

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

William Jeffrey Young, Circuit Court Judge

RECEIVED

SEP 10 2013

S.C. Supreme Court

HAROLD JAMAR WILSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000871

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	
	)	
BRYAN MCCLARY,	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	C/A #: 2003-GS-43-763
v.	)	
	)	
HAROLD JAMAR WILSON,	)	
	)	
DEFENDANTS.	)	

SUMTER COUNTY COURTHOUSE
Monday, November 15, 2004
Tuesday, November 16, 2004
Wednesday, November 17, 2004
Thursday, November 18, 2004

BEFORE:
HONORABLE HOWARD P. KING, PRESIDING JUDGE.

VOLUME ONE

APPEARANCES:

W. Harry Conner, Jr., Esquire
Sumter County Assistant Solicitor
Sumter County Courthouse
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Attorney for The State

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Sumter, South Carolina 29150
Attorney for Harry J. Wilson

TAKEN BY MELISSA R. WINFIELD
CERTIFIED VERBATIM REPORTER

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(Receipt for Exhibits Attached)

Receipt for Exhibits

7

Case # 2003-65-43-703

Judge Howard, T. King

Plaintiff The State

Plt's Atty W. Harry Conner, Jr.

Defendant Harold Jahmar Wilson

Def's Atty Richard Blackmon

Date Trial Started Monday, Nov. 15, 2004

Date Trial Ended 11-18-04

Received of Melissa R. Winfield, Court Reporter for the above case, these exhibits:

ST's 1. Sketch

2. -24 - color photographs

25. Gunshot Residue Kit for Harold J. Wilson

26. Gunshot Residue Kit for Edward Dingle

27. Gunshot Residue Kit for Ceante Terrell Harvin

28. bullet fragment removed from Reginald Foster's head

29. 3 .9 mm cartridges and 1 fired bullet

30. CAD Report (4 pgs)

31. Interview Form 5-21-03

32. Statement handwritten by A 5-21-03

33. Interview Form dated 5-20-03 - (State's #33)

34. Statement by A dated 5-20-03 - (State's #34)

35. Interview Form dated 5-21-03 - (St. #31)

36. Handwritten Statement (2 pgs) 5-21-03 - (St's #32)

CT's #5. Stipulations

CT's #6. Note from Jurors given during deliberations (6:40 p.m.)

As 10. Statement of Anseletia Nicole Melton

As 11. Statement of Edward Maurice Dingle

St's 37. Interview Form dated 5-20-03

St's 38. Statement by A dated 5-20-03

St's 39. Order of Probation by Family Court

This 18th day of Nov., 2004

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Sumter County Clerk of Court

By: J. B. Bradley

Receipt for ExhibitsCase # 2003 6543.763Judge Howard P. KingPlaintiff The StatePlt's Atty W. Harry Panner, Jr.Defendant Harold Jamar WilsonDef's Atty Richard BlackmonDate Trial Started Monday, Nov. 15, 2004Date Trial Ended 11-18-04Received of Melissa R. Winfield Court Reporter for the above case, these exhibits:

- Ex 1. 8 - note from the jury
 Ex 2. 9 - note from the jury
 Ex 3. 10 - note from the jury

4. _____
 5. _____
 6. _____
 7. _____
 8. _____
 9. _____
 10. _____
 11. _____
 12. _____
 13. _____
 14. _____
 15. _____
 16. _____
 17. _____
 18. _____
 19. _____
 20. _____

