

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Horry County

Honorable Kristi F. Curtis, Circuit Court Judge

BRIAN KENDRICK SPEARS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001070

APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF HORRY

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

vs.)

BRIAN KENDRICK SPEARS,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

07-GS-26-3387

07-GS-26-3388

07-GS-26-3389

07-GS-26-3390

TRANSCRIPT OF RECORD

MAY 10-13, 2010

CONWAY, SOUTH CAROLINA

BEFORE:

THE HONORABLE, LARRY B. HYMAN, JR.; AND A JURY

APPEARANCES:

BY: DONNA E. ELDER, ESQ.
LAWRENCE R. FILIBERTO, ESQ.
ATTORNEYS FOR STATE

BY: BARBARA W. PRATT, ESQ.
ATTORNEY FOR BRIAN KENDRICK SPEARS

BRENDA R. BABB
Circuit Court Reporter

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CALL OF CASE

8

1 THE COURT: ALL RIGHT, WHAT DO WE HAVE THIS
2 MORNING?

3 MS. ELDER: YOUR HONOR, THIS IS THE STATE V.
4 BRIAN SPEARS; HE'S CURRENTLY CHARGED WITH ONE COUNT OF
5 MURDER AND THREE COUNTS OF ASSAULT AND BATTERY WITH INTENT
6 TO KILL. IT'S INDICTMENT 2007-GS-26-3388, 3389, 3390, AND
7 3387.

8 MS. PRATT HAS SEVERAL MOTIONS. WE ALSO HAVE A
9 DENNO HEARING TO DO. I'M WAITING ON A WITNESS FOR THAT,
10 BUT IF WE COULD PROCEED WITH SOME OF MS. PRATT'S MOTIONS
11 HOPEFULLY BY THE TIME WE CONCLUDE THAT MY OTHER WITNESS ON
12 THE DENNO HEARING WILL BE PRESENT.

13 THE COURT: ALL RIGHT, MS. PRATT, WHAT DO YOU
14 HAVE?

15 MS. PRATT: THANK YOU, YOUR HONOR, MAY IT PLEASE
16 THE COURT. YOUR HONOR, THE FIRST MOTION THAT I WOULD MAKE
17 IS A MOTION IN LIMINE TO PREVENT THE STATE FROM INTRODUCING
18 ANY EVIDENCE CONCERNING GANG AFFILIATION OR INVOLVEMENT IN
19 THIS CASE.

20 THE COURT: ALL RIGHT, WHAT DO YOU ANTICIPATE
21 THEY ARE GOING TO TRY TO INTRODUCE?

22 MS. PRATT: YOUR HONOR, THROUGHOUT THIS CASE THE
23 QUESTIONING AND THE EVIDENCE AS PRESENTED BY THE POLICE
24 OFFICERS IN THEIR INVESTIGATION SUGGEST THAT THE VICTIM AND
25 THE FOUR OR FIVE PEOPLE THAT HE WAS WITH WERE MEMBERS OF

CALL OF CASE

9

1 ONE GANG AND MY CLIENT, THE TWO CODEFENDANTS, AND OTHERS
2 THAT THEY WERE WITH WERE MEMBERS OF ANOTHER GANG KNOWN AS
3 41-CURVE WHICH IS FOLK NATION. I BELIEVE THAT THE STATE
4 WILL BE TRYING TO PRESENT THAT THIS WAS SIMPLY A GANG
5 VERSUS GANG SHOOTING.

6 MY POSITION ON THIS, YOUR HONOR, IS THAT THERE IS
7 AN INDEPENDENT REASON FOR THE SHOOTING WHICH IS THAT THE
8 VICTIM AARON HAMMONDS IS ALLEGED TO HAVE KILLED A FRIEND OF
9 BOTH MY CLIENT, BRIAN SPEARS, THE CODEFENDANT JEFFREY
10 BETHEA, AND THE CODEFENDANT NATHANIEL DOUGLAS WHO IS NAMED
11 ERIC FLOYD. NOW THAT WAS AN ALLEGATION THAT MR. HAMMONDS
12 NEVER WAS CONVICTED OF BEFORE HE DIED AND MY POSITION ON
13 THIS, YOUR HONOR, IS THAT BECAUSE THERE IS THIS INDEPENDENT
14 REASON THERE IS NO REASON FOR US TO GET INTO WHETHER IT WAS
15 A GANG ON GANG SHOOTING. I BELIEVE THAT ANY INTRODUCTION
16 OF GANG EVIDENCE WOULD BE MORE PREJUDICIAL THAN PROBATIVE
17 UNDER 403.

18 THE CASES THAT LINE UP IN REGARDS TO THIS ISSUE
19 ARE A SUPREME COURT CASE DAWSON V. DELAWARE, 112, SUPREME
20 COURT 1093, 503, U.S. 159, 1992. THIS PARTICULAR CASE IS A
21 CASE THAT STATES THAT, WELL LET ME GIVE THE BACKGROUND OF
22 IT, IN THE FACTS IT WAS A CAPITAL CASE AND IN SENTENCING
23 THEY RAISED THE FACT THAT MR. DAWSON WAS ACTUALLY A MEMBER
24 OF THE ARYAN BROTHERHOOD IN PRISON. SINCE THE ARYAN
25 BROTHERHOOD AFFILIATION DID NOT HAVE ANY DIRECT RELEVANCE

CALL OF CASE

10

1 TO THE CRIME THE SUPREME COURT SAID THAT THAT WAS NOT
2 SOMETHING THAT SHOULD HAVE COME IN OR AT LEAST IN THAT CASE
3 IT MAY HAVE COME IN BUT THE QUESTION WAS IT HAS TO HAVE
4 DIRECT RELEVANCE TO THE CRIME ITSELF.

5 THE COURT: OKAY, WAS THE, WAS THE SHOOTING THAT
6 WAS ALLEGEDLY BEING AVENGED OR THE KILLING THAT WAS
7 ALLEGEDLY BEING AVENGED DID IT HAVE GANG AFFILIATIONS OR
8 WAS IT RELATED TO GANG?

9 MS. PRATT: IT COULD BE SEEN TO HAVE THAT, YES,
10 YOUR HONOR, BECAUSE THERE'S THE POTENTIAL FOR EITHER
11 SAYING, NUMBER ONE, THESE WERE GANG ON GANG OR, NUMBER TWO,
12 HE KILLED MY FRIEND, AND MY POSITION AND MY CLIENT'S
13 POSITION IS THAT IT IS FAR MORE PREJUDICIAL TO GET INTO THE
14 ENTIRE GANG ISSUE, MORE PREJUDICIAL THAN PROBATIVE SINCE WE
15 HAVE A SOLID REASON FOR A SHOOTING AS A REVENGE SITUATION.

16 THE SOUTH CAROLINA CASE IS THE STATE V. CHRIS
17 ANTHONY LIVERMAN THAT IS 386 S.C., 223, 687 S.E. 2d 70, A
18 SOUTH CAROLINA COURT OF APPEALS CASE FROM 2009.

19 THE COURT: ALL RIGHT.

20 MS. PRATT: AND THE LIVERMAN CASE IN, IN THAT
21 PARTICULAR CASE THEY WENT SO FAR INTO GANG INFORMATION AS
22 TO TALK ABOUT THE SIGNS, THE TATTOOS, THE PITCH FORKS AND
23 SO ON. IN THAT CASE THE, THE SUPREME COURT, OUR COURT OF
24 APPEALS I SHOULD SAY ALLOWED THE INFORMATION IN ONLY
25 BECAUSE THE STATE WAS ARGUING THAT A PARTICULAR TATTOO OF

CALL OF CASE

11

1 TEARDROPS MEANT THESE PARTICULAR VICTIMS. IN OTHER WORDS,
2 IT WAS RELEVANT TO THIS INDIVIDUAL CRIME AND IN THAT CASE
3 WHAT IS REALLY IMPORTANT TO POINT OUT TO YOU, YOUR HONOR,
4 IS THAT RULE 403 PREJUDICIAL VERSUS PROBATIVE AND RULE
5 404(B) BEING CHARACTER EVIDENCE WAS NOT RAISED TO THE TRIAL
6 JUDGE AND WAS NOT PRESERVED. I AM RAISING THAT ISSUE AT
7 THIS POINT THAT THE GANG AFFILIATION, NUMBER ONE, IT'S A
8 PROTECTIVE RIGHT UNDER THE CONSTITUTION FOR ASSOCIATION.
9 IT IS CHARACTER EVIDENCE ---

10 THE COURT: WAS IT EXCLUDED, WAS IT ADMITTED AS
11 RELEVANCE UNDER 401? WAS THAT, WAS THAT THE ANALYSIS?

12 MS. PRATT: IN LIVERMAN AS I UNDERSTAND LIVERMAN
13 THE TEARDROP TATTOOS TO MEAN THOSE VICTIMS BECAUSE THEY
14 WERE ACQUIRED AFTER THE KILLING WERE RELEVANT BECAUSE IT
15 WAS LIKE THE KIND OF CONFESSION I WOULD SUPPOSE.

16 THE COURT: SO WAS THE 401 ANALYSIS IS THAT WHAT
17 WE'RE CITING?

18 MS. PRATT: AND FOR ME, THOUGH, WHAT I AM
19 RAISING IS THAT EVEN IF YOU FOUND IT RELEVANT IT WOULD BE
20 MORE PREJUDICIAL THAN PROBATIVE. IT WOULD BE IMPROPER
21 CHARACTER EVIDENCE THAT IT WOULD BE A VIOLATION OF HIS
22 CONSTITUTIONAL RIGHTS TO ASSOCIATION.

23 THE COURT: ALL RIGHT, LET ME HEAR FROM MS.
24 ELDER?

25 MS. ELDER: YOUR HONOR, IN REFERENCE TO, I THINK

CALL OF CASE

12

1 WE'VE GOT A COUPLE OF ACTUALLY DIFFERENT THINGS GOING ON,
2 IN REFERENCE TO THE MENTION OF GANG WE FULLY INTEND TO
3 PRESENT OUR CASE AS A GANG RETALIATION. THERE IS
4 ABSOLUTELY NO WAY FOR THE STATE TO PRESENT THIS CASE
5 WITHOUT THAT.

6 WE HAVE THE INDIVIDUAL THAT WAS KILLED, HIS NAME
7 WAS ERIC ---

8 THE COURT: BASICALLY IT GOES TO MOTIVE, DOES IT
9 NOT?

10 MS. ELDER: YES, SIR, YOUR HONOR, THAT WAS, AND
11 THERE IS A STRING OF CASES THAT SAY ---

12 THE COURT: OF COURSE YOU DON'T HAVE TO PROVE
13 MOTIVE BUT CERTAINLY RELEVANT AS TO EVIDENCE.

14 MS. ELDER: BUT IT ALSO GOES TO STATE OF MIND,
15 YES, SIR. ERIC WAS IN FACT A MEMBER OF 41-CURVE AND HE WAS
16 IN FACT HIGH UP IN THAT RANKING STRUCTURE.

17 THE TESTIFYING CODEFENDANT WAS IN FACT WITH HIM
18 THE NIGHT HE WAS MURDERED. AARON HAMMONDS THE VICTIM IN
19 THIS CASE WAS IN FACT CONVICTED OF ACCESSORY TO THAT
20 MURDER. HE GOT OUT TO JAIL APPROXIMATELY SIX MONTHS BEFORE
21 HIS DEATH AND WE BELIEVE THIS IS A DIRECT RESULT OF THAT.

22 AARON HAMMONDS WAS ACTUALLY SHOT AT A WALMART A
23 MONTH TO THE DAY HE WAS KILLED HERE AT THE BOULEVARD SO
24 THERE IS SOME, OBVIOUSLY SOME RELEVANCE THERE.

25 THE TESTIMONY OF THE CODEFENDANT, THE TESTIMONY

CALL OF CASE

13

1 OF MR. SPEARS WHEN HE GAVE HIS STATEMENT, ALL OF THEM ADMIT
2 THEIR AFFILIATION AND THAT THEY'RE CONTRADICTION BETWEEN
3 THIS GROUP AND THAT GROUP. AARON HAMMONDS WAS IN FACT
4 MEMBERS OF ONE GROUP AND THE DEFENDANTS WERE IN FACT
5 MEMBERS OF A DIFFERENT GROUP.

6 NOW THERE IS ALSO TESTIMONY AS TO WHAT, WHAT EVEN
7 BROUGHT ABOUT THIS CONTROVERSY TO BEGIN WITH WAS AN
8 INDIVIDUAL BY THE NAME OF MARK IRONS ACTUALLY COMING UP TO
9 MR. SPEARS AND HIS GROUP OF FRIENDS WHILE THEY WERE ON THE
10 BOULEVARD AND THERE WAS SOME DISRESPECT WHETHER OR NOT HE
11 WAS TRYING TO SHAKE WITH THEIR LEFT HAND OR THEIR RIGHT
12 HAND, THAT WAS DISRESPECTFUL, THAT THAT STARTED THE
13 ARGUMENT THAT EVENTUALLY LED WITHIN 10 MINUTES TO THE, THE
14 SHOOTING THAT OCCURRED ON THE BOULEVARD.

15 I DON'T KNOW HOW ELSE TO TRY THIS CASE WITHOUT
16 INDICATING THAT THEY WERE IN FACT MEMBERS OF OPPOSING GANGS
17 THAT 41-CURVE HAD A MEMBER THAT WAS KILLED, AARON HAMMONDS
18 WAS IN FACT CONVICTED OF ACCESSORY CHARGE, HIS SISTER CAN
19 TELL YOU THAT. WHEN HE GOT OUT OF JAIL HE WAS SHOT AT, A
20 MONTH LATER HE WAS KILLED HERE ON THE BOULEVARD. ALL
21 THROUGH STATEMENTS IN THIS CASE FROM ALL THREE CODEFENDANTS
22 INDICATE THEY WERE MEMBERS OF 41-CURVE, AARON WAS MEMBERS
23 OF THE OTHER GROUP, THAT ERIC IN FACT WAS A MEMBER OF THIS
24 GROUP AS WELL, HE WAS KILLED. I MEAN I DON'T KNOW HOW WE
25 CAN AVOID THAT. IT DEFINITELY GOES TO STATE OF MIND.

CALL OF CASE

14

1 THE COURT: LET ME ASK YOU THIS, OKAY, WHAT
2 ABOUT THE SHOOTING THE MONTH BEFORE, WAS, IS THERE SOME WAY
3 TO CONNECT THAT WITH THIS GANG AS WELL?

4 MS. ELDER: YOUR HONOR ---

5 THE COURT: I'M JUST WONDERING ARE YOU GOING TO
6 BE ABLE TO GET THAT IN?

7 MS. ELDER: I DON'T KNOW, OBVIOUSLY I DIDN'T
8 WANT TO TAKE UP IN LIMINE. I'M NOT GOING TO MENTION IT
9 OBVIOUSLY UNLESS WE CAN LAY THE FOUNDATION FOR IT AND I
10 DON'T KNOW IF THE FOUNDATION WILL COME TO THAT. I EXPECT,
11 OF COURSE I DON'T KNOW UNTIL WE CAN PROFFER HER TESTIMONY,
12 BUT IT'S MY UNDERSTANDING THAT THIS SHOOTING OCCURRED, IT
13 OCCURRED A MONTH PRIOR. THERE WAS SOME THREATS BY MR.
14 SPEARS TO AARON HAMMONDS THROUGH HIS SISTER WHO'S GOING TO
15 TESTIFY. THERE WAS THE SHOOTING AT WALMART. AARON, WHO IS
16 NOW DECEASED, RIGHT AFTER THE SHOOTING WENT TO HIS SISTER'S
17 HOUSE AND INDICATED THAT BRIAN SPEARS SHOT AT HIM AT
18 WALMART.

19 THE COURT: OKAY, ALL RIGHT, REPLY?

20 MS. PRATT: THANK YOU YOUR HONOR, IN REGARDS
21 FIRST OF ALL TO THE WALMART SITUATION I WAS GOING TO MAKE A
22 MOTION IN LIMINE TO KEEP THAT OUT SO I'LL ADDRESS THAT AT
23 THIS POINT.

24 FIRST OF ALL IT'S CERTAINLY HEARSAY SINCE MR.
25 HAMMONDS IS NOT HERE. THE SOLICITOR HERSELF HAS VIEWED A

CALL OF CASE

15

1 VIDEO OF THAT INCIDENT AND CANNOT IDENTIFY THAT IT WAS MY
2 CLIENT. I HAVE NOT SEEN THAT VIDEO; IT HAS NOT BEEN GIVEN
3 TO ME BUT I'VE BEEN ASSURED THAT YOU CAN'T TELL WHO IT IS
4 THAT'S DOING IT. IT'S A MONTH BEFORE. IT'S NOT A
5 SITUATION WHERE MY CLIENT WAS CHARGED OR CONVICTED OF IT
6 AND SO I DON'T THINK THAT IT WOULD BE PROPER FOR IT TO COME
7 IN ANYWAY.

8 THE COURT: WELL LET ME TELL YOU WHAT MY
9 THINKING IS, I THINK AND THIS IS MY VIEW, I THINK THAT
10 SHOOTING WITHOUT SAYING WHETHER IT IS FATAL TO GANG
11 AFFILIATION AT THE ACTUAL INCIDENT WE'RE TALKING ABOUT HERE
12 TODAY BUT I THINK THAT SHOOTING IF IT CAN BE CONNECTED TO
13 THE GANG MAKES IT EVEN MORE RELEVANT. THAT IS IT ADDS TO
14 THE RELEVANCE OF THE ACTUAL OF BEING THE CAUSE OF THE
15 DEATH, I THINK IF WE CAN TIE IT ALL TOGETHER, BUT EVEN
16 WITHOUT IT I BELIEVE THAT THE GANG AFFILIATION IS RELEVANT
17 AND THAT ALTHOUGH ITS PREJUDICIAL CERTAINLY ALL EVIDENCE IS
18 PREJUDICIAL BUT THE STANDARD IS IS THAT IT SUBSTANTIALLY
19 OUTWEIGHS, THE PREJUDICE SUBSTANTIALLY OUTWEIGHS THE
20 PROBATIVE VALUE AND THAT'S, IT'S NOT AN ISSUE OF JUST
21 WHETHER IT'S PREJUDICIAL IT SUBSTANTIALLY OUTWEIGHS THE
22 PROBATIVE VALUE.

23 MS. PRATT: AND MAY I RESPOND ON THAT, YOUR
24 HONOR ---

25 THE COURT: YEAH, OKAY.

CALL OF CASE

16

1 MS. PRATT: --- BECAUSE I UNDERSTAND THE
2 CONCERN. HERE'S THE THING, THE STATE BELIEVES THAT THEY
3 CAN'T PROVIDE, YOU KNOW, PUT THEIR CASE FORWARD BUT THEY
4 CAN. IF THIS IS COUCHED AS A REVENGE KILLING FOR ERIC
5 WHICH IS WHAT EVERYBODY SAYS, EVEN THEIR OWN WITNESS
6 JEFFREY BETHEA IN HIS STATEMENT CLEARLY SAYS THIS WAS NOT
7 GANG RELATED IN HIS FIRST STATEMENT AND HIS SECOND AND
8 NATHANIEL DOUGLAS SAYS THE SAME THING. THIS KILLING WAS
9 NOT GANG RELATED. THIS WAS, YOU KNOW, EVEN THOUGH BETHEA
10 SAYS I DIDN'T DO IT SPEARS DID, HE STILL SAYS NOT GANG
11 RELATED AND THE SOLICITOR CAN LOOK AT, I THINK IT'S PAGE 17
12 OF HIS FIRST STATEMENT AND 34 OF ANOTHER STATEMENT WHERE HE
13 SAYS THAT. IT CAN BE DONE VERY CLEARLY AS REVENGE FOR
14 ERIC'S DEATH WITHOUT IT.

15 IT WOULD BE LIKE TRYING TO SAY AND BY THE WAY
16 HE'S ALSO A GANG MEMBER AND THE JURY IS NOT GOING TO GET
17 PAST THAT. THE JURY CAN FIND HIM GUILTY OF SHOOTING AARON
18 IS THEY CAN FIND THAT HE'S THE ONE THAT DID IT AND THAT THE
19 MOTIVE OR THE STATE OF MIND WAS ABOUT ERIC FLOYD'S DEATH
20 AND I THINK THAT'S THE DANGER.

21 IF THEY BELIEVE, HERE'S ANOTHER PROBLEM THAT I
22 SEE WITH IT, YOUR HONOR, IF HE IS ALLOWED, THEY'RE ALLOWED
23 TO SAY THAT IT'S A GANG SITUATION THEN THAT IS GOING TO
24 AUTOMATICALLY IN THE JURY'S MIND CAUSE THEM TO BELIEVE THAT
25 THE HAND OF ONE IS THE HAND OF ALL WHICH IS NOT A PROPER

CALL OF CASE

17

1 THEORY IN THIS CASE, THAT HE'S AUTOMATICALLY AN ACCOMPLICE.
2 THERE'S A LOT OF DUTIES AND IDEAS THAT WILL COME FROM THEIR
3 READING IN THE MEDIA THAT WOULD SUGGEST THAT ---

4 THE COURT: HOW WOULD GANG RELATED MAKE ANY
5 DIFFERENCE ON THE HAND OF ONE IS THE HAND OF ALL? YOU GOT
6 TWO GUYS THAT ARE IN A VEHICLE AND THEY'RE SHOOTING AND,
7 YOU KNOW, IF THEY CAN SHOW THAT THERE WAS A CONNECTION IT
8 DOESN'T MAKE ANY DIFFERENCE WHETHER IT'S GANG OR NOT, DOES
9 IT?

10 MS. PRATT: WELL WE DON'T HAVE THAT.

11 THE COURT: YOU AND I WERE RIDING AROUND
12 SHOOTING PEOPLE IT WOULDN'T MAKE A WHOLE LOT OF DIFFERENCE
13 AS TO WHETHER WE WENT TO THE SAME CHURCH OR WE WERE IN A
14 GANG, WOULD IT?

15 MS. PRATT: BUT THOSE AREN'T THE FACTS, YOUR
16 HONOR, THEY'RE NOT IN A CAR DRIVING TOGETHER SHOOTING
17 AROUND. THERE'S CONTRADICTORY STATEMENTS AS TO WHETHER
18 THEY BOTH WALKED UP OR JUST BETHEA WALKED UP OR JUST BRIAN
19 WALKED UP AND THE QUESTION UNDER HAND OF ONE IS THE HAND OF
20 ALL AS I UNDERSTAND THE LAW IS THAT THE, THERE HAS TO BE AN
21 UNDERLYING PLAN TO COMMIT A CRIME AND A HOMICIDE OCCURS
22 BECAUSE OF THAT.

23 THE COURT: AND I UNDERSTAND THAT TO BE CORRECT.

24 MS. PRATT: SO THAT IS A NOT A PROPER THEORY FOR
25 THIS BECAUSE THERE WASN'T ANY OTHER CRIME UNDERLYING IT.

CALL OF CASE

18

1 IS IT ACCOMPLICE LIABILITY POSSIBLY AND THEY NEED TO BE
2 ABLE TO SHOW THAT BUT THE JURY DOESN'T NEED TO THINK, OH,
3 THEY'RE IN A GANG THEREFORE THEY'VE ALL GOT EACH OTHERS
4 BACK, THEY ALL AGREE TOGETHER, THERE'S A CONSPIRACY OF
5 LYING OR TRUTHFULNESS OR WHATEVER ELSE AND I THINK THERE'S
6 AN AWFUL LOT OF FOLK LORE THAT GOES INTO WHAT A JURY IS
7 GOING TO BELIEVE ABOUT A GANG THAT CAUSES IT TO BE MORE
8 PREJUDICIAL THAN PROBATIVE.

9 WE CAN'T CONTROL WHAT THEY THINK ABOUT WHAT GANG
10 MEMBERS DO AND WHEN WE PUT THAT UP TO THEM AND THEY USE
11 WHAT THEY'VE READ IN THE MEDIA OR WHAT THEY KNOW ABOUT
12 SATAN'S CHOICE AND OTHER BIKER GANGS OR WHATEVER WE'RE
13 GOING TO HAVE THOSE EXPERIENCES BLEEDING OVER INTO THE
14 FACTS IN A WAY THAT THE FACTS DON'T PRESENT.

15 THE STATE CAN DO THIS BY SIMPLY SAYING ERIC FLOYD
16 WAS KILLED IN FRONT OF THEIR CODEFENDANT, BY THE WAY, THEIR
17 TESTIFYING PERSON JEFFREY BETHEA, THEREFORE, THIS WAS A
18 REVENGE KILLING FOR THAT AND WHETHER BETHEA IS PROVEN TO
19 HAVE DONE IT OR SPEARS IS PROVEN TO HAVE DONE IT THEY DON'T
20 HAVE TO SHOW A GANG AFFILIATION.

21 THE COURT: I THINK IT'S RELEVANT AND I THINK IT
22 MEETS THE 403 TEST; I'M GOING TO ALLOW HER TO TALK ABOUT
23 IT.

24 OKAY, NEXT MOTION?

25 MS. PRATT: IN LIGHT OF THAT RULING, YOUR HONOR,

CALL OF CASE

19

1 THERE ARE MANY MATERIALS THAT HAVE BEEN SEIZED BY THE STATE
2 THAT ARE SIMPLY INFORMATION ABOUT THE GANG ITSELF, ABOUT
3 41-CURVE, TATTOOS, DRAWINGS, THEIR CREDO, STATEMENTS ABOUT
4 OTHER MEMBERS, WE WOULD BE ASKING THAT THOSE BE EVALUATED
5 FOR THEIR RELEVANCE INDIVIDUALLY.

6 THE COURT: ALL RIGHT, AND THAT DOES GIVE ME
7 SOME CONCERN, WHAT DO WE HAVE HERE?

8 MS. ELDER: YOUR HONOR, AND AGAIN I WOULD LIKE
9 TO ADDRESS THIS ONCE I'VE HAD AN OPPORTUNITY TO LAY A
10 FOUNDATION FOR IT, BUT WHAT WE DO HAVE HERE THE TWO THINGS
11 I CAN FORESEE OTHER THAN THE WALMART SHOOTING IS IN FACT
12 MR. SPEARS GANG TATTOOS. HE HAS TATTOOS ---

13 THE COURT: BUT ISN'T IT ADMITTED THAT HE WAS A
14 MEMBER?

15 MS. ELDER: WELL A TATTOO IN PARTICULAR THAT
16 WE'RE INTERESTED IN IS, NUMBER ONE, TO PROVE I.D. HE'S GOT
17 HIS NAME "BOS" WHICH IS A STREET NAME, THAT'S GOING TO BE
18 AN IMPORTANT ISSUE IN THIS CASE. HE'S GOT THAT TATTOOED ON
19 TWO PLACES ON HIS BODY.

20 THE SECOND, THE THIRD TATTOO IS HE HAS A GUN
21 TATTOOED ON HIS NECK AND G-BLACK WHICH IS ERIC'S STREET
22 NAME. HE'S GOT THAT TATTOOED HERE. WE WERE PLANNING TO
23 GET INTO THAT TO SHOW TO FURTHER OUR CASE IN REFERENCE TO
24 THE RETALIATION HIT OR THE DEATH OF THEIR GANG MEMBER.

25 THERE'S ALSO HE HAS GOTTEN SOME OF THESE TATTOOS

CALL OF CASE

20

1 AFTER HE HAS BEEN INCARCERATED AND AFTER HE'S BEEN CHARGED.
2 WE THINK THAT IS OBVIOUSLY AN ISSUE.

3 THE COURT: NOW WHAT WOULD THAT HAVE TO DO WITH
4 IT?

5 MS. ELDER: WELL, YOUR HONOR, IT DOES GO TO SHOW
6 HIS, THERE ARE SOME ACTUAL CASES ON THAT SUBSEQUENT ACTS TO
7 SHOW MENTAL STATE CAN BE PROVED, INFERENCES CAN BE MADE
8 FROM THE DEFENDANT'S CONDUCT SUBSEQUENT TO THE ARREST.

9 THE COURT: ALL RIGHT, I UNDERSTAND THAT BUT
10 WHAT KIND OF TATTOO DID HE HAVE AND WHAT WOULD BE A FAIR
11 INFERENCE FOR THOSE?

12 MS. ELDER: I'LL HAVE TO, I DON'T HAVE THE, I
13 DIDN'T THINK WE WERE GOING TO GET TO THIS TODAY, BUT FROM
14 MY UNDERSTANDING ONE OF THE TATTOOS IN REFERENCE TO THE
15 DECEASED THAT THEY WERE RETALIATING FOR WAS NOT PLACED ON
16 HIM UNTIL AFTER HIS ARREST AND AFTER THE KILLING.

17 THE COURT: OKAY, SO IT'S LIKE THE NAME OF THE
18 PERSON THAT WAS THE SUBJECT OF THIS ALLEGED RETALIATION?

19 MS. ELDER: YES, SIR, AND A GUN THAT'S TATTOOED
20 UNDERNEATH.

21 THE COURT: HOW ABOUT THAT, MS. PRATT?

22 MS. ELDER: AND AGAIN WE UNDERSTAND WE'LL HAVE
23 TO LAY THE FOUNDATION OF WHEN THESE WERE PLACED ON HIM.

24 MS. PRATT: YOUR HONOR, ACTUALLY INTERESTINGLY
25 ENOUGH I THINK THAT STRENGTHENS MY POSITION OF NOT MEETING

CALL OF CASE

21

1 THE GANG SITUATION. IF WHAT WE HAVE IS RETALIATION FOR G-
2 BLACK AND WE'VE GOT A TATTOO FOR IT THEY DON'T NEED THE
3 GANG AFFILIATION, THEY'VE GOT A TATTOO AND THEY CAN, THE
4 JURY CAN THEN DRAW WHATEVER INFERENCE THEY WANT TO FROM THE
5 FACT THAT HE HAS REST IN PEACE G-BLACK AND A GUN HERE AND
6 HE CAN EXPLAIN WHY HE DID THAT AND WHAT IT MEANS BUT THAT
7 STRENGTHENS MY POSITION I THINK. THEY DON'T NEED TO HAVE
8 THE GANG AFFILIATION FOR THAT AND, YOUR HONOR, I THINK THAT
9 THE OTHER INFORMATION ---

10 THE COURT: DEPENDS ON WHAT YOUR CLIENT IS GOING
11 TO SAY YOU PUT THAT ON THERE FOR THEM.

12 MS. PRATT: I AGREE, I AGREE.

13 THE COURT: IF HE SAYS I PUT IT ON THERE BECAUSE
14 I OFFED THE GUY THAT SHOT HIM.

15 MS. PRATT: THEN THAT'S ONE THING.

16 THE COURT: IF HE SAYS THAT I DON'T THINK WE
17 EVEN NEED A TRIAL.

18 MS. PRATT: BUT IF HE SAYS THAT THIS IS MY, MY
19 FRIEND ALSO WHO I AM SAYING REST IN PEACE THEN THAT'S UP TO
20 THE JURY TO DECIDE AND THEY SHOULDN'T BE ABLE TO ADD TO IT
21 A LAYER OF WELL HE'S IN A GANG AND I THINK THAT THAT'S,
22 THAT'S EXACTLY THE PROBLEM THAT I SEE THAT ALL OF THE
23 THINGS THAT THEY'RE GOING TO WANT TO BRING IN ABOUT 41-
24 CURVE AND FOLK AND BLOOD AND ALL THE REST OF IT IS GOING TO
25 COMPLETELY OBSCURE THE ACTUAL ISSUE WHICH IS THAT IN OUR

CALL OF CASE

22

1 POSITION JEFFREY BETHEA SHOT AARON BECAUSE G-BLACK DIED. I
2 KNOW THEIR POSITION IS BRIAN SHOT AARON BECAUSE G-BLACK
3 DIED BUT THAT'S THE TRIANGLE. THAT'S ALL THAT HAS TO BE
4 SAID AND THESE OTHER ITEMS NEED TO BE KEPT OUT BECAUSE OF
5 THEIR PREJUDICIAL ---

6 THE COURT: WELL I'M GOING TO LET THEM TALK
7 ABOUT THOSE, THE GANG, BUT WHAT ABOUT CREDOS AND THINGS OF
8 THAT NATURE?

9 MS. ELDER: YOUR HONOR, I'M NOT PLANNING TO GET
10 INTO AS TO WHAT THE BLOOD BELIEVE IN AND WHAT THE CRIPS
11 BELIEVE IN. MY FOCUS AS FAR AS THE GANG IS CONCERNED IS
12 THIS, JEFFREY BETHEA WHO IS MY TESTIFYING WITNESS WAS
13 CONSIDERED THE "OOG" OR THE "PRINCE" AS HE CALLS HIMSELF
14 AND HE WAS AT THIS LEVEL. BRIAN SPEARS, NATHANIEL DOUGLAS
15 CONSIDERED THEMSELVES SOLDIERS.

16 THE COURT: IN ANOTHER GANG?

17 MS. ELDER: IN THE SAME GANG.

18 THE COURT: OKAY, ALL RIGHT.

19 MS. ELDER: THEY'RE ALL IN THE SAME GANG AND
20 AARON WAS IN A DIFFERENT GANG AND HE WAS RESPONSIBLE FOR
21 ERIC WHO WAS, WAS THE "OO" BEFORE HE GOT KILLED, HE WAS
22 RESPONSIBLE FOR HIS DEATH.

23 AS FAR AS ANYTHING ELSE ABOUT WHAT THEY STAND
24 FOR, WHAT THEY BELIEVE I'M NOT PLANNING TO GET INTO THAT SO
25 I PLAN TO SET THE FOUNDATION ---

CALL OF CASE

23

1 THE COURT: SHE SAYS SHE'S NOT GOING TO GET INTO
2 IT?

3 MS. PRATT: IF SHE'S NOT GOING TO GET INTO THE
4 FACT THAT THIS MEANS AUTOMATIC LOYALTY I GOT YOUR BACK OR
5 SHE'LL AGREE TO SOME STIPULATION THAT SAYS THAT THAT IS NOT
6 THE CASE FINE BUT THAT'S THE PROBLEM.

7 MS. ELDER: JEFFREY BETHEA IS GOING TO TESTIFY
8 TO THAT. HE PUT THAT IN HIS STATEMENT THAT, YEAH, THEY
9 GOT MY BACK AND THAT THERE WAS EVEN A CONVERSATION WHEN
10 THIS INITIAL CONFRONTATION OCCURRED BETWEEN ONE OF THE
11 RIVAL GANG MEMBERS AND THEM ON THE STREET THAT "BOSS"
12 SUPPOSEDLY SAID DON'T WORRY, MAN, THEY PULL A GUN ON YOU
13 I'VE GOT YOUR BACK INDICATING THAT HE HAD A WEAPON, SO I
14 CERTAINLY PLAN TO GO INTO THAT AND, BUT AS FAR AS WHAT,
15 WHAT THEY MEAN THE CREDO OF WHAT THEY STAND FOR THAT'S,
16 THAT'S SOMETHING COMPLETELY DIFFERENT, BUT THE FACTS AS IT
17 PERTAINS TO THIS CASE AND THE TESTIMONY WILL BE FACT
18 SPECIFIC SO I DON'T KNOW IF THAT ANSWERS THAT QUESTION OR
19 NOT.

20 THE COURT: YOU'RE TELLING ME YOU WANT TO HAVE
21 SOMEONE TESTIFY OR YOU HAVE SOMEONE TO TESTIFY SORT OF AS
22 TO WHAT THE GANG OBLIGATION IS IN THIS SITUATION WHERE
23 YOU'VE GOT A GANG LEADER WHO'S KILLED BY WHOEVER AND
24 THEY'RE OBLIGATED TO TAKE REVENGE AGAINST THE ALLEGED
25 KILLER, I MEAN IS THAT WHAT YOU'RE TELLING ME?

CALL OF CASE

24

1 MS. ELDER: NO, SIR, THEY'RE NOT GOING TO
2 SPECIFY THAT THIS WAS, THAT THERE WAS A DUTY AND AN
3 OBLIGATION. HE'S GOING TO TESTIFY THAT ON THE STREET THAT
4 DAY THAT HE WAS CONSIDERED THIS, MR. SPEARS WAS A SOLDIER
5 AND THERE WAS A CONFRONTATION, THERE WAS SOME ALLEGATIONS
6 ABOUT SOMEBODY PULLING A GUN ON, ON MY TESTIFYING
7 CODEFENDANT AND THEN MR. SPEARS RESPONSE SAID, DON'T WORRY,
8 MAN, I'VE GOT YOUR BACK OUT HERE ON THE STREET IT'S
9 REFERENCE TO THE GUN HE HAD.

10 NOW AS FAR AS GETTING INTO HOW THEY FELT
11 RETALIATION ABOUT ERIC I, I INTEND TO ASK WHAT HAPPENED TO
12 ERIC, WAS HE A MEMBER OF YOUR GANG, WHAT POSITION DID HE
13 HAVE, DID HE IN FACT GET KILLED, WHO DID YA'LL FEEL WERE
14 RESPONSIBLE FOR THAT, AARON HAMMONDS, AND THAT'S PRETTY
15 MUCH THE EXTENT OF IT. WHY THEY KILLED HIM THAT DAY THE
16 JURY CAN INFER THAT. I'M NOT GOING TO ASK HIM DID YA'LL
17 FEEL THAT YA'LL HAD A NEED TO RETALIATE, I'M NOT GOING TO
18 ASK THAT QUESTION.

19 THE COURT: OKAY.

20 MS. PRATT: BUT AGAIN AND I KNOW I'M SOUNDING
21 LIKE A BROKEN RECORD BUT THAT'S EXACTLY THE PROBLEM IS THE
22 JURY HAS THE RIGHT TO INFER THAT BECAUSE THEY'RE IN A GANG
23 THAT'S THE RETALIATION, THAT'S EXACTLY THE PROBLEM WITH
24 PUTTING IT IN. ONCE AGAIN HER TESTIMONY LINES UP EXACTLY
25 WITH ERIC FLOYD WAS KILLED, AARON WAS SUPPOSED TO BE

CALL OF CASE

25

1 RESPONSIBLE FOR IT THEREFORE WHICHEVER ONE WHETHER IT WAS
2 BETHEA OR SPEARS THEY KILLED HIM FOR THAT REASON.

3 THE COURT: BUT AREN'T JURORS ALLOWED TO MAKE
4 REASONABLE INFERENCE FROM EVIDENCE PRESENTED?

5 MS. PRATT: BUT THEY CAN'T MAKE A REASONABLE
6 INFERENCE BASED ON AN ASSOCIATION THAT'S PROTECTED BY THE
7 CONSTITUTION THAT IS ALSO IMPROPER CHARACTER EVIDENCE AND
8 ALSO IS MORE PREJUDICIAL THAN PROBATIVE. I MEAN THAT'S
9 GUARDING THE DOOR OF PUTTING THAT IN SO THAT THEY MAKE THE
10 INFERENCE THAT OH, WELL, HE'S A GANG MEMBER, THEREFORE,
11 OBVIOUSLY HIS TATTOO MEANS THIS, HIS SHOOTING MEANS THIS,
12 HE WOULD FOLLOW HIS "OOG." THE FACT IS THAT'S THE PROBLEM
13 WITH IT ALL AND THAT'S THE PROBLEM WITH THAT TESTIMONY.
14 I'M REALLY CONCERNED ABOUT THE NUMBER OF THINGS THAT, THAT
15 ARE GOING TO SLIDE IN THAT ARE 404(B) TYPE OF EVIDENCE JUST
16 SIMPLY FROM OPENING THE DOOR.

17 THE COURT: WELL UNDER YOUR THEORY, MS. PRATT,
18 REGARDLESS OF WHAT ANYONE MAY BE CHARGED WITH IN THIS
19 COURT, SHOPLIFTING, JAY WALKING, THERE WOULD BE SUCH A
20 NEGATIVE INFERENCE ARISING FROM THE FACT THAT THEY WERE IN
21 A GANG THEN IT SHOULD BE EXCLUDED. WE SHOULD NEVER EVER
22 TALK ABOUT A GANG.

23 MS. PRATT: I THINK, YOUR HONOR, THAT THERE ARE
24 CIRCUMSTANCES WHEN YOU COULD AND I THINK THAT ONE OF THESE
25 CIRCUMSTANCES WOULD BE, LET'S SAY, LET'S TAKE ERIC FLOYD'S

CALL OF CASE

26

1 DEATH OUT OF THIS, IT'S JUST AARON IS A MEMBER, AARON
2 HAMMONDS IS A MEMBER OF THE OTHER GANG, ONE OF THE TWO
3 DEFENDANTS SHOT HIM, THAT COULD BE GANG ON GANG BUT WHEN
4 YOU HAVE A SPECIFIC REASON, A SPECIFIC PERSON THAT IS BEING
5 REVENGED OR THE RETALIATION IS FOR, AND I SHOULD HAVE SAID
6 AVENGED RATHER THAN REVENGED, THAT THE RETALIATION IS FOR I
7 THINK THE GANG THING BECOMES IRRELEVANT AND MORE
8 PREJUDICIAL.

9 I THINK IF YOU HAD A SHOOT OUT WHERE YOU HAD
10 THREE OF THEM ON ONE SIDE AND THREE ON THE OTHER AND WE
11 WERE LOOKING AT A O. K. CORRAL SITUATION OBVIOUSLY THAT
12 WOULD BE RELEVANCE CAUSE THERE WOULDN'T BE ANY PERSONAL
13 SPECIFIC INCIDENT, BUT WHEN YOU'VE GOT A SPECIFIC INCIDENT
14 THAT IS VERY CLEAR THAT THIS IS ABOUT FROM WHICH EVER
15 DEFENDANT ACTUALLY PULLED THE TRIGGER THEN I THINK THAT,
16 THAT'S WHERE THE PROBLEM IS FOR GANG AFFILIATION AND I
17 THINK EVERY PIECE OF ---

18 THE COURT: WELL DON'T INTEND TO EXPLORE THE
19 AFFILIATION OF THE TWO DEFENDANTS?

20 MS. PRATT: NOT MY INTENT TO SAY ANYTHING ABOUT
21 GANGS.

22 THE COURT: YOU WANT TO POINT YOUR FINGER AT THE
23 OTHER ONE AREN'T YOU GOING TO RELY ON HIS ASSOCIATION WITH
24 THE GANG AS MOTIVE FOR HIS DOING THE KILLING?

25 MS. PRATT: ABSOLUTELY NOT, YOUR HONOR, MY

CALL OF CASE

27

1 THEORY OF THE CASE WHICH LINES UP WITH THE EVIDENCE AND I
2 THINK THAT WOULD SHOW IS THAT BETHEA WAS THE SHOOTER, THE
3 GUY WITH THE DREADS IS THE SHOOTER, AND HE'S THE ONE THAT
4 COMES DOWN HERE AND SAYS, OH, WELL, BRIAN DID IT AND BY THE
5 WAY I TOLD HIM TO DO IT CAUSE HE'S MY SOLDIER AND THAT'S,
6 YOU KNOW, HE COULD SAY I TOLD HIM TO DO IT. I DON'T THINK
7 HE CAN TELL THEM I TOLD HIM TO DO AND HE DID IT BECAUSE
8 HE'S THE SOLDIER, THAT WOULD BE AN IMPROPER GANG INFERENCE.

9 THE COURT: AND THERE AGAIN I THINK THAT IS
10 TOTALLY RELEVANT IN THIS CASE. THERE'S NO QUESTION ABOUT
11 ITS RELEVANCE; THE QUESTION IS WHETHER OR NOT IT MEETS THE
12 STANDARD UNDER 403 AND I THINK IT DOES. I THINK THAT ITS
13 RELEVANCE CERTAINLY OUTWEIGHS ITS PREJUDICIAL VALUE, OKAY.

14 OKAY, WHAT ELSE DO WE HAVE?

15 MS. PRATT: ALL RIGHT, I'M NOT SURE IF WE
16 ACTUALLY GOT INTO A RULING IN REGARDS TO THE INCIDENT AT
17 WALMART. I'M VERY CONCERNED THAT THAT WOULD COME IN ---

18 THE COURT: AND I'M GOING TO HAVE TO LOOK AND
19 SEE HOW THAT'S DEVELOPED, MS. ELDER, IF YOU CAN TIE IT TO
20 THIS DEFENDANT OR THE CODEFENDANT OR YOU CAN TIE IT TO THIS
21 GANG POSITIVELY I'LL LET YOU PUT IT IN BUT IF YOU CAN'T I
22 DON'T THINK IT'S RELEVANT AT ALL. I DON'T THINK IT HAS ANY
23 RELEVANCY. I CAN BE HIGHLY RELEVANT IF YOU CAN CONNECT IT
24 UP BUT IF YOU CANNOT I DON'T THINK IT HAS ANY RELEVANCE.

25 MS. ELDER: YES, SIR, AND I, I, I COMPLETELY

CALL OF CASE

28

1 UNDERSTAND THAT AND WE'RE GOING TO DEFINITELY WALK THE LINE
2 ON THAT ONE BECAUSE I UNDERSTAND THAT IT COULD EITHER BE
3 WAY OVER HERE OR WAY OVER HERE.

4 THE COURT: YEAH, AND IT COULD BE
5 ABSOLUTELY UNRELATED ---

6 MS. ELDER: YES, SIR.

7 THE COURT: --- JUST SO HAPPENS THAT PEOPLE LIKE
8 TO SHOOT AT THE DECEASED. I MEAN YOU KNOW ---

9 MS. ELDER: YES, SIR.

10 THE COURT: --- THERE COULD HAVE BEEN ANY NUMBER
11 OF REASONS WHY SOMEBODY OR UNKNOWN PERSONS WERE SHOOTING AT
12 HIM.

13 MS. ELDER: AND I WAS NOT, WE ARE NOT PLANNING
14 TO TALK ABOUT IT IN AN OPENING ---

15 THE COURT: IT HAS NOTHING TO DO WITH THIS
16 TRIAL.

17 MS. ELDER: WE'RE NOT PLANNING TO TALK ABOUT IT
18 UNTIL THAT WITNESS GETS TO THE STAND AND I'LL BE MORE THAN
19 HAPPY TO LET THE COURT KNOW AT THAT POINT THAT WE'RE
20 GETTING READY TO CALL THAT WITNESS ---

21 THE COURT: WELL LET'S DO IT.

22 MS. ELDER: --- IF WE WANT TO TAKE SOME PROFFER
23 TESTIMONY OUTSIDE OF THE PRESENCE OF THE JURY.

24 THE COURT: THAT'S THE WAY I THINK WE NEED TO DO
25 THAT, OKAY.

CALL OF CASE

29

1 MS. ELDER: YES, SIR.

2 THE COURT: ALL RIGHT.

3 MS. PRATT: NOW, YOUR HONOR, I KNOW THAT WE'RE
4 GOING TO BE DOING A JACKSON V. DENNO THIS AFTERNOON IN
5 REGARDS TO MY CLIENT'S STATEMENTS. HE ACTUALLY GAVE TWO
6 STATEMENTS. THERE ARE THINGS CONTAINED IN THOSE STATEMENTS
7 THAT I'M CONCERNED ABOUT. WOULD YOU RATHER ME HOLD MY
8 OBJECTION UNTIL WE'RE ACTUALLY IN THE JACKSON V. DENNO?

9 THE COURT: WHY DON'T WE JUST DO THE JACKSON V.
10 DENNO OR TAKE THOSE UP WHENEVER WE DO IT, OKAY?

11 MS. PRATT: BECAUSE THEY WOULD BE ADMISSIBILITY
12 OF THINGS THAT WERE SAID IN THAT.

13 THE COURT: ALL RIGHT.

14 MS. PRATT: ALL RIGHT, THERE WAS ANOTHER
15 SITUATION WHICH IS IN ONE OF THE STATEMENTS BUT IT'S ALSO
16 SOMETHING THAT THEY SEIZED SEARCHING MY CLIENT'S MOTHER'S
17 RESIDENCE. IT'S A BULLET PROOF VEST. I WOULD BE ASKING
18 THAT THAT BE KEPT FROM BEING STATED.

19 THE COURT: WAS IT BEING USED, IS THERE ANY
20 EVIDENCE THAT IT WAS BEING USED AT THIS TIME -- OKAY, I'M
21 NOT GOING, THERE'S NO REASON TO GO INTO THAT, OKAY.

22 MS. PRATT: THANK YOU, YOUR HONOR. OBVIOUSLY
23 THERE IS, ALL THE WAY THROUGH THIS THERE'S STATEMENTS ABOUT
24 POLYGRAPHS. I KNOW THE LAW AND YOUR POSITION IS WE AIN'T
25 USING THE WORD.

CALL OF CASE

30

1 THE COURT: WE'RE NOT GOING TO TALK ABOUT
2 POLYGRAPHS.

3 MS. PRATT: OKAY, AND OBVIOUSLY, TOO, THE LAW IS
4 THAT THERE'S NOT GOING TO BE DISCUSSION ABOUT DRUG
5 POSSESSION OR SALE OR USE.

6 THE COURT: YOU DON'T NEED THAT, DO YOU? THIS
7 IS REVENGE KILLING, RIGHT, ALLEGED REVENGE KILLING?

8 MS. ELDER: THERE IS, I THINK THERE WAS SOME
9 TALK, I'M CERTAINLY NOT GOING TO ELICIT AND I'LL LET MR.
10 BETHEA KNOW, THERE IS SOME INDICATION THAT THEY WERE IN
11 FACT SMOKING SOME WEED JUST PRIOR TO THIS INCIDENT. IT'S
12 NOT AT ISSUE HERE.

13 THE COURT: NO NEED TO FURTHER UP YOUR CASE
14 THEN.

15 MS. ELDER: SO I DON'T PLAN TO ELICIT THAT, NO,
16 SIR.

17 THE COURT: OKAY.

18 MS. PRATT: NOW IN SOME OF THE WRITINGS THAT SHE
19 HAS, OR NOT SHE, THAT THE STATE HAS TAKEN THERE'S A LOT OF
20 REFERENCE, MY CLIENT WRITES RAP MUSIC AND THERE ARE A LOT
21 OF REFERENCES TO DRUGS AND USE OF DRUGS AND I WOULD SIMPLY
22 ASK THAT BEFORE SHE USE ANY OF THAT TO IMPEACH HIM THAT
23 EACH PIECE BE LOOKED AT BY THE COURT TO SEE WHETHER IT
24 CONTAINS STUFF THAT'S PREJUDICIAL OR PROPERLY RELEVANT.

25 THE COURT: WHAT WOULD RAP LYRICS HAVE TO DO

CALL OF CASE

31

1 WITH ANYTHING?

2 MS. ELDER: YOUR HONOR ---

3 THE COURT: CAUSE I'VE OFTEN WONDERED THAT?

4 MS. ELDER: WELL, YOUR HONOR, THEY'RE PRETTY
5 MUCH, THERE ARE, I CERTAINLY, THERE'S, WE TOOK PROBABLY 200
6 PAGES IS PROBABLY AN EASY ESTIMATE, THEY'RE ALL VERY PACKED
7 FULL OF VIOLENT SHOOTING, GANG RETALIATION, GANG THIS, GANG
8 THAT. I HAVE GONE THROUGH ALL OF THEM AND THERE ARE A,
9 PROBABLY LESS THAN 10 PIECES THAT I'M GOING TO TRY TO SET
10 THE FOUNDATION FOR TO HAVE PLACED INTO EVIDENCE BECAUSE
11 THEY TO ME THEY GO TO THIS SPECIFIC CRIME. THEY TALK ABOUT
12 SHOOTING ON THE BOULEVARD. THEY TALK ABOUT WEIGHING
13 SOMEBODY DOWN AND INNOCENT PEOPLE JUST BEING IN THE WAY AND
14 GETTING SHOT WHICH IS VERY SPECIFIC TO THIS CASE AND UNDER
15 I BELIEVE THE RULING I WAS LOOKING AT WAS STATE V.
16 CHEESEBORO. IT'S A SOUTH CAROLINA CASE. THEY DEALT WITH
17 TWO PIECES IN THAT CASE. ONE IS A LETTER THAT THE
18 DEFENDANT WROTE TO AN INMATE AND THE SECOND IS RAP LYRIC.
19 THE FIRST THE COURT ALLOWED THAT LETTER TO COME
20 IN ---

21 THE COURT: ALL RIGHT, NOW LET'S TALK ABOUT THE
22 RAP LYRIC.

23 MS. ELDER: YES, SIR, WELL IN THIS CASE THOSE
24 RAP LYRICS WERE NOT ALLOWED IN BECAUSE THEY WERE VERY
25 VAGUE. IT SAID LEAVING IT NO PRINTS AND BODIES IN A POOL

CALL OF CASE

32

1 OF BLOOD. THE COURT SAID SPECIFICALLY THAT WAS TOO VAGUE
2 HOWEVER THEY DID SET A STANDARD IN WHICH TO REVIEW THOSE
3 ITEMS AND IT WAS INDICATED THAT THOSE LYRICS THAT THEY WERE
4 TRYING TO INTRODUCE WERE UNLIKE OTHER WRITTEN DOCUMENTS
5 THAT CONTAINED IDENTIFYING DETAILS OF THE CRIME COMMITTED.
6 THEY SAID IF THEY'RE, THEY'RE PUT IN TO SHOW JUST GENERAL
7 REFERENCE TO GLORIFYING VIOLENCE IT'S TOO VAGUE BUT IF
8 THERE ARE SOME SPECIFICS THAT WOULD GO TO THE FACTS OF THIS
9 PARTICULAR CRIME THAT WERE CONSISTENT WITH THIS CRIME THEN
10 THEY COULD COME IN TO SHOW IDENTITY AND MOTIVE AND STATE OF
11 MIND.

12 MS. PRATT: I WOULD SIMPLY ASK TO KNOW WHICH 10
13 AND LET'S LOOK AT THEM BEFORE THEY'RE EVER REFERENCED
14 OUTSIDE THE PRESENCE OF THE JURY SO THAT WE CAN DECIDE.

15 THE COURT: OKAY, I'M GOING TO LET YOU ---

16 MS. ELDER: AND WE'RE NOT GOING TO PUT THEM IN
17 OPENING OR ANYTHING.

18 THE COURT: --- LADIES DEAL WITH THAT THIS
19 EVENING AFTER, AFTER WE ADJOURN AND WE'LL LET YA'LL, IF YOU
20 WOULD IDENTIFY THEM. I ASSUME YOU'VE GIVEN THEM TO HER?

21 MS. ELDER: YES, SIR, YOUR HONOR.

22 THE COURT: IDENTIFY THEM, LET MS. PRATT LOOK AT
23 THEM AND I'LL LOOK AT CHEESEBORO ---

24 MS. ELDER: YES, SIR.

25 THE COURT: --- AND MAKE A DECISION ON THAT.

CALL OF CASE

33

1 I'D ASSUME, IN CHEESEBORO WERE THE LYRICS WRITTEN BEFORE OR
2 AFTER THE CRIME?

3 MS. ELDER: YOUR HONOR, I CAN'T RECALL, THEY
4 WERE IN HIS JAIL CELL WHEN THEY TOOK IT, I THINK THEY WERE
5 WRITTEN AFTER, YES, SIR.

6 THE COURT: SAME THING WE HAVE HERE?

7 MS. ELDER: YES, SIR, THE LETTER IN THAT CASE
8 ALSO ACTUALLY THE ONE THAT THEY, THE ONE PIECE THEY ALLOWED
9 IN INDICATED THAT HIS CONNECTION TO ANOTHER, ACTUALLY
10 ANOTHER CRIME AND THEY, HE DIDN'T NAME IT BY NAME BUT HE
11 GAVE DETAILS THAT WERE VERY SIMILAR SUCH AS MENTION OF THE
12 SAVE AND MENTIONING A CAB DRIVER OR SOMETHING LIKE THAT.
13 THEY SAID THAT WAS SUFFICIENT BECAUSE IT CORRELATED TO SOME
14 OF THE FACTS IN THE PARTICULAR CASE.

15 THE COURT: THERE'S A LOT OF DIFFERENCE BETWEEN
16 A LETTER AND RAP LYRICS, THOUGH, A LOT OF DIFFERENCE.

17 MS. ELDER: WELL HE ALSO, YOUR HONOR, IT'S
18 BASICALLY LIKE A CONFESSION ON PAPER.

19 MS. PRATT: IF IT'S NOT JUST THE LYRIC TO A SONG
20 THAT YOU'RE WRITING FOR PUBLIC ---

21 MS. ELDER: IT MENTIONS, IT MENTIONS HIS NAME IN
22 THERE. HE SAYS, I'M B-O-S, I'M, I'M GETTING BACK FOR
23 REVENGE KILLING, YEAH.

24 THE COURT: IF RAP LYRICS COULD BE USED AS THE
25 BASIS FOR CONVICTION I MEAN EVERY RAP ARTIST IN THE COUNTRY

CALL OF CASE

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1 WOULD BE BEHIND BARS, YOU KNOW WHEN YOU LOOK AT IT. I'LL
2 LOOK AT IT VERY CAREFULLY.

3 MS. ELDER: YES, SIR, CAUSE THERE IS, THERE IS
4 ANOTHER CASE THAT ACTUALLY THE RAP LYRICS WERE ALLOWED IN A
5 DEATH PENALTY CASE TO SHOW HIS STATE OF MIND THAT HE
6 LISTENED TO PRIOR TO KILLING THE INDIVIDUAL IN THAT CASE SO
7 THEY HAVE BEEN ADMITTED INTO EVIDENCE ASSUMING THAT WE CAN
8 CORRELATE WHAT IS ACTUALLY WRITTEN TO THIS PARTICULAR CRIME
9 AND I BELIEVE WE CAN.

10 MS. PRATT: AND IF THE STATE WOULD GIVE ME THE
11 CASE NAME AND THE CITE FOR CHEESEBORO AND THE CASE SHE'S
12 JUST REFERRED TO AND THEN ALSO I'M ASSUMING YOUR RULING IS
13 THAT SHE WILL TELL ME WHICH 10 TONIGHT SO THAT I CAN LOOK
14 AT THEM.

15 THE COURT: YEAH, I WANT HER TO ---

16 MS. ELDER: JUST 10 OR SO I'LL BE GLAD TO ---

17 THE COURT: --- IDENTIFY THEM WHEN YOU HAVE A
18 CHANCE TO LOOK AT THEM AND WE'LL TAKE THAT UP SOMETIME
19 PERHAPS AT A BREAK TOMORROW. WE'RE NOT GOING TO GET INTO
20 IT FIRST --

21 MS. ELDER: NO, SIR, NO, SIR.

22 THE COURT: WE'LL SEE HOW FAR WE'RE GOING TO GO.

23 MS. PRATT: YOUR HONOR, I'LL BE MAKING A MOTION
24 TO SEQUESTER THE WITNESSES. THIS IS A CASE WHERE WE HAVE -
25 --

CALL OF CASE

35

1 THE COURT: ANY OBJECTION?

2 MS. PRATT: --- NO FORENSICS.

3 MS. ELDER: YOUR HONOR, WITH THE EXCEPTION OF
4 DANIEL HAMMONDS WHO IS THE VICTIM'S SISTER, THE DECEASED
5 VICTIM'S SISTER, AND MIKE HULL.

6 THE COURT: IS THAT YOUR LEAD?

7 MS. ELDER: YES, SIR.

8 MS. PRATT: AND I DON'T HAVE A PROBLEM WITH THE
9 LEAD, I UNDERSTAND THAT, I WOULD SIMPLY ASK THAT BECAUSE
10 MS. HAMMONDS, WELL HOLD ON LET ME THINK ABOUT IT.

11 THE COURT: SHE'S NOT A FACTOR IN THIS, IS SHE?

12 MS. PRATT: SHE'S NOT A FACT WITNESS.

13 THE COURT: SHE'S NOT THERE, IS SHE?

14 MS. ELDER: NO, SIR, HER TESTIMONY WOULD BE
15 SPECIFIC TO THREATS THAT WERE MADE PRIOR TO THIS INCIDENT.

16 THE COURT: I ASSUME YOU'VE SHARED THOSE ALREADY
17 WITH MS. PRATT?

18 MS. ELDER: YES, SIR.

19 MS. PRATT: I THINK WE'RE GOING TO NEED TO HAVE
20 A PROFFER IN REGARDS TO THOSE. THE INFORMATION THAT I'VE
21 RECEIVED ON MS. HAMMONDS IS VERY SKETCHY AS TO WHEN, WHERE,
22 AND HOW THESE ALLEGED THREATS WERE MADE AND I THINK WE WERE
23 TALKING ABOUT HAVING A PROFFER BEFORE THAT.

24 MS. ELDER: WHAT WE WERE GOING TO DO IS PROFFER
25 HER TESTIMONY, THE WALMART SHOOTING ANYWAY SO THAT IT'S

CALL OF CASE

36

1 GOING TO ALL BE TOGETHER.

2 MS. PRATT: I DON'T HAVE THE EXACT SPECIFICS ON
3 EXACTLY HOW THOSE THREATS WERE ---

4 THE COURT: ALL RIGHT, WE CAN DO THAT. I'LL
5 GRANT YOUR MOTION EXCEPT TO THOSE TWO AND YOU WANT A
6 RECIPROCAL?

7 MS. ELDER: YES, SIR, YOUR HONOR.

8 THE COURT: OKAY.

9 MS. PRATT: OKAY, AND WE ARE DOING, MY NUMBER 8
10 WAS THE PROFFER SO WE ARE GOING TO DO THAT ON DANIELLE.

11 YOUR HONOR, MY LAST, MY NEXT MOTION, NOT MY LAST
12 ONE, IS A MOTION TO PREVENT THE STATE FROM USING THE PHRASE
13 HAND OF ONE IS THE HAND OF ALL IN OPENING. I UNDERSTAND
14 THAT PERHAPS BY HALF TIME OR THE END THAT THAT MIGHT BE A
15 VIABLE THEORY BUT IN OPENING I DON'T BELIEVE IT WOULD BE
16 AGAIN FOR THE SAME ARGUMENT THAT I MADE THAT THERE'S NO
17 UNDERLYING CRIME.

18 THE COURT: IT'S NOT EVIDENCE AND IF SHE CAN'T
19 PROVE IT SHE'S IN A HOLE.

20 MS. PRATT: WELL BUT THE ---

21 MS. ELDER: WE'RE NOT GOING TO USE IT IN OPENING
22 ANYWAY, YOUR HONOR.

23 THE COURT: SHE'S NOT GOING TO USE IT.

24 MS. ELDER: WE'RE NOT GOING TO USE IT IN
25 OPENING; WE'LL USE IT IN CLOSING BUT NOT IN OPENING.

CALL OF CASE

37

1 MS. PRATT: I JUST THINK IT'S TOO MUCH OF A HOOK
2 THAT THE JURY WILL HANG ONTO.

3 NOW, YOUR HONOR, I DO HAVE A CONCERN ABOUT THEIR
4 COOPERATING WITNESS AND MY MOTION AT THIS TIME IS TO
5 EXCLUDE THE TESTIMONY OF JEFFREY BETHEA. MY CONCERN WITH
6 THE TESTIMONY OF JEFFREY BETHEA IS THAT HE WAS GIVEN A
7 POLYGRAPH ON THE EXACT ISSUES THAT HE'S GOING TO TESTIFY TO
8 AND FAILED TWO OF THE QUESTIONS AND THAT MEANS THAT THEY'RE
9 PUTTING SOMEBODY UP WHO IS GOING TO STILL GIVE THE SAME
10 TESTIMONY FOR WHICH HE FAILED THE POLYGRAPH.

11 THE COURT: THAT POLYGRAPH DOESN'T MEAN A THING
12 TO ME WHETHER HE FAILED IT OR PASSED IT IS TOTALLY
13 IRRELEVANT. I DON'T BELIEVE THAT THEY'RE RELIABLE AND
14 THAT'S THE REASON THEY'RE NOT ACCEPTED IN EVIDENCE IN THIS
15 STATE. I MEAN SHE CAN PUT HIM UP, I'M NOT GOING TO LET YOU
16 CROSS EXAMINE ON THE POLYGRAPH.

17 MS. PRATT: AND I WOULDN'T, YOUR HONOR, BUT I'M
18 JUST CONCERNED AT THIS POINT ---

19 THE COURT: I DON'T THE POLYGRAPH EVEN MENTIONED
20 BUT I DON'T THINK THAT'S GROUNDS TO EXCLUDE HIS TESTIMONY.

21 MS. PRATT: AND I WOULD ASK, YOUR HONOR, AND I
22 NEED TO MAKE A PROPER COPY FOR YOU BUT TO ALLOW ME TO
23 SUBMIT THAT AS AN EXHIBIT FOR THE RECORD.

24 THE COURT: I'LL LET YOU DO THAT. SHE WANTS THE
25 POLYGRAPH AS A COURT EXHIBIT, IT'S NOT GOING TO THE JURY.

CALL OF CASE

38

1 MS. ELDER: AND, YOUR HONOR, JUST FOR THE RECORD
2 I UNDERSTAND WHAT YOUR COURT'S RULING BUT JUST FOR THE
3 RECORD THAT A POLYGRAPH WAS GIVEN PRIOR TO MR. BETHEA'S
4 ENTRY INTO PROFFER. IT WASN'T DONE IN CONJUNCTION WITH THE
5 PROFFER AGREEMENT WHICH IS THE DIFFERENCE IN OUR OPINION.

6 MS. PRATT: THE COURT'S INDULGENCE, THAT MAY BE
7 ALL I HAVE.

8 THE COURT: OKAY, ARE THEIR ANY IDENTIFICATION
9 ISSUES, LINEUPS, ANYTHING OF THAT NATURE?

10 MS. ELDER: NO, SIR, YOUR HONOR, WE HAVE, MS.
11 PRATT HAS ASKED ME ABOUT A COMPOSITE THAT WAS DONE AND I
12 DON'T KNOW THAT IF WE, WE'VE COME TO AN AGREEMENT. I TOLD
13 HER WHAT I WOULD AGREE TO; I DON'T KNOW IF THAT IS
14 ACCEPTABLE TO HER THIS MORNING.

15 THE COURT: I DOUBT IT.

16 MS. PRATT: IT MIGHT BE.

17 THE COURT: TELL ME, STATE ON THE RECORD FOR ME
18 WHAT YOU OBJECT TO?

19 MS. ELDER: YOUR HONOR, THERE WAS AN INDIVIDUAL
20 THAT GAVE A COMPOSITE THAT LED US TO THE ARREST OF MY
21 COOPERATING CODEFENDANT JEFFREY BETHEA. MS. PRATT WANTS TO
22 HAVE IT PLACED IN EVIDENCE AND WITHOUT HAVING THE
23 INDIVIDUAL THAT GAVE THE COMPOSITE HERE OR WITHOUT HAVING
24 THE PERSON WHO DREW THE COMPOSITE. I HAVE NO OBJECTION
25 PROVIDED THAT IT IS INTRODUCED AS THIS WAS GIVEN AS A

CALL OF CASE

39

1 POSSIBLE SUSPECT, NOT AS A POSSIBLE SHOOTER BUT AS A
2 POSSIBLE SUSPECT INVOLVED IN THIS INCIDENT. NOW IF SHE
3 DOESN'T GO ANY FURTHER THAN THAT I DON'T HAVE A PROBLEM
4 WITH IT. IF SHE GETS IN THERE AND ASKS THE QUESTION IS
5 THIS THE PERSON THAT THEY IDENTIFIED AS THE SHOOTER I'VE
6 GOT A PROBLEM.

7 THE COURT: OKAY, MS. PRATT, SHE'S GOING TO LET
8 YOU BEND THE RULE A LITTLE BIT AND GET YOUR COMPOSITE IN
9 BUT SHE'S DOING IT CONDITIONALLY, WHAT DO YOU SAY ABOUT
10 THAT?

11 MS. PRATT: YOUR HONOR ---

12 THE COURT: YOU KNOW YOU'D HAVE A FOUNDATIONAL
13 PROBLEM I THINK.

14 MS. PRATT: WELL MY INTENT IS IF WE DID NOT
15 STIPULATE WAS TO USE THE COMPOSITE AS THE REASON THAT MR.
16 BETHEA WHO MATCHES IT CAME DOWN AND TURNED HIMSELF IN
17 BECAUSE IN HIS STATEMENTS HE SAYS I SAW MY PICTURE IN THE
18 PAPER WHICH IT WAS, IT WAS IN THE ROBESONIAN BEFORE HE
19 TURNED HIMSELF IN AND IT WAS ON THE T.V. 13 NEWS. AS LONG
20 AS I AM ALLOWED TO QUESTION HIM ABOUT WHETHER HE WAS ASKED
21 BY OR ASKED BY THE POLICE ABOUT BEING THE SHOOTER BUT NOT
22 THE COMPOSITE BEING THE SHOOTER, I'M FINE WITH THAT, AS
23 LONG AS I'M NOT RESTRICTED IN WHAT I DO ON CROSS WITH MR.
24 BETHEA I THINK SAYING THAT THIS WAS THE SUSPECT IS AN
25 ACCURATE STATEMENT OF WHAT WAS DONE.

CALL OF CASE

40

1 MS. ELDER: AND I DON'T HAVE A PROBLEM WITH
2 THAT, LIKE I SAID I DON'T WANT, I DON'T WANT IT COMING OUT
3 THAT THIS WAS THE SHOOTER.

4 THE COURT: THE COMPOSITE WAS IDENTIFIED AS
5 BEING A SUSPECT, RIGHT?

6 MS. ELDER: YES, SIR, YES, SIR.

7 THE COURT: OKAY, AND YOU CAN ASK MR. BETHEA IF
8 HE WAS QUESTIONED ABOUT BEING A SHOOTER.

9 MS. PRATT: AND THAT HE TURNED HIMSELF IN
10 BECAUSE OF THIS COMPOSITE ---

11 THE COURT: ANY PROBLEM ---

12 MS. ELDER: BUT HE ADMITS THAT IN A STATEMENT HE
13 TURNED HIMSELF IN BECAUSE THERE WAS A COMPOSITE DONE THAT
14 LOOKED LIKE HIM.

15 MS. PRATT: AND THAT'S WHERE I BELIEVE I COULD
16 HAVE GOTTEN IT IN WITHOUT THAT.

17 THE COURT: THE PROBLEM HERE IS IF YOU DON'T
18 HAVE THE PERSON WHO GAVE THE INFORMATION THAT CREATED THE
19 COMPOSITE YOU DON'T KNOW WHETHER THAT PERSON SAID THIS IS
20 THE SHOOTER OR THIS IS THE PERSON STANDING BY THE SHOOTER.

21 MS. PRATT: AND I AGREE.

22 THE COURT: OR WITH THE SHOOTER OR RUNNING AWAY
23 WITH THE SHOOTER, WHATEVER, OKAY. OKAY, WE'RE CLEAR ON
24 THAT, ALL RIGHT?

25 MS. PRATT: YES, SIR.

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

41

1 THE COURT: ALL RIGHT.

2 MS. PRATT: WE'LL WRITE A STIPULATION THAT YOU
3 CAN READ INTO THE RECORD.

4 THE COURT: VERY WELL.

5 MS. ELDER: WELL I DON'T KNOW THAT WE NEED A
6 STIPULATION.

7 THE COURT: IT'S ON THE RECORD.

8 MS. ELDER: RIGHT, WHEN SHE, I ASSUME YOU'RE
9 GOING TO SHOW IT TO JEFFREY BETHEA AND SAY IS THIS WHY YOU
10 TURNED YOURSELF IN?

11 MS. PRATT: UH-HUH.

12 MS. ELDER: I DON'T THINK WE NEED A WRITTEN
13 STIPULATION. I DON'T THINK WE NEED TO TELL ANYTHING TO THE
14 JURY.

15 MS. PRATT: JUST SAY A SUSPECT IN THIS CASE,
16 OKAY, WELL I THINK THAT MIGHT BE ALL I HAVE. I HATE TO, I
17 HATE TO STOP.

18 THE COURT: THAT'S OKAY. ALL RIGHT, ARE WE,
19 ANYTHING, YOU GOT A DENNO HEARING YOU WANT?

20 MS. ELDER: I DO. MR. JACKSON, OFFICER JACKSON
21 IS ON HIS WAY UP ACTUALLY FROM THE PARKING LOT. I KNOW MS.
22 LIVELY AND MR. HAZZARD HAVE A QUICK MOTION, IF YOU WANTED
23 TO TAKE THAT.

24 THE COURT: REMEMBER WHERE I GOT TO BE.

25 MS. ELDER: YES, SIR, THIS SHOULDN'T TAKE VERY

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

42

1 LONG, I DON'T SEE IT TAKING LONG.

2 THE COURT: ALL RIGHT.

3 MS. ELDER: I'M JUST GOING TO ---

4 THE COURT: BUT IF WE DO I'M DEALING WITH
5 AIRPLANES SO WE MAY HAVE TO TAKE A BREAK.

6 MS. ELDER: YES, SIR.

7 THE COURT: ALL RIGHT, JUST STAND ASIDE THEN AND
8 LET'S SEE WHAT MS. LIVELY'S GOT.

9 (WHEREUPON, A BREAK IN THE PROCEEDINGS WAS HAD AT
10 THIS TIME AND THE FOLLOWING TAKES PLACE ON THE RECORD AFTER
11 THE BREAK.)

12 MS. ELDER: THE STATE WOULD CALL INVESTIGATOR
13 MIKE HULL.

14 THE COURT: ALL RIGHT.

15 JACKSON V. DENNO HEARING

16 DETECTIVE MICHAEL A. HULL

17 BEING FIRST DULY SWORN, TESTIFIED IN CAMERA AS FOLLOWS:

18 MADAM CLERK: STATE YOUR FULL NAME FOR THE
19 RECORD.

20 THE WITNESS: MICHAEL AARON HULL, H-U-L-L.

21 DIRECT EXAMINATION

22 BY MS. ELDER:

23 Q INVESTIGATOR HULL, YOU'RE EMPLOYED WITH THE
24 MYRTLE BEACH POLICE DEPARTMENT; IS THAT CORRECT?

25 A YES, MA'AM.

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

43

1 Q AND IN WHAT CAPACITY DO YOU SERVE THERE?

2 A I AM A INVESTIGATOR.

3 Q AND DID YOU HAVE AN OPPORTUNITY TO
4 INVESTIGATE THE DEATH, THE SHOOTING DEATH OF AARON
5 HAMMONDS?

6 A YES, MA'AM.

7 Q AND AT SOME POINT IN TIME DID YOU DEVELOP A
8 SUSPECT BRIAN SPEARS?

9 A YES, MA'AM.

10 Q AND DID YOU CONDUCT ANY INTERVIEWS WITH
11 HIM?

12 A YES, I DID.

13 Q AND COULD YOU GIVE ME THE DATES OF THOSE
14 INTERVIEWS?

15 A THE FIRST INTERVIEW WAS ON JUNE 4TH, 2007,
16 THE SECOND ONE WAS JUNE 7TH, 2007.

17 Q LET'S TALK ABOUT THE FIRST INTERVIEW ON
18 JUNE 4TH, I'M SORRY, JUNE 2ND?

19 A JUNE 4TH.

20 Q JUNE 4TH, OKAY, THE FIRST INTERVIEW ON JUNE
21 4TH, WHERE WAS THAT CONDUCTED AT?

22 A IT WAS CONDUCTED IN THE CONFERENCE ROOM OF
23 THE LUMBERTON POLICE DEPARTMENT.

24 Q AND WAS MR. SPEARS THERE AT THE TIME?

25 A YES, HE WAS.

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

44

1 Q WAS HE IN CUSTODY?

2 A YES, HE WAS.

3 Q AND WHAT WAS HE IN CUSTODY FOR THERE?

4 A HE HAD BEEN PICKED UP REFERENCE TO THE
5 WARRANTS WE HAD ISSUED ON HIM IN NCIC.

6 Q OKAY, SO YOU HAD WARRANTS FOR MURDER AND
7 THREE COUNTS OF ABWIK?

8 A YES, MA'AM.

9 Q AND NORTH CAROLINA HAD PICKED HIM UP?

10 A YES, MA'AM.

11 Q AND YOU TRAVELED UP THERE, WHO DID YOU GO
12 WITH?

13 A I WENT WITH INVESTIGATOR MARK JACKSON AND
14 WILLIAM KITELINGER AND ATF AGENT FRANK PRESTON.

15 Q TELL ME ABOUT THE SETTING WHERE YOU
16 CONDUCTED THE INTERVIEW IN NORTH CAROLINA, WHAT KIND OF
17 ROOM WERE YOU IN?

18 A WE WERE IN THEIR CONFERENCE ROOM, IT'S
19 APPROXIMATELY 30 FEET LONG BY 15 TO 20 FEET WIDE. THERE'S
20 A TABLE THAT RUNS DOWN THE MIDDLE OF IT SURROUNDED BY
21 CHAIRS. LUMBERTON P.D. WE HAD GONE THERE TO GO INTERVIEW
22 PEOPLE, THEY HAD GIVEN US THAT AREA TO WORK OUT OF.

23 Q AND ---

24 THE COURT: THIS WAS WHERE NOW?

25 A LUMBERTON, NORTH CAROLINA, POLICE

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

45

1 DEPARTMENT.

2 MS ELDER: (CONTINUING)

3 Q AND WAS HE IN, MR. SPEARS AT THE TIME OF
4 THE INTERVIEW WAS HE IN CUFFS, HANDCUFFS?

5 A YES, HE WAS.

6 Q ALL RIGHT, AND WAS HE, TELL ME ABOUT WHERE
7 HIS POSITIONING WAS IN THIS PARTICULAR ROOM?

8 A HE WAS SITTING IN A CHAIR, WE WERE SITTING
9 IN CHAIRS AROUND HIM, THAT WAS ABOUT IT.

10 Q ANYBODY HAVE THEIR WEAPONS DRAWN AT ANY
11 POINT IN TIME DURING THAT INTERVIEW?

12 A NO, MA'AM.

13 Q WERE YA'LL IN PLAIN CLOTHES, ALL OF YOU IN
14 PLAIN CLOTHES, ANYBODY IN UNIFORM?

15 A MYSELF, JACKSON, AND KITELINGER WERE IN
16 PLAIN CLOTHES. THERE WERE SOME LUMBERTON OFFICERS THAT
17 CAME IN AND OUT, THEY WERE IN UNIFORM.

18 Q AND WERE THEY COMING IN AND OUT AT THAT
19 PARTICULAR ROOM FOR THIS CASE?

20 A THEY WERE HELPING US TRY TO LOCATE PEOPLE
21 AND STUFF LIKE THAT.

22 Q OKAY, THEY DIDN'T PARTICIPATE IN THE
23 INTERVIEW?

24 A NO.

25 Q AND THE ACTIVITY COMING IN AND OUT OF THAT

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

46

1 ROOM WAS IT DIRECTED IN ANY WAY SHAPE OR FORM TOWARDS MR.
2 SPEARS?

3 A IT WAS PER THE INVESTIGATION PEOPLE WE WERE
4 TRYING TO LOCATE, GET INFORMATION ON.

5 Q DID THEY INTERACT WITH BRIAN SPEARS IN ANY
6 WAY?

7 A ATF AGENT FRANK PRESTON AT THE VERY END
8 ASKED A COUPLE OF QUESTIONS.

9 Q AND DURING THE COURSE OF THIS, WELL HOW
10 LONG DID THAT INTERVIEW LAST, THAT FIRST INTERVIEW?

11 A THE FIRST INTERVIEW WAS 49 MINUTES AND 48
12 SECONDS.

13 Q AND WAS, DID MR. SPEARS ASK FOR ANY BREAK,
14 WAS HE GRANTED, GIVEN ANY BREAKS, WAS HE ASKED ABOUT
15 ANYTHING LIKE THAT, WATER OR ANYTHING LIKE THAT?

16 A NO, HE DIDN'T ASK FOR ANY BREAKS.

17 Q AND WHO CONDUCTED THE MAJORITY OF THAT
18 INTERVIEW?

19 A IT WOULD BE MYSELF AND WILLIAM KITELINGER.

20 Q AND YOU SAID AT ONE POINT IN TIME ATF AGENT
21 FRANK PRESTON ASKED A COUPLE OF QUESTIONS TOWARDS THE END?

22 A YES, MA'AM.

23 Q WAS THAT THE EXTENT OF THE PEOPLE ASKING
24 QUESTIONS?

25 A INVESTIGATOR JACKSON WAS ALSO INVOLVED.

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

47

1 Q NOW WHEN YOU INITIATED THE STATEMENT FROM
2 MR. SPEARS DID YOU READ HIM HIS MIRANDA WARNINGS?

3 A YES, MA'AM, I ACTUALLY READ EACH SECTION
4 INDIVIDUALLY AND ASKED AFTER EACH TIME IF HE UNDERSTOOD AND
5 HE STATED THAT HE DID.

6 Q AND DID HE SIGN IT?

7 A YES, HE DID.

8 (WHEREUPON, STATE'S EXHIBIT NUMBER 1 MARKED FOR
9 IDENTIFICATION.)

10 MS. ELDER: (CONTINUING)

11 Q IF YOU'LL TAKE A LOOK AT WHAT'S BEEN MARKED
12 AS STATE'S EXHIBIT 1 FOR THE PURPOSE OF THIS DENNO HEARING,
13 DO YOU RECOGNIZE THAT?

14 A YES, I DO.

15 Q AND IS THAT THE MIRANDA WARNING FORM THAT
16 YOU USED AT THE FIRST INTERVIEW OF MR. SPEARS?

17 A YES, IT IS.

18 Q AND DID MR. SPEARS SIGN THAT?

19 A YES, HE DID.

20 Q DID HE AGREE TO TALK TO YOU OR GIVE YOU A
21 STATEMENT?

22 A YES, HE DID. JUST TO LET YOU KNOW I ALSO
23 ASKED FURTHER QUESTIONS AS FAR AS HIS EDUCATIONAL LEVEL,
24 HIS SOBRIETY.

25 Q AND WAS MR. SPEARS, DID MR SPEARS APPEAR TO

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

48

1 UNDERSTAND WHAT YOU WERE ASKING HIM?

2 A HE STATED HE UNDERSTOOD, YES.

3 Q DID HE HAVE THE APPEARANCE OF BEING
4 INTOXICATED, UNDER THE INFLUENCE, CONFUSED?

5 A NO, MA'AM, I SPECIFICALLY ASKED HIM IF HE
6 HAD HAD ANYTHING TO DRINK, HE TOLD ME HE DID NOT DRINK.

7 Q AND DID YOU AUDIO RECORD THIS INTERVIEW?

8 A YES, I DID.

9 Q AND WAS THE ENTIRE INTERVIEW RECORDED?

10 A YES, IT WAS.

11 Q INCLUDING THE MIRANDA?

12 A YES, IT WAS.

13 Q WHAT HAPPENED AT THE CONCLUSION OF THE
14 INTERVIEW?

15 A AT THE CONCLUSION OF THE INTERVIEW THEY
16 TOOK HIM TO A HOLDING FACILITY.

17 Q AND DID HE AT ANY POINT IN TIME DURING THE
18 FORTY SOME ODD MINUTES OF THIS PARTICULAR INTERVIEW
19 INDICATE OR REQUEST NOT TO CONTINUE TO INTERVIEW, REQUEST
20 FOR A LAWYER, OR ANY OF THOSE RIGHTS HE'S ENTITLED TO?

21 A NO, HE DID NOT.

22 Q AND DID HE IN FACT AFTER THE MIRANDA
23 WARNING AND ON AUDIO PROVIDE YOU WITH A STATEMENT REGARDING
24 THIS PARTICULAR INCIDENT IN MYRTLE BEACH?

25 A YES, HE DID.

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

49

1 Q NOW YOU ALSO CONDUCTED A SECOND INTERVIEW
2 WITH MR. SPEARS?

3 A YES.

4 Q AND WHAT IS THE DATE OF THAT?

5 A THAT WOULD HAVE BEEN JUNE 7TH, 2007.

6 Q TELL ME ABOUT THE LOCATION OF THE JUNE 7TH
7 INTERVIEW?

8 A JUNE 7TH INTERVIEW OCCURRED AT THE MYRTLE
9 BEACH POLICE DEPARTMENT ANNEX IN THE INTERVIEW ROOM. IT IS
10 A ROOM THAT IS APPROXIMATELY 8 BY 8, WOULD HAVE HAD ONE
11 DESK AND THREE CHAIRS IN IT. ON ONE END IS THE DOOR, ON
12 THE OTHER IS A TWO WAY MIRROR.

13 Q AND WERE YOU CONDUCTING THE INTERVIEW THERE
14 WITH ANOTHER INDIVIDUAL?

15 A MYSELF AND INVESTIGATOR JACKSON.

16 Q AND WAS THAT AFTER HE HAD WAIVED
17 EXTRADITION TO COME BACK TO SOUTH CAROLINA?

18 A YES, IT WAS.

19 Q THAT WAS APPROXIMATELY FOUR OR FIVE DAYS
20 LATER?

21 A YES, MA'AM.

22 Q AND HOW DID YOU COME TO INTERVIEW HIM A
23 SECOND TIME?

24 A WE WERE INFORMED THAT HE WAS COMING TO THE
25 ANNEX, WE MET WITH HIM THERE.

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

50

1 Q HAD YOU TALKED TO INDIVIDUALS BETWEEN THE
2 TIME, WHY DID YA'LL FEEL THE NEED TO INTERVIEW HIM A SECOND
3 TIME?

4 A WE KNEW HE WAS COMING DOWN, WE WANTED TO
5 TALK TO HIM AGAIN.

6 Q JUST TO FURTHER TALK TO HIM?

7 A RIGHT.

8 Q OKAY, HOW LONG WAS THAT SECOND INTERVIEW?

9 A THE SECOND INTERVIEW WAS ONE HOUR AND 56
10 MINUTES.

11 Q OKAY, AND DID YA'LL TAKE A BREAK DURING THE
12 COURSE OF THAT?

13 A WE TOOK ONE 15 MINUTES BREAK AND ONE 6
14 MINUTE BREAK.

15 Q AND DID YOU, DID HE REQUEST ANY WATER OR
16 ANYTHING LIKE THAT?

17 A NO, HE WAS ALLOWED TO SMOKE DURING THE
18 INTERVIEW, THOUGH.

19 Q HE REQUESTED TO SMOKE?

20 A YES.

21 Q AND YA'LL ALLOWED HIM TO DO THAT?

22 A YES, MA'AM.

23 Q AND WHAT WAS HIS CONDITION AT THE TIME OF
24 THE SECOND INTERVIEW; DID HE APPEAR TO UNDERSTAND WHAT WAS
25 GOING ON?

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

51

1 A YES, I, ON THE SECOND INTERVIEW I AGAIN
2 ASKED HIM IF HE UNDERSTOOD ALL OF HIS RIGHTS, HE STATED
3 THAT HE DID. I ASKED HIM IF HE HAD BEEN DRINKING, HE
4 STATED NO. I ASKED HIM IF HE HAD TAKEN ANY TYPE OF DRUGS
5 LEGAL OR ILLEGAL, HE STATED NO.

6 Q DID HE APPEAR TO UNDERSTAND YOU AND WHAT HE
7 WAS THERE FOR?

8 A YES, I EVEN TOLD HIM IF HE DID NOT
9 UNDERSTAND ANYTHING TO ASK ME AND I WOULD TRY TO EXPLAIN IT
10 TO HIM.

11 Q AND YOU PROVIDED HIM A SECOND MIRANDA AT
12 THAT TIME?

13 A YES, MA'AM.

14 Q NOW AT THE CONCLUSION OF THE FIRST
15 INTERVIEW YA'LL CONCLUDED JUST BECAUSE YOU HAD FINISHED?

16 A YES, MA'AM.

17 Q ALL RIGHT, SO THERE WAS NO INDICATION OF
18 RIGHTS OR ANYTHING LIKE THAT?

19 A NO, MA'AM.

20 Q BUT AT THE SECOND INTERVIEW YOU GAVE HIM
21 ANOTHER MIRANDA FORM; IS THAT CORRECT?

22 A YES, MA'AM.

23 (WHEREUPON, STATE'S EXHIBIT NUMBER 2 MARKED FOR
24 IDENTIFICATION.)

25 MS. ELDER: (CONTINUING)

DETECTIVE HULL - DIRECT EXAM. BY MS. ELDER IN CAMERA

52

1 Q IF YOU'LL TAKE A LOOK AT WHAT'S BEEN MARKED
2 STATE'S EXHIBIT 2 FOR THE PURPOSE OF THIS DENNO HEARING; DO
3 YOU RECOGNIZE THAT?

4 A YES, MA'AM.

5 Q AND IS THAT THE MIRANDA FORM YOU PROVIDED
6 HIM?

7 A YES, MA'AM.

8 Q AND DID HE SIGN IT?

9 A YES, HE DID.

10 Q DID HE AGREE TO TALK TO YOU AFTER BEING
11 INFORMED OF HIS MIRANDA WARNING?

12 A YES, HE DID.

13 Q DID HE ASK, DID HE APPEAR TO UNDERSTAND HIS
14 WARNINGS AT THAT TIME?

15 A YES, HE STATED HE UNDERSTOOD.

16 Q DID HE THEN PROVIDE YOU A SECOND STATEMENT?

17 A YES, HE DID.

18 Q ABOUT THIS PARTICULAR INCIDENT?

19 A YES, MA'AM.

20 Q AND AT ANY POINT IN TIME DURING THE COURSE
21 OF THAT STATEMENT DID HE REQUEST OR INVOKE ANY OF HIS
22 MIRANDA WARNINGS THAT YOU HAD PREVIOUSLY GIVEN HIM?

23 A NO, MA'AM, HE DID NOT.

24 Q WAS THAT INTERVIEW IN FACT ALSO AUDIOED?

25 A YES, MA'AM.

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

53

1 Q ALL RIGHT, AND SO THE ENTIRE INTERVIEW WAS
2 ON AUDIO?

3 A YES, MA'AM.

4 Q FROM START TO FINISH?

5 A YES, MA'AM.

6 Q IN YOUR PRESENCE DURING THE COURSE OF THESE
7 TWO INTERVIEWS WERE YOU PRESENT AT ALL TIMES?

8 A YES, MA'AM.

9 Q DID ANYBODY WHILE YOU WERE INTERVIEWING HIM
10 COERCE HIM, THREATEN HIM, HOLD HIM UNDER DURESS, PUT A GUN
11 TO HIS HEAD, ANYTHING LIKE THAT TO GET HIM TO MAKE A
12 STATEMENT?

13 A NO, MA'AM.

14 MS. ELDER: I HAVE NO OTHER QUESTIONS, YOUR
15 HONOR.

16 THE COURT: ALL RIGHT, MS. PRATT.

17 CROSS EXAMINATION

18 BY MS. PRATT:

19 Q DETECTIVE, IN REGARDS TO THE FIRST
20 STATEMENT THROUGHOUT THAT STATEMENT MY CLIENT MAINTAINED
21 THAT HE WAS NOT AT THE BEACH; IS THAT RIGHT?

22 A YES, MA'AM.

23 Q OKAY, AND YOU APPLIED MORE AND MORE
24 PRESSURE THROUGHOUT THAT STATEMENT THROUGH YOUR
25 QUESTIONING; DID YOU NOT?

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

54

1 A I CONTINUED TO QUESTION HIM ABOUT IT, YES.

2 Q AND PUSHED, YOU TOLD HIM THAT THERE WERE
3 WITNESSES THAT SAID HE WAS THE SHOOTER AND NOT JUST ONE,
4 THAT THERE WITNESSES THAT SAID HE WAS THERE AND THOSE KINDS
5 OF STATEMENTS; IS THAT CORRECT?

6 A I DID TELL HIM THAT A WITNESS PUT HIM
7 THERE, YES.

8 Q ALL RIGHT, AND AT THE END OF THAT INTERVIEW
9 DID HE NOT SAY TO YOU LET ME ASK YOU THIS, WHAT ARE YOU
10 TRYING TO DO TO ME, WHAT ARE YOU TRYING TO DO BY GOING
11 THROUGH MY, AND I THINK YOU'RE TALKING ABOUT THE PHONE AT
12 THE TIME, INCRIMINATE ME?

13 A HE STATED THAT, YES; HE WAS ASKED ABOUT HIS
14 PHONE.

15 Q ALL RIGHT, AND OBVIOUSLY HE'S TALKING ABOUT
16 TRYING TO INCRIMINATE ME THEN YOU'RE TALK, HE'S SPEAKING
17 ABOUT HIS RIGHT TO REMAIN SILENT; IS HE NOT?

18 Q I DON'T ---

19 A I MEAN THAT'S THE LANGUAGE ON THE MIRANDA
20 IS AND THE FIFTH AMENDMENT RIGHT NOT TO INCRIMINATE
21 YOURSELF?

22 A MY UNDERSTANDING HE'S ASKING ME IF I WAS
23 TRYING TO INCRIMINATE HIM AND I BELIEVE THE RESPONSE WAS HE
24 DIDN'T DO ANYTHING WRONG CAN'T INCRIMINATE YOU.

25 Q AND THERE'S NO QUESTION THAT THROUGHOUT

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

55

1 THAT INTERVIEW IT WAS FOUR ON ONE WITH SEVERAL POLICE
2 OFFICERS IN UNIFORM WITH GUNS IN AND OUT ALL THE TIME,
3 RIGHT, OFFICERS THAT HE WOULD KNOW?

4 A YES, THERE WAS OFFICERS PRESENT, YES.

5 Q AND YOU DON'T FIND THAT THAT WOULD BE A
6 SITUATION THAT WOULD CAUSE HIM TO BE FEELING COERCED OR
7 THREATENED OR UNABLE TO DEAL WITH, WITH WHAT WAS GOING ON
8 WITH HIM?

9 A NO, THERE WAS NOTHING THREATENING TOWARDS
10 HIM.

11 Q AND NO QUESTION THAT IN THE FIRST STATEMENT
12 AS WELL AS IN THE SECOND YOU BEND THE TRUTH JUST A TAD,
13 DON'T YOU, IN ASKING YOUR QUESTIONS TO SEE IF YOU CAN GET
14 HIM TO SAY SOMETHING; DO YOU NOT?

15 A BEND THE TRUTH IN WHAT WAY?

16 Q BY SAYING THAT THERE ARE, THERE ARE SEVERAL
17 WITNESSES THAT IDENTIFY HIM AS THE SHOOTER WHICH, OF
18 COURSE, WE KNOW AT THAT TIME WAS NOT TRUE?

19 A I BELIEVE I SAID THERE WERE SEVERAL
20 WITNESSES WHO PUT HIM THERE AND THAT I HAD A WITNESS THAT
21 IDENTIFIED HIM AS THE SHOOTER.

22 Q ON PAGE 27 OF THIS STATEMENT, YOU WERE
23 PRESENT THE WHOLE TIME, RIGHT, BOTH STATEMENTS?

24 A YES.

25 Q OKAY, ISN'T IT TRUE THAT, MAYBE I SHOULD

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

56

1 PHRASE THAT QUESTION DIFFERENTLY, DID OFFICER JACKSON EVER
2 SAY WE'VE GOT MORE THAN ONE WITNESS THAT SAW YOU AS THE
3 SHOOTER?

4 A I DON'T RECALL IF THOSE WERE HIS EXACT
5 WORDS OR NOT, NO.

6 Q WOULD IT SURPRISE YOU IF ON PAGE 27 OF THE
7 SECOND STATEMENT IT SAYS WE'VE GOT WITNESSES THAT SAID YOU
8 HAD A GUN IN YOUR BACK POCKET AND THAT YOU, IT WAS YOU
9 WEAVING THROUGH THE CROWDS, TOOK THE GUN OUT OF YOUR BACK
10 POCKET, AND POP, POP, POP, POP, OKAY, WITNESS SAYS?

11 A NO, THAT WOULD NOT SURPRISE ME.

12 Q SO THAT IS NOT A TRUE STATEMENT AT THAT
13 TIME ON JUNE THE 7TH YOU DID NOT HAVE WITNESS SAYS THAT
14 SAID HE WAS THE SHOOTER, DID YOU?

15 A WE HAD A WITNESS ---

16 Q YOU HAD ONE?

17 A RIGHT.

18 Q ONE WITNESS?

19 A RIGHT, WE HAD A WITNESS.

20 Q BIRD?

21 A YES.

22 Q THE PERSON WHO ORIGINALLY WAS MATCHED THIS
23 COMPOSITE, CORRECT, AND COME HERE BECAUSE OF THE COMPOSITE?

24 A YES, WE WENT TO BIRD FIRST.

25 Q AND THROUGHOUT THE SECOND STATEMENT DON'T

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

57

1 YOU MAKE AN AWFUL LOT OF STATEMENTS ABOUT SAYING THAT WE'VE
2 BEEN DISCUSSING -- YOU'VE BEEN PRESENT THROUGH THE MOTIONS,
3 CORRECT?

4 A YES, MA'AM.

5 Q SO THROUGHOUT THE STATEMENT YOU BRING UP TO
6 HIM THIS ISSUE ABOUT WALMART, CORRECT?

7 A IT WAS BROUGHT UP TO HIM, YES.

8 Q YOU BRING UP TO HIM THE ISSUE ABOUT THE
9 BULLET PROOF VEST, CORRECT?

10 A YES, I DID.

11 Q YOU BRING UP TO HIM THE ISSUE ABOUT GANGS
12 AND PEOPLE THAT AREN'T EVEN INVOLVED IN THIS CASE,
13 SPECIFICALLY DIFFERENT MEMBERS OF THE GANG THROUGHOUT THIS,
14 DON'T YOU?

15 A YES, WE ASKED HIM ABOUT THAT.

16 Q YOU TRY TO GET HIM TO ADMIT THINGS ABOUT
17 THE GANGS THROUGHOUT THIS, DON'T YOU?

18 A WE ASKED HIM QUESTIONS ABOUT THINGS ABOUT
19 THE GANGS, YES.

20 Q AND YOUR PURPOSE TO ASK QUESTIONS IS TO GET
21 HIM TO ADMIT SOMETHING RIGHT?

22 A WELL TO TELL, TO GET ELICIT RESPONSE, YES.

23 Q OKAY, SO YOU'RE TRYING TO GET HIM TO TALK
24 ABOUT ALL OF THOSE OTHER ISSUES WHICH, OF COURSE, MAY OR
25 MAY NOT BE DETERMINED TO BE ADMISSIBLE BY THIS JUDGE,

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

58

1 CORRECT?

2 A YES, WE ASKED HIM QUESTIONS ABOUT GANGS.

3 Q AND YOU ON PAGE 30 YOU, YOU USE HIS MOTHER,
4 OR AT LEAST IN YOUR PRESENCE DETECTIVE JACKSON USES A
5 STATEMENT ABOUT HIS MOTHER, DOESN'T HE?

6 A YES, WE TOLD HIM WE HAD SPOKE WITH HIS
7 MOTHER.

8 Q AND YOU SAID I BELIEVE, OR JACKSON SAYS, "I
9 BELIEVE YOU NEED TO LOOK AFTER YOUR MOM, OKAY. YOU NEED TO
10 UNDERSTAND HOW SOMETHING LIKE THIS IS AFFECTING HER, OKAY,
11 HOW UPSET SHE'D BE," RIGHT?

12 A YES.

13 Q OKAY ---

14 A DETECTIVE JACKSON SAID THAT.

15 Q SO WE'RE USING MOM, YOU'RE ALSO IN THIS
16 STATEMENT JACKSON IS TRYING TO USE SOME KIND OF A GUILT, I
17 CALL IT A GUILT TRIP ON HIM THAT YOU NEED TO UNBURDEN
18 YOURSELF AND CLEAR YOUR CONSCIENCE, RIGHT? DOESN'T HE TRY
19 TO SAY THOSE KINDS OF THINGS?

20 A YES, I BELIEVE HE DID SAY SOMETHING LIKE
21 THAT.

22 Q ALL RIGHT, AND YOU DON'T FIND THAT THOSE
23 STATEMENTS, THOSE KINDS OF THINGS TO A YOUNG MAN OF HIS AGE
24 WOULD NOT BE COERCIVE?

25 A NO, I DON'T BELIEVE THOSE ARE COERCIVE.

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

59

1 Q SO CONSIDER YOUR MAMA IS NOT COERCION?

2 A I DON'T BELIEVE SO.

3 Q OKAY, AND THEN AT THE POINT THAT MY CLIENT
4 AGREES IN THAT SECOND INTERVIEW THAT HE AGREES THAT HE
5 DIDN'T TELL THE TRUTH THE FIRST TIME BECAUSE OF THE SAYING
6 THAT HE DIDN'T GO TO THE BEACH, HE ADMITS THERE'S A LIE,
7 YA'LL PRETTY MUCH GO OFF TO THE RACES WITH HIS LIE, DON'T
8 YOU? YOU SAY, WELL YOU'VE BEEN LYING, YOU KNOW, THIS IS
9 WHERE, THIS IS WHAT WE NOW BELIEVE BECAUSE YOU'RE A LIAR,
10 ISN'T THAT BASICALLY THE TENOR OF WHAT HAPPENED AFTER THAT?

11 A IF YOU'RE ASKING DID WE BRING UP THAT HE
12 HAD LIED INITIALLY, YES, WE BROUGHT THAT UP.

13 Q ON PAGE 32 THE STATEMENT IN YOUR PRESENCE
14 JACKSON SAYS TO HIM YOU'RE LOOKING AT A MURDER, YOU'RE
15 LOOKING AT FOUR COUNTS OF, EXCUSE ME, THREE COUNTS OF
16 ASSAULT AND BATTERY WITH INTENT TO KILL, THOSE ARE AS
17 SERIOUS AS YOU CAN GET, OKAY. NOW I DON'T KNOW WHAT WE GOT
18 TO DO TO COMPEL YOU OR TELL YOU, YOU KNOW, TO MAKE YOU SEE
19 THE LIGHT BUT THIS IS THE END OF IT, THIS IS IT RIGHT HERE.
20 THIS IS YOUR ONE OPPORTUNITY SO WE REALLY NEED YOU TO TELL
21 US YOUR SIDE OF THE STORY, TELL US WHAT REALLY HAPPENED,
22 DID THAT HAPPEN IN YOUR PRESENCE?

23 A YES.

24 Q AND YOU DON'T FIND THAT TO BE A COERCIVE
25 SITUATION?

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

60

1 A NO.

2 Q OR DURESS?

3 A NO, I BELIEVE HE'S TRYING TO GET HIM TO
4 TELL US THE TRUTH.

5 Q YOU'RE THREATENING HIM AND SAYING WHAT DO
6 WE HAVE TO DO TO COMPEL YOU TO TALK, ISN'T THAT WHAT THAT
7 SAYS, WHAT DO I HAVE TO DO, I DON'T KNOW WHAT WE GOT TO DO
8 TO COMPEL YOU OR TELL YOU TO MAKE YOU SEE THE LIGHT BUT
9 THIS THE END OF IT, THIS IS YOUR ONE OPPORTUNITY, YOU DON'T
10 SEE THAT AS BEING COERCEMENT?

11 A I TOOK THAT AS DETECTIVE JACKSON ASKING
12 WHAT DO I NEED TO TELL YOU TO MAKE YOU UNDERSTAND THAT WE
13 KNOW YOU WERE THERE TO TELL US THE TRUTH.

14 Q DID YOU TALK TO HIM ABOUT THE RETALIATION
15 THAT COULD HAPPEN TO HIM ON THE STREET IN REGARDS TO THIS
16 SITUATION AND ALL OF THE GANG INFORMATION THAT YOU WERE
17 ASKING HIM ABOUT?

18 A I RECALL WE ASKED HIM ABOUT OTHERS AND IF
19 HE WERE A MEMBER OF THE FOLK NATION HIM WEARING RED WHAT
20 DOES THAT, WHAT WOULD HAPPEN AND HIS RESPONSE WAS IT COULD
21 GET YOU EITHER KILLED OR SHOT.

22 Q THERE WAS A SIX-MINUTE BREAK IN THE TAPE ON
23 PAGE 43 BETWEEN YOU SAYING "WE'LL TAKE A BREAK, TIME RIGHT
24 NOW IS 2:41" AND THEN, "ALL RIGHT, TIME IS NOW 2:47," AND
25 YOU SAY, "ALL RIGHT, THE TIME NOW IS 2:47 STARTING THE TAPE

DETECTIVE HULL - CROSS EXAM. BY MS. PRATT IN CAMERA

61

1 AGAIN, THINK ABOUT IT AT ALL BOSS," WHAT HAPPENED IN THAT
2 SIX MINUTES?

3 A WE WENT OUTSIDE AND DISCUSSED WHAT WE HAD
4 LEARNED SO FAR.

5 Q DO YOU HAVE ANY PROOF OF THAT, WAS THERE A
6 VIDEO OF THIS ONE CAUSE I DIDN'T RECEIVE A VIDEO IN
7 DISCOVERY ON THIS ONE?

8 A YES, IT SHOULD BE ON THE VIDEO.

9 Q I RECEIVED A VIDEO IN REGARDS TO MR. BETHEA
10 BUT I DID NOT RECEIVE A VIDEO IN REGARD TO MR. SPEARS?

11 A WELL MY UNDERSTANDING THAT THERE SHOULD BE
12 A VIDEO OF THIS, YES.

13 MS. PRATT: CERTAINLY, YOUR HONOR, I'LL BE
14 ASKING THAT THAT BE RELEASED TO ME IF THEY DO HAVE ONE.

15 THE COURT: IS THERE ONE, MS. ELDER?

16 MS. ELDER: YOUR HONOR, I DON'T KNOW, THEIR
17 SYSTEM. EVERY TIME WE GET SOMETHING FROM MYRTLE BEACH'S
18 SYSTEM SOMETIMES THE VIDEO IS ON THE DISK, SOMETIMES IT'S
19 NOT, BUT MS. PRATT CERTAINLY HAS BEEN PROVIDED A FULL AUDIO
20 AND THE TRANSCRIPTS THAT WE DID FROM THAT AUDIO. I WILL
21 PULL THE TAPE IN EVIDENCE AND IF THERE IS IN FACT A VIDEO
22 PORTION BUT SHE HAS GOT THE AUDIO PORTION OF THAT.

23 MS. PRATT: AND NO QUESTION, MY CONCERN IS WHAT
24 HAPPENED WHILE THE TAPE WAS OFF AND I BELIEVE THE VIDEO
25 WOULD SHOW THAT.

OFFICER JACKSON - DIRECT EXAM. BY MS. ELDER IN CAMERA

62

1 THE COURT: ALL RIGHT, LET'S GET HER VIDEO IF
2 IT'S AVAILABLE.

3 MS. PRATT: THANK YOU, YOUR HONOR, AND THANK
4 YOU, MS. ELDER. THOSE WOULD BE ALL THE QUESTIONS THAT I
5 HAVE AT THIS TIME.

6 THE COURT: DETECTIVE, WHAT WERE THE
7 CIRCUMSTANCES OF HIS INITIAL ARREST IN NORTH CAROLINA?

8 A WHEN WE OBTAINED WARRANTS ON HIM.

9 THE COURT: WAS HE ARRESTED FOR THIS OFFENSE IS
10 WHAT I'M GETTING AT?

11 A YES, NORTH CAROLINA PICKED HIM UP OFF THE
12 NCIC.

13 THE COURT: IT WOULD APPEAR THEN THAT HE WAS
14 HELD UNTIL HE WAS BROUGHT TO HORRY COUNTY; IS THAT CORRECT?

15 A YES, SIR.

16 THE COURT: SO HE WAS INCARCERATED, NO QUESTION
17 HE WAS UNDER ARREST, HOW OLD WAS HE?

18 A AT THE TIME OFF THE TOP OF MY HEAD I WOULD
19 LIKE 19, IF I REMEMBER CORRECTLY.

20 THE COURT: WAS THERE ANYTHING THAT YOU OBSERVED
21 DURING YOUR INTERROGATION OF THE DEFENDANT THAT WOULD
22 INDICATE TO YOU THAT HE WAS LESS THAN AT LEAST AVERAGE
23 INTELLIGENCE?

24 A NO, SIR, I ASKED HIM HIS EDUCATIONAL LEVEL.
25 HE SAID HE HAD COMPLETED 9TH GRADE. I ASKED HIM IF HE

OFFICER JACKSON - DIRECT EXAM. BY MS. ELDER IN CAMERA 63

1 COULD READ AND WRITE, HE TOLD ME THAT HE COULD.

2 THE COURT: OKAY, ALL RIGHT, THERE WAS NOTHING
3 TO INDICATE TO YOU THAT HE WAS OF LESS THAN OR AT LEAST
4 AVERAGE INTELLIGENCE?

5 A NO, SIR.

6 THE COURT: OKAY, ALL RIGHT.

7 MS. ELDER: THAT'S ALL THE QUESTIONS WE HAVE,
8 YOUR HONOR, OF MR. HULL.

9 THE COURT: ALL RIGHT, YOU MAY STEP DOWN.

10 MS. ELDER: THE STATE WOULD CALL OFFICER
11 JACKSON.

12 **OFFICER MARK JACKSON**

13 **BEING FIRST DULY SWORN, TESTIFIED IN CAMERA AS FOLLOWS:**

14 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
15 SPELL YOUR LAST NAME?

16 THE WITNESS: MARK ERIC JACKSON, J-A-C-K-S-O-N.

17 **DIRECT EXAMINATION**

18 **BY MS. ELDER:**

19 Q OFFICER JACKSON, YOU'RE EMPLOYED WITH THE
20 MYRTLE BEACH POLICE DEPARTMENT?

21 A I AM.

22 Q IN WHAT CAPACITY?

23 A AS AN INVESTIGATOR.

24 Q AND DID YOU HAVE AN OPPORTUNITY IN THAT
25 CAPACITY TO PARTICIPATE IN THE INVESTIGATION INVOLVING THE

OFFICER JACKSON - DIRECT EXAM. BY MS. ELDER IN CAMERA

64

1 MURDER OF AARON HAMMONDS?

2 A I DID.

3 Q AND IN PARTICULAR INVOLVED IN THE INTERVIEW
4 OF BRIAN SPEARS?

5 A I DID.

6 Q AND YOU WERE PRESENT WHEN INVESTIGATOR HULL
7 WAS TESTIFYING JUST A MOMENT AGO?

8 A CORRECT.

9 Q AND WERE YOU WITH HIM WHEN THOSE INTERVIEWS
10 WERE CONDUCTED?

11 A YES, I WAS.

12 Q AND WERE YOU WITH HIM AT THE FIRST
13 INTERVIEW IN LUMBERTON AT LUMBERTON P.D.?

14 A YES, I WAS.

15 Q AS FAR AS THE DESCRIPTION HE PROVIDED OF
16 THE ROOM AND THE SET UP FOR THE INTERVIEW WAS THERE
17 ANYTHING DIFFERENT FROM WHAT YOU RECALL?

18 A NO, THERE'S NOT.

19 Q SO DURING YOUR PRESENCE DID ANYBODY COERCE
20 OR THREATEN MR. SPEARS?

21 A NO, THEY DID NOT.

22 Q AND I BELIEVE HE INDICATED THAT THE
23 INTERVIEW WAS A LITTLE OVER 40 MINUTES LONG?

24 A THAT IS CORRECT.

25 Q AND DURING THE COURSE OF THAT FIRST

OFFICER JACKSON - DIRECT EXAM. BY MS. ELDER IN CAMERA 65

1 INTERVIEW YA'LL ASKED HIM SEVERAL QUESTIONS ABOUT GANGS,
2 WHERE HE WAS, THOSE TYPES OF THINGS?

3 A YES, WE DID.

4 Q AND THROUGHOUT THAT WHOLE INTERVIEW HE
5 MAINTAINED THAT HE NEVER CAME TO MYRTLE BEACH, CORRECT?

6 A THAT IS CORRECT.

7 Q AND AFTER ALL THE QUESTIONS THAT YOU ASKED
8 I ASSUME THOSE WERE QUESTIONS THAT WERE DRAWN TO ELICIT
9 SOME TYPE OF RESPONSE?

10 A THAT IS CORRECT.

11 Q AFTER ALL THOSE QUESTIONS HE STILL
12 MAINTAINED THAT THROUGHOUT THAT INTERVIEW?

13 A YES, HE DID.

14 Q DID HE APPEAR AT ANY POINT IN TIME TO
15 APPEAR DISTRESSED, OUT OF THE ORDINARY WITH BEING CHARGED
16 WITH WHAT HE WAS CHARGED WITH DID HE APPEAR TO BE UNDER ANY
17 KIND OF STRESS OR DURESS IN GIVING HIS STATEMENT?

18 A NO, HE DID NOT.

19 Q AND I BELIEVE ACTUALLY THROUGHOUT THE
20 STATEMENT HE DIDN'T APPEAR TO BE UPSET OR IRRATIONAL IN ANY
21 WAY SHAPE OR FORM?

22 A NO, HE WAS NOT.

23 Q DID HE EVER GET EMOTIONAL?

24 A NO, HE DID NOT.

25 Q AND I BELIEVE MOST OF HIS RESPONSES WHETHER

OFFICER JACKSON - DIRECT EXAM. BY MS. ELDER IN CAMERA

66

1 THEY WERE YES OR NO WERE EITHER YES, SIR, OR NO, SIR; IS
2 THAT CORRECT?

3 A IF I RECALL CORRECTLY, YES.

4 Q HE USED THE SIR PORTION OF THAT?

5 A YES.

6 Q AND WERE YOU PRESENT WHEN INVESTIGATOR HULL
7 GAVE BRIAN SPEARS HIS MIRANDA WARNING?

8 A YES, I WAS.

9 Q AND DID HE APPEAR, BRIAN SPEARS APPEAR TO
10 UNDERSTAND THOSE WARNINGS?

11 A YES, HE DID.

12 Q DID HE APPEAR TO BE UNDER THE INFLUENCE IN
13 ANY WAY SHAPE OR FORM?

14 A NO, HE DID NOT.

15 Q AND DID HE FREELY AND VOLUNTARILY PROVIDE
16 YA'LL A STATEMENT?

17 A YES, HE DID.

18 Q DURING THE COURSE OF THAT STATEMENT DID HE
19 REQUEST HIS ATTORNEY, HIS MOTHER, HIS, ANYTHING TO INVOKE
20 ONE OF HIS RIGHTS?

21 A NO, HE DID NOT.

22 Q AND I BELIEVE YA'LL ASKED FOR HIS CELL
23 PHONE; IS THAT CORRECT?

24 A I BELIEVE SO, YES, I BELIEVE THAT'S
25 CORRECT.

OFFICER JACKSON - DIRECT EXAM. BY MS. ELDER IN CAMERA

67

1 Q DID HE PROVIDE THAT TO YA'LL AT THAT TIME?

2 A I DON'T RECALL, I DON'T THINK, I DON'T
3 THINK HE DID.

4 Q YA'LL GOT A SEARCH WARRANT I BELIEVE FOR
5 THAT LATER?

6 A I THINK SO.

7 Q AND ON THE SECOND INTERVIEW THAT WAS
8 CONDUCTED IN MYRTLE BEACH AT THE ANNEX?

9 A THAT IS CORRECT.

10 Q AND YOU HEARD DETECTIVE HULL DESCRIBE THE
11 ROOM THAT THAT INTERVIEW WAS CONDUCTED IN IS THERE ANYTHING
12 THAT IS CONTRARY OR DIFFERENT FROM HIS DESCRIPTION TO WHAT
13 YOU RECALL?

14 A NO, THERE'S NOT.

15 Q AND BOTH OF THESE INTERVIEWS WERE AUDIOS?

16 A YES, THEY WERE.

17 Q AND DURING THE SECOND INTERVIEW HE WAS ALSO
18 GIVEN HIS MIRANDA WARNING?

19 A YES, HE WAS.

20 Q DID HE EVER AT ANY POINT IN TIME DURING THE
21 COURSE OF THAT HOUR AND SO ODD INTERVIEW REQUEST A LAWYER
22 OR A RIGHT TO REMAIN SILENT OR INVOKE ANY OF HIS RIGHTS
23 THAT YA'LL HAD PROVIDED HIM?

24 A NO, HE DID NOT.

25 Q DID HE APPEAR TO UNDERSTAND, AT THAT SECOND

OFFICER JACKSON - CROSS EXAM. BY MS. PRATT IN CAMERA

68

1 INTERVIEW DID HE APPEAR CAPABLE OF UNDERSTANDING WHAT YA'LL
2 WERE TALKING ABOUT IN THE INCIDENT THAT WE WERE TALKING
3 ABOUT?

4 A YES, HE DID.

5 Q AND AT SOME POINT DURING THAT SECOND
6 INTERVIEW DID HE IN FACT GIVE YOU SOME SPECIFIC DETAILS
7 ABOUT WHAT HE WAS DOING HERE IN MYRTLE BEACH AT THE TIME OF
8 THE SHOOTING?

9 A YES, HE DID.

10 Q AND WAS HE ABLE TO ALSO PROVIDE YOU
11 INFORMATION WITH THE NAMES OF THE OTHER INDIVIDUALS THAT HE
12 WAS HERE?

13 A YES, HE DID.

14 Q AND DID SOME OF THAT INFORMATION MATCH UP
15 WITH WHAT YA'LL ALREADY KNEW?

16 A YES, IT DID.

17 Q THERE WAS AN INDICATION AT THE SECOND
18 INTERVIEW THERE WERE TWO BREAKS GIVEN. ONE WAS GIVEN, IT
19 WAS A LENGTHY, ABOUT 15 MINUTES OR SO, AND THE SECOND WAS A
20 VERY SHORT PERIOD OF TIME. WAS ANYBODY OFF THE TAPE, DID
21 ANYBODY GO INTO THE ROOM WITH MR. SPEARS TO THREATEN HIM,
22 COERCE HIM, PULL OUT THEIR GUN OR ANYTHING LIKE THAT?

23 A NO, THEY DID NOT.

24 Q OKAY, AND WHAT, WHY DO YOU TYPICALLY --
25 DETECTIVE HULL INDICATED THAT YOU TOOK A SMOKE BREAK TO

OFFICER JACKSON - CROSS EXAM. BY MS. PRATT IN CAMERA

69

1 ALLOW HIM TO SMOKE ONE OF THE, ONE OF THE BREAKS, BUT
2 DURING THAT SHORT INTERVIEW OR DURING THAT SHORT BREAK, I'M
3 SORRY, THE SIX-MINUTE BREAK, DO YA'LL TYPICALLY TAKE BREAKS
4 DURING THE COURSE OF YOUR INTERVIEW TO KIND OF STEP OUT AND
5 REGROUP?

6 A SURE, DEFINITELY. THERE'S A, ESPECIALLY AN
7 INTERVIEW OF THAT LENGTH WE WOULD DEFINITELY TAKE BREAKS TO
8 GO USE THE BATHROOM, LIKE I SAID, REGROUP, TALK ABOUT WHAT
9 WE'VE ALREADY, WE'VE ALREADY LEARNED FROM THE INTERVIEW.

10 Q AND WAS THAT ABOUT WHAT YOU DID ON THIS
11 PARTICULAR?

12 A YES, IT IS.

13 MS. ELDER: I DON'T HAVE ANY OTHER QUESTIONS,
14 YOUR HONOR.

15 CROSS EXAMINATION

16 BY MS. PRATT:

17 Q OFFICER JACKSON, YOU'VE HEARD MY QUESTIONS
18 TO DETECTIVE HULL; IS THAT RIGHT?

19 A YES, MA'AM.

20 Q ALL RIGHT, AND MANY OF THOSE QUESTIONS WERE
21 ABOUT STATEMENTS THAT YOU MADE?

22 A CORRECT.

23 Q IT IS TRUE THAT THROUGHOUT THIS INTERVIEW
24 YOU EITHER STRETCHED THE TRUTH OR LIED ABOUT INFORMATION
25 THAT YOU ALREADY HAD; IS THAT RIGHT?

OFFICER JACKSON - CROSS EXAM. BY MS. PRATT IN CAMERA

70

1 A I WOULDN'T SAY WE NECESSARILY LIED, WE MAY
2 HAVE --

3 Q WELL YOU DID SAY WITNESSES THAT SAID HE WAS
4 THE SHOOTER WHEN AT THAT TIME THERE WAS ONLY ONE, ISN'T
5 THAT RIGHT?

6 A WELL WE HAD A WITNESS THAT SAID HE WAS THE
7 SHOOTER.

8 Q THAT IS BIRD, ONE, NOT WITNESSES, CORRECT,
9 AND EVEN IN THE FIRST INTERVIEW, ISN'T IT TRUE THAT, THAT
10 HULL SAYS ON PAGE 38 OUT OF 50 WHEN BRIAN SAYS, "WHY IS HE
11 THE ONLY ONE? I'M SAYING I'M THE SHOOTER" AND HULL SAYS
12 "HE'S NOT THE ONLY ONE. DID I SAY HE'S THE ONLY ONE?"; YOU
13 WERE PRESENT FOR THAT, RIGHT?

14 A I WAS.

15 Q SO YA'LL WERE TRYING TO CONVINCE HIM THAT
16 THERE WERE LOTS OF PEOPLE OR AT LEAST MORE THAN ONE THAT
17 SAID HE WAS THE SHOOTER WHEN THAT JUST WASN'T TRUE AT THAT
18 POINT, THAT WAS NOT THE INFORMATION YOU HAD, CORRECT?

19 A WE WERE TRYING TO CONVINCE HIM TO TELL US
20 THE TRUTH, THAT WE HAD INFORMATION THAT HE WAS NOT AWARE
21 OF.

22 Q BY MAKING HIM BELIEVE THAT THERE WERE MORE
23 THAN ONE PERSON WHEN THAT WAS NOT THE TRUTH, CORRECT?

24 A IF THAT'S WHAT IT SAYS IN THE INTERVIEW.

25 Q OKAY, AND YOU TRIED TO USE THINK ABOUT YOUR

OFFICER JACKSON - CROSS EXAM. BY MS. PRATT IN CAMERA

71

1 MAMA, RIGHT, YOUR MAMA IS GOING TO BE UPSET, YOU KNOW,
2 THINK ABOUT HER, RIGHT?

3 A SURE.

4 Q OKAY, YOU EVEN, AND I, YOU EVEN MADE A
5 STATEMENT TO HIM THAT HE WAS SOME KIND OF A HERO IN THE
6 GANG FOR KILLING AARON, DIDN'T YOU, SOMETHING ALONG THOSE
7 LINES?

8 A I BELIEVE I DID MAKE THAT STATEMENT, YES, I
9 DID.

10 Q AND YET YOU DON'T HAVE ANY, DIDN'T HAVE ANY
11 INFORMATION IN REGARDS TO THAT, YOU WERE TRYING TO APPEAL
12 TO HIS EGO ---

13 A WE HAD INFORMATION ABOUT -- I'M SORRY.

14 Q --- TO HIS CONTRARY TO ALL OF THAT WHAT THE
15 GANG MIGHT HAVE THOUGHT, YOU HAVE NO IDEA WHAT THAT WAS, DO
16 YOU?

17 A NO, NOT OFF THE TOP OF MY HEAD, NO, I
18 DIDN'T.

19 Q JUST KIND OF DRAWING ON GENERAL KNOWLEDGE
20 THAT PEOPLE MIGHT HAVE IN REGARDS TO WHAT THEY THINK GANGS
21 DO OR THINK ---

22 A CORRECT.

23 Q --- OR EXPECT?

24 A THAT'S CORRECT.

25 Q YA'LL TRY TO PUSH HIM TO HAVE A POLYGRAPH

1 IN THIS?

2 A I BELIEVE WE DID OFFER HIM THE OPPORTUNITY
3 TO TAKE A POLYGRAPH.

4 Q AND YOU TELL HIM THAT BIRD HAD TAKEN A
5 POLYGRAPH IN THIS?

6 A YES, I BELIEVE WE DID TELL HIM THAT.

7 Q YOU DIDN'T TELL HIM THAT BIRD FAILED, DID
8 YOU?

9 A NO, WE DID NOT.

10 Q OKAY, AND EVEN SO IN THE SECOND INTERVIEW
11 HE MAINTAINS CLEARLY THAT HE WAS NOT THE SHOOTER THROUGHOUT
12 THIS?

13 A YES, HE DOES.

14 MS. PRATT: I HAVE NOTHING FURTHER.

15 MS. ELDER: NO OTHER QUESTIONS, YOUR HONOR.

16 THE COURT: ALL RIGHT, YOU MAY STEP DOWN. ALL
17 RIGHT, THEY TOLD ME I HAD TO BREAK AT 12 TODAY. WE'LL TAKE
18 THIS UP, MS. PRATT, ARE YOU GOING TO PUT UP YOUR CLIENT?

19 MS. PRATT: I DO NOT KNOW YET, YOUR HONOR.

20 THE COURT: OKAY, WE'RE GOING TO TAKE IT UP AT
21 2:00, OKAY?

22 MS. ELDER: YES, SIR, THANK YOU, YOUR HONOR.

23 MS. PRATT: THANK YOU, YOUR HONOR.

24 THE COURT: THANK YOU.

25 (WHEREUPON, COURT WAS RECESSED FOR LUNCH AND THE

1 FOLLOWING TAKES PLACE ON THE RECORD AFTER THE LUNCH
2 RECESS.)

3 THE COURT: MS. PRATT, THE STATE HAS RESTED, LET
4 ME HEAR FROM YOU.

5 MS. PRATT: YOUR HONOR, MY CLIENT DOES NOT WISH
6 TO TESTIFY.

7 THE COURT: WILL YOU PUT UP ANY EVIDENCE?

8 MS. PRATT: NO, YOUR HONOR.

9 THE COURT: ALL RIGHT, YOU WANT TO ARGUE THIS,
10 LADIES? MS. ELDER?

11 MS. ELDER: YOUR HONOR, OBVIOUSLY THE PURPOSE OF
12 THE DENNO HEARING AS YOUR HONOR WELL KNOWS IS TO SHOW THAT
13 ANY STATEMENT OBTAINED ---

14 THE COURT: VOLUNTARINESS.

15 MS. ELDER: --- WHAT THEIR CUSTODIAL
16 INTERROGATION WAS DONE VOLUNTARY, IT WAS DONE AFTER THE
17 ACKNOWLEDGMENT OF RIGHTS, THE WAIVER OF THOSE RIGHTS. I
18 BELIEVE BASED ON THE TESTIMONY OF BOTH OF THE INVESTIGATORS
19 IN THIS CASE THAT IS HOW IT WAS DONE. THE MIRANDA WARNINGS
20 ARE IN THE RECORD. BOTH TESTIFIED THAT HE DID NOT APPEAR
21 OBVIOUSLY TO BE UNDER ANY KIND OF DURESS, THAT HE
22 UNDERSTOOD EVERYTHING HE WAS DOING.

23 I BELIEVE WE'VE MET THE BURDEN AT THIS POINT TO
24 SHOW THAT ANY STATEMENT THAT WAS WE WANT TO ELICIT FROM
25 THESE INTERVIEWS WAS IN FACT DONE WITH A VOLUNTARY WAIVER

1 UNDER NOT ONLY THE CONSTITUTIONAL PROVISION AND BUT ALSO
2 UNDER THE DUTIES OF MIRANDA ITSELF.

3 THE QUESTIONS THAT WERE RAISED BY THE DEFENSE
4 REGARDING THE QUESTIONS THAT WERE ASKED AND WHETHER OR NOT
5 POLICE LED HIM TO BELIEVE THINGS THAT WEREN'T TRUE HAVE
6 BEEN ACCEPTED BY THE COURT AND PERMISSIBLE FOR LAW
7 ENFORCEMENT TO USE DURING INTERROGATION. I DON'T THINK
8 ANYTHING THAT CAME OUT DURING THE TESTIMONY ROSE TO A LEVEL
9 OF SOMETHING THAT WOULD SHOCK THE CONSCIENCE AS FAR AS ANY
10 QUESTIONS THAT WERE ASKED OR APPROACHED TO MR. SPEARS. THE
11 FIRST INTERVIEW WAS DONE AT A CONFERENCE ROOM. IT WASN'T
12 REALLY DONE IN A SITUATION THAT WOULD APPEAR UNDULY. IT
13 WASN'T BEHIND BARS, IT WASN'T IN A CELL, IT WAS ACTUALLY IN
14 A CONFERENCE ROOM WITH PEOPLE COMING OUT AND IN.

15 AS FAR AS THE SECOND INTERVIEW, IT WAS DONE IN AN
16 INTERVIEW ROOM. THERE WAS NOTHING TO SUGGEST THAT ANYBODY
17 UNDULY COERCED MR. SPEARS IN EITHER ONE OF THOSE.

18 AS FAR AS THE FIRST INTERVIEW, YOUR HONOR, HE
19 OBVIOUSLY WASN'T COERCED BECAUSE HE CONTINUED TO MAINTAIN
20 FOR 40 MINUTES THAT HE WAS NEVER IN MYRTLE BEACH.

21 THE SECOND INTERVIEW HE FINALLY ADMITS AT SOME
22 POINT IN TIME, OKAY, WELL I WAS THERE BUT THIS IS WHAT
23 HAPPENED AND THEN POINTS THE FINGER AT THE OTHER
24 CODEFENDANT SO I THINK OBVIOUSLY YOU TAKE THE BULK OF BOTH
25 OF THOSE TOGETHER I THINK IT WAS CLEARLY MADE AFTER A

1 KNOWING INTELLIGENT WAIVER OF HIS RIGHTS, YOUR HONOR.

2 THE COURT: ALL RIGHT, MS. PRATT?

3 MS. PRATT: YOUR HONOR, I HAD AN OPPORTUNITY TO
4 DISCUSS IT WITH MY CLIENT. WHILE I DO BELIEVE THAT HE FELT
5 HE WAS UNDER SOME PRESSURE AND COERCION AND DURESS, EXCUSE
6 ME, I DO BELIEVE THAT THE FACT THAT HE DID NOT BREAK AND
7 MAKE SOME KIND OF A STATEMENT OTHER THAN WHAT HE DID IS
8 INDICATIVE THAT HE, THAT HE WAS NOT, IT WAS NOT AN
9 INVOLUNTARY SITUATION, I UNDERSTAND THAT.

10 ONE OF THE THINGS I DO WANT TO POINT OUT TO THE
11 COURT AND I THINK THE SOLICITOR AND I HAVE TENTATIVELY
12 ADDRESSED IT, IS THAT THE CONTENT OF BOTH OF THESE
13 STATEMENTS CONTAINS ALL KINDS OF THINGS THAT CERTAINLY
14 WOULD NOT BE NECESSARILY RELEVANT, MIGHT BE EXCLUDABLE
15 UNDER A 403 ANALYSIS AND ---

16 THE COURT: I THINK THERE'S BEEN TALK ABOUT
17 POLYGRAPHS AND ALL KINDS OF THINGS.

18 MS. PRATT: YEAH, THERE'S A LOT OF DIFFERENT,
19 INCLUDING SOME OF THE THINGS THAT WE'RE GOING TO TALK
20 ABOUT, THE WALMART SITUATION AND OTHERS. THE SOLICITOR AND
21 I THINK AT THIS POINT SHE HAS STATED TO ME THAT SHE'S NOT
22 PLANNING TO PLAY THE STATEMENT ITSELF BUT SIMPLY ELICIT
23 TESTIMONY. SO LONG AS THE STATEMENT ISN'T PLAYED
24 UNREDACTED OR THESE OTHER THINGS COME IN I CERTAINLY
25 UNDERSTAND THAT SOME THINGS THAT MY CLIENT SAID ARE GOING

1 TO BE ABLE TO BE TESTIFIED TO BY THE APPROPRIATE OFFICER AT
2 THE APPROPRIATE TIME.

3 THE COURT: OKAY, ALL RIGHT, I'M GOING TO MAKE A
4 SPECIFIC FINDING ON THE RECORD BASED ON MY OBSERVATION OF
5 THE DEFENDANT'S TESTIMONY CONCERNING HIS EDUCATIONAL LEVEL,
6 HIS ABILITY TO READ AND WRITE, HIS AGE, HIS MATURITY, HIS
7 UNDERSTANDING OF THE PROCEEDINGS, THE LENGTH OF THE TWO
8 INTERROGATIONS, THE METHODS USED IN THE INTERROGATIONS, THE
9 LOCATION AND ENVIRONMENT IN WHICH THE DEFENDANT WAS IN, AND
10 AS I SAID THE QUESTIONS ASKED, I DON'T THINK THAT THERE'S
11 ANY EVIDENCE OF ANY COERCIVE POLICE ACTIVITY INVOLVED WITH
12 THESE INTERROGATIONS AND I THINK THE STATE HAS MET ITS
13 BURDEN IN THIS MATTER. I BELIEVE THAT BURDEN IS BY THE
14 PREPONDERANCE OF THE EVIDENCE. THEREFORE, I'M GOING TO
15 FIND THAT THE STATEMENTS WERE IN FACT VOLUNTARY.

16 OKAY, NOW WHAT DO WE HAVE NEXT?

17 MS. ELDER: YOUR HONOR, THE ONLY OTHER THING I
18 WOULD ASK, AND I DON'T THINK, I WOULD ASSUME MS. PRATT IS
19 NOT GOING TO DO THIS, BUT TO REFRAIN EMOTIONALLY OR REFRAIN
20 IN ANY OPENING OR CLOSING ANY REFERENCE TO PENALTIES OR
21 POTENTIAL PENALTIES FOR THIS PARTICULAR OFFENSE.

22 THE COURT: MS. PRATT KNOWS THAT'S NOT
23 APPROPRIATE, SHE'S KNOWS THAT. SHE WOULDN'T TALK ABOUT
24 PENALTIES.

25 MS. PRATT: WELL, YOUR HONOR, I WASN'T PLANNING

1 TO DO IT IN OPENING BUT WE MIGHT AS WELL RAISE THAT AT THIS
2 POINT. MR. BETHEA HAS MADE A CLEAR DEAL FOR A SPECIFIC
3 AMOUNT OF TIME AND I BELIEVE UNDER THE CASE LAW I WILL BE
4 ENTITLED TO CROSS EXAMINE HIM.

5 THE COURT: YEAH, I WOULD LET YOU ASK MR. BETHEA
6 OF WHAT KIND OF DEAL HE'S MADE, I'M TALKING ABOUT YOUR
7 CLIENT'S CHARGES.

8 MS. PRATT: OH, NO, I WILL NOT USE THAT.

9 MS. ELDER: THAT HE LIED, ANY OF THOSE ---

10 MS. PRATT: I WASN'T GOING TO DO THAT.

11 THE COURT: YEAH, I DON'T WANT YOU TO SPEAK OF
12 IT IN REFERENCE TO YOUR CLIENT AND YOU KNOW NOT TO DO THAT
13 BUT, OF COURSE, YOU'RE GOING TO HAVE TO CROSS EXAMINE MR.
14 BETHEA AS TO ANY FAVORITISM OR DEALS THAT HE MAY HAVE MADE
15 AND I'M GOING TO LET YOU IN FACT DO THAT.

16 LADIES, I WANT YOU TO MAKE SURE THAT WE'VE
17 EXCHANGED THE MATERIALS THAT WE WERE TALKING ABOUT. I
18 BELIEVE, MS. ELDER, YOU WERE GOING TO GET HER AN AUDIO OF A
19 STATEMENT IF IT EXISTS.

20 MS. ELDER: YES, YOUR HONOR, WHAT I'VE GOT ON
21 THIS IS JUST THE AUDIO. SHE HAS THAT, BUT WE HAVE PULLED
22 THE ORIGINAL CASSETTE FROM EVIDENCE ---

23 THE COURT: THE VISUAL.

24 MS. ELDER: IT'S ON 8MM.

25 THE COURT: DETECTIVE ALLEN, YOU CAN PRODUCE

1 ONE?

2 MS. ELDER: WE'VE GOT THE EQUIPMENT DOWNSTAIRS.
3 I DON'T KNOW IF I'M CAPABLE OF ACTUALLY MAKING A COPY BUT
4 WE CAN CERTAINLY, I THINK WE'VE GOT A PLAYER WE HAVE TO
5 FIND, AN 8MM PLAYER CAUSE NOTHING PLAYS ON THAT ANYMORE,
6 AND IF MS. PRATT CAN COME DOWNSTAIRS WE'LL TRY TO GET THAT
7 UP SO SHE CAN SEE, AT LEAST VISUALLY SEE IT.

8 THE COURT: OKAY.

9 MS. ELDER: I DON'T KNOW IF I CAN COPY IT,
10 THOUGH, BECAUSE IT'S ON 8MM.

11 THE COURT: OKAY, AND I BELIEVE THAT THERE WAS
12 AN ISSUE ABOUT SOME RAP LYRICS THAT YOU'RE GOING TO
13 EXCHANGE AND WE'LL DEAL WITH THAT AGAIN WHEN I'VE HAD AN
14 OPPORTUNITY TO LOOK AT IT.

15 WAS THERE ANYTHING ELSE THAT, MS. PRATT, THAT YOU
16 WERE LOOKING FOR?

17 MS. PRATT: I BELIEVE THOSE WERE THE TWO THINGS,
18 YOUR HONOR, AND I UNDERSTOOD THAT I WOULD FIND OUT WHICH 10
19 ITEMS THOSE WERE TODAY.

20 MS. ELDER: APPROXIMATELY, I'VE GOT THEM MARKED
21 IN MY BOOK, YOUR HONOR, AND WHAT I'LL PROBABLY DO IS I JUST
22 NEED TO, IT PROBABLY WILL BE EASIER FOR ME JUST TO MAKE A
23 COPY AGAIN TO GIVE MS. PRATT, SHE'S GOT IT ALREADY. BUT IT
24 WILL PROBABLY BE JUST SIMPLER IF I COPY THE ONES I INTEND
25 TO BRING UP.

1 MS. PRATT: OKAY.

2 THE COURT: ALL RIGHT, OKAY, ANYTHING ELSE I CAN
3 DO FOR YOU LADIES TODAY?

4 MS. ELDER: THE JURY COMES BACK AT 9:30, IS THAT
5 CORRECT?

6 THE COURT: YES, AND REMEMBER I'VE GOT TO
7 QUALIFY. JUDGE COTTINGHAM IS NOT GOING TO BE HERE SO WE
8 PROBABLY AREN'T GOING TO GET STARTED UNTIL LATER IN THE
9 MORNING. I HATE THAT, BUT THAT'S THE BEST WE CAN DO, AND
10 WE'VE TAKEN CARE OF ALL THE MOTIONS HERE AND SO WHETHER I
11 DO IT OR JUDGE, I CAN PROBABLY DO IT FASTER THAN JUDGE
12 JOHN, MINE USUALLY MOVES ALONG A LITTLE FASTER BUT WE'LL
13 GET THEM DONE.

14 DO YOU HAVE AN IDEA AS TO HOW MANY JURORS WE
15 NEED? I LIKE TO SEPARATE OUT A RANDOM POOL AND BRING THEM
16 UP AND QUALIFY THEM AS TO THE SPECIFIC CASE HERE IN THE
17 COURTROOM?

18 MS. ELDER: I USUALLY ASK FOR ABOUT 45, YOUR
19 HONOR, ON A MURDER.

20 THE COURT: FORTY-FIVE.

21 MS. PRATT: I HAVE 10 STRIKES SO THAT WOULD
22 COVER THAT.

23 MS. ELDER: YES, YOUR HONOR, 45 SOUNDS GOOD.

24 THE COURT: I THINK WE CAN QUALIFY A JURY OUT OF
25 45, OKAY. THE MOST WE WOULD NEED WOULD BE 32 AND YOUR

1 STRIKES, FIVE, 37, MAYBE I BETTER HAVE THEM BRING 50 UP,
2 OKAY.

3 MS. ELDER: YES, SIR.

4 THE COURT: WHO'S HERE WITH ME FROM THE CLERK'S
5 OFFICE? CAN YOU HAVE THEM BRING ME 50 UP IN THE MORNING?

6 MADAM CLERK: YES, SIR.

7 THE COURT: OKAY, ALL RIGHT, WE'LL SEE YOU IN
8 THE MORNING.

9 MS. ELDER: THANK YOU, YOUR HONOR.

10 THE COURT: IF YOU LADIES HAVE ANYTHING ELSE
11 PLEASE LET ME KNOW BY, I'LL BE HERE BEFORE NINE, OKAY?

12 MS. ELDER: YES, SIR.

13 (WHEREUPON, COURT WAS ADJOURNED FOR THE EVENING
14 AND RESUMES ON MAY 11, 2010 AT (9:30 A.M.)

15 THE COURT: LADIES AND GENTLEMEN, WE ARE ABOUT
16 TO BEGIN THE TRIAL OF THE CASE OF THE STATE OF SOUTH
17 CAROLINA V. BRIAN FREDERICK SPEARS. AS I TOLD YOU DOWN IN
18 THE JURY ROOM WE'RE GOING TO ENGAGE AT THIS POINT IN SOME
19 VERY SPECIFIC QUALIFICATIONS CONCERNING THIS PARTICULAR
20 CASE.

21 OUR TASK HERE IS TO DETERMINE WHETHER OR NOT YOU
22 CAN BE FAIR AND IMPARTIAL AS JURORS. THAT IS THE KEYSTONE
23 OF OUR JUDICIAL SYSTEM, THAT IS EVERYBODY IS ENTITLED,
24 WHETHER IT BE THE STATE OR THE DEFENSE, TO HAVE A FAIR AND
25 IMPARTIAL JURY AND THAT'S THE REASON FOR THE QUESTIONS THAT

1 I'M GOING TO ASK YOU.

2 NOW I WANT TO TELL YOU A LITTLE BIT ABOUT THIS
3 CASE AND WHAT I'M GOING TO DO IS BASICALLY TELL YOU WHAT IS
4 CONTAINED IN THE INDICTMENTS. MOST OF YOU PROBABLY KNOW
5 THAT A CASE DOES NOT COME BEFORE THE CIRCUIT COURT UNLESS
6 AN INDICTMENT HAS BEEN TRUE BILLED OR PRESENTED BY THE
7 GRAND JURY.

8 LET ME SAY THIS WHAT IS CONTAINED IN AN
9 INDICTMENT IS NOT EVIDENCE AND WHAT I TELL YOU NOW IS NOT
10 EVIDENCE. WHAT I'M GOING TO TELL YOU IS WHAT THE STATE
11 ALLEGES THAT IT CAN SHOW IN A TRIAL BUT YOU MUST NOT
12 CONSIDER THIS IN ANY FORM OR FASHION AS EVIDENCE IN THIS
13 CASE.

14 YOUR DELIBERATIONS AT THE END OF THIS CASE WILL
15 BE BASED SOLELY ON WHAT YOU HEAR FROM THIS WITNESS STAND
16 AND THE EXHIBITS THAT ARE INTRODUCED INTO COURT, SO WHEN I
17 TELL YOU I LOOK OVER THIS INDICTMENT TO GIVE YOU AN IDEA OF
18 WHAT CASE WE ARE TALKING ABOUT THAT INFORMATION IS NOT
19 EVIDENCE. IT'S MERELY AN ALLEGATION MADE AGAINST MR.
20 SPEARS, OKAY.

21 IT IS ALLEGED THAT MR. SPEARS ALONG WITH
22 CODEFENDANTS DID IN HORRY COUNTY ON OR ABOUT MAY THE 27TH
23 OF 2007 COMMIT AN UNLAWFUL ACT OF VIOLENT INJURY TO THE
24 VICTIM LASHEIKA FELTON WITH MALICE BY SHOOTING SAID VICTIM
25 THUS COMMITTING THE CRIME OF ASSAULT AND BATTERY WITH

1 INTENT TO KILL IN VIOLATION OF THE LAWS OF THIS STATE.

2 IT IS FURTHER ALLEGED BY A SEPARATE INDICTMENT
3 THAT ON OR ABOUT THAT SAME DAY MARCH THE 27TH OF 2007 THAT
4 MR. SPEARS ALONG WITH CODEFENDANTS DID COMMIT AN UNLAWFUL
5 ACT OF VIOLENT INJURY TO THE VICTIM DJUAN QUINTELL MONROE
6 WITH MALICE BY SHOOTING SAID VICTIM THUS COMMITTING THE
7 CRIME OF ASSAULT AND BATTERY WITH INTENT TO KILL AGAIN IN
8 VIOLATION OF THE LAWS OF THIS STATE.

9 IT IS FURTHER ALLEGED THAT ON OR ABOUT MAY 27TH,
10 AGAIN THE SAME DAY, 2007 THAT MR. SPEARS ALONG WITH
11 CODEFENDANTS DID COMMIT AN UNLAWFUL ACT OF VIOLENT INJURY
12 TO THE VICTIM KRYSTAL FOWLER WITH MALICE BY SHOOTING SAID
13 VICTIM THUS COMMITTING THE CRIME OF ASSAULT AND BATTERY
14 WITH INTENT TO KILL IN VIOLATION OF THE LAWS OF THIS STATE.

15 AND, FINALLY, IT IS ALLEGED THAT ON OR ABOUT MAY
16 THE 27TH OF 2007 THE DEFENDANT BRIAN KENDRICK SPEARS DID
17 ALONG WITH CODEFENDANTS WILLFULLY, FELONIOUSLY, AND
18 INTENTIONALLY KILL THE VICTIM AARON HAMMONDS WITH MALICE
19 AFORETHOUGHT EITHER EXPRESSED OR IMPLIED BY MEANS OF
20 SHOOTING THE VICTIM AND THE VICTIM DID DIE AS A PROXIMATE
21 RESULT THEREOF ON OR ABOUT MAY THE 27TH OF 2007.

22 NOW YOU HAVE HEARD ME SAY THAT IT IS ALLEGED THAT
23 THIS OCCURRED ON MAY THE 27TH OF 2007 AND WHAT THE OFFENSES
24 ALLEGEDLY OCCURRING WERE. LET ME ADD TO THAT THAT THIS
25 EVENT OCCURRED IN THE MYRTLE BEACH AREA. I TELL YOU THAT

1 BECAUSE I WANT YOU TO HAVE A BASIC UNDERSTANDING OF THE
2 FACTS SURROUNDING THE CASE AS ALLEGED AGAIN JUST AS THEY
3 ARE ALLEGED.

4 NOW I WANT TO ASK YOU SOME QUESTIONS THAT MAY BE
5 A LITTLE MORE SPECIFIC ABOUT THIS CASE AND BEFORE I BEGIN I
6 WANT YOU TO EACH STAND UP. I KNOW I PUT YOU UNDER OATH,
7 THE CLERK PUT YOU UNDER OATH DOWNSTAIRS BUT WE'RE GOING TO
8 PUT YOU UNDER OATH AGAIN. A LOT F SWEARING GOES ON IN THIS
9 COURTROOM. IF YOU WOULD, PLEASE, STAND AND, CLERK, WOULD
10 YOU GIVE THEM THE OATH.

11 (WHEREUPON, THE JURY POOL WAS SWORN.)

12 THE COURT: ALL RIGHT, NOW WE PLACE YOU UNDER
13 OATH BECAUSE YOUR RESPONSES TO THESE QUESTIONS ARE SO
14 IMPORTANT. THE ATTORNEYS ARE ENTITLED TO KNOW CERTAIN
15 THINGS ABOUT YOU AND ABOUT THIS CASE BEFORE THEY BEGIN THE
16 JURY SELECTION.

17 WHEN YOU WERE SUMMONED AS JURORS YOU MAY HAVE
18 FILLED OUT A LITTLE ORANGE OR A PINK SLIP OF PAPER THAT
19 GAVE SOME BASIC INFORMATION AND THAT'S BEEN MADE AVAILABLE
20 TO THE ATTORNEYS, IT IS IN EVERY CASE, SO THEY HAVE A
21 LITTLE BIT OF BACKGROUND ABOUT YOU, BUT THEY WANT TO KNOW
22 WHAT YOU KNOW SPECIFICALLY ABOUT THIS CASE AND IT'S
23 IMPORTANT THAT YOU ANSWER THESE QUESTIONS TRUTHFULLY.

24 FIRST OF ALL LET ME ASK YOU HAS ANYONE EVER BEEN
25 RELATED BY BLOOD OR MARRIAGE TO EITHER THE DEFENDANT, AND

1 AGAIN THE DEFENDANT IS MR. BRIAN KENDRICK SPEARS, AND, MR.
2 SPEARS, I'LL ASK YOU TO STAND UP AND TURN AROUND SO THAT
3 YOU CAN SEE THE JURY. MR. SPEARS AS I UNDERSTAND IT IS
4 FROM LUMBERTON, NORTH CAROLINA; IS THAT CORRECT, MS. PRATT?

5 MS. PRATT: YES, YOUR HONOR, IT IS.

6 THE COURT: ALL RIGHT, MR. SPEARS, YOU MAY HAVE
7 A SEAT. MR. SPEARS IS THE DEFENDANT. IN THIS CASE THE
8 VICTIMS ARE LASHEIKA FELTON, DJUAN QUINTELL MONROE, KRYSTAL
9 FOWLER, AND AARON HAMMONDS.

10 NOW ARE ANY OF YOU RELATED BY BLOOD OR MARRIAGE
11 TO EITHER THE DEFENDANT OR ANY OF THESE VICTIMS?

12 AND THERE IS NO RESPONSE.

13 HAS ANYONE EVER HAD A CLOSE PERSONAL OR SOCIAL
14 RELATIONSHIP WITH EITHER THE DEFENDANT OR THOSE VICTIMS?

15 AND THERE IS NO RESPONSE.

16 I SAY THAT SO THAT OUR, OUR COURT REPORTER CAN
17 PLACE ON THE RECORD ANY RESPONSE THAT YOU MAY HAVE MADE.

18 THE FOLLOWING IS A LIST OF PEOPLE WHO MAY BE
19 CALLED AS WITNESSES IN THIS CASE. IT'S A RATHER
20 COMPREHENSIVE LIST. I'VE BEEN PROVIDED A LIST BY THE STATE
21 AND THE DEFENDANT. I DO THAT BECAUSE IT'S IMPORTANT THAT
22 WE KNOW IF YOU ARE RELATED BY BLOOD OR MARRIAGE TO ANY OF
23 THESE PEOPLE WHO ARE POTENTIAL WITNESSES OR IF YOU ARE A
24 CLOSE PERSONAL FRIEND OR HAVE ANY SOCIAL RELATIONSHIP WITH
25 THESE PEOPLE; AND I'M GOING TO GO DOWN THE LIST AND I'M

1 SURE I'M GOING TO REPEAT SOME NAMES BECAUSE I ASKED EACH OF
2 THEM TO PROVIDE ME WITH NAMES OF ANY WITNESSES THEY THINK
3 THAT MIGHT POSSIBLY TESTIFY IN THIS CASE.

4 YOU'RE GOING TO FIND DURING THE TRIAL OF THIS
5 CASE A LOT OF THESE WITNESSES PROBABLY WON'T TESTIFY OR MAY
6 NOT BE NECESSARY. DON'T PLACE ANY IMPORTANCE AT ALL ON THE
7 FACT THAT YOU MAY HEAR A WITNESS' NAME CALLED BUT YOU DON'T
8 SEE THAT WITNESS IN TRIAL, THAT SHOULD NOT CONCERN YOU AT
9 ALL, BUT THESE ARE POTENTIAL WITNESSES.

10 DJUAN QUINTELL MONROE;
11 KRYSTAL FOWLER;
12 LASHEIKA FELTON;
13 JEFFREY BETHEA;
14 NATHANIEL DOUGLAS;
15 LEMARK IRONS;
16 MATT JENKINS;
17 DESMOND MONROE;
18 CHARLES SINCLAIR;
19 BRITTANY MAYNOR;
20 ALEXIS DENISE BROWN;
21 KIMBERLY ROCHELLE DANIELS;
22 KIMBERLY LYNN TWYMAN, THAT'S T-W-Y-M-A-N;
23 JOHN WESLEY WILLIAMS;
24 DR. EDWARD PROCTOR;
25 TRAVIS PRESTON;

1 JONATHAN PLANTON;
2 DETECTIVE MICHAEL HULL;
3 DAVID GRAZIOSO, GRAZIOSO; IS THAT CORRECT?
4 MARK JACKSON;
5 WILLIAM KITELINGER;
6 CAROL ALLEN;
7 PATRICIA DANIELS;
8 BRYAN TRUEX;
9 KANDI MCSPADDEN;
10 BOBBY JORDAN;
11 ROBERT URSITS;
12 TAMMY BANNISTER;
13 STEPHANIE STANLEY;
14 JANICE BRYSON;
15 RICK CHARLES;
16 CAL REIGHLEY;
17 BRAD KELLER;
18 LIEUTENANT, IS IT DESOTO OR D. SOTO?
19 MS. ELDER: D. SOTO, YOUR HONOR.
20 THE COURT: THE LAST NAME IS D. SOTO?
21 MS. ELDER: YES, SIR, YOUR HONOR.
22 THE COURT: AND HE IS WITH RICHLAND COUNTY
23 SHERIFF'S DEPARTMENT?
24 MS. ELDER: THAT'S CORRECT.
25 THE COURT: BILL LANDRUM;

1 DANYELL HAMMONDS;

2 TIMOTHY SMITH;

3 SUZANNE CROMER;

4 AND LYNN BAKER.

5 AND MY COURT REPORTER SAYS THAT I CALLED NUMBER

6 NINE AS DESMOND MONROE AND I SHOULD HAVE SAID DESMOND

7 MOORE, I APOLOGIZE FOR THAT. SO DESMOND MOORE.

8 TRAVIS PRESTON;

9 ALEXIS BROWN;

10 LAMAR IRONS;

11 BRITTANY MANOR;

12 JESSICA MCNAIR;

13 CHARLES SINCLAIR;

14 SELENA MANN;

15 BOBBY JORDAN;

16 MICHAEL HULL;

17 R. URSITS;

18 SHAKIRAH GORDON;

19 MATTHEW JENKINS;

20 JEFFREY BETHEA;

21 NATHANIEL DOUGLAS;

22 MAGGIE SPEARS;

23 DESMOND MOORE;

24 DANTE MCNEIL;

25 DR. EDWARD PROCTOR;

1 CURTIS ANTONIO FLOYD;
2 MARK JACKSON;
3 DANYELL JANAE HAMMONDS;
4 PATROLMAN KITELINGER WITH THE MYRTLE BEACH POLICE
5 DEPARTMENT;
6 JOSEPH D. POWELL;
7 DEANDRE BISHOP;
8 TERRY DOUGLAS;
9 SUZANNE CROMER;
10 TRAVIS JOHNSON;
11 SHARON MYERS;
12 AND REGINA STRICKLAND.

13 IF YOU ARE RELATED BY BLOOD OR MARRIAGE TO ANY OF
14 THE PEOPLE THAT I HAVE NAMED OR IF YOU HAVE A CLOSE
15 PERSONAL OR SOCIAL RELATIONSHIP WITH THOSE PEOPLE I'D ASK
16 YOU TO PLEASE STAND?

17 YES, MA'AM?

18 JURY PANEL MEMBER: I WORKED FOR DR. PROCTOR FOR
19 APPROXIMATELY FIVE YEARS ALMOST 20 YEARS AGO.

20 THE COURT: ALL RIGHT, AND YOUR NAME?

21 JURY PANEL MEMBER: ANNEKE AALTO, JUROR NUMBER
22 1.

23 THE COURT: OKAY, AND WOULD THE FACT THAT YOU
24 HAVE PREVIOUSLY WORKED FOR DR. PROCTOR IN ANY WAY AFFECT
25 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

1 JURY PANEL MEMBER: NO.

2 THE COURT: IT WOULD NOT?

3 JURY PANEL MEMBER: NO, SIR.

4 THE COURT: COULD YOU SET THE FACT THAT YOU
5 WORKED FOR DR. PROCTOR ASIDE AND GIVE HIS TESTIMONY NO
6 GREATER WEIGHT THAN YOU WOULD ANY OTHER WITNESS?

7 JURY PANEL MEMBER: I WOULD GIVE HIS TESTIMONY A
8 GREAT DEAL OF WEIGHT.

9 THE COURT: ALL RIGHT, DO YOU FEEL THAT YOU
10 WOULD NOT BE ABLE TO SET THAT ASIDE?

11 JURY PANEL MEMBER: NO.

12 THE COURT: YOU WOULD NOT BE ABLE TO?

13 JURY PANEL MEMBER: I WOULD BE ABLE TO SET THAT
14 ASIDE.

15 THE COURT: YOU WOULD BE ABLE TO? ALL RIGHT,
16 THANK YOU, MA'AM. AND WHO ELSE? I THOUGHT I SAW SOMEONE
17 ELSE'S HAND.

18 JURY PANEL MEMBER: MY NEXT DOOR NEIGHBOR IS
19 BRIAN TRUEX, I DON'T KNOW WHETHER THAT'S --

20 THE COURT: YOU'RE NOT GOING TO HOLD THAT
21 AGAINST HIM, ARE YOU?

22 JURY PANEL MEMBER: NO, NOT QUITE.

23 THE COURT: ALL RIGHT, WOULD THE FACT THAT HE IS
24 YOUR NEIGHBOR PREVENT YOU FROM BEING A FAIR AND EFFECTIVE
25 JUROR?

1 JURY PANEL MEMBER: NO, SIR.

2 THE COURT: COULD YOU RENDER FAIR JURY SERVICE
3 AND GIVE BOTH THE STATE AND THE DEFENSE A FAIR TRIAL IN
4 THIS CASE?

5 JURY PANEL MEMBER: YES, SIR.

6 THE COURT: COULD YOU SET THAT ASIDE AND GIVE
7 MR. TRUEX TESTIMONY NO GREATER WEIGHT THAN YOU WOULD ANYONE
8 ELSE, IT'S JUST BECAUSE HE'S YOUR NEIGHBOR?

9 JURY PANEL MEMBER: YES, SIR.

10 THE COURT: YOU COULD DO THAT?

11 JURY PANEL MEMBER: YES, SIR.

12 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

13 MS. ELDER: DO YOU KNOW HIS NUMBER, PLEASE SIR?

14 THE COURT: AND YOUR NUMBER, SIR? I FORGOT TO
15 GET YOUR NUMBER.

16 JURY PANEL MEMBER: 248.

17 THE COURT: AND YOUR NAME?

18 JURY PANEL MEMBER: PHILLIP MARTIN.

19 THE COURT: ALL RIGHT, MR. MARTIN, THANK YOU
20 VERY MUCH, OKAY.

21 HAS ANY MEMBER OF THE JURY PANEL EVER BEEN
22 REPRESENTED BY THE ATTORNEYS IN THIS CASE, AND LET ME TELL
23 YOU WHO THEY ARE, GOT MS. BARBARA PRATT WHO HAS BEEN HERE
24 IN HORRY COUNTY FOR SOME TIME. SHE IS A SOLE PRACTITIONER IN
25 HORRY COUNTY, PRACTICING IN THE CIVIL AND THE CRIMINAL

1 COURTS.

2 SEATED AT THE STATE'S TABLE IS MR. LARRY
3 FILIBERTO. MR. FILIBERTO, STAND UP THERE, WE HAVEN'T HAD A
4 LOOK AT YOU YET. MR. FILIBERTO IS AN ATTORNEY WITH THE
5 SOLICITOR'S OFFICE WITH THE FIFTEENTH JUDICIAL CIRCUIT.
6 OCCASIONALLY HE MAY HAVE DUTIES CARRY HIM OVER INTO
7 GEORGETOWN COUNTY BUT HIS PRACTICE IS LIMITED TO
8 PROSECUTION FOR THE STATE AND PRIMARILY IN HORRY COUNTY; IS
9 THAT CORRECT, MR. FILIBERTO?

10 MR. FILIBERTO: YES, SIR.

11 THE COURT: ALL RIGHT, AND SEATED WITH HIM IS
12 MS. DONNA ELDER. MS. ELDER IS ALSO AN ATTORNEY OR
13 PROSECUTOR WITH THE SOLICITOR'S OFFICE HERE IN THE
14 FIFTEENTH CIRCUIT. AGAIN SHE MAY OCCASIONALLY GO OVER INTO
15 GEORGETOWN COUNTY WHICH IS PART OF OUR CIRCUIT BUT
16 GENERALLY SPEAKING MS. ELDER'S PRACTICE IS LIMITED TO
17 CRIMINAL PROSECUTION AND SHE PRACTICES HERE IN HORRY
18 COUNTY.

19 NOW IS ANYONE RELATED BY BLOOD OR MARRIAGE OR ARE
20 YOU A CLOSE PERSONAL FRIEND OF OR YOU HAVE A SOCIAL
21 RELATIONSHIP WITH OR HAVE YOU BEEN REPRESENTED BY ANY OF
22 THESE ATTORNEYS?

23 MS. PRATT: MAY I ALSO STATE THAT I PRACTICED
24 UNDER THE LAST NAME OF CREW FOR SEVERAL YEARS.

25 THE COURT: AND SHE DID, I FORGOT THAT. MS.

1 PRATT ALSO PRACTICED UNDER BARBARA CREW. ALL RIGHT, ANYONE
2 HAVE A CLOSE PERSONAL RELATIONSHIP, RELATED BY BLOOD OR
3 MARRIAGE OR BEEN REPRESENTED BY ANY OF THESE ATTORNEYS?

4 ALL RIGHT, NOW I TOLD YOU A LITTLE BIT ABOUT THIS
5 CASE AND THAT WAS IN PREPARATION FOR THIS QUESTION. HAS
6 ANYONE ON THIS JURY PANEL EXPRESSED AN OPINION OR HAVE YOU
7 FORMED AN OPINION ABOUT ANY OF THE ISSUES OR MATTERS
8 INVOLVED IN THIS CASE? NOW I TOLD YOU WHAT THE CASE WAS
9 ABOUT, DO YOU KNOW ANYTHING ABOUT THE CASE?

10 WERE YOU A WITNESS?

11 WERE YOU IN THE AREA WHEN IT TOOK PLACE?

12 DID YOU DRIVE BY AND SEE THE POLICE THERE?

13 DO YOU KNOW ANYTHING ABOUT THIS CASE OR HAVE YOU
14 FORMED AN OPINION OR EXPRESSED AN OPINION, TOLD ANYTHING
15 ABOUT YOUR THOUGHTS CONCERNING THIS CASE?

16 AND THERE IS NO RESPONSE.

17 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS
18 AWARE OF ANY BIAS OR PREJUDICE TOWARDS EITHER THE STATE OR
19 THE DEFENDANT MR. SPEARS IN THIS CASE?

20 (NO RESPONSE.)

21 IS THERE ANY MEMBER, AND I THINK WE COVERED THIS
22 ADEQUATELY DOWNSTAIRS BUT I WANT TO MAKE SURE, IS THERE ANY
23 MEMBER OF THE JURY PANEL THAT WAS A MEMBER OF THE GRAND
24 JURY WHICH ISSUED THE INDICTMENTS IN THIS CASE?

25 THERE'S NO RESPONSE.

1 IS THERE ANY MEMBER OF THE PANEL WHO IS A MEMBER
2 OF OR A CONTRIBUTOR TO ANY GROUP WHICH HAS AS ITS PRIMARY
3 CONCERN THE PROMOTION OF LAW ENFORCEMENT OR VICTIM'S RIGHTS
4 AND THESE GROUPS WOULD BE GROUPS LIKE, IT CERTAINLY WOULD
5 NOT BE EXHAUSTIVE BUT IT WOULD INCLUDE, GROUPS LIKE MADD OR
6 SADD, CAVE, CITIZENS AGAINST VIOLENT CRIME, ANYTHING LIKE
7 THAT?

8 (NO RESPONSE.)

9 OKAY, FINALLY DOES ANY MEMBER OF THE PANEL KNOW
10 OF ANY REASON WHATSOEVER WHY YOU SHOULD NOT SERVE AS A
11 JUROR IN THIS CASE WITH PARTICULAR EMPHASIS, THIS IS WHAT
12 IT ALL BOILS DOWN TO, WITH PARTICULAR EMPHASIS BEING PLACED
13 ON YOUR ABILITY TO BE FAIR AND IMPARTIAL TO BOTH THE STATE
14 AND THE DEFENDANT? DO YOU HAVE ANY DOUBTS AS TO WHETHER
15 YOU CAN BE FAIR AND IMPARTIAL?

16 AND THERE IS -- YES, SIR, I TELL YOU WHAT LET ME,
17 LET ME SPEAK TO YOU IN PRIVATE ABOUT THAT, OKAY? IF YOU
18 HAVE AN ISSUE HERE LET'S KEEP THAT BETWEEN US, OKAY?

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF BUT OUT OF THE HEARING OF THE JURY VENIRE.)

21 JUROR: MY WIFE IS AN E.R. DOCTOR AND WORKS WITH
22 OTHER DOCTORS AND HAS RELATIONSHIPS WITH OTHER DOCTORS AND
23 IS STRONGLY OPINIONATED SO I HEAR HER OPINION ON THINGS. I
24 DON'T BELIEVE I'VE HEARD ANYTHING ABOUT THIS CASE.

25 THE COURT: OKAY. THE FACT THAT YOUR WIFE IS

1 OPINIONATED DO YOU THINK THAT WOULD ---

2 JUROR NUMBER 390: NO, I HEAR HER TALKING WITH
3 THE OTHER DOCTOR'S.

4 THE COURT: I HEAR MINE TALKING ALL THE TIME.
5 SHE DRIVES ME CRAZY.

6 JUROR NUMBER 390: THAT WAS INFORMATION I WANTED
7 TO GIVE UP.

8 THE COURT: BUT WOULD THAT AFFECT YOUR ABILITY
9 TO BE FAIR?

10 JUROR NUMBER 390: I DON'T BELIEVE SO.

11 THE COURT: YOU THINK YOU COULD BE FAIR?

12 JUROR NUMBER 390: I THINK SO.

13 THE COURT: AND IT'S IMPORTANT YOU TELL ME. YOU
14 BELIEVE YOU COULD BE FAIR?

15 JUROR NUMBER 390: YES.

16 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. AND
17 YOUR NUMBER?

18 JUROR NUMBER 390: 390.

19 THE COURT: WAS THERE ANYONE ELSE IN RESPONSE TO
20 MY QUESTION? YES, MA'AM, COME AROUND AGAIN. SOMETIMES
21 WHEN WE ASK A VERY GENERAL QUESTION LIKE THAT WE MAY HAVE A
22 JUROR THAT SAYS SOMETHING THAT COULD CONTAMINATE THE WHOLE
23 JURY PANEL SO WE LIKE TO TAKE THAT UP IN PRIVATE IF WE CAN.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
25 PRESENCE BUT OUT OF THE HEARING OF THE JURY VENIRE.)

1 THE COURT: YES, MA'AM?

2 JUROR NUMBER 213: JUROR NUMBER 213. MY HUSBAND
3 IS A DETECTIVE IN VIOLENT CRIMES WITH THE HORRY COUNTY
4 POLICE DEPARTMENT.

5 THE COURT: OKAY, AND WHO IS YOUR HUSBAND?

6 JUROR NUMBER 213: TROY L. LARGE.

7 THE COURT: WOULD AFFECT YOUR ABILITY TO BE FAIR
8 IN THIS TRIAL?

9 JUROR NUMBER 213: NO.

10 THE COURT: COULD YOU SET THAT ASIDE AND BASE
11 YOUR DECISION SOLELY ON THE EVIDENCE?

12 JUROR NUMBER 213: YES, SIR.

13 THE COURT: OKAY, ALL RIGHT.

14 MS. PRATT: HER NUMBER, PLEASE?

15 THE COURT: AND YOUR NUMBER, MA'AM?

16 JUROR NUMBER 213: 213.

17 MS. ELDER: YOUR HONOR, I HIGHLY OBJECT TO
18 NUMBER 3 AND 4 COMPLETELY. THAT HAS ABSOLUTELY NOTHING TO
19 DO WITH THIS CASE.

20 THE COURT: WHAT DOES THAT HAVE TO DO WITH IT?

21 MS. PRATT: THAT IS PART OF THE BIKER FESTIVAL.
22 THEY'VE BEEN TRYING TO STOP IT AND THEY MAY HAVE AN
23 OPINION. I DON'T CARE IF IT'S REWORDED.

24 THE COURT: THEY WEREN'T ON BIKES WERE THEY?

25 MS. PRATT: NO, SIR, BUT IT WAS BIKER WEEK AND

1 AGAIN IT'S JUST MY CONCERN.

2 THE COURT: WHAT IF I ASKED THEM WOULD THE FACT
3 THAT THIS EVENT OCCURRED DURING BIKE FESTIVAL IN ANY WAY
4 AFFECT YOUR DECISION ---

5 MS. PRATT: HOW ABOUT MEMORIAL WEEKEND?

6 THE COURT: MEMORIAL?

7 MS. PRATT: YEAH.

8 THE COURT: OKAY, HOW ABOUT MEMORIAL DAY
9 WEEKEND?

10 MS. ELDER: I WOULD BE ALL RIGHT WITH MEMORIAL
11 WEEKEND.

12 MS. PRATT: YES, SIR.

13 THE COURT: OKAY.

14 MS. PRATT: THAT'S JUST MY CONCERN.

15 THE COURT: ALL RIGHT, I HAVE A COUPLE OF MORE
16 QUESTIONS THAT I NEED TO ASK YOU. HAVE ANY OF YOU OR
17 MEMBERS OF YOUR IMMEDIATE FAMILY EVER BEEN THE VICTIM OF A
18 VIOLENT CRIME?

19 AND THERE'S NO RESPONSE.

20 DO ANY OF YOU OR YOUR IMMEDIATE FAMILY BELONG TO
21 ANY ORGANIZATION WHICH HAS AS ONE OF ITS PURPOSES THE
22 LIMITING OR CONTROLLING THE USE OF FIREARMS?

23 AND THERE IS NO RESPONSE.

24 ALL RIGHT, YES, SIR?

25 JURY PANEL MEMBER: I'M A MEMBER OF THE NRA,

1 THAT'S THE OPPOSITE, RIGHT?

2 THE COURT: THAT WOULD BE THE OPPOSITE, THAT'S
3 CORRECT, BUT YOUR NUMBER WAS?

4 JURY PANEL MEMBER: 226.

5 THE COURT: I THINK IF WE ASKED WHO ARE MEMBERS
6 OF THE NRA PROBABLY A LOT OF US WOULD PUT OUR HANDS UP.
7 ANYWAY, DOES, WOULD THE FACT THAT THIS ALLEGED OFFENSE, AND
8 I'M VERY CAREFUL TO USE THAT WORD, ALLEGED OFFENSE, BECAUSE
9 I AM NOT ALLOWED TO HAVE ANY OPINION ABOUT THE FACTS IN
10 THIS CASE. I'M NOT ALLOWED TO, TO EVEN INTIMIDATE THAT I
11 HAVE AN OPINION ABOUT THE FACTS IN THIS CASE SO I'M VERY
12 LIBERAL WITH THAT WORD, THESE ALLEGED OFFENSES. WOULD THE
13 FACT THAT IT OCCURRED DOWN IN MYRTLE BEACH ON MEMORIAL DAY
14 WEEKEND IN 2007, WOULD THE FACT THAT IT OCCURRED ON
15 MEMORIAL DAY WEEKEND, IN ANY WAY AFFECT YOUR ABILITY TO BE
16 A FAIR AND IMPARTIAL JUROR? WOULD IT CREATE ANY PREJUDICE
17 OR BIAS IN YOUR MIND? YES, SIR?

18 JURY PANEL MEMBER: I'VE WORKED FOR MANY YEARS
19 AT HOTELS DURING MEMORIAL BIKE WEEK AND I HAVE A VERY
20 NEGATIVE VIEW OF IT AND IT'S POSSIBLE IT COULD AFFECT MY
21 ABILITY.

22 THE COURT: YOU FEEL THAT YOU COULD NOT SET THAT
23 ASIDE?

24 JURY PANEL MEMBER: I PROBABLY COULD.

25 THE COURT: PROBABLY COULD?

1 JURY PANEL MEMBER: SHOULD BE ABLE TO.

2 THE COURT: I'VE GOT TO KNOW. DO YOU HAVE
3 DOUBTS AS TO WHETHER YOU COULD?

4 JURY PANEL MEMBER: I HAVE DOUBTS.

5 THE COURT: ALL RIGHT, AND YOUR NUMBER IS?

6 JURY PANEL MEMBER: 226.

7 THE COURT: AND I WILL SET HIM ASIDE FOR CAUSE.
8 ALL RIGHT, THANK YOU.

9 NOW LET ME TELL YOU WHAT WE'RE GOING TO DO, WE'RE
10 GOING TO SELECT A JURY AND THE WAY WE SELECT A JURY IN THE
11 CRIMINAL SIDE OF THE COURT IS DIFFERENT FROM WHAT WE DO IN
12 THE CIVIL SIDE OF THE COURT.

13 IN THE CIVIL SIDE OF THE COURT WE'RE VERY CIVIL.
14 WHAT WE DO IS WE, WE TAKE THE PEOPLE WHO ARE GOING TO
15 POSSIBLY BE ON THE JURY, WE PUT THEM ON A LIST AND GIVE
16 THEM ALL NEW NUMBERS SO WHEN THE ATTORNEYS STRIKE YOU WON'T
17 EVEN KNOW IF YOU WERE A POTENTIAL JUROR. YOU CERTAINLY
18 WON'T KNOW IF SOMEONE STRUCK YOU FROM THE JURY. SEE HOW
19 NICE WE ARE WHEN WE DO THAT.

20 GUESS WHAT, ON THE CRIMINAL SIDE WE MAKE YOU
21 MARCH UP HERE, TURN AROUND AND FACE THE ATTORNEYS AND YOUR
22 FELLOW JURORS. SOME PEOPLE FIND THAT TO BE A LITTLE BIT
23 INTIMIDATING. THEY GET A LITTLE BIT NERVOUS ABOUT IT, AND
24 THEY THINK OH, MY GOODNESS, WHAT IF I'M STRUCK. WELL I
25 TELL YOU THAT PROBABLY MOST OF YOU ARE SITTING OUT THERE

1 SAYING I HOPE I GET STRUCK BUT ANYWAY, SOME PEOPLE DO, DO
2 WONDER, YOU KNOW, HOW THEY'LL FEEL IF THEY GET STRUCK.

3 LET ME TELL YOU THIS, I PRACTICED LAW A LONG
4 TIME. MS. ELDER AND FILIBERTO AND MS. PRATT WERE JUST
5 CHILDREN WHEN I STARTED PRACTICING LAW, AND ONE THING THAT
6 I LEARNED IN THE YEARS WHEN I DID JURY WORK AND TRIAL WORK,
7 I DID A GOOD BIT OF IT. ONE THING I LEARNED IS THAT WHEN
8 THESE ATTORNEYS ARE UP HERE AND THEY'RE MAKING NOTES AND
9 THEY'RE LOOKING YOU OVER AND ALL THEY DON'T HAVE A CLUE
10 WHAT THEY'RE DOING. THEY DON'T KNOW WHY THEY STRIKE YOU.
11 THEY DON'T KNOW WHY THEY ACCEPT YOU. I'LL TELL YOU WHAT IT
12 BOILS DOWN TO IS JUST A, A GUT FEELING. THEY HAVE LIMITED
13 INFORMATION.

14 YOU MAY BE STRUCK BECAUSE YOU, YOU PART YOUR HAIR
15 ON THE LEFT, YOU PART YOUR HAIR ON YOUR RIGHT OR YOU GOT
16 YOUR HAIR ON YOUR CHIN INSTEAD OF ON YOUR HEAD, YOU NEVER
17 KNOW. GENERALLY SPEAKING IT'S PROBABLY BECAUSE THEY'RE
18 LOOKING AT THE JURY LIST AND THEY SEE SOMEONE DOWN THAT
19 JURY LIST THAT THEY THINK MIGHT BE SYMPATHETIC TO THEIR
20 POSITION IN THE CASE WHETHER IT BE THE STATE OR THE
21 DEFENSE. SO DON'T TAKE OFFENSE IF, IF YOU ARE STRUCK AGAIN,
22 YOU PROBABLY ALL WANTING TO GET STRUCK, BUT DON'T TAKE
23 OFFENSE. IT IS ABSOLUTELY NOTHING PERSONAL AND THAT SAME
24 ATTORNEY WOULD PROBABLY LOVE TO HAVE YOU ON THE NEXT CASE
25 THAT HE OR SHE TRIES.

1 THE WAY THE PROCESS WORKS IS THIS, WE'RE GOING TO
2 BRING YOU FORWARD. I'M GOING TO ASK YOU TO COME RIGHT HERE
3 AND TURN AROUND. THE STATE GOES FIRST AND MS. ELDER OR MR.
4 FILIBERTO, ONE OR THE OTHER, WHO'S GOING TO STRIKE?

5 MS. ELDER: I AM, YOUR HONOR.

6 THE COURT: MS. ELDER IS GOING TO STRIKE. MS.
7 ELDER WILL SAY SOMETHING LIKE THIS, MS. ELDER WILL SAY,
8 YOUR HONOR, PRESENT THE JUROR. THAT MEANS THE STATE
9 ACCEPTS THE JUROR, OKAY. THEN IT TURNS TO MS. PRATT AND
10 MS. PRATT WILL EITHER SAY SEAT OR SWEAR THE JUROR AND THAT
11 MEANS YOU GO INTO THE JURY BOX, OR SHE MAY SAY EXCUSE THE
12 JUROR ON THIS CASE AND IN THAT CASE YOU RETURN TO YOUR
13 SEAT.

14 IF MS. ELDER ON THE OTHER HAND WHEN YOU COME
15 FORWARD SAY EXCUSE THE JUROR ON THIS CASE YOU RETURN TO
16 YOUR SEAT.

17 SO THE WAY THE PROCESS WORKS IS MS. ELDER GOES
18 FIRST AND THEN SHE'S FOLLOWED BY MS. PRATT IN THE STRIKING
19 PROCESS, SO I'M GOING TO ASK YOU, IF YOU WOULD, PLEASE PAY
20 ATTENTION TO WHEN YOUR NAME IS CALLED, AGAIN JUST COME
21 FORWARD, TURN AROUND RIGHT DOWN HERE. SEE MR. ROPP HE'S
22 ALREADY COMING DOWN THERE TO HELP US. HE IS SUCH A GOOD
23 BAILIFF, I CAN ALWAYS DEPEND ON HIM. IF YOU ARE SEATED
24 PLEASE COME ON DOWN AND HAVE A SEAT IN THE JURY BOX. ANY
25 NEED FOR MORE THAN TWO ALTERNATES?

1 MS. ELDER: I DON'T THINK SO, YOUR HONOR.

2 MS. PRATT: NO, YOUR HONOR.

3 THE COURT: VERY WELL, OKAY, MADAM CLERK.

4 MADAM CLERK: WHEN I CALL YOUR NAME ANY
5 BELONGINGS THAT YOU HAVE IF YOU'LL BRING THEM UP WITH YOU.

6 121, CLARA GARCES.

7 THE COURT: JUST COME FORWARD A LITTLE BIT SO
8 THEY CAN ALL SEE GOOD AND TURN AROUND RIGHT THERE. THERE
9 YOU GO, THAT'S THE MODEL.

10 MADAM CLERK: WHAT SAY THE STATE?

11 THE COURT: JUST A MOMENT.

12 MS. ELDER: YOUR HONOR, PLEASE EXCUSE THE JUROR
13 FROM THIS CASE.

14 THE COURT: ALL RIGHT, MS. GARCES, GO BACK AND
15 HAVE A SEAT, THANK YOU.

16 MADAM CLERK: 112, MICAH FREEMAN. WHAT SAY THE
17 STATE?

18 MS. ELDER: PLEASE PRESENT THIS JUROR.

19 MADAM CLERK: DEFENSE?

20 MS. PRATT: PLEASE SEAT MR. FREEMAN.

21 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

22 368, BILLY STICKLES. WHAT SAY THE STATE?

23 MS. ELDER: PLEASE PRESENT THIS JUROR.

24 MADAM CLERK: DEFENSE?

25 MS. PRATT: PLEASE SEAT MR. STICKLES.

1 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

2 281, ESTHER MURPHY. WHAT SAY THE STATE?

3 MS. ELDER: PLEASE PRESENT THIS JUROR.

4 MADAM CLERK: DEFENSE?

5 MS. PRATT: PLEASE SEAT MS. MURPHY.

6 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

7 1, ANNEKE AALTO. WHAT SAY THE STATE?

8 MS. ELDER: PLEASE PRESENT THIS JUROR.

9 MADAM CLERK: DEFENSE?

10 MS. PRATT: PLEASE EXCUSE MS. AALTO FROM THE

11 TRIAL OF THIS CASE.

12 MADAM CLERK: YOU'RE EXCUSED IN THIS PARTICULAR

13 CASE.

14 142, MONICA HALL. WHAT SAY THE STATE?

15 MS. ELDER: PLEASE EXCUSE THE JURY FROM THIS

16 CASE.

17 MADAM CLERK: YOU'RE EXCUSED FROM THIS

18 PARTICULAR CASE.

19 186, ESTON JOHNSON. WHAT SAY THE STATE?

20 MS. ELDER: PLEASE PRESENT THIS JUROR.

21 MADAM CLERK: DEFENSE?

22 MS. PRATT: PLEASE EXCUSE MR. JOHNSON FROM THE

23 TRIAL OF THIS CASE.

24 MADAM CLERK: YOU'RE EXCUSED FROM THIS

25 PARTICULAR CASE.

1 237, TREELEE MACANN. WHAT SAY THE STATE?

2 MS. ELDER: PLEASE EXCUSE THE JUROR FROM THIS
3 CASE.

4 MADAM CLERK: YOU'RE EXCUSED FROM THIS
5 PARTICULAR CASE.

6 151, CHRISTOPHER HARTPENCE. WHAT SAY THE STATE?

7 MS. ELDER: PLEASE PRESENT THIS JUROR.

8 MADAM CLERK: DEFENSE?

9 MS. PRATT: PLEASE EXCUSE MR. HARTPENCE FROM THE
10 TRIAL OF THIS CASE.

11 MADAM CLERK: YOU'RE EXCUSED FROM THIS
12 PARTICULAR CASE.

13 50, SHARON HEDRICK. WHAT SAY THE STATE?

14 MS. ELDER: PLEASE PRESENT THIS JUROR.

15 MADAM CLERK: DEFENSE?

16 MS. PRATT: PLEASE SEAT MS. HEDRICK.

17 MADAM CLERK: PLEASE HAVE A SEAT IN THE JURY
18 BOX.

19 338, LORAINNE SELLERS. WHAT SAY THE STATE?

20 MS. ELDER: PLEASE PRESENT THIS JUROR.

21 MADAM CLERK: DEFENSE?

22 MS. PRATT: PLEASE SEAT MS. SELLERS.

23 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

24 384, RALPH UTERMARCK. WHAT SAY THE STATE?

25 MS. ELDER: I'M SORRY, CAN YOU TELL ME THE

1 NUMBER AGAIN?

2 MADAM CLERK: 384.

3 MS. ELDER: PLEASE PRESENT THIS JUROR.

4 MADAM CLERK: DEFENSE?

5 MS. PRATT: PLEASE EXCUSE MR. UTERMARCK FROM THE
6 TRIAL OF THIS CASE.

7 MADAM CLERK: YOU'RE EXCUSED FROM THIS
8 PARTICULAR CASE.

9 165, JEFFREY HOLMES. WHAT SAY THE STATE?

10 MS. ELDER: PLEASE PRESENT THIS JUROR.

11 MADAM CLERK: DEFENSE?

12 MS. PRATT: PLEASE SEAT MR. HOLMES.

13 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

14 255, MICHAEL MCGRUFF. WHAT SAY THE STATE?

15 MS. ELDER: PLEASE PRESENT THIS JUROR.

16 MADAM CLERK: DEFENSE?

17 MS. PRATT: PLEASE SEAT MR. MCGRUFF.

18 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

19 42, JOHN BRADWAY, JR. WHAT SAY THE STATE?

20 MS. ELDER: PLEASE PRESENT THIS JUROR.

21 MADAM CLERK: DEFENSE?

22 MS. PRATT: PLEASE EXCUSE MR. BRADWAY FROM THE
23 TRIAL OF THIS CASE.

24 MADAM CLERK: YOU'RE EXCUSED FROM THIS
25 PARTICULAR CASE.

1 306, DUANE RAGAN. WHAT SAY THE STATE?

2 MS. ELDER: PLEASE PRESENT THIS JUROR.

3 MADAM CLERK: DEFENSE?

4 MS. PRATT: PLEASE EXCUSE MR. RAGAN FROM THE
5 TRIAL OF THIS CASE.

6 MADAM CLERK: YOU'RE EXCUSED FROM THIS
7 PARTICULAR CASE.

8 257, KENNETH MCMURRAIN. WHAT SAY THE STATE?

9 MS. ELDER: YOUR HONOR, IF WE CAN INQUIRE AS TO
10 THIS JUROR'S EMPLOYER, IT WAS DIFFICULT TO HEAR DOWNSTAIRS?

11 JURY PANEL MEMBER: IT'S A COMPANY IN FAIRFAX,
12 VIRGINIA, IT'S AN ACRONYM, SPELLED FBRTIC.

13 MS. ELDER: THANK YOU, PLEASE PRESENT THIS
14 JUROR.

15 MADAM CLERK: DEFENSE?

16 MS. PRATT: PLEASE SEAT MR. MCMURRAIN.

17 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

18 340, ROMONA SEMONES. WHAT SAY THE STATE?

19 MS. ELDER: PLEASE PRESENT THIS JUROR.

20 MADAM CLERK: DEFENSE?

21 MS. PRATT: PLEASE EXCUSE MS. SEMONES FROM THE
22 TRIAL OF THIS CASE.

23 MADAM CLERK: YOU'RE EXCUSED FROM THIS
24 PARTICULAR CASE.

25 383, JOEL TURNER. WHAT SAY THE STATE?

1 MS. ELDER: PLEASE PRESENT THIS JUROR.

2 MADAM CLERK: DEFENSE?

3 MS. PRATT: PLEASE SEAT MR. TURNER.

4 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

5 407, LINDSEY WHELAN. WHAT SAY THE STATE?

6 MS. ELDER: PLEASE PRESENT THIS JUROR.

7 MADAM CLERK: DEFENSE?

8 MS. PRATT: PLEASE SEAT MS. WHELAN.

9 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

10 143, DONALD HAMBY. WHAT SAY THE STATE?

11 MS. ELDER: PLEASE PRESENT THIS JUROR.

12 MADAM CLERK: DEFENSE?

13 MS. PRATT: PLEASE EXCUSE MR. HAMBY FROM THE

14 TRIAL OF THIS CASE.

15 MADAM CLERK: YOU'RE EXCUSED ON THIS PARTICULAR

16 CASE.

17 254, CYNTHIA MCGARRAHAN. WHAT SAY THE STATE?

18 MS. ELDER: PLEASE PRESENT THIS JUROR.

19 MADAM CLERK: DEFENSE?

20 MS. PRATT: PLEASE EXCUSE MS. MCGARRAHAN FROM

21 THE TRIAL OF THIS CASE.

22 MADAM CLERK: YOU'RE EXCUSED ON THIS PARTICULAR

23 CASE.

24 342, IRA SHELLEY. WHAT SAY THE STATE?

25 MS. ELDER: PLEASE PRESENT THIS JUROR.

1 MADAM CLERK: DEFENSE?

2 MS. PRATT: PLEASE SEAT MR. SHELLEY.

3 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

4 293, RICHARD PALUZZI. WHAT SAY THE STATE?

5 MS. ELDER: PLEASE PRESENT THIS JUROR.

6 MADAM CLERK: DEFENSE?

7 MS. PRATT: PLEASE SEAT MR. PALUZZI.

8 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

9 235, LAWRENCE MABRY. WHAT SAY THE STATE?

10 MS. ELDER: PLEASE EXCUSE THE JUROR FROM THIS
11 CASE.

12 MADAM CLERK: YOU'RE EXCUSED FROM THIS
13 PARTICULAR CASE.

14 406, CHAD WETMORE. WHAT SAY THE STATE?

15 MS. ELDER: PLEASE PRESENT THIS JUROR.

16 MADAM CLERK: DEFENSE?

17 MS. PRATT: PLEASE SEAT THE JUROR.

18 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

19 64, RICHARD CASPERSEN. WHAT SAY THE STATE?

20 MS. ELDER: PLEASE PRESENT THIS JUROR.

21 MADAM CLERK: DEFENSE?

22 MS. PRATT: PLEASE SEAT MR. CASPERSEN.

23 MADAM CLERK: PLEASE BE SEATED IN THE JURY BOX.

24 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, I'M
25 GOING TO SEND YOU TO YOUR JURY ROOM FOR JUST A MINUTE. I'M

1 PROBABLY THEN GOING TO HAVE MR. ROPP ASK YOU OR TELL YOU
2 YOU CAN GO TO LUNCH AND I'M GOING TO GIVE YOU ABOUT AN HOUR
3 AND A HALF FOR LUNCH, TILL ABOUT 1:30, ASK YOU TO BE BACK
4 BY THEN.

5 MR. PALUZZI, YOU WIN THE PRIZE, ALWAYS OCCUPY
6 THAT SEAT, YOU WILL BE OUR FOREPERSON.

7 MR. WETMORE AND MR. CASPERSEN, ALWAYS OCCUPY
8 THOSE TWO SEATS, OKAY, YOU WILL BE OUR ALTERNATES, ALL
9 RIGHT.

10 TAKE YOUR JURY TO THE JURY ROOM AND I MAY BRING
11 YOU BACK OUT OR I MAY SEND MR. ROPP TO TELL YOU YOU CAN GO
12 ON TO LUNCH, OKAY. I CAUTION YOU NOT TO LOOK AT ANY
13 NEWSPAPERS, THE INTERNET OR ANYTHING. I DON'T WANT YOU TO
14 RECEIVE ANY INFORMATION ABOUT THIS CASE WHATSOEVER, NO NEWS
15 REPORTS, NOTHING LIKE THAT, AND DO NOT DISCUSS IT AMONG
16 YOURSELVES OR WITH ANYONE ELSE, OKAY? THANK YOU.

17 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
18 12:03 P.M.)

19 THE COURT: ALL RIGHT, ANY THERE CHALLENGES TO
20 THE PANEL?

21 MS. ELDER: NOT FROM THE STATE, YOUR HONOR.

22 MS. PRATT: NONE FROM THE DEFENSE, YOUR HONOR.

23 THE COURT: ALL RIGHT, THE PANEL IS SEATED THEN.

24 THE REST OF YOU ARE EXCUSED. YOU HAVE FULFILLED
25 YOUR DUTY AS JURORS, FOR THE NEXT THREE YEARS YOU DON'T

1 HAVE TO COME BACK, MIGHT GET SUBPOENAED BUT YOU'RE ENTITLED
2 TO CLAIM AN EXEMPTION.

3 AGAIN I WANT TO THANK YOU FOR BEING HERE. YOU
4 DON'T KNOW HOW IMPORTANT IT IS TO HAVE JURORS WHO ARE
5 WILLING TO COME AND SERVE. IT'S THE ONLY WAY WE MAKE
6 CASES. THANK YOU FOR BEING HERE BUT YOU ARE EXCUSED, OF
7 COURSE YOU ARE WELCOME TO STAY WITH US IF YOU DON'T HAVE
8 ANYTHING ELSE TO DO. I'M SURE YOU'RE GOING TO ALL RUN
9 RIGHT OUT AND CALL YOUR BOSSES AND SAY YOU GOT OFF EARLY
10 AND YOU'LL BE IN IN JUST A MINUTE.

11 (WHEREUPON, THE JURY VENIRE WERE EXCUSED AT 12:05
12 P.M.)

13 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
14 RECORD OUT OF THE HEARING OF THE COURT REPORTER.)

15 (THE COURT: I UNDERSTAND THAT THERE IS NO
16 CHALLENGE TO THE JURY, THAT HAS BEEN ESTABLISHED, I WANT IT
17 TO BE ON THE RECORD.

18 I'M GOING TO ALSO RAISE THE ISSUE OF THE FACT
19 THAT DR. EDWARD PROCTOR IS MY BROTHER IN LAW. I HAVE
20 DISCUSSED THAT WITH COUNSEL. I'M INFORMED THAT HIS
21 TESTIMONY IS ESSENTIALLY ONE OF CAUSE AND MANNER OF DEATH
22 WHICH IS NOT A SIGNIFICANT ISSUE IN THIS CASE AND THAT THE
23 DEFENSE HAS NO OBJECTION TO HIS TESTIMONY; IS THAT CORRECT?

24 MS. PRATT: THAT'S CORRECT, YOUR HONOR, AND I
25 WOULD PLACE ON THE RECORD THAT I DID TUTOR HIS DAUGHTER IN

1 ALSAP PREPARATION, FOR CATHERINE.

2 THE COURT: ALL RIGHT, ANYTHING FURTHER, MS.
3 ELDER?

4 MS. ELDER: YOUR HONOR, THE ONLY OTHER THING IS
5 MS. PRATT HAS AGREED INSTEAD OF IN LIEU OF THE TESTIMONY OF
6 THE VICTIM KRYSTAL FOWLER TO STIPULATE AS TO ALLOWING ONE
7 OF THE OFFICERS TO PRESENT WHAT WOULD BE HEARSAY TESTIMONY
8 ABOUT HER INJURIES, YOUR HONOR.

9 THE COURT: ALL RIGHT, VERY WELL, AND I THINK
10 THAT'S CORRECT, IS IT NOT, MS. PRATT?

11 MS. PRATT: IT IS CORRECT, YOUR HONOR.

12 THE COURT: THAT WITNESS WAS HERE AND BECAUSE OF
13 UNFORESEEN DELAYS IN THE BEGINNING OF THIS CASE SHE DECIDED
14 SHE WAS GOING TO BE GONE IN AN HOUR AND WE HAVEN'T EVEN
15 DONE OPENING REMARKS SO I'M GOING TO HAVE THAT MADE A PART
16 OF THE RECORD AS A STIPULATION OF THE PARTIES.

17 OKAY. ALL RIGHT, NOW, MS. PRATT, LET ME GET ON
18 TO THE ISSUES YOU HAD WITH THE INDICTMENTS.

19 MS. PRATT: YES, YOUR HONOR, IT'S MY
20 UNDERSTANDING THAT THERE ARE TWO INDICTMENTS WHICH HAVE NOT
21 BEEN SIGNED BY MR. HEMBREE.

22 THE COURT: YES, BOTH OF THOSE INDICTMENTS ARE
23 THE INDICTMENTS FOR ASSAULT AND BATTERY WITH INTENT TO KILL
24 I THINK?

25 MS. PRATT: YES, YOUR HONOR.

1 THE COURT: OR TWO OF THE ASSAULT AND BATTERY
2 WITH INTENT TO KILL INDICTMENTS.

3 MS. PRATT: AND I WILL STATE TO THE COURT THAT
4 THE COPIES THAT I HAD ALSO DID NOT HAVE THE SIGNATURE WHEN
5 THEY WERE PRESENTED TO ME THROUGH DISCOVERY. I ASSUMED
6 THAT THE COPIES I HAD SIMPLY DID NOT HAVE THE SIGNATURE
7 YET, HOWEVER I DO HAVE A CONCERN ABOUT THAT. I THINK THE
8 FACT THAT THEY HAVE NOT BEEN SIGNED BY MR. HEMBREE, EVEN IF
9 IT WERE A RUBBER STAMP THAT WAS BEING USED, IT MEANS THAT
10 THERE WAS NO VERIFICATION OF THE INFORMATION THAT WAS
11 PLACED IN IT BEFORE IT WENT TO THE GRAND JURY AND I HAVE
12 QUESTIONS AS TO WHETHER IT WAS PRESENTED, WHETHER IT WAS
13 PROPERLY PRESENTED, WHETHER THERE WAS TESTIMONY, OR EVEN
14 WHO PRESENTED IT. I THINK IT'S A FATAL FLAW IN REGARDS TO
15 THE TWO INDICTMENTS AND THOSE TWO PARTICULAR VICTIMS AND WE
16 WOULD BE MOVING TO QUASH THOSE INDICTMENTS.

17 THE COURT: ALL RIGHT, THE COURT IS AWARE OF THE
18 SUPREME COURT'S MOST RECENT DECISIONS IN STATE V. MEANS AND
19 STATE V. GENTRY. IN BOTH MEANS AND GENTRY THE STATE
20 SUPREME COURT ADOPTED A NEW APPROACH TO INDICTMENT. THE
21 INDICTMENT IS CLEARLY IN THIS STATE NOW A NOTICE DOCUMENT.
22 IT IS REQUIRED BY THE CONSTITUTION AND I HAVE REVIEWED
23 ARTICLES I, TITLE SECTION 11, I BELIEVE, OF THE
24 CONSTITUTION THAT SETS FORTH NO SPECIFIC REQUIREMENT AS TO
25 THE FORM OF AN INDICTMENT.

1 THE INDICTMENT IS SOLELY FOR THE PURPOSE OF
2 PLACING THE DEFENDANT UPON NOTICE OF THE TRIAL, OF THE
3 CHARGE THAT HE, HE WILL FACE AND THE FACTS SURROUNDING,
4 SURROUNDING THAT. I DO NOT FEEL THAT THERE'S ANY
5 DEFICIENCY IN THE WORDING OF THE INDICTMENTS. IT'S ALSO
6 IMPERATIVE THAT THE INDICTMENTS BE ACTED ON BY A DULY
7 CONSTITUTED GRAND JURY. THE INDICTMENTS BOTH CARRY THE
8 TRUE BILLED STAMP, THE TWO IN QUESTION CARRY THE TRUE
9 BILLED STAMP AND HAVE BEEN SIGNED BY THE FOREPERSON.

10 I WOULD CALL YOUR ATTENTION TO STATE V. MEANS AND
11 IN THAT I QUOTE, "IN SOUTH CAROLINA AN INDICTMENT SHALL BE
12 DEEMED AND ADJUDGED SUFFICIENT AND GOOD IN LAW WHICH IN
13 ADDITION TO ALLEGATIONS AS TO TIME AND PLACES REQUIRED BY
14 LAW CHARGES THE CRIME SUBSTANTIALLY IN THE LANGUAGE OF THE
15 COMMON LAW OR THE STATUTE PROHIBITING CRIME OR SO PLAINLY
16 THAT THE NATURE OF THE OFFENSE CHARGED MAY BE EASILY
17 UNDERSTOOD AND IF THE OFFENSE BE A STATUTORY OFFENSE THAT
18 THE OFFENSE BE ALLEGED TO BE CONTRARY TO THE STATUTE IN
19 SUCH CASES MADE AND PROVIDED." THAT SEEMS TO BE THE NEW
20 STANDARD FOR REVIEW OF AN INDICTMENT.

21 THE INDICTMENTS IF WE LOOK AT IT I THINK HAVE
22 TRADITIONALLY BEEN SIGNED AS A MATTER OF CUSTOM BY THE
23 SOLICITOR BUT IT'S NOT SIGNED UNDER OATH AND IF YOU READ
24 THE INDICTMENT ITSELF IT IS BASICALLY A RECITATION OF THE
25 FINDINGS OF THE, OF THE GRAND JURY.

1 ALSO I WOULD GIVE BY WAY OF EXAMPLE, THE FACT
2 THAT A GRAND JURY MAY RETURN AN INDICTMENT THAT HAS NOT
3 BEEN PRESENTED TO THE GRAND JURY BY THE SOLICITOR. THE
4 GRAND JURY CERTAINLY HAS THE AUTHORITY TO INDICT ON ITS OWN
5 WITHOUT ANY PARTICIPATION BY THE SOLICITOR SO I DO NOT
6 BELIEVE THAT THAT IS NECESSARY NOR IS IT FATAL. IT DOES
7 CONTAIN AN ACCURATE AND COMPLETE DESCRIPTION OF THE TIME,
8 PLACE, AND NATURE OF THE OFFENSE AND DOES PUT THE DEFENDANT
9 ON NOTICE OF THE CRIME OR CHARGE THAT HE IS FACING. I FIND
10 THAT IT IS PROPER, OKAY? ANYTHING FURTHER?

11 MS. PRATT: YOUR HONOR, A COUPLE OF MATTERS.

12 THE COURT: DO YOU WANT TO SAY ANYTHING, MS.
13 ELDER?

14 MS. ELDER: NO, SIR, YOUR HONOR.

15 THE COURT: OKAY, A COUPLE OF MATTERS FROM
16 YESTERDAY, YOUR HONOR, I BELIEVE THAT YOU HAD AGREED THAT
17 WE COULD ENTER A COPY OF THE POLYGRAPH EXAMINATION RESULTS
18 OF JEFFREY RAY BETHEA AS A COURT'S EXHIBIT.

19 THE COURT: AS A COURT'S EXHIBIT, THAT IS
20 CORRECT.

21 MS. PRATT: AND I WILL HAND THAT NOW TO THE
22 COURT REPORTER THEN, YOUR HONOR.

23 THE COURT: ALL RIGHT, AND THAT WAS BY
24 AGREEMENT, WAS IT NOT, MS. ELDER? I DON'T THINK THAT YOU
25 AGREE WITH IT BUT IT'S NOT GOING TO THE JURY, IT'S MERELY A

1 COURT EXHIBIT.

2 MS. ELDER: IT WAS FOR MOTIONS IN LIMINE
3 YESTERDAY, YOUR HONOR.

4 THE COURT: ALL RIGHT, MAKE SURE THAT IT DOESN'T
5 GET IN THE OTHER EXHIBITS AT THE END OF THE TRIAL, OKAY.

6 MS. PRATT: AND THAT WOULD BE COURT'S EXHIBIT
7 NUMBER 1, YOUR HONOR; IS THAT CORRECT?

8 THE COURT: THAT WOULD BE NUMBER 1.

9 MS. PRATT: THANK YOU, YOUR HONOR.

10 (WHEREUPON, COURT'S EXHIBIT NUMBER 1 MARKED FOR
11 IDENTIFICATION.)

12 MS. PRATT: YOUR HONOR, I HAD ONE OTHER MATTER
13 THAT'S GOING TO CLARIFY BEFORE I GUESS WE COME BACK AND DO
14 OPENING WITH THE JURY.

15 THE COURT: OKAY.

16 MS. PRATT: YESTERDAY YOU MADE A RULING AS TO
17 THE ADMISSIBILITY OF INFORMATION REGARDING GANG AFFILIATION
18 AND GANG INVOLVEMENT BY BOTH THE DEFENDANTS, ALL THREE, AND
19 THE VICTIMS AND THEIR FRIENDS. I WANTED TO ASK THE COURT
20 WHETHER YOU CONSIDER THIS TO BE A FINAL RULING AS TO THAT
21 ISSUE OR A PRELIMINARY RULING FOR THE PURPOSE OF WHETHER
22 IT'S A RUNNING OBJECTION OR DO I HAVE TO JUMP UP EVERY
23 TIME?

24 THE COURT: IT'S IN LIMINE AND IT'S A
25 PRELIMINARY RULING. ANYTIME WE HAVE A RULING IN LIMINE,

1 I'LL HAVE TO SEE HOW IT DEVELOPS. HOWEVER, I DO NOT SEE
2 HOW WE CAN DEVELOP A RES GESTAE IN THIS CASE WITHOUT
3 DISCUSSING AFFILIATION, RETALIATION, AND THINGS OF THAT
4 NATURE. I BELIEVE IT IS RELEVANT UNDER 401. I THINK THAT
5 ITS RELEVANCE OUTWEIGHS OR, EXCUSE ME, ITS RELEVANCE IS NOT
6 SUBSTANTIALLY OUTWEIGHED BY ITS PREJUDICE UNDER 403 AND I
7 BELIEVE THAT IT WOULD BE PROPERLY ADMITTED BUT WE'LL SEE,
8 OKAY?

9 MS. PRATT: AND, YOUR HONOR, WHAT I WANTED TO DO
10 IF I COULD PLACE ON THE RECORD THE CASE OF STATE V. WYLES
11 WHICH IS 383 S.C. 151, 679 S.E. 2d 172, A SUPREME COURT
12 CASE FROM 2009, DISCUSSES ISSUE PRESERVATION AND THAT'S MY
13 CONCERN. I UNDERSTAND THE COURT HAS RULED AGAINST ME ON
14 KEEPING IT OUT. I AM VERY CONCERNED WHETHER OR NOT IT'S
15 SIMPLY PRELIMINARY MEANING THAT I HAVE TO JUMP UP EVERY
16 TIME GANG IS MENTIONED TO RENEW MY OBJECTION, PRESERVE THE
17 ISSUE, OR IF WE CAN CONSIDER IT TO BE A RUNNING OBJECTION
18 THAT I DON'T NEED TO DO THAT UNLESS THERE'S SOMETHING
19 THAT'S SPECIFICALLY OUTSIDE THE BOUNDS OF RELEVANCE.

20 THE COURT: ALL RIGHT, LET ME HEAR FROM YOU
21 ABOUT THAT, MS. ELDER?

22 MS. ELDER: YOUR HONOR, OBVIOUSLY YOUR HONOR HAS
23 AT LEAST THROUGH THE MOTIONS BEEN AWARE OF HOW MUCH IT IS
24 GOING TO BE MENTIONED THROUGH MOST OF THE WITNESSES EXCEPT
25 FOR CRIME SCENE. I THINK EVERY OTHER WITNESS HAS PROBABLY

1 GOT SOME ELEMENT OF GANG ACTIVITY IN THEIR TESTIMONY.

2 THE COURT: WELL I DON'T WANT HER UP AND DOWN
3 LIKE A YO-YO.

4 MS. ELDER: I DON'T EITHER, YOUR HONOR. I DON'T
5 HAVE A PROBLEM WITH THE COURT ---

6 THE COURT: IT'S GOING TO INTERRUPT YOU ---

7 MS. ELDER: RIGHT.

8 THE COURT: --- AND I DON'T THINK IT'S
9 NECESSARY. I THINK THAT WE CAN ALL AGREE THAT IF SHE
10 PRESERVES IT ON THE RECORD THE ONE TIME AS TO THAT ISSUE,
11 BY THE TIME IT COMES UP I WILL FIRM UP MY RULING CONCERNING
12 GANG AFFILIATION AND IF I RULE LET'S CONSIDER IT IS A
13 RUNNING ONGOING PROPERLY PRESERVED OBJECTION, OKAY?

14 MS. ELDER: YES, SIR, YOUR HONOR, THAT WOULD
15 MAKE IT MUCH EASIER, I BELIEVE.

16 THE COURT: I THINK IT WOULD AND IT WOULD
17 PRESERVE YOUR INTEGRITY OF YOUR CROSS EXAMINATION, OKAY.

18 MS. PRATT: IF THE ISSUE IS RAISED IN OPENING,
19 YOUR HONOR, I'M CONCERNED ABOUT THAT.

20 MS. ELDER: WE'RE NOT GOING TO RAISE THAT IN
21 OPENING. WE'RE NOT GOING TO SAY ANYTHING ABOUT GANG
22 AFFILIATION IN OUR OPENING ARGUMENTS, YOUR HONOR.

23 MS. PRATT: THAT ANSWERS MY QUESTION, THANK YOU
24 VERY MUCH.

25 THE COURT: OKAY, YOU GOT IT, ALL RIGHT, OKAY.

1 MS. ELDER, DID YOU HAVE SOMETHING FOR ME?

2 MS. ELDER: NO, SIR.

3 THE COURT: OKAY, WELL LET'S BREAK FOR LUNCH,
4 OKAY, BE BACK IN 53 MINUTES.

5 (WHEREUPON, COURT WAS RECESSED FOR LUNCH AND THE
6 FOLLOWING TAKES PLACE ON THE RECORD AFTER THE RECESS.)

7 THE COURT: EVERYONE IS IN THE COURTROOM. WE
8 HAVE THE JURY STILL OUT. MS. ELDER, IF YOU WOULD PUT THE
9 INDICTMENT NUMBERS ON THE RECORD FOR US?

10 MS. ELDER: YES, SIR, YOUR HONOR. YOUR HONOR,
11 AT THIS TIME THE STATE WOULD CALL 2007-GS-26-3388. IT IS
12 THE STATE V. BRIAN KENDRICK SPEARS ON THE INDICTMENT OF
13 MURDER.

14 ALSO 2007-GS-26-3389. IT'S THE STATE V. BRIAN
15 FREDERICK SPEARS ON THE INDICTMENT OF ASSAULT AND BATTERY
16 WITH INTENT TO KILL.

17 2007-GS-26-3390 INDICTMENT, TRUE BILLED
18 INDICTMENT STATE V. BRIAN SPEARS ON ASSAULT AND BATTERY
19 WITH INTENT TO KILL.

20 2007-GS-26-3387, THE STATE V. BRIAN SPEARS ON
21 ANOTHER COUNT OF ASSAULT AND BATTERY WITH INTENT TO KILL.

22 THE COURT: VERY WELL, OKAY, ANYTHING BEFORE WE
23 BRING THE JURY IN FROM THE DEFENSE?

24 MS. PRATT: NO, YOUR HONOR.

25 THE COURT: FROM THE STATE?

1 MS. ELDER: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT, LET'S BRING THEM IN.

3 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
4 1:33 P.M.)

5 THE COURT: ALL RIGHT, WE'VE GOT ALL OUR JURORS
6 BACK AND HOPE YOU HAD AN OPPORTUNITY TO HAVE A NICE LUNCH.
7 MADAM CLERK, WOULD YOU PLEASE SWEAR THIS JURY.

8 (WHEREUPON, THE JURY WAS SWORN.)

9 THE COURT: THANK YOU, LADIES AND GENTLEMEN OF
10 THE JURY. AS I TOLD YOU SOME MOMENTS AGO WHEN WE WERE
11 SELECTING A JURY WE'RE ABOUT TO BEGIN THE CASE OF THE STATE
12 OF SOUTH CAROLINA V. BRIAN FREDERICK SPEARS; AND AGAIN I
13 WANT TO EMPHASIS TO YOU THAT DURING THE COURSE OF THIS
14 TRIAL THERE MAY BE REFERENCE MADE TO THE INDICTMENTS THAT
15 WERE ISSUED IN THIS CASE. I WENT OVER THE INDICTMENTS WITH
16 YOU AND ADVISED YOU THAT MR. SPEARS IS CHARGED WITH THREE
17 COUNTS OF ASSAULT AND BATTERY WITH INTENT TO KILL AND ONE
18 COUNT OF MURDER. AGAIN THESE INDICTMENTS AND THE THINGS
19 CONTAINED IN THESE INDICTMENTS ARE NOT EVIDENCE FOR YOU TO
20 CONSIDER. THEY ARE NOTHING MORE THAN THE ALLEGATIONS THAT
21 THE STATE BRINGS BEFORE THE COURT TO GIVE RISE TO THIS
22 TRIAL.

23 NOW BEFORE WE GET STARTED IN THE TRIAL I LIKE TO
24 TAKE AN OPPORTUNITY OR A FEW MINUTES TO TELL YOU A LITTLE
25 BIT ABOUT HOW THE TRIAL WILL PROCEED AND WHAT YOUR DUTIES

1 ARE. AT THE END OF THIS TRIAL I'M GOING TO GIVE YOU A FULL
2 CHARGE ON THE LAW. I'M GOING TO INSTRUCT YOU AS TO THE LAW
3 THAT YOU MUST USE IN YOUR DELIBERATIONS.

4 DELIBERATIONS, THAT'S SORT OF THE ULTIMATE GOAL
5 IN THIS CASE. THESE ATTORNEYS AND I ARE BOTH HERE TODAY
6 AND TOMORROW AND EVER HOW LONG IT TAKES TO TRY THIS CASE
7 WITH ONE PURPOSE AND THAT IS TO IN AN ORDERLY FASHION
8 PRESENT TO YOU THE EVIDENCE IN THIS CASE, THE EVIDENCE FROM
9 WHICH YOU WILL DELIBERATE AND THE ULTIMATE GOAL OF THAT
10 DELIBERATION IS REACHING A VERDICT.

11 THE DELIBERATION PROCESS IS SORT OF A THREE PART
12 PROCESS. IT INVOLVES YOUR DETERMINATION OF WHAT THE FACTS
13 ARE IN THIS CASE. FROM THE EVIDENCE PRESENTED YOU AS A
14 JURY ARE THE SOLE AND EXCLUSIVE JUDGES OF WHAT THE ACTUAL
15 FACTS ARE IN THIS CASE.

16 IN DETERMINING WHAT THE FACTS ARE, OF COURSE,
17 YOU'RE GOING TO HAVE TO JUDGE THE CREDIBILITY OR
18 BELIEVABILITY OF THE WITNESSES AND THE EVIDENCE THAT'S
19 PRESENTED TO YOU IN THIS CASE AND I TELL YOU NOW THAT
20 THAT'S NOT A MAGICAL PROCESS. IT'S A PROCESS THAT WE USE
21 EVERY DAY IN OUR LIVES.

22 YOU CAN APPLY IN DETERMINING WHICH WITNESSES TO
23 BELIEVE OR WHICH WITNESSES NOT TO BELIEVE, WHAT EVIDENCE IS
24 CREDIBLE, WHAT EVIDENCE IS NOT CREDIBLE, ANY TEST THAT YOU
25 IN YOUR EXPERIENCE HAS REASONABLY LED YOU TO THE TRUTH.

1 YOU CAN CONSIDER SUCH THINGS AS THE OPPORTUNITY
2 THAT THE WITNESS MAY HAVE HAD TO SEE OR HEAR WHAT HE OR SHE
3 IS TESTIFYING TO IN COURT, WHETHER OR NOT HE OR SHE HAS ANY
4 INTEREST, PREJUDICE, OR BIAS THAT MAY TAINT HIS OR HER
5 TESTIMONY, HIS OR HER INTELLIGENCE LEVEL, HIS OR HER
6 DEMEANOR OR APPEARANCE ON THE WITNESS STAND. THESE ARE ALL
7 THINGS THAT YOU CAN CONSIDER.

8 YOU CAN CONSIDER OR BELIEVE THE TESTIMONY OF ONE
9 AGAINST THE MANY OR THE MANY AGAINST ONE. YOU CAN BELIEVE
10 PART OF A WITNESS' TESTIMONY AND REJECT THE REST. YOU CAN
11 BELIEVE ALL OF IT OR NONE OF IT BASED UPON THE WEIGHT YOU
12 PLACE ON THIS EVIDENCE.

13 I AS THE JUDGE HAVE ABSOLUTELY NO RIGHT TO
14 INTIMATE, INSINUATE, EXPRESS TO YOU IN ANY WAY MY OPINION
15 ABOUT THE EVIDENCE IN THIS CASE BECAUSE THAT WOULD BE
16 INVADING ON YOUR PROVINCE. IT IS SOLELY YOUR RIGHT AND
17 DUTY IN THIS COURT TO DETERMINE WHAT EVIDENCE IS BELIEVABLE
18 AND WHAT THE FACTS ARE IN THE CASE.

19 JUST LIKE YOU ARE THE JUDGES OF THE FACTS IN THE
20 CASE I AM THE JUDGE OF THE LAW. AT THE END OF THE CASE AS
21 I TOLD YOU I'M GOING TO INSTRUCT YOU AS TO THE LAW. YOU
22 MIGHT NOT AGREE WITH THE LAW AS I INSTRUCT YOU. YOU MAY
23 THINK THE LAW OUGHT TO BE SOMETHING ELSE OR IS SOMETHING
24 ELSE BUT I TELL YOU UNDER YOUR SWORN OATH YOU MUST FOLLOW
25 THE LAW AS I GIVE IT TO YOU AND YOU MUST BE GUIDED BY THAT

1 LAW CAUSE JUST AS YOU ARE THE SOLE JUDGES OF THE FACTS I AM
2 THE SOLE JUDGE OF THE LAW IN THIS CASE.

3 NOW I TOLD YOU THE DELIBERATIONS IS A THREE PART
4 PROCESS. FIRST OF ALL IS THE DETERMINATION OF WHAT THE
5 FACTS ARE IN THE CASE WHICH YOU WILL DO.

6 SECONDLY, IT'S THE DETERMINATION OF WHAT THE LAW
7 IS, WHAT I WILL DO, THAT'S TWO.

8 THE THIRD THING IS YOU AS A JURY WILL TAKE THE
9 LAW AND THE FACTS, YOU CAN'T JUST STOP WHEN YOU DETERMINE
10 THE FACTS AND I'VE GIVEN YOU THE LAW, YOU GOT TO BRING THEM
11 TOGETHER AND SEE HOW THEY FIT, AND SEE WHETHER OR NOT THE
12 STATE HAS CARRIED ITS BURDEN OF PROOF IN THIS TRIAL.

13 THE STATE ALWAYS HAS THE BURDEN OF PROOF IN A
14 CRIMINAL TRIAL AND THAT BURDEN IS BY PROOF BEYOND A
15 REASONABLE DOUBT, NOT PROOF BEYOND ANY DOUBT, BUT PROOF
16 BEYOND A REASONABLE DOUBT AND I WILL INSTRUCT YOU FURTHER
17 WAS TO WHAT THAT IS AT THE END OF THIS TRIAL. BUT KEEP IN
18 MIND THE ULTIMATE GOAL HERE IS TO REACH A VERDICT AND YOU
19 MUST DO SO BY FOLLOWING THAT THREE STEP PROCESS,
20 DETERMINATION OF THE FACTS, DETERMINATION OF THE LAW, AND
21 THE PUTTING OF THE TWO TOGETHER TO DETERMINE WHETHER OR NOT
22 THE STATE HAS MET ITS BURDEN.

23 NOW, IN A FEW MINUTES WE'RE GOING TO BEGIN TAKING
24 EVIDENCE AND LET ME SAY THIS TO YOU, THAT SOMETIME IN THIS
25 TRIAL YOU MAY HEAR ONE OR THE OTHER OF THESE ATTORNEYS

1 STAND UP AND SAY, YOUR HONOR, I OBJECT OR, YOUR HONOR, I
2 HAVE A MATTER THAT I NEED TO TAKE UP OUTSIDE OF THE JURY OR
3 WE NEED TO TAKE OUTSIDE THE JURY. MANY PEOPLE HAVE TOLD ME
4 THAT WHY YOU DOING THAT, YOU KNOW, YOU TRYING TO KEEP
5 SOMETHING FROM US? LET ME TELL YOU WHY WE WILL TAKE YOU
6 OUT OF THE JURY ROOM WHEN THAT HAPPENS. IT'S BECAUSE AND
7 USUALLY WHEN THAT OCCURS I'M BEING ASKED TO DETERMINE
8 WHETHER OR NOT A PIECE OF EVIDENCE MAY OR MAY NOT BE
9 ADMISSIBLE AND IN DOING SO I OFTEN HAVE TO EXPRESS AN
10 OPINION ABOUT THAT, THAT EVIDENCE. I HAVE TO SAY WHAT I
11 THINK IT MEANS OR WHAT IT SHOULD MEAN OR WHAT IT COULD MEAN
12 AND THAT WOULD BE AN INVASION OF YOUR DUTY. I WOULD BE
13 TELLING YOU WHAT I THOUGHT ABOUT THE EVIDENCE AND THAT
14 WOULD BE HIGHLY IMPROPER. SO THAT'S WHY YOU GO, ARE SENT
15 OUT WHY WE DISCUSS THOSE THINGS.

16 THE TRIAL WILL BEGIN BY THE STATE GIVING AN
17 OPENING REMARK. IT WILL BE FOLLOWED, IF SHE CHOOSES TO DO
18 SO, BY MS. PRATT WHO WILL GIVE AN OPENING REMARK. BUT LET
19 ME TELL YOU THAT WHAT THE ATTORNEYS SAY IN THEIR OPENING
20 REMARKS LIKE THE INDICTMENT IS NOT EVIDENCE, SHOULDN'T BE
21 CONSIDERED AS EVIDENCE. ALL IT IS IS EACH SIDE TELLING YOU
22 WHAT THEY PROPOSE TO SHOW OR THINK THEY CAN SHOW OR THEIR
23 WITNESSES WILL SHOW DURING THE TRIAL OF THE CASE. WHAT
24 THEY SAY AS I SAID IS NOT EVIDENCE. THE ONLY EVIDENCE YOU
25 WILL CONSIDER IS THE EVIDENCE YOU HEAR FROM THE WITNESS

1 STAND, NOT WHAT THE ATTORNEYS TELL YOU.

2 FOLLOWING THAT THE STATE WILL BEGIN ITS CASE. IT
3 WILL PUT UP ITS EVIDENCE FIRST.

4 ONCE THE STATE HAS COMPLETED ITS EVIDENCE, IF THE
5 DEFENSE AGAIN CHOOSES TO, THEY'RE UNDER NO OBLIGATION TO DO
6 SO, BUT IF THEY CHOOSE TO PUT UP EVIDENCE THEN THEY WILL DO
7 SO; AND FOLLOWING THAT THE STATE, I MEAN THE DEFENSE, WILL
8 THEN REST AND WE WILL GO INTO CLOSING ARGUMENTS FOLLOWED BY
9 MY CHARGE ON THE LAW AND YOU WILL BE GIVEN THE CASE AT THAT
10 POINT TO DELIBERATE.

11 LET ME REMIND YOU AGAIN WHAT I TOLD YOU
12 YESTERDAY, IF AT ANY TIME IN THIS TRIAL I'M KEEPING YOU IN
13 THAT JURY BOX TOO LONG YOU BECOME UNCOMFORTABLE, YOU NEED A
14 BREAK, YOU NEED TO REFRESH YOURSELVES, RAISE YOUR HAND.
15 MORE IMPORTANTLY IF DURING THE TRIAL OF THIS CASE SOMEONE
16 IS BLOCKING YOUR VIEW, SOMEONE IS NOT SPEAKING LOUD ENOUGH
17 FOR YOU TO HEAR, IT'S SO IMPORTANT THAT YOU HEAR THE
18 EVIDENCE OR SEE THE EVIDENCE AND HEAR THE TESTIMONY, IF
19 THAT OCCURS RAISE YOUR HAND AND WE'LL TAKE CARE OF IT.

20 YOUR FOREPERSON WILL BE YOUR LIAISON BETWEEN THE
21 COURT AND YOU AS A JURY. IF YOU HAVE ANY PROBLEMS BRING
22 THEM TO YOUR FOREMAN'S ATTENTION AND HE WILL BRING IT TO
23 MR. ROPP'S ATTENTION AND IT WILL BE BROUGHT TO MINE.

24 IF YOU FIND IN YOUR JURY ROOM YOU DON'T HAVE SOFT
25 DRINKS, YOU DON'T HAVE ANY REFRESHMENTS BACK THERE, PLEASE

1 LET ME KNOW, I'LL MAKE SURE THAT THEY'RE BACK THERE. VERY
2 SELDOM DOES THAT HAPPEN WITH MR. ROPP, MR. ROPP TAKES VERY
3 GOOD CARE OF, OF US.

4 THE ONE PERSON THAT YOU HAVEN'T MET IN THE
5 COURTROOM TODAY IS MS. HALL HERE. MS. HALL IS MY LAW CLERK
6 AND SHE'S BEEN MY LAW CLERK FOR ALMOST A YEAR NOW AND
7 SHE'LL BE HELPING US DURING THE TRIAL OF THE CASE.

8 YOU SEE HER ON THE COMPUTER A LOT. NOW LET ME
9 TELL YOU SHE'S NOT PLAYING SOLITAIRE, SHE'S WORKING FOR ME.
10 SHE'S HELPING ME WITH MY CHARGES AND STUFF. I'M VERY
11 CONSCIOUS ABOUT THAT BECAUSE WE HEARD ONE TIME THAT A JUROR
12 TOLD OUR CHIEF JUSTICE THAT SHE SAW THE, THE JUDGE ON LINE
13 DOING SOMETHING THAT HE WASN'T SUPPOSED TO DO. SO WE WANT
14 TO MAKE SURE THAT YOU DON'T BELIEVE THAT'S WHAT'S GOING ON,
15 SO MS. HALL WILL BE WORKING WHILE WE'RE HERE AND I RELY ON
16 HER VERY HEAVILY.

17 NOW WE'RE READY FOR OUR OPENING REMARKS, ARE YOU
18 PREPARED TO GO FORWARD, MS. ELDER OR MR. FILIBERTO?

19 MS. ELDER: YES, SIR, YOUR HONOR.

20 THE COURT: ALL RIGHT, MS. PRATT, ARE YOU
21 LIKEWISE PREPARED TO GO FORWARD?

22 MS. PRATT: YES, YOUR HONOR.

23 THE COURT: VERY WELL, LET'S HEAR OPENING
24 REMARKS.

25 MR. FILIBERTO: THANK YOU, YOUR HONOR.

1 **OPENING STATEMENT**

2 **BY MR. FILIBERTO:**

3 BEFORE WE GET STARTED I JUST WANT TO SAY THANK
4 YOU FOR YOUR SERVICE IN THIS MATTER. JURY DUTY PROBABLY
5 NEVER COMES AT A CONVENIENT TIME FOR ANYONE BUT A JURY IS
6 JUST SUCH AN IMPORTANT PART OF ANY CRIMINAL TRIAL. A JURY
7 IS REALLY THE ONLY WAY THAT WE KNOW TO ENSURE THAT THE
8 DEFENDANT AND THE STATE OF SOUTH CAROLINA BOTH GETS A FAIR
9 TRIAL THAT THEY'RE ENTITLED TO AND DURING THIS CASE YOU'LL
10 HEAR ABOUT VENGEANCE, RETRIBUTION. YOU'LL HEAR ABOUT THE
11 SETTLING THE SCORES.

12 THE EVIDENCE IN THIS CASE IS GOING TO TAKE YOU UP
13 TO THE LUMBERTON, NORTH CAROLINA AREA. THAT'S WHERE MOST
14 OF THE PRINCIPALS IN THIS TRIAL COME FROM.

15 THE EVIDENCE IS GOING TO SHOW YOU THAT THIS
16 DEFENDANT AND OTHERS HARBORED A GRUDGE AGAINST A MAN, AARON
17 HAMMONDS, ANOTHER RESIDENT OF LUMBERTON AREA. THAT WAS A
18 GRUDGE THAT THEY WERE NOT WILLING TO LAY DOWN. IT WAS A
19 GRUDGE THAT THEY DECIDED REQUIRED THE ULTIMATE IN PAY BACK.

20 IT WAS UP IN LUMBERTON THAT THE SEEDS OF THOSE
21 PLANS FOR PAY BACK STARTED TO TAKE ROOT. LATER THIS
22 DEFENDANT AND OTHERS MADE A TRIP DOWN TO MYRTLE BEACH. IT
23 WAS IN MAY 2007 DURING THE MEMORIAL DAY BIKE FEST, AND IT
24 WAS ON THE EVENING OR THE EARLY MORNING HOURS OF MAY 27TH,
25 2007, THAT THIS DEFENDANT AND OTHERS TOOK THE LIFE OF AARON

1 HAMMONDS.

2 IT WAS ABOUT 2:30 IN THE MORNING DOWN ON OCEAN
3 BOULEVARD WHEN THE GUN FIRE RANG OUT. NOW THE EVIDENCE IS
4 GOING TO SHOW YOU THAT THERE WERE AT LEAST EIGHT SHOTS
5 FIRED. THE EVIDENCE IS ALSO GOING TO SHOW YOU THAT ALL OF
6 THOSE SHOTS WERE FIRED FROM THE SAME WEAPON.

7 NOW AARON HAMMONDS WASN'T THE ONLY VICTIM THAT
8 MORNING. THERE WAS ALSO THREE INNOCENT BYSTANDERS, A YOUNG
9 MAN NAMED DJUAN MONROE FROM GREENSBORO, NORTH CAROLINA AND
10 HE WAS SHOT IN THE HAND AND A BULLET GRAZED HIS HEAD.

11 THERE WAS A YOUNG WOMAN FROM NEW JERSEY, KRYSTAL
12 FOWLER, SHE WAS SHOT IN THE ABDOMEN THE BULLET DAMAGING HER
13 LIVER.

14 AND THERE WAS ANOTHER YOUNG WOMAN FROM DELAWARE
15 LASHEIKA FELTON. SHE HAD A BULLET PENETRATE HER SKULL.
16 FORTUNATELY SHE SURVIVED, THE SAME CAN'T BE SAID FOR AARON
17 HAMMONDS. HE WAS SHOT THREE TIMES AND DIED AS A RESULT OF
18 THOSE INJURIES.

19 LADIES AND GENTLEMEN, THE DEFENDANT AND HIS
20 FRIENDS CAME TO MYRTLE BEACH AND SAW AN OPPORTUNITY TO
21 EXACT THEIR PAY BACK, THEIR STREET JUSTICE. AT THE END OF
22 THIS TRIAL WE'RE GOING TO ASK THAT YOU GO BACK AND RETURN A
23 VERDICT THAT SPEAKS JUSTICE, GOING TO ASK THAT THAT VERDICT
24 SPEAK JUSTICE FOR DJUAN MONROE, KRYSTAL FOWLER, LASHEIKA
25 FELTON, AND AARON HAMMONDS. THANK YOU.

1 THE COURT: MS. PRATT?

2 MS. PRATT: MAY IT PLEASE THE COURT, YOUR HONOR?

3 THE COURT: IT WOULD.

4 **OPENING STATEMENT**

5 **BY MS. PRATT:**

6 LADIES AND GENTLEMEN, BRIAN SPEARS DID NOT SHOOT
7 AARON HAMMONDS, DJUAN MONROE, LASHEIKA FELTON, OR KRYSTAL
8 FOWLER. JEFFREY BETHEA ON THE NIGHT OF MAY THE 27TH, 2007,
9 A MAN WHO GOES BY THE STREET NAME OF "BIRD" FIRED EIGHT
10 SHOTS AT AARON HAMMONDS AND THREE OF THOSE SHOTS STRAYED,
11 THREE OF THEM HIT AARON AND THE REST OF THEM EITHER WERE ON
12 THE STREET OR HIT THE OTHER THREE VICTIMS, DJUAN MONROE,
13 LASHEIKA FELTON, AND KRYSTAL FOWLER.

14 NOW DURING THIS TRIAL I'M GOING TO ASK YOU TO DO
15 A FEW THINGS. I WANT YOU TO KEEP IN MIND FIRST OF ALL WHAT
16 YOU'RE HEARING. I WANT YOU TO THINK ABOUT WHAT YOU'RE NOT
17 GOING TO HEAR AND I NEED YOU TO KEEP ALL OF YOUR
18 PRECONCEIVED NOTIONS AT THE DOOR. KEEP YOUR COMMON SENSE,
19 YOU'RE GOING TO NEED THAT. YOU'RE GOING TO USE THAT IN
20 DEALING WITH WITNESSES AND CREDIBILITY, BUT I WANT YOU TO
21 KEEP AN OPEN MIND AND LISTEN TO THE FACTS AS THEY ARE
22 PRESENTED TO YOU SPECIFICALLY THE THINGS THAT YOU WILL HEAR
23 AND THE THINGS THAT YOU'RE NOT GOING TO HEAR.

24 FOR EXAMPLE, YOU WILL HEAR ONE EXPERT SAY THAT
25 THERE WAS ONE GUN, THEREFORE ONE SHOOTER. WHAT YOU'RE NOT

1 GOING TO HEAR IS ANY OTHER FORENSIC EVIDENCE THAT'S GOING
2 TO LINK BRIAN SPEARS TO THESE SHOOTINGS.

3 YOU'RE NOT GOING TO HEAR ABOUT ANY FINGERPRINTS.
4 YOU'RE NOT GOING TO HEAR ABOUT ANY DNA, GUNSHOT RESIDUE, NO
5 GUN, NO HAIR, NO BLOOD, NONE OF THOSE THINGS THAT LINK HIM
6 IN ANY WAY TO THIS SHOOTING.

7 YOU WILL HEAR THE TESTIMONY OF HIS CODEFENDANT
8 JEFFREY BETHEA, KNOWN AS "BIRD." HE IS THE
9 MAN WHO HAS MADE A DEAL WITH THE STATE FOR A SIGNIFICANT
10 REDUCTION IN TIME.

11 YOU WILL HEAR THAT HE MATCHED A COMPOSITE DRAWING
12 THAT HAS BEEN DONE OF THE SUSPECT, TURNED HIMSELF IN AND
13 IMMEDIATELY BLAMED BRIAN FOR THE SITUATION. WELL WE HAVE A
14 SAYING IN THE DEFENSE BAR THE PERSON THAT'S TALKS WALKS OR
15 AT LEAST WALKS SOONER.

16 YOU WILL HEAR THE TESTIMONY OF WHAT I WANT TO
17 CALL JAILHOUSE PERSONALITIES. SOME OF THEM ARE GOING TO BE
18 INMATES, SOME OF THEM ARE GOING TO BE SNITCHES. WHAT YOU
19 HAVE TO DO IS EXACTLY WHAT HIS HONOR SAID TO YOU IS USE
20 YOUR COMMON SENSE TO DETERMINE THE CREDIBILITY OF THESE
21 WITNESSES.

22 CONSIDER, FOR EXAMPLE, WHAT THE PERSON'S REASON
23 TO LIE IS OR THEIR REASON TO TELL THE TRUTH. WHAT'S THEIR
24 OPPORTUNITY TO HAVE SPOKEN WITH ONE THE DEFENDANT'S OR
25 THEIR OPPORTUNITY TO SEE WHAT THEY SAW, WHAT THEY'RE

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

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1 TESTIFYING ABOUT, WHAT REASON A DEFENDANT MIGHT HAVE TO SAY
2 SOMETHING TO THEM TO CONFIDE IN THEM OR NOT TO CONFIDE IN
3 THEM? AND MOST IMPORTANTLY WHETHER THEY HAVE ANYTHING TO
4 GAIN OR TO LOOSE BY TESTIFYING HERE TODAY.

5 BRIAN HAS WAITED THREE YEARS FOR THIS TRIAL. IT
6 WILL BE THREE YEARS IN ABOUT TWO WEEKS FRANKLY, AND HE
7 COMES TO THIS COURTROOM WITH A PRESUMPTION OF INNOCENCE.

8 THE PRESUMPTION OF INNOCENCE AS HIS HONOR WILL
9 PROBABLY TELL YOU IS LIKE A ROBE LIKE THE CHOIR PEOPLE AT
10 CHURCH WERE WEARING ON SUNDAY. IT'S SOMETHING THAT COVERS
11 THE DEFENDANT COMPLETELY, AND THAT PRESUMPTION OF INNOCENCE
12 REMAINS WITH HIM UNTIL AND IF THE STATE DOES THEIR JOB AND
13 THEIR JOB IN A CRIMINAL CASE IS TO REMOVE THAT ROBE, TO
14 TAKE IT OFF, GET A LITTLE BIT OF THE SLEEVE, A LITTLE BIT
15 OF THE SIDES, TO GET ALL OF IT OFF TO THE POINT THAT THEY
16 HAVE PROVEN THEIR CASE BEYOND A REASONABLE DOUBT.

17 THE JUDGE REFERRED A LITTLE BIT TO A REASONABLE
18 DOUBT AND I'LL GIVE YOU A DEFINITION THAT I THINK HE MAY
19 ECHO OR THAT IS SOMETHING OUR SUPREME COURT HAS SAID, THAT
20 REASONABLE DOUBT IS A DOUBT THAT CAUSES A REASONABLE PERSON
21 TO HESITATE, CATCH THEIR BREATH AND HESITATE TO ACT.
22 THAT'S WHAT YOU ARE LOOKING TO FIND. IF THE STATE PROVES
23 THEIR CASE BEYOND A REASONABLE DOUBT THEN BRIAN SPEARS IS
24 GUILTY BUT WE BELIEVE FIRMLY THAT YOU WILL HEAR ENOUGH
25 THINGS TODAY AND TOMORROW, HOPEFULLY NOT TOO MUCH INTO

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

130

1 THURSDAY, THAT WILL CONVINCING YOU THAT BRIAN SPEARS DID NOT
2 SHOOT AARON HAMMONDS AND THE BULLET CAME FROM JEFFREY
3 BETHEA'S GUN THAT HIT THE THREE INNOCENT BYSTANDERS.

4 I WANT TO THANK YOU FOR YOUR TIME, BOTH BRIAN AND
5 I THANK YOU FOR THIS, BECAUSE WE BELIEVE THAT YOUR SERVICE
6 IS FRANKLY THE NEXT MOST IMPORTANT THING TO THE MILITARY
7 SERVICE AND WITHOUT YOU JUSTICE CANNOT BE DONE AND WE THANK
8 YOU FOR YOUR TIME AND YOUR SERVICE.

9 THE COURT: ALL RIGHT, THANK YOU. MS. ELDER,
10 MR. FILIBERTO, PREPARE TO CALL YOUR WITNESS.

11 MR. FILIBERTO: WE CALL TRAVIS PRESTON.

12 THE COURT: ALL RIGHT, MR. PRESTON.

13 **OFFICER TRAVIS M. PRESTON**

14 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

15 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
16 SPELL YOUR LAST NAME.

17 THE WITNESS: TRAVIS MATTHEW PRESTON, P-R-E-S-T-
18 O-N.

19 **DIRECT EXAMINATION**

20 **BY MR. FILIBERTO:**

21 Q OFFICER PRESTON, WHERE ARE YOU CURRENTLY
22 EMPLOYED?

23 A MYRTLE BEACH POLICE DEPARTMENT.

24 Q AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

25 A IT WILL BE A FULL SIX YEARS NEXT MONTH.

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

131

1 Q IN WHAT CAPACITY ARE YOU EMPLOYED
2 CURRENTLY?

3 A CURRENTLY I'M IN THE CRIME SCENE DIVISION.

4 Q AND WERE YOU WORKING DURING THE EARLY
5 MORNING HOURS OF MAY 27TH, 2007?

6 A YES, I WAS.

7 Q AND WHAT WERE YOUR ASSIGNED DUTIES THAT
8 MORNING?

9 A I WAS ON FOOT PATROL FOR A SECTOR ON THE
10 BOULEVARD.

11 Q AND WHAT DOES THAT MEAN?

12 A I HAD A GROUP, MYSELF, A STATE CONSTABLE,
13 AND TWO SLED AGENTS, AND WE WERE ASSIGNED TO BASICALLY WALK
14 A FOOT BEAT BETWEEN A CERTAIN SECTION OF THE BOULEVARD FROM
15 11TH AVENUE UP TO, I BELIEVE, ABOUT 14TH AVENUE WAS OUR
16 SECTOR AT THAT TIME.

17 Q WHEN YOU SAY THE BOULEVARD YOU MEAN OCEAN
18 BOULEVARD?

19 A OCEAN BOULEVARD, THAT'S CORRECT.

20 Q WAS THERE A LOT OF ACTIVITY IN THE STREET
21 THAT TIME OF THE MORNING?

22 A OH, ABSOLUTELY, THERE WAS.

23 Q AND WHY WAS THAT?

24 A IT'S DURING THE MEMORIAL BIKE WEEK. AT
25 THAT TIME THE BOULEVARD THAT PARTICULAR YEAR HAD ONLY

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

132

1 SOUTHBOUND TRAFFIC. NORTHBOUND TRAFFIC WAS FOR EMERGENCY
2 VEHICLES AND I RECALL THE BOULEVARD WAS FULL OF TRAFFIC AT
3 THAT TIME, I GUESS WHAT YOU CALL BUMPER TO BUMPER, AND ALSO
4 THE SIDEWALKS WERE PACKED WITH PEOPLE AT THAT TIME.

5 Q OKAY, DID SOMETHING HAPPEN IN THE EARLY
6 MORNING HOURS THAT CAUSED YOU SOME CONCERN?

7 A YES, AT APPROXIMATELY 2:30 IN THE MORNING
8 WE WERE, MY GROUP WAS WALKING SOUTHBOUND ON OCEAN BOULEVARD
9 WHEN WE HEARD SHOTS FIRED FROM A GUN APPROXIMATELY 25 TO 30
10 YARDS AWAY FROM US. I RECALL SEEING THE SMOKE COME UP FROM
11 THE GUN BEING FIRED AND THEN IT WAS CHAOS FOR A SHORT TIME
12 AFTER THAT WITH PEOPLE RUNNING IN ALL DIRECTIONS. WE HAD A
13 LOT OF SCREAMING GOING ON. I CALLED OUT OVER MY RADIO THAT
14 WE HAD HAD SHOTS FIRED AND MY TEAM AND I RAN IN THE
15 DIRECTION OF THE, OF THE GUNSHOTS.

16 Q NOW THE LOCATION WHERE THE GUNSHOTS WERE,
17 THAT LOCATION THAT YOU RAN TO, IS THAT LOCATION, WHAT
18 COUNTY IS THAT LOCATION IN?

19 A WHAT COUNTY?

20 Q YES, SIR?

21 A HORRY COUNTY.

22 Q AS YOU RAN THERE WHAT DID YOU OBSERVE?

23 A AGAIN A LOT OF CHAOS AT FIRST WITH PEOPLE
24 RUNNING IN ALL DIRECTIONS FROM THE SCENE AND THEN I FIRST
25 NOTICED A FEMALE LAYING ON THE SIDEWALK NEXT TO A WINDOW

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

133

1 THAT HAD BEEN APPARENTLY SHOT OUT. THE GLASS WAS ALL
2 BROKEN OUT. SHE WAS LAYING ON THE GROUND HOLDING HER HEAD.
3 MY PARTNER, A SLED OFFICER, BEGAN ATTENDING TO HER AND THEN
4 I OBSERVED ACROSS THE STREET IN FRONT OF THE GOLDEN VILLA
5 MOTEL ANOTHER VICTIM THAT WAS BLEEDING ---

6 Q I'M GOING, I'M GOING TO SLOW YOU DOWN, IF I
7 MAY?

8 A OKAY.

9 Q THIS FIRST VICTIM WHERE DID YOU SAY YOU
10 OBSERVED HER TO BE WOUNDED?

11 A IT APPEARED SHE HAD A GUNSHOT WOUND TO HER
12 HEAD.

13 Q DID YOU EVER, DID YOU ULTIMATELY BECOME
14 AWARE OF THIS VICTIM'S NAME?

15 A I DID, I DON'T RECALL THAT OFF THE TOP OF
16 MY HEAD BUT I GATHERED ALL THE NAMES OF VICTIMS AND THINGS
17 FOR THE REPORTS SO I WOULD HAVE GOTTEN HER NAME.

18 Q OKAY, NOW YOU INDICATED THAT AT SOME POINT
19 YOU LEFT THAT VICTIM AND WENT ACROSS THE STREET; IS THAT
20 CORRECT?

21 A YES, THAT'S CORRECT.

22 Q TELL US WHAT, WHAT BROUGHT YOU ACROSS THE
23 STREET?

24 A AGAIN I OBSERVED ANOTHER FEMALE BLEEDING
25 AND A LOT OF PEOPLE HOLLERING ABOUT HER BEING HURT. I

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

134

1 OBSERVED WHAT APPEARED TO BE AN AREA OF BLOOD IN HER
2 ABDOMEN AREA. I APPROACHED AND ASSISTED GETTING HER INTO
3 THE OFFICE. THAT PARTICULAR OFFICE HAS A LITTLE GROCERY
4 STORE TO THE SIDE AND I HELPED THEM GET IN AND OVER INTO
5 THAT GROCERY AREA OUT OF ANY LINE OF FURTHER FIRE. WE
6 WEREN'T SURE IF THE AREA WAS SECURED AT THAT TIME OR NOT.

7 Q AND DID YOU DETERMINE THE NATURE OF THE
8 INJURY THAT THIS WOMAN HAD SUFFERED?

9 A SHE APPEARED TO HAVE A GUNSHOT WOUND TO HER
10 MID SECTION.

11 Q HER ABDOMEN?

12 A YES.

13 Q AND ULTIMATELY WERE YOU MADE AWARE OF THIS
14 VICTIM'S NAME?

15 A YES.

16 Q WHAT WAS THAT.

17 A I BELIEVE HER NAME WAS KRYSTAL.

18 Q KRYSTAL FOWLER?

19 A YES.

20 Q AND YOU BELIEVE, YOU TESTIFIED THAT YOU
21 BELIEVED THAT WAS A GUNSHOT INJURY?

22 A YES.

23 (WHEREUPON, STATE'S EXHIBIT NUMBER 1 MARKED FOR
24 IDENTIFICATION.)

25 MR. FILIBERTO: THE COURT'S INDULGENCE JUST ONE

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

135

1 SECOND.

2 THE COURT: CERTAINLY.

3 MR. FILIBERTO: (CONTINUING)

4 Q MR. PRESTON, LET ME SHOW YOU WHAT'S BEEN
5 MARKED AS STATE'S 1 SEE IF YOU CAN RECOGNIZE THIS AREA?

6 A YES.

7 Q WHAT IS IT?

8 A THAT IS OCEAN BOULEVARD NEAR THE
9 INTERSECTION OF MR. JOE WHITE OR 11TH AVENUE NORTH.

10 Q AND IS THIS THE AREA YOU WERE SPEAKING
11 ABOUT?

12 A YES, THAT IS THE AREA.

13 MR. FILIBERTO: THE STATE MOVES TO HAVE STATE'S
14 1 ENTERED INTO EVIDENCE?

15 THE COURT: ANY OBJECTION?

16 MS. PRATT: NO OBJECTION, YOUR HONOR.

17 THE COURT: ADMITTED.

18 (WHEREUPON, STATE'S EXHIBIT NUMBER 1 ENTERED INTO
19 EVIDENCE.)

20 MR. FILIBERTO: I'D ASK PERMISSION FOR THE
21 WITNESS TO COME DOWN FROM THE STAND.

22 THE COURT: CERTAINLY, YOU MAY STEP DOWN.

23 MR. FILIBERTO: (CONTINUING)

24 Q OFFICER PRESTON, I'M GOING TO ASK YOU TO
25 SPEAK LOUDLY DOWN HERE JUST TO MAKE SURE THE COURT REPORTER

OFFICER PRESTON - DIRECT EXAMINATION BY MS. ELDER

136

1 AND EVERYBODY CAN PICK UP.

2 MR. PRESTON, I'M GOING TO ASK YOU TO USE THIS
3 MARKER AND PUT A MARK ON THIS SHOWING THE DIRECTION THAT
4 YOU AND THE OTHER OFFICERS YOU WERE WORKING WITH CAME AS
5 YOU HEARD THE NOISE AND YOU CAME TOWARD IT, WHAT DIRECTION
6 WERE YOU WALKING ON THE BOULEVARD?

7 A WE WERE WALKING SOUTHBOUND ON WHAT WE CALL
8 LANE NUMBER ONE. LANE NUMBER ONE IS THE CLOSEST TO THE
9 YELLOW LINE. THE TRAFFIC WAS IN THESE TWO LANES SOUTHBOUND
10 AND WE WERE WALKING SOUTHBOUND.

11 Q JUST MAKE A GOOD SIZE RED ARROW ON THERE
12 FOR ME, THAT'S FINE. NOW YOU INDICATED IN YOUR TESTIMONY
13 THAT YOU FIRST CAME UP TO A VICTIM ON THE SIDEWALK, I'D ASK
14 YOU TO TAKE ONE OF THOSE RED DOTS OFF THIS AND PUT A DOT
15 WHERE YOU CAME ACROSS THAT VICTIM?

16 A I'M TRYING TO ORIENT MYSELF HERE.

17 Q WELL I WAS GOING TO ASK YOU WHERE WOULD THE
18 BEACH BE IN THIS?

19 A THE BEACH IS OVER HERE, THIS IS PYLER PARK
20 RIGHT HERE WHICH WAS UNDER CONSTRUCTION. IT'S HARD TO TELL
21 FROM ABOVE. THE FIRST VICTIM WOULD HAVE BEEN LOCATED RIGHT
22 THERE.

23 Q OKAY, SO RIGHT HERE IS WHERE YOU
24 ENCOUNTERED THE FIRST VICTIM, PUT A DOT WHERE YOU WOULD
25 HAVE ENCOUNTERED THE SECOND VICTIM?

OFFICER PRESTON - CROSS EXAMINATION BY MS. PRATT

137

1 A ACROSS THE STREET IN FRONT OF THIS HOTEL
2 HERE.

3 Q OKAY, THANK YOU ---

4 THE COURT: DID EACH OF THE JURORS SEE WHERE HE
5 WAS POINTING TO AND PUTTING THE DOTS? EVERYBODY SAW, OKAY.

6 MR. FILIBERTO: (CONTINUING)

7 Q THANK YOU, WHY DON'T YOU GO BACK TO THE
8 STAND. WHEN YOU APPROACHED THE FIRST VICTIM YOU INDICATED
9 YOU SAW SOME DAMAGE, COULD YOU TELL US ABOUT THAT?

10 A SHE WAS LYING ON THE SIDEWALK AND HOLDING
11 HER HEAD ---

12 Q ABOUT SOME DAMAGE, PROPERTY DAMAGE?

13 A OH, I'M SORRY, THE DAMAGE WAS TO A PLATE
14 GLASS WINDOW, LARGE DISPLAY WINDOW, AT ONE OF THE BEACH
15 STORES THERE.

16 MR. FILIBERTO: THE COURT'S INDULGENCE.

17 THE COURT: THAT'S ALL RIGHT, THAT'S STATE'S 2,
18 WITHOUT OBJECTION?

19 MS. PRATT: NO OBJECTION, YOUR HONOR.

20 THE COURT: ALL RIGHT, ADMITTED WITHOUT
21 OBJECTION.

22 (WHEREUPON, STATE'S EXHIBIT NUMBER 2 MARKED AND
23 ENTERED INTO EVIDENCE.)

24 MR. FILIBERTO: (CONTINUING)

25 Q I ASK YOU TO LOOK AT THIS AND TELL US IF

OFFICER PRESTON - CROSS EXAMINATION BY MS. PRATT

138

1 THAT'S THE DAMAGE YOU SAW?

2 A YES, ABSOLUTELY.

3 Q OFFICER PRESTON, AFTER ASSESSING THE
4 INJURIES TO THE SECOND VICTIM WHAT DID YOU DO?

5 A WE HAD OTHER UNITS ARRIVING ON SCENE
6 HELPING US SECURE THE AREA AND THEY BEGAN TO ATTEND TO THE
7 FEMALE AT THE GOLDEN VILLA. I RETURNED BACK TO THE FIRST
8 VICTIM THAT MY SLED PARTNER WAS WORKING ON AT THAT TIME.
9 HE WAS MEDICALLY TRAINED AND HE WAS PROVIDING SOME FIRST
10 AID FOR HER AND I ASSISTED IN THAT AT THAT TIME.

11 MR. FILIBERTO: NO FURTHER QUESTIONS, PLEASE
12 ANSWER ANY QUESTIONS MS. PRATT HAS.

13 THE COURT: MS. PRATT?

14 CROSS EXAMINATION

15 BY MS. PRATT:

16 Q OFFICER PRESTON, YOU NEVER SAW THE
17 SHOOTERS?

18 A NO.

19 Q YOU NEVER, YOU REALLY HAVEN'T GOT ANY
20 INFORMATION FOR US ON THAT?

21 A NO.

22 Q OKAY, AND I'M GOING TO SHOW YOU A SERIES OF
23 THREE PHOTOS WHICH I'M GOING TO ASK THE COURT REPORTER TO
24 MARK AS DEFENSE EXHIBIT NUMBER 1?

25 THE COURT: DO YOU WANT TO MARK TOGETHER, MS.

OFFICER PRESTON - CROSS EXAMINATION BY MS. PRATT

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1 PRATT?

2 MS. PRATT: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT, ANY OBJECTION, MR.
4 FILIBERTO?

5 MR. FILIBERTO: NO, YOUR HONOR.

6 THE COURT: OKAY, LET'S GO AHEAD AND ADMIT THEN,
7 I ASSUME HE CAN IDENTIFY THEM. YOU WANT TO MARK FOR
8 IDENTIFICATION OR DO YOU WANT TO ADMIT THEM?

9 MS. PRATT: I'D LIKE TO ADMIT THEM, YOUR HONOR,
10 YES.

11 THE COURT: OKAY.

12 MS. PRATT: I UNDERSTAND.

13 THE COURT: ALL RIGHT.

14 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 1 MARKED
15 AND ENTERED INTO EVIDENCE.)

16 MS. PRATT: (CONTINUING)

17 Q I'M GOING TO SHOW YOU THREE PICTURES NOW
18 HAVING BEEN MARKED AND ADMITTED INTO EVIDENCE AS DEFENSE
19 EXHIBIT NUMBER 1 AND ASK YOU IF YOU RECOGNIZE WHAT THOSE
20 PICTURES REPRESENT?

21 A YES.

22 Q ARE THOSE A STREET VIEW OF THE SAME AREA
23 THAT YOU HAVE POINTED OUT ON THE STATE'S EXHIBIT NUMBER 1?

24 A YES.

25 Q SO THAT WOULD HAVE INCLUDED THE AREAS OF

OFFICER PRESTON - CROSS EXAMINATION BY MS. PRATT

140

1 THE BUNGEE JUMP OR WHATEVER THAT IS?

2 A THE SLINGSHOT RIDE, THAT'S WHAT I BELIEVE
3 THAT'S WHAT THEY CALL IT NOW IS THE SLINGSHOT, YES, IT
4 INCLUDED THAT AREA AS WELL.

5 Q ALL RIGHT, AND ON THESE PICTURES THERE IS
6 AN AREA THAT LOOKS LIKE BLACK LINES UP AND DOWN, LOOKS LIKE
7 WINDOWS, WOULD THAT BE THE SAME AREA THAT'S THE BROKEN
8 GLASS IN STATE'S 2?

9 A YES, IT IS.

10 Q ALL RIGHT --

11 MS. PRATT: YOUR HONOR, MAY I PUBLISH THESE TO
12 THE JURY?

13 THE COURT: YES, YOU MAY.

14 MS. PRATT: (CONTINUING)

15 Q AND, DETECTIVE PRESTON, THOSE PHOTOGRAPHS
16 WOULD GIVE THE JURY AN IDEA, I SUPPOSE, ISN'T IT TRUE, OF
17 JUST THE SIZE AT THE SIDEWALK AND WHAT WE'RE REALLY TALKING
18 ABOUT; IS THAT CORRECT?

19 A YES, THAT'S A FAIR DEPICTION OF THE, OF THE
20 SIDEWALK AREA THERE.

21 Q OKAY, AND THE, THE, RIGHT BESIDE THAT
22 SIDEWALK AREA THERE'S TWO LANES OF TRAFFIC THAT THEY WOULD
23 HAVE BEEN JAM FULL GOING SOUTHBOUND; IS THAT RIGHT?

24 A THAT IS CORRECT.

25 Q AND THEN ON THE OTHER SIDE WHICH WOULD

OFFICER PRESTON - CROSS EXAMINATION BY MS. PRATT

141

1 NORMALLY BE NORTHBOUND THAT WAS BLOCKED OFF AND ONLY USED
2 FOR EMERGENCY PURPOSES, CORRECT?

3 A CORRECT, AND THAT'S WHERE WE WALKED OUR
4 FOOT BEAT BACK AND FORTH.

5 Q SO YOU WERE ACTUALLY KIND OF ACROSS THE
6 STREET?

7 A I WAS AT THE ---

8 Q SORT OF?

9 A I WAS EXACTLY AT THE CENTER LINE, THE
10 YELLOW LINE AND I WAS APPROXIMATELY MAYBE 5 TO 10 YARDS
11 FROM THE SLINGSHOT RIDE SOUTH.

12 Q OKAY, AND DID YOU HAVE ANY INVOLVEMENT
13 WITH, ON THAT PHOTOGRAPH THERE'S NUMBERS WHERE THE, I
14 GUESS, CASINGS OR WHATEVER WERE FOUND, DID YOU HAVE ANY
15 INVOLVEMENT WITH THAT OR WOULD THAT HAVE BEEN ANOTHER
16 OFFICER?

17 A NO, THAT WAS, THAT WOULD BE THE CRIME
18 DIVISION.

19 Q SO YOUR PURPOSE BASICALLY WAS TRYING TO
20 CONTROL THE SCENE AND HELP THE VICTIMS?

21 A RIGHT, FOR OUR ASSIGNMENT IS ANYTHING THAT
22 HAPPENS AT THE TIME WE'RE FIRST RESPONDERS AND AS YOU SAID
23 BASICALLY WE JUST TRIED TO SECURE THE SCENE AND AS WE HAD
24 OTHER UNITS ARRIVING TO HELP.

25 Q AND YOU HAD STATED, I THINK, IN YOUR

OFFICER PRESTON - CROSS EXAMINATION BY MS. PRATT

142

1 TESTIMONY THAT THERE WERE JUST LOTS OF PEOPLE, IT WAS JAM
2 PACKED, CORRECT?

3 A YES, THERE WERE SEVERAL PEOPLE ON THE
4 SIDEWALK.

5 Q KIND OF LIKE WHAT WE PICTURE TIME SQUARE TO
6 BE LIKE ON NEW YEARS EVE, IS IT LIKE THAT?

7 A WELL I DON'T KNOW IF IT WOULD BE THAT FULL
8 BUT IT WAS, YOU WOULD DEFINITELY BE SHOULDER TO SHOULDER
9 WITH SOMEBODY WALKING DOWN THE SIDEWALK.

10 Q OKAY, ANY IDEA HOW MANY PEOPLE WERE THERE
11 FOR THE WEEKEND?

12 A NO, I DON'T RECALL HOW MANY THE ESTIMATE
13 WAS FOR THAT WEEKEND.

14 Q SOMETIMES THERE'S ESTIMATES PUT OUT BY THE
15 CHAMBER OF COMMERCE, THEY LIKE TO DO THAT, DON'T THEY, BUT
16 YOU DON'T HAVE ANY INFORMATION ABOUT THAT?

17 A NO, I DON'T RECALL THE NUMBERS FROM THEM.

18 MS. PRATT: OKAY, THANK YOU VERY MUCH, OFFICER.

19 MR. FILIBERTO: THE STATE HAS NOTHING ELSE.

20 WE'D ASK THAT THIS OFFICER BE EXCUSED FROM THE SUBPOENA.

21 THE COURT: ANY OBJECTION?

22 MS. PRATT: NO, YOUR HONOR.

23 THE COURT: ALL RIGHT, OFFICER, YOU'RE EXCUSED
24 FROM YOUR SUBPOENA, THANK YOU FOR COMING.

25 THE WITNESS: THANK YOU.

SPECIAL AGENT KELLER - DIRECT EXAM. BY MR. FILIBERTO 143

1 MR. FILIBERTO: THE STATE WOULD CALL BRAD
2 KELLER.

3 **SPECIAL AGENT W. BRADLEY KELLER**

4 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

5 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
6 SPELL YOUR LAST FOR THE COURT.

7 THE WITNESS: MY NAME IS WILLIAM BRADLEY KELLER,
8 THE LAST NAME IS SPELLED K-E-L-L-E-R.

9 **DIRECT EXAMINATION**

10 **BY MR. FILIBERTO:**

11 Q MR. KELLER, WHERE ARE YOU CURRENTLY
12 EMPLOYED?

13 A AT THE SOUTH CAROLINA LAW ENFORCEMENT
14 DIVISION.

15 Q IN WHAT CAPACITY?

16 A MY CURRENT IS A SPECIAL AGENT AND I
17 SPECIFICALLY WORK FIRE AND ARSON INVESTIGATION BUT PRETTY
18 MUCH ANYTHING ELSE THEY TASK ME WITH.

19 Q HOW LONG HAVE YOU BEEN WITH SLED?

20 A SINCE 2001.

21 Q AND WERE YOU WORKING IN THE MYRTLE BEACH
22 AREA THE EARLY MORNING HOURS OF MAY 27TH, 2007?

23 A YES, SIR.

24 Q AND WHAT WAS YOUR ASSIGNMENT AT THAT TIME?

25 A LIKE YEARS IN THE PAST OR EVERY YEAR WE

SPECIAL AGENT KELLER - DIRECT EXAM. BY MR. FILIBERTO

144

1 COME DOWN TO WORK BIKE WEEK OUR AGENTS WHEREVER WE'RE
2 ASSIGNED ARE TO SUPPLEMENT THE PEOPLE THAT WORK AT THE
3 MYRTLE BEACH POLICE DEPARTMENT. I BELIEVE WE'RE SOMEWHERE,
4 AND OBVIOUSLY I'M NOT FROM MYRTLE BEACH, I JUST GO WHERE
5 THEY TELL ME WHEN I GET DOWN THERE. I BELIEVE IT WAS
6 AROUND 13TH AVENUE OR SOMEWHERE LIKE THAT, OR 11TH TO 13TH,
7 BUT OBVIOUSLY WE ROAMED BUT WE'RE ON FOOT PATROL WORKING
8 THE BOULEVARD.

9 Q YOU SAY WE DOES THAT MEAN YOU WERE WORKING
10 WITH OTHER PEOPLE?

11 A YES, SIR, THERE'S I THINK ABOUT FOUR OF US,
12 THREE OR FOUR OF US.

13 Q NOW ABOUT 2:30 THAT MORNING DID YOU HEAR
14 ANYTHING THAT CAUSED YOU SOME CONCERN?

15 A YES, SIR, ABOUT, WELL I BELIEVE IF MY
16 MEMORY SERVES ME CORRECTLY THE MAIN PLACE IN OUR AREA THAT
17 STAYED PRETTY MUCH WAS I BELIEVE THE DOG HOUSE AND THEY
18 WERE JUST LETTING OUT BECAUSE THEY WERE CLOSING WHICH WAS
19 RIGHT AROUND TWO WHEN THEY WERE GETTING EVERYBODY OUT SO WE
20 WERE WATCHING THE PEOPLE LEAVE AND THEN ABOUT SOMEWHERE
21 AROUND THAT TIME, SHORTLY THEREAFTER AROUND 2:30, HEARD
22 NUMEROUS GUN SHOTS COMING FROM WHICH WAS WHERE I WAS
23 FACING, IT WAS DOWN TO MY LEFT. SO AT THAT POINT IN TIME,
24 YES, SIR, TO ANSWER YOUR QUESTION, YES.

25 Q WHAT DID YOU DO IN RESPONSE TO HEARING

SPECIAL AGENT KELLER - DIRECT EXAM. BY MR. FILIBERTO

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1 THOSE GUNSHOTS?

2 A INITIALLY CALLED IT IN ON THE RADIO JUST
3 CAUSE OF THE WAY THE STREET WAS SITUATED WITH PEDESTRIANS
4 ON EITHER SIDE OF THE ROAD AND VEHICLES DOWN THE MIDDLE,
5 INITIALLY WAS NOT CERTAIN WHERE THE BULLETS WERE COMING
6 FROM UNTIL FINALLY SAW GLASS BREAK ON THE RIGHT SIDE OF THE
7 ROAD FROM WHERE I WAS STANDING AND AT THAT POINT IN TIME WE
8 JUST PROCEEDED DOWN TO THE AREA. AT THAT POINT ALSO
9 EVERYBODY IN THE STREET HAD PRETTY MUCH SCATTERED SO WE
10 WERE OBVIOUSLY LOOKING TO SEE IF THERE WERE ANY VICTIMS AND
11 AS WELL TRYING TO SEE IF THE SHOOTER WAS STILL IN THE
12 VICINITY.

13 Q DID YOU COME ACROSS ANY VICTIMS?

14 A YES, SIR, I DID.

15 Q TELL US ABOUT THAT, TELL THE JURY ABOUT
16 THAT?

17 A AS I WAS COMING RIGHT DOWN THE ROAD, AS I
18 SAID RIGHT AFTER WE HEARD THE GUN SHOTS, I CALLED OUT ON MY
19 RADIO AND LIKE I SAID BEFORE DIDN'T KNOW INITIALLY WHERE
20 THE GUNSHOTS WERE COMING FROM BUT I SAW GLASS BREAK IN A
21 STORE FRONT ON THE RIGHT SIDE OF THE ROAD. ALL OF A SUDDEN
22 AT THAT POINT IN TIME, I BELIEVE, JUST KIND OF SAW A CROWD
23 OF PEOPLE. WHEN I DID SEE THAT CROWD OF PEOPLE THE FIRST
24 THING THAT CAME TO MINE WAS THAT SOMEBODY HAD BEEN HIT AND
25 THEN, OF COURSE, I HEARD SOMEBODY SAY SOMEBODY HAD BEEN

SPECIAL AGENT KELLER - DIRECT EXAM. BY MR. FILIBERTO 146

1 SHOT. WHEN I GOT UP TO THE SIDEWALK I SAW A FEMALE LYING
2 FACE DOWN ON THE SIDEWALK IN FRONT OF THAT STORE FRONT.

3 Q AND DID THAT FEMALE APPEAR TO BE INJURED?

4 A YES, SIR, SHE DID.

5 Q NOW, AGENT KELLER, PRIOR TO YOUR TIME WITH
6 SLED HAD YOU HAD ANY SPECIAL TRAINING THAT MIGHT HAVE
7 HELPED YOU IN OBSERVING OR RENDERING AID TO AN INJURED
8 PERSON?

9 A YES, SIR, FROM ABOUT '97 TILL ABOUT 2001 I
10 WORKED WITH THE FIRE DEPARTMENT IN GREENVILLE COUNTY WHERE
11 I WAS ALSO AN EMT AND A FIRST RESPONDER SO I MEAN IT WAS,
12 YOU KNOW, AS A NORMAL PART OF OUR JOB RESPOND WITH EMS, GO
13 TO DIFFERENT MEDICAL CALLS AND THINGS OF THAT NATURE,
14 WRECKS AND --

15 Q DID YOU ASSESS THE INJURIES TO THIS VICTIM
16 THAT YOU FOUND ON THE SIDEWALK?

17 A INSOFAR AS I WAS ABLE TO INITIALLY
18 BASICALLY WHAT I DID I KNEW I DIDN'T HAVE ANY MEDICAL GEAR
19 WITH ME, WHAT I DID INITIALLY WHEN I GOT THERE WAS AS I, AS
20 I SPOKE WITH THE LADY WHO WAS ON THE FLOOR AND DETERMINED
21 THAT SHE WAS RESPONSIVE ACTUALLY TO VERBAL COMMANDS AND
22 EVERYTHING, I SAW THAT SHE WAS BLEEDING FROM THE HEAD,
23 DIDN'T WANT TO TURN HER OVER AT THAT TIME CAUSE I DIDN'T
24 HAVE ANYTHING TO STABILIZE HER NECK WITH BUT WHEN WE CALLED
25 IT IN ON THE RADIO I CALLED FOR ONE OF OUR RESPONSE UNITS

CROSS EXAMINATION BY MS. PRATT

147

1 TO COME AND THEY HAD A TRAUMA BAG WITH THEM. BUT ONCE THEY
2 GOT THERE WITH THE TRAUMA BAG WE WERE ABLE TO PUT OXYGEN ON
3 HER AND PUT A "C" COLLAR ON HER AND ABLE TO ROLL HER OVER
4 AND IT WAS AT THAT TIME THAT YOU COULD SEE WHERE THE WOUND
5 WAS.

6 Q DID YOU HAVE AN OPINION AS TO WHAT CAUSED
7 HER INJURY?

8 A AT THAT TIME IT APPEARED TO ME THAT SHE HAD
9 A, EXCUSE ME, WHAT APPEARED TO BE AN ENTRANCE OR A GUNSHOT
10 WOUND TO I BELIEVE IT WAS TO THE RIGHT SIDE OF HER HEAD
11 JUST ABOVE THE TEMPLE. YOU COULDN'T REALLY SEE ANYTHING
12 MORE THAN THAT. IT DIDN'T APPEAR TO BE ANY TYPE OF EXIT
13 WOUND, DID A CURSORY EXAMINATION OF HER SKULL JUST GOING
14 ALONG, DIDN'T FEEL LIKE THERE WAS ANY OTHER BONE CHIPS OR
15 ANYTHING STICKING OUT IN THE BACK OR ANYTHING AND ALSO SHE
16 WAS ALERT AT THE TIME SO I DIDN'T KNOW IF IT WAS SOMETHING
17 WHERE A BULLET WAS LODGED, IT WAS GLANCING OR ANYTHING
18 ELSE. MAINLY AT THAT POINT IN TIME SINCE SHE WAS ALERT,
19 SHE WAS, YOU KNOW, BREATHING AT THAT POINT IN TIME THE MAIN
20 THING WAS WE WERE JUST WANTING TO DO A STABILIZE HER UNTIL
21 EMS COULD GET THERE.

22 Q DID YOU LATER BECOME AWARE OF THIS VICTIM'S
23 NAME?

24 A WHILE WE WERE SITTING THERE AND PUTTING
25 OXYGEN ON HER AND TAKING VITAL SIGNS AND EVERYTHING ELSE I

CROSS EXAMINATION BY MS. PRATT

148

1 ALWAYS TRY TO TALK TO PEOPLE I'M WORKING WITH THEM JUST TO
2 TRY TO KEEP THEIR MIND OFF OF THINGS AND KEEP THEM
3 CONSCIENCE AND EVERYTHING AND I ASKED HER, YOU KNOW, AND A
4 LOT OF THOSE THINGS THAT I DON'T REMEMBER. BUT I DID ASK
5 HER NAME, I BELIEVE, AND WHERE SHE WAS FROM, HOW OLD SHE
6 WAS, JUST ANY KIND OF BASIC INFORMATION JUST SO THAT IF SHE
7 WERE TO BECOME UNCONSCIOUS AT THAT POINT IN TIME WE MIGHT
8 HAVE SOME TYPE OF RECORD. THAT STUFF I DID TURN OVER TO
9 THE EMS OR THE PEOPLE THAT GOT THERE ALONG WITH HER VITALS
10 FOR THE PERIOD OF TIME WHICH WE MONITORED HER.

11 Q SO YOU DID DETERMINE HER NAME?

12 A YES, AND ---

13 Q DO YOU REMEMBER WHAT IT WAS?

14 A I BELIEVE IT WAS KESHIA.

15 Q LASHEIKA FELTON?

16 A I BELIEVE SO, YES.

17 Q AT SOME POINT DID EMS RESPOND TO YOUR
18 LOCATION?

19 A YES, SIR, THEY DID.

20 Q AND DID THEY TAKE OVER RESPONSIBILITY FOR
21 TREATING THE VICTIM AT THAT POINT?

22 A YES, SIR.

23 MR. FILIBERTO: EXCUSE ME -- THAT'S ALL I HAVE,
24 PLEASE ANSWER ANY QUESTIONS MS. PRATT MAY HAVE.

25 CROSS EXAMINATION

CROSS EXAMINATION BY MS. PRATT

149

1 BY MS. PRATT:

2 Q AGENT KELLER, YOU WERE DOWN HERE BASICALLY
3 LIKE AN ADDITIONAL PERSON TO ASSIST WITH CROWD CONTROL
4 BECAUSE OF THE VOLUME OF PEOPLE AND BE INVOLVED IN HELPING
5 WITH THE FESTIVAL, RIGHT?

6 A YES, MA'AM, AS WE DO ON HARLEY WEEK OR
7 BASICALLY ANY OTHER TYPE OF EVENT WHERE A MUNICIPALITY OR
8 COUNTY REQUEST US WITH MANPOWER.

9 Q OKAY, AND YOU GAVE A STATEMENT THAT NIGHT
10 AND IN YOUR STATEMENT YOU SAID YOU DIDN'T SEE THE SHOOTER
11 OR ANY MUZZLE FLASHINGS, CORRECT?

12 A NO, MA'AM.

13 Q YOUR JOB BASICALLY YOU FOCUSED ON MS.
14 FELTON TO MAKE SURE THAT SHE WAS OKAY AND GOT STABILIZED
15 FOR BEING SENT FOR TREATMENT; IS THAT RIGHT?

16 A YES, MA'AM, THAT'S CORRECT.

17 Q DID YOU HAVE ANYTHING TO DO WITH COLLECTION
18 OF ANY OTHER EVIDENCE?

19 A NO, MA'AM.

20 MS. PRATT: OKAY, I'VE GOT NOTHING FURTHER,
21 THANK YOU.

22 MR. FILIBERTO: NOTHING FURTHER FROM THE STATE.
23 YOUR HONOR, WE'D ASK THIS WITNESS BE EXCUSED FROM THE
24 SUBPOENA.

25 MS. PRATT: NO OBJECTION, YOUR HONOR.

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

150

1 THE COURT: ALL RIGHT, YOU'RE EXCUSED FROM YOUR
2 SUBPOENA, THANK YOU.

3 THE WITNESS: THANK YOU, SIR.

4 MS. ELDER: YOUR HONOR, THE STATE WOULD CALL
5 OFFICER BRYAN TRUEX.

6 **OFFICER BRYAN TRUEX**

7 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

8 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
9 SPELL YOUR LAST NAME FOR THE RECORD.

10 THE WITNESS: MY NAME IS BRYAN CARL TRUEX, T-R-
11 U-E-X.

12 **DIRECT EXAMINATION**

13 **BY MS. ELDER:**

14 Q OFFICER TRUEX, WHERE ARE YOU CURRENTLY
15 EMPLOYED?

16 A THE MYRTLE BEACH POLICE DEPARTMENT.

17 Q WHAT CAPACITY?

18 A CERTAINLY I WORK IN THE STREET CRIMES UNIT.

19 Q AND HOW LONG HAVE YOU BEEN WITH MYRTLE
20 BEACH?

21 A JUST UNDER 10 YEARS.

22 Q AND BACK IN MAY 27TH, 2007, WERE YOU IN
23 FACT WORKING THAT NIGHT?

24 A YES, MA'AM.

25 Q AND WHAT WERE YOUR DUTIES AND OBLIGATIONS

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

151

1 THAT NIGHT?

2 A AT THAT TIME I WAS ASSIGNED TO THE TRAFFIC
3 UNIT, I WORK FATALITY RECONSTRUCTION UNIT, ANY TYPE OF
4 MOTOR VEHICLE FATALITIES ARE MY RESPONSIBILITY, THE
5 RECONSTRUCTION OF THOSE.

6 Q AND DID YOU RESPOND TO A LOCATION ON OCEAN
7 BOULEVARD IN REFERENCE TO A SHOOTING?

8 A YES, MA'AM.

9 Q AND WHAT DID YOU DO WHEN YOU RESPONDED?

10 A IT WAS REQUESTED THAT I BRING THE EQUIPMENT
11 THAT WE USE FOR FATALITY RECONSTRUCTION TO DO SOME
12 DIAGRAMING FOR THAT SHOOTING.

13 Q AND DO YOU CALL THAT, THAT PROGRAM ONE
14 PARTICULAR THING?

15 A IT'S CALL THE TOTAL STATION, THE TECHNICAL
16 TERM IS A SOKIA TOTAL STATION. IT'S A, BASICALLY WHAT YOU
17 SEE IS THE ROAD SURVEYORS THE PEOPLE ON THE SIDE OF THE
18 ROAD WITH THE TRIPOD THAT THEY'RE LOOKING THROUGH AND THE
19 PEOPLE WITH THE REFLECTIVE PRISMS, IT'S THE SAME THING.
20 IT'S USED TO MEASURE DISTANCES AND DIAGRAM SCENES TO SCALE.

21 Q AND TELL ME A LITTLE BIT, I'M GOING TO CALL
22 IT TOTAL STATION ---

23 A OKAY.

24 Q --- CAUSE I DON'T KNOW THE OTHER WORD YOU
25 JUST SAID ---

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

152

1 A YES, MA'AM.

2 Q --- BUT THE TOTAL STATION, TELL ME EXACTLY
3 HOW YOU PUT THAT TOGETHER?

4 A WHAT IT CONSISTS OF IS A TRIPOD THAT YOU
5 PUT A, IT'S A COMPUTER HEAD BASICALLY, THE COMPUTER HEAD
6 THAT RUNS THE MACHINE, AND WHAT IT DOES IS YOU LOOK THROUGH
7 A DEMONSTRATIVE BINOCULAR AND LOOK AT WHATEVER YOU'RE
8 MEASURING TOWARDS. IT'S CALLED THE PRISM ON A POLE.

9 THE EASIEST WAY I CAN RELATE IT IS JUST LIKE YOU
10 SEE THE ROAD SURVEYORS ON THE SIDE OF THE ROAD WITH THE ONE
11 GUY THAT LOOKS THROUGH THE TRIPOD AND THE OTHER GUY THAT'S
12 HOLDING THE POLE WITH THE BIG ORANGE THING ON THE TOP OF
13 IT. WHAT THEY'RE DOING IS THEY'RE MEASURING DISTANCES TO
14 MEASURE OUT PLOTS OF LAND OR HOW THE ROADWAY IS GOING TO GO
15 OR THINGS LIKE THAT. WE USE THE EXACT SAME SYSTEM FOR OUR
16 PURPOSES IN DIAGRAMING FATALITIES OR MOTOR VEHICLE
17 FATALITIES OR CRIME SCENES IN THIS CASE. SO WHAT WE WOULD
18 DO IS I WOULD SET UP THE SAME TOTAL STATION, HAD, AND THEN
19 I HAVE AN OFFICER THAT WOULD HOLD THE MEASUREMENT POLE AND
20 WALKS AROUND TO THE DIFFERENT POINTS OF EVIDENCE, THE
21 DIFFERENT THINGS THAT WE NEED IN THE DIAGRAM TO SCALE TO
22 SHOW WHERE THEY WERE ACCURATELY AT THE TIME AND PLACE THAT
23 IT OCCURRED, AND THEN TAKE THOSE MEASUREMENTS EACH
24 INDIVIDUALLY ONE AT A TIME AND IT MEASURES THEM ACCURATELY
25 AT A DISTANCE AND PLOTS THEM IN A COMPUTER PROGRAM WITHIN

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

153

1 ONE ONE THOUSANDTH OF AN INCH OF ACCURACY.

2 Q AND DO YOU ALSO INCLUDE ACTUAL PHOTOGRAPH
3 IN THIS WHEN YOU PUT YOUR TOTAL STATION TOGETHER?

4 A YES, WHAT I USE IS I'LL USE THOSE
5 MEASUREMENTS TO CREATE A SCALE DIAGRAM OF THE ACTUAL SCENE
6 AND THEN I COORDINATE WITH OUR OTHER UNITS, CRIME SCENE
7 UNITS, DETECTIVES, AND I OBTAIN CRIME SCENE PHOTOS, THE
8 LIST OF EVIDENCE, THINGS LIKE THAT TO COORDINATE WHAT IS
9 ACTUALLY LOCATED IN THE DIAGRAM, HOW IT'S LABELED, HOW IT
10 LOOKS AND ALL THAT'S BASED ON THAT, THAT INITIAL SCALE
11 DIAGRAM FOR PRESENTATION.

12 Q AND YOU TAKE THOSE PRIOR TO ACTUALLY
13 EVIDENCE OR CRIME SCENE COLLECTING THE EVIDENCE, DON'T YOU?

14 A CORRECT. ANY TIME THAT WE SHOOT A SCENE
15 IT'S BEFORE ANYTHING IS REMOVED FROM, FROM THE SCENE, ANY
16 TYPE OF EVIDENCE, VEHICLES, BODIES, THINGS OF THAT NATURE,
17 ANYTHING, EVERYTHING STAYS THERE UNTIL I'M DONE WITH WHAT I
18 NEED TO DO.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER 3 MARKED FOR
20 IDENTIFICATION.)

21 MS. ELDER: (CONTINUING)

22 Q OFFICER TRUEX, DO YOU RECOGNIZE WHAT I'M
23 SHOWING YOU AS STATE'S EXHIBIT 3?

24 A YES, THAT'S ONE, ONE OF THE DIAGRAMS THAT I
25 CREATED BASED ON THE CALL THAT I WAS RESPONDING TO.

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

154

1 Q AND DOES THAT INDICATE, THERE'S SOME, SOME
2 WORDS ON THERE AND SOME ARROWS WHAT ARE THOSE ARROWS THINGS
3 INDICATING?

4 A DIFFERENT EVIDENCE POINTS ON THE SCENE,
5 SHELL CASINGS, WHERE A BULLET HOLE WENT THROUGH A WINDOW,
6 WHERE VICTIMS WERE AT THE TIME OF THE INCIDENT.

7 MS. ELDER: YOUR HONOR, I WOULD LIKE TO MOVE
8 STATE'S EXHIBIT 3 INTO EVIDENCE AT THIS TIME.

9 THE COURT: SHOW IT TO MS. PRATT.

10 MS. PRATT: NO OBJECTION, YOUR HONOR.

11 THE COURT: ALL RIGHT, WITHOUT OBJECTION.

12 (WHEREUPON, STATE'S EXHIBIT NUMBER 3 ENTERED INTO
13 EVIDENCE.)

14 MS. ELDER: (CONTINUING)

15 Q NOW, OFFICER TRUEX, YOU ALSO WHEN YOU
16 PREPARED YOUR TOTAL STATION YOU BROUGHT THAT WITH YOU
17 TODAY?

18 A YES, MA'AM.

19 Q AND THAT CONSISTS OF STATE'S EXHIBIT 3 AND
20 SOME OTHER POINTS THAT YOU PUT ON THERE TO SHOW THE
21 COLLECTION OF EVIDENCE; IS THAT CORRECT?

22 A CORRECT.

23 MS. ELDER: YOUR HONOR, I'D ASK THAT THE OFFICER
24 BE ALLOWED TO STEP DOWN AND PLAY THAT OR SHOW, GO THROUGH
25 THAT PROGRAM FOR US AT THIS TIME.

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

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1 THE COURT: MS. PRATT?

2 MS. PRATT: I HAVE NO OBJECTION, YOUR HONOR.

3 THE COURT: ALL RIGHT, WITHOUT OBJECTION.

4 MS. ELDER: AND WE'LL NEED THE SCREEN DOWN, YOUR
5 HONOR.

6 THE COURT: YOU NEED THE SCREEN DOWN.

7 MS. ELDER; (CONTINUING)

8 Q NOW, OFFICER TRUEX, IF YOU CAN -- MOVE THIS
9 MICROPHONE OVER JUST A LITTLE BIT -- IF YOU CAN COULD YOU,
10 IS THIS THE PHOTOGRAPH THAT THE BIGGER, THE SOLID COPY THAT
11 I JUST SHOWED YOU?

12 A YES, MA'AM, THIS IS THE SAME DIAGRAM.

13 Q ALL RIGHT, THAT WOULD BE STATE'S EXHIBIT 3?

14 A CORRECT.

15 Q AND COULD YOU TAKE US THROUGH THE POINTS
16 THAT YOU HAVE DIAGRAMED ON WHAT HAS BEEN INTRODUCED AS
17 STATE'S EXHIBIT 3?

18 A THE EVIDENCE POINTS THAT ARE CONTAINED IN
19 HERE ARE CORRELATED TO SOME OF THE CRIME PHOTOGRAPHS THAT
20 WERE IN HERE AS PART OF AN OVERALL IMAGE OF WHAT IS ON THE
21 SCREEN VERSUS WHAT WAS ON SCENE.

22 Q AND WERE YOU VIEWING THIS SCENE, WHEN YOU
23 ARRIVED THIS IS WHAT THE SCENE LOOKED LIKE; IS THAT
24 CORRECT?

25 A CORRECT, MA'AM, THIS SET OF EVIDENCE, THIS

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

156

1 PICTURE HERE DEPICTS THIS AREA RIGHT HERE CORRELATING, I'M
2 SORRY, THIS AREA RIGHT HERE CORRELATING THOSE EVIDENCE
3 POINTS TO THE PLACARDS THAT ARE ON THE SIDEWALK AND THEN
4 ADDITIONALLY THIS, THIS PHOTO DEPICTS THE OTHER SET OF
5 EVIDENCE POINTS ON THAT SIDEWALK, JUST GIVING AN OVERALL
6 VIEW OF WHAT THOSE EVIDENCE POINTS REPRESENT.

7 EACH ONE OF THESE LITTLE PLUS MARKS REPRESENTS AN
8 EVIDENCE POINT THAT WAS SHOT WHERE YOU'LL SEE THE YELLOW
9 PLACARDS SO EACH OF THOSE EVIDENCE PIECES WERE SHOT AS AN
10 INDIVIDUAL POINT TO SHOW WHAT, WHAT IT ACTUALLY WAS ON THE
11 DIAGRAM.

12 ADDITIONALLY THERE ARE TWO OR THREE OTHER
13 EVIDENCE POINTS. THERE'S ONE UP HERE WHICH WAS WHERE ONE
14 OF THE VICTIMS WAS LOCATED, ONE IN FRONT OF THE GOLDEN
15 VILLA WHERE THERE WAS BLOOD STAIN WHERE ANOTHER VICTIM WAS
16 LOCATED AND I BELIEVE WAS THE ONLY OTHER TWO BESIDES THE
17 ONE THERE.

18 SO THE FIRST EVIDENCE POINT THAT WE HAD UP ON
19 THE, THIS WOULD BE 11TH AVENUE NORTH JUST WEST OF OCEAN
20 BOULEVARD, WAS A PLACE WHERE THE VICTIM WAS LOCATED. THIS
21 POINT, EVIDENCE POINT REPRESENTS THIS SECTION OF CLOTHING
22 AND EMS GEAR THAT WAS LEFT ON SCENE BASED ON WHERE THE
23 VICTIM WAS LAYING WHEN THEY FOUND HIM.

24 Q IS THAT THE DECEASED VICTIM IN THIS CASE?

25 A YES, MA'AM. THE SECOND VICTIM POINT THAT

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

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1 WAS SHOT WAS DIRECTLY IN FRONT OF THE GOLDEN VILLA AT THE
2 ENTRYWAY TO THE DOOR AS RELATED TO THE BLOOD EVIDENCE THAT
3 WAS SEEN, THAT WAS SEEN THERE IN FRONT OF THE DOORWAY.

4 THIS LINE HERE REPRESENTS THAT WALL THAT IS DOWN
5 THE FRONT OF THE BUILDING AND THEN THE BREAK IN THE DOORWAY
6 IS RIGHT THERE WITH THE EVIDENCE POINT SHOT IN FRONT ON
7 THAT SPOT OF BLOOD WHERE THE BUILDING WALL COMES BACK TO
8 THE OTHER SIDE.

9 Q AND THERE WAS A GUNSHOT VICTIM LOCATED
10 THERE?

11 A CORRECT. THE NEXT SETS OF EVIDENCE POINTS
12 ARE ALL IN THE FRONT OF THE, I BELIEVE IT'S A BEACHWEAR
13 STORE RIGHT THERE. THEY WERE ALL EVIDENCE POINTS AS PART
14 OF THE CRIME SCENE.

15 THE FIRST ONE WAS A PURSE THAT WAS LOCATED ON THE
16 SIDE. YOU CAN SEE IT WAS MARKED WITH THE EVIDENCE PLACARD
17 NUMBER 1 WHICH WAS ON THE SIDEWALK IN THAT POSITION.

18 EVIDENCE POINT NUMBER 2 WAS A TRAIL OF BLOOD THAT
19 WAS NEXT TO A VICTIM THAT WAS LOCATED ON THE SIDEWALK HERE.

20 Q THAT WAS NOT THE DECEASED VICTIM; IS THAT
21 RIGHT?

22 A CORRECT.

23 Q THAT WAS THE FEMALE GUNSHOT VICTIM?

24 A CORRECT. EVIDENCE POINT NUMBER 3 WAS A
25 BRACELET THAT WAS LOCATED NEXT TO NUMBER 2 IN THE SAME AREA

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

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1 OF THE SIDEWALK RIGHT HERE.

2 EVIDENCE POINT NUMBER 4 WAS ALSO A BRACELET
3 LOCATED RIGHT NEXT TO NUMBER 3 IN THE SAME AREA.

4 EVIDENCE POINT NUMBER 5 WAS A PAIR OF GLASSES OR
5 SHADES THAT CAME OUT OF A SET OF GLASSES DIRECTLY TO THE
6 EAST ON THE SAME SIDEWALK IN FRONT OF THE BRACELETS.

7 EVIDENCE POINT NUMBER 6 WAS SHOT WAS A PAIR OF
8 SANDALS THAT WERE LEFT ON THE SIDEWALK JUST TO THE NORTH OF
9 THE BRACELETS AND THE GLASSES ALL IN THAT SAME AREA.

10 THOSE EVIDENCE POINTS ARE ALL OF THE ONES THAT
11 ARE, THAT ARE CONTAINED IN THIS PHOTO, SO YOU CAN SEE
12 EVIDENCE POINT 1 IS THE PURSE, 2 IS BLOOD, 3 AND 4 ARE THE
13 BRACELETS, 6 IS THE SANDALS, BUT THOSE ARE THE POINTS THAT
14 ARE REPRESENTED ON THAT SCREEN AS SHOWN INDIVIDUALLY.

15 MOVING ON TO THE NEXT EVIDENCE POINT WAS THE HOLE
16 IN THE WINDOW. THE BROKEN WINDOW AT THE FRONT OF THE
17 BEACHWEAR STORE WAS SHOT AS A POINT SO IT WAS REPRESENTED
18 BY THAT EVIDENCE POINT ON THE WALL SHOWING THE POINT OF
19 IMPACT INTO THE BUSINESS.

20 EVIDENCE POINT NUMBER 7 WAS A SHOE LOCATED ON THE
21 SIDEWALK SEPARATE FROM THE OTHER EVIDENCE POINTS OVER HERE
22 JUST A LITTLE BIT NORTH ON THE SIDEWALK JUST A SINGLE
23 SLIPPER SHOE.

24 EVIDENCE POINTS 8 THROUGH 15 ARE THE SHELL
25 CASINGS THAT WERE LOCATED ON THE SIDEWALK. THEY WERE ALL

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

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1 LOCATED IN THE, IN THE SAME AREA ON THE SIDEWALK, EACH
2 SHOWN INDIVIDUALLY IN THE PICTURES, CLOSE UP PICTURES OF
3 WHAT THEY WERE.

4 ELEVEN AND 12 WERE DIRECTLY NEXT TO EACH OTHER.

5 FOURTEEN WAS ACTUALLY ON THE ROADWAY AND THOSE
6 ARE REPRESENTED BY THIS, THIS GROUPING OF EVIDENCE WITH
7 THE, WITH THE POINTS RIGHT THERE.

8 EACH ONE OF THOSE PURPLE MARKERS INDICATES AN
9 INDIVIDUAL SHELL CASING IN THERE. THAT'S 11 AND 12 RIGHT
10 NEXT TO EACH OTHER RIGHT THERE.

11 THAT WAS THE AMOUNT OF EVIDENCE THAT CONSISTED
12 FOR ME SHOOTING THE EVIDENCE ON THE SCENE.

13 THE OTHER POINTS THAT I SHOT OBVIOUSLY ARE
14 INDICATED BY WHAT WE CALL SCENERY SHOTS THAT SET UP THE
15 SCENE AND ALLOW YOU TO CREATE THIS MAP SO EACH ONE OF
16 THESE, IF YOU SEE RIGHT HERE THERE'S A POINT RIGHT HERE ON
17 THE SIDE OF THE CURB, THAT'S A CURB MARKING. SO YOU SHOOT
18 ONE POINT TO SHOW WHERE THE CURB WAS SO THIS WHOLE, THE
19 WHOLE DIAGRAM IN TOTAL IS SCALED TO EXACTLY WHAT IT LOOKS
20 LIKE ON THE OCEAN BOULEVARD. SO IF YOU WERE TO MEASURE THE
21 DISTANCE ON OCEAN BOULEVARD ACROSS HERE IT WOULD COME OUT
22 EXACTLY THE SAME MEASUREMENT AS IT DOES ON MY SCREEN HERE
23 WITHIN ONE THOUSANDTH OF AN INCH, AND THIS SYSTEM IS USED
24 TO RECREATE AN ACTUAL SCENE AND BE ABLE TO SHOW THE
25 REPRESENTATION OF WHERE OUR EVIDENCE WAS LOCATED EXACTLY ON

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

160

1 THE SCENE.

2 Q AND JUST TO GET SOME IDEA FOR US THE OCEAN
3 WOULD BE ON THE LEFT SIDE; IS THAT CORRECT?

4 A ON THE LEFT SIDE, YES, MA'AM, THIS WOULD BE
5 OCEAN BOULEVARD. NORTHBOUND WOULD BE GOING TOWARDS THE
6 BOTTOM, GOING TOWARDS THE NORTH, AND THIS IS 11TH AVENUE
7 NORTH OR MR. JOE WHITE AVENUE.

8 Q OFFICER TRUEX, IF YOU COULD RETURN TO THE
9 STAND?

10 (WHEREUPON, STATE'S EXHIBIT NUMBER 4 MARKED FOR
11 IDENTIFICATION.)

12 MS. ELDER: (CONTINUING)

13 Q OFFICER TRUEX, IF YOU'LL LOOK AT WHAT'S
14 BEEN MARKED AS STATE'S EXHIBIT 4 I BELIEVE YOU PREPARED
15 WHAT YOU HAVE SHOWN US TODAY ON DISK; IS THAT CORRECT?

16 A YES, MA'AM.

17 Q AND EVERYTHING ON THAT DISK IS WHAT WAS
18 SHOWN HERE IN COURT TODAY?

19 A CORRECT, CORRECT.

20 Q ANYTHING ELSE ON THAT DISK OTHER THAN WHAT
21 WE'VE SEEN HERE?

22 A NO, MA'AM.

23 MS. ELDER: YOUR HONOR, I'D LIKE TO ADMIT
24 STATE'S EXHIBIT 4 INTO EVIDENCE AT THIS TIME?

25 THE COURT: ALL RIGHT, MS. PRATT?

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

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1 MS. PRATT: NO OBJECTION, YOUR HONOR.

2 THE COURT: THAT CORRELATES WITH THE PAPER
3 EXHIBIT THAT WE HAVE; IS THAT CORRECT?

4 MS. ELDER: YES, SIR.

5 THE COURT: ALL RIGHT.

6 (WHEREUPON, STATE'S EXHIBIT NUMBER 4 ENTERED INTO
7 EVIDENCE.)

8 MS. ELDER: (CONTINUING)

9 Q NOW, OFFICER TRUEX, YOU WERE PRESENT, YOU
10 NOT ONLY SAW THE EVIDENCE AND THE SHELL CASINGS IN
11 PARTICULAR THAT WE'RE REFERRING TO ON STATE'S EXHIBIT 3 BUT
12 YOU WERE PRESENT, YOU OBSERVED THEM, YOU WERE PRESENT WHEN
13 THEY WERE COLLECTED; IS THAT CORRECT?

14 A YES, MA'AM.

15 (WHEREUPON, STATE'S EXHIBIT NUMBER 5 MARKED FOR
16 IDENTIFICATION.)

17 MS. ELDER: (CONTINUING)

18 Q OFFICER TRUEX, IF YOU'LL LOOK AT WHAT'S
19 BEEN MARKED STATE'S EXHIBIT 5?

20 A YES, MA'AM.

21 Q ARE THOSE THE CASINGS THAT WERE PICKED UP
22 AT THE SCENE THAT YOU REFER TO ON STATE'S EXHIBIT 3 AND 4?

23 A YES, MA'AM.

24 Q AND CAN YOU TELL ME HOW MANY OF THOSE ARE
25 THERE?

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

162

1 A EIGHT.

2 Q EIGHT --- YOUR HONOR, WE'D LIKE TO MOVE
3 STATE'S EXHIBIT 5 INTO EVIDENCE AT THIS TIME?

4 THE COURT: COLLECTIVELY?

5 MS. ELDER: YES, SIR, YOUR HONOR, THERE'S EIGHT
6 SEPARATE INDIVIDUAL PACKS OF CASINGS.

7 THE COURT: ALL RIGHT, MS. PRATT?

8 MS. PRATT: YOUR HONOR, I BELIEVE THAT THE CHAIN
9 IS COMPLETE AND IT WOULD BE IMPROPER TO MOVE IT INTO
10 EVIDENCE AT THIS POINT.

11 MS. ELDER: IT'S NOT FUNGIBLE EVIDENCE, YOUR
12 HONOR.

13 THE COURT: I THINK THAT HE SAID THAT HE
14 COLLECTED THEM, DID HE NOT?

15 MS. ELDER: HE WAS PRESENT IN THE COLLECTION,
16 YOUR HONOR.

17 THE COURT: I'M GOING TO LET THEM IN, I'M SURE
18 THAT YOU'LL HAVE SOMEBODY ELSE.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER 5 ENTERED INTO
20 EVIDENCE.)

21 THE COURT: I DON'T HAVE A CLUE, WHAT HAS
22 SWITCHED, MR., LET'S BRING THEM DOWN. THEY WEREN'T DOING
23 THAT UNTIL, ALL RIGHT, LET'S BRING THEM BACK UP.

24 MS. ELDER: (CONTINUING)

25 Q JUST LOOKING BACK AT STATE'S EXHIBIT 3,

OFFICER TRUEX - DIRECT EXAMINATION BY MS. ELDER

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1 OFFICER TRUEX, JUST SO I NEED TO MAKE SURE THAT WE'RE ALL
2 TALKING ABOUT THE SAME THING, THE DECEASED THE VICTIM AARON
3 HAMMONDS WAS WHERE?

4 A UP ON 11TH AVENUE NORTH JUST WEST OF OCEAN
5 BOULEVARD.

6 Q OKAY, AND THERE WAS ANOTHER FEMALE VICTIM
7 WHERE?

8 A THERE WERE TWO FEMALE VICTIMS, ONE WAS AT
9 THE GOLDEN VILLA AND ONE WAS DOWN IN FRONT WHERE THE PURSE
10 WAS LOCATED WITH THE BLOOD.

11 Q AND THE SHELL CASINGS WERE WHERE?

12 A EIGHT COLLECTIVE SHELL CASINGS HERE,
13 THERE'S ACTUALLY TWO RIGHT AT THIS ARROW POINT, HOWEVER,
14 THEY WERE SO CLOSE TOGETHER I COULDN'T CREATE AN EXTRA
15 ARROW FOR IT SO THERE'S TWO AT THAT POINT.

16 Q AND THE OCEAN IS --

17 A IN THIS DIRECTION, YES.

18 THE COURT: MR. ROPP, MR. NOBLES TELLS ME
19 SOMETIMES IF WE CUT THEM OFF FOR ABOUT FIVE SECONDS THAT
20 THAT WILL STOP, LET'S SEE IF THAT WORKS. I'VE SENT SOMEONE
21 TO MAINTENANCE BUT LET'S SEE IF THAT WILL WORK. I'VE NEVER
22 SEEN THEM DO THAT. OKAY, LET'S TRY TO GO ON, MS. ELDER,
23 AND WE'LL, IF THAT BECOMES TOO DISTRACTING YOU LET ME KNOW
24 AND WE'LL TAKE A BREAK TO GET SOMEONE TO TRY TO CORRECT,
25 OKAY.

OFFICER TRUEX - CROSS EXAMINATION BY MS. PRATT

164

1 MS. ELDER: YOUR HONOR, THAT'S ALL THE QUESTIONS
2 I HAVE FOR OFFICER TRUEX.

3 THE COURT: OH, THERE SHE IS, I THOUGHT WE HAD
4 LOST MS. PRATT, ALL THE LIGHTS WERE OUT.

5 MS. PRATT: IT'S HARD TO DO THAT, YOUR HONOR.

6 **CROSS EXAMINATION**

7 **BY MS. PRATT:**

8 Q OFFICER TRUEX, THAT'S A PRETTY IMPRESSIVE
9 DEMONSTRATION, HOW LONG HAVE YOU BEEN DOING THAT?

10 A THE ACTUAL TOTAL STATION I'VE BEEN DOING
11 FOR ABOUT SIX TO SEVEN YEARS.

12 Q OKAY, AND THAT TECHNOLOGY HAS BEEN AROUND
13 FOR HOW LONG?

14 A IT'S IMPROVED OVER TIME BUT PROBABLY EIGHT
15 YEARS SINCE I GOT INTO PROBABLY A YEAR AFTER IT CAME OUT,
16 OUR DEPARTMENT PURCHASED THE EQUIPMENT.

17 Q IT'S KIND OF A POWER POINT PRESENTATION
18 SORT OF, ISN'T IT?

19 A THAT PART OF IT ENDS UP BEING MORE OF A
20 POWER POINT KIND OF.

21 Q OKAY, AND HOW MUCH TRAINING DID YOU HAVE TO
22 HAVE TO LEARN TO DO THAT?

23 A I TRAVELED TO NEW JERSEY FOR A FIVE DAY
24 CLASS AS FAR AS THE DIAGRAMING PORTION AND THAT.

25 Q WOULD THIS HAVE BEEN THE FIRST ONE YOU'VE

OFFICER TRUEX - CROSS EXAMINATION BY MS. PRATT

165

1 EVER PUT TOGETHER OR WHAT NUMBER APPROXIMATELY?

2 A NO, I PROBABLY DO IN, IN BETWEEN FATALITIES
3 AND CRIME SCENES PROBABLY ABOUT 20 A YEAR. MY FIRST ONE
4 WAS IN 2003 SO PROBABLY A 100 AT THAT POINT.

5 Q OKAY, I'M GOING TO SHOW YOU WHAT HAS BEEN,
6 THE THREE PHOTOS THAT HAVE BEEN MARKED AS DEFENSE EXHIBIT
7 NUMBER 1, NOT QUITE THE TECHNOLOGY THAT YOU HAVE, BUT ASK
8 YOU IF YOU RECOGNIZE THOSE PHOTOS? ARE THOSE THE AREAS
9 GENERALLY THAT YOU WERE USING IN THE CREATION OF YOUR
10 PRESENTATION?

11 A THIS ONE, NO, YOU MAY BE ABLE TO SEE, WELL
12 THE ALLEY WHERE, I'M GOING TO REFER TO SOMETHING THAT WE
13 NORMALLY CALL, THIS CAN AM ALLEY AS IT'S LABELED ON HERE IS
14 NORMALLY WHAT WE, THAT'S WHAT WE CALL THAT ALLEY RIGHT
15 THERE. THAT IS DOWN FURTHER IN THIS PHOTO DOWN HERE AND I
16 CAN'T TELL 100 PERCENT FOR SURE BUT THAT APPEARS TO BE THE
17 FRONT OF THE BUSINESS THAT WHERE THIS OCCURRED WAS DOWN
18 THAT FARTHER. THIS IS 12TH AVENUE NORTH; THIS IS FURTHER
19 DOWN ON THAT DIAGRAM.

20 Q AND WHEN YOU POINTED TO SOMETHING THAT
21 APPEARS TO BE THE BUSINESS WOULD THAT HAVE LIKE BLACK METAL
22 PIECES GOING DOWN?

23 A YES, YES, MA'AM.

24 Q WOULD YOU MIND LOOKING AT THE NEXT PHOTO
25 AND TELL ME IF THAT ONE IS BETTER FOR WHAT YOU'RE --

OFFICER TRUEX - CROSS EXAMINATION BY MS. PRATT

166

1 A CORRECT, THIS IS, THIS IS A PHOTOGRAPH OF
2 THE INTERSECTION UP HERE FROM THIS DIRECTION. THIS WHITE
3 CAR WOULD BE ALMOST EXACTLY WHERE IT'S LABELED THE VICTIM
4 THERE WHERE WE ARE.

5 Q OKAY, AND THEN THE OTHER PHOTO?

6 A THE OTHER PHOTO IS SHOT FROM DOWN HERE
7 FACING UP IN THIS DIRECTION DOWN THIS SIDEWALK.

8 Q AND IT REPRESENTS WHERE THE INCIDENT
9 OCCURRED AND THE GOLDEN VILLA OVER ON THIS SIDE?

10 A CORRECT, YOU CAN SEE THE GOLDEN VILLA SIGN,
11 THE ACTUAL DOOR THAT IS REPRESENTED IN THAT PICTURE WHERE
12 IT SAYS VICTIM IS RIGHT HERE IN THE PHOTO.

13 Q OKAY, AND ON YOUR DIAGRAM THE GREEN LEAF
14 THINGS I GUESS ARE THE PALMETTO TREES, IS THAT RIGHT?

15 A THE PALM TREES, YES, MA'AM.

16 Q PALM TREES, OKAY, AND WHAT ARE THESE LINES
17 JOINING TWO, A LINE JOINING TWO CIRCLES?

18 A THOSE ARE THE LAMP POSTS THAT WERE
19 PRESENTLY IN PLACE WHEN THIS OCCURRED. I BELIEVE SINCE
20 THEN THEY HAVE DONE SOME RESTRUCTURING OF OCEAN BOULEVARD
21 AND THE ACTUAL LIGHT POSTS HAVE BEEN MOVED.

22 Q ALL RIGHT, IN THE PICTURES THERE'S SOME
23 GARBAGE CANS AND SO ON ARE THOSE JUST ADDED LATER OR ARE
24 THEY MISSING FROM YOUR DIAGRAM?

25 A NO, MA'AM, I WOULDN'T SHOOT THINGS LIKE

OFFICER TRUEX - CROSS EXAMINATION BY MS. PRATT

167

1 GARBAGE CANS IN THE PICTURE BECAUSE IT'S NOT A STATIC
2 OBJECT THAT CAN BE, THAT HAS LESS LIKELIHOOD OF MOVING
3 LATER. THE TENDENCY TO REPLACE A PALM TREE OR A LIGHT POLE
4 IS FAIRLY SLIM SO WE SHOOT EVIDENCE POINTS OR MARKER POINTS
5 THAT CAN SHOW, REFLECT BACK ON YOUR ACCURACY LATER THEY'RE
6 NOT AS MOVABLE AS OTHERS SO IT'S, IT'S A SELF CHECK
7 MECHANISM THAT I USE TO MAKE SURE THAT WHAT I HAVE IS
8 ACCURATE. SO WHAT WILL HAPPEN IS WHEN I CAME OUT HERE
9 THESE TWO POINTS UP HERE REPRESENT, REPRESENT MY TOTAL
10 STATION WHERE I WAS ACTUALLY STANDING WHEN I SHOT IT AND
11 THIS REPRESENTS WHAT'S CALLED A REFERENCE POINT. THERE'S
12 ACTUALLY TWO OF THEM RIGHT THERE. THEY'RE RIGHT ON TOP OF
13 EACH OTHER AND SO WHAT YOU DO TO CHECK YOURSELF FOR
14 ACCURACY TO MAKE SURE EVERYTHING IS ACCURATE AS YOU SHOT IT
15 I TAKE AND SHOOT ALL OF THOSE EVIDENCE POINTS THAT YOU SAW,
16 I BELIEVE THERE WAS 290 OF THEM IN THIS DIAGRAM, I'LL SHOOT
17 ALL OF THOSE.

18 MY FIRST POINT I SHOOT IS MY REFERENCE POINT THEN
19 I SHOOT ALL 290 EVIDENCE POINTS AND THEN I GO BACK AND I
20 SHOOT THE REFERENCE POINT AGAIN FROM WHERE I'VE PUT A NAIL
21 IN THE, IN THE CONCRETE AND AS LONG AS THAT, THAT POINT
22 COMES UP AT THE SAME PLACE TWICE IT'S ACCURATE. IT SHOWS
23 THAT NOTHING HAS BEEN MOVED, NOTHING HAS BEEN CHANGED, I
24 DIDN'T KNOCK MY STAND OVER AND TRY TO PUT AND BACK UP AND
25 IT ALSO HELPS US THAT IF WE WERE TO COME BACK LATER AND

OFFICER TRUEX - CROSS EXAMINATION BY MS. PRATT

168

1 FIND A SHELL CASING IN A BUILDING AND WE NEEDED TO ADD THAT
2 TO THE DIAGRAM I WOULD USE THAT POINT WHERE I'D FIND THE
3 NAIL IN THE CONCRETE TO COME BACK AND PUT MY TOTAL STATION
4 IN THE EXACT SAME SPOT, SHOOT MEASUREMENT POINTS AGAIN TO
5 MAKE SURE IT'S 100 PERCENT ACCURATE AND THEN I COULD ADD
6 THAT TO THE DIAGRAM.

7 Q OFFICER TRUEX, WHAT TIME DID YOU ARRIVE?

8 A I COULDN'T TELL YOU WHAT TIME I EXACTLY
9 ARRIVED. I KNOW MY SHIFT RAN FROM FOUR TO FOUR AND I
10 PROBABLY ARRIVED AT FOUR. I REMEMBER I WAS AT THE END OF
11 MY 12 HOURS WHEN THEY CALLED ME TO COME DOWN THERE.

12 Q SO SOMEWHERE AROUND, WHAT, 3:30 OR 4 IN THE
13 MORNING, IS THAT WHAT YOU'RE SAYING, MAYBE AN HOUR OR SO
14 AFTER THIS OCCURRED?

15 A UH-HUH.

16 Q ABOUT?

17 A SOMEWHERE IN THERE, YES.

18 Q OKAY, AND THEN OBVIOUSLY YOU DIDN'T SEE THE
19 SHOOTER AND YOU HAVE NO INFORMATION AS TO WHAT OCCURRED IN
20 REGARDS TO IDENTIFICATION OF THAT PERSON?

21 A NO, MA'AM.

22 Q OKAY, AND YOU DIDN'T TEST ANY OF THE
23 EVIDENCE THAT'S BEEN INVOLVED?

24 A NO, MA'AM.

25 Q NOW AS I UNDERSTAND IT YOU SAID THAT YOU

DETECTIVE ALLEN - DIRECT EXAMINATION BY MR. FILIBERTO 169

1 WERE PRESENT WHEN THESE CASINGS WERE COLLECTED?

2 A YES, MA'AM.

3 Q YOU SAW THEM MARKED OUT AND YOU USED THEM
4 IN YOUR PRESENTATION?

5 A CORRECT.

6 Q WHO ACTUALLY COLLECTED THEM?

7 A I BELIEVE BOB ERSATZ DID.

8 Q BOB ERSATZ, AND WHAT IS HIS POSITION WITH
9 WHOEVER?

10 A CRIME SCENE TECHNICIAN.

11 Q WITH?

12 A THE MYRTLE BEACH POLICE DEPARTMENT.

13 Q OKAY, ALL RIGHT, AND YOU SIMPLY SAW HIM DO
14 THAT?

15 A RIGHT, I WAS THERE WITH HIM WHEN HE
16 COLLECTED THEM.

17 Q YOU DIDN'T CARRY THEM ANYWHERE?

18 A NO, MA'AM.

19 Q SO YOU DON'T, YOU KNOW HE HAD THEM BUT YOU
20 DON'T KNOW WHAT HE DID WITH THEM EITHER, DO YOU?

21 A CORRECT.

22 Q OKAY, ALL RIGHT --

23 MS. PRATT: I HAVE NOTHING FURTHER, THANK YOU,
24 OFFICER.

25 MS. ELDER: YOUR HONOR, WE HAVE NO FURTHER

DETECTIVE ALLEN - DIRECT EXAMINATION BY MR. FILIBERTO 170

1 QUESTIONS, WE'D ASK THAT THIS OFFICER BE EXCUSED FROM HIS
2 SUBPOENA.

3 THE COURT: ANY OBJECTION?

4 MS. PRATT: NO OBJECTION, YOUR HONOR.

5 THE COURT: ALL RIGHT, SIR, THANK YOU FOR
6 COMING, YOU'RE EXCUSED.

7 MR. FILIBERTO: CAROL ALLEN.

8 **DETECTIVE CAROL ANN ALLEN**

9 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

10 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
11 SPELL YOUR LAST FOR THE RECORD.

12 THE WITNESS: CAROL ANN ALLEN, A-L-L-E-N.

13 **DIRECT EXAMINATION**

14 **BY MR. FILIBERTO:**

15 Q MS. ALLEN, WERE ARE YOU CURRENTLY EMPLOYED?

16 A THE MYRTLE BEACH POLICE DEPARTMENT.

17 Q WHAT CAPACITY?

18 A I'M A DETECTIVE.

19 Q HOW LONG HAVE YOU BEEN EMPLOYED WITH THE
20 MYRTLE BEACH POLICE DEPARTMENT?

21 A JUST OVER 17 YEARS.

22 Q NOW ON MAY 27TH, 2007, WERE YOU ASSIGNED
23 ANY DUTIES THAT RELATED TO THIS CASE?

24 A YES, I WAS.

25 Q SOME OF THOSE DUTIES BRING YOU DOWN TO THE

DETECTIVE ALLEN - DIRECT EXAMINATION BY MR. FILIBERTO 171

1 GRAND STRAND REGIONAL MEDICAL CENTER?

2 A YES, THEY DID.

3 Q AND FOR WHAT PURPOSE?

4 A I WAS ASSIGNED TO ATTEND THE AUTOPSY OF A
5 MR. AARON LEE HAMMONDS.

6 Q WHILE YOU WERE DOWN THERE WERE YOU MADE
7 AWARE OF ANOTHER VICTIM IN THIS CASE BEING PRESENT IN THE
8 HOSPITAL?

9 A YES, I WAS.

10 Q AND DO YOU KNOW WHAT THAT VICTIM'S NAME
11 WAS?

12 A KRYSTAL FOWLER.

13 Q DID YOU ATTEMPT TO INTERVIEW MS. FOWLER AT
14 THAT TIME?

15 A NO, I DID NOT.

16 Q WHY NOT?

17 A MY MAIN PURPOSE WAS TO ATTEND THE AUTOPSY
18 AND GATHER ANY EVIDENCE.

19 Q PRIOR TO ATTENDING THE AUTOPSY OF MR.
20 HAMMONDS DID YOU COLLECT SOME EVIDENCE RELATED TO MS.
21 FOWLER?

22 A YES, I DID. WHILE I WAS WAITING FOR THIS
23 PARTICULAR AUTOPSY TO COMMENCE A NURSE ENTERED THE AUTOPSY
24 ROOM AND SHE GAVE ME ONE BULLET WHICH SHE ADVISED WAS
25 REMOVED FROM KRYSTAL FOWLER.

DETECTIVE ALLEN - DIRECT EXAMINATION BY MR. FILIBERTO 172

1 (WHEREUPON, STATE'S EXHIBIT NUMBER 6 MARKED FOR
2 IDENTIFICATION.)

3 MR. FILIBERTO: (CONTINUING)

4 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS
5 STATE'S 6 AND SEE IF YOU RECOGNIZE IT?

6 A YES, I DO.

7 Q HOW DO YOU RECOGNIZE THAT?

8 A THAT WAS THE EVIDENCE CUFF THAT WAS GIVEN
9 TO ME BY THE NURSE THAT CONTAINED THE BULLET THAT WAS
10 REMOVED FROM KRYSTAL FOWLER.

11 Q WHILE IT WAS IN YOUR CARE AND CUSTODY DID
12 YOU DO ANYTHING TO CHANGE OR ALTER IT?

13 A NO, I DID NOT.

14 MR. FILBERT: THE STATE WOULD MOVE TO HAVE
15 STATE'S 6 ENTERED INTO EVIDENCE AT THIS TIME?

16 THE COURT: MS. PRATT?

17 MS. PRATT: YOUR HONOR, AT THIS POINT WE WOULD
18 OBJECT. WHILE I HAVE A GREAT DEAL OF RESPECT FOR DETECTIVE
19 ALLEN SHE CANNOT SAY TO HER OWN ---

20 THE COURT: YOU WANT TO MARK IT FOR
21 IDENTIFICATION?

22 MR. FILBERT: IT'S BEEN MARKED, SIR.

23 THE COURT: ALL RIGHT, WELL THEN LET'S JUST MARK
24 IT FOR IDENTIFICATION, I THINK YOU HAVE TO GO A LITTLE
25 FURTHER TO TIE IT IN.

DETECTIVE ALLEN - DIRECT EXAMINATION BY MR. FILIBERTO 173

1 MS. PRATT: THANK YOU, YOUR HONOR.

2 MR. FILIBERTO: (CONTINUING)

3 Q DETECTIVE ALLEN, WHAT TIME APPROXIMATELY
4 DID THE AUTOPSY OF MR. HAMMONDS TAKE PLACE?

5 A IT STARTED AT APPROXIMATELY 9:30 IN THE
6 MORNING.

7 Q AND WHO PERFORMED THAT AUTOPSY?

8 A DR. PROCTOR.

9 Q WERE YOU PRESENT DURING THE ENTIRE AUTOPSY
10 PROCEEDING?

11 A YES, I WAS.

12 Q DURING THE COURSE OF THE AUTOPSY WAS ANY
13 PHYSICAL EVIDENCE RECOVERED?

14 A YES, THERE WERE.

15 Q WHAT WAS RECOVERED?

16 A THERE WERE THREE BULLET FRAGMENTS REMOVED
17 FROM MR. HAMMONDS PERSON.

18 (WHEREUPON, STATE'S EXHIBIT NUMBER 7 MARKED FOR
19 IDENTIFICATION.)

20 MR. FILBERT: (CONTINUING)

21 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS
22 STATE'S 7 AND ASK YOU TO TAKE A LOOK AT EACH OF THESE AND
23 SEE IF YOU RECOGNIZE THAT?

24 A YES, I DO.

25 Q WHAT ARE THEY?

DETECTIVE ALLEN - DIRECT EXAMINATION BY MR. FILIBERTO 174

1 A THEY DEPICT THE PICTURES I TOOK OF THE
2 BULLETS THAT WERE REMOVED FROM MR. HAMMONDS PERSON.

3 Q DO THEY FAIRLY AND ACCURATELY REPRESENT
4 WHAT WAS RETURNED TO YOU AT THAT TIME?

5 A YES.

6 MR. FILBERT: THE STATE WOULD MOVE TO HAVE
7 STATE'S 7 ENTERED INTO EVIDENCE.

8 THE COURT: MS. PRATT?

9 MS. PRATT: NO OBJECTION, YOUR HONOR.

10 THE COURT: WITHOUT OBJECTION.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER 7 ENTERED INTO
12 EVIDENCE.)

13 MR. FILBERT: (CONTINUING)

14 Q AT THE TIME OF THE AUTOPSY WERE THE
15 PROJECTILES THAT WERE RECOVERED THEN TURNED OVER TO YOU?

16 A YES, THEY WERE.

17 Q WHAT DID YOU DO WITH THEM AT THAT TIME?

18 A I PLACED THEM INTO SEPARATE EVIDENCE
19 CONTAINERS, MARKED EACH ONE WITH THE LOCATION THAT THE
20 BULLET WAS REMOVED FROM AND THEY REMAINED IN MY POSSESSION.

21 (WHEREUPON, STATE'S EXHIBIT NUMBER 8 MARKED FOR
22 IDENTIFICATION.)

23 MR. FILBERT: (CONTINUING)

24 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
25 COLLECTIVELY AS STATE'S 8 ASK YOU TO LOOK AT THEM AND SEE

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

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1 IF YOU RECOGNIZE THOSE?

2 A YES, I DO, THESE WERE THE VIALS THAT EACH
3 BULLET WAS PLACED IN ONCE REMOVED FROM MR. HAMMONDS PERSON.

4 Q WERE YOU PRESENT WHEN THEY WERE REMOVED
5 FROM HIS BODY?

6 A YES, I WAS.

7 Q AT THAT POINT YOU COLLECTED THEM?

8 A YES.

9 MR. FILBERT: THE STATE WOULD MOVE TO HAVE
10 STATE'S 8 ENTERED INTO EVIDENCE AT THIS TIME?

11 MS. PRATT: NO OBJECTION, YOUR HONOR,

12 THE COURT: ALL RIGHT, WITHOUT OBJECTION.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER 8 ENTERED INTO
14 EVIDENCE.)

15 MS. PRATT: YOUR HONOR, IS THAT ALL ONE EXHIBIT?

16 THE COURT: I THINK THAT WAS COLLECTIVELY
17 ADMITTED AND IT WAS HOW MANY VIALS, MR. FILBERT?

18 MR. FILBERT: THREE SEPARATE VIALS.

19 THE COURT: THREE SEPARATE VIALS.

20 MR. FILBERT: --- WITH ONE PROJECTILE IN EACH
21 VIAL.

22 THE COURT: OKAY.

23 MR. FILBERT: (CONTINUING)

24 Q AND AGAIN JUST TO SUMMARIZE, DETECTIVE
25 ALLEN, YOU WERE PRESENT AT THE AUTOPSY WHEN THOSE

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

176

1 PROJECTILES WERE RECOVERED?

2 A YES, I WAS.

3 Q AND THEY WERE RECOVERED FROM THE BODY OF
4 AARON HAMMONDS?

5 A THAT'S CORRECT.

6 MR. FILBERT: THAT'S ALL I HAVE, THANK YOU,
7 PLEASE ANSWER ANY QUESTIONS MS. PRATT MAY HAVE.

8 THE COURT: MS. PRATT?

9 **CROSS EXAMINATION**

10 **BY MS. PRATT:**

11 Q DETECTIVE ALLEN, WERE YOU PRESENT AT THE
12 SCENE AT ALL THE NIGHT OF THIS INCIDENT?

13 A NO, I WAS NOT.

14 Q SO YOU HAVE NO INFORMATION AS TO THE
15 SHOOTER AT ALL, CORRECT?

16 A THAT'S CORRECT.

17 Q ALL RIGHT, YOU MERELY, AND IT'S NOT MERELY
18 I SHOULDN'T SAY IT THAT WAY, YOU ATTENDED THE AUTOPSY, YOU
19 WATCHED THESE DIFFERENT ITEMS BEING TAKEN FROM MR. HAMMONDS
20 BODY AND YOU KEPT THEM TO BRING TO COURT TODAY?

21 A THAT'S CORRECT.

22 Q ALL RIGHT, AND YOU WOULD HAVE PLACED THEM
23 INTO AN EVIDENCE LOCKER OR WHAT DID YOU DO WITH THEM?

24 A ONCE I GOT BACK TO THE ANNEX WE HAVE A
25 CRIME SCENE EVIDENCE ROOM WHICH IS SECURED, I PLACED ALL

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

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1 THE EVIDENCE IN THERE BECAUSE THEY WERE LATER TRANSPORTED
2 TO VARIOUS AGENCIES FOR ANALYSIS.

3 Q OKAY, WERE YOU INVOLVED IN ANY OF THE
4 TRANSPORT TO ANY OTHER AGENCIES AT ALL?

5 A NO, MA'AM.

6 Q OR ANY TESTING IN REGARDS TO THESE?

7 A NO, MA'AM.

8 Q AND SO YOU HAVE NO INFORMATION AS TO A LINK
9 OF THESE ITEMS TO ANY PARTICULAR DEFENDANT ONLY TO VICTIMS;
10 IS THAT RIGHT?

11 A THAT'S CORRECT.

12 MS. PRATT: THANK YOU, DETECTIVE ALLEN.

13 THE COURT: ANY FURTHER?

14 MR. FILIBERTO: NOTHING FROM THE STATE, YOUR
15 HONOR, WE'D ASK THAT THIS WITNESS BE EXCUSED FROM HER
16 SUBPOENA.

17 THE COURT: ALL RIGHT, DETECTIVE ALLEN, YOU ARE
18 EXCUSED FROM YOUR SUBPOENA, THANK YOU FOR COMING.

19 LADIES AND GENTLEMEN OF THE JURY, I SEE, WELL MR.
20 TURNER AT LEAST SQUIRMING A LITTLE BIT THERE, I THINK WE'VE
21 BEEN SITTING FOR ABOUT AN HOUR AND A HALF, HOW ABOUT A
22 BREAK, DOES THAT SUIT YOU? LET'S TAKE A LITTLE BREAK,
23 BOBBY, TAKE THEM BACK TO THE JURY ROOM, PLEASE.

24 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
25 1:59 P.M.)

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

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1 THE COURT: EVERYONE ELSE WE'LL BE IN RECESS FOR
2 ABOUT 15 MINUTES.

3 (WHEREUPON, A RECESS WAS TAKEN AND THE FOLLOWING
4 TAKES PLACE ON THE RECORD AFTER THE RECESS.)

5 THE COURT: ARE WE READY?

6 MR. FILIBERTO: YOUR HONOR, I THINK MS. PRATT
7 MIGHT HAVE SOMETHING SHE WOULD LIKE TO RAISE WHILE THE JURY
8 IS OUT.

9 THE COURT: ALL RIGHT, MS. PRATT?

10 MS. PRATT: YOUR HONOR, IT'S MY UNDERSTANDING
11 THAT THE STATE THROUGH THEIR NEXT WITNESS WILL BE TRYING TO
12 INTRODUCE THE PHOTOGRAPHS OF TATTOOS OF MY CLIENT SO THIS
13 MAY BE AN APPROPRIATE TIME TO TALK ABOUT THE ---

14 THE COURT: OKAY, ALL RIGHT.

15 MS. PRATT: --- GANG SITUATION AGAIN.

16 THE COURT: ALL RIGHT, LET ME HEAR YOU.

17 MS. PRATT: THEY NEED TO PROFFER THAT EVIDENCE
18 SO THAT I CAN --

19 THE COURT: OKAY, YOU WANT TO PROFFER IT, ALL
20 RIGHT, LET'S DO THAT.

21 MS. ELDER: YOUR HONOR, THE EXTENT OF IT
22 BASICALLY IS GOING TO BE DID YOU TAKE THESE PHOTOGRAPHS,
23 WHO ARE THESE PHOTOGRAPHS OF, THEY'RE OF BRIAN SPEARS,
24 THANK YOU VERY MUCH.

25 MS. PRATT: YOU'RE NOT TRYING TO INTRODUCE THEM

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

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1 INTO EVIDENCE? MY QUESTION WOULD BE IS SHE INTRODUCING
2 THEM INTO EVIDENCE AT THIS POINT OR GOING TO EXPLAIN THEM -
3 -

4 THE COURT: LET ME SEE ---

5 MS. ELDER: YES, WE'RE NOT TO ASK FOR HER TO
6 EXPLAIN THEM, SHE JUST PHOTOGRAPHED THEM.

7 MR. FILIBERTO: SHE'S NOT GOING TO SAY WHAT THEY
8 MEAN, JUST THAT SHE PHOTOGRAPHED THEM ON THE PERSON OF THE
9 DEFENDANT.

10 MS. ELDER: AND WE WOULD BE ASKING TO MOVE THEM
11 INTO EVIDENCE BUT WE'RE NOT ASKING HER TO INTERPRET THAT
12 THEY'RE GANG TATTOOS. WE'RE JUST ASKING HER TO IDENTIFY
13 THESE WERE THE PHOTOGRAPHS SHE TOOK OF THE DEFENDANT AND
14 THESE ARE THE TATTOOS THAT HE HAD.

15 MS. PRATT: AND I WOULD ---

16 MS. ELDER: WE DON'T EVEN NEED TO PUBLISH THEM
17 TO THE JURY AT THIS POINT. WE'RE JUST MOVING THEM INTO
18 EVIDENCE.

19 THE COURT: OKAY, LET ME, LET ME ASK, ASK YOU
20 THIS, OKAY? YOU'RE GOING TO HAVE A WITNESS WHO WILL
21 TESTIFY THAT THE DEFENDANT HAD THESE TATTOOS. I'M NOT SO
22 CONCERNED ABOUT THAT WITNESS. WHAT I'M CONCERNED ABOUT IS
23 THE RELEVANCY OF THESE TATTOOS TO THIS CASE. NOW YOU'RE
24 GOING TO FOLLOW WITH ANOTHER WITNESS, OKAY?

25 MS. ELDER: YES, SIR.

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

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1 THE COURT: THAT'S THE WITNESS THAT I'M
2 CONCERNED ABOUT. I'M NOT SO CONCERNED ABOUT THIS ONE. OF
3 COURSE IF THEY'RE NOT RELEVANT, WE'RE NOT GOING TO PUT THEM
4 IN, BUT I WANT TO KNOW WHO YOU'RE GOING TO FOLLOW WITH WHO
5 ARE GOING TO ESTABLISH THE RELEVANCY OF THE TATTOOS.

6 MS. ELDER: THAT WOULD ---

7 THE COURT: THE FACT THAT A PERSON HAS TATTOOS
8 REALLY DOESN'T MEAN ANYTHING BUT WHO ARE YOU GOING TO HAVE
9 TO TESTIFY AS TO THAT, WHAT WILL BE THE TESTIMONY, I ASSUME
10 THERE IS SOME?

11 MS. ELDER: YES, SIR, YOUR HONOR, WE WILL HAVE
12 OBVIOUSLY THE TESTIFYING CODEFENDANT WHICH WILL BE TOMORROW
13 IS JEFFREY BETHEA. WE WILL ALSO HAVE, I HAVE, WE DON'T
14 KNOW YET ABOUT NATHANIEL SPEARS BUT HE WOULD BRING IN THE
15 RELEVANCY OF THOSE PARTICULAR TATTOOS AS WELL. ALSO LYNN
16 BAKER WITH J. REUBEN LONG DETENTION WHO DOES PHOTO I.D. OUT
17 AT THE JAIL THAT WOULD BE, THAT WOULD MAKE THE RELEVANCE
18 PART.

19 THE COURT: OKAY, WHAT ARE THEY GOING TO TESTIFY
20 THE RELEVANCE IS? I MEAN WHAT DO THEY MEAN, WHAT ARE THESE
21 TATTOOS. YOU KNOW SUPPOSE HE JUST HAD A TATTOO THAT SAID
22 MOM ON IT, YOU KNOW, I'M NOT CONCERNED ABOUT THAT. I WANT
23 TO KNOW WHERE WE'RE GOING TO SHOW ME WHAT THE RELEVANCY IS
24 TO THE FACT THAT HE HAS TATTOOS. THERE MUST BE AN
25 EXPLANATION OF WHAT THE TATTOOS MEAN.

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

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1 MS. ELDER: YOUR HONOR, ALL OF THESE TATTOOS
2 WERE OBTAINED SUBSEQUENT TO HIS INCARCERATION AT J. REUBEN
3 LONG. HE DID NOT HAVE THEM PRIOR TO THESE CHARGES. THESE
4 ALL INDICATE, THE STAR WOULD INDICATE GANG AFFILIATION.
5 THE R.I.P. G-BLACK AND THE GUN IS THE RETALIATION THAT'S
6 WHO G-BLACK IS THE STREET FOR AN INDIVIDUAL THAT WAS KILLED
7 AND THAT ---

8 THE COURT: WAIT A MINUTE, NOT THE VICTIM IN
9 THIS MATTER BUT ---

10 MS. ELDER: NO, SIR.

11 THE COURT: --- THE OTHER ONE WAS ---

12 MS. ELDER: YES, SIR.

13 THE COURT: --- PART OF A GANG?

14 MS. ELDER: THEIR GANG, YES, SIR.

15 THE COURT: OKAY, NOW I HAVE ALREADY SAID THAT I
16 BELIEVE THAT IT IS RELEVANT THAT IF YOU CAN TIE IT UP AND
17 SHOW THIS INDIVIDUAL WAS A MEMBER OF A GANG AND THAT THERE
18 WAS A HOMICIDE AGAINST A MEMBER OF THAT GANG AND THAT THERE
19 WAS A VENDETTA AGAINST THE VICTIM IN THIS CASE, I THINK
20 THAT'S RELEVANT.

21 MS. ELDER: YES, SIR.

22 THE COURT: SO NOW HOW WE GOING TO GET, HOW DOES
23 THAT TIE TO IT? NOW THE GUN WITH THE R.I.P. AND THE ---

24 MS. ELDER: YES, SIR.

25 THE COURT: --- THAT HAS TO DO WITH THE OTHER

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

182

1 PERSON THAT WAS KILLED, CORRECT?

2 MS. ELDER: THAT'S CORRECT.

3 THE COURT: ALL RIGHT, OKAY.

4 MS. ELDER: ALSO THIS IS, THIS TATTOO IS 41-
5 CURVE WHICH IS THEIR GANG UP IN LUMBERTON. THIS IS ALSO A
6 SMALL CALIBER HANDGUN THAT WAS TATTOOED AFTER HIS ARREST ON
7 THIS CHARGE AND, YOUR HONOR, I DON'T KNOW THAT THESE, THIS
8 PICTURE RIGHT HERE WHICH IS ---

9 THE COURT: YOU'RE REFERRING TO A PHOTOGRAPH OF
10 THE HAND?

11 MS. ELDER: THERE'S A HAND AND AN ARM, YOUR
12 HONOR, THEY SHOULD GANG SYMBOLISM BUT WE DON'T NEED THOSE.

13 THE COURT: OKAY.

14 MS. ELDER: I DON'T HAVE A PROBLEM WITH TAKING
15 THOSE OUT.

16 THE COURT: ALL RIGHT, OKAY. SO WHAT WE'RE
17 DOING IS, IS YOU HAVE A SERIES OF PHOTOGRAPHS IN THERE
18 WHICH ESTABLISH OR INDICATE OR THERE'S A REASONABLE
19 INFERENCE THAT CAN BE DRAWN FROM THOSE THAT HE WAS A MEMBER
20 OF THIS GANG 41-CURVE AND THERE WAS A CONNECTION BETWEEN
21 41-CURVE AND THE VICTIM IN THIS CASE?

22 MS. ELDER: THAT'S CORRECT, YOUR HONOR.

23 THE COURT: IS THAT CORRECT, AND A CONNECTION
24 BETWEEN 41-CURVE AND THE DEFENDANT IN THIS CASE?

25 MS. ELDER: THAT'S CORRECT, YOUR HONOR.

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

183

1 THE COURT: AND YOU'LL HAVE TESTIMONY THAT THERE
2 WAS A VENDETTA AMONG THE 41-CURVE PEOPLE AGAINST THE VICTIM
3 IN THIS CASE?

4 MS. ELDER: THAT'S CORRECT.

5 THE COURT: OKAY, AND THAT'S WHAT YOU INTEND TO
6 SHOW?

7 MS. ELDER: YES, SIR.

8 THE COURT: AND YOU CAN TIE THAT IN?

9 MS. ELDER: YES, SIR.

10 THE COURT: OKAY, ALL RIGHT, LET ME HEAR FROM
11 YOU, MS. --

12 MS. ELDER: AND I WOULD SAY, YOUR HONOR, THESE
13 THREE ---

14 THE COURT: MS. PRATT, THAT'S THE WAY SHE'S
15 GOING NOW, OKAY, AND I THINK THAT IS RELEVANT. NOW AND ITS
16 RELEVANCE CERTAINLY OUTWEIGHS OR IS NOT OUTWEIGHED BY THE
17 PREJUDICIAL VALUE SO LET ME, LET ME HEAR FROM YOU. I JUST
18 GAVE YOU WHAT MY GUT FEELING WAS ON THIS THING AND WHAT I
19 PERCEIVE AS AFTER REVIEWING THE EVIDENCE, NOW LET ME HEAR
20 FROM YOU, MS. PRATT?

21 MS. PRATT: THANK YOU, YOUR HONOR. FIRST OF ALL
22 MY CLIENT IN LOOKING AT THESE, AND THIS IS THE FIRST TIME
23 WE'VE SEEN THESE PHOTOGRAPHS, TELLS ME THAT SEVERAL OF
24 THESE HE HAD PRIOR TO BEING IN PRISON. FOR EXAMPLE, THE
25 STAR OF DAVID AND THE G.B. THAT'S ON HIS UPPER RIGHT ARM HE

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

184

1 GOT WHEN HE WAS 17. ANOTHER GANG SYMBOL HE GOT WHEN HE WAS
2 18. THE FINGERS HE'S HAD SINCE HE WAS 18. THAT'S PRIOR TO
3 HIS INCARCERATION.

4 THE COURT: I THINK THE FINGERS SHE'S NOT
5 PUTTING IN; IS THAT CORRECT?

6 MS. ELDER: I TOOK THOSE TWO OUT OF THE LOOP,
7 YOUR HONOR.

8 MS. PRATT: AND I WOULD JUST SIMPLY BE CONCERNED
9 THAT, AND ONE OF THE PHOTOS, I THINK SHE'S TAKEN IT OUT,
10 WAS ACTUALLY HIS DAUGHTER'S NAME WHICH WOULD HAVE NO
11 RELEVANCE AT ALL.

12 THE COURT: AND I BELIEVE YOU JUST ARGUED THAT
13 THEY WERE BASED ON HIS AFFILIATION WITH A GANG, DIDN'T YOU
14 SAY THAT?

15 MS. PRATT: I'M NOT ARGUING THAT, THAT'S WHAT
16 SHE SAID THESE MEANT AND SO I'M TRYING TO IDENTIFY THEM,
17 YOUR HONOR,

18 THE COURT: ISN'T THAT WHAT YOU SAID HE, WHEN HE
19 GOT THEM AT AN EARLY DATE THAT IT HAD TO DO WITH HIS GANG
20 MEMBERSHIP?

21 MS. PRATT: NO, SIR, THAT IS NOT WHAT I MEANT BY
22 THAT STATEMENT.

23 THE COURT: YOU TAKE IT BACK BUT YOU DID SAY IT?

24 MS. PRATT: I DON'T KNOW. YOU'D HAVE TO ASK THE
25 COURT REPORTER IF I SAID THAT BUT WHAT I MEANT, YOUR HONOR,

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

185

1 IS THE IDENTIFICATION OF THOSE ITEMS AS BEING SUPPOSEDLY IN
2 THE STATE'S MIND GANG SYMBOLS AND I AM CONCERNED THAT IF
3 THEY CAME OUT BEFORE, IF, IF THEY ARE GANG SYMBOLS AND
4 ARGUENDO AND THEY WERE PUT ON PRIOR TO PRISON THEY DON'T
5 HAVE ANY RELEVANCE EVEN UNDER THE CASES THAT WE HAVE.

6 THE COURT: WELL I DON'T THINK ---

7 MS. PRATT: LIVERMON'S TATTOOS WERE RELEVANT
8 BECAUSE THEY WERE PUT ON AS A RESULT OF A DIRECT TIE TO THE
9 VICTIMS AFTER HE WAS IN PRISON. THE TATTOO ABOUT G-BLACK
10 WHICH I GATHER WAS, AND I THINK SHE HAS TO LAY A FOUNDATION
11 TO SHOW HOW SHE KNOWS WHEN THESE WERE PUT IN CAUSE WE DO
12 HAVE TATTOOS ON HIS NCIC, I BELIEVE, AND I NEED TO ---

13 THE COURT: BUT DOES IT MAKE ANY DIFFERENCE
14 WHATSOEVER IF HE HAD THEM BEFORE OR AFTER?

15 MS. PRATT: WELL IT DID IN LIVERMON, YOUR HONOR.
16 IN LIVERMON THE TATTOO THAT THEY TALK ABOUT WERE TWO
17 TEARDROPS THAT WERE SUPPOSED TO REPRESENT THE EXACT VICTIM
18 AND THEY WERE PUT ON WHILE THE GUY WAS IN PRISON WAITING
19 TRIAL. IF THESE REPRESENT THE VICTIMS THEN IT FITS WITH
20 LIVERMON. IF THEY DON'T I HAVE A REAL QUESTION ABOUT
21 RELEVANCE AND THE PREJUDICIAL 403 BALANCING OF THE
22 PROBATIVE.

23 THE COURT: BUT IN THIS CASE ISN'T SHE SAYING,
24 ISN'T SHE SAYING THE KILLING OR THE SHOOTING OCCURRED
25 BECAUSE HE WAS A GANG MEMBER OR A MEMBER OF 41 --

DETECTIVE ALLEN - CROSS EXAMINATION BY MS. PRATT

186

1 MS. ELDER: CURVE.

2 THE COURT: CURVE.

3 MS. PRATT: AND YOU KNOW THAT I DISPUTE THAT.

4 THE COURT: I UNDERSTAND.

5 MS. PRATT: MY POSITION THE OTHER DAY VERY
6 CLEARLY WAS IT ONLY HAS TO DO WITH G-BLACK. IT HAS NOTHING
7 TO DO WITH WHETHER THEY'RE ON RIVAL GANGS.

8 THE COURT: IF MS. ELDER IS JUST TRYING TO PUT
9 IT IN AND CAN'T TIE IT IN LATER I'M GOING TO HAVE A PROBLEM
10 WITH THAT BUT SHE SAYS SHE CAN, SHE HAS WITNESSES WHO CAN
11 TESTIFY AS TO WHAT IT MEANS.

12 MS. ELDER: YOUR HONOR, WHAT I WILL DO IS THIS
13 TO CLEAN IT UP. I THINK THAT I'VE GOT LYNN BAKER WITH J.
14 REUBEN LONG WHO DOES THE PHOTO I.D.'S, JUST TO MAKE IT
15 CLEANER MY UNDERSTANDING IS SHE CAN LOOK AT THESE
16 PHOTOGRAPHS, THEY PHOTOGRAPHED HIM AT THE TIME OF BOOKING,
17 ALL THE TATTOOS. SHE WOULD BE ABLE TO RECOGNIZE ALL OF
18 THESE AS WELL BECAUSE THEY ARE ALL IN HER SYSTEM, SO I
19 THINK UNDER EVIDENTIARY RULES I CAN MOVE THEM IN WITH HER
20 EVEN THOUGH SHE HASN'T, DIDN'T TAKE THESE PARTICULAR
21 PHOTOGRAPHS. THAT MIGHT MAKE IT A LITTLE BIT CLEANER, THAT
22 MIGHT MAKE THE RELEVANCY BE A LITTLE BETTER UNDERSTANDABLE
23 FOR THE COURT AND THE RECORD, SO I'LL JUST, I'LL WITHDRAW
24 THESE FROM MS. MSCPADDED AT THIS TIME. WE WILL PUT HER UP
25 FOR SOME OTHER TESTIMONY AND I WILL MOVE THESE, INTRODUCE

CS OFFICER MCSPADDEN - DIRECT EXAM. BY MR. FILIBERTO

187

1 THESE WITH LYNN BAKER TOMORROW IN REFERENCE TO HER
2 TESTIMONY ABOUT BOOKING PHOTOS.

3 THE COURT: OKAY, SO WE'RE NOT GOING TO TALK
4 ABOUT THEM TODAY; IS THAT RIGHT?

5 MS. PRATT: AND I ---

6 THE COURT: IS THAT RIGHT?

7 MS. PRATT: THAT'S PERFECT, THANK YOU, YOUR
8 HONOR.

9 THE COURT: ANYTHING FURTHER?

10 MS. ELDER: DO YOU WANT THESE BACK?

11 THE COURT: LET'S GO AHEAD AND ---

12 MS. PRATT: AND AT THIS POINT THEY'RE SIMPLY
13 MARKED FOR I.D.; IS THAT CORRECT?

14 THE COURT: THAT'S CORRECT.

15 MS. PRATT: AND WHAT NUMBERS WERE THOSE, MS.
16 BABB?

17 MADAM COURT REPORTER: NINE COLLECTIVELY.

18 MS. PRATT: AND THOSE ARE NOW HOW MANY PHOTOS?

19 MS. ELDER: THREE.

20 THE COURT: ALL RIGHT, I DON'T WANT TO MARK THEM
21 COLLECTIVELY, LET'S MAKE THEM, HOW MANY DO YOU HAVE?

22 MADAM COURT REPORTER: THAT WAS THE LAST ONE,
23 NINE, SO IT WOULD BE NINE, TEN, AND ELEVEN.

24 THE COURT: ALL RIGHT, LET'S MAKE THEM 9(A),
25 (B), (C), OKAY, WE'LL HAVE THEM AS ONE EXHIBIT AND WE'LL

CS OFFICER MCSPADDEN - DIRECT EXAM. BY MR. FILIBERTO 188

1 HAVE THEM IDENTIFIED SEPARATELY, OKAY.

2 (WHEREUPON, STATE'S EXHIBITS NUMBERS 9(A), 9(B),
3 AND 9(C) MARKED FOR IDENTIFICATION.)

4 ALL RIGHT, MR. BROOKS.

5 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
6 3:39 P.M.)

7 THE COURT: I SEE WE HAVE OUR JURY BACK. LADIES
8 AND GENTLEMEN, I WANT TO APOLOGIZE FOR KEEPING YOU OUT
9 LONGER THAN I TOLD YOU I WOULD. WE HAD AN EVIDENTIARY
10 MATTER COME UP THAT WE WENT AHEAD AND HANDLED WHILE YOU
11 WERE OUT IN HOPES THAT IT AVOID ANOTHER TRIP OUT FOR YOU SO
12 WE WERE, WE WERE WORKING.

13 OKAY, MS. ELDER?

14 MR. FILIBERTO: THE STATE WOULD CALL UP MICHELLE
15 MCSPADDEN.

16 THE COURT: OR MR. FILIBERTO.

17 CS OFFICER KANDI MICHELLE MCSPADDEN

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 MADAM CLERK: PLEASE STATE YOUR NAME AND SPELL
20 YOUR LAST NAME FOR THE RECORD.

21 THE WITNESS: KANDI MICHELLE MCSPADDEN, LAST
22 NAME SPELLED M-C-S-P-A-D-D-E-N.

23 THE COURT: YOU MAY, MR. FILIBERTO.

24 MR. FILIBERTO: THANK YOU, YOUR HONOR.

25 DIRECT EXAMINATION

CS OFFICER MCSPADDEN - DIRECT EXAM. BY MR. FILIBERTO 189

1 MR. FILIBERTO:

2 Q OFFICER MCSPADDEN, WHERE ARE YOU CURRENTLY
3 EMPLOYED?

4 A MYRTLE BEACH POLICE DEPARTMENT CRIME SCENE
5 UNIT.

6 Q HOW LONG HAVE YOU BEEN EMPLOYED THERE?

7 A WITH THE POLICE DEPARTMENT SINCE DECEMBER
8 1ST, 2000.

9 Q ABOUT 10 YEARS OR SO?

10 A YES, SIR.

11 Q WERE YOU ASSIGNED ANY DUTIES RELATED TO THE
12 CASE THAT WE'RE HERE FOR TODAY BACK ON MAY 27TH, 2007?

13 A YES, SIR.

14 Q AND THOSE DUTIES REQUIRE YOU TO MAKE A TRIP
15 DOWN TO GRAND STRAND REGIONAL MEDICAL CENTER?

16 A YES, SIR.

17 Q WHAT WAS THE PURPOSE OF THAT TRIP?

18 A I WAS THE CRIME SCENE OFFICER RESPONDING TO
19 THE HOSPITAL FOR INJURED VICTIMS INVOLVING A SHOOTING.

20 Q AND THE WORK THAT YOU WOULD HAVE PERFORMED
21 THERE IS WHAT, TO INTERVIEW THEM?

22 A I DID NOT DO ANY INTERVIEWS OTHER THAN I
23 SPOKE TO DJUAN MONROE. HE WAS INJURED; I PHOTOGRAPHED HIS
24 INJURIES AND CONDUCTED A GUNSHOT RESIDUE KIT ON HIS HANDS.

25 Q WHAT WAS THE NATURE OF HIS INJURIES?

CS OFFICER MCSPADDEN - CROSS EXAMINATION BY MS. PRATT 190

1 A HE HAD A LACERATION TO THE TOP OF HIS HEAD
2 AND TO HIS RIGHT HAND. HE HAD INJURIES TO HIS FINGERS.

3 Q AND WHO WAS THE OTHER VICTIM YOU WENT DOWN
4 THERE TO SEE?

5 A THE OTHER VICTIM WAS AARON HAMMONDS AND HE
6 WAS DECEASED.

7 MR. FILIBERTO: THAT'S ALL I HAVE, PLEASE ANSWER
8 ANY QUESTIONS MS. PRATT MAY HAVE.

9 THE COURT: MS. PRATT?

10 CROSS EXAMINATION

11 BY MS. PRATT:

12 Q OFFICER MCSPADDEN, YOU WEREN'T AT THE CRIME
13 SCENE?

14 A I RESPONDED; THERE WAS A GUN THAT WAS FOUND
15 JUST A SHORT DISTANCE FROM THE CRIME SCENE SO I DID RESPOND
16 AND COLLECT THAT AND THEN WENT TO THE HOSPITAL.

17 Q AND THAT WAS NOT FOUND TO BE THE GUN THAT
18 WAS INVOLVED IN THIS?

19 A IT WAS NOT, IT WAS A DIFFERENT CALIBER AND
20 IT ALSO DIDN'T FIRE.

21 Q OKAY, COMPLETELY RED HERRING?

22 A YES, MA'AM.

23 Q ALL RIGHT, SO YOU HAVE NO INFORMATION THAT
24 YOU SAW YOURSELF ABOUT THE SHOOTER?

25 A NO, NO, MA'AM.

CS OFFICER MCSPADDEN - CROSS EXAMINATION BY MS. PRATT 191

1 Q OKAY, AND YOUR TESTIMONY IS SIMPLY ABOUT
2 THE PHOTOGRAPHS OF THE INJURIES FOR MR. MONROE AND THE GSR
3 FOR MR. MONROE; IS THAT RIGHT?

4 A AND I ALSO DID GSR ON MR. HAMMONDS.

5 Q DO YOU THEN TAKE THOSE TESTS RESULTS AND
6 GIVE THEM TO SOMEONE ELSE TO INTERPRET?

7 A WE DO NOT DO GUNSHOT RESIDUE IN HOUSE; IT
8 GOES TO THE STATE LAW ENFORCEMENT DIVISION FOR THEIR
9 INTERPRETATION.

10 Q AND DID YOU TAKE THOSE KITS THAT YOU
11 COLLECTED AND THE PHOTOGRAPHS AND PLACE THEM IN EVIDENCE?

12 A YES, MA'AM.

13 Q AND THAT WOULD HAVE BEEN IN THE EVIDENCE
14 BOX THERE IN MYRTLE BEACH; IS THAT RIGHT?

15 A YES, MA'AM.

16 MS. PRATT: THANK YOU VERY MUCH.

17 MR. FILIBERTO: THE STATE HAS NOTHING FURTHER,
18 YOUR HONOR.

19 THE COURT: YOU MAY STEP DOWN.

20 MR. FILIBERTO: THE STATE WOULD ASK THAT SHE BE
21 EXCUSED FROM HER SUBPOENA.

22 THE COURT: ANY OBJECTION?

23 MS. PRATT: NO, YOUR HONOR.

24 THE COURT: YOU ARE EXCUSED FROM YOUR SUBPOENA.

25 THE WITNESS: THANK YOU, YOUR HONOR.

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

192

1 MS. ELDER: YOUR HONOR, THE STATE WOULD CALL
2 BRITTNEY MAYNOR.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
4 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
5 OF THE JURY AND THE COURT REPORTER.)

6 **BRITTNEY MAYNOR**

7 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

8 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
9 SPELL YOUR LAST NAME FOR THE RECORD.

10 THE WITNESS: BRITTNEY MAYNOR, -A-Y-N-O-R.

11 **DIRECT EXAMINATION**

12 **BY MS. ELDER:**

13 Q MS. MAYNOR, WHERE, WHERE DO YOU LIVE, YOU
14 DON'T NEED TO GIVE ME THE ADDRESS BUT WHAT, WHAT TOWN DO
15 YOU LIVE IN?

16 A RED SPRINGS.

17 Q AND IS THAT IN NORTH CAROLINA?

18 A YEAH.

19 Q AND I WANT TO TAKE YOU BACK TO MAY OF 2007?

20 A OKAY.

21 Q DID YOU HAVE AN OPPORTUNITY TO COME DOWN
22 HERE TO MYRTLE BEACH?

23 A YEAH.

24 Q WAS THAT MEMORIAL WEEKEND?

25 A YEAH.

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

193

1 Q ALL RIGHT, WHO DID YOU COME WITH?

2 A ME, MR. HAMMONDS, AND SOME MORE FRIENDS.

3 Q WHEN YOU SAY MR. HAMMONDS, YOU TALKING

4 ABOUT AARON?

5 A AARON, YEAH.

6 Q WHAT OTHER FRIENDS DID YOU COME DOWN HERE

7 WITH?

8 A LEMARK IRONS AND ALEXIS BROWN AND TWO MORE

9 GUYS.

10 Q WHAT ARE THEIR NAMES, DO YOU REMEMBER?

11 A NOT REALLY, MATT JENKINS AND ANOTHER GUY.

12

13 Q OKAY, I'M GOING TO PUT THIS JUST A LITTLE

14 BIT CLOSER, OKAY?

15 A OKAY.

16 Q NOW WERE YOU DATING ONE OF THOSE GUYS?

17 A YEAH.

18 Q WHICH, WHO WERE YOU DATING?

19 A AARON.

20 Q AARON HAMMONDS?

21 A YEAH.

22 Q OKAY, AND WHEN DID YA'LL COME DOWN THAT

23 WEEKEND, WHAT DAY, DO YOU REMEMBER?

24 A THAT SATURDAY.

25 Q ALL RIGHT, THE DAY THAT THE SHOOTING

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

194

1 HAPPENED LATER THAT EVENING OR EARLY THAT MORNING?

2 A YEAH, IT WAS THE NEXT MORNING.

3 Q OKAY, WHAT TIME DID YA'LL GET HERE IN
4 MYRTLE BEACH?

5 A I DON'T REMEMBER.

6 Q DO YOU REMEMBER IF IT WAS THE DAY TIME OR
7 NIGHT TIME?

8 A IT WAS DAY TIME.

9 Q SO IT WAS STILL LIGHT OUTSIDE?

10 A YEAH.

11 Q AND WHO DROVE DOWN HERE?

12 A LEMARK.

13 Q LEMARK IRONS?

14 A YEAH.

15 Q WERE YA'LL ALL IN ONE CAR?

16 A YEAH.

17 Q WHAT KIND OF CAR DID YA'LL DRIVE?

18 A EXPEDITION.

19 Q AND WERE YA'LL GOING TO STAY HERE THE NIGHT
20 OR WHAT WERE YOUR PLANS?

21 A WE WEREN'T GOING TO STAY LIKE IN A MOTEL OR
22 NOTHING.

23 Q YA'LL JUST COME DOWN?

24 A YEAH.

25 Q HOW LONG DID IT TAKE YOU TO GET HERE?

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

195

1 A NOT THAT LONG, ABOUT FOUR HOURS MAYBE, FOUR
2 HOURS AND A HALF.

3 Q OKAY, HOW LONG HAD YOU KNOWN AARON HAMMONDS
4 BEFORE THAT NIGHT?

5 A ABOUT A YEAR.

6 Q ABOUT A YEAR, OKAY, AND YOU KNEW SOME STUFF
7 ABOUT HIM; IS THAT RIGHT, YOU KNEW WHAT HE DID, WHO HE HUNG
8 OUT WITH?

9 A YEAH, I KNEW WHO HE HUNG OUT WITH.

10 Q OKAY, AND DID HE BELONG TO A GROUP OR A
11 GROUP OF PEOPLE THAT CALLED THEMSELVES BY A CERTAIN NAME?

12 MS. PRATT: YOUR HONOR, I WOULD OBJECT TO THE
13 INTRODUCTION OF THIS TESTIMONY.

14 THE COURT: YES, AND YOUR OBJECTION IS
15 CONTINUING.

16 MS. PRATT: THANK YOU, YOUR HONOR.

17 MS. ELDER: (CONTINUING)

18 Q YOU CAN ANSWER THE QUESTION?

19 A NOT REALLY, LIKE --

20 Q DID, DID, DID HE BELONG, DO YOU KNOW WHAT
21 THE EAST SIDE BLOOD IS?

22 A NO.

23 MS. PRATT: OBJECTION AS TO LEADING, YOUR HONOR.

24 THE COURT: THAT IS LEADING.

25 MS. PRATT: THANK YOU, YOUR HONOR.

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

196

1 THE WITNESS: (CONTINUING)

2 A I JUST KNOW HE LIKE STAYED ON THE EAST SIDE
3 OF TOWN.

4 Q OKAY, AND DID HE HANG OUT WITH A PARTICULAR
5 GROUP OF PEOPLE?

6 MS. PRATT: ASKED AND ANSWERED, YOUR HONOR.

7 THE COURT: I'LL LET HER ANSWER IT IF SHE KNOWS.

8 MS. ELDER: (CONTINUING)

9 Q DID HE HANG OUT WITH A GROUP OF PEOPLE FROM
10 THE EAST SIDE?

11 A YEAH.

12 Q AND WHEN YOU CAME DOWN HERE WHAT DID YOU
13 DO?

14 A WHEN WE FIRST GOT DOWN WE JUST RODE AROUND
15 FOR A WHILE.

16 Q OKAY, AND THEN WHAT HAPPENED?

17 A WE MET WITH THE OTHER GUY THAT WAS WITH
18 AARON AND MATT AND WENT TO A STORE, GOT GAS, LEFT FROM
19 THERE AND THEN WE WENT AND PARKED AND GOT OUT AND THAT'S
20 WHEN WE WENT TO WALK ON THE BOULEVARD.

21 Q OKAY, AND YA'LL WERE WALKING DOWN THE
22 BOULEVARD AND WAS THIS DAY TIME OR NIGHT TIME?

23 A NIGHT TIME.

24 Q AND WHAT HAPPENED WHEN YA'LL WERE WALKING
25 DOWN THE BOULEVARD?

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

197

1 A ONE OF THE GUYS WALKED OFF FROM US AND WE
2 LIKE STOPPED AND EVERYBODY WAS LIKE TRYING TO SEE WHICH WAY
3 HE WENT AND THEN WHEN HE CAME BACK WE ASKED HIM WHERE HE
4 HAD BEEN THEN WE STARTED BACK WALKING AGAIN AND THAT'S WHEN
5 LIKE, WELL RIGHT AFTER THAT THAT'S WHEN THE INCIDENT
6 HAPPENED.

7 Q OKAY, WHO WAS THE GUY THAT, THAT LEFT FROM
8 YOUR GROUP?

9 A LEMARK.

10 Q LEMARK IRONS?

11 A YEAH.

12 Q AND DID HE HAVE ANY KIND OF, DO YOU RECALL
13 ANYTHING UNIQUE ABOUT HIM THAT NIGHT?

14 A NO, NOT REALLY.

15 Q OKAY, DID HE HAVE ANY KIND OF DISABILITY?

16 MS. PRATT: OBJECTION AS TO LEADING, YOUR HONOR.

17 THE COURT: THAT'S NOT LEADING, I'M GOING TO LET
18 HER ANSWER.

19 THE WITNESS: (CONTINUING)

20 A WHAT YOU MEAN DISABILITY LIKE --

21 Q WAS THERE ANYTHING WRONG WITH HIM?

22 A HIS ARM WAS IN A CAST.

23 Q OKAY, AND DID HE HAVE A CAST ON?

24 A YEAH.

25 Q AND DO YOU REMEMBER WHICH ARM THAT WAS ON?

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

198

1 A I THINK HIS RIGHT ARM.

2 Q OKAY, AND DID YOU SEE WHERE LEMARK WENT?

3 A UH-UH.

4 Q DID AARON GO WITH HIM OR WAS HE WITH YOU?

5 A HE WAS WITH ME.

6 Q AND WERE THE OTHER GUYS WITH YOU OR WITH
7 LEMARK?

8 A WITH US.

9 Q WITH YOU?

10 A YEAH.

11 Q SO DID LEMARK GO BY HIMSELF?

12 A YEAH.

13 Q AND YOU DON'T KNOW WHERE HE WENT?

14 A NO, MA'AM.

15 Q AND LEMARK CAME BACK, DID HE COME BACK TO
16 YOUR GROUP AT SOME POINT?

17 A YEAH.

18 Q WAS THAT BEFORE THE SHOOTING OR AFTER?

19 A BEFORE.

20 Q AND WHAT DID YA'LL DO WHEN HE GOT BACK TO
21 YOUR GROUP?

22 A WE WAS JUST LIKE WHERE YOU, WHERE YOU GO,
23 YOU DON'T NEED TO BE LEAVING THE GROUP, WE ALL STAY
24 TOGETHER.

25 Q OKAY, AND WHAT DID YA'LL DO AFTER THAT?

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

199

1 A STARTED BACK WALKING.

2 Q WHICH WAY WERE YA'LL WALKING?

3 A LIKE STRAIGHT AHEAD LIKE --

4 Q ALL RIGHT, WERE YOU WALKING, DO YOU KNOW IF
5 YOU WERE WALKING SOUTH OR NORTH?

6 A I GUESS THAT'S NORTH.

7 Q OKAY, WHICH SIDE OF THE ROAD WERE YOU ON,
8 THE OCEAN SIDE OR --

9 A THE STORE SIDE LIKE --

10 Q THE STORE SIDE?

11 A YEAH.

12 Q OKAY, DO YOU REMEMBER WHAT ROAD THAT WAS IN
13 MYRTLE BEACH THAT YOU WERE WALKING ON?

14 A NO.

15 Q WAS IT CLOSE TO THE OCEAN?

16 A I THINK THE OCEAN WAS ON THE OTHER SIDE.

17 Q OKAY, WAS IT THE MAIN STRIP?

18 A I BELIEVE IT WAS.

19 Q AND WERE YOU WALKING, WHEN YOU WERE WALKING
20 WAS THE OCEAN ON YOUR LEFT SIDE OR YOUR RIGHT SIDE?

21 A LEFT.

22 Q SO IT WOULD BE OVER ON THIS SIDE, SO YOU
23 WERE WALKING THIS WAY AND THE OCEAN WAS RIGHT HERE?

24 A YES.

25 Q OKAY, NOW WHEN AFTER LEMARK JOINED YOUR

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

200

1 GROUP HOW LONG WAS IT AFTER HE JOINED UP, BACK UP WITH YOU
2 THAT THIS SHOOTING HAPPENED?

3 A NOT LONG, LIKE MAYBE FIVE, SIX MINUTES
4 LATER.

5 Q OKAY, AND YA'LL WERE WALKING DOWN THE ROAD,
6 THE OCEAN IS OVER HERE. TELL ME HOW YA'LL WERE WALKING ON
7 THE SIDEWALK, HOW WERE YA'LL LINED UP?

8 A AARON, ME, AND ALEXIS, AND THEN LEMARK WAS
9 UP AHEAD OF US A LITTLE BIT AND THE OTHER GUY, MAN, AND
10 THEN ANOTHER GUY WAS BEHIND HIM.

11 Q OKAY, SO YOU SAID AARON WAS HERE?

12 A UH-HUH.

13 Q IS THAT CLOSEST TO THE STORE, THE STORES OR
14 THE ROAD?

15 A KIND OF CLOSEST TO THE STORE.

16 Q OKAY, SO WAS HE ON THE END OF YOUR GROUP?

17 A UH-UH, KIND OF LIKE IN, IT WAS SOMEBODY
18 ELSE ON THE END LIKE MORE TO THE STORES THAN HE WAS.

19 Q WHO WAS THAT?

20 A AARON -- WHAT NEAR THE STORE, MAN.

21 Q OKAY, WHO IS MAN?

22 A ONE OF THE OTHER GUYS THAT WAS WITH US.

23 Q OKAY, AND YOU SAID HIS NAME WAS MAN
24 SINCLAIR, I BELIEVE?

25 A YEAH.

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

201

1 Q SO IF YOU'VE GOT THE STORES RIGHT HERE ---
2 A UH-HUH.
3 Q --- WHO'S THE FIRST PERSON CLOSEST TO THE
4 STORES?
5 A LEMARK THEN MAN.
6 Q OKAY, SO IT'S LEMARK IRONS?
7 A UH-HUH.
8 Q THEN ---
9 A MAN.
10 Q --- MAN SINCLAIR?
11 A YEAH.
12 Q THEN?
13 A MATT, THEN UP A LITTLE FURTHER ---
14 Q MATT?
15 A YEAH.
16 Q JENKINS?
17 A YEAH.
18 Q OKAY?
19 A THEN ALEXIS, THEN ME.
20 Q THEN ALEXIS?
21 A YEAH.
22 Q THEN YOU?
23 A YEAH.
24 Q WHERE'S AARON?
25 A UP ABOVE ME A LITTLE BIT.

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

202

1 Q HE'S WALKING IN FRONT OF YOU?

2 A YES.

3 Q OKAY, THIS SIDE TOWARD THE FRONT OR THIS
4 SIDE OR DIRECTLY IN FRONT?

5 A MORE NEAR THE STORE.

6 Q HE WAS ON THIS SIDE?

7 A YEAH.

8 Q OKAY, SO HE WAS KIND OF WALKING IN BETWEEN
9 YOU AND ALEXIS?

10 A YEAH.

11 Q OKAY, AND WHO WAS ON, WHO, WAS ANYBODY ELSE
12 CLOSEST TO YOU?

13 A UH-UH, MORE ALEXIS THAN ANYBODY.

14 Q ALL RIGHT, WAS ANYBODY ON THE OTHER SIDE OF
15 YOU?

16 A UH-UH.

17 Q OKAY, SO THE ROAD WAS RIGHT THERE?

18 A YEAH.

19 Q OKAY, ALL RIGHT, SO YOU GOT THE ROAD WHO'S
20 HERE?

21 A ALEXIS.

22 Q OKAY, YOU?

23 A ME.

24 Q ALEXIS?

25 A ALEXIS, AARON.

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

203

1 Q AARON IS UP IN FRONT OF YA'LL?

2 A YEAH-- MATT.

3 Q MATT JENKINS?

4 A MAN.

5 Q MAN SINCLAIR?

6 A LEMARK.

7 Q AND LEMARK IRONS?

8 A YEAH.

9 Q AND THEN THIS IS THE STORE. WAS AARON UP
10 KIND OF IN FRONT YOU BY HIMSELF OR WAS ANYBODY UP THERE
11 WITH HIM?

12 A KIND OF BY HIMSELF.

13 Q BY HIMSELF, OKAY, WHEN THE SHOOTING
14 HAPPENED TELL ME WHAT YOU SAW?

15 A I SAW A GUY WALK UP, BANDANNA TIED AROUND
16 HIS FACE.

17 Q WHAT COLOR WAS THE BANDANNA?

18 A RED.

19 Q RED, OKAY?

20 A AND HE LIKE GLANCED AT EVERYBODY AND THEN
21 WHEN LEMARK TURNED AROUND LIKE HE TURNED AROUND AND LOOKED
22 THAT'S WHEN HE STARTED SHOOTING.

23 Q ALL RIGHT, AND LEMARK WAS OVER HERE?

24 A UH-HUH.

25 Q OKAY, SO LEMARK KIND OF TURNED AROUND?

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

204

1 A YEAH, HE JUST LOOKED BACK.

2 Q OKAY, YOU SAW THAT?

3 A UH-HUH.

4 Q OKAY, AND WHERE DID THE GUY COME UP, WHERE
5 WAS HE WHEN HE CAME UP?

6 A LIKE ---

7 Q WAS HE HERE, WAS HE HERE, WHO WAS HE COMING
8 UP BEHIND?

9 A HE DIDN'T COME UP BEHIND, HE WAS LIKE, HE
10 CAME FROM ACROSS THE ROAD.

11 Q OKAY, SO HE CAME FROM THIS SIDE OVER HERE?

12 A UH-HUH.

13 THE COURT: MS. ELDER, COULD YOU INDICATE FOR
14 THE RECORD YOU'RE INDICATING FROM THE LEFT?

15 THE COURT: (CONTINUING)

16 Q FROM THE OCEAN SIDE?

17 A YES.

18 Q SO THE PERSON THAT WAS SHOOTING WITH THE
19 RED BANDANNA CAME FROM THE OCEAN SIDE?

20 A YEAH.

21 Q SO WAS HE WALKING STRAIGHT TO YOU LIKE THIS
22 OR WAS HE WALKING AT AN ANGLE TOWARDS YOU OR WHAT?

23 A HE JUST, I DON'T KNOW, I CAN'T REMEMBER, I
24 JUST KNOW HE WALKED UP.

25 Q OKAY, FROM ACROSS THE STREET?

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

205

1 A YEAH.

2 Q SO HE'S WALKING UP ACROSS THE STREET, WHAT
3 DO YOU SEE?

4 A I JUST SEEN LIKE THE RED BANDANNA AND I
5 KNOW IT WAS A GUY.

6 Q OKAY, HOW WAS THE RED BANDANNA TIED?

7 A LIKE AROUND HIS MOUTH.

8 Q OKAY, SO YOU COULDN'T SEE HIS MOUTH?

9 MS. PRATT: OBJECTION AS TO LEADING, YOUR HONOR.

10 THE COURT: WELL I'M GOING TO LET HER ANSWER THE
11 QUESTION.

12 MS. ELDER: (CONTINUING)

13 Q COULD YOU TELL IF IT WAS A MALE OR A
14 FEMALE?

15 A I KNOW IT WAS A MALE.

16 Q OKAY, DID YOU DETERMINE RACE?

17 A BLACK.

18 Q PARDON ME?

19 A BLACK.

20 Q OKAY, SO YOU COULD TELL IT WAS A BLACK
21 MALE?

22 A UH-HUH.

23 Q AND WHEN THE BLACK MALE WITH THE RED
24 BANDANNA APPROACHED YOU WHAT DID YOU SEE AFTER THAT?

25 A I SEEN LIKE SOMETHING SILVER IN HIS HAND

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

206

1 BUT I DIDN'T REALLY THINK IT WAS A GUN.

2 Q OKAY, AND WHAT HAPPENED NEXT?

3 A IT WAS LIKE A SHOT, WE THOUGHT IT WAS A
4 FIRECRACKER AND THEN LIKE SOME MORE SHOTS AND I COULD SEE
5 LIKE THE FIRE FROM THE GUN AND I KNEW IT WAS A GUN THEN.

6 Q OKAY, AND WHERE WAS HE WHEN HE WAS SHOOTING
7 THE GUN?

8 A LIKE RIGHT IN FRONT OF ME.

9 Q IN FRONT OF YOU?

10 A UH-HUH.

11 Q OKAY, AND WHERE WAS AARON?

12 A LIKE STILL WHERE HE WAS AT LIKE WHEN WE WAS
13 WALKING.

14 Q OKAY, SO WHEN HE WAS WALKING ACROSS THE
15 ROAD WHEN THE PERSON STARTED SHOOTING HE WAS TO YOUR LEFT
16 OR TO YOUR RIGHT?

17 A WHO, THE PERSON SHOOTING OR --

18 Q UH-HUH?

19 A TO MY LEFT.

20 Q SO HE WOULD HAVE BEEN ON THIS SIDE?

21 A UH-HUH.

22 Q TO THE LEFT SIDE OF YOU, ALL RIGHT, SO HE'S
23 WALKING UP?

24 A UH-HUH.

25 Q AND WHEN SHOTS START FIRING WHAT DOES AARON

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

207

1 DO?

2 A WE JUST PAUSED LIKE CAUSE I SAID LIKE
3 SOUNDED LIKE A FIRECRACKER, EVERYBODY JUST LIKE PAUSED AND
4 LOOKED ---

5 Q OKAY --

6 A --- AND THEN THAT'S WHEN THE REST OF THE
7 SHOTS CAME AND EVERYBODY WAS LIKE SCATTERING.

8 Q DID YOU SEE ANYTHING HAPPEN TO AARON?

9 A UH-UH, I DIDN'T SEE HIM NO MORE.

10 Q OKAY, EVERYBODY JUST RAN, WHAT DID
11 EVERYBODY DO?

12 A EVERYBODY JUST TOOK OFF RUNNING. I
13 COULDN'T MOVE, I WAS JUST STANDING THERE.

14 Q OKAY, AND WHEN YOU WERE JUST STANDING THERE
15 WAS ANYBODY STANDING THERE WITH YOU?

16 A UH-UH, JUST ME.

17 Q JUST YOU, DID YOU DO ANYTHING WHEN THE
18 SHOTS STARTED FIRING OR DID YOU JUST STAND STILL?

19 A I JUST STOOD STILL.

20 Q DID YOU HAPPEN TO NOTICE HOW TALL THE
21 INDIVIDUAL WAS THAT YOU DESCRIBED, THE BLACK MALE?

22 A TALLER THAN ME, LIKE A LITTLE BIT TALLER
23 THAN ME, NOT TALL, NOT REAL TALL.

24 Q HOW TALL ARE YOU?

25 A I'M FIVE-FIVE.

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

208

1 Q ALL RIGHT, SO WHEN YOU SAY HE'S NOT MUCH
2 TALLER THAN ME ARE YOU TALKING, HOW MUCH ARE WE TALKING
3 ABOUT?

4 A LIKE FIVE-SEVEN, SOMETHING LIKE THAT.

5 Q OKAY, SO MAYBE AN INCH OR TWO?

6 A YEAH.

7 Q DID YOU NOTICE ANYTHING ELSE ABOUT HIM
8 OTHER THAN THE RED BANDANNA?

9 A UH-UH, HE WAS LIKE MEDIUM COMPLEXION.

10 Q OKAY --

11 A HE HAD HAIR.

12 Q WHAT KIND OF HAIR?

13 A LIKE KIND OF LONG HAIR, YOU COULDN'T TELL
14 IF IT WAS BRAIDED OR, WELL IT WAS JUST LIKE A LOT OF HAIR.

15 Q ALL RIGHT, WAS IT HANGING OVER THE BANDANNA
16 OR UNDER IT OR HOW, TELL ME ABOUT HOW THAT WAS?

17 A IT WAS LIKE HANGING DOWN.

18 Q ALL RIGHT, HOW WAS THE BANDANNA TIED?

19 A STILL AROUND HIS MOUTH.

20 Q DID IT GO OVER HIS HAIR OR UNDER?

21 A I COULDN'T TELL.

22 Q OKAY, SO YOU DON'T KNOW IF IT WAS LIKE THIS
23 OR UNDER?

24 A I DON'T KNOW.

25 Q WAS THERE A HAT?

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

209

1 A YES.

2 Q WHAT KIND OF HAT?

3 A LIKE A REGULAR, NOT A BASEBALL CAP BUT LIKE
4 A FITTED HAT.

5 Q WHAT COLOR WAS IT, DO YOU REMEMBER?

6 A RED.

7 Q EXCUSE ME?

8 A RED.

9 Q RED, OKAY, DID YOU NOTICE ANY DESIGNS ON IT
10 OR ANYTHING?

11 A UH-UH.

12 Q DO YOU KNOW WHO BRIAN SPEARS OR JEFFREY
13 BETHEA, OR NATHANIEL DOUGLAS ARE?

14 A NO.

15 Q YOU DON'T KNOW ANY OF THOSE INDIVIDUALS?

16 A NOT BY LIKE THEIR NAMES.

17 Q OKAY, DO YOU KNOW THE NAME BIRD OR BOS OR
18 JUNE-JUNE?

19 A I'VE HEARD OF BIRD.

20 Q OKAY, AND DID AARON GET INTO ANY KIND OF
21 ALTERCATION WITH ANYBODY THAT NIGHT WHILE YOU WERE THERE?

22 A UH-UH.

23 Q IS THAT A NO?

24 A NO.

25 Q DID YOU SEE IF HE HAD, DID HE HAVE A

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

210

1 WEAPON; DO YOU KNOW?

2 A WHO, AARON?

3 Q YES, MA'AM?

4 A NO, NOT THAT I KNOW OF.

5 Q OKAY, YOU DROVE DOWN WITH THEM?

6 A UH-HUH.

7 MS. ELDER: JUST ONE MOMENT, YOUR HONOR.

8 Q (CONTINUING)

9 DO YOU REMEMBER TALKING TO MYRTLE BEACH DETECTIVES?

10 A UH-HUH.

11 Q OKAY, AND WHEN THE GUN FIRED OR WHEN YOU
12 HEARD THE SHOTS HOW MANY SHOTS DID YOU HEAR?

13 A LIKE FIVE, FIVE OR SIX.

14 Q OKAY, AND TELL ME AGAIN WHAT YOU SAW WHEN
15 YOU HEARD THE SHOTS?

16 A IT WAS LIKE A SILVER, SILVER AND BLACK,
17 MOSTLY I COULD SEE THE SILVER AND I THOUGHT IT WAS LIKE A
18 FIRECRACKER AT FIRST. IT WAS LIKE A SINGLE SHOT AND THEN
19 THAT'S WHEN I HEARD THE REST OF THE SHOTS.

20 Q DID YOU SEE ANYTHING COMING FROM THE
21 SILVER?

22 A JUST FIRE.

23 Q OKAY, WHEN YOU SAY FIRE TELL ME WHAT
24 YOU'RE, DESCRIBE WHAT YOU'RE TELLING ME?

25 A LIKE FIRE JUST COMING OUT, LIKE SPARKS

MS. MAYNOR - DIRECT EXAMINATION BY MS. ELDER

211

1 FLYING.

2 Q OKAY, ALL RIGHT. AND IT, WAS IT NIGHT TIME
3 AT THIS POINT?

4 A UH-HUH.

5 Q DID YOU NOTICE ANYTHING ELSE ON THE
6 SHOOTER? DO YOU REMEMBER TALKING TO THE DETECTIVES ABOUT
7 ANYTHING THAT WAS ON HIS WRIST?

8 A YEAH, BANDANNA.

9 Q OKAY, WHAT COLOR WAS THAT?

10 A RED.

11 Q AND THE GUN THAT YOU SAW DO YOU REMEMBER
12 DESCRIBING THAT TO INVESTIGATORS AS WELL?

13 A YEAH.

14 Q AND DO YOU REMEMBER HOW YOU DESCRIBED IT?

15 A SILVER AND BLACK 380.

16 Q OKAY, HOW BIG WAS IT?

17 A NOT BIG, ABOUT THE SIZE OF A HANDGUN.

18 Q OKAY, WAS IT, CAN YOU SHOW ME WHEN YOU'RE
19 TALKING ABOUT THE SIZE OF A HANDGUN, THEY COME IN ALL
20 DIFFERENT SIZES, TELL ME ABOUT WHAT YOU REMEMBER HOW BIG IT
21 WAS?

22 A ABOUT LIKE I COULD PROBABLY HOLD IT IN MY
23 HAND.

24 Q OKAY, SO IT'S ABOUT THE PALM OF YOUR HAND?

25 A UH-HUH.

MS. MAYNOR - CROSS EXAMINATION BY MS. PRATT

212

1 Q OKAY --

2 MS. ELDER: THAT'S ALL THE QUESTIONS I HAVE,
3 YOUR HONOR.

4 THE COURT: MS. PRATT.

5 MS. PRATT: THANK YOU, YOUR HONOR.

6 CROSS EXAMINATION

7 BY MS. PRATT:

8 Q MS. MAYNOR, I GOT A LITTLE CONFUSED WHEN
9 MS. ELDER WAS KIND OF GOING BACK AND FORTH SO I WANT YOU TO
10 DO SOMETHING FOR ME IF YOU DON'T MIND. WOULD YOU KIND OF
11 JUST PUT ON THIS YELLOW PIECE OF PAPER WITH THE PEN THAT
12 I'M GOING TO HAND YOU WHERE EVERYBODY WAS AND IF THEY'RE
13 EXACTLY BESIDE EACH OTHER I WANT YOU TO PUT THEM EXACTLY,
14 KIND OF THE STEP IN FRONT OR BACK, YOU KNOW, SO THAT I CAN
15 SEE WHERE EVERYBODY IS; DO YOU MIND DOING THAT FOR ME?
16 THANK YOU, MA'AM.

17 AND IF YOU WOULD PUT THE INITIALS OR THE NAMES
18 WHICHEVER WORKS BEST FOR YOU?

19 AND CAN YOU KIND OF PUT A LINE WHERE THE STORE IS
20 AND WRITE STORE IF YOU HAVEN'T ALREADY DONE IT?

21 A I DID.

22 Q YOU DID AND YOU GOT THE CURB ON THE OTHER
23 SIDE?

24 A YEAH.

25 Q ALL RIGHT, SO IF MY LINES ARE GOING

MS. MAYNOR - REDIRECT EXAMINATION BY MS. ELDER

213

1 STRAIGHT ACROSS YOU GUYS ARE KIND OF JIGGLY, JOGGLY, RIGHT?

2 A THAT'S THE ROAD, BEACH OVER HERE, THE
3 SIDEWALK THAT WE'RE ON, THE WINDOW, AND THE PEOPLE OUT
4 THERE UP AHEAD OF US.

5 MS. PRATT: ALL RIGHT, I'D LIKE TO HAVE THIS
6 MARKED AS DEFENDANT'S NUMBER 2.

7 MS. ELDER: MAY I SEE IT, YOUR HONOR?

8 MS. PRATT: I'D LIKE TO ASK THAT THIS BE
9 ADMITTED INTO EVIDENCE, YOUR HONOR.

10 THE COURT: MS. ELDER?

11 MS. ELDER: NO OBJECTION, YOUR HONOR.

12 THE COURT: ALL RIGHT, WITHOUT OBJECTION.

13 MS. PRATT: MAY I PUBLISH IT TO THE JURY?

14 THE COURT: CERTAINLY.

15 MS. PRATT: THANK YOU.

16 (WHEREUPON, DEFENSE EXHIBIT NUMBER 2 MARKED AND
17 ENTERED INTO EVIDENCE.)

18 THE COURT: WHAT NUMBER IS THAT, MS. PRATT?

19 MS. PRATT: TWO.

20 Q (CONTINUING) AND, MS. MAYNOR, WHEN THE
21 PERSON THAT SHOT CAME UP DID THEY COME FROM BEHIND YOU,
22 BETWEEN YOU AND AARON TO GET TO AARON OR ---

23 A NO, IN FRONT OF ME.

24 Q IN FRONT OF YOU, OKAY, AND I BELIEVE THAT
25 YOU DESCRIBED THE PERSON THAT WAS ABOUT FIVE SEVEN MEDIUM

MS. MAYNOR - REDIRECT EXAMINATION BY MS. ELDER

214

1 COMPLETED WITH SOME KIND OF BRAIDS OR HAIR OR SOMETHING;
2 IS THAT RIGHT?

3 A YEAH.

4 Q AND HE HAD A BANDANNA OVER HIS FACE?

5 A YEAH.

6 Q AND A BASEBALL CAP?

7 A YEAH.

8 Q BUT NO QUESTION YOU SAW SOME KIND OF HAIR
9 AND HE WAS ABOUT, I GUESS IF I TOOK MY SHOE OFF, SOMETHING
10 ABOUT HERE, RIGHT?

11 A YEAH.

12 MS. PRATT: OKAY, THANK YOU VERY MUCH, NOTHING
13 FURTHER.

14 THE COURT: MS. ELDER?

15 **REDIRECT EXAMINATION**

16 **BY MS. ELDER:**

17 Q JUST ONE QUESTION ON WHAT YOU DREW THERE
18 JUST SO I CAN BE CLEAR, WERE YA'LL WALKING KIND OF, YOU
19 KIND OF HAD EVERYBODY'S NAME, WERE YA'LL WALKING IN A
20 STRAIGHT LINE ---

21 A KIND OF LIKE ---

22 Q SIDE BY SIDE OR WERE YOU KIND OF STAGGERED?

23 A KIND OF STAGGERED LIKE ON IT.

24 Q LIKE THAT, OKAY, AND THE BASEBALL HAT THAT
25 MS. PRATT JUST ASKED YOU ABOUT IT WAS RED, RIGHT?

DR. PROCTOR - DIRECT EXAMINATION BY MS. ELDER

215

1 A YEAH.

2 Q WAS IT SOLID?

3 A YEAH, SOLID RED.

4 MS. ELDER: THANK YOU, NO OTHER QUESTIONS.

5 THE COURT: MS. PRATT?

6 MS. PRATT: NOTHING, YOUR HONOR.

7 THE COURT: ALL RIGHT, YOU MAY STEP DOWN.

8 MS. ELDER: I WOULD ASK THAT THIS WITNESS BE
9 EXCUSED, YOUR HONOR.

10 THE COURT: ANY OBJECTION, MS. PRATT?

11 MS. PRATT: NO, YOUR HONOR,

12 THE COURT: YOU'RE EXCUSED AND RELEASED FROM
13 YOUR SUBPOENA, THANK YOU FOR COMING.

14 MS. ELDER: YOUR HONOR, CAN I STEP OUTSIDE TO
15 LOCATE MY OTHER WITNESS?

16 THE COURT: YES.

17 MS. ELDER: YOUR HONOR, THE STATE WILL CALL DR.
18 EDWARD PROCTOR.

19 THE COURT: DR. PROCTOR, COME AROUND.

20 DR. EDWARD L. PROCTOR, JR.

21 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

22 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
23 SPELL YOUR LAST NAME FOR THE RECORD.

24 THE WITNESS: MY NAME IS EDWARD LEROY PROCTOR,
25 JR. AND THAT'S SPELLED P-R-O-C-T-O-R.

DR. PROCTOR - DIRECT EXAMINATION BY MS. ELDER

216

1 MS. ELDER: YOUR HONOR, AT THIS TIME IT'S MY
2 UNDERSTANDING THE DEFENSE WILL STIPULATE THAT DR. PROCTOR
3 IS AN EXPERT IN FORENSIC PATHOLOGY.

4 MS. PRATT: ABSOLUTELY, YOUR HONOR.

5 THE COURT: VERY WELL.

6 DIRECT EXAMINATION

7 BY MS. ELDER:

8 Q DR. PROCTOR, WHERE ARE YOU EMPLOYED?

9 A I AM SELF EMPLOYED WITH AN OFFICE AT GRAND
10 STRAND REGIONAL MEDICAL CENTER.

11 Q AND IN WHAT CAPACITY?

12 A I AM A PATHOLOGIST DOING ANATOMIC,
13 CLINICAL, AND FORENSIC PATHOLOGY.

14 Q AND IN LAYMAN'S TERMS WHAT DOES THAT MEAN?

15 A THAT MEANS I AM A PHYSICIAN THAT IN THE
16 REALM OF ANATOMIC PATHOLOGY I LOOK AT SPECIMENS AND RENDER
17 A DIAGNOSIS. SAY YOU HAVE A BIOPSY OR A SURGICAL
18 PROCEDURE, WE DO CYTOLOGIES. WE RUN THE CLINICAL LAB
19 WHICH INCLUDES THE BLOOD BANK, MICROBIOLOGY, CHEMISTRY,
20 HEMATOLOGY, AND IN THE FORENSIC SIDE I DO AUTOPSIES FOR THE
21 MEDICAL LEGAL DETERMINATION OF CAUSE AND MANNER OF DEATH.

22 Q ALL RIGHT, DR. PROCTOR, DID YOU HAVE AN
23 OPPORTUNITY TO DO AN AUTOPSY ON A PATIENT INDICATED AS
24 AARON HAMMONDS?

25 A YES, MA'AM, I DID.

DR. PROCTOR - DIRECT EXAMINATION BY MS. ELDER

217

1 Q AND WHAT WAS THE DATE OF THAT AUTOPSY?

2 A LET'S SEE THE DATE OF THE AUTOPSY WAS MAY
3 27TH, 2007.

4 Q AND COULD YOU GO THROUGH YOUR FINDINGS
5 REGARDING THAT AUTOPSY?

6 A YES, MA'AM, THE MAIN FINDINGS IN THIS
7 AUTOPSY WERE THAT THIS PERSON WAS SHOT MULTIPLE TIMES.
8 THERE WERE THREE GUNSHOT WOUNDS, ONE IN THE LEFT UPPER ARM
9 AREA THAT CAME THROUGH THE ARM Laterally, OUT Medially,
10 INTO THE CHEST, STAYED ANTERIORLY IN THE CHEST, AND WAS
11 BOUND BEHIND THE STERNAL PLATE UP FRONT.

12 THE SECOND WOUND WAS FURTHER DOWN IN THE
13 POSTERIOR ASPECT OF THE CHEST, BELOW THE ARM PIT. THIS
14 CAME IN AND WENT LEFT TO RIGHT POSTERIORLY MISSING THE
15 LUNGS AND WHAT NOT AND WAS FOUND LODGED IN THE VERTEBRAL
16 COLUMN POSTERIORLY,

17 AND THE THIRD WAS A GUNSHOT WOUND LOWER ON THE
18 LEFT CHEST RIGHT ABOUT AT THE LEVEL OF THE RIBS THAT CAME
19 LEFT TO RIGHT AND PENETRATED THE SPLEEN AND THE LIVER
20 RESULTING IN MASSIVE HEMORRHAGE AND SUBSEQUENT DEATH OF MR.
21 HAMMONDS.

22 MS. ELDER: YOUR HONOR, MAY I ASK THE WITNESS TO
23 STEP DOWN?

24 THE COURT: CERTAINLY.

25 MS. ELDER: (CONTINUING)

DR. PROCTOR - CROSS EXAMINATION BY MS. PRATT

218

1 Q DR. PROCTOR, IF YOU WOULD, DO YOU MIND
2 DEMONSTRATING THE WOUNDS AND THE ENTRIES THAT YOU HAVE JUST
3 DESCRIBED?

4 A OKAY, THE FIRST ONE ENTERED IN THE UPPER
5 ARM ABOUT THIS AREA HERE, PASSED LATERAL TO MEDIAL OUT THE
6 ARM ON THE MEDIAL ASPECT INTO THE CHEST ANTERIORLY,
7 TRAVERSED AND SPANNED BEHIND THE STERNAL PLATE WITH THE
8 MIDLINE.

9 THE SECOND WOUND WAS IN POSTERIOR AXILLARY LINE
10 IN ABOUT THIS AREA. IT PASSED LEFT TO RIGHT AND WAS FOUND
11 ADJACENT TO THE VERTEBRAL COLUMN.

12 AND THE THIRD WAS LOWER DOWN ABOUT WHERE THE RIBS
13 ACROSS IN THIS AREA, PASSED LEFT TO RIGHT PENETRATING THE
14 SPLEEN THAT'S RIGHT BEHIND THE RIBS HERE AND THE LIVER THAT
15 COMES ACROSS AND DOWN ON THIS SIDE.

16 Q THANK YOU, DR. PROCTOR. IF YOU WOULD
17 RETURN TO YOUR SEAT, AND DID MR. HAMMONDS, WAS MR. HAMMONDS
18 DEATH CAUSED BY THOSE GUNSHOT WOUNDS?

19 A YES, MA'AM.

20 Q AND DID YOU MAKE A DETERMINATION UPON
21 COMPLETION OF YOUR AUTOPSY AS TO THE CAUSE OF DEATH?

22 A THE CAUSE OF DEATH WERE THE GUNSHOT WOUNDS
23 WITH THE ASSOCIATED HEMORRHAGE FROM THE WOUNDS OF THE
24 SPLEEN AND THE LIVER.

25 Q AND DID YOU MAKE A DETERMINATION AS TO

DR. PROCTOR - CROSS EXAMINATION BY MS. PRATT

219

1 MANNER OF DEATH?

2 A MANNER OF DEATH BASED UPON THE INFORMATION
3 I RECEIVED FROM LAW ENFORCEMENT AUTHORITIES AND MY FINDINGS
4 AT AUTOPSY WOULD BE HOMICIDE.

5 MS. ELDER: THANK YOU, DR. PROCTOR, I HAVE NO
6 FURTHER QUESTIONS.

7 THE COURT: MS. PRATT?

8 MS. PRATT: THANK YOU, YOUR HONOR.

9 **CROSS EXAMINATION**

10 **BY MS. PRATT:**

11 MS. PRATT: THE COURT'S INDULGENCE, YOUR HONOR.

12 Q DR. PROCTOR, DO YOU MIND STEPPING DOWN
13 AGAIN FOR A MOMENT?

14 A NOT A BIT.

15 Q I COULDN'T SEE YOU REAL WELL?

16 A OKAY, SURE.

17 Q AND I BROUGHT SOME LITTLE STICKY TABS THAT
18 I HOPE HAVEN'T BEEN, LET ME SEE IF I CAN GET YOU SOME
19 CLEANER ONES. AND IF YOU COULD PUT, LET'S SEE IF YOU'LL
20 USE THE PINK ONES FOR THE FIRST GUNSHOT AND LET ME TRY AND
21 SEE WHERE THEY'RE COMING FROM?

22 A OKAY, ALL RIGHT. THE FIRST GUNSHOT WOUND
23 WAS IN THE UPPER ARM AREA SOMEWHERE IN THIS AREA. IT
24 PASSED THROUGH THE ARM, OUT OF THE ARM, AND INTO THE CHEST
25 APPROXIMATELY THIS AREA HERE, PRETTY MUCH ALMOST STRAIGHT

DR. PROCTOR - CROSS EXAMINATION BY MS. PRATT

220

1 THOUGHT, THIS IS A LITTLE OFF HERE.

2 A SECOND WOUND ---

3 Q YOU WANT TO USE THE GREEN ONES FOR THAT?

4 A GREEN ONES, THE SECOND WOUND WAS IN THE
5 POSTERIOR AXILLARY LINES SLIGHTER LOWER THAN THE FIRST AND
6 IT PASSED LEFT TO RIGHT AND IT WAS FOUND BEHIND VERTEBRAL
7 COLUMN; AND THE LAST WOUND, THE THIRD WOUND WAS PRETTY MUCH
8 AT THE COSTAL MARGIN HERE, THIS AREA, AND IT PASSED LEFT TO
9 RIGHT THROUGH THE SPLEEN AND THE LIVER.

10 Q ALL RIGHT, THANK YOU, NOW THIS PARTICULAR
11 MODEL IS FAIRLY TALL, HOW TALL WAS MR. HAMMONDS?

12 A MR. HAMMONDS MEASURED ACTUALLY 74 INCHES IN
13 LENGTH SO THIS, IT'S REASONABLY APPROXIMATELY THE HEIGHT,
14 74 INCHES, ABOUT SIX FEET TWO INCHES. HE MEASURED 74
15 INCHES LONG AND AN ESTIMATED WEIGHT WAS ABOUT 225 POUNDS.

16 Q ALL RIGHT, AND THE TRAJECTORY OF THAT FIRST
17 WOUND GOING STRAIGHT THROUGH IS IT STRAIGHT ACROSS, IS IT
18 SLIGHTLY DOWN?

19 A IT PASSED RIGHT AT, RIGHT AT 180 DEGREES AS
20 DID THE POSTERIOR WOUND, PRETTY MUCH ALL OF THEM WERE
21 STRAIGHT THROUGH.

22 Q AND YOU'RE HOW TALL?

23 A I'M FIVE-EIGHT.

24 Q FIVE-EIGHT AND SO WHAT YOU WERE SHOWING ---

25 A WHAT I'M SHOWING IS HERE, HERE, AND HERE.

DR. PROCTOR - CROSS EXAMINATION BY MS. PRATT

221

1 MS. PRATT: OKAY, THANK YOU SO MUCH, I HAVE
2 NOTHING FURTHER.

3 THE COURT: MS. ELDER?

4 MS. ELDER: I HAVE NO OTHER QUESTIONS. I WOULD
5 ASK THAT DR. PROCTOR BE EXCUSED FROM HIS SUBPOENA.

6 THE COURT: MS. PRATT?

7 MS. PRATT: NO OBJECTION AT ALL, YOUR HONOR.

8 THE COURT: THANK YOU, DOCTOR.

9 THE WITNESS: THANK YOU, YOUR HONOR.

10 THE COURT: YOU'RE RELEASED FROM YOUR SUBPOENA.

11 MS. ELDER: MAY WE APPROACH FOR SCHEDULING, YOUR
12 HONOR?

13 THE COURT: CERTAINLY.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
15 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
16 OF THE JURY.)

17 THE COURT: LADIES AND GENTLEMEN, THE ATTORNEYS
18 ADVISED ME THAT THE NEXT WITNESS WILL BE SOMEWHAT LENGTHY.
19 IT'S AFTER 4 NOW, THEY ALSO PROMISED ME THAT IF I LET YOU
20 GO HOME THEY'LL HAVE SOMETHING FOR ME TO DO UNTIL FIVE. I
21 DON'T LIKE TO HAVE TO BACK UP WHEN I GET PAID SO I'M GOING
22 TO KEEP THEM HERE AND WORK THEM BUT I'M GOING TO LET YOU GO
23 TO YOUR JURY ROOM. MR. ROPP WILL SHOW YOU HOW TO GET OUT.

24 MR. ROPP, WHAT YOU GOING TO HAVE FOR THEM IN THE
25 MORNING?

MS. HAMMONDS - DIRECT EXAM. IN CAMERA BY MS. ELDER

222

1 BAILIFF ROPP: WHAT WOULD YOU LIKE, JUDGE?

2 THE COURT: WELL, MR. FOREMAN, YOU WANT BISCUITS
3 OR DOUGHNUTS?

4 MR. FOREMAN: BISCUITS OR DOUGHNUTS -- I'M
5 IGNORING THE GUY THAT SAID DOUGHNUTS.

6 THE COURT: IS THAT ALL RIGHT WITH EVERYBODY,
7 ALL RIGHT, MR. ROPP, YOU TAKE CARE OF THIS JURY IN THE
8 MORNING, OKAY.

9 IF YOU WOULD BE IN YOUR JURY ROOM ABOUT A QUARTER
10 AFTER 9, I'LL PROBABLY BE READY FOR YOU. I HOPE I WILL BE
11 AT 9:15 OR 9:30 RATHER.

12 (WHEREUPON, THE JURY WAS EXCUSED FOR THE EVENING
13 AT 4:09 P.M.)

14 THE COURT: OKAY?

15 MS. ELDER: YOUR HONOR, CAN I HAVE ABOUT FIVE
16 MINUTES?

17 THE COURT: YES, YOU MAY.

18 MS. ELDER: THANK YOU.

19 MS. ELDER: YOUR HONOR, AT THIS TIME I BELIEVE
20 PURSUANT TO THE COURT'S RULING FROM THE MOTIONS IN LIMINE
21 WE WANTED TO PROFFER THE TESTIMONY OF DANYELL HAMMONDS.

22 THE COURT: ALL RIGHT.

23 MS. ELDER: MS. HAMMONDS, PLEASE TAKE THE STAND.

24 DANYELL HAMMONDS

25 BEING FIRST DULY SWORN, TESTIFIED IN CAMERA AS FOLLOWS:

MS. HAMMONDS - DIRECT EXAM. IN CAMERA BY MS. ELDER

223

1 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
2 SPELL YOUR LAST NAME FOR THE RECORD.

3 THE WITNESS: DANYELL HAMMONDS, H-A-M-M-O-N-D-S.

4 DIRECT EXAMINATION

5 BY MS. HAMMONDS:

6 Q MS. HAMMONDS, YOU'RE THE SISTER OF THE
7 DECEASED VICTIM IN THIS CASE; IS THAT CORRECT?

8 A YES, MA'AM.

9 Q AND I'VE EXPLAINED TO YOU WHAT WE'RE DOING
10 HERE RIGHT NOW OUTSIDE THE PRESENCE OF THE JURY; IS THAT
11 CORRECT?

12 A YES, MA'AM.

13 Q OKAY, I'M GOING TO ASK YOU A FEW QUESTIONS
14 AND I WANT TO TAKE YOU BACK TO THE TIME WHEN YOUR BROTHER
15 WAS KILLED, HE WAS MURDERED IN MAY OF 2007; IS THAT
16 CORRECT?

17 A YES, MA'AM.

18 Q NOW A MONTH PRIOR OR CLOSE TO A MONTH, A
19 LITTLE LESS THAN A MONTH PRIOR TO HIS MURDER WAS HE
20 INVOLVED IN AN INCIDENT IN NORTH CAROLINA?

21 A YES, MA'AM.

22 Q TELL ME WHAT KIND OF INCIDENT WAS THAT?

23 A IT WAS, BEEN A LITTLE SHOOTING AT WALMART
24 IN LUMBERTON.

25 Q IN WHERE, I'M SORRY?

MS. HAMMONDS - DIRECT EXAM. IN CAMERA BY MS. ELDER

224

1 A IN LUMBERTON.

2 Q IN LUMBERTON, OKAY, AND WOULD THAT HAVE
3 BEEN APRIL?

4 A YES, MA'AM.

5 Q 2007?

6 A UH-HUH.

7 Q TELL ME HOW YOU BECAME AWARE OF THAT
8 INCIDENT?

9 A WELL I WAS IN MY ROOM AND AARON CAME IN THE
10 HOUSE, HIM AND MARK CAME IN THE HOUSE, AND HE CAME STRAIGHT
11 IN MY ROOM AND I SEEN BLOOD ON HIS SHIRT AND I WAS LIKE,
12 YOU KNOW WHAT'S WRONG WITH YOU? HE WAS LIKE, MAN, I GOT
13 SHOT AT AT WALMART, AND I WAS LIKE WELL WHAT HAPPENED AT
14 WALMART, WHAT HAPPENED CAUSE HE WAS BLEEDING? HE DIDN'T
15 GET SHOT BUT HE GOT GRAZED ON HIS SHOULDER RIGHT HERE, AND
16 HE WAS, I GOT GRAZED AT WALMART, AND I WAS LIKE WELL WHO
17 DID IT, WHO DID IT? HE WAS LIKE BOS, HE WAS LIKE, YOU KNOW
18 ME AND HIM, YOU KNOW, THEY HAVING, YOU KNOW, DON'T GET
19 ALONG, AND SEE I DON'T KNOW BOS, SO I COULDN'T, YOU KNOW,
20 WELL I KNOW HIM, I KNOW HIM, WHY HE DO THAT, BUT HE WAS
21 LIKE THAT'S REALLY ALL THAT HAPPENED WAS HE WAS SHOOTING AT
22 ME AT WALMART AND HE GOT GRAZED ON HIS SHOULDER.

23 Q AND HE WAS STILL BLEEDING AT THE TIME?

24 A UH-HUH, IT HAD TO BE RIGHT AFTER IT
25 HAPPENED CAUSE HE WAS, HE HAD BLOOD ON HIS HANDS AND THE

MS. HAMMONDS - DIRECT EXAM. IN CAMERA BY MS. ELDER

225

1 BLOOD WAS STILL WET ON HIS SHIRT.

2 Q AND HE TOLD YOU IT WAS BOS?

3 A YES, MA'AM.

4 Q AND DO YOU KNOW BOS TO BE BRIAN SPEARS?

5 A YES, MA'AM.

6 Q AND WAS YOUR BROTHER AARON A MEMBER OF A
7 GROUP IN LUMBERTON?

8 A YES, MA'AM.

9 Q WHAT GROUP WAS THAT?

10 A WELL IT'S NOT REALLY A GROUP, I MEAN YOU
11 CAN SAY THAT, EAST SIDE BLOOD.

12 Q OKAY, IS THAT WHAT THEY CALLED THEMSELVES?

13 A YES, MA'AM.

14 Q AND DID YOU KNOW BOS TO BE A MEMBER OF
15 ANOTHER GROUP?

16 A YES, I KNOW HIM FROM 41, THAT'S THE SOUTH
17 SIDE OF LUMBERTON AND THEY CALL THEMSELVES FOLK.

18 Q OKAY, AND DID THOSE TWO GROUPS GET ALONG?

19 A NO, MA'AM.

20 Q AND HAD AARON RECENTLY, PRIOR TO THE
21 SHOOTING AT WALMART HAD HE RECENTLY BEEN INCARCERATED?

22 A YES, MA'AM.

23 Q OR SENT TO PRISON?

24 A YES, MA'AM.

25 Q AND WHAT HAD HE BEEN IN PRISON FOR?

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

226

1 A ACCESSORY AFTER THE FACT OF MURDER.

2 Q AND DO YOU KNOW WHO THE VICTIM IN THAT CASE
3 WAS?

4 A YES, MA'AM.

5 Q AND WHO WAS THAT?

6 A ERIC FLOYD.

7 Q DID HE HAVE A STREET NAME?

8 A G-BLACK, TURK.

9 Q AND DID TURK OR G-BLACK BELONG TO ONE OF
10 THESE GROUPS, 41 OR EAST SIDE?

11 A YEAH, HE WAS FROM 41, HE WAS A FOLK.

12 Q HOW LONG WAS AARON IN JAIL FOR THAT?

13 A LIKE FOUR YEARS, HE WAS IN THE COUNTY FOR
14 FOUR YEARS.

15 Q AND HOW LONG PRIOR TO THE SHOOTING AT
16 WALMART HAD HE BEEN OUT OF JAIL?

17 A A MONTH.

18 Q NOT LONG?

19 A NOT LONG.

20 Q NOW --

21 MS. ELDER: I DON'T HAVE, I THINK THAT'S GOING
22 TO BE THE EXTENT OF MY QUESTIONS, YOUR HONOR.

23 THE COURT: MS. PRATT?

24 MS. PRATT: THANK YOU, YOUR HONOR.

25 CROSS EXAMINATION

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

227

1 BY MS. PRATT:

2 Q MS. HAMMONDS, HOW OLD ARE YOU?

3 A I'M 22.

4 Q ALL RIGHT, AND AARON WAS HOW MUCH OLDER OR
5 YOUNGER THAN YOU?

6 A HE'S TWO YEARS OLDER THAN I AM.

7 Q ALL RIGHT, AND DID YOU LIVE TOGETHER?

8 A LIKE?

9 Q IN THE SAME HOME OR WERE YOU LIVING
10 SEPARATELY?

11 A WHEN HE WAS OUT HE WAS, YEAH, WE WERE
12 STAYING IN THE SAME HOUSE.

13 Q OKAY, ALL RIGHT, AND AT THE TIME THAT HE
14 WAS KILLED HOW OLD WOULD YOU HAVE BEEN?

15 A TWENTY.

16 Q OKAY, WERE YOU ---

17 A TWENTY.

18 Q OKAY, WERE YOU IN HIGH SCHOOL OR WERE YOU
19 OUT WORKING?

20 A I WAS IN, I WAS AT RCC IN THE COMMUNITY
21 COLLEGE.

22 Q OKAY, WHAT WERE YOU STUDYING THERE?

23 A NURSING.

24 Q AND WERE YOU DATING ANYBODY OF AARON'S
25 FRIENDS?

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

228

1 A NO.

2 Q OKAY, YOU WERE DATING SOMEBODY ELSE?

3 A YEAH.

4 Q NOT RELATED AT ALL TO AARON'S FRIENDS?

5 A UH-UH.

6 Q AND THE OTHER PERSON WASN'T RELATED TO ANY
7 OF THE OTHER PEOPLE YOU'VE DESCRIBED?

8 A NO, MA'AM.

9 Q OKAY, DID YOU EVER HANG WITH A GROUP THAT
10 YOU'RE CALLING THE EAST SIDE BLOOD?

11 A WELL THEY ALL COME TO THE HOUSE SO THEY
12 WERE THERE WHEN I WAS THERE.

13 Q OKAY, YOU WOULD SEE THEM ON OCCASION?

14 A UH-HUH.

15 Q BUT IT'S NOT LIKE YOU HUNG OUT WITH THEM
16 EVERY NIGHT OR ANYTHING LIKE THAT?

17 A NO.

18 Q OKAY, WHAT TIME, DO YOU REMEMBER WHAT DAY
19 IT WAS, OR JUST IF YOU CAN REMEMBER THE DAY IT WAS THAT
20 AARON CAME TO TELL YOU ABOUT THIS SHOOTING AT WALMART?

21 A NO, I CAN'T REMEMBER.

22 Q OKAY, DO YOU REMEMBER WHAT TIME OF DAY IT
23 WAS?

24 A IT WAS DARK, IT WAS NEAR MIDNIGHT.

25 Q NEAR MIDNIGHT, OKAY, AND HE AND LEMARK

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

229

1 IRONS CAME INTO THE HOUSE; IS THAT RIGHT?

2 A UH-HUH.

3 Q YOU WERE AT HOME, WERE YOU AWAKE OR ASLEEP
4 WHEN THEY CAME IN?

5 A I WAS UP, I WAS UP CLEANING UP MY ROOM.

6 Q OKAY, AND HOW DID, HOW DID AARON SEEM WHEN
7 HE CAME IN, I MEAN WAS HE, YOU KNOW, JUST TALKING OR WAS HE
8 AGITATED OR WHAT DID HE SEEM LIKE?

9 A HE JUST, HE JUST CAME IN, THEY RUN TO MY
10 ROOM CAUSE I'M PRETTY SURE IF ANYBODY GET SHOT THEY'RE
11 GOING, YOU KNOW, PAINT IT FOR WHATEVER, THEY CAME TO THE
12 ROOM AND EVERYTHING AND I WAS LIKE WHAT'S WRONG AND THEY
13 WAS LIKE I GOT SHOT, I GOT SHOT AT AT WALMART.

14 Q OKAY, SO WHEN I ASKED YOU HOW HIS ATTITUDE
15 SEEMED AND YOU BE SAYING HE WAS AGITATED OR PANICKED OR
16 SOMETHING LIKE THAT?

17 A SHOCKED OR WHATEVER.

18 Q OKAY, HOW HE, DO YOU KNOW IF HE HAD GONE TO
19 THE POLICE FIRST?

20 A NO, I DON'T, I'M PRETTY, NO.

21 Q HAD HE GONE TO THE WALMART PEOPLE AND TOLD
22 THEM WHAT WAS GOING ON?

23 A NO, WE DIDN'T DISCUSS THAT. ALL HE TOLD ME
24 WAS THAT HE GOT SHOT AT AT WALMART AND THAT BOS DID IT.

25 Q OKAY, AND I UNDERSTAND THAT, I'M JUST

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

230

1 TRYING TO FIGURE OUT WHAT YOU REMEMBER FROM THAT NIGHT,
2 MA'AM, I'M NOT TRYING TO TRICK YOU?

3 A YOU'RE ALL RIGHT.

4 Q SO HE CAME IN AND SAID I GOT SHOT, RIGHT?

5 A SHOT AT.

6 Q OKAY ---

7 A NOT SHOT, BUT I GOT SHOT AT.

8 Q SHOT AT, AND DID HE TELL YOU ANYTHING ABOUT
9 HOW CLOSE HE WAS TO THE PERSON?

10 A UH-UH.

11 Q I MEAN WAS THIS JUST LIKE A ONE SENTENCE
12 CONVERSATION?

13 A NO, IT WAS I GOT SHOT AND HE KNOW WHO DID
14 IT, YOU KNOW, I GOT SHOT, HE DID IT, I DON'T KNOW, YOU
15 KNOW.

16 Q I DON'T KNOW THAT'S WHY I'M ASKING YOU, HOW
17 MUCH CONVERSATION DID YOU REALLY HAVE ABOUT THIS?

18 A A COUPLE OF SENTENCES, NOT ONE, MAYBE FIVE.

19 Q FIVE SENTENCES, OKAY, SO YOU HAD A
20 DISCUSSION ABOUT IT AND HE WAS BASICALLY GIVING YOU
21 INFORMATION?

22 A HE TOLD ME, ALL HE TOLD ME HE CAME IN THE
23 HOUSE, HE WAS LIKE I GOT SHOT AT AT WALMART, I HAD A LITTLE
24 PROBLEM, HE SAID I GOT SHOT AT AT WALMART. I WAS LIKE WHAT
25 HAPPENED AT WALMART, HE WAS LIKE I GOT SHOT AT, MAN, AND HE

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

231

1 WAS LIKE, I WAS LIKE WELL, AARON, WHO DID IT. HE WAS LIKE
2 COME ON, MAN, YOU KNOW WHO DID IT. I WAS LIKE WHO AND HE
3 WAS LIKE BOS, MAN, BOS.

4 Q OKAY, SO THAT WAS IN RESPONSE TO YOUR
5 QUESTION THEN; IS THAT RIGHT, WHEN YOU SAY ---

6 A TALKING ABOUT WHO SHOT HIM?

7 Q YES?

8 A UH-HUH.

9 Q OKAY, ALL RIGHT, AND I THINK YOU SAID
10 EARLIER THAT YOU DIDN'T KNOW BOS; IS THAT RIGHT?

11 A RIGHT.

12 Q OKAY, SO YOU HAD NEVER MET HIM?

13 A NEVER.

14 Q OKAY, WHEN YOU SAID THAT YOU KNOW BOS AT
15 41-CURVE, HOW DO YOU KNOW THAT?

16 A I KNOW THAT NOW AFTER ALL THIS HAPPENED.

17 Q HOW DO YOU KNOW THAT, WHO TOLD YOU THAT?

18 A I MEAN EVERYBODY, EVERYBODY LIKE ---

19 Q I JUST THINK IT'S REAL IMPORTANT WHO WOULD
20 HAVE BEEN THE ONE THAT FIRST TOLD YOU THAT INFORMATION?

21 A WHAT, THAT --

22 Q THAT BOS WAS 41?

23 A WELL I ALREADY KNEW, WELL I KNOW HE'S FROM
24 41 NOW.

25 Q HOW DO YOU KNOW THAT NOW?

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

232

1 A JUST PEOPLE TALKING, PEOPLE TALKING, PEOPLE
2 CONVERSATIONS, PEOPLE CONVERSATIONS, I LISTEN, WHEN I
3 LISTEN YOU HEAR WHAT YOU WANT TO HEAR WHEN YOU LISTEN TO
4 PEOPLE TALKING.

5 Q OKAY, AND YOU REALLY DON'T KNOW IF THE
6 PEOPLE WHO ARE TALKING IF THEY'RE TELLING YOU THE TRUTH OR
7 NOT, DO YOU?

8 A NO, BUT I DO KNOW HE'S FROM 41 NOW.

9 Q I MEAN IF I TOLD YOU THAT, THAT JUDGE HYMAN
10 HERE WAS CATHOLIC YOU WOULDN'T KNOW IF I WAS TELLING YOU
11 THE TRUTH OR NOT, WOULD YOU?

12 A BUT YOU THE ONLY ONE ASKING ME, YOU THE
13 ONLY ONE ASKING ME, I HEARD IT FROM PLENTY OF PEOPLE.

14 Q OKAY, AND WHICH PEOPLE WOULD THOSE HAVE
15 BEEN?

16 A FROM THAT SIDE OF TOWN FROM 41.

17 Q CAN YOU TELL ME WHO?

18 A OH, GOD, DO YOU YOU WANT ME TO NAME
19 EVERYBODY?

20 Q WELL I'D LIKE TO KNOW WHO, WHERE YOU GET IT
21 CAUSE YOU DON'T KNOW THESE PEOPLE ---

22 A OKAY, WHITNEY LEACH ---

23 Q LET ME, LET ME CHANGE THE QUESTION, YOU
24 DON'T KNOW THIS OF YOUR OWN PERSONAL KNOWLEDGE, SOMEONE
25 ELSE HAS TOLD YOU, CORRECT?

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

233

1 A I KNOW OF MY OWN PERSONAL KNOWLEDGE NOW.

2 Q FROM WHOM DO YOU KNOW NOW THAT MAKES THAT
3 DIFFERENT, WHO TOLD YOU IT?

4 A WELL BIRD THE FIRST PERSON WHO TOLD ME THAT
5 HE WAS FOLK, 41 OR WHATEVER YOU WANT TO CALL IT.

6 Q BIRD TOLD YOU THAT?

7 A YES, AND HIS GIRLFRIEND, DANIELLE GURLEY.

8 Q OKAY ---

9 A AND SEE I DIDN'T KNOW THAT WAS HIS
10 GIRLFRIEND UNTIL ALL THIS HAPPENED, TILL HIS NAME CAME UP.

11 Q YOU KNOW DANIELLE?

12 A YEAH, I KNOW, YOU KNOW, I DON'T KNOW HER
13 KNOW HER BUT I'VE HAD A CONVERSATION WITH HER.

14 Q ALL RIGHT, AND WHEN YOU WERE HAVING THIS
15 DISCUSSION WITH AARON AND LEMARK AFTER THE SHOOTING,
16 SOMETIME AFTER THE SHOOTING, WAS LEMARK TALKING AS WELL?

17 A NO, WE WEREN'T TALKING, I WAS TALKING TO
18 AARON.

19 Q HE DIDN'T INTERJECT AND SAY THIS IS WHAT
20 HAPPENED AND WHERE WE WERE?

21 A NO, THEY WERE TOO BUSY TRYING TO CLEAN HIM
22 UP, THAT'S WHAT IT WAS.

23 Q ALL RIGHT, AND NOW YOU'RE STUDYING NURSING,
24 IS THAT RIGHT, WERE YOU STUDYING NURSING AT THE TIME?

25 A UH-HUH.

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

234

1 Q AND YOU SAID THERE WAS A WOUND THAT STILL
2 HAD BLOOD ON IT; IS THAT RIGHT?

3 A UH-HUH, HE GOT A GRAZE ON HIS SHOULDER
4 RIGHT HERE.

5 Q OKAY, HOW LONG IF YOU KNOW, AND I DON'T
6 KNOW IF YOU KNOW, BUT HOW LONG WOULD A GRAZE CONTINUE TO
7 BLEED?

8 A OH, I DON'T KNOW.

9 Q OKAY, ALL RIGHT, NOW AARON WAS INCARCERATED
10 ACTUALLY ON A MURDER CHARGE ORIGINALLY, WASN'T HE?

11 A YES, MA'AM.

12 Q HE WAS CHARGED WITH FIRST DEGREE MURDER?

13 A NO, HE WAS ---

14 Q ORIGINALLY?

15 A YEAH.

16 Q ORIGINALLY IT WAS MURDER?

17 A UH-HUH.

18 Q OKAY, AND THEN HE WAS ACTUALLY CHARGED WITH
19 ACCESSORY; IS THAT RIGHT?

20 A UH-HUH.

21 Q HAD HE ACTUALLY PLED GUILTY TO TIME SERVED
22 BECAUSE HE WAS KILLED OR WAS THAT STILL PENDING?

23 A SAY THAT AGAIN?

24 Q HAD HE ACTUALLY PLED GUILTY TO ACCESSORY OR
25 WAS THAT STILL PENDING?

MS. HAMMONDS - CROSS EXAM. IN CAMERA BY MS. PRATT

235

1 A IT WAS STILL PENDING.

2 Q OKAY, SO HE WAS REALLY NEVER CONVICTED IN
3 THAT?

4 A UH-UH.

5 Q BECAUSE HE PASSED AWAY, OKAY, ARE YOU AWARE
6 OF, DO YOU REMEMBER GIVING A STATEMENT TO MARK JACKSON BACK
7 ON MAY THE 27TH OF '07? DO YOU REMEMBER GIVING A STATEMENT
8 TO MARK JACKSON?

9 A NOW WHICH ONE IS MARK JACKSON?

10 Q HE'S NOT IN THE COURTROOM. HE'S ONE OF THE
11 POLICE OFFICERS KIND OF STOCKY AND A LITTLE TALLER, TALL,
12 DARK HAIR?

13 A I DON'T KNOW, MAYBE.

14 Q DO YOU REMEMBER TELLING HIM THAT AARON HAD
15 TOLD YOU THAT HE HAD BEEN SHOT ON THE RIGHT SHOULDER BUT IT
16 WAS LEMARK THAT HAD SAID SOMETHING ABOUT, ABOUT WHO HAD
17 DONE IT? DO YOU REMEMBER TELLING HIM THAT?

18 A SEE, I DON'T KNOW WHO YOU ASKING ME, I
19 DON'T KNOW MARK SO I CAN'T ANSWER THAT.

20 Q BUT YOU REMEMBER BEING INTERVIEWED BY
21 DETECTIVES, A MALE, A WHITE MALE BIG GUY DETECTIVE?

22 A I CAN'T REMEMBER.

23 Q OKAY ---

24 A THAT'S BEEN THREE YEARS AGO I CAN'T
25 REMEMBER.

MS. HAMMONS - REDIRECT EXAM. IN CAMERA BY MS. ELDER

236

1 Q THAT'S FAIR, THAT'S FAIR, HOW MANY TIMES
2 HAVE YOU MET WITH THE SOLICITOR OR THE POLICE ABOUT YOUR
3 TESTIMONY?

4 A HOW MANY WHAT?

5 Q HOW MANY TIMES HAVE YOU MET WITH THE
6 SOLICITOR MS. ELDER OR MR. FILIBERTO OR THE POLICE ABOUT
7 YOUR TESTIMONY TODAY?

8 A ABOUT WHAT I'M SAYING NOW?

9 Q WELL ABOUT ANY OF IT?

10 A TWICE.

11 Q JUST TWICE, YOU TALKED TO HER TODAY?

12 A UH-HUH.

13 Q YOU TALKED TO HER BACK IN DECEMBER?

14 A I CAN'T REMEMBER WHAT DATE, WHAT MONTH I
15 TALKED TO HER.

16 Q OKAY, BUT YOU TALKED TO HER A FEW TIMES?

17 A YES.

18 Q OKAY, HAVE YOU EVER TOLD THE SOLICITOR
19 ABOUT ANY OTHER INFORMATION OR THREATS THAT YOU MIGHT HAVE
20 HEARD ABOUT AGAINST AARON?

21 A YEAH, I WAS ON 41 ONE DAY AT THIS STORE
22 CALLED LEE POINT AND IT WAS LIKE A WHOLE BUNCH OF, WELL THE
23 BOYS FROM 41 THEY ALL BE OUT THERE, AND I WAS WITH MY
24 FRIEND AND ONE OF THE BOYS THAT'S LOCKED UP NOW HE, HE SAID
25 A COUPLE OF THINGS TO ME ABOUT AARON, YEAH, ABOUT HOW IN

MS. HAMMONS - REDIRECT EXAM. IN CAMERA BY MS. ELDER 237

1 JAIL THEY GOT HIM AND HOW BEFORE HE EITHER WHEN HE GET OUT
2 OR WHILE HE IN, WHILE HE LOCKED UP THAT THEY GOING TO GET
3 THEM AND I WAS LIKE, YOU KNOW, IT IS WHAT IT IS, DO WHAT
4 YOU DO.

5 Q AND THAT WAS THE FELLOW THAT'S LOCKED UP
6 NOW?

7 A YEAH.

8 Q OKAY, I HAVE NOTHING FURTHER, OH, ONE MORE,
9 JUST ONE MORE QUESTION. DO YOU REMEMBER TALKING TO OFFICER
10 HULL OVER HERE ON THE TELEPHONE ON MAY THE 29TH OF '07, A
11 COUPLE OF DAYS AFTER THE SHOOTING, ANOTHER DETECTIVE CALLED
12 YOU? YOU DON'T REMEMBER, DO YOU?

13 A NO.

14 Q OKAY, DO YOU REMEMBER TELLING SOMEBODY THAT
15 IT WAS T. C. BIRD AND TRUDY THAT WERE INVOLVED IN THE
16 SHOOTING?

17 A NO.

18 MS. PRATT: THANK YOU VERY MUCH, MA'AM.

19 THE COURT: MS. ELDER?

20 REDIRECT EXAMINATION

21 BY MS. ELDER:

22 Q DANIELLE GURLEY THAT WAS BOS' GIRLFRIEND,
23 RIGHT? I JUST WANT TO MAKE SURE WE GOT THAT CLEAR.

24 A YES, MA'AM.

25 Q AND SHE'S THE ONE WHO TOLD YOU HE WAS IN

1 41-CURVE?

2 A UH-HUH.

3 Q OKAY, AND YOU SAID PRIOR THREATS THAT WE
4 DIDN'T REALLY GET INTO, BUT MS. PRATT ASKED YOU ABOUT TO
5 AARON THAT WAS A MEMBER OF 41-CURVE?

6 A YES, MA'AM.

7 Q AND WHAT WAS HIS STREET NAME?

8 A GOD, WHAT WAS HIS NAME --

9 Q IS IT ---

10 A JUNE-JUNE.

11 Q IT'S SOMEBODY THAT'S LOCKED UP IN
12 CONNECTION WITH THIS RIGHT NOW?

13 A YES, UH-HUH.

14 Q NOT SOMEBODY SOMEWHERE ELSE?

15 A YES, MA'AM.

16 MS. ELDER: NO OTHER QUESTIONS, YOUR HONOR.

17 THE COURT: ALL RIGHT, SHE CAN STEP DOWN, MR.
18 LYLES, WOULD YOU SEQUESTER HER?

19 LADIES, I SEE TWO THINGS GOING ON HERE, ACTUALLY
20 TWO SEPARATE ISSUES, THE ONE ISSUE IS THE MATTER OF
21 ALLEGATIONS THAT THIS DEFENDANT HAD ON A PRIOR OCCASION IN
22 LUMBERTON OR WHERE WAS THE WALMART, WAS IT LUMBERTON?

23 MS. ELDER: LUMBERTON, YES, SIR.

24 THE COURT: IN LUMBERTON SHOT AT THE VICTIM,
25 OKAY, SO WE HAVE THAT, OKAY, THEN WE HAVE A SEPARATE ISSUE

1 OR SECOND EVIDENTIARY MATTER WHICH IS EVIDENCE THAT THIS
2 DEFENDANT WAS A MEMBER OF A GROUP, THE VICTIM WAS A MEMBER
3 OF A GROUP, THAT THE VICTIM HAD BEEN INVOLVED OR IT HAD
4 BEEN CERTAINLY ALLEGED THAT THE VICTIM WAS INVOLVED IN THE
5 HOMICIDE OF A MEMBER OF THE DEFENDANT'S GROUP, THEREFORE,
6 THE DEFENDANT HAD A VENDETTA AGAINST THE VICTIM, OKAY. SO
7 WE, AND THAT GOES TO MOTIVE, OKAY, SO WE GOT TWO THINGS.

8 THE THING THAT INTERESTS ME, MS. ELDER, IS HOW
9 ARE YOU GOING TO GET IN TESTIMONY CONCERNING THE VICTIM'S
10 MAKING A STATEMENT THAT HE WAS SHOT AT AND THAT THIS
11 DEFENDANT WAS THE ONE THAT SHOT AT HIM, TALKING ABOUT JUST
12 THE WALMART SHOOTING NOW, AND I DON'T THINK THAT EXCITED
13 UTTERANCE IS GOING TO GET IT FOR US. HE HAD LEFT, HE HAD
14 GONE TO THE HOUSE, SOME TIME HAD PASSED, HE WASN'T EXCITED
15 ENOUGH OR UPSET ENOUGH TO CALL THE POLICE. HE GOES THERE
16 AND HE'S TALKING WITH HIS SISTER AND THEY JUST HAVE A SHORT
17 CONVERSATION ABOUT IT. I DON'T THINK THAT WOULD MAKE IT
18 UNDER THE EXCITED UTTERANCE EXCEPTION TO HEARSAY, OKAY.

19 TELL ME, WELL YOU WANT TO ADDRESS THAT THAT'S
20 FINE, I JUST GOT A PROBLEM WITH THAT. DO YOU HAVE SOME
21 OTHER THEORY THAT WE CAN TIE IN THE SHOOTING, GET THAT
22 EVIDENCE IN? HOW DO YOU PROPOSE, WAS THIS LEMARK THERE
23 WITH HIM AND WITNESS IT AND HE COULD TESTIFY TO THAT OR
24 WHAT, WHAT ARE WE ---

25 MS. ELDER: I DON'T KNOW THAT, YOUR HONOR.

1 THE COURT: WHAT DO WE HAVE?

2 MS. ELDER: I DON'T THAT ---

3 THE COURT: DO YOU SEE WHERE I'M COMING FROM,
4 MS. ELDER?

5 MS. ELDER: YES, SIR.

6 THE COURT: I SEPARATE THE TWO.

7 MS. ELDER: YES, SIR.

8 THE COURT: I THINK THEY'RE TWO DISTINCT ISSUES
9 HERE, TWO DIFFERENT THINGS THAT MUST BE LOOKED AT
10 DIFFERENTLY. ON THE ONE HAND THERE'S THE SHOOTING WHICH
11 COULD SHOW THAT OR STRENGTHEN YOUR POSITION THAT THIS
12 DEFENDANT HAD A VENDETTA AND MEANT TO DO HARM TO THE, TO
13 THE DECEASED AND THAT WOULD CERTAINLY BE RELEVANT, OKAY.

14 MS. ELDER: YES, SIR.

15 THE COURT: BUT I'M CONCERNED ABOUT YOUR BEING
16 ABLE TO GET THAT IN.

17 MS. ELDER: YOUR HONOR, TWO THINGS I'M GOING TO
18 ADDRESS, JUST GIVE ME A MOMENT.

19 THE COURT: AND WHILE SHE'S LOOKING, MS. PRATT,
20 YOU WANT TO JUMP RIGHT IN HERE JUST GO AHEAD.

21 MS. PRATT: SURE, YOUR HONOR, AND MY CONCERNS IN
22 REGARDS TO THE STATEMENT ABOUT THE WALMART, NUMBER ONE. I
23 DON'T BELIEVE EITHER THAT IT IS AN EXCITED UTTERANCE AND
24 IT'S NOT A STATEMENT MADE IMMEDIATELY AT THE TIME UNDER THE
25 STRESS OF THE INCIDENT AND MY WHOLE POINT AS YOU KNOW

1 BETTER MUST ALL OF US I'M SURE, IS THAT HEARSAY IF WE'RE
2 GOING TO LET SOMETHING IN THAT'S HEARSAY IT HAS TO BE
3 SOMETHING THAT HAS CERTAIN AUDACIOUS RELIABILITY. IT'S
4 JUST NOT THERE WHEN IT'S SOMEBODY THAT COMES LATER.

5 SHE CAN'T EVEN TELL ME HOW MUCH LATER, IF THE
6 CONVERSATION WITH FIVE OR SIX SENTENCES, I'VE GOT A LOT OF
7 CONCERNS ABOUT THAT. AARON IS NOT HERE. IT IS NOT A
8 STATEMENT MADE IN THE, JUST BEFORE HIS DEATH, SO I DON'T
9 THINK THAT THERE'S ANY WAY OF GETTING THAT IN EITHER.

10 THE COURT: SEEMS LIKE YOU HAVE THE SAME
11 CONCERNS THAT I HAVE.

12 MS. PRATT: I DO, YOUR HONOR.

13 THE COURT: ARE YOURS EXACTLY AS MINE?

14 MS. PRATT: NOT ONLY THAT LET ME TOSS IN ---

15 THE COURT: IF THAT'S THE CASE THEN WE CAN TURN
16 BACK TO MS. ELDER AND HAVE HER ENLIGHTEN US.

17 MS. PRATT: LET ME PUT IN ONE MORE ARGUMENT IF I
18 MAY, SIR?

19 THE COURT: CERTAINLY.

20 MS. PRATT: IT'S A 4(B) ISSUE. MY CLIENT HAS
21 NOT BEEN CONVICTED OF IT. IT'S A PRIOR BAD ACT. IT'S NOT
22 CLEAR AND CONVINCING EVIDENCE OF HIS GUILT OF IT. THERE IS
23 A VIDEO BUT YOU CAN'T IDENTIFY MY CLIENT IN IT SO I HAVE A
24 LOT OF PROBLEMS AS FAR AS THAT, AND PUT THOSE TOGETHER AND
25 TAKING IT TOGETHER WITH THE WHOLE MORE PREJUDICIAL THAN

1 PROBATIVE THING AND YOU'VE GOT MY ARGUMENT.

2 THE COURT: WELL WOULDN'T IT COME IN UNDER A
3 LYLES EXCEPTION, A PRIOR BAD ACT WOULDN'T THAT COME IN
4 UNDER A LYLES EXCEPTION ABSENCE OF MISTAKE IDENTITY? THOSE
5 EXCEPTIONS I'M SURE THAT MS. ELDER WILL COME UP WITH ONE
6 THAT WILL FIT BUT DOESN'T IT, WOULDN'T IT COME IN UNDER A
7 LYLES EXCEPTION TO THE HEARSAY?

8 MS. PRATT: LYLE HAS TO BE CLEAR AND CONVINCING
9 EVIDENCE.

10 THE COURT: THAT'S PRETTY CLEAR AND CONVINCING
11 IF SHE'S GOT SOMEBODY THAT SAYS HE SHOT HIM.

12 MS. PRATT: NOT IF HE HAS NOT BEEN CHARGED AND
13 CONVICTED. NOW IF MR. IRONS WILL SAY THAT THAT WAS HIM
14 THAT MIGHT BE BUT THAT'S NOT WHAT WE HAVE RIGHT NOW.

15 THE COURT: AND THAT'S MY CONCERN, THAT'S MY
16 CONCERN.

17 MS. PRATT: AND AS FAR AS I'M CONCERNED RIGHT
18 NOW WE DON'T HAVE THAT. WE'VE GOT ---

19 THE COURT: WELL MY CONCERN RIGHT NOW IS WE
20 DON'T HAVE ANYBODY THAT I KNOW OF THAT CAN PUT HIM AT THE
21 WALMART, THAT CAN SAY THAT HE, HE WAS THE TRIGGER MAN, THAT
22 HE SHOT AND, AND ALBEIT SLIGHTLY WOUNDED THE DECEASED.
23 THAT'S WHAT I WANT TO HEAR HOW ARE WE GOING TO GET TO THAT
24 POINT, WHO'S GOING TO TESTIFY TO THAT. IF SHE GETS THERE
25 THEN I THINK WE GO BACK AND WE LOOK AT IT FROM THE

1 STANDPOINT OF A LYLE'S ISSUE AND SEE WHAT WE HAVE THERE,
2 BUT I WANT TO KNOW FROM MS. ELDER HOW WE GOING TO GET
3 THERE, WHO'S GOING TO TESTIFY TO THAT.

4 MS. PRATT: AND I WOULD SIMPLY SAY ---

5 THE COURT: I DON'T THINK THIS WITNESS CAN.

6 MS. PRATT: NOT THIS WITNESS, YES, YOUR HONOR,
7 THANK YOU.

8 THE COURT: I DON'T THINK SHE CAN. MS. ELDER
9 MAY HAVE SOME EXCEPTION THAT WOULD CONVINCE ME THAT SHE CAN
10 TESTIFY TO THAT.

11 MS. ELDER: YOUR HONOR, FIRST OF ALL I DO THINK
12 THAT, TWO THINGS, AS FAR AS THE GENERAL RULE ABOUT PRESENCE
13 EXCITED UTTERANCE I UNDERSTAND WHAT THE COURT'S POSITION IS
14 ON THAT, BUT I DO THINK ---

15 THE COURT: DO YOU REALLY THINK THAT THAT
16 QUALIFIES AS AN EXCITED UTTERANCE, MS. ELDER?

17 MS. ELDER: YES, SIR, YOUR HONOR, HE IS STILL
18 BLEEDING, YOUR HONOR. IT'S NOT LIKE THIS OCCURRED ---

19 THE COURT: YOU JUST GOT MR. FILIBERTO'S EARS
20 BURNING THERE.

21 MS. ELDER: IT'S NOT LIKE IT OCCURRED TWO DAYS
22 AFTERWARDS.

23 THE COURT: I UNDERSTAND.

24 MS. ELDER: AND IT'S NOT LIKE HE MADE THIS AFTER
25 HE WENT TO SOMEBODY ELSE'S HOUSE AND GOT CLEANED UP. HE IS

1 STILL BLEEDING. HE GOES STRAIGHT TO HIS HOUSE AND CLEANS
2 HIMSELF UP.

3 THE COURT: MAYBE, MAYBE HE WENT STRAIGHT TO HIS
4 HOUSE, MAYBE.

5 MS. ELDER: EITHER THAT OR HE WAS ALL OVER TOWN
6 BLEEDING ALL OVER EVERYTHING, BUT HE IS STILL BLEEDING.
7 THAT EVENT IS STILL IN HIS HEAD. HE DOES NOT, HE DOES NOT
8 GO TO THE POLICE. HE DOES NOT GO ANYWHERE ELSE.

9 THE COURT: WHO DROVE THEM TO THE HOUSE? WHO
10 OPERATED THE MOTOR VEHICLE, DO WE KNOW THAT? THERE'S SO
11 MUCH IN THERE WITH THIS THING TO ME. I'M WITH YOU AS TO
12 ITS RELEVANCE, I'M WITH YOU ---

13 MS. ELDER: I UNDERSTAND THAT, YOUR HONOR, BUT -
14 --

15 THE COURT: --- BUT WHAT YOU GOT TO DO IS GET ME
16 TO THE POINT THAT I CAN SAY WE GOT SOMEBODY WHO CAN TESTIFY
17 TO IT THAT WE CAN ADMIT IT.

18 MS. ELDER: IT SITS UNDER, NUMBER ONE, DECLARANT
19 UNAVAILABLE, NOT DEAD MANS STATUTES. MS. PRATT'S ARGUMENT
20 HAS ABSOLUTELY NOTHING TO DO WITH THE DEAD MAN STATUTE,
21 WE'RE NOT EVEN COMING THERE.

22 THE COURT: OKAY.

23 MS. ELDER: WE'RE GOING THROUGH DECLARANT
24 UNAVAILABLE, EXCITED UTTERANCE. HE IS OBVIOUSLY
25 UNAVAILABLE BECAUSE HE WAS MURDERED AND IT WAS PART OF THE

1 SAME COURSE OF CONDUCT COMING FROM WALMART STILL BLEEDING
2 AND HAD THAT WOUND NOT BEEN FRESH I COULD CERTAINLY
3 UNDERSTAND THE ARGUMENT FOR IT NOT BEING AS EXCITED
4 UTTERANCE WHILE HE'S STILL IN THE EMOTION OF THE EVENT.
5 BUT THE FACT THAT HE IS STILL LITERALLY BLEEDING HE IS
6 STILL I THINK ARGUABLE UNDER THIS EXCEPTION STILL IN THE
7 HEAT OF THAT MOMENT, STILL IN THE EMOTION OF THAT MOMENT.
8 THAT INJURY, HE IS THERE AND SHE TESTIFIED TO IT, HE IS
9 THERE TO CLEAN HIMSELF UP. THEY WEREN'T HAVING A LOT OF
10 CONVERSATION. SHE TESTIFIED LEMARK IRONS WASN'T HAVING A
11 LOT OF CONVERSATION BECAUSE HE WAS TOO BUSY TRYING TO GET
12 THE BLEEDING AND STUFF WIPED UP ON AARON.

13 THE COURT: AND THERE AGAIN I THINK IT GOES TO,
14 HE CAME HOME AND HE'S BUSY JUST GETTING CLEANED UP, HE'S
15 GETTING CLEANED UP, I JUST GOT, AND THE SISTER WHO'S THE
16 NURSING STUDENT SAYS, I DON'T KNOW HOW LONG HE HAD BEEN
17 BLEEDING, I DON'T KNOW. I MEAN THAT'S WHAT WE'RE HEARING
18 SO FAR I DON'T KNOW AND IF YOU WANT TO GET IT UNDER
19 EXCEPTION DON'T YOU HAVE TO DO ---

20 MS. ELDER: BUT SHE ALSO SAID HE BOLTS IN THE
21 DOOR, HE BOLTS IN HER BEDROOM, HE GOES STRAIGHT IN AND
22 SHE'S EVEN EXCITED WHEN SHE'S TESTIFYING SAYING WHAT
23 HAPPENED, WHAT HAPPENED, I MEAN ---

24 THE COURT: WAS HE EXCITED ABOUT JUST WANT TO
25 TELL HIS SISTER OR IS HE EXCITED BECAUSE OF THE EVENT? I

1 MEAN THERE'S NOT ENOUGH HERE. I'M HAVING TROUBLE WITH IT
2 AND I'M NOT GOING TO CLOSE YOU OUT. YOU MAY BE ABLE TO GET
3 ONE OF, GET MR. IRONS THIS EVENING, MR. IRONS MAY BE ABLE
4 TO TELL YOU WHAT THE SITUATION WAS, ADD SOMETHING TO WHAT
5 THIS LADY HAS TESTIFIED TO, YOU KNOW.

6 I'M STILL GOOD WITH THE GANG OR THE, LET'S CALL
7 IT A GROUP AGAIN. I'M STILL GOOD WITH THE GROUP ISSUE AND
8 I THINK IT DOES GO TO MOTIVE AND IT'S ADMISSIBLE. IT'S
9 JUST THIS OTHER PROBLEM HERE WHICH I ALSO BELIEVE WOULD BE
10 ADMISSIBLE IF WE CAN GET IT IN. MY ONLY ISSUE IS HOW YOU
11 GOING TO GET IT IN.

12 MS. ELDER: YOUR HONOR, I DO THINK IT ALSO FALLS
13 UNDER AS WE WERE TALKING ABOUT, I REALLY, I CAN'T IMAGINE
14 ANOTHER SITUATION THAT WOULD BE CLOSER TO AN EXCITED
15 UTTERANCE THAN THIS OTHER THAN HIM BEING AT THE SCENE IN
16 THE PARKING LOT.

17 THE COURT: I BET YOU I'M GOING TO HAVE YOU
18 LADIES WORKING TONIGHT.

19 MS. ELDER: BUT, NO, SIR, YOUR HONOR, I MEAN
20 IT'S EITHER GOING TO FALL UNDER ---

21 THE COURT: I'M GOING TO LET YOU WORK ON IT
22 TONIGHT.

23 MS. ELDER: IT'S EITHER GOING TO FALL UNDER
24 PRESENT SCENE, EXCITED UTTERANCE OR PRESENCE SENSE
25 IMPRESSION OR ---

1 THE COURT: AND THERE'S A WHOLE LOT OF CASE LAW
2 ON THAT.

3 MS. ELDER: YES, SIR, OR IT'S GOING TO FALL
4 UNDER LYLES AND LYLES THERE'S MANY THINGS TO FALL UNDER
5 LYLES. THERE'S EXCEPTION TO OTHER CRIMES TO PROVE INTENT
6 OR BAD ACTS, TO PROVE INTENT IN THIS CASE WHICH IS
7 CERTAINLY RELEVANT. THERE'S THE EXCEPTION FOR COMMON
8 SCHEME OF PLAN UNDER LYLES. THERE'S EXCEPTION FOR OTHER
9 CRIMES TO PROVE COMMON SCHEME OF PLAN, CONTINUOUS SCHEME OF
10 PLAN OR EXCEPTION ---

11 THE COURT: AND I'M ON BOARD WITH YOU WITH THAT
12 BECAUSE IF YOU RECALL I TOLD MS. PRATT I THINK THAT IT
13 WOULD COME IN AS ANOTHER REASON THAT IT WOULD BE
14 ADMISSIBLE. WE'RE NOT TALKING ABOUT WHETHER IN GENERAL
15 IT'S ADMISSIBLE, I AGREE WITH YOU THERE. IT'S JUST HOW WE
16 GOING TO GET IT IN, HOW WE GOING TO GET PAST THE HEARSAY.

17 MS. ELDER: WELL I'M ALSO GOING TO, I HAVE THE
18 VIDEO FROM WALMART I'M PUTTING IN OR GOING TO PROFFER TO
19 PUT IN, TRY TO PUT IN THROUGH DETECTIVE, I BELIEVE, HULL
20 WHICH SHOWS THE ACTUAL SHOOTING. THERE IS NO I.D. BUT IT
21 DOES IN FACT VERIFY THAT THERE WAS A SHOOTING THERE AT
22 WALMART. IT HAS THE DATE STAMP ON IT. IT HAS THE TIME,
23 YOU CAN SEE IT IN THE PARKING LOT, YOU CAN SEE THESE
24 INDIVIDUALS, THERE'S A SHOOTING. YOU CAN SEE THEM GOING
25 LIKE THIS IN THE PARKING LOT. YOU CAN SEE EVERYBODY LEAVE

1 AND YOU SEE POLICE COME UP, SO THAT'S CERTAINLY GOING TO
2 SUPPORT THE FACT THAT A SHOOTING DID IN FACT HAPPEN AND
3 THAT THE TIME STAMPED ON THAT, YOUR HONOR, IT WAS VERY
4 CLEAR THAT IT'S ON APRIL 17TH, 2007, AT APPROXIMATELY
5 12:10.

6 THE COURT: I THINK WITH THAT AND THIS WITNESS'
7 TESTIMONY I SAW A WOUND AND YOU GOT A VIDEO SHOWING A
8 SHOOTING TAKING PLACE, OKAY? WHAT HAVE WE ESTABLISHED WITH
9 THOSE TWO. WE'VE ESTABLISHED THAT THERE WAS A SHOOTING.
10 WHAT YOU NEED TO DO OR WE'RE GOING TO HAVE TO DO TO MAKE
11 THIS RELEVANT IS TIE IT TO THIS DEFENDANT AND THAT IS THE
12 VICTIM'S STATEMENT. YOU'VE GOT TO GET IN MY VIEW THE
13 VICTIM'S STATEMENT WHICH BRINGS IT ALL TOGETHER.

14 IF MR. IRONS, WASN'T HE THERE? IF MR. IRONS
15 SAYS, YEAH, I WAS THERE AND IT WAS THE DEFENDANT WHO WAS,
16 WHO WAS SHOOTING AWAY, WELL THEN THAT TAKES CARE OF YOUR
17 PROBLEM. BUT WITHOUT THAT, THERE WAS A SHOOTING, GOT A
18 PICTURE OF THAT. I THINK SHE CAN TESTIFY I SAW HIM
19 WOUNDED, YOU CAN PUT THAT IN, YOU HAVEN'T VIOLATED THE
20 HEARSAY RULE. I'M WANTING TO KNOW HOW WE GOING TO GET TO
21 TIE THAT TO HIM CAUSE IF YOU DON'T TIE IT TO HIM, YOU DON'T
22 TIE TO THE DEFENDANT IT'S NOT RELEVANT.

23 MS. ELDER: IT'S UNDER THE DECLARANT UNAVAILABLE
24 STATEMENT, YOUR HONOR. THERE CAN BE TESTIMONY, DECLARANT
25 DOES NOT HAVE TO TESTIFY TO THE STATEMENT AND THE STATEMENT

1 IS THE IDENTITY OF THE PERSON WHO SHOT AT HIM. I MEAN IF -
2 --

3 THE COURT: I UNDERSTAND.

4 MS. ELDER: --- I HAVE ALWAYS GOT TO PROVE, IF
5 ALWAYS HAVE TO HAVE AN I.D. PERSON AND WE CAN'T USE
6 DECLARANT UNAVAILABLE THEN THAT EXCEPTION DOESN'T EVEN
7 EXIST.

8 THE COURT: YEAH, IF IT'S A DYING DECLARATION I
9 AGREE WITH YOU BUT ---

10 MS. ELDER: WELL THAT'S NOT THE SITUATION, DYING
11 DECLARATION ---

12 THE COURT: ABSOLUTELY.

13 MS. ELDER: --- REFERS TO HIS OWN DEATH NOT
14 SOMEBODY ELSE'S.

15 THE COURT: IT WAS MUCH EARLIER AND HE DOESN'T
16 REPORT IT TO THE POLICE.

17 MS. ELDER: NO, SIR.

18 THE COURT: IF HE HAD GONE AND MADE A POLICE
19 REPORT AND SAID THIS PERSON SHOT ME WE WOULDN'T BE HERE
20 TODAY CAUSE THIS DEFENDANT WOULD BE IN JAIL IN NORTH
21 CAROLINA.

22 MS. ELDER: BUT UNDER THIS THEORY THAT WE HAVE
23 TO HAVE AN I.D. PERSON TESTIFY TO GET ANY KIND OF THING
24 LIKE THIS IN MEANS THAT DECLARANT UNAVAILABLE DOES NOT
25 EXIST.

1 THE COURT: NO, I'M NOT GOING, I'M NOT GOING TO
2 CUT YOU OFF THERE. IF YOU CAN FIND ME SOME CASE LAW,
3 SOMETHING SIMILAR, AND THERE'S A LOT OF CASE LAW ON THIS
4 ABOUT DECLARANT UNAVAILABLE, WHAT EXCEPTION IT FALLS UNDER.
5 I'M NOT CUTTING YOU OFF, I'M NOT MAKING A RULING ON IT.
6 I'M GOING TO LET YOU WORK ON IT AND WE'LL COME BACK IN THE
7 MORNING AND WE'LL LOOK AT IT AND SEE BUT I'M TELLING YOU
8 WHAT -- HOW I SEE THE ISSUES RIGHT NOW, HOW THEY'RE LINING
9 UP AND WHERE WE'RE TRYING TO GO WITH THIS THING OR NOT
10 TRYING TO GO WITH IT. SO THAT'S WHAT WE'RE GOING TO HAVE
11 TO DO. GET ME SOMETHING, SHOW ME HOW IT COMES IN UNDER
12 THAT, I'LL EVEN MAKE CLAIRE WORK.

13 MS. ELDER: YOUR HONOR, THERE IS, THERE IS, I
14 WAS NOT GOING TO HAVE HIM TESTIFY TO THIS BUT TIM ---

15 THE COURT: WHO IS THAT?

16 MS. ELDER: TIM SMITH IS OUR WITNESS THAT WE
17 HAVE DOWN HERE WE INTENDED TO PLACE UP ON TESTIMONY.
18 HOWEVER DURING THE COURSE OF HIS STATEMENTS HE HAS
19 INDICATED THAT BOS DID IN FACT WHILE THEY WERE AT THE JAIL
20 INDICATE THAT HE WAS INVOLVED IN THE SHOOTING AT WALMART.

21 THE COURT: WELL NOW THERE YOU GO, IF YOU HAVE A
22 WITNESS WHO SAYS THAT THIS DEFENDANT WAS THE TRIGGER MAN AT
23 THE WALMART THAT COMES IN. IT COMES IN AS A STATEMENT
24 AGAINST INTEREST.

25 MS. PRATT: AND I BELIEVE THAT'S THE FIRST TIME

1 I'VE HEARD THAT INFORMATION, YOUR HONOR, AND WE'RE HALFWAY
2 THROUGH TRIAL.

3 MS. ELDER: AND I WAS NOT, I NOTIFIED ---

4 THE COURT: AND THEN WE'LL FUSS ABOUT THAT.

5 MS. ELDER: I NOTIFIED MS. PRATT OF WHAT I
6 INTENDED TO USE MR. SMITH FOR, I FULLY NOTIFIED HER OF
7 THAT. SHE KNEW WHAT HE WAS THERE FOR AND THIS IS A NEW
8 ISSUE THAT HAS SOME UP. I DID NOT THINK THAT IT WAS GOING
9 TO BE NECESSARY TO ELICIT THAT TESTIMONY FROM HIM.

10 THE COURT: IT MAY NOT IF YOU CAN FIND ME JUST
11 SOMETHING THAT WILL FIT THIS SCENARIO, WHETHER IT BE SOME
12 CASE LAW ON EXCITED UTTERANCE THAT WE CAN GET PAST THIS
13 UNKNOWN GAP IN TIME. THIS MAY HAVE BEEN, YOU KNOW, FIVE
14 HOURS LATER. THERE IS NO ONE WHO CAN TESTIFY, THIS LADY
15 COULDN'T TELL US WHEN HE CAME HOME.

16 MS. ELDER: YOUR HONOR, LET ME ASK THIS SO I AM
17 CLEAR. IF, IF LEMARK IRONS CANNOT I.D. THE SHOOTER BUT CAN
18 IN FACT INDICATE ON THE STAND THAT AFTER THE SHOOTING HE
19 AND AARON WENT DIRECTLY TO THE SISTER'S HOUSE --

20 THE COURT: IT MAY SUPPORT YOUR, YOUR ARGUMENT
21 FOR EXCITED UTTERANCE.

22 MS. ELDER: YES, SIR.

23 THE COURT: IT MAY DO THAT BUT FROM WHAT I'VE
24 HEARD FROM THIS WITNESS I DON'T KNOW HOW LONG IT WAS, I
25 DON'T KNOW HOW MUCH TIME HAD PASSED, I DON'T KNOW WHAT HIS

1 CONDITION WAS. HE LIMITS HIS CONVERSATION, TOO, IT STARTS
2 OUT TWO AND THEN IT'S MAYBE FIVE SENTENCES. IF I WERE
3 STILL UNDER THE EXCITEMENT OF BEING SHOT AT I WOULD
4 PROBABLY BE RATTLING ON. I DON'T KNOW WHO EVEN DROVE THE
5 CAR. HE MAY HAVE GOTTEN IN THE CAR AND DRIVEN HIMSELF
6 HOME. HE MAY HAVE CUT AROUND TOWN. HE DOESN'T REPORT IT
7 TO THE POLICE. THERE'S JUST NOTHING HERE THAT WOULD
8 SUPPORT A FINDING THAT IS AN EXCITED UTTERANCE. THIS GUY
9 MAY HAVE VERY KEEN SENSIBILITIES. I MEAN HE MAY HAVE BEEN
10 VERY UPSET BUT THAT DOESN'T SEEM TO BE WHAT FITS WHAT WE'VE
11 HEARD SO FAR. THEY SEEM TO BE TOUGH GUYS BUT I DON'T KNOW.

12 MS. ELDER: SO IF I UNDERSTAND THE COURT'S
13 CONCERN IS THE DEFINING THE TIME BETWEEN THE SHOOTING AND
14 THE TIME HE TOLD HIS SISTER --

15 THE COURT: THAT MAY HELP ME ON YOUR ARGUMENT OF
16 EXITED UTTERANCE. THAT MAY HELP ME DO THAT OR YOU MAY GET
17 IT IN UNDER SOME OTHER EXCEPTION. WE'RE BREAKING, I'M
18 GOING TO LET YOU WORK ON IT.

19 MS. ELDER: YES, SIR.

20 THE COURT: COME BACK IN THE MORNING. WE'RE
21 GOING TO GET TO THIS VERY FIRST THING AND WE'RE GOING TO
22 RULE ON IT. I THINK IT'S AN IMPORTANT PIECE OF EVIDENCE
23 FOR BOTH SIDES AS TO HOW THIS, HOW THIS, HOW THIS GOES
24 DOWN. WE'VE GOT TO BREAK, I'LL LET YOU ARGUE ON IT FULLY
25 TOMORROW, OKAY.

1 MS. ELDER: THANK YOU, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 (WHEREUPON, COURT WAS ADJOURNED FOR THE EVENING
4 AND RESUMED ON MAY 12, 2010 AT 9:00 A.M.)

5 (WHEREUPON, STATE'S EXHIBITS NUMBERS 10, 11, 12,
6 13, 14, AND 15 MARKED FOR IDENTIFICATION.)

7 THE COURT: OKAY, BEFORE WE BRING THE JURY IN I
8 WANT TO GO BACK TO THE MATTER THAT WE WERE DISCUSSING
9 YESTERDAY AND THAT IS THE ADMISSIBILITY OF A STATEMENT MADE
10 BY THE VICTIM TO HIS SISTER CONCERNING A PRIOR EVENT THAT
11 OCCURRED AT THE WALMART WHERE HE WAS SHOT AT APPARENTLY,
12 SLIGHTLY WOUNDED; AND AFTER TRAVELING TO HIS SISTER'S HOME
13 MADE A STATEMENT THAT THE DEFENDANT HAD SHOT AT HIM AND
14 THAT THIS WAS APPROXIMATELY A MONTH BEFORE THE VICTIM WAS
15 KILLED IN THIS PARTICULAR INCIDENT.

16 NOW I HAVE LOOKED VERY CLOSELY AT 803(2) AND THE
17 CASES THAT ARE AVAILABLE. I WANT TO HEAR FROM YOU, MS.
18 ELDER. NOW MY UNDERSTANDING THAT THE FACTORS THAT SHOULD
19 BE CONSIDERED ARE, ONE, THE LAPSE OF TIME BETWEEN THE EVENT
20 AND THE DECLARATIONS, THE AGE OF DECLARANT, THE PHYSICAL
21 AND MENTAL STATE OF THE DECLARANT, THE CHARACTERISTICS OF
22 THE EVENT, AND THE SUBJECT MATTER OF THE STATEMENT. THAT'S
23 PRETTY MUCH THE FACTORS THAT THE COURT'S HAVE LOOKED AT AND
24 THAT'S STATED IN MORGAN V. FORETICH FOURTH CIRCUIT CASE.
25 LET ME HEAR FROM YOU, MS. ELDER.

1 MS. ELDER: YOUR HONOR, IN PARTICULAR I THOUGHT
2 I WOULD PULL UP A CASE THAT I THOUGHT ACTUALLY WAS DIRECTLY
3 ON POINT.

4 THE COURT: WAS IT U.S. V. GOLDEN?

5 MS. ELDER: ACTUALLY IT'S A SOUTH CAROLINA CASE,
6 IT'S STATE V. STATEN.

7 THE COURT: ALL RIGHT.

8 MS. ELDER: THERE IS SOME NEGATIVE HISTORY ON
9 IT, HOWEVER, IT'S JUST TO THE ISSUE AND I'VE GOT A COPY OF
10 ONE PARAGRAPH OPINION ON THE NEGATIVE HISTORY ON THAT
11 PARTICULAR CASE. IT BASICALLY, THE NEGATIVE HISTORY
12 INDICATES IN '07 THE COURT GRANTED CERT AND SAID WE VACATE
13 THE PORTION OF THE STATEN OPINION THAT DISCUSSED CRAWFORD
14 AS UNNECESSARY TO THE DISPOSITION OF THE CASE ---

15 THE COURT: ALL RIGHT.

16 MS. ELDER: --- BUT THEY DID ANALYZE THE EXCITED
17 UTTERANCE STATEMENT IN THAT INDEPENDENTLY OF CRAWFORD.

18 YOUR HONOR, IN THAT CASE, I THINK IT'S ON PAGE
19 NINE PARTICULARLY, THIS CASE INVOLVED A STATEMENT MADE BY
20 DECEDENT, THAT'S EXACTLY WHAT WE HAVE HERE. HE WAS
21 APPARENTLY TOLD HIS ROOMMATE THE DAY BEFORE HE WAS SHOT AND
22 KILLED APPARENTLY HE CAME INTO HIS ROOMMATES ROOM, HIS DORM
23 ROOM. HE APPEARED AT THAT TIME THEY DESCRIBED AS
24 HYSTERICAL OR LIKE SCARED. THE ROOMMATE ASKED THE DECEDENT
25 WHAT IS WRONG WITH YOU AND HE INDICATES THAT THE DECEDENT

1 AVOIDED ANSWERING HIS QUESTIONS FOR A WHILE AND HE
2 EVENTUALLY CONFESSED THAT THEY JUST PULLED A GUN ON ME.

3 WHEN THE ROOMMATE ASKED WHO PULLED A GUN THE
4 DECLARANT SAID, AND AS YOU CAN SEE THE STATEMENT THAT THE
5 DECLARANT SAID, ALTHOUGH HE DIDN'T NAME AN INDIVIDUAL HE
6 NAMED A GROUP OF INDIVIDUALS THAT THEY HAD HAD AN ARGUMENT
7 WITH ON A PRIOR, PRIOR INCIDENT.

8 YOUR HONOR, WHEN THEY TALK ABOUT THIS PARTICULAR
9 STATEMENT A LITTLE BIT FURTHER IN THE OPINION I BELIEVE
10 THEY GO ON TO ANALYZE THIS STATEMENT UNDER EXCITED
11 UTTERANCE EXCEPTION ON PAGE 20 AND IT SAYS THAT OBVIOUSLY
12 THE PASSAGE OF TIME FROM THE STARTLING EVENT TO THE TIME
13 THE STATEMENT WAS MADE IS ONE OF SEVERAL FACTORS TO
14 CONSIDER.

15 ONE FACTOR TO CONSIDER THE TIME ELEMENT IS JUST
16 ONE FACTOR, IT'S NOT DISPOSITIVE, AND IT INDICATES THAT
17 EVEN STATEMENTS AFTER EXTENDED PERIODS OF TIME CAN BE
18 CONSIDERED EXCITED UTTERANCE AS LONG AS THEY WERE MADE
19 UNDER A CONTINUING STRESS.

20 IN THIS WAY THEY DESCRIBED THAT WHEN HE CAME INTO
21 THE ROOM HE WAS ANGRY. THE, THE INDIVIDUAL TESTIFIED HE
22 JUST KEPT WALKING BACK AND FORTH OR PACING IN THE ROOM.
23 WHEN ASKED WHAT HAPPENED JUST AS DANYELL ASKED HER BROTHER
24 WHAT HAPPENED THEY JUST PULLED A GUN ON ME, HE SAYS I JUST
25 GOT SHOT AT. THE ROOMMATE IN THIS CASE SAYS BY WHO,

1 DANYELL SAYS BY WHO. THE DECLARANT IN THIS STATEMENT SAYS
2 THOSE PEOPLE WE HAD AN INCIDENT WITH ON SATURDAY NIGHT,
3 AARON TELLS HIS SISTER BOS. YOUR HONOR, IT'S PRETTY MUCH
4 POINT ON POINT WITH THIS CASE.

5 THE COURT: LET ME, I KNOW THAT THE PASSAGE OF
6 TIME IS NOT DISPOSITIVE. OUR CASE LAW IS FAIRLY CLEAR ON
7 THAT, HOWEVER IT IS CERTAINLY RELEVANT ---

8 MS. ELDER: YES, SIR.

9 THE COURT: --- AS TO WHAT IT WAS. AS I RECALL
10 THE TESTIMONY OF THE SISTER, WHO TESTIFIED YESTERDAY OR
11 PROFFERED HER TESTIMONY, I DON'T RECALL ANY TESTIMONY THAT
12 WOULD TELL ME HOW MUCH TIME HAD PASSED.

13 MS. ELDER: YOUR HONOR, HE, SHE INDICATED, HER
14 TESTIMONY WAS, I DID ASK HER OR ONE OF US ASKED HER WHAT
15 TIME WAS THIS AND SHE SAID IT WAS SOMETIME AROUND MIDNIGHT.

16 NOW THE TIME STAMP THAT'S GOING TO BE ON THE
17 VIDEO SAYS IT IS 12:11 WHEN THE SHOOTOUT IN THE PARKING LOT
18 AT WALMART HAPPENS SO SHE'S VERY CLOSE IN TIME AS TO WHEN
19 THAT SHOOTING HAPPENS IF YOU TAKE BOTH OF THOSE TOGETHER.
20 I THINK THAT THAT IS, I THINK THAT IN CONJUNCTION WITH
21 STATEN AND HER TESTIMONY ON WHAT SHE ESTIMATED THE TIME WAS
22 THAT HE CAME TO THE HOUSE AND CAME STRAIGHT BACK TO HER
23 ROOM, THE APPEARANCE THAT HE WAS EXCITED CAUSE SHE SAID HE
24 CAME STRAIGHT BACK TO MY ROOM, HE WAS BLEEDING, HE WAS
25 STILL BLEEDING, THE SHOOTING STAMP TIME ON THE VIDEO THAT

1 WE'LL BE ASKING TO PUT THROUGH, MICHAEL HULL, INVESTIGATOR
2 HULL.

3 YOUR HONOR, THERE'S ALSO ANOTHER CASE ON STATE V.
4 LADNER. IT WAS THE CSC CASE AND THE TIME THERE IT WAS AT
5 ISSUE, HOWEVER IN THAT PARTICULAR CASE PARTICULARLY IT SAYS
6 THE VICTIM WAS COMPLAINING OF PAIN, THERE WAS BLEEDING WHEN
7 THE STATEMENTS WERE MADE. THE VICTIM MADE THE DECLARATION
8 WHILE UNDER THE STRESS OF THE ATTACK. THIS STRESS
9 OBVIOUSLY WAS CAUSED BY THE STARTLING EVENT OF THE ASSAULT
10 AND THAT IS ALSO A SOUTH CAROLINA CASE.

11 THE COURT: ALL RIGHT, THE SISTER AS I RECALL
12 TESTIFIED THAT WHEN HE CAME INTO THE HOUSE HE CAME STRAIGHT
13 INTO THE ROOM. HIS STATEMENTS WERE MADE IN RESPONSE TO HER
14 QUESTIONING, THAT DOES NOT GIVE ME A PROBLEM AT ALL.
15 THERE'S PLENTY OF CASE LAW ON THAT.

16 THE SUBJECT MATTER OR THE CHARACTERISTICS OF THE
17 EVENT CERTAINLY WOULD CAUSE A STRESSFUL OR EXCITING
18 CIRCUMSTANCE. YOU'RE TELLING ME THAT YOU CAN ESTABLISH
19 THAT THE TIME WAS FAIRLY CLOSE. LET ME ASK YOU ABOUT THE
20 ABSENCE OF THE PERSON WHO WAS WITH HIM? I UNDERSTOOD THE
21 TESTIMONY WAS THAT LEMARK IRONS WAS WITH THE DECEDENT OR
22 THE VICTIM IN THIS CASE WHEN HE CAME TO HER HOUSE, WAS HE
23 WITH HIM WHEN THE SHOOTING OCCURRED?

24 MS. ELDER: NO, SIR.

25 THE COURT: HE WAS NOT?

1 MS. ELDER: NO, SIR.

2 THE COURT: OKAY.

3 MS. ELDER: AND IT'S VERY OBVIOUS ON THE VIDEO,
4 YOUR HONOR, THERE'S ONLY THREE PEOPLE AND LEMARK WAS NOT
5 ONE OF THEM. THE TWO PEOPLE ENTERED INTO THE WALMART
6 TOGETHER. AARON, THE PERSON WE KNOW AS AARON WALKED IN BY
7 HIMSELF. ON THE INTERNAL VIDEO TWO INDIVIDUALS COME IN
8 AFTERWARDS. THE THREE OF THEM WALKED BACK OUT, GOES OUT TO
9 THE PARKING LOT VIEW. AT THAT TIME YOU SEE THE THREE OF
10 THEM GET INTO IT, YOU SEE, YOU CAN TELL THAT THERE'S SOME
11 SHOTS BEING FIRED, AND THE THREE DISPERSE, TWO GO TOGETHER,
12 ONE GOES BY HIMSELF WHICH IS AARON. HE GOES BACK INTO THE
13 WALMART AFTER THE SHOOTING.

14 THE COURT: ALL RIGHT, LET ME HEAR FROM MS.
15 PRATT.

16 MS. PRATT: THANK YOU, YOUR HONOR. YOUR HONOR,
17 FIRST OF ALL I'LL POINT OUT TO THE COURT THAT I HAVE NOT
18 SEEN THE VIDEO. THEY WERE UNABLE TO COPY IT FOR ME SO I
19 CAN'T VERIFY THE TIMES AND THE STAMPS AND SO ON AND ALSO
20 I'D POINT OUT THAT MY MEMORY OF MS. HAMMONDS TESTIMONY THAT
21 SHE DIDN'T SAY IT WAS AT MIDNIGHT, IT WAS AFTER MIDNIGHT,
22 SOMETIME AFTER MIDNIGHT. SHE HADN'T LOOKED AT HER WATCH,
23 BUT THAT BEING SAID I HAVE A COUPLE OF CONCERNS ON IT.

24 OBVIOUSLY THE COURT HAS LOOKED AT THE CASES IN
25 REGARDS TO EXCITED UTTERANCE AND THE CONCERN IS WHETHER OR

1 NOT THE PERSON HAS HAD ENOUGH TIME TO FORMULATE, CALM DOWN
2 AND FORMULATE A DIFFERENT STORY, POSSIBLY, OR AT LEAST TO
3 CHANGE THE RELIABILITY OF THE STATEMENT.

4 THE COURT: THE RELIABILITY OF THE STATEMENT IS
5 THE KEY TO EXCITED UTTERANCE.

6 MS. PRATT: ABSOLUTELY, AND MY CONCERN WITH THIS
7 ONE, YOUR HONOR, JUST FROM WHAT THE SOLICITOR HAS JUST SAID
8 FIRST OF ALL IS MR. HAMMONDS HAD TIME TO GO AND PICK UP MR.
9 IRONS AND THEN COME BACK TO HIS HOUSE. WE DON'T HOW FAR OR
10 WHEN OR WHATEVER BUT I WOULD STATE THAT GIVES A PERIOD OF
11 TIME.

12 I DON'T KNOW THAT THE BLEEDING IS DISPOSITIVE.
13 OBVIOUSLY YOU CAN HAVE A SHIRT STUCK TO A WOUND, REMOVE THE
14 SHIRT AND IT WILL START BLEEDING AGAIN, SO I DON'T KNOW
15 THAT THAT'S DISPOSITIVE. HE DIDN'T CALL 911. HE DIDN'T GO
16 TO THE POLICE.

17 THERE'S A CONCERN THAT I HAVE IN LOOKING AT THE
18 CASES THAT THE COURT TENDS TO DISTINGUISH THE TYPE OF EVENT
19 WHEN LOOKING AT THE LAPSE OF TIME. FOR EXAMPLE, LET'S SAY
20 SOMEBODY HAS JUST BEEN IN 9-11, THE LAPSE OF TIME WOULD BE
21 ALLOWED TO BE GREATER BECAUSE OF THE INCREDIBLE STRESS OF
22 AN EVENT LIKE THAT AS OPPOSED TO THE FACT OF A HOUSE FIRE
23 SO ---

24 THE COURT: OR SOMEBODY SHOOTING YOU.

25 MS. PRATT: WELL AND I UNDERSTAND FROM THIS

1 SITUATION FROM DIFFERENT STATEMENTS THAT HAVE BEEN MADE BY
2 THE SOLICITOR ABOUT THIS, THERE MAY HAVE BEEN SHOOTING
3 GOING BACK ALL THE TIME. SO IS THAT SOMETHING THAT WOULD
4 PUT THIS DECEASED IN THAT KIND OF FEAR?

5 I THINK IT WOULD BE IMPORTANT TO SEE THE VIDEO
6 AND SEE HOW, HOW TRUTHFUL IT IS BECAUSE THE FACT IS MY
7 CLIENT HAS NOT BEEN CHARGED WITH THIS. HE WAS NOT
8 IDENTIFIED BY ANYONE IN THE VIDEO, SO THIS STATEMENT IS THE
9 ONLY THING THAT LINKS HIM AND WE DON'T HAVE ANY INDICIA OF
10 ITS LIABILITY, OF ITS RELIABILITY.

11 ALSO, YOUR HONOR, AND I DIDN'T BRING THE CASE LAW
12 ON THIS BECAUSE I WASN'T SURE IT WAS GOING TO APPLY, BUT
13 YOU KNOW IN CSC CASES WE HAVE LONG HAD AN EXCEPTION THAT WE
14 ALLOW A STATEMENT MADE BY THE CHILD TO COME IN BUT NOT AS
15 TO IDENTITY OF THE PERPETRATOR AND I BELIEVE THAT THAT
16 STARTS WITH A LINE OF CASES BEGINNING WITH SHUMBERT SEVERAL
17 YEARS AGO SIMPLY BECAUSE THAT'S THE DANGER THAT THE CHILD
18 WILL SAY, OH, UNCLE FRED DID IT WHEN IT REALLY WASN'T HIM
19 AND WE DON'T WANT TO HAVE THAT AS BEING THE ONLY WAY OF
20 DOING THE IDENTITY AND IF THE COURT WISHES ME TO GET THOSE
21 CASES I CAN CERTAINLY BRING THEM BUT I KNOW YOU'RE FAMILIAR
22 WITH THEM, SO I THINK THAT THAT'S ANOTHER ISSUE THAT'S VERY
23 IMPORTANT IN THIS SITUATION.

24 I HAVE PULLED SEVERAL CASES THAT BASICALLY SPEAK
25 TO THE FACT THAT IN ORDER TO BE AN EXCITED UTTERANCE IT HAS

1 TO BE CLOSE TO BEING CONTEMPORANEOUS WITH THE PERSON STILL
2 VISIBLY UPSET. ONE CASE THAT I LOOKED AT, AND I BELIEVE
3 THAT IT WAS THE CASE, LET ME MAKE SURE WHICH ONE, THERE WAS
4 A STATEMENT MADE BY THE VICTIM TO ANOTHER PERSON SAYING
5 HE'S KILLING ME AT THE TIME THE GUY'S BEATING HER UP THE
6 DAY BEFORE.

7 THE COURT: THAT WOULD BASICALLY BE AN 801,
8 803(1) THAT BEING PRESENT SENSE IMPRESSION, WOULDN'T IT?

9 MS. PRATT: IT CERTAINLY WOULD BE AND IF THERE
10 WAS A LITTLE BIT MORE TIME MAYBE IT SLIDES INTO BEING
11 EXCITED UTTERANCE.

12 ANOTHER ANALYSIS OF IT, OF COURSE, IS DAVIS V.
13 WASHINGTON ABOUT 911 CALLS, THAT THE 911 CALL IS EXCITED
14 UTTERANCE BUT THE FOLLOW UP REPORT BY THE POLICE OFFICER IS
15 NOT AND AGAIN THAT SPEAKS TO THE, THE BALANCING ACT OF THE
16 TIME AND THE TIME TO CALM DOWN. SO IF HE HAD TIME TO LEAVE
17 AND GO BACK INTO WALMART BUT NOT REPORT IT TO ANYBODY GO
18 GET LEMARK AND THEN COME TO THE HOUSE I WOULD SAY THAT
19 THAT'S CERTAINLY A SITUATION WHERE HE'S HAD TIME TO CALM.

20 THE COURT: YOU TELL ME THAT THIS OCCURRED HE
21 GOES INTO THE WALMART NOW I HAVEN'T HEARD THAT, TELL ME,
22 TELL ME ABOUT THAT?

23 MS. PRATT: THAT'S WHAT MS. ELDER SAID WAS ON
24 THE TAPE THAT, THAT MR. HAMMONDS WENT BACK INTO THE
25 WALMART. I HAVE NOT SEEN THE VIDEO.

1 THE COURT: IS THAT RIGHT, MS. ELDER?

2 MS. ELDER: HE RUNS BACK IN THE WALMART AT ONE
3 POINT, YES, SIR.

4 THE COURT: WELL WHAT'S HIS PURPOSE IN DOING
5 THAT?

6 MS. ELDER: I HAVE NO IDEA.

7 MS. PRATT: AND HE DIDN'T ---

8 MS. ELDER: HIS BY HIMSELF, HE JUST GOT SHOT AT.
9 I ASSUME HE RAN TO GET AWAY.

10 THE COURT: WHERE DOES HE FIND MR. IRONS?

11 MS. ELDER: YOUR HONOR, IT'S MY UNDERSTANDING
12 THAT HE DOES NOT GO PICK UP MR. IRONS FROM WHAT I
13 UNDERSTAND, THAT MR. IRONS WAS ON THE WAY TO MEET HIM THERE
14 AND THEY MET IN THE PARKING LOT AFTER THE SHOOTING AND ---

15 THE COURT: IS THAT HOW IRONS GETS IN THE CAR
16 WITH HIM?

17 MS. ELDER: I DON'T KNOW IF THEY GOT IN THE CAR
18 TO GO, THEY ENDED UP AT THE HOUSE TOGETHER. THEY DID NOT
19 GO TO WALMART TOGETHER.

20 THE COURT: SO MR. IRONS WOULD KNOW IF THERE
21 WERE ANY SIDE TRIPS OR ANYTHING LIKE THAT, RIGHT?

22 MS. ELDER: I'M NOT GOING TO PUT MR. IRONS UP TO
23 TESTIFY, YOUR HONOR.

24 THE COURT: I'M JUST ASKING YOU, DO YOU KNOW?

25 MS. ELDER: YES, SIR, YOUR HONOR, I WOULD, YES,

1 SIR, HE WOULD PROBABLY KNOW THAT.

2 THE COURT: WELL TELL ME, MS. ELDER, I MEAN DID
3 THEY STOP AT THE DAIRY QUEEN OR GO BY AND GET A HAMBURGER
4 OR DID THEY, DID THEY GO STRAIGHT TO HIS SISTER'S HOUSE, I
5 MEAN I'D LIKE TO KNOW THAT.

6 MS. ELDER: YOUR HONOR, MR. IRONS INDICATED THAT
7 RIGHT AFTER THE SHOOTING THERE WAS SOME PHONE CALLS. OF
8 COURSE ALL THIS IS HEARSAY TO HEARSAY TO HEARSAY, THAT'S
9 WHY I'M NOT PUTTING MR. IRONS UP THERE. HE INDICATES THAT
10 AARON WAS ON THE PARKING LOT, HE GOT SHOT AT, HE CALLED A
11 FEMALE FRIEND THAT MR. IRONS COULDN'T IDENTIFY EXCEPT OTHER
12 THAN BY THE NAME OF KIM, THAT HE CALLED HER, HE CALLED THE
13 GIRL APPARENTLY AND SAID I'VE JUST BEEN SHOT AT, THOSE BOYS
14 HAVE SHOT AT ME. SHE CALLED LEMARK AND LEMARK HEADS UP TO
15 WALMART TO TRY TO HELP AARON, TO SEE WHAT'S GOING ON. WHEN
16 HE GETS THERE APPARENTLY AARON IS LEAVING AND THEY HEAD
17 OVER TO DANYELL'S HOUSE. HE SAID IT'S APPROXIMATELY A FIVE
18 TO 10 RIDE FROM WALMART.

19 THE COURT: OKAY, AND THAT'S SOMETHING ELSE I
20 WANTED TO KNOW. I UNDERSTAND THAT SHE SAID OR I THOUGHT
21 SHE SAID SHE LIVED IN RED SOME OTHER -- DOES SHE LIVE IN
22 LUMBERTON?

23 MS. ELDER: SHE LIVES IN LUMBERTON, YES, SIR.
24 THE OTHER FEMALE THAT TESTIFIED YESTERDAY WAS IN RED
25 SPRINGS BUT THAT WAS THE OTHER ---

1 THE COURT: RED SPRINGS.

2 MS. ELDER: --- INDIVIDUAL.

3 THE COURT: THAT WAS THE OTHER ONE?

4 MS. ELDER: YES, SIR.

5 THE COURT: ALL RIGHT, ANYTHING FURTHER, MS.

6 PRATT?

7 MS. PRATT: WELL, YOUR HONOR, I WOULD JUST
8 SIMPLY REITERATE MY 403 ARGUMENT FROM YESTERDAY AS WELL
9 WITH IT BEING A CLEAR AND CONVINCING STANDARD IF THE COURT
10 LOOKS AT THAT RATHER THAN SIMPLY A STATEMENT, BALL
11 STATEMENT LIKE WHAT'S COMING OUT HERE AND WE DO NOT HAVE A
12 CONVICTION AND WE DO NOT HAVE HIS FACE ON THE VIDEO AND WE
13 DON'T HAVE A WITNESS THAT'S GOING TO SAY IT WAS HIM, THANK
14 YOU, YOUR HONOR.

15 MS. ELDER: AND, YOUR HONOR, IF I COULD JUST
16 BRIEFLY ON CLEAR AND CONVINCING, THAT APPLIES TO LYLES
17 EXCEPTIONS ONLY. THAT'S A CLEAR AND CONVINCING STANDARD ON
18 LYLES EXCEPTIONS, I'M NOT ARGUING A LYLES EXCEPTION AT THIS
19 POINT IN TIME FOR THIS TESTIMONY. CLEAR AND CONVINCING
20 DOES NOT APPLY TO EXCITED UTTERANCE.

21 I'VE PROVIDED THE COURT WITH THAT STATEN CASE.
22 THE LADNER CASE I'VE PROVIDED ON THE CSC CASE. IT WAS NOT
23 AT ISSUE AS MS. PRATT INDICATES THAT THEY LET HER TESTIFY
24 AS TO TIME AND PLACE. LADNER WAS THE CSC CASE THAT THEY
25 ALLOWED HER TO TESTIFY AS TO THE IDENTITY OF THE INDIVIDUAL

1 BASED ON AN EXCITED UTTERANCE EXCEPTION.

2 THE COURT: WELL WE MAY BE LOOKING AT LYLES
3 BECAUSE THIS IS A PRIOR BAD ACT. IT MAY HAVE TO COME IN
4 UNDER THAT ANALYSIS.

5 I HAVE CONSIDERED SEVERAL FACTORS IN THIS MATTER.
6 I AM PARTICULARLY CONCERNED ABOUT THE LAPSED TIME. I FEEL
7 MUCH BETTER ABOUT THE LAPSED TIME. THE WITNESS TESTIFIED
8 THAT IT WAS AROUND MIDNIGHT. YOU'RE TELLING ME THAT THE
9 TAPE WILL SHOW THAT THE EVENT OCCURRED ABOUT 12:11 --

10 MS. ELDER: YES, SIR.

11 THE COURT: THAT WOULD BE MIDNIGHT, OKAY. FROM
12 WHAT I'M HEARING IT WOULD APPEAR THAT THE DEFENDANT WENT TO
13 HIS SISTER'S HOUSE STRAIGHT AWAY, FAIRLY SOON, THESE WERE
14 ADULTS. THE VICTIM UPON ARRIVING AT HIS SISTER'S HOUSE WAS
15 APPARENTLY EXCITED, STILL EXCITED. HE WENT BURSTING INTO
16 HER ROOM OR BASICALLY BURSTING INTO HER ROOM WAS WHAT THE
17 TESTIMONY AS I UNDERSTAND IT HE WENT STRAIGHT THERE,
18 DESCRIED WHAT OCCURRED. HE DID GIVE THIS INFORMATION IN
19 RESPONSE TO HER QUESTIONING BUT THAT'S CERTAINLY NOT
20 DISPOSITIVE IN THIS TYPE OF CASE.

21 I LOOKED AT THE CHARACTERISTICS OF THE EVENT I
22 WOULD SAY THAT IT WAS NOT A MATTER OF A RANDOM SHOT FIRED
23 BY SOME UNKNOWN ASSAILANT. THIS APPARENTLY FROM WHAT YOU
24 TELL ME WILL BE SHOWN ON THE VIDEO AND I'M HOLDING YOU TO
25 THAT, MS. ELDER, IS THAT THIS WAS A FACE TO FACE

1 CONFRONTATION AT CLOSE RANGE INVOLVING A SHOT. I WOULD
2 IMAGINE THAT WOULD BE EXTREMELY STRESSFUL, WOULD CERTAINLY
3 UPSET THE AVERAGE, AVERAGE PERSON, AND THE SUBJECT MATTER
4 OF THE STATEMENT IS MERELY THE IDENTITY OF THE PERSON WHO
5 SHOT. THE CIRCUMSTANCES AS YOU DESCRIBED THEM ON THE OR AS
6 WHAT WILL BE SHOWN ON THE VIDEO WAS THAT THE VICTIM WAS
7 ESSENTIALLY FACE TO FACE OR IN VERY CLOSE PROXIMITY WITH
8 THE ASSAILANT.

9 CONSIDERING ALL THESE CIRCUMSTANCES I BELIEVE IT
10 GOES TO THE RELIABILITY OF THIS STATEMENT. I AM GOING TO
11 ADMIT IT IN THIS CASE.

12 ALL RIGHT, I'M GOING TO ALLOW THE SISTER TO
13 TESTIFY AS TO WHAT SHE WAS TOLD ABOUT THE IDENTITY OF THE
14 ASSAILANT, OKAY, AND THAT HE HAD BEEN SHOT AT.

15 THE COURT: YES, MA'AM?

16 MS. PRATT: AND, YOUR HONOR, I UNDERSTAND THAT
17 YOU'VE RULED, I WOULD LIKE TO SAY SOMETHING THAT JUST
18 OCCURRED TO ME THAT I JUST THINK MAYBE WE NEED TO LOOK AT
19 THAT VIDEO BEFORE THAT TESTIMONY HAPPENS.

20 AS I UNDERSTAND WHAT'S GOING TO SHOW ON THAT
21 VIDEO IT WILL BE THAT THE VICTIM PUNCHED WHOEVER SHOT HIM
22 IN THE FACE FIRST AND I THINK THAT CHANGES THE
23 CHARACTERISTICS OF HOW, WHO WOULD BE EXCITED AND WHO WOULD
24 BE UPSET AND WHAT'S GOING ON AND I WONDER IF THE COURT
25 WOULD CONSIDER ---

1 THE COURT: I WOULD CERTAINLY CONSIDER IT. I
2 IMAGINE THAT THAT VIDEO WAS GOING TO LAST VERY LONG, WILL
3 IT?

4 MS. ELDER: NO, SIR, YOUR HONOR.

5 THE COURT: OKAY, LET'S, LET'S WATCH IT SINCE MY
6 RULING IS BASED ON WHAT YOU ARE TELLING ME IS ON THAT
7 VIDEO. LET'S LOOK AT THE VIDEO, LET'S GO AHEAD AND, AND,
8 AND REVIEW IT BEFORE WE BRING THE JURY IN AND I'LL FEEL
9 MUCH MORE COMFORTABLE ABOUT MY RULING.

10 NOW, MR. BROOKS, WOULD YOU GO BACK AND HAVE MR.
11 ROPP OR PERHAPS YOURSELF JUST INFORM THE JURY THAT WE'RE
12 TAKING UP SOME MATTERS THAT WE NEED TO BEFORE WE BRING THEM
13 BACK IN AND JUST TO REMAIN AS COMFORTABLE AS THEY CAN. ANY
14 OBJECTION TO THAT, MS. PRATT OR MS. ELDER?

15 MS. ELDER: NO, SIR, YOUR HONOR.

16 MS. PRATT: NO, SIR, YOUR HONOR.

17 THE COURT: THANK YOU, IF YOU WOULD --

18 (WHEREUPON, A RECESS WAS TAKEN AND THE FOLLOWING
19 TAKES PLACE ON THE RECORD AFTER THE RECESS.)

20 MS. ELDER: IT TAKES A MINUTE FOR IT TO WARM
21 UP.

22 (WHEREUPON, STATE'S 11, VIDEO OF WALMART INCIDENT
23 PLAYED FOR VIEWING BY THE COURT.)

24 THE COURT: DON'T BRING THE JURY IN, THANK YOU.

25 ALL RIGHT, MY UNDERSTANDING, MS. ELDER, YOU WANT

1 TO PROFFER SOME PHOTOGRAPHS THAT WERE TAKEN FROM THE VIDEO
2 THAT YOU WERE NOT ABLE TO REPRODUCE?

3 MS. ELDER: THAT'S CORRECT, YOUR HONOR.

4 THE COURT: YOU WERE ABLE TO GET THE PHOTOGRAPHS
5 AND YOU WANT TO PROFFER AN INCIDENT REPORT FROM LUMBERTON,
6 SOUTH CAROLINA. THESE WILL NOT BE FOR THE JURY, YOU ARE
7 SIMPLY PROFFERING THEM. I DON'T THINK THAT THEY'RE
8 ADMISSIBLE UNDER THE WITNESSES. YOU HAVE RIGHT NOW?

9 MS. ELDER: THAT IS CORRECT, YOUR HONOR. THE
10 PHOTOGRAPHS AS INDICATED WILL BE PROFFERED THAT INDICATE
11 THAT THE, TO SUPPORT OUR INTRODUCTION OF THE SHOOTING
12 INCIDENT AT WALMART. THE PICTURES SHOW A TIME STAMP OF 4-
13 17-07 BEGINNING AT 12:04 AND GOING THROUGH 12:10:54 A.M. ON
14 THE MORNING OF APRIL 17TH, ALSO A UCR REPORT FROM LUMBERTON
15 POLICE DEPARTMENT SHOWING A DISCHARGE OF A WEAPON IN THE
16 CITY DATED 4-17-07, THAT DATE AND TIME IS APPROXIMATELY
17 12:10 A.M. IN THE WALMART PARKING LOT OF LUMBERTON.

18 THE COURT: ALL RIGHT, IT'S MY UNDERSTANDING
19 THAT YOU OFFER THE EVIDENCE OF THE, THE EVIDENCE OF THE
20 WALMART EVENT UNDER 404 OR EVIDENCE OF A PRIOR BAD ACT AND
21 WHAT IS YOUR PURPOSE?

22 MS. ELDER: YOUR HONOR, OUR PURPOSE IS TO SHOW
23 SEVERAL THINGS, MOTIVE AND INTENT IN THIS CASE. IT'S
24 CERTAINLY RELEVANT TO THE CHARGES THAT HE IS FACING. ALSO,
25 YOUR HONOR, AS FAR AS IT WOULD, WE WOULD ALSO PROFFER UNDER

MS. HAMMONDS - DIRECT EXAMINATION BY MS. ELDER

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1 THE LAW EXCEPTIONS OF COMMON SCHEME OF PLAN, CONTINUOUS
2 SCHEME OF PLAN. THE OTHER BAD ACT AS PART OF THIS
3 PARTICULAR PLAN, YOUR HONOR, IDENTITY AND, OF COURSE, WE
4 ALSO ARGUED OUTSIDE OF LYLE, YOUR HONOR, THE EXCITED
5 UTTERANCE.

6 THE COURT: ALL RIGHT, AND WE HAVE DISCUSSED
7 THAT FULLY BUT YOU WANT TO BE HEARD, MS. PRATT?

8 MS. PRATT: SIMPLY TO VOICE MY OBJECTION AS THE
9 COURT IS WELL AWARE AND TO POINT OUT IF THEY'RE USING LYLE
10 IT HAS TO BE CLEAR AND CONVINCING, I DON'T THINK IT IS, AND
11 I UNDERSTAND I THINK THE REST OF MY ARGUMENT WE'VE ALREADY
12 TODAY AND YESTERDAY.

13 THE COURT: ALL RIGHT, AND I FIND IT IS CLEAR
14 AND CONVINCING.

15 (WHEREUPON, STATE'S EXHIBIT NUMBER 16 MARKED FOR
16 IDENTIFICATION.)

17 THE COURT: ALL RIGHT, MS. ELDER, ARE YOU READY?

18 MS. ELDER: YES, SIR.

19 THE COURT: NOW THE JURY.

20 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
21 10:45 A.M.)

22 THE COURT: LADIES AND GENTLEMEN, AGAIN LET ME
23 APOLOGIZE FOR NOT HAVING YOU OUT HERE EARLIER THIS MORNING
24 BUT WE STAYED UNTIL 5:00 YESTERDAY ON LEGAL ISSUES. THERE
25 WERE SOME OTHERS THAT AROSE THIS MORNING AND WE HAVE BEEN

MS. HAMMONDS - DIRECT EXAMINATION BY MS. ELDER

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1 BUSY WITH THAT. WE HAVE RESOLVED MANY MATTERS THAT WOULD
2 HAVE HAD TO BE TAKEN UP AS THE TRIAL WENT ALONG SO I THINK
3 PROBABLY IN THE OVERALL SCHEME WE SAVED TIME, BUT AGAIN WE
4 APOLOGIZE FOR KEEPING YOU BACK IN YOUR, YOUR JURY ROOM.
5 ALL RIGHT, MS. ELDER, CALL YOUR NEXT WITNESS.

6 MS. ELDER: YOUR HONOR, THE STATE WOULD CALL
7 DANYELL HAMMONDS.

8 **DANYELL HAMMONDS**

9 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

10 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
11 SPELL YOUR LAST NAME FOR THE RECORD.

12 THE WITNESS: DANYELL HAMMONDS, H-A-M-M-O-N-D-S.

13 **DIRECT EXAMINATION**

14 **BY MS. ELDER:**

15 Q MS. HAMMONDS, WHERE, WHERE DO YOU LIVE,
16 WHAT CITY AND STATE DO YOU LIVE IN?

17 A LUMBERTON, NORTH CAROLINA.

18 Q AND ARE YOU RELATED TO ONE OF THE VICTIMS
19 IN THIS CASE AARON HAMMONDS?

20 A YES, MA'AM.

21 Q HOW ARE YOU RELATED TO HIM?

22 A I'M HIS SISTER.

23 Q AND I WANT TO ASK YOU ABOUT SOME SPECIFIC
24 DATES, FIRST I WANT TO TAKE YOU BACK, DO YOU RECALL THE
25 EVENTS THAT LED TO YOUR BROTHER'S DEATH ON MAY 27TH, 2007?

MS. HAMMONDS - DIRECT EXAMINATION BY MS. ELDER

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1 A YES, MA'AM.

2 Q AND WHERE WAS HE AT AT THE TIME OF HIS
3 DEATH?

4 A HE WAS AT, AT THE BEACH, MYRTLE BEACH.

5 Q IN MYRTLE BEACH?

6 A UH-HUH.

7 Q PRIOR TO THAT TIME HAD HE BEEN INVOLVED IN
8 ANY KIND OF INCIDENT IN NORTH CAROLINA?

9 A YES, MA'AM, A INCIDENT AT WALMART.

10 Q BETWEEN THE TIME OF THE INCIDENT AT WALMART
11 AT LUMBERTON AND THE TIME OF HIS MURDER HERE IN MYRTLE
12 BEACH, WHAT, WHAT TIME FRAME ARE WE LOOKING AT?

13 A A MONTH.

14 Q ABOUT A MONTH?

15 A UH-HUH.

16 Q TELL ME ABOUT WHAT HAPPENED AT THE INCIDENT
17 AT WALMART IN LUMBERTON?

18 A WELL I WAS AT HOME CLEANING UP MY ROOM AND
19 MY BROTHER HE CAME IN THE HOUSE, HE JUST STORMED IN THE
20 HOUSE AND CAME IN MY ROOM, HIM AND MARK IRONS, AND I WAS
21 LIKE WHAT'S WRONG, WHAT'S WRONG CAUSE I HAD SEEN BLOOD ON
22 HIS SHIRT. HE WAS LIKE I WAS AT WALMART AND I WAS GETTING
23 SHOOT, SHOT AT AND I WAS LIKE WELL WHO SHOT YOU. HE WAS
24 LIKE BOS AND I WENT, WHAT, YOU KNOW, WHAT HAPPENED? HE WAS
25 LIKE ALL I KNOW IS HE JUST STARTED SHOOTING AT ME AND I RAN

MS. HAMMONDS - DIRECT EXAMINATION BY MS. ELDER

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1 AND HE GOT GRAZED ON HIS SHOULDER RIGHT HERE.

2 Q AND YOU SAW THE INJURY?

3 A YES, MA'AM.

4 Q AND YOU SAID YOU SAW SOME BLOOD?

5 A UH-HUH, ON HIS HAND AND ON HIS SHIRT.

6 Q OKAY, AND WAS, WHEN HE CAME INTO THE HOUSE
7 AND TOLD YOU THAT WHAT TIME OF DAY IS IT?

8 A IT WAS AT NIGHT TIME, IT WAS NEAR MIDNIGHT.

9 Q OKAY, AND COULD YOU TELL IF IT HAD, IF THE
10 INCIDENT HAD JUST HAPPENED?

11 A IT HAD TO JUST HAPPEN, HE STILL HAD BLOOD
12 AND STUFF ON HIS HAND.

13 Q OKAY, AND HE TOLD YOU, YOU SAID HE SAID IT
14 WAS BOS?

15 A UH-HUH.

16 Q AND WHO DO YOU KNOW TO BE BOS?

17 A BRIAN SPEARS.

18 Q AND THIS WAS ABOUT A MONTH PRIOR TO HIS
19 MURDER HERE?

20 A YES, MA'AM.

21 Q AND HE DIDN'T CALL, YA'LL DIDN'T CALL THE
22 POLICE, DID YOU?

23 A NO, MA'AM.

24 Q WHY NOT?

25 A I MEAN HE JUST SAID, HE DIDN'T GET SHOT OR

MS. HAMMONDS - DIRECT EXAMINATION BY MS. ELDER

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1 NOTHING. HE SAID IT JUST GRAZED HIS SHOULDER AND HE SAID
2 HE WASN'T GOING TO GO TO THE HOSPITAL FOR THAT.

3 Q AND AARON, WAS AARON PART OF A GROUP UP
4 THERE?

5 A YES, MA'AM.

6 Q WHAT KIND OF GROUP WAS IT?

7 A THE EAST SIDE BLOOD.

8 Q OKAY, IS THAT A GANG?

9 A YES, MA'AM.

10 Q AND IS THAT ONE OF THE REASONS, IS THAT A
11 REASON THEY DIDN'T NORMALLY CALL THE POLICE FOR STUFF?

12 A PROBABLY.

13 Q NOW AARON WAS A MEMBER OF EAST SIDE BLOOD,
14 DID HE GET ALONG WITH BOS?

15 A NO, MA'AM, HE DIDN'T GET ALONG WITH NOBODY
16 FROM THAT SIDE OF TOWN.

17 Q AND WHAT SIDE OF TOWN WAS BOS FROM?

18 A HE WAS FROM THE SOUTH SIDE, THAT'S 41.

19 MS. PRATT: YOUR HONOR, I'M GOING TO OBJECT TO
20 THIS LINE OF QUESTIONING AND ASK HER TO LAY A FOUNDATION AS
21 TO HOW SHE WOULD KNOW THIS INFORMATION.

22 THE COURT: ALL RIGHT, ESTABLISH YOUR
23 FOUNDATION.

24 MS. ELDER: (CONTINUING)

25 Q HOW LONG HAVE YOU LIVED IN LUMBERTON?

MS. HAMMONDS - DIRECT EXAMINATION BY MS. ELDER

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1 A ALL MY LIFE.

2 Q AND YOU'RE OUT IN THE COMMUNITY ON A
3 REGULAR BASIS?

4 A YES, MA'AM.

5 Q DO YOU KNOW A LOT OF PEOPLE?

6 A YES, MA'AM.

7 Q HAVE YOU HAD AN OPPORTUNITY TO OBSERVE
8 DISPUTES BETWEEN GROUPS OF PEOPLE?

9 A YES, MA'AM.

10 Q AND WHAT GROUPS OF PEOPLE HAVE YOU OBSERVED
11 HAVING DISPUTES?

12 A THE BLOOD'S AND THE FOLK'S FROM THE OTHER
13 SIDE OF TOWN.

14 Q AND WHAT SIDE OF TOWN ARE THEY FROM?

15 A FORTY-ONE, THAT'S THE SOUTH SIDE.

16 Q AND WAS BOS A PART OF 41?

17 A THAT GANG?

18 Q YES, MA'AM?

19 A YES, MA'AM.

20 Q AARON PRIOR TO HIS MURDER IN MAY AND HIM
21 GETTING SHOT AT IN APRIL, HAD HE JUST BEEN RELEASED FROM,
22 FROM JAIL?

23 A YES, MA'AM.

24 Q AND WHY HAD AARON BEEN JUST RELEASED FROM
25 JAIL? WHAT WAS HE IN JAIL FOR?

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

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1 A HE WAS LOCKED UP FOR ACCESSORY AFTER THE
2 FACT OF MURDER.

3 Q AND WHOSE MURDER WAS THAT?

4 A ERIC FLOYD.

5 Q DO YOU KNOW IF ERIC FLOYD OF YOUR OWN
6 KNOWLEDGE HAD A STREET NAME?

7 A TURK.

8 Q TURK, DO YOU KNOW THE NAME G-BLACK?

9 A YES, MA'AM.

10 Q AND WHO DOES THAT REFER TO?

11 A TURK.

12 Q THAT'S THE SAME ---

13 A ERIC FLOYD.

14 Q OKAY, HE HAD TWO STREET NAMES, TURK AND G-
15 BLACK?

16 A YES, MA'AM.

17 Q AND WHAT GROUP, DO YOU KNOW IF ERIC FLOYD
18 OR TURK OR G-BLACK BELONGED TO EITHER 41, FOLK, OR EAST
19 SIDE BLOOD?

20 A FORTY-ONE, FOLK.

21 Q OKAY, SO HE WAS OVER HERE WITH BRIAN SPEARS
22 GROUP?

23 A YES, MA'AM.

24 Q AND YOUR BROTHER WAS OVER, OVER HERE --

25 MS. ELDER: JUST A MOMENT, YOUR HONOR. I DON'T

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

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1 HAVE ANY OTHER QUESTIONS, YOUR HONOR.

2 THE COURT: ALL RIGHT, MS. PRATT?

3 MS. PRATT: THANK YOU, YOUR HONOR.

4 CROSS EXAMINATION

5 BY MS. PRATT:

6 Q MS. HAMMONDS, YOU SAY THAT YOU WERE AT HOME
7 CLEANING YOUR ROOM?

8 A YES, MA'AM.

9 Q AT MIDNIGHT?

10 A YES, MA'AM.

11 Q OKAY, IS THAT YOUR NORMAL PRACTICE?

12 A YES, MA'AM, CAUSE I BE UP ALL NIGHT.

13 Q DO YOU WORK DURING THE NIGHT TIME AND THEN
14 UP IN THE DAY?

15 A NO, I DON'T WORK.

16 Q OKAY, ALL RIGHT, AND HOW OLD ARE YOU, MS.
17 HAMMONDS?

18 A I'M 22.

19 Q AND AT THE TIME THAT THIS WAS GOING ON THAT
20 WOULD HAVE MADE YOU ABOUT WHAT AGE?

21 A NINETEEN, 20.

22 Q ALL RIGHT, AND HOW OLD WAS AARON AT THE
23 TIME?

24 A TWENTY-TWO.

25 Q HE WAS TWO YEARS OLDER. HE'S YOUR BIG

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

277

1 BROTHER AND WERE YOU PRETTY CLOSE WITH HIM?

2 A YES, MA'AM.

3 Q DID YOU HANG OUT WITH AARON?

4 A WELL AT THE HOUSE AND STUFF LIKE THAT.

5 Q OKAY, WHERE WOULD YOU HAVE HUNG AT WITH
6 HIM, JUST AT THE HOUSE OR DID YOU EVER GO OUT WITH HIM AND
7 HIS FRIENDS?

8 A I AIN'T NEVER REALLY LIKE WENT OUT WITH HIM
9 AND HIS FRIENDS TO NOWHERE BUT WE ALL BEEN IN THE SAME
10 PLACES BEFORE.

11 Q BUT NOT AT THE SAME TIME?

12 A WHAT YOU MEAN NOT AT THE SAME TIME?

13 Q WELL YOU NEVER BEEN OUT WITH HIM SOME OTHER
14 PLACE THAN AT THE HOUSE, IS THAT WHAT YOU'RE SAYING?

15 A WE'VE BEEN OUT BUT LIKE PLACES LIKE WHERE?

16 Q I GUESS OUT AT CLUBS OR OUT TO OTHER
17 PEOPLE'S HOUSES?

18 A NO, WE AIN'T NEVER GO THE CLUB.

19 Q SO YOU, DO YOU KNOW WHO HIS FRIENDS ARE?

20 A YEAH, I KNOW WHO HIS FRIENDS ARE.

21 Q AND HOW DO YOU KNOW WHO HIS FRIENDS ARE?

22 A THEY COME TO THE HOUSE A COUPLE OF TIMES
23 BUT I DON'T ALWAYS BE THERE WHEN THEY BE THERE.

24 Q THEN HOW WOULD YOU KNOW WHO THEY ARE?

25 A CAUSE HE BE AROUND THEM. I KNOW WHO HE BE

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

278

1 AROUND AND I KNOW WHO HE TALK TO ON THE PHONE.

2 Q HOW DO YOU KNOW WHO'S ON THE OTHER SIDE OF
3 THE PHONE?

4 A CAUSE I LISTEN TO WHAT HE BE SAYING.

5 Q AND WHAT YOU HEAR IS WHAT HE SAYS AND WHAT
6 YOU SEE IS WHAT HE DOES BUT YOU DON'T SEE THESE OTHER
7 PEOPLE, ISN'T THAT CORRECT?

8 A THAT'S CORRECT.

9 Q SO YOU REALLY DON'T KNOW WHO THEY ARE, DO
10 YOU?

11 A I DO KNOW WHO THEY ARE.

12 Q HOW DO YOU KNOW?

13 A CAUSE MOST OF HIS FRIENDS ARE HIS COUSINS.

14 Q OH, OKAY?

15 A AND PEOPLE THAT HE GREW UP WITH.

16 Q AND NAME ME A FEW OF THOSE FOLKS?

17 A MARK IRONS, MATTHEW JENKINS, TRENT IRONS,
18 TONIO TAYLOR, KEEP GOING?

19 Q SURE?

20 A MAN SINCLAIR.

21 Q THESE ARE ALL COUSINS?

22 A SOME OF THEM.

23 Q HOW MANY TIMES HAVE YOU MET ANTONIO TAYLOR?

24 A TOO MANY TO COUNT CAUSE I KNOW HIM TOO, WE
25 GREW UP WITH HIM.

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

279

1 Q AND WHAT ---

2 A JUST ABOUT EVERYBODY THAT I NAMED ARE
3 PEOPLE THAT WE GREW UP WITH.

4 Q ANTONIO WAS CHARGED IN THE MURDER THAT YOUR
5 BROTHER WAS CHARGED IN, WASN'T HE?

6 A YES, MA'AM.

7 Q AND HE ACTUALLY ENDED UP PLEADING TO IT?

8 A TONIO, YES, MA'AM.

9 Q AND YOUR BROTHER WAS ORIGINALLY CHARGED
10 WITH MURDER BUT IT GOT REDUCED TO ACCESSORY, CORRECT?

11 A UH-HUH.

12 Q OKAY, AND HOW MANY TIMES DO YOU THINK
13 YOU'VE SEEN ALL OF THESE FOLKS TOGETHER IN A SITUATION
14 WHERE THEY WEREN'T JUST TALKING ONE BY ONE AT YOUR HOUSE?

15 A I DON'T KNOW, A LOT OF TIMES.

16 Q MORE THAN FIVE?

17 A YEAH.

18 Q MORE THAN TEN?

19 A YEAH.

20 Q OKAY, DID THEY TALK ABOUT GANG STUFF IN
21 FRONT OF YOU?

22 A LIKE, NO, NOT REALLY.

23 Q SO HOW DO YOU KNOW IT WAS A GANG?

24 A CAUSE I KNOW IT.

25 Q HOW?

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

280

1 A I KNOW IT CAUSE OF HIS TATTOOS AND STUFF
2 THEN I HEAR THEM AND I KNOW HE'S A BLOOD.

3 Q AND I THINK THAT'S THE QUESTION THAT I HAVE
4 FOR YOU. IT JUST, YOUR TESTIMONY HAS TO BE WHAT YOU
5 PERSONALLY KNOW, NOT WHAT OTHER PEOPLE HAVE TOLD YOU, NOT
6 WHAT YOU BELIEVE OR HAVE SOME PRECONCEIVED NOTION ABOUT BUT
7 WHAT YOU PERSONALLY KNOW. SO IF YOU WERE NOT AROUND THEM
8 WHEN THEY WERE TALKING ABOUT A GANG HOW DO YOU KNOW OF YOUR
9 OWN KNOWLEDGE?

10 A THAT'S JUST SOMETHING I KNOW. I KNOW HE'S
11 A BLOOD. I KNOW ABOUT HIS TATTOOS AND I KNOW WHAT HIS
12 TATTOOS AND STUFF MEAN.

13 Q WOULD BE A MEMBER OF THE GANG?

14 A SEE, THAT'S WHAT I DON'T KNOW, I WASN'T
15 THERE.

16 Q SO YOU DON'T KNOW IF HE'S A GANG MEMBER
17 FROM THAT RESPECT, DO YOU?

18 A FROM WHAT HE'S TELLING, FROM WHAT HE TELL
19 ME HE'S A BLOOD AND HE A BLOOD.

20 Q NOW YOU SAID YOU HAD AN OPPORTUNITY TO
21 OBSERVE A DISPUTE BETWEEN SOUTH SIDE FOLK AND BLOOD?

22 A UH-HUH.

23 Q WHERE?

24 A WELL, ONE INCIDENT I WAS THERE, IT WAS
25 FIGHTING AT THE STORE. IT WAS A LONG TIME AGO AT THE

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

281

1 SKATING RING AND IT WAS BLOOD AGAINST FOLK AT THE CORNER
2 STORE.

3 Q AND YOUR BROTHER WAS FIGHTING?

4 A UH-HUH.

5 Q WAS HE WEARING RED?

6 A YEAH, THEY ALL HAD ON RED.

7 Q CAUSE THE BLOOD'S WEAR RED, DON'T THEY?

8 A YEAH.

9 Q AND SO IF SOMEBODY IN THE FOLK WAS WEARING,
10 THEY WOULDN'T WEAR RED, WOULD THEY?

11 A WELL THEY DO, THAT'S WHAT THEY DO. LIKE
12 WHEN THEY GO TO DO SOMETHING THEY WERE OPPOSITE COLORS.

13 Q WOULD YOUR BROTHER WEAR OPPOSITE COLORS?

14 A NO, HE ALWAYS WORE RED BUT ---

15 Q IT'S JUST A LITTLE BIT DECEPTIVE, ISN'T IT,
16 KIND OF CHEATING?

17 A IT'S PART OF THE GAME.

18 Q PART OF THE GAME, NOW HOW DO YOU KNOW THAT
19 ERIC FLOYD WAS KNOWN AS TURK?

20 A THAT'S JUST WHAT I, THAT'S WHAT REALLY THE
21 ONLY NAME I KNOW HIM BY WAS TURK.

22 Q AND YOU HAD MET HIM PERSONALLY?

23 A NO.

24 Q SO YOU DON'T KNOW HIS NAME IS TURK?

25 A I KNOW IT FROM PEOPLE TELLING ME HIS NAME.

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

282

1 Q WHO?

2 A A LOT OF PEOPLE.

3 Q OKAY, BUT AGAIN NOT YOUR OWN KNOWLEDGE?

4 A NO.

5 Q ARE YOU AWARE THAT, WELL LET ME ASK YOU

6 THIS QUESTION, ARE YOU FRIENDS WITH JEFFREY BETHEA KNOWN AS

7 BIRD?

8 A I AIN'T FRIENDS BUT I KNOW, HE'S BEEN, HE'S

9 BEEN TO MY HOUSE A COUPLE OF TIMES.

10 Q AND HE'S SUPPOSED TO BE IN THE OTHER GANG,

11 RIGHT?

12 A UH-HUH.

13 Q SO WHY WOULD HE HAVE BEEN TO YOUR HOUSE?

14 A CAUSE THIS WAS BEFORE ALL THIS

15 CONFRONTATION BETWEEN THEM STARTED.

16 Q WELL I THOUGHT YOU SAID THE GANG STUFF HAS

17 BEEN GOING ON FOR LOTS OF YEARS?

18 A IT HAS BUT NOT BETWEEN MY BROTHER AND THEM.

19 Q SO JEFFREY BETHEA HAS BEEN TO YOUR HOUSE?

20 A UH-HUH.

21 Q HAS HE HUGGED YOUR NECK AND HUG YOUR MAMA?

22 A UH-HUH.

23 Q OKAY ---

24 A AND MY AUNT, CAUSE MY AUNT IS THE ONE WHO

25 REALLY KNOW HIM.

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

283

1 Q AND HOW DOES YOUR, WELL I WON'T GET INTO
2 THAT. SO IT'S NOT A FACT THAT ALL OF ONE GROUP IS ENEMIES
3 WITH ALL OF THE OTHER GROUP, ISN'T THAT TRUE?

4 A WELL NOW IT IS.

5 Q BUT IT WASN'T BEFORE THIS INCIDENT WAS IT,
6 MA'AM?

7 A IT'S JUST ON GOING. YOU KNOW HOW IT IS
8 LIKE IF MY BOY, IF MY GIRL DON'T LIKE SOMEBODY THEN THE
9 WHOLE GROUP IS NOT GOING TO LIKE YOU.

10 Q BUT PRIOR TO THIS INCIDENT BETHEA CAME BACK
11 AND FORTH IN AND OUT OF YOUR HOUSE HUGGING YOUR NECK,
12 HUGGING YOUR MAMA'S NECK, HUGGING YOUR AUNT'S NECK THEN HOW
13 CAN YOU SAY THAT IT'S BEEN THE PATTERN THAT THIS GROUP ALL
14 OF THEM ARE AGAINST THIS ONE?

15 A CAUSE BIRD ---

16 Q I MEAN DOESN'T THAT KIND FLY IN THE FACE OF
17 IT?

18 A BIRD, LET ME SEE HOW I'M GOING TO PUT BIRD.
19 I KNOW HE'S PART OF A GANG BUT WHEN HE WAS COMING TO MY
20 HOUSE AARON HE WAS THERE ONE TIME WHEN BIRD CAME BUT IT
21 WASN'T NO DISPUTE OR NOTHING LIKE THAT.

22 Q CAUSE THE GANGS DON'T ALWAYS DISPUTE, DO
23 THEY?

24 A MOST OF THE TIME THEY DO.

25 Q BUT IT'S NOT A RULE THAT 100 PERCENT OF THE

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

284

1 TIME GANGS ARE GOING TO BE FIGHTING WITH EACH OTHER?

2 INDIVIDUAL MEMBERS HAVE THEIR OWN FREE WILL, DON'T THEY?

3 A YEAH.

4 Q AND EACH INDIVIDUAL MEMBER CAN DO THEIR OWN
5 THING?

6 A UH-HUH.

7 Q AND IF YOU CHOSE TO, TO DROP YOUR FLAG AND
8 NOT WEAR YOUR COLORS AND NOT BE PART OF THE GANG ANY LONGER
9 YOU CAN DO THAT, ISN'T THAT TRUE?

10 A YEAH, YOU CAN BUT IT'S GOING TO BE A
11 PROBLEM.

12 Q IN FACT ---

13 MS. ELDER: YOUR HONOR, COULD SHE ALLOW THIS
14 WITNESS TO ANSWER.

15 THE COURT: LET HER ANSWER, OKAY, YOU CAN
16 FINISH YOUR ANSWER.

17

18 THE WITNESS: (CONTINUING)

19 A SAY THAT AGAIN?

20 Q FINISH WHAT YOU WERE GOING TO SAY?

21 A REPEAT YOUR QUESTION, ASK THAT AGAIN.

22 Q I'LL GO TO SOMETHING ELSE. ISN'T IT TRUE
23 THAT IN LUMBERTON GETTING INTO THE GANG AND GETTING OUT OF
24 A GANG ISN'T LIKE WHAT THE NORMAL SITUATION THAT WE THINK
25 OF IS, YOU DON'T ALWAYS GET BEAT IN, YOU SAID AARON DIDN'T

MS. HAMMONDS - CROSS EXAMINATION BY MS. PRATT

285

1 GET BEAT IN, RIGHT?

2 A NO, I DON'T KNOW IF HE GOT BEAT IN CAUSE I
3 WASN'T THERE.

4 Q AND PEOPLE CAN DROP THEIR FLAG AND BE OUT?

5 A YEAH, BUT IF, THEY DON'T REALLY DO THAT,
6 THEY DON'T REALLY STOP BEING WITH THEIR CREW.

7 Q BUT SOME OF THEM DO, DON'T THEY?

8 A NO, NOT THEIR CREW.

9 Q NOT ANYBODY EVER?

10 A NOT THAT I KNOW OF.

11 Q AND THE ONLY WAY THAT YOU KNOW OR HAVE ANY
12 WAY OF TESTIFYING THAT IT WAS BOS THAT NIGHT IS CAUSE
13 THAT'S WHAT YOU SAY YOUR BROTHER TOLD YOU?

14 A THAT'S WHAT MY BROTHER TOLD ME.

15 Q AND YOU LOVE YOUR BROTHER?

16 A YES.

17 Q OKAY, AND YOU MISS HIM?

18 A UH-HUH.

19 Q DID YOUR BROTHER EVER LIE TO YOU OVER THE
20 YEARS?

21 A NOT THAT I KNOW OF.

22 Q BUT HE MIGHT HAVE?

23 A HE COULD HAVE.

24 Q BUT YOU DON'T KNOW ---

25 A PEOPLE LIE.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

286

1 Q OKAY, DID HE --

2 A BUT I KNOW HE JUST AIN'T GOING TO SIT THERE
3 AND SAY, OH, BOS DID IT. WHEN I ASKED HIM HE JUST CAME
4 STRAIGHT OUT AND TOLD ME. HE DIDN'T SAY, OH, I THINK IT
5 WAS THIS PERSON OR NOTHING LIKE THAT.

6 Q OKAY, SO HE BLAMED SOMEBODY TO YOU FROM
7 WHAT HE THOUGHT?

8 A HE TOLD ME.

9 Q OKAY --

10 MS. PRATT: BEG THE COURT'S INDULGENCE.

11 Q (CONTINUING) JUST ONE MORE QUESTION.
12 JEFFREY BETHEA WAS COMING TO YOUR HOUSE AND HUGGING YOUR
13 NECK AND YOUR MAMA'S NECK AND YOUR AUNT'S NECK WAS THAT
14 BEFORE OR AFTER TURK WAS SUPPOSEDLY KILLED BY AARON AND
15 ANTONIO?

16 A THAT WAS BEFORE.

17 Q WAS IT ALSO AFTER IN THE SHORT PERIOD
18 BEFORE ALL THIS STUFF HAPPENED?

19 A NO, HE STOPPED COMING AFTER ALL THE GANGS
20 WERE STARTED GETTING BAD, HE DIDN'T, HE DIDN'T EVER COME TO
21 OUR HOUSE.

22 MS. PRATT: OKAY, THANK YOU VERY MUCH.

23 MS. ELDER: YOUR HONOR, I HAVE NO FURTHER
24 QUESTIONS AND I WOULD ASK SINCE MS. HAMMONDS IS THE SISTER
25 OF THE VICTIM THAT SHE BE ALLOWED TO STAY IN THE COURTROOM

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

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1 FOR THE DURATION.

2 THE COURT: IF SHE'S DONE WITH HER TESTIMONY
3 I'LL ALLOW IT.

4 MS. ELDER: THANK YOU, YOUR HONOR.

5 THE COURT: YOU MAY STEP DOWN.

6 MS. ELDER: CALL NATHANIEL DOUGLAS.

7 **NATHANIEL DOUGLAS**

8 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

9 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
10 SPELL YOUR LAST NAME FOR THE RECORD.

11 THE WITNESS: NATHANIEL DOUGLAS, D-O-U-G-L-A-S.

12 **DIRECT EXAMINATION**

13 **BY MS. ELDER:**

14 Q NATHANIEL, YOU'RE CURRENTLY IN JAIL; IS
15 THAT RIGHT?

16 A YES, MA'AM.

17 Q AND WHAT ARE YOU IN JAIL FOR?

18 A MURDER AND THREE COUNTS OF ATTEMPTED,
19 MURDER AND THREE ATTEMPT TO KILLS.

20 Q OKAY, AND YOU'RE CODEFENDANT WITH BRIAN
21 SPEARS, RIGHT?

22 A YES, MA'AM.

23 Q YOUR CHARGES RELATE TO WHY WE'RE HERE
24 TODAY?

25 A YES, MA'AM.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

288

1 Q NOW LET'S JUST START OFF WITH I BELIEVE
2 THEY CALL YOU SOMETHING OTHER THAN NATHANIEL; IS THAT
3 RIGHT?

4 A YES, MA'AM.

5 Q WHAT IS THAT?

6 A JUNE.

7 Q JUNE, OKAY. NOW, JUNE, OR NATHANIEL, I'LL
8 CALL YOU NATHANIEL, YOU'RE FROM WHERE?

9 A LUMBERTON, NORTH CAROLINA.

10 Q AND HOW LONG HAVE YOU, HOW LONG HAVE YOU
11 LIVED IN LUMBERTON?

12 A OFF AND ON?

13 Q SINCE, DID YOU GROW UP THERE?

14 A I'VE BEEN BACK AND FORTH FROM NEW JERSEY
15 AND THERE.

16 Q OKAY, AND BACK IN MAY OF 2007 DID YOU LIVE
17 IN LUMBERTON?

18 A YES, MA'AM.

19 Q AND AT THE TIME WHAT PART OF TOWN WERE YOU
20 FROM?

21 A SOUTH SIDE.

22 Q OKAY, AND DID YOU BELONG TO A GROUP THERE?

23 A YES, MA'AM.

24 Q WHAT WAS THAT CALLED?

25 A THE GROWTH DEVELOPMENT GANGSTER SITE.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

289

1 Q WHAT WAS IT PRIOR TO G.D.? WHAT WAS THE
2 NAME PRIOR TO G.D.?

3 A GROWTH DEVELOPMENT.

4 Q PRIOR TO THAT DID IT HAVE ANOTHER NAME?

5 A YEAH, WAY BACK IN THE DAY GANGSTER SITE.

6 Q OKAY, IS THAT A GANG?

7 A NO, MA'AM, ORGANIZATION.

8 Q IT'S AN ORGANIZATION?

9 A CONSIDERED TO THE LAW IT'S A GANG.

10 Q OKAY, AND WHO ELSE WAS IN THIS GROUP WITH
11 YOU?

12 A MANY PEOPLE.

13 Q ALL RIGHT, WAS BRIAN SPEARS?

14 A YES, MA'AM.

15 Q WAS JEFFREY BETHEA?

16 A YES, MA'AM.

17 Q AND DOES, DID BRIAN SPEARS HAVE A NAME THAT
18 HE WENT BY?

19 A YES, MA'AM, BOS.

20 Q BOS, WHAT ABOUT JEFFREY BETHEA?

21 A BIRD.

22 Q TELL ME ABOUT ERIC FLOYD?

23 A WHAT YOU WANT TO KNOW ABOUT HIM?

24 Q WAS HE IN THAT GROUP, TOO?

25 A YES, MA'AM.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

290

- 1 Q AND WHAT WAS HIS NAME?
- 2 A TURK, G-BLACK.
- 3 Q HE WENT BY MORE THAN ONE?
- 4 A YES, MA'AM.
- 5 Q OKAY, AND DID HE GET KILLED?
- 6 A YES, MA'AM.
- 7 Q WAS THAT, HOW LONG AGO WAS THAT?
- 8 A 2004.
- 9 Q WHAT POSITION DID HE HAVE IN YOUR
- 10 ORGANIZATION, GANG, AT THE TIME?
- 11 A WELL WHEN I LEFT HE WAS STILL A FOOT
- 12 SOLDIER.
- 13 Q OKAY, AND WHAT ABOUT JEFFREY BETHEA?
- 14 A HE WAS THE HIGHEST.
- 15 Q AND WHAT ABOUT BRIAN SPEARS?
- 16 A SAME AS TURK.
- 17 Q SOLIDER?
- 18 A YES, MA'AM.
- 19 Q WHAT ABOUT YOU?
- 20 A SAME THING.
- 21 Q OKAY, NOW WHO WAS WITH ERIC FLOYD WHEN HE
- 22 GOT KILLED; DO YOU KNOW?
- 23 A JEFFREY BETHEA FROM MY UNDERSTANDING.
- 24 Q AND AFTER ERIC FLOYD OR TURK, G-BLACK WAS
- 25 KILLED HOW DID YOU FEEL ABOUT TURK, JEFFREY BETHEA?

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

291

1 A I LOST RESPECT FOR HIM.

2 Q AND DID YOUR ORGANIZATION OR GANG SEE HIM
3 DIFFERENTLY AFTER THAT?

4 A YES, MA'AM.

5 Q WHY?

6 A BECAUSE IT WAS HIS FAULT THAT HE GOT
7 KILLED; HE WAS SUPPOSED TO BE AT HOME GETTING READY FOR
8 SCHOOL AND HE BROUGHT HIM OUT THE HOUSE AND TOOK THE GUN
9 FROM HIM AND LEFT HIM OUT THERE AND HE GOT KILLED.

10 Q SO EVEN, BIRD DIDN'T SHOOT ANYBODY?

11 A NO, MA'AM.

12 Q HE DIDN'T SHOOT G-BLACK, DID HE?

13 A NO, MA'AM.

14 Q YOU KNOW AARON HAMMONDS?

15 A YES, MA'AM.

16 Q DID HE GET LOCKED UP FOR G-BLACK'S MURDER?

17 A YES, MA'AM.

18 Q AND WAS BOS CLOSE TO ERIC FLOYD?

19 A YES, ALL OF US WAS.

20 Q AND DID HE, BOS, EVER EXPRESS ANYTHING
21 ABOUT BIRD AND HOW HE LET G-BLACK GET KILLED?

22 A YES.

23 Q WHAT DID HE SAY ABOUT THAT?

24 A SAME THING I JUST TOLD YOU WE LOST,
25 EVERYBODY LOST RESPECT FOR HIM. HE WAS A DISGRACE IN OUR

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

292

1 EYES.

2 Q FROM THE ORGANIZATION, GANG'S PERSPECTIVE?

3 A YES, MA'AM.

4 Q AFTER ERIC DIED, WAS KILLED, DID, DID BIRD
5 STILL HANG OUT WITH YA'LL?

6 A OCCASIONALLY.

7 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS
8 STATE'S JUST FOR IDENTIFICATION 12; DO YOU KNOW WHAT THOSE
9 ARE?

10 A YES, MA'AM.

11 Q WHAT IS THAT?

12 A THOSE ARE BEES.

13 Q AND DO THEY HAVE ANY SYMBOLISM?

14 A YES, MA'AM, WE ALL WORE THEM.

15 Q FOR WHAT?

16 A FOR JUST TO LET, YOU KNOW, THAT WE WERE
17 MEMBERS.

18 Q MEMBERS OF G.D.?

19 A YES, MA'AM.

20 Q AND THERE'S ONE COLOR BEE IN THERE THAT'S
21 DIFFERENT THAN THE REST, WHAT DOES THAT STAND FOR?

22 A THAT'S FOR TURK.

23 Q AFTER HE GOT KILLED?

24 A WELL THAT'S THE ONES HE WORE, HE HAD THEM
25 ON.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

293

1 Q OKAY, HE WORE THEM?

2 A YES, MA'AM.

3 Q AND DID YA'LL EACH TAKE A BEE FROM HIS
4 BEES?

5 A YES, MA'AM.

6 Q SINCE YOU'VE BEEN AT J. REUBEN LONG YOU'VE
7 BEEN IN THERE SINCE 2007, HAVEN'T YOU?

8 A YES, MA'AM.

9 Q AND YOU AND BOS YA'LL HAVE BEEN FRIENDS FOR
10 A WHILE?

11 A YES.

12 Q DID YA'LL TALK WHILE YOU WERE IN JAIL?

13 A YES.

14 Q DID BOS WRITE YOU LETTERS OR CORRESPOND
15 WITH YOU?

16 A YES, MA'AM.

17 Q AND DID HE DO THAT FREQUENTLY?

18 A YES, MA'AM.

19 Q DOES HE LIKE TO WRITE THINGS AND STUFF,
20 TOO?

21 A WHAT YOU MEAN LIKE WRITE?

22 Q DOES HE WRITE A LOT?

23 A YES, MA'AM.

24 Q LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
25 EXHIBIT 15 I WANT YOU TO LOOK, DO YOU RECOGNIZE THE

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

294

1 WRITING?

2 A YES, MA'AM.

3 Q AND WHAT, WHOSE WRITING DOES THAT APPEAR TO
4 BE?

5 A BRIAN SPEARS.

6 Q DO YOU KNOW SOMEBODY THAT GOES BY THE
7 STREET NAME "TRILL?"

8 A YES, MA'AM.

9 Q WHO IS THAT?

10 A BRADLEY MCCORMICK.

11 Q AND DO YOU KNOW WHERE HE IS?

12 A AT THE TIME HE'S INCARCERATED.

13 Q OKAY, IN NORTH, IS HE IN NORTH CAROLINA?

14 A YES, MA'AM.

15 Q ALL RIGHT, IS HE PART OF G.D.?

16 A YES, MA'AM.

17 Q AND DOES HE, DO YOU KNOW IF BRIAN SPEARS
18 KNEW HIM?

19 A YES, MA'AM.

20 Q DID THEY EVER HANG OUT?

21 A YES, THEY DID.

22 Q OKAY, BACK IN LUMBERTON?

23 A YES.

24 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS

25 STATE'S EXHIBIT 13 FOR IDENTIFICATION THAT'S THE LETTER, DO

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

295

1 YOU RECOGNIZE THAT WRITING?

2 A YES, MA'AM.

3 Q AND WHOSE DOES THAT APPEAR TO BE?

4 A BRIAN SPEARS.

5 Q TO IDENTIFY YOURSELF AS A MEMBER OF G.D.

6 OTHER THAN THE BEES DID YA'LL EVER GET TATTOOS, THINGS LIKE
7 THAT?

8 A SOME.

9 Q OKAY, AND HAVE YOU SEEN THESE TATTOOS IN
10 YOUR GROUP?

11 A YES.

12 Q AND DO YOU KNOW WHAT SOME OF THEM MEAN?

13 A YES, MA'AM.

14 Q TAKE A LOOK AT WHAT'S BEEN MARKED STATE'S
15 EXHIBIT 14 AND DO YOU RECOGNIZE THAT TATTOO?

16 A YES, MA'AM.

17 Q NOW WHAT DOES THAT MEAN?

18 A THAT'S JUST, HE JUST PUT A CROWN ON IT TO
19 SYMBOLIZE HIS ROYALTY AND THE G.D. IS FOR, YOU KNOW, THE
20 NATION AND TO TELL IT'S FOR THE BRAVERY ON THE PATH OF
21 GROWTH AND DEVELOPMENT.

22 Q GROWTH, BRAVERY ON THE PATH.

23 A YEAH, TO A BETTER GROWTH AND DEVELOPMENT.

24 Q ALL RIGHT, DO YOU KNOW WHAT THE TEARDROP
25 MEANS?

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

296

- 1 A NO, MA'AM.
- 2 Q OKAY. ALL RIGHT, NATHANIEL, I WANT TO TAKE
- 3 YOU BACK TO MAY 27TH, 2007.
- 4 A YES, MA'AM.
- 5 Q WERE YOU IN MYRTLE BEACH?
- 6 A YES, I WAS.
- 7 Q OKAY, HOW DID YOU COME TO GET TO MYRTLE
- 8 BEACH?
- 9 A ME, BRIAN SPEARS, AND TOMMY SHAW, ISHMAEL
- 10 DOUGLAS.
- 11 Q I'M SORRY, I DIDN'T HEAR THE LAST NAME?
- 12 A ISHMAEL DOUGLAS.
- 13 Q OKAY, AND ISHMAEL DOUGLAS DID HE HAVE A
- 14 STREET NAME?
- 15 A WA-GEE.
- 16 Q OKAY, AND DID HE ALSO, DID YA'LL CALL HIM
- 17 ISH?
- 18 A YEAH.
- 19 Q OKAY, AND YA'LL CAME DOWN TOGETHER?
- 20 A YES, MA'AM.
- 21 Q DID YA'LL COME IN THE SAME CAR?
- 22 A YES, MA'AM.
- 23 Q AND WHY DID YA'LL COME DOWN TO MYRTLE
- 24 BEACH?
- 25 A TO BIKE WEEKEND.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

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1 Q DO YOU REMEMBER WHAT DAY YOU CAME DOWN?

2 A SATURDAY.

3 Q THIS INCIDENT HAPPENED EARLY THAT, LATE
4 THAT NIGHT, EARLY THE NEXT MORNING?

5 A YES.

6 Q SO WHEN THE SHOOTING HAPPENED YA'LL HADN'T
7 BEEN DOWN HERE A WHOLE DAY?

8 A NO, MA'AM.

9 Q DID YA'LL HAVE A PLACE TO STAY OR YA'LL
10 JUST, WHAT WERE YOU GOING TO DO?

11 A WE JUST, WE JUST CAME, WE DIDN'T REALLY
12 KNOW WE WERE GOING, WE JUST DECIDED TO GO AT THE LAST
13 MINUTE.

14 Q OKAY, WAS BIRD WITH YA'LL?

15 A NO, MA'AM.

16 Q AND WHEN YOU GOT DOWN TO MYRTLE BEACH ABOUT
17 WHAT TIME WAS IT, DAY OR NIGHT?

18 A I REALLY DON'T, NIGHT.

19 Q NIGHT?

20 A YES.

21 Q AND WHERE DID YOU GO WHEN YOU GOT DOWN TO
22 MYRTLE BEACH?

23 A WE STOPPED AT TACO BELL THEN WE PARKED AT
24 K-MART AND GOT OUT AND THEN WE STARTED WALKING TO THE
25 BOULEVARD.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

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- 1 Q ON OCEAN BOULEVARD?
- 2 A YES, MA'AM.
- 3 Q AND WHO WAS WALKING WITH YOU AT THE TIME?
- 4 A ME, BRIAN SPEARS, TOMMY SHAW, AND ISH.
- 5 Q ALL RIGHT, AND DID YA'LL EVER SEE JEFFREY
- 6 BETHEA?
- 7 A LATER ON THAT NIGHT WE DID.
- 8 Q ALL RIGHT, AND HOW DID YOU COME TO MEET UP
- 9 WITH HIM?
- 10 A WE SAW HIS ESCALADE COMING DOWN THE
- 11 BOULEVARD.
- 12 Q AND DID YA'LL STOP AND TALK OR --
- 13 A HE GOT OUT, HE GOT OUT OF HIS ESCALADE AND
- 14 CAME OVER TO WHERE WE WAS.
- 15 Q OKAY, AND DID HE PARK HIS CAR?
- 16 A NO, HE DIDN'T.
- 17 Q WHAT DID HE DO WITH THAT?
- 18 A HE DROVE, SOMEBODY ELSE STARTED DRIVING IT.
- 19 Q OKAY, SO HE GOT OUT AND CAME TO YOUR GROUP?
- 20 A YES, MA'AM.
- 21 Q AND WHAT WAS HE WEARING?
- 22 A HE HAD ON A BLACK SHIRT WITH COMBINATION
- 23 LOCKS ALL OVER IT, COLORFUL COMBINATION LOCKS, A NEW YORK
- 24 YANKEE HAT, AND SOME BLUE JEAN SHORTS.
- 25 Q WHAT COLOR WAS THE HAT?

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

299

1 A BLACK WITH LIKE DIFFERENT COLOR NEW YORK
2 SIGNS.
3 Q OKAY, AND WHAT WAS BRIAN SPEARS WEARING
4 THAT NIGHT?
5 A HE HAD ON THREE TEE SHIRTS, A WHITE, BLACK,
6 AND A RED ONE.
7
8 Q ALL RIGHT, AND THE, YOU SAY THE RED?
9 A WAS ON TOP.
10 Q OKAY, HE HAVE A HAT OR ANYTHING?
11 A A BLACK AND RED NEW YORK YANKEES.
12 Q WHAT DID YOU HAVE ON?
13 A I HAD ON AN O.J. SIMPSON BUFFALO JERSEY ALL
14 RED.
15 Q AND IS BRIAN SPEARS TALLER OR SHORTER THAN
16 YOU; DO YOU KNOW, YA'LL ABOUT THE SAME?
17 A TALL, ABOUT THE SAME HEIGHT.
18 Q ABOUT THE SAME HEIGHT, HOW TALL ARE YOU?
19 A I WOULD SAY LIKE FIVE ELEVEN OR 12, I
20 GUESS.
21 Q OKAY, AND BIRD IS HE TALLER THAN YOU?
22 A JUST A LITTLE.
23 Q AFTER BIRD MET UP WITH YOUR GROUP, AFTER HE
24 GOT OUT OF THE CAR WHAT DID YA'LL DO? WERE YA'LL WALKING
25 OR STAYING STILL?

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

300

1 A WALKING.

2 Q DID YA'LL EVER COME TO ONE PLACE AND STAY?

3 A YES, WE DID.

4 Q WHERE WAS THAT AT?

5 A IT WAS LIKE AT THE, I THINK IT WAS A BEACH
6 WAREHOUSE.

7 Q WAS THAT ON THE BOULEVARD?

8 A YES. IT WAS.

9 Q AND WHAT WERE YA'LL DOING THERE?

10 A JUST TALKING, YOU KNOW.

11 Q OKAY, DID YOU EVER SEE AARON HAMMONDS?

12 A YES, I DID.

13 Q AND WHEN DID YOU SEE HIM?

14 A LIKE A HOUR OR TWO AFTER WE LEFT FROM THE
15 BEACH BOULEVARD AND WE KEPT WALKING.

16 Q OKAY, YOU SAW HIM THEN?

17 A YES.

18 Q AND DID BOS SEE HIM?

19 MS. PRATT: YOUR HONOR, I'M GOING TO OBJECT TO
20 THE LEADING AT THIS POINT. I THINK HE NEEDS TO TELL THE
21 STORY.

22 THE COURT: ALL RIGHT, JUST DON'T LEAD THE
23 WITNESS, I THINK THAT THE QUESTION YOU JUST ASKED IS
24 LEADING.

25 MS. PRATT: THANK YOU, YOUR HONOR.

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

301

1 MS. ELDER: (CONTINUING)

2 Q DID ANYBODY ELSE SEE AARON OTHER THAN YOU?

3 A YES, EVERYBODY IN THE GROUP DID.

4 Q OKAY, WAS THERE ANY CONVERSATION ABOUT
5 AARON?

6 A NO, IT WASN'T, IT WAS JUST AT THE POINT IN
7 TIME THAT LEMARK, WELL LEMARK HAD STOPPED AND GAVE US ALL
8 COMMENTS CAUSE WE HAD ON A LOT OF JEWELRY AND FANCY
9 CLOTHES; AND HE SAID, WELL, YOU KNOW, I LIKE THE WAY YA'LL
10 DRESS. WE NEED TO STOP BEEFING AND GET MONEY TOGETHER SO
11 HE TRIED TO GIVE BIRD HANDSHAKE WITH HIS LEFT HAND CAUSE
12 HIS RIGHT HAND WAS IN A SLING AND BIRD SLAPPED HIS HAND
13 DOWN AND STARTED CURSING HIM OUT.

14 Q WHY WOULD BIRD GET OFFENDED THAT HE TRIED
15 TO HAND HIM A LEFT HAND?

16 A CAUSE THAT'S DISRESPECTFUL TO US.

17 Q AND THE GANG?

18 A YES, MA'AM.

19 Q DID LEMARK WALK OFF?

20 A YES.

21 Q ANYBODY GET INTO A PHYSICAL FIGHT OR
22 ANYTHING?

23 A NO, MA'AM.

24 Q AND AFTER THAT, WAS AARON INVOLVED IN THAT
25 DISCUSSION?

1 A NO, HE NEVER SAID ANYTHING.

2 Q OKAY, AFTER THAT SITUATION DID YA'LL STAY
3 TOGETHER?

4 A NOT ACTUALLY BECAUSE BIRD KEPT GOING ON, HE
5 KEPT TRYING TO PUSH THE ISSUE SO ME I WAS THE ONLY ONE THAT
6 SAW THE, STOOD UP TO HIM AND SAID SOMETHING AND TOLD HIM
7 THAT, YOU KNOW, SAYING WE AIN'T COME DOWN HERE FOR NO BULL,
8 BULL CRAP SO ME AND HIM STARTED ARGUING AND ME, ISHMAEL AND
9 T.C. WENT OUR WAY AND LEFT EVERYBODY ELSE THERE.

10 Q AND WHEN YOU SAID LEFT EVERYBODY ELSE THERE
11 DID THAT INCLUDE BRIAN SPEARS?

12 A BRIAN SPEARS, TOMMY SHAW, DANTE, SMURF, IT
13 WAS LIKE SIX OR SEVEN, EIGHT.

14 Q OKAY, AND YOU WALKED OFF?

15 A YES, MA'AM.

16 Q DO YOU KNOW IF ANYBODY HAD ANY WEAPONS THAT
17 NIGHT?

18 A YES, MA'AM.

19 Q WHO?

20 A EVERYBODY THAT WAS IN THE CAR WITH ME.

21 Q WITH YOU?

22 A YES, MA'AM.

23 Q AND THAT INCLUDE BRIAN SPEARS?

24 A YES, MA'AM.

25 Q HOW DID YOU KNOW THAT?

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

303

1 A BECAUSE BEFORE WE LEFT WE BOTH HAD THEM ON
2 CAUSE WE DON'T GO NOWHERE WITHOUT IT, IT'S TOO DANGEROUS.

3 Q OKAY ---

4 A IN LUMBERTON TO LEAVE LIKE THAT.

5 Q WHERE DID HE HAVE HIS GUN?

6 A ON HIS WAISTLINE.

7 Q AND TELL ME HOW ON HIS WAISTLINE?

8 A IN HIS BELT BUCKLE, BELT ON HIS SIDE.

9 Q WAS IT IN A HOLSTER?

10 A NO, MA'AM, IT'S HIS BELT.

11 Q OKAY, AND TELL ME WHAT THE GUN LOOKED LIKE?

12 A SORT OF LIKE TITANIUM CHROME WITH A LOT OF
13 BLACK.

14 Q OKAY, AND YOU, DO YOU KNOW, YOU KNOW
15 ANYTHING ABOUT GUNS?

16 A YES.

17 Q WAS IT A REVOLVER OR AN AUTOMATIC?

18 A IT WAS AUTOMATIC, COULDN'T HAVE BEEN NO
19 BIGGER THAN A 380.

20 Q OKAY, SO WHEN YOU SAY IT COULDN'T BE HOW,
21 SO WE ALL KNOW ARE YOU TALKING ABOUT BIG GUN, LITTLE GUN?

22 A MEDIUM SIZED.

23 Q OKAY, AND DID YOU SEE A HANDGUN ON BIRD
24 THAT NIGHT?

25 A NO, I DIDN'T.

1 Q DID YOU KNOW HIM TO CARRY A GUN?

2 A YES, I DID. WHEN I DO SEE HIM CARRY A GUN
3 MOST OF HIS ARE REVOLVER.

4 Q IS THAT, WAS THAT HIS GUN OF PREFERENCE?

5 A YES, CAUSE IT HOLD, YOU KNOW, SHELL CASING.

6 Q TELL ME, TELL ME WHAT YOU MEAN THEY HOLD
7 SHELL CASING?

8 A WHEN YOU FIRE THEM THE SHELL CASING STILL
9 IN IT.

10 Q SO THEY DON'T DISCHARGE LIKE AN AUTOMATIC?

11 A YEAH, DON'T DISCHARGE.

12 Q NOW AFTER YOU AND ISH AND I BELIEVE YOU
13 SAID T.C. -

14 A YES, MA'AM.

15 Q -- WALKED OFF, WHAT HAPPENED NEXT?

16 A LIKE 10 MINUTES LATER I HEARD GUNSHOTS.

17 Q WHAT DID YOU, TELL ME WHAT YOU HEARD?

18 A I HEARD A LOT OF GUNSHOTS SO WHEN I TURNED
19 I KNEW WHAT EVERYBODY THAT CAME WITH ME HAD ON SO I LOOKED
20 AND I SAW BRIAN.

21 Q WHEN YOU SAID YOU SAW BRIAN WHERE WAS BRIAN
22 IN CONJUNCTION WITH WHERE YOU HEARD THE SHOT?

23 A I DIDN'T REALLY KNOW WHERE THE SHOTS WERE
24 COMING FROM BUT THEY WERE COMING FROM THAT END SO I WAS
25 JUST LOOKING TO SEE WHERE MY PEOPLE WERE, YOU KNOW, AND I

MR. DOUGLAS - DIRECT EXAMINATION BY MS. ELDER

305

1 SAW HIM AND I SAW A COUPLE MORE OF THEM AND THEY WAS
2 RUNNING.

3 Q OKAY, IN THE AREA THAT YOU SAW, HEARD THE
4 SHOTS FROM?

5 A LIKE COMING TOWARDS ME.

6 Q OKAY, IS THAT, DID YOU SEE THEM HEAD OUT
7 THAT WAY?

8 A NO, MA'AM.

9 Q OKAY, AND WHEN WE'RE TALKING ABOUT JUST SO
10 WE CAN SEE WHICH WAY WE WERE GOING, OKAY --

11 A YES, MA'AM.

12 Q WHEN YOU AND T.C. AND ISH LEFT THE GROUP
13 WERE YA'LL ON THE OCEAN SIDE OF THE ROAD OR THE STORE SIDE
14 OF THE ROAD?

15 A I REALLY DON'T KNOW THE BOULEVARD LIKE
16 THAT, IT WAS MY FIRST TIME EVER COMING HERE.

17 Q OKAY --

18 A SO THE BEACH WAREHOUSE I THINK WOULD HAVE
19 BEEN ON THIS SIDE ---

20 Q OKAY --

21 A --- AND WE WAS GOING UP THE SAME, ON THE
22 SAME SIDE BUT WE WAS GOING THAT DIRECTION.

23 Q OKAY, SO YOU WERE WALKING, THE BUILDINGS
24 WOULD HAVE BEEN ON WHICH SIDE OF YOU?

25 A TO MY LEFT.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

306

1 Q TO YOUR LEFT, ALL RIGHT, SO YOU, YA'LL WERE
2 WALKING UP THE SIDEWALK THIS WAY?

3 A YES, MA'AM.

4 Q AND WHERE WAS BRIAN SPEARS AND JEFFREY
5 BETHEA?

6 A STILL IN THE BEACH WAREHOUSE AREA.

7 Q WERE THEY BEHIND OR FRONT?

8 A BEHIND.

9 Q ALL RIGHT, SO YA'LL WERE WALKING AWAY FROM
10 AND WITH THE STORES OVER HERE?

11 A YES, MA'AM.

12 Q OKAY, AND WHEN AARON AND LEMARK AND THEM
13 WALKED AWAY WHICH WAY WERE THEY HEADED?

14 A THEY WERE HEADED IN THE OTHER DIRECTION.

15 Q FROM WHERE YOU AND ISH AND T.C. WENT?

16 A YES.

17 Q OKAY, SO YOU WERE GOING THIS WAY?

18 A AND THEY WERE GOING THAT WAY.

19 Q AND THEY WERE GOING THIS WAY?

20 A YES, MA'AM.

21 Q AND BRIAN AND BOSS THE LAST TIME YOU SAW
22 THEM WERE KIND OF IN THE MIDDLE?

23 A YES.

24 Q AND WHEN YOU TURNED AROUND AFTER YOU HEARD
25 THE SHOTS WHERE DID YOU SEE YOUR GROUP RUNNING FROM? WERE

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

307

1 THEY STILL WHERE YOU LEFT THEM?

2 A YES, MA'AM.

3 Q OR THEY DOWN?

4 A YES, THEY WAS STILL IN THE DIRECTION WHERE
5 THE BEACH WAREHOUSE WAS BUT THEY WERE RUNNING TOWARDS US.

6 Q OKAY, SO IF YOU'RE WALKING THIS WAY YOU
7 TURN AROUND AND SEE SHOTS THEY'RE RUNNING BACK TOWARDS YOU
8 NOW?

9 A YES, MA'AM.

10 Q AND YOU HEARD SHOTS FROM WHERE, FRONT OR
11 BEHIND YOU?

12 A BEHIND.

13 Q DO YOU KNOW WHAT BRIAN SPEARS DID WITH THE
14 GUN HE HAD THAT NIGHT?

15 A NO, MA'AM.

16 MS. ELDER: JUST A MOMENT, YOUR HONOR. YOUR
17 HONOR, THAT'S ALL THE QUESTIONS I HAVE AT THIS TIME.

18 THE COURT: MS. PRATT?

19 CROSS EXAMINATION

20 BY MS. PRATT:

21 Q MR. DOUGLAS --

22 A YES, MA'AM.

23 Q YOU DON'T REALLY WANT TO BE HERE, DO YOU?

24 A HONESTLY, NO.

25 Q AND YOU ACTUALLY HAVE SIGNED AN AGREEMENT

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

308

1 WITH THE SOLICITOR, HAVEN'T YOU?

2 A NO, MA'AM, I REFUSED IT.

3 Q YOU REFUSED IT?

4 A YES, MA'AM.

5 MS. ELDER: YOUR HONOR, CAN WE APPROACH?

6 THE COURT: YES.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
8 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
9 OF THE JURY.)

10 MS. PRATT: (CONTINUING)

11 Q MR. DOUGLAS, BACK ON MARCH THE 30TH OF LAST
12 YEAR, 2009 ---

13 A YES, MA'AM.

14 Q --- ISN'T IT TRUE THAT YOU ENTERED INTO AN
15 AGREEMENT WITH THE SOLICITOR THAT WAS SUBSEQUENTLY YOU
16 CHOSE NOT TO FOLLOW THROUGH ON IT?

17 A YES, MA'AM.

18 Q AND AT THAT TIME YOU WERE WILLING TO
19 TESTIFY AND THE STATE BASICALLY SAID WE'LL CONSIDER YOUR
20 COOPERATION IN WHATEVER WE'RE GOING TO DO WITH YOU?

21 A YES, MA'AM.

22 Q IS THAT RIGHT?

23 A YES, MA'AM.

24 Q OKAY, AND YOU GAVE A SERIES OF STATEMENTS
25 TO THE POLICE, DID YOU NOT?

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

309

1 A YES, MA'AM.

2 Q OKAY, AND I WANT TO TALK TO YOU FIRST OF
3 ALL ABOUT THE FIRST STATEMENT THAT YOU GAVE TO THE POLICE,
4 NOW THAT WOULD HAVE BEEN WHEN YOU WERE FIRST ARRESTED; DO
5 YOU REMEMBER THAT STATEMENT?

6 A YES, MA'AM, I DO.

7 Q THAT WAS IN JUNE OF 2007?

8 A YES, MA'AM.

9 Q HOW DID YOU END UP COMING DOWN HERE TO
10 MYRTLE BEACH TO GIVE THAT STATEMENT?

11 A I WENT TO THE COURT AND THEY SAID THAT AN
12 OFFICER THAT I KNEW HE SAID THAT SOUTH CAROLINA WANTED TO
13 QUESTION ME SO I WENT WITH THEM AND ENDED UP BEING SERVED A
14 WARRANT.

15 Q AND YOU WERE SERVED WITH WARRANTS FOR
16 MURDER AND ASSAULT AND BATTERY WITH INTENT TO KILL JUST
17 LIKE BIRD?

18 A YES, MA'AM.

19 Q OKAY, AND JUST LIKE BRIAN?

20 A YES, MA'AM.

21 Q AND AT THAT TIME YOU TOLD THE POLICE PRETTY
22 MUCH WHAT YOU SAID TODAY; ISN'T THAT TRUE?

23 A YES, MA'AM.

24 Q YOU TOLD THEM THAT YOU WERE THERE?

25 A YES, MA'AM.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

310

1 Q THAT YOU HAD HEARD THE SITUATION WITH
2 LEMARK?

3 A YES, MA'AM.

4 Q THAT THE ONLY PERSON THAT WAS TRIPPING OUT
5 AND GOING CRAZY WAS BIRD?

6 A YES, MA'AM.

7 Q BOSS WASN'T TRIPPING OUT, WAS HE?

8 A NO, MA'AM.

9 Q IN FACT WHAT WAS BOSS DOING?

10 A HE WAS STANDING TO THE SIDE, HE NEVER EVEN
11 SAID NOTHING.

12 Q JUST KIND OF TRYING TO STAY OUT OF IT,
13 WASN'T HE?

14 A YES, MA'AM.

15 Q OKAY, AND BIRD WAS FREAKING OUT, WASN'T HE?

16 A YES, MA'AM.

17 Q WHAT KIND OF THINGS WAS BIRD SAYING?

18 MS. ELDER: OBJECTION, YOUR HONOR. SHE'S ASKING
19 FOR HEARSAY. SHE'S ASKED HIM WHAT KIND OF THINGS BIRD WAS
20 SAYING.

21 MS. PRATT: MY UNDERSTANDING ---

22 THE COURT: WELL IT GOES TO HIS STATE OF MIND, I
23 MEAN IT'S NOT OFFERED FOR PROOF OF MATTER ASSERTED EITHER
24 SO YOU OPENED THE DOOR TO IT, I'M GOING TO LET HER ASK HIM.

25 MS. ELDER: THANK YOU, YOUR HONOR.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

311

1 MS. PRATT: (CONTINUING)

2 Q WHAT KIND OF THINGS WAS BIRD SAYING, AND I
3 KNOW YOU DON'T WANT TO USE THE CUSS WORDS, I THINK THAT'S
4 PART OF YOUR CONCERN, RIGHT?

5 A YES, MA'AM.

6 Q SO IF YOU JUST WANT TO USE INITIALS LIKE
7 "M.F." WE'LL KNOW WHAT THAT MEANS OR "F" WE'LL KNOW WHAT
8 THAT MEANS, OKAY?

9 A HE SAID WHEN LEMARK ASKED, YOU KNOW, TRY TO
10 GIVE HIM THAT HE PUSHED HIS HAND AWAY TOLD HIM TO GET THAT
11 AWAY FROM HIM, YOU KNOW, MEAN, YOU KNOW, HE, HE JUST WAS
12 BASICALLY FLIPPING HIM. HE WAS GOING, YOU KNOW, TOO FAR
13 WITH IT. HE WAS CURSING HIM OUT AND BASICALLY TRYING TO
14 START SOMETHING WITH HIM.

15 Q HE WAS, BIRD WAS?

16 A YES, MA'AM.

17 Q AND WHEN YOU SAY THAT THAT'S LIKE THE HAND
18 BUMP, IS THAT RIGHT?

19 A HE WAS TRYING TO GIVE HIM THEIR HAND SHAKE.

20 Q LIKE HOW?

21 A LIKE, LIKE THAT BUT HE WAS DOING IT WITH
22 THE LEFT HAND CAUSE HIS RIGHT HAND, I GUESS IT WAS BROKE
23 BUT IT WAS IN A SLING.

24 Q NOBODY ELSE WAS UPSET BY THAT, WERE THEY?

25 A NO, CAUSE WE ALL UNDERSTOOD THAT HE WOULD

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

312

1 HAVE NEVER TRIED TO PLAY NOBODY LIKE THAT BECAUSE THEY
2 WOULDN'T HAVE DID IT LIKE THAT EITHER.

3 Q AND LEMARK WAS SUPPOSED TO BE IN THE
4 OPPOSITE GANG, WASN'T HE?

5 A YES, MA'AM.

6 Q BUT YA'LL WERE FRIENDLY AND DOING FINE THAT
7 NIGHT, RIGHT?

8 A YES, I MEAN THERE'S BEEN PLENTY OCCASIONS
9 WHERE WE'VE BEEN IN PARTIES TOGETHER, YOU KNOW, ME, BRYAN,
10 LEMARK, AND A COUPLE OF OTHERS AND WE DON'T HAVE NO
11 PROBLEMS WITH EACH OTHER.

12 Q OKAY, DID BETHEA EVER HAVE PROBLEMS WITH
13 THE OTHER SIDE LIKE THAT?

14 A I DON'T KNOW, I DON'T BE WITH HIM THAT
15 OFTEN BUT I KNOW THAT NIGHT HE WAS FLIPPING OUT.

16 Q AND WHEN YOU SAY FLIPPING OUT I MEAN HE WAS
17 --

18 A YEAH, I BASICALLY, I GUESS HE WAS PUTTING
19 ON A SHOW FOR EVERYBODY.

20 Q OKAY, AND HE SAID MANY, MANY TIMES, WHAT
21 DID HE SAY?

22 A GET THE "F" OUT OF MY FACE BEFORE I "F" YOU
23 UP AND STUFF LIKE THAT.

24 Q ALL RIGHT, SAY THAT AGAIN A LITTLE SLOWER?

25 A GET THE "F" OUT OF MY FACE BEFORE I "F" YOU

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

313

1 UP.

2 Q BEFORE I "F" YOU UP, OKAY, AND HE SAID THAT
3 TO LEMARK?

4 A YES, MA'AM.

5 Q OKAY, AND BOSS WAS CALM?

6 A YES, MA'AM.

7 Q AND OFF TO THE SIDE, AND YOU SAID YOU
8 STARTED ARGUING, I THINK THIS IS IN YOUR SECOND STATEMENT,
9 YOU SAID THAT YOU STARTED ARGUING WITH, WITH BIRD?

10 A YES, MA'AM, I DID.

11 Q AND WHAT WAS IT THAT YOU WERE CONCERNED
12 ABOUT?

13 A BECAUSE HE WAS TRYING TO GET EVERYBODY
14 AMPED UP LIKE BASICALLY TRYING TO GET THEM TO FIGHT, YOU
15 KNOW, AND I TOLD, LIKE I TOLD EVERYBODY, MAN, WE DIDN'T
16 COME DOWN HERE FOR THAT BULL, YOU KNOW WHAT I'M SAYING? I
17 KNOW I DIDN'T, I CAME OUT HERE TO CHASE WOMEN AND THAT'S
18 EXACTLY WHAT I PLANNED TO DO SO I LEFT THEM AND WENT MY OWN
19 WAY.

20 Q AND YOU LEFT WITH ISH AND T.C.?

21 A YES, MA'AM.

22 Q AND I THINK IN YOUR STATEMENT YOU ---

23 A NO, NOT ISH AND T.C., ISH AND MONTE.

24 Q ISH AND MONTE, I'M SORRY?

25 A YES, MA'AM.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

314

1 Q AND MONTE IS --

2 A MONTE IS ANOTHER HOME BOY BUT HE'S NOT A

3 MEMBER.

4 Q OKAY, ALL RIGHT, AND YOU GUYS, I THINK IN

5 YOUR STATEMENT YOU SAID THAT YOU WERE GOING DOWN TO GET

6 SOME PIZZA?

7 A YES, MA'AM.

8 Q OKAY, SO WERE YOU WALKING TOWARDS THE PIZZA

9 PLACE?

10 A YES, MA'AM, IT WAS LIKE A STORE THAT SOLD

11 PIZZA, SOLD ALCOHOL I BELIEVE, TOO.

12 Q YOU PROBABLY WANTED SOME ALCOHOL AT THAT

13 POINT, HUH?

14 A YES, MA'AM.

15 Q ALL RIGHT, I'M GOING TO SHOW YOU ---

16 A EVEN THOUGH I WEREN'T SUPPOSED TO HAVE IT.

17 Q HOW OLD WERE YOU AT THE TIME?

18 A I WAS 19.

19 Q NINETEEN, AND HOW OLD WAS BOSS, DO YOU

20 KNOW?

21 A HE SHOULD HAVE BEEN 20.

22 Q AND WHAT ABOUT BIRD?

23 A I'M NOT SURE BUT HE'S MUCH OLDER THAN US.

24 Q AND NO QUESTION THAT BIRD WAS THE OLDEST

25 AND WAS THE LEADER?

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

315

1 A YES, MA'AM.

2 Q EVEN THOUGH BRIAN'S STREET NAME IS BOSS,
3 THAT'S KIND OF MISLEADING, ISN'T IT?

4 A IT DOESN'T STAND FOR THAT BOSS, I THINK IT
5 STANDS FOR BROTHER OF THE STRUGGLED.

6 Q BROTHER OF THE STRUGGLED?

7 A YES, MA'AM.

8 Q AND WHAT DOES THAT MEAN TO YOU?

9 A TO ME A BROTHER THAT'S GOING THROUGH PAIN
10 AND SUFFERING, YOU KNOW, LIKE GROWING UP WHERE WE COME FROM
11 IS REAL HARD SO FOR US IT'S NOT EASY FOR US TO DO THE
12 NORMAL THINGS OTHER KIDS. WE DIDN'T REALLY HAVE A
13 CHILDHOOD CAUSE WE WERE SO BUSY TRYING TO STAY AWAY FROM
14 OUR ENEMIES AND, YOU KNOW, THINGS LIKE THAT WHERE REALLY WE
15 ALL WERE BASICALLY HURTING EACH OTHER.

16 Q OKAY, AND YOU SAID THAT THE GROUP THAT YOU
17 BELONGED TO, THE ORGANIZATION WAS GROWTH AND DEVELOPMENT?

18 A YES, MA'AM, IT CHANGED BACK IN THE 90'S.

19 Q IN THE 90'S, AND HOW OLD WOULD YOU HAVE
20 BEEN IN THE 90'S?

21 A I WAS VERY YOUNG.

22 Q OKAY, WHAT DOES GROWTH AND DEVELOPMENT MEAN
23 TO YOU?

24 A IT MEANT THAT MR. HOOVER HE WAS LOOKING FOR
25 A CHANGE, AFTER HE GOT ARRESTED HE WANTED A CHANGE FOR

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

316

1 BLACKS, YOU KNOW. IT USED TO JUST BE ONLY BLACK MEMBERS
2 BUT WE DROPPED THE "B" AND BECAME GROWTH BECAUSE WE FELT
3 LIKE EVERYBODY ELSE COULD BE A MEMBER, TOO, IN ORDER FOR US
4 TO EXPAND AND GROW IN DIFFERENT AREAS THAT WE WOULD HAVE TO
5 ACCEPT WHITES, MEXICANS, ANYTHING. SO HE CHANGED IT AND,
6 AND MADE US THE DIFFERENCE BETWEEN GANGSTER TYPE WORDS THAT
7 WE HAD WE WERE SUPPOSED TO HAVE AN EDUCATION AND MORE
8 THINGS LIKE THAT BUT STILL AS A YOUNG, YOU KNOW, GENERATION
9 WE STILL DIDN'T LISTEN EVEN THOUGH I GRADUATED BUT --

10 Q YOU DID, YOU GRADUATED FROM HIGH SCHOOL?

11 A YES, MA'AM.

12 Q GOOD FOR YOU, OKAY. I'M GOING TO SHOW YOU,
13 I'M GOING TO GET BACK ONE STEP ON THAT, BUT I'M GOING TO
14 SHOW YOU DEFENSE EXHIBIT NUMBER 1 WHICH IS THREE PHOTOS AND
15 I KNOW THIS IS A WHILE AGO AND YOU'D ONLY BEEN TO THE BEACH
16 A BIT, BUT SEE IF YOU RECOGNIZE THE AREAS THAT ARE IN
17 THERE? YOU CAN'T REALLY USE YOUR HANDS, CAN YOU?

18 A NO, MA'AM.

19 Q OKAY, LET ME DO IT THIS WAY, I'M GOING TO
20 TAKE THE CLIP OFF OF IT AND I'M GOING TO LAY THEM OUT. THE
21 FIRST PICTURE THAT HAS THE MARK ON IT SAYS 12TH AVENUE
22 NORTH AND THEN THERE'S THE ONE THAT YOU CAN SEE THE SIGN
23 FOR MR. JOE WHITE AVENUE AND THEN THERE'S THE PICTURE THAT
24 HAS GOLDEN VILLA IN THERE, RIGHT?

25 A I DON'T KNOW WHERE I'M AT FROM --

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

317

1 Q YOU CAN'T TELL AT ALL?

2 A NO, I DON'T --

3 Q DO YOU RECOGNIZE EVEN A PIZZA PLACE OR A
4 MOTEL OR ANYTHING?

5 A I DON'T REMEMBER NOTHING. I JUST KNOW, YOU
6 KNOW, IF I WAS THERE WALKING THEN I WOULD KNOW WHERE I'M AT
7 BUT I WOULDN'T KNOW BY LOOKING AT IT ON PICTURES OR
8 ANYTHING.

9 Q OKAY, THAT'S FAIR, SO YOU TURNED AND WALKED
10 AWAY?

11 A YES, MA'AM.

12 Q YOU AND YOUR TWO FRIENDS?

13 A YES, MA'AM, ONE FRIEND AND MY COUSIN.

14 Q ONE FRIEND AND YOUR COUSIN, AND AT THE TIME
15 THAT YOU LEFT BIRD WAS CALM, I MEAN BRIAN WAS CALM?

16 A YES, MA'AM.

17 Q AND BIRD WAS FREAKING OUT?

18 A YES, MA'AM. WELL BASICALLY EVERYBODY HAD
19 GOT SILENT AND LISTENED TO ME AND BIRD, YOU KNOW, AND AFTER
20 I SAID WHAT I SAID TO HIM I WAS LIKE, YOU KNOW WHAT I'M
21 SAYING, I'M GONE.

22 Q OKAY ---

23 A AND I KNOW I SEE BRIAN AND THE REST OF THEM
24 LATER BECAUSE WE WOULD HAVE HAD TO MEET BACK UP ANYWAY.

25 Q CAUSE YOU WERE GOING TO RIDE WITH HIM?

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

318

- 1 A YES, MA'AM.
- 2 Q AND YA'LL HADN'T RIDDEN WITH BIRD?
- 3 A NO, MA'AM.
- 4 Q AND SO, AND YOU, SO IT'S NOT LIKE YOU GUYS
- 5 RODE DOWN WITH BIRD AND MADE THIS PLAN TO GO AFTER THE BOYS
- 6 FROM LUMBERTON, RIGHT?
- 7 A DEFINITELY NOT. WE DIDN'T EVEN KNOW THEY
- 8 WERE THERE.
- 9 Q SO YOU HAD NO IDEA THAT THEY WERE GOING TO
- 10 BE THERE?
- 11 A NO, MA'AM.
- 12 Q NO PLAN AT ALL, OKAY, AND, AND YOU'VE BEEN
- 13 SITTING IN JAIL FOR THREE YEARS EVEN THOUGH YOU WALKED
- 14 AWAY?
- 15 A YES, MA'AM.
- 16 Q EVEN THOUGH YOU DIDN'T HAVE ANY PART IN THE
- 17 PLAN?
- 18 A YES, MA'AM.
- 19 Q NOW THE SOLICITOR ASKED YOU ABOUT WHEN YOU
- 20 TURNED AROUND AFTER YOU HEARD THE SHOTS, WAS BRIAN THE ONLY
- 21 PERSON YOU SAW?
- 22 A NO, BUT MAINLY THAT WAS WHO I WAS LOOKING
- 23 FOR BECAUSE THAT'S WHO I WAS CLOSER TO, HIM AND THE ONES
- 24 THAT I WAS WALKING WITH.
- 25 Q OKAY, SO DOES THAT MEAN THAT HE WAS THE

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

319

1 ONLY ONE THAT WAS RUNNING?

2 A NO, ALL OF THEM WAS RUNNING, PLENTY OF
3 PEOPLE WAS RUNNING, I GOT KNOCKED OVER.

4 Q YOU GOT, AND YOU GOT HURT, TOO, DIDN'T YOU?

5 A YES, MA'AM.

6 Q OKAY, IN FACT I THINK YOU SAID IN ONE OF
7 YOUR STATEMENTS YOU GOT TRAMPLED ON?

8 A YES, MA'AM.

9 Q OKAY, BUT I GUESS MY POINT IS THERE WERE
10 OTHER PEOPLE THAT WERE RUNNING?

11 A YES, MA'AM.

12 Q WERE THERE OTHER PEOPLE FROM YOUR GROUP
13 THAT WERE RUNNING?

14 A YES, MA'AM.

15 Q WHO ELSE WAS RUNNING?

16 A SMURF, DANTE, I WOULD SAY ALL OF THEM WOULD
17 HAVE RAN BUT THAT'S THE ONES I KNOW THAT WAS DOWN THERE,
18 SMURF, DANTE, BETHEA, AND SPEARS, AND A COUPLE OF MORE.

19 Q NOW WHICH WAY DID BETHEA RUN?

20 A I NEVER SAW HIM.

21 Q SO YOU DIDN'T SEE HIM RUN?

22 A NO, MA'AM.

23 Q BUT YOU SAW EVERYBODY ELSE RUNNING TOWARDS
24 YOU?

25 A I SAW BRIAN, AND I SEEN SMURF, AND I MET UP

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

320

1 WITH LIKE DANTE. AFTER I RAN I TRIED TO RUN BACK TO THE
2 AREA WHERE I KNEW EVERYBODY WOULD PROBABLY GO TO THEIR CARS
3 SO I WOULDN'T GET LEFT AND I RAN THAT WAY AND THAT'S WHEN I
4 RAN INTO DANTE.

5 Q OKAY, SO WHEN YOU SAW BRIAN HE WAS WITH
6 SMURF, RIGHT?

7 A NO, WHEN I SEEN HIM THEY WAS RUNNING, YEAH.

8 Q OKAY, AND BETHEA WASN'T RUNNING WITH THEM,
9 WAS HE?

10 A NO, MA'AM.

11 Q SO AS FAR AS YOU KNOW HE WAS NOT EVEN WITH
12 BRIAN, WAS HE?

13 A HE COULDN'T HAVE, I DON'T KNOW, I'M NOT
14 GOING TO SAY.

15 Q OKAY, I HEAR YOU, I HEAR YOU, OKAY, NOW YOU
16 STATED IN YOUR PRIOR STATEMENTS THAT EVERYBODY LEFT THEIR
17 GUNS IN THE CAR; IS THAT RIGHT?

18 A YES, MA'AM, THE ONES THAT I KNEW HAD BIG
19 GUNS EXCEPT FOR ME CAUSE MINE WAS LITTLE ENOUGH TO CARRY IN
20 MY BACK POCKET.

21 Q OKAY, SO DO YOU KNOW OF YOUR OWN KNOWLEDGE
22 THAT BRIAN STILL HAD HIS GUN AT THE TIME THAT YA'LL WERE ON
23 THE BOULEVARD?

24 A I CAN'T SAY, I KNOW THAT HE HAD ONE BEFORE
25 WE LEFT HOME.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

321

1 Q BEFORE YOU LEFT HOME?

2 A YES, MA'AM.

3 Q WHICH WAS A LONG TIME EARLIER THAT DAY?

4 A YES, MA'AM, WELL THAT NIGHT.

5 Q WELL, YEAH, I'M SORRY, THE INCIDENT
6 HAPPENED ABOUT, WHAT, 2 A.M.?

7 A I'M NOT SURE OF THE TIME.

8 Q SO WHEN YOU LEFT HOME IT WOULD HAVE BEEN
9 SOME TIME WHAT, EARLY EVENING?

10 A YEAH, THE SUN WAS STILL UP, STILL UP A
11 LITTLE BIT.

12 Q OKAY, AND IT TAKES ABOUT --

13 A I WOULD SAY LIKE AN HOUR AND 45 MINUTES.
14 I'M NOT REALLY SURE BUT IT DIDN'T SEEM THAT LONG.

15 Q OKAY, SO YOU WOULD HAVE GOTTEN HERE AT THE
16 BEACH WAS IT STILL LIGHT OR JUST GETTING DARK?

17 A IT WAS DARK THEN.

18 Q OKAY, ALL RIGHT, IN MAY SO MAYBE 8, 9:00?

19 A YES, MA'AM.

20 Q OKAY, SO YOU HAD A FEW HOURS HANGING OUT
21 HERE AT THE BEACH?

22 A YES, MA'AM.

23 Q ALL OF YA'LL DRINKING AND ---

24 A I WAS, I WAS ENJOYING MYSELF.

25 Q YOU WERE?

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

322

1 A YES, MA'AM.

2 Q CHASING WOMEN?

3 A YES, MA'AM.

4 Q OKAY, AND FROM THE TIME THAT, NOW YOU SAW
5 OTHER PEOPLE OF YOUR GROUP PUT THEIR GUNS, LEAVE THEIR GUNS
6 IN THE CAR, RIGHT?

7 A YES, MA'AM.

8 Q OKAY, AND DON'T KNOW OF YOUR OWN KNOWLEDGE,
9 ISN'T IT TRUE, THAT BRIAN STILL HAD HIS ON HIM?

10 A NO, I DIDN'T.

11 Q YOU DID NOT SEE IT?

12 A NO.

13 Q OKAY ---

14 A I DID NOT.

15 Q AND YOU DIDN'T COME DOWN HERE WITH BIRD?

16 A NO.

17 Q SO YOU WOULDN'T KNOW WHETHER HE HAD A GUN
18 OR NOT, RIGHT?

19 A NO, MA'AM.

20 Q HE COULD HAVE HAD A GUN, COULDN'T HE?

21 A YES.

22 Q AND IT COULD BE THAT BRIAN DIDN'T HAVE ONE,
23 RIGHT?

24 A YEAH, OR EITHER WAY. IT COULD GO EITHER
25 WAY, I WOULDN'T KNOW.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

323

1 Q OKAY, DID YOU EVER HEAR BIRD SAY HE WAS
2 GOING TO KILL AARON?

3 A NO, I DIDN'T.

4 MS. ELDER: OBJECTION, YOUR HONOR. HE'LL BE
5 HERE TO TESTIFY, YOUR HONOR, THEN SHE CAN ASK MR. SPEARS, I
6 MEAN MR. BETHEA, WHEN HE GETS ON THE STAND.

7 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION.
8 MS. PRATT, WHAT WAS YOUR QUESTION? WAS IT DID HE EVER HEAR
9 BIRD SAY --

10 MS. ELDER: THAT HE WAS GOING TO KILL AARON.

11 THE COURT: I'M GOING TO ALLOW IT, THAT'S A
12 STATEMENT AGAINST INTEREST.

13 MS. PRATT: THANK YOU, YOUR HONOR.

14 MS. ELDER: YOUR HONOR, MR. BETHEA IS NOT ON
15 TRIAL.

16 THE COURT: I UNDERSTAND.

17 MS. PRATT: (CONTINUING)

18 Q DID YOU EVER HEAR HIM SAY THAT?

19 A NO, MA'AM.

20 Q NEVER HEARD, YOU NEVER HEARD BIRD SAY THAT
21 HE WAS GOING TO KILL AARON?

22 A NO, HE SAID, THE ONLY THING HE SAY ABOUT
23 KILLING SOMEBODY HE SAID, THEY GO MAKE HIM FROWN AND KILL
24 SOMEBODY, HE NEVER ADDRESSED IT POINTLY TO SOMEBODY. HE
25 JUST, HE SAID THAT THEY GOING TO MAKE HIM KILL SOMEBODY.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

324

1 Q AND WHEN WOULD HAVE HAD SAID THAT?

2 A LIKE DURING THE TIME THAT HIM AND LEMARK
3 HAD GAVE THAT AND THEN HE FLIPPED OUT, YOU KNOW, THAT CAME
4 OUT OF HIS MOUTH BUT I MEAN I DIDN'T REALLY BELIEVE IT.

5 Q OKAY, AND THAT'S BIRD?

6 A YES, MA'AM.

7 Q IN THE PAST HE HAD SAID IT?

8 A PLENTY OF TIMES.

9 Q SURE, 25 OR MORE?

10 A YES, MA'AM.

11 Q OKAY, ALL RIGHT, SO THERE'S NO QUESTION
12 THAT BIRD HAD ALREADY MADE THAT STATEMENT?

13 A YES, MA'AM.

14 Q OKAY, AND THIS IS BRIAN?

15 A YES, IT IS.

16 Q OKAY, BRIAN'S HAIR IS SHORT?

17 A YES, IT IS.

18 Q IS THAT THE WAY HE ALWAYS WEARS IT?

19 A ALWAYS, ME AND HIM AIN'T NEVER HAD NO HAIR
20 ON OUR HEAD.

21 Q YOU NEITHER, HUH?

22 A NEVER.

23 Q OKAY ---

24 A I DON'T EVEN LIKE HAIR.

25 Q ALL RIGHT, AND WHO IN YOUR GROUP DOWN THERE

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

325

1 THAT NIGHT WOULD HAVE HAD DREADS?

2 A BRIAN, ISHMAEL -

3 Q BRIAN, DREADS?

4 A I MEAN, YOU KNOW, BIRD, I MEANT, BIRD, T.C.
5 HAD CORN ROWS, ISHMAEL HAD DREADLOCKS, SMURF HAD BOX
6 BRAIDS.

7 Q I WANT TO SHOW YOU --

8 MS. PRATT: LET ME GET THIS MARKED FIRST FOR
9 IDENTIFICATION.

10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 3 MARKED
11 FOR IDENTIFICATION.)

12 MS. PRATT: (CONTINUING)

13 Q I'M GOING TO SHOW YOU A PICTURE THAT HAS
14 BEEN MARKED DEFENSE EXHIBIT NUMBER 3 FOR IDENTIFICATION AND
15 ASK YOU IF YOU RECOGNIZE THAT PERSON?

16 A YES, I DO.

17 Q WHO IS THAT?

18 A JEFFREY BETHEA.

19 Q AND DESCRIBE FOR ME HOW JEFFREY BETHEA IS
20 WEARING HIS HAIR?

21 A DREADLOCK.

22 Q HOW LONG?

23 A HOW LONG HAS HE HAD THEM?

24 Q NO, HOW LONG IS THE DREADLOCKS?

25 A SHOULD HAVE BEEN LIKE RIGHT HERE.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

326

1 Q OKAY, CERTAINLY SHOULDER OR MORE?

2 A YEAH.

3 Q AND IS THAT THE WAY JEFFREY BETHEA LOOKED
4 AT THE TIME THAT YOU GUYS WERE DOWN ON THE BOULEVARD?

5 A YEAH, HE ALWAYS LOOKED LIKE THAT.

6 Q ALWAYS?

7 A YEAH.

8 Q NO QUESTION IN YOUR MIND THAT'S WHO THAT
9 IS?

10 A YES, MA'AM.

11 MS. PRATT: YOUR HONOR, I'D LIKE TO INTRODUCE
12 THIS AS DEFENSE EXHIBIT NUMBER 3.

13 THE COURT: MS. ELDER?

14 MS. ELDER: NO OBJECTION, YOUR HONOR.

15 THE COURT: WITHOUT OBJECTION.

16 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 3 ENTERED
17 INTO EVIDENCE.)

18 MS. PRATT: MAY I PUBLISH IT TO THE JURY?

19 THE COURT: YES.

20 MS. PRATT: (CONTINUING)

21 Q AND YOU SAID THAT BIRD HAD DREADS, ANYBODY
22 THAT WAS THERE THAT NIGHT ALSO HAVE DREADS?

23 A YES, MA'AM.

24 Q WHO WAS THAT?

25 A MY COUSIN ISHMAEL AND THE CLOSEST PERSON

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

327

1 THAT HAD DREADS AFTER THAT WOULD BE SMURF BECAUSE HE HAD
2 LONG BOX BRAIDS.

3 Q OKAY, AND DID ISH GO WITH YOU?

4 A YES, HE DID.

5 Q SO ISH WASN'T THE ONE THAT HAD DREADS THAT
6 WAS AT THE SCENE OF THE SHOOTING, RIGHT?

7 A NO, MA'AM, HE'D BE NOTICED ANYWHERE.

8 Q I'M SORRY?

9 A HE WOULD HAVE BEEN NOTICED ANYWHERE, HE
10 STANDS OUT.

11 Q WHY DOES HE STAND OUT?

12 A WE'RE HIGH YELLOW, YOU KNOW, WOULD BE EASY
13 TO SEE HIM.

14 Q OKAY, AND WHO WAS THE OTHER PERSON THAT HAD
15 DREADS?

16 A OTHER PERSON THAT HAD DREADS IT WAS JUST
17 HIM AND BETHEA AND SMURF HAD SINGLE PLAT BRAIDS SO IT WAS
18 CLOSE ENOUGH TO DREADS.

19 Q OKAY, SINGLE PLAT BRAIDS KIND OF STICK TO
20 THE HEAD, DO THEY?

21 A NO, THEY JUST LIKE HANG DOWN LIKE DREADS
22 WOULD.

23 Q OKAY, HOW MANY PEOPLE WERE WEARING RED THAT
24 NIGHT?

25 A ALMOST ALL OF US.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

328

1 Q ISN'T IT KIND OF STRANGE THAT PEOPLE THAT
2 WEREN'T BLOOD WERE WEARING RED?

3 A THAT'S NOT TRUE BECAUSE I DON'T, I DON'T
4 UNDERSTAND PEOPLE ALWAYS GET THAT MIXED UP. THEY THINK
5 THAT, YOU KNOW, WE DON'T WEAR RED BUT THAT'S ONE OF OUR
6 ORIGINAL COLORS WHICH IS RED WHICH STANDS FOR THE BLOOD
7 SHED THROUGHOUT THE STRUGGLE, YOU KNOW. SO IT WASN'T NO
8 THING ABOUT NO COLOR AND IT REALLY WASN'T NO BLOOD VERSUS
9 NO FOLKS OR NOTHING LIKE THAT BECAUSE WE HAD PROBLEMS WITH
10 THESE KIDS, WITH THEM SINCE WE GROWN UP SO IT WAS BESIDES
11 THE GANG THING, BEEN KNOWING THEM ALL OUR LIFE.

12 Q WELL AND TELL ME ABOUT THAT, WAS IT, IS IT
13 REALLY A GANG THING OR IS IT INDIVIDUAL FIGHTING?

14 A IT'S REALLY INDIVIDUAL BUT THEY WASN'T EVEN
15 BLOOD'S, YOU KNOW, I DON'T KNOW ABOUT THEM NOW BUT THEY
16 NEVER WERE NO BLOOD'S.

17 Q WHY DO YOU SAY THAT?

18 A BECAUSE I KNOW THEY WASN'T, YOU KNOW, FROM
19 BEING IN LUMBERTON THERE WAS NO BLOOD'S IN LUMBERTON. THE
20 COPS BASICALLY PLACED THAT SYMBOL ON THEM.

21 Q OKAY, SO IT'S NOT LIKE IT WAS REALLY A GANG
22 AFFILIATED WITH SOME KIND OF NATIONAL GROUP, I GUESS?

23 A NO, IT WAS THEY NEIGHBORHOOD THAT THEY FELT
24 OUTNUMBERED BECAUSE WE WAS SO LARGE IN NUMBERS THAT THEY
25 STARTED CLICKING UP BUT THERE NEVER WAS NO GANG. IT WAS

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

329

1 LIKE THEIR LITTLE EAST SIDE THING, YOU KNOW, THEY JUST WORE
2 RED.

3 Q OKAY, AND YOU SAID THERE WERE ALMOST ALL OF
4 YOU WERE WEARING RED?

5 A YES.

6 Q OKAY, SO ANY NUMBER OF PEOPLE COULD HAVE
7 BEEN SEEN BY ANY NUMBER OF PEOPLE WEARING RED; IS THAT
8 RIGHT?

9 A YES, MA'AM.

10 Q OKAY, BUT BIRD WOULD HAVE STOOD OUT BECAUSE
11 OF HIS DREADS?

12 A YEAH, HE DIDN'T HAVE ON RED, THOUGH.

13 Q OKAY, BUT BRIAN DIDN'T HAVE DREADS?

14 A NO.

15 Q LET ME ASK YOU THIS, WAS EVERYBODY AMONGST
16 YOUR FRIENDS CLOSE WITH TURK BEFORE HE DIED?

17 A EVERY LAST ONE OF US.

18 Q YOU REALLY LOVED HIM?

19 A YES, I DID.

20 Q HE WAS LIKE A BROTHER?

21 A YES.

22 Q HOW MANY PEOPLE OF YOUR FRIENDS HAD EITHER
23 TURK OR G-BLACK TATTOOED OR WORE OTHER SIGNS?

24 A EVERYBODY, I JUST GOT MINE. I WAS SCARED
25 OF NEEDLES BUT I HAD GOT OVER IT.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

330

1 Q YOU JUST GOT YOURS?

2 A YES, MA'AM.

3 Q DID YOU DO THAT IN PRISON?

4 A YES, MA'AM, I DID.

5 Q I DON'T THINK I WANT TO ASK YOU HOW THEY DO
6 THAT IN PRISON BUT YOU GOT THAT DONE IN PRISON?

7 A YES, MA'AM.

8 Q FOR TURK, OKAY, AND WHO ELSE WOULD HAVE HAD
9 A TURK TATTOO?

10 A PLENTY OF PEOPLE.

11 Q OKAY, DOES THAT MEAN A GANG?

12 A YES, MA'AM, ALL OF US.

13 Q OH, I DIDN'T MEAN TO QUESTION THAT BUT LET
14 ME REPHRASE IT, DOES THAT MEAN YOU GOT THE TATTOO BECAUSE
15 YOU WERE IN A GANG?

16 A NO, I GOT IT BECAUSE THAT WAS MY PEOPLE, I
17 LOVED HIM.

18 Q OKAY, HOW MANY TIMES DID YOU RUN INTO AARON
19 AND LEMARK THAT NIGHT?

20 A WE ONLY SAW THEM ONE TIME.

21 Q JUST ONCE?

22 A YES.

23 Q OKAY, THEY HADN'T PASSED YOU A NUMBER OF
24 TIMES OR ANYTHING, HAD THEY?

25 A NO, MA'AM.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

331

1 Q WAS THERE A TIME THAT YOU SAW BOSS AND BIRD
2 AFTER THE SHOOTING?

3 A TOGETHER OR --

4 Q YEAH, ALL TOGETHER?

5 A NO, NOT UNTIL WE GOT HOME LIKE THE NEXT DAY
6 I SAW WHEN WE HAD A COOKOUT.

7 Q OKAY, WHO WAS AT THE COOKOUT?

8 A NUMEROUS OF PEOPLE, YOU KNOW, LIKE THE SAME
9 PEOPLE THAT WAS ON THE BEACH MEMORIAL.

10 Q OKAY, CAN YOU TELL ME KIND OF WHO IT WAS?

11 A ME, ISHMAEL, SMURF, DANTE, TAY, PEOPLE THAT
12 DIDN'T EVEN BELONG WITH US EVEN.

13 Q OKAY, AND IT WAS A MEMORIAL DAY COOKOUT?

14 A YES, IT WAS.

15 Q YA'LL WERE ALL TOGETHER?

16 A YEAH, IT WAS AT BRIAN'S BABY MOTHER'S
17 HOUSE.

18 Q OKAY, AND IT WAS RIGHT AFTER THE INCIDENT?

19 A YES, IT WAS.

20 Q OKAY, DID YOU HEAR ANYBODY MAKING A
21 STATEMENT BRAGGING ABOUT THE INCIDENT?

22 A ONLY THING I HEARD WAS MR. BETHEA SAY THAT
23 HE SMOKED SAUSAGE, NOBODY DON'T HAVE TO WORRY ABOUT IT NOW.

24 Q AND WHAT DOES SMOKE SAUSAGE MEAN?

25 A BASICALLY HE WAS SAYING THAT MAN WAS STIFF,

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

332

1 YOU KNOW, HE WAS DEAD.

2 Q WAS HE SAYING IT LIKE REAL SAD?

3 A NAH, HE WAS SAYING IT ---

4 Q SINGING?

5 A YOU KNOW HE WAS SAYING IT LIKE A JOKE, YOU
6 KNOW, LIKE HE-HE, HE SMOKED SAUSAGE NOW, YOU KNOW WHAT I'M
7 SAYING, LIKE HE WAS GLAD.

8 Q WAS HE THE ONLY ONE DOING THAT?

9 A YES.

10 Q BOSS WASN'T DOING THAT?

11 A NOBODY WASN'T.

12 Q BUT HE WAS SAYING THAT?

13 A YES, HE WAS.

14 Q DID BETHEA TELL YOU WHAT TO DO IF THE
15 POLICE CAME TO YOU?

16 A NO, HE DIDN'T.

17 Q HE DIDN'T TELL YOU TO BE QUIET OR JUST, YOU
18 KNOW, SAY YOU WEREN'T THERE?

19 A NO.

20 Q WHAT DID HE, WAS HE SAYING ANYTHING LIKE
21 THAT TO YOU?

22 A NO, HE HAD NO IDEA THAT IT WOULD COME THAT
23 WAY.

24 Q OKAY, AND WAS THERE AN INCIDENT AT THE
25 MYRTLE BEACH POLICE DEPARTMENT IN FRONT OF THIS DETECTIVE,

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

333

1 DETECTIVE HULL, WHERE YOU SAW BETHEA?

2 A YES, IT WAS.

3 Q OKAY, AND WHAT HAPPENED?

4 A I, I CURSED HIM OUT. I TOLD HIM, MAN, WHY
5 YOU PUT ME IN THIS, YOU KNOW I WEREN'T THERE, YOU KNOW, HE
6 SAID, HE KNOW THAT I, YOU WEREN'T THERE. HE SAID, LITTLE
7 BROTHER, I KNOW YOU WEREN'T THERE BUT I NEED YOU TO TELL
8 THEM THAT BOSS DID IT.

9 Q I NEED YOU TO TELL THEM THAT BOSS DID IT
10 AND YOU DIDN'T TELL THEM THAT, DID YOU?

11 A NO.

12 Q AND THAT MIGHT CAUSE YOU SOME PROBLEMS NOW
13 BECAUSE YOU AREN'T ON PROFFER NOW, RIGHT?

14 A MAYBE WHEN I GET HOME IF I EVER MAKE IT
15 THERE.

16 Q THAT'S THE THING, ISN'T IT, CAUSE YOU'RE
17 TELLING THIS STORY TODAY AND YOU DON'T KNOW WHAT'S GOING TO
18 HAPPEN TO YOU? THE STATE COULD STILL DECIDE TO TRY YOU FOR
19 MURDER, RIGHT?

20 A YEAH, THAT MIGHT BE A BETTER THING FOR ME.

21 Q OKAY, AND YOU SAY THAT BECAUSE, WHY DO YOU
22 SAY IT MIGHT BE BETTER?

23 A FROM ME GETTING INVOLVED IN THIS, YOU KNOW.

24 Q NOW YOU'VE KNOWN BOSS FOR QUITE A WHILE,
25 WHAT KIND OF THINGS DID YOU GUYS DO TOGETHER?

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

334

1 A EVERYTHING, I MEAN ALL US WERE REAL TIGHT,
2 YOU KNOW. ALL US SLEPT IN THE SAME BED AT ONCE UPON A
3 TIME, YOU KNOW, SPENT THE NIGHT, YOU KNOW, HUNG OUT WITH
4 GIRLS.

5 Q DID YA'LL PLAY MUSIC TOGETHER?

6 A ALL THE TIME.

7 Q DID YOU WRITE MUSIC TOGETHER?

8 A YES, MA'AM.

9 Q DID YOU ACTUALLY HAVE ANY KIND OF PLANS
10 ABOUT THAT?

11 A YES, MA'AM, BECAUSE HE RAPPED AND I ALSO
12 RAPPED BUT I SING.

13 Q SO HE'S A WRITER AND YOU'RE A SINGER?

14 A YES, MA'AM.

15 Q DID YOU HAVE PLANS TO DO THINGS TOGETHER?

16 A YES, MA'AM, I WAS. WELL IF I EVER GET OUT
17 OF HERE I GOT A MEETING WITH MISS QUEEN LATIFAH IN JERSEY.

18 Q COOL, AND LET ME ASK YOU THIS, WHEN YOU
19 WRITE RAP MUSIC IS IT FICTION, I MEAN IT'S NOT THIS IS WHAT
20 I DID TODAY, RIGHT?

21 A NO, IT'S, WE'RE RAPPING, PEOPLE DON'T WANT
22 TO HEAR NOTHING ABOUT YOU GOING TO SCHOOL, YOU BEING A BOY
23 OR NOTHING LIKE THAT. THEY WANT TO HEAR WHAT'S GOING ON
24 OUT IN THE STREET. THEY WANT TO HEAR WHETHER YOU'RE PIPING
25 PILLS OR SELLING DRUGS OR SHOOTING PEOPLE.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

335

1 Q IS EVERYTHING THAT YOU PUT IN A RAP
2 SOMETHING THAT YOU'VE ACTUALLY DONE?

3 A NO, THAT'S NOT TRUE CAUSE IF THAT'S THE
4 CASE EVERYBODY BE IN JAIL.

5 Q OKAY, AND SO YOU HAVE KNOWLEDGE OF RAP THAT
6 YOU'VE WRITTEN, RIGHT?

7 A YES, I DO.

8 Q AND SOME OF THE RAPS THAT YOU AND BRIAN DID
9 TOGETHER?

10 A YES.

11 Q OKAY, AND THOSE PARTICULAR ITEMS NOT ALWAYS
12 TRUTH, RIGHT?

13 A YES, YOU'RE RIGHT.

14 Q IS IT, IS IT FAIR TO SAY THAT YOU WRITE FOR
15 THE AUDIENCE?

16 A YES.

17 Q AND PROBABLY FOR THE ART?

18 A YES.

19 Q SO THAT IT RHYMES?

20 A YES, MA'AM.

21 Q OKAY, AND HAS A BEAT?

22 A THAT'S, THAT'S THE WHOLE POINT OF, OF
23 RAPPING, YOU KNOW, IS TO PUT IT TOGETHER AND WORD IT AND
24 MAKE IT SOUND GOOD FOR OTHER PEOPLE TO BE INTERESTED IN
25 HEARING IT CAUSE IF THEY DON'T LIKE IT WON'T SELL.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

336

1 Q AND THAT'S THE GOAL IS TO SELL SOME, RIGHT?

2 A YES, MA'AM.

3 Q OKAY, ONE LAST THING. JUNE, AND I THANK
4 YOU FOR YOUR CANDOR TODAY, PRIOR TO THIS, THE SAME NIGHT
5 WHILE YA'LL ARE WALKING AROUND AND WALKING BEFORE YOU LEFT
6 TO GO GET PIZZA THE LAST TIME THERE HAD THERE BEEN AN
7 INCIDENT WITH SOME BOYS FROM CONWAY?

8 A YES, IT WAS.

9 Q WOULD YOU TELL ME ABOUT THAT?

10 MS. ELDER: OBJECTION, YOUR HONOR.

11 THE COURT: ALL RIGHT, LET'S SEND THE JURY OUT.

12 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
13 11:55 A.M.)

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
15 RECORD OUT OF THE PRESENCE OF THE JURY.)

16 THE COURT: ALL RIGHT, LET'S HEAR ABOUT IT,
17 WHERE ARE YOU GOING WITH THIS?

18 MS. PRATT: I DON'T, I'D LIKE TO KNOW WHAT THE
19 OBJECTION IS.

20 THE COURT: WHAT'S YOUR OBJECTION FIRST, I
21 ASSUME YOU KNOW?

22 MS. ELDER: RELEVANCE, YOUR HONOR.

23 THE COURT: I DON'T KNOW WHAT WE'RE TALKING
24 ABOUT YET SO I DON'T KNOW IF IT'S RELEVANT. WHERE ARE YOU
25 GOING WITH IT? I MEAN WHAT ARE YOU OBJECTING TO, MS.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

337

1 ELDER?

2 MS. ELDER: YOUR HONOR ---

3 THE COURT: OBVIOUSLY YOU MUST ANTICIPATE WHAT'S
4 COMING UP?

5 MS. ELDER: YES, SIR, THERE WAS SOMETHING
6 INVOLVING A STATEMENT ABOUT SOME INCIDENT PRIOR TO THIS
7 THAT HAD NOTHING TO DO WITH AARON HAMMONDS AND THIS GROUP
8 BUT APPARENTLY THEY HAD SOME DISAGREEMENT WITH SOME BOYS AT
9 CONWAY. NOW THAT HAD NOTHING TO DO WITH THIS SHOOTING, IT
10 HAD NOTHING TO DO WITH ---

11 THE COURT: WELL IF SHE DON'T CROSS -- TELL ME
12 WHERE YOU'RE GOING WITH THIS?

13 MS. PRATT: IT'S RELEVANT, YOUR HONOR, BECAUSE I
14 BELIEVE THAT MR. DOUGLAS WILL TESTIFY THAT AT THE TIME THIS
15 INCIDENT WAS JUST IMMEDIATELY BEFORE THERE WAS AN INCIDENT
16 WITH SOME BOYS FROM CONWAY AND A GUN WAS PULLED OUT ON BIRD
17 AND LATER WHEN I BELIEVE THIS IS WHAT I EXPECT IS THAT MR.
18 BETHEA IS GOING TO TESTIFY THAT BOSS TOLD HIM THAT THAT BOY
19 PULLED A GUN ON YOU TRYING TO INDICATE THAT IT WAS LEMARK
20 WHEN HE REALLY MEANT THESE OTHER PEOPLE AND I WANT THE JURY
21 TO KNOW THAT THERE'S ANOTHER EXPLANATION FOR THAT
22 STATEMENT.

23 THE COURT: SAY THAT ONE MORE TIME, RUN THROUGH
24 THAT SCENARIO?

25 MS. PRATT: OKAY, ABOUT, ABOUT 10, 15, 20

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

338

1 MINUTES MAYBE BEFORE THE LEMARK INCIDENT THERE'S SOME BOYS,
2 SOME BLOOD'S FROM CONWAY. I WASN'T GOING TO USE THE WORD
3 BLOOD'S, BUT THE BOYS FROM CONWAY APPARENTLY ONE OF THEM
4 PULLED OUT A GUN ON BIRD AND THE GROUP, IS THAT RIGHT, OR
5 WAS IT --

6 THE WITNESS: THERE WASN'T NO BLOOD'S, IT WAS
7 JUST NORMAL PEOPLE.

8 MS. PRATT: BUT THEY PULLED OUT A GUN?

9 THE WITNESS: YES.

10 MS. PRATT: OKAY, AND LATER BETHEA HAS TESTIFIED
11 IN A COUPLE OF HIS STATEMENTS TO THE POLICE THAT BOSS TOLD
12 HIM THAT BOY PULLED A GUN ON YOU. THIS IS AN EXPLANATION
13 FOR THAT STATEMENT.

14 THE COURT: WHAT STATEMENT?

15 MS. PRATT: THE STATEMENT THAT BOY PULLED A GUN
16 ON YOU, THAT THERE WAS A BOY THAT PULLED A GUN ON HIM BUT
17 IT WAS A BOY FROM CONWAY JUST BEFORE THAT.

18 THE COURT: HAVE WE HEARD ANYTHING ABOUT
19 SOMEBODY PULLING A GUN ON YOU?

20 MS. ELDER: WE'RE TRYING TO PREEMPTIVELY IMPEACH
21 A WITNESS THAT HASN'T TESTIFIED YET, YOUR HONOR.

22 MS. PRATT: WELL AND IT WOULD SAVE MR. DOUGLAS
23 FROM HAVING TO BE PUT BACK UP ON REBUTTAL.

24 THE COURT: ALL RIGHT, I'M GOING TO LET HER DO
25 IT. I MEAN I DON'T WHERE, WHAT IT AMOUNTS TO BUT I'M GOING

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

339

1 TO, I'M GOING TO LET YOU DO IT. BRING THE JURY BACK IN.

2 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
3 12:02 P.M.)

4 THE COURT: ALL RIGHT, MS. PRATT.

5 MS. PRATT: THANK YOU, YOUR HONOR.

6 MS. PRATT: (CONTINUING CROSS EXAMINATION)

7 Q MR. DOUGLAS, PRIOR TO THIS INCIDENT LET ME
8 ASK YOU, WHEN YOU, WHEN DID YOU FIRST SEE BIRD THAT NIGHT?

9 A I DON'T REMEMBER EXACT TIME.

10 Q THAT'S OKAY, WHERE WAS IT?

11 A WHEN HE GOT OUT HIS ESCALADE TO COME JOIN
12 US.

13 Q AND WHEN HE GOT OUT OF THE ESCALADE TO COME
14 JOIN YOU, YOU WERE THERE?

15 A YES, I WAS.

16 Q WHO ELSE WAS WITH YOU?

17 A BRIAN, WA-GEE, SMURF, TAY, T.C., DANTE,
18 TERRELL, IT WAS AT LEAST 12 OF US.

19 Q AND WAS THERE AN INCIDENT WITH SOME OTHER
20 PEOPLE?

21 A NOT AT THAT TIME, WE, WE WERE STANDING
22 THERE FOR A LITTLE BIT AND A FEMALE HAD CAME UP AND SHE HAD
23 A LOT OF GOLD IN HER MOUTH AND BIRD HAD WHITE GOLD IN HIS
24 SO HE STARTED TALKING TO HER, YOU KNOW, BASICALLY TRYING
25 TO, YOU KNOW, DO WHAT HE DO.

MR. DOUGLAS - CROSS EXAMINATION BY MS. PRATT

340

1 Q YA'LL WERE THERE FOR CHASING WOMEN?

2 A YES, MA'AM.

3 Q OKAY, AND THEN WHAT HAPPENED?

4 A AND SOME, SOME GUYS FROM CONWAY CAME UP AND
5 SNATCHED THE GIRL AWAY FROM HIM AND HE STARTED, YOU KNOW,
6 SAYING MAN, WHAT'S GOING, MAN, COME ON, YOU GOING TO COP
7 LOCK LIKE THAT, YOU KNOW, LIKE BASICALLY SAYING, HATE ON
8 THEM, YOU KNOW WHAT I'M SAYING, AND HIM AND THE DUDE GOT
9 INTO IT LIKE, MAN, YOU DON'T KNOW WHERE YOU AT, MAN, WE
10 FROM CONWAY, YOU KNOW WHAT I'M SAYING. SO, SO WHAT
11 HAPPENED BIRD WAS LIKE I DON'T CARE WHERE YOU FROM, YOU
12 KNOW WHAT I'M SAYING. I DON'T CARE ABOUT NONE OF THAT WHAT
13 YOU TALKING ABOUT SO THEY STARTED GETTING INTO EACH OTHER'S
14 FACE AND WHEN PEOPLE STARTED PUSHING THEM BACK LIKE, HOLD
15 YA'LL, CHILL, YOU CHILL, YA'LL CHILL, BIRD, CHILL OUT, MAN,
16 IT'S GOOD. ANOTHER PERSON HAD CAME AROUND AND HE HAD
17 PULLED A DILLINGER OUT HIS POCKET BUT HE JUST KEPT IT TO
18 HIS SIDE AND THEN ABOUT THAT TIME EVERYTHING HAD CALMED
19 DOWN. SO WHEN WE WAS WALKING OFF BRIAN WAS LIKE, MAN, MAN,
20 YOU SITTING THERE ARGUING WITH THAT MAN YOU AIN'T EVEN SEEN
21 THIS MAN RIGHT HERE HE PULLED A DAMN GUN ON YOU.

22 Q OKAY, AND YOU WERE THERE?

23 A YES, I WAS.

24 Q YOUR UNDERSTANDING WAS THAT WAS THE GUN HE
25 WAS TALKING ABOUT?

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

341

1 A YES.

2 Q OKAY, AND WAS BRIAN TRYING TO TELL, WHAT
3 WAS BRIAN TRYING TO TELL BIRD TO DO?

4 A BASICALLY TELL HIM TO STAY ON POINT, YOU'RE
5 OUT HERE SLIPPING. YOU'RE OUT HERE TRYING TO ARGUE WITH
6 PEOPLE AND HE'S NOT EVEN WATCHING HIS SURROUNDINGS.

7 Q AND WHEN YOU SAY STAY ON POINT ARE YOU
8 TRYING TO ---

9 A BECAUSE HE COULD HAVE, HE COULD HAVE BEEN
10 EASILY SHOT AND DIDN'T EVEN KNOW IT.

11 Q OKAY, SO BIRD HAD BEEN UPSET FOR A WHILE?

12 A YES, HE WAS.

13 Q GOING OFF ON EVERYBODY?

14 A YES, HE WAS.

15 MS. PRATT: THANK YOU, NOTHING FURTHER.

16 REDIRECT EXAMINATION

17 BY MS. ELDER:

18 Q MR. DOUGLAS --

19 A YES, MA'AM.

20 Q THERE'S A COUPLE OF THINGS I WANT TO TOUCH
21 ON, NOW I UNDERSTAND YOU, YOU RECALL GIVING STATEMENTS TO
22 THE INVESTIGATORS FROM MYRTLE BEACH; IS THAT RIGHT?

23 A YES, I DO.

24 Q YOU GAVE A COUPLE STATEMENT, YOU MET WITH
25 THEM A COUPLE OF DIFFERENT TIMES?

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

342

1 A YES, I DID.

2 Q OKAY, AND I BELIEVE THAT YOUR FIRST
3 STATEMENT WAS JUNE 16TH, 2007; IS THAT ABOUT RIGHT?

4 A YES.

5 Q OKAY, AND THEN YOU GAVE ANOTHER STATEMENT
6 APRIL 10TH, 2008, DO YOU REMEMBER THAT IT WAS ABOUT A YEAR
7 LATER?

8 A NOT REALLY BUT, YES, MA'AM.

9 Q OKAY, IF I TELL YOU THAT'S WHEN IT IN WOULD
10 YOU KNOW THAT'S NOT RIGHT OR RIGHT?

11 A YES, MA'AM, I WOULD.

12 Q OKAY, AND BOTH OF THOSE WERE DATED BEFORE
13 ANY KIND OF AGREEMENT WITH THE STATE, RIGHT?

14 A YES, IT WAS.

15 Q OKAY, AND ---

16 MS. PRATT: MAY WE APPROACH, YOUR HONOR?

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
18 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
19 OF THE JURY AND THE COURT REPORTER.)

20 MS. PRATT: THANK YOU, YOUR HONOR.

21 THE COURT: OKAY.

22 MS. ELDER: (CONTINUING)

23 Q AS I WAS SAYING YOU GAVE TWO STATEMENTS TO
24 POLICE PRIOR TO ENTERING INTO THE AGREEMENT THAT MS. PRATT
25 WAS ASKING ABOUT IN '09; IS THAT CORRECT?

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

343

1 A YES, MA'AM.

2 Q AND YOU AT SOME POINT IN TIME IN MARCH OF
3 2009 SIGNED SOME KIND OF AGREEMENT WITH THE STATE TO
4 COOPERATE; IS THAT CORRECT?

5 A YES, MA'AM.

6 Q BUT YOU CAME BACK AND SAID YOU WITHDREW
7 THAT?

8 A YES, I DID.

9 Q AND YOU'RE NOT UNDER AN AGREEMENT WITH THE
10 STATE AT THIS POINT EITHER, ARE YOU?

11 A NO, I'M NOT.

12 Q MS. PRATT ASKED YOU SPECIFICALLY ABOUT
13 SOMETHING. MR., MR. BETHEA ASKED YOU TO TELL THEM THAT IT
14 WAS BOSS. YOU RECALL TELLING POLICE DURING YOUR FIRST
15 INTERVIEW IN JUNE OF 2007 THAT BOTH OF THEM, BIRD AND BOSS,
16 WANTED YOU TO TELL THEM SOMEBODY?

17 A HUH?

18 Q DO YOU RECALL TELLING THE POLICE THAT
19 BASICALLY BOTH OF THEM, REFERRING TO BIRD AND BOSS, WANTS
20 ME TO TELL THEM SOMEBODY, YOU KNOW WHAT I'M SAYING?

21 A NO, I REALLY DON'T REMEMBER.

22 Q OKAY, DID YOU NOT MAKE IN IT?

23 A NO, CAUSE IT'S ON THE PAPERWORK.

24 Q OKAY, AARON HAMMONDS YOU KNEW HE WAS IN
25 SOME PART RESPONSIBLE FOR ERIC FLOYD'S DEATH; IS THAT

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

344

1 CORRECT?

2 A HONESTLY I, I DON'T KNOW WHO'S RESPONSIBLE,
3 I JUST GOING OFF OF, I WAS ACTUALLY WASN'T IN LUMBERTON AT
4 THE TIME, SO I DON'T KNOW WHAT HAPPENED AND STILL TO THIS
5 DAY BUT THEY SAY THAT'S WHO THEY BLAME AARON.

6 Q DO YOU RECALL TELLING POLICE YOU DIDN'T
7 REALLY LIKE AARON YOURSELF EITHER, RIGHT?

8 A NO, I DIDN'T LIKE HIM.

9 Q OKAY, SO IT WASN'T JUST BIRD THAT DIDN'T
10 LIKE HIM, A LOT OF PEOPLE DIDN'T LIKE HIM?

11 A YES.

12 Q ALL RIGHT, DID BOSS NOT LIKE HIM EITHER?

13 A NO, HE DIDN'T LIKE HIM.

14 Q NOW YOU ALSO INDICATED WHEN WE WERE TALKING
15 AND YOU WERE ANSWERING SOME OF MS. PRATT'S QUESTIONS ABOUT
16 BIRD, DID YA'LL TAKE BIRD SERIOUS?

17 A NO, I DIDN'T.

18 Q OKAY, WAS HE A TALKER?

19 A A LOT.

20 Q OKAY, AND WHEN I SAY TALKER JUST SO WE ALL
21 KNOW WHAT WE'RE TALKING ABOUT, WHAT DO YOU MEAN BY THAT HE
22 WAS A TALKER?

23 A JUST RUN HIS MOUTH, YOU KNOW, SAY STUFF
24 AIN'T DON'T NEVER DO IT.

25 Q OKAY, AND DON'T HAVE ANY FOLLOW THROUGH?

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

345

1 A YES.

2 Q NOW THE INCIDENT THAT WE'RE TALKING WITH
3 THE CONWAY BOYS AND THIS GIRL DID YOU, HOW LONG AFTER
4 JEFFREY GOT OUT OF THE ESCALADE DID THIS HAPPEN?

5 A I WOULD SAY AT LEAST 30 TO 45 MINUTES.

6 Q ALL RIGHT, AND HOW LONG WAS IT AFTER THAT
7 THAT LEMARK CAME UP?

8 A I THINK LIKE AT LEAST AN HOUR LATER.

9 Q OKAY, SO BIRD GOT OUT OF THE ESCALADE, THIS
10 THING ABOUT THE GIRL HAPPENED ABOUT 30 MINUTES LATER, AND
11 AN HOUR AFTER THAT THIS THING WITH LEMARK AND THE SHOOTING
12 HAPPENED?

13 A YES, MA'AM.

14 Q NOW IN YOUR FIRST STATEMENT IN JUNE YOU
15 RECALL TELLING POLICE THAT BRIAN TOLD BIRD, MAN, HE PULLED
16 A GUN ON YOU AND THAT'S WHEN BIRD STARTED GOING OFF?

17 A YEAH.

18 Q OKAY, SO BIRD STARTED ACTING CRAZY AFTER
19 BRIAN SAID SOMEBODY PULLED A GUN ON YOU?

20 MS. PRATT: YOUR HONOR, I OBJECT TO LEADING AT
21 THIS POINT, HE NEEDS TO TESTIFY.

22 THE COURT: ALL RIGHT, LET HIM ANSWER THE
23 QUESTIONS, OKAY.

24 A YES, MA'AM, HE DID.

25 Q IN YOUR SECOND STATEMENT YOU WERE TALKING

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

346

1 ABOUT, ACTUALLY I BELIEVE THIS IS THE SAME STATEMENT, YOU
2 WERE TALKING ABOUT THIS SAME INCIDENT CAUSE I BELIEVE THE
3 INVESTIGATORS ASKED YOU ABOUT IT AGAIN, RIGHT?

4 A YES.

5 Q AND I BELIEVE YOU SAID LEMARK CAME UP TO
6 YA'LL AND STARTED SAYING WHAT?

7 A THAT WE NEEDED TO STOP BEEFING AND GET
8 MONEY TOGETHER.

9 Q OKAY, AND WHEN LEMARK WALKED OFF DID
10 ANYBODY AT THAT TIME TELL BIRD THAT SOMEBODY PULLED A GUN
11 ON THEM?

12 A NO, MA'AM.

13 Q AND DO YOU RECALL TELLING INVESTIGATORS
14 THAT?

15 A NO, I DON'T.

16 Q SO YOU DENY SAYING AND WHEN HE WALKED OFF
17 SOMEBODY SAID THE MAN PULLED A GUN?

18 A YES, MA'AM.

19 Q YOU DENY MAKING THAT STATEMENT?

20 A YES, MA'AM, I WAS TALKING ABOUT THEY NEVER
21 SAID REALLY WHAT THEY WAS SPEAKING ABOUT, THE WHOLE THING
22 ABOUT THE GUN CONVERSATION CAME FROM THE CONWAY.

23 Q OKAY ---

24 A LEMARK AND THEM BOYS NEVER PULLED NO GUN ON
25 NOBODY.

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

347

1 Q OKAY, WELL I'M NOT ASKING YOU IF YOU SAW
2 IT, I'M JUST ASKING DID SOMEBODY SAY IT AFTER LEMARK WALKED
3 OFF?

4 A NO, MA'AM, NOT THAT I RECALL.

5 Q OKAY, AND YOU DON'T RECALL TELLING
6 INVESTIGATORS THAT?

7 A I HAD TO TELL IT IF IT WAS ON THE PAPER.

8 Q OKAY, NOW YOU INDICATED THAT WHILE YOU WERE
9 STANDING THERE, MS. PRATT ASKED YOU ABOUT MR. BETHEA SAYING
10 SOMEBODY IS GOING TO, DID YOU, TELL ME WHAT MR. BETHEA
11 SAID, I COULDN'T UNDERSTAND YOU. HE DIDN'T THREATEN TO
12 KILL AARON THEN, RIGHT?

13 A HE DIDN'T SAY NO NAMES.

14 Q WHAT DID HE SAY?

15 A HE SAID I'M GOING TO I'M GO AROUND AND KILL
16 SOMEBODY ONE OF THESE NIGGERS.

17 Q OKAY, AND THAT WAS RIGHT AFTER LEMARK?

18 A YES.

19 Q BUT AARON WASN'T WITH THEM?

20 A AARON, WHEN LEMARK CAME UP AARON WAS LIKE
21 FURTHER LIKE NOT LIKE TO ME TO WHERE YOU ARE IN THE CORNER.

22 Q OKAY, AND IS THIS SOMETHING BIRD WOULD
23 REGULARLY SAY?

24 A NO.

25 Q OKAY, DID HE SAY, YOU SAID HE WAS A BIG

MR. DOUGLAS - REDIRECT EXAMINATION BY MS. ELDER

348

1 TALKER?

2 A YES.

3 Q THAT BE THE KIND OF STUFF HE WOULD TALK
4 ABOUT?

5 A YES.

6 Q ALL RIGHT, DID YOU EVER TAKE HIM SERIOUSLY
7 THAT HE WAS GOING TO MESS SOMEBODY UP?

8 A I MEAN HE HAD SAID PLENTY OF TIMES, YOU
9 KNOW, THAT HE WOULD, YOU KNOW, BUT MOST OF TIME IT AIN'T
10 ABOUT KILLING NOBODY, ABOUT SLAPPING SOMEBODY OR DOING
11 OTHER THINGS.

12 Q DID HE EVER DO IT?

13 A SOMETIMES AND MOST OF TIMES, NO.

14 Q OKAY, AND HOW LONG BEFORE THIS INCIDENT HAD
15 TURK BEEN KILLED?

16 A I WOULD SAY LIKE THREE YEARS.

17 Q ALL RIGHT, AND BETHEA NEVER, ALL THESE
18 TIMES YOU TESTIFIED THAT HE SAID I'M GOING TO KILL AARON
19 BECAUSE OF TURK HE NEVER FOLLOWED THROUGH WITH THAT, DID
20 HE?

21 A WELL AARON WAS INCARCERATED.

22 Q AFTER AARON GOT OUT HE DIDN'T FOLLOW
23 THROUGH WITH THAT EITHER, DID HE?

24 A WE DIDN'T REALLY HAVE NO, YOU KNOW, NOBODY
25 DIDN'T REALLY SEE AARON.

MR. DOUGLAS - RECROSS EXAMINATION BY MS. PRATT

349

1 Q ALL RIGHT, WERE YOU HANGING AROUND BIRD AT
2 THE TIME?

3 A YES, I WAS.

4 MS. ELDER: NO OTHER QUESTIONS, YOUR HONOR.

5 MS. PRATT: RECROSS, YOUR HONOR.

6 RECROSS EXAMINATION

7 BY MS. PRATT:

8 Q AARON WAS INCARCERATED FOR HOW LONG, DO YOU
9 KNOW?

10 A I WOULDN'T KNOW, I WAS, I WASN'T HOME WHEN
11 THINGS HAPPENED.

12 Q NUMBER OF YEARS, NUMBER OF MONTHS, JUST
13 APPROXIMATELY?

14 A I WOULD SAY AARON GOT KILLED IN 2004 SO I
15 WOULD SAY FROM 2004 TO AT LEAST 2007 I GUESS.

16 Q AND HE WAS ONLY OUT A COUPLE OF MONTHS
17 BEFORE THIS, RIGHT?

18 A YES.

19 Q OKAY, SO IF BETHEA SAID I'M GOING TO
20 WHATEVER WORD HE MIGHT USE MEANING KILL AARON HE WOULDN'T
21 HAVE BEEN ABLE TO DO IT UNTIL HE GOT OUT, RIGHT?

22 A YES, MA'AM.

23 MS. PRATT: OKAY, THAT'S ALL I HAVE.

24 MS. ELDER: NO OTHER QUESTIONS, YOUR HONOR, I'D
25 ASK THAT THIS WITNESS BE EXCUSED FROM HIS SUBPOENA.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

350

1 THE COURT: ALL RIGHT, YOU MAY STEP DOWN.

2 MS. PRATT: YOUR HONOR, I HAVE ALSO GOT HIM
3 UNDER SUBPOENA BUT ---

4 THE COURT: HE'S GOING TO BE AVAILABLE.

5 MS. PRATT: --- I KNOW WHERE TO FIND HIM IF I
6 NEED HIM.

7 THE COURT: ALL RIGHT, I THINK HE'LL BE
8 AVAILABLE.

9 MS. PRATT: THANK YOU, YOUR HONOR.

10 THE COURT: NEXT WITNESS.

11 MS. ELDER: YOUR HONOR, DO YOU WANT ME TO, IT'S
12 GOING TO BE A LENGTHY WITNESS, DO YOU WANT TO --

13 THE COURT: WE CAN PROBABLY GET YOURS IN BEFORE
14 LUNCH.

15 MS. ELDER: YES, SIR.

16 THE COURT: YOUR DIRECT.

17 MS. ELDER: YOUR HONOR, AT THIS TIME THE STATE
18 WOULD CALL INVESTIGATOR MIKE HULL.

19 DETECTIVE MICHAEL A. HULL

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
22 SPELL YOUR LAST NAME FOR THE RECORD.

23 THE WITNESS: MICHAEL AARON HULL, H-U-L-L.

24 THE COURT: ALL RIGHT.

25 DIRECT EXAMINATION

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

351

1 BY MS. ELDER:

2 Q INVESTIGATOR HULL, WHERE ARE YOU EMPLOYED?

3 A I'M EMPLOYED WITH THE MYRTLE BEACH POLICE
4 DEPARTMENT.

5 Q AND FOR HOW LONG HAVE YOU BEEN THERE?

6 A NINETEEN GOING ON 20 YEARS NOW.

7 Q AND WHAT CAPACITY ARE YOU EMPLOYED?

8 A I'M AN INVESTIGATOR.

9 Q AND JUST GENERAL DESCRIPTION OF YOUR DUTIES
10 AS AN INVESTIGATOR?

11 A I INVESTIGATE CRIMES, GATHERING THE
12 EVIDENCE.

13 Q NOW BACK IN MAY 27TH OF 2007 WERE YOU AN
14 INVESTIGATOR WITH MYRTLE BEACH POLICE?

15 A YES, I WAS.

16 Q AND DID YOU HAVE AN OPPORTUNITY TO RESPOND
17 TO A SHOOTING SCENE ON OCEAN BOULEVARD?

18 A YES, I DID, APPROXIMATELY 2:45 IN THE
19 MORNING.

20 Q OKAY, AND WHEN YOU ARRIVED WHAT DID YOU
21 OBSERVE?

22 A I WAS WITH INVESTIGATOR MANN AT THE TIME,
23 WHEN WE ARRIVED THE FIRST THING I SAW WAS A PERSON LAYING
24 IN THE ROAD AT APPROXIMATELY MR. JOE WHITE AVENUE AND OCEAN
25 BOULEVARD. WE BOTH EXITED THE VEHICLE AND WENT OVER TO

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

352

1 THAT LOCATION. INVESTIGATOR MANN STAYED AT THAT LOCATION,
2 WHAT WE LEARNED THERE THAT WAS AARON HAMMONDS, HIS COUSIN
3 WAS WITH HIM. SHE STATED AT THAT LOCATION AND AN OFFICER
4 ADVISED ME THERE WAS A SECOND SUBJECT SHOT AT THE GOLDEN
5 VILLA SO I WENT ACROSS THE STREET TO THE GOLDEN VILLA AND I
6 FOUND A LADY IDENTIFIED AS KRYSTAL FOWLER IN THE OFFICE OF
7 GOLDEN VILLA WITH A GUNSHOT WOUND TO THE STOMACH, WHAT
8 APPEARED TO BE A GUNSHOT WOUND TO THE STOMACH.

9 WHILE THERE I WAS TOLD THERE WAS ANOTHER VICTIM
10 ACROSS, BACK ACROSS THE STREET FURTHER UP, FEMALE SHOT IN
11 THE HEAD, SO I LEFT THAT LOCATION WENT OVER TO CHECK ON
12 THAT AND THERE WAS A COUPLE OF OFFICERS THERE TRYING TO
13 HELP HER AND I WAS INFORMED THAT THAT WAS A LESHEIKA
14 FELTON, I BELIEVE IT WAS.

15 AT THAT TIME I STARTED ASKING PEOPLE IN THE
16 IMMEDIATE VICINITY IF THEY HAD SEEN ANYTHING, NOBODY HAD
17 SEEN ANYTHING, SO I STARTED TRYING TO CLEAR THE WHOLE BLOCK
18 OF THE CRIME SCENE GETTING PEOPLE, VEHICLES OUT OF THERE.

19 Q DID YOU AT SOME POINT LEARN THAT THERE WAS
20 A FOURTH VICTIM AS WELL?

21 A WHILE I WAS DOING THAT I WAS APPROACHED BY
22 CAPTAIN GILDAY WHO ADVISED ME THERE WAS ANOTHER VICTIM WHO
23 HAD BEEN SHOT IN THE HEAD AT, IN THE AREA OF 12TH AND
24 CHESTER I BELIEVE IT WAS.

25 Q AND WHO WAS THAT, DID YOU LEARN HIS

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

353

1 IDENTITY?

2 A DJUAN MONROE, HE WAS IDENTIFIED AS DJUAN
3 MONROE.

4 Q AND WHAT DID YOU DO AFTER LEARNING THESE
5 THINGS?

6 A LIKE I SAID WENT BACK, IT TOOK A WHILE TO
7 GET THE, TRY TO GET THE SCENE SECURED.

8 Q WAS IT DURING MEMORIAL BIKE WEEKEND?

9 A YES, MA'AM.

10 Q WAS THERE A LOT OF PEOPLE ON THE SCENE?

11 A YES, MA'AM.

12 Q EVEN AT 2:30 IN THE MORNING?

13 A YES, MA'AM.

14 Q DID, WAS, DID YA'LL HAVE STREET VIDEOS AT
15 THE TIME, STREET CAMERAS?

16 A I'VE LEARNED AT A LATER DATE, YES, THAT
17 THERE WAS A CAMERA AT THAT LOCATION.

18 Q OKAY, AND MYRTLE BEACH HAD INSTALLED THAT?

19 A YES.

20 Q AND DID YOU OBTAIN THE VIDEO FROM THE
21 STREET CAMERA?

22 A YES, WHEN I WAS INFORMED OF THAT, IF I
23 REFER TO MY NOTE I CAN PROBABLY TELL YOU THE DATE. I
24 BELIEVE IT WAS ON THE 28TH I WENT BY AND SAW BILL LANDRUM
25 AT HIS OFFICE AT CITY SERVICES BUILDING AT WHICH TIME HE

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

354

1 PULLED UP THE VIDEO SYSTEM. WE LOCATED THE TIME AND HE
2 DOWNLOADED THE VIDEO FOR ME.

3 Q OKAY, AND HE DID THAT IN YOUR PRESENCE?

4 A YES.

5 Q STATE'S 10 FOR IDENTIFICATION IS THAT THE
6 DVD THAT WAS COPIED IN YOUR PRESENCE ---

7 A YES.

8 Q --- OF WHAT WAS EXTRACTED FROM THAT CAMERA?

9 A YES, MA'AM.

10 MS. ELDER: YOUR HONOR, AT THIS TIME I'D LIKE TO
11 PUT INTO EVIDENCE STATE'S EXHIBIT 10.

12 THE COURT: MS. PRATT?

13 MS. PRATT: I HAVE NO OBJECTION, YOUR HONOR.

14 THE COURT: ALL RIGHT, WITHOUT OBJECTION.

15 (WHEREUPON, STATE'S EXHIBIT NUMBER 10 ENTERED
16 INTO EVIDENCE.)

17 MS. ELDER: (CONTINUING)

18 Q NOW AFTER YOU SECURED THE SCENE YOU
19 INTERVIEWED SOME PEOPLE?

20 A YES, I WENT BACK AND INTERVIEWED FRIENDS OF
21 KRYSTAL FOWLER.

22 Q AND THROUGH YOUR INVESTIGATION AT SOME
23 POINT DID A SUSPECT OR AN INDIVIDUAL BECOME KNOWN TO YOU?

24 A YES.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER 17 MARKED FOR

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 IDENTIFICATION.)

2 MS. ELDER: (CONTINUING)

3 Q NOW FOR STATE'S IDENTIFICATION NUMBER 17 DO
4 YOU RECOGNIZE THAT?

5 A YES, I DO.

6 Q AND WHAT IS THAT?

7 A THAT IS A COPY OF A COMPOSITE THAT WAS
8 COMPLETED.

9 Q AND AFTER WAS THAT COMPOSITE PUBLICIZED?

10 A YES.

11 Q AND DID YOU OBTAIN THE NAME OF AN
12 INDIVIDUAL? DID YOU OBTAIN SOMEBODY AS A RESULT OF THE
13 PUBLICATION OF THAT?

14 A YES, IT LED US TO A PERSON.

15 Q OKAY, AND WHO IS THAT PERSON?

16 A JEFFREY BETHEA.

17 Q AND DID YOU INTERVIEW JEFFREY BETHEA.

18 A YES, I DID.

19 Q AFTER HIS INTERVIEW DID YOU THEN OBTAIN
20 INFORMATION THAT LED YOU TO ANOTHER SUSPECT?

21 A YES, I DID.

22 Q AND WHO IS THAT?

23 A THAT LED ME TO BRIAN SPEARS.

24 Q DID YOU INTERVIEW BRIAN SPEARS?

25 A YES, I DID.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

356

1 Q TELL ME DID YOU INTERVIEW HIM MORE THAN ONE
2 TIME?

3 A YES, I DID.

4 Q AND WHEN WAS THE FIRST INTERVIEW?

5 A JUNE 4TH, 2007, I BELIEVE.

6 Q AND WHERE DID THAT TAKE PLACE?

7 A AT THE LUMBERTON, NORTH CAROLINA POLICE
8 DEPARTMENT.

9 Q AND TELL ME WHY IT TOOK PLACE AT LUMBERTON?

10 A ACTUALLY WE HAD GONE TO LUMBERTON TO TRY TO
11 LOCATE SOME PEOPLE AND AFTER WE ARRIVED WE WERE INFORMED
12 THAT THEY HAD PICKED HIM UP AND WERE BRINGING HIM TO THE
13 STATION.

14 Q BRIAN SPEARS?

15 A YES, MA'AM.

16 Q OKAY, SO HE WAS BROUGHT TO THE STATION AND
17 WHAT KIND OF ROOM DID YA'LL INTERVIEW HIM IN?

18 A THEY HAD GIVEN US A CONFERENCE ROOM TO WORK
19 OUT OF.

20 Q AND DID YOU DO ANYTHING IN PREPARATION OF
21 THAT INTERVIEW?

22 A I READ HIS MIRANDA WARNINGS TO HIM.

23 Q IF YOU'LL LOOK AT WHAT'S BEEN MARKED AS
24 STATE'S EXHIBIT FOR IDENTIFICATION NUMBER 1, DO YOU
25 RECOGNIZE THAT?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 A YES, I DO AND I NEED TO CORRECT SOMETHING.
2 I THINK I SAID IT WAS THE 4TH I WENT TO SEE HIM, THAT IS
3 CORRECT, OKAY.

4 Q IS THAT THE FORM THAT YOU USED?

5 A YES.

6 Q OKAY, AND ON THAT IS, WHAT KIND OF RIGHTS
7 ARE INDICATED ON THE MIRANDA FORM?

8 A RIGHT TO REMAIN SILENT.

9 Q AND WHAT OTHER RIGHTS?

10 A TO HAVE A LAWYER PRESENT WHILE BEING
11 QUESTIONED.

12 Q AND WHEN YOU READ THESE RIGHTS DO YOU ASK
13 IF HE UNDERSTANDS THEM?

14 A YES.

15 Q DID MR. SPEARS AT THAT FIRST INTERVIEW
16 APPEAR TO UNDERSTAND WHAT YOU WERE TALKING ABOUT?

17 A YES.

18 Q DID HE SEEM TO BE UNDER THE INFLUENCE OF
19 ANY DRUGS OR ALCOHOL?

20 A NO, I SPECIFICALLY ASKED HIM, HE TOLD ME HE
21 DIDN'T DRINK AND THAT THE ONLY THING DRUG RELATED THAT HE
22 HAD TAKEN WAS AN ANTIBIOTIC EARLIER IN THE MORNING.

23 Q SO HE UNDERSTOOD WHAT HE WAS DOING?

24 A YES.

25 Q NOBODY WAS THREATENING HIM AT THAT POINT OR

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

358

1 ANYTHING?

2 A NO.

3 Q BEATING HIM UP?

4 A NO.

5 Q A GUN TO HIS HEAD?

6 A NO.

7 Q DID HE IN FACT TALK TO YOU AFTER READING
8 HIS MIRANDA WARNING?

9 A YES, HE DID.

10 Q AND HOW LONG WAS THAT INTERVIEW?

11 A IT WAS APPROXIMATELY 50 MINUTES LONG.

12 Q FIFTY?

13 A FIFTY.

14 Q OKAY, AND DURING THE COURSE OF THAT
15 INTERVIEW DID YOU ASK HIM, WHAT KIND OF THINGS WERE YOU
16 ASKING HIM DURING THE COURSE OF THAT INTERVIEW?

17 A WE INQUIRED ABOUT HIM BEING IN MYRTLE BEACH
18 FOR MEMORIAL WEEKEND. WE ALSO ASKED HIM ABOUT ANY POSSIBLE
19 STREET NAMES HE HAD.

20 Q AND WHAT DID HE TELL YOU ABOUT HIS STREET
21 NAME?

22 A HE GAVE US, I BELIEVE, B, STRINGBEAN, AND
23 BRIAN, I DO RECALL.

24 Q DID HE SAY ANYTHING ABOUT BOS?

25 A WE ASKED HIM ABOUT BOS AND HE DENIED BEING

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

359

1 CALLED BOS.

2 Q OKAY, AND DID HE TELL YOU IF HE WAS HERE IN
3 MYRTLE BEACH ON MAY 27TH, 2007?

4 A HE STATED THAT HE WAS IN LUMBERTON, THAT HE
5 DID NOT COME TO MYRTLE BEACH MEMORIAL WEEKEND AT ALL.

6 Q AND DID YOU ASK HIM THIS SEVERAL TIMES?

7 A YES, I DID.

8 Q AND DID SEVERAL TIMES HE DENY BEING HERE?

9 A YES, HE DID.

10 Q DID YOU ASK HIM ABOUT ERIC FLOYD?

11 A ERIC FLOYD DID COME UP; I ASKED HIM IF HE
12 WAS FRIENDS WITH HIM AND HE STATED THAT HE WAS.

13 Q AND DID HE, DID YOU ASK HIM HOW, HOW HE
14 FELT ABOUT BIRD AND HIS ASSOCIATION WITH ERIC AND ERIC'S
15 DEATH?

16 A HE DID SPEAK OF WHAT HE HAD HEARD AND HE
17 DID STATE THAT ERIC WAS SUPPOSEDLY WITH BIRD WHEN HE DIED.

18 Q AND DID, DID HE INDICATE THAT HE HUNG
19 AROUND BIRD AT ALL IN THAT FIRST INTERVIEW?

20 A HE, HE STATED HE DID NOT.

21 Q AND WHY DID HE SAY HE DID NOT?

22 A I BELIEVE HE USED THE TERM AS LIKE A BLACK
23 CLOUD THAT HANGS OVER HIM.

24 Q HANGS OVER BIRD?

25 A YES, MA'AM.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

360

1 Q AND WAS THAT BAD CLOUD OR BLACK CLOUD IN
2 CONNECTION WITH ERIC GETTING SHOT WHILE HE WAS WITH BIRD?

3 A THAT IS ---

4 MS. PRATT: OBJECTION, YOUR HONOR, HOW WOULD HE
5 KNOW THE ANSWER TO THAT QUESTION?

6 THE COURT: SUSTAINED.

7 MS. ELDER: (CONTINUING)

8 Q DURING THE COURSE OF THE INTERVIEW DID MR.
9 SPEARS INDICATE THAT THAT WAS THE REASON THERE WAS A BLACK
10 CLOUD?

11 A ONE OF, ONE OF THE REASONS.

12 Q DID YOU ASK HIM ABOUT, DID YOU ASK MR.
13 SPEARS ABOUT HIS MEMBERSHIP IN 41-CURVE?

14 A YES, I DID.

15 Q AND WHAT WAS HIS RESPONSE TO THAT?

16 A HE STATED HE WAS.

17 Q AND DID YOU ASK HIM ABOUT AFFILIATION WITH
18 FOLK?

19 A YES, I ASKED, WELL HE WAS ASKED IF THAT'S
20 AFFILIATED WITH FOLK AND HE SAID BASICALLY, I BELIEVE.

21 Q WAS, DID MR. SPEARS, WAS MR. SPEARS ASKED
22 ABOUT COLORS?

23 A I DO RECALL SOMETHING WAS ASKED ABOUT THAT.

24 Q AND DO YOU RECALL WHAT HE SAID WOULD HAPPEN
25 IF SOMEBODY WAS WEARING THE WRONG COLOR?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

361

1 A HE SAID IT COULD GET YOU KILLED.

2 Q AND DURING THE COURSE OF THE 50 MINUTES DID
3 HE EVER CHANGE HIS STORY ABOUT NOT BEING IN MYRTLE BEACH
4 DURING MAY 27TH?

5 A WELL HE MAINTAINED THAT HE WAS IN LUMBERTON
6 THE ENTIRE WEEKEND.

7 Q AND DID YOU TELL HIM THAT OTHER PEOPLE
8 PLACED HIM IN MYRTLE BEACH?

9 A YES, I DID.

10 Q AND IN LIGHT OF THAT HE STILL NEVER CHANGED
11 HIS STORY?

12 A NO, HE DIDN'T CHANGE HIS STORY.

13 Q DID YOU INTERVIEW HIM A SECOND TIME?

14 A YES, I DID ON JUNE 7TH I INTERVIEWED HIM
15 AGAIN.

16 Q LET ME TAKE YOU BACK TO, I'M SORRY, THE
17 FIRST INTERVIEW, DID YOU ASK HIM AT THE END OF THE FIRST
18 INTERVIEW ABOUT CARRYING GUNS OR DID SOMEBODY IN THE
19 INTERVIEW ASK HIM ABOUT THAT?

20 A HE WAS ASKED ABOUT THAT, I DON'T RECALL
21 EXACTLY IF I WAS THE ONE THAT ASKED HIM OR NOT, BUT, YES,
22 HE WAS.

23 Q WERE YOU PRESENT DURING THE COURSE OF THE
24 INTERVIEW?

25 A YES, I WAS.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

362

1 Q OKAY, AND DO YOU RECALL THE QUESTION THAT
2 WAS ASKED HIM?

3 A YES, I DO, RECALL THAT, YES.

4 Q AND DID HE RESPOND WITH A QUESTION? DO YOU
5 HAVE A COPY OF THE STATEMENT?

6 A NO, I DO NOT.

7 Q WOULD IT ASSIST YOU IF YOU HAD IT?

8 A YES, IT WOULD.

9 Q OFFICER HULL, INVESTIGATOR HULL, IF YOU'LL
10 REFER TO PAGE 49?

11 A OKAY.

12 Q AND IN RESPONSE TO A QUESTION OF DETECTIVE
13 KITELINGER TOWARDS THE BOTTOM, FIVE LINES UP, WOULD YOU
14 TELL ME WHAT MR. SPEARS ASKED?

15 A HE ASKED WHAT'S WRONG WITH CARRYING, WITH
16 ME CARRYING GUNS.

17 Q THE SECOND INTERVIEW YOU DID WAS WHEN?

18 A JUNE 7TH.

19 Q OF WHAT YEAR?

20 A OF 2007, I'M SORRY.

21 Q AND WHERE WAS THAT INTERVIEW?

22 A IT WAS CONDUCTED AT THE MYRTLE BEACH POLICE
23 ANNEX IN THE INTERVIEW ROOM.

24 Q OKAY, AND HOW DID, HOW DID MR. SPEARS END
25 UP BEING DOWN HERE IN MYRTLE BEACH CAUSE YOU INTERVIEWED

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

363

1 HIM THE FIRST TIME IN NORTH CAROLINA AND A COUPLE OF DAYS
2 LATER HERE?

3 A HE, HE WAS TRANSPORTED DOWN FROM LUMBERTON.

4 Q HAD YOU SERVED HIM WITH WARRANTS?

5 A HE HAD WAIVED EXTRADITION AND WAS BROUGHT
6 DOWN.

7 Q AND WHAT WAS HE CHARGED WITH NOW?

8 A HAD WE, NO, WE HADN'T PRIOR TO THAT.

9 Q YOU AT THAT TIME ON THE SECOND INTERVIEW AT
10 THE ANNEX DID YOU ONCE AGAIN READ HIM HIS MIRANDA WARNING?

11 A YES, I DID.

12 Q AND YOU FILLED OUT ANOTHER STATEMENT, IS
13 THAT RIGHT, ANOTHER MIRANDA WARNING FORM?

14 A YES, I DID.

15 Q IF YOU'LL TAKE A LOOK AT STATE'S EXHIBIT 2,
16 IS THAT THE FORM YOU FILLED OUT?

17 A YES, IT IS.

18 Q THAT'S SUBSTANTIALLY LIKE THE ONE WE'VE
19 JUST TALKED ABOUT; IS THAT CORRECT?

20 A YES.

21 Q DID HE AT THAT TIME ON JUNE 7TH APPEAR TO
22 UNDERSTAND WHAT YOU WERE TALKING ABOUT?

23 A YES, HE DID.

24 Q AND WHAT KIND OF ROOM WERE YOU IN WHEN YOU
25 WERE TALKING TO HIM?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

364

1 A WE WERE IN A INTERVIEW ROOM; IT'S BASICALLY
2 ABOUT EIGHT FEET BY EIGHT FEET, HAS A SMALL DESK IN THERE,
3 A TWO WAY MIRROR ON THE ONE SIDE, THE DOOR IS ON THE OTHER,
4 AND THEN IT WOULD HAVE HAD THREE CHAIRS IN IT.

5 Q AND DID HE VOLUNTARILY AGREE TO TALK TO YOU
6 ON THAT SECOND INTERVIEW?

7 A YES, HE DID.

8 Q AND YOU SAID HE WAS EXTRADITED, HE WAS
9 WAIVED EXTRADITION ON THE MURDER CHARGE?

10 A YES.

11 Q AND THE THREE ABWIK'S THAT WE'RE TRYING
12 HERE?

13 A YES.

14 Q OKAY, SO HE HAD BEEN CHARGED WITH THAT?

15 A YES.

16 Q PRIOR TO THE SECOND INTERVIEW?

17 A YES.

18 Q NOW ON THE SECOND INTERVIEW HAVE YOU GOT A
19 COPY OF THAT STATEMENT?

20 A NO, I DO NOT.

21 Q WOULD IT HELP YOU ---

22 A YES, IT WOULD.

23 Q --- OR ASSIST YOU? HOW LONG WAS THAT
24 SECOND STATEMENT?

25 A I BELIEVE IT WAS ABOUT AN HOUR AND 56

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

365

1 MINUTES.

2 Q AND DID SOME THINGS CHANGE IN HIS STORY THE
3 SECOND TIME?

4 A YES, THEY DID.

5 Q AND LET'S START OFF WITH HIS STREET NAME,
6 DID HE INDICATE THAT HE WAS CALLED BY SOMETHING ELSE THAT
7 HE HAD NOT ADMITTED THE FIRST TIME?

8 A YES, HE ADMITTED THAT HIS STREET NAME WAS
9 BOS.

10 Q AND DID HE TALK ABOUT 41-CURVE?

11 A YES, HE DID.

12 Q AND TOWARDS THE BOTTOM OF PAGE TWO WHAT DID
13 HE SAY 41-CURVE WAS?

14 A HE SAID IT WAS LIKE A ROAD AND IT GOES ALL
15 THE WAY DOWN TO THE SOUTH SIDE.

16 Q AND TOWARDS THE BOTTOM FOURTH LINE UP WHAT
17 DID HE SAY?

18 A WHEN I ASKED HIM ABOUT 41'S SOUTH SIDE THE
19 GANG AND HE SAID YOU COULD BASICALLY SAY IT BASICALLY A
20 "G.D." AREA.

21 Q AND DID YOU ASK HIM ABOUT HIS RELATIONSHIP
22 WITH NATHANIEL DOUGLAS?

23 A YES, I DID.

24 Q AND WHAT WAS THEIR RELATIONSHIP AT THE
25 TIME?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

366

1 A THEY WERE FRIENDS.

2 Q AND DID YOU ASK HIM ABOUT AARON?

3 A YES, I BELIEVE I DID, YES.

4 Q PAGE FOUR, DID HE INDICATE IF AARON WAS
5 INVOLVED IN A DIFFERENT GANG?

6 A YES, HE DID, HE SAID THAT AARON WAS FROM
7 THE EAST SIDE.

8 Q GOING THROUGH THE STATEMENT CHRONOLOGICALLY
9 DID YOU ASK HIM IF BIRD STATUS IN HIS GANG?

10 A YES, I DID, HE STATED HE WAS "OOG."

11 Q AND WHAT WAS THAT, WHAT WAS "OOG" SUPPOSED
12 TO BE?

13 A HE SAID THAT IT WAS ORIGINAL AND HE WAS
14 ASKED ORIGINAL GANGSTER AND HE SAID, YEAH, HIGHER RANK, I
15 GUESS.

16 Q DID HE SAY WHAT RANK HE WAS?

17 A I WANT TO SAY HE SAID HE WAS A SOLDIER.

18 Q AND WHAT ABOUT JUNE?

19 A THE SAME.

20 Q NOW DID HE TALK TO YOU, DID HE ADMIT ON THE
21 SECOND INTERVIEW BEING DOWN IN MYRTLE BEACH?

22 A YES.

23 Q ON MAY 27TH?

24 A YES, HE DID.

25 Q AND WHAT DID HE SAY ABOUT THAT?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

367

1 A HE TOLD ME HE HAD CAME DOWN WITH ISH, T.C.
2 AND NATHANIEL.

3 Q AND DID HE SAY HE MET UP WITH BIRD AT ANY
4 POINT IN TIME?

5 A YES, HE STATED THAT THEY RAN INTO BIRD ON
6 THE BOULEVARD.

7 Q WHAT DID HE SAY AFTER THAT?

8 A WHILE HE WAS WITH BIRD AND THE OTHER
9 MEMBERS A LEMARK IRONS HAD CAME UP AND BIRD AND LEMARK GOT
10 INTO AT LEAST A VERBAL ALTERCATION.

11 Q AND AFTER LEMARK AND BIRD GOT INTO THIS
12 VERBAL ALTERCATION WHAT DID HE SAY HE DID?

13 A HE TOLD ME THAT AFTER LEMARK WALKED OFF
14 THAT HE HAD WALKED OFF A DIFFERENT DIRECTION.

15 Q HE WALKED OFF, DID HE SAY WHO HE WALKED OFF
16 WITH?

17 A IF I REMEMBER CORRECTLY T.C., I KNOW HE
18 GAVE ME ---

19 Q DID HE GO WITH JUNE?

20 A AND JUNE, YES, AND ISH, I BELIEVE.

21 Q OKAY, SO BOS TOLD YOU THAT AFTER LEMARK AND
22 BIRD GOT INTO THIS VERBAL DISPUTE HE LEFT WITH JUNE, WITH
23 NATHANIEL DOUGLAS?

24 A CORRECT.

25 Q WHERE DID HE SAY BIRD WENT?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

368

1 A HE SAID HE WENT WALKING AFTER LEMARK, SAME
2 DIRECTION OF LEMARK.

3 Q WHAT DID HE SAY ABOUT THE SHOOTING?

4 A IF I REMEMBER CORRECTLY HE SAID HE HEARD
5 THE SHOOTING AND HE TOOK OFF RUNNING AND THEY ALL RAN BACK
6 TO THE CAR.

7 Q DID HE SAY HE SAW ANYBODY SHOOT?

8 A NO, I DON'T RECALL HIM SAYING THAT.

9 MS. ELDER: ONE MOMENT, YOUR HONOR.

10 Q (CONTINUING) DID YOU ASK BIRD, I'M SORRY,
11 DID YOU ASK MR. SPEARS IF HE SAW BIRD FLASH A GUN OR
12 ANYTHING?

13 A YES, I BELIEVE I DID.

14 Q AND DID HE TELL YOU IF ANYBODY HAD A GUN
15 THAT NIGHT?

16 A HE SAID, HE TOLD ME THAT HE DIDN'T SEE
17 ANYBODY WITH A GUN.

18 Q SO BASICALLY, DID HE SAY ANYBODY IN HIS
19 GROUP HAD A GUN?

20 A HE SAID HE DIDN'T SEE ANYBODY WITH A GUN.

21 Q PRIOR TO THIS SHOOTING DID YOU ASK MR.
22 SPEARS IF HE HAD EVER SHOT A GUN?

23 A YES, HE WAS ASKED IF HE HAD EVER FIRED A
24 GUN.

25 Q AND WHAT DID HE SAY?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

369

1 A HE STATED THAT HE HAD.

2 Q AND DID YOU ASK HIM ABOUT THE PARTICULAR
3 INCIDENT A COUPLE OF MONTHS PRIOR TO THIS?

4 A HE HAD STATED THAT HE WAS WITH PEOPLE THAT
5 WERE SHOOTING GUNS OUT IN THE COUNTRY AT A LIKE A FARM OR
6 SOMETHING.

7 Q DO YOU KNOW WHAT KIND OF GUNS THEY WERE
8 SHOOTING DID HE SAY?

9 A I WANT TO, RIFLES, I BELIEVE.

10 Q TOWARDS THE SECOND PART OF THAT INTERVIEW
11 DID YOU ASK HIM ABOUT TAKING BIRD SERIOUSLY, PAGE 45, SEVEN
12 GROUPINGS UP?

13 A HE STATED THAT HE DIDN'T TAKE HIM
14 SERIOUSLY.

15 Q DID HE SAY HE DIDN'T THINK ANYBODY DID?

16 A HE SAID I DON'T THINK ANYBODY, NOBODY.

17 Q DID HE APPEAR OR DID HE EXPRESS DISTRESS
18 OVER ERIC FLOYD OR G-BLACK'S DEATH?

19 A YES, HE SAID THEY WERE VERY CLOSE FRIENDS.

20 Q DID HE EXPRESS ANYTHING IN REGARDS TO WHAT
21 HE THOUGHT ABOUT BIRD IN THAT REGARD?

22 A I KNOW HE HAD HEARD THAT, THAT BIRD HAD
23 SOME RESPONSIBILITY IN IT OR HE FELT THAT.

24 Q DID HE HAVE ANY ANIMOSITY TOWARDS BIRD FOR
25 NOT TAKING CARE OF IT?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

370

1 A YES.

2 Q AND WHEN I SAY NOT TAKING CARE OF IT WHAT
3 DO YOU, WHAT --

4 A BY BEING BASICALLY, I TOOK IT AS LIKE HE
5 WAS RESPONSIBLE BECAUSE HE WAS WITH HIM.

6 Q AND AARON WAS STILL ALIVE?

7 A YES.

8 Q DID YOU IN THE COURSE OF YOUR INTERVIEW,
9 I'M SORRY NOT THE COURSE OF THE INTERVIEW, DURING THE
10 COURSE OF INVESTIGATION CONDUCT ANY KIND OF SEARCHES IN
11 LUMBERTON?

12 A YES.

13 Q AND DID YOU GO TO MR. SPEARS' RESIDENCE?

14 A I WENT TO, YES.

15 Q AND WHO LIVED AT THAT RESIDENCE?

16 A MAGGIE SPEARS, HIS MOTHER.

17 Q AND DID YOU OBTAIN CONSENT TO SEARCH THE
18 RESIDENCE?

19 A YES, I DID.

20 Q BRIAN SPEARS LIVED THERE?

21 A YES.

22 Q DETECTIVE, TAKE A LOOK AT WHAT'S BEEN
23 MARKED AS STATE'S EXHIBIT 12 FOR IDENTIFICATION, AS I.D.
24 PREVIOUSLY, DO YOU RECOGNIZE THAT?

25 A YES, I DO.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

371

1 Q AND DID YOU OBTAIN THAT FROM THE SEARCH OF
2 MAGGIE SPEARS RESIDENCE?

3 A YES, IT WAS OBTAINED AT THE SEARCH.

4 MS. ELDER: YOUR HONOR, I ADMIT STATE'S EXHIBIT
5 12 INTO EVIDENCE AT THIS TIME.

6 MS. PRATT: I BELIEVE THERE'S MORE QUESTIONS
7 THAT SHE NEEDS TO ASK ABOUT IT BEFORE IT GET ADMITTED, YOUR
8 HONOR.

9 MS. ELDER: YOUR HONOR, IT'S ALREADY BEEN I.D.'D
10 BY NATHANIEL DOUGLAS.

11 THE COURT: IT'S BEEN I.D.'D, IT'S BEEN
12 EXPLAINED, HE SAYS HE RETRIEVED IT FROM THE HOUSE AS
13 PURSUANT TO A SEARCH WARRANT.

14 MS. PRATT: AND WE DON'T WAIVE OBVIOUSLY THE
15 CHAIN BUT I UNDERSTAND YOUR RULING.

16 (WHEREUPON, STATE'S EXHIBIT NUMBER 12 ENTERED
17 INTO EVIDENCE.)

18 MS. ELDER: (CONTINUING)

19 Q DETECTIVE HULL, AT SOME POINT AFTER THE
20 ARREST AND INVESTIGATION DID YOU GET NOTIFIED BY AN INMATE
21 AT THE JAIL TO COME TALK TO HIM?

22 A YES.

23 Q AND WHO, WHAT INMATE WAS THAT?

24 A TIM SMITH.

25 Q AND DID YOU IN FACT GO TALK WITH HIM?

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

372

1 A YES, I DID.

2 Q AS A RESULT OF THAT INTERVIEW DID YOU MAKE
3 CONTACT WITH ANY OTHER AGENCIES?

4 A YES, THE NORTH CAROLINA DEPARTMENT OF
5 CORRECTIONS.

6 Q DID YOU RECEIVE ANY DOCUMENTATION FROM THE
7 NORTH CAROLINA DEPARTMENT OF CORRECTIONS?

8 A THEY FAXED ME COPIES OF A PICTURE AND A
9 LETTER, I BELIEVE, AND AN ENVELOPE.

10 Q AND WOULD YOU TAKE A LOOK AT WHAT'S BEEN
11 MARKED STATE'S EXHIBIT 13? IS THAT PART OF THE DOCUMENTS
12 THAT YOU RECEIVED FROM THE DEPARTMENT OF CORRECTIONS?

13 A YES, IT IS.

14 Q AND IS WOULD THAT, WHAT IS THAT, WHAT ARE
15 THESE DOCUMENTS, WHAT DOES THE FIRST PAGE SHOW?

16 MS. PRATT: OBJECTION, YOUR HONOR, WE MAY NEED
17 TO DISCUSS THIS MATTER.

18 THE COURT: I THINK SO.

19 MS. ELDER: I WITHDRAW THE QUESTION AT THIS
20 TIME.

21 THE COURT: OKAY.

22 MS. ELDER: (CONTINUING)

23 Q DID YOU ALSO HAVE AN OPPORTUNITY TO HAVE A
24 SEARCH WARRANT PERFORMED OUT AT THE JAIL?

25 A YES, I DID.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

373

1 Q AND ON WHAT?

2 A IT WOULD HAVE BEEN ON BRIAN SPEARS AND
3 LAMAR OR NATHANIEL DOUGLAS' PROPERTY.

4 Q AND DID YOU OBTAIN SOME DOCUMENTS FROM
5 BRIAN SPEARS PROPERTY OUT AT THE JAIL?

6 A YES, I DID.

7 Q AND IF YOU'D TAKE A LOOK AT WHAT'S BEEN
8 MARKED STATE'S EXHIBIT 15 FOR IDENTIFICATION?

9 A YES, I RECOGNIZE IT.

10 Q IS THAT THE PROPERTY, IS THAT A PORTION OF
11 THE ITEMS THAT YOU RETRIEVED FROM BRIAN SPEARS' PERSONAL
12 PROPERTY OUT AT THE JAIL?

13 A YES, IT IS.

14 MS. ELDER: YOUR HONOR, AT THIS TIME I THINK
15 WE'RE GOING TO HAVE TO TAKE A MATTER UP OUTSIDE THE
16 PRESENCE OF THE JURY.

17 THE COURT: I BELIEVE SO.

18 MS. ELDER: I INTEND TO OFFER PORTIONS OF
19 STATE'S I.D. 15.

20 THE COURT: ALL RIGHT, I'M GOING TO LET THIS
21 JURY GO TO LUNCH UNTIL 2:30. WE'LL TAKE UP ALL THESE
22 MATTERS WHILE THEY'RE AT LUNCH. I UNDERSTAND ONE OF YOUR
23 OTHER SOLICITOR'S HAS SOMETHING THAT I HAVE TO DO AT TWO SO
24 WE'LL HAVE THE JURY BACK AT 2:30, THAT WILL LET ME TAKE
25 CARE OF THAT CASE.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

374

1 OKAY, MR. ROPP, LET'S TAKE THE JURY GO TO LUNCH
2 UNTIL 2:30.

3 (WHEREUPON, THE JURY WAS EXCUSED FOR LUNCH AT
4 12:50 P.M.)

5 THE COURT: ALL RIGHT, WHAT DO WE HAVE HERE?

6 MS. ELDER: YOUR HONOR, THIS IS INFORMATION THAT
7 WE RECEIVED FROM BRIAN SPEARS' PERSONAL PROPERTY. IT WAS
8 OBTAINED THROUGH A SEARCH WARRANT. THE LETTERS WERE IN
9 FACT IDENTIFIED BY NATHANIEL DOUGLAS AS BRIAN SPEARS
10 WRITING, THAT HE WAS FAMILIAR WITH THAT. HE DID TESTIFY TO
11 THAT. HE IS ALLOWED TO AUTHENTICATE. IT DID COMPLETE THE
12 RULES OF AUTHENTICATION. INVESTIGATOR HULL COMPLETED THAT
13 BY INDICATING WHERE HE GOT THOSE ITEMS FROM. WE ARE GOING
14 TO ASK THAT THEY BE MOVED INTO EVIDENCE, HOWEVER, WE'RE
15 ONLY ASKING FOR CERTAIN PIECES OF THOSE DOCUMENTS TO BE
16 MOVED IN. THEY ARE WRITINGS THAT MR. SPEARS DID AFTER HE
17 WAS INCARCERATED AND SERVED WITH THE WARRANTS FOR THIS
18 PARTICULAR OFFENSE.

19 THE COURT: ALL RIGHT, WE NEED TO GO, WHAT YOU
20 GOT, WHAT YOU'RE PUTTING IN, WHAT YOU WANT TO PUT IN.

21 MS. ELDER: YES, SIR.

22 THE COURT: WHAT IS IT, LET ME SEE IT.

23 MS. ELDER: YES, SIR, AND, YOUR HONOR, MY
24 SUGGESTION ON THIS OR THE WAY I'D LIKE TO PRESENT IT IS
25 BEST BECAUSE IT IS, THESE ARE THE ORIGINALS, WE CAN DO ONE

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

375

1 OF TWO THINGS. AFTER THE COURT HEARS WHAT I WANT TO
2 PRESENT I CAN EITHER ASK MR. HULL, INVESTIGATOR HULL TO
3 READ IN FROM THE ORIGINALS WHAT I WANT TO INTRODUCE OR MAKE
4 COPIES AND BLACK OUT THE THINGS THAT WE CANNOT PUT IN.

5 THE COURT: WELL LET'S SEE IF WE GOING TO DO ANY
6 OF IT FIRST.

7 MS. ELDER: YES, SIR, FIRST THE DOCUMENTS IS,
8 THE TOP IS CALLED "PROBLEMS" AND I DID MARK THESE FOR MS.
9 PRATT AS THE COURT HAD ASKED THAT I DO ON MONDAY, I
10 BELIEVE.

11 MS. PRATT: YOUR HONOR, IF I CAN SIMPLY FIND IT,
12 IS THE TITLE OF IT "PROBLEMS"?

13 MS. ELDER: UH-HUH.

14 THE COURT: IT SAYS HERE VERSE TWO. WHAT DO YOU
15 WANT TO PUT IN, MS. ELDER?

16 MS. ELDER: YOUR HONOR, THIS GOES SPECIFICALLY
17 WITH THE QUESTIONS THAT I HAVE BEEN ASKING INVESTIGATOR
18 HULL, NATHANIEL DOUGLAS. IN HERE HE TALKS ABOUT G-BLACK
19 OBVIOUSLY BEING DEAD, HOW HE FEELS ABOUT THAT. HE SAYS,
20 "AND I'M SURE YOU KNOW SOME OF YOUR CLOSEST NIGGAS DIDN'T
21 DO A THING BUT YOUR NIGGAS IS MY NIGGAS SO FEEL ASHAMED AND
22 THE SAME NIGGA WHO GOT YOU MURD, WHICH IS MURDER, CAUSE HE
23 WANTED SNIFF SOME CANE," WHICH IS BIRD, "THAT'S THE SAME
24 DUDE WHO GIVE THE COPS MY FUCKING NAME AND AFTER WHAT YOU
25 DID FOR HIM HE WOULDN'T TAKE THE BLAME AND THE RESULT OF

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

376

1 THAT WAS TWO MORE G'S IN SHACKLES AND CHAINS."

2 YOUR HONOR, HE'S SPECIFICALLY TALKING ABOUT HIS
3 PRESENT SITUATION. HE'S TALKING ABOUT G-BLACK'S DEATH.
4 HE'S TALKING ABOUT BIRD. HE'S TALKING ABOUT BIRD NOT
5 TAKING THE BLAME.

6 MS. PRATT: AND, YOUR HONOR, IF I COULD SPEAK
7 TO THAT ---

8 THE COURT: I'M NOT SURE YOU EVEN WANT TO OBJECT
9 TO THAT, MS. PRATT.

10 MS. PRATT: WELL I'M TRYING TO FIGURE OUT THE
11 ONLY AMBIGUITY I SEE IN IT IS NOT TAKING THE BLAME BECAUSE
12 THAT COULD SAY TAKING THE BLAME FOR SOMETHING THAT BIRD IS
13 GOING TO SAY MY CLIENT DID OR IS HE NOT TAKING THE BLAME
14 FOR SOMETHING HE DID HIMSELF.

15 THE COURT: HE SEEMS TO BE CRITICIZING BIRD FOR
16 NOT ACCEPTING RESPONSIBILITY, DOESN'T HE?

17 MS. PRATT: THAT'S HOW I WOULD READ IT BUT I
18 DON'T WANT THE JURY TO THING SOMETHING DIFFERENT ABOUT IT.

19 THE COURT: WELL I MEAN IT'S WHAT IT IS, MS.
20 PRATT.

21 MS. PRATT: I AGREE.

22 THE COURT: IT'S WHAT IT IS.

23 MS. PRATT: MAY I, YOUR HONOR, MY, I NEED TO
24 MAKE SURE THAT I'M LOOKING AT THE SAME PAGE THAT YOU ARE,
25 YOUR HONOR, BECAUSE I MARKED --

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

377

1 MS. ELDER: THAT WAS IT, THE WHOLE THING I JUST
2 READ.

3 MS. PRATT: MAY I SEE THE COPIES THAT YOU'RE
4 LOOKING AT? I ACTUALLY DON'T HAVE A PAGE THAT'S TITLED
5 PROBLEMS, I HAVE ONE THAT'S TALKING ABOUT PROBLEMS.

6 THE COURT: WOULD YOU LIKE TO SEE THE ONE THAT I
7 HAVE?

8 MS. PRATT: YES, SIR.

9 THE COURT: CERTAINLY.

10 MS. PRATT: THANK YOU, SIR.

11 THE COURT: OKAY.

12 MS. ELDER: THESE ARE ALL THE EXACT ONES THAT I
13 HAD, THAT YOU HAD SET ASIDE ON MONDAY.

14 MS. PRATT: RIGHT, AND I'VE GOT THE FIRST ONE, I
15 DON'T HAVE SOMETHING THAT SAID VERSE TWO, I'M SORRY.

16 THE COURT: ALL RIGHT, SHE SAYS THAT SHE DOESN'T
17 OBJECT TO THE ONES YOU HAVE MARKED; IS THAT 11 OR IS THAT
18 ONE?

19 MS. ELDER: THAT'S 11 ON MY PIECE OF PAPER, YOUR
20 HONOR, I HAVE THAT TO TRY TO KEEP THEM SEPARATE, THAT WAS
21 MY INTERNAL ---

22 THE COURT: ALL RIGHT, VERY WELL, WHAT ELSE YOU
23 GOT?

24 MS. ELDER: YOUR HONOR, I HAVE ANOTHER ONE
25 THAT'S CALLED LOST IN THE "STRUGGLE."

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

378

1 THE COURT: ALL RIGHT, LET ME SEE THAT. IS THIS
2 THE WHOLE DOCUMENT?

3 MS. ELDER: YES, SIR, BUT I ONLY WANT TO ELICIT
4 A FEW PAGES, YOU GOT THAT?

5 MS. PRATT: I DO, JUST LET ME FIND IT, MINE ARE
6 IN A DIFFERENT ORDER. YES, SIR.

7 MS. ELDER: YOUR HONOR, ON THE FIRST PAGE OF
8 WHAT'S BEEN TITLED "LOST IN THE STRUGGLE" ABOUT HALFWAY
9 DOWN IT STARTS, IT'S THE MIDDLE OF A SENTENCE, "BUT I MADE
10 A PHONE CALL AND MY MOM TOLD ME SOME NIGGAS KILLED BLACK.
11 RIGHT THEN TEARS ROLLED DOWN MY CHEEKS, I KNEW THE NIGGAS
12 WOULD FEEL BULLETS FROM MY HEAT." YOUR HONOR, THAT
13 DIRECTLY GOES TO THE RETALIATION THEORY THAT WE'RE PUTTING
14 FORWARD ABOUT G-BLACK'S DEATH.

15 THE COURT: I MEAN IS THAT WHAT YOU SEEK TO
16 ENTER HERE THAT SENTENCE YOU READ?

17 MS. ELDER: THAT IS CORRECT, YOUR HONOR, NOT THE
18 ENTIRE DOCUMENT, THAT SENTENCE.

19 THE COURT: NOW LET'S SEE WHAT MS. PRATT HAS TO
20 SAY ABOUT IT, SHE MAY WANT IT ALL, SHE MAY WANT OTHER PARTS
21 OF IT.

22 MS. PRATT: LET ME ASK MY CLIENT ABOUT THAT FOR
23 A MOMENT, YOUR HONOR.

24 YOUR HONOR, MY OBJECTION TO THIS WOULD PROBABLY
25 BE A SIMILAR OBJECTION TO MANY OF THE ITEMS THAT MS. ELDER

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 WISHES TO INTRODUCE. WHILE THEY ARE GOING TO BE ELEMENTS
2 OF WHAT'S REALLY GOING ON OR TRUTH IN THEM, THERE'S GOING
3 TO BE ELEMENTS OF EXAGGERATION AND A KIND OF A FANTASY
4 SITUATION. AS MR. DOUGLAS EXPLAINED AND AS WE KNOW FROM
5 LOOKING AT ANY RAP STUFF IT MAY START WITH A KERNEL OF
6 SOMETHING AND GO ON TO SOMETHING ELSE. IT'S NOT A DIRECT
7 THREAT. IT'S NOT A STATEMENT THAT SAYS, YOU KNOW, THAT
8 THEY'RE GOING TO GET THIS ONE OR THAT ONE. IT JUST SIMPLY
9 SAYS FEEL BULLETS FROM MY HEAT AND I THINK THAT THAT IS
10 PREJUDICIAL VERSUS PROBATIVE ISSUE.

11 THE COURT: WHAT ELSE HAVE WE GOT?

12 MS. ELDER: THERE'S GOING TO BE A LOT OF THAT,
13 YOUR HONOR. I THINK THAT WE VERIFIED THAT HE IN FACT ---

14 THE COURT: WELL LET ME SEE WHAT ELSE YOU GOT.
15 I'M GOING TO HAVE TO HAVE SOMEBODY A LITTLE MORE SPECIFIC
16 BEFORE I'M GOING TO FIND AND LET YOU GO, LET ME SEE WHAT
17 ELSE YOU GOT. I MEAN I'M NOT OVERLY IMPRESSED WITH
18 INTRODUCING RAP LYRICS.

19 MS. ELDER: YOUR HONOR, AND MAYBE WE SHOULDN'T
20 TERM THEM RAP LYRICS. THESE ARE ITEMS HE WROTE. THIS IS
21 NOT SOMETHING THAT'S OUT THERE THAT HE COPIED.

22 THE COURT: I UNDERSTAND.

23 MS. ELDER: HE WROTE THIS AND THE LAW, THERE'S
24 CASE LAW SPECIFICALLY SAID IF IT IS DISTINCTIVE TO THE CASE
25 IT CAN COME IN.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 THE COURT: IF IT SAYS IT'S WHAT FOR THE CASE?

2 MS. ELDER: IF IT'S SPECIFIC TO THIS CASE AND
3 IT'S NOT TOO VAGUE.

4 THE COURT: AND THAT'S WHAT I'M LOOKING FOR
5 SOMETHING MORE SPECIFIC TO THIS CASE.

6 MS. ELDER: AND, YOUR HONOR, I DON'T KNOW HOW
7 MUCH MORE SPECIFIC THAN G-BLACK'S DEATH AND PEOPLE
8 RESPONSIBLE ARE GOING TO FEEL MY HEAT AND WE KNOW AARON'S
9 PARTIALLY RESPONSIBLE.

10 THE COURT: WELL AND THE ONE CALLED "PROBLEMS"
11 WHAT HE'S SAYING IS, I VIEW IT AS HIM SAYING HE'S UPSET
12 WITH SOMEONE ELSE FOR NOT TAKING THE RESPONSIBILITY FOR
13 WHAT THEY DID.

14 ON "LOST IN THE STRUGGLE" ALL I SEE THERE IS
15 THAT, AND WE'VE HEARD THIS IN THIS TRIAL, THAT HE WAS TOLD
16 BY HIS MOTHER THAT SOMEONE HAD KILLED BLACK, I ASSUME
17 THAT'S G-BLACK, AND THAT "TEARS ROLLED DOWN HIS CHEEKS AND
18 HE KNEW THAT THEY WOULD FEEL THE BULLETS FROM MY HEAT."
19 IT'S NOT AN ADMISSION. I MEAN HE'S SAYING HOW HE FELT WHEN
20 HE LEARNED AND THAT WOULD HAVE BEEN THREE YEARS EARLIER OR
21 FOUR YEARS EARLIER THAT BEFORE THIS INCIDENT AND HIS MOM
22 TOLD HIM THAT THIS PERSON HAD BEEN KILLED.

23 MS. ELDER: YOUR HONOR, IT ALSO STATES HIS
24 INTENT THAT WHOEVER WAS RESPONSIBLE WAS GOING TO FEEL, HE
25 WAS GOING TO GET BACK WHICH SHOWS MOTIVE AND INTENT.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 THE COURT: ALL RIGHT, WHAT ELSE YOU GOT AS THIS
2 NUMBER THREE?

3 MS. ELDER: YOUR HONOR, THAT IS, IT STARTS OFF
4 WITH "I CAN TELL YOU WANT ME GAIN, GONE, I CAN TELL YOU
5 WANT ME GONE."

6 MS. PRATT: OKAY, DOES IT SAY VERSE ONE AT THE
7 BOTTOM?

8 MS. ELDER: YES.

9 MS. PRATT: OKAY.

10 MS. ELDER: HALFWAY DOWN, "GUNS POP OFF, I'LL
11 HAVE YOUR ASS UP IN SURGERY, I'M A NIGGA WHO MADE THE HOOD
12 WHAT IT IS, WHEN THE REST HESITATED I HANDLED MY BLISS, IF
13 YOU DON'T RESPECT THAT THEN YOU DON'T RESPECT SHIP."

14 THE COURT: ALL RIGHT, IS THERE ANYTHING OTHER
15 THAN JUST BEING A GENERAL STATEMENT THAT WOULD SPECIFICALLY
16 REFERENCE IT TO THIS PARTICULAR CASE?

17 MS. ELDER: YOUR HONOR, "WHEN THE REST HESITATED
18 I HANDLED MY BLISS." MR. DOUGLAS JUST INDICATED THAT, AND
19 MR. HULL THROUGH MR. SPEARS' INTERVIEW, JUST INDICATED THAT
20 BIRD DIDN'T TAKE CARE OF WHAT NEEDED TO BE TAKEN CARE OF.

21 THE COURT: ALL RIGHT, WHAT ELSE DO YOU HAVE?

22 MS. ELDER: ON THE SAME DOCUMENT THIRD, FOURTH
23 PAGE, "I'LL POP THAT CLIP IN AND START TO RIP IT, I'LL HAVE
24 YOU ON THE CONCRETE SHAKING AND TWITCHING."

25 THE COURT: ALL RIGHT, LET ME, THAT'S ON THE

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1 FOURTH PAGE?

2 MS. ELDER: YES, SIR.

3 THE COURT: VERSE THREE AT THE BOTTOM?

4 MS. ELDER: YES, SIR, I'M SORRY, I THINK THAT'S
5 THE THIRD PAGE, ONE MORE AFTER THAT.

6 THE COURT: AND I DON'T HAVE ANOTHER PAGE, I'VE
7 GOT ONE, TWO, THREE.

8 MS. ELDER: I MIGHT HAVE THE ORIGINAL.

9 THE COURT: I BELIEVE I HAVE THE ORIGINAL.

10 MS. ELDER: I MAY HAVE THAT ORIGINAL, THERE
11 MIGHT BE ANOTHER, I CAN GET THAT, YOUR HONOR, FOR THE
12 PURPOSE OF THIS I'LL HAND YOU UP MINE. IT'S AT THE TOP IT
13 SAYS "I AIN'T YOUR HOME BOY SO DON'T EXTEND YOUR HAND.
14 IT'S THE PART "I'LL POP THAT CLIP", YOUR HONOR.

15 MS. PRATT: AND, YOUR HONOR, IF THE COURT WOULD
16 LOOK AT THE SENTENCE IMMEDIATELY BEFORE THAT IT SAYS "I'M
17 GOING TO ROB THESE NIGGAS TILL THEY AIN'T GOT A POT TO PISS
18 IN." IT'S NOT TALKING ABOUT THIS KILLING OR G-BLACK OR
19 BIRD OR AARON.

20 MS. ELDER: I BELIEVE THERE'S A BREAK THERE ---

21 THE COURT: AND WHAT DOES THE SENTENCE SAY "I
22 POFFER," WHAT DOES IT SAY? I CAN'T READ IT THE PART THAT
23 YOU'VE HIGHLIGHTED.

24 MS. ELDER: "I'LL POP THAT CLIP IN AND START TO
25 RIP IT. I'LL HAVE YOU ON THE CONCRETE SHAKING AND

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1 TWITCHING."

2 THE COURT: ALL RIGHT.

3 MS. ELDER: AND IT GOES FURTHER "YOUR BLOOD STOP
4 FLOWING AND YOUR HEART STARTS SKIPPING," I MEAN AARON
5 HAMMONDS WAS IN FACT SHOT ON CONCRETE.

6 THE COURT: YOU NEED TO LOOK AT THE PRIOR
7 SENTENCE WHEN HE'S TALKING ABOUT ROBBING SOMEBODY.

8 MS. ELDER: YOUR HONOR, THAT'S A DIFFERENT, LIKE
9 THE NEXT STANZA UP HE PUTS BREAKS IN BETWEEN EACH SENTENCE.

10 MS. PRATT: THERE'S LINES IN BETWEEN ONE FOR THE
11 RHYTHM FOR THE WAY THAT THEY SAY IT, AND I CAN'T RAP SO YOU
12 WOULDN'T THIS WHITE GIRL TO DO THAT, BUT THIS SAYS YOU GO
13 FROM THE TOP, "DUDES GOING AGAINST ME LIKE THEY GONE WIN
14 IT, IT WILL NEVER HAPPEN, BOY, YOU PISSING IN THE WIND,
15 I'M GOING TO ROB THESE NIGGAS TILL THEY AIN'T GOT A POT TO
16 PISS IN, I'LL POP THAT CLIP IN AND START TO RIPPING," THAT
17 RHYMES, "I'LL HAVE YOU ON THE CONCRETE SHAKING AND
18 TWITCHING. YOUR BLOOD STOP FLOWING AND YOUR HEART START
19 SKIPPING." SKIPPING MATCHES WITH RIPPING WHICH MATCHES UP
20 THERE WITH PISSING. I MEAN IT'S ALL PART OF IT AND IT'S
21 ALL ONE SONG. IT DOESN'T REFER TO AARON.

22 THE COURT: I APPRECIATE YOUR INTERPRETATION.
23 OKAY, I DON'T THAT THAT'S SPECIFIC ENOUGH, OKAY. LET'S
24 LOOK, ON THE FIRST OF THAT ONE, ON THE FIRST PAGE, THOUGH,
25 WHAT DID YOU HAVE, MS. ELDER?

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1 MS. ELDER: I'M GETTING CONFUSED, YOUR HONOR.

2 THE COURT: THE REST HESITATED --

3 MS. ELDER: "GUNS POP OFF, I'LL HAVE YOUR ASS UP
4 IN SURGERY, I'M THE NIGGA WHO MADE THE HOOD WHAT IT IS.
5 WHEN THE REST HESITATED I HANDLED MY BLISS, IF YOU DON'T
6 RESPECT THAT THEN YOU DON'T RESPECT SHIP.

7 THE COURT: ALL RIGHT, LET'S COME BACK TO THAT
8 ONE, WHAT ELSE YOU GOT?

9 MS. ELDER: YOUR HONOR, THE ONE ENTITLED "I GOT
10 G.D.'S THAT WILL BLAST THE HEAT."

11 MS. PRATT: WHICH VERSE ARE WE AT, DONNA?

12 MS. ELDER: FIRST PAGE VERSE ONE.

13 MS. PRATT: VERSE ONE.

14 MS. ELDER: HALFWAY DOWN, YOUR HONOR, "INNOCENT
15 BYSTANDERS GOT SHOT HIT IN THE SPINAL CORD, MOTHERS CRYING
16 CAUSE THEIR SONS DON'T WALK NO MORE, THE STREETS ARE REAL,
17 NIGGAS MIGHT BE ALIVE, IF YOU TESTIFY NIGGAS MIGHT POP YOU
18 ON YOUR WIDE, IT AIN'T ALL ABOUT GUNS CAUSE I KNOW HOMIES
19 THAT SWING THE KNIFE.'

20 MS. PRATT: MAY I POINT OUT TO COURT THAT IT'S
21 NOT A SON THAT ISN'T WALKING.

22 MS. ELDER: AARON HAMMONDS IS NOT WALKING
23 ANYMORE.

24 MS. PRATT: HE'S NOT AN INNOCENT BYSTANDER. IF
25 WE'RE TALKING ABOUT THE WHOLE THING TOGETHER IT DOESN'T

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1 HAVE ANYTHING TO DO WITH AARON.

2 THE COURT: HE WAS ACTUALLY HIT IN THE SPINAL
3 CORD.

4 MS. PRATT: HE WAS --

5 MS. ELDER: YOUR HONOR, THE THREE INNOCENT
6 BYSTANDERS ARE THE THREE INDIVIDUAL FROM ABWIK CHARGES.

7 MS. PRATT: BUT THEY WEREN'T HIT IN THE SPINAL
8 CORD.

9 THE COURT: WHAT HAVE WE GOT THERE, IS THAT
10 "THREE"?

11 MS. PRATT: IT DOESN'T SAY THREE I DON'T
12 BELIEVE, DOES IT?

13 MS. ELDER: NO, IT SAYS "INNOCENT BYSTANDERS GET
14 SHOT IN THE SPINAL CORD, MOTHERS CRYING CAUSE THEIR SONS
15 DON'T WALK THEM AWAY, IF YOU TESTIFY NIGGAS MIGHT POP YOU
16 ON YOUR WIDE."

17 THE COURT: ALL RIGHT, LET'S SEE WHAT ELSE YOU
18 GOT?

19 MS. ELDER: IT'S ALL "EXCLUSIVE" ON THE TOP.
20 YOUR HONOR, IT'S THE SECOND PAGE OF THAT DOCUMENT AT THE
21 BOTTOM, "HURT ME REAL DEEP WHEN G-BLACK GOT KILLED, BIRD
22 WAS WITH HIM BUT HE DID NOTHIN BUT SQUEAL, THOSE ARE TWO
23 BITCH MOVES BOTH BY CORRUPT SUPERIORS SUPPOSED TO BE HIGH
24 BUT I SEE THEM INFERIOR, NIGGAS DUCK AND BEEP AND SNITCHING
25 IT GETS SCARIER, OL BOY AIN'T THE ONLY ONE WHO NEED HIS

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1 BRAINS IN HIS CAR INTERIOR."

2 THE COURT: WHERE WAS THAT?

3 MS. ELDER: THE SECOND PAGE, YOUR HONOR.

4 THE COURT: START IT AGAIN?

5 MS. ELDER: IT'S TOWARDS THE BOTTOM ABOUT EIGHT
6 LINES UP HALFWAY IN THE MIDDLE, "HURT ME REAL DEEP WHEN G-
7 BLACK GOT KILLED, BIRD WAS WITH HIM BUT HE DID NOTHING BUT
8 SQUEAL, THOSE ARE TWO BITCH MOVES BOTH BY CORRUPT SUPERIOR
9 SUPPOSED TO BE HIGH BUT I SEE THEM INFERIOR, NIGGAS DUCK
10 AND BEEP AND SNITCHING, IT'S GET SCARIER, OL BOY AIN'T THE
11 ONLY ONE WHO NEED HIS BRAINS ON HIS CAR INTERIOR."

12 THE COURT: OKAY.

13 MS. ELDER: THE NEXT ONE, YOUR HONOR ---

14 MS. PRATT: MAY I SPEAK JUST A SECOND TO THAT
15 ONE.

16 MS. ELDER: SORRY, YOUR HONOR.

17 MS. PRATT: HE'S SPEAKING CERTAINLY ABOUT HIS
18 ANGER AGAINST BIRD BUT AARON DIDN'T HAVE HIS BRAINS ON A
19 CAR INTERIOR. THAT IS A RHYMING TYPE OF THING AND I DON'T
20 KNOW THAT AARON IS WHO THEY MEAN BY OLE BOY. IT COULD BE
21 G-BLACK, IT COULD BE ANYBODY ELSE. HE MIGHT BE THREATENING
22 BIRD BUT IT HAS NOTHING TO DO WITH AARON'S KILLING. IT MAY
23 HAVE SOMETHING TO DO WITH G-BLACK OR TURK'S KILLING. I
24 MEAN INTERIOR RHYMES WITH INFERIOR AND IF YOU'RE LOOKING AT
25 IT LOOKS IT'S BEEN RUBBED OUT AND WRITTEN TO TRY TO GET THE

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1 RIGHT WORD, TOO. INTERIOR IS SUPPOSED TO BE HIGH BUT I SEE
2 THEM INFERIOR.

3 MS. ELDER: YOUR HONOR, IT GOES RIGHT ALONG WITH
4 WHAT NATHANIEL JUST TESTIFIED TO.

5 MS. PRATT: BUT NOT ABOUT AARON.

6 MS. ELDER: IT GOES ABOUT MOTIVE OF WHY HE WOULD
7 BE THE ONE THAT WOULD KILL AARON AND NOT BIRD BECAUSE BIRD
8 WOULDN'T TAKE CARE OF IT.

9 THE COURT: ALL RIGHT, LET'S GO ON. WHAT ELSE
10 YOU GOT?

11 MS. ELDER: YOUR HONOR, IT STARTS OFF BY, WELL
12 IT STARTS "WITH BITCHES I FUCK THEM."

13 THE COURT: PARDON ME?

14 MS. ELDER: IT STARTS OFF LIKE THAT.

15 THE COURT: I DIDN'T HEAR YOU.

16 MS. ELDER: "BITCHES I FUCK THEM."

17 THE COURT: OH, OKAY, WHAT DO YOU WANT ME TO
18 DIRECT?

19 MS. ELDER: YOUR HONOR ---

20 THE COURT: WHAT DO YOU WANT TO DIRECT ME TO IN
21 THIS ONE?

22 MS. ELDER: YOUR HONOR, IT GOES TOWARDS THE
23 BOTTOM.

24 THE COURT: OF WHICH PAGE?

25 MS. ELDER: THE FIRST PAGE.

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1 THE COURT: ALL RIGHT.

2 MS. ELDER: SAYS "HAVING FLASH BACK OF THE
3 ENEMIES SHOOTING BLACK, I WISH MY NIGGA HAD MY DAUGHTER ON
4 HIS G-DAY, THE NIGGA WHO KILLED "G" IS NOW HIS MURDER ON
5 REPLAY."

6 MS. PRATT: WHICH IS BIRD.

7 MS. ELDER: YOUR HONOR, THE ONE WHO KILLED "G"
8 NOW HIS MURDER ON REPLAY, THAT WOULD BE AARON.

9 MS. PRATT: BUT IT'S NOT --

10 THE COURT: IT DOESN'T SAY ANYTHING, I MEAN IT
11 RELATES TO THIS PERSON, THIS WAS AARON HAVING BEEN KILLED.
12 I MEAN IT DOESN'T, DOES IT INCRIMINATE HIM?

13 MS. ELDER: HIS MURDER ON REPLAY, YES, SIR.

14 MS. PRATT: IT'S JUST THE TRUTH THAT GOING
15 THROUGH AARON'S MURDER, IT'S NOT THAT'S WHAT HE'S REFERRING
16 TO. IT'S NOT HIM SAYING I DID IT OR I'M REPLAYING IT OR
17 WHATEVER.

18 MS. ELDER: OKAY, HOW WOULD YOU, HOW WOULD
19 AARON'S MURDER BE ON REPLAY IF HE DIDN'T SEE IT OR PRESENT?
20 ACCORDING TO HIM HE DIDN'T SEE ANYTHING.

21 MS. PRATT: EXCEPT THAT THESE ARE ALL WRITTEN
22 AFTER HE'S GOTTEN ALL HIS DISCOVERY, HE'S SEEN ALL OF THE
23 STUFF THAT'S IN THE EVIDENCE. HE'S BEEN QUESTIONED BY THE
24 POLICE. I MEAN I JUST DON'T SEE THAT THAT'S, THAT THAT'S A
25 STATEMENT LIKE THAT.

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1 THE COURT: OKAY, WHAT ELSE WE GOT?

2 MS. ELDER: YOUR HONOR, IN THAT SAME STACK I
3 JUST GAVE YOU A COUPLE OF PAGES IN IT'S THE TOP OF THE
4 PAGE, SAYS "GOT SOME STRIPES," HALFWAY DOWN, "SAYS I DONE
5 CAUSE FUNERALS, PUT FACES ON A SHIRT, EVERY YEAR A NIGGA
6 VISIT PUTTING FLOWERS ON THE DIRT, SAME SHIP HAPPENED TO MY
7 NIGGA TURK, REST IN PEACE HE DIED WITH HIS BLACK FLAG, HE
8 THE REASON WHY A LOT OF COWARDS IN A BLACK BAG, WHAT GOES
9 AROUND COMES AROUND, BLACK," I'M SORRY, "SO I STAY WITH RE-
10 POUND MAG."

11 THE COURT: THAT'S WHERE NOW?

12 MS. ELDER: YOUR HONOR, IT'S ON THE PAGE THAT
13 HAS "GOT SOME STRIPES" ON THE TOP.

14 THE COURT: "GOT SOME STRIPES" ON THE TOP IS
15 WRITTEN ON IT?

16 MS. ELDER: YES, SIR.

17 THE COURT: OR IT HAS "STRIPES ON THE TOP"?

18 MS. ELDER: NO, SIR, IT'S SAYS "GOT SOME
19 STRIPES."

20 THE COURT: "GOT SOME STRIPES," OKAY.

21 MS. ELDER: HALFWAY DOWN, SAYS "I DONE CAUSE
22 FUNERALS."

23 THE COURT: OKAY.

24 MS. ELDER: FROM "I DONE CAUSE FUNERALS" TO THE
25 END OF THAT PARAGRAPH.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 THE COURT: OKAY.

2 MS. ELDER: TWO PAGES FROM THAT, YOUR HONOR, I'M
3 SORRY, THERE'S NOTHING ELSE ON THERE. THAT'S ALL, THAT'S
4 IT, YOUR HONOR.

5 THE COURT: OKAY, MS. PRATT?

6 MS. PRATT: IT'S JUST, ALL OF THESE ARE TALKING
7 ABOUT TURK, ALL OF THESE THEY'RE TALKING ABOUT, ABOUT THE
8 GANGSTER IMAGE THAT PEOPLE PUT OUT IN RAP STUFF. WHETHER
9 IT'S TALKING ABOUT KILLING AARON I DON'T THINK SO, I DON'T
10 SEE IT. CERTAINLY TALKING ABOUT, AND THAT'S WHAT ALL, IF
11 YOU READ, THERE'S 500 PAGES OF THIS. A LOT OF IT IS
12 WRITING ABOUT KILLING AND SHOOTING AND B'S AND H'S AND, YOU
13 KNOW, DRUGS AND ALL KINDS OF STUFF. IT DOESN'T MEAN THAT
14 THAT'S WHAT ---

15 THE COURT: WHAT'S A "B" AND A "H?"

16 MS. PRATT: I THOUGHT YOU KNEW THAT STORY ABOUT
17 LOUISE EVANS, YOUR HONOR.

18 (WHEREUPON, A CONFERENCE WAS HELD OFF THE RECORD
19 BETWEEN THE COURT AND THE LAW CLERK AND THE FOLLOWING TAKES
20 PLACE ON THE RECORD AFTER THE CONFERENCE.)

21 THE COURT: THANK YOU, CLAIRE.

22 MS. PRATT: UNLESS IT SPECIFICALLY TIES TO THIS
23 ONE A LOT OF THIS IS FANCIFUL STUFF AND, YES, HE TALKS
24 ABOUT TURK. TURK'S DEATH HURT THIS MAN, IT HURT EVERYBODY
25 ACCORDING TO DOUGLAS. THAT DOESN'T MEAN THAT HE WENT OUT

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1 AND CAUSED A WHOLE BUNCH OF FUNERALS ABOUT IT. HE'S BEEN
2 IN PRISON.

3 THE COURT: ALL RIGHT, WHAT ELSE YOU GOT, MS. --

4 MS. ELDER: YOUR HONOR, THE ONE ENTITLED "YOU
5 DID ME WRONG" ON THE FOURTH PAGE, IT STARTS OFF RIGHT THERE
6 WHERE MY FINGER IS. IT SAYS "IF FIRST YOU -- FIRST YOU
7 DON'T SUCCEED ALIYAH TRY AGAIN, ONCE YOU KILL SOMEBODY THE
8 NIGGA WANT DIE AGAIN."

9 MS. PRATT: WHICH PAGE ARE WE ON, DONNA?

10 MS. ELDER: THE FOURTH PAGE. YOUR HONOR, IF YOU
11 LOOK AT THE TOP OF THE PAGE IT'S TALKING ABOUT TURK AGAIN
12 IN THAT SAME --

13 THE COURT: I UNDERSTAND, OKAY.

14 MS. PRATT: AND, YOUR HONOR, THIS PARTICULAR
15 SONG IS ABOUT HIS GIRLFRIEND BREAKING UP WITH HIM WHILE
16 HE'S IN PRISON. IT'S TALKING ABOUT HER AND HOW, IF YOU
17 LOOK PAGE ONE, IT STARTED "WHEN BIRD PUT MY NAME IN THIS
18 BULLSHIT" AND ABOUT HOW ALL OF THIS GOES.

19 MS. ELDER: YOUR HONOR, IN THAT SAME VEIN HE
20 TALKS ABOUT ONE SHOT FOR G'S, ONE SHOT FOR G-BLACK.

21 MS. PRATT: MY CLIENT HAS JUST TOLD ME THAT THIS
22 IS A, THAT THAT LAST PAGE IS A DIFFERENT SONG, "I AIN'T GOT
23 NO REMORSE." "YOU DID ME WRONG" IS JUST PAGE ONE AND PAGE
24 TWO, JUST TWO VERSES AND THEN THE NEXT TWO ARE SOMETHING
25 DIFFERENT.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 MS. ELDER: ALL RIGHT, WELL THEN THAT, THAT
2 FOURTH PAGE I'M REFERRING TO IS WHAT I WOULD LIKE TO --

3 THE COURT: WHAT ELSE HAVE YOU GOT?

4 MS. ELDER: THE NEXT PAGE IT SAYS "I'LL USE MY
5 FLAG WHEN I LOAD UP NIGGAS THAT EXTEND THEIR HAND AND ACT
6 LIKE THEY KNOW US." YOUR HONOR, I ALSO HAVE SOMETHING
7 ENTITLED CALLED "PEACOCK LANE" OR THAT'S WHAT'S WRITTEN AT
8 THE TOP.

9 MS. PRATT: I JUST MISSED WHAT THAT LAST ONE ---

10 MS. ELDER: "PEACOCK LANE."

11 THE COURT: "PEACOCK LANE."

12 MS. PRATT: I MEAN ABOUT THE ONE "NIGGAS ACT
13 LIKE THEY KNOW US," WHERE IS THAT?

14 MS. ELDER: IT'S IN THE SAME DOCUMENT SECOND TO
15 LAST PAGE, STARTS UP WITH "SCATTERED DREAMS."

16 MS. PRATT: THOSE ARE THE DIFFERENT SONGS.
17 WHERE WERE YOU STARTING UP, DONNA, I'M SORRY? ON THAT PAGE
18 WHERE IT STARTS SHATTERED DREAMS WHERE, WHAT ARE YOU
19 TALKING ABOUT?

20 MS. ELDER: "I USE MY FLAG WHEN I LOAD UP, NO
21 GLOVES, I USE MY FLAG WHEN I LOAD UP, NIGGAS THAT EXTEND
22 THEIR HANDS AND ACT LIKE THEY KNOW US."

23 MS. PRATT: OKAY, I THINK MY OBJECTION IS
24 OBVIOUS TO THAT ONE.

25 MS. ELDER: "PEACOCK LANE," STARTING RIGHT

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 THERE, YOUR HONOR, THE FIRST PAGE ABOUT A QUARTER WAY DOWN,
2 "MURDER WAS THE CASE, REVENGE FOR G-BLACK, LOOK IN MY EYES
3 YOU CAN SEE MY PAIN, HEART TURNED COLD, I'LL PUT A BULLET
4 STRAIGHT IN YA BRAIN, YOU SAY I'M NOBODY, WHY THE HOMICIDE
5 UNIT SCREAMING MY NAME."

6 THE COURT: OKAY, WHAT ELSE YOU GOT?

7 MS. ELDER: ON DOWN THE SAME PAGE "THE SNITCH IN
8 YA CASE SAYING HOMIE JUST MAT UP, JUNE TOLD ME THEM AK
9 BULLETS MAKE A NIGGA WHO WANT TO FALL STAND UP."

10 THE NEXT ONE, YOUR HONOR, IS A GROUP ENTITLED
11 "THERE'S THEY GO." IT SAYS IN THAT GROUP AT THE TOP OF THE
12 PAGE IT SAYS, "WILL YOU --

13 MS. PRATT: OKAY, I THINK THAT MIGHT BE A
14 DIFFERENT SONG.

15 MS. ELDER: THEY WERE TOGETHER. THE THIRD PAGE
16 OF "WILL YOU," I THINK --

17 THE COURT: IS THIS THE LAST ONE? YOU GOT HOW
18 MANY MORE?

19 MS. ELDER: JUST A FEW.

20 THE COURT: WELL WE'RE TAKING A BREAK.

21 MS. ELDER: YES, SIR.

22 (WHEREUPON, A RECESS WAS TAKEN AND THE FOLLOWING
23 TAKES PLACE ON THE RECORD AFTER THE RECESS.)

24 MS. ELDER: ON THOSE LAST SET OF DOCUMENTS
25 I GAVE YOU ON PAGE ONE, TWO, THREE, FOUR, FIVE AT THE TOP OF

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

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1 THE PAGE IT'S GOT WILL YOU VERSE THREE.

2 THE COURT: ALL RIGHT.

3 MS. ELDER: HALFWAY DOWN THE PAGE I BELIEVE IT
4 STARTS, THE LINE STARTS OFF WITH "TO PRINCETON, I AIN'T
5 WANT MY NAME POPPIN UP IN NO STATEMENTS, TRY THAT AND THE
6 FOUR, FIVE HANDING OUT FACE LIFTS, TO ME BRO SNITCHING IS
7 JUST TASTELESS, SO IF YOU WITNESS SOMEBODY KILLING A NIGGA,
8 DO YOURSELF A FAVOR AND DON'T TELL ON A NIGGA."

9 THE COURT: OKAY.

10 MS. PRATT: AND THAT WOULD BE RELATED TO AARON
11 HOW?

12 MS. ELDER: THAT WOULD BE RELATED TO BIRD SAYING
13 THAT BOS DID THE SHOOTING.

14 MS. PRATT: BUT THAT'S NOT RELATED TO THIS
15 SPECIFIC AARON'S DEATH.

16 THE COURT: OKAY, ALL RIGHT, WHAT ELSE YOU GOT?

17 MS. ELDER: YOUR HONOR, THERE'S ON FURTHER IN,
18 THE NEXT ONE I HAVE IT STARTS OFF WITH "I'M BACK," THE LAST
19 PAGE ON THAT GROUPING TOP OF THE PAGE SAYS "RETALIATION."
20 IT SAYS "SOMEBODY KILLED MY HOMIE AND I GOT TO EASE MY
21 PAIN, AND THE ONLY WAY TO DO THAT IS TO SQUEEZE MY THANG,
22 THE MADNESS I'M FEELING IT'S DRIVING ME INSANE, I CAN FEEL
23 IT, IT'S CALLED MURDER, IT'S IN MY VEINS, IT'S REAL SIMPLE
24 LOAD IT, COCK IT, SQUEEZE, BANG."

25 ANOTHER LINE DOWN I'VE SKIPPED THE NEXT LINE

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1 CAUSE IT HAD A REFERENCE TO COCAINE, "I DON'T GIVE A FUCK
2 IF THE SPECTATOR NO NAME, ONLY THING THAT'S IMPORTANT IS
3 THAT THEY KNOW MY REASON, AND WHEN I'M LEAVING HE WANT BE
4 BREATHING, I GUESS WE CAN CALL THE SCORE SOMEWHAT EVEN."

5 THE COURT: WHERE IS THAT NOW? I'M ON
6 RETALIATION.

7 MS. ELDER: IT'S AT THE VERY TOP, YOUR HONOR,
8 IT'S THE FIRST SENTENCE, "SOMEBODY KILLED MY HOMIE," THAT
9 FIRST PARAGRAPH.

10 THE COURT: ALL RIGHT.

11 MS. ELDER: THE SECOND PIECE OF THAT STARTS,
12 THERE'S A GAP AND THEN THERE'S A SECOND PARAGRAPH,
13 "RETALIATION IS A MUST, HE DIE YOU DIE, YOU RIDE WE RIDE,
14 YOU DON'T WANT PROBLEMS CAUSE THE ANSWER IS HOMICIDE,
15 RETALIATION IS A MUST."

16 THE COURT: "TRY ME AND FIND OUT," IS THAT
17 "MINE" OR "NINE"?

18 MS. ELDER: I APOLOGIZE, YOUR HONOR.

19 MS. PRATT: IT'S A "NINE."

20 THE COURT: "TRY ME AND FIND OUT" -

21 MS. PRATT: "NINE."

22 THE COURT: "OUT" -

23 MS. PRATT: OF COURSE THERE IS NO NINE IN THIS
24 INCIDENT AT ALL. HE WASN'T HIT IN THE BRAIN.

25 MS. ELDER: YOUR HONOR, FURTHER DOWN "GUN ON MY

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

396

1 WAIST, GUILT ON MY FACE."

2 THE COURT: OKAY.

3 MS. ELDER: YOUR HONOR, THAT'S THE ONES THAT WE
4 WANT TO --

5 THE COURT: ALL RIGHT, I FIND THAT THE ONLY ONES
6 THAT ARE SPECIFICALLY, THAT ARE SPECIFIC ENOUGH TO STAND
7 THE MUSTER, FIRST OF ALL, OF RULE 403 AS TO RELEVANCY AND
8 THEN AS TO THE RELEVANCY OF NOT BEING SUBSTANTIALLY
9 OUTWEIGHED BY ANY PREJUDICE IS ON "PEACOCK" WHERE I BELIEVE
10 YOU SAID "MURDER WAS THE CASE, REVENGE FOR G-BLACK, LOOK IN
11 MY EYES, YOU CAN SEE MY PAIN, THE HEART TURNED COLD, I'LL
12 PUT A BULLET STRAIGHT IN YOUR BRAIN, YOU SAY I'M NOBODY WHY
13 THE HOMICIDE UNIT BE SCREAMING MY NAME." ALL RIGHT, THAT
14 AND ON THIS LAST ONE YOU HAD ---

15 MS. ELDER: YES, SIR.

16 THE COURT: --- "SOMEBODY KILLED MY HOMIE AND I
17 GOT TO EASE MY PAIN AND THE ONLY WAY TO DO THAT IS TO
18 SQUEEZE MY THANG, THE MADNESS, ONLY THE MADNESS I'M" --

19 MS. ELDER: "FEELING."

20 THE COURT: "FEELING," OKAY, "IS DRIVING ME
21 INSANE, I CAN FEEL IT, IT'S CALLED MURDER, IT'S IN MY VEIN,
22 IT'S REAL SIMPLE LOAD IT, COCK IT SQUEEZE BANG, AND IF YOU
23 WANT A SURE THING AIM FOR THE BRAIN, THE ACTION GOT MY
24 ADRENALINE PUMPING LIKE COCAINE, I DON'T GIVE A," IT SAYS
25 "FUCK IF THE SPECTATOR NO NAME, THE ONLY THING THAT'S

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

397

1 IMPORTANT IS THAT THEY KNOW MY REASON AND WHEN I'M LEAVING
2 HE WON'T BE BREATHING, SO I GUESS WE CAN CALL THE SCORE
3 SOMEWHAT EVEN." OKAY, RIGHT THERE. I'LL ALLOW THAT AND
4 THE EXCERPT FROM "PEACOCK," OKAY.

5 MS. ELDER: THANK YOU, SIR.

6 THE COURT: ALL RIGHT, I'M GOING TO LET IT BREAK
7 AND GET A COKE OR WHATEVER. I THINK WE'VE GOT ANOTHER CASE
8 IN HERE WHERE I'M TO DO A COUPLE OF PLEAS; IS THAT RIGHT,
9 LET'S GET THOSE DONE. THERE'S THE "PEACOCK" ONE.

10 MS. ELDER: HOW DO YOU WANT ME TO, YOU JUST WANT
11 ME TO HAVE THE INVESTIGATOR READ THE PORTIONS OF IT --

12 THE COURT: THAT'S WHAT I WANT JUST WHAT I JUST
13 READ, OKAY. I DON'T SEE THAT LAST ONE?

14 MS. ELDER: IT'S HOOKED ONTO --

15 THE COURT: WELL YOU CAN FIND IT, YOU KNOW WHAT
16 I'M TALKING ABOUT.

17 MS. ELDER: YES, SIR.

18 THE COURT: STEP DOWN, I KNOW YOU'RE TIRED OF
19 BEING THERE. OKAY, WHERE ARE MY OTHER SOLICITORS?

20 MS. ELDER: THE VIDEO THAT WE'VE GOT IS REAL
21 QUICK, WE'D LIKE TO PUBLISH THAT AT SOME POINT DURING
22 DETECTIVE HULL. I THINK IT'S ALREADY IN EVIDENCE.

23 THE COURT: WHAT VIDEO DO WE HAVE?

24 MS. ELDER: THIS IS JUST THE BOULEVARD SHOOTING
25 JUST TO SHOW WHAT WAS GOING ON THAT NIGHT AND HOW MANY

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

398

1 PEOPLE, THIS IS THAT STREET VIDEO.

2 THE COURT: DOES IT SHOW ANYTHING?

3 MS. PRATT: THE ESCALADE.

4 MS. ELDER: IT SHOWS THE ESCALADE, IT SHOWS
5 AARON RUNNING OUT INTO THE STREET FALLING. IT SHOWS
6 EVERYBODY RUNNING AFTER THE SHOTS ARE FIRED.

7 THE COURT: OKAY, WHAT DO YOU SAY ABOUT THAT,
8 MS. PRATT?

9 MS. PRATT: IT DOESN'T SHOW MY CLIENT.

10 THE COURT: WELL I UNDERSTAND BUT YOU'VE GOT AN
11 OBJECTION THEN.

12 MS. ELDER: IT'S ALREADY IN EVIDENCE, YOUR
13 HONOR.

14 THE COURT: IT'S IN EVIDENCE, YOU'VE GOT AN
15 OBJECTION, OKAY.

16 MS. PRATT: NOT REALLY, SIR.

17 THE COURT: ALL RIGHT.

18 MS. ELDER: YOUR HONOR, JUST FOR, JUST
19 TO MAKE SURE CAUSE I CAN'T REMEMBER NOW WHAT WE'VE DONE.

20 THE COURT: I DON'T EITHER.

21 MS. ELDER: WE HAVE, WE HAVE TAKEN THE TWO ITEMS
22 WE HAD INITIALLY HAD FOR THE COURT RECORD NATHANIEL DOUGLAS
23 HAD IDENTIFIED WHAT'S BEEN MARKED AS STATE'S EXHIBIT I.D.
24 15 WHICH CONTAINED ALL THE LYRICS WE HAD WENT TO PRIOR TO
25 LUNCH. WE HAVE TAKEN OUT THE TWO ORIGINALS OF THE

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

399

1 DOCUMENTS, YOUR HONOR, JUST FOR EASE, PORTIONS OF THE
2 RECORD. WE HAVE TAKEN THOSE TWO DOCUMENTS OUT OF STATE'S
3 I.D. 15 AND NOW HAVE RE-LABELED THEM STATE'S EXHIBIT 18.
4 WE WOULD MOVE THOSE TWO ITEMS INTO EVIDENCE AND ASK TO
5 PUBLISH ONLY THOSE PORTIONS THAT THE COURT HAS INDICATED.

6 THE COURT: ALL RIGHT, NOW, I'M NOT GOING TO PUT
7 THE WHOLE DOCUMENT INTO EVIDENCE NOW, OKAY.

8 MS. ELDER: YES, SIR.

9 THE COURT: THE LANGUAGE IS OFFENSIVE, I THINK
10 THAT'S HIGHLY PREJUDICIAL, IT'S NOT NECESSARY SO I'M NOT
11 GOING TO DO THAT, OKAY.

12 MS. ELDER: HOW DO YOU WANT ME TO --

13 THE COURT: OKAY, AND WHAT WE WILL DO IS PUT
14 THAT IN, I WANT YOU TO MARK THOSE AS COURT'S EXHIBITS NOT
15 TO GO TO THE JURY, OKAY.

16 MS. ELDER: FIFTEEN, OKAY, ALL RIGHT, SO THERE'S
17 JUST TWO ITEMS TO BE MARKED COURT'S EXHIBIT 18 OR WHATEVER,
18 2.

19 MS. PRATT: AND I KNOW, YOUR HONOR, THAT YOU,
20 THAT THE RECORD IS NOTED THAT I OBJECT, OF COURSE, UNDER
21 CHEESEBORO AND ---

22 THE COURT: YES.

23 MS. PRATT: --- 403 AND 402.

24 THE COURT: 401.

25 MS. PRATT: 401, YEAH.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

400

1 (WHEREUPON, COURT'S EXHIBIT NUMBER 2 MARKED FOR
2 IDENTIFICATION.)

3 MS. ELDER: ALSO, YOUR HONOR, WHILE THE JURY IS
4 OUT IN THE BACK, STATE'S EXHIBIT 13 FOR IDENTIFICATION I
5 BELIEVE YOUR HONOR WAS HANDED UP THAT AT SOME POINT AND HAD
6 AN OPPORTUNITY TO LOOK AT IT. THIS IS A, HAS BEEN, THE
7 WRITING HAS BEEN IDENTIFIED BY NATHANIEL DOUGLAS AND THE
8 INVESTIGATOR HAS INDICATED HOW HE OBTAINED A COPY OF IT.
9 THIS IS A LETTER AND IT TALKS ON THE SECOND PAGE ABOUT
10 BIRD'S STATEMENT IN THIS PARTICULAR CASE, THAT HE WANTED TO
11 SEE A COPY OF IT.

12 HE ALSO SAYS I'M SENDING AARON'S DEAD ASS AND IT
13 HAS ATTACHED TO IT A COPY OF THE AUTOPSY PHOTOGRAPH. I'D
14 LIKE TO OBVIOUSLY PUBLISH THAT TO THE JURY AND MOVE THAT
15 INTO EVIDENCE.

16 THE COURT: IT WOULD BE WHAT EXACTLY NOW? READ
17 THE PORTION.

18 MS. ELDER: YES, SIR, YOUR HONOR.

19 THE COURT: I'VE READ THE LETTER BUT READ THE --

20 MS. ELDER: YES, SIR, "YO BRO, BIRD'S STATEMENT
21 IS 41 PAGES I CAN'T MAIL IT BUT I AM SENDING AARON'S DEAD
22 ASS. WHEN YOU GET OUT I'M STILL IN MY CURRENT PLACE, COME
23 WITH GRANDMA BELL AND I'LL SIGN THE STATEMENT OUT TO YOU
24 BUT GET A SHIRT MADE WITH AARON ON IT THAT SAY NIGGAS DEAD
25 ASS, MAKE IT WITH CHAINS IN THEIR NECK.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

401

1 THE COURT: ALL RIGHT, MS. ---

2 MS. ELDER: AND IT'S SIGNED LOVE, YOUNG BOS, AND
3 THAT IS IN FACT AARON'S AUTOPSY PICTURES, YOUR HONOR.

4 MS. PRATT: AND THERE'S NO QUESTION IT'S
5 OFFENSIVE BUT I DON'T SEE ITS RELEVANCE. I DON'T SEE THAT
6 IT GOES TO ANYTHING OTHER THAN THE FACT THAT HE DIDN'T CARE
7 THAT AARON WAS DEAD AND I THINK THAT THAT IS SOMETHING THAT
8 ALL OF THREE DEFENDANTS WOULD PROBABLY SAY. I DON'T THINK
9 IT GOES TO ANYTHING ---

10 THE COURT: WELL OBVIOUSLY THAT DOESN'T SEEM TO
11 BE DISPUTED FROM THE EVIDENCE SO FAR BUT, MS. ELDER, WHAT
12 DOES IT SHOW OTHER THAN THE FACT THAT HE HAS NO, NO GRIEF
13 OVER THE FACT THAT THE VICTIM IS DEAD?

14 MS. ELDER: WELL, YOUR HONOR, MS. PRATT ACTUALLY
15 MADE THAT AN ISSUE WHEN SHE QUESTIONED NATHANIEL DOUGLAS
16 AND SPECIFICALLY ASKED HIM ABOUT BIRD WANTING HIM DEAD AND
17 THAT BOS, YOU KNOW, NOBODY ELSE WAS SAYING ANYTHING AT
18 MEMORIAL WEEKEND OR AT THE BARBECUE. THE ONLY PERSON THAT
19 WAS TALKING ABOUT WANTING HIM DEAD IS BIRD, THAT'S JUST NOT
20 TRUE.

21 MS. PRATT: THIS DETECTIVE -- SORRY -- THIS
22 DETECTIVE HAS ALREADY TESTIFIED THAT MY CLIENT DIDN'T SEEM
23 TO, HE WASN'T SAYING, I KNOW WHAT HE WAS TESTIFYING ABOUT
24 WHAT MY CLIENT SAID ABOUT G-BLACK AND AARON AND NOBODY WAS
25 SAD ON THIS SIDE THAT AARON DIED. THAT DOESN'T MEAN THAT

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

402

1 IT GIVES MORE TO THE PROBABILITY THAT MY CLIENT WAS THE
2 KILLER AND SO IT'S GOT SOME RELEVANCE ISSUES AS WELL AS
3 PROBATIVE VERSUS PREJUDICIAL.

4 THE COURT: WHAT ---

5 MS. ELDER: IT'S JUST LIKE RISK OF FLIGHT, YOUR
6 HONOR, AFTER SOMETHING THAT'S HAPPENED AND OCCURRED SHOWING
7 HIS TIE INTO THIS SITUATION. I MEAN THAT, IT'S EXACTLY, I
8 MEAN WHY IS RISK OF FLIGHT RELEVANT TO GUILT. I MEAN IT
9 SHOWS HIS MINDSET AND IT SHOWS HIS INTENT, IT'S THE SAME
10 THING.

11 THE COURT: WHAT DO YOU MEAN RISK OF FLIGHT?

12 MS. ELDER: WELL RISK, AN EXAMPLE, YOUR HONOR,
13 RISK OF FLIGHT COMES IN, THAT IS SOMETHING THAT'S PROPER TO
14 PRESENT TO A JURY.

15 THE COURT: FLIGHT IS.

16 MS. ELDER: FLIGHT, NOT RISK OF FLIGHT.

17 THE COURT: OKAY.

18 MS. ELDER: SORRY, FLIGHT IS APPROPRIATE TO
19 PRESENT TO THE JURY FOR THE SAME REASON THAT THIS WOULD BE
20 APPROPRIATE, IT'S SOMETHING THAT OCCURRED AFTER THE FACT,
21 IT OCCURRED AFTER HIS, HIS CHARGES. THIS IS SOMETHING THAT
22 HE DID AFTER THE FACT, AFTERWARDS ALL THIS CAME OUT, YOUR
23 HONOR.

24 THE COURT: HOW DOES IT GOT TO HIS GUILT, I MEAN
25 HOW DOES IT GO, I MEAN IT'S VERY OFFENSIVE LANGUAGE, OKAY.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

403

1 I THINK IT IS OFFENSIVE, IT IS OFFENSIVE TO ME AND I THINK
2 IT WOULD BE OFFENSIVE TO THE JURY, SO LET'S GIVE IT THAT,
3 LET'S START THERE, BUT THAT'S NOT FATAL. THAT'S NOT FATAL
4 UNDER 403. WHAT WE HAVE TO LOOK AT IS WHETHER OR NOT IT
5 HAS PROBATIVE VALUE THAT IS NOT SUBSTANTIALLY OUTWEIGHED BY
6 THE PREJUDICIAL AFFECT THAT IT MAY HAVE ON THE JURY, OKAY.

7 THE ISSUE HERE IS HIS GUILT, WHAT IS PROBATIVE IN
8 THAT OF HIS GUILT OTHER THAN THE FACT HE'S NOT HAPPY WITH
9 IT. WE'VE HAD PLENTY OF TESTIMONY ABOUT THAT. I MEAN HE'S
10 NOT UPSET THAT AARON OR THE VICTIM IS, IS NO LONGER WITH
11 US. HE DOESN'T SEEM TO BE UPSET ABOUT THAT AT ALL BUT
12 EVERYBODY HAS TESTIFIED TO THAT, THAT THERE WAS BAD BLOOD.
13 NOW I WANT TO KNOW WHAT IS PROBATIVE OF HIS GUILT; TELL ME
14 WHAT IN THERE WOULD POINT TO HIS GUILT OTHER THAN THE FACT
15 THAT HE DOESN'T CARE THAT HE'S DEAD.

16 MS. ELDER: WELL, YOUR HONOR, I DON'T KNOW THAT
17 WE'VE HAD PLENTY OF TESTIMONY TO THAT. NATHANIEL DIDN'T
18 SAY THAT. NATHANIEL ACTUALLY SAID THE OPPOSITE, SAID THAT
19 WHO WANTED, MS. PRATT SAID WHO WANTED HIM DEAD. WELL SHE
20 SPECIFICALLY ASKED WELL DID ANYBODY ELSE SAY THEY WANTED
21 HIM DEAD OTHER THAN BIRD, NO. I MEAN THAT WAS SPECIFICALLY
22 ASKED UNDER CROSS.

23 MS. PRATT: BUT I DON'T THINK THAT WAS THE
24 ANSWER. I MEAN I THINK EVERYBODY, I DON'T KNOW, ONLY MS.
25 BRENDA WOULD KNOW WHAT I, WHAT WAS ACTUALLY ANSWERED, BUT I

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

404

1 THINK THE IMPRESSION, AND I'M LOOKING IN MY CLIENT'S
2 STATEMENT TO DETECTIVE HULL BECAUSE I'M SURE THAT THERE IS
3 A STATEMENT IN THERE WHERE HE SAYS, YOU KNOW, EVERYBODY
4 WANTED HIM DEAD BUT THAT DIDN'T MEAN THAT, THAT EVERYBODY
5 KILLED HIM TYPE OF THING.

6 MS. ELDER: YOUR HONOR ---

7 MS. PRATT: LET ME SEE IF I CAN FIND THAT.

8 THE COURT: I MEAN IS THAT IN THE STATEMENT,
9 COULDN'T WE GET THIS IN THAT SAME WAY?

10 MS. ELDER: AND I'LL TELL YOU WHY THIS IS ALSO
11 IMPORTANT, THERE WILL BE ANOTHER WITNESS TESTIFY THAT WHILE
12 THEY WERE IN THE CELL THAT BRIAN SPEARS SHOWED HIM IN FACT
13 THIS VERY PICTURE AND SAID SOMETHING TO THE EXTENT OF, AND
14 I'LL HAVE TO REFER, I DON'T WANT TO MISSPEAK. YOUR HONOR,
15 IT WAS, HIS TESTIMONY IS GOING TO BE THAT BOSS SHOWED HIM
16 THIS PARTICULAR PICTURE AND SAID THAT WHEN I BEAT THIS
17 CHARGE I'M GOING TO PUT THIS ON A SHIRT AND WEAR IT AROUND
18 THE HOOD SO EVERYBODY WILL KNOW. HE SAID STUFF ABOUT
19 SHOOTING AARON IN THAT AS WELL AND I THINK IT BECOMES
20 RELEVANT THAT THAT WITNESS IS GOING TO TESTIFY TO THIS VERY
21 PICTURE. OF COURSE HE CANNOT TESTIFY TO THE LETTER CAUSE
22 HE DIDN'T WRITE THE LETTER AND HE DIDN'T SEE THE LETTER.
23 THE LETTER WAS INTERCEPTED.

24 MS. PRATT: I DON'T KNOW THAT THIS LETTER HAS TO
25 GO IN IN ORDER FOR THE SNITCH TO TESTIFY ABOUT MY CLIENT

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

405

1 SUPPOSEDLY SAYING SOMETHING ABOUT A PICTURE.

2 THE COURT: WELL LET ME PUT IT THIS WAY, IF,
3 THIS IS THE WAY I'M GOING TO HANDLE IT, IF IN FACT YOU DO
4 HAVE A WITNESS WHO TESTIFIES AS TO WHAT YOU SAID SHOWED HIM
5 THE PICTURE, SAID HE'S GOING TO WEAR IT AND THEN GOES ON
6 AND MAKES A STATEMENT ABOUT KILLING HIM OR SHOOTING HIM ---

7 MS. ELDER: YES, SIR.

8 THE COURT: --- BECAUSE I'M GOING TO LET YOU
9 CALL DETECTIVE HULL BACK AND I'LL LET HIM PUT THAT IN.

10 MS. ELDER: OKAY.

11 MS. PRATT: THE WHOLE LETTER, YOUR HONOR?

12 THE COURT: NO, JUST THE PORTION SHE'S TALKING
13 ABOUT.

14 MS. PRATT: AND NOT THE PICTURE?

15 THE COURT: RIGHT.

16 MS. ELDER: YEAH, OBVIOUSLY ---

17 THE COURT: WELL THE PICTURE I THINK IS GOING TO
18 BE IDENTIFIED BY THE WITNESS.

19 MS. ELDER: RIGHT, I DON'T NEED TO, I DON'T NEED
20 TO PUT THE ACTUAL PICTURE INTO EVIDENCE. HE CAN JUST
21 IDENTIFY IT AND DETECTIVE HULL CAN SAY IT'S THE AUTOPSY
22 PICTURES.

23 THE COURT: OKAY, ALL RIGHT, THAT'S HOW I'M
24 GOING TO HANDLE IT. LET'S GET THE JURY BACK IN, LET'S MOVE
25 THIS CASE ALONG. ALL RIGHT, MR. HEMINGWAY.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

406

1 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
2 2:49 P.M.)

3 THE COURT: YES, MA'AM?

4 MS. ELDER: THANK YOU, YOUR HONOR.

5 MS. ELDER: (CONTINUING DIRECT EXAMINATION OF
6 DETECTIVE HULL.)

7 Q INVESTIGATOR HULL, BEFORE WE BROKE I HAD
8 YOU LOOKING AT SOME DOCUMENTS. I'D LIKE TO HAVE YOU TAKE A
9 LOOK AT WHAT'S BEEN NOW MARKED AS COURT'S EXHIBIT 2 AND
10 THEY'RE MARKED AS COURT'S EXHIBIT 2 PREVIOUSLY BEEN AND I
11 WANT YOU EXAMINE ON STATE'S EXHIBIT 15 FOR I.D., ARE THOSE
12 ITEMS THAT WERE TAKEN FROM YOUR SEARCH WARRANT OF BRIAN
13 SPEAR'S PERSONAL PROPERTY AT THE JAIL?

14 A YES, THEY WERE.

15 Q AND I'D LIKE FOR YOU TO POINT, I'D LIKE TO
16 POINT YOU TO SOME SECTIONS OF THOSE DOCUMENTS, DO YOU HAVE
17 COPIES?

18 A YES, I DO.

19 Q AND COULD YOU READ FROM THE ONE THAT YOU
20 HAVE RIGHT THERE ON THE TOP JUST THE PORTION THAT I BELIEVE
21 WE'VE ALREADY DESIGNATED PORTIONS THAT YOU WERE TO READ FOR
22 THE JURY?

23 A "SOMEBODY KILLED MY HOMIE AND I GOT TO USE
24 MY HANG AND THE ONLY WAY TO DO THAT IS TO SQUEEZE MY THING.
25 THE MADNESS I'M FEELING IS DRIVING ME INSANE. I CAN FEEL

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

407

1 IT, IT'S CALLED MURDER, IT'S IN MY VEINS. IT'S REAL
2 SIMPLE, LOAD IT, COCK IT, SQUEEZE, BANG, AND IF YOU WANT A
3 SURE THING AIM FOR THE BRAIN. THE ACTION GOT MY ADRENALINE
4 PUMPING LIKE COCAINE. I DON'T GIVE A FUCK IF THE SPECTATOR
5 KNOW NAME, ONLY THING THAT'S IMPORTANT IS THAT THEY KNOW MY
6 REASON AND WHEN I'M LEAVING HE WON'T BE BREATHING. I GUESS
7 WE CAN CALL THE SCORE SOMEWHAT EVEN."

8 Q AND THE SECOND DOCUMENT YOU HAVE I BELIEVE
9 THERE'S A MARKED PORTION IN THAT AS WELL?

10 A YES.

11 Q AND COULD YOU PUBLISH JUST THAT MARKED
12 PORTION FOR THE JURY AT THIS TIME?

13 A "MURDER WAS THE CASE, REVENGE FOR G-BLACK,
14 LOOK IN MY EYES YOU CAN SEE MY PAIN, HEART TURNED COLD,
15 I'LL PUT A BULLET STRAIGHT IN YOUR BRAIN. YOU SAY I'M
16 NOBODY WHY THE HOMICIDE UNIT BE SCREAMING MY NAME."

17 Q AND PREVIOUSLY WE HAD MARKED IN STATE'S
18 EXHIBIT 10 THAT'S NOW INTO EVIDENCE, I BELIEVE THAT WAS THE
19 VIDEO FROM THE BOULEVARD THE NIGHT OF MAY 27TH?

20 A YES, MA'AM.

21 MS. ELDER: YOUR HONOR, AT THIS TIME I WOULD
22 LIKE TO PUBLISH A SMALL SEGMENT OF THAT FOR THE JURY.

23 THE COURT: I THINK WE'VE TALKED ABOUT THAT, MS.
24 PRATT, AND IT'S WITHOUT OBJECTION?

25 MS. PRATT: THAT'S CORRECT, YOUR HONOR.

DETECTIVE HULL - DIRECT EXAMINATION BY MS. ELDER

408

1 THE COURT: ALL RIGHT.

2 (WHEREUPON, STATE'S 10 PLAYED IN OPEN COURT.)

3 MS. ELDER: (CONTINUING)

4 Q DETECTIVE HULL, CAN YOU TELL ME WHAT, WHAT
5 WE'RE LOOKING AT HERE?

6 A YOU'RE LOOKING NORTH ON OCEAN BOULEVARD AT
7 MR. JOE WHITE AVENUE.

8 Q AND THE SHOOTING HAPPENED ON WHAT SIDE?

9 A IT HAPPENED ON THE SIDE WHERE ALL THE
10 PEOPLE ARE WALKING WHICH WOULD BE THE WEST SIDE.

11 Q WAS THIS THE TIME OF THE SHOOTING?

12 A YES, YOU SEE PEOPLE RUNNING ALREADY.

13 Q AND WHERE IS THE VICTIM?

14 A HE IS ALREADY DOWN BY THE TREE IN A WHITE
15 SHIRT HOLDING HIS SIDE RUNNING, HE'S OUT OF FRAME NOW.

16 Q DID HE, WAS THAT HIM THAT JUST RAN BY?

17 A YES, HE'S ALREADY RAN BY.

18 Q CAN WE BACK THAT UP?

19 A SURE.

20 Q WE'RE TALKING ABOUT THE BOTTOM LEFT CORNER;
21 IS THAT CORRECT?

22 A HE'LL COMING RUNNING DOWN THE SIDEWALK,
23 HE'S WEARING A WHITE SHIRT AND IT LOOKS LIKE HE'S HOLDING
24 HIS SIDE. HE'S RIGHT THERE ALMOST TO THE TREE I THINK.

25 Q KEEP ON, RIGHT THERE AT THE CORNER?

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

409

1 A YES, GETTING READY TO GO OUT OF FRAME NOW.

2 Q AND IF WE'LL KEEP ON WATCHING, THIS IS
3 IMMEDIATELY AFTER THE SHOOTING?

4 A YES.

5 Q WHERE IS AARON AT THIS TIME?

6 A HE HAS MADE IT TO APPROXIMATELY MR. JOE
7 WHITE BOULEVARD, 11TH NORTH.

8 Q IS HE IN THE ROAD?

9 A YES.

10 Q AND AT SOME POINT IS THERE A PARTICULAR
11 VEHICLE OF INTEREST?

12 A YES, A CHAMPAGNE COLORED ESCALADE, IT'S
13 HARD TO SEE, I BELIEVE THAT'S IT RIGHT THERE.

14 Q THAT WOULD BE IN THE MIDDLE LANE?

15 A YEAH, WHAT WE WOULD CALL LANE ONE.

16 Q WHOSE VEHICLE IS THAT?

17 A THAT VEHICLE WAS IDENTIFIED AS JEFFREY
18 BETHEA OR THE VEHICLE THAT HE DROVE.

19 MS. ELDER: ONE MOMENT, YOUR HONOR.

20 THE COURT: IS THAT IT?

21 MS. ELDER: YES, SIR, YOUR HONOR, THAT'S ALL THE
22 QUESTIONS I HAVE.

23 THE COURT: ANY FURTHER QUESTIONS FOR THIS
24 WITNESS, MS. ELDER?

25 MS. ELDER: NO, YOUR HONOR, THAT'S ALL THE

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

410

1 QUESTIONS I HAVE FOR THIS WITNESS.

2 THE COURT: ALL RIGHT, MS. PRATT.

3 MS. PRATT: THANK YOU, YOUR HONOR.

4 CROSS EXAMINATION

5 BY MS. PRATT:

6 Q DETECTIVE HULL, YOU WERE THE LEAD
7 INVESTIGATOR IN THIS CASE, CORRECT?

8 A CORRECT.

9 Q YOU RAN IT WITH MARK JACKSON AND --

10 A HE WAS INVOLVED IN IT, YES.

11 Q AND THEN DETECTIVE ALLEN THAT'S BACK OVER
12 HERE?

13 A HE'S HELPED WITH IT.

14 Q AND THAT NIGHT YOU PROBABLY HAD THE HELP OF
15 ABOUT PROBABLY BETWEEN 10 AND 15 OFFICERS, WEREN'T THERE?

16 A QUITE A FEW.

17 Q YEAH, SOME PEOPLE FROM SLED THAT WERE ON
18 THE SCENE HELPING, WE HEARD FROM ONE OF THOSE, SEVERAL
19 OTHERS, DIDN'T YOU?

20 A YES, MA'AM.

21 Q AND YOU COLLECTED LOTS OF DIFFERENT PIECES
22 OF EVIDENCE, DIDN'T YOU?

23 A YES.

24 Q OKAY, YOU COLLECTED, FOR EXAMPLE YOU
25 COLLECTED EIGHT SHELL CASINGS THAT WE'VE TALKED ABOUT

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

411

1 ALREADY?

2 A WE COLLECTED SHELLS.

3 Q WE, YOU COLLECTED, YOU HAD A SEARCH WARRANT
4 ON MR. BETHEA'S VEHICLE AND GOT SOME CLOTHING, YOU DID
5 CLOTHING FROM THE VICTIM, CLOTHING FROM THE OTHER VICTIMS,
6 LOTS AND LOTS OF PIECES WAS DONE?

7 A YES, MA'AM.

8 Q ISN'T IT TRUE THAT THERE IS NO FORENSIC
9 CONNECTION THROUGH DNA OR GUNSHOT RESIDUE OR HAIR ANALYSIS
10 OR BLOOD ANALYSIS THAT CONNECTS FRANKLY IN ANY OF THESE
11 DEFENDANTS TO THESE, THIS ACTUAL SHOOTING?

12 A THAT IS CORRECT.

13 Q OKAY, SO THERE'S NOTHING OUTSIDE OTHER THAN
14 THE WORDS THAT WE'RE HEARING IN THIS COURTROOM, CORRECT,
15 PRETTY MUCH?

16 A PRETTY MUCH, YEAH, I WOULD AGREE WITH THAT.

17 Q AND EVEN ON THE VIDEO, AND THAT'S DIFFERENT
18 THAN IT IS IN TIMES SQUARE OBVIOUSLY, YOU KNOW, THE VIDEO
19 IS A WONDERFUL THING BUT YOU CAN'T EVEN SEE THE SHOOTING,
20 CAN YOU?

21 A NO, YOU CANNOT.

22 Q YOU DID TRY, I'M SURE?

23 A YES, WE TRIED.

24 Q TO TAKE IT APART, WOULD THE SHOOTING PART
25 IN THAT VIDEO BE PROBABLY RIGHT BEHIND THE BIG SIGN THAT

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

412

1 SAID MR. JOE WHITE?

2 A IT WOULD BE I WOULD THINK RIGHT IN THAT
3 AREA, YES.

4 Q SO YOU CAN'T TELL FROM THE VIDEO?

5 A NO, MA'AM.

6 Q THE ONLY THING THAT YOU'VE GOT ARE WHAT THE
7 WITNESSES INCLUDING THE THREE CODEFENDANTS ARE SAYING,
8 CORRECT?

9 A YES, MA'AM.

10 Q OKAY, AND THAT'S FAIR, AND IT WEREN'T FOR
11 THE LACK OF TRYING EITHER, WAS IT?

12 A NO, IT WAS NOT.

13 Q ALL RIGHT, NOW LET'S TALK FOR A MINUTE
14 ABOUT YOUR INTERVIEWS WITH BRIAN SPEARS. THE SOLICITOR
15 ASKED YOU ABOUT THE FIRST INTERVIEW AND BASICALLY IF I BOIL
16 IT DOWN TO A SENTENCE TELL ME IF I'M CORRECT, BRIAN SAYS, I
17 WEREN'T THERE, THAT'S MY STORY I'M STICKING TO IT?

18 A CORRECT.

19 Q OKAY, HE DOESN'T EVEN WANT TO TELL YOU HIS
20 NAME?

21 A CORRECT.

22 Q OKAY, IS THAT AN UNUSUAL THING FOR SOMEBODY
23 THAT KNOWS THAT THEY'RE BEING INVESTIGATED IN REGARDS TO A
24 SERIOUS CRIME LIKE THAT?

25 A I'M NOT SURE, COULD YOU TELL ME WHAT YOU

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

413

1 MEAN BY THAT, IS IT, ARE YOU SAYING IS IT AN UNUSUAL THING
2 FOR SOMEONE ---

3 Q FOR SOMEBODY TO DENY COMPLETE DENIAL THE
4 FIRST GO ROUND?

5 A THAT THEY DENIAL IF THEY'RE BEING ACCUSED
6 OF SOMETHING, NO, MOST PEOPLE WOULD TELL ME, GIVE ME
7 WHATEVER INFORMATION THEY COULD TO TRY TO SHOW THAT THEY
8 DIDN'T DO IT.

9 Q REALLY, ON THE FIRST GO ROUND YOU THINK
10 THAT WOULD BE THE NORMAL RESPONSE FROM SOMEBODY WHO KNOWS
11 THEY'RE LOOKING AT A MURDER THING TO SAY, OH ---

12 A THAT'S BEEN MY EXPERIENCE.

13 Q WOULD IT SURPRISE YOU, THOUGH, IF SOMEBODY
14 JUST COMPLETELY DENIES EVERYTHING AND HOPES THAT THERE
15 WON'T BE ANYTHING THAT TIES HIM TO SOMETHING?

16 A I WOULD DEFINITELY BE WORRIED ABOUT THAT,
17 YES,

18 Q OKAY, AND THEN IN THE SECOND STATEMENT YOU
19 RODE HIM PRETTY HARD DIDN'T YOU FOR TWO HOURS?

20 A WELL WE QUESTIONED HIM FOR AN HOUR AND 56
21 MINUTES, YES.

22 Q YES, AND, AND YOU TRIED ALL KINDS OF
23 DIFFERENT TACTICS?

24 A YES.

25 Q CAUSE YOU'RE A SKILLED CROSS EXAMINER,

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

414

1 AREN'T YOU, OR INVESTIGATOR?

2 A WE QUESTIONED HIM IN DIFFERENT WAYS, YES.

3 Q SURE, TRIED ALL KIND OF DIFFERENT WAYS BUT
4 YOU COULDN'T SHAKE HIM AS FAR AS SAYING HE DIDN'T DO THIS,
5 RIGHT?

6 A NO, HE NEVER SAID HE DID IT.

7 Q CONSISTENTLY SAID I DIDN'T DO THIS, DIDN'T
8 HE?

9 A CORRECT, CONSISTENT.

10 Q AND HE CONSISTENTLY SAID THAT NATHANIEL
11 DOUGLAS DIDN'T DO IT, RIGHT? HE NEVER SAID THAT JUNE DID
12 IT?

13 A NO, HE SAID, HE SAID HE LEFT WITH NATHANIEL
14 DOUGLAS, YES.

15 Q ALL RIGHT, SO HE'S NOT, THAT, EVEN AFTER
16 TWO HOURS LIKE THAT HE DIDN'T, YOU DIDN'T BREAK HIM?

17 A NO.

18 Q AND IN A LOT OF CASES YOU GET CONFESSIONS
19 IN YOUR WORK, DON'T YOU?

20 A YES, WE DO IN TIME.

21 Q OKAY, NOW YOU DID, YOU DEVELOPED A, A
22 COMPOSITE OF THE SUSPECT, DID YOU NOT?

23 A YOU MEAN DEVELOP ---

24 Q A DRAWING, A COMPOSITE DRAWING OF THE
25 SUSPECT?

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

415

1 A A WITNESS STATED THAT SHE COULD DO A
2 COMPOSITE OF THE SUSPECT, YES.

3 Q ALL RIGHT, I'M GOING TO SHOW YOU WHAT I'LL
4 PROBABLY HAVE MARKED AS DEFENSE NUMBER 4, IS THAT THE
5 COMPOSITE?

6 A WELL I WAS NOT PRESENT WHEN IT WAS DONE
7 BUT, YES, THAT IS THE ONE THAT I WAS PROVIDED WITH?

8 Q AND IT'S IN YOUR FILE?

9 A YES.

10 Q PART OF YOUR RECORD AND IN YOUR
11 INVESTIGATION, ISN'T IT?

12 A I HAVE A COPY OF IT.

13 MS. PRATT: AND, YOUR HONOR, I'M GOING TO ASK
14 THAT THIS BE ENTERED INTO EVIDENCE AS DEFENSE NUMBER 4.

15 MS. ELDER: I HAVE NO OBJECTION, I'VE ALREADY
16 PUT A COPY IN.

17 THE COURT: WITHOUT OBJECTION.

18 MS. PRATT: AND I WOULD PUBLISH THAT TO THE
19 JURY.

20 THE COURT: YES.

21 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 4 MARKED
22 AND ENTERED INTO EVIDENCE.)

23 MS. PRATT: (CONTINUING)

24 Q OUT OF THE PEOPLE THAT WERE AT THE SCENE,
25 THE WITNESSES AT THE ACTUAL SCENE OF THE INCIDENT, ISN'T IT

DETECTIVE HULL - CROSS EXAMINATION BY MS. PRATT

416

1 TRUE THAT THE ONLY PERSON THAT IDENTIFIES BRIAN IS BIRD,
2 OUT OF THE WITNESSES AT THE SCENE?

3 A THAT I SPOKE TO YES, YES, BIRD IS THE ONE.

4 Q AND WE DON'T HAVE ANY LINEUPS THAT WHERE
5 SOMEBODY WAS PICKED OUT, DO WE?

6 A NO, WE DO NOT.

7 Q AND YOU PROBABLY INTERVIEWED AT LEAST 20 OR
8 25 PEOPLE THROUGHOUT, DIDN'T YOU?

9 A IT WAS A FEW.

10 Q YOU WERE IN THE COURTROOM AND YOU HEARD ME
11 ASK NATHANIEL DOUGLAS ABOUT A STATEMENT THAT YOU MAY HAVE
12 OVERHEARD THAT OCCURRED AT MYRTLE BEACH POLICE DEPARTMENT,
13 DO YOU REMEMBER THAT STATEMENT THAT I ASKED HIM ABOUT FROM,
14 FROM MR. BETHEA?

15 A I, TO THE BEST OF MY RECOLLECTION I KNEW
16 THAT THEY HAD TALKED BUT I DIDN'T QUITE HEAR EXACTLY
17 EVERYTHING THAT WAS SAID BUT I KNEW THAT THEY HAD
18 CONVERSED.

19 Q OKAY, SO YOU WOULDN'T KNOW THE CONTENT OF
20 THAT STATEMENT BECAUSE YOU DIDN'T HEAR IT?

21 A I BELIEVE I ASKED NATHANIEL.

22 Q OKAY, AND, AND WHAT DID HE TELL YOU?

23 A I WANT TO SAY THAT HE WAS, SAID THAT BIRD
24 WANTED HIM TO SAY HE WASN'T THERE OR THAT HE HAD NOTHING TO
25 DO WITH IT, SOMETHING TO THAT EFFECT.

DETECTIVE HULL - REDIRECT EXAMINATION BY MS. ELDER

417

1 Q YOU DID SEARCH WARRANTS ON, LET ME THINK,
2 BETHEA'S VEHICLE?

3 A YES, WELL WITH CONSENT.

4 Q OR IS IT HIS MAMA'S VEHICLE, RIGHT?

5 A RIGHT.

6 Q AND BRIAN'S HOUSE AND BRIAN AND JUNE'S CELL
7 OR THEIR PROPERTY AT THE JAIL, RIGHT?

8 A CORRECT.

9 Q DID YOU EVER GET A SEARCH WARRANT AGAINST
10 BIRD'S CELL OR HIS PROPERTY AT THE JAIL?

11 A WITHOUT IT RIGHT IN FRONT OF ME I DON'T, I
12 MEAN I WANT TO HELP BUT I DON'T WANT TO SAY SOMETHING I'M
13 NOT POSITIVE ABOUT, I WOULD THINK WE DID BUT OFF THE TOP OF
14 MY HEAD I CAN'T RECALL AT THE MOMENT.

15 Q OKAY, AND YOU DIDN'T SEARCH HIS HOUSE, DID
16 YOU, BETHEA'S HOUSE?

17 A NO, NO, WE DID NOT.

18 Q OKAY, YOU WANT TO LOOK AT YOUR
19 INVESTIGATIVE FILE TO SEE IF YOU SEARCHED BETHEA'S CELL AND
20 HIS PROPERTY?

21 A IF I HAVE IT IT WOULD BE IN THAT WHITE
22 BINDER.

23 THE COURT: SIMPLY PUT, MS. ELDER, DO WE KNOW?

24 MS. ELDER: YOUR HONOR, THE SEARCH WARRANT FROM
25 DECEMBER OF '09 IS SPECIFIC TO BRIAN SPEARS AND LEMARK

DETECTIVE HULL - REDIRECT EXAMINATION BY MS. ELDER

418

1 DOUGLAS FROM DECEMBER OF '09, IF THAT'S WHAT SHE'S
2 REFERRING TO.

3 Q (CONTINUING) AND THERE WAS ANOTHER SEARCH
4 IN MARCH I BELIEVE ALSO BUT NOT MR. BETHEA'S, CORRECT?

5 A I'M NOT SURE.

6 MS. PRATT: I'VE GOT NOTHING ELSE, THANK YOU.

7 MS. ELDER: JUST QUICKLY.

8 **REDIRECT EXAMINATION**

9 **BY MS. ELDER:**

10 Q YOU WERE ASKED ABOUT GSR YOU DIDN'T HAVE
11 MR. SPEARS IN CUSTODY IMMEDIATELY FOLLOWING THE SHOOTING,
12 DID YOU?

13 A NO, WE DID NOT.

14 Q AND IT WAS ACTUALLY ABOUT A WEEK LATER?

15 A APPROXIMATELY.

16 Q YOU WOULDN'T DO A GSR AT THAT TIME, WOULD
17 YOU?

18 A NO, WE WOULD NOT.

19 Q AND AS FAR AS THE CONVERSATION THAT MS.
20 PRATT ASKED ABOUT ON NATHANIEL DOUGLAS YOU INTERVIEWED HIM,
21 TOO, RIGHT, YOU INTERVIEWED NATHANIEL DOUGLAS?

22 A NATHAN-, YES, I DID, YES, I DID.

23 Q AND WHEN YOU ASKED HIM ABOUT WHAT HE AND
24 BIRD WERE SAYING DID HE NOT SAY BOTH OF THEM WANT ME TO
25 TELL THEM SOMEBODY?

DETECTIVE HULL - RECROSS EXAMINATION BY MS. PRATT

419

1 A IF I COULD REFER TO THE NOTES TO BE SURE.

2 Q SURE, PAGE 25 OF THE DOUGLAS INTERVIEW, YOU
3 GOT THAT?

4 A NO, I DO NOT.

5 Q AT THE BOTTOM OF THAT PAGE?

6 A PART OF IT WAS BASICALLY BOTH OF THEM
7 WANTED ME TO TELL ON SOMEBODY, YOU KNOW WHAT I'M SAYING BUT
8 I REALLY DON'T KNOW.

9 MS. ELDER: NO FURTHER QUESTIONS, YOUR HONOR.

10 MS. PRATT: JUST ONE FOLLOW UP.

11 RECROSS EXAMINATION

12 BY MS. PRATT:

13 Q AND YOU DIDN'T FIND, YOU DIDN'T, LET ME SEE
14 THIS, MR. BETHEA CAME INTO CUSTODY SOMETIME AFTER THE
15 SHOOTING, TOO, RIGHT?

16 A CORRECT.

17 Q ABOUT A WEEK LATER, SO THERE WOULD BE NO
18 EVIDENCE AT THAT POINT?

19 A NO, I WOULDN'T, NO.

20 Q SO IT'S NOT ANY MORE SIGNIFICANT THAT YOU
21 DIDN'T TEST BRIAN THAT YOU DIDN'T TEST BETHEA AND YOU
22 DIDN'T FIND ANYTHING, RIGHT?

23 A WELL IT WAS A TIME ISSUE THING, CORRECT.

24 MS. PRATT: THANK YOU VERY MUCH.

25 THE COURT: ALL RIGHT.

SERGEANT BAKER - DIRECT EXAMINATION BY MS. ELDER

420

1 MS. ELDER: YOUR HONOR, WE'RE, THE WITNESS ASKED
2 TO RELIEVED FROM HIS SUBPOENA BUT HE IS MY LEAD CASE AGENT
3 AND ASK HIM TO REMAIN IN THE COURTROOM.

4 THE COURT: ALL RIGHT, YOU MAY STEP DOWN.

5 MS. ELDER: YOUR HONOR, AT THIS TIME WE'D CALL
6 OFFICER LYNN BAKER.

7 **SERGEANT LYNN BAKER**

8 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

9 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
10 SPELL YOUR LAST NAME FOR THE RECORD.

11 THE WITNESS: SERGEANT LYNN BAKER, B-A-K-E-R.

12 **DIRECT EXAMINATION**

13 **BY MS. ELDER:**

14 Q OFFICER BAKER, WHERE ARE YOU EMPLOYED?

15 A HORRY COUNTY DETENTION CENTER.

16 Q IN WHAT CAPACITY?

17 A PHOTO I.D. SECTION.

18 Q AND WHAT DO YOU DO IN THE PHOTO I.D.

19 SECTION?

20 A FINGERPRINTING, PHOTOGRAPHING, AND GANG
21 ENTAIL.

22 Q OKAY, AND PART OF PHOTOGRAPHING AND GANG
23 ENTAIL DO YOU TAKE PICTURES OF INMATES?

24 A WE DO.

25 Q ALL RIGHT, DO YOU TAKE PICTURES OF THEIR

SERGEANT BAKER - DIRECT EXAMINATION BY MS. ELDER

421

1 TATTOOS.

2 Q WE TAKE PICTURES OF TATTOOS AND ANY TIME AN
3 OFFICER NOTICES THAT THERE NEW TATTOOS THEY'RE ROLLED BACK
4 UP AND NEW PICTURES ARE TAKEN.

5 Q AND HOW ARE, HOW DO INMATES GET NEW TATTOOS
6 IN JAIL?

7 A IT'S JUST PRETTY MUCH CALLED JAILHOUSE
8 TATTOOS, THEY WILL USE INK OUT OF INK CARTRIDGES. THEY'LL
9 USE HAIR GELS, INK PENS, PENCIL LEAD, ANYTHING THEY CAN GET
10 THEIR HANDS ON TO PUT A TACK ON THEIR BODY.

11 Q SO INMATES COMMONLY ADD TATTOOS ONCE THEY
12 GET INCARCERATED?

13 A YES, THEY DO.

14 Q DID YOU TAKE PHOTOGRAPHS OF BRIAN SPEARS'
15 TATTOOS?

16 A MY DEPARTMENT DID, YES, MA'AM.

17 Q OKAY, AND DID YOU TAKE THEM UPON ENTRY INTO
18 J. REUBEN LONG?

19 A YES, MA'AM.

20 Q WOULD YOU ALSO HAVE TAKEN SUBSEQUENT
21 PICTURES?

22 A WE DID. HE WAS BROUGHT BACK UP BY AN
23 OFFICER AND MY DEPARTMENT TOOK PICTURES OF NEW TATTOOS THAT
24 WERE ADDED SEVERAL MONTHS AFTER HE WAS INCARCERATED.

25 Q AND I WANT TO SHOW YOU SOME PHOTOS THAT'S

SERGEANT BAKER - DIRECT EXAMINATION BY MS. ELDER

422

1 PART OF WHAT HAS BEEN MARKED AS STATE'S EXHIBIT I.D. 14.
2 IT'S TWO PIECES OF PHOTOGRAPHS AND THERE'S, IS THERE, HOW
3 MANY PHOTOGRAPHS ARE ON EACH PAGE?

4 A TWO.

5 Q AND TELL ME WHY THERE'S TWO PHOTOGRAPHS ON
6 EACH PAGE?

7 A THERE'S TWO BECAUSE THE FIRST ONE ON THE
8 RIGHT HAND SIDE WAS THE ORIGINAL AND HE ADDED MORE TO THAT
9 ONE AND THAT WILL BE THE NEW PICTURE THAT'S ON THE LEFT
10 HAND SIDE SINCE HE'S BEEN INCARCERATED AND THAT'S ---

11 Q AND THAT'S BOTH OF THOSE PICTURES?

12 A YES, MA'AM.

13 Q AND, I'M SORRY, WHO, WHOSE TATTOOS ARE
14 THESE, WHOSE PICTURES, WHOSE PERSON DOES THIS APPEAR ON?

15 A INMATE SPEARS.

16 Q BRIAN SPEARS?

17 A YES, MA'AM.

18 Q YOU ALSO TAKE A LOOK AT WHAT'S BEEN MARKED
19 AS STATE'S EXHIBIT 9(C); DO YOU RECOGNIZE THAT?

20 A YES, MA'AM, THAT'S A NEW TATTOO.

21 Q AND WHO, WHAT INMATE IS THAT ON?

22 A INMATE BRIAN SPEARS.

23 Q IF YOU'LL TAKE A LOOK AT WHAT HAS BEEN
24 MARKED STATE'S EXHIBIT FOR I.D. 9(B), WHAT THAT IS?

25 A THOSE ARE ACTUALLY SOME MORE TATTOOS THAT

SERGEANT BAKER - DIRECT EXAMINATION BY MS. ELDER

423

1 HE'S ADDED TO HIS BODY; THEY'RE JUST VERY UNCLEAR EXACTLY
2 WHAT THEY ARE THROUGH THE CAMERA BUT YOU CAN ALSO SEE ON
3 THE ONE ON THE LEFT HAND SIDE THAT IT SYMBOLS A GUN.

4 Q AND THESE WERE, THESE WERE NEW?

5 A YES, MA'AM.

6 MS. ELDER: YOUR HONOR, AT THIS TIME I'D LIKE TO
7 INTRODUCE STATE'S EXHIBIT 9(C), 9(D), AND IF I COULD HAVE
8 I.D. 14 MARKED A, B, C, AND D BECAUSE I ONLY WANT TWO OF
9 THOSE.

10 THE COURT: MS. PRATT?

11 MS. PRATT: NO OBJECTION TO THAT PORTION, YOUR
12 HONOR.

13 THE COURT: ALL RIGHT.

14 MS. ELDER: THAT WOULD BE, YOUR HONOR, JUST TO
15 CLARIFY THE RECORD, THAT IS WHAT HAS BEEN MARKED STATE'S
16 EXHIBIT 14(A), 14(B), 9(C), AND 9(B).

17 THE COURT: ALL RIGHT.

18 (WHEREUPON, STATE'S EXHIBITS NUMBERS 9(B), 9(C),
19 14(A) AND 14(B) ENTERED INTO EVIDENCE.)

20 MS. ELDER: AND I'D LIKE TO JUST ONCE I'D LIKE
21 TO PUBLISH THESE FOR THE JURY AT THIS TIME IF I CAN HAVE
22 OFFICER BAKER IDENTIFY THEM SINCE WE'VE GOTTEN NEW NUMBERS
23 ON THEM.

24 THE COURT: OKAY.

25 MS. Elder: (CONTINUING)

SERGEANT BAKER - DIRECT EXAMINATION BY MS. ELDER

424

1 Q IF YOU'LL LOOK AT 14 (A) ?

2 A OKAY, 14 (A) THE ONE ON THE RIGHT WILL BE
3 THE TATTOO THAT WAS GIVEN WHAT HE CAME IN WITH AND THE ONE
4 ON THE LEFT IS ONE WE TOOK SEVERAL MONTHS LATER.

5 Q AND 14 (B) ?

6 A THE SAME EXACT THING. THE ONES ON THE
7 RIGHT IS WHAT HE CAME IN WITH, THE ONES ON THE LEFT IS THE
8 ONES HE ADDED TO WHILE HE'S BEEN INCARCERATED.

9 Q AND 9 (C) ?

10 A IT'S A NEW ONE HE ADDED SINCE HE'S BEEN
11 INCARCERATED.

12 Q AND COULD YOU TELL WHAT THAT IS?

13 A IT'S A THE R.I.P.G. AND IT IS A PICTURE OF
14 A GUN.

15 Q AND THAT WAS AFTER HE WAS PUT IN JAIL?

16 A YES, MA'AM.

17 Q AND 9 (B) THE TWO PHOTOGRAPHS?

18 A THE TWO PHOTOGRAPHS ARE PICTURES OF TATTOOS
19 THAT HE TOOK WHILE HE'S BEEN IN JAIL. AND THE ONE ON THE
20 LEFT VISUALIZES A PICTURE OF A GUN.

21 Q AND THE ONE ON THE RIGHT CAN YOU TELL?

22 A IT'S HARD TO MAKE OUT TRUTHFULLY WHAT HE'S
23 PUT ON IT.

24 MS. ELDER: THAT'S ALL THE QUESTIONS I HAVE,
25 YOUR HONOR.

SERGEANT BAKER - CROSS EXAMINATION BY MS. PRATT

425

1 THE COURT: ALL RIGHT.

CROSS EXAMINATION

2
3 BY MS. PRATT:

4 Q OFFICER BAKER, HOW DO YOU KNOW THAT THE
5 ONES IN 9(B) THAT LAST ONE THAT I THINK ARE CIRCULATING ARE
6 THE NEW ONES? DO YOU HAVE SOME RECORD THAT YOU BROUGHT
7 WITH YOU THAT SHOWS THAT THOSE ARE THE NEW TATTOOS?

8 A WHICH ONES?

9 Q I THINK IT'S JUST ONE THAT YOU JUST
10 DESCRIBED ABOUT THE GUN AND THEN SOMETHING YOU COULDN'T
11 REALLY SEE?

12 A THOSE WERE NOT TAKEN WHEN HE WAS ORIGINALLY
13 ARRESTED AND WHEN WE TAKE NEW PICTURES THE DATE
14 AUTOMATICALLY ASSIGNED TO THOSE PICTURES COMES UP AND SHOWS
15 A DIFFERENT DATE.

16 Q OKAY, AND THERE'S NO DATE ON THESE
17 PARTICULAR PHOTOGRAPHS?

18 A THERE IS ON MINE WHEN THEY WERE ORIGINALLY
19 SENT TO MS. ELDER'S I'M SURE WHEN SHE GOT THEM.

20 Q OKAY, CAN THERE BE AN ERROR THAT SOME OF
21 THOSE, THAT MAYBE ONE OF THOSE TATTOOS THAT LOOKS AGED
22 ACTUALLY IS AGED AND FROM A LONG TIME BEFORE?

23 A IT COULD VERY WELL POSSIBLY BE IF HE LIED
24 ABOUT THE TATTOOS HE HAD OR IF IT WAS IN AN UNDISCLOSED
25 AREA THAT WE COULD NOT TAKE THE PICTURE OF THE TATTOO AT

SERGEANT BAKER - REDIRECT EXAMINATION BY MS. ELDER

426

1 THE TIME.

2 Q OKAY, SO WHILE YOU BELIEVE THAT THESE ARE
3 ALL NEW IT'S POSSIBLE YET THEY'RE NOT?

4 A THERE IS A VERY POSSIBILITY THAT SOME OF
5 THEM COULD NOT BE.

6 Q OKAY, DID YOU ALSO HAVE TATTOO PICTURES FOR
7 MR. BETHEA AND MR. DOUGLAS?

8 A I'M SURE I HAVE. I DON'T ACTUALLY RECALL.
9 I WASN'T ASKED TO CHECK ON THEM SO I HAVEN'T REFRESHED THEM
10 TO BE HONEST.

11 Q OKAY, THAT'S FAIR, AND I'M SURE IF WE
12 SUBPOENAED YOU TO COME BACK ON DEFENSE CASE IN REGARDS TO
13 OTHER TATTOOS YOU'D BE HAPPY TO DO THAT WHEN YOU COME BACK,
14 WOULDN'T YOU, MA'AM?

15 A WHEN WE ARE CALLED.

16 MS. PRATT: THANK YOU, I HAVE NOTHING FURTHER.

17 MS. ELDER: JUST QUICKLY.

18 **REDIRECT EXAMINATION**

19 **BY MS. ELDER:**

20 Q SOME OF THE TATTOOS AREAS YOU SAID AS
21 UNDISCLOSED AREAS WOULD A VERY LARGE TATTOO ON THE NECK
22 WOULD THAT BE SOMETHING YOU WOULD LOOK FOR?

23 A IT WOULD BE SEEN VISUALLY AND THEN WHEN WE
24 DID A LEFT TO RIGHT VISUAL THAT PICTURE WOULD BE SEEN AT
25 THAT TIME. IF THE INMATE SAID THAT HE DIDN'T HAVE IT IT

AGENT CROMER - DIRECT EXAMINATION BY MS. ELDER

427

1 WOULD BE OBVIOUS TO US.

2 Q SO, I BELIEVE THAT, I'M REFERRING TO 9,
3 9(C) THAT'S A TATTOO ON HIS NECK; IS THAT RIGHT?

4 A YES, MA'AM, IT IS AND IT'S VERY RED IN
5 NATURE AROUND IT ALSO.

6 Q OKAY, SO THAT WOULD BE IN A VISUAL AREA YOU
7 WOULD HAVE SEEN AT THE TIME OF BOOKING?

8 A YES, MA'AM, IT'S ON THE SIDE OF HIS NECK.

9 Q ALL RIGHT, AND THAT WAS NOT ON THERE AT THE
10 TIME?

11 A NO, MA'AM.

12 MS. ELDER: THAT'S ALL I HAVE, YOUR HONOR.

13 MS. PRATT: NOTHING FURTHER, YOUR HONOR.

14 THE COURT: YOU MAY STEP DOWN, MS. BAKER, THANK
15 YOU FOR COMING. YOU WANT TO RELEASE MS. BAKER?

16 MS. ELDER: I'M SORRY, YOUR HONOR, WELL IT'S
17 SUBJECT I ASSUME TO, I DON'T THINK MS. PRATT HAS HER UNDER
18 SUBPOENA.

19 THE COURT: MS. PRATT CAN FIND MS. BAKER IF WE
20 NEED HER BACK, CAN'T YOU, MS. PRATT?

21 MS. PRATT: I CERTAINLY CAN, YOUR HONOR.

22 MS. ELDER: THANK YOU, YOUR HONOR. YOUR HONOR,
23 AT THIS TIME THE STATE WOULD CALL SUZANNE CROMER.

24 AGENT SUZANNE CROMER

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

AGENT CROMER - DIRECT EXAMINATION BY MS. ELDER

428

1 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
2 SPELL YOUR LAST NAME FOR THE RECORD.

3 THE WITNESS: MY NAME IS SUZANNE CROMER, C-R-O-
4 M-E-R.

DIRECT EXAMINATION

6 **BY MS. ELDER:**

7 Q AGENT CROMER, WHERE ARE YOU EMPLOYED?

8 A I'M EMPLOYED WITH THE SOUTH CAROLINA LAW
9 ENFORCEMENT DIVISION, COMMONLY REFERRED TO AS SLED.

10 Q AND WHAT DEPARTMENT ARE YOU EMPLOYED IN?

11 A I'M IN THE FIREARMS DEPARTMENT.

12 Q AND WHAT TYPES OF THINGS DO YOU DO IN THE
13 FIREARMS DEPARTMENT?

14 A WE DO WHAT'S REFERRED TO AS FIREARMS
15 IDENTIFICATION. WE ANALYZE AMMUNITION COMPONENTS, BULLETS,
16 CARTRIDGE CASES, SHOTGUN SHELLS TO DETERMINE WHAT THEY ARE,
17 FIRST, AND WHETHER THEY WERE FIRED BY OR LOADED INTO AND
18 EXTRACTED OUT OF A SPECIFIC FIREARM.

19 Q AND DID YOU HAVE AN OPPORTUNITY TO REVIEW
20 SOME ITEMS, SHELL CASINGS, AND PROJECTILES GIVEN TO YOU BY
21 MYRTLE BEACH POLICE DEPARTMENT IN REFERENCE TO VICTIM AARON
22 HAMMONDS, LASHEIKA FELTON, KRYSTAL FOWLER, AND DJUAN
23 MONROE?

24 A YES, MA'AM, I DID.

25 Q DID YOU DO AN ANALYSIS ON THAT?

AGENT CROMER - DIRECT EXAMINATION BY MS. ELDER

429

1 A YES, I DID.

2 Q AND DID YOU ISSUE AN OPINION ON THAT?

3 A YES, I DID.

4 MS. ELDER: AND, YOUR HONOR, AT THIS TIME IT'S
5 MY UNDERSTANDING THAT THE DEFENSE WILL STIPULATE AS TO MS.
6 CROMER'S EXPERTISE IN THE AREA OF BALLISTIC TESTING AND
7 FORENSIC IDENTIFICATION OF FIREARMS.

8 THE COURT: IS THAT RIGHT?

9 MS. PRATT: YES, YOUR HONOR.

10 THE COURT: VERY WELL.

11 MS. ELDER: (CONTINUING)

12 Q NOW, AGENT CROMER, IF YOU WOULD TAKE A
13 LOOK, DO YOU HAVE A COPY OF YOUR REPORT?

14 A YES, MA'AM, I DO.

15 Q DOES IT HELP YOU TO REFRESH YOUR MEMORY ON
16 WHAT YOU CONCLUDED IN REFERENCE TO THESE ITEMS?

17 A YES, MA'AM, AND I ALSO HAVE MY NOTES.

18 Q I'D LIKE FOR YOU TO TAKE A LOOK AT WHAT'S
19 BEEN MARKED AS STATE'S EVIDENCE NUMBER 5?

20 A THESE ARE THE EIGHT CARTRIDGE CASES THAT I
21 EXAMINED. THEY ARE ALL STILL IN MY FIELD CONTAINER WITH MY
22 INITIALS AND MY SEAL DATE.

23 Q AND WHAT DID YOU WHEN YOU SAY CASINGS SOME
24 OF US MAY NOT BE GUN PEOPLE, WE DON'T KNOW WHAT CASINGS
25 ARE, DESCRIBE FOR ME WHAT A CASING IS?

AGENT CROMER - DIRECT EXAMINATION BY MS. ELDER

430

1 A A CARTRIDGE CASE LIKE THIS IS WHAT CONTAINS
2 THE GUN POWDER IN THE BULLET BEFORE IT'S FIRED AND THEN
3 AFTER IT'S FIRED YOU HAVE A BULLET AND A CARTRIDGE CASE
4 WHICH IS WHAT YOU HAVE HERE.

5 Q AND WOULD A, WOULD A REVOLVER EXPEL THOSE
6 OR WOULD IT BE AN AUTOMATIC?

7 A IT SHOULD HAVE BEEN A SEMIAUTOMATIC PISTOL.

8 Q SEMIAUTOMATIC PISTOL, DO REVOLVERS EXPEL
9 THEIR CARTRIDGES?

10 A NO, MA'AM, THEY DO NOT.

11 Q THEY STAY IN THE GUN?

12 A THEY ARE CONTAINED IN THE CYLINDER. A
13 CYLINDER, IF YOU'VE EVER WATCHED A WESTERN MOVIE AND YOU
14 SEE THOSE GUNS WHERE IT HAS THE ROUND THING THAT GOES
15 AROUND, THAT'S A CYLINDER, AND THEY STAY IN THE CYLINDER
16 UNTIL YOU OPEN THE CYLINDER AND DROP THEM OUT.

17 Q THOSE EIGHT CARTRIDGE CASES WHAT DID YOU DO
18 FOR IDENTIFICATION?

19 A WHEN I'M LOOKING AT CARTRIDGE CASINGS A
20 CARTRIDGE CASE THAT'S BEEN FIRED BY A SEMIAUTOMATIC PISTOL
21 WILL BE MARKED IN FIVE DIFFERENT AREAS OR CAN BE MARKED IN
22 FIVE DIFFERENT AREAS. FIRST WE HAVE THE BREECH FACE. THAT
23 IS THE PART OF THE CARTRIDGE OR THE HEAD OF THE CARTRIDGE
24 THAT CONTAINS THE HEAD STAMP. USUALLY THE HEAD STAMP HAS
25 SOME TYPE OF IDENTIFICATION OF THE MANUFACTURER AND THE

AGENT CROMER - DIRECT EXAMINATION BY MS. ELDER

431

1 CALIBER AND THEN YOU HAVE YOUR PRIMER.

2 YOUR PRIMER IS WHAT'S MARKED BY THE BREECH FACE
3 OF THE GUN. THE PRIMER IS WHAT CAUSES THE INITIAL IGNITION
4 OF THE CARTRIDGE CASE CAUSE IT CAN BE HIT BY A FIRING PIN,
5 SO WE LOOK AT THE BREECH FACE MARKINGS WHICH ARE ON THE
6 HEAD OF THE CARTRIDGE CASE. WE LOOK AT THE FIRING PIN
7 WHICH ACTUALLY STRIKES THE PRIMER, WE LOOK AT THAT. WE
8 LOOK AT AN EJECTOR OR AN EXTRACTOR MARK.

9 AFTER FIRING YOU HAVE ALL OF THIS GAS AND
10 PRESSURE THAT'S PUSHING THIS CARTRIDGE CASE BACK INTO THE
11 BREECH FACE OF THE GUN. YOU ALSO HAVE A LITTLE CLAW THAT'S
12 HOOKED OVER THE RIM OF THE CARTRIDGE CASE THAT IS HOLDING
13 IT BACK. WHILE THAT SLIDE IS COMING BACKWARDS THAT CLAW
14 CAN LEAVE MARKINGS ON THE BODY OF THE CARTRIDGE CASE.

15 THEY'LL ALSO BE AN EJECTOR WHICH IT WILL COME
16 BACK, HIT, TURN TO GO OUT THE EJECTION PORT OF A FIREARM,
17 AND YOU CAN ALSO BE MARKED BY ANY IMPERFECTIONS THAT ARE IN
18 THE CHAMBER OF THE GUN.

19 Q AND AFTER YOU LOOKED AT THESE THINGS
20 REGARDING THESE PARTICULAR EIGHT ITEMS COULD YOU CONCLUDE
21 IF THEY WERE FIRED FROM THE SAME WEAPON?

22 A YES, MA'AM, AFTER ANALYZING ALL THESE I
23 CONCLUDED IN MY OPINION THAT THESE EIGHT CARTRIDGE CASES
24 WERE FIRED BY ONE FIREARM.

25 Q AND WHAT CALIBER FIREARM WAS THAT, CAN YOU

AGENT CROMER - DIRECT EXAMINATION BY MS. ELDER

432

1 TELL THAT?

2 A IT WAS A 25-AUTO.

3 Q IF YOU CAN ALSO TAKE A LOOK AT WHAT'S BEEN
4 MARKED STATE'S EXHIBIT 8?

5 A YES, MA'AM, AGAIN THESE ARE THREE OF THE
6 BULLETS THAT I EXAMINED AND THEY'RE ALL STILL IN CONTAINERS
7 STILL WITH MY INITIALS AND MY, MY SEAL DATE.

8 Q AND THOSE IN FACT ARE, THEY'RE NOT, THEY'RE
9 NOT PROJECTILES, THEY'RE NOT CASINGS THEY'RE ACTUAL
10 PROJECTILE?

11 A THEY'RE ACTUALLY BULLETS.

12 Q OKAY, AND THE THREE THAT YOU HAVE THERE
13 COULD YOU IDENTIFY HOW THEY WERE SUBMITTED AS TO WHAT,
14 WHERE THEY CAME FROM?

15 A THESE THREE ITEMS CAME TO ME AS THEY WERE
16 LABELED AS FROM THE BODY OF AARON LEE HAMMONDS.

17 Q AND WERE YOU ABLE TO MAKE ANY DETERMINATION
18 ABOUT THOSE THREE PROJECTILES?

19 A AFTER MY EXAMINATION OF THESE THREE
20 PROJECTILES I CONCLUDED THAT THEY WERE MOST CONSISTENT WITH
21 25 AUTO BULLETS AND THAT THEY WERE ALL FIRED BY ONE
22 FIREARM.

23 Q AND IF YOU COULD TAKE A LOOK AT WHAT'S BEEN
24 MARKED AS STATE'S I.D. NUMBER 6?

25 MS. PRATT: AND, YOUR HONOR, AT THIS POINT WE

AGENT CROMER - DIRECT EXAMINATION BY MS. ELDER

433

1 PROBABLY SHOULD APPROACH?

2 THE COURT: ALL RIGHT.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
4 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
5 OF THE JURY AND THE COURT REPORTER.)

6 THE COURT: ALL RIGHT, LET'S SEND THE JURY OUT.

7 MS. ELDER: I DON'T HAVE A PROBLEM.

8 THE COURT: ALL RIGHT, OKAY.

9 MS. ELDER: (CONTINUING)

10 Q SO THE EIGHT CASINGS WERE FROM A 25 OR MOST
11 CONSISTENT WITH A 25, CORRECT?

12 A THAT IS CORRECT.

13 Q AND DID THEY INDICATE WHEN YOU RECEIVED
14 THEM WHERE THEY WERE RETRIEVED FROM, WHAT THEY WERE LABELED
15 AS?

16 A THEY WERE LABELED AS FROM 11TH AVENUE NORTH
17 AND OCEAN BOULEVARD.

18 Q AND THE THREE BULLET FRAGMENTS WERE ALSO
19 CONSISTENT WITH A 25-AUTO CALIBER?

20 A YES, MA'AM.

21 Q AND THEY WERE ALSO FIRED FROM THE SAME
22 WEAPON?

23 A YES, MA'AM.

24 Q IS IT POSSIBLE TO TELL IF THE CASINGS AND
25 THE BULLETS ARE FROM THE SAME WEAPON?

AGENT CROMER - CROSS EXAMINATION BY MS. PRATT

434

1 A NOT WITHOUT THE FIREARM I CANNOT DO THAT.

2 Q YOU CAN, CAN YOU JUST SAY IT WAS
3 CONSISTENT?

4 A THEY WERE BOTH CONSISTENT WITH BEING 25
5 AUTO.

6 MS. ELDER: THAT'S ALL THE QUESTIONS I HAVE,
7 YOUR HONOR.

8 THE COURT: ALL RIGHT.

9 CROSS EXAMINATION

10 BY MS. PRATT:

11 Q MS. CROMER, JUST ONE, BASICALLY WHAT YOU'RE
12 SAYING, AND I'M NOT A GUN PERSON, I DON'T ALWAYS UNDERSTAND
13 ALL THAT, BUT BASICALLY WHAT YOU'RE SAYING IS THERE WAS ONE
14 FIREARM IN REGARDS TO THE CASINGS AND ONE FIREARM IN
15 REGARDS TO THE BULLET?

16 A I'M SAYING THERE WAS AT LEAST ONE FIREARM
17 THERE AND I CANNOT RULE OUT THAT THERE WASN'T TWO.

18 Q OH, I'M NOT TRYING TO SAY TWO, I'M SORRY, I
19 PUT THAT QUESTION BADLY, WE KNOW THAT THERE'S, THAT THE
20 CASINGS ALL CAME FROM THE SAME GUN?

21 A THAT'S CORRECT.

22 Q AND WE KNOW THAT THE BULLET FRAGMENTS ALL
23 CAME FROM THE SAME GUN?

24 A THAT IS CORRECT.

25 Q AND UNLESS YOU HAD THE GUN YOU CAN'T PUT

AGENT CROMER - REDIRECT EXAMINATION BY MS. ELDER

435

1 THEM TOGETHER BUT THEY'RE CONSISTENT?

2 A THAT IS RIGHT.

3 Q ONE GUN?

4 A COULD HAVE BEEN ONE GUN.

5 MS. PRATT: THANK YOU.

6 REDIRECT EXAMINATION

7 BY MS. ELDER:

8 Q COULD IT HAVE BEEN TWO 25'S?

9 A IT COULD HAVE BEEN.

10 MS. ELDER: NO OTHER QUESTIONS, YOUR HONOR, I
11 WOULD ASK THAT THIS WITNESS BE EXCUSED.

12 MS. PRATT: NO OBJECTION.

13 THE COURT: YOU'RE EXCUSED.

14 MS. PRATT: AND, YOUR HONOR, I ALSO HAD HER
15 UNDER SUBPOENA SO I'D BE RELEASING HER FROM MY SUBPOENA.

16 THE COURT: ALL RIGHT.

17 MS. ELDER: YOUR HONOR, AT THIS TIME THE STATE
18 WOULD CALL JEFFREY BETHEA.

19 MS. ELDER: MAY WE APPROACH?

20 THE COURT: YES.

21 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
22 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
23 OF THE JURY AND THE COURT REPORTER.)

24 THE COURT: MR. ROPP, WOULD YOU, PLEASE, TAKE
25 THE JURY TO YOUR ROOM, MAKE SURE THAT THEY HAVE

AGENT CROMER - REDIRECT EXAMINATION BY MS. ELDER

436

1 REFRESHMENTS, OKAY.

2 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
3 3:33 P.M.)

4 THE COURT: MY UNDERSTANDING YOU HAVE TWO MORE
5 WITNESSES AND THE ONE THAT WE ARE WAITING FOR IS STILL AT
6 THE JAIL; IS THAT CORRECT?

7 MS. ELDER: THAT IS CORRECT, THEY'VE ASSURED ME
8 THEY'VE ---

9 THE COURT: ALL RIGHT, IS SOMEONE GOING TO GET
10 HIM?

11 MS. ELDER: YES, I THINK ---

12 THE COURT: I'LL SEND MR. ALLEN IF WE NEED TO,
13 OKAY.

14 MS. ELDER: I FEEL CERTAIN TO GET THIS OVER HE
15 WILL BE MORE THAN HAPPY TO GO AND PICK HIM UP, YOUR HONOR.

16 THE COURT: ALL RIGHT, YOU'VE GOT SOMEONE
17 THOUGH, THERE'S NOT GOING TO BE A HITCH OUT THERE, SOMEBODY
18 IS BRINGING HIM THEN, RIGHT?

19 MS. ELDER: I'M GOING TO GO DOWNSTAIRS RIGHT NOW
20 TO MAKE SURE THEY LET HIM IN THE DOOR DOWNSTAIRS.

21 THE COURT: ALL RIGHT.

22 (WHEREUPON, A RECESS WAS TAKEN.)

23 THE COURT: BRING THEM IN.

24 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
25 4:16 P.M.)

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

437

1 THE COURT: ALL RIGHT, CALL YOUR NEXT WITNESS.

2 MS. ELDER: THE STATE CALLS JEFFREY BETHEA.

3 JEFFREY BETHEA

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
6 SPELL YOUR LAST NAME FOR THE RECORD.

7 THE WITNESS: JEFFREY BETHEA, B-E-T-H-E-A.

8 DIRECT EXAMINATION

9 BY MS. ELDER:

10 Q MR. BETHEA, YOU'RE CURRENTLY AT J. REUBEN
11 LONG DETENTION CENTER?

12 A YES, MA'AM.

13 Q AND YOU ARE BEING HELD THERE NOW FOR WHAT?

14 A MURDER AND THREE ATTEMPT TO KILL.

15 Q AND I BELIEVE YOU HAVE PLED GUILTY TO
16 VOLUNTARY MANSLAUGHTER; IS THAT CORRECT?

17 A YES, MA'AM.

18 Q AND THAT INVOLVED THE DEATH OF AARON
19 HAMMONDS; IS THAT ALSO CORRECT?

20 A YES, MA'AM.

21 Q DID YOU DO THAT IN CONJUNCTION WITH A DEAL
22 TO TESTIFY HERE TODAY?

23 A YES, MA'AM.

24 Q AND YOU MADE THAT AGREEMENT WITH ME; IS
25 THAT CORRECT?

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

438

1 A YES, MA'AM.

2 Q YOU WERE ORIGINALLY CHARGED WITH MURDER?

3 A YES, MA'AM.

4 Q IN THE DEATH OF AARON HAMMONDS?

5 A YES, MA'AM.

6 Q AND BASED ON YOUR TESTIMONY YOU WERE
7 ALLOWED TO PLEAD TO VOLUNTARY MANSLAUGHTER?

8 A YES, MA'AM.

9 Q YOU'VE NOT BEEN SENTENCED YET, HAVE YOU?

10 A NO, MA'AM.

11 Q AND DO YOU RECALL WHEN YOU ENTERED INTO
12 THAT AGREEMENT WITH ME?

13 A MARCH OF LAST YEAR.

14 Q MARCH OF '09?

15 A YES, MA'AM.

16 Q I WANT TO TAKE YOU, AND PRIOR TO MARCH OF
17 '09 DID WE HAVE ANY KIND OF AGREEMENT?

18 A NO, MA'AM.

19 Q AND WE HADN'T EVEN MET, HAD WE?

20 A NO, MA'AM.

21 Q BACK IN MAY OF 2007 WHERE, WHERE WERE YOU
22 LIVING?

23 A LUMBERTON, NORTH CAROLINA, [REDACTED] POLK CARSON
24 ROAD.

25 Q AND WERE YOU FROM LUMBERTON?

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

439

1 A YES, MA'AM.

2 Q AND DO YOU HAVE A STREET NAME TO GO BY?

3 A BIRD.

4 Q BIRD, WHAT ABOUT BRIAN SPEARS?

5 A BOS.

6 Q AND DID YA'LL KNOW EACH OTHER WHILE YA'LL
7 WERE IN LUMBERTON?

8 A YES, MA'AM.

9 Q DID YA'LL, WERE YOU A MEMBER OF A GANG?

10 A YES, MA'AM.

11 Q WHAT WAS THE GANG CALLED?

12 A G.D. FOLK NATION.

13 Q AND DID YA'LL ALL LIVE ON THE SAME AREA OF
14 TOWN?

15 A YES, MA'AM.

16 Q WHAT'S THE ROAD THERE?

17 A FORTY-ONE.

18 Q FORTY-ONE, IS THAT THE NAME OF THE ROAD,
19 THE SECTION YA'LL LIVED IN?

20 A YES, MA'AM.

21 Q AND WAS BRIAN SPEARS IN THE GANG WITH YOU?

22 A YES, MA'AM.

23 Q WHAT ABOUT NATHANIEL DOUGLAS?

24 A YES, MA'AM.

25 Q AND WHAT WAS HIS STREET NAME?

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

440

1 A JUNE.

2 Q I WANT TO TAKE YOU BACK A LITTLE BIT
3 FURTHER, WAS ERIC FLOYD A MEMBER OF YOUR GANG?

4 A YES, MA'AM.

5 Q AND HE GOT KILLED; IS THAT CORRECT?

6 A YES, MA'AM.

7 Q AT THE TIME OF HIS DEATH WHAT POSITION DID
8 HE HOLD IN THE GANG?

9 A FOOT SOLDIER.

10 Q AND WHAT POSITION DID YOU HOLD?

11 A PRINCE.

12 Q AND WHAT ABOUT BRIAN SPEARS?

13 A FOOT SOLDIER.

14 Q AND NATHANIEL DOUGLAS?

15 A FOOT SOLIDER.

16 Q AND WAS THAT THE STATUS ON MAY OF '07?

17 A YES, MA'AM.

18 Q WHEN ERIC FLOYD WAS KILLED, WHAT, WHAT IS
19 HIS STREET NAME, DID HE GO BY A NAME?

20 A WE CALLED HIM G-BLACK OR TURK.

21 Q OKAY, HE WENT BY BOTH? IS THAT A YES?

22 A YES, MA'AM.

23 Q AND WHEN ERIC WAS KILLED WERE YOU WITH HIM?

24 A YES, MA'AM.

25 Q AND DID YOU, DO YOU KNOW IF ANYBODY WAS

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

441

1 EVER, DO YOU KNOW IF AARON HAMMONDS WAS INVOLVED IN THAT
2 SHOOTING?

3 A NOT ACTUALLY, NO, MA'AM.

4 Q OKAY, DO YOU KNOW IF HE WAS ARRESTED FOR
5 THAT SHOOTING?

6 A YES, MA'AM.

7 Q DID HE STAY IN JAIL FOR A WHILE FOR THAT?

8 A YES, MA'AM.

9 Q AND I BELIEVE SOMEBODY ELSE WAS ARRESTED
10 FOR THAT AS WELL?

11 A YES, MA'AM.

12 Q AND THEY WERE IN JAIL AS WELL?

13 A YES, MA'AM.

14 Q NOW GOING BACK TO MAY OF '07, 27TH OF '07
15 DID YOU COME DOWN TO THE BEACH, MYRTLE BEACH?

16 A YES, MA'AM.

17 Q WHAT DID YOU COME DOWN HERE FOR?

18 A FOR THE BIKE RALLY.

19 Q AND HOW DID YOU GET DOWN HERE?

20 A I DROVE.

21 Q AND WHO, WHO WERE YOU WITH?

22 A ME AND TWO OTHER FRIENDS.

23 Q DO YOU REMEMBER THEIR NAMES?

24 A BRENDA LANE AND KELLY.

25 Q AND WHAT TIME DID YA'LL GET DOWN HERE?

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

442

- 1 A I BELIEVE AROUND 8 SOMETHING LIKE THAT.
- 2 Q WAS THAT AT NIGHT OR IN THE MORNING?
- 3 A THE NIGHT.
- 4 Q WHAT KIND OF CAR WERE YOU DRIVING?
- 5 A A ESCALADE.
- 6 Q AND WHEN YOU GOT DOWN HERE DID YA'LL HAVE A
- 7 PLACE TO STAY?
- 8 A NO, MA'AM.
- 9 Q YA'LL JUST CAME DOWN?
- 10 A YES, MA'AM.
- 11 Q WHAT WERE YOU WEARING THAT NIGHT?
- 12 A I WAS WEARING ALL BLACK SHIRT WITH BLACK
- 13 SHORTS AND ROYAL BLUE FITTED CAP.
- 14 Q OKAY, AND DID YOUR SHIRT HAVE ANY COLORS ON
- 15 IT?
- 16 A IT HAD LOCKS ON IT WITH ALL TYPES OF COLORS
- 17 ON IT.
- 18 Q OKAY, JUST A BUNCH OF DIFFERENT ONES OR THE
- 19 SAME?
- 20 A DIFFERENT, YES, MA'AM.
- 21 Q COLORFUL?
- 22 A COLORFUL, ALL COLORS.
- 23 Q OKAY, AND DO YOU RECALL WHAT BRIAN SPEARS
- 24 WAS WEARING THAT NIGHT?
- 25 A NO, MA'AM, I CAN'T REALLY REMEMBER.

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

443

1 Q AND YOU WERE IN YOUR ESCALADE, DID YOU SEE
2 BRIAN SPEARS THAT NIGHT AFTER YOU GOT TO THE BEACH?

3 A YES, MA'AM.

4 Q AND WHAT DID YA'LL DO WHEN YA'LL SAW EACH
5 OTHER?

6 A WELL I GOT OUT AND TALKED TO THEM AND HAD
7 CONVERSATION.

8 Q WHERE WAS YOUR CAR?

9 A IT WAS PARKED SOMEWHERE ON THE BOULEVARD.

10 Q OKAY, DID, WHEN YOU GOT OUT DID SOMEBODY
11 DRIVE OFF IN IT OR DID YOU PARK IT?

12 MS. PRATT: OBJECTION AS TO LEADING, YOUR HONOR,
13 AND HE NEEDS TO TELL THE STORY.

14 THE COURT: ALL RIGHT, I'M GOING TO LET HIM
15 ANSWER THAT QUESTION. I DON'T THINK IT SUGGESTS THE
16 ANSWER, SHE GAVE HIM AN EITHER OR NOR.

17 MS. ELDER: (CONTINUING)

18 Q WHEN YOU GOT OUT OF THE CAR DID YOU PARK IT
19 OR WAS IT DRIVEN AWAY?

20 A I PARKED IT AT FIRST AND THEN AFTER I HAD
21 GIVEN MY KEYS TO ONE OF MY FRIENDS HE HAD, HE HAD STARTED
22 DRIVING IT THEN.

23 Q GOING BACK THE WHAT BOS WAS WEARING DO YOU
24 REMEMBER GIVING A STATEMENT TO THE POLICE ---

25 MS. PRATT: OBJECTION, YOUR HONOR, I DON'T THINK

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

444

1 THAT'S A PROPER LINE OF QUESTIONING ON DIRECT.

2 MS. ELDER: I HADN'T REALLY ASKED, ANSWERED A
3 QUESTION ---

4 THE COURT: I DON'T KNOW WHAT THE QUESTION IS.

5 MS. PRATT: MAY WE APPROACH FOR A MOMENT, YOUR
6 HONOR?

7 THE COURT: YES.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
9 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
10 OF THE JURY AND THE COURT REPORTER.)

11 THE COURT: OVERRULE YOUR OBJECTION, THE
12 QUESTION HAS BEEN ASKED AND ANSWERED.

13 MS. PRATT: YES, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 MS. ELDER: (CONTINUING)

16 Q YOUR HONOR, I'M SORRY -- MR. BETHEA, YOU
17 RECALL BEING INTERVIEWED BY MYRTLE BEACH INVESTIGATOR?

18 A YES, MA'AM.

19 Q OKAY, AND DURING YOUR FIRST INTERVIEW, I
20 BELIEVE JUNE 2ND, DO YOU RECALL INVESTIGATORS ASKING WHAT
21 BOS WAS WEARING THAT NIGHT?

22 A YES, MA'AM.

23 THE COURT: ALL RIGHT, NOW SHOW HIM HIS
24 STATEMENT IF YOU INTEND TO ASK HIM ABOUT THAT STATEMENT.

25 MS. ELDER: YES, SIR.

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

445

1 THE COURT: LET HIM REFRESH HIS MEMORY.

2 MS. ELDER: (CONTINUING)

3 Q IF YOU COULD, I BELIEVE DETECTIVE HULL SAID
4 RIGHT HERE HE ASKED YOU THAT QUESTION, WHAT WAS YOUR
5 RESPONSE?

6 A A RED SHIRT.

7 Q NOW YOU SAID THAT SOMEONE, YOU GAVE THE
8 KEYS TO YOUR ESCALADE TO WHO?

9 A TO MY SISTER'S BOYFRIEND.

10 Q AND WHAT DID THEY DO WITH YOUR CAR?

11 A THEY GOT IN MY VEHICLE AND STARTED RIDING
12 AROUND THE BOULEVARD.

13 Q AND WHAT DID YOU DO?

14 A I STAYED ON FOOT, I WAS WALKING.

15 Q AND WHO WERE YOU WALKING WITH?

16 A ME AND OTHER FRIENDS FROM LUMBERTON.

17 Q WERE YOU WITH BRIAN SPEARS OR NATHANIEL
18 DOUGLAS?

19 A YES, MA'AM.

20 Q DO YOU REMEMBER ANYBODY ELSE THAT WAS WITH
21 YOU WALKING?

22 A TOMMY SHAW, SMURF, THERE WAS A FEW OF US.

23 Q OKAY, DID YA'LL CONTINUE WALKING ALL NIGHT?

24 MS. PRATT: OBJECTION AS TO LEADING, YOUR HONOR.

25 THE COURT: I'M GOING TO ALLOW IT, GO AHEAD.

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

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- 1 MS. ELDER: (CONTINUING)
- 2 Q DID YA'LL CONTINUE WALKING ALL NIGHT?
- 3 A YES.
- 4 Q DID YOU, DID YOU EVER SEE AARON HAMMONDS?
- 5 A NO, MA'AM.
- 6 Q HOW ABOUT LEMARK IRONS?
- 7 A YES, MA'AM.
- 8 Q ALL RIGHT, TELL ME WHAT HAPPENS WHEN YOU
- 9 SEE LEMARK IRONS?
- 10 A WE WAS STANDING ON THE BOULEVARD ---
- 11 Q WHEN YOU SAY WE WHO ARE YOU TALKING ABOUT?
- 12 A ME AND OTHER FRIENDS FROM LUMBERTON AND --
- 13 Q DID THAT INCLUDE THE DEFENDANT?
- 14 A YES, MA'AM.
- 15 Q OKAY --
- 16 A AND LEMARK HAD CAME UP TO AND STARTED
- 17 CONVERSATION.
- 18 Q AND WHAT WAS THE RESULT OF THAT
- 19 CONVERSATION?
- 20 A I TOLD HIM, I WAS KIND OF, I TOLD HIM TO
- 21 GET ON ABOUT HIS BUSINESS, ASKED HIM WAS HE DOWN HERE
- 22 TRYING TO START ANY TROUBLE TOWARDS ME AND MY FRIENDS AND
- 23 HE WAS LIKE, NAH, SO I SAID A FEW THINGS TO HIM AND TOLD
- 24 HIM TO GET ON DOWN THE ROAD ABOUT HIS BUSINESS.
- 25 Q DID HE LEAVE?

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

447

1 A YES, MA'AM.

2 Q DID BRIAN SPEARS SAY ANYTHING ABOUT THAT?

3 A NOT AT THE MOMENT, NO, MA'AM.

4 Q DID HE SAY ANYTHING LATER ABOUT THAT?

5 A WHEN HE CAME BACK WE HAD A CONVERSATION.

6 Q WHAT WAS THE CONVERSATION?

7 A HE WAS LIKE THINK HE WAS GOING, THEY WERE
8 UP TO SOMETHING, THEY WERE GOING TO TRY TO DO SOMETHING TO
9 US.

10 Q WHAT DID HE SAY TO YOU, WE'RE TALKING ABOUT
11 BRIAN SPEARS, WHAT DID BRIAN SPEARS SAY TO YOU?

12 A I CAN'T REALLY RECALL EVERYTHING HE SAID TO
13 ME, IT WAS LIKE WE WAS ALL CONVERSATING AND HE WAS LIKE,
14 MAN, I THINK THEY WERE GOING TO TRY TO DO SOMETHING TO US
15 LIKE THE SECOND TIME, THE THIRD TIME WE SEEN THEM,
16 SOMETHING LIKE THAT.

17 Q AND DID YA'LL, WHAT, WHAT HAPPENED NEXT,
18 WHAT ELSE HAPPENED IN THE CONVERSATION?

19 A THEN HE CAME BACK LISTENING TO WHAT MR.
20 LEMARK, LEMARK CAME BACK AGAIN AND THEN CAME BACK WITH HIS
21 LIKE, LIKE HE WAS EGGING ON TO SOMETHING, LIKE HE WAS UP TO
22 SOMETHING, AND THEN THAT'S WHEN WE WERE LIKE WE WAS GOING
23 TO KILL ONE OF THEM BEFORE THEY COULD KILL US.

24 Q AND WHO BROUGHT THAT UP?

25 A ME AND MR. SPEARS.

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

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1 THE COURT: WHO?

2 A MR. SPEARS.

3 THE COURT: OKAY.

4 MS. ELDER: (CONTINUING)

5 Q AND I KNOW IT'S BEEN A WHILE BUT TELL ME
6 WHAT YOU RECALL, IF ANYTHING, BRIAN SPEARS SAID TO YOU
7 ABOUT KILLING ONE OF THEM?

8 A HE WAS LIKE GOING TO KILL THEM BEFORE THEY
9 KILL ONE OF US.

10 Q AND HAD HE SEEN AARON?

11 A YES, MA'AM.

12 Q DID HE SAY SOMETHING ABOUT THAT?

13 A YES, MA'AM.

14 Q WHAT DID HE SAY ABOUT THAT?

15 A HE WAS LIKE AARON JUST PASSED US. I HAD MY
16 BACK TO HIM, YOU KNOW, I DIDN'T NEVER SEE HIM.

17 Q AND WHY WOULD HE NOTICE THAT AARON JUST
18 PASSED YOU?

19 A I DON'T KNOW HOW HE NOTICED IT.

20 Q DID HE AND AARON GET ALONG?

21 A NO, MA'AM.

22 Q AND WHY DIDN'T THEY GET ALONG?

23 A CAUSE HE WAS A PART OF BLOOD NATION.

24 Q AND DID IT HAVE ANYTHING TO DO WITH TURK?

25 A SOMEWHAT, YES, MA'AM.

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

449

1 Q NOW AFTER LEMARK WALKED OFF AND YA'LL, YOU
2 AND BOS HAD THIS CONVERSATION DID YA'LL DO ANYTHING ELSE?

3 A WE WENT AFTER THEM.

4 Q AND WHEN YOU SAY WE WENT AFTER THEM WHO WAS
5 WE?

6 A ME AND MR. SPEARS.

7 Q ANYBODY ELSE WITH YOU?

8 A NO, MA'AM.

9 Q AND WHAT DID YA'LL SAY BEFORE YA'LL HEADED
10 AFTER THEM? DID YA'LL, HOW DID YA'LL, HOW DID YOU KNOW HE
11 WAS GOING TO GO WITH YOU AND HOW DID HE KNOW YOU WERE GOING
12 TO GO WITH HIM?

13 A CAUSE WE WERE LIKE BEFORE EARLIER WE WERE
14 GOING TO KILL ONE OF THEM SO WE WENT AFTER THEM.

15 Q OKAY, AND DID YOU KNOW IF BRIAN SPEARS HAD
16 A WEAPON?

17 A YES, MA'AM.

18 Q HAD YOU SEEN IT?

19 A NO, I HADN'T SEEN IT THEN.

20 Q OKAY, HOW DID YOU KNOW HE HAD IT?

21 A CAUSE I HAD GOT IN, I HAD PREVIOUS GOT IN
22 AN ARGUMENT WITH SOME FELLOWS, THEY HAD SUPPOSEDLY PULLED A
23 GUN ON ME AND HE LET ME KNOW THEN THAT HE HAD HIS WEAPON.

24 Q HOW DID HE LET YOU KNOW?

25 A HE WAS LIKE I WAS LIKE CAUSE I ASKED HIM

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

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1 WERE THEY GOING TO LET THEM HURT ME, HE WAS LIKE, NAH,
2 CAUSE I GOT MY, NORMALLY GOT MY GUN.

3 Q AND THAT WAS ON THE BOULEVARD?

4 A YES, MA'AM.

5 Q SO WHEN YA'LL WENT AFTER, YOU AND BOS WENT
6 AFTER LEMARK AND THEM WHICH WAY DID YOU HEAD?

7 A WE WERE HEADING SOUTH.

8 Q HEADING SOUTH, WERE YOU ON THE OCEAN SIDE
9 OF THE ROAD OR THE BUILDING SIDE OF THE ROAD?

10 A I DON'T KNOW THE DIFFERENCE BETWEEN OCEAN
11 SIDE OR THE BUILDING.

12 Q YOU KNOW YOU WERE HEADED SOUTH AND WERE
13 YA'LL ON THE BOULEVARD AT THE TIME?

14 A YES, MA'AM.

15 Q SO YOU WERE HEADED SOUTH DOWN THE SIDEWALK
16 AND WHERE WAS LEMARK AND AARON IN RELATION TO YOU AND BOS?

17 A RIGHT ACROSS ---

18 Q IN FRONT, BEHIND, SIDE?

19 A BASICALLY RIGHT ACROSS THE ROAD.

20 Q OKAY, SO THERE WAS A ROAD IN BETWEEN YOU?

21 A YES, MA'AM.

22 Q AND WHAT DID YOU AND BOS DO YOU AS YOU
23 APPROACHED LEMARK AND AARON'S GROUP?

24 A MA'AM?

25 Q WHAT DID YOU AND BOS DO AS YOU APPROACHED

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

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1 LEMARK AND AARON?

2 A I PULLED OUT A KNIFE. I WAS, I WAS LOOKING
3 FOR LEMARK AND AS WE WALKED UP, WHEN WE WAS COMING UP HE
4 PULLED OUT HIS WEAPON.

5 Q WHO IS HE?

6 A MR. SPEARS.

7 Q AND WHAT DID YOU SEE HIM DO WITH HIS
8 WEAPON?

9 A I AIN'T NEVER SEE HIM DO NOTHING BUT I JUST
10 HEARD THE GUN FIRE START.

11 Q OKAY, DID YOU SEE THE WEAPON AT THAT POINT?

12 A WHEN HE PULLED IT OUT, YES, MA'AM.

13 Q ALL RIGHT, WHERE DID HE PULL IT OUT FROM?

14 A FROM HIS RIGHT SIDE OF HIS WAISTBAND, OUT
15 HIS BACK POCKET.

16 Q AND HOW BIG WAS THE GUN?

17 A IT WAS SMALL CALIBER.

18 Q AND AFTER HE PULLED IT OUT DID YOU HEAR
19 SHOTS?

20 A YES, MA'AM.

21 Q WERE YOU ABLE TO GET YOUR TARGET?

22 A NO, MA'AM.

23 Q AFTER THE SHOTS WHAT DID YOU DO?

24 A I TURNED AROUND AND RAN.

25 Q AND WHAT DID, WHAT DID BRIAN SPEARS DO?

1 A WE ALL RAN.

2 MS. PRATT: I'M SORRY, I DIDN'T HEAR THAT

3 ANSWER.

4 THE COURT: WE ALL RAN.

5 A WE ALL RAN.

6 MS. PRATT: THANK YOU.

7 MS. ELDER: (CONTINUING)

8 Q AND WHO IS WE ALL RAN?

9 A ME AND MR. SPEARS, EVERYBODY, THE WHOLE

10 CROWD.

11 Q WAS THERE A BIG CROWD OF PEOPLE?

12 A YES, MA'AM.

13 Q DID YOU AND BRIAN SPEARS RUN TOGETHER?

14 A NO, MA'AM.

15 Q WHEN YOU SAW BOS PULL OUT THAT GUN WHERE

16 WAS HE IN RELATION TO LEMARK AND HIS GROUP, WAS HE IN

17 FRONT, BACK, TO THE SIDE?

18 A HE WAS LIKE IN THE FRONT.

19 Q TELL ME WHAT YOU MEAN BY LIKE IN THE FRONT?

20 A HE WAS IN THE FRONT LIKE FACING HIM, LIKE

21 GOING, LIKE THEY WAS ACROSS THE ROAD. WE WAS COMING THIS

22 WAY AND HE WAS STANDING HERE AND WE WAS LIKE THIS.

23 Q YOU WERE COMING TOWARDS THE SIDE?

24 A YES, MA'AM.

25 Q IF YOU CAN, CAN YOU PULL UP YOUR HAND A

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

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1 LITTLE BIT SO WE CAN SEE WHAT YOU WERE --

2 A THEY WAS RIGHT HERE AND WE WAS COMING FROM
3 THIS WAY.

4 Q ALL RIGHT, SO YOU'RE COMING IN AT AN ANGLE
5 LIKE THIS?

6 A YES, MA'AM.

7 Q OR LIKE THIS, I'M SORRY, IT'S WHAT YOU'RE
8 POINTING, AND AFTER YOU AND BOS SEPARATED WHAT DID YOU DO?

9 A I GOT ON MY TELEPHONE AND CALLED MY SISTER
10 BOYFRIEND AND ASKED HIM WHERE HE WAS AT WITH MY TRUCK.

11 Q AND THAT WAS THE ESCALADE?

12 A YES, MA'AM.

13 Q AND DID YOU GET BACK IN YOUR TRUCK?

14 A YES, MA'AM.

15 Q DO YOU KNOW HOW LONG AFTER THE SHOOTING IT
16 WAS THAT YOU GOT BACK IN YOUR TRUCK?

17 A NOT TOO LONG, PROBABLY ABOUT FIVE MINUTES.

18 Q OKAY, AND WHERE DID THEY PICK YOU BACK UP
19 AT?

20 A THEY WAS ON THE BACK STREET OF THE
21 BOULEVARD.

22 Q DO YOU KNOW WHERE AARON WENT?

23 A MA'AM?

24 Q DO YOU KNOW WHERE, I'M SORRY, DO YOU KNOW
25 WHERE BRIAN SPEARS WENT?

1 A NO, MA'AM.

2 Q DID, WHAT DID YOU DO AFTER THAT?

3 A I GOT IN MY VEHICLE AND ASSUMED BACK UP
4 NORTH BOULEVARD AND PARKED MY VEHICLE AND GOT BACK OUT.

5 Q AND WHEN DID YOU DO WHEN YOU GOT OUT?

6 A STARTED BACK WALKING THE BOULEVARD.

7 Q OKAY, DO YOU KNOW, DO YOU KNOW WHAT, DID
8 YOU SEE BOS AT ANY POINT IN TIME AFTER THAT?

9 A NO, MA'AM.

10 Q DID YOU SEE NATHANIEL DOUGLAS, JUNE?

11 A NO, MA'AM.

12 Q NOW YOU GAVE A STATEMENT, YOU GAVE A COUPLE
13 OF STATEMENTS TO THE POLICE; IS THAT CORRECT?

14 A YES, MA'AM.

15 Q AND I BELIEVE, HOW DID YOU COME TO GET WITH
16 THE POLICE TO BEGIN WITH? DID SOMEBODY COME ARREST YOU?

17 A NO, MA'AM, I TURNED MYSELF IN.

18 Q IF YOU'LL TAKE A LOOK AT WHAT'S BEEN MARKED
19 STATE'S EXHIBIT I.D. 17, IS THAT WHY YOU TURNED YOURSELF
20 IN?

21 A YES, MA'AM.

22 Q AND IS THAT A, WHO IS THAT A PICTURE OF OR
23 WHO DOES THAT LOOK LIKE?

24 A IT LOOKS LIKE ME.

25 Q OKAY, AND WHERE DID YOU SEE THAT PICTURE

MR. BETHEA - DIRECT EXAMINATION BY MS. ELDER

455

1 AT?

2 A I SEEN IT IN THE NEWSPAPER ONCE.

3 Q OKAY, AND BASED ON THAT YOU WENT AND TALKED
4 TO POLICE?

5 A YES, MA'AM.

6 Q AND THEY ARRESTED YOU AT THAT TIME?

7 A YES, MA'AM.

8 Q AND I BELIEVE, DO YOU RECALL ON JUNE, JUNE
9 2ND, 2007, DID YOU GIVE AN INTERVIEW TO MYRTLE BEACH POLICE
10 DEPARTMENT?

11 A YES, MA'AM.

12 Q IN THAT VERY FIRST INTERVIEW YOU TOLD, DID
13 YOU TELL THEM ABOUT BRIAN SPEARS?

14 A YES, MA'AM.

15 Q YOU GAVE THEM A SECOND INTERVIEW ON JUNE
16 14TH, 2007; IS THAT RIGHT?

17 A YES, MA'AM.

18 Q AND DID YOU TELL THEM ABOUT BRIAN SPEARS IN
19 THAT INTERVIEW?

20 A YES, MA'AM.

21 A AND DID YOU TELL THEM HE WAS THE SHOOTER IN
22 BOTH OF THOSE INTERVIEWS?

23 A YES, MA'AM.

24 Q AND WE HAD NOT TALKED PRIOR TO THAT; IS
25 THAT CORRECT?

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

456

1 A NO, MA'AM.

2 MS. ELDER: JUST A MOMENT, YOUR HONOR.

3 YOUR HONOR, THAT'S ALL THE QUESTIONS I HAVE.

4 THE COURT: ALL RIGHT, MS. PRATT.

5 CROSS EXAMINATION

6 BY MS. PRATT:

7 Q MR. BETHEA, WHAT HAPPENED TO YOUR HAIR?

8 A I CUT IT OFF.

9 Q WHEN DID YOU CUT IT OFF?

10 A LAST YEAR MARCH.

11 Q WHEN, LAST YEAR IN MARCH, IS THAT WHEN YOU
12 WENT IN AND DID YOUR GUILTY PLEA?

13 A YES, MA'AM.

14 Q ALL RIGHT, AND YOU DID A GUILTY PLEA TO
15 VOLUNTARY MANSLAUGHTER; IS THAT CORRECT?

16 A YES, MA'AM.

17 Q I'M GOING TO SHOW YOU DEFENSE EXHIBIT
18 NUMBER 3, DOES THAT GENTLEMAN LOOK FAMILIAR TO YOU?

19 A THAT'S ME.

20 Q THAT'S YOU, THAT'S THE WAY YOU LOOKED AT
21 THE TIME OF THE INCIDENT?

22 A YES, MA'AM.

23 Q AND THE WAY YOU LOOKED WHEN YOU WERE
24 ARRESTED, CORRECT?

25 A YES, MA'AM.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

457

1 Q AND THAT WOULD BE THE PICTURE WITH THE
2 SHOULDER LENGTH DREADS, CORRECT?

3 A YES, MA'AM.

4 Q ALL RIGHT, NO QUESTION ABOUT THAT?

5 A YES, MA'AM.

6 Q AND NO QUESTION THAT WHAT'S BEEN MARKED AS
7 DEFENSE 4 A COMPOSITE THAT WAS PUT OUT IN THE ROBESONIAN,
8 CORRECT?

9 A YES, MA'AM.

10 Q AND IT WAS ALSO ON THE WBTW NEWS T.V. 13?

11 A YES, MA'AM.

12 Q IT WAS EVERYWHERE, WASN'T IT?

13 A YES, MA'AM.

14 Q EVERYBODY YOU KNEW SAW IT?

15 A YES, MA'AM.

16 Q AND EVERYBODY COMING UP TO YOU AND SAYING,
17 BIRD, THEY GOT YOU ALL OVER THE T.V., RIGHT?

18 A YES, MA'AM.

19 Q OKAY, SO AT THAT POINT WHEN YOU REALIZED
20 THAT YOU ABSOLUTELY MATCHED THE COMPOSITE OF THE SUSPECT
21 YOU DECIDED THAT YOU WOULD COME DOWN TO THE BEACH AND TRY
22 AND GET YOURSELF OUT OF TROUBLE, DIDN'T YOU?

23 A YES, MA'AM.

24 Q I MEAN THE VERY FIRST STATEMENT THAT YOU
25 GAVE, NOT THE FIRST STATEMENT THAT THE SOLICITOR REFERS TO,

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

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1 BUT THE VERY FIRST ONE WAS ACTUALLY AN IN CAR VIDEO TO A
2 DETECTIVE WHO WAS DRIVING YOU FROM MYRTLE BEACH THROUGH TO
3 THE ANNEX, CORRECT?

4 A YES, MA'AM.

5 Q DO YOU REMEMBER TALKING IN THE CAR?

6 A TALKING IN THE CAR?

7 Q UH-HUH, DO YOU REMEMBER TALKING IN THE CAR
8 TO THE OFFICER?

9 A NO, MA'AM.

10 Q DO YOU REMEMBER TELLING HIM THAT YOU WERE
11 COMING DOWN HERE TO TELL THE TRUTH, YOU DIDN'T DO ANYTHING
12 WRONG, YOU HAD A GOOD JOB, A SON ON THE WAY, TWO DAUGHTERS,
13 RIGHT?

14 A I PROBABLY DID.

15 Q AND YOU WERE TALKING AWAY AT THEM, YOU
16 DIDN'T THINK IT WOULD BE LIKE THIS, TALKING ABOUT BEING ON
17 THE STRIP, TALKING ABOUT BUT YOU DIDN'T DO ANYTHING WRONG,
18 RIGHT?

19 A YES, MA'AM.

20 Q OKAY, AND IN YOUR STATEMENT TO DETECTIVE
21 HULL WHEN YOU GOT TO THE ANNEX THE SAME DAY YOU KEPT THAT
22 SAME THEME UP, DIDN'T YOU?

23 A WHAT'S THAT?

24 Q STARTED OUT SAYING I DIDN'T DO ANYTHING
25 WRONG, I JUST CAME DOWN HERE TO HAVE A GOOD TIME. I'VE

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

459

1 BEEN IN MEMPHIS, I GOT KIDS?

2 A YES, MA'AM.

3 Q OKAY, YOU KEPT THAT UP AND YOU DIDN'T ADMIT
4 THAT YOU HAD DONE ANYTHING AT ALL?

5 A YES, MA'AM.

6 Q SO THEN WHY IN THE HECK ARE YOU PLEADING TO
7 VOLUNTARY OR DID YOU PLEAD TO VOLUNTARY MANSLAUGHTER?

8 A CAUSE OF MY INVOLVEMENT IN IT.

9 Q WHAT WAS YOUR INVOLVEMENT IN IT REALLY?

10 A INITIATING THE MURDER OF AARON.

11 Q INITIATING THE MURDER OF AARON, WHAT DID
12 YOU DO?

13 A INITIALLY I WENT AFTER THEM, WELL I DIDN'T,
14 I DIDN'T NEVER SEEN AARON. I DIDN'T NEVER GO AFTER HIM,
15 BUT I WENT AFTER ONE OF THEIR MEMBERS TO BRING BODILY HARM
16 TO THEM.

17 Q NO, YOU ACTUALLY WENT AFTER AARON, DIDN'T
18 YOU, CAUSE YOU'RE PLEADING TO VOLUNTARY MANSLAUGHTER IN
19 REGARDS TO AARON, AREN'T YOU? YOU WENT AFTER AARON, DIDN'T
20 YOU?

21 A YES, MA'AM.

22 Q OKAY, YOU WENT AFTER AARON WITH A WEAPON,
23 RIGHT?

24 A YES, MA'AM.

25 Q YES, MA'AM, OKAY, NO QUESTION THAT YOU HAVE

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

460

1 MADE A DEAL WITH THE STATE, RIGHT?

2 A YES, MA'AM.

3 Q CAUSE YOU WERE LOOKING AT MURDER AND THREE
4 COUNTS OF ASSAULT AND BATTERY WITH INTENT TO KILL, CORRECT?

5 A YES, MA'AM.

6 Q AND IF YOU GOT MURDER YOU'D BE LOOKING AT
7 LIFE, WOULDN'T YOU?

8 A YES, MA'AM.

9 Q AND LIFE FOR YOU WOULD BE 70 YEARS?

10 A YES, MA'AM.

11 Q OKAY, AND THAT MEANS YOU WOULD DIE IN
12 PRISON, RIGHT?

13 A YES, MA'AM.

14 Q AND THE JUDGE COULD HAVE LOADED UP THREE
15 MORE ---

16 MS. ELDER: OBJECTION, YOUR HONOR, I'M GOING TO
17 OBJECT TO THIS LINE OF QUESTIONING. I BELIEVE WE NEED TO
18 TAKE THIS MATTER UP.

19 THE COURT: ALL RIGHT, TAKE THE JURY OUT.

20 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
21 4:34 P.M.)

22 THE COURT: LET'S HEAR IT.

23 MS. ELDER: YOUR HONOR, I HAD A MOTION IN LIMINE
24 SPECIFICALLY FOR MS. PRATT NOT TO REFER TO POSSIBILITY THAT
25 HER CLIENT COULD GET LIFE. THE FACT THAT SHE'S DOING IT BY

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

461

1 ASKING MR. BETHEA WHO IS UNDER THE SAME CHARGES THAT HE
2 COULD HAVE GOTTEN LIFE IS PRETTY MUCH TALKING ABOUT THE
3 SENTENCE THAT HER CLIENT IS FACING. I THINK THAT IS
4 PREJUDICIAL. IT'S OUTSIDE THE SCOPE OF WHAT THE JURY IS
5 TO, TO TAKE IN TO CONSIDER. THEY'RE NOT TO CONSIDER
6 SENTENCE. THEY'RE NOT TO CONSIDER WHETHER IT'S LIFE OR
7 NOT. THAT IS THE PURVIEW OF THE COURT AND I WOULD REQUEST
8 A CURATIVE INSTRUCTION AT THE APPROPRIATE TIME FOR THEM NOT
9 TO CONSIDER THAT.

10 THE COURT: WELL I'M GOING TO GIVE THEM A
11 CURATIVE INSTRUCTION. SHE'S ASKED THE QUESTION, IT'S BEEN
12 ANSWERED AND THEY KNOW IT. I THINK IT WAS APPROPRIATE FOR
13 YOU TO LET THE JURY KNOW HOW SERIOUS THE OFFENSE, THE
14 WITNESS WAS FACING IS SO I'M GOING TO, I'LL GIVE YOU A
15 CURATIVE INSTRUCTION AT THE END OF THE CASE IF YOU WANT
16 ONE, BUT LET'S GO AHEAD AND GET THIS WITNESS DONE, OKAY.

17 MS. PRATT: YOUR HONOR, I DO INTEND TO TALK A
18 LITTLE BIT MORE ABOUT THAT SENTENCE AND BECAUSE OF THAT I'D
19 LIKE TO JUST SAY SOME THINGS ON THE RECORD IF I MAY.

20 THE COURT: ALL RIGHT, WHAT WOULD YOU LIKE?

21 MS. PRATT: FIRST OF ALL WHEN I, WHEN SHE MADE
22 THE MOTION IN LIMINE IT WAS ABOUT REFERRING TO WHAT MY
23 CLIENT WOULD RECEIVE IN OPENING AND AT THAT TIME IF THE
24 COURT REMEMBERS I SAID I DID INTEND TO GET INTO THE FULL
25 SENTENCE WITH MR. BETHEA ON CROSS.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

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1 THE CASES OF STATE V. CURRY, 370 S.C. 674 636
2 S.E.2D, 649 SOUTH CAROLINA COURT OF APPEALS CASE 2006 AND
3 ALSO STATE V. MIZZELL, 349 S.C. 326 563 S.E.2D, 315 A SOUTH
4 CAROLINA 2002 CASE BOTH SAY THAT MY CLIENT HAS THE RIGHT
5 UNDER THE CONFRONTATION CLAUSE TO LET THE JURY KNOW EXACTLY
6 WHAT KIND OF ISSUES WITH THE WITNESS HAD TO DO WITH
7 SENTENCING AND WHAT KIND OF DEALS HAVE BEEN MADE,
8 ESPECIALLY IN LIGHT OF THE PROFFER WHICH I WAS INTENDING TO
9 PUT INTO EVIDENCE THROUGH HIM WHICH SPECIFICALLY SAID PLEAD
10 TO A LESSER INCLUDED OFFENSE OF VOLUNTARY MANSLAUGHTER WITH
11 A NEGOTIATED SENTENCE OF 20 YEARS, SO WHEN THERE'S A
12 NEGOTIATED SENTENCE AND WE'VE GOT A SIGNIFICANT REDUCTION
13 MY CLIENT HAS THE RIGHT TO BRING THAT OUT AGAINST MR.
14 BETHEA.

15 THE COURT: MS. PRATT, I WASN'T DISAGREEING WITH
16 YOU AT ALL IN THAT. MY QUESTION WAS I UNDERSTOOD THAT
17 THERE WAS A MOTION AND AN AGREEMENT. NOW YOU'RE TELLING ME
18 THAT THE AGREEMENT, AND I DON'T REMEMBER EXACTLY WHAT IT
19 WAS, BUT IT WAS AS TO OPENING REMARKS, IS THAT WHAT YOU'RE
20 SAYING?

21 MS. PRATT: THAT'S EXACTLY RIGHT, AND I
22 SPECIFICALLY SAID I INTENDED TO GET INTO IT ON CROSS AND I
23 WAS INTERRUPTED AND SHE SAID I'M NOT, YOU KNOW, I'M NOT
24 GOING TO DO THAT ON OPENING SO CAUSE I REMEMBER GETTING
25 INTO THAT CAUSE I KNEW THIS WOULD BE AN ISSUE.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

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1 THE COURT: ALL RIGHT.

2 MS. ELDER: YOUR HONOR, MY MOTION IN LIMINE WAS
3 SPECIFICALLY THAT THE OPENING, CLOSING, ANY BROUGHT UP AND
4 WE TALKED ABOUT MR. BETHEA. I COMPLETELY UNDERSTAND THAT
5 SHE CAN ASK HIM WHAT SENTENCE HE IS EXPECTING, THAT'S PART
6 OF THE DEAL, IT'S IN THE PROFFER. I HAVE NO PROBLEM WITH
7 THAT BUT SHE HAS, AND I DON'T HAVE A PROBLEM WITH HER
8 SAYING THAT'S A SUBSTANTIAL REDUCTION FROM WHAT YOU COULD
9 HAVE RECEIVED, BUT WHEN SHE STARTS THROWING IN THAT HE
10 COULD GET FOR THE DURATION OF HIS LIFE, THAT HE CAN DIE IN
11 PRISON, YOUR HONOR, THAT IS GETTING IN INFORMATION ABOUT
12 SENTENCING OF HER CLIENT WHO IS FACING THE SAME CHARGES.

13 THE COURT: WELL IF YOU WANT TO MAKE IT AN ISSUE
14 MAYBE THE JURY WILL BELIEVE THAT BUT I DON'T. I'M GOING TO
15 LET HER PURSUE THIS LINE OF QUESTIONING, I THINK IT'S FAIR
16 COMMENT. LET'S BRING THAT JURY BACK IN.

17 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
18 4:39 P.M.)

19 THE COURT: ALL RIGHT, GO AHEAD, MS. PRATT.

20 MS. PRATT: THANK YOU, YOUR HONOR.

21 MS. PRATT: (CONTINUING)

22 Q SO, MR. BETHEA, WE WERE TALKING ABOUT THE
23 FACT THAT YOU COULD HAVE GOTTEN LIFE ON MURDER, CORRECT?

24 A YES, MA'AM.

25 Q AND YOU UNDERSTAND THAT THAT MEANS TILL YOU

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

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1 DIE?

2 A YES, MA'AM.

3 Q AND THE JUDGE COULD HAVE ALSO GIVEN YOU 20
4 YEARS FOR EVERY SINGLE COUNT OF ABWIK CONSECUTIVE, CORRECT?

5 A YES, MA'AM.

6 Q SO IT WAS POSSIBLE, SIR, THAT YOU COULD
7 HAVE GOTTEN LIFE PLUS 60?

8 A YES, MA'AM.

9 Q ONE HUNDRED THIRTY YEARS?

10 A YES, MA'AM.

11 Q OKAY, AND YOU MADE A DEAL WITH MS. ELDER,
12 DIDN'T YOU?

13 A YES, MA'AM.

14 Q AND YOU REMEMBER SIGNING THE PROFFER
15 AGREEMENT?

16 A YES, MA'AM.

17 Q I'M GOING TO SHOW YOU THE DOCUMENT AND ASK
18 IF THAT IS YOUR SIGNATURE ON PAGE TWO?

19 A YES, MA'AM.

20 Q YOU CAN TAKE A LOOK AT THE DOCUMENT, I KNOW
21 YOUR HANDS ARE TIED, BUT TELL ME IF YOU REMEMBER LOOKING AT
22 THAT DOCUMENT?

23 A YES, MA'AM.

24 Q DO YOU REMEMBER SIGNING THAT DOCUMENT?

25 A YES, MA'AM.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

465

1 Q DID YOU UNDERSTAND THAT DOCUMENT?

2 A YES, MA'AM.

3 Q YOUR LAWYER WAS THERE, WASN'T HE?

4 A YES, MA'AM.

5 MS. PRATT: I'D LIKE TO ENTER THIS AS

6 DEFENDANT'S NUMBER 5.

7 THE COURT: OBJECTION?

8 MS. ELDER: NO, SIR, YOUR HONOR.

9 THE COURT: OKAY.

10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5 ENTERED
11 INTO EVIDENCE.)

12 MS. PRATT: (CONTINUING)

13 Q AND, MR. BETHEA, I WOULD LIKE YOU TO READ
14 THE PARAGRAPH NUMBER FOUR ON THE SECOND PAGE? OUT LOUD,
15 I'M SORRY, I WASN'T CLEAR ON THAT?

16 A THE STATE EXCHANGE FOR THE PLEA
17 COMBINATIONS THE AGREEMENT ALLOWS JEFFREY BETHEA TO PLEAD
18 TO A LESSER INCLUDED OFFER OF VOLUNTARY MANSLAUGHTER WITH
19 NEGOTIATED SENTENCE OF 20 YEARS AND SHALL ADVISE THE COURT
20 OF JEFFREY BETHEA'S EXTENT AND DEGREE OF COOPERATION IN
21 CONNECTION WITH THIS MATTER.

22 Q SO INSTEAD OF GETTING LIFE PLUS 60 YOU'RE
23 GETTING 20, AREN'T YOU?

24 A YES, MA'AM.

25 Q IT'S NEGOTIATED THAT MEANS IT CAN'T CHANGE,

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

466

1 RIGHT?

2 A YES, MA'AM.

3 Q A BIG DIFFERENCE, ISN'T IT, SIR?

4 A YES, MA'AM.

5 Q IT'S ACTUALLY LESS THAN A FIFTH AND YOU
6 MADE THIS DEAL WITH THE STATE WITH THE IDEA THAT YOU HAD
7 DONE SOMETHING IN THIS CRIME, CORRECT?

8 A YES, MA'AM.

9 Q AND THE FIRST TIME YOU TOLD THE POLICE THAT
10 YOU DIDN'T HAVE ANYTHING TO DO WITH IT, RIGHT?

11 A YES, MA'AM.

12 Q IN FACT YOU CAME DOWN HERE AND YOU PROBABLY
13 COMPLETELY EXPECTED TO GO HOME, DIDN'T YOU?

14 A MA'AM?

15 Q THE FIRST TIME WHEN YOU CAME DOWN HERE YOU
16 KEPT THINKING YOU WERE GOING TO BE ABLE TO TALK YOUR WAY
17 OUT OF THIS AND GO HOME, DIDN'T YOU?

18 A YES, MA'AM.

19 Q CAUSE YOU ASKED THE POLICE OFFICERS SEVERAL
20 TIMES DOES THIS MEAN I'M NOT GOING TO GET TO GO HOME,
21 RIGHT?

22 A YES, MA'AM.

23 Q OKAY, AND YOU THOUGHT THAT YOU COULD TELL
24 THEM THAT IT WAS SOMEBODY ELSE AND THEN YOU'D GET TO GO
25 HOME?

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

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1 A NO, MA'AM.

2 Q EVEN THOUGH YOU MATCHED THIS PICTURE THAT
3 WAS ALL OVER THE NEWS YOU THOUGHT YOU COULD TELL THEM
4 SOMEBODY SO YOU'D GET TO GO HOME?

5 A NO, MA'AM.

6 Q WELL THEN WHY DID YOU SAY ALL THROUGH YOUR
7 STATEMENT DOES THIS MEAN I CAN'T GO HOME?

8 A CAUSE I WANTED TO GO HOME.

9 Q AND YOU KNEW WHEN YOU CAME DOWN HERE OR YOU
10 BELIEVE, LET ME CHANGE THAT, YOU BELIEVED WHEN YOU GOT DOWN
11 HERE IF YOU JUST TOLD THE RIGHT STORY MAYBE YOU'D GET TO GO
12 HOME, RIGHT?

13 A YES, MA'AM.

14 Q WHEN YOU GOT BACK TO LUMBERTON AFTER THE
15 KILLING OF AARON HAMMONDS YOU WENT TO A PARTY THE NEXT DAY,
16 DIDN'T YOU?

17 A YES, MA'AM.

18 Q DO YOU REMEMBER SAYING THINGS AT THAT PARTY
19 ABOUT AARON'S DEATH?

20 A NO, MA'AM.

21 Q YOU DON'T REMEMBER SAYING ANYTHING LIKE
22 HE'S SMOKED SAUSAGE NOW?

23 A NO, MA'AM.

24 Q NOTHING AT ALL?

25 A NO, MA'AM.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

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1 Q YOU WEREN'T DANCING AROUND AND TALKING
2 ABOUT THAT?

3 A NO, MA'AM.

4 Q AND PEOPLE WERE TELLING YOU AT THAT PARTY
5 THAT YOU LOOKED LIKE THE PICTURE, RIGHT?

6 A NOBODY NEVER SAID NOTHING TO ME THAT NIGHT
7 AT THAT PARTY.

8 Q NOBODY SAID ANYTHING?

9 A NO, MA'AM.

10 Q NOBODY TALKED ABOUT THE DEATH OF SOMEBODY
11 THE NIGHT BEFORE?

12 A NO, MA'AM.

13 Q OKAY, AND YOU LEFT AT THAT POINT AND YOU
14 WENT TO FAYETTEVILLE, DIDN'T YOU?

15 A NO, MA'AM.

16 Q OH, YOU DIDN'T TELL THE DETECTIVES THAT YOU
17 WENT TO FAYETTEVILLE?

18 A I WENT FAYETTEVILLE BUT I WENT TO
19 FAYETTEVILLE TO SEE A FRIEND.

20 Q SO YOU DID GO TO FAYETTEVILLE?

21 A YES, MA'AM.

22 Q OKAY, NOT THAT YOU DIDN'T GO LIKE YOU JUST
23 SAID BUT YOU DID GO, RIGHT?

24 A I WENT BUT I AIN'T, YOU MADE IT SOUND LIKE
25 I WAS GOING TO RUN OR SOMETHING, I WASN'T RUNNING FROM

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

469

1 NOTHING.

2 Q I DON'T THINK I SAID THAT, DO YOU THINK YOU
3 WERE RUNNING?

4 A THAT'S HOW YOU SOUND LIKE TO ME YOU WERE
5 TRYING TO SOUND.

6 Q DO YOU THINK YOU WERE RUNNING, SIR?

7 A I WASN'T RUNNING FROM NOTHING.

8 Q THE FACT IS YOU GOT A CALL FROM YOUR FATHER
9 UP THERE AND YOU REAL ---

10 A I GOT A ---

11 Q LET ME FINISH MY QUESTION. AND YOU
12 REALIZED THEY SEARCHED YOUR MAMA'S CAR, THE ESCALADE, SO
13 YOU CAME BACK, RIGHT?

14 A NO, I WAS IN FAYETTEVILLE THAT DAY AND
15 THAT'S WHEN THE PICTURES WAS BROUGHT UP THAT NIGHT OF ME OR
16 MY PICTURE WAS ON THE NEWS THAT NIGHT WHEN I WAS THERE. MY
17 LADY FRIEND AT HER MOTHER'S CRIB WHEN SOMEBODY CALLED ME
18 AND I REALIZED THEN THAT MY PICTURE WAS ON THE NEWS. I
19 NEVER REALIZED THAT MY PICTURE WAS ON THE NEWS PRIOR TO ME
20 GOING TO FAYETTEVILLE. WHEN I WAS IN FAYETTEVILLE THAT'S
21 WHEN I FOUND OUT THAT I WAS, I WAS ON THE NEWS FOR THIS,
22 THIS CHARGE.

23 Q AND YOUR DADDY CALLED YOU AND SAID THEY'VE
24 SEARCHED YOUR MAMA'S CAR?

25 A NO, MA'AM.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

470

1 Q YOU BETTER COME BACK?

2 A NO, MA'AM, I CALLED MY FATHER, I CALLED MY
3 FATHER THAT PREVIOUS MORNING AND TOLD HIM COME AND PICK ME
4 UP FROM FAYETTEVILLE THAT I WANTED TO COME DOWN HERE TO
5 SOUTH CAROLINA TURN MYSELF IN.

6 Q SO AT THE TIME THAT YOU TALKED TO YOUR
7 DADDY YOU KNEW THERE WAS A PICTURE AND YOU KNEW THAT THEY'D
8 SEARCHED YOUR MAMA'S VEHICLE AND SO YOU DECIDED TO COME
9 DOWN TO SOUTH CAROLINA?

10 A NO, MA'AM.

11 Q AT THE TIME YOU CALLED YOUR DADDY DID YOU
12 KNOW THERE WAS A PICTURE?

13 A AT THE TIME I CALLED MY FATHER I HAD SEEN
14 THE PICTURE OF ME ON THE NEWS THAT NIGHT, YES, MA'AM.

15 Q OKAY, AT THE TIME THAT YOU CAME BACK TO
16 SOUTH CAROLINA DID YOU KNOW THERE WAS A PICTURE?

17 A YES, MA'AM.

18 Q DID YOU KNOW THEY HAD SEARCHED YOUR MAMA'S
19 VEHICLE?

20 A NO, MA'AM.

21 Q YOU DID NOT KNOW THAT?

22 A NO, MA'AM, I AIN'T NEVER, I HAVE NO
23 KNOWLEDGE OF THEM SEARCHING MY VEHICLE TO THAT POINT.

24 Q OKAY, SO YOU CAME DOWN HERE THINKING THAT
25 YOU COULD TELL THEM THAT YOU DIDN'T DO ANYTHING AT ALL,

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

471

1 RIGHT?

2 A YES, MA'AM.

3 Q OKAY, AND WHEN YOU TRIED THAT THAT DIDN'T
4 WORK AND CAUSE THEY WEREN'T GOING TO LET YOU GO, RIGHT?

5 A YES, MA'AM.

6 Q OKAY, AND YOU TRIED TO TELL THEM THAT JUNE
7 WAS IN IT AND BOS WAS IN IT, DIDN'T YOU?

8 A YES, MA'AM.

9 Q I MEAN THAT'S HOW JUNE GOT ARRESTED?

10 A YES, MA'AM.

11 Q AND YOU ACTUALLY KNEW FOR A FACT THAT JUNE
12 HAD HAD NOTHING TO DO WITH IT; YOU PUT THAT BOY IN IT,
13 DIDN'T YOU?

14 A ACTUALLY I DIDN'T, AT THAT MOMENT I WASN'T
15 REALLY TRYING TO PUT HIM IN NOTHING. I WAS JUST, JUST
16 LETTING THEM KNOW THAT HE WAS PRESENT AT THE TIME WE HAD
17 THE CONVERSATION.

18 Q WHEN YOU TALKED TO THE POLICE IT'S NOT LIKE
19 YOU SAID JUNE WAS THERE BUT THEN HE LEFT, RIGHT?

20 A MA'AM?

21 Q WHEN YOU WERE TALKING TO THIS DETECTIVE
22 RIGHT OVER HERE IT'S NOT LIKE YOU WERE SAYING JUNE WAS
23 THERE BUT HE LEFT, CORRECT? YOU TOLD HIM JUNE WAS THERE
24 AND WAS STILL THERE, DIDN'T YOU?

25 A HE WAS THERE, YEAH, HE WAS THERE WHEN WE

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

472

1 INITIATED THE CONVERSATION.

2 Q ISN'T IT TRUE THAT YOU TOLD THEM THAT IT
3 WAS BOS AND JUNE TALKING AND NOT YOU AND BOS TALKING?

4 A YES, MA'AM.

5 Q CAUSE YOU WANTED THAT BOY TO CATCH THE RAP,
6 DIDN'T YOU?

7 A NO.

8 Q HOW ELSE DID DETECTIVE HULL GET YOUR NAME?

9 A I WAS TRYING ---

10 Q I MEAN JUNE'S NAME?

11 A I WAS TRYING TO KEEP MYSELF FROM OUT OF THE
12 POSITION AT THAT MOMENT, YES, MA'AM.

13 Q YOU WERE TRYING TO KEEP YOURSELF OUT OF IT,
14 THAT'S A VERY TRUE STATEMENT ISN'T IT? ISN'T IT?

15 A YES, MA'AM.

16 Q AND THE FACT IS THAT YOU HAVE HAD A LONG
17 STANDING BEEF WITH AARON, HAVEN'T YOU?

18 A NO, WE HAVEN'T, I NEVER HAD REALLY NO BEEF
19 WITH AARON. I, I BARELY EVEN KNEW AARON.

20 Q ISN'T IT TRUE THAT YOU HAD SAID MANY MANY
21 TIMES THAT YOU WANTED TO GET AARON FOR KILLING G-BLACK OR
22 TURK?

23 A YES, I DID WANT TO GET HIM BEFORE.

24 Q SO YOU WANTED TO GET HIM BUT YOU DON'T CALL
25 THAT A LONG STANDING BEEF? WHICH IS IT?

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

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1 A I WANTED TO GET HIM BUT I AIN'T GOING TO
2 SAY WHEN YOU SAY LONG STANDING BEEF I TOOK IT AS THAT WE
3 HAD BEEN HAVING PROBLEMS FOR MANY YEARS.

4 Q WELL WHEN DID TURK GET KILLED?

5 A 2003.

6 Q AND YOU WERE THERE, WEREN'T YOU?

7 A YES, MA'AM.

8 Q YOU WERE STANDING RIGHT BESIDE TURK?

9 A NO, I WASN'T STANDING BESIDE HIM.

10 Q OH, WHERE DID YOU GO?

11 A I WAS IN THE CAR AND GOT OUT OF THE CAR
12 WHEN THE SHOOTING HAD HAPPENED.

13 Q YOU LEFT HIM THERE, DIDN'T YOU?

14 A YEAH.

15 Q YOU LEFT TURK THERE?

16 A WHAT YOU MEAN LEAVE HIM? YEAH, I LET HIM
17 OUT OF THE CAR AND HE WENT SOMEWHERE AND CAME BACK AND
18 THAT'S WHEN THE SHOOTING HAD HAPPENED.

19 Q ALL RIGHT, YOU WALKED AWAY FROM HIM AND
20 THEN YOU CAME BACK HE WAS DEAD, WASN'T HE, DIED IN YOUR
21 ARMS?

22 A YES, MA'AM.

23 Q YOU WERE THE ONLY PERSON THERE?

24 A YES, MA'AM.

25 Q AND IT'S YOUR RESPONSIBILITY TO TAKE CARE

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

474

1 OF HIM?

2 A YES, MA'AM.

3 Q AND AFTER THAT TIME, AFTER AARON WAS IN
4 PRISON YOU SAID A NUMBER OF TIMES I'M GOING TO KILL THAT
5 M.F. OR OTHER WORDS, DIDN'T YOU?

6 A YEAH, YES, MA'AM.

7 Q OKAY, SO THEN YOU COME DOWN HERE AND YOU
8 GET INTO AN ARGUMENT WITH SOME BOYS FROM CONWAY, DON'T YOU?

9 A YES, MA'AM.

10 Q I MEAN YOU GOT INTO SUCH A BIG ARGUMENT
11 WITH THEM THAT YOU WERE READY TO FIGHT, WEREN'T YOU?

12 A YES, MA'AM.

13 Q AND ISN'T IT TRUE THAT BOS AND JUNE AND
14 OTHER PEOPLE HAD TO TELL YOU TO CHILL OUT, PULL BACK, WE'RE
15 HERE TO CHASE WOMEN? NO?

16 A NO, MA'AM, I DON'T RECALL IT.

17 Q SO THOSE PEOPLE, SO IF JUNE HAD SAID THAT'S
18 A LIE?

19 A IF HE DID SAY THAT THAT NIGHT I DON'T
20 RECALL IT, I DON'T REALLY REMEMBER HIM SAYING CHILL OUT OR
21 NOTHING LIKE THAT. SOMEBODY MIGHT, HE MIGHT HAVE DID, I'M
22 NOT SAYING HE DIDN'T, HE MIGHT HAVE DID IT.

23 Q BUT YOU WERE PRETTY HYPER, WEREN'T YOU?

24 A I WOULDN'T SAY PRETTY HYPER IT WAS JUST
25 THAT SOMEBODY INITIATED COMING UP ON ME OVER A FEMALE AND I

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

475

1 WAS JUST LETTING THEM KNOW, MAN, I'M DOWN HERE TO TALK TO
2 FEMALES AND, YOU KNOW WHAT I'M SAYING. THEY CAME, THEY
3 CAME TO ME WITH A PROBLEM REALLY.

4 Q YOU WERE READY TO FIGHT THEM, WEREN'T YOU?

5 A YES, I'M ALWAYS READY, YES, MA'AM, TO
6 DEFEND MYSELF.

7 Q ALWAYS READY?

8 A I'M ALWAYS READY TO DEFEND MYSELF IF IT'S
9 NEEDED, YES, MA'AM.

10 Q AND YOU WERE READY TO FIGHT WITH LEMARK
11 IRONS, TOO, WEREN'T YOU?

12 A YES, MA'AM.

13 Q LEMARK CAME UP TO YOU AND HE WAS TALKING TO
14 YOU ABOUT THAT YA'LL LOOKED FRESH AND YA'LL LOOKED LIKE YOU
15 HAD SOME MONEY AND HE OUGHT TO BE HANGING WITH YOU TO MAKE
16 HIM SOME MONEY WITH YA'LL, RIGHT?

17 A YES, MA'AM.

18 Q YOU DIDN'T LIKE THAT, DID YOU? WHY DIDN'T
19 YOU LIKE THAT?

20 A REALLY I THINK, REALLY I THINK HE WAS
21 TRYING TO BE FRIENDLY CAUSE HE KNOW THAT WE DIDN'T GET
22 ALONG WITH THEM SO THAT'S WHEN I TOLD HIM, MAN, GO ON ABOUT
23 YOUR BUSINESS.

24 Q WELL NOW YOU DIDN'T JUST TELL HIM GO ON
25 ABOUT YOUR BUSINESS, DID YOU? YOU TOLD HIM TO GET ON DOWN

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

476

1 THE ROAD AND YOU STARTED FIGHTING, ARGUING WITH HIM, DIDN'T
2 YOU?

3 A YEAH, THE SECOND TIME WHEN HE CAME UP,
4 YEAH.

5 Q REAL LOUD REAL HYPER THAT WAS YOU, WASN'T
6 IT?

7 A I GUESS SO.

8 Q AND ALL LEMARK IRONS WANTED TO DO WAS
9 CHILL, SHAKE HANDS, AND ENJOY THE WOMEN AND THE PARTYING ON
10 THE BEACH, DIDN'T HE?

11 A I DON'T KNOW WHAT HE WANTED TO DO.

12 Q WELL HE TRIED TO SHAKE YOUR HAND, RIGHT?

13 A YEAH.

14 Q TRIED TO GIVE YOU WHAT THEY CALL DAP?

15 A YEAH.

16 Q AND HE COULDN'T DO IT BECAUSE HE HAD A CAST
17 ON ONE ARM?

18 A YES.

19 Q AND YOU GOT MAD ANYWAY, DIDN'T YOU?

20 A YEAH, I WAS MAD WHEN HE BASICALLY CAME UP
21 BEING FRIENDLY LIKE. I WASN'T REALLY MAD I JUST, I WAS
22 LIKE, MAN, JUST GO ON ABOUT YOUR BUSINESS.

23 Q JUNE WASN'T MAD, RIGHT?

24 A I DON'T KNOW.

25 Q BOS WASN'T MAD, ISH WASN'T MAD?

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

477

1 A I DON'T KNOW.

2 Q T.C. WASN'T MAD, YOU WERE THE ONE THAT WAS
3 HYPERING OUT, WEREN'T YOU?

4 A I GUESS SO IF I --

5 Q IN YOUR SECOND STATEMENT TO THE POLICE DO
6 YOU REMEMBER HOW YOU STARTED THAT IN TALKING TO DETECTIVE
7 HULL? DO YOU REMEMBER TELLING THAT SOMETHING ALONG THE
8 LINES AS "I MAY NOT HAVE BEEN COMPLETELY TRUTHFUL, I NEED
9 TO SAY THAT I HAD SOME PART IN IT?"

10 A YES, MA'AM.

11 Q SO YOU WERE, YOU KNOW, IF WE HAD A LINE
12 HERE YOU WERE IN THE FIRST STATEMENT TRYING TO STAY BACK
13 HERE, WITH THE SECOND ONE YOU'RE KIND OF EDGING A BIT
14 CLOSER TO IT, RIGHT, TO WHAT YOU, WHAT YOU DID?

15 A YES, MA'AM.

16 Q AND DO YOU REMEMBER TELLING HIM THAT OH,
17 MAYBE YOU HAD TOLD THEM TO KILL HIM?

18 A YES, MA'AM.

19 Q AND THAT'S NOT WHAT YOU TESTIFIED TODAY TO,
20 EITHER, IS IT?

21 A WHAT'S THAT?

22 Q YOU DIDN'T SAY TELL THIS JURY THAT YOU TOLD
23 THEM TO KILL HIM, DID YOU?

24 A NO, I SAID, NO, WHAT IT WAS I SAID IF YOU
25 FEEL LIKE THEY WERE GOING TO HARM US THAT WE NEED TO KILL

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

478

1 THEM.

2 Q BUT THAT'S NOT WHAT YOU SAID IN YOUR
3 STATEMENT TO DETECTIVE HULL; ISN'T IT TRUE YOU TOLD HIM
4 THAT YOU GAVE AN ORDER LIKE YOU WERE THE PRINCE? HE ASKED
5 YOU IF YOU WERE "OOG" AND YOU WERE THE PRINCE AND YOU GAVE
6 AN ORDER AND YOU SAID, YEAH, I TOLD THEM TO KILL THE M.F.,
7 DIDN'T YOU?

8 A NAH, I DON'T RECALL THAT.

9 MS. PRATT: THE COURT'S INDULGENCE, YOUR HONOR.

10 Q (CONTINUING) IN YOUR INTERVIEW -- DO YOU
11 REMEMBER YOUR INTERVIEW WITH DETECTIVE MICHAEL HULL ON JUNE
12 THE 14TH OF 2007?

13 A YES, MA'AM.

14 Q OKAY, I'M GOING TO SHOW YOU A TRANSCRIPT
15 AND ASK YOU TO READ TO YOURSELF AT LINE 977 AND 978 AND SEE
16 IF THAT REFRESHES YOUR MEMORY?

17 A YES, MA'AM.

18 Q IS THAT WHAT ACTUALLY HAPPENED?

19 A YES, MA'AM.

20 Q THAT IS WHAT YOU SAID THIS TIME ANYWAY,
21 RIGHT?

22 A MA'AM?

23 Q WOULD YOU READ THAT TO THE JURY LINE 977
24 THE HIGHLIGHTED PART?

25 A "I SAID I WAS LIKE "F" IT, IF YOU THOUGHT,

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

479

1 IF YOU THINK THEY'RE GOING TO KILL ONE OF US "F'ING" KILL
2 HIM."

3 Q "F'ING" KILL HIM, ALL RIGHT, AND THAT'S NOT
4 WHAT YOU SAID TODAY EITHER, IS IT? IS IT?

5 A PROBABLY IS.

6 Q NO, MA'AM, IS THAT THE ANSWER? IS IT YES
7 OR NO DID YOU SAY THIS TODAY?

8 A NO, I DIDN'T JUST SAY THAT.

9 Q NO, CAUSE TODAY YOU'VE GOT A BRAND NEW
10 STORY, DON'T YOU?

11 A NO, MA'AM, I HAVE NO BRAND NEW STORY.

12 Q TODAY YOU'VE GOT A KNIFE, RIGHT, YOU SAID A
13 KNIFE?

14 A YES, MA'AM.

15 Q YOU NEVER TOLD ANYBODY ABOUT A KNIFE BEFORE
16 TODAY, DID YOU?

17 A I THINK I TOLD THE DETECTIVE ONE TIME ABOUT
18 THE KNIFE BUT IN THE BEGINNING I WAS JUST TRYING TO KEEP
19 MYSELF OUT OF THE SITUATION CAUSE I DIDN'T KILL AARON SO I
20 WAS TRYING TO KEEP MYSELF FROM BEING INVOLVED WITH IT CAUSE
21 I JUST DIDN'T WANT TO BE LOCKED UP FOR A MURDER AND THREE
22 ATTEMPTS TO KILL THAT I KNOW I DIDN'T DO SO I, YEAH, I DID
23 TRY TO KEEP MYSELF FROM OUT OF IT.

24 Q AND ISN'T IT TRUE, MR. BETHEA, THAT IF YOU
25 HAD DONE THE KILLING YOU'D STILL BE TRYING TO KEEP YOURSELF

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

480

1 OUT OF IT?

2 A NO, IF I WAS TO HAVE KILLED MR. AARON I
3 WOULD HAVE ADMITTED KILLING MR. AARON.

4 Q REALLY, CAUSE YOU HAVEN'T ADMITTED THE SAME
5 STORY OUT OF I THINK FOUR TIMES NOW, HAVE YOU?

6 A MA'AM?

7 Q YOU HAVEN'T SAID THE SAME STORY FOUR TIMES?

8 A WHAT YOU MEAN THE SAME STORY?

9 Q THE FIRST STORY IS IN CAR VIDEO YOU JUST
10 KEPT SAYING "I'M, I'M JUST COMING DOWN HERE TO SET IT
11 STRAIGHT SO I CAN GO HOME. I GOT A CHILD, I GOT A SON ON
12 THE WAY," RIGHT? THE SECOND ONE YOU SAID YOU DIDN'T HAVE
13 ANYTHING TO DO IT. THE THIRD ONE YOU SAID THAT YOU TOLD
14 THEM TO KILL HIM, THE FOURTH ONE TODAY YOU SAY YOU HAD A
15 KNIFE.

16 A I THINK I DID TELL THE DETECTIVE THAT I HAD
17 A KNIFE AND THAT INITIATED I DO HARM TO MR. LEMARK.

18 Q WELL THAT'S INTERESTING CAUSE IT'S NOT IN
19 ANY DISCOVERY AND YOU'VE GOT YOUR DISCOVERY, RIGHT? DO YOU
20 REMEMBER READING YOUR DISCOVERY?

21 A YES, MA'AM.

22 Q AND WHAT IS DISCOVERY SINCE THE JURY
23 PROBABLY DOESN'T KNOW WHAT THAT IS?

24 A THAT'S EVERYTHING THAT YOU SAY OR PEOPLE
25 SAY ABOUT YOU.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

481

1 Q IN THE EVIDENCE IN YOUR CASE?

2 A YES, MA'AM.

3 Q AND I KNOW THE SOLICITOR SAID THAT YOU
4 DIDN'T ENTER INTO YOUR PROFFER UNTIL MARCH 2009 BUT YOU
5 PRETTY MUCH KNEW WHEN YOU KEPT TELLING DETECTIVE HULL AND
6 DETECTIVE ALLEN AND DETECTIVE JACKSON THESE STORIES THAT
7 YOU WERE EVENTUALLY GOING TO HAVE TO TRY AND TALK YOURSELF
8 OUT OF THIS, DIDN'T YOU? YOU KNEW THAT?

9 A I WAS TRYING TO TALK MYSELF OUT OF IT FROM
10 THE DATE OF THIS IS WHAT I WAS TRYING TO DO.

11 Q AND YOU KNEW YOU WERE GOING TO END UP
12 SITTING IN THAT BOX?

13 A NO, MA'AM, I DIDN'T NEVER, NEVER KNOW I WAS
14 GOING TO END UP SITTING HERE.

15 Q HAVE YOU GOT A REPUTATION FOR TELLING
16 THINGS TO THE POLICE, MR. BETHEA?

17 A MA'AM?

18 Q HAVE YOU GOT A REPUTATION FOR TELLING
19 THINGS TO THE POLICE?

20 A NO, MA'AM.

21 Q NOT IN LUMBERTON?

22 A NO, MA'AM.

23 Q DO YOU REMEMBER SOMETHING ABOUT YOUR
24 BROTHER KEVIN?

25 A YES, MA'AM.

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

482

1 Q TELL ME ABOUT THAT?

2 A WHAT ABOUT IT?

3 Q DIDN'T YOU TELL THE POLICE WHERE YOUR

4 BROTHER WAS?

5 A NO, MA'AM, NEVER TOLD THE POLICE WHERE MY

6 BROTHER WAS.

7 Q WELL TELL ME ABOUT THAT, YOUR INVOLVEMENT

8 IN THAT THEN?

9 A MY INVOLVEMENT IN WHAT?

10 MS. ELDER: OBJECTION, YOUR HONOR.

11 MS. PRATT: I'LL WITHDRAW, I'LL WITHDRAW IT,

12 YOUR HONOR.

13 Q (CONTINUING) DID DETECTIVE JACKSON OR

14 DETECTIVE HULL SHOW YOU A VIDEO OF YOUR VEHICLE THAT NIGHT?

15 A YES, MA'AM.

16 Q AND THAT WAS YOUR VEHICLE, WASN'T IT?

17 A YES, MA'AM.

18 Q AND YOURS WAS ACTUALLY THE ONLY VEHICLE

19 THAT WAS EVER FOUND OR SEEN OUT OF ALL THE BOYS VEHICLES,

20 CORRECT?

21 A YES, MA'AM.

22 Q AND YOU WEREN'T IN IT?

23 A NO, MA'AM.

24 Q THEY'RE COMING DOWN THE STRIP AND YOU

25 CALLED THEM ON THE PHONE TO FIND THEM, RIGHT?

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

483

1 A YES, MA'AM.

2 Q OKAY, AND IN ORDER FOR THAT TO BE THE CASE
3 WITH THEM COMING DOWN YOU KEPT RUNNING FORWARD, DIDN'T YOU,
4 PAST WHERE AARON WAS, ISN'T THAT RIGHT?

5 A NO, MA'AM, WHEN THE SHOOTING HAPPENED I
6 TURNED AROUND AND WENT BACK UP NORTH WAY THEN GOT ON MY
7 PHONE AND MY VEHICLE WAS ON THE BACK WHEN I CALLED THEM.

8 Q YOU DIDN'T RUN THE SAME SAY AS JUNE, DID
9 YOU?

10 A I DON'T EVEN KNOW WHERE, I DON'T KNOW WHERE
11 NOBODY IS, EVERYBODY JUST RAN, HAVE NO IDEA WHERE ANYONE
12 RAN TO.

13 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
14 STATE'S EXHIBIT 3 AND I DON'T KNOW IF YOU CAN TELL FROM
15 THIS, BUT THIS IS WHERE THE SHELL CASINGS, SEE THE SHELL
16 CASINGS, AND THERE'S ONE VICTIM AND UP HERE IS WHERE THEY
17 FOUND AARON AND I BELIEVE, ALTHOUGH IT DOESN'T SAY THIS,
18 BUT THAT IS ACTUALLY SOUTH, SHOULD BE THE OTHER WAY AROUND,
19 WHICH WAY ON HERE, WHERE WERE YOU AND WHERE DID YOU RUN?

20 A THE SHOOTING WAS RIGHT HERE ON THIS WAY I
21 TURNED BACK AROUND THIS WAY AND WENT BACK. I KNOW, I KNOW
22 NORTH FROM SOUTH I WENT BACK NORTH WAY. I NEVER INITIATED
23 GOING UP SOUTH.

24 Q WELL IF YOU WENT NORTH WAY LIKE THAT WHY
25 DIDN'T YOU SEE JUNE?

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

484

1 A WE WAS ALL RUNNING, THERE WAS A BIG CROWD
2 OF PEOPLE RUNNING.

3 Q OR MAYBE YOU WENT THE OTHER WAY TOWARDS AND
4 PAST AARON?

5 A NO, I NEVER ---

6 Q AFTER YOU SHOT HIM?

7 A I NEVER SHOT AARON AND I NEVER RAN SOUTH
8 TOWARDS THAT WAY. I TURNED AROUND AND WENT BACK NORTH. AS
9 A MATTER OF FACT WHEN I WAS RUNNING I RAN INTO ONE OF
10 AARON'S FRIENDS MR. SINCLAIR, MAN, MAN SINCLAIR.

11 Q WHICH ONE OF YOU, WHEN YOU WERE ANSWERING
12 THE SOLICITOR'S QUESTIONS YOU KEPT SAYING WE SAID THIS AND
13 WE SAID THAT, DO YOU REMEMBER JUST A FEW MINUTES AGO?

14 A YES, MA'AM.

15 Q OKAY, TWO PEOPLE CAN'T SAY EXACTLY THE SAME
16 THING SO WHO SAID WE NEED TO KILL THE M.F., THAT WAS YOU,
17 WASN'T IT?

18 A WHO SAID I NEED TO KILL HIM, HE SAID THAT I
19 SAID IT? IT WAS BASICALLY I JUST CAN'T, CAN'T REALLY
20 RECALL EVERYTHING WORD FOR WORD THAT WE SAID THAT HE SAID
21 OR WHAT I SAID WORD FOR WORD BUT I, I KNOW THAT WE, WE AS
22 A, AS A GROUP, ME AND HIM WERE LIKE THEY GOING TO KILL ONE
23 OF US WE MIGHT AS WELL KILL THEM BEFORE THEY KILL US.

24 Q WHEN YOU SAY WE AND THE GROUP WHO DO YOU
25 MEAN?

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

485

1 A ME AND MR. SPEARS.

2 Q IS THAT THE GROUP, OKAY, DID YOU GET IN AN
3 ARGUMENT WITH JUNE ABOUT IT?

4 A NO, MA'AM.

5 Q IN YOUR THIRD STATEMENT TO THE POLICE THE
6 SECOND ONE THAT YOU GAVE TO DETECTIVE HULL YOU SAID YOU
7 WERE SCARED TO DEATH OF AARON, RIGHT, DO YOU REMEMBER
8 TELLING HIM THAT?

9 A THAT WAS A LIE.

10 Q THAT WAS A LIE?

11 A YES, MA'AM.

12 Q OKAY, YOU TOLD HIM THAT YOU HAD SEEN HIM
13 KILL TURK AND YOU WERE SCARED OF HIM, DIDN'T YOU, ISN'T
14 THAT WHAT YOU TOLD DETECTIVE HULL?

15 A NEVER SAID I SEEN HIM KILL TURK.

16 Q YOU TOLD YOU WERE THERE AND YOU WERE SCARED
17 OF AARON, THAT'S WHAT YOU TOLD HIM, RIGHT?

18 A I DON'T RECALL THAT. I NEVER RECALL HIM
19 TELLING THAT I WAS THERE WHEN HE KILLED TURK AND I WAS
20 SCARED OF HIM.

21 Q SO YOU DIDN'T TELL HIM THAT YOU WERE AFRAID
22 OF HIM?

23 A I TOLD HIM THAT WHEN I WAS THERE THAT,
24 YEAH, WHEN HE SAID HE WALKED PASSED ME THAT I WAS SCARED
25 BUT LIKE I SAID I WAS, I WAS TRYING TO KEEP MYSELF OUT OF

MR. BETHEA - CROSS EXAMINATION BY MS. PRATT

486

1 THE SITUATION.

2 Q SO YOU TOLD HIM YOU WERE SCARED BUT STILL
3 YOU KEPT WALKING TOWARDS AARON AND LEMARK, DIDN'T YOU?

4 A YES.

5 Q THAT'S A LITTLE STRANGE, ISN'T IT? I MEAN
6 IF YOU'RE SCARED OF SOMEBODY COULDN'T YOU HAVE JUST TURNED
7 AROUND AND WALKED AWAY?

8 A YES.

9 Q BUT YOU WEREN'T SCARED CAUSE YOU WANTED TO
10 GO AFTER HIM, DIDN'T YOU? DIDN'T YOU?

11 A I AIN'T GOING TO SAY I WANTED TO GO AFTER
12 HIM BUT AFTER, AFTER A FEW, AFTER A FEW MINUTES, YES, I
13 WENT AFTER HIM.

14 Q IF YOU DIDN'T WANT TO YOU COULD HAVE TURNED
15 AROUND, RIGHT?

16 A YES, MA'AM.

17 Q JUNE TURNED AROUND, DIDN'T HE? JUNE TURNED
18 AROUND AND WALKED AWAY, DIDN'T HE?

19 A I THINK SO, YES, MA'AM.

20 Q YOU THINK SO, DID JUNE WALK AWAY?

21 A WELL WE, ACTUALLY WE ALL JUST WALKED OFF
22 TOGETHER, I CAN'T SAY JUNE TURNED AROUND AND WALKED AWAY,
23 JUST LIKE ALL OF US STARTED WALKING UP SOUTH BOULEVARD.

24 Q AND YOU WERE THE ONLY ONE WITH DREADS,
25 WEREN'T YOU?

REDIRECT EXAMINATION BY MS. ELDER

487

1 A ME AND A FEW MORE PEOPLE, YES, MA'AM.

2 Q AT THE END THERE WHERE IT WAS NARROWED DOWN
3 TO SOME COMBINATION OF THE THREE CODEFENDANTS YOU WERE THE
4 ONLY ONE WITH DREADS, WEREN'T YOU?

5 A YES, MA'AM.

6 Q AND YOU HAD A SHIRT THAT HAD ALL DIFFERENT
7 COLORS ON IT INCLUDING RED AND GREEN, RIGHT?

8 A RED, GREEN, YELLOW, ALL KIND OF COLORS,
9 YES, MA'AM.

10 Q DO YOU REMEMBER WHEN YOU CAME DOWN THE
11 FIRST TIME AND WENT TO THE MYRTLE BEACH ANNEX? DO YOU
12 REMEMBER TELLING DETECTIVE HULL THAT YOU HAD YOUR CELL
13 PHONE WITH YOU DELETED ALL THE CALL LOGS OFF OF IT?

14 A YES, MA'AM.

15 Q OKAY, YOU DELETED EVERY CALL SO THERE'S
16 NOTHING RIGHT THERE THAT YOU COULD SHOW THAT OFFICER TO
17 SAY, SEE THIS IS WHAT I WAS DOING, RIGHT?

18 A WHEN I, I DELETE MY CALLS EVERY DAY ONLY
19 CAUSE MY PHONE STAYED CONSTANTLY FULL WITH MESSAGES AND
20 THINGS LIKE THAT SO I DELETE THEM EVERY DAY SO I CAN CATCH
21 NEW MESSAGES.

22 Q BUT YOU DELETED ALL THE CALL ENTRY TO SHOW
23 WHO YOU CALLED AND WHO HAD CALLED YOU, DIDN'T YOU?

24 A YEAH, I DO THAT EVERY DAY, YES, MA'AM.

25 WHOEVER, MESSAGES, EVERYTHING WHEN I GO THROUGH MY PHONE I

REDIRECT EXAMINATION BY MS. ELDER

488

1 HIT DELETE AND I HIT ALL, ALL DELETIONS OF NUMBERS,
2 MESSAGES, AND EVERYTHING.

3 Q DON'T YOU THINK IT MIGHT HAVE BEEN
4 SOMETHING THAT MIGHT HAVE HELPED YOU TO SHOW THE DETECTIVE
5 THAT IF YOU HAD MADE A PHONE CALL SAY TO A GIRL CHARLESE OR
6 YOU HAD MADE A PHONE CALL TO YOUR SISTER'S BOYFRIEND OR YOU
7 HAD MADE A PHONE CALL TO SOMEBODY ELSE?

8 A I WOULD, I'M SAYING I DIDN'T NEVER THINK OF
9 NOTHING WHY I DIDN'T NEED TO DO NOTHING LIKE THAT CAUSE WHY
10 DO IT IF I DIDN'T DO, I'M SAYING WHY WOULD I DO THAT, I
11 DON'T UNDERSTAND, I DON'T UNDERSTAND YOU.

12 MS. PRATT: I HAVE NO FURTHER QUESTIONS.

13 THE COURT: MS. ELDER, REDIRECT.

14 MS. ELDER: YES, SIR, YOUR HONOR.

15 REDIRECT EXAMINATION

16 BY MS. ELDER:

17 Q THE FIRST INTERVIEW YOU GAVE YOU TOLD
18 POLICE THAT BOS SHOT AARON, CORRECT?

19 A YES, MA'AM.

20 Q SECOND INTERVIEW YOU GAVE BOS SHOT AARON,
21 CORRECT?

22 A YES, MA'AM.

23 Q AFTER YOUR PROFFER AGREEMENT IN '09 BOS
24 SHOT AARON, CORRECT?

25 A YES, MA'AM.

REDIRECT EXAMINATION BY MS. ELDER

489

1 Q AND TODAY BOS SHOT AARON, CORRECT?

2 A YES, MA'AM.

3 Q AND WHEN YOU GAVE YOUR TWO STATEMENTS THE
4 FIRST STATEMENT YOU GAVE JUNE 22ND YOU TOLD POLICE YOU WERE
5 HERE IMMEDIATELY, CORRECT?

6 A MA'AM?

7 Q YOU TOLD POLICE YOU WERE IN MYRTLE BEACH?

8 A YES, MA'AM.

9 Q DID YOU TELL POLICE YOU WERE AROUND THE
10 TIME OF THE SHOOTING?

11 A YES, MA'AM.

12 Q DID YOU PUT YOURSELF IN CLOSE PROXIMITY TO
13 THE SHOOTING?

14 A YES, MA'AM.

15 Q AND IN THAT FIRST INTERVIEW, MS. PRATT
16 ASKED YOU ABOUT SOME SPECIFICS OF YOUR INTERVIEW AND WHAT
17 WAS, WHO WAS SAYING WHAT. IN THAT FIRST INTERVIEW IF
18 YOU'LL TAKE A LOOK AT PAGE 59, DETECTIVE HULL HE ASKED YOU
19 WHAT DID BOS SAY, IF YOU'LL LOOK AT THAT AND REFRESH YOUR
20 MEMORY? WOULD YOU READ THE NEXT LINE WHAT DID YOU SAY?

21 A WHICH ONE?

22 Q AFTER DETECTIVE HULL ASKS YOU, OKAY, WHAT
23 DID BOS SAY?

24 A "HE WAS LIKE, MAN, THEM M.F.'ERS ARE TRYING
25 TO, THEY GOING TO TRY TO KILL ONE OF US TONIGHT SO I TOLD

REDIRECT EXAMINATION BY MS. ELDER

490

1 YOU THEY MIGHT SAY THEY RAN INTO US THEM A COUPLE OF
2 TIMES."

3 Q AND WHAT'S YOUR NEXT STATEMENT?

4 A THEY WERE LIKE "F" IT I'M GOING ---

5 Q WHAT, I'M SORRY, RIGHT HERE?

6 A RIGHT THERE?

7 Q YES, SIR?

8 A "HE WAS LIKE ONE OF THEM M.F.'ERS ARE GOING
9 TO TRY TO KILL US TONIGHT CAUSE THEY THINK WE'RE, CAUSE
10 FIRST TIME RUNNING INTO THEM, THEY WERE LIKE "F" IT BUT I'M
11 GOING TO KILL ONE OF THEM BEFORE THEY KILL ME."

12 Q AND YOU WERE REFERRING TO BOS SAYING THAT;
13 IS THAT RIGHT?

14 A YES, MA'AM.

15 Q SO BOS WAS SAYING THAT ON THE STREET THAT
16 NIGHT, CORRECT?

17 A YES, MA'AM.

18 Q ALSO IN YOUR SECOND INTERVIEW ON JUNE 14TH
19 MS. PRATT KEPT ASKING YOU KEEP CHANGING YOUR STORY. IF
20 YOU'LL LOOK ON PAGE THREE, PAGE THREE OF YOUR SECOND
21 INTERVIEW. IF YOU'LL LOOK AT LINE 100, IF YOU'LL START
22 THERE FOR ME AND IF YOU'LL START WITH SO.

23 A START RIGHT HERE?

24 Q YES, SIR.

25 A "SO THAT'S WHEN THE CONVERSATION STARTED

REDIRECT EXAMINATION BY MS. ELDER

491

1 LIKE THEY THINK THEY, THEY THINK THEY GONNA, I THINK THEY
2 GONNA TRY TO KILL ONE OF US, MAN, YOU KNOW WHAT I MEAN, AND
3 LIKE I SAID I KNOW THEM BOS CAPABLE OF SUCH. I KNOW THAT
4 THEM BOYS ARE CAPABLE OF TAKING SOMEBODIES LIFE. SHIP, YOU
5 KNOW WHAT I MEAN, THAT'S WHEN BOS WAS LIKE, MAN, I'M GOING
6 TO KILL THIS M.F.'ER."

7 Q AND THAT WAS BEFORE, YOU MADE THESE
8 STATEMENTS BEFORE YOU ENTERED INTO AN AGREEMENT WITH ME TO
9 GET A LESSER SENTENCE; IS THAT RIGHT?

10 A YES, MA'AM.

11 Q AND I BELIEVE ON YOUR SECOND INTERVIEW IN
12 JUNE OF '07 BEFORE YOUR AGREEMENT IN '09, IF YOU'LL REFER
13 TO PAGE ONE, LINE 14, WHAT DID YOU TELL DETECTIVE WHEN YOU
14 STARTED THAT INTERVIEW?

15 A LINE 14, "WELL BASICALLY EVERYTHING I TOLD
16 YOU, BASICALLY EVERYTHING I TOLD YOU WHAT I DO," IT SAYS,
17 "WELL BASICALLY EVERYTHING I TOLD YOU WAS TRUE EXCEPT FOR
18 THE FACT, THE FACT THAT I LEFT THAT I MAY BE ACCESSORY TO
19 THE MURDER."

20 Q AND WHY DID YOU THINK YOU WERE AN
21 ACCESSORY?

22 A CAUSE I WAS WITH HIM WHEN IT HAPPENED, WE
23 INITIATED THE --

24 Q CONVERSATION?

25 A YES, MA'AM.

REDIRECT EXAMINATION BY MS. ELDER

492

1 Q AND YOU WENT WITH BOS TO TAKE OUT AARON,
2 RIGHT?

3 A YES, MA'AM.

4 Q AND YA'LL WERE PART OF THE SAME GROUP,
5 RIGHT?

6 A YES, MA'AM.

7 Q YOU WOULDN'T HAVE LET HIM GO BY HIMSELF,
8 WOULD YOU?

9 A NO, MA'AM.

10 Q SOMETHING YOU LEARNED FROM LEAVING TURK BY
11 HIMSELF?

12 A BASICALLY, YES, MA'AM.

13 Q ON PAGE 25 OF 30 MS. PRATT ASKED YOU YOU
14 "LEFT JUNE OUT THERE TO FRY FOR YOU." IF YOU COULD REFER
15 TO YOUR INTERVIEW JUNE 14TH OF 2007, LINE 865, WHAT'S THAT
16 FIRST LINE SAY?

17 A TOLD THAT THAT PERSON TOOL BACK

18 Q OKAY, DID YOU EVER SAY HE SHOT AARON?

19 A NO, MA'AM.

20 Q DID YOU PUT HIM IN THE CONVERSATION WHEN
21 YA'LL WERE TALKING ABOUT KILLING AARON?

22 A YES, MA'AM.

23 Q DID YOU EVER SAY HE WALKED OFF WITH YOU AND
24 BOS TO KILL AARON?

25 A NO, MA'AM.

MR. BETHEA - RECROSS EXAMINATION BY MS. PRATT

493

1 Q AND WHEN POLICE ASKED YOU ABOUT YOUR CELL
2 PHONE YOU GAVE HIM YOUR CELL NUMBER SO THEY COULD GET YOUR
3 RECORDS; IS THAT CORRECT?

4 A YES, MA'AM.

5 MS. ELDER: NO FURTHER QUESTIONS.

6 THE COURT: ANY FOLLOW UP, MS. PRATT?

7 MS. PRATT: YES, YOUR HONOR.

8 RECROSS EXAMINATION

9 BY MS. PRATT:

10 Q WELL THEY ALREADY HAD YOUR CELL PHONE
11 NUMBER, DIDN'T THEY?

12 A I GAVE IT TO THEM, YES, MA'AM.

13 Q I MEAN THEY HAD YOUR PHONE, RIGHT?

14 A NO, MA'AM.

15 Q DIDN'T YOU HAVE TO HAND IT OVER TO THEM
16 WHEN THEY ARRESTED YOU?

17 A NO, MA'AM, MY FATHER HAD ---

18 Q YOU GET TO KEEP IT?

19 A MY FATHER HAD MY PHONE.

20 Q OKAY, THEY KNEW YOUR PHONE NUMBER, DIDN'T
21 THEY?

22 A I GAVE IT TO THEM, YES, MA'AM.

23 Q OKAY, AND LET'S JUST WALK DOWN THE PAGES
24 THAT MS. ELDER DID, HOW ABOUT THAT? LET'S START WITH THE
25 FIRST ONE SHE ASKED YOU ABOUT PAGE 59. YOU SAID BOS SAID

MR. BETHEA - RECROSS EXAMINATION BY MS. PRATT

494

1 "I'M GOING TO KILL ONE OF THEM BEFORE THEY KILL ME,' RIGHT?

2 A YES, MA'AM.

3 Q OKAY, HOW ABOUT WE GO BACK JUST A FEW LINES
4 TO THE THIRD LINE DOWN, READ IT OUT LOUD.

5 A THAT'S WHEN HE LEFT AND BOS -

6 Q RIGHT HERE THE THIRD LINE DOWN, 'BAM BOOM."

7 A "BAM, BOOM, BAM, BOOM, THIS IS WHEN HE LEFT
8 THAT WHEN BOS AND JUNE STARTED TALKING."

9 Q "THAT'S WHEN BOS AND JUNE STARTED TALKING"
10 AND HULL SAYS, "OKAY, WHO STARTED TALKING FIRST?" AND YOU
11 SAID --

12 A "BOS AND JUNE."

13 Q AND HE SAID, "NO, NO, DID BOS OR JUNE" AND
14 YOU SAID?

15 A "BOS."

16 Q SO IT WASN'T YOU TALKING TO THEM YOU PUT
17 BOS AND JUNE RIGHT IN ON THAT PAGE 59, DIDN'T YOU? IT
18 WASN'T YOU TALKING TO BOS, WAS IT?

19 A IT WASN'T ME TALKING TO BOS.

20 Q IT WAS BOS AND JUNE IS WHAT YOU TOLD
21 DETECTIVE HULL, WASN'T IT?

22 A YES, MA'AM.

23 Q OKAY, AND THEN THE SECOND ONE THAT MS.
24 ELDER ASKED YOU ABOUT, PAGE THREE LINE 100 AND YOU SAID
25 "THAT'S WHEN BOS WAS LIKE, MAN, I'M GOING TO KILL THIS

MR. BETHEA - RECROSS EXAMINATION BY MS. PRATT

495

1 M.F.," RIGHT, IS THAT WHAT YOU TOLD THE JURY? BUT THE
2 TRUTH IS, LET'S READ FROM, LET'S READ FROM LINE 97 START
3 WITH "AND."

4 A "AND AS WE, AND AS WE, AS WHEN HE LEFT
5 THAT'S WHEN THE CONVERSATION BROKE OUT, BRIAN AND JUNE AND
6 ME, YOU KNOW WHAT I'M SAYING, CONVERSATION WAS."

7 Q SO YOU PUT JUNE RIGHT IN IT, RIGHT THERE,
8 TOO?

9 A YEAH, HE WAS THERE WHEN WE CONVERSATED.

10 Q PAGE ONE LINE 14, YOU TOLD THE SOLICITOR
11 THAT YOU SAID, "WELL BASICALLY EVERYTHING I TOLD YOU IS
12 TRUE EXCEPT FOR THE FACT, THE FACT THAT I LEFT OUT I MAY BE
13 AN ACCESSORY TO MURDER," RIGHT?

14 A YES, MA'AM.

15 Q AND THE LAST OF THAT SENTENCE YOU LEFT OUT
16 ACCESSORY TO MURDER, FINISH IT OFF.

17 A "YOU KNOW BUT IT'S NOT LIKE I PLANNED ON
18 IT, YOU KNOW, IT'S JUST LIKE, YOU KNOW, AT THE TIME I WAS,
19 I WAS SCARED, I WAS SCARED FOR MY LIFE.'

20 Q AND YOU'VE ALREADY TOLD ME THAT THAT WAS A
21 LIE, RIGHT, THAT YOU WEREN'T SCARED?

22 A YES, MA'AM.

23 Q AND YOU TOLD MS. ELDER THAT YOU WERE
24 MEMBERS OF THE SAME GROUP SO YOU WOULDN'T LET HIM GO BY
25 HIMSELF BUT ISN'T IT TRUE IN YOUR FIRST STATEMENT YOU TOLD

MR. BETHEA - RECROSS EXAMINATION BY MS. PRATT

496

1 THE POLICE THAT HE WENT OFF BY HIMSELF AND WITH JUNE,
2 RIGHT? YOU DIDN'T SAY THAT YOU WERE WITH HIM, DID YOU?

3 A NO, MA'AM.

4 Q AND MS. ELDER SAID ON PAGE 25 LINE 865 SHE
5 HAD YOU READ "JUNE JUNE IS A GOOD PERSON, TOO," RIGHT?
6 OKAY, BUT EVEN IN THIS STATEMENT ALL THE WAY THROUGH YOU
7 WENT ON TO SAY HE'S A GOOD PERSON, TOO, BUT, FINISH AFTER
8 BUT?

9 A "IF YOU CROSS HIS LYING, HE'S JUST LIKE ANY
10 OTHER BAD PERSON."

11 Q KEEP GOING?

12 A "YOU KNOW, CAUSE EVERYBODY GOT A BAD SIDE,
13 YOU KNOW WHAT I'M SAYING, BUT I DON'T --

14 Q THEY COULDN'T HEAR YOU?

15 A "BUT HE AIN'T, HE AIN'T SHOOT NOBODY BUT HE
16 HAD, WE HAD THE CONVERSATION, ALL OF US HAD THE
17 CONVERSATION."

18 Q AND IT'S YOUR TESTIMONY THAT THAT
19 CONVERSATION DID NOT INCLUDE JUNE TELLING YOU TO CHILL?

20 A I KNOW JUNE, I DON'T REMEMBER JUNE TELLING
21 ME TO CHILL. LIKE I SAY HE MIGHT HAVE DID WHEN I, WHEN I
22 WAS ARGUING WITH THE DUDE, I'M NOT GOING TO SAY THAT HE
23 DIDN'T SAY CHILL, I JUST DON'T REMEMBER HIM SAYING CHILL.

24 Q AND THE SOLICITOR MADE A BIG DEAL ABOUT THE
25 FACT THAT HE SAID YOU CAME DOWN HERE YOU NEVER TOLD THEM

MR. BETHEA - RECROSS EXAMINATION BY MS. PRATT

497

1 YOU WEREN'T HERE, YOU NEVER TOLD THEM THAT YOU DIDN'T, YOU
2 KNOW, COME DOWN TO THE BEACH, YOU NEVER TOLD THEM THAT YOU
3 HAD A DIFFERENT NAME, RIGHT, AT THE FIRST IN HER REDIRECT?

4 A YES, MA'AM.

5 Q WELL WASN'T THERE A REALLY GOOD REASON WHY
6 YOU COULDN'T SAY THAT YOU WEREN'T HERE?

7 A YEAH, THE REASON WAS I WAS THERE.

8 Q THEY KNEW YOU WERE THERE BECAUSE YOU
9 MATCHED THIS, DIDN'T YOU?

10 A YES, MA'AM.

11 Q AND THEY HAD YOUR ESCALADE ON VIDEO, RIGHT?

12 A YES, MA'AM.

13 Q SO YOU COULDN'T DENY IT?

14 A BEFORE I SEEN IT AND BEFORE I EVEN KNEW
15 THAT I MADE IT, BUT YEAH.

16 Q YOU KNEW THAT THE PICTURE WAS OUT WHEN YOU
17 CAME DOWN HERE, THAT'S WHY YOU CAME?

18 A YES, MA'AM.

19 Q AND YOU'RE HERE TODAY BECAUSE YOU GOT A
20 DEAL TO CUT YOUR TIME TO 20 YEARS, RIGHT?

21 A YES, MA'AM.

22 Q THAT'S WHY YOU'RE ON THAT STAND?

23 A YES, MA'AM.

24 MS. PRATT: I DON'T HAVE ANY OTHER QUESTIONS,
25 YOUR HONOR.

MR. BETHEA - RECROSS EXAMINATION BY MS. PRATT

498

1 THE COURT: THANK YOU, PLEASE STEP DOWN. MS.
2 ELDER.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
4 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
5 OF THE JURY.)

6 THE COURT: MY UNDERSTANDING YOU HAVE ONE MORE
7 WITNESS AND THEN THE STATE WILL REST; HOW LONG DO YOU
8 ANTICIPATE THAT WITNESS BEING?

9 MS. ELDER: THIRTY, 45 MINUTES, YOUR HONOR.

10 MS. PRATT: AND THAT WOULD NOT BE COUNTING
11 CROSS.

12 MS. ELDER: ACTUALLY I FIGURED THAT WOULD BE
13 COUNTING CROSS.

14 THE COURT: WHAT I'M GOING TO DO IS I WANT TO
15 GET THAT WITNESS DONE SO I CAN, SO I CAN BRING YOU
16 ATTORNEYS IN IN THE MORNING BEFORE I BRING THIS JURY IN TO
17 DO THE MOTIONS THAT ARE GOING TO FOLLOW THE STATE'S CASE.
18 ARE YOU SURE THAT THAT IS YOUR LAST WITNESS?

19 MS. ELDER: YES, SIR.

20 THE COURT: YOU WILL REST TODAY?

21 MS. ELDER: YES, SIR, AFTER THAT WITNESS.

22 THE COURT: ALL RIGHT, LET'S DO THAT, ALL RIGHT.
23 ALL RIGHT, AND THEN I WANT YA'LL IN HERE AT NINE IN THE
24 MORNING TO DO THE MOTIONS, OKAY?

25 MS. ELDER: YES, SIR.

MR. SMITH - DIRECT EXAMINATION BY MS. ELDER

499

1 THE COURT: OKAY.

2 MS. PRATT: AND, YOUR HONOR, THERE'S ONE THING I
3 NEED TO DO. THE SOLICITOR AND I WERE MAKING A LIST OF
4 SOMETHING THAT SHE HAS THE ORIGINAL DOCUMENT FOR AND I
5 WOULD LIKE TO BE ABLE TO COMPARE IT TO THE LIST TO BE SURE
6 THE LIST IS ACCURATE.

7 THE COURT: WELL YA'LL MAY HAVE A LIST YOU WANT
8 BUT LET'S HAVE A WITNESS RIGHT NOW.

9 MS. PRATT: IF I COULD HAVE THE ORIGINAL
10 DOCUMENT WHILE SHE'S DOING THAT, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 MS. ELDER: IT'S TIM SMITH.

13 **TIMOTHY SMITH**

14 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

15 MADAM CLERK: PLEASE STATE YOUR FULL NAME AND
16 SPELL YOUR LAST NAME FOR THE RECORD.

17 THE WITNESS: TIMOTHY FRANKLIN SMITH, S-M-I-T-H.

18 **DIRECT EXAMINATION**

19 **BY MS. ELDER:**

20 Q MR. SMITH, YOU'RE CURRENTLY INCARCERATED;
21 IS THAT CORRECT?

22 A YES, MA'AM.

23 Q AND WHERE ARE YOU INCARCERATED?

24 A NORTH CAROLINA DEPARTMENT OF CORRECTIONS.

25 Q WHAT ARE YOU INCARCERATED THERE FOR?

MR. SMITH - DIRECT EXAMINATION BY MS. ELDER

500

1 A FOR BREAKING AND ENTERING.

2 Q IS THAT LARCENY, I BELIEVE?

3 A LARCENY OF A MOTOR VEHICLE.

4 Q AND I JUST WANT TO GO RIGHT QUICK AND TOUCH
5 OVER YOUR PRIOR CRIMINAL HISTORY. YOU'VE BEEN CONVICTED OF
6 THINGS BEFORE, CORRECT?

7 A YES, MA'AM.

8 Q OKAY, AND QUITE A FEW THINGS; IS THAT
9 CORRECT?

10 A YES, MA'AM.

11 Q IN 1995 I BELIEVE YOU HAD A FOOD STAMP
12 FRAUD AND A PUBLIC ASSISTANCE FRAUD; IS THAT CORRECT?

13 A YES, MA'AM.

14 Q IN '98 YOU HAD A LARCENY?

15 A YES, MA'AM.

16 Q 2004 YOU HAD ALLUDING ARREST, I BELIEVE ALL
17 THAT'S NORTH CAROLINA; IS THAT RIGHT?

18 A YES, MA'AM.

19 Q YOU HAD A PROBATION VIOLATION AS WELL?

20 A YES, MA'AM.

21 Q YOU HAD A CONSPIRACY TO COMMIT POSSESSION
22 OF STOLEN GOODS?

23 A YES, MA'AM.

24 Q 2006 YOU HAD A LARCENY OF MOTOR VEHICLES,
25 POSSESSION OF STOLEN GOODS?