

Volume II of III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lee County

William Jeffrey Young, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

TYRONE SINGLETARY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213528

APPENDIX

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE'S EXHIBIT #10 (TAPE),

1 A GRIEVANCE COORDINATOR.

2 Q AND WHAT IS THAT, WHAT IS A GRIEVANCE COORDINATOR?

3 A THEY HANDLE INMATE COMPLAINTS.

4 Q OKAY. SO IF THEY HAVE A COMPLAINT ABOUT A GUARD OR

5 A, WHOEVER, FOOD OR WHATEVER, THEY WOULD COME TO YOU?

6 A YES.

7 Q OKAY. NOW, ON THE 29TH, WERE YOU WORKING THAT DAY?

8 OCTOBER 29TH, 2003?

9 A YES, I WAS.

10 Q AND WERE YOU WORKING AT ABOUT 5:00?

11 A NO, I LEFT THE INSTITUTION.

12 Q AND WHERE WERE YOU GOING?

13 A HOME.

14 Q ALL RIGHT. YOU WERE OFF WORK?

15 A YES.

16 Q OKAY. WERE YOU CALLED BACK TO THE INSTITUTION?

17 A YES. I WAS PAGED.

18 Q AND WHY WERE YOU PAGED BACK TO THE INSTITUTION?

19 A WELL, THE PAGE SAID TO REPORT BACK TO THE INSTITUTION

20 AS SOON AS POSSIBLE. THAT'S ALL I KNEW AT THAT TIME.

21 Q ALL RIGHT. WHEN YOU GOT THERE, WHAT HAPPENED OR WHAT

22 DID YOU FIND OUT?

23 A WELL, WHEN I ARRIVED AT THE INSTITUTION THERE WAS A

24 SERGEANT -- I THINK SERGEANT STEWART IN THE -- IN THE

25 FRONT OF THE INSTITUTION AND SHE BRIEFED ME TO LET ME KNOW

1 THAT THERE WAS A SITUATION GOING ON IN CHESTERFIELD UNIT.

2 Q AND WHAT WAS THAT SITUATION?

3 A THE INMATES HAD TAKEN CONTROL OF THE CHESTERFIELD
4 UNIT AND HAD TAKEN SOME OFFICERS HOSTAGE.

5 Q OKAY. WHAT DID YOU DO IN RESPONSE TO THAT?

6 A WELL, I REPORTED TO THE CHESTERFIELD UNIT AND BEGAN
7 NEGOTIATIONS.

8 Q ALL RIGHT. DID YOU NEGOTIATE WITH ANYONE IN
9 PARTICULAR?

10 A WELL, WHEN I'D GOTTEN THERE THERE WERE -- THERE WERE
11 SEVERAL INMATES IN THE -- IN THE UNIT, SO I WAS BASICALLY
12 TALKING TO SEVERAL INMATES AT THAT TIME. AND I -- THERE
13 WAS TWO -- WELL, ONE SPECIFIC INMATE THAT WAS DOING MOST
14 OF THE TALKING, AND I DIDN'T -- COULDN'T PUT A NAME TO THE
15 FACE UNTIL MRS. YORK REPORTED.

16 Q ALL RIGHT. AND WHO DID YOU FIND OUT THAT INMATE WAS?

17 A INMATE LYNCH.

18 Q ALL RIGHT. DO YOU SEE HIM IN THE COURTROOM TODAY?

19 A YES.

20 Q WHERE?

21 A OVER THERE (INDICATED).

22 Q AT THE OTHER END OF DEFENSE TABLE?

23 A UH-HUH.

24 Q SITTING NEXT TO -- SITTING NEXT TO MR. SCOTT?

25 A YES.

1 MR. FATA: YOUR HONOR, LET THE RECORD REFLECT
2 THAT SHE HAS IDENTIFIED THE DEFENDANT INMATE LYNCH.

3 THE COURT: YES, SIR.

4 BY MR. FATA:

5 Q WHAT WAS -- WAS HE MAKING DEMANDS OR WAS ANYONE ELSE
6 MAKING -- OTHER PEOPLE MAKING DEMANDS?

7 A WELL, THERE WERE SEVERAL INMATES MAKING DEMANDS AT
8 THAT TIME.

9 Q ALL RIGHT. AND WHAT WERE THEIR DEMANDS?

10 A FOR THE GAS TO STOP, TO -- MAINLY FOR THE GAS TO BE
11 STOPPED.

12 Q OKAY. DID THEY WANT ANYTHING ELSE, THE NEWS MEDIA,
13 OR A HANDCUFF KEY, OR ANYTHING LIKE THAT?

14 A NO, NOT AT THAT TIME.

15 Q ALL RIGHT. DID YOU SEE ANYONE ELSE? DID YOU SEE ANY
16 INMATE -- ANY GUARDS AT THAT TIME?

17 A NO, NOT AT THAT TIME.

18 Q OKAY. HOW DID THE SITUATION PROGRESS WHILE YOU WERE
19 THERE?

20 A WELL -- I GOT TO LOOK AT MY STATEMENT FOR A MINUTE.
21 OKAY. WELL, WHEN I GOT THERE, THERE WERE SEVERAL INMATES
22 IN THE ENTRANCE OF THE CHESTERFIELD UNIT. I ASKED TO
23 SPEAK TO, YOU KNOW, ONE SPECIFIC INMATE, JUST TRY TO FIND
24 OUT WHO WAS, YOU KNOW, MAYBE WAS THE LEADER OF THE GROUP,
25 AND THAT'S WHEN INMATE LYNCH STEPPED FORWARD AND I WAS

1 MAINLY TALKING TO HIM.

2 Q OKAY. AND WHAT -- AND HE WANTED THE GAS STOPPED AND
3 THAT WAS IT AT THAT TIME?

4 A YES.

5 Q ALL RIGHT. DID HE -- DID HE MAKE ANY DEMANDS
6 REGARDING ANY OF THE HOSTAGES OR DID HE INDICATE HE HAD
7 HOSTAGES?

8 A WELL, HE SAID THAT, YOU KNOW, THE GAS -- IF THEY
9 DIDN'T STOP THE GAS, THAT SOMEBODY WOULD GET HURT. AND
10 I -- WELL, I WAS BRIEFED TO -- AND THEY HAD ALREADY TOLD
11 ME WHEN I GOT DOWN TO THE AREA THAT OFFICER COTTON WAS IN
12 THERE AND THERE WAS ANOTHER OFFICER IN THERE.

13 SO I ASKED -- WELL, AFTER THEY MADE DEMANDS OF THE
14 GAS, I REPORTED THAT TO THE WARDEN'S AREA AND I CAME BACK,
15 AND I ASKED IF I COULD SEE OFFICER COTTON.

16 Q DID THEY SHOW YOU OFFICER COTTON?

17 A WELL, LYNCH LEFT THE FRONT OF THE BUILDING. HE WENT
18 BACK AND HE CAME BACK TO THE FRONT OF THE BUILDING WITH
19 OFFICER COTTON HANDCUFFED TO HIM.

20 Q ALL RIGHT. DID HE SAY ANYTHING TO YOU AT THAT TIME
21 WITH OFFICER COTTON IN THE -- WITH HIM IN THE FRONT OF THE
22 BUILDING?

23 A WELL, WHEN I CAME BACK FROM THE WARDEN'S AREA,
24 BASICALLY TO TELL HIM THAT, YOU KNOW, THEIR DEMANDS WAS
25 NOT GOING TO BE MET UNTIL, YOU KNOW, THEY LET THE OFFICERS

1 GO, AND AT THAT TIME HE SAID -- HE STATED THAT -- THAT
2 Y'ALL THINK WE ARE PLAYING, I'M GOING TO SHOW YOU WE'RE
3 NOT, AND THAT'S WHEN HE STABBED OFFICER COTTON.

4 Q STABBED HIM WITH WHAT?

5 A A SHANK.

6 Q OKAY. WHERE DID HE STAB HIM?

7 A I THINK IT WAS -- IF I CAN RECALL -- ON THE SIDE OF
8 HIS NECK I THINK.

9 Q OKAY.

10 A I'M NOT SURE.

11 Q DID HE MAKE ANY FURTHER DEMANDS AFTER HE STABBED
12 OFFICER COTTON?

13 A WELL, HE THEN REQUESTED A HANDCUFF KEY AND OXYGEN.

14 Q OKAY. WERE THE HANDCUFF KEYS OR OXYGEN AND WAS THE
15 GAS -- PROVIDED AND WAS THE GAS STOPPED?

16 A WELL, THE GAS WAS STOPPED. I WAS TOLD THE GAS WAS
17 STOPPED, BUT I REPORTED THE OTHER INFORMATION BACK TO THE
18 WARDEN ABOUT THE HANDCUFF KEY AND THE OXYGEN, AND
19 BASICALLY CAME BACK TO TELL THEM THAT, YOU KNOW, THAT
20 WOULDN'T BE GETTING MET UNTIL THEY RELEASED THE OFFICERS,
21 AND THAT WAS WHEN HE STABBED COTTON AGAIN.

22 Q HE STABBED COTTON TWICE?

23 A YES.

24 Q IN FRONT OF YOU?

25 A YES.

1 Q AND THAT -- YOU WERE -- YOU WERE STANDING IN THE
2 DOORWAY OF THE CHESTERFIELD UNIT?

3 A YES.

4 Q AND YOU WERE LOOKING THROUGH THE WINDOW?

5 A RIGHT.

6 Q NOW, WAS A -- WAS ANYTHING PROVIDED, GIVEN TO YOU AT
7 THE TIME OF THE -- AT THE TIME OF -- YOU WERE THERE
8 NEGOTIATING?

9 A WELL, I CONTINUED TO NEGOTIATE AND -- AND ANOTHER ONE
10 OF THE SITCON TEAM MEMBERS REPORTED, WHICH WAS CYNTHIA
11 YORK, AND WE WERE BOTH WERE THERE, YOU KNOW, ATTEMPTING TO
12 NEGOTIATOR OR WHATEVER, AND THEY MADE OTHER DEMANDS AND
13 THEY THREW THE DEMANDS OUT OF THE FRONT OF THE WINDOW ON
14 THE GROUND.

15 Q A HANDWRITTEN NOTE?

16 A YES.

17 Q WHO -- WHO THREW IT OUT?

18 A I'M NOT SURE. I'M NOT SURE WHICH ONE.

19 Q OKAY. SO YOU DON'T KNOW WHO THREW THAT NOTE OUT?

20 A NO. THERE WERE SEVERAL INMATES AT THE DOOR AT THAT
21 TIME.

22 Q AND WHAT DID THEY DEMAND IN THE NOTE?

23 A HANDCUFF KEY, THEY WANTED THE LOCAL NEWS, AIR TIME,
24 AIR TANK, NO MORE GAS TO BE SHOT IN THE UNIT, AND FIRST
25 AID KIT.

1 Q YOU DON'T KNOW IF INMATE LYNCH OR INMATE SINGLETARY
2 THREW THAT NOTE OUT?

3 A I DON'T RECALL, NO.

4 Q OKAY. YOU MENTIONED THAT YOU WERE A MEMBER OF THE
5 SITCON TEAM?

6 A YES.

7 Q WHAT IS THAT?

8 A SITUATION CONTROL. WE NEGOTIATE NORMALLY OVER THE
9 PHONE TO THE INMATES.

10 Q ALL RIGHT. AND YOU HAD SPECIAL TRAINING IN
11 NEGOTIATIONS AND THAT SORT OF THING?

12 A YES.

13 Q HOW LONG WAS YOUR INVOLVEMENT WITH THE NEGOTIATION AT
14 THE DOOR ITSELF?

15 A APPROXIMATELY AN HOUR, HOUR AND A HALF.

16 Q OKAY. AND THEN SOMEBODY ELSE TOOK OVER AFTER YOU?

17 A YES.

18 Q OKAY.

19 MR. FATA: ANSWER ANY QUESTIONS THAT EITHER
20 MR. DOBY OR MR. SCOTT MAY HAVE.

21 THE COURT: MR. DOBY, YOU MAY CROSS-EXAMINE.

22 MR. DOBY: YOUR HONOR, I DON'T HAVE ANY
23 QUESTIONS.

24 THE COURT: THANK YOU. MR. SCOTT?

25 MR. SCOTT: YOUR HONOR, THANK YOU. MAY IT

1 PLEASE THE COURT.

2 THE COURT: YES, SIR.

3 CROSS-EXAMINATION

4 BY MR. SCOTT:

5 Q OFFICER BLANDSHAW, ARE YOU STILL WORKING AT SCDC?

6 A NO.

7 Q OKAY. SO YOU'RE TITLE IS NOT OFFICER ANY MORE. I
8 GUESS IT'S MRS. BLANDSHAW. I JUST WANT TO ADDRESS YOU
9 PROPERLY.

10 A MRS. BROWN.

11 Q MRS. BROWN?

12 A UH-HUH.

13 Q OKAY. NOW, WHAT TIME WAS IT WHEN YOU ARRIVED AT
14 THE -- AT THE DOOR OF THIS UNIT? DO YOU RECALL?

15 A APPROXIMATELY 5:00, BETWEEN 4:30 AND 5:00.

16 Q BETWEEN 4:30 AND FIVE?

17 A UH-HUH.

18 Q AND YOU SAY YOU STAYED THERE FOR HOW LONG?

19 A APPROXIMATELY AN HOUR, HOUR AND A HALF.

20 Q OKAY. SO IF YOU HAD ARRIVED AT 4:30 AND STAYED AN
21 HOUR, YOU'D HAVE BEEN THERE UNTIL 5:30?

22 A RIGHT.

23 Q TO -- OR UNTIL SIX?

24 A APPROXIMATELY, YES.

25 Q SO I'M JUST TRYING TO GET THE TIME PERIODS RIGHT.

1 A UH-HUH.

2 Q SO 4:30 TO FIVE AND STAYED AN HOUR, HOUR AND A HALF.

3 OKAY. WHO ELSE WAS -- WHO ELSE -- THAT IS, WHO -- WHAT

4 OTHER EMPLOYEE OF SCDC WERE AT THE DOOR OUTSIDE OF THE

5 DOOR WITH YOU DURING THAT TIME?

6 A WELL, I WAS THE ONLY ONE OUTSIDE THE DOOR PER SAY,

7 BUT THERE WERE SEVERAL -- SEVERAL OFFICERS AND

8 LIEUTENANTS, YOU KNOW, AT A DISTANCE BEHIND ME.

9 Q OKAY. DO YOU REMEMBER ANYTHING ABOUT WHO THEY WERE?

10 A MAJOR BROOKS.

11 Q OKAY. NOW, LET'S START WITH MAJOR BROOKS. WHERE

12 EXACTLY WAS MAJOR BROOKS?

13 A STANDING -- YOU HAD TO BASICALLY SEE THE AREA.

14 Q YES, MA'AM.

15 A BUT HE WAS STANDING SEVERAL FEET BEHIND ME ON THE

16 SIDEWALK.

17 Q SEVERAL FEET BEHIND YOU ON THE SIDEWALK?

18 A UH-HUH.

19 Q OKAY. AND WHO ELSE -- AND HOW LONG DID HE STAY

20 THERE?

21 A I'M NOT SURE.

22 Q OKAY. YOU SAID YOU WERE THERE ABOUT AN HOUR, HOUR

23 AND A HALF. DID HE STAY THERE APPROXIMATELY THE SAME

24 LENGTH OF TIME OR WAS HE THERE JUST MOMENTARILY OR CAN YOU

25 KIND OF GIVE US AN IDEA?

1 A WELL, I'M NOT -- I'M NOT SURE, MAINLY BECAUSE DURING
2 MY NEGOTIATIONS, MY -- MY FOCUS WAS NEGOTIATING. YOU
3 ONLY -- THE ONLY REASON WHY I REMEMBER MAJOR BROOKS WAS
4 BECAUSE I TURNED TO ASK HIM, AND I WALKED TO HIM TO ASK
5 HIM IF THEY COULD STOP THE GAS.

6 Q ALL RIGHT.

7 A AND HOW LONG HE STAYED, I HAVE NO IDEA.

8 Q OKAY. SO MAJOR BROOKS WAS THERE, AND HE WAS ON THE
9 SIDEWALK TO -- YOU SAID TO YOUR RIGHT OR--

10 A NO, FAR BEHIND ME AT A DISTANCE.

11 Q OKAY. FAR BEHIND YOU AT A DISTANCE?

12 A UH-HUH.

13 Q OKAY. AND WHO ELSE WAS THERE THAT YOU REMEMBER?

14 A THAT'S THE ONLY THINGS I CAN REMEMBER RIGHT NOW.

15 Q OKAY. AND DID ANY OF THESE OTHER PEOPLE HAVE ANY
16 INVOLVEMENT, COMMUNICATING WITH THE PEOPLE, THE INMATES
17 BEHIND THE DOOR WHEN YOU WERE THERE?

18 A NO.

19 Q OKAY. ALL RIGHT. NOW, YOU INDICATED THAT THERE WERE
20 SEVERAL INMATES AT SOME POINT AT THE DOOR?

21 A RIGHT.

22 Q DO YOU REMEMBER ANYTHING ABOUT WHO THOSE OTHER
23 INMATES WERE?

24 A NO. BUT AFTER MRS. YORK ARRIVED AND I COULD PUT THE
25 NAME -- BECAUSE SHE WORKED THAT UNIT, I COULD PUT SOME

1 NAMES WITH FACES, SINGLETARY CAME UP WITH -- SEVERAL TIMES
2 TO SCREAM CERTAIN THINGS ABOUT -- WHAT RIGHT NOW I CAN'T
3 RECALL, BUT THERE WERE SEVERAL INMATES SCREAMING.

4 AND NOW, YOU KNOW, SINGLETARY WAS ONE WHO, YOU KNOW,
5 CONSTANTLY CAME UP TO THE DOOR TO SAY CERTAIN THINGS.

6 Q OKAY. YOU'RE SAYING SINGLETARY CAME UP TO THE DOOR
7 SEVERAL TIMES TO SAY CERTAIN THINGS?

8 A YES.

9 Q OKAY. DO YOU REMEMBER WHO -- DID YOU TESTIFY THAT
10 YOU HAD RECEIVED A REQUEST FOR KEYS TO HANDCUFFS OR TO
11 KEYS TO THE DOORS? WHAT KIND OF REQUESTS DID YOU GET FROM
12 THE INMATES REGARDING KEYS?

13 A HANDCUFF KEYS.

14 Q OKAY. AND WHO DID YOU GIVE THOSE KEYS TO, DO YOU
15 RECALL.

16 A I DIDN'T -- I ONLY RECEIVED A NOTE. I TOOK THE NOTE
17 TO THE WARDEN'S AREA.

18 Q OKAY. AND DID YOU -- DID YOU RESPOND TO THAT REQUEST
19 IN ANY WAY?

20 A NO.

21 Q OKAY. NOW, YOU MENTIONED SOMETHING DURING YOUR
22 EARLIER TESTIMONY ABOUT MR. LYNCH BEING THE LEADER. DID
23 SOMEBODY IDENTIFY HIM AS BEING THE LEADER OF WHAT WAS
24 GOING ON THERE?

25 A WELL, IN OUR NEGOTIATIONS WE TRY TO -- WHEN THERE'S

1 SEVERAL INMATES, YOU KNOW, SEVERAL PEOPLE SCREAMING, WE
2 TRY TO, YOU KNOW, PULL ONE PERSON OUT AND WE LABEL THAT
3 PARTICULAR PERSON AS THE LEADER BECAUSE THEY THEN BECOME
4 THE LEADER FOR THAT GROUP IN OUR NEGOTIATIONS---

5 Q IN FACT -- I'M SORRY. GO AHEAD AND FINISH. IN FACT,
6 I BELIEVE YOU INDICATED THAT THERE WERE SEVERAL INMATES?

7 A UH-HUH.

8 Q AND YOU INDICATED TO THEM THAT YOU HAD ONLY TALKED TO
9 ONE PERSON; IS THAT RIGHT?

10 A EXACTLY.

11 Q BECAUSE THERE WERE SEVERAL OF THEM AT THE TIME?

12 A RIGHT.

13 Q ALL OF THEM TALKING TO YOU?

14 A EXACTLY.

15 Q AND IN FACT, IT WAS AT YOUR DIRECTION THAT ONLY ONE
16 BE ALLOWED TO TALK TO YOU?

17 A EXACTLY.

18 Q OKAY. AND SO YOU'RE AT THE DOOR FROM AN HOUR TO HOUR
19 AND A HALF AND YOU SAY THAT IT WAS DURING THESE TIMES,
20 THESE TWO TIMES YOU SAW MR. COTTON BE STABBED TWICE?

21 A EXACTLY.

22 Q AND YOU SAY THAT -- NOW, WHEN YOU'RE AT THE DOOR--

23 A UH-HUH.

24 Q -- BETWEEN 4:30 AND FIVE TILL ANOTHER 60 TO 90
25 MINUTES, THERE'S NOBODY ELSE AT THE DOOR BUT YOU?

1 A RIGHT.

2 Q YOU SAY THAT MAJOR BROOKS IS BEHIND YOU SOME
3 DISTANCE--

4 A EXACTLY.

5 Q -- ON THE SIDEWALK?

6 A UH-HUH.

7 MR. SCOTT: YOUR HONOR, IF I CAN HAVE YOUR
8 INDULGENCE FOR A MOMENT.

9 THE COURT: YES, SIR.

10 (PAUSE WHILE MR. SCOTT CONFERRING WITH CLIENT.)

11 MR. SCOTT: NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: THANK YOU. MR. FATA?

13 REDIRECT EXAMINATION

14 BY MR. FATA:

15 Q MRS. BLANDSHAW, YOU INDICATED YOU ALSO TALKED TO
16 INMATE SINGLETARY?

17 A I DIDN'T PER SAY TALK TO HIM. HE CAME TO THE DOOR
18 SCREAMING, YOU KNOW, THIS WAS -- STOP THE GAS OR WHATEVER.
19 I DIDN'T PUT A NAME WITH HIS FACE UNTIL AFTER MRS. YORK
20 GOT THERE.

21 Q OKAY. DO YOU SEE THE PERSON THAT WAS SCREAMING, THE
22 OTHER PERSON THAT WAS SCREAMING--

23 A YES.

24 Q -- HERE IN THE COURTROOM TODAY?

25 A YES.

1 Q WHERE IS HE?

2 A AT THE OTHER END OF THE TABLE, RIGHT THERE, YES
3 (INDICATED).

4 Q OKAY.

5 MR. FATA: AND YOUR HONOR --

6 BY MR. FATA:

7 Q THEN DID YOU INDICATE -- DID YOU LEARN LATER THAT
8 THAT WAS INMATE SINGLETARY?

9 A YES, SIR.

10 MR. FATA: YOUR HONOR, LET THE COURT -- THE
11 RECORD REFLECT THAT SHE HAS IDENTIFIED, THE INMATE
12 SINGLETARY.

13 THE COURT: YES, SIR.

14 MR. FATA: I DON'T HAVE ANYTHING ELSE.

15 THE COURT: MR. DOBY?

16 CROSS-EXAMINATION

17 BY MR. DOBY:

18 Q MRS. BLANDSHAW, HOW MANY PEOPLE INMATES WERE AT THE
19 DOOR YELLING TO STOP THE GAS?

20 A OH, THERE WERE SEVERAL. I -- YOU JUST WANT A
21 ROUND-ABOUT FIGURE OF HOW MANY INMATES OR...

22 Q ABOUT HOW MANY?

23 A TWENTY-FIVE.

24 Q OKAY. AND TYRONE SINGLETARY WAS ONE OF THEM YELLING,
25 STOP THE GAS?

1 A WELL, HE CAME UP OUT OF -- THERE WAS A CROWD OF
2 INMATES. LYNCH WAS HANDCUFFED TO COTTON. SINGLETARY CAME
3 UP FRONT TO SCREAM, AND THAT'S---

4 Q STOP THE GAS?

5 A RIGHT.

6 Q OKAY. THANK YOU. THAT'S ALL I HAVE.

7 THE COURT: MR. SCOTT?

8 MR. SCOTT: NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: THANK YOU. MR. FATA?

10 MR. FATA: YOUR HONOR, MAY THIS WITNESS BE
11 EXCUSED?

12 THE COURT: THANK YOU. MRS. BROWN, YOU CAN STEP
13 DOWN AND YOU CAN BE EXCUSED WITHOUT OBJECTION. THANK
14 YOU FOR COMING.

15 (WITNESS LEFT THE STAND.)

16 MR. FATA: YOUR HONOR, THE STATE WOULD CALL
17 CYNTHIA YORK.

18 THE COURT: MRS. CYNTHIA YORK, PLEASE.

19 (WITNESS IN COURTROOM.)

20 CYNTHIA YORK, AFTER
21 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. FATA:

24 Q MRS. YORK, ARE YOU AN EMPLOYEE OF THE STATE
25 DEPARTMENT OF CORRECTIONS?

1 A YES.

2 Q AND YOU'RE CURRENTLY THAT?

3 A YES.

4 Q EMPLOYED WITH THEM. AND WHAT IS YOUR POSITION WITH
5 THE DEPARTMENT OF CORRECTIONS?

6 A CLASSIFICATION CASE WORKER.

7 Q AND WHAT IS A CLASSIFICATION CASE WORKER?

8 A WE EXAMINE THE RECORDS FOR THE INMATES IF THEY HAVE
9 ANY TYPE OF CONCERNS ABOUT THEIR TIME, BRING THEM TO THE
10 BOARD FOR REVIEWS, GIVE THEM JOBS, THAT SORT OF THING.

11 Q OKAY. WERE YOU WORKING ON OCTOBER THE 29TH, 2003?

12 A YES.

13 Q AND YOU'RE ALSO -- EXCUSE ME -- YOU'RE ALSO A MEMBER
14 OF THE SITCON TEAM?

15 A YES, I AM.

16 Q WHAT DOES THE SITCON TEAM DO?

17 A WE NEGOTIATE IF THERE'S A SITUATION AND ALSO WE TRY
18 TO PRESERVE LIFE.

19 Q AND YOU RESPOND TO A HOSTAGE SITUATION?

20 A YES.

21 Q ALL RIGHT. WERE YOU WORKING ON OCTOBER THE 29TH,
22 2003?

23 A YES.

24 Q AND WERE YOU CALLED TO ANY SORT OF SITUATION THAT
25 DAY?

1 A YES. YES.

2 Q WHEN?

3 A I RECEIVED A CALL ABOUT BETWEEN 5:30 AND SIX, 5:30
4 AND 5:45 COME BACK TO THE INSTITUTION BECAUSE THERE WAS
5 SOMETHING GOING ON THERE.

6 Q OKAY. WHEN YOU GOT TO THE INSTITUTION, DID YOU FIND
7 OUT WHAT IT WAS?

8 A YES, I DID.

9 Q WHAT WAS THE SITUATION?

10 A WHEN I REPORTED TO THE YARD, MRS. BLANDSHAW INFORMED
11 ME THAT THERE WAS A HOSTAGE SITUATION IN THE CHESTERFIELD
12 UNIT.

13 Q AND WHAT DID YOU DO IN RESPONSE TO THAT INFORMATION?

14 A ONCE I GOT DOWN THERE SHE BRIEFED ME AND THEN WE
15 START -- I STARTED NEGOTIATING AT THAT TIME.

16 Q OKAY. DID YOU TAKE HER PLACE?

17 A YES, I DID.

18 Q ALL RIGHT. AND WHAT DID YOU OBSERVE WHEN YOU BEGAN
19 TO NEGOTIATE?

20 A THERE WERE -- THERE WAS A LOT OF CHAOTIC THINGS GOING
21 ON. IN FRONT OF THE UNIT, THE WINDOW WAS BROKEN OUT. AND
22 AT THAT TIME I SAW TWO INMATES AND A -- I COULD IDENTIFY
23 TYRONE SINGLETARY BECAUSE AT ONE TIME HE WAS ON MY CASE
24 LOAD, HE WAS IN THE CORRECTIONAL UNIT.

25 AND I DIDN'T KNOW THE OTHER INMATE UNTIL I ASKED HIS

1 NAME AND HE TOLD ME WHO HE WAS.

2 Q SO YOU KNEW SINGLETARY?

3 A YES.

4 Q AND---

5 A I COULD IDENTIFY HIM.

6 Q AND WHAT WAS -- DID YOU HAVE ANY INTERACTION WITH
7 INMATE SINGLETARY AT THAT TIME?

8 A WHEN I WAS STANDING THERE, YES.

9 Q YES. WHAT WAS -- WHAT -- WERE YOU SAYING ANYTHING TO
10 HIM OR WAS HE SAYING ANYTHING TO YOU?

11 A YES. WE WERE TALKING. HE -- I ASKED THEM, YOU KNOW,
12 TELL ME WHAT HAPPENED TODAY THAT CAUSED THIS, AND THEY GOT
13 INTO, YOU KNOW, WITH, WELL, TIRED OF WHAT'S GOING ON, HE
14 BEEN MISTREATED, THESE ARE SOME OF THE THINGS THAT WE WANT
15 TO A DONE, AND THEY THREW OUT A NOTE THAT HAD DEMANDS ON
16 IT.

17 Q THEY WHO?

18 A INMATE SINGLETARY AND -- LYNCH WAS AT THE WINDOW. I
19 CAN'T -- I DON'T KNOW WHICH ONE THREW OUT THE NOTE. I
20 JUST -- I KNOW BOTH OF THEM WAS THERE. I JUST DON'T KNOW
21 WHO THREW THE NOTE OUT. BOTH OF THEM WERE THERE.

22 Q WAS IT -- YOU DON'T KNOW -- YOU DON'T KNOW IF IT WAS
23 LYNCH OR SINGLETARY?

24 A IT WAS ONE OR THE OTHER, I JUST CAN'T PUT ON WHICH
25 ONE IT WAS.

1 Q OKAY. IS THIS THE NOTE?

2 A YES, IT IS.

3 Q AND DID THEY MAKE A REQUEST FOR ANYTHING?

4 A THEY REQUESTED TO HAVE A HANDCUFF KEY, THEY WANTED
5 THE NEWS MEDIA THERE, THEY ALSO WANTED SOME BANDAGES AND
6 FIRST AID KIT, AND THEY WANTED -- DIDN'T WANT ANY MORE GAS
7 TO BE PLACED INTO THE UNIT.

8 Q DID YOU TALK WITH INMATE LYNCH?

9 A YES, I DID.

10 Q AND WHAT---

11 A AND HE WAS MAKING THE VERY SAME TYPE OF DEMANDS.

12 Q ALL RIGHT. SO IT WAS SINGLETARY AND LYNCH MAKING THE
13 DEMANDS?

14 A YES.

15 Q DO YOU SEE INMATE SINGLETARY AND INMATE LYNCH IN THE
16 COURTROOM TODAY?

17 A YES, I DO.

18 Q CAN YOU IDENTIFY THEM, PLEASE?

19 A YES, I CAN.

20 Q WHICH, WHO IS?

21 A THIS IS TYRONE SINGLETARY AND THIS IS LYNCH
22 (INDICATED).

23 Q AND THESE WERE THE TWO INMATES MAKING DEMANDS OF YOU
24 ON OCTOBER 29TH, 2003?

25 A YES.

1 MR. FATA: YOUR HONOR, LET THE RECORD REFLECT
2 SHE IDENTIFIED THE TWO DEFENDANTS.

3 THE COURT: YES, SIR.

4 BY MR. FATA:

5 Q DID YOU SEE ANY HOSTAGES DURING YOUR TIME OF
6 NEGOTIATION?

7 A YES, I DID.

8 Q WHO DID YOU SEE?

9 A I SAW OFFICER COTTON.

10 Q WHERE DID YOU SEE HIM?

11 A I SAW HIM HANDCUFFED TO INMATE LYNCH.

12 Q AND WHEREABOUTS?

13 A THEY WERE -- HE WAS -- AT SOME POINT HE HAD HIM
14 STANDING IN FRONT OF THE CHESTERFIELD UNIT DOOR WHERE WE
15 WERE NEGOTIATING WITH THE INMATES. HE BROUGHT HIM DOWN
16 THERE.

17 Q OKAY. DID HE DO ANYTHING OR SAY ANYTHING THAT --
18 EXCUSE ME. DID ANYONE DO ANYTHING OR SAY ANYTHING TO
19 OFFICER COTTON?

20 A YES. AT SOME POINT LYNCH WOULD GET ANGRY AND HE
21 WOULD SAY, I'M GOING TO KILL HIM IF YOU ALL DON'T MEET
22 THESE DEMANDS. AT ONE POINT I SAW HIM STAB HIM IN THE
23 SHOULDER.

24 Q YOU SAW INMATE LYNCH--

25 A INMATE LYNCH.

1 Q -- STAB OFFICER COTTON IN THE SHOULDER?

2 A YES.

3 Q WITH WHAT?

4 A A HOMEMADE SHANK.

5 Q HOW MANY TIMES DID YOU SEE THAT CONDUCT ON THE PART
6 OF INMATE LYNCH?

7 A MAYBE TWICE BECAUSE, YOU KNOW, WE WERE BACK AND FORTH
8 SO -- HE BROUGHT HIM TO THE ENTRANCE SEVERAL TIMES, SO AT
9 THAT PARTICULAR TIME I SAW AT THAT TIME AND THEN LATER ON
10 DURING THE NEGOTIATIONS IT HAPPENED AGAIN.

11 Q OKAY. IS THIS A COPY OF THE NOTE THAT WAS -- WAS
12 THROWN OUT BY INMATES LYNCH AND OR SINGLETARY?

13 A YES, IT IS.

14 MR. FATA: YOUR HONOR, WE WOULD MOVE THIS COPY
15 IN.

16 THE COURT: ALL RIGHT.

17 MR. FATA: WE PREVIOUSLY PROVIDED THAT TO THE
18 DEFENSE.

19 MR. SCOTT: YOUR HONOR, MY OBJECTION IS TO
20 AUTHENTICATION. I THINK WE CAN...

21 THE COURT: ALL RIGHT. THE -- I WILL ALLOW IT
22 IN. THE WITNESS HAS INDICATED THAT THERE WAS -- SHE
23 RECEIVED IT. IT'S AUTHORSHIP, OF COURSE, HAS NOT YET
24 BEEN DETERMINED, AND THERE'S NO EVIDENCE OF WHO WROTE
25 IT.

1 BUT NONETHELESS, THE OFFICER -- THE WITNESS HAS
2 TESTIFIED THAT SHE RECEIVED IT FROM THESE PEOPLE AT
3 THIS TIME, AND SO IT'S -- IT'S ENTITLED TO COME INTO
4 EVIDENCE ON THAT BASIS.

5 MR. FATA: BE STATE'S EIGHT, YOUR HONOR.

6 THE COURT: ALL RIGHT. THANK YOU.

7 (WHEREUPON, STATE'S EXHIBIT 8 WAS ADMITTED INTO
8 EVIDENCE.)

9 BY MR. FATA:

10 Q HOW LONG -- MRS. YORK, HOW LONG WERE YOU THE PRIMARY
11 NEGOTIATOR IN THIS INCIDENT?

12 A PROBABLY FOR THE FIRST HOUR. AND THEN AFTER THAT
13 CAPTAIN -- MAJOR FERRARO AND I CHANGED. HE WOULD
14 NEGOTIATE AND I WOULD COACH HIM AND THEN VICE VERSA.

15 Q AND WHAT DO YOU MEAN BY COACH?

16 A THAT MEANS THAT WHEN HE'S NEGOTIATING, I GIVE HIM
17 SOME THINGS THAT WOULD BE VITAL FOR HIM TO SAY AND HE'D
18 SAY THEM. AND THEN IN RETURN, IF I WAS DOING NEGOTIATING,
19 HE WOULD DO THE SAME THING.

20 Q OKAY. ANSWER ANY QUESTIONS THAT MR. DOBY OR
21 MR. SCOTT MAY HAVE.

22 THE COURT: MR. DOBY, YOU CAN CROSS-EXAMINE.

23 CROSS-EXAMINATION

24 BY MR. DOBY:

25 Q HOW LONG HAD YOU BEEN AT THE DOOR TALKING TO INMATES?

1 A SAY THAT AGAIN.

2 Q HOW LONG WERE YOU AT THE DOOR TALKING TO INMATES?

3 A I ARRIVED ON THE SCENE BETWEEN 5:30 AND 5:45, AND THE
4 INCIDENT WAS OVER AT 10:26, SO I WAS THERE FOR THAT PERIOD
5 OF TIME.

6 Q ALL RIGHT.

7 A BETWEEN MYSELF AND MAJOR FERRARO.

8 Q ALL RIGHT. WERE YOU AT THE DOOR ACTUALLY SPEAKING TO
9 INMATES FOR THE ENTIRE THEN APPROXIMATELY FOUR HOUR
10 PERIOD?

11 A NOT FOR THE ENTIRE TIME, NO.

12 Q OKAY. HOW LONG WERE YOU AT THE DOOR TALKING TO
13 INMATES?

14 A I WAS AT THE DOOR BETWEEN 5:30 AND 5:45 UNTIL THE END
15 OF THE SITUATION, BUT THERE WERE TIMES WHEN I HAD TO RELAY
16 INFORMATION BACK TO THE COMMAND POST, SO THERE WERE TIMES
17 THAT I WAS NOT THERE AT THE DOOR. BUT I WAS THERE DURING
18 THE WHOLE INCIDENT.

19 Q OKAY.

20 A SO I JUST CAN'T TELL YOU I WAS THERE 30 MINUTES, 40
21 MINUTES, OR AN HOUR. I WAS THERE BETWEEN THOSE TIMES.

22 Q OKAY. WOULD IT BE FAIR TO SAY THEN YOU HAD AN
23 OPPORTUNITY TO OBSERVE THE FRONT DOOR FOR THE MAJORITY OF
24 THAT PERIOD OF TIME?

25 A YES, UH-HUH.

1 Q ALL RIGHT. AND DURING THAT PERIOD OF TIME THAT YOU
2 WERE THERE, DID YOU EVER SEE OFFICER COTTON HANDCUFFED TO
3 MR. SINGLETARY?

4 A NO, I DID NOT.

5 Q OKAY. AND AS YOU RELATED, THE ONLY PERSON THAT WAS
6 THERE -- THE ONLY INMATE THAT WAS THERE THAT HAD OFFICER
7 COTTON HANDCUFFED TO HIM WOULD HAVE BEEN MR. LYNCH?

8 A YES.

9 Q OKAY. MR. LYNCH ALSO STABBED OFFICER COTTON AT LEAST
10 TWICE IN YOUR PRESENCE? IS THAT YOUR TESTIMONY?

11 A YES.

12 Q OKAY. WERE THERE OTHER INMATES THAT WERE COMING TO
13 THE DOOR MAKING DEMANDS AS WELL?

14 A THERE WERE OTHER INMATES. AND WHETHER THEY WERE
15 MAKING DEMANDS, I WAS CONCENTRATING ON THE -- ON INMATE
16 LYNCH AND INMATE SINGLETARY. THEY COULD HAVE BEEN, BUT I
17 CAN'T SAY THAT WITH -- WHAT THEY SAID. I DON'T KNOW
18 BECAUSE I WAS CONCENTRATING ON JUST TALKING TO THOSE TWO
19 INMATES.

20 Q BUT WERE THERE INMATES THAT CAME UP AND SAID, STOP
21 THE GAS?

22 A THERE COULD HAVE BEEN.

23 Q ALL RIGHT. WERE THERE OTHER INMATES THAT SAID, WE
24 WANT SOMETHING TO EAT?

25 A MY CONCENTRATION WAS JUST ON LYNCH AND SINGLETARY.

1 Q IT WAS PRETTY CHAOTIC, OBVIOUSLY?

2 A YEAH.

3 Q OKAY. THIS HANDWRITTEN NOTE THAT WAS THROWN OUT
4 THAT'S BEEN ADMITTED INTO EVIDENCE, YOU DON'T KNOW WHO
5 ACTUALLY THREW IT OUT; CORRECT?

6 A IT WAS ONE OR THE OTHER. I JUST CAN'T PINPOINT WHO
7 DID IT. BUT THEY WERE THE TWO INMATES THAT WERE STANDING
8 AT THE DOOR.

9 Q THEY WERE STANDING AT THE DOOR--

10 A YES.

11 Q -- AT THE TIME IT WAS THROWN OUT?

12 A RIGHT.

13 Q DID INMATE LYNCH MAKE SOME DEMANDS OTHER THAN ON THIS
14 NOTE?

15 A THOSE ARE THE ONLY ONES THAT I CAN RECALL.

16 Q OKAY. FOR INSTANCE, DID INMATE LYNCH SAY THAT, I AM
17 GOING TO STAB OFFICER COTTON IF YOU DO NOT DO THIS?

18 A YES.

19 Q WHAT TYPE OF DEMANDS WAS HE MAKING THREATENING
20 OFFICER COTTON AT THE SAME TIME?

21 A HE WAS MAKING THE DEMANDS OF WANTING TO HAVE THE
22 MEDIA THERE, WANTING TO HAVE A HANDCUFF KEY, AND WANTING
23 TO HAVE THE GAS STOPPED COMING INSIDE THE UNIT.

24 Q OKAY.

25 A AT THAT TIME.

1 Q SO HE WAS ESSENTIALLY MAKING THE SAME DEMANDS THAT
2 WERE WRITTEN ON THIS NOTE THAT WAS THROWN OUT?

3 A YES.

4 Q BECAUSE THE NOTE INDICATED HE WANTED THE HANDCUFF
5 KEY, LOCAL NEWS, NO MORE GAS IN THE DORM, AND A FIRST AID
6 KIT?

7 A CORRECT.

8 Q OKAY. AND HE ESSENTIALLY WAS DOING THE SAME THING
9 VERBALLY THAT WAS CONTAINED ON THIS NOTE MAKING DEMANDS
10 AND THREATENING OFFICER COTTON UNLESS THOSE DEMANDS WERE
11 MET?

12 A YES.

13 Q OKAY. THANK YOU.

14 MR. DOBY: THAT'S ALL I HAVE, YOUR HONOR.

15 THE COURT: MR. SCOTT, YOU CAN CROSS-EXAMINE.

16 MR. SCOTT: THANK YOU, YOUR HONOR.

17 CROSS-EXAMINATION

18 BY MR. SCOTT:

19 Q MRS. YORK, DO YOU HAVE ANY IDEA -- AND IF YOU ALREADY
20 ANSWERED THIS QUESTION, MY APOLOGY. DO YOU HAVE ANY IDEA
21 HOW MANY INMATES WERE COMING BACK AND FORTH TO THIS DOOR
22 DURING THE TIME YOU WERE THERE?

23 A I HAVE NO IDEA. THERE WERE SEVERAL INMATES AT ONE
24 POINT--

25 Q CAN YOU SPEAK UP JUST A LITTLE BIT, MA'AM?

1 A I HAVE NO IDEA. THERE WERE SEVERAL INMATES THAT WERE
2 COMING BACK AND FORTH TO THE DOOR.

3 Q OKAY. NOW, WHEN YOU SAY SEVERAL, ARE YOU TALKING
4 ABOUT MAYBE THREE OR FOUR OR 10 OR 12, 20?

5 A MAYBE 10 TO 12.

6 Q OKAY. SO THERE WERE OTHERS COMING BACK AND FORTH
7 DURING THIS TIME THAT YOU WERE AT THE DOOR. AND I THINK
8 YOU INDICATED YOU ARRIVED THERE AT APPROXIMATELY 5:30 TO
9 5:45?

10 A THAT'S CORRECT.

11 Q APPROXIMATELY. AND YOU STAYED UNTIL THE INCIDENT WAS
12 OVER?

13 A THAT'S CORRECT.

14 Q OKAY. AND YOU INDICATED THAT -- YOU HAVE ALREADY
15 TESTIFIED THAT MR. LYNCH WAS AT THE DOOR. YOU ALSO
16 TESTIFIED MR. SINGLETARY WAS AT THE DOOR?

17 A YES.

18 Q IS THAT CORRECT?

19 A YES.

20 Q SO WERE YOU SPEAKING TO BOTH OF THESE GENTLEMEN?

21 A AT SOME TIMES I WAS SPEAKING TO BOTH.

22 Q OKAY. AND YOU TESTIFIED ABOUT DEMANDS THAT MR. LYNCH
23 WAS MAKING. WAS MR. SINGLETARY MAKING DEMANDS, TOO?

24 A YES, THEY BOTH WERE THERE.

25 Q OKAY. AND THE NATURE OF THE DEMANDS WOULD HAVE BEEN

1 THE SAME AS MR. LYNCH WAS MAKING?

2 A YES.

3 Q OKAY. DO YOU RECALL ANY OTHER SPECIFIC -- YOU
4 SPECIFICALLY RECALL ANY OTHER INMATES MAKING PARTICULAR
5 DEMANDS OF YOU?

6 A I ONLY SPOKE WITH THOSE TWO INMATES.

7 Q OKAY. NOW, YOU INDICATED THAT YOU ARE A SITCON
8 PERSON AND YOU ALSO WORK IN CLASSIFICATIONS; IS THAT
9 RIGHT?

10 A YES.

11 Q THE MAJORITY OF YOUR JOB IS SPENT DOING
12 CLASSIFICATION WORK, I TAKE IT?

13 A YES.

14 Q OKAY. AND I BELIEVE YOU ALSO TESTIFIED THAT YOU HAD
15 HAD PRIOR CONTACT WITH -- DID YOU SAY YOU HAD PRIOR
16 CONTACT WITH MR. SINGLETARY OR YOU KNEW MR. SINGLETARY.
17 IS THAT CORRECT?

18 A I CAN IDENTIFY HIM BECAUSE HE WAS ON MY CASE LOAD IN
19 THE KERSHAW UNIT, YES.

20 Q OKAY. BUT YOU DID NOT KNOW MR. LYNCH AT THE TIME?

21 A NO, I DID NOT.

22 Q IN FACT, IT WASN'T TILL LATER THAT SOMEBODY ELSE
23 IDENTIFIED HIM THAT YOU REALIZED HIS NAME WAS LYNCH?

24 A THAT'S CORRECT.

25 Q OKAY. AND YOU TESTIFIED EARLIER ABOUT SEEING

1 MR. COTTON HANDCUFFED TO MR. LYNCH.. YOU DON'T HAVE ANY
2 IDEA HOW THEY GOT HANDCUFFED TOGETHER. YOU DIDN'T WITNESS
3 THAT; DID YOU?

4 A NO, I DID NOT.

5 Q OKAY. AND AM I CORRECT THEN THAT YOU ARRIVED AFTER
6 MRS. BLANDSHAW?

7 A YES.

8 Q OKAY. DID MRS. BLANDSHAW STAY AND CONTINUE TO
9 NEGOTIATE FOR ANY PERIOD OF TIME AFTER YOU ARRIVED?

10 A NO, SHE DID NOT. AFTER SHE BRIEFED ME, THEN SHE HAD
11 TO GO DO OTHER THINGS WITH THE SITCON TEAM.

12 Q OKAY. SO MRS. BLANDSHAW WAS THERE, THEN YOU AND THE
13 MAJOR ESSENTIALLY ARRIVED AT THE SAME TIME?

14 A HE ARRIVED APPROXIMATELY 15 TO 20 MINUTES AFTER I GOT
15 THERE.

16 Q ALL RIGHT. OKAY. AND I BELIEVE YOU ALREADY
17 TESTIFIED YOU DON'T KNOW WHO THREW THAT NOTE OUT THE
18 WINDOW?

19 A I CAN'T REMEMBER WHICH INMATE THREW IT OUT, BUT IT
20 WAS ONE OF THEM WHO THREW IT OUT.

21 Q AND I BELIEVE YOU -- I DON'T KNOW IF YOU TESTIFIED TO
22 THIS OR NOT, BUT YOU DON'T KNOW WHO WROTE IT EITHER?

23 A NO, I DON'T KNOW WHO WROTE IT.

24 Q ALL RIGHT.

25 MR. SCOTT: IF I CAN HAVE YOUR INDULGENCE, YOUR

1 HONOR.

2 THE COURT: ALL RIGHT, SIR.

3 (PAUSE WHILE CONFERRING WITH CLIENT.)

4 BY MR. SCOTT:

5 Q TO YOUR KNOWLEDGE WAS ANYONE THERE WORKING -- I THINK
6 YOU TESTIFIED EARLIER THAT YOU AND THE MAJOR WERE SORT
7 OF -- I THINK TO USE YOUR TERMINOLOGY -- COACHING EACH
8 OTHER.

9 A RIGHT.

10 Q WHAT DO YOU MEAN BY THAT?

11 A THAT MEANS THAT WHENEVER WE ARE TRAINED, THERE ARE
12 FIVE POSITIONS ON THE SITCON TEAM. ONE OF THE
13 POSITIONS---

14 Q I'M SORRY. I'M HAVING TROUBLE HEARING YOU. I'M
15 SORRY.

16 A THERE ARE FIVE POSITIONS ON THE SITCON TEAM.

17 Q YES, MA'AM.

18 A THE TWO MAIN POSITIONS, ONE IS THE NEGOTIATOR, AND
19 THE OTHER IS THE COACH.

20 Q OKAY.

21 A THE PURPOSE OF THE COACH IS THAT PERSON SORT OF GIVES
22 THE NEGOTIATOR THINGS TO ASK--

23 Q I SEE.

24 A -- THE HOSTAGE-TAKERS OR WHATEVER SITUATION THAT
25 YOU'RE IN.

1 Q I'M WITH YOU. SO WHEN YOU WERE AT THE DOOR, HE WAS
2 SORT OF COACHING YOU OR HELPING YOU--

3 A RIGHT.

4 Q -- TO DETERMINE WHAT TO SAY OR WHAT TO ASK OR WHAT TO
5 DO. AND THEN WHEN HE WAS AT THE DOOR, YOU WERE DOING
6 THAT?

7 A RIGHT.

8 Q TO YOUR KNOWLEDGE WAS ANYBODY SERVING IN THE ROLE OF
9 COACH WHEN MRS. BLANDSHAW WAS THERE?

10 A NO. SHE WAS THERE BY HERSELF UNTIL I GOT THERE.

11 Q ALL RIGHT. THANK YOU, MA'AM.

12 THE COURT: THANK YOU. MR. FATA?

13 MR. FATA: NOTHING FURTHER OF THIS WITNESS, YOUR
14 HONOR.

15 THE COURT: THANK YOU.

16 MR. FATA: MAY SHE BE EXCUSED?

17 THE COURT: MRS. YORK, YOU CAN BE EXCUSED
18 WITHOUT OBJECTION. THANK YOU.

19 MR. FATA: YOUR HONOR, WE WOULD CALL MAJOR JOHN
20 FERRARO.

21 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
22 I'M GOING TO SEND YOU OUT INTO THE JURY ROOM FOR JUST
23 A FEW MOMENTS BEFORE MR. FERRARO TESTIFIES. HE'S
24 GOING TO BE TESTIFYING IN PART ABOUT SOME OF THE
25 IMAGES THAT YOU WILL SEE ON THE SCREEN.

1 WE NEED TO PUT ALL THAT IN PLACE. IT WILL TAKE
2 JUST A FEW MINUTES. DON'T TALK ABOUT THE CASE WHILE
3 YOU'RE IN THE JURY ROOM. WE WON'T KEEP YOU OUT THERE
4 VERY LONG. THANK YOU.

5 (JURY LEFT COURTROOM AT 10:33 AM).

6 THE COURT: ALL RIGHT. GENTLEMEN, YOU ALL CAN
7 MOVE MR. LYNCH AND MR. SINGLETARY BACK WHERE YOU HAD
8 THEM A FEW MOMENTS AGO. THANK YOU.

9 (PAUSE WHILE DEFENDANTS WERE SITUATED IN A
10 DIFFERENT LOCATION IN THE COURTROOM.)

11 THE COURT: THANK YOU. MR. FATA, YOU CAN CALL
12 MAJOR FERRARO IN IF YOU WOULD LIKE.

13 MR. FATA: OKAY.

14 THE COURT: HAVE HIM IN PLACE WHEN THE JURY GETS
15 IN HERE.

16 (WITNESS ENTERED THE COURTROOM.)

17 THE COURT: MAJOR FERRARO, IF YOU WILL COME
18 FORWARD AND JUST HAVE A SEAT RIGHT THERE UNTIL WE GET
19 THE JURY IN PLACE AND CALL YOU TO THE STAND. IF
20 WOULD YOU CHECK AND SEE IF THE JURY IS STILL OUT.
21 SOME MIGHT STILL BE IN THE RESTROOM. IF THEY ARE
22 READY TO COME OUT, THEN HAVE THEM COME OUT.

23 (WHEREUPON THERE WAS A PAUSE.)

24 (JURY ENTERED COURTROOM AT 10:39.)

25 (BENCH CONFERENCE).

5 AND WE WOULD -- WERE DOING ALL THOSE THINGS
6 WHILE YOU WERE OUT. MAJOR FERRARO, IF YOU WILL COME
7 FORWARD, PLEASE SIR, AND BE SWORN.

8 MAJOR JOHN FERRARO,
9 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. FATA:

12 Q MAJOR FERRARO, ARE YOU EMPLOYED BY THE SOUTH CAROLINA
13 DEPARTMENT OF CORRECTIONS?

14 A YES, I AM. I'M A MAJOR WITH THE DEPARTMENT OF
15 CORRECTIONS.

16 Q AND WHAT IS YOUR DUTIES WITH THE DEPARTMENT?

17 A I'M ASSISTANT DIVISION DIRECTOR FOR DIVISION
18 SECURITY. I'M ALSO OVERALL HOSTAGE NEGOTIATORS, THE
19 SITCON TEAM.

20 O THE SITCON TEAM. WHAT IS THE SITCON TEAM?

21 A WE -- THE SITCON TEAM DOES HOSTAGE NEGOTIATIONS FOR
22 THE AGENCY OF -- OR NEGOTIATIONS FOR BARRICADE OR SUICIDE
23 INMATES.

24 Q AND YOU'RE IN CHARGE OF THAT TEAM--

25 A YES, I AM.

1 Q -- FOR THE STATE?

2 A YES.

3 Q ALL RIGHT. WHAT SORT OF TRAINING HAVE YOU HAD IN
4 REGARDS TO -- TO THAT?

5 A I'M TRAINED BY OUR AGENCY IN A TWO-WEEK COURSE FOR
6 HOSTAGE NEGOTIATIONS, ALSO ATTENDED ONE OF THE COMPANIES
7 THAT DOES TRAINING OR ONE -- IT WAS A ONE-WEEK TRAINING
8 COURSE FOR LAW ENFORCEMENT THROUGH ONE OF THE PRIVATE
9 COMPANIES THAT TRAVELS AROUND THE COUNTRY DOING IT, AND
10 I'VE ATTENDED THE NEW YORK DEPARTMENT OF CORRECTIONS
11 HOSTAGE NEGOTIATIONS SCHOOL, AND I'VE ALSO BEEN TO THE
12 TWO-WEEK FBI HOSTAGE NEGOTIATIONS SCHOOL THAT THEY GIVE TO
13 THEIR NEGOTIATION -- TO THEIR AGENTS AND NEGOTIATORS.

14 Q ARE YOU AN INSTRUCTOR IN NEGOTIATION SKILLS, TACTICS,
15 OR WHATEVER?

16 A YES, I AM. FROM TIME TO TIME THE DEPARTMENT OF
17 JUSTICE DEVELOPS A GRANT AND ASKS ME TO GO TO SOME OTHER
18 STATES TO HELP THEM WITH THEIR TRAINING OR TO DEVELOP A
19 HOSTAGE NEGOTIATION TEAM.

20 Q HAVE YOU EVER BEEN QUALIFIED IN A COURT AS AN EXPERT
21 IN THE AREA OF HOSTAGE NEGOTIATIONS?

22 A I BELIEVE SO. AND ONE OF THE OTHER CASES WE HAD I
23 HAVE BEEN ASKED TO GET UP AND TO TALK ABOUT MY CREDENTIALS
24 AND DO THAT.

25 Q AND QUALIFIED AS AN EXPERT?

1 A YES.

2 MR. FATA: YOUR HONOR, WE WOULD PRESENT MR.
3 FERRARO, MAJOR FERRARO, AS AN EXPERT IN THE AREA OF
4 HOSTAGE NEGOTIATION.

5 THE COURT: ALL RIGHT, SIR. AM I TO UNDERSTAND
6 THEN THAT MAJOR FERRARO IS GOING TO BE ASKED TO
7 RENDER OPINIONS IN ADDITION TO TESTIFYING AS A FACT
8 WITNESS IN THAT REGARD?

9 MR. FATA: YES, SIR. AS -- AT -- MAYBE AT
10 CERTAIN POINTS WOULD BE ASKED TO GIVE AN OPINION AS
11 TO THE MEANING OF WHAT A -- WHAT ONE OF THE INMATES
12 OR WHATEVER WAS DOING, WHAT THAT WOULD MEAN AS FAR
13 AS...

14 THE COURT: ALL RIGHT. THANK YOU. MR. DOBY,
15 VOIR DIRE IN THIS REGARD?

16 MR. DOBY: NONE. THANK YOU, YOUR HONOR.

17 THE COURT: THANK YOU. MR. SCOTT?

18 MR. SCOTT: I HAVE NO QUESTIONS FOR THIS WITNESS
19 AT THIS TIME.

20 THE COURT: THANK YOU. THEN WITHOUT OBJECTION
21 MAJOR FERRARO IS QUALIFIED AS AN EXPERT IN HOSTAGE
22 NEGOTIATIONS. THANK YOU.

23 BY MR. FATA:

24 Q MAJOR FERRARO WERE -- AND YOU WERE -- WERE YOU
25 WORKING WITH THE DEPARTMENT OF CORRECTIONS ON OCTOBER THE

1 29TH OF 2003?

2 A YES, I WAS, AND I WAS THE COMMANDER AT THAT TIME ALSO
3 FOR THE HOSTAGE NEGOTIATION TEAM.

4 Q ALL RIGHT. AND WERE YOU CALLED TO RESPOND TO LEE
5 COUNTY?

6 A YES.

7 Q THAT'S THE CORRECTIONAL INSTITUTE OUT HERE?

8 A RIGHT. I WAS IN COLUMBIA AND I HAD THE DAY OFF AND
9 GOT PAGED AND WAS TOLD THERE WAS A PROBLEM AT LEE AND GO
10 IMMEDIATELY, REPORT TO LEE IMMEDIATELY, SO -- AND I
11 REPORTED.

12 Q DO YOU KNOW WHAT TIME YOU ARRIVED AT LEE?

13 A APPROXIMATELY 6:00, 6:05, 6:00 SOMEWHERE IN THAT
14 VICINITY.

15 Q OKAY. AND WHEN YOU GOT TO LEE, WHAT -- WHAT DID YOU
16 ENCOUNTER?

17 A THE FIRST THING I DID WAS I PICKED SOMEBODY UP,
18 CALLED ON MY WAY THERE, JUST TOLD SOMEONE TO MEET ME UP AT
19 THE FRONT OF THE DEPARTMENT OF CORRECTIONS, HEADQUARTERS,
20 AND PICKED UP ONE OF OUR CAPTAINS ON THE TEAM AND WE DROVE
21 IN TOGETHER. I PICKED HER UP AND WE CAME IN.

22 WHEN I GOT TO LEE, WENT UP TO THE WARDEN'S OFFICE,
23 AND MRS. BLANDSHAW WAS THERE, AND SHE'S THE TEAM -- SHE
24 WAS THE TEAM LEADER AT THAT TIME OF THE LEE TEAM,
25 NEGOTIATION TEAM.

1 AND SHE WAS BRIEFING THE WARDEN AS TO WHAT SHE SAW,
2 AND SAID SHE HAD SEEN OFFICER COTTON WAS STABBED AT THAT
3 TIME AND THAT THERE WAS SOME CHAOS AND IT WAS DIFFICULT TO
4 DO A FEW THINGS THAT WOULD BE IMPORTANT FOR A NEGOTIATOR
5 TO KNOW.

6 SO I ASKED HER WHERE -- WHERE THIS WAS LOCATED. AND
7 WHILE SHE WAS TALKING TO THE WARDEN, WE WORKED OUT -- SHE
8 POINTED TO THE BUILDING RIGHT FROM THE WARDEN'S OFFICE, I
9 COULD SEE IT CLEARLY. AND I SAID, I'M GOING TO GO FORWARD
10 BECAUSE MRS. YORK WAS STILL AT THE DOOR, AT THE BARRICADE.

11 SO I SAID, I'M GOING TO GO DOWN THERE AND SUPPORT
12 HER, JUST GO AHEAD AND GET -- GIVE YOUR REPORT TO THE
13 WARDEN.

14 Q AND WHAT IS THE SIGNIFICANCE OF SUPPORTING THE
15 NEGOTIATOR THAT'S ON SITE?

16 A WE HAVE A NEGOTIATOR AND A COACH. AND A COACH IS
17 JUST ANOTHER SET OF EARS THAT CAN HEAR -- THAT MAY HEAR
18 SOMETHING THAT THE NEGOTIATOR MAY HAVE MISSED OR MAY
19 IDENTIFY SOMETHING THAT'S IMPORTANT THAT THE NEGOTIATOR
20 MAY NOT HAVE SEEN OR VICE VERSA.

21 AND ALSO JUST TO STAY ON TOP OF SECURITY, LIKE IF YOU
22 NEED TO MOVE THE NEGOTIATOR BACK A LITTLE BIT OR FORWARD
23 FOR SOUND, MIGHT HELP. AND IT JUST TAKES SOME OF THE LOAD
24 OFF OF THEM AND -- AND IT -- IF WE WERE ON THE PHONE
25 TALKING, IF WE HAD SENT NOTES TO THEM WHEN WE'RE STANDING

1 UP THERE TALKING, WE ARE JUST WHISPERING TO THEM BECAUSE
2 WE CAN'T WRITE AND PASS THAT ON.

3 Q WAS -- WAS THIS A PHONE SITUATION?

4 A NO. THIS WAS FACE-TO-FACE THROUGH THE BARRICADE AT
5 THE FRONT DOOR OF THE CHESTERFIELD UNIT.

6 Q IS IT UNUSUAL -- IS THAT AN UNUSUAL TYPE OF
7 NEGOTIATION OR -- OR SITUATION, HOSTAGE SITUATION?

8 A WE DO BOTH. I DON'T KNOW IF -- I'VE DONE BOTH.
9 USUALLY IF -- THEY'RE NOT SAFE. THAT'S NOT THE SAFEST WAY
10 TO DO IT. IT ENDANGERS THE NEGOTIATOR AND OTHER THINGS,
11 BUT THERE ARE REASONS WHY YOU WOULD GO TO THE -- TO THE
12 BARRICADE.

13 AND ONE OF THEM WAS, THEY WERE ALL AT THE BARRICADE
14 AND OFFICER COTTON WAS THERE WITH THE INMATES. AND WE
15 THOUGHT IT WOULD BE BEST TO -- IF WE COULD KEEP HIM
16 VISIBLE, IF WE TALKED TO THEM THROUGH THE BARRICADE, THAT
17 MIGHT JUST KEEP OFFICER COTTON A LITTLE SAFER.

18 Q ALL RIGHT. WHEN YOU GOT THERE, MRS. YORK WAS
19 NEGOTIATING, WHAT DID YOU DO?

20 A WALKED UP BEHIND HER, TOLD HER I WAS THERE, AND JUST
21 SUPPORTED HER AND LISTENED FOR WHAT WAS GOING ON, AND JUST
22 LET THAT GO FOR A WHILE. AND WE CAME BACK AND GAVE
23 INFORMATION BACK TO BE PASSED ON TO THE COMMAND POST WHICH
24 WAS THE WARDEN'S OFFICE.

25 AND -- AND MRS. YORK NEGOTIATED FOR A SIGNIFICANT

1 AMOUNT OF TIME. AMOUNT OF TIME I DON'T REMEMBER RIGHT
2 NOW. HOWEVER, SOMEWHERE ALONG THE LINE AN INMATE CALLED
3 AND ASKED ME TO GO FORWARD, AND THAT'S, YOU KNOW, WE DON'T
4 DO THAT IF THEY'RE ASKING IT ALL THE TIME, BUT...

5 Q ONE OF THE INMATES ASKED FOR YOU?

6 A YEAH, AND I DON'T REMEMBER WHICH ONE IT WAS. I--

7 Q WAS IT EITHER---

8 A -- IT WAS SOMEBODY DID SAY FERRARO, CAN YOU COME UP
9 HERE? AND SO I THOUGHT MAYBE I KNEW THIS ONE AND COULD DO
10 IT. BUT THERE WAS SOME REASON WHY WE CHANGED. ONE OF
11 THEM WAS -- THERE WERE SEVERAL REASONS. ONE WAS MAYBE
12 THERE WAS AN INMATE UP THERE I KNEW THAT MIGHT HELP, AND
13 THEN WE WERE HAVING DIFFICULTY MAKING THE CONNECTION, YOU
14 KNOW, JUST ANY TYPE OF CONNECTION, SO WE JUST TRIED TO DO
15 THE BEST WE COULD WITH--

16 Q DID---

17 A -- MRS. YORK TALKING OR ME AND SEEING HOW THAT--

18 Q WHAT DO YOU MEAN BY A CONNECTION, DIFFICULTY MAKING A
19 CONNECTION? WHAT DO YOU MEAN BY THAT?

20 A OKAY. SEEING IF WE COULD GET THEM TO LISTEN TO US,
21 STAY AT THE BARRICADE WITH US WHICH WOULD MAKE IT SAFE FOR
22 OFFICER COTTON, OR IF WE COULD GET THEM TO TALK TO US SO
23 WE COULD FIND OUT WHAT THE ISSUES ARE HERE AND GET SOME
24 THINGS RESOLVED.

25 AND EVENTUALLY IT SEEMED LIKE SOMEHOW -- AND TODAY

1 I'M NOT REAL SURE EXACTLY HOW THAT OCCURRED. IT JUST --
2 SOMEHOW I GOT UP THERE WHEN IT WAS MY TURN AND IT JUST
3 SEEMED THAT I STAYED THERE AND WORKED WITH THEM,
4 NEGOTIATOR.

5 Q WHEN YOU TOOK OVER AS A NEGOTIATOR, DID YOU CONTINUE
6 TILL THE END?

7 A YES. THERE MIGHT HAVE BEEN A TIME OR TWO WHEN
8 MRS. YORK WOULD GO IN AND TALK TO THEM WHEN I WENT BACK TO
9 REPORT THINGS TO THE COMMAND POST, BUT AFTER A WHILE, THE
10 LONGER PERIOD THAT -- LONGER THIS WENT ON, THE MORE I
11 STAYED UP THERE.

12 Q OKAY. DID YOU SEE ANY INMATES AT THE FRONT DOOR
13 MAKING DEMANDS?

14 A YES, I DID. I SAW INMATE LYNCH AND INMATE
15 SINGLETARY, AND THEY -- THEY CONSTANTLY ASKED FOR THINGS
16 LIKE MEDIA, HANDCUFF KEY, SOMEWHERE ALONG THE LINE I THINK
17 THEY WANTED AN AIR -- AN AIR PACK PROBABLY BECAUSE OF THE
18 GAS THAT WAS IN -- INSIDE THE BUILDING.

19 THEY -- THEY MENTIONED THE MEDIA, A CELLPHONE, THINGS
20 OF THAT SORT. NOW, THAT WAS WHAT THEIR DEMANDS WERE.

21 Q WHAT ABOUT THE CELLPHONE? WERE THERE ANY -- WERE
22 THERE ANY ISSUES WITH THE CELLPHONE?

23 A YES, THERE WERE. WE -- WHEN WE GOT APPROVAL TO PUT
24 THE CELLPHONE IN, I REACHED ON MY HIP, I GAVE HIM THE
25 CELLPHONE, AND I WORK IN COLUMBIA, SO THAT CELLPHONE IS --

1 WHEN WE DIAL FROM HERE IT'S 803. YOU HAVE TO DIAL THE
2 AREA CODE FOR JUST ABOUT ANYTHING. IT'S OUT OF ITS ZONE.

3 WHEN WE GAVE THEM THE CELLPHONE, FOR SOME REASON
4 THERE IS A -- THERE IS A POSSIBILITY -- SOMEONE TOLD ME
5 THEY DIALED 911, BUT THEY WEREN'T ABLE TO DIAL OUT ON
6 ANYTHING ELSE AND THEY WANTED TO TALK TO THE MEDIA.

7 AND I HAD MENTIONED TO THEM ON SEVERAL OCCASIONS TO
8 DIAL 803 AND THEN THEIR NUMBER AND WAS HAVING DIFFICULTY
9 GETTING -- CONVEYING THAT MESSAGE TO THEM. THAT WASN'T
10 GETTING DONE. AND FINALLY INMATE LYNCH THREW THE
11 CELLPHONE DOWN, I PICKED IT BACK UP, PUT IT IN THE HOLSTER
12 AND MOVED ON WITH---

13 Q WAS THERE A CONFRONTATION AT THE DOOR WITH INMATE
14 LYNCH AND -- AND AT WHICH TIME OFFICER COTTON WAS PRESENT
15 AND YOU WERE -- THEY WERE TALKING ABOUT THE CELLPHONE?

16 A YES, THERE WERE. HE HAD ACCUSED ME OF LYING, THAT I
17 GAVE HIM A CELLPHONE THAT DIDN'T WORK AND---

18 Q WHO ACCUSED YOU OF THAT?

19 A INMATE LYNCH. AND I JUST KEPT TRYING TO EXPLAIN AND
20 CONVEY TO HIM THAT IF YOU COULD DIAL ONE, 803 OR 803, YOU
21 KNOW, YOU CAN GET YOUR -- YOUR CALL IN, THEN DIAL YOUR
22 NUMBER.

23 AND THAT BECAME AN ISSUE. AND THEN IT WAS LIKE THAT
24 SOME OF THAT ANGER WAS CONVEYED TO -- WAS TRANSFERRED OVER
25 TO OFFICER COTTON. AND THERE WERE AT TIMES -- NOT

1 NECESSARILY OVER THE PHONE, BUT OTHER ISSUES THAT THEY --
2 INMATE LYNCH MADE STATEMENTS TO ME THAT, TO SHOW YOU THAT
3 I'M NOT KIDDING HE WOULD SLAP, PUNCH, AND STAB AT OFFICER
4 COTTON.

5 HE HAD A SPIKED-TYPE SHANK, KNIFE, NOT A BLADE ONE,
6 BUT A SPIKED ONE, AND HE POKED HIM SEVERAL TIMES IN THE
7 SHOULDER, UP UNDER THE JAW, HE'D PUNCH HIM IN THE FACE,
8 SLAP HIM. AND ALL THIS TIME OFFICER COTTON WAS HANDCUFFED
9 TO LYNCH AND HAD ALREADY BEEN STABBED IN THE BACK AND IN
10 THE HAND, AND I THINK HE HAD AN INJURY TO THE BACK OF HIS
11 HEAD.

12 AND HE -- HE DID NOT LOOK LIKE HE HAD A LOT OF ENERGY
13 TO RESIST THIS, AND THIS WAS THROUGH THE BARRICADE. AND
14 AT -- AT THOSE TIMES I WOULD JUST SAY -- I WOULD START
15 TALKING ABOUT WHAT THEY WERE ASKING FOR JUST TO STOP THIS
16 AND GET THEM TO FOCUS IN ON ME, YOU KNOW, LET'S GO OVER
17 THIS AGAIN, WHAT IS IT THAT YOU'RE LOOKING FOR? I WANT
18 THE MEDIA AND I WANT THIS.

19 SO WE WOULD GO OVER IT. BUT THERE WERE BURSTS OF
20 VIOLENT CONVERSATION AND PHYSICAL BEHAVIOR.

21 Q WHAT -- WHAT ABOUT DURING THE -- WERE THEY -- WERE
22 THE INMATES, SINGLETARY AND OR LYNCH, CONCERNED ABOUT THE
23 OFFICERS AROUND THE BUILDING AT ANY TIME?

24 A NO. THEY -- THEY DIDN'T SEEM TO BE. THEY -- WELL,
25 YES, THEY DID. THEY -- THEY ASKED CONSTANTLY -- ON

1 SEVERAL OCCASIONS OFFICER LYNCH -- I MEAN, EXCUSE ME --
2 INMATE LYNCH AND INMATE SINGLETARY GOT VERY ANGRY WHEN
3 THEY CAME IN AND THEY SAW SOME OFFICERS HAD MOVED UP
4 CLOSER TO THE FRONT.

5 NOW, THE DOOR WAS BARRICADED AND IT WAS ONLY ONE WAY
6 IN. OTHER INMATES WERE UP IN THE WINDOWS AND THEY SAW
7 WHAT WE WERE DOING. BUT THE TWO INMATES WOULD YELL AT
8 TIMES, MOVE THOSE OFFICERS BACK, AND THEN A LOT OF
9 EXPLETIVES, BUT THEY WOULD.

10 Q DID THEY--

11 A -- JUST MOVE THAT BACK, MOVE THE OFFICERS BACK. AND
12 ON SEVERAL OCCASIONS LYNCH WOULD COME IN TO THE LOBBY AREA
13 JUST ON THE INSIDE OF THE DOOR AND HE, FOR WHATEVER
14 REASON, IT WOULD BECOME, MOVE, MOVE THOSE OFFICERS BACK.
15 LYNCH HAD DONE THAT ALSO, AND -- DIDN'T WANT US AROUND.

16 Q DID THEY -- DID THEY EVER TELL COTTON, OFFICER
17 COTTON, TO TELL YOU ANYTHING?

18 A YES, THEY DID. OFFICER COTTON CAME IN ON -- WAS
19 BROUGHT IN ON SEVERAL OCCASIONS HANDCUFFED TO INMATE
20 LYNCH, AND OFFICER COTTON WOULD SAY SOME THINGS. AND I
21 WOULD -- HE -- HE WOULD START OUT WITH, HERE'S WHAT YOU
22 NEED TO DO, YOU KNOW, GET THE MEDIA OR, YOU KNOW, WHATEVER
23 THE DEMAND WAS AT THAT TIME.

24 AND THEN WHEN WE WOULD TALK ABOUT IT -- BECAUSE I WAS
25 TRYING TO KEEP THEM TO THE BARRICADE, AND I THOUGHT HE

1 WOULD BE SAFER IN FRONT OF US -- ON SEVERAL OCCASIONS
2 INMATE LYNCH LEANED OVER AND WHISPERED IN OFFICER COTTON'S
3 EAR AND THEN OFFICER COTTON WOULD REPEAT, YOU KNOW, I'M
4 SERIOUS, THEY'RE GOING TO KILL ME IF YOU DON'T DO, A, B OR
5 C, WHATEVER THE DEMAND WAS OR ACTION WAS AT THAT TIME.

6 Q WHAT IS THE SIGNIFICANCE OF COMMUNICATING THROUGH
7 OFFICER COTTON AND NOT DIRECTLY TO -- TO YOU?

8 A YOU KNOW, I'M NOT SURE. ONE TIME WHEN I WAS THERE I
9 THOUGHT MAYBE THEY JUST DIDN'T WANT TO SAY THEY WERE GOING
10 TO KILL HIM ANY MORE TO ME SO THEY WERE JUST PUTTING THE
11 PASS -- PASSING THE WORD ON THROUGH COTTON AND TRYING TO
12 MAKE IT LOOK LIKE HE WAS THE ONE THAT WAS BRINGING THIS
13 IDEA UP.

14 BUT I REALLY -- IT WAS -- THEY WOULD SAY IT AND HE
15 WOULD LOOK AT THEM AND THEY'D PASS THE WORD ON. AND THEN
16 WHEN I DISCUSSED WHATEVER THAT DEMAND WAS, ON SEVERAL
17 OCCASIONS INMATE LYNCH WOULD STICK THE SHANK UP UNDER HIS
18 THROAT TO SHOW THAT HE WAS SERIOUS, AND OFFICER COTTON
19 WOULD REPEAT HIS STATEMENT, THEY'RE SERIOUS, I'M NOT
20 KIDDING, THEY ARE GOING TO KILL ME IF YOU DON'T DO THIS,
21 AND THE SHANK WOULD BE RIGHT UP UNDER, YOU KNOW, TO THE
22 POINT WHERE THE SKIN WAS INDENTED, AND I ALWAYS FELT LIKE
23 JUST A FEW MORE OUNCES OF PRESSURE AND IT WOULD PENETRATE
24 THE SKIN.

25 Q WERE YOU ABLE TO KEEP OFFICER COTTON AT THE FRONT

1 DOOR WITH ONE OF THESE INMATES?

2 A NOT THE ENTIRE TIME. THEY WOULD GO BACK, THEY WOULD
3 RETREAT BACK INTO THE CELLBLOCKS AND THEY DID NOT STAY AT
4 THE BARRICADE THE ENTIRE TIME. THERE WERE TIMES THAT
5 SOMEBODY WOULD COME UP AND WHISPER TO EITHER SINGLETARY OR
6 LYNCH AND THEY WOULD RETREAT BACK INTO THE LIVING UNIT,
7 THE CELLBLOCK AREA.

8 AND THEN WHEN WE DID GET THEM UP THERE, THEY WOULD
9 STAY UP, TALK FOR A WHILE OR THERE WOULD BE ANOTHER INMATE
10 UP FRONT TALKING AND THEY WOULD TELL THEM, SHUT UP WHEN
11 I'M IN CHARGE, AND OTHER INMATES SAID THE SAME THING,
12 THEY -- WHEN WE ASKED THEM TO CONVEY SOME MESSAGES BACK TO
13 THE LYNCH AND SINGLETARY, FOR EXAMPLE, WE WANT YOU TO TAKE
14 SOME MEDICAL SUPPLIES TO THEM, THEY WERE BACK IN, INSIDE
15 THE -- THE LIVING UNIT WHERE WE COULD NOT SEE THEM.

16 AND SO THEY WOULD GO BACK AND FORTH FROM THIS -- THIS
17 UNIT. AND AT TIMES THEY DISAPPEARED FOR A LONG PERIOD OF
18 TIME. YOU KNOW, I WOULD DO THE MEDICAL SUPPLIES JUST TO
19 SEE IF WE COULD MAKE CONTACT WITH THEM AND SAY, GO TAKE
20 THIS TO THEM, TELL ME WHERE HE IS BECAUSE WE ARE CONCERNED
21 FOR COTTON AND ANY OTHER INMATE IN THERE.

22 Q YOU WERE TRYING TO KEEP HIM -- YOU WERE TRYING TO
23 KEEP COTTON AT THE DOOR AS MUCH AS YOU COULD?

24 A AS MUCH AS WE COULD BECAUSE WE DIDN'T KNOW WHAT WAS
25 GOING ON INSIDE.

1 Q WHAT ABOUT OFFICER DOZIER, DID YOU HAVE ANY IDEA
2 ABOUT HIM?

3 A IN THE BEGINNING WE DID NOT. AND I HAD NO CLUE. WE
4 HAD SEVERAL INDICATIONS, THOUGH, AS -- AS TIME -- WHEN I
5 SAY THE BEGINNING, WHEN I FIRST WALKED UP, I SAW COTTON,
6 BUT THEN I DIDN'T SEE DOZIER.

7 AND THEN OVER TIME WE STARTED GETTING INFORMATION
8 THAT DOZIER WAS IN A CELL SOMEWHERE, AND WE DIDN'T KNOW
9 HOW SAFE HE WAS OR HOW MUCH CONTROL HE HAD OVER -- HOW
10 MUCH CONTROL HE HAD OVER HIS OWN SAFETY.

11 AND AS TIME WENT ON, WE FOUND OUT THAT -- IT WENT
12 FROM WE DIDN'T KNOW WHERE HE WAS TO WE SUSPECTED HE WAS IN
13 A CELL TO WE HAD GOOD INTELLIGENCE THAT HE WAS IN A CELL,
14 SOMEONE HAD SEEN HIM FROM ONE OF THE WINDOWS ON THE
15 OUTSIDE, AND THAT WE HAD PUT SOME ARMED OFFICERS AT THE
16 WINDOW TO PROTECT HIM IN CASE ANYBODY CAME BACK IN THAT
17 CELL.

18 AND THEN LATER ON IN TALKING WITH DOZIER AND ANY
19 DEBRIEFINGS THAT WERE DONE, THAT HE HAD -- HE WAS IN THE
20 CELL BUT NOT COMPLETELY SAFE, YOU KNOW, HE HAD BEEN
21 TRAUMATIZED AND ARTICLES WERE THROWN AT HIM.

22 Q WERE THERE -- WERE THERE ANY THREATS MADE BY THE
23 INMATES, EITHER LYNCH OR SINGLETARY, AGAINST OFFICER
24 DOZIER?

25 A YES, THERE WERE. THEY SAID THAT -- THAT THEY WOULD

1 CUT OFF ONE OF HIS FINGERS EVERY 15 MINUTES AND BRING IT
2 TO US. THEY WANTED TO KEYS TO THE CELLS. THEY DID NOT
3 HAVE THE KEYS TO ALL OF THE CELLS SO THEY COULD GO TAKE
4 CARE OF DOZIER. AND OF COURSE, WHEN THEY SAID THEY WERE
5 GOING TO CUT OFF A FINGER PERIODICALLY, THAT DIDN'T SEEM
6 LIKE A GOOD IDEA TO GIVE UP ANY KEYS ON THAT ONE.

7 THE OTHER THING WAS THEY SAID THEY WOULD -- AN
8 INMATE -- RIGHT NOW I DON'T KNOW WHICH ONE CAME UP TO
9 ME -- SAID THEY DO HIM HIMSELF, MEANING THEY KILL HIM
10 HIMSELF, THAT INMATE WOULD KILL HIM.

11 I HAD ASKED SINGLETARY AND LYNCH ABOUT DOZIER AND
12 THEY SAID, DON'T YOU WORRY ABOUT HIM, WE'RE GOING, YOU
13 KNOW, YOU DON'T GIVE US WHAT WE WANT, WE'RE GOING TO DO
14 DOZIER, YOU KNOW, SO -- WE HAD THAT THROUGHOUT THE DAY.

15 Q AND THAT WAS LYNCH AND SINGLETARY SAYING THAT?

16 A THERE WERE -- THERE WERE -- YEAH, IN THE BEGINNING.
17 AND THEN AS WE WENT ON, SOMEHOW THOSE THINGS STARTED TO
18 CHANGE WITH SINGLETARY.

19 Q DID THE -- DID YOU BEGIN TO DIFFUSE THE SITUATION?

20 A YES. THE SITUATION BEGAN TO BECOME -- YOU USED THE
21 WORD DIFFUSED?

22 Q DIFFUSE OR--

23 A YEAH, OKAY.

24 Q -- OR--

25 A -- THINGS STARTED...

1 Q -- CALMING DOWN OR BEGAN TO BREAK THE ICE WITH
2 THESE--

3 A YES. IN THAT LOBBY -- THIS IS AN ESTIMATE -- THAT
4 THERE WERE APPROXIMATELY -- AT TIMES I WOULD SEE
5 SINGLETARY AND LYNCH IN THE LOBBY WITH COTTON AND THERE
6 WERE AN ESTIMATE OF MAYBE AT TIMES 30 OR MORE INMATES
7 JAMMED IN THAT LOBBY AREA.

8 AND IT BECAME SORT OF ENCOURAGING FOR THE TWO
9 HOSTAGE-TAKERS TO -- WITH THAT AUDIENCE THERE -- AND IT
10 JUST GOT OUT OF CONTROL. AND WHEN THEY WOULD DISAPPEAR
11 BACK, WE STARTED LETTING OUT FIVE AT A TIME, FIVE INMATES
12 CAME OUT SO WE COULD SECURE THEM, AND THINGS STARTED
13 GETTING A LITTLE QUIETER.

14 Q WHAT IS THE SIGNIFICANCE OF THE AUDIENCE IN A
15 SITUATION LIKE THIS? YOU DESCRIBED IT SORT OF AN AUDIENCE
16 OR A GROUP OF SUPPORTER -- WHAT IS THAT -- SIGNIFICANCE OF
17 THAT?

18 A WELL, THERE WAS A LIMELIGHT AND THERE WAS A LOT OF
19 ATTENTION, AND THERE WERE TIMES WHEN I WOULD -- TO -- TO
20 BACK UP JUST A LITTLE BIT, THERE WERE TIMES I WOULD ASK AN
21 INMATE THAT I COULD NOT -- I CAN'T IDENTIFY TODAY -- WHO
22 WOULD BE AT THE DOOR OR THE BARRICADE, AND I WOULD ASK HIM
23 TO GO GET LYNCH OR SINGLETARY AND HAVE HIM BRING COTTON UP
24 HERE SO WE COULD SEE HIM AGAIN.

25 AND THEY'D SAY, YOU KNOW, I'M NOT CONTROLLING THIS

1 THING, YOU KNOW, AND THEN WHEN THEY WOULD GET IN THERE, IT
2 WAS -- LYNCH AND SINGLETARY WERE -- SEEMED TO BE GAINING
3 ENERGY WITH MORE PEOPLE THAT WERE AROUND THEM AND IT
4 BECAME LOUDER AND LOUDER.

5 AND THEN TO SPRING FORWARD A LITTLE BIT IN TIME, AS
6 WE STARTED GETTING THE NUMBERS DOWN, IT GOT QUIETER AND
7 SEEMED TO BE LESS VIOLENT TOWARD THE END.

8 Q HOW DID -- HOW DID YOU GET THE NUMBERS DOWN? THE
9 NUMBER OF INMATES IN THE LOBBY YOU'RE TALKING ABOUT?

10 A YES.

11 Q HOW DID YOU DO THAT?

12 A JUST FROM -- FIRST THING I DID WAS I ASKED THEM,
13 WE'RE GOING TO LET SOME OF YOU OUT, AND WHICH ONES WANT TO
14 COME OUT? OF COURSE, THAT DIDN'T WORK. NOBODY WANTED TO
15 VOLUNTEER FOR THAT.

16 BUT THEN WHEN I POINTED, I SAID YOU, YOU, YOU, YOU
17 AND YOU, I PICKED FIVE THAT WERE RIGHT UP AT THE FRONT,
18 AND I SAID, WHEN I OPEN THIS DOOR, YOU'RE GOING TO COME
19 OUT, PUT YOUR HANDS ON TOP OF YOUR HEAD, AND COME OVER
20 HERE AND THESE OFFICERS ARE GOING TO SECURE YOU.

21 AND I OPENED THE DOOR. WELL, I -- WE HAD AN OFFICER
22 OPEN THE DOOR AND I DEMONSTRATED LIKE THIS, PUT YOUR HANDS
23 ON TOP OF YOUR HEAD, PUT THEIR HANDS ON TOP OF THEIR HEAD,
24 IT SEEMED LIKE IT WAS GOING TO WORK, THEY CAME RIGHT OUT,
25 LAID DOWN ON THE GROUND, THEY WERE SECURED AND THEY MOVED

1 OUT. AND WE DID THIS OVER AND OVER TO GET APPROXIMATELY
2 240 INMATES OUT.

3 AND WE -- IT WASN'T SMOOTH. THERE WERE TIMES WHEN
4 LYNCH OR SINGLETARY CAME TO THE DOOR AND I SAW THE INMATES
5 THAT WERE HUDDLED UP AGAINST THE BARRICADE WOULD MOVE BACK
6 TO THE, YOU KNOW, IT WOULD -- LYNCH OR SINGLETARY WOULD
7 COME RIGHT UP TO THE -- THE BARRICADE OFTEN, NOT
8 NECESSARILY EVERY TIME BUT QUITE OFTEN, AND THE OTHER
9 INMATES WOULD MOVE BACK.

10 AND ON SEVERAL OCCASIONS INMATES WOULD SAY, YOU KNOW,
11 THEY'RE IN CHARGE OF THIS, I'M NOT. AND IT WAS ALWAYS IN
12 REFERENCE TO, CAN YOU TALK TO SINGLETARY? CAN YOU TALK TO
13 LYNCH? IF THEY WERE NOT THERE IN THE CELLBLOCK, AND THEY
14 WOULD REFER TO THE TWO OF THEM AS BEING IN CHARGE.

15 Q AND HOW LONG DID IT TAKE YOU AT -- GETTING FIVE AT A
16 TIME OUT? IT TOOK YOU QUITE A WHILE TO GET THOSE OUT?

17 A YEAH. IT WAS -- YOU KNOW, YOU WOULD -- YOU WOULD
18 THINK DIVIDING FIVE INTO 240 AND YOU COULD DO THIS IN A
19 HURRY, BUT -- TOOK SEVERAL HOURS AND IT DID NOT GO
20 SMOOTHLY. AND THEN ONE OF THE OTHER THINGS THAT SLOWED IT
21 UP IS IF SINGLETARY OR LYNCH CAME UP AND WE WOULD TALK TO
22 THEM, AND THAT WAS GOOD. THERE WAS NOTHING WRONG WITH
23 THAT.

24 TO BE ABLE TO NEGOTIATE WITH THEM, YOU KNOW, WASN'T
25 WE WANTED TO THROW THEM TO THE SIDE AND GET OTHERS OUT.

1 WE, YOU KNOW, WE WANTED TO GET COTTON AND DOZIER OUT. SO
2 IF THEY CAME UP, WE STOPPED THAT PROCESS AND NEGOTIATED
3 WITH THEM.

4 Q AND WHEN THEY WOULD COME UP DURING THIS TIME, WHAT --
5 DID THEY MAKE ANY DEMANDS TELLING YOU TO STOP THE INMATES
6 OR WHAT?

7 A CONSTANTLY WANTING -- YEAH, THE MEDIA, THE -- THE
8 PHONE, THE KEYS, YOU KNOW, TO GET THE CELLS, ET CETERA.
9 THAT SORT OF THING.

10 Q NOW, YOU OBVIOUSLY GOT OFFICER COTTON OUT AND OFFICER
11 DOZIER. HOW DID THAT -- WAS IT VERY -- AT THE VERY END,
12 HOW DID THAT HAPPEN?

13 A THE VAST MAJORITY OF THE INMATES IN THOSE LIVING
14 UNITS WERE RELEASED AND SECURED AND THEY WERE PUT IN
15 ANOTHER BUILDING. AND THERE WAS A HANDFUL OF INMATES
16 INSIDE THE CHESTERFIELD UNIT, AND TWO OF THOSE INMATES
17 WERE SINGLETARY AND LYNCH.

18 AND AT THE END WHEN WE WERE TALKING, WE -- WE DID
19 HAVE THE MEDIA COME FORWARD, WHICH WE HAD PROMISED THAT
20 AND SAID WE'D GET IT TO THEM, AND WE -- IT WAS SOMEBODY
21 FROM WIS, CRAIG MELVIN, HE CAME FORWARD AND WAS STANDING
22 MAYBE 10, 20-YARDS BACK.

23 AND I TALKED TO LYNCH AND TOLD LYNCH THAT THE MEDIA
24 IS HERE, AND---

25 Q DID HE BELIEVE YOU?

1 A WELL, WHEN I TOLD HIM HE WAS HERE AND POINTED TO HIM,
2 WE GOT INTO AN ARGUMENT. WELL, HE -- HE ARGUED OVER THE
3 FACT THAT HE DIDN'T SEE A MEDIA CAMERA. AND I HAD
4 REMINDING HIM THAT HE JUST ASKED FOR THE MEDIA, HE
5 DIDN'T -- YOU KNOW, WE DIDN'T GET INTO DETAILS ON A CAMERA
6 OR ANYTHING ELSE.

7 WHAT WE HAD COMING FORWARD WAS THE WRITTEN MEDIA, YOU
8 KNOW, THAT -- NOT THE VIDEO MEDIA. AND IT WAS CRAIG
9 MELVIN. HE'S A PRETTY HIGH PROFILE GUY. AND I SAID, HE'S
10 RIGHT HERE, YOU KNOW, KEPT OUR PROMISE.

11 AND THEN IT WAS LIKE HE -- THAT WE ARGUED OVER THAT
12 CAMERA ISSUE FOR A WHILE AND THEN WE -- THERE WAS AN
13 ARGUMENT OVER, I WANT TO BE INTERVIEWED BEFORE I RELEASE
14 COTTON.

15 AND PRIOR TO THAT WE HAD GOTTEN A PROMISE, HE HAD
16 SAID THAT WHEN HE -- WHEN THE MEDIA CAME, HE'D LET COTTON
17 GO AND DO THE INTERVIEW, AND -- AND WE GOT INTO THAT. AND
18 THAT BRINGS ME TO THE DEMANDS, BUT GO AHEAD.

19 Q I JUST WANTED TO ASK YOU, YOU SAID -- WHAT'S THE
20 SIGNIFICANCE -- YOU SAID THAT YOU -- WE GET THE MEDIA AND
21 THEY WERE GOING TO RELEASE COTTON AND THEN HE DIDN'T WANT
22 TO DO THAT. WHAT -- TELL ME ABOUT THE PROMISES AND THE
23 FULFILLING THE PROMISE AND THAT SORT OF THING.

24 A THROUGHOUT THE NIGHT WHEN WE WERE NEGOTIATING, THERE
25 WERE DEMANDS MADE FOR PHONES, KEYS, SEVERAL THINGS, AND

1 FOR THE MEDIA. AND THROUGHOUT THE EVENING, WHENEVER WE
2 GOT ONE OF THOSE DEMANDS TO THEM, AND WE HAVE TO GO ON --
3 ON BLIND FAITH HERE IN QUITE A FEW OF THESE -- WE'D GO
4 AHEAD AND GIVE UP WHATEVER IT WAS THEY HAD ASKED FOR, AND
5 WE NEVER GOT IN RETURN WHAT WE WERE PROMISED.

6 I'LL LET COTTON GO IF I GET A PHONE. WE DIDN'T GET
7 THE PHONE -- I MEAN, WE DIDN'T GET COTTON WHEN WE GAVE
8 THEM THE PHONE. AND -- AND WHEN THE MEDIA SHOWED UP WAS
9 ANOTHER ONE, YOU KNOW, THAT---

10 Q WELL, WHY DID YOU -- WHY DID YOU KEEP GIVING THEM
11 THINGS AND THEY, WITHOUT THEM IN RETURN LETTING COTTON GO,
12 FOR EXAMPLE? WHY DID YOU KEEP GIVING THEM STUFF?

13 A WELL, WE ALWAYS WANT TO GET THE HOSTAGE RELEASED
14 FIRST AND THEN GIVE UP CONCESSION, BUT SOMETIMES IT GETS
15 DOWN TO YOU HAVE TO DO SOME TRUST, AND WE SAID WE'LL KEEP
16 OUR WORD, YOU KEEP YOURS, THEY SAID YES, BOTH OF THEM.
17 AND THEY SAID, WE PROMISE WE'LL DO THIS.

18 SO WHENEVER WE GIVE -- WHENEVER WE GOT TO THE POINT
19 OF LIKE -- LIKE A CELLPHONE OR THE MEDIA AND WE WOULD GIVE
20 UP OUR END OF IT, NOTHING WAS -- NO PROMISE WAS KEPT ON
21 THEIR SIDE. AND HE'S, YOU KNOW, WE -- I'D REMIND THEM
22 CONSTANTLY OF IT AND SAY, YOU KNOW, YOU KNOW, I HAVE KEPT
23 MY WORD ALL DAY AND, YOU KNOW, WE'RE NOT GETTING ANYTHING
24 IN RETURN.

25 WELL, AT THE END WHEN WE HAVE CRAIG MELVIN SHOW UP

1 AND WE'RE GIVING UP THIS CONCESSION, YOU KNOW, WE SORT OF
2 VIEW THAT AS THE BIG -- THE LAST ONE THAT WE COULD DO.

3 Q WELL, WHY -- WHY NOT SAY, WE'RE NOT GIVING YOU
4 ANYTHING ELSE UNTIL YOU LET COTTON GO OR -- AND DOZIER GO?

5 A WHENEVER DEMANDS WERE NOT MOVING ALONG AS QUICKLY AS
6 THEY LIKED, THE SHANK WOULD COME OUT AND IT WAS THE
7 STABBING AND THE JUKING UNDER THE JAW AND THE PUNCHING IN
8 THE FACE AND THE STATEMENT OF, I'M JUST GOING TO SHOW YOU
9 THAT I'M NOT KIDDING, I'M NOT PLAYING HERE, I WILL JUST
10 KILL COTTON RIGHT NOW.

11 AND, YOU KNOW, HE WOULD TAKE A BEATING RIGHT THERE.
12 AND MY VIEW WAS, YOU KNOW, IT'S -- IT'S JUST THE MEDIA,
13 YOU KNOW, LET'S -- WE CAN WORK WITH THE MEDIA, SAVE A
14 LIFE. I WAS CONVINCED THEY WERE GOING TO KILL HIM.

15 Q SO YOU ACQUIESCED BECAUSE YOU WANTED TO PROTECT HIM?

16 A YES.

17 Q ALL RIGHT. SO THE MEDIA IS THERE, CRAIG MELVIN IS
18 STANDING THERE, AND YOU'RE TALKING WITH LYNCH?

19 A YES.

20 Q AND COTTON IS WITH HIM?

21 A YES.

22 Q AND I THINK LYNCH DOESN'T WANT TO GIVE UP THE
23 INMATE -- GIVE UP COTTON?

24 A RIGHT. THERE WAS A LAST LITTLE MINUTE OF CONFUSION
25 THERE, YEAH.

1 Q AND THEN WHAT HAPPENED?

2 A WELL, YOU KNOW, AND I -- WE TRAINED TO EXPECT THAT,
3 SO, YOU KNOW, I JUST KEPT WORKING, KEPT SAYING, YOU KNOW,
4 YOU GOT TO KEEP YOUR WORD HERE, YOU KNOW, THIS -- YOU
5 ASKED FOR IT, YOU KNOW, I KEPT MY WORD ON EVERYTHING WE
6 DID ALL DAY, EVEN TO THE POINT OF WHEN EVERYBODY CAME OUT,
7 WHEN THE FIVE INMATES AT A TIME CAME OUT, WE'LL DO THIS
8 WITH DIGNITY, THAT WAS DONE WITH AS MUCH -- WITH 240
9 INMATES, THEY SURELY OUT NUMBERED US.

10 WE -- WE DID IT AS -- KEPT MY WORD ALL DAY, AND I
11 SAID, YOU WILL BE INTERVIEWED, YOU WILL BE INTERVIEWED BY
12 THIS MAN IF YOU COME OUT. AND FINALLY HE HANDED -- HE HAD
13 A RING OF KEYS, A CHAIN OF KEYS ON HIS NECK. HE HANDED ME
14 THE KEYS.

15 THEY WERE NOT THE KEYS THAT I WAS REFERRING TO
16 EARLIER. THEY WERE PROBABLY TO OFFICES OR CLOSETS OR
17 SOMETHING AND OTHER DOORS OTHER THAN SOME OF THE CELL --
18 BUT HE HANDED THAT TO ME AND THEN HE--

19 Q THAT WAS--

20 A -- INMATE LYNCH HANDED THE SHANK TO OUR MAJOR FROM
21 THE RAPID RESPONSE TEAM. WE OPENED THE DOOR AND COTTON
22 AND HIM CAME OUT, YOU KNOW, HE LET COTTON OUT AND HE CAME
23 OUT.

24 Q AND DID HE HAVE HIS -- DID INMATE LYNCH HAVE HIS
25 OPPORTUNITY TO TALK TO THE PRESS?

1 A YES.

2 Q WAS THE SITUATION OVER AT THAT TIME?

3 A NO. WE -- WE STILL DID NOT HAVE OFFICER DOZIER AT
4 THAT TIME IN OUR POSSESSION, AND THOUGH WE KNEW THAT THERE
5 WERE SOME OFFICERS AT THE WINDOW WITH FIREARMS PROTECTING
6 HIM, YOU KNOW, WE JUST NEEDED TO GET TO HIM, SO WE HAD TO
7 GO THROUGH THE BUILDING AND WHILE WE WENT -- WHILE THE
8 TEAM, THE RAPID RESPONSE TEAM, WENT THROUGH BUILDING
9 SEARCHING IT, THERE WERE OTHER INMATES COMING OUT OF CELLS
10 THAT MIGHT HAVE BEEN PROTECTING THEMSELVES OR MIGHT HAVE
11 BEEN HIDING BECAUSE THEY DID SOMETHING, WHATEVER THE
12 REASONS WERE.

13 AND THEN BECAUSE OF THE INTELLIGENCE WE HAD, I THINK
14 THE CELL NUMBER WAS 1128. A GROUP OF FOUR OR FIVE
15 OFFICERS WENT OVER TO CELL 1128, UNLOCKED IT, AND OFFICER
16 KENNETH DOZIER CAME OUT AND HE WAS ESCORTED OUT AND
17 CHECKED FOR MEDICAL AND DEBRIEFING AND FOR EVERYTHING
18 ELSE.

19 Q SO AT THAT POINT IT WAS OVER?

20 A WELL, IT -- YEAH. YEAH. MY PART IS OVER. WHAT --
21 THAT PART FOR ME IS OVER WITH AT THAT POINT.

22 Q NOW, WERE THERE ANY INMATES HELPING OFFICER COTTON?

23 A THERE -- THERE SEEMED TO BE. IT -- BUT ONLY AT THE
24 END, NOT AT THE BEGINNING. AND IT SEEMED THERE WERE SOME
25 BEHAVIORS OF -- WHEN WE TRIED TO GIVE MEDICAL SUPPLIES AND

1 PEROXIDE AND BANDAGES, AND THAT WAS THE BEST WE COULD DO
2 BECAUSE WE WEREN'T SURE WHAT THE WOUNDS HAD -- WE KNEW WE
3 HAD TO CLEAN THEM.

4 AND MEDICAL SAID IF WE CAN GET THE PEROXIDE ON THE
5 WOUND AND PUT A BANDAGE ON IT AND KEEP GERMS OUT, THAT
6 WOULD BE GOOD. IN THE BEGINNING WE'D ASK ANY INMATE THAT
7 CAME -- AND DOZIER AND -- I MEAN AND LYNCH AND SINGLETARY,
8 IS, PUT THIS ON THE WOUND.

9 AND WE COULD SEE SOME OF THE BOTTLES THAT -- ONE OF
10 THE BOTTLES OF PEROXIDE WAS STILL LEFT IN THE LOBBY AREA.
11 WE SAW SOME, YOU KNOW, I'M NOT SURE IF ALL OF IT WAS USED
12 LIKE IT WAS SUPPOSED TO BE. WE ALSO WANTED THEM TO TAKE
13 CARE OF ANY INMATES IN THERE BECAUSE WE DID SEE SOME
14 INMATES WITH GAUZE AROUND HANDS LATER.

15 WE'D ASK INMATES TO GO DO THAT, AND THEY'D SAY, I'LL
16 GO BACK AND CHECK ON IT. WHEN THEY COME BACK, SAY, DID
17 YOU SEE THEM? DID THEY TAKE CARE OF COTTON? AND THEY'D
18 SAY, WELL, YOU KNOW, I -- I COULDN'T GET CLOSE TO HIM OR
19 SOMETIMES THEY WOULD SAY, YEAH, WE TOOK CARE OF IT AND...

20 Q WHY DO YOU THINK IN THE BEGINNING NONE OF THE INMATES
21 WANTED TO HELP OFFICER COTTON?

22 MR. DOBY: OBJECTION, YOUR HONOR. I DON'T KNOW
23 THAT THIS WITNESS IS QUALIFIED TO GIVE -- SPECULATE
24 AS TO WHAT SOMEONE ELSE WAS THINKING.

25 THE COURT: AND IT IS SOMEWHAT SPECULATIVE EVEN

1 FOR AN EXPERT IN THESE CIRCUMSTANCES UNLESS HE CAN
2 BASE THAT ON SOME EXPERIENCE HE HAS TIED TO THAT. GO
3 AHEAD.

4 MR. FATA: THANK YOU, YOUR HONOR.

5 BY MR. FATA:

6 Q MAJOR FERRARO, YOU HAD EXPERIENCE IN HOSTAGE
7 SITUATIONS WHERE THERE HAD BEEN LARGE GROUPS OF PEOPLE IN
8 A -- IN THIS SORT OF SITUATION; HAVEN'T YOU?

9 A YEAH.

10 Q AND -- WITH A LEADER?

11 A YES.

12 Q SIMILAR TO THIS SITUATION?

13 A YES.

14 Q THE FOLLOWERS, I GUESS THE GROUP AS YOU DESCRIBED
15 THOSE INMATES THAT WERE IN THE LOBBY IN EARLIER TESTIMONY,
16 ARE THEY LOOKING TO THE LEADERS FOR GUIDANCE AND SO FORTH?

17 A I THINK SEVERAL THINGS HAPPEN. I THINK THEY LOOK TO
18 THE LEADERS FOR GUIDANCE AND THEY ALSO LOOK TO THE LEADERS
19 TO MAKE SURE THEY STAY AWAY FROM THEM IF -- IF THEY ARE
20 PRETTY VIOLENT AT TIMES. THERE IS -- SOME LEADERS SEEM TO
21 LEAD WELL AND SOME LEAD -- LEAD WITH A HEAVY HAND. AND
22 IT'S SORT OF--

23 Q SORT OF A FEAR FACTOR?

24 A -- INTIMIDATION, YEAH, WITH INTIMIDATION.

25 Q NOW, WAS A VIDEO OF THIS INCIDENT TAKEN?

1 A YES. ONE OF OUR CAPTAINS AT -- AT LEE CORRECTIONAL
2 INSTITUTION WENT AND GOT THAT, ONE OF OUR CAMERAS WHICH WE
3 FILM -- WE TRY AND FILM ALL INCIDENTS IN WHICH THERE IS
4 ANY USE OF FORCE. HE WENT AND GOT A VIDEO CAMERA AND
5 TURNED IT ON AFTER THIS INCIDENT HAD OCCURRED, STARTED,
6 AFTER IT HAD STARTED, AND HE VIDEOTAPED I WOULD SAY THERE
7 MIGHT BE ABOUT APPROXIMATELY THREE HOURS OF TAPE ROUGHLY,
8 AND HE DID DO THAT.

9 HOWEVER, WHAT THIS CAMERA IS USED FOR PLANNED USE OF
10 FORCE, LIKE IF WE HAVE TO GO INTO A CELL AND GET AN INMATE
11 WHO IS FIGHTING OR BEING DISRUPTIVE, AND SOMETIMES WE USE
12 IT FOR UNPLANNED. IF THERE IS A DISTURBANCE ON THE YARD
13 WE MOVE SOME OF THE YARD CAMERAS AROUND OR SOMEBODY WILL
14 GO OUT AND VIDEOTAPE.

15 THIS WAS UNPLANNED. AND THE -- THE DATE ON IT IS NOT
16 THE CORRECT DATE. IT'S JUST, PUT THE BATTERY IN THE TAPE
17 AND STARTED FILMING.

18 Q DIDN'T CHANGE THE DATE ON IT?

19 A HE DIDN'T CHANGE THE DATE. HE'D JUST GOTTEN DOWN TO
20 BUSINESS.

21 Q WHAT DOES THE VIDEO SHOW?

22 A THE VIDEO SHOWS THE ACTUAL FRONT OF THE CHESTERFIELD
23 UNIT WHERE THE DOOR IS AND THE WINDOW IS BROKEN OUT AND
24 THE BARS ARE THERE. IT SHOWS NEGOTIATIONS WITH MRS. YORK
25 AT THE WINDOW, WITH MYSELF, SOME OF OUR OTHER TEAM MEMBERS

1 RELAYING INFORMATION BACK.

2 IT SHOWS SOME OF THE WATER THAT IS RUSHING OUT
3 BECAUSE OF THE SPRINKLERS WERE ON, AND THE FLOODING TAKING
4 PLACE INSIDE THE UNIT, AND OFFICERS ON THE ROOF FOR
5 PROTECTION IN CASE INMATES START COMING OUT. IT SHOWS
6 INMATE LYNCH, INMATE SINGLETARY, AND IT SHOWS OFFICER
7 COTTON HANDCUFFED TO THEM AND---

8 Q NOW, DOES IT SHOW THE INMATES COMING OUT FIVE AT A
9 TIME?

10 A IT SHOWS THEM COMING OUT FIVE AT A TIME. WE EVEN
11 TRIED TO INCREASE THAT ONCE TO SIX OR MORE, AND WE JUST
12 DIDN'T HAVE ENOUGH OFFICERS AT THAT TIME FOR SECURITY
13 REASONS. SO HAULING THEM BACK -- WE HAD TO GO BACK DOWN
14 TO FIVE, FIVE INMATES OUT AT A TIME, THEM BEING SECURED ON
15 THE GROUND, BEING PICKED UP AND MARCHED BACK TO ANOTHER
16 BUILDING FOR SECURITY.

17 Q AND DOES IT SHOW THE AFTERMATH AFTER THE RIOT IS OVER
18 ON THE INSIDE OF THE DORMITORY?

19 A IT DOES. AND IT -- IT SHOWS WHAT THE INSIDE OF THE
20 BUILDING LOOKS LIKE AND ALSO THE VIDEO CAMERA GOING UP
21 BEHIND A TEAM OF -- OF RED UNIFORMED OFFICERS, WHICH IS
22 OUR RAPID RESPONSE TEAM, TO THE CELL IN WHICH OFFICER
23 DOZIER IS LOCATED AND UNLOCKING -- THEM UNLOCKING THE DOOR
24 AND OFFICER DOZIER COMING OUT AND BEING RELEASED AT THAT
25 TIME.

1 MR. FATA: YOUR HONOR, WE WOULD OFFER --

2 BY MR. FATA:

3 Q AND YOU VIEWED THIS TAPE?

4 A YES. AND ALSO OFFICER COTTON COMING OUT WITH INMATE
5 LYNCH.

6 Q OKAY. AND CRAIG MELVIN, SHOWS CRAIG?

7 A IT -- YEAH, I THINK FROM BEHIND. I'M NOT SO SURE
8 THAT IT'S CLEAR, YOU KNOW.

9 Q AND, OF COURSE, YOU VIEWED THIS TAPE AND IT'S AN
10 ACCURATE DEPICTION OF WHAT TRANSPIRED--

11 A YES, IT IS.

12 Q -- OUT THERE ON OCTOBER 29TH, 2003, AT THE LEE
13 CORRECTIONAL INSTITUTE?

14 A YES, IT IS.

15 MR. FATA: YOUR HONOR, WE WOULD OFFER THE VIDEOS
16 INTO EVIDENCE. WE'VE GOT ON A -- WE HAVE THEM ON A
17 CD DISK.

18 THE COURT: RIGHT. IT COMES INTO EVIDENCE
19 SUBJECT TO OBJECTION OF BOTH DEFENSE COUNSEL WHICH
20 HAS ALREADY BEEN REGISTERED AND DEALT WITH OUTSIDE OF
21 THE PRESENCE OF THE JURY.

22 MR. FATA: IT WILL BE NUMBER NINE.

23 THE COURT: ALL RIGHT.

24 (WHEREUPON, STATE'S EXHIBIT 9 WAS ADMITTED INTO
25 EVIDENCE.)

1 MR. FATA: YOUR HONOR, AT THIS TIME WE WOULD
2 LIKE TO SHOW PARTS OF IT. WE OBVIOUSLY DON'T WANT TO
3 SHOW THREE HOURS WORTH OF INMATES COMING OUT HERE.
4 WE'D LIKE TO PUBLISH PARTS OF IT.

5 THE COURT: ALL RIGHT, SIR. I WILL ALLOW YOU TO
6 DO THAT, AND MAJOR FERRARO CAN TESTIFY AS TO WHAT IS
7 ON THERE AND IF ANY NARRATIVE IS NECESSARY. DO THESE
8 LIGHTS NEED TO BE DIMMED IN ANY WAY?

9 MR. FATA: REALLY DON'T KNOW, JUDGE. I...

10 THE COURT: WE WILL SEE.

11 MR. FATA: I'M NOT A HUNDRED PERCENT SURE I CAN
12 OPERATE THIS THING. I'LL TRY.

13 THE COURT: I THINK THE LIGHTS DIRECTLY OVERHEAD
14 COULD BE DEALT WITH...

15 THE WITNESS: IS IT OKAY TO STAND?

16 THE COURT: OH, YES.

17 THE WITNESS: SOMETIMES THE AUDIO IS NOT CLEAR.
18 I COULDN'T DISCERN WHAT'S BEING SAID OR WHAT I SAID,
19 I COULDN'T REMEMBER WHAT I SAID. AND -- BUT THERE'S
20 SOME OTHER TIMES THAT IT'S CLEAR, VERY CLEAR AS TO
21 WHAT'S BEING SAID. AND...

22 BY MR. FATA:

23 Q ALL RIGHT. THIS IS A -- TAPE ONE. YOU VIEWED TAPE
24 ONE?

25 A YES.

1 Q AND WHAT DOES THAT CONSIST OF?

2 A IT -- THE CAMERA IS BACK MAYBE 20, 20 YARDS. AND I
3 DON'T EVEN KNOW, 15-YARDS, 20 YARDS. AND FROM A DISTANCE
4 IT SHOWS MRS. YORK -- TO THE BEST OF MY RECOLLECTION
5 MRS. YORK WALKING FORWARD TALKING MAYBE -- THERE ARE TIMES
6 WHEN I'D WALK FORWARD AND TALK TO MRS. YORK, BUT IT'S NOT
7 CLEAR AS TO WHAT'S BEING SAID.

8 AND WE HEAR SOME RADIOS IN THE BACKGROUND, BUT
9 NOTHING -- WE CAN'T SEE WHO IS AT THE BARRICADE AND IT'S
10 NOT -- THE AUDIO IS NOT CLEAR, VIDEO IS NOT---

11 Q NOTHING OF ANY SIGNIFICANCE THERE?

12 A NO. PARTS OF TAPE TWO ARE THE SAME WAY, BUT THE
13 CAMERA DOES MOVE FORWARD.

14 Q I'M GOING TO TRY AND MOVE FORWARD OR HAVE -- IT'S
15 CHAPTER TWO.

16 A TAPE TWO, THERE ARE SCENES WHERE THERE IS...

17 (VIDEO BEING SHOWN) --

18 Q ALL RIGHT. BACK THAT UP JUST A TOUCH. ALL RIGHT.
19 COULD YOU...

20 A OKAY. DID YOU JUST FORWARD IT OR BACK...

21 Q YEAH. I BACKED IT UP. NOW, IF YOU WANT TO COME BY
22 AND STAND UP THERE AND YOU CAN SEE, WHO IS PICTURED THERE
23 WITHOUT A SHIRT ON?

24 A WE HAVE INMATE LYNCH AND OFFICER COTTON ARE AT THE
25 BARRICADE. WHEN I SAY THE BARRICADE, THE DOOR WITH THE

1 BARS ON IT. AND THE WINDOW IS BROKEN OUT.

2 SO THEY'RE BOTH AT THE DOOR THERE, AND OFFICER COTTON
3 IS HANDCUFFED TO INMATE---

4 THE COURT: WE ARE GOING TO HAVE TO HAVE ONE OR
5 THE OTHER, EITHER HAVE THE NARRATION OR THE AUDIO.

6 MR. FATA: I'M SORRY.

7 THE COURT: OKAY.

8 THE WITNESS: AND THAT'S ALL. IF WE COULD...

9 BY MR. FATA:

10 Q NOW TURN IT UP. I THINK THERE -- AREN'T SOME
11 STATEMENTS MADE HERE?

12 THE COURT: YES, SIR, THERE ARE. THE JURY CAN'T
13 LISTEN TO BOTH, AT LEAST I CAN'T.

14 (VIDEO BEING SHOWN.)

15 MR. FATA: JUDGE, I DON'T REPORT TO BE AN EXPERT
16 AT THIS.

17 THE COURT: DOING PRETTY WELL SO FAR.

18 MR. FATA: WELL, SO FAR I TURNED THE THING OFF.

19 (VIDEO BEING SHOWN).

20 THE WITNESS: CAN YOU PAUSE IT?

21 BY MR. FATA:

22 Q WHAT IS HE TALKING ABOUT THERE ABOUT FALL BACK?

23 A THEY -- THEY DID NOT WANT A LOT OF THE OFFICERS UP
24 CLOSE. AND WE WERE TRYING TO GET CLOSE BECAUSE OF THE
25 SECURITY THAT WE NEEDED TO CONDUCT THERE. WE DID NOT PLAN

1 TO ASSAULT THAT PLACE AT THAT TIME.

2 (VIDEO BEING SHOWN.)

3 BY MR. FATA:

4 Q NOW, THE -- WHO IS THAT IN THE WINDOW? WAS THAT --
5 WAS THAT OFFICER COTTON? AND THEN WHO WAS...

6 A IF SHE -- A FEW SECONDS AGO IT WAS. IT WAS OFFICER
7 COTTON RELAYING INFORMATION OF, PLEASE DO WHAT THEY'RE
8 ASKING. AND THIS IS THE FIRST RELEASE, THE FIRST FIVE. I
9 DON'T THINK WE GOT OUR NUMBERS RIGHT THERE, BUT...

10 Q NOW, WE GO TO -- GO TO TAPE THREE.

11 A YEAH, THAT WAS OFFICER COTTON WITH INMATE LYNCH
12 HANDCUFFED TO HIM. THERE IS A SCENE HERE WHERE INMATE
13 SINGLETARY TALKS TO ME AND SAYS THAT, HE'S DYING, AND HE'S
14 REFERRING TO COTTON, AND INMATE SINGLETARY ALSO STARTS
15 NEGOTIATING FOR A PHONE.

16 Q THINK IT'S RIGHT HERE IN THIS CHAPTER.

17 (VIDEOTAPE BEING SHOWN.)

18 Q ALL RIGHT. WHAT IS THIS?

19 A INMATE SINGLETARY.

20 (VIDEOTAPE BEING SHOWN.)

21 Q AND WHAT IS HE DOING THERE?

22 A WELL, HE'S TELLING ME THAT COTTON IS DYING. AND I'VE
23 ASKED HIM TO GO UP AND CONVEY SOME OTHER INFORMATION TO
24 HIM, BUT I COULDN'T GET HIM TO GO UP FAST ENOUGH. AND I
25 WANTED HIM DO THAT A LITTLE QUICKER SO WE COULD GET COTTON

1 BACK. AND ALSO HE HAD ASKED FOR A PHONE AT THAT TIME
2 AGAIN -- OR I WON'T SAY AGAIN. HE ASKED FOR A PHONE SO
3 THAT HE HAD MADE--

4 Q SINGLETARY ASKED FOR A PHONE?

5 A YES. HE MADE SOME DEMANDS AND WAS TELLING ME THAT
6 COTTON WAS DYING AND...

7 (VIDEOTAPE CONTINUOUSLY BEING PLAYED.)

8 Q AGAIN, ARE YOU STILL LETTING INMATES OUT?

9 A YES, WE ARE. WHAT -- IF THERE'S NO ONE -- IF INMATE
10 LYNCH OR INMATE SINGLETARY ARE NOT AT THE DOOR, WE JUST
11 THOUGHT WE NEED TO GET THESE OTHERS OUT BECAUSE THEY'RE
12 JUST CONFUSING THE -- WE NEED TO STAY FOCUSED ON WHAT THEY
13 NEED SO WE CAN HELP GET THIS THING RESOLVED.

14 THE COURT: MAJOR, IF YOU NEED TO TURN THAT
15 AUDIO UP, IT'S FINE. I JUST DIDN'T WANT YOU TO TALK
16 OVER IT.

17 THE WITNESS: I UNDERSTAND.

18 MR. FATA: IT'S VERY LOW, YOUR HONOR, AT THIS
19 POINT.

20 BY MR. FATA:

21 Q GO DIRECTLY TO NUMBER FIVE I THINK...

22 A THIS IS FIVE?

23 (TAPE PLAYING CONTINUOUSLY.)

24 A THAT'S INMATE LYNCH.

25 Q WHAT IS THAT AROUND HIS NECK?

1 A HE HAD A RING OF -- CHAIN OF KEYS AROUND HIS NECK,
2 SO -- HE TOOK THEM FROM THE OFFICERS. THIS IS INMATE
3 LYNCH. THIS IS ONE OF THE INMATES WHO REFUSED TO COME OUT
4 EARLY. HE JUST STAYED IN THERE AND JUST... HE --

5 Q IS THAT LYNCH?

6 A THAT'S -- THAT'S LYNCH, AND OFFICER COTTON IS ON HIS
7 OTHER SHOULDER. HIS HEAD IS -- HE'S WORN OUT AT THAT
8 TIME. HE'S REALLY INJURED. THIS IS THE ISSUE OVER THE
9 VIDEO MEDIA VERSUS THE WRITTEN MEDIA. COTTON IS TO THE
10 LEFT THERE AT THIS TIME. OFFICER MARCUS COTTON IS
11 LEANING.

12 THE MAN IN THE RED SUIT IS OUR MAJOR OVER THE RAPID
13 RESPONSE TEAM, THE COMMANDER OVER THE RAPID RESPONSE TEAM.
14 CRAIG MELVIN IS STANDING TO THE LEFT, THE GENTLEMEN WITH
15 THE DARK PANTS ON, WHITE SHIRT. THAT'S OFFICER COTTON
16 COMING OUT, HIS UNIFORM SHIRT.

17 THAT'S INMATE LYNCH COMING OUT AND STANDING AGAINST
18 THE WALL BEING SEARCHED BY THE MAJOR OF THE RAPID RESPONSE
19 TEAM. AND THAT'S MR. MELVIN RIGHT THERE. THE INMATE
20 LYNCH AND MR. MELVIN'S -- THAT'S HIS LEFT SHOULDER CLOSEST
21 TO US, AND HE DID HAVE A TAPE RECORDER WITH HIM ON THAT
22 DAY.

23 Q AT THIS POINT YOU DON'T HAVE DOZIER OUT YET?

24 A NO. AT THAT POINT OFFICER DOZIER, WE HAVE NOT BEEN
25 INSIDE THE BUILDING YET. WE DIDN'T GET HIM. WE HAD TO

1 GET ENOUGH OFFERS IN THERE TO GO INSIDE. WE KNEW THERE
2 WERE STILL SOME MORE INMATES IN THERE. WE DIDN'T KNOW IF
3 WE WERE STILL GOING TO HAVE TO FIGHT GOING IN, SO WE TRIED
4 TO GET ENOUGH OFFICERS UP BEFORE WE WENT IN. THAT'S THE
5 MEDICAL STAFF TAKING OFFICER COTTON OUT.

6 Q WHAT ARE THEY LINING UP TO DO NOW?

7 A THEY ARE LINING UP TO GO INTO AND SEARCH THE BUILDING
8 AND DO WHATEVER ELSE THEY NEED. YOU KNOW, IF THEY'RE
9 INMATES STILL IN THERE WANTING TO FIGHT, I GUESS WE'RE,
10 YOU KNOW, THEY GOT THE BATONS AND GAS TO DO WHAT THEY NEED
11 TO DO.

12 BUT THEY -- AT THIS POINT WE WERE PRETTY SURE THAT
13 ALL WE HAD TO DO WAS GO SEARCH THE BUILDING AND GET
14 WHATEVER WAS LEFT OF INMATES OUT, AND OFFICER DOZIER.
15 THEY ARE JUST TRYING TO GET ENOUGH OFFICERS TOGETHER TO
16 MOVE IN.

17 WE ARE TRYING TO IDENTIFY -- NOW, THIS IS THE CELL IN
18 WHICH OFFICER DOZIER IS LOCATED.

19 Q OKAY. LET ME BACK UP THEN. THIS IS RIGHT BEFORE YOU
20 GO IN?

21 A YES. THAT'S CAPTAIN SEAWARD. HE'S GIVING ME
22 DIRECTIONS OF WHICH SIDE HE'S IN. THEY SAID HE'S ON --
23 WELL, HE POINTS OVER HIS SHOULDER.

24 Q OKAY. AND I'M GOING TO CUT THE VOLUME DOWN. AND
25 WHAT ARE WE LOOKING AT HERE?

1 A THIS IS THE DAMAGE THAT WAS DONE INSIDE. THOSE ARE
2 OFFICES THAT THE WINDOWS ARE BROKEN. YOU WILL NOTICE THAT
3 THERE'S SOME HOMEMADE WEAPONS THERE, THERE'S A
4 SCREWDRIVER, SHANK, A BAR, THAT'S A POINTED SHANK, SPIKED
5 SHANK, PIECE OF BAR SOME OF THEM. THERE'S SOME CLOTHING
6 THERE, ANOTHER SHANK LAYING RIGHT -- KNIFE LAYING THERE
7 THAT'S HOMEMADE.

8 SOME OF THESE THINGS ARE MADE FROM THE COMPRESSORS ON
9 THE TOP OF DOORS. THEY TOOK THOSE OFF AND MADE WEAPONS
10 OUT OF THEM. PIPES, MOP HANDLES, MOPS, ANOTHER PIECE OF
11 METAL.

12 Q ARE THOSE USED AS WEAPONS?

13 A YES, THEY ARE. THOSE ARE USED AS WEAPONS IN --
14 THERE'S SOME WINDOWS THERE BROKEN, SOME SHEETS THAT ARE --
15 CLOTH LAID ON TOP SO THEY CAN GET INSIDE. THERE'S ANOTHER
16 HOMEMADE KNIFE, THAT'S A SPIKED-TYPE KNIFE. I WOULD
17 ASSUME THAT'S LIKE 10 INCHES OR BETTER.

18 AND THE WATER IS STILL ON THE FLOOR. YOU CAN SEE THE
19 FLOODING THAT TOOK PLACE. AND THERE'S ANOTHER KNIFE
20 NEXT -- WELL, NOT SURE IF THAT WAS A KNIFE. I'M SORRY.
21 JUST A LOT OF TRASH. THE PLACE GOT TRASHED QUITE QUICKLY.
22 BROKEN WINDOWS IN THE OFFICES. SOME DESKS WERE LOOTED.
23 OFFICES WERE RUN THROUGH.

24 THAT'S WHERE THE FOOD TRAYS ARE. THE FOOD TRAYS WERE
25 THROWN ABOUT, STREWN (SIC) ABOUT. THAT'S ONE OF OUR

1 INVESTIGATORS, ROGER HOOD. HE'S ONE OF THE INVESTIGATORS
2 THAT LOOKED AT THE SCENE THAT NIGHT. ANOTHER AREA,
3 OFFICE, ONE OF THE ROOMS THERE, THAT'S A FILE DRAWER
4 PULLED OUT TO ONE OF THE FILES.

5 IT DIDN'T APPEAR THAT ANY PARTICULAR OFFICE WAS
6 RANSACKED MORE THAN THE OTHERS. IT JUST SEEMED LIKE IT
7 WAS PRETTY GENERAL. THERE'S ANOTHER SHANK ON THE FLOOR.
8 THAT MIGHT BE ONE OF THE ONES WE SAW EARLIER.

9 ON -- THOSE DRAWERS WERE PULLED OUT AND GONE THROUGH.
10 THAT'S WHERE PEOPLE LOOKED FOR FILES. AND SINCE THE FILES
11 AREN'T KEPT THERE, THEY ARE KEPT UP FRONT IN THE ADMIN
12 BUILDING -- THAT'S THE -- ONE OF OUR ELECTRICAL BOXES.
13 IT'S ALSO GRAFFITI ON THE WALLS.

14 Q IS THIS -- THIS IS A HAND-HELD CAMERA?

15 A YES, THIS WAS... ANOTHER OFFICE. AND STILL HAS THE
16 WATER THERE.

17 Q ALL RIGHT.

18 A AND THIS IS NORTH SIDE WING. THIS IS WHERE THE
19 OFFICERS ARE WALKING UP TO THE CELL THAT WE NOW KNOW THAT
20 OFFICER DOZIER, KENNETH DOZIER IS IN, AND THEY ARE
21 CIRCLING AROUND TO OPEN UP THAT CELL AND GET HIM OUT.
22 THEY HAD TO GET A KEY.

23 AND THERE'S OUR RAPID RESPONSE TEAM. I THINK IT IS
24 CELL 1128. AND OFFICER DOZIER WILL APPEAR IN THE DOOR
25 THERE. AND THAT -- THAT'S OFFICER DOZIER COMING OUT RIGHT

1 NOW, KENNETH DOZIER.

2 AND THAT -- THAT DOOR WAS NOT LOCKED EARLIER. THE
3 WINDOWS WERE BROKEN AND GLASS IS ON THE INSIDE. HE'S
4 BEING MARCHED OFF. USUALLY THE PROCEDURE HERE IS MEDICAL
5 AND TO GET ATTENDED TO MEDICALLY AND TO BE DEBRIEFED
6 QUICKLY AND TRY AND GET THEM BACK WITH THEIR FAMILY AS
7 QUICKLY AS WE CAN.

8 BUT, YOU KNOW, GOT TO TAKE CARE OF THEIR HEALTH FIRST
9 AND -- AND THE REST OF THIS SEEMS TO BE THE INSIDE OF JUST
10 CONTINUING -- CONTINUATION OF THE -- OF THE INSIDE OF THE
11 CELLBLOCK. THIS IS INSIDE ONE OF THE CELLS. I -- I DON'T
12 KNOW IF IT'S INSIDE THE ONE OFFICER DOZIER WAS IN OR NOT.
13 MIGHT HAVE BEEN. I...

14 Q WHAT IS THIS AREA RIGHT HERE?

15 A THIS IS A -- A POST AREA THAT OUR OFFICER STANDS IN.
16 HAS A TABLE WHERE HE CAN TAKE CARE OF HIS PAPERWORK. HE
17 HAS A LOG BOOK THERE AND A PHONE, AND -- SO HE CAN MAKE
18 CALLS BACK UP TO THE ADMIN -- THE CONTROL ROOM, AND THAT'S
19 IT.

20 THAT'S JUST THE OFFICERS' POST AREA. HE'S NOT
21 TETHERED TO THAT AREA, BUT THAT'S WHERE HE COMES BACK TO
22 KEEP HIS PAPERWORK AND TAKE CARE OF THINGS AND MAKES
23 ANNOUNCEMENT. THERE IS A PA SYSTEM MICROPHONE THERE.
24 THESE ARE THE PAY PHONES INSIDE THE CELLBLOCK.

25 Q THE WINDOW -- THOSE WINDOWS THERE, WHAT KIND OF GLASS

1 IS THAT?

2 A I DON'T RECALL RIGHT NOW. THEY'RE NOT THE ONES WE
3 HAVE IN OUR HOUSE I KNOW. THEY ARE A LITTLE THICKER THAN
4 THAT. I DON'T KNOW IF THIS ONE HAS WIRE MESH IN IT OR
5 NOT. I DON'T REMEMBER. BUT IT IS A LITTLE THICKER AND
6 THE -- THE -- FOR PROTECTION.

7 THE ONES ON THE CELL DOORS ARE VERY THICK. I THINK
8 IT'S A LEXANE (SIC) AND IT'S -- I THINK LIKE A PIECE OF
9 PLASTIC WITH -- A SHEET OF PLASTIC IN THE CENTER. AND
10 DIFFICULT TO BREAK, BUT THEY CAN -- THEY BARRICADED THE
11 INSIDE IN FEAR THE OFFICERS COMING IN TO GET THEM.

12 AND THOSE ARE THE -- THEY USED WALL LOCKERS AND SOME
13 OTHER CABINETS TO BARRICADE THAT DOOR. FIRE EXTINGUISHERS
14 WERE USED ON OFFICER DOZIER, SPRAYED INSIDE THE BUILDING.
15 AND I THINK WHENEVER THEY SAW -- ON AT LEAST ONE OCCASION
16 WHENEVER THEY SAW SOMEBODY UP ON THE ROOF, THEY WOULD
17 SPRAY. AND ONE REPORT I HAD WAS THAT THEY SPRAYED THE
18 EXTINGUISHER.

19 AND THIS IS ONE, TWO -- THERE ARE SEVERAL INMATES
20 THAT WERE STILL IN -- BARRICADED THEMSELVES INSIDE THEIR
21 CELLS. AND WE'RE JUST GOING THROUGH GETTING THEM OUT
22 RIGHT NOW. THERE IS ANOTHER ONE. ANOTHER ONE THERE.

23 WE HAD TO CLEAR THEM ALL OUT AND GET THE COUNT
24 CORRECT BEFORE THE NIGHT WAS UP TO MAKE SURE WE HAD
25 EVERYBODY, NO ONE HAD ESCAPED OR NOBODY WAS DEAD IN THERE.

1 WE JUST NEEDED TO MAKE SURE WE HAD THE RIGHT NUMBERS.

2 Q WHAT IS THAT?

3 A THAT'S ONE OF OUR CAMERAS THAT'S -- THAT SOMEHOW
4 SOMETHING WAS THROWN UP THERE TO KNOCK THAT OUT AND -- NOT
5 SURE IF IT WAS WORKING, BUT IT -- IT'S NOT WORKING NOW IN
6 THIS VIDEO RIGHT NOW, SO...

7 Q IS THAT ANOTHER CAMERA?

8 A YEAH. THAT ONE WAS, TOO. YOU CAN SEE THE CAMERA
9 IN -- IN -- THE WALL BROKEN AROUND IT. THAT'S THE
10 OFFICERS' POST.

11 Q THIS THE SOUTH SIDE?

12 A THAT I DON'T KNOW. I CAN'T -- I'D HAVE TO SEE A
13 LITTLE BIT MORE, MORE GRAFFITI.

14 Q THIS IS---

15 A I'M NOT A GANG EXPERT, BUT USUALLY THE FIVE AND THE
16 STAR, I'VE ALWAYS BEEN TOLD, THERE -- YOU KNOW, THE
17 PENTAGRAM, THE THREE PRONG PITCHFORK ARE USUALLY
18 INDICATIONS OF GANG ACTIVITY. AND I DON'T KNOW IF THOSE
19 ARE -- THAT -- THAT WAS -- LOOKED LIKE THE THREE PRONG
20 PITCHFORK AND THE PENTAGRAM, SO...

21 Q SO THIS MUST BE THE SOUTH SIDE, THERE'S NO FENCING?

22 A YES. IT IS. THAT'S ONE OF OUR TELEPHONES AND THAT
23 WAS ONE OF OUR TELEPHONES. THERE'S ANOTHER SHANK THERE.
24 THAT'S ONE OF THE SPIKED ONES. AND THAT'S SOME RAGS OR
25 GAUZE WITH SOME CLOTH THAT -- WITH WHAT APPEARS TO BE

1 BLOOD ON IT.

2 AND THAT'S ONE OF OUR SELF-CONTAINED BREATHING
3 APPARATUS THERE -- THAT'S FOR TO GET OUT IN SMOKE OR GAS
4 THE -- THAT'S JUST LAYING ON THE GROUND. AND THE OUTSIDE
5 DOOR IS TIED OFF TO AN INNER DOOR THERE SO THAT THE
6 OFFICERS HAVE -- WOULD HAVE DIFFICULTY COMING IN. THEY
7 TIED TWO DOORS TOGETHER SO THEY CAN'T OPEN EITHER ONE OF
8 THOSE, BUT MOSTLY IT WAS FOR THE OUTSIDE ONE.

9 THAT'S ONE OF THE CELLS, WINDOW BROKEN OUT. I'M NOT
10 SURE WHAT THAT IS. THOSE ARE SOME -- THOSE WINDOWS WERE
11 BROKEN. THAT'S QUITE HIGH UP THERE. I'D SAY THAT'S
12 15 FEET PROBABLY, THOSE WERE BROKEN.

13 SOME MORE WHAT APPEARS TO BE BLOOD ON THE RAG AND --
14 SAME THING, YOU KNOW, PART BEFORE. HERE'S SOME GAUZE.
15 I'M NOT SURE IF WE HAVE JUST SEEN THAT ONE. MIGHT BEEN
16 JUST TAKEN FROM DIFFERENT ANGLE. AND THAT'S THE ID CARD
17 FOR INMATE LYNCH. ANOTHER SHANK UNDER ONE OF OUR CARTS.

18 THAT'S A BLADED SHANK TO THE RIGHT AND A SPIKED ONE
19 ON THE LEFT. I THINK THESE ARE JUST -- JUST IMAGES OF
20 JUST GENERAL DESTRUCTION EVEN WITHIN INDIVIDUAL CELLS.
21 AND I'M NOT SURE WHAT THAT'S ABOUT.

22 Q OKAY.

23 A SOME OF THE CELLS HAD DESTRUCTION IN THEM.

24 Q ALL RIGHT. STOP IT.

25 (VIDEOTAPE CONCLUDED.)

1 A OKAY.

2 Q I THINK IN THE---

3 THE COURT: LET'S GET THE LIGHTS BACK ON. ARE
4 YOU GOING TO USE IT?

5 MR. FATA: NO, WE'RE NOT. I WAS GOING TO LEAVE
6 IT CUED UP FOR THEM IF THEY WANTED TO USE IT. OR DO
7 YOU WANT ME TO CUT IT OFF?

8 THE COURT: WELL, YOU MIGHT -- DON'T A TO TURN
9 IT OFF. MIGHT JUST TAKE THAT SCREEN DOWN SO IT WON'T
10 BE DISTRACTING FOR THE JURY. IF WE COULD HAVE ALL
11 THE LIGHTS BACK ON, PLEASE.

12 BY MR. FATA:

13 Q NOW, WE SAW IN THE VIDEO INMATE SINGLETARY?

14 A YES.

15 Q HE WAS IN THERE TALKING A VERY LOW -- LOW VOICE.

16 WHAT WAS ALL THAT CONVERSATION ABOUT?

17 A IN -- HE -- TOWARD THE END, IS THAT THE PART?

18 Q RIGHT.

19 A OKAY. INMATE SINGLETARY CAME UP TOWARD THE END OF
20 THIS OPERATION, OF THIS INCIDENT, AND HE HAD ASKED FOR --
21 HE HAD MADE A REQUEST OF SOMETHING AND I SAID, WELL, WE'VE
22 ALREADY DEALT WITH THAT AND YOU NEED TO GO BACK. AND THEN
23 I SAID, WE NEED TO TAKE CARE OF OFFICER COTTON, TOO, AND
24 HOW ABOUT GOING BACK AND TELLING INMATE LYNCH THAT.

25 AND THE TONE SEEMED TO CHANGE. TONE SEEMED TO CHANGE

1 TO, WELL, I'LL SEE WHAT I CAN DO TO HELP YOU, I WILL SEE
2 IF I CAN TAKE CARE OF OFFICER COTTON, AND HE WOULD
3 DISAPPEAR.

4 AND INMATE LYNCH WOULD COME UP, AND IT WAS -- THE
5 WORDS OR THE ACTIONS OF INMATE SINGLETARY SEEMED TO BE
6 INDEPENDENT OF LYNCH'S AT THAT TIME. LYNCH WOULD COME UP
7 AND WE'D GET INTO, WELL -- WELL, THINGS ABOUT THE VIDEO
8 CAMERA, FOR THE MEDIA, OR NO ONE'S GOING OUT.

9 AND THERE WERE TIMES WHEN INMATE SINGLETARY ALSO
10 SAID, NO ONE IS LEAVING THIS PLACE, AND WRITTEN DOWN IN
11 ONE OF MY STATEMENTS. HE TRIES TO STOP THE SURRENDER OF
12 THE OTHER INMATES ON ONE OF---

13 Q WHAT'S THE SIGNIFICANCE OF INMATE SINGLETARY TRYING
14 TO STOP THE SURRENDER OF THE---

15 A WELL, HE DIDN'T WANT THAT PROCESS TO GO ON WAS MY
16 IMPRESSION. YOU KNOW, IT WAS -- AND THERE'S PROTECTION,
17 THERE'S LOTS OF REASONS WHY.

18 Q POWER BASE?

19 A PARDON, SIR?

20 Q WAS IT A POWER BASE?

21 A YEAH, SEEMED TO BE POWER MORE -- OTHER INMATES WE
22 HAVE THERE. AND -- BUT THE OTHER THING WAS IT WASN'T
23 HELPING US ANY ON OUR SIDE AND IT WASN'T HELPING GETTING
24 INMATE COTTON OUT BY -- I MEAN, EXCUSE ME -- OFFICER
25 COTTON OUT BY NOT GETTING THOSE INMATES OUT. AND ALSO WE

1 NEEDED COOPERATION FROM JUST EVERYBODY WE COULD.

2 WE NEEDED IT FROM EVERY INMATE IN THERE AND INMATE
3 LYNCH AND SINGLETARY IN ORDER TO GET THIS THING WORKING.

4 Q AS THE INMATES WERE LEAVING, HOW WOULD YOU DESCRIBE
5 INMATE SINGLETARY'S ENTHUSIASM FOR THIS EVENT?

6 A HE SEEMED PRETTY FEISTY IN THE BEGINNING, AND THEN
7 TOWARD THE END HE SEEMED TO -- HIS FEISTINESS SEEMED TO
8 DIMINISH AND TURN FROM, NO ONE IS LEAVING THIS PLACE TO --
9 WHICH WORKED AGAINST WHAT WE WERE ASKING AND TRYING TO
10 DO -- TO TRYING TO WORK WITH US AT THE END AND GIVING WHAT
11 APPEARED TO BE A COOPERATION, MAYBE TRYING TO CHANGE HIS
12 IMAGE AT THE END.

13 Q AND DID YOU TRY TO USE THAT TO YOUR ADVANTAGE?

14 A TRIED TO. ASKED HIM TO GO BACK IN AND GET WITH
15 INMATE LYNCH AND LET'S GET OFFICER COTTON BACK UP HERE AND
16 LET'S SEE IF WE CAN GET THIS THING WORKED OUT, AND HAD
17 REMINDED HIM THAT, YOU KNOW, YOU ASKED FOR A, B, AND C,
18 ALL DAY, WE KEPT OUR END OF IT, LET'S GET THIS THING OVER
19 WITH, JUST WE'RE GOING TO GET THE MEDIA HERE AND WANT TO
20 WRAP THIS -- THIS UP AS QUICKLY AS POSSIBLE.

21 Q SO EVEN THOUGH INMATE SINGLETARY WAS READY TO GIVE
22 UP, I GUESS, AND INMATE -- INMATE LYNCH WAS NOT?

23 A YEAH, THEY WERE NOT -- DID NOT APPEAR TO BE ON THE
24 SAME SHEET OF MUSIC AT THE END, EXACTLY.

25 Q OKAY.

1 MR. FATA: COURT'S INDULGENCE JUST ONE MINUTE,
2 YOUR HONOR. LET ME LOOK AT THESE NOTES JUST A
3 SECOND.

4 THE COURT: OKAY.

5 MR. FATA: ANSWER ANY QUESTIONS THAT MR. DOBY OR
6 MR. SCOTT MAY HAVE.

7 THE COURT: MR. DOBY?

8 CROSS-EXAMINATION

9 BY MR. DOBY:

10 Q OFFICER, HOW MUCH VIDEOTAPE WAS DONE AT THE DOOR, HOW
11 MANY HOURS?

12 A AFTER WHAT, SIR?

13 Q HOW MANY HOURS OF VIDEOTAPE WAS THERE FILMED SHOWING
14 THE DOOR AND THE INMATES COMING TO THE DOOR?

15 A NOT -- I'M NOT SURE IF I'M -- I'M ASSUMING THAT
16 YOU'RE ASKING -- WELL, THAT -- THAT -- THERE WERE SIX OF
17 THOSE TAPES THAT ARE 30 MINUTES LONG. AND THROUGHOUT THE
18 ENTIRE PROCESS, THERE WERE INMATES AT THAT DOOR. I MEAN,
19 I HOPE I ANSWERED YOUR QUESTION.

20 Q WELL, WHAT I'M TRYING TO FIGURE OUT IS WE ONLY SAW A
21 SMALL EXCERPT OF THE FILM THAT WAS DONE BY THE DEPARTMENT
22 OF CORRECTIONS.

23 A YES. YEAH, THAT'S RIGHT.

24 Q OKAY. HOW MANY MINUTES OF THAT VIDEOTAPE SHOWS
25 TYRONE SINGLETARY?

1 A PROBABLY AS A TOTAL IS WHAT YOU'RE ASKING?

2 Q LOOKING FOR A TOTAL.

3 A FIVE TO 10 MINUTES PROBABLY.

4 Q ALL RIGHT. NOW, OUT OF THOSE FIVE OR 10 MINUTES, HOW
5 MANY OF THOSE MINUTES SHOW MY CLIENT HANDCUFFED OR
6 RESTRAINING IN ANY WAY OFFICER COTTON?

7 A I DON'T KNOW. I WOULD SAY NONE AT THE MOMENT BECAUSE
8 IT'S NOT CLEAR. I CAN'T SAY THAT I -- I SAW ANY OF THAT
9 ON -- ON THAT TAPE.

10 Q ALL RIGHT. SO IF WE LOOKED AT ALL OF THESE TAPES,
11 ALL SIX TAPES, THREE HOURS WORTH, IT WOULD NOT SHOW MY
12 CLIENT IN ANY WAY RESTRAINING OFFICER COTTON. WOULD YOU
13 AGREE WITH THAT?

14 A NOT WITH MECHANICAL RESTRAINTS, RIGHT.

15 Q OKAY. WELL, WHO MECHANICALLY RESTRAINING -- IN YOUR
16 WORDS, WHO WAS MECHANICALLY RESTRAINING OFFICER COTTON?

17 A INMATE LYNCH.

18 Q WE SAW THE BRIEF PERIOD OF TIME WHERE TYRONE
19 SINGLETARY CAME TO THE WINDOW AND YOU HAD A CONVERSATION
20 ABOUT A CELLPHONE; CORRECT?

21 A YES.

22 Q ALL RIGHT. AS A MATTER OF FACT, IT APPEARS TO ME ON
23 THAT VIDEOTAPE THAT TYRONE SINGLETARY IS SHOWING SOME
24 CONCERN OR EXPRESSING CONCERN ABOUT THE CONDITION OF
25 OFFICER COTTON TO YOU; IS HE NOT?

1 A ON THAT SEGMENT THAT YOU'RE REFERRING TO, YES, SIR,
2 HE DID.

3 Q OKAY. BECAUSE HE IS RELATING TO YOU THAT OFFICER
4 COTTON WAS DYING. HE IS CONCERNED AND TELLING YOU YOU
5 NEED TO DO SOMETHING BECAUSE INMATE LYNCH HAS OFFICER
6 COTTON AND OFFICER COTTON IS NOT DOING WELL.

7 A THE WAY -- YOU WORD IT THAT WAY, YES, YOU'RE RIGHT,
8 NOW, BUT HE IS NEGOTIATING FOR A PHONE ON THERE ALSO.
9 HE'S TRYING TO GET A PHONE OUT OF THIS THING, TOO.

10 Q WHO HAD GOTTEN THE PHONE EARLIER? DIDN'T INMATE
11 LYNCH GET THE TELEPHONE?

12 A YES, HE DID.

13 Q OKAY. SO INMATE LYNCH IS THE ONE THAT HAD DEMANDED
14 THE TELEPHONE EARLIER AND FOR SOME REASON COULDN'T GET IT
15 TO WORK OR--

16 A YEAH.

17 Q -- DIALED THE WRONG NUMBER--

18 A RIGHT.

19 Q -- OR WHATEVER THE CASE MAY HAVE BEEN. SO TYRONE
20 SINGLETARY COMES BACK AND SAYS, LOOK, YOU NEED TO GIVE HIM
21 A TELEPHONE BECAUSE OFFICER COTTON WAS HURT AND NOT DOING
22 WELL?

23 A I DON'T THINK THAT'S THE WAY IT WAS WORDED.

24 Q ALL RIGHT. IN THE VIDEOTAPE IS TYRONE SINGLETARY
25 YELLING AT YOU?

1 A ARE WE STILL TALKING ABOUT THE---

2 Q I'M---

3 A -- THAT LAST---

4 Q I'M TALKING ABOUT THE PART THERE WHERE---

5 A HE SAID THE WAY---

6 Q -- THE -- SHOWS MY CLIENT AT THE DOOR?

7 A YEAH. NO, HE DOESN'T YELL AT ME IN THAT.

8 Q ALL RIGHT. IS HE DEMANDING ANYTHING FROM YOU? IS HE

9 SAYING, LOOK--

10 A HE'S TRYING TO GET---

11 Q -- YOU GOT TO DO THIS OR ELSE I'M GOING TO HURT

12 SOMEONE, I'M GOING TO DO THIS UNLESS YOU GET THIS DONE

13 RIGHT NOW? IS HE TELLING YOU THAT?

14 A HE'S ASK -- HE'S ASKING FOR A PHONE.

15 Q OKAY. AND YOU SAY, LOOK, I'VE ALREADY GIVEN A PHONE,

16 YOU NEED TO GO BACK AND TELL INMATE LYNCH TO BRING DOWN

17 OFFICER COTTON?

18 A RIGHT.

19 Q OKAY. WHAT DOES TYRONE SINGLETARY DO?

20 A HE -- TO THE BEST OF MY RECOLLECTION IN THE BEGINNING

21 HE SAYS, I'M NOT SURE I CAN DO THAT AND COTTON'S DYING,

22 AND THEN HE LEAVES. WE -- WE HAVE AN EXCHANGE OF WORDS

23 AND HE LEAVES.

24 AND I SAID, GO BACK AND TALK TO HIM, LET'S GET COTTON

25 DOWN HERE, AND HE LEAVES.

1 Q ALL RIGHT. WHY WOULD HE THINK THAT HE COULDN'T DO
2 THAT?

3 A PROBABLY BECAUSE OF FEAR FOR INMATE LYNCH IS WHAT
4 CROSSED MY MIND AT THAT TIME.

5 Q AND INMATE LYNCH IS THE ONE THAT HAD OFFICER COTTON
6 HELD HOSTAGE. WOULD YOU AGREE WITH ME ABOUT THAT?

7 A WELL, HE -- HE HAD HIM ATTACHED TO HIM, AND -- BUT
8 WHEN YOU'RE MAKING DEMANDS FOR SOMEONE, I SORT OF VIEW
9 THAT AS YOU'RE IN CONTROL OF A HOSTAGE ALSO.

10 Q ALL RIGHT. CAN YOU POINT ON THIS VIDEOTAPE AND SHOW
11 THIS JURY WHERE TYRONE SINGLETARY IS MAKING THE DEMANDS
12 FOR ANYTHING?

13 A OKAY. HOLD UP. MAY I REFER TO SOMETHING?

14 Q ABSOLUTELY.

15 A ON TAPE THREE SAYS -- HOLD ON A SECOND. ON TAPE
16 THREE INMATE SINGLETARY SAYS, I'M TELLING YOU HE'S
17 DYING -- HE'S REFERRING TO COTTON. AND ASKED ME TO GO DO
18 SOMETHING, AND THEN HE STARTS NEGOTIATING FOR A PHONE
19 AGAIN.

20 Q ALL RIGHT. ISN'T THAT THE PART THAT WE JUST LOOKED
21 AT? ISN'T THAT WHAT YOU REFERRED TO?

22 A THAT COULD BE. I WASN'T SURE WHICH TAPE IT WAS.
23 THEN ON TAPE FOUR INMATE SINGLETARY SAYS -- HE TRIES TO
24 STOP THE SURRENDER PROCESS OF OTHER INMATES AND DOES NOT
25 WANT THAT TO -- HE DOES NOT WANT A RESOLUTION HERE, AND NO

1 ONE IS TO LEAVE. HE DOESN'T WANT ANYBODY TO LEAVE. AND
2 HE YELLS FROM INSIDE THAT LOBBY AREA.

3 WHEN I TALK TO ANOTHER INMATE, THE OTHER INMATE,
4 ANOTHER UNKNOWN INMATE SAYS THAT HE---

5 MR. DOBY: YOUR HONOR, I---

6 MR. FATA: WAIT A MINUTE, YOUR HONOR. ALLOW HIM
7 TO ANSWER THE QUESTION.

8 THE COURT: NO, I THINK OBVIOUSLY IT'S -- HE'S
9 NOT ANSWERING ABOUT WHAT SINGLETARY SAID, BUT I THINK
10 HE'S TRYING -- THERE MIGHT BE A RESPONSE IN HERE FROM
11 INMATE SINGLETARY AT SOME TIME. I WILL ALLOW YOU.
12 GO AHEAD.

13 THE WITNESS: OKAY.

14 THE COURT: GO AHEAD.

15 THE WITNESS: GO ON? AND WHEN INMATE SINGLETARY
16 SAYS, STOP, NO ONE GO OUT, NO ONE LEAVE, ANOTHER
17 INMATE LEANS OVER AND SAYS, I ALMOST GOT STABBED FOR
18 TRYING TO HELP, FOR -- FOR HELPING COTTON.

19 AND THEN HE COMES DOWN TO NEGOTIATES -- HE TRIES
20 ON -- ALSO ON FOUR -- TO NEGOTIATE WITH LYNCH, IN
21 REFERENCE TO LYNCH AND OFFICER COTTON.

22 COMES TO THE WINDOW AND HE SAYS HE'LL TRY TO GET
23 COTTON OUT. HE SAID, I'LL GO -- I'LL TRY AND DO WHAT
24 I CAN IN THIS THING.

25 BY MR. DOBY:

1 Q HE'S TELLING YOU THAT I'M GOING TO HELP YOU IS WHAT
2 HE WAS TELLING YOU, TALKING ABOUT TYRONE SINGLETARY?

3 A RIGHT.

4 Q TELLS YOU, YEAH, I WILL COOPERATE, I WILL HELP.

5 A RIGHT.

6 Q OKAY.

7 A ON THIS TAPE.

8 Q OKAY. AND THIS IS A THREE HOUR VIDEOTAPE THAT YOU
9 HAD PRODUCED OR THAT THE STATE HAS PRODUCED SHOWING THE
10 VAST MAJORITY OF THIS SITUATION; CORRECT?

11 A YEAH, THE VAST MAJORITY. IT'S OVER MAYBE --
12 APPROXIMATELY 50 PERCENT OF IT OR MORE THAN 50 PERCENT OF
13 IT, YES.

14 Q DO YOU -- AFTER THESE INCIDENTS COME TO PASS OR THE
15 INCIDENT IS OVER, ARE YOU REQUESTED TO PREPARE A
16 STATEMENT?

17 A YES.

18 Q DO YOU DO THAT AS PART OF THE HEAD OF THE NEGOTIATION
19 OR THE SITCON TEAM?

20 A YES, I DO.

21 Q ALL RIGHT. DO YOU PREPARE A WRITTEN STATEMENT FOR
22 YOURSELF AS WELL AS ONE FOR THE SITCON TEAM?

23 A USUALLY WE BRING EVERYBODY WHO WAS A -- INVOLVED IN
24 IT FROM THE SITCON TEAM IN AND WE REVIEW WHATEVER WE CAN
25 GET OUR HANDS ON, AUDIO TAPES OR ANYTHING, BUT WE DIDN'T

1 HAVE ACCESS TO THIS AT THAT TIME.

2 AND WE WRITE A REPORT FROM ALL OUR RECOLLECTIONS AND
3 NOTES AND OR ANYTHING ELSE THAT WE MIGHT REMEMBER AS A
4 REPORT FOR THE TEAM. BUT I ALSO DID ONE FOR SLED.

5 Q OKAY.

6 A THIS TIME I DID.

7 Q ALL RIGHT. NOW, I'M SPECIFICALLY REFERRING TO YOUR
8 SITCON REPORT. DO YOU HAVE A COPY OF THAT?

9 A THIS ONE?

10 Q YES, SIR. OKAY. IT DOESN'T HAVE A DATE ON IT. DO
11 YOU KNOW WHEN THAT WAS PREPARED -- OR AT LEAST I DIDN'T
12 SEE A DATE.

13 A NO, I DON'T. I -- WE -- WE USUALLY MEET THE NEXT DAY
14 AND FOR SEVERAL DAYS, IF IT TAKES THAT, TO GET ALL OF THIS
15 TOGETHER AND WRITE THIS. SO I -- I DON'T KNOW THE EXACT
16 DATE WHEN WE FINISHED.

17 Q ALL RIGHT. THE INCIDENT OVERVIEW IN THIS CASE WHICH
18 WOULD HAVE BEEN THE FIRST PART -- I GUESS THE FIRST PART
19 LISTS THE INMATES THAT WERE INVOLVED OR THE ONES THAT YOU
20 BELIEVE INVOLVED IN THE CASE, THE SITCON TEAM MEMBERS THAT
21 ARE PRESENT. YOU LIST ALL OF THOSE TO BE THE FIRST TWO
22 PAGES; CORRECT?

23 A YEAH, ON THE -- THE OVERVIEW SECTION?

24 Q NO, SIR. I'M TALKING ABOUT THE FIRST TWO PAGES. IT
25 HAS---

1 A OH, YEAH. I CAN GET -- JUST A SHEET OF FACTS AND...

2 Q AND THEN IT LISTS THE TEAM MEMBERS THAT WERE ACTIVE.

3 A YES.

4 Q OKAY. THE FIRST PARAGRAPH IN THAT INCIDENT OVERVIEW
5 WHICH IS ON THE THIRD PAGE--

6 A YES.

7 Q INDICATES THAT THERE WERE TWO HOSTAGES AND IT LED --
8 AND AT LEAST 16 HOSTAGE-TAKERS--

9 A YES.

10 Q -- WERE ENGAGED IN ACTIVITIES, DIRECT NEGOTIATIONS.
11 HOW MANY PEOPLE WERE ARRESTED IN THIS CASE?

12 MR. FATA: YOUR HONOR, I OBJECT TO THE -- TO
13 THAT RELEVANCY.

14 THE COURT: WHAT WOULD THE RELEVANCE OF THAT BE,
15 MR. DOBY, AS TO THESE?

16 MR. DOBY: YOUR HONOR, THEY HAVE SINGLED OUT MY
17 CLIENT FOR AN ARREST IN THIS CASE AND I'M PROBING AS
18 TO WHETHER THERE WERE OTHER PEOPLE INVOLVED, WHETHER
19 MY CLIENT WAS INVOLVED IN THIS CASE, HOW THEY -- HOW
20 THEY SINGLED OUT ONE INDIVIDUAL.

21 THE COURT: ALL RIGHT. I WILL ALLOW YOU TO GO
22 DOWN THIS ROAD A LITTLE BIT. OF COURSE, I WON'T
23 COMMENT ON IT IN THE PRESENCE OF THE JURY. YOU CAN
24 GO AHEAD.

25 BY MR. DOBY:

1 Q NOW, THERE WERE 16 HOSTAGE-TAKERS WHO WERE INVOLVED
2 IN THIS CASE; CORRECT?

3 A WE, WE LISTED THAT AS A TEAM, YES.

4 Q OKAY. NOW, IN THIS REPORT YOU GATHER INFORMATION
5 FROM NOT ONLY FROM I GUESS YOURSELF, BUT THE OTHER
6 NEGOTIATORS THAT WERE INVOLVED AS WELL, CORRECT?

7 A YES, THAT'S RIGHT.

8 Q NOW, THE LOG THAT YOU KEEP AS PART OF THIS, A
9 SUMMARIZED LOG WAS ALSO PREPARED BY YOUR TEAM; CORRECT?

10 A RIGHT.

11 Q I WANT TO GO DOWN AND BEGIN WITH -- THE FIRST LOG
12 SHOWS 5 PM THAT THE INCIDENT BEGIN; CORRECT?

13 A YEAH. THERE -- WE HAVE A DISCLAIMER AT THE TOP ON
14 THE FIRST PAGE, SAYS, ALL TIMES ARE APPROXIMATE.

15 Q ALL RIGHT. SO IT COULD BE A LITTLE DIFFERENT---

16 A GOT YA. AS LONG AS YOU UNDERSTOOD, THAT HELPS ME
17 OUT.

18 Q BUT WE ARE APPROXIMATING THE TIME?

19 A RIGHT. RIGHT.

20 Q OKAY. AT 5:24 MRS. BLANDSHAW INDICATES THAT
21 HOSTAGE-TAKER JACOB LYNCH HANDCUFFED A HOSTAGE, OFFICER
22 COTTON; CORRECT?

23 A RIGHT.

24 Q DEMANDS MADE BY JACOB LYNCH?

25 A RIGHT.

1 Q A LIST OF WRITTEN DEMANDS PRESENTED BY HOSTAGE-TAKER
2 JACOB LYNCH. AND THIS IS AT 6 PM, A HANDCUFF KEY, LOCAL
3 NEWS, NO MORE GAS IN THE DORM, FIRST AID KIT. CORRECT?

4 A RIGHT. CORRECT.

5 Q 6:01 HOSTAGE -- SITCON TEAM MEMBER CYNTHIA YORK
6 ASSUMES THE ROLE OF NEGOTIATOR.

7 A CORRECT.

8 Q CORRECT?

9 THE COURT: HE ACKNOWLEDGED THAT.

10 MR. DOBY: I'M SORRY.

11 THE WITNESS: YES. YES, THAT'S CORRECT.

12 BY MR. DOBY:

13 Q OKAY. AT 6:30 HOSTAGE-TAKER JACOB LYNCH WAS GIVEN A
14 HANDCUFF KEY BY YOURSELF TO RELEASE OFFICER COTTON;
15 CORRECT?

16 A RIGHT.

17 Q HE REFUSED TO RELEASE THE OFFICER AT THAT TIME AND
18 THEN WITHDREW FROM SIGHT FROM YOU, I GUESS. CORRECT?

19 A RIGHT. CORRECT.

20 Q ALL RIGHT. THE FIRST MENTION IN YOUR REPORT OF
21 TYRONE SINGLETARY IS AT 7:08 WHEN NEGOTIATOR YORK CALLED
22 OUT TO TYRONE SINGLETARY AT THE DOOR AND STATED, YOU ARE
23 GOING TO LET EVERYBODY OUT, YOU HAVE THE KEY. CORRECT?

24 A RIGHT.

25 Q WOULD THAT HAVE BEEN IN THE FIRST MENTION OF TYRONE

1 SINGLETARY?

2 A YEAH, ON THIS REPORT IT IS.

3 Q OKAY. AND AT 7:10 THERE IS A NOTATION THAT
4 HOSTAGE-TAKER JOSEPH CHESTNUT SAID, I'M GOING TO DO DOZIER
5 MYSELF?

6 A RIGHT. THAT'S CORRECT.

7 Q DID -- WERE YOU PRESENT WHEN THAT THREAT WAS MADE?

8 A YES, I WAS.

9 Q ALL RIGHT. DID -- WOULD THAT HAVE BEEN SOMETHING --
10 DO YOU KEEP NOTES AS THIS SITUATION IS UNFOLDING? IS
11 THERE SOME LOG THAT IS KEPT BY YOURSELF OR SOME OTHER TEAM
12 MEMBER?

13 A WE DIDN'T DO IT WITH THIS ONE.

14 Q OKAY. IS THAT -- IS THAT SOMETHING THAT WOULD
15 NORMALLY HAVE BEEN DONE?

16 A YES, IT IS. AND IT'S NORMALLY DONE WHEN WE DO IT BY
17 TELEPHONE WHERE WE HAVE A ROOM WHERE WE HAVE A RECORDER,
18 AND WE DIDN'T HAVE A RECORDER UP CLOSE TO US. WE JUST HAD
19 THE COACH AND THE NEGOTIATOR, SO WE DIDN'T HAVE ANYBODY
20 RECORDING IN THERE.

21 Q ALL RIGHT.

22 A OTHER THAN THIS, THE...

23 Q AND AT 9:04 IS THE NEXT NOTATION INVOLVING TYRONE
24 SINGLETARY AT ALL, AND IT SAYS THAT TYRONE SINGLETARY TOLD
25 A SITCON TEAM MEMBER, ANOTHER INMATE IS GOING TO KILL

1 OFFICER COTTON IF DEMANDS ARE NOT MET. AGAIN, TELLING YOU
2 THAT OFFICER COTTON IS IN TROUBLE, YOU NEED TO DO
3 SOMETHING. CORRECT?

4 A I DON'T INTERPRET IT THAT WAY.

5 Q WELL, DID I -- DID I READ IT CORRECTLY?

6 A YES, YOU READ IT CORRECTLY.

7 Q OKAY.

8 A BUT YOU ASKED ME IF YOU WERE CORRECT IN UNDERSTANDING
9 THAT, AND I DON'T UNDERSTAND THAT THAT...

10 Q IS THAT SHOWN ON THIS VIDEOTAPE?

11 A NO, IT ISN'T. NOT THAT I RECALL IT ISN'T, NO.

12 Q OKAY. THIS VIDEOTAPE WAS RUNNING DURING THE --
13 DURING AT LEAST THE MAJORITY OF THE SITUATION THAT
14 OCCURRED THAT EVENING; CORRECT?

15 A YEAH. NOT EVERY MINUTE, BUT YEAH.

16 Q DO YOU KNOW WHAT TIME THIS CAMERA BEGAN VIDEOTAPING
17 THE INCIDENT?

18 A NO, I DON'T. I COULDN'T TELL YOU WITH -- AND...

19 Q ALL RIGHT. WOULD YOU---

20 A I DO KNOW THAT WHEN I FIRST GOT OUT THERE IT WAS NOT
21 ON. IT WASN'T THAT IT WASN'T ON. THE CAMERA WASN'T
22 THERE.

23 Q OKAY.

24 A BECAUSE I KNOW THE MAN THAT WAS FILMING.

25 Q ALL RIGHT. AND THEN AT 9:30 THERE'S ANOTHER

1 INDICATION THAT TYRONE SINGLETARY STATED HE WILL TRY TO
2 BRING OFFICER COTTON TO THE DOOR; CORRECT?

3 A YES.

4 Q ALL RIGHT. IS THAT---

5 A CAN WE GO BACK TO THE 9:04?

6 Q WELL, LET ME FINISH MY 9:30.

7 A ALL RIGHT..

8 Q IS THAT -- IS THAT THE INCIDENT THAT YOU WERE
9 DESCRIBED EARLIER WHERE TYRONE SINGLETARY CAME AND YOU
10 TALKED TO HIM AND HE INDICATED THAT HE WOULD TRY TO GET
11 OFFICER COTTON BACK TO THE DOOR?

12 A I'M NOT SURE.

13 Q ALL RIGHT. YOU DON'T KNOW WHETHER -- COULD HAVE BEEN
14 A DIFFERENT OCCASION?

15 A IT COULD HAVE BEEN, YES, IT COULD HAVE BEEN. I COULD
16 NOT TELL YOU WITH ANY DEGREE OF CERTAINTY ON THAT.

17 Q OKAY. IN THIS LOG THAT WAS CREATED BY THE SITCON
18 TEAM, IS TYRONE SINGLETARY MENTIONED ANYWHERE ELSE?

19 A NOT THAT I CAN SEE AT THIS MOMENT. AND---

20 Q WHO---

21 A -- I'M TRYING TO SPEED READ THIS, IF I MAY, BUT I --
22 NOT THAT I SEE AT THIS MOMENT.

23 Q OKAY. I'M NOT TRYING TO RUSH YOU.

24 A NO. NO, I UNDERSTAND.

25 Q YOU LOOK AT IT.

1 A WHAT WAS YOUR QUESTION, SIR?

2 Q ON THIS LOG THAT WAS CREATED BY THE SITCON TEAM, IS
3 TYRONE SINGLETARY MENTIONED ANYWHERE ELSE?

4 A NOT THAT I CAN SEE AT THIS MOMENT.

5 Q ALL RIGHT. AND THIS WAS A LOG THAT WAS CREATED -- I
6 THINK YOU SAID YOU TRIED TO DO IT THE NEXT DAY?

7 A YES, WE DID.

8 Q WHILE YOUR MEMORY OBVIOUSLY WOULD BE VERY FRESH?

9 A YES.

10 Q AND IT'S IMPORTANT THAT ALL OF THE THINGS THAT
11 HAPPENED BE RECORDED IN THIS LOG NOT ONLY FOR PURPOSES OF
12 WHAT WENT ON, BUT FOR PROSECUTION OF ANY INDIVIDUALS
13 RESPONSIBLE FOR THIS; CORRECT?

14 A YES. THAT WOULD BE ONE OF THE REASONS FOR IT.

15 Q ALL RIGHT. NOW, YOU HAD INDICATED THAT THERE WERE
16 THREATS THAT WERE MADE TO OFFICER COTTON BY SOMEONE HAVING
17 A SHANK UP TO HIS NECK, I BELIEVE INTO HIS SHOULDER, AND
18 OTHER THREATS MADE AGAINST HIM?

19 A YES.

20 Q THOSE WERE ALL DONE BY INMATE LYNCH; CORRECT?

21 A WHEN I WAS THERE, YES.

22 Q OKAY. AND WHEN YOU ARRIVED AT THE SCENE, YOU
23 ESSENTIALLY WERE THERE UNTIL THE BALANCE OF IT--

24 A YES.

25 Q -- WAS FINISHED?

1 A YES.

2 Q AND YOU ARRIVED APPROXIMATELY WHAT TIME?

3 A SIX MINUTES AFTER SIX.

4 Q THANK YOU. I BELIEVE THAT'S ALL---

5 A DID YOU WANT TO DISCUSS THAT OTHER TIME ON HERE,
6 THAT -- YOU'RE INTERPRETATION VERSUS MINE?

7 Q NO, SIR.

8 MR. DOBY: THANK YOU, YOUR HONOR.

9 MR. FATA: HE HAS THE RIGHT--

10 THE COURT: MR. FATA WILL GET ANOTHER CHANCE TO
11 COME BACK AND ASK YOU ABOUT THAT, MR. FERRARO.

12 THE WITNESS: OKAY. ALL RIGHT.

13 THE COURT: MR. SCOTT, YOU CAN CROSS-EXAMINE.

14 MR. SCOTT: YOUR HONOR, THANK YOU.

15 CROSS-EXAMINATION

16 BY MR. SCOTT:

17 Q MAJOR FERRARO, YOU HAD -- YOU HAVE ALREADY BEEN ASKED
18 BY MR. DOBY MANY OF THE QUESTIONS THAT I WILL BE ASKING,
19 WANTED TO ASK YOU, BUT THERE ARE A FEW OTHERS I'D LIKE TO
20 POSE TO YOU.

21 YOU HAVE GONE OVER WITH MR. DOBY YOUR SITCON REPORT.
22 YOU ALSO PREPARED A VOLUNTARY STATEMENT AFTER THIS
23 INCIDENT AS WELL; DID YOU NOT?

24 A YES, I -- YES, IT LOOKS LIKE MINE.

25 Q HAVE YOU REVIEWED THAT STATEMENT PRIOR TO COMING INTO

1 COURT TODAY?

2 A YES, I DID.

3 Q OKAY. WOULD YOU -- DID YOU NEED TO REVIEW THIS
4 STATEMENT AGAIN TO REFRESH YOUR MEMORY ABOUT WHAT'S IN IT?

5 A NO, SIR, NOT UNLESS THERE'S A PARTICULAR PART YOU
6 WANT TO DISCUSS WITH ME.

7 Q ALL RIGHT. YOU EARLIER TESTIFIED THAT -- YOU SAID
8 THEY, AND I THINK YOU USED THE TERM, THEY -- SAID THEY
9 WERE GOING TO START CUTTING OFF DOZIER'S FINGERS EVERY 15
10 MINUTES. AND I THINK YOU INDICATED IN RESPONSE TO
11 MR. DOBY THAT YOU IDENTIFIED A PARTICULAR INMATE AS SAYING
12 THAT.

13 BUT THAT WAS NOT MR. LYNCH WHO SAID HE WAS GOING
14 CUTOFF OFFICER DOZIER'S FINGERS. IN FACT, HE NEVER TOLD
15 YOU ANYTHING LIKE THAT.

16 A COULD YOU REPEAT THAT BECAUSE I'M NOT...

17 Q LET ME SHOW YOU---

18 A I DON'T RECALL MR. DOBY ASKING ME THAT, BUT HE MAY
19 HAVE JUST DONE THAT.

20 Q ALL RIGHT. WELL, LET ME -- OR MAYBE HE WAS ASKING
21 YOU ABOUT A FELLOW WHO SAID HE WAS GOING TO DO DOZIER.
22 MAYBE THAT'S---

23 A YEAH, THAT -- HE DID ASK THAT.

24 Q MY MISTAKE.

25 A YEAH.

1 Q AND THE FELLOW HE IDENTIFIED OR YOU IDENTIFIED AS
2 SAYING THAT WAS NOT MR. LYNCH, IT WAS SOMEBODY NAMED
3 CHESTNUT WAS IT?

4 A YES. I CAN LOOK BACK HERE IF -- YES, IT WAS
5 MR. CHESTNUT.

6 Q ALL RIGHT. AND LET ME SHOW YOU YOUR STATEMENT AGAIN,
7 SIR. THIS IS THE SECTION RIGHT HERE THAT I WAS REFERRING
8 TO..

9 A THAT'S IT.

10 Q ON PAGE TWO. YOU INDICATED THAT AT 7:17 INMATES --
11 AN INMATE YOU WERE UNABLE TO IDENTIFY APPEARED AT THE
12 BARRICADE, WHICH OF COURSE WE HAVE IDENTIFIED AS BEING THE
13 DOOR -- AND STATED THAT SOMEONE WAS GOING TO CUT OFF
14 DOZIER'S FINGERS EVERY 15 MINUTES.

15 BUT THAT PERSON WHO CAME TO THAT DOOR, THAT WASN'T
16 LYNCH WHO SAID THAT TO YOU?

17 A I DIDN'T RECALL AT THE TIME I WAS WRITING THIS
18 STATEMENT. IT'S -- IT'S -- I REALLY DON'T KNOW AT THIS
19 TIME.

20 Q YES.

21 A NOW, IT SEEMS TO ME THERE IS ANOTHER STATEMENT IN
22 HERE ABOUT IT, BUT I MIGHT BE MISTAKEN. I DON'T SEE IT
23 RIGHT NOW. NO, MAYBE NOT. AND MAYBE THIS STATEMENT HAS A
24 STANDARD WAY---

25 Q YES. AND NOWHERE IN THIS STATEMENT DO YOU IDENTIFY

1 MR. LYNCH AS BEING THE ONE WHO SAYS, I'M GOING TO DO
2 DOZIER, AND NOWHERE IN ANY OF THESE STATEMENTS DO YOU
3 IDENTIFY MR. LYNCH AS BEING THE ONE WHO SAYS ANYTHING
4 ABOUT THE CUTTING OFF OF ONE OF MR. DOZIER'S FINGERS EVERY
5 15 MINUTES.

6 A OKAY. COUNSELOR, IF YOU'RE ASKING ME ON THE WRITTEN
7 STATEMENT--

8 Q YES, SIR.

9 A -- DID I SEE--

10 Q YES, SIR.

11 A DO I SEE IT ON ANYTHING--

12 Q YES, SIR.

13 A -- TO -- NO, I DON'T SEE THAT ON HERE.

14 Q AND THESE OF COURSE ARE -- YOU DID PREPARE THIS?

15 A YES, I DID.

16 Q WITH THE INTENTION OF INCLUDING, I WOULD ASSUME,
17 INFORMATION WHICH YOU CONSIDER TO BE IMPORTANT--

18 A RIGHT.

19 Q -- INFORMATION. NOW, YOU INDICATED EARLIER THAT
20 THERE WAS A TIME WHEN YOU WERE SPEAKING WITH MR.

21 SINGLETARY AND HE WAS NEGOTIATING WITH YOU ABOUT A PHONE?

22 A ABOUT...

23 Q A PHONE.

24 A YES, SIR.

25 Q NOW, APPROXIMATELY HOW LONG, IF YOU RECALL, THAT

1 NEGOTIATION SESSION LAST?

2 A HOW LONG IT LASTED WITH INMATE SINGLETARY?

3 Q YES, SIR.

4 A THE ONLY THING I CAN RECALL AT THIS MOMENT IS WHAT I
5 SEE ON THE VIDEOTAPE, AND IT -- I WOULD ASSUME THAT IT WAS
6 SEVERAL MINUTES AT BEST.

7 Q NOW, WE HAVE ALREADY ESTABLISHED---

8 A WELL, YEAH, FIVE. YOU KNOW, WELL, I'D SAY IT WAS --
9 ON THE PHONE ISSUE IT WAS MAYBE SEVERAL MINUTES.

10 Q OKAY. WE'VE ALREADY ESTABLISHED THROUGH
11 CROSS-EXAMINATION BY MR. DOBY THAT THERE WERE -- YOU
12 INITIALLY HAD LISTED 16 OTHER POSSIBLE STATEMENTS?

13 A UH-HUH, SURE DID.

14 Q AND---

15 A AND THEY -- THEY STIFLED THE PROCESS OF GETTING
16 OFFICER DOZIER AND OFFICER COTTON OUT, AND THAT TO ME
17 WOULD BE A HOSTAGE-TAKING.

18 Q THESE OTHER INMATES DID?

19 A YES.

20 Q YES, SIR. AND YOU ALSO TESTIFIED ON DIRECT
21 EXAMINATION BY MR. FATA, IF I'M NOT MISTAKEN, THAT MR.
22 LYNCH GAVE A SHANK -- I BELIEVE YOU DESCRIBED IT AS
23 BEING -- TO ONE OF THE OFFICERS AT THE TIME HE WAS
24 SURRENDERED. DO YOU RECALL TESTIFYING TO THAT?

25 A YES, I DO.

1 Q THAT DOESN'T APPEAR IN ANY OF THIS VIDEO ANYWHERE;
2 DOES IT?

3 A COUNSELOR, QUITE FRANKLY, IT -- YOU DON'T SEE IT. IT
4 HAPPENS THERE. I REMEMBER IT QUITE VIVIDLY. BUT THE BACK
5 OF THAT MAJOR WITH THE RED UNIFORM ON, IT -- THAT
6 TRANSACTION HAPPENS RIGHT THERE. I WAS STANDING RIGHT
7 NEXT TO IT WHEN IT HAPPENED, AND IT'S NOT ON VIDEO.

8 Q WELL, THAT WAS MY QUESTION. IT DOESN'T APPEAR IN THE
9 VIDEO?

10 A NO. NO, I -- NO. WELL, THE TRANSACTION IS HAPPENING
11 WHILE THE VIDEO IS RUNNING. IT'S JUST THAT THE OFFICER IS
12 BLOCKING THAT TRANSACTION FROM OCCURRING.

13 Q BUT THAT DOESN'T---

14 A FROM BEING SEEN. NO, YOU DON'T SEE THE TRANSACTION
15 ITSELF.

16 Q AND YOU TESTIFIED DURING THE COURSE OF THE VIDEO THAT
17 WE WATCHED ABOUT WHAT YOU OBSERVED INSIDE THE UNIT, THE
18 DESTRUCTION, THE SHANKS, THE THINGS OF THAT SORT?

19 A YES.

20 Q YOU HAVE NO KNOWLEDGE THAT ANY OF THESE SHANKS THAT
21 YOU SAW AND IDENTIFIED THAT IN THIS VIDEO LYING ON THE
22 FLOOR BELONGED TO JACOB LYNCH, THE MAN OVER HERE?

23 A NO. NO, I DON'T.

24 Q AND YOU DON'T HAVE ANY INFORMATION WHICH YOU CAN
25 ATTEST TO BY YOUR -- OF YOUR OWN KNOWLEDGE THAT JACOB

1 LYNCH WENT TO BUSTING OUT WINDOWS AND TURNING OVER THE
2 FILE CABINETS AND THINGS OF THAT SORT?

3 A YOU'RE ABSOLUTELY CORRECT. I CAN'T DO THAT.

4 Q AND YOU INDICATED AT ONE POINT THAT -- WELL, ACTUALLY
5 DURING THE TESTIMONY YOU INDICATED YOU WERE PRIMARILY
6 TALKING WITH MR. LYNCH AND MR. SINGLETARY. IS THAT
7 CORRECT?

8 A REPEAT THAT, PLEASE.

9 Q WERE THOSE THE PEOPLE YOU WERE PRIMARILY TALKING TO,
10 MR. LYNCH AND MR. SINGLETARY?

11 A YEAH, TO THE BEST OF MY RECOLLECTION THE PRIMARY
12 ONES. THERE WERE OTHERS THAT CAME UP TO THE WINDOW AND
13 WAS A FEW INDICATIONS OF THAT.

14 Q AND HOW OFTEN DURING THIS -- AND I REALIZE YOU WERE
15 THERE FROM SIX, APPROXIMATELY 6:00 UNTIL 10:00 IN THE
16 EVENING. HOW OFTEN DURING THAT ROUGHLY FOUR HOUR PERIOD
17 DID OTHER INMATES COME UP TO THE WINDOW MAKING DEMANDS?

18 WE ALREADY KNOW CHESTNUT CAME UP TO THE WINDOW AND
19 SAID HE WAS GOING TO DO DOZIER. WE ALREADY KNOW AN
20 UNIDENTIFIED INMATE CAME UP TO THE WINDOW AND THREATENED
21 TO CUT OFF SOMEBODY'S FINGER, DOZIER'S FINGER.

22 HOW OFTEN DURING THAT FOUR HOUR PERIOD WERE OTHERS
23 COMING UP TO THE WINDOW?

24 A I THINK -- WELL, TO -- IN AND OUT THROUGHOUT. AND
25 EITHER I WOULD ASK THEM TO GO BACK AND TALK TO SOMEONE AND

1 THEY'D SAY THEY COULDN'T OR THEY WOULDN'T OR I'M NOT IN
2 CHARGE OF THIS, I'M NOT GOING TO DO THAT. AND I'D ASK
3 THEM FOR COOPERATION. I COULDN'T GET IT.

4 Q ALL RIGHT. DURING THE VIDEO, THE SECTION AT THE END
5 WHERE YOU ARE DESCRIBING WHAT MR. LYNCH IS DOING BY TAKING
6 THE KEYS OFF OF HIS NECK AND GIVING THEM TO YOU.

7 A YES.

8 Q BOTH OF HIS HANDS WERE VISIBLE AT THAT POINT; ARE
9 THEY NOT?

10 A YOU KNOW, I JUST SAW THAT, BUT I COULDN'T -- NO, I
11 WOULD HAVE TO -- I DON'T KNOW. I'D HAVE TO SEE THAT
12 AGAIN. I'M SORRY. I DON'T REMEMBER THAT PART.

13 Q NOW---

14 A IT DID -- YEAH. I WOULD HAVE TO SEE IT. NO, I WOULD
15 GO ON PURE SPECULATION RIGHT HERE. JUST FOR SOME REASON I
16 DON'T REMEMBER THAT.

17 Q ALL RIGHT. NOW, YOU IN YOUR STATEMENT -- IF YOU
18 WOULD REFER AGAIN WITH ME MAJOR FERRARO--

19 A YES, SIR.

20 Q -- TO PAGE -- PAGE THREE OF YOUR STATEMENT. AND THAT
21 WOULD BE THE SECOND FULL PARAGRAPH--

22 A OKAY.

23 Q -- THAT BEGINS, ON SEVERAL OCCASIONS.

24 A YES, SIR. I'M WITH YOU.

25 Q YOU REFER THERE TO THEIR CAUSE, REFERRING TO MR.

1 SINGLETARY AND MR. LYNCH. YOU'RE REFERRING TO THEM AS A
2 COLLECTIVE THERE. YOU SEE WHAT I'M REFER TO?

3 A YES, SIR. I SURE DO. I BELIEVE THAT AS THE
4 NON-PARTICIPANT -- PARTICIPATING INMATES EXITED, YES.

5 Q OKAY. AND THEN WHEN YOU SAY, THEIR CAUSE, YOU'RE
6 INCLUDING MR. SINGLETARY IN THIS?

7 A YES, I AM.

8 Q AND WHY WOULD YOU INCLUDE HIM IN THIS?

9 A WELL, WHEN I FIRST ARRIVED AT THE BARRICADE, HE WAS
10 AS DEMANDING AS MR. LYNCH, HE WAS SUPPORTIVE OF MR. LYNCH.
11 AND THEN AS WE GET TO IN TIME APPROXIMATELY WHEN THIS
12 STATEMENT -- I'M MAKING THIS STATEMENT, JUST DOESN'T SEEM
13 TO HAVE THE DEDICATION TO CONTINUING THIS, AND IT SEEMED
14 TO CHANGE, AND -- AND THEY -- THEY DO NOT SEEM TO BE
15 WORKING TOGETHER ON IT IN MY OPINION.

16 Q ALL RIGHT. SO INITIALLY WHEN YOU ARRIVED YOU'RE
17 SAYING THAT EVEN JUST AS DEMANDING, MAKING JUST AS MANY
18 DEMANDS AND THERE IN THE END CHANGED HIS MIND?

19 A YES. AND IN THE BEGINNING ALSO SUPPORTIVE OF THE
20 HOSTAGE SITUATION, WAS NOT CONTRIBUTING TO ANY RESOLUTION,
21 ANY PROCESS OF THE RESOLUTION.

22 Q YOU DIDN'T SEE MR. LYNCH THREATENING MR. SINGLETARY
23 IN ANY WAY TO MAKE HIM DO ANYTHING?

24 A NO, SIR.

25 Q DID YOU?

1 A NO, I DIDN'T.

2 Q AND YOU SAID, OF COURSE, NEAR THE END MR.

3 SINGLETARY -- WELL ACTUALLY, THIS IS GOING TO SOUND LIKE A

4 STUPID QUESTION, BUT NEAR THE END MR. LYNCH FINALLY

5 CONCEDED AS WELL AND ALLOWED MR. COTTON TO COME OUT?

6 A YES.

7 Q AND AT SOME POINT DURING THIS DISCUSSION THAT APPEARS

8 IN THE VIDEO AT THE DOOR, WASN'T HE COMMUNICATING TO YOU A

9 CONCERN ABOUT A CAMERA BEING HE WAS CONCERNED ABOUT

10 GETTING HURT HIMSELF? IN FACT, HE SPECIFICALLY ASKED YOU

11 WHETHER ANYBODY WAS GOING TO ATTACK HIM OR HARM HIM;

12 DIDN'T HE?

13 A YES.

14 Q AND YOU ASSURED HIM---

15 A WELL, I DON'T KNOW IF THAT'S ON THERE, BUT I DO

16 REMEMBER CONVERSATION -- SAFETY IS USUALLY ONE OF THE

17 THINGS I ALWAYS NEGOTIATE. THAT COMES UP, EVERY ONE I

18 HAVE EVER DONE, AND I WOULDN'T DENY THAT.

19 THAT -- THAT DOES SEEM LIKE -- I DON'T REMEMBER HIM

20 PRECISELY SAYING ON THE TAPE THAT I -- BUT I WOULD SAY,

21 YEAH, SAFETY IS USUALLY ONE OF THE MAJOR CONCERNS.

22 Q IN FACT, HE WAS CONCERNED HIMSELF ABOUT BEING, LACK

23 OF A BETTER TERM, PHYSICALLY ASSAULTED?

24 A YEAH, PROBABLY SO.

25 Q OKAY. WERE YOU AWARE THAT INITIALLY WHEN OFFICER

1 BLANDSHAW ARRIVED THAT ANY NUMBER OF INMATES WERE TRYING
2 TO TALK TO HER AND MAKING DEMANDS OF HER AND THAT SHE
3 SPECIFICALLY ASKED TO SPEAK TO ONE INMATE?

4 A NO, I -- I DON'T. SHE HAD BEEN NEGOTIATING FOR A
5 SIGNIFICANT AMOUNT OF TIME BY THE TIME I GOT THERE, AND
6 I -- I DON'T RECALL.

7 Q OKAY. NOW, SHE ARRIVED BEFORE YOU ARRIVED; RIGHT?

8 A YES, SHE DID.

9 Q AND OF COURSE, AFTER SHE WAS THERE, SHE NEGOTIATED
10 FOR A WHILE, THEN OF COURSE I BELIEVE OFFICER YORK ARRIVED
11 ON THE SCENE?

12 A YES.

13 Q ISN'T THAT CORRECT?

14 A YES.

15 Q THEN OF COURSE YOU ARRIVED?

16 A YES.

17 Q OFFICER BLANDSHAW THEN DIDN'T INFORM YOU THAT
18 INITIALLY WHEN SHE GOT THERE THAT JUST A SLEW OF INMATES
19 WERE MAKING DEMANDS OF HER AND SHE ASKED -- SHE
20 SPECIFICALLY SAID, I CAN ONLY TALK TO ONE? SHE DIDN'T
21 INDICATE THAT TO YOU?

22 A NO, I -- YOU KNOW, I -- I DON'T REMEMBER THAT
23 STATEMENT BEING MADE.

24 Q SO YOU'RE -- YOU'RE SURPRISED TO LEARN THEN INITIALLY
25 SEVERAL INMATES WERE MAKING DEMANDS, AND SHE INDICATED TO

1 THEM SPECIFICALLY THAT SHE COULD ONLY NEGOTIATE WITH ONE?

2 A I WOULDN'T BE -- YOU KNOW...

3 Q BUT SHE DIDN'T -- YOU WERE NOT INFORMED OF THAT?

4 A NO. NO, I WASN'T, NO. I COULDN'T SPEAK TO THAT.

5 Q ALL RIGHT. MR. LYNCH APPEARED AT THE DOOR SEVERAL

6 TIMES UNHANDCUFFED TO ANYBODY. ISN'T THAT CORRECT?

7 A TO THE -- WELL, I KNOW AT LEAST ONE OCCASION IT SEEMS

8 TO ME I HAVE SEEN -- I SAW HIM COME IN UNHANDCUFFED.

9 Q AND THERE WAS AT LEAST ONE OCCASION WHEN OFFICER
10 COTTON APPEARED AT THE DOOR NOT HANDCUFFED TO MR. LYNCH
11 BUT HANDCUFFED TO SOMEBODY ELSE?

12 A I DON'T REMEMBER THAT. I DON'T REMEMBER THAT
13 OCCURRING.

14 Q OKAY. AND YOU WERE THERE FROM SIX UNTIL THE END OF
15 THE INCIDENT?

16 A YES, I WAS, AND I DON'T REMEMBER THAT PART.

17 Q YOU INDICATED YOU DON'T RECALL WHEN THE VIDEOING OF
18 THIS INCIDENT GOT STARTED. BUT YOU SAID YOU KNOW IT
19 WASN'T ROLLING WHEN YOU GOT THERE, CORRECT?

20 A I THINK THAT'S RIGHT. I THINK WHEN I FIRST WALKED UP
21 I DID NOT SEE THE CAMERA. AND AS TO WHEN IT DID START,
22 NO, I CAN'T SPEAK TO WHEN EXACTLY IT STARTED. IT JUST --
23 THERE IS A TIME I TURNED AROUND AND I SAW CAPTAIN SNOW AND
24 THE CAMERA AND -- BUT THAT TIME I DID NOT MAKE A MENTAL
25 NOTE OR I DON'T THINK WE HAVE ANY RECOLLECTION IN THAT.

1 Q AND IN FACT, THE VIDEO ITSELF -- IF YOU LOOK AT IT,
2 IT HAS THE WRONG DATE ON IT; DOESN'T IT?

3 A YES, IT DOES.

4 Q DOESN'T HAVE OCTOBER -- WELL, IT DOESN'T HAVE -- I
5 SHOULD REPHRASE. IT DOESN'T HAVE OCTOBER 29TH, 2003 ON
6 IT?

7 A NO.

8 Q IT HAS THE DATE OF MAY SOMETHING?

9 A YEAH. YEAH, SURE DOES. BUT I DON'T THINK HE TOOK
10 THE TIME TO PROGRAM THE TIME INTO IT. HE JUST STARTED
11 RECORDING THE BEST HE COULD.

12 Q AND YOU DIDN'T SEE AT ANY TIME DURING ANY OF THIS
13 JACOB LYNCH DO ANYTHING TO OFFICER DOZIER; IS THAT
14 CORRECT?

15 A NO, I SURE DIDN'T.

16 Q AND YOU DIDN'T SEE JACOB LYNCH LOCK OFFICER DOZIER
17 INTO A CELL?

18 A NO. NO, I DIDN'T WITNESS ANY...

19 Q AND I THINK YOU ALREADY INDICATED THAT YOU DIDN'T SEE
20 JACOB LYNCH GOING THROUGH THIS -- THIS PRISON DESTROYING
21 THINGS?

22 A NO, I DID---

23 Q OR ENCOURAGING OTHERS TO DESTROY THINGS.

24 A JUST THE -- THE THINGS I SAID, I, YOU KNOW, WILL
25 STAND BY.

1 Q SO THE ANSWER TO THAT QUESTION WOULD BE, NO, YOU
2 DIDN'T SEE HIM OR HEAR HIM GOING THROUGH THE PRISON
3 ENCOURAGING OTHER PEOPLE TO DESTROY STUFF?

4 A EXACTLY.

5 MR. SCOTT: YOUR HONOR, IF I COULD HAVE THE
6 INDULGENCE FOR A MOMENT, PLEASE SIR.

7 THE COURT: ALL RIGHT, SIR.

8 (PAUSE WHILE MR. SCOTT WAS CONFERRING WITH
9 CLIENT.)

10 MR. SCOTT: THANK YOU, YOUR HONOR. NO FURTHER
11 QUESTIONS.

12 THE COURT: THANK YOU, YOUR HONOR. MR. FATA,
13 REDIRECT.

14 MR. FATA: THANK YOU, YOUR HONOR.

15 REDIRECT EXAMINATION

16 BY MR. FATA:

17 Q MAJOR, THE SITCON TEAM REPORT THAT MR. DOBY REFERRED
18 TO IS A -- IS -- AND I WILL REFER YOU BACK TO THAT. YOU
19 HAVE A COPY UP THERE?

20 A YES, I DO, RIGHT HERE IN FRONT OF ME.

21 Q ENTRY IS MADE AT VARIOUS TIMES. NOW, THAT IS NOT A
22 BLOW-BY-BLOW, PLAY-BY-PLAY ENTRY LOG; IS IT?

23 A NO. AND IN PARTICULAR WITH THIS ONE IT ISN'T BECAUSE
24 WE WEREN'T AUDIO RECORDING, OR LOGGING, OR PASSING NOTES.

25 Q I SEE SOME ENTRIES ARE MADE AT -- AT -- WELL, THERE'S

1 ONE -- THE FIRST ENTRY IS AT 5:00. THE NEXT ENTRY IS
2 5:15. THE NEXT ENTRY IS 5:17. THERE'S NO RHYME OR REASON
3 AS TO HOW THESE -- IT WAS JUST A BRAINSTORMING AFTER---

4 A RIGHT.

5 Q -- IT WAS OVER?

6 A AND I THINK -- COULD BE SOME OF THESE THINGS WERE
7 FROM WHEN WE SWIPED IN AT THE INSTITUTION, CAME IN, MADE
8 PHONECALLS, YOU KNOW, WE JUST GOT THOSE.

9 Q SO THE -- SO EVERYTHING THAT TRANSPIRED IS NOT IN
10 THIS SITCON REPORT?

11 A NO, IT ISN'T. BY ALL MEANS IT ISN'T.

12 Q OKAY. NOW, THAT BRINGS ME TO THE 9:04 P.M. ENTRY
13 THAT SAYS ANOTHER -- THIS IS A STATEMENT ATTRIBUTED TO
14 TYRONE SINGLETARY. SAYS, ANOTHER INMATE IS GOING TO KILL
15 OFFICER COTTON IF DEMANDS ARE NOT MET. AND YOU --
16 MR. DOBY ASKED YOU ABOUT THAT AND YOU TRIED TO GIVE AN
17 ALTERNATE EXPLANATION. WHAT WAS...

18 A YEAH. MY INTERPRETATION THAT THAT'S A THREAT, THAT
19 WE WERE BEING THREATENED WITH, YOU KNOW, THESE DEMANDS
20 AREN'T GOING TO BE MET, YOU KNOW, SOMEBODY IS GOING TO
21 KILL COTTON. AND IT'S SORT OF LIKE TRYING TO PUT SOME
22 LEVERAGE ON US AND GET US TO COMPLY WITH THE DEMANDS,
23 QUICKER MET.

24 Q OKAY. AND DID YOU TAKE THAT AS A SERIOUS THREAT?

25 A OH, YEAH. WE -- AS A MATTER OF FACT, EVERYTHING THAT

1 ANY OF THE INMATES EVER TELL US OR SAY TO, YOU KNOW, WE
2 TAKE VERY SERIOUSLY. WE BELIEVE THEY MEAN IT, YOU KNOW,
3 MEAN WHAT THEY SAY.

4 Q NOW, I THINK YOU SAID THAT INMATE SINGLETARY APPEARS
5 ABOUT FIVE MINUTES ON THE TAPE, ON THE...

6 A YEAH, FIVE TO 10. I -- I DIDN'T -- YES.

7 Q WELL, IN FACT, INMATE JACOB LYNCH DOESN'T APPEAR VERY
8 MUCH LONGER THAN -- MORE THAN THAT; DOES HE?

9 A NO. NO, HE DOESN'T.

10 Q MOST OF THE TAPE IS WHAT?

11 A IT'S MOSTLY THE RELEASE OF THE INMATES COMING OUT AND
12 SECURING, HANDCUFFING THEM, OTHER INMATES COMING UP TO THE
13 DOOR, INSTRUCTING TO PUT THEIR HANDS ON THEIR HEAD,
14 TALKING TO A FEW OTHERS.

15 ONE I RECOGNIZE IS INMATE DEBERRY, YOU KNOW, JOHN
16 JOHNSON, CHESTNUT, US HAVING CONVERSATIONS, ALSO TALKING
17 TO OFFICER COTTON, SO THERE'S...

18 Q OFFICER COTTON APPEARS HOW OFTEN -- MUCH TIME DOES
19 OFFICER COTTON HAVE ON THE TAPE?

20 A FIVE, 10 MINUTES AT THE MOST IN APPEARANCE. AND ALSO
21 THERE'S A LOT OF TIME WHERE WE ARE WALKING BACK AND FORTH,
22 WE ARE TOLD TO MOVE AWAY, AND IT LOOKED DANGEROUS, SO WE
23 DID STEP AWAY TO -- TO STOP THE VIOLENCE AT THAT TIME.

24 Q NOW, IN THE VERY END BOTH COTTON -- EXCUSE ME --
25 EXCUSE ME -- BOTH INMATE LYNCH AND INMATE SINGLETARY GAVE

1 IN; DIDN'T THEY?

2 A IN THE END, YES, THEY DID.

3 Q ONE GAVE IN BEFORE THE OTHER, IN FACT?

4 A YES.

5 Q SORT OF GAVE UP?

6 A YES.

7 Q SINGLETARY.

8 A CAME OUT, YEAH.

9 Q BUT DOES THAT LESSEN HIS -- HIS GUILT IN THE
10 BEGINNING?

11 MR. DOBY: OBJECTION, YOUR HONOR.

12 THE COURT: I SUSTAIN THAT OBJECTION.

13 MR. FATA: OKAY. ONE -- I THINK THAT'S IT.
14 THAT'S ALL I HAVE.

15 THE COURT: THANK YOU. MR. DOBY?

16 RECROSS-EXAMINATION

17 BY MR. DOBY:

18 Q OFFICER, WHY DON'T YOU SHOW US ON THIS VIDEOTAPE
19 WHERE THAT NOT BEFORE STATEMENT WAS MADE BY TYRONE
20 SINGLETARY? CAN YOU DO THAT?

21 A HANG ON ONE SECOND. (PAUSE). THAT ONE IN PARTICULAR
22 I -- I MAY NOT BE ABLE TO. THERE'S SOME INAUDIBLE
23 SECTIONS IN THERE, AND I MAY NOT BE ABLE TO DO THAT FOR
24 YOU.

25 Q WOULD YOU AGREE WITH ME IT'S INAUDIBLE ON THE TAPE?

1 A NO.

2 Q COULD YOU HEAR IT ON THE TAPE?

3 A CAN I HEAR IT ON THE TAPE?

4 Q UH-HUH.

5 A NO. I'M GOING TO STICK TO MY OTHER STATEMENT THAT

6 THERE'S SOME INAUDIBLE SECTIONS IN THERE, AND THAT ONE

7 MIGHT BE ONE OF THEM. THAT ONE -- WILL NOT AGREE WITH YOU

8 THAT IT'S NOT ON THERE.

9 Q OKAY. AT THE END OF THIS SITUATION THE TAPE CLEARLY

10 SHOWS MR. LYNCH COME OUT WITH OFFICER COTTON ABOUT THE

11 SAME TIME; CORRECT?

12 A OFFICER, MR. -- INMATE LYNCH WITH OFFICER COTTON,

13 YEAH. YES.

14 Q IS TYRONE SINGLETARY DEPICTED IN THE END OF THAT

15 TAPE?

16 A JUST -- JUST BEFORE THAT HE IS.

17 Q IS THAT WHERE THERE IS SOME CONVERSATION THAT YOU

18 HAVE WITH HIM ABOUT GOING TO HELP OFFICER COTTON?

19 A I DON'T REMEMBER THAT BECAUSE I -- I REMEMBER LOOKING

20 FOR THAT IN PARTICULAR, AND I DON'T REMEMBER EXACTLY --

21 ARE YOU REFERRING TO WHEN THE SURRENDER -- WHEN THE

22 SURRENDERING OUT IN THE END?

23 Q YES, SIR.

24 A I COULDN'T TELL YOU AT THE END THERE IF I ACTUALLY

25 SAW -- IF IT ACTUALLY DEPICTS INMATE SINGLETARY COMING OUT

1 ON THAT TAPE.

2 Q ALL RIGHT. SO AT THE END OF THIS SITUATION WHERE WAS
3 TYRONE SINGLETARY?

4 A I DON'T KNOW.

5 Q IF HE WOULD HAVE BEEN THERE AT THE DOOR HAVING
6 OFFICER COTTON HELD HOSTAGE, YOUR TAPE CERTAINLY WOULD
7 HAVE DEPICTED IT BECAUSE IT SHOWS INMATE LYNCH DOING THAT;
8 CORRECT?

9 A OR HE COULD HAVE BEEN BAILING OUT EARLY.

10 Q HE COULD HAVE LEFT THE BUILDING EARLIER? WHEN DID HE
11 LEAVE? IS HE SHOWN IN ONE OF THE -- ONE OF THE EARLIER
12 SCENES LEAVING THE BUILDING?

13 A I DON'T -- I DON'T HAVE ANY...

14 Q DON'T KNOW ABOUT THAT? DO YOU KNOW WHEN HE LEFT THE
15 BUILDING?

16 A NO. NO, I DON'T. I DON'T.

17 Q THANK YOU.

18 MR. DOBY: THAT'S ALL I HAVE, YOUR HONOR.

19 THE COURT: MR. SCOTT?

20 MR. SCOTT: JUST BRIEFLY, YOUR HONOR.

21 RECROSS-EXAMINATION

22 BY MR. SCOTT:

23 Q MAJOR FERRARO?

24 A YES.

25 Q JUST POINT OF CLARITY, OFFICER COTTON LEFT THE

1 BUILDING ACTUALLY BEFORE MR. LYNCH LEFT THE BUILDING. IS
2 THAT CORRECT? AS DEPICTED ON THE VIDEO?

3 A YEAH. IT SORT OF LOOKED -- WELL, YES, I -- YOU, IT
4 LOOKS LIKE OFFICER COTTON IS COMING OUT JUST BEFORE HIM.
5 I MEAN, THEY'RE ALMOST -- YES, HE DID. HE DOES COME OUT
6 BEFORE HIM.

7 Q THANK YOU.

8 A HE DOES, YES.

9 THE COURT: MR. FATA, YOU'VE GOT THE LAST WORD.

10 MR. FATA: THANK YOU, YOUR HONOR.

11 REDIRECT EXAMINATION

12 BY MR. FATA:

13 Q MAJOR FERRARO, DO YOU SEE THE TWO GUYS THAT YOU WERE
14 NEGOTIATING WITH ON OCTOBER 28TH, 2003, AT THE LEE COUNTY
15 CORRECTIONAL INSTITUTE IN LEE COUNTY? DO YOU SEE THEM IN
16 THE COURTROOM TODAY?

17 A YES, I DO.

18 Q WHERE ARE THEY?

19 A THEY ARE BOTH SITTING RIGHT OVER THERE IN THE SECOND
20 ROW. ONE IS INMATE LYNCH AND TO HIS LEFT IS INMATE
21 SINGLETARY.

22 MR. FATA: YOUR HONOR, LET THE RECORD REFLECT
23 THAT HE HAS IDENTIFIED THE DEFENDANTS AS THE PEOPLE
24 HE NEGOTIATED WITH ON OCTOBER 28TH, 29TH, 2003.

25 THE COURT: TWENTY-NINTH; RIGHT. ALL RIGHT,

1 SIR. THANK YOU.

2 MR. FATA: THAT'S ALL WE HAVE OF THIS WITNESS,
3 YOUR HONOR. MAY HE BE EXCUSED?

4 THE COURT: MAJOR, YOU CAN STEP DOWN AND WITHOUT
5 OBJECTION YOU CAN BE EXCUSED. THANK YOU, SIR.

6 THE WITNESS: OKAY. THANK YOU.

7 (WHEREUPON THE WITNESS LEFT THE STAND.)

8 MR. FATA: YOUR HONOR, MY NEXT WITNESS IS HERE
9 BUT HE'S PERFECTLY WILLING TO WAIT TILL 2:30 OR
10 WHENEVER YOU COME BACK FROM LUNCH.

11 THE COURT: YES, SIR. LET'S DO THAT BECAUSE
12 THAT -- WE ARE BUMPING UP AGAINST THE LUNCH HOUR NOW
13 AND I FEAR WE WILL GO WELL INTO IT IF WE START WITH
14 THE NEXT WITNESS. SO LET'S NOT WAIT TILL 2:30.
15 LET'S COME BACK AT 2:15.

16 LADIES AND GENTLEMEN, WE WILL STOP NOW FOR THE
17 LUNCH HOUR. WE KEPT YOU IN HERE FOR A LONG TIME
18 DURING THE TESTIMONY OF THIS WITNESS BECAUSE WE
19 DIDN'T WANT TO BREAK IT UP. I NEED FOR YOU TO BE
20 BACK IN THE JURY ROOM AT 2:15.

21 WE WILL RESUME THE AFTERNOON'S WORK AT THAT
22 TIME. REMEMBER -- I REMIND YOU AGAIN, OF COURSE, NOT
23 TO DISCUSS THIS CASE WITH ANYBODY OR LET ANYBODY TALK
24 WITH YOU ABOUT IT, DON'T TALK ABOUT IT AMONG
25 YOURSELVES WHEN YOU GET BACK TO THE JURY ROOM. 2:15.

1 WE WILL SEE YOU THEN. THANK YOU.

2 (JURY LEFT COURTROOM AT 12:54 P.M.)

3 THE COURT: MR. FATA, IS THERE ANYTHING FURTHER
4 FROM THE STATE BEFORE WE BREAK FOR LUNCH?

5 MR. FATA: NOTHING FROM THE STATE, YOUR HONOR.

6 THE COURT: MR. DOBY?

7 MR. DOBY: NO, SIR, YOUR HONOR.

8 THE COURT: MR. SCOTT?

9 MR. SCOTT: NO, SIR, YOUR HONOR.

10 THE COURT: THANK YOU, GENTLEMEN. 2:15.

11 (COURT IN RECESS FOR LUNCH.)

12 (DEFENDANTS IN COURTROOM.)

13 THE COURT: ALL RIGHT. GENTLEMEN, IN THE
14 CHAMBERS CONFERENCE A FEW MOMENTS AGO, MR. SCOTT, YOU
15 INDICATED YOU HAD SOMETHING YOU WANTED TO PUT ON THE
16 RECORD BEFORE THE JURY WAS BROUGHT IN. I WILL HEAR
17 FROM YOU NOW.

18 MR. SCOTT: YES, SIR, YOUR HONOR. THANK YOU..

19 MAY IT PLEASE THE COURT. YOUR HONOR, EARLIER I HAD
20 MADE AN OBJECTION TO SEVERAL STATEMENTS THAT WERE
21 IMPUTED TO BE MADE -- REPORTED TO BE MADE BY MR.
22 LYNCH, AND ONE OF THOSE STATEMENTS HAPPENED TO BE A
23 STATEMENT MADE TO A NEWS REPORTER, MR. CRAIG MELVIN,
24 FROM WIS TV NEWS.

25 MY UNDERSTANDING IS THAT THE STATE INTENDS TO

1 CALL MR. MELVIN AND HAVE HIM TESTIFY AS TO THE
2 CONTENTS OF THAT STATEMENT. IT'S ALSO MY
3 UNDERSTANDING THAT A -- EXCUSE ME -- A TAPE
4 RECORDING, AUDIO RECORDING, OF THAT STATEMENT WAS
5 ALSO BEING USED AS EVIDENCE.

6 MY OBJECTION IS TWO-FOLD. FIRST THERE IS A
7 REFERENCE ON THE TAPE TO THE CONVICTION OR
8 CONVICTIONS WHICH MR. LYNCH IS CURRENTLY SERVING TIME
9 FOR, AND I WOULD CERTAINLY OBJECT TO THAT INFORMATION
10 BEING -- BEING PROVIDED TO THE JURY.

11 BUT MORE BROADLY, YOUR HONOR, I WOULD OBJECT TO
12 THE STATEMENT ITSELF AS BEING AN INVOLUNTARILY MADE
13 STATEMENT, AGAIN HARKING BACK TO THE EARLIER
14 OBJECTIONS I MADE WHEN WE HAD OUR FIRST MOTIONS
15 HEARING.

16 THE COURT: ALL RIGHT. THANK YOU.

17 (WHEREUPON THERE WAS A PAUSE.)

18 THE COURT: MR. SCOTT PRIOR TO THIS TRIAL MADE A
19 TIMELY IN LIMINE MOTION OBJECTING TO THE TESTIMONY OF
20 MR. CRAIG MELVIN WHO WAS CALLED TO THE SCENE
21 ACCORDING TO THE EVIDENCE THAT HAS ALREADY BEEN
22 INTRODUCED IN THIS TRIAL ON THE NIGHT OF THE EVENT,
23 OCTOBER THE 29TH, 2003.

24 THE BASIS OF THE OBJECTION WAS THAT THE
25 STATEMENTS MADE TO MR. MELVIN BY MR. LYNCH WERE IN

1 FACT MADE TO MR. MELVIN AS AN AGENT OF THE STATE
2 SINCE HE WAS THERE AT THE -- AT THE STATE'S BEHEST,
3 AT LEAST WITH THEIR PERMISSION AND CONSENT.

4 MY PRELIMINARY THINKING AND MY PRELIMINARY
5 RULING IN LIMINE WAS THAT HE WAS NOT AN AGENT OF THE
6 STATE. OF COURSE, THE IN LIMINE RULING COULD ALWAYS
7 BE CHANGED IF THERE IS ANY EVIDENCE THAT COMES OUT
8 DURING THE TRIAL THAT BEARS ON THAT ISSUE AND THAT
9 THE COURT NEEDS TO TAKE INTO ACCOUNT IN REVERSING THE
10 IN LIMINE MOTIONS RULED.