This 18TH day of Nov., 2004Page 2 of 1

Sumter County Clerk of Court

By: JOB Brodley

HEARING

9

1 ON MONDAY, NOVEMBER 15, 2004

2 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE JURY
3 PANEL, IF WOULD YOU GIVE ME YOUR ATTENTION, PLEASE. THE
4 STATE HAS CALLED THE CASE OF THE STATE VS. HAROLD WILSON. HE
5 IS CHARGED IN THE BILL OF INDICTMENT IN THIS CASE WITH -- WITH
6 SEVERAL CRIMES. AND I'M JUST GOING TO SUMMARIZE THEM TO YOU
7 BASED UPON THE ALLEGATIONS IN THE INDICTMENT. I WOULD TELL
8 YOU THAT THE INDICTMENT IS NOT EVIDENCE OF ANYTHING. IT IS
9 NOT -- YOU'RE NOT TO CONSIDER IT AS EVIDENCE, BUT I'M GOING TO
10 TELL YOU WHAT THE ALLEGATIONS OF THE INDICTMENT ARE SO
11 THAT YOU CAN DETERMINE IF YOU KNOW ANYTHING ABOUT THE
12 CASE THAT WOULD PREVENT FROM YOU SERVING AS A JUROR OR
13 WOULD OTHERWISE CAUSE YOU TO HAVE A CONFLICT WITH SERVING
14 AS A JUROR. BUT MR. WILSON IS ALLEGED IN THE INDICTMENT WITH
15 ONE COUNT OF MURDER IN THAT ON OR ABOUT MAY 19TH OF 2003,
16 THAT HE DID FELONIOUSLY, WILLFULLY AND WITH MALICE
17 AFORETHOUGHT KILL ONE REGINALD FOSTER BY MEANS OF
18 SHOOTING HIM, THAT MR. REGINALD FOSTER DIED AS A RESULT OF
19 THAT INCIDENT ON MAY 19TH, 2003. AND THAT IS THE COUNT OF
20 MURDER. THE SECOND COUNT IS ASSAULT AND BATTERY WITH
21 INTENT TO KILL. THAT ALSO ON THE SAME DATE THAT HE DID
22 VIOLATE SOUTH CAROLINA LAW AND THAT WITH MALICE
23 AFORETHOUGHT HE DID PARTICIPATE -- WHILE PARTICIPATING IN A
24 ROBBERY COMMITTED AN ASSAULT AND BATTERY UPON ONE
25 HERBERT LINWOOD BUTLER BY SHOOTING HIM WITH INTENT TO KILL

HEARING

10

1 MR. BUTLER, AND THAT CHARGE IS ONE OF ASSAULT AND BATTERY
2 WITH INTENT TO KILL. NOW COUNT THREE IS THAT ON MAY TH OF ,
3 THAT WHILE ARMED WITH A DEADLY WEAPON, SPECIFICALLY HE DID
4 ATTEMPT TO TAKE FROM A PERSON AND PRESENCE OF EDWARD
5 MAURICE DINGLE, BY MEANS OF FORCE OR INTIMIDATION, GOODS
6 AND MONEYS OF MR. DINGLE AND THAT THIS IS THE CHARGE FOR
7 ATTEMPTED ARMED ROBBERY. AND, FINALLY, THE FOURTH COUNT
8 OF THE INDICTMENT IS THAT ON MAY 19th THAT MR. WILSON DID
9 VISIBLY DISPLAY AND HAVE IN HIS POSSESSION A FIREARM. AND THE
10 CHARGE WAS – THE CHARGE IS ONE FOR POSSESSION OF A FIREARM
11 DURING THE COMMISSION OF A CRIME OF VIOLENCE. NOW, THESE
12 ARE JUST THE CHARGES OF THE INDICTMENT. THEY'RE NOT EVIDENCE
13 OF ANYTHING, BUT I TELL YOU THESE SO THAT YOU CAN DETERMINE
14 IF YOU KNOW ANYTHING ABOUT THE CASE. THE DEFENDANT, MR.
15 WILSON, IS REPRESENTED BY MR. RICHARD BLACKMON. MR.
16 BLACKMON, WOULD YOU STAND – AND MR. WILSON, WILL YOU STAND
17 AND FACE THE JURY, PLEASE? THIS IS MR. BLACKMON AND THEN MR.
18 WILSON, THE DEFENDANT. THANK YOU. YOU MAY BE SEATED.
19 BEFORE WE SELECT THE JURY, I NEED TO ASK YOU SOME QUESTIONS.
20 PLEASE GIVE YOUR ATTENTION TO THESE QUESTIONS BECAUSE MANY
21 OF THEM APPLY TO YOU SO RESPOND ACCORDINGLY. IS ANY MEMBER
22 OF THE JURY PANEL RELATED BY BLOOD OR CONNECTED BY
23 MARRIAGE TO THE DEFENDANT, HAROLD JAMAR WILSON? IF SO,
24 PLEASE STAND. THE DEFENDANT, AS YOU ALREADY KNOW, IS
25 REPRESENTED BY MR. RICHARD BLACKMON. IS ANY MEMBER OF THE

HEARING

11

1 JURY PANEL REPRESENTED NOW OR BEEN REPRESENTED IN THE LAST
2 YEARS BY MR. BLACKMON? IF SO, PLEASE STAND. THE STATE OF
3 SOUTH CAROLINA IS REPRESENTED BY SOLICITOR C. KELLY JACKSON
4 AND ASSISTANT SOLICITOR HARRY CONNER. IS ANY MEMBER OF THE
5 JURY PANEL REPRESENTED NOW OR BEEN REPRESENTED BY EITHER
6 OF THESE INDIVIDUALS OR BY ANY OF THE LAWYERS IN THE
7 SOLICITOR'S OFFICE WITHIN THE LAST YEARS? IF SO, PLEASE, STAND.

8 MR. BLACKMON: CAN WE APPROACH, YOUR HONOR?

9 THE COURT: YES, SIR.

10 (SIDEBAR DISCUSSION.)

11 THE COURT: ALL RIGHT. THE FOLLOWING INDIVIDUALS MAY
12 APPEAR AS WITNESSES IN THIS CASE AND I WOULD ASK IF THE
13 WITNESSES ARE PRESENT, IF THEY WOULD STAND WHEN THEIR NAME
14 IS CALLED AND FACE THE JURY, PLEASE: LIEUTENANT ALVIN
15 HOLSTON; SERGEANT TRUMAN DUGGIN; W. C. DUBOSE; D. M.
16 WISEMAN; BRIAN CHRISTMAS; TODD SIMS; RUSSELL BRANNON; CHRIS
17 S. MOORE; VELLO PAAVEL; KIMBERLY BLACK; JOHN FOISEY; DR. JOEL
18 SEXTON; JOSEPH GREEN; ALEXIS EARP; VIRGIL EARP; CEANTE HARVIN;
19 EDWARD MAURICE DINGLE; GERARD HARVIN, JOHNNY WILSON, JR.;
20 ROBERT A. WILSON; DOROTHY THOMPSON; CEDRIC WISE. THANK YOU.
21 YOU MAY BE SEATED.

22 MR. CONNER: YOUR HONOR, WE HAVE ADDITIONAL
23 WITNESSES --

24 THE COURT: ALL RIGHT. SPEAK UP, MR. CONNER. WE CAN'T
25 HEAR. THE COURT REPORTER CAN'T HEAR YOU EITHER.

HEARING

12

1 MR. CONNER: WE HAVE ADDITIONAL WITNESSES THAT I DON'T
2 BELIEVE WERE CALLED. AND I WOULD CALL THE NAMES OR -

3 THE COURT: VERY GOOD. I SEE. THE SECOND PAGE I DIDN'T GO
4 OVER THAT. LET ME CALL THESE ADDITIONAL NAMES AND TELL ME IF
5 THERE'S ANYBODY ELSE BESIDES THESE. DALAMAR BURROUGHS;
6 HERBERT LINWOOD BUTLER; SERGEANT ANGELA RABON;
7 DWAUNTREZ KEITH; MIKE MORRIS. THANK YOU. YOU MAY BE
8 SEATED. DOES THAT TAKE CARE OF EVERYBODY?

9 MR. CONNER: THAT'S IT.

10 THE COURT: MY MISTAKE. DIDN'T LOOK AT THE SECOND PAGE.
11 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR
12 CONNECTED BY MARRIAGE TO ANY OF THE PROPOSED WITNESSES? IF
13 SO, PLEASE STAND. IS ANY MEMBER OF THE JURY PANEL CLOSE
14 PERSONAL FRIENDS OF ANY OF THE PARTIES, THEIR LAWYERS OR ANY
15 OF THE WITNESSES WHO I MIGHT HAVE READ OFF TO YOU? IF SO,
16 PLEASE STAND. YES, MA'AM. GIVE ME YOUR NAME, PLEASE.

17 THE WITNESS: DIANNE WATFORD.

18 THE COURT: ALL RIGHT. DO YOU RECALL YOUR NUMBER?

19 THE WITNESS: 233.

20 THE COURT: 233. ALL RIGHT. MS. WATFORD, WHO DO YOU
21 KNOW?

22 THE JUROR: OFFICER BRANNON.

23 THE COURT: ALL RIGHT. IS THAT A SOCIAL RELATIONSHIP,
24 THROUGH CHURCH OR HOW DO YOU KNOW HIM?

25 THE JUROR: MY HUSBAND WAS A POLICE OFFICER.

HEARING

13

1 THE COURT: OKAY. ALL RIGHT. WOULD THE FACT THAT YOU
2 ARE ACQUAINTED WITH HIM AND KNOW HIM PREVENT YOU FROM
3 GIVING TO BOTH THE STATE AND THE DEFENDANT A FAIR AND
4 IMPARTIAL TRIAL BASED ON THE EVIDENCE?

5 THE JUROR: NOT THAT I KNOW OF.

6 THE COURT: THAT'S NOT QUITE GOOD ENOUGH.

7 THE JUROR: NO, SIR. IT WOULD NOT.

8 THE COURT: WOULD YOU BE ABLE TO PUT THAT ASIDE AND
9 DECIDE THIS CASE BASED SOLELY ON THE EVIDENCE THAT YOU HEAR
10 IN THIS COURTROOM DESPITE THE FACT THAT ONE OF THE WITNESSES
11 MAY BE AN ACQUAINTANCE OF YOURS? CAN YOU PUT THAT ASIDE
12 AND DECIDE THE CASE WITHOUT GIVING ANY MORE WEIGHT TO HIS
13 TESTIMONY THAN YOU WOULD ANY OTHER WITNESS?

14 THE JUROR: YES, SIR.

15 THE COURT: WOULD YOU DO THAT?

16 THE JUROR: YES, SIR.

17 THE COURT: ALL RIGHT. THANK YOU, MA'AM. DOES ANY
18 MEMBER OF THE JURY PANNEL KNOW ANYTHING ABOUT THE FACTS
19 OF THIS CASE AS I HAD BRIEFLY RECITED THEM TO
20 YOU? IF SO, PLEASE STAND. HAS ANY MEMBER OF THE JURY PANEL
21 FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR INNOCENCE
22 OF THE DEFENDANT, HAROLD WILSON? IF SO, PLEASE STAND. HAS
23 ANY MEMBER OF THE JURY PANEL OR A MEMBER OF YOUR
24 IMMEDIATE FAMILY -- AND I DEFINE IMMEDIATE FAMILY AS SPOUSE,
25 PARENT, BROTHER, SISTER OR CHILD -- HAS ANY MEMBER OF THE

HEARING

14

1 JURY PANEL OR MEMBER OF YOUR IMMEDIATE FAMILY EVER
2 BEEN THE VICTIM OF A VIOLENT CRIME? IF SO PLEASE STAND.

3 THE JUROR: I WOULD CONSIDER IT A VIOLENT CRIME.

4 THE COURT: ALL RIGHT. DON'T TELL ME ANY MORE. COME ON
5 UP, PLEASE. I'LL TELL YOU WHEN YOU GET UP HERE. COUNSEL,
6 COUNSEL APPROACH.

7 (COURT, COUNSEL AND POTENTIAL WITNESS CONFER.)

8 THE COURT: CAN YOU PUT THAT ASIDE AND DECIDE THIS CASE
9 BASED WHOLLY ON WHAT YOU HEAR?

10 THE JUROR: YES, SIR

11 THE COURT: YOU CAN DO THAT?

12 THE JUROR: YES, SIR. I CAN.

13 THE COURT: ALL RIGHT. FOR THE RECORD, MS. WINFIELD, THAT
14 WAS JUROR WHO GAVE CERTAIN INFORMATION TO THE COURT WITH
15 THE LAWYERS PRESENT. AND AFTER HAVING RECEIVED THAT
16 INFORMATION IT WAS ASKED BY THE COURT WHETHER SHE COULD
17 GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL
18 TRIAL AND SHE INDICATED THAT SHE COULD AND THAT SHE WOULD
19 PUT ASIDE THE FACT THAT -- WHAT SHE DISCLOSED TO THE COURT
20 AND DECIDE THIS CASE BASED ON THE EVIDENCE IN THE
21 COURTROOM. IS ANY MEMBER OF THE JURY PANEL AWARE OF ANY
22 INTEREST, ANY BIAS OR ANY PREJUDICE FOR OR AGAINST THE
23 DEFENDANT? IF SO, PLEASE STAND. CAN EACH MEMBER OF THE JURY
24 PANEL GIVE TO THE STATE AND THE DEFENDANT, MR. HAROLD
25 WILSON, A FAIR AND IMPARTIAL TRIAL BASED ON THE EVIDENCE

HEARING

15

1 GIVEN THAT THEY HEAR IN THE COURTROOM? IF NOT, PLEASE STAND.
2 ALL RIGHT. THEN, I'LL JUST - MR. BLACKMON, AND MR. CONNER, IF
3 YOU COME BACK AROUND, PLEASE.

4 (SIDEBAR DISCUSSION.)

5 THE COURT: ALL RIGHT. LET ME ASK JUROR NUMBER 51, MS.
6 COLEMAN, IF YOU'D COME WITH ME JUST A MOMENT, PLEASE, JUROR,
7 MS. COLEMAN. AND WHILE SHE'S COMING ALSO JUROR, MS. EVENICH.
8 ONE AT A TIME, PLEASE.

9 (COURT, ATTORNEYS AND POTENTIAL JURORS CONFERRING.)

10 THE COURT: ALL RIGHT, GENTLEMEN. DOES ANY MEMBER OF
11 THE JURY PANEL KNOW OF ANY REASON WHATSOEVER WHY HE OR
12 SHE SHOULD NOT SERVE AS A JUROR IN THIS CASE? IF SO, PLEASE
13 STAND. IS ANY MEMBER OF THE JURY PANEL REPRESENTED NOW OR
14 BEEN REPRESENTED IN THE LAST FIVE YEARS BY THE LAW FIRM OF
15 DWIGHT MOORE? IF SO, PLEASE STAND. ARE THERE ADDITIONAL
16 QUESTIONS ON BEHALF OF THE STATE, MR. CONNER?

17 MR. CONNER: NOTHING FOR US, YOUR HONOR.

18 THE COURT: ON BEHALF OF THE DEFENDANT, MR. BLACKMON?

19 MR. BLACKMON: NOTHING, YOUR HONOR.

20 THE COURT: ALL RIGHT. MADAM CLERK, IF WOULD YOU GIVE
21 US A JURY, PLEASE. ALL RIGHT. LADIES AND GENTLEMEN, THE CLERK
22 IS GOING TO HAVE ALL THE NAMES OF THE QUALIFIED JURORS IN THIS
23 ROTATING DRUM. YOUR NAME WILL BE CALLED ONE AT A TIME AND
24 YOU WILL BE ASKED TO COME FORWARD THROUGH THE DOORS
25 EITHER TO MY LEFT, YOUR RIGHT, OR THROUGH THE CENTER

HEARING

16

1 SWINGING DOORS HERE, COME UP TO THE RAIL, TURN AROUND FACE -
2 WITH YOUR BACK TOWARD ME, FACE THE BACK OF THE COURTROOM.
3 IF YOU'RE ACCEPTABLE TO THE STATE THE STATE WILL SO INDICATE.
4 IF YOU'RE ACCEPTABLE TO THE DEFENSE AND THE DEFENDANT, THE
5 ATTORNEY WILL INDICATE YOU CAN HAVE A SEAT IN THE JURY BOX.
6 IF YOU'RE EXCUSED BY EITHER SIDE, PLEASE HAVE A SEAT BACK OUT
7 WITH THE REMAINING JURY PANEL. ALL RIGHT.

8 THE CLERK: THANK YOU, JUDGE. JUROR NUMBER 79, SUSAN
9 DUNN (WHITE FEMALE). COME RIGHT HERE, MA'AM. RIGHT THERE.
10 WHAT SAITH THE STATE?

11 MR. CONNER: PLEASE SEAT THE JUROR.

12 THE CLERK: WHAT SAITH THE DEFENDANT?

13 MR. BLACKMON: PLEASE EXCUSE MS. DUNN FROM THE TRIAL.

14 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL. YOU'VE
15 BEEN EXCUSED FROM THIS TRIAL, PLEASE, MA'AM. JUROR NUMBER 42,
16 PINESE CARTER (BLACK FEMALE). WHAT
17 SAITH THE STATE?

18 MR. CONNER: PRESENT MS. CARTER.

19 THE CLERK: WHAT SAITH THE DEFENDANT?

20 MR. BLACKMON: PLEASE SEAT THIS JUROR.

21 THE CLERK: HAVE A SEAT IN THE JUROR BOX OVER THERE TO
22 MY LEFT, PLEASE, MA'AM. JUROR NUMBER 193, LYNWOOD SCOTT
23 (BLACK MALE). WHAT SAITH THE STATE?

24 MR. CONNER: PRESENT THE GENTLEMAN.

25 THE CLERK: WHAT SAITH THE DEFENDANT?

HEARING

17

1 MR. BLACKMON: PLEASE EXCUSE THIS JUROR.

2 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL. YOU'VE
3 BEEN EXCUSED FROM THIS TRIAL, PLEASE, SIR. JUROR NUMBER 19,
4 BOBBY BENENHALEY (WHITE MALE). WHAT SAITH THE STATE?

5 MR. CONNER: PRESENT THE JUROR.

6 THE CLERK: WHAT SAITH THE DEFENDANT?

7 MR. BLACKMON: PLEASE SEAT MR. BENENHALEY.

8 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR.
9 JUROR NUMBER 211, HELEN STUKES (BLACK FEMALE). WHAT SAITH
10 THE STATE?

11 MR. CONNER: PRESENT MS. STUKES.

12 THE CLERK: WHAT SAITH THE DEFENDANT?

13 MR. BLACKMON: PLEASE SEAT THIS JUROR.

14 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, MA'AM.
15 JUROR NUMBER 129, CHARLENE JEFFERSON (BLACK FEMALE). WHAT
16 SAITH THE STATE?

17 MR. CONNER: PRESENT MS. JEFFERSON.

18 THE CLERK: WHAT SAITH THE DEFENDANT?

19 MR. BLACKMON: PLEASE SEAT MS. JEFFERSON.

20 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE,
21 MA'AM. JUROR NUMBER 57, ROUMANIA COOPER (BLACK MALE).
22 WHAT SAITH THE STATE?

23 MR. CONNER: PRESENT MR. COOPER.

24 THE CLERK: WHAT SAITH THE DEFENDANT?

25 MR. BLACKMON: PLEASE SEAT MR. COOPER.

HEARING

18

1 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR. JUROR
2 NUMBER 208, JAMES STEWART (WHITE MALE). WHAT SAITH THE
3 STATE?

4 MR. CONNER: PRESENT MR. STEWART.

5 THE CLERK: WHAT SAITH THE DEFENDANT?

6 MR. BLACKMON: PLEASE SEAT THE JUROR.

7 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR.

8 JUROR NUMBER 110, MARIANNA HALL (WHITE FEMALE.) WHAT
9 SAITH THE STATE?

10 MR. CONNER: PRESENT MS. HALL.

11 THE CLERK: WHAT SAITH THE DEFENDANT?

12 MR. BLACKMON: PLEASE EXCUSE MS. HALL FROM THIS TRIAL.

13 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL. YOU'VE BEEN
14 EXCUSED FROM THIS TRIAL, MA'AM. JUROR NUMBER 117, DAVID
15 HICKMAN (WHITE MALE). WHAT SAITH THE STATE? MR. CONNER:
16 PRESENT MR. HICKMAN.

17 THE CLERK: WHAT SAITH THE DEFENDANT?

18 MR. BLACKMON: PLEASE SEAT THIS JUROR.

19 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR. JUROR
20 NUMBER 37, LAFAYETTE BYNUM (BLACK MALE). WHAT SAITH THE
21 STATE?

22 MR. CONNER: EXCUSE THE GENTLEMAN FROM THIS TRIAL.

23 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL, YOU'VE BEEN
24 EXCUSED FROM THIS TRIAL, SIR. JUROR NUMBER 150, JIMMY LYON
25 (WHITE MALE). WHAT SAITH THE STATE?

HEARING

19

1 MR. CONNER: PRESENT MR. LYON.

2 THE CLERK: WHAT SAITH THE DEFENDANT?

3 MR. BLACKMON: PLEASE SEAT MR. LYON.

4 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR. JUROR

5 NUMBER 88, ROBERT FESER (WHITE MALE). WHAT SAITH THE STATE?

6 MR. CONNER: PRESENT THE JUROR.

7 THE CLERK: WHAT SAITH THE DEFENDANT?

8 MR. BLACKMON: PLEASE SEAT THE JUROR.

9 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR. JUROR

10 NUMBER FOUR, JASON ALBRIGHT (WHITE MALE). WHAT SAITH THE

11 STATE?

12 MR. CONNER: PRESENT MR. ALBRIGHT.

13 THE CLERK: WHAT SAITH THE DEFENDANT?

14 MR. BLACKMON: SEAT THE JUROR.

15 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR. JUROR

16 NUMBER 202, KEISHA SINKLER (BLACK FEMALE). WHAT SAITH THE

17 STATE?

18 MR. CONNER: PRESENT MS. SINKLER.

19 THE CLERK: WHAT SAITH THE DEFENDANT?

20 MR. BLACKMON: PLEASE EXCUSE MS. SINKLER.

21 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL. YOU'VE BEEN

22 EXCUSED FROM THIS TRIAL, MA'AM. JUROR NUMBER 15, BILLIE

23 BARKLEY (WHITE FEMALE). WHAT SAITH THE STATE?

24 MR. CONNER: PRESENT MS. BARKLEY.

25 THE CLERK: WHAT SAITH THE DEFENDANT?

HEARING

20

1 MR. BLACKMON: PLEASE EXCUSE MS. BARKLEY FROM THE TRIAL.

2 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL, YOU'VE BEEN
3 EXCUSED FROM THE TRIAL, MA'AM. JUROR NUMBER 46, NICOLE
4 CHOICE (BLACK FEMALE). WHAT SAITH THE STATE?

5 MR. CONNER: EXCUSE THE JUROR FROM THIS TRIAL.

6 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL, YOU'VE BEEN
7 EXCUSED FROM THIS TRIAL, MA'AM. JUROR NUMBER 187, FAYE ROUPE
8 (WHITE FEMALE). WHAT SAITH THE STATE?

9 MR. CONNER: PRESENT MS. ROUPE.

10 THE CLERK: WHAT SAITH THE DEFENDANT?

11 MR. BLACKMON: PLEASE EXCUSE MS. ROUPE FROM THIS TRIAL.

12 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL, YOU'VE BEEN
13 EXCUSED FROM THIS TRIAL. JUROR NUMBER 171, KENNETH MORRIS
14 (WHITE MALE). WHAT SAITH THE STATE?

15 MR. CONNER: SEAT MR. MORRIS.

16 THE CLERK: WHAT SAITH THE DEFENDANT?

17 MR. BLACKMON: PLEASE SEAT MR. MORRIS.

18 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR. JUROR
19 NUMBER 16, DEBBIE BASS (WHITE FEMALE). WHAT SAITH THE STATE?

20 MR. CONNER: SEAT MS. BASS.

21 THE CLERK: WHAT SAITH THE DEFENDANT?

22 MR. BLACKMON: PLEASE EXCUSE MS. BASS FROM THIS TRIAL.

23 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL, YOU'VE BEEN
24 EXCUSED FROM THIS TRIAL, MA'AM. JUROR NUMBER 121, GERALDINE
25 HOLLADAY (WHITE FEMALE). WHAT SAITH THE STATE?

HEARING

21

1 MR. CONNER: PRESENT MS. HOLLADAY.
2 THE CLERK: WHAT SAITH THE DEFENDANT?
3 MR. BLACKMON: PLEASE EXCUSE MS. HOLLADAY FROM THIS TRIAL.
4 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL. YOU'VE BEEN
5 EXCUSED FROM THIS TRIAL, MA'AM. JUROR NUMBER 235, DEBORAH
6 WELLS (BLACK FEMALE). WHAT SAITH THE STATE?
7 MR. CONNER: PRESENT MS. WELLS.
8 THE CLERK: WHAT SAITH THE DEFENDANT?
9 MR. BLACKMON: PLEASE EXCUSE MS. WELLS.
10 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL, YOU'VE BEEN
11 EXCUSED FROM THIS TRIAL, MA'AM. JUROR NUMBER 242, HEYWARD
12 WILSON (BLACK MALE). WHAT SAITH THE STATE?
13 MR. CONNER: PRESENT MR. WILSON.
14 THE CLERK: WHAT SAