROM
- 13 MOSS JUSTICE CENTER, IT WOULD BE OVER OFF OF-- WELL, HOW
- 14 WOULD YOU GET THERE?
- 15 A I WOULD TAKE HIGHWAY FIVE DOWN TO-- TAKE HIGHWAY FIVE
- 16 DOWN TO 901, AND TAKE 901 OVER TO OGDEN.
- 17 Q IS IT FAIR TO SAY IT'S KIND OF OUT OF THE WAY?
- 18 A YES MA'AM.
- 19 Q WHAT'S YOUR NEIGHBORHOOD? OR WHAT DOES THAT SOUTH
- 20 WINDS NEIGHBORHOOD LOOK LIKE GENERALLY? IS IT A BIG DIVISION
- 21 OR A SMALL SUBDIVISION?
- 22 A NO, IT'S FAIRLY SMALL.
- 23 Q HOW MANY STREETS?
- 24 A THERE'S ONE MAIN STREET AND FOUR LITTLE STREETS.
- 25 Q FOUR LITTLE STREETS?

- 1 A YES MA'AM.
- 2 Q LIKE A RECTANGLE?
- 3 A YES MA'AM.
- 4 Q SQUARE?
- 5 A YES MA'AM.
- 6 Q NOW, WHEN YOU WERE LEAVING SOUTH WINDS, DID YOU KNOW
- 7 THE VICTIM IN THIS CASE, RYAN LOCHBAUM?
- 8 A NO FAIRLY WELL.
- 9 Q WERE YOU ACQUAINTED WITH HIM?
- 10 A WE WERE ACQUAINTED, YES MA'AM. HE WAS A NEIGHBOR.
- 11 Q HOW CLOSE DID YOU LIVE TO HIS HOUSE?
- 12 A PROBABLY ABOUT FIVE HOUSE DOWN FROM HIM.
- 13 Q NOW, DID YOU, BACK ON THE EVENING OF APRIL 30, DID YOU
- 14 HAVE A REASON TO GO OVER TO RYAN'S HOUSE?
- 15 A YES MA'AM.
- 16 Q WHAT WAS THE REASON YOU WENT THERE?
- 17 A WE STARTED OUT JUST HANGING OUT, GETTING TO KNOW EACH
- 18 OTHER AND STUFF, JUST TALKING.
- 19 Q WAS THERE ANYBODY ELSE WITH YOU?
- 20 A YES MA'AM.
- 21 Q WHO WAS WITH YOU?
- 22 A IT WAS RON LEE, DEVIN FIVECOAT. AND WE WERE TAKING AND
- 23 EVERYTHING, AND MY WIFE, ELIZABETH WHITTINGTON, WAS WITH US.
- 24 AND RYAN'S WIFE, CLAIRE, WAS ALSO, JUST TALKING AROUND AND

1 STUFF. AND THEN CLAIRE AND MY WIFE, THEY WENT TO THE STORE.
2 SO, IT WAS JUST ME, RON, DEVIN AND RYAN.

3 Q WAS TARA THERE AS WELL?

4 A OCCASIONALLY. SHE WENT BACK AND FORTH.

5 Q NOW, BACK AROUND, I'LL ASK YOU TO DIRECT YOUR
6 ATTENTION BACK TO MIDNIGHT---

7 Q ON MAY 1, THAT EVENING.

8 A OKAY.

9 Q WERE THE LADIES, CLAIRE AND ELIZABETH, THERE AT THAT
10 TIME?

11 A NO MA'AM.

12 Q DID ANYTHING UNUSUAL OR OUT OF THE ORDINARY HAPPEN?

13 A YES MA'AM.

14 Q WHAT WAS THAT?

15 A SOME GUY CAME UP I HAD NEVER SEEN IN MY LIFE. I MEAN,
16 JUST WALKED UP IN THE MIDDLE OF THE NIGHT WEARING BLACK
17 PANTS AND A BLACK SHIRT, JUST STANDING THERE. WE CONTINUED
18 TO TALK, ME, RYAN, RON AND DEVIN. WE ALL CONTINUED TO TALK
19 AND HE CONTINUED TO STAND THERE.

20 AND I FINALLY LOOKED UP AND ASKED HIM, CAN I HELP YOU.
21 AND HE SAID, YES, CAN I SPEAK TO RYAN. AND I SAID, OKAY. SO, I
22 TURNED TO RYAN. RYAN WAS IN HIS VAN SHOWING US SOME THINGS
23 ON THE COMPUTER. AND I TOLD HIM THAT SOMEBODY WANTED TO
24 SPEAK TO HIM. AND SO, RYAN STEPPED OUT OF HIS VEHICLE.

- 1 Q I'M GOING TO ASK YOU A FEW QUESTIONS, SO THE JURY CAN
- 2 GET A FEEL FOR THE SITUATION.
- 3 A OKAY.
- 4 Q WHAT KIND OF VAN DOES RYAN HAVE?
- 5 A IT'S A CARGO VAN.
- 6 Q A CARGO VAN?
- 7 A YES MA'AM.
- 8 Q NOW, HOW DO THE DOORS OPEN?
- 9 A IT'S A SLIDING DOOR.
- 10 Q IS IT SORT OF LIKE THE SLIDING DOORS ON A BIG MINIVAN?
- 11 A YES MA'AM.
- 12 Q THOSE KINDS OF DOORS?
- 13 A YES MA'AM.
- 14 Q RYAN WAS SHOWING YOU SOMETHING ON THE COMPUTER. SO,
- 15 HE HAD A LAPTOP IN THERE?
- 16 A YES MA'AM.
- 17 Q WHERE WAS HE SITTING? WAS HE SITTING ON THE SIDE BY THE
- 18 SLIDING DOORS?
- 19 A HE WAS PRETTY MUCH SITTING RIGHT IN THE MIDDLE, FACING
- 20 FRONT TOWARDS THE HOUSE, IN THE FRONT OF THE VEHICLE.
- 21 Q OKAY. SO, THE FRONT OF THE VEHICLE WAS TOWARDS THE
- 22 HOUSE?
- 23 A YES MA'AM.
- 24 Q AND HE'S SITTING IN THE BACK AREA. ARE THE BACK DOORS
- 25 OPEN? WERE YOU STANDING BY THE BACK DOORS?

1 A NO, THE RIGHT, SIDE DOOR WAS, AND THE BACK DOORS ITSELF
2 WERE NOT.

3 Q SO, YOU WERE STANDING BY THE SIDE DOOR?

4 A YES MA'AM.

5 Q SO, RYAN WAS INSIDE THE VAN?

6 A YES MA'AM.

7 Q AND SO, YOU SEE A PERSON. DO YOU SEE THAT PERSON THE
8 COURTROOM THAT YOU SAW COME OUT OF THE DARKNESS?

9 A YES MA'AM.

10 Q COULD YOU POINT HIM OUT?

11 A THAT GENTLEMAN RIGHT THERE. (WITNESS INDICATING
12 DEFENDANT LARMAND BY POINTING)

13 MS. JOYNER: YOUR HONOR, LET THE RECORD REFLECT THAT HE
14 POINTED TO AND IDENTIFIED FRANK LARMAND.

15 THE COURT: YES MA'AM.

16 Q HAD YOU EVER SEEN THIS GENTLEMAN BEFORE?

17 A NO MA'AM.

18 Q WHEN HE ASKED HIM, CAN I HELP YOU, WHAT WAS HIS
19 RESPONSE?

20 A CAN I SPEAK WITH RYAN.

21 Q HE SAID, CAN I SPEAK WITH RYAN?

22 A YES.

23 Q DID YOU RELAY THAT TO RYAN?

24 A YES.

25 Q AND WHAT DID RYAN SAY?

1 A HE SAID OKAY. AND HE TURNED AROUND AND HE SAID, OH, MY
2 GOD, AND STEPPED OUT OF HIS VAN AND PROCEEDED TO TALK WITH
3 THE GENTLEMAN RIGHT THERE.

4 Q WHAT WAS THE DEFENDANT'S Demeanor?

5 A HE WAS KIND OF EDGY. HE REALLY WASN'T CALM OR
6 ANYTHING LIKE THAT.

7 Q NOW, AFTER RYAN GOT OUT OF THE VAN AND SAID, OH, MY
8 GOD, DID THEY START TO TALK?

9 A YES MA'AM.

10 Q DID RYAN SAY ANYTHING TO YOU AT THAT POINT OR ANYBODY
11 ELSE?

12 A HE TURNED AROUND TO ALL OF US AND ASKED COULD HE HAVE
13 SOME PRIVACY. AND WE SAY OKAY AND STARTED WALKING BACK TO
14 MY HOUSE AT THE TIME.

15 Q SO, YOU WERE WALKING DOWN THE ROAD?

16 A YES MA'AM.

17 Q NOW, WHEN YOU WERE WALKING DOWN THE ROAD, WHO WAS
18 WALKING WITH YOU?

19 A RON LEE AND DEVIN FIVECOAT.

20 Q RON LEE, THAT'S ONE PERSON?

21 A YES MA'AM.

22 Q DEVIN FIVECOAT?

23 A YEP.

24 Q AND---

25 A I BELIEVE THAT WAS ALL THAT WAS WITH ME AT THE TIME.

1 Q OKAY. YOUR WIFE AND RYAN'S WIFE, THEY WERE STILL AT THE
2 STORE?

3 A YES MA'AM.

4 Q NOW, AS YOU WALKED DOWN THE STREET, DID YOU
5 COMPLETELY PUT IT ALL BEHIND YOU, OR DID YOU PAY ANY
6 ATTENTION AT ALL?

7 A NO, I KIND OF PAID OF ATTENTION TO IT.

8 Q WHY WERE YOU KIND OF PAYING ATTENTION TO IT?

9 A IT'S NOT NORMAL FOR SOMEBODY TO COME UP DRESSED IN
10 DARK CLOTHES IN THE MIDDLE OF THE NIGHT JUST TO TALK TO
11 SOMEBODY.

12 Q OKAY.

13 A I MEAN, WITH MY EXPERIENCE AND STUFF, I JUST DIDN'T FEEL
14 COMFORTABLE WITH THE SITUATION.

15 Q SO, AS YOU'RE WALKING DOWN THE STREET, WERE YOU JUST
16 SORT OF CASTING LOOKS BACK?

17 A YES MA'AM.

18 Q WAS ANYBODY ELSE THAT YOU WERE WITH, WERE THEY DOING
19 THE SAME THING?

20 A YES MA'AM, BOTH OF THEM WERE.

21 Q NOW, AT SOME POINT, DID YOU STOP AND NOTICE ANYTHING
22 GOING ON?

23 A WELL, WHEN WE WENT BACK TO THE HOUSE WE KIND OF
24 STAYED AT THE EDGE OF OUR LOT WHERE I COULD KIND OF KEEP AN

1 EYE ON WHAT WAS GOING ON, JUST TO MAKE SURE SOMETHING
2 DIDN'T GO ON.

3 AND WE WOULD WALK BACK AND FORTH FROM MY DRIVEWAY
4 TO THE END OF THE LOT AND WHEN WE HAD COME BACK TO THE END
5 OF THE LOT, I NOTICED SOMEONE COME OUT OF THE DARKNESS OF
6 THE FIELD AND EVERYTHING.

7 AND I TOLD BOTH RON AND DEVIN THAT THERE'S ANOTHER
8 PERSON. AND THAT'S WHEN WE TOOK OFF BACK OVER TO RYAN'S
9 HOUSE.

10 Q WHEN YOU TOOK OFF, WERE YOU RUNNING?

11 A YES MA'AM, AT A FULL SPRINT.

12 Q WAS DEVIN RUNNING?

13 A YES MA'AM.

14 Q WAS RON RUNNING?

15 A NO.

16 Q WAS RON SLOW?

17 A YES MA'AM.

18 Q WHILE YOU WERE RUNNING BACK TOWARDS THE HOUSE WERE
19 YOU WATCHING WHAT'S GOING ON STILL?

20 A YES.

21 Q DID YOU SEE ANYTHING ELSE HAPPEN AFTER THE GUY RUNS
22 OUT OF THE DARKNESS?

23 A ALL I SEEN WAS A GUY RUN OUT OF THE DARKNESS WITH HIS
24 HAND UP. I DON'T KNOW WHAT WAS THE REASON FOR THAT. AND

- 1 THEN I NOTICED MR. JESSE HARRIS, THE NEXT-DOOR NEIGHBOR TO
- 2 RYAN, RUNNING OUT TO TRY TO BREAK UP THE MELEE.
- 3 Q OKAY.
- 4 A BECAUSE ONCE THE BIG GUY CAME RUNNING OUT, THAT'S
- 5 WHEN THE SCUFFLE STARTED. RYAN TRIED TO DISARM HIM OR
- 6 SOMETHING WAS HAPPENING AND STUFF. THEY WERE DOWN ON THE
- 7 GROUND. ALL I SEEN WAS THE BIGGER GUY ON THE GROUND, RYAN
- 8 ON TOP OF HIM AND FRANK, OR THIS GENTLEMAN RIGHT THERE ON
- 9 TOP OF RYAN.
- 10 AND THEN I SEEN JESSE HARRIS RUN OUT AND START GETTING
- 11 UP UNDER THE PILE TO TRY TO BREAK WHATEVER IT WAS UP.
- 12 Q OKAY. JUST TO MAKE SURE I UNDERSTAND IT. WHEN YOU
- 13 WERE ON THE WAY BACK YOU COULD SEE FRANK LARMAND?
- 14 A YES MA'AM.
- 15 Q AND HE WAS ON TOP?
- 16 A YES MA'AM, HE WAS ON TOP.
- 17 Q AND HE WAS ON TOP OF RYAN?
- 18 A YES MA'AM.
- 19 Q AND THE BIGGER GUY-- DID YOU KNOW-- COULD YOU TELL
- 20 WHO THE BIGGER GUY WAS FROM A DISTANCE?
- 21 A YES MA'AM, I CAN.
- 22 Q I MEAN, AT THE TIME.
- 23 A AT THE TIME, NO, I COULD NOT.
- 24 Q AT THIS POINT DURING-- WELL, WHAT ROLE DID YOU PLAY,
- 25 ONCE YOU GOT THERE?

- 1 A ONCE I GOT THERE, I GRABBED FRANK BY THE WAIST TO TRY TO
2 PULL HIM OFF RYAN.
- 3 Q WERE YOU ABLE TO PULL HIM OFF?
- 4 A YES MA'AM.
- 5 Q HE WAS UP UNDER THE PILE, TRYING TO KEEP-- I DON'T KNOW
6 EXACTLY WHAT HE WAS DOING. BUT HE WAS UP UNDER THE PILE,
7 TRYING TO BREAK IT UP.
- 8 Q DID YOU AT THAT POINT SEE A GUN?
- 9 A I DID NOT SEE THE GUN UNTIL MR. FIVECOAT YELLED, OH, GOD,
10 AND I LOOKED AROUND FRANK AND SEEN THE BARREL OF THE PISTOL.
- 11 Q COULD YOU TELL WHO WAS CLOSE TO THE GUN?
- 12 A ALL THREE OF THEM WERE.
- 13 Q ALL THREE?
- 14 A YES MA'AM.
- 15 Q MR.---
- 16 A MR. HARRIS, RYAN, AND THE BIGGER GUY.
- 17 Q THE BIG GUY?
- 18 A YES MA'AM.
- 19 Q WERE YOU ABLE AT SOME POINT TO GET A BETTER LOOK AT THE
20 BIGGER GUY?
- 21 A YES.
- 22 Q DO YOU SEE THE BIGGER GUY IN THE COURTROOM?
- 23 A THE GENTLEMAN RIGHT THERE.
- 24 Q OKAY.

1 MS. JOYNER: YOUR HONOR, LET THE RECORD REFLECT THAT HE
2 POINTED OUT MR. LEO LEMIRE.

3 Q NOW, YOU SAID SAW THREE PEOPLE WITH THE GUN, OR, NEAR
4 THE GUN: JESSE, RYAN, AND THE BIG GUY?

5 A YES MA'AM.

6 Q MR. LEMIRE?

7 A YES MA'AM.

8 Q NOW, AT SOME POINT, DID YOU SEE JESSE OR RYAN GET THAT
9 GUN AWAY?

10 A I DID NOT SEE EXACTLY WHO PULLED THE GUN AWAY.

11 Q BUT DID YOU SEE THE SITUATION START TO BREAK?

12 A YES. ONCE I GOT FRANK OFF OF RYAN, THEN THAT'S WHEN
13 THEY TOOK OFF.

14 Q DID YOU SEE-- WHEN YOU SAY THEY TOOK OFF, WHO DO YOU
15 MEAN?

16 A MR. LEMIRE AND FRANK.

17 Q AND YOU'RE CALLING HIM FRANK. DID YOU KNOW HIM AS
18 FRANK THAT NIGHT?

19 A NO MA'AM.

20 Q WHEN THEY TOOK OFF, WHERE DID THEY GO?

21 A OUT, STRAIGHT DOWN THE SIDEWALK IN THE SUBDIVISION ON
22 THE BACK ROAD.

23 Q AND WERE YOU ABLE TO SEE WHERE THEY WENT?

24 A I DID NOT SEE EXACTLY WHERE THEY WENT. MR. FIVECOAT
25 WENT WITH US. I WAS ON THE PHONE WITH THE DISPATCHER FOR THE

- 1 POLICE AS I WAS RUNNING. AND I JUST NOTICED DEVIN TAKE OFF
- 2 WITH ME TO FOLLOW, TO SEE WHERE THEY WERE GOING. AND THEN
- 3 BY THE TIME I GOT ABOUT HALFWAY DOWN, DEVIN HAD STARTED
- 4 COMING BACK, TELLING ME WHAT THEY GOT INTO, SOME VEHICLE.
- 5 Q SO, HE SAW THEM LEAVE?
- 6 A YES MA'AM.
- 7 Q CAN YOU GIVE AN ESTIMATE OF HOW FAR DOWN THE ROAD
- 8 THEY WERE PARKED?
- 9 A A QUARTER TO HALF A MILE, EASY.
- 10 Q WAS YOUR STREET JAM-PACKED FULL OF CARS---
- 11 A NO.
- 12 Q ---WHERE RYAN LIVED?
- 13 A WHERE RYAN LIVED THERE WAS ONE CAR IN THE ROAD AND
- 14 ONE IN THE DRIVEWAY.
- 15 Q BUT THE SIDES OF THE ROAD, CAN YOU PARK THERE?
- 16 A YES.
- 17 Q WERE THERE ANY CARS PARKED---
- 18 A NO.
- 19 Q ---DOWN THE SIDE OF THE ROAD AT RYAN'S HOUSE?
- 20 A NO MA'AM.
- 21 Q IS THE LOCATION OF RYAN'S HOUSE IN THAT SUBDIVISION
- 22 DISTINCTIVE FOR ANY REASON?
- 23 A NO, IT'S...
- 24 Q IS THERE A BIG FIELD NEXT TO RYAN'S HOUSE?

- 1 A YES MA'AM. THERE'S ONE BESIDE IT AND ACROSS THE STREET
2 FROM IT.
- 3 Q NOW, A FEW MORE QUESTIONS AND THEN I'LL TURN YOU OVER
4 TO MR. GREELEY AND MR. RHEA.
- 5 A OKAY.
- 6 Q THE DRIVEWAY OF RYAN'S HOUSE, IS IT A BIG DRIVEWAY,
7 SMALL DRIVEWAY?
- 8 A SMALL DRIVEWAY.
- 9 Q BIG ENOUGH FOR ONE CAR TO PARK?
- 10 A YES MA'AM. PRETTY MUCH FOR ONE. AND YOU CAN PUT
11 ANOTHER ONE IN THERE, BUT IT WOULD BE TIGHT.
- 12 Q YOU COULD SQUEEZE IT IN?
- 13 A YEAH.
- 14 Q WAS RYAN PARKED ALL THE WAY UP TO THE HOUSE?
- 15 A NO MA'AM.
- 16 Q WAS THERE MUCH ROOM BEHIND HIS CAR IN THE DRIVEWAY?
- 17 A I WOULD SAY PROBABLY FIVE FEET.
- 18 Q FIVE FEET?
- 19 A YES MA'AM.
- 20 Q WHEN RYAN WENT TO SPEAK WITH MR. LARMAND, WHERE DID
21 HE GO TO HAVE HIS CONVERSATION WITH HIM?
- 22 A OKAY. THE VAN WAS FACING LIKE THIS. HERE'S THE HOUSE.
23 THEY SPOKE ON THE LEFT, THE RIGHT CORNER OF HIS VEHICLE, RIGHT
24 AT THE SIDEWALK.

- 1 Q SO, IF-- I'M KIND OF TURNED AROUND. YOU SAID THE HOUSE IS
- 2 THE WALL?
- 3 A UH-HUH.
- 4 Q THE VAN IS GOING THIS WAY?
- 5 A YES MA'AM.
- 6 Q RYAN'S TALKING WITH THEM OVER HERE?
- 7 A YES MA'AM.
- 8 Q ON THE SIDE CLOSER TO THE HOUSE, NOT CLOSER TO THE FIELD?
- 9 A YES MA'AM.
- 10 Q OKAY. NOW, MR. WHITTINGTON, WHAT DO YOU DO FOR A
- 11 LIVING?
- 12 A I'M A TRUCK DRIVER.
- 13 Q ARE YOU A LONG HAUL TRUCK DRIVER?
- 14 A YES MA'AM.
- 15 Q IN YOUR LINE OF WORK, DO YOU EVER HAVE OCCASION TO
- 16 DRIVE TO KANNAPOLIS, NORTH CAROLINA?
- 17 A YES MA'AM.
- 18 Q HOW FAR AWAY IS KANNAPOLIS, NORTH CAROLINA? HOW LONG
- 19 DOES IT TAKE TO DRIVE ON A GOOD DAY?
- 20 A ON A GOOD DAY, WITH NO TRAFFIC, BETWEEN AN HOUR AND AN
- 21 HOUR AND A HALF.
- 22 Q SO, THAT'S FROM SOUTH WINDS?
- 23 A YES MA'AM.
- 24 Q ABOUT AN HOUR TO AN HOUR AND A HALF?
- 25 A YES MA'AM.

1 Q THANK YOU VERY MUCH, MR. WHITTINGTON. PLEASE ANSWER
2 ANY QUESTIONS DEFENSE COUNSEL HAS FOR YOU.

3 A OKAY.

4 THE COURT: MR. RHEA.

5 MR. RHEA: MAY IT PLEASE THE COURT.

6 CROSS EXAMINATION BY MR. RHEA:

7 Q MR. WHITTINGTON, I'M A LITTLE CONFUSED ABOUT WHERE YOU
8 SAW MR. LARMAND AND MR. LOCHBAUM TALKING IN RELATION TO
9 THE HOUSE AND THE LOT AND THE VAN. MS. JOYNER SAID THIS WALL
10 HERE IS THE HOUSE.

11 A UH-HUH.

12 Q AND THE VAN WOULD BE HERE?

13 A YES SIR.

14 Q PARKED IN THE DRIVEWAY?

15 A YES SIR.

16 Q AND THE FIELD IS THAT WAY?

17 A YES SIR.

18 Q THERE'S STREET LIGHTS?

19 A YES SIR.

20 Q AND WHERE EXACTLY WERE-- WHEN THEY WERE TALKING
21 PRIVATELY, WHERE WERE THEY?

22 A THEY WERE OVER BY THE RIGHT CORNER OF THE VAN ON THE
23 SIDEWALK.

24 Q OKAY. THE FIELD---

25 A AND THE FIELD---

- 1 Q THE FIELD WAS OVER THERE?
- 2 A YES SIR.
- 3 Q NEXT TO THE HOUSE. I'M THE VAN. YOU CAN USE A JUROR OR
- 4 WHATEVER ELSE IN HERE TO---
- 5 A I'D SAY PROBABLY THE LAST FEMALE RIGHT THERE.
- 6 Q ALL RIGHT. SO, THEY'RE NOT ON THE FIELD SIDE?
- 7 A NO SIR.
- 8 Q OKAY.
- 9 A AND ISN'T IT A FACT THAT RYAN IS THE ONE, MR. LOCHBAUM
- 10 TOLD YOU AND ALL THE OTHER GUYS, GIVE ME SOME, GIVE ME A
- 11 LITTLE PRIVACY TO TALK TO MR. LARMAND. CORRECT?
- 12 A YES SIR.
- 13 Q NO QUESTION ABOUT THAT?
- 14 A NO SIR.
- 15 Q IT WASN'T MR. LARMAND SAYING Y'ALL GET AWAY FROM US SO
- 16 WE CAN TALK PRIVATELY. CORRECT?
- 17 A YES SIR.
- 18 Q AND YOU SAID THAT MR. LARMAND WAS WEARING BLACK
- 19 CLOTHES. CORRECT?
- 20 A YES SIR.
- 21 Q AND YOU HAVE ON A BLACK SHIRT TODAY. CORRECT?
- 22 A YES SIR.
- 23 Q IS THERE ANYTHING SUSPICIOUS ABOUT YOU WEARING A
- 24 BLACK SHIRT TODAY?
- 25 A NO SIR.

- 1 Q THAT'S WHAT YOU CHOSE TO WEAR TODAY. RIGHT?
- 2 A YES SIR.
- 3 Q NOW, YOU GAVE A PHONE INTERVIEW ABOUT THIS INCIDENT
- 4 FIVE OR SIX DAYS LATER. CORRECT?
- 5 A YES SIR.
- 6 Q AND YOU TALKED TO DETECTIVE HERRING ABOUT THIS.
- 7 CORRECT?
- 8 A YES SIR.
- 9 Q SERGEANT HERRING, SEATED RIGHT HERE, THE CASE AGENT.
- 10 CORRECT?
- 11 A YES SIR.
- 12 Q AND NO QUESTION THAT WAS SEVERAL DAYS LATER. CORRECT?
- 13 A YES SIR.
- 14 Q DURING THAT TIME DID YOU, THAT PERIOD OF TIME DID YOU
- 15 TALK WITH MR. LOCHBAUM ANY---
- 16 A NO.
- 17 Q ---ABOUT THE INCIDENT?
- 18 A NO SIR.
- 19 Q BECAUSE YOU DIDN'T SEE HIM?
- 20 A I'VE SEEN HIM, BUT WE DIDN'T APPROACH EACH OTHER.
- 21 Q DID YOU TALK WITH ANYBODY ELSE INVOLVED?
- 22 A NO SIR.
- 23 Q RON LEE?
- 24 A NO SIR.
- 25 Q DEVIN FIVECOAT?

- 1 A NO SIR.
- 2 Q Y'ALL DIDN'T TALK ABOUT THE INCIDENT. IT HAPPENED AND
- 3 Y'ALL HAVE NEVER TALKED ABOUT ANY MORE?
- 4 A I DON'T KNOW ABOUT THEM, BUT I'VE NEVER SPOKE ABOUT IT.
- 5 Q DID YOU TRAVEL AND GO OUT OF TOWN OR SOMETHING?
- 6 A AT THE TIME, YES, I DID.
- 7 Q YOU WERE OUT OF TOWN THE WHOLE TIME AFTER THAT?
- 8 A NOT THE WHOLE TIME, NO.
- 9 Q WHAT DO YOU DO?
- 10 A I'M A TRUCK DRIVER.
- 11 Q BUT YOU WEREN'T ON A LONG DISTANCE HAUL?
- 12 A NOT ALL THE TIME, NO.
- 13 Q DO YOU NORMALLY DO A LONG DISTANCE HAUL?
- 14 A YES. IT VARIES, DEPENDING ON HOW THE FREIGHT'S RUNNING
- 15 AND STUFF.
- 16 Q AND YOU'RE NORMALLY GONE FOR HOW MANY DAYS?
- 17 A ANYWHERE BETWEEN SIX TO FOURTEEN DAYS AT A TIME.
- 18 Q NOW, AT THAT TIME, DID YOU RESIDE-- WHERE IS YOUR HOUSE
- 19 IN RELATION TO MR. LOCHBAUM'S HOUSE, WHICH IS RIGHT HERE?
- 20 A OURS IN THE FAR, BACK CORNER OF THE SUBDIVISION.
- 21 Q YOU'RE NOT ON THE SAME STREET?
- 22 A NO SIR.
- 23 Q AND WHEN YOU SAY, OURS, WHO ARE YOU TALKING ABOUT?
- 24 YOU AND YOUR WIFE?
- 25 A MY WIFE, MOTHER-IN-LAW, FATHER-IN-LAW, AND MY KIDS.

1 Q OKAY.

2 A AND ALSO, MR. FIVECOAT, HIS GIRLFRIEND, MY SISTER-IN-LAW,
3 AND THEIR BABY AS WELL.

4 Q MR. FIVECOAT IS RELATED TO YOU HOW?

5 A HE'S NOT RELATED TO ME IN ANY WAY. HE'S MY SISTER-IN-
6 LAW'S BABY'S DADDY.

7 Q YOUR SISTER-IN-LAW'S BABY'S DADDY?

8 A YES SIR.

9 Q NOW, DOES MR. FIVECOAT LIVE WITH MR. LEE AND SOMEBODY
10 ELSE? WHO-- DO THESE GUYS INVOLVED RESIDE TOGETHER OR
11 ANYTHING LIKE THAT?

12 A US. ME AND MY WIFE AND MY FIVECOAT, WE HAVE LIVED
13 TOGETHER, BUT I'M NOT SURE EXACTLY IF HE WAS STAYING THERE AT
14 THE TIME OR IF HE WAS STAYING WITH SOMEONE ELSE AT THE TIME.

15 Q SO, MR. FIVECOAT WAS LIVING WITH YOU AT THE TIME?

16 A YES SIR.

17 Q SO, AT THE TIME OF THIS INCIDENT, YOU AND MR. FIVECOAT
18 WERE LIVING TOGETHER, BUT YOU AND MR. FIVECOAT NEVER
19 DISCUSSED WHAT HAPPENED---

20 A NO SIR.

21 Q ---THAT NIGHT AFTER, BEFORE YOU GAVE YOUR PHONE
22 INTERVIEW?

23 A NO SIR.

24 Q NOW, YOU SAY MR. LOCHBAUM IS AN ACQUAINTANCE.
25 CORRECT?

- 1 A YES SIR.
- 2 Q HOW MANY TIMES HAVE YOU BEEN AROUND HIM?
- 3 A BEFORE THAT NIGHT I'D PROBABLY TALKED TO HIM MAYBE
- 4 ONCE OR TWICE, AND IT WAS A VERY SHORT STINT.
- 5 Q NO QUESTION THAT IT WAS MIDNIGHT?
- 6 A IT WAS LATE, VERY LATE.
- 7 Q BECAUSE IT WAS GETTING CLOSE TO MIDNIGHT WHEN MR.
- 8 LARMAND CAME AND DISCUSSED MATTERS WITH MR. LOCHBAUM.
- 9 A YES SIR.
- 10 Q AND Y'ALL WERE ALL KIND OF CONGREGATED OVER AT RYAN'S,
- 11 OUTSIDE?
- 12 A YES SIR.
- 13 Q WHAT WERE Y'ALL DOING?
- 14 A WE WERE JUST TALKING, GETTING TO KNOW EACH OTHER A
- 15 LITTLE BETTER AND STUFF. AND WE GOT TO TALKING ABOUT CAMEL
- 16 SPIDERS AND STUFF. AND THAT'S EXACTLY WHAT HE WAS BRINGING
- 17 UP. WE WERE TALKING ABOUT CAMEL SPIDERS OVERSEAS AND ALL
- 18 THAT STUFF, BECAUSE BOTH OF US WERE IN THE MILITARY. AND WE
- 19 GOT TO TALKING ABOUT DIFFERENT THINGS IN THE MILITARY. AND
- 20 WE WERE TALKING ABOUT CAMEL SPIDERS AT THE TIME. AND THAT'S
- 21 EXACTLY WHAT HE WAS SHOWING ON THE COMPUTER WHEN MR.
- 22 FRANK WALKED UP.
- 23 Q MR. LOCHBAUM WAS SHOWING YOU A PICTURE OF A CAMEL
- 24 SPIDER?
- 25 A YES SIR.

- 1 Q ON THE COMPUTER?
- 2 A YES SIR.
- 3 Q THAT WAS IN HIS VAN, THE COMPUTER?
- 4 A YES SIR.
- 5 Q SO, THE COMPUTER WAS IN HIS VAN?
- 6 A YES SIR.
- 7 Q NOW, IS THAT THE FIRST TIME YOU HAD EVER SEEN THE
- 8 COMPUTER OR WHATEVER?
- 9 A YES SIR.
- 10 Q SO, YOU'RE OVER THERE AT MIDNIGHT LOOKING AT A PICTURE
- 11 OF A CAMEL SPIDER, AND YOU SAID THAT IS WHEN-- AT SOME POINT
- 12 IN TIME YOUR WIFE AND MR. LOCHBAUM'S WIFE LEFT TO GO TO THE
- 13 STORE?
- 14 A YES SIR.
- 15 Q AND THEN YOU SAID MR. LARMAND CAME UP?
- 16 A UH-HUH.
- 17 Q AND HE ASKED TO TALK TO RYAN. RIGHT?
- 18 A YES SIR.
- 19 Q DID HE ASK YOU THAT SPECIFICALLY OR SOMEONE ELSE?
- 20 A HE ASKED ME SPECIFICALLY.
- 21 Q AND WHAT DID YOU DO?
- 22 A I TURNED AROUND AND TOLD RYAN THAT SOMEONE WAS HERE
- 23 TO SEE HIM. AND AS SOON AS I TOLD HIM THAT RYAN LOOKED BACK
- 24 OUT OF THE VAN AND SAID SOMETHING AND THEN GOT OUT.
- 25 Q I'M SORRY. YOU SAID SOMETHING TO WHOM?

- 1 A I TOLD RYAN THAT SOMEONE WAS HERE TO SPEAK WITH HIM
2 AND THEN HE COME OUT OF THE VAN AND LOOKED AND SEEN WHO IT
3 WAS. AND HE SAID HOLY CRAP, OR SOMETHING TO THAT EXTENT AND
4 GOT OUT OF THE VAN AND PROCEEDED TO START TALKING TO HIM.
5 AND THEN ASKED US IF HE COULD HAVE SOME PRIVACY.
- 6 Q RYAN ASKED YOU IF HE COULD HAVE SOME PRIVACY?
- 7 A YES SIR.
- 8 Q NOT MR. LARMAND?
- 9 A NO SIR.
- 10 Q AND WHERE DID THEY GO AND WHERE DID Y'ALL GO?
- 11 A ME, MR. FIVECOAT, AND RON LEE WALKED BACK TO MY HOUSE
12 IN THE BACK CORNER OF THE SUBDIVISION. AND AS I WAS WALKING
13 BACK, I KIND OF KEPT GLANCING BACK, TO MAKE SURE NOTHING WAS
14 GOING ON.
- 15 Q WHAT HAPPENED NEXT?
- 16 A WELL, THEY STARTED WALKING TO DIFFERENT AREAS OF THE
17 YARD, JUST BACK AND FORTH IN DIFFERENT AREAS IN THE YARD.
18 AND THEN---
- 19 Q HOW FAR AWAY WERE YOU AND THE OTHERS FROM MR.
20 LARMAND AND MR. LOCHBAUM?
- 21 A WHEN WE GOT BACK TO MY HOUSE I'D PROBABLY SAY ABOUT
22 FIVE OR SIX HOUSES DOWN FROM HIM. I'D SAY A GOOD THOUSAND
23 FEET, A GOOD THOUSAND TO FIFTEEN HUNDRED FEET.
- 24 Q WHAT'S IN BETWEEN?

- 1 A THE HOUSE ON THE CORNER. FROM MY DRIVEWAY THERE'S A
- 2 HOUSE THAT BLOCKS THE DIRECT VIEW TO HIS HOUSE.
- 3 Q SO, COULD YOU SEE HIM?
- 4 A THAT'S WHY I KEPT WALKING BACK TO THE CORNER OF OUR
- 5 LOT, BECAUSE ON THE CORNER OF OUR LOT YOU COULD SEE
- 6 THROUGH THE PORCH OVER AT HIM, FROM THE HOUSE THAT'S
- 7 BLOCKING AT THE DRIVEWAY.
- 8 Q YOU SAID YOU WERE PAYING ATTENTION.
- 9 A YES SIR.
- 10 Q BECAUSE YOU THOUGHT SOMETHING WAS SUSPICIOUS?
- 11 A YES SIR.
- 12 Q BUT YOU'RE THAT FAR AWAY?
- 13 A YES SIR.
- 14 Q AND YOU SAID YOU STATED THAT YOU THOUGHT MR. LARMAND
- 15 WAS EDGY?
- 16 A YES SIR.
- 17 Q I'M NOT SURE WHAT YOU MEAN BY THAT.
- 18 A WHEN HE WAS STANDING THERE, HE WAS JUST REAL JITTERY,
- 19 BACK AND FORTH, HANDS IN HIS POCKETS, OUT, BACK IN HIS POCKETS
- 20 REAL QUICK, JUST WASN'T STILL OR CALM ABOUT ANYTHING. AND
- 21 THAT'S WHY I FINALLY ASKED HIM IF I COULD HELP HIM. AND THAT'S
- 22 WHEN HE SAID HE NEEDED TO SPEAK TO RYAN.
- 23 Q HE DIDN'T COME UP, JUST KIND OF STAYED ON THE SIDEWALK?
- 24 A YES, HE STAYED RIGHT ON THE SIDEWALK.
- 25 Q UNTIL SOMEONE ACKNOWLEDGED THAT HE WAS THERE?

- 1 A YES SIR.
- 2 Q HE WAS THREATENING IN ANY WAY TO YOU, WAS HE?
- 3 A NO SIR.
- 4 Q AND THEN YOU SAID, YOU STAYED AT THE EDGE OF YOUR LOT,
- 5 WHICH WAS HOW FAR AWAY?
- 6 A ABOUT A THOUSAND, A THOUSAND TO FIFTEEN HUNDRED FEET.
- 7 Q A THOUSAND TO FIFTEEN HUNDRED FEET. OKAY. AND THEN
- 8 YOU SAID YOU NOTICED SOMEONE COME OUT OF THE DARK?
- 9 A YES, INTO THE LIGHT THAT'S RIGHT THERE IN HIS YARD.
- 10 Q INTO WHOSE?
- 11 A MR. LOCHBAUM'S YARD.
- 12 Q WELL, I WAS GOING TO SAY, YOU COULDN'T SEE PAST THAT, SEE
- 13 FRANK?
- 14 A NOT FROM MY DRIVEWAY, NO SIR.
- 15 Q SO, THIS PERSON CAME INTO RYAN'S LIGHTED YARD?
- 16 A YES SIR.
- 17 Q TO THE VAN?
- 18 A YES SIR.
- 19 Q THIS OTHER PERSON?
- 20 A YES SIR.
- 21 Q WHEN MS. JOYNER WAS ASKING YOU QUESTIONS, YOU DIDN'T
- 22 SAY ANYTHING AT THAT TIME ABOUT SEEING THE GUN. RIGHT?
- 23 A NO SIR, AT THAT TIME, NO SIR.
- 24 Q YOU JUST RECALL ANOTHER PERSON?
- 25 A YES SIR.

- 1 Q COME INTO RYAN'S YARD?
- 2 A YES SIR. HE ACTUALLY CAME AT A FULL SPRINT AT RYAN.
- 3 Q DID YOU HEAR ANYTHING THAT WAS SAID?
- 4 A NO SIR, I DIDN'T HEAR ANYTHING THAT WAS SAID.
- 5 Q WHERE DOES JESSE HARRIS LIVE IN RELATIONSHIP TO WHERE
- 6 YOU WERE?
- 7 A TO WHERE I WAS, HE LIVES RIGHT BESIDE RYAN.
- 8 Q HE'S RYAN'S NEXT-DOOR NEIGHBOR?
- 9 A YES SIR.
- 10 Q SO, HE'S HOW FAR? YOU'RE BACK HERE. HOW FAR IS HE?
- 11 A I'D SAY RIGHT AT A THOUSAND FEET, RIGHT AT IT, GIVE OR
- 12 TAKE A LITTLE BIT.
- 13 Q SO, YOU WERE CLOSE TO MR. HARRIS' HOUSE?
- 14 A YES SIR.
- 15 Q WHICH IS?
- 16 A HIS HOUSE IS ACTUALLY CLOSER THAN RYAN'S IS.
- 17 Q RIGHT.
- 18 A HIS HOUSE IS RIGHT HERE. MR. HARRIS LIVES DIRECTLY BESIDE
- 19 HIM THIS WAY.
- 20 Q DO YOU KNOW MR. HARRIS?
- 21 A YES SIR.
- 22 Q WHEN YOU SAW THE OTHER GUY-- WHEN YOU SAY WE SAW THE
- 23 OTHER GUY, WHO ARE YOU TALKING ABOUT? WHO IS WE?
- 24 A RON LEE AND DEVIN FIVECOAT.
- 25 Q AND YOU SAID AT THAT POINT IN TIME YOU STARTED RUNNING?

- 1 A YES SIR. I YELLED AT BOTH OF THEM AND TOLD THEM THAT
2 THERE'S ANOTHER GUY OUT THERE, AND I TOOK OFF IN A FULL SPRINT
3 TOWARDS RYAN'S HOUSE.
- 4 Q YOU DIDN'T SEE A GUN?
- 5 A NO, NOT AT THAT TIME, NO.
- 6 Q YOU JUST SAW ANOTHER PERSON?
- 7 A YES SIR.
- 8 Q WHY WOULD YOU START RUNNING TOWARDS?
- 9 A I WAS ALWAYS RAISED, ONE ON ONE'S FINE, BUT WHEN
10 SOMEBODY ELSE COMES IN, I'VE ALWAYS BEEN TAUGHT TO BREAK IT
11 UP BECAUSE IT'S AN UNFAIR FIGHT.
- 12 Q WELL, DID YOU THINK THEY WERE GOING TO FIGHT?
- 13 A YES.
- 14 Q BEFORE---
- 15 A BECAUSE HE COME AT---
- 16 Q BEFORE YOU SAW THE OTHER MAN?
- 17 A BEFORE I SAW THE OTHER MAN, NO, I DID NOT. I DID NOT KNOW
18 WHAT WAS GOING ON. THAT'S WHY ALL THREE OF US WALKED BACK
19 TO MY HOUSE. BECAUSE IT WAS JUST ONE ON ONE. BUT WHEN I SAW
20 THE SECOND ONE COMING AT HIM FULL-CHARGE I KNEW SOMETHING
21 WAS UP THEN AND THAT'S WHEN I TOLD HIM THAT THERE'S ANOTHER
22 GUY, AND TOOK OUT ON A FULL SPRINT TOWARDS THEM.
- 23 Q PRIOR TO SEEING THIS OTHER PERSON, WAS THERE AN
24 ARGUMENT?
- 25 A THERE WAS SOME HEATED WORDS.

- 1 Q MR. LOCHBAUM RAISED HIS VOICE, DID HE NOT?
- 2 A BOTH OF THEM DID.
- 3 Q DID MR. LOCHBAUM RAISE HIS VOICE?
- 4 A YES.
- 5 Q DO YOU RECALL WHAT WAS SAID?
- 6 A NO, I DO NOT.
- 7 Q WHEN WAS THE FIRST TIME YOU SAW A FIREARM?
- 8 A WHEN I WAS TRYING TO GET MR. LARMAND OFF OF RYAN. AND I
- 9 WAS PULLING AT HIM, TRYING TO GET HIM OFF OF HIM. AND THAT'S
- 10 WHEN DEVIN FIVECOAT CAME INTO THE MIX. AND AS SOON AS HE
- 11 COME UP, HE YELLED, OH, GOD. AND I LOOKED AROUND MR.
- 12 LARMAND'S HEAD AND SEEN THE BARREL OF THE GUN SITTING THERE.
- 13 Q NO QUESTION THAT MR. LARMAND DID NOT HAVE THE GUN?
- 14 A NO, HE DID NOT.
- 15 Q YOU STATED THAT YOU GRABBED MR. LARMAND. RIGHT?
- 16 A YES SIR. I GRABBED HIM BY HIS WAIST.
- 17 Q WHERE WAS JESSE HARRIS?
- 18 A HE WAS ON THE OTHER SIDE OF THE PILE.
- 19 Q HE'S IN THE PILE, AND IT WAS KIND OF A MESS, WASN'T IT?
- 20 A IT WAS A BIG PILE, YES.
- 21 Q AND Y'ALL WERE INVOLVED IN THE SCUFFLE?
- 22 A YES.
- 23 Q WHERE WAS MR. HARRIS?
- 24 A HE WAS ON THE OPPOSITE SIDE OF ME, UP UNDER MR. LEMIRE.
- 25 Q OKAY.

1 A KIND OF UP UNDER HIM AND KIND OF OUT OF HIM.

2 Q SO, WHO ALL IS IN THE PILE?

3 A MR. HARRIS, MR. LEMIRE, RYAN, AND MR. LARMAND, AS WELL
4 AS I WAS ON TOP OF HIM TRYING TO PULL HIM OFF.

5 Q IT WAS KIND OF A CHAIN REACTION.

6 A YEP.

7 Q MR. LARMAND IS TRYING TO GET RYAN OFF OF MR. LEMIRE, AND
8 YOU'RE TRYING TO GET MR. LARMAND OFF OF RYAN. IS THAT
9 CORRECT?

10 A YES SIR. MR. LARMAND HAD RYAN IN A CHOKE HOLD.

11 Q DID YOU NOT IN FACT, IN ORDER TO GET MR. LARMAND OFF THE
12 TOP, GRAB HIM AROUND THE NECK, AS WELL?

13 A NO.

14 MR. RHEA: BEG THE COURT'S INDULGENCE.

15 THE COURT: SURE.

16 (PAUSE)

17 Q DID YOU EVER TELL DETECTIVE LES HERRING THAT YOU
18 GRABBED THE GUY THAT HAD RYAN IN A HEAD LOCK AND TRIED TO
19 PULL HIM OFF RYAN?

20 A YES, I DID.

21 Q DO YOU KNOW THE DIFFERENCE BETWEEN A CHOKE HOLD AND
22 A HEAD LOCK?

23 A YOU JUST ASKED ME IF I GRABBED HIM TO TRY TO PULL HIM
24 OFF OF HIM. I DID TELL HIM THAT I GRABBED HIM TO TRY TO PULL
25 HIM OFF OF HIM.

1 Q I'M NOT TRYING TO CONFUSE YOU. DID YOU IN FACT TELL
2 DETECTIVE HERRING WHEN YOU TALKED TO HIM THAT YOU GRABBED
3 THE GUY THAT HAD RYAN?

4 A I DID GRAB HIM, YES.

5 Q AND YOU SAID THAT WAS IN A HEAD LOCK. RIGHT?

6 A NO, I DID NOT.

7 Q WHAT IF ANYTHING DID MR. LARMAND SAY TO YOU?

8 A HE TOLD ME TO GET OFF OF HIM. AND I TOLD HIM THAT I WAS
9 NOT GETTING OFF OF HIM TILL HE LET GO.

10 Q SO, EVERYBODY'S TELLING NOBODY'S DOING ANYTHING UNTIL
11 THE GUN IS GONE?

12 A YEAH. PRETTY MUCH UNTIL THE GUN IS RELEASED, AND THEN
13 THAT'S PRETTY MUCH WHEN EVERYBODY SAID THEY WOULD LET GO.

14 Q NOW, HOW FAR WAS THIS FROM THE ENTRANCE INTO THE
15 NEIGHBORHOOD?

16 A A GOOD, A GOOD QUARTER TO HALF A MILE.

17 MR. RHEA: BEG THE COURT'S INDULGENCE.

18 THE COURT: SURE.

19 (PAUSE)

20 MR. RHEA: NO FURTHER QUESTIONS.

21 THE COURT: MR. GREELEY.

22 MR. GREELEY: MAY IT PLEASE THE COURT.

23 THE COURT: SURE.

24

25

1 CROSS EXAMINATION BY MR. GREELEY:

2 Q GOOD AFTERNOON, MR. WHITTINGTON.

3 A GOOD AFTERNOON.

4 Q NOW, YOUR WIFE IS ELIZABETH?

5 A YES SIR.

6 Q AND CLAIRE IS MR. LOCHBAUM'S WIFE?

7 A YES SIR.

8 Q AND BEFORE THEY WENT TO THE STORE, THEY WERE THERE?

9 A YES SIR.

10 Q AND MR. LARMAND HAD NOT COME UP AT THAT TIME?

11 A NO SIR.

12 Q AND THEN THEY LEFT TO GO TO THE STORE TOGETHER?

13 A YES SIR.

14 Q WHAT TIME WAS THAT?

15 A I DON'T KNOW EXACTLY THE RIGHT TIME, BUT IT WAS PRETTY
16 LATE.

17 Q WHAT STORE WERE THEY GOING TO?

18 A THAT, I DO NOT KNOW.

19 Q WHAT WERE THEY GOING TO GET?

20 A A COUPLE OF GROCERIES, THAT'S ALL I KNOW.

21 Q DO YOU KNOW WHY THEY NEEDED TO GO GET GROCERIES?

22 A NO, I DO NOT.

23 Q WERE THEY MAKING A BEER RUN?

24 A NOT THAT I KNOW OF.

25 Q WERE YOU DRINKING THAT NIGHT?

- 1 A I HAD MAYBE ONE.
- 2 Q MAYBE ONE BEER?
- 3 A AND THAT WAS AT MY HOUSE.
- 4 Q AT YOUR HOUSE. DID YOU KNOW IF ANYBODY ELSE WAS
- 5 DRINKING THAT NIGHT?
- 6 A I DID NOT PAY ATTENTION TO IT.
- 7 Q COULD HAVE BEEN DRINKING?
- 8 A COULD HAVE BEEN POSSIBLY.
- 9 Q BUT YOU DIDN'T PAY ATTENTION?
- 10 A NO DEFINITE. I KNOW THAT WHEN I WAS OVER THERE WITH
- 11 THEM AND STUFF I DID NOT SEE ANYBODY WITH ANYTHING.
- 12 Q OKAY. WHAT GROCERIES WERE THEY GOING TO GET? DO YOU
- 13 KNOW?
- 14 A THAT I DO NOT KNOW.
- 15 Q DO YOU HAVE CHILDREN?
- 16 A YES SIR.
- 17 Q WHO WAS BACK AT THE HOUSE WITH THE CHILDREN SINCE YOU
- 18 AND ELIZABETH...?
- 19 A MY MOTHER AND FATHER-IN-LAW.
- 20 Q SO, THE GRANDPARENTS WERE TAKING CARE OF THE KIDS?
- 21 A YES SIR.
- 22 Q WHAT TIME DID YOU GET THERE?
- 23 A I GO TO-- TO MR. RYAN'S?
- 24 Q YES.
- 25 A I'D SAY ABOUT TEN O'CLOCK OR SO.

1 Q SO, YOU'D BEEN THERE ALMOST TWO HOURS. IS THAT RIGHT?

2 A YES SIR.

3 Q AND Y'ALL HAD BEEN LOOKING AT CAMEL SPIDERS FOR TWO
4 HOURS?

5 A WELL, YOU KNOW, THERE WAS DIFFERENT CONVERSATIONS
6 AND STUFF. BUT AT THE TIME THAT IT HAPPENED, IT WAS CAMEL
7 SPIDERS. BECAUSE WE WERE TALKING ABOUT MILITARY MOST OF THE
8 NIGHT. AND IT JUST COME UP, I MEAN, WE WERE TALKING ABOUT
9 DIFFERENT STORIES THAT WE'D SEEN AND ALL THAT STUFF.

10 Q AND WHO WENT OVER THERE WITH YOU?

11 A IT WAS ME, RON LEE, AND DEVIN FIVECOAT.

12 Q SO, THE THREE OF YOU WENT TOGETHER OVER THERE?

13 A WELL, ME, AND MY WIFE WENT OVER THERE WITH US AS WELL.

14 Q SO, THE FOUR OF YOU WENT TOGETHER OVER THERE?

15 A YES SIR.

16 Q DID MR. LOCHBAUM CALL Y'ALL AND TELL Y'ALL YOU NEEDED
17 TO COME OVER AND LOOK AT THE SPIDER, OR HOW DID YOU GET
18 THERE? WHAT MADE YOU GO THERE?

19 A THAT I DON'T KNOW. BUT I KNOW MY WIFE SAID WE WERE
20 GOING DOWN TO RYAN'S. AND I WAS, LIKE, I MIGHT AS WELL GO WITH
21 YOU, GET TO KNOW THEM A LITTLE BETTER. SO....

22 Q OKAY. AND AFTER THE WIVES LEFT TO GO TO THE STORE, WHO
23 WAS LEFT THERE?

1 A ME, RYAN, DEVIN FIVECOAT AND RON LEE. AND MY SISTER-IN-
2 LAW CAME OVER BACK AND FORTH. SHE WAS NOT THERE
3 CONSTANTLY.

4 Q NOW, YOU DIDN'T MENTION THAT PREVIOUSLY, DID YOU?

5 A I---

6 Q YOUR SISTER-IN-LAW IS TARA LOWERY, ISN'T SHE?

7 A YES SIR.

8 Q AND YOU SAY THAT SHE WAS BACK AND FORTH?

9 A YES SIR. SHE WAS THERE THE FIRST PART OF THE NIGHT.

10 Q SHE WAS THERE WHEN THIS HAPPENED, WASN'T SHE?

11 A NOT THAT I-- I DON'T RECALL. NOT THAT I CAN REMEMBER.

12 Q YOU DON'T RECALL IF YOUR SISTER-IN-LAW WAS THERE OR

13 NOT?

14 A NOT AT THE PRESENT TIME, NO.

15 Q WELL, THIS IS MR. FIVECOAT'S GIRLFRIEND. CORRECT?

16 A AT THE TIME, YES.

17 Q AT THE TIME. AND IS HE THE BABY DADDY OF HER CHILD?

18 A YES.

19 Q SO, THAT'S WHERE THE BABY DADDY TIES UP?

20 A YES.

21 Q AND YOU DON'T REMEMBER IF TARA LOWERY WAS THERE WHEN
22 ALL OF THIS WENT DOWN?

23 A NO, I DO NOT.

24 Q SHE'D BE THE ONLY THERE? CORRECT?

25 A YEAH, IF SHE WAS THERE.

- 1 Q IF SHE WAS?
- 2 A IF SHE WAS THERE, YES.
- 3 Q DID SHE WALK BACK WITH Y'ALL, A THOUSAND FEET AWAY?
- 4 A I DON'T REMEMBER HER BEING THERE WHEN WE WALKED BACK.
- 5 Q I MEAN, A THOUSAND FEET, THAT'S MORE THAN THREE
- 6 FOOTBALL FIELDS, ISN'T IT?
- 7 A YEAH.
- 8 Q THAT'S A PRETTY GOOD WAYS, ISN'T IT?
- 9 A (NO RESPONSE)
- 10 Q HOW MANY STREET LIGHTS ARE THERE BETWEEN YOUR HOUSE
- 11 AND MR. LOCHBAUM'S HOUSE?
- 12 A I'D SAY THREE THAT I KNOW OF DEFINITE. THERE MAY BE ONE
- 13 OTHER, LITTLE SMALL ONE RIGHT THERE MIXED IN WITH THEM.
- 14 Q AND SO, THERE ARE STREET LIGHTS IN THE NEIGHBORHOOD?
- 15 A YES SIR.
- 16 Q BUT IN THE FIELDS BETWEEN MR. RYAN'S HOUSE AND THE
- 17 HOUSES DOWN AT THE END OF THE STREET WHERE THE FIELD IS,
- 18 THERE'S NO LIGHTS WHATSOEVER.
- 19 Q OKAY. SO, NEAR MR. LOCHBAUM'S HOUSE AND THE FIELD NEXT
- 20 TO HIS HOUSE, ON THAT STREET, THERE ARE NO LIGHTS?
- 21 A NO.
- 22 Q SO, MR. LOCHBAUM'S STREET IS NOT LIT WITH STREET LIGHTS
- 23 AT ALL, IS IT?
- 24 A NOT COMPLETELY. THERE'S TWO ON HIS STREET.
- 25 Q AND---

- 1 A AT THE END OF HIS STREET.
- 2 Q AT THE END?
- 3 A WHERE HE LIVES. AND THEN THERE'S TWO MORE AT THE OTHER
- 4 END WHERE THERE'S THE REST OF THE HOUSES.
- 5 Q SO, IT'S PRETTY DARK, ISN'T IT?
- 6 A YES SIR.
- 7 Q BUT YOU WERE ABLE TO KEEP AN EYE ON THIS THING OVER
- 8 THREE FOOTBALL FIELDS?
- 9 A YES SIR.
- 10 Q AND COULD SEE WHAT WAS HAPPENING?
- 11 A YES SIR.
- 12 Q AND YOU'RE NOT SURE WHERE TARA LOWERY WAS WHEN ALL
- 13 THIS WAS HAPPENING?
- 14 A NO SIR.
- 15 Q WHAT DOES SHE LOOK LIKE?
- 16 A A BEANPOLE, THAT'S ABOUT THE BEST DESCRIPTION. SHE'S GOT
- 17 DARK--
- 18 Q DARK HAIR, BROWN HAIR?
- 19 A DARK HAIR. SHE HAD HIGHLIGHTS AROUND THAT TIME. I DON'T
- 20 KNOW IF SHE HAD IT EXACTLY AROUND THAT TIME OR NOT.
- 21 Q WELL, SHE DIDN'T GO TO THE STORE WITH THE WIVES, DID SHE?
- 22 A NO SIR.
- 23 Q AND YOU DON'T REMEMBER TALKING TO HER WHILE Y'ALL
- 24 ALLEGEDLY WALKED OFF?
- 25 A NO, I DO NOT.

- 1 Q NOW, YOU GAVE YOUR STATEMENT FIVE DAYS AFTER THIS
2 INCIDENT. IS THAT CORRECT?
- 3 A YES SIR.
- 4 Q AND IT WASN'T A WRITTEN STATEMENT. YOU DIDN'T SIGN IT?
- 5 A NO SIR.
- 6 Q YOU WERE JUST TALKING ON THE TELEPHONE?
- 7 A YES SIR.
- 8 Q HOW MANY TIMES DID YOU TALK TO MR. LOCHBAUM IN THOSE
9 FIVE DAYS?
- 10 A I PROBABLY SEEN HIM ONE TIME.
- 11 Q WHEN WAS THAT?
- 12 A RIGHT OUTSIDE IN FRONT OF HIS HOUSE WHEN I WAS PULLING
13 UP TO MINE.
- 14 Q AND YOU STOPPED TO TALK TO HIM?
- 15 A IT WAS PRETTY MUCH GOOD DAY, HOW YOU DOING TODAY AND
16 STUFF. THAT WAS ABOUT IT.
- 17 Q SO, YOU DIDN'T TALK TO HIM AT ALL DURING THAT FIVE DAYS
18 OTHER THAN TO SAY HOW YOU DOING IN PASSING?
- 19 A PRETTY MUCH.
- 20 Q NOW, THIS IS YOUR NEIGHBOR. CORRECT?
- 21 A YES SIR.
- 22 Q HE LIVES JUST A THOUSAND FEET DOWN. CORRECT?
- 23 A YES SIR.
- 24 Q AND THIS HORRIBLE THING HAS OCCURRED THAT Y'ALL WERE
25 ALL INVOLVED IN. CORRECT?

1 A YES SIR.

2 Q AND FOR THE FIVE DAYS BETWEEN THE TIME OF THE INCIDENT
3 AND THE TIME YOU TALKED TO THE POLICE AND GAVE THEM A
4 STATEMENT, YOU NEVER WENT AND TALKED WITH MR. LOCHBAUM?

5 A I NEVER WENT TO HIS HOUSE, NO.

6 Q YOU NEVER TALKED WITH HIM ON THE PHONE OR ANYWHERE.
7 IS THAT RIGHT?

8 A NO, I DON'T EVEN HAVE HIS PHONE NUMBER. BECAUSE MOST OF
9 THE TIME WHEN I'M HOME OFF THE ROAD AND EVERYTHING, I SPEND
10 MOST OF THE TIME WITH MY GIRLS.

11 Q OKAY. BUT IT'S ONLY A THOUSAND FEET OR FIFTEEN HUNDRED
12 FEET TO WALK DOWN TO HIS HOUSE. CORRECT?

13 A YES SIR.

14 Q AND YOU AND THESE OTHER GUYS AND MR. LOCHBAUM ALL
15 CAME TO COURT TOGETHER YESTERDAY, DIDN'T Y'ALL?

16 A YES SIR.

17 Q AND HE HAD HIS LAPTOP IN THE VAN?

18 A YES SIR.

19 Q WHERE WAS THE SPIDER PICTURE?

20 A I DON'T KNOW WHAT WEBSITE IT WAS ON.

21 Q OKAY. Y'ALL WERE LOOKING AT WEBSITES. CORRECT?

22 A NO, I WAS JUST LOOKING AT THE PICTURES AND STUFF. HE
23 WOULD BRING THEM UP AND WOULD SHOW ME THE PICTURES.

24 Q BUT HE WAS ON LINE?

25 A YES SIR.

- 1 Q BEING ABLE TO PULL UP THE SPIDERS. AND HE WAS ABLE TO BE
2 ON LINE IN HIS VAN, WASN'T HE?
- 3 A YES SIR.
- 4 Q DO YOU HAVE AN EMAIL ADDRESS?
- 5 A YES SIR.
- 6 Q AND ANY TIME ANYBODY WHO HAS AN EMAIL ADDRESS AND
7 THEY'RE ON LINE, THEY CAN RECEIVE EMAILS, CAN'T THEY?
- 8 A YES SIR.
- 9 Q AND HE'S ABLE TO HAVE HIS ON LINE IN THE VAN. CORRECT?
- 10 A YES SIR.
- 11 Q HE DIDN'T HAVE BIG, OLD WIRES COMING OUT OF HIS HOUSE
12 COMING TO HOOK UP TO HIS LAPTOP THAT YOU SAW, DID HE?
- 13 A NO SIR.
- 14 Q NOW, WHEN FRANK AND LEO LEFT, YOU AND WHO FOLLOWED?
- 15 A DEVIN FIVECOAT.
- 16 Q DEVIN FIVECOAT?
- 17 A YES SIR.
- 18 Q AND THAT'S TARA LOWERY'S BOYFRIEND, OR WAS THEN?
- 19 A YES SIR.
- 20 Q WHICH WAY DID YOU RUN?
- 21 A I RUN STRAIGHT DOWN THE SIDEWALK.
- 22 Q STRAIGHT DOWN THE SIDEWALK?
- 23 A YES SIR.
- 24 Q THAT'S THE WAY THAT YOU THOUGHT THEY WENT?
- 25 A YES SIR.

- 1 Q AND HOW ABOUT MR. FIVECOAT, WHERE DID HE RUN?
- 2 A HE STARTED OFF ON THE SIDEWALK AND THEN CUT THROUGH
- 3 THE FIELD.
- 4 Q BECAUSE THE THOUGHT THAT THEY MIGHT TAKE A RIGHT?
- 5 A YES SIR.
- 6 Q AND SO, HE'S CUTTING THROUGH THE FIELD AND THEN BEHIND
- 7 THE HOUSE?
- 8 A YES SIR.
- 9 Q OH. WERE YOU THERE IN THE DRIVEWAY WHEN YOUR WIVES
- 10 CAME BACK FROM THE STORE?
- 11 A YES SIR.
- 12 Q WERE THE POLICE ALREADY ON THE SCENE?
- 13 A YES SIR.
- 14 Q SO, THE POLICE HAD ALREADY ARRIVED?
- 15 A YES SIR.
- 16 Q AFTER YOU CAME BACK, DO YOU KNOW WHERE THE GUN WAS?
- 17 A IT WAS LAYING ON THE SIDEWALK, FACING STRAIGHT UP, AND
- 18 HAD THE BULLETS RIGHT BESIDE IT.
- 19 Q DID ANYTHING ELSE HAPPEN TO IT?
- 20 A NO. IT SET RIGHT THERE FROM THE TIME I GOT BACK TILL WHEN
- 21 THE COPS GOT THERE.
- 22 Q YOU DON'T REMEMBER IT BEING TAKEN INTO RYAN'S HOUSE?
- 23 A NO. I DO NOT REMEMBER WHO COME UP WITH THE WEAPON.
- 24 Q DID YOU EVER USE RYAN'S PHONE THAT NIGHT?

1 A I DON'T KNOW WHOSE PHONE I USED. I DON'T KNOW WHOSE
2 CELL PHONE IT WAS.

3 Q OKAY.

4 A IT WAS JUST HANDED TO ME AS I WAS TURNING AROUND TO GO
5 FOLLOW THEM.

6 Q WHO DID YOU GIVE IT BACK TO WHEN YOU GOT BACK?

7 A I GAVE IT BACK TO DEVIN FIVECOAT, ONCE HE GOT BACK, AS
8 WELL. BECAUSE I WAS ON THE PHONE AS BOTH OF US GOT BACK TO
9 THE HOUSE.

10 Q BUT YOU DON'T REMEMBER WHERE TARA WAS?

11 A NO, I DON'T.

12 Q YOU DON'T REMEMBER-- COULD SHE HAVE BEEN WITH Y'ALL?

13 A POSSIBLY, BUT MORE THAN LIKELY NOT BECAUSE SHE'S GOT A
14 BIG MOUTH. SHE'S NORMALLY TALKING IF SHE'S AROUND US.

15 MR. GREELEY: THAT'S ALL I HAVE FOR NOW.

16 THE COURT: ANY RE-DIRECT?

17 MS. JOYNER: NO, YOUR HONOR. WE ASK THAT THIS WITNESS BE
18 EXCUSED, YOUR HONOR, SO HE CAN GET BACK TO WORK.

19 THE COURT: ANY OBJECTION?

20 MR. RHEA: NO, YOUR HONOR.

21 MR. GREELEY: NO OBJECTION.

22 THE COURT: WOULD THE ATTORNEYS APPROACH, PLEASE?

23 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

24 LADIES AND GENTLEMEN OF THE JURY, WE'RE GOING TO TAKE A
25 FIFTEEN MINUTE BREAK. IF YOU WOULD, STEP BACK TO YOUR JURY

1 ROOM. YOU CAN TAKE A SMOKE BREAK AT THIS TIME. DO NOT
2 DISCUSS THE CASE AT ALL.

3 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:29 P.M.)

4 COURT WILL BE AT EASE.

5 (WHEREUPON COURT WAS IN RECESS)

6 COURT IN SESSION - 12:50 P.M.

7 THE COURT: IS THE STATE READY?

8 MS. JOYNER: THE STATE IS READY, YOUR HONOR.

9 THE COURT: IS THE DEFENSE READY?

10 MR. RHEA: YES SIR, YOUR HONOR.

11 MR. GREELEY: WE'RE READY, YOUR HONOR.

12 THE COURT: BRING IN THE JURY.

13 (WHEREUPON THE JURY ENTERED THE COURTROOM)

14 LADIES AND GENTLEMEN OF THE JURY, NORMALLY WE WOULD
15 TAKE A LUNCH BREAK AT THIS TIME, BUT WE HAVE ONE WITNESS
16 THAT NEEDS TO CATCH AN AIRPLANE. SO, WE'RE GOING TO GO AHEAD
17 AND TAKE ONE MORE WITNESS AND THEN WE'LL TAKE A LUNCH
18 BREAK. SOLICITOR.

19 MS. JOYNER: THANK YOU, YOUR HONOR. THE STATE CALLS
20 JESSE HARRIS.

1 JESSE ROBERT HARRIS, DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MS. JOYNER:

4 Q WOULD YOU PLEASE STATE YOUR NAME FOR THE RECORD?

5 A JESSE ROBERT HARRIS.

6 Q MR. HARRIS, WHERE DO YOU LIVE CURRENTLY?

7 A CURRENTLY, WAXAHATCHIE, FLORIDA.

8 Q IS THAT NEAR PALM BEACH?

9 A YES.

10 Q HOW LONG AGO DID YOU MOVE TO FLORIDA?

11 A JUST A LITTLE OVER A MONTH AGO.

12 Q PRIOR TO MOVING TO FLORIDA, WHERE DID YOU LIVE?

13 A ROCK HILL.

14 Q WHAT WAS YOUR ADDRESS THERE?

15 A 512 GENTLE BREEZE LANE, ROCK HILL, SOUTH CAROLINA.

16 Q WAS RYAN LOCHBAUM YOUR NEXT-DOOR NEIGHBOR?

17 A YES MA'AM.

18 Q NOW, WHEN YOU LIVED NEXT DOOR TO MR. RYAN LOCHBAUM,
19 DID YOU KNOW RYAN?

20 A JUST BRIEFLY, LIKE YOU WOULD A NEIGHBOR, BUT NOTHING
21 TOO CLOSE AT ALL.

22 Q HOW LONG WOULD YOU SAY YOU WERE HIS NEIGHBOR BEFORE
23 YOU MOVED TO FLORIDA?

24 A SEVERAL MONTHS, MAYBE. JUST A LITTLE OVER A YEAR,
25 MAYBE; SOMEWHERE AROUND IN THAT AREA.

1 Q NOW, BACK ON MAY 1, OF 2009, DID YOU BECOME INVOLVED IN
2 SOMETHING THAT HAPPENED IN RYAN'S DRIVEWAY?

3 A YES MA'AM.

4 Q TELL THE JURY HOW YOU BECAME INVOLVED.

5 A WELL, I'M NOT REALLY SURE EXACTLY WHAT TIME, SOMETIME
6 AROUND THE MIDNIGHT AREA, MY WIFE WOKE UP BECAUSE SHE
7 HEARD A COMMOTION. WHEN SHE LOOKED OUTSIDE SHE SAW THAT IT
8 LOOKED LIKE RYAN WAS IN AN ARGUMENT, I GUESS YOU COULD SAY,
9 WITH SOMEONE. SHE ACTUALLY THOUGHT IT WAS ME BECAUSE OF
10 THE CLOTHING THAT THE GENTLEMAN WAS WEARING. THAT DAY I
11 HAD WORN A BLACK SHIRT AND BLACK PANTS TO A JOB INTERVIEW.

12 SO, SHE RAN DOWNSTAIRS TO SEE WHAT WAS GOING ON AND I
13 WAS ACTUALLY SLEEPING IN THE CHAIR. SO, SHE WOKE ME UP. WHEN
14 I WOKE UP I HAPPENED TO LOOK OUT MY FRONT WINDOW THROUGH
15 THE BLINDS. AND I SAW THAT RYAN, IT LOOKED LIKE FROM WHAT I
16 COULD SEE, WAS ARGUING WITH, I BELIEVE HIS NAME IS LEO. I MEAN,
17 FRANK. I'M SORRY.

18 AND I JUST KIND OF WATCHED FOR A BRIEF, FEW SECONDS.
19 THEY WERE ARGUING. AND THEN, YOU KNOW, I DIDN'T REALLY THINK
20 MUCH OF IT. SO, THEN I SAW FRANK ACTUALLY PUSH RYAN. SO, THEN
21 I YELLED TO MY WIFE, AND SAID CALL THE COPS, I THINK THERE'S
22 GONNA BE A FIGHT. AND THEN I PROCEEDED TO GO OUT THE FRONT
23 DOOR.

24 Q ON YOUR WAY OUT THE FRONT DOOR, AT SOME POINT, DID YOU
25 SEE ANOTHER INDIVIDUAL BESIDES FRANK?

1 A NO, I DIDN'T, NOT AT FIRST. I MEAN, AS I RAN OUT MY FRONT
2 DOOR, WHAT I SAW THEN, THERE WAS A VAN, RYAN'S VAN IN HIS
3 DRIVEWAY. AND THEY WERE ON THE SIDE THAT MY HOUSE WAS ON.

4 Q OKAY.

5 A AND THAT'S ALL I SAW. I JUST SAW THOSE TWO. SO, AS I RAN
6 OUT, BY THE TIME I ACTUALLY GOT OUT THE DOOR, THEY WERE ON
7 THE OTHER SIDE OF THE VAN.

8 Q OKAY.

9 A AND THEN WHEN I WAS RUNNING OUT THERE - PARDON MY
10 LANGUAGE - BUT I HEARD A LOUD VOICE SAY, THIS IS WHAT YOU GET
11 FOR FUCKING WITH MY FAMILY. PRETTY LOUD.

12 AS I GOT AROUND THE OTHER SIDE OF THE VAN, AT THAT TIME I
13 NOTICED THAT THERE WAS ANOTHER INDIVIDUAL, WHICH I BELIEVE IS
14 THIS GENTLEMAN OVER HERE, LEO. THEY WERE ALL THREE PRETTY
15 MUCH ON THE GROUND. RYAN, BASICALLY, FROM WHAT I COULD SEE--

16 AT FIRST I SAW FRANK WITH, HAD RYAN IN A CHOKE HOLD
17 FROM BEHIND. AND THEN RYAN WAS BASICALLY HAD HIS ARMS
18 DOWN WITH FRANK ON THE GROUND.

19 SO, I IMMEDIATELY SAW THE SITUATION AND I WENT BEHIND
20 FRANK AND PUT HIM IN A CHOKE HOLD VERY, VERY BRIEFLY,
21 BECAUSE RIGHT AS I WAS GETTING HIM INTO A CHOKE HOLD I HAD
22 LOOKED DOWN AND REALIZED THAT THERE WAS A GUN INVOLVED.

23 DO YOU WANT ME TO CARRY ON?

24 Q YES. WELL, OKAY. NOW, WHEN YOU SAW THE GUN, WHOSE
25 HAND WAS THE GUN IN?

1 A WELL, ACTUALLY, THE HAND THAT WAS ON THE GUN AS FAR AS
2 THE HANDLE OF THE GUN AND THE TRIGGER WAS LEO'S, AND RYAN
3 BASICALLY HAD, FROM WHAT I COULD SEE AT THE TIME, I THINK WAS
4 BASICALLY HIS HAND ON LEO'S WRIST, AND ONE PRETTY MUCH
5 TRYING TO HOLD AWAY THE GUN.

6 SO, THAT'S WHEN I LET FRANK GO AND I KIND OF WENT AROUND
7 TO RETRIEVE THE GUN TO TRY TO HELP GET THE GUN.

8 Q AND SO, YOU SAID, YOU WENT AROUND. SO, YOU JUST SORT OF
9 MOVED FROM HERE TO OVER HERE?

10 A CORRECT.

11 Q OKAY.

12 A INTO THE FRONT.

13 Q INTO THE FRONT. AND THE GUN, HOW DID YOU TRY TO HELP
14 RETRIEVE THE GUN?

15 A WELL, FIRST, WHEN I LEANED DOWN, I BASICALLY, I NOTICED
16 THAT THE HAMMER WAS BACK ON THE GUN.

17 Q OKAY.

18 A SO IMMEDIATELY, WHAT I DID WAS I TOOK THIS FINGER HERE,
19 AND I-- IT WAS IN THE HEAT OF THE MOMENT, BUT I PUT THAT FINGER
20 IMMEDIATELY IN BETWEEN THE HAMMER SO THE GUN WOULDN'T GO
21 OFF.

22 Q UH-HUH.

23 A AND THEN I HAD THAT HAND ON THE BACK SIDE OF THE GUN
24 AND THE OTHER HAND, REALLY, MOSTLY ON THE GUN. BUT, REALLY,
25 IT WAS HARD WHEN YOU HAVE TWO OTHER HANDS ON THERE. SO, I'M

1 PULLING THE GUN AWAY. AND AS I'M TRYING TO PULL AWAY,
2 UNFORTUNATELY FOR ME, I WAS PULLING THE GUN IN AN UPWARD
3 MOTION, AND THE BARREL WAS MAYBE ABOUT A FOOT AWAY FROM
4 MY CHEST.

5 WHEN I LOOKED AND I SAW ACTUALLY HOW BIG THE BARREL
6 OF THE GUN WAS, AND IT WAS A VERY LARGE GUN. I'M NOT SURE OF
7 THE SIZE. I CALL IT A HAND CANNON. BUT AS I'M TRYING TO PULL IT
8 AWAY, I YELLED TO THE GENTLEMAN OVER THERE, I SAID, LISTEN,
9 JUST SO YOU KNOW, I DON'T KNOW YOU GUYS. I'M NEUTRAL. I'M
10 NEUTRAL. I KEPT YELLING TO THEM THAT I'M NEUTRAL. LET THE GUN
11 GO. LET THE GUN GO. I'LL MAKE SURE NOTHING HAPPENS.

12 AT THAT TIME, ALL HE KEPT SAYING WAS F-YOU, HE'S F'ING
13 WITH MY FAMILY, HE'S F'ING WITH MY FAMILY. AND I'M KIND OF
14 LOOKING AT RYAN, LIKE, WHO ARE THESE PEOPLE. BUT RYAN'S IN A
15 CHOKE HOLD HIMSELF. I MEAN, I COULDN'T HEAR A WORD, REALLY,
16 FOR THE MOST PART.

17 Q WAS RYAN SAYING ANYTHING? WERE YOU ASKING RYAN TO
18 LET GO OF THE GUN AS WELL?

19 A WELL, WHEN I WAS-- I DIDN'T ASK HIM TO LET GO OF THE GUN
20 BECAUSE, YOU KNOW, HE'S A FAIRLY LARGE MAN COMPARED TO ME. I
21 MEAN, HE COULD OVERPOWER ME. SO, I WAS, LIKE, REALLY, WITH
22 BOTH OF THEM, I WAS, LIKE, GUYS, LET THE GUN GO, LET THE GUN GO.
23 BUT HE KEPT SAYING F-YOU, F-YOU, F-YOU, F-YOU, F-YOU, F-YOU, F-
24 YOU.

1 AND THEN AFTER A LITTLE WHILE HE, WAS, LIKE, I'LL LET IT GO,
2 I'LL LET IT GO. I'M, LIKE, WELL, FINE, LET IT GO, LET IT GO. WHICH
3 ESSENTIALLY EVENTUALLY WHEN HE WOULD NOT LET IT GO-- I
4 MEAN, AS FAR AS MY PART GOES, I MEAN, THE OTHER GUYS CAME
5 AND SO FORTH. I DON'T KNOW IF YOU WANT TO KNOW THAT PART.

6 Q WELL, LET ME STOP YOU FOR JUST A MINUTE. THIS HAS BEEN
7 MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT THREE. DO YOU
8 RECOGNIZE STATE'S EXHIBIT THREE?

9 A YEP, FROM THIS ANGLE, I DO.

10 Q AND WHAT DO YOU BELIEVE STATE'S EXHIBIT THREE TO BE?

11 A A GUN.

12 Q WAS THIS THE GUN? DOES IT FEEL TO BE ABOUT THE RIGHT
13 WEIGHT OF THE GUN?

14 A OH, IT WAS VERY HEAVY. I MEAN, I CAN TELL. ESPECIALLY
15 LOOKING DOWN THE BARREL. I KNOW GUNS WELL ENOUGH TO KNOW
16 WHAT I WAS LOOKING AT.

17 Q NOW, I DON'T KNOW GUNS, SO I MAY SOUND STUPID WHEN I ASK
18 THESE QUESTIONS. WHEN YOU SAY THE HAMMER WAS BACK, COULD
19 YOU POINT OUT TO ME WHICH PART YOU WERE TALKING ABOUT?

20 A WELL, THIS IS THE HAMMER. IT WAS BACK.

21 Q OKAY.

22 A SO, FOR THAT TO BE BACK I PUT MY FINGER IN BETWEEN THE
23 HAMMER AS IT WAS OPEN, IN HERE.

24 Q UH-HUH.

25 A I PRETTY MUCH HAD MY HAND ABOUT THIS MOTION HERE.

1 Q OKAY.

2 A LEO'S HAND WAS HERE, AND RYAN HAD HIS HAND PRETTY
3 MUCH OVER THAT.

4 Q OKAY.

5 A SO, YOU'VE GOT FOUR OR FIVE HANDS ON THIS GUN, SIX HANDS,
6 YOU KNOW. I WAS LUCKY ENOUGH TO GET THIS FINGER IN THAT
7 CHAMBER, WHICH I STILL HAVE THE CUT FROM THAT DAY.

8 Q DID YOU HAVE ANY INJURY-- YOU MENTIONED THE EXTENT OF
9 THE INJURY TO YOUR HAND. DID THE POLICE EVER TAKE ANY
10 PICTURES OF THE INJURY TO YOUR HAND?

11 A THEY DID A COUPLE OF DAYS LATER.

12 Q DID YOU GO TO THE POLICE DEPARTMENT OR DID THEY COME
13 TO YOU?

14 A THEY CALLED ME AND I WENT DOWN TO THE POLICE
15 DEPARTMENT.

16 Q MR. HARRIS, I'M HANDING UP TO YOU WHAT'S BEEN MARKED
17 FOR EXHIBIT PURPOSES STATE'S EXHIBITS ONE AND TWO. DO YOU
18 RECOGNIZE THOSE PHOTOGRAPHS?

19 A YEP. THEY'RE ME AT THE POLICE STATION OUTSIDE, TAKING
20 PICTURES OF MY FINGER.

21 Q AND DO THOSE PHOTOS ACCURATELY REPRESENT THE INJURY
22 TO YOUR HAND?

23 A YES.

24 Q THE INJURY RESULTING FROM THIS NIGHT ON MAY 1?

25 A YES MA'AM.

1 MS. JOYNER: YOUR HONOR, AT THIS TIME, I WOULD OFFER
2 STATE'S EXHIBITS ONE AND TWO INTO EVIDENCE.

3 THE COURT: ANY OBJECTION, MR. RHEA?

4 MR. RHEA: NO OBJECTION.

5 THE COURT: ANY OBJECTION, MR. GREELEY?

6 MR. GREELEY: NO OBJECTION.

7 THE COURT: ALL RIGHT. STATE'S ONE AND TWO ARE IN
8 EVIDENCE.

9 MS. JOYNER: THANK YOU, YOUR HONOR.

10 (WHEREUPON STATE'S EXHIBITS NUMBER ONE AND TWO WERE
11 ADMITTED INTO EVIDENCE WITHOUT OBJECTION)

12 Q AND SO, IN STATE'S EXHIBIT ONE, IS THAT MARK RIGHT THERE,
13 AND THAT'S ON YOUR RING FINGER?

14 A YES.

15 Q THAT'S THE MARK THAT'S FROM THE HAMMER?

16 A FROM THE BRUISING BETWEEN, FROM BEING STUCK BETWEEN
17 THE HAMMER.

18 Q WAS IT BRUISING?

19 A MY OPINION IS IT WAS MORE PRESSURE BETWEEN THAT AND
20 THE HAMMER. BECAUSE WHEN I FIRST PUT IT ON THERE THE HAMMER
21 WAS BACK. BUT BY THE END OF THE WHOLE SCUFFLE SOMEHOW AT
22 ONE TIME, I DON'T KNOW IF HE ACTUALLY PULLED IT OR WHAT, BUT IT
23 ACTUALLY CLICKED ON MY FINGER AND WAS PRESSING IT BETWEEN
24 THROUGHOUT THE STRUGGLE.

25 Q WAS IT AN OPEN CUT OR KIND OF LIKE A BLOOD BUBBLE?

1 A IRONICALLY, I HAVE ONE ON THIS FINGER FROM PINCHING IT
2 THE OTHER DAY. IT WAS MORE LIKE A BLOOD VESSEL FROM
3 PRESSURE, LIKE A BLISTER.

4 Q SO, AT WHAT POINT IN THE STRUGGLE DID YOU NOTICE THE
5 OTHER GUYS COME BACK?

6 A I'M SORRY?

7 Q THE OTHER GUYS, THE NEIGHBORS?

8 A WELL, ORIGINALLY, I DIDN'T KNOW THEY WERE EVER EVEN
9 THERE. BECAUSE, I MEAN, WHEN I WOKE UP FROM A DEAD SLEEP, I
10 DIDN'T SEE THEM. PROBABLY, I'D SAY RIGHT ABOUT BARELY THE
11 MIDDLE OF THE SCUFFLE IS WHEN I BELIEVE MARK AND DEVIN AND
12 THESE GUYS RAN UP.

13 I YELLED TO MARK, I SAID GET ON THE GUY THAT'S ON RYAN,
14 GET HIM OFF RYAN, GET HIM OFF RYAN. BECAUSE RYAN COULDN'T
15 EVEN BREATHE AND HIS FACE WAS PURPLE. I THOUGHT HE WAS
16 DYING.

17 SO, HE GOT ON HIM. AND DEVIN, IN TRYING TO HELP ME GET
18 THE GUN, BUT MY WIFE HAD ACTUALLY CAME OUTSIDE WHILE SHE
19 WAS ON THE PHONE WITH THE POLICE, AND I HEARD HER YELLING,
20 THE GUN IS AT YOUR CHEST, THE GUN IS AT YOUR CHEST. WHICH I
21 REALLY DIDN'T REALIZE WHAT I WAS DOING AND I LOOKED DOWN
22 AND SAW THIS CHAMBER AT MY CHEST.

23 AND I TOLD DEVIN, I'M TRYING TO SCOOT AWAY FROM THE
24 CHAMBER, AS WE PULLED IT, DEVIN, HELP ME WITH THIS GUN, HELP

1 ME WITH THIS GUN. BUT, YOU KNOW, EVERYTHING WAS HAPPENING
2 SO QUICK AND PEOPLE WERE MOVING AND SO FORTH.

3 Q COULD YOU EVEN GUESS HOW LONG THIS WHOLE SCUFFLE
4 LASTED?

5 A WELL, IT FELT LIKE TEN MINUTES, BUT IF I WERE BEING
6 REALISTIC, I'D SAY THE WHOLE SCUFFLE WITH ME BEING INVOLVED
7 PROBABLY THREE, FOUR MINUTES, SOMETHING OF THAT NATURE.

8 Q WHAT IS YOUR UNDERSTANDING OF HOW LEO CAME TO GIVE
9 UP THE GUN?

10 A WELL, AFTER REPEATEDLY TRYING TO TELL THEM I'M NEUTRAL,
11 LET IT GO, LET IT GO, AND HIM BASICALLY THROWING THE F-U AT ME,
12 I TOOK THE HEEL OF MY FOOT, WHICH IS THE STRONGEST PART AT THE
13 TIME AVAILABLE AWAY FROM THE GUN, AND I KICKED HIM IN THE
14 GROIN.

15 HE KIND OF WENT LIMP A LITTLE BIT AT FIRST, AND THE
16 SECOND ONE IS ACTUALLY WHEN HIS HAND ACTUALLY PRETTY MUCH
17 RELEASED FROM THE GUN.

18 Q NOW, WHEN YOU WERE-- WE'RE CALLING THEM FRANK AND
19 LEO, AND THEY'RE SEATED OVER THERE. HAD YOU EVER SEEN MR.
20 LARMAND PRIOR TO THIS NIGHT?

21 A NO MA'AM.

22 Q HAD YOU EVER SEEN MR. LEMIRE PRIOR TO THIS NIGHT?

23 A NO MA'AM.

24 Q OKAY. SO, ME HAVING POINTED OUT WHO IS WHO, WHO HAD
25 THE GUN?

- 1 A (WITNESS IDENTIFIES DEFENDANT LEMIRE BY FINGER POINT)
- 2 Q YOU'RE POINTING TO LEO LEMIRE?
- 3 A YES MA'AM.
- 4 Q IS THAT CORRECT?
- 5 A HE LOOKED LIKE A FRANK TO ME, SO I GET THEM CONFUSED,
- 6 BUT, YES.
- 7 Q OKAY.
- 8 A I'M VERY CLEAR ON THAT. KEEP IN MIND THAT AT THE POLICE
- 9 STATION AS SOON AS I WALKED INTO THE OFFICER'S OFFICE, THERE
- 10 WAS A PICTURE OF THEM WITH SEVERAL OTHER PEOPLE ON THE DESK
- 11 AND I POINTED HIM OUT AND SAID THAT WAS HIM.
- 12 Q OKAY.
- 13 A SO, MY RECOLLECTION OF HIS FACE IS VERY CLEAR.
- 14 Q IF YOU'LL JUST GIVE ME ONE MINUTE. I WANT TO DOUBLE-
- 15 CHECK ONE THING.
- 16 (PAUSE)
- 17 NOW, MR. HARRIS, YOU TESTIFIED THAT YOU SAID DEVIN, HELP
- 18 ME WITH THE GUN, HELP ME WITH THE GUN. WERE YOU TRYING TO
- 19 GET HIS HANDS OFF THE GUN?
- 20 A WELL, THAT WAS WHAT I WAS TRYING TO GET HIM TO DO, BUT
- 21 WITH THAT MANY BODIES ON IT, IT WAS KIND OF-- I MEAN, IT LOOKED
- 22 LIKE DEVIN WAS KIND OF PUSHING ON THE GUY, TRYING TO PUSH
- 23 AWAY AND SO FORTH. BUT, ESSENTIALLY, TO MY KNOWLEDGE, I
- 24 DON'T THINK DEVIN EVER HAD THE OPPORTUNITY TO GET HIS HANDS
- 25 ON THE GUN---

1 Q UH-HUH.

2 A ---BECAUSE THERE WAS TOO MANY HANDS ON IT.

3 Q OKAY.

4 A HE COULDN'T EASILY-- HE KEPT SAYING, I CAN'T GET IT, I CAN'T
5 GET IT. THAT HE COULDN'T GET AROUND IT.

6 Q NOW, AFTER YOU KICKED LEO LEMIRE IN THE GROIN AND HE
7 DROPPED THE GUN, WHAT HAPPENED THEN?

8 A WELL, AT THE TIME, WHEN HE PRETTY MUCH LET LOOSE, THE
9 GUN WAS PRETTY MUCH IN MINE AND RYAN'S HAND AT THE SAME
10 TIME, AND WE BACKED AWAY. IMMEDIATELY FRANK AND LEO--
11 ONCE EVERYONE REALIZED I HAD THE GUN--

12 I YELLED, I GOT THE GUN, I GOT THE GUN, AND EVERYONE KIND
13 OF LET EVERYONE GO, THESE TWO GENTLEMEN ACTUALLY STOOD UP
14 AND THEY BACKED AWAY MAYBE ABOUT TEN FEET AWAY FROM US. I
15 HELD THE GUN, JUST BASICALLY, AND THEY TOOK OFF RUNNING.

16 AND THAT'S WHEN MY WIFE WAS STILL ON THE PHONE WITH
17 THE POLICE. AND I YELLED, SOMEONE RUN AFTER THEM AND SEE
18 WHAT THEY'RE DRIVING, SEE WHERE THEY'RE GOING.

19 Q SO, YOU HAD THE GUN, NOT RYAN, AT THE POINT THAT THE
20 GUYS RAN OFF?

21 A YEAH. I MEAN, THAT'S A LITTLE VAGUE IN MY MEMORY,
22 BECAUSE, KEEP IN MIND IN THE BACKGROUND WHO WAS JUST
23 FRANTIC THAT I HAD A GUN AT MY CHEST, AND I WAS TRYING TO
24 CONTROL THAT AT THE SAME TIME.

1 BUT I BELIEVE WHEN WE BOTH KIND OF PULLED AWAY, RYAN
2 ACTUALLY TOOK THE GUN, YOU KNOW, AWAY FROM THE SITUATION.
3 BECAUSE I KNEW FROM PREVIOUS SHORT CONVERSATIONS WITH
4 RYAN THAT HE WAS IN THE SERVICE. I'M NOT SURE IF IT'S THE
5 MARINES OR ARMY OR SO FORTH. THAT'S HOW LITTLE I KNOW.

6 I DON'T HAVE THAT MUCH EXPERIENCE WITH GUNS, SO I WAS
7 VERY COMFORTABLE WITH THE FACT THAT HE HAD THE GUN IN HIS
8 HAND. SO, THAT'S WHY I LET HIM HAVE THE GUN.

9 Q DID YOU NOTICE WHAT HAPPENED TO THE GUN AFTER THAT?

10 A WELL, SHORTLY AFTERWARDS, AFTER THEY TOOK OFF
11 RUNNING, RYAN TOLD EVERYONE TO STAY BACK AND HE WALKED
12 OVER THE SIDEWALK, OPENED THE BARREL OF THE GUN, POURED THE
13 BULLETS DOWN ON THE SIDEWALK, AND THEN LAID THE GUN DOWN
14 AND SAID EVERYONE STAY AWAY FROM IT UNTIL THE POLICE COME.

15 Q THIS IS WHAT'S BEEN MARKED FOR EXHIBIT PURPOSES AS
16 STATE'S EXHIBIT FOUR.

17 A UH-HUH.

18 Q DO YOU RECOGNIZE THAT PHOTO? HAVE YOU EVER SEEN THAT
19 GUN SITUATED IN THAT MANNER BEFORE?

20 A YES. THAT'S EXACTLY HOW RYAN PUT IT ON THE GROUND,
21 SITTING STRAIGHT UP WITH THE BULLETS DOWN ON THE GROUND.

22 Q DID YOU SEE HIM-- DID YOU SEE RYAN TAKE THE BULLETS OUT
23 OF THE CHAMBER?

24 A HE OPENED THE BARREL AND PUT THE GUN STRAIGHT UP SO
25 THE BULLETS WOULD FALL OUT. THEY BASICALLY ALL FELL OUT. HE

1 SHOOK IT ONE OR TWO TIMES TO GET THE LAST ONE OUT, AND THEN
2 LAID IT FACE UP, JUST IN THIS MANNER.

3 Q AND IS THAT PHOTO A TRUTHFUL AND ACCURATE
4 REPRESENTATION OF HOW THAT APPEARED THAT EVENING?

5 A EXACTLY.

6 MS. JOYNER: YOUR HONOR, AT THIS TIME, I WOULD OFFER
7 STATE'S EXHIBIT FOUR INTO EVIDENCE.

8 THE COURT: ANY OBJECTION, MR. RHEA?

9 MR. RHEA: NO OBJECTION.

10 THE COURT: ANY OBJECTION, MR. GREELEY?

11 MR. GREELEY: NO OBJECTION.

12 THE COURT: ALL RIGHT. STATE'S EXHIBIT FOUR IS IN
13 EVIDENCE.

14 (WHEREUPON STATE'S EXHIBIT NUMBER FOUR WAS ADMITTED INTO
15 EVIDENCE WITHOUT OBJECTION)

16 Q AND YOU SAID THE TWO GENTLEMEN BACKED AWAY ABOUT
17 TEN FEET?

18 A YES, ROUGHLY.

19 Q AT SOME POINT DID THEY TAKE OFF RUNNING?

20 A THEY WERE BOTH-- I MEAN, EVERYONE, I MEAN, HAD CHOKE
21 HOLDS GOING ON HERE, BREATHING HEAVY. I MEAN, WITHIN A
22 MATTER OF SECONDS, YEAH, THEY TURNED AROUND AND TOOK OFF
23 RUNNING INTO THE FIELD.

24 Q DID ANYBODY SAY ANYTHING TO THEM BEFORE THEY TOOK
25 OFF RUNNING?

1 A BEFORE THEY TOOK OFF RUNNING?

2 Q YES.

3 A NOT THAT I RECOLLECT EXACTLY, I MEAN, AT THIS TIME.
4 MAYBE, I THINK SOMEONE MUST HAVE YELLED OR SOMETHING, GO
5 AHEAD, TAKE OFF. BUT, ME, PERSONALLY, I WAS REALLY KIND OF IN
6 AWE AT THE MOMENT OF WHAT WE DIDN'T HOLD THEM AT GUN POINT
7 OR SOMETHING TILL THE COPS GOT THERE. BUT WHEN YOU'RE
8 DEALING WITH THAT SITUATION--

9 AT THAT POINT I STILL DIDN'T KNOW WHO THESE PEOPLE WERE
10 OR WHAT THE SITUATION WAS OR ANYTHING. I MEAN, I NEVER TOLD
11 THEM TO TAKE OFF RUNNING, IF THAT'S WHAT YOU'RE ASKING.

12 Q OKAY. DID ANYBODY FOLLOW THEM WHEN THEY TOOK OFF
13 RUNNING?

14 A YEAH. I BELIEVE IT WAS DEVIN AND MARK INITIALLY WENT
15 AFTER, TOOK OFF RUNNING. I BASICALLY-- WHEN DEVIN TOOK OFF
16 AFTER THEM, WHEN I YELLED, YOU KNOW, SOMEONE FOLLOW THEM,
17 SOMEONE RUN AFTER THEM, AND SEE WHAT THEY'RE DRIVING.
18 BECAUSE, LIKE I SAID, I DIDN'T KNOW WHO THEY WERE OR WHAT THE
19 SITUATION WAS.

20 SO, THEY TOOK OFF AFTER THEM AND I SAID, SEE WHAT
21 THEY'RE DRIVING, SEE WHAT THEY'RE GETTING AWAY IN. AND THAT'S
22 WHEN THEY TOOK OFF RUNNING AFTER THEM. BUT THEY WERE
23 LITERALLY, EASILY A GOOD TWENTY-FIVE, FIFTY FEET, EASILY
24 BEHIND THEM.

25 Q OKAY.

- 1 A THEY WEREN'T THAT CLOSE.
- 2 Q MR. HARRIS, WERE YOU STILL ON THE SCENE THAT EVENING
- 3 WHEN POLICE OFFICERS ARRIVED?
- 4 A YES MA'AM.
- 5 Q DID ANY POLICE OFFICERS SPEAK WITH YOU THAT NIGHT?
- 6 A NOT AT FIRST. I HAD TO ACTUALLY ASK THE POLICE OFFICERS,
- 7 YOU KNOW, DO YOU WANT A STATEMENT FROM ME.
- 8 Q WAS THAT OFFICER OLIVER?
- 9 A I BELIEVE SO, YES.
- 10 Q DID YOU TALK WITH DETECTIVES LATER?
- 11 A BRIEFLY, YES.
- 12 Q WAS THAT OVER THE PHONE?
- 13 A YES. I BELIEVE THAT WAS THE GENTLEMAN THAT I WENT TO
- 14 THE POLICE STATION AND MET.
- 15 Q DO YOU RECALL TO GIVING A STATEMENT TO DETECTIVE
- 16 HERRING ON THE FIFTH OF MAY?
- 17 A YES.
- 18 Q DO YOU RECALL TELLING DETECTIVE HERRING THAT RYAN
- 19 TOLD THE GUYS TO LEAVE BECAUSE HE HAD THE PISTOL?
- 20 A I MAY HAVE. I MEAN, AT THAT POINT. LIKE I SAID, A LITTLE BIT
- 21 OF THAT WAS VAGUE. I MAY HAVE SAID THAT. I WAS KIND OF, IN THE
- 22 HEAT OF THE MOMENT, WITH MY WIFE YELLING. I WAS KINDA OF
- 23 LOOKING, AND LIKE, WHY DID THEY TAKE OFF RUNNING. SO, I
- 24 BELIEVE SOMEONE SAID THAT. WHO IT WAS EXACTLY I'M NOT SURE
- 25 AT THIS TIME.

1 Q THANK YOU VERY MUCH. PLEASE ANSWER ANY QUESTIONS MR.
2 RHEA OR GREELEY HAVE FOR YOU.

3 THE COURT: CROSS EXAMINATION, MR. RHEA.

4 MR. RHEA: THANK YOU, YOUR HONOR.

5 **CROSS EXAMINATION BY MR. RHEA:**

6 Q MR. HARRIS, YOU STATED YOU LIVED NEXT DOOR TO MR.
7 LOCHBAUM FOR ABOUT A YEAR. IS THAT CORRECT?

8 A YES SIR.

9 Q BUT YOU DIDN'T KNOW HIM WELL?

10 A CORRECT.

11 Q AND HE WAS HAVING A GATHERING IN HIS DRIVEWAY THAT
12 NIGHT AND YOU WERE NOT PART OF THAT?

13 A I WAS INSIDE ASLEEP. I DIDN'T KNOW ANYTHING ABOUT IT.

14 Q AND I BELIEVE IN YOUR STATEMENT IN WHICH YOU TOLD MS.
15 JOYNER THAT YOUR WIFE ACTUALLY WOKE YOU UP. IS THAT
16 CORRECT?

17 A CORRECT.

18 Q AND YOU STATED THAT YOU LOOKED OUT THE WINDOW. IS
19 THAT CORRECT?

20 A CORRECT.

21 Q AND YOU STATED THAT YOU SAW MY CLIENT, MR. LARMAND,
22 PUSH RYAN. IS THAT CORRECT?

23 A YES SIR.

24 Q DID YOU ALSO TELL DETECTIVE HERRING THAT YOU SAW RYAN
25 PUSH HIM BACK?

1 A YES, I DID.

2 Q AND YOU CALLED THEM BECAUSE OF IT?

3 A YES. ONCE I SAW THE PUSH IS WHEN I TOLD MY WIFE TO CALL
4 THE COPS. I MEAN, YES, RYAN DID PUSH HIM BACK.

5 Q WERE YOU ALREADY IN BED? YOU WERE SLEEPING? IS THAT
6 RIGHT?

7 A WELL, I FELL ASLEEP. I WAS ASLEEP MAYBE ABOUT THIRTY
8 MINUTES. I FELL ASLEEP IN MY RECLINER RIGHT NEXT TO THE
9 WINDOW, WATCHING TV.

10 Q SO, YOU WEREN'T IN BED. I MEAN, YOU DIDN'T HAVE TO CLOTHE
11 YOURSELF TO RUN OUT?

12 A NO. I WAS STILL DRESSED IN WHAT I WENT IN TO MY JOB
13 INTERVIEW THAT DAY WHICH WAS A BLACK SHIRT AND PANTS LIKE
14 THE GENTLEMAN OVER HERE.

15 Q AND YOU HAD YOUR SHOES ON?

16 A ACTUALLY, NO. I HAD BLACK SOCKS ON.

17 Q SO, YOU RAN OUT WITH THE SOCKS ON?

18 A CORRECT.

19 Q AND YOU STATED THAT YOU HAD ON BLACK PANTS AND A
20 BLACK SHIRT ON?

21 A YES SIR.

22 Q AND THERE WASN'T ANYTHING SUSPICIOUS OR ANYTHING
23 ABOUT WHAT YOU WERE WEARING, WAS THERE?

24 A NO. THAT JUST HAPPENED TO BE WHAT I WAS WEARING. WHY
25 MY WIFE MISTAKED (SIC) ME FOR HIM, I SHOULD SAY. MY WIFE

1 WEARS CONTACTS AND SHE HAD THEM OUT. SO, I CAN SEE WHY SHE
2 GOT CONFUSED.

3 Q NOW, YOU STATED THAT YOU WERE LOOKING OUT OF YOUR
4 WINDOW. AND YOUR HOUSE IS RIGHT NEXT DOOR TO MR.
5 LOCHBAUM'S? CORRECT?

6 A CORRECT.

7 Q AND WHEN YOU WERE LOOKING OUT THE WINDOW, COULD YOU
8 SEE MR. LOCHBAUM'S VAN?

9 A CLEARLY, YES.

10 Q AND YOU STATE THAT THEY WERE ON YOUR HOUSE SIDE OF
11 THAT VAN WHEN YOU WERE LOOKING OUT THE WINDOW?

12 A CORRECT.

13 Q WHICH IS APPROXIMATELY PARKED IN THE DRIVEWAY? RIGHT?

14 A UH-HUH.

15 Q AND BY THE TIME YOU RAN OUT OF THE HOUSE AND GOT DOWN
16 THERE THEY WERE ON THE OTHER SIDE OF THE VAN?

17 A CORRECT.

18 Q AND THAT'S WHEN I ACTUALLY REALIZED THERE WAS A THIRD
19 PERSON INVOLVED, INSTEAD OF JUST THE TWO. I DIDN'T SEE THE
20 SECOND PERSON UNTIL I GOT ON THE OTHER SIDE OF THE VAN.

21 Q WAS HE ALREADY THERE?

22 A EXCUSE ME?

23 Q HE WAS ALREADY THERE?

24 A WHAT, THE THIRD PERSON?

25 Q YES SIR.

1 A WHEN I RAN OVER, YES, THEY WERE ON THE GROUND, THE
2 THREE OF THEM TOGETHER.

3 Q AND I KNOW YOU WERE FOCUSSED ON THAT. BUT DID YOU SEE
4 ANY OTHER NEIGHBORS OR ANYBODY ELSE'S?

5 A NOBODY TO MY KNOWLEDGE. IT WAS JUST US OUTSIDE. I HAD
6 NO CLUE THAT ANYONE WAS OUT THERE BEFORE WHATSOEVER.

7 Q DO YOU KNOW MARK WHITTINGTON?

8 A YES, I DO. HE'S ACTUALLY A FORMER EMPLOYEE OF MINE.

9 Q IN WHAT CAPACITY?

10 A HE USED TO BE A DRIVER FOR A COMPANY I WORK FOR.

11 Q IT WAS YOUR COMPANY?

12 A WELL, A COMPANY I WORKED FOR, YES.

13 Q AND MR. FIVECOAT, YOU KNOW HIM AS WELL?

14 A JUST IN CONVERSATION AS A NEIGHBOR, YES.

15 Q AND MR. RON LEE?

16 A YES SIR.

17 Q YOU KNOW HIM AS WELL?

18 A JUST IN BRIEF CONVERSATIONS; DIDN'T GO HANG OUT OR
19 ANYTHING OF THAT NATURE. JUST IN BRIEF CONVERSATIONS AS
20 NEIGHBORS.

21 Q NOW, THE MORNING OF MAY 1, THAT DAY THAT YOU HAD A
22 PHONE INTERVIEW WITH DETECTIVE HERRING. DO YOU REMEMBER
23 TALKING TO HIM?

24 A YES SIR. I'D NEVER HIM SEEN HIM FACE TO FACE, SO, YES.

1 Q AND YOU MET WITH DETECTIVE HERRING FOUR DAYS LATER ON
2 MAY 5. CORRECT?

3 A CORRECT.

4 Q DURING THAT TIME DID YOU EVER TALK TO, IN BETWEEN THE
5 INCIDENT AND YOUR PHONE INTERVIEW WHEN YOU SPOKE WITH MR.
6 HERRING, DID YOU EVER SPEAK WITH MR. LOCHBAUM, OR MR.
7 FIVECOAT, OR MR. WHITTINGTON, OR MR. LEE ABOUT THE INCIDENT?

8 A YOU MEAN DURING THAT FOUR-DAY PERIOD?

9 Q YES.

10 A YES, WE HAD DISCUSSIONS, YOU KNOW, OF WHY DID IT HAPPEN,
11 WHO WAS THERE, THINGS OF THAT NATURE.

12 Q AND YOU TALKED, NO QUESTION YOU TALKED WITH MR.
13 WHITTINGTON ABOUT IT?

14 A CORRECT.

15 Q NOW, YOU SAID THAT EVERYBODY WAS ALREADY ON THE
16 GROUND WHEN YOU GOT TO THE OTHER SIDE OF THE VAN?

17 A WELL, MR. LOCHBAUM, LEO AND FRANK, YES.

18 Q LET ME ASK YOU ONE THING. I MEAN, YOU DON'T SPEND YOUR
19 WHOLE LIFE STARING OUT YOUR WINDOW. AND OF COURSE, RYAN'S
20 DRIVEWAY IS IN THE PROXIMITY. WOULD YOU HAVE BEEN ABLE TO
21 SEE ON THE OTHER SIDE OF HIS VAN FROM YOUR WINDOW?

22 A NO SIR.

23 Q I GUESS THAT'S MY QUESTION.

24 A NO, BECAUSE THE ANGLE, YOU KNOW, WHERE RYAN PARKS HIS
25 VAN IS MAYBE A FOOT OR TWO AWAY FROM HIS GARAGE DOOR. AND

1 THE ANGLE FROM WHERE MY WINDOW IS, I JEAN, I JUST COULDN'T
2 EVEN SEE THE FRONT BUMPER OF THE VAN. I COULD SEE MAYBE
3 FROM THE DOOR BACK. AND THEY WERE AT THE BACK SIDE OF THE
4 VAN, ON THAT SIDE.

5 SO, I WAS LITERALLY SHOCKED WHEN I GOT OVER THERE. I
6 THOUGHT I SAW, YOU KNOW, MY NEIGHBOR, AND ANOTHER GUY OF
7 MY STATURE. THAT'S WHAT I THOUGHT I WAS RUNNING OUT THERE
8 TO BREAK UP AND PULL APART. IF I'D HAD ANY CLUE THAT ANOTHER
9 BIG BODY WAS INVOLVED, I PROBABLY WOULD HAVE THOUGHT
10 TWICE.

11 Q YOU STATED THAT THERE WERE MANY HANDS ON THE GUN AT
12 THAT TIME TRYING TO KEEP IT FROM BEING USED. CORRECT?

13 A EXCUSE ME?

14 Q I THOUGHT YOU TOLD MS. JOYNER THAT THERE WERE MANY
15 HANDS, AT ONE TIME THERE WERE MANY HANDS ON THE GUN?

16 A WELL, THERE WAS DEFINITELY NOT HIS HAND ON THE GUN. IT
17 WAS RYAN'S AND LEO'S HANDS ON THE GUN. SO, WHETHER IT BE TWO
18 OR FOUR, I DIDN'T EXACTLY SEE HOW MANY, BUT YES.

19 Q ONE OF THEM BEING YOUR HAND?

20 A EVENTUALLY, YES.

21 Q I'M TALKING ABOUT DURING THE---

22 A OH, DURING THE SCUFFLE, YES.

23 Q I'M NOT TALKING ABOUT---

24 A YES. BOTH OF MY HANDS WERE ON THAT GUNS, MY HANDS, YES

25 SIR.

- 1 Q WERE ANYBODY ELSE'S HANDS ON THERE?
- 2 A YOU MEAN ON THE GUN. TO MY KNOWLEDGE, NO SIR.
- 3 Q DID RYAN HAVE HIS HAND ON THE GUN?
- 4 A WELL, RYAN HAD HIS HAND AND LEO, YES.
- 5 Q AT ANY TIME DURING THE SCUFFLE DO YOU KNOW WHETHER
- 6 MR. LARMAND HAD HIS HANDS ON THE GUN?
- 7 A TO MY KNOWLEDGE, NO.
- 8 Q OKAY.
- 9 A THE WHOLE TIME I SAW THAT GENTLEMAN IS WHEN HE PUSHED
- 10 RYAN AND RYAN PUSHED HIM BACK. WHEN I GOT OVER TO THE
- 11 OTHER SIDE, WHEN I GOT THERE HE HAD RYAN IN A CHOKE HOLD.
- 12 Q AND RYAN WAS ON TOP OF MR. LEMIRE?
- 13 A CORRECT.
- 14 Q IS THAT CORRECT?
- 15 A YES SIR.
- 16 Q AND LEO WAS THE ONE YOU'RE TALKING ABOUT DOWN ON THE
- 17 BOTTOM?
- 18 A YES.
- 19 Q I JUST WANT TO MAKE SURE.
- 20 A YES SIR.
- 21 Q I'M NOT INTENTIONALLY TRYING TO CONFUSE YOU.
- 22 A RIGHT. THAT'S WHY I'M POINTING.
- 23 Q I MEAN, HE LOOKS LIKE FRANK AND...
- 24 A THAT'S WHY I'M POINTING.

- 1 Q NOW, YOU STATED THAT OTHER FOLKS, WHETHER IT BEING MR.
2 WHITTINGTON, YOUR FORMER EMPLOYEE, MR. FIVECOAT, OR
3 WHOEVER, THEY CAME AND GOT INVOLVED IN THE SCUFFLE AS WELL.
4 AND YOU HAD ARRIVED HALFWAY THROUGH THE SCUFFLE. IS THAT
5 CORRECT?
- 6 A ROUGHLY, YES.
- 7 Q HOW DO YOU KNOW?
- 8 A LIKE I SAID, HE---
- 9 Q I MEAN, YOU DIDN'T KNOW WHAT WAS WHAT.
- 10 A RIGHT.
- 11 Q YOU STATED THAT MR. FIVECOAT HELPED WITH THE GUN.
- 12 A EXCUSE ME?
- 13 Q THAT MR. FIVECOAT HELPED WITH THE GUN, OR TRIED TO HELP
14 WITH THE GUN?
- 15 A WELL, HE TRIED. I DO NOT BELIEVE HIS HANDS EVER ACTUALLY
16 MADE CONTACT WITH THE GUN.
- 17 Q OKAY. I'M SORRY. WHEN YOU WERE SAYING HE HELPED WITH
18 THE GUN, I DIDN'T KNOW WHAT THAT MEANT, WHERE HIS HANDS
19 WERE, IF THEY WERE ACTUALLY ON THE GUN.
- 20 A HE HELPED BASICALLY TRYING TO PUSH THE GUYS AWAY AND
21 PULL THEM UP. BECAUSE YOU'VE GOT TO REALIZE THAT YOU'VE GOT
22 TWO BODIES THAT ARE HUNCHED OVER A GUN WITH HANDS AND MY
23 HANDS. SO, YOU REALLY-- FOR ANOTHER BODY TO EVEN GET IN
24 THERE WAS VERY DIFFICULT.
- 25 Q YOU EVENTUALLY TOOK POSSESSION OF THE GUN?

1 A CORRECT.

2 Q AND GAVE IT TO MR. LOCHBAUM. CORRECT?

3 A YEAH. I MEAN, REALISTICALLY, I DID. BOTH OF OUR HANDS
4 WERE ON IT, AND I KIND OF PASSED IT OFF.

5 Q YOU DIDN'T SAY ANYTHING TO MR. LARMAND, OR DID HE SAY
6 ANYTHING TO YOU OR ANYTHING LIKE THAT?

7 A I DON'T REMEMBER EVER HEARING A WORD OUT OF HIS MOUTH
8 ABOUT ANYTHING, PERSONALLY, THROUGHOUT THE WHOLE, ENTIRE
9 SITUATION, BEFORE, DURING AND AFTER.

10 MR. RHEA: BEG THE COURT'S INDULGENCE, YOUR HONOR.

11 THE COURT: YES SIR.

12 (PAUSE)

13 Q MR. JOYNER ASKED YOU ABOUT THIS: WHEN YOU TALKED WITH
14 DETECTIVE HERRING, DO YOU RECALL TELLING HIM THAT RYAN TOLD
15 BOTH GUYS, THAT'S LEO AND FRANK, TO LEAVE, SINCE HE HAD THE
16 GUN AND IT COULD BE USED. DO YOU REMEMBER THAT AT ALL?

17 A I BELIEVE I DID. BUT I WASN'T A HUNDRED PERCENT IF IT WAS
18 RYAN OR ONE OF THE OTHER GUYS BECAUSE I WAS FOCUSSED ON MY
19 WIFE'S FRANTIC-NESS OF THE GUN. AND I RECALL SOMEBODY
20 YELLING, YOU KNOW, TO LEAVE.

21 I DO BELIEVE I MAY HAVE STATED THAT IT WAS RYAN, BUT I'M
22 NOT SURE IF IT WAS OR NOT.

23 MR. RHEA: NOTHING FURTHER, YOUR HONOR.

24 THE COURT: ALL RIGHT. MR. GREELEY.

25 MR. GREELEY: MAY IT PLEASE THE COURT.

1 CROSS EXAMINATION BY MR. GREELEY:

2 Q WHEN EVERYTHING HAD CALMED DOWN, WHO WAS LEFT
3 THERE?

4 A I'M ASSUMING YOU'RE TALKING, CALMED DOWN MEANT THEY
5 WERE ALREADY GONE?

6 Q AFTER THEY LEFT.

7 A SO, IT WAS ME, RYAN, DEVIN, MARK. I THINK HIS NAME'S RON.
8 MY WIFE, WHO WAS ON THE PHONE WITH THE POLICE THROUGHOUT
9 THE ENTIRE TIME. I BELIEVE THAT WAS IT.

10 Q WERE THERE ANY WOMEN THERE?

11 A I DON'T RECALL. I BELIEVE THAT, I DON'T KNOW IF IT WAS
12 MARK'S WIFE, OR WHOMEVER THAT EVENTUALLY-- OR TARA. I CAN'T
13 REMEMBER WHICH ONE IT WAS. I THINK ONE OF THEM CAME UP AT
14 THE VERY, VERY END AFTER THE GUYS RAN AWAY AND EVERYTHING.

15 Q WHO'S TARA?

16 A JUST ONE OF THE NEIGHBORS.

17 Q TARA LOWERY?

18 A YES.

19 Q YOU MAY HAVE SEEN HER THERE?

20 A I BELIEVE SHE WAS THERE AT THE VERY END, YEAH.

21 Q OKAY.

22 A LIKE I SAID, I KNOW AT THE VERY, VERY END SHE WAS THERE. I
23 MEAN, I WAS DEALING WITH MY WIFE'S FRANTIC-NESS, LIKE I SAID,
24 WHEN IT GOT TO THAT POINT.

- 1 Q NOW, WHEN YOU UNLOCKED OUT YOUR WINDOW YOU SAW MR.
2 LARMAND AND MR. LOCHBAUM ON YOUR SIDE OF THE VAN?
- 3 A CORRECT. RIGHT NEXT TO IT.
- 4 Q AND WHEN YOU MOVED AWAY FROM THE WINDOW, THAT'S
5 WHERE THEY WERE?
- 6 A WHEN I WAS LOOKING OUT THE WINDOW, THAT'S WHERE THEY
7 WERE. I---
- 8 Q YES SIR.
- 9 A ---TURNED AROUND, YELLED AT MY WIFE IN THE KITCHEN, CALL
10 THE COPS. I RAN OUT THE DOOR. BY THE TIME I RAN OUT THE DOOR,
11 THEY WERE ON THE OPPOSITE SIDE.
- 12 Q HOW FAR IS THE WINDOW FROM THE FRONT DOOR?
- 13 A ABOUT THREE FEET.
- 14 Q AND SO, IT WAS JUST BASICALLY TAKING TWO STEPS, YELLING
15 TO YOUR WIFE AND GOING OUT THE FRONT DOOR?
- 16 A I MEAN, I DID A PAUSE, YELLED TO MY WIFE, GET THE PHONE,
17 CALL THE COPS.
- 18 Q RIGHT.
- 19 A SO, A VERY, FEW BRIEF SECONDS, YES SIR. AND I HAD TO
20 UNLOCK THE DOOR, BY THE WAY.
- 21 Q OKAY.
- 22 A DOUBLE LOCKS.
- 23 Q AND BY THEN THEY WERE ON THE OTHER SIDE OF THE VAN?
- 24 A CORRECT.
- 25 Q AND YOU SAID THEY WERE ON THE GROUND?

- 1 A CORRECT.
- 2 Q HOW FAR AWAY WERE THEY FROM THE VAN ON THE GROUND?
- 3 A I WOULD SAY ON THAT SIDE, THREE FEET, MAYBE THREE OR
- 4 FOUR FEET.
- 5 Q THEY WERE RIGHT OFF OF THE DRIVEWAY?
- 6 A CORRECT.
- 7 Q AND WHEN YOU FIRST GOT THERE YOU DID NOT SEE THE GUN?
- 8 A AT FIRST, NO, I DIDN'T. I JUST THOUGHT I WAS BREAKING UP A
- 9 FIGHT. SO I JUMPED ON THE SMALLEST ONE.
- 10 (LAUGHTER)
- 11 THAT'S A WISE CHOICE FOR ME.
- 12 (LAUGHTER)
- 13 Q I UNDERSTAND. AND IT WAS WHILE YOU WERE ON FRANK THAT
- 14 YOU THEN SAW THE GUN?
- 15 A YES. AND THAT WAS-- I DON'T EVEN THINK I GOT A FULL CHOKE
- 16 HOLD IN. THAT'S HOW QUICKLY I SAW IT.
- 17 Q BUT THAT'S THE FIRST TIME I SAW IT?
- 18 A CORRECT.
- 19 Q AND AT THE TIME WHEN YOU FIRST SAW IT THERE WERE AT
- 20 LEAST TWO HANDS ON THAT GUN?
- 21 A CORRECT.
- 22 Q AND THEN AT SOME POINT YOU NOTICED THAT THE-- WHAT'S IT
- 23 CALLED?
- 24 A THE HAMMER.
- 25 Q THE HAMMER WAS BACK.

- 1 A IMMEDIATELY, AS I RAN AROUND, I HAD A FULL VISUAL OF THE
2 GUN. I SAW THE HAMMER BACK AND THE FIRST THING I DID WHEN I
3 PUT MY HAND IN IS PUT THAT FINGER RIGHT IN THE HAMMER.
- 4 Q RIGHT, OKAY. YOU DON'T KNOW HOW THE HAMMER WAS
5 PULLED BACK, DO YOU?
- 6 A NO, I DON'T. I CAN TELL YOU, THOUGH, THAT THERE WAS ONLY
7 ONE FINGER WHERE THE TRIGGER IS. BECAUSE---
- 8 Q RIGHT.
- 9 A ---RYAN'S HAND WAS ON TOP, AND THAT WOULD BE HIS.
- 10 Q RYAN'S HAND WAS ON TOP OF THE TRIGGER. RIGHT?
- 11 A YES.
- 12 Q NOW, DID MY CLIENT PHYSICALLY STRIKE YOU?
- 13 A PHYSICALLY, NO SIR.
- 14 Q IS IT A FAIR STATEMENT TO SAY THAT HE WAS INTERESTED IN
15 HOLDING ON TO THE GUN?
- 16 A YES, VERY.
- 17 Q TO YOUR KNOWLEDGE, THE GUN WAS NEVER FIRED?
- 18 A EXCUSE ME?
- 19 Q TO YOUR KNOWLEDGE, THE GUN WAS NEVER FIRED?
- 20 A CORRECT. WELL, YOU SAY FIRED, BUT THAT HAMMER DID
21 CLICK ON MY FINGER. SO, IT DEPENDS ON WHAT YOU MEAN.
- 22 Q BEFORE YOU PUT YOUR FINGER IN THERE, AND AT THE TIME
23 THAT YOU SAW THE HAMMER BACK, ---
- 24 A UH-HUH.

1 Q ---YOU SAY MY CLIENT'S FINGER WAS ON THE TRIGGER.

2 CORRECT?

3 A CORRECT.

4 Q BUT THE GUN NEVER FIRED, DID IT?

5 A CORRECT.

6 MR. GREELEY: YOUR HONOR, THAT'S ALL I HAVE.

7 THE COURT: RE-DIRECT?

8 MS. JOYNER: JUST BRIEFLY, YOUR HONOR.

9 RE-DIRECT EXAMINATION BY MS. JOYNER:

10 Q I'M SORRY, MR. HARRIS. I KNOW YOU'VE GOT TO CATCH A
11 PLANE.

12 A IT'S OKAY.

13 Q JUST A FEW QUESTIONS FOR CLARIFICATION. SO, YOU'RE
14 LOOKING AT YOUR WINDOW, AND THEN RYAN'S VAN IS RIGHT HERE?

15 A UH-HUH.

16 Q CLOSE THERE, WITHIN YOUR VIEW. SO, ARE RYAN AND FRANK
17 AT THAT POINT STANDING IN RYAN'S DRIVEWAY?

18 A THEY'RE STANDING RIGHT NEXT TO THE BACK PASSENGER SIDE
19 CORNER OF THE VAN AT THE DRIVEWAY, YES.

20 Q OKAY. AND THAT'S WHEN THE PUSHING STARTED, IN THE
21 DRIVEWAY?

22 A CORRECT.

23 Q NOW, HOW WIDE WOULD YOU SAY IS RYAN'S VAN?

24 A IT'S ACTUALLY A MINIVAN, SO IT WOULD BE STANDARD. I
25 DON'T KNOW. MAYBE FIVE AND A HALF FEET, SIX FEET, I GUESS.

1 Q SO, THE DISTANCE THAT RYAN AND FRANK TRAVELED
2 BETWEEN THE TIME YOU WENT OUT THE DOOR WAS NOT THAT GREAT.
3 IS THAT FAIR TO SAY?

4 A MAXIMUM TWELVE FEET, TWELVE, THIRTEEN FEET. KEEP IN
5 MIND I HAD TO RUN ABOUT MAYBE THIRTY-FIVE, FORTY FEET,
6 UNLOCK TWO LOCKS, AND YELL AT MY WIFE.

7 Q OKAY. AND YOU DIDN'T SEE HOW THEY GOT FROM POINT A TO
8 POINT B?

9 A NO. I MEAN, I WAS ACTUALLY SURPRISED WHEN I OPENED MY
10 DOOR AND SAW THAT THEY WERE ON THE OTHER SIDE.

11 Q I'M STUPID ABOUT GUNS. AND SO, YOU SAID THE GUN CLICKED.
12 SO, IF YOU COULD-- SO, YOUR HAND IS?

13 A WELL, LEO'S HAND IS HERE.

14 Q WHERE MY HAND IS.

15 A RYAN'S, FROM WHAT I KNOW ABOUT IT, HIS ONE HAND WAS ON
16 THE WRIST OF LEO---

17 Q OKAY.

18 A ---AND THE OTHER ONE WAS ON TOP OF THE GUN.

19 Q OKAY.

20 A THAT'S WHAT YOU DO TO DEFEND IT. MY HAND WAS IN THE
21 CHAMBER UP HERE, AND---

22 Q UH-HUH.

23 A ---I'M TRYING TO GRAB IT UNDER HERE.

24 Q OKAY.

25 A OKAY.

- 1 Q SO, LEO'S HAND WAS ON THE TRIGGER?
- 2 A CORRECT.
- 3 Q SO, THAT THIS HAMMER MOVED FORWARD?
- 4 A YES MA'AM.
- 5 Q THAT'S HOW IT SNIPPED YOUR FINGER?
- 6 A YES.
- 7 Q WHAT WOULD MAKE IT MOVE FORWARD?
- 8 A BY PULLING THE TRIGGER.
- 9 Q SO, IS IT YOUR TESTIMONY THAT YOUR FINGER STOPPED THE
- 10 TRIGGER FROM GOING ALL THE WAY?
- 11 A CORRECT. MY FINGER WAS PRESSED VERY HARD IN BETWEEN
- 12 THE TWO.
- 13 Q I KNOW YOU'RE NOT A GUN EXPERT. BUT WHAT MADE THE
- 14 CLICK?
- 15 A WHAT MADE THE CLICK?
- 16 Q DO YOU KNOW?
- 17 A THE ONLY THING I KNOW THAT CAN MAKE A GUN CLICK IN
- 18 THAT MOTION IS BY PULLING THE TRIGGER.
- 19 Q BUT NOTHING CAME OUT? NO BULLETS CAME OUT?
- 20 A NO MA'AM.
- 21 Q THANK YOU VERY MUCH, MR. HARRIS.
- 22 THE COURT: MR. RHEA?
- 23 MR. RHEA: NOTHING FURTHER, YOUR HONOR.
- 24 THE COURT: MR. GREELEY?
- 25 MR. GREELEY: NOTHING FURTHER.

1 THE COURT: YOU MAY STEP DOWN.

2 A THANK YOU.

3 THE COURT: ANY OBJECTION TO THIS WITNESS BEING EXCUSED?

4 MR. RHEA: NO, YOUR HONOR.

5 MR. GREELEY: NO, YOUR HONOR.

6 THE COURT: YOU MAY LEAVE, MR. HARRIS. THANK YOU.

7 ALL RIGHT, LADIES AND GENTLEMEN OF THE JURY. WE ARE GOING TO

8 TAKE A LUNCH BREAK. BE BACK HERE AT THREE O'CLOCK. AND

9 AGAIN, DO NO DISCUSS THE CASE AMONGST YOURSELVES OR WITH

10 ANYBODY ELSE.

11 (WHEREUPON THE JURY EXITED THE COURTROOM AT 1:32 P.M.

12 FOR THE LUNCH RECESS)

13 WE'LL BE IN RECESS FOR LUNCH UNTIL 3:00.

14 COURT IN SESSION - 3:00 P.M.

15 THE COURT: IS THE STATE READY?

16 MS. JOYNER: THE STATE IS READY.

17 THE COURT: ARE YOU READY, MR. RHEA?

18 MR. RHEA: READY, YOUR HONOR.

19 THE COURT: MR. GREELEY?

20 MR. GREELEY: WE'RE READY, YOUR HONOR.

21 THE COURT: BRING IN THE JURY.

22 (WHEREUPON THE JURY ENTERED THE COURTROOM)

23 CALL YOUR NEXT WITNESS.

24 MS. JOYNER: THE STATE CALLS RYAN LOCHBAUM.

25

1 RYAN DONOVAN LOCHBAUM, DULY SWORN,

2 TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MS. JOYNER:

4 Q WOULD YOU PLEASE STATE YOUR FULL NAME FOR THE
5 RECORD?

6 A RYAN DONOVAN LOCHBAUM.

7 Q WHAT'S YOUR ADDRESS?

8 A 516 GENTLE BREEZE, ROCK HILL, SOUTH CAROLINA 29730.

9 Q HOW LONG HAVE YOU LIVED AT GENTLE BREEZE LANE?

10 A A YEAR OCTOBER 1.

11 Q IS THAT A HOUSE?

12 A YES MA'AM, MY FIRST.

13 Q DO YOU LIVE ALONE?

14 A NO MA'AM. I LIVE WITH MY WIFE AND FIVE YEAR OLD SON.

15 Q WHAT'S THE NAME OF YOUR NEIGHBORHOOD?

16 A IT'S CALLED SOFT WINDS VILLAGE.

17 Q SOFT WINDS VILLAGE?

18 A YES MA'AM.

19 Q HOW WOULD YOU DESCRIBE WHAT YOUR NEIGHBORHOOD

20 LOOKS LIKE?

21 A WELL, IT'S NOT FINISHED. BUT IT IS OUT OF THE WAY, KIND OF
22 SECLUDED, ONLY ONE WAY IN AND ONE WAY OUT. SO, YOU GET AN
23 IDEA OF THE NEIGHBORS AND SUCH. IT'S PRETTY SMALL, CLOSE KNIT.

24 WE LOVE IT.

- 1 Q AND YOU SAID A MINUTE AGO, JUST FOLLOW UP, THAT IT'S KIND
- 2 OF SECLUDED?
- 3 A YES. IT'S NOT ON ANY GPS OR ANYTHING LIKE THAT. IT'S ON THE
- 4 EXTREME SOUTH END OF ROCK HILL. JUST SOUTH OF OUR
- 5 SUBDIVISION IS THE YORK COUNTY LINE.
- 6 Q AND YOU SAID IT WASN'T FINISHED. IS IT A SUBDIVISION?
- 7 A YES MA'AM. THE BUILDER WENT BANKRUPT. SO, WE DON'T
- 8 EVEN KNOW OF THE REST OF THE HOUSES ARE GOING TO BE FINISHED.
- 9 Q NOW, DO YOU KNOW THE DEFENDANT, FRANK LARMAND?
- 10 A YES MA'AM.
- 11 Q DO YOU KNOW THE DEFENDANT, LEO LEMIRE?
- 12 A YES MA'AM.
- 13 Q HOW DO YOU KNOW MR. LARMAND?
- 14 A I USED TO WORK FOR MR. LARMAND AT POP-A-LOCK.
- 15 Q WHEN DID THAT EMPLOYMENT RELATIONSHIP END?
- 16 A I THINK ABOUT THE LAST OF OCTOBER OF '08.
- 17 Q DO YOU RECALL, WERE YOU ACTUALLY LIVING AT GENTLE
- 18 BREEZE LANE WHEN YOU WORKED FOR MR. LARMAND?
- 19 A NO MA'AM, I LIVED IN CHARLOTTE.
- 20 Q OKAY.
- 21 A THAT'S WHERE ALL THE WORK WAS, CHARLOTTE.
- 22 Q NOW, MR. LEMIRE, HOW DO YOU KNOW MR. LEMIRE?
- 23 A I MET MR. LEMIRE ONE TIME. HIS FATHER HAD CALLED ME
- 24 ABOUT A LOCK OUT FOR HIS VEHICLE. HE WAS LOCKED OUT OF HIS

1 CAR. AND IT WAS AT THE TIME WARNER CABLE FACILITY ON
2 ARROWOOD.

3 Q SO, YOU MADE A KEY FOR HIM?

4 A NO, I JUST OPENED HIS CAR.

5 Q AND THAT'S THE ONLY TIME YOU'D MET HIM?

6 A YES MA'AM.

7 Q HAVE YOU EVER INVITED EITHER FRANK LARMAND OR EITHER
8 LEO LEMIRE OUT TO YOUR HOUSE?

9 A NO MA'AM.

10 Q TO YOUR KNOWLEDGE, HAD THEY EVER BEEN TO YOUR HOUSE
11 BEFORE?

12 A NO.

13 Q BACK WHEN YOU KNEW MR. LARMAND, WHERE DID HE LIVE?

14 A HE LIVED UP IN KANNAPOLIS.

15 Q WAS THAT IN NORTH CAROLINA?

16 A YES MA'AM.

17 Q I WANT YOU TO THINK BACK TO APRIL 30, TO THE EARLY
18 MORNING HOURS OF MAY 1, OF THIS YEAR. TELL THE JURY A LITTLE
19 BIT ABOUT HOW THAT EVENING BEGAN.

20 A WELL, JUST PRIOR TO THAT DAY WE HAD A BIRTHDAY PARTY
21 FOR MY SON. IT WAS HIS FIFTH BIRTHDAY. AND THAT WAS THE FIRST
22 TIME WE'D REALLY GOTTEN TO KNOW THE NEIGHBORS, BECAUSE WE
23 HAD INVITED THEM OVER BECAUSE THEY HAD KIDS AS WELL.
24 AND THAT NIGHT WE STILL HAD, LIKE, FIVE OR SIX BEERS LEFT OUT OF
25 THE TWELVE PACK WE GOT FOR THE PARTY.

1 SO, I DON'T REALLY DRINK, SO, YOU KNOW, IT WAS A GOOD WAY
2 TO GET TO KNOW THEM, AND THEN CLEAR OUT THE BEER IN THE
3 FRIDGE.

4 SO, MARK WAS ALSO IN THE MILITARY. SO, I WAS TALKING TO
5 HIM SPECIFICALLY ABOUT SOME OF THE ANIMALS THAT YOU WOULD
6 ENCOUNTER IN IRAQ, SPECIFICALLY CAMEL SPIDERS. THEY WERE
7 FASCINATING.

8 SO, CLAIRE AND ELIZABETH WERE GETTING READY TO GO TO
9 THE STORE, AND I WAS GOING TO GO TO A FRIEND'S HOUSE SHORTLY
10 AFTER THAT. SO, WE WERE WAITING OUTSIDE FOR CLAIRE AND
11 ELIZABETH TO GET BACK FROM THE STORE.

12 Q OKAY. I WANT TO STEP BACK A LITTLE BIT AND GO THROUGH
13 THIS.

14 A OKAY.

15 Q SO, CLAIRE IS YOUR WIFE?

16 A YES.

17 Q AND ELIZABETH IS?

18 A MARK WHITTINGTON'S WIFE.

19 Q SO, WERE CLAIRE AND ELIZABETH BOTH AT THE HOUSE JUST
20 PRIOR TO GOING TO THE STORE?

21 A YES.

22 Q DO YOU REMEMBER WHO ELSE WAS AT YOUR HOUSE?

23 A RON, DEVIN AND TARA, WHO WAS BACK AND FORTH
24 INTERMITTENTLY BECAUSE SHE HAS A LITTLE ONE THAT SHE WAS
25 CHECKING ON, BACK AND FORTH.

1 Q YOU SAID RON, DEVIN. WAS MARK THERE?

2 A YEAH.

3 Q AND MARK. DO YOU REMEMBER WHAT TIME THE NEIGHBORS
4 HAD COME OVER?

5 A I THINK IT WAS JUST AFTER TEN. IT WAS STARTING TO GET
6 LATE.

7 Q WHERE WERE YOU ALL SPENDING YOUR TIME?

8 A IN THE VAN. MY VAN IS BASICALLY-- I SPEND A LOT OF TIME IN
9 MY VAN.

10 Q WAS IT IN THE DRIVEWAY?

11 A YES.

12 Q NOW, AT SOME POINT IN THE EVENING, ELIZABETH AND CLAIRE
13 LEFT. DO YOU REMEMBER WHAT TIME THAT WAS?

14 A I WOULD SAY JUST BEFORE MIDNIGHT.

15 Q AT SOME POINT THAT NIGHT DID YOU COME IN CONTACT WITH
16 THESE TWO DEFENDANTS?

17 A YEAH. THE COMPUTER IN MY VAN IS KIND OF SLOW, SO THAT AS
18 I WAS PULLING IT UP, MARK SAID, HEY, DO YOU KNOW THIS GUY. AND
19 I WAS, LIKE, WHO, AND HE POINTED. SO, I LEANED OUT MY VAN AND
20 LOOKED AND THERE'S FRANK LARMAND STANDING THERE. I WAS
21 SHOCKED. I MEAN, I HAD NO IDEA WHY HE WOULD BE THERE. I WAS
22 KIND OF HOPING THAT, YOU KNOW, HE WAS COMING TO GIVE ME MY
23 JOB BACK.

24 Q SO, YOU DIDN'T EXPECT HIM?

25 A NO.

1 Q DID YOU SEE WHERE-- DID YOU SEE A CAR, FRANK LARMAND'S
2 CAR?

3 A NO. AND THAT'S THE OTHER THING THAT KIND OF SHOCKED ME,
4 BECAUSE WHERE DID HE COME FROM, YOU KNOW. I DIDN'T KNOW AT
5 THAT POINT WHERE HE CAME FROM.

6 Q DID YOU HAVE A LITTLE BIT OF BACK AND FORTH WHILE THE
7 NEIGHBORS WERE STILL THERE, ABOUT HAVING A CONVERSATION?

8 A I SAID, WHY ARE YOU HERE. AND HE SAID, WELL, YOU KNOW
9 WHY I'M HERE. SO, OBVIOUSLY, HE SEEMED A LITTLE EXCITED. I
10 DIDN'T KNOW EXACTLY WHAT WAS GOING ON. SO, I TURNED AROUND
11 TO MY NEIGHBORS AND ASKED THEM TO LEAVE. I ASKED THEM FOR
12 SOME PRIVACY.

13 Q DID THEY DO THAT?

14 A YES.

15 Q NOW, AFTER YOUR NEIGHBORS LEFT, WHAT HAPPENED?

16 A FRANK AND I STARTED HAVING A HEATED DISCUSSION. I ASKED
17 HIM WHY HE WAS HERE, AND HE SAID YOU KNOW WHY I'M HERE. AND
18 I SAID NO, I REALLY DON'T. AND HE SAID, YOU CAN KEEP MIKE
19 TAYLOR.

20 Q WELL, LET'S JUST SORT OF GET TO YOU WERE HAVING A HEATED
21 DISCUSSION WITH SOMEBODY. IS THAT A FAIR STATEMENT?

22 A YES MA'AM.

23 Q DO YOU RECALL WHERE YOU WERE STANDING WHEN YOU WERE
24 HAVING THIS DISCUSSION?

1 A WHEN HE FIRST CAME UP, I, YOU KNOW, CRANED MY HEAD OUT
2 AND THEN GOT OUT OF THE VAN. AND THEN WHEN I REALIZED HE
3 WAS UPSET, I TURNED TO MY NEIGHBORS AND SAID, CAN WE HAVE
4 SOME PRIVACY.

5 AND HE'S, LIKE, STARTING TO, KIND OF, LIKE, PACE, YOU KNOW,
6 BACK AND FORTH. SO, I, YOU KNOW, FOLLOWED HIM SO I COULD, YOU
7 KNOW, TALK TO HIM. BECAUSE HE'S WALKING, KIND OF PACING
8 TOWARDS, I GUESS THAT WOULD BE THE WEST, SO THE RIGHT SIDE OF
9 MY HOUSE. SO, I'M, YOU KNOW, FOLLOWING HIM TRYING TO TALK TO
10 HIM.

11 Q THIS MIGHT BE A GOOD TIME TO TAKE A LOOK AT THE MAP TO
12 GET A BETTER UNDERSTANDING OF WHERE WE ALL ARE. I'M GOING
13 TO START OUT WITH THE SMALLER MAP AND ASK YOU TO TAKE A
14 LOOK AT THIS AND SEE IF THIS AERIAL LOOKS FAMILIAR TO YOU.

15 A YES MA'AM, THIS IS DEFINITELY MY SUBDIVISION.

16 Q AND ARE YOU ABLE TO SEE, ON THIS SUBDIVISION, ARE YOU
17 ABLE TO TELL WHERE YOUR HOUSE IS LOCATED?

18 A YES. THAT'S IT RIGHT THERE.

19 Q 1765 GENTLE BREEZE?

20 A YES MA'AM.

21 Q WHAT WOULD THE NAME OF THAT ROAD BE, THEN?

22 A THAT'S GENTLE BREEZE.

23 Q AND THE NAME OF THAT ROAD?

24 A THAT IS APRIL SHOWERS, I BELIEVE.

25 Q AND WHAT ABOUT THAT ROAD?

1 A FAIR VISTA, I BELIEVE. NO, I'M SORRY. THIS IS SOFT WINDS AND
2 THAT'S FAIR VISTA.

3 Q NOW, THERE'S A BIGGER MAP THAT YOU'VE LOOKED AT, I THINK,
4 BEFORE. WE'LL ASK THE COURT REPORTER TO MARK THIS.

5 (WHEREUPON EXHIBIT WAS MARKED AS STATE'S EXHIBIT
6 NUMBER FIVE)

7 MS. JOYNER: AT THIS POINT THIS IS MARKED AS STATE'S
8 EXHIBIT ONLY, STATE'S EXHIBIT FIVE.

9 Q IS THIS ALSO A MAP OF YOUR SUBDIVISION?

10 A YES MA'AM.

11 Q DOES THIS FAIRLY AND ACCURATELY DEPICT WHAT YOUR
12 SUBDIVISION, WHAT IT LOOKED LIKE BACK ON MAY 1, OF 2009?

13 A EXACTLY, YES MA'AM.

14 Q CAN YOU FIND THE CORRECT LOCATION OF YOUR HOUSE?

15 A YES, I CAN.

16 MS. JOYNER: YOUR HONOR, AT THIS TIME, I WOULD OFFER
17 STATE'S EXHIBIT FIVE INTO EVIDENCE.

18 THE COURT: ANY OBJECTION, MR. RHEA?

19 MR. RHEA: NO OBJECTION.

20 THE COURT: ANY OBJECTION, MR. GREELEY?

21 MR. GREELEY: NO OBJECTION.

22 THE COURT: STATE'S FIVE IS IN EVIDENCE.

23 MS. JOYNER: THANK YOU, YOUR HONOR.

24 (WHEREUPON STATE'S EXHIBIT NUMBER FIVE WAS ADMITTED INTO
25 EVIDENCE WITHOUT OBJECTION)

1 Q NOW, MR. LOCHBAUM, IF I COULD ASK YOU JUST TO STEP DOWN
2 AND EXPLAIN TO ME, IF YOU COULD, AND POINT TO THIS JURY THE
3 LOCATION OF YOUR HOUSE.

4 (WHEREUPON WITNESS EXITED WITNESS STAND FOR
5 DEMONSTRATION WITH STATE'S EXHIBIT FIVE)

6 A THIS IS MY HOUSE, RIGHT HERE.

7 Q WHERE IS MR. JESSE-- WHERE WAS MR. JESSE HARRIS' HOUSE?

8 A RIGHT THERE.

9 Q NOW, YOUR NEIGHBOR, MARK WHITTINGTON, WHERE WOULD
10 HIS HOME HAVE BEEN LOCATED?

11 A RIGHT HERE IN THE CORNER.

12 Q AND THAT WOULD ALSO HAVE BEEN THE HOME OF DEVIN. IS
13 THAT CORRECT?

14 A YES.

15 Q NOW, WE CAN SEE YOUR DRIVEWAY?

16 A YES MA'AM.

17 Q YOU CAN RETURN TO YOUR SEAT.

18 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

19 WHEN YOU FIRST SAW MR. LARMAND, YOU WERE SITTING IN
20 YOUR VAN. WAS YOUR VAN POINTED TOWARDS YOUR HOUSE OR
21 AWAY FROM YOUR HOUSE?

22 A GOING TOWARD THE HOUSE. I ALWAYS PULL IN.

23 Q AND YOU POKED YOUR HEAD OUT THE DOOR?

24 A UH-HUH.

25 Q AND SAW HIM?

1 A YES.

2 Q DO YOU RECALL-- YOU DON'T HAVE ONE SPECIFIC, SET
3 LOCATION WHEN YOU WERE HAVING YOUR CONVERSATION WITH MR.
4 LARMAND?

5 A YOU MEAN OUT IN FRONT OF MY HOUSE?

6 Q OUTSIDE YOUR HOUSE.

7 A WELL, HE NEVER REALLY GOT TO THE LEFT SIDE OF THE VAN.
8 AS I CAME OUT, HE NEVER PASSED THAT WAY. LIKE, HE KIND OF
9 PULLED THIS WAY, AND I FOLLOWED HIM.

10 Q NOW, ONCE YOU WERE OVER AT THAT OTHER SIDE OF THE VAN,
11 WHAT HAPPENED THEN?

12 A WELL, AS I STARTED TALKING TO HIM-- SPECIFICALLY, I MEAN,
13 YOU WANT TO KNOW EXACTLY WHAT I SAID?

14 Q NO, I'M NOT ASKING WHAT YOU SAID; I'M ASKING WHAT
15 HAPPENED.

16 A WE CONTINUED TO TALK AND I NOTICED FRANK STOPPED
17 ENGAGING ME DIRECTLY, LIKE, BROKE EYE CONTACT AND LOOKED
18 OFF TO MY RIGHT SIDE. SO, I LOOKED OFF TO MY RIGHT SIDE AND
19 THAT'S WHEN I SAW MR. LEMIRE.

20 Q WHAT WAS MR. LEMIRE DOING?

21 A MR. LEMIRE WAS WALKING TOWARD ME AT A GOOD CLIP,
22 CARRYING A VERY LARGE HANDGUN.

23 Q DID HE SAY ANYTHING TO YOU?

24 A YEAH. AS HE GOT CLOSE TO ME, BECAUSE HIS ARM WAS
25 EXTENDED, HE GOT WITHIN ABOUT FIFTEEN FEET OF ME, AND SAID,

1 "THIS IS WHAT YOU GET WHEN YOU FUCK WITH MY FAMILY", AND HE
2 PULLED THE HAMMER BACK AND CONTINUED TO CLOSE THE
3 DISTANCE.

4 Q DID HE KEEP THE GUN ON YOU AS HE DID THAT?

5 A OH, YES MA'AM.

6 Q NOW, WHAT HAPPENED WHEN LEO LEMIRE GOT CLOSE TO YOU?

7 A WELL, I WAS THINKING AT THE TIME THAT I WAS EITHER GONNA
8 FIGHT OR DIE. SO I OPTED TO FIGHT.

9 Q AND BY FIGHTING, YOU MEAN?

10 A GRAB THE GUN.

11 Q GRAB THE GUN. AND WHEN YOU GRABBED THE GUN, WHAT
12 HAPPENED THEN?

13 A WE STARTED STRUGGLING.

14 Q WHERE WAS FRANK WHEN THIS WAS GOING ON?

15 A ABOUT SIX FEET TO MY LEFT.

16 Q SIX FEET TO YOUR LEFT?

17 A YES MA'AM.

18 Q AT ANY POINT DID FRANK PUT HIS HANDS ON YOU?

19 A NOT UNTIL WE WERE DOWN ON THE GROUND. LIKE, AS LEO AND
20 I WERE SCUFFLING FOR IT, FRANK JUMPED IN AND I GUESS TRIED TO
21 SEPARATE ME FROM LEO. AND THEN HE GOT ME ON THE NECK TO TRY
22 AND PULL--

23 Q AROUND THE NECK?

24 A RIGHT. WITH HIS FOREARMS, TRYING TO PULL ME OFF LEO.

25 Q NOW, AT SOME POINT DID OTHER PEOPLE COME TO THE SCENE?

1 A YEAH.

2 Q WHO WAS THE FIRST PERSON ON THE SCENE?

3 A JESSE HARRIS.

4 Q YOUR NEXT DOOR NEIGHBOR?

5 A YES MA'AM.

6 Q AND WHAT DO YOU RECALL ABOUT WHEN MR. HARRIS GOT TO
7 THE SCENE?

8 A WELL, I FELT GOOD. I DON'T THINK HE KNEW-- I MEAN, ALL THIS
9 HAPPENED SO FAST. HE DIDN'T KNOW AT FIRST THAT THERE WAS A
10 GUN. AND I KNEW THAT-- YOU COULD TELL WHEN HE FOUND OUT
11 THAT THERE WAS, BECAUSE HE WAS IN IT, HE WAS THERE AND THEN
12 HE WASN'T.

13 AND I JUST REMEMBER A LOT OF HANDS TRYING TO GRAB FOR
14 IT. I MEAN, JUST A MAD SCUFFLE TO TRY AND GET IT. I WAS TRYING
15 TO KEEP IT DOWN AND JUST AWAY FROM MY GENERAL PERSON. SO,
16 THIS WAY, IF IT DID GO OFF ACCIDENTALLY OR OTHERWISE I
17 WOULDN'T GET STRUCK WITH A BULLET.

18 I ALSO WANTED TO KEEP IT AWAY, FROM POINTING TOWARDS
19 MY HOUSE BECAUSE MY SON WAS SLEEPING INSIDE. OTHER THAN
20 THAT, IT WAS JUST A TWIST OF ARMS AND BREATHS AND GRUNTING.
21 IT WAS REALLY HARD TO TELL.

22 Q DID ANYBODY ELSE COME TO THE SCENE?

23 A YES. IT SEEMED REALLY QUICK. AFTER JUST A COUPLE
24 MINUTES, THE OTHER GUYS, THE OTHER NEIGHBORS THAT HAD LEFT,
25 GOT THERE. AND I KNOW JESSE WAS GRAPPLING WITH LEO AT THIS

1 POINT. AND FRANK HAD A REALLY GOOD CHOKE HOLD IN. AND I
2 SAID, GET HIM OFF.

3 AND AT THAT POINT I HEARD DEVIN SAY, OH, GOD, THERE'S A
4 GUN. AND I HAD TO-- FRANK WAS STILL CHOKING ME, SO I HAD TO
5 GET HIM OFF. AND STILL NOTHING HAPPENED.

6 AND AFTER THE THIRD TIME, SCREAMING AT, KIND OF, YOU
7 KNOW, GUTTURAL, THAT'S WHEN HE FINALLY GOT HIM OFF. THAT
8 GAVE ME ENOUGH LEVERAGE TO GET THE GUN AWAY.

9 Q WERE YOU ABLE TO SEE WHO PULLED FRANK OFF?

10 A NO. BUT I KNEW BY PROCESS OF ELIMINATION WHO IT WAS
11 BECAUSE I COULD SEE DEVIN, AND I COULD SEE RON. AND JESSE WAS
12 HERE IN THE PILE WITH US. SO, I KNEW IT COULD ONLY BE MARK.

13 Q AFTER MARK GOT FRANK OFF OF YOU AND YOU WERE ABLE TO
14 GAIN CONTROL OF THE GUN, WAS THERE ANYBODY ELSE'S HAND ON
15 THE GUN?

16 A JESSE WAS GRABBING FOR IT, TOO.

17 Q COULD YOU TELL WHAT MADE LEO FINALLY GIVE UP THE GUN?

18 A WELL, HE WAS-- WHILE WE WERE DOWN THERE, IT WAS ALMOST
19 LIKE HE WAS TRYING TO NEGOTIATE. I MEAN, HE WAS SAYING,
20 YOU'RE FUCKING WITH MY FAMILY, YOU KNOW. BY MY ELBOW WAS,
21 YOU KNOW, HITTING ON HIS FACE. I WAS DOING EVERYTHING I COULD
22 TO MAKE HIM LET GO. AS FAR AS WHY HE LET IT GO, I COULDN'T TELL
23 YOU.

1 I WAS TRYING TO PULL AS HARD AS I COULD, YOU KNOW. IT
2 WAS PROBABLY JUST FORCE, WRENCHING FORCE THAT MADE HIM LET
3 GO.

4 Q NOW, AFTER HE LET GO WITH THE GUN, WHAT DID YOU DO WITH
5 THE GUN?

6 A I KNEW THAT NO ONE WOULD BELIEVE THIS UNLESS I HAD
7 THAT, SO I WENT IN MY HOUSE AND PUT IT IN THE CLOSET.

8 Q DID YOU EVER BRING THE GUN BACK OUT?

9 A ONLY AFTER THAT I KNEW THAT NO ONE, THAT THEY WERE
10 GONE. BECAUSE I WENT IN AND PUT THE GUN IN THE HOUSE AND
11 THEN CAME OUT WITH MY SHOTGUN.

12 Q AND BY THE TIME YOU CAME OUT WITH YOUR SHOTGUN, WERE
13 THEY THERE?

14 A NO.

15 Q WHO WAS LEFT AT THE SCENE?

16 A AT THE TIME, ONLY RON. I COULD SEE MARK DOWN THE STREET
17 ALREADY MAKING HIS WAY BACK. AND YOU KNOW, THEY WERE KIND
18 OF RELAYING MESSAGES. LIKE, DEVIN, I GUESS, TOLD MARK WHO
19 TOLD, YOU KNOW, KIND OF SCREAMED DOWN THE STREET WHERE
20 THEY WERE, LIKE THEY'RE RUNNING OFF TO THEIR CAR.

21 Q OKAY. IF YOU COULD STEP DOWN ONE MORE TIME AD POINT
22 OUT TO THE JURY.

23 (WHEREUPON WITNESS EXITED WITNESS STAND FOR
24 DEMONSTRATION WITH STATE'S EXHIBIT FIVE)

1 WHEN YOU CAME BACK WITH YOUR SHOTGUN, WHERE DID YOU
2 SEE MARK?

3 A MARK WAS RIGHT HERE.

4 Q WHERE COULD YOU SEE DEVIN?

5 A I COULDN'T SEE DEVIN, BUT I HEARD DEVIN.

6 Q OKAY.

7 A SO, I FIGURED THAT DEVIN FOLLOWED HIM AND THEN THEY
8 WERE JUST RELAYING THROUGH SCREAMING.

9 Q NOW, THIS PART OF THE MAP, IT SHOWS A DIFFERENT AREA
10 THAN PASTURE.

11 A WELL, THERE'S A BERM RIGHT THERE.

12 Q HOW HIGH IS THAT BERM?

13 A MAYBE ABOUT FOUR FEET.

14 Q FOUR FEET. DOES IT RUN ACROSS ALL THOSE LOTS?

15 A THE ENTIRE AREA FROM HERE ALL THE WAY TO HERE.

16 Q NOW, WHEN YOU SAID THAT YOUR NEIGHBORHOOD WAS
17 UNFINISHED, WAS THERE A VACANT LOT IN BETWEEN WHERE THERE
18 WERE SUPPOSED TO HAVE BEEN HOUSES?

19 A YES. THEY'RE ALL LOTS, BUT RIGHT NOW THEY'RE OVERGROWN
20 WITH GRASS.

21 Q HOW MANY LOTS ARE THERE?

22 A FIFTEEN LOTS.

23 Q FIFTEEN LOTS. THANK YOU. YOU CAN RETURN TO THE STAND.

24 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

1 NOW, ONCE YOU CAME BACK OUT WERE YOU AWARE IF
2 SOMEBODY ELSE HAD CALLED THE POLICE?

3 A YEAH. TWO PEOPLE CALLED THE POLICE, ACTUALLY, JESSE
4 HARRIS' WIFE, AND I BELIEVE MARK CALLED THE POLICE AS WELL
5 BECAUSE HE HAD A PHONE.

6 Q AT THAT POINT DID YOU BRING THE GUN BACK OUTSIDE?

7 A YES.

8 Q AND WHAT DID YOU DO WITH THE GUN WHEN YOU BROUGHT IT
9 BACK OUTSIDE?

10 A I CLEARED IT AND PUT IT OUT SO THAT THE POLICE WOULD
11 KNOW EXACTLY WHAT IT WAS. BECAUSE I KNOW IF I WAS A POLICE
12 OFFICER RESPONDING TO A CALL WHERE A GUN WAS INVOLVED, I
13 WOULD WANT TO KNOW WHERE THE GUN WAS FIRST BEFORE I DROVE
14 UP.

15 Q I'M SHOWING YOU WHAT'S BEEN PREVIOUSLY ADMITTED AS
16 STATE'S EXHIBIT FOUR. IS THAT A PICTURE OF THE GUN AND THE
17 BULLETS?

18 A YES MA'AM.

19 Q DO YOU RECALL HOW LONG IT TOOK FROM THE TIME THE
20 DEFENDANTS LEFT TO THE TIME THAT THE POLICE ARRIVED?

21 A IT WAS VERY QUICK.

22 Q VERY QUICK?

23 A I WAS REALLY PROUD BECAUSE WE HAD JUST MOVED FROM
24 CHARLOTTE. SO, I MEAN, IN CHARLOTTE, GOOD LUCK TO GETTING

1 POLICE TO RESPOND TO ANYTHING. IN ROCK HILL THEY WERE THERE
2 WITHIN TEN MINUTES. IT WAS REALLY FAST.

3 Q DO YOU RECALL WHO THE FIRST OFFICER WAS ON THE SCENE?

4 A OFFICER OLIVER, I BELIEVE, A FEMALE.

5 Q WHEN OFFICER OLIVER ARRIVED ON THE SCENE, DID YOU HAVE
6 ANY CONVERSATION WITH OFFICER OLIVER ABOUT THE LOCATION OF
7 THE DEFENDANTS?

8 A NOT REALLY. I MEAN, JUST HAD HAPPENED, WHAT HAD
9 TRANSPIRED. I DIDN'T REALLY KNOW WHERE THEY WERE. I KNEW
10 THAT THEY HAD JUST LEFT.

11 Q DID YOU KNOW ANYTHING ABOUT THE TRAFFIC STOP, OR DID
12 SHE RELAY ANYTHING TO YOU ABOUT THAT?

13 A SHE SAID, WE GOT THEM.

14 Q WHAT DID YOU TAKE THAT TO MEAN AT THE TIME?

15 A THAT THEY WERE IN CUSTODY.

16 Q HOW LONG WAS OFFICER OLIVER ON THE SCENE, WOULD YOU
17 SAY?

18 A ABOUT AN HOUR.

19 Q DID ANYBODY ELSE ARRIVE TO ASSIST HER?

20 A THERE WERE TWO OTHER POLICE OFFICERS THERE ALL
21 TOGETHER. ANOTHER OFFICER GOT THERE. I DON'T REMEMBER HIS
22 NAME, BUT IT WAS A BLACK OFFICER, KIND OF MID-BUILD, MID-
23 HEIGHT, JUST UNDER SIX FEET, CLEAN SHAVEN, SHORT HAIR.

24 Q WHEN OFFICER OLIVER WAS WITH YOU OUT ON THE SCENE, DID
25 SHE TALK WITH EACH OF YOU ABOUT WHAT HAD HAPPENED?

1 A YES MA'AM.

2 Q DID SHE PULL YOU ASIDE AND INDIVIDUALLY TALK WITH YOU
3 ABOUT WHAT HAPPENED?

4 A YES MA'AM.

5 Q NOW, AT SOME POINT IN THE TIME THAT OFFICER OLIVER WAS
6 THERE, DID YOU BECAME AWARE THAT FRANK LARMAND HADN'T
7 BEEN ARRESTED?

8 A YEAH.

9 Q HOW DID YOU BECOME AWARE OF THAT?

10 A THE OTHER OFFICER HAD MENTIONED THAT THEY HAD ONE IN
11 CUSTODY, THAT THEY HAD ARRESTED LEO LEMIRE. AND AT THAT
12 POINT I GOT PRETTY UPSET. AND SO DID JESSE HARRIS' WIFE, GOT
13 REAL UPSET. AND I ACTUALLY ASKED MCKENZIE, JESSE HARRIS' WIFE,
14 TO GO INSIDE.

15 BECAUSE, LIKE I SAID I WAS REALLY PROUD OF HOW THE ROCK
16 HILL POLICE DEPARTMENT HAD RESPONDED. AND FOR HER TO BE
17 TELLING THEM, YOU KNOW, DO YOUR JOB, IT WAS, LIKE, WHAT ARE
18 DOING, YOU KNOW. SO, I ASKED HER TO GO IN THE HOUSE.

19 AND AT THAT POINT I WAS SHOCKED. I TRIED TO EXPLAIN TO
20 THEM, YOU KNOW THAT LEO WAS JUST HIS THUG. I DON'T KNOW LEO.
21 I ONLY KNOW FRANK. SO, YOU KNOW, TO NOT ARREST LEO WAS LIKE,
22 YOU KNOW, ---

23 Q DID YOU ATTEMPT TO CALL OFFICER WATSON? DID YOU HAVE
24 A CONVERSATION WITH OFFICER WATSON THAT EVENING?

1 A I TRIED TO EXPLAIN ON A FEW DIFFERENT OCCASIONS WHAT
2 WAS GOING ON.

3 Q DID YOU FINALLY HAVE A CONVERSATION WITH DETECTIVE
4 HERRING ABOUT THE CASE?

5 A YES, THE NEXT MORNING.

6 Q DID HE TAKE A STATEMENT FROM YOU AND SPEND SOME
7 TALKING WITH YOU ABOUT WHAT HAD HAPPENED?

8 A YES MA'AM.

9 Q DID ONE OF THE OFFICERS ON THE SCENE TAKE ANY
10 PHOTOGRAPHS OF YOU THAT NIGHT?

11 A YES MA'AM.

12 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED FOR EXHIBIT
13 PURPOSES STATE'S EXHIBITS SIX AND SEVEN. DO YOU RECOGNIZE
14 THOSE PICTURES?

15 A THAT'S MY WEDDING RING.

16 Q WHAT ARE THOSE PICTURES OF? CAN YOU TELL?

17 A WELL, WHEN WE SCUFFLED FOR THE GUN ON THE GROUND MY
18 KNUCKLES AND HANDS WERE DRAGGED AGAINST THE PAVEMENT,
19 AND THAT'S WHAT CAUSED THAT AND THAT.

20 Q ARE THEY A TRUTHFUL AND ACCURATE REPRESENTATIONS OF
21 THE INJURIES YOU RECEIVED THAT NIGHT?

22 A ONLY MOMENTS AFTER I GOT THEM, YES.

23 MS. JOYNER: YOUR HONOR, AT THIS TIME, I WOULD OFFER
24 STATE'S EXHIBITS SIX AND SEVEN INTO EVIDENCE.

25 THE COURT: ANY OBJECTION, MR. RHEA?

1 MR. RHEA: WITHOUT OBJECTION, YOUR HONOR.

2 THE COURT: ANY OBJECTION, MR. GREELEY?

3 MR. GREELEY: NO OBJECTION.

4 THE COURT: ALL RIGHT. STATE'S EXHIBITS SIX AND SEVEN ARE
5 IN EVIDENCE.

6 (WHEREUPON STATE'S EXHIBITS NUMBERS SIX AND SEVEN WERE
7 ADMITTED INTO EVIDENCE WITHOUT OBJECTION)

8 Q AFTER THE POLICE HAD ARRIVED, AFTER FRANK AND LEO WERE
9 LONG GONE FROM THE SCENE, DID YOU RECEIVE A PHONE CALL FROM
10 EITHER OF THEM THAT EVENING?

11 A FROM FRANK.

12 Q WITHOUT GOING INTO WHAT MR. LARMAND SAID TO YOU, WHAT
13 WAS THE GENERAL NATURE OF THE PHONE CALL?

14 A HE WAS---

15 Q WAS IT AN ANGRY PHONE CALL?

16 A NO, IT WASN'T ANGRY. IT WAS MORE, YOU KNOW, IS EVERYONE
17 OKAY, WHICH SEEMED ABSURD TO ME.

18 Q WERE YOU SURPRISED BY THE PHONE CALL?

19 A ABSOLUTELY. SHOCKED, GALLED.

20 Q HOW DID YOU RECEIVE THAT PHONE CALL? DID HE CALL YOU
21 ON YOUR HOME PHONE OR YOUR CELL PHONE?

22 A MY CELL PHONE.

23 Q WERE THE POLICE THERE AT THE TIME OF THE PHONE CALL?

24 A OFFICER OLIVER WAS, YES.

1 Q NOW, JUST SO WE'RE CLEAR FOR THE RECORD, I WANT TO ASK
2 YOU TO IDENTIFY THE PEOPLE THAT YOU SAY ATTACKED YOU THAT
3 EVENING. DO YOU SEE THEM IN THE COURTROOM?

4 A YES MA'AM.

5 Q PLEASE POINT THEM OUT.

6 A (WITNESS POINTING) THAT'S FRANK LARMAND.

7 Q OKAY.

8 A (WITNESS POINTING) AND THAT'S LEO LEMIRE.

9 Q OKAY.

10 MS. JOYNER: YOUR HONOR, I WOULD ASK THE RECORD REFLECT
11 THAT HE HAS IDENTIFIED THE DEFENDANTS.

12 Q NOW, YOU'VE SAID THAT YOU DON'T KNOW MR. LEMIRE VERY
13 WELL, BUT IN YOUR INTERACTION WITH HIM THAT EVENING, DID MR.
14 LEMIRE USE THE ASSISTANCE OF A CANE?

15 A NO.

16 Q DID HE SEEM TO HAVE ANY TROUBLE WALKING?

17 A NO.

18 Q OR RUNNING?

19 A NO.

20 Q AT THIS POINT I WANT TO SHOW YOU WHAT'S BEEN MARKED
21 AND ENTERED INTO EVIDENCE AS STATE'S EXHIBIT THREE. DO YOU
22 RECOGNIZE THIS?

23 A THAT'S THE ONE.

24 Q AND BY THAT'S THE ONE, YOU MEAN?

25 A THAT'S THE GUN HE BROUGHT TO MY HOUSE THAT NIGHT.

1 Q THANK YOU VERY MUCH, MR. LOCHBAUM. PLEASE ANSWER
2 ANY QUESTIONS THE DEFENSE HAS FOR YOU.

3 THE COURT: MR. RHEA.

4 MR. RHEA: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
5 COURT.

6 CROSS EXAMINATION BY MR. RHEA:

7 Q MR. LOCHBAUM, DID YOU EVER SEE MR. LARMAND IN
8 POSSESSION OF A GUN ON THAT EVENING?

9 A NO.

10 Q DID HE POINT A GUN AT YOU?

11 A NO.

12 Q DID YOU EVER TOUCH MR. LARMAND ON THAT NIGHT?

13 A WITH MY---

14 Q PRIOR TO MR. LEMIRE SHOWING UP?

15 A NO, I DON'T BELIEVE SO, NO.

16 Q AND DID HE EVER TOUCH YOU PRIOR TO MR. LEMIRE SHOWING
17 UP?

18 A NO.

19 Q YOU WERE IN THE COURTROOM WHEN MR. HARRIS TESTIFIED.
20 CORRECT?

21 A YES SIR.

22 Q NOW, TELL THE LADIES AND GENTLEMEN OF THE JURY, IF YOU
23 WOULD, PLEASE, YOUR HISTORY WITH POP-A-LOCK. HOW YOU
24 STARTED WITH THEM AND HOW LONG DID YOU WORK FOR THE
25 LARMANDS?

- 1 A ABOUT THREE YEARS.
- 2 Q AND YOU STARTED WHEN?
- 3 A 2005, I BELIEVE. THE END OF 2005.
- 4 Q WHAT DID YOU DO? WHAT WERE YOUR DUTIES?
- 5 A INTERVIEWING, HIRING, TRAINING, ADVERTISING, DAMAGE
- 6 COMPLAINTS, JUST ABOUT EVERYTHING.
- 7 Q YOU DID EVERYTHING?
- 8 A JUST ABOUT.
- 9 Q NOBODY ELSE DID ANYTHING?
- 10 A NOT ALL THE TIME. I MEAN---
- 11 Q WERE THERE OTHER EMPLOYEES?
- 12 A OF COURSE. WE HAD A LOT OF EMPLOYEES.
- 13 Q I DIDN'T MEAN TO INTERRUPT YOU. GO AHEAD.
- 14 A HIRING, FIRING, TRAINING, SCHEDULING, DAMAGE COMPLAINTS,
- 15 ADVERTISING.
- 16 Q DID YOU WORK IN THE FIELD?
- 17 A YES.
- 18 Q WHAT ARE TECH CALLS?
- 19 A TECH CALLS ARE SPECIFICALLY CALLS THAT ARE A LOW LEVEL
- 20 OF DIFFICULTY; TIRE CHANGES, JUMP STARTS, FUEL DELIVERIES,
- 21 THINGS TO THAT EFFECT.
- 22 Q DID YOU EVER DO THOSE?
- 23 A YES.
- 24 Q OR WAS THAT BENEATH YOU?
- 25 A NO, NOT AT ALL.

- 1 Q YOU DID THOSE?
- 2 A ABSOLUTELY. I DON'T EXPECT ANY OF MY TROOPS TO DO
- 3 ANYTHING I WOULDN'T DO MYSELF. I LEAD FROM THE FRONT. I
- 4 ALWAYS HAD THE HIGHEST AMOUNT OF CALLS EVERY WEEK. I DID
- 5 THE MOST WORK.
- 6 Q IN TERMS OF PEOPLE CALLING TO-- LET'S SAY I'M A MOTORIST.
- 7 OKAY? I ACCIDENTALLY LOCK MY KEYS IN MY CAR.
- 8 A UH-HUH.
- 9 Q I NEED TO GET IN. SAY, I'M NOT A MEMBER OF AAA OR
- 10 WHATEVER. THAT'S WHEN I CALL POP-A-LOCK, AND POP-A-LOCK IS AN
- 11 OPTION TO HANDLE THAT SITUATION FOR ME?
- 12 A YES SIR.
- 13 Q WOULD THAT THE MAIN THING THAT POP-A-LOCK IS FOR?
- 14 A YES, TO OPEN CARS.
- 15 Q IS THAT A PERCENTAGE OF THEIR BUSINESS?
- 16 A YES, THAT WAS THE LION'S SHARE OF THE WORK, CAR DOOR
- 17 OPENINGS.
- 18 Q CAR DOOR OPENINGS ARE THE LION'S SHARE OF THE WORK?
- 19 A YES SIR.
- 20 Q BUT IN YOUR LAUNDRY LIST OF THINGS THAT YOU SAID YOU
- 21 DID, YOU DIDN'T MENTION THAT. RIGHT? YOU OPEN CAR DOORS?
- 22 A RIGHT.
- 23 Q CORRECT?
- 24 A UH-HUH.

1 Q. AND HOW DID THAT WORK? I MEAN, DID YOU WORK OUT OF
2 YOUR VAN?

3 A. YES.

4 Q. OKAY. AND JUST GIVE ME A BRIEF, SCHEMATIC OVERVIEW OF
5 THAT. HOW DID THAT WORK? DID YOU GET A CALL FROM DISPATCH?

6 A. YEAH. WHEN I FIRST STARTED IT WAS NEXTEL. AND WE WOULD
7 GET EMAILS OVER THOSE NEXTELS WITH CUSTOMER INFORMATION,
8 THEIR LOCATION, PHONE NUMBER, NATURE OF THE PROBLEM THAT
9 THEY'RE HAVING, THAT TYPE OF STUFF.

10 AND THEN WE WOULD USUALLY CALL TO VERIFY THAT THEY
11 WERE IN THAT POSITION AND TO GET A BETTER LOCK ON THEIR
12 LOCATION. BECAUSE A LOT OF TIMES PEOPLE WOULDN'T KNOW
13 WHERE THEY WERE. SO, WE WOULD NEED TO FIGURE OUT EXACTLY
14 WHERE THEY WERE TO GET TO THEM, AND GIVE THEM AN ACCURATE
15 ETA.

16 Q. WHAT IS AN ETA?

17 A. AN ESTIMATED TIME OF ARRIVAL.

18 Q. YOUR ESTIMATED TIME OF ARRIVAL?

19 A. YES.

20 Q. SO, YOU WORKED OUT OF YOUR VAN. IS THAT THE SAME VAN
21 THAT WE'RE TALKING ABOUT HERE TODAY?

22 A. I THINK THAT'S THE ASTRO IN THE PICTURE. BUT, YEAH, WHEN I
23 WORKED FOR POP-A-LOCK I USED MY OWN VEHICLE, CHEVY ASTRO
24 THAT I HAD RETOOLED, REFITTED TO EXECUTE THIS PARTICULAR JOB.

- 1 Q WAS THE VAN THAT YOU HAD ON MAY 1, THE NIGHT OF THE
- 2 INCIDENT, THE SAME VAN THAT YOU HAD WHEN YOU WORKED FOR
- 3 POP-A-LOCK?
- 4 A YES.
- 5 Q WHAT ELSE DID YOU DO ON THE ROADSIDE OTHER THAN
- 6 OPENING DOORS?
- 7 A TIRE CHANGES, JUMP STARTS.
- 8 Q NOW, YOUR EMPLOYMENT WITH POP-A-LOT ENDED HOW?
- 9 A HOW?
- 10 Q YES.
- 11 A THEY FIRED ME.
- 12 Q YOU WERE IN FACT TERMINATED. CORRECT?
- 13 A YES.
- 14 Q AND THAT TOOK PLACE WHEN?
- 15 A ABOUT OCTOBER 1.
- 16 Q I TAKE IT YOU WERE NOT HAPPY ABOUT THAT.
- 17 A NOT AT ALL.
- 18 Q YOU THEREAFTER APPLIED FOR UNEMPLOYMENT BENEFITS.
- 19 CORRECT?
- 20 A YES SIR.
- 21 Q WHICH PROMPTED A HEARING ON THE ISSUE. CORRECT?
- 22 A YES.
- 23 Q AND KERRIANN LARMAND, FRANK'S WIFE, WAS PRESENT AT THE
- 24 HEARING. CORRECT?

1 A YES. WELL, IT WAS A TELEPHONE HEARING. YES, SHE WAS ON
2 THE LINE.

3 Q OKAY. ONCE ALL WAS SAID AND DONE YOU WERE DENIED
4 UNEMPLOYMENT BENEFITS.

5 A THAT'S CORRECT.

6 Q YOU WERE DISQUALIFIED. IS THAT CORRECT?

7 A THAT'S CORRECT.

8 Q AND I TAKE IT YOU WERE NOT HAPPY ABOUT THAT AS WELL?

9 A NO.

10 Q DID YOU TELL MRS. LARMAND YOU WERE NOT HAPPY ABOUT
11 THAT AT ANY TIME?

12 A I DON'T THINK I HAD---

13 Q BEFORE---

14 A ---TO TELL HER THAT... YEAH. I DON'T THINK I SPECIFICALLY
15 TOLD HER THAT I WAS UPSET, BUT I BET SHE KNEW I WAS UPSET.

16 Q WELL, MR. LOCHBAUM, DID YOU NOT IN FACT TELL MS.
17 KERRIANN LARMAND AT THE FIRST BOND HEARING, KERRIANN, WHY
18 COULDN'T JUST LET ME COLLECT MY UNEMPLOYMENT? DID YOU NOT
19 TELL HER THAT?

20 A NO.

21 Q YOU NEVER SAID THAT?

22 A MY APPEALS WERE EXHAUSTED. THERE WAS NO RECOURSE.

23 Q IS THERE ANY RECOURSE NOW, MR. LOCHBAUM?

24 A WHAT DO YOU MEAN?

1 Q TOWARDS GETTING AT MR. LARMAND, AND HIS WIFE'S
2 COMPANY. IS THERE ANY RECOURSE NOW DUE YOU?

3 A I DON'T UNDERSTAND THE QUESTION.

4 Q IS THERE ANY WAY TO GET AT MR. LARMAND AND MRS.
5 LARMAND NOW?

6 A I DON'T THINK I UNDERSTAND THE QUESTION. WHY WOULD I
7 GET AT THEM? I WANTED TO GET WHAT WAS OWED TO ME, NOT AT
8 THEM.

9 Q WHAT WAS OWED TO YOU?

10 A UNEMPLOYMENT BENEFITS. I WORKED FOR THEM FOR YEARS
11 FAITHFULLY, BETTER THAN ANYONE THEY EVER HAD AT THAT
12 COMPANY. I RAN THEIR COMPANY AND INVESTED A LOT OF MONEY IN
13 THEIR COMPANY. AND THEN FOR THEM TO ARBITRARILY FIRE ME FOR
14 NO REASON.

15 THE REASONS WERE TRUMPED UP. SHE EVEN CONTRADICTED
16 HER OWN TESTIMONY DURING THAT TELEPHONIC HEARING. AND
17 THEY'VE DONE THIS AGAIN AND AGAIN AND AGAIN TO A LITANY OF
18 OTHER EMPLOYEES.

19 Q AND YET, THIS PANEL OF THE EMPLOYMENT SECURITY
20 COMMISSION DISQUALIFIED YOU FROM BENEFITS?

21 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT TO THE FORM
22 OF THE QUESTION. IT'S BEEN ESTABLISHED HE WAS REJECTED.

23 THE COURT: I OVERRULE IT. IT'S CROSS EXAMINATION. YOU
24 MAY PROCEED.

25 MR. RHEA: THANK YOU, YOUR HONOR.

1 Q SO, YOU WEREN'T HAPPY WITH THE ESC EITHER. RIGHT? WHO
2 MAKES THESE DECISIONS? RIGHT? NOT HAPPY WITH THEM EITHER?
3 RIGHT?

4 A (NO RESPONSE)

5 Q WHAT IS CALL INTERCEPTION, MR. LOCHBAUM? YOU'VE
6 WORKED IN THE FIELD AND YOU SEEM TO KNOW EVERYTHING ABOUT
7 THE WAY THIS BUSINESS WORKED. WHAT IS CALL INTERCEPTION?

8 A I'D NEVER DEALT WITH CALL INTERCEPTION BEFORE.

9 Q YOU DON'T KNOW WHAT CALL INTERCEPTION IS?

10 A WELL, IF I WERE GOING TO GUESS, I WOULD SAY THAT
11 SOMETIMES A CALL IS INTERCEPTED.

12 Q A CALL TO AN EMPLOYEE OF POP-A-LOCK. CORRECT? WHEN
13 YOU WORKED FOR POP-A-LOCK, YOU GOT A CALL FROM DISPATCH
14 SAYING THERE'S A PERSON WHO CAN'T GET IN THEIR CAR AT SO-AND-
15 SO LOCATION, SOUTH TRYON BOULEVARD IN CHARLOTTE. RIGHT?
16 CORRECT?

17 A UH-HUH.

18 Q WHAT'S GOA?

19 A GOA IS GONE ON ARRIVAL.

20 Q GONE ON ARRIVAL. OKAY. WELL, IS THERE NOT A SCAM THAT
21 CAN BE DONE WHERE YOU'RE IN CAHOOTS WITH ANOTHER PERSON,
22 YOU CAN TELL THEM THAT, YOU CAN CALL POP-A-LOCK BACK AND
23 SAY THIS PERSON IS GONE ON ARRIVAL AND INSTEAD GO DO THE CALL
24 YOURSELF AND POCKET THE MONEY. RIGHT?

25 A NO, YOU CAN'T DO THAT.

1 Q WHY CAN'T YOU DO THAT?

2 A BECAUSE A GOA, GONE ON ARRIVAL, MEANS FOR A CAR
3 UNLOCK, WHICH IS THE LION'S SHARE OF POP-A-LOCK'S WORK. THERE
4 IS NO CASH EXCHANGE GOING ON AT THESE UNLOCKS. IF ALLSTATE,
5 CROSS COUNTRY, GEICO, ASSURAN, ALL OF THESE INSURANCE
6 COMPANIES CONTACT US TO GO OUT, THERE'S NO MONEY
7 EXCHANGING HANDS. WELL, VERY RARELY, MONEY EXCHANGING
8 HANDS.

9 Q WELL, THAT'S THE COMPANY POLICY. BUT DOES THE PERSON
10 ON THE SIDE OF THE ROAD KNOW THAT, IF YOU ASK THEM FOR CASH?

11 A WELL, YEAH. YEAH, THEY DO. BECAUSE NO ONE WANTS TO PAY
12 MONEY OUT OF THEIR POCKET. IF THEY HAVE AN INSURANCE
13 COMPANY THAT'S GONNA PAY FOR THEM, THEY'RE NOT JUST GONNA
14 JUST FORK OVER CASH AND SAY, ALLSTATE'S SUPPOSED TO COVER
15 THIS OR GEICO'S SUPPOSED TO COVER THIS.

16 EVEN WHEN YOU WOULD GET TO A CUSTOMER WHO WOULD
17 HAVE SPLIT COVERAGE, THEY WOULD STILL TELL YOU, NO, THEY'RE
18 GONNA COVER THE WHOLE THING. AND YOU HAVE TO CALL
19 DISPATCH AND VERIFY HOW MUCH COVERAGE THE PERSON HAS. SO,
20 IT WOULD BE VERY DIFFICULT---

21 Q WHAT'S SPLIT---

22 A ---TO RUN A SCAM LIKE THAT.

23 Q WHAT'S SPLIT COVERAGE?

24 A I'M SORRY?

25 Q WHAT IS SPLIT COVERAGE?

1 A WELL, SOMETIMES WHEN YOU GO TO A CALL, OR SOME OF THE
2 HARDER CALLS, A CUSTOMER ONLY HAS SO MUCH COVERAGE,
3 USUALLY ONLY A HUNDRED DOLLARS COVERAGE. SOME KEYS COST
4 IN EXCESS OF \$100, SO THEY WOULD SPLIT COVERAGE. THE
5 INSURANCE COMPANY WOULD COVER THIS MUCH AND THE
6 CUSTOMER WOULD COVER THIS MUCH. THAT'S SPLIT COVERAGE.

7 Q SO, THE LOCKSMITH BUSINESS, AS POP-A-LOCK RUNS IT, THERE'S
8 NO PLACE TO RUN A SCAM. RIGHT?

9 A NO, THAT'S NOT WHAT I'M SAYING.

10 Q WELL, WHAT ARE SOME POSSIBLE WAYS? I MEAN, YOU MADE A
11 BIG POINT THAT YOU RAN THAT BUSINESS, YOU KNOW EVERY IN AND
12 OUT OF THAT BUSINESS. RIGHT?

13 A UH-HUH.

14 Q WHICH MEANS THAT YOU OBVIOUSLY WOULD HAVE KNOWN
15 HOW PEOPLE CAN SCAM, WHETHER IT'S OTHER EMPLOYEES?

16 A UH-HUH.

17 Q WHAT ARE WAYS IN WHICH EMPLOYEES CAN SCAM THE
18 COMPANY TO MAKE MONEY ON THE SIDE AND CHEAT POP-A-LOCK
19 OUT OF MONEY?

20 A I'M TRYING TO THINK IN THE CONTEXT OF HAVE WE EVER
21 CAUGHT ANYONE DOING THAT.

22 Q WELL, IT DOESN'T HAVE TO BE IF YOU CAUGHT ANYONE DOING
23 THAT. JUST, WHAT ARE THE WAYS?

24 A I SUPPOSE NOT TURNING IN MONEY.

1 Q WELL, WHAT ABOUT IF SOMEONE HAS SOME FRIENDS ON THE
2 INSIDE OF THE COMPANY - OKAY - THAT WORKS FOR THE COMPANY
3 AND THAT FRIEND LETS THE OTHER PERSON KNOW WHEN HE GETS
4 THE CALL FROM POP-A-LOCK, AND SAYS, YOU KNOW, TO THE POP-A-
5 LOCK DISPATCH, I CAN'T BE THERE. OKAY?

6 AND GIVES IT TO THE OTHER GUY AND LETS THEM HANDLE THE
7 CALL. IS THAT NOT A WAY TO SCAM POP-A-LOCK? WOULD THAT NOT
8 BE A WAY TO DO IT? HUH?

9 A YOU PROBABLY COULD DO THAT. BUT IT'S UNLIKELY BECAUSE
10 ANY CALL THAT THAT PERSON GIVES UP, THAT'S MONEY OUT OF
11 THEIR POCKET. WHY WOULD THEY JUST GIVE MONEY AWAY?

12 Q WELL, IF THE PERSON THAT THEY'RE IN CAHOOTS WITH IS
13 SHARING THE MONEY WITH THEM AND GIVES THEM MORE THAN
14 THEIR TAKE WOULD BE FROM POP-A-LOCK, IT WOULD BE A GOOD
15 DEAL FOR THEM, WOULDN'T IT?

16 A I SUPPOSE.

17 Q AND ISN'T THAT THE EXACT SCAM THAT YOU HAD GOING WITH
18 MIKE TAYLOR?

19 A ABSOLUTELY NOT.

20 Q OKAY. DID YOU TALK TO MIKE TAYLOR ON THE NIGHT OF THIS
21 INCIDENT?

22 A YES.

23 Q WHAT'D Y'ALL TALK ABOUT?

24 A HE DIDN'T KNOW WHERE THE BASEBALL STADIUM WAS.

25 Q WHICH STADIUM WAS THAT?

- 1 A THE ONE IN FORT MILL.
- 2 Q WHAT'S THE NAME OF THE STADIUM?
- 3 A KNIGHTS STADIUM.
- 4 Q HOW LONG HAS MIKE TAYLOR BEEN EMPLOYED WITH POP-A-
5 LOCK?
- 6 A FOUR YEARS, SOMEWHERE THEREABOUTS; LONGER THAN ME.
- 7 Q HE'S EMPLOYED WITH POP-A-LOCK FOR FOUR YEARS?
- 8 A UH-HUH.
- 9 Q HE DOES LOCKSMITH WORK ALL OVER THE PLACE. RIGHT?
- 10 A ALL OVER CHARLOTTE.
- 11 Q ALL OVER THE CHARLOTTE AREA. RIGHT?
- 12 A NOT IN FORT MILL.
- 13 Q OKAY.
- 14 A THERE WERE NEVER CALLS TO FORT MILL, ---
- 15 Q AND YOU---
- 16 A WHICH IS WHY HE DIDN'T KNOW WHERE IT WAS.
- 17 Q AND YOU MEAN TO TELL ME THAT HE DIDN'T KNOW WHERE THE
18 KNIGHTS STADIUM WAS?
- 19 A THAT'S EXACTLY WHAT I'M TELLING YOU.
- 20 Q AND THAT'S WHY Y'ALL TALKED THAT NIGHT?
- 21 A RIGHT.
- 22 Q DIDN'T HAVE ANYTHING TO DO WITH HIM RUNNING A SCAM
23 WITH YOU?
- 24 A NO.

1 Q HOW MANY TIMES DID YOU TALK TO MIKE TAYLOR-- LET ME
2 BACK UP A MINUTE. SO, YOU AND MIKE TAYLOR CONTINUED TO BE
3 FRIENDS. RIGHT?

4 A YES.

5 Q AND YOU'VE MADE A BIG POINT WHEN YOU TALKED TO LAW
6 ENFORCEMENT AND PROSECUTORIAL ENTITIES, AND IN THE
7 DISCOVERY, YOU MADE A BIG POINT OUT OF THE FACT OF SAYING
8 FRANK LARMAND AND LEO LEMIRE TRIED TO LURE ME TO KNIGHTS
9 STADIUM, DID YOU NOT? YOU TALKED TO LES HERRING ABOUT THAT.
10 RIGHT?

11 A UH-HUH.

12 Q DID YOU SAY ANYTHING ABOUT THAT ON DIRECT EXAMINATION
13 WITH MS. JOYNER?

14 A NO.

15 Q WHY NOT? ISN'T THAT IMPORTANT TO THIS CASE?

16 A I ANSWER THE QUESTIONS THAT ARE ASKED OF ME.

17 Q IT'S BECAUSE YOU FINALLY FIGURED THAT, TO SUGGEST THAT
18 THEY LURED YOU THERE WOULD BE AN ADMISSION THAT YOU WERE
19 IN CAHOOTS WITH MIKE TAYLOR. IS THAT NOT A FACT, MR.
20 LOCHBAUM?

21 A NO.

22 Q OKAY. ISN'T IT A FACT THAT MRS. LARMAND CAUGHT YOU?
23 SHE MADE WHAT'S AN INDUSTRY-RECOGNIZED WAY OF FINDING
24 SOMEONE WHO'S SCAMMING BY MAKING A MYSTERY SHOPPER CALL.
25 DO YOU KNOW ANYTHING ABOUT THOSE?

- 1 A I DON'T KNOW ABOUT THAT.
- 2 Q YOU SAY YOU KNOW EVERYTHING ABOUT THE BUSINESS. TELL
- 3 THE JURY WHAT A MYSTERY SHOPPER CALL IS.
- 4 A A MYSTERY SHOPPER, ESPECIALLY WHEN YOU HAVE A
- 5 COMPANY WHERE YOU HAVE PEOPLE IN THE FIELD, YOU WANT TO
- 6 SEND SOMEONE OUT WHO'S NOT, WHO CAN CRITIQUE THEM, BUT
- 7 THEM NOT KNOW THEY'RE BEING CRITIQUE BECAUSE THEY ACT
- 8 NATURALLY.
- 9 Q ISN'T THAT IN FACT WHAT MRS. LARMAND HAD DONE ON THAT
- 10 NIGHT?
- 11 A NO, IT'S NOT.
- 12 Q OH, IT'S NOT?
- 13 A HUH-UH.
- 14 Q SO, MIKE TAYLOR WAS JUST CALLING YOU FOR DIRECTIONS?
- 15 A THAT'S RIGHT.
- 16 Q WELL, IF HE'S JUST CALLING YOU FOR DIRECTIONS, WHY WOULD
- 17 YOU TELL LAW ENFORCEMENT THAT MR. AND MRS. LARMAND WERE
- 18 TRYING TO LURE YOU THERE?
- 19 A BECAUSE POP-A-LOCK DOESN'T DO CALLS IN FORT MILL. THEY
- 20 NEVER HAVE. THEY NEVER DO CALLS IN ROCK HILL. THEY STOP AT
- 21 THE CHARLOTTE LINE. THEY DON'T DO ANYTHING SOUTH OF THE
- 22 LINE. SO, THEY---
- 23 Q WEREN'T THEY TRYING---
- 24 A ---DON'T GO---
- 25 Q ---TO EXPAND THEIR BUSINESS?

- 1 A NO, THEY WEREN'T. THEY WEREN'T TRYING TO EXPAND THEIR
- 2 BUSINESS. THEY ONLY HAVE SO MANY TECHS. AND YOU CAN'T HAVE
- 3 A TECH GO WAY OUT OF HIS COVERAGE AREA BECAUSE HE'S IN HIS
- 4 OWN CAR AND HE'S PAYING FOR HIS OWN GAS. SO, THEY CAN'T HAVE
- 5 HIM GO WHEREVER THEY FEEL LIKE SENDING HIM.
- 6 Q ON THE NIGHT OF APRIL 30, ABOUT 10:42, 10:43, YOU TALKED TO
- 7 MIKE TAYLOR. RIGHT?
- 8 A YES.
- 9 Q AND THIS WAS AFTER HE'D GOTTEN THE CALL ABOUT KNIGHTS
- 10 STADIUM. RIGHT?
- 11 A HE HAD A BUNCH OF CALLS.
- 12 Q WELL, AT THAT POINT IN TIME, WHAT DID YOU HAVE TO DO
- 13 WITH POP-A-LOCK?
- 14 A WHAT DO YOU MEAN?
- 15 Q WELL, YOU WEREN'T EMPLOYED THERE.
- 16 A OKAY.
- 17 Q YOU WERE A DISGRUNTLED, EX-EMPLOYEE. RIGHT?
- 18 A OKAY.
- 19 Q OKAY. SO, WHAT DID YOU HAVE TO DO WITH POP-A-LOCK?
- 20 A MIKE TAYLOR'S MY FRIEND.
- 21 Q MIKE---
- 22 A EVERYONE THAT I WORKED WITH THERE WAS MY FRIEND.
- 23 Q OKAY. MIKE TAYLOR'S YOUR FRIEND?
- 24 A UH-HUH.

1 Q HE CALLED YOU TO SAY, HEY, HOW DO I GET TO KNIGHTS
2 STADIUM. RIGHT?

3 A UH-HUH.

4 Q A LEGITIMATE QUESTION. OKAY?

5 A UH-HUH.

6 Q OKAY.

7 A RIGHT, OKAY.

8 Q AND YOU BECAME SUSPICIOUS OF THAT CALL?

9 A NO, NOT UNTIL THEY CAME TO MY HOUSE WITH A GUN---

10 Q WERE YOU---

11 A DID I BECOME SUSPICIOUS OF THAT CALL?

12 Q JUST ANSWER MY QUESTION. WERE YOU SUSPICIOUS OF THAT
13 CALL AT THAT TIME?

14 A NOT AT ALL.

15 Q HOW COULD THEY BE TRYING TO LURE YOU TO KNIGHTS
16 STADIUM IF YOU WEREN'T DOING ANYTHING WRONG? IF YOU
17 WEREN'T GOING TO GO THERE AND TAKE THE CALL FROM---

18 A BECAUSE---

19 Q ---MIKE TAYLOR?

20 A BECAUSE I DIDN'T REALIZE UNTIL THE NEXT DAY THAT THE
21 FACT THAT MIKE TAYLOR WAS DOING A CALL IN FORT MILL WAS
22 SUSPICIOUS. IT WASN'T UNTIL I SAW THE FACTS IN THE CORRECT
23 CONTEXT THAT I PUT TWO AND TWO TOGETHER.

24 Q WELL, YOU CHARACTERIZE IT AS THEY WERE TRYING TO LURE
25 YOU THERE. COULDN'T IT ALSO BE CHARACTERIZED FROM A

1 LEGITIMATE BUSINESS STANDPOINT OF KERRIANN LARMAND OF
2 TRYING TO FIND OUT WHO'S STEALING AND WHO'S DOING CALL
3 INTERCEPTION FROM HER?

4 A WELL, YOU WOULD HAVE TO SAY SHE WOULD HAVE TO BE
5 FOCUSSING ON MIKE TAYLOR IN ORDER TO MAKE THAT STATEMENT.

6 Q EXACTLY.

7 A RIGHT.

8 Q WHICH IS WHAT SHE WAS DOING.

9 A MIKE TAYLOR WAS BY FAR HER BEST EMPLOYEE.

10 Q AND WAS NOT MIKE TAYLOR FIRED THE DAY AFTER THIS
11 INCIDENT?

12 A YES, HE WAS.

13 Q BECAUSE HE WAS MAKING CALLS TO YOU. RIGHT?

14 A NO.

15 Q WHY NOT?

16 A BECAUSE MRS. LARMAND OVERHEAD ME TALKING TO THE
17 DETECTIVES AT THE BOND HEARING. BECAUSE THEY ASKED ME
18 SPECIFICALLY WHO GAVE ME THAT INFORMATION, AND I TOLD THEM,
19 IF I TOLD YOU, THAT WOULD LEAVE ME TO BE TRIED.

20 Q DID YOU NOT IN FACT HAVE ON YOUR BLACKBERRY AND SO TO
21 DETECTIVE HERRING CALLS?

22 A I DON'T HAVE A BLACKBERRY.

23 Q WELL, DIDN'T YOU SHOW HIM SOME CALLS THAT YOU HAD
24 RECEIVED AND TOLD HIM THAT'S HOW YOU RECEIVE---

1 A I HAD MY PHONE IN MY HAND. I DIDN'T SHOW HIM ANY CALLS. I
2 DON'T GET EMAIL ON MY PHONE. I HAVE JUST A REGULAR, STANDARD,
3 VERIZON PHONE. IT GETS TEXT MESSAGES.

4 Q YOU COULDN'T GET TEXT MESSAGES?

5 A NO. I CAN GET TEXT MESSAGES. I CAN'T GET EMAIL.

6 Q DID YOU SHOW DETECTIVE HERRING ANYTHING?

7 A I SPOKE WITH HIM THE HALLWAY ABOUT-- BECAUSE IT'S KIND
8 OF HARD TO FOLLOW WHAT WAS GOING ON EXACTLY. SO, IT TOOK ME
9 A LONG TIME TO EXPLAIN TO PEOPLE WHAT EXACTLY WAS GOING ON.

10 BECAUSE, FROM MY POINT OF VIEW, TALKING THE COPS AND
11 STUFF, THIS WAS JUST A SCUFFLE, A FIGHT. IT WASN'T A - WHAT DID
12 YOU CALL IT - A DISORDERLY. WHEN IN FACT, IT WAS SOMETHING
13 MUCH MORE. AND IT TOOK ME THAT LONG TO EXPLAIN WHAT WAS
14 ACTUALLY GOING ON.

15 Q IS IT FAIR TO SAY THAT YOU DIDN'T KNOW EVERYTHING THAT
16 WAS GOING ON WHEN YOU TALKED TO HIM BECAUSE YOU REALLY
17 DIDN'T KNOW THAT BY YOUR ACTIONS AND PHONE CALLS TO MIKE
18 TAYLOR THAT THAT GAVE MRS. LARMAND ALL THE EVIDENCE THAT
19 SHE NEEDED. RIGHT?

20 A COULD YOU REPEAT THE QUESTION?

21 MR. RHEA: STRIKE THE QUESTION.

22 Q AFTER YOU WERE TERMINATED, YOU WERE STILL ANGRY AT
23 POP-A-LOCK. IS THAT CORRECT?

24 A I'D INVESTED THREE YEARS OF MY LIFE AND A LOT OF MONEY IN
25 THE COMPANY. YEAH, I WAS UPSET.

1 Q NOW, IS THERE-- ON YOUR COMPUTER IN YOUR VAN, WHICH IS
2 MOBILE OBVIOUSLY, DO YOU HAVE LICENSE TO HACK INTO THE
3 CALLS, POP-A-LOCK'S CALLS?

4 A NO. WE WERE VERY CAREFUL TO PROTECT HOW DATA CAME IN
5 AND OUT.

6 Q AND YOU KNEW THOSE WAYS, DID YOU NOT, MR. LOCHBAUM?

7 A BY BLACKBERRY.

8 Q EVERYTHING BY BLACKBERRY?

9 A I THINK IT WAS IN JANUARY. I CAN TELL YOU EXACTLY THE
10 DAY THAT IT WAS THAT WE GOT THE BLACKBERRIES. I THINK IT WAS
11 JULY... (PAUSE) I ALMOST GOT IT. HERE IT IS.

12 OKAY. DECEMBER 19, WAS WHEN WE GOT THE BLACKBERRIES.
13 SO THAT WOULD BE DECEMBER 19, OF '07. PRIOR TO THAT, WE JUST
14 HAD NEXTEL.

15 Q WHERE IS-- DISPATCH TAKES ALL THE CALLS. SO, WHERE IS
16 DISPATCH OUT OF?

17 A THE FIRST YEAR THAT I WORKED FOR POP-A-LOCK, THEY WERE
18 IN, I BELIEVE IT WAS HUNTERSVILLE. BUT THEN THEIR EFFICIENCY
19 HAD GOTTEN SO BAD THAT WE SWITCHED TO A NATIONAL DISPATCH
20 SERVICE.

21 Q WHICH IS BASED OUT OF WHERE GEOGRAPHICALLY?

22 A EVERY TIME YOU CALLED IT WOULD BE SOMEONE DIFFERENT.
23 THAT WAS ONE OF THE NEW COMPLAINTS THAT WE STARTED
24 GETTING, WAS THAT WHEN PEOPLE WOULD CALL TO HAVE THEIR CAR
25 DOOR UNLOCKED, SOMEBODY IN INDIA WOULD ANSWER. WE GOT A

1 LOT OF COMPLAINTS ON THAT. THERE WAS NO CENTRALIZED
2 LOCATION FOR WHERE THE CALLS WOULD GO, WOULD COME FROM.

3 Q AND SINCE YOU WERE HEAD OF EVERYTHING, AND YOU WERE
4 THERE, AND YOU KNEW ALL THE---

5 A I WAS THE MANAGER.

6 Q WOULD YOU SAY THERE WAS ANY ASPECT OF THE BUSINESS
7 THAT YOU DON'T KNOW?

8 A I DIDN'T DO PAYROLL.

9 Q BUT OTHER THAN PAYROLL?

10 A THAT'S JUST ABOUT IT. I MEAN, I PASSED OUT THE CHECKS; I
11 DIDN'T SIGN THEM.

12 Q OKAY. AND YOU SAID THAT THERE WERE SAFEGUARDS THAT
13 WERE IMPLEMENTED AS ANY COMPANY WOULD TO KEEP FOLKS FROM
14 HACKING INTO YOUR CALLS. RIGHT?

15 A I'M NOT REALLY A COMPUTER EXPERT. I DON'T KNOW
16 ANYTHING ABOUT HACKING. BUT, WHAT I MEAN BY THAT IS THAT WE
17 SPECIFICALLY HAD BLACKBERRIES FOR ALL OF OUR INFORMATION.
18 THAT'S HOW WE GOT AND RECEIVED AFTER THIS DATE, INFORMATION.

19 Q BUT AS THE MANAGER, YOU WERE WELL-ACQUAINTED WITH
20 THE WAYS, THE TYPES OF SAFEGUARDS THAT WERE IMPLEMENTED IN
21 ORDER TO KEEP POTENTIAL HACKERS FROM GETTING IN THERE.
22 RIGHT?

23 A I DON'T-- I'M NOT A PROGRAMMER. I DON'T KNOW HOW TO STOP
24 HACKERS.

1 Q DID YOU EVER SHOW AN EMPLOYEE OF POP-A-LOCK, AFTER YOU
2 HAD BEEN TERMINATED THAT VERY SAME COMPUTER SCREEN IN
3 YOUR VAN WHERE YOU WERE LOOKING AT EXOTIC CAMEL SPIDERS,
4 DID YOU EVER SHOW AN EMPLOYEE OF POP-A-LOCK THAT YOU HAD
5 THE FULL CALLS, THAT YOU HAD HACKED INTO THE SYSTEM WHERE
6 YOU HAD ALL THE CALLS?

7 A NO.

8 Q NEVER DID THAT?

9 A I HAD NO WAY OF DOING THAT. SO, NO, I CAN'T DO THAT.

10 Q THE COMPUTER THAT YOU HAD IN THERE-- WELL, LET ME BACK
11 UP. I'M SORRY. THE COMPUTER THAT YOU HAD IN YOUR VAN AT THE
12 TIME THAT YOU WORKED FOR POP-A-LOCK, WAS THAT COMPANY
13 PROPERTY OR WAS THAT YOUR COMPUTER?

14 A THAT WAS MY COMPUTER.

15 Q AND I'M NOT A COMPUTER GUY, AND MR. GREELEY, OBVIOUSLY,
16 ISN'T. THAT WAS YOUR COMPUTER AND THAT'S THE VERY SAME
17 COMPUTER THAT YOU STILL HAD ON THE NIGHT OF APRIL 30, ---

18 A YES.

19 Q ---AND THE MORNING OF MAY 1. RIGHT?

20 A YES.

21 Q WHEN MR. LARMAND SHOWED UP YOU STATED THAT YOU WERE
22 SURPRISED TO SEE HIM. IS THAT RIGHT?

23 A VERY.

24 Q YOU STATED THAT YOU THOUGHT HE WAS THERE TO GIVE YOU
25 YOUR JOB BACK?

1 A NO, NO, NO. I WAS HOPING.

2 Q WHY IN THE WORLD WOULD THEY DO THAT? THEY JUST, TO
3 THEIR MINDS, CAUGHT YOU RED-HANDED INVOLVED IN CALL
4 INTERCEPTION.

5 A NO.

6 MS. JOYNER: YOUR HONOR, I OBJECT.

7 A NO, NO, THEY WEREN'T.

8 MS. JOYNER: THERE'S BEEN NO EVIDENCE PRESENTED THAT
9 THEY CAUGHT HIM IN CALL INTERCEPTION.

10 THE COURT: OVERRULED.

11 Q WHERE YOU INVOLVED IN CALL INTERCEPTION?

12 A NO.

13 Q SO, WHY DID YOU THINK HE WAS THERE TO OFFER YOU YOUR
14 JOB BACK?

15 A WELL, WE JUST BOUGHT A BRAND-NEW HOUSE. AND I GOT
16 FIRED OUT OF NOWHERE, AND THAT CAN, THAT CAN KIND OF SCARED
17 ME. I NEEDED A JOB AND I WASN'T GETTING MY UNEMPLOYMENT. SO,
18 I WAS A LITTLE STRAPPED FOR CASH.

19 Q YOU WERE STRAPPED FOR CASH AT THE TIME?

20 A YES.

21 Q WERE YOU LOOKING FOR A JOB?

22 A YES.

23 Q SO, YOU SAID IT WAS GETTING LATE THAT NIGHT. RIGHT?

24 A UH-HUH.

25 Q WHAT'S LATE FOR YOU?

1 A TEN, ELEVEN.

2 Q TEN OR ELEVEN. OKAY. AND NO QUESTION YOU WERE IN YOUR
3 VAN AT THE TIME FRANK WALKED UP. RIGHT?

4 A YES SIR.

5 Q AND WHEN MS. JOYNER WAS ASKING YOU QUESTIONS ON
6 DIRECT, AND I THINK SHE ALSO GOT FROM YOU WAS ONE OF THE FIRST
7 THINGS THAT MR. LARMAND HAD SAID TO YOU WAS, YOU CAN HAVE
8 MIKE TAYLOR. WHAT DOES THAT MEAN?

9 A DIDN'T MAKE SENSE AT THE TIME. NOW, IT MAKES SENSE.

10 MS. JOYNER: OBJECTION, YOUR HONOR. I DON'T REMEMBER
11 ASKING THAT QUESTION ON DIRECT, AND GETTING AN ANSWER OF
12 THAT KIND ON DIRECT.

13 MR. RHEA: MAY WE APPROACH?

14 THE COURT: YES SIR.

15 (WHEREUPON A BENCH CONFERENCE TOOK PLACE.)

16 MS. JOYNER: THE STATE WOULD LIKE TO HAVE ON THE RECORD
17 ITS OBJECTION TO HEARSAY.

18 MR. RHEA: YOUR HONOR, IT WAS IN DIRECT RESPONSE TO A
19 QUESTION BY MS. JOYNER.

20 THE COURT: LET ME ASK YOU THIS: IS IT HEARSAY?

21 MR. RHEA: NO, YOUR HONOR. IT'S NOT OFFERED FOR THE
22 TRUTH OF THE MATTER ASSERTED.

23 THE COURT: I'M GOING TO OVERRULE YOUR OBJECTION AND
24 ALLOW YOU TO CONTINUE WITH LIMITATIONS.

25 MR. RHEA: THANK YOU, YOUR HONOR.

- 1 Q DO YOU REMEMBER WHAT I'M TALKING ABOUT?
- 2 A YEAH.
- 3 Q DO YOU REMEMBER SAYING THAT?
- 4 A WHAT MR. LARMAND HAD SAID TO ME WHEN HE APPEARED IN
- 5 MY FRONT YARD, YES.
- 6 Q WHAT WAS IT?
- 7 A HE SAID, YOU CAN KEEP MIKE TAYLOR.
- 8 Q WHAT DID HE MEAN BY THAT?
- 9 A YOU'LL HAVE TO ASK HIM.
- 10 Q NO QUESTION YOU TALKED TO MIKE TAYLOR ABOUT 10:42, 10:43
- 11 THAT NIGHT?
- 12 A NO QUESTION.
- 13 Q NO QUESTION ABOUT THAT. DID YOU TALK TO HIM AFTER
- 14 THAT?
- 15 A YEAH.
- 16 Q DO YOU RECALL?
- 17 A YEAH.
- 18 MR. RHEA: BEG THE COURT'S INDULGENCE, YOUR HONOR.
- 19 (PAUSE)
- 20 Q NOW, LOOKING AT THIS, I WANT TO MAKE SURE. THAT'S
- 21 ACTUALLY YOUR VAN---
- 22 A YES.
- 23 Q ---PARKED RIGHT THERE? AND I GUESS ANOTHER CAR AT THE
- 24 TIME, ON THE STREET. CORRECT?

1 A I DON'T THINK THERE'S ANOTHER CAR THAT WAS THERE, BUT
2 THAT IS MY VAN IN THE DRIVEWAY.

3 Q BUT THAT'S YOUR VAN THERE. CORRECT?

4 A YES SIR.

5 Q NOW, YOU HEARD MR. HARRIS' TESTIMONY?

6 A YES.

7 Q AND HE SAID THAT HE LOOKED OUTSIDE AND YOU WERE A
8 COUPLE OF FEET FROM YOUR VAN. IS THAT RIGHT?

9 A YES.

10 Q YOU AND MR. LARMAND AND MR. LEMIRE, SEVERAL FEET?

11 A YEAH, WE WERE SEVERAL FEET AWAY FROM THE VAN.

12 Q ABOUT HOW FAR?

13 A MAYBE TEN FEET.

14 Q WAS THAT STILL IN YOUR YARD, IN YOUR DRIVEWAY?

15 A YEAH.

16 Q WHERE IS YOUR FRONT DOOR? DO YOU HAVE A FRONT DOOR OR
17 A SIDE DOOR?

18 A IT'S JUST-- THE FRONT DOOR-- WHEN YOU PULL INTO THE
19 DRIVEWAY, IT'S RIGHT IN FRONT OF THE DRIVER'S SIDE HEADLIGHTS.

20 Q SO, THIS WOULD HAVE BEEN, YOU KNOW, A COUPLE OF FEET.
21 THIS SIDE OF THE VAN WOULD HAVE BEEN RIGHT IN YOUR FRONT
22 YARD. RIGHT?

23 A YEAH.

24 Q IS WHERE THIS OCCURRED. CORRECT?

25 A YEAH.

1 Q NOT IN A DARKENED BERM AREA. RIGHT? IT WAS IN YOUR
2 FRONT YARD?

3 A THAT'S CORRECT.

4 Q AND YOU SAID THAT MR. LARMAND-- EXCUSE ME. WHEN MR.
5 LEMIRE APPEARED, YOU SAID THAT MR. LARMAND WAS SIX FEET TO
6 THE LEFT?

7 A TO MY LEFT.

8 Q TO YOUR LEFT. RIGHT?

9 A RIGHT.

10 Q DIDN'T HAVE A GUN?

11 A NO.

12 Q DID MR. LARMAND EVER JUMP ON YOU, OR BECOME VIOLENT TO
13 YOU PRIOR TO JUMPING ON MR. LEMIRE?

14 A NO.

15 Q NO QUESTION THAT THERE WAS A MAD SCRAMBLE FOR THE
16 GUN?

17 A YES.

18 Q HOW MANY PEOPLE AT THE MOST WERE ON THE PILE?

19 A THREE.

20 Q I'M SORRY?

21 A THREE. FOUR, I GUESS, WITH JESSE.

22 Q WELL, MR. WHITTINGTON SAID HE WAS TRYING TO HELP AS
23 WELL.

24 A WELL, HE WAS TRYING TO SEPARATE THE PILE.

1 Q MR. LARMAND NEVER-- AS YOU'RE IN THE PILE, YOU SAID HE
2 HAD YOU LIKE THIS, CORRECT, TRYING TO GET YOU OFF OF MR.
3 LEMIRE?

4 A YES.

5 Q HE NEVER HIT YOU. CORRECT?

6 A TO THE BEST OF MY KNOWLEDGE.

7 Q NEVER TRIED TO HIT MR. HARRIS. CORRECT?

8 A NOT TO MY KNOWLEDGE, NO.

9 Q HE NEVER YELLED ANYTHING, LIKE, LEO, USE THE GUN, DO THIS,
10 DO THAT. RIGHT?

11 A NO.

12 Q NO STATEMENTS THAT HE MADE. RIGHT?

13 A NEVER TOLD ANYONE TO KILL ANYONE, NO.

14 Q NOW, YOU STATED IN YOUR WRITTEN STATEMENT-- DO YOU
15 REMEMBER GIVING A WRITTEN STATEMENT?

16 A YES.

17 Q WHO DID YOU GIVE THAT TO?

18 A THE DETECTIVE AT THE ROCK HILL POLICE DEPARTMENT.

19 Q WHEN DID YOU DO THAT?

20 A THE FOLLOWING MORNING.

21 Q THE FOLLOWING MORNING. THAT'S AFTER YOU HEARD THAT
22 MR. LARMAND WASN'T ARRESTED?

23 A RIGHT.

24 Q WHAT REACTION DID YOU HAVE TO THAT?

- 1 A HOW DID THAT HAPPEN? THAT WAS MY REACTION, SHOCK AND
- 2 DISBELIEF.
- 3 Q WHO TOOK THE GUN OUT OF MR. LEMIRE'S HAND?
- 4 A I DID.
- 5 Q AND IN YOUR STATEMENT YOU STATED THAT YOU LAID THE
- 6 PISTOL DOWN AND GOT MY SHOTGUN, WHICH WAS A 20 GAUGE.
- 7 CORRECT?
- 8 A YES.
- 9 Q AND YOU TOOK THE SHOTGUN OUTSIDE. WHY DID YOU DO
- 10 THAT?
- 11 A WELL, I KNEW THAT IF I DIDN'T HAVE THAT PISTOL AS PROOF
- 12 THAT THEY WERE THERE, THAT THEY WOULD JUST DENY IT. SO, I
- 13 WENT INSIDE TO PUT THAT UP AND BROUGHT THE SHOTGUN OUT.
- 14 BECAUSE I WASN'T AWARE IF THEY HAD ANY OTHER WEAPONS. AND
- 15 FOR ALL I KNEW THEY WERE GOING BACK TO THE CAR TO GET
- 16 ANOTHER WEAPON. SO, I CAME OUT PREPARED.
- 17 Q DID YOU KNOW PEOPLE WERE GOING DOWN THE ROAD TRYING
- 18 TO GET THEIR TAG?
- 19 A YES.
- 20 Q WHO WAS THEY?
- 21 A DEVIN FIVECOAT AND---
- 22 Q OKAY.
- 23 A ---MARK WHITTINGTON WAS BEHIND HIM.
- 24 Q WAS YOUR SHOTGUN LOADED?

1 A I LOADED IT BEFORE I WENT OUTSIDE. I UNHOOKED THE
2 TRIGGER GUARD AND PUT TWO ROUNDS IN.

3 Q OKAY. JUST ONE THING I THINK IS IMPORTANT. WHEN MR.
4 LARMAND SHOWED UP ORIGINALLY THAT NIGHT YOU TOLD YOUR
5 FRIENDS THAT YOU WERE CONGREGATING WITH THAT YOU WANTED
6 TO SPEAK PRIVATELY WITH FRANK. IS THAT CORRECT?

7 A YEAH. I TOLD MY NEIGHBORS THAT I NEEDED SOME PRIVACY.

8 Q AND DID NOT MR. LARMAND SAY, I CAN SAY WHAT I NEED TO
9 SAY RIGHT HERE? DO YOU RECALL HIM SAYING THAT?

10 A NO, I DON'T.

11 MS. JOYNER: OBJECTION TO HEARSAY, YOUR HONOR.

12 THE COURT: SUSTAINED.

13 Q WHY DID YOU-- IF YOU THOUGHT MR. LARMAND WAS UPSET
14 ABOUT SOMETHING WHY WOULD YOU WANT TO TALK TO HIM-- WHY
15 WOULD YOU TELL YOUR FRIENDS THAT YOU WANTED TO TALK TO
16 HIM PRIVATELY? DID YOU NOT WANT THEM TO HEAR WHAT HE HAD
17 TO SAY?

18 A NO. BEING UPSET ISN'T ANYTHING NEW FOR ME. I MEAN, I DEAL
19 WITH UPSET PEOPLE ALL THE TIME. MOST OF THE TIME PEOPLE I DEAL
20 WITH LOCK THEIR KEYS IN THEIR CAR. AND I DEAL WITH UPSET
21 PEOPLE ALL DAY. SO, JUST BEING UPSET WASN'T, YOU KNOW. I DIDN'T
22 NEED PROTECTION FROM FRANK BECAUSE HE WAS UPSET. OR, I
23 DIDN'T THINK I NEEDED PROTECTION FROM FRANK.

24 Q YOU SAID YOU DIDN'T THINK YOU NEEDED PROTECTION FROM
25 FRANK?

1 A AT THE TIME.

2 Q MR. LARMAND DIDN'T HAVE A GUN. CORRECT?

3 A RIGHT.

4 Q HOW LONG DURING THE TIME THAT YOU WERE WITH POP-A-
5 LOCK WAS MR. LARMAND RUNNING THE COMPANY?

6 A I'M SORRY. COULD YOU REPEAT THE QUESTION?

7 Q DURING THE TIME THAT YOU WERE AT POP-A-LOCK---

8 A UH-HUH.

9 Q ---HOW LONG WAS MR. LARMAND RUNNING THAT COMPANY, OR
10 WAS HIS WIFE RUNNING IT?

11 A WELL, RUNNING IT ISN'T THE WORD THAT I WOULD USE. THEY
12 WERE THE OWNERS OF THE COMPANY. THEY WEREN'T RUNNING THE
13 COMPANY.

14 Q THAT WAS YOU?

15 A YES.

16 Q NO QUESTION ABOUT THAT. RIGHT?

17 A WELL, BETWEEN HIRING, PICKING APPLICANTS, TRAINING ALL
18 THEIR APPLICANTS, THEY WEREN'T DOING MUCH OF ANYTHING.

19 Q AND DESPITE THE FACT THAT YOU'RE NO LONGER AN
20 EMPLOYEE, WITH EVERYTHING YOU DID, IS SOMEHOW POP-A-LOCK
21 STILL ABLE TO BE A GOING CONCERN WITHOUT RYAN LOCHBAUM?

22 A FOR A WHILE THEY WEREN'T, WHICH IS WHY I SUPPOSE THEY
23 WEREN'T DOING TOO WELL. AND FROM WHAT I UNDERSTAND THEY
24 AREN'T NOW.

25 Q THEY'RE STILL IN BUSINESS, AREN'T THEY?

- 1 A I THINK THEY SOLD THE COMPANY, ACTUALLY.
- 2 Q MRS. LARMAND DOESN'T OWN THE COMPANY?
- 3 A NOT TO MY KNOWLEDGE.
- 4 Q WHAT ARE YOU DOING NOW?
- 5 A I'M A LOCKSMITH.
- 6 Q WHO DID YOU WORK FOR?
- 7 A ABSOLUTE SECURITY.
- 8 Q WHERE ARE THEY LOCATED?
- 9 A EDEN TERRACE.
- 10 Q DO YOU DO EVERYTHING FOR ABSOLUTE SECURITY?
- 11 A NOT AT ALL. I'M--
- 12 Q YOU'RE NOT?
- 13 A ---LEARNING NEW STUFF EVERYDAY WITH THEM.
- 14 Q SO YOU ARE...?
- 15 A ON THE BOTTOM AGAIN.
- 16 Q YOU ARE A LOCKSMITH?
- 17 A YES SIR.
- 18 Q DO YOU LIKE BEING A LOCKSMITH?
- 19 A YES, I DO.
- 20 Q AND YOU SAY THAT YOU BROUGHT THE GUN BACK OUTSIDE SO
- 21 THAT THE POLICE COULD BE ABLE TO SEE IT?
- 22 A YES.
- 23 MR. RHEA: BEG THE COURT'S INDULGENCE ONE SECOND, YOUR
- 24 HONOR.
- 25 (PAUSE)

1 I HAVE NOTHING FURTHER, YOUR HONOR.

2 THE COURT: MR. GREELEY.

3 MR. GREELEY: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
4 COURT.

5 **CROSS EXAMINATION BY MR. GREELEY:**

6 Q HOW LONG HAVE YOU WORKED FOR ABSOLUTE SECURITY?

7 A JUST UNDER A YEAR.

8 Q JUST UNDER A YEAR?

9 A YES.

10 Q SOMEWHERE IN OCTOBER. SO, IN JUST UNDER A YEAR YOU
11 WERE ABLE TO GET A JOB. DO YOU REMEMBER EXACTLY WHEN?

12 A IT WAS SHORTLY AFTER I LEFT POP-A-LOCK.

13 Q SHORTLY AFTER YOU LEFT POP-A-LOCK. SO, WITHIN A FEW
14 WEEKS?

15 A IT WAS VERY SHORTLY AFTER I LEFT POP-A-LOCK, YES.

16 Q SO, WITHIN A FEW DAYS?

17 A I WOULD SAY MAYBE A MONTH.

18 Q SO, WE'RE LOOKING AT A MONTH OF UNEMPLOYMENT. IS THAT
19 WHAT THIS WAS ABOUT?

20 A NO.

21 Q IT'S A LOT MORE, ISN'T IT?

22 A YES.

23 Q NOW, WHEN THE GUN GOT PRIED LOOSE, YOU WERE PRETTY
24 PUMPED UP, WEREN'T YOU?

25 A YES.

1 Q AND AT THE TIME THAT YOU LEFT WITH THE GUN, TAKING IT
2 INTO YOUR HOUSE, MY CLIENT AND MR. LARMAND WERE STILL
3 THERE, WEREN'T THERE? STILL STANDING THERE WHEN YOU GOT UP
4 AND YOU RAN INTO YOUR HOUSE WITH THE GUN, INTO THE HOUSE,
5 DIDN'T YOU?

6 A I'M SORRY. YOUR QUESTION WAS?

7 Q WHEN YOU GOT THE GUN, YOU GOT UP AND YOU RAN INTO
8 YOUR HOUSE, DIDN'T YOU, WITH THE GUN?

9 A YES.

10 Q YOU DIDN'T WALK?

11 A NO.

12 Q AND YOU WERE BREATHING HEAVY. CORRECT? YOUR
13 ADRENALINE WAS PUMPING, WASN'T IT?

14 A YES.

15 Q YOU WERE ANGRY?

16 A YES.

17 Q AND YOU PUT THE GUN DOWN WHERE, IN THE KITCHEN, ON THE
18 KITCHEN TABLE?

19 A IN THE FRONT CLOSET.

20 Q IN THE FRONT CLOSET. WHERE WAS YOUR SHOTGUN?

21 A UPSTAIRS IN MY CLOSET IN MY BEDROOM.

22 Q UPSTAIRS?

23 A IN MY CLOSET IN MY BEDROOM, YES.

24 Q SO, YOU RAN UP THE STAIRS, DIDN'T YOU?

25 A YES.

1 Q AND YOU GRABBED YOUR SHOTGUN AND YOU TOOK THE
2 SAFETY OFF, DIDN'T YOU?

3 A I HAD TO TAKE THE TRIGGER LOCK OFF.

4 Q THAT'S WHAT I MEANT,. THE TRIGGER LOCK. AND YOU DON'T
5 KEEP IT LOADED IN THE HOUSE, DO YOU?

6 A NO, NOT WITH A FIVE YEAR OLD.

7 Q AND YOU GRABBED SHELLS AND YOU STUCK SOME SHELLS INTO
8 THAT SHOTGUN AND YOU WERE MAD, WEREN'T YOU?

9 A YES.

10 Q AND YOU CAME BACK DOWN THE STAIRS, DIDN'T YOU, WITH
11 THAT GUN?

12 A UH-HUH.

13 Q AND YOU WENT OUTSIDE, DIDN'T YOU?

14 A YES.

15 Q AND YOU DID IT BECAUSE YOU WERE GONNA SHOOT ONE OF
16 THEM, WEREN'T YOU?

17 A NO.

18 Q THEY DIDN'T HAVE A GUN. THEY DIDN'T HAVE A GUN, DID
19 THEY?

20 A NOT ANY MORE. NO, THEY DIDN'T HAVE A GUN.

21 Q EXACTLY. BUT YOU HAD TO HAVE YOUR LOADED SHOTGUN TO
22 TAKE BACK TO THEM, WHAT, JUST TO SHOW?

23 A TO DEFEND MYSELF IN CASE THE SITUATION SHOULD ARISE
24 AGAIN.

1 Q FROM WHAT? YOU GOT FRIENDS THERE AND THEY DON'T HAVE
2 A GUN. WHY DID YOU NEED A LOADED SHOTGUN?

3 A BECAUSE I DON'T KNOW WHAT ELSE THEY BROUGHT OR WHO
4 ELSE THEY BROUGHT. I THOUGHT IT WAS FRANK LARMAND BY
5 HIMSELF UNTIL HE CREPT OUT OF THE SHADOWS.

6 Q Y'ALL HAD THEM BOTH ON THE GROUND. Y'ALL WOULD HAVE
7 KNOWN IF THERE WAS ANOTHER GUN SOMEWHERE.

8 A UNLESS SOMEONE ELSE WAS WITH THEM.

9 Q WELL, YOUR BUDDIES DIDN'T WORRY ABOUT IT BECAUSE THEY
10 CHASED THEM DOWN THE STREET.

11 A THEY WERE MY NEIGHBORS.

12 Q PARDON?

13 A THEY WERE MY NEIGHBORS, NOT MY BUDDIES.

14 Q YOUR NEIGHBORS DIDN'T WORRY ABOUT IT BECAUSE THEY
15 CHASED THEM DOWN THE STREET, DIDN'T THEY?

16 A IT WAS MIDNIGHT AND IT'S VERY DARK, WITHOUT ANY LIGHTS
17 IN MY SUBDIVISION. FOR ALL WE KNEW THEY HAD PEOPLE ALONG
18 THE SIDES. WE DIDN'T KNOW. FOR A GOOD AMOUNT OF TIME I
19 THOUGHT THERE WAS SOMEONE ELSE WITH THEM.

20 Q VERY WELL. PLEASE ANSWER MY QUESTION. YOUR NEIGHBORS
21 CHASED THEM DOWN THE STREET, DIDN'T THEY?

22 A YES.

23 Q AND YOU CAME OUT WITH A LOADED SHOTGUN. CORRECT?

24 A CORRECT. I WOULDN'T SAY CHASED, THOUGH. I'D PROBABLY
25 SAY FOLLOWED. BECAUSE I MEAN, WHEN YOU'RE CHASING SOMEONE

1 USUALLY THAT MEANS YOU'RE THREATENING THEM WITH
2 SOMETHING. THEY WEREN'T REALLY THREATENING MR. LARMAND
3 AND MR. LEMIRE WITH ANYTHING. THEY WERE MERELY FOLLOWING
4 THEM TO GET A LICENSE PLATE NUMBER AND THE TYPE OF VEHICLE
5 THAT THEY CAME IN.

6 Q SO, THEY WEREN'T CHASING THEM BECAUSE THEY DIDN'T HAVE
7 THEIR SHOTGUNS. IS THAT A FAIR STATEMENT?

8 A COULD YOU REPEAT THE QUESTION?

9 Q YOU SAID THAT THEY WERE FOLLOWING BECAUSE THEY
10 WEREN'T THREATENING THEM, OR THEY WEREN'T GONNA DO THEM
11 HARM. SO, THEY WERE FOLLOWING. SO, I GUESS THEY WEREN'T
12 ARMED AS YOU WERE.

13 A THEY WERE NOT ARMED, NO.

14 Q DO YOU NORMALLY SIT IN YOUR VAN ABOUT MIDNIGHT?

15 A NO.

16 Q AND SO, WITH THAT VAN, YOU HAD THE CAPABILITY TO DO
17 YOUR WORK?

18 A YES.

19 Q BETWEEN THE VAN AND THE COMPUTER, YOU'VE HAD THE
20 CAPABILITY TO DO YOUR WORK, HAVEN'T YOU?

21 A YES.

22 Q NOW, YOU RAN BACK IN THE HOUSE AND YOU PUT THE GUN UP
23 AND YOU GOT THE SHOTGUN. BUT BEFORE YOU LEFT, YOU DID ONE
24 MORE THING, DIDN'T YOU, FROM YOUR HOUSE?

25 A (NO RESPONSE)

- 1 Q DO YOU RECOGNIZE THE TELEPHONE NUMBER, 803-327-4717?
- 2 A NO.
- 3 Q YOU DON'T?
- 4 A (NO RESPONSE)
- 5 Q CAN YOU TELL ME WHY THAT ON THE CAD REPORT, THAT'S
- 6 REPORTED WITH YOU, LOCHBAUM, AS THE CALLER TO THE POLICE AT
- 7 12:09:55:7?
- 8 A BECAUSE IT CAME FROM MY PHONE.
- 9 Q YOU CALLED THE POLICE?
- 10 A I DON'T RECALL CALLING THE POLICE.
- 11 Q YOU WERE THE ONE WHO CALLED THE POLICE, WEREN'T YOU,
- 12 MR. LOCHBAUM?
- 13 A I DON'T REMEMBER MYSELF CALLING THE POLICE, NO. I WAS
- 14 PUMPED UP, FULL OF ADRENALINE, ANGRY.
- 15 Q BUT YOU DON'T REMEMBER WHY THE CAD REPORT WOULD LIST
- 16 CALLER NAME AS LOCHBAUM?
- 17 A I MUST HAVE CALLED.
- 18 Q AND YOU WOULD NOT HAVE BEEN ABLE TO CALL WHILE YOU
- 19 WERE ON THE GROUND, COULD YOU? IT WOULD HAVE HAD TO HAVE
- 20 BEEN AFTER.
- 21 A CORRECT.
- 22 Q ISN'T THE LOGICAL?
- 23 A YES.

1 Q AND THE CALL TIME THAT THE POLICE RECEIVED THIS CALL
2 FROM A LOCHBAUM AT NINE MINUTES AND 55 SECONDS AFTER
3 MIDNIGHT. OKAY?

4 A (NO RESPONSE)

5 Q SO, YOU MAY HAVE CALLED THE POLICE?

6 A WELL, CLAIRE WASN'T HOME, SO IT MUST HAVE BEEN ME THAT
7 CALLED.

8 Q I WAS GOING TO ASK. YOUR WIFE WAS AT THE GROCERY STORE.

9 A RIGHT.

10 Q AND YOUR SON WAS ASLEEP?

11 A CORRECT.

12 Q AND SO, AFTER YOU CALLED THE POLICE YOU STILL WENT OUT
13 OF THE HOUSE WITH YOUR LOADED TWENTY GAUGE SHOTGUN?

14 A THAT'S CORRECT.

15 Q AND THE POLICE, ACCORDING TO THE CAD REPORT, ARRIVED ON
16 THE SCENE, THIS INCIDENT RESPONSE, 21:46, ABOUT ELEVEN MINUTES,
17 A LITTLE OVER ELEVEN MINUTES AFTER THE INITIAL PHONE CALL.
18 DOES THAT SEEM RIGHT?

19 A YES SIR.

20 Q AND YOU WERE STILL MAD. CORRECT?

21 A CORRECT. I WAS VERY MAD.

22 Q WHEN DID YOUR WIFE ARRIVE BACK? WAS IT AFTER THE
23 POLICE GOT THERE?

1 A I THINK IT WAS, BECAUSE AS SOON AS SHE GOT OUT OF THE CAR
2 SHE BROKE DOWN. AND I DON'T THINK SHE WOULD HAVE DONE HAD
3 THE POLICE NOT BEEN THERE.

4 Q AND SO, SHE GOT THERE AFTER THE POLICE?

5 A I BELIEVE SO.

6 Q DID SHE HAVE HER CELL PHONE?

7 A I BELIEVE SO. SHE ALWAYS CARRIES HER CELL PHONE.

8 Q NOW, THE CAD REPORT, LET ME GO BACK TO THIS. MR. RHEA
9 TALKED ABOUT IT AND I'M NOT GOING TO GO INTO IT TOO MUCH. BUT
10 JUST TO REFER, YOU DID HAVE A CONVERSATION WITH MR. TAYLOR
11 ABOUT HIM GOING TO KNIGHT'S CASTLE?

12 A YES.

13 Q AND YOU STATED THAT THE CALL TO THE POLICE BY THE CAD
14 REPORT BEING 12:09:55, ABOUT TEN AFTER TWELVE MIDNIGHT. AND
15 THEN THE POLICE ARRIVED AT 12:21, ACCORDING TO THAT CAD
16 REPORT, ELEVEN MINUTES LATER.

17 CAN YOU TELL THE JURY WHY, AFTER YOU CALLED THE POLICE
18 BUT BEFORE THE POLICE ARRIVED, A MERE THREE MINUTES AFTER
19 YOU CALLED THE POLICE, THAT THE NEXT CALL YOU MADE AT 12:13
20 WAS ONCE AGAIN TO MIKE TAYLOR OF POP-A-LOCK?

21 A PROBABLY TO LET HIM KNOW THAT HIS BOSS JUST TRIED TO
22 KILL ME.

23 Q SO, YOU DON'T DENY THAT THE FIRST CALL YOU MADE ON
24 YOUR CELL PHONE AFTER YOU CALLED THE POLICE IN THIS INCIDENT
25 WAS TO MR. TAYLOR?

1 A I KNOW THAT I SPOKE WITH MR. TAYLOR THAT NIGHT. I DON'T
2 KNOW THAT I CALLED HIM RIGHT AFTER I CALLED THE POLICE.

3 Q THROUGH DISCOVERY YOU KNOW THAT WE WERE ABLE TO GET
4 SOME OF YOUR CELL PHONE RECORDS.

5 A OKAY.

6 Q AND IT WAS TWO MINUTES LATER AT 12:15, THAT YOU CALLED
7 YOUR WIFE?

8 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT TO THIS LINE
9 OF QUESTIONING. MR. LOCHBAUM DOES NOT HAVE HIS CELL PHONE
10 RECORDS IN FRONT OF HIM AND HE'S ASKING HIM SOMETHING ABOUT
11 WHICH HE DOESN'T HAVE ACCESS TO RECORDS. I EXPRESSLY DON'T
12 SEE THE RELEVANCE OF DELVING INTO EVERY CELL PHONE CALL
13 THAT WAS MADE.

14 THE COURT: I'M GOING TO OVERRULE YOUR OBJECTION.

15 Q SO, YOU CALLED MIKE TAYLOR BEFORE YOU CALLED YOUR
16 WIFE.

17 A (NO RESPONSE)

18 Q NOW, AFTER THE POLICE ARRIVED YOU RECEIVED A CALL AT
19 12:34 FROM BRYAN CHAMBERS. TELL THE JURY WHO BRYAN
20 CHAMBERS IS.

21 A BRYAN CHAMBERS IS ANOTHER ONE OF THE LOCKSMITHS AT
22 POP-A-LOCK.

23 Q AND HE CALLED YOU AFTER MIDNIGHT ON THAT NIGHT. RIGHT?

24 A YES.

1 Q THESE ARE EMPLOYEES WITH WHOM YOU HAVEN'T WORKED IN
2 SIX MONTHS. CORRECT?

3 A THEY'RE MY FRIENDS OF YEARS. I KNOW THEIR KIDS. THEIR
4 KIDS PLAY WITH MY KIDS.

5 Q AND THEN AT 12:52 YOU DID RECEIVE A CALL FROM FRANK.
6 CORRECT?

7 A I DID RECEIVE A CALL FROM FRANK.

8 Q AND THAT WAS AFTER HE HAD BEEN RELEASED BY THE POLICE
9 FROM THIS TRAFFIC STOP, WASN'T HE?

10 A I WASN'T AWARE OF THAT. I FIGURED HE WAS MAKING A PHONE
11 CALL TO TRY AND TALK HIS WAY OUT OF IT.

12 Q OKAY. NOW, YOU MADE CELL PHONE CALLS ABOUT THE WHOLE
13 NIGHT, DIDN'T YOU?

14 A I USED MY PHONE QUITE A BIT.

15 Q YOU DIDN'T SLEEP THAT NIGHT, DID YOU, MR. LOCHBAUM?

16 A NO, I DIDN'T.

17 Q YOU CALLED A LOT OF PEOPLE, DIDN'T YOU?

18 A I DIDN'T SLEEP FOR ABOUT A WEEK AFTER THIS INCIDENT.

19 Q LET'S SEE. AT 1:52, YOU CALLED STEVEN McCOY. TELL THE JURY
20 WHO STEVEN McCOY IS.

21 A STEVEN McCOY IS ANOTHER ONE OF THE WORKERS AT POP-A-
22 LOCK.

23 Q HE'S THE ONE WHO SAW THE CALLS ON YOUR COMPUTER, ISN'T
24 HE?

25 A WHAT DO YOU MEAN?

1 Q THE POP-A-LOCK CALLS THAT WERE ON YOUR COMPUTER, HE
2 SAW THOSE, DIDN'T HE?

3 A I DON'T HAVE POP-A-LOCK CALLS ON MY COMPUTER.

4 Q AND THEN AT 1:53, A MINUTE LATER, YOU CALLED BRYAN
5 CHAMBERS AGAIN.

6 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT TO THE FORM
7 OF THE QUESTION. HE'S NOT ASKING QUESTIONS, HE'S TESTIFYING,
8 AND MAKING---

9 MR. GREELEY: I'LL CHANGE THE FORM.

10 THE COURT: YES SIR.

11 Q NOW, AT 1:53, ISN'T IT TRUE THAT YOU CALLED BRYAN
12 CHAMBERS AGAIN?

13 A I TALKED TO BRYAN AND MIKE THAT NIGHT, YES.

14 Q AND THEN, AT 2:17, ISN'T IT TRUE THAT YOU RECEIVED A CALL
15 FROM MIKE TAYLOR?

16 A ALL RIGHT.

17 Q AND THEN AT 3:04, ISN'T IT TRUE THAT YOU CALLED THE ROCK
18 HILL POLICE DEPARTMENT BECAUSE YOU WERE UPSET BECAUSE
19 FRANK DID NOT GET ARRESTED?

20 A THAT'S CORRECT.

21 Q FROM 1:21 TO 1:33, YOU WERE TEXT MESSAGING AS WELL WITH A
22 JOHN HOUSE. WHO'S THAT?

23 A WHO?

24 Q JOHN HOUSE. DO YOU KNOW?

25 A NO, I DON'T.

1 Q OKAY. HIS NUMBER IS 493-7113.

2 A MOST OF MY PHONE NUMBERS ARE SAVED UNDER ADDRESSES. I
3 DON'T KNOW THE ACTUAL PHONE NUMBERS. I ONLY KNOW THEM AS
4 A NAME PASTED INTO MY ADDRESS BOOK.

5 Q OKAY. WELL, ACCORDING TO THE RECORDS, YOU HAD EIGHT
6 TEXT MESSAGES IN ABOUT---

7 MS. JOYNER: YOUR HONOR, HE'S TESTIFYING FROM A RECORD.
8 THE COURT: SUSTAINED.

9 Q AND YOU DIDN'T GO TO BED, YOU DIDN'T GO TO SLEEP. YOU
10 MADE A LOT OF CALLS THAT NIGHT. CORRECT?

11 A YES.

12 Q AND ISN'T IT TRUE THAT AT 7:30 IN THE MORNING YOU CALLED
13 THE WBT NEWS TALK SHOW RADIO SHOW?

14 A (NO RESPONSE)

15 Q DID YOU?

16 A NO.

17 Q YOU DIDN'T?

18 A NOT TO MY RECOLLECTION, NO.

19 Q 704-570-1110?

20 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT. MR.

21 LOCHBAUM---

22 THE COURT: SUSTAINED. THAT WAS NOT A QUESTION.

23 REPHRASE.

24 Q DO YOU RECALL THE NUMBER, 704-570-1110?

25 A THAT'S WBT.

1 Q YOU DON'T RECALL CALLING THEM AT 7:30 IN THE MORNING?

2 A NO. BECAUSE YOU ACTUALLY CAN'T GET THROUGH TO THE
3 RADIO STATION AT 7:30 IN THE MORNING BECAUSE THAT RADIO SHOW
4 HOST DOESN'T TAKE PHONE CALLS. YOU HAVE TO WAIT TILL NINE
5 O'CLOCK FOR KEITH LARSON TO COME ON TO TAKE PHONE CALLS.

6 Q SO, YOU KNOW THE NUMBER. IS THAT TRUE?

7 A YES.

8 Q HAVE YOU CALLED IT BEFORE?

9 A MANY TIMES.

10 Q DO YOU LIKE TO CALL AND TALK ON THE RADIO, MR.
11 LOCHBAUM?

12 A I DO. I LIKE TO THINK I'M CIVIC MINDED.

13 Q AND AT 7:52, YOU CALLED, ISN'T IT TRUE THAT YOU CALLED
14 JOHN MAHONEY?

15 A AT WHAT TIME?

16 Q YEAH.

17 A YEAH, I TALKED TO JOHN MAHONEY THAT DAY, TOO.

18 Q WHO IS JOHN MAHONEY?

19 A JOHN MAHONEY IS ANOTHER WORKER AT POP-A-LOCK.

20 Q NOW, ISN'T IT TRUE THAT AT 8:30 THAT MORNING, AND THEN
21 AGAIN, AT 8:35, YOU CALLED THE SOUTH CAROLINA LAW REFERRAL
22 SERVICE?

23 A I'M SURE.

24 Q AND AFTER ALL OF THAT, YOU THEN WENT TO THE CITY OF
25 ROCK HILL POLICE TO TALK TO DETECTIVE HERRING?

1 A I CALLED THEM FROM THE ROCK HILL POLICE DEPARTMENT
2 FROM MY CELL PHONE.

3 Q YOU CALLED DETECTIVE HERRING?

4 A NO, NO. I CALLED THE LAWYERS' PHONE NUMBER FROM THE
5 FOYER OF THE ROCK HILL POLICE DEPARTMENT.

6 Q AND THAT'S BECAUSE YOU WERE ANGRY BECAUSE THE ROCK
7 HILL POLICE HAD NOT DONE WHAT YOU THOUGHT SHOULD HAVE
8 BEEN DONE. ISN'T THAT TRUE?

9 A I WOULD SAY MORE SCARED, FRIGHTENED THAN ANGRY
10 BECAUSE, YOU KNOW, AT THIS POINT HE HAD DONE EVERYTHING I
11 WOULD THINK THAT SOMEONE WOULD GET ARRESTED FOR AND STILL
12 GOT AWAY UNSCATHED. I DON'T KNOW HOW SOMETHING LIKE THAT
13 HAPPENS.

14 Q WELL, YOU SAW FRANK THAT MORNING AT THE POLICE
15 DEPARTMENT, DIDN'T YOU?

16 A I DID.

17 Q YOU TALKED TO KERRIANN, DIDN'T YOU?

18 A I DID.

19 Q FRANK HAD COME DOWN TO THE POLICE DEPARTMENT TO SEE
20 ABOUT TRYING TO GET HIS BROTHER-IN-LAW OUT OF JAIL, DIDN'T HE?

21 A SURE DID.

22 Q BUT YOU WERE THERE MEETING WITH THE POLICE, WEREN'T
23 YOU?

24 A (NO RESPONSE)

1 Q AND SO, AFTER THE POLICE MET WITH YOU WAS WHEN THEY
2 DECIDED-- OR, AFTER THE POLICE MET WITH YOU, SUBSEQUENTLY
3 THE POLICE CAME OUT AND ARRESTED FRANK, TOO. IS THAT
4 CORRECT?

5 A I SUPPOSE. I MEAN, I DON'T KNOW WHAT PROCESSES THEY GO
6 THROUGH TO DETERMINE WHO THEY'RE GOING TO ARREST AND WHO
7 THEY'RE NOT GOING TO ARREST. BUT, YEAH, AFTER I TALKED TO
8 THEM HE WAS ARRESTED.

9 Q BUT THROUGH ALL THE STATEMENTS YOU'VE GIVEN IN THIS
10 CASE, YOU DID NOT TELL, OR FORGOT TO TELL THAT YOU HAD
11 CALLED THE POLICE.

12 A IT DIDN'T SEEM LIKE THE MOST IMPORTANT PIECE OF
13 INFORMATION. I MEAN, A LOT HAD GONE ON. THE FACT THAT I
14 CALLED THE POLICE IS A FOREGONE CONCLUSION.

15 Q HOW MUCH DID YOU TALK WITH YOUR NEIGHBORS BETWEEN,
16 LET'S SAY, WITHIN THE FIRST FOUR DAYS AND AFTER THIS?

17 A ABOUT THIS PARTICULAR INCIDENT?

18 Q YEAH.

19 A FOUR DAYS AFTER IT HAPPENED?

20 Q YES, WITHIN FOUR DAYS HOW MUCH DID YOU TALK WITH YOUR
21 NEIGHBORS?

22 A NOT TOO MUCH. WE REALLY DON'T HAVE A LOT OF CONTACT
23 WITH OUR NEIGHBORS. I MEAN, WE SEE THEM OUTSIDE. WE WAVE
24 WHEN THEY DRIVE BY. WE SAY HI. JUST PRIOR TO THE INCIDENT, LIKE
25 I SAID, WAS OUR SON'S BIRTHDAY PARTY. SO THAT WAS REALLY THE

1 FIRST TIME WE GOT TO KNOW THEM AND SPEAK WITH THEM
2 SOCIALLY.

3 Q SO, TELL ME WHY YOU WERE CALLING ALL THE EMPLOYEES AT
4 POP-A-LOCK IN THE MIDDLE OF THE NIGHT?

5 A TO TELL THEM THAT FRANK TRIED TO KILL ME.

6 Q DID YOU CALL ALL OR JUST THESE FEW?

7 A THESE FEW.

8 Q ARE YOU SURE YOU DIDN'T CALL TO SAY WHAT DID Y'ALL TELL
9 FRANK, WE GOT CAUGHT, THEY KNOW STUFF? ANYTHING LIKE THAT?

10 A NO.

11 Q DO YOU OWN THE COMPANY YOU'RE WORKING FOR NOW?

12 A NO.

13 Q AND YOU DON'T RECALL, OR, DO YOU RECALL TELLING
14 KERRIANN AT THE POLICE DEPARTMENT THAT MORNING THAT THEY
15 SHOULD HAVE LET YOU HAVE YOUR UNEMPLOYMENT?

16 A NO SIR.

17 Q WHAT POLICE OFFICERS DID YOU TALK WITH THAT NIGHT?

18 A IT WAS ONE FEMALE OFFICER THERE, ONE BLACK MALE. THOSE
19 ARE THE ONLY TWO THAT I TALKED TO, BUT THERE WAS ONE OTHER
20 POLICE OFFICER THERE.

21 Q AT WHAT POINT-- DID YOU STILL HAVE YOUR SHOTGUN IN
22 YOUR HAND WHEN THE POLICE DROVE UP?

23 A NO.

24 Q YOU'D ALREADY PUT IT UP?

25 A YES.

1 Q HOW DID YOU KNOW THAT YOU WERE OUT OF DANGER UNTIL
2 THE POLICE GOT THERE?

3 A I DON'T UNDERSTAND THE QUESTION. HOW DID I KNOW? I
4 DON'T KNOW THAT I'M OUT OF DANGER.

5 Q OKAY. YOU SAID THAT YOU TOOK THE GUN OUTSIDE BECAUSE
6 YOU FELT LIKE YOU WERE STILL IN DANGER OF THESE TWO PEOPLE.
7 AND YET, YOU HAVE SAID THAT YOU TOOK THE GUN INSIDE BEFORE
8 THE POLICE GOT THERE.

9 A YES. HAVING A GUN WHEN THE POLICE GET THERE I DON'T
10 THINK WAS A GOOD IDEA.

11 Q BUT YOU TOOK THE GUN INSIDE BEFORE THEY ARRIVED?

12 A THE SHOTGUN, YES.

13 Q THE TRUTH IS, YOU TOOK THE GUN INSIDE WHEN YOU FOUND
14 OUT THEY HAD LEFT, BECAUSE YOU DIDN'T HAVE ANYTHING TO
15 SHOOT, ISN'T THAT TRUE?

16 A NO. IF I WANTED TO SHOOT THEM, I COULD HAVE DID IT WITH
17 THEIR GUN.

18 MR. GREELEY: IF THE COURT WILL INDULGE ME FOR ONE
19 SECOND.

20 THE COURT: SURE.

21 (PAUSE)

22 MR. GREELEY: THAT'S ALL I HAVE, YOUR HONOR.

23 THE COURT: RE-DIRECT.

24 MS. JOYNER: THANK YOU, YOUR HONOR.

25

1 RE-DIRECT EXAMINATION BY MS. JOYNER:

2 Q YOU WERE UPSET. YOU WERE UPSET BY THIS INCIDENT. IS THAT
3 CORRECT?

4 A THAT'S CORRECT.

5 Q WHAT WAS YOUR RELATIONSHIP WITH MIKE TAYLOR?

6 A HE WAS A GOOD FRIEND.

7 Q HOW LONG DID YOU WORK WITH HIM?

8 A YEARS. HE WAS MY CLOSEST TEACHER. I CALLED HIM YODA.
9 HE WAS THAT CLOSE OF A FRIEND.

10 Q STEVEN McCOY, WAS HE A FRIEND OF YOURS?

11 A NO. I HAD MET STEVEN McCOY ONLY ONE TIME.

12 Q AND SOME OF THE OTHER INDIVIDUALS MENTIONED, WERE
13 THEY FRIENDS, FORMER CO-WORKERS?

14 A BRYAN WAS A GOOD FRIEND OF MINE.

15 Q I'M SORRY?

16 A BRYAN WAS ALSO A GOOD FRIEND OF MINE. HE STARTED OUT
17 AS A TRAINEE. WHEN HE FIRST CAME TO THE COMPANY, I WAS STILL
18 PRETTY NEW IN THE MANAGER'S SPOT, BUT I TRAINED BRYAN ALL THE
19 WAY FROM TECHS ALL THE WAY UP TO LOCKSMITH. AND HE IN SOME
20 CASES EVEN SURPASSED ME. HE PASSED ME BECAUSE I WAS DEALING
21 WITH THE DAY-TO-DAY OPERATIONS OF THE COMPANY AND NOT
22 LEARNING ALL I CAN IN THE TRADE. SO, BRYAN, AGAIN, WAS A CLOSE
23 FRIEND.

1 Q SO, MOST OF THE PEOPLE THAT YOU CALLED ABOUT THE
2 INCIDENT, HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP WITH
3 THEM?

4 A CLOSE FRIENDS.

5 Q NOW, PRIOR TO THE POINT WHERE YOU WENT INSIDE TO GET
6 YOUR SHOTGUN, DID YOU HAVE A WEAPON?

7 A NO.

8 Q AND DID YOU INVITE THESE INDIVIDUALS OVER TO YOUR
9 HOUSE AND DID YOU KNOW THEY WERE COMING?

10 A NO, NEVER.

11 Q THAT WHOLE PHONE RECORD THAT MR. GREELEY WAS GOING
12 THROUGH, ARE YOU AWARE OF ANY SINGLE PHONE CALL THAT CAME
13 FROM FRANK LARMAND THAT EVENING BEFORE HE CAME TO YOUR
14 HOUSE?

15 A NO.

16 Q DID YOU EVER APPEAR AT KNIGHTS' STADIUM TO GO SEE MIKE
17 TAYLOR THAT NIGHT?

18 A NO.

19 Q WHO POINTED THE GUN AT YOU?

20 A LEO LEMIRE.

21 Q WHO WERE THE INDIVIDUALS THAT CAME TO YOUR HOUSE
22 THAT NIGHT?

23 A FRANK LARMAND AND LEO LEMIRE.

24 Q THANK YOU VERY MUCH.

25 THE COURT: MR. RHEA?

1 MR. RHEA: JUST BRIEFLY, YOUR HONOR.

2 RE-CROSS EXAMINATION BY MR. RHEA:

3 Q I WANT TO TALK ABOUT KNIGHTS' STADIUM JUST BRIEFLY. IF
4 ALL YOU WERE TALKING ABOUT IS YOU WERE GIVING SOMEONE
5 DIRECTIONS, YOUR GOOD FRIEND, MIKE TAYLOR, THEN HOW WOULD
6 YOU END UP AT KNIGHTS' STADIUM?

7 A I'VE NEVER BEEN TO KNIGHTS' STADIUM IN MY LIFE.

8 Q DO YOU KNOW WHERE IT IS?

9 A YEAH, BECAUSE ON THE INTERSTATE, YOU CAN SEE THE BIG
10 BASEBALL WATER COOLER, THE WATER TOWER AT EXIT 88.

11 Q MY QUESTION: MIKE TAYLOR GETTING A CALL TO GO TO
12 KNIGHTS' STADIUM.

13 A UH-HUH.

14 Q WHETHER YOU THINK IT'S A HOAX OR NOT, WHY WOULD THAT
15 HAVE YOU GOING THERE? THEY DON'T-- YOU DON'T WORK FOR POP-A-
16 LOCK THEN?

17 A I DON'T UNDERSTAND.

18 Q BECAUSE YOU TOLD MIKE THEY TRIED TO LURE YOU---

19 A RIGHT.

20 Q ---TO KNIGHTS' STADIUM.

21 A I'M GLAD YOU ASKED.

22 Q HOW COULD THEY DO THAT?

23 A BECAUSE THEY DON'T DO CALLS IN FORT MILL. THEY'VE NEVER
24 DONE CALLS IN FORT MILL. THE VERY FACT THAT THERE WAS A CALL

1 IN FORT MILL TOLD ME THAT IT WASN'T MIKE TAYLOR THEY WERE
2 TRYING TO TRACK, IT WAS ME. THEY DON'T--

3 Q WHY WOULD YOU CONSIDER TO KNIGHTS' STADIUM?

4 A I DIDN'T CONSIDER GOING. I NEVER-- AT NO POINT DID I
5 CONSIDER GOING.

6 Q THE CALL GOING TO MIKE TAYLOR HAD NOTHING WHATSOEVER
7 TO DO WITH YOU. RIGHT?

8 A I AGREE.

9 MR. RHEA: NOTHING FURTHER.

10 THE COURT: MR. GREELEY.

11 RE-CROSS EXAMINATION BY MR. GREELEY:

12 Q THE CALL GOING TO MIKE TAYLOR HAD NOTHING TO DO WITH
13 YOU. CORRECT?

14 A CORRECT.

15 Q AND MIKE TAYLOR CALLING YOU FOR DIRECTIONS TO KNIGHTS'
16 STADIUM, OTHER THAN INFORMATION, HAS NOTHING TO DO WITH
17 YOU. CORRECT?

18 A I'M SORRY. COULD YOU REPEAT THE QUESTION?

19 Q A CALL FROM MIKE TAYLOR TO YOU ASKING FOR DIRECTIONS
20 HAS NOTHING TO DO WITH YOU. CORRECT?

21 A WHAT DOES THAT MEAN, HAS NOTHING TO DO WITH ME? HE
22 ASKED ME FOR DIRECTIONS.

23 Q IF HE ASKED---

24 A IF SOMEBODY ASKS ME HOW TO GET SOMEWHERE I TELL THEM
25 HOW TO GET THERE.

- 1 Q HE WAS ASKING YOU FOR DIRECTIONS TO SEE HOW TO GET
- 2 THERE. CORRECT?
- 3 A CORRECT.
- 4 Q SO, THAT REALLY HAS NOTHING TO DO WITH YOU EITHER, DOES
- 5 IT?
- 6 A NO.
- 7 Q OTHER THAN YOU GIVING HIM INFORMATION ABOUT HOW TO
- 8 GET TO KNIGHTS' STADIUM?
- 9 A RIGHT.
- 10 Q BUT THE NEXT MORNING, YOU TOLD DETECTIVE HERRING THAT
- 11 THESE TWO PEOPLE TRIED TO LURE YOU TO KNIGHTS' STADIUM.
- 12 CORRECT?
- 13 A YES.
- 14 MR. GREELEY: NOTHING FURTHER.
- 15 THE COURT: ANYTHING FURTHER?
- 16 MS. JOYNER: NOTHING FROM THE STATE.
- 17 THE COURT: YOU MAY STEP DOWN, MR. LOCHBAUM.
- 18 A THANK YOU.
- 19 THE COURT: MEMBERS OF THE JURY. WE'RE GOING TO BREAK
- 20 FOR THE DAY. I'LL ASK YOU TO BE HERE AT 9:00 IN THE MORNING.
- 21 AGAIN, PLEASE DO NOT TALK AMONG YOURSELVES ABOUT THIS CASE.
- 22 DO NOT TALK TO YOUR SPOUSES ABOUT THE CASE, TO YOUR
- 23 CHILDREN OR YOUR FRIENDS. AND I WOULD APPRECIATE IT IF YOU
- 24 WOULD NOT READ THE NEWSPAPER OR WATCH TV.
- 25 THANK YOU VERY MUCH. I'LL SEE YOU BACK AT 9:00 A.M.

1 (WHEREUPON THE JURY EXITED THE COURTROOM AT 4:44 P.M.)

2 THE COURT: ANYTHING FROM THE STATE BEFORE WE ADJOURN
3 FOR THE DAY?

4 MS. JOYNER: NOTHING FROM THE STATE, YOUR HONOR.

5 THE COURT: MR. RHEA?

6 MR. RHEA: NOTHING FROM US, YOUR HONOR.

7 THE COURT: MR. GREELEY?

8 MR. GREELEY: YOUR HONOR, JUST ONE MATTER. I KNOW THAT
9 OUR CLIENTS WILL BE STAYING WITH THE COUNTY TONIGHT. MY
10 CLIENT HAS GOT PRESCRIPTION MEDICATION THAT HE NEEDS TO BE
11 ABLE TO TAKE. AND THAT IS OUR ONLY CONCERN, IS THAT SOME
12 PROVISION CAN BE MADE SO THAT HE CAN TAKE THAT.

13 THE COURT: I'M SURE THAT IT CAN BE GIVEN TO THE FOLKS
14 WHO RUN THE DETENTION CENTER AND THEY WILL DISPENSE IT.

15 MR. GREELEY: HE WAS UNDER THE IMPRESSION THAT THEY
16 TOLD HIM THEY WOULDN'T TAKE ANY DRUGS THAT HE HAS, AND HE
17 WAS WORRIED ABOUT THAT.

18 MS. JOYNER: IT'S MY UNDERSTANDING, YOUR HONOR, AND I
19 COULD BE WRONG, BUT AS LONG AS THEY ARE PRESCRIPTIONS AND
20 THEY HAVE A DOCUMENT FROM THE DOCTOR THAT HE HAS TO TAKE
21 IT, THEY WILL ALLOW IT.

22 THE COURT: WELL, LET'S MAKE SURE WE HAVE ALL THE
23 DOCUMENTATION AND I'M SURE THEY WILL ALLOW HIM TO TAKE HIS
24 MEDICATION.

25 MR. GREELEY: THANK YOU, YOUR HONOR.

1 THE COURT: I'M GOING TO TURN THESE BULLETS OVER TO THE
2 COURT REPORTER TO HAVE THEM MARKED AS A COURT'S EXHIBIT SO
3 THAT THEY CAN BE SECURED OVERNIGHT.

4 MS. JOYNER: THANK YOU, YOUR HONOR.

5 (WHEREUPON BULLETS WERE MARKED AS COURT'S EXHIBIT ONE BY
6 THE COURT REPORTER AND SECURED IN EVIDENCE WITH THE OFFICE
7 OF THE CLERK OF COURT)

8 (WHEREUPON COURT WAS ADJOURNED AT 4:50 P.M.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C O P Y

STATE OF SOUTH CAROLINA)
 :
COUNTY OF YORK)
 :

COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

PLAINTIFF,)

VERSUS

FRANCIS VICTOR LARMAND, JR.,)
LEO DAVID LEMIRE,)
:

DEFENDANTS. :

COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT

TRANSCRIPT OF RECORD

09-GS-46-02833

09-GS-46-02834

09-GS-46-02835

09-GS-46-02837

09-GS-46-02838

09-GS-46-02839

VOLUME II
OCTOBER 21, 2009
YORK, SOUTH CAROLINA

BEFORE:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE, AND A JURY

APPEARANCES:

FOR THE STATE:

ERIN JOYNER, ESQ., ASSISTANT SOLICITOR

JENNIFER COLTON, ASSISTANT SOLICITOR

FOR THE DEFENDANT, FRANCIS VICTOR LARMAND, JR.:

JOHN D. RHEA, ESQ.

FOR THE DEFENDANT, LEO DAVID LEMIRE:

LELAND GREELEY, ESQ.

PHYLLIS S. BARRETT
CIRCUIT COURT REPORTER

1 WEDNESDAY, OCTOBER 21, 2009 - COURT IN SESSION - 9:20 A.M.

2 THE COURT: ANYTHING BEFORE WE BRING IN THE JURY?

3 MR. RHEA: YES, YOUR HONOR. WE DO HAVE ONE MATTER. AS I
4 WAS COMING IN THIS MORNING, I HAD MY HAND MY HANDS FULL AND
5 THERE WAS A GENTLEMAN IN FRONT OF ME WHO HAD THE DOOR, AND
6 I ASKED HIM IF HE COULD PLEASE HOLD THE DOOR FOR ME SO I COULD
7 GET THROUGH, AND TOLD HIM THANK YOU. I DID NOT RECOGNIZE
8 HIM.

9 I NOTICED THEREAFTER WHEN HE WAS GOING THROUGH THE
10 METAL DETECTOR THAT HE GRABBED A WHITE JUROR BADGE OUT OF
11 HIS POCKET AND PUT IT ON HIS SHIRT. I DON'T KNOW IF HE IS ON OUR
12 JURY OR ON THE OTHER JURY. BUT HE WAS A JUROR, AND I DID THAT
13 INADVERTENTLY. AND I WANTED TO LET THE STATE KNOW THAT.
14 THAT WAS MY INTERACTION WITH A JUROR.

15 THE COURT: YOU DIDN'T TALK ABOUT THE CASE OR THE
16 PARTIES IN ANY WAY?

17 MR. RHEA: OH, NO SIR.

18 MR. GREELEY: I DON'T HAVE ANY PROBLEM WITH IT.

19 MS. JOYNER: NO PROBLEM WITH IT, YOUR HONOR.

20 THE COURT: THAT'S FINE. LET'S BRING IN THE JURY.

21 (WHEREUPON THE JURY ENTERED THE COURTROOM)

22 CALL YOUR NEXT WITNESS, MS. JOYNER.

23 MS. JOYNER: THANK YOU, YOUR HONOR. THE STATE CALLS RON
24 LEE
25

1 RONALD EDWARD LEE, DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MS. JOYNER:

4 Q GOOD MORNING, MR. LEE.

5 A GOOD MORNING.

6 Q WOULD YOU STATE YOUR FULL NAME FOR THE RECORD?

7 A RONALD EDWARD LEE.

8 Q WHAT IS YOUR ADDRESS?

9 A 4513 SUMMERSIDE DRIVE, LAKE WYLIE.

10 Q HAVE YOU HAD OCCASION TO STAY OVER ON GENTLE BREEZE
11 LANE?

12 A YES.

13 Q HOW MANY TIMES HAVE YOU STAYED THERE?

14 A QUITE A FEW TIMES. IT'S CLOSER TO MY JOB, SO IT SAVES ON
15 GAS.

16 Q WHERE DO YOU WORK?

17 A FOOD LION ON HECKLE BOULEVARD.

18 Q WHEN YOU WOULD STAY IN GENTLE BREEZE SUBDIVISION, WHO
19 WOULD YOU STAY WITH?

20 A ELIZABETH'S PARENTS, JIM AND JUDY, WHICH IS WHERE I LIVED
21 WHERE MARK WAS STAYING.

22 Q SO, MARK WHITTINGTON---

23 A YEAH, MARK WHITTINGTON.

24 Q ---AND HIS WIFE?

25 A YEAH.

- 1 Q ANYBODY ELSE STAY THERE?
- 2 A MICHAEL DEVIN FIVECOAT, TARA LOWERY.
- 3 Q YOU HAVE BEEN TO TARA'S PARENTS?
- 4 A YES.
- 5 Q WHAT ARE THEIR NAMES?
- 6 A JIM AND JUDY LOWERY.
- 7 Q NOW, BACK ON THE EVENING OF APRIL 30-MAY 1, WHERE YOU
- 8 STAYING WITH MARK AND ELIZABETH?
- 9 A YES.
- 10 Q ON THAT NIGHT DID YOU HAVE THE OCCASION TO GO OVER TO
- 11 RYAN'S HOUSE?
- 12 A YES.
- 13 Q HOW DID YOU KNOW RYAN?
- 14 A WE MET THROUGH THE NEIGHBORHOOD.
- 15 Q DO YOU RECALL WHAT TIME YOU WENT OVER TO RYAN'S
- 16 HOUSE?
- 17 A A LITTLE AFTER ELEVEN OR SO, SOMEWHERE AROUND IN THERE.
- 18 Q WHAT WAS THE PURPOSE OF GOING OVER THERE?
- 19 A WE WERE TALKING ABOUT SPIDERS. MARK'S REAL AFRAID OF
- 20 SPIDERS AND RYAN WANTED TO SHOW US THIS THING CALLED A
- 21 CAMEL SPIDER ON THE INTERNET.
- 22 Q SO, THE PURPOSE WAS SOCIAL?
- 23 A YES.
- 24 Q WAS ANYBODY DRINKING ANY BEER?
- 25 A EARLIER THAT DAY.

1 Q NOW, AT SOME POINT IN THAT EVENING, WHEN YOU WERE
2 THERE, WAS THERE ALSO ELIZABETH AND RYAN'S WIFE THERE?

3 A YES.

4 Q AND AT SOME POINT DID THEY LEAVE?

5 A YES.

6 Q DO YOU RECALL WHAT TIME THAT WAS?

7 A NOT EXACTLY, NOT RIGHT OFF THE TOP OF MY HEAD.

8 Q AND AFTER THEY LEFT, DID ANYBODY ELSE COME?

9 A YES.

10 Q WHO CAME?

11 A THE SMALLER GUY.

12 Q THE SMALLER GUY?

13 A YES.

14 Q BY THE SMALLER GUY, YOU MEAN? DO YOU SEE HIM IN THE
15 COURTROOM?

16 A YEAH.

17 Q COULD YOU POINT HIM OUT?

18 A YEAH. (INDICATION BY POINTING TO DEFENDANT LARMAND)

19 Q FRANK LARMAND?

20 A YES.

21 MS. JOYNER: LET THE RECORD REFLECT THAT HE'S IDENTIFIED
22 FRANK LARMAND.

23 Q DID YOU-- DID ANYBODY-- DID IT APPEAR THAT ANYBODY
24 KNEW HE WAS COMING?

25 A NO.

- 1 Q NOBODY HAD BEEN TALKING ABOUT FRANK COMING OVER?
- 2 A NO.
- 3 Q WHEN HE APPEARED, WHO WAS THE FIRST PERSON WHO
- 4 NOTICED HIM?
- 5 A MARK.
- 6 Q WHERE WAS MARK STANDING?
- 7 A OUTSIDE THE VAN BESIDE ME.
- 8 Q BESIDE YOU?
- 9 A YES.
- 10 Q WERE YOU IN FRONT OF MARK, BEHIND MARK?
- 11 A I WAS ACTUALLY ON THE LEFT-HAND SIDE OF MARK.
- 12 Q WAS MARK STANDING CLOSEST TO THE VAN? DO YOU
- 13 REMEMBER?
- 14 A NO.
- 15 Q YOU DON'T REMEMBER?
- 16 A I DON'T REMEMBER.
- 17 Q WERE YOU THERE WHEN RYAN LOCHBAUM FIRST SAY FRANK
- 18 LARMAND?
- 19 A YES.
- 20 Q WHAT WAS RYAN'S EXPRESSION?
- 21 A SHOCK.
- 22 Q WHAT WAS THE DEFENDANT'S DEemeanor WHEN YOU FIRST
- 23 SAW HIM?
- 24 A AGITATED.
- 25 Q AGITATED?

- 1 A YES.
- 2 Q AND AT SOME POINT WAS THERE A DISCUSSION WHERE RYAN
- 3 ASKED YOU GUYS TO LEAVE?
- 4 A YES.
- 5 Q DID YOU LEAVE?
- 6 A YES.
- 7 Q NOW, ONCE YOU LEFT, WHERE DID YOU GO?
- 8 A OVER CLOSE TO OUR HOUSE.
- 9 Q WHEN YOU SAY OVER CLOSE TO YOUR HOUSE, WOULD YOU
- 10 STEP DOWN FOR A SECOND?
- 11 (WHEREUPON WITNESS EXITS WITNESS STAND FOR
- 12 DEMONSTRATION WITH EXHIBIT FIVE)
- 13 THERE'S A MAP OVER HERE THAT'S BEEN ENTERED IN AS STATE'S
- 14 EXHIBIT FIVE. DO YOU RECOGNIZE THIS MAP?
- 15 A YES.
- 16 Q WHAT WOULD THIS MAP BE OF?
- 17 A GENTLE BREEZE.
- 18 Q CAN YOU TELL ON THIS MAP WHERE MARK AND ELIZABETH'S
- 19 HOUSE WAS WHERE YOU WERE STAYING?
- 20 A YES, RIGHT HERE.
- 21 Q IF YOU COULD DO THAT AGAIN, BUT TURN TOWARDS THE JURY
- 22 AND POINT SO THAT THEY CAN SEE WHERE YOU'RE POINTING.
- 23 A RIGHT HERE.
- 24 Q SO, AS YOU'RE LEAVING RYAN'S HOUSE, IT'S UP THE STREET AND
- 25 TO THE RIGHT?

- 1 A YES.
- 2 Q NOW, DID YOU WALK ALL THE WAY BACK TO YOUR HOUSE
- 3 THAT NIGHT?
- 4 A NO.
- 5 Q HOW FAR DID YOU GET UP THE ROAD?
- 6 A WE GOT TO THE CORNER HERE.
- 7 Q IS THERE A REASON YOU STOPPED AT THE CORNER?
- 8 A IT LOOKED LIKE THINGS COULD GET OUT OF HAND AND WE JUST
- 9 KIND OF STOOD AROUND, BEING NOSY. OR, I WAS BEING NOSY.
- 10 Q YOU WERE STANDING THERE. WHERE YOU WERE STANDING
- 11 EXACTLY, BEING NOSY.
- 12 A RIGHT HERE.
- 13 Q AND FROM THAT VANTAGE POINT WERE YOU ABLE TO SEE BACK
- 14 TO RYAN'S HOUSE?
- 15 A NO, I WASN'T.
- 16 Q WAS ANYBODY ELSE, TO THE BEST OF YOUR KNOWLEDGE, ABLE
- 17 TO SEE BACK OVER TO RYAN'S HOUSE?
- 18 A YES, MARK. RIGHT AROUND HERE.
- 19 Q HE WAS STANDING A LITTLE BIT TO THE SIDE OF WHERE YOU
- 20 WERE?
- 21 A YES.
- 22 Q YOU CAN TAKE YOUR SEAT AGAIN.
- 23 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)
- 24 NOW, AT SOME POINT, DID YOU DECIDE AND DID MARK AND
- 25 DEVIN DECIDE TO GO BACK OVER TO RYAN'S HOUSE?

- 1 A YES.
- 2 Q AND HOW DID THAT HAPPEN?
- 3 A MARK HOLLERED, THERE'S MORE THAN ONE.
- 4 Q AND AFTER MARK HOLLERED, THERE'S MORE THAN ONE, WHAT
- 5 DID YOU DO?
- 6 A WE ALL TOOK OFF RUNNING UP THERE.
- 7 Q WHILE YOU WERE RUNNING, WERE YOU ABLE TO KEEP AN EYE
- 8 ON WHAT WAS GOING ON AT THE SCENE?
- 9 A NOT REALLY. I MEAN, NOT UNTIL I GOT THERE.
- 10 Q NOW, WHO WAS RUNNING WITH YOU?
- 11 A MARK AND MICHAEL.
- 12 Q MICHAEL BEING DEVIN?
- 13 A YES.
- 14 Q MICHAEL DEVIN FIVECOAT?
- 15 A YES.
- 16 Q WHO GOT THERE FIRST?
- 17 A I BELIEVE IT WAS DEVIN.
- 18 Q WHO GOT THERE SECOND?
- 19 A MARK.
- 20 Q YOU WERE BEHIND THEM?
- 21 A YES. I'M NOT A VERY FAST RUNNER.
- 22 Q NOW, WHEN YOU GOT THERE, WHAT DID YOU SEE?
- 23 A I SAW THEM ALL IN A SCUFFLE ON THE GROUND, A DOG PILE.
- 24 Q A DOG PILE?
- 25 A YEAH, A FOOTBALL TERM, DOG PILE.

1 Q SO, IF YOU CAN REMEMBER, IF YOU WERE ABLE TO TELL, WHERE
2 WAS RYAN IN THE DOG PILE?

3 A HE WAS AT THE BACK, MORE TOWARDS HIS HOUSE.

4 Q OKAY.

5 A FACING TOWARDS HIS HOUSE.

6 Q NOW, WAS THERE ANYBODY BELOW HIM?

7 A YES.

8 Q DID YOU KNOW WHO THAT PERSON WAS?

9 A NO.

10 Q DID YOU EVER COME TO SEE THE FACE OF THAT PERSON?

11 A NOT UNTIL AFTER THE SCUFFLE WAS OVER.

12 Q DO YOU SEE THAT PERSON IN THE COURTROOM?

13 A YES.

14 Q CAN YOU POINT HIM OUT?

15 A YEAH, THAT'S HIM. (POINTING FINGER AT DEFENDANT LEMIRE)

16 Q IS THAT LEO LEMIRE?

17 A YEAH.

18 MS. JOYNER: LET THE RECORD REFLECT HE'S IDENTIFIED LEO
19 LEMIRE.

20 Q SO, LEO LEMIRE WAS BELOW RYAN. WAS THERE ANYBODY ON
21 TOP OF RYAN?

22 A YES.

23 Q WHO WAS ON TOP OF RYAN?

24 A HIM. (POINTING FINGER AT DEFENDANT LARMAND)

25 Q ARE YOU POINTING TO FRANK LARMAND?

1 A YES.

2 Q HOW DID HE HAVE RYAN?

3 A HE HAD WHAT LOOKED LIKE A CHOKE HOLD.

4 Q WHEN YOU SAY CHOKE HOLD, DO YOU MEAN LIKE ONE ON ONE?

5 A IT LOOKED LIKE HE WAS OVER TOP OF HIM LIKE THAT.

6 Q ARMS CROSSED OVER HIS NECK?

7 A THAT'S THE WAY IT LOOKED TO ME, YEAH.

8 Q LET'S TRY TO FIGURE OUT HOW EVERYBODY WAS IN THE DOG
9 PILE. SO, LEO'S DOWN HERE, AND RYAN'S UP HERE?

10 MR. RHEA: OBJECTION, YOUR HONOR. SHE'S TESTIFYING.

11 MS. JOYNER: I'LL REPHRASE THE QUESTION, YOUR HONOR.

12 Q WHERE EXACTLY WAS THE DOG PILE LOCATED WHEN YOU GOT
13 TO THE RESIDENCE?

14 A IT WAS FROM THE SIDEWALK RIGHT IN FRONT OF RYAN'S HOUSE.

15 Q CAN YOU STEP DOWN FOR JUST ONE MOMENT, AND COME BACK
16 OVER HERE TO STATE'S EXHIBIT FIVE?

17 (WHEREUPON WITNESS EXITED WITNESS STAND FOR
18 DEMONSTRATION WITH EXHIBIT FIVE)

19 IF YOU WILL STAND RIGHT THERE SO THAT THE JURY CAN SEE
20 WHERE YOU'RE POINTING. CAN YOU POINT WHERE YOU THINK THE
21 DOG PILE WAS LOCATED?

22 A (WITNESS INDICATING POINT ON STATE'S EXHIBIT FIVE)

23 Q THANK YOU VERY MUCH. YOU CAN TAKE YOUR SEAT.

24 (WHEREUPON WITNESS RETURNS TO WITNESS STAND)

1 Q SO, ON THE SIDEWALK. WAS THERE ANY PERSON IN THE DOG
2 PILE WHO YOU WOULD TERM AS FACING RYAN'S HOUSE, FACING
3 TOWARDS THE HOUSE?

4 A YEAH.

5 Q WHO WAS THAT?

6 A IT LOOKED LIKE JESSE.

7 Q JESSE?

8 A YES.

9 Q WHICH DIRECTION WOULD YOU SAY RYAN WAS FACING WHERE
10 YOU POINTED OUT THERE?

11 A TOWARDS THE STREET.

12 Q SO, IF THE HOUSE IS RIGHT HERE AND THE STREET IS RIGHT
13 HERE, THEN JESSE HARRIS WAS HERE?

14 MR. RHEA: OBJECTION, YOUR HONOR.

15 THE COURT: SUSTAINED.

16 Q SO, IF THE HOUSE IS RIGHT HERE, AND THE STREET IS RIGHT
17 HERE, WHICH DIRECTION WAS JESSE HARRIS FACING?

18 A KIND OF DIAGONAL TOWARDS THE HOUSE.

19 Q IS THIS CORRECT? (INDICATING POINT ON STATE'S EXHIBIT
20 NUMBER FIVE)

21 A YEAH.

22 Q WHICH DIRECTION WAS RYAN LOCHBAUM FACING?

23 A TOWARDS THE STREET. STRAIGHT TOWARDS THE STREET,
24 AWAY.

25 Q TOWARDS MS. PHYLLIS? (INDICATING COURT REPORTER)

- 1 A YES.
- 2 Q WHERE WAS FRANK LARMAND?
- 3 A BEHIND, ON TOP OF RYAN.
- 4 Q WOULD HE BE FACING IN THE SAME DIRECTION?
- 5 A YES.
- 6 Q BY THE TIME YOU GOT THERE, WAS THERE ANYBODY ELSE IN
- 7 THE DOG PILE?
- 8 A ABOUT AS SOON AFTER WE GOT THERE MARK ENTERED THE
- 9 DOG PILE.
- 10 Q WHERE DID MARK GO?
- 11 A ON TOP OF THE SMALLER GUY.
- 12 Q WOULD HE BE FACING IN THE SAME DIRECTION AS THE
- 13 SMALLER GUY?
- 14 A I DON'T KNOW IF HE WAS FACING TOWARDS THE STREET. I
- 15 THINK HE WAS KIND OF DIAGONAL TRYING TO PULL THE SMALLER
- 16 GUY OFF OF RYAN.
- 17 Q DURING THE COURSE OF ALL THIS, DID YOU HEAR ANYBODY
- 18 SAYING ANYTHING?
- 19 A YES.
- 20 Q WHO DID YOU HEAR SAYING ANYTHING?
- 21 A THE FIRST THING I HEARD WHICH STOPPED ME IN MY TRACKS
- 22 WAS MICHAEL DEVIN FIVECOAT HOLLERED, OH, MY GOD, THERE'S A
- 23 GUN.
- 24 Q WHERE WAS MICHAEL DEVIN FIVECOAT?
- 25 A DIRECTLY OPPOSITE FROM ME FROM THE DOG PILE.

- 1 Q WHERE WERE YOU?
- 2 A I WAS---
- 3 Q IF THIS IS THE HOUSE AND THAT DIRECTION IS THE STREET,
- 4 WHERE WERE YOU?
- 5 A I'M ON THAT SIDE.
- 6 Q WOULD THERE BE A HOUSE BEHIND YOU?
- 7 A YES.
- 8 Q WHOSE HOUSE WOULD THAT BE?
- 9 A JESSE'S.
- 10 Q AND WHERE WAS DEVIN?
- 11 A DEVIN WAS AROUND THE OTHER SIDE, TOWARDS THE EMPTY
- 12 FIELD THERE.
- 13 Q AND AFTER YOU HEARD DEVIN SAY, OH, MY GOD, THERE'S A
- 14 GUN, DID YOU HEAR ANYBODY ELSE SAY ANYTHING?
- 15 A YES. THERE WAS A GUY HOLLERING, DON'T BE MESSING WITH
- 16 MY FAMILY, SOMETHING LIKE THAT. CUSS WORDS WERE INVOLVED,
- 17 BUT I DON'T WANT TO CUSS.
- 18 Q DID YOU KNOW-- COULD YOU TELL WHERE THAT VOICE WAS
- 19 COMING FROM?
- 20 A THE DOG PILE.
- 21 Q BUT YOU DIDN'T DISCERN?
- 22 A YES.
- 23 Q DID YOU HEAR ANYBODY ELSE SAY ANYTHING?
- 24 A I HEARD... I'M TRYING TO REMEMBER. I HEARD SOMEBODY
- 25 SAY, HELP, GET HIM OFF ME, GET HIM OFF ME.

1 Q DID YOU HEAR ANYBODY DISCUSSING THE GUN?

2 A NO, NOT RIGHT OFF THE TOP OF MY HEAD. IT WAS ALL
3 HAPPENING.

4 Q COULD YOU GIVE AN ESTIMATE OF HOW LONG YOU THINK THIS
5 DOG PILE LASTED?

6 A FORTY-FIVE SECONDS TO A MINUTE, AT MOST.

7 Q NOW, HOW DID IT ALL GET STOPPED?

8 A ONCE, THEY GOT THE GUN AWAY.

9 Q WHO GOT THE GUN AWAY?

10 A RYAN.

11 Q DID ANYBODY HELP HIM GET THE GUN AWAY?

12 A I COULDN'T TELL. I MEAN, I KNOW RYAN CAME OUT THE DOG
13 PILE AND THE GUN WAS PULLED AWAY.

14 Q WHAT HAPPENED AFTER HE GOT THE GUN AWAY? DO YOU
15 REMEMBER?

16 A THE SMALLER GUY AND THE LARGER GUY WENT RUNNING UP
17 THE STREET. AND WE, TARA CALLED THE POLICE.

18 Q WHO'S TARA?

19 A TARA IS MARK'S SISTER-IN-LAW.

20 Q WHAT'S HER LAST NAME?

21 A LOWERY.

22 Q WHERE WAS TARA WHEN ALL THIS WAS GOING ON?

23 A SHE WAS TOWARDS THE HOUSE, TOWARDS OUR HOUSE.

24 Q SO, SHE HAD COME BACK?

25 A YES.

- 1 Q DO YOU KNOW WHICH PHONE SHE CALLED THE POLICE FROM?
- 2 A A CELL PHONE. I DON'T KNOW WHOSE CELL PHONE.
- 3 Q IF I COULD GET YOU TO STEP DOWN ONE MORE TIME.
- 4 (WHEREUPON WITNESS EXITED WITNESS STAND FOR
- 5 DEMONSTRATION WITH EXHIBIT FIVE)
- 6 I WANT TO GO BACK TO STATE'S EXHIBIT FIVE. WHEN YOU SAY
- 7 THAT THE BIG GUY AND THE LITTLE GUY WENT RUNNING DOWN THE
- 8 STREET, WHAT DO YOU MEAN? IF YOU COULD, POINT IT OUT.
- 9 A THEY WENT RUNNING DOWN THE STREET THAT WAY.
- 10 Q DO YOU KNOW THE NAME OF THAT STREET?
- 11 A NO, I DON'T KNOW THE NAME OF IT OFF THE TOP OF MY HEAD.
- 12 Q BUT, WAS IT THE SAME STREET THAT RYAN LOCHBAUM LIVES
- 13 ON?
- 14 A YES.
- 15 Q DID THEY RUN IN THE DIRECTION OF HIS HOUSE OR THE
- 16 OPPOSITE DIRECTION?
- 17 A THE OPPOSITE DIRECTION.
- 18 Q DID YOU SEE HOW FAR THEY RAN?
- 19 A NO, I DIDN'T SEE HOW FAR THEY RAN.
- 20 Q DID ANYBODY GO AFTER THEM?
- 21 A YES.
- 22 Q WHO WENT AFTER THEM?
- 23 A MICHAEL AND MARK.
- 24 Q MICHAEL IS DEVIN?
- 25 A DEVIN, YES.

1 Q COULD YOU SEE HOW FAR MARK OR DEVIN RAN DOWN THE
2 STREET?

3 A MARK GOT PRETTY FAR DOWN AND TURNED AROUND. DEVIN
4 FOLLOWED FOR A LITTLE BIT AND CAME BACK, SO THAT THEY WOULD
5 KNOW WHAT KIND OF VEHICLE THEY LEFT IN.

6 Q AND WAS THAT THE DESCRIPTION THEY GAVE TO THE POLICE?

7 A YES. I BELIEVE IT WAS TARA THAT HANDED MARK THE PHONE,
8 AND MARK WAS ON THE PHONE WITH THE POLICE WHILE HE WAS
9 RUNNING.

10 Q NOW, I THINK I WILL ASK YOU TO DO THIS, GO BACK UP.

11 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

12 DO YOU REMEMBER-- DID YOU PAY ATTENTION THAT NIGHT ON
13 APRIL 30-MAY 1? WERE THERE A LOT OF CARS PARKED ON THAT
14 STREET WHERE RYAN LIVES?

15 A NOT REALLY. RYAN'S CAR, AND MOST EVERYBODY ELSE
16 PARKED IN THEIR DRIVEWAY.

17 Q WAS THERE ANY OTHER PROBLEM WITH PARKING ON THE
18 STREET CLOSE TO RYAN'S HOUSE?

19 A NO.

20 Q ONCE THESE MEN LEFT AND MARK AND DEVIN CAME BACK
21 FROM DOWN THE ROAD, AT ANY POINT DID THE POLICE RESPOND?

22 A YES.

23 Q DO YOU REMEMBER HOW QUICKLY?

24 A PRETTY QUICK, WITHIN A COUPLE OF MINUTES AT THE MOST.

1 Q DO YOU REMEMBER THE NAMES OF THE OFFICERS THAT
2 RESPONDED?

3 A NOT RIGHT OFF THE TOP OF MY HEAD. I MEAN, I KNOW WHAT
4 THEY LOOKED LIKE. IT WAS A FEMALE OFFICER WHO RESPONDED
5 FIRST.

6 Q DID THAT FEMALE OFFICER TALK TO EVERY PERSON AT THE
7 SCENE?

8 A SHE TALKED TO THEM. SHE TOOK MY LICENSE, BUT NEVER
9 ACTUALLY TALKED TO ME.

10 Q DID YOU SEE HER TALKING TO THE OTHERS PRESENT AT THE
11 SCENE ABOUT WHAT HAPPENED?

12 A YES.

13 Q AFTER RYAN GOT THE GUN AWAY, WHAT HAPPENED TO THE
14 GUN?

15 A HE EMPTIED IT AND LAID IT ON THE SIDEWALK.

16 Q WERE THERE BULLETS IN THE GUN?

17 A YES.

18 Q THANK YOU VERY MUCH, MR. LEE. PLEASE ANSWER ANY
19 QUESTIONS DEFENSE COUNSEL HAS FOR YOU.

20 THE COURT: MR. RHEA.

21 MR. RHEA: THANK YOU, YOUR HONOR.

22

23

24

25

1 CROSS EXAMINATION BY MR. RHEA:

2 Q GOOD MORNING, MR. LEE.

3 A GOOD MORNING.

4 Q NOW, THE HOUSE THAT YOU SAID YOU WERE STAYING AT, WHO
5 OWNED THE HOUSE?

6 A JIM AND JUDY LOWERY.

7 Q AT THE TIME, IN ADDITION TO THEM STAYING THERE, AND
8 TARA, IT WAS YOU AND MARK WHITTINGTON AND DEVIN FIVECOAT
9 ALL STAYING IN THAT HOUSE?

10 A YES.

11 Q IN THE SAME PLACE?

12 A YES.

13 Q AND I BELIEVE YOU SAID IN YOUR STATEMENT YOU STATED
14 THAT YOU STAYED THERE BECAUSE IT WAS CLOSER TO YOUR WORK,--

15 A YES.

16 Q ---RATHER THAN STAYING IN LAKE WYLIE?

17 A YES. IT'S ABOUT A FOURTEEN MILE DRIVE FROM MY HOUSE
18 EVERYDAY TO WORK, FOURTEEN MILES THERE AND FOURTEEN MILES
19 BACK.20 Q YOU STATED THAT PEOPLE KIND OF CONGREGATED AT RYAN'S
21 HOUSE IN ORDER TO LOOK AT CAMEL SPIDERS ON THE COMPUTER.
22 RIGHT?

23 A YES.

24 Q AND WHERE WAS THAT COMPUTER?

25 A IN HIS MINIVAN, WORK VAN.

1 Q HAD YOU EVER SEEN THAT COMPUTER IN HIS VAN BEFORE?

2 A YES.

3 Q HOW MUCH BEER DRINKING WENT ON THAT DAY? DO YOU
4 RECALL?

5 A I HAD MAYBE TWO.

6 Q WHAT TIME WAS THAT?

7 A IT WAS EARLIER THAT DAY.

8 Q WERE OTHER PEOPLE CONSUMING BEER?

9 A I KNOW MARK MAYBE HAD ONE OR TWO. THAT'S AS FAR AS I
10 KNOW.

11 Q AT WHAT TIME DURING THE DAY DID YOU SEE MR. LOCHBAUM
12 FIRST?

13 A LATER ON THAT NIGHT, THAT EVENING.

14 Q HOW SOON PRIOR TO THE SCUFFLE DID YOU COME IN CONTACT
15 WITH MR. LOCHBAUM?

16 A WHEN I WALKED OVER TO HIS HOUSE.

17 Q WHICH WOULD HAVE BEEN ABOUT WHAT TIME?

18 A A LITTLE BIT AFTER ELEVEN, AROUND IN THERE.

19 Q SO, LESS THAN AN HOUR BEFORE MR. LARMAND?

20 A YES.

21 Q IS THAT CORRECT?

22 A YES.

23 Q YOU STATED THAT MR. LOCHBAUM ASKED YOU AND MARK AND
24 DEVIN AND EVERYBODY TO LEAVE SO THAT HE COULD TALK WITH
25 MR. LARMAND PRIVATELY?

1 A YES.

2 Q IS THAT CORRECT?

3 A YES.

4 Q IT WASN'T MR. LARMAND WHO TOLD Y'ALL THAT THEY NEEDED
5 SOME PRIVACY?

6 A NO.

7 Q YOU STATED THAT YOU DIDN'T WANT TO GET TOO FAR AWAY
8 BECAUSE YOU DIDN'T KNOW WHAT WAS GOING TO-- YOU WERE KIND
9 OF BEING NOSY, AS YOU DESCRIBED IT?

10 A YES.

11 Q SO, HOW FAR AWAY WERE YOU IN DISTANCE, FEET, YARDS,
12 WHATEVER? HOW FAR AWAY WOULD YOU SAY THAT YOU WERE?

13 A A COUPLE HUNDRED FEET.

14 Q A COUPLE HUNDRED FEET?

15 A HOW EVER THE DISTANCE IS BETWEEN HIS HOUSE AND THE
16 POINT I WAS AT. I MEAN, I'M NOT VERY GOOD WITH FEET MYSELF.

17 Q THAT'S OKAY. AND WHO WAS AT THAT DISTANCE ALONG WITH
18 YOU?

19 A MARK AND DEVIN.

20 Q YOU STATED, I THINK YOU TOLD MS. JOYNER THAT YOU WERE
21 KIND OF BEING NOSY, BUT YOU COULDN'T SEE RYAN'S HOUSE. BUT
22 CAN YOU SEE MR. LOCHBAUM'S HOUSE FROM THERE?

23 A I COULDN'T, NOT FROM WHERE I WAS STANDING.

24 Q WHO COULD SEE THE HOUSE?

25 A MARK.

- 1 Q AND WHERE WAS MARK? WAS HE CLOSER THAN YOU?
- 2 A YES. HE WAS ABOUT FOUR OR FIVE FEET IN FRONT OF ME.
- 3 Q SO, THE FOUR OR FIVE FEET MADE A BIG DIFFERENCE IN THE
- 4 SIGHT?
- 5 A YES. I HAD A VEHICLE BLOCKING MY VIEW.
- 6 Q AND THE FIRST THING THAT ALERTED YOU THAT THERE WAS
- 7 SOMETHING GOING ON WAS WHAT?
- 8 A MARK HOLLERED, THERE'S MORE THAN ONE.
- 9 Q THAT'S WHEN EVERYBODY RAN?
- 10 A UH-HUH.
- 11 Q WHEN WAS THE FIRST TIME YOU SAW JESSE HARRIS?
- 12 A WHEN I GOT UP TO THE PILE.
- 13 Q WHEN YOU WERE RUNNING TOWARDS THE, TOWARDS RYAN'S
- 14 HOUSE, HOW FAR DID YOU GET INTO YOUR RUN BEFORE YOU SAW
- 15 THIS PILE OF FOLKS?
- 16 A A QUARTER OF THE WAY UP.
- 17 Q I'M SORRY?
- 18 A I SAID A QUARTER OF THE WAY UP MY RUN.
- 19 Q WERE YOU LOOKING DOWN WHEN YOU WERE RUNNING?
- 20 A YES.
- 21 Q OKAY.
- 22 A I'M LOOKING DOWN WHEN I'M RUNNING AND THEN I LOOK UP.
- 23 Q SO, WERE YOU THE LAST ONE TO ARRIVE?
- 24 A YES.
- 25 Q WHO'S INVOLVED IN THE SCUFFLE WHEN YOU GET THERE?

1 A RYAN, THE TWO DEFENDANTS, AND JESSE. MARK GOT IN AFTER
2 I GOT THERE.

3 Q AS FAR AS WHAT YOU SAW, MR. HARRIS WAS ALREADY
4 INVOLVED IN IT BY THE TIME YOU COULD SEE WHAT IT WAS. IS THAT
5 CORRECT?

6 A YES.

7 Q DID YOU EVER SEE MR. HARRIS THAT EVENING PRIOR?

8 A EARLIER THAT DAY.

9 Q WHEN WAS THAT?

10 A THAT WAS MIDDAY. I WAS TALKING TO HIM ABOUT A
11 TOOTHACHE I HAD.

12 Q WHAT, NOW?

13 A I WAS TALKING TO HIM ABOUT A TOOTHACHE I HAD.

14 Q OKAY.

15 A WE WERE TALKING. HE WAS GOING TO SEE A DENTIST AND WE
16 WERE HAVING A CONVERSATION.

17 Q WHAT WERE Y'ALL DOING, JUST HANGING OUT?

18 A YES.

19 Q WERE YOU DRINKING BEER OR ANYTHING?

20 A NOT WITH JESSE, NO.

21 Q AND JESSE WAS MARK'S FORMER BOSS---

22 A YES.

23 Q ---OR HIS BOSS AT THE TIME?

24 A FORMER BOSS AT THE TIME.

25 Q HE WAS HIS BOSS AT THAT TIME?

- 1 A NO, FORMER BOSS.
- 2 Q FORMER BOSS?
- 3 A YES, FORMER BOSS.
- 4 Q NOW, NO QUESTION, ACCORDING TO YOUR RECOLLECTION, THE
- 5 PILE OF FOLKS THAT YOU SAW WAS ON THE SIDEWALK. CORRECT?
- 6 A THE SIDEWALK CLOSE TO THE GRASS.
- 7 Q WHAT---
- 8 A ON THE SIDEWALK CLOSE TO THE GRASS.
- 9 Q OKAY. BUT THE FIGHT WAS ON THE SIDEWALK?
- 10 A SOMEWHERE.
- 11 Q OKAY.
- 12 A I MEAN, I COULDN'T REALLY TELL IF THEY WERE FULLY IN THE
- 13 YARD OR FULLY ON THE SIDEWALK. I'M AROUND AND TO THE
- 14 SIDEWALK MYSELF.
- 15 Q HOW FAR AWAY WAS THAT FROM MR. LOCHBAUM'S VAN?
- 16 A NOT VERY FAR.
- 17 Q HIS VAN IS IN---
- 18 A THE DRIVEWAY.
- 19 Q ---THE DRIVEWAY. CORRECT?
- 20 A YES.
- 21 Q SO, HOW FAR WOULD, LET'S SAY, RYAN, BE FROM THE STREET?
- 22 A FOUR OR FIVE FEET.
- 23 Q SO, HE'S RIGHT IN THE---
- 24 A A GOOD FOUR OR FIVE FEET AWAY FROM THE END OF THE
- 25 STREET THERE, THIS OCCURRED.

- 1 Q IS THIS DIRECTLY IN FRONT OF MR. LOCHBAUM'S HOUSE?
- 2 A YES.
- 3 Q WERE THE LIGHTS AT MR. LOCHBAUM'S HOUSE ON?
- 4 A I BELIEVE HIS PORCH LIGHT WAS. I DIDN'T REALLY LOOK IN HIS
- 5 HOUSE TOO MUCH. I DO KNOW HIS-- I DO BELIEVE HIS GARAGE DOOR
- 6 WAS OPEN AND THE LIGHT IN THE GARAGE WAS ON.
- 7 Q WAS THE INSIDE LIGHT IN HIS VAN ON?
- 8 A I BELIEVE SO, THE LIGHTS THAT COME ON WHEN YOU OPEN THE
- 9 DOOR.
- 10 Q THE COMMENT THAT YOU SAID YOU HEARD PEOPLE SAY IN THE
- 11 PILE, YOU WEREN'T SURE WHO TO ATTRIBUTE THOSE TO. RIGHT? YOU
- 12 COULDN'T---
- 13 A NOT RIGHT OFFHAND.
- 14 Q ---TELL WHO IT WAS?
- 15 A NOT RIGHT OFFHAND.
- 16 Q NOW, YOU SAID ONCE THE SCUFFLE WAS OVER MR. LOCHBAUM
- 17 CAME OUT WITH THE GUN. IS THAT CORRECT?
- 18 A YES.
- 19 Q DID YOU EVER SEE HIM TAKE THE GUN INSIDE THE HOUSE?
- 20 A YES, HE WENT INSIDE THE HOUSE.
- 21 Q DID YOU STICK AROUND---
- 22 A YES.
- 23 Q --- FOR A WHILE?
- 24 A YES.

1 Q YOU SAID YOU WERENT' ONE OF THE ONES THAT RAN DOWN
2 THE STREET AND TRIED TO THE TAG NUMBER?

3 A NO.

4 Q THAT WAS DEVIN AND MARK?

5 A YES.

6 Q YOU KIND OF STAYED PUT. RIGHT?

7 A YES.

8 Q DID YOU SEE RYAN COME OUT OF HIS HOUSE?

9 A YES.

10 Q WAS HE CARRYING A SHOTGUN WHEN HE CAME OUT OF HIS
11 HOUSE?

12 A YES.

13 Q NO QUESTION ABOUT THAT?

14 A YES.

15 Q WHAT DID HE SAY? DO YOU RECALL?

16 A NO.

17 Q YOU NEVER SAW MY CLIENT, MR. LARMAND, WITH THE GUN, DID
18 YOU?

19 A NO.

20 Q AND YOUR INTERVIEW WAS ACTUALLY DONE, IT SAYS HERE,
21 ACCORDING TO MY DISCOVERY, WHEN YOU TALKED TO DETECTIVE
22 HERRING ON THE PHONE, THAT WAS ACTUALLY ON MAY 8, EVEN OR
23 EIGHT DAYS AFTER THE INCIDENT? IS THAT CORRECT?

24 A YES.

25 Q DO YOU RECALL THE CONVERSATION?

1 A YES.

2 Q DURING THAT TIME ALL THE NEIGHBORS ARE THERE AND
3 EVERYTHING, DID Y'ALL TALK ABOUT WHAT HAPPENED?

4 A I DIDN'T TALK ABOUT IT MUCH WITH ANYBODY. I WORK A LOT.
5 AND I WORK SWING-SHIFT HOURS. SO, IT'S VERY RARE. I SEE CERTAIN
6 PEOPLE AT CERTAIN TIMES. MOST OF THE TIME I WORK NIGHTSHIFT.
7 USUALLY EVERYBODY'S IN BED BY THE TIME I GET HOME.

8 Q SO, YOU NEVER SAY, EVEN THOUGH YOU LIVE IN THE SAME
9 HOUSE WITH MARK AND DEVIN, YOU NEVER SAW THEM FOR THAT
10 WEEK-LONG PERIOD?

11 A I DIDN'T SAY I NEVER SAW THEM. I SAID I NEVER TALKED
12 ABOUT IT MUCH.

13 MR. RHEA: NOTHING FURTHER.

14 THE COURT: MR. GREELEY.

15 MR. GREELEY: MAY IT PLEASE THE COURT.

16 **CROSS EXAMINATION BY MR. GREELEY:**

17 Q GOOD MORNING, MR. LEE.

18 A GOOD MORNING.

19 Q NOW, YOU SAID THAT TARA CALLED THE POLICE?

20 A I BELIEVE SO, YES.

21 Q DO YOU REMEMBER SEEING HER DO THAT?

22 A NO.

23 Q YOU REMEMBER SEEING HER THERE, THOUGH?

24 A AFTER THE SCUFFLE, YES.

25 Q AFTER THE SCUFFLE?

- 1 A YES.
- 2 Q HOW LONG AFTER THE SCUFFLE DID SHE APPEAR?
- 3 A NOT VERY LONG.
- 4 Q DID YOU TESTIFY THAT SHE HANDED THE PHONE TO MARK?
- 5 A I BELIEVE SHE DID, YES.
- 6 Q WHEN HE WAS GOING TO FOLLOW THESE TWO FOLKS?
- 7 A I BELIEVE SO. I KNOW SOMEBODY HANDED THE PHONE TO
- 8 MARK.
- 9 Q BUT YOU TESTIFIED THAT TARA HANDED HIM THE PHONE. IS
- 10 THAT CORRECT?
- 11 A I BELIEVE SO, YES.
- 12 Q NOW, I'M GOING TO REFER TO THIS MAP. THIS IS MR.
- 13 LOCHBAUM'S HOUSE. CORRECT?
- 14 A YES.
- 15 Q AND OUR CLIENTS, FRANK AND LEO, WOULD HAVE RUN IN THIS
- 16 DIRECTION?
- 17 A STRAIGHT DOWN THE SIDEWALK, YES.
- 18 Q OKAY, STRAIGHT DOWN THAT SIDEWALK. AND MARK WOULD
- 19 HAVE FOLLOWED IN THAT DIRECTION. IS THAT CORRECT?
- 20 A YES.
- 21 Q AND TARA WOULD HAVE HANDED HIM THE PHONE. IS THAT
- 22 CORRECT?
- 23 A I BELIEVE SO, YES.
- 24 Q SO, IT'S SAFE TO SAY AT THE TIME THAT THEY BEGAN TO
- 25 FOLLOW THEM, SHE WAS AT LEAST IN THIS AREA?

- 1 A YES.
- 2 Q AND HER NAME IS TARA LOWERY?
- 3 A YES.
- 4 Q AND I BELIEVE SHE IS MARK'S SISTER-IN-LAW?
- 5 A YES.
- 6 Q NOW, ANOTHER THING YOU SAID WAS THAT WHEN YOU
- 7 REALIZED THAT THERE WAS A GUN ON THE SCENE IT STOPPED YOU IN
- 8 YOUR TRACKS?
- 9 A YES.
- 10 Q AND A LOT OF TIMES THAT'S WHAT THE PRESENCE OF A GUN
- 11 WILL DO, ISN'T IT?
- 12 A YEAH.
- 13 Q IT WILL STOP PEOPLE IN THEIR TRACKS. CORRECT?
- 14 A YES.
- 15 Q AND WHEN A PERSON IS STOPPED IN THEIR TRACKS THAT
- 16 MEANS THAT THEY'RE MOVING. CORRECT?
- 17 A YES.
- 18 Q AND SO, IF PEOPLE ARE MOVING AND THEY SEE A GUN, ISN'T IT
- 19 TRUE THAT A LOT OF TIMES THAT PEOPLE WILL STOP IN THEIR
- 20 TRACKS?
- 21 A YES.
- 22 Q AND YOU STOPPED IN YOUR TRACKS THAT NIGHT, DIDN'T YOU?
- 23 A YES.
- 24 Q MR. LEE, HOW TALL ARE YOU?
- 25 A ABOUT SIX FOOT.

- 1 Q YOU'RE A BIG MAN, AREN'T YOU?
- 2 A I'M PRETTY BIG, YES.
- 3 Q AND YOU WERE AT THE VAN AT THE TIME FRANK CAME UP
- 4 THERE?
- 5 A YES.
- 6 Q HE'S NOT A BIG MAN, IS HE?
- 7 A NO.
- 8 Q NOW, YOU INDICATED THAT YOU AND MARK AND---
- 9 A DEVIN.
- 10 Q ---DEVIN WERE BACK IN THIS AREA HERE?
- 11 A YES.
- 12 Q AND AT LEAST ONE OF YOU WAS KEEPING AN EYE ON WHAT
- 13 WAS GOING ON?
- 14 A YES.
- 15 Q WHY?
- 16 A BEING NOSY.
- 17 Q BEING NOSY?
- 18 A YES. WE DIDN'T FEEL RIGHT ABOUT THE SITUATION.
- 19 Q YOU SAY YOU DIDN'T FEEL RIGHT ABOUT THE SITUATION. AND
- 20 SO, Y'ALL WERE READY, WILLING AND ABLE TO COME TO MR.
- 21 LOCHBAUM'S AID, WEREN'T YOU?
- 22 A IF NEED BE, YES.
- 23 Q SO, Y'ALL WERE SITTING OVER HERE READY TO JUMP INTO A
- 24 FRAY IF A FRAY WAS GOING TO START, WEREN'T YOU?
- 25 A YES.

- 1 Q AND THEN YOU SAID THAT MARK AT SOME POINT SAID, THERE'S
2 A GUN WITH ONE. CORRECT?
- 3 A NO. HE SAID THERE'S MORE THAN ONE.
- 4 Q THERE'S MORE THAN ONE. AND THAT'S WHEN EVERYBODY HIT
5 THE PAVEMENT?
- 6 A YES.
- 7 Q YOU WERE RUNNING AS FAST AS YOU COULD, WEREN'T YOU?
- 8 A PRETTY MUCH, YEAH.
- 9 Q AND YOU WERE GETTING READY TO FIGHT, WEREN'T YOU?
- 10 A IF NEED BE.
- 11 Q BUT SOMETHING STOPPED YOU IN YOUR TRACKS. CORRECT?
- 12 A YES.
- 13 Q AND IT WAS THE MERE PRESENCE OF A GUN. CORRECT?
- 14 A YES.
- 15 Q LET ME ASK YOU THIS: Y'ALL ARE OVER HERE READY TO GO TO
16 WAR FOR MR. LOCHBAUM, IF NEED BE. CORRECT?
- 17 A I WOULDN'T SAY GO TO WAR.
- 18 Q WELL, YOU'RE GONNA FIGHT. CORRECT?
- 19 A YES, IF I HAD TO.
- 20 Q SO, SOMEBODY'S WATCHING THIS WHOLE AREA. RIGHT?
- 21 A YES.
- 22 Q AND SOMEBODY WHO'S ASLEEP NEXT DOOR COMES OUT HIS
23 FRONT DOOR TO GO RUNNING OVER THERE?
- 24 A I BELIEVE SO.
- 25 Q YOU DIDN'T SEE MR. HARRIS DO THAT?

- 1 A I WAS THE LAST ONE THERE.
- 2 Q BUT YOU WERE RIGHT UP HERE. CORRECT?
- 3 A YES.
- 4 Q CORRECT?
- 5 A YES.
- 6 Q AND MR. HARRIS' HOUSE IS BETWEEN Y'ALL AND MR.
- 7 LOCHBAUM. CORRECT?
- 8 A CORRECT.
- 9 Q BUT YOU DIDN'T SEE MR. HARRIS COME OUTSIDE?
- 10 A NO. LIKE I SAID, I'M NOT A VERY FAST RUNNER.
- 11 Q AND YOU DIDN'T TALK TO ANYBODY AFTER THAT NIGHT OF
- 12 ANY SIGNIFICANCE BEFORE YOU TALKED TO THE POLICE?
- 13 A NOTHING REAL SIGNIFICANT, NO.
- 14 Q DID YOU TALK TO MR. LOCHBAUM?
- 15 A A COUPLE OF TIMES I SAID HI.
- 16 Q THAT'S ALL?
- 17 A I ASKED HIM WHAT WAS GOING ON.
- 18 Q OKAY. YOU ASKED HIM WHAT WAS GOING ON. AFTER THE
- 19 INCIDENT YOU ASKED HIM WHAT WAS GOING ON. DID HE SAY
- 20 ANYTHING TO YOU ABOUT WHAT WAS GOING ON?
- 21 A NOT MUCH.
- 22 Q NOT MUCH. SO, YOU DID COME IN CONTACT WITH MR.
- 23 LOCHBAUM AT LEAST TWICE BEFORE YOU TALKED TO THE POLICE.
- 24 CORRECT?
- 25 A MAYBE.

1 Q CORRECT?

2 A MAYBE TWICE.

3 Q MAYBE TWICE. BUT Y'ALL WERE READY TO FIGHT IF NEED BE
4 FOR HIM?

5 A I WAS.

6 Q BUT LIKE EVERYBODY ELSE YOU WERE RUNNING WITH, THEY
7 BEAT YOU TO THE FIGHT, DIDN'T THEY?

8 A YEAH.

9 Q AND YOU'RE TELLING THE JURY THAT EVEN THOUGH Y'ALL
10 WERE WILLING TO FIGHT FOR HIM Y'ALL WENT ALL THE WAY DOWN
11 HERE?

12 A YES.

13 Q THAT FAR AWAY?

14 A YES.

15 Q EVEN THOUGH YOU THOUGHT SOMETHING MIGHT BE UP AND
16 YOU WERE WILLING TO FIGHT?

17 A YES.

18 MR. GREELEY: THAT'S ALL I HAVE.

19 THE COURT: RE-DIRECT?

20 MS. JOYNER: NOTHING FURTHER, YOUR HONOR. MAY THIS
21 WITNESS BE EXCUSED?

22 THE COURT: ANY OBJECTIONS?

23 MR. RHEA: NO OBJECTION, YOUR HONOR.

24 MR. GREELEY: NO OBJECTION.

1 THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN AND BE
2 EXCUSED. CALL YOUR NEXT WITNESS.

3 MS. JOYNER: THE STATE CALLS MICHAEL DEVIN FIVECOAT.

4 MICHAEL DEVIN FIVECOAT, DULY SWORN,
5 TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY MS. JOYNER:

7 Q COULD YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD?

8 A MICHAEL DEVIN FIVECOAT.

9 Q MR. FIVECOAT, DO YOU GO BY THE NAME, DEVIN?

10 A YES MA'AM.

11 Q IS THAT WHAT YOUR FRIENDS CALL YOU?

12 A YES MA'AM.

13 Q WHERE DO YOU CURRENTLY LIVE?

14 A 2016 APRIL SHOWERS LANE, ROCK HILL.

15 Q WHAT'S THE NAME OF THE NEIGHBORHOOD YOU LIVE IN?

16 A SOUTH WINDS.

17 Q SOUTH WINDS. OKAY. WERE YOU LIVING IN SOUTH WINDS

18 BACK ON MAY 1, APRIL 30, OF THIS YEAR?

19 A YES MA'AM.

20 Q AND WERE YOU LIVING AT THE SAME ADDRESS?

21 A YES MA'AM.

22 Q BACK IN APRIL OR MAY DID YOU BECOME ACQUAINTED WITH
23 THE VICTIM, RYAN LOCHBAUM?

24 A YES MA'AM.

25 Q HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP WITH RYAN?

1 A CURRENT RELATIONSHIP?

2 Q HOW DO YOU KNOW HIM?

3 A JUST IN THE NEIGHBORHOOD, AND WE WERE AT HIS CHILD'S
4 BIRTHDAY PARTY, I BELIEVE IS THE FIRST TIME I KIND OF GOT
5 ACQUAINTED WITH THEM. AND JUST, I MEAN, IT'S A GOOD
6 FRIENDSHIP.

7 Q NOW, BACK ON MAY 1, OR APRIL 30, DID YOU GO OVER TO
8 RYAN'S HOUSE?

9 A YES MA'AM.

10 Q DO YOU REMEMBER WHAT TIME YOU WENT OVER THERE?

11 A IT WAS DARK, SO PROBABLY A LITTLE AFTER EIGHT, NINE, IF
12 NOT A LITTLE BIT LATER.

13 Q WHAT WAS THE REASON FOR GOING OVER THERE?

14 A REALLY, JUST TO HANG OUT, YOU KNOW. I WAS OVER THERE
15 JUST TO TALK TO HIM, GET TO KNOW HIM A LITTLE BETTER AND STUFF
16 LIKE THAT. AND TARA WAS OVER THERE WITH, YOU KNOW, CLAIRE.
17 AND I MEAN, YOU KNOW, JUST HANGING OUT. I REALLY DON'T KNOW
18 HOW TO DESCRIBE IT.

19 Q THERE WERE SOME LADIES THERE, TARA AND CLAIRE, YOU
20 SAID. WERE THERE ANY OTHER LADIES THERE?

21 A I BELIEVE ELIZABETH.

22 Q IS THAT TARA'S SISTER?

23 A YES.

24 Q AND MARK'S WIFE?

25 A YES.

- 1 Q WERE THE LADIES HANGING OUT AT THE VAN?
- 2 A THEY WERE ALL HANGING OUT, TALKING AND STUFF.
- 3 Q WAS TARA THERE THE WHOLE TIME?
- 4 A WITH US, YES.
- 5 Q AT SOME POINT DID THE LADIES LEAVE?
- 6 A YES MA'AM.
- 7 Q WHY DID THEY LEAVE?
- 8 A THEY SAID THEY NEEDED TO RUN TO THE STORE.
- 9 Q WHICH LADIES WENT TO THE STORE?
- 10 A ELIZABETH AND CLAIRE.
- 11 Q DO YOU REMEMBER WHAT TIME THAT WAS?
- 12 A NO MA'AM, I DO NOT RECALL.
- 13 Q AFTER THE LADIES LEFT DID YOU COME IN CONTACT WITH
- 14 EITHER OF THE DEFENDANTS?
- 15 A LATER ON THAT EVENING.
- 16 Q HOW DID YOU COME IN CONTACT WITH THE DEFENDANTS?
- 17 A FRANK WALKED UP FIRST AND I WAS-- ACTUALLY, I DIDN'T SEE
- 18 HIM WHEN HE WALKED UP. IT WAS BROUGHT TO MY ATTENTION BY
- 19 MARK AND RON.
- 20 Q WHEN YOU SAY, FRANK, DO YOU MEAN FRANK LARMAND?
- 21 A YES.
- 22 Q DID YOU KNOW HIM PRIOR TO THIS EVENING?
- 23 A NO MA'AM.
- 24 Q SO, YOU DIDN'T SAY OH, LOOK, THERE'S FRANK?
- 25 A I TOLD HIM THAT THERE WAS SOMEBODY LOOKING FOR HIM.

- 1 Q YOU TOLD?
- 2 A I TOLD RYAN THAT SOMEBODY WAS LOOKING FOR HIM.
- 3 Q WHERE WAS RYAN?
- 4 A INSIDE OF HIS VAN.
- 5 Q WHERE WERE YOU?
- 6 A LEANING INTO IT.
- 7 Q WHY WERE LEANING INTO THE VAN?
- 8 A WE WERE LOOKING AT CAMEL SPIDERS ON HIS LAPTOP.
- 9 Q NOW, YOU TOLD HIM THAT SOMEBODY WAS THERE. IS THAT
- 10 RIGHT?
- 11 A WELL, WHEN IT WAS BROUGHT TO MY ATTENTION, I JUST SAID,
- 12 HEY, RYAN, SOMEBODY'S HERE FOR YOU.
- 13 Q WHO BROUGHT IT TO YOUR ATTENTION?
- 14 A MARK.
- 15 Q MARK WHITTINGTON?
- 16 A YES.
- 17 Q AND HOW DID HE BRING IT TO YOUR ATTENTION?
- 18 A HE ACTUALLY ASKED IF HE COULD HELP THE PERSON.
- 19 Q DID YOU HEAR THE PERSON'S RESPONSE?
- 20 A HE ASKED FOR RYAN.
- 21 Q AT THAT POINT AND OBSERVE THE PERSON?
- 22 A I LOOKED OUT. I LEANED BACK AND LOOKED AT HIM AND THEN
- 23 LEANED BACK IN AND SAID, HEY, RYAN, SOMEBODY'S LOOKING FOR
- 24 YOU.

1 Q DID YOU HAVE A CHANCE TO OBSERVE MR. LARMAND'S
2 Demeanor?

3 A I LOOKED HIM INTO THE FACE, AND THEN LOOKED HIM UP AND
4 DOWN JUST TO SEE WHO HE WAS, SEE IF I KNEW HIM, SEE IF IT WAS A
5 NEIGHBOR OR SOMEBODY, WHEN I DIDN'T RECOGNIZE HIM.

6 Q WHAT WAS MR. LARMAND WEARING?

7 A ALL BLACK, TEE SHIRT, AND JUST SOME KIND OF BLACK PANTS.
8 I'M NOT SURE EXACTLY WHAT THEY WERE.

9 Q DID YOU SEE HOW HE HAD GOTTEN THERE?

10 A NO MA'AM.

11 Q DID YOU SEE A CAR GO BY OR HEAR A CAR?

12 A NO MA'AM.

13 Q WHEN YOU LEANED OUT OF THE VEHICLE, WHERE WAS FRANK
14 LARMAND?

15 A HE WAS STANDING ON THE SIDEWALK, FACING US, BEHIND THE
16 VAN.

17 Q BEHIND THE VAN?

18 A YES.

19 Q DID YOU SEE ANYBODY WITH HIM?

20 A NO, NOT AT THE CURRENT TIME. HE WAS JUST STANDING THERE
21 BY HIMSELF.

22 Q AFTER HE ASKED FOR RYAN, WHAT HAPPENED?

23 A RYAN STEPPED OUT, ASKED HIM HOW HE WAS DOING, ASKED
24 HIM WHY HE WAS THERE. AND THEN ASKED HIM, ACTUALLY, WHERE

- 1 WAS HIS VEHICLE. AND AT THAT POINT STEPPED AWAY FROM THE
2 VEHICLE, AND STARTED LOOKING FOR A VEHICLE, TOO. AND THEN---
- 3 Q AT SOME POINT DID RYAN ASK TO BE ALONE?
- 4 A YES.
- 5 Q HOW DID HE SAY THAT?
- 6 A HE ASKED FOR SOME PRIVACY.
- 7 Q DID YOU GIVE HIM THAT PRIVACY?
- 8 A WE DID.
- 9 Q WHO WAS THE WE AT THIS POINT?
- 10 A ME, MARK, TARA AND RON.
- 11 Q ARE YOU SURE TARA WAS THERE?
- 12 A YES.
- 13 Q AND WHERE DID YOU ALL GO?
- 14 A BACK TO OUR HOUSE.
- 15 Q YOUR HOUSE, TELL ME THE ADDRESS AGAIN?
- 16 A 26 APRIL SHOWERS LANE.
- 17 Q WHO WAS THERE WITH YOU?
- 18 A AT THE CURRENT TIME, IT WAS MARK, ELIZABETH, THEIR
19 CHILDREN, ME, TARA, OUR CHILD, AND RON.
- 20 Q DID Y'ALL MAKE IT ALL THE WAY BACK TO THE HOUSE?
- 21 A WE MADE IT TO THE FRONT OF OUR FRONT YARD.
- 22 Q WERE YOU ALL STANDING TOGETHER IN THE FRONT YARD?
- 23 A NO MA'AM, WE WERE SPREAD OUT.
- 24 Q WHAT WAS THE REASON YOU WERE SPREAD OUT?

1 A I, PERSONALLY, WAS BEING A LITTLE NOSY, AND WE WEREN'T
2 JUST, YOU KNOW, LIKE A TIGHT GROUP. WE WERE JUST KINDA....

3 Q WERE YOU ABLE FROM WHERE YOU WERE STANDING TO SEE
4 WHAT WAS GOING ON BACK AT RYAN'S HOUSE?

5 A YES MA'AM.

6 Q WHAT DID YOU SEE?

7 A THEY WERE TALKING AND JUST KIND OF PACING BACK AND
8 FORTH.

9 Q WHO WAS PACING?

10 A FRANK AND RYAN.

11 Q THEY WERE BOTH?

12 A YES. THEY WERE TALKING TO EACH OTHER AND LOOKING EACH
13 OTHER IN THE EYE, STUFF LIKE THAT, JUST TRYING TO KEEP CONTACT.

14 Q AT ANY POINT DID YOU OBSERVE ANYBODY ELSE ENTER INTO
15 THE ENCOUNTER?

16 A NO, NOT UNTIL IT WAS ACTUALLY BROUGHT TO MY ATTENTION.

17 Q WHO BROUGHT IT TO YOUR ATTENTION?

18 A I BELIEVE I HEARD MARK'S VOICE, BUT I HEARD SOMEBODY SAY
19 THAT THERE WAS SOMEBODY ELSE. AND THEN I LOOKED UP BECAUSE
20 AT THE CURRENT TIME I WAS LOOKING DOWN.

21 Q AND WERE YOU ABLE TO SEE THAT SOMEBODY ELSE?

22 A ALL I SAW WAS WHAT WE SAY IS A DOG PILE.

23 Q OKAY.

24 A AND YOU COULD TELL THAT THEY WERE IN A FIGHT. AND SO
25 WE STARTED RUNNING OVER THERE.

- 1 Q WHO STARTED RUNNING?
- 2 A ME, MARK AND RON. TARA STARTED, BUT I TOLD HER TO STAY
- 3 AT THE HOUSE.
- 4 Q WHEN YOU STARTED RUNNING, WHO MADE IT BACK TO RYAN'S
- 5 HOUSE FIRST?
- 6 A MARK DID AND THEN I DID.
- 7 Q HOW ABOUT RON?
- 8 A AND THEN RON CAME UP BEHIND US.
- 9 Q WHEN YOU GOT BACK TO THE HOUSE, WHERE WAS THE DOG
- 10 PILE?
- 11 A ON THE SIDEWALK IN FRONT OF THE HOUSE.
- 12 Q WAS THE PILE STAYING IN ONE PLACE, OR WAS IT...?
- 13 A AT THE CURRENT TIME, YES.
- 14 Q HAD YOU SEEN WHERE IT WAS PRIOR TO THAT?
- 15 A IT WAS STILL IN THE SAME SPOT.
- 16 Q WHEN YOU GOT THERE WHO DID YOU SEE? WHO WAS
- 17 INVOLVED IN THIS PILE OF PEOPLE?
- 18 A I COULD TELL RYAN WAS INVOLVED. FRANK WAS INVOLVED.
- 19 MARK RAN UP. BUT THERE WAS SOMEBODY ELSE. I DIDN'T
- 20 RECOGNIZE WHO IT WAS RIGHT AT FIRST.
- 21 Q UH-HUH.
- 22 A BECAUSE ALL I SAW WAS JUST PEOPLE ON TOP OF PEOPLE.
- 23 Q OKAY.
- 24 A AND SO I RAN TO THE FRONT TO SEE WHO IT WAS AND I
- 25 COULDN'T REALLY MAKE OUT ANY FACES RIGHT AT THAT

1 PARTICULAR TIME. I FOUND OUT AFTERWARDS WHEN I WAS
2 ACTUALLY ABLE TO SEE EVERYBODY WHEN THEY WERE, LIKE,
3 GETTING UP AND STUFF.

4 Q WHO DID YOU FIND OUT THAT WAS?

5 A JESSE.

6 Q WAS THAT JESSE HARRIS?

7 A YES.

8 Q WAS THERE ANYBODY ELSE?

9 A RON. I'M SORRY. RYAN, LEO AND FRANK.

10 Q WHEN YOU SAY LEO, YOU MEAN?

11 A THE...

12 Q WHO IS LEO?

13 A HE'S THERE. FRANK WAS THE ONE THAT CAME UP FIRST.

14 Q DO YOU SEE THE GUY THAT CAME UP FIRST IN THE
15 COURTROOM?

16 A YES.

17 Q COULD YOU POINT HIM OUT?

18 A HE'S SITTING RIGHT THERE. (INDICATING DEFENDANT
19 LARMAND WITH POINTED FINGER)

20 Q ARE YOU IDENTIFYING FRANK LARMAND?

21 A FRANK, YES.

22 Q THE BIGGER GUY THAT YOU SAW LATER, DO YOU SEE HIM IN
23 THE COURTROOM?

24 A YES MA'AM.

25 Q AND COULD YOU POINT HIM OUT

1 A (INDICATING DEFENDANT LEMIRE WITH POINTED FINGER)

2 MS. JOYNER: LET THE RECORD REFLECT THAT HE HAS
3 IDENTIFIED LEO LEMIRE.

4 A YES.

5 Q YOU HAVE STATED THAT YOU DIDN'T FRANK LARMAND. DID
6 YOU KNOW THIS GUY, LEO LEMIRE?

7 A NO MA'AM.

8 Q LET'S TALK ABOUT WHERE YOU STOOD. IF THIS IS RYAN'S
9 HOUSE, MS. PHYLLIS OVER HERE IS THE STREET, AND THIS WAS THE
10 SIDEWALK, WHERE WERE YOU STANDING?

11 A I WAS STANDING IN THE STREET.

12 Q IN THE STREET. IS THAT WHAT YOU MEANT BY IN FRONT OF IT?

13 A YES MA'AM.

14 Q DO YOU REMEMBER WHAT SIDE YOU WERE STANDING ON?

15 A I WAS STANDING IN FRONT OF THEM, SO I WAS FACING THE
16 HOUSE.

17 Q WHERE WAS RON?

18 A RON WAS SLIGHTLY TO THE RIGHT OF THE FIGHT.

19 Q WHEN YOU SAY SLIGHTLY TO THE RIGHT OF THE FIGHT, DO YOU
20 MEAN FROM YOUR STANDPOINT?

21 A IF THE FIGHT WAS RIGHT HERE, HE WAS ABOUT RIGHT HERE.

22 Q SO, ...

23 A HE WOULD BE ON YOUR BACK LEFT.

24 Q ON MY BACK LEFT. OKAY. WHAT WERE YOU ABLE TO SEE
25 GOING ON FROM YOUR VANTAGE POINT OF THE DOG PILE?

1 A WELL, AT FIRST I NOTICED THAT THEY WERE PULLING ON
2 SOMETHING AND THEN---

3 Q WHO WAS THEY?

4 A IT KIND OF LOOKED LIKE THE WHOLE PILE. IT LOOKED LIKE
5 THERE WAS JUST A BUNCH OF ARMS GOING IN, AND HANDS GOING
6 OVER EACH OTHER. AND THEN WHEN THEY WERE STRUGGLING BACK
7 AND FORTH, IT FINALLY WAS REVEALED THAT THERE WAS A GUN.
8 AND---

9 Q WHEN WAS IT REVEALED TO YOU THERE WAS A GUN?

10 A WHEN I WAS STANDING IN FRONT OF IT.

11 Q AND HOW WAS IT REVEALED TO YOU THAT THERE WAS A GUN?

12 A IT WAS ACTUALLY-- IT STOPPED AND WAS POINTED AT ME. AND
13 I COULD TELL THAT IT WAS A GUN. AND I ACTUALLY HOLLERED THAT
14 THERE WAS A GUN AND MOVED VERY QUICKLY.

15 Q WHAT'S THAT?

16 A AND THEN I MOVED BECAUSE I WAS DIRECTLY IN FRONT OF IT.

17 Q NOW, AT SOME POINT THEY GOT, RYAN AND THE OTHERS GOT
18 THE GUN AWAY. IS THAT RIGHT?

19 A YES.

20 Q AND ONCE THEY GOT THE GUN AWAY, WHAT HAPPENED?

21 A LEO AND FRANK PROCEED TO RUN DOWN-- WELL, IT WASN'T
22 REALLY RUNNING; IT WAS LIKE AN EXTREMELY QUICK JOG. THEY
23 WERE FULL-FLEDGED RUNNING.

24 Q UH-HUH.

25 A AND THEY TOOK OFF DOWN THE SIDEWALK.

1 Q COULD YOU STEP DOWN AND I'LL ASK YOU TO TAKE A LOOK AT
2 THIS MAP WHICH IS MARKED AS STATE'S EXHIBIT FIVE.
3 (WHEREUPON WITNESS EXITED WITNESS STAND FOR DEMONSTRATION
4 WITH STATE'S EXHIBIT FIVE.

5 Q YOU CAN STEP A LITTLE CLOSER AND FACE THE JURY SO THEY
6 CAN SEE WHERE YOU'RE POINTING.

7 COULD YOU POINT IN THE DIRECTION OF THE PATH THAT THE
8 DEFENDANTS TOOK?

9 A IT WAS DOWN THE SIDEWALK.

10 Q HOW FAR DOWN THE SIDEWALK DID THEY GO?

11 A ALL THE WAY DOWN TO THERE.

12 Q DID YOU FOLLOW THEM THE WHOLE WAY?

13 A YES MA'AM. I WENT DOWN. I CUT THROUGH THE GRASS RIGHT
14 HERE, SO I COULD CUT UP THROUGH THIS HILL SO I COULD SEE IF THEY
15 HAD A VEHICLE OVER HERE.

16 Q DID YOU SEE A VEHICLE?

17 A YES MA'AM.

18 Q WHAT KIND OF VEHICLE?

19 A AT FIRST, IT WAS LIKE AN SUV, BUT THEN, I REALIZED THAT IT
20 LOOKED LIKE A TRUCK WITH A CAMPER OR SOMETHING.

21 Q OKAY. NOW WHICH DIRECTION WAS THAT VEHICLE FACING AT?

22 A IT WAS FACING TOWARDS THIS WAY.

23 Q AND TOWARDS THIS WAY IS?

24 A IT WAS FACING---

1 Q WOULD THAT BE TOWARDS THE ENTRANCE AND EXIT TO THE
2 NEIGHBORHOOD OR AWAY FROM IT?

3 A IT WAS TOWARDS THE ENTRANCE AND EXIT.

4 Q IS THAT THE ONLY ENTRANCE?

5 A YES MA'AM.

6 Q WHEN YOU GOT OVER HERE, WHEN YOU CUT THROUGH THE
7 GRASS, DID THE DEFENDANTS CUT THROUGH THE GRASS OR DID THEY
8 STAY ON THE SIDEWALK?

9 A NO MA'AM, THEY STAYED ON THE SIDEWALK.

10 Q WHO WAS IN THE LEAD?

11 A THEY WERE ACTUALLY SIDE BY SIDE.

12 Q WHEN YOU VIEWED THEM GETTING IN THE VEHICLE, DID YOU
13 SEE BOTH OF THEM GET IN THE VEHICLE?

14 A I SAW LEO GET IN THE VEHICLE WITH FRANK ON THE OTHER
15 SIDE, GETTING INTO THE DRIVER'S SIDE.

16 Q AND WHAT DID THEY DO ONCE THEY GOT IN THE VEHICLE?

17 A TOOK OFF.

18 Q AT THE POINT IN TIME WHEN YOU GOT TO THE HILL, WAS THEIR
19 CAR ALREADY GONE?

20 A NO, THEY ACTUALLY HADN'T GOT IT FULLY TO GO.

21 Q WERE THE HEADLIGHTS ON?

22 A NO MA'AM.

23 Q WHEN YOU SAW THEM AND GOT THE DESCRIPTION OF THE
24 VEHICLE, WHAT DID YOU DO?

1 A I TURNED AROUND AND STARTED RUNNING BACK HOLLERING
2 THE DESCRIPTION OVER AND OVER, HOPING THAT SOMEBODY HEARD
3 ME.

4 Q WHO WERE YOU TRYING TO HOLLER TO?

5 A MARK.

6 Q WHERE WAS MARK?

7 A MARK WAS ABOUT IN THIS AREA.

8 Q DID YOU AND MARK START OUT RUNNING TOGETHER?

9 A NO MA'AM.

10 Q DID YOU START OUT PAST HIM, OR WAS HE AHEAD OF YOU?

11 A I STARTED OUT AHEAD OF HIM.

12 Q HOW CLOSELY BEHIND THE DEFENDANTS WERE YOU RUNNING?

13 A I TRIED TO STAY BETWEEN TWENTY-FIVE AND THIRTY FEET
14 BEHIND THEM BECAUSE I DIDN'T KNOW IF THEY HAD A WEAPON OR
15 NOT.

16 Q WERE YOU SAYING ANYTHING TO THEM WHEN YOU WERE
17 RUNNING BEHIND THEM?

18 A YES MA'AM. I THINK I WAS PLEADING WITH THEM TO STOP,
19 ASKING THEM, YOU KNOW, TO PLEASE STOP, THE POLICE ARE ON THE
20 WAY, THERE'S NO POINT IN RUNNING.

21 Q YOU CAN TAKE YOUR SEAT NOW. ACTUALLY, BEFORE YOU GET
22 ON THE STAND, DO YOU KNOW THE NAME OF THIS STREET WHERE
23 THEIR VEHICLE WAS PARKED?

24 A (INDICATING STREET WITH POINTED FINGER)

25 Q ARE YOU POINTING TO PLEASANT VIEW ROAD?

1 A YES MA'AM.

2 Q OKAY. YOU CAN TAKE YOUR SEAT. THANK YOU.

3 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

4 YOU SAID YOU WERE STANDING OR STAYING TWENTY-FIVE TO
5 THIRTY FEET BACK. TELL ME AGAIN WHY WERE YOU STAYING THAT
6 FAR BACK.

7 A I DIDN'T KNOW IF THEY HAD ANOTHER WEAPON ON THEM. I
8 WAS JUST-- IF THEY TURNED AROUND AND COME BACK ON TO ME, I
9 WOULD HAVE HAD ENOUGH TIME TO GET AWAY.

10 Q I'M NOT SURE IF I'VE ASKED YOU, BUT I'LL ASK YOU THIS: WHAT
11 DID FRANK LARMAND HAVE ON?

12 A ALL BLACK.

13 Q DO YOU REMEMBER WHAT LEO LEMIRE HAD ON?

14 A YES MA'AM, IT WAS ALL BLACK.

15 Q DID THAT MAKE IT KIND OF HARD TO FOLLOW BEHIND THEM?

16 A YES MA'AM.

17 Q LET'S GO BACK TO THE DOG PILE FOR A FEW MORE QUESTIONS.
18 WHEN YOU-- YOU'RE STANDING SORT OF OUTSIDE THE DOG PILE AND
19 WATCHING WHAT'S GOING ON. DO YOU KNOW-- CAN YOU GIVE US AN
20 ESTIMATE OF HOW LONG ALL THIS WENT ON? HOW LONG DID IT FEEL
21 LIKE IT WENT ON?

22 A IT FELT LIKE IT WENT ON FOREVER, BUT I MEAN, IT WAS
23 MINUTES.

1 Q HOW LONG DO YOU THINK IT WAS FROM THE POINT IN TIME
2 THAT YOU WALKED TO RYAN'S HOUSE BACK UP TO WHERE YOU WERE
3 STAYING? HOW LONG WOULD THAT HAVE BEEN?

4 A WE WERE WALKING AT A NORMAL PACE, PROBABLY TWENTY
5 SECONDS OR SO.

6 Q TWENTY SECONDS?

7 A TWENTY, THIRTY SECONDS.

8 Q HOW LONG WERE YOU STANDING THERE WHEN YOU WERE
9 ALERTED TO THE FACT THAT THERE WAS SOMEBODY ELSE THERE? DO
10 YOU REMEMBER?

11 A THAT WAS ONLY ABOUT FIFTEEN, TWENTY SECONDS, AND THEN
12 FROM THE TIME I HAD ACTUALLY STOPPED WHERE I WAS AND SEEN
13 WHAT WAS GOING TO BE GOING ON AND STUFF, AND THEN IT WAS
14 BROUGHT TO MY ATTENTION.

15 Q AND WHEN YOU TESTIFIED EARLIER ABOUT BECOMING AWARE
16 THERE WAS A GUN, WHAT PART OF THE GUN WERE YOU SEEING?

17 A THE BARREL.

18 Q THE BARREL. HOW DID YOU SEE WHEN YOU SAW THE BARREL
19 OF THE GUN?

20 A SCARED. THAT'S WHY I MOVED.

21 Q THAT'S WHAT?

22 A THAT'S WHY I MOVED. I FELT SCARED. I WANTED TO GET OUT
23 FROM IN FRONT OF IT.

24 Q THANK YOU VERY MUCH, MR. FIVECOAT. PLEASE ANSWER ANY
25 QUESTIONS DEFENSE HAS.

1 A YES MA'AM.

2 THE COURT: MR. RHEA.

3 MR. RHEA: MAY IT PLEASE THE COURT.

4 CROSS EXAMINATION BY MR. RHEA:

5 Q MR. FIVECOAT, DID YOU EVER SEE MR. LARMAND WITH A GUN,
6 EVER?

7 A NO.

8 Q WHO CAME OUT OF THE PILE WITH THE GUN?

9 A RYAN.

10 Q AND TARA WAS PRESENT?

11 A I'M NOT SURE.

12 Q I THOUGHT YOU TOLD---

13 A WELL, I ASKED HER TO STAY AT THE HOUSE. I'M NOT SURE IF
14 SHE CAME UP OR NOT.

15 Q SO, YOU DON'T KNOW?

16 A NO. AT THE CURRENT TIME WHEN THE FIGHT WAS OVER AND
17 THEY TOOK OFF, I JUST WAS FOCUSSED ON THEM TWO.

18 Q NOW, NO QUESTION Y'ALL DESCRIBED THIS AS A DOG PILE. IT
19 WAS ON THE SIDEWALK. IS THAT RIGHT?

20 A YES.

21 Q NOW, YOU SAID THAT YOU WALKED BACK OVER TO YOUR
22 YARD?

23 A YES. I WALKED BACK IN FRONT OF MY HOUSE AREA AND
24 PROCEEDED TO GET TO WHERE I COULD ACTUALLY SEE THE
25 ARGUMENT HAPPENING AT THE TIME BETWEEN RYAN AND FRANK.

1 Q SO, Y'ALL WERE VIGILANTLY WATCHING WHAT WAS GOING ON
2 BETWEEN MR. LARMAND AND MR. LOCHBAUM. IS THAT CORRECT?

3 A FRANK AND RYAN?

4 Q YES.

5 A YES. I WAS ABLE TO SEE WHAT WAS GOING ON. I GOT MYSELF
6 INTO POSITION TO WHERE I COULD.

7 Q DID MARK OR RON SAY ANYTHING TO YOU ABOUT BEING
8 CONCERNED ABOUT THE SITUATION?

9 A WELL, THAT THOUGHT WAS IN ALL OF OUR HEADS, THAT WE
10 WERE WORRIED ABOUT, YOU KNOW, RYAN AT THE TIME. AND THAT'S
11 THE REASON THAT WE ACTUALLY STAYED OUT AND JUST DIDN'T GO
12 IN THE HOUSE. WE WERE SEEING WHAT WAS GOING ON.

13 Q DO YOU RECALL TALKING TO DETECTIVE HERRING ABOUT,
14 ABOUT SIX DAYS LATER ON THE PHONE?

15 A I REMEMBER TALKING TO A DETECTIVE. I'M NOT TOO SURE
16 WHAT THE NAME WAS.

17 Q BUT THERE'S NO QUESTION YOU TALKED TO A DETECTIVE
18 ABOUT THIS?

19 A YES.

20 Q IN BETWEEN THE TIME OF THE INCIDENT AND TALKING WITH
21 THE DETECTIVE DID YOU TALK TO RYAN OR MARK OR RON OR
22 ANYBODY ELSE ABOUT ANYTHING, ABOUT THE SITUATION?

23 A NAMES, YOU KNOW, WHAT WAS IT ABOUT, WHY, AND THAT'S
24 PRETTY MUCH ABOUT IT. I DIDN'T REALLY DISCUSS ANYTHING ELSE.

25 Q Y'ALL DIDN'T DISCUSS WHAT Y'ALL WOULD SAY---

1 A NO.

2 Q ---TO KEEP YOUR STATEMENTS CONSISTENT OR ANYTHING LIKE
3 THAT?

4 A NO.

5 Q AND YOU AND MARK AND RYAN ARE LIVING IN THE SAME
6 HOUSE. RIGHT?

7 A AT THE CURRENT TIME, YES.

8 Q HOW MANY TIMES DID YOU SEE RYAN BETWEEN THE TIME OF
9 THE INCIDENT AND THE TIME YOU SPOKE WITH DETECTIVE HERRING?

10 A NOT TOO MUCH, ACTUALLY. I WAS BUSY WITH STUFF. I MEAN,
11 HE HAS HIS LIFE AND I HAVE MINE. AN OCCASIONAL HEY AND STUFF,
12 AND THAT WOULD BE IT, DRIVING BY.

13 Q YOU DIDN'T GO BACK OVER TO HIS HOUSE IN THE INTERVENING
14 TIME TO LOOK AT ANY MORE CAMEL SPIDERS OR ANYTHING LIKE
15 THAT?

16 A NOT TO LOOK AT ANY STUFF LIKE THAT, NO.

17 Q DID Y'ALL GET TOGETHER SOCIALLY IN BETWEEN TIMES?

18 A YES.

19 Q SO, YOU GOT TOGETHER SOCIALLY. WHAT DID YOU DO, HAVE A
20 BEER, HANG OUT, WATCH SPORTS?

21 A NO.

22 Q WELL, TO DO WHAT?

23 A TO SEE IF HE'S OKAY. HE ASKED US IF WE WERE OKAY. I ASKED
24 WHAT WOULD BE GOING ON WITH, YOU KNOW, COURT-WISE AND
25 STUFF LIKE THAT, WHAT WOULD BE HAPPENING IN THE FUTURE.

- 1 Q DID HE KEEP YOU APPRISED OF THAT?
- 2 A I'M NOT SURE WHAT THAT MEANS, SIR.
- 3 Q DID RYAN LET YOU KNOW WHAT WAS GOING ON WITH THE
- 4 CASE?
- 5 A HE LET ME KNOW THAT HE HAD CALLED AND GOT IT SET UP
- 6 WITH COURT DATES AND STUFF LIKE THAT.
- 7 Q NOW, DO YOU RECALL TELLING THE OFFICER YOU SPOKE WITH
- 8 ON THE PHONE THAT YOU AND MARK AND RYAN WERE ABOUT TO
- 9 WALK AROUND THE CORNER TO GO INSIDE THEIR HOUSE, AND MARK
- 10 AND RYAN SAID TO WAIT A MINUTE?
- 11 A YES. THAT'S WHEN WE WERE CONCERNED.
- 12 Q YOU STAYED OUTSIDE.
- 13 A YES.
- 14 Q IS THAT CORRECT?
- 15 A YES.
- 16 Q AND HOW FAR AWAY WOULD YOU ESTIMATE, JUST YOUR
- 17 ESTIMATION, FEET OR YARDS, OR WHATEVER, WOULD YOU SAY Y'ALL
- 18 WERE AWAY FROM WHEREVER FRANK AND RYAN WERE TALKING?
- 19 A I KNOW THERE'S ABOUT FIVE HOUSES BETWEEN OUR LOTS AND
- 20 THEIRS, DISTANCE-WISE. SO, PROBABLY SIXTY FEET OR SO, MAYBE.
- 21 Q NOW, WHEN Y'ALL START RUNNING BACK, WHEN SOMEBODY
- 22 YELLED, WHEN Y'ALL START RUNNING BACK, YOU SAID YOU TOLD
- 23 TARA, WAIT HERE.
- 24 A YES.
- 25 Q IS THAT CORRECT?

- 1 A YES.
- 2 Q AND WHO GETS TO THE DOG PILE FIRST?
- 3 A MARK.
- 4 Q WHO'S SECOND.
- 5 A ME.
- 6 Q AND RON'S LAST?
- 7 A YES.
- 8 Q WHEN YOU WERE RUNNING TOWARDS THE PILE-- STRIKE THAT.
- 9 WHO'S ALREADY IN THE PILE WHEN YOU GET THERE?
- 10 A AT THE CURRENT TIME, ALL I KNEW WAS---
- 11 Q WHEN YOU ARRIVED. I'M SORRY. I DIDN'T MEAN TO CONFUSE
- 12 YOU. WHEN YOU ARRIVED, WHO'S IN THE PILE?
- 13 A FRANK, LEO, RYAN, JESSE.
- 14 Q NOW, WHERE DOES MR. HARRIS LIVE?
- 15 A HE WAS LIVING NEXT DOOR TO RYAN AT THE CURRENT TIME.
- 16 Q AND YOU SAY THAT Y'ALL WERE WATCHING FROM YOUR AREA,
- 17 FROM YOUR YARD AREA, WATCHING RYAN AND FRANK TALK. RIGHT?
- 18 A YES.
- 19 Q AND YOU'RE KEEPING A CLOSE EYE ON THINGS. RIGHT?
- 20 A I WAS WATCHING FROM THE STREET, YES.
- 21 Q OKAY. YOU'RE IN THE STREET. NOW, MR. HARRIS' HOUSE IS IN
- 22 BETWEEN WHERE YOU ARE AND THE, OR WHERE RYAN AND FRANK
- 23 WERE TALKING. RIGHT?
- 24 A HE'S NEXT DOOR, YES.
- 25 THE COURT: YOU NEED TO SPEAK UP.

1 A YES. IT WAS NEXT DOOR.

2 THE COURT: THE JURY AND THE COURT REPORTER NEED TO
3 HEAR YOU.

4 A I'M SORRY.

5 Q WHEN YOU WERE RUNNING AREN'T YOU LOOKING AT WHAT'S
6 GOING ON?

7 A I WAS LOOKING UP AND DOWN. I WAS RUNNING.

8 Q DID YOU EVER SEE MR. HARRIS COME OUT OF HIS HOUSE?

9 A I DIDN'T SEE HIM, BUT WHEN I GOT TO THE DOG PILE HE WAS
10 ALREADY IN THE DOG PILE.

11 Q THAT'S MY POINT. YOU NEVER SAW MR. HARRIS COME OUT OF
12 HIS HOUSE. RIGHT?

13 A PERSONALLY, NO.

14 Q BUT HIS HOUSE WAS IN BETWEEN WHERE Y'ALL WERE AND
15 WHERE MR. LARMAND AND RYAN WERE TALKING. RIGHT?

16 A YES SIR.

17 Q WHEN YOU SAW MR. LARMAND AND MR. LEMIRE GET TO THE
18 CAR, HOW FAR AWAY WERE YOU?

19 A I WAS PROBABLY ONLY ABOUT FIFTEEN FEET, IF NOT A LITTLE
20 BIT CLOSER.

21 Q AND WHO GOT IN THE DRIVER'S SIDE?

22 A FRANK.

23 Q WHAT DID YOU SAY TO THEM, MR. FIVECOAT?

24 A I DIDN'T SAY ANYTHING TO THEM AT THAT PRECISE TIME.

25 Q I THOUGHT YOU SAID YOU WERE---

1 A I WAS SAYING STUFF TO THEM AS WE WERE GOING DOWN THE
2 SIDEWALK.

3 Q YOU DIDN'T ANYTHING ABOUT THEM YELLING ANYTHING BACK
4 TO YOU. RIGHT?

5 A NO. THEY DIDN'T EVEN ACT LIKE I WAS THERE.

6 Q OKAY. DO YOU RECALL WHAT YOU WERE WEARING THAT
7 NIGHT?

8 A I BELIEVE I WAS WEARING A PAIR OF BLUE JEANS AND JUST A
9 TEE SHIRT.

10 Q WHAT COLOR TEE SHIRT?

11 A I DON'T RECALL, SIR.

12 Q WHO ASKED FOR PRIVACY THAT NIGHT?

13 A RYAN.

14 Q NO QUESTION ABOUT THAT?

15 A NO.

16 MR. RHEA: BEG THE COURT'S INDULGENCE.

17 THE COURT: SURE.

18 (PAUSE)

19 Q ONCE AGAIN, MR. FIVECOAT, CAN YOU DESCRIBE THE VEHICLE
20 THEY WERE IN?

21 A IT LOOKED LIKE A TRUCK WITH A CAMPER ON IT.

22 MR. RHEA: NOTHING FURTHER.

23 THE COURT: MR. GREELEY.

24 MR. GREELEY: I HAVE NO QUESTIONS, YOUR HONOR, FOR MR.
25 FIVECOAT.

1 THE COURT: ANY OBJECTIONS TO THIS WITNESS BEING
2 EXCUSED?

3 MS. JOYNER: NO OBJECTION, YOUR HONOR.

4 MR. RHEA: NO OBJECTION.

5 MR. GREELEY: NO OBJECTION.

6 THE COURT: WE'LL TAKE A FIFTEEN MINUTE BREAK. I'LL ASK
7 THE JURY TO GO TO THE JURY ROOM. AGAIN, DO NOT DISCUSS THE
8 CASE.

9 (WHEREUPON THE JURY EXITED THE COURTROOM AT 10:31 A.M.,
10 AND COURT WAS IN RECESS.)

11 COURT IN SESSION - 10:55 A.M.

12 THE COURT: ANYTHING BEFORE WE BRING IN THE JURY?

13 MS. JOYNER: NOTHING FROM THE STATE, YOUR HONOR.

14 MR. RHEA: NO SIR.

15 MR. GREELEY: NOTHING FROM US, YOUR HONOR.

16 THE COURT: ALL RIGHT. BRING IN THE JURY.

17 (WHEREUPON THE JURY ENTERED THE COURTROOM)

18 SOLICITOR, CALL YOUR NEXT WITNESS.

19 MS. JOYNER: YOUR HONOR, THE STATE CALLS DETECTIVE LES
20 HERRING.

21

22

23

24

25

1 LESLIE R. HERRING, DULY SWORN, TESTIFIED

2 AS FOLLOWS:

3 DIRECT EXAMINATION BY MS. JOYNER:

4 Q CAN YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD?

5 A LESLIE R. HERRING.

6 Q WHAT IS YOUR JOB?

7 A I'M CURRENTLY A DETECTIVE FOR THE ROCK HILL POLICE
8 DEPARTMENT.

9 Q HOW LONG HAVE YOU BEEN A DETECTIVE WITH THE ROCK HILL
10 POLICE DEPARTMENT?

11 A I'VE BEEN EMPLOYED WITH THE ROCK HILL POLICE
12 DEPARTMENT FOR ALMOST THIRTY-ONE YEARS. I'VE BEEN A
13 DETECTIVE PROBABLY TWENTY-SOMETHING YEARS.

14 Q SO, YOU'VE BEEN A DETECTIVE FOR ABOUT TWENTY YEARS?

15 A TWENTY-SOMETHING YEARS, YES MA'AM.

16 Q JUST EXPLAIN TO THE JURY WHAT'S THE DIFFERENCE BETWEEN
17 A ROAD OFFICER AND A DETECTIVE?

18 A WELL, NORMALLY A ROAD OFFICER WORKS TRAFFIC CASES,
19 TOWNS, WHATEVER, YOU KNOW, DOMESTIC-TYPE CALLS, AND STUFF
20 LIKE THAT, WHERE A DETECTIVE FOLLOWS UP ON MORE SERIOUS TYPE
21 CRIMES.

22 Q DID YOU START OUT AS A ROAD OFFICER?

23 A YES MA'AM.

24 Q NOW, A DETECTIVE, WOULD YOU TELL THE JURY WHAT THE JOB
25 IS A DETECTIVE IS?

1 A WELL, BASICALLY, WE GET THE INFORMATION AFTER A PATROL
2 OFFICER FILLS OUT A REPORT. AND IF IT'S A SERIOUS CASE, WE ARE
3 ASSIGNED TO FOLLOW-UP ON IT, A BURGLARY, HOMICIDE, CRIMINAL
4 SEXUAL CONDUCT, THOSE TYPE CASES.

5 Q NOW, BACK IN MAY OF THIS YEAR DID YOU BECOME INVOLVED
6 IN THE INVESTIGATION OF FRANK LARMAND AND LEO LEMIRE?

7 A YES MA'AM.

8 Q HOW DID YOU BECOME INVOLVED IN THAT INVESTIGATION?

9 A THAT MORNING I WAS ASSIGNED THAT CASE.

10 Q THE MORNING AFTER?

11 A THE MORNING---

12 Q MAY 1?

13 A YES MA'AM, MAY 1, I WAS GIVEN THAT CASE TO INVESTIGATE.

14 Q WHO ASSIGNS YOU CASES?

15 A MY LIEUTENANT, LIEUTENANT DALTON, WHO'S OVER THE
16 CRIMES AGAINST PERSONS UNIT. I WORK FOR THE CRIMES AGAINST
17 PERSONS UNIT AND WE WORK THOSE TYPE CASES.

18 Q SO, LIEUTENANT DALTON ASSIGNED IT TO YOU AND WHAT DID
19 YOU DO?

20 A AS SOON AS I GOT THE CASE HE INFORMED ME THAT THE VICTIM
21 WAS THERE---

22 MR. RHEA: OBJECTION, YOUR HONOR, HEARSAY.

23 MS. JOYNER: HE'S NOT OFFERED FOR THE TRUTH OF THE
24 MATTER ASSERTED, YOUR HONOR. HE'S TRYING TO TESTIFY HOW HE
25 CAME TO MEET THE VICTIM.

1 THE COURT: OVERRULED.

2 A PRETTY MUCH, AS SOON AS I GOT THE CASE ASSIGNED TO ME,
3 MY LIEUTENANT INFORMED ME THE VICTIM WAS THERE AT THE
4 POLICE DEPARTMENT AND WANTED TO SPEAK WITH SOMEONE. SO I
5 IMMEDIATELY THAT MORNING SPOKE WITH HIM.

6 Q ARE YOU TALKING ABOUT EARLY IN THE MORNING?

7 A IT WAS PROBABLY IN THE NEIGHBORHOOD OF 8:30, SOMEWHERE
8 IN THAT NEIGHBORHOOD.

9 Q DID YOU MEET WITH THE VICTIM THAT MORNING?

10 A YES MA'AM, I DID.

11 Q WHERE DID YOU MEET WITH HIM?

12 A AT THE ROCK HILL POLICE DEPARTMENT. I HAD AN INTERVIEW
13 ROOM THAT WE WENT TO, AND I TALKED WITH HIM THERE.

14 Q DID YOU TAKE A STATEMENT FROM HIM?

15 A YES MA'AM.

16 Q AS PART OF YOUR INVESTIGATION, DID YOU ALSO REVIEW A
17 WARRANT THAT HAD BEEN WRITTEN BY OTHER OFFICERS IN THIS
18 CASE?

19 A YES MA'AM. I WAS GIVEN A REPORT FIRST BY MY LIEUTENANT
20 AND I REVIEWED IT BEFORE I ACTUALLY SPOKE WITH THE VICTIM.

21 Q DO YOU RECALL WHO WROTE THAT INCIDENT REPORT?

22 A I BELIEVE OFFICER WATSON WAS THE OFFICER WHO ACTUALLY
23 TYPED UP THE REPORT.

24 Q FROM WHAT YOU CAN TELL, WHAT WAS OFFICER WATSON'S
25 ROLE IN THIS CASE?

1 A BASICALLY, HE INITIATED A TRAFFIC STOP I BELIEVE AS THE
2 DEFENDANTS WERE LEAVING THE SCENE, AND THAT'S WHAT HIS ROLE
3 WAS MAINLY, ON A TRAFFIC STOP.

4 Q WERE YOU ABLE TO TALK TO ANY OTHER OFFICERS WHO
5 CONTRIBUTED INFORMATION TO THAT INCIDENT REPORT?

6 A YES MA'AM. OFFICER REID, WHOSE NAME WAS ON THE REPORT
7 ALSO. APPARENTLY HIM AND OFFICER WATSON WERE TOGETHER
8 DURING THE TRAFFIC STOP AND OFFICER OLIVER HAD ACTUALLY
9 WENT TO THE SCENE AND SPOKE TO THE VICTIMS AND THE WITNESSES
10 AT THE SCENE.

11 Q AND WAS A GENERAL, ROUGH SKETCH OF WHAT OFFICER
12 OLIVER OBSERVED AT THE SCENE DETAILED IN THE INCIDENT
13 REPORT?

14 A PRETTY MUCH. IT KIND OF SUMMARIZED ALL THE OFFICERS'
15 ACTIONS THAT NIGHT AND WHO THEY SPOKE WITH.

16 Q DID IT LIST OUT-- FROM OFFICER OLIVER'S INFORMATION TO
17 OFFICER WATSON, DID IT LIST OUT THE WITNESSES, THE PEOPLE THAT
18 WERE AT THE SCENE?

19 A YES MA'AM. IT GAVE ALL OF THE NAMES AND ADDRESSES AND
20 PHONE NUMBERS AND THOSE TYPE THINGS OF THE WITNESSES THAT
21 APPARENTLY OFFICER OLIVER HAD TALKED TO THAT OFFICER
22 WATSON NEVER GOT TO SPEAK WITH.

23 Q NOW, WHEN YOU-- SO, THE FIRST THING YOU SAID WAS YOU
24 LOOKED AT THE INCIDENT REPORT?

25 A YES MA'AM.

1 Q AND THEN YOU MET WITH THE VICTIM?

2 A THAT'S RIGHT.

3 Q HOW LONG DID YOU MEET WITH THE VICTIM?

4 A TOTAL, PROBABLY-- MY TYPING SKILLS ARE NOT THAT GREAT.
5 IT PROBABLY TOOK ME AN HOUR, MAYBE TO TYPE THE REPORT.
6 MAYBE NOT QUITE THAT LONG, MAYBE FORTY-FIVE MINUTES TO TYPE
7 UP THE STATEMENT HE GAVE.

8 Q AND AT THAT STAGE, DID YOU FEEL THAT YOU HAD ENOUGH
9 INFORMATION TO TAKE ANY ACTION ON THE CASE?

10 A YES MA'AM. I FELT LIKE THE OFFICERS INITIALLY AT THE SCENE
11 DIDN'T HAVE ALL THE INFORMATION. I WAS PRETTY MUCH LIKE A
12 MONDAY MORNING QUARTERBACK COMING IN LOOKING AT
13 EVERYTHING PUT TOGETHER.

14 AND I REALIZED THAT THE OFFICERS THAT ACTUALLY WENT TO
15 THE SCENE WERE NOT ABLE TO, UNTIL IT WAS ALL OVER WITH, TO PUT
16 ALL THEIR INFORMATION TOGETHER THAT I COULD LOOK AT IT AND
17 REVIEW IT. IT APPEARED THERE WAS QUITE A LOT OF WORK LEFT TO
18 BE DONE ON THE CASE.

19 Q AND DID YOU MAKE A DECISION, DID YOU MAKE ANY DECISIONS
20 ABOUT DIFFERENT CHARGES, OR ADDITIONAL CHARGES AGAINST
21 ANYONE?

22 A YES MA'AM, I DID.

23 Q AT THAT TIME, DID YOU ISSUE ADDITIONAL WARRANTS
24 AGAINST LEO LEMIRE?

1 A I DID. I SIGNED WARRANTS MYSELF FOR THE ADDITIONAL
2 CHARGES.

3 Q DID YOU ALSO ISSUE WARRANTS AGAINST FRANK LARMAND?

4 A YES MA'AM, I DID.

5 Q NOW, LATER ON, AS PART OF YOUR INVESTIGATION, DID YOU
6 CONDUCT INTERVIEWS OF THE OTHER WITNESSES WHO WERE AT THE
7 SCENE?

8 A I LATER TALKED WITH THE WITNESSES, YES MA'AM, WHO WERE
9 LISTED ON THE REPORT.

10 Q HOW DID YOU MAKE CONTACT WITH THEM?

11 A BY PHONE. I CALLED THEM ON THE TELEPHONE. AND
12 ACTUALLY, ONE OF THE WITNESSES WHO HAD THE INJURY TO HIS
13 FINGER CAME UP TO THE POLICE DEPARTMENT AND PHOTOGRAPHS
14 WERE TAKEN OF HIS FINGER AT THE POLICE DEPARTMENT. I BELIEVE
15 THAT WAS JESSE.

16 Q YOU'RE REFERRING TO STATE'S EXHIBITS ONE AND TWO?

17 A YES MA'AM.

18 Q WERE YOU PRESENT WHEN THOSE PHOTOS WERE TAKEN?

19 A YES MA'AM. I WASN'T PRESENT FOR ALL THE PHOTOS.
20 DETECTIVE DUGAN TOOK THE PHOTOGRAPHS. I MET WITH HIM
21 BRIEFLY OUTSIDE AND OBSERVED DUGAN TAKE THE PHOTOGRAPHS.

22 Q WERE YOU ABLE TO OBSERVED THE INJURIES THAT ARE
23 DETAILED IN THE PHOTOGRAPHS?

24 A YES MA'AM.

1 Q IM SHOWING YOU WHAT'S PREVIOUSLY BEEN MARKED AS
2 STATE'S EXHIBIT THREE. DO YOU RECOGNIZE STATE'S EXHIBIT THREE?

3 A YES MA'AM. THAT WAS THE GUN THAT WAS RECOVERED THAT
4 NIGHT BY OFFICER REID AT THE SCENE OVER AT GENTLE BREEZE
5 LANE AND IT WAS PLACED INTO EVIDENCE.

6 Q DID YOU PICK THAT UP FROM EVIDENCE FOR THIS TRIAL?

7 A YES MA'AM.

8 MS. JOYNER: YOUR HONOR, AT THIS TIME, WE WOULD OFFER
9 STATE'S EXHIBIT THREE INTO EVIDENCE.

10 THE COURT: ANY OBJECTION?

11 MR. RHEA: WITHOUT OBJECTION.

12 MR. GREELEY: WITHOUT OBJECTION.

13 THE COURT: STATE'S EXHIBIT THREE IS IN EVIDENCE.

14 (WHEREUPON STATE'S EXHIBIT THREE WAS ADMITTED INTO EVIDENCE
15 WITHOUT OBJECTION.)

16 Q DETECTIVE, I'M ALSO SHOWING YOU WHAT'S BEEN MARKED AS
17 STATE'S EXHIBIT EIGHT FOR IDENTIFICATION PURPOSES. CAN YOU
18 IDENTIFY FOR THE JURY WHAT STATE'S EXHIBIT EIGHT IS?

19 A YES MA'AM. THIS IS SIX .45 CALIBER ROUNDS THAT WERE WITH
20 THE GUN WHEN IT WAS RECOVERED ON GENTLE BREEZE LANE THAT
21 NIGHT.

22 Q WERE THOSE ALSO PLACED IN EVIDENCE?

23 A YES MA'AM. THEY WERE PLACED IN EVIDENCE IN THE SAME
24 BAG, APPARENTLY, AS THE GUN.

1 MS. JOYNER: YOUR HONOR, AT THIS TIME, WE WOULD ALSO
2 MOVE STATE'S EXHIBIT EIGHT INTO EVIDENCE.

3 THE COURT: ANY OBJECTION?

4 MR. RHEA: WITHOUT OBJECTION.

5 THE COURT: MR. GREELEY?

6 MR. GREELEY: WITHOUT OBJECTION.

7 THE COURT: STATE'S EXHIBIT EIGHT IS IN EVIDENCE.

8 (WHEREUPON STATE'S EXHIBIT EIGHT WAS ADMITTED INTO EVIDENCE
9 WITHOUT OBJECTION.)

10 Q NOW, I KNOW, DETECTIVE, THAT YOU'RE NOT A FIREARMS
11 EXPERT, OR ARE YOU?

12 A NO MA'AM.

13 Q DO YOU HAVE AS PART OF YOUR LAW ENFORCEMENT SOME
14 TRAINING AND EXPERIENCE WITH BULLETS AND GUNS?

15 A YES MA'AM.

16 Q WOULD YOU TAKE A LOOK AT STATE'S EXHIBIT EIGHT? ARE
17 YOU ABLE TO TELL JUST BY LOOKING AT THOSE JUST WHAT TYPE OF
18 BULLETS THOSE ARE?

19 A WELL, THEY'RE .45 CALIBER ROUNDS. THAT'S BASICALLY IT.
20 WITHOUT A MAGNIFYING GLASS I CAN'T TELL YOU THE BRAND.

21 Q OKAY. AS PART OF YOUR INVESTIGATION, DID YOU GET
22 INFORMATION ABOUT WHERE EACH OF THESE INDIVIDUALS LIVE?

23 A YES MA'AM, I DID.

24 Q AND I KNOW YOU DON'T HAVE YOUR FILE IN FRONT OF YOU, BUT
25 CAN YOU RECALL WHERE FRANK LARMAND LIVES?

1 A KANNAPOLIS, NORTH CAROLINA.

2 Q WHERE IS THE CITY WHERE LEO LEMIRE LIVES?

3 A I THINKING IT'S KANNAPOLIS, NORTH CAROLINA ALSO.

4 Q DO YOU HAVE ANY PERSONAL EXPERIENCE OR KNOWLEDGE
5 ABOUT HOW FAR AWAY KANNAPOLIS IS?

6 A I'VE BEEN THERE A COUPLE OF TIMES, BUT I DON'T KNOW THE
7 MILEAGE, HOW FAR IT IS, NO MA'AM.

8 Q IS IT CLOSE BY?

9 A NO MA'AM. IT'S PROBABLY AT LEAST AN HOUR DRIVE.

10 Q THANK YOU VERY MUCH DETECTIVE. PLEASE ANSWER ANY
11 QUESTIONS THE DEFENSE HAS.

12 THE COURT: MR. RHEA.

13 MR. RHEA: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
14 COURT.

15 **CROSS EXAMINATION BY MR. RHEA:**

16 Q GOOD MORNING, DETECTIVE HERRING.

17 A GOOD MORNING. HOW YOU DOING?

18 Q FINE, THANK YOU. THE FIRST YOU KNEW ABOUT THIS CASE WAS
19 THE MORNING OF MAY 1, AT 8:30 IN THE MORNING. IS THAT CORRECT?

20 A YES SIR.

21 Q YOU DIDN'T HAVE ANY CALLS ON IT OR ANYTHING LIKE THAT
22 THE NIGHT OF APRIL, OR, THE EARLY MORNING BEFORE 8:30?

23 A NO SIR.

24 Q AND YOUR FIRST KNOWLEDGE OF THIS IS WHEN YOU HAD BEEN
25 ASSIGNED THE CASE. IS THAT CORRECT?

1 A PRETTY MUCH, YES SIR.

2 Q WHERE WAS MR. LOCHBAUM AT THAT TIME WHEN YOU GOT
3 ASSIGNED THE CASE?

4 A I BELIEVE HE WAS AT THE POLICE DEPARTMENT AT SOME TIME
5 RIGHT AROUND THE TIME I WAS ASSIGNED THE CASE. I BELIEVE HE
6 HAD ACTUALLY SPOKE WITH MY SUPERVISOR.

7 Q SO, MR. LOCHBAUM HAD GOTTEN THERE EARLY IN THE
8 MORNING AND HAD ALREADY SPOKEN WITH YOUR SUPERVISOR, WHO
9 TOLD YOU HE HAD TALKED WITH THIS GENTLEMAN, BASICALLY?

10 A BASICALLY HE GAVE ME THE CASE FILE AND TOLD ME I WAS
11 ASSIGNED TO THE CASE AND TO MAKE CONTACT WITH THE VICTIM,
12 YES SIR.

13 Q NOW, AT THAT POINT IN TIME HAD A NARRATIVE BEEN DONE
14 ON THIS MATTER?

15 A THE---

16 Q AT THAT POINT IN TIME?

17 A THE NARRATIVE OF THE INCIDENT REPORT HAD BEEN
18 COMPLETED.

19 Q NOW, THIS NARRATIVE THAT I WAS PRESENTED IN DISCOVERY,
20 THE GENERAL SESSIONS COURT CASE SUMMARY, IT HAS YOUR NAME
21 LISTED AS THE CASE AGENT, AND THEN THE CHAIN OF EVIDENCE; YOU
22 KNOW, THE OTHER OFFICERS. DID YOU DRAW THAT UP BASED ON THE
23 INFORMATION YOU RECEIVED?

24 A YES SIR. THIS IS MY COURT CASE SUMMARY.

25 Q YOU PREPARED THAT?

1 A YES SIR.

2 Q IN ADDITION TO GETTING A STATEMENT FROM MR. LOCHBAUM.
3 IS THAT CORRECT?

4 A THAT IS CORRECT, YES SIR.

5 Q AND IN YOUR CONVERSATIONS WITH MR. LOCHBAUM, DIDN'T HE
6 TRY TO EMPHASIZE THE FACT THAT MY CLIENT, MR. LARMAND, HAD
7 TRIED TO LURE HIM TO A DARKENED AREA? DO YOU RECALL THAT AS
8 BEING A BIG THING ABOUT THE CASE IN TERMS OF THINGS THAT HE
9 EMPHASIZED TO YOU?

10 A I REMEMBER IT AS BEING ONE OF THE THINGS HE EMPHASIZED
11 BECAUSE HIS SUBDIVISION'S NOT COMPLETE. THERE'S NOT A WHOLE
12 LOT OF STREET LIGHTS, AND THERE'S A LOT OF VACANT LOTS. AND HE
13 INDICATED AFTER FIRST MEETING WITH MR. LARMAND, HE WAS
14 WALKING IN THE DIRECTION OF WHERE THERE WAS NO HOUSES BUILT,
15 WHICH WOULD HAVE BEEN A DARKENED AREA. I ASSUMED THAT HE
16 ASSUMED THAT HE WAS TRYING TO LURE HIM TO THAT DARKENED
17 AREA.

18 Q NOW, ACCORDING TO YOUR KNOWLEDGE OF THE CASE AS THE
19 CASE AGENT, THE SCUFFLE THAT TRANSPIRED-- AND I KNOW THAT
20 YOU'VE PROBABLY SEEN THIS MAP OF THE AREA OF THE
21 NEIGHBORHOOD?

22 A YES SIR.

23 Q OKAY. TO YOUR KNOWLEDGE, WHERE DID THE ACTUALLY PILE
24 EVERYBODY'S BEEN CALLING IT HERE, AND YOU'VE BEEN PRESENT.

1 THEY'VE BEEN CALLING IT THE DOG PILE. TO YOUR KNOWLEDGE,
2 BASED ON YOUR INVESTIGATION, WHERE WAS THAT?

3 A I'M ASSUMING IT WAS RIGHT IN FRONT OF THE VICTIM'S
4 RESIDENCE.

5 Q THE CONSENSUS IS, BASED ON YOUR KNOWLEDGE, IS IT WAS
6 RIGHT IN FRONT OF THE VICTIM'S RESIDENCE---

7 A YES.

8 Q ---ON THE SIDEWALK?

9 A YES SIR.

10 Q IT'S NOT OUT IN THIS AREA OR ANYTHING LIKE THAT IN THE
11 DARKENED AREA?

12 A NO SIR.

13 Q BUT IS IT NOT A FACT THAT WHEN MR. LOCHBAUM TALKED TO
14 YOU HIS MAIN CONCERN WAS, WAS MAKING SURE THAT MR.
15 LARMAND WAS CHARGED. CORRECT?

16 A I DON'T THINK THAT WAS HIS MAIN CONCERN. I THINK HIS MAIN
17 CONCERN WAS WE DIDN'T HAVE ALL THE INFORMATION. ALL THE
18 INFORMATION HADN'T BEEN PUT TOGETHER AT THAT POINT. I DON'T
19 THINK HE FELT LIKE THAT SOMEONE KNEW EXACTLY ALL THE EVENTS
20 THAT HAD TOOK PLACE THAT NIGHT.

21 Q BUT HE DID TELL YOU THAT THIS WAS BASED ON-- YOUR
22 NARRATIVE IS BASED ON WHAT HE TELLS YOU. RIGHT?

23 A AND MY INVESTIGATION. I TALKED TO THE OTHER WITNESSES
24 ALSO.

1 Q IT SAYS, "LARMAND BEGAN WALKING A VACANT LOT NEXT TO
2 THE VICTIM'S PROPERTY AND THE VICTIM FOLLOWING HIM, ASKING
3 HIM WHAT HE WAS TALKING ABOUT." IS THAT WHAT HE TOLD YOU?

4 A YES SIR.

5 Q "IT WAS EVIDENT THAT LARMAND WAS TRYING TO LURE THE
6 VICTIM INTO THE AREA WHERE LEMIRE HAD BEEN HIDING IN THE
7 DARKNESS SO THEY COULD ATTACK THE VICTIM." THAT'S WHAT MR.
8 LOCHBAUM TOLD YOU. RIGHT?

9 A YES SIR.

10 Q AND THAT'S WHAT YOU HAD BASED IT ON. RIGHT?

11 A THAT'S CORRECT.

12 Q AND THAT'S IN YOUR NARRATIVE?

13 A RIGHT.

14 Q DID YOU KNOW ANYTHING ABOUT-- AT THE TIME YOU TALKED
15 WITH MR. LOCHBAUM, DID HE TELL YOU ABOUT HIS RELATIONSHIP
16 WITH FRANK LARMAND AND HIS COMPANY?

17 A HE, I THINK, INDICATED THAT HE HAD AT ONE TIME WORKED
18 FOR POP-A-LOCK, WHICH WAS OWNED BY MR. LARMAND AND HIS
19 WIFE, I BELIEVE.

20 Q AND DID YOU GET THE IMPRESSION THAT HE WAS IN ANY WAY A
21 DISGRUNTLED FORMER EMPLOYEE?

22 A NOT FROM TALKING WITH HIM THAT DAY, I DIDN'T GET THAT
23 IMPRESSION.

24 Q NOW, THE NARRATIVE SAYS THAT HE DESCRIBED HIMSELF AS A
25 PREVIOUS EMPLOYEE.

1 A THAT'S CORRECT.

2 Q SO, YOU DIDN'T GET THE IMPRESSION THAT HE WAS
3 DISGRUNTLED WHEN YOU MET HIM?

4 A NO SIR.

5 Q AND AS A RESULT OF YOUR CONVERSATION WITH MR.
6 LOCHBAUM, DID YOU TALK TO ANYBODY ELSE PRIOR TO TAKING OUT
7 WARRANTS?

8 A OTHER THAN REVIEWING THE REPORT AND LOOKING AT THE
9 WITNESSES, NO, I DID NOT TALK WITH ANYONE, OTHER THAN GETTING
10 THE SWORN STATEMENT FROM THE VICTIM.

11 Q YOU CALLED SEVERAL PEOPLE INVOLVED, THE WITNESSES AND
12 WHAT NOT?

13 A YES SIR.

14 Q BUT THAT WAS ANYWHERE FROM FOUR DAYS TO A WEEK
15 LATER. IS THAT CORRECT?

16 A WHENEVER I COULD GET IN CONTACT WITH THEM, YES SIR,
17 THAT'S CORRECT. YOU KNOW, I CALLED A FEW TIMES, COULDN'T GET
18 THEM, BECAUSE OF THEIR WORK SCHEDULE AND MY WORK
19 SCHEDULE, YOU KNOW, JUST WASN'T ABLE TO MAKE CONTACT UNTIL
20 A LATER TIME.

21 Q DID YOU EVER TALK TO MR. LARMAND ABOUT THE INCIDENT?

22 A NO SIR, I DID NOT.

23 Q I MEAN, OBVIOUSLY, ANOTHER OFFICER HAD TESTIFIED IN
24 COURT, OFFICER WATSON, HAD SPOKEN WITH---

25 MS. JOYNER: OBJECTION, YOUR HONOR. HEARSAY.

1 MR. RHEA: I'M ASKING FOR CLARIFICATION, AND OBVIOUSLY
2 OFFICER WATSON HAD SPOKEN TO MR. LARMAND BEFORE.

3 THE COURT: OVERRULED.

4 A APPARENTLY HE---

5 Q ONE OF YOUR OFFICERS, OFFICER WATSON, HAD ALREADY
6 SPOKEN TO MR. LARMAND. CORRECT?

7 A HE INITIATED THE TRAFFIC STOP. AND I THINK HE MIGHT HAVE
8 SPOKE WITH ONE OR BOTH OF THESE OCCUPANTS, WHICH WERE THE
9 DEFENDANTS, THAT NIGHT.

10 Q WAS OFFICER WATSON THERE THAT MORNING?

11 A NO SIR.

12 Q WAS HE OFF DUTY?

13 A HE APPARENTLY HAD GOTTEN OFF THAT NIGHT.

14 Q DID YOU SPEAK WITH OFFICER WATSON ABOUT THE CASE
15 AFTER, OR BEFORE YOU TOOK WARRANTS OUT IN THIS MATTER?

16 A NO SIR, I DID NOT.

17 Q SO, DESPITE THE FACT THAT OFFICER WATSON HAD SPOKEN
18 WITH MR. LARMAND, YOU DIDN'T DEEM IT TO BE SOMETHING TO BE
19 RELEVANT. ONCE YOU TALKED TO MR. LOCHBAUM, WITHOUT
20 TALKING TO OFFICER WATSON, YOU TOOK OUT WARRANTS.
21 CORRECT?

22 A OFFICER WATSON DIDN'T GET A CHANCE TO TALK TO THE
23 VICTIM, TO MY KNOWLEDGE. BUT AFTER I TALKED TO THE VICTIM, I
24 DID SIGN THOSE WARRANTS, YES SIR.

25 Q AFTER YOU TALKED TO MR. LOCHBAUM AND NO ONE ELSE?

1 A AND REVIEWING THE CASE. THE REPORT HAD BEEN PUT
2 TOGETHER BY OFFICER WATSON, YES SIR.

3 Q WHEN DID YOU SERVE WARRANTS ON MR. LARMAND?

4 A HE ACTUALLY CAME UP, I BELIEVE, FOR A BOND HEARING ON
5 THE OTHER DEFENDANT, AND AT THAT POINT THAT'S WHEN HE WAS
6 ARRESTED.

7 Q SO, THAT WAS LIKE A BOND HEARING AT TWO O'CLOCK THAT
8 SAME DAY, ON MONDAY. RIGHT?

9 A THAT'S CORRECT.

10 Q SO, HE CAME DOWN WITH OTHER FAMILY MEMBERS IN ORDER
11 TO BOND OUT HIS BROTHER-IN-LAW. CORRECT?

12 A I'M NOT SURE IF HE HAD OTHER FAMILY MEMBERS, BUT HE WAS
13 THERE. I KNOW HE WAS THERE.

14 Q NO QUESTION MR. LARMAND WAS THERE?

15 A EXACTLY, YES SIR.

16 Q SO, HE WASN'T TRYING TO HIDE IN THAT FARAWAY LOCALE OF
17 KANNAPOLIS, NORTH CAROLINA, WAS HE?

18 A NO SIR.

19 Q HE WASN'T ACTING AS A MAN WHO FELT AS THOUGH ANYTHING,
20 THAT HE HAD DONE ANYTHING SERIOUSLY WRONG IN A CRIMINAL
21 CONTEXT BY HIDING OUT AND NOT COMING BACK. RIGHT?

22 A HE DIDN'T TRY TO HIDE OUT? I MEAN, I DON'T KNOW HOW TO
23 ANSWER YOUR QUESTION. HE DID NOT TRY TO HIDE OUT. NO SIR, HE
24 CAME TO THE POLICE DEPARTMENT TO THE BOND HEARING.

1 Q WHEN EXACTLY DID YOU ARREST HIM OR SERVE THE
2 WARRANTS?

3 A THAT AFTERNOON, EITHER RIGHT BEFORE THE BOND HEARING
4 OR RIGHT AFTER THE BOND HEARING. I'M NOT SURE EXACTLY. I GAVE
5 THESE WARRANTS TO A FEMALE WARRANT OFFICER AND SHE
6 ACTUALLY EXECUTED SERVING THE WARRANTS.

7 Q THE INCIDENT, SUPPLEMENTAL INCIDENT REPORT SAID THAT
8 DETECTIVE HERRING AND OFFICER BLAIR LOCATED THE SUSPECT,
9 LARMAND, IN THE COURTROOM LOBBY, WAITING FOR A BOND
10 HEARING ON HIS CASE. IS THAT CORRECT?

11 A YES SIR.

12 Q AND OFFICER BLAIR ACTUALLY SERVED THE WARRANTS?

13 A YES SIR.

14 Q WHAT DO YOU RECALL MR. LOCHBAUM TELLING YOU ABOUT
15 ANY CALLS THAT HE HAD CONCERNING THIS GENTLEMAN AND HIS
16 WIFE'S COMPANY? DO YOU RECALL HIM SHOWING YOU ANYTHING IN
17 MR. LARMAND'S PRESENCE?

18 A HE WAS TRYING TO EXPLAIN TO ME THE WAY HE FELT THAT HE
19 WAS TRYING TO BE SET UP TO GO TO KNIGHT'S CASTLE. I REALLY
20 DIDN'T UNDERSTAND EXACTLY EVERYTHING HE WAS TRYING TO
21 EXPLAIN TO ME. THERE WAS A WHOLE LOT OF DIFFERENT STUFF
22 GOING ON.

23 BUT HE WAS TRYING TO EXPLAIN TO ME THAT HE HAD TALKED
24 WITH ANOTHER, A CURRENT EMPLOYEE AT POP-A-LOCK, AND THAT
25 PERSON APPARENTLY HAD TRIED TO TELL HIM THAT HE WAS BEING,

1 TRYING TO BE SET UP, OR SOMETHING ALONG THOSE LINES. I DIDN'T
2 GET ALL THOSE DETAILS.

3 Q NO QUESTION MR. LOCHBAUM TOLD YOU THAT?

4 A HE INDICATED THAT TO ME, YES SIR.

5 Q DID YOU RECALL HIM SHOWING YOU SOMETHING, EITHER A
6 BLACKBERRY OR SOME TYPE OF CELLULAR DEVICE ABOUT THE CALL,
7 IN MR. LARMAND'S PRESENCE?

8 A I REMEMBER HIM TELLING ME THAT HE HAD GOTTEN A PHONE
9 CALL FROM MR. LARMAND, BUT I DON'T REMEMBER HIM ACTUALLY
10 SHOWING IT TO ME. OR, HE THOUGHT THAT MR. LARMAND HAD
11 CALLED ANOTHER EMPLOYEE, AND HE THOUGHT THAT EMPLOYEE
12 WAS GONNA TELL HIM THAT INFORMATION OR SOMETHING ALONG
13 THOSE LINES.

14 AND THAT'S WHAT HE WAS TRYING TO GET A POINT ACROSS TO
15 ME, THAT ONCE THAT EMPLOYEE TOLD THE VICTIM THAT
16 INFORMATION, THE VICTIM WOULD GO TRAVEL TO KNIGHT'S CASTLE.
17 BUT, LIKE I SAY, I DIDN'T UNDERSTAND ALL THE INFORMATION HE
18 WAS TRYING TO GIVE ME AT THAT POINT.

19 Q WAS MR. LOCHBAUM PRESENT, AND THE DEFENDANT, HERE, IN
20 THE HALLWAY, OR THE LOBBY, OR WHATEVER, WHEN YOU PLACED
21 MR. LARMAND UNDER ARREST? WAS HE RIGHT THERE?

22 A HE COULD HAVE BEEN. I'M NOT-- I THINK HE DID GO OVER
23 THERE TO INDICATE TO SHOW ME WHO HE WAS. I BELIEVE HE DID, YES
24 SIR.

25 MR. RHEA: BEG THE COURT'S INDULGENCE.

1 (PAUSE)

2 MR. RHEA: THAT'S ALL I HAVE, YOUR HONOR.

3 THE COURT: MR. GREELEY.

4 MR. GREELEY: MAY IT PLEASE THE COURT, YOUR HONOR.

5 THE COURT: SURE.

6 **CROSS EXAMINATION BY MR. GREELEY:**

7 Q DETECTIVE HERRING, GOOD MORNING.

8 A GOOD MORNING.

9 Q I WANT TO REFER BACK TO YOUR NARRATIVE, IF I CAN, IN
10 REGARDS TO THE KNIGHTS' CASTLE THING. I WANT TO SHOW YOU THE
11 NARRATIVE, AND IF YOU WILL, LOOK ON THE SECOND PAGE. FIRST OF
12 ALL, IS THAT THE NARRATIVE THAT YOU WROTE THAT WAS PROVIDED
13 TO US BY THE STATE?

14 A YES SIR.

15 Q NOW, ON THE SECOND PAGE, YOU'RE GOING TO SEE A LITTLE INK
16 MARK THERE. THIS IS WHAT YOU WROTE. IS THAT CORRECT?

17 A YES SIR, I TYPED THIS UP.

18 Q AND YOU WROTE THAT BECAUSE YOU RECEIVED THAT
19 INFORMATION FROM MR. LOCHBAUM THE NEXT MORNING. IS THAT
20 CORRECT?

21 A YES SIR. THAT'S WHEN I TOOK A SWORN STATEMENT FROM HIM,
22 THAT NEXT MORNING.

23 Q RIGHT. AND WOULD YOU READ TO THE JURY THAT PARAGRAPH
24 THAT YOU WROTE REGARDING THE INFORMATION MR. LOCHBAUM
25 GAVE YOU THAT MORNING? AND IF YOU WOULD READ IT SLOWLY.

1 A "THE VICTIM, LOCHBAUM, ADVISED THAT NEITHER LARMAND
2 OR LEMIRE HAD EVER BEEN TO HIS RESIDENCE BEFORE. HE STATED
3 THAT EARLIER IN THE EVENING, HE HAD RECEIVED A MESSAGE BY
4 PHONE IN REFERENCE TO A JOB AT KNIGHTS' STADIUM IN FORT MILL,
5 SOUTH CAROLINA, BUT HE DIDN'T RESPOND TO IT. AND HE LATER
6 FOUND OUT THAT THIS MESSAGE HAD BEEN SENT FROM FRANCIS',
7 WHICH IS FRANK LARMAND'S PHONE NUMBER. BOTH DEFENDANTS
8 LIVE IN KANNAPOLIS, NORTH CAROLINA, AND THE VICTIM FELT LIKE
9 IF HE HAD RESPONDED TO KNIGHTS' STADIUM HE WOULD HAVE BEEN
10 ASSAULTED THERE. BUT SINCE HE DIDN'T, THE DEFENDANTS LEFT
11 THERE AND CAME TO HIS RESIDENCE."

12 Q THANK YOU. AND SO, BASICALLY, THAT WAS A THEORY THAT
13 MR. LOCHBAUM TOLD YOU THAT MORNING AS TO WHAT OCCURRED.
14 CORRECT?

15 A I'M NOT SURE IF IT'S A THEORY. IT'S SOME INFORMATION THAT
16 HE PROVIDED TO ME, YES SIR.

17 Q AND THAT MORNING, EARLY, HE PROVIDED YOU WITH THE
18 INFORMATION THAT HE HAD RECEIVED A CALL ABOUT A JOB AT THE
19 STADIUM. CORRECT?

20 A THAT WAS MY UNDERSTANDING AT THE TIME, YES SIR.

21 MR. GREELEY: NOTHING FURTHER.

22 THE COURT: RE-DIRECT.

23 MS. JOYNER: YES SIR, YOUR HONOR.

24

25

1 RE-DIRECT EXAMINATION BY MS. JOYNER:

2 Q WHEN I HAD YOU ON DIRECT EXAMINATION, I SPENT SOME TIME
3 JUST GOING THROUGH JUST PROCEDURALLY. WHEN WE TALK ABOUT
4 AN INCIDENT REPORT, WHAT---

5 MR. GREELEY: YOUR HONOR, I'M GOING TO OBJECT. THIS IS
6 NEW MATERIAL.

7 MS. JOYNER: YOUR HONOR, THIS IS NOT NEW MATERIAL. I'M
8 GOING BACK OVER THINGS THAT WERE WRITTEN IN THE GENERAL
9 SESSIONS SUMMARY VERSUS THE INCIDENT REPORT.

10 THE COURT: OVERRULED.

11 Q WHEN I CALL SOMETHING AN INCIDENT REPORT, WHAT DOES AN
12 INCIDENT REPORT MEAN TO YOU?

13 A AN INCIDENT REPORT IS WHAT THE FIRST RESPONDING
14 OFFICERS FILL OUT AT A CRIME SCENE BASICALLY GETTING THE BARE
15 FACTS TO PUT INTO A REPORT THAT CAN BE EITHER INVESTIGATED BY
16 THEM OR SENT UP TO THE DETECTIVE DIVISION TO BE INVESTIGATED.

17 Q SO, WHEN MR. GREELEY HAD YOU READ FROM THE GENERAL
18 SESSIONS CASE SUMMARY, IS THAT DIFFERENT THAN THE INCIDENT
19 REPORT?

20 A YES MA'AM. THAT'S DONE, YOU KNOW, A WEEK, TWO WEEKS
21 LATER AFTER THE CASE HAS BEEN MADE AND ALL THE INFORMATION
22 PUT TOGETHER INTO A FILE. AND THAT'S PROBABLY THE LAST BIT OF
23 INFORMATION THAT'S ADDED TO THE FILE.

24 Q SO, THE INCIDENT REPORT THAT YOU REVIEWED PRIOR TO
25 TALKING WITH MR. LOCHBAUM, WHO PREPARED THAT?

1 A OFFICER WATSON DID THE INITIAL INCIDENT REPORT.

2 Q THE INCIDENT, THE GENERAL SESSIONS CASE SUMMARY THAT
3 YOU WERE READING FROM JUST A MOMENT AGO, WHO PREPARED
4 THAT?

5 A I DID.

6 Q AND WHEN WOULD THAT HAVE BEEN PREPARED?

7 A YOU KNOW, IT COULD HAVE BEEN UP TO A WEEK OR SO AFTER
8 THE INITIAL INCIDENT. PROBABLY EVEN AFTER I HAD SPOKE WITH
9 ALL THE WITNESSES. THAT'S WHEN-- LIKE I SAID, THAT'S PROBABLY
10 THE LAST ITEM INCLUDED INTO THE CASE FILE AFTER SPEAKING WITH
11 EVERYONE.

12 Q LET ME DIRECT YOUR ATTENTION BACK TO THE KNIGHTS'
13 STADIUM THING THAT MR. RHEA AND MR. GREELEY HAVE BEEN
14 DISCUSSING WITH YOU.

15 WHEN YOU MET WITH RYAN LOCHBAUM THE MORNING OF MAY
16 1, WAS IT YOUR TESTIMONY THAT IT WAS ABOUT FORTY-FIVE
17 MINUTES THAT YOU MET WITH HIM?

18 A PROBABLY SOMETHING IN THAT NEIGHBORHOOD.

19 Q HOW MUCH TIME WOULD YOU SAY WAS SPENT TALKING ABOUT
20 WHAT OCCURRED OUT ON GENTLE BREEZE LANE?

21 A THAT'S WHAT THE MAJORITY OF THE TIME WAS SPENT
22 DISCUSSING.

23 Q WHAT PORTION OF THE TIME WAS DEDICATED TO DISCUSSING
24 KNIGHTS' STADIUM?.

1 A I THINK THAT WAS JUST SOMETHING THAT WAS JUST PUT IN
2 THERE BRIEFLY. BECAUSE, LIKE I SAID, I REALLY DIDN'T THINK THAT
3 HAD ANYTHING TO DO WITH ACTUALLY WHAT HAPPENED ON GENTLE
4 BREEZE. AT THAT POINT I DIDN'T THINK THE TWO WERE PROBABLY
5 RELATED, OTHER THAN THE FACT THAT THE ASSAULT MIGHT HAVE
6 TOOK PLACE THERE VERSUS GENTLE BREEZE.

7 Q DID YOU HAVE A FULL UNDERSTANDING OF WHAT MR.
8 LOCHBAUM WAS TRYING TO CONVEY IN REGARDS TO KNIGHTS'
9 STADIUM?

10 A THERE WAS ANOTHER PERSON, A CURRENT EMPLOYEE THAT
11 WORKED THERE THAT HE HAD TALKED WITH ABOUT KNIGHTS'
12 STADIUM, BUT I'M NOT SURE EXACTLY HOW THE KNIGHTS' STADIUM
13 INFORMATION PERTAINED TO WHAT ACTUALLY TOOK PLACE ON
14 GENTLE BREEZE, OTHER THAN IT COULD HAVE HAPPENED AT
15 KNIGHTS' CASTLE, THE BASEBALL PARK THERE, BECAUSE THE CALL
16 CAME INTO THE POP-A-LOCK TO RESPOND THERE.

17 Q WHEN YOU PREPARE A STATEMENT FROM ANY WITNESS, OR
18 YOU TAKE A STATEMENT, HOW DO YOU NORMALLY TAKE A
19 STATEMENT?

20 A BASICALLY I GET THE PERSON TO TELL ME WHAT HAPPENED AT
21 ONE TIME, AND I JUST LISTEN. AND THEN I HAVE THEM GO OVER IT
22 AGAIN SO I CAN TYPE IT UP AND JUST TAKE IT, YOU KNOW, PRETTY
23 SLOW AS I'M TYPING TO MAKE SURE I GET ALL THE INFORMATION.

24 Q ONCE YOU TYPE IT UP, DOES THE PERSON RE-READ IT?

1 A EITHER THAT, OR I READ IT TO THEM AND SEE IF THERE'S ANY
2 CHANGES THAT NEED TO BE MADE OR ANYTHING ADDED OR TAKEN
3 AWAY.

4 Q WOULD IT BE FAIR TO SAY THAT THE THINGS-- WHAT TYPE OF
5 THINGS ARE INCLUDED IN A STATEMENT?

6 A I TRY TO GET AS MUCH INFORMATION AS PERTAINING TO THE
7 INCIDENT THAT I'M WORKING ON AT THAT POINT TO SUBSTANTIATE
8 THE CHARGES THAT ARE GOING TO BE MADE.

9 Q WHEN YOU TAKE A WITNESS STATEMENT, DO YOU FIND THAT
10 YOU HAVE TO PARSE THROUGH ANY EXTRANEOUS INFORMATION
11 THAT DOESN'T RELATE TO THE CASE?

12 A A LOT OF TIMES, YOU DO, YES MA'AM, BECAUSE PEOPLE GO OFF
13 ON TANGENTS ABOUT THINGS THAT ARE REALLY NOT PERTINENT.

14 Q DID YOU THINK THAT KNIGHTS' STADIUM WAS CENTRAL TO
15 YOUR CASE?

16 A NO MA'AM.

17 Q WAS ANYONE STANDING WITHIN EARSHOT AT ANY OF THE
18 TIMES THAT YOU SPOKE WITH RYAN LOCHBAUM?

19 A WELL, YOU KNOW, THE INTERVIEW ROOM IS OUTSIDE OF THE
20 DETECTIVE DIVISION, AND I GUESS ANYONE COULD ACTUALLY HEAR.
21 BUT I DON'T KNOW IF ANYBODY DID OR NOT.

22 Q THANK YOU VERY MUCH, DETECTIVE HERRING.

23 THE COURT: RE-CROSS, MR. RHEA?

24 MR. RHEA: JUST BRIEFLY, YOUR HONOR, JUST TO FOLLOW UP.

25

1 RE-CROSS EXAMINATION BY MR. RHEA:

2 Q YOU STATED THAT YOU RECALL MR. LOCHBAUM MENTIONING
3 THAT AN EMPLOYEE OF POP-A-LOCK HAD CALLED HIM ON THE PHONE.
4 IS THAT CORRECT?

5 A SOMETHING ALONG THOSE LINES, YES SIR.

6 Q WHAT WAS YOUR UNDERSTANDING OF MR. LOCHBAUM'S
7 FEELING ABOUT THAT?

8 A HE FELT LIKE THE PERSON THAT HAD CALLED HIM HAD
9 INFORMATION THAT THE DEFENDANT WAS TRYING TO SET HIM UP, OR
10 SOMETHING ALONG THOSE LINES. I REALLY WASN'T A HUNDRED
11 PERCENT SURE WHAT HE WAS TALKING ABOUT.

12 Q BUT IT WAS CONSISTENT WITH MR. LOCHBAUM'S THEME TO YOU
13 WHEN HE WAS TALKING TO YOU THAT MORNING OR TRYING TO LURE
14 HIM THERE. RIGHT?

15 A YES SIR.

16 Q JUST LIKE THEY TRIED TO LURE HIM TO THE DARKENED
17 PARKING AREA. RIGHT?

18 A YES SIR.

19 Q DID HE TELL YOU THE INDIVIDUAL'S NAME WHO MADE THE
20 PHONE CALL?

21 A IF HE DID, I DON'T REMEMBER IT.

22 Q AND DID YOU EVER RECALL MR. LOCHBAUM TELLING YOU THAT
23 THIS INDIVIDUAL HAD CALLED HIM FOR DIRECTIONS TO KNIGHTS'
24 STADIUM?

25 A IF HE DID, I DON'T REMEMBER THAT EITHER.

1 Q BECAUSE THAT REALLY WOULDN'T BE AT ALL RELEVANT? I
2 MEAN, THAT WOULD BE ONE OF THOSE THINGS THAT MS. JOYNER
3 DESCRIBED AS EXTRANEIOUS TO THE CASE. I MEAN, PEOPLE TELL YOU
4 A BUNCH OF THINGS AND YOU HAVE KIND OF GOT TO FIGURE OUT
5 WHAT'S RELEVANT.

6 A RIGHT.

7 Q THE FACT THAT GETTING A PHONE CALL FROM SOMEONE, WITH
8 THIS FACT SCENARIO YOU'VE GOT GOING ON, GETTING A CALL FROM
9 SOMEONE, GETTING DIRECTIONS FROM KNIGHTS' STADIUM, THAT
10 WOULDN'T BE IMPORTANT, MUCH LESS RELEVANT, WOULD IT?

11 A WHAT I WAS TRYING TO FIGURE OUT, YOU KNOW, WHY IT
12 HAPPENED. WHY, YOU KNOW, WHY THESE TWO INDIVIDUALS CAME
13 TO THE VICTIM'S HOUSE. THAT, YOU KNOW, IT MIGHT HAVE SHED
14 SOME LIGHT ON THAT SITUATION. I MEAN, TWO INDIVIDUALS JUST
15 SHOW UP AT MIDNIGHT FOR NO REASON. I MEAN, THERE'S GOT TO BE
16 A REASON, YOU KNOW, WHY EVERYTHING UNRAVELED THE WAY IT
17 DID.

18 Q YOU AND I BOTH KNOW FROM WHAT WE'VE DONE FOR SO LONG,
19 THERE'S ALWAYS A REASON, ISN'T THERE?

20 A YES SIR.

21 Q YOU DON'T RECALL MR. LOCHBAUM SAYING ANYTHING ABOUT
22 TALKING TO THAT INDIVIDUAL ABOUT GIVING HIM DIRECTIONS?

23 A IF HE DID, LIKE I SAID, I DON'T REMEMBER THAT.

24 MR. RHEA: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: MR. GREELEY?

1 MR. GREELEY: NOTHING FURTHER, YOUR HONOR.

2 THE COURT: YOU MAY STEP DOWN. MEMBERS OF THE JURY,
3 WE'RE GOING TO TAKE A LUNCH BREAK A LITTLE BIT EARLY. WE'RE
4 GOING TO TAKE A TWO-HOUR LUNCH BREAK TODAY BECAUSE WE
5 HAVE TO DO SOME WORK HERE OUTSIDE OF YOUR PRESENCE. SO, IT'S
6 11:30 AND I WILL ASK THAT YOU BE BACK AT 1:30.

7 AGAIN, DO NOT DISCUSS THE CASE AMONGST YOURSELVES OR
8 WITH ANYONE ELSE. THANK YOU.

9 (WHEREUPON THE JURY EXITED THE COURTROOM AT 11:30 A.M.)

10 IS THAT THE STATE'S CASE?

11 MS. JOYNER: I BELIEVE SO, YOUR HONOR. BUT IF WE'RE GOING
12 TO TAKE A LENGTHY LUNCH, IS IT OKAY IF WE WAIT UNTIL AFTER
13 LUNCH TO REST, JUST TO DISCUSS A FEW MATTERS?

14 THE COURT: THAT'S FINE.

15 MS. JOYNER: THANK YOU.

16 THE COURT: I'LL TRY TO HAVE THE CHARGES READY AFTER
17 LUNCH, AND HEAR ANY MOTIONS.

18 ANYTHING ELSE?

19 MR. RHEA: YOUR HONOR, I'M NOT SURE WHAT TIME WE NEED TO
20 BE BACK.

21 THE COURT: LET'S BE BACK AT 1:00 P.M.

22 MR. RHEA: THANK YOU, YOUR HONOR.

23 (WHEREUPON COURT WAS IN RECESS AT 11:35 A.M.)

24

25

1 **COURT IN SESSION - 1:00 P.M.**

2 THE COURT: IS THE STATE READY?

3 MS. JOYNER: THE STATE IS READY, YOUR HONOR.

4 THE COURT: DOES THE STATE INTEND ON CALLING ANY MORE
5 WITNESSES?

6 MS. JOYNER: WE DON'T, YOUR HONOR. WE JUST WANT TO MAKE
7 SURE THAT ALL THE STATE'S EXHIBITS HAVE BEEN ENTERED INTO
8 EVIDENCE, AND THAT'S ONE THROUGH EIGHT.

9 (CONFIRMATION FROM COURT REPORTER)

10 YOUR HONOR, THEY HAVE. YOUR HONOR, AT THIS TIME, THE
11 STATE RESTS.

12 THE COURT: I'LL BE GLAD TO HEAR ANY MOTIONS FROM MR.
13 RHEA.

14 MR. RHEA: THANK YOU, YOUR HONOR. YOUR HONOR, ON THE
15 INDICTMENT AGAINST MR. LARMAND FOR CRIMINAL CONSPIRACY IT
16 STATES FOR THE PURPOSE OF COMMITTING THE CRIME OF LYNCHING
17 AND/OR POINTING OR PRESENTING A FIREARM.

18 YOUR HONOR, I WOULD SUBMIT AT THIS JUNCTURE THAT THE
19 STATE NEEDS TO MAKE AN ELECTION BETWEEN THOSE TWO MATTERS.
20 LYNCHING IN AND OF ITSELF UNDER THE STATUTE REQUIRES A
21 CONSPIRACY OR A TACIT AGREEMENT, PREMEDITATED AGREEMENT
22 BETWEEN THE PARTIES TO ENGAGE IN LYNCHING.

23 SO, I WOULD SUBMIT THAT IS UNNECESSARY AND I WOULD
24 RESPECTFULLY ASK THE COURT HAVE THEM CHOOSE BETWEEN

1 WHICH ONE OF THOSE THEY ARE PROCEEDING ON WITH REGARD TO
2 THE CRIMINAL CONSPIRACY.

3 THE COURT: WHAT SAYS THE STATE?

4 MS. COLTON: YOUR HONOR, THE STATE'S POSITION ON THAT IS
5 THE CONSPIRACY IS THE AGREEMENT. THEY NEVER HAVE TO FOLLOW
6 THROUGH AND TAKE ANY ACTION AT ALL, JUST AN AGREEMENT THAT
7 OCCURRED. AND THAT IS SIMPLY THAT THEY WERE DRIVING HERE
8 AND THEY HAVE AN AGREEMENT, THAT'S NOT AN ACTUAL LYNCHING
9 BUT IT'S STILL A CRIME OF CRIMINAL CONSPIRACY AND CONSPIRING
10 TO LYNCH.

11 THE LYNCHING CHARGE ACTUALLY HAS ELEMENTS OF THE
12 CONSPIRACY THAT ARE REQUIRED, BUT IT ALSO REQUIRES A
13 SEPARATE ACTION. SO, THE JURY COULD FIND BASED ON THE FACT
14 THAT THEY WENT THERE THAT THEY DID CONSPIRE TO LYNCH. OR
15 THEY COULD ACTUALLY FIND THAT THEY ACTUALLY COMMITTED
16 THE ACTION OF LYNCHING.

17 I THINK THERE ARE SEPARATE ELEMENTS. ONE IS THE
18 AGREEMENT TO COMMIT THE CRIME AND ONE IS AN AGREEMENT
19 ONCE IT IS AN ACT. IT'S NOT DIFFERENT THAN A TRAFFICKING
20 CHARGE IS ALSO A CHARGE OF DRUG CONSPIRACY. I THINK THE DRUG
21 CONSPIRACY IS THE ACTUAL AGREEMENT, BUT ON TOP OF THAT YOU
22 HAVE THE ACTUAL CRIME THAT OCCURS. IT'S SIMILAR TO THAT. IT
23 HAS THE ELEMENTS OF THE ACTUAL CRIME ITSELF.

24 THE COURT: YOUR MOTION IS DENIED. ANY OTHER MOTIONS,
25 MR. RHEA?

1 MR. RHEA: YES, YOUR HONOR. I WOULD MAKE A MOTION FOR A
2 DIRECTED VERDICT WITH REGARD TO THE CHARGE OF POINTING AND
3 PRESENTING A FIREARM AGAINST MR. LARMAND.

4 YOUR HONOR, THERE'S BEEN NO TESTIMONY WHATSOEVER OR
5 ANY EVIDENCE PRESENTED ON BEHALF OF THE STATE THAT MR.
6 LARMAND CONSPIRED IN ANY WAY WITH MR. LEMIRE TO HAVE THE
7 GUN, BRING THE GUN, MUCH LESS BRANDISH THE GUN. THERE'S
8 BEEN NO TESTIMONY FROM THE STATE ABOUT THAT ABOUT THE
9 DEFENDANT WHATSOEVER.

10 YOUR HONOR, THE INDICTMENT ALLEGES THAT HE CONSPIRED
11 WITH MR. LEMIRE WITH REGARD TO POINTING A FIREARM.

12 YOUR HONOR, THE CASE SUBMITTED TO THE COURT BY THE
13 STATE WHICH IS STATE VERSUS JENNINGS IS CLEARLY
14 DISTINGUISHABLE FROM THIS PARTICULAR CASE. STATE VERSUS
15 JENNINGS INVOLVED A CO-DEFENDANT WHO HAD BEEN INVOLVED IN
16 A ROBBERY WITH A MR. CROWDER. IN FACT IN THAT CASE, YOUR
17 HONOR, MR. CROWDER TESTIFIED THAT THEY HAD PLAN, HAD
18 DEvised A PLAN TO ROB A DRUGSTORE AND PHARMACY OF DRUGS.
19 THEY AGREED THAT ONE WOULD GUARD THE PHARMACY COUNTER
20 WITH THE GUN.

21 THERE WAS TESTIMONY FROM MR. CROWDER THAT MR.
22 JENNINGS WAS THE ONE WHO HAD CONCOCTED THE PLAN, THE ONE
23 WHO HAD TOLD HIM WHERE TO GET THE GUN, AS I RECALL.

24 YOUR HONOR, IN THE CASE IT SAYS PROOF OF CONSTRUCTIVE
25 POSSESSION ALONG WITH KNOWLEDGE AND PRESENCE IN THE

1 FIREARM IS SUFFICIENT TO SUPPORT A CONVICTION OF POSSESSION OF
2 A FIREARM. WELL, THERE'S BEEN NO TESTIMONY REGARDING
3 KNOWLEDGE.

4 IN ADDITION, IT SAYS UNDER THE POINTING A FIREARM
5 SECTION, IN THE SECTION OF THE STATE VERSUS JENNINGS CASE,
6 WHICH WAS ALSO ANOTHER ISSUE, BUT UNDER THAT PARTICULAR--
7 IT SAID WHEN SEVERAL PEOPLE PURSUE A COMMON DESIGN TO
8 COMMIT AN UNLAWFUL ACT AND EACH TAKES THE PART AGREED
9 UPON IN AN EFFORT TO INSURANCE A COMMON UNDERTAKING, THE
10 ACT OF ONE IS THE ACT OF ALL AND ALL ARE PRESUMED TO BE
11 PRESENT AND GUILTY.

12 WELL, THERE'S ABSOLUTELY NO EVIDENCE OR TESTIMONY
13 WHATSOEVER OF A COMMON DESIGN HERE AS THERE WAS IN
14 JENNINGS. MR. CROWDER SAYING YES, MR. JENNINGS TOLD ME TO DO
15 THIS, AND WE HAD THIS COMMON PLAN TOGETHER AND THIS IS HOW
16 IT WENT DOWN. I HAD THE GUN, HE WATCHED THE DOOR, BUT HE WAS
17 PART OF THE PLAN.

18 THE PLAN AS PRESENTED ABSOLUTELY NO TESTIMONY. THERE'S
19 BEEN NOTHING PRESENTED BY THE STATE ABOUT A COMMON DESIGN
20 OR PLAN REGARDING MR. LARMAND POINTING A FIREARM.

21 MS. COLTON: YOUR HONOR, THE VARIOUS CASES, BUT I CAN'T
22 RECALL THE NAME OF THEM, YOU HAVE CO-DEFENDANT'S
23 TESTIMONY. OBVIOUSLY, WE DON'T HAVE CO-DEFENDANT'S
24 TESTIMONY HERE. THAT DOESN'T PROHIBIT THE STATE FROM

1 PURSUING CONSPIRACY CHARGES OR PURSUING THE HAND OF ONE IS
2 THE HAND OF ALL.

3 JUST BECAUSE THERE'S NO TESTIMONY IN THIS CASE ABOUT AN
4 EXPLICIT AGREEMENT THAT THEY WERE PURSUING A COMMON
5 DESIGN OR SCHEME, I THINK THE CIRCUMSTANTIAL EVIDENCE OF
6 THEM DRIVING AN HOUR TO THIS SPOT AT MIDNIGHT, PARKING WHERE
7 THEY DID, SEPARATELY APPROACHING THE VICTIM, COMING OUT OF
8 THE WOODS WHEN ALL THE OTHER INDIVIDUALS WERE NOT THERE
9 WOULD BE SUFFICIENT ENOUGH FOR THE EVIDENCE,
10 CIRCUMSTANTIAL EVIDENCE, CERTAINLY, FOR THE JURY TO INFER
11 THAT THERE WAS A COMMON AGREEMENT AND UNDERSTANDING
12 WHICH IS IN PART WHAT THE HAND OF ONE IS THE HAND OF ALL IS.

13 BUT IT ALSO, SIMPLY BECAUSE ONE PARTY HAS A GUN AND
14 TAKES IT OUT, I THINK EVERYONE IS RESPONSIBLE FOR THAT
15 CRIMINAL UNDERTAKING. THEY CERTAINLY DID A CRIMINAL
16 UNDERTAKING BY SHOWING UP THERE AND DOING WHAT THEY DID. I
17 THINK IT'S SUFFICIENT FOR THE HAND OF ONE IS THE HAND OF ALL,
18 AND THAT APPLIES BECAUSE YOU HAVE ONE PARTY TO THESE
19 CRIMINAL ACTIONS COMMITTING AND THAT'S WHAT THE HAND OF
20 ONE IS THE HAND OF ALL IS.

21 AND YOUR HONOR, MR. RHEA'S DISCUSSING AS FAR AS
22 CONSTRUCTIVE POSSESSION, IT IS RELATED TO THE FIRST ARGUMENT
23 REGARDING POSSESSION OF A FIREARM DURING THE COMMISSION OF
24 A VIOLENT CRIME. THAT'S WHERE THE DISCUSSION OF CONSTRUCTIVE
25 POSSESSION VERSUS SOLE POSSESSION, IF THAT WERE NOT PLEAD AT

1 ALL, WHICH IS DISCUSSED IN SUBSECTION TWO, POINTING AND
2 PRESENTING. THE COURT HAS SAID THE HAND OF ONE IS THE HAND OF
3 ALL IS APPLICABLE UNDER POINTING AND PRESENTING A FIREARM.
4 AND I THINK WE'RE TALKING ABOUT TWO SEPARATE CHARGES.

5 MR. RHEA: YOUR HONOR, IF I MAY. MS. COLTON IS TALKING
6 ABOUT THE HAND THAT HOLDS THE GUN, AND THERE HAS NOT BEEN
7 ANY TESTIMONY AS I RECALL ABOUT ANY OF THAT.

8 AND IN THE JENNINGS CASE, IMPORTANTLY DOES CITE STATE
9 VERSUS BALLENGER, WHERE POSSESSION REQUIRES MORE THAN
10 MERE PRESENCE. AND THAT'S ALL THE STATE HAS, IS THAT MY
11 CLIENT WAS MERELY PRESENT WHEN HIS CO-DEFENDANT
12 BRANDISHED THE GUN.

13 THE COURT: MR. RHEA, HAVE YOU SEEN STATE VERSUS PORTER,
14 BY CHANCE?

15 MR. RHEA: I'M NOT SURE EXACTLY.

16 THE COURT: 478 SE 2ND 289. IT GOES FURTHER AND SAYS THE
17 ACTS AND DECLARATIONS OF ANY CONSPIRATOR IN CONSPIRACY
18 AND IN FURTHERANCE THEREOF ARE DEEMED TO BE ACTS AND
19 DECLARATIONS OF EVERY OTHER CONSPIRATOR AND ARE ADMISSIBLE
20 IN FULL. AND THAT GOES WITH THE HAND OF ONE IS THE HAND OF
21 ALL. SO I DENY THE MOTION.

22 MR. RHEA: THANK YOU, YOUR HONOR.

23 THE COURT: ANYTHING FURTHER?

24 MR. RHEA: YES, YOUR HONOR. WITH REGARD TO THE
25 LYNCHING CHARGE, I WOULD SIMILARLY MAKE A MOTION FOR A

1 DIRECTED VERDICT. YOUR HONOR, MY MOTION IS BASED ON
2 CHRONOLOGY MORE THAN ANYTHING ELSE.

3 AS I UNDERSTAND THE FACTS THE STATE HAS PRESENTED
4 THROUGH THEIR WITNESSES, IT'S UNCONTESTED THAT MR. LARMAND
5 WAS SPEAKING WITH MR. LOCHBAUM. MR. LEMIRE APPEARED
6 SHORTLY THEREAFTER AND MR. LOCHBAUM WAS THE ONE WHO
7 JUMPED ON MR. LEMIRE. THEREAFTER MR. LARMAND JUMPED INTO
8 THE FRAY, AND THERE WAS JESSE HARRIS IN THERE AT SOME
9 CHRONOLOGICAL JUNCTURE.

10 THIS IS NOT A SITUATION WHERE THE FACTS THAT THE STATE
11 HAS PRESENTED IN THEIR CASE WHERE MR. LARMAND WAS SPEAKING
12 WITH MR. LOCHBAUM AND MR. LEMIRE CAME UP. AND WHILE MR.
13 LEMIRE HAD MR. LOCHBAUM AT GUNPOINT, MR. LARMAND STARTED
14 ATTACKING MR. LOCHBAUM. AND WHILE DOING SO, MR. LEMIRE ALSO
15 JOINED IN THE FRAY AND KICKED MR. LOCHBAUM OR SOMETHING
16 LIKE THAT.

17 I MEAN, I THINK THAT WOULD CERTAINLY LEAD TO A QUESTION
18 AT THE DIRECTED VERDICT STAGE IN THAT SCENARIO. BUT THE
19 SCENARIO THAT OCCURS HERE, MR. LOCHBAUM TOOK AN
20 AFFIRMATIVE ACTION TO WHICH MY CLIENT REACTED TO.

21 NOW, LYNCHING REQUIRES PREMEDITATION PURSUANT TO THE
22 STATUTE AND ALL OF THE CASE LAW. THERE'S NO PREMEDITATION
23 WITH REGARD TO THAT UNDER THOSE CIRCUMSTANCES BECAUSE MR.
24 LOCHBAUM ACTED AFFIRMATIVELY AT THAT JUNCTURE. SO, I DON'T

1 SEE HOW IT CAN BE PREMEDITATION WITH REGARD TO THAT UNDER
2 THE LYNCHING STATUTE.

3 MS. JOYNER: YOUR HONOR, THE STATE'S POSITION IS THE
4 EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE, YES, THE
5 TESTIMONY HAD BEEN THAT MR. LARMAND WAS STANDING IN THE
6 DRIVEWAY WITH THE VICTIM, RYAN LOCHBAUM, WHEN LEO LEMIRE
7 COMES OUT OF THE DARKNESS AND APPROACHES HIM WITH A
8 HANDGUN. WHEN HE CAME CLOSE ENOUGH FOR THE VICTIM TO
9 REACH OUT AND PROTECT HIMSELF HE DOES GRAB THE GUN AND MR.
10 LARMAND THEN COMES BEHIND HIM WITH A CHOKE HOLD TO
11 PREVENT HIM FROM PROTECTING HIMSELF.

12 BUT I THINK THAT MR. RHEA'S ARGUMENT IS PREDICATED ON
13 THE IDEA THAT, NUMBER ONE: THAT MR. LARMAND COULD ACT IN
14 THAT RESPECT. AND THAT NUMBER TWO: THAT MR. LARMAND'S
15 ACTIONS AT THAT MOMENT WERE COMPLETELY SPONTANEOUS AND
16 WERE NOT PART OF PREMEDITATION.

17 THE HEART OF THE PREMEDITATION EVIDENCE IN THIS CASE IS
18 THE FACT THAT THEY CAME TO THIS PARTICULAR TOWN IN THE
19 MIDDLE OF THE NIGHT UNANNOUNCED. THEY PARKED A QUARTER TO
20 A HALF A MILE DOWN THE STREET, ACCORDING TO THE MAP, WHERE
21 THEIR CAR WOULD BE CONCEALED.

22 MR. LARMAND-- FIRST THEY WALKED, AND THEY WOULD HAVE
23 WALKED DOWN THE STREET, THE DARKENED STREET TOGETHER.
24 CLEARLY, THEY WERE WALKING IN THE DIRECTION OF MR.
25 LOCHBAUM'S HOUSE FOR A REASON. AT SOME POINT THEY WOULD

1 HAVE SPLIT UP. MR. LEMIRE WOULD HAVE GONE TO CROUCH IN THE
2 DARKNESS AND MR. LARMAND WOULD HAVE APPROACHED.

3 ONCE THE VICTIM WAS ALONE, AND THE VICTIM'S TESTIMONY
4 IS, HE MAINTAINED CONSTANT EYE CONTACT WITH MR. LARMAND
5 DURING THEIR CONVERSATION. BUT AT ONE POINT THAT EYE
6 CONTACT BROKE AWAY. HE FOLLOWED THAT GAZE AND THAT'S
7 WHEN HE SAW MR. LEMIRE COMING OUT OF THE DARKNESS WITH A
8 GUN POINTED. AND THAT WAS A STATEMENT OF THEIR INTENT OF
9 BEING THERE.

10 BUT, I THINK, CLEARLY, WHAT WE HAVE IS STRONG,
11 CIRCUMSTANTIAL EVIDENCE OF PREMEDITATION IN THIS CASE. AND I
12 THINK THAT WHEN YOU LOOK AT LYNCHING WITH THAT EVIDENCE OF
13 PREMEDITATION THERE WAS CLEARLY AN ACT OF VIOLENCE, AN ACT
14 OF VIOLENCE INFLICTED UPON THE VICTIM; AN ACT OF VIOLENCE
15 THAT WAS PRETTY MUCH A BATTERY COMMITTED DURING THE
16 COURSE OF THE ATTACK BY TWO PEOPLE WHO COME TOGETHER FOR
17 THAT PREMEDITATED PURPOSE.

18 BY STATUTE, AND I'M NOT LOCATING... I THINK IT'S TITLE 16-3-
19 240. AND I CAN'T REMEMBER THE EXACT LANGUAGE. THAT THE ACT
20 OF ONE PERSON DURING AN INCIDENT CAN BE INFERRED TO BE THE
21 ACT OF ALL.

22 I THINK IN THIS CASE WE CLEARLY HAVE PREMEDITATION. MR.
23 LOCHBAUM WAS PERFECTLY WITHIN HIS RIGHTS UNDER THE LAW AS
24 HE WAS BEING ATTACKED WITH A DEADLY WEAPON. BUT UNDER

1 STATE VERSUS BROOKS, HE'S CERTAINLY ENTITLED TO ACT IN SELF-
2 DEFENSE.

3 I THINK THERE IS STILL CLEAR, CLEAR, STRONG
4 CIRCUMSTANTIAL EVIDENCE OF PREMEDITATION TO COMMIT THIS
5 ACT OF VIOLENCE UPON HIM.

6 AND YOUR HONOR, I THINK THERE IS ALSO EVIDENCE FROM THE
7 TESTIMONY OF JESSE HARRIS, AT LEAST ONE WITNESS, THAT HE
8 BELIEVES THAT HE SAW MR. LARMAND PUSH THE VICTIM FIRST. AND
9 SO, I DON'T THINK THERE IS ACTUALLY NO EVIDENCE OF CONTACT.

10 THE LANGUAGE IN THE STATUTE UNDER 16-3-240, IT'S
11 PERMISSIBLE TO INFER THAT ALL PERSONS PRESENT AS MEMBERS OF
12 A MOB WHEN AN ACT OF VIOLENCE IS COMMITTED HAVE AIDED AND
13 ABETTED THE CRIME AND ARE GUILTY AS PRINCIPALS.

14 SO, I THINK, YOUR HONOR, THERE'S SUFFICIENT EVIDENCE
15 THE COURT: MR. RHEA.

16 MR. RHEA: YOUR HONOR, THERE'S NO WAY MY CLIENT UNDER
17 THE LYNCHING STATUTE CAN BE ACTING AS A LEADER REGARDING
18 THE LYNCHING, A PREMEDITATED ACT TO LYNCH SOMEONE. I MEAN,
19 AS THEY ARE STANDING THERE, MR. LOCHBAUM TAKES AN
20 AFFIRMATIVE AGAINST MR. LEMIRE. WELL, OBVIOUSLY, THAT'S NOT
21 GOING TO BE PART OF ANY PLAN OF MR. LARMAND AND MR. LEMIRE.
22 MR. LARMAND SIMPLY ACTED AS A RESULT OF THAT.

23 AS I SAID, HAD IT GONE DOWN IN THE FIRST SCENARIO, I CAN
24 UNDERSTAND THE TRANSFER OF THAT, BUT AS IT HAPPENED
25 CHRONOLOGICALLY HERE THERE'S NO WAY THEY CAN BE ACTING IN

1 CONCERT IN REGARD TO SOMETHING BECAUSE MR. LOCHBAUM TOOK
2 THE AFFIRMATIVE ACTION.

3 THE COURT: CLEARLY, THIS IS AN ISSUE FOR THE JURY TO
4 DECIDE. ANYTHING FURTHER? MR. RHEA?

5 MR. RHEA: NO, YOUR HONOR.

6 THE COURT: MR. GREELEY?

7 MR. GREELEY: NOTHING FROM US AT THIS TIME, YOUR HONOR.

8 THE COURT: WE HAVE THE JURY CHARGE PULLED TOGETHER.
9 AND I'M GOING TO PASS THIS DOWN TO YOU. I'M GOING TO BE
10 READING THE RIGHTS TO THE DEFENDANTS AND Y'ALL CAN FOLLOW
11 ALONG IF YOU'D LIKE.

12 PLACE THE DEFENDANTS UNDER OATH, MADAM CLERK.
13 (WHEREUPON DEFENDANTS STOOD AND WERE PLACED UNDER OATH
14 BY CLERK OF COURT)

15 THE COURT: ALL RIGHT, GENTLEMEN. I WANT TO EXPLAIN TO
16 YOU CERTAIN RIGHTS THAT YOU HAVE. YOU'VE HEARD THE COURT
17 REFER TO YOUR RIGHT TO REMAIN SILENT. I WANT TO MAKE SURE
18 THAT YOU UNDERSTAND YOUR RIGHT TO REMAIN SILENT AND THE
19 FACT THAT YOU DO NOT HAVE TO TESTIFY, IF YOU SO CHOOSE.

20 THAT'S A VERY IMPORTANT RIGHT AND IT'S SO IMPORTANT
21 THAT I'M GOING TO ACTUALLY READ IT TO YOU. AND THEN I WANT TO
22 MAKE SURE THAT YOU UNDERSTAND THAT RIGHT SO THAT YOU CAN
23 MAKE A DECISION.

1 YOU HAVE THE RIGHT TO CLAIM THE PROTECTION GIVEN TO
2 YOU BY THE FIFTH AMENDMENT OF THE CONSTITUTION OF THE
3 UNITED STATES OF AMERICA.

4 THE AMENDMENT STATES IN PART. "... NO PERSON SHALL BE
5 COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST
6 HIMSELF." THIS MEANS THAT YOU CANNOT BE REQUIRED TO TESTIFY
7 IN THIS CASE. YOU HAVE THE RIGHT TO TESTIFY ON YOUR OWN
8 BEHALF. HOWEVER, NO ONE CAN MAKE YOU TESTIFY. THIS IS A
9 PERSONAL RIGHT AND NO ONE CAN WAIVE THIS RIGHT EXCEPT YOU.

10 IF YOU DECIDE TO TESTIFY YOU WILL BE SUBJECT TO THE SAME
11 RULES THAT GOVERN OTHER WITNESSES. YOU MAY BE EXAMINED ON
12 ANY RELEVANT ISSUE IN THE CASE.

13 IN ADDITION, IF YOU HAVE ANY CONVICTIONS INVOLVING
14 DISHONESTY OR FALSE STATEMENT OR FOR A CRIME THAT'S
15 PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR, AND THE
16 COURT DETERMINES THAT THE PROBATIVE VALUE OF ADMITTING THIS
17 EVIDENCE OUTWEIGHS ITS PREJUDICIAL EFFECT TO YOU, THE
18 SOLICITOR WILL BE ABLE TO INTRODUCE YOUR RECORD TO ATTACK
19 YOUR CREDIBILITY.

20 IF YOU DECIDE TO TESTIFY, THIS IS A DECISION ON YOUR PART
21 WHICH IS FREELY, VOLUNTARILY AND INTELLIGENTLY MADE, WITH
22 KNOWLEDGE OF THE PROTECTIONS GIVEN TO YOU BY THE FIFTH
23 AMENDMENT OF THE CONSTITUTION, AND THE CONSEQUENCES OF
24 YOUR DECISION TO TESTIFY.

1 IF YOU DECIDE NOT TO TESTIFY I WILL INSTRUCT THE JURY
2 THAT THEY CANNOT GIVE THE FACT THAT YOU DID NOT TESTIFY ANY
3 CONSIDERATION WHATSOEVER AND THAT THERE IS TO BE
4 ABSOLUTELY NO PREJUDICE TO YOU BECAUSE YOU DID NOT TESTIFY.

5 IT IS LEFT ENTIRELY UP TO YOU WHETHER OR NOT YOU TESTIFY.
6 YOU MAY TALK TO YOUR ATTORNEY, YOUR FAMILY AND FRIENDS, OR
7 ANYONE ELSE, BUT THE FINAL DECISION WILL BE LEFT ENTIRELY UP
8 TO YOU."

9 DO YOU UNDERSTAND WHAT I HAVE EXPLAINED TO YOU? MR.
10 LARMAND?

11 MR. LARMAND: YES SIR.

12 THE COURT: MR. LEMIRE?

13 MR. LEMIRE: YES SIR.

14 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT I
15 HAVE EXPLAINED TO YOU? MR. LARMAND?

16 MR. LARMAND: NO SIR.

17 THE COURT: MR. LEMIRE?

18 MR. LEMIRE: NO SIR.

19 THE COURT: HAVE YOU DISCUSSED WITH YOUR LAWYER
20 WHETHER YOU SHOULD OR SHOULD NOT TESTIFY? MR. LARMAND?

21 MR. LARMAND: YES SIR.

22 THE COURT: MR. LEMIRE?

23 MR. LEMIRE: YES SIR.

24 THE COURT: MR. LARMAND, DO YOU PLAN TO TESTIFY?

25 MR. LARMAND: YES SIR.

1 THE COURT: DO YOU UNDERSTAND EVERYTHING I HAVE
2 EXPLAINED TO YOU?

3 MR. LARMAND: YES SIR.

4 THE COURT: DO YOU HAVE ANY QUESTIONS FOR THE COURT AT
5 THIS TIME?

6 MR. LARMAND: NO SIR.

7 THE COURT: DO YOU HAVE ANY QUESTIONS FOR YOUR LAWYER
8 AT THIS TIME ABOUT WHAT WE'VE BEEN OVER?

9 MR. LARMAND: NOT AT THIS TIME.

10 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. BE SEATED.

11 THE COURT: MR. LEMIRE, DO YOU PLAN TO TESTIFY?

12 MR. LEMIRE: YES SIR.

13 THE COURT: DO YOU UNDERSTAND EVERYTHING I HAVE
14 EXPLAINED TO YOU?

15 MR. LEMIRE: YES SIR.

16 THE COURT: DO YOU HAVE ANY QUESTIONS FOR THE COURT
17 BEFORE WE PROCEED?

18 MR. LEMIRE: NO SIR.

19 THE COURT: DO YOU HAVE ANY QUESTIONS FOR YOUR LAWYER
20 AT THIS TIME ABOUT WHAT WE'VE BEEN OVER?

21 MR. LEMIRE: NOT AT THIS TIME.

22 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. BE SEATED.

23 MR. LEMIRE: THANK YOU.

1 MR. RHEA: YOUR HONOR, JUST A HOUSEKEEPING ITEM. I JUST
2 WANT TO MAKE SURE, MS. JOYNER, PURSUANT TO HER REVIEW OF MR.
3 LARMAND'S RECORD, THAT THERE ARE NO IMPEACHABLE OFFENSES.

4 MS. JOYNER: YOUR HONOR, THERE ARE NO IMPEACHABLE
5 OFFENSES AS TO EITHER DEFENDANT.

6 THE COURT: THANK YOU.

7 MR. RHEA: THANK YOU.

8 THE COURT: IS THE DEFENSE READY TO PROCEED?

9 MR. RHEA: COULD I HAVE JUST A MINUTE?

10 THE COURT: SURE.

11 MR. GREELEY: YOUR HONOR, IF I MAY CLARIFY WITH THE
12 SOLICITOR ON BEHALF OF MR. LEMIRE, IT'S MY UNDERSTANDING
13 THERE'S NO IMPEACHABLE OFFENSES THAT HE HAS.

14 MS. JOYNER: THAT IS CORRECT, NONE ON BEHALF OF EITHER
15 DEFENDANT.

16 MR. GREELEY: THANK YOU.

17 THE COURT: I HAVE THESE VERDICT FORMS. LET'S MAKE SURE
18 THEY'RE IN ORDER.

19 (PAUSE FOR COUNSEL TO REVIEW VERDICT FORMS)

20 MS. JOYNER: THAT'S FINE, YOUR HONOR.

21 MR. GREELEY: NO OBJECTION TO THE VERDICT FORM, YOUR
22 HONOR.

23 MR. RHEA: NO OBJECTION TO THE VERDICT FORM, YOUR
24 HONOR.

25 THE COURT: I'LL LET YOU REVIEW THE CHARGE.

1 (PAUSE FOR COUNSEL TO REVIEW JURY CHARGE)

2 ANY OBJECTION TO THE JURY CHARGE?

3 MS. JOYNER: YOUR HONOR, MY ONLY OBJECTION COMES AT
4 THE BOTTOM OF PAGE 17, AND IT'S THE LAST PARAGRAPH, YOU MAY
5 CONSIDER THE ALLEGED VICTIM'S CONDUCT.

6 SIR, MY CONCERN WITH THAT CHARGE IS THAT IT IS ADDRESSED
7 IN THE CONTEXT OF THE DEFENSE OF OTHERS, AS REQUESTED BY MR.
8 GREELEY ON THE CHARGE OF DEFENSE OF OTHERS.

9 MY PROBLEM WITH THE CHARGE AND MY CONCERN IS, MY
10 UNDERSTANDING OF THE LAW THAT IT IS---

11 THE COURT: HOLD ON ONE SECOND. I'VE GOT MINE ON
12 COMPUTER. I'LL HAVE TO PULL IT UP.

13 MS. JOYNER: OKAY.

14 (PAUSE)

15 THE COURT: OKAY. WOULD YOU IDENTIFY AGAIN WHERE YOU
16 ARE IN THE CHARGE?

17 MS. JOYNER: YES, YOUR HONOR. IT'S AT THE BOTTOM OF PAGE
18 17 OF YOUR CHARGE.

19 THE COURT: PERTAINING TO WHAT?

20 MS. JOYNER: THE LAST PARAGRAPH. YOU MAY CONSIDER THE
21 ALLEGED VICTIM'S CONDUCT, ACTIONS AND GENERAL Demeanor
22 IMMEDIATELY BEFORE THE INCIDENT AS BEARING ON THE ALLEGED
23 VICTIM'S TEMPER AND STATE OF MIND AT THE TIME OF THE
24 ENCOUNTER. THE DEFENDANT DOES NOT HAVE TO SHOW THAT HIS

1 CO-DEFENDANT WAS ACTUALLY IN DANGER. IT IS ENOUGH THAT THE
2 DEFENDANT BELIEVES HE WAS IN IMMINENT DANGER.

3 I THINK THAT-- I DON'T THINK THAT CHARGE IS SUPPORTED BY
4 SOUTH CAROLINA CASE LAW, UNDER STATE VERSUS COOK, WHICH IS
5 78-SC-253. THAT IS A 1907 SOUTH CAROLINA SUPREME COURT
6 DECISION. AND THAT WAS THAT THE JURY CHARGE WHERE THE
7 COURT INCORPORATED IN THE CHARGES IN THE PARAGRAPH
8 DIRECTLY ABOVE. THE ELEMENTS OF SELF-DEFENSE ARE APPLICABLE
9 IN DEFENSE OF ANOTHER. BUT THE PERSON ACTING IN DEFENSE OF
10 ANOTHER STANDS IN THE SHOES OF THE PERSON WHO COMES TO AID.
11 AND YET, NO WHERE IS THAT ASKED FOR THAT PERSON.

12 AND I THINK UNDER THE CASE LAW, STATE VERSUS COOK, IF
13 MR. LEMIRE IS COMING TO THE AID OF MR. LARMAND, HE IS STANDING
14 IN MR. LARMAND'S SHOES. AND THE ELEMENTS OF SELF-DEFENSE
15 HAVE TO BE EVALUATED FROM MR. LARMAND'S PERSPECTIVE, NOT
16 FROM MR. LEMIRE'S PERSPECTIVE.

17 SO, THE QUESTION WOULDN'T BE THE REASONABLENESS OF MR.
18 LEMIRE'S BELIEF, IT WOULD HAVE BEEN WHETHER MR. LARMAND
19 WOULD HAVE HAD THAT REASONABLE BELIEF.

20 THE COURT: MR. RHEA.

21 MR. RHEA: MR. GREELEY WILL ADDRESS THAT.

22 MR. GREELEY: YOUR HONOR, IF I MAY. THE CASE THAT I'M
23 CITING IS NOT THE 1907 CASE. IT'S THE STATE VERSUS HARRIS, A 2009
24 CASE THAT WAS HEARD THIS YEAR AND CITES THIS LAW.

1 AND WHAT I DID WAS, I DID CHANGE IT A LITTLE BIT BECAUSE
2 THE ALLEGED VICTIM'S CONDUCT. IN THAT CASE THE PERSON WAS
3 DEAD, SO THEY SAID THE DECEDENT'S CONDUCT. AND THIS WAS A
4 MURDER CASE.

5 IF THE SOLICITOR IS CORRECT IN WHAT SHE IS SAYING, AND
6 THAT IT WOULD ONLY BE THE PERSON IN WHOSE SHOES CAN HAVE
7 THAT BELIEF, THEN ANYBODY WHO COMES TO THE AID OF SOMEONE
8 WHO WAS GETTING READY TO BE ATTACKED OR SHOT FROM THE
9 BACK, AND IS NOT AWARE OF ANY PROBLEM AT THAT POINT IN TIME
10 WOULD NEVER BE ABLE TO HAVE THAT IMPRESSION. SOMEONE HAS
11 TO COME FROM THE IMPRESSION OF THE PERSON. YES, THEY'RE
12 STEPPING IN THEIR SHOES FOR CERTAIN THINGS, BUT OBSERVATION,
13 THAT HAS TO PLAY A PART OF IT. OTHERWISE, NO ONE WOULD BE
14 ABLE TO COME TO THE AID OF SOMEBODY WHO WAS NOT
15 ANTICIPATING IMMEDIATELY THE DANGER THAT WAS ABOUT TO
16 BECOME IMMINENT.

17 THE COURT: HOLD ON ONE SECOND.

18 (PAUSE)

19 I'LL BE GLAD TO HEAR FROM YOU, SOLICITOR.

20 MS. JOYNER: YOUR HONOR, I BELIEVE THAT STATE VERSUS
21 HARRIS WAS A SELF-DEFENSE PRINCIPLE. THAT MEANS MR.
22 GREELEY'S ARGUMENT IS MISSTATING THE LAW OF SELF-DEFENSE A
23 LITTLE BIT. THEY'RE NOT POINTING AT SOMEBODY. THEIR BACK IS
24 TO THE GUN. THEY DON'T REALIZE THE GUN IS THERE.

1 WELL, THAT WOULDN'T BE SELF-DEFENSE OR THE DEFENSE OF
2 OTHERS BASED ON BELIEF UPON. THAT PERSON WOULD BE IN ACTUAL
3 IMMINENT DANGER.

4 MR. GREELEY'S REQUEST TO CHARGE IS ASKING THE COURT TO
5 SUBSTITUTE IN THE DEFENSE OF ANOTHER CASE THE PERSON IN
6 DEFENSE OF THE OTHER WHERE THE PERSON ACTUALLY WOULD HAVE
7 THE RIGHT TO INFER SELF-DEFENSE. THERE CAN BE NO GREATER
8 RIGHT OF DEFENSE OF ANOTHER THAN THERE IS THAT PERSON'S RIGHT
9 TO DEFEND HIMSELF.

10 MR. GREELEY'S SCENARIO THAT HE'S PUT BEFORE THE COURT IS
11 A PERSON WHO'S IN ACTUAL IMMINENT DANGER. IT'S NOT-- IT'S AN
12 ARGUMENT ABOUT THEY'RE NOT IN ACTUAL IMMINENT DANGER, BUT
13 THEY BELIEVE THEMSELVES TO BE IN ACTUAL IMMINENT DANGER
14 AND ARE ACTING ON THIS.

15 STATE VERSUS COOK---

16 THE COURT: WHAT'S THE CITE ON THAT?

17 MS. JOYNER: STATE VERSUS COOK, YES SIR, YOUR HONOR, IT'S
18 78 SC 253.

19 THE COURT: THANK YOU.

20 MS. JOYNER: AS OPPOSED TO STATE VERSUS HARRIS WHICH IS A
21 SELF-DEFENSE CASE, STATE VERSUS COOK IS DIRECTED AT THE ISSUE
22 OF DEFENSE OF ANOTHER. THERE IS A FINAL PARAGRAPH OF STATE
23 VERSUS COOK ADDRESSING THE ISSUE OF THE OTHER PERSON COMING
24 TO AID, STANDING IN THE SHOES OF THE PERSON WHO WOULD HAVE
25 TO ASSERT SELF DEFENSE. IT IS TRUE THE RULE MADE IN

1 EXCEPTIONAL CASES WORK HARDSHIP, BUT THE OPPOSITE RULE
2 WOULD ALLOW THE INNOCENT MAN WHO HAD BEEN FORCED TO
3 STRIKE IN SELF-DEFENSE TO KILL WITH IMPUNITY MERELY BECAUSE
4 IT APPEARS TO BE HAPPENING AGAINST HIM AT THE MOMENT , OF A
5 PARTY DEFENDANT IS ATTACKING AND BRINGING ON THE CONFLICT

6 SO, YOU SEE THAT'S PRETTY CLEAR IS THAT IT IS THE BELIEF OF
7 THE PERSON WHO COULD HAVE ASSERTED SELF-DEFENSE, AND NOT
8 THE BELIEF OF THE PERSON ASSERTING THE DEFENSE OF OTHERS.

9 THE COURT: WELL, I'LL TAKE THAT UNDER ADVISEMENT AND
10 COME BACK TO THAT. ANYTHING FURTHER?

11 MS. JOYNER: NOT FROM THE STATE, YOUR HONOR.

12 MR. RHEA: NO, YOUR HONOR.

13 THE COURT: MR. GREELEY.

14 MR. GREELEY: YOUR HONOR, JUST THE FIRST QUESTION I
15 WOULD ASK JUST SO I CAN CLARIFY IT IN CLOSING. YOU APPEAR TO
16 USE-- YOU'RE GOING TO BE USING AS FAR AS THE REASONABLE
17 DOUBT THE REAL POSSIBILITY LANGUAGE, AND YOU DO NOT USE THE
18 THAT WHICH WILL CAUSE A REASONABLE PERSON TO HESITATE TO
19 ACT LANGUAGE.

20 THE COURT: I THINK, WHAT IS IT, NEBRASKA?

21 MR. GREELEY: I BELIEVE SO.

22 THE COURT: THAT'S WHAT I'M GOING TO USE.

23 MR. GREELEY: YOU ARE GOING TO USE A REASONABLE TO
24 HESITATE TO ACT?

25 THE COURT: I'M GOING TO USE WHAT YOU SEE IN THAT CHARGE.

1 MR. GREELEY: OKAY.

2 THE COURT: IT MAKES IT EVEN SIMPLER.

3 MR. GREELEY: ALL RIGHT.

4 THE COURT: VICTOR V. NEBRASKA, THAT'S---

5 MR. GREELEY: RIGHT.

6 THE COURT: ---WHAT I'M GONNA USE.

7 MR. GREELEY: RIGHT. I JUST NEEDED TO KNOW WHICH ONE TO
8 TALK ABOUT.

9 THE COURT: ALL RIGHT.

10 MR. GREELEY: AND THE OBJECTION I HAVE, YOUR HONOR, IS
11 PAGE 13, THE LAST PARAGRAPH BEFORE PREMEDITATION, PART OF
12 THE SOLICITOR'S REQUEST. THE CHARGE READS IT IS PERMISSIBLE
13 TO INFER THAT ALL PERSONS PRESENT AS MEMBERS OF A MOB WHEN
14 AN ACT OF VIOLENCE IS COMMITTED AND AIDED AND ABETTED THE
15 CRIME, AND ARE GUILTY AS PRINCIPALS.

16 THE OBJECTION THAT I HAVE WITH THAT LANGUAGE, YOUR
17 HONOR, IS SINCE THIS CASE, I ANTICIPATE IS GOING TO BE INVOLVING,
18 AS WE'RE TALKING ABOUT NOW, SELF-DEFENSE, DEFENSE OF
19 ANOTHER CHARGE. A CASE CAME OUT LAST WEEK, TWO WEEKS AGO,
20 STATE VERSUS BELCHER.

21 THE COURT: GIVE ME THE CITE.

22 MR. GREELEY: YES SIR. IT'S OPINION NUMBER 26729. IT WAS
23 REPORTED OCTOBER 12. A GOOD FRIEND OF MINE, ROBERT WISE,
24 ARGUED THIS. THIS WAS A SIGNIFICANT OPINION IN REGARD TO THE
25 INFERENCE OF MALICE. IN THAT PARTICULAR CASE IT WAS A MURDER

1 TRIAL. THERE WAS SELF-DEFENSE THAT WAS RAISED. THE TRIAL
2 JUDGE ALLOWED AND DID INSTRUCT THE JURY REGARD THE
3 INFERENCE OF MALICE IN THE USE OF A DEADLY WEAPON.

4 OUR SUPREME COURT HAD ENDED UP GOING UP AGAINST A LOT
5 OF PRECEDENCE AS WE HAVE BEEN MOVING OVER THE LAST SEVERAL
6 YEARS GOING AWAY FROM PRESUMPTION AND INTO INFERENCES, AND
7 NOW THEY'VE REACHED THE INFERENCE OF MALICE. AND THEY
8 REVERSED AND REMANDED THAT CONVICTION OF MURDER BECAUSE
9 THEY SAID IN SITUATIONS TO WHERE YOU HAVE SELF-DEFENSE, THAT
10 BEING THEIR PRECEDENT IN THE CASE, THE INFERENCE OF MALICE
11 ALLOWING THE JURY TO INFER MALICE, MALICE ENDS UP
12 ESSENTIALLY IGNORING SELF-DEFENSE. IT CAN OVERRIDE SELF-
13 DEFENSE BY ALLOWING THEM TO SAY YOU CAN INFER THIS.

14 NOW, THEY DID SAY THAT THEY HAVEN'T GONE AS FAR AS THE
15 STAGE OF WHERE A TRIAL OF JUST A MURDER CASE WITHOUT
16 DEFENSE, THAT THAT WOULD BE IMPROPER.

17 BUT IN THIS PARTICULAR CASE WE HAVE RAISED SELF-DEFENSE
18 AND I WOULD OBJECT TO THE JURY BEING GIVEN ANY INFERENCE
19 REGARDING THE ELEMENTS OF THE CRIMES FOR WHICH MY CLIENT,
20 AND OF COURSE, MR. RHEA'S CLIENT, BEING CHARGED AS FAR AS THE
21 INFERENCE IN CONSTRUCTION OF SELF-DEFENSE.

22 IT'S NOT DIRECTLY ON POINT, BUT I BELIEVE IT'S CLOSE ENOUGH
23 THAT YOU CAN MAKE THAT CORRECTION. THAT MIGHT COULD BE
24 CHANGED JUST TO TAKE THE INFER OUT. IT MAY BE THAT ALL

1 PERSONS PRESENT RATHER THAN IT IS PERMISSIBLE TO INFER. AND
2 THAT WOULD BE MY OBJECTION AS TO THE PERMISSIBLE TO INFER.

3 AND THAT'S ALL THE OBJECTIONS I WOULD HAVE TO THE
4 CHARGE, YOUR HONOR.

5 THE COURT: SOLICITOR.

6 MS. JOYNER: BEG THE COURT'S INDULGENCE.

7 (PAUSE)

8 THE COURT: MR. GREELEY, MY LANGUAGE IS COMING
9 DIRECTLY FROM THE STATUTE, 16-3-240, EXACTLY FROM THE STATUTE.

10 MR. GREELEY: IN THAT CASE, I WOULD ASK THAT IT NOT BE
11 USED BECAUSE I WOULD SUBMIT THAT THE STATUTE IS
12 UNCONSTITUTIONALLY WRITTEN BY THE SHIFTING OF THE BURDEN.

13 THE COURT: I UNDERSTAND. I'M GOING TO RESPECTFULLY
14 DENY YOUR MOTION. ANYTHING FURTHER?

15 MR. GREELEY: NO SIR.

16 THE COURT: ANYTHING FURTHER FROM THE STATE?

17 MS. JOYNER: NO SIR, YOUR HONOR.

18 THE COURT: ALL RIGHT. WE'LL COME BACK TO YOUR PAGE 17
19 OBJECTION LATER. IS THE STATE READY TO PROCEED?

20 MS. JOYNER: THE STATE IS READY, YOUR HONOR.

21 THE COURT: IS THE DEFENSE READY TO PROCEED?

22 MR. RHEA: WE'RE READY, YOUR HONOR.

23 THE COURT: MR. GREELEY, ARE YOU READY TO PROCEED?

24 MR. GREELEY: I AM, YOUR HONOR.

25 THE COURT: BRING IN THE JURY, PLEASE.

1 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 1:45 P.M.)

2 MR. RHEA, IF YOU WILL CALL YOUR FIRST WITNESS.

3 MR. RHEA: WE CALL KERRIANN LARMAND.

4 KERRIANN LARMAND, DULY SWORN,
5 TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY MR. RHEA:

7 Q KERRIANN, PLEASE STATE YOUR FULL NAME FOR THE LADIES
8 AND GENTLEMEN OF THE JURY.

9 A KERRIANN LARMAND.

10 Q AND HOW ARE YOU RELATED TO MR. FRANK LARMAND?

11 A THAT'S MY HUSBAND.

12 Q HOW LONG HAVE Y'ALL BEEN MARRIED?

13 A SINCE 1992.

14 Q WHERE DO Y'ALL RESIDE?

15 A (NO RESPONSE)

16 Q WHERE DO YOU LIVE?

17 A IN KANNAPOLIS.

18 Q DO Y'ALL HAVE ANY CHILDREN?

19 A WE HAVE TWO.

20 Q WHAT ARE THEIR NAMES AND AGES?

21 A DAVID IS NINETEEN AND ASHLEY IS SIXTEEN.

22 Q NOW, AS OF MAY OF THIS YEAR, WHAT KIND OF BUSINESS WERE
23 YOU AND FRANK ENGAGED IN?

24 A (NO RESPONSE)

25 Q WHAT WAS YOUR BUSINESS?

1 A IT'S POP-A-LOCK.

2 Q TELL THE LADIES AND GENTLEMEN OF THE JURY A LITTLE BIT
3 ABOUT POP-A-LOCK, WHAT YOU DO, HOW IT WORKS, HOW MANY
4 EMPLOYEES.

5 A IT'S A NATIONAL LOCKSMITH FRANCHISE COMPANY. WE
6 PROVIDE CAR DOOR UNLOCKINGS. WE ALSO PROVIDE ROADSIDE
7 ASSISTANCE, TIRE CHANGES, JUMP STARTS, GAS DELIVERY. WE ALSO
8 PROVIDE LOCKSMITH SERVICES. WE DO RESIDENTIAL, COMMERCIAL,
9 AUTOMOTIVE.

10 Q HOW LONG HAVE YOU BEEN INVOLVED IN THAT BUSINESS?

11 A WE BOUGHT THE BUSINESS IN 1997; SO, FOR TWELVE YEARS.

12 Q WHEN YOU SAY WE, WHO DO YOU MEAN?

13 A FRANK AND MYSELF.

14 Q NOW, AT SOME POINT IN TIME DID YOU TAKE OVER THE
15 BUSINESS FOR FRANK? HOW DID THAT WORK?

16 A YES. IN, I WANT TO SAY, 2004, I THINK IT WAS, I BELIEVE, I TOOK
17 THE CORPORATION OVER.

18 Q WHAT EXACTLY DID HE DO?

19 A WE OPENED AN AUTOMOTIVE BUSINESS ALSO.

20 Q AND HE HAD THE RESPONSIBILITY OF THAT BUSINESS?

21 A YES.

22 Q WAS THAT IN ANY WAY ASSOCIATED WITH POP-A-LOCK?

23 A NO.

24 Q NOW, WHAT IS YOUR STATUS WITH POP-A-LOCK AS OF TODAY?

25 A I'M THE OWNER. I OWN THE COMPANY.

1 Q AND IS FRANK A PARTNER NOW, OR ANYTHING LIKE THAT?

2 HOW DOES THAT WORK?

3 A NO. FRANK IS A LOCKSMITH. HE GOES OUT AND DOES

4 LOCKSMITH CALLS.

5 Q NOW, DURING-- DID POP-A-LOCK EVER EMPLOY AN INDIVIDUAL
6 BY THE NAME OF RYAN LOCHBAUM?

7 A YES.

8 Q HOW LONG APPROXIMATELY WAS MR. LOCHBAUM EMPLOYED
9 BY YOUR COMPANY?

10 A ALMOST THREE YEARS.

11 Q IS HE ANY LONGER EMPLOYED WITH YOUR COMPANY?

12 A NO.

13 Q WHEN DID HIS EMPLOYMENT WITH YOUR COMPANY END?

14 A IT WAS OCTOBER OF 2008.

15 Q OCTOBER OF LAST YEAR?

16 A YES.

17 Q HOW DID HIS EMPLOYMENT END THERE?

18 A I TERMINATED HIS EMPLOYMENT.

19 Q WHY?

20 A I TERMINATED HIM FOR MISCONDUCT AND HE WAS PROVIDING
21 UNAUTHORIZED SERVICES.

22 Q DID HE THEREAFTER ATTEMPT TO GET UNEMPLOYMENT FROM
23 THE SECURITY COMMISSION?

24 A YES.

1 Q NOW, LET'S TALK ABOUT-- YOU SAID PROVIDED UNAUTHORIZED
2 SERVICES WAS ONE REASON FOR HIS TERMINATION.

3 A YES.

4 Q IS THAT CORRECT?

5 A YES.

6 Q BASED UPON INFORMATION THAT YOU HAD FROM OTHER
7 INDIVIDUALS, DID YOU SUSPECT HIM OF DOING SOMETHING
8 UNETHICAL OR TRYING TO---

9 MS. JOYNER: YOUR HONOR, I'M GOING TO HAVE TO OBJECT TO
10 HIS LEADING.

11 THE COURT: REPHRASE.

12 Q WHAT IS A MYSTERY CALL?

13 A WE---

14 Q A MYSTERY SHOPPER CALL. I'M SORRY.

15 A WE MOSTLY UTILIZE THAT AS-- IT'S A TECHNIQUE USED A LOT
16 IN THE LOCKSMITH INDUSTRY AND OUR PARTICULAR FRANCHISE
17 WHERE WE PLACE A CALL AND WHEN WE THINK THERE MAY BE SOME
18 CALL INTERCEPTION OR MAYBE SOME ISSUES WITH THE DRIVER. SO,
19 WE BASICALLY SET UP A CALL FOR SOMEONE TO GO OUT THERE AND
20 MAKE SURE THAT IT IS OUR DRIVER GOING OUT THERE; THAT THEY
21 ARE PERFORMING THE SERVICE, THAT THEY ARE COLLECTING THE
22 FEES FOR THE SERVICES, WHETHER IT'S CASH, CREDIT CARD, CHECK.
23 AND THEN THEY PASS THE PAPERWORK FOR IT.

24 Q DO Y'ALL ACCEPT CASH, CREDIT CARD OR CHECKS?

25 A YES.

1 Q ANY OF THE ABOVE?

2 A ANY OF THE ABOVE, YES.

3 Q AT POP-A-LOCK, THAT'S THE WAY Y'ALL DO IT. RIGHT?

4 A YES.

5 Q NOW, QUICKLY DEFINE YOUR DEFINITION OF WHAT CALL
6 INTERCEPTION IS FOR THE LADIES AND GENTLEMEN OF THE JURY.

7 A BASICALLY, WE BELIEVE IT'S SOMEONE IS GOING OUT TO THE
8 CALLS BEFORE WE CAN GET TO THE CALLS, BEFORE OUR DRIVERS CAN
9 GET TO THEM. SOMEHOW OR ANOTHER--

10 IT COULD BE OUR CALLS ARE GIVEN OUT THROUGHOUT
11 BLACKBERRIES OR EMAILS. AND IT COULD BE ANOTHER EMPLOYEE
12 FORWARDING THE EMAILS TO ONE OF OUR DRIVERS. OUR DISPATCH
13 CENTER, THE SOFTWARE IS INTERNET-BASED, SO IT COULD BE
14 SOMEHOW OR ANOTHER GETTING INTO THAT INTERNET SYSTEM AND
15 GETTING THE CALLS BEFORE WE CAN ACTUALLY GET OUT TO THEM
16 AND SERVICE A NEW CUSTOMER.

17 Q HOW WOULD THAT WORK? WOULD THAT REQUIRE SOMEONE TO
18 HAVE INSIDE INFORMATION OF SOME SORT?

19 A ABSOLUTELY. THEY WOULD HAVE TO GET IT THAT WAY. THE
20 CUSTOMERS CALL IN TO US AND PLACE THE INFORMATION.

21 Q AND WHAT EXACTLY, ONCE AGAIN, A MYSTERY SHOPPER CALL,
22 WHO MAKES THE MYSTERY SHOPPER CALL?

23 A WE DO.

24 Q HOW DO YOU GO ABOUT DOING THAT?

- 1 A DEPENDING ON THE SITUATION, WE CALL INTO THE ANSWERING
2 SERVICE. WE PLACE THE CALL JUST AS IF IT WAS A CUSTOMER
3 PLACING THE CALL. WE GIVE THE INFORMATION, THE CUSTOMER'S
4 NAME, VEHICLE, LOCATION, TYPE OF SERVICE. AND THEN WE HAVE
5 THE DISPATCH CENTER BROADCAST THE CALL OUT TO THE DRIVER'S
6 VEHICLE AS NORMAL, JUST AS IF IT WAS A CUSTOMER CALLING IN.
- 7 Q AND YOUR DRIVERS, ARE THEY EQUIPPED WITH BLACKBERRIES
8 OR WHATEVER?
- 9 A THEY HAVE A NEXTEL AND A BLACKBERRY THEY CARRY.
- 10 Q WHERE WAS DISPATCH LOCATED BACK IN APRIL, THE END OF
11 APRIL OF-- WHERE WAS DISPATCH LOCATED?
- 12 A LAFAYETTE, LOUISIANA.
- 13 Q JUST TO REFRESH YOUR RECOLLECTION, WHAT IS THAT?
- 14 A THIS IS A CALL THAT WAS PLACED TO THE DISPATCH CENTER.
15 THIS IS A MYSTERY CALL.
- 16 Q WHAT EXACTLY IS THE DOCUMENT?
- 17 A THIS WAS PRINTED OUT FROM THE DISPATCH SOFTWARE. THIS
18 IS AN ACTUAL CALL.
- 19 Q WHAT INFORMATION DOES THAT REFLECT?
- 20 A THE TIME, THE DATE.
- 21 Q WHAT IS THAT?
- 22 A THIS IS APRIL 30, 2009, AT 10:14.
- 23 MS. JOYNER: YOUR HONOR, I'M GOING TO HAVE TO OBJECT.
- 24 DOES MR. RHEA INTEND TO OFFER THIS AS A BUSINESS RECORD?
- 25 MR. RHEA: YES, YOUR HONOR.

1 MS. JOYNER: AND IF SO, YOUR HONOR, I BELIEVE HE NEEDS TO
2 TELL ME WHAT IT WAS, IF IT'S GOING TO BE OFFERED INTO EVIDENCE,
3 PRIOR TO IT BEING SUBMITTED TO THE JURY.

4 MR. RHEA: YOUR HONOR, I'M TRYING TO LAY A FOUNDATION
5 RIGHT NOW.

6 THE COURT: OKAY. I DON'T THINK WE'VE GOTTEN TO THAT
7 POINT YET. I'LL BE GLAD TO ENTERTAIN YOUR OBJECTION IF WE GET
8 TO THAT POINT. AT THIS POINT I OVERRULE YOUR OBJECTION.

9 MR. RHEA: THANK YOU, YOUR HONOR.

10 Q WHAT DOES THE INFORMATION REFLECT IN TERMS OF THE TIME
11 THE CALL WAS MADE?

12 A 10:14 P.M.

13 Q WHO MADE THAT CALL?

14 A I MADE THE CALL.

15 Q THROUGH DISPATCH IN LAFAYETTE, LOUISIANA?

16 A YES.

17 Q AND WHO DID THE CALL GO OUT TO IN TERMS OF YOUR
18 EMPLOYEES AT THE TIME?

19 A THE EMPLOYEES THAT WERE ON CALL. THEY ALL GO OUT--
20 THEY ACTUALLY GO OUT TO ALL OF THE BLACKBERRIES.

21 Q HOW DOES MIKE TAYLOR FACTOR INTO THIS?

22 A HE WAS ON CALL THAT EVENING.

23 Q DO THOSE DOCUMENTS REFLECT ANYTHING ABOUT MR.
24 TAYLOR?

25 A YES. HE ACCEPTED THE CALL AT 10:18 P.M.

1 Q 10:18 P.M. OKAY. AND WHAT OTHER INFORMATION IS ON
2 THERE? DID HE SEND SOMETHING BACK ON HIS BLACKBERRY IN
3 TERMS OF INFORMATION OF WHERE HE IS, OR HIS ABILITY TO MAKE
4 THAT CALL, OR TIE IT UP, OR ANYTHING LIKE THAT?

5 MS. JOYNER: YOUR HONOR, I HAVE TO OBJECT. AT THIS POINT
6 THIS IS STILL HEARSAY. HE HAS NOT ESTABLISHED A FOUNDATION
7 FOR THIS AS A BUSINESS RECORD. HE HAS NOT ENTERED IT INTO
8 EVIDENCE. HE'S BASICALLY GETTING HER TO TESTIFY FROM IT
9 WITHOUT ENTERING IT.

10 MR. RHEA: YOUR HONOR, MAY WE APPROACH?

11 THE COURT: YES SIR.

12 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

13 THE COURT: I SUSTAIN THE OBJECTION.

14 Q AS A RESULT, DID YOU GET A CORRESPONDENCE FROM MR.
15 MIKE TAYLOR?

16 A (NO RESPONSE)

17 Q DID HE RESPOND TO THE MYSTERY SHOPPER CALL?

18 A WELL, WHEN THE DRIVER ACCEPTS THE CALL, THAT'S HIS
19 ACCEPTANCE OF THE CALL.

20 Q AND THAT'S DOCUMENTED ON THAT DOCUMENT. IS THAT
21 CORRECT?

22 A THEY HAVE TO HIT THE A BUTTON ON THE BLACKBERRY AND
23 REPLY BACK TO THE DISPATCH CENTER THAT HE ACCEPTS THE CALL.

24 Q OKAY. NOW, DID MR. TAYLOR MAKE THAT CALL? DO YOU
25 KNOW?

- 1 A DID HE COMPLETE THE CALL?
- 2 Q YES MA'AM.
- 3 A NO.
- 4 Q AND WHAT, HOW DOES FRANK AND YOUR BROTHER, LEO-- THE
- 5 CO-DEFENDANT, MR. LEMIRE, IS YOUR BROTHER. CORRECT?
- 6 A YES.
- 7 Q HOW DID THEY FACTOR INTO THIS MYSTERY SHOPPER CALL?
- 8 A THEY WERE OUT AT THE KNIGHTS' STADIUM.
- 9 Q WHICH IS WHERE THE MYSTERY SHOPPER CALL WAS SENT.
- 10 CORRECT?
- 11 A YES.
- 12 Q AND AS A RESULT OF THAT, DID YOU EVER CHECK ANY PHONE
- 13 RECORDS?
- 14 A YES.
- 15 Q USE THAT TO REFRESH YOUR RECOLLECTION. WHAT TIME WAS
- 16 THE CALL, DID THE CALL GO OUT?
- 17 A 10:14 P.M.
- 18 Q AS A RESULT OF THAT DID YOU CHECK THE RECORDS OF MR.
- 19 MIKE TAYLOR'S PHONE CALLS?
- 20 A YES.
- 21 Q AND HOW DID YOU HAVE ACCESS TO THOSE?
- 22 A THE NEXTELS ARE POP-A-LOCK'S NEXTELS ON THE ACCOUNT.
- 23 SO I GO IN ON-LINE AND CHECK ALL THE PHONE RECORDS.
- 24 Q YOU CAN TELL WHO'S CALLING WHO?
- 25 A YES.

- 1 Q RIGHT?
- 2 A YES.
- 3 Q AND AT SOME JUNCTURE, DID MR. TAYLOR SUBSEQUENT TO THE
- 4 MYSTERY SHOPPER CALL, CALL MR. RYAN LOCHBAUM?
- 5 A YES.
- 6 Q AND AT WHAT TIME DO YOUR RECORDS REFLECT THAT THAT
- 7 CALL TRANSPIRED?
- 8 A 10:40 P.M.
- 9 Q NOW, IN TERMS OF WHEN YOUR BROTHER AND YOUR HUSBAND
- 10 WERE AT KNIGHTS' STADIUM, DID YOU SPEAK WITH THEM?
- 11 A YES, I SPOKE TO FRANK.
- 12 Q NOW, YOU CAN'T SAY WHAT ANYBODY ELSE SAID. YOU SPOKE
- 13 TO THEM AS PART OF THIS. CORRECT?
- 14 A YES.
- 15 Q DID IT BECOME EVIDENT THAT MR. LOCHBAUM---
- 16 MS. JOYNER: OBJECT, YOUR HONOR.
- 17 THE COURT: YES MA'AM.
- 18 MS. JOYNER: TO LEADING.
- 19 THE COURT: SUSTAINED.
- 20 Q DID RYAN LOCHBAUM EVER GO TO KNIGHTS' STADIUM?
- 21 A NO.
- 22 Q TO YOUR KNOWLEDGE?
- 23 A NO.
- 24 Q NO QUESTION THAT MR. LOCHBAUM AND MR. TAYLOR TALKED
- 25 ON THE PHONE. CORRECT.

1 THE COURT: SUSTAINED.

2 MS. JOYNER: THANK YOU, YOUR HONOR.

3 THE COURT: REPHRASE.

4 Q WERE THERE ANY OTHER PHONE CALLS BETWEEN MR.
5 LOCHBAUM AND MR. TAYLOR ACCORDING TO YOUR LOG?

6 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT TO HER
7 TESTIFYING FROM THE PHONE RECORDS. THEY HAVEN'T LAID A
8 FOUNDATION FOR THE PHONE RECORDS.

9 THE COURT: SUSTAINED.

10 MR. RHEA: BEG THE COURT'S INDULGENCE, YOUR HONOR.

11 (PAUSE)

12 Q THESE PHONE RECORDS BEFORE YOU, WERE THEY THE RECORDS
13 THAT POP-A-LOCK KEPT IN THE NORMAL COURSE OF BUSINESS?

14 A YES.

15 Q HOW MANY OTHER PHONE CALLS DID MR. LOCHBAUM MAKE TO
16 MR. TAYLOR?

17 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT. I DON'T
18 THINK THAT HE HAS LAID A FOUNDATION. MAY I HAVE A LOOK AT
19 THOSE RECORDS?

20 MR. RHEA: SURE.

21 (WHEREUPON SOLICITOR VIEWED PHONE RECORDS)

22 MS. JOYNER: YOUR HONOR, I WOULD CONTINUE TO OBJECT.
23 THOSE ARE AT&T RECORDS OF A PHONE THAT BELONGS TO POP-A-
24 LOCK. THEY'RE NOT POP-A-LOCK'S. POP-A-LOCK HASN'T CREATED

1 THOSE RECORDS; AT&T HAS CREATED THOSE RECORDS, YOUR HONOR.
2 THESE ARE NOT BUSINESS RECORDS.

3 THE COURT: SUSTAINED.

4 MR. RHEA: YOUR HONOR, I THINK WE NEED TO TAKE UP A
5 MATTER OUTSIDE THE PRESENCE OF THE JURY AS FAR AS THE PHONE
6 RECORDS THAT WERE USED IN THE STATE'S CASE.

7 THE COURT: COME FORWARD.

8 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

9 THE COURT: SOLICITOR, I'LL SUSTAIN YOUR RECORD AT THIS
10 TIME.

11 MS. JOYNER: THANK YOU, YOUR HONOR.

12 THE COURT: CONTINUE, MR. RHEA.

13 MR. RHEA: THANK YOU, YOUR HONOR.

14 Q MRS. LARMAND, ARE YOU THE CUSTODIAN OF THOSE RECORDS?
15 ARE THOSE RECORDS PROVIDED TO YOU AS PART OF POP-A-LOCK'S
16 NORMAL COURSE OF BUSINESS?

17 A YES.

18 Q DO THEY ACCURATELY-- STRIKE THAT. DID, IN FACT, RYAN
19 LOCHBAUM MAKE ANY OTHER CALLS---

20 A YES.

21 Q ---TO MIKE TAYLOR?

22 A YES.

23 Q HE DIDN'T MAKE JUST ONE CALL TO MIKE TAYLOR, DID HE? HE
24 MADE-- EXCUSE ME. MIKE TAYLOR DIDN'T MAKE JUST ONE CALL TO

1 RYAN LOCHBAUM. THEY TALKED A LOT. IS THAT CORRECT?

2 NUMEROUS TIMES. CORRECT?

3 A YES.

4 Q WHAT HAPPENED WITH MIKE TAYLOR SHORTLY AFTER THE
5 INCIDENT ON MAY 1, IN TERMS OF HIS EMPLOYMENT WITH YOUR
6 COMPANY?

7 A I TERMINATED HIM.

8 Q NOW, WHEN FRANK AND LEO WERE TRAVELING DOWN TO
9 SOUTH CAROLINA TO ROCK HILL, DID YOU EVER HAVE A
10 CONVERSATION WITH FRANK?

11 A YES.

12 Q WERE YOU AWARE OF WHERE HE WAS GOING?

13 A YES.

14 Q WHERE IS YOUR UNDERSTANDING WHERE HE WAS GOING AND
15 FOR WHAT PURPOSE?

16 MS. JOYNER: YOUR HONOR, I OBJECT. THAT'S BASICALLY
17 HEARSAY.

18 THE COURT: SUSTAINED.

19 Q WHEN YOUR HUSBAND WAS ON THE WAY TO ROCK HILL WERE
20 YOU ON THE COMPUTER?

21 A YES.

22 Q WERE YOU TALKING TO HIM ON THE PHONE?

23 A YES.

24 Q WHAT WERE YOU LOOKING AT ON THE COMPUTER?

25 A I WAS LOOKING AT DIRECTIONS ON---

1 Q MAPQUEST?

2 A ---MAPQUEST TO RYAN LOCHBAUM'S.

3 Q SPEAK UP A LITTLE BIT, PLEASE.

4 A TO RYAN LOCHBAUM'S STREET.

5 Q AND HOW DID YOU KNOW WHERE MR. LOCHBAUM LIVED?

6 A ONE OF MY EMPLOYEES HAD MENTIONED WHERE HE LIVED.

7 Q NOW, AS FAR AS AFTER MR. LOCHBAUM WAS TERMINATED AND

8 HE WAS ASKING FOR UNEMPLOYMENT BENEFITS FROM THE

9 EMPLOYMENT SECURITY COMMISSION, YOU SUBMITTED SOMETHING

10 ON BEHALF OF POP-A-LOCK AS TO WHY HE WAS TERMINATED.

11 CORRECT?

12 A YES.

13 Q AND YOU SAID EARLIER THAT WAS BECAUSE OF MISCONDUCT.

14 SPECIFICALLY, WHAT TYPE OF MISCONDUCT?

15 MS. JOYNER: I'M GOING TO OBJECT, YOUR HONOR. I DON'T SEE

16 HOW THIS IS RELEVANT,---

17 MR. RHEA: YOUR HONOR, ---

18 MS. JOYNER: --- WHAT THEY ALLEGE MR. LOCHBAUM DID IN

19 OCTOBER OF 2008 AS IT RELATES TO WHAT THEY DID ON MAY 1, 2009.

20 MR. RHEA: YOUR HONOR, MR. LOCHBAUM OPENED THE DOOR

21 TO THAT DURING, WHEN HE WAS ON THE STAND, I WOULD SUBMIT. I

22 BELIEVE HE SAID THAT THEY FIRED ME FOR TRUMPED UP REASONS.

23 THE COURT: OVERRULED.

24 MR. RHEA: THANK YOU, YOUR HONOR.

- 1 A HIS MISCONDUCT WAS HE HAD A LOT OF CONFLICT WITH OTHER
2 EMPLOYEES AND WOULD, WAS GIVING HIS PERSONAL CELL PHONE
3 NUMBER OUT TO OUR CUSTOMERS AND RECEIVING CALLS DIRECTLY
4 FROM HIM TO HIS PERSONAL CELL PHONE INSTEAD OF GOING
5 THROUGH THE NATIONAL DISPATCH CENTER.
- 6 Q AND THAT'S AN UNACCEPTABLE PRACTICE FOR AN EMPLOYEE?
- 7 A YES.
- 8 Q NOW, AT THE EMPLOYMENT SECURITY COMMISSION HEARING
9 DID YOU OBJECT TO MR. LOCHBAUM GETTING UNEMPLOYMENT?
- 10 A YES.
- 11 Q ON WHAT BASIS?
- 12 A HE WAS TERMINATED. HE WAS NOT LAID OFF. WE HAD PLENTY
13 OF WORK. HE WAS TERMINATED. HE
- 14 Q DO YOU RECALL WHEN THAT HEARING WAS, THE FIRST
15 HEARING, APPROXIMATELY?
- 16 A I'M SORRY. WHICH HEARING?
- 17 Q THIS HEARING WAS HELD BY PHONE. IS THAT CORRECT?
- 18 A YES.
- 19 Q AND DO YOU RECALL APPROXIMATELY WHEN IT WAS?
- 20 A IT WAS IN APRIL.
- 21 Q IT WAS IN APRIL OF THIS YEAR?
- 22 A YES.
- 23 Q DID YOU TESTIFY IN FRONT OF THE COMMISSION?
- 24 A YES.

1 Q DID YOU IN FACT TELL THEM THAT IT WAS YOUR
2 UNDERSTANDING THAT MR. LOCHBAUM WAS IN FACT EMPLOYED AT
3 THE TIME HE WAS TRYING TO GET UNEMPLOYMENT BENEFITS?

4 A YES.

5 Q AND DID THAT, IN LARGE PART, ---

6 MS. JOYNER: I OBJECT, YOUR HONOR.

7 THE COURT: MA'AM?

8 MS. JOYNER: IT'S SOMEWHAT LEADING AND I WOULD SUBMIT
9 SHE CANNOT TESTIFY WHY SOMEBODY DID SOMETHING.

10 THE COURT: REPHRASE.

11 Q AS A RESULT OF YOUR KNOWLEDGE WITH REGARD TO THAT,
12 WAS MR. LOCHBAUM DISQUALIFIED FROM UNEMPLOYMENT
13 BENEFITS?

14 A YES.

15 Q DO YOU KNOW ANYTHING ABOUT-- OF YOUR OWN
16 KNOWLEDGE, DO YOU KNOW ANYTHING ABOUT WHAT OCCURRED
17 THAT NIGHT IN ROCK HILL ON GENTLE BREEZE DRIVE, OF YOUR OWN
18 KNOWLEDGE, WITHOUT SOMEONE HAVING TOLD YOU ABOUT IT?

19 A NO.

20 Q YOU WEREN'T PRESENT?

21 A NO.

22 MR. RHEA: BEG THE COURT'S INDULGENCE, YOUR HONOR.

23 (PAUSE)

24 NO FURTHER QUESTIONS, YOUR HONOR.

25 THE COURT: MR. GREELEY.

1 MR. GREELEY: MAY IT PLEASE THE COURT.

2 CROSS EXAMINATION BY MR. GREELEY:

3 Q GOOD AFTERNOON.

4 A GOOD AFTERNOON.

5 Q I WANT TO TALK A LITTLE BIT MORE ABOUT THE MYSTERY
6 CALLS. NOW, WITH MYSTERY CALLS, IT'S IMPORTANT FOR YOU TO
7 KEEP A CHECK ON YOUR EMPLOYEES. IS THAT CORRECT?

8 A YES.

9 Q AND THE MYSTERY CALL IS SO THAT YOU CAN MAKE SURE
10 THAT YOUR EMPLOYEES ARE FOLLOWING COMPANY POLICY
11 PERIODICALLY. IS THAT TRUE?

12 A YES.

13 Q AND ISN'T IT TRUE THAT THAT NIGHT'S MYSTERY CALL WAS SET
14 UP TO BE AT KNIGHTS' BASEBALL STADIUM?

15 A YES.

16 Q SOMEBODY LOCKED THEIR KEYS IN THEIR CAR AFTER THE
17 BASEBALL GAME. IS THAT WHAT THE SCENARIO WAS TO BE?

18 A YES, I BELIEVE IT WAS A KEY MAKE, YES.

19 Q AND SO, THEY WERE GOING TO NEED SOMEBODY TO HELP GET
20 THEIR KEYS OUT. CORRECT?

21 A YES.

22 Q NOW, FOR YOU TO INSURE THAT YOUR EMPLOYEES ARE
23 FOLLOWING THE POLICY AND ANSWERING THE CALLS THE WAY
24 THEY'RE SUPPOSED TO DO, IT'S IMPORTANT FOR YOU TO HAVE

1 SOMEONE THERE TO SEE IF THEY'RE DOING THAT. ISN'T THAT
2 CORRECT?

3 A YES.

4 Q AND THAT WAS THE ROLE OF FRANK AND LEO IN GOING OUT TO
5 THE BASEBALL STADIUM. ISN'T THAT TUE?

6 A YES.

7 Q FRANK AND LEO WERE THERE TO SEE WHICH WORKER WAS
8 GOING TO HANDLE THE CALL. IS THAT CORRECT?

9 A YES.

10 Q YOU DIDN'T KNOW WHICH WORKER WAS GOING TO HANDLE THE
11 CALL BECAUSE THERE WAS MORE THAN ONE ON DUTY THAT DAY.
12 CORRECT?

13 A YES.

14 Q AND SO, YOUR HUSBAND AND YOUR BROTHER WENT OUT THERE
15 TO SEE WHICH WORKER WAS GOING TO APPEAR. CORRECT?

16 A YES.

17 Q AND ALL OF THE CALLS INITIATED BY POP-A-LOCK AND YOU
18 WENT ONLY TO YOUR EMPLOYEES, DIDN'T THEY?

19 A YES.

20 Q THAT NIGHT POP-A-LOCK MADE NO CALLS WHATSOEVER TO MR.
21 LOCHBAUM, DID IT?

22 A NO.

23 Q AND NO ONE ENDED UP ANSWERING THE CALL EVENTUALLY,
24 DID THEY?

25 A NO.

1 Q AFTER THERE WAS NO RESPONSE AND NO WORKER CAME TO
2 THE BASEBALL STADIUM FRANK AND LEO WERE SITTING IN THEIR
3 TRUCK AT THE BASEBALL STADIUM. CORRECT?

4 A YES.

5 Q NOW, THE BASEBALL STADIUM IS ON THE SOUTH SIDE OF
6 CHARLOTTE. CORRECT?

7 A YES.

8 Q AND IT'S IN SOUTH CAROLINA. CORRECT?

9 A YES.

10 Q AND Y'ALL'S BUSINESS IS UPON THE WAY, NORTH SIDE OF
11 CHARLOTTE IN KANNAPOLIS. CORRECT?

12 A YES.

13 Q AND SO, IS IT A FAIR STATEMENT TO SAY THAT FRANK AND LEO
14 AT THAT POINT IN TIME WHEN NOBODY SHOWED UP WERE CLOSER TO
15 ROCK HILL THAN THEY WERE TO KANNAPOLIS?

16 A YES.

17 Q Y'ALL HAD ALSO HAD SOME TROUBLE WITH-- WHAT ARE THE
18 POP-A-LOCK SIGNS ON THE SIDE OF THE CAR?

19 A THEY'RE MAGNETS.

20 Q AND HAVE Y'ALL HAD TROUBLE IN THE PAST WITH PEOPLE
21 TAKING THOSE POP-A-LOCK SIGNS?

22 A YES.

23 Q AND HAVE YOU EVER SEEN A CAR IN YOUR MARKET AREA
24 SPORTING A POP-A-LOCK SIGN THAT DID NOT BELONG TO YOU?

25 A YES.

- 1 Q HAD YOU SEEN ANY OF THAT IN THE CLOSE PROXIMITY TO
- 2 APRIL 30 OR MAY 1?
- 3 A YES.
- 4 Q AND SO, THAT WAS ON YOUR MIND AS WELL. CORRECT?
- 5 A YES.
- 6 Q DID YOU GO DOWN THE NEXT DAY TO SEE ABOUT TRYING TO
- 7 GET YOUR BROTHER OUT OF JAIL?
- 8 A YES.
- 9 Q WHO'D YOU GO WITH?
- 10 A UH...
- 11 Q DID YOU GO WITH FRANK?
- 12 A FRANK WAS ALREADY THERE.
- 13 Q OKAY. AND THEN YOU CAME ALONG?
- 14 A YES, I BELIEVE WITH MY SISTER.
- 15 Q DID YOU SEE MR. LOCHBAUM THERE?
- 16 A YES.
- 17 Q DID MR. LOCHBAUM SAY ANYTHING TO YOU THAT MORNING?
- 18 A YES.
- 19 Q TELL THE JURY WHAT MR. LOCHBAUM SAID TO YOU THAT
- 20 MORNING.
- 21 A HE ASKED ME WHY I DENIED HIS UNEMPLOYMENT.
- 22 Q HE BROUGHT THAT UP DURING THIS PERIOD AT A BOND
- 23 HEARING AT THE MOSS JUSTICE CENTER. CORRECT?
- 24 A YES.
- 25 Q YOU RECENTLY SOLD A PORTION OF POP-A-LOCK, DIDN'T YOU?

1 A YES.

2 Q YOU RECENTLY SOLD A PORTION OF POP-A-LOCK TO PAY OFF
3 SOME DEBTS.

4 A YES.

5 Q DID YOU TELL MR. LOCHBAUM THAT YOU SOLD A PORTION OF
6 THE BUSINESS?

7 A NO.

8 Q IS THAT YOUR BROTHER?

9 A YES.

10 Q DO YOU LIKE HIM?

11 A YES.

12 Q IS THAT YOUR DAD?

13 A YES.

14 Q IS HIS NAME LEO, TOO?

15 A YES.

16 Q IS THAT YOUR HUSBAND?

17 A YES.

18 Q THE FATHER OF YOUR CHILDREN?

19 A YES.

20 MR. GREELEY: THAT'S ALL I HAVE FOR NOW, YOUR HONOR.

21 THE COURT: SOLICITOR.

22 MS. JOYNER: THANK YOU, YOUR HONOR.

23

24

25

1 CROSS EXAMINATION BY MS. JOYNER:

2 Q THE MYSTERY CALL, WAS THIS MYSTERY CALL PLACED ON
3 OCTOBER 30 OF THIS YEAR, WAS THAT DIRECTED AT RYAN
4 LOCHBAUM?

5 A I'M SORRY. OCTOBER?

6 Q APRIL 30, WAS IT DIRECTED-- APRIL 30 OF THIS YEAR, TO
7 KNIGHTS' STADIUM, WAS THAT DIRECTED TO RYAN LOCHBAUM?

8 A THAT WAS SENT OUT TO OUR EMPLOYEES.

9 Q BUT WAS IT TO TARGET RYAN LOCHBAUM?

10 A NO.

11 Q IT WASN'T TO TARGET RYAN LOCHBAUM?

12 A IT WAS SENT OUT TO SEE IF WE COULD FIND OUT WHAT WAS
13 GOING ON WITH THE CALL INTERCEPTION THAT WAS GOING ON. WE
14 WEREN'T SURE HOW ANYONE HAD ACCESS TO OUR CALLS, OR, WE
15 WEREN'T SURE BASED ON---

16 Q HOW DO YOU KNOW PEOPLE WERE ACCESSING YOUR CALLS?

17 A BECAUSE PEOPLE WERE SHOWING UP AT OUR CALLS BEFORE WE
18 WERE GETTING TO THEM, AND SOME OF OUR, A COUPLE OF MY
19 EMPLOYEES TOLD US THAT THEY FELT LIKE SOMEONE-- THEY TOLD
20 ME THAT THEY HAD INFORMATION THAT SOMEONE WAS---

21 Q DID THEY TELL YOU WHO IT WAS?

22 A YES. THAT DAY THEY TOLD US THAT MR. LOCHBAUM HAD
23 ACCESS TO OUR CALLS ON HIS COMPUTER.

24 Q SO, APRIL 30, WAS DIRECTED AT RYAN LOCHBAUM. KNIGHTS'
25 STADIUM WAS ALL ABOUT MR. LOCHBAUM THEN, WASN'T IT?

1 A WELL, WE WANTED TO SEE IF MR. LOCHBAUM OR ANYONE ELSE
2 HAD ACCESS TO OUR CALLS, YES.

3 Q THEY NEVER SHOWED UP?

4 A NOBODY SHOWED UP, NO.

5 Q NO ONE ANSWERED THE CALL?

6 A NOT EVEN OUR DRIVER SHOWED UP, NO.

7 Q WOULD IT BE NORMAL FOR YOU TO USE YOUR HUSBAND AND
8 YOUR BROTHER TO GO OUT ON A MYSTERY CALL?

9 A IT DEPENDS. WE USE DIFFERENT-- IT'S NORMAL FOR MY
10 HUSBAND. THAT'S THE FIRST TIME MY BROTHER.

11 Q SO, IF YOUR TARGET WAS RYAN LOCHBAUM, HE'D KNOW THIS
12 GUY RIGHT AWAY ON SIGHT, WOULDN'T YOU?

13 A YES.

14 Q AND HE WOULD KNOW THIS GUY RIGHT AWAY ON SIGHT,
15 WOULDN'T HE?

16 A YES.

17 Q AND YOU SOUGHT OUT FROM YOUR EMPLOYEES THE ADDRESS
18 OF RYAN LOCHBAUM?

19 A I DIDN'T-- NO, I DIDN'T. THEY CAME TO ME. THEY ALSO TOLD
20 ME WHO HE WAS WORKING FOR ALSO.

21 Q SO, AN EMPLOYEE SPONTANEOUSLY CAME TO YOU AND SAID
22 RYAN LOCHBAUM LIVES AT 516 GENTLE BREEZE LANE---

23 A NO.

24 Q ---IN ROCK HILL?

1 A NO. HE WAS CALLING MY EMPLOYEE CONTINUOUSLY AND HE
2 HAD COME TO ME AND TOLD ME THAT.

3 Q AND CAME TO YOU AND SAID THAT RYAN LOCHBAUM LIVES AT
4 516---

5 A NO, NO.

6 Q OKAY.

7 A IT WAS IN A CONVERSATION. I DON'T REMEMBER.

8 Q SO, YOUR EMPLOYEE DIDN'T TELL YOU THIS. NO EMPLOYEE
9 TOLD YOU THAT RYAN LOCHBAUM LIVES AT 516 GENTLE BREEZE
10 LANE. YOU SOUGHT THAT INFORMATION OUT ON YOUR OWN?

11 A NO. HE TOLD ME-- GENTLE BREEZE LANE IS WHAT HE TOLD ME.
12 I DO REMEMBER GENTLE BREEZE LANE. I DON'T REMEMBER THE
13 EXACT ADDRESS.

14 Q WHAT EMPLOYEE WAS THAT?

15 A JOHN MAHONEY.

16 Q JOHN MAHONEY. IS MR. MAHONEY HERE TODAY?

17 A NO.

18 Q AND SO, YOU WENT ON THE INTERNET AND YOU PULLED UP
19 DIRECTIONS TO GIVE TO YOUR BROTHER AND YOUR HUSBAND TO GO
20 TO RYAN LOCHBAUM'S HOUSE?

21 A YES.

22 Q THEY'D PLAN TO GO OVER AT RYAN LOCHBAUM'S HOUSE?
23 FROM THE TIME THEY SAT IN THE STADIUM, KNIGHTS' STADIUM, THEY
24 PLANNED TO GO TO RYAN LOCHBAUM'S HOUSE. IS THAT RIGHT?

1 A HE WAS-- MY HUSBAND WAS ALREADY IN SOUTH CAROLINA.
2 SO, HE WAS GONNA DRIVE BY THERE AND LOOK AND SEE IF THERE
3 WAS ANY CAR MAGNETS OUT THERE OR ANY EMPLOYEES OR
4 ANYTHING LIKE THAT.

5 Q BUT HE PLANNED TO GO TO RYAN'S HOUSE, YOUR HUSBAND?

6 A WHEN HE WAS LEAVING KNIGHTS' STADIUM, YES.

7 Q ISN'T IT UNUSUAL TO CARRY A BIG GUN TO YOUR MYSTERY
8 CALL? OR IS THAT PART OF POP-A-LOCK'S BUSINESS PRACTICE?

9 A IT'S NOT, NO.

10 Q THE DAY AFTER THIS INCIDENT, OR THE MORNING OF MAY 1,
11 2009, IS IT YOUR TESTIMONY THAT YOU FIRED MIKE TAYLOR? IS THAT
12 RIGHT?

13 A YES.

14 Q YOU FIRED MIKE TAYLOR BECAUSE HE CALLED RYAN
15 LOCHBAUM AND HE DIDN'T SHOW UP AT KNIGHTS' STADIUM?

16 A I TERMINATED MIKE TAYLOR BECAUSE I BELIEVED THAT HE
17 WAS USING THE BLACKBERRIES AND FORWARDING CALLS TO...

18 Q EVEN THOUGH RYAN LOCHBAUM DIDN'T SHOW UP FOR THE
19 CALL?

20 A YES. THERE WERE OTHER REASONS.

21 Q AND THAT CALL-- AND YOU WERE DOING THESE CALLS ALL THE
22 TIME. RIGHT? THEY WERE DESIGNED TO BE SO TEMPTING THAT NO
23 LOCKSMITH COULD REFUSE IT. RIGHT? IT WAS AN EASY JOB, WASN'T
24 IT?

25 A IT WAS AN UNLOCK, POSSIBLE KEY MAKE.

1 Q AND IT WAS A 1999 NISSAN CENTRA. RIGHT?

2 A RIGHT.

3 Q THAT'S FROM THE DISCOVERY THAT MR. RHEA GAVE ME.

4 THAT'S AN EASY, EASY KEY TO MAKE, ISN'T IT? IT'S ONE OF THE
5 EASIEST KEYS BECAUSE THE CODE IS IN THE GLOVE BOX, OR THERE'S
6 SOMETHING IN THE GLOVE BOX THAT MAKES IT SUPER EASY FOR THE
7 LOCKSMITH TO MAKE THE KEY, DOESN'T IT?

8 A I CAN'T-- I DON'T DO THE LOCKSMITHING PART OF IT. I BELIEVE
9 IT'S AN EASY KEY TO BE MADE. I'M NOT SURE WHERE THE CODES ARE
10 LOCATED.

11 Q YOU RUN THE BUSINESS, BUT YOU'RE NOT A LOCKSMITH?

12 A CORRECT.

13 Q OTHER PEOPLE TAKE CARE OF THAT PART OF IT?

14 A YES.

15 Q WHEN YOU FIRED MARK TAYLOR, YOU COULDN'T PROVE THAT
16 HE WAS GIVING ANYBODY YOUR BUSINESS, COULD YOU; IT WAS JUST
17 THAT YOU BELIEVED HE WAS?

18 A I SAW PHONE RECORDS THAT HE MADE.

19 Q ALL PHONE RECORDS PROVE IS THAT HE TALKED TO SOMEBODY.

20 A THERE WERE ISSUES WITH MIKE TAYLOR BESIDES THAT ALSO
21 THAT WERE LEADING UP TO THIS.

22 Q YOU FIRED OTHER EMPLOYEES, TOO. YOU HAVE TO HAVE GOOD
23 EMPLOYEES TO RUN THE BUSINESS, DON'T YOU?

24 A YES.

25 Q RECENTLY SOME OF YOUR EMPLOYEES QUIT, DIDN'T THEY?

- 1 A (NO RESPONSE)
- 2 Q DID THEY QUIT?
- 3 A RECENTLY, SOME OF MY EMPLOYEES?
- 4 Q YES. DID SOME OF YOUR EMPLOYEES QUIT AFTER YOU CALLED
- 5 THEM IN AND ASKED THEM TO TESTIFY AT THIS TRIAL, AND THEY SAID
- 6 THEY WOULDN'T?
- 7 A NO. I ONLY HAVE TWO EMPLOYEES THAT STAYED WITH ME
- 8 THROUGH THE TRANSFER OF THE BUSINESS. NO. I STILL HAVE THEM.
- 9 Q SO, YOU DON'T HAVE ANY EMPLOYEES FROM CHARLOTTE
- 10 ANYMORE?
- 11 A NO, THEY ALL TRANSFERRED TO CHARLOTTE.
- 12 Q DID YOU CALL ANYBODY IN FROM CHARLOTTE? DID YOU CALL
- 13 ANYBODY IN THAT USED TO WORK FOR YOU IN CHARLOTTE AND ASK
- 14 THEM TO COME TESTIFY? DID YOU TALK TO ANY FORMER EMPLOYEES
- 15 ABOUT COMING TO TESTIFY?
- 16 A DID I? I'M SORRY.
- 17 Q DID YOU TALK TO ANY FORMER EMPLOYEES, PRESENT OR
- 18 FORMER EMPLOYEES, ABOUT COMING TO TESTIFY?
- 19 A YES.
- 20 Q ARE THEY HERE TODAY?
- 21 A NO.
- 22 Q AND IT COSTS YOU MONEY, DOESN'T IT, IF SOMEBODY WINS
- 23 THEIR UNEMPLOYMENT CLAIM? IT COSTS YOU MONEY. IS THAT
- 24 CORRECT?
- 25 A OUR UNEMPLOYMENT RATE GOES UP, YES.

1 Q YOU WERE IN THE PROCESS OF SELLING YOUR BUSINESS WHEN
2 ALL THIS HAPPENED THAT DAY, WEREN'T YOU?

3 A WE HAD IT ON THE MARKET, YES.

4 Q AND IT WAS POSTED ON THE INTERNET. RIGHT?

5 A YES.

6 Q AND UNEMPLOYMENT CLAIMS, THEY DECREASE THE VALUE OF
7 YOUR BUSINESS, DON'T THEY?

8 A I HAVE NO IDEA.

9 Q YOU DIDN'T CALL THE EMPLOYMENT SECURITY COMMISSION
10 AND REPORT TO THEM THAT RYAN LOCHBAUM WAS STEALING YOUR
11 MAGNETS OR ANYTHING LIKE THAT, DID YOU?

12 A NO.

13 Q STEALING YOUR BUSINESS?

14 A NO.

15 Q YOU DIDN'T PUT THAT IN YOUR EMPLOYMENT SECURITY
16 COMMISSION REVIEW, DID YOU?

17 A THAT?

18 Q YOU DIDN'T PUT ANYTHING IN THERE ABOUT HIM STEALING
19 YOUR BUSINESS AFTER YOU FIRED HIM, DID YOU?

20 A NO. I PUT IN THERE THE PROVIDING UNAUTHORIZED SERVICES.

21 Q AND PROVIDING UNAUTHORIZED SERVICES, WHEN HE WAS
22 EMPLOYED THAT MEANT HE WAS DOING WHAT? HE WASN'T TAKING
23 MONEY FROM SOMEBODY FOR SOMETHING. HE WAS GIVING YOU
24 THAT MONEY, WASN'T HE?

25 A NOT ALL OF IT, NO.

1 Q WHAT'S PROVIDING UNAUTHORIZED SERVICES MEAN?

2 A TO TAKE THE SERVICES-- ONE OF THE SERVICES HE WAS
3 PROVIDING WAS HE WAS DOING-- WE DO TIRE CHANGES AND HE WAS
4 REPAIRING THE TIRES, WHICH IS A SERVICE WE DO NOT PROVIDE. OUR
5 INSURANCE COMPANY DOES NOT COVER THAT. AND HE WAS
6 RECEIVING MONEY FROM THE CUSTOMER FOR THAT SERVICE AND
7 WAS ALSO GETTING PAID FROM US FOR CHANGING---

8 Q DID YOU EVER ASK RYAN LOCHBAUM FOR THE MONEY THAT
9 YOU SAY HE TOOK?

10 A ---THE TIRE.

11 Q DID YOU SAY HE TOOK MONEY FROM YOU, OR TOOK MONEY
12 OUT OF YOUR POCKET?

13 MR. RHEA: YOUR HONOR, IF SHE WOULD JUST ASK ONE
14 QUESTION AT A TIME. I DON'T KNOW HOW THE WITNESS CAN KEEP UP.

15 THE COURT: ASK ONE QUESTION AT A TIME AND LET HER
16 ANSWER IT, SOLICITOR.

17 Q IS IT YOUR TESTIMONY THAT RYAN LOCHBAUM STOLE MONEY
18 FROM YOU?

19 A HE TOLD ME THAT HE WAS COLLECTING MONEY FROM THE
20 CUSTOMERS FOR THOSE SERVICES.

21 Q RYAN LOCHBAUM TOLD YOU HE WAS DOING THAT?

22 A YES.

23 Q WHY WOULD HE TELL YOU HE WAS DOING THAT?

24 A BECAUSE I ASKED HIM IF HE WAS DOING THAT AND HE SAID YES,
25 HE WAS DOING THAT.

- 1 Q AND HE WASN'T GIVING THE MONEY TO YOU?
- 2 A NO.
- 3 Q AT THE TIME OF THIS INCIDENT BACK ON MAY 1, OF THIS YEAR,
- 4 WAS YOUR HUSBAND AFFILIATED AT ALL WITH POP-A-LOCK?
- 5 A WAS HE-- NO, HE WAS NOT.
- 6 Q AND MR. LEMIRE, THE TESTIMONY ALREADY WAS HE WASN'T
- 7 INVOLVED IN THE BUSINESS AT ALL.
- 8 A NO.
- 9 Q JUST SO I'M CLEAR, ON APRIL 30, YOUR HUSBAND AND YOUR
- 10 BROTHER WENT TO KNIGHTS' STADIUM-- DO YOU STILL HAVE THAT
- 11 PAPERWORK YOU WERE USING EARLIER?
- 12 A ABOUT THE CALL?
- 13 Q YOU PUT THE CALL AT 9:14. IS THAT RIGHT?
- 14 A THAT'S LOUISIANA TIME BECAUSE THAT'S WHERE THE DISPATCH
- 15 IS AND THIS IS THE TIME RIGHT HERE.
- 16 Q OKAY. SO, YOU PUT THE PHONE CALL OUT AT 10:14?
- 17 A 10:14 P.M.
- 18 Q AND IT WOULD HAVE BEEN DARK OUTSIDE AT 10:14?
- 19 A YES.
- 20 Q AND KNIGHTS' STADIUM WOULD HAVE BEEN EMPTY? DID YOU
- 21 PLAN FOR IT TO BE AT AN EMPTY PARKING LOT?
- 22 A THERE WAS A BASEBALL GAME.
- 23 Q THERE WAS A BASEBALL GAME. SO, IT WOULD HAVE BEEN FULL
- 24 OF CARS AND YOU WERE GOING TO WAIT FOR SOMEBODY TO PULL UP,
- 25 THE FICTITIOUS CAR. HOW WAS THAT GONNA WORK?

1 A WHEN THEY PULLED IN LOOKING FOR THE VEHICLE WE WOULD
2 THEN AT THAT POINT BE ABLE TO SEE WHO WAS COMING OUT TO THE
3 CALL, WHAT THEY WERE DRIVING, IF THEY HAD ANY MAGNETS, ANY
4 OF OUR MAGNETS ON THE VEHICLE.

5 Q WHERE WAS THIS PLANNED FOR FRANK AND LEO TO BE
6 STATIONED AT KNIGHTS' STADIUM SO THEY COULD HAVE THAT
7 VANTAGE POINT?

8 A THE PLAN, THERE WASN'T ANY PLAN. HE CALLED ME WHEN HE
9 GOT THERE AND TOLD ME WHERE HE WAS PARKED. HE WAS PARKED
10 UNDERNEATH THE LIGHT POLE AT ROW, I DON'T REMEMBER.

11 Q THERE WERE CARS ALL IN THE PARKING LOT. HOW
12 UNDERNEATH THAT LIGHT POLE WAS HE SUPPOSED TO SEE THE ONE
13 CAR PULLING INTO THAT STADIUM PARKING LOT?

14 A (NO RESPONSE)

15 Q HOW WAS THAT PLAN SUPPOSED TO WORK?

16 A WELL, AT THE TIME, IF EVERYBODY'S IN THE BASEBALL GAME,
17 THEN THERE'S USUALLY JUST PRETTY MUCH CARS IN THE PARKING
18 LOT. SO, YOU'RE GONNA SEE IF THERE'S A CAR PULLING IN WITH POP-
19 A-LOCK MAGNETS OR A BIG, WHITE VAN PULLING INTO THE PARKING
20 LOT DRIVING AROUND, LOOKING FOR A CUSTOMER. YOU WOULD BE
21 ABLE TO NOTICE THEM.

22 Q WHO'S VAN IS A BIG, WHITE VAN?

23 A MIKE TAYLOR HAS A BIG, WHITE VAN. AND ANOTHER ONE OF
24 OUR DRIVERS, JASON, HAD A BIG, WHITE VAN ALSO.

1 Q OKAY. SO, THIS WAS PLANNED AT A TIME WHEN THERE WASN'T
2 GOING TO BE ANYBODY OUT IN THE PARKING LOT. IS THAT FAIR TO
3 SAY?

4 A IT WASN'T PLANNED FOR ANY PARTICULAR TIME. THEY JUST
5 DROVE OUT THERE AND CALLED ME WHEN THEY GOT THERE.

6 Q AND IT HAPPENED TO BE DURING A TIME, THEN, THAT THERE
7 WAS NOBODY ELSE IN THE PARKING LOT. IS THAT FAIR TO SAY?

8 A I DON'T KNOW. I DON'T KNOW IF THERE WAS ANYONE IN THE
9 PARKING LOT OR NOT.

10 Q HOW LONG DID THEY WAIT IN THE PARKING LOT BEFORE THEY
11 DECIDED THAT NOBODY WAS COMING, AND THEY WERE GOING TO GO
12 TO RYAN LOCHBAUM'S HOUSE?

13 A I CALLED BACK IN A HALF HOUR LATER FOR AN ETA TO SEE IF I
14 COULD FIND OUT HOW LONG IT WAS GONNA BE BEFORE SOMEBODY
15 GOT THERE. IT HAD BEEN THIRTY MINUTES AT THAT POINT.

16 Q AND SO, THEY WAITED THIRTY MINUTES?

17 A UH-HUH, YES.

18 Q THEN AFTER THIRTY MINUTES THEY DECIDED TO DRIVE TO
19 RYAN LOCHBAUM'S HOUSE?

20 A AFTER THIRTY MINUTES I CALLED THEM FOR AN ETA.

21 Q HOW MUCH LONG DID THEY WAIT AFTER YOU CALLED THEM
22 FOR AN ETA?

23 A I DON'T KNOW EXACTLY.

24 Q SO, AT 10:18, THE CALL WENT IN, AND THAT WOULD ROUND OFF
25 TO 10:20, IS THAT RIGHT, WHEN THE CALL WENT IN?

- 1 A 10:14 IS WHEN I CALLED IT IN.
- 2 Q 10:14. SO, AT 10:15 THE CALL WENT IN?
- 3 A YES.
- 4 Q SO, THIRTY MINUTES LATER. SO, THAT WOULD HAVE BEEN AT
- 5 WHAT, 10:45?
- 6 A YES.
- 7 Q APPROXIMATE ETA?
- 8 A 10:43, YES.
- 9 Q HOW LONG DID THEY WAIT AFTER THE CALL FOR THE ETA
- 10 BEFORE THEY LEFT THE PARKING LOT?
- 11 A I CAN'T REMEMBER EXACTLY HOW LONG IT WAS.
- 12 Q DO YOU REMEMBER HOW LONG IT WAS BETWEEN THE ETA AND
- 13 THE TIME THAT YOU LOOKED UP THE DIRECTIONS TO RYAN
- 14 LOCHBAUM'S HOUSE ON THE COMPUTER?
- 15 A I DON'T KNOW EXACTLY HOW LONG. TEN MINUTES, I DON'T
- 16 KNOW. I'M NOT EXACTLY SURE.
- 17 Q SO, IF IT WAS TEN MINUTES, OUTSIDE OF 10:53?
- 18 A IF IT WAS TEN MINUTES AFTER THAT, I MEAN, WE WOULD HAVE
- 19 TO WAIT FOR THE DRIVE TO CALL BACK. MIKE HAD TO CALL BACK
- 20 WHEN HE CALLED FOR AN ETA.
- 21 Q THAT WOULD HAVE BEEN LATER WHEN THEY DECIDED TO
- 22 DRIVE TO RYAN'S HOUSE?
- 23 A YES.
- 24 Q NOW, LET'S BE CLEAR. THE TARGET WAS RYAN? CORRECT?

1 A WE SENT THE CALL-- NO. WE SENT IT OUT TO OUR EMPLOYEES.
2 AND WE WANTED TO FIND OUT IF THERE WAS ANYBODY WHO WAS
3 OUT THERE WITH CAR MAGNETS. IT COULD HAVE BEEN MR.
4 LOCHBAUM, IT COULD HAVE BEEN SOMEONE ELSE WITH OUR CAR
5 MAGNETS ON IT. WE WEREN'T SURE. THAT'S WHY WE SENT IT OUT.

6 Q YOU WANTED TO FERRET THAT PERSON OUT, WHOEVER THAT
7 PERSON WAS? YOU WANTED TO LURE THEM OUT?

8 A WE WANTED TO PUT THE CALL OUT TO HAVE THE PERSON GO
9 OUT THERE AND SHOW UP.

10 Q SHOW UP?

11 A THAT WAS THE POINT OF PLACING THE CALL.

12 Q AND SO, EVEN THOUGH RYAN LOCHBAUM WASN'T YOUR
13 TARGET, WHEN NOBODY SHOWED UP, YOUR HUSBAND AND BROTHER
14 DECIDED TO GO TO HIS HOUSE. IS THAT CORRECT?

15 A (NO RESPONSE)

16 Q AND THEY WANTED TO GO THERE TO CONFRONT HIM, DIDN'T
17 THEY?

18 A AS FAR AS I KNOW, FRANK WAS GOING THERE TO LOOK FOR THE
19 MAGNETS, TO SEE IF ANY OF OUR STUFF, IF ANY OF OUR. IF THERE
20 WAS A RED VEHICLE OUT THERE WITH MAGNETS. THAT'S WHAT WAS
21 SPOTTED DRIVING AROUND AND WE DIDN'T HAVE A DRIVER WITH A
22 VEHICLE, A SMALL RED VEHICLE WITH MAGNETS AT THE TIME.

23 Q FRANK WENT THERE JUST TO SEE THE MAGNETS? HE WENT JUST
24 TO SEE THE MAGNETS?

1 A TO DRIVE BY THERE TO SEE IF THERE WAS ANY OF OUR
2 EMPLOYEES OUT THERE OR IF THERE WERE ANY MAGNETS OUT THERE
3 AT SOMEONE'S HOUSE.

4 Q DID HE PLAN ON DRIVING BY ANYBODY ELSE'S HOUSE THAT
5 NIGHT OR WAS IT JUST GOING TO BE RYAN LOCHBAUM'S HOUSE?

6 A IT WAS JUST GONNA BE RYAN'S HOUSE THAT HE WAS DRIVING
7 BY.

8 Q THANK YOU.

9 THE COURT: RE-DIRECT?

10 MR. RHEA: BEG THE COURT'S INDULGENCE.

11 (PAUSE)

12 RE-DIRECT EXAMINATION BY MR. RHEA:

13 Q MRS. LOCHBAUM,-- I'M SORRY. NOT MRS. LOCHBAUM. MRS.
14 LARMAND, NO QUESTION THAT MIKE TAYLOR DIDN'T SHOW UP THAT
15 NIGHT. CORRECT?

16 A YES.

17 Q HE DIDN'T SHOW UP AT KNIGHTS' STADIUM, NOTHING. RIGHT?

18 A RIGHT.

19 Q NO QUESTION THAT THERE WERE MULTIPLE PHONE CALLS
20 BETWEEN---

21 MS. JOYNER: I'M GOING TO OBJECT TO LEADING, YOUR HONOR.

22 THE COURT: SUSTAINED.

23 Q WERE THERE ANY PHONE CALLS BETWEEN RYAN LOCHBAUM
24 AND MIKE TAYLOR?

25 A YES.

1 Q MORE THAN ONE?

2 A YES.

3 Q MANY?

4 A YES.

5 Q THE PROBLEM WAS CORPORATE INTERNET SCAMMING?

6 A YES.

7 Q TELL THE LADIES AND GENTLEMEN OF THE JURY HOW THAT
8 STUFF HAPPENS.

9 A WHAT'S GOING ON WITH A LOT OF LOCKSMITHS---

10 MS. JOYNER: YOUR HONOR, I THINK THAT'S BEYOND THE SCOPE
11 OF REDIRECT. THAT WAS NOT BROUGHT UP ON CROSS.

12 MR. RHEA: YOUR HONOR, SHE WAS ASKING ABOUT SOMEONE
13 SCAMMING THE BUSINESS.

14 MS. JOYNER: NO, I DID NOT ASK ABOUT INTERNET SCAMMING,
15 YOUR HONOR.

16 THE COURT: MR. RHEA, I'LL LET YOU GO INTO THAT.

17 Q WHAT WAS THE CORPORATE INTERNET SCAMMING THAT Y'ALL
18 HAVE TO DEAL WITH?

19 A THERE'S COMPANIES OUT THERE THAT ARE GOING INTO OUR
20 LISTINGS ON GOOGLE AND OTHER LOCKSMITH COMPANIES AND
21 THEY'RE TAKING OVER OUR LISTING AND THEY'RE PUTTING IN THEIR
22 TELEPHONE NUMBER FOR THE LISTING.

23 Q WOULD THAT REQUIRE HACKING INTO YOUR COMPUTER
24 SYSTEM?

25 A IT'S HACKING INTO THE INTERNET SOMEHOW OR ANOTHER, YES.

- 1 Q NOW, THE TIME ON YOUR SHEET IS LOUISIANA TIME. IS THAT
2 CORRECT, 9:14? THAT'S WHY IT SHOWS THAT?
- 3 A YES, THE CALL LOG.
- 4 Q WAS IT 10:14 OUR TIME?
- 5 A YES.
- 6 Q NO QUESTION ABOUT THAT?
- 7 A NO.
- 8 Q AND YOU SAY TO YOUR KNOWLEDGE YOUR HUSBAND AND LEO
9 WERE PARKED UNDERNEATH A LIGHT POLE. CORRECT?
- 10 A YES.
- 11 Q NOT IN A DARKENED BERM AREA, BUT UNDERNEATH A LIGHT
12 POLE. CORRECT?
- 13 A YES.
- 14 Q THE INFORMATION THAT YOU HAD RECEIVED REGARDING POP-
15 A-LOCK DECALS ON A RED CAR, WHERE DID THAT INFORMATION
16 COME FROM?
- 17 A I WAS HAVING MY CARPETS CLEANED AND THE GUY THAT
18 CLEANS MY CARPETS---
- 19 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT TO HEARSAY,
20 WHAT SOMEBODY ELSE IS TELLING HER.
- 21 THE COURT: SUSTAINED.
- 22 Q WAS IT AN EMPLOYEE?
- 23 A NO.

1 Q NOW, YOU SAY THAT NO QUESTION ABOUT IT, MR. LOCHBAUM
2 DURING THE COURSE OF HIS EMPLOYMENT KNEW WHAT YOUR
3 HUSBAND LOOKED LIKE?

4 A YES.

5 Q KNEW WHAT YOUR BROTHER LOOKED LIKE?

6 A YES.

7 Q TO YOUR KNOWLEDGE, ARE THEY THE ONLY TWO POP-A-LOCK
8 EMPLOYEES OUT THERE ON THE MYSTERY CALL? AS PART OF THE
9 MYSTERY CALL?

10 A YES.

11 Q TO YOUR KNOWLEDGE, DO ANY OTHER POP-A-LOCK EMPLOYEES
12 SHOW UP?

13 A NO.

14 MR. RHEA: NOTHING FURTHER, YOUR HONOR.

15 THE COURT: MR. GREELEY.

16 **RE-CROSS EXAMINATION BY MR. GREELEY:**

17 Q ONE OF THE THINGS ABOUT A MYSTERY CALL IS YOU'RE GOING
18 TO HAVE TO HAVE A TELEPHONE NUMBER THAT YOUR WORKER CAN
19 CALL. CORRECT?

20 A YES.

21 Q AND THAT'S WHY THEY LIKE TO HAVE THE TELEPHONE NUMBER
22 OF THE CUSTOMER, A CALL BACK NUMBER. IS THAT CORRECT?

23 A YES.

24 Q AND THAT HAS TO BE SENT OUT WITH THE MESSAGE. CORRECT?

25 A YES.

- 1 Q NOW, YOU'RE TRYING TO SEND OUT THE MESSAGE TO YOUR
2 WORKERS TO DO A MYSTERY CALL. YOU CAN'T PUT THE COMPANY
3 PHONE NUMBER IN THE MESSAGE, CAN YOU, AS THE CALL BACK
4 NUMBER?
- 5 A NO.
- 6 Q THEY WOULD KNOW THE COMPANY NUMBER. SO, YOU NEED TO
7 HAVE A PHONE NUMBER AND A PERSON WHO IS NOT PART OF THE
8 COMPANY. ISN'T THAT CORRECT?
- 9 A YES.
- 10 Q SO, THAT THE WORKER CAN CALL THAT PERSON TO GIVE AN
11 ESTIMATED TIME OF ARRIVAL---
- 12 A YES.
- 13 Q ---IF NEED BE. CORRECT?
- 14 A YES.
- 15 Q AND SO, A PHONE NUMBER HAS TO GO OUT WITH IT. CORRECT?
- 16 A YES.
- 17 Q WHOSE PHONE NUMBER WENT OUT WITH THIS CALL AS WHO
18 WAS GOING TO BE THE CUSTOMER THAT THE WORKER WOULD CALL?
- 19 A MY BROTHER, LEO.
- 20 Q LEO'S PHONE NUMBER. SO, LEO WAS GOING TO BE THE
21 CUSTOMER AND HE WOULD RECEIVE THE CALL ON HIS PHONE. IS
22 THAT CORRECT?
- 23 A YES.
- 24 Q THAT'S NOT A PHONE NUMBER THAT ANY OF THE WORKERS
25 WOULD RECOGNIZE?

1 A NO.

2 MR. GREELEY: THAT'S ALL I HAVE.

3 THE COURT: SOLICITOR.

4 MS. JOYNER: NOTHING FURTHER, YOUR HONOR.

5 THE COURT: ANYTHING FURTHER, MR. RHEA?

6 MR. RHEA: NO, YOUR HONOR.

7 THE COURT: ANY OBJECTION TO THIS WITNESS BEING EXCUSED?

8 MR. GREELEY?

9 MR. GREELEY: NO, YOUR HONOR.

10 MS. JOYNER: NO, YOUR HONOR.

11 MR. RHEA: NO, YOUR HONOR. MAY WE APPROACH?

12 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

13 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE WILL
14 TAKE A BRIEF RECESS AT THIS TIME. I WILL ASK YOU TO GO TO YOUR
15 JURY ROOM, AND ONCE AGAIN, DO NOT DISCUSS THE CASE.

16 (WHEREUPON THE JURY EXITED THE COURTROOM AT 2:47 P.M. AND THE
17 COURT WAS IN RECESS)

18 COURT IN SESSION - 3:13 P.M.

19 THE COURT: ANYTHING BEFORE WE BRING IN THE JURY?

20 MS. JOYNER: NOTHING FROM THE STATE.

21 THE COURT: MR. RHEA, CALL YOUR NEXT WITNESS.

22 MR. RHEA: THANK YOU, YOUR HONOR. WE CALL FRANK
23 LARMAND TO THE STAND.

24

25

Some page numbers inadvertently duplicated
in the original transcript and have been removed
from the record on appeal No testimony is missing.

1 FRANCIS VICTOR LARMAND, DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MR. RHEA:

4 Q MR. LARMAND, PLEASE STATE YOUR FULL NAME FOR THE
5 LADIES AND GENTLEMEN OF THE JURY.

6 A FRANCIS VICTOR LARMAND.

7 Q HOW OLD ARE YOU, MR. LARMAND?

8 A THIRTY-EIGHT.

9 Q WHERE DO YOU LIVE?

10 A IN KANNAPOLIS.

11 Q IS THAT YOUR WIFE, KERRIANN, WHO JUST TESTIFIED A
12 MOMENT AGO?

13 A YES SIR.

14 Q HOW LONG HAVE Y'ALL BEEN MARRIED?

15 A NINETEEN YEARS, EIGHTEEN YEARS.

16 Q WHEN DID Y'ALL MOVE TO KANNAPOLIS?

17 A IN 2000.

18 Q FROM WHERE?

19 A CHARLOTTE?

20 Q HOW MANY CHILDREN DO YOU HAVE?

21 A TWO CHILDREN.

22 Q WHAT ARE THEIR NAMES AND AGES?

23 A DAVID'S NINETEEN AND ASHLEY IS SIXTEEN.

24 Q WHAT IS DAVID DOING AT THIS TIME?

25 A SECOND YEAR OF COLLEGE, PLAYING BASEBALL.

1 Q DO YOU AND KERRIANN REGULARLY GO TO HIS BASEBALL
2 GAMES?

3 A YEAH, WE HAVEN'T MISSED ONE.

4 Q WHERE DOES HE PLAY?

5 A ALL OVER.

6 Q WHERE DOES HE GO TO SCHOOL?

7 A STANLEY COMMUNITY COLLEGE.

8 Q WHAT POSITION DOES HE PLAY?

9 A HE'S A PITCHER.

10 Q HOW ABOUT YOUR DAUGHTER, WHAT GRADE IS SHE IN?

11 A SHE'S A SOPHOMORE IN HIGH SCHOOL. I'M SORRY. JUNIOR IN
12 HIGH SCHOOL.

13 Q NOW, TELL ME ABOUT YOUR BUSINESS, YOU AND YOUR WIFE'S
14 BUSINESS, POP-A-LOCK. GIVE THE LADIES AND GENTLEMEN OF THE
15 JURY-- THEY HAVE CERTAINLY HEARD ALL ABOUT IT. JUST GIVE
16 THEM A BRIEF OVERVIEW FROM YOUR PERSPECTIVE OF THE BUSINESS.

17 A IT'S A BASIC LOCKSMITH BUSINESS. WE PROVIDE ROAD SIDE
18 ASSISTANCE, TIRE CHANGES, GAS DELIVERIES, JUMP STARTS, AS YOU
19 ALREADY HEARD. WE UNLOCK VEHICLES FOR FREE IF THERE'S A
20 CHILD LOCK INSIDE OR AN ANIMAL. NO CHARGE TO THE CUSTOMER.
21 IT'S JUST A GOOD SERVICE WE PROVIDE.

22 Q SO, Y'ALL ARE AN ALTERNATIVE TO AAA IN SOME RESPECTS?

23 A ABSOLUTELY.

24 Q BACK IN APRIL, WHAT WAS YOUR ASSOCIATION WITH THE
25 BUSINESS?

1 A IN APRIL, I WAS CURRENTLY DOING AN AUTOMOTIVE BUSINESS.
2 I WOULD HELP KERRIANN OUT WITH IT.

3 Q TECHNICALLY, DID YOU COME TO SELL IT TO KERRIANN, OR
4 HOW DID THAT HAPPEN?

5 A YEAH. BACK IN, LIKE, 2004.

6 Q WHAT WAS THE NAME OF YOUR BUSINESS?

7 A FRANK'S SERVICE CENTER.

8 Q WHERE IS THAT LOCATED?

9 A NOW IT'S LOCATED IN KANNAPOLIS, NORTH CAROLINA. AT THE
10 TIME IT WAS IN CONCORD, NORTH CAROLINA.

11 Q BACK IN APRIL IT WAS IN CONCORD?

12 A YES.

13 Q WHAT DID YOU DO AT FRANK'S SERVICE CENTER?

14 A I'M A CERTIFIED STATE INSPECTION STATION. I DO BRAKES,
15 REBUILD ENGINES, TRANSMISSIONS, REAR ENDS, FULL AUTOMOTIVE
16 SERVICE.

17 Q HOW MANY EMPLOYEES DO YOU HAVE?

18 A I HAVE ONE EMPLOYEE THERE.

19 Q DURING THE REGULAR COURSE OF YOUR BUSINESS, WHAT TYPE
20 OF ATTIRE WOULD YOU WEAR?

21 A BLACK, GREASY CLOTHING.

22 Q BECAUSE YOU'RE WORKING ON CARS?

23 A YES.

24 Q SO, THAT'S NO UNUSUAL FOR YOU TO BE DRESSED IN BLACK. IS
25 THAT CORRECT?

1 A CORRECT.

2 Q NOW, DID YOU HAVE DISCUSSIONS WITH YOUR WIFE
3 CONCERNING MATTERS GOING ON WITH POP-A-LOCK?

4 A YES. WE HAD SEVERAL DISCUSSIONS WITH MATTERS,
5 INTERCEPTION OF CALLS, HIGH NUMBER OF GAS, WHICH IS GONE ON
6 ARRIVAL.

7 Q TELL THE JURY WHAT A GOA IS?

8 A GONE ON ARRIVAL.

9 Q BASED UPON YOUR EXPERIENCE IN THAT BUSINESS, WHAT ARE
10 YOUR CONCERNS WITH REGARD TO THAT?

11 A WELL, YOU HAVE TWELVE EMPLOYEES AND YOU HAVE SHIFTS.
12 EVERY SINGLE EMPLOYEE HAS EQUIPMENT, BLACKBERRIES, NEXTELS,
13 AS YOU ALREADY HEARD.

14 AN OFF-SHIFT EMPLOYEE COULD HAVE HIS DEVICE TURNED ON
15 AND SEE THE CALL COME IN. AND AS HE'S DRIVING DOWN THE ROAD,
16 SAY, I CAN GET IT IN TWO SECONDS, AND NEXT THING YOU KNOW, THE
17 DRIVER'S THAT'S GOING TO MAKE COMMISSION ON THE CALL, HE'S
18 GETS THERE AND THERE'S NOBODY THERE.

19 SO, HE'S OUT MONEY AND HERE'S SOMEONE MAKING MONEY
20 AND TAKING FROM THE OTHER GUY, BASICALLY.

21 Q IS THERE A LOT OF THAT THAT GOES ON THAT YOU CAN DETECT
22 EASILY?

23 A IT'S HARD TO DETECT, BUT, YEAH, IT SEEMS LIKE THERE IS A LOT
24 OF IT GOING ON. IT'S A CASH FLOW BUSINESS AND THEY'RE OUT ON

1 THE ROAD. SO, YOU'VE GOT TO TAKE YOUR EMPLOYEES WORD THAT
2 THEY'RE DOING AN HONEST THING, YOU KNOW.

3 Q BASED UPON YOUR EXPERIENCE, FOR SOMEONE TO DO THAT
4 SUCCESSFULLY, DOES THAT REQUIRE SOMEONE ON THE INSIDE OF
5 POP-A-LOCK IN ORDER TO RUN A SCAM LIKE THAT?

6 A YEAH. I DON'T THINK THERE'S REALLY ANY WAY OTHER UNLESS
7 YOU JUST HAPPEN TO HAVE THE EYE OF DRIVING BY AND SEEING
8 SOMEONE IN A PARKING LOT STANDING BY THEIR VEHICLE, AND SAY,
9 HEY, I CAN HELP THEM OUT, YOU KNOW. WHICH OCCASIONALLY HAS
10 HAPPENED.

11 I'VE SPOTTED PEOPLE LOCKED OUT OF THEIR CAR THAT NEVER
12 CALLED ANYBODY. THEY'RE JUST, LIKE, LOOKING IN THEIR CAR AND
13 NOTICING THEIR KEYS ARE LOCKED IN.

14 Q WHERE THERE CONCERNS ABOUT ANOTHER ALTERNATIVE OF
15 SOMEBODY HACKING INTO YOUR COMPUTER, INTO POP-A-LOCK'S
16 COMPUTER?

17 A WELL, YEAH. EVERYTHING COMES OVER THAT BLACKBERRY.
18 AND THAT BLACKBERRY, YOU CAN PUT IT TO AUTOMATIC
19 FORWARDING CALLS, TO DIFFERENT EMAIL ADDRESSES. I CAN PUT IT
20 TO SEVERAL DIFFERENT COMPUTERS, LAPTOPS, HOME COMPUTERS,
21 COMING RIGHT FROM THAT BLACKBERRY.

22 Q NOW, YOU WERE THE PRESIDENT AND HEAD OF POP-A-LOCK AT
23 THE TIME, BUT YOUR WIFE, SHE'S ASSUMING A SUPERVISORY ROLE. IS
24 THAT CORRECT?

1 A YEAH. SHE RAN THE DAY TO DAY BASIS. I WASN'T EVEN
2 EMPLOYED BY POP-A-LOCK AT THAT TIME.

3 Q AT THAT TIME. BUT, YOU HAD BEEN EMPLOYED BY POP-A-LOCK
4 FOR HOW LONG PREVIOUS TO THAT?

5 A WE BOUGHT THE BUSINESS IN '97. MY NAME WAS ON THE
6 BUSINESS. IN 2004, CORPORATE FRANCHISE ASKED ME TO GO TO
7 BOSTON AND RUN THEIR CORPORATE BUSINESS FOR THEM IN BOSTON.
8 SO, ME AND MY FAMILY, WE ELECTED TO DO SO, AND I JUST TRAVELED
9 BACK AND FORTH FOR A FEW MONTHS, AND THINGS DIDN'T WORK
10 OUT. SO, I ENDED UP COMING BACK HOME.

11 Q DO YOU CONSIDER THE KANNAPOLIS AREA HOME?

12 A YES.

13 Q NOW, DESPITE THE FACT IN APRIL YOU WEREN'T DIRECTLY
14 INVOLVED WITH POP-A-LOCK, YOU WERE BRUSHING YOUR TEETH
15 EVERY NIGHT BESIDE THE LADY WHO WAS THE SUPERVISING
16 MANAGER OF POP-A-LOCK. CORRECT?

17 A YES SIR.

18 Q SO, AS HUSBAND AND WIFE, YOU WERE THEREFORE PRIVY TO
19 WHAT'S GOING ON, AT LEAST IN HER MIND, WHAT SHE THOUGHT WAS
20 GOING ON. IS THAT CORRECT?

21 A ABSOLUTELY.

22 Q AT SOME POINT IN TIME DID THE DECISION GET MADE ABOUT
23 TRYING TO DELVE INTO SOME OF THESE MATTERS BY USING THE
24 MYSTERY SHOPPER CALL?

1 A YEAH. THAT'S THE ONLY WAY WE CAN REALLY PUT OUR
2 FINGER ON WHAT'S GOING ON IN THE BUSINESS.

3 Q AND IS THAT AN INDUSTRY-RECOGNIZED MECHANISM FOR
4 DETECTING SUSPECTED ACTIVITY?

5 A YES. WE HAVE 248 STORES THAT DO THIS ACTIVITY, DO THE
6 MYSTERY SHOPPING.

7 Q AND WHERE IS DISPATCH OUT OF?

8 A LAFAYETTE, LOUISIANA.

9 Q TELL ME ABOUT THE SESSIONS THAT YOU AND KERRIANN AND
10 LEO HAD ABOUT DOING THE MYSTERY SHOPPER CALL ON THE
11 EVENING OF APRIL 30.

12 A WELL, IT WAS JUST BASIC, LET'S GO TO THE SOUTH SIDE, SET UP
13 SHOP THERE. THERE'S A BASEBALL GAME GOING ON, BIG OPEN
14 PARKING LOT, LOTS OF LIGHTING, DRIVE IN THERE, PICK OUT A
15 VEHICLE, CALL IT IN, AND SEE WHO SHOWS UP, IF ANYBODY SHOWS UP
16 AT ALL.

17 Q WHAT WAS THE STATUS OF THE PARKING LOT THAT NIGHT,
18 FULL, HALF-FULL?

19 A IT WAS FULL.

20 Q IT WAS FULL AT THE TIME THAT Y'ALL ARRIVED?

21 A ABSOLUTELY, YES.

22 Q NOW, BEFORE WE GET TO THAT, WERE THERE OTHER CONCERNS
23 THAT YOU HAD IN TERMS OF PEOPLE TRYING TO SCAM YOU OTHER
24 THAN THE CALL INTERCEPTION?

25 A CAN YOU REPHRASE?

1 Q WERE YOU WORRIED ABOUT SOMEBODY HAVING A DECAL ON A
2 CAR OR ANYTHING LIKE THAT THAT SAID POP-A-LOCK THAT'S NOT
3 ACTUALLY A POP-A-LOCK EMPLOYEE?

4 A YEAH. YOU KNOW, MAGNETS FLY OFF THE VEHICLES.
5 EMPLOYEES WILL HAVE THE MAGNETS ON THEIR VEHICLES AND GO IN
6 A PARKING LOT AND COME OUT. SOME OF THEM LIVED IN
7 APARTMENT COMPLEXES AND WAKE UP THE NEXT MORNING, THE
8 MAGNET'S GONE.

9 YOU KNOW, THEY'RE SOMEWHERE. WORD WAS, SOMEONE SEEN
10 A RED VEHICLE WITH A MAGNET ON IT. AT THE TIME SHE DID NOT
11 HAVE ANY EMPLOYEES WITH A RED VEHICLE.

12 Q HOW MANY EMPLOYEES AT THAT TIME APPROXIMATELY, IF
13 YOU KNOW, WERE THERE AT POP-A-LOCK?

14 A I'M THINKING SOMEWHERE AROUND TWELVE OR THIRTEEN.

15 Q DID YOU KNOW, OR HAVE IN YOUR MIND WHO WAS OR WAS NOT
16 STEALING THESE MAGNETS OR INTERCEPTING THESE CALLS?

17 A I DIDN'T KNOW FOR SURE.

18 Q DO YOU KNOW WHO MADE THE CALL INTO DISPATCH, THE
19 ORIGINAL CALL INTO DISPATCH?

20 A THAT WOULD HAVE BEEN KERRIANN.

21 Q AND THEN, AS FAR AS YOUR KNOWLEDGE OF THE BUSINESS,
22 THEN WHAT HAPPENED?

23 A YOU MAKE THE CALL INTO DISPATCH. WE GIVE A COURTESY
24 CALL TO THE CUSTOMER SAYING WE'LL BE THERE IN TWENTY-THIRTY
25 MINUTES, WHERE ARE YOU PARKED, YOU KNOW, WHAT ROW OF THE

1 PARKING LOT YOU'RE IN, PROVIDED THEY HAVE A GOOD CALL BACK
2 PHONE NUMBER, OF COURSE, AND WE CONTINUE TO THE CALL.

3 Q SO, IT'S NOT IMPOSSIBLE TO FIND A VEHICLE IN A PARKING LOT
4 OF A LARGE SPORTING COMPLEX, WHAT WITH ROWS AND AISLES AND
5 WHATEVER THEY CALL IT. IS THAT CORRECT?

6 A CORRECT.

7 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT TO LEADING.
8 THE COURT: SUSTAINED.

9 Q IS IT DIFFICULT TO FIND A CAR?

10 A ABSOLUTELY NOT.

11 Q HAVE YOU EVER DONE IT IN YOUR EXPERIENCE?

12 A I RAN TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK FOR
13 MANY YEARS.

14 Q DID YOU EVER HAVE OCCASION TO GO TO, YOU KNOW,
15 HORNETS' STADIUM OR PANTHERS' STADIUM OR ANY OTHER STADIUM
16 LIKE THAT?

17 A YES.

18 Q FOR THAT TYPE PURPOSE?

19 A TO FIND A CUSTOMER, YES.

20 Q NOW, WHAT WAS THE-- HOW WAS THAT GONNA WORK IN
21 TERMS OF YOUR BROTHER IN LAW, LEO LEMIRE, CALLING OR TALKING
22 TO THE POP-A-LOCK EMPLOYEE? WHAT WAS THE UNDERSTANDING
23 WITH REGARD TO THAT?

24 A WELL, ONE, WE NEEDED A PHONE. IF SOMEONE WOULD CALL,
25 THEY WOULD RECOGNIZE MY PHONE NUMBER. I ONLY HAVE ONE

1 PHONE. SECONDLY, THEY PROBABLY WOULD RECOGNIZE MY VOICE.
2 SO, YOU KNOW, THEY, A FEW GUYS DEALT WITH ME WHILE I WORKED
3 FOR THE COMPANY AND TALKED TO THEM ALL THE TIME. SO, THEY
4 KNEW WHO I WAS AS SOON AS THEY WOULD TALK TO ME.

5 Q IS THAT WHY LEO WENT ALONG?

6 A ABSOLUTELY.

7 Q ANY OTHER REASON LEO WAS THERE?

8 A NO SIR. JUST FOR A RIDE TO KEEP ME COMPANY, THAT'S IT.

9 Q WAS MR. LEMIRE EMPLOYED BY POP-A-LOCK AT THE TIME?

10 A NO SIR.

11 Q WAS HE EMPLOYED BY FRANK'S SERVICE CENTER AT THE TIME?

12 A NO SIR.

13 Q WHERE WAS HE EMPLOYED?

14 A I THINK IT WAS L&L INSTALLATION.

15 Q WHAT DID THEY DO?

16 A INSTALLED OFFICE FURNITURE.

17 Q SO, CONTINUE WITH WHAT OCCURRED IN TERMS OF WHAT YOU
18 RECALL THE CONVERSATION THAT LEO HAD.

19 A LEO HAD WITH WHO?

20 Q WITH REGARD TO THE PHONE NUMBER.

21 A OH. KERRIANN CALLED IN THE CALL. WE WERE INSIDE THE
22 CALL AND NO ONE SHOWED UP AFTER THIRTY MINUTES. I CALLED
23 HER BACK, I SAID CALL IN FOR AN ETA. SO SHE---

24 Q IS THAT ESTIMATED TIME OF ARRIVAL?

25 A YES.

1 Q STILL, YOU KNOW, SHE SAID, WELL, I CALLED IN, YOU KNOW.
2 ALL I COULD DO WAS SEND IT BACK OVER THE BLACKBERRY TO
3 WHOEVER'S COMING FOR THEM TO CALL US BECAUSE WE NEVER
4 RECEIVED A PHONE CALL.

5 AT THAT POINT IN TIME SHE DID LEAVE LEO'S CALL BACK
6 PHONE NUMBER. MAYBE TEN MINUTES AFTER I GOT OFF THE PHONE
7 WITH HER IS WHEN MIKE TAYLOR CALLED BACK LEO.

8 Q WHAT WAS THE SUBJECT OF THAT CONVERSATION?

9 A WHERE YOU AT, KNIGHTS' STADIUM? AND HE'S, LIKE, YEAH. I
10 WAS, LIKE, DO YOU NEED A KEY MADE? HE'S, LIKE, WELL, I DON'T
11 KNOW. IT'S A POSSIBLE. THE KEYS COULD BE IN THE VEHICLE. I DON'T
12 KNOW. MIKE SAID A COUPLE OF THINGS. I DON'T KNOW, I WASN'T ON
13 THE PHONE. AND HE'S, LIKE, WELL, I WANT TO PAY YOU CASH, JUST
14 COME ON OUT, AND HUNG UP THE PHONE.

15 Q AT ANY TIME, TO YOUR KNOWLEDGE, DURING ALL OF THIS, DID
16 YOU OR LEO OR KERRIANN CALL MR. RYAN LOCHBAUM?

17 A NEVER.

18 Q HOW COULD MR. LOCHBAUM ASSERT TO LAW ENFORCEMENT---
19 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT. HE'S ASKING
20 HIM TO SPECULATE ABOUT ANOTHER WITNESS.

21 THE COURT: SUSTAINED.

22 MR. RHEA: I'LL PHRASE IT ANOTHER WAY, YOUR HONOR.

23 Q IS IT POSSIBLE UNDER THIS SCENARIO YOU JUST TALKED ABOUT
24 FOR SOMEONE OTHER THAN AN EMPLOYEE OF POP-A-LOCK TO GET

1 THAT INFORMATION WITHOUT BEING CLUED IN BY AN EMPLOYEE OF
2 POP-A-LOCK WHO'S RECEIVING THAT BLACKBERRY CALL?

3 A CAN SOMEONE GET-- CAN MR. LOCHBAUM GET THE CALL FROM
4 SOMEONE OTHER THAN A POP-A-LOCK EMPLOYEE OR ANYBODY?

5 Q I'M NOT ASKING YOU ABOUT MR. LOCHBAUM. I'M JUST SAYING
6 WHAT ARE WAYS THAT PEOPLE WOULD KNOW ABOUT THAT CALL
7 OTHER THAN IF THEY ARE TOLD ABOUT A POP-A-LOCK EMPLOYEE
8 WHO'S GETTING THAT CALL? IS THERE A WAY?

9 A NO, NO, I CAN'T SEE HOW BECAUSE EVERYTHING'S JUST LOCKED
10 INTO THE INTERNET SYSTEM. AND I DON'T THINK YOU CAN REALLY
11 HACK INTO THAT SYSTEM TOO GOOD. IT HAS TO BE SOMETHING
12 INTERNALLY, I WOULD BELIEVE.

13 Q WERE YOU AWARE AT THE TIME MIKE TAYLOR HAD CALLED
14 RYAN LOCHBAUM AT 10:14, OR WHATEVER?

15 A NO, I WAS NOT AWARE OF THAT.

16 Q WERE YOU AWARE OF THAT WHEN YOU WERE AT KNIGHTS'
17 STADIUM?

18 A NO SIR.

19 Q WHEN DID YOU BECOME AWARE OF THAT?

20 A I THINK IT WAS THE FIRST OR THE SECOND OF MAY.

21 Q BEFORE OR AFTER YOU WERE ARRESTED?

22 A AFTER I WAS ARRESTED I FOUND OUT ABOUT IT.

23 Q NOW, HOW LONG DID YOU WAIT IN THE PARKING LOT?

24 A WE WERE PROBABLY THERE FOR ABOUT AN HOUR, AN HOUR
25 AND TEN MINUTES, MAYBE.

1 Q WHERE WERE YOU?

2 A WE WERE SITTING RIGHT UNDERNEATH THE SPOTLIGHTS.

3 Q OKAY.

4 A FIRST ROW. I MEAN, WE GAVE PERFECT DIRECTIONS TO WHERE
5 THE VEHICLE WAS AT.

6 Q IT'S AN ACTUAL VEHICLE THERE?

7 A YES.

8 Q YOU'RE NOT LURKING IN THE DARKNESS ANYWHERE?

9 A I WAS SITTING IN THE SUV LOOKING OUT THE PARKING LOT
10 WHERE THEY COME PULLING IN FROM KNIGHTS' STADIUM. I DON'T
11 KNOW IF ANYBODY'S FAMILIAR WITH WHERE YOU GET IN THERE. YOU
12 TAKE THE FIRST ENTRANCE. YOU COME ALL THE WAY AROUND SOME
13 BUILDINGS DOWN HERE. YOU TAKE THE FIRST LEFT INTO THE
14 PARKING LOT AND THERE'S TWO BIG LIGHT POLES.

15 AND I WAS PARKED RIGHT UNDERNEATH THE FIRST LIGHT POLE
16 AND THE CAR THAT WE CALLED IN ON WAS PARKED UNDERNEATH
17 THE SECOND LIGHT POLE.

18 Q DID YOU KNOW SPECIFICALLY WHO YOU WERE WAITING FOR?

19 A I HAD NO IDEA WHO WAS GONNA SHOW UP. THAT'S WHY WE DO
20 THE MYSTERY CALL.

21 Q YOU HAD SOME IDEAS, . IS THAT CORRECT

22 A YOU'RE GRASPING AT STRAWS WHEN YOU SAY IDEAS. BUT
23 YES, ANYBODY COULD SHOW UP, YOU KNOW. LIKE I SAID, TWELVE
24 PEOPLE HAVE BLACKBERRIES. IT COULD HAVE BEEN A GUY THAT WAS
25 OFF SHIFT. IT COULD HAVE BEEN SOMEONE ELSE.

1 Q AND WERE YOU ALSO AT THAT POINT IN TIME LOOKING FOR, OR
2 ON THE LOOKOUT VEHICLE THAT'S NOT PART OF POP-A-LOCK'S FLEET
3 THAT HAD A POP-A-LOCK MAGNET ON IT?

4 A THAT'S WAS ONE OF THE ONES I WAS LOOKING FOR.

5 Q AND DID YOU SEE ANY VEHICLE MATCHING THAT DESCRIPTION?

6 A NO SIR.

7 Q SO, AFTER THE PERIOD OF TIME YOU JUST SAID, YOU LEFT.

8 RIGHT?

9 A YES SIR.

10 Q OKAY. AND YOU HEADED WHERE?

11 A I STARTED TO HEAD HOME, AND I SAID, YOU KNOW WHAT, I GOT
12 TO STOP FOR GAS. SO, I GOT OFF ON CAROWINDS BOULEVARD AND
13 FILLED UP WITH GAS. AND I SAID LEO, WOULD YOU MIND DRIVING
14 WITH ME TO ROCK HILL, KEEP ME SOME COMPANY. HE'S, LIKE, FOR
15 WHAT AND I WAS, LIKE, I JUST WANT TO GO BY RYAN'S HOUSE TO SEE
16 IF A RED CAR'S OUT THERE OR ANY OTHER EMPLOYEES ARE OUT
17 THERE. BECAUSE SOMEONE SHOULD HAVE SHOWED UP FOR THE CALL.
18 MIKE ACCEPTED THE CALL. MIKE SHOULDA (SIC) CAME TO THE CALL.

19 Q MIKE TAYLOR NEVER SHOWED UP, DID HE?

20 A NO SIR.

21 Q IS THAT IN VIOLATION OF WHAT HE'S SUPPOSED TO DO AS AN
22 EMPLOYEE, TO JUST DISREGARD A CALL?

23 A YES, IT IS IN VIOLATION. YOU CAN'T LEAVE A CUSTOMER
24 STRANDED.

1 Q SO, YOU HEAD DOWN TO ROCK HILL. HOW DO YOU GET
2 DIRECTIONS?

3 A I CALLED KERRIANN. AND I SAID, I KNOW IT'S IN ROCK HILL. I'M
4 DRIVING DOWN 77. WHEREABOUTS DO I NEED TO GO?

5 Q AND YOU WERE GOING OVER THERE FOR WHAT PURPOSE?

6 A I WANTED TO SEE IF THE RED CAR WAS THERE OR ANY OF MY
7 EMPLOYEES WAS HANGING AROUND THERE.

8 Q ANY OF YOUR---

9 A WIFE'S EMPLOYEES.

10 Q ANY OF KERRIANN'S CURRENT POP-A-LOCK EMPLOYEES. IS
11 THAT WHAT YOU'RE TALKING ABOUT?

12 A CORRECT.

13 Q DID YOU GO THERE CONSPIRING WITH YOUR BROTHER-IN-LAW
14 TO POINT A FIREARM AT MR. LOCHBAUM?

15 A NO.

16 Q DID YOU KNOW THAT YOUR BROTHER-IN-LAW HAD A FIREARM
17 ON HIM?

18 A NO, I DID NOT.

19 Q FURTHERMORE, DID YOU KNOW THAT YOUR BROTHER-IN-LAW
20 WOULD BRANDISH A FIREARM?

21 A NO.

22 Q DID Y'ALL HAVE AN AGREEMENT, DID YOU CONSPIRE TO DO
23 SOMETHING TO RYAN LOCHBAUM---

24 A ABSO- ---

25 Q ---THAT EVENING?

- 1 A ABSOLUTELY NOT.
- 2 Q DID YOU CONSPIRE TO LYNCH RYAN LOCHBAUM ON THAT
- 3 EVENING?
- 4 A NO SIR.
- 5 Q DID YOU HAVE A FIREARM---
- 6 A NO SIR.
- 7 Q ---IN YOUR POSSESSION? I'M NOT TALKING ABOUT THIS GUN
- 8 HERE. I'M TALKING ABOUT ANY OTHER FIREARM.
- 9 A I DON'T OWN ONE.
- 10 Q NOW, TELL THE LADIES AND GENTLEMEN OF THE JURY WHAT
- 11 HAPPENED WHEN YOU ARRIVED ON GENTLE BREEZE.
- 12 A I ARRIVED ON GENTLE BREEZE AND I DROVE BY HIS HOUSE, SO I
- 13 SEEN THEM STANDING OUT-- WELL, I SEEN THREE GUYS STANDING
- 14 OUTSIDE HIS VAN IN HIS DRIVEWAY. SO, I CONTINUED TO PASS BY HIS
- 15 HOUSE AND PARKED UP THE STREET, TO KEEP LEO OUT OF IT. HE
- 16 DIDN'T NEED TO BE INVOLVED.
- 17 Q WHAT DID YOU TELL LEO?
- 18 A STAY IN THE TRUCK. I WANT TO GO DOWN AND TALK TO RYAN.
- 19 Q JUST TO TALK TO HIM?
- 20 A YES.
- 21 Q SO, YOU WALKED TO-- DO YOU AGREE WITH THE TESTIMONY
- 22 THAT'S BEEN GIVEN AT LEAST WITH RESPECT TO APPROXIMATELY
- 23 WHERE HE PARKED?
- 24 A YES.
- 25 Q AND THEN YOU WALKED DOWN HERE ALONE?

- 1 A YES.
- 2 Q OKAY. DID YOU USE THE SIDEWALK OR WALK IN THE BERM
- 3 AREA, OR WHAT?
- 4 A RIGHT DOWN THE SIDEWALK.
- 5 Q AND WHERE WAS LEO TO YOUR KNOWLEDGE?
- 6 A TO MY KNOWLEDGE, HE WAS STILL SITTING IN THE PASSENGER
- 7 SEAT OF MY DAUGHTER'S TRUCK.
- 8 Q DID YOU TELL HIM, HEY, LET ME HANDLE THIS, OR WHAT?
- 9 WHAT WAS THE--
- 10 A I TOLD HIM--
- 11 Q ---EXACT WORDS THAT YOU USED?
- 12 A STAY HERE, JUST STAY HERE. I WANT TO GO TALK TO RYAN.
- 13 Q THEN WHAT HAPPENED?
- 14 A I WALKED DOWN THERE AND I STOOD AT THE BOTTOM OF THE
- 15 DRIVEWAY, IT SEEMED LIKE TWO OR THREE MINUTES.
- 16 Q I APOLOGIZE. I'M A LITTLE HARD OF HEARING. YOU SAID YOU
- 17 STOOD WHAT?
- 18 A DOWN AT THE BOTTOM OF THE DRIVEWAY.
- 19 Q OKAY. THE BOTTOM OF THE DRIVEWAY. I APOLOGIZE. GO
- 20 AHEAD.
- 21 A AND I WAS LOOKING AT THE THREE GUYS THAT WERE
- 22 STANDING AT THE SIDE DOOR. THEY WERE TALKING ABOUT
- 23 DIFFERENT THINGS. I JUST KEPT ON STANDING THERE AND I CROSSED
- 24 MY ARMS MAYBE ONCE OR TWICE, LIKE, HELLO, I'M HERE.

1 FINALLY, ONE GUY SAID, CAN I HELP YOU. I SAID, YEAH, IS
2 RYAN AVAILABLE IN THERE?

3 Q DID YOU SEE MR. LOCHBAUM IN THE VAN?

4 A I DID NOT SEE RYAN IN THE VAN.

5 Q SO, YOU DIDN'T KNOW WHETHER RYAN-- AT THAT JUNCTURE,
6 YOU DIDN'T KNOW WHETHER RYAN WAS HOME OR NOT?

7 MS. JOYNER: OBJECTION TO LEADING, YOUR HONOR.

8 THE COURT: SUSTAINED.

9 Q DID YOU KNOW WHETHER RYAN-- YOU SAID YOU SAW THE VAN,
10 DIDN'T YOU?

11 A YEAH. SO, I WOULD ASSUME HE WOULD HAVE BEEN HOME.

12 Q BUT YOU DID NOT PHYSICALLY-- DID YOU PHYSICALLY SEE MR.
13 LOCHBAUM?

14 A NO, I DID NOT.

15 Q THEN WHAT HAPPENED?

16 A ONE OF THE GENTLEMEN SAID, RYAN, THERE'S SOMEONE HERE
17 TO SEE YOU. AND RYAN LOOKED OUT, AND EVERYBODY, AS YOU'VE
18 ALREADY HEARD, HE WAS IN SHOCK TO SEE ME. AND HE WAS, LIKE,
19 WHAT THE HELL ARE YOU DOING HERE, HOW THE HELL DID YOU FIND
20 OUT WHERE I LIVE.

21 Q WHAT DID YOU SAY?

22 A I KNOW EVERYTHING. WHAT ARE YOU HERE FOR? I SAID, YOU
23 KNOW WHAT I'M HERE FOR. LEAVE HER COMPANY ALONE. YOU DON'T
24 NEED TO BE MESSING WITH EVERYBODY'S LIFE, YOU KNOW. YOU JUST

1 LEAVE MY COMPANY ALONE. WHY ARE YOU DENYING MY
2 UNEMPLOYMENT? YOU RAILROADED ME. WHAT DO YOU MEAN?

3 Q LET'S MAKE SURE YOU ARE SAYING WHO WAS SAYING WHAT.
4 SO, RYAN--

5 A RYAN SAID, YOU RAILROADED ME.

6 Q OKAY.

7 A AND I---

8 Q DID HE APPEAR TO BE ANGRY?

9 A OH, HE WAS VERY UPSET.

10 Q WERE YOU ANGRY?

11 A NO. I WAS AGITATED. IT WAS, LIKE, YOU KNOW, HERE I AM. I
12 GOT TO COME HOME. I GOT ONE JOB I'M DOING. MY WIFE CAN'T
13 HANDLE, YOU KNOW, DEALING WITH WHAT HE WAS DOING. SO, I GO
14 DOWN THERE JUST TO SAY, HEY, LISTEN, JUST LEAVE THE COMPANY
15 ALONE. YOU GOT FIRED. JUST MAN UP AND GET A JOB AND DO
16 WHATEVER YOU GOTTA DO, YOU KNOW.

17 ALL THOSE WORDS WEREN'T SAID TO HIM BECAUSE THINGS
18 JUST-- HE STARTED GETTING REALLY AGITATED. SO, I TURNED
19 AROUND AND I SAID, YOU KNOW WHAT, JUST LEAVE HER COMPANY
20 ALONE. AND I STARTED WALKING AWAY. AND WHEN I STARTED
21 WALKING AWAY I SAID, OH, BY THE WAY, YOU CAN KEEP MIKE
22 TAYLOR, TOO.

23 Q SO, YOU SUSPECTED MIKE TAYLOR IN BEING IN CAHOOTS WITH
24 HIM?

25 MS. JOYNER: OBJECTION TO LEADING, YOUR HONOR.

1 Q DID YOU SUSPECT MIKE TAYLOR OF BEING IN CAHOOTS WITH
2 HIM?

3 A YES, ABSOLUTELY.

4 Q IF YOU WOULD, PLEASE, MR. LARMAND, STEP DOWN, AND KEEP
5 YOUR BACK TO MS. BARRETT HERE SO THE JURY CAN SEE.

6 (WHEREUPON WITNESS EXITED WITNESS STAND FOR
7 DEMONSTRATION WITH STATE'S EXHIBIT NUMBER FIVE)

8 YOU CAN USE THIS TO POINT. WHERE WERE YOU AND RYAN
9 HAVING THIS DISCUSSION?

10 A WE WERE RIGHT AT THE BOTTOM OF THE DRIVEWAY. I STOOD
11 IN THE STREET. HE WAS ON THE SIDEWALK.

12 Q SO, YOU'RE STANDING IN THE STREET DIRECTLY IN FRONT OF--
13 WERE YOU STANDING IN THE STREET DIRECTLY IN FRONT OF HIS
14 HOUSE?

15 A YES, DIRECTLY IN FRONT OF HIS HOUSE, ON THE RIGHT SIDE OF
16 HIS DRIVEWAY.

17 Q AND DO YOU RECALL WHETHER OR NOT MR. LOCHBAUM TOLD
18 HIS FRIENDS THAT HE WANTED TO SPEAK TO YOU PRIVATELY?

19 A YES, HE DID.

20 Q DID YOU ATTEMPT TO LURE HIM OFF FROM HIS COLLEAGUES
21 THAT HE WAS SOCIALIZING WITH THAT NIGHT?

22 A NOT AT ANY TIME.

23 Q WAS THAT RYAN'S SUGGESTION THAT Y'ALL TALK PRIVATELY?

24 A YES.

1 Q AND SO, HOW MANY OTHER FOLKS TO YOUR RECOLLECTION
2 WERE THERE?

3 A THERE WAS THREE OTHER GENTLEMEN.

4 Q WHEN RYAN SAID THAT HE WANTED TO SPEAK TO YOU
5 PRIVATELY, WHERE DID THESE GENTLEMEN GO?

6 A THEY WALKED RIGHT IN BETWEEN, AND JUST KIND OF HUNG
7 OUT HERE IN THIS FRONT YARD.

8 Q THAT'S IN THE FRONT YARD OF THE HOUSE RIGHT NEXT DOOR?

9 A YES SIR. ON THE RIGHT-HAND SIDE OF RYAN'S HOUSE.

10 Q AND YOU'VE HEARD TESTIMONY IN COURT THE LAST TWO DAYS.
11 CORRECT?

12 A CORRECT.

13 Q WHICH WAS THAT THEY WERE OVER AT A HOUSE IN THIS AREA.
14 IS THAT CORRECT?

15 A YES, I HEARD THAT TESTIMONY.

16 Q IS THAT YOUR RECOLLECTION OF WHERE THEY WERE?

17 A NO. MY RECOLLECTION IS THEY WERE RIGHT HERE.

18 Q OKAY. NOW, AT ANY JUNCTURE WERE Y'ALL WALKING UP AND
19 DOWN THE SIDEWALK TOGETHER?

20 A NO. I WALKED AWAY. I WALKED AWAY. AS I WAS WALKING UP
21 THE SIDEWALK, WALKING AWAY, AND RYAN---

22 Q OKAY. WELL, I DON'T MEAN TO-- WHEN YOU SAY, WALKING
23 AWAY, IN WHICH DIRECTION?

24 A BACK TO MY TRUCK.

25 Q WOULD THAT BE THIS DIRECTION?

1 A CORRECT.

2 Q SO, DID YOU TURN YOUR BACK ON MR. LOCHBAUM AND THE
3 OTHER GENTLEMEN?

4 A YES.

5 Q DID YOU AT ANY TIME ATTEMPT TO LURE MR. LOCHBAUM, AS
6 HE STATED TO DETECTIVE HERRING, INTO SOME DARKENED AREA?

7 A NO. I WAS WALKING BACK TO MY TRUCK.

8 Q WAS THIS THE FIRST TIME YOU HAD EVER BEEN IN THAT
9 NEIGHBORHOOD IN YOUR LIFE?

10 A YES.

11 Q YOU CAN HAVE A SEAT.

12 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

13 NOW, CONTINUE WITH THE CONVERSATION THAT YOU'RE
14 HAVING WITH MR. LOCHBAUM, IF YOU WOULD, PLEASE, MR.
15 LARMAND, WHEN HE SAID, Y'ALL RAILROADED ME.

16 A YEAH. HE SAID Y'ALL RAILROADED ME; YOU SHOULD HAVE
17 NEVER DENIED MY UNEMPLOYMENT. I DID EVERYTHING FOR THAT
18 COMPANY. SO AND SO FORTH. I CAN'T RECALL ALL THE WORDAGE
19 (SIC).

20 I WAS WALKING AWAY, LIKE I SAID. AND I SAID, YOU KNOW
21 WHAT, RYAN, IF YOU HAVE A PROBLEM WITH ME, YOU KNOW WHERE
22 TO FIND ME. AND I KEPT ON WALKING. AND HE'S JUST KIND OF GOT A
23 LITTLE UPSET. AND HE'S, LIKE, YEAH, I GOT A PROBLEM WITH YOU.
24 IT'S WITH YOUR COMPANY. AND SOMETHING ELSE. I DIDN'T REALLY

1 PAY ANY ATTENTION TO HIM AT THE TIME BECAUSE I WAS JUST, I WAS
2 WALKING AWAY.

3 Q IN WHICH DIRECTION WERE YOU WALKING?

4 A TOWARDS MY TRUCK.

5 Q THEN WHAT HAPPENED?

6 A THE NEXT THING I KNOW, I HEAR LEO SAY, HO, AND I KIND OF
7 TURNED MY SHOULDER, AND THE NEXT THING I KNOW THEY'RE UP IN
8 THE AIR WITH THE GUN.

9 Q WHEN YOU SAY, THEY, WHO ARE YOU TALKING ABOUT?

10 A WITH LEO. LEO BASICALLY, I GUESS, WAS COMING TO MY AID. I
11 DON'T KNOW. MY BACK WAS TURNED AS I WAS WALKING AWAY. AND
12 IT WAS, LIKE, DON'T FUCK WITH MY FAMILY - EXCUSE MY LANGUAGE -
13 OR SOMETHING TO THAT EFFECT.

14 AND HIM AND RYAN STARTED STRUGGLING WITH A GUN. AND
15 THEN THE NEXT THING I KNOW I'M LOOKING AT THESE OTHER GUYS
16 AND THIS OTHER GUY COMES RUNNING AROUND. THEY END UP ON
17 THE GROUND. ANOTHER GUY COMES RUNNING AROUND AND DIVES IN
18 THE PILE. I THINK THAT WAS JESSE.

19 Q MR. HARRIS?

20 A MR. HARRIS, YES. HE DIVES IN THE PILE. NOW, THERE'S THE
21 TWO OF THEM ON LEO. AND I'M, LIKE, LET HIM UP, LET HIM GO, YOU
22 KNOW, I'LL GET THIS WORKED OUT, NOBODY'S HERE TO GET HURT.

23 AT THAT TIME THEY WERE BOTH ON LEO. SO, I PULLED---

24 Q THIS IS YOUR BROTHER-IN-LAW?

25 A YES.

1 Q AND YOU LOVE HIM?

2 A YES.

3 Q WHAT'D YOU DO?

4 A I HAD ONE HAND TO MAKE SURE THE BARREL OF THE GUN WAS
5 FACING ACROSS THE STREET INTO THE OPEN FIELD. I DIDN'T WANT TO
6 GET SHOT IF IT ACCIDENTALLY WENT OFF. AND I PUT ONE ARM
7 AROUND RYAN, TRYING TO PRY HIM OFF. AND THEN ONE OR TWO
8 MORE GUYS JUMPED ON ME.

9 Q THERE'S NO QUESTION YOU JUMPED INTO---

10 A YEAH, I---

11 Q ---WHAT'S BEEN DESCRIBED AS THE PILE?

12 A YEAH. I TRIED HELPING MY BROTHER-IN-LAW, YEAH.

13 Q DID YOU EVER HAVE ANY IDEA WHEN YOU WALKED UP TO THAT
14 HOUSE ON THAT NIGHT, THAT THAT WAS HOW THINGS WOULD GO
15 DOWN?

16 A NEVER.

17 Q DID YOU EVER PLAN WITH YOUR BROTHER-IN-LAW THAT HE
18 WOULD SHOW UP WITH A GUN?

19 A I NEVER EVEN KNEW HE HAD A GUN.

20 Q AND IF YOU WOULD, PLEASE, STEP DOWN ONE LAST TIME. I
21 APOLOGIZE.

22 (WHEREUPON WITNESS EXITED WITNESS STAND FOR DEMONSTRATION
23 WITH STATE'S EXHIBIT NUMBER FIVE)

24 WHERE WOULD SAY THIS PILE WAS. WE'VE HEARD SEVERAL
25 DIFFERENT DESCRIPTIONS OF APPROXIMATELY WHERE THE PILE WAS.

1 YOU SAID-- YOU SAID YOU HAD JUST STARTED TO WALK AWAY. IS
2 THAT CORRECT?

3 A YES. I GOT MAYBE TWENTY-FIVE FEET FROM THE HOUSE.

4 Q AND SO, WHERE WERE YOU?

5 A I WAS, ROUGHLY, HERE, MAYBE.

6 Q IS THAT JUST TO THE LEFT OF RYAN'S HOUSE, ON THE
7 SIDEWALK?

8 A YEAH, TO THE LEFT OF HIS, YEAH.

9 Q OKAY. WHERE WAS THE PILE? WAS IT IN FACT ON THE
10 SIDEWALK?

11 A YEAH, IT WAS ON THE SIDEWALK, AND THEN ON THE GRASS
12 OVER HERE ON THE SIDE OF THE HOUSE, PRETTY MUCH RIGHT BY THIS
13 LITTLE LINE.

14 Q SO, HOW FAR ARE YOU FROM THE PILE?

15 A UP HERE AT THE TIME.

16 Q IN FEET, APPROXIMATELY?

17 A FIFTEEN FEET, MAYBE.

18 Q DID YOU SEE LEO-- WHEN DID YOU SEE LEO?

19 A I DIDN'T SEE LEO. I WALKED RIGHT ON BY HIM. I WASN'T
20 PAYING NO ATTENTION. I WAS JUST, YOU KNOW, LIKE EVERYBODY
21 ELSE, YOU KNOW, WHATEVER. I HAD MY HAND UP IN THE AIR. HE
22 WAS-- RYAN WAS, JUST KEEP ON.

23 Q TO YOUR KNOWLEDGE, WAS THE CONVERSATION WITH MR.
24 LOCHBAUM OVER?

25 A AS FAR AS I WAS---

- 1 Q BETWEEN YOU AND HIM?
- 2 A AS FAR AS I WAS CONCERNED, YES.
- 3 Q WAS IT A LOUD, BOISTEROUS CONVERSATION?
- 4 A I GOT A LITTLE LOUD AND HE GOT LOUD.
- 5 Q YOU---
- 6 A I GOT A LITTLE LOUD.
- 7 Q SO, DID YOU SEE-- YOU CAN HAVE A SEAT.
- 8 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)
- 9 DID YOU SEE LEO-- STRIKE THAT. WHEN WAS THE FIRST TIME
- 10 THAT YOU SAW LEO?
- 11 A THE FIRST?
- 12 Q AT RYAN'S LOCHBAUM'S RESIDENCE.
- 13 A WHEN I WAS WALKING AWAY.
- 14 Q WERE THEY ALREADY ON THE GROUND OR WAS HE...?
- 15 A NO, HE WAS IN THE PROCESS OF GOING TOWARDS THEM, OR,
- 16 YOU KNOW, LIKE,-- I GUESS I WAS HERE, AND, SAY, HE WAS HERE.
- 17 Q HOW CLOSE WAS HE TO YOU?
- 18 A TEN FEET, FIFTEEN FEET MAYBE.
- 19 Q WAS THAT A SHOCK TO YOU?
- 20 A YES.
- 21 Q SO, THEN WHAT HAPPENED?
- 22 A WELL, LIKE THEY SAID, IT WAS A DOG PILE, AND EVERYBODY
- 23 WAS JUST TRYING TO PULL EVERYBODY OFF OF EACH OTHER.
- 24 Q NO QUESTION YOU WERE IN THE DOG PILE?
- 25 A ABSOLUTELY.

1 Q THE REASON YOU GOT IN THE DOG PILE WAS WHAT?

2 A BECAUSE THERE WAS TWO GUYS ON TOP OF MY BROTHER-IN-
3 LAW.

4 Q DID YOU IN ANY WAY INITIATE THAT DOG PILE?

5 A NO, I DID NOT.

6 Q THEN WHAT HAPPENED?

7 A WELL, AS YOU HEARD, RYAN GOT UP WITH THE GUN. MR.
8 HARRIS STEPPED OFF TO THE SIDE AND SAID YOU GUYS SHOULD GET
9 OUT OF HERE. RYAN SAID GET THE HELL OUT OF HERE. HELD UP THE
10 GUN UP IN THE AIR AND PULLED OUT THE HAMMER.

11 AND HE SAID, THE PROBLEM IS WITH-- I DON'T KNOW THE
12 EXACT WORDS. SOME IDIOTS KNOW HOW TO HOLD A GUN BUT I KNOW
13 HOW TO USE ONE. AND THEN HE KIND OF PUT THE HAMMER BACK TO,
14 I GUESS, YOU KNOW, DE-HAMMERTIZE (SIC) IT, SAY.

15 AND LEO, YOU KNOW, I HELPED LEO UP, AND KIND OF GOT HIM
16 BACK TO THE TRUCK.

17 Q TO YOUR KNOWLEDGE, HAD YOUR BROTHER-IN-LAW HAD ANY
18 BACK PROBLEMS PRIOR TO THIS INCIDENT?

19 A YEAH. HE HAD BACK SURGERY, LIKE, FOUR OR FIVE MONTHS
20 PRIOR.

21 Q YOU WERE AWARE OF THAT?

22 A YES, I WAS.

23 Q AND Y'ALL-- AFTER THAT, IS THAT WHEN YOU HEADED BACK
24 DOWN THE STREET?

25 A YEAH.

- 1 Q OKAY.
- 2 A WE WALKED UP THE SIDEWALK.
- 3 Q DID YOU RUN OR WALK?
- 4 A WE WALKED AT A FAST WALK, AS FAST AS HE COULD HOBBLE.
- 5 Q AND WHOSE VEHICLE WAS IT?
- 6 A MY DAUGHTER'S.
- 7 Q DESCRIBE THAT VEHICLE TO THE LADIES AND GENTLEMEN OF
- 8 THE JURY.
- 9 A IT'S A '98 TOYOTA FORERUNNER, GREEN IN COLOR.
- 10 Q THEN WHAT'D YOU DO?
- 11 A HE GOT IN THE TRUCK. I GOT IN THE TRUCK, STARTED IT UP.
- 12 Q WHO WAS DRIVING?
- 13 A I WAS.
- 14 Q THEN WHAT?
- 15 A STARTED DRIVING, TURNED ON THE LIGHTS, AND HANGED THE
- 16 CORNER TO GET BACK ONTO, I GUESS IT'S CALLED OGDEN ROAD. AND
- 17 I STARTED HEADING BACK HOME, AND I WAS, LIKE, JUST IN SHOCK OF
- 18 WHAT HAPPENED.
- 19 Q HOW SOON AFTER THAT WERE YOU PULLED OVER
- 20 APPROXIMATELY?
- 21 A MAYBE FORTY-FIVE SECONDS AFTER THAT, A MINUTE AFTER I
- 22 STARTED DRIVING. I MEAN IT WAS (SNAP OF FINGERS) REAL FAST.
- 23 Q DID YOU HAVE A CONVERSATION WITH THE LAW ENFORCEMENT
- 24 OFFICERS WHO PULLED YOU OVER?
- 25 A YES, I DID.

1 Q DID YOU TALK TO JUST ONE OFFICER? YOU SAW OFFICER
2 WATSON HERE. DID YOU TALK TO OFFICER REID AS WELL? DO YOU
3 RECALL?

4 A THERE WAS TWO OFFICERS THERE. I MAINLY TALKED TO ONE,
5 OFFICER WATSON, I BELIEVE IT IS.

6 Q OKAY. AND BASED UPON-- HOW LONG DID THAT LAST?

7 A WE WERE THERE TALKING TO HIM FOR MAYBE TEN MINUTES.

8 Q AND WHO WAS SPEAKING WITH YOUR BROTHER-IN-LAW, MR.
9 LEMIRE?

10 A IT WAS ANOTHER OFFICER. I DIDN'T GET HIS NAME.

11 Q BASED UPON YOUR CONVERSATION WITH THE OFFICER, WERE
12 YOU ARRESTED?

13 A NO, I WAS NOT.

14 Q DID YOU TELL THAT OFFICER WHAT HAPPENED ON THAT NIGHT?

15 A YES, I DID.

16 Q BASED UPON HIS CONVERSATION WITH THE OFFICER, WAS LEO
17 PRESENT THAT NIGHT?

18 A YES, HE WAS.

19 Q SO, THEN YOU-- THEN WHAT'D YOU DO?

20 A SHOOK THE OFFICER'S HAND AND HOPPED IN MY TRUCK AND
21 DROVE HOME.

22 Q DID YOU MAKE ANY PHONE CALLS ON THE WAY HOME?

23 A YES, I DID.

24 Q TO WHOM?

25 A MR. LOCHBAUM.

- 1 Q ANYBODY ELSE?
- 2 A MY WIFE.
- 3 Q WHY WAS THAT? WHY DID YOU CALL KERRIANN?
- 4 A TO LET HER KNOW WHAT HAD JUST HAPPENED.
- 5 Q TELL THE LADIES AND GENTLEMEN OF THE JURY ABOUT YOUR
- 6 CONVERSATION WITH MR. LOCHBAUM.
- 7 A WELL, I DIDN'T KNOW HIS PHONE NUMBER. SO, WHEN I WAS
- 8 TALKING TO MY WIFE, SHE MENTIONED IS EVERYBODY OKAY. AND I
- 9 WAS, LIKE, YEAH. AND HE STARTED GOING CRAZY ON THE PHONE
- 10 AGAIN.
- 11 Q SO, WHAT'D YOU DO?
- 12 A I HUNG UP THE PHONE.
- 13 Q NOW, TURNING YOUR ATTENTION BRIEFLY BACK TO THE PILE OF
- 14 FOLKS, OVER HERE ON THE SIDEWALK. IS THERE ANY QUESTION THAT
- 15 YOU TRIED TO GET MR. LOCHBAUM OFF YOUR BROTHER-IN-LAW?
- 16 A THERE'S NO QUESTION I TRIED. THERE WAS TWO GUYS ON HIM.
- 17 Q DID YOU EVER HIT MR. LOCHBAUM OR ANYONE ELSE IN THE
- 18 PILE?
- 19 A I NEVER SWUNG AT ANYBODY.
- 20 Q WHAT WAS MR. LEMIRE SAYING AT THAT TIME?
- 21 A HE'S MESSING WITH MY FAMILY, OR SOMETHING TO THAT
- 22 EFFECT. EVERYBODY WAS-- THERE WAS A LOT OF HOOTING AND
- 23 HOLLERING GOING ON.
- 24 Q THE NEXT DAY, WHAT'D YOU DO?

1 A I WOKE UP THAT MORNING, WITH WHAT LITTLE SLEEP I HAD
2 AND WENT TO GO BAIL HIM OUT.

3 Q WHAT TIME, IF YOU RECALL-- WHO CAME? I'M SORRY.

4 A I WENT BY MYSELF AT 8:30 IN THE MORNING. I WAS THERE
5 BECAUSE THEY SAID HE'D BE ARRAIGNED PROBABLY AROUND TEN
6 O'CLOCK. SO, I WENT TO TRY TO GET HIM OUT AT TEN O'CLOCK. AT
7 THAT POINT IN TIME A BAILIFF SAID IT'S GONNA BE A LITTLE BIT
8 LONGER THAN THAT.

9 Q SO, THEN WHAT HAPPENED?

10 A MR. LOCHBAUM CAME WALKING IN THE COURTHOUSE.

11 Q APPROXIMATELY WHAT TIME WAS THAT?

12 A I GOT THERE AT NINE. HE WAS THERE AT FIVE AFTER NINE,
13 MAYBE.

14 Q OKAY.

15 A AND HE WAS LOOKING ASTONISHED BECAUSE I WASN'T LOCKED
16 UP, AND SAID SOMETHING. I CAN'T REMEMBER WHAT HE SAID. I
17 DIDN'T PAY HIM NO ATTENTION. THE LITTLE BAILIFF GUY TOLD HIM
18 NOT TO TALK TO ME ANYMORE.

19 Q THE BAILIFF SAID WHAT?

20 A TO MR. LOCHBAUM NOT TO MAKE CONTACT WITH ME, BECAUSE
21 RYAN KEPT ON SAYING STUFF TO ME WHILE WE WERE SITTING IN
22 THERE, AND HE'S, LIKE, YOU DON'T SAY NOTHING TO HIM, AND HE
23 DON'T SAY NOTHING TO YOU. I'M, LIKE, I'M FINE WITH THAT.

24 Q THEN WHAT HAPPENED?

- 1 A THEY CAME OUT AND THEY SAID THEY WON'T BEEN SEEN TILL
2 TWO O'CLOCK UNTIL SOMETHING, SOME TYPE OF COURT, DISTRICT
3 JUDGE OR SOMETHING COMES IN. SO, I LEFT FOR DUNKIN
4 DOUGHNUTS TO GET ME A COFFEE.
- 5 Q DID YOU COME BACK?
- 6 A YES, I DID.
- 7 Q THEN WHAT HAPPENED?
- 8 A I WAS PLACED UNDER ARREST.
- 9 Q WHERE WAS THAT?
- 10 A INSIDE THE COURTHOUSE, WAITING TO GO IN TO BOND LEO OUT.
- 11 Q WHO WAS PRESENT?
- 12 A MY WIFE WAS THERE. MY SISTER-IN-LAW WAS THERE. MR.
13 LOCHBAUM WAS THERE WITH THE OFFICER SITTING RIGHT THERE.
- 14 Q YOU MEAN DETECTIVE HERRING?
- 15 A DETECTIVE HERRING.
- 16 Q IS DETECTIVE HERRING THE ONE WHO SERVED WARRANTS ON
17 YOU, IF YOU RECALL?
- 18 A YES, HE'S THE ONE THAT SERVED HIM, TOO.
- 19 Q YOU STATED THAT MR. LOCHBAUM WAS THERE?
- 20 A YES.
- 21 Q AND DO YOU RECALL ANYTHING THAT MR. LOCHBAUM SAID TO
22 DETECTIVE HERRING?
- 23 A YEAH. HE SAID, SEE, HERE'S THE PROOF THAT THEY TRIED
24 LURING ME OUT TO KNIGHTS' STADIUM.

1 Q TO YOUR KNOWLEDGE, DID ANYONE CALL RYAN LOCHBAUM TO
2 BE THERE, YOU, KERRIANN OR LEO?

3 A NO, NONE OF US CALLED HIM OUT.

4 Q OR ANYONE AUTHORIZED TO DO SO BY POP-A-LOCK?

5 A NOBODY CALLED HIM OUT.

6 MR. RHEA: BEG THE COURT'S INDULGENCE.

7 THE COURT: SURE.

8 (PAUSE)

9 Q ONCE AGAIN, MR. LARMAND, DID YOU EVER ATTEMPT TO LURE
10 MR. LOCHBAUM INTO THIS---

11 A NO, I JUST---

12 Q ---DARKENED BERM AREA?

13 A NO SIR.

14 Q TO YOUR KNOWLEDGE, DURING YOUR INTERACTION WITH HIM,
15 DID HE EVER GO INTO THAT AREA?

16 A NO, HE DID NOT.

17 Q DID YOU GO DOWN TO MR. LOCHBAUM'S HOUSE WITH THE
18 INTENTION OF POINTING A FIREARM AT HIM?

19 A NO SIR.

20 Q OR FOR ANYBODY TO POINT A FIREARM AT HIM?

21 A NO SIR.

22 Q OR TO GET INTO A FIGHT WITH HIM?

23 A NO SIR.

24 Q WHY'D YOU GO?

1 A JUST TO TELL HIM TO LEAVE MY WIFE'S COMPANY ALONE, STOP
2 PLAYING-- IF YOU WANT THIS GUY, JUST TAKE HIM. JUST LEAVE US
3 ALONE. THAT'S IT.

4 MR. RHEA: BEG THE COURT'S INDULGENCE, YOUR HONOR.
5 THE COURT: SURE.

6 (PAUSE)

7 Q DID YOU EVER SEE MR. LOCHBAUM BRING A SHOTGUN OUT OF
8 HIS HOUSE?

9 A NO SIR.

10 Q WERE YOU HEADED UP THE STREET?

11 A I DIDN'T LOOK BACK.

12 Q DO YOU RECALL ANYBODY YELLING ANYTHING TO YOU OR
13 ANYTHING LIKE THAT?

14 A I DIDN'T PAY ATTENTION.

15 MR. RHEA: NO FURTHER QUESTIONS, YOUR HONOR.

16 THE COURT: MR. GREELEY, CROSS EXAMINATION.

17 MR. GREELEY: MAY IT PLEASE THE COURT.

18 **CROSS EXAMINATION BY MR. GREELEY:**

19 Q GOOD AFTERNOON, MR. LARMAND.

20 A GOOD AFTERNOON.

21 Q NOW, IT'S BEEN TALKED ABOUT A LOT, 10:42, THERE'S BEEN
22 SHOWN A CALL FROM MR. LOCHBAUM TO MIKE TAYLOR. CORRECT?

23 A CORRECT.

- 1 Q AND ALSO CALLS FROM MIKE TAYLOR TO MR. LOCHBAUM.
- 2 OKAY? THAT'S AT 10:42. NOW, YOU CALLED KERRIANN WHEN YOU
- 3 WERE ON YOUR WAY DOWN TO ROCK HILL. ISN'T THAT CORRECT?
- 4 A CORRECT.
- 5 Q AND YOU CALLED HER IN FACT SEVERAL TIMES, DIDN'T YOU?
- 6 A YES.
- 7 Q AND YOU CALLED HER ABOUT 11:07. ISN'T THAT CORRECT?
- 8 A IT COULD BE, YEAH.
- 9 Q AND THEN YOU THEN CALLED HER AT 11:32 AGAIN, DIDN'T YOU?
- 10 A YES, I DID.
- 11 Q AND Y'ALL ARE TALKING A GOOD MANY MINUTES---
- 12 A YES.
- 13 Q ---DURING THESE CALLS. ISN'T THAT CORRECT?
- 14 A YEAH. ALL THE WAY DOWN 77 I WAS TALKING TO HER.
- 15 Q AND THEN YOU CALLED HER AT 11:54, DIDN'T YOU?
- 16 A YES, I DID.
- 17 Q AND THAT WAS THE LAST TIME YOU CALLED HER BEFORE YOU
- 18 WENT UP TO TALK TO MR. LOCHBAUM. CORRECT?
- 19 A CORRECT.
- 20 Q AND THAT WAS AT 11:54. CORRECT?
- 21 A CORRECT.
- 22 Q IS IT A FAIR STATEMENT TO SAY THAT YOU DIDN'T SPEND A LOT
- 23 OF MINUTES TALKING TO YOUR BROTHER-IN-LAW ON THE WAY DOWN
- 24 THERE?
- 25 A IT'S FAIR TO SAY THAT, YEAH.

1 Q YOU WERE ON THE PHONE WITH WHO MOST OF THE TIME?

2 A MY WIFE.

3 Q MY CLIENT STAYED IN THE TRUCK, TO YOUR KNOWLEDGE AT
4 THE TIME YOU WENT UP THERE. CORRECT?

5 A CORRECT.

6 Q DID YOU EVER SEE HIM GET OUT OF THE TRUCK?

7 A NEVER ONCE.

8 Q YOU HAD YOUR BACK TO THE TRUCK WALKING UP TO SEE MR.
9 LOCHBAUM?

10 A CORRECT.

11 Q AND WHEN YOU WERE TALKING WITH MR. LOCHBAUM, MY
12 CLIENT WOULD HAVE BEEN WALKING TOWARDS THE HOUSE AREA, UP
13 THE SIDEWALK. CORRECT?

14 A I GUESS. YEAH.

15 Q SO, Y'ALL WOULD HAVE BEEN LOOKING DIFFERENT WAYS.
16 CORRECT?

17 A YEAH. I WOULD HAVE NEVER SEEN HIM COMING.

18 Q BUT HE WOULD BEEN LOOKING PAST YOU?

19 A YES.

20 Q DID YOU HAVE YOUR BACK TO THE AREA WHERE THE OTHER
21 PEOPLE WERE?

22 A I WAS STANDING IN THE STREET. AND THEN WHEN I TURNED
23 AROUND TO WALK AWAY BECAUSE I WAS THROUGH TALKING WITH
24 MR. LOCHBAUM, MY BACK WAS TOWARDS EVERYBODY.

25 Q YOUR BACK WAS TOWARDS EVERYBODY?

1 A YES.

2 Q YOU COULDN'T SEE WHAT, IF ANYTHING, WAS HAPPENING
3 BEHIND YOU?

4 A I HAD NO IDEA.

5 MR. GREELEY: THAT'S ALL I HAVE FOR NOW, YOUR HONOR.

6 THE COURT: SOLICITOR.

7 MS. JOYNER: THANK YOU, YOUR HONOR.

8 **CROSS EXAMINATION BY MS. JOYNER:**

9 Q MR. LARMAND, WHAT WAS WRONG WITH YOUR CAR?

10 A WITH MY CAR?

11 Q YEAH.

12 A I HAVE A VAN. I DON'T HAVE A CAR.

13 Q WHAT WAS WRONG WITH YOUR VAN?

14 A NOTHING. IT SAYS POP-A-LOCK ALL OVER IT.

15 Q OH... SO, THAT'S WHY YOU BROUGHT YOUR DAUGHTER'S,
16 ASHLEY'S, CAR?

17 A NO. I WAS DRIVING IT ALL DAY BECAUSE I HAD JUST GOT DONE
18 WORKING ON IT.

19 Q AND THAT'S YOUR DAUGHTER'S PRIMARY CAR. CORRECT?

20 A YES.

21 Q YOU DON'T FREQUENTLY DRIVE IT, DO YOU?

22 A NO, NOT OFTEN. EVERY NOW AND AGAIN WHEN I HAVE TO
23 SERVICE IT FOR HER.

24 Q IT WOULD HAVE BEEN A CAR THAT RYAN LOCHBAUM WASN'T
25 FAMILIAR WITH. ISN'T THAT CORRECT?

1 A I DON'T KNOW. I THINK HE SEEN IT WHEN I BOUGHT IT. I'M NOT
2 SURE.

3 Q DID HE SEE YOU IN IT A WHOLE BUNCH?

4 A I COULDN'T TELL YOU.

5 Q WAS IT A CAR THAT YOU FELT LIKE YOU COULD DRIVE PAST HIS
6 HOUSE AT NIGHT WITH PEOPLE IN THE DRIVEWAY AND IT WOULDN'T
7 ATTRACT ATTENTION?

8 A I DIDN'T EVEN THINK OF IT THAT WAY.

9 Q BUT YOU DID THINK THAT YOUR POP-A-LOCK VAN WOULD
10 ATTRACT ATTENTION?

11 A OH, ABSOLUTELY. WHEN YOU'RE SETTING UP A CALL TO SEE IF
12 SOMEONE'S GONNA TAKE IT, YEAH. THEY'RE GONNA SAY WELL,
13 ANOTHER DRIVER'S ALREADY HERE.

14 Q WELL, IF ANOTHER DRIVER WAS ALREADY THERE, WOULDN'T A
15 LEGITIMATE CALL PERSON JUST KIND COME AROUND AND SAY, HEY?

16 A WELL, IF YOU'RE TRYING TO DO A MYSTERY CALL, WHY WOULD
17 YOU ALREADY HAVE A POP-A-LOCK VAN THERE?

18 Q SO, IN FACT, THE CAR, ASHLEY'S CAR THAT YOU TOOK
19 WOULDN'T HAVE BEEN SOMETHING THAT WOULD HAVE BEEN
20 READILY FAMILIAR TO ANY OF YOUR POP-A-LOCK EMPLOYEES,
21 WOULD IT?

22 A NO. A FEW OF THEM HAVE SEEN IT.

23 Q WELL, HOW WOULD THAT HAVE BEEN MORE EFFECTIVE THAN A
24 HUGE POP-A-LOCK VAN, THEN, SITTING IN THE PARKING LOT, AS YOU
25 WERE SAYING?

1 A BECAUSE IT WAS JUST SITTING OFF TO THE SIDE.

2 Q OH, OKAY. SO, YOU WEREN'T GOING THERE TO GET RYAN

3 LOCHBAUM?

4 A NO.

5 Q AT THE POINT IN TIME WHEN YOU MADE THE DECISION TO GO
6 TO RYAN LOCHBAUM'S HOUSE YOU HAD ABSOLUTELY NO PROOF THAT
7 MIKE TAYLOR WAS SENDING HIM BUSINESS OR ANYTHING OF THE
8 KIND, DID YOU?

9 A IT WASN'T ABOUT GOING THERE TO SEE IF HE WAS SENDING HIM
10 BUSINESS. I WANTED TO SEE IF ANY OF MY EMPLOYEES WAS THERE
11 OR A RED CAR WAS THERE WITH MAGNETS ON IT. THAT'S ALL.

12 Q THAT'S THE ONLY REASON YOU WENT, ---

13 A YES MA'AM.

14 Q ---TO SEE IF YOUR EMPLOYEES WERE THERE OR IF THERE WAS A
15 CAR WITH RED MAGNETS ON IT?

16 A YES MA'AM.

17 Q AND YOU DRIVE PAST THE HOUSE?

18 A YES MA'AM.

19 Q AND THOSE THREE GUYS THAT YOU SAW IN THE DRIVEWAY,
20 WERE ANY OF THEM YOUR EMPLOYEES?

21 A I COULDN'T TELL BECAUSE THEY ALL HAD THEIR HEADS INSIDE
22 HIS VAN.

23 Q DID YOU SEE ANY MAGNETS, ANY POP-A-LOCK MAGNETS
24 SITTING ON ANY CARS?

25 A NO MA'AM.

1 Q SO, FOR YOUR TWO PURPOSES, RIGHT OFF THE BAT, ON YOUR
2 DRIVE THROUGH CHECK, NO MAGNETS?

3 A UH-HUH.

4 Q SO, IF ALL YOU WERE GOING TO DO THEN, THE SECOND THING,
5 THE REASON FOR PARKING ALL THE WAY DOWN THE STREET, IS YOU
6 WANTED TO PARK ALL THE WAY DOWN THE STREET JUST TO WALK UP
7 AND SEE IF ANY OF THOSE THREE GUYS IN THE DRIVEWAY WERE
8 YOUR EMPLOYEES?

9 A WELL, WHEN I SEEN HE WAS OUTSIDE I WANTED TO SAY, HEY,
10 JUST LEAVE THE COMPANY ALONE. IF HE WASN'T OUTSIDE I WOULD
11 HAVE KEPT ON GOING.

12 Q OH, I'M SORRY. I CONFUSED. BECAUSE I THOUGHT YOU DIDN'T
13 SEE HIM.

14 A WELL, OBVIOUSLY, LIKE I SAID, I ASSUMED HE WAS THERE
15 BECAUSE HIS VAN WAS THERE AND THERE WAS THREE GUYS IN HIS
16 VAN.

17 Q BUT YOU DIDN'T SEE HIM?

18 A NO MA'AM.

19 Q AND YOU DIDN'T THINK OF JUST STOPPING AND PARKING IN
20 FRONT OF HIS HOUSE TO ASK HIM A QUICK QUESTION OR SAY
21 SOMETHING TO HIM?

22 A NO. I DIDN'T WANT MY BROTHER-IN-LAW TO GET INVOLVED
23 WITH ANYTHING.

24 Q YOU DIDN'T WANT YOUR BROTHER-IN-LAW TO GET INVOLVED
25 WITH ANYTHING?

- 1 A YES.
- 2 Q WHAT WOULD HE GET INVOLVED WITH?
- 3 A THERE AIN'T NO TELLIN' WHAT'S GONNA HAPPEN, YOU KNOW.
- 4 Q THERE'S NO TELLING WHAT'S GONNA HAPPEN?
- 5 A NO.
- 6 Q BECAUSE WHEN YOU GO TO SOMEBODY'S HOUSE AT MIDNIGHT
- 7 IT'S NORMALLY ABOUT TROUBLE, ISN'T IT?
- 8 A NO, NOT NECESSARILY.
- 9 Q IS THAT HOW YOU NORMAL DO YOUR BUSINESS CALLS,
- 10 COMPANY BUSINESS CALLS, UNANNOUNCED AT MIDNIGHT?
- 11 A IT WASN'T A BUSINESS CALL.
- 12 Q WELL, WHAT WAS IT?
- 13 A IT WAS JUST TO SEE IF THERE WAS EMPLOYEES THERE.
- 14 Q BUT YOU CHANGED YOUR PURPOSE WHEN YOU GOT THERE,---
- 15 A NO,---
- 16 Q ---TO SEE IF THOSE WERE YOUR EMPLOYEES THERE?
- 17 A --- I NEVER CHANGED MY PURPOSE.
- 18 Q SO, YOU WALKED UP TO SEE IF THERE WERE EMPLOYEES THERE,
- 19 AND WERE THOSE MEN YOUR EMPLOYEES?
- 20 A NO, THEY WERE NOT.
- 21 Q AND WHILE YOU WERE THERE, DID YOU DECIDE YOU WERE
- 22 GONNA HAVE AN ARGUMENT WITH RYAN?
- 23 A IT WASN'T SUPPOSED TO BE AN ARGUMENT, MA'AM.
- 24 Q IT WASN'T SUPPOSED TO BE AN ARGUMENT?
- 25 A NO MA'AM.

- 1 Q IT WASN'T SUPPOSED TO BE AN ARGUMENT, BUT YOU DIDN'T
2 WANT LEO TO GET INVOLVED IN ANYTHING.
- 3 A YEAH. HE HAS NO-- HE'S NOT PART OF THE BUSINESS.
- 4 Q SO, NO TELLING WHAT COULD HAPPEN?
- 5 A HE'S NOT PART OF THE BUSINESS.
- 6 Q RIGHT. AND THERE'S NO TELLING, THERE'S NO TELLING WHAT
7 COULD HAPPEN?
- 8 A OBVIOUSLY, WHAT HAPPENED, IT WAS PRETTY ABSURD WHAT
9 HAPPENED.
- 10 Q FRANK, BUT, ISN'T IT YOUR TESTIMONY THAT LEO CAUSED
11 WHAT HAPPENED?
- 12 A I DON'T KNOW IF HE CAUSED WHAT HAPPENED.
- 13 Q WELL, I MEAN, I'M GOING TO TRY TO GET THE TIME LINE RIGHT,
14 BECAUSE THIS IS SOMETHING THAT I'M GETTING A LITTLE CONFUSED
15 ABOUT.
- 16 A OKAY.
- 17 (WHEREUPON SOLICITOR EMPLOYS USE OF DRY ERASE BOARD)
- 18 Q NOW, WHAT TIME DID YOU GET TO THE KNIGHTS' STADIUM
19 PARKING LOT?
- 20 A I WOULD HAVE TO SAY IT WAS SOMEWHERE AROUND 10:00, 10:11,
21 10:12, SOMEWHERE IN THERE.
- 22 Q OKAY, 10:12. SO, WHAT TIME WOULD YOU HAVE LEFT
23 KANNAPOLIS TO COME DOWN TO KNIGHTS' STADIUM.
- 24 A I LEFT KANNAPOLIS, IT WAS PROBABLY ABOUT 9:15.
- 25 Q DID LEO RIDE WITH YOU?

- 1 A YES, HE DID.
- 2 Q OKAY. I WANT YOU TO BE ABLE TO SEE WHAT I'M WRITING SO
- 3 YOU CAN STOP ME IF I'M WRITING ANYTHING WRONG.
- 4 SO, IS THIS ABOUT RIGHT, 10:14, THE CALL GOES IN?
- 5 A YES.
- 6 Q AND THEN HOW LONG DID YOU WAIT IN THE PARKING LOT
- 7 BEFORE YOU ASKED KERRIANN TO DO AN ETA CALL?
- 8 A ABOUT THIRTY MINUTES.
- 9 Q SO, 10:45. HOW LONG AFTER THAT CALL DID YOU WAIT FOR?
- 10 A MAYBE TWENTY-FIVE, ANOTHER THIRTY MINUTES, MAYBE.
- 11 Q ANOTHER TWENTY-FIVE, THIRTY MINUTES. THAT PUTS US AT
- 12 11:15. ELEVEN-FIFTEEN, YOU LEAVE?
- 13 A ROUGHLY, YEAH. I DIDN'T LOOK AT THE CLOCK, SO, ROUGHLY, I
- 14 WOULD SAY.
- 15 Q HOW LONG DID IT TAKE YOU TO GET GAS?
- 16 A MAYBE FIVE MINUTES, TEN MINUTES, TOPS.
- 17 Q SO, 11:20?
- 18 A FAIR TO SAY.
- 19 Q TO GET GAS?
- 20 A FAIR TO SAY.
- 21 Q NOW, HOW LONG DID IT TAKE YOU FROM THE TIME YOU GOT
- 22 GAS TO GET TO RYAN LOCHBAUM'S HOUSE?
- 23 A PROBABLY ABOUT TWENTY-FIVE MINUTES.
- 24 Q TWENTY-FIVE MINUTES?
- 25 A YES.

- 1 Q AND WHAT TIME DID YOU PARK THE CAR?
- 2 A OVER AT RYAN'S PLACE?
- 3 Q YEAH.
- 4 A I WASN'T LOOKING AT THE CLOCK, MA'AM. I DON'T KNOW.
- 5 Q SO, WE'LL JUST LEAVE IT AT 11:45. OKAY?
- 6 A THAT'S FAIR ENOUGH.
- 7 Q HOW LONG DID IT TAKE YOU TO WALK TO HIS HOUSE?
- 8 A IT TOOK ME LESS THAN THIRTY-FIVE, FORTY SECONDS TO WALK
- 9 TO HIS HOUSE.
- 10 Q OKAY.
- 11 A MAYBE A MINUTE.
- 12 Q OKAY. AND HOW LONG DID YOU STAND IN HIS DRIVEWAY
- 13 LOOKING AT HIM?
- 14 A IT FELT LIKE FOREVER. IT COULD HAVE BEEN A COUPLE
- 15 MINUTES.
- 16 Q OKAY, A COUPLE MINUTES. SO, MAYBE WE'RE AT 11:50, NOW,
- 17 MAYBE?
- 18 A YEAH, THAT'S FAIR TO SAY.
- 19 Q (WRITING ON DRY ERASE BOARD) THAT'S WHEN YOU START
- 20 TALKING TO RYAN. HOW LONG DID YOU TALK TO RYAN?
- 21 A JUST BRIEFLY, MAYBE THREE MINUTES OR SO.
- 22 Q THREE MINUTES?
- 23 A THREE, FOUR MINUTES, MAYBE.
- 24 Q AND THEN YOU---
- 25 A STARTED WALKING AWAY.

1 Q YOU STARTED WALKING AWAY?

2 A YES MA'AM.

3 Q HOW LONG AFTER YOU START WALKING AWAY DOES LEO
4 APPEAR?

5 A IT WAS THREE SECONDS, FOUR SECONDS.

6 Q THREE SECONDS, FOUR SECONDS. HOW LONG DID IT TAKE YOU
7 TO GET TO THE CAR?

8 A MAYBE FORTY-FIVE SECONDS TO A MINUTE.

9 Q HOW LONG AFTER YOU GET IN THE CAR DO THE POLICE PULL
10 YOU OVER?

11 A MAYBE A MINUTE, MINUTE AND A HALF, MAYBE. IT WASN'T
12 VERY LONG AT ALL. THEY RESPONDED QUITE FAST.

13 Q SO, WE'RE SOMEWHERE AROUND 12:00, NOW, YOU'RE PULLED
14 OVER?

15 A I'M GUESSING, YES.

16 Q OKAY. SO, JUST HELP ME UNDERSTAND. FROM THE TIME YOU
17 ARRIVE AT THE PARKING LOT AT 10:12, ---

18 A UH-HUH.

19 Q ---NOT KNOWING WHO YOU'RE EXPECTING---

20 A UH-HUH.

21 Q ---FROM THE TIME THAT YOU GET GAS---

22 A UH-HUH.

23 Q ---AT 11:20, WHAT'S CHANGED IN YOUR MIND THAT NOW YOU'RE
24 GONNA GO AHEAD AND GO OVER TO RYAN LOCHBAUM'S HOUSE?

- 1 A BECAUSE I TALKED TO MY WIFE AND SAID NO ONE EVER
2 SHOWED.
- 3 Q NO ONE EVER SHOWED. SO, NO ONE EVER SHOWED, SO IT MUST
4 BE RYAN?
- 5 A NO. I DIDN'T SAY THAT.
- 6 Q WHEN YOU GOT OVER THERE, IF YOU WERE GOING OVER THERE
7 TO SEE IF YOUR EMPLOYEES WERE THERE, WHY DID YOU SAY TO HIM--
8 WHAT IT YOUR TESTIMONY, "I KNOW WHAT YOU'RE DOING."?
- 9 A YES.
- 10 Q "YOU'RE BUSTED."
- 11 A I DIDN'T SAY YOU'RE BUSTED.
- 12 Q BUT YOU DID SAY, I KNOW WHAT YOU'RE DOING.
- 13 A I DIDN'T---
- 14 Q AND YOU KNEW BY THAT---
- 15 A I DIDN'T SAY, I KNOW WHAT YOU'RE DOING.
- 16 Q WHAT DID YOU SAY?
- 17 A I SAID, YOU KNOW WHAT I'M HERE FOR.
- 18 Q YOU KNOW WHAT I'M HERE FOR?
- 19 A YES.
- 20 Q AND THEN WHAT WAS THE NEXT THING THAT YOU SAID?
- 21 A LEAVE US ALONE, LEAVE THE COMPANY ALONE.
- 22 Q LEAVE US ALONE, LEAVE THE COMPANY ALONE?
- 23 A YES.
- 24 Q AND BY THAT YOU MEANT?

1 A STOP PLAYING WITH OUR COMPANY. STOP CONTACTING OUR
2 GUYS.

3 Q SO, THE NIGHT STARTS OUT, YOU'RE TRYING TO SEE WHO'S
4 STEALING BUSINESS AND YOU DON'T HAVE RYAN LOCHBAUM AS A
5 TARGET?

6 A NO MA'AM.

7 Q BUT IT CONCLUDES, WHEN NOBODY ARRIVES, NOBODY COMES
8 TO STEAL YOUR BUSINESS, YOU GO SEEK OUT RYAN LOCHBAUM?

9 A NO, I DIDN'T GO TO SEEK OUT RYAN LOCHBAUM.

10 Q OH, YOU DIDN'T GO TO HIS HOUSE?

11 A I DID GO TO HIS HOUSE.

12 Q OKAY.

13 A SO, WHEN YOU STOOD IN RYAN'S DRIVEWAY, YOU SAID YOU
14 STOOD THERE FOR ABOUT TWO TO THREE MINUTES, YOUR ARMS
15 CROSSED AND UNCROSSED---

16 A YEAH,---

17 Q ---AND YOU'RE, LIKE, HELLO? LIKE, HELLO?

18 A YEAH, LIKE, HELLO, I'M HERE.

19 Q SO, YOU DIDN'T JUST STAND THERE IN THE DRIVEWAY AND
20 DIDN'T SPEAK?

21 A I WAS STANDING IN THE STREET AT THE BOTTOM OF HIS
22 DRIVEWAY.

23 Q AND---

24 A AND THE GUYS LOOKED UP AT ME, LOOKED BACK IN THE VAN,
25 KEPT ON TALKING. I STOOD THERE FOR ANOTHER TWO, ANOTHER

- 1 MINUTE AND A HALF AND THEN SOMEONE FINALLY SAID, CAN I HELP
2 YOU.
- 3 Q YOU DON'T THINK THAT'S A LITTLE CREEPY?
- 4 A IT IS WEIRD.
- 5 Q IT'S CREEPY FOR YOU TO STAND IN THE STREET AND STARE AT A
6 GROUP OF PEOPLE, ISN'T IT?
- 7 A NO.
- 8 Q AND THAT'S NOT KIND OF CREEPY?
- 9 A NO, I DON'T THINK IT'S CREEPY. I WASN'T INVADING NOBODY'S
10 SPACE.
- 11 Q YOU WERE STANDING THERE STARING AT THEM?
- 12 A YES.
- 13 Q AND SO, MARK, AND YOU WOULDN'T KNOW HIS NAME, BUT A
14 GUY SAID, CAN I HELP YOU?
- 15 A YES MA'AM.
- 16 Q AND YOU SAID, I WANT TO TALK TO RYAN?
- 17 A I SAID, IS RYAN AVAILABLE, YES.
- 18 Q AND RYAN WAS SURPRISED TO SEE YOU?
- 19 A YES MA'AM.
- 20 Q BECAUSE HE DIDN'T EXPECT YOU?
- 21 A YES MA'AM.
- 22 Q AND HE DIDN'T EVEN KNOW HOW YOU KNEW WHERE HE LIVED?
- 23 A YES MA'AM.
- 24 Q IT'S ALMOST MIDNIGHT AT THIS POINT?
- 25 A YES.

1 Q AND YOU IMMEDIATELY ACCUSE HIM OF THINGS IN FRONT OF A
2 GROUP OF PEOPLE, DON'T YOU?

3 A YES, I DID ACCUSE HIM.

4 Q SO, YOU WERE UPSET?

5 A NO, I WASN'T UP-- I WAS UPSET THAT I EVEN HAD TO GO DOWN
6 THERE TO TELL HIM TO LEAVE THE BUSINESS ALONE. I MEAN, IT'S
7 BEEN SIX MONTHS; LET IT GO.

8 Q RIGHT. YOU JUST COULDN'T PICK UP THE PHONE AND CALL?

9 A I DIDN'T-- LIKE I TOLD YOU, I DIDN'T KNOW HIS CELL PHONE
10 NUMBER OFF THE TOP OF MY HEAD.

11 Q BUT KERRIANN KNEW HIS CELL PHONE NUMBER?

12 A YES MA'AM.

13 Q AND THAT'S YOUR WIFE?

14 A YES MA'AM.

15 Q THE LADY THAT YOU BRUSH YOUR TEETH WITH EVERYDAY?

16 A YOU COULD SAY THAT.

17 Q AND YOU TALK BUSINESS WITH HER?

18 A YEAH, WE DISCUSS THINGS ON OCCASION.

19 Q BECAUSE, REALLY, WHEN YOU TALK ABOUT POP-A-LOCK,
20 YOU'RE REALLY TALKING ABOUT YOUR OWN COMPANY, TOO, DON'T
21 YOU?

22 A NO, I DO NOT.

23 Q YOU DON'T?

24 A NO, I DO NOT.

1 Q YOU NEVER REFERRED TO RYAN LOCHBAUM AS YOUR FORMER
2 EMPLOYEE?

3 A I NEVER DID, MA'AM.

4 Q YOU NEVER DID?

5 A HE WORKED FOR MY WIFE'S COMPANY.

6 Q OKAY. WAS IT DARK IN RYAN'S NEIGHBORHOOD?

7 A NO, THERE WERE STREET LIGHTS RIGHT THERE AT THE EDGE,
8 AT EACH CORNER OF THE ROAD. AND I THINK MIGHT HAVE EVEN
9 BEEN ONE OR TWO IN THE MIDDLE OF THE ROAD. I DON'T--

10 Q WHAT ABOUT---

11 A ---RECALL.

12 Q I'M SORRY. I DIDN'T MEAN TO INTERRUPT YOU. WHAT WERE
13 YOU SAYING?

14 A I DIDN'T RECALL IF THERE WAS ONE IN THE MIDDLE OF THE
15 ROAD OR NOT.

16 Q IS THIS NEIGHBORHOOD IN THE COUNTRY, WOULD YOU SAY?

17 A I DON'T---

18 Q IT'S IN THE MIDDLE OF NOWHERE?

19 A I GUESS, IF THAT'S WHAT YOU'RE SAYING.

20 Q WAS IT QUIET?

21 A AT 12:00 AT NIGHT, YEAH, IT'S USUALLY QUIET.

22 Q SO, WHEN YOU LEFT YOUR CAR ON PLEASANT VIEW ROAD, IT'S
23 YOUR TESTIMONY YOU WALKED ALONE?

24 A YES MA'AM.

25 Q DID YOU WALK UP THE SIDEWALK?

- 1 A YEAH, I WALKED ALL THE WAY DOWN THE SIDEWALK, MA'AM.
- 2 Q AND YOU NEVER HEARD LEO LEMIRE FOLLOWING YOUR TRAIL?
- 3 A NO MA'AM.
- 4 Q IT WAS QUIET?
- 5 A YEAH, IT WAS QUIET, YES MA'AM.
- 6 Q IT SEEMS LIKE YOU WOULD HAVE HEARD SOMEBODY WALKING
- 7 UP BEHIND YOU, DOESN'T IT?
- 8 A IF THEY WERE WALKING UP BEHIND ME, YES.
- 9 Q BUT YOU WERE ONLY THERE FOR, WHAT, HOW LONG BEFORE
- 10 LEO APPEARED OUT OF THE DARKNESS?
- 11 A I COULDN'T TELL YOU. LIKE I SAID, MAYBE A MINUTE AND A
- 12 HALF. IT TOOK ME MAYBE A MINUTE TO WALK DOWN TO HIS HOUSE,
- 13 TALK TO HIM. THEN I STARTED WALKING AWAY. I WAS THERE MAYBE
- 14 A TOTAL OF FIVE MINUTES.
- 15 Q AND LEO IN THIS NEIGHBORHOOD JUST COMPLETELY SNUCK
- 16 (SIC) UP ON YOU?
- 17 A I WAS---
- 18 Q YOU HAD NO IDEA HE WAS OUT OF THE CAR?
- 19 A I WAS TALKING TO RYAN AND RYAN WAS BEING AWFUL LOUD.
- 20 Q NOW, CAN I ASK YOU TO STEP DOWN---
- 21 A YES MA'AM.
- 22 Q ---AND TAKE A LOOK AT THIS MAP WITH ME?
- 23 (WHEREUPON WITNESS EXITED WITNESS STAND FOR DEMONSTRATION WITH
- 24 STATE'S EXHIBIT NUMBER FIVE)

1 WHERE WERE YOU STANDING? YOU MAY HAVE GONE OVER
2 THIS WITH MR. RHEA. BUT THIS MAP, I WISH IT WERE BIGGER. WHERE
3 WERE YOU STANDING WHEN YOU REALIZED THAT LEO HAD COME OUT
4 OF THE DARKNESS?

5 A I WAS PROBABLY WALKING HERE SOMEWHERE, WALKING BACK
6 TO MY TRUCK.

7 Q SO, IF LEO HAD COME FROM THIS STREET PART RIGHT HERE YOU
8 WOULD SEEN HIM. HE DIDN'T BRUSH PAST YOU TO GET TO RYAN?

9 A NO.

10 Q SO, HE HAD TO HAVE COME FROM THIS DARK AREA OVER HERE,
11 DIDN'T HE?

12 A LIKE I SAY, I DIDN'T KNOW WHERE HE WAS.

13 Q BUT HE DIDN'T COME FROM THE STREET?

14 A NO, HE WASN'T IN THE STREET. I WAS IN THE STREET.

15 Q YOU WERE IN THE STREET?

16 A YES.

17 Q WHERE ELSE WOULD HE HAVE COME FROM IF HE DIDN'T COME
18 FROM THE STREET BESIDE YOU?

19 A I DON'T SEE HIM.

20 Q YOU DIDN'T SEE HIM. ALL RIGHT. THANK YOU. YOU MAY TAKE
21 YOUR SEAT NOW.

22 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

23 NOW, YOU DIDN'T BRING A GUN. IS THAT RIGHT?

24 A EXCUSE ME?

25 Q YOU DIDN'T BRING A GUN?

- 1 A I DON'T A GUN MA'AM.
- 2 Q BUT YOU DO OWN A KNIFE?
- 3 A YES, I DO HAVE ONE.
- 4 Q AND THAT WAS IN YOUR POCKET THAT NIGHT, WASN'T IT?
- 5 A YES, IT WAS.
- 6 Q NOW, I'VE LOST TRACK AND I JUMPED AWAY FROM SOMETHING I
- 7 WANTED TO ASK YOU ABOUT. IT WAS ONE OF THE FIRST THINGS YOU
- 8 TESTIFIED ABOUT.
- 9 A YES MA'AM.
- 10 Q THE FAKE CALL.
- 11 A EXCUSE ME?
- 12 Q THE FAKE CALL.
- 13 A WHAT FAKE CALL?
- 14 Q THE MYSTERY SHOPPER CALL.
- 15 A YES MA'AM, THE MYSTERY SHOPPER CALL.
- 16 Q WHEN THERE'S A MYSTERY SHOPPER CALL, ISN'T IT
- 17 CUSTOMARY-- YOU SAID IT'S CUSTOMARY TO LEAVE A NUMBER, A
- 18 CALL BACK NUMBER?
- 19 A FOR THE MOST PART, YEAH. YOU TRY TO LEAVE A CALL BACK
- 20 PHONE NUMBER.
- 21 Q UH-HUH.
- 22 A SOMETIMES THERE'S NONE AVAILABLE. SOMEONE MIGHT BE A
- 23 GOOD SAMARITAN AND LET YOU USE THEIR CELL PHONE.
- 24 Q UH-HUH.

1 A SOMEONE MAY CALL IT IN FOR YOU. SOMETIMES IT'S HARD TO
2 GET A PHONE NUMBER.

3 Q BUT IF YOU DO LEAVE A PHONE NUMBER, IS THAT DEFINITIVE OF
4 THE PERSON RESPONDING TO THE CALL?

5 A YES. IF THEY CAN'T FIND THE CUSTOMER BECAUSE THEY'RE
6 GOING TO TAKE LONGER THAN THE THIRTY-MINUTE ETA THEY WERE
7 GIVEN, THEY CAN CALL AND GIVE THEM A COURTESY CALL AND SAY,
8 HEY, I'M GONNA BE A LITTLE BIT LATE.

9 OF COURSE, IF THEY HAVE A HARD TIME CALLING THEM, THEY
10 CAN CALL THEM AND ASK THEM WHERE THEIR ACTUAL LOCATION IS.
11 LOOK FOR ME, I'M DRIVING SUCH AND SUCH A VEHICLE.

12 Q WHAT WAS THE NAME OF YOUR MYSTERY CALLER?

13 A I COULDN'T TELL YOU.

14 Q WAS IT A FEMALE?

15 A YES, IT WAS A FEMALE CALLER.

16 Q SO, WHEN YOU GAVE LEO'S PHONE NUMBER FOR A CALL BACK
17 AND ONE OF YOUR DRIVERS CALLS BACK AND A MALE ANSWERS,
18 WOULD THAT HAVE BEEN SUSPICIOUS TO THEM?

19 A COULD HAVE BEEN HIS GIRLFRIEND, BOYFRIEND, WHATEVER.

20 Q WOULD THAT HAVE BEEN SOMETHING THAT IN YOUR LINE OF
21 WORK, RESPONDING TO CALLS LATE AT NIGHT, THAT WOULD HAVE
22 RAISED A RED FLAG?

23 A NEVER.

24 Q IT WOULDN'T HAVE RAISED A RED FLAG?

25 A NO MA'AM.

1 Q YOU SEND PEOPLE OUT IN THE NIGHT TO MEET WITH
2 WHOMEVER?

3 A YES MA'AM. IF WE'RE CALLED OUT TO A CALL, WE GO TO THE
4 CALL. IF THE TECHNICIAN FEELS HE'S IN ANY DANGER, HE CAN CALL
5 FOR OFFICER BACK UP, WHICH WE'VE DONE IN THE PAST. WE'VE
6 PRACTICED THAT IN THE PAST. IF YOU'RE IN A BAD SITUATION AND
7 YOU DON'T FEEL COMFORTABLE, YOU CALL FOR AN OFFICER AND AN
8 OFFICER WILL BACK YOU UP AND BRING YOU INTO THE AREA FOR
9 YOUR CALL.

10 Q I WANT TO TALK TO YOU ABOUT YOUR TRAFFIC STOP. DO YOU
11 REMEMBER WHAT TIME YOUR TRAFFIC STOP OCCURRED?

12 A NO MA'AM.

13 Q IF I GAVE YOU TIME OF ABOUT 12:11 OR 12:12 A.M., WOULD THAT
14 SOUND ABOUT CORRECT?

15 A I WOULD GUESS, IF YOU'RE GIVING ME THAT TIME THAT'S WHAT
16 IT'S GONNA BE. I DIDN'T LOOK. I DIDN'T GET A CITATION OR
17 ANYTHING. SO, AGAIN, ---

18 Q YOU DIDN'T GET ANY WHAT?

19 A CITATIONS ON ANYTHING, SO I DIDN'T LOOK.

20 Q AND YOU MET WITH SEVERAL POLICE OFFICERS ON THE SIDE OF
21 THE ROAD. ISN'T THAT CORRECT?

22 A THERE WAS TWO.

23 Q AND ONE OF THOSE OFFICERS WAS OFFICER WATSON, WASN'T
24 HE?

25 A CORRECT, MA'AM.

- 1 Q AND HE'S THE OFFICER WHO TESTIFIED EARLIER IN THE TRIAL?
- 2 A YES MA'AM.
- 3 Q WAS THAT THE OFFICER YOU SPOKE WITH?
- 4 A YES MA'AM.
- 5 Q AND MR. RHEA ASKED YOU IF YOU TOLD HIM... SORRY. I'M
- 6 LOOKING FOR IT. (PAUSE) MR. RHEA ASKED YOU DID YOU TELL THAT
- 7 OFFICER WHAT HAPPENED THAT NIGHT AND YOU ANSWERED YES.
- 8 A YES MA'AM.
- 9 Q YOU TOLD OFFICER WATSON WHAT HAPPENED?
- 10 A YES.
- 11 Q DID YOU TELL OFFICER WATSON WHAT YOU TOLD THE JURY?
- 12 A YES.
- 13 Q DO YOU RECALL TELLING OFFICER WATSON THAT THERE WERE
- 14 FOUR OR FIVE BIG GUYS THERE?
- 15 A YEAH.
- 16 Q AND WHO WERE THOSE FOUR OR FIVE BIG GUYS?
- 17 A WELL, RYAN BEING ONE, AND THE OTHER THREE THAT WERE
- 18 WITH HIM, AND THEN THE OTHER GUY THAT CAME OUT. THERE WAS
- 19 FOUR GUYS OUT THERE WHEN I WAS THERE.
- 20 Q AND THEY WERE BIG GUYS?
- 21 A THEY WERE TO ME, YES.
- 22 Q DID YOU SEE DEVIN FIVECOAT ON THE STAND, THE LAST KID TO
- 23 TESTIFY?
- 24 A YES.
- 25 Q WAS HE A BIG GUY?

1 A HE WAS ABOUT MY SIZE.

2 Q SO, HE'S NOT ONE OF THE BIG GUYS?

3 A WELL, I WAS STANDING DOWN AT THE BOTTOM OF THE
4 DRIVEWAY. THE DRIVEWAY GOES UP LIKE THIS. SO, WHEN YOU'RE
5 LOOKING UP THE DRIVEWAY, YEAH, THEY LOOKED BIGGER.

6 Q SO, YOU FIGURED DEVIN WAS A BIG GUY?

7 A WELL, HE WAS THERE, LIKE, I SAID.

8 Q DO YOU RECALL WHETHER RYAN'S GARAGE LIGHT WAS ON, OR
9 FRONT DOOR LIGHT WAS ON?

10 A THE GARAGE DOOR WAS SHUT. HIS LIGHTS WERE ON TOWARD
11 HIS DOORWAY, WAS ON.

12 Q DO YOU RECALL TELLING OFFICER WATSON THAT YOU WERE
13 JUST COMING BACK FROM SPEAKING WITH AN OLD EMPLOYEE?

14 A WITH AN EX-EMPLOYEE, YES.

15 Q AN EX-EMPLOYEE. SO, YOU CALLED RYAN LOCHBAUM YOUR
16 EX-EMPLOYEE?

17 A I DIDN'T SAY HE WAS MY EMPLOYEE.

18 Q YOU SAID HE WAS AN OLD---

19 A AN EX-EMPLOYEE.

20 Q OKAY.

21 A BUT EVERY NOW AND AGAIN, I MIGHT REFER TO HIM AS THAT. I
22 DON'T KNOW. I DON'T PAY MUCH ATTENTION TO THAT.

23 Q DO YOU RECALL TELLING OFFICER WATSON THAT YOUR CO-
24 DEFENDANT JUST CAME OF THE WOODS WHEN I WAS TALKING TO
25 RYAN?

- 1 A THAT'S THE ONLY LOGICAL EXPLANATION. AND THEN, COME TO
- 2 FIND OUT, THERE IS NO WOODS THERE.
- 3 Q THEN COME TO FIND OUT THERE IS NONE?
- 4 A NO WOODS THERE. THERE'S NO WOODS.
- 5 Q BUT YOU TOLD THE OFFICER THERE WERE WOODS?
- 6 A I DIDN'T KNOW WHERE HE COME FROM. I HAD NO IDEA. I WAS
- 7 ALREADY WALKING UP THE STREET WITH MY BACK TOWARDS HIM.
- 8 Q SO, YOU DIDN'T TELL HIM YOU WERE TALKING WITH RYAN
- 9 LOCHBAUM WHEN LEO CAME OUT OF THE WOODS?
- 10 A NO. I TOLD HIM I WAS WALKING AWAY.
- 11 Q DO YOU RECALL TELLING THE OFFICER THAT THESE FOUR OR
- 12 FIVE BIG GUYS WERE AT A DISTANCE?
- 13 A NO, I DON'T RECALL EVER SAYING THAT.
- 14 Q YOU DON'T RECALL TELLING HIM THAT?
- 15 A NO MA'AM.
- 16 Q DO YOU RECALL TELLING OFFICER WATSON THAT YOUR WIFE
- 17 TOLD YOU THIS WAS A BAD IDEA, IT WAS A BAD IDEA TO GO TO RYAN
- 18 LOCHBAUM'S HOUSE?
- 19 A I DON'T RECALL SAYING THAT TO HIM.
- 20 Q NOW, THAT YOU'VE HAD THE BENEFIT OF SEEING SOME OF THE
- 21 FOLKS FROM THIS NIGHT IN THIS COURTROOM, MAYBE YOU CAN HELP
- 22 ME FIGURE OUT WHO WAS WHERE ON THIS DOG PILE. SO, I'M JUST
- 23 GOING TO TRY TO WALK THROUGH WHAT YOU SAID.
- 24 YOU'RE WALKING BACK DOWN GENTLE BREEZE LANE, AND
- 25 YOU'RE ABOUT HERE? IS THAT CORRECT?

- 1 A YES MA'AM.
- 2 Q AND THAT LEO COMES FROM SOMEWHERE DOWN HERE?
- 3 A RIGHT.
- 4 Q AND WHO WAS THE FIRST PERSON THAT LEO GOES TO?
- 5 A THE FIRST THING I SEE IS THAT HIM AND RYAN WERE
- 6 STRUGGLING.
- 7 Q AND THEN AFTER HE AND RYAN START STRUGGLING, WHO IS
- 8 THE NEXT PERSON THAT JUMPS IN?
- 9 A THE NEXT DOOR NEIGHBOR.
- 10 Q JESSE HARRIS?
- 11 A YES.
- 12 Q JESSE HARRIS JUMPS IN?
- 13 A YEAH.
- 14 Q AND JESSE HARRIS WASN'T IN THE DRIVEWAY. HE'S NOT ONE OF
- 15 THE FOUR OR FIVE BIG GUYS, WAS HE?
- 16 A I---
- 17 Q OR THE THREE GUYS WHO---
- 18 A ---GUESS. I DIDN'T KNOW WHO WAS WHERE.
- 19 Q SO, JESSE HARRIS JUMPS IN?
- 20 A YEAH.
- 21 Q WHO WAS THE NEXT GUY TO JUMP IN?
- 22 A THAT WOULD HAVE BEEN ME.
- 23 Q AND WHAT DID YOU DO?
- 24 A I TRIED TO GET RYAN OFF THE TOP OF MY BROTHER-IN-LAW.

1 Q YOUR BROTHER-IN-LAW THAT BROUGHT THE GUN THAT YOU
2 DIDN'T KNOW ANYTHING ABOUT?

3 A YES MA'AM.

4 Q NOW, YOU NEVER ONCE SAID, OH, MY GOD, OH, MY GOD, LEO,
5 WHAT ARE YOU DOING WITH A GUN, WHEN ALL THIS WAS GOING ON,
6 DID YOU?

7 A I DIDN'T KNOW HE HAD THE GUN.

8 Q NOW, AFTER-- SO, LEO AND RYAN AND JESSE AND THEN YOU
9 AND THEN WHO?

10 A I DON'T KNOW. THERE WAS ONE OTHER GUY, I THINK, OR SOME
11 OTHER GUYS THAT JUMPED ON ME THAT PULLED ME OFF OF RYAN.

12 Q THAT PULLED YOU OFF OF RYAN. THEY DIDN'T PUNCH YOU.
13 THEY---

14 A I DON'T KNOW. I---

15 Q ---DIDN'T---

16 A ---DON'T FEEL THAT I WAS ASSAULTED, MA'AM?

17 Q HUH?

18 A I DON'T FEEL THAT I WAS ASSAULTED.

19 Q YOU DON'T FEEL THAT YOU WERE ASSAULTED. SO,---

20 A NO MA'AM.

21 Q ---THOSE GUYS, YOU GOT NO BEEF, GOT NO BEEF WITH THE
22 GUYS THAT PULLED YOU OFF OF RYAN?

23 A NO MA'AM. WE ALL WERE JUST TRYING TO GET CONTROL OF
24 THE SITUATION, I WOULD SAY.

1 Q BUT YOU WERE JUST RIGHT THERE WITH MARK WHITTINGTON,
2 THE GUY THAT PULLED YOU OFF? YOU'RE JUST TRYING TO GET
3 CONTROL OF THE SITUATION?

4 A YES MA'AM.

5 Q YOU HAD NO BEEF WITH JESSE HARRIS?

6 A I AIN'T GOT NO BEEF WITH NOBODY, MA'AM.

7 Q SO, WHEN JESSE JUMPS ON YOUR BROTHER, OR WHEN-- WHO
8 JUMPED ON YOUR BROTHER-IN-LAW?

9 A I DON'T KNOW. THE MR. HARRIS GUY AND RYAN, THOSE TWO
10 WERE ON TOP OF EACH OTHER, STRUGGLING. OR I SHOULD SAY, RYAN
11 WAS ON TOP OF MY BROTHER. AND THEN I GUESS MR. HARRIS IS HIS
12 NAME, THE NEXT DOOR NEIGHBOR, HE'S IN THERE.

13 AND THERE'S, LIKE, FOUR HANDS, THREE HANDS ON THE GUN OR
14 SOMETHING LIKE THAT. I DON'T KNOW EXACTLY. IT'S LIKE YOU SAID.
15 IT'S IN THE EVENING. SO, I JUST BASICALLY TRIED TO MAKE SURE I
16 WAS OUT OF THE WAY OF THE BARREL OF THE GUN.

17 Q YOU WANTED TO MAKE SURE YOU WERE OUT OF THE WAY OF
18 THE BARREL OF THE GUN?

19 A YEAH.

20 Q SO, YOU SEE FOUR OR FIVE HANDS ON THE GUN. CAN YOU TELL
21 WHO THE GUN'S POINTING AT?

22 A WHEN I GOT ON TOP OF THE PILE TO START PULLING PEOPLE
23 OFF, JESSE WAS OFF TO THE SIDE, HIS FEET FACING THE STREET, AND
24 HIS HEAD FACING HIS HOUSE.

1 RYAN WAS ON TOP OF LEO. LEO WAS ON THE GROUND WITH HIS
2 HEAD FACING MY TRUCK, HIS FEET FACING THE DRIVEWAY. RYAN ON
3 TOP OF HIM IN THE SAME POSITION. AND I'M OFF TO THE SIDE, AND
4 THE GUN WAS POINTING ACROSS THE STREET TO THE OPEN FIELD
5 OVER THERE.

6 Q SO, WHO WAS THE GUN POINTING AT?

7 A ACROSS THE STREET IN THE OPEN---

8 Q POINTING ACROSS---

9 A ---FIELD.

10 Q ---THE STREET. IT DIDN'T POINT AT DEVIN FIVECOAT?

11 A NO, IT DIDN'T POINT---

12 Q IT DIDN'T POINT AT JESSE HARRIS?

13 A NO MA'AM.

14 Q IT DIDN'T POINT AT ANYBODY?

15 A NO MA'AM, NOT TO MY KNOWLEDGE.

16 Q DID YOU KNOW YOUR BROTHER-IN-LAW HAD A GUN?

17 A NO, I DID NOT.

18 Q YOU DIDN'T KNOW IF HE EVEN OWNED A GUN?

19 A I KNEW HE OWNED A GUN.

20 Q YOU KNEW HE OWNED A GUN?

21 A YES MA'AM.

22 Q BUT YOU DIDN'T KNOW THAT HE HAD A LOADED GUN?

23 A NO MA'AM, I DIDN'T KNOW HE HAD A GUN.

24 Q WAS HE WEARING SOME KIND OF HOLSTER TO KEEP THE GUN?

25 A I DIDN'T SEE A GUN ON HIM.

1 Q YOU NEVER SAW THE GUN?

2 A NO MA'AM.

3 Q SO, YOU'RE IN THE CAR WITH HIM FROM 9:16 TILL JUST AFTER
4 MIDNIGHT AND NEVER ONCE DID YOU SEE A GUN?

5 A NEVER SAW A GUN ONCE, MA'AM.

6 Q IT'S A BIG GUN, ISN'T IT?

7 A DECIDEDLY, YES.

8 Q BUT YOU NEVER SAW IT?

9 A NO MA'AM.

10 Q PRIOR TO GOING OVER TO RYAN LOCHBAUM'S HOUSE, DID IT
11 EVER OCCUR TO YOU TO JUST PICK UP THE PHONE AND CALL HIM?

12 A NO MA'AM. I WANTED TO SEE IF THE RED VEHICLE WAS THERE
13 WITH MAGNETS ON IT.

14 Q SO, WHEN THERE ARE NO MAGNETS ON IT, AND YOU COULDN'T
15 TELL WHO THE GUYS WERE IN THE DRIVEWAY, DID IT OCCUR TO YOU
16 THEN AT THAT POINT THAT IT MIGHT BE A BAD IDEA TO GO WALKING
17 UP TO THE HOUSE?

18 A NO MA'AM.

19 Q AND YOU DON'T NORMALLY CONDUCT BUSINESS THIS WAY?

20 A IT WASN'T BUSINESS.

21 Q THAT'S RIGHT. IT WAS PERSONAL, WASN'T IT? THIS WAS A
22 PERSONAL---

23 A NO, IT WASN'T PERSONAL.

24 Q IF IT WASN'T BUSINESS AND IT WASN'T PERSONAL, WHAT WAS

25 IT?

- 1 A I GUESS YOU COULD SAY IT WAS A LITTLE BIT OF BOTH.
- 2 Q IT WAS A LITTLE BIT OF BOTH.
- 3 A IT WAS LEAVE MY WIFE'S BUSINESS ALONE, YEAH.
- 4 Q LEAVE MY WIFE ALONE?
- 5 A NO, NOT MY WIFE; MY WIFE'S BUSINESS ALONE.
- 6 Q LEAVE MY WIFE'S BUSINESS ALONE?
- 7 A YES. AND LEAVE OUR EMPLOYEES---
- 8 Q AND I'M GOING---
- 9 A ---ALONE.
- 10 Q --- TO SHOW UP IN THE MIDDLE OF THE NIGHT TELLING YOU TO
- 11 LEAVE MY WIFE'S BUSINESS ALONE?
- 12 A ONLY BECAUSE HE WAS OUTSIDE.
- 13 Q ONLY BECAUSE HE WAS OUTSIDE?
- 14 A YES MA'AM.
- 15 Q BECAUSE YOU HAD THE OPPORTUNITY?
- 16 A HE WAS OUTSIDE. I COULD SEE HIM FACE TO FACE AND SAY,
- 17 YOU KNOW, JUST LEAVE THE BUSINESS ALONE. LEAVE, STOP
- 18 HARASSING THE EMPLOYEES.
- 19 Q SO, IF YOU WERE TELLING HIM TO STOP HARASSING EMPLOYEES,
- 20 WHY WOULD YOU TELL HIM HE COULD HAVE MIKE TAYLOR?
- 21 A BECAUSE HE COULD HAVE MIKE TAYLOR.
- 22 Q WHAT DOES THAT HAVE TO DO WITH THE BUSINESS? YOU STILL
- 23 HAVE NO PROOF.
- 24 A IT DIDN'T-- IT DOESN'T MATTER.

1 Q SO, IT DOESN'T MATTER. BUT YOU DIDN'T LIKE RYAN
2 LOCHBAUM?

3 A EXCUSE ME?

4 Q YOU DIDN'T LIKE RYAN LOCHBAUM, DID YOU?

5 A HE GOT CHOSEN TO WORK WITH THE COMPANY. I HAVE NO
6 PROBLEM WITH HIM WORKING FOR THE COMPANY OR HAD ANY
7 PROBLEM WITH HIM WORKING FOR THE COMPANY. I FIXED HIS
8 VEHICLE FOR HIM SEVERAL TIMES.

9 Q SO, YOU---

10 A SO, YEAH, I THINK I LIKED RYAN.

11 Q SO, DID YOU LIKE RYAN OR DID YOU HAVE A PERSONAL AND
12 BUSINESS PROBLEM WITH RYAN? WHICH ONE WAS IT?

13 A I LIKE RYAN. RYAN, I THOUGHT WAS A DECENT GUY AT FIRST.

14 Q SO, YOU LIKE RYAN. AND YOU DECIDE TO GO OVER TO HIS
15 HOUSE IN THE MIDDLE OF THE NIGHT AND CONFRONT HIM?

16 A TO LET HIM KNOW TO LEAVE HER BUSINESS ALONE. IT'S BEEN
17 SIX---

18 Q TO TELL HIM TO---

19 A ---MONTHS. IT'S TIME---

20 Q ---LEAVE YOUR WIFE---

21 A ---TO MOVE---

22 Q ---ALONE.

23 A LEAVE-- NOT MY WIFE, MY WIFE'S BUSINESS AND THE
24 EMPLOYEES. STOP HARASSING THEM. IT'S BEEN SIX MONTHS. YOU'VE
25 GOT TO---

- 1 Q STOP HARASSING EVERYONE THAT YOU'RE FRIENDS WITH, THE
- 2 ONES YOU EMPLOY?
- 3 A IF THAT'S THE WAY YOU'RE PUTTING IT, I DIDN'T---
- 4 Q ISN'T THAT---
- 5 A ---FINISH.
- 6 Q ---HOW YOU PUT IT?
- 7 A I DIDN'T SAY THAT.
- 8 Q NOW, WHEN YOU CALLED RYAN LOCHBAUM---
- 9 A YES MA'AM.
- 10 Q ---AFTER YOUR BROTHER-IN-LAW CHARGED AT HIM WITH A
- 11 GUN, SCREAMING, THIS IS WHAT YOU GET WHEN YOU FUCK WITH MY
- 12 FAMILY, WERE YOU SURPRISED THAT HE WAS UPSET?
- 13 A WAS I SURPRISED WHAT, THAT RYAN---
- 14 Q THAT HE WAS UPSET.
- 15 A NO, I WANTED TO MAKE SURE THAT HE WAS OKAY.
- 16 Q BECAUSE YOU LIKED RYAN?
- 17 A I THOUGHT THAT RYAN AT THE TIME, OR PREVIOUS TO THAT
- 18 TIME WAS A DECENT GUY, YES.
- 19 Q BUT AT SOME POINT PRIOR TO THAT YOUR OPINION HAD
- 20 CHANGED, HADN'T IT?
- 21 A I MEAN, YOU FIND THINGS OUT ABOUT SOMEBODY, YEAH, YOU
- 22 KIND OF GET AN OPINION CHANGING PERSPECTIVE ON THEM. BUT,
- 23 YOU KNOW, EVERYBODY MAKES MISTAKES IN LIFE.
- 24 Q YOUR BROTHER-IN-LAW HAD BACK SURGERY---
- 25 A YES.

- 1 Q ---PRIOR TO THIS INCIDENT?
- 2 A YES MA'AM.
- 3 Q WAS HE ABLE TO WALK UP TO THE HOUSE ALL BY HIMSELF?
- 4 A HE WALKED, YEAH.
- 5 Q HE DIDN'T DART OUT OF THE DARKNESS, THEN, WITH A GUN?
- 6 A I WOULDN'T SAY DART, NO.
- 7 Q YOU TURN YOUR BACK FOR A FEW SECONDS AND ALL OF A
- 8 SUDDEN HE'S THERE. YOU WOULDN'T CALL THAT FAST?
- 9 A I TURN MY BACK FOR MORE THAN TWO SECONDS. I WAS
- 10 TALKING TO RYAN. WHEN I LEFT I SAW HIM WALKING UP THE STREET.
- 11 AND THEN THE NEXT THING I KNOW THERE WAS A SCUFFLE.
- 12 Q THE NEXT THING YOU KNOW?
- 13 A YES MA'AM.
- 14 Q SO, WHEN YOU SAID THE NEXT THING YOU KNOW, YOU DON'T
- 15 MEAN BY THAT SURPRISINGLY IN A SHORT PERIOD OF TIME AFTER
- 16 THAT?
- 17 A EVERYTHING HAPPENED SO FAST, AS YOU'VE ALREADY HEARD.
- 18 IT DOESN'T TAKE LONG. IT WAS A QUICK, LITTLE SCUFFLE.
- 19 Q SO, IF YOUR BROTHER-IN-LAW HAS TO WALK SO SLOW, HE HAS
- 20 TO WALK SO SLOW BECAUSE OF HIS BACK PROBLEM, AND YOU
- 21 PARKED YOUR CAR DOWN HERE. AND ALL THIS HAPPENED WITHIN
- 22 FIVE MINUTES, HE WOULD HAVE BEEN ABLE TO WALK THIS DISTANCE
- 23 IN FIVE MINUTES?
- 24 A HE DID IT, SO HE MUST HAVE.

1 Q SO, HE WOULD HAVE WALKED THAT DISTANCE IN LESS THAN
2 FIVE MINUTES BECAUSE HE DIDN'T WALK WITH YOU. RIGHT?

3 A I DIDN'T KNOW WHERE HE WAS. I LEFT HIM IN THE TRUCK WHEN
4 I WENT DOWN THERE.

5 Q YOU LEFT HIM IN THE TRUCK, AND YOUR BROTHER WITH BACK
6 PROBLEMS MADE IT ALL THE WAY UP THERE WITHOUT YOUR HELP?

7 A YEAH, SOMEWHERE UP THERE.

8 Q CARRYING A GUN?

9 A (NO RESPONSE)

10 Q CARRYING A BIG GUN?

11 A YES.

12 Q AND HE DIDN'T WALK UP THERE WITH YOU?

13 A NO MA'AM.

14 Q DID YOU TALK TO YOUR BROTHER-IN-LAW AT ALL IN THE CAR
15 ON THE WAY OVER?

16 A I CAN'T RECALL.

17 Q YOU CAN'T RECALL. WELL, YOU WERE ABLE TO RECALL WHEN
18 MR. GREELEY ASKED IF YOU TALKED TO KERRIANN AT 11:07. IS THAT
19 CORRECT?

20 A IF THAT'S WHAT TIME HE SAID IT WAS, YES.

21 Q THAT'S THE TIME HE SAID, BUT YOU DIDN'T KNOW THAT FOR
22 SURE?

23 A I DIDN'T KNOW EXACTLY WHAT TIME IT WAS, NO. I WAS ON---

24 Q DID YOU---

25 A ---THE PHONE---

- 1 Q ---HOW LONG---
- 2 A ---WITH HER.
- 3 Q I'M SORRY. I DIDN'T MEAN TO INTERRUPT YOU.
- 4 A I WAS ON THE PHONE WITH HER.
- 5 Q DO YOU REMEMBER HOW LONG YOU WERE ON THE PHONE WITH
- 6 HER?
- 7 A I COULDN'T TELL YOU. IT SEEMED LIKE A LONG TIME THAT I
- 8 WAS ON THE PHONE WITH HER. LIKE I SAID, FROM CAROWINDS
- 9 BASICALLY ALL THE WAY TO RYAN'S HOUSE.
- 10 Q I'M SORRY. I THOUGHT YOU SAID, YOU AGREED WITH MR.
- 11 GREELEY THAT YOU TALKED HER AGAIN AT 11:42.
- 12 A I POSSIBLY DID. I MIGHT HAVE. I DON'T KNOW.
- 13 Q AND THEN YOU CALLED HER AGAIN AT 11:54?
- 14 A A POSSIBILITY.
- 15 Q SO, WHEN YOU SAID YES, YOU DIDN'T KNOW THOSE TIMES FOR A
- 16 FACT? YOU WERE JUST AGREEING WITH MR. GREELEY?
- 17 A I KNOW I TALKED TO HER. I JUST DON'T KNOW EXACTLY WHAT
- 18 TIME IT WAS.
- 19 Q AND YOU DON'T KNOW HOW LONG IT IS THAT YOU TALKED
- 20 WITH HER ON ANY OF THESE PHONE CALLS?
- 21 A SOME WERE FOR PERIODS OF TIME. SOME WERE SHORT AND
- 22 SWEET.
- 23 Q OKAY. SO, LET'S SAY-- LET'S GO BACK TO OUR, TO MY LITTLE
- 24 TIMELINE. SO, LET'S SAY 11:07 WAS THE, RIGHT BEFORE, RIGHT
- 25 AROUND THE TIME THAT YOU LEFT KNIGHTS' STADIUM. RIGHT?

- 1 A YEAH.
- 2 Q WELL,---
- 3 A I'M GUESSING.
- 4 Q ---WAS IT?
- 5 A I'M GUESSING, MA'AM.
- 6 Q AND YOU PRETTY MUCH CONTINUOUSLY TALKED WITH
- 7 KERRIANN UNTIL ABOUT 11:45?
- 8 A IT WAS ON AND OFF. I'M SURE I MADE THREE OR FOUR PHONE
- 9 CALLS TO HER. SHE MADE PROBABLY TWO OR THREE TO ME.
- 10 Q BUT YOU TALKED TO HER AGAIN-- WELL, LET'S ADJUST THIS. IF
- 11 YOU TALKED TO HER AGAIN AT 11:54, THEN YOU ACTUALLY GOT TO
- 12 RYAN'S A LITTLE LATER THAN OUR GUESTIMATE. IS THAT A FAIR
- 13 STATEMENT?
- 14 A I DON'T WHAT TIME THE GUESTIMATE WAS. SO, WHATEVER
- 15 TIME YOU WANT TO PUT IT ON.
- 16 Q WELL, YOU TALKED AGAIN TO KERRIANN AGAIN AT 11:54, AND
- 17 THAT'S WHAT THE---
- 18 A I'M GUESSING, YES.
- 19 Q SO, THEN, YOU WOULD HAVE BEEN AT RYAN'S HOUSE, THEN,
- 20 APPROXIMATELY MIDNIGHT. THEN, 12:01, YOU WOULD HAVE WALKED.
- 21 THEN 12:06, YOU WOULD HAVE STARTED TALKING. WOULD THAT
- 22 MATCH UP FAIRLY WITH THE TIME FRAME THAT YOU GAVE THE
- 23 POLICE OFFICER?
- 24 A WHAT YOU'RE PUTTING THERE, I'M GUESSING THAT'S SO.

1 Q SO, FROM 11-- THIS BLOCK TIME OF TIME, THEN, PRETTY MUCH
2 YOU'RE ON THE PHONE WITH KERRIANN?

3 A YES MA'AM.

4 Q SO, WOULD IT BE FAIR TO SAY THAT FROM THE TIME YOU LEFT
5 KANNAPOLIS TO THE TIME THAT YOU STARTED IN YOUR LENGTHY
6 PHONE CONVERSATION WITH KERRIANN, THAT YOU AND LEO, YOUR
7 BROTHER-IN-LAW, WOULD HAVE TIME TO TALK, TIME TO KILL?

8 MR. RHEA: I'M SORRY. I DIDN'T HEAR THE TAIL END OF HER
9 QUESTION. IF YOU WOULD JUST REPEAT THE QUESTION. I'M SORRY.

10 MS. JOYNER: YES SIR, MR. RHEA.

11 Q IS IT FAIR TO SAY THAT DURING THE TIME PERIOD FROM THE
12 TIME THAT YOU LEFT KANNAPOLIS TO THE TIME YOU STARTED THE
13 LENGTHY PHONE CONVERSATIONS WITH KERRIANN YOU HAD TIME TO
14 TALK, YOU HAD TIME TO KILL, SO TO SPEAK?

15 A TIME TO KILL, YEAH, WHATEVER.

16 Q AND Y'ALL PROBABLY CHATTED, DIDN'T YOU?

17 A I DON'T RECALL. LISTEN TO MUSIC, CHAT, WHATEVER, YEAH.

18 Q JUST NORMAL STUFF, NORMAL SITTING IN THE PARKING LOT
19 WAITING FOR SOMEBODY, OR SITTING ANYWHERE WAITING FOR
20 SOMEBODY, YOU GUYS, YOU ARE GOING TO TALK A LITTLE BIT
21 AREN'T YOU?

22 A YEAH. UNLESS I'M ON THE PHONE.

23 Q SO, WAS IT DURING THIS TIME PERIOD FROM 9:15 TO 11:07, THAT
24 YOU TALKED TO YOUR BROTHER-IN-LAW, LEO LEMIRE, ALL ABOUT
25 RYAN LOCHBAUM?

1 A NO MA'AM.

2 Q DID YOU---

3 A I SPENT A LOT OF TIME ON THE PHONE WITH MY WIFE.

4 Q EVEN BEFORE THIS YOU SPENT A LOT OF TIME ON THE PHONE
5 WITH YOUR WIFE?

6 A I BELIEVE SO, YEAH.

7 Q SO, I NEED TO MOVE THIS UP A LITTLE BIT? WHEN SHOULD I
8 START WITH THE WHOLE BLOCK OF TIME THAT YOU WEREN'T
9 TALKING TO LEO BECAUSE YOU WERE TALKING TO YOUR WIFE?

10 A IT WAS OFF AND ON. I PROBABLY TALKED TO LEO, BUT I DON'T
11 KNOW WHAT IT WAS PERTAINING TO. MAYBE MUSIC, WORKING ON
12 CARS, I DON'T KNOW.

13 Q BUT YOU DIDN'T TALK ABOUT RYAN LOCHBAUM?

14 A NO MA'AM.

15 Q AND THE TIME YOU WERE DRIVING OVER TO KNIGHTS' STADIUM
16 WHEN YOU ASKED HIM TO KEEP YOU COMPANY, YOU'RE NOT TALKING
17 ABOUT RYAN LOCHBAUM, EITHER?

18 A NO MA'AM.

19 Q SO, ALL THIS TIME YOU'RE NOT TALKING ABOUT RYAN
20 LOCHBAUM, WHAT IS IT THAT LEO LEMIRE THINKS THAT HE DID TO
21 FUCK WITH YOUR FAMILY?

22 A I DON'T KNOW WHAT YOU'RE TALKING ABOUT.

23 Q ALL THIS TIME YOU'RE ON THE PHONE WITH KERRIANN AND
24 YOU'RE NOT TALKING ABOUT RYAN LOCHBAUM BECAUSE EVERY TIME
25 YOU HAD A THOUGHT ON YOUR MIND, WHAT IS IT EXACTLY, WHEN IT

1 IS IT EXACTLY THAT YOU TOLD HIM THAT GOT HIM SO ALL FIRED
2 MAD? WHEN DID YOU TELL HIM WHAT RYAN LOCHBAUM DID TO F
3 WITH YOUR FAMILY?

4 A I NEVER SAID ANYTHING TO HIM.

5 Q THAT CONVERSATION NEVER CAME UP?

6 A NO MA'AM.

7 Q YOU HAVE NO IDEA WHY YOUR BROTHER-IN-LAW, WHO HAS
8 NOTHING TO DO WITH THAT BUSINESS, IS ALL WORKED UP?

9 A NO MA'AM.

10 Q THANK YOU, MR. LARMAND.

11 THE COURT: MR. RHEA, RE-DIRECT.

12 MR. RHEA: YES SIR.

13 **RE-DIRECT EXAMINATION BY MR. RHEA:**

14 Q WERE YOU PRIVY TO ANY CONVERSATIONS THAT YOUR SISTER
15 HAD WITH HER BROTHER ABOUT THE BUSINESS?

16 A EXCUSE ME?

17 Q DO YOU KNOW IF YOUR SISTER-- I'M SORRY. IF YOUR WIFE,
18 KERRIANN TALKED WITH HER BROTHER ABOUT THE BUSINESS, POP-A-
19 LOCK?

20 A NO, SHE NEVER TALKED TO HIM ABOUT BUSINESS, NO.

21 Q NOW, WHEN YOU WERE AT MR. LOCHBAUM'S RESIDENCE YOU
22 STATED THAT YOU WAITED IN THE DRIVEWAY FOR RYAN FOR A
23 COUPLE OF MINUTES. IS THAT CORRECT?

24 A YES SIR, SEVERAL MINUTES.

1 Q SO, YOU DIDN'T GO IN THERE AND DEMAND, HEY, I WANT TO
2 TALK TO RYAN, OR ANYTHING LIKE THAT?

3 A NOT AT ALL.

4 Q NOW, SHE ASKED YOU ABOUT-- YOU HAD A KNIFE IN YOUR
5 POCKET. IS THAT CORRECT?

6 A YES SIR.

7 Q IS THAT SOMETHING YOU NORMALLY HAVE IN YOUR POCKET BY
8 VIRTUE OF WHAT BUSINESS YOU WERE IN AT THE TIME?

9 A YES.

10 Q IT'S NOT UNCOMMON FOR A MAN WHO WORKS WITH HIS HANDS
11 TO HAVE A KNIFE IN HIS POCKET, IS IT?

12 A NO SIR.

13 Q DID YOU EVER USE THAT KNIFE OR HAVE ANY INTENTION OF
14 USING THAT KNIFE ON THAT NIGHT?

15 A NO SIR.

16 Q AND HAVE YOU HEARD ANYBODY'S TESTIMONY IN THIS
17 COURTROOM DURING YOUR TRIAL WHO HAS SUGGESTED YOU
18 REACHED FOR A KNIFE TO TRY AND USE IT?

19 A NO SIR.

20 Q WHEN YOU SAW THE DOG PILE, AS IT WERE, YOU HAD YOUR
21 KNIFE IN YOUR POCKET. RIGHT?

22 A YES SIR.

23 Q YOU COULD HAVE USED IT. RIGHT?

24 A I GUESS, YES.

25 Q BUT YOU DIDN'T, DID YOU?

- 1 A NO SIR.
- 2 Q DID YOUR BROTHER-IN-LAW EVER TELL YOU, I'M WALKING UP
3 RIGHT BEHIND YOU?
- 4 A NO SIR.
- 5 Q DID YOU EVER ASK HIM TO WALK UP RIGHT BEHIND YOU?
- 6 A NO SIR.
- 7 Q DURING THE TIME THAT YOU WERE TALKING WITH YOUR WIFE
8 ON THE PHONE WERE YOU GETTING DIRECTIONS?
- 9 A YES SIR.
- 10 Q AND HOW WAS SHE ACCESSING THOSE DIRECTIONS?
- 11 A ON THE INTERNET.
- 12 Q DID THAT REQUIRE CALLING BACK AND FORTH BETWEEN Y'ALL?
- 13 A YES SIR. THINGS GOT KIND OF CONFUSING THE WAY THE
14 STREETS SPLIT UP. I'M NOT FAMILIAR WITH THE AREA.
- 15 MR. RHEA: BEG THE COURT'S INDULGENCE.
- 16 THE COURT: YES SIR.
- 17 (PAUSE)
- 18 Q WHERE'D YOU GET GAS?
- 19 A CAROWINDS BOULEVARD.
- 20 Q WHO GOT OUT TO PUMP THE GAS?
- 21 A I DID.
- 22 Q THAT'S USUALLY THE WAY IT WORKS, WHOEVER'S DRIVING IS
23 THE ONE THAT PUMPS THE GAS. RIGHT?
- 24 A YES SIR.

1 Q DID LEO GET OUT OF THE VEHICLE AT THAT TIME TO GO IN AND
2 GET A COCA-COLA, PACK OF NABS, CIGARETTES, ANYTHING?

3 A NO, HE NEVER GOT OUT.

4 Q THE FAKE CALL. SHE WAS ASKING YOU ABOUT THE DIFFERENCE
5 IN GENDERS, YOU KNOW, MALE CALL, FEMALE ANSWERS, OR VICE-
6 VERSA. IS THAT UNUSUAL IN YOUR BUSINESS FOR ONE PERSON TO
7 CALL AND ANOTHER TO ANSWER A CALL BACK FROM THE SAME
8 CALL?

9 A NO. THE REASON BEING A WIFE MAY CALL HER HUSBAND AT
10 THE HOUSE AND SAY I'M LOCKED OUT OF MY CAR, LOOK UP A PHONE
11 NUMBER FOR ME, CALL A LOCKSMITH OUT. AND HE'S GIVING US THE
12 INFORMATION WHERE SHE MAY BE LOCATED. AND THEN WHEN WE
13 CALL BACK WE'RE ACTUALLY GETTING THE RESIDENCE AND HE'S AT
14 HOME AT HIS HOUSE SAYING MY WIFE'S AT THE LOCATION.

15 SO, YEAH, IT'S COMMON TO WHERE YOU DON'T HAVE A
16 WOMAN'S NAME AS THE CONTACT FOR THE LOCATION FOR THE
17 VEHICLE, BUT WHEN YOU TALK TO SOMEBODY ON THE PHONE, IT
18 MAY BE A MALE.

19 Q YOU STATED YOU WERE WALKING, STARTED TO WALK AWAY---

20 A YES.

21 Q ---BEFORE EVERYTHING KIND OF WENT BAD?

22 A YES.

23 Q BEFORE LEO SHOWED UP?

24 A YES.

25 Q DO YOU HAVE ANY IDEA WHAT WAS GOING ON BEHIND YOU?

1 A I HAVE NO IDEA.

2 Q AND HOW FAR BEHIND YOU WAS MR. LOCHBAUM?

3 A TEN FEET MAYBE, I'M THINKING. I'M NOT SURE. IT COULD HAVE
4 BEEN CLOSER.

5 Q YOU COULDN'T SEE HIM?

6 A NO.

7 Q DO YOU KNOW WHETHER HE WAS FOLLOWING YOU OR
8 WALKING BACK THE OTHER WAY?

9 A I DON'T KNOW. I COULDN'T SEE HIM.

10 MR. RHEA: NOTHING FURTHER.

11 THE COURT: MR. GREELEY.

12 MR. GREELEY: MAY IT PLEASE THE COURT.

13 **RE-CROSS EXAMINATION BY MR. GREELEY:**

14 Q DID YOU SEE MR. LOCHBAUM'S VAN IN HIS DRIVEWAY WHEN
15 YOU STOOD THERE AT THE BOTTOM OF THE DRIVEWAY?

16 A YES.

17 Q DID IT HAVE WINDOWS IN IT?

18 A YEAH, COMPLETELY BLACKED IN.

19 Q COMPLETELY BLACKED IN?

20 A YES.

21 Q ALL THE WAY AROUND?

22 A YES SIR.

23 Q SO, IT HAD REAR GLASS WINDOWS?

24 A IT HAD WINDOWS ALL THE WAY AROUND IT.

25 Q ALL THE WAY AROUND?

1 A LIKE IN THE OLD SCHOOL BUSES, THE VAN SCHOOL BUSES
2 WITH WINDOWS ALL THE WAY AROUND.

3 Q AND YOU FOUND OUT LATER MR. LOCHBAUM WAS IN THE VAN
4 THAT HAD WINDOWS ALL THE WAY AROUND?

5 A YES.

6 Q AND YOU SAID THAT YOU STOOD AT THE BOTTOM OF THE
7 DRIVEWAY KIND OF WAITING?

8 A YES.

9 Q AND YOU STOOD, YOU KIND OF WAITED. IS THAT CORRECT?

10 A YES SIR.

11 Q AND YOU STOOD AND YOU KIND OF WAITED. IS THAT CORRECT?

12 A YES SIR.

13 Q WITH YOUR ARMS BY YOUR SIDE?

14 A YES SIR.

15 Q WAS THERE ANY WAY FOR YOU TO HAVE BEEN SEEN STANDING
16 AT THE BOTTOM OF THE DRIVEWAY FROM INSIDE THE VAN?

17 A ABSOLUTELY.

18 Q AND YET, EVERYBODY KIND OF KEPT THEIR HEAD IN THE VAN
19 FOR A WHILE, DIDN'T THEY?

20 A YES SIR.

21 Q AND IT WASN'T UNTIL YOU HAD STOOD THERE FOR SOME TIME
22 THAT THEY DECIDED TO RECOGNIZE YOU?

23 A YES SIR.

24 Q IS THERE DOUBT IN YOUR MIND THAT ANYBODY SITTING IN
25 THAT VAN COULD HAVE BEEN ABLE TO SEE YOU ON THE ROADSIDE?

1 A OH, YEAH. THEY ALL HAD VISUAL OF ME, UNDERNEATH LIGHTS
2 FROM THE, YOU KNOW.

3 Q OKAY.

4 A THE MOON'S OUT.

5 Q AND MR. LOCHBAUM WAS SURPRISED WHEN YOU CAME UP TO
6 THE VAN?

7 A I NEVER WENT TO THE VAN.

8 Q BUT WHEN HE SAW YOU, HE WAS SURPRISED?

9 A YES.

10 Q THE SOLICITOR ASKED YOU ABOUT QUESTIONS I HAD POSED
11 REGARDING YOUR CALLS TO KERRIANN, THE NUMBER OF TIMES YOU
12 CALLED HER AND THE TIMES YOU CALLED HER. CORRECT?

13 A YES.

14 Q AND WAS THE PHONE NUMBER THAT YOU WERE USING THAT
15 NIGHT, 704-361-5995?

16 A THAT'S MY CELL PHONE, YES.

17 Q THAT'S YOUR CELL PHONE?

18 A YES.

19 Q AND ISN'T IT TRUE THAT THE STATE GOT A SEARCH WARRANT
20 FROM SPRINT CELLULAR TELEPHONE ON MAY 7 FOR THAT PHONE
21 NUMBER AND GOT ALL THE RECORDS?

22 A I GUESS THEY DID, YES.

23 Q AND GAVE THEM TO US.

24 A I GUESS, YES.

1 Q SO, THE STATE KNOWS EXACTLY WHEN YOU CALLED AND HOW
2 MANY TIMES, DOESN'T IT?

3 A THEY WOULD, YES.

4 MR. GREELEY: THAT'S ALL I HAVE, YOUR HONOR.

5 THE COURT: SOLICITOR.

6 MS. JOYNER: NOTHING FURTHER, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN. FOLKS, I THINK WE'RE
8 GOING TO CALL IT QUILTS FOR THE DAY. AND WE WILL RESUME AT 9:30
9 SHARP TOMORROW. AGAIN, DO NOT DISCUSS THE CASE AMONG
10 YOURSELVES, WITH YOUR FAMILY, WITH YOUR FRIENDS OR WITH
11 ANYBODY. THANK YOU VERY MUCH, AND YOU'RE EXCUSED.

12 (WHEREUPON THE JURY EXITED THE COURTROOM AT 4:54 P.M.)
13 ALL RIGHT, MR. RHEA, HOW MANY WITNESSES LEFT FOR YOU?

14 MR. RHEA: ONE OR TWO. YOU KNOW, I MIGHT HAVE TO...

15 THE COURT: ONE OR TWO?

16 MR. RHEA: I MIGHT TWEAK THAT.

17 THE COURT: ALL RIGHT. MR. GREELEY, HOW MANY DO YOU
18 HAVE?

19 MR. GREELEY: I DON'T KNOW AT THIS TIME. IT WOULD ONLY BE
20 ONE.

21 THE COURT: ONE. GOTCHA.

22 MR. GREELEY: IF I CALL ANY.

23 THE COURT: THAT'LL BE FINE. I'M READY NOW TO MAKE A
24 RULING ON PAGE 17 OF THE COURT'S CHARGES. I AM GOING TO
25 CHARGE THAT, AND I JUST ALL Y'ALL TO KNOW THAT.

1 MR. RHEA: THANK YOU, YOUR HONOR.

2 MS. JOYNER: THANK YOU, YOUR HONOR.

3 THE COURT: THANK YOU. I'LL SEE Y'ALL TOMORROW AT 9:30.

4 COURT IS ENDED FOR THE DAY.

5 (WHEREUPON COURT WAS IN RECESS AT 5:00 P.M.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C O P Y

STATE OF SOUTH CAROLINA)
 :
COUNTY OF YORK)
 :

COURT OF GENERAL SESSIONS

SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
 :
 PLAINTIFF,)
 :
 VERSUS) TRANSCRIPT OF RECORD
 : 09-GS-46-02833
 : 09-GS-46-02834
 FRANCIS VICTOR LARMAND, JR.,) 09-GS-46-02835
 LEO DAVID LEMIRE,) 09-GS-46-02837
 : 09-GS-46-02838
 DEFENDANTS.) 09-GS-46-02839
)

VOLUME III
OCTOBER 22, 2009
YORK, SOUTH CAROLINA

BEFORE:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE, AND A JURY

APPEARANCES:

FOR THE STATE:
ERIN JOYNER, ESQ., ASSISTANT SOLICITOR
JENNIFER COLTON, ASSISTANT SOLICITOR

FOR THE DEFENDANT, FRANCIS VICTOR LARMAND, JR.:
JOHN D. RHEA, ESQ.

FOR THE DEFENDANT, LEO DAVID LEMIRE:
LELAND GREELEY, ESQ.

PHYLLIS S. BARRETT
CIRCUIT COURT REPORTER

1 **THURSDAY, OCTOBER 22, 2009 - COURT IN SESSION - 9:30 A.M.**

2 THE COURT: IS THE STATE READY?

3 MS. JOYNER: THE STATE IS READY, YOUR HONOR.

4 THE COURT: MR. RHEA?

5 MR. RHEA: THE DEFENSE IS READY, YOUR HONOR.

6 THE COURT: MR. GREELEY?

7 MR. GREELEY: READY, YOUR HONOR.

8 THE COURT: BRING IN THE JURY, PLEASE.

9 (WHEREUPON THE JURY ENTERED THE COURTROOM)

10 LADIES AND GENTLEMEN, WE'RE NOW READY TO RESUME THE
11 TRIAL. MR. RHEA, CALL YOUR NEXT WITNESS.

12 MR. RHEA: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
13 COURT. WE CALL LEO LEMIRE TO THE STAND.

14 **LEO DAVID LEMIRE, DULY SWORN,**
15 TESTIFIED AS FOLLOWS:

16 **DIRECT EXAMINATION BY MR. RHEA:**

17 Q PLEASE STATE YOUR FULL NAME FOR THE LADIES AND
18 GENTLEMEN OF THE JURY.

19 A LEO DAVID LEMIRE.

20 Q WHERE DO YOU LIVE, MR. LEMIRE?

21 A KANNAPOLIS, NORTH CAROLINA.

22 Q WHAT IS YOUR RELATIONSHIP WITH MY CLIENT, MR. FRANK
23 LARMAND?

24 A THAT'S MY BROTHER-IN-LAW.

25 Q KERRIANN LARMAND IS YOUR SISTER. IS THAT CORRECT?

- 1 A YES SIR.
- 2 Q HOW LONG HAVE YOU LIVED IN KANNAPOLIS?
- 3 A ABOUT TEN YEARS.
- 4 Q ARE YOU MARRIED?
- 5 A YES.
- 6 Q WHAT'S YOUR WIFE'S NAME?
- 7 A DONNA.
- 8 Q HOW LONG HAVE Y'ALL BEEN MARRIED?
- 9 A SINCE 1996.
- 10 Q DO Y'ALL HAVE ANY CHILDREN?
- 11 A YES.
- 12 Q WHAT ARE THEIR NAMES AND AGES?
- 13 A NICHOLAS, HE'S NINE.
- 14 Q TELL ME, WHAT KIND OF BUSINESS ARE YOU IN?
- 15 A IT'S A OFFICE FURNITURE BUSINESS, OFFICE CUBICLES AND
- 16 PARTITIONS, STUFF LIKE THAT.
- 17 Q WHAT IS THE NAME OF THE BUSINESS?
- 18 A L&L INSTALLATIONS OF NORTH CAROLINA.
- 19 Q WHO HELPS MANAGE THE COMPANY? IS YOUR WIFE INVOLVED
- 20 IN THE COMPANY?
- 21 A YES. MY WIFE ACTUALLY OWNS IT AND I RUN THE COMPANY
- 22 WITH HER. I MANAGE, I ACTUALLY MANAGE IT, YEAH. SHE DOES ALL
- 23 THE PAYROLL AND THE BOOKS. AND SHE GETS THE GLORIOUS PART
- 24 OF IT WITH THE CLIENTS AND MEETS THE CLIENTS. AND I'M DOWN IN
- 25 THE DITCHES WITH THE GUYS.

1 Q SO, IS IT MAINLY OFFICE FURNITURE? WHAT KIND OF
2 FURNITURE IS IT? WHAT ARE SOME PLACES YOU'VE...?

3 A WE ACTUALLY PUT THE FURNITURE IN THIS BUILDING, MOSS
4 COUNTY JUSTICE CENTER. WE ALSO DO FBI BUILDINGS, FORT BRAGG,
5 CAMP LEJEUNE, MILITARY BASES AROUND HERE. SOCIAL SECURITY.
6 WE DID IN ROCK HILL. WE DID THE POLICE DEPARTMENT, THE
7 COURTHOUSE, TELEPHONE COMPANY, IN ROCK HILL. SO, WE DO ALL
8 THE GOVERNMENT INSTALLATIONS AROUND THE AREA.

9 PRISONS, WE DO. I DID BUTNER PRISON. AND I'VE DONE PRISONS
10 DOWN IN SOUTH CAROLINA ALSO.

11 Q NOW, TURNING YOUR ATTENTION TO APRIL 30, ON THAT DATE
12 THIS YEAR. WHEN WAS THE FIRST TIME THAT YOU SAW YOUR
13 BROTHER-IN-LAW, FRANK, ON THAT DATE?

14 A UH...

15 Q IF YOU RECALL.

16 A PROBABLY AROUND NINE-ISH, A LITTLE EARLIER THAN NINE, I'D
17 SAY.

18 Q WHAT, IF ANYTHING, WAS SAID TO YOU? WHAT DID MR.
19 LARMAND SAY TO YOU?

20 A ACTUALLY, HE SEEN ME AT A INTERSECTION. I WAS ON MY WAY
21 TO MY SHOP AND WE HAPPEN TO CROSS AT AN INTERSECTION. AND
22 HE ASKED ME WHAT I WAS DOING. I SAID I WAS GOING TO MY SHOP.
23 HE ASKED ME IF I WANTED TO GO ON A STING. I SAID, YEAH, I'LL GO.
24 HE SAID, ALL RIGHT, MEET ME AT MY HOUSE.

25 Q WHAT DID YOU-- DO YOU KNOW MUCH ABOUT HIS BUSINESS?

1 A I JUST KNOW THAT THEY OPEN UP CAR DOORS. I NEVER BEEN
2 INTO IT THAT GREAT, YOU KNOW.

3 Q OKAY.

4 A I'VE HAD HIM OPEN UP MY CAR DOOR A COUPLE OF TIMES IN
5 THE PAST. MY GUYS HAVE HAD MY VANS-- THEY'VE LOCKED THEIR
6 KEYS IN THE VANS ON JOB SITES AND HE'S COME OUT AND OPENED
7 THEM UP FOR ME.

8 Q NOW, WE CAN'T REALLY PICK WHO ARE OUR SISTERS-IN-LAW OR
9 BROTHERS-IN-LAW ARE IN LIFE, WHO MARRY OUR SIBLINGS.
10 SOMETIMES WE HAVE GOOD RELATIONSHIPS, SOMETIMES NOT SO
11 GOOD. WHAT IS YOUR RELATIONSHIP WITH MR. LARMAND?

12 A IT'S GOOD. I ACTUALLY KNEW FRANK BEFORE HE KNEW MY
13 WIFE.

14 Q DO YOU MEAN YOUR SISTER?

15 A YEAH, I'M SORRY. MY SISTER, YEAH.

16 Q AND YOU'RE HAPPY WITH YOUR SISTER'S CHOICE, AND YOU
17 HAVE A GOOD-- DO YOU HAVE A GOOD RELATIONSHIP WITH MR.
18 LARMAND?

19 A YES SIR.

20 Q BEFORE WE GO ANY FURTHER, I WANT TO ASK YOU. YOU'RE
21 WALKING VERY GINGERLY UP TO THE WITNESS STAND. WHY IS THAT?

22 A I'VE GOT BACK PROBLEMS.

23 Q DID YOU IN FACT HAVE BACK PROBLEMS BACK ON THE NIGHT
24 OF APRIL 30 AND THE MORNING OF MAY 1 OF THIS YEAR?

25 A YES SIR.

1 Q HAVE YOU HAD SURGERY?

2 MS. JOYNER: YOUR HONOR, I'M GOING TO OBJECT TO HIM
3 LEADING.

4 THE COURT: SUSTAINED. REPHRASE.

5 A YES, I---

6 Q HOW DID YOUR BACK PROBLEMS OCCUR?

7 A WELL, LIKE I SAID, DOING FURNITURE FOR GOING ON TWENTY
8 YEARS NOW, IT'S BEEN BEAT UP. SO, I THINK IT WAS DECEMBER I HAD
9 BACK SURGERY. I HAD A DISC EXPLODE AND A PIECE OF A DISC
10 EMBEDDED IN MY SPINAL CORD. SO THEY HAD TO GO IN AND MOVE
11 THE NERVES TO PULL THE PIECE OF DISC OUT FROM MY SPINAL CORD.
12 AND I'VE GOT SOME NERVE DAMAGE LEFT OVER FROM THE SURGERY.

13 Q WHEN APPROXIMATELY WAS THAT SURGERY?

14 A DECEMBER 20, OF '08.

15 Q OKAY. SO, WERE YOU STILL ON SOME PAIN ON THE NIGHT OF
16 APRIL 30?

17 A YEAH. I WAS DOWN TO, LIKE, ABOUT THREE TO FOUR DAYS I
18 COULD GO WITHOUT MY CANE THEN. I WAS GETTING BETTER.

19 Q AND ACTUALLY, AFTER YOU WERE ARRESTED IN THE BOOKING
20 REPORT, THEY ASKED YOU WHEN YOU WERE IN JAIL IF YOU HAD ANY
21 PROBLEMS OR WHAT NOT---

22 MS. JOYNER: YOUR HONOR, I OBJECT.

23 THE COURT: ON WHAT GROUNDS?

1 MS. JOYNER: FIRST OF ALL, I HAVEN'T SEEN WHAT HE'S
2 SHOWING HIM, AND HE'S ASKING HIM TO READ FROM A DOCUMENT
3 THAT IS NOT IN EVIDENCE.

4 MR. RHEA: YOUR HONOR, THIS WAS PRODUCED BY THE STATE IN
5 DISCOVERY, THE BOOKING REPORT.

6 MS. JOYNER: YES SIR, YOUR HONOR. HE CAN TESTIFY TO HIS
7 CONDITION, BUT HE CAN'T TESTIFY FROM A REPORT THAT HE DIDN'T
8 PREPARE.

9 THE COURT: SUSTAINED.

10 Q WHEN THEY ASKED YOU IF YOU HAD ANY PROBLEMS, WHAT DID
11 YOU TELL THEM?

12 A WHEN WAS THAT? WHEN I GOT ARRESTED?

13 Q WHEN YOU WERE IN JAIL, YES SIR.

14 A WHEN I WAS IN JAIL?

15 Q DID YOU TELL THEM YOU HAD RECENT BACK SURGERY?

16 A YES SIR.

17 Q OKAY. NOW, YOU SAID THAT YOU SAW YOUR BROTHER-IN-LAW,
18 MR. LARMAND, AT---

19 MS. JOYNER: YOUR HONOR, I HAVE TO OBJECT. HE'S LEADING
20 AGAIN.

21 THE COURT: SUSTAINED.

22 Q WHAT DID MR. LARMAND SAY TO YOU ABOUT THE STING?

23 MS. JOYNER: I'M GOING TO OBJECT TO HEARSAY, YOUR HONOR.

24 THE COURT: SUSTAINED.

25 MR. RHEA: YOUR HONOR, MAY WE APPROACH?

1 THE COURT: YES SIR.

2 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

3 THE OBJECTION IS OVERRULED.

4 MR. RHEA: THANK YOU, YOUR HONOR.

5 MS. JOYNER: THANK YOU, YOUR HONOR.

6 Q WHAT DID FRANK SAY TO YOU ABOUT THIS ALLEGED STING?

7 A JUST SAID THAT WE WERE GOING TO KNIGHTS' STADIUM AND HE
8 WANTED TO KNOW IF I WANTED TO GO WITH HIM. I SAID YEAH.

9 Q NOW, YOU PREVIOUSLY STATED THAT YOU DIDN'T KNOW MUCH
10 ABOUT THE BUSINESS. IS THAT CORRECT?

11 A YEAH. I DON'T KNOW MUCH ABOUT THE INTERNAL WORKINGS.
12 I DON'T KNOW ANYTHING ABOUT THE INTERNAL WORKINGS. I KNOW,
13 LIKE I SAID, THAT THEY UNLOCK CAR DOORS AND DO LOCKSMITH
14 WORK.

15 Q DID YOU KNOW WHAT HE MEANT WHEN HE SAID THAT IT WAS A
16 STING?

17 A YEAH. I KIND OF FIGURED THAT THEY WERE TRYING TO FIGURE
18 OUT SOMETHING. I MEAN, STING IS PRETTY SELF-EXPLANATORY.

19 Q WHAT---

20 A YOU KNOW, LIKE IN BUSINESS TRYING TO FIGURE SOMETHING
21 OUT.

22 Q WHAT DID YOU THINK IN YOUR MIND THAT HE WAS
23 ATTEMPTING TO ACCOMPLISH?

24 A PROBABLY TRYING TO FIGURE OUT IF SOMEBODY WAS
25 STEALING FROM HIM.

1 Q DID HE SAY ANY MORE SPECIFICS ABOUT THE STING?

2 A JUST THAT WE WERE GOING TO KNIGHTS' STADIUM, AND WE
3 WERE GOING TO PUT IN A CALL AND WE WERE GOING TO USE MY
4 PHONE.

5 Q OKAY.

6 A AND I WAS GONNA BE THE CALL BACK PERSON.

7 Q DO YOU RECALL HIM MENTIONING THE NAME, RYAN
8 LOCHBAUM?

9 A NO.

10 Q SO, WHAT HAPPENED WHEN YOU GOT TO KNIGHTS' STADIUM?

11 A HE CALLED AND WE SAT THERE FOR A WHILE, AND SAT THERE
12 FOR A WHILE. AND THEN HE CALLED BACK KERRIANN AND I GUESS
13 SHE PUT IN THE ETA. AND A LITTLE BIT AFTER THAT THE PHONE
14 RANG.

15 Q LET'S BACK UP JUST A LITTLE BIT IF WE CAN.

16 A ALL RIGHT.

17 Q DID YOU HAVE A GUN WITH YOU?

18 A YES, I DID.

19 Q DID YOU HAVE A GUN WITH YOU WHEN MR. LARMAND SAW YOU
20 AT THE INTERSECTION?

21 A YES, I DID.

22 Q AFTER YOU SAW HIM AT THE INTERSECTION, DID YOU GO PARK
23 YOUR CAR SOMEWHERE OR SOMETHING LIKE THAT?

24 A I WENT TO HIS HOUSE.

25 Q YOU WENT TO FRANK'S HOUSE?

1 A YES.

2 Q WHAT DID YOU DO WITH YOUR GUN?

3 A WHEN WE GOT TO THE HOUSE, WE PULLED UP. AND HE KIND OF
4 LIVES ON A CUL-DE-SAC AT THE END. HE'S THE ONLY HOUSE DOWN
5 THERE. AND HE WAS GOING IN TO TALK TO HIS DAUGHTER BECAUSE
6 IT WAS HER CURFEW WHEN SHE GETS HOME. AND HE SAID, JUMP IN
7 THE FOUR RUNNER, IN ASHLEY'S TRUCK. AND---

8 Q IS ASHLEY HIS DAUGHTER?

9 A YES.

10 Q OKAY, CONTINUE.

11 A SO, FRANK RAN IN THE HOUSE, TALKED TO ASHLEY. AND I
12 GRABBED MY STUFF AND JUMPED IN FRANK'S TRUCK. AND I PUT THE
13 GUN UNDER THE SEAT.

14 Q WHEN YOU SAY, GRABBED YOUR STUFF, WHAT DO YOU MEAN?

15 A I GRABBED MY PHONE. SEE, I WAS GOING TO MY SHOP, MY SHOP
16 TO DROP OFF PER DIEM. AND I HAD TO GO BECAUSE MY GUYS WERE
17 LEAVING TO GO TO CAMP LEJEUNE THE NEXT DAY, AND CAMP
18 LEJEUNE'S LIKE A FIVE HOUR RIDE. AND THEY GOT TO BE DOWN
19 THERE AT 8:00 TO MEET THE ROADWAY TRUCKS AT CAMP LEJEUNE.
20 SO, THEY GOT TO LEAVE OUT OF THE SHOP ABOUT 3:00, 3:30 IN THE
21 MORNING.

22 SO, WHAT I DO IS I GO DOWN THERE AND I GIVE THEM ALL THEIR
23 PER DIEM MONEY FOR BEING OUT OF TOWN AT THE HOTELS. AND I
24 PUT THEM IN THE VAN. I TRY TO DO IT AT THE LAST MINUTE BECAUSE
25 OUR WAREHOUSE IS IN A KIND OF HIGH CRIME AREA. SO, I TRY TO GO

1 DOWN THERE AT THE LAST MINUTE. PLUS, YOU KNOW, BEING A
2 SMALL BUSINESS WE ACTUALLY DON'T HAVE THE CASH FLOW AND
3 SOMETIMES I GOT TO WAIT TILL THE LAST MINUTE TILL I GET THE
4 MONEY TOGETHER. THAT'S JUST THE WAY IT HAPPENS SOMETIMES.

5 SO, I HAD THE PER DIEM MONEY. I HAD MY PHONE, MY
6 CIGARETTES AND MY GUN AND I GRABBED MY STUFF AND I THREW IT
7 IN THE TRUCK, THREW IT UNDER THE SEAT. FRANK CAME OUT
8 AFTERWARDS WHEN HE WAS DONE TALKING TO WHOEVER HE WAS
9 TALKING TO IN THE HOUSE, WHICH I ASSUME WAS ASHLEY.

10 Q SO, AM I CORRECT IN UNDERSTANDING THAT HAD YOU NOT
11 SEEN FRANK---

12 MS. JOYNER: OBJECTION TO LEADING, YOUR HONOR.

13 THE COURT: REPHRASE.

14 Q WAS THAT JUST A HAPPENSTANCE, MEETING WITH YOUR
15 BROTHER-IN-LAW?

16 A ACTUALLY, YEAH, IT WAS. YEP. BECAUSE I WAS GOING TO MY
17 SHOP.

18 Q AND THAT'S WHY-- IS THAT WHY YOU HAD THE GUN?

19 A YEAH. THAT'S WHY. THE PISTOL ACTUALLY GOES TO MY SHOP.
20 I ACTUALLY BRING IT TO MY SHOP. IT'S USUALLY IN MY DRAWER ON
21 A DAY TO DAY. THAT'S WHERE IT GOES. I LEAVE IT IN MY DESK
22 DURING THE DAY. BECAUSE, AS I SAID, IT IS IN A HIGH CRIME AREA.
23 WE'VE HAD PROBLEMS DOWN THERE BEFORE WITH STUFF.

24 Q DID YOUR BROTHER-IN-LAW EVER TELL YOU, LEO, BRING A
25 PISTOL WITH YOU?

1 A NO SIR.

2 Q DID YOU EVER TELL FRANK THAT YOU HAD THE PISTOL?

3 A NO SIR.

4 Q DID HE EVER ASK YOU, DO YOU HAVE A PISTOL?

5 A NO.

6 Q AND WHERE DID YOU PUT THE GUN?

7 A UNDER MY SEAT.

8 Q AND WHERE WAS MR. LARMAND AT THAT TIME?

9 A IN THE HOUSE.

10 Q DURING THE RIDE DOWN TO KNIGHTS' STADIUM, WHAT DID
11 Y'ALL TALK ABOUT, IF YOU RECALL?

12 A ACTUALLY, WE WERE TALKING ABOUT SPOILING OUR KIDS.
13 FRANK COME OUT OF THE HOUSE AND GOT IN THE TRUCK AND WAS
14 ACTUALLY COMPLAINING ABOUT ASHLEY. HE HAD JUST GOT DONE
15 TALKING WITH HER. AND HE WAS COMPLAINING ABOUT HER NOT
16 BEING HAPPY ABOUT SOMETHING ABOUT THE CURFEW. AND HE WAS
17 COMPLAINING HE'S WORKING ON HER TRUCK ALL DAY, AND - I'M
18 SORRY, EXCUSE MY LANGUAGE - SHE WAS BITCHING ABOUT THIS AND
19 BITCHING ABOUT THAT.

20 SO, WE TALKED ABOUT HER A LITTLE BIT. AND HOW THEY SPOIL
21 THEIR KIDS AND HOW ME AND MY WIFE SPOIL OUR KID. AND YOU
22 KNOW, THAT'S ABOUT IT. BASICALLY, COMPLAINING ABOUT THE KIDS
23 MOST OF THE WAY. NOT COMPLAINING ABOUT THEM, BUT JUST
24 TALKING ABOUT HOW WE'VE RAISED THEM AND STUFF LIKE THAT.
25 AND DAVE WITH HIS ARM GOING THROUGH SURGERY WITH BEING

1 PITCHING, IF HE WAS GONNA GET-- A SCOUT WAS LOOKING AT HIM
2 FROM THE CHICAGO WHITE SOCKS ACTUALLY. SO, WE WERE TALKING
3 A LITTLE BIT ABOUT THAT.

4 Q SO, IS IT SAFE TO SAY THIS WAS BASICALLY FAMILY TALK?

5 A YEAH.

6 Q YOU WERE TALKING ABOUT YOUR CHILDREN?

7 A YEAH.

8 Q DID YOU EVER TALK ABOUT HAVING A GUN?

9 A NO.

10 Q DID YOU EVER TALK ABOUT CONSPIRING TO DO SOMETHING TO
11 RYAN, AN INDIVIDUAL BY THE NAME OF RYAN LOCHBAUM?

12 A NO.

13 Q HAD YOU EVER HEARD THE NAME, RYAN LOCHBAUM, BEFORE,
14 AS AN EMPLOYEE OF FRANK AND YOUR WIFE'S COMPANY, JUST
15 HEARING IT BY CHANCE?

16 A YEAH. HE ACTUALLY OPENED ME UP YEARS AGO. HE TESTIFIED
17 THE OTHER DAY I HEARD ABOUT TIME WARNER CABLE. I DON'T
18 RECALL THAT. HE OPENED ME UP HALLOWEEN A COUPLE YEARS
19 BACK. I REMEMBER I WAS TRICK OR TREATING WITH MY SON AND MY
20 FAMILY AND HE CAME OUT ON HALLOWEEN UP IN HUNTERSVILLE AND
21 HE OPENED ME UP AT NIGHT. AND THAT WAS REALLY THE ONLY TIME
22 I REMEMBER.

23 NOW, WHETHER HE WENT TO TIME WARNER CABLE, BECAUSE
24 TIME WARNER CABLE IS ONE OF OUR CLIENTS WITH THE COMPANY.
25 HE MIGHT HAVE WENT THERE AND OPENED UP ONE OF OUR GUYS IN

1 MY VAN. BUT I REMEMBER HIM SPECIFICALLY OPENING UP US. THAT'S
2 THE FIRST TIME I EVER MET HIM AND THE ONLY TIME I EVER MET HIM.
3 AND THAT WAS QUITE A FEW YEARS AGO, HALLOWEEN, BECAUSE I
4 REMEMBER MY SON WAS REALLY YOUNG WHEN WE WENT IN
5 HUNTERSVILLE. SO, THAT'S THE ONLY TIME I EVER MET HIM.

6 Q DO YOU EVER REMEMBER MR. LARMAND SAYING THAT THIS
7 STING WAS FOR THE PURPOSE OF GETTING THIS PERSON WHO YOU
8 HAD COME IN CONTACT WITH BEFORE, RYAN LOCHBAUM?

9 A NO SIR.

10 Q SO, YOU GET TO KNIGHTS' STADIUM. WHAT HAPPENS THEN?

11 A HE DID STUFF, TALKED ON THE PHONE TO KERRIANN. AND I
12 GUESS THEY MADE THE CALL.

13 Q WHEN YOU SAY TALKED ON THE PHONE TO KERRIANN, WHAT
14 KIND OF-- BUSINESS CALLS OR WHAT?

15 A I REALLY WASN'T PAYING ATTENTION. I WAS WATCHING MY TV
16 ON MY PHONE. MY SON GOT THIS THING, HE USED TO WATCH HANNAH
17 MONTANA. SO, I GET TO WATCH THESE SPRINT SHOWS. SO, I WAS
18 ACTUALLY WATCHING GHOST HUNTERS ON THE SCIFI CHANNEL
19 WHILE HE WAS TALKING TO HER ON THE PHONE.

20 Q BUT AT SOME JUNCTURE DID YOU ACT AS A---

21 A OH, YEAH, YEAH.

22 Q ---BAIT.

23 A ONCE HE SAID THE CALL WENT THROUGH, THAT'S WHEN I SAT
24 AND WAITED BECAUSE I WAITED FOR MY PHONE TO GO OFF.

25 Q OKAY.

1 A BUT WHEN WE FIRST GOT THERE, WHEN WE WERE ACTUALLY
2 GETTING THERE, DRIVING ON THE WAY UP, I WAS WATCHING IT, ON
3 THE PHONE.

4 Q OKAY. SO, TELL THE LADIES AND GENTLEMEN OF THE JURY
5 ABOUT YOUR PART OF THE MYSTERY CALL AND YOUR PARTICIPATING
6 IN THAT.

7 A THE PHONE RANG AND A GUY SAID I'M CALLING FOR POP-A-
8 LOCK AND HE ASKED FOR THE GIRL. AND I SAID, WELL, I'M HER
9 BOYFRIEND. I SAID SHE'S ACTUALLY GONE BACK INTO THE STADIUM
10 TO GET SOME MORE OF OUR FRIENDS. BECAUSE, ACTUALLY, WHEN
11 THE CALL CAME IN, THE GAME WAS JUST GETTING OVER AND PEOPLE
12 WERE COMING OUT.

13 I SAID, SHE'S GETTING OUR FRIENDS. I SAID, BUT WE'RE HERE.
14 AND HE SAID, DO YOU HAVE A CREDIT CARD NUMBER. AND I SAID, NO,
15 I DON'T HAVE A CREDIT CARD NUMBER. AND I SAID I'M PAYING CASH.
16 AND HE SAID ALL RIGHT, AND THEN HE HUNG UP. AND THAT WAS IT.

17 Q DID YOU FEEL LIKE THE CALL WENT WELL?

18 A YES.

19 Q THAT IT WORKED OR NOT?

20 A YES.

21 Q WAS THERE ANY WAY FOR YOU TO KNOW?

22 A NO. HE JUST SAID, OKAY, WE'RE ON OUR WAY, SOMEONE WILL
23 BE OUT THERE.

24 Q DID YOU KNOW WHO THIS PERSON WAS THAT YOU WERE
25 TALKING TO?

- 1 A NO. HE JUST SAID, I'M CALLING FOR POP-A-LOCK.
- 2 Q AND THEREAFTER, DID FRANK TALK TO KERRIANN AGAIN
- 3 WHILE YOU WERE WAITING?
- 4 A YES. A LITTLE WHILE WENT BY AND HE CALLED BECAUSE
- 5 NOBODY SHOWED UP.
- 6 Q WHAT WERE YOU WEARING THAT NIGHT?
- 7 A BLACK SHIRT, BLACK PANTS.
- 8 Q WAS THAT BY DESIGN TO DO THAT?
- 9 A NO.
- 10 Q WHY WERE YOU DRESSED IN BLACK?
- 11 A THAT'S WHAT I USUALLY WEAR.
- 12 Q DID MR. LARMAND TELL YOU, LEO, DRESS ALL IN BLACK SO WE
- 13 CAN BE HARD TO SEE IN THE DARK, OR ANYTHING LIKE THAT?
- 14 A NO. IT'S ACTUALLY KIND OF A VANITY THING. THEY ALWAYS
- 15 SAY BLACK KIND OF MAKES YOU LOOK A LITTLE THINNER. I HATE TO
- 16 SAY THAT, BUT YOU KNOW, THAT'S USUALLY THE WAY IT IS.
- 17 Q SO, THAT'S WHY---
- 18 A I WEAR DARK COLORS, YEAH.
- 19 Q WERE YOU WEARING THOSE SAME BLACK CLOTHES AT THE
- 20 INTERSECTION WHEN YOU BY HAPPENSTANCE SAW YOUR BROTHER-
- 21 IN-LAW AND HE ASKED YOU TO COME ALONG?
- 22 A SAY THAT AGAIN?
- 23 Q DID YOU EVER CHANGE CLOTHES---
- 24 A OH, NO.

1 Q ---BETWEEN THE TIME THAT YOU SAW FRANK AT THE
2 INTERSECTION?

3 A NO.

4 Q HAD YOU TOLD MR. LARMAND THAT MORNING WHAT YOU
5 WERE GONNA WEAR TO WORK?

6 A NO.

7 MS. JOYNER: YOUR HONOR, I HAVE TO OBJECT TO THE LEADING
8 QUESTIONS.

9 THE COURT: SUSTAINED.

10 MR. RHEA: YOUR HONOR, MAY WE APPROACH?

11 THE COURT: YES SIR.

12 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

13 Q MR. LEMIRE, ---

14 A YES SIR.

15 Q ---HOW LONG DID YOU AND YOUR BROTHER-IN-LAW WAIT AT
16 KNIGHTS' STADIUM TO SEE IF SOMEONE FROM POP-A-LOCK ARRIVED
17 ON THE MYSTERY SHOPPER CALL?

18 A PROBABLY ABOUT AN HOUR.

19 Q WHAT DO YOU RECALL FRANK SAYING DURING THAT TIME?

20 A WHAT DO YOU MEAN, SAYING?

21 Q WITH REGARD TO ANYTHING REGARDING THE MYSTERY
22 SHOPPER CALL.

23 A REGARDING THAT, JUST THAT WE HAD TO WAIT. NOBODY
24 SHOWED UP AND THAT WAS ABOUT IT. HE WAS TALKING TO
25 KERRIANN. HE CALLED KERRIANN BACK AND SHE CALLED BACK IN

1 AGAIN. WE DIDN'T REALLY TALK ABOUT THE MYSTERY CALL. WE
2 TALKED ABOUT THE KIDS.

3 AND ACTUALLY, I THINK I WAS TALKING ABOUT, STARTED
4 TALKING ABOUT BASEBALL AND JOSE CONSECO, I WAS TALKING
5 ABOUT HIM.

6 Q DID MR. LARMAND EVER DISCUSS WITH YOU WHAT WOULD
7 HAPPEN IF SOMEONE SHOWED UP, EITHER FROM POP-A-LOCK OR NOT
8 FROM POP-A-LOCK?

9 A YEAH.

10 Q WHAT DID HE SAY?

11 A HE SAID HE WAS GONNA GET PROOF AND HE WOULD HAVE
12 PROOF OF WHO IT WAS. HE WAS GONNA TRY TAKING A PICTURE OF
13 THE VEHICLE. THAT'S WHY WE WERE UNDER THE LIGHTS, SO HE
14 COULD GET A NICE LOOK AT HIM, AT THE VEHICLE.

15 Q DID HE HAVE A CAMERA?

16 A UH-HUH, CAMERA PHONE.

17 Q A CAMERA PHONE?

18 A YEAH.

19 Q NOW, TELL ME, WAS THE GAME JUST CONCLUDING AT KNIGHTS'
20 STADIUM?

21 A I BELIEVE SO. I MEAN, PEOPLE WERE COMING OUT.

22 Q WAS THE PARKING-- HOW FULL OR UN-FULL WAS THE PARKING
23 LOT?

24 A IT WAS-- AT ONE POINT IT HAD GOTTEN PRETTY FULL AND THEN
25 IT KIND OF FADED OFF. BUT, YEAH, THERE WAS PEOPLE COMING OUT.

- 1 Q OKAY. WOULD YOU AGREE WITH THE APPROXIMATE TIMES
2 THAT HAVE BEEN INTRODUCED IN THE TRIAL AS TO WHEN THAT WAS,
3 TO YOUR RECOLLECTION?
- 4 A YEAH, I'D SAY CLOSE TO THAT. I WASN'T REALLY PAYING
5 ATTENTION AT THE TIME. I WAS KIND OF ALONG FOR THE RIDE.
- 6 Q OKAY. WHAT WAS FRANK'S REACTION WHEN NO ONE SHOWED
7 UP?
- 8 A A LITTLE AGITATED.
- 9 Q WHAT DID HE SAY TO YOU ABOUT THAT, IF YOU RECALL?
- 10 A I DON'T REALLY RECALL WHAT HE SAID. I THINK IT WAS
11 MOSTLY JUST FOR THE FACT OF HAVING TO GO OUT THERE. HE WAS
12 RUNNING THE OTHER BUSINESS AND STUFF, YOU KNOW. HE DIDN'T
13 REALLY WANT TO BE PART OF POP-A-LOCK.
- 14 Q OKAY. SO, THEN WHAT DID HE SAY?
- 15 A HE HAD TO GET GAS.
- 16 Q WHERE'D Y'ALL GO?
- 17 A CAROWINDS BOULEVARD.
- 18 Q WHO PUMPED THE GAS?
- 19 A FRANK.
- 20 Q DID YOU LEAVE THE VEHICLE?
- 21 A NO.
- 22 Q YOU HAD YOUR CELL PHONE. WHERE WAS THAT?
- 23 A THE CELL PHONE WAS ON THE CONSOLE.
- 24 Q YOUR SMOKES?
- 25 A SMOKES, ON THE FLOOR.

1 Q UNDERNEATH THE SEAT?

2 A NO, ACTUALLY, NO, MY SMOKES WERE ON THE CONSOLE.

3 Q OKAY. YOUR GUN?

4 A UNDER THE SEAT.

5 Q THEN WHERE'D Y'ALL GO?

6 A THEN WE PULLED OUT AND HE ASKED ME IF I WANTED TO GO
7 FOR A RIDE WITH HIM.

8 Q DID HE SAY WHERE TO?

9 A YES.

10 Q WHAT DID HE SAY IN FACT?

11 A HE SAID HE WANTED TO TAKE A RIDE OUT TO RYAN'S HOUSE.

12 Q IS THAT THE FIRST TIME YOU HAD HEARD MR. LOCHBAUM'S
13 NAME MENTIONED ON THAT NIGHT?

14 A YES SIR.

15 Q AND DID HE SAY WHAT THE PURPOSE WAS FOR GOING TO MR.
16 LOCHBAUM'S HOUSE?

17 A YEAH. HE SAID SOMETHING ABOUT HE WANTED TO SEE-- THERE
18 WAS A RED CAR THAT WAS SEEN DRIVING AROUND WITH POP-A-LOCK
19 MAGNETS ON IT. AND HE WANTED TO GO UP THERE AND SEE IF THAT
20 WAS THERE OR IF ANY PEOPLE THAT WORKED FOR MY SISTER WERE
21 UP THERE HANGING OUT WITH HIM.

22 Q WHAT ELSE DID HE TELL YOU?

23 A THAT THE ONLY OTHER THING HE SAID WAS HE DIDN'T KNOW
24 WHERE IT WAS. HE WAS GONNA CALL KERRIANN AND GET
25 DIRECTIONS TO WHERE IT WAS.

1 Q DID HE IN FACT DO SO?

2 A YES.

3 Q SO, WHAT DID Y'ALL TALK ABOUT ON THE RIDE FROM
4 CAROWINDS BOULEVARD TO ROCK HILL? IF YOU RECALL.

5 A NOT TOO MUCH BECAUSE HE WAS ON THE PHONE A LOT WITH
6 MY SISTER TALKING BACK AND FORTH. I WAS ACTUALLY PLAYING
7 WITH MY PHONE.

8 Q DID HE EVER TELL YOU HE WANTED YOU TO PULL A GUN ON
9 RYAN LOCHBAUM?

10 A NO, ABSOLUTELY NOT.

11 Q DID HE EVER TELL YOU HE WANTED YOU TO HELP HIM IN A
12 FIGHT BEAT UP RYAN LOCHBAUM?

13 A NO.

14 Q SO, WHAT HAPPENED WHEN YOU GOT THERE?

15 A WE PULLED IN AND CAME AROUND THE CORNER. AND FRANK
16 HAD SEEN HIS VAN IN THE DRIVEWAY, AND HE SAID RYAN MUST BE
17 HOME. AND HE WENT PAST HIS HOUSE, AND HE LOOKED OVER AT ME
18 AND SAID, WELL, I'M JUST GONNA GO AND TALK TO HIM. IT WAS KIND
19 OF QUICK. HE SAID, I'M JUST GONNA GO AND TALK TO HIM. HE SAID,
20 JUST STAY HERE AND I'LL BE BACK. SO, HE PULLED OVER AND GOT
21 OUT AND HE WENT DOWN THERE.

22 Q BACKING UP JUST A LITTLE BIT, MR. LEMIRE. APPROXIMATELY
23 HOW MANY PHONE CALLS WOULD YOU GUESS, IF YOU RECALL, YOUR
24 BROTHER-IN-LAW MADE TO YOUR SISTER ON THE WAY DOWN THERE?

1 A OH, GOD. TO BE HONEST WITH YOU, I REALLY DON'T-- I'M
2 GONNA SAY I REMEMBER TWO BECAUSE I WAS WATCHING, LIKE I
3 SAID, I WAS WATCHING THE PHONE. I WASN'T PAYING ATTENTION AT
4 THAT POINT.

5 Q WAS IT DIFFICULT FOR FRANK, IN YOUR OPINION, TO FIND THE
6 LOCATION?

7 A YEAH. I ACTUALLY-- I REMEMBER WE WENT BY IT. I
8 REMEMBER WE WENT BY IT ONCE AND HE HAD TO TURN AROUND. I
9 REMEMBER HIM TURNING AROUND.

10 Q NOW, WHEN YOU RODE BY, WHAT DID YOU OBSERVE OF THE
11 PEOPLE OUTSIDE? OR DID YOU? WERE YOU PAYING ATTENTION AT
12 THAT JUNCTURE?

13 A AT THAT POINT, I JUST, I CAUGHT THE VAN. BECAUSE HE WENT
14 AROUND THE CORNER, AND IT WAS EVIDENTLY, LIKE, RIGHT THERE
15 WHEN WE WENT AROUND THE CORNER. IT WASN'T-- IT WAS REAL
16 QUICK. AND I CAUGHT THE VAN WHEN HE WENT BY IT.

17 Q WHAT DO YOU MEAN WHEN YOU SAY YOU CAUGHT THE VAN?

18 A I CAUGHT THE VAN OUT OF THE CORNER OF MY EYE.

19 Q OKAY.

20 A UH-HUH.

21 Q AND HOW DID YOU RECOGNIZE IT?

22 A I DIDN'T EVEN RECOGNIZE IT. I DIDN'T KNOW WHAT HE DROVE.

23 Q WELL, HOW---

1 A FRANK CAUGHT THE VAN. FRANK SEEN-- FRANK SAID, HE MUST
2 BE HOME. AND I CAUGHT THE VAN OUT OF THE CORNER OF MY EYE.
3 HE SAID THAT'S HIS VAN.

4 Q OKAY.

5 A AND WE WERE ACTUALLY ALREADY GOING BY IT WHEN I SEEN
6 IT.

7 Q DID YOU SEE PEOPLE STANDING AROUND THE VAN?

8 A WHEN I TURNED, I SEEN ONE, I THOUGHT I SEEN ONE PERSON
9 THROUGH THE WINDOW BECAUSE HIS LIGHT WAS ON ON THE OTHER
10 SIDE OF THE VAN. SO, YOU COULD SEE, LIKE, THROUGH THE WINDOWS
11 OF THE VAN. BUT I DIDN'T KNOW WHO IT WAS, NO CLUE.

12 Q WERE THERE HOUSE LIGHTS ON?

13 A AT THAT POINT, I DIDN'T KNOW. I SEEN DRIVEWAY LIGHTS. I
14 SEEN THE DRIVEWAY LIT UP BECAUSE THAT'S WHERE I CAUGHT THE
15 VAN.

16 Q OKAY. AND SO, YOU HEARD, AND THE TESTIMONY WAS, IN
17 TERMS OF WHERE Y'ALL PARKED. IF YOU WOULD, PLEASE STEP DOWN.

18 (WHEREUPON WITNESS EXITED WITNESS STAND FOR
19 DEMONSTRATION WITH STATE'S EXHIBIT NUMBER FIVE)

20 JUST USE THAT POINTER. WHERE DID FRANK PARK THE FOUR
21 RUNNER?

22 A (INDICATES AREA ON STATE'S EXHIBIT NUMBER FIVE)

23 Q WHAT WAS SAID BETWEEN YOU AND MR. LARMAND AT THAT
24 POINT IN TIME WHEN THE VAN WAS PARKED-- I MEAN, WHEN FRANK
25 PARKED THE FOUR RUNNER?

1 A HE SAID WAIT HERE, I'M GONNA GO TALK TO HIM.

2 Q IS THAT ALL HE SAID?

3 A YES SIR.

4 Q DID HE SAY TO COVER HIM?

5 A NO.

6 MS. JOYNER: OBJECTION, YOUR HONOR, TO LEADING.

7 THE COURT: SUSTAINED.

8 Q YOU CAN TAKE YOUR SEAT.

9 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

10 ANYTHING ELSE THAT YOUR BROTHER-IN-LAW SAID?

11 A NO.

12 Q SO, THEN, WHAT HAPPENED?

13 A I WAS SITTING THERE AND THEN I HEARD A LOUD VOICE AND
14 SOME SWEARING. AND IT WASN'T MY BROTHER-IN-LAW'S VOICE. SO, I
15 GOT OUT OF THE CAR, OUT OF THE TRUCK. AND I GRABBED MY GUN
16 AND I WALKED DOWN THERE.

17 Q WHAT WAS YOUR UNDERSTANDING OF WHY, BASED ON WHAT
18 YOUR BROTHER-IN-LAW SAID TO YOU, WHY HE WAS GOING TO TALK
19 TO MR. LOCHBAUM?

20 A HE WAS GOING TO-- HE DIDN'T SAY WHY HE WAS GOING TO
21 TALK TO HIM. HE DIDN'T TELL ME WHY HE WAS GOING. HE JUST SAID
22 HE WAS GONNA GO AND TALK TO HIM.

23 Q DID YOU HAVE IN YOUR MIND THAT MR. LOCHBAUM WAS
24 SOMEONE THAT FRANK WAS AGITATED WITH?

25 A NO, I DIDN'T KNOW.

1 Q SO, YOU HEARD VOICES, OR A VOICE, YOU SAID. DID YOU KNOW
2 WHOSE VOICE IT WAS?

3 A NO. I KNOW IT WASN'T FRANK'S, THOUGH.

4 Q SO, THEN WHAT HAPPENED?

5 A I GOT OUT OF MY CAR AND GRABBED MY PISTOL AND I WENT
6 DOWN THERE.

7 Q WHY?

8 A BECAUSE I WAS SCARED.

9 Q SCARED FOR WHO?

10 A I WANTED TO MAKE SURE HE WAS ALL RIGHT.

11 Q SO, THEN WHAT HAPPENED?

12 A WHEN I WALKED DOWN THERE---

13 Q EXCUSE ME. I DON'T WANT TO HAVE YOU GET UP AGAIN. BUT IF
14 YOU CAN TELL, BY WHAT ROUTE DID YOU WALK TO GO TO MR.
15 LOCHBAUM'S RESIDENCE?

16 A I WALKED DOWN THE STREET, KIND OF ON THE OPPOSITE SIDE
17 OF THE STREET.

18 Q OF GENTLE BREEZE?

19 A YES.

20 Q ALL RIGHT.

21 A I STAYED ON THE STREET, WALKED DOWN THE STREET.

22 Q OKAY.

23 A AND WHEN I GOT DOWN THERE I COULD HEAR THEM SWEARING.
24 AND RYAN - NOW I KNOW AT THE TIME - WAS GETTING PRETTY LOUD.
25 AND BY THE TIME I GOT DOWN THERE FRANK WAS WALKING UP

1 TOWARDS THE CAR AGAIN. AND RYAN WAS COMING UP BEHIND HIM
2 AND HE SAID SOMETHING ON THE LINES OF WELL, YOU KNOW WHAT
3 MY F'N PROBLEM IS. HE SAID, MY F'IN PROBLEM IS COMPANY AND MY
4 F'IN PROBLEM IS YOU.

5 AND WHEN HE WALKED UP TO FRANK, FRANK WAS, LIKE, ON
6 THE OUTSIDE AND HE WAS ON THE INSIDE OF THE SIDEWALK
7 TOWARDS THE GRASS. AND HE WALKED UP BEHIND HIM AND HE WAS
8 LOOKING UP AT HIM LIKE THIS WHEN HE SAID IT. AND I SEE HIS
9 HANDS GO UP AND GO LIKE THIS WHEN HE SAYS IT.

10 AND NO SOONER THAN HE DID THAT, I'M ON THE STREET AND I'M
11 LOOKING TOWARDS THE HOUSE AND I SEE BODIES COME OUT OF THE
12 YARD, RIGHT BEHIND HIM. SO, WHEN I SEE THAT COME, THAT'S WHEN
13 I GO IN.

14 AND FRANK WAS LIKE THIS, AND I KIND OF WALKED IN BEHIND,
15 BETWEEN THE GUYS AND FRANK. WELL, AS SOON AS I COME IN, RYAN
16 BACKS UP. AND THAT'S WHEN--

17 I MEAN, I DON'T KNOW HOW MUCH. DO YOU WANT ME TO KEEP
18 ON GOING?

19 Q WELL, WHAT DID YOU SAY WHEN YOU CAME IN?

20 A WHEN I CAME IN RYAN BACKED UP AND I SAID THAT'S IT,
21 FRANK. AND I LOOKED AT RYAN AND I SAID THIS IS IT, DON'T F WITH
22 MY FAMILY. THAT'S WHAT I SAID TO HIM, DON'T F WITH MY FAMILY.
23 AND I HAD THE GUN LIKE THIS.

- 1 Q HOW FAR WOULD YOU ESTIMATE THE PEOPLE THAT YOU SAID
2 YOU THOUGHT WERE COMING TOWARDS FRANK, HOW FAR AWAY
3 WERE THEY FROM MR. LARMAND?
- 4 A AT THAT TIME?
- 5 Q YES.
- 6 A AS SOON AS I CAME IN?
- 7 Q WELL, AS---
- 8 A THEY HAD JUST COME OFF THE GRASS INTO THE DRIVEWAY. I'D
9 SAY FIFTEEN, TWENTY FEET, IF THAT.
- 10 Q FIFTEEN, TWENTY FEET?
- 11 A YEAH, PROBABLY ABOUT FIFTEEN, TWENTY FEET.
- 12 Q AND WHAT WAS FRANK DOING AT THE TIME?
- 13 A FRANK WAS WALKING UP THE STREET. I MEAN, UP THE
14 SIDEWALK.
- 15 Q FACING WHICH WAY?
- 16 A FACING WHICH WAY? FACING THE TOP OF THE STREET WHERE
17 THE TRUCK WAS PARKED.
- 18 Q WAS MR. LARMAND'S BACK TURNED TO WHERE MR. LOCHBAUM
19 AND THESE OTHER INDIVIDUALS WERE?
- 20 A YES SIR.
- 21 Q HOW CLOSE WAS MR. LOCHBAUM TO FRANK AT THAT TIME,
22 APPROXIMATELY?
- 23 A WELL, HE WAS BENT OVER. FRANK LOOKED DOWN AT HIM, THE
24 WAY HE LOOKED UP AT HIM. SO, PROBABLY TWO FEET BEHIND HIM, A
25 COUPLE OF FEET BEHIND HIM.

1 Q OKAY. SO, YOU CAME IN WITH A GUN. HOW DID YOU HAVE THE
2 GUN?

3 A I HAD IT UP IN THE AIR.

4 Q WAS IT EVER POINTED AT MR. LOCHBAUM?

5 A NO. EXCEPT MAYBE WHEN I WAS RAISING IT UP IN THE AIR, BUT
6 THAT'S ABOUT IT.

7 Q HOW FAR AWAY WERE YOU FROM MR. LOCHBAUM WHEN YOU
8 CAME IN?

9 A I WAS TEN FEET, FIFTEEN FEET WHEN I STARTED WALKING IN.
10 MAYBE EVEN FURTHER, MAYBE TWENTY FEET.

11 Q THEN WHAT HAPPENED?

12 A HE BACKED UP. AND I REMEMBER THE BIG GUY, HE STOPPED
13 DEAD IN HIS TRACKS AND HE BACKED-- SEE, THE GRASS, WHERE THE
14 GRASS WAS, IT'S LIKE HIS LIGHTS IN HIS DRIVEWAY KIND OF CAST A
15 VEE SHADOW, A VEE. AND BESIDES THAT VEE IT WAS, LIKE, PITCH
16 BLACK. YOU COULDN'T SEE BEYOND THAT VEE.

17 SO, WHEN THE BIG GUY, HE WAS THE FIRST ONE, HE STOPPED
18 DEAD IN HIS TRACKS AND DIDN'T MOVE. HE BACKED RIGHT BACK ON.
19 I MEAN, THAT WAS IT. AND THEN ONE GUY JETTED AROUND THE VAN
20 TO, LIKE, COME UP BEHIND. AND AS SOON AS I TURNED TO LOOK AT
21 THAT GUY GOING AROUND THE VAN TO COME UP BEHIND, THAT'S
22 WHEN MR. LOCHBAUM JUMPED AND GRABBED MY ARM.

23 Q THEN WHAT HAPPENED?

1 A THEN HE PUSHED ME AND I TOOK TWO STEPS BACK AND MY
2 BACK GAVE OUT, AND I HIT THE GROUND. AND THEN IT WAS JUST
3 SLAM-BAM-BOOM. I WAS PUMMELED.

4 Q HOW MANY PEOPLE WERE ON TOP OF YOU, AS YOU RECALL?

5 A AS I RECALL, I REMEMBER GETTING HIT BY THE RIGHT SIDE, AND
6 BEING HIT BY THE LEFT SIDE, AND I KNOW RYAN WAS ON TOP OF ME.
7 SO, WHAT I KNOW IS THREE.

8 Q DID THAT INCLUDE FRANK?

9 A I DON'T KNOW WHERE FRANK WAS. I WAS UNDER THE PILE. I
10 DON'T KNOW WHERE FRANK WAS. I HAVE NO CLUE.

11 Q DID YOU HEAR THE TESTIMONY ABOUT YOU BEING KICKED IN
12 THE GROIN?

13 A YEAH, I HEARD THAT.

14 Q WERE YOU?

15 A NO.

16 Q DID YOU EVER RELINQUISH THE GUN?

17 A YES, I DID.

18 Q WHY WAS THAT?

19 A BECAUSE I HEARD THE POLICE WERE COMING.

20 Q DID YOU EVER ATTEMPT TO FIRE THE GUN?

21 A NO.

22 Q WAS THE GUN LOADED?

23 A YES, IT WAS.

24 Q DO YOU RECALL WHAT WAS SAID IN THIS DOG PILE OF FOLKS,
25 AS IT'S BEEN DESCRIBED?

1 A YES. MR. HARRIS DID SAY THAT HE, HE SAID, JUST LET THE GUN
2 GO. AND I SAID, I'M JUST TRYING TO PROTECT MY BROTHER, JUST
3 TRYING TO PROTECT MY BROTHER.

4 I SAID I'M LETTING THE GUN GO UNTIL THE POLICE GET HERE.
5 AND THAT WAS ALL THAT I REMEMBER. AND RYAN JUST KEPT
6 SAYING, GET THE F'IN GUN, GET THE F'IN GUN, GET THE F'IN GUN.
7 THAT'S ALL I REMEMBER.

8 AND I REMEMBER MY BROTHER-IN-LAW SAYING, ACTUALLY. I
9 REMEMBER FRANK SAYING LET HIM GO, I'LL TAKE CARE OF THIS. I
10 THINK HE SAID IT A COUPLE OF TIMES, JUST LET HIM GO, I'LL TAKE
11 CARE OF IT.

12 Q HOW DID YOU PHYSICALLY RELINQUISH THE GUN?

13 A I SAID, OKAY, I'M LETTING IT GO, DON'T SHOOT IT, AND I JUST
14 LET IT GO.

15 Q TO YOUR RECOLLECTION, WHO HAD THE GUN WHEN YOU
16 RELINQUISHED IT?

17 A RYAN.

18 Q AND THEN WHAT HAPPENED?

19 A RYAN GRABBED THE GUN, HELD IT IN HIS HAND, LOOKED AT IT,
20 JUMPED UP, MADE SOME, LIKE, A BACK NOISE, AND SAID, LOOKED AT
21 US AND SAID LOOK, ANY ASSHOLE CAN CARRY A GUN, HE SAYS, BUT I
22 KNOW HOW TO SHOOT ONE. AND HE PICKED IT UP AND POINTED IT AT
23 US AND COCKED IT.

24 ME AND FRANK TURNED AROUND AND WENT UP THE STREET.
25 AND THAT'S THE LAST I SEEN HIM.

1 Q WHEN YOU SAY YOU WENT UP THE STREET, HOW DID YOU GO UP
2 THE STREET?

3 A KIND OF SLOWLY. I HURT MY BACK AGAIN PRETTY BAD. IT WAS
4 NO RUNNING INVOLVED, THAT'S FOR SURE.

5 Q YOUR STATEMENT ABOUT F'IN WITH MY FAMILY.

6 A YES SIR.

7 Q WHY DID YOU SAY THAT?

8 A BECAUSE I THOUGHT THEY WERE GONNA JUMP FRANK AND
9 BEAT THE SNOT OUT OF HIM.

10 Q DO YOU RECALL ANYBODY BEING BEHIND YOU AND MR.
11 LARMAND WHEN YOU WERE GOING DOWN THE SIDEWALK?

12 A ABSOLUTELY NOT.

13 Q WHEN YOU GET BACK TO THE, WAS A FOUR RUNNER? IS THAT
14 CORRECT?

15 A YES SIR.

16 Q TOYOTA FOUR RUNNER?

17 A YES SIR.

18 Q WHEN YOU GET BACK TO THAT WHO GETS IN WHAT POSITION IN
19 THE CAR?

20 A SAME AS WE ARRIVED. I GOT IN THE PASSENGER'S SIDE AND HE
21 GOT IN THE DRIVER'S SIDE.

22 Q THEN WHAT OCCURRED?

23 A WE PULLED OUT AND THEN GOT PULLED OVER.

24 Q DO YOU RECALL WHICH OFFICER YOU SPOKE WITH WHEN YOU
25 GOT PULLED OVER?

1 A NO.

2 Q DO YOU RECALL EVER TALKING TO OFFICER WATSON, WHO
3 TESTIFIED IN THE TRIAL EARLIER?

4 A YEAH, I ACTUALLY REMEMBER TALKING TO HIM.

5 Q AS A RESULT OF YOUR CONVERSATIONS WITH HIM AND
6 PERHAPS SOMEONE ELSE, WERE YOU ARRESTED?

7 A YES.

8 Q AND WHAT WERE YOU ARRESTED FOR? AT THAT TIME, TO YOUR
9 KNOWLEDGE, WHAT WERE YOU BEING ARRESTED FOR?

10 A HAVING A GUN, PULLING A GUN.

11 Q ANYTHING ELSE?

12 A NO.

13 Q WERE YOU TOLD AT THAT TIME YOU WERE BEING CHARGED
14 WITH LYNCHING?

15 A NO.

16 Q WERE YOU TOLD AT THAT TIME YOU WERE BEING CHARGED
17 WITH CONSPIRACY?

18 A NO.

19 Q AND YOU WERE TAKEN WHERE?

20 A ROCK HILL POLICE DEPARTMENT.

21 Q WHAT HAPPENED TO FRANK THAT NIGHT, IF YOU RECALL,
22 AFTER THE INTERACTION WITH LAW ENFORCEMENT?

23 A I SAT IN THE BACK OF THE POLICE OFFICE AND WATCHED HIM
24 SHAKE THE POLICE OFFICER'S HAND AND GET IN THE TRUCK AND PULL
25 AWAY.

1 Q COULD YOU HEAR FRANK'S CONVERSATION WITH THE POLICE
2 OFFICER?

3 A NO. THERE WAS TOO MUCH CHATTER ON THE POLICE RADIO IN
4 THE CAR. I REALLY COULDN'T HEAR ANYTHING.

5 Q HOW LONG WOULD YOU SAY THAT INTERACTION WITH THE
6 POLICE TOOK PLACE?

7 A TO ME, IT SEEMED LIKE FOREVER. I'D SAY TEN MINUTES,
8 MAYBE.

9 Q HOW LONG?

10 A TEN, FIFTEEN MINUTES, TOPS.

11 Q WERE YOU AT ALL TIMES COOPERATIVE WITH THE LAW
12 ENFORCEMENT OFFICERS?

13 A I THINK SO, YES.

14 Q YOU WERE BROUGHT WHERE?

15 A ROCK HILL POLICE DEPARTMENT.

16 Q AT WHAT TIME DID YOU LEARN YOU WERE BEING CHARGED
17 WITH THE ADDITIONAL CHARGES?

18 A WHEN THEY CAME AND SLID THESE PIECES OF PAPER UNDER
19 THE CELL DOOR. I SAID WHAT'S THAT AND THEY SAID, READ THEM.

20 Q WHEN WAS THAT?

21 A THE NEXT DAY.

22 Q THE NEXT DAY. WAS THAT PRIOR TO YOUR BOND HEARING?

23 A YES.

1 Q WAS THERE ANY TYPE OF AGREEMENT BETWEEN YOU AND
2 YOUR BROTHER-IN-LAW FOR YOU TO COME UP WITH THAT GUN AT
3 RYAN LOCHBAUM'S HOUSE?

4 A NO SIR.

5 Q WHY'D YOU DO IT?

6 A BECAUSE I WAS BRINGING IT TO GO TO MY SHOP.

7 Q PARDON ME?

8 A FRANK WAS GONNA BRING ME TO MY SHOP AFTER THIS WAS
9 ALL DONE.

10 Q OKAY.

11 A MY SHOP'S IN A BAD AREA. I HAD MONEY ON ME. AND I BRING
12 MY PISTOL TO MY SHOP, THAT'S WHAT I DO.

13 Q ONCE AGAIN, WHY DID YOU INTERVENE IN FRANK'S SITUATION
14 WITH MR. LOCHBAUM?

15 A BECAUSE I WAS SCARED AND I WAS STUPID. I WAS SCARED.

16 Q DID YOUR BROTHER-IN-LAW EVER ASK YOU TO INTERVENE IN
17 HIS BUSINESS?

18 A NO SIR.

19 MR. RHEA: BEG THE COURT'S INDULGENCE, YOUR HONOR.

20 THE COURT: SURE.

21 (PAUSE)

22 MR. RHEA: NO FURTHER QUESTIONS AT THIS TIME.

23 THE COURT: MR. GREELEY.

24 MR. GREELEY: MAY IT PLEASE THE COURT.

25

1 CROSS EXAMINATION BY MR. GREELEY:

2 Q MR. LEMIRE, AT THE TIME THAT YOU INTERVENED WITH THE
3 PISTOL DID YOU BELIEVE THAT YOUR BROTHER-IN-LAW WAS GOING
4 TO BE SERIOUSLY INJURED?

5 A YES, I DID.

6 Q WHY?

7 A BECAUSE THEY WERE COMING OUT AFTER HIM.

8 Q HE HAD-- WAS HE FACING THEIR DIRECTION?

9 A NO, HE WASN'T.

10 Q DID HE SEE WHAT YOU SAW?

11 A NO, HE DIDN'T.

12 Q AND ON WHICH SIDE WAS MR. LOCHBAUM?

13 A FRANK WAS ON THE OUTSIDE OF THE SIDEWALK AND MR.
14 LOCHBAUM WAS ON THE INSIDE OF THE SIDEWALK, CLOSEST TO HIS
15 HOUSE.

16 Q NOW, AS YOU HAVE SAID, AND YOU HAVE TALKED ABOUT HOW
17 YOU HAVE HAD SURGERY. IS THAT CORRECT?

18 A YES SIR.

19 Q IF YOU WOULD, PLEASE STEP DOWN AND COME OVER HERE TO
20 THE JURY BOX.

21 (WHEREUPON WITNESS EXITED WITNESS STAND FOR
22 DEMONSTRATION BEFORE JURY)

23 IF YOU WOULD, ON THIS SIDE OF THE JURY BOX, I'M GOING TO
24 ASK THAT YOU TURN AROUND AND LIFT UP YOUR SHIRT AND SHOW
25 THE JURY.

1 A (WHEREUPON DEFENDANT LIFTED SHIRT BEFORE JURY)

2 Q IS THIS THE INCISION?

3 A YES SIR.

4 Q YOU CAN GO BACK AND HAVE A SEAT.

5 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

6 AND SO, IS IT A FAIR STATEMENT TO SAY THAT IT WAS ABOUT
7 FOUR AND A HALF MONTHS OUT OF THAT SURGERY WHEN THIS
8 OCCURRED?

9 A YES SIR.

10 Q WERE YOU STILL IN RECOVERY?

11 A YES SIR.

12 Q WERE YOU IN ANY CONDITION TO BE ABLE TO PHYSICALLY
13 DEFEND YOUR BROTHER-IN-LAW?

14 A NO SIR.

15 Q WERE YOU IN ANY CONDITION TO BE ABLE TO FIGHT LIKE A
16 MAN?

17 A NO SIR.

18 Q BUT WHEN YOU SHOWED THE PISTOL, WHAT DID THE BIG GUY
19 DO?

20 A HE STOPPED, WENT BACK.

21 Q OKAY. AND MR. LOCHBAUM, WHAT DID HE DO?

22 A HE STOPPED AND MOVED BACK.

23 Q AND AT THAT POINT IN TIME NO ONE HAD STRUCK ANYBODY. IS
24 THAT CORRECT?

25 A YES SIR.

1 Q AND WHEN MR. LOCHBAUM GRABBED THE PISTOL WERE YOU
2 ABLE TO FEND HIM OFF AT ALL?

3 A NO.

4 Q DID YOU EVER INTEND TO SHOOT ANYBODY WITH THAT PISTOL?

5 A NO.

6 Q WHEN YOU WERE ON THE GROUND AND YOU HAD PEOPLE ON
7 TOP OF YOU, DID YOU STRIKE ANYBODY?

8 A NO.

9 Q WERE YOU HOLDING ON TO THE PISTOL?

10 A YES.

11 Q WHY DIDN'T YOU WANT TO GIVE THE PISTOL UP TO MR.
12 LOCHBAUM?

13 A I WAS AFRAID HE WAS GONNA SHOOT SOMEBODY, ME OR MY
14 BROTHER-IN-LAW.

15 Q HE WAS ANGRY, WASN'T HE?

16 A YES.

17 Q BUT YOU DID THEN RELEASE THE PISTOL EVENTUALLY?

18 A YES, WHEN I KNEW THE POLICE WERE COMING.

19 Q WHEN YOU KNEW OR WHEN YOU WERE TOLD?

20 A YES, I WAS TOLD THE POLICE WAS COMING. WELL, ACTUALLY, I
21 WASN'T TOLD; I HEARD.

22 Q YOU HEARD SOMEBODY ELSE SAY IT?

23 A YES.

24 Q DO YOU KNOW WHO SAID IT?

25 A NO.

1 Q ARE YOU STILL HAVING TROUBLE WITH YOUR BACK?

2 A YES.

3 Q ARE YOU STILL UNDER A DOCTOR'S CARE?

4 A YES.

5 Q ARE YOU AND HAVE YOU BEEN IN PAIN THIS WEEK?

6 A YES.

7 Q AND YOU WERE COOPERATIVE WITH THE POLICE WHEN YOU
8 WERE STOPPED?

9 A YES.

10 Q AT THE TIME THAT YOU APPROACHED FROM THE STREET SIDE,
11 HAD YOU SEEN YOUR BROTHER IN ANY WAY BE VIOLENT TOWARDS
12 MR. LOCHBAUM?

13 A NO.

14 Q AND THE VOICE THAT YOU HEARD THAT CAUSED YOU TO COME
15 OUT OF THE CAR WASN'T FRANK'S?

16 A NO.

17 Q MR. LOCHBAUM, WHEN HE GOT THE GUN, WHAT DID HE SAY,
18 AGAIN?

19 A HE SAID THAT ANY ASSHOLE CAN CARRY A GUN, BUT I KNOW
20 HOW TO USE ONE.

21 Q AND HOW DID HE APPEAR WHEN HE SAID THAT?

22 A HE ACTUALLY JUMPED UP IN THE AIR WHEN HE SAID IT. HE WAS
23 PRETTY UPSET.

24 Q ANSWER ANY QUESTIONS THE STATE MAY HAVE.

25 THE COURT: SOLICITOR.

1 CROSS EXAMINATION BY MS. JOYNER:

2 Q WHERE WERE YOU WHEN YOU PUT THE GUN UNDER THE SEAT?

3 A I WAS OUTSIDE THE TRUCK GETTING IN.

4 Q WAS THAT IN KANNAPOLIS?

5 A YES.

6 Q AND THAT'S IN NORTH CAROLINA?

7 A YES.

8 Q DO YOU NORMALLY CARRY YOUR GUNS IN VIOLATION OF
9 NORTH CAROLINA STATE LAW, WHICH STATES YOU'RE SUPPOSED TO
10 CARRY THEM IN PLAIN VIEW?

11 A DO I NORMALLY DO THAT?

12 Q YEAH. DO YOU NORMALLY VIOLATE NORTH CAROLINA STATE
13 LAW BY CARRYING YOUR HAND GUN IN WAYS INSTEAD OF IN PLAIN
14 VIEW?

15 A I JUST PUT IT IN MY VEHICLE.

16 Q YOU JUST PUT IT IN YOUR VEHICLE---

17 A YES.

18 Q ---WHEREVER YOU FEEL LIKE IT?

19 A (NO RESPONSE)

20 Q WHEREVER YOU FEEL LIKE IT?

21 A NO, NOT USUALLY.

22 Q DO YOU HAVE A CONCEALED WEAPONS PERMIT?

23 A NO.

24 Q HAVE YOU EVER THOUGHT ABOUT LEARNING THE LAW ABOUT
25 HOW YOU'RE SUPPOSED TO CARRY YOUR HANDGUN?

1 A I HAVEN'T TAKEN A CONCEALED WEAPONS COURSE, NO, I
2 HAVEN'T.

3 Q IS THIS THE ONLY GUN THAT YOU HAVE OR IS THIS THE BIGGEST
4 GUN?

5 A IT'S ACTUALLY THE SMALLEST GUN I HAVE.

6 Q THIS IS THE SMALLEST GUN YOU HAVE?

7 A YES, IT IS.

8 Q YOU--

9 A I'VE GOT TWO RIFLES. I'VE GOT A .22 AND I'VE GOT A 12 GAUGE
10 SHOTGUN THAT I SKEET SHOOT WITH.

11 Q SO, THIS WOULD BE THE EASIEST ONE TO CARRY AROUND?

12 A YEAH. YOU CAN'T, YOU KNOW, PUT RIFLES IN THE CAR TO
13 BRING TO THE SHOP.

14 Q YOU DON'T WANT TO CARRY AROUND A RIFLE IN YOUR CAR,
15 HUH?

16 A NO, YOU REALLY CAN'T PUT THAT IN THE DESK AT YOUR SHOP.

17 Q DO YOU ALWAYS CARRY YOUR GUN FULLY LOADED?

18 A WHEN I'M AT THE SHOP, YES. WHEN I GO TO THE SHOP, YES.

19 Q SIX BULLETS, DO YOU ALWAYS CARRY SIX BULLETS IN THAT
20 REVOLVER?

21 A THAT'S WHAT IT HOLDS, MA'AM.

22 Q SO, YOU FEEL LIKE WHEN YOU'RE IN YOUR SHOP THAT YOU
23 NEED ALL SIX BULLETS?

1 A WELL, MA'AM, IF ANYTHING WAS EVER TO HAPPEN AND YOU
2 PULL THE TRIGGER, AND YOU KNOW, IT WAS AN EMPTY CHAMBER, I
3 GUESS IT WOULD BE USELESS TO CARRY IT.

4 Q SO, YOU CARRY A GUN BECAUSE YOU PLAN TO USE A GUN?

5 A NO, SELF-DEFENSE, MA'AM.

6 Q YOU CARRY IT FOR SELF-DEFENSE?

7 A YES.

8 Q AND YOU FEEL LIKE YOU MIGHT NEED SIX WHOLE BULLETS TO
9 ACT IN SELF-DEFENSE?

10 A YES MA'AM.

11 Q BECAUSE, REALLY, YOU DON'T CARRY A GUN JUST SO YOU CAN
12 HOLD IT UP IN THE AIR AND SCARE PEOPLE AWAY, DO YOU?

13 A I DON'T KNOW WHAT THAT QUESTION MEANS, MA'AM.

14 Q SO, WHEN YOU SAID THAT YOU HELD THIS GUN UP IN THE AIR TO
15 MAKE EVERYBODY AT THE SCENE STOP AND MOVE BACK, THAT'S NOT
16 WHY YOU CARRY A GUN. YOU DON'T CARRY A GUN TO HOLD IT UP IN
17 THE AIR AND MAKE PEOPLE STOP, DO YOU?

18 A YES MA'AM. THAT WAS SELF-DEFENSE.

19 Q THAT'S NOT THE QUESTION I ASKED YOU. THE GUN, IF A GUN IS
20 GOOD, IF JUST A GUN IS GOOD TO MAKE PEOPLE STOP AND MOVE
21 BACK, WHY DO YOU NEED SIX BULLETS INSIDE THE GUN?

22 A BECAUSE THAT'S WHAT THE CHAMBER TAKES, MA'AM, SIX
23 BULLETS.

24 Q SO, YOU HAD IT LOADED, JUST IN CASE?

25 A YES MA'AM, THAT'S WHAT THE CHAMBER TAKES, SIX BULLETS.

1 Q ARE YOU FAMILIAR WITH THE SOUTH CAROLINA LAW FOR
2 CARRYING A HANDGUN?

3 A NO MA'AM, I'M NOT.

4 Q YOU'RE NOT FAMILIAR WITH THE SOUTH CAROLINA LAW THAT
5 APPLIES TO CARRYING A GUN INSIDE A GLOVE BOX, INSIDE A BOX, OR
6 SEPARATE CONTAINER?

7 A NO MA'AM, I DON'T.

8 Q YOU WORK A LOT IN SOUTH CAROLINA, DON'T YOU?

9 A YES.

10 Q AND SO, YOU JUST CARRY YOUR HANDGUN WHEREVER YOU
11 FEEL LIKE CARRYING YOUR HANDGUN WHEN YOU COME TO SOUTH
12 CAROLINA?

13 A I DON'T CARRY MY HANDGUN TO SOUTH CAROLINA, MA'AM.

14 Q YOU DON'T?

15 A NOT ON MOST OCCASIONS. I GO TO MY SHOP WITH THIS.

16 Q THIS WAS JUST A SPECIAL NIGHT, THEN?

17 A FRANK WAS DRIVING ME TO MY SHOP AFTER WE WERE DONE,
18 MA'AM.

19 Q WHY WAS HE DRIVING YOU TO YOUR SHOP? I THOUGHT YOUR
20 CAR WAS AT FRANK'S HOUSE.

21 A IT WAS AT FRANK'S HOUSE. WHEN WE WERE COMING BACK WE
22 WOULD HAVE WENT BY MY SHOP. SO, HE WAS JUST GONNA STOP.

23 Q YOUR SHOP'S IN A DANGEROUS NEIGHBORHOOD?

24 A YES.

25 Q THAT YOU NEED A GUN TO GO TO?

- 1 A YES.
- 2 Q DID FRANK KNOW YOU HAD A GUN?
- 3 A NO.
- 4 Q HE WAS TAKING YOU TO YOUR DANGEROUS SHOP AND YOU
- 5 ALWAYS CARRY A GUN?
- 6 A YES.
- 7 Q AND HE DIDN'T KNOW YOU HAD A GUN?
- 8 A NO.
- 9 Q DO YOU THINK CARRYING A GUN IS A SERIOUS RESPONSIBILITY?
- 10 A I DO BELIEVE SO, MA'AM.
- 11 Q AND DO YOU THINK A PERSON WHO TAKES THAT
- 12 RESPONSIBILITY VERY SERIOUSLY WOULD UNLOAD THEIR GUN WHEN
- 13 THEY FEEL LIKE THEY'RE NO LONGER GOING TO NEED TO USE THAT
- 14 GUN?
- 15 A I BELIEVE SO, MA'AM. THAT'S WHY WHEN IT GOES INSIDE MY
- 16 HOUSE IT ISN'T LOADED.
- 17 Q BUT WHEN YOU DRIVE AROUND IN THE CAR, BUMPING AROUND
- 18 IN A CAR FOR TWO AND A HALF HOURS, UNSECURED, UNDER A SEAT,
- 19 THAT'S OKAY?
- 20 A MA'AM, IF YOU KNEW THAT GUN, YOU WOULD KNOW IT
- 21 WOULDN'T GO OFF JUST BUMPING AROUND.
- 22 Q HOW WOULD IT GO OFF? WHAT WOULD I NEED TO DO TO MAKE
- 23 THIS GUN GO OFF?
- 24 A YOU WOULD NEED TO PULL THE TRIGGER.
- 25 Q I WOULD NEED TO PULL THE TRIGGER?

- 1 A UH-HUH.
- 2 Q BUT YOU DIDN'T HAVE YOUR HAND ON THE TRIGGER THAT
- 3 NIGHT?
- 4 A NO MA'AM.
- 5 Q BECAUSE YOU WERE JUST GOING TO HOLD IT IN THE AIR?
- 6 A YES MA'AM.
- 7 (WHEREUPON SOLICITOR EMPLOYS USE OF DRY ERASE BOARD)
- 8 Q SO, THIS IS THE APPROXIMATE TIME THAT EVERYTHING
- 9 HAPPENED? DO YOU NEED ME TO SCOOT THAT UP A LITTLE CLOSER?
- 10 A YES, COULD YOU, PLEASE?
- 11 Q SURE. I JUST NEED TO TILT IT THIS WAY SO THE JURY CAN SEE.
- 12 DO YOU WANT TO STEP DOWN?
- 13 A NO.
- 14 Q NO?
- 15 A THANK YOU.
- 16 Q I MEAN, SO THE JURY CAN SEE IT AND YOU CAN SEE IT. DO YOU
- 17 WANT ME TO JUST THROUGH THESE OUT LOUD? WOULD THAT MAKE
- 18 IT EASIER?
- 19 A NO, I CAN READ IT.
- 20 Q IS THIS FAIR-- IS THIS CORRECT, ABOUT 9:15? YOU'RE NOT
- 21 LOOKING AT YOUR WATCH. BUT, ABOUT 9:15 YOU LEFT KANNAPOLIS?
- 22 A YEAH, I'D SAY RIGHT AROUND THERE.
- 23 Q LET ME JUST TRY TO FIGURE THIS OUT. I WANT TO ADD ONE
- 24 MORE TIME. YOU TESTIFIED A MINUTE AGO THAT IT WAS ABOUT 9:00
- 25 WHEN YOU BY HAPPENSTANCE RAN INTO FRANK. IS THAT RIGHT?

- 1 A DID YOU SAY BY COINCIDENCE?
- 2 Q HAPPENSTANCE?
- 3 A OKAY. YES.
- 4 Q WASN'T THAT MR. RHEA'S TERM?
- 5 A I GUESS SO.
- 6 Q NOW, WHICH INTERSECTION WAS THAT?
- 7 A THE INTERSECTION OF 29 AND DALE EARNHARDT BOULEVARD.
- 8 Q AND IS THAT IN KANNAPOLIS?
- 9 A NO, IT'S ACTUALLY-- I THINK THAT INTERSECTION'S ACTUALLY--
- 10 I DON'T KNOW IF THAT'S KANNAPOLIS. YEAH, THAT'S KANNAPOLIS,
- 11 YEAH.
- 12 Q THAT'S IN THE GENERAL AREA OF KANNAPOLIS?
- 13 A YES, YEAH.
- 14 Q OKAY.
- 15 A THE WAY IT'S-- IT'S MESSED UP UP THERE.
- 16 Q I CAN'T DRIVE UP THERE.
- 17 A YEAH.
- 18 Q SO, YOU SAID Y'ALL TALKED AND HE SAID I'M GOING TO DO THIS
- 19 STING?
- 20 A NO. WE DIDN'T ACTUALLY TALK. HE JUST SAID WHAT ARE YOU
- 21 DOING. THEN HE SAID I'M GOING TO A STING. IF YOU WANT TO GO,
- 22 MEET ME AT MY HOUSE. SO, IT WAS THAT QUICK.
- 23 Q HE CALLED YOU OR RAN INTO YOU?
- 24 A RAN INTO ME.
- 25 Q AND HE SAID I'M GOING TO DO A---

- 1 A STING. IF YOU WANT TO GO, MEET ME AT MY HOUSE.
- 2 Q OKAY.
- 3 A YELLED OUT THE WINDOW, ACTUALLY.
- 4 Q SO, YOU WERE AT THE INTERSECTION. WAS THAT CLOSE TO
- 5 YOUR SHOP?
- 6 A NO, IT WAS CLOSE TO HIS HOUSE.
- 7 Q WHAT WERE YOU DOING THERE?
- 8 A IT'S ON THE WAY TO MY SHOP.
- 9 Q SO, YOU WERE ON THE WAY TO YOUR SHOP?
- 10 A YES.
- 11 Q AT 9:00, ABOUT 9:00 AT NIGHT?
- 12 A YES.
- 13 Q SO, YOU SAID YOU-- WHAT WERE YOU GOING TO DO AT THE
- 14 SHOP?
- 15 A I WAS BRINGING PER DIEM MONEY DOWN THERE. AND I WAS
- 16 TAKING THE KEYS AND PUTTING THEM WHERE WE HIDE THEM IN THE
- 17 VAN SO WHEN THE GUYS GET THERE AT 3:00 IN THE MORNING TO
- 18 HEAD OUT TO CAMP LEJEUNE, WHICH IS A LONG RIDE, THEY CAN GET
- 19 THE KEYS AND THEIR PER DIEM'S ALREADY WAITING FOR THEM.
- 20 Q WHEN YOU SAY PER DIEM MONEY, ARE YOU TALKING ABOUT
- 21 CASH?
- 22 A CASH, YES MA'AM.
- 23 Q HOW MUCH CASH WAS IT?
- 24 A IT WAS \$1200, \$1300.

1 Q SO, INSTEAD OF GOING STRAIGHT TO THE SHOP WITH THAT
2 \$1200, \$1300, YOU WENT OVER TO FRANK'S HOUSE?

3 A YES.

4 Q WHERE'D YOU PUT THAT MONEY?

5 A IT WAS IN AN ENVELOPE.

6 Q WHERE DID YOU LEAVE IT?

7 A IN HIS GLOVE BOX.

8 Q IN HIS GLOVE BOX?

9 A UH-HUH.

10 Q SO, YOU PUT THE MONEY IN THE GLOVE BOX?

11 A YES MA'AM.

12 Q SO, YOU LEAVE AT APPROXIMATELY 9:15?

13 A UH-HUH.

14 Q AND YOU STATED IN YOUR DIRECT THAT YOU GOT THERE AT
15 ABOUT 10:11. DOES THAT SOUND ABOUT RIGHT? COULD IT BE
16 CORRECT, TO GET TO THE STADIUM?

17 A WHAT'S MY DIRECT, MA'AM?

18 Q I'M SORRY. YOUR DIRECT EXAMINATION WITH MR. RHEA.

19 A OKAY.

20 Q HE ASKED YOU THESE ARE ALL APPROXIMATELY RIGHT.

21 THEY'RE 10:12...

22 A I DON'T KNOW IF HE ASKED ME IF THOSE WERE APPROXIMATELY
23 RIGHT, DID HE?

24 Q I THINK HE ASKED YOU IF YOU GENERALLY AGREED WITH THIS
25 TIMELINE.

1 A OH, OKAY.

2 Q DO YOU REMEMBER THAT QUESTION?

3 A YEAH, I THINK SO.

4 Q SO, WOULD 10:12 WOULD BE ABOUT RIGHT FOR WHEN YOU GET
5 TO KNIGHTS' STADIUM?

6 A YEAH, I WOULD SAY SO. WE WERE THERE ABOUT AN HOUR. I
7 KNOW WE WERE ABOUT THERE AN HOUR.

8 Q OKAY. AND RIGHT WHEN YOU GET THERE FRANK CALLED
9 KERRIANN?

10 A YES, PRETTY MUCH SO.

11 Q HOW MANY CARS WERE IN THE PARKING LOT AT KNIGHTS'
12 STADIUM?

13 A IT WAS PRETTY FULL. THERE WAS A BASEBALL GAME.

14 Q A BASEBALL GAME. HOW DID YOU PICK YOUR CAR, YOUR
15 MYSTERY SHOPPER CAR?

16 A I DIDN'T PICK NOTHING.

17 Q DID FRANK PICK IT?

18 A YEAH.

19 Q HOW'D HE PICK IT?

20 A I DON'T KNOW HOW HE PICKED IT.

21 Q YOU KNOW A LOT ABOUT THE STING, THOUGH. I MEAN, Y'ALL
22 TALKED ABOUT HOW YOU DO THE STING AND HE'S GONNA USE YOUR
23 NUMBER AND ALL THIS STUFF.

24 A WE DIDN'T TALK ABOUT HOW WE DID THE STING. HE JUST SAID
25 HE WAS GONNA USE MY PHONE, FOR ME TO BE THE CALLER.

- 1 Q BUT YOU ACTUALLY RODE DOWN FROM KANNAPOLIS
2 TOGETHER. RIGHT?
- 3 A UH-HUH.
- 4 Q AND THE PARKING LOT WAS FULL WHEN YOU GOT THERE?
5 RIGHT?
- 6 A UH-HUH.
- 7 Q DID YOU WALK AROUND UNTIL YOU GOT TO A CAR THAT
8 LOOKED GOOD?
- 9 A HE PULLED OVER WHERE HE COULD SEE THE ENTRANCE. I
10 KNOW THAT. BECAUSE HE WANTED TO SEE. HE WANTED TO GET A
11 SHOT WHERE HE COULD GET A PICTURE OF THE PERSON COMING IN.
- 12 Q DID HE PICK A REAL CAR IN THE PARKING LOT, THEN, TO CALL
13 ABOUT?
- 14 A YEAH. I GUESS HE PICKED OUT, I THINK IT WAS A NISSAN HE
15 PICKED.
- 16 Q AND THIS WAS AFTER HE WAS DRIVING UP AND DOWN THE
17 AISLES FIRST TO PICK THE CAR. RIGHT?
- 18 A I GUESS HE DID.
- 19 Q YOU'RE IN THE CAR.
- 20 A YEAH, BUT I WASN'T PAYING ATTENTION.
- 21 Q OKAY. YOU WEREN'T PAYING ATTENTION. SO, THE CALL GOES
22 OUT.
- 23 A UH-HUH.
- 24 Q AND HE WAITS. AND HE WAITS AND HE WAITS AND HE WAITS.
25 AND THEN AT SOME POINT A SECOND CALL GOES OUT. IS THAT RIGHT?

- 1 A UH-HUH.
- 2 Q WHERE IN ALL OF THIS BETWEEN ABOUT 10:12 AND 11:15 DOES
- 3 THE PERSON THAT'S SUPPOSED TO BE FROM POP-A-LOCK CALL YOU
- 4 BACK?
- 5 A THAT'S A GOOD ONE. IT'S TOWARDS THE END. BECAUSE WE
- 6 DIDN'T WAIT-- I THINK WE WAITED, LIKE, FIFTEEN MINUTES AFTER
- 7 THAT. I CAN'T REALLY REMEMBER WHEN THEY CALLED ME.
- 8 Q SO, LET'S SAY-- AND WE CAN CHANGE THIS IF WE FIGURE OUT
- 9 THIS IS WRONG. SO, AROUND 11:00, SOMEONE CALLED AND THEY SAY
- 10 WHAT? WHAT DID THEY SAY WHEN THEY CALLED?
- 11 A THIS IS POP-A-LOCK.
- 12 Q AND WE'RE COMING?
- 13 A NO. HE SAID WHAT THE PROBLEM WAS. AND I TOLD HIM I
- 14 NEEDED TO GET IN MY CAR. I DIDN'T KNOW IF THE KEYS WERE IN
- 15 THERE. HE ASKED FOR MY GIRL AND I SAID SHE WENT IN TO GET OUR
- 16 FRIENDS. THEY'RE COMING OUT FROM THE BASEBALL GAME. THERE'S
- 17 PEOPLE COMING OUT.
- 18 Q UH-HUH.
- 19 A AND HE WANTED A CREDIT CARD AND I SAID I DON'T HAVE A
- 20 CREDIT CARD. I SAID, WE'LL PAY IN CASH. AND HE SAID, ALL RIGHT,
- 21 I'LL BE THERE, AND HUNG UP.
- 22 Q ALL RIGHT. SO, THEN---
- 23 A HE NEVER DID. HE NEVER SHOWED.
- 24 Q I'M SORRY?
- 25 A HE NEVER SHOWED.

- 1 Q HE NEVER SHOWED?
- 2 A NO.
- 3 Q SO, IT'S 10:12 TO 11:15, AND SO IT TAKES ABOUT FORTY-FIVE
- 4 MINUTES FOR SOMEONE TO EVEN CALL. RIGHT?
- 5 A I WASN'T PAYING ATTENTION TO TIME. FRANK WAS PAYING
- 6 ATTENTION TO---
- 7 Q BUT, YOU WERE---
- 8 A ---TIME.
- 9 Q OKAY. YOU SAID IT WAS CLOSE TO THE END, ABOUT FIFTEEN
- 10 MINUTES BEFORE YOU LEFT?
- 11 A I DON'T EVEN KNOW IF IT WAS FIFTEEN MINUTES BEFORE WE
- 12 LEFT, THE PHONE CALL.
- 13 Q COULD HAVE BEEN?
- 14 A I REALLY DON'T REMEMBER, TO BE HONEST WITH YOU, HOW
- 15 LONG IT WAS.
- 16 Q OKAY.
- 17 A I REALLY DON'T.
- 18 Q SO, WE'LL SAY, WE'LL JUST PUT A BIG QUESTION MARK HERE.
- 19 AND WE'LL SAY IT WAS DEFINITELY AFTER THE CALL WENT OUT AND
- 20 DEFINITELY BEFORE YOU LEFT, SOMEONE CALLED.
- 21 BUT, WOULD IT BE FAIR TO SAY THAT THAT PERSON, THAT POP-
- 22 A-LOCK PERSON DIDN'T CALL BEFORE---
- 23 A ACTUALLY, YOU HAVE MY PHONE RECORDS. RIGHT? YOU
- 24 COULD TELL WHEN THEY CALLED ME, COULDN'T YOU, SO WE'D KNOW
- 25 EXACTLY WHAT TIME IT WAS? I BELIEVE.

- 1 Q WHY DON'T YOU TELL ME FROM YOUR MEMORY?
- 2 A I DON'T KNOW. I DON'T REMEMBER.
- 3 Q YOU DON'T REMEMBER?
- 4 A NO. THAT'S WHY I'M ASKING YOU. THAT WAY WE COULD PUT
- 5 SOMETHING ON THAT LINE.
- 6 Q WELL, I'M NOT ASKING WHAT YOUR PHONE RECORDS ARE. I'M
- 7 ASKING YOU WHAT YOU REMEMBER.
- 8 A I DON'T REMEMBER WHAT TIME IT WAS.
- 9 Q YOU DON'T REMEMBER. OKAY.
- 10 A I MEAN, IT IS, IT DID HAPPEN.
- 11 Q IT DID HAPPEN. OKAY.
- 12 A I DON'T REMEMBER WHEN IT WAS.
- 13 Q SO, HELP ME. JUST TRY TO HELP ME, MR. LEMIRE. WAS IT, DO
- 14 YOU THINK, BEFORE OR AFTER THE SECOND PHONE CALL, THE ETA
- 15 PHONE CALL?
- 16 A THAT'S A GOOD ONE. THE ETA PHONE CALL. I REMEMBER THE
- 17 ETA BECAUSE WE WAITED AND HE DIDN'T SHOW UP. AND THEN FRANK
- 18 CALLED KERRIANN AND SAID WE'RE STILL WAITING. THEN THEY PUT
- 19 IN THE ETA. IT MIGHT HAVE BEEN AFTER THE ETA CALL. IT MIGHT
- 20 HAVE BEEN AFTER.
- 21 Q OKAY.
- 22 A I REALLY CAN'T TELL YOU.
- 23 Q I'LL JUST SAY RIGHT AROUND THE SAME TIME, 10:45. DOES THAT
- 24 SOUND FAIR. YOU'D BEEN DOWN THERE FOR ABOUT THIRTY MINUTES?
- 25 A I GUESS SO.

- 1 Q AND YOU WAITED ABOUT THIRTY MORE MINUTES?
- 2 A UH-HUH.
- 3 Q AND YOU DECIDED TO LEAVE. WHO DECIDES TO LEAVE?
- 4 A FRANK.
- 5 Q AND HE DECIDES TO LEAVE WHY?
- 6 A BECAUSE NOBODY SHOWED.
- 7 Q BECAUSE NOBODY SHOWED UP?
- 8 A UH-HUH.
- 9 Q AND HE JUST DECIDED THAT NOBODY WAS GOING TO SHOW UP?
- 10 A I GUESS. THAT'S WHAT HE DOES. LIKE I SAID, I WAS ALONG FOR
- 11 THE RIDE.
- 12 Q OKAY.
- 13 A YEAH.
- 14 Q SO, LET'S TALK ABOUT THIS TIME PERIOD WHEN YOU LEAVE TO
- 15 THE TIME YOU GET TO RYAN'S HOUSE.
- 16 A OKAY.
- 17 Q AND YOU TESTIFIED YOU'RE JUST ALONG FOR THE RIDE. RIGHT/
- 18 A UH-HUH.
- 19 Q RIGHT?
- 20 A RIGHT.
- 21 Q AND Y'ALL DON'T REALLY TALK A LOT ABOUT RYAN.
- 22 A RIGHT.
- 23 Q IS THAT CORRECT?
- 24 A YEAH.

1 Q YOU GUYS, YOU DON'T TALK A LOT ABOUT RYAN. YOU DON'T
2 TALK AT ALL ABOUT RYAN?

3 A NO.

4 Q WERE YOU AT ALL CURIOUS ABOUT IT BEING 11:30 AT NIGHT TO
5 TAKE OFF AND GO TO THE MIDDLE OF NO WHERE TO TALK TO
6 SOMEBODY?

7 A I TOLD HIM JUST AS LONG AS I GET TO MY SHOP BEFORE MY
8 GUYS LEAVE FOR CAMP LEJEUNE TO THE JOB. I SAID, I'M FINE.

9 Q OKAY.

10 A YEAH. SO, I WAS ALONG FOR THE RIDE. I TOLD HIM I NEED TO
11 MAKE SURE MY GUYS GOT THEIR PER DIEM SO I DON'T GET SCREAMED
12 AT.

13 Q OKAY. SO, AND I DON'T WANT TO MAKE YOU UNCOMFORTABLE.
14 BUT IF YOU COULD STEP DOWN IT WOULD ACTUALLY-- OR IF YOU CAN
15 SEE THIS FROM HERE. OR IF IT'S MORE COMFORTABLE FOR YOU---

16 A YOU KNOW WHAT, I CAN COME DOWN.

17 Q OKAY.

18 (WHEREUPON WITNESS EXITS WITNESS STAND FOR
19 DEMONSTRATION WITH STATE'S EXHIBIT FIVE)

20 IF YOU COULD, STAND ON THIS SIDE OF THE MAP AND
21 ACTUALLY POINT TO A FEW THINGS.

22 DO YOU AGREE THAT THE CAR WAS PARKED DOWN HERE?

23 A YES.

1 Q WHEN YOU GOT OUT OF THE CAR AND CAME UP THE STREET, IS
2 IT YOUR TESTIMONY THAT YOU DIDN'T WALK ALONG THIS SIDE OF
3 THE ROAD, YOU WALKED ALONG THAT SIDE OF THE ROAD?

4 A ACTUALLY I WAS WALKING DOWN THE MIDDLE OF THE ROAD.

5 Q YOU JUST WALKED DOWN THE MIDDLE OF THE ROAD?

6 A YEAH.

7 Q WERE THERE STREET LIGHTS?

8 A NO. IT WAS DARK.

9 Q IT WAS DARK. OKAY. WHEN YOU GOT CLOSER TO OVER HERE
10 WERE THERE STREET LIGHTS?

11 A NO. THE ONLY LIGHT I REMEMBER, LIKE I SAID, FROM HIS
12 PORCH, HIS DRIVEWAY LIGHT, SHINING LIKE A VEE.

13 Q OKAY.

14 A YOU KNOW WHAT I MEAN?

15 Q OKAY. SO, WOULD YOU SAY THE VEE WAS EMANATING FROM
16 THE DRIVEWAY? IS THAT WHAT YOU'RE SAYING?

17 A YES.

18 Q SO, WERE YOU STANDING IN THE ROADWAY IN THE DARKNESS
19 OR IN THE LIGHT?

20 A AT FIRST I WAS IN THE DARKNESS. THAT'S WHEN I SEEN THEM.
21 AND THEN WHEN I SEEN HIS HANDS MOVE, THAT'S WHEN I CAME INTO
22 THE LIGHT.

23 Q OKAY. SO, ---

24 A I WAS ALMOST WHERE THAT ARROW IS, ACTUALLY.

25 Q THAT'S WHERE YOU WERE?

1 A WHERE THAT ARROW IS.

2 Q OKAY.

3 A THAT'S WHERE THEY KIND OF MOVED IN AND OUT OF, THAT
4 ARROW.

5 Q IS THAT WHERE YOU WERE STANDING IN THE DARKNESS?

6 A I WAS KIND OF LIKE ON THE-- I WAS WALKING UP. SEE, I NEVER
7 REALLY STOPPED WALKING.

8 Q OKAY.

9 A AS I WAS WALKING IS WHEN IT ALL HAPPENED. I WAS WALKING
10 AND AS I KEPT WALKING, AND I NEVER ACTUALLY STOPPED WALKING.

11 Q BUT FRANK WAS RIGHT THERE. YOU WALKED RIGHT PAST
12 FRANK?

13 A YEAH.

14 Q YOU WALKED RIGHT PAST FRANK?

15 A FRANK WAS WAY UP HERE. SEE, EVERYTHING HAPPENED IN THE
16 DRIVEWAY.

17 Q OH, OKAY. SO, AT THE POINT IN TIME IN WHICH YOU RAN IN,
18 FRANK WASN'T UP THERE?

19 A NO.

20 Q OH, I MUST HAVE MISUNDERSTOOD. SO, YOU WALKED ON THE
21 OPPOSITE SIDE OF THE STREET THAN FRANK?

22 A WHAT ARE YOU TALKING ABOUT?

23 Q IF FRANK'S STANDING OVER HERE, YOU'RE STANDING, LIKE,
24 HALFWAY IN THE MIDDLE OF THE ROAD OVER HERE?

25 A I'M STANDING IN THE ROAD. FRANK'S ALREADY DOWN THERE.

- 1 Q FRANK IS ALREADY DOWN THERE. SO, YOU'RE STANDING IN THE
2 ROAD. DID YOU-- SO, WHERE ARE YOU STANDING WHEN FRANK
3 STARTS TO WALK AWAY?
- 4 A I WAS WALKING DOWN THE ROAD. FRANK WAS WALKING THIS
5 WAY, MA'AM.
- 6 Q UH-HUH.
- 7 A I NEVER STOPPED WALKING.
- 8 Q DID YOU SEE HIM?
- 9 A YES, I DID.
- 10 Q DID HE SEE YOU?
- 11 A I DON'T KNOW IF HE DID.
- 12 Q BUT YOU WERE ABLE TO SEE HIM?
- 13 A YES.
- 14 Q SO, IT WASN'T SO DARK THAT YOU COULDN'T MAKE HIM OUT?
- 15 A I WAS IN THE ROAD WHERE IT WAS DARK.
- 16 Q BUT YOU COULD SEE HIM. SO, IT WASN'T SO DARK THAT YOU
17 COULDN'T SEE HIM.
- 18 A NO. EVERYBODY WAS IN THE LIGHT. THEY WERE IN THE LIGHT.
- 19 Q OKAY. AND SO, YOU WALKED PAST FRANK, LIKE TWO SHIPS IN
20 THE NIGHT?
- 21 A CAN I SHOW IT? CAN I SHOW YOU?
- 22 Q THAT WOULD BE GREAT.
- 23 A THAT WOULD BE GOOD.
- 24 Q YOU WANT ME TO BE FRANK?
- 25 A YEAH, YOU BE FRANK.

- 1 Q OKAY. THIS IS THE ROAD.
- 2 A FRANK IS RIGHT WHERE YOUR HAND IS.
- 3 Q OKAY.
- 4 A I'M WALKING THIS WAY.
- 5 Q OKAY.
- 6 A YOU'RE WALKING THIS WAY.
- 7 Q OKAY.
- 8 A THAT'S HOW IT HAPPENED, JUST LIKE THAT.
- 9 Q SO, HE'S WALKING. OKAY. AND SO, THEN YOU STARTED ACROSS
- 10 THE STREET?
- 11 A NO, IT WAS REALLY DARK OVER THERE.
- 12 Q SO, YOU WALKED AS QUICKLY AS YOU COULD WALK THEN---
- 13 A YEAH, UH-HUH.
- 14 Q ---ACROSS THE STREET?
- 15 A UH-HUH. NOT ACROSS THE STREET, HALFWAY.
- 16 Q HALFWAY ACROSS THE STREET.
- 17 A UH-HUH.
- 18 Q SO, FRANK'S LIKE THIS, AND YOU'RE GOING LIKE THAT?
- 19 A UH-HUH.
- 20 Q AS CLOSE AS WE ARE?
- 21 A UH-HUH. WELL, MAYBE A LITTLE FURTHER THAN THAT. I'D SAY
- 22 ABOUT FIFTEEN TO TWENTY FEET.
- 23 Q I THOUGHT YOU WERE IN THE MIDDLE OF THE ROAD.
- 24 A YEAH, ABOUT EIGHT FEET FROM ONE SIDE, HALF OF THE ROAD.
- 25 Q OKAY. SO, YOU'RE EIGHT FEET AWAY FROM---

1 A TEN, TEN TO FIFTEEN FEET BECAUSE YOU'RE ON THE CURB. I
2 DIDN'T HAVE A MEASURING TAPE, MA'AM..

3 Q OKAY. I'M NOT TRYING TO ARGUE WITH THAT. I'M JUST TRYING
4 TO FIGURE IT OUT.

5 A OKAY.

6 Q SO, THERE'S ABOUT EIGHT FEET DISTANCE BETWEEN THE POINT
7 IN THE ROAD WHERE FRANK WAS---

8 A YOU GOT A FOUR FOOT CURB AND THEN YOU GOT EIGHT FEET
9 HALF OF THE ROAD. SO, EIGHT, FOUR, TWELVE, RIGHT AROUND
10 THERE.

11 Q YOU'RE TWELVE FEET AWAY?

12 A YES MA'AM.

13 Q OKAY. BUT IN TERMS OF WHERE YOU WERE, WERE YOU AND
14 FRANK WERE PARALLEL, LIKE WE ARE RIGHT NOW, WHEN YOU
15 DARTED SORT OF CATTY-CORNER? IS THAT FAIR TO SAY?

16 A KIND OF CATTY-CORNER.

17 Q SO, Y'ALL WOULD HAVE BEEN THIS WAY, BUT FURTHER APART?

18 A NO. WE WEREN'T THAT FAR APART.

19 Q YOU AND FRANK-- YOU WEREN'T-- YOU DIDN'T-- I'M SORRY. I
20 THOUGHT YOU WERE TRAVELING THIS WAY.

21 A YES. AND THEN I CAME ACROSS HERE.

22 Q THEN YOU CAME CATTY-CORNER. OKAY. THANK YOU. YOU
23 CAN TAKE YOUR SEAT.

24 (WHEREUPON WITNESS RETURNED TO WITNESS STAND)

1 Q HOW LONG DID IT TAKE YOU TO WALK TO THE SCENE WHERE
2 FRANK WAS?

3 A MAYBE A MINUTE AND A HALF, TWO MINUTES.

4 Q A MINUTE?

5 A MINUTE AND A HALF, TWO MINUTES.

6 Q HOW LONG HAD FRANK BEEN GONE FROM THE CAR?

7 A A COUPLE MINUTES, MAYBE.

8 Q A COUPLE MINUTES AND THEN YOU HEARD VOICES?

9 A I'D SAY MAYBE... IT'S TOUGH. I MEAN, YOU CAN'T PIN ME DOWN
10 TO A PRECISE TIME. I MEAN, I'D SAY MAYBE TWO, THREE MINUTES.
11 MAYBE THREE MINUTES. I DON'T KNOW.

12 Q HE'D BEEN GONE ABOUT THREE MINUTES AND THEN YOU HEARD
13 THE LOUD VOICES?

14 A I CAN'T REALLY TELL YOU, PINPOINT A TIME.

15 Q WAS A CLOCK ON THE CENTER CONSOLE OF THE CAR?

16 A NO. I WAS WATCHING MY THING, GHOST HUNTERS ACTUALLY.

17 Q AND IT TOOK YOU ABOUT A MINUTE AND A HALF TO WALK ALL
18 THAT WAY?

19 A YOU KNOW, THAT'S FUNNY, TOO. BECAUSE ALL THAT WAY ISN'T
20 REALLY THAT LONG, YOU KNOW. THAT'S WHAT KILLS ME. THAT
21 LOOKS SO FAR. IT'S REALLY NOT THAT LONG. IT'S REALLY MAYBE A
22 HUNDRED YARDS.

23 Q WAIT. YOU'RE SAYING---

24 A YEAH, MAYBE A HUNDRED, HUNDRED AND FIFTY YARDS.

25 Q FROM HERE TO HERE IS A HUNDRED AND FIFTY YARDS?

1 A YEAH. IT'S REALLY NOT THAT LONG. THESE HOUSES ARE TINY
2 AND THEY'RE BUILT RIGHT ON TOP OF EACH OTHER. IT'S LIKE
3 FIVECOAT SAID YESTERDAY, YOU KNOW, FIVE HOUSES IS ONLY LIKE
4 SIXTY FEET. SO, IT WASN'T THAT LONG OF A WALK. YOU GUYS ARE
5 MAKING IT OUT TO BE A MILE, AND IT'S MAYBE A HUNDRED YARDS, A
6 HUNDRED AND FIFTY YARDS.

7 Q WELL, ISN'T ANY DISTANCE FOR A PERSON IN YOUR CONDITION
8 A LONG WAY?

9 A OH, YEAH, IT'S A LONG WAY, BUT IT DIDN'T TAKE ME NO FIVE
10 MINUTES TO WALK DOWN THERE. IT TOOK ME ABOUT TWO MINUTES
11 TO WALK DOWN THERE.

12 Q YOU WERE IN RECOVERY FROM YOUR SURGERY---

13 A YES MA'AM.

14 Q ---AND IT TOOK YOU ONLY ABOUT TWO MINUTES TO WALK THAT
15 WAY?

16 A YES MA'AM.

17 Q I'M GOING TO TALK ABOUT SOME PEOPLE-- AND IT'S HARD
18 BECAUSE YOU DON'T REALLY KNOW THE STATE'S WITNESS BEFORE
19 THAT NIGHT. AND I KNOW YOU'VE GOT TO DESCRIBE THEM A CERTAIN
20 WAY AND THEY'VE GOT TO DESCRIBE YOU A CERTAIN WAY, TO TRY TO
21 MAKE OUT WHAT WE'RE TALKING ABOUT.

22 A RIGHT.

23 Q BUT THE BIG GUY, THE BIG GUY, IS THAT RON LEE, THAT YOU
24 TALKED ABOUT?

25 A AS OF YESTERDAY, YES.

- 1 Q OKAY.
- 2 A OR THE DAY BEFORE.
- 3 Q WAS HE THE GUY THAT TESTIFIED YESTERDAY FIRST THING IN
- 4 THE MORNING?
- 5 A YEAH, I GUESS SO.
- 6 Q RON LEE?
- 7 A UH-HUH.
- 8 Q AND HE'S THE BIG GUY, AND HE GOT THERE FIRST, YOU SAID?
- 9 A WHAT DO YOU MEAN, GOT THERE? THEY WERE ALREADY
- 10 THERE.
- 11 Q THEY WERE ALREADY THERE. OH, OKAY. WHERE WERE THEY?
- 12 A THEY WERE IN THE YARD RIGHT NEXT TO HIS HOUSE.
- 13 Q SO, YOU COULD SEE THEM WHEN YOU WERE STANDING THERE
- 14 RIGHT IN FRONT OF HIS HOUSE IN THE LIGHT?
- 15 A WHEN I WALKED UP?
- 16 Q YEAH.
- 17 A YEAH, THEY WERE ALL THERE.
- 18 Q SO, RON LEE'S THE ONE WHO STOPPED IN HIS TRACKS WHEN HE
- 19 SAW YOUR GUN?
- 20 A UH-HUH.
- 21 Q AND THEN RYAN LOCHBAUM?
- 22 A YEAH, RYAN BACKED UP.
- 23 Q WHEN DID JESSE HARRIS-- DO YOU REMEMBER WHO JESSE
- 24 HARRIS WAS FROM THE FIRST DAY?
- 25 A HE'S THE GUY IN THE SUIT?

- 1 Q UH-HUH.
- 2 A UH-HUH.
- 3 Q WHEN DID HE GET THERE?
- 4 A I DON'T KNOW WHO, WHEN ANYBODY GOT THERE. ALL I
- 5 REMEMBER IS BODIES. I CAN TELL YOU WHAT BODIES I SEEN DO
- 6 WHAT.
- 7 Q OKAY. SO, YOU SAID FRANK WAS WALKING AWAY AND YOU'RE
- 8 WALKING PAST HIM LIKE TWO SHIPS IN THE NIGHT.
- 9 A YES MA'AM.
- 10 Q RYAN IS WALKING BEHIND HIM AND SHOUTING. IS THAT RIGHT?
- 11 A YES MA'AM.
- 12 Q AND YOU SEE RYAN'S HANDS GO OUT LIKE THIS?
- 13 A BEND OVER A LITTLE BIT.
- 14 Q BEND OVER?
- 15 A LIKE YOU'RE TALKING UP AT SOMEBODY.
- 16 Q LIKE---
- 17 A AND THE WAVE THEM UP LIKE THIS.
- 18 Q (SOLICITOR MAKES GESTURE AS INSTRUCTED)
- 19 A THERE YOU GO. THAT WAS IT.
- 20 Q AH. AND AT THAT POINT YOU SEE BODIES COMING?
- 21 A YES MA'AM.
- 22 Q SO, AT THIS POINT YOU CAN SEE ALL OF THESE PEOPLE BUT
- 23 NONE OF THESE PEOPLE CAN SEE YOU?
- 24 A I DON'T KNOW IF THEY COULD SEE ME.
- 25 Q THEY'RE ALL REACTING TO YOU?

1 A FROM WHAT THEY SAID YESTERDAY, I GUESS THEY WERE
2 REACTING TO ME.

3 Q YOU GUESS THEY WERE RACING TO YOU?

4 A I DON'T KNOW.

5 Q OKAY.

6 A YOU WERE TALKING TO THEM YESTERDAY.

7 Q SO, NONE OF THEM SAW YOU UNTIL YOU CAME RUSHING OUT OF
8 THE DARKNESS?

9 A ONCE I CAME ACROSS THE STREET, BIG BOY STOPPED, AND---

10 Q OKAY.

11 A ---HE STOPPED QUICK.

12 Q WHEN YOU'RE WALKING DOWN THE STREET, HOW ARE YOU
13 HOLDING YOUR GUN?

14 A IT WAS IN MY PANTS ACTUALLY.

15 Q IN YOUR PANTS. WAS IT IN YOUR PANTS POCKET?

16 A NO, IT WAS IN THE BACK OF MY PANTS.

17 Q THE BACK OF YOUR PANTS?

18 A UH-HUH.

19 Q AND SO, YOU'RE WALKING-- IT'S A HEAVY GUN AND YOU'RE
20 WALKING DOWN THE STREET AND IT'S IN THE BACK OF YOUR PANTS.

21 A UH-HUH.

22 Q SO, AT WHAT POINT DO YOU DRAW THE GUN OUT?

23 A ONCE I SEEN EVERYBODY COME.

24 Q SO, IS THAT AFTER YOU PASSED FRANK THAT YOU SEE
25 EVERYBODY COMING, AND THEN YOU DRAW THE GUN OUT?

- 1 A NO.
- 2 Q NO?
- 3 A NO.
- 4 Q BEFORE YOU PASSED FRANK?
- 5 A YES.
- 6 Q AND SO, YOU'RE STANDING THERE AND YOU CAN SEE
- 7 EVERYBODY BUT NOBODY CAN SEE YOU, AND YOU'RE HOLDING THE
- 8 GUN HOW?
- 9 A KIND OF LIKE THE WAY YOU ARE.
- 10 Q OKAY.
- 11 A A LITTLE FURTHER DOWN, NOT SO STIFF.
- 12 Q OKAY.
- 13 A YEAH.
- 14 Q LIKE YOU'RE COMFORTABLE WITH IT, THE WAY YOU'RE
- 15 HOLDING IT?
- 16 A COMFORTABLE WITH IT, YEAH, THAT WOULD BE IT.
- 17 Q AND YOUR FINGER NOT ON THE TRIGGER?
- 18 A NOPE.
- 19 Q YOU'RE JUST HOLDING IT?
- 20 A UH-HUH.
- 21 Q LIKE THIS?
- 22 A UH-HUH.
- 23 Q LIKE THIS?
- 24 A NO. WRAP YOUR FINGER AROUND THE BOTTOM..
- 25 Q THIS, AROUND THE BOTTOM?

- 1 A YEAH, LIKE THAT. THERE YOU GO.
- 2 Q AND THEN YOU-- AND THEN THAT'S WHEN YOU RAISE IT UP IN
- 3 THE AIR?
- 4 A YEAH.
- 5 Q AND THEN THAT'S WHEN EVERYBODY CAN SEE YOU?
- 6 A YES MA'AM.
- 7 Q I WANT TO TALK TO YOU ABOUT WHAT YOU WERE THINKING
- 8 WHEN YOU WERE SITTING IN THAT CAR FOR, LIKE, TWO, THREE
- 9 MINUTES AND THEN YOU HEAR THE LOUD VOICES.
- 10 A UH-HUH.
- 11 Q WAS IT ONE VOICE OR COULD YOU TELL?
- 12 A I HEARD ONE VOICE TILL I STARTED WALKING, AND THEN I
- 13 HEARD FRANK'S VOICE GET LOUD, TOO.
- 14 Q AND YOU TESTIFIED EARLIER THAT YOU BROUGHT THE GUN
- 15 WITH YOU BECAUSE YOU WERE SCARED?
- 16 A YEAH, YEAH.
- 17 Q YOU WERE SCARED WHY?
- 18 A BECAUSE I HEARD-- I MEAN, IF YOU WOULD HAVE HEARD THE
- 19 VOICES, IF YOU WOULD HAVE HEARD THE OTHER VOICE, IT WAS
- 20 GETTING PRETTY HEATED. IT WAS PRETTY LOUD. AND IT WAS, YOU
- 21 COULD TELL SOMETHING WAS GONNA HAPPEN.
- 22 Q BECAUSE YOU THOUGHT THERE WAS TROUBLE. YOU THOUGHT
- 23 THERE WAS GONNA BE TROUBLE.
- 24 A AT THAT POINT, YEAH, I DID.

- 1 Q SO, YOU'RE SITTING IN THE CAR WITH YOUR CELL PHONE, AND
2 YOU THINK THERE'S TROUBLE, DO YOU CALL THE POLICE?
- 3 A NO, I DIDN'T.
- 4 Q NO. AND YOU GOT OUT OF THE CAR AND YOU WALKED DOWN
5 THE STREET, DID YOU HAVE YOUR CELL PHONE WITH YOU THEN?
- 6 A NO, I DIDN'T.
- 7 Q SO, YOU DIDN'T THINK THAT YOU NEEDED TO CALL THE POLICE?
- 8 A NO, I DIDN'T THINK ABOUT.
- 9 Q YOU WERE SCARED, BUT YOU DIDN'T THINK ABOUT CALLING
10 THE POLICE?
- 11 A NO. I REACTED. I DIDN'T SAY IT WAS SMART. IT WAS STUPID. I
12 REACTED.
- 13 Q AND SO, YOU LEFT YOUR CELL PHONE IN THE CAR AND YOU
14 WALKED ALL THE WAY DOWN THE STREET WITH YOUR GUN?
- 15 A (NO RESPONSE)
- 16 Q CORRECT?
- 17 A YES MA'AM.
- 18 Q AND AFTER YOU GOT THERE AND RYAN TRIED TO GRAB THE
19 GUN AWAY, IT'S YOUR TESTIMONY THAT YOU WOULDN'T GIVE UP THE
20 GUN BECAUSE YOU WANTED THE POLICE TO COME. IS THAT CORRECT?
- 21 Q NOT BECAUSE I WANTED THE POLICE TO COME, BECAUSE I
22 HEARD THE POLICE WERE COMING, IS WHAT I SAID. I HEARD THE
23 POLICE WERE COMING.
- 24 Q JESSE SAID, LET GO OF THE GUN, AND I SAID I WON'T UNTIL THE
25 POLICE GET HERE. AND THEN YOU RELINQUISHED THE GUN WHEN

1 YOU HEARD THE POLICE WERE COMING. HOW DID YOU HEAR THE
2 POLICE WERE COMING?

3 A SOMEBODY YELLED.

4 Q SOMEBODY YELLED, THE POLICE ARE COMING?

5 A UH-HUH.

6 Q AND IN THIS MELEE YOU'RE ABLE TO DIFFERENTIATE THESE
7 DIFFERENT VOICES AND WHAT THEY'RE SAYING?

8 A JESSE WAS RIGHT NEXT TO ME, BUT I DIDN'T KNOW IT WAS
9 JESSE.

10 Q JESSE WAS RIGHT NEXT TO YOU AND WHAT?

11 A I DIDN'T KNOW IT WAS JESSE.

12 Q YOU DIDN'T KNOW WHAT WAS JESSE?

13 A YOU JUST SAID, JESSE SAID, ON THERE.

14 Q YEAH, JESSE SAID LET GO OF THE GUN. SO, YOU HEARD
15 SOMEBODY SAY LET GO OF THE GUN?

16 A YEAH.

17 Q AND THEN YOU SAID I WON'T UNTIL THE POLICE GET HERE.

18 A HOW DID I SAY THAT?

19 Q DID YOU NOT SAY THAT IN YOUR DIRECT EXAMINATION? JESSE
20 SAID LET GO OF THE GUN AND I SAID I WON'T UNTIL THE POLICE GET
21 HERE.

22 A I DIDN'T KNOW IT WAS JESSE. HOW COULD JESSE SAY THAT?

23 Q WELL, I'M JUST ASKING YOU-- I GUESS WHAT I'M ASKING YOU IS
24 DID SOMEBODY SAY LET GO OF THE GUN?

25 A YEAH.

1 Q AND DID YOU RESPOND, I WON'T UNTIL THE POLICE GET HERE?

2 A NO, I DON'T BELIEVE I SAID I WON'T UNTIL THE POLICE GET
3 HERE. I THINK I SAID-- ALL I REMEMBER SAYING WAS I WANT TO
4 PROTECT MY BROTHER. AND WHEN I HEARD THE POLICE WERE
5 CALLED, THAT'S WHEN I SAID, I'LL LET THE GUN GO.

6 Q AND YOU HEARD THE POLICE WERE CALLED BECAUSE YOU
7 HEARD SOMEBODY'S VOICE IN THE BACKGROUND, ---

8 A YEAH.

9 Q ---AND---

10 A YELLING, THE POLICE ARE COMING, THE POLICE ARE ON THE
11 WAY RIGHT NOW.

12 Q AND SO, THAT'S WHEN-- YOU KNEW THE POLICE WEREN'T ON
13 THE SCENE YET, AND YOU DECIDED YOU WERE GOING TO GO AHEAD
14 AND LET GO OF THE GUN?

15 A YES MA'AM.

16 Q AND YOU WERE GONNA GO AHEAD AND LET GO OF THE GUN
17 BECAUSE WHY, IF THE POLICE WEREN'T ON THE SCENE YET? AND
18 YOU WEREN'T GONNA WAIT FOR RYAN LOCHBAUM TO HAVE IT. WHY
19 WERE YOU GONNA GO AHEAD AND GIVE IT UP?

20 A BECAUSE I WAS JUST GIVING IT UP. IT JUST WENT TOO FAR.
21 PLUS, I WAS GETTING KNEED IN THE BACK REALLY BAD. THEY WERE
22 BEATING ON ME PRETTY GOOD. SOMEBODY WAS KNEEING ME IN THE
23 BACK PRETTY GOOD, AND RYAN WAS CHOKING ME PRETTY DAMN
24 GOOD, TOO.

25 Q RYAN WAS CHOKING YOU?

- 1 A UH-HUH. I DIDN'T GET A CHANCE FOR ANYBODY TO TAKE
2 PICTURES OF ME. BUT, YOU KNOW, ---
3 Q NOW,---
4 A ---I DID HAVE THE GUN. SO....
5 Q I'M SORRY?
6 A NOTHING.
7 Q NO, I DIDN'T UNDERSTAND YOU.
8 A I SAID NOBODY GOT TO TAKE PICTURES OF ME.
9 Q WHAT WAS THE LAST THING YOU SAID?
10 A I SAID THAT I GOT BEAT ON PRETTY GOOD.
11 Q DID YOU TAKE PICTURES?
12 A NO. I WAS INCARCERATED RIGHT AWAY AND WASN'T ALLOWED
13 TO DO ANYTHING.
14 Q DID FRANK GET BEAT ON PRETTY GOOD?
15 A DON'T KNOW.
16 Q YOU DON'T KNOW?
17 A NO, I WAS AT THE BOTTOM OF THE PILE, MA'AM.
18 Q SO, YOU RELINQUISHED THE GUN?
19 A YES MA'AM.
20 Q AND WHY DID YOU RELINQUISH THE GUN AND YOU WENT BACK
21 TO THE CAR? YOU SAID YOU DIDN'T RUN BACK TO THE CAR. IS THAT
22 RIGHT?
23 A NO. WE WALKED PRETTY QUICK, AS QUICK AS WE COULD.
24 Q YOU WALKED. AND YOU WALKED ALL THIS WAY. RIGHT?
25 A YES.

- 1 Q AND DEVIN FIVECOAT, MARK WHITTINGTON, THEY DIDN'T
2 FOLLOW YOU?
- 3 A I SURE DIDN'T HEAR ANYBODY.
- 4 Q YOU DIDN'T HEAR ANYBODY?
- 5 A NO.
- 6 Q AND SO, BUT YOU HEARD THE POLICE WERE COMING. IS THAT
7 RIGHT?
- 8 A YES MA'AM.
- 9 Q AND NOBODY FOLLOWED YOU DOWN HERE?
- 10 A NO MA'AM.
- 11 Q AND INSTEAD OF WAITING IN THE CAR RIGHT HERE FOR THE
12 POLICE TO GET HERE, YOU LEFT?
- 13 A YES.
- 14 Q YOU FLED?
- 15 A I DON'T KNOW---
- 16 Q YOU DON'T KNOW IF YOU FLED?
- 17 A FRANK WAS DRIVING, MA'AM.
- 18 Q YOU DON'T KNOW THAT FRANK WAS STOPPED FOR SPEEDING
19 FOR GOING TWENTY-FIVE MILES AN HOUR ABOVE THE SPEED LIMIT?
- 20 A FRANK DIDN'T GET NO SPEEDING TICKET.
- 21 Q HE DIDN'T GET A SPEEDING TICKET?
- 22 A NO.
- 23 Q BUT HE WASN'T RUNNING AWAY FROM THE SCENE?
- 24 A NO.
- 25 Q AND YOU HAD YOUR CELL PHONE IN THE CAR THEN?

- 1 A YES MA'AM.
- 2 Q AND DID FRANK HAVE HIS CELL PHONE IN THE CAR?
- 3 A YES MA'AM.
- 4 Q DID EITHER ONE OF YOU CALL THE POLICE?
- 5 A WE DIDN'T HAVE A CHANCE, MA'AM.
- 6 Q YOU DIDN'T--
- 7 A WE GOT PULLED OVER PRETTY QUICK.
- 8 Q LET ME MAKE SURE I UNDERSTAND. NO QUESTION, NO
- 9 QUESTION THAT YOU WERE AT RYAN LOCHBAUM'S HOUSE THAT
- 10 NIGHT?
- 11 A NO QUESTION.
- 12 Q AND YOU WERE IN THE CAR WITH YOUR BROTHER-IN-LAW,
- 13 FRANK LARMAND. NO QUESTION?
- 14 A NO QUESTION.
- 15 Q NO QUESTION THAT YOU PARKED ALL THE WAY AROUND THE
- 16 CORNER ON PLEASANT VIEW ROAD?
- 17 A NO QUESTION.
- 18 Q NO QUESTION. NO QUESTION IT WAS MIDNIGHT?
- 19 A NO QUESTION.
- 20 Q AND IT WAS DARK OUTSIDE?
- 21 A NO QUESTION.
- 22 Q AND THAT YOU HAD THIS GUN. AND I KEEP CALLING IT THIS
- 23 GUN, BUT STATE'S EXHIBIT THREE, AND THAT YOU HAD THIS?
- 24 A NO QUESTION.
- 25 Q AND THAT YOU HAD IT FULLY LOADED?

1 A NO QUESTION.

2 Q AND AT NO POINT IN TIME DURING THIS PERCEIVED TROUBLE
3 DID YOU CALL THE POLICE TO REQUEST THEIR HELP?

4 A NO QUESTION.

5 Q AND IT'S YOUR TESTIMONY THAT YOU WERE JUST ALONG FOR
6 THE RIDE FOR ALL THESE THREE HOURS IN THE MIDDLE OF THE NIGHT
7 IN SOUTH CAROLINA? IS THAT RIGHT? JUST GOING ALONG FOR THE
8 RIDE?

9 A YES MA'AM, NO QUESTION.

10 Q AND YOU WERE GOING TO SOMEBODY'S HOUSE IN THE MIDDLE
11 OF THE NIGHT AND YOU DIDN'T REALLY TALK ABOUT WHY YOU WERE
12 GOING THERE?

13 A I'D SAY I WAS SIGNED UP TO GO TO KNIGHTS' STADIUM. THAT'S
14 WHAT I ORIGINALLY WAS GOING TO, AND THIS JUST HAPPENED
15 AFTERWARDS.

16 Q SO, YOU JUST HAPPENED TO DECIDE TO GO TO RYAN
17 LOCHBAUM'S HOUSE AND YOU HAD NO IDEA WHAT YOU WERE THERE
18 TO DO?

19 A NO MA'AM, NO QUESTION.

20 Q AND YOU NEVER ASKED ANY QUESTIONS ABOUT WHAT YOU
21 WERE DOING THERE?

22 A NO, I DIDN'T. IT'S MY BROTHER-IN-LAW.

23 Q IT'S YOUR BROTHER-IN-LAW AND HE TELLS YOU WHERE YOU'RE
24 GOING AND YOU GO THERE WITHOUT COMPLAINING. RIGHT?

25 A NO QUESTION.

1 Q THANK YOU, MR. LEMIRE.

2 THE COURT: MR. RHEA?

3 MR. RHEA: NOTHING, YOUR HONOR.

4 THE COURT: MR. GREELEY?

5 MR. GREELEY: NO FURTHER QUESTIONS.

6 THE COURT: YOU MAY STEP DOWN.

7 A THANK YOU.

8 THE COURT: ANY FURTHER WITNESSES?

9 MR. RHEA: NO MORE FOR MR. LARMAND, YOUR HONOR.

10 THE COURT: MR. GREELEY?

11 MR. GREELEY: MR. LEMIRE RESTS.

12 THE COURT: MEMBERS OF THE JURY, WE'RE GOING TO TAKE A
13 LUNCH BREAK. WE'RE GOING TO TAKE A LONG LUNCH BREAK
14 BECAUSE WE HAVE TO DO SOME WORK WHILE YOU'RE GONE.

15 IF YOU WOULD, BE BACK AT 2:30, AND BE WELL-RESTED, AS WE
16 WILL HAVE THE CLOSING ARGUMENTS AND THEN I WILL CHARGE YOU
17 ON THE LAW AND TURN THE CASE OVER TO YOU.

18 AT THIS TIME, BE SURE, DO NOT TALK ABOUT THIS CASE AMONG
19 YOURSELVES OR WITH ANYBODY.

20 THANK YOU, AND WE'LL SEE YOU BACK AT 2:30.

21 (WHEREUPON THE JURY EXITED THE COURTROOM AT 11:08 A.M.)

22 THE COURT: MR. RHEA, YOU DID REST?

23 MR. RHEA: YES, YOUR HONOR.

1 MR. GREELEY: YOUR HONOR, IF I MAY, I JUST WANT TO CLARIFY
2 THE OBJECTION I HAD YESTERDAY WITH REGARD TO A CHARGE. I
3 DIDN'T STATE IT COMPLETELY.

4 THE COURT: SURE.

5 MR. GREELEY: THE OBJECTION IS THE INFERENCE LANGUAGE
6 COMING FROM THE LYNCHING STATUTE. AND THE BASIS OF MY OF MY
7 OBJECTION WOULD BE THAT I WOULD SUBMIT TO THE COURT THAT
8 THE INFERENCE LANGUAGE FROM THAT STATUTE IS
9 UNCONSTITUTIONAL. ALONG WITH THAT, IT IS IN VIOLATION OF
10 BURDEN SHIFTING BOTH UNDER THE UNITED STATES CONSTITUTION
11 AND THE STATE OF SOUTH CAROLINA CONSTITUTION.

12 THE COURT: THANK YOU, MR. GREELEY. SOLICITOR,
13 ANYTHING?

14 MS. JOYNER: NO MOTIONS FROM THE STATE, YOUR HONOR.

15 THE COURT: ANYTHING FROM YOU, MR. RHEA?

16 MR. RHEA: JUST BRIEFLY, YOUR HONOR. AT THIS TIME I WOULD
17 RENEW MY PREVIOUS MOTION FOR A DIRECTED VERDICT.

18 THE COURT: THAT MOTION IS DENIED.

19 MR. RHEA: THANK YOU, YOUR HONOR.

20 THE COURT: WE'LL START BACK AT 2:30, WHICH WILL GIVE US
21 SOME TIME TO DO A LITTLE BIT OF WORK. WILL THAT BE ENOUGH
22 TIME FOR Y'ALL TO GET YOUR THINGS TOGETHER?

23 MR. RHEA: YOUR HONOR, IS THERE TO BE A PLEA AT 2:30
24 BEFORE WE GET STARTED?

25 THE COURT: I'M GOING TO DO THAT RIGHT NOW.

1 MR. RHEA: THANK YOU, YOUR HONOR.

2 MR. GREELEY: YOUR HONOR, THE ORDER OF THE CLOSING
3 WOULD BE?

4 THE COURT: DOES THE STATE WAIVE OPENING ON THE LAW?

5 MS. JOYNER: YES, YOUR HONOR.

6 MR. GREELEY: YOUR HONOR, I WOULD OBJECT TO THE STATE
7 NOT OPENING ON THE LAW.

8 THE COURT: ON WHAT GROUNDS?

9 MR. GREELEY: THERE IS SOME AUTHORITY FOR MY OBJECTION,
10 YOUR HONOR.

11 THE COURT: WELL, IF YOU CAN FIND IT AND SHOW IT TO ME
12 AFTER LUNCH, I'LL TAKE IT UNDER ADVISEMENT.

13 MR. GREELEY: THANK YOU, YOUR HONOR.

14 THE COURT: WE'LL BE AT EASE IN THIS CASE UNTIL 2:30.

15 COURT IN SESSION - 2:35 P.M.

16 THE COURT: IS THE STATE READY?

17 MS. JOYNER: THE STATE IS READY, YOUR HONOR.

18 THE COURT: MR. RHEA?

19 MR. RHEA: WE'RE READY, YOUR HONOR.

20 THE COURT: MR. GREELEY?

21 MR. GREELEY: WE'RE READY, YOUR HONOR.

22 THE COURT: BRING THE JURY IN.

23 (WHEREUPON THE JURY ENTERED THE COURTROOM)

24 GOOD AFTERNOON.

25 (JURY RESPONDS IN KIND)

1 THE COURT: WE'RE GOING TO FINISH UP THINGS RIGHT NOW AND
2 TURN IT OVER TO YOU LATER ON. BUT RIGHT NOW WE'RE GOING TO
3 PROCEED WITH THE ATTORNEYS' CLOSING STATEMENTS. I WANT YOU TO
4 UNDERSTAND RIGHT OUT OF THE BLOCK THAT THEIR STATEMENTS ARE NOT
5 EVIDENCE. THEY ARE SIMPLY ARTICULATING THEIR CLIENTS' POSITIONS.

6 AND WITH THAT BEING SAID, WE'LL NOW PROCEED WITH MR. RHEA'S
7 CLOSING STATEMENT.

8 MR. RHEA: MAY IT PLEASE THE COURT, YOUR HONOR.

9 THE COURT: SURE.

10 MR. RHEA: MADAM FORELADY, LADIES AND GENTLEMEN OF THE
11 JURY. THANK YOU FOR YOUR VERY CLOSE ATTENTION TO THIS IMPORTANT
12 MATTER.

13 I WANT TO TALK TO YOU A LITTLE ABOUT THE PHONE CALL THAT MY
14 CLIENT, FRANK LARMAND, MADE AFTER THE INCIDENT TO RYAN
15 LOCHBAUM. I SUBMIT TO YOU THAT PHONE CALL WAS OF A SPONTANEOUS
16 NATURE, JUST LIKE THE ACTIONS THAT HE TOOK AT MR. LOCHBAUM'S
17 HOUSE WERE OF A SPONTANEOUS NATURE IN REACTION TO EVENTS THAT HE
18 DID NOT PLAN OR CONSPIRE TO DO WITH MR. LEMIRE.

19 WHAT DOES OUR COMMON, EVERYDAY EXPERIENCE TELL US ABOUT A
20 PHONE CALL LIKE THAT? DOES IT SOUND LIKE THE PHONE CALL WAS, YEAH,
21 I GOT YOU, OUR CONSPIRACY TO LYNCH YOU, TO DO THINGS TO YOU WAS
22 SUCCESSFUL? BUT DOES IT SOUND MORE LIKE WHAT IT REALLY WAS,
23 WHICH WAS, HEY, IS EVERYBODY OKAY, I HAD NO IDEA THINGS WOULD GET
24 OUT OF HAND LIKE THEY DID? I SUBMIT TO YOU IT'S THE LATTER.