11 HOWEVER, IN THIS PARTICULAR CASE THE EVIDENCE
12 THAT HAS COME OUT THROUGHOUT THE COURSE OF THIS TRIAL
13 HAS REINFORCED MY RULING IN LIMINE, THAT IS TO SAY
14 THAT MR. MELVIN WAS THERE AT THE SPECIFIC REQUEST OF
15 IF NOT MR. LYNCH, MR. SINGLETARY, CERTAINLY OF THE
16 PEOPLE WHO WERE INVOLVED IN THE DISTURBANCE AT LEE
17 CORRECTIONAL ON OCTOBER 29TH.

18 ON THE TAPE WHICH I HAVE HEARD PRIOR TO THIS
19 TRIAL AND WHICH HAS BEEN PLAYED AT LEAST IN PART
20 DURING THE TRIAL THERE IS A DISCUSSION ABOUT BRINGING
21 THE MEDIA, WE NEED THE MEDIA.

22 AND AS MAJOR FERRARO TESTIFIED, THERE WAS A
23 GREAT DISCUSSION, I THINK BETWEEN MR. LYNCH AND
24 HIMSELF WHEN CRAIG MELVIN FINALLY ARRIVED THAT THERE
25 WERE NO ROLLING CAMERAS, AND YOU CAN HEAR ON THE TAPE

1 WHERE ARE THE ROLLING CAMERAS, NO CAMERAS ROLLING,
2 THERE'S NO MEDIA HERE.

3 IT IS OBVIOUS FROM THOSE THINGS THAT -- THAT MR.
4 MELVIN WAS THERE AS A PART OF THE DEMANDS OF THE --
5 OF SOME OF THE INMATES AND NOT AS -- AS AN AGENT OF
6 THE STATE. AND FOR THAT REASON THE STATEMENTS MADE
7 TO HIM WITHOUT MIRANDA WARNINGS ARE ADMISSIBLE
8 BECAUSE THEY ARE NOT REQUIRED TO BE GIVEN TO NON-LAW
9 ENFORCEMENT AGENCIES UNDER THESE CIRCUMSTANCES OR
10 PEOPLE WHO WERE NOT WORKING ON BEHALF OF LAW
11 ENFORCEMENT, BUT IN THIS PARTICULAR CASE MADE
12 SPECIFICALLY AT THE REQUEST OF THE -- OF THE INMATES.

13 THE FACT THAT THESE STATEMENTS WERE VOLUNTARY,
14 OF COURSE, IS REINFORCED BY THE FACT THAT THEY WERE
15 MADE TO SOMEONE WHO THE INMATES SPECIFICALLY
16 REQUESTED TO BE THERE FOR THE PURPOSE OF TAKING THE
17 STATEMENT.

18 SO THE -- THE MOTION TO EXCLUDE THE TESTIMONY OF
19 MR. MELVIN IN THAT REGARD, DISALLOW THE ADMISSION OF
20 THE STATEMENTS MADE TO HIM ARE RESPECTFULLY DENIED.
21 THANK YOU. ALL RIGHT.

22 MR. SCOTT: YOUR HONOR, AS TO THE OTHER MATTER
23 AT...

24 THE COURT: YES, SIR. YOU'RE EXACTLY RIGHT.
25 THE -- THE REFERENCE TO A PRIOR RECORD AND THE -- AND

1 THE SENTENCE, THAT WILL BE EXCLUDED. AND I'M SORRY I
2 OVERLOOKED THAT, THAT THAT WAS CERTAINLY MY
3 UNDERSTANDING AS WELL. THAT CANNOT COME IN.

4 OKAY. NEITHER TESTIMONY OF THAT NOR THAT
5 PORTION OF THE TAPE THAT CONTAINS THAT CAN BE
6 ADMITTED. ALL RIGHT. MR. FATA, IS THE STATE READY
7 THEN TO PROCEED?

8 MR. FATA: YES, SIR, YOUR HONOR.

9 THE COURT: MR. DOBY, MR. SCOTT, GENTLEMEN?

10 MR. DOBY: YES, SIR, YOUR HONOR.

11 MR. SCOTT: YES, SIR.

12 THE COURT: THANK YOU. YOU CAN BRING US THE
13 JURY.

14 MR. FATA: YOUR HONOR, THE STATE WOULD CALL
15 CRAIG MELVIN.

16 THE COURT: OKAY. IF YOU WILL WAIT JUST A
17 MINUTE UNTIL THE JURY IS IN PLACE, PLEASE.

18 (JURY ENTERED THE COURTROOM AT 2:45 P.M.)

19 THE COURT: MADAM FORELADY, LADIES AND
20 GENTLEMEN, THANK YOU AGAIN. YOU'RE ALWAYS ARE ON
21 TIME AND I'M ALWAYS LATE. I FIGURE BY NOW YOU WOULD
22 HAVE TAKEN UP A COLLECTION TO BUY ME A NEW WATCH.

23 I TELL JURORS FROM TIME TO TIME THAT I
24 APPRECIATE THAT, BUT I'VE GOT A WHOLE DRAWERFUL OF
25 NEW WATCHES THAT JURORS HAVE BEEN BUYING FOR ME OVER

1 THE LAST 14 YEARS, AND I NEVER CAN SEEM TO ESTIMATE
2 EXACTLY HOW LONG IT'S GOING TO TAKE TO DO THE
3 PRELIMINARY MATTERS THAT WE HAVE TO DO BEFORE WE
4 START THE AFTERNOON'S WORK, AND I UNDERESTIMATED
5 AGAIN. I'M SORRY. WE HAD SOME OTHER THINGS WE HAD
6 TO WITHOUT YOUR PRESENCE.

7 BUT WE WON'T DELAY IT ANY LONGER. THE STATE NOW
8 IS CONTINUING TO OFFER EVIDENCE AND TESTIMONY. AND
9 MR. FATA, YOU CAN CALL YOUR NEXT WITNESS.

10 MR. FATA: YOUR HONOR, THE STATE WOULD CALL
11 CRAIG MELVIN.

12 THE COURT: MR. MELVIN, COME FORWARD, PLEASE
13 SIR, AND BE SWORN.

14 CRAIG MELVIN, AFTER
15 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. FATA:

18 Q MR. MELVIN, WHAT IS YOUR OCCUPATION?

19 A I'M A TELEVISION NEWS ANCHOR SLASH REPORTER FOR WIS
20 TELEVISION IN COLUMBIA, SOUTH CAROLINA.

21 Q IN COLUMBIA. AND HOW LONG HAVE YOU BEEN DOING THAT?

22 A LET'S SEE. I HAVE BEEN AT THE STATION FOR -- IT'S
23 JULY OF 2001, BEEN ANCHOR SINCE 2003, REPORTER SINCE 2002,
24 2003.

25 Q ALL RIGHT. AND AS -- AS YOUR DUTIES AS A NEWS

1 REPORTER, ANCHOR, DID YOU HAVE AN OPPORTUNITY TO COME TO
2 LEE COUNTY ON OCTOBER THE 29TH, 2003 TO COVER A STORY AT
3 THE LEE CORRECTIONAL INSTITUTE?

4 A YES.

5 Q WHAT WAS THAT STORY?

6 A AS I WAS TOLD WHEN WE ARRIVED, SOME GUARDS HAD -- WE
7 WERE TOLD---

8 MR. SCOTT: YOUR HONOR, I WOULD OBJECT TO ANY
9 HEARSAY.

10 THE COURT: RIGHT. I THINK HE'S JUST -- THIS IS
11 NOT BEING OFFERED FOR THE TRUTH OF THE MATTER
12 ASSERTED. SIMPLY BEING OFFERED TO INDICATE WHAT HE
13 WAS TOLD AND WHY HE WAS HERE IN THE FIRST PLACE, SO I
14 ACCEPT IT AS THAT. IT'S NOT HEARSAY UNDER THAT. YOU
15 GO AHEAD, MR. MELVIN, AND TESTIFY.

16 THE WITNESS: ALL RIGHT. I WAS TOLD AT THAT
17 POINT THAT THERE WERE SOME INMATES WHO HAD TAKEN SOME
18 GUARDS HOSTAGE AND THAT THEY WERE REQUESTING MEMBER
19 OF THE MEDIA TO SPEAK WITH.

20 BY MR. FATA:

21 Q ALL RIGHT. AND YOU BECAME THAT MEMBER OF THE MEDIA?

22 A YES.

23 Q ALL RIGHT. HOW DID YOU BECOME THE MEMBER OF THE
24 MEDIA WHO SPOKE WITH WHOEVER IT WAS?

25 A I WAS THERE COVERING THE STORY. AND I REMEMBER AT

1 ONE POINT WE WERE ALL REQUESTING AN INTERVIEW WITH THE
2 CORRECTIONS DEPARTMENT HEAD, JOHN OZMINT, AND HE HAD SENT
3 SOMEONE OUT WITH A NOTE PAD AND A PEN TO TAKE DOWN THE
4 NAMES AND NUMBERS OF MEMBERS OF THE MEDIA.

5 AND MY NAME AND MY CELLPHONE NUMBER WAS ON THAT PAD
6 AND PROBABLY ABOUT 15 MINUTES AFTER THE -- LEFT THE AREA,
7 WE HAD SORT OF SET UP, YOU KNOW, PROBABLY 10 OR 15 MINUTES
8 TO BE THERE, JOHN, DIRECTOR OZMINT, CALLED ME ON MY
9 CELLPHONE.

10 Q ALL RIGHT. AS A RESULT OF THE CALL WITH DIRECTOR
11 OZMINT, WHAT HAPPENED? WHAT DID YOU DO?

12 A AS A RESULT OF THAT CALL WE WENT INSIDE, WE WENT
13 INSIDE THE PRISON, WE MET WITH VARIOUS MEMBERS OF LAW
14 ENFORCEMENT PROBABLY FOR ABOUT 15 OR 20 MINUTES. THEN
15 AFTER THAT MEETING WE PROCEEDED TO GO DOWN INTO THE YARD,
16 IF YOU WILL, PRISON YARD AT THAT POINT.

17 Q AND DID YOU JUST STAY IN THE CENTER OF THE YARD OR
18 DID YOU GO TO A SPECIFIC BUILDING?

19 A WE -- WE WERE -- THERE WAS A, YOU KNOW, THE THING SET
20 UP, THERE ARE A NUMBER OF DIFFERENT BUILDINGS THERE, AND
21 WE WERE PROBABLY, YOU KNOW, 12, 15 FEET AWAY FROM THE
22 FRONT DOOR IN ONE OF THESE BUILDINGS.

23 Q ALL RIGHT. WAS THAT THE DOOR WHERE EVERYTHING WAS
24 TAKING PLACE?

25 A IT APPEARED AS SUCH, YES.

1 Q ALL RIGHT. WHAT DID YOU DO WHILE YOU WERE STANDING
2 THERE?

3 A WE STOOD THERE AND WE HAD A -- A TAPE RECORDER AND A
4 MICROPHONE, AND WE WERE INSTRUCTED TO STAND THERE. AND AT
5 SOME POINT A MEMBER OF LAW ENFORCEMENT WOULD COME OVER AND
6 AT SOME POINT THEY -- THEY MAY HAVE AN INMATE WITH THEM
7 AND WE WERE SUPPOSED TO INTERVIEW THE INMATE, TO TALK WITH
8 THAT PARTICULAR INMATE.

9 Q OKAY. WHEN THE -- WHEN THE SITUATION ENDED, WHEN THE
10 CRISIS WAS OVER, DID YOU INTERVIEW A SPECIFIC INMATE NAMED
11 JACOB LYNCH?

12 A YES.

13 Q AND HOW DID THAT OCCUR?

14 A AT THE -- AT THE END OF THIS, THIS SITUATION, THE --
15 THEY BROUGHT MR. LYNCH OVER AND I PROCEEDED TO -- TO ASK
16 HIM SOME QUESTIONS ABOUT THE SITUATION.

17 Q AND YOU ASKED HIM ABOUT THE -- THE SITUATION THAT
18 TOOK PLACE INSIDE THAT DORMITORY?

19 A I BELIEVE I ASKED HIM ABOUT THAT, YOU KNOW, WHAT
20 HAPPENED IN THERE AND ALSO ASKED HIM JUST GENERALLY
21 SPEAKING, YOU KNOW, HIS GRIEVANCES.

22 Q OKAY. WHAT DID HE TELL YOU HE HAD DONE, IF ANYTHING?

23 A HE TOLD ME THAT -- THAT HE HAD TAKEN THE TWO GUARDS
24 HOSTAGE. I REMEMBER SPECIFICALLY THAT HE TOLD ME THAT. I
25 ALSO REMEMBER SPECIFICALLY HIM TELLING ME THAT HE -- HE

1 DIDN'T STAB THEM, THAT HE DID TAKE THEM HOSTAGE.

2 Q OKAY. AND HE DID THAT AS A RESULT OF -- WHAT WAS HIS
3 REASONING FOR DOING -- FOR TAKING THE HOSTAGE?

4 A HE SAID THAT SPECIFICALLY AN OFFICER COTTON HAD BEEN
5 ABUSING PRISONERS, SPECIFICALLY HE PUT HIS FOOT ON
6 PRISONERS, I -- AND AGAIN, THIS HAS BEEN TWO YEARS AGO,
7 BUT I THINK HE MAY HAVE MENTIONED THAT OFFICER COTTON BEAT
8 UP PRISONERS, THAT SORT OF THING, JUST GENERAL --- GENERAL
9 THINGS.

10 Q AND WHAT WAS THE PURPOSE OF THE MEDIA? WHAT WAS THE
11 MEDIA GOING TO DO?

12 A HE SAID THAT HE JUST WANTED -- HE WANTED TO GET THE
13 WORD OUT SO THAT THIS COUNTY AND THE SURROUNDING COUNTIES
14 KNEW WHAT THEIR LOVED ONES WERE BEING SUBJECTED TO INSIDE
15 THE PRISON.

16 Q DID YOU RECORD THAT CONVERSATION?

17 A YES.

18 Q AND HAVE YOU LISTENED TO THAT RECORDING?

19 A YES.

20 Q IS THAT RECORDING AN ACCURATE REPRESENTATION OF THE
21 INTERVIEW YOU HAD WITH INMATE JACOB LYNCH?

22 A YES.

23 MR. FATA: YOUR HONOR, WE'D MOVE THAT RECORDING
24 INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 9 -- NUMBER
25 10.

1 THE COURT: STATE'S 10 IS IN EVIDENCE OVER
2 OBJECTION OF DEFENSE COUNSEL.

3 (WHEREUPON, STATE'S EXHIBIT 10 WAS ADMITTED INTO
4 EVIDENCE.)

5 MR. FATA: YOUR HONOR, MAY WE PUBLISH THIS NOW?

6 THE COURT: YES, YOU MAY.

7 (STATE'S EXHIBIT 10 PLAYED FOR THE JURY.)

8 BY MR. FATA:

9 Q THAT WAS THE END OF THE INTERVIEW?

10 A YES, SIR.

11 Q DID YOU INTERVIEW ANY OTHER INMATE -- WELL, EXCUSE
12 ME. LET ME BACK -- DID YOU INTERVIEW INMATE SINGLETARY?

13 A NO.

14 Q OKAY. ANSWER ANY QUESTIONS THAT EITHER MR. DOBY OR
15 MR. SCOTT MAY HAVE.

16 THE COURT: MR. DOBY, YOU CAN CROSS-EXAMINE.

17 MR. DOBY: NO QUESTIONS. THANK YOU, YOUR HONOR.

18 THE COURT: THANK YOU. MR. SCOTT?

19 MR. SCOTT: YOUR HONOR, THANK YOU. JUST
20 BRIEFLY.

21 CROSS-EXAMINATION

22 BY MR. SCOTT:

23 Q MR. MELVIN, IF YOU CAN HELP ME OUT JUST A LITTLE
24 BIT. HOW DID YOU INITIALLY GET INVOLVED WITH THIS? I'M
25 STILL JUST A LITTLE FUZZY AS TO HOW YOU BECAME INVOLVED

1 SPECIFICALLY.

2 A ME AND YOU BOTH, BOTH WERE FUZZY AS TO HOW I GOT
3 INVOLVED. AGAIN, IN -- YOU KNOW, WHEN YOU HAVE A MAJOR
4 SITUATION, YOU HAVE VARIOUS MEMBERS OF THE MEDIA WHO
5 DISSENT UPON THE AREA.

6 FOR INSTANCE, YOU KNOW, IN THIS CASE THERE WAS
7 PROBABLY OUR STATION, TWO OTHER STATIONS FROM COLUMBIA,
8 THERE WAS A STATION FROM FLORENCE. THERE WERE PROBABLY
9 FIVE OR SIX TELEVISION STATIONS, SEVERAL NEWSPAPERS AS
10 WELL.

11 AND WE ALL ARE PROBABLY IN AN AREA, YOU KNOW,
12 MAYBE -- I THINK THIS PARTICULAR AREA IS PROBABLY 50 FEET,
13 50-FOOT AREA. AND YOU ALSO WERE STANDING AROUND TRYING TO
14 GATHER INFORMATION, CALLING SOURCES.

15 AND OFTEN TIMES, ESPECIALLY IF IT'S SOMETHING
16 INVOLVING A GOVERNMENT AGENCY, THERE WON'T BE A COMMENT
17 IMMEDIATELY, GOVERNMENT AND LAW ENFORCEMENT GENERALLY,
18 THERE WON'T BE A COMMENT IMMEDIATELY.

19 BUT IN THIS PARTICULAR CASE SOMEONE DID COME OUT AND
20 SHE SAID, YOU KNOW, I'M WITH THE DEPARTMENT OF
21 CORRECTIONS, GIVE ME YOUR NAMES AND NUMBERS, AND YOU KNOW,
22 WE WILL GET BACK TO YOU.

23 SO WE ALL PUT OUR NAMES AND NUMBERS ON THIS
24 PARTICULAR LIST. 10 OR 15 MINUTES LATER DIRECTOR
25 OZMINT -- EXCUSE ME -- DIRECTOR OZMINT CALLED, CALLED ME

1 ON MY CELLPHONE.

2 Q OKAY. SO INITIALLY YOU AND OTHER NEWS AND MEDIA WERE
3 SIMPLY COVERING THE STORY?

4 A YEAH. YES, SIR.

5 Q OKAY. AND LATER ON AS A RESULT OF YOUR PUTTING YOUR
6 NAME IN THE HAT, FOR LACK OF BETTER DESCRIPTION--

7 A RIGHT.

8 Q -- YOU WERE CALLED BACK TO PARTICIPATE AS YOU JUST
9 DESCRIBED?

10 A YES, SIR.

11 Q OKAY. HOW LONG DID YOU ACTUALLY REMAIN IN THE FRONT
12 OF THE UNIT WHERE THIS INCIDENT WAS TAKING PLACE?

13 A AGAIN IT'S BEEN TWO YEARS. AND THIS IS CERTAINLY
14 GOING TO BE AN APPROXIMATION, BUT I HAD TO GUESS IT WAS
15 PROBABLY ABOUT 30 MINUTES ROUGHLY.

16 Q ABOUT 30 MINUTES?

17 A YEAH, BETWEEN 20 AND 30 MINUTES ROUGHLY I WOULD SAY.

18 Q OKAY. ALL RIGHT. AND THE ONLY TIME YOU SPOKE TO MR.
19 LYNCH WAS THE TIME THAT IS REFLECTED IN THE INTERVIEW, THE
20 TIME SPENT THAT'S REFLECTED IN THE INTERVIEW THAT WE JUST
21 HEARD?

22 A YES. NOW, THAT'S THE ONLY TIME WE SPOKE DIRECTLY.
23 THERE WAS -- THERE WAS A TIME PRIOR TO THAT, WHAT WAS ON
24 THE TAPE THERE, WHERE I THINK, YOU KNOW, I THINK AND I
25 THINK -- IT MAY NOT BE HIM, BUT I THINK IT WAS HIM WHO

1 SAID, YOU DON'T HAVE A CAMERA WITH YOU. AND HE CALLED ME,
2 I BELIEVE, A PHONY NEWSMAN AND, YOU KNOW, INSISTED THAT A
3 CAMERA BE PROVIDED.

4 Q NOW, DID YOU UNDERSTAND THAT -- DID YOU HEAR WHY HE
5 WAS CONCERNED ABOUT YOU HAVING A CAMERA WITH YOU?

6 A YES. I MEAN, I DON'T NECESSARILY FOLLOW...

7 Q DID YOU UNDERSTAND WHY HE WAS CONCERNED---

8 A DO I UNDERSTAND WHY? NO, I DON'T UNDERSTAND.

9 Q OKAY. ALL RIGHT. NOW, YOU SAID YOU DIDN'T SPEAK TO
10 ANYBODY ELSE EXCEPT HIM, ANY OTHER INMATES EXCEPT MR.
11 LYNCH?

12 A RIGHT, ANY OTHER INMATES.

13 Q OKAY. AND YOU -- YOU SPECIFICALLY ASKED HIM IN YOUR
14 INTERVIEW WHY DID HE STAB OFFICER COTTON, AND HE
15 SPECIFICALLY, EMPHATICALLY IN FACT, AS A MATTER OF FACT,
16 DENIED STABBING HIM. IS THAT CORRECT?

17 A YES, SIR.

18 Q AND I BELIEVE THAT DURING THIS INTERVIEW THERE WAS
19 A -- AN EXPLANATION, OR I SHOULD SAY DESCRIPTION, OF SOME
20 THINGS THAT HAD TAKEN PLACE IN THE PRISON THAT WERE
21 ATTRIBUTED TO BEING MISCONDUCT FOR LACK OF A BETTER TERM
22 ON OFFICER COTTON'S PART. IS THAT CORRECT?

23 A YES.

24 Q OKAY. DID AT ANY TIME DURING YOUR PRESENCE THERE AT
25 THE UNIT DID YOU EVER SAY ANYTHING TO HIM BEFORE HE CAME

1 OUT SUCH AS, HEY, YOU CAN COME OUT NOW, WE CAN TALK, OR
2 ANYTHING TO THAT EFFECT, THAT YOU RECALL?

3 A NOT THAT I RECALL. BUT AGAIN, YOU KNOW, IT'S BEEN
4 TWO YEARS.

5 Q RIGHT. MR. LYNCH NEVER IDENTIFIED HIMSELF TO YOU AS
6 BEING A RING LEADER OR ANYTHING OF THAT SORT; DID HE?

7 A NO, NOT -- AGAIN, NOT TO MY -- NOT TO MY
8 RECOLLECTION.

9 Q ALL RIGHT. THANK YOU, SIR.

10 THE COURT: MR. FATA, REDIRECT?

11 MR. FATA: NOTHING ELSE, YOUR HONOR.

12 THE COURT: THANK YOU. MR. MELVIN, YOU CAN STEP
13 DOWN AND WITHOUT OBJECTION CAN BE EXCUSED. THANK
14 YOU.

15 THE WITNESS: EXCELLENT. THANK YOU.

16 (WITNESS LEFT THE STAND.)

17 MR. FATA: YOUR HONOR, WE WOULD CALL -- WE WOULD
18 CALL MAJOR BRACEY. MAJOR BRACEY.

19 THE COURT: BRACEY, PLEASE.

20 (WITNESS IN COURTROOM.)

21 (WHEREUPON, STATE'S EXHIBIT NO. 11 WAS MARKED
22 FOR IDENTIFICATION ONLY.)

23 THE COURT: MR. BRACEY, COME FORWARD, PLEASE.

24 TERRY BRACEY, AFTER
25 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. FATA:

Q MAJOR BRACEY, WHAT IS YOUR OCCUPATION?

A I'M A MAJOR WITH THE SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS OVER THE STATE'S RAPID RESPONSE TEAM.

Q AND THE RAPID RESPONSE TEAM, WHAT IS THAT?

A IT'S A -- APPROXIMATELY A 400 PERSON TEAM THAT
RESPONDS TO A VARIOUS SITUATIONS AND MAINLY WITH OUR --
LESS THAN LETHAL FORCE.

Q OKAY. DID YOU HAVE AN OCCASION TO RESPOND TO LEE
COUNTY CORRECTIONAL INSTITUTE IN LEE COUNTY, SOUTH
CAROLINA, ON OCTOBER THE 29TH, 2003?

A YES, SIR.

Q WHAT DID YOU RESPOND IN RESPONSE TO?

A I -- MY RESPONSE WAS TO GATHER A TEAM TOGETHER AND TO
GO DOWN AND TRY TO QUELL A HOSTAGE SITUATION.

Q ALL RIGHT. WERE YOU THERE WHEN THE SITUATION ENDED
AND THE HOSTAGE, OFFICER COTTON, WAS LET GO AND DEFENDANT
LYNCH CAME OUT?

A YES, SIR.

Q DID -- WHAT DID YOU DO AT THAT POINT?

A I WAS SUMMONSED UP THERE TO THE WINDOW. I WENT UP.
I TALKED WITH MR. LYNCH. HE PRESENTED ME WITH A HOMEMADE
WEAPON.

Q ALL RIGHT. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED

1 AS STATE'S EXHIBIT NUMBER 11 FOR IDENTIFICATION. CAN'T --
2 YOU KNOW -- CAN YOU IDENTIFY THAT? HAVE YOU SEEN IT
3 BEFORE?

4 A YES, SIR.

5 Q AND WHERE DID YOU GET THAT PARTICULAR ITEM?

6 A I RECEIVED, IT ON THE EVENING OF THE HOSTAGE SITUATION
7 AT LEE.

8 Q AND WHO DID YOU GET IT FROM?

9 A I GOT IT FROM INMATE LYNCH.

10 Q OKAY. HOW DID YOU GET IT FROM HIM?

11 A HE PUT IT DIRECTLY INTO MY HANDS. I RECEIVED IT FROM
12 HIM PERSONALLY.

13 Q OKAY. WHAT DID YOU DO WITH THAT AFTER YOU GOT IT?

14 A IMMEDIATELY AFTER RECEIVING IT I PLACED IT IN MY
15 CARGO POCKET AND ESCORTED -- I RESTRAINED INMATE LYNCH AND
16 ESCORTED HIM OUT OF THE AREA. SHORTLY---

17 Q LET ME ASK YOU. WHAT IS YOUR CARGO POCKET?

18 A RIGHT HERE.

19 Q STAND UP AND SHOW THE JURY WHAT YOUR CARGO POCKET IS.

20 A POCKET DOWN HERE. (INDICATED.)

21 Q THE SIDE -- THE SIDE POCKET ON YOUR PANTS?

22 A YES, SIR.

23 Q OKAY. OKAY. CONTINUE.

24 A ONCE HE WAS RESTRAINED, I THEN PASSED THE WEAPON ON
25 TO MR. CHARLIE SHEPHERD. HE WAS AN INSPECTOR GENERAL AT

1 THAT PARTICULAR TIME FOR THE DEPARTMENT OF CORRECTIONS.

2 Q ALL RIGHT. DID YOU HAVE ANYTHING TO DO WITH STATE'S
3 EXHIBIT FOR IDENTIFICATION 11 SUBSEQUENT TO HANDING IT TO
4 OFFICER OR MR. SHEPHERD?

5 A NO, SIR.

6 Q ALL RIGHT. ANSWER ANY QUESTIONS THAT MR. DOBY OR
7 MR. SCOTT MAY HAVE FOR YOU.

8 THE COURT: MR. DOBY?

9 CROSS-EXAMINATION

10 BY MR. DOBY:

11 Q MAJOR, WHEN YOU WERE THERE AT THE END, DID YOU SEE
12 TYRONE SINGLETARY?

13 A NO, SIR, NOT -- NOT REALLY I DIDN'T -- DIDN'T SEE HIM
14 PARTICULAR.

15 Q ALL RIGHT. THANK YOU. THAT'S ALL I HAVE.

16 THE COURT: MR. SCOTT?

17 MR. SCOTT: YES, YOUR HONOR. THANK YOU. VERY
18 BRIEFLY.

19 CROSS-EXAMINATION

20 BY MR. SCOTT:

21 Q MAJOR BRACEY, THE -- CAN YOU TELL ME AGAIN WHAT TIME
22 YOU ARRIVED ON THE SCENE, SIR? I DIDN'T QUITE HEAR THAT.

23 A IF I CAN, I'D LIKE TO REFER TO MY NOTES---

24 Q YES, SIR. GO RIGHT AHEAD.

25 A -- THAT I TOOK. I -- RESPONDED AND ARRIVED AT LEE

1 APPROXIMATELY 6:15.

2 Q 6:15 P.M.?

3 A YES, SIR.

4 Q OKAY. DO YOU RECALL WHO ELSE WAS AT -- AND YOU SAID
5 YOU WENT UP TO THE DOOR AT SOME POINT?

6 A YES. YES, I DID.

7 Q HOW LONG HAD YOU BEEN THERE BEFORE YOU WENT UP TO THE
8 DOOR? AND BY DOOR, I'M REFERRING TO THE CHESTERFIELD UNIT
9 DOOR.

10 A YES, SIR. APPROXIMATELY THREE HOURS, THEREABOUT.

11 Q SO IT WOULD HAVE BEEN AROUND 9:15 OR SO WHEN YOU WENT
12 TO THE DOOR?

13 A YES, SIR, APPROXIMATELY.

14 Q IS THERE A -- I SAW YOU LOOKING AT STATE'S EXHIBIT --
15 IS THERE A TIME NOTED ON -- ON SOMETHING YOU'RE LOOKING AT
16 THERE?

17 A YES, SIR, THERE IS.

18 Q WHAT EXACTLY IS THAT?

19 A THIS IS A CHAIN OF EVIDENCE THAT WE'RE REQUIRED TO
20 FILL OUT ANY TIME EVIDENCE IS RECOVERED.

21 Q AND THIS IS THE BAG THAT YOU PUT THE ITEM IN?

22 A NO, SIR.

23 Q OKAY. WHAT EXACTLY IS THAT THAT YOU'RE LOOKING AT
24 THERE?

25 A IT'S A CHAIN OF EVIDENCE FORM THAT ANY TIME EVIDENCE

1 IS RECOVERED FROM OR PASSED ON FROM ONE PERSON TO ANOTHER,
2 IT STARTS OUT WITH A PERSON THAT'S RECEIVING THE EVIDENCE.
3 AND IF I WERE PASS ON EVIDENCE TO SOMEONE ELSE, THEY WOULD
4 BE REQUIRED TO SIGN IT AS WELL.

5 Q OKAY. AND DID YOU COMPLETE ANY SECTIONS OF THAT
6 FORM?

7 A YES, SIR.

8 Q AND MAY I TAKE A LOOK AT THAT, PLEASE?

9 A YES, SIR.

10 Q (PAUSE WHILE REVIEWING DOCUMENT). ALL RIGHT, SIR.
11 AND YOU SAY YOU ARRIVED AT THE SCENE APPROXIMATELY
12 6:15 THAT EVENING?

13 A YES, SIR.

14 Q AND YOU WENT UP TO THE DOOR YOU SAID AROUND 9:15?

15 A APPROXIMATELY YES, SIR.

16 Q OKAY. AND HOW LONG DID YOU REMAIN AT THE DOOR?

17 A ROUGHLY ABOUT AN HOUR AND A HALF OR SO.

18 Q OKAY. I NOTED THAT ON THE CHAIN OF CUSTODY DOCUMENT
19 YOU HAVE A TIME NOTED THERE OF 10:30 P.M. WOULD THAT BE
20 CORRECT?

21 A YES, SIR.

22 Q AND WHAT -- WHAT DOES THAT TIME SIGNIFY?

23 A IT SIGNIFIES A TIME THAT I FIRST -- THE APPROXIMATE
24 TIME THAT I FIRST RECEIVED A WEAPON FROM INMATE LYNCH.

25 Q OKAY. AND HOW LONG DID YOU KEEP IT IN YOUR

1 POSSESSION BEFORE TURNING IT OVER -- I BELIEVE YOU
2 MENTIONED TO ANOTHER PERSON?

3 A THAT'S CORRECT.

4 Q WHO WAS THAT THAT YOU GAVE IT TO?

5 A I GAVE IT TO MR. CHARLIE SHEPHERD, INSPECTOR GENERAL
6 AT THAT TIME FOR THE DEPARTMENT OF CORRECTIONS.

7 Q OKAY. AND HOW LONG WAS IT BEFORE YOU GAVE IT TO
8 MR. SHEPHERD?

9 A APPROXIMATELY TWO MINUTES.

10 Q APPROXIMATELY. IS THAT NOTED ON THE CHAIN OF CUSTODY
11 DOCUMENT AS WELL?

12 A IT IS.

13 Q (PAUSE WHILE VIEWING DOCUMENT). ACTUALLY IT SAYS
14 10:34, SO THAT WOULD BE ABOUT FOUR MINUTES; IS THAT RIGHT?
15 WOULD THAT BE CORRECT?

16 A THAT WOULD BE CORRECT, YES.

17 Q AND NOW WHEN YOU WENT UP TO THE WINDOW, DID YOU
18 OBSERVE ANYBODY ELSE, ANY OTHER INMATES IN THE PRESENCE OF
19 MR. LYNCH AT THE TIME?

20 A THERE WERE SEVERAL INMATES IN THAT AREA, YES, SIR.

21 Q SO WAS THERE OTHER PEOPLE AT THE WINDOW AS WELL?

22 A YES, SIR.

23 Q OF COURSE, MR. LYNCH WASN'T HANDCUFFED WHEN YOU
24 APPROACHED HIM AT THE WINDOW; WAS HE?

25 A NO, SIR.

1 Q OKAY. DIDN'T HAVE ANYBODY HANDCUFFED TO HIM AT THE
2 TIME?

3 A NOT TO MY KNOWLEDGE, NO.

4 MR. SCOTT: YOUR HONOR, IF I COULD HAVE THE
5 INDULGENCE FOR JUST A MOMENT, PLEASE SIR.

6 THE COURT: YES, SIR.

7 (PAUSE WHILE CONFERRING WITH CLIENT.)

8 MR. SCOTT: NOTHING FURTHER, YOUR HONOR. THANK
9 YOU.

10 THE COURT: THANK YOU. MR. FATA?

11 REDIRECT EXAMINATION

12 BY MR. FATA:

13 Q MR. BRACEY, IS THAT ITEM, IS IT STILL IN THE SAME
14 CONDITION THAT YOU RECEIVED IT IN?

15 A YES, IT IS.

16 Q ALL RIGHT. THAT'S ALL.

17 THE COURT: THANK YOU. MAJOR BRACEY, YOU CAN
18 STEP DOWN. WITHOUT OBJECTION YOU BE EXCUSED. THANK
19 YOU FOR COMING.

20 MR. FATA: YOUR HONOR, THE DEFENSE WOULD CALL
21 MR. CHARLIE SHEPHERD.

22 THE COURT: ALL RIGHT. MR. CHARLIE SHEPHERD,
23 PLEASE.

24 MR. FATA: HE WENT TO THE RESTROOM, YOUR HONOR.

25 (WITNESS IN COURTROOM.)

1 THE COURT: MR. SHEPHERD, COME AROUND, PLEASE
2 SIR, AND BE SWORN.

3 CHARLIE SHEPHERD, AFTER
4 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. FATA:

7 Q MR. SHEPHERD, YOU ARE A FORMER EMPLOYEE OF THE SOUTH
8 CAROLINA DEPARTMENT OF CORRECTIONS?

9 A YES, SIR, I AM.

10 Q I THINK YOU WORKED WITH -- WHO DO YOU WORK WITH NOW,
11 PUBLIC SAFETY?

12 A I WORK WITH THE DEPARTMENT OF PUBLIC SAFETY, YES,
13 SIR.

14 Q ON OCTOBER 29TH, 2003, YOU WERE A SCDC EMPLOYEE?

15 A I WAS THE INSPECTOR GENERAL FOR THE DEPARTMENT OF
16 CORRECTIONS, AND I HAD RESPONSIBILITY AT THAT TIME FOR ALL
17 INVESTIGATIONS AND SPECIAL TEAMS THAT GO ON THAT NIGHT AT
18 LEE.

19 Q SO YOU WERE AT LEE COUNTY CORRECTIONAL IN LEE COUNTY
20 THAT NIGHT?

21 A I WAS THERE THAT NIGHT, YES, SIR.

22 Q OKAY. WERE YOU OUTSIDE THE CHESTERFIELD UNIT WITH --
23 WHEN THE SITUATION WAS HAPPENING?

24 A YES, SIR, BASICALLY IN THE MIDDLE OF WHAT THEY CALL
25 THE YARD.

1 Q OKAY.

2 A COURTYARD THERE.

3 Q I'M GOING TO -- AND IT'S SITTING THERE ON THE STAND,
4 ON -- ASK YOU TO LOOK AT STATE'S EXHIBIT FOR
5 IDENTIFICATION NUMBER 11 AND SEE IF YOU RECOGNIZE THAT
6 ITEM.

7 A YES, SIR. I -- I CANNOT TELL YOU THAT THAT IS -- ON
8 THAT PARTICULAR NIGHT WE WERE KIND OF IN THROWS OF BATTLE
9 AT THAT TIME, AND THIS -- IT -- A SHANK WAS HANDED TO ME
10 FROM MAJOR BRACEY. THINK WAS JUST HERE A MINUTE AGO.
11 AND...

12 Q WHAT DID---

13 A I WAS JUST GOING TO TELL YOU THE CIRCUMSTANCES IF
14 THAT'S OKAY.

15 Q SURE.

16 A HE HAD -- HE HAD TAKEN THE INMATE OUT. INMATE HAD
17 SURRENDERED, SEARCHED HIM, THEY WERE BRINGING HIM OVER TO
18 SPEAK TO THE NEWSPAPER REPORTER, AND THAT WAS A CONDITION
19 OF HIS SURRENDERING, COMING OUT.

20 AND I THINK HE WAS TRYING TO GET RID OF A WEAPON SO
21 HE COULD TAKE CARE OF THE INMATE, AND HE HANDED IT TO ME,
22 AND THEN I THINK I VERY QUICKLY HANDED THE WEAPON TO ROGER
23 HOOD, WAS ONE OF MY INVESTIGATORS, AND ASKED HIM TO -- TO
24 NOTE, AND TOLD HIM THAT I HAD GOTTEN IT FROM BRACEY AND
25 WAS THEN GIVING IT TO HIM. THAT CARD THERE WOULD

1 INDICATE.

2 Q RIGHT. THE CARD INDICATES THAT YOU PASSED IT ON. IS
3 THAT CORRECT?

4 A YES, SIR. THAT'S MY SIGNATURE INDICATING THAT I GAVE
5 IT TO ROGER HOOD ON THAT EVENING, OCTOBER 29TH, '03 AT
6 10:40, AND I HAD RECEIVED IT FROM MAJOR BRACEY JUST
7 MINUTES BEFORE.

8 Q DID YOU SEE MAJOR BRACEY TAKE THAT ITEM FROM THE
9 INMATE?

10 A NO, SIR, I DID NOT.

11 Q YOU DIDN'T?

12 A I DID NOT SEE THAT, NO, SIR.

13 Q OKAY. BUT YOU -- BUT HE DID HAND IT TO YOU. NOW,
14 WHAT DID YOU DO WITH IT?

15 A WELL, HE HANDED IT TO ME, HE SAID, I GOT THIS.

16 Q HE, MAJOR BRACEY?

17 A RIGHT. HE TOLD ME WHERE HE HAD GOTTEN IT. AND OF
18 COURSE, HE THEN SAID, YOU KNOW, THAT YOU HOLD IT BECAUSE
19 HE WAS HANDLING THE INMATE. AND I HELD IT THERE UNTIL MY
20 INVESTIGATOR CAME UP AND THEN I IMMEDIATELY GAVE IT TO HIM
21 AND ASKED HIM TO RECORD WHERE IT HAD COME FROM.

22 Q AND THAT WAS ROGER HOOD?

23 A THAT WAS ROGER HOOD, YES, SIR.

24 Q IS THAT -- IS IT PRETTY MUCH IN THE SAME CONDITION
25 THAT YOU GOT IT?

1 A WELL, SIR, I CAN'T TELL YOU EXACTLY THAT'S THE ONE,
2 BUT I -- I TELL YOU, MY CAREER BEING, I SAW AN AWFUL LOT
3 OF SHANKS, BUT -- AND I -- I CAN'T TELL YOU THAT
4 NECESSARILY IS THE ONE, BUT I CAN JUST TELL YOU THAT THAT
5 OCCASION I TOOK A SHANK, AND -- AND AS I TOLD YOU BEFORE,
6 GAVE IT TO MR---

7 Q TOOK THE SHANK FROM MAJOR BRACEY AND PASSED IT TO
8 OFFICER ROGER HOOD?

9 A RIGHT, YES, SIR.

10 Q ANSWER ANY QUESTIONS THAT EITHER MR. DOBY OR
11 MR. SCOTT HAVE.

12 THE COURT: MR. DOBY, YOU CAN CROSS-EXAMINE.

13 CROSS-EXAMINATION

14 BY MR. DOBY:

15 Q DO YOU KNOW HOW MANY SHANKS WERE ULTIMATELY RECOVERED
16 FROM THE CHESTERFIELD UNIT THAT EVENING?

17 A NO, SIR.

18 Q YOU -- YOU -- YOUR INVESTIGATION -- DID YOU DO ANY
19 OTHER INVESTIGATION OTHER THAN TAKING THIS SHANK AND
20 ASSIGN SOME INVESTIGATORS?

21 A YEAH. THEY WERE SIGNED OVER TO -- ROGER HOOD
22 ACTUALLY HAD -- HE HAD THE TICKET ON THIS CASE. I DIDN'T
23 DO ANY INVESTIGATION. I KNOW THAT THERE WERE -- I WALKED
24 THROUGH THE -- THROUGH THE CHESTERFIELD UNIT AFTER THINGS
25 WERE CALMED DOWN AND THERE WERE -- THERE WAS DEBRIS AND

1 SHANKS EVERYWHERE, BUT I DON'T KNOW ANY NUMBERS.

2 Q THANK YOU.

3 THE COURT: THANK YOU. MR. SCOTT?

4 MR. SCOTT: YES, SIR, YOUR HONOR. JUST BRIEFLY.

5 CROSS-EXAMINATION

6 BY MR. SCOTT:

7 Q MR. SHEPHERD, I BELIEVE YOU'VE ALREADY TESTIFIED THAT
8 YOU DON'T KNOW IF THIS PARTICULAR SHANK IS THE ONE THAT
9 THE MAJOR GAVE YOU OR NOT ON THAT NIGHT?

10 A NO, I CAN'T -- CAN'T SWEAR TO YOU, NO, SIR.

11 Q YES, SIR. AND YOU ALSO INDICATED YOU DIDN'T SEE
12 WHERE THE MAJOR GOT THE SHANK FROM?

13 A NO, SIR.

14 Q IS THAT CORRECT?

15 A NO, SIR.

16 Q YES, SIR. AND DID YOU NOTICE ANYTHING ABOUT THE
17 CONDITION OF THE SHANK AT THE TIME YOU GOT IT?

18 A WELL, I -- I CAN'T REMEMBER. I CAN'T TELL YOU
19 WHETHER THAT WAS THE ONE OR NOT.

20 Q OKAY.

21 A I CAN'T TELL YOU ABOUT THE CONDITION EITHER.

22 Q I UNDERSTAND.

23 A I DO REMEMBER IT WAS BIG ENOUGH THAT IT EXTENDED ON
24 BOTH SIDES OF MY HAND A CONSIDERABLE AMOUNT, BUT THAT'S
25 REALLY ALL I REMEMBER ABOUT IT.

1 Q ALL RIGHT, SIR. THANK YOU. THAT'S ALL I HAVE.

2 THE COURT: MR. FATA, REDIRECT?

3 MR. FATA: NONE, YOUR HONOR.

4 THE COURT: THANK YOU. MR. SHEPHERD, YOU CAN
5 STEP DOWN AND YOU CAN BE EXCUSED WITHOUT OBJECTION.

6 THE WITNESS: THANK YOU.

7 (WITNESS LEFT THE STAND).

8 MR. FATA: YOUR HONOR, THE STATE WOULD CALL
9 ROGER HOOD.

10 THE COURT: MR. ROGER HOOD, PLEASE.

11 (WITNESS IN COURTROOM).

12 THE COURT: MR. HOOD, COME FORWARD, PLEASE SIR,
13 AND BE SWORN.

14 ROGER HOOD, AFTER BEING
15 DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. FATA:

18 Q OFFICER HOOD, YOU'RE EMPLOYED BY THE DEPARTMENT OF
19 CORRECTIONS?

20 A THAT'S CORRECT, SIR.

21 Q AND WHAT IS YOUR JOB AT THIS TIME?

22 A AT THIS TIME I'M A LIEUTENANT OVER K9 UNIT AT WATEREE
23 CORRECTIONAL INSTITUTION.

24 Q OKAY. ON OCTOBER 29TH, 2003, WHAT WAS YOUR DUTY
25 ASSIGNMENT?

1 A AT THAT TIME I WAS AN INVESTIGATOR WITH THE DIVISION
2 OF INVESTIGATIONS WITH THE DEPARTMENT OF CORRECTIONS.
3 Q OKAY. ON THE 29TH OF OCTOBER OF 2003, WERE YOU IN
4 LEE COUNTY?
5 A YES, SIR, I WAS.
6 Q WERE YOU PARTICIPATING IN THE -- TRYING TO STOP THE
7 HOSTAGE SITUATION?
8 A YES, SIR, I WAS.
9 Q ALL RIGHT. AND WHAT WAS YOUR ROLE AT THAT TIME?
10 A AT THAT TIME I WAS ASSIGNED TO THAT CASE AS -- AS THE
11 LEAD INVESTIGATOR OF THAT DISTURBANCE.
12 Q THAT EVENING AFTER YOU -- THINGS SETTLED DOWN -- I'M
13 GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
14 NUMBER 11 FOR IDENTIFICATION AND ASK YOU IF YOU RECOGNIZE
15 THAT ITEM.
16 A YES, SIR, I DO.
17 Q HOW -- HOW DO YOU RECOGNIZE IT?
18 A I RECOGNIZE THAT HOMEMADE KNIFE. WE CALL IT A SHANK
19 IN THE PRISON SETTING. IT WAS HANDED TO ME BY AT THAT
20 TIME INSPECTOR GENERAL CHARLIE SHEPHERD.
21 Q AND DO YOU KNOW WHERE MR. SHEPHERD GOT IT FROM?
22 A YES, SIR. HE RECEIVED THE HOMEMADE KNIFE FROM MAJOR
23 BRACEY FROM THE RRT TEAM.
24 Q WHAT DID YOU DO WITH THAT ITEM?
25 A I PLACED THAT KNIFE IN MY POSSESSION AND KEPT IT IN

1 MY POSSESSION. OUR PROCESS AND PROCEDURE IS TO MAKE SURE
2 THAT ALL EVIDENCE GOES TO THE CONTRABAND OFFICER AT THAT
3 INSTITUTION.

4 AS I HELD ON TO THAT EVIDENCE, I LATER WENT TO THE
5 CONTRABAND OFFICER, MRS. HODGES, WHO IS THE CONTRABAND
6 OFFICER AT LEE CORRECTIONAL INSTITUTION, AND PLACED THAT
7 IN OFFICIAL DOCUMENTATION ON THE EVIDENCE CARD AND SHE
8 LOCKS IT UP IN A CONTRABAND LOCKER.

9 Q NOW, THE CARD THAT IS ATTACHED TO THIS BAG IS WHAT?
10 WHAT IS THAT?

11 A THIS IS OFFICIAL EVIDENCE CARD FROM SOUTH CAROLINA
12 DEPARTMENT OF CORRECTIONS.

13 Q AND DOES YOUR NAME APPEAR ON THERE?

14 A YES, SIR, IT DOES.

15 Q TELL ME HOW THAT CARD IS FILLED OUT.

16 A OKAY. THIS CARD IS FILLED OUT, SAYS EVIDENCE
17 DESCRIPTION. IT TELLS EXACTLY WHAT THE EVIDENCE CARD OR
18 THE EVIDENCE IS ON THE CARD, APPROXIMATELY A 12-INCH METAL
19 ROD POINTED AT ONE END WITH A CLOTH-TYPE MATERIAL ON THE
20 END OF THE POINT.

21 IT SAYS PLACE EVIDENCE WAS FOUND WAS FROM INMATE
22 JACOB LYNCH. AND DATE AND TIME OCCURRED WAS 10-29-03 AT
23 APPROXIMATELY 10:30 P.M. SUSPECT'S NAME, WHICH WAS INMATE
24 JACOB LYNCH. EVIDENCE WAS RECOVERED HERE FIRST OF ALL
25 FROM THAT SUBJECT WAS MAJOR T BRACEY.

1 Q DID YOU -- WHAT DID YOU -- NOW, YOU SAY YOU GOT IT
2 FROM MR. SHEPHERD AND YOU KEPT IT IN YOUR POSSESSION AND
3 YOU TURNED IT OVER TO SERGEANT THEN LUCINDA HODGE?

4 A THAT'S CORRECT, SIR.

5 Q DID YOU TURN IT OVER IN THE CONDITION IT IS IN NOW?

6 A YES, SIR, ALL EXCEPT FOR THAT PLASTIC BAG RIGHT THERE
7 WHICH WAS WHERE WE PUT IN ANOTHER PACKAGE, BUT I'M SURE
8 SHE HAD TO -- HAVE TO HAVE IT SENT TO SLED FOR ANALYSIS.

9 Q AFTER YOU GAVE IT TO SERGEANT HODGE, DID YOU HAVE
10 ANYTHING TO DO WITH THE -- WITH THAT ITEM?

11 A REPEAT THAT, SIR.

12 Q AFTER YOU TURNED IT OVER TO SERGEANT HODGE, DID YOU
13 HAVE ANYTHING TO DO WITH THAT ITEM?

14 A NOT AFTER THAT, NO, SIR.

15 Q OKAY. IS THAT ITEM IN THE SAME CONDITION IT WAS IN
16 WHEN YOU RECEIVED IT?

17 A YES, SIR. I RECOGNIZED THIS KNIFE AS I GOT IT FROM
18 MR. SHEPHERD.

19 Q OKAY. DO YOU HAVE ANY MARKS OR ANYTHING ON THERE?

20 A IT HAS A MARK ON THE CLOTH ITSELF.

21 Q OKAY. ANSWER ANY QUESTIONS THAT EITHER MR. DOBY OR
22 MR. SCOTT MAY HAVE.

23 A YES, SIR.

24 THE COURT: MR. DOBY?

25 MR. DOBY: NO QUESTIONS.

1 THE COURT: THANK YOU. MR. SCOTT?

2 MR. SCOTT: JUST BRIEFLY, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 CROSS-EXAMINATION

5 BY MR. SCOTT:

6 Q OFFICER HOOD?

7 A YES, SIR.

8 Q HOW LONG WAS THIS WEAPON IN YOUR POSSESSION BEFORE
9 YOU TURNED IT OVER?

10 A I WAS ON THE YARD TAKING CARE OF THE INVESTIGATIVE
11 PART OF IT AS FAR AS NOTES AND WHATNOT. I PROBABLY HAD
12 THAT WEAPON IN MY POSSESSION -- IT BE APPROXIMATE TIME
13 THAT I'M GOING TO GIVE YOU. PROBABLY LESS THAN AN HOUR.

14 Q OKAY. DOES YOUR -- DOES YOUR CHAIN OF CUSTODY CARD
15 THERE INDICATE WHAT TIME YOU GOT IT?

16 A I AM SORRY.

17 Q DOES THE CHAIN OF CUSTODY CARD INDICATE WHAT TIME YOU
18 GOT IT?

19 A 10:40.

20 Q 10:40 P.M.?

21 A YES, SIR.

22 Q AND WHAT DOES IT SAY ABOUT WHEN YOU RELEASED IT OR
23 WHEN YOU--

24 A I RELEASED IT AT 12:12.

25 Q SO ABOUT 90 MINUTES, ABOUT AN HOUR AND A HALF?

1 A LITTLE BIT LONGER.

2 Q IS THAT CORRECT?

3 A YES, SIR.

4 Q OKAY. AND WHERE WAS IT WHEN IT WAS IN YOUR
5 POSSESSION? WHERE DID YOU HAVE IT?

6 A I HAD IT IN MY HAND.

7 Q IN YOUR HAND THE WHOLE TIME?

8 A YES, SIR, GAINED CONTROL OF IT, YES, SIR.

9 Q OKAY. AND WHAT WERE YOU DOING DURING THIS HOUR AND A
10 HALF THAT YOU HAD THIS WEAPON IN YOUR HAND IN ADDITION--

11 A I WAS DOING ALL THE OBSERVATION OF WHAT -- WHAT WAS
12 GOING ON WITH THE PERSONNEL AS FAR AS SCDC OFFICIALS AT
13 THE DOOR OF THE CHESTERFIELD UNIT AT THAT TIME.

14 Q OKAY. AND SO FROM 10:40 TO 12:12, WERE YOU IN THE
15 YARD THE WHOLE TIME OR DID YOU ENTER INTO THE UNIT?

16 A NO, SIR. I HAD TO REMAIN ON THE YARD UNTIL THE
17 SITUATION WAS CLEARED PRETTY MUCH.

18 Q OKAY. AND I BELIEVE YOU TESTIFIED THAT YOU GOT THE
19 WEAPON FROM -- WAS IT MR. SHEPHERD?

20 A YES, SIR, CHARLIE SHEPHERSHEPHERD.

21 Q AND, OF COURSE, YOU DID NOT SEE HIM GET THE WEAPON
22 FROM ANY PARTICULAR INMATE?

23 A NOT MR. SHEPHERD, NO, SIR.

24 Q IN FACT, YOU GOT IT FROM MR. SHEPHERD WHO HAD GOTTEN
25 IT FROM THE MAJOR AS I UNDERSTAND IT?

1 A MAJOR BRACEY, YES, SIR.

2 Q ALL RIGHT. NOW, WHEN WAS THE LAST TIME YOU SAW THIS
3 WEAPON BEFORE TESTIFYING IN COURT TODAY?

4 A WHEN IS THE LAST TIME I SAW THIS WEAPON?

5 Q BEFORE TODAY. YES, SIR.

6 A BEFORE TODAY?

7 Q UH-HUH.

8 A I HAVEN'T.

9 Q OKAY. SO THE LAST TIME YOU SAW IT WOULD HAVE BEEN
10 TWO YEARS AGO?

11 A WHENEVER I GAVE IT TO MRS. HODGE, THAT'S CORRECT.

12 Q OKAY. THANK YOU. THAT'S ALL I HAVE.

13 THE COURT: MR. FATA?

14 REDIRECT EXAMINATION

15 BY MR. FATA:

16 Q YOU DIDN'T DO ANYTHING TO THE WEAPON? YOU HAD IT IN
17 YOUR POSSESSION?

18 A THAT'S ALL.

19 MR. FATA: NOTHING ELSE.

20 THE COURT: THANK YOU. YOU CAN STEP DOWN.

21 MR. FATA: YOUR HONOR, WE CALL LIEUTENANT
22 LUCINDA HODGE.

23 THE COURT: LIEUTENANT LUCINDA HODGE, PLEASE.

24 (WITNESS IN COURTROOM.)

25 LUCINDA HODGE, AFTER

1 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MR. FATA:

4 Q LIEUTENANT, ARE YOU EMPLOYED BY THE SOUTH CAROLINA
5 DEPARTMENT OF CORRECTIONS?

6 A YES, SIR.

7 Q AND WHERE ARE YOU STATIONED?

8 A LEE CORRECTIONAL INSTITUTION.

9 Q AND HOW LONG HAVE YOU BEEN STATIONED THERE?

10 A TWELVE AND A HALF YEARS.

11 Q YOUR ENTIRE CAREER?

12 A YES, SIR.

13 Q OKAY. WHAT IS YOUR -- WHAT ARE YOUR DUTIES AT THE
14 DEPARTMENT OF CORRECTIONS?

15 A AT THIS TIME I'M A UNIT LIEUTENANT. AT THE TIME OF
16 THIS I WAS CONTRABAND SERGEANT.

17 Q AND WHAT IS THE CONTRABAND SERGEANT DO?

18 A CONTRABAND SERGEANT IS IN CHARGE OF ALL EVIDENCE,
19 MAKING SURE THAT IT'S TOOK, THAT THE EVIDENCE CARDS ARE
20 FILLED OUT, THAT IT'S PLACED INTO EVIDENCE IN A CORRECT
21 MANNER, LOGGED.

22 Q I'M GOING TO SHOW YOU THOSE THINGS UP THERE THAT HAVE
23 BEEN MARKED AS STATE'S EXHIBIT NUMBER 11 FOR
24 IDENTIFICATION. DO YOU RECOGNIZE THOSE?

25 A YES, SIR.

1 Q ALL RIGHT. DID -- WHERE DID YOU GET IT FROM?

2 A I RECEIVED THAT FROM INVESTIGATOR HOOD.

3 Q DO YOU KNOW WHEN?

4 A ON THE NIGHT OF...

5 Q YOU CAN REFER TO THE EVIDENCE CARD WHICH IS RIGHT
6 THERE.

7 A OKAY. ON THE NIGHT OF OCTOBER THE 29TH AT 12:12 AM.

8 Q OKAY. WHEN YOU RECEIVED THAT ITEM, WHAT DID YOU DO
9 WITH IT?

10 A I THEN -- LET'S SEE. I PLACED IT INTO THE EVIDENCE
11 ROOM AT THAT TIME AND THEN IN THE NEXT MORNING GAVE IT TO
12 THE CUSTODIAN OF THE EVIDENCE ROOM FOR HIM TO -- OKAY. I
13 TOOK IT -- I TOOK POSSESSION OF IT THAT NIGHT.

14 Q RIGHT.

15 A WHEN I LEFT THE INSTITUTION I HAD IT SECURED IN A
16 LOCKED EVIDENCE ROOM WHICH WAS IN THE BACK WITH SOME OTHER
17 STUFF THAT WE HAD GOTTEN. THE NEXT MORNING WHEN MY
18 OFFICER CAME IN, HE TOOK POSSESSION OF IT SO THAT HE COULD
19 LOG IT INTO THE LOG BOOK WITH THE CHARGES AND, YOU KNOW
20 WHO IT WAS ASSOCIATED WITH.

21 Q OKAY. NOW, WERE ANY CHANGES OR ANYTHING DONE TO IT
22 WHILE IT WAS IN YOUR POSSESSION?

23 A NO, SIR.

24 Q AND WHO WAS YOUR OFFICER THAT -- THAT DID THE LOGGING
25 IN AND ALL, WHATEVER YOU SAID?

1 A OFFICER SHARPE.

2 Q OFFICER SHARPE. WHAT -- WAS THE ITEM BAGGED IN ANY
3 WAY?

4 A IT WAS IN A BROWN PAPER BAG.

5 Q IS THAT THE BROWN PAPER BAG THERE?

6 A YES, SIR.

7 Q OKAY. YOUR -- DID I ASK YOU, DID YOU MAKE ANY
8 CHANGES TO IT OR DO ANYTHING TO IT?

9 A YEAH. NO, I DID NOTHING.

10 Q OKAY. IS IT IN SUBSTANTIALLY THE SAME CONDITION AS
11 WHEN IT CAME INTO YOUR CUSTODY?

12 A YES, SIR.

13 Q SO YOU GOT IT FROM OFFICER HOOD?

14 A INVESTIGATOR.

15 Q INVESTIGATOR HOOD?

16 A YES, SIR.

17 Q AND YOU HANDED IT OVER TO JUSTIN SHARPE, OFFICER
18 JUSTIN SHARPE?

19 A THE NEXT MORNING. IT WAS KEPT IN THE BROWN BAG IN
20 THE EVIDENCE ROOM OVERNIGHT.

21 Q OKAY. AND THAT'S WHERE -- AND AS CONTRABAND OFFICER,
22 YOU'RE IN CHARGE OF THE EVIDENCE ROOM?

23 A I HAD THE ONLY KEY TO THE EVIDENCE ROOM. NOBODY ELSE
24 COULD GET TO IT.

25 Q NOBODY BUT YOU?

1 A YES, SIR.

2 Q ANSWER ANY QUESTIONS THAT MR. DOBY OR MR. SCOTT MAY
3 HAVE.

4 THE COURT: MR. DOBY, CROSS-EXAMINE?

5 MR. DOBY: NO QUESTIONS. THANK YOU, YOUR HONOR.

6 THE COURT: THANK YOU. MR. SCOTT?

7 MR. SCOTT: YOUR HONOR, THANK YOU. JUST
8 BRIEFLY.

9 CROSS-EXAMINATION

10 BY MR. SCOTT:

11 Q SERGEANT HODGE, DID YOU NOTICE ANYTHING ABOUT THE
12 CONDITION OF THIS -- THIS ITEM WHEN YOU TOOK IT IN YOUR
13 POSSESSION TWO YEARS AGO?

14 A I JUST LOOKED IN THE BAG JUST TO MAKE SURE THAT WHAT
15 WAS ON THE EVIDENCE CARD WAS WHAT WAS IN THE BAG. I DID
16 NOT TAKE IT OUT OF THE BAG AND LOOK AT IT, TOUCH IT IN ANY
17 WAY BECAUSE I DIDN'T KNOW WHETHER THEY WANT TO USE IT FOR
18 FINGERPRINTS OR ANYTHING.

19 Q ALL RIGHT. THANK YOU.

20 A SO I DIDN'T ACTUALLY TOUCH IT.

21 MR. SCOTT: THANK YOU.

22 THE COURT: MR. FATA?

23 MR. FATA: NOTHING ELSE, YOUR HONOR.

24 THE COURT: THANK YOU. LIEUTENANT HODGE, YOU
25 CAN STEP DOWN AND WITHOUT---

1 MR. FATA: SHE NEEDS TO REMAIN.

2 THE COURT: SHE NEEDS TO REMAIN?

3 MR. FATA: AND AVAILABLE -- BE AVAILABLE TO US.

4 THE COURT: OKAY. THANK YOU. MR. FATA?

5 MR. FATA: WE WOULD CALL OFFICER JUSTIN SHARPE.

6 THE COURT: MR. SHARPE. JUSTIN SHARPE, PLEASE.

7 (WITNESS ENTERED THE COURTROOM.)

8 THE COURT: MR. SHARPE, COME FORWARD AND BE
9 SWORN, PLEASE.

10 JUSTIN SHARPE, AFTER
11 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. FATA:

14 Q MR. SHARPE, YOU USED TO BE A CORRECTIONS OFFICER. IS
15 THAT RIGHT?

16 A THAT IS CORRECT.

17 Q YOU'RE NOT ANY MORE?

18 A NO, SIR.

19 Q OKAY. WERE YOU A CORRECTIONS OFFICER ON
20 OCTOBER 29TH, 2003?

21 A YES, SIR.

22 Q AND WERE YOU STATIONED HERE IN LEE COUNTY AT LEE
23 CORRECTIONAL INSTITUTE?

24 A YES, SIR.

25 Q AND WHAT WERE YOUR DUTIES ON THAT DAY?

1 A CONTRABAND OFFICER.

2 Q OKAY. YOU WORKED WITH LIEUTENANT OR THEN SERGEANT
3 HODGES?

4 A YES, SIR.

5 Q OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
6 STATE'S EXHIBIT NUMBER 11 FOR IDENTIFICATION. AND DO YOU
7 RECOGNIZE THOSE ITEMS?

8 A YES, SIR, I DO.

9 Q HOW DID YOU -- HOW DO YOU RECOGNIZE THEM?

10 A THEY WERE HANDED TO ME BY SERGEANT HODGES AT THE
11 TIME.

12 Q OKAY.

13 A TURNED OVER TO ME DEALING WITH THE CIRCUMSTANCES THAT
14 WERE GOING ON THAT DAY.

15 Q ALL RIGHT.

16 A OR THAT NIGHT.

17 Q DID YOU TAKE ANY ACTION REGARDING THOSE ITEMS? DID
18 YOU DO ANYTHING TO THEM?

19 A YES, SIR. I TOOK THEM FROM SERGEANT HODGES, ACTUALLY
20 PLACED THEM IN THE BAG, AND THE HANDWRITING ON THE BAG IS
21 MINE.

22 Q ALL RIGHT.

23 A AND SIGNED THE EVIDENCE CARD. AND AFTER THAT I
24 HANDED THEM TO MR. CREECH.

25 Q SPECIAL AGENT CREECH?

1 A YES, SIR.

2 Q WITH SLED?

3 A YES, SIR.

4 Q IF YOU'LL LOOK AT THOSE ITEMS. ARE THEY STILL IN
5 SUBSTANTIALLY THE SAME CONDITION AS WHEN YOU RECEIVED
6 THEM?

7 A YES, SIR.

8 Q AND OTHER THAN PUTTING THEM IN THE PAPER BAG --
9 EXCUSE ME -- AND OTHER THAN PUTTING THAT ONE ITEM INTO THE
10 BAG, THAT'S THE ONLY THING YOU DID TO IT?

11 A THAT AND SEAL IT UP.

12 Q OKAY. ANSWER ANY QUESTIONS MR. DOBY OR MR. SCOTT MAY
13 HAVE.

14 THE COURT: MR. DOBY?

15 MR. DOBY: NO QUESTIONS. THANK YOU, YOUR HONOR.

16 THE COURT: THANK YOU. MR. SCOTT?

17 MR. SCOTT: NONE FOR THIS WITNESS, YOUR HONOR.

18 THE COURT: THANK YOU. MR. SHARPE, YOU CAN STEP
19 DOWN AND WITHOUT OBJECTION YOU CAN BE EXCUSED.

20 MR. FATA: WELL, HE NEEDS TO REMAIN ALSO.

21 THE COURT: ALL RIGHT. YOU CAN'T BE EXCUSED.
22 YOU CAN STEP DOWN.

23 MR. FATA: HE CAN COME DOWN OFF THE STAND.

24 THE COURT: YOU CAN'T LEAVE. HAVE TO GO BACK
25 INTO THE HOLDING ROOM BACK THERE.

3 THE COURT: MR. CREECH, COME FORWARD, PLEASE
4 SIR. YOU HAVE ALREADY BEEN SWORN. YOU'RE STILL
5 UNDER OATH.

6 MARK CREECH, AFTER
7 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. FATA:

10 Q AGENT CREECH, YOU ARE A AGENT WITH SLED?

11 A YES, SIR.

12 Q AND DO YOU -- PLEASE LOOK AT NUMBER 11 THERE FOR
13 IDENTIFICATION. AND DO YOU RECOGNIZE THOSE ITEMS?

14 A YES, SIR. ON NOVEMBER 1ST, 2003, I PICKED UP A BAG
15 THAT WAS MARKED, ONE SHANK. IT WAS SEALED. IT WAS -- GOT
16 IT FROM MR. SHARPE AT LEE CORRECTIONAL INSTITUTE. THIS
17 WAS ON SATURDAY. I LOCKED IT UP IN THE TRUNK OF MY CAR.
18 AND ON MONDAY I TRANSPORTED IT TO COLUMBIA AND I TURNED IT
19 INTO OUR EVIDENCE ROOM FOR PROCESSING.

20 Q AND WAS IT PROCESSED AT SLED?

21 A YES, SIR. AND I PICKED IT UP TODAY AND BROUGHT IT TO
22 COURT FROM OUR EVIDENCE ROOM.

23 Q OKAY. SO IT HAS EITHER BEEN IN SLED'S CUSTODY AT --
24 IN COLUMBIA OR YOUR CUSTODY?

25 A YES, SIR.

1 Q OKAY. NOW, WHEN YOU RECEIVED IT, HOW DID YOU RECEIVE
2 THOSE, THOSE ITEMS?

3 A THIS WAS IN HERE AND IT WAS SEALED UP.

4 Q OKAY.

5 A I BELIEVE IT WAS STAPLED UP.

6 Q ALL RIGHT. AND YOU TOOK IT TO SLED IN THAT
7 CONDITION?

8 A YES, SIR. I DID NOT OPEN IT UP.

9 Q DID YOU DO ANYTHING TO IT?

10 A NO, SIR.

11 Q ALL RIGHT. ANSWER ANY QUESTIONS THAT MR. DOBY OR
12 MR. SCOTT MAY HAVE.

13 THE COURT: MR. DOBY, YOU CROSS-EXAMINE.

14 MR. DOBY: NO QUESTIONS. THANK YOU, YOUR HONOR.

15 THE COURT: MR. SCOTT?

16 MR. SCOTT: YOUR HONOR, JUST BRIEFLY.

17 CROSS-EXAMINATION

18 BY MR. SCOTT:

19 Q AGENT CREECH, YOU SAID THAT YOU GOT IT FROM MR.
20 SHARPE I BELIEVE IT WAS?

21 A YES, SIR.

22 Q AND YOU PUT IT IN YOUR CAR. HOW LONG DID IT STAY IN
23 THE TRUNK OF YOUR CAR?

24 A TWO DAYS.

25 Q TWO DAYS. OVER THE WEEKEND?

1 A YES, SIR. THIS WAS ON A SATURDAY.

2 Q OKAY.

3 A OF COURSE, OUR HEADQUARTERS IS CLOSED ON THE WEEKEND.

4 Q ALL RIGHT.

5 A SO I LOCKED IT UP IN THE TRUNK OF MY CAR. I'M THE
6 ONLY ONE THAT HAS A KEY. AND KEPT IT IN MY CUSTODY, MY
7 CARE, UNTIL I WENT TO COLUMBIA ON MONDAY AND I TURNED IT
8 IN ALONG WITH OTHER EVIDENCE.

9 Q OKAY. AND YOU TURNED IT OVER TO THE SLED EVIDENCE
10 CUSTODIAN OR TO---

11 A THE EVIDENCE ROOM THERE, YES, SIR.

12 Q OKAY. AND WHEN WAS -- AFTER YOU TURNED THAT OVER TO
13 THEM, I BELIEVE YOU INDICATED THAT YOU PICKED IT UP AGAIN
14 AND YOU BROUGHT IT BACK TO LEE COUNTY. WHEN WAS THE LAST
15 TIME -- SCRATCH THAT. LET'S GO BACK TO OCTOBER OF 2003.

16 YOU TURNED IT IN TO THE EVIDENCE ROOM. WHEN WAS THE
17 NEXT TIME YOU HAD A CHANCE TO OBSERVE THAT, THAT EVIDENCE?

18 A I TURNED IT INTO -- FOR PROCESSING ON NOVEMBER THE
19 THIRD, 2003.

20 Q NOVEMBER 2003?

21 A AND I PICKED THIS UP ON, I BELIEVE IT WAS
22 NOVEMBER 3RD OF THIS YEAR, BROUGHT IT TO THIS BUILDING FOR
23 MR. SOLICITOR FATA TO LOOK AT. I TURNED IT BACK INTO
24 COLUMBIA THAT DAY, SAME DAY. I WENT BACK THIS MORNING AND
25 PICKED IT UP AGAIN AND BROUGHT IT FOR TRIAL.

1 Q OKAY. AND YOU TOOK IT OUT ON NOVEMBER 3RD AND IT
2 REMAINED IN YOUR CUSTODY THE WHOLE TIME?

3 A YES, SIR.

4 Q THANK YOU.

5 A THANK YOU.

6 THE COURT: MR. FATA?

7 MR. FATA: NOTHING ELSE.

8 THE COURT: THANK YOU. MR. CREECH, YOU CAN STEP
9 DOWN. THANK YOU.

10 MR. FATA: CECIL BRADSTREET.

11 (WHEREUPON THERE WAS A PAUSE.)

12 MR. FATA: YOUR HONOR, MAY WE APPROACH?

13 THE COURT: YES, SIR.

14 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

15 MR. FATA: HE IS HERE NOW, JUDGE.

16 THE COURT: GOOD. BRING HIM ON IN. THANK YOU.

17 MR. BRADSTREET, IF YOU WILL COME FORWARD, PLEASE SIR,
18 AND BE SWORN. GOOD TIMING.

19 (WITNESS ENTERED THE COURTROOM.)

20 CECIL BRADSTREET, AFTER
21 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. FATA:

24 Q MR. BRADSTREET, YOU'RE A AGENT WITH SLED?

25 A FORENSIC TECHNICIAN.

1 Q FORENSIC TECHNICIAN. AND WHAT ARE YOUR JOB -- WHAT
2 IS YOUR JOB AS A FORENSIC TECHNICIAN?

3 A I'M A FORENSIC TECHNICIAN IN THE EVIDENCE PROCESSING
4 DEPARTMENT. THE EVIDENCE PROCESSING DEPARTMENT EXAMINES
5 VARIOUS TYPES OF EVIDENCE FOR THE PRESENCE OF HAIR, FIBER,
6 BLOOD AND SEMEN. WE PERFORM CHEMICAL TESTS FOR THE
7 PRESENCE OF BLOOD AND SEMEN. THOSE CHEMICAL TESTS ARE
8 KNOWN AS PHENYLTHALINE FOR BLOOD AND ACID PHOSPHATASE FOR
9 SEMEN.

10 Q OKAY. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS
11 STATE'S EXHIBIT NUMBER 11 FOR IDENTIFICATION AND ASK YOU
12 IF YOU RECOGNIZE THAT. THAT'S THE BAG AND -- THE PAPER
13 BAG AND THE PLASTIC BAG.

14 A YES, I DO RECOGNIZE IT. THIS IS ITEM ONE WHICH IS
15 ASSIGNED BY THE EVIDENCE CONTROL DEPARTMENT. THIS IS MY
16 INITIALS, CKB.

17 Q WHERE DID YOU GET THAT FROM?

18 A I RECEIVED...

19 Q HOW DID IT COME IN YOUR POSSESSION?

20 A THIS ITEM I PROCESSED FROM -- LET ME MAKE SURE. I
21 PROCESSED THIS EVIDENCE -- I RECEIVED IT FROM A LARGE
22 WALK-IN REFRIGERATOR WHICH IS KNOWN AS D16 WHICH IS HOUSED
23 IN THE EVIDENCE PROCESSING DEPARTMENT.

24 Q OKAY. AND WHAT IS THE PROCEDURE FOR EVIDENCE BEING
25 TAKEN TO SLED AND THEN -- AND THEN RETRIEVED BY YOU?

1 A THE EVIDENCE IS BROUGHT IN FROM VARIOUS AGENCIES,
2 WHETHER IT BE FROM IN-HOUSE OR LOCAL LAW ENFORCEMENT
3 AGENCIES. IT IS LOGGED IN THROUGH THE EVIDENCE CONTROL
4 DEPARTMENT.

5 AND THE EVIDENCE PROCESSING DEPARTMENT HAS, LIKE I
6 SAID, A LARGE WALK-IN REFRIGERATOR WHICH IS UNDER LOCK AND
7 KEY. ONLY THE TECHNICIANS WITHIN OUR DEPARTMENT AND THE
8 TECHNICIANS IN THE EVIDENCE CONTROL DEPARTMENT HAVE
9 ACCESS.

10 THIS EVIDENCE WAS PLACED IN THERE BY A TECHNICIAN. I
11 RECEIVED IT AND I DO MY EXAMINATIONS AND RETURN IT BACK TO
12 THERE WHEN I'M FINISHED.

13 Q OKAY. WHAT EXAMINATIONS DO YOU DO ON THAT? OR WHEN
14 YOU FINISH, WHAT DO YOU DO WITH IT? EXCUSE ME.

15 A WHEN I'M FINISHED PROCESSING THE CASE, I PACKAGE IT
16 BACK UP IN THEIR CONTAINERS THAT IT WAS SUBMITTED IN,
17 PLACE IT BACK IN THE EVIDENCE PROCESSING REFRIGERATOR AND
18 ROUTE IT BACK TO IT'S SUBMITTING AGENCY FOR ITS RETURN.

19 Q DO YOU HAVE ANY MARKS OR IDENTIFYING MARKS ON THAT,
20 ON THOSE ITEMS?

21 A THESE HERE ARE MY INITIALS. THIS WAS THE ITEM NUMBER
22 ASSIGNED IN THE EVIDENCE CONTROL DEPARTMENT, ITEM ONE, AND
23 THESE ARE MY INITIALS UNDERNEATH.

24 Q AND WHEN IT WAS PUT BACK INTO THE EVIDENCE LOCKER, IT
25 WOULD HAVE BEEN RETRIEVED BY THE CASE AGENT OR WHOEVER?

1 A AN AGENT FROM THE EVIDENCE CONTROL DEPARTMENT WOULD
2 RETRIEVE IT.

3 Q NO, I'M TALKING ABOUT, ONCE YOU'RE DONE WITH IT, IT
4 GOES BACK TO THE EVIDENCE LOCKER?

5 A WHEN I'M FINISHED WITH IT I PLACE EVERYTHING BACK
6 INTO THE CONTAINER THAT IT CAME IN, TAPE IT UP, SIGN AND
7 SEAL IT, AND THEN PLACE IT BACK IN THE REGISTER.

8 Q OKAY. ARE YOU -- IS YOUR SEAL ON -- ON THE ITEM AND
9 YOUR SIGNATURE?

10 A THIS IS MY SIGNATURE RIGHT HERE.

11 Q OKAY. ON THE ITEM ITSELF?

12 A YES, SIR.

13 Q NOT ON THE BAG? OKAY.

14 MR. FATA: YOUR HONOR, WE WOULD MOVE THE ITEM
15 INTO EVIDENCE AT THIS POINT.

16 THE COURT: ALL RIGHT. ANY OBJECTION,
17 GENTLEMEN, MR. DOBY?

18 MR. DOBY: NO, SIR, YOUR HONOR.

19 THE COURT: MR. SCOTT?

20 MR. SCOTT: YOUR HONOR, IF I COULD CROSS-EXAMINE
21 THIS WITNESS BEFORE I STATE MY OBJECTION, YOUR HONOR.

22 THE COURT: ALL RIGHT, SIR. I'LL LET YOU -- YOU
23 CAN CROSS-EXAMINE HIM ONLY AS TO THE CHAIN, MATTERS
24 RELATED TO THAT CERTAINLY.

25 MR. SCOTT: YES.

1 THE COURT: GO AHEAD.

2 CROSS-EXAMINATION

3 BY MR. SCOTT:

4 Q MR. BRADSTREET, IS THAT CORRECT?

5 A YES.

6 Q OKAY.. YOU WERE SHOWING MR. FATA A FEW MINUTES AGO
7 YOUR SIGNATURE. WHERE WOULD THAT APPEAR?

8 A RIGHT HERE, CK.

9 Q ON THE ITEM ITSELF?

10 A YES, SIR.

11 Q OKAY. AND WHEN DID YOU PLACE THAT -- THAT, YOUR
12 INITIALS ON THIS?

13 A THAT WOULD HAVE BEEN ON NOVEMBER 4TH OF 2003.

14 Q OKAY. AND GO BACK WITH ME, IF YOU WOULD, TO -- AGAIN
15 TO THE POINT WHERE YOU SAID YOU FIRST GOT THE ITEM. YOU
16 WALKED -- THERE WAS A WALK-IN REFRIGERATOR YOU SAID?

17 A EVIDENCE PROCESSING HAS A WALK-IN REFRIGERATOR. I
18 HAD IN MY NOTES THAT THIS EVIDENCE, BECAUSE OF -- IT HAD A
19 LATENT PRINT EXAMINATION REQUESTED, I HAVE ON MY NOTES
20 THAT I RECEIVED THIS DIRECTLY FROM THE LATENT PRINTS
21 EXAMINER.

22 Q ALL RIGHT. WHEN WAS IT THAT YOU RECEIVED IT FROM
23 LATENT PRINTS EXAMINER?

24 A THAT WOULD HAVE BEEN NOVEMBER 4TH.

25 Q NOVEMBER 4TH. OKAY. AND DO YOU HAVE ANY KNOWLEDGE

1 AS TO HOW THE LATENT PRINTS EXAMINER GOT -- GOT ACCESS TO
2 THIS PARTICULAR ITEM?

3 A NO, SIR. I DO NOT.

4 Q OKAY. AND DO YOU HAVE ANY IDEA WHERE IT WAS BEFORE
5 THE LATENT PRINTS EXAMINER GOT ACCESS TO IT?

6 A NO, SIR. I DO NOT.

7 Q OKAY. AND AFTER YOU FINISHED DOING WHAT YOU HAD TO
8 DO WITH THE ITEM, TELL US AGAIN WHAT YOU DID WITH IT.

9 A NORMALLY OUR PROCEDURE IS TO BOX IT BACK UP IN THE
10 CONTAINER THAT IT WAS SUBMITTED IN. IN THIS CASE I WOULD
11 HAVE PUT IT BACK IN THIS BAG AND I TRANCE -- ACCORDING TO
12 MY NOTES I WOULD HAVE GIVEN IT BACK TO MR. STUCKEY WHO IS
13 THE LATENT PRINTS EXAMINER FOR HIM TO DO HIS EXAMINATION.

14 Q AND DOES THAT -- IS THAT IN FACT WHAT YOUR CHAIN OF
15 CUSTODY DOCUMENT REFLECTS YOU DID?

16 A ACCORDING TO MY NOTES THAT'S WHAT I DID. I HAVE GOT
17 THAT I DONE -- THAT I HAVE IT ON HERE THAT I RECEIVED IT
18 DIRECTLY FROM AL STUCKEY.

19 Q CAN I TAKE A LOOK AT WHAT YOU'RE REFERRING TO, PLEASE
20 SIR? SHOW ME WHAT YOU'RE REFERRING TO IF YOU WOULD.

21 A RIGHT HERE. RECEIVED FROM AL STUCKEY.

22 Q OKAY. AND THIS IS A DOCUMENT ENTITLED, EVIDENCE
23 PROCESSING INVENTORY WORKSHEET?

24 A YES, SIR. THAT'S CORRECT.

25 Q DATE OF 11-4-2003?

1 A YES, THAT'S CORRECT.

2 Q AND THIS DOCUMENT THAT YOU JUST HANDED TO ME, THIS
3 PERTAINS JUST TO THIS ITEM IN THIS PLASTIC BAG HERE. IS
4 THAT CORRECT?

5 A I HAVE CASE NOTES FOR THIS ENTIRE CASE. DEPENDING ON
6 WHICH ITEM YOU'RE INTERESTED IN, I CAN SHOW YOU.

7 Q I SEE NOW THAT THIS SHANK IS LISTED ON HERE AMONG
8 OTHER ITEMS.

9 A YES, SIR.

10 Q OKAY. AND SO YOU GOT IT AND THEN YOU -- YOU RETURNED
11 IT TO THE LATENT PRINTS EXAMINER. IS THAT CORRECT?

12 A YES, SIR.

13 Q OKAY. AND YOU HAD NO INVOLVEMENT WITH IT AFTER THAT?

14 A NO, SIR. THAT'S ALL.

15 Q OKAY. AND DID YOU SAY YOU ALSO RECEIVED IT FROM THE
16 LATENTS PRINTS EXAMINER?

17 A YES, SIR. I -- I RECEIVED FROM AL STUCKEY.

18 Q AND THAT WAS ON THE SAME DATE?

19 A YES, SIR. 11-4-2003.

20 Q ALL RIGHT. THANK YOU.

21 THE COURT: MR. FATA?

22 MR. FATA: YOUR HONOR, WE STILL WOULD MOVE THE
23 ITEM IN.

24 THE COURT: THANK YOU. ANY OBJECTION NOW,
25 MR. SCOTT?

1 MR. SCOTT: YOUR HONOR, IT DOESN'T SEEM TO BE A
2 GAP BASED ON THIS GENTLEMAN'S TESTIMONY AND THAT HE
3 GOT IT FROM THE LATENT PRINTS EXAMINER. WE HAVE
4 HEARD NO TESTIMONY FROM THE LATENT PRINTS EXAMINER
5 REGARDING HOW HE CAME INTO POSSESSION OF THIS
6 EVIDENCE OR ADMISSION OR WHERE IT CAME IN OR HOW -- I
7 SHOULD SAY WHERE IT WAS WHEN HE CAME IN POSSESSION OF
8 IT.

9 THE COURT: THE GAP EXISTS, HOWEVER, WITHIN THE
10 CONFINES OF THE SLED LABORATORY, AND IT'S NOT UNUSUAL
11 WITHIN THAT LABORATORY FOR THINGS TO BE HANDED ABOUT
12 FROM ONE PERSON TO THE OTHER FOR VARIOUS TYPES OF
13 PROCESSING OBVIOUSLY, AND CERTAINLY THAT'S THE CASE
14 IN THIS INSTANCE AS WELL.

15 MOREOVER, THE ITEM THAT IS SOUGHT TO BE
16 INTRODUCED IS NOT A FUNGIBLE ITEM, IT'S NOT SOMETHING
17 THAT IS EASILY CHANGED LIKE A CHEMICAL COMPOUND OR
18 CHEMICAL SUBSTANCE OR SOME OTHER ITEM WHOSE CHARACTER
19 OR MAKEUP WOULD BE LIKELY CHANGED BY -- BY HANDLING
20 OR BY SOME FORM OF DILUTION.

21 THIS IS WHAT IT IS. IT'S A PIECE OF METAL I
22 TAKE IT WITH IT A PIECE OF CLOTH AROUND IT I THINK AS
23 BEST I CAN DETERMINE. AND SO WHILE IT HAS BEEN
24 RATTLING AROUND IN THERE WITHIN THE VARIOUS
25 DEPARTMENTS OF SLED, I FIND THAT THE CHAIN IS

1 SUFFICIENTLY CLOSED TO ALLOW ITS ADMISSIBILITY.

2 SO I WILL ALLOW STATE'S 11 IN EVIDENCE OVER
3 OBJECTION OF DEFENSE COUNSEL.

4 (WHEREUPON, STATE'S EXHIBIT 11 WAS ADMITTED INTO
5 EVIDENCE.)

6 DIRECT EXAMINATION

7 BY MR. FATA:

8 Q MR. BRADSTREET, DID YOU -- WHEN YOU GOT -- WHEN YOU
9 TOOK THE STATE'S EXHIBIT NUMBER 11 INTO YOUR POSSESSION,
10 DID YOU DO ANYTHING TO IT?

11 A YES, SIR. I DO A VISUAL EXAM OF THE ITEM TO LOOK FOR
12 THE PRESENCE OF BLOOD. IF THERE ARE ANY AREAS THAT I FEEL
13 THAT MAY BE BLOOD, I USE A SWAB, DROP SALINE ON THAT SWAB,
14 SWAB THAT AREA IN QUESTION, THEN I WILL SET THAT SWAB
15 ASIDE, GO BACK WITH ANOTHER SWAB, TEST THAT AREA USING A
16 CHEMICAL THAT IS PHENYLTHALINE WHICH REACTS WITH
17 HEMOGLOBIN WHICH IS FOUND IN BLOOD, AND THEN DROP HYDROGEN
18 PEROXIDE ON THAT WHICH PRODUCES A CHEMICAL REACTION, WILL
19 MAKE IT A BRIGHT PINK COLOR.

20 IF THAT AREA TURNS PINK, THEN IT'S A PRESUMPTIVE TEST
21 FOR BLOOD, THAT ORIGINAL SWAB THAT I MADE, I FORWARD THAT
22 ON TO DNA FOR FURTHER ANALYSIS.

23 (WHEREUPON, STATE'S EXHIBIT NO. 12 WAS MARKED
24 FOR IDENTIFICATION ONLY.)

25 BY MR. FATA:

1 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
2 EXHIBIT 12 FOR IDENTIFICATION AND ASK YOU IF YOU RECOGNIZE
3 THAT.

4 A I DO. THIS IS THE POUCH CONTAINING MY SWABS FROM
5 THIS ITEM WHICH IS 1.1 AND 1.2. I ALSO HAD ANOTHER SWAB
6 THAT I TOOK FROM THE TIP OF THE AREA FOR POTENTIAL SKIN
7 CELLS THAT WAS FORWARDED ON TO DNA FOR FURTHER ANALYSIS.

8 THIS IS MY SIGNATURE ACROSS HERE. THIS IS THE DATE
9 THAT I DID IT, NOVEMBER 4TH, 2003. I ALSO HEAT-SEALED IT
10 ACROSS THE TOP WITH MY INITIALS AND THE DATE.

11 Q AND WHERE WOULD THOSE -- WHERE WOULD THOSE ITEMS GO
12 TO?

13 A ONCE I'M FINISHED WITH IT, I DROP THESE ITEMS IN A
14 SECURED, LOCKED REFRIGERATOR IN THE EVIDENCE CONTROL
15 DEPARTMENT AND IT'S A DNA DROP BOX.

16 Q AND -- FOR FURTHER PROCESSING?

17 A YES, SIR, THAT'S CORRECT.

18 Q DO YOU -- DO YOU EVER RECEIVE THOSE ITEMS BACK?

19 A NO, SIR.

20 Q ARE THOSE ITEMS IN SUBSTANTIALLY THE SAME CONDITION
21 AS YOU PUT THEM IN TO START WITH?

22 A YES, SIR. I ALSO -- AS I COMPLETE AN ENVELOPE, I PUT
23 TAPE ON THE BACK, SIGN AND DATE IT ALSO, SO YES.

24 Q OKAY.

25 MR. FATA: YOUR HONOR, I THINK I'M GOING TO HAVE

1 TO DO THIS A LITTLE DIFFERENT. I'M GOING TO HAVE TO
2 STOP WITH THIS WITNESS AND GO TO -- MAY WE APPROACH,
3 YOUR HONOR?

4 THE COURT: YES, SIR. I AGREE WITH YOU. I
5 THINK -- SINCE STATE'S 12 FOR ID IS SENT TO SOME
6 OTHER DEPARTMENT FOR PROCESSING, I THINK IT'S A
7 DIFFERENT MATTER.

8 MR. FATA: RIGHT.

9 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

10 THE COURT: MR. BRADSTREET, YOU CAN STEP DOWN
11 FOR THE TIME BEING. DON'T LEAVE US.

12 LADIES AND GENTLEMEN, WE ARE GOING TO TAKE THE
13 AFTERNOON RECESS AT THIS POINT IN TIME AND SEND YOU
14 TO YOUR JURY ROOM FOR 15 MINUTES. WE WILL GET YOU
15 OUT AT 4:00 TO CONCLUDE THE AFTERNOON'S WORK.

16 PLEASE DON'T DISCUSS THIS CASE AMONG YOURSELVES
17 WHILE YOU'RE IN THE JURY ROOM. THANK YOU.

18 (JURY LEFT COURTROOM AT 3:51 P.M.)

19 THE COURT: ALL RIGHT, FOLKS. WE'LL TAKE 15
20 MINUTES. THANK YOU.

21 (WHEREUPON A RECESS WAS HAD.)

22 MR. DOBY: WE HAVE A QUESTION ABOUT THE INMATES
23 BEING BROUGHT BACK TOMORROW. YOUR HONOR, I DID NOT
24 WRITE DOWN THE PEOPLE THAT WE NEED TO CALL.

25 THE COURT: OKAY. I HAVE GOT THOSE NAMES AND I

1 CAN ASK -- I CAN ASK MY LAW CLERK TO CALL CAPTAIN
2 NEESEMAN AT -- HERE AT LEE IN REGARD TO MR. KILCO AND
3 MR. HARVIN AND SERIAS OR MRS. BRENNAR IN REGARD TO
4 CARLOS KNOX AND THOMAS DEBERRY?

5 MR. DOBY: YES, SIR, YOUR HONOR.

6 THE COURT: AND HAVE THOSE FOLKS HERE BY
7 TOMORROW MORNING. MR. SCOTT, IF YOU WILL GIVE US THE
8 NAMES OF YOUR PEOPLE AND WHO THEY ARE, WE CAN MAKE
9 THE SAME CALL FOR YOU DURING THE BREAK.

10 MR. SCOTT: YES, SIR.

11 THE COURT: OR DO IT RIGHT NOW WHILE THE
12 TESTIMONY IS GOING ON.

13 MR. SCOTT: YOUR HONOR, I'M SORRY?

14 THE COURT: I CAN GET MR. WILLIAMS TO MAKE THE
15 CALL IF YOU HAVEN'T ALREADY MADE IT.

16 MR. SCOTT: JUDGE, WHAT I DID DURING THE LUNCH
17 HOUR WAS I HAD ACTUALLY TALKED TO MRS. LYNN
18 TURBEVILLE.

19 THE COURT: RIGHT.

20 MR. SCOTT: AND PURSUANT TO OUR EARLIER
21 DISCUSSION THIS WEEK, SHE TOLD ME IF I COULD JUST GET
22 A SUBPOENA FAXED TO HER, WHICH I HAVE ALREADY DONE
23 THROUGH MR. FATA'S ASSISTANCE, THAT I CAN GIVE -- BE
24 SURE YOUR HONOR, THOSE NAMES WERE MARVIS BRIGMAN WHO
25 WAS AT KERSHAW CORRECTIONAL INSTITUTION, ADAM GRAY,

1 WHO IS AT KERSHAW, AND MR. CHARLES CARR WHO IS AT --
2 SHE INDICATED SHE'D TRY TO HAVE THEM HERE, YOUR
3 HONOR.

4 THE COURT: ALL RIGHT.

5 MR. SCOTT: THESE ARE THE ONES WE DISCUSSED
6 HAVING AN EN CAMERA---

7 THE COURT: I UNDERSTAND.

8 MR. SCOTT: YES, SIR.

9 THE COURT: SO DO WE NEED TO DO ANYTHING FURTHER
10 TO GET THEM HERE OR THEY ARE ALREADY ON NOTICE TO BE
11 HERE?

12 MR. SCOTT: BASED ON MY DISCUSSION WITH
13 MRS. TURBEVILLE THIS AFTERNOON, THAT SHE HAD -- THAT
14 THE ARRANGEMENTS WOULD BE MADE TO GET HERE THIS
15 AFTERNOON.

16 THE COURT: ALL RIGHT, FOLKS. IS EVERYBODY
17 READY NOW FOR THE JURY?

18 MR. FATA: YES, SIR, THE STATE IS.

19 THE COURT: ALL RIGHT. BRING US THE JURY,
20 PLEASE.

21 (JURY ENTERED THE COURTROOM AT 4:22 P.M.)

22 THE COURT: ALL RIGHT. MR. FATA, YOU CAN CALL
23 YOUR NEXT WITNESS.

24 MR. FATA: YOUR HONOR, WE WOULD CALL MR. O'CAIN.

25 (WITNESS IN COURTROOM.)

1 EDDIE O'CAIN, AFTER
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. FATA:

5 Q MR. O'CAIN, ARE YOU EMPLOYED BY THE SOUTH CAROLINA
6 DEPARTMENT OF CORRECTIONS?

7 A YES, SIR.

8 Q AS WHAT IS YOUR -- WHAT ARE YOUR -- WHAT IS YOUR JOB?

9 A STATE INVESTIGATOR, SIR.

10 Q OKAY. WERE YOU -- IN THAT CAPACITY ON OCTOBER THE
11 29TH, 2003?

12 A YES, SIR.

13 Q ALL RIGHT. WERE YOU -- ON THAT SAME DATE,
14 OCTOBER 29TH, 2003, WERE YOU IN LEE COUNTY?

15 A YES, SIR.

16 Q ALL RIGHT. AND WERE YOU IN LEE COUNTY IN RESPONSE TO
17 THE LEE COUNTY PRISON SITUATION?

18 A YES, SIR.

19 Q ALL RIGHT. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
20 AS STATE'S EXHIBIT NUMBER 13 AND SEE IF YOU CAN IDENTIFY
21 WHAT'S IN THERE.

22 (WHEREUPON, STATE'S EXHIBIT NO. 13 WAS MARKED
23 FOR IDENTIFICATION ONLY.)

24 THE COURT: IS THAT 13 FOR ID?

25 MR. FATA: FOR IDENTIFICATION, YES, SIR.

1 THE WITNESS: YES, SIR.

2 THE COURT: THANK YOU.

3 THE WITNESS: YES, SIR.

4 BY MR. FATA:

5 Q AND HOW DID THAT COME INTO YOUR POSSESSION?

6 A WE WERE SENT DOWN TO HELP ASSIST IN THE AFTERMATH, IF
7 YOU WILL, TO LOOK FOR CONTRABAND, DIFFERENT ITEMS THAT MAY
8 ASSIST IN THE INVESTIGATION. WE WERE IN THE ROOM OF MR.
9 SINGLETARY AND FOUND SOME WHAT WE REFER TO AS KITES,
10 LITTLE MESSAGES.

11 Q KITES, BE A HANDWRITTEN NOTES?

12 A LITTLE HANDWRITTEN NOTES, SCREEN COMMUNICATION
13 BETWEEN INMATES.

14 Q OKAY. WHAT DID YOU -- EXCUSE ME. GO AHEAD.

15 A THESE WERE FOUND IN THE LOCKER OF MR. SINGLETARY,
16 WHAT WE WERE TOLD WAS HIS LOCKER.

17 Q WHAT -- WHAT DID YOU DO WITH THOSE ITEMS?

18 A THESE ITEMS WERE -- I TOOK POSSESSION OF THEM AND
19 THEN I BROUGHT THEM BACK TO COLUMBIA, TURNED THEM OVER TO
20 MY SUPERVISOR, TERRY TAYLOR.

21 Q OKAY. ARE THEY IN APPROXIMATELY THE SAME CONDITION
22 AS WHEN YOU GOT THEM?

23 A YES, SIR. COLOR IS FADED ON THEM WHERE THEY WERE WET
24 WHEN WE RETRIEVED THEM FROM ALL THE WATER THAT HAD BEEN
25 PUT OUT FROM THE SPRINKLERS.

1 Q OKAY. BUT THOSE WERE THE -- THOSE WERE THE NOTES
2 THAT YOU -- THAT YOU RETRIEVED FROM INMATE SINGLETARY'S
3 ROOM?

4 A THEY APPEARED TO BE, YES, SIR, WITHOUT OPENING IT.

5 Q WELL, DO YOU NEED TO OPEN IT TO BE SURE?

6 A IF WE COULD, YES, SIR, JUST TO LOOK AT THEM AND MAKE
7 SURE.

8 Q SURE. GO AHEAD.

9 A (COMPLIED, OPENED EVIDENCE STATE'S EXHIBIT 13 FOR
10 IDENTIFICATION). YES, SIR. THEY APPEAR TO BE THE SAME
11 NOTES THAT I TOOK OUT OF THE INSTITUTION THAT DAY.

12 Q ALL RIGHT. IF YOU'LL PUT THEM BACK IN THE BAG,
13 PLEASE. ANSWER ANY QUESTIONS THAT MR....

14 THE COURT: MR. DOBY, YOU CAN CROSS-EXAMINE.

15 CROSS-EXAMINATION

16 BY MR. DOBY:

17 Q INVESTIGATOR, WHERE DID YOU ACTUALLY FIND THESE
18 NOTES? WHEN YOU WENT INTO A ROOM; CORRECT?

19 A YES, SIR.

20 Q WHERE DID YOU FIND THESE NOTES WITHIN THE ROOM?

21 A THEY WOULD HAVE BEEN IN HIS LOCKER, SIR, WHICH WAS A
22 STEEL LOCKER WHERE THEY KEEP THEIR BELONGINGS.

23 Q ALL RIGHT. WERE THEY CONTAINED IN AN ENVELOPE?

24 A THAT I CAN'T TELL YOU AT THIS TIME. I DON'T HAVE ANY
25 PAPERWORK OR ANYTHING WITH ME TO SAY EXACTLY WHERE IN THE

1 LOCKER THEY CAME FROM. THEY WERE INSIDE THE LOCKER.

2 Q JUST INSIDE THE LOCKER?

3 A YES, SIR.

4 Q THEY WERE WET?

5 A YES, SIR.

6 Q WAS EVERYTHING IN THE ROOM WET?

7 A YES, SIR.

8 Q HOW DO YOU KNOW IT WAS TYRONE SINGLETARY'S LOCKER?

9 A THE OFFICERS THERE SAID THAT THAT WAS THE LOCKER THAT
10 HE WAS USING.

11 Q OKAY. WHICH OFFICERS TOLD YOU THAT?

12 A I -- THAT AGAIN I DON'T KNOW WITHOUT NOTES.

13 Q ARE THEY HERE TO TESTIFY TODAY? HAVE YOU SEEN ANY OF
14 THOSE OFFICERS?

15 A THAT I COULDN'T TELL YOU, SIR.

16 Q DO YOU HAVE INFORMATION ABOUT WHICH ROOM THAT THEY
17 WERE TAKEN OUT OF?

18 A 2226 IS WHAT I HAVE ON THE EVIDENCE CARD, SIR.

19 Q ALL RIGHT. DID YOU GO AND COMPARE AS TO WHO WAS
20 HOUSED IN THAT PARTICULAR ROOM?

21 A I'M SORRY?

22 Q DID YOU GO AND COMPARE OR FIND OUT FROM SOMEONE AT
23 THE INSTITUTION AS TO WHO WAS IN THAT PARTICULAR ROOM AND
24 WAS ASSIGNED TO THAT ROOM?

25 A NO, SIR, NOT AT THAT TIME.

1 Q DO YOU KNOW WHO HAD BEEN IN THE ROOM THAT PARTICULAR
2 NIGHT OF OCTOBER THE 29TH?

3 A NO, SIR.

4 Q DO -- YOU OBVIOUSLY KNEW THAT THERE WAS A DISTURBANCE
5 WITHIN THE PRISON BASED ON THE CONDITION OF THE--

6 A YES, SIR.

7 Q -- CHESTERFIELD UNIT?

8 A YES, SIR.

9 Q OKAY. AND THEY WERE STILL CONTAINED WITHIN THE
10 LOCKER?

11 A YES, SIR.

12 Q YOU -- AND THEY COULD HAVE BEEN CONTAINED WITHIN AN
13 ENVELOPE OR SOMETHING ELSE, YOU JUST DON'T RECALL THAT?

14 A NO, I DON'T RECALL, NO, SIR.

15 Q ALL RIGHT. YOU DIDN'T FIND THOSE NOTES IN ANY OTHER
16 ROOMS, NOTES SIMILAR TO THOSE IN ANY OTHER ROOMS WITHIN
17 THE CHESTERFIELD UNIT, THAT WAS THE ONLY NOTES THAT YOU
18 FOUND?

19 A THAT WAS THE ONLY NOTES THAT I FOUND AND TOOK
20 POSSESSION OF, YES, SIR.

21 Q THANK YOU. THAT'S ALL I HAVE.

22 THE COURT: MR. SCOTT?

23 MR. SCOTT: NO QUESTIONS, JUDGE.

24 THE COURT: THANK YOU. MR. FATA?

25 REDIRECT EXAMINATION

1 BY MR. FATA:

2 Q MR. O'CAIN, WHEN -- YOU GAVE THOSE TO TERRY TAYLOR?

3 A YES, SIR.

4 Q NOTHING ELSE.

5 THE COURT: THANK YOU. YOU CAN STEP DOWN,

6 MR. O'CAIN. THANK YOU.

7 MR. FATA: TERRY TAYLOR.

8 THE WITNESS: BE EXCUSED?

9 THE COURT: YES, SIR.

10 MR. FATA: AND MAY THIS WITNESS BE EXCUSED, YOUR
11 HONOR?

12 THE COURT: WITHOUT OBJECT, MR. O'CAIN, YOU CAN
13 BE EXCUSED. THANK YOU.

14 (WITNESS IN COURTROOM.)

15 TERRY TAYLOR, AFTER
16 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. FATA:

19 Q MR. TAYLOR, ARE YOU AN EMPLOYEE OF THE DEPARTMENT OF
20 CORRECTIONS?

21 A YES, SIR.

22 Q AND WERE YOU -- YOU THERE CURRENTLY? WERE YOU BACK
23 ON OCTOBER 29TH, 2003?

24 A YES, SIR.

25 Q AND WERE YOU IN LEE COUNTY AT THE LEE COUNTY

1 CORRECTIONAL INSTITUTE ON -- ON THAT DATE IN RESPONSE TO A
2 SITUATION AT THAT INSTITUTION?

3 A NO, SIR. I WAS AT HEADQUARTERS IN COLUMBIA.

4 Q YOU WERE? OKAY. ALL RIGHT. I'M GOING TO SHOW YOU
5 WHAT HAS BEEN MARKED AS STATE'S EXHIBIT 13 FOR
6 IDENTIFICATION, AND ASK YOU IF YOU RECOGNIZE THOSE ITEMS
7 IN THAT BAG.

8 A YES, SIR.

9 Q HOW DID YOU COME IN -- DID YOU COME INTO POSSESSION
10 OF THOSE OR HOW DO YOU RECOGNIZE THEM?

11 A YES, SIR. EDDIE O'CAIN BROUGHT THESE TO ME AT
12 HEADQUARTERS.

13 Q AND WHY DID HE BRING THEM TO YOU?

14 A I UNDERSTOOD HE HAD CONFISCATED THEM FROM SOME
15 PROPERTY AT THE INSTITUTION AT LEE.

16 Q AND HE GAVE THEM TO YOU? WHY DID HE GIVE THOSE
17 NOTES...

18 A TO TURN OVER TO SLED AS EVIDENCE.

19 Q OKAY. DID YOU MAINTAIN THOSE ITEMS IN YOUR CUSTODY?

20 A YES, SIR, UNTIL I TURNED THEM OVER TO THE SLED AGENT.

21 Q AND YOU KNOW WHAT SLED AGENTS YOU TURNED THEM OVER
22 TO?

23 A IT'S A GREEN.

24 Q MICHAEL GREEN?

25 A YES.

1 Q OKAY. ARE THOSE NOTES IN SUBSTANTIALLY THE SAME
2 CONDITION AS WHEN YOU GOT THEM?

3 A YES, SIR.

4 Q ANSWER ANY QUESTIONS MR. DOBY MAY HAVE.

5 THE COURT: MR. DOBY?

6 CROSS-EXAMINATION

7 BY MR. DOBY:

8 Q FROM THE TIME YOU GOT THOSE NOTES UNTIL YOU TURNED
9 THEM OVER TO MICHAEL GREEN, WHERE WERE THEY MAINTAINED?

10 A THEY WERE IN OUR OFFICE AT -- IN INTERNAL AFFAIRS
11 OFFICE AT HEADQUARTERS.

12 Q ARE THEY IN SOME LOCKED, SECURE SAFE OR EVIDENCE
13 ROOM?

14 A WOULD HAVE BEEN MY DESK AT THE -- AT THE -- AT THE
15 HEADQUARTERS.

16 Q HOW LONG DID THEY STAY IN YOUR DESK?

17 A TILL I TURNED THEM OVER TO GREEN, IT WAS -- I GOT
18 THEM ON 11-3 AND GREEN GOT THEM -- I GOT THEM ON 11-3 AT
19 8:45 AND HE GOT THEM AT 10, SAME DAY.

20 Q 10:00 THE SAME DAY?

21 A YES.

22 Q SO YOU GOT THEM, IMMEDIATELY TURNED THEM OVER TO--

23 A THIS LOOKS LIKE A 8. IT COULD BE -- WELL, IT WOULD
24 BE EIGHT, YES, SIR. A COUPLE HOURS LATER I TURNED THEM
25 OVER TO MR. GREEN.

1 Q THANK YOU. THAT'S ALL I HAVE.

2 THE COURT: MR. SCOTT?

3 MR. SCOTT: NO QUESTIONS, YOUR HONOR.

4 THE COURT: MR. FATA?

5 MR. FATA: NOTHING FURTHER FROM THIS WITNESS,
6 YOUR HONOR. MAY HE BE EXCUSED?

7 THE COURT: YES, SIR. WITHOUT OBJECTION, MR.
8 TAYLOR, YOU CAN BE EXCUSED. THANK YOU FOR COMING.
9 YOU'RE EXCUSED.

10 MR. FATA: YOUR HONOR, WE WOULD CALL MICHAEL
11 GREEN.

12 THE COURT: MR. GREEN, PLEASE, MICHAEL GREEN.
13 (WITNESS IN COURTROOM.)

14 MICHAEL GREEN, AFTER
15 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. FATA:

18 Q AGENT GREEN, ARE YOU A SLED AGENT?

19 A YES, SIR.

20 Q SOUTH CAROLINA LAW ENFORCEMENT DIVISION?

21 A CORRECT.

22 Q AND IN YOUR CAPACITY -- I'M GOING TO SHOW YOU STATE'S
23 EXHIBIT NUMBER 13 FOR IDENTIFICATION. IN YOUR CAPACITY AS
24 A SLED AGENT DID YOU COME IN CONTACT WITH A MATERIAL ON
25 INSIDE THAT ENVELOPE OR...

1 A YES, SIR, I DID.

2 Q AND WHERE DID YOU GET IT FROM?

3 A I GOT THESE NOTES FROM TERRY TAYLOR.

4 Q AND WHAT DID YOU DO WITH THEM?

5 A I BROUGHT THEM BACK TO HEADQUARTERS THERE AT SLED AND
6 WE EVENTUALLY TOOK THEM TO EVIDENCE.

7 Q WE? WAS IT YOU OR SOMEONE ELSE?

8 A I TOOK THEM OVER THERE.

9 Q OVER THERE?

10 A I THINK THERE WERE SOME OTHER AGENTS, TO -- TO
11 EVIDENCE LOG-IN.

12 Q OKAY.

13 A RIGHT WHERE WE LOG IN OUR EVIDENCE.

14 Q OKAY. SO YOU TOOK THEM TO EVIDENCE LOG-IN AND PUT
15 THEM IN EVIDENCE LOG-IN?

16 A CORRECT.

17 Q AND THEN WHATEVER TESTS, WHATEVER PERFORMED, WHOEVER
18 DID THAT GOT THEM OUT OF THE EVIDENCE LOG-IN?

19 A CORRECT.

20 Q OKAY. ARE THOSE NOTES, THOSE ITEMS STILL IN THE
21 SAME -- SUBSTANTIALLY THE SAME CONDITION AS WHEN YOU
22 RECEIVED THEM?

23 A YES, SIR. THEY APPEAR TO BE.

24 Q OKAY. ANSWER ANY QUESTIONS THAT MR. DOBY MAY HAVE OR
25 MR. SCOTT.

1 THE COURT: MR. DOBY?

2 MR. DOBY: NO QUESTIONS. THANK YOU.

3 THE COURT: THANK YOU. MR. SCOTT?

4 MR. SCOTT: NO QUESTIONS, YOUR HONOR.

5 THE COURT: THANK YOU. MR. GREEN, YOU CAN STEP
6 DOWN. YOU CAN BE EXCUSED WITHOUT OBJECTION.

7 MR. FATA: THANK YOU, JUDGE. AND WE WOULD CALL
8 AGENT MARK CREECH.

9 THE COURT: MR. CREECH, RESUME THE STAND, PLEASE
10 SIR. YOU'RE STILL UNDER OATH.

11 MARK CREECH, AFTER
12 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MR. FATA:

15 Q SHOW YOU STATE'S EXHIBIT NUMBER 13 FOR
16 IDENTIFICATION. AND DO YOU RECOGNIZE THOSE?

17 A YES, SIR. THIS IS PART OF SOME EVIDENCE THAT I
18 BROUGHT TO COURT TODAY. I PICKED IT UP FROM SLED
19 HEADQUARTERS, LOGGED IT OUT THIS MORNING AND BROUGHT IT TO
20 THIS BUILDING.

21 Q YOU MADE ANY CHANGES TO IT OR ANYTHING LIKE THAT?

22 A NO, SIR.

23 Q OKAY. ANSWER ANY QUESTIONS THAT --

24 MR. FATA: WELL, FIRST OF ALL, WE WOULD MOVE
25 THAT INTO EVIDENCE, YOUR HONOR.

1 THE COURT: ALL RIGHT. WHAT SAYS MR.
2 SINGLETARY, MR. DOBY?

3 MR. DOBY: YOUR HONOR, I STILL BELIEVE THEY HAVE
4 A GAP IN THE CUSTODY OF THIS ITEM AT THIS POINT, SO I
5 WOULD OBJECT BASED ON THAT BASIS.

6 THE COURT: ALL RIGHT. YOU GOT SOMEBODY ELSE
7 WHO IS GOING TO TESTIFY---

8 MR. FATA: WE HAVE - WE HAVE GAYLE HEATH HERE
9 WHO IS THE HANDWRITING EXPERT THAT TESTED THOSE
10 ITEMS.

11 THE COURT: ALL RIGHT. THAT -- I AGREE. WHILE
12 THE CHAIN MAY HAVE BEEN SUFFICIENTLY CLOSED TO ALLOW
13 THE ADMISSIBILITY, THE RELEVANCE AT THIS PARTICULAR
14 TIME THAT IS -- EITHER OF THESE DEFENDANTS IS STILL
15 SOMEWHAT TENUOUS.

16 I WILL -- I WILL SUSTAIN THE OBJECTION FOR THE
17 TIME BEING. THANK YOU. ALL RIGHT.

18 MR. FATA: YOUR HONOR, THEN WE WOULD CALL GAYLE
19 HEATH.

20 THE COURT: JUST ONE SECOND. ANY QUESTIONS OF
21 MR. CREECH, MR. DOBY?

22 MR. DOBY: NO THANK YOU, YOUR HONOR.

23 THE COURT: MR. SCOTT?

24 MR. SCOTT: NO, SIR.

25 THE COURT: THANK YOU. MR. CREECH, YOU CAN STEP

1 DOWN. GAYLE HEATH, PLEASE.

2 MR. FATA: YOUR HONOR, THIS WITNESS MAY NEED TO
3 TAKE A BREAK. IT'S THE WITNESS I WAS TELLING YOU
4 ABOUT.

5 THE COURT: YES, SIR. I'M SORRY. I UNDERSTAND
6 SHE'S UNDER THE WEATHER.

7 MR. FATA: SHE MAY. I DON'T KNOW.

8 THE COURT: ALL RIGHT. YOU CAN TELL HER,
9 DEPENDING UPON HOW LONG SHE'S ON HER FEET, LET HER
10 KNOW IF SHE NEEDS A BREAK TO LET ME KNOW.

11 (WITNESS IN COURTROOM.)

12 THE COURT: MRS. HEATH, IF YOU WILL COME
13 FORWARD, PLEASE MA'AM, AND BE SWORN.

14 GAYLE HEATH, AFTER
15 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

16 THE COURT: MRS. HEATH, I UNDERSTAND YOU'RE
17 SOMEWHAT UNDER THE WEATHER. IF YOU NEED A BREAK
18 DURING THE TESTIMONY, IF YOU'LL PLEASE LET ME KNOW.

19 THE WITNESS: THANK YOU.

20 DIRECT EXAMINATION

21 BY MR. FATA:

22 Q AND WHERE DO YOU RESIDE, MRS. HEATH?

23 A I RESIDE IN COLUMBIA, SOUTH CAROLINA.

24 Q AND WHAT IS YOUR OCCUPATION, PROFESSION?

25 A I'M A FORENSIC DOCUMENT EXAMINER, BETTER KNOWN AS A

1 HANDWRITING EXPERT.

2 Q OKAY. HOW LONG HAVE YOU BEEN IN THE FIELD OF -- IS
3 THAT A -- SAME AS QUESTION DOCUMENTS, THAT SORT OF THING?

4 A YES, SIR, THAT IS CORRECT.

5 Q HOW LONG HAVE YOU BEEN -- HOW LONG HAVE YOU BEEN IN
6 THAT FIELD?

7 A A LITTLE OVER 22 YEARS.

8 Q ARE YOU CERTIFIED?

9 A YES, SIR, I AM, BY THE AMERICAN BOARD OF FORENSIC
10 DOCUMENT EXAMINERS.

11 Q WOULD YOU BRIEFLY DESCRIBE THE NATURE AND EXTENT OF
12 YOUR TRAINING AND PREPARATION.

13 A OKAY. I COMPLETED A TWO YEAR INTERNSHIP AT THE SLED
14 LABORATORY AND IN WHICH I BECAME FAMILIAR WITH THE
15 INSTRUMENTATION AND EXAMINATION OF PROCESS OF QUESTION
16 DOCUMENTS. I HAVE ALSO ATTENDED THE UNITED STATES SECRET
17 SERVICE SCHOOL ON QUESTION DOCUMENTS AND THE FBI SCHOOL ON
18 QUESTION DOCUMENTS AS WELL AS ATTENDING CONTINUING
19 EDUCATION COURSES OVER THE LAST 22 YEARS.

20 Q IS THIS GENERALLY THE WAY THAT OR ACCEPTED WAY THAT
21 YOU TRAIN FOR THIS PROFESSION?

22 A YES, SIR, IT IS.

23 Q ALL RIGHT. WHAT OTHER -- WHAT OTHER TRAINING HAVE
24 YOU HAD IN YOUR AREA OF DOCUMENT EXAMINATION?

25 A I HAVE -- ATTEND ANNUAL TRAINING SESSIONS BY THE

1 AMERICAN SOCIETY OF QUESTION DOCUMENT EXAMINERS ALSO PUT
2 ON BY THE AMERICAN BOARD OF QUESTION DOCUMENT EXAMINERS.
3 I'M ALSO A MEMBER OF THE AMERICAN ACADEMY OF FORENSIC
4 SCIENCES, ATTEND THEIR WORKSHOPS, AS WELL AS THE
5 SOUTHEASTERN ASSOCIATION OF FORENSIC DOCUMENT EXAMINERS.

6 Q DO YOU MAINTAIN A LABORATORY IN CONNECTION WITH YOUR
7 WORK?

8 A YES, SIR, I DO.

9 Q AND WHERE IS THAT?

10 A IT'S IN SLED HEADQUARTERS IN COLUMBIA, SOUTH
11 CAROLINA.

12 Q AND WHAT IS YOUR ACADEMIC BACKGROUND?

13 A I HAVE TWO UNDERGRADUATE DEGREES FROM THE UNIVERSITY
14 OF SOUTH CAROLINA AND I'M A GRADUATE OF THE SOUTH CAROLINA
15 CRIMINAL JUSTICE ACADEMY AND THE FEDERAL LAW ENFORCEMENT
16 TRAINING CENTER IN GLENCOE, GEORGIA.

17 MR. FATA: YOUR HONOR, I WOULD OFFER MRS. HEATH
18 AS AN EXPERT IN THE EXAMINATION OF QUESTION DOCUMENTS
19 AND HANDWRITING.

20 THE COURT: THANK YOU. MR. DOBY, VOIR DIRE?

21 MR. DOBY: NO OBJECTION, YOUR HONOR.

22 THE COURT: THANK YOU. MR. SCOTT?

23 MR. SCOTT: NO OBJECTION, YOUR HONOR.

24 THE COURT: THANK YOU. WITHOUT OBJECTION
25 MRS. HEATH IS SO QUALIFIED.

1 BY MR. FATA:

2 Q MRS. HEATH, I'M GOING TO HAND YOU WHAT'S BEEN MARKED
3 AS STATE'S EXHIBIT NUMBER 13 FOR IDENTIFICATION. SEE IF
4 YOU RECOGNIZE THOSE ITEMS OR THAT ITEM.

5 A YES, SIR, I DO. THEY CONTAIN MY ITEM NUMBERS, AND
6 CASE NUMBER, AND MY INITIALS.

7 Q AND YOU -- HAVE YOU PREVIOUSLY EXAMINED THOSE ITEMS?

8 A YES, SIR, I DID.

9 Q AND WHOSE REQUEST DID YOU MAKE AN EXAMINATION OF
10 THOSE ITEMS?

11 A THE EVIDENCE WAS SUBMITTED TO ME BY SPECIAL AGENT
12 MARK CREECH OF SLED.

13 Q OKAY. AND HOW DID THOSE ITEMS COME INTO YOUR
14 POSSESSION AGAIN?

15 A HE SUBMITTED THEM TO THE EVIDENCE ROOM INTO A SECURED
16 LOCKED BOX AND I RECEIVED THEM OUT OF THE LOCKED BOX.

17 Q AND AFTER YOU EXAMINED THEM, WHAT DID YOU DO WITH
18 THEM?

19 A I THEN RE-SEALED THE ENVELOPE AND THEY WENT BACK
20 DOWNSTAIRS TO OUR EVIDENCE VAULT.

21 Q OKAY. AND YOU SAY YOUR IDENTIFICATION, YOUR
22 INITIALS, OR WHATEVER ARE ON THE DOCUMENTS?

23 A YES, SIR, THAT'S CORRECT.

24 Q ALL RIGHT. DO YOU HAVE ANY PHOTOGRAPHS OF THESE
25 DOCUMENTS?

1 A YES, SIR. I PREPARED SOME CHARTS FOR COURT DISPLAY.

2 Q OKAY. OKAY. WILL YOU -- IS THIS OKAY TO PRODUCE
3 FROM HERE?

4 THE COURT: YES, MA'AM, YOU CAN. AND
5 MRS. HEATH, WE CAN GIVE YOU A MICROPHONE TO USE WHILE
6 YOU'RE OFF THE STAND IF YOU'D PREFER. YOU'LL HAVE TO
7 KEEP YOUR VOICE UP. STAND ON THE OTHER SIDE OF
8 THE -- FACE THIS DIRECTION AS YOU TESTIFY, PLEASE.

9 THE WITNESS: YES, SIR.

10 BY MR. FATA:

11 Q WHAT DO THESE THINGS REPRESENT, MRS. HEATH?

12 A OKAY. THESE -- THE FIRST DOCUMENT OVER ON THE EASEL
13 IS A PHOTOGRAPH REPRODUCTION OF THE QUESTION NOTES THAT I
14 RECEIVED. THE SECOND CHART IS OF KNOWN HANDWRITING OF
15 TYRONE SINGLETARY.

16 COURT REPORTER: I'M SORRY, I CAN'T HEAR.

17 THE COURT: SECOND DOCUMENT IS KNOWN...

18 THE WITNESS: HANDWRITING OF TYRONE SINGLETARY.

19 MR. SCOTT: YOUR HONOR? COULD WE APPROACH JUST
20 A SECOND, YOUR HONOR?

21 THE COURT: SURE.

22 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

23 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
24 STEP TO YOUR JURY ROOM FOR JUST A MOMENT, PLEASE. I
25 HAVE GOT TO TAKE UP A MATTER OF LAW OUTSIDE OF YOUR

1 PRESENCE TO GET SOME DIRECTLY PRESENTED TO YOU.
2 PLEASE GO TO YOUR JURY ROOM. DON'T DISCUSS THE CASE
3 AMONG YOURSELVES.

4 (JURY LEFT COURTROOM AT 4:44 P.M.)

5 THE COURT: ALL RIGHT. MRS. HEATH, YOU DIDN'T
6 HAVE ANY WAY OF KNOWING THIS. THE STATEMENT THAT YOU
7 HAVE USED AS THE KNOWN HANDWRITING EXEMPLAR OF TYRONE
8 SINGLETARY IS A STATEMENT THAT HAS BEEN ADMITTED INTO
9 EVIDENCE, HOWEVER IT HAS BEEN REDACTED SO AS TO
10 REMOVE ANY REFERENCE ON THIS WRITTEN STATEMENT TO --
11 TO ANYONE ELSE, ESPECIALLY MR. LYNCH.

12 AND I NOTE AS I LOOK THROUGH IT HERE ON ONE
13 EXAMPLE WHEN YOU REFER TO MR. LYNCH'S NAME AS A
14 COMPARISON POINT. THAT WILL NOT BE ABLE TO BE USED
15 IN THIS INSTANCE BECAUSE THAT PORTION HAS BEEN
16 REDACTED.

17 HOWEVER, YOU HAVE OTHER COMPARISON POINTS WHICH
18 DID NOT REFER TO MR. LYNCH THAT WOULD APPEAR TO STILL
19 BE ENOUGH FOR YOUR POINTS OF COMPARISON. MY ONLY
20 CONCERN IS THAT WE NEED TO SOMEHOW OR ANOTHER TAKE
21 OUT ANY REFERENCE TO MR. LYNCH BY -- IF WE HAD SOME
22 WHITEOUT -- DO YOU HAVE ANY OF THAT WHITE CORRECTIVE
23 TAPE?

24 MR. FATA: I WILL CHECK.

25 THE COURT: SEE IF WE CAN DO THAT SO THAT WE CAN

1 DO THE REDACTION. YOU DIDN'T HAVE ANY WAY OF KNOWING
2 THAT.

3 (WHEREUPON THERE WAS A PAUSE.)

4 THE COURT: ALL RIGHT, FOLKS. LET'S TAKE ABOUT
5 FIVE MINUTES WHILE WE DO THIS. WE WILL NEED TO HAVE
6 THOSE MARK -- THOSE LARGE EXHIBITS MARKED FOR
7 IDENTIFICATION. (WHEREUPON A BRIEF RECESS WAS
8 TAKEN.)

9 MR. FATA: MR. SCOTT HAS LOOKED AT IT.

10 THE COURT: AND HE'S SATISFIED WITH IT?

11 MR. FATA: HE'S SATISFIED WITH IT.

12 THE COURT: I'M SATISFIED WITH IT. AND THE
13 EXEMPLAR OR THE KNOWN EXEMPLAR SHOULD BE EQUATED TO
14 THE STATEMENT THAT IS IN EVIDENCE SO THAT THE JURY
15 WILL KNOW WHAT THE KNOWN EXEMPLAR IS, AND THE OTHER
16 LARGER THING, OF COURSE, IS SIMPLY A COPY OF STATE'S
17 13 FOR ID AS I UNDERSTAND IT, OKAY? ALL RIGHT.

18 MR. FATA: OKAY. WE GOT THE---

19 THE COURT: IT'S A COPY OF STATE'S 13 FOR ID.
20 ALL RIGHT. BOTH SIDES READY FOR THE JURY?

21 (WHEREUPON, STATE'S EXHIBITS NOS. 14, 15 WERE
22 MARKED FOR IDENTIFICATION ONLY.)

23 (JURY ENTERED THE COURTROOM AT 4:55 P.M.)

24 THE COURT: LADIES AND GENTLEMEN, I SENT YOU
25 OUT -- ONE OF THE EXHIBITS THAT MRS. HEATH IS ABOUT

1 TO USE IN HER TESTIMONY IS A COPY OF A SMALLER
2 EXHIBIT THAT HAS ALREADY BEEN INTRODUCED INTO
3 EVIDENCE.

4 THAT COPY HAS WHAT WE CALL SOME REDACTIONS IN
5 IT. THAT MEANS AS A MATTER OF LAW I HAVE RULED THAT
6 CERTAIN PARTS OF THAT OTHER EXHIBIT WHICH WERE A
7 STATEMENT BY MR. SINGLETARY ARE NOT ADMISSIBLE FOR
8 YOUR CONSIDERATION.

9 AND SO WE HAVE BLACKED OUT A PART OF THAT
10 STATEMENT. YOU DON'T NEED TO CONCERN YOURSELF ABOUT
11 WHAT'S BLACKED OUT. THAT DOESN'T CONCERN YOU AT ALL.
12 I JUST RULED AS A MATTER OF LAW THAT THAT'S NOT FOR
13 YOUR CONSIDERATION, SO YOU FORGET ABOUT THAT.

14 WHATEVER IS LEFT YOU CAN GIVE IT THE WEIGHT THAT
15 YOU THINK IT SHOULD RECEIVE ACCORDING TO YOUR VIEW OF
16 THE EVIDENCE, BUT MRS. HEATH WAS NOT AWARE OF THE
17 FACT THAT I REQUIRED PART OF THAT SMALLER STATEMENT
18 TO BE BLACKED OUT, AND SO WE HAVE HAD TO BLACK OUT
19 THE LARGER COPY THAT SHE HAD IN ORDER TO CONFORM IT
20 WITH THE SMALLER.

21 AND THAT'S WHY WE TOOK THAT TIME. WE HAD TO GET
22 THAT STRAIGHT BEFORE WE START THIS PROCESS. THANK
23 YOU. ALL RIGHT. MR. FATA?

24 BY MR. FATA:

25 Q MRS. HEATH, WHAT DO THESE TWO ITEMS REPRESENT? LET

1 ME ASK YOU WHAT NUMBER -- STATE'S EXHIBIT FOR
2 IDENTIFICATION NUMBER 14 REPRESENTS. WHAT DOES THAT
3 REPRESENT?

4 A OKAY. THAT REPRESENTS A PHOTOGRAPH OF A KNOWN
5 STATEMENT GIVEN TO ME AND KNOWN WRITING OF TYRONE
6 SINGLETARY.

7 Q IS THAT THE SAME AS STATE'S EXHIBIT TWO?

8 A YES, SIR, IT IS.

9 Q OKAY. AND STATE'S EXHIBIT FOR IDENTIFICATION 15?

10 A FIFTEEN.

11 Q FIFTEEN. WHAT DOES THAT REPRESENT?

12 A THOSE ARE PHOTOGRAPHIC ENLARGEMENTS OF THE NOTES THAT
13 YOU PREVIOUSLY HANDED ME. MY ITEMS NUMBER SEVEN, EIGHT,
14 NINE, 10 AND 11.

15 Q USING THE PHOTOGRAPHIC EXHIBITS YOU PREPARED, WOULD
16 YOU EXPLAIN THE FACTS AND CIRCUMSTANCES YOU HAVE TAKEN
17 INTO CONSIDERATION IN FORMING YOUR CONCLUSIONS?

18 A OKAY. WELL, THE FIRST THING I DID WAS I
19 MICROSCOPICALLY EXAMINED EACH OF THE QUESTION NOTES
20 LOOKING FOR ANY PARTICULARITIES WITHIN THE HANDWRITING OR
21 DRAG MARK OR, YOU KNOW, ANY TYPE OF RETRACE ON THE LETTERS
22 AT ALL. I THEN MICROSCOPICALLY EXAMINED THE KNOWN
23 STANDARDS.

24 AND I WAS LOOKING FOR SIMILARITIES AS WELL AS
25 DIFFERENCES TO TRY TO DECIDE IF THE PERSON WHO HAD WRITTEN

1 THIS PARTICULAR STATEMENT WAS THE SAME PERSON THAT HAD
2 WRITTEN EACH OF THE QUESTION NOTES.

3 AND JUST KIND OF FOR THE JURY'S EDIFICATION, I
4 WILL -- I PICKED OUT FEW LETTERS I WILL -- JUST POINT OUT.
5 THE UPPER CASE T, AND I DON'T KNOW IF YOU'RE CLOSE ENOUGH
6 TO SEE THE FORMATION OF THE UPPER CASE T.

7 NOW, YOU -- KIND OF UNIQUE WAY FROM COPY BOOK STYLE.
8 AND WHAT DOCUMENT EXAMINERS LOOK FOR ARE THINGS THAT STRAY
9 AWAY FROM HOW PEOPLE LEARN TO WRITE. THESE ARE LITTLE
10 IDIOSYNCRASIES THAT THEY PLACE INTO THEIR OWN HANDWRITING,
11 EITHER CONSCIOUS OR UNCONSCIOUS, OF THEIRSELVES DOING THIS
12 AT ALL THAT IS UNIQUE TO THEM AND THEM ALONE.

13 IT CAN BE AS SIMPLE AS A CAPITAL LETTER FORMATION. IT
14 COULD BE A CONNECTING STROKE. IT COULD BE HOW THEY
15 RETRACE A LETTER. AND IT'S THESE COMBINATIONS OF THINGS
16 THAT ALLOW A DOCUMENT EXAMINER TO SAY THAT A PARTICULAR
17 PERSON WROTE A PARTICULAR QUESTIONED ITEM.

18 SO IN THE STATEMENT I FOUND THIS T FORMATION IN
19 SEVERAL DIFFERENT PLACES, IN TYRONE AND IN THAT AND THEN
20 THE WORD COTTON. I ALSO FOUND IT OVER IN THE NOTES ALONG
21 WITH THE WORDS THIS, TAKE, TAKING, TAKING THIS.

22 SO THROUGHOUT THE LETTER FORMATIONS I WAS FINDING
23 SOME OF THESE SAME LETTERS. I WENT ON TO THE CAPITAL E
24 FORMATION. AND PARTICULAR WRITER BREAKS WHEN THEY MAKE
25 KIND OF A C AND THEN THEY GET EXTRA STROKE IN ALL TO MAKE

1 THE -- THE MIDDLE BAR OF THE E FORMATION.

2 AND I ALSO FOUND THAT WITHIN THE KNOWN WRITING AND I
3 ALSO FOUND IT OVER WITHIN THE QUESTIONED WRITING. AND I
4 HIGHLIGHTED SOME OF THEM HERE THAT WE FOUND THE E
5 FORMATION MADE THE SAME WAY, THAT THE SAME NUMBER OF
6 STROKES. SO IT WAS -- IT WAS EXACTLY LIKE THIS PARTICULAR
7 WRITER WROTE THEIR LETTERS.

8 THE SAME THING WITH THE R FORMATION. I FOUND THE WAY
9 THE LETTER R WAS MADE WITH THE FLAT TOP INSTEAD OF A
10 ROUNDED TOP ON THIS PARTICULAR UPPER CASE R FORMATION. I
11 ALSO FOUND THAT IN THE WORD OR AND OVER, AND ANOTHER ONE
12 IN OVER WOULD BE HERE.

13 AGAIN, THE CAPITAL B FORMATION, A FLAT STROKE ACROSS
14 THE TOP OF THE B INSTEAD OF A ROUNDED STROKE. AND IT
15 ALMOST LOOKS LIKE A NUMBER THREE, AND THEN A LINE WRITTEN
16 DOWN BESIDE THE NUMBER THREE.

17 I ALSO FOUND THAT OVER WITHIN A SET OF -- A
18 QUESTIONED WRITING THAT I HAD HERE IN THE WORDS ABOUT.
19 EVERY TIME THE WORD ABOUT WAS FOUND IN EACH OF THE
20 QUESTION NOTES, I FOUND THAT SAME B FORMATION.

21 SO THE CULMINATION OF ALL THE THINGS THAT I FOUND
22 WITHIN THE KNOWN WRITING AND WITHIN THE QUESTIONED
23 WRITING -- WRITING LED ME TO MY CONCLUSION.

24 Q AND WHAT IS YOUR CONCLUSION, MRS. HEATH?

25 A MY CONCLUSION IS THAT TYRONE SINGLETARY WROTE THE

1 QUESTION ENTRIES ON ITEM NUMBER SIX, SEVEN, EIGHT, NINE --
2 I MEAN, EXCUSE ME, ITEMS SEVEN, EIGHT, NINE, 10 AND 11.

3 Q OKAY. AS---

4 A WHICH ARE ON THE EXHIBIT 15.

5 Q AND AFTER YOU EXAMINED THESE NOTES WHICH ARE IN THE
6 ENVELOPE THERE, YOU RETURNED THEM TO THE EVIDENCE LOCKER?

7 A THAT IS CORRECT.

8 Q HAVE A SEAT.

9 A (COMPLIED.)

10 Q AND YOU PREPARED THESE TWO POSTERS?

11 A YES, SIR, I DID.

12 Q HAVE A SEAT. THANK YOU?

13 MR. FATA: YOUR HONOR, I WOULD NOW MOVE THESE
14 ITEMS IN INCLUDING THE POSTERS.

15 THE COURT: ALL RIGHT. MR. DOBY, LET ME HEAR
16 FROM YOU IN REGARD TO STATE'S 13.

17 MR. DOBY: YOUR HONOR, I STILL BELIEVE THAT
18 THERE'S A GAP IN THE CUSTODY AS WELL AS THE QUESTION
19 OF RELEVANCY TO THESE DOCUMENTS.

20 THE COURT: ALL RIGHT. WHERE IS THE GAP IN THE
21 CUSTODY?

22 MR. DOBY: YOUR HONOR, WHERE MRS. HEATH WOULD
23 RECEIVE THESE ITEMS, WHERE SHE GOT THEM FROM I
24 BELIEVE ARE STILL NOT EXPLAINED. IN ADDITION, YOUR
25 HONOR, I STILL DON'T BELIEVE THAT THEY HAVE BEEN

1 SHOWN TO BE RELEVANT.

2 THE COURT: ALL RIGHT. INSOFAR AS THE CHAIN IS
3 CONCERNED, THE CHAIN IN MY VIEW OF NUMBER 13 IS
4 COMPLETE. EDDIE O'CAIN TESTIFIED THAT HE GOT STATE'S
5 EXHIBIT 13 OUT OF A LOCKER IN A ROOM 2226 WHICH
6 ACCORDING TO MR. COTTON AND HIS TESTIMONY WAS MR.
7 SINGLETARY'S ROOM, THAT HE GAVE THOSE THINGS OVER TO
8 MR. TAYLOR.

9 MR. TAYLOR TESTIFIED THAT HE TURNED THOSE THINGS
10 OVER TO SLED AGENT MICHAEL GREEN THE SAME DAY.
11 MR. GREEN TESTIFIED THAT HE BROUGHT THOSE NOTES TO
12 THE SLED EVIDENCE LOCKER FOR TESTS TO BE PERFORMED.

13 MRS. HEATH INDICATED THAT SHE AS AN AGENT OF
14 SLED GOT THE DOCUMENTS AND THAT THEY WERE -- I THINK
15 MR. CREECH ACTUALLY BROUGHT THE THINGS TO COURT
16 TODAY.

17 MRS. HEATH TESTIFIED THAT SHE GOT THE DOCUMENTS
18 FROM SPECIAL AGENT MARK CREECH OF SLED WITHIN HER
19 SAME DEPARTMENT. SHE DID CERTAIN TESTS ON IT. SHE
20 TURNED THEM BACK OVER TO THE EVIDENCE LOCKER AND
21 MR. SLED -- MR. CREECH BROUGHT THEM HERE TODAY.

22 THE CHAIN IN THAT REGARD HAS BEEN SUFFICIENTLY
23 CLOSED IN MY VIEW TO ALLOW THE INFORMATION TO -- TO
24 BE ADMITTED ASSUMING ITS RELEVANCE. THE TESTIMONY OF
25 MRS. HEATH IS THAT THOSE DOCUMENTS FOUND IN WHAT HAS

1 BEEN TESTIFIED TO BE MR. SINGLETARY'S LOCKER WERE IN
2 HIS OWN HANDWRITING, AND I BELIEVE THAT THEY ARE
3 RELEVANT, AND SO I WILL ADMIT THEM AS STATE'S 13 OVER
4 OBJECTION OF DEFENSE COUNSEL.

5 THANK YOU. STATE'S 14 AND 15 HAVE BEEN USED IN
6 THE COURSE OF TESTIMONY. THEY LIKEWISE COME INTO
7 EVIDENCE ALSO OVER OBJECTION OF DEFENSE COUNSEL.
8 THANK YOU.

9 (WHEREUPON, STATE'S EXHIBIT 13, 14 AND 15 WERE
10 ADMITTED INTO EVIDENCE.)

11 THE COURT: ALL RIGHT. MR. FATA, ARE YOU
12 FINISHED?

13 MR. FATA: I'M FINISHED. GIVE IT OVER TO
14 MR. DOBY OR MR. SCOTT.

15 THE COURT: ALL RIGHT. MR. DOBY?

16 CROSS-EXAMINATION

17 BY MR. DOBY:

18 Q MRS. HEATH, IN EXAMINING THESE ORIGINAL SLIPS OF
19 PAPER -- I THINK Y'ALL REFER TO THEM AS KITES?

20 A I DON'T, BUT...

21 Q YOU DON'T DO THAT. ONE OF THE OFFICERS HAD REFERRED
22 TO THEM AS KITES. YOU'RE NOT FAMILIAR WITH THAT TERM?

23 A NO, SIR. I JUST CALL THEM NOTES.

24 Q OKAY. DID THEY APPEAR TO BE WET?

25 A NO, SIR, NOT WHEN I HAD THEM.

1 Q OKAY. DID -- WAS THERE EVIDENCE THAT THEY HAD BEEN
2 WET AT SOME POINT?

3 A NO, SIR, NOT THAT I'M AWARE OF.

4 Q ALL RIGHT. YOU WEREN'T AWARE THAT ONE OF THE
5 OFFICERS TESTIFIED THAT THEY WERE FOUND IN A LOCKER BUT
6 THAT THEY WERE WET AS WAS -- APPARENTLY BEEN STUFF IN THE
7 DORM THAT DAY. YOU WEREN'T AWARE OF THAT?

8 A NO, SIR. I HAD NO KNOWLEDGE OF THAT.

9 Q OKAY. ARE THOSE THE SAME NOTES THAT YOU WERE -- THAT
10 YOU WERE ORIGINALLY GIVEN THAT YOU HAVE RIGHT THERE?

11 A YES, SIR, THEY ARE.

12 Q OKAY. IF NOTES OR DOCUMENTS BECOME WET, WOULD THAT
13 BE SOMETHING YOU WOULD BE LOOKING FOR AS PART OF YOUR
14 EXAMINATION OF THE DOCUMENT?

15 A NOT NECESSARILY, NO, SIR.

16 Q ALL RIGHT. THAT CERTAINLY WOULDN'T CHANGE AS TO
17 HANDWRITING?

18 A NO, SIR.

19 Q WOULD THERE BE SOME OTHER PORTION OF SLED THAT WOULD
20 BE ABLE TO AT LEAST CONDUCT SOME EXAMINATION OF THAT
21 DOCUMENT TO DETERMINE WHETHER IT HAD BEEN WET AT SOME
22 POINT?

23 A OUR TRACE EVIDENCE SECTION MIGHT BE ABLE TO DO THAT,
24 YES, SIR.

25 Q WOULD THE TRACE EVIDENCE SECTION ALSO BE ABLE TO

1 DETERMINE WHETHER OR NOT THEY WERE FINGERPRINTS ON THOSE
2 DOCUMENTS?

3 A NO, SIR. THAT WOULD GO TO OUR LATENT FINGERPRINT
4 SECTION.

5 Q DO YOU KNOW WHETHER LATENT FINGERPRINTS EXAMINED
6 THESE PARTICULAR DOCUMENTS BEFORE OR AFTER YOU DID?

7 A THEY EXAMINED THEM AFTER I DID.

8 Q OKAY. THOSE RESULTS WOULD NOT BE SOMETHING THAT YOU
9 WOULD HAVE BEEN CONCERNED WITH?

10 A NO, SIR, THEY WOULD NOT.

11 Q DO YOU EVEN KNOW WHAT THE RESULTS WERE?

12 A NO, SIR, I DO NOT.

13 Q OKAY. THANK YOU.

14 MR. DOBY: THAT'S ALL I HAVE, YOUR HONOR.

15 THE COURT: MR. SCOTT?

16 MR. SCOTT: NO QUESTIONS OF THIS WITNESS, YOUR
17 HONOR.

18 THE COURT: THANK YOU. MR. FATA, REDIRECT?

19 MR. FATA: NO FURTHER QUESTIONS, YOUR HONOR, AND
20 MAY THIS WITNESS BE EXCUSED?

21 THE COURT: CERTAINLY. MRS. HEATH, THANK YOU SO
22 MUCH FOR COMING, AND WITHOUT OBJECTION YOU CAN BE
23 EXCUSED.

24 THE WITNESS: THANK YOU, YOUR HONOR.

25 THE COURT: ALL RIGHT.

1 (WITNESS LEFT THE STAND.)

2 THE COURT: MR. FATA, DO YOU HAVE A -- A WITNESS
3 THAT WON'T TAKE LONGER THAN 15 OR 20 MINUTES?

4 MR. FATA: YOUR HONOR, I THINK WE CAN DO THE
5 CHAIN OF CUSTODY ON ANOTHER ITEM AND -- AND...

6 THE COURT: OKAY.

7 MR. FATA: LET ME GET MY STUFF OUT OF HERE.

8 THE COURT: LET'S MOVE FORWARD WITH THAT.

9 MR. FATA: WE WOULD CALL JIM GRIFFIN.

10 THE COURT: JIM GRIFFIN, PLEASE.

11 (WITNESS IN COURTROOM.)

12 MR. FATA: WAIT A MINUTE. I'M GOING TO DO IT A
13 LITTLE BIT DIFFERENTLY.

14 (WHEREUPON THERE WAS A PAUSE.)

15 MR. FATA: WE ARE GOING TO CALL LUCINDA HODGE.

16 THE COURT: MRS. HODGES WILL BE RECALLED.

17 MRS. HODGES, IF YOU WILL COME FORWARD, PLEASE MA'AM,
18 AND RESUME THE STAND. YOU ARE STILL UNDER OATH.

19 MRS. HODGES, I'M SORRY. I APOLOGIZE.

20 THE WITNESS: THAT'S ALL RIGHT.

21 LUCINDA HODGE, AFTER
22 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. FATA:

25 Q MRS. HODGES, I'M GOING TO SHOW YOU --

1 MR. FATA: WE NEED TO MARK THIS AS 16 FOR
2 IDENTIFICATION.

3 (WHEREUPON, STATE'S EXHIBIT NO. 16 WAS MARKED
4 FOR IDENTIFICATION ONLY.)

5 BY MR. FATA:

6 Q SHOW YOU A BAG MARKED 16 -- STATE'S 16 FOR
7 IDENTIFICATION. DO YOU RECOGNIZE THE ITEMS CONTAINED
8 THEREIN?

9 A YES.

10 Q NEED TO OPEN IT UP, OPEN IT UP AND LOOK AT IT.

11 A YES, SIR.

12 Q OKAY. HOW DID THAT COME INTO YOUR POSSESSION?

13 A INVESTIGATOR GRIFFIN HAD BEEN TO THE HOSPITAL AND IT
14 WAS LIKE EARLY IN THE MORNING, 2:00 OR SOMETHING IN THE
15 MORNING I THINK IT WAS, YEAH, ABOUT 2:00. HE CAME IN AND
16 IT WAS -- IT WASN'T IN THE PAPER BAG THEN, IT WAS IN THE
17 WHITE PLASTIC BAG THAT'S INSIDE THERE.

18 AND IN ORDER FOR US TO KEEP THE EVIDENCE AT -- ANY
19 BLOOD EVIDENCE OR ANY FLUID, WE HAVE TO PUT IT IN A BROWN
20 PAPER BAG THAT PRESERVES THE EVIDENCE, THE PLASTIC, SO WE
21 GOT THE BAG OUT AND PUT THE CONTENTS INSIDE THE BROWN BAG.

22 Q AND -- EXCUSE ME -- WHAT IS IT?

23 A IT'S OFFICER COTTON'S SHIRT, AND IT'S IN THE BAG FROM
24 THE HOSPITAL WHERE THEY TOOK IT OFF OF HIM.

25 Q IT'S A BLUE SHIRT?

1 A YES, SIR. OFFICER'S SHIRT, YES, SIR.

2 Q OKAY.

3 A COVERED WITH BLOOD.

4 Q AND WHAT DID YOU DO WITH THAT ITEM?

5 A THAT WAS THEN -- IT WAS PLACED IN THE BROWN BAG, IT
6 WAS PLACED IN THE LOCKED EVIDENCE ROOM.

7 Q AND AFTER IT WENT TO THE LOCKED EVIDENCE ROOM, WHAT
8 HAPPENED TO IT?

9 A IN THE MORNING IT WAS LOGGED, SO IT WAS PASSED ON
10 OVER TO OFFICER SHARPE.

11 Q OFFICER SHARPE?

12 A YES, SIR. WE LOGGED IT ALONG WITH ALL THE OTHER
13 EVIDENCE.

14 Q OKAY. ANSWER ANY QUESTIONS THAT MR. DOBY OR
15 MR. SCOTT MAY HAVE.

16 THE COURT: MR. DOBY?

17 MR. DOBY: NO QUESTIONS. THANK YOU, YOUR HONOR.

18 THE COURT: ALL RIGHT. MR. SCOTT?

19 MR. SCOTT: JUST BRIEFLY, YOUR HONOR.

20 CROSS-EXAMINATION

21 BY MR. SCOTT:

22 Q OFFICER HODGES, YOU INDICATED THIS SHIRT WAS
23 RETRIEVED AT THE HOSPITAL; IS THAT CORRECT?

24 A THAT'S TO MY BELIEF, SIR. I WASN'T THERE WHEN IT WAS
25 RETRIEVED, BUT, YES, SIR, IT WAS IN A HOSPITAL BAG.

1 Q DO YOU HAVE ANY IDEA HOW MUCH TIME PASSED BETWEEN THE
2 TIME OF THE INCIDENT, THE INCIDENT ENDED, THE TIME OF
3 RETRIEVED AT THE HOSPITAL?

4 A NO, SIR.

5 Q ALL RIGHT. THANK YOU.

6 THE COURT: MR. FATA?

7 REDIRECT EXAMINATION

8 BY MR. FATA:

9 Q IT WAS YOUR UNDER -- IT CAME FROM JIM GRIFFIN; IS
10 THAT CORRECT?

11 A YES, SIR.

12 Q AND HE HAD GOTTEN IT FROM...

13 A OFFICER COTTON OR -- YEAH, AT THE HOSPITAL.

14 Q AT THE HOSPITAL?

15 A YES, SIR.

16 Q OKAY. COME ON DOWN?

17 MR. FATA: YOUR HONOR, WE'D CALL OFFICER COTTON
18 ON THE?

19 THE COURT: YOU CAN STEP DOWN. ALL RIGHT.

20 MR. COTTON, IF YOU WILL RESUME THE STAND, PLEASE.

21 YOU ARE STILL UNDER OATH.

22 MARCUS COTTON, AFTER
23 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. FATA:

1 Q OFFICER COTTON, I'D LIKE YOU TO LOOK INTO WHAT'S BEEN
2 MARKED AS STATE'S EXHIBIT NUMBER 16 AND SEE IF YOU
3 RECOGNIZE THAT ITEM.
4 A (COMPLIES.)
5 Q YOU MAY PULL IT OUT IF YOU NEED TO.
6 A YES, SIR. IT'S MY SHIRT.
7 Q IS IT THE SHIRT YOU WERE WEARING OCTOBER 29TH, 2003?
8 A YES, SIR.
9 Q AND WERE YOU WEARING IT WHEN YOU WENT TO THE
10 HOSPITAL?
11 A YES, SIR.
12 Q AND WAS IT GIVEN TO SOMEONE AT THE HOSPITAL?
13 A YES, SIR.
14 Q DO YOU KNOW IF IT WAS JIM GRIFFIN OR NOT?
15 A I KNOW IT WAS A WHITE MALE.
16 Q WHITE MALE?
17 A THINK HAD WHITE HAIR.
18 Q HAD WHITE HAIR?
19 A YES, SIR.
20 Q SLIM FELLOW, HEAVY-SET FELLOW?
21 A I REALLY COULDN'T REMEMBER THAT MUCH ON IT.
22 Q BUT HE DID HAVE WHITE HAIR?
23 A YES, SIR.
24 Q ALL RIGHT. ANSWER ANY QUESTIONS THAT MR. DOBY OR
25 MR. SCOTT MAY HAVE FOR YOU.

1 THE COURT: MR. DOBY?

2 MR. DOBY: NO QUESTIONS, YOUR HONOR.

3 THE COURT: THANK YOU. MR. SCOTT?

4 MR. SCOTT: BRIEFLY, YOUR HONOR.

5 CROSS-EXAMINATION

6 BY MR. SCOTT:

7 Q MR. COTTON, IS IT MY UNDERSTANDING YOU'RE NOT REALLY
8 SURE WHO YOUR SHIRT WAS GIVEN TO? IS THAT RIGHT?

9 A I KNOW IT WAS GIVEN TO A WHITE MALE.

10 Q WHITE MALE?

11 A YES, SIR.

12 Q OKAY. AND THAT WAS AFTER YOU ARRIVED AT THE
13 HOSPITAL; IS THAT CORRECT?

14 A IT WAS, YES, SIR.

15 Q OKAY. THE SHIRT WASN'T CUT OFF OF YOU. IT WAS JUST
16 REMOVED THE WAY YOU NORMALLY UNBUTTON OFF A SHIRT?

17 A I CAN'T TELL YOU THAT, SIR. I DON'T KNOW.

18 Q YOU DON'T KNOW?

19 A I MEAN, I CAN'T REMEMBER.

20 Q SO THE BOTTOM LINE IS YOU JUST KNOW IT'S -- THE
21 INDIVIDUAL WHO THE SHIRT WAS PROVIDED TO WAS A WHITE MALE?

22 A YES, SIR.

23 Q NOW, DID YOU GIVE HIM THE SHIRT OR DID SOMEBODY ELSE
24 TAKE IT OFF OF YOU AND GIVE IT TO HIM?

25 A I CAN'T REMEMBER.

1 Q ALL RIGHT. THANK YOU.

2 THE COURT: MR. FATA?

3 MR. FATA: NOTHING ELSE, YOUR HONOR.

4 THE COURT: THANK YOU, MR. COTTON. YOU CAN STEP
5 DOWN.

6 MR. FATA: NOW WE CALL JIM GRIFFIN.

7 THE COURT: JIM GRIFFIN, PLEASE.

8 (WITNESS IN COURTROOM.)

9 THE COURT: MR. GRIFFIN, COME FORWARD, PLEASE,
10 AND BE SWORN.

11 JIM GRIFFIN, AFTER
12 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MR. FATA:

15 Q MR. GRIFFIN, YOU USED TO BE AN INVESTIGATOR WITH THE
16 DEPARTMENT OF CORRECTIONS?

17 A YES, SIR, I DID.

18 Q AND ON OCTOBER 29TH, 2003, WERE YOU AN INVESTIGATOR
19 THEN?

20 A YES, I WAS.

21 Q YOU'RE NOW RETIRED; IS THAT CORRECT?

22 A YES, SIR. THAT'S CORRECT.

23 Q YOU CAME TO LEE COUNTY ON OCTOBER 29TH, 2003,
24 REGARDING THIS PRISON SITUATION?

25 A YES, SIR, I DID.

1 Q OKAY. NOW, I WANT YOU TO LOOK IN THE BAG AND LOOK AT
2 THE OUTSIDE, LOOK -- LOOK AT THE OUTSIDE CHAIN OF CUSTODY
3 INFORMATION, THE SHEETS ATTACHED, LOOK IN THE BAG AND SEE
4 IF YOU CAN RECOGNIZE STATE'S EXHIBIT NUMBER 16.

5 A I DON'T HAVE TO TAKE IT OUT.

6 Q NO, YOU DO NOT HAVE TO TAKE IT OUT. I CAN GET YOU
7 TO...

8 A IT'S A CORRECTIONAL OFFICER SHIRT BELONGED TO COTTON,
9 OFFICER COTTON, WHO WAS A VICTIM IN THIS CASE I
10 INTERVIEWED AT PALMETTO PINES IN HARTSVILLE. I STOPPED ON
11 THE WAY AND TALKED TO HIM THERE AND PICKED UP THE SHIRT
12 AND TURNED IT OVER TO OFFICER HODGES AT THE TIME. SHE'S A
13 LIEUTENANT NOW.

14 Q NOW, AND YOU TURNED IT OVER TO HODGES, SHE DIDN'T
15 DO -- YOU DON'T KNOW WHAT HAPPENED TO IT?

16 A NO, SIR.

17 Q OKAY. IS IT IN SUBSTANTIALLY THE SAME CONDITION WHEN
18 YOU GOT IT OR DO YOU RECALL THAT?

19 A YES. THIS IS A BLOODY SHIRT AND THAT'S THE WAY IT
20 WAS AT THE TIME, YES, SIR.

21 Q ANSWER ANY QUESTIONS MR. DOBY OR MR. SCOTT MAY HAVE?

22 THE COURT: MR. DOBY?

23 MR. DOBY: NO QUESTIONS, YOUR HONOR.

24 THE COURT: THANK YOU. MR. SCOTT?

25 MR. SCOTT: NONE FROM THIS WITNESS, YOUR HONOR.

1 THE COURT: THANK YOU.

2 MR. FATA: YOUR HONOR, WE WOULD CALL JUSTIN
3 SHARPE. MAY THIS WITNESS BE EXCUSED?

4 THE COURT: SURELY. MR. GRIFFIN, YOU CAN STEP
5 DOWN AND YOU CAN BE EXCUSED.

6 MR. FATA: MR. SHARPE.

7 THE COURT: MR. SHARPE BE RECALLED, PLEASE. HE
8 HASN'T BEEN -- YEAH.

9 JUSTIN SHARPE, AFTER
10 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. FATA:

13 Q OFFICER SHARPE, I'M GOING TO SHOW YOU -- I WANT YOU
14 TO LOOK AT WHAT'S IN EXHIBIT NUMBER 16 THERE FOR
15 IDENTIFICATION AND SEE IF YOU RECOGNIZE THAT.

16 A YES, SIR.

17 Q HOW DID IT -- HOW DID YOU RECOGNIZE IT?

18 A IT'S THE BLUE UNIFORM OFFICER SHIRT THAT OFFICER
19 COTTON WAS WEARING.

20 Q OKAY. HOW DID IT COME INTO YOUR -- DID IT -- IT CAME
21 INTO YOUR POSSESSION?

22 A YES, SIR.

23 Q HOW?

24 A SERGEANT HODGES GAVE ME THAT SHIRT.

25 Q OKAY. AND WHAT DID YOU DO WITH IT?

1 A AT THAT TIME I LOOKED OVER THE SHIRT, AND I ACTUALLY
2 NOTICED SOMETHING IN THE POCKET OF THE SHIRT. OF COURSE,
3 I TOOK IT OUT, TAGGED IT, AND GAVE IT TO SLED. AFTER
4 THAT, I TAGGED IT AND BAGGED IT, WROTE THE -- SIGNED THE
5 EVIDENCE CARD.

6 Q AND WHAT DID YOU DO WITH IT?

7 A I GAVE IT TO MR. CREECH, SLED.

8 Q OKAY. ANSWER ANY QUESTIONS THAT MR. DOBY OR
9 MR. SCOTT MAY HAVE.

10 THE COURT: MR. DOBY?

11 MR. DOBY: NO QUESTIONS, YOUR HONOR.

12 THE COURT: MR. SCOTT?

13 MR. SCOTT: NO QUESTIONS, YOUR HONOR.

14 THE COURT: THANK YOU. MR. SHARPE, YOU CAN STEP
15 DOWN.

16 THE WITNESS: THANK YOU.

17 MR. FATA: YOUR HONOR, WE'D CALL AGENT CREECH.

18 THE COURT: MR. CREECH, IF YOU WILL RESUME THE
19 STAND, PLEASE SIR, YOU ARE STILL UNDER OATH.

20 MARK CREECH, AFTER
21 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. FATA:

24 Q AGENT CREECH, WOULD YOU LOOK AT STATE'S EXHIBIT
25 NUMBER 16 FOR IDENTIFICATION AND SEE IF YOU RECOGNIZE

1 THAT.

2 A YES, SIR. THIS IS A BAG THAT WAS MARKED BLUE SCD
3 OFFICERS' SHIRT. I PICKED IT UP ON 11-1-03 WHICH WAS A
4 SATURDAY, FROM A MR. SHARPE, KEPT IT IN MY POSSESSION, AND
5 THEN I TOOK IT TO COLUMBIA AND TOOK IT TO THE LOG-IN AT
6 SLED TO BE ANALYZED.

7 Q AND TOOK IT TO THE LOG-IN AT SLED. AND THEN HOW DID
8 IT GET HERE TODAY?

9 A I WENT AND PICKED IT UP THIS MORNING.

10 Q AND IT'S BEEN IN YOUR CUSTODY?

11 A SINCE THIS MORNING.

12 Q OKAY. IT'S EITHER BEEN AT SLED OR HERE?

13 A CORRECT, YES.

14 Q ANSWER ANY QUESTIONS THAT MR. DOBY OR MR. SCOTT MAY
15 HAVE.

16 THE COURT: MR. DOBY?

17 MR. DOBY: NO QUESTIONS, YOUR HONOR.

18 THE COURT: THANK YOU. MR. SCOTT?

19 MR. SCOTT: LIKEWISE, NO QUESTIONS.

20 THE COURT: THANK YOU. MR. CREECH, YOU CAN STEP
21 DOWN.

22 MR. FATA: YOUR HONOR, NOW WE WOULD MOVE THE
23 SHIRT INTO EVIDENCE.

24 THE COURT: WE'VE STILL GOT THE...

25 MR. FATA: OH YEAH. EXCUSE ME. I'M SORRY. GOT

1 AHEAD OF MYSELF.

2 THE COURT: ALL RIGHT. GAP IN THE MIDDLE THERE
3 WHICH I TAKE IT DNA ANALYSIS.

4 MR. FATA: I'M GETTING THERE RIGHT NOW. WE'D
5 CALL---

6 THE COURT: NO. NO. NO. NO. I'M KIND OF
7 RELUCTANT TO START A DNA ANALYSIS TESTIMONY AT
8 5:15 IN THE AFTERNOON. IS THE WITNESS AVAILABLE
9 TOMORROW?

10 MR. FATA: SHE -- I'M SURE SHE WILL BE. I HAVE
11 GOT ONE OTHER WITNESS THAT CUT -- CUT SWATCHES. IF
12 YOU WANT TO DO THAT.

13 THE COURT: WE CAN DO THAT ONE.

14 MR. FATA: IF IT'S NOT TOO LONG.

15 THE COURT: I DON'T WANT TO START THE TECHNICAL
16 ANALYSIS, DNA IS...

17 MR. FATA: WE CALL CECIL BRADSTREET.

18 THE COURT: MR. BRADSTREET, RESUME THE STAND,
19 PLEASE.

20 (WITNESS IN COURTROOM.)

21 CECIL BRADSTREET, AFTER
22 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. FATA:

25 Q MR. BRADSTREET, I WANT YOU TO LOOK UP THERE ON THE

1 BAR AND AT EXHIBIT NUMBER 16 FOR IDENTIFICATION. SEE IF
2 YOU RECOGNIZE THAT.

3 A YES, SIR. THIS IS THE BAG, THIS IS THE LAB NUMBER,
4 THE ITEM, MY INITIALS, AND THE DATE THAT IT WAS PROCESSED.

5 Q OKAY. WHERE DID YOU RETRIEVE THAT BAG FROM?

6 A GET MY NOTES JUST A SECOND. OKAY. THIS ITEM IS A
7 BLUE SHORT SLEEVE BUTTON-DOWN SHIRT THAT WAS PROCESSED FOR
8 THE PRESENCE OF BLOOD. I RECEIVED THIS FROM THE WALK-IN
9 REFRIGERATOR IN B -- 16 WHICH IS HOUSED IN THE EVIDENCE
10 PROCESSING DEPARTMENT.

11 Q AND WHAT DID YOU DO TO IT, IF ANYTHING?

12 A I DID A VISUAL EXAM FOR BLOOD, THERE WERE IN THE
13 AREAS THAT I ASSUMED TO BE BLOOD. I DID THE CHEMICAL
14 TESTS FOR PHENYLTHALINE WHICH IS WHY I DROP SALINE ON THE
15 SWABS, SWABBED THE AREA.

16 SINCE THIS IS FABRIC, IT CAN BE CUT, I JUST PUT THE
17 CHEMICAL PHENYLTHALINE ON THE SWAB AND HYDROGEN, AND IF IT
18 PRODUCES THE CHEMICAL REACTION, THEN I JUST ACTUALLY CUT
19 THE FABRIC FROM THE SHIRT, FORWARD IT TO DNA FOR FURTHER
20 ANALYSIS.

21 Q AFTER YOU DID THAT WITH THE SHIRT, WHAT DID YOU DO
22 WITH THE SHIRT?

23 A I PLACED IT BACK IN THIS BAG, IN THE CONTAINER THAT
24 IT WAS SUBMITTED IN, AND RUN IT FOR RETURN TO THE
25 SUBMITTING AGENCY.

1 Q OKAY. PUT IT BACK IN THE EVIDENCE LOCKER?

2 A BACK IN THE WALK-IN REFRIGERATOR, YES, SIR.

3 Q OKAY. NOW, THE SWABS THAT YOU TOOK, SWATCHES, OR
4 CUTTINGS, OR WHATEVER, WHAT DID YOU DO WITH THOSE?

5 A THE CUTTINGS THAT WERE MADE WERE PLACED IN THESE GOLD
6 COIN ENVELOPES HERE. THEY WERE GOING TO BE LABELED 5.1,
7 5.2 AND 5.3. I LABELED EACH OUTSIDE ENVELOPE. AGAIN, I
8 SIGNED THE BACK SIDE WHEN I TAPED IT WITH THE DATE. WAS
9 PLACED IN THIS POUCH WHERE I SIGNED AND SEALED IT RIGHT
10 HERE AND PLACED IT IN THE DNA DROP BOX WHICH IS A LOCKED
11 REFRIGERATOR IN THE EVIDENCE CONTROL DEPARTMENT.

12 Q OKAY. AND THAT IS STATE'S EXHIBIT NUMBER 12. IN
13 THAT ENVELOPE OR IN THAT BAG ALSO IS -- ARE THE SWABS FROM
14 STATE'S EXHIBIT NUMBER 11; IS THAT CORRECT?

15 A YES, SIR, THAT'S CORRECT. YES.

16 Q OKAY. WHAT HAPPENED TO THOSE ITEMS, THE SWABS AND
17 THE CUTTINGS?

18 A I FORWARDED THESE ON TO THE DNA DEPARTMENT FOR
19 FURTHER ANALYSIS.

20 Q AND DO YOU KNOW -- WELL, YOU WOULDN'T KNOW WHAT
21 HAPPENED TO THEM AFTER THAT; WOULD YOU?

22 A NO, SIR.

23 Q OKAY.

24 THE COURT: SO THE BAG THAT IS STATE'S 12

25 CONTAINS SWATCHES FROM STATE'S 11 AS WELL AS FROM

1 STATE'S 16 FOR ID; IS THAT RIGHT?

2 MR. FATA: YES, SIR. THOSE ARE JUST FOR ID
3 RIGHT NOW. THEY HAVEN'T BEEN ADMITTED. THE ONLY
4 THING THAT -- STATE'S EXHIBIT 11 WAS ADMITTED.

5 THE COURT: OKAY. ALL RIGHT. THANK YOU.

6 MR. FATA: ANSWER ANY QUESTIONS THAT MR. DOBY OR
7 MR. SCOTT MAY HAVE.

8 THE COURT: MR. DOBY?

9 MR. DOBY: NO QUESTIONS, YOUR HONOR.

10 THE COURT: THANK YOU. MR. SCOTT?

11 MR. SCOTT: NO QUESTIONS FOR THIS WITNESS, YOUR
12 HONOR.

13 THE COURT: THANK YOU. MR. BRADSTREET, YOU CAN
14 STEP DOWN.

15 MR. FATA: YOUR HONOR, AS FAR AS THE CHAIN OF
16 TIMING ON THE SHIRT, I THINK WE'VE ESTABLISHED THAT,
17 AND WE WOULD MOVE THE SHIRT INTO EVIDENCE.

18 THE COURT: RIGHT. YES, SIR. THE STATE -- THE
19 SHIRT HAS BEEN IDENTIFIED ALL THE WAY AROUND THE
20 CIRCLE AND IT IS ENTITLED TO BE ADMITTED INTO
21 EVIDENCE. I WILL NOTE ANY EXCEPTIONS IN THAT REGARD.
22 THAT'S STATE'S 16, I BELIEVE, IS THE SHIRT ITSELF.
23 STATE'S---

24 MR. SCOTT: YOUR HONOR, I'M SORRY TO INTERRUPT.

25 THE COURT: YES, SIR.

4 THE COURT: ALL RIGHT, SIR. I NOTE THE
5 OBJECTION UNDER 403, THAT IS PREJUDICIAL IMPACT
6 OUTWEIGHS THE PROBATIVE VALUE. I RESPECTFULLY
7 OVERRULE THE OBJECTION, ALLOW 16 INTO EVIDENCE OVER
8 OBJECTION OF DEFENSE COUNSEL. THANK YOU. ALL RIGHT.
9 MR. FATA, HAVE WE REACHED NOW A GOOD STOPPING PLACE?

10 (WHEREUPON, STATE'S EXHIBIT 16 WAS ADMITTED INTO
11 EVIDENCE.)

12 MR. FATA: YOUR HONOR, I DON'T WANT TO -- TRYING
13 TO GET AS MUCH DONE AS POSSIBLE, BUT I UNDERSTAND THE
14 JURY AND I UNDERSTAND THE COURT. I'VE GOT ONE SHORT
15 WITNESS THAT DREW THE BLOOD.

16 THE COURT: IS THAT--

17 MR. FATA: IN THE CHAIN OF CUSTODY OF THE BLOOD
18 STANDARD.

19 THE COURT: ALL RIGHT. LET'S GO AHEAD AND GET
20 THAT DONE QUICKLY.

21 MR. FATA: MRS. NAGY.

22 (WITNESS IN COURTROOM.)

23 MAUREEN NAGY, AFTER
24 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. FATA:

2 Q MRS. NAGY, WHAT IS YOUR OCCUPATION?

3 A I'M A PHLEBOTOMIST.

4 Q AND WHERE DO YOU WORK?

5 A FLORENCE COUNTY DETENTION CENTER.

6 Q ON MARCH THE 2ND, 2004, DID YOU HAVE AN OCCASION TO
7 MEET WITH CORRECTIONS OFFICER MARCUS COTTON AND SLED AGENT
8 MARK CREECH?

9 A YES, I DID.

10 Q OKAY. AND I'M GOING TO SHOW YOU A NOTE, NURSE'S
11 NOTE. ARE YOU FAMILIAR WITH THAT?

12 A YES.

13 Q ALL RIGHT. WHAT WAS THE -- WHY DID YOU MEET WITH
14 THOSE TWO INDIVIDUALS?

15 A BY REQUEST TO HAVE A BLOOD SAMPLE DRAWN FROM
16 MR. COTTON.

17 Q OKAY. DID YOU DRAW A BLOOD SAMPLE FROM MR. COTTON?

18 A YES, I DID.

19 Q AND WHAT DID YOU DO WITH THE BLOOD SAMPLE?

20 A I TURNED IT OVER TO OFFICER -- CREECH IS IT?

21 Q OKAY. THE BLOOD WAS TAKEN FROM MR. COTTON AND THE
22 TUBE WAS GIVEN TO AGENT CREECH?

23 A THAT'S RIGHT.

24 Q OKAY. ANSWER ANY QUESTIONS THAT -- AND THAT WAS DONE
25 ON THAT DATE THAT'S ON THAT NURSE'S NOTES?

1 A EXCUSE ME?

2 THE COURT: DO WE HAVE THE BLOOD SAMPLE ITSELF
3 OR IS THAT...

4 MR. FATA: WE HAVE A -- IT'S A VIAL. WE DO NOT
5 HAVE THE SAMPLE. WE HAVE SOMEBODY ELSE THAT WILL
6 TESTIFY AS TO...

7 THE COURT: OKAY.

8 BY MR. FATA:

9 Q THAT WAS DONE ON...

10 A 3-2-04.

11 Q 3-2-04. ANSWER ANY QUESTIONS THAT MR. DOBY OR
12 MR. SCOTT MAY HAVE.

13 THE COURT: MR. DOBY?

14 MR. DOBY: NO QUESTIONS, YOUR HONOR.

15 THE COURT: THANK YOU. MR. SCOTT?

16 MR. SCOTT: NOTHING FOR THIS WITNESS, YOUR
17 HONOR.

18 THE COURT: ALL RIGHT. THANK YOU.

19 MR. FATA: YOUR HONOR, MAY THIS WITNESS BE
20 EXCUSED?

21 THE COURT: WITHOUT OBJECTION, MRS. NAGY, YOU
22 CAN BE EXCUSED. THANK YOU FOR COMING.

23 MR. FATA: YOUR HONOR, WE WILL QUIT.

24 THE COURT: OKAY. THANK YOU. SHORT WITNESS.
25 YOU WERE TRUE TO YOUR WORD. THANK YOU. LADIES AND

1 GENTLEMEN, WE APPRECIATE YOUR PATIENCE THROUGHOUT THE
2 DAY. WE HAVE HAD CERTAIN FITS AND STARTS, BUT
3 THANKFULLY WE HAVE GOTTEN A GREAT DEAL DONE.

4 A LOT OF WITNESSES HAVE BEEN CALLED AGAIN TODAY.
5 AND I APPRECIATE YOUR PATIENCE, YOUR COOPERATION AS
6 WE WORKED WITH OUR -- WITH OUR OCCASIONAL
7 INTERRUPTIONS.

8 I SEND YOU HOME NOW ONCE AGAIN AND ASK THAT YOU
9 BE BACK IN THE JURY ROOM TOMORROW MORNING AT 9:30. I
10 REMIND YOU AGAIN THAT YOU CAN'T TALK ABOUT THIS CASE
11 WITH ANYBODY OR LET ANYBODY TALK WITH YOU ABOUT IT OR
12 READ ANY ARTICLES THAT WILL BE IN THE PAPER ABOUT IT
13 OR WATCH ANYTHING THAT MIGHT BE ON TV ABOUT IT OR
14 TALK ABOUT IT AMONG YOURSELVES IN THE MORNING WHEN
15 YOU GET BACK.

16 I REALIZE THAT YOU MUST THINK THAT I MUST THINK
17 THAT YOU'RE THE STUPIDEST PEOPLE IN THE WORLD BECAUSE
18 I TELL YOU THAT EVERY TIME BEFORE YOU LEAVE THIS
19 COURTROOM. YOU MUST THINK I THINK YOU'VE GOT A REAL
20 SHORT MEMORY. AND THAT'S NOT REALLY IT AT ALL.

21 I TELL YOU THAT, LADIES AND GENTLEMEN, BECAUSE
22 AS FAR AS THIS CASE IS CONCERNED, THIS CASE, THE CASE
23 OF THE STATE OF VERSUS MR. SINGLETARY AND MR. LYNCH,
24 THAT YOU 12 PEOPLE AND YOU TWO ALTERNATES ARE THE
25 ONLY TWO PEOPLE, ONLY 12 PEOPLE ON THE FACE OF THE

1 GLOBE, OF EVERY PERSON ON THE FACE OF THIS EARTH, WHO
2 ARE GOING TO BE ASKED TO MAKE A DECISION IN THIS
3 PARTICULAR CASE. NOBODY ELSE BUT YOU.

4 AND THAT'S THE REASON THAT IT'S REAL IMPORTANT
5 THAT I CONTINUE TO EMPHASIZE TO YOU THE ABSOLUTE
6 NECESSITY OF YOUR ABIDING BY THESE INSTRUCTIONS IN
7 KEEPING YOURSELF WITHIN THE EVIDENCE IN THIS
8 PARTICULAR CASE WHEN YOU START YOUR DELIBERATIONS.

9 AND I REALIZE YOU REMEMBER WHAT I SAID, AND I
10 APPRECIATE THAT, BUT IT'S SO IMPORTANT THAT I NEED
11 JUST TO EMPHASIZE IT ONCE AGAIN. KIND OF LIKE WHEN
12 YOU WERE A YOUNG KID AND YOU'RE LEAVING HOME IN THE
13 MORNING IN THE WINTERTIME, YOUR MOM OR DAD SAY, DON'T
14 FORGET YOUR COAT.

15 YOU SAY GOSH IT'S 30-DEGREES, HOW AM I GOING TO
16 GET OUT OF HERE WITHOUT A COAT, I'VE GOT ENOUGH SENSE
17 TO REMEMBER MY COAT. BUT YOUR MOM OR YOUR DADDY TELL
18 YOU THAT EVERY MORNING? WELL, THAT'S KIND OF THE WAY
19 OUR PROCESS IS. DON'T THINK THAT I'M TRYING TO SELL
20 YOU SHORT. BUT THERE'S A REASON FOR IT.

21 HAVE A SAFE TRIP HOME. I WILL SEE YOU ALL
22 TOMORROW MORNING AT 9:30. THANK YOU.

23 (JURY LEFT COURTROOM AT 5:31 P.M.)

24 THE COURT: ALL RIGHT. MR. FATA, ANYTHING ELSE
25 FROM THE STATE BEFORE WE BREAK?

1 MR. FATA: NOTHING FROM THE STATE, YOUR HONOR.

2 THE COURT: MR. DOBY, MR. SCOTT, ANYTHING?

3 MR. DOBY: NO, SIR, YOUR HONOR.

4 MR. SCOTT: NO, SIR.

5 THE COURT: THANK YOU. THAT'S ALL.

6 (COURT IN RECESS FOR THE EVENING.)

7 DECEMBER 1, 2005.

8 THE COURT: ALL RIGHT. I WOULD ASK THAT THE
9 DEFENDANTS BE BROUGHT IN, PLEASE.

10 (DEFENDANTS BROUGHT INTO COURTROOM.)

11 THE COURT: MR. FATA, IS THE STATE READY FOR THE
12 JURY?

13 MR. FATA: YES, SIR, YOUR HONOR.

14 THE COURT: MR. DOBY, MR. SCOTT, GENTLEMEN, IS
15 THE DEFENSE READY FOR THE JURY?

16 MR. SCOTT: YES, SIR, YOUR HONOR.

17 MR. DOBY: YES.

18 THE COURT: THANK YOU. YOU CAN BRING US THE
19 JURY, PLEASE.

20 (JURY ENTERED THE COURTROOM AT 9:45 AM).

21 THE COURT: THANK YOU. LADIES AND GENTLEMEN, WE
22 PICK UP WITH WHERE WE LEFT OFF YESTERDAY. THE STATE
23 IS CONTINUING TO OFFER EVIDENCE AND TESTIMONY IN THIS
24 CASE. THANK YOU FOR YOUR PROMPT RETURN AGAIN THIS
25 MORNING AS WELL. MR. FATA?

1 MR. FATA: THANK YOU, YOUR HONOR. YOUR HONOR,
2 THE STATE WOULD CALL AGENT MARK CREECH.

3 THE COURT: MR. CREECH, IF YOU WILL RESUME THE
4 STAND, PLEASE SIR. YOU ARE STILL UNDER OATH.

5 MARK CREECH, AFTER
6 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. FATA:

9 Q AGENT CREECH, I'M GOING TO SHOW YOU A NURSE'S NOTE
10 DATED MARCH THE SECOND, 2004 THAT WAS TESTIFIED TO BY
11 MRS. NAGY YESTERDAY. DO YOU RECALL BEING WITH CORRECTIONS
12 OFFICER CREECH -- CORRECTIONAL OFFICER COTTON AND
13 MRS. NAGY ON THAT DATE?

14 A YES, SIR. I WAS PRESENT WHEN MRS. NAGY, NURSE NAGY,
15 DREW THE BLOOD FROM MARCUS COTTON. SHE HANDED THE TUBE OF
16 BLOOD STRAIGHT TO ME AND I TOOK IT STRAIGHT TO COLUMBIA
17 AND LOGGED IT INTO THE EVIDENCE ROOM.

18 Q THE SLED EVIDENCE ROOM?

19 || A YES, SIR.

20 | Q AT SLED?

21 A YES, SIR, ON THAT SAME DAY.

22 Q ON THAT SAME DAY. ANSWER ANY QUESTIONS THAT MR. DOBY
23 OR MR. SCOTT MAY HAVE.

24 THE COURT: MR. DOBY?

25 MR. DOBY: NO QUESTIONS.

1 THE COURT: THANK YOU. MR. SCOTT?

2 MR. SCOTT: NONE FOR THIS WITNESS, YOUR HONOR.

3 THE COURT: THANK YOU. MR. CREECH, YOU CAN STEP
4 DOWN.

5 MR. FATA: YOUR HONOR, THE STATE WOULD CALL
6 ADRIENNE RILEY.

7 THE COURT: ANDRIENNE RILEY.

8 MR. FATA: ANDRIENNE RILEY.

9 (WITNESS IN COURTROOM.)

10 THE COURT: MRS. RILEY, COME FORWARD, PLEASE
11 MA'AM, AND BE SWORN.

12 ADRIENNE RILEY, AFTER
13 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. FATA:

16 Q MRS. RILEY, WHERE ARE YOU EMPLOYED?

17 A WITH THE SOUTH CAROLINA STATE LAW ENFORCEMENT
18 DIVISION COMMONLY KNOWN AS SLED.

19 Q AND WHAT IS YOUR JOB THERE AT SLED?

20 A I'M A FORENSIC DNA ANALYST.

21 Q ALL RIGHT. AND WHAT IS YOUR EDUCATIONAL BACKGROUND,
22 PLEASE?

23 A I HAVE A BACHELOR OF SCIENCE DEGREE FROM THE
24 UNIVERSITY OF SOUTH CAROLINA IN BIOLOGY. I ALSO HAVE
25 TAKEN POST-GRADUATE COURSES IN THE FIELD OF GENETICS AND

1 MOLECULAR BIOLOGY. THAT'S IT.

2 Q OKAY. AND WHAT IS -- AS A BIOLOGIST OR CHEMIST, WHAT
3 DID YOU SAY WERE YOU?

4 A A BIOLOGIST.

5 Q A BIOLOGIST AT SLED, WHAT JOBS DO YOU PERFORM THERE?

6 A MY PRIMARY DUTY IS THE ANALYSIS OF BIOLOGICAL SAMPLES
7 THAT ARE LEFT AT CRIME SCENES AND COMPARISON TO KNOWN
8 BIOLOGICAL SAMPLES.

9 Q OKAY. AND HOW MANY YEARS HAVE YOU BEEN DOING THIS?

10 A FOR -- I'VE BEEN WITH SLED'S DNA LAB THE PAST EIGHT
11 YEARS.

12 Q OKAY. HAVE YOU EVER TESTIFIED IN COURT BEFORE?

13 A YES, SIR, I HAVE.

14 Q HAVE YOU EVER BEEN DESIGNATED AN EXPERT IN THE AREA
15 OF BIOLOGICAL ANALYSIS OF DNA AND OTHER BIOLOGICAL
16 SUBSTANCES?

17 A YES, SIR, I HAVE.

18 MR. FATA: YOUR HONOR, WE WOULD OFFER MRS. RILEY
19 AS AN EXPERT IN THOSE AREAS.

20 THE COURT: THANK YOU. MR. DOBY, VOIR DIRE?

21 MR. DOBY: NONE. THANK YOU, YOUR HONOR.

22 THE COURT: MR. SCOTT?

23 MR. SCOTT: NO, SIR. THANK YOU.

24 THE COURT: THANK YOU. WITHOUT OBJECTION

25 MRS. RILEY IS SO QUALIFIED AS AN EXPERT IN THE FIELD

1 OF BIOLOGICAL ANALYSIS, DNA, AND OTHER SUBSTANCES.

2 (WHEREUPON, STATE'S EXHIBIT NO. 17 WAS MARKED
3 FOR IDENTIFICATION ONLY.)

4 BY MR. FATA:

5 Q MRS. RILEY, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
6 AS STATE'S 12 FOR IDENTIFICATION. SEE IF YOU RECOGNIZE
7 THOSE ITEMS.

8 A YES. THESE ARE CUTTINGS THAT I RECEIVED FROM CECIL
9 BRADSTREET.

10 Q IS THERE ALSO A SWAB IN THERE?

11 A YES.

12 Q OKAY.

13 A IT'S SWABS AND CUTTINGS.

14 Q OKAY. AND HOW DID YOU RECEIVE THOSE FROM
15 MR. BRADSTREET?

16 A MR. BRADSTREET WOULD HAVE MADE THOSE AND PLACED THEM
17 IN THE DNA BOX WHICH IS IN OUR EVIDENCE LOG-IN DEPARTMENT,
18 AND OUR TECHNICIANS WOULD HAVE RETRIEVED IT AND PLACED IT
19 IN DNA-R WHICH IS A REFRIGERATOR IN THE DNA LAB. IT'S
20 ONLY ACCESSIBLE TO DNA ANALYSTS. AND WE EACH HAVE A SET
21 AREA FOR -- OUR EVIDENCE IS STORED IN THAT REFRIGERATOR.

22 Q YOU WOULD HAVE RETRIEVED IT FROM THE LOCKER AND WHAT
23 WOULD YOU HAVE DONE WITH THEM?

24 A I WOULD BEGIN MY ANALYSIS FROM THAT POINT.

25 Q WHEN YOU FINISHED YOUR ANALYSIS, WHAT WOULD YOU DO?

1 A ONCE MY ANALYSIS IS DONE, WE WILL PLACE THEM IN
2 WHAT'S CALLED A DNA RETURN, AND THAT'S JUST A DNA-R (SIC)
3 ALSO IN THE DNA LAB THAT EVIDENCE TECHNICIANS WILL COME
4 AND RETRIEVE AND RETURN IT TO THE SUBMITTING AGENCY.

5 Q SO THAT GOES BACK TO THE LOCKER, EVIDENCE LOCKER?

6 A YES, SIR.

7 Q AND THE SUBMITTING AGENCY WOULD RETRIEVE IT WHEN THEY
8 WERE READY?

9 A UH-HUH.

10 Q ALL RIGHT. I'M GOING TO SHOW YOU STATE'S EXHIBIT 17
11 FOR IDENTIFICATION AND SEE IF YOU RECOGNIZE THAT.

12 A YES, SIR. THIS IS THE BLOOD STANDARD MARKED ITEM
13 25.1 THAT I RECEIVED LABELED MARCUS COTTON.

14 Q WHERE DID YOU RECEIVE THAT FROM AND HOW DID YOU
15 RECEIVE IT?

16 A AGAIN IT WAS RETRIEVED FROM A DNA BOX AND PLACED INTO
17 THE REFRIGERATOR IN THE DNA LAB AND I RETRIEVE IT FROM
18 THERE, AND FROM THERE I PLACE THE BLOOD STANDARD -- IT WAS
19 A LAVENDER TOP TUBE OF BLOOD. IT WAS PRESERVED ON A PIECE
20 OF STERILE PAPER OR CLOTH AND MARKED WITH THE CASE
21 IDENTIFIER, THE ITEM NUMBER, AS WELL AS THE NAME OF THE
22 PERSON WHOSE BLOOD WAS CONTAINED.

23 Q SO THE BLOOD STANDARD CAME IN A -- IN A VIAL, A TUBE?

24 A YES, SIR.

25 Q PUT IN THE EVIDENCE LOCKER. YOU RETRIEVE IT FROM THE

1 EVIDENCE LOCKER AND YOU THEN PRESERVE IT ON A STERILE
2 CLOTH OR PAPER?

3 A YES.

4 Q IS THAT WHAT'S IN THE -- THE PACKAGE?

5 A UH-HUH. THAT IS WHAT'S WITHIN THE CORNER -- YES,
6 SIR.

7 Q WHAT DID YOU THEN DO WITH IT AFTER YOU PRESERVE IT?

8 A ONCE IT'S PRESERVED, THEN WE'LL START OUR DNA PROCESS
9 FROM THERE, START THE DNA EXTRACTION.

10 Q ALL RIGHT. AND DETERMINE THE -- A DNA PROFILE?

11 A AND DEVELOP -- DEVELOP A DNA PROFILE.

12 Q AFTER YOU HAVE DONE THAT, WHAT DO YOU DO WITH IT?

13 A OKAY. ONCE A DNA PROFILE IS DEVELOPED FROM A KNOWN
14 STANDARD WHICH WOULD BE THE BLOOD STANDARD FROM MARCUS
15 COTTON AND THE UNKNOWN WHICH WILL BE EVIDENCE FROM A CRIME
16 SCENE OR -- OR IN THIS CASE THE EVIDENCE THAT WAS IN THE
17 FIRST POUCH, WE DEVELOP DNA PROFILE FROM EACH ONE AND
18 COMPARED THEM, MAKE A COMPARISON, AND THEN DETERMINE
19 WHETHER IT'S A DNA MATCH OR NOT.

20 Q YOU THEN RETURN IT TO THE EVIDENCE LOCKER?

21 A WHEN WE'RE DONE.

22 Q AND IT'S RETRIEVED BY THE AGENCY WHO BROUGHT IT?

23 A YES, SIR.

24 MR. FATA: YOUR HONOR, WE WOULD MOVE BOTH 12 AND
25 17 INTO EVIDENCE.

1 THE COURT: MR. DOBY?

2 MR. DOBY: NO OBJECTION, YOUR HONOR.

3 THE COURT: MR. SCOTT?

4 MR. SCOTT: NO OBJECTION, YOUR HONOR, OTHER THAN
5 THOSE WE HAD EARLIER MADE.

6 THE COURT: ALL RIGHT, SIR. TWELVE AND 17 NOW
7 IN EVIDENCE. THANK YOU.

8 (WHEREUPON, STATE'S EXHIBITS 12, 17 WERE
9 ADMITTED INTO EVIDENCE.)

10 BY MR. FATA:

11 Q OKAY. MRS. RILEY, DID YOU PERFORM A DNA ANALYSIS ON
12 ONE, ON SWAB 1.1? AND THEN TELL US WHAT THAT SWAB IS,
13 WHERE IT WAS FROM AND WHAT, AND SO FORTH.

14 A YES, SIR. I PERFORMED DNA ANALYSIS ON ITEM 1.1 WHICH
15 IS A SWAB FROM SHANK HANDLE.

16 Q FROM A SHANK. NOW, YOU DIDN'T SEE THE SHANK; DID
17 YOU?

18 A NO, SIR.

19 Q AND THE SWAB IS CONTAINED IN STATE'S EXHIBIT NUMBER
20 12?

21 A YES, SIR.

22 Q AND YOU PERFORMED A DNA ANALYSIS?

23 A YES, SIR, I DID.

24 Q AND TELL US WHAT YOU DID.

25 A I DEVELOPED A DNA PROFILE FROM THE SHANK HANDLE. AND

1 MY RESULTS WERE THE DNA PROFILE DEVELOPED FROM ITEM 1.1 IS
2 A MIXTURE OF AT LEAST TWO INDIVIDUALS, AND MARCUS COTTON
3 COULD NOT BE EXCLUDED AS A CONTRIBUTOR TO THIS MIXTURE.

4 Q OKAY. WHAT DOES -- WHAT DOES THAT MEAN, CANNOT BE
5 EXCLUDED AS A CONTRIBUTOR?

6 A THAT MEANS THE DNA PROFILE THAT WAS DEVELOPED FROM
7 THE SHANK HANDLE AND WHEN I COMPARED IT TO THE DNA PROFILE
8 THAT WAS DEVELOPED FROM MARCUS COTTON, IT WAS CONSISTENT
9 WITH THAT HE COULD NOT BE EXCLUDED AS HAVING CONTRIBUTED
10 TO THAT DNA PROFILE THAT WAS DEVELOPED FROM THE SHANK
11 HANDLE, BUT IT WAS ALSO MORE THAN HIM ON THE SHANK HANDLE.
12 ANOTHER DNA PROFILE OR TWO WERE ALSO PRESENT.

13 Q OKAY. NOW, DID YOU DO A DNA PROFILE ON ITEM OR
14 CUTTING 5.1?

15 A YES, SIR, I DID.

16 Q AND WHAT WAS -- WHAT WAS THE RESULT OF THAT? AND
17 WHERE WAS THAT CUTTING FROM AND WHAT -- AND WHAT WAS THE
18 RESULT?

19 A ITEM 5.1 IS A CUTTING FROM THE LEFT SLEEVE OF A BLUE
20 SCDC UNIFORM SHIRT. AND THE RESULTS ON THAT ITEM, THE DNA
21 PROFILE DEVELOPED FROM THE BLOOD ON ITEM 5.1 MATCHES
22 MARCUS COTTON. THE PROBABILITY OF RANDOMLY SELECTING AN
23 UNRELATED INDIVIDUAL MATCHING THIS ITEM IS APPROXIMATELY
24 ONE IN 37 QUADRILLION.

25 Q VERY REMOTE CHANCE THAT IT WAS SOMEBODY ELSE?

1 A YES, SIR, I DID.

2 Q ANSWER ANY QUESTIONS THAT MR. DOBY OR MR. SCOTT MAY
3 HAVE.

4 THE COURT: MR. DOBY, YOU CAN CROSS-EXAMINE.

5 CROSS-EXAMINATION

6 BY MR. DOBY:

7 Q MRS. RILEY, YOU WOULD HAVE BEEN AVAILABLE TO ANALYZE
8 ANY CLOTHING OR OTHER ITEMS THAT WOULD HAVE BEEN TAKEN AS
9 EVIDENCE IN THIS CASE TO DETERMINE WHETHER MARCUS COTTON'S
10 BLOOD WAS ON THAT CLOTHING; CORRECT?

11 A YES, SIR.

12 Q AND IF THERE WOULD HAVE BEEN CLOTHING TAKEN FROM
13 TYRONE SINGLETARY, YOU WOULD HAVE BEEN AVAILABLE TO
14 ANALYZE THAT, DETERMINE WHETHER MARCUS COTTON'S BLOOD WAS
15 ON ANY CLOTHING; CORRECT?

16 A YES, SIR.

17 Q OKAY. AND YOU WERE NOT GIVEN ANY CLOTHING FROM
18 TYRONE SINGLETARY TO ANALYZE; WERE YOU?

19 A NO, SIR.

20 Q OKAY. BECAUSE CERTAINLY THE CLOTHING THAT HE WOULD
21 HAVE BEEN WEARING THAT NIGHT WOULD HAVE BEEN AVAILABLE TO
22 SLED OR OTHER LAW ENFORCEMENT AGENCIES TO TAKE FROM TYRONE
23 SINGLETARY; CORRECT?

24 A YES, SIR.

25 Q YOU WOULDN'T ASSUME THAT IT...

1 A I ASSUME SO.

2 Q THAT WOULD NOT HAVE BEEN YOUR JOB. BUT YOU WOULD
3 HAVE BEEN AVAILABLE AND ABLE TO ANALYZE THAT CLOTHING;
4 CORRECT?

5 A YES, SIR, I WOULD. YES, SIR.

6 Q ALL RIGHT. THANK YOU. THAT'S ALL I HAVE.

7 THE COURT: THANK YOU. MR. SCOTT?

8 MR. SCOTT: YOUR HONOR, BRIEFLY.

9 CROSS-EXAMINATION

10 BY MR. SCOTT:

11 Q MRS. RILEY, YOU HAVE IDENTIFIED ITEM 1.1 AS A SWAB
12 FROM THE SHANK HANDLE; IS THAT CORRECT?

13 A YES, SIR.

14 Q AND IN THE PROCESS OF YOUR ANALYZING THE DNA
15 MATERIAL, FOR LACK OF A BETTER DESCRIPTION ON THAT SHANK
16 HANDLE, THE BEST THAT YOU COULD SAY ABOUT THAT WAS THAT
17 MARCUS COTTON'S BLOOD -- OR FORGIVE ME -- MARCUS COTTON
18 COULD NOT BE EXCLUDED AS A CONTRIBUTOR; IS THAT CORRECT?

19 A THAT'S CORRECT.

20 Q NOW, THAT'S A FAR CRY FROM WHAT YOU SAID ABOUT ITEM
21 5.1 WHICH AS I UNDERSTAND IT IS A CUTTING FROM A BLUE SCDC
22 UNIFORM SLEEVE; IS THAT CORRECT?

23 A THAT IS CORRECT.

24 Q OKAY. NOW, WERE IT -- WAS IT ANY TIME -- WHERE AT
25 ANY TIME YOU INFORMED THAT THAT BLUE UNIFORM WAS REPUTEDLY

1 THE UNIFORM WORN BY MARCUS COTTON?

2 A MAY I CHECK MY NOTES?

3 Q YES, MA'AM. CERTAINLY.

4 A NO. THE NOTES THAT I RECEIVED FROM EVIDENCE
5 PROCESSING WHICH WOULD HAVE BEEN FROM CECIL BRADSTREET
6 SAYS THAT THE BLUE SHORT SLEEVE SHIRT -- AND HE GAVE A
7 DESCRIPTION OF THE SHIRT, THE SIZE, AND JUST HAD SCDC OR
8 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS ON THE SLEEVE.

9 Q ALL RIGHT.

10 A IT DIDN'T SAY HE WAS---

11 Q SO A BLUE SCDC UNIFORM -- WELL, IDENTIFIED AS SCDC ON
12 THE SLEEVE?

13 A UH-HUH.

14 Q OKAY. AND THE RESULTS THAT YOU WERE ABLE TO REACH
15 FROM YOUR ANALYSIS OF THE CUTTING FROM THAT SLEEVE WAS ONE
16 IN 37 QUADRILLION CHANCES OF THAT BLOOD BEING ANYBODY'S
17 OTHER THAN MARCUS COTTON; RIGHT?

18 A THAT IS CORRECT.

19 Q SO IN FACT, IF IT'S HIS -- IF IN FACT THAT IS HIS
20 SHIRT AND THAT'S HIS BLOOD, ONE IN 37 QUADRILLION IS
21 PRETTY -- THAT'S PRETTY CERTAIN; ISN'T IT?

22 A YES, SIR, TO A REASONABLE DEGREE OF SCIENTIFIC
23 CERTAINTY, YES.

24 Q WELL, IT'S A SUBSTANTIALLY REASONABLE DEGREE, ISN'T
25 IT? I MEAN, THERE ARE ONLY 6 BILLION PEOPLE ON THE FACE

1 OF THE EARTH.

2 A THAT'S CORRECT.

3 Q AND AS I -- AND I'M NOT A SCIENTIST, BUT I LOOKED UP
4 WHAT A QUADRILLION IS, AND IT SAYS A QUADRILLION IS A
5 MILLION BILLION.

6 A THAT'S CORRECT?

7 Q WOULD YOU AGREE WITH THAT?

8 A A ONE FOLLOWED BY 15 ZEROS.

9 Q YEAH, AND THAT'S RIGHT. THAT'S A MILLION BILLION.
10 AND THERE AREN'T THAT MANY PEOPLE ON THE FACE OF THE
11 EARTH, PROBABLY HAVEN'T EVER LIVED ON THE FACE OF THE
12 EARTH.

13 A THAT IS TRUE.

14 Q SO THERE'S NO QUESTION THAT BLOOD ON THAT UNIFORM IS
15 MARCUS COTTON'S.

16 A I WOULD SAY SO, YES, SIR.

17 Q RIGHT? BUT YOU KNOW, AS AGAIN, WITH RESPECT -- WITH
18 RESPECT TO THAT SWAB FROM THAT SHANK HANDLE, THE BEST YOU
19 CAN SAY ABOUT THAT WAS, WELL, MAYBE IT IS HIS, MAYBE IT
20 ISN'T. HE CAN'T BE EXCLUDED.

21 A IT IS A MIXTURE, YES, SIR.

22 Q RIGHT. BUT THAT -- LIKE I SAID, THAT'S A FAR CRY
23 FROM SAYING, WE ARE CERTAIN THAT'S HIS BLOOD. COULDN'T DO
24 THAT; COULD YOU?

25 A IT WAS A SINGLE SOURCE CONTRIBUTOR ON THAT SHIRT,

1 YES, SIR.

2 Q MA'AM?

3 A IT WAS A SINGLE SOURCE CONTRIBUTOR ON THAT SHIRT
4 WHERE THERE WAS A MIXTURE ON THE SHANK HANDLE.

5 Q BUT YOU WEREN'T ABLE TO SAY -- IF YOU WERE CERTAIN IT
6 WAS HIS, YOU WOULD HAVE SAID, THERE WAS A ONE IN
7 37 QUADRILLION CHANCE OF IT BEING HIS JUST AS YOU SAID
8 ABOUT THE UNIFORM; WOULDN'T YOU?

9 A THAT IS TRUE.

10 Q AND YOU DIDN'T SAY THAT?

11 A NO, SIR.

12 Q AND WITH RESPECT TO -- YOU ALSO TOOK SOME -- I THINK
13 YOU ALSO DID SOME ANALYSIS OF SOME SWABS FROM THE SHANK
14 ITSELF. I BELIEVE -- YOU HAVE YOUR REPORT WITH YOU?

15 A YES, SIR.

16 Q SWAB 1.2, 2.1 AND 3.1.

17 A YES, SIR.

18 Q THOSE CAME FROM THE SHANK ITSELF; DIDN'T IT?

19 A CORRECT.

20 Q AND IN FACT, YOU WEREN'T ABLE TO DETERMINE ANY KIND
21 OF DNA PROFILE FROM ANY SWABS ON THAT SHANK; RIGHT?

22 A NO. THERE WAS NO DNA PROFILE DEVELOPED FROM THOSE
23 ITEMS 1.2, 2.1 AND 3.1.

24 Q SO THE THREE SWABS THAT WERE TAKEN FROM THE SHANK
25 ITSELF DIDN'T HAVE ANYTHING THAT ALLOWED YOU TO CONCLUDE

1 THAT THERE WAS ANY BLOOD FROM MARCUS COTTON ON THAT SHANK;
2 CORRECT?

3 A THAT IS TRUE. THERE WAS NO DNA PROFILE, NO.

4 Q AND YOU ALSO COMPARED TO THE CUTTING TO 1.1. AGAIN,
5 THAT'S THE SHANK HANDLE SWAB. YOU ALSO COMPARED TO THAT
6 SOME -- SOME DNA FROM AN ITEM WHICH WAS IDENTIFIED AS
7 15.15.1. AND COULD YOU TAKE A LOOK AT YOUR REPORT AND
8 TELL ME WHAT ITEM 15.15.1 IS?

9 A ITEM 15.15.1 IS A CUTTING FROM TAN SCDC PANTS WITH
10 LYNCH 269657 WRITTEN IN THE INSIDE.

11 Q OKAY. SO THAT WAS A CUTTING FROM PANTS, SCDC PANTS,
12 WITH THE NAME LYNCH AND A NUMBER WRITTEN ON THE INSIDE?

13 A THAT IS---

14 Q AND YOU COMPARED THE DNA ON THESE PANTS TO THE DNA ON
15 THE SWAB FROM THE SHANK HANDLE; CORRECT?

16 A WHAT I DID IS AGAIN A PROFILE. I DEVELOPED A DNA
17 PROFILE FROM THE PANTS, ITEM 15.15.1, AND THEN I COMPARED
18 THAT PROFILE TO THE SHANK HANDLE, AND THE RESULT FROM THAT
19 DONOR OF DNA FROM ITEM 15.15.1 CAN BE EXCLUDED AS
20 CONTRIBUTOR TO THIS MIXTURE.

21 Q ALL RIGHT. SO THE CUTTING THAT YOU -- OR I SHOULD
22 SAY THE -- THE ANALYSIS YOU PREPARED, YOU COMPARED -- YOU
23 PERFORMED -- FORGIVE ME -- ON THE 15.15.1 CUTTING FROM
24 PANTS NAMED WITH LYNCH 269657, WHEN YOU COMPARED THAT
25 CUTTING TO THE SHANK HANDLE SWAB, YOU CONCLUDED THAT THE

1 DONOR OF THE DNA ON THOSE PANTS COULD BE EXCLUDED FROM THE
2 DNA SAMPLE THAT YOU FOUND ON THE SHANK HANDLE; CORRECT?

3 A THAT IS CORRECT.

4 Q OKAY. THANK YOU. THAT'S ALL I HAVE.

5 THE COURT: THANK YOU. MR. FATA?

6 REDIRECT EXAMINATION

7 BY MR. FATA:

8 Q ONE THING. MRS. RILEY, WHAT IS THE DIFFERENCE WHEN
9 YOU HAVE A SINGLE CONTRIBUTOR, DNA CONTRIBUTOR, TO AN ITEM
10 AND YOU HAVE MULTIPLE CONTRIBUTORS TO AN ITEM? WHAT IS
11 THE -- WHAT IS THE DIFFERENCE IN THAT? DOES IT MAKE A
12 DIFFERENCE IN YOUR ANALYSIS?

13 A YES, IT DOES. WHEN WE HAVE A SINGLE DNA PROFILE,
14 MEANING THAT IF YOU HAVE SAY A SINGLE DROP OF BLOOD FROM
15 AN INDIVIDUAL, WE'LL DEVELOP A SINGLE DNA PROFILE AND IT
16 INDICATES THERE'S FROM ONE INDIVIDUAL. SO WE'RE ABLE TO
17 QUOTE AN ABSOLUTE MATCH ON THAT.

18 WHEN YOU HAVE A ITEM THAT HAS A NUMBER OF
19 CONTRIBUTORS LIKE -- BECAUSE DNA AND THE TEST THAT WE DO
20 IS VERY SENSITIVE. YOU CAN PICK UP A DNA PROFILE FROM
21 SOMEONE TOUCHING SOMETHING. IF I TOUCH THIS, MY DNA
22 PROFILE AMONGST EVERYONE ELSE WHO HAS TOUCHED THIS MAY BE
23 AMONGST THERE.

24 SO THAT WAY IT'S CALLED A MIXTURE. AND WE CAN SAY
25 THAT SOMEBODY CANNOT BE EXCLUDED OR CAN BE EXCLUDED FROM

1 THAT MIXTURE.

2 Q SO YOU CAN SAY SOMEBODY TOUCHED IT OR THEY DIDN'T
3 TOUCH IT; IS THAT RIGHT?

4 A THAT IS RIGHT, SAY SOMEBODY'S DNA WAS PRESENT OR WAS
5 NOT PRESENT.

6 Q OKAY. BUT YOU CAN'T DO AN ABSOLUTE PROFILE LIKE YOU
7 WOULD IF IT WAS A SINGLE CONTRIBUTOR?

8 A THAT IS CORRECT.

9 Q YOU KNOW THE PERSON HAS BEEN THERE?

10 A THAT'S CORRECT.

11 THE COURT: MR. DOBY, ANY FOLLOW-UP ON THOSE
12 POINTS?

13 MR. DOBY: NO, SIR, YOUR HONOR.

14 THE COURT: MR. SCOTT?

15 MR. SCOTT: YES, SIR.

16 RECROSS-EXAMINATION

17 BY MR. SCOTT:

18 Q MRS. RILEY, YOU INDICATED IN RESPONSE TO MR. FATA
19 THAT'S A VERY SENSITIVE TEST. NO DOUBT IT IS. BUT YOU
20 PERFORMED THAT VERY SENSITIVE TEST ON THE SWAB FROM THE
21 SHANK HANDLE AND YOU PERFORMED THAT VERY SENSITIVE TEST ON
22 THE CUTTING OF 15.15.1, THE PANTS WITH LYNCH'S NAME ON IT;
23 CORRECT?

24 A THAT IS CORRECT.

25 Q AND YOU -- YOU CONCLUDED THAT THE DNA OR THE

1 CONTRIBUTOR TO THE DNA PROFILE ON THE PANTS WOULD BE
2 EXCLUDED FROM THE DNA PROFILE ON THE 'HANDLE?

3 A THAT IS CORRECT.

4 Q THANK YOU.

5 THE COURT: MR. FATA, YOU'VE GOT THE LAST WORD.

6 MR. FATA: NOTHING ELSE FROM THIS WITNESS, YOUR
7 HONOR.

8 THE COURT: THANK YOU. MRS. RILEY, YOU CAN STEP
9 DOWN.

10 MR. FATA: AND MAY SHE BE EXCUSED?

11 THE COURT: CERTAINLY. WITHOUT OBJECTION, MRS.
12 RILEY, YOU CAN BE EXCUSED. THANK YOU FOR COMING.

13 MR. FATA: YOUR HONOR, THE STATE WILL REST AT
14 THIS TIME.

15 THE COURT: THANK YOU. LADIES AND GENTLEMEN,
16 THAT MEANS THAT YOU HAVE HEARD ALL THE EVIDENCE AND
17 TESTIMONY THAT YOU WILL HEAR FROM THE STATE IN THE
18 PRESENTATION OF ITS CASE IN CHIEF.

19 I NOW HAVE TO MEET WITH THE LAWYERS OUTSIDE OF
20 YOUR PRESENCE TO DEAL WITH SOME MATTERS OF LAW THAT
21 WILL TAKE A FEW MOMENTS FOR US, PROBABLY MORE THAN A
22 FEW MOMENTS TO GET THESE THINGS IN PLACE TO CONTINUE
23 WITH THIS TRIAL.

24 AND SO I HAVE TO SEND YOU OUT OF THE JURY
25 ROOM -- COURTROOM INTO THE JURY ROOM WHILE I TAKE

1 CARE OF THAT. I REMIND YOU AGAIN, OF COURSE, NOT TO
2 DISCUSS THIS CASE AMONG YOURSELVES WHILE YOU'RE IN
3 THE JURY ROOM. WE'LL GET YOU OUT AS SOON AS WE CAN
4 TO CONTINUE THE TRIAL OF THIS CASE. THANK YOU.

5 (JURY LEFT COURTROOM AT 10:07 AM).

6 THE COURT: ALL RIGHT. MR. DOBY, I WILL BE GLAD
7 NOW TO HEAR MOTIONS FIRST OF ALL ON BEHALF OF MR.
8 SINGLETARY.

9 MR. DOBY: YOUR HONOR, SEVERAL MOTIONS. ONE, I
10 BELIEVE THAT THERE ARE SIX COUNTS ON THE INDICTMENT,
11 YOUR HONOR.

12 THE COURT: YES, SIR.

13 MR. DOBY: IF I MIGHT FIRST INTERJECT A MOTION
14 TO -- MOTION FOR A DIRECTED VERDICT, YOUR HONOR, OF
15 NOT GUILTY AS TO ALL COUNTS, THAT THERE HAS NOT BEEN
16 SUFFICIENT EVIDENCE PRODUCED BY THE STATE TO CONVINCE
17 THE JURY BEYOND A REASONABLE DOUBT OF MY CLIENT'S
18 GUILT.

19 IN ADDITION, YOUR HONOR, IF I CAN GO THROUGH THE
20 INDIVIDUAL COUNTS. THERE IS ONE COUNT OBVIOUSLY OF
21 ASSAULT ON A CORRECTIONAL OFFICER WHICH -- AND HAVING
22 A SHANK -- HAVING A WEAPON, YOUR HONOR, I BELIEVE
23 THAT THERE IS SUFFICIENT EVIDENCE THE JURY COULD FIND
24 MY CLIENT GUILTY OF THOSE AS I HAVE ALREADY ADMITTED
25 TO THE JURY THAT IN FACT THAT'S WHAT HE WAS GUILTY OF

1 AND THE STATE ALSO INDICATED THAT.

2 YOUR HONOR, I DO NOT BELIEVE THE STATE HAS
3 PRODUCED SUFFICIENT EVIDENCE TO FIND MY CLIENT
4 GUILTY -- MY CLIENT GUILTY OF TAKING A HOSTAGE.
5 FIRST OF ALL, AS TO MARCUS COTTON, HIS TESTIMONY IN
6 SUMMARY, YOUR HONOR, WAS THAT APPARENTLY JACOB LYNCH
7 WAS THE ONE WHO HAD TAKEN HIM HOSTAGE.

8 IN ADDITION, YOUR HONOR, FOR MR. DOZIER THE
9 TESTIMONY IN THE LIGHT MOST FAVORABLE TO THE STATE
10 INDICATES THAT HE SECLUDED HIMSELF IN A CELL, WAS
11 ABLE TO BARRICADE THE DOOR. THERE'S NO INDICATION
12 THAT HE WAS TAKEN AWAY OR IN ANY WAY FIT UNDER THE
13 DEFINITION OF TAKING A HOSTAGE THAT THE STATE HAS
14 INDICTED MY CLIENT FOR.

15 I THEREFORE BELIEVE THAT THE FACTS IN THE LIGHT
16 MOST FAVORABLE TO THE STATE WOULD NOT ALLOW A JURY TO
17 FIND MY CLIENT GUILTY OF THAT.

18 IN ADDITION, YOUR HONOR, TWO COUNTS OF I BELIEVE
19 INCITING TO RIOT AND RIOTING -- EXCUSE ME -- YOUR
20 HONOR, THERE HAS BEEN NO TESTIMONY THAT MY CLIENT HAD
21 INCITED THE RIGHT.

22 I BELIEVE THE TESTIMONY WAS MR. LYNCH HAD TOLD
23 THE INMATES TO -- AND I BELIEVE THE WORDING WAS TO BE
24 HEARD I THINK IS WHAT IT WAS. IN ADDITION, YOUR
25 HONOR, THERE'S ABSOLUTELY NO TESTIMONY THAT MY CLIENT

1 HAD PARTICIPATED IN A RIOT OR HAD DONE ANYTHING TO
2 CREATE THE -- THE RIOT THAT THE STATE ALLEGES
3 OCCURRED THAT EVENING.

4 FOR THOSE REASONS, YOUR HONOR, I WOULD ASK THE
5 COURT TO DIRECT A VERDICT OF NOT GUILTY FOR MY
6 CLIENT.

7 THE COURT: ALL RIGHT. THANK YOU. MR. SCOTT,
8 LET ME HEAR FROM YOU AS WELL AND THEN I WILL HEAR
9 FROM MR. FATA.

10 MR. SCOTT: ALL RIGHT, SIR. THANK YOU, YOUR
11 HONOR. MAY IT PLEASE THE COURT. JUDGE, AS MR. DOBY
12 INDICATED, AS TO THE SIX COUNTS IN GENERAL, I
13 WOULD -- I WOULD RESPECTFULLY ASK THE COURT TO ENTER
14 A DIRECTED VERDICT TAKING ALL THE EVIDENCE AND
15 VIEWING ALL THE EVIDENCE IN THE LIGHT MOST FAVORABLE
16 TO THE STATE, I DON'T BELIEVE THAT IT SATISFIED ITS
17 OBLIGATION TO PROVE EACH ELEMENT OF THE OFFENSE -- OF
18 THE OFFENSES.

19 WITH RESPECT TO THE RIOTING CHARGE, YOUR HONOR,
20 AGAIN, AS I RECALL THE TESTIMONY FROM SEVERAL
21 WITNESSES, IT WAS THAT AS THEY LOOKED IN THROUGH THIS
22 DOOR IN THE SALLY PORT AS SO MANY OCCURRED TO, THEY
23 SAW A SLEW OF PEOPLE RUNNING BACK AND FORTH AND
24 TEARING THINGS UP.

25 IN FACT, SIMPLY I RECALL SERGEANT ASHE STATING

1 THAT AS HE WAS ON TOP OF THE BUILDING LOOKING DOWN,
2 HE SAW ANY NUMBER OF INMATES RUNNING BACK AND FORTH
3 DESTROYING THINGS. MR. COTTON HIMSELF TESTIFIED TO
4 THE EFFECT THAT HE SAW A SLEW OF INMATES ENGAGED IN
5 DESTRUCTIVE ACTIVITIES.

6 BUT ABSENT FROM THOSE DESCRIPTIONS OF WHAT THEY
7 SAW WAS ANY INDICATION THAT JACOB LYNCH WAS RUNNING
8 AROUND DESTROYING THINGS AND ENCOURAGING PEOPLE TO
9 DESTROY THINGS.

10 SO WITH RESPECT TO PARTICIPATING IN THE RIOT, I
11 THINK THAT THE STATE HAS FAILED TO SATISFY THE
12 ELEMENTS OF THAT OFFENSE. AND AGAIN, YOUR HONOR,
13 WITH RESPECT TO THE INCITING OF THE RIOT OFFENSE I'D
14 MAKE THE SAME ARGUMENT AND RESPECTFULLY INVITE THE
15 COURT TO CONSIDER THE TESTIMONY THAT I ALLUDED TO
16 EARLIER.

17 IN FACT, AS I LOOK BACK THROUGH -- LOOK BACK
18 THROUGH MY NOTES, JUDGE, I REMEMBER MRS. BLANDSHAW
19 SAYING THAT WHEN SHE WAS AT THE DOOR THERE WERE JUST
20 A LOT OF PEOPLE, A LOT OF INMATES TALKING AND MAKING
21 DEMANDS, AND SHE ACTUALLY SPECIFICALLY REQUESTED THAT
22 ONLY ONE INMATE BE ALLOWED TO TALK. SHE ONLY TALKED
23 WITH ONE INMATE.

24 SO I THINK THAT THAT ARGUES AGAINST MR -- MR.
25 LYNCH INCITING A RIOT. YOUR HONOR, WITH RESPECT TO

1 THE -- I ACKNOWLEDGE THAT THERE HAS BEEN TESTIMONY
2 FROM THE STATE'S WITNESSES REGARDING MR. LYNCH TAKING
3 HOSTAGE MR. COTTON, AND I UNDERSTAND, OF COURSE, THE
4 STATE HAS ADMITTED HIS STATEMENT WHICH CONTAINS AN
5 ADMISSION TO THAT EFFECT.

6 BUT WITH RESPECT TO THE TAKING OF THE HOSTAGE
7 CHARGE, IT -- AS PERTAINS TO MR. DOZIER, I WOULD HAVE
8 TO AGREE WITH MR. DOBY. IT SEEMS THAT THE TESTIMONY
9 IS THAT TWO INMATES INVITED OFFICER DOZIER INTO THEIR
10 CELL IN EXCHANGE FOR HIM LETTING THEM OUT. IN FACT,
11 THAT'S IN FACT WHAT HAPPENED.

12 NOW I RECOGNIZE, YOUR HONOR, THERE HAS BEEN
13 TESTIMONY THAT LATER ON FOLKS CAME BACK TO THE CELL
14 AND THERE WAS SOME KIND OF DISTURBANCE OUTSIDE THE
15 CELL. BUT I WOULD HAVE TO AGREE THAT I DON'T BELIEVE
16 THE STATE HAS SATISFIED THE REQUIREMENTS OF PROVING
17 THAT A HOSTAGE TAKING OCCURRED AT THE HANDS OF JACOB
18 LYNCH AS TO THOSE TO OFFICER DOZIER.

19 YOUR HONOR, WITH RESPECT TO THE ASSAULTING A
20 CORRECTIONAL OFFICER, THERE HAS BEEN A NUMBER --
21 EXCUSE ME -- TESTIFIED ABOUT WHAT THEY SAW WHILE
22 STANDING AT THAT SALLY PORT WINDOW AND LOOKING IN.

23 AS I COUNTED UP THE NUMBER OF TIMES THAT PEOPLE
24 CLAIMS TO HAVE SEEN OFFICER COTTON ASSAULTED, JUDGE,
25 IT'S JUST INCREDIBLE TO BELIEVE, ESPECIALLY IN VIEW

1 OF CAPTAIN THOMAS' TESTIMONY WHEREIN HE INDICATED HE
2 WAS STANDING AT THE DOOR APPROXIMATELY 90 MINUTES AND
3 HE SAYS, OF COURSE, HE SAW TWO STAB WOUNDS.

4 BUT THERE WERE OTHER PEOPLE WHO CLAIM TO HAVE
5 BEEN THERE AT THE SAME TIME AND EACH OF THEM CLAIMS
6 TO HAVE SEEN TWO STABBINGS OR -- THAT'S ABOUT SIX OR
7 SEVEN STABBINGS, AND IT JUST DOESN'T MAKE ANY SENSE.

8 I GUESS MY ARGUMENT, YOUR HONOR, IS THAT THAT
9 TESTIMONY SHOULD NOT BE GIVEN ANY CREDIBILITY. 'IT
10 SEEMS THAT EVERYBODY SAW ALL THESE STABBINGS, BUT
11 EVEN THE WITNESS HIMSELF DOESN'T -- THE VICTIM
12 HIMSELF DOESN'T INDICATE HE WAS STABBED THAT MANY
13 TIMES AS ALL THESE OTHER WITNESSES SAID.

14 IN MY MIND, YOUR HONOR, THAT GOES TO THE
15 CREDIBILITY OF THE TESTIMONY CONCERNING THAT, THAT
16 INCIDENT.

17 WITH RESPECT TO CARRYING A -- CARRYING A WEAPON,
18 A WEAPON HAS BEEN INTRODUCED. I HAVE HEARD THE
19 TESTIMONY AS THE COURT HAS ABOUT THE SOURCE OF THAT
20 WEAPON, YET THERE HAS BEEN NO TESTIMONY THAT DEPICTED
21 JACOB LYNCH CARRYING THAT WEAPON, THERE IS ABSOLUTELY
22 AN ABSENCE OR BETTER YET ANY EVIDENCE ON THE BLOOD OF
23 MARCUS COTTON IS ON THAT WEAPON.

24 I JUST DON'T BELIEVE, YOUR HONOR, TAKING
25 EVERYTHING THAT THE STATE HAS PRESENTED, VIEWED

1 EVERYTHING IN THE TOTALITY OF THE CIRCUMSTANCES THAT
2 THE COURT HAS -- FORGIVE ME -- THAT THE STATE HAS
3 MADE OUT A PRIMA FACIA CASE ON EACH OF THESE OFFENSES
4 AND I WOULD ASK THE COURT TO RESPECTFULLY DIRECT A
5 VERDICT AGAINST THE STATE.

6 *THE COURT:* ALL RIGHT. THANK YOU, MR. SCOTT.
7 MR. FATA, LET ME HEAR FROM YOU IN REGARD TO
8 SPECIFICALLY THE -- THE MOTION CONCERNING THE TAKING
9 OF A HOSTAGE, MR. KENNETH DOZIER.

10 MR. FATA: YOUR HONOR, THE TESTIMONY BY OFFICER
11 DOZIER WAS THAT WHEN HE WAS BEING -- THE PEOPLE
12 HAD -- NORTH SIDE, HE LOOKED AROUND AND HE SAW THE
13 TWO INMATES COMING ARMED WITH SHANKS. HE THEN --
14 THEY SAID, THERE'S DOZIER. I THINK THE TESTIMONY
15 WAS, THERE'S DOZIER, LET'S GET HIM. HE SHUTS THE
16 FENCE DOOR.

17 I THINK THE TESTIMONY WAS THAT SINGLETARY GOES
18 DOWN AND GOES TO THE HOLE IN THE FENCE WHILE LYNCH
19 GOES TO THE OTHER DOOR WHICH -- THE OTHER FENCED DOOR
20 WHICH WAS ALREADY LOCKED. LYNCH GETS -- SINGLETARY
21 GETS IN.

22 ONE OF THE INMATES THAT HE WAS FEEDING ASKED HIM
23 TO COME IN -- TOLD HIM TO GO INTO HIS CELL AS A
24 SAFETY PRECAUTION.

25 BOTH LYNCH AND SINGLETARY THEN PROCEED TO TRY TO

1 GET INTO THAT -- INTO THAT ROOM, GETTING THE KEYS --
2 HIS TESTIMONY WAS THAT SINGLETARY LEFT, CAME BACK
3 WITH SOMETHING HE THINKS WAS A FIRE EXTINGUISHER AND
4 BUSTED OUT THE GLASS.

5 HE HAD BARRICADED THE DOOR. AND THEY WERE
6 MAKING EVERY EFFORT THEY COULD TO GET IN THERE TO GET
7 TO HIM. THAT WENT ON THROUGHOUT THE NIGHT AND
8 EVENTUALLY HE WAS LOCKED IN BY ANOTHER INMATE WITH --
9 AND THEN LYNCH AND SINGLETARY COULD NOT GET TO HIM.
10 I THINK THERE'S TESTIMONY AT THE FRONT DOOR BY EITHER
11 ONE OR BOTH OF THE DEFENDANTS THAT, WE HAVE COTTON
12 AND WE'RE GOING TO GET HIM, OR WE HAVE DOZIER, THAT
13 THEY HAVE BOTH OF THEM. AND DURING THE NEGOTIATIONS
14 THEY REFER TO HAVING BOTH COTTON AND DOZIER AS
15 PRISONERS, AS BEING CAPTURED.

16 YOUR HONOR, I THINK THAT TAKING THE EVIDENCE AS
17 A WHOLE, PRESENTED AND MOST CREDIBLE TO THE STATE
18 THAT THE JURY COULD REACH A CONCLUSION THAT THEY WERE
19 HOLDING BOTH CORRECTIONS OFFICERS HOSTAGE.

20 THE COURT: ALL RIGHT. MR. DOBY, MR. SCOTT, YOU
21 ALL ARE THE MOVING PARTIES. DO YOU WANT TO RESPOND
22 TO THAT?

23 MR. DOBY: WELL, YOUR HONOR, I THINK THAT EVEN
24 GIVEN THE ARGUMENT THAT MR. FATA, THERE STILL HAS
25 BEEN NO TAKING OF OR ANY FORCE USED TO HOLD MR.

1 DOZIER HOSTAGE.

2 THE STATE STILL HAS TO SHOW THAT THIS GENTLEMAN
3 WAS TAKEN HOSTAGE. AND WHILE I THINK THE --

4 (LOUD NOISE IN COURTROOM.)

5 MR. DOBY: -- TESTIMONY IN THE LIGHT MOST
6 FAVORABLE TO THE STATE...

7 MR. FATA: I'M SORRY, YOUR HONOR.

8 MR. DOBY: -- IS -- IS THAT HE WAS -- BARRICADED
9 HIMSELF IN THE CELL IN AN ATTEMPT TO GET AWAY FROM
10 INMATES. AND I THINK THAT IS THE EXACT OPPOSITE OF
11 WHAT THE STATE HAS TO SHOW TO PROVE MY CLIENT GUILTY
12 OF A HOSTAGE TAKING. AND THAT FOR THAT REASON I
13 BELIEVE THAT THE EVIDENCE FROM THE STATE FAILS.

14 THE COURT: ALL RIGHT. THANK YOU.

15 MR. SCOTT: YOUR HONOR, I WOULD SIMPLY PARROT
16 EVERYTHING MR. DOBY HAS SAID. IT SEEMS THAT THE
17 EVIDENCE INDICATES THAT MR. DOZIER WAS TRYING TO
18 AVOID WHAT -- BUT -- AND UNDOUBTEDLY WAS A VERY
19 UNPLEASANT AND VERY PRECARIOUS SITUATION, BUT HE
20 TRIED TO SECURE HIMSELF AWAY FROM THAT SITUATION
21 RATHER THAN MR. LYNCH AND MR. SINGLETARY TRYING TO --
22 IF YOU WILL -- IMPOUND HIM IN THAT CELL.

23 THE COURT: ALL RIGHT. GENTLEMEN, ONE OF THE
24 VARIOUS DEFINITIONS OR SYNONYMS OF HOSTAGE IS
25 CAPTURE, PRISONER, DETAINEE. THERE ARE SEVERAL

1 OTHERS, BUT THOSE AT LEAST ARE THE ONES THAT ARE
2 RELEVANT TO OUR INQUIRY HERE.

3 CLEARLY MR. DOZIER WAS LOCKED IN A CELL FOR HIS
4 OWN PROTECTION. HE WAS NOT THERE BECAUSE HE WANTED
5 TO BE. HE WAS THERE BECAUSE HE HAD TO BE THERE FOR
6 HIS OWN SAFETY. HE WAS DETAINED. HE WAS A PRISONER.
7 HE WAS A CAPTIVE WITHIN THAT CELL AS MUCH AS IF HE
8 HAD BEEN HANDCUFFED TO MR. LYNCH OR TO MR.
9 SINGLETARY.

10 HE WAS RESTRAINED THERE AGAINST HIS WILL
11 CLEARLY. AND THE EVIDENCE IS THAT IN LARGE MEASURE
12 HE WAS RESTRAINED THERE AS A RESULT OF THE ACTIONS OF
13 MR. SINGLETARY AND MR. LYNCH.

14 NOW, AS WE KNOW UNDER RULE 19 OF THE RULES OF
15 CRIMINAL PROCEDURE, I MUST TAKE THE EVIDENCE IN THE
16 LIGHT MOST FAVORABLE TO THE STATE. THE CASES THAT
17 ARE CITED UNDER THAT RULE -- AND THERE'S A LONG LIST
18 OF THEM, AND WE ALL KNOW THE STANDARD.

19 I'M JUST QUOTING FROM ONE, STATE VERSUS ROWELL
20 WHICH IS FOUND AT 467 SOUTHEASTERN SECOND 247. WE
21 ARE CONCERNED ONLY WITH THE EXISTENCE OF EVIDENCE,
22 NOT WITH ITS WEIGHT, AND WHERE THE STATE PRESENTS ANY
23 EVIDENCE WHICH TENDS TO PROVE THE DEFENDANTS GUILTY
24 OR FROM WHICH THE DEFENDANTS' GUILT COULD FAIRLY AND
25 LOGICALLY BE DEDUCED, THE CASE MUST GO TO THE JURY.

1 MOREOVER, A MOTION FOR A DIRECTED VERDICT IS
2 PROPERLY REFUSED WHEN THE DETERMINATION OF GUILT IS
3 DEPENDENT UPON THE CREDIBILITY OF THE WITNESSES AS
4 THIS IS A QUESTION THAT GOES TO THE WEIGHT OF THE
5 EVIDENCE AND IS CLEARLY FOR A DETERMINATION BY A
6 JURY.

7 NOW, TAKING THAT STANDARD AND APPLYING IT TO THE
8 EVIDENCE IN THIS CASE, OF COURSE, THERE'S MORE THAN
9 SUFFICIENT EVIDENCE TO SUSTAIN EACH OF THESE CHARGES.
10 I NEED NOT RECITE THEM ALL AGAIN. IT IS IN THE
11 EVIDENCE -- IT IS IN THE RECORD.

12 AS TO RIOTING, ACTS OF VIOLENCE AGAINST THE
13 DEPARTMENT OF CORRECTIONS OFFICIALS, THE TESTIMONY IS
14 REplete IN THAT REGARD. CLEARLY THE TESTIMONY AS TO
15 TAKING OF A HOSTAGE, MR. LYNCH, IS CLEAR.

16 IN FACT, HE WAS HANDCUFFED. MR. LYNCH WAS
17 HANDCUFFED TO MR. COTTON, THAT IS MR. COTTON WAS A
18 HOSTAGE -- I'M SORRY. MR. LYNCH WAS HANDCUFFED TO
19 MR. COTTON.

20 THERE IS ALSO TESTIMONY WHICH AT ONE POINT IN
21 TIME MR. SINGLETARY WAS -- SEVERAL POINTS IN TIME
22 RIGHT THERE LOOKING RIGHT BY -- BY HIM, EXERCISING
23 CONTROL OVER HIM AS WELL.

24 AS MR. DOZIER -- AS MR. DOZIER, I'VE ALREADY
25 RULED ON THAT. THE ASSAULT ON A CORRECTIONAL OFFICER

1 AS TO MR. COTTON IN THIS PARTICULAR CASE, THE FACT
2 THAT -- THAT SEVERAL WITNESSES REPORTED TWO STABBINGS
3 COULD HAVE MEANT THAT SOME OF THE WITNESSES ACTUALLY
4 SAW THE SAME THING IN SPITE OF THE FACT THAT PARTIAL
5 VIEW MAY HAVE BEEN BLOCKED OUT, OR FRANKLY SOME OF
6 THE STABBING, WHAT THEY CALL STABBING, MAY NOT HAVE
7 ACTUALLY BEEN PUNCTURE WOUNDS IN CERTAIN INSTANCES
8 BUT SIMPLY THE PRESSING OF THE KNIFE AGAINST HIM. IN
9 ANY EVENT, EITHER ONE OF THOSE THINGS AMOUNTED TO AN
10 ASSAULT.

11 THE CARRYING A CONCEALED WEAPON, OBVIOUSLY NEED
12 NOT STATE THAT. INCITING TO RIOT, THERE IS EVIDENCE
13 FROM THE OUTSET THAT MR. SINGLETARY AND MR. LYNCH
14 SEEMED TO BE IN CONTROL OF THE SITUATION EVEN THOUGH
15 THERE'S ALSO TESTIMONY THAT ONE MAY HAVE BEEN MORE IN
16 CONTROL THAN THE OTHER.

17 CERTAINLY TESTIMONY IS -- IS SUFFICIENT TO
18 SUSTAIN A VERDICT THAT THEY CONSPIRED WITH EACH OTHER
19 AND OTHER INMATES TO RIOT AND COMMIT OTHER ACTS OF
20 VIOLENCE.

21 FOR THOSE REASONS THE MOTIONS FOR DIRECTED
22 VERDICT AS TO ALL DEFENDANTS ON ALL COUNTS MUST
23 RESPECTFULLY BE DENIED.

24 ALL RIGHT. NOW, BEFORE WE TAKE A BRIEF BREAK
25 AND THEN PROCEED WITH THE DEFENDANTS' CASE AND IN

1 ACCORDANCE WITH THE ORDER, MR. SINGLETARY WILL PUT UP
2 HIS CASE FIRST, MR. LYNCH NEXT, THERE ARE SOME
3 WITNESSES TESTIMONY THAT I NEED TO TAKE UP EN CAMERA
4 TO DETERMINE WHETHER OR NOT THEY WILL BE ALLOWED TO
5 TESTIFY.

6 THESE ARE INMATES THAT HAVE BEEN SUBPOENAED BY
7 MR. LYNCH WHOSE TESTIMONY PURPORTEDLY WILL GO TO BIAS
8 OR CREDIBILITY OF -- OF MR. COTTON.

9 AND MR. SCOTT, I WILL NOW BE GLAD TO HEAR FROM
10 YOU AND FROM THOSE WITNESSES EN CAMERA TO DETERMINE
11 WHAT PARTS OF THEIR TESTIMONY, IF ANY, WILL BE
12 ADMISSIBLE BEFORE A JURY.

13 MR. SCOTT: THANK YOU, YOUR HONOR.

14 (PAUSE WHILE INMATES ARE BEING BROUGHT INTO
15 COURT.)

16 THE COURT: MR. BRIGMAN, IF YOU'LL HAVE A SEAT
17 RIGHT THERE AND WE'LL SWEAR YOU IN.

18 LAVARDIS BRIGMAN, AFTER
19 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

20 THE COURT: MR. BRIGMAN, I'M GOING TO TAKE SOME
21 OF YOUR TESTIMONY OUT OF THE PRESENCE OF THE JURY TO
22 SEE WHAT YOU MAY BE ALLOWED TO TESTIFY IN THE
23 PRESENCE OF THE JURY ABOUT.

24 MR. SCOTT IS GOING TO ASK YOU SOME QUESTIONS AND
25 THE OTHER LAWYERS WILL HAVE A CHANCE TO CROSS-EXAMINE

1 YOU. MR. SCOTT?

2 MR. SCOTT: THANK YOU, YOUR HONOR.

3 DIRECT EXAMINATION

4 BY MR.. SCOTT:

5 Q MR. BRIGMAN, YOU AND I TALKED ABOUT TWO WEEKS AGO.

6 DO YOU REMEMBER?

7 A YES, SIR.

8 Q AND AT THAT TIME I INDICATED TO YOU THAT I
9 REPRESENTED MR. LYNCH AND THAT MR. LYNCH HAD ASKED ME TO
10 SPEAK TO YOU. DO YOU RECALL THAT?

11 A YES, SIR.

12 Q AND I ALSO INDICATED TO YOU AT THAT TIME THAT I WOULD
13 LET YOU KNOW IF I WAS GOING TO BE ALLOWED TO CALL YOU AS A
14 WITNESS. THE REASON YOU'RE SITTING HERE TODAY IS THIS IS
15 WHAT THE JUDGE IS TRYING TO DETERMINE NOW, WHETHER YOU'RE
16 GOING TO BE ALLOWED TO TESTIFY OR NOT, SO THAT EXPLAINS
17 WHY YOU DIDN'T GET ANY EARLIER NOTICE FROM ME, OKAY?

18 ALL RIGHT. NOW, YOU'RE GOING TO HAVE TO ANSWER YES
19 OR NO BECAUSE THIS LADY IS TAKING DOWN EVERYTHING THAT YOU
20 SAY, ALL RIGHT?

21 A YES, SIR.

22 Q NOW, LET ME SEE IF I CAN HELP YOU WITH THIS MIKE.
23 ARE YOU HEARING HIM OKAY? NOW, MY UNDERSTANDING IS THAT
24 YOU WERE AT LEE CORRECTIONAL INSTITUTION AT THE SAME TIME
25 MR. LYNCH WAS THERE; IS THAT RIGHT?

1 A YES, SIR.

2 Q AND APPROXIMATELY HOW LONG DID Y'ALL STAY THERE

3 TOGETHER?

4 A SEVERAL MONTHS.

5 Q YOU'RE GOING TO HAVE TO SPEAK UP A LITTLE - A LITTLE.

6 A I SAID I BEEN THERE SEVERAL MONTH.

7 Q ABOUT SEVEN MONTHS?

8 A YEAH.

9 Q OKAY. ABOUT DURING THAT SEVEN MONTH PERIOD, DID YOU

10 AND MR. LYNCH HAVE A CHANCE TO SEE EACH OTHER ON A REGULAR

11 BASIS?

12 A YEAH.

13 Q SIR?

14 A LYNCH, YEAH.

15 Q OKAY. AND DID YOU ALSO HAVE A CHANCE TO HAVE ANY

16 ASSOCIATION WITH OFFICER COTTON DURING THAT TIME?

17 A NO, SIR.

18 Q YOU DIDN'T?

19 A NO, SIR. I MEAN, I BEEN LAID BACK.

20 Q PARDON ME?

21 A I SAID I BEEN LAID BACK. I DIDN'T REALLY -- ASKED ME

22 DID I HAD....

23 Q DID YOU KNOW OFFICER COTTON?

24 A OH, YEAH. YEAH, I KNEW HIM.

25 Q OKAY. THAT'S WHAT I'M ASKING YOU.

1 A YEAH. I...

2 Q THAT'S WHAT I'M ASKING. DID YOU KNOW OFFICER COTTON.

3 A LAID IN THE BACK.

4 Q OKAY. ALL RIGHT. AND DID YOU EVER HAVE A CHANCE OR

5 ARE YOU AWARE OF SOME OF THE THINGS THAT OFFICER COTTON

6 WOULD DO WITH RESPECT TO MR. LYNCH? IN FACT, I'M JUST

7 GOING TO ASK YOU SOME QUESTIONS. YOU CAN TELL ME, OKAY?

8 NOW, DURING OUR MEETING BACK AT -- YOU'RE STILL AT

9 KERSHAW; CORRECT?

10 A YES, SIR.

11 Q OKAY. DURING OUR MEETING AT KERSHAW YOU INDICATED TO

12 ME THAT OFFICER COTTON WOULD ABUSE JACOB LYNCH FOR NO

13 REASON AT ALL; IS THAT CORRECT?

14 A YES, SIR.

15 Q OKAY. AND YOU ALSO INDICATED THAT HE WOULD LOCK DOWN

16 MR. LYNCH FOR NO REASON AT ALL.

17 A YES, SIR.

18 Q IS THAT CORRECT?

19 A YES, SIR.

20 Q AND YOU WOULD ALSO INDICATE -- YOU ALSO INDICATED TO

21 ME THAT OFFICER COTTON WOULD CALL MR. LYNCH AN MFER AND

22 THINGS LIKE A STUPID MFER; IS THAT CORRECT?

23 A YES, SIR. YES, SIR.

24 Q AND YOU INDICATED TO ME THAT HE WOULD DO THIS ON A

25 REGULAR BASIS.

1 A YEAH. YES, SIR.

2 Q IS THAT CORRECT?

3 A YES, SIR.

4 Q YOU ALSO INDICATED TO ME THAT OFFICER COTTON WOULD

5 ACCUSE MR. LYNCH OF BEING GAY; IS THAT CORRECT?

6 A YES, SIR.

7 Q AND OF USING THE F WORD TO DESCRIBE MR. LYNCH; IS

8 THAT RIGHT?

9 A YES, SIR.

10 Q AND YOU ALSO INDICATED DURING OUR MEETING THAT

11 MR. COTTON WAS THE WORST OFFICER ON THE YARD. DO YOU

12 REMEMBER TELLING ME THAT?

13 A YES, SIR.

14 Q OKAY. IS THAT STILL YOUR OPINION?

15 A YES, SIR.

16 Q OKAY. AND YOU ALSO INDICATED THAT OFFICER COTTON

17 WOULD HARASS MR. LYNCH EVERY DAY AND THAT MR. LYNCH WOULD

18 TRY TO IGNORE HIM; IS THAT CORRECT?

19 A YES, SIR. YES, SIR.

20 Q AND IS THAT -- NOW, ARE THE THINGS THAT WE JUST WENT

21 THROUGH, WAS THAT--

22 A YES, SIR.

23 Q -- AN ACCURATE DESCRIPTION OF WHAT YOU DESCRIBED TO

24 ME?

25 A YES, SIR.

1 Q AND IS THAT TRUTHFUL?

2 A YES, SIR.

3 MR. SCOTT: YOUR HONOR, THAT WOULD BE THE EXTENT
4 OF THIS TESTIMONY THAT THIS WITNESS WOULD BE EXPECTED
5 TO PROVIDE.

6 THE COURT: ALL RIGHT. MR. FATA, YOU CAN
7 CROSS-EXAMINE.

8 CROSS-EXAMINATION

9 BY MR. FATA:

10 Q MR. BRIGMAN, WHAT SIDE OF THE -- YOU WERE -- WERE YOU
11 IN THE KERSHAW -- I MEAN -- EXCUSE ME -- THE CHESTERFIELD
12 UNIT?

13 A YES, SIR.

14 Q HOW LONG WERE YOU THERE, SEVEN MONTHS?

15 A YEAH, I BELIEVE SEVEN MONTHS.

16 Q YOU WERE ALWAYS ON NORTH SIDE? YOU WERE ALWAYS ON
17 THE NORTH SIDE?

18 A I WAS ON THE NORTH SIDE?

19 Q OF THE CHESTERFIELD UNIT.

20 A BECAUSE GOT TWO SIDES.

21 Q RIGHT. WEREN'T YOU ON THE NORTH SIDE?

22 A YEAH.

23 Q THE SIDE WITH THE FENCE AROUND IT, FENCE AROUND THE
24 WALKWAYS?

25 A NO. START OFF WITH, BUT I WENT ON THE POSITIVE SIDE.

1 Q YOU WENT ON THE POSITIVE SIDE?

2 A YES.

3 Q NOW, YOU KNOW THESE THINGS THAT YOU JUST -- YOU SAY
4 YOU KNOW ABOUT BECAUSE WHAT, CONVERSATIONS YOU HAD WITH --
5 WITH JACOB LYNCH?

6 A I'M SAYING -- TALKING ABOUT DURING THE TIME I BEEN
7 THERE, DURING THE TIME THAT I BEEN THERE BY SEEING HIM
8 YEARS ALWAYS ON THE YARD.

9 Q I CAN'T UNDERSTAND WHAT YOU'RE SAYING.

10 A SAID DURING THE TIME THAT I BEEN ON LEE COUNTY YARD
11 IN THAT DORM, HE BEEN THE BADDEST OFFICER ON THE---

12 Q HE WAS A BAD OFFICER?

13 A YES.

14 Q WELL, HOW DO YOU KNOW THAT HE LOCKED LYNCH DOWN FOR
15 NO REASON.

16 A I BE AROUND HIM 24/7.

17 Q I MEAN, TELL ME -- WASN'T EVERYBODY LOCKED DOWN FROM
18 TIME TO TIME IN THAT -- IN THAT UNIT?

19 A I MEAN, YEAH, BUT PEOPLE BE OUT, TOO.

20 Q WEREN'T YOU LOCKED DOWN?

21 A I BE LOCKED DOWN, TOO.

22 Q YOU BE LOCKED DOWN. EVERYBODY WOULD BE LOCKED DOWN.

23 A NOT ALL THE TIME, THOUGH.

24 Q ALL THE TIME?

25 A WOULDN'T BE LOCKED DOWN ALL THE TIME.

1 Q NOT LOCKED DOWN ALL THE TIME, BUT YOU WERE LOCKED
2 DOWN ON OCCASIONS, WEREN'T YOU, JUST LIKE EVERYBODY ELSE?

3 A I MEAN, I AIN'T -- I AIN'T NEVER BEEN LOCKED DOWN IN
4 LEE COUNTY. I BEEN THERE SEVEN MONTHS.

5 Q WELL, HOW DO YOU KNOW -- TELL ME HOW YOU KNOW THAT
6 JACOB LYNCH WAS LOCKED DOWN FOR NO REASON.

7 A I SAID I BE'S AROUND THIS MAN 24/7.

8 Q HOW DO YOU KNOW THAT HE WAS LOCKED DOWN FOR NO
9 REASON? DO YOU KNOW LOCK DOWN ROUTINE?

10 A I -- I KNOW IT, BUT I CAN'T REALLY -- NOT RIGHT NOW.

11 Q YOU'RE JUST MAKING AN ASSUMPTION; AREN'T YOU?

12 A NAH.

13 Q YOU'RE NOT MAKING AN ASSUMPTION? HOW -- DO YOU KNOW
14 EVERY OFFICER AT THAT PRISON?

15 A NO.

16 Q NO?

17 A DON'T KNOW EVERY OFFICER.

18 Q YOU DON'T KNOW EVERY OFFICER?

19 A (SHOOK HEAD.)

20 Q SO THERE'S NO WAY BASED ON THAT THAT YOU CAN SAY
21 THAT -- THAT OFFICER COTTON IS THE WORST OFFICER THERE?

22 THE COURT: HE'S NOT GOING TO BE ALLOWED TO SAY
23 THAT IN ANY EVENT. THAT'S AN OPINION.

24 MR. FATA: OKAY. GOOD.

25 BY MR. FATA:

1 Q OKAY. DID YOU -- DID YOU HEAR OFFICER COTTON CALL
2 JACOB LYNCH THESE NAMES?

3 A SEVERAL TIME.

4 Q SEVERAL TIMES.

5 A YEAH.

6 Q WHEN?

7 A WHEN?

8 Q YEAH.

9 A IN THE DORM.

10 Q WHEN EXACTLY? WHAT'S THE DATE? DATES AND TIMES?

11 A I MEAN, I CAN'T -- I CAN'T REMEMBER ALL THAT, NOW.
12 I'M DOING TIME, TOO.

13 Q YOU'RE DOING TIME, TOO?

14 A YEAH.

15 Q YOU ARE DOING A LOT OF TIME; AREN'T YOU?

16 A I MEAN, I CAN'T REMEMBER ALL THAT, NOW.

17 Q YOU DON'T KNOW THE DATES AND TIMES THAT YOU HEARD
18 THESE CONVERSATIONS.

19 A I CAN'T EXACTLY REMEMBER.

20 Q CAN'T EXACTLY REMEMBER?

21 A NO, NAH, CAN'T TELL YOU.

22 Q AND YOU CAN'T ARTICULATE A REASON ABOUT GET -- CAN'T
23 GIVE A REASON FOR SAYING THAT LYNCH WAS LOCKED DOWN
24 UNJUSTIFIABLY OR WITH NO REASON? GIVE ME AN EXAMPLE OF
25 WHEN JACOB LYNCH WAS LOCKED DOWN FOR NO REASON.

1 A YOU EXAMPLE?

2 Q GIVE ME AN EXAMPLE.

3 A SEVERAL TIMES, THAT'S...

4 Q GIVE ME AN EXAMPLE. GIVE ME A DATE AND TIME.

5 A I CAN'T REALLY -- I CAN'T REMEMBER NO DATE AND TIME.

6 I CAN'T. CAN'T REMEMBER ALL THAT.

7 Q YOU REALLY CAN'T REMEMBER ANY OF THIS; CAN YOU?

8 A WELL...

9 Q YOU CAN'T REMEMBER ANY OF IT; CAN YOU?

10 A I REMEMBER WHAT I SAID ON PAPER.

11 Q WHAT YOU SAID ON THE PAPER.

12 A YEAH.

13 Q BUT YOU CAN'T GIVE A DATE AND TIME. YOU CAN'T GIVE A
14 SPECIFIC INCIDENCE.

15 A NOT...

16 Q THIS IS JUST YOUR OPINION.

17 A I'M DOING TIME TOO, NOW.

18 Q IT'S JUST YOUR OPINION; ISN'T IT?

19 A NO. EVERYTHING I SAID -- EVERYTHING I SAID ON THAT
20 PAPER IS TRUE.

21 Q IT'S JUST YOUR OPINION; ISN'T IT?

22 A NO.

23 MR. FATA: I DON'T HAVE ANYTHING ELSE, JUDGE.

24 THE COURT: ALL RIGHT. THANK YOU. MR. BRIGMAN,

25 YOU CAN GO BACK IN. THE OFFICERS WILL TAKE YOU BACK

1 OUT. AND MR. SCOTT?

2 (WITNESS LEFT THE STAND AND COURTROOM.)

3 MR. SCOTT: YES, SIR.

4 THE COURT: LET ME MAKE A COUPLE OF RULINGS IN
5 REGARD TO THIS AND TELL YOU THE PROCEDURE THAT WE'LL
6 FOLLOW. I THINK I SEE WHERE WE ARE GOING WITH THIS.
7 RULE 608C SAYS THAT BIAS, PREJUDICE, OR ANY MOTIVE
8 FOR MISREPRESENT MAY BE SHOWN TO IMPEACH THE
9 TESTIMONY OF WITNESS EITHER BY EXAMINATION OF A
10 WITNESS ITSELF OR BY EVIDENCE OTHERWISE ADDUCED.

11 MR. SCOTT THEN SEEKS TO INTRODUCE CERTAIN
12 EVIDENCE ON BEHALF OF MR. LYNCH TO SHOW THAT
13 MR. COTTON HAD A BIAS OR SOME MOTIVE PERHAPS TO
14 MISREPRESENT HIS TESTIMONY BASED ON THE EVIDENCE
15 PRESENTED BY THESE THREE WITNESSES.

16 I NEED NOT GO AHEAD AND TAKE THE TESTIMONY EN
17 CAMERA OF -- OF THE OTHER TWO INMATES. THE TESTIMONY
18 OF MR. BRIGMAN WILL BE ALLOWED IN CERTAIN IN
19 INSTANCES.

20 HE CANNOT TESTIFY THAT MR. COTTON WAS THE WORST
21 CORRECTIONAL OFFICER ON THE YARD. HE CAN'T TESTIFY
22 ABOUT HIS OPINION ABOUT ANY -- CAN TESTIFY TO WHAT HE
23 SAW, WHAT HE OBSERVED, WHAT HE HEARD IN CONNECTION
24 WITH THE RELATIONSHIP WITH MR. COTTON AND MR. LYNCH,
25 IF ANY.

1 AND IN THAT REGARD, MR. SCOTT, I WILL ALLOW YOU
2 TO TAKE TWO OF THESE WITNESSES TO TESTIFY. ANYTHING
3 BEYOND THAT WILL BE CUMULATIVE. YOU CAN PICK
4 WHATEVER -- THE BEST TWO YOU THINK ARE FOR YOUR
5 CLIENT IN THIS REGARD. WE WILL NOT NEED ALL THREE OF
6 THEM.

7 WE'LL SEE HOW THE TESTIMONY IS GOING TO BE. IF
8 THERE'S A LOT OF REPETITION IN THE TESTIMONY, IT
9 WOULD BE CUMULATIVE IN MY VIEW TO ALLOW A PARADE OF
10 WITNESSES TO COME IN AND TESTIFY ABOUT THE SAME THING
11 UNNECESSARILY.

12 SO IF YOU WILL DECIDE ON WHICH TWO YOU WANT, I
13 WILL ALLOW THOSE TWO TO TESTIFY ONLY AS TO THEIR
14 FIRST-HAND KNOWLEDGE, THEIR PERSONAL OBSERVATIONS,
15 NOT THEIR OPINIONS. ALL RIGHT?

16 MR. SCOTT: YES, SIR. YOUR HONOR, CAN I HAVE
17 YOUR INDULGENCE FOR JUST ONE MOMENT?

18 THE COURT: YES, SIR.

19 (MR. SCOTT CONFERRING WITH CLIENT.)

20 MR. SCOTT: YOUR HONOR, THANK YOU. AFTER
21 TALKING WITH MR. LYNCH, WE'VE DECIDED TO USE
22 MR. GRATE AND MR. CARR, AND OF COURSE, WITH THE SAME
23 LIMITATION THAT THE COURT HAS IMPOSED.

24 THE COURT: RIGHT.

25 MR. SCOTT: AND YOUR HONOR, I DON'T KNOW IF THE

1 COURT HAS AVAILABLE OR NOT THE PROFFER THAT I HAVE
2 MADE DURING THE MOTIONS HEARING.

3 THE COURT: I DO.

4 MR. SCOTT: YES, SIR. AND PERHAPS IF THE COURT
5 WILL SIMPLY INSTRUCT ME WITH RESPECT TO -- AN AG OF
6 COURSE, IS ANTHONY GRATE, YOUR HONOR, AND CC IS
7 CHARLES CARR.

8 THE COURT: I UNDERSTAND.

9 MR. SCOTT: AS TO WHICH OF THOSE ITEMS I HAVE
10 LISTED THERE I WILL NOT BE ABLE TO GO INTO, THAT
11 WOULD CERTAINLY HELP ME DON'T WANT TO RUN AFOUL OF
12 THE COURT'S RULING AND CERTAINLY WOULD LIKE TO KEEP
13 THIS RUNNING AS SMOOTHLY AS POSSIBLE.

14 THE COURT: RIGHT. AS TO INMATE NUMBER TWO, THE
15 FIRST STATEMENT IS A THREAT TO MR. LYNCH ALLEGEDLY.
16 THAT WILL BE ADMISSIBLE AS WOULD THE SECOND. THE
17 LOCK-DOWN, THE PROVISION OF DRUGS, I WILL NOT ALLOW
18 THAT, AT LEAST NOT TO OTHER INMATES. THAT WILL TAKE
19 CLEAR AND CONVINCING EVIDENCE OF THAT SORT OF THING
20 TO COME IN. THAT'S UNDER THE RULE, EVIDENCE OF A
21 COMMISSION OF A CRIME WHICH HE HAS NOT BEEN CONVICTED
22 OF.

23 AS TO THE FOURTH, COTTON TRYING TO SOLICIT THIS
24 WITNESS HIMSELF, I WILL NOT ALLOW THAT. I WILL ALLOW
25 THE LAST PART ABOUT COTTON TRYING TO SOLICIT MR.

1 LYNCH. IT HAS TO DO WITH HIS OBSERVATION ABOUT MR.
2 LYNCH AND MR. COTTON.

3 AS TO INMATE NUMBER THREE, FIRST WOULD NOT COME
4 IN. THE SECOND WOULD. THE THIRD WOULD. THE
5 EVIDENCE ABOUT MARIJUANA WOULD NOT COME IN UNLESS IT
6 INVOLVED MR. LYNCH. ANSWERS THAT.

7 THE LAST TWO WOULD COME IN. THEY INVOLVE THE
8 ACTIONS OF MR -- OF MR. COTTON ALLEGEDLY ACCORDING TO
9 MR. LYNCH.

10 THE DICHOTOMY THAT I SET UP IS THIS. THERE ARE
11 TWO ISSUES THAT WE ARE DEALING WITH. WE'RE DEALING
12 WITH BIAS, WE'RE DEALING WITH CREDIBILITY OR BIAS AS
13 IT BEARS ON CREDIBILITY. THERE'S AN OVERLAP THERE
14 OBVIOUSLY.

15 THE RELATIONSHIP BETWEEN MR. COTTON AND MR --
16 AND MR. LYNCH AS THESE INMATES WILL TESTIFY ABOUT IT
17 WOULD -- WOULD BEAR ON BIAS.

18 THESE OTHER ACTS THAT DO NOT BEAR DIRECTLY ON
19 MR. LYNCH WOULD BE AN ISSUE OF CREDIBILITY IF THERE
20 WAS CLEAR AND CONVINCING EVIDENCE OF IT, UNDER THE
21 RULES THEY -- THEY WOULD BE ELICITING -- RULE 608B IS
22 A RULE THAT WE DEAL WITH, SPECIFIC INSTANCES OF
23 CONDUCT OF A WITNESS FOR THE PURPOSE OF ATTACKING AND
24 SUPPORTING THE WITNESS'S CREDIBILITY OTHER THAN THAT
25 EVIDENCE, VICTIM OF A CRIME SUCH AS APPLY HERE, MAY

1 NOT BE PROVEN BY EXTRINSIC EVIDENCE.

2 THEY MAY, HOWEVER, IN THE DISCRETION OF THE
3 COURT IF PROBATIVE OF TRUTHFULNESS OR UNTRUTHFULNESS
4 BE INQUIRED INTO THE CROSS-EXAMINATION OF THE WITNESS
5 CONCERNING THE WITNESS'S CHARACTER FOR TRUTHFULNESS
6 OR UNTRUTHFULNESS, CONCERNING THE CHARACTER FOR
7 TRUTHFULNESS OR UNTRUTHFULNESS OR ANOTHER WITNESS AS
8 THE WITNESS CAN BE CROSS-EXAMINED TO TESTIFY ABOUT.

9 OF COURSE, THE CASE LAW THAT HAS COME OUT UNDER
10 THAT AND UNDER RULE 609 DEALS WITH THE FACT THAT IF
11 THERE IS GOING TO BE EVIDENCE OF A CRIME WHICH IS NOT
12 THE SUBJECT OF A CONVICTION, THEN THERE HAS TO BE
13 CLEAR AND CONVINCING EVIDENCE OF THAT PARTICULAR
14 CRIME BEFORE IT CAN BE ADMITTED.

15 IN THIS PARTICULAR CASE I'M NOT WILLING TO
16 ACCEPT THE TESTIMONY OF THE WITNESSES THAT I HAVE
17 HEARD, CLEAR AND CONVINCING EVIDENCE OF A CRIME IN
18 THE ABSENCE OF OTHER EVIDENCE TO SUPPORT IT. THERE
19 IS NONE.

20 MR. COTTON TESTIFIED. HE WAS NOT CROSS-EXAMINED
21 ON ANY DISCIPLINARY INFRACTIONS, ANY WRITE-UPS, ANY
22 MISBEHAVIOR, MISCONDUCT AS A CORRECTIONAL FACILITY
23 OFFICER. FOR THAT REASON THE TESTIMONY OF THESE
24 INMATES WOULD BE UNCORROBORATED.

25 I THEREFORE WOULD NOT ALLOW THAT AS TO THOSE

1 OTHER EVIDENCES OF -- OF ANY CRIME. DOES THAT DRAW A
2 CLEAR ENOUGH DICHOTOMY FOR YOU, MR. SCOTT?

3 MR. SCOTT: YOUR HONOR, I BELIEVE IT DOES. AND
4 AS I UNDERSTAND IT, JUST TO MAKE SURE THAT I'M
5 COMPLYING WITH THE COURT'S RULING, AS TO INMATE
6 NUMBER TWO, ITEM NUMBER ONE WOULD BE ADMISSIBLE, THE
7 SECOND ITEM WOULD BE ADMISSIBLE, AND THE LAST ITEM.

8 AS TO INMATE NUMBER THREE, THE SECOND ITEM, THE
9 THIRD ITEM, AND THE LAST ITEM.

10 THE COURT: RIGHT. OR THE LAST TWO ITEMS THERE.

11 MR. SCOTT: LAST TWO ITEMS. YES.

12 THE COURT: AS TO ITEM NUMBER TWO, THE FIRST
13 FOUR ITEMS WOULD BE AND THE LAST ONE.

14 MR. SCOTT: AS TO INMATE NUMBER TWO, YOUR HONOR?

15 THE COURT: YES, SIR.

16 MR. SCOTT: THE FIRST FOUR....

17 THE COURT: EVERYTHING THERE EXCEPT TALKING
18 ABOUT COTTON PROVIDING DRUGS, MARIJUANA, AND TRYING
19 TO ENGAGE THIS PARTICULAR WITNESS IN SOME ACTS.
20 THOSE -- THOSE WOULD NOT BE ACCEPTABLE.

21 MR. SCOTT: YES, SIR.

22 THE COURT: ALL RIGHT.

23 MR. SCOTT: THANK YOU, YOUR HONOR.

24 THE COURT: THANK YOU. NOW, MR. DOBY, YOU HAD
25 INDICATED YOU WISHED FOR ME TO INQUIRE OF MR.

1 SINGLETARY HIS UNDERSTANDING OF HIS RIGHT TO TESTIFY
2 AND HIS RIGHT NOT TO TESTIFY. AND MR. SCOTT, DO YOU
3 WISH FOR ME TO MAKE THE SAME INQUIRY OF MR. LYNCH?

4 MR. SCOTT: YES, SIR. I DO, YOUR HONOR.

5 THE COURT: ALL RIGHT. MR. SINGLETARY, MR.
6 LYNCH, GENTLEMEN, PLEASE STAND IN PLACE RIGHT WHERE
7 YOU ARE, LET ME PUT YOU UNDER OATH.

8 TYRONE SINGLETARY AND
9 JACOB LYNCH, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

10 THE COURT: MR. SINGLETARY AND MR. LYNCH, I WANT
11 TO ADVISE YOU OF YOUR RIGHTS CONCERNING TESTIFYING OR
12 NOT TESTIFYING IN THIS CASE. YOU MAY BE CALLED UPON
13 TO TESTIFY AS A WITNESS IN YOUR OWN BEHALF IN THIS
14 CASE. I DON'T KNOW WHETHER YOU WILL OR NOT.

15 THAT'S A MATTER FOR YOU AND YOUR LAWYER TO
16 DECIDE. I SIMPLY NEED TO MAKE SURE YOU UNDERSTAND
17 WHAT YOUR RIGHTS ARE IF YOU CHOOSE TO TESTIFY IN YOUR
18 OWN BEHALF.

19 UNDER OUR UNITED STATES CONSTITUTION AND OUR
20 SOUTH CAROLINA CONSTITUTION YOU'RE PROVIDED
21 PROTECTION AGAINST TESTIFYING AGAINST YOURSELF. OUR
22 CONSTITUTIONS SAY THAT NO PERSON CAN BE FORCED IN ANY
23 CRIMINAL CASE TO TESTIFY AS A WITNESS AGAINST
24 HIMSELF.

25 NOW, THAT PROVISION OF OUR LAW MEANS THAT YOU

1 CANNOT BE FORCED TO TESTIFY IN THIS PARTICULAR CASE.
2 THAT'S A RIGHT AND PRIVILEGE WHICH THE LAW JUST GIVES
3 TO YOU. YOU'RE THE ONLY ONE WHO CAN EXERCISE THAT
4 RIGHT. YOU'RE THE ONLY ONE WHO CAN GIVE IT UP. THAT
5 MEANS THAT YOU HAVE THE RIGHT TO TESTIFY. YOU ALSO
6 HAVE THE RIGHT NOT TO TESTIFY.

7 AND YOU'LL HAVE A RIGHT TO TALK WITH YOUR LAWYER
8 BEFORE YOU MAKE THAT DECISION, OF COURSE.

9 NOW, IF YOU CHOOSE NOT TO TESTIFY, THE JURY WILL
10 BE INSTRUCTED THAT THEY CANNOT TAKE THAT FACT INTO
11 ACCOUNT IN THEIR DECISIONS AND IN THEIR DISCUSSIONS
12 ON YOUR -- THE QUESTION OF YOUR GUILT OR YOUR
13 INNOCENCE.

14 THEY WILL BE INSTRUCTED THAT YOU HAVE A RIGHT TO
15 REMAIN SILENT, THAT YOU DO NOT HAVE TO PROVE YOUR
16 INNOCENCE, AND THAT THE FACT THAT YOU DO NOT TESTIFY
17 IN THE TRIAL OF THIS CASE IS NOT A FACTOR THAT THEY
18 CAN CONSIDER IN THEIR DELIBERATIONS AND IN THEIR
19 CONSIDERATION OF YOUR GUILT OR YOUR INNOCENCE.

20 IF YOU CHOOSE TO TESTIFY, HOWEVER, YOU WILL THEN
21 GIVE UP THE PRIVILEGE THAT THE CONSTITUTION GIVES YOU
22 AND YOU WILL THEN ASSUME THE ROLE OF EVERY OTHER
23 WITNESS IN THIS PARTICULAR CASE.

24 YOU WILL THEN WAIVE OR GIVE UP YOUR
25 CONSTITUTIONAL PRIVILEGE AGAINST SELF-INCRIMINATION.

1 THAT MEANS THAT YOU'LL BE ASKED QUESTIONS NOT ONLY BY
2 YOUR OWN LAWYER, BUT BY THE OTHER LAWYERS IN THIS
3 CASE, SPECIFICALLY BY MR. FATA, AND YOU CAN BE
4 CROSS-EXAMINED AND YOU CAN BE IMPEACHED ON ANY ISSUE
5 WHICH IS RELEVANT TO THIS PARTICULAR CASE UNDER OUR
6 RULES OF EVIDENCE.

7 I TELL YOU THAT IF YOU CHOOSE TO TAKE THE
8 WITNESS STAND AND TESTIFY, THAT YOU MUST MAKE THIS
9 DECISION ON YOUR OWN PART. IT MUST BE FREELY AND
10 VOLUNTARILY MADE AND MUST BE INTELLIGENTLY MADE WITH
11 KNOWLEDGE OF WHAT YOUR RIGHTS ARE IN THIS PARTICULAR
12 CASE.

13 MR. SINGLETARY, DO YOU UNDERSTAND THE RIGHTS
14 THAT I JUST EXPLAINED TO YOU?

15 MR. SINGLETARY: YES, SIR.

16 THE COURT: DO YOU WANT ME TO GO OVER ANY OF
17 THEM WITH YOU AGAIN?

18 MR. SINGLETARY: NO, SIR.

19 THE COURT: THANK YOU. YOU CAN BE SEATED. MR.
20 LYNCH, DO YOU UNDERSTAND THE RIGHTS THAT I JUST
21 EXPLAINED TO YOU?

22 MR. LYNCH: YES, SIR.

23 THE COURT: DO YOU WANT ME TO GO OVER ANY OF
24 THEM WITH YOU AGAIN?

25 MR. LYNCH: NO, SIR.

1 THE COURT: ALL RIGHT. THANK YOU. MR. DOBY,
2 HAVE YOU AND MR. SINGLETARY DECIDED YET WHETHER OR
3 NOT HE'S GOING TO TESTIFY?

4 MR. DOBY: YOUR HONOR, I DON'T KNOW THAT WE'VE
5 COME TO A FINAL DECISION YET.

6 THE COURT: OKAY. THAT'S FINE.

7 MR. DOBY: WE DO HAVE MORE DISCUSSIONS.

8 THE COURT: THAT'S RIGHT. MR. SCOTT, DO YOU --
9 HAVE YOU AND MR. LYNCH REACHED A DECISION IN THAT
10 REGARD?

11 MR. SCOTT: I WOULD HAVE TO PROVIDE THE SAME
12 RESPONSE MR. DOBY GAVE AT THIS TIME, YOUR HONOR.

13 THE COURT: ALL RIGHT. OKAY, FOLKS. WE WILL BE
14 IN RECESS FOR 15 MORE MINUTES AND ALLOW COURT
15 PERSONNEL TO TAKE A BREAK AND FOR YOU ALL TO INQUIRE
16 WITH YOUR CLIENTS IN THIS REGARD. WE WILL START AT
17 11:00.

18 MR. FATA: YOUR HONOR, JUST NOTE THE STATE'S
19 OBJECTION TO THESE TWO WITNESSES TESTIFYING.

20 THE COURT: I UNDERSTAND THAT. YES, SIR. THANK
21 YOU.

22 (WHEREUPON A RECESS WAS TAKEN.)

23 THE COURT: ASK THE INMATES TO BE BROUGHT IN,
24 PLEASE.

25 (WHEREUPON THE DEFENDANTS WERE BROUGHT INTO THE

1 COURTROOM.)

2 THE COURT: MR. DOBY, IS MR. SINGLETARY READY TO
3 PROCEED?

4 MR. DOBY: HE'S READY, YOUR HONOR.

5 THE COURT: HAVE YOU DECIDED WHETHER OR NOT HE
6 WISHES TO TESTIFY?

7 MR. DOBY: YOUR HONOR, HE'S INDICATED TO ME HE
8 DOES NOT WISH TO TESTIFY.

9 THE COURT: ALL RIGHT, SIR. AND MR. SCOTT, HAS
10 MR. LYNCH MADE A DECISION IN THAT REGARD?

11 MR. SCOTT: YES, SIR. MR. LYNCH HAS INDICATED
12 LIKEWISE, JUDGE, HE WILL NOT BE TAKING THE STAND.

13 THE COURT: ALL RIGHT. THANK YOU. MR. DOBY,
14 YOU HAD LISTED -- I THINK YOU BROUGHT THREE WITNESSES
15 BACK, AND OF COURSE WE HAVE THREE. MR. SCOTT, AM I
16 TO UNDERSTAND WHAT YOU'RE GOING TO CALL, MR. DOBY,
17 ALL THREE OF THOSE -- SIMPLY WILL LET THESE FOLKS WHO
18 BROUGHT THEM HERE KNOW IF THEY ARE NOT GOING TO BE
19 CALLED, WE'LL SEND THEM BACK. IF THEY ARE GOING TO
20 BE CALLED, WE'LL JUST KEEP THEM HERE. YOU LET ME
21 KNOW.

22 MR. DOBY: YOUR HONOR, I AGAIN TALKED TO AMBROSE
23 CARTER THIS MORNING AND AFTER CONSULTATION WITH MY
24 CLIENT WE HAVE DECIDED THAT MR. CARTER WILL NOT BE
25 TESTIFYING, SO WE COULD REQUEST THAT HE BE TAKEN

1 BACK. I BELIEVE HE'S FROM LEE.

2 THE COURT: HE IS. YES, SIR. MR. DEBERRY WILL
3 STILL TESTIFY?

4 MR. DOBY: AND -- AND MR. KNOTTS, YOUR HONOR.

5 THE COURT: MR. DEBERRY AND MR. KNOTTS. ALL
6 RIGHT. SO MR. CARTER CAN BE RETURNED. WE CAN GET
7 THE WORD TO THOSE FOLKS. I THINK HE'S THE ONLY ONE
8 FROM LEE.

9 AND MR. SCOTT, WHAT ABOUT MR. LYNCH? HE WILL --
10 WILL BOTH OF THESE INMATES, NUMBER TWO AND -- ONE AND
11 TWO AND THREE STILL HERE TO TESTIFY? IS THAT RIGHT?

12 MR. SCOTT: JUDGE, AFTER FURTHER DISCUSSION WITH
13 MR. LYNCH AND FURTHER DISCUSSION WITH THE WITNESSES,
14 IT'S BEEN DECIDED THAT INMATE NUMBER TWO I BELIEVE,
15 WHICH IS MR. ANTHONY GRATE, WILL BE THE ONLY ONE WHO
16 WILL BE OFFERING TESTIMONY.

17 INMATE NUMBER ONE, MR. BRIGMAN WHO CAME IN AND
18 PROVIDED EN CAMERA TESTIMONY WILL NOT BE TESTIFYING.
19 AND INMATE NUMBER THREE, WHICH IS CHARLES CARR WILL
20 NOT BE TESTIFYING.

21 AND YOUR HONOR, I HAVE INDICATED TO THE
22 CORRECTIONS OFFICERS THAT MR. CARR WILL BE FREE TO GO
23 AS HE IS FROM AN INSTITUTION WHICH IS DIFFERENT FROM
24 THE INSTITUTION MR. BRIGMAN...

25 THE COURT: ALL RIGHT. VERY GOOD. SO THEY KNOW

1 THAT AND MR. CARTER CAN BE TAKEN BACK?

2 MR. SCOTT: YES, SIR.

3 THE COURT: ALL RIGHT. ALL RIGHT. GENTLEMEN,
4 WITH THOSE HOUSEKEEPING MATTERS OUT OF THE WAY,
5 MR. DOBY, ARE YOU READY FOR THE JURY?

6 MR. DOBY: WE ARE READY, YOUR HONOR.

7 THE COURT: AND MR. SCOTT?

8 MR. SCOTT: YES, SIR.

9 THE COURT: MR. FATA READY?

10 MR. FATA: YES, SIR, YOUR HONOR.

11 THE COURT: GOOD. BRING US THE JURY. THANK
12 YOU.

13 (JURY ENTERED THE COURTROOM AT 11:19AM.)

14 THE COURT: LADIES AND GENTLEMEN, THANK YOU FOR
15 YOUR PATIENCE ONCE AGAIN. WE KEPT YOU BACK THERE A
16 LONG TIME BECAUSE WE'VE GOT A LOT TO DO OUT HERE TO
17 GET THIS CASE NOW READY TO MOVE TO THE NEXT PHASE.

18 AS YOU KNOW, BEFORE WE BROKE FOR THE EXTENDED
19 RECESS A FEW MOMENTS AGO, THE STATE HAD RESTED ITS
20 CASE. THAT MEANS YOU HAVE HEARD ALL OF THE EVIDENCE
21 AND TESTIMONY THAT YOU WILL HEAR FROM THE STATE IN
22 THE PRESENTATION OF ITS CASE IN CHIEF.

23 THE DEFENDANTS, MR. SINGLETARY AND MR. LYNCH,
24 NOW HAVE THE RIGHT TO PRESENT EVIDENCE AND TESTIMONY
25 IF THEY CHOOSE TO, BUT THEY ARE UNDER NO OBLIGATION

1 TO DO THAT FOR REASONS THAT I HAVE ALREADY EXPLAINED
2 TO YOU AND THAT I WILL TELL YOU AGAIN WHEN THIS TRIAL
3 IS OVER. MR. DOBY?

4 MR. DOBY: MAY IT PLEASE THE COURT.

5 THE COURT: YES, SIR.

6 MR. DOBY: YOUR HONOR, I WOULD CALL CARLOS
7 KNOTTS.

8 THE COURT: MR. CARLOS KNOTTS, PLEASE.

9 (WITNESS BROUGHT INTO THE COURTROOM.)

10 THE COURT: MR. KNOTTS, IF YOU WILL PLEASE BE
11 SWORN BY THE CLERK, MADAM CLERK?

12 CARLOS KNOTTS, AFTER
13 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. DOBY:

16 Q YOU WILL TELL US YOUR NAME, PLEASE.

17 A CARLOS KNOTTS.

18 Q AND MR. KNOTTS, YOU ARE OBVIOUSLY AN INMATE AT THE
19 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS CURRENTLY; IS
20 THAT CORRECT?

21 A YES, SIR.

22 Q AND TELL ME WHAT YOU HAVE BEEN CONVICTED OF THAT HAS
23 RESULTED IN YOU HAVING TO BE AN INMATE THERE AT SCDC.

24 A ARMED ROBBERY, CARJACKING, ATTEMPTED ARMED ROBBERY,
25 AND FIRST DEGREE BURGLARY.

1 Q AND YOU WERE SERVING A -- AT LEAST PART OF YOUR
2 SENTENCE THERE AT LEE CORRECTIONAL INSTITUTE BACK ON
3 OCTOBER THE 29TH OF 2003; IS THAT CORRECT?

4 A YES, SIR.

5 Q WHAT WING WERE YOU HOUSED ON THERE AT THE
6 CHESTERFIELD UNIT?

7 A NORTH WING.

8 Q ALL RIGHT. AND THE NORTH WING WOULD HAVE BEEN WHERE
9 OFFICER DOZIER WAS LOCATED; IS THAT CORRECT?

10 A YES, SIR.

11 Q DID YOU KNOW OFFICER DOZIER FROM -- FROM BEING
12 INCARCERATED THERE AT THE NORTH WING?

13 A YES, SIR.

14 Q OKAY. YOU FAMILIAR WITH HIM, KNEW EXACTLY WHO HE
15 WAS?

16 A YES, SIR.

17 Q WERE YOU PRESENT WHEN THE INCIDENT THAT STARTED ON
18 OCTOBER THE 29TH, WHEN IT REACHED THE NORTH WING?

19 A YES, SIR.

20 Q AND TELL ME WHERE YOU WERE.

21 A I WAS IN ROOM 2234 WHICH IS RIGHT IN FRONT OF THE --
22 THE OFFICERS' STATION BOOTH RIGHT IN FRONT OF THE FRONT
23 DOOR.

24 Q ALL RIGHT. AND AS -- SINCE YOUR ROOM WAS STATIONED
25 RIGHT -- YOUR ROOM WAS RIGHT THERE, WHEN YOU LOCKED OUT OF

1 YOUR ROOM, WHAT DID YOU SEE?

2 A I COULD SEE THE WHOLE AREA, THE WHOLE ROCK.

3 Q ALL RIGHT. AND YOU SAY THE ROCK, YOU'RE TALKING
4 ABOUT THE NORTH WING THERE?

5 A YES, SIR.

6 Q ALL RIGHT. AND TELL ME WHAT YOU SAW WHEN THE
7 INCIDENT OCCURRED.

8 A OFFICER DOZIER CAME RUNNING ON THE WING. HE HAD WENT
9 INSIDE THE FENCE BECAUSE IT'S A FENCED AREA. THE ROCK WAS
10 CLOSED OFF. AND INMATES RAN BEHIND HIM AND HE FINALLY HAD
11 GOT AROUND TO THE OTHER SIDE OF THE ROCK AND HE OPENED THE
12 DOOR AND LET HISSELF INTO THE DOOR, BUT BEFORE HE DID HE
13 THREW THE KEYS OUT TOWARD THE FENCE, AND THEN CAME -- THE
14 INMATES GOT THE KEYS AND LET EVERYBODY ELSE OUT.

15 Q ALL RIGHT. DO YOU KNOW WHO THAT INMATE WAS THAT
16 THEY -- CAME RUNNING BEHIND HIM?

17 A NO, SIR.

18 Q OKAY. DID YOU GET A DESCRIPTION OF THAT INMATE?

19 A WELL, NO, BECAUSE WHEN HE CAME AROUND, HE HAD HIS
20 BACK TO ME TRYING TO CRAWL THROUGH THE FENCE. I REALLY
21 AIN'T HAD A GOOD, YOU KNOW WHAT I'M SAYING, RECOGNITION
22 WHO HE WAS.

23 Q ALL RIGHT. DID YOU KNOW TYRONE SINGLETARY PRIOR TO
24 THAT?

25 A YES, SIR.

1 Q AND YOU RECOGNIZED HIM THEN? I MEAN, YOU KNEW WHO HE
2 WAS? YOU KNEW WHAT HE LOOKED LIKE?

3 A YEAH.

4 Q WAS IT TYRONE SINGLETARY?

5 A THAT WAS RUNNING BEHIND HIM?

6 Q YES.

7 A YEAH.

8 Q OKAY. AND WHEN THE OFFICER WENT INTO THE ROOM--

9 A UH-HUH.

10 Q -- WERE YOU STILL ABLE TO SEE WHAT WAS GOING ON ON
11 THE OUTSIDE?

12 A YEAH.

13 Q AND WHAT WAS GOING ON?

14 A THEY WAS JUST STANDING AROUND THE ROCK JUST TALKING.

15 Q WHO WAS?

16 A AND -- TYRONE SINGLETARY AND ANOTHER INMATES.

17 Q OKAY. DID YOU EVER SEE TYRONE SINGLETARY TRY TO GET
18 INTO THE ROOM THAT OFFICER DOZIER WAS IN?

19 A TRY TO GET INTO THE ROOM?

20 Q YES.

21 A I SEEN A LOT OF PEOPLE TRY TO GET INTO THE ROOM.

22 Q OKAY.

23 A I MEAN, I AIN'T TRYING TO BE, YOU KNOW, FUNNY, BUT...

24 Q YOU EVER REMEMBER TYRONE SINGLETARY TRYING TO GET IN
25 THERE? WAS HE ONE OF THEM THAT TRIED TO GET IN?

1 A I COULDN'T TELL YOU TO BE TRUTHFUL.

2 Q ALL RIGHT. A LOT OF INMATES WERE TRYING TO GET IN
3 THE ROOM?

4 A YEAH.

5 Q WERE YOU ABLE TO DESCRIBE WHO THEY WERE TRYING TO GET
6 INTO THE ROOM?

7 A WELL, NO. I MEAN, IT'S WHAT I SAY, A LOT BECAUSE
8 THEY WAS TRYING TO GET AFTER THE OFFICER DOZIER. IT
9 WASN'T AS IF THIS -- THESE TWO INMATES WAS JUST THE ONLY
10 ONES TRYING TO GET AT OFFICER DOZIER.

11 IT WAS, YOU KNOW IT'S A RIOT, YOU KNOW WHAT I'M
12 SAYING. SO THEY HAVE A LOT OF INMATES TRYING TO GET AT
13 THEM. BUT NOBODY FORCED HIM TO GO INTO THE ROOM.

14 Q ALL RIGHT.

15 A AND NOBODY TOOK THE KEYS FROM HIM. HE GAVE THEM
16 AWAY.

17 Q OKAY. DID YOU EVER GET OUT OF THE ROOM THAT NIGHT?

18 A UH-HUH.

19 Q AND DID YOU EVER GO TO THE SOUTH SIDE OF CHESTERFIELD
20 UNIT?

21 A YES.

22 Q DID YOU EVER SEE OFFICER COTTON THAT DAY?

23 A YES.

24 Q AND WHERE WAS HE?

25 A HE WAS IN THE ROOM UPSTAIRS.

1 Q ALL RIGHT. IN WHOSE ROOM, DO YOU KNOW?

2 A NO.

3 Q OKAY. DO YOU KNOW WHO WAS IN THE ROOM WITH HIM?

4 A THERE WAS NOBODY IN THE ROOM WITH HIM I SEEN.

5 Q ALL RIGHT. WAS HE HANDCUFFED TO ANYONE OR ANYTHING
6 AT THAT TIME?

7 A NO.

8 Q OKAY. DID HE APPEAR TO BE INJURED IN ANY WAY AT THE
9 TIME YOU SAW HIM?

10 A HE HAD BLOOD EITHER ON HIS PANTS, ON ONE SIDE HIS
11 PANTS, I THINK. I CAN'T REMEMBER WHICH SIDE.

12 Q DID TYRONE SINGLETARY, FROM WHAT YOU SAW, DID HE
13 FORCE OFFICER DOZIER INTO I BELIEVE IT WAS 1128 WAS THE
14 TESTIMONY, ROOM 1128. WAS -- HE EVER FORCE HIM INTO THAT
15 ROOM?

16 A NO. I MEAN, AS IN GOING -- GO IN THIS ROOM?

17 Q YES.

18 A NO. IF I RUN INTO THE ROOM, I'M NOT BEING FORCED; AM
19 I?

20 Q WELL, THAT'S WHAT I'M ASKING.

21 A NO.

22 Q WHAT DID YOU SEE?

23 A NO, HE NEVER -- HE WENT INTO THE ROOM ON HIS OWN.

24 Q WENT INTO THE ROOM ON HIS OWN?

25 A BEFORE HE WENT TO HIS ROOM, INTO THE ROOM, HE TOOK

1 THE KEYS OFF OF HIM AND THREW THE KEYS UNDER THE FENCE TO
2 THE INMATES AND THEN WENT IN THE ROOM.

3 Q OKAY.

4 A HAD THE KEYS, GO, COME.

5 Q ALL RIGHT.

6 A AND BARRICADED HIMSELF IN THE ROOM.

7 Q OKAY. DID YOU ACTUALLY SEE THE BARRICADE IN THE
8 ROOM?

9 A YEAH.

10 Q YOU WENT BY AND WALKED BY THE ROOM?

11 A YEAH. HAD SOME -- AT THE SAME TIME WALKING AROUND
12 SEEING WHAT HE HALF ASS OR -- ALL RIGHT, BUT AT THE SAME
13 TIME DON'T LET HIM SEE SO LET THEM KNOW IT AIN'T US, YOU
14 KNOW. YOU KNOW.

15 Q ALL RIGHT. SO YOU LOOKED IN THE ROOM?

16 A YEAH.

17 Q ONE TIME? MANY TIMES?

18 A YEAH.

19 Q HOW MANY TIMES YOU RECKON YOU LOOKED IN THE ROOM?

20 A PROBABLY ABOUT TWO OR THREE. AND THE LAST TIME I
21 CAME, THE GUY FROM THE BLACK TEAM WAS STANDING OUTSIDE THE
22 WINDOW, SO I DECIDED IT WASN'T -- I SHUT THE DOOR BACK.

23 Q ALL RIGHT. YOU'RE TALKING ABOUT SOMEONE FROM THE
24 BLACK TEAM, THAT WOULD HAVE BEEN FROM SOME SPECIAL
25 OPERATIONS UNIT--

1 A YES.

2 Q -- FOR THE DEPARTMENT OF CORRECTIONS?

3 A YEAH.

4 Q OKAY. YOU SAW SOMEONE WITH A GUN AT THAT POINT?

5 A YEAH. YEAH. YEAH.

6 Q ALL RIGHT. YOU DECIDED YOU WEREN'T GOING TO GO
7 APPROACH---

8 A YEAH.

9 Q OKAY. THANK YOU.

10 MR. DOBY: THAT'S ALL I HAVE, YOUR HONOR.

11 THE COURT: MR. SCOTT, CROSS-EXAMINE?

12 MR. SCOTT: NO, SIR. THANK YOU.

13 THE COURT: THANK YOU. MR. FATA?

14 CROSS-EXAMINATION

15 BY MR. FATA:

16 Q MR. KNOTTS, WHERE WERE YOU HOUSED IN THE CHESTERFIELD
17 UNIT?

18 A I WAS UPSTAIRS IN THE SECOND ROOM FROM THE -- I SAID
19 THIRD FLOOR, BUT I THINK IT'S 35 -- ON THE SECOND ROOM
20 FROM THE DAY ROOM.

21 Q ABOVE OR BELOW?

22 A ABOVE.

23 Q OR EXCUSE ME. DO YOU KNOW - DO YOU REMEMBER YOUR
24 ROOM NUMBER?

25 A 2235 OR 2234, ONE OF THEM.

1 Q 2234?

2 A OR 2235, ONE OF THEM.

3 (MR. FATA CONFERRING WITH MR. DOZIER).

4 Q WELL, YOUR TESTIMONY IS THAT YOU SAW SINGLETARY COME
5 INTO YOUR SIDE OF THE UNIT; IS THAT RIGHT?

6 A YES, SIR.

7 Q AND YOU -- DID YOU SAY YOU SAW A SHANK IN HIS HAND?

8 A NO, I DIDN'T.

9 Q YOU DIDN'T. BUT YOU SAW HIM AND ANOTHER INMATE. WAS
10 IT LYNCH?

11 A I DON'T KNOW. I CAN'T BE SURE.

12 Q BUT IT WAS SOMEBODY ELSE?

13 A YEAH.

14 Q COME AFTER DOZIER?

15 A I SEEN THEM COME ON THE WING. HE CAME ON THE WING
16 FIRST. PHEW, HE WAS GONE. WE DIDN'T KNOW WHAT WAS GOING
17 ON.

18 Q HE WHO?

19 A OFFICER DOZIER. HE JUST CAME -- WE DIDN'T KNOW WHAT
20 WAS GOING ON.

21 Q LOOKED LIKE HE WAS TRYING TO ESCAPE FROM SOMETHING;
22 DIDN'T IT?

23 A YEAH.

24 Q OKAY.

25 A OR WHATEVER. I MEAN, YOU KNOW.

1 Q RIGHT. YOU WERE BEING CHASED BY TWO INMATES, YOU'D
2 RUN, TOO; WOULDN'T YOU?

3 A YEAH.

4 Q YES? AND THEN -- AND THEN CORRECTIONS OFFICERS
5 DOZIER RAN INTO THAT ROOM, GOT INTO A ROOM. IS THAT
6 RIGHT?

7 A YEAH.

8 Q AND THEN FOR THE REST OF THE NIGHT THESE TWO INMATES
9 ALONG WITH SEVERAL OTHERS---

10 MR. SCOTT: OBJECTION. NOW HE'S POINTING TO MR.
11 LYNCH. HE HASN'T IDENTIFIED MR. LYNCH.

12 MR. FATA: OR...

13 THE COURT: I SUSTAIN THAT OBJECTION.

14 BY MR. FATA:

15 Q THIS INMATE RIGHT HERE, SINGLETARY, TRIED TO GET HIM
16 OUT ALONG WITH OTHER INMATES. DID THEY NOT BREAK THE
17 DOOR?

18 A I DON'T KNOW.

19 Q YOU DON'T KNOW? THOUGHT YOU SAID YOU WALKED BY AND
20 LOOKED.

21 A I NEVER SEEN -- I DON'T KNOW IF THE DOOR WAS BROKE
22 BECAUSE THE DOOR NEVER OPENED.

23 Q THE GLASS, DID THEY BREAK THE GLASS IN THE DOOR?

24 A THE GLASS WAS BROKEN OUT THE DOOR.

25 Q THE GLASS WAS BROKEN OUT THE DOOR. WERE YOU THERE

1 WHEN THEY SPRAYED THE FIRE EXTINGUISHERS IN THERE?

2 A NO, SIR.

3 Q YOU WEREN'T? WELL, WERE YOU THERE WHEN THEY WERE
4 JABBING AT HIM WITH THE SHANKS?

5 A NO, SIR.

6 Q YOU DIDN'T SEE ANY OF THAT?

7 A I DIDN'T -- I DIDN'T JUST COME, JUST LOOK SEE WHAT'S
8 GOING ON. I WAS COMING BACK PERIODICALLY, LOOK IN SEE,
9 YOU KNOW, WHAT WAS GOING ON BECAUSE WE -- IT WAS SO MANY
10 POLICE GOING AROUND, WE WAS REALLY -- EVERY WINDOW THAT WE
11 HAD TO LOOK OUT OF, WE WAS TRYING TO SEE WHAT WAS GOING
12 ON.

13 Q YOU WERE JUST TRYING TO -- YOU WERE TRYING TO SAVE
14 YOURSELF; WEREN'T YOU?

15 A YEAH. TRYING TO HAD MY FACE BE SEEN TOO, YOU KNOW.

16 Q MAKE SURE YOU WEREN'T INVOLVED IN THIS?

17 A YES.

18 Q I THINK YOU DESCRIBED IT AS A RIOT?

19 A PRETTY MUCH.

20 Q OKAY. YOU FINALLY GOT OUT OF YOUR CELL?

21 A UH-HUH.

22 Q AND YOU WENT ACROSS TO THE SOUTH SIDE?

23 A UH-HUH.

24 Q AND THEN YOU SAW OFFICER COTTON?

25 A UH-HUH.

1 Q AND YOU SAW---

2 THE COURT: GET YOU TO SAY YES OR NO IF YOU
3 WOULD SO SHE CAN TAKE IT DOWN.

4 THE WITNESS: YES.

5 BY MR. FATA:

6 Q SAW OFFICER COTTON?

7 A YES, SIR.

8 Q AND HE WAS IN A ROOM?

9 A UH-HUH, YES, SIR.

10 Q AND HE LOOKED LIKE HE HAD BEEN INJURED?

11 A YES, SIR.

12 Q HE WAS BLEEDING?

13 A YES, SIR.

14 Q OKAY. WHO IS JIT OR I -- WHO IS IU?

15 A I DON'T KNOW.

16 Q WHO IS JIT?

17 A I DON'T KNOW.

18 Q OKAY. THE UNIT THAT DAY WAS ON LOCK DOWN; WASN'T IT?

19 A YES, SIR.

20 Q THERE WAS A STABBING?

21 A YES, SIR.

22 Q AND WERE YOU INVOLVED IN THAT?

23 A I WASN'T INVOLVED, BUT THEY THOUGHT I WAS.

24 Q THEY THOUGHT YOU WERE. AND OFFICER DOZIER WENT INTO
25 THAT ROOM TO -- TO PROTECT HIMSELF, TO ESCAPE WHATEVER

1 THESE INMATES WERE TRYING TO DO TO HIM?

2 A I MEAN, I DON'T KNOW. HE COULD HAVE JUST RAN OUT THE
3 DOOR.

4 Q YEAH. COULD HAVE, BUT HE WENT IN THAT ROOM; DIDN'T
5 HE?

6 A HE CAME BACK ON THE OUTSIDE.

7 Q LET ME ASK YOU ONE OTHER THING. IN 1999 YOU WERE
8 CONVICTED OF GRAND LARCENY OF A VEHICLE?

9 A NO, SIR.

10 MR. FATA: WAIT A MINUTE. I'VE GOT THE WRONG
11 ONE. EXCUSE ME. I THOUGHT I HAD IT OUT. I'M SORRY.
12 BEG THE COURT'S INDULGENCE FOR A MINUTE, YOUR HONOR.

13 THE COURT: YES, SIR.

14 (WHEREUPON THERE WAS A PAUSE.)

15 THE COURT: HE'S ACKNOWLEDGED THE RECORD OF
16 ARMED ROBBERY---

17 MR. FATA: HE HAS, AND I WAS -- AND I WAS GOING
18 TO -- I HAD IT AND I JUST DON'T KNOW WHAT I DID WITH
19 IT. I'M SORRY.

20 THE COURT: THAT'S OKAY. THANK YOU. MR. DOBY?

21 MR. DOBY: NO FURTHER QUESTIONS, YOUR HONOR.

22 THE COURT: THANK YOU. MR. KNOTTS, YOU CAN STEP
23 DOWN. AND GENTLEMEN, YOU ALL CAN TAKE HIM BACK.

24 THANK YOU.

25 (WITNESS OUT OF COURTROOM.)

1 MR. DOBY: YOUR HONOR, WE CALL THOMAS DEBERRY.

2 (WITNESS INTO COURTROOM.)

3 THE COURT: MR. DEBERRY, HAVE A SEAT RIGHT IN
4 THAT CHAIR, PLEASE SIR. PUT YOU UNDER OATH. MADAM
5 CLERK, IF YOU WILL SWEAR MR. DEBERRY.

6 THOMAS DEBERRY, AFTER
7 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. DOBY:

10 Q ALL RIGHT. MR. DEBERRY, YOU'RE GOING TO NEED TO
11 SPEAK UP A LITTLE LOUDER INTO THAT MICROPHONE, ALL RIGHT?

12 A THOMAS BERNARD DEBRIS.

13 Q AND MR. DEBERRY, YOU WERE OBVIOUSLY AN INMATE AT THE
14 DEPARTMENT OF CORRECTIONS. TELL ME WHAT CRIMES YOU HAVE
15 BEEN CONVICTED OF THAT RESULTED IN YOU SERVING TIME NOW.

16 A TRAFFICKING CRACK COCAINE AND MONEY LAUNDERING.

17 Q OKAY. WERE YOU HOUSED I BELIEVE IN THE NORTH SIDE OF
18 THE CHESTERFIELD UNIT ON OCTOBER THE 29TH THERE AT LEE
19 CORRECTIONAL INSTITUTE. IS THAT CORRECT?

20 A YEAH.

21 Q AND DID YOU KNOW OFFICER COTTON AS WELL AS OFFICER
22 DOZIER?

23 A YEAH.

24 Q OKAY. WHEN THE INCIDENT OCCURRED, STARTED OUT, WHERE
25 WERE YOU?

1 A IN THE ROOM.

2 Q ALL RIGHT. DO YOU REMEMBER THE ROOM NUMBER?

3 A NO, I DON'T REMEMBER. THINK 1158, I THINK.

4 Q OKAY. BUT IT WAS ON THE NORTH SIDE; CORRECT?

5 A UH-HUH.

6 Q ALL RIGHT. AND WHEN IT OCCURRED, TELL ME WHAT'S THE

7 FIRST THING YOU SAW HAPPENING THAT NIGHT.

8 A FIRST THING I SAW?

9 Q FIRST THING.

10 A I JUST SAW -- UM -- PEOPLE JUST RUNNING, RUNNING

11 AROUND.

12 Q ALL RIGHT. DID YOU SEE OFFICER DOZIER GO INTO ANY

13 CELL THAT NIGHT?

14 A NO, I AIN'T SEEN HIM GO IN THE CELL, BUT WHEN I

15 WALKED PAST THE CELL, HE BE IN IT.

16 Q ALL RIGHT. DO YOU KNOW ABOUT WHAT TIME THAT WOULD

17 HAVE BEEN OR WOULD YOU HAVE ANY WAY OF KNOWING WHAT TIME

18 IT WAS?

19 A NO.

20 Q ALL RIGHT. WHEN YOU WALKED BY THE CELL, WHAT DID YOU

21 SEE?

22 A I JUST SEEN THEM BEEN IN THE CELL WITH TABLE AGAINST

23 THE DOOR BARRICADING THE DOOR.

24 Q HOW LONG DID YOU STAY ON THE NORTH SIDE OF

25 CHESTERFIELD UNIT THAT NIGHT?

1 A IT TILL -- PROBABLY TILL I LEFT OUT.

2 Q ALL RIGHT. SO ABOUT...

3 A SAW, STARTED WALKING TO THE SALLY PORT AND COMING

4 BACK ON THE NORTH SIDE.

5 Q ALL RIGHT. DID YOU EVER GO TO THE SOUTH SIDE?

6 A NO.

7 Q ALL RIGHT. SO YOU STAYED ON THE NORTH SIDE?

8 A YES.

9 Q DID YOU SEE ANYBODY TRYING TO GET INTO THE CELL THAT

10 OFFICER DOZIER WAS IN?

11 A NO, I DON'T RECALL SEEING NOBODY.

12 Q ALL RIGHT. SEE ANYBODY SPRAY ANY FIRE EXTINGUISHERS?

13 A I SAW SOME. I SAW SOME WHITE DUDES SPRAY SOME FIRE

14 EXTINGUISHERS IN THERE.

15 Q OKAY. WASN'T -- WASN'T TYRONE SINGLETARY?

16 A NO, IT AIN'T BEEN HIM.

17 Q OKAY. DO YOU -- DO YOU REMEMBER SEEING TYRONE

18 SINGLETARY THERE THAT NIGHT?

19 A YEAH. I JUST SEEN HIM LIKE I SEEN EVERY OTHER INMATE

20 IN THERE.

21 Q WELL, WHAT WAS HE DOING?

22 A I SAW HIM HE WAS JUST MIXING, MINGLING WITH EVERYBODY

23 ELSE.

24 Q RIGHT. WALKING AROUND?

25 A YEAH.

1 Q OKAY. DID YOU SEE OFFICER COTTON THAT NIGHT?

2 A YEAH, I SAW COTTON AT -- BASICALLY WHEN THEY WERE

3 DOWN AND DOWN. THAT'S WHEN I HELPED HIM OUT.

4 Q ALL RIGHT. AND WHERE DID YOU SEE HIM?

5 A IN THE SALLY PORT. WHEN I SAW HIM WAS IN THE SALLY

6 PORT.

7 Q ALL RIGHT. THE SALLY PORT WOULD HAVE BEEN THE---

8 A WHERE YOU COME IN ON BOTH WINGS AT.

9 Q ALL RIGHT. WHEN YOU COMING INTO THE DOOR RIGHT

10 THERE?

11 A YEAH.

12 Q THE SALLY PORT WOULD HAVE BEEN WHAT YOU GO INTO;

13 CORRECT?

14 A YEAH.

15 Q ALL RIGHT. SO YOU SAW HIM THERE. AND WHO WAS WITH

16 HIM?

17 A I CAN'T RECALL. IT WAS SOMEBODY ELSE WITH HIM. I

18 CAN'T RECALL WHO IT WAS.

19 Q TYRONE SINGLETARY?

20 A NO.

21 Q YOU EVER SEEN TYRONE SINGLETARY THERE IN THE SALLY

22 PORT DO ANYTHING TO RESTRAIN OFFICER COTTON?

23 A NO, I CAN'T RECALL SEEING HIM DO NOTHING RESTRAINING

24 THE MAN.

25 Q ALL RIGHT. AS A MATTER OF FACT, YOU ACTUALLY HELPED

1 OFFICER COTTON; DID YOU NOT?

2 A YEAH.

3 Q WHAT DID YOU DO FOR HIM?

4 A I HELPED BANDAGE HIM UP, YOU KNOW WHAT I'M SAYING,
5 TRY TO STOP HIM FROM BLEEDING AND HELP HIM OUT THE DOOR.

6 Q OKAY.

7 A HE WAS BLEEDING.

8 Q ALL RIGHT. AND THAT WAS TOWARDS THE END?

9 A YEAH.

10 Q OKAY. THANK YOU.

11 MR. DOBY: THAT'S ALL I HAVE, YOUR HONOR.

12 THE COURT: ALL RIGHT. THANK YOU. MR. SCOTT?

13 MR. SCOTT: NO QUESTIONS, YOUR HONOR.

14 THE COURT: THANK YOU. MR. FATA?

15 CROSS-EXAMINATION

16 BY MR. FATA:

17 Q MR. DEBERRY, YOU REALLY DON'T RECALL A LOT, DO YOU,
18 OF THIS INCIDENT? YOU DON'T RECALL A LOT ABOUT THIS
19 INCIDENT; DO YOU?

20 A AS MUCH AS I SEE.

21 Q AS MUCH AS YOU SAW. YOU DON'T REMEMBER SEEING -- YOU
22 DON'T REMEMBER SEEING MR. DOZIER GOING INTO HIS CELL,
23 BUT -- IS THAT RIGHT?

24 A NO, I AIN'T -- LIKE I SAY, I AIN'T SEEN HIM WHEN HE
25 WENT IN THERE, BUT I KNOW HE BEEN IN THERE.

1 Q BUT YOU -- AND I THINK YOUR WORDS WERE YOU WALKED BY
2 YOU SAW HIM BARRICADED IN THERE.

3 A YEAH.

4 Q AND WHAT -- TABLE AND CHAIRS AND STUFF UP AGAINST THE
5 DOOR?

6 A YEAH.

7 Q YOU THINK HE WAS DOING THAT TO TRY TO KEEP PEOPLE
8 FROM GETTING IN?

9 A YEAH.

10 Q OTHER INMATES WERE GETTING INTO HIM?

11 A UH-HUH.

12 Q AND YOU SAY YOU SAW SOME INMATES SPRAYING CO2, FIRE
13 EXTINGUISHERS IN THERE---

14 A YEAH, SOME WHITE DUDE, COUPLE OF WHITE DUDES THAT...

15 Q WELL, A LOT OF PEOPLE DOING A LOT OF STUFF THEN THAT
16 NIGHT; WEREN'T THEY? A LOT OF INMATES DOING THINGS,
17 BREAKING GLASS AND STUFF LIKE THAT?

18 A BASICALLY WITH BEING HOUSED IN CLOSE CUSTODY, YOU
19 BASICALLY KNOW WHO IS WHO. BUT BEING FROM THE INSIDE AND
20 OUTSIDE, YOU WOULDN'T KNEW IT.

21 Q NOW, LET ME ASK YOU THIS. YOU WALKED OVER TO THE
22 SOUTH SIDE.

23 A I AIN'T NEVER BEEN ON THE SOUTH SIDE.

24 Q YOU DIDN'T GO ON THE SOUTH SIDE?

25 A NO.

1 Q OKAY. YOU WENT TO THE SALLY PORT?

2 A YEAH.

3 Q YOU SAW OFFICER COTTON?

4 A YEAH.

5 Q AND I THINK YOUR TESTIMONY IS YOU SAW OFFICER COTTON
6 INJURED?

7 A YEAH.

8 Q WHAT KIND OF INJURIES DID YOU SEE?

9 A I MEAN, I JUST SAW SOME BLEEDING, SOME BLEEDING
10 INJURY, LIKE GLASS CUTS AND SOMETHING.

11 Q CUTS?

12 A YEAH.

13 Q AND YOU REMEMBER THE CUTS, WHERE THEY WERE ON HIS
14 HAND, ON HIS SHOULDER?

15 A ON HIS ARM. ALL I DID BEEN ON HIS ARM.

16 Q AND YOU HELPED HIM? YOU POURED PEROXIDE ON IT AND
17 STUFF LIKE THAT?

18 A YEAH.

19 Q WHO WAS -- WHO WAS -- IN FACT, YOU HELD HIM UP FOR A
20 WHILE; DIDN'T YOU?

21 A YEAH.

22 Q AND IN FACT, SOME OF THE NEGOTIATORS ASKED YOU TO
23 HELP COTTON OUT; DIDN'T THEY?

24 A NO, I AIN'T NO NEGOTIATOR, RIGHT. I DONE DID THAT
25 BECAUSE, YOU KNOW WHAT I'M SAYING.

1 Q BECAUSE YOU WANTED TO HELP HIM?

2 A YEAH, YOU KNOW.

3 Q WHO WAS HE WITH WHEN YOU WERE DOING ALL OF THIS?

4 WHEN YOU WERE HELPING COTTON, WHO WAS HE WITH?

5 A HE BEEN WITH SOME OTHER INMATES.

6 Q ALL RIGHT. DO YOU -- DO YOU -- DO YOU KNOW INMATE

7 LYNCH?

8 A NO, I AIN'T KNOW LYNCH.

9 Q YOU DON'T KNOW LYNCH?

10 A HUH-UH.

11 Q YOU KNOW THAT MAN AT THE END OF THE TABLE RIGHT

12 THERE?

13 A I DONE SEEN HIM BEFORE IN THE DORM.

14 Q YOU SAW HIM BEFORE IN THE DORM?

15 A YEAH.

16 Q YOU DON'T KNOW WHAT HIS NAME IS?

17 A HUH-UH.

18 Q WAS HE WITH COTTON?

19 A I CAN'T RECALL.

20 Q WELL, WERE YOU IN THE SALLY PORT -- LET ME ASK -- LET

21 ME REFRESH YOUR MEMORY. THERE'S A VIDEOTAPE. YOU

22 REMEMBER MR. SNOWDEN MAKING THE VIDEO?

23 A WHO?

24 Q SNOW DEN.

25 A SNOWDEN?

1 Q YOU CALLED HIS NAME ON THE -- YOU SAID, HEY SNOW, OUT
2 THERE ON THE VIDEO. DON'T YOU RECALL THAT?

3 A NO, I AIN'T RECALL THAT.

4 Q OKAY. YOU RECALL BEING IN THE SALLY PORT AND COTTON
5 BEING IN THE SALLY PORT?

6 A YEAH.

7 Q YOU REMEMBER THIS INMATE BEING WITH -- ATTACHED TO OR
8 WITH COTTON IN THE SALLY PORT?

9 A WHICH ONE?

10 Q THIS ONE, THE ONE AT THE END OF THE TABLE.

11 A SEE, WHEN I BEEN IN THERE, I WAS TRYING TO JUST GET
12 ON---

13 Q I'M ASKING YOU -- JUST ANSWER ANY QUESTION. DO YOU
14 REMEMBER HIM, INMATE LYNCH, THE INMATE AT THE END OF THE
15 TABLE, YOU DON'T KNOW HIS NAME, BEING WITH COTTON?

16 A NO, I CAN'T RECALL SEEING---

17 Q CAN'T RECALL?

18 A HUH-UH.

19 Q YOU RECALL EVERYTHING. YOU RECALL THE INJURIES AND
20 SO FORTH. OKAY.

21 A YUH (SIC).

22 Q I THINK -- DIDN'T YOU TELL THE NEGOTIATORS THAT YOU
23 WEREN'T GOING TO LET COTTON GET HURT?

24 A YEAH, BECAUSE HE WAS BLEEDING.

25 Q WHO WAS HURTING HIM?

1 A OH, I AIN'T NEVER TELL NO NEGOTIATOR THAT I WOULDN'T
2 LET HIM GET HURT.

3 Q YOU GAVE A STATEMENT -- WAIT A MINUTE, NOW. YOU GAVE
4 A STATEMENT TO---

5 A I KNOW WHAT I TOLD THEM.

6 Q LET ME -- I WANT YOU TO READ THIS. READ THIS
7 HIGHLIGHTED SECTION RIGHT HERE.

8 A WELL, I KNEW WHAT I WROTE.

9 Q YOU STATED TO ME -- DON'T LET HIM GET HURT.

10 A THAT'S WHAT -- THAT'S WHAT HE ASKED ME.

11 Q AND I SAID, AND---

12 A -- THAT WASN'T---

13 Q -- I SAID, COTTON, I'M NOT GOING TO LET HIM GET
14 HURT---

15 A -- I KNOW WHAT I SAID.

16 Q ALL RIGHT. WHO WAS HURTING HIM? WHO WAS HURTING
17 HIM?

18 A THE INCIDENT UP THERE HAPPEN ON THE SOUTH SIDE.

19 Q WHO WAS HURTING COTTON? IF YOU WEREN'T GOING TO LET
20 HIM GET HURT, WHO WAS HURTING HIM?

21 A I'M JUST---

22 Q HUH?

23 A -- SAYING THE INCIDENT HAPPENED ON SOUTH, WHAT I
24 SEEN -- LIKE I SAID BEFORE. WHEN I SAW THE MAN, IT WAS AT
25 THE END OF THE INCIDENT, YOU KNOW WHAT I'M SAYING.

1 Q OKAY. SO TODAY YOU DON'T KNOW WHO WAS HURTING HIM;
2 IS THAT RIGHT?

3 A I AIN'T NEVER TELL TO START WITH I KNEW WHO BEEN
4 HURTING HIM.

5 Q OKAY.

6 A BUT I KNOW THE MAN WAS HURT, THOUGH.

7 Q MR. DEBERRY, IN 2000 -- EXCUSE ME -- IN 1996 YOU WERE
8 CONVICTED OF UNLAWFUL POSSESSION OF A PISTOL, PERSON UNDER
9 21?

10 A YEAH.

11 Q IN 2000 YOU WERE CONVICTED OF DISTRIBUTION OF CRACK
12 COCAINE?

13 A TRAFFICKING.

14 Q TRAFFICKING? THAT'S WHAT YOU'RE SERVING TIME FOR
15 NOW?

16 A UH-HUH.

17 Q OKAY. THAT'S ALL.

18 THE COURT: THANK YOU. MR. DOBY?

19 MR. DOBY: NO FURTHER QUESTIONS, YOUR HONOR.

20 THE COURT: THANK YOU. MR. DEBERRY, YOU CAN
21 STEP DOWN. YOU CAN BE EXCUSED TO GO BACK.

22 (WITNESS LEFT THE COURTROOM.)

23 THE COURT: MR. DOBY?

24 MR. DOBY: YOUR HONOR, TYRONE SINGLETARY RESTS
25 HIS CASE.

1 THE COURT: THANK YOU. MR. SCOTT?

2 MR. SCOTT: YOUR HONOR, AT THIS TIME WE'D CALL
3 MR. ANTHONY GRATE.

4 (WITNESS BROUGHT INTO COURTROOM.)

5 THE COURT: MR. GRATE, IF YOU WILL HAVE A SEAT
6 RIGHT THERE, THE CLERK WILL SWEAR YOU IN.

7 ANTHONY GRATE, AFTER
8 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

9 MR. SCOTT: MAY IT PLEASE THE COURT, YOUR HONOR.

10 THE COURT: YES, SIR, MR. SCOTT.

11 DIRECT EXAMINATION

12 BY MR. SCOTT:

13 Q MR. GRATE, YOU ARE CURRENTLY IN THE CUSTODY OF THE
14 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS; CORRECT?

15 A YES.

16 Q AND YOU ARE CURRENTLY HOUSED AT KERSHAW CORRECTIONAL
17 INSTITUTION?

18 A YES.

19 Q THAT'S IN LANCASTER COUNTY, I BELIEVE; IS THAT RIGHT?

20 A YES.

21 Q OKAY. AND MY UNDERSTANDING IS THAT YOU ARE CURRENTLY
22 SERVING TIME FOR A CARJACKING CHARGE; IS THAT CORRECT?

23 A YES.

24 Q AND I THINK YOU HAVE -- AT SOME POINT ALSO HAD A
25 PREVIOUS LARCENY CHARGE AGAINST YOU?

1 A YES.

2 Q OKAY. NOW, YOU KNOW INMATE JACOB LYNCH WHO IS SEATED
3 OVER THERE AT THE DEFENSE TABLE?

4 A YES.

5 Q AND I BELIEVE YOU ALSO KNOW OFFICER COTTON?

6 A YES.

7 Q YOU AT ONE POINT WERE AN INMATE AT THE LEE
8 CORRECTIONAL INSTITUTION; IS THAT CORRECT?

9 A YES.

10 Q AND WHAT -- DO YOU REMEMBER THE TIME PERIOD THAT YOU
11 WERE AN INMATE AT LEE CORRECTIONAL INSTITUTION?

12 A SAY WHAT?

13 Q HOW -- WHEN WERE YOU AT LEE CORRECTIONAL INSTITUTION?

14 A FROM 2001 TO 2004.

15 Q 2001 TO 2004. OKAY. AND I BELIEVE YOU KNEW MR.
16 LYNCH BEFORE YOU GOT TO LEE; IS THAT RIGHT?

17 A YES.

18 Q AND YOU HAD A CHANCE TO ASSOCIATE WITH HIM AFTER YOU
19 GOT TO LEE; IS THAT CORRECT?

20 A YES.

21 Q ALL RIGHT. AND WOULD IT BE SAFE TO SAY THAT YOU SAW
22 MR. LYNCH ON A DAILY BASIS WHILE AT LEE CORRECTIONAL
23 INSTITUTION?

24 A YES.

25 Q OKAY. AND HOW OFTEN WOULD YOU SEE MR. COTTON,

1 OFFICER COTTON, WHILE YOU WERE AT LEE?

2 A EVERY DAY THAT HE WORKED.

3 Q OKAY. NOW, ARE YOU FAMILIAR OF YOUR OWN KNOWLEDGE OF
4 ANY INSTANCES WHEN YOU OBSERVED ANYTHING HAPPEN BETWEEN
5 OFFICER COTTON AND MR. LYNCH THAT YOU FELT WAS
6 INAPPROPRIATE?

7 A YES.

8 Q OKAY. CAN YOU TELL US WHAT THAT IS?

9 A WELL, EVERY DAY HE COME TO WORK HE USED TO COME FROM
10 OFF HIS WING AND COME IN THE OTHER WING, YOU KNOW.

11 Q OKAY. WHAT I'M ASKING YOU IS TELL ME WHAT YOU
12 OBSERVED HIM DO TO MR. LYNCH.

13 A OH, CALL HIM MOTHER FUCKERS AND TRY TO GET HIM TO
14 ENGAGE IN SEXUAL ACTS AND WHATNOT.

15 Q OKAY. CALL HIM -- WHAT WAS IT THAT YOU SAID HE
16 CALLED HIM?

17 A MOTHER FUCKERS.

18 Q AND HOW OFTEN WOULD THAT HAPPEN?

19 A EVERY DAY HE WORKED.

20 Q OKAY. AND YOU MENTIONED SOMETHING ELSE.

21 A TRY TO GET HIM ENGAGE IN SEXUAL ACTS AND WHATNOT.

22 Q OKAY. AND WHAT WAS MR. LYNCH'S REACTION TO THAT?

23 A HE JUST BACKED OFF AWAY FROM HIM, TELL THE MAN LEAVE
24 HIM ALONE.

25 Q OKAY. AND HOW OFTEN WOULD THAT HAPPEN?

1 A EVERY TIME COTTON WORKED.

2 Q ALL RIGHT.

3 MR. SCOTT: THAT'S ALL I HAVE, YOUR HONOR.

4 THANK YOU.

5 THE COURT: THANK YOU. MR. DOBY, CROSS-EXAMINE.

6 EXCUSE ME, MR. FATA.

7 MR. FATA: THANK YOU, YOUR HONOR.

8 CROSS-EXAMINATION

9 BY MR. FATA:

10 Q WERE YOU JACOB LYNCH'S ROOMMATE?

11 A NO.

12 Q WERE YOU HOUSED ON THE NORTH SIDE OR SOUTH SIDE?

13 A I WAS -- I WAS HOUSED IN THE NEGATIVE SIDE.

14 Q THE NEGATIVE, WHICH IS THE NORTH SIDE?

15 A YES.

16 Q WHERE -- WAS JACOB LYNCH ON THE NORTH SIDE OR SOUTH
17 SIDE?

18 A HE WAS ON THE NORTH SIDE.

19 Q WAS ON THE NEGATIVE SIDE. ON THE NEGATIVE SIDE
20 YOU'RE LOCKED DOWN ALL THE TIME; AREN'T YOU?

21 A MOST OF THE TIME.

22 Q MOST OF THE TIME. SO YOU'RE IN ONE ROOM, JACOB LYNCH
23 IS IN ANOTHER ROOM. IS THAT RIGHT?

24 A YES.

25 Q ALL RIGHT. HOW -- AND THE ONLY TIME YOU GOT OUT WAS

1 FOR RECREATION?

2 A NO.

3 Q IN THE YARD?

4 A NAH -- I WAS -- I WAS -- I USED TO CLEAN UP ALL THE
5 TIME. I WAS DORM WORKER.

6 Q DORM WORKER. OKAY. YOU -- AND HOW MANY DAYS WAS
7 OFFICER COTTON AN OFFICER IN THE CHESTERFIELD UNIT?

8 A HOW MANY DAYS?

9 Q YEAH.

10 A EVERY TIME HE WORKED.

11 Q EVERY TIME HE WORKED, WHAT HAPPENED? HOW MANY -- HOW
12 MANY TIMES DID HE WORK OVER THERE?

13 A WORKED OVER THERE A LOT OF TIME.

14 Q A LOT OF TIME?

15 A I MEAN, A LOT OF TIME HE WASN'T EVEN OVER THERE AND
16 HE ALWAYS COME OVER THERE EVERY TIME HE WORKED.

17 Q HE WAS THERE WORKING 90 DAYS? HE WORKED THERE 90
18 DAYS?

19 A ALL I KNOW THAT'S THE UNIT HE WAS ASSIGNED TO.

20 Q HE WAS ASSIGNED TO THAT UNIT AND HE WAS THERE EVERY
21 DAY, EVERY SHIFT.

22 A EVERY TIME HE WORKED, YEAH.

23 Q ALL RIGHT. WELL, THAT'S WHAT I'M TRYING TO GET.

24 SINCE YOU KNOW ALL OF THIS, HE WAS -- OFFICER COTTON
25 WORKED EVERY DAY AND HE WAS ASSIGNED TO THE CHESTERFIELD

1 UNIT, HE WORKED IN CHESTERFIELD UNIT EVERY DAY HE CAME TO
2 WORK?

3 A YES.

4 Q IS THAT YOUR TESTIMONY?

5 A YES.

6 Q OKAY.

7 MR. FATA: I DON'T HAVE ANYTHING ELSE FOR THIS
8 WITNESS.

9 THE COURT: THANK YOU. MR. DOBY, YOU HAVE ANY
10 CROSS-EXAMINATION?

11 MR. DOBY: NO QUESTIONS. THANK YOU, YOUR HONOR.

12 THE COURT: THANK YOU. MR. SCOTT?

13 MR. SCOTT: NOTHING FURTHER OF THIS WITNESS,
14 YOUR HONOR.

15 THE COURT: THANK YOU. MR. GRATE CAN STEP DOWN
16 AND HE CAN BE EXCUSED. YOU CAN TAKE HIM BACK. THANK
17 YOU.

18 (WITNESS LEFT THE COURTROOM.)

19 THE COURT: MR. SCOTT?

20 MR. SCOTT: YOUR HONOR, WE HAVE NOTHING FURTHER.

21 THE COURT: THANK YOU. MR. FATA, ANYTHING FROM
22 THE STATE IN REPLY?

23 MR. FATA: YES, SIR. WE HAVE SOME REPLY.

24 THE COURT: ALL RIGHT, SIR. YOU CAN CALL YOUR
25 REPLY WITNESS.

1 MR. FATA: WE'D CALL OFFICER COTTON.

2 THE COURT: MR. COTTON, IF YOU WILL RESUME THE
3 STAND, PLEASE SIR. YOU ARE STILL UNDER OATH.

4 MARCUS COTTON, AFTER BEING DULY REMINDED OF
5 OATH, TESTIFIED AS FOLLOWS:

6 THE COURT: MR. FATA?

7 MR. FATA: THANK YOU, YOUR HONOR.

8 DIRECT EXAMINATION

9 BY MR. FATA:

10 Q OFFICER COTTON, WHEN YOU WERE ASSIGNED TO THE LEE
11 CORRECTIONAL INSTITUTE AS A CORRECTIONS OFFICER, WHAT WAS
12 YOUR ASSIGNMENT?

13 A ON THE YARD.

14 Q ON THE YARD. YOU WERE A YARD OFFICER?

15 A YES, SIR.

16 Q AND AS A YARD OFFICER, WHERE DID YOU WORK?

17 A I WORKED FROM THE YARD TO THE PASS GATE, FROM THE
18 PASS GATE TO THE WEST YARD, FROM THE WEST YARD TO THE
19 CAFETERIA.

20 Q WHEN -- IS THAT CONSIDERED OUTSIDE THE BUILDING?

21 A YES, SIR.

22 Q NOW, WERE YOU EVER ASSIGNED TO DORMITORIES?

23 A NOT, NOT REALLY. NOT REALLY, BECAUSE WHEN I GO TO
24 THE DORM IT'S ONLY BEEN LIKE THREE TIMES THAT -- THAT
25 FOLLOWING YEAR OF 2003.

1 Q ALL RIGHT. SO YOU -- WERE YOU EVER PERMANENTLY
2 ASSIGNED TO THE CHESTERFIELD UNIT?

3 A NO. NO, SIR.

4 Q ALL RIGHT. HOW MANY -- BUT FROM TIME TO TIME YOU
5 WOULD BE ASSIGNED TO A DORM FOR THE DAY?

6 A YES, SIR.

7 Q HOW MANY TIMES DURING 2003 UP UNTIL THE TIME OF THIS
8 INCIDENT ON OCTOBER 29TH, 2003, WERE YOU ASSIGNED TO THE
9 CHESTERFIELD UNIT?

10 A THREE TIMES THAT YEAR.

11 Q ALL RIGHT. AND ON OCTOBER 29TH, 2003, WAS THAT THE
12 THIRD TIME YOU WERE ASSIGNED THERE?

13 A YES, SIR.

14 Q DID YOU KNOW THIS INMATE GRATE?

15 A AT THAT PARTICULAR TIME, YES.

16 Q OKAY. HOW DID YOU KNOW HIM?

17 A HE WAS MORE OF A -- THE INMATE WHO ALWAYS GET IN
18 TROUBLE. HE CARRIED CONTRABAND. HE GOT CAUGHT WITH A
19 SHANK -- SHANK BEFORE. WE HAD TO GO INTO A CELL TO -- AND
20 TAKE HIM AND -- TAKE HIM FROM OUT -- OUT OF THE CELL---

21 MR. SCOTT: YOUR HONOR?

22 THE WITNESS: FROM LOCK-UP.

23 THE COURT: EXCUSE ME JUST A SECOND, MR. COTTON
24 YES, SIR.

25 MR. SCOTT: I WOULD OBJECT. THIS SEEMS TO BE

1 CONDUCT OF -- SOMETHING DESCRIBED...

2 THE COURT: HE CAN -- HE CAN TESTIFY ABOUT WHAT
3 HE HAS PERSONAL KNOWLEDGE OF, YES, SIR. I WILL LET
4 HIM DO THAT. GO AHEAD.

5 THE WITNESS: YES, SIR, HE -- ME AND HIS -- SOME
6 SUPERVISOR HAD TO GO INTO HIS CELL AND TAKE HIM FROM
7 OUT OF A CELL BECAUSE HE GOT CAUGHT WITH A SHANK, A
8 SHANK WHERE HE GOT ACCUSED OF STAB -- STABBING AN
9 INMATE BEFORE.

10 BY MR. FATA:

11 Q AND IS THAT CALLED AN EXTRACTION?

12 A YES, SIR.

13 Q ALL RIGHT. NOW, LET ME ASK YOU THIS. DID YOU
14 EVER -- DID YOU EVER MAKE ADVANCES OF ANY KIND TOWARD
15 INMATE LYNCH?

16 A NO, SIR.

17 Q DID YOU EVER CALL HIM NAMES?

18 A NO, SIR.

19 Q WERE YOU EVER ASSOCIATED WITH INMATE LYNCH OTHER THAN
20 IN THE CHESTERFIELD UNIT WHEN YOU WORKED THOSE THREE
21 TIMES?

22 A NO, SIR.

23 Q OKAY. WAS -- OR DO -- YOU MAY NOT KNOW THIS. BUT
24 WAS ANTHONY GRATE A DORM WORKER?

25 A NO, SIR.

1 Q ANSWER ANY QUESTIONS THAT EITHER MR. DOBY OR
2 MR. SCOTT MAY HAVE.

3 THE COURT: MR. DOBY, YOU CAN CROSS-EXAMINE.

4 MR. DOBY: NO QUESTIONS, YOUR HONOR.

5 THE COURT: THANK YOU. MR. SCOTT?

6 MR. SCOTT: JUST BRIEFLY, YOUR HONOR. THANK
7 YOU.

8 CROSS-EXAMINATION

9 BY MR. SCOTT:

10 Q OFFICER COTTON, YOU TESTIFIED THAT YOU WERE ASSIGNED
11 TO CHESTERFIELD UNIT THERE WAS -- DID YOU SAY THREE TIMES?

12 A YES, SIR.

13 Q WHICH SIDE OF THE UNIT WERE YOU ASSIGNED TO? IS
14 THAT -- NOW, IS CHESTERFIELD THE SOUTH SIDE OR NORTH SIDE?

15 A I WAS ASSIGNED TO THE SOUTH SIDE.

16 Q OKAY. AND IT WOULDN'T BE UNUSUAL, WOULD IT, FOR YOU
17 TO GO FROM ONE SIDE TO THE -- DORM TO THE OTHERS?

18 A NO, SIR.

19 Q OKAY. ARE YOU SAYING THAT YOU HAVE NEVER DONE THAT
20 OR THAT YOU HAD DONE THAT?

21 A HAVEN'T DONE THAT, SIR.

22 Q YOU'VE NEVER DONE THAT?

23 A NO, SIR.

24 Q SO IF YOU'RE ASSIGNED NORTH SIDE, IT WAS NEVER AN
25 OCCASION WHEN YOU WENT TO THE SOUTH SIDE?

1 A NO, SIR, BECAUSE WE HAD A SUPERVISOR DOWN THERE AND
2 THE SUPERVISOR HAD TO ASSIST ME WITH THE COUNT.

3 Q AND YOU'RE SAYING YOU NEVER CALLED INMATE LYNCH OUT?

4 A NO, SIR.

5 Q OKAY. NEVER MADE ADVANCES TO HIM?

6 A NO, SIR.

7 Q NEVER?

8 A NO.

9 MR. SCOTT: COULD I HAVE YOUR INDULGENCE FOR
10 JUST A MOMENT, YOUR HONOR?

11 (CONFERRING WITH CLIENT.)

12 MR. SCOTT: THANK YOU, YOUR HONOR.

13 THE COURT: THANK YOU. MR. FATA, ANYTHING?.

14 MR. FATA: NOTHING ELSE, YOUR HONOR.

15 THE COURT: THANK YOU---

16 MR. FATA: YOUR HONOR, WE WOULD CALL CORRECTIONS
17 OFFICER -- FORMER CORRECTIONS OFFICER DOZIER.

18 THE COURT: ALL RIGHT. MR. COTTON, YOU CAN STEP
19 DOWN. MR. DOZIER, YOU CAN RESUME THE STAND. YOU'RE
20 STILL UNDER OATH.

21 KENNETH DOZIER, AFTER
22 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. FATA:

25 Q MR. DOZIER, WHEN YOU WORKED FOR THE DEPARTMENT OF

1 CORRECTIONS, CORRECTIONS OUT HERE AT LEE CORRECTIONAL
2 INSTITUTE, WHAT WAS YOUR ASSIGNMENT?

3 A I WAS ASSIGNED TO THE CHESTERFIELD UNIT ON A DAILY
4 BASIS.

5 Q SO WHEN YOU CAME TO WORK, YOU WENT TO CHESTERFIELD
6 AUTOMATICALLY?

7 A CORRECT. EVERY OFFICER IN THE CHESTERFIELD UNIT HAD
8 A DIFFERENT UNIFORM THAN THE OTHER OFFICERS IN THE
9 DEPARTMENT. NORMAL OFFICERS WILL WEAR THE REGULAR BLUE
10 AND WHITE SHIRTS LIKE THEY HAVE ON. THE CHESTERFIELD UNIT
11 AND THE CLOSE -- I MEAN, CLOSE CUSTODY AND SMU UNIT WERE
12 THE ONLY OFFICERS THAT HAD A BLUE T-SHIRT ON, GOLD BADGE,
13 AND SCDC ON THE BACK.

14 AND DURING THE WINTERTIME WE WORE -- WE WORE
15 SWEATSHIRTS, THE SAME PATCHES IN THE BACK, SO WE WERE
16 DISTINGUISHED FROM ALL THE OTHER OFFICERS.

17 Q AND THE YARD OFFICERS WORE A BLUE SHIRT?

18 A THEY WORE THE REGULAR UNIFORM.

19 Q WHICH WAS A BLUE SHIRT; IS THAT RIGHT?

20 A THAT'S EITHER BLUE OR...

21 Q OR WHITE?

22 A -- OR WHITE WERE SUPERVISORS.

23 Q WHERE IS THE SHIRT? I'M GOING TO SHOW YOU STATE'S
24 EXHIBIT 16 WHICH IS A BLUE SHIRT IDENTIFIED AS OFFICER
25 COTTON'S SHIRT. IS THIS THE KIND OF SHIRT -- IF I CAN

1 FIND THE TOP -- THE KIND OF SHIRT THAT A YARD OFFICER
2 WEARS?

3 A YES, SIR.

4 Q OKAY. AND IT -- BEING A YARD OFFICER, WAS HE --
5 COULD HE BE ASSIGNED TO YOUR UNIT?

6 A YES, SIR. WHEN WE ARE UNDERSTAFFED, WE HAD OTHER
7 OFFICERS THAT WOULD COME IN TO ASSIST US.

8 Q OKAY. AND WAS OFFICER COTTON ASSIGNED TO YOUR UNIT
9 REGULARLY?

10 A NO, SIR.

11 Q BUT HE WAS ASSIGNED ON OCCASION?

12 A YES, SIR.

13 Q CAN YOU RECALL ABOUT HOW MANY TIMES HE WAS THERE IN
14 THE UNIT?

15 A NO, SIR. I REALLY COULDN'T.

16 Q ALL RIGHT.

17 A IT WAS NOT A LOT OF TIMES.

18 Q OKAY. HE WAS ASSIGNED ON THIS ONE DAY, OCTOBER 29TH?

19 A YES. NOT ORIGINALLY HE WASN'T, BUT EVENTUALLY HE
20 WAS.

21 Q OKAY. NOW, INMATE GRATE, HE WAS -- WHAT SIDE OF THE
22 DORM WAS HE ON?

23 A INMATE GRATE WAS ON MY SIDE, THE NORTH SIDE.

24 Q OKAY. WAS HE A DORM WORKER?

25 A NO. I ASSIGNED THE DORM WORKERS AND HE WAS NOT ON MY

1. ASSIGNMENT BECAUSE OF THE FACT OF SEVERAL DISCIPLINARY
2. PROBLEMS. SOON AS I WOULD OPEN A DOOR OR TRY TO PUT
3. INMATES BACK INTO THEIR CELLS, DURING THAT TIME, HE WOULD
4. ALWAYS REFUSE, WE'D HAVE TO WAIT AND CHASE HIM, I WOULD
5. HAVE TO GET ASSISTANCE FROM OTHER OFFICERS TO PUT HIM BACK
6. IN HIS UNIT, SO HE WAS ALWAYS A DISCIPLINARY PROBLEM FOR
7. ME ON MY SIDE. AND THAT'S WHY HE CONTINUED TO STAY THERE.

8. Q DID OFFICER COTTON -- IF HE WAS EVER ASSIGNED TO THE
9. SOUTH SIDE -- EXCUSE ME -- IF HER'S EVER ASSIGNED TO
10. CHESTERFIELD, WAS HE EVER ASSIGNED TO THE NORTH SIDE?

11. A NO.

12. Q WHEN HE WAS ASSIGNED TO THE SOUTH SIDE, WOULD HE COME
13. OVER AND VISIT YOU ON THE NORTH SIDE?

14. A THE ONLY TIME OFFICER COTTON WOULD COME OVER TO THAT
15. SIDE IS IF I NEEDED ASSISTANCE, AND THAT MEANT I WOULD
16. HAVE TO GO GET HIM TO COME OVER, BRING HIM BACK OVER.

17. Q AND WHAT KIND OF ASSISTANCE WOULD YOU NEED?

18. A DURING ANY TIME THE SITUATION WITH AN INMATE YOU'RE
19. NOT SUPPOSED TO DEAL WITH AN INMATE ONE-ON-ONE. YOU'RE
20. SUPPOSED TO GO GET ASSISTANCE BEFORE YOU DO THAT, SO THAT
21. WOULD BE THE ONLY REASON THAT I WOULD GO GET HIM.

22. Q NOW, WHAT'S THE PROCEDURE ON THE NORTH SIDE? HOW ARE
23. INMATES HANDLED ON THAT SIDE?

24. A IT DEPENDS ON THE SITUATION. IF THERE IS AN ORDER TO
25. REPORT, THEN MYSELF AND A SUPERVISOR OR MYSELF, I WOULD

1 GET THOSE INMATES OUT OF THE CELL AND BRING THEM DOWN TO
2 WHEREVER THEY NEEDED TO GO. AND THEN FROM THERE THEY ARE
3 TRANSPORTED USUALLY BY A SUPERVISOR.

4 MR. SCOTT: YOUR HONOR. OBJECTION. I DON'T
5 BELIEVE THIS IS IN---

6 THE COURT: I'M SORRY. I COULDN'T HEAR YOU.

7 MR. SCOTT: I'M OBJECTING TO THIS NOT BEING IN
8 RESPONSE TO ANYTHING OFFERED.

9 MR. FATA: IT GOES TO THE OPPORTUNITY FOR GRATE
10 TO HAVE SEEN LYNCH AND -- AND THEM TOGETHER.

11 THE COURT: I WILL ALLOW IT. THANK YOU.

12 BY MR. FATA:

13 Q OKAY. AGAIN, HOW ARE INMATES HOUSED? IF THEY HAVE
14 TO GO SOMEWHERE, WHAT HAPPENS?

15 A I WOULD GO GET THEM OUT THEIR CELL AND DEPENDING ON
16 WHERE THEY NEED TO GO -- MEDICAL WAS DONE INSIDE OUR
17 BUILDING SO THE NURSE WILL COME DOWN, SO WE WOULD TAKE
18 THEM THERE. CLASSIFICATION IS WHERE THEY WILL GO WITH
19 BEHAVIOR OR DISCIPLINARY PROBLEMS, FOR THEIR HEARINGS,
20 THEY WOULD GO THERE.

21 OR ANY OTHER PLACES THEY WOULD HAVE TO GO OUT OF THE
22 BUILDING, THEY USUALLY WERE ESCORTED BY A SUPERVISOR.

23 Q ALL RIGHT. WHEN THEY WEREN'T GOING SOMEWHERE, WHAT
24 WAS -- WHAT WAS THEIR STATUS?

25 A TWENTY-TWO HOURS OF THE DAY THEY WERE LOCKED DOWN.

1 TWO HOURS OF THE DAY, ONE HOUR THEY CAME OUT FOR REC.
2 THAT'S USUALLY IN THE MORNING SOMEWHERE AROUND NINE OR 10.
3 THEN I LET THEM GO OUT THE BACK OF THE UNIT AND THEY'LL GO
4 PLAY BASKETBALL, DO WHATEVER THEY DO, THEN I'LL CALL THEM
5 BACK IN AND LOCK THE UNIT, THAT DOOR, AND THEN THEY'LL
6 START FOR THEIR SHOWERS.

7 Q SO THEY'RE -- 22 HOURS A DAY ARE LOCKED DOWN, ONE
8 HOUR THEY GET A SHOWER, ONE HOUR THEY GO OUT IN THE BACK
9 YARD?

10 A CORRECT.

11 Q NOT THE GENERAL -- IS THAT THE GENERAL YARD?

12 A THAT'S THE BACK YARD. IT'S -- IT'S SEGREGATED TO
13 ONLY THAT UNIT, SO IT'S THERE FOR ONLY THAT UNIT. NOW,
14 THERE ARE OTHER UNITS ON THE OTHER SIDES, SO MUCH SPACE
15 BETWEEN THEM. I MEAN, THEY CAN HOLLER AT EACH OTHER, BUT
16 THEY COULDN'T REACH OUT OR DO ANYTHING ELSE BEYOND THAT.

17 Q SO THE INMATES ARE GENERALLY SEGREGATED TO
18 THEMSELVES?

19 A CORRECT. AND THE NORTH SIDE ONLY WENT OUT DURING THE
20 MORNING TIME. THE SOUTH SIDE WOULD GO OUT IN THE
21 AFTERNOON.

22 Q DO YOU RECALL WHAT SIDE INMATE LYNCH WAS ON MOST OF
23 THE TIME?

24 A INMATES LYNCH WAS ORIGINALLY ON THE NORTH SIDE ON
25 THE -- ON THE BOTTOM FLOOR. AND THE OTHER INMATE WAS ON

1 THE TOP BLOCK. SO I RECOMMENDED THAT INMATE LYNCH AND
2 INMATE SINGLETARY GO TO THE OTHER SIDE WHICH WAS THE SOUTH
3 SIDE. ONE BECAUSE OF POSITIVE BEHAVIOR OR NEGATIVE
4 BEHAVIOR.

5 Q ALL RIGHT. SO NOT ONLY WERE THE INMATES SEGREGATED
6 IN THEIR CELL, INMATE GRATE WAS ON THE NORTH SIDE FOR A
7 LONG TIME AND LYNCH WAS ON THE SOUTH SIDE?

8 A CORRECT. INMATE GRATE NEVER WENT TO THE SOUTH SIDE,
9 SO HE WAS ALWAYS ON THE NORTH SIDE. AND HE NEVER WORKED
10 WITH ME BECAUSE OF DISCIPLINARY PROBLEMS.

11 MR. FATA: I DON'T HAVE ANYTHING ELSE FROM THIS
12 WITNESS.

13 BY MR. FATA:

14 Q ANSWER ANY QUESTIONS MR. SCOTT OR MR. DOBY MAY HAVE.

15 THE COURT: MR. DOBY?

16 MR. DOBY: NO QUESTIONS, YOUR HONOR.

17 THE COURT: THANK YOU. MR. SCOTT?

18 MR. SCOTT: YES, SIR, BRIEFLY.

19 CROSS-EXAMINATION

20 BY MR. SCOTT:

21 Q MR. DOZIER, WHAT SHIFT DID YOU WORK WHEN YOU WERE AT
22 SCDC IN THE CHESTERFIELD UNIT?

23 A I WORKED FROM SEVEN TO SEVEN, BUT WE HAD TO REPORT BY
24 6:45 FOR OUR ASSIGNMENT.

25 Q THAT'S 7 A.M TO 7 P.M.?

1 A SEVEN A.M. TO 7 P.M.

2 Q ALL RIGHT. AND YOU WORKED HOW MANY DAYS A WEEK, SIR?

3 A VARIED. WE WERE ON A ROTATION THAT TWO, THREE DAYS,
4 FOUR DAYS, IT VARIED, SO I COULDN'T REALLY--

5 Q OKAY.

6 A -- DEFINE IT.

7 Q BUT YOU WORKED THE DAY SHIFT?

8 A YES.

9 Q YOU DIDN'T WORK -- YOU DIDN'T HAVE A SWING SHIFT THAT
10 YOU WORKED?

11 A NO.

12 Q OKAY. WHAT ABOUT OFFICER COTTON?

13 A HE WORKED THE SAME SHIFT I WORKED.

14 Q SAME SHIFT?

15 A RIGHT.

16 Q OKAY. AND ARE YOU SAYING THAT THERE WOULD NEVER BE A
17 TIME WHEN OFFICER COTTON WAS ASSIGNED TO THE OTHER WING
18 THAT HE WOULD NOT COME OVER THERE UNLESS IT WAS OFFICIALLY
19 REQUIRED FOR HIM TO ASSIST SOMEBODY ON YOUR WING?

20 A THAT'S CORRECT.

21 Q OKAY. AND HOW LONG HAD YOU WORKED ON THE
22 CHESTERFIELD UNIT?

23 A I WORKED CHESTERFIELD FROM THE TIME I WAS IN TRAINING
24 TILL THE TIME I GRADUATED FROM THE ACADEMY UNTIL THE
25 INCIDENT OCCURRED.

1 Q OKAY.

2 A SO BECAUSE OF MY POLICE EXPERIENCE, BECAUSE OF MY
3 RELATIONSHIP DEALING WITH INMATES, THAT UNIT WAS CLOSE
4 CUSTODY. THAT MEANT THE INMATES THAT WERE THERE WERE
5 PRETTY MUCH THE WORST OF THE WORST, EITHER COMING FROM
6 LOCK-DOWN WHERE THEY WERE LOCKED DOWN---

7 Q MY -- MY QUESTION IS, HOW LONG DID YOU WORK ON THE
8 UNIT?

9 A I WORKED THERE APPROXIMATELY EIGHT MONTHS.

10 Q OKAY. EIGHT MONTHS. AND WAS -- DURING THAT EIGHT
11 MONTH PERIOD, HOW LONG OR HOW MANY CHANCES DID YOU GET A
12 CHANCE TO WORK WITH OFFICER COTTON?

13 A WELL, I SAW HIM IN THE -- WHEN WE DID OUR ROLE CALL
14 IN THE MORNING. BUT AS FOR WORKING FOR HIM -- WORKING
15 WITH HIM IN THAT EIGHT MONTH PERIOD, I COULDN'T TELL YOU.
16 IT WAS NO MORE THAN -- IN 2003? 2002 IT WAS A LITTLE BIT
17 MORE, BUT 2003 NOT AT ALL.

18 Q OKAY.

19 A NOT THAT OFTEN.

20 Q SO THERE WEREN'T MANY OPPORTUNITIES THEN THAT YOU
21 ACTUALLY HAD A CHANCE TO -- TO WORK WITH HIM?

22 A NO, SIR.

23 Q OKAY.

24 A I WAS REALLY -- TO BE HONEST WITH YOU, IF OFFICERS
25 WERE NOT ASSIGNED TO THAT UNIT, I DIDN'T KNOW WHAT

1 OCCURRED BECAUSE CLOSE CUSTODY WAS IT'S OWN WORLD. WE HAD
2 A -- WE DIDN'T -- INMATES DIDN'T GO OUT TO EAT LIKE THE
3 REST OF THE INMATES DID. EVERYTHING WE DID WAS IN
4 IN-HOUSE.

5 Q YES, SIR.

6 A SO IT WAS A WHOLE DIFFERENT ENVIRONMENT THAN ALL THE
7 REST OF THE UNITS.

8 Q I UNDERSTAND.

9 A SO THAT MADE A BIG DIFFERENCE.

10 Q SO IF YOU DIDN'T HAVE A REASON TO ACTUALLY -- TO
11 OBSERVE OR BE ASSOCIATED WITH ANY PARTICULAR OTHER
12 CORRECTIONAL OFFICER, YOU SIMPLY DIDN'T -- WENT ABOUT
13 DOING YOUR JOB?

14 A CORRECT.

15 Q AND THEY DID THEIRS.

16 A I CAN TELL YOU AS OFFICERS ON THE SHIFT THAT -- TODAY
17 THAT IF I DIDN'T SEE THEM IN BRIEFING IN THE MORNING, I
18 DIDN'T KNOW WHO THEY WERE.

19 Q OKAY. ALL RIGHT. NOW, YOU SAID SOMETHING EARLIER
20 WHICH LITTLE -- CONFUSED ME A LITTLE BIT. YOU SAID THAT
21 LYNCH WAS ON THE NORTH SIDE INITIALLY, RIGHT?

22 A LYNCH, SINGLETARY, YES.

23 Q OKAY. AND THEN AT SOME POINT HE WAS TRANSFERRED --
24 MR. LYNCH -- TO THE SOUTH SIDE.

25 A CORRECT.

1 Q CORRECT? AND DID YOU SAY THAT YOU GET TRANSFERRED TO
2 THE SOUTH SIDE FOR BAD BEHAVIOR, TOO? MY UNDERSTANDING
3 WAS YOU GOT TRANSFERRED TO THE SOUTH SIDE FOR GOOD
4 BEHAVIOR.

5 A I AS THE OFFICER WORKED WITH THE CLASSIFICATION
6 OFFICER, AND THE CLASSIFICATION OFFICER WOULD ALLOW ME TO
7 PROVIDE NAMES FOR INMATES THAT I WANTED MOVED TO THE OTHER
8 SIDE. I HAD SOME KIND OF CHOICE IN THAT. MOST INMATES
9 AFTER A SIX MONTH PERIOD OF GOOD BEHAVIOR, THEY CAN BE
10 MOVED OVER TO THE SOUTH SIDE.

11 Q AND THAT'S CALLED -- ALSO CALLED THE POSITIVE SIDE?

12 A CORRECT.

13 Q OKAY.

14 A SO THE SOUTH SIDE WAS POSITIVE. THEY HAD MORE TIME
15 WITH -- THEY HAD TVS AT ONE TIME. THEY WERE ABLE TO GO
16 OUT FOR REC A LONG PERIOD OF TIME. AT ONE TIME THEY WERE
17 EVEN ABLE TO GO TO THE CAFETERIA. SO I DID HAVE A
18 DECISION MAKING BECAUSE I DEALT WITH THE INMATES EVERY DAY
19 IN REGARDS TO WHO WOULD GO TO ONE SIDE OR THE OTHER.

20 Q OKAY.

21 A NOW, SOME INMATES I DID SEND TO THE SOUTH SIDE
22 BECAUSE OF NEGATIVE BEHAVIOR BECAUSE I DIDN'T LIKE DEALING
23 WITH CERTAIN INMATES, AND THAT WAS A CHOICE THAT I HAD.

24 Q YOU EVER RECALL MR. LYNCH COMPLAINING TO YOU ABOUT
25 ANY INAPPROPRIATE ACTIVITIES OR ANY INAPPROPRIATE CONDUCT

1 BY MR. COTTON TOWARD HIM?

2 A NEGATIVE. IF THERE WAS -- I WAS A PAPERWORK PERSON,
3 SO IF THERE WAS SOMETHING, I WOULD TELL THEM TO WRITE A
4 COMPLAINT AND I WOULD TURN IT OVER TO THE SUPERVISOR,
5 WHICH IS PROTOCOL.

6 Q OKAY.

7 A AND IF THAT WAS NEVER DONE TO ME, THERE WAS NEVER A
8 COMPLAINT.

9 Q SO SINGLETARY -- FORGIVE ME. MR. LYNCH WAS
10 TRANSFERRED TO THE POSITIVE SIDE WAS---

11 A CORRECT.

12 Q AND YOU SAID MR. GRATE STAYED ON THE NORTH SIDE?

13 A CORRECT.

14 Q OKAY. ALL RIGHT. THANK YOU, SIR. THAT'S ALL.

15 THE COURT: THANK YOU. MR. FATA?

16 MR. FATA: NOTHING ELSE, YOUR HONOR.

17 THE COURT: THANK YOU. MR. DOZIER, YOU CAN STEP
18 DOWN.

19 MR. FATA: THAT'S ALL WE HAVE IN REPLY, JUDGE.

20 THE COURT: THANK YOU. NOW, LADIES AND
21 GENTLEMEN, THAT MEANS THAT YOU HAVE HEARD ALL OF THE
22 EVIDENCE AND TESTIMONY THAT YOU WILL HEAR IN THE
23 TRIAL OF THIS WHOLE CASE. YOU HAVE YET TO HEAR THE
24 FINAL ARGUMENTS THE LAWYERS WILL PRESENT TO YOU AND
25 THE CHARGE ON THE LAW WHICH WILL BE GIVEN AFTER THE

1 ARGUMENTS HAVE BEEN PRESENTED.

2 WE'RE GOING TO STOP FOR LUNCH AT THIS POINT IN
3 TIME AND ASK THAT YOU BE BACK IN THE JURY ROOM AT
4 1:30. THAT'S AN HOUR AND 25 MINUTES. AT 1:30 WE
5 WILL CONCLUDE THIS TRIAL WITH THE ARGUMENTS AND THE
6 CHARGE AS I PREVIOUSLY INSTRUCTED YOU.

7 NOW, YOU HAVE HEARD ALL OF THE TESTIMONY, YOU
8 HAVE SEEN ALL THE EVIDENCE. THERE'S NOT GOING TO BE
9 ANY MORE EVIDENCE PRESENTED TO YOU. BUT YOU HAVEN'T
10 HEARD THE LAW YET AND SO YOU'RE STILL NOT AT LIBERTY
11 TO DISCUSS THIS CASE AMONG YOURSELVES OR TALK WITH
12 ANYBODY ELSE ABOUT IT.

13 SO KEEP THOSE SAME INSTRUCTIONS THAT I HAVE BEEN
14 GIVING YOU EVERY TIME IN YOUR MIND AND CONTINUE TO
15 ABIDE BY THEM AS YOU HAVE IN THE PAST. ENJOY YOUR
16 LUNCH, LADIES AND GENTLEMEN. WE WILL SEE YOU BACK AT
17 1:30. THANK YOU.

18 (JURY LEFT COURTROOM AT 12:12 P.M.)

19 THE COURT: ALL RIGHT. GENTLEMEN, IN REGARD TO
20 THE CHARGE, I WILL GIVE MY STANDARD FELONY CHARGE
21 WHICH INCLUDES THE DEFINITION OF REASONABLE DOUBT
22 FROM VICTOR VERSUS NEBRASKA OR STATE VERSUS DARBY.
23 IT IS THE FIRMLY CONVINCED OR REAL POSSIBILITY
24 CHARGE.

25 I WILL CHARGE THE FACT THAT THE DEFENDANTS DID

1 NOT TESTIFY. I WILL CHARGE THE HAND OF ONE IS THE
2 HAND OF ALL. I WILL CHARGE THE CONVICTION OF A CRIME
3 BY A WITNESS BEING OFFERED FOR A LIMITED PURPOSE.

4 I WILL CHARGE LIMITED PURPOSE EVIDENCE AS TO THE
5 TESTIMONY OF INMATE GRATE. I WILL CHARGE CONFESSION,
6 AND WILL DEFINE RIOT, HOSTAGE, CONSPIRE IN THAT
7 REGARD.

8 GENTLEMEN, IF YOU ALL ARE STILL IN ACCORD YOU
9 WANT ME TO INSTRUCT THE JURY BEFORE YOUR ARGUMENTS AS
10 TO THE CHARGES AND STATUTES IN THIS REGARD AND THE
11 ELEMENTS OF THOSE PARTICULAR STATUTES, I WILL BE GLAD
12 TO DO THAT AND THEN ALLOW YOU ALL ARGUMENTS. AND I,
13 OF COURSE, WILL CONCLUDE MY CHARGE.

14 THE VERDICT FORM ON EACH OF THESE CHARGES WILL
15 BE GUILTY OR NOT GUILTY. THERE ARE NO LESSER
16 INCLUDED CHARGES THAT ARE INCLUDED IN THESE -- IN THE
17 CHARGES IN THE INDICTMENT.

18 THERE WILL BE A SEPARATE VERDICT FORM FOR MR.
19 SINGLETARY AND A SEPARATE VERDICT FORM FOR MR. LYNCH.
20 THE JURY WILL BE INSTRUCTED, OF COURSE, THAT THEY CAN
21 CONVICT OR ACQUIT EITHER OR BOTH DEFENDANTS ON ANY OR
22 ALL OF THE CHARGES ACCORDING TO THEIR VIEW OF THE
23 EVIDENCE IN THE CASE.

24 AND NOW LET'S GET TO THE MATTER OF FINAL
25 ARGUMENTS. MR. DOBY, YOU WILL PRESENT THE FIRST OF

1 THE FINAL ARGUMENTS. MR. SCOTT, THE SECOND. MR.
2 FATA WILL HAVE THE RIGHT THEN TO CLOSE.

3 ANYBODY GOT ANY IDEA NOW ABOUT HOW LONG YOU
4 THINK YOU'D LIKE TO HAVE TO PRESENT YOUR FINAL
5 ARGUMENTS, MR. DOBY?

6 MR. DOBY: YOUR HONOR, I WOULD BE LESS THAN 30
7 MINUTES.

8 THE COURT: ALL RIGHT. MR. SCOTT?

9 MR. SCOTT: I WOULD THINK NO MORE THAN THAT,
10 YOUR HONOR.

11 THE COURT: OKAY. MR. FATA?

12 MR. FATA: EVEN THOUGH THERE'S A LOT OF MATERIAL
13 HERE, I NEED TO KEEP IT WITHIN 30 MINUTES.

14 THE COURT: OKAY. ALL RIGHT. GENTLEMEN, I'VE
15 TRIED CASES WITH SOME OF YOU OR NOT WITH OTHERS. AS
16 YOU KNOW, I DON'T BLOW A WHISTLE OR RING A BELL AT 30
17 MINUTES, BUT I DO, IF I GET THE IMPRESSION THAT
18 YOU'VE FORGOTTEN HOW LONG YOU TOLD ME YOU WERE GOING
19 TO TAKE TO ARGUE, I'LL TRY TO FIND SOME WAY TO
20 DISCREETLY REMIND YOU DURING THE COURSE OF YOUR
21 ARGUMENTS.

22 ALL RIGHT. MR. FATA, IS THERE ANYTHING FURTHER
23 BEFORE WE BREAK FOR LUNCH FROM THE STATE?

24 MR. FATA: NOTHING FROM THE STATE, YOUR HONOR.

25 THE COURT: MR. DOBY, FROM MR. SINGLETARY?

1 MR. DOBY: NO, SIR, YOUR HONOR.

2 THE COURT: MR. SCOTT, FROM MR.---

3 MR. SCOTT: NO, SIR.

4 THE COURT: 1:30 GENTLEMEN. THANK YOU.

5 (WHEREUPON COURT WAS IN RECESS FOR LUNCH.)

6 THE COURT: ASK THEM TO BRING IN THE DEFENDANTS,
7 PLEASE.

8 (DEFENDANTS IN COURTROOM.)

9 THE COURT: MR. DOBY, IS THE STATE NOW READY FOR
10 THE JURY? I MEAN, MR. FATA? I'M SORRY.

11 MR. FATA: YES, SIR.

12 THE COURT: MR. DOBY IS MAKING THE FIRST
13 ARGUMENTS -- MR. DOBY, ARE YOU READY TO PROCEED?

14 MR. DOBY: YES, SIR, YOUR HONOR.

15 THE COURT: AND MR. SCOTT?

16 MR. SCOTT: YES, SIR.

17 THE COURT: THANK YOU. ALL RIGHT. BRING US THE
18 JURY, PLEASE.

19 (JURY ENTERED THE COURTROOM AT 1:39 P.M.)

20 JURY CHARGE

21 THE COURT: LADIES AND GENTLEMEN, NOW AS I TOLD
22 YOU, WE ENTER THE VERY FINAL PHASE OF THE TRIAL OF
23 THIS CASE. THAT WILL CONSIST OF THE FINAL ARGUMENTS
24 THAT THE LAWYERS WILL PRESENT.

25 IN JUST A MOMENT WHEN I FINISH GOING OVER

1 BRIEFLY WITH YOU THE ELEMENTS OF THE CAUSES OF THE
2 CHARGES AGAINST MR. SINGLETARY AND MR. LYNCH,
3 MR. DOBY WILL HAVE THE RIGHT TO PRESENT THE FINAL
4 ARGUMENT ON BEHALF OF MR. SINGLETARY.

5 MR. SCOTT WILL THEN HAVE THE RIGHT TO PRESENT
6 THE FINAL ARGUMENT ON BEHALF OF MR. LYNCH. AND AFTER
7 THOSE ARGUMENTS HAVE BEEN PRESENTED, THEN MR. FATA ON
8 BEHALF OF THE STATE HAS THE RIGHT TO MAKE THE LAST
9 ARGUMENT BECAUSE THE STATE HAS THE BURDEN OF PROOF.
10 THEY HAVE THE RIGHT TO MAKE THE LAST ARGUMENT.

11 AFTER THAT HAS BEEN DONE, THEN I WILL GIVE YOU
12 THE FINAL INSTRUCTION AS TO WHAT THE LAW IS IN THIS
13 CASE AND THEN YOU'LL BE ABLE TO GO BACK INTO YOUR
14 JURY ROOM TO FINALLY START TALKING ABOUT THIS CASE
15 AMONG YOURSELVES, TO DELIBERATE, AND TO REACH A
16 VERDICT IN THIS PARTICULAR CASE.

17 I COMMEND YOU FOR THE ATTENTION YOU HAVE GIVEN
18 THROUGHOUT THIS TRIAL. YOU HAVE PAID CLOSE
19 ATTENTION. AS I TOLD YOU BEFORE THE CASE BEGAN, I
20 THOUGHT IT WAS THE TYPE OF CASE THAT WOULD COMPEL
21 YOUR ATTENTION, AND INDEED IT HAS BEEN, AND YOU HAVE
22 GIVEN IT THAT TYPE OF STRICT ATTENTION THAT IT NEEDS.

23 YOU WILL BE ABLE WHEN YOU HAVE FINISHED
24 LISTENING TO THE COURT AND TO THE LAWYERS TO GO BACK
25 AND TO INTELLIGENTLY DISCUSS THIS CASE AND TO REACH A

1 VERDICT AMONG YOURSELVES.

2 NOW, LET ME TELL YOU WHAT THE ELEMENTS OF THE
3 OFFENSES CHARGED AGAINST THESE DEFENDANTS ARE. I
4 TELL YOU THAT NOW SO THAT WHEN THE LAWYERS PRESENT
5 THEIR FINAL ARGUMENTS FROM ONE SIDE OR THE OTHER THEY
6 MAY WELL WISH TO FOCUS ON THESE ELEMENTS.

7 THE DEFENSE MAY WISH TO FOCUS ON WHAT THEY
8 CONTEND TO BE THE LACK OF THESE ELEMENTS WHICH WOULD,
9 OF COURSE, ENTITLE THE DEFENDANT TO A VERDICT OF NOT
10 GUILTY ON A PARTICULAR CHARGE.

11 MR. FATA WILL WANT TO FOCUS ON THE PRESENCE OF
12 THESE ELEMENTS, WHICH IF PROVEN BEYOND A REASONABLE
13 DOUBT WOULD ENTITLE THE STATE TO A VERDICT OF GUILTY
14 ON THE CHARGE. AND SO THAT'S THE REASON THAT I AM
15 GOING TO GO OVER THIS WITH YOU NOW AT THIS
16 PRELIMINARY STAGE.

17 NOW LADIES AND GENTLEMEN, THE FIRST COUNT OF THE
18 INDICTMENT THE DEFENDANTS, MR. SINGLETARY AND MR.
19 LYNCH, ARE CHARGED WITH RIOTING. AND UNDER THE LAW
20 THE LAW MAKES IT A CRIME FOR ANY INMATE OF THE
21 DEPARTMENT OF CORRECTIONS TO PARTICIPATE IN A RIOT OR
22 OTHER ACTS OF VIOLENCE.

23 AND SO IN ORDER FOR THE STATE TO OBTAIN A
24 CONVICTION ON THE CHARGE OF RIOTING, THEY WOULD HAVE
25 TO PROVE THAT THESE DEFENDANTS, EITHER OR BOTH OF

1 THEM, AND EACH OF THEM WILL BE DECIDED BY YOU
2 INDIVIDUALLY.

3 MR. SINGLETARY'S GUILT OR INNOCENCE WILL BE
4 DECIDED DIFFERENTLY FROM MR. -- OR SEPARATELY FROM
5 MR. LYNCH'S GUILT OR INNOCENCE. YOUR VERDICT AS TO
6 ONE DEFENDANT DOES NOT NECESSARILY CONTROL YOUR
7 VERDICT AS TO THE OTHER.

8 YOUR VERDICT AS TO ONE COUNT ON THE INDICTMENT
9 DOES NOT NECESSARILY CONTROL YOUR VERDICT AS TO
10 ANOTHER COUNT OF THE INDICTMENT. YOU WILL CONSIDER
11 EACH OF THESE CHARGES SEPARATELY OF THE OTHER AND YOU
12 WILL CONSIDER EACH DEFENDANT'S CHARGES SEPARATELY OF
13 THE OTHER SO THAT EITHER OR BOTH OF THESE DEFENDANTS
14 MAY BE CONVICTED OR ACQUITTED ON ANY OR ALL OF THE
15 CHARGES IN THE INDICTMENT DEPENDING UPON YOUR VIEW OF
16 THE EVIDENCE AND THE LAW THAT I WILL INSTRUCT YOU.

17 THE FIRST COUNT OF THE INDICTMENT, THE CHARGE OF
18 RIOTING, SAYS THAT ANY INMATE OF THE DEPARTMENT OF
19 CORRECTIONS THAT PARTICIPATES IN A RIOT OR OTHER ACTS
20 OF VIOLENCE IS GUILTY OF THIS CHARGE.

21 SO THERE ARE TWO ELEMENTS OF THIS OFFENSE. THE
22 STATE HAS TO PROVE THAT EITHER OR BOTH OF THESE
23 DEFENDANTS WHILE INMATES IN THE DEPARTMENT OF
24 CORRECTIONS, AND THE SECOND ELEMENT IS PARTICIPATED
25 IN A RIOT OR OTHER ACTS OF VIOLENCE.

1 A RIOT UNDER THE LAW IS DESCRIBED AS AN UPRISING
2 OR A DISTURBANCE OR A REVOLT OR A REBELLION OF SOME
3 SORT.

4 THE SECOND COUNT OF THE INDICTMENT CHARGES
5 TAKING OF HOSTAGES. THERE ARE TWO SEPARATE CHARGES
6 OF TAKING A HOSTAGE, AND OF COURSE, ACCORDING TO THE
7 INDICTMENT THERE WERE TWO HOSTAGES TAKEN, ONE
8 MR. MARCUS COTTON AND ONE MR. KENNETH DOZIER. YOU
9 WILL CONSIDER ONCE AGAIN EACH OF THOSE CHARGES AND
10 COUNTS SEPARATE FROM THE OTHER.

11 IN THIS PARTICULAR CASE THE ELEMENTS THAT THE
12 STATE MUST PROVE BEYOND A REASONABLE DOUBT ARE THAT
13 THESE DEFENDANTS OR EITHER OR BOTH OF THEM WHILE AN
14 INMATE WITH THE DEPARTMENT OF CORRECTIONS EITHER
15 ACTED ALONE OR IN CONCERT WITH OTHERS AND EITHER BY
16 THREATS OR COERCION OR INTIMIDATION OR PHYSICAL FORCE
17 EITHER TOOK OR HOLD OR CARRIED AWAY A PERSON AS A
18 HOSTAGE FOR ANY REASON WHATSOEVER.

19 AND SO THE ELEMENTS OF THAT CHARGE ARE THAT A
20 DEFENDANT WHILE AN INMATE IN THE DEPARTMENT OF
21 CORRECTIONS, AND THE SECOND ELEMENT IS, EITHER ACTED
22 ALONE OR IN CONCERT WITH SOMEBODY ELSE, AND THE THIRD
23 ELEMENT IS USED EITHER THREATS OR COERCION OR
24 INTIMIDATION OR PHYSICAL FORCE, AND THE FOURTH
25 ELEMENT IS TOOK OR HOLD OR CARRIED AWAY ANY PERSON AS

1 A HOSTAGE.

2 A HOSTAGE, LADIES AND GENTLEMEN, UNDER THE LAW
3 IS DEFINED AS A CAPTIVE, A DETAINEE, A PRISONER, A
4 PERSON WHOSE FREEDOM OF MOVEMENT IS INVOLUNTARILY
5 RESTRAINED.

6 THE NEXT COUNT OF THE INDICTMENT CHARGES THE
7 DEFENDANTS WITH ASSAULT UPON A STATE OR LOCAL
8 CORRECTIONAL FACILITY EMPLOYEE. THAT LAW MAKES IT
9 ILLEGAL FOR A PERSON WHO WHILE -- WHO COMMITS AN
10 ASSAULT UPON A LOCAL OR A STATE CORRECTIONAL FACILITY
11 EMPLOYEE WHO IS PERFORMING JOB RELATED DUTIES.

12 AND SO IN ORDER TO SUSTAIN A CONVICTION ON THIS
13 CHARGE, THE STATE HAS TO PROVE BEYOND A REASONABLE
14 DOUBT THAT AN ASSAULT OCCURRED, THAT IS AN ATTACK OR
15 A THREAT OF AN ATTACK, AND SECONDLY THAT THE VICTIM
16 OF THE ASSAULT WAS A STATE OR LOCAL CORRECTIONAL
17 FACILITY EMPLOYEE, AND THIRDLY THAT THE VICTIM, THAT
18 IS THE CORRECTIONAL FACILITY EMPLOYEE WAS PERFORMING
19 HIS JOB RELATED DUTIES AT THE TIME.

20 THE NEXT COUNT OF THE INDICTMENT ACCUSES
21 CARRYING OR CONCEALING A WEAPON. THIS CHARGE OF THE
22 INDICTMENT MAKES IT UNLAWFUL FOR AN INMATE IN A STATE
23 CORRECTIONAL FACILITY TO CARRY ON OR ABOUT HIS PERSON
24 A WEAPON SUCH AS A DIRK, THAT'S A KNIFE, OR A
25 SLINGSHOT, METAL KNUCKLES, RAZOR, FIREARM, OR OTHER

1 DEADLY WEAPON, HOMEMADE OR OTHERWISE, WHICH IS
2 USUALLY USED FOR THE INFLECTION OF PERSONAL INJURY.

3 SO THEY HAVE TO PROVE IN ORDER TO MAINTAIN A
4 CONVICTION ON THIS THAT THE DEFENDANTS, WHILE INMATES
5 IN A STATE CORRECTIONAL FACILITY, CARRIED ON THEIR
6 PERSON A WEAPON SUCH AS A DIRK, KNIFE, OR OTHER
7 DEADLY WEAPON, EITHER HOMEMADE OR OTHERWISE, USED FOR
8 THE INFLECTION OF INJURY.

9 AND FINALLY THE LAST COUNT OF THE INDICTMENT
10 CHARGES INCITING TO RIOT, AND THAT COUNT OF THE
11 INDICTMENT MAKES IT ILLEGAL -- OR THE LAW IN REGARD
12 TO THAT COUNT OF THE INDICTMENT -- MAKES IT ILLEGAL
13 FOR AN INMATE IN THE DEPARTMENT OF CORRECTIONS TO
14 CONSPIRE WITH OTHER INMATES TO INCITE SUCH AN INMATE
15 TO RIOT OR COMMIT OTHER ACTS OF VIOLENCE.

16 AND SO THE STATE HAS TO PROVE FIRST OF ALL THAT
17 THESE DEFENDANTS WHILE INMATES IN THE DEPARTMENT OF
18 CORRECTIONS CONSPIRED WITH OTHER INMATES, THAT IS HAD
19 AGREEMENT, EITHER TACIT AGREEMENT OR OPEN AGREEMENT
20 OR OTHERWISE WITH, TO INCITE -- AND INCITE MEANS TO
21 PROVOKE OR TO EGG ON OR TO INFLAME OR TO MOTIVATE
22 OTHER INMATES TO RIOT AS I HAVE PREVIOUSLY DESCRIBED
23 THAT FOR YOU.

24 NOW LADIES AND GENTLEMEN, I WILL INSTRUCT YOU
25 MORE COMPLETELY ON THE LAW AS IT APPLIES TO THESE

1 ELEMENTS AND THESE OFFENSES AND THIS CASE GENERALLY
2 AFTER THE LAWYERS HAVE HAD A CHANCE TO PRESENT THEIR
3 FINAL ARGUMENTS.

4 AS I HAVE INDICATED TO YOU, MY PURPOSE IN GIVING
5 YOU THESE CHARGES AND THEIR ELEMENTS NOW IS TO ENABLE
6 YOU TO BETTER UNDERSTAND THE ARGUMENTS THAT YOU'LL BE
7 HEARING FROM THE LAWYERS. MR. DOBY?

8 MR. DOBY: MAY IT PLEASE THE COURT.

9 THE COURT: YES, SIR.

10 CLOSING STATEMENT

11 MR. DOBY: LADIES AND GENTLEMEN, LAWYERS GET UP
12 AND HAVE AN OPPORTUNITY TO TALK TO THE JURY HERE AT
13 THE LAST SORT OF GIVING YOU A VIEW OF WHAT WE
14 CONSIDER THE EVIDENCE, THE ARGUMENTS ON BEHALF OF OUR
15 CLIENTS. THERE'S NO MAGIC IN THESE ARGUMENTS.

16 LAWYERS OFTEN DEBATE AS TO WHAT -- WHAT THINGS
17 DO JURIES WANT TO HEAR, WHAT INFORMATION ARE THEY
18 LOOKING FOR FROM THE LAWYERS. DON'T KNOW THAT THERE
19 IS ANY MAGIC TO THESE ARGUMENTS. DON'T KNOW IF
20 THERE'S ANY MAGIC IN ANY WORDS THAT YOU'VE HEARD HERE
21 THIS WEEK. DON'T KNOW IF THERE'S ANY MAGIC IN THESE
22 CLOSING ARGUMENTS.

23 BUT THERE ARE CERTAIN THINGS THAT I WANT YOU TO
24 REMEMBER TO DO AS JURORS IN THIS CASE BECAUSE YOU
25 HAVE HEARD ALL THE EVIDENCE THAT YOU'RE GOING TO

1 HEAR. YOU HAVE RECEIVED ALL THE INFORMATION, ALL OF
2 THE RESOURCES OF THE STATE TO BRING EVIDENCE TO YOU
3 TO PROVE TYRONE SINGLETARY GUILTY, YOU'VE ALREADY
4 HEARD, BECAUSE THAT'S REALLY WHAT THIS CASE IS ABOUT.

5 IT IS THE STATE VERSUS TYRONE SINGLETARY. THE
6 JUDGE HAS ALREADY TOLD YOU WHAT THE CAPTION OF THIS
7 CASE, TITLE OF THIS CASE IS. AND THAT'S EXACTLY WHAT
8 IT IS.

9 WELL, THE FIRST THING THAT I'M GOING TO ASK YOU
10 TO DO IS TO REMEMBER THE JUDGE'S CHARGE AT THE
11 BEGINNING OF THIS CASE BECAUSE TYRONE SINGLETARY HAS
12 BEEN SITTING HERE THE WHOLE WEEK IN HIS PRISON
13 UNIFORM, BEEN SITTING IN THOSE CUFFS. YOU HAVE HAD
14 AN OPPORTUNITY TO SEE HIM. NO QUESTION HE'S AN
15 INMATE. NO QUESTION ABOUT THAT AT ALL.

16 BUT LADIES AND GENTLEMEN, IF YOU DO NOT -- IF
17 YOU DO NOT LISTEN TO THE JUDGE, YOU'RE GOING TO
18 VIOLATE YOUR OATH TO GIVE A FAIR TRIAL TO BOTH SIDES
19 BECAUSE WHEN YOU RAISED YOUR HAND, YOU PROMISED TO
20 GIVE A FAIR SHOT TO TYRONE SINGLETARY.

21 AND IF YOU ASSUME THAT HE MUST BE GUILTY BECAUSE
22 HE'S WEARING PRISON CLOTHES OR HE'S IN THESE CUFFS,
23 YOU VIOLATED YOUR OATH. AND IT'S AN IMPORTANT OATH
24 THAT YOU TOOK.

25 BOTH SIDES HAD AN OPPORTUNITY TO CHOOSE JURORS.

1 YOU SAW THEM. YOU SAT THROUGH THE ENTIRE PROCESS.
2 YOU WERE CHOSEN BECAUSE YOU WOULD BE FAIR IN THIS
3 CASE, AND THAT'S ALL I'M ASKING.

4 THE BURDEN OF PROOF, WHO HAS SOMETHING TO PROVE
5 TO YOU IN THIS COURTROOM, IS THE STATE, NOT TYRONE
6 SINGLETARY. HE IS PRESUMED TO BE INNOCENT. AND
7 UNTIL AND IF YOU AS THE JURY, ALL 12 MEMBERS, DECIDE
8 THAT THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT
9 THAT TYRONE IS GUILTY, THEY HAVE NOT PROVEN IT, YOUR
10 DUTY, YOUR OBLIGATION AS JURORS, WOULD BE TO FIND HIM
11 NOT GUILTY.

12 NOW, I TOLD YOU AT THE BEGINNING OF THIS CASE IN
13 THE OPENING ARGUMENT THAT I REALLY WAS GOING TO MAKE
14 IT A -- MAKE IT A LITTLE SIMPLER BECAUSE TYRONE HAD A
15 SHANK AND TYRONE STABBED OFFICER COTTON. OKAY.

16 IT IS -- IT SORT OF GOES AGAINST THE GRAIN OF
17 WHAT DEFENSE LAWYERS DO BECAUSE I AM NOT HERE TO MAKE
18 IT EASY FOR THE STATE TO CONVICT TYRONE. MY JOB IS
19 TO TEST, TO BRING OUT EVIDENCE THAT IS FAVORABLE TO
20 TYRONE.

21 BUT LADIES AND GENTLEMEN, JUST AS I'M ASKING THE
22 STATE'S WITNESSES TO BE FAIR, TO SIMPLY TELL WHAT
23 HAPPENED, WE HAVE TO BE TRUTHFUL AS WELL. AND TYRONE
24 DID THOSE TWO THINGS.

25 BUT LADIES AND GENTLEMEN, WHAT I'M ASKING YOU TO

1 DO IS TO CONSIDER THE OTHER FOUR CHARGES THAT THE
2 STATE HAS BROUGHT AGAINST TYRONE, RIOTING, INCITING
3 TO RIOT, AND TAKING HOSTAGES.

4 NOW LADIES AND GENTLEMEN, YOU'RE GOING TO HAVE
5 CERTAIN THINGS THAT YOU GET TO TAKE BACK HERE TO THIS
6 JURY ROOM. YOU'RE GOING TO HAVE CERTAIN PIECES OF
7 EVIDENCE. BUT A LOT OF STUFF YOU HAVE RIGHT HERE IN
8 YOUR HEAD BECAUSE IT'S NOT WRITTEN DOWN.

9 SOME THINGS THAT I WANT YOU TO CONSIDER IN THIS
10 CASE IS WHETHER OR NOT THE TESTIMONY OF THE STATE'S
11 WITNESSES AS WELL AS THE DEFENSE WITNESSES WAS
12 CONSISTENT.

13 OFFICER SCARBOROUGH, THOMAS, SEVERAL OTHERS, GOT
14 UP AND TOLD YOU CERTAIN STORIES ABOUT WHAT THEY SAW,
15 THEY -- THEY WERE RELAYING THINGS THAT THEY
16 REMEMBERED FROM TWO YEARS AGO.

17 BUT LADIES AND GENTLEMEN, THEY ALSO GAVE
18 STATEMENTS. IN THE CASE OF WANDA SCARBOROUGH, SHE
19 GAVE A STATEMENT WITHIN HOURS AFTER THIS INCIDENT.
20 AS A MATTER OF FACT, ALL OF THE STATEMENTS THAT I PUT
21 IN THAT -- ON BEHALF OF TYRONE WERE WITHIN HOURS OR
22 THEY WERE WITHIN DAYS AFTER THIS INCIDENT.

23 AND YOU HAVE TO USE YOUR GOOD COMMON SENSE.
24 WHICH ONE IS GOING TO BE A BETTER RECOLLECTION.
25 BECAUSE IF I LOOK OUT THAT WINDOW AND I DESCRIBE A

1 TREE, I'M IMMEDIATELY WRITING DOWN WHAT THAT TREE
2 LOOKS LIKE.

3 AND THEN YOU ASK ME TWO YEARS LATER, WHAT DID
4 THAT TREE LOOK LIKE? MY DESCRIPTION IS PROBABLY NOT
5 GOING TO BE AS GOOD. HE CAN'T HELP BUT BE AS GOOD
6 BECAUSE IT'S TWO YEARS AFTER THE INCIDENT.

7 SO I'M ASKING YOU TO LOOK AT THESE STATEMENTS.
8 LOOK AT THOSE THINGS THAT ARE CONTAINED IN THERE.
9 WHICH ONE DO YOU BELIEVE IS GOING TO BE A BETTER -- A
10 BETTER PIECE OF EVIDENCE. AND I CONTEND THAT THESE
11 STATEMENTS ARE GOING TO BE BETTER. SO LOOK AT THEM.

12 YOU HAD TESTIMONY FROM SOME OF WHAT I CALL THE
13 FIRST RESPONDERS, OFFICER THOMAS, OFFICER ASHE.
14 REMEMBER WHAT THEY SAID. THINK BACK ABOUT WHAT THEY
15 TOLD YOU. DOES IT MATCH WHAT YOU WERE TOLD BY OTHER
16 STATE'S WITNESSES?

17 FOR INSTANCE, WE HEARD FROM ONE OF THE FIRST
18 RESPONDERS THAT TYRONE SINGLETARY HAD STABBED OFFICER
19 COTTON RIGHT THERE IN FRONT OF THE CHESTERFIELD UNIT
20 DOOR TWO TIMES. OFFICER COTTON NEVER TESTIFIED TO
21 THAT, NEVER SAID THAT TYRONE SINGLETARY STABBED HIM
22 TWO TIMES IN FRONT OF THE DOOR.

23 IT'S TWO YEARS AGO. THEIR MEMORY IS NOT GOING
24 TO BE AS GOOD. NOW, YOU ALSO HAD TESTIMONY FROM
25 NEGOTIATORS, CYNTHIA YORK AS WELL AS MRS. BLANDSHAW.

1 AND FROM THEIR TESTIMONY THEY WERE AT THE FRONT DOOR
2 FOR ABOUT TWO AND A HALF HOURS, TWO HOURS, TWO AND A
3 HALF HOURS IS WHAT THEY DESCRIBED.

4 THEIR TESTIMONY WAS THAT TYRONE SINGLETARY CAME
5 TO THAT DOOR AND YELLED, STOP THE GAS, WHICH WAS THE
6 SAME THING THAT PROBABLY MOST INMATES IN THAT
7 INSTITUTION IN THE CHESTERFIELD UNIT WERE YELLING AT
8 THE SAME TIME.

9 SURE, EVERYBODY WANTED THE GAS TO STOP. NO ONE
10 COULD BREATHE WHEN THEY PUMPED IN THE GAS. DOES THAT
11 MAKE THEM GUILTY, THOUGH? DON'T KNOW. YOU'RE GOING
12 TO HAVE TO TEST THAT TO SEE.

13 NOW, YOU HAVE GOT WHAT I CONTEND IS PROBABLY THE
14 BEST PIECE OF EVIDENCE THAT YOU COULD EVER HAVE IN
15 ANY CRIMINAL CASE AND THAT'S A VIDEO OF WHAT WAS
16 GOING ON. YOU'RE GOING TO HAVE THIS VIDEO. THERE
17 WERE ONLY PARTS THAT WERE SHOWN TO YOU OF WHAT THIS
18 VIDEO DEPICTED AT THAT DOOR, WHAT IT SHOWED AT THE
19 DOOR.

20 BUT LADIES AND GENTLEMEN, YOU HAD AN OPPORTUNITY
21 TO VIEW THAT, TO LOOK AT IT, TO TEST AND DETERMINE.
22 BECAUSE IF YOU JUST LISTENED TO MAJOR FERRARO, YOU
23 WOULD HAVE THOUGHT THAT TYRONE SINGLETARY WAS THE
24 ABSOLUTE RING LEADER, WAS THE ABSOLUTE ONLY PERSON
25 THAT WAS AT THAT DOOR, THAT HE WAS THE ONE MAKING THE

1 DEMANDS, HE WAS THE ONE MAKING THE THREATS.

2 LOOK AT THE TAPE. LOOK AT THE VIDEO. IT'S YOUR
3 BEST EVIDENCE. AND WHEN YOU LOOK AT IT, THINK BACK,
4 DOES IT REALLY SHOW, DOES IT REALLY MAKE SENSE OF
5 WHAT THEY ARE SAYING THAT TYRONE SINGLETARY DID?

6 NOW, THE STATE IS GOING TO GET UP, THEY'RE GOING
7 TO MAKE A DEAL ABOUT SOME HANDWRITTEN NOTES, AND OF
8 COURSE THE AGENT FROM SLED CAME OVER AND TESTIFIED,
9 WELL, THEY'RE CONSISTENT WITH TYRONE SINGLETARY'S
10 HANDWRITING.

11 WELL, YOU'RE GOING TO HAVE A CHANCE TO LOOK AT
12 THOSE NOTES AND SEE WHETHER OR NOT THEY'RE
13 CONSISTENT. BUT LADIES AND GENTLEMEN, EVEN IF THEY
14 ARE CONSISTENT, THINK BACK AS TO WHERE THEY WERE
15 FOUND. THEY WERE FOUND IN TYRONE SINGLETARY'S LOCKER
16 OR WHAT THEY CONTEND WAS HIS LOCKER. BECAUSE THIS
17 OFFICER SAID, WELL, SOMEBODY TOLD ME THAT THAT'S WHO
18 HE WAS. BUT DID ANYBODY EVER COME UP AND VERIFY THAT
19 WAS HIS LOCKER? THEY DID NOT.

20 DO YOU THINK IF THOSE NOTES WERE REALLY GOING TO
21 BE USED TO INCITE A RIOT, TO GET SOMEBODY TO DO
22 SOMETHING ALONG WITH TYRONE, WHERE WOULD THEY HAVE
23 BEEN FOUND? THEY'D HAVE BEEN FOUND IN THE OTHER
24 INMATES' ROOMS. THEY WOULD HAVE BEEN FOUND SOMEPLACE
25 THAT THEY REALLY WOULD HAVE BEEN USED TO INCITE A

1 RIOT, NOT STUFFED IN SOME LOCKER SOMEWHERE. THAT'S
2 NOT DOING ANYTHING.

3 IF THEY -- IF THEY HAD FOUND OTHER NOTES THAT
4 WERE GIVEN TO INMATES, I GUARANTEE YOU THEY'D HAVE
5 BEEN PARADING THEM UP HERE IN FRONT OF YOU. BUT THEY
6 WERE NOT. I ALSO GUARANTEE YOU THAT IF THEY HAD SOME
7 PHYSICAL EVIDENCE -- THAT'S REALLY WHAT YOU CAN
8 TOUCH, YOU GOT PHYSICAL EVIDENCE, YOU GOT THE SHIRT,
9 YOU GOT A SHANK, PHYSICAL EVIDENCE.

10 IF THEY HAD PHYSICAL EVIDENCE TO TIE -- TO TIE
11 TYRONE SINGLETARY TO ANYTHING THEY SAID THAT HE DID,
12 I PROMISE YOU THEY'D HAVE BEEN PARADING IT UP HERE.
13 IF OFFICER COTTON'S BLOOD WOULD HAVE BEEN ON TYRONE
14 SINGLETARY'S CLOTHES, ON HIS SUIT, I GUARANTEE YOU
15 YOU WOULD HAVE HEARD ABOUT IT. MUST NOT HAVE BEEN
16 BECAUSE THEY DIDN'T TELL YOU ABOUT IT.

17 IF TYRONE SINGLETARY'S FINGERPRINTS WOULD HAVE
18 BEEN ON THOSE NOTES THAT THEY SAY HE WROTE, I
19 GUARANTEE YOU THEY WOULD HAVE BEEN GETTING UP HERE
20 AND TELLING YOU ABOUT IT.

21 IF TYRONE SINGLETARY'S FINGERPRINTS HAD BEEN ON
22 THE SHANK THAT THEY TOLD YOU ABOUT THAT MAY OR MAY
23 NOT HAVE HAD OFFICER COTTON'S BLOOD ON IT, I
24 GUARANTEE YOU THEY'D HAVE BEEN TELLING YOU ABOUT IT.

25 I THINK WHEN IT COMES DOWN ON THE PHYSICAL

1 EVIDENCE, THE STATE HAS FAILED TO PROVE TO YOU BY ANY
2 PHYSICAL EVIDENCE TYRONE HAD ANYTHING TO DO WITH
3 THIS.

4 PHYSICAL EVIDENCE FAILS. SO WHAT HAVE YOU GOT?
5 YOU'VE GOT TESTIMONY. YOU GOT TESTIMONY FROM SOME
6 OFFICERS AND REALLY FROM SOME NEGOTIATORS.

7 MAJOR FERRARO'S OWN, WHAT I CALL A LOG, WHICH
8 WOULD BE HE WROTE DOWN WHAT HAPPENED AT EACH
9 PARTICULAR TIME, THERE WERE THREE MENTIONS OF TYRONE
10 SINGLETARY, AND WE WENT OVER EVERY ONE OF THOSE AS TO
11 WHAT HE SAID HE DID.

12 AT NO POINT IN THAT LOG DOES IT INDICATE TYRONE
13 SINGLETARY HAD TAKEN ANYONE HOSTAGE. YOU'VE GOT
14 OFFICER COTTON'S STATEMENT. READ HIS STATEMENT, IT
15 WAS GIVEN A COUPLE OF DAYS AFTER THE INCIDENT. AS
16 THE AGENT FOR SLED INDICATED, HE WOULDN'T HAVE TAKEN
17 ANY STATEMENT FROM ANYBODY WHO WAS OUT OF IT BECAUSE
18 OF MEDICATION.

19 LOOK AT IT. REVIEW IT. DOES IT MAKE SENSE WITH
20 THE REST OF THE TESTIMONY? DOES IT CONTRADICT WHAT
21 HIS OTHER TESTIMONY WAS?

22 LADIES AND GENTLEMEN, I AM NOT HERE TO MAKE
23 LIGHT OF ANYTHING THAT HAPPENED TO OFFICER COTTON OR
24 OFFICER DOZIER. MAKE NO QUESTION ABOUT THAT.

25 BUT LADIES AND GENTLEMEN, THEY'VE ACCUSED

1 SOMEONE OF COMMITTING CRIMES AND YOU'RE HERE TO
2 RESOLVE THAT DISPUTE.

3 NOW, OFFICER DOZIER, WHEN FACED WITH WHAT SURELY
4 WAS A TERRIFYING SITUATION, DID PROBABLY WHAT WAS THE
5 BEST THING FOR HIM TO DO, WAS TO BARRICADE HIM --
6 BARRICADE HIMSELF INTO A CELL AND TO PUT SOMETHING
7 AGAINST THE DOOR TO KEEP IT FROM BEING OPENED. IS
8 THAT REASONABLE? SURE IT IS.

9 WHAT DID TYRONE SINGLETARY DO TO TAKE HIM
10 HOSTAGE, THOUGH? THAT'S THE QUESTION THAT YOU'RE
11 GOING TO HAVE TO ANSWER.

12 AND LADIES AND GENTLEMEN, AS TO OFFICER COTTON,
13 I HEARD A WHOLE LOT ABOUT WHAT TYRONE DID NOT DO, I
14 HEARD A WHOLE LOT ABOUT WHAT JACOB LYNCH DID DO.
15 BECAUSE WHEN IT COMES RIGHT DOWN TO IT, LADIES AND
16 GENTLEMEN, TYRONE AND MR. LYNCH ARE TWO SEPARATE
17 PEOPLE.

18 JUST BECAUSE ONE DOES SOMETHING, THE STATE WANTS
19 YOU TO LUMP THEM BOTH TOGETHER AND TO CONVICT, BUT
20 YOU DON'T HAVE TO DO THAT. YOU CAN TEST, YOU CAN
21 DETERMINE WHETHER OR NOT TYRONE HAS DONE SOMETHING.

22 EVEN IF YOU BELIEVE THAT JACOB LYNCH HAD TAKEN
23 HOSTAGES, THAT HE DID CERTAIN THINGS, IT'S NOT
24 AUTOMATIC THAT TYRONE SINGLETARY IS GUILTY AS WELL.
25 THAT'S A HARD THING TO DO SOMETIMES.

1 LAWYERS AS WELL AS THE JUDGE ARE ASKING YOU TO
2 DO CERTAIN THINGS. AND IT MAY BE THAT THOSE ARE VERY
3 DIFFICULT JOBS. IT'S NOT A FUN JOB TO DO. NOBODY
4 CAME UP HERE BECAUSE THEY VOLUNTEERED FOR JURY DUTY.
5 YOU GOT A LITTLE PINK SLIP OF PAPER IN THE MAIL THAT
6 SAID, COME ON UP HERE.

7 BUT LADIES AND GENTLEMEN, IT IS VERY, VERY
8 IMPORTANT. TYRONE IS CHARGED WITH A CRIME, CHARGED
9 WITH SEVERAL CRIMES. BECAUSE HE'S GUILTY OF ONE DOES
10 NOT MEAN THAT HE IS GUILTY OF ALL. DON'T MAKE THAT
11 ASSUMPTION. TEST. TEST THE EVIDENCE.

12 YOUR OBLIGATION AS JURORS IS NOT TO FIND PEOPLE
13 GUILTY BUT TO CALL IT LIKE YOU SEE IT, TO CALL THE
14 TRUTH.

15 LADIES AND GENTLEMEN, I'M NOT GOING TO HAVE
16 ANOTHER OPPORTUNITY TO TALK TO YOU. I'M GOING TO SIT
17 DOWN IN JUST A SECOND. BUT I ASK YOU TO REMEMBER
18 THOSE THINGS AND TO DO THE ONE THING THAT YOU
19 PROMISED TO DO, AND THAT WAS TO GIVE TYRONE
20 SINGLELETARY A FAIR TRIAL. THANK YOU.

21 THE COURT: THANK YOU, MR. DOBY. MR. SCOTT?

22 MR. SCOTT: THANK YOU, YOUR HONOR. MAY IT
23 PLEASE THE COURT.

24 THE COURT: YES, SIR.

25 CLOSING STATEMENT

1 MR. SCOTT: GOOD AFTERNOON, LADIES AND
2 GENTLEMEN. ONCE AGAIN YOU GET A CHANCE TO HEAR FROM
3 ME. AND AS BEFORE, I'M NOT THE FIRST ONE THAT YOU'VE
4 HEARD FROM.

5 I'D LIKE TO TAKE YOU BACK JUST TO A COUPLE OF
6 DAYS AGO WHEN WE STARTED WITH THIS CASE AND ASK IF
7 YOU, ASK YOU IF YOU COULD REMEMBER WHAT I TOLD YOU AT
8 THAT TIME.

9 I INDICATED TO EACH OF YOU THAT THIS IS NOT A
10 PERSONALITY CONTEST AND THAT NO ONE IS ASKING YOU TO
11 MAKE A DECISION IN THIS CASE BASED ON WHETHER YOU
12 LIKE SOMEBODY OR NOT, BASED ON A PERSONALITY CONTEST
13 I INDICATED TO YOU. WE'D PROBABLY LOSE.

14 BUT YOU KNOW, THE LAW DOESN'T REQUIRE THAT YOU
15 MAKE A DECISION IN THIS CASE BASED ON WHETHER YOU
16 LIKE SOMEBODY OR NOT, BASED ON THE IDENTIFICATION
17 PARTIES IN THE CASE, SUCH AS WHO THE LAWYERS ARE, AND
18 THE DEFENDANTS ARE, AND WHO THE VICTIMS ARE. THAT'S
19 NOT WHAT YOU'RE BEING ASKED TO DO.

20 AS MR. DOBY INDICATED, YOUR OBLIGATION IS TO DO
21 WHAT? TO ENSURE THAT THE PEOPLE ON TRIAL HAVE A FAIR
22 TRIAL. AND IF YOU'LL THINK BACK TO A FEW DAYS AGO,
23 Y'ALL WERE SELECTED AS JURORS ON MONDAY AND MONDAY
24 MORNING, ON TUESDAY MORNING WHEN YOU WERE SITTING
25 JUST AS YOU ARE NOW, MR. FATA WAS ABLE TO MAKE SOME

1 REMARKS TO YOU, MR. DOBY WAS ABLE TO MAKE SOME
2 REMARKS TO YOU, AND I WAS ABLE TO MAKE SOME REMARKS
3 TO YOU.

4 AND I INDICATED TO YOU AT THAT TIME WHAT I WOULD
5 ASK YOU TO DO IS NOT MAKE A DECISION IN THIS CASE
6 UNTIL WHAT? UNTIL THE END OF THE CASE. FOR THAT
7 TIME HAS ARRIVED. THIS IS THE END OF THE CASE.

8 AND AS MR. DOBY INDICATED, YOU HAVE HEARD ALL
9 THE EVIDENCE THAT YOU'RE GOING TO HEAR. ALL OF THE
10 TESTIMONY THAT YOU WILL HEAR IN THIS CASE, AND YOU'VE
11 HEARD IT. CAME FROM RIGHT THERE, FROM FOLKS SITTING
12 RIGHT THERE IN THAT BLUE CHAIR.

13 ALL THE EXHIBITS THAT ARE GOING TO BE
14 INTRODUCED, WELL, THERE THEY SIT, AND YOU'LL GET THEM
15 TO TAKE BACK INTO THE DELIBERATION ROOM WITH YOU.

16 NOW, EARLY ON I INDICATED TO YOU THAT A CASE
17 LIKE THIS IS MUCH LIKE, YOU KNOW, TRYING TO BAKE A
18 CAKE. IT'S -- THERE'S CERTAIN INGREDIENTS, CERTAIN
19 ELEMENTS THAT ARE IMPORTANT.

20 AND JUST AS YOU CAN'T BAKE A CAKE PROPERLY
21 WITHOUT HAVING ALL THE INGREDIENTS, ALL THE PARTS OF
22 THE RECIPE, YOU CAN'T REALLY DECIDE A CASE UNTIL YOU
23 HAVE HEARD ALL OF THE FACTS AND YOU ARE SURE ALL OF
24 THE ELEMENTS OF THE OFFENSES HAVE BEEN SATISFACTORILY
25 PROVED ACCORDING TO THE BURDEN OF PROOF THAT EXISTS

1 IN EACH CRIMINAL CASE.

2 NOW, YOU HEARD ME SAY EARLIER, YOU HEARD
3 MR. DOBY SAY EARLIER IN THIS CASE, THAT BURDEN OF
4 PROOF IS WHERE? WHERE DOES THE BURDEN OF PROOF LIE?
5 JACOB LYNCH DOESN'T HAVE TO PROVE A THING.

6 AND IN FACT, THE WAY IT IS IN OUR COUNTRY -- AND
7 YOU KNOW WHAT? OTHER COUNTRIES EMULATE AMERICA AND
8 THAT'S BECAUSE EVEN THOUGH OUR SYSTEM ISN'T PERFECT,
9 IT'S THE BEST THAT'S EVER BEEN CONCEIVED BY MAN THUS
10 FAR.

11 THE WAY IT IS IS THAT A PERSON ACCUSED OF A
12 CRIME DOESN'T HAVE AN OBLIGATION TO PROVE ANYTHING.
13 AND YOU MIGHT ASK, WELL, WHY IS THAT? WHY IS IT THAT
14 A PERSON WHO IS ACCUSED OF SOMETIMES VERY HORRIBLE
15 CRIMES DOESN'T HAVE TO PROVE THEY'RE INNOCENT?

16 WELL, IMAGINE HOW HARD IT WOULD BE TO TRY TO
17 PROVE THE NONOCCURRENCE OF AN EVENT. IMAGINE HOW
18 HARD IT WOULD BE TO TRY TO PROVE YOU DIDN'T DO
19 SOMETHING. SURE, SOMETHING HAPPENED, BUT TO PROVE
20 THAT YOU DIDN'T DO IT, THAT'S DIFFERENT. IN SOME
21 CASES IT'S ALMOST IMPOSSIBLE TO PROVE YOU DIDN'T DO
22 SO.

23 SO IN OUR SOCIETY, IN OUR WAY OF ADMINISTERING
24 JUSTICE, THE LAW REQUIRES THAT THE STATE PROVE THAT
25 THE INDIVIDUAL ACCUSED ACTUALLY DID IT. NOW, YOU

1 DON'T HAVE TO AGREE WITH THAT, BUT THAT'S THE RULE.
2 I HAPPEN TO AGREE WITH IT BECAUSE THAT'S THE WAY IT
3 OUGHT TO BE.

4 AND YOUR DUTIES AS JURORS SEPARATE AND APART
5 FROM WHATEVER YOUR PERSONAL OPINIONS MIGHT BE IS ALSO
6 TO AGREE WITH THAT APPLYING THAT RULE IN THIS CASE.

7 THAT BURDEN OF PROOF MEANS WHAT? WELL, THAT
8 MEANS THE STATE -- AGAIN NOT JACOB LYNCH -- HAS TO
9 PROVE EACH ELEMENT OF THE OFFENSE TO A STANDARD KNOWN
10 AS BEYOND A REASONABLE DOUBT.

11 NOW, THE JUDGE IS GOING TO EXPLAIN ALL OF THIS
12 TO YOU LATER ON. BUT THAT SIMPLY MEANS THAT THE
13 STATE HAS TO PROVE EACH ELEMENT OF EACH OFFENSE, NOT
14 SOME OF SOME OFFENSES, BUT EACH ELEMENT OF EACH
15 OFFENSE IN ORDER FOR YOU TO FIND THE DEFENDANT GUILTY
16 OF EITHER -- OF ANY OF THOSE OFFENSES.

17 SO IF THE STATE IS ABLE TO HAS INGREDIENT ONE
18 AND INGREDIENT TWO TO THE RECIPE, THAT DOESN'T
19 MAKE -- YOU CAN'T BAKE THE CAKE. GOT TO HAVE THE
20 WHOLE 9-YARDS, THE WHOLE SHEBANG AS THEY SAY.

21 NOW, YOU HAVE BEEN GIVEN SOME INSTRUCTIONS FROM
22 THE JUDGE ALREADY ABOUT WHAT THESE CHARGES ARE. AND
23 JACOB LYNCH SITS THERE ACCUSED OF RIOTING. AND AS
24 THE JUDGE INDICATED, YOU HAVE TO BE CONVINCED THAT HE
25 PARTICIPATED IN THE UPRISING OF REVOLT OR DISTURBANCE

1 OR A REBELLION.

2 I'D BE A FOOL TO STAND UP HERE IN FRONT OF YOU
3 PEOPLE AND SAY TO YOU NOTHING HAPPENED AT LEE COUNTY
4 CORRECTIONAL -- AT LEE CORRECTIONAL INSTITUTION
5 OCTOBER 29TH, 2003. WE ALL KNOW SOMETHING HAPPENED
6 UP THERE.

7 THERE IS A DISAGREEMENT HOWEVER ABOUT HOW IT
8 HAPPENED AND THE WHO'S AND THE WHY'S AND THE
9 PARTICIPANTS, WHO WAS INVOLVED IN IT. BUT DID
10 SOMETHING HAPPEN? YEAH, SOMETHING HAPPENED.
11 SOMETHING HORRIBLE HAPPENED. THE QUESTION IS, HOW
12 DID IT HAPPEN AND WHO IS RESPONSIBLE FOR WHAT
13 HAPPENED OUT THERE.

14 NOW, THINK BACK FOR A MOMENT TO SOME OF THE
15 TESTIMONY THAT YOU HEARD IN THIS CASE ABOUT WHAT THE
16 STATE'S WITNESSES SAW WHEN THEY LOOKED IN -- YOU
17 HEARD A LOT ABOUT THIS WINDOW AT THE SALLY PORT,
18 FOLKS WERE-LOOKING IN, AND I THINK EVEN OFFICER ASHE
19 TESTIFIED THAT HE WAS LOOKING IN FROM ON TOP OF THE
20 BUILDING.

21 THINK ABOUT WHAT EACH OF THOSE PEOPLE INDICATED
22 THEY SAW ABOUT THE PARTICIPATION OF THE INMATES IN
23 THAT -- IN THAT DORM. WHAT DID THEY SAY?

24 WELL, THE -- ALMOST TO A PERSON, AND I THINK MR.
25 COTTON EVEN SAID AT LEAST HALF OF THE INMATES WERE

1 RUNNING AROUND. OFFICER ASHE INDICATED, WELL, AT
2 LEAST HALF, MAYBE MORE, WERE RUNNING AROUND CARRYING
3 WEAPONS. SOME OF THEM HAD MASKS ON THEIR FACES.

4 BUT THERE WASN'T ANY TESTIMONY THAT JACOB LYNCH
5 WAS RUNNING AROUND WITH MASKS ON HIS FACE -- A MASK
6 ON HIS FACE TRYING TO DESTROY THINGS OR EGGING PEOPLE
7 ON. THERE IS NO TESTIMONY TO THAT EFFECT.

8 NOW, YOU KNOW, THE SAME CAN BE SAID OF THIS
9 INCITING TO RIOT CHARGE. NOBODY TESTIFIED -- IN
10 FACT, REMEMBER, I ASKED SOME OF THEM -- SOME OF THE
11 WITNESS I ASKED, DID YOU SEE OR HEAR JACOB LYNCH TELL
12 ANYBODY TO GO OUT AND DESTROY ANYTHING OR TO -- TO
13 PARTICIPATE IN A RIOT? THEIR ANSWER WAS NO, BUT THEY
14 SAW OTHER INMATES DOING THESE THINGS.

15 AND I SAID, NO QUESTION -- A DISTURBANCE, CALL
16 IT A RIOT IF YOU LIKE -- HAPPENED AT THE INSTITUTE.
17 NO QUESTION ABOUT THAT. THERE'S ABSOLUTELY NO
18 QUESTION ABOUT THAT.

19 BUT THE QUESTION COMES, DID JACOB LYNCH INCITE
20 THE RIOT. THERE HAS BEEN A FAILURE OF EVIDENCE TO
21 ESTABLISH THAT. DID HE PARTICIPATE? WAS HE ONE OF
22 THOSE THAT WAS GOING AROUND TEARING UP THINGS? AND
23 YOU SAW THE VIDEO AND THAT -- THE PLACE WAS A MESS.
24 THERE'S NO QUESTION, IT WAS A MESS.

25 AND YOU HEARD A LOT OF TESTIMONY THAT REFERS TO

1 THEY. WHEN YOU TRY TO GET THEM TO TELL US, WELL, WHO
2 IS THE THEY? WHO IS THEY YOU'RE TALKING ABOUT? BUT
3 AT NO POINT DID THEY INDICATE THAT THIS THEY THAT
4 THEY SAW OUT THERE DESTROYING THINGS INCLUDED JACOB
5 LYNCH.

6 NOW, THE EVIDENCE THAT YOU HAVE BEEN SHOWN IN
7 THE WAY OF -- OR PRESENTED IN THE WAY OF PHYSICAL
8 EVIDENCE IS -- IS VERY TELLING. MR. DOBY MENTIONED
9 THE VIDEOTAPE.

10 AND HE'S RIGHT. THAT VIDEO IS -- HAS BEEN --
11 IT'S INTERESTING. IT'S RARE THAT YOU HAVE IN A
12 CRIMINAL CASE A VIDEO OF WHAT HAPPENED. YOU ALL
13 WATCHED IT IN THE COURTROOM WITH US DURING THE
14 LAST -- THINK IT WAS EITHER TUESDAY OR WEDNESDAY. WE
15 ALL WATCHED THAT VIDEO. THAT VIDEO WAS TELLING FOR
16 WHAT IT DOESN'T SHOW. IT'S TELLING FOR WHAT IT
17 DOESN'T SHOW.

18 NOW, NO DOUBT, YOU'RE NOT -- AGAIN, LIKE I SAID,
19 I'D BE A FOOL TO STEP UP HERE AND SAY THAT MY CLIENT,
20 MR. LYNCH, DOESN'T APPEAR IN THE VIDEO. YES, HE
21 CERTAINLY DOES APPEAR IN THE VIDEO. THERE'S NO
22 QUESTION ABOUT THAT.

23 BUT THE QUESTION BECOMES, WHAT IS -- WHAT DOES
24 THE VIDEO SHOW HIM DOING? NOW, Y'ALL ARE GOING TO
25 HAVE TO DECIDE THIS. WHAT DOES THE VIDEO SHOW HIM

1 DOING? DOES THE VIDEO SHOW HIM STABBING OFFICER
2 COTTON? TO MY RECOLLECTION THE VIDEO THAT WE SAW IN
3 THIS COURTROOM DIDN'T SHOW HIM STABBING OFFICER
4 COTTON.

5 DOES THE VIDEO SHOW HIM GIVING A SHANK TO THE
6 MAJOR WHO TESTIFIED HERE ON THIS WITNESS STAND? WE
7 ALL SAW THAT. AND IN FACT, MAJOR FERRARO -- WE SAW
8 THE VIDEO. MAJOR FERRARO ADMITTED, WELL, NO, SIR, IT
9 DOESN'T SHOW HIM DOING THAT.

10 THIS VIDEO DID NOT SHOW JACOB LYNCH RUNNING
11 THROUGH THE DORMITORY DESTROYING THINGS OR EGGING
12 PEOPLE ON TO DESTROY THINGS TO CAUSE A RIOT. IT
13 DOESN'T SHOW IT. AS I SAID, THIS VIDEO IS
14 INTERESTING AND INSTRUCTIVE FROM WHAT IT DOESN'T SHOW
15 AS WELL AS WHAT IT DOES SHOW.

16 NOW, AGENT RILEY TESTIFIED FOR SLED. THIS WAS
17 THE AGENT WHO TESTIFIED. SHE'S THE DNA EXPERT. AND
18 SHE TESTIFIED -- REMEMBER I ASKED HER, BECAUSE
19 SOMEWHERE IN HER REPORT SHE MENTIONED SOMETHING ABOUT
20 ONE IN 37 QUADRILLION?

21 I ASKED HER WHAT IS THAT? WHAT KIND OF NUMBER
22 IS THAT? THAT'S A BIG NUMBER, ONE FOLLOWED BY 15
23 ZEROS. AND I SAID, WELL, I WENT ON THE INTERNET AND
24 IT SAID A QUADRILLION IS A MILLION BILLION, AND SHE
25 SAID, YEAH, IT'S ABOUT RIGHT.

1 AND SO WHAT HER TESTS RESULTS SHOW IS THAT --
2 AND SHE ADMITTED THIS -- THAT THE -- THE CUT THAT
3 THEY GOT FROM OFFICER COTTON'S SHIRT WAS HIS, THAT
4 BLUE UNIFORM SHIRT, THAT WAS HIS, HAD HIS BLOOD ON
5 IT.

6 WELL, THERE -- I'M SURE IT DID. AND THEY WERE
7 ABLE TO ESTABLISH TO A CERTAINTY, TO ONE WITHIN
8 37 MILLION BILLION CHANCES THAT THAT WAS HIS BLOOD.
9 NO QUESTION ABOUT THAT. WELL, YOU'D EXPECT IT TO BE
10 HIS BLOOD. IT'S HIS SHIRT.

11 WELL NOW, WHAT DID SHE HAVE TO SAY AND WHAT DOES
12 THE REPORT SAY ABOUT THE HANDLE OF THE SHANK, THE
13 SHANK HANDLE. REMEMBER, THERE'S A SWAB FROM THE
14 SHANK HANDLE, TOO. AND THE SWAB FROM THE SHANK
15 HANDLE SAYS WHAT?

16 WELL, THE RESULTS OF THE TEST ON THE SWAB FROM
17 THE SHANK HANDLE? WELL, WE CAN'T EXCLUDE HIM AS A
18 POTENTIAL -- AS A CONTRIBUTOR. AND REMEMBER I ASKED
19 HER, WELL, THAT'S A FAR CRY, ISN'T IT, FROM SAYING
20 THAT THAT'S HIS BLOOD? WELL, WE COULDN'T EXCLUDE
21 HIM.

22 WHAT DOES THAT MEAN? WELL, THAT MEANS MAYBE IT
23 WAS HIS, MAYBE IT WASN'T HIS. THAT REALLY DOESN'T
24 PROVE ANYTHING. WHY AM I MAKING SUCH A BIG DEAL OF
25 THIS? BECAUSE THE STATE HAS TO PROVE THE ELEMENTS OF

1 THE OFFENSES. THAT'S WHY I'M MAKING SUCH A BIG DEAL
2 OF IT, BECAUSE IT IS A BIG DEAL.

3 I ALSO ASKED HER, NOW, YOU ALSO TESTED THE SHANK
4 ITSELF. THERE WERE THREE SWABS MADE OF THE SHANK,
5 THE BLADE, IF YOU WANT TO CALL IT THAT, ITSELF. AND
6 HER -- SHE LOOKED AT HER REPORT. AND I SAID, NOW,
7 YOU DIDN'T SHOW ANYTHING, DIDN'T SEE ANYTHING THERE
8 THAT INDICATES THAT THERE WAS ANY BLOOD FROM OFFICER
9 COTTON. AND SHE ADMITTED AT FIRST.

10 SHE ADMITTED THAT. NOT THAT THERE WAS EVEN A
11 POSSIBILITY, BUT THAT THERE WAS NONE. AND CERTAINLY
12 NOT THIS ONE IN THE 37 MILLION BILLION CHANCES THAT
13 IT WAS HIS BLOOD. WHAT ELSE?

14 WELL, SHE TESTED A CUTTING FROM THE PANTS WITH
15 MR. LYNCH'S NAME AND PRISON INMATE NUMBER ON IT AND
16 SHE COMPARED THE DNA PROFILE, SHE COMPARED THE DNA
17 PROFILE FROM THAT CUTTING TO THE SWAB THAT SHE GOT
18 FROM THE HANDLE OF THE SHANK.

19 AND REMEMBER WHAT HER TESTIMONY WAS? THAT
20 CONTRIBUTOR WAS EXCLUDED FROM WHATEVER DNA WAS ON
21 THAT HANDLE OF THAT SHANK. IN OTHER WORDS, THOSE
22 PANTS WERE JACOB LYNCH'S PANTS, A CUTTING FROM THAT
23 PANTS RESULTED IN THE DNA SAMPLE BEING OBTAINED.

24 SHE COMPARED THAT TO THE SWAB THAT SHE GOT OF
25 THE HANDLE. AIN'T JACOB LYNCH. HE'S EXCLUDED. SO

1 NOW, WHERE DO YOU THINK THAT IF THAT -- IF JACOB
2 LYNCH HAD THAT SHANK -- AND SHE REMEMBER -- SHE
3 INDICATED THAT -- IN RESPONSE TO MR. FATA'S
4 QUESTIONING THAT IT WAS A VERY SENSITIVE TEST, VERY
5 SENSITIVE TEST, AND SHE'D BE ABLE TO TELL US IF
6 SOMEBODY PICKED UP OR TOUCHED IT OR NOT.

7 WELL, ON REDIRECT I ASKED HER, WELL, THAT
8 SENSITIVE TEST THAT YOU PERFORMED RESULTED IN YOUR
9 CONCLUDING THAT THERE WAS NO DNA FROM JACOB LYNCH ON
10 THAT HANDLE. AND SHE ADMITTED THAT THERE WASN'T.

11 SO WOULDN'T YOU THINK THAT IF JACOB LYNCH HAD
12 USED THIS SHANK TO STAB OFFICER COTTON THAT THERE
13 WOULD BE SOME OF HIS DNA ON THE HANDLE AND CERTAINLY
14 WOULDN'T THERE BE SOME OF HIS DNA, OFFICER COTTON'S
15 DNA, ON THE SHANK, THE BLADE ITSELF IF HE WAS STABBED
16 GOD KNOWS AS MANY TIMES AS PEOPLE CLAIM TO HAVE SEEN
17 HIM BEING STABBED?

18 AND THAT'S ONE OF THE MOST THREATENING PIECES OF
19 EVIDENCE FROM MR. JACOB LYNCH'S POINT OF VIEW THAT
20 THE STATE COULD INTRODUCE AGAINST HIM. THIS HORRIBLE
21 EVIDENCE, HORRIBLE WEAPON Y'ALL HEARD SO MUCH ABOUT
22 DOESN'T CONNECT MR. LYNCH WITH STABBING OFFICER
23 COTTON. IT DOESN'T.

24 THE HANDLE -- WELL, IT MIGHT BE OFFICER COTTON'S
25 BLOOD. WE DON'T KNOW. JACOB LYNCH? NO. HAD

1 NOTHING TO DO WITH THAT, THAT SHANK. THE BLOOD?
2 THERE IS NO BLOOD FROM OFFICER COTTON ON THE SHANK.
3 NONE. NONE.

4 NOW, I MENTIONED EARLIER ABOUT THE NUMBER OF
5 TIMES THAT FOLKS CLAIM TO HAVE SEEING OFFICER COTTON
6 BEING STABBED. YOU THINK BACK. THERE WERE A NUMBER
7 OF PEOPLE WHO CLAIM TO HAVE BEEN AT THAT SALLY PORT
8 WINDOW. AND A NUMBER OF THEM CLAIM TO HAVE SEEN HIM
9 BEING STABBED TWO TIMES. YEAH, I THINK EVERYBODY
10 SAID TWO TIMES.

11 WELL, THERE WAS ONE OFFICER WHO TESTIFIED --
12 IT'S A RELATIVELY BIG GUY WHO SAID -- I DON'T
13 REMEMBER HIS NAME. IT MAY HAVE BEEN CAPTAIN THOMAS
14 OR MAJOR BROOKS, I DON'T REMEMBER WHO. AND I TRULY
15 ASKED HIM, WHERE WERE YOU IN CONNECTION TO THE
16 WINDOW?

17 HE SAID, WELL, I WAS RIGHT UP AT THE WINDOW AND
18 HE WAS THERE FOR ABOUT AN HOUR AND A HALF. I SAID,
19 WELL, WAS ANYBODY ELSE THERE LOOKING INTO THE WINDOW
20 WITH YOU? NO. IN FACT, HE WAS BIG ENOUGH TO KEEP
21 THE -- THE VIEW OF THE WINDOW OBSCURED FROM ANYBODY
22 ELSE.

23 HOW IS IT THEN THAT SO MANY OTHER PEOPLE CAN SEE
24 THESE SUCCESSIVE STABBINGS WHEN HE WAS THERE AND SAID
25 SOME OF THESE OTHER PEOPLE WHO CLAIM TO HAVE SEEN HIM

1 WHEN HE WAS THERE WASN'T THERE.

2 NOW, WHAT AM I SAYING? AM I IMPLYING THAT
3 PEOPLE ARE DELIBERATELY COMING INTO THE COURTROOM AND
4 LYING? NO. BUT I AM SAYING THAT HUMAN BEINGS ARE
5 EXACTLY THAT, HUMAN BEINGS, AND HUMAN BEINGS
6 SOMETIMES HAVE A TENDENCY TO EMBELLISH THINGS.

7 I'M SURE WE HAVE ALL HEARD OF SELECTIVE RECALL.
8 THERE'S SOME OF THAT GOING ON HERE. OFFICER
9 SCARBOROUGH, FOR INSTANCE, MADE THE STATEMENT AROUND
10 THE TIME -- I THINK IF NOT ON THE DAY, THE VERY NEXT
11 DAY THAT THIS INCIDENT TOOK PLACE, AND SHE INDICATED
12 THAT -- IN HER TESTIMONY THAT MR. LYNCH WAS SAYING
13 ALL THESE F WORDS DURING HER TESTIMONY.

14 THEN I ASKED HER TO LOOK AT HER STATEMENT AND
15 SHOW ME WHERE IT'S IN HER STATEMENT THAT SHE WAS
16 SAYING ALL THESE THINGS. SHE WAS EMPHATIC AND WANTED
17 TO MAKE SURE Y'ALL HEARD SHE SAID ALL THESE THINGS ON
18 THE WITNESS STAND. THAT DIDN'T APPEAR IN HER
19 STATEMENT ANYWHERE. NOWHERE DID IT APPEAR IN THE
20 STATEMENT.

21 AS MR. DOBY SAID, ARE YOU GOING TO REMEMBER
22 SOMETHING BETTER OR WORSE WITH THE PASSAGE OF TIME?
23 WELL, MY MEMORY FROM WHAT IT'S WORTH DOESN'T IMPROVE
24 WITH THE PASSING OF TIME. IT GETS WORSE. AS MY WIFE
25 WILL TELL YOU, IT GETS WORSE.

1 SO -- AND WE DON'T THINK THAT ANYBODY ELSE'S
2 MEMORY GETS BETTER WITH THE PASSAGE OF TIME. THERE
3 WAS ANOTHER OFFICER WHO TESTIFIED THAT AT THE TIME HE
4 MADE HIS STATEMENT -- BACK UP FOR A MINUTE -- HE
5 TESTIFIED THAT HE SAW JACOB LYNCH STAB OFFICER
6 COTTON. BUT WHEN HE MADE HIS STATEMENT, HE DIDN'T.

7 AND I ASKED HIM ABOUT THAT. I SAID, WELL, WHY
8 DIDN'T YOU PUT THAT IN YOUR STATEMENT? WELL, FOLKS
9 HAVE A TENDENCY TO HAVE SELECTIVE RECALL AND TO WANT
10 TO EMBELLISH. AGAIN, IS THAT DISHONESTY? IT'S NOT
11 THE RIGHT THING TO DO.

12 WHETHER I CALL IT DISHONESTY OR NOT, BUT YOU
13 KNOW, IF YOU'RE GOING TO GIVE A STATEMENT, GIVE THE
14 WHOLE TRUTH AT THE TIME YOU'RE GIVING IT AND DON'T
15 LATER ON IN AN EFFORT TO TRY TO MAKE SOMETHING SEEM
16 TO BE WORSE THAN IT IS ADD THINGS TO IT.

17 I MEAN, THIS IS NOT A GAME. THIS MAN'S -- THIS
18 IS -- THIS IS THE ONLY CHANCE JACOB LYNCH WILL HAVE.
19 THIS IS HIS ONLY DAY IN COURT. RIGHT UP HERE AND
20 RIGHT NOW. AND THIS DECISION IN THIS CASE, Y'ALL
21 NEED TO MAKE A DECISION IN THIS CASE BASED UPON
22 CREDIBLE, BELIEVABLE EVIDENCE, NOT EMBELLISHED
23 EVIDENCE.

24 NOW, AND LET ME JUST ADD AT THIS POINT THAT NONE
25 OF THIS (SIC) IN THIS COURTROOM ARE SO NAIVE AS TO

1 NOT REALIZE THAT PEOPLE IN PRISON ARE IN PRISON
2 BECAUSE THEY DID SOMETHING WRONG. I DON'T THINK -- I
3 DON'T THINK OTHERWISE. PEOPLE ARE IN PRISON BECAUSE
4 THEY DID SOMETHING WRONG. BUT.

5 THE THING THAT THEY DID WRONG THAT RESULTED IN
6 THEM DOING IN PRISON, BEING IN PRISON, THEY'VE
7 ALREADY BEEN CONVICTED OF THAT. THEY'VE ALREADY BEEN
8 CONVICTED OF THAT. JUST LIKE ANTHONY GRATE CAME TO
9 COURT AND TESTIFIED. HE ADMITTED THAT HE HAD DONE
10 SOME BAD THINGS BEFORE AND DIDN'T WANT TO TRY TO HIDE
11 THAT FROM YOU.

12 THAT'S WHY I ASKED HIM WHAT WAS HE IN PRISON
13 FOR. BUT HE TESTIFIED ABOUT WHAT HE KNEW. HE
14 TESTIFIED TRUTHFULLY ABOUT WHAT HE KNEW. TO THE SAME
15 EXTENT THAT MR. GRATE IS IN PRISON, WELL, JACOB LYNCH
16 IS IN PRISON, TOO. BUT YOU'RE NOT BEING ASKED TO TRY
17 HIM AND CONVICT HIM BASED ON THE FACT HE IS AN
18 INMATE.

19 YES, THERE HE SITS BOUND AND SHACKLED WITH THE
20 TELLTALE SIGNS OF BEING IN PRISON, THAT BRIGHT YELLOW
21 JUMPSUIT AND THEM CHAINS ON HIS LEG AND ON HIS
22 ANKLES. THAT'S NOT THE CRIME THAT HE'S ACCUSED OF
23 COMMITTING.

24 AND YOU DO YOUR DUTY BY NOT CONVICTING HIM OF
25 BEING AN INMATE. YOU DON'T CONVICT HIM OF BEING AN

1 INMATE. YOU DO YOUR DUTY BY MAKING A DECISION IN
2 THIS CASE BASED ON THE FACTS OF THE CASE, BASED ON
3 THE ELEMENTS OF THE FACT -- OF THE CASE, OF EACH
4 OFFENSE, AND WHETHER THOSE ELEMENTS HAVE BEEN PROVED
5 BEYOND A REASONABLE DOUBT BY THE STATE. THAT'S WHAT
6 YOU MAKE YOUR DECISION ON IN THIS CASE.

7 AS MR. DOBY SAID, THIS IS A CHANCE FOR THE
8 LAWYERS TO HAVE THE OPPORTUNITY TO TALK TO THE JURY.
9 THIS IS THE ONLY CHANCE WE GET. WE ARE GIVEN THIS
10 OPPORTUNITY TO GIVE YOU OUR PERSPECTIVE OF WHAT THE
11 STATE HAS OR HAS NOT DONE.

12 AND AS MR. DOBY SAID, NO, LAWYERS AREN'T IN THE
13 BUSINESS -- DEFENSE LAWYERS AREN'T IN THE BUSINESS OF
14 TRYING TO HELP THEIR CLIENTS GET CONVICTED. AND YOU
15 KNOW, LAWYERS ARE NOT -- IN SPITE OF WHAT YOU MAY
16 HAVE HEARD -- LAWYERS AREN'T IN THE BUSINESS OF -- OF
17 BEING DISHONEST.

18 IN FACT, PEOPLE OFTEN ASK ME OR TELL ME WHAT
19 THEY THINK OF LAWYERS. I SAID, WELL, YOU KNOW WHAT?
20 99 PERCENT OF THE LAWYERS I KNOW ARE HONEST PEOPLE
21 JUST LIKE THEY'RE -- 99 PERCENT OF EVERYBODY I KNOW
22 ARE HONEST PEOPLE. BUT LAWYERS HAVE A JOB TO DO.

23 AND YOU KNOW, I IMAGINE THAT SOME OF YOU HAVE
24 HEARD THE QUOTATION FROM SHAKESPEARE'S PLAY, THE
25 FIRST THING WE'LL DO LET'S KILL ALL THE LAWYERS.

1 BUT, YOU KNOW, WHAT THEY DON'T TELL YOU IS THAT
2 THAT'S ONLY PART OF THE QUOTE.

3 WHAT IT REALLY SAYS IS THAT IF YOU WANT A
4 SOCIETY IN WHICH YOU REALLY DON'T WANT TO LIVE IN AND
5 YOU HAVE NO RIGHTS -- AND I'M PARAPHRASING HERE --
6 THE FIRST THING YOU DO, GO AHEAD AND KILL ALL THE
7 LAWYERS.

8 LAWYERS HAVE A JOB TO DO. I HAVE A JOB TO DO.
9 MY JOB IS TO DEFEND MY CLIENT, TO DEFEND JACOB LYNCH.
10 AND THAT'S WHY I TOLD YOU EARLIER THAT PLEASE DON'T
11 MAKE YOUR DECISION BASED ON A PERSONALITY CONTEST, A
12 PERSONALITY CONTEST, BASED ON WHAT YOU THINK OF ME
13 AND THE WAY I MIGHT HAVE DONE MY JOB.

14 GOD KNOWS CLIFF SCOTT AIN'T PERFECT, BUT I TRY
15 TO DO MY LEVEL BEST FOR MY CLIENT WHENEVER I'M GIVEN
16 THE OPPORTUNITY TO BE HONORED, AND IT IS AN HONOR TO
17 BE ABLE TO PARTICIPATE IN OUR SYSTEM OF JUSTICE.
18 IT'S AN HONOR TO REPRESENT SOMEONE.

19 I ASK YOU AND I BELIEVE YOU WILL, TAKE YOUR OATH
20 SERIOUSLY. SOMETHING HORRIBLE HAPPENED. THERE IS NO
21 DOUBT ABOUT THAT. MAKE YOUR DECISION, HOWEVER, BASED
22 ON WHETHER THE STATE HAS PROVEN EVERY ELEMENT OF EACH
23 OF THESE OFFENSES, NOT BASED ON WHAT YOUR PERSONAL
24 FEELINGS ARE ABOUT WHAT HAPPENED, BUT BASED ON
25 WHETHER THE STATE HAS PROVED EVERY ELEMENT OF EACH OF

1 THESE OFFENSES.

2 THAT'S ALL I ASK YOU TO DO. THAT'S ALL THE LAW
3 REQUIRES YOU TO DO. THAT'S ALL THAT OATH THAT YOU
4 TOOK WHEN YOU RAISED YOUR HAND OBLIGATES YOU TO DO.
5 THANK YOU VERY MUCH.

6 THE COURT: THANK YOU, MR. SCOTT. MR. FATA?

7 MR. FATA: THANK YOU, YOUR HONOR. LET ME MOVE
8 THIS TABLE.

9 CLOSING STATEMENT

10 MR. FATA: MADAM FORELADY AND LADIES AND
11 GENTLEMEN OF THE JURY, GOOD AFTERNOON. ON BEHALF OF
12 THE STATE OF SOUTH CAROLINA I WANT TO THANK YOU FOR
13 YOUR PARTICIPATION IN THIS TRIAL TODAY.

14 I REALIZE -- WELL, NOT TODAY, BUT THIS WEEK. I
15 REALIZE THAT THIS HAS BEEN A BURDEN ON YOU THAT YOU
16 HAVE TAKEN TIME OUT OF YOUR BUSY SCHEDULES TO BE WITH
17 US, TO HELP US AND DECIDE THE FACTS OF WHAT HAPPENED
18 ON OCTOBER 23RD -- OCTOBER 29TH, 2003, IN LEE COUNTY.

19 HIS HONOR HAS GONE OVER THE CHARGES. RIOTING,
20 TAKING HOSTAGES, ASSAULTING A CORRECTIONS OFFICER,
21 CARRYING A CONCEALED WEAPON ON A -- IN A CORRECTIONAL
22 FACILITY BY AN INMATE, AND INCITING TO RIOT. I'M NOT
23 GOING TO GO OVER THOSE AGAIN.

24 HE TOLD YOU WHAT HAD TO BE PROVED. HE TOLD YOU
25 WHAT TO LOOK FOR. AND HE MADE -- HE MAY TOUCH ON

1 THAT AGAIN. BUT WHAT I WANT TO DO NOW IS TO SHOW YOU
2 WHAT INGREDIENTS THAT HAVE BEEN PRESENTED TO YOU
3 THESE LAST FEW DAYS SO THAT YOU CAN BAKE THAT CAKE
4 THAT MR. SCOTT HAS BEEN TALKING ABOUT IN BOTH THE
5 OPENING AND CLOSING STATEMENTS.

6 ON OCTOBER THE 29TH, 2003, YOU HAD THESE TWO
7 CORRECTIONS OFFICERS WORKING AT LEE CORRECTIONAL
8 INSTITUTE AT THE CHESTERFIELD UNIT. THE CHESTERFIELD
9 UNIT IS JUST ONE OF THE DORMITORIES LOCATED THERE.

10 YOU'LL HAVE STATE'S EXHIBIT NUMBER SEVEN. AND
11 ALL IT IS IS A TWO STORY BUILDING WITH OFFICES IN THE
12 MIDDLE AND A WING OF ROOMS ON ONE SIDE AND A WING OF
13 ROOMS ON THE OTHER SIDE. THESE ARE PHOTOGRAPHS OF --
14 SELECTED PHOTOGRAPHS OF THE INSIDE.

15 ON THAT PARTICULAR DAY OFFICER COTTON THAT
16 AFTERNOON -- AND INCIDENTALLY OFFICER COTTON WAS NOT
17 AT HIS REGULAR DUTY STATION. HIS REGULAR DUTY
18 STATION WAS OUT IN THE YARD, OUT HERE, WALKING AROUND
19 MONITORING THE MOVEMENTS OF INMATES FROM BUILDING TO
20 BUILDING.

21 OCCASIONALLY, AND I THINK THIS YEAR IN QUESTION,
22 200E, HE'D ONLY BEEN IN THERE TWO TO THREE TIMES.
23 THIS WAS PROBABLY THE THIRD -- SECOND OR THIRD TIME
24 HE HAD BEEN IN THE CHESTERFIELD UNIT.

25 HE WAS DOING HIS NORMAL DUTIES. THE UNIT WAS

1 LOCKED DOWN WHICH MEANT THAT EVERYBODY WAS IN THEIR
2 ROOMS. AND HE WAS COMING ALONG FEEDING THE INMATES
3 ON THE TOP TIER. AND REMEMBER, HE IS OVER HERE BY
4 HIMSELF. OFFICER DOZIER IS OVER HERE BY HIMSELF.

5 AND YOU'VE GOT OVER A HUNDRED INMATES ON BOTH
6 SIDES. THE PLACE IS LOCKED DOWN. HE'S FEEDING.
7 OFFICER COTTON FEEDS THE FOLKS HERE AND HE GETS TO
8 JACOB LYNCH'S CELL. WHAT DOES JACOB LYNCH DO? HE
9 STANDS OUTSIDE, REFUSES TO GO BACK INTO HIS CELL, AND
10 STANDS THERE. REMEMBER, OFFICER COTTON IS BY
11 HIMSELF. ONE INDIVIDUAL.

12 SO HE RELOCKS -- OFFICER COTTON RELOCKS THE
13 DOOR. JACOB LYNCH STANDS THERE. OFFICER COTTON
14 CONTINUES TO FEED THE FOLKS IN THESE ROOMS. AND HE
15 GETS TO DEFENDANT INMATE SINGLETARY'S ROOM. HE OPENS
16 THE DOOR. OUT RUNS SINGLETARY DOWN THE STAIRS.

17 HE TURNS AROUND, AND THERE'S LYNCH WITH A SHANK
18 IN HIS HAND COMING -- OR PICKING UP A SHANK AND
19 COMING FOR HIM. HE TURNS, AS A CONFRONTATION WITH
20 LYNCH, SPRAYS LYNCH. SINGLETARY HERE IS RUN
21 DOWNSTAIRS.

22 LYNCH -- SOMEHOW HE GETS BY LYNCH AND HE TAKES
23 REFUGE IN ROOM 2205 HERE. WHAT HAPPENS NEXT? UP THE
24 STAIRS COMES SINGLETARY. HERE COMES LYNCH. AND THEN
25 THEY PROCEED TO BREAK INTO THE ROOM TO TRY TO GET TO

1 HIM. BREAK THE GLASS, REACHING IN THERE WITH --
2 WITH -- WITH A -- SHANKS, AND I'M GOING TO SHOW YOU
3 THAT SHANK IN JUST A MINUTE -- REACHING IN THERE WITH
4 SHANKS AND STABBING AT HIM.

5 INMATE SINGLETARY HAS ALREADY ADMITTED STABBING,
6 STABBING AT LEAST ONE TIME AND CARRYING A SHANK.
7 THEY'RE TRYING TO DO WHAT? THEY ARE TRYING TO TAKE
8 HIM HOSTAGE.

9 WHAT DO THEY WANT TO DO? FIRST OF ALL THEY WANT
10 THE KEYS. THEY'RE GOING TO LET EVERYBODY LOOSE. IN
11 THE PROCESS, WHAT'S THE NEXT THING THEY DO? THEY
12 HEAD OVER TO THE NORTH SIDE, THE SIDE WHERE OFFICER
13 DOZIER IS DOING THE SAME THING, HE'S FEEDING HIS
14 INMATES.

15 THE DIFFERENCE IN HIS SIDE, THE NORTH SIDE, AND
16 THE SOUTH SIDE IS THE FENCING. OFFICER DOZIER IS --
17 AT THIS POINT AROUND -- UNDER THESE STAIRS FEEDING AN
18 INMATE -- ROOM HERE. BY THAT DOOR.

19 WHAT DOES HE SEE? HE SEES SINGLETARY AND LYNCH
20 ENTER THE -- THE NORTH SIDE, STAND BY THIS GUARD
21 STATION AND LOOK AROUND. AND THEY -- THEN HE HEARS,
22 WELL, THERE'S DOZIER. WHAT DO THEY DO? THEY BEGIN
23 TO RUN THIS -- IN THIS DIRECTION.

24 DOZIER LOCKS THIS DOOR, LOCKS THE DOOR, HERE,
25 WHICH SHOULD SCREEN EVERYTHING OFF, AND HE SHOULD BE

1 SAFE. HOWEVER, THERE'S A HOLE IN THE FENCE DOWN
2 HERE.

3 WHAT HAPPENS? SINGLETARY RUNS TO THE HOLE IN
4 THE FENCE, COMES UP UNDERNEATH THE HOLE IN THE FENCE.
5 DOZIER BARRICADES HIMSELF IN ROOM 1128. LYNCH
6 LETS -- SINGLETARY LETS LYNCH IN AND THEY BEGIN A
7 PROCESS OF TRYING TO BREAK IN THAT ROOM AND EXTRACT
8 OFFICER DOZIER FROM THE ROOM.

9 IF YOU WILL REMEMBER, THE TESTIMONY OF A WITNESS
10 THAT SINGLETARY PUT UP, MR. KNOTTS. HE TESTIFIED
11 THAT FROM HIS CELL -- EXCUSE ME -- FROM HIS CELL HE
12 SAID, YEAH, I SAW LYNCH -- I MEAN, I SAW SINGLETARY
13 COME IN AND I SAW SINGLETARY GO UP UNDER THE HOLE IN
14 THE FENCE AND I SAW SINGLETARY GO TO THE DOOR WHERE
15 DOZIER HAD BARRICADED HIMSELF IN AND I SAW HIM WITH
16 ANOTHER INMATE. I DIDN'T KNOW WHO THAT OTHER INMATE
17 WAS, BUT I SAW THEM, I SAW THEM DO THAT.

18 THEY DID NOT PHYSICALLY GET THEIR HANDS ON
19 OFFICER DOZIER, BUT WHAT DID THEY DO? THEY FORCED
20 HIM TO BARRICADE HIMSELF IN THERE. THEY BROKE OUT
21 THE GLASS WITH FIRE EXTINGUISHER. THEY JABBED AT HIM
22 WITH SHANKS. THEY HIT AT HIM WITH WHATEVER POLES,
23 METAL OBJECTS, WHATEVER, FIRE EXTINGUISHERS, SPRAYED
24 THE GAS, SPRAYED THE CO2 IN THERE, EVERY ATTEMPT THEY
25 COULD DO -- EVERY ATTEMPT -- ANYTHING THEY COULD DO

1 TO GET HIM OUT OF THAT ROOM TO GET THEIR HANDS ON HIM
2 SO THEY COULD DO THE SAME THING TO HIM THAT THEY WERE
3 DOING TO OFFICER COTTON.

4 FORTUNATELY, FORTUNATELY AN INMATE HELPED
5 OFFICER DOZIER LOCK THE DOOR FROM THE OUTSIDE AND
6 THREW THE KEY INTO IT, INTO OFFICER DOZIER. OFFICER
7 DOZIER HAD SOME DEGREE OF PROTECTION AT THAT POINT.
8 HE WAS STILL A HOSTAGE.

9 IT DIDN'T HAD -- SINGLETARY AND LYNCH DID NOT
10 HAVE THEIR HANDS PHYSICALLY ON HIM, BUT THEY HAD HIS
11 MOVEMENTS RESTRICTED. I MEAN, HIS HONOR SAID --
12 PLEASE LET ME -- GET SOME WATER. MY VOICE IS GOING.

13 HIS HONOR SAID THAT -- THAT YOU RESTRICT THE
14 MOVEMENTS OF AN INDIVIDUAL INVOLUNTARILY IF A PERSON
15 IS TAKEN AND -- SAY, I HOLD THE COURT REPORTER IN
16 THIS ROOM AND SHE'S READY TO GO, AND I DO NOT LET HER
17 GO, I HOLD HER. I DON'T HAVE TO PUT MY HANDS ON HER.

18 ALL I HAVE TO DO IS MAKE HER FEEL THREATENED
19 ENOUGH THAT SHE BELIEVES THAT SHE CANNOT LEAVE
20 BECAUSE OF WHAT I'M DOING. AND THAT'S THE SITUATION
21 WE HAVE HERE. WE HAD MORE THAN JUST THREATS. HE HAD
22 PHYSICAL VIOLENCE INFLICTED AGAINST HIM. AND IN
23 ORDER TO PROTECT HIMSELF, HIS MOVEMENTS WERE LIMITED
24 TO THIS ROOM.

25 GOD KNOWS WHAT WOULD HAVE HAPPENED TO HIM HAD

1 LYNCH AND SINGLETARY GOTTEN THEIR HANDS ON HIM. AND
2 WHAT HAPPENED WOULD PROBABLY HAVE BEEN AT LEAST AS
3 BAD AS WHAT HAPPENED. WHAT WOULD HAVE HAPPENED WOULD
4 HAVE BEEN AT LEAST AS BAD AS WHAT HAPPENED TO OFFICER
5 COTTON.

6 STABBING HIS HAND, YOU SAW THE SCARS ON HIS
7 HAND, STABBED ON THE SHOULDER, HAD THE SHANK JIGGED
8 (SIC) UP UNDERNEATH HIS CHIN. JUST HAD IT, YOU KNOW,
9 STABBED AROUND ON HIM.

10 HE WAS TAKEN TO THE WINDOW BY -- BY LYNCH. I
11 WANT THE MEDIA, I WANT A CELLPHONE, I WANT THIS. IF
12 YOU DON'T, I'M GOING TO -- I'M GOING TO KILL HIM.
13 AND TO SHOW YOU THAT I MEAN BUSINESS, THEY TAKE THE
14 SHANK AND -- AND JAB IT AT HIM, JAB IT INTO HIS BODY.

15 CAN YOU IMAGINE THE ORDEAL THAT THESE TWO MEN
16 WENT THROUGH ON OCTOBER 29TH, 2003. CAN YOU IMAGINE
17 BEING HELD PRISONER, BEING THREATENED, BEING POKED,
18 BEING STABBED, BEING USED TO GET THINGS LIKE THE
19 MEDIA, STOP THE GAS FROM COMING IN, AND ALL THAT SORT
20 OF THING, BEING USED IN THAT FASHION.

21 NOW, THE EVIDENCE THAT WAS PRESENTED TO YOU --
22 AND I TRIED TO ORGANIZE THE CASE IN A -- IN AN ORDER
23 THAT WOULD BE LOGICAL, THAT -- THAT WOULD FLOW. AND
24 SO I PUT -- MY FIRST WITNESSES WERE WHAT I CALL THE
25 FIRST RESPONDERS.

1 THESE WERE THE PEOPLE WHO WHEN THE ALARM GOES
2 OFF RESPOND. AND THE ALARM IN THIS SITUATION WAS A
3 CELLPHONE WAS OFF THE HOOK. FORTUNATELY THE
4 TELEPHONE WAS OFF THE HOOK.

5 BY THAT TIME -- BY THE TIME THAT OCCURRED, THESE
6 INMATES HAD TAKEN OVER AND KNOCKED OUT THE WINDOWS
7 AND WERE RANSACKING EVERYTHING. AND MAYBE THEY
8 DIDN'T KNOW THAT KNOCKING THE PHONE OFF THE HOOK
9 WOULD CAUSE AN ALARM. BUT ANY WAY, IT HAPPENED.

10 SERGEANT SCARBOROUGH WAS THE FIRST TO RESPOND TO
11 THE SCENE. AND WHAT WAS HER TESTIMONY? HER
12 TESTIMONY WAS WHEN SHE GOT THERE, SHE LOOKED INTO THE
13 OFFICER'S WINDOW. THIS IS THE FRONT DOOR. BESIDE --
14 THAT FRONT DOOR ARE TWO WINDOWS.

15 IF YOU LOOK IN THOSE WINDOWS, YOU CAN SEE THE
16 OFFICE. SHE SAYS, I LOOKED IN AND I KNEW SOMETHING
17 WAS WRONG. SHE DIDN'T SAY IT THAT WAY, BUT SHE KNEW
18 SOMETHING WAS WRONG AT THAT POINT. SO FLOWERPOT WAS
19 OVER, THE WINDOWS WERE BROKEN, BROKEN GLASS, THE
20 PHONE SHE COULD SEE.

21 WELL, WHAT DOES SHE HEAR? SHE HEARD LYNCH'S
22 VOICE, WE GOT HOSTAGES. WE GOT HOSTAGES. SHE SAID
23 SHE HEARD HIM SAY, WE GOT COTTON AND WE ARE GOING TO
24 GET DOZIER. THEY HAD HOSTAGES. AND WHAT DID THEY
25 HAVE HOSTAGES FOR? TO MAKE DEMANDS.

1 THE NEXT WITNESS, LIEUTENANT JOHNSON. HE WAS A
2 SECOND RESPONDER, BUT HE WAS THE SECOND PERSON THERE.
3 HE HEARD THE -- HE HEARD THE -- HE HEARD THE FIRST
4 RESPONSE CALL AND THEN HE HEARD THE SECOND CALL, SAID
5 THERE WAS BROKEN GLASS IN THE SUPERVISOR'S OFFICE.

6 IMMEDIATELY HE RUNS IN THE CHESTERFIELD UNIT.
7 AND WHAT DID HE HEAR? HE HEARD LYNCH SAY, WE GOT
8 COTTON. HE HEARD LYNCH. LYNCH SAID THAT, WELL, I
9 WILL TALK TO YOU JOHNSON, BUT I'M NOT GOING TO TALK
10 TO JUNE.

11 HE'S ALREADY TRYING TO PICK OUT A NEGOTIATOR.
12 HE'S READY TO GET SOME THINGS. HE'S READY TO GET
13 THINGS. CEDRICK JUNE COMES, THE SERGEANT. HE IS THE
14 SERGEANT WHO IS IN THIS UNIT. HE THE SERGEANT THAT
15 WAS IN THIS UNIT.

16 HE HAD TAKEN -- I THINK HIS NAME IS INMATE JONES
17 TO MEDICAL BECAUSE INMATE JONES HAD BUSTED UP A ROOM,
18 CUT HIS HAND, AND HE WAS OUT -- OUT OF THERE. HE
19 GETS TO THE -- TO THE FRONT DOOR, AND WHAT DOES HE --
20 HE SAY, S, I -- SAW, I SAW LYNCH WITH A SHANK, SAW
21 LYNCH STAB COTTON, AND HE SAYS, I HEARD SINGLETARY
22 SAY, WE'VE GOT COTTON, HAVE TWO HOSTAGES AND AM GOING
23 TO KILL HIM. TWO HOSTAGES, WE'RE GOING TO KILL HIM.

24 WE -- AND AT THAT POINT IT IS A VERY SERIOUS
25 SITUATION. AND THESE GUYS I BELIEVE -- YOU CAN TAKE

1 THEM AT THEIR WORD. THE NEXT PERSON TO ARRIVE WAS
2 CAPTAIN ORENDA THOMAS. CAPTAIN THOMAS GOT THERE. HE
3 SAYS THAT HE HEARD SINGLETARY SAY, WE HAVE -- WE HAVE
4 TWO OF YOUR OFFICERS AND YOU ARE ALL GOING TO MEET
5 OUR DEMANDS.

6 THEY'RE HOLDING DOZIER AND COTTON FOR THINGS,
7 DEMANDS. SINGLETARY AND LYNCH -- AND LYNCH ESCORT
8 COTTON TO THE FRONT DOOR AND BEGAN BARKING OUT
9 DEMANDS, THINGS LIKE, STOP THE GAS, STOP THE -- WE
10 WANT AN AIR TANK, WE WANT A CELLPHONE, WE WANT THE
11 MEDIA, THINGS LIKE THAT.

12 SAYS SINGLETARY SAID HE WAS NOT PLAYING AND SAW
13 SINGLETARY STAB OFFICER COTTON IN THE CHEST. NOW,
14 I -- I MEAN, THIS IS SOMETHING HE COULD SEE THROUGH
15 THIS WINDOW, THROUGH THIS DOOR WINDOW HERE. AND HE
16 ALSO SAW OFFICER COTTON HANDCUFFED TO LYNCH.

17 NOW, THE SITUATION WAS DIRE AT THIS POINT.
18 YOU'VE GOT A MASS OF INMATES. AND REMEMBER, THIS IS
19 NOT -- THIS IS NOT THE GOOD GUYS. THIS SIDE WAS THE
20 NEGATIVE SIDE. THIS WAS THE POSITIVE SIDE.

21 YOU HAD TO DO GOOD TO MAKE IT -- GET -- MAKE THE
22 NORTH TO THE SOUTH, AND YOU'RE IN HERE BECAUSE YOU
23 HAVE BEEN A BEHAVIOR PROBLEM. YOU'VE BEEN A BEHAVIOR
24 PROBLEM. SO THESE WERE SERIOUS INMATES.

25 SERGEANT ASHE GOES UP ON THE ROOF. HE SHOT THE

1 GAS. AND THEN GOES UP ON THE ROOF AND LOOKS DOWN IN
2 THERE. WHAT DOES HE SEE? HE SEES CHAOS. I SAID,
3 SERGEANT, HOW WOULD YOU DESCRIBE THIS SCENE? IT WAS
4 A RIOT. IT WAS A RIOT.

5 AND THEN YOU HEARD FROM MARCUS COTTON. AND
6 MARCUS COTTON DESCRIBED THE SITUATION. HE DESCRIBED
7 HOW HE WAS STABBED, HOW HE WAS BEATEN, HOW HE WAS
8 HANDCUFFED TO INMATES.

9 AND YOU CAN SEE IN THAT VIDEO TOWARDS THE END,
10 AND ESPECIALLY WHEN HE CAME OUT, AFTER THAT FOUR OR
11 FIVE HOUR ORDEAL, HOW -- WHAT HIS CONDITION WAS.
12 HE -- HE CAME STUMBLING OUT ALMOST FALLING DOWN.

13 HE HAD BEEN TAKEN CAPTIVE BY -- BY THE -- BY
14 THE -- THESE TWO INMATES, HAD BEEN STABBED, SLAPPED,
15 HIT, WHATEVER, AND MAYBE CLOSE TO DEATH. YOU DON'T
16 KNOW HOW CLOSE BECAUSE HE WASN'T ALWAYS IN THE FRONT
17 DOOR.

18 AND HE REMEMBERS THE HOSTAGE NEGOTIATORS, HOW HE
19 SAID, YOU KNOW, HE WAS BACK IN THE PRISON, WE DIDN'T
20 KNOW WHAT WAS HAPPENING, WE ALWAYS TRY TO GET THEM TO
21 BRING HIM TOWARDS THE DOOR SO WE COULD SEE HIM, SO WE
22 COULD MAKE SURE THAT HE WAS OKAY, AND WE PASSED IN
23 GAUZE AND PEROXIDE TO ONE OR TWO INMATES THAT WERE
24 HELPING TO FIX HIM UP.

25 BUT CAN YOU IMAGINE THE ORDEAL THAT HE WENT

1 THROUGH WHEN HE WAS DRAGGED OUT OF THE ROOM, STABBED,
2 BEATEN AND SO FORTH, TAKING THE FRONT DOOR, MADE
3 DEMANDS, TAKEN BACK IN -- TAKEN BACK INTO THE ROOM.

4 YOU KNOW, THE MOST -- THE MOST AWFUL THING I
5 THINK IN THE WHOLE -- WHOLE SITUATION AS FAR AS
6 OFFICER COTTON GOES, AND IT JUST STRUCK ME WHEN I SAW
7 IT ON THE VIDEOTAPE. YOU HAVE OFFICER COTTON
8 STANDING IN THE WINDOW, IN THE WINDOW OF THE DOOR,
9 AND YOU HAVE JACOB LYNCH STANDING THERE, AND OFFICER
10 COTTON'S STANDING THERE AND JACOB LYNCH WHISPERS INTO
11 THE EAR OF OFFICER COTTON, AND OFFICER COTTON SAYS,
12 LOOK, IF YOU DON'T BACK UP, IF YOU DON'T GET THE
13 CELLPHONE OR WHATEVER IT WAS, THEY'RE GOING TO KILL
14 ME. THEY'RE GOING TO KILL ME.

15 YOU IMAGINE THE SITUATION -- CAN YOU IMAGINE HOW
16 OFFICER COTTON FELT AT THAT POINT? THEY WERE MAKING
17 HIM PASS ON THE THREATS.

18 AND THEN OFFICER DOZIER TESTIFIED AS TO WHAT HE
19 WAS DOING THAT DAY AND HOW THE SITUATION WENT DOWN,
20 HOW HE SAW THOSE TWO INMATES COMING INTO THE --
21 INMATES LYNCH AND SINGLETARY, COME INTO THE NORTH
22 SIDE, HOW HE -- LUCKILY THE EVENT WAS UP AND LUCKILY
23 AN INMATE HELPED HIM INTO A ROOM WHERE HE WAS ABLE TO
24 BARRICADE HIMSELF IN, AND THEN HE HAD TO FIGHT FOR
25 HIS LIFE TO KEEP LYNCH AND SINGLETARY OUT OF THAT

1 ROOM, KEEP THEM FROM GETTING TO HIM.

2 CAN YOU IMAGINE THAT SITUATION? THEY DID
3 EVERYTHING THEY COULD TO GET TO HIM, BEAT HIM WITH
4 STICKS, SLASHING AT HIM WITH SHANKS, SPRAYING CO2 IN
5 THERE, THROWING STUFF ON HIM. I THINK HE INDICATED
6 THEY WERE THROWING SOME LIQUID IN -- SOME KIND OF
7 LIQUID ON HIM, AND THREW A PIECE OF SOMETHING
8 BURNING, SOMETHING ON FIRE, AND IT WENT OUT WHEN IT
9 HIT THE WATER ON THE FLOOR.

10 BUT THEY WERE -- THEY WERE REALLY -- LYNCH AND
11 SINGLETARY REALLY WANTED HIM. AND IF THEY'D HAD
12 GOTTEN HIM, WHO KNOWS WHAT WOULD HAVE HAPPENED. THEN
13 YOU HAVE THE TWO -- THE THREE NEGOTIATORS WHO
14 TESTIFIED.

15 MRS. YORK WAS THE FIRST. AND SHE TESTIFIED WHEN
16 SHE GOT THERE, SHE WENT UP, SHE WAS BRIEFED, AND
17 INTERMEDIATELY WENT TO THE -- TO THE FRONT OF THE
18 CHESTERFIELD UNIT.

19 INMATE LYNCH, SHE SAID, I ONLY WALK TO TALK TO
20 ONE PERSON, I DON'T WANT TO TALK WITH EVERYBODY.
21 THERE'S A CROWD OF THEM. INMATE LYNCH IMMEDIATELY
22 STEPS FORWARD. THE LEADER STEPS FORWARD AND BROUGHT
23 OFFICER COTTON UP THERE, AND HE WAS HANDCUFFED TO
24 OFFICER COTTON. HE WAS ALSO HOLDING A SHANK IN HIS
25 HAND.

1 HE SAID -- HE MADE -- HE MADE SOME DEMANDS,
2 WANTED A HANDCUFF KEY, WANTED TO SPEAK WITH THE
3 WARDEN. AND SHE REPORTED THAT TO THE WARDEN. AND
4 UPON RETURNING, INMATE LYNCH SAID -- BECAME ANGRY.

5 HE STARTED SAYING, YOU ALL THINK I'M PLAYING?
6 YOU ALL THINK I'M PLAYING? I'M GOING TO SHOW YOU ALL
7 WE'RE NOT PLAYING. AT THAT TIME HE STABBED OFFICER
8 COTTON. I MEAN, THEY'RE USING OFFICER COTTON LIKE A
9 PIN CUSHION, JUST STICKING HIM, STICKING HIM,
10 STICKING HIM.

11 AND HE -- AND THEY THROW OUT A LIST OF DEMANDS.
12 YOU KNOW, THEY WANT THE AIR TANK AND SO FORTH. MAJOR
13 FERRARO, WHO WAS THE PRIMARY HOSTAGE NEGOTIATOR, SAID
14 THAT WHEN HE GOT THERE IT WAS A VERY SERIOUS
15 SITUATION, THAT HE DIDN'T KNOW WHAT WAS HAPPENING TO
16 OFFICER COTTON WHEN OFFICER COTTON WAS AWAY FROM THE
17 DOOR, HE DIDN'T KNOW WHAT WAS HAPPENING TO OFFICER
18 DOZIER.

19 THEY DIDN'T KNOW THAT OFFICER DOZIER HAD GOT
20 HIMSELF BARRICADED INTO A ROOM. THEY DIDN'T KNOW
21 THAT. HE DIDN'T KNOW THAT. HIS PRIMARY CONCERN --
22 CONCERN WAS FOR THESE TWO OFFICERS.

23 SO HE KEPT NEGOTIATING TO TRY TO GET THE -- TO
24 GET THE HOSTAGE-TAKER SINGLETARY AND LYNCH TO BRING
25 COTTON TO THE FRONT DOOR AND BRING DOZIER TO THE

1 FRONT DOOR IF THEY -- IF THEY COULD.

2 AND WHEN HE -- WHEN THEY WOULD BRING COTTON TO
3 THE FRONT DOOR, THERE WOULD BE -- WHAT DID HE SAY?
4 THAT THEY -- THEY'D STICK AT HIM WITH THE SHANK AND
5 SO FORTH, THEY WOULD SLAP HIM, THEY WOULD DO THINGS,
6 THEY WOULD MAKE DEMANDS, YOU KNOW.

7 THE -- IF YOU DON'T DO -- GET THE MEDIA AND SO
8 FORTH, WE'RE GOING TO KILL COTTON AND THEY WERE GOING
9 TO GET DOZIER. REMEMBER AT THE VERY END OF THAT
10 VIDEOTAPE, THE VERY END RIGHT BEFORE -- RIGHT BEFORE
11 COTTON COMES OUT?

12 YOU HAVE -- YOU CAN SEE LYNCH AND COTTON IN THE
13 WINDOW, AND LYNCH IS MAKING THOSE DEMANDS FOR THE
14 NEWS MEDIA. AND THERE'S CRAIG MELVIN. HE SAID,
15 WELL, CRAIG MELVIN IS THE FAKE MEDIA. HE'S NOT
16 MAKING THE THREATS AGAINST COTTON.

17 AND THEN WE HAVE CRAIG MELVIN. AND CRAIG MELVIN
18 TESTIFIED THAT, YEAH, I STAND IN THERE IN THE DOOR
19 AND I SEEN THIS COMING DOWN, AND HE -- HE INTERVIEWED
20 LYNCH AFTER THE SITUATION HAD ENDED. AND YOU HEARD
21 THAT.

22 YOU HEARD THAT -- THAT TAPE. IT'S STATE'S
23 EXHIBIT NUMBER 10. AND YOU WILL HAVE IT BACK THERE
24 AND YOU CAN HEAR IT. WHAT DOES HE SAY? YEAH, WE
25 TOOK A HOSTAGE. YEAH, I TOOK A HOSTAGE. HE ADMITS

1 HE TOOK THE HOSTAGE.

2 NOW, EVERY ELEMENT OF THE -- OF THE CHARGES THAT
3 THE STATE HAS LISTED OUT IN THIS INDICTMENT HAS BEEN
4 SHOWN AND BEEN PROVEN. ALL OF THE INGREDIENTS FOR
5 THAT CAKE ARE READY FOR YOU TO BAKE IT.

6 NOW LET'S LOOK AT SOME OF THE EVIDENCE THAT WAS
7 PRESENTED INTO -- INTO EVIDENCE. FIRST OF ALL WE
8 HAVE INMATE SINGLETARY'S STATEMENT. NOW, THIS IS A
9 BLOWN-UP -- THIS IS STATE'S EXHIBIT NUMBER 14. THIS
10 IS THE BLOWN-UP ONE, BUT THE HANDWRITING EXPERT USED,
11 WHICH YOU HAVE A SMALLER ONE WHICH IS STATE'S EXHIBIT
12 ONE -- TWO, I BELIEVE. STATE'S EXHIBIT TWO IS THE
13 SMALLER ONE. YOU WILL ALSO HAVE THAT WITH YOU.

14 AND WHAT DOES HE SAY? THIS IS A STATEMENT HE
15 GAVE. HE SAID, ON OCTOBER THE 29TH, 2003, OFFICER
16 COTTON WAS FEEDING IN THE CHESTERFIELD UNIT. INMATE
17 TYRONE SINGLETARY TOOK OFFICER COTTON HOSTILITY.
18 NOW -- IN THE CHESTERFIELD UNIT. PROBABLY CAN'T
19 SPELL AND HE MEANS HOSTAGE, OKAY? HE MEANS HOSTAGE.

20 SO WHAT DOES HE SAY? HE SAYS, I TOOK -- SAYS
21 INMATE TYRONE SINGLETARY TOOK OFFICER COTTON HOSTAGE
22 IN THE CHESTERFIELD UNIT. I DID STAB OFFICER COTTON
23 BUT I DO NOT KNOW WHERE. HE SAID THIS INCIDENT WAS
24 NEVER TO GET OUT OF HAND I THINK ACCORDING TO IT AND
25 I THINK HE WAS TIRED OF IT AND I THINK THAT HE WAS

1 READY TO GO -- TO STOP.

2 I THINK MAJOR FERRARO INDICATED THAT AFTER THE
3 INMATES STARTED COMING OUT FIVE AT A TIME AND THEY
4 GOT SEVERAL HUNDRED OF THEM OUT, SINGLETARY PROBABLY
5 LOST HIS AUDIENCE AND HE -- AND IT WAS DONE, HE
6 DIDN'T HAVE ANYBODY TO SHOW OFF IN FRONT OF. OKAY.
7 READ THIS STATEMENT. READ THIS STATEMENT. IT'S AN
8 IMPORTANT STATEMENT.

9 SINGLETARY'S STATEMENT WHICH YOU WILL HAVE, AND
10 IT'S -- EXCUSE ME -- LYNCH'S STATEMENT, AND IT'S
11 NUMBER ONE. IT'S STATE'S EXHIBIT NUMBER ONE. SAYS,
12 I CAME OUT AND REFUSED TO GO IN UNTIL I SAW A WHITE
13 SHIRT. I JUMPED AT HIM. I GUESS THAT MEANS BEING
14 COTTON, AND HE SPRAYED ME WITH GAS.

15 I CHASED HIM. HE LOCKED HIMSELF IN A ROOM 2205,
16 HE CONTINUED TO SPRAY ME WITH GAS AND SWING AND HE
17 WAS SWINGING, SWINGING A HOMEMADE KNIFE AT ME. I
18 LEFT AND WENT TO NORTH SIDE, SHOWED OFFICER DOZIER
19 MY -- MY HOMEMADE KNIFE. WENT TO NORTH SIDE AND
20 SHOWED OFFICER DOZIER HIS HOMEMADE KNIFE. READ THAT
21 STATEMENT. THAT'S INTO EVIDENCE.

22 THE AUDIO TAPE THAT WE TALKED ABOUT, THAT IS
23 STATE'S EXHIBIT NUMBER 10. WHAT'S IT SAY? YEAH, I
24 TOOK -- I TOOK SOME HOSTAGES. WE TOOK HOSTAGES. THE
25 VIDEO -- THE VIDEOTAPE WHICH YOU WILL BE ALLOWED TO

1 SEE IN ITS ENTIRETY IF YOU LIKE -- I SHOWED EXCERPTS
2 OF IT YESTERDAY, BUT IT CAN BE CUED UP AND YOU CAN
3 WATCH ANY PART OF IT YOU WISH.

4 ON THAT VIDEOTAPE YOU SEE SINGLETARY, YOU SEE
5 LYNCH, YOU SEE COTTON, YOU SEE THE CONDITION COTTON
6 WAS IN, YOU SEE THE THREATS AND DEMANDS THAT WERE
7 MADE. NOW, A LOT OF THE VIDEO CRANKING, REWINDING,
8 SHOWING THE WHOLE THING. A LOT OF THE VIDEO IS JUST
9 A VIEW OF THE DOOR WITH PEOPLE STANDING BACK FROM IT
10 AND NOBODY IN THE DOOR.

11 AND THEN A LOT OF IT IS THE FIVE INMATES COMING
12 OUT AT A TIME WHICH IS IMPORTANT, CALMED DOWN A
13 SITUATION, BUT IN AN EFFORT TO SAVE TIME I JUST
14 SHOWED YOU SOME OF THE IMPORTANT PARTS. BUT YOU WILL
15 HAVE AN OPPORTUNITY TO LOOK AT IT AGAIN.

16 AND AS YOU KNOW, A PICTURE IS WORTH A THOUSAND
17 WORDS. THE WRITTEN DEMANDS, STATE'S EXHIBIT NUMBER
18 EIGHT, AND IT WAS A HANDWRITTEN NOTE -- HERE IT IS --
19 THAT WAS THROWN OUT AND OFFICER OR NEGOTIATOR YORK
20 RETRIEVED THIS.

21 IT WAS THROWN OUT BY LYNCH AND SINGLETARY. AND
22 THIS IS A NOTE THAT THEY SAID THEY WANTED HANDCUFF
23 KEYS, THEY WANT LOCAL NEWS, WANT AN AIR TANK, NO MORE
24 GAS, NO MORE GAS SHOT, AND THEY WANTED A FIRST AID
25 KIT.

1 AND MAY HAVE AT THAT POINT IN TIME REALIZED THAT
2 THEY HAD CUT UP OFFICER COTTON PRETTY BAD AND THEY
3 PROBABLY NEEDED SOMETHING TO HELP HIM OUT. THE NOTES
4 WRITTEN ARE WRITTEN BY INMATE SINGLETARY. STATE'S
5 EXHIBIT NUMBER 15, YOU HAVE GOT THE -- THESE ARE THE
6 BLOW-UPS -- THE FOUR I THINK, STATE'S EXHIBIT NUMBER
7 FOUR ARE THE ACTUAL NOTES THEMSELVES, BUT THESE --
8 THIS IS THE BLOW-UP.

9 AND YOU CAN COMPARE THAT -- THIS STATEMENT,
10 THESE HANDWRITTEN NOTES TO HIS -- TO SINGLETARY'S
11 STATEMENT. YOU SEE AS THE HANDWRITING EXPERT,
12 MRS. HEATH, INDICATED THAT THEY WERE WRITTEN BY THE
13 SAME PERSON. AND THESE ARE NOTES WRITTEN TO ONE,
14 TWO, THREE, FOUR, FIVE DIFFERENT PEOPLE. FIVE
15 DIFFERENT PEOPLE.

16 AND WHAT DOES HE SAY? THIS IS GIT. ARE YOU
17 RIGHT? ARE YOU WILLING TO RIDE THIS? YES. YES, YES
18 OR NO. I AM TALKING ABOUT TAKING THIS -- USES
19 ANOTHER EXPLETIVE OVER. ALL I NEED IS SOME HELP.
20 AND HE WRITES THIS SAME NOTE TO FIVE DIFFERENT
21 PEOPLE.

22 AND THERE'S SINGLETARY CONSPIRING TO TAKE OVER
23 CHESTERFIELD UNIT. HE WRITES TO AND EVERYBODY
24 INCLUDING INMATE -- HAS A -- WRITES YO, YOU GOT, YO,
25 YACUBE, JOE NAS, YO RU, AND YO JOE, AND HE SIGNS EACH

1 ONE OF THEM, PEACE. BUT THESE ARE WHAT THEY CALL
2 KITES, AND THEY PASS THESE AMONGST THEMSELVES IN THE
3 PRISON. AND THIS IS AN INDICATION THAT THIS HAD
4 BEEN -- HAD BEEN PLANNED FOR SOME TIME.

5 THE SHIRT, STATE'S EXHIBIT NUMBER 16, IS
6 PROBABLY ONE OF THE MOST TELLING PIECES OF EVIDENCE
7 THAT WAS PRESENTED. IT'S OFFICER COTTON'S SHIRT THAT
8 HE WORE THAT DAY TO WORK. AND I'M SURE IT WASN'T IN
9 THIS CONDITION ON THAT DATE. SEE THE BLOOD ON THE
10 BACK?

11 THIS IS OVER THE -- THIS IS OVER THE RIGHT
12 SHOULDER WHERE THE TESTIMONY WAS THAT THE WOUNDS
13 OCCURRED. BUT ANY WAY, THIS IS -- THIS IS THE
14 CONDITION OF HIS SHIRT. AND THAT'S WHAT IT LOOKED
15 LIKE WHEN HE WALKED OUT. THEY JUST ABOUT -- THEY
16 JUST ABOUT BEAT THIS POOR MAN TO DEATH. BUT YOU WILL
17 HAVE THIS BACK THERE.

18 THIS IS AN INDICATION OF THE TORMENT THAT MAN
19 WENT THROUGH ON THAT DAY. THE -- WHERE IS THE SHANK?
20 ALL RIGHT. AND STATE'S EXHIBIT NUMBER 11 IS THE
21 SHANK. A HOME-MADE KNIFE, THE KNIFE THAT MAJOR
22 BRACEY SAYS THAT HE TOOK FROM INMATE LYNCH AS HE
23 SURRENDERED THAT KNIFE AT THE CHESTERFIELD UNIT.

24 ON THE HANDLE, ON THE HANDLE HERE WAS OFFICER
25 COTTON'S DNA. OFFICER COTTON'S DNA. THIS WAS THE

1 KNIFE OR THE SHANK GIVEN TO MAJOR BRACEY.

2 NOW, MRS. RILEY -- MRS. RILEY SAYS THAT THE DNA
3 ON HERE, THAT OFFICER COTTON COULDN'T BE EXCLUDED,
4 BUT THAT HE -- HIS -- HIS DNA WAS IN FACT ON THE
5 SHANK WHEN -- WAS ON THE -- ON THE -- ON THE HANDLE
6 OF THIS.

7 BUT THIS IS THE THING. I WANT YOU TO PICK IT UP
8 WHEN YOU'RE BACK THERE. THAT'S A HARD PIECE OF
9 METAL. IT'S GOT A NICE SHARP POINT ON IT. PICK IT
10 UP AND LOOK AT IT. THIS IS ONE OF THE THINGS THAT
11 THEY WERE USING ON OFFICER COTTON.

12 THIS IS ONE OF THE THINGS THAT THEY WERE -- WERE
13 JABBING IN HIS SHOULDER, JABBING IN HIS HAND. SHOWED
14 YOU HIS HAND. THIS IS NOT A TOY. BUT LOOK AT IT
15 WHEN YOU'RE BACK THERE.

16 ALL OF THIS OCCURRED, IF YOU WOULD BELIEVE
17 STATEMENTS OF SINGLETARY AND LYNCH, BECAUSE THEY WERE
18 DISSATISFIED WITH THEIR SITUATION. THEY WERE
19 DISSATISFIED BECAUSE THEY WERE IN CHESTERFIELD UNIT I
20 GUESS BECAUSE THAT'S WHERE THE BAD BOYS WERE AND THEY
21 WERE LOCKED DOWN, AND THEY WERE LOCKED DOWN BECAUSE
22 THAT DAY OR THE DAY BEFORE THERE WAS A STABBING, DAY
23 BEFORE THERE WAS A STABBING.

24 YOU KNOW, LADIES AND GENTLEMEN, A PRISON IS A
25 PRISON. IT'S NOT DISNEYLAND. YOU'RE NOT GOING TO

1 HAVE TV AND BE ABLE TO GO AND COME WHEN YOU PLEASE
2 AND -- AND HAVE T-BONE STEAKS FOR SUPPER AND ALL THAT
3 SORT OF THING. IT'S A PRISON. IT'S A HARD LIFE.
4 YOU'RE THERE BECAUSE YOU HADN'T BEEN ABLE TO ADJUST
5 SOCIETY.

6 THAT IN AND OF ITSELF, THE FACT THAT THEY'RE
7 SAYING THEY WERE DISSATISFIED IS NOT AN EXCUSE TO
8 STAB OFFICER COTTON, TO TAKE HIM HOSTAGE, TO BEAT HIM
9 SENSELESS, TO PUT HIM IN THE CONDITION HE WAS IN WHEN
10 HE LEFT. IT'S NOT AN EXCUSE TO RUN OFFICER DOZIER
11 INTO THE -- INTO THE CELL AND FIGHT HIM OFF AND --
12 FOR THREE OR FOUR OR FIVE HOURS, WHATEVER, WHATEVER
13 THE TIME WAS.

14 IT'S NOT AN EXCUSE. IT'S NOT AN EXCUSE. THERE
15 IS -- THEY HAD A -- THEY HAD A GRIEVANCE, THERE'S A
16 METHOD, THERE'S A METHOD TO TAKE CARE OF YOUR
17 GRIEVANCES IN PRISON.

18 LADIES AND GENTLEMEN, I'M GOING TO STOP. BUT I
19 WANT YOU TO KNOW THAT THE INGREDIENTS ARE THERE TO
20 BAKE THAT CAKE. THESE TWO INMATES, LYNCH AND
21 SINGLETARY, ARE GUILTY. THE EVIDENCE IS OVERWHELMING
22 THAT THEY ARE GUILTY.

23 ON OCTOBER THE 29TH, 2003, THEY TOOK OVER THE
24 CHESTERFIELD UNIT AT LEE CORRECTIONAL INSTITUTE.
25 THEY TOOK OFFICER COTTON HOSTAGE, TOOK OFFICER DOZIER

1 HOSTAGE. THEY FREED ALL THE INMATES, CREATED A RIOT.
2 YOU SAW THE VIDEO, HOW THE PLACE WAS DESTROYED,
3 WINDOWS BROKEN, EVERYTHING, THE THING WAS FLOODED.
4 THEY'RE GUILTY. THEY'RE GUILTY. AND I BELIEVE YOU
5 WILL FIND THEM GUILTY. THANK YOU.

6 THE COURT: LADIES AND GENTLEMEN, MY CHARGE IS
7 GOING TO TAKE ABOUT 30 MINUTES. YOU HAVE BEEN OUT
8 HERE ABOUT AN HOUR AND A HALF. I'M PREPARED RIGHT
9 AWAY TO GO THROUGH IT RIGHT THIS MINUTE STARTING
10 RIGHT NOW.

11 IF ANY OF YOU NEED A BATHROOM BREAK, ANY ONE OF
12 YOU, WE WILL STOP RIGHT NOW AND HAVE A BRIEF BREAK
13 AND YOU ALL CAN GO TO YOUR JURY ROOM JUST FOR FIVE
14 MINUTES, 10 MINUTES, BEFORE WE BEGIN THE CHARGE.

15 DOES ANYBODY NEED A BREAK OR ARE YOU READY TO
16 GO? OKAY. THAT'S ALL I NEED. GOT TWO HANDS, THAT
17 CARRIES THE DAY. IF YOU'LL STEP TO YOUR JURY ROOM.
18 PLEASE DO NOT DISCUSS THIS CASE AMONG YOURSELVES.

19 AS SOON AS YOU'RE READY TO COME OUT, KNOCK ON
20 THE DOOR, LET THE BAILIFF KNOW AND WE WILL BRING YOU
21 OUT. WE'RE ON YOUR TIME NOW. WE'RE READY WHEN
22 YOU'RE READY. OKAY? THANK YOU.

23 (JURY LEFT COURTROOM AT 3:13 P.M.)

24 THE COURT: ALL RIGHT, FOLKS. WE WILL TAKE
25 ABOUT PROBABLY AT LEAST 10 MINUTES. I THINK IT WILL

1 TAKE THE JURY AT LEAST THAT LONG. WHEN THEY KNOCK ON
2 THE DOOR, WE'LL BE READY.

3 (WHEREUPON A BRIEF RECESS WAS TAKEN.)

4 THE COURT: ALL RIGHT, GENTLEMEN. ARE BOTH
5 SIDES READY FOR THE JURY?

6 MR. FATA: THE STATE IS, YOUR HONOR.

7 MR. SCOTT: YES, YOUR HONOR.

8 MR. DOBY: YES.

9 THE COURT: THANK YOU. BRING US THE JURY,
10 PLEASE.

11 (JURY ENTERED THE COURTROOM AT 3:23 P.M.)

12 JURY CHARGE

13 THE COURT: NOW MADAM FORELADY AND MEMBERS OF
14 THE JURY, PLEASE GIVE ME YOUR ATTENTION FOR JUST A
15 FEW MOMENTS. I COMMEND YOU AGAIN FOR YOUR PATIENCE
16 AND FOR YOUR ATTENTION THROUGHOUT THIS LONG TRIAL.
17 AND I ASK THAT YOU CONTINUE TO GIVE THAT SAME
18 ATTENTION TO ME NOW AS I INSTRUCT YOU TO AS TO WHAT
19 THE LAW IS IN THIS CASE BECAUSE IT IS MY DUTY UNDER
20 OUR CONSTITUTION TO CHARGE YOU WHICH IS SIMPLY A WORD
21 THAT MEANS TO INSTRUCT YOU AS TO WHAT THE LAW IS IN
22 THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT
23 THE LAW AND TO APPLY IT TO THE FACTS OF THE CASE THAT
24 YOU FIND TO EXIST.

25 AS JURORS THEN IT IS YOUR DUTY TO DECIDE ALL

1 ISSUES OF FACT IN THIS CASE. AND FOR THAT PURPOSE
2 YOU HAVE TO DETERMINE THE EFFECT, THE VALUE, THE
3 WEIGHT, AND THE TRUTH, OF THE EVIDENCE AND TESTIMONY
4 THAT YOU HAVE SEEN AND HEARD.

5 BOTH THE STATE AND THESE DEFENDANTS HAVE THE
6 RIGHT TO EXPECT THAT YOU WILL CONSCIENTIOUSLY
7 CONSIDER AND EVALUATE THE EVIDENCE AND THAT YOU WILL
8 APPLY THE LAW OF THE CASE TO THAT EVIDENCE SO THAT
9 BOTH THE STATE AND THE DEFENDANT WILL RECEIVE A FAIR
10 AND IMPARTIAL TRIAL AT YOUR HANDS.

11 THROUGHOUT THIS CHARGE, LADIES AND GENTLEMEN,
12 WHEN I USE THE WORD DEFENDANTS I'M REFERRING TO
13 MR. TYRONE SINGLETARY AND MR. JACOB LYNCH. THEY HAVE
14 BEEN INDICTED BY THE GRAND JURY OF LEE COUNTY AND
15 CHARGED IN COUNT ONE OF THE INDICTMENT WITH RIOTING.

16 THAT COUNT OF THE INDICTMENT ACCUSES THEM HERE
17 IN LEE COUNTY ON OCTOBER THE 29TH OF 2003 VIOLATING
18 THE LAWS OF THIS STATE IN THAT WHILE THEY WERE
19 INMATES IN THE DEPARTMENT OF CORRECTIONS THEY
20 PARTICIPATED IN A RIOT OR OTHER ACTS OF VIOLENCE IN
21 VIOLATION OF THE LAW.

22 COUNT TWO OF THE INDICTMENT CHARGES THE TWO OF
23 THEM WITH TAKING A HOSTAGE, SPECIFICALLY MARCUS
24 COTTON, AT THE SAME TIME AND PLACE AS INMATES IN THE
25 DEPARTMENT OF CORRECTIONS AND ACTING EITHER ALONE OR

1 IN CONCERT WITH OTHERS THREATENING, COERCING,
2 INTIMIDATING, OR BY PHYSICAL FORCE CARRYING THEM AWAY
3 TAKING AND HOLDING THEM AS A HOSTAGE IN VIOLATION OF
4 THE LAW.

5 THE THIRD COUNT OF THE INDICTMENT ACCUSES THE
6 TWO OF THEM WITH TAKING MR. KENNETH DOZIER HOSTAGE
7 AND ALLEGES ESSENTIALLY THE SAME FACTS, THE SAME TIME
8 AND PLACE AS FAR AS MR. DOZIER IS CONCERNED.

9 COUNT FOUR ACCUSES THE TWO OF THEM WITH
10 ASSAULTING A CORRECTIONAL OFFICER. SPECIFICALLY THE
11 TWO OF THEM WERE ACCUSED WHILE AS INMATES IN THE LEE
12 COUNTY DEPARTMENT OF CORRECTIONS WITH ASSAULTING,
13 BEATING, OR WOUNDING MARCUS COTTON, A CORRECTIONAL
14 OFFICER, IN VIOLATION OF THE LAW.

15 COUNT FIVE CHARGES THE TWO OF THEM WITH CARRYING
16 OR CONCEALING A WEAPON AS INMATES OF THE CORRECTIONAL
17 FACILITY, SPECIFICALLY A HOMEMADE KNIFE, ABOUT THEIR
18 PERSON.

19 AND COUNT SIX CHARGES THEM WITH INCITING OTHERS
20 TO RIOT WHILE INMATES IN THE DEPARTMENT OF
21 CORRECTIONS.

22 NOW LADIES AND GENTLEMEN, THE INDICTMENT AS I
23 TOLD YOU BEFORE THIS TRIAL BEGAN IS NOT EVIDENCE NOR
24 IS IT PROOF OF THE CHARGES THAT IT CONTAINS. IT IS
25 SIMPLY A PIECE OF PAPER, A CHARGING PAPER, THAT TELLS

1 YOU OR ME OR ANYBODY ELSE WHO READS IT WHAT THE
2 CHARGES IN THIS CASE ARE ALL ABOUT.

3 AS YOU KNOW BY NOW, MR. SINGLETARY, MR. LYNCH
4 HAVE PLED NOT GUILTY TO THESE CHARGES, HAVE REQUESTED
5 A JURY TRIAL AT YOUR HANDS.

6 NOW LADIES AND GENTLEMEN, THE LEGAL EFFECT OF A
7 PLEA OF NOT GUILTY TO A CHARGE IN A CRIMINAL CASE IS
8 TO PLACE THE BURDEN OF PROOF ON THE STATE TO PROVE BY
9 EVIDENCE THE GUILT OF THE ACCUSED BEYOND A REASONABLE
10 DOUBT BEFORE YOU CAN CONVICT THEM AND FIND THEM
11 GUILTY.

12 THESE DEFENDANTS ARE PRESUMED IN LAW TO BE
13 INNOCENT OF THE CHARGES CONTAINED IN THIS INDICTMENT.
14 IT IS A CARDINAL AND FUNDAMENTAL RULE OF THE LAW OF
15 EVIDENCE THAT THE DEFENDANT, REGARDLESS OF THE NATURE
16 OF THE CHARGES OR THE NUMBER OF THE CHARGES OR THE
17 SERIOUSNESS OF THE CHARGES AGAINST HIM, WILL ALWAYS
18 BE PRESUMED INNOCENT OF THE CRIME FOR WHICH HE HAS
19 BEEN INDICTED UNLESS AND UNTIL HIS GUILT HAS BEEN
20 PROVEN BY EVIDENCE THAT SATISFIES YOU OF THAT GUILT
21 BEYOND A REASONABLE DOUBT.

22 THE PRESUMPTION OF INNOCENCE IS NOT SOME MERE
23 LEGAL THEORY. IT IS NOT AN EMPTY MEANINGLESS LEGAL
24 PHRASE. THE PRESUMPTION OF INNOCENCE HAS BEEN
25 LIKENED TO A ROBE OF RIGHTEOUSNESS PLACED ABOUT THE

1 SHOULDERS OF THE DEFENDANT AND IT ASSIGNS TO THAT
2 DEFENDANT THE CLASS KNOWN AS THE INNOCENT..

3 AND THAT PRESUMPTIVE ROBE OF RIGHTEOUSNESS
4 CONTINUES TO EXIST UNLESS AND UNTIL YOU THE JURY
5 REACH THE CONCLUSION THAT THE STATE HAS PROVEN HIS
6 GUILT BEYOND A REASONABLE DOUBT.

7 I REMIND YOU THAT THE PRESUMPTION OF INNOCENCE
8 ATTACHES TO A DEFENDANT EVEN THOUGH THAT DEFENDANT IS
9 AN INMATE IN THE DEPARTMENT OF CORRECTIONS AND EVEN
10 THOUGH THAT INMATE STANDS BEFORE YOU OR SITS BEFORE
11 YOU TODAY IN PRISON CLOTHES, IN PRISON UNIFORM, IN
12 SHACKLED HANDS AND FOOT, BECAUSE THAT'S WHAT THE
13 REGULATIONS OF THE DEPARTMENT OF CORRECTIONS REQUIRE
14 BECAUSE THEY WERE INMATES AT THE TIME OF THE EVENTS
15 DESCRIBED IN THIS INDICTMENT.

16 THE PRESUMPTION OF INNOCENCE IS IN NO WAY
17 LESSENERED OR DIMINISHED IN ANY WAY BY THE FACT THAT
18 THEY SIT HERE AS INMATES OF THE DEPARTMENT OF
19 CORRECTIONS IN PRISON UNIFORM AND ARE SHACKLED.

20 THE PRESUMPTION OF INNOCENCE ACCOMPANIES A
21 DEFENDANT FROM THE TIME OF THEIR ARREST AND IT
22 FOLLOWS THEM THROUGHOUT EVERY STAGE OF THESE
23 PROCEEDINGS.

24 THE PRESUMPTION OF INNOCENCE CONTINUES TO EXIST
25 TO THE BENEFIT OF THE DEFENDANT UNTIL YOU THE JURY

1 REACH THE CONCLUSION THAT THE STATE HAS PROVEN HIS
2 GUILT BEYOND A REASONABLE DOUBT. SO THAT THEN IS THE
3 BURDEN THAT IS UPON THE STATE IN THIS CASE TO PROVE
4 GUILT BEYOND A REASONABLE DOUBT.

5 SOME OF YOU TOLD ME THAT YOU HAD SERVED AS
6 JURORS IN OTHER CASES BEFORE. AND YOU MAY HAVE
7 SERVED AS JURORS IN CIVIL CASES. AND IN CIVIL CASES
8 THE JUDGE TOLD YOU THAT THE PARTY WHO HAS THE BURDEN
9 OF PROOF ONLY HAS TO INTRODUCE EVIDENCE THAT
10 CONVINCES YOU THAT THE FACT CHARGED IS MORE LIKELY
11 TRUE THAN NOT TRUE IN ORDER FOR THAT SIDE TO PREVAIL.

12 BUT IN CRIMINAL CASES THE STATE'S PROOF HAS TO
13 BE MORE POWERFUL THAN THAT. HERE IT HAS TO BE PROOF
14 BEYOND A REASONABLE DOUBT. SO WHAT THEN DO WE MEAN
15 BY THE PHRASE PROOF BEYOND A REASONABLE DOUBT? PROOF
16 BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU
17 FIRMLY CONVINCED OF THE DEFENDANTS' GUILT.

18 NOW, THERE ARE VERY FEW THINGS IN THIS WORLD,
19 LADIES AND GENTLEMEN, THAT YOU AND I KNOW WITH
20 ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES THE LAW
21 DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE
22 DOUBT.

23 AND SO IF BASED UPON YOUR CONSIDERATION OF THE
24 EVIDENCE YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT
25 IS GUILTY OF A CRIME CHARGED, YOU MUST FIND HIM

1 GUILTY.

2 IF ON THE OTHER HAND YOU THINK THAT THERE'S A
3 REAL POSSIBILITY THAT HE'S NOT GUILTY, YOU MUST GIVE
4 HIM THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY.

5 REASONABLE DOUBT MIGHT ARISE FROM EVIDENCE IN
6 THE CASE OR IT COULD ARISE FROM THE LACK OF EVIDENCE
7 IN THE CASE. BUT YOU, LADIES AND GENTLEMEN, HAVE TO
8 DETERMINE WHETHER OR NOT REASONABLE DOUBT EXISTS AS
9 TO THE GUILT OF EITHER OR BOTH OF THESE DEFENDANTS.

10 I CHARGE YOU THAT A DEFENDANT IS ENTITLED TO
11 EVERY REASONABLE DOUBT WHICH ARISES IN THE CASE. AND
12 SO IF ON ANY ISSUE OF FACT WHICH IS NECESSARY TO A
13 CONVICTION AND A VERDICT OF GUILTY YOU HAVE A
14 REASONABLE DOUBT AS TO HOW THAT ISSUE SHOULD BE
15 RESOLVED, IT IS YOUR DUTY TO RESOLVE THAT REASONABLE
16 DOUBT IN FAVOR OF THE DEFENDANT, BECAUSE A DEFENDANT
17 IS NEVER REQUIRED TO PROVE HIS INNOCENCE.

18 THE STATE ON THE OTHER HAND IS REQUIRED IN LAW
19 TO PROVE EVERY ESSENTIAL ELEMENT OF THE OFFENSE
20 CHARGED AGAINST HIM BY EVIDENCE THAT SATISFIES YOU
21 THE JURY OF THE GUILT OF THE DEFENDANT BEYOND A
22 REASONABLE DOUBT BEFORE YOU CAN CONVICT HIM AND FIND
23 HIM GUILTY.

24 AND IN THAT REGARD I INSTRUCT YOU NOW AND I
25 EMPHASIZE TO YOU THAT THE FACT THAT THE DEFENDANTS IN

1 THIS CASE DID NOT TESTIFY IN THEIR OWN BEHALF IS NOT
2 A FACTOR TO BE CONSIDERED BY YOU IN ANY WAY IN YOUR
3 DELIBERATION AND IN YOUR CONSIDERATION ON THE
4 QUESTION OF THEIR GUILT OR INNOCENCE.

5 IT MUST NOT BE CONSIDERED BY YOU IN ANY WAY. IT
6 MUST NOT MITIGATE, MILITATE AGAINST THE DEFENDANT IN
7 ANY RESPECT WHATSOEVER, BECAUSE THE DEFENDANT HAS A
8 CONSTITUTIONAL RIGHT TO REMAIN SILENT. AND IF HE
9 CHOOSES TO ASSERT THAT CONSTITUTIONAL RIGHT, THAT
10 FACT CANNOT AND MUST NOT BE CONSIDERED BY YOU IN YOUR
11 DELIBERATIONS.

12 AND SO UNDER YOUR OATH THEN, YOU'RE TO REACH NO
13 INFERENCE AND DRAW NO CONCLUSION WHATSOEVER FROM THE
14 FACT THAT THESE DEFENDANTS DID NOT TESTIFY IN THEIR
15 OWN BEHALF. THAT SHOULD NOT EVEN BE DISCUSSED BY YOU
16 IN THE JURY ROOM. BECAUSE THE BURDEN OF PROOF AS I
17 HAVE TOLD YOU IS UPON THE STATE. THE DEFENDANT HAS
18 NO OBLIGATION TO PROVE HIS INNOCENCE.

19 AND THE BURDEN OF PROOF REMAINS UPON THE STATE
20 TO PROVE GUILT BEYOND A REASONABLE DOUBT. AND THE
21 FACT THAT A DEFENDANT DOES NOT TESTIFY IN HIS OWN
22 BEHALF IS NOT A FACTOR TO BE CONSIDERED BY YOU IN
23 DETERMINING HIS GUILT OR HIS INNOCENCE.

24 AND SO LADIES AND GENTLEMEN, IF THEN UPON THE
25 WHOLE CASE YOU HAVE A REASONABLE DOUBT AS TO THE

1 GUILT OR THE INNOCENCE OF THE DEFENDANT, HE IS
2 ENTITLED TO THAT REASONABLE DOUBT AND WOULD BE
3 ENTITLED TO AN ACQUITTAL AND A VERDICT OF NOT GUILTY.

4 BUT ON THE OTHER HAND -- BUT ON THE OTHER HAND,
5 IF UPON THE WHOLE CASE YOU FIND THAT THE STATE HAS
6 PROVEN BY EVIDENCE THAT SATISFIES YOU THE JURY OF THE
7 GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT,
8 THEN IN SUCH CIRCUMSTANCES IT IS EQUALLY YOUR DUTY TO
9 CONVICT THE DEFENDANT AND TO FIND HIM GUILTY.

10 NOW LADIES AND GENTLEMEN, DURING THE TRIAL EACH
11 OF US, YOU AND I, HAVE OUR SEPARATE AND DISTINCT
12 DUTIES TO PERFORM. AS THE TRIAL JUDGE IT'S MY JOB TO
13 PRESIDE OVER THE TRIAL OF THIS CASE AND I ALSO HAVE
14 THE DUTY TO RULE UPON OR PASS UPON THE ADMISSIBILITY
15 OF EVIDENCE THAT HAS BEEN OFFERED DURING THE COURSE
16 OF THIS TRIAL.

17 AND YOU'RE TO CONSIDER ONLY THE COMPETENT
18 EVIDENCE BEFORE YOU IN THIS CASE AND YOU'RE TO
19 DISREGARD AND REMOVE FROM YOUR MIND ANYTHING THAT I
20 MIGHT HAVE ORDERED STRICKEN FROM THIS RECORD, IF I
21 HAVE DONE SO DURING THIS TRIAL.

22 IN OTHER WORDS, YOU'RE TO CONSIDER ONLY THE
23 TESTIMONY WHICH HAS BEEN OFFERED FROM THIS WITNESS
24 STAND TOGETHER WITH THE EXHIBITS THAT HAVE BEEN
25 OFFERED INTO EVIDENCE UNDER OUR RULES.

1 NOW, I HAVE THE ADDITIONAL DUTY TO CHARGE YOU AS
2 TO WHAT THE APPLICABLE LAW IS IN THIS CASE. IT IS
3 YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I
4 STATE IT TO YOU NOW.

5 YOU MAY HAVE BROUGHT WITH YOU INTO YOUR SERVICE
6 THIS WEEK AS JURORS SOME PRECONCEIVED IDEAS ABOUT
7 WHAT YOU THINK THE LAW IS OR WHAT YOU WOULD LIKE FOR
8 THE LAW TO BE. BUT I TELL YOU NOW, LADIES AND
9 GENTLEMEN, IF YOUR IDEAS ABOUT THE LAW OR YOUR
10 PREFERENCES ABOUT THE LAW DO NOT AGREE WITH WHAT I
11 TELL YOU NOW THE LAW ACTUALLY IS, YOU'RE OBLIGATED
12 UNDER YOUR OATH TO FORGET WHAT YOU THINK ABOUT THE
13 LAW BECAUSE UNDER THAT OATH YOU'RE BOUND TO ACCEPT
14 THE LAW PRECISELY AS I NOW STATE IT TO YOU.

15 NOW, IN EVERY CASE TRIED IN THIS COURT BEFORE A
16 JURY, YOU THE JURY BECOME THE SOLE AND EXCLUSIVE
17 JUDGE OF THE FACTS. I AM THE JUDGE OF THE LAW.
18 YOU'RE THE JUDGE OF THE FACTS.

19 OUR CONSTITUTION HAS SAID THAT A TRIAL JUDGE
20 CAN'T COMMENT UPON THE FACTS OF THE CASE. THAT'S WHY
21 FROM TIME TO TIME I HAD TO SENT YOU OUT OF THE
22 COURTROOM WHILE THE LAWYERS AND I DISCUSSED MATTERS
23 OF LAW OUTSIDE OF YOUR PRESENCE BECAUSE THOSE THINGS
24 DON'T BEAR ON WHAT YOU HAVE TO DEAL WITH, THEY'RE
25 MATTERS OF LAW.

1 AND FROM TIME TO TIME IN THOSE DISCUSSIONS THERE
2 MAY BE SOME STATEMENTS ABOUT FACTS THAT YOU MIGHT
3 GLEAM FROM THAT THAT I HAVE SOME ROLE IN THE FACT OF
4 THIS CASE. I DO NOT. I'M THE JUDGE OF THE LAW.

5 THE FACTS OF THE CASE ARE ENTIRELY FOR YOU TO
6 DETERMINE. AND SO YOU'RE NOT TO GATHER FROM ANYTHING
7 THAT I HAVE SAID DURING THE COURSE OF THIS TRIAL OR
8 ANYTHING THAT I SAY TO YOU NOW DURING THIS CHARGE
9 THAT I HAVE AN OPINION ABOUT THE FACTS OF THE CASE.
10 I'M NOT ALLOWED AN OPINION OF THE LAW, THAT IS SOLELY
11 A MATTER FOR YOU TO DETERMINE.

12 AND SO THEN AS JURORS IT IS YOUR JOB TO
13 DETERMINE, AS I HAVE TOLD YOU, THE EFFECT, THE VALUE,
14 THE WEIGHT, AND THE TRUTH OF THE EVIDENCE PRESENTED
15 DURING THE COURSE OF THE TRIAL.

16 WE DON'T EXPECT YOU TO MAKE THOSE DECISIONS
17 ABOUT CREDIBILITY OR BELIEVABILITY, HOWEVER, LIKE YOU
18 ARE CALLED UPON TO DO IN A VACUUM BECAUSE AS YOU
19 DETERMINE WHAT THE FACTS OF A CASE ARE, YOU HAVE TO
20 PASS UPON THE CREDIBILITY AND BELIEVABILITY OF THE
21 WITNESSES WHO HAVE TESTIFIED.

22 YOU HAVE TO DECIDE THE FORCE AND THE EFFECT AND
23 THE VALUE AND THE WEIGHT AS WELL AS THE TRUTHFULNESS
24 OF WHAT YOU HAVE HEARD IN THIS CASE.

25 NOW, AS YOU MAKE THIS DECISION, THERE ARE A LOT

1 OF THINGS THAT YOU CAN TAKE INTO ACCOUNT. YOU CAN
2 TAKE INTO ACCOUNT THE APPEARANCE OF THE WITNESS AS HE
3 OR SHE TESTIFIED, AND WE CALL THAT THE Demeanor OF
4 THE WITNESS. IN OTHER WORDS, HOW DID THE WITNESS ACT
5 ON THE STAND.

6 YOU CAN ASK YOURSELF WAS THE WITNESS FORTHRIGHT
7 OR HESITANT. WAS THE WITNESS'S TESTIMONY CONSISTENT
8 OR DID IT CONTAIN DISCREPANCIES. YOU CAN ASK
9 YOURSELF DID A WITNESS HAVE A BIAS OR A PREJUDICE OR
10 A INTEREST TO BE SERVED BY THE TESTIMONY THAT HE OR
11 SHE GAVE.

12 YOU CAN ASK YOURSELF WHAT WAS THE ABILITY OF
13 THAT WITNESS TO KNOW THINGS THAT THEY WERE TELLING
14 YOU ABOUT, WHETHER THE TESTIMONY OF A WITNESS WAS
15 MADE STRONGER BY OTHER EVIDENCE OR WEAKER BY OTHER
16 EVIDENCE. THOSE ARE THINGS AMONG OTHER THINGS THAT
17 YOU CAN TAKE INTO ACCOUNT IN DETERMINING THE MATTER
18 OF CREDIBILITY OR BELIEVABILITY.

19 AND YOU HAVE HEARD TESTIMONY IN THIS CASE OF
20 PERSONS WHO ARE DESCRIBED AS EXPERTS. UNDER OUR LAW
21 NORMALLY A PERSON CANNOT GIVE THEIR OPINION ABOUT
22 CERTAIN THINGS. THEY'RE LIMITED TO TELLING YOU ABOUT
23 WHAT THEY SAW OR WHAT THEY HEARD OR WHAT THEY
24 OBSERVED PERSONALLY, WHETHER THEY HAVE PERSONAL
25 FIRST-HAND KNOWLEDGE OF.

1 BUT CERTAIN PERSONS BECAUSE OF THEIR EDUCATION
2 AND THEIR EXPERIENCE AND THEIR TRAINING WHO HAVE
3 BECOME EXPERTS IN CERTAIN FIELDS ARE ALLOWED TO STATE
4 THEIR OPINIONS ON MATTERS IN WHICH THEY ARE TRAINED
5 AS EXPERTS, IF THEY HAVE INDICATION AND EXPERIENCE
6 AND CAN ALSO GIVE THEIR REASONS FOR THOSE OPINIONS.

7 BUT EXPERT OPINION TESTIMONY IS JUDGED JUST LIKE
8 ANY OTHER TESTIMONY. YOU CAN ACCEPT IT OR REJECT IT.
9 YOU CAN GIVE IT THE WEIGHT YOU THINK IT SHOULD
10 RECEIVE CONSIDERING THE WITNESS'S EDUCATION AND
11 EXPERIENCE AND THE REASON GIVEN FOR THOSE OPINIONS
12 ALONG WITH ALL THE OTHER EVIDENCE IN THE CASE.

13 IN THIS PARTICULAR CASE THERE HAVE BEEN ADMITTED
14 INTO THE RECORD OF THIS CASE EVIDENCE OF PRIOR
15 CRIMINAL RECORDS OF CERTAIN WITNESSES WHO TESTIFIED.
16 THIS EVIDENCE WAS ADMITTED FOR A LIMITED PURPOSE AND
17 YOU CAN CONSIDER IT ONLY FOR THAT LIMITED PURPOSE IF
18 YOU CONCLUDE IT AS TRUE, THAT IS ONLY FOR THE PURPOSE
19 OF EVALUATING THE CREDIBILITY OR THE BELIEVABILITY OF
20 THE TESTIMONY OFFERED BY THAT WITNESS HIMSELF.

21 SO YOU CAN GIVE THAT EVIDENCE, THAT IS THE
22 EVIDENCE OF A PRIOR CRIMINAL RECORD, SUCH WEIGHT AND
23 VALUE, IF ANY, THAT YOU THINK IT SHOULD RECEIVE ON
24 THE SOLE ISSUE OF THE CREDIBILITY OR BELIEVABILITY OF
25 THE TESTIMONY OFFERED BY THAT WITNESS HIMSELF.

1 BECAUSE LADIES AND GENTLEMEN, AS JURORS YOU HAVE
2 GOT THE RIGHT TO BELIEVE A SMALL PART OF WHAT A
3 SINGLE WITNESS TELLS YOU AND TO DISBELIEVE THE LARGER
4 PART OF WHAT THAT SAY WITNESS TELLS YOU OR THE OTHER
5 WAY AROUND. YOU CAN BELIEVE ALL OF WHAT A WITNESS
6 TELLS YOU OR NONE OF WHAT A WITNESS TELLS YOU.

7 YOU DON'T EXERCISE THOSE CONSIDERATIONS
8 ARBITRARILY. THERE MUST BE SOME GOOD REASON IN THE
9 RECORD FOR DOING SO, LADIES AND GENTLEMEN, BECAUSE
10 UNDER THE LAW WHAT WE EXPECT YOU TO DO IS TO USE YOUR
11 GOOD JUDGMENT, YOUR SOUND COMMON SENSE, YOUR SENSE OF
12 LOGIC AND REASON, AND YOUR EXPERIENCES IN LIFE, AND
13 YOU APPLY THOSE ABILITIES THAT EACH OF YOU HAS TO THE
14 EVIDENCE THAT YOU FIND IN THIS PARTICULAR CASE.

15 AND WHEN YOU DO THAT, YOU'LL BE ABLE TO
16 DETERMINE THE TRUTH OF THIS CASE. AND ONCE YOU HAVE
17 DETERMINED THE TRUTH OF THIS CASE, YOU WILL APPLY THE
18 LAW THAT I HAVE JUST GIVEN YOU AND THAT I CONTINUE TO
19 GIVE YOU SO THAT YOUR TRUTH AND THE LAW THAT I GIVE
20 YOU WILL COME TO RESULT IN A VERDICT WHICH WILL SPEAK
21 THE TRUTH OF THIS CASE.

22 NOW, LET ME INSTRUCT YOU ONCE AGAIN BRIEFLY ON
23 THE CHARGES WHICH ARE CONTAINED IN THE INDICTMENT AND
24 THE ELEMENTS OF THOSE CHARGES. THE STATE HAS TO
25 PROVE EACH OF THEM BEYOND A REASONABLE DOUBT.

1 THE FIRST COUNT OF THE INDICTMENT CHARGES
2 RIOTING. OUR LAW SAYS ANY INMATE OF THE DEPARTMENT
3 OF CORRECTIONS THAT PARTICIPATES IN A RIOT OR ANY
4 OTHER ACTS OF VIOLENCE IS GUILTY OF THIS CHARGE..

5 AND SO THE ELEMENTS OF THAT OFFENSE ARE TWO.
6 THE STATE HAS TO PROVE BEYOND A REASONABLE DOUBT THAT
7 A DEFENDANT WHILE AN INMATE IN THE DEPARTMENT OF
8 CORRECTIONS -- AND THAT'S THE FIRST ELEMENT, THAT
9 THEY WERE INMATES IN THE DEPARTMENT OF CORRECTIONS.

10 AND THE SECOND ELEMENT IS THAT THAT PERSON
11 PARTICIPATED IN A RIOT OR OTHER ACTS OF VIOLENCE IN
12 VIOLATION OF THE LAW..

13 LADIES AND GENTLEMEN, I REMIND YOU THAT A RIOT
14 IS DESCRIBED AS AN UPRISING OR A DISTURBANCE OR A
15 REVOLT OR REBELLION.

16 THE SECOND CHARGE IS TAKING OF A HOSTAGE. AND
17 THE LAW SAYS THAT AN INMATE OF A CORRECTIONAL
18 FACILITY WHO EITHER ACTS ALONE OR IN CONCERT WITH
19 OTHERS AND WHO BY THREATS OR COERCION OR INTIMIDATION
20 OR PHYSICAL FORCE TAKES, HOLDS, DECOYS, OR CARRIES
21 AWAY WAY ANY PERSON AS A HOSTAGE OR FOR ANY OTHER
22 REASON WHATSOEVER IS GUILTY OF THIS CHARGE.

23 SO ONCE AGAIN, THE STATE HAS TO PROVE BEYOND A
24 REASONABLE DOUBT THAT A DEFENDANT WHILE AN INMATE IN
25 THE DEPARTMENT OF CORRECTIONS. THE SECOND ELEMENT IS

1 EITHER ACTED ALONE OR IN CONCERT WITH SOMEBODY ELSE.
2 AND THE THIRD ELEMENT IS EITHER BY USING THREATS OR
3 FORCE OR INTIMIDATION. AND THE FOURTH ELEMENT IS
4 EITHER TAKING OR HOLDING OR DECOYING OR CARRYING AWAY
5 A PERSON AS A HOSTAGE FOR ANY PURPOSE AT ALL IS
6 GUILTY OF THAT CHARGE.

7 AND I REMIND YOU THAT THERE ARE TWO COUNTS OF
8 TAKING A HOSTAGE. ONE COUNT THAT BEARS ON MR. COTTON
9 AND ONE THAT BEARS ON MR. DOZIER.

10 THE NEXT COUNT OF THE INDICTMENT CHARGES
11 CONVICTION -- EXCUSE ME -- CHARGES ASSAULT UPON A
12 STATE OR LOCAL CORRECTIONAL FACILITY EMPLOYEE. AND
13 THAT LAW SAYS THAT A PERSON WHO COMMITS AN ASSAULT
14 UPON A STATE OR LOCAL CORRECTIONAL FACILITY EMPLOYEE
15 WHILE PERFORMING HIS JOB RELATED DUTIES IS GUILTY OF
16 THIS CHARGE.

17 SO THERE ARE THREE ELEMENTS IN THIS PARTICULAR
18 CASE. THE FIRST ELEMENT IS THAT AN ASSAULT OCCURRED.
19 AN ASSAULT IS EITHER A THREAT OR AN ACTUAL ATTACK IN
20 THE LAW. AND SECONDLY, THE VICTIM OF THE ASSAULT HAS
21 TO BE A CORRECTIONAL FACILITY EMPLOYEE. AND THIRDLY,
22 THAT EMPLOYEE MUST BE PERFORMING HIS JOB RELATED
23 DUTIES AT THE TIME OF THE ASSAULT. THOSE ARE THE
24 THREE ELEMENTS THAT HAVE TO BE PROVEN BY THE STATE,
25 EACH OF THEM, ALL OF THEM, BEYOND A REASONABLE DOUBT.

1 THE NEXT CHARGE IS CARRYING OR CONCEALING
2 WEAPONS. THIS COUNT OF THE INDICTMENT AND THE LAW
3 WHICH APPLIES TO IT MAKES IT UNLAWFUL FOR AN INMATE
4 OF A STATE CORRECTIONAL FACILITY TO CARRY ON HIS
5 PERSON A DIRK, SLINGSHOT, METAL KNUCKLES, RAZOR,
6 FIREARM, OR OTHER DEADLY WEAPON, EITHER HOMEMADE OR
7 OTHERWISE, WHICH IS USUALLY USED FOR THE INFLECTION
8 OF PERSONAL INJURY UPON SOMEONE ELSE OR TO WILLFULLY
9 CONCEAL SUCH A WEAPON.

10 AND SO THE STATE HAS TO PROVE BEYOND A
11 REASONABLE DOUBT THAT AN INMATE IN A STATE
12 CORRECTIONAL FACILITY CARRIED ON OR ABOUT HIS PERSON
13 A DEADLY WEAPON, EITHER HOMEMADE OR OTHERWISE,
14 USUALLY USED FOR THE INFLECTION OF PERSONAL INJURY OR
15 WHO CONCEALED THAT WEAPON WITHIN THE FACILITY.

16 AND FINALLY, THE LAST COUNT OF THE INDICTMENT
17 CHARGES INCITING TO RIOT. AND THE LAW THAT APPLIES
18 TO THAT COUNT OF THE INDICTMENT MAKES IT ILLEGAL FOR
19 ANY INMATE IN THE DEPARTMENT OF CORRECTIONS TO
20 CONSPIRE WITH ANY OTHER INMATE, TO INCITE SUCH INMATE
21 TO RIGHT OR COMMIT ANY OTHER ACTS OF VIOLENCE.

22 AND SO ONCE AGAIN THE ELEMENTS OF THIS CHARGE
23 ARE THREE. FIRST OF ALL, THE DEFENDANT MUST HAVE
24 BEEN AN INMATE IN THE DEPARTMENT OF CORRECTIONS. AND
25 CERTAINLY -- AND SECONDLY, HE MUST HAVE CONSPIRED

1 WITH ANOTHER INMATE. CONSPIRED MEANS TO AGREE WITH
2 EITHER TACITLY OR OPENLY OR OTHERWISE.

3 AND THE AGREEMENT MUST HAVE BEEN TO INCITE THAT
4 INMATE TO RIOT OR COMMIT FURTHER ACTS OF VIOLENCE.
5 TO INCITE MEANS TO PROVOKE, TO EGG ON, TO INFLAME OR
6 TO MOTIVATE.

7 NOW LADIES AND GENTLEMEN, I TELL YOU THAT WHEN
8 TWO OR MORE PERSONS AID, ENCOURAGE, AND ABET
9 EACHOTHER IN THE COMMISSION OF A CRIME, ALL WHO ARE
10 PRESENT ARE PRINCIPALS AND ARE EQUALLY GUILTY.

11 IN OTHER WORDS, WHEN TWO OR MORE CONCERNS
12 COMBINE TOGETHER TO COMMIT A CRIME AND THE CRIME IS
13 COMMITTED, ALL OF THOSE WHO ARE PRESENT AID AND ABET
14 AND ASSIST IN THE COMMISSION OF THAT CRIME ARE
15 GUILTY. THE ACT OF ONE BECOMES THE ACT OF ALL. THE
16 HAND OF ONE BECOMES THE HANDS OF ALL.

17 AND IT MAKES NO DIFFERENCE BY WHOSE IMMEDIATE
18 HAND OR WHOSE IMMEDIATE AGENCY THAT CRIME WAS
19 COMMITTED. ALL WERE PRINCIPALS.

20 HOWEVER, I TELL YOU THAT MERE PRESENCE AT THE
21 SCENE OF THE CRIME EVEN WITH KNOWLEDGE THAT IT WAS
22 BEING COMMITTED WITHOUT AN INTENT TO AID, ABET, OR
23 ASSIST IN ITS COMMISSION, IS NOT -- DOES NOT
24 CONSTITUTE GUILT.

25 AND SO THE BURDEN IS ON THE STATE THEN TO

1 ESTABLISH BEYOND A REASONABLE DOUBT THAT THE
2 DEFENDANTS AND EACH OF THEM WERE PRESENT AND THAT
3 THEY WERE THERE WITH THE CRIMINAL INTENT, THAT IS
4 WITH THE INTENT TO AID, ENCOURAGE, AND ABET
5 EACHOTHER, IN COMMITTING THE OFFENSES CHARGED.

6 NOW LADIES AND GENTLEMEN, THERE HAVE BEEN
7 ADMITTED INTO THE RECORD IN THIS CASE STATEMENTS
8 ALLEGEDLY MADE BY THE DEFENDANTS IN THIS CASE. THOSE
9 STATEMENTS HAVE BEEN WRITTEN OUT AND THEY'RE IN
10 EVIDENCE FOR YOUR CONSIDERATION.

11 NOW, WHILE AS THE COURT, I DETERMINE THE
12 ADMISSIBILITY OF THE EVIDENCE, THAT IS I DETERMINE
13 WHETHER OR NOT THE STATEMENTS ARE ALLOWED TO BE
14 CONSIDERED BY YOU AS EVIDENCE, YOU AS THE JURY MUST
15 FINALLY DETERMINE THE EXISTENCE, THE VOLUNTARINESS
16 AND THE WEIGHT OF ANY ALLEGED STATEMENT MADE BY A
17 DEFENDANT.

18 YOU MUST MAKE THE ULTIMATE DETERMINATION OF
19 WHETHER OR NOT THE DEFENDANT IN FACT MADE THE
20 STATEMENT IN THE FIRST PLACE. AND IF YOU FIND THEY
21 MADE THE STATEMENT, THEN YOU MUST THEN DETERMINE
22 WHETHER OR NOT HE MADE THE STATEMENT VOLUNTARILY.
23 AND FINALLY YOU WILL DECIDE WHAT WEIGHT, IF ANY, YOU
24 WILL CHOOSE TO GIVE TO ANY ALLEGED STATEMENT.

25 IN OTHER WORDS, YOU HAVE TO DETERMINE WHETHER

1 THE ALLEGED STATEMENT WAS THE PRODUCT OF AN
2 ESSENTIALLY FREE AND UNCONSTRAINED CHOICE BY ITS
3 MAKER.

4 THE STATE HAS TO PROVE THE VOLUNTARINESS OF A
5 STATEMENT BEYOND A REASONABLE DOUBT. IF YOU
6 DETERMINE BEYOND A REASONABLE DOUBT THAT A STATEMENT
7 WAS FREELY AND VOLUNTARILY GIVEN, THEN YOU MAY GIVE
8 THE STATEMENT SUCH OTHER FURTHER CONSIDERATION THAT
9 YOU THINK IS PROPER.

10 IF YOU DETERMINE THAT THE ALLEGED STATEMENT WAS
11 NOT THE FREE AND VOLUNTARY, WILLED EXPRESSION OF THE
12 DEFENDANT, THEN YOU WOULD NOT CONSIDER AS EVIDENCE.

13 NOW, WHEN MAKING A DECISION WHETHER OR NOT A
14 DEFENDANT'S WILL WAS OVERCOME IN OBTAINING A
15 STATEMENT, THE LAW REQUIRES YOU TO CONSIDER WHAT IS
16 KNOWN AS THE TOTALITY OF THE CIRCUMSTANCES. YOU
17 WOULD CONSIDER BOTH THE CHARACTERISTICS OF THE
18 DEFENDANT AND THE CIRCUMSTANCES SURROUNDING THE
19 QUESTIONS, THE INTERROGATION, IN OTHER WORDS.

20 AND SOME OF THE FACTORS THAT THE LAW SAYS YOU
21 MAY CONSIDER ARE THE AGE OF THE DEFENDANT, HIS
22 EDUCATIONAL BACKGROUND, HIS MENTAL ABILITY AND
23 CAPACITY, AND HIS BACKGROUND ALONG WITH ALL OF THE
24 OTHER FACTS AND CIRCUMSTANCES SURROUNDING THE MAKING
25 OF THE ALLEGED STATEMENT.

1 AND AS YOU DETERMINE THE VOLUNTARINESS OF ANY
2 ALLEGED STATEMENT, YOU SHOULD CONSIDER WHETHER THE
3 DEFENDANT WAS ADVISED OF AND UNDERSTOOD HIS
4 CONSTITUTIONAL RIGHTS. BECAUSE THE LAW REQUIRES THAT
5 BEFORE ANY INTERROGATION OR QUESTIONING OF A PERSON
6 IN CUSTODY MAY BEGIN, LAW ENFORCEMENT MUST ADVISE THE
7 ACCUSED OF HIS MIRANDA RIGHTS.

8 THIS MEANS THAT THE AUTHORITIES HAVE TO ADVISE
9 THE ACCUSED THAT HE HAS A RIGHT TO REMAIN SILENT AND
10 THAT ANY STATEMENT COULD BE USED AGAINST HIM IN A
11 COURT OF LAW, AND THAT HE HAS A RIGHT TO HAVE A
12 LAWYER PRESENT, AND THAT IF HE CANNOT AFFORD A
13 LAWYER, THEN A LAWYER WILL BE APPOINTED TO REPRESENT
14 HIM WITHOUT ANY COST, AND THAT HE HAS A RIGHT TO STOP
15 MAKING THE STATEMENT AT ANY TIME.

16 NOW LADIES AND GENTLEMEN, THE STATE HAS TO PROVE
17 EACH OF THOSE ELEMENTS BEYOND A REASONABLE DOUBT
18 BEFORE YOU CAN CONSIDER THE STATEMENTS AS EVIDENCE
19 FOR ANY PURPOSE WHATSOEVER.

20 YOU CAN ALSO CONSIDER THE PLACE, THE LENGTH OF
21 ANY DETENTION AND THE NATURE OF THE QUESTIONS THAT
22 WERE ASKED. YOU MUST CAREFULLY SCRUTINIZE ALL OF THE
23 SURROUNDING CIRCUMSTANCES BEFORE YOU GIVE ANY WEIGHT
24 TO AN ALLEGED STATEMENT.

25 YOU MUST BE SATISFIED BEYOND A REASONABLE DOUBT

1 THAT THE STATEMENT WAS MADE BY THE DEFENDANT, THAT IT
2 WAS UNINFLUENCED BY A PROMISE OF REWARD OR BY ANY
3 THREAT OF HARM.

4 IF YOU FIND BEYOND A REASONABLE DOUBT THAT ANY
5 ALLEGED STATEMENT WAS GIVEN VOLUNTARILY, YOU MUST
6 DECIDE WHAT WEIGHT, IF ANY, SHOULD BE GIVEN TO THE
7 STATEMENT.

8 IF YOU FIND THAT THE STATEMENT WAS NOT
9 VOLUNTARY, THEN IN THAT EVENT YOU MUST NOT CONSIDER
10 THE STATEMENT AS EVIDENCE FOR ANY PURPOSE.

11 NOW LADIES AND GENTLEMEN, FINALLY LET ME TELL
12 YOU THAT YOU DO NOT SERVE AS PARTISANS OR ADVOCATES
13 IN THIS CASE FOR EITHER SIDE, EITHER THE STATE OR THE
14 DEFENDANTS.

15 YOU DON'T SERVE AS JURORS TO PUNISH YOUR ENEMIES
16 NOR TO REWARD YOUR FRIENDS. OBVIOUSLY THAT WOULDN'T
17 BE A SYSTEM OF JUSTICE AT ALL. BECAUSE YOU HAVE BEEN
18 SELECTED BY BOTH SIDES IN THIS CASE, BY THE STATE AND
19 THESE DEFENDANTS, TO BE FAIR AND IMPARTIAL JURORS.

20 IT IS YOUR DUTY THEN UNDER YOUR OATH BY YOUR
21 JOINT DELIBERATIONS TO DETERMINE THE TRUTH OF THIS
22 CASE GIVING TO THESE DEFENDANTS THE BENEFITS OF EVERY
23 REASONABLE DOUBT ON EACH AND EVERY ISSUE. AND THEN
24 TO THE FACTS WHICH YOU DETERMINE TO BE TRUE YOU TAKE
25 AND APPLY THE LAW WHICH I HAVE JUST GIVEN YOU AND

1 THUS ARRIVE AT A VERDICT WHICH WILL SPEAK THE TRUTH
2 OF THIS CASE.

3 THAT'S WHAT THE WORDS VERDICT MEANS. IT COMES
4 FROM A LATIN PHRASE AND IT MEANS A TRUTHFUL SAYING.
5 AND ONCE YOU HAVE DONE THAT, YOU WILL HAVE SATISFIED
6 THE OATH THAT YOU TOOK BEFORE YOU BEGAN THE TRIAL OF
7 THIS CASE TO WELL AND TRULY TRY THIS CASE AND TO
8 RENDER A TRUE VERDICT ACCORDING TO THE EVIDENCE SO
9 HELP YOU GOD.

10 I HAVE GOT EVERY RIGHT TO EXPECT THAT YOU WILL
11 DO JUST THAT AND EVERY CONFIDENCE THAT YOU WILL DO
12 NOTHING LESS THAN THAT.

13 NOW LADIES AND GENTLEMEN, LET ME INSTRUCT YOU AS
14 TO WHAT THE VERDICT FORMS ARE IN THIS CASE. I GIVE
15 THE VERDICT FORM TO THE FORELADY BECAUSE SHE'S THE
16 PERSON WHO HAS GOT TO FILL IT OUT.

17 AND MADAM FORELADY, I WILL GO OVER THAT VERDICT
18 FORM WITH YOU NOW. LET ME TELL YOU THAT THE ORDER IN
19 WHICH I HAVE WRITTEN THE POSSIBLE FORMS OF VERDICT ON
20 THAT SHEET DOESN'T MEAN ANYTHING AT ALL. I WRITE THE
21 FORMS OF THE VERDICT DOWN THERE IN THE ORDER THAT I
22 FIND EASIEST TO EXPLAIN.

23 BUT YOU'RE NOT TO REACH ANY CONCLUSION OR DRAW
24 ANY INFERENCE WHATSOEVER FROM THE ORDER THAT I HAVE
25 WRITTEN THOSE POSSIBLE VERDICT FORMS DOWN THERE.

1 THERE ARE -- THERE ARE -- LET'S SEE.

2 THE VERDICT FORM THAT I HAVE GIVEN YOU NOW THINK
3 BEARS ON MR. SINGLETARY; IS THAT RIGHT?

4 FORELADY: YES.

5 THE COURT: OKAY. THIS ONE IS MR. LYNCH. THERE
6 ARE TWO VERDICT FORMS, ONE FOR EACH DEFENDANT. I
7 TELL YOU AGAIN, LADIES AND GENTLEMEN, THAT YOUR
8 VERDICT AS TO ONE DEFENDANT DOES NOT NECESSARILY
9 DETERMINE YOUR VERDICT AS TO THE OTHER DEFENDANT.

10 THERE ARE SIX -- EXCUSE ME -- FIVE -- THERE ARE
11 SIX COUNTS OF THE INDICTMENT. ONE GOES OVER TO THE
12 SECOND PAGE, MADAM FORELADY. I REMIND YOU AGAIN THAT
13 YOUR VERDICT ON ONE COUNT OF THE INDICTMENT DOES NOT
14 NECESSARILY DETERMINE YOUR VERDICT ON ANOTHER COUNT
15 OF THE INDICTMENT.

16 EITHER OR BOTH OF THESE DEFENDANTS, MR.
17 SINGLETARY OR MR. LYNCH, CAN BE ACQUITTED OR
18 CONVICTED ON ANY OR ALL OF THE COUNTS OF THE
19 INDICTMENT ACCORDING TO YOUR VIEW OF THE EVIDENCE AND
20 THE LAW THAT I HAVE JUST GIVEN YOU.

21 THE VERDICTS AS TO EACH OF THOSE SIX COUNTS WILL
22 BE EXPRESSED BY FILLING OUT THE FORM WHICH YOU HAVE
23 IN FRONT OF YOU, MADAM FORELADY, AS TO EACH
24 DEFENDANT. AS YOU CAN SEE THE NAME OF EACH DEFENDANT
25 AS YOU HAVE ALREADY POINTED OUT IS AT THE TOP IN THE

1 CAPTION OF THE CASE.

2 AND THERE ARE TWO POSSIBLE VERDICT FORMS FOR
3 EACH COUNT OF THE INDICTMENT. THE FIRST POSSIBLE
4 VERDICT FORM AS TO EACH COUNT OF THE INDICTMENT IS
5 GUILTY OF THAT PARTICULAR CHARGE, AND THE CHARGE IS
6 WRITTEN OUT IN THE INDICTMENT.

7 AS TO COUNT ONE, THE FIRST POSSIBLE VERDICT FORM
8 IS GUILTY OF RIOTING BY AN INMATE IN A CORRECTIONAL
9 FACILITY. THAT'S THE VERDICT FORM THAT YOU WILL USE
10 IF YOU FIND THAT THE STATE HAS MET ITS BURDEN OF
11 PROOF AS TO THAT CHARGE BEYOND A REASONABLE DOUBT.

12 AND IF THAT'S THE VERDICT FORM THAT YOU ARRIVE
13 AT, MADAM FORELADY, YOU WILL PUT AN X OR A CHECK MARK
14 TO THE LEFT OF THAT FORM IN THE PLACE THAT YOU SEE WE
15 HAVE PROVIDED FOR YOU.

16 THE SECOND POSSIBLE VERDICT FORM AS TO THAT
17 COUNT IS WE THE JURY BY UNANIMOUS CONSENT FIND THE
18 DEFENDANT NOT GUILTY OF THAT CHARGE. YOU WILL USE
19 THAT VERDICT FORM OF NOT GUILTY IF YOU FIND THE STATE
20 HAS FAILED TO MEET ITS BURDEN OF PROOF OF EACH OF THE
21 ELEMENTS BEYOND A REASONABLE DOUBT.

22 AND LIKEWISE, IF THAT'S A VERDICT THAT YOU
23 ARRIVE AT, YOU WILL INDICATE THAT BY PUTTING AN X OR
24 A CHECK MARK TO THE LEFT OF THE FORM.

25 AS TO EACH OF THE OTHER COUNTS, THE POSSIBLE

1 VERDICT FORMS ARE THE SAME. GUILTY IN THE STATE
2 MEETS ITS BURDEN OF PROOF. NOT GUILTY IF IT FAILS TO
3 MEET ITS BURDEN OF PROOF.

4 NOW LADIES AND GENTLEMEN, I HAVE GIVEN THE
5 VERDICT FORM TO THE FORELADY BECAUSE, AS I SAID,
6 SHE'S THE ONE WHO HAS GOT TO FILL THESE TWO VERDICT
7 FORMS OUT, BUT OBVIOUSLY IT WILL NOT BE HER VERDICT
8 ALONE. THE VERDICTS HAVE TO BE UNANIMOUS, AS TO EACH
9 COUNT, AS TO EACH DEFENDANT. ALL 12 OF YOU MUST
10 AGREE.

11 AND MADAM FORELADY, YOU'RE NOT AUTHORIZED TO A
12 WRITE THAT FORM NOR TO FILL IT OUT NOR TO SIGN IT
13 UNTIL ALL 12 OF YOUR NUMBER AGREE AS TO WHAT THE
14 VERDICT SHALL BE.

15 NOW I'M GOING TO SEND YOU TO YOUR JURY ROOM IN
16 JUST A MOMENT, BUT I'M GOING TO ASK YOU TO WAIT JUST
17 A MOMENT BEFORE YOU BEGIN YOUR DELIBERATIONS. I'VE
18 GOT TO TALK WITH THE LAWYERS TO SEE IF I'VE MISSTATED
19 ANYTHING OR IF I LEFT ANYTHING OUT OF MY INSTRUCTION.

20 AND IF I HAVE, I WILL HAVE TO BRING YOU BACK OUT
21 TO CORRECT IT. BUT IF I DON'T HAVE TO BRING YOU BACK
22 OUT TO CORRECT IT, WE WILL SEND IN THE ITEMS OF
23 EVIDENCE.

24 AND ONCE THE ITEMS OF EVIDENCE ARRIVE, THEN THAT
25 WILL BE YOUR SIGNAL TO FINALLY START TALKING ABOUT

1 THIS CASE AMONG YOURSELVES. PLEASE NOT UNTIL THE
2 EVIDENCE IS BROUGHT IN.

3 ONCE THE EVIDENCE IS BROUGHT IN, THEN YOU WILL
4 BEGIN YOUR DELIBERATIONS. YOU WILL DELIBERATE UNTIL
5 YOU'VE REACHED VERDICTS IN THIS CASE, AT WHICH POINT
6 IN TIME, MADAM FORELADY, YOU WILL FILL OUT THAT
7 VERDICT FORM OR THOSE VERDICT FORMS AS I HAVE GIVEN
8 THEM TO YOU AND YOU WILL SIGN IT AND DATE IT, KNOCK
9 ON THE DOOR, LET THE BAILIFF KNOW, WE'LL BRING YOU
10 OUT TO RECEIVE THE VERDICT AT THAT TIME.

11 WE HAVE SET UP IN THIS COURTROOM THE COMPUTER
12 FOR THE VIDEO IF YOU NEED TO SEE THAT AND THE TAPE
13 RECORDING OF THE INTERVIEW WITH MR. CRAIG MELVIN. IF
14 YOU NEED TO LISTEN TO ANY OF THOSE THINGS AGAIN,
15 YOU'RE CERTAINLY FREE TO DO IT. WE WILL JUST BRING
16 YOU BACK INTO THE COURTROOM. WE WILL HAVE TO DO IT
17 IN HERE BECAUSE WE GOT THE TECHNOLOGY IN HERE TO SET
18 IT UP.

19 SO JUST LET US KNOW IF YOU NEED TO SEE OR HEAR
20 ANY OF THOSE THINGS AT THAT POINT IN TIME AND WE WILL
21 BE GLAD TO PRODUCE THOSE FOR YOU. ALL RIGHT.

22 MADAM FORELADY, MEMBERS OF THE JURY, IF YOU'LL
23 STEP TO YOUR JURY ROOM. PLEASE WAIT UNTIL YOU GET
24 THE ITEMS OF EVIDENCE BEFORE YOU BEGIN YOUR
25 DELIBERATIONS. MR. HOPKINS, MRS. ROGERS, IF YOU ALL

1 WILL STAY RIGHT WHERE YOU ARE, PLEASE.

2 (JURY LEFT COURTROOM AT 3:52 P.M.)

3 THE COURT: MR. FATA, ANY EXCEPTIONS OR REQUESTS
4 FOR ADDITIONAL CHARGE FROM THE STATE?

5 MR. FATA: NO, SIR, YOUR HONOR.

6 THE COURT: THANK YOU. MR. DOBY FROM MR.
7 SINGLETARY?

8 MR. DOBY: NO, SIR, YOUR HONOR.

9 THE COURT: THANK YOU. MR. SCOTT FROM MR.
10 LYNCH?

11 MR. SCOTT: NO, SIR.

12 THE COURT: ALL RIGHT. GENTLEMEN, IF YOU ALL
13 WILL CHECK THE EVIDENCE AND MAKE SURE IT'S ALTOGETHER
14 AND THEN WE CAN SEND IT IN.

15 (ALTERNATE JURORS DISMISSED.)

16 MR. FATA: THEY ARE TOGETHER, YOUR HONOR.

17 THE COURT: OKAY. TAKE THEM THE EVIDENCE. TELL
18 THEM THEY CAN START THEIR DELIBERATIONS. ALL RIGHT.
19 WE WILL STAND ASIDE UNTIL WE HEAR FROM THE JURY.

20 (JURY BEGAN DELIBERATIONS AT 3:55 P.M.)

21 (WHEREUPON A RECESS WAS HAD.)

22 THE COURT: PAUL, THEY WANT TO SEE THE VIDEO
23 RECORDING AND LISTEN TO THE TAPE RECORDING OF CRAIG
24 MELVIN. SO IF YOU'LL...

25 MR. FATA: OKAY. THEY WANT TO LOOK AT THE WHOLE

1 VIDEO OR...

2 THE COURT: WE WILL ASK THEM WHEN THEY COME OUT.
3 IF YOU WILL GET IT -- IF YOU WILL GET IT PRIMED.
4 THEY WANT TO KNOW ABOUT THE LAW ON A POINT. I'LL
5 INSTRUCT THEM ON THAT, THEN WE CAN DO THE CRAIG
6 MELVIN VIDEO -- I MEAN CRAIG MELVIN AUDIO. THAT WILL
7 TAKE A LITTLE BIT OF TIME, THE SHORTEST TIME, THEN WE
8 WILL ASK THEM IF THEY WANT TO SEE IT.

9 MR. FATA: I NEED THAT SCREEN. YEAH, WE'LL HAVE
10 TO ADJUST IT.

11 (WHEREUPON THERE WAS A PAUSE.)

12 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
13 HAVE GOTTEN A NOTE FROM THE JURY THAT HAS THE
14 FOLLOWING QUESTIONS, REQUEST. NUMBER ONE, WHAT ARE
15 THE LAWS ON INCITING TO RIOT? THAT IS COUNT SIX OF
16 THE INDICTMENT. I WILL INSTRUCT THEM AS TO THAT ONCE
17 AGAIN.

18 AND SECONDLY, REQUESTING -- REQUESTS TO SEE
19 VIDEO AND LISTEN TO TAPE RECORDING OF CRAIG MELVIN
20 AND LYNCH. I UNDERSTAND THAT THAT IS PRIMED AND
21 READY TO GO.

22 AND AFTER I CHARGE THEM ON THE LAW OF INCITING
23 TO RIOT, PLAY THE TAPE, THEN MR. FATA, IF YOU WILL
24 CUE THE VIDEO, AND SHOW THEM ESSENTIALLY THE SAME
25 PARTS THEY LOOKED AT BEFORE, AND WE WILL SEE IF

1 THAT -- IF THAT SATISFIES THE REQUEST. IF NOT, WE
2 WILL TAKE IT FROM THERE, OKAY? IS EVERYBODY READY
3 FOR THE JURY?

4 MR. FATA: YES, SIR. THE STATE IS.

5 THE COURT: MR. DOBY, MR. SCOTT?

6 MR. SCOTT: YOUR HONOR, WAS THE REQUEST TO SEE
7 THE ENTIRE VIDEOTAPE OR JUST THE PORTIONS THAT HAD
8 ALREADY BEEN PLAYED?

9 THE COURT: IT SAYS TO SEE THE VIDEO, SO I WILL
10 ASK THEM WHEN THEY GET OUT HERE IF THEY WANT TO
11 SEE -- THINGS THAT HAVE ALREADY BEEN PLAYED. OF
12 COURSE, IF THEY WANT TO SEE THE WHOLE THING, I
13 SUPPOSE WE CAN -- YOU CAN JUST CUE IT UP AND LET THEM
14 SIT THERE AND WATCH ALL THREE HOURS IF THEY WANT TO,
15 YOU KNOW. WE WILL GIVE THEM THE CHOICE. ALL RIGHT.
16 OKAY.

17 MR. SCOTT: YOUR HONOR, I JUST WAS INFORMED BY
18 MR. LYNCH THAT IF THEY JUST WANT TO SEE WHAT WE HAVE
19 ALREADY VIEWED, HE DOESN'T HAVE ANY INTEREST IN
20 VIEWING -- HE WOULD LIKE TO SEE THE WHOLE VIDEO.
21 HE'D LIKE THE OPPORTUNITY TO BE ABLE TO VIEW THAT AS
22 WELL.

23 THE COURT: WE WILL SEE WHAT THEY SAY.

24 MR. SCOTT: YES, SIR.

25 THE COURT: OKAY. BRING US THE JURY, PLEASE.

1 (JURY ENTERED THE COURTROOM AT 5:01 P.M.)

2 THE COURT: THANK YOU. MADAM FORELADY AND
3 MEMBERS OF THE JURY, I HAVE YOUR REQUEST. I'VE GONE
4 OVER WITH IT THE LAWYERS AND WE'RE NOW PREPARED TO
5 RESPOND TO IT.

6 THE FIRST QUESTION THAT YOU ASKED IS WHAT ARE
7 THE LAWS OF INCITING TO RIOT? THAT IS THE SIXTH
8 COUNT OF THE INDICTMENT, THE SIXTH ITEM ON YOUR
9 VERDICT FORM.

10 TO DISTINGUISH FROM THE FIRST COUNT OF THE
11 INDICTMENT, WHICH IS RIOTING, RIOTING IS
12 PARTICIPATING IN A RIOT, THAT MEANS A PERSON WHO
13 ACTUALLY GETS OUT THERE AND INVOLVES HIMSELF OR
14 HERSELF IN A RIOT.

15 AND A RIOT, AS YOU KNOW, IS AN UPRISING, A
16 DISTURBANCE, A REVOLT OR A REBELLION OF SOME SORT.
17 NOW, WHAT YOU'VE ASKED ME ABOUT INCITING TO RIOT, AND
18 INCITING TO RIOT UNDER THE LAWS SAYS THAT ANY INMATE
19 OF A DEPARTMENT OF CORRECTIONS THAT CONSPIRES WITH
20 ANY OTHER INMATE TO INCITE SUCH INMATE TO RIOT OR
21 COMMIT ACTS OF VIOLENCE IS GUILTY.

22 SO INCITING TO RIOT DOESN'T MEAN NECESSARILY
23 THAT THE PERSON HIMSELF WAS INVOLVED IN THE RIOT,
24 COULD BE, BUT DOESN'T HAVE TO BE. IT MEANS -- THIS
25 CHARGE GOES TO WHETHER OR NOT THE INMATE ACTUALLY

1 STIRRED OTHER PEOPLE UP OR CONSPIRED WITH OTHER
2 PEOPLE OR INCITED OTHER PEOPLE TO RIOT.

3 AND SO THE ELEMENTS OF THAT PARTICULAR OFFENSE
4 ARE THAT FIRST OF ALL THE DEFENDANT HAS TO BE AN
5 INMATE AT THE DEPARTMENT OF CORRECTIONS. AND
6 SECONDLY, THE INMATE HAS TO CONSPIRE WITH OTHER
7 INMATES, THAT MEANS EITHER IN AGREE WITH THEM OR --
8 OR REACH SOME UNDERSTANDING WITH THEM, AND THE
9 UNDERSTANDING HAS TO BE TO INCITE THAT INMATE TO RIOT
10 OR COMMIT OTHER ACTS OF VIOLENCE.

11 IN OTHER WORDS, AND THE WORD INCITE MEANS TO
12 PROVOKE THAT OTHER PERSON OR TO EGG THAT PERSON ON OR
13 TO INFLAME THAT PERSON OR TO MOTIVATE THAT OTHER
14 PERSON TO COMMIT ACTS OF VIOLENCE OR TO RIOT.

15 SO THAT'S THE LAW ON INCITING TO RIOT. IT MEANS
16 ESSENTIALLY GETTING SOMEBODY ELSE INVOLVED BY
17 STIRRING THEM UP, BY PROVOKING THEM, BY EGGING THEM
18 ON, BY INFLAMING THEM OR MOTIVATING THEM TO
19 PARTICIPATE IN AN UPRISING, A DISTURBANCE, A REVOLT,
20 OR REBELLION SUCH AS A RIOT. THAT'S THE LAW ON
21 INCITING TO RIOT.

22 YOU NEXT ASKED TO SEE THE VIDEO AND LISTEN TO
23 THE TAPE RECORDING OF CRAIG MELVIN AND MR. LYNCH.
24 THE TAPE RECORDING IS CUED UP AND MR. FATA WILL PUSH
25 THE PLAY BUTTON SO THAT YOU CAN HEAR THAT AGAIN, AND

1 THEN WE'LL PROCEED TO THE MATTER OF THE VIDEOTAPE.

2 (TAPE RECORDER PLAYED.)

3 THE COURT: NOW LADIES AND GENTLEMEN, YOU ALSO
4 ASKED TO SEE THE VIDEO. AS YOU KNOW, THERE WERE SIX
5 30 MINUTES TAPES THAT WERE TAKEN AT THE TIME
6 ACCORDING TO THE TESTIMONY THAT WAS OFFERED, SO'S
7 THERE THREE HOURS OF TAPES ALTOGETHER.

8 YOU WERE SHOWN ONLY PORTIONS OF THOSE THAT --
9 THAT WERE DEEMED TO BE RELEVANT TO CONSIDERATION OF
10 THE CHARGES BEFORE YOU IN THIS PARTICULAR CASE. SO
11 WE'RE PREPARED TO SHOW TO YOU ESSENTIALLY THOSE
12 THINGS AGAIN.

13 NOW, IF YOU -- AM I TO UNDERSTAND THAT'S WHAT
14 YOU WANT TO SEE OR DO YOU WANT TO SEE THE WHOLE THREE
15 HOURS?

16 FORELADY: JUST....

17 THE COURT: OKAY. JUST THE PART THAT YOU SAW
18 BEFORE? IS THAT ESSENTIALLY IT? ALL RIGHT. ALL
19 RIGHT. MR. FATA, IF YOU CAN...

20 MR. FATA: YOUR HONOR, I'M NOT THE BEST AT THIS.
21 I WILL TRY TO GET IT THERE.

22 THE COURT: I UNDERSTAND. SINCE THERE WON'T BE
23 ANYBODY TESTIFYING IF THERE IS AUDIO THAT'S
24 IRRELEVANT, YOU CAN TURN THAT AUDIO UP A LITTLE BIT.

25 MR. FATA: OKAY.

1 (TAPE WAS EXHIBIT NUMBER 10, VIDEO, FOLLOWED BY
2 STATE'S EXHIBIT NUMBER NINE BEING SHOWN TO THE JURY
3 IN OPEN COURT.)

4 THE COURT: SEEN ENOUGH? CUT IT OFF. THANK YOU
5 LADIES AND GENTLEMEN. IF YOU WILL RETURN TO YOUR
6 JURY ROOM, CONTINUE TO DELIBERATE. LET US KNOW IF WE
7 CAN HELP YOU. THANK YOU.

8 (JURY LEFT COURTROOM AT 5:38 P.M.)

9 THE COURT: GENTLEMEN, ARE THERE ANY EXCEPTIONS
10 OR REQUESTS FOR ADDITIONAL REMARKS IN CONNECTION WITH
11 THOSE CHARGES MADE BY THE COURT TO THE JURY, MR.
12 FATA?

13 MR. FATA: NONE FROM THE STATE, YOUR HONOR.

14 THE COURT: MR. DOBY?

15 MR. BARR: NO, SIR, YOUR HONOR.

16 THE COURT: MR. SCOTT?

17 MR. SCOTT: NO, YOUR HONOR.

18 THE COURT: ALL RIGHT, FOLKS. WE WILL CONTINUE
19 TO STAND DOWN UNTIL WE HEAR FROM THE JURY. THANK
20 YOU.

21 (JURY LEFT THE COURTROOM AT 5:40 P.M. TO
22 CONTINUE DELIBERATIONS.)

23 (WHEREUPON A RECESS WAS HAD.)

24 THE COURT: LADIES AND GENTLEMEN, I'M ADVISED
25 THAT THE JURY HAS REACHED A VERDICT. IF YOU'LL BRING

1 IN THE DEFENDANTS, PLEASE.

2 (DEFENDANTS ENTERED THE COURTROOM.)

3 THE COURT: ARE BOTH SIDES NOW READY TO RECEIVE
4 THE VERDICT, MR. FATA?

5 MR. FATA: THE STATE IS, YOUR HONOR.

6 THE COURT: MR. DOBY, MR. SCOTT?

7 MR. DOBY: YES, SIR.

8 MR. SCOTT: YES, SIR, YOUR HONOR.

9 THE COURT: OKAY. BRING IN THE JURY, PLEASE.

10 (JURY ENTERED THE COURTROOM AT 5:58 P.M.)

11 VERDICT

12 THE COURT: MADAM CLERK, YOU CAN RECEIVE THE
13 VERDICT.

14 (CLERK APPROACHED THE FORELADY THEN APPROACHED
15 THE COURT.)

16 THE COURT: YOU MAY PUBLISH THE VERDICTS IN THE
17 ORDER THAT THEY APPEAR. THANK YOU.

18 THE CLERK: INDICTMENT NUMBER 2004-GS-31-135,
19 THE STATE OF SOUTH CAROLINA VERSUS TYRONE SINGLETARY,
20 WE THE JURY BY UNANIMOUS CONSENT FIND THE DEFENDANT
21 TYRONE SINGLETARY; COUNT ONE, GUILTY OF RIOTING BY AN
22 INMATE OF A CORRECTIONAL FACILITY; COUNT TWO, GUILTY
23 OF TAKING MARCUS COTTON HOSTAGE; COUNT THREE, GUILTY
24 OF TAKING KENNETH DOZIER HOSTAGE; COUNT FOUR, GUILTY
25 OF ASSAULT UPON AN EMPLOYEE OF A STATE CORRECTIONAL

1 FACILITY; COUNT FIVE, GUILTY OF CARRYING OR
2 CONCEALING A WEAPON BY AN INMATE OF A CORRECTIONAL
3 FACILITY; COUNT SIX, GUILTY OF INCITING TO RIOT BY AN
4 INMATE OF A CORRECTIONAL FACILITY. SIGNED LINDA
5 SMITH, FOREPERSON.

6 STATE OF SOUTH CAROLINA VERSUS JACOB LYNCH, WE
7 THE JURY BY UNANIMOUS CONSENT FIND THE DEFENDANT
8 JACOB LYNCH; COUNT ONE, GUILTY; COUNT TWO, GUILTY;
9 COUNT THREE, GUILTY; COUNT FOUR, GUILTY; COUNT FIVE,
10 GUILTY; COUNT SIX, GUILTY. SIGNED LINDA SMITH,
11 FOREPERSON.

12 THE COURT: THANK YOU. LADIES AND GENTLEMEN,
13 THE CLERK NOW IS GOING TO POLL YOU. THAT MEANS SHE
14 IS GOING TO ASK YOU TO STAND INDIVIDUALLY AS YOUR
15 NAMES ARE CALLED.

16 SHE WILL ASK YOU THESE QUESTIONS: ARE THESE
17 YOUR VERDICTS OR WERE THESE YOUR VERDICTS AND ARE
18 THEY STILL YOUR VERDICTS, AND IF YOU WILL PLEASE GIVE
19 THE APPROPRIATE ANSWER TO THAT QUESTION WHATEVER THE
20 ANSWER MIGHT BE.

21 WOULD YOU STAND IN PLACE RIGHT WHERE YOU ARE AS
22 YOUR NAMES ARE CALLED. THANK YOU.

23 THE CLERK: DEBBIE HOPKINS, WAS THIS YOUR
24 VERDICT?

25 JUROR: YES, MA'AM.

1 THE CLERK: IS IT STILL YOUR VERDICT?
2 JUROR: YES, MA'AM.
3 THE CLERK: HAZEL TONY, WAS THIS YOUR VERDICT?
4 JUROR: YES, MA'AM?
5 THE CLERK: IS IT STILL YOUR VERDICT?
6 JUROR: YES, MA'AM.
7 THE CLERK: DEBBIE DIXON, WAS THIS YOUR VERDICT?
8 JUROR: YES.
9 THE CLERK: IS IT STILL YOUR VERDICT?
10 JUROR: YES.
11 THE CLERK: PATRICIA ATKINSON, WAS THIS YOUR
12 VERDICT?
13 JUROR: YES.
14 THE CLERK: IS IT STILL YOUR VERDICT?
15 JUROR: YES.
16 THE CLERK: DOROTHY HOLLOMAN, WAS THIS YOUR
17 VERDICT?
18 JUROR: YES.
19 THE CLERK: IS IT STILL YOUR VERDICT?
20 JUROR: YES.
21 THE CLERK: EDDIE WARD, WAS THIS YOUR VERDICT?
22 JUROR: YES.
23 THE CLERK: IS IT STILL YOUR VERDICT?
24 JUROR: YES.
25 THE CLERK: LATRICIA KENNEDY, WAS THIS YOUR

1 VERDICT?

2 JUROR: YES.

3 THE CLERK: IS IT STILL YOUR VERDICT?

4 JUROR: YES.

5 THE CLERK: TONY ATKINSON, WAS THIS YOUR

6 VERDICT?

7 JUROR: YES.

8 THE CLERK: STILL YOUR VERDICT?

9 JUROR: YES.

10 THE CLERK: MELISSA GRIGGS, WAS THIS YOUR

11 VERDICT?

12 JUROR: YES, MA'AM.

13 THE CLERK: STILL YOUR VERDICT?

14 JUROR: YES, MA'AM.

15 THE CLERK: PAMELA BOYD, WAS THIS YOUR VERDICT?

16 JUROR: YES.

17 THE CLERK: STILL YOUR VERDICT?

18 JUROR: YES.

19 THE COURT: WHOSE NAME WAS NOT CALLED?

20 MRS. BRACEY.

21 THE CLERK: I'M SORRY.

22 THE COURT: WOULD YOU PLEASE STAND? IS THIS

23 YOUR VERDICT AND STILL YOUR VERDICT?

24 JUROR: YES.

25 THE COURT: THANK YOU, MA'AM. MRS. SMITH, WAS

1 THIS YOUR VERDICT AND STILL YOUR VERDICT?

2 JUROR: YES.

3 THE COURT: THANK YOU, MA'AM. HAVE ALL NAMES
4 NOW BEEN CALLED? THANK YOU. ALL RIGHT. IS THERE
5 ANYTHING FURTHER BEFORE THE JURY IS DISMISSED,
6 GENTLEMEN? MR. DOBY, MR. SCOTT?

7 MR. DOBY: NOTHING PRIOR TO THE JURY BEING
8 DISMISSED, YOUR HONOR.

9 THE COURT: ALL RIGHT, SIR.

10 MR. SCOTT: NOTHING PRIOR TO THE JURY BEING
11 DISMISSED.

12 THE COURT: THANK YOU. LADIES AND GENTLEMEN, I
13 WANT TO THANK YOU FOR YOUR SERVICE AS JURORS THIS
14 WEEK AND CERTAINLY AM GLAD NOW TO DISMISS YOU FROM
15 ANY FURTHER SERVICE THIS WEEK.

16 YOU HAVE RENDERED QUALITY JURY SERVICE TO THE
17 PEOPLE OF LEE COUNTY AND TO OUR SYSTEM. I DON'T
18 COMMENT UPON YOUR VERDICT. I DON'T COMMEND JURIES
19 FOR THEIR VERDICTS NOR DO I CRITICIZE JURIES FOR
20 THEIR VERDICTS.

21 (WHEREUPON THE JURY WAS DISMISSED.)

22 SENTENCING

23 THE COURT: MR. DOBY, I WILL BE GLAD NOW TO HEAR
24 MOTIONS ON BEHALF OF MR. SINGLETARY.

25 MR. DOBY: YOUR HONOR, WE WOULD RENEW THE

1 EARLIER MOTIONS THAT WE HAD MADE. IN ADDITION, YOUR
2 HONOR, I WOULD ASK THE COURT TO CONSIDER A NEW TRIAL
3 BASED ON THE SAME MOTIONS.

4 THE COURT: ALL RIGHT. THANK YOU. MR. SCOTT, I
5 WILL BE GLAD NOW TO HEAR FROM YOU ON BEHALF OF MR.
6 LYNCH.

7 MR. SCOTT: YES, SIR. I'M SURE YOUR HONOR
8 DOES -- HAS NO SURPRISE THE MOTION THAT MR. DOBY MADE
9 WAS THE SAME MOTION THAT I WOULD MAKE, SIMPLY ADOPT
10 HIS ARGUMENT AS BEING MINE, YOUR HONOR.

11 THE COURT: THANK YOU. GENTLEMEN, THIS WAS, OF
12 COURSE, A MATTER FOR THE JURY'S CONSIDERATION. I
13 THINK THE CASE WAS PROPERLY SUBMITTED TO THE JURY,
14 AND THE JURY HAD IT WITHIN ITS PURVIEW TO REACH THE
15 DECISION THAT IT HAS MADE.

16 THESE WERE MATTERS IN WHICH THERE WAS MORE THAN
17 SUFFICIENT EVIDENCE IN THE RECORD TO SUSTAIN THE
18 VERDICTS WHICH HAVE BEEN REACHED.

19 ONCE AGAIN IN DECIDING THE MOTION FOR A NEW
20 TRIAL, THE RENEWAL OF THE EARLIER MOTIONS, I APPLY
21 THE SAME STANDARD, TAKING THE EVIDENCE IN THE LIGHT
22 MOST FAVORABLE TO THE STATE THERE'S MORE THAN
23 SUFFICIENT EVIDENCE TO SUSTAIN THE VERDICTS OF GUILTY
24 ON EACH OF THESE SIX COUNTS OF EACH OF THE
25 DEFENDANTS, MR. SINGLETARY AND MR. LYNCH.

1 THE RENEWAL OF THE DIRECTED VERDICT MOTIONS, THE
2 NEW TRIAL MOTIONS, THE ARREST OF JUDGMENT MOTIONS ARE
3 RESPECTFULLY DENIED. IS THE STATE READY TO PROCEED
4 TO SENTENCING?

5 MR. FATA: YES, SIR. YOUR HONOR, LET ME -- I
6 NEED TO FINISH THE SENTENCING -- I GOT MORE TO DO.

7 THE COURT: ALL RIGHT, SIR.

8 (WHEREUPON THERE WAS A PAUSE).

9 MR. FATA: YOUR HONOR, IN ORDER TO COMPLETE THE
10 SENTENCING SHEETS, I NEED TO HAVE THE SOCIAL SECURITY
11 NUMBER OF MR. SINGLETARY. I DO NOT HAVE THAT IN ANY
12 OF MY PAPERWORK. IF HE WOULD PROVIDE THAT.

13 THE COURT: ALL RIGHT. MR. DOBY CAN GET THAT TO
14 YOU.

15 MR. DOBY: I'M SORRY, YOUR HONOR?

16 THE COURT: MR. SINGLETARY'S SOCIAL SECURITY
17 NUMBER.

18 (WHEREUPON THERE WAS A PAUSE.)

19 THE COURT: ALL RIGHT. MR. FATA, IS THE STATE
20 NOW READY TO PROCEED TO TRIAL -- TO SENTENCING?

21 MR. FATA: YES, SIR, WE ARE READY.

22 THE COURT: ALL RIGHT. MR. SINGLETON, MR.
23 LYNCH, YOU CAN STAND IN PLACE RIGHT WHERE YOU ARE,
24 GENTLEMEN. IT WON'T BE NECESSARY TO BRING YOU
25 FORWARD. THE LESS MOVEMENT I THINK THE BETTER. IF

1 YOU WILL HAND UP THE SENTENCING SHEETS, PLEASE.

2 MR. FATA: YOUR HONOR, MR. LYNCH DOES NOT KNOW
3 HIS SOCIAL SECURITY NUMBER -- 2.

4 THE COURT: OKAY. THAT'S ALL RIGHT.

5 MR. FATA: I MEAN MR. SINGLETARY. EXCUSE ME.

6 THE COURT: THAT'S ALL RIGHT.

7 MR. FATA: HERE IS SENTENCING SHEETS FOR MR.
8 SINGLETARY, CAN'T -- THE COUNT IS AT THE TOP. AND
9 THE ONES FOR MR. LYNCH, COUNT THREE -- AT THE TOP OF
10 EACH ONE.

11 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT.
12 IF YOU WILL REVIEW THE RECORDS WITH ME, MR. FATA,
13 PLEASE.

14 MR. FATA: YES, SIR. LET ME -- LET ME -- ON
15 BEHALF OF MR. LYNCH, MR. LYNCH HAS A PRIOR MOST
16 SERIOUS, THE CRIME BEING ARMED ROBBERY, ONE -- LOOKS
17 LIKE TWO COUNTS OF ARMED ROBBERY WHICH HE CURRENTLY
18 SERVING, AND I WILL PASS THAT RECORD UP WITH -- UP TO
19 YOU.

20 THE COURT: ALL RIGHT, SIR.

21 MR. FATA: WE SENT NOTICE TO SEEK A LIFE WITHOUT
22 PAROLE. IN FACT, WE SENT IT SEVERAL TIMES, BUT THE
23 LAST TIME WAS JUNE OF 2005. A CERTIFIED COPY OF THE
24 RECORD IS IN THE FILE ALONG WITH THE NOTES OF --
25 PROOF OF SERVICE ON THE NOTES.

1 AS FAR AS MR. SINGLETARY IS CONCERNED -- ARE YOU
2 READY FOR THAT ONE?

3 THE COURT: ONE SECOND, PLEASE. ALL RIGHT, SIR.

4 MR. FATA: MR. SINGLETARY WAS ALSO CONVICTED OF
5 A MOST SERIOUS OFFENSE, THE SAME BEING MURDER. WE
6 HAVE THE CERTIFIED COPY OF THE RECORD CONCERNING HIM,
7 AND HE'S CURRENTLY SERVING TIME FOR THAT.

8 AND WE ALSO HAVE COPIES OF THE NOTICE FROM THE
9 SOLICITOR'S OFFICE TO SEEK LIFE WITHOUT PAROLE AND
10 ALONG WITH THE PROOFS OF SERVICE.

11 THE COURT: ALL RIGHT. THANK YOU.

12 MR. FATA: AND MY SECRETARY SAID THAT HE -- HIS
13 SOCIAL SECURITY NUMBER MAY BE ON THE SENTENCE SHEET
14 FROM FLORENCE COUNTY, AND WE WILL GET THAT, I THINK.

15 THE COURT: ALL RIGHT. THANK YOU. I WILL BE
16 GLAD NOW TO HEAR FROM MR. COTTON OR FROM MR. DOZIER.

17 MR. FATA: Y'ALL COME ON OVER HERE. OF COURSE,
18 THIS IS MR. DOZIER AND THIS IS MR. COTTON. ANY
19 REMARKS? YOU NEED TO ADDRESS THEM DIRECTLY TO THE
20 COURT.

21 MR. DOZIER: APPRECIATE THE COURT'S TIME,
22 APPRECIATE THE JOB THE STATE HAS DONE IN DEFENDING
23 ME. SORRY ABOUT BEING A PART OF THIS. THIS HAS
24 DESTROYED MY WHOLE LIFE, AND IT'S REALLY THEIR FAULT
25 BY NOT GOING THROUGH THE PROPER PROCEDURES.

1 I WISH IT WOULDN'T HAVE HAPPENED, BUT IT DID, SO
2 I GUESS LIFE DOES GO ON SOME KIND OF WAY, BUT IT
3 NEVER GOES BACK TO NORMAL. SO I JUST HAVE TO DEAL
4 WITH WHATEVER I'M DEALT WITH NOW. BUT I GUESS THAT'S
5 ALL I WOULD HAVE TO SAY, YOUR HONOR.

6 THE COURT: ALL RIGHT.

7 MR. DOZIER: THANK YOU.

8 THE COURT: THANK YOU. MR. COTTON?

9 MR. FATA: MR. COTTON, OFFICER COTTON.

10 MR. COTTON: THANK YOU FOR TAKING THE TIME TO
11 TRY THIS CASE AND THIS LISTEN -- LISTEN TO. ALL I
12 GOT TO SAY. I CAN GO AHEAD ON WITH MY LIFE NOW. I
13 CAN GO AHEAD ON WITH MY LIFE NOW.

14 THE COURT: ALL RIGHT, SIR. THANK YOU, SIR.
15 THANK YOU, GENTLEMEN. MR. FATA, IS THERE ANYTHING
16 FURTHER FROM THE STATE?

17 MR. FATA: NOTHING FURTHER FROM THE STATE, YOUR
18 HONOR.

19 THE COURT: MR. DOBY, I'LL BE GLAD TO HEAR FROM
20 YOU FIRST ON BEHALF OF MR. SINGLETARY AND FROM MR.
21 SINGLETARY AS WELL, AND THEN MR. SCOTT AND --
22 MR. DOBY?

23 MR. DOBY: YOUR HONOR, TYRONE IS 25 YEARS OF
24 AGE. HE'S ALREADY SERVING SOME SIGNIFICANT TIME. I
25 BELIEVE HE DOESN'T MAX HIS CURRENT SENTENCE OUT UNTIL

1 2028 I BELIEVE IS THE CORRECT DATE.

2 YOUR HONOR, HE WAS BORN IN FLORENCE COUNTY,
3 LIVED IN FLORENCE COUNTY UP TILL THE TIME THAT HE WAS
4 INCARCERATED. I BELIEVE HE BEGAN INCARCERATION IN
5 1996 IF I REMEMBER CORRECTLY -- '96 HE INDICATES WAS
6 THE TIME, YOUR HONOR.

7 WHILE, YOUR HONOR, I UNDERSTAND THAT, OF COURSE,
8 THE COURT UNDER THE STATUTE IS OBLIGATED TO IMPOSE A
9 CERTAIN SENTENCE FOR TAKING OF HOSTAGES, WE WOULD ASK
10 THE COURT FOR ANY CONSIDERATION THAT YOU CAN GIVE.

11 YOUR HONOR, WHILE TYRONE HAS EXPRESSED TO ME
12 SORROW FOR WHAT HAPPENED AS FAR AS STABBING OFFICER
13 COTTON, OF COURSE, THE COURT IS WELL AWARE THAT HE
14 PLED NOT GUILTY TO THE OTHER CHARGES. AND HE'S
15 EXTREMELY SORRY FOR WHAT HE HAD DONE AND WHAT HE
16 NEEDED TO DO.

17 THE COURT: THANK YOU. MR. SINGLETARY, DO YOU
18 WANT TO ADD ANYTHING TO WHAT MR. DOBY HAD SAID ON
19 YOUR BEHALF?

20 MR. SINGLETARY: NO.

21 THE COURT: ALL RIGHT. THANK YOU. MR. SCOTT?

22 MR. SCOTT: YOUR HONOR, THANK YOU. MAY IT
23 PLEASE THE COURT. JUDGE, LIKEWISE I'M AWARE OF THE
24 COURT'S RESTRAINTS WITH RESPECT TO THE CONVICTION OF
25 THE HOSTAGE TAKING CHARGES, AND I WOULD SIMPLY ASK

1 THE COURT TO -- TO EXERCISE AS MUCH LENIENCY AS THE
2 COURT THINKS IS APPROPRIATE AS TO THE OTHER CHARGE.

3 JUST BY WAY OF BACKGROUND INFORMATION, JUDGE,
4 MR. LYNCH IS 23, SOON TO BE 24. HE WAS BORN IN NEW
5 JERSEY AND ENDED UP IN SOUTH CAROLINA WHEN HIS MOTHER
6 LIVED HERE.

7 ADDITIONALLY, YOUR HONOR, I HAVE BEEN IN I WON'T
8 SAY CONSTANT CONTACT, BUT I HAVE BEEN IN REGULAR AND
9 FREQUENT CONTACT WITH MR. LYNCH'S FATHER. BOTH HIS
10 PARENTS ARE ELDERLY, BOTH IN POOR HEALTH.

11 MR. LYNCH, SENIOR, IN FACT AND I SPOKE THIS PAST
12 WEEKEND. HE INFORMED ME THAT HE HAS GONE THROUGH TWO
13 HEART OPERATIONS, AND I KNOW THAT THEY'RE CONCERNED
14 ABOUT HIS SON AND WHAT HAPPENS TO HIM.

15 YOUR HONOR, CERTAINLY NO DEFENSE LAWYER AND
16 CERTAINLY NO DEFENDANT LOVES TO -- OR IS -- LIKES THE
17 IDEA OF HAVING TO STAND BEFORE THE BAR TO RECEIVE
18 SENTENCING. I'M WELL AWARE OF THE CIRCUMSTANCES OF
19 THIS CASE.

20 I UNDERSTAND THE OBLIGATIONS IMPOSED ON THE
21 COURT. I WOULD SIMPLY AGAIN ASK THAT TO THE EXTENT
22 THE COURT CAN TO EXERCISE LENIENCY, WE WOULD ASK YOU
23 DO SO. AGAIN, I RECOGNIZE THE CONCERNS WITH RESPECT
24 TO THE CHARGE.

25 BUT I DO FEEL IT IMPORTANT TO KNOW THAT I HAVE

1 BEEN IN CONTACT ON A REGULAR BASIS WITH -- I DIDN'T
2 FEEL IT IMPORTANT FOR THE COURT TO KNOW REGULAR --
3 BEEN IN REGULAR CONTACT WITH THE MR. LYNCH'S FAMILY.
4 AND THEY ARE VERY CONCERNED ABOUT HIM.

5 *THE COURT:* THANK YOU, SIR. MR. LYNCH, DO YOU
6 WANT TO ADD ANYTHING TO WHAT MR. SCOTT HAS SAID ON
7 YOUR BEHALF?

8 *MR. LYNCH:* NO, SIR.

9 *THE COURT:* THANK YOU. THE RECORD AS MR.
10 SINGLETARY DOES REFLECT A CONVICTION FOR THE CRIME OF
11 MURDER. THE SENTENCE DATE WAS NOVEMBER THE 11TH,
12 1998, BEFORE THE HONORABLE JUDGE BROGDON. A SENTENCE
13 OF 30 YEARS.

14 THE PROPER NOTICE TO SEEK LIFE WITHOUT PAROLE
15 HAS BEEN SERVED ON MR. SINGLETARY AND ON HIS
16 ATTORNEY. THE STATUTE 17-25-45 IN THAT REGARD HAS
17 BEEN COMPLIED WITH.

18 AS TO MR. LYNCH, THE RECORD REFLECTS A
19 CONVICTION BY WAY OF GUILTY PLEA TO ARMED ROBBERY AND
20 SENTENCED BY JUDGE STEVEN JOHN ON JANUARY THE SEVENTH
21 OF 2002, TWO COUNTS OR POSSIBLY THREE. THERE ARE
22 THREE SENTENCE SHEETS. I'M NOT SURE. BUT
23 NONETHELESS, ONE IS SUFFICIENT TO SATISFY THE
24 STATUTE.

25 THE REQUIREMENTS OF LAW THEN HAVING BEEN

1 COMPLIED WITH FULLY IN REGARD TO SECTION 17-25-45 OF
2 THE CODE OF LAWS, MR. SINGLETARY, MR. LYNCH, ON THE
3 COUNT TWO OF THE INDICTMENT CHARGING YOU WITH TAKING
4 OF A HOSTAGE, THE SENTENCE UNDER THE STATUTE IS THAT
5 YOU BE CONFINED THE STATE DEPARTMENT OF CORRECTIONS
6 FOR THE BALANCE OF YOUR NATURAL LIFE WITHOUT THE
7 POSSIBILITY OF PAROLE.

8 THAT SENTENCE WILL RUN CONSECUTIVE TO WHATEVER
9 SENTENCE YOU'RE CURRENTLY SERVING, CONCURRENT TO ALL
10 OTHER SENTENCES IMPOSED THIS DAY.

11 ON COUNT ONE OF THE INDICTMENT, RIOTING, THE
12 SENTENCE OF THE COURT FOR EACH OF YOU IS THAT YOU BE
13 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR
14 A PERIOD OF 10 YEARS. THAT SENTENCE IS CONCURRENT TO
15 ALL OTHER SENTENCES IMPOSED AND TO THE SENTENCE THAT
16 YOU ARE CURRENTLY SERVING.

17 ON COUNT FOUR OF THE INDICTMENT CHARGING YOU
18 WITH ASSAULTING A CORRECTIONAL OFFICER, THE SENTENCE
19 OF THE COURT IS EACH OF YOU BE COMMITTED TO THE STATE
20 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF FIVE YEARS.
21 THAT SENTENCE IS CONSECUTIVE TO THE SENTENCE THAT
22 YOU'RE CURRENTLY SERVING, CONCURRENT TO ALL OTHER
23 SENTENCES IMPOSED THIS DAY.

24 ON COUNT FIVE OF THE INDICTMENT CHARGING YOU
25 WITH CARRYING AND CONCEALING A WEAPON BY AN INMATE OF

1 A CORRECTIONAL FACILITY, THE SENTENCE OF EACH OF YOU
2 IS THAT YOU BE COMMITTED TO THE STATE DEPARTMENT OF
3 CORRECTIONS FOR A PERIOD OF 10 YEARS. THAT SENTENCE
4 IS CONSECUTIVE TO THE SENTENCE YOU'RE CURRENTLY
5 SERVING, CONCURRENT TO ALL OTHER SENTENCES IMPOSED
6 THIS DAY.

7 COUNT SIX OF THE INDICTMENT CHARGING YOU WITH
8 INCITING TO RIOT, THE SENTENCE OF THE COURT IS THAT
9 EACH OF YOU BE COMMITTED TO THE STATE DEPARTMENT OF
10 CORRECTIONS FOR A PERIOD OF 10 YEARS. THAT SENTENCE
11 IS CONCURRENT TO ALL OTHER SENTENCES IMPOSED THIS
12 DAY, TO THE SENTENCE THAT YOU'RE CURRENTLY SERVING.

13 THANK YOU, GENTLEMEN. THOSE OF YOU WHO HAVE
14 THESE FOLKS IN CHARGE, IT'S GOING TO TAKE ME A FEW
15 MINUTES TO FILL OUT THESE SHEETS. IF YOU NEED TO
16 TAKE THEM BACK WITH YOU TONIGHT, IF YOU WILL WAIT, I
17 WILL GO BACK TO MY CHAMBERS AND FILL THEM OUT---

18 MR. FATA: YOUR HONOR, THAT'S -- ON THE HOSTAGE,
19 THAT'S THE TWO COUNTS, THAT'S LIFE ON BOTH OF THOSE;
20 IS THAT CORRECT?

21 THE COURT: YES, SIR, ON EACH. THAT'S RIGHT.
22 FOR EACH SENTENCE, FOR EACH, MR. SINGLETARY AND MR.
23 LYNCH, THE SENTENCE IS THE SAME AS TO EACH OF THEM ON
24 EACH COUNT. ALL RIGHT. ANY QUESTIONS, MR. DOBY?

25 MR. DOBY: NO, SIR, YOUR HONOR. THANK YOU.

1 THE COURT: MR. SCOTT?

2 MR. SCOTT: NO, SIR.

3 THE COURT: THANK YOU VERY MUCH.

4 MR. SCOTT: THANK YOU, YOUR HONOR.

5 THE COURT: GOOD LUCK TO YOU.

6 (END OF TRANSCRIPT OF RECORD.)

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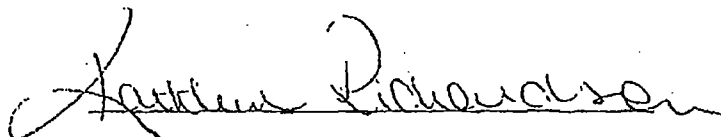
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF LEE)

I, KATHLEEN RICHARDSON, RPR, OFFICIAL COURT
REPORTER FOR THE THIRD JUDICIAL CIRCUIT OF THE STATE OF
SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF
THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF
GENERAL SESSIONS FOR LEE COUNTY, SOUTH CAROLINA, ON THE
FIRST DAY OF DECEMBER, 2005.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

FEBRUARY 6, 2006



KATHLEEN RICHARDSON, RPR

930 5/95

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

930

JACOB T. LYNCH

am not under arrest for, nor am I being detained for

my criminal offenses concerning the events I am about to make known to SLED AGENTS CREECH & ABRAHAM.
 understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for
 whatever purposes it may serve.

am 22 years of age, and I live at LEE CT

L03-11668

can not read and write and completed the 10th grade in school. DOB: 4-27-81

At about 4:00 o'clock officer cotton came around to feed me and
 him had words at lunch time and argued At dinner I came out and
 refused to go in until I saw a white shirt officer cotton said I could
 not see a white shirt and if I didn't go in I would get my ass beat
 I jumped at him he sprayed me with gas. I chased him. he locked himself
 in 2205 and continued to spray me with gas and swing a homemade
 knife at me. I left went to north side showed officer dezer a
 homemade knife he gave me his keys. Then I returned to south side
 to 2205 there were inmates already outside I entered the room
 had caught cotton to me he was already stabbed and bruised. This incident
 happened due to officer cotton's actions towards me disrespect and verbal
 abuse And the overall treatment of me at Lee County. My demands were
 simply to see and talk to the media or to get a cell phone to call the media
 I never stabbed him I just held him hostage to get my demands met J.L.

STATE'S
EXHIBIT

KR

have read each page of this statement consisting of 004 page(s), each page of which bears
 my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

his statement was completed at 4:00 PM on the 4th day of November 2003.

WORN TO AND SUBSCRIBED TO BEFORE
 E THIS 4th DAY OF NOV, 2003

Jacob T. Lynch
 OTARY PUBLIC FOR SOUTH CAROLINA
 y Commission Expires: 11/24/04

Jacob Lynch
 Signature of person giving voluntary statement

WITNESS: Johnnie A. [Signature]

WITNESS: _____

certify that I have been given a copy of this statement consisting of 6 pages. Jacob Lynch

22.0 [Signature]

S. C. LAW ENFORCEMENT DIVISION

931
L03-11668

YOUR RIGHTS

DATE: 11/4/03 TIME: 3:22 pm

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY, CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM OR HER PRESENT WITH YOU DURING QUESTIONING.

IF YOU HAVE NO MONEY FOR LAWYER'S FEES, THE COURT WILL APPOINT ONE TO REPRESENT YOU WITHOUT COST TO YOU IF YOU WISH.

IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME UNTIL YOU TALK WITH A LAWYER.

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE.

SIGNED: Jacob Lynch

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED: Jacob Lynch

WITNESS: J. York

WITNESS: Johnnie

TIME: 3:24 pm

932 5/95

VOLUNTARY STATEMENT (NOT UNDER ARREST)

PAGE NO. 1 OF 2 PAGES

LOS-11668

TYRONE SINGLETARY

I am not under arrest for, nor am I being detained for

any criminal offenses concerning the events I am about to make known to. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 23 years of age, and I live at LEE CT

I cannot read and write and completed the 11th grade in school. DOB: 2/20/80

On Oct. 29, 2003, Officer Cotton was feeding in HESTFIELD UNIT. INMATE TYRONE SINGLETARY TOOK OFFICER COTTON HOSTILITY IN CHESTERFIELD UNIT I DID STAB OFFICER COTTON BUT I DO NOT NO WHERE THIS INCIDENT WAS NEVER TO GET OUT OF HAND THE REASON WHY THIS HAPPEN BECAUSE OFFICER COTTON WAS DOING THING THAT WAS NOT JUSTIFY AS A OFFICER ALONG WITH OTHER THINGS. INMATES THAT WERE ON THOSE LETTER WAS NOT INVOLVED. EVERY BODY ELSE HAD NOTHING TO DO WITH THIS INCIDENT. THERE WAS ALSO TWO INMATE THAT WAS HELPING COTTON STAY ALIVE THERE NAME IS CHESTNUT AND JOHNSON THEY WERE HELPING COTTON. ALSO ROBINSON AND CLARK AND DICKS HAD NOTHING TO DO WITH THIS INCIDENT AND SHOULD BE LET GO. THIS INCIDENT WOULD NOT HAVE COME TO THIS IF SOMETHING WAS DONE ABOUT COTTON WAYS AND COTTON.

OFFICER COTTON WAS BRING IN DRUGS TO DIFFERENT INMATES AND ALSO GOT ANOTHER INMATE STAB IN CHESTERFIELD AS WELL AS BEATING. OFFICER COTTON WAS ALSO IN TO LAY INMATE AND THINGS AND BRING THEM DRUGS, WATCHES, MONEY, SUNGLASS AND TO. THIS IS THE END OF MY STATEMENT. I HAVE ADD IT (ON A) WHICH I HAVE WRITTEN ON PAGE TWO

I have read each page of this statement consisting of TWO page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 5:00 PM on the 4th day of Nov, 2003.

FORN TO AND SUBSCRIBED TO BEFORE
THIS 24 DAY OF Nov, 2003

NOTARY PUBLIC FOR SOUTH CAROLINA
Commission Expires 1/24/05

Signature of person giving voluntary statement

WITNESS

WITNESS

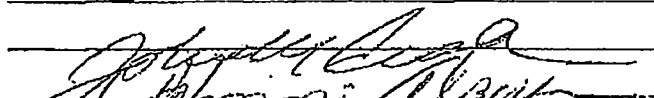
I certify that I have been given a copy of this statement consisting of 2 pages. Signature 11/29/03

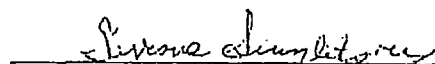
SUPPLEMENTAL

103-11668

Statement of, Continued,

T.S. [REDACTED] I PLAN THIS INCIDENT
ABOUT 12:00 PM BUT DID IT AT 4:30 PM THE
LETTER WAS NEVER PASS OUT. THE NOTES WERE
WRTEN BY ME ON THE ~~STATIS~~ T.S. SAY DATE OF THE
INCIDENT OCTOBER 29, 2003 T.S.


Person giving statement to place initials behind
last word of statement as appears on last page.

 23.2 p. 8
Signature of person giving voluntary statement

S. C. LAW ENFORCEMENT DIVISION

L03-11668

YOUR RIGHTS

DATE: 11/4/03 TIME: 4:24pm

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY, CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM OR HER PRESENT WITH YOU DURING QUESTIONING.

IF YOU HAVE NO MONEY FOR LAWYER'S FEES, THE COURT WILL APPOINT ONE TO REPRESENT YOU WITHOUT COST TO YOU IF YOU WISH.

IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME UNTIL YOU TALK WITH A LAWYER.

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE.

SIGNED: X Syre Singletary

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED: Syre SingletaryWITNESS: J. Mark CucciaWITNESS: Johnnie A. RobertsTIME: 4:24pm

HAND C477 Key

WE WANT LOCAL
New

AIR TANK

NO MORE GAS

Shot

FIRST A. L. H. T.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

936 *or*
Page 1 of 1

Institution / Center: <u>Lee / T</u>	
Date of Report: <u>10-29-03</u>	Time of Report: <u>11:15 p.m.</u>
Reporting Official: <u>OFC W Scarborough</u>	Date of Incident: <u>10-29-03</u>
Location of Incident: <u>Chesterfield Unit / East Wing</u>	Time of Incident: <u>Approx. 4:40 p.m.</u>
Inmate(s)/Resident: _____	Employee(s) Involved: <u>WARDEN</u>
1. _____	1. <u>Sgt. Johnson</u>
2. _____	2. <u>Sgt. Sune</u>
3. _____	3. _____
4. _____	4. _____
5. _____	5. _____

On the above date and approximate time:

I, OFC W Scarborough, responded to a call from Lee Control (phone off the hook in Chesterfield Unit's office). As I approached the unit, I noticed several (approx. three (3)) inmates standing at the front door. I then looked through the window into the office and immediately reported to Lee Control shattered glass (window to office busted) and the telephone on the floor. An unidentified inmate then break the window from the front door and stated "report we got hostages too. We already got Cotton fucked up and we gonna get Butler too", at which time Sgt. Sune and Sgt. Johnson assisted me in securing the front door.

Signature: OFC W Scarborough

**DEFENDANT'S
EXHIBIT**

Evidence: _____

Witness(es): _____

Supervisor's Comments: Intermittent Report

Action Taken:

☐ Counseling ☐ Informal Resolution

☐ Extra Duty / Other

☐ Incident is STG related

☐ Refer to Disciplinary Hearing

Signature: A. [unclear] Title: LT Date/Time: 10:30-03

Major / Responsible Authority: _____

Refer to STG Committee:

☐ Yes ☐ No ☐ Unknown

This Incident is DRUG related:

☐ Yes ☐ No ☐ Unknown

Disciplinary Classification:

Signature: _____ Title: _____ Date: _____

☐ Major ☐ Minor ☐ Informal Resolution

**VOLUNTARY STATEMENT
(NOT UNDER ARREST)**

PAGE NO. 1 OF 937

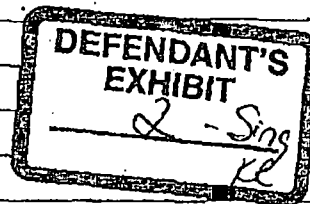
I, Marcus Cotton am not under arrest for, nor am I being det

any criminal offenses concerning the events I am about to make known to Agent Creech
I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will
whatever purposes it may serve.

I am 22 years of age, and I live at 13150 Puller St. 29016

I (can) cannot read and write and completed the 12th grade in school. DOB: 08/20/11

On Oct 29, 2002 at Lee Correctional Institute in Charleston
South side there was a riot. During the riot I had some
valuable taken away from me as I was with
I/m Lynch. I/m Lynch was walking me upstairs and to
I/m from off the North side took my plastic 112642
off my face. I/m Lynch took me to a corner to
up stairs where there were 9 more I/m - been with
and walk to the room Lynch and myself got in the
bed and they were talking about what they was going
to do I/m chet took my chain from off my
the chain had a medalion on it the chain was worth
900 dollars and the medalion was 310 dollars worth. I/m the
my watch it was value at 350 dollars and that
was taken by an unknown I/m. I had been shown



I have read each page of this statement consisting of 001 page(s), each page of which
my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 11:10 A.M. on the 17th day of March, 19 2004

SWORN TO AND SUBSCRIBED TO BEFORE
ME THIS DAY OF , 19

Marcus S. Cotton
Signature of person giving voluntary statement

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires:

WITNESS: Mark Creech

WITNESS:

I certify that I have been given a copy of this statement consisting of 1 pages. Marcus S. Cotton

**DEFENDANT'S
EXHIBIT**
3 Single
**VOLUNTARY STATEMENT
(NOT UNDER ARREST)**

 PAGE NO 1 OF 5 PAGE

 DATE October 31, 2003 PLACE Coolidge Pine Hospital TIME STARTED 600 pm

 I, MARCUS SINGLETARY COTTON am not under arrest for, nor am I being detained for

 any criminal offenses concerning the events I am about to make known to SLED AGENTS ABRAHAM, CREECH
 I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purpose it may serve.

 I am 22 years of age, and I live at 8 Shopville St

 I can cannot read and write and completed the 10th grade in school. DOB: 8-20-81

On 10-29-03, I Marcus Cotton was feeding inmates in Chesterfield Unit with the help of three other inmates, Basket, Hemmingway, (other inmate name unknown) when I got to inmate Lynch's Cell, unlocked cell door, Lynch came out and said he was not going back into the cell. Lynch stated that it was not right for them to lock them down. I locked Lynch's cell back and continued to feed the inmates. When I got to Singletary's cell and unlocked the door, Singletary ran out of his cell and I looked back behind me, I saw inmate Lynch reach down and pick up something. Lynch started coming toward me, Singletary ran down the stairs. I pulled out my mace and told Lynch to stop. One of the inmates helping me feed said "don't do this". I felt threaten when I pulled my mace out. I told Lynch to put the shank down. I then looked and saw inmate Singletary coming back toward me. Inmates Lynch and Singletary both were coming toward me, when an inmate ~~pull~~ pulled me into a cell and hold the door. Inmates Lynch and Singletary tried to open the door, but was unable to. They both left and went to the Northside. They then came back with gas and keys and other inmates (approx. 5) and started hitting the glass in the door with a lock inside of a sock. They broke out the glass in the cell door.

 I have read each page of this statement consisting of five page(s), each page of which bears my signature, and corrections, any, bear my initials, and I certify that the facts contained herein are true and correct.

 This statement was completed at 8:15 p M. on the 31st day of OCT, 19 2003.

 WITNESS: J. Yack Creech

 Signature of person giving voluntary statement
Marcus Singletary Cotton
 WITNESS: Johnnie Abraham
5

MARCUS S. COTTON

Statement of, Continued.

and threw a shank at him. Myself and inmate Johnson continued to hold the door. Other inmates came and help Lynch and Singletary to force the cell door open. When the door was forced open, all of the inmates came into the cell and Lynch asked me for my keys. Myself and inmate Lynch started struggling and other inmates started holding me and Lynch stab me in the shoulder and Singletary stab me in the hands. Lynch said give me the keys "I want kill you". Inmate Johnson said to Lynch and Singletary, don't stab Cotton. Inmate Johnson then told me to give them my keys. They then left and inmate Johnson and myself stayed in the cell. A short time later, inmates Lynch, Singletary and others in mates came back to the cell. Inmate Lynch got me and cuff me to him and inmate Johnson asked him what was he going to do. Lynch stated that I was going to get him out of here. Inmate Johnson told Lynch, that you know this is a Federal Charge and Lynch said I know, I just want to be heard. I, Marcus Cotton know this incident has been going on now for approximately 2 hours, before help started to arrive. Inmate Lynch took me to the door and Blanshaw, a negotiator was stand outside of the door. Inmates Lynch told Mr. Blanshaw, he wanted a phone, the news and the warden. Inmate Lynch had the shank to my face. After Lynch told Blanshaw his demands, he took me back to the cell. Myself, Lynch, Singletary and Johnson were in the room. Inmates Lynch, Singletary and Johnson were talking. Inmate Johnson told them not to do this, that he had been through something like this before.

Marcus S. Cotton

Signature of person giving voluntary statement

MARCUS S. Cotton

Statement of, Continued.

When gas started coming into the cell, inmate Lynch took me back to the door. Inmate Johnson called came alone with us to try and keep them from stabbing me. When we got to the door, a white male was standing at the door. Inmate Lynch told him to stop shooting the gas or he would stab me. When they didn't stop, inmate Lynch stab me again in the shoulder, about in the same spot. Then I, Marcus Cotton told them to stop shooting the gas. Then Blanshard and the white male stated that they stop shooting the gas. Then the white male asked Lynch what he wanted and Lynch said a phone, hand cuff key and the door. The white male said if I give you that would you let Cotton go. Lynch said yes, but Singletary said no, not to let Cotton go. After Lynch got the phone and the cuff key, Lynch took me back to the cell and handcuffed me to the bed. Lynch and Singletary tried to use the phone to call the new people, but they were unable to get the phone to work. Lynch and Singletary said that they gave them a phone that did not work. Lynch said that he was going to change into some dry clothes. Singletary and Lynch both left out of the cell. When they left inmate Dotier then got the phone and called 911. When they answer they must have hung up on him because Dotier called back and said this is no bull shit and he gave me the phone. I, Marcus Cotton told the female on the phone that this no take, I told her my name and inmate Dotier got the back and started telling her his demands.

M. S. Cotton

Signature of person giving voluntary statement

Marcus S. Cotton

Statement of, Continued.

Inmate Lynch came back into the cell and cut me from the bed and handcuffed me to him took me back to the door and told them that they gave him a bull shit phrase. Lynch then put the shank to my neck and asked for another phrase and they said that they didn't have one. We then went back up stairs to the cell. Inmate Johnson told them to let me go, that he had been through riot in 1986 and that they were going to come in and kill him. Lynch said if they came in, he was going to kill me. Inmate DuBerry came over and said an officer sent him out to check on me. Lynch didn't want to do it but inmate Johnson talk him into taking me to the Northside. Inmate Marcus Cotton saw other officers and they asked me how I was doing and I said I was bleeding. SWAT Captain asked Lynch what he wanted he said phrase and something to eat. SWAT Captain told Lynch to go to front door. When we got there the door was open and Lynch took me up stairs to the cell. Single boy told them they had 15 minutes out a new man or Cotton was dead. They then took me from Southside back to Northside, then Lynch said he saw a gun sticking through the door and Lynch said they were trying to set DuBerry. DuBerry took me to the bench and Lynch cut me to Johnson. DuBerry and Johnson were trying to stop my bleeding and asking Lynch to let me go. Lynch told them to take me back to the door. Lynch told me that he didn't want to kill me but those people was going to make him do. DuBerry and Johnson were

SLED
CF003 5/95VOLUNTARY STATEMENT
SUPPLEMENTAL

PAGE NO. 5 OF 5 PAGES

Marcus Cotton

Statement of, Continued.

trying to get me out of exit door but Lynch and Singletary saw them before they could do it. Lynch went to the door and was told to let me go and Lynch gave officer the shank and came out ~~and then~~ behind me.

I Marcus Cotton don't know why this happen but I did hear inmates talking about incident that on Monday (10-27-03) that they had nothing to do with. I Marcus Cotton never done anything to inmates, I only sprayed one inmate. Inmates have filed complaints against 1774 Singletary, I took my 126 to serious and said something sexual to them. All complaints were looked into and were unfounded. I Marcus Cotton can't believe this happen to me, I have not done anything, most inmates respect me but there are inmates. The reason I Marcus Cotton did not put inmate Lynch back into his cell is because I did not have any help. I Marcus Cotton did not have a walkie to call for help with.

I asked S/A Johnnie Abraham, Sr. to write this statement for me. me.

Marcus D. Cotton

Signature of person giving voluntary statement

FORM 5

STATE OF SOUTH CAROLINA)

County of Lee)

IN THE COURT OF COMMON PLEAS

Tyrone Singletary #)

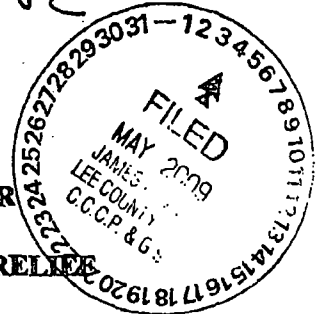
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Kirkland Correctional Institution / MSU* Rm*18
444 Broad River Rd - Columbia, S.C. 29210
2. Name and location of Court which imposed sentence Lee County
Courthouse
3. Name(s) of co-defendant(s) (if any) Jacob Lynch / co-defend-
ant(s)
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2004-CS-31-135 Docket no -

- (b) Rioting BY an inmate, Hostage Taking.
 (c) assault on officer, Carrying Weapon, Inciting to Riot..

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) November 18, 2005
 (b) Life without Possibility of Parole / 25 Years
 (c) consecutive to currently serving sentence...

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

(Yes)

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

- i. The South Carolina Court of Appeals
 ii. Post Office Box 11629
 iii. Columbia, S.C. 29211

(b) the result in each such Court to which you appealed:

- i. The South Carolina Court of Appeals
 ii. dismissed Appellant Appeal on the
 iii. date of September 5, 2008

(c) the date of each such result:

- i. September 5, 2008
 ii. _____
 iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. Pursuant to Anders v. California, 386 U.S.
 ii. 738 (1967), and State v. Williams, 305 S.C.
 iii. 116, 406 S.E.2d 357 (1991) grant counsel's motion to be
relieved...

9. If you answered Ano@ to (7), state your reasons for not so appealing:

- (a) N/A

- (b) _____
 (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 (a) Ineffective assistance of
 (b) counsel
 (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) Please see attached grounds of
 (b) Relief of supporting allegation
 (c) Page (9) nine ... →
12. Prior to this application have you filed with respect to this conviction:
 (a) any petition in a State Court under South Carolina Law? N/A
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
 (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
 (a) the specific nature thereof:
 i. _____
 ii. N/A
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. N/A
 iii. _____

iv.

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

ii.

iii.

iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i.

ii.

iii.

(b) the proceedings in which each ground was raised:

i.

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A
 (b) N/A
 (c) N/A

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? Yes
 (c) your sentencing? _____
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Bryan Doby / Jennings E Jennings, P.A.
Attorney Jennings building - P.O. BOX 106
Bishopville, S.C. 29010
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. At Trial MC. Bryan Doby
 ii. _____
 iii. _____

19. State clearly the relief you seek in filing this application:

Requesting for a new Trial and
sentence to be overturn

20. Are you now under sentence from any other court that you have not challenged?

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Lee)

VERIFICATION

I, Tyrone Singletary # 237129, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Singletary

SWORN to and subscribed before me this 29
 day of April, 2009.

Heinrich (L.S.)
 Notary Public

My Commission Expires: My Commission Expires November 8, 2017

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, TYRONE SINGLETARY # 237129, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Singletery
Applicant

SWORN or affirmed to and subscribed before me this

29 day of April, 2009.

Hein, Brat
Notary Public

My Commission Expires: _____ My Commission Expires November 8, 2017

This Application is brought under the Uniform Post-Conviction Procedure Act, S.C. Code Ann 17-27-10 code section 17-27-70 which Requires the Respondent to Answer to Each Pending Allegation herein.....

Any error of constitutional dimension is Properly Reviewable Under the Post-Conviction Act, Rochin V. California, 342 U.S. 165, 72 S.Ct. 205, 96 L.E.2d 182 (1952)

Procedural / Back Ground

The Applicant was indicted by an Lee County Grand Jury during the September 30, 2004 term for Rioting, Taking hostage, Assaulting a correctional Officer, Carrying or concealing a weapon by an inmate of a correctional facility, Incite to Riot, Applicant Plead not guilty to All charges and Proceeded to trial under Representation of Mr. Bryon Doby of the Public Defenders Office for Lee County.... On November 18, 2005 Applicant was found guilty of all pending counts ~~sub~~ subsequently sentenced to a term of Life without Parole by: The Honorable Thomas W. Cooper, Jr., Judge; and A Jury....

The Applicant Claims for Relief

Allegation (1) one

Trial counsel was ineffective when he failed to object to several separate comments by the Prosecutor during closing arguments....

- 2.) Trial counsel rendered ineffective assistance during trial when he fail to object to a incriminating audio / tape recording by Applicant co-defendant J.I LYNCH, which raise the issue of a confrontation clause violation
- 3.) Trial counsel was ineffective by failing to request a mistrial when Forensic Document Examiner of handwriting read applicant un-redacted version of self incriminating statement to JURY members
- 4.) Trial counsel was ineffective by failing to object to applicant incriminating statement that was being introduced into evidence which applicant content his Fifth Amendment and six Amendment right were violated....

- 5.) Trial counsel was ineffective by failure to object to a admitting video depiction of the prison dorm taken after the riot and damage , because the video was highly inflammatory and it probative value was outweighed by its prejudicial value

Please see: Attached document of Applicant Initial Anders Brief of Appellant by Attorney for Appellant along with Appellant Pro-se brief Anders Response Brief

STATE OF SOUTH CAROLINA

COUNTY OF LEE

IN THE COURT OF COMMON PLEAS

2009-CP-31-0102

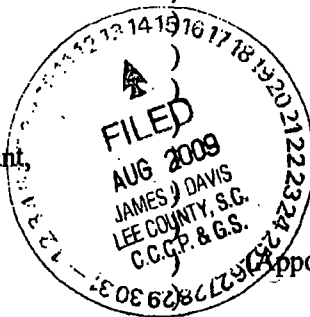
Tyrone Singletary, #237129,

Applicant,

v.

State of South Carolina,

Respondent.

**RETURN**

(Appointment of Counsel Requested)

The Respondent, making its Return to the application for post conviction relief (PCR) filed May 4, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lee County Clerk of Court.¹ The Applicant was indicted at the September 2004 term of the Lee County Grand Jury for (1) Rioting, (2) Taking of a Hostage, (3) Taking of a Hostage, (4) Assaulting a Correctional Officer, (5) Carrying or Concealing a Weapon by an Inmate of a Correctional Facility, and (6) Incite to Riot (2004-GS-31-0135). Applicant was represented by Bryan Doby, Esquire. Applicant proceeded to a jury trial before the Honorable Thomas W. Cooper, Jr. On December 1, 2005, the jury found Applicant guilty on all counts. Applicant was sentenced to ten (10) years for Rioting, to life without parole for Taking of a Hostage, to life without parole for Taking of a Hostage, to five (5) years for Assaulting a Correctional Officer, to ten (10) years for Carrying or Concealing a Weapon by an

¹ Applicant is also serving sentences for charges of Murder and Assault and Battery with Intent to Kill from Florence County. The Florence County charges are not at issue in this action.

Inmate of a Correctional Facility, and to ten (10) years for Inciting to Riot. All sentences were to be served concurrently to one another but consecutively to the sentences Applicant was already serving.

A notice of appeal was filed and an appeal perfected. Following the submission of an Anders brief, the appeal was dismissed. State v. Singletary, Op. No. 2008-UP-506 (S.C. Ct. App. filed Sept. 5, 2008). The remittitur was sent on September 23, 2008.

Attached herewith and incorporated herein are the records of the Lee County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.

- a. "Trial counsel was ineffective when he failed to object to several separate comment's [sic] by the prosecutor during closing arguments."
- b. "Trial counsel rendered ineffective assistance during trial when he fail to object to incriminating audio/tape recording by Applicant co-defendant J.J. Lynch, which raise the issue of confrontation clause violation."
- c. "Trial counsel was ineffective by failing to request a mistrial when forensic document examiner of handwriting read applicant unredacted version of self incriminating statement to jury members."
- d. "Trial counsel was ineffective by failing to object to applicant incriminating statement that was being introduced into evidence which applicant content [sic] his fifth and six amendment right were violated."
- e. "Trial counsel was ineffective by failure to object to a admitting video depiction of prison dorm taken after the riot and damage, because the video was highly inflammatory and it[s] probative value was outweighed by its prejudicial value."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

HENRY D. McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

August 5, 2009.

STATE OF SOUTH CAROLINA

COUNTY OF LEE

TYRONE SINGLETARY, 237129

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

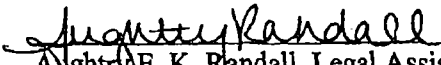
2009-CP-31-0102

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Charlie Jay Johnson, Jr., Esquire
Post Office Box 11212
Columbia SC 29211

DATED this 12th day of August, 2009.


 Anthony E. K. Randall, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF LEE)

COURT OF COMMON PLEAS

TYRONE SINGLETARY)
237129)
PETITIONER,)

v.)

TRANSCRIPT OF RECORD
09-CP-31-0102

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

September 20, 2012
Bishopville, South Carolina

B E F O R E :

THE HONORABLE W. JEFFREY YOUNG, JUDGE

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

LOUIS H. LANG, ESQ.
Attorney for the Petitioner

MEGAN E. HARRIGAN, ESQ.
Attorney for Respondent

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter
Typed for Margaret Sullivan

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(There were no exhibits submitted.)

1 MS. HARRIGAN: The next case is Tyrone
2 Singletary versus the State of South Carolina,
3 docket number 2009-CP-31-0102. It was true bill
4 indicted at the September 2004 term of the Lee
5 County grand jury for rioting, assaulting a
6 correctional officer, carrying or concealing a
7 weapon by an inmate, incite to riot, and two counts
8 of taking a hostage. Applicant was represented on
9 all charges by Bryan Dobby.

10 THE COURT: Doby.

11 MS. HARRIGAN: Doby, I'm sorry, Your
12 Honor. Applicant proceeded to a jury trial before
13 the Honorable Thomas W. Cooper, Jr., on December
14 1st, 2005. The jury convicted applicant on all
15 counts as indicted. Judge Cooper sentenced the
16 applicant to ten years for rioting, life without
17 parole on both counts of taking a hostage, five
18 years for assaulting a corrections officer, ten
19 years for carrying, for concealing a weapon, and ten
20 years for inciting a riot. All sentences were to
21 run current to each other, a consecutive to a
22 previous identical charges from Florence County.

23 A notice for appeal was filed and Anders
24 brief was submitted on applicant's behalf. The
25 State of South Carolina Court of Appeals confirmed

1 the convictions and sentence. A remittitur was sent
2 on September 23rd, 2008. Applicant filed a timely
3 PCR application on May 4th, 2009. The State made it
4 to term on August 5th, 2009 and applicant is
5 represented in this action today by Louis Lang.

6 THE COURT: Are you ready to proceed, Mr.
7 Lang?

8 MR. LANG: We are, Your Honor. Before I
9 call my first witness, Your Honor, I'd like to ask
10 the Court's permission to slightly allow Mr.
11 Singletary to be able to move his hands a little
12 better than he can at the moment because he can't.
13 He needs to put them -- some of the restraints where
14 he's ---

15 THE COURT: He'll have to do the best he
16 can because I'm not letting him lose the
17 (inaudible).

18 MR. LANG: Thank you, Your Honor. We
19 would call Tyrone Singletary.

20 THE COURT: All right.

21 THE CLERK: Place your left hand on the
22 Bible please. State your name.

23 THE WITNESS: Tyrone Singletary.

24 WHEREUPON,

25 TYRONE SINGLETARY, after being

PW - T. SINGLETARY - DIRECT

1 duly sworn, testified as follows.

2 THE CLERK: Please state your full name
3 and spell your last name for the record.

4 THE WITNESS: Tyrone Singletary, 237129.

5 THE CLERK: Spell your last name please.

6 THE WITNESS: S-I-N-G-L-E-T-A-R-Y.

7 **DIRECT EXAMINATION**

8 BY MR. LANG:

9 Q Mr. Singletary, you are the petitioner in this
10 post-conviction relief action?

11 A Yes, sir.

12 Q And where are you presently housed,
13 Mr. Singletary?

14 A Sir?

15 Q Where are you presently housed? Where are you
16 confined?

17 A In the MSU C-max, Turbeville Correctional
18 Institution.

19 Q And the post-conviction petition that you filed,
20 you filed yourself back in 2009?

21 A Yes, sir.

22 Q And do you have a copy of that with you?

23 A Yes, sir, I do.

24 MR. LANG: Your Honor, if I could approach
25 the witness to help him.

PW - T. SINGLETARY - DIRECT

1 THE COURT: Yes, sir.
2 BY MR. LANG:
3 Q Is it in here?
4 A Yes, sir.
5 Q Tell me where it is and I'll get it out for you.
6 Now Mr. Singletary, you went to trial back in --
7 when did you go to trial on the post-conviction that
8 you're presently challenging?
9 A Back in 2005, November.
10 Q And who were you represented by at the trial in
11 October and November of 2003?
12 A Mr. Bryan Doby.
13 Q I'm sorry?
14 A Mr. Bryan Doby.
15 Q Did he -- was he your retained counsel or did you
16 hire or was he appointed to represent you?
17 A Appointed to represent me.
18 Q And what position did he have? Was he in private
19 practice or was he a public defender?
20 A I'm not sure. I think that he probably was in
21 private practice with another firm, but as far as I
22 can understand it he was a public defender.
23 Q And did you go to trial by yourself or did you
24 have a co-defendant?
25 A I had a co-defendant, Mr. Jacob Lynch.

PW - T. SINGLETARY - DIRECT

1 Q And can you tell the Court what charges you were
2 facing at the time you went to trial?

3 A I was facing two hostage, two hostage taking
4 charges, inciting a riot, assaulting a correctional
5 officer, and rioting. Rioting, inciting a riot, two
6 hostage taking charges, and assaulting a
7 correctional officer at Lee Corrections Institution.

8 Q And what was the result of that trial?

9 A I was found guilty.

10 Q Of everything, some things?

11 A Yes, guilty on everything on all counts.

12 Q And who was the trial judge, do you remember his
13 name?

14 A I don't remember his name.

15 Q Were you sentenced immediately after you were
16 found guilty?

17 A Yes. Yes, sir.

18 Q And what was your sentence?

19 A Well, two life sentences for the two hostage
20 taking charges, and I was sentenced to 25 years for
21 the other charges that was involved the incident.

22 Q And when this crime occurred were you in prison
23 at that time?

24 A Yes, sir.

25 Q And why were you in prison?

PW - T. SINGLETARY - DIRECT

1 A I was in prison since 1996. 16 years old I
2 committed a murder, murder, assault incident [ph] to
3 kill.

4 Q And did the State provide Mr. Doby with notice
5 that it was going to seek a sentence of life without
6 parole were you convicted of the charges that you
7 faced in October and November of 2003?

8 A Yes, sir, they did.

9 Q Now in formulating your application for
10 post-conviction relief did you have certain
11 complaints or certain things that you believe that
12 Mr. Doby did not do adequately in representing you
13 in October, November of 2003?

14 A Yes, sir.

15 Q All right. Could you explain to the Court the
16 first item which you wish the Court to consider in
17 regard to what you suggest is Mr. Doby's ineffective
18 assistance of counsel?

19 A Yes, sir. I think the first allegation is during
20 my trial my trial counsel, he failed to object to
21 inadmissible testimony hearsay evidence of my
22 co-defendant Jacob Lynch which co-defendant -- which
23 counsel actually went ineffective assistance of
24 counsel for failure to object and properly preserve
25 the claim for appellate review and that application,

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1 and that application for sentence obtained for
2 violation of the Sixth Amendment, of the
3 Sixth Amendment right of confrontation clause.
4 Q And Mr. Lynch was your co-defendant?
5 A Yes, sir.
6 Q And you and he were facing -- were you and he
7 facing the same charges?
8 A Yes, sir.
9 Q And in terms of his testimony describe to the
10 Court what you mean by his, by Mr. Lynch's
11 testimony. Did Mr. Lynch actually testify at trial?
12 A No, no, sir.
13 Q Did someone else then relay to the jury what Mr.
14 Lynch had told him?
15 A Yes. It was a taped recorded statement of Mr.
16 Craig Melvin. That was seen at the trial.
17 Q And this tape recorded statement, is that
18 reflected in the transcript of the trial?
19 A Yes, sir.
20 Q And in terms of the tape recorded statement what
21 did Mr. Melvin say that Mr. Lynch told him? Just
22 generally.
23 A Right after my trial, right after my trial --
24 co-defendant statement by Mr. Craig Melvin, news
25 reporter, became incriminating on trial because it

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1 could be reasonably inferred from his choice of
2 words that other prisoners was involved. And taking
3 into account the fact that I was charged as the
4 other inmate in a hostage taking, it is not
5 inconceivable to assume that a jury may reasonably
6 infer by my co-defendant confession that we, us, and
7 other prison men, I the defendant. The speculative
8 nature of the tape, the taped confession, is
9 immaterial. So it's arising out of that.

10 Q And in terms of Mr. Doby's failure to object,
11 there was a pre-- was there a pretrial hearing
12 before you actually went to trial where many
13 evidentiary matters were taken up by the trial
14 judge?

15 A Yes, sir, it was.

16 Q At that time did Mr. Doby have the opportunity to
17 object to the Craig Melvin statement?

18 A Yes, sir, he did.

19 Q And did he object to that?

20 A No, sir.

21 Q Did Mr. Lynch's lawyer object to Mr. Craig
22 Melvin's statement coming in?

23 A Yes. Yes, he did.

24 Q And I take it the trial judge overruled that
25 objection?

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1 A Yes. Yes, he did.

2 Q And but as far as you know Mr. Doby did not join
3 in that objection?

4 A Not to my knowledge.

5 Q And in terms of what Mr. Melvin said that, Mr.
6 Mr. Melvin said that Mr. Lynch told him, Mr. Lynch
7 didn't specifically mention your name; is that
8 right?

9 A Exactly.

10 Q But he didn't, didn't imply that there were other
11 people involved in this prison riot or activity I'll
12 call it?

13 A Exactly. He stated prisoners. He made reference
14 to all the people that might have been involved with
15 him. And by me being on trial it was just me and
16 him and the jury, it was then just me and him 'cause
17 we was the only ones that was indicted, indicted,
18 that indicted on us. Everybody else -- it was just
19 us two; so therefore, they didn't have anybody else
20 to look to but me.

21 Q And in terms to the trial itself only you, only
22 you and Mr. Lynch were on trial; is that right?

23 A That's right.

24 Q And how were you dressed during the course of the
25 trial?

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1 A The same way I am now.

2 MR. LANG: And may the record reflect,
3 Your Honor, that the, Mr. Singletary is in prison
4 garb and shackled which I think the transcript of
5 this case will reflect that's the way he was dressed
6 and shackled approximately during the course of this
7 trial.

8 THE COURT: Everybody knew he was in jail
9 and committed a crime?

10 MR. LANG: Yes, sir.

11 BY MR. LANG:

12 Q That's the first basis that you wish the Court to
13 consider in terms of your assertion that Mr. Doby
14 was ineffective, correct?

15 A Right.

16 Q Now tell me about the second basis that you
17 assert that Mr. Doby was ineffective?

18 A Well, I'm not finished -- I'm not finished on my
19 first allegation.

20 Q All right. Tell me what else you want to say in
21 terms of ---

22 A I have -- therefore, I have evidence that in the
23 transcript and also exhibits where I just support my
24 argument that Mr. Doby was ineffective assistance of
25 counsel.

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1 Q All right, we're just talking about the one, the
2 first ground, okay?

3 A Right.

4 Q I take it you wish to invite the Court's
5 attention to specific terms or passages in the
6 transcript of the trial?

7 A Yes, sir.

8 Q All right.

9 MR. LANG: Your Honor, if I could approach
10 the witness I would assist him in doing that.

11 THE COURT: Yes, sir.

12 BY MR. LANG:

13 Q Tell me, Mr. Singletary, where in the transcript
14 you wish to invite the Court's attention about Craig
15 Melvin's testimony?

16 A In State Exhibit 10, State's Exhibit 10, Craig
17 Melvin, Mr. Jacob Lynch. Transcript page,
18 transcript page 870.

19 Q Okay. Transcript page 870?

20 THE COURT: Well, I'm looking at something
21 here that says that the applicant's claim for relief
22 in allegation one is that trial counsel's
23 ineffectively failed to object to several comments
24 by the prosecutor during closing arguments.

25 MR. LANG: That's correct, Your Honor.

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1 That's one basis.

2 THE COURT: And why don't we keep them in
3 order so we go ---

4 MR. LANG: I can do that.

5 THE COURT: ---in the order that he wrote
6 them down, that way it helps me ---

7 MR. LANG: All right.

8 THE COURT: (Inaudible.)

9 MR. LANG: I will do that, Your Honor.

10 BY MR. LANG:

11 Q All right. At the Court's direction, Mr.
12 Singletary, let's go to the first basis in your
13 petition in regard to how you assert Mr. Doby was
14 ineffective and that had to do with, I think, some
15 prosecutorial, or comments by the prosecutor during
16 closing argument. And I take it -- well, tell me,
17 are there specific comments within the transcript
18 that we wish to invite the Court's attention to?

19 A Yes. Yes, I would like to.

20 Q All right, go ahead.

21 A Does he want one allegation at the time?

22 Q Yes.

23 A Okay, so we ---

24 Q That's the way we're going to do it.

25 A All right.

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1 Q So now we're talking about just the closing
2 argument of the prosecutor, and I take it you wish
3 to invite the Court's attention to a specific part
4 of the transcript of that closing argument. Is that
5 correct?

6 A (No verbal response.)

7 Q Is that a yes?

8 A Yes.

9 Q So tell, can you tell me which part of the
10 transcript you wish to invite the Court's attention
11 to and I will go to that page.

12 A It's 879. It's 870.

13 MR. LANG: Page 870, Your Honor, of the
14 transcript.

15 BY MR. LANG:

16 Q And if you could, tell me what line number and I
17 will just read it.

18 A 879, 17 to 25.

19 Q 17 to 25?

20 A 17 to 25.

21 Q And that says -- if Your Honor, if I can just
22 publish that, ---

23 THE COURT: Go ahead.

24 MR. LANG: ---I know your honor can read
25 it.

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1 BY MR. LANG:

2 Q And then this is part of the prosecutor's closing
3 statement and then we have Craig Melvin and Craig
4 Melvin testified that, yeah, I stand in there in the
5 door and I see ---

6 A No, no, no, no, no, no, no, that's not, that's
7 not it. That's not it.

8 THE COURT: That's what you said.

9 THE WITNESS: I mean, Your Honor, Your
10 Honor, I'm getting a little bit confused because we
11 dealing with two different, two different
12 allegations.

13 THE COURT: No, we're dealing with --
14 we're taking your post-conviction relief.

15 THE WITNESS: Yes, sir.

16 THE COURT: And I'm asking your attorney
17 to go down the list that you had.

18 THE WITNESS: Okay.

19 THE COURT: And take it one by one so
20 there's some order so if there's an appeal someone
21 will be able to follow this proceeding.

22 THE WITNESS: Right, right.

23 THE COURT: Okay?

24 BY MR. LANG:

25 Q So again, Mr. Singletary we're back to the, not

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1 the Craig Melvin matter; but rather, the
2 prosecutor's argument to which Mr. Doby did not
3 object. And can you tell me what part of the
4 transcript of that argument you wish to invite the
5 Court's attention to?

6 A And as to 870, 9, 17, 25, and 872, 22, 25, 1, and
7 3.

8 Q Start with 872. And what were the line numbers
9 again?

10 A Line 22, 25.

11 Q Line 22, page 872, the prosecutor said, the audio
12 tape that we talked about, that is State's Exhibit
13 Number 10, what's it say? Yeah, I took, I took some
14 hostages, we took hostages. The video, the video
15 tape which you will be allowed to see in its
16 entirety if you like, I showed excerpts of it
17 yesterday and it can be cued up and you can watch
18 any part of it you wish. That was a comment in the
19 prosecutor's closing argument; is that right, Mr.
20 Singletary?

21 A That's right.

22 Q And that is a comment to which Mr. Doby did not
23 object?

24 A That's right.

25 Q And you suggest that that was ineffective on his

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1 part not to object to that comment?

2 A Yes, sir.

3 Q And can you tell the Court why?

4 A What happened was, when he made these comments
5 that basically he was -- when he said that I took,
6 Mr. Jacob Lynch, I took hostages, we took hostages,
7 which we did was, he was relaying to the jury that
8 in some kind of way that I was involved in
9 anticipation of helping Mr. Lynch take them hostage
10 at the time. So I feel that my trial counsel, he
11 should have objected to it on the simple fact
12 because, I mean, that statement that they used
13 against me, it was, it shouldn't have been used. It
14 shouldn't have been admissible at trial. So
15 therefore I think that, you know, based on that,
16 based on that Mr. Doby should have objected to it.
17 Q Is there any other comment or argument that the
18 prosecutor made that you suggest Mr. Doby should
19 have objected to but did not?

20 A That's about it.

21 Q Now, let's move on if we could, Mr. Singletary,
22 to your second basis for asserting that Mr. Doby was
23 ineffective; and that concerns the Craig Melvin
24 tape, which was the first subject we went through,
25 we got kind of halfway through and then went back to

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1 the first one. Are you with me?

2 A Right.

3 Q All right. Now I think we're at the point where
4 you were explaining to the Court why, what portion
5 of the transcript reflected the Craig Melvin tape
6 coming into evidence; is that right?

7 A Right.

8 Q Can you tell me, and direct my attention so I can
9 direct the Court's attention to the portion of the
10 transcript where that appears?

11 A Mr. -- my co-defendant Mr. Lynch, his taped
12 statement was never as detected within the
13 transcript. It's like, it's exhibit 10. I have it
14 right here, Your Honor. You can...

15 Q Do you recall -- do you recall what the tape
16 said?

17 A Based on that exhibit that's the reason -- that
18 what they on the opening said to the taped statement
19 of Mr. Craig Melvin.

20 Q And would it assist you -- and I have a document
21 in my hand. Tell, let me hand it to you and you can
22 tell me what that is.

23 A State Exhibit 10, conversation between Craig
24 Melvin and Jacob Lynch.

25 Q All right, is that a summary of that

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1 conversation?

2 A Yes, sir.

3 Q And did you prepare that summary?

4 A No, sir.

5 Q Who prepared it?

6 A My co-defendant Jacob Lynch.

7 Q And does it accurately summarize that taped
8 conversation?

9 A To my knowledge, yes, sir.

10 Q Could you read that into the record please?

11 A Yes, sir. Mr. Melvin asked Lynch where is he
12 from and what, and what he's in for. Lynch answered
13 that he is from, he is from Myrtle Beach, South
14 Carolina and he's in for armed robbery. Melvin
15 asked him, why did you take two correctional
16 officers hostage and then he stated that he took
17 them hostage because of their unjust treatment. He
18 stated the prisoners were treated like slaves; and
19 they was treated like slaves like they were not,
20 like they were nothing. He said that the prisoners
21 had been found without any, without any relief being
22 granted. He stated that Michael Cotton had
23 assaulted inmates and that he was under
24 investigation. He said, he said the inmates trying,
25 was trying to prevent and deal with the problem but

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1 end up being treated worse than the dogs. He then
2 stated I took it upon myself to end with three or
3 four other people. He said they wanted to let the
4 media know how they were being treated and for
5 family members to know how those loved ones are
6 being treated at Lee. Melvin asked him, asked him
7 for, asked a couple of more questions of instances
8 of mistreatment. Lynch stated that Cotton had
9 handcuffed, handcuffed the inmates taking them
10 outside for beating, put his feet on their hands,
11 pushed them around, and refusing (ph) food. He
12 stated that Cotton had done all types of things and
13 basically did not show inmates any sort of respect.
14 Lynch stated that it had been at least five to six
15 months. Melvin asked if Cotton was, seen him
16 around. Lynch said yeah, and Dozier. Melvin asked
17 him how it happened. Lynch stated that it wasn't
18 sealed for security. Melvin asked him where he got,
19 where he got the chain. Lynch stated, ain't hard to
20 come by. Melvin asked Lynch, Melvin asked Lynch if
21 knew it actually added time to his sentence. Lynch
22 replied that he did, he did hope, hope the outside
23 world would find out how bad they are treated.
24 Melvin asked him how many of them were sympathetic
25 to Cotton and his family. Lynch stated that he felt

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1 bad for his family but that they were (inaudible)
2 with Cotton and said that he never stabbed him. He
3 stated that they wanted Cotton to take
4 responsibility for the mistreatment but that he
5 showed no remorse whatsoever. Lynch stated that
6 Cotton was just concerned about himself and the
7 safety of others. Melvin asked if he had anything
8 to add and Lynch said no. That's the end, that's
9 the end of the conversation on Exhibit 10.
10 Q All right. And that was State Exhibit No. 10?
11 A Yes, sir.
12 Q Was that played to the jury?
13 A Yes, it was.
14 Q And what you read is a summary of that State's
15 exhibit?
16 A Yes, sir.
17 Q And did Mr. Doby object to it?
18 A Not to my knowledge, no.
19 Q And was there anywhere in the transcript that
20 indicates he might have objected to that statement?
21 A No, sir, not to my knowledge.
22 Q And this matter was taken up in pretrial with
23 Judge Cooper, and Mr. Doby did not move to suppress
24 that statement; is that right?
25 A He didn't move to suppress that statement? I

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1 think he did request to have that statement to
2 remove. But what he did, I got it, he did. It was
3 about Mr. Doby, okay, right here. Since my
4 co-defendant Jacob Lynch did not testify at trial I
5 never had opportunity to cross-examine,
6 cross-examine him as to some statement to move or to
7 Craig Melvin as to pretrial matter. Trial counsel
8 also failed that to take a position on a motion to
9 exclude taped statements of Mr. Craig Melvin. See
10 transcript page 93, line 18, 24 response at trial
11 counsel on motion. See transcript page 95, line 21
12 and 25 also.

13 Q So he did not object or move to suppress the
14 Craig Melvin statement or join in the motion of your
15 co-defendant's counsel, correct?

16 A Yeah. I mean, I...

17 Q Mr. Singletary, let's move on to the next
18 argument of the basis for your post-conviction
19 relief petition; and that is the assertion that
20 Mr. Doby was ineffective in failing to request a
21 mistrial when a certain statement that you had made
22 which had been partially redacted because of a
23 Bruton problem was displayed to the jury. You with
24 me?

25 A Yeah, I'm with you, but I told you we're not -- I

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1 didn't want to argue that here today.

2 Q All right, then we won't.

3 THE WITNESS: Your Honor, can I ---

4 THE COURT: No, sir, you can't ask me any
5 questions. You have an attorney.

6 Now which one has he abandoned?

7 MR. LANG: Number 3, Your Honor, and I...

8 THE COURT: All right, number 3. All
9 right, next one.

10 BY MR. LANG:

11 Q Number 4. We're gonna go through these but I'm
12 gonna ask you about some other things, okay? Mr.
13 Singletary, just bear with me just a moment. Number
14 4 of the petition that you filed indicated that you
15 thought Mr. Doby was ineffective by failing to
16 object to the statement that was ultimately your
17 voluntary statement that was introduced in evidence
18 and presented to the jury. And I think that you
19 wish to abandon that as well given our con-- or your
20 realization that there was actually a Jenkins versus
21 Denno hearing ---

22 THE COURT: Jackson.

23 MR. LANG: Jackson versus Denno, I'm
24 sorry, Judge.

25 BY MR. LANG:

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1 Q ---in which Mr. Doby did move to suppress that
2 statement so you wish to abandon that as well?

3 A Yes, sir.

4 THE COURT: So number 4 is abandoned as
5 well.

6 MR. LANG: That's correct, Your Honor.

7 BY MR. LANG:

8 Q And on the fifth one, Mr. Singletary, was a
9 ineffective assistance of counsel claim in regard to
10 a video that was introduced to the jury which
11 displayed in such of the aftermath of this prison
12 riot; is that correct?

13 A Yes, sir.

14 Q And do you wish me to question you or do you wish
15 to pursue that ineffective assistance of counsel
16 claim based upon that paragraph, or ground number 5?

17 A No, sir, because it's already addressed, it was
18 already addressed on appeal. On my motion for
19 appeal, it's already addressed on it. I mean, I
20 don't wish to argue, to address that here today.

21 Q Do you wish to bring up any other issues that you
22 believe Mr. Doby was ineffective concerning?

23 A Yes, sir.

24 MS. HARRIGAN: The State would object to
25 that.

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1 THE COURT: Sustained. He's bound only on
2 those things he submitted.

3 THE WITNESS: Yes, sir.

4 THE COURT: You can't do that. You're
5 bound on what you've applied for because the State
6 has no chance to be able to be prepared to it.

7 THE WITNESS: Your Honor, may I address
8 you?

9 THE COURT: No, sir, you can talk to your
10 attorney, and he can talk for you.

11 THE WITNESS: Well, before I was even able
12 to come here today I asked my trial counsel, I gave
13 him my rule last week and I asked him, sit down,
14 basically that I want him to amend the appl-- my
15 post-conviction application. But I'm here today and
16 I have issues that I need to address to the courts.
17 I can't address it to the courts because he never
18 amend them. He can't amend them to the records
19 because he saw procedures that, like you said, you
20 know, you got to follow your application of PCR.
21 But I'm here today and I'm a little flustered and a
22 little shocked, but I don't understand. I mean, I
23 asked him what happened, what happened. I mean, I
24 gave him the allegations, of allegations that I
25 wanted ---

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1 THE COURT: Well, you can't talk to me
2 about it. All I can deal with is what I've got on
3 here.

4 THE WITNESS: Yes, sir.

5 THE COURT: I can only deal with -- I'll
6 just allow you, however you want to on that, but I
7 can only deal with what these five items here.
8 Anything outside of that I'm not going into.

9 THE WITNESS: Yes, sir, I understand. I
10 understand. I mean...

11 MR. LANG: Your Honor, if I could simply
12 proffer what I believe Mr. Singletary wishes to
13 assert. He wishes to suggest that Mr. Doby was
14 ineffective for failing to move for severance. Is
15 that correct, Mr. Singletary?

16 THE WITNESS: On application.

17 MR. LANG: And the fact of the matter is,
18 Your Honor, Mr. Lynch's counsel moved for severance
19 which was denied. There was a Bruton problem with
20 Mr. Singletary's statement which Judge Cooper cured
21 by redaction.

22 THE COURT: By redaction, yes, sir.

23 MR. LANG: The other basis, Your Honor ---

24 THE COURT: Well, on the first one that
25 Mr. Doby had objected to it was overruled and there

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1 would be no issue there anyway.

2 MR. LANG: That's correct, Judge.

3 THE COURT: I mean, it would be frivolous
4 for me to proceed on that knowing that, which you
5 did not do.

6 MR. LANG: The other issue I believe that
7 Mr. Singletary wishes to raise is his assertion that
8 Mr. Doby was ineffective by failing to object as to
9 the authentication of the written demands. There
10 were -- and this is State's Exhibit Number 8. A
11 note was passed out during this event, and the State
12 introduced a question documents examiner. And she
13 opined that the handwriting on that note ---

14 THE COURT: That was number 3.

15 MR. LANG: ---was Mr. Singletary's.

16 THE COURT: That's the same thing as
17 number 3. Trial counsel (inaudible) failed to
18 request a mistrial on forensics document examiner
19 handwriting where the applicant (inaudible)
20 self-incrimination of statement. That was number 3
21 which was abandoned; is that right?

22 MS. HARRIGAN: I believe that is a
23 different allegation and they are different ---

24 MR. LANG: It's slightly different, Your
25 Honor.

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1 MS. HARRIGAN: ---Your Honor.

2 MR. LANG: It deals with the same document
3 examiner but a different document.

4 THE COURT: Okay.

5 MR. LANG: And I would suggest to the
6 Court, you know, just to make the record clear that
7 the State really suffers no prejudice by allowing
8 Mr. Singletary to proceed to amend his application
9 to assert those claims. The transcript is the
10 transcript. The State can certainly meet that. Mr.
11 Doby is here to explain why he did that and ---

12 THE COURT: Ms. Harrigan.

13 MS. HARRIGAN: The State would object to
14 any amendment at this late date. This case has been
15 on the -- filed and active for three years. He
16 never amended at any point. And the fact that he
17 contacted an attorney last week ---

18 THE COURT: That wouldn't be time ---

19 MS. HARRIGAN: ---it's too late of notice.

20 THE COURT: That wouldn't be timely
21 either. Even last week would not have been timely
22 so I sustain that objection.

23 No, sir, you've got an attorney, talk to
24 him.

25 The motion to amend is denied as untimely.

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1 Any other things based upon that response?

2 BY MR. LANG:

3 Q Is there anything else, Mr. Singletary, based on
4 what was filed that you would like to bring to the
5 Court's attention?

6 A Say again.

7 Q Is there anything else in terms of what we filed
8 and what we have presented testimony on that you
9 would like to bring to the Court's attention?

10 A I mean, no, I mean, because I...

11 THE COURT: Okay, that's fine, I mean.

12 Thank you.

13 Would you like to cross-examine the
14 plaintiff?

15 MS. HARRIGAN: May it please the Court.

16 MR. LANG: Please answer any questions the
17 State may have.

18 **CROSS-EXAMINATION**

19 BY MS. HARRIGAN:

20 Q In regards to your allegation that trial counsel
21 was ineffective for failure to object to the
22 incriminating audio tape statement from Craig
23 Melvin, on November 18th, 2005 you came to court
24 with your attorney before the start of the trial for
25 pre-trial motions, correct?

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- 1 A Correct.
- 2 Q And your co-defendant Jacob Lynch, he was there
- 3 with his attorney at your trial as well?
- 4 A Right.
- 5 Q And you were present for that entire hearing?
- 6 A You talking about pre-trial matters?
- 7 Q Yeah, on November 18th.
- 8 A Yes, ma'am.
- 9 Q And at that hearing a motion was made to suppress
- 10 this video tape given by your co-defendant, correct?
- 11 A Mr. Craig Melvin, yes, sir, yes, ma'am.
- 12 Q And that is taped, thank you, for the Court's
- 13 information.
- 14 A Say again?
- 15 Q And you never said anything to news reporter on
- 16 this audio; is that correct?
- 17 A No, ma'am.
- 18 Q And you gave statement to SLED about your
- 19 involvement in this incident, correct?
- 20 A Yes, ma'am.
- 21 Q And there was a motion to suppress that was made
- 22 for these statements, correct?
- 23 A Yes, ma'am.
- 24 Q And the judge ended up redacting part of these
- 25 statements to remove any inference to yourself,

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1 correct?

2 A Yes, ma'am.

3 MS. HARRIGAN: Court's indulgence.

4 THE COURT: Yes, ma'am.

5 MS. HARRIGAN: No further questions, Your
6 Honor.

7 THE COURT: Any redirect?

8 MR. LANG: No redirect, Your Honor.

9 THE COURT: Thank you. You may step down,
10 Mr. Singletary.

11 MR. LANG: Your Honor, at this time we
12 would call Bryan Doby.

13 THE COURT: Mr. Doby, come forward please.

14 THE CLERK: Place your left hand on the
15 Bible, state your full name and spell your last name
16 for the record.

17 THE WITNESS: Brian Doby, D-O-B-Y.

18 WHEREUPON,

19 BRIAN DOBY, after being duly sworn
20 testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. LANG:

23 Q Mr. Doby -- Your Honor, if I could ask permission
24 to lead the witness?

25 THE COURT: You certainly may. He's

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1 hostile, your witness.

2 BY MR. LANG:

3 Q Mr. Doby, you were trial defense counsel for Mr.
4 Singletary; is that correct?

5 A I was.

6 Q And you were appointed; is that right?

7 A I was appointed.

8 Q And in terms of your representation of
9 Mr. Singletary you represented him throughout the
10 course of the trial, pre-trial, as well as during
11 the trial itself, correct?

12 A That is correct.

13 Q And in regard to the pretrial matters you were
14 present at the pretrial hearing; is that right?

15 A I was.

16 Q And there were a number of motions, in fact, it
17 took pretty much all day for Judge Cooper to hear
18 all those pre-trial motions; is that correct?

19 A I don't remember exactly how long it took, but I
20 know we had some very extensive motions and it took
21 a while to do those.

22 Q And I think you moved to suppress Mr.
23 Singletary's statement; is that correct?

24 A Yes, sir, best I recall we did. I did.

25 Q And that motion was denied?

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1 A It was denied.

2 Q You did not move for a severance; is that
3 correct?

4 A I don't recall specifically whether I moved for a
5 severance. I know that co-counsel had made a motion
6 for severance, and I believe Judge Cooper denied
7 that motion. And I can't recall whether I joined in
8 that, but I know that that motion for severance was
9 denied.

10 Q Well, let me ask you this, in terms of your trial
11 strategy, I take it in reading the transcript at
12 least from my take, it was at least to some extent
13 that Mr. Singletary's involvement was considerably
14 less than Mr. Lynch; is that correct? Is that a
15 fair ---

16 A I think that would be a fair assessment; that is
17 correct.

18 Q In other words, Mr. Lynch was the, I guess the
19 lead defendant or the ring leader, and to the extent
20 that Mr. Singletary was involved it was very minor.
21 Is that a fair kind of characterization of how you
22 were trying to try this case?

23 A Yeah, I'd have to -- that'd be a fair assessment,
24 yeah.

25 Q And in terms of that, though, and you recognized

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1 those were serious charges that Mr. Singletary was
2 facing, correct?

3 A They were very serious.

4 Q This was a case in which the State timely gave
5 you notice that it would seek, if Mr. Singletary was
6 convicted, a life without parole sentence; is that
7 correct?

8 A That's correct.

9 Q And even if the State did not give you
10 that notice -- we're talking about in prison
11 litigation which is new to me -- statutes that
12 require consecutive rather than concurrent
13 sentences. In other words, the judge in his
14 discretion must sentence consecutively rather than
15 concurrent?

16 A Yes, sir.

17 Q So even without that possibility of life without
18 parole, Mr. Singletary, convicted of everything he's
19 convicted of would be looking at a significant
20 mandatory minimum sentence?

21 A Yes, sir, we -- I believe my discussions with him
22 were we always thought that this was a life case if
23 he got convicted and he was gonna get life.

24 Q And again, your strategy was portraying Mr. Lynch
25 as a ringleader and trying to avoid reference to

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1 Mr. Singletary, correct?

2 A As best we could.

3 Q And there was also another tactic, I take it,
4 that there were a lot of other inmates who were
5 actually involved with this event I'll call it,
6 correct?

7 A I think from the witnesses it'd be fair to say
8 there were other inmates involved. They were not
9 charged. It was just Mr. Lynch and Mr. Singletary
10 that were charged.

11 Q So again, the tactic was to remove Mr. Singletary
12 from Mr. Lynch and kind of hide with all those other
13 defendants, or other inmates who were not charged;
14 is that correct?

15 A As best we could.

16 Q Right. And in that regard, the Craig Melvin tape
17 did not specifically mention Mr. Singletary,
18 correct?

19 A Didn't mention him specifically. Also, Mr. Lynch
20 made certain statements on there that assisted us in
21 at least trying to further the defense that Mr.
22 Singletary was not involved or lessened his
23 involvement because Mr. Lynch primary statements
24 were that he had done those things.

25 Q All right. But Mr. Lynch through Mr. Melvin,

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1 Craig Melvin, also said there were other people
2 involved, correct?

3 A As best I recall that statement was made -- I
4 didn't look at the video again. It's been a number
5 of years ---

6 Q Well, you wouldn't ---

7 A ---since I've seen that. I'm sorry.

8 Q You wouldn't deny when Mr. Melvin when he said
9 what Mr. Lynch told him talking about Mr. Lynch
10 telling him other people or used the plural of
11 inmates rather than just him, correct?

12 A I don't recall whether he did. He very well
13 could have said that.

14 Q And in terms of what Mr. Lynch said to Mr.
15 Melvin, Mr. Lynch's statement came into evidence; is
16 that correct?

17 A It did come in evidence.

18 Q And Mr. Lynch's statement did not mention at all
19 any multiples of defendants involved or inmates
20 involved, and some did not mention Mr. Singletary,
21 correct?

22 A Yeah, I don't recall the statement specifically,
23 but if it mentions Mr. Singletary then obviously
24 there would have been confrontation issues that
25 would need to be addressed.

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1 Q So wasn't gonna do that anyway?

2 A Wasn't gonna do that anyway.

3 Q And Mr. Lynch pretty much took responsibility in
4 that statement, though he didn't at trial I suppose,
5 for the hostage taking, if you will; is that
6 correct?

7 A I think he admitted his involvement, right.

8 Q And he didn't say anything about Mr. Singletary,
9 correct? Obviously not, because that would have
10 been redacted.

11 A It didn't come in at trial.

12 Q So that you could have gotten that point across
13 to the jury about Mr. Lynch being the ringleader or
14 the prime mover behind this event without Craig
15 Melvin's testimony at all, is that -- isn't that
16 correct? You could have done that right through Mr.
17 Lynch; isn't that right?

18 A Well, certainly if Mr. Lynch, whatever evidence,
19 whatever statement he had given, to the extent that
20 we could use those statements then that would have
21 been, that would have been true.

22 Q And in terms of the prosecutor's comments, you
23 didn't object to those, correct?

24 A I looked at the transcript as Mr. Singletary was
25 testifying. I didn't see an objection that I had

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1 made to that particular statement by the prosecutor.

2 MR. LANG: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 BY MR. LANG:

5 Q Just a few more questions. You recall, do you
6 not, that during the jury deliberations the jury
7 signed a note asking to review or listen to again
8 the Craig Melvin tape?

9 A I don't recall that specifically. I don't recall
10 that specifically. I'd have to look at the
11 transcript to see.

12 Q All right. Let me see if can find it in here.

13 MS. HARRIGAN: I believe it's page 907,
14 Your Honor.

15 MR. LANG: Thank you.

16 BY MR. LANG:

17 Q Let me, if I could, Mr. Doby, invite your
18 attention to page 907, lines 12 through 17. Take a
19 look at that and see if that will refresh your
20 recollection as to the note.

21 A Yes, sir, I read the part that you asked me to
22 read.

23 Q But does that refresh your recollection as to the
24 jury wishing to hear the Craig Melvin tape again?

25 A Obviously I see it in there. It's been a number

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1 of years since we tried the case. I didn't have any
2 recollection of that. Obviously I think the
3 transcript would be correct.

4 Q So that the jury did, in fact, listen to that
5 Craig Melvin tape again for a second time?

6 A Apparently they did.

7 Q Well, the transcript indicates it.

8 A Yeah, the transcript indicates that.

9 Q So at least we can infer from that, can we not,
10 or it would be fair to infer that the jury thought
11 the Craig Melvin tape was an important tape?

12 A I don't know what we can infer from that, but
13 obviously they wanted to see it again.

14 MR. LANG: Begging the Court's indulgence.

15 THE COURT: Yes, sir.

16 MR. LANG: Those are all the questions I
17 have of Mr. Doby.

18 **CROSS-EXAMINATION**

19 BY MS. HARRIGAN:

20 Q Mr. Doby, how long have you been practicing law?

21 A I was admitted to the bar in 1989, graduated from
22 USC law school in 1989 and admitted to the bar in
23 the same year.

24 Q And what percentage of your practice is criminal
25 defense work?

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1 A Now or back when I was representing Mr.
2 Singletary?

3 Q At the time of the trial?

4 A I would probably guess somewhere 25, 30 percent.
5 At the time when my law partner Bill Wheeler and I
6 and maybe even Robert and David Jennings were doing
7 public defender work in Lee County and so we would
8 have a number of weeks per year that we were
9 exclusively doing criminal work.

10 Q And have you had any experience prosecuting a
11 case involving these types of crimes before?

12 A Prosecuting or ---

13 Q Defending. I'm sorry, I misspoke, defending.

14 A We had a number of appointments to represent
15 inmates at SCDC and specifically probably from Lee
16 County Correctional Institute. And I had been
17 appointed to represent I know at least one other
18 individual that I can think of that is charged with
19 taking a hostage, and I don't recall whether it was
20 before or after representation of Mr. Singletary.

21 Q Would it be a fair assessment to say you were
22 familiar with this area of criminal law involving
23 correctional institute offenses?

24 A I think that would be a correct statement.

25 Q In regards to Mr. Singletary's first allegation

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1 against you for ineffective assistance of counsel
2 for failing to object to the Craig Melvin tape as
3 it's been referred to today, a motion to suppress
4 was made on November 18th, 2005 in pre-trial
5 motions, correct?

6 A Again, I don't have any independent recollection
7 of that. I'm simply saying that whatever the
8 transcript might reflect.

9 Q And I know it has been quite a few years since
10 then but to your recollection what was the outcome
11 of that motion to suppress?

12 A Well, obviously the tape was played. It was
13 denied.

14 Q The judge did end up redacting parts of that
15 statement that were incriminating to your client,
16 correct?

17 A Yeah, and that was part of what Judge Cooper
18 wanted to do for the day or most of the day that we
19 had pre-trial motions. We dealt with those sort of
20 issues so that trial would be ready to begin on
21 whatever day it was scheduled.

22 Q And in regards to the note from the jury on
23 transcript page 907 in regards to their request for
24 the audio tape to be played again -- do you have a
25 copy of the transcript in front of you?

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1 A I do.

2 Q Would you please turn to page 907 and 908.

3 A I have it.

4 Q And if you'll look at lines 22 to 3 of the
5 following page. If you'll just read that over to
6 yourself.

7 A Okay, I've read it.

8 Q And from this portion of the transcript does it
9 appear that the same parts of the tape were played
10 to the jury again?

11 A It does. I don't think anything new was played
12 to the jury.

13 Q So the redacted audio tape still would have been
14 played?

15 A Apparently that would have been the case.

16 Q In regards to Mr. Singletary's second allegation
17 that you were ineffective for failure to object to
18 several comments by the solicitor, if you will turn
19 to page 870 please. I believe Mr. Singletary talked
20 about lines 17 through 25 that he feels to be an
21 error or have an issue with.

22 A I've read that.

23 Q After reviewing his testimony do you feel these
24 client -- these comments by the solicitor were
25 highly prejudicial to your client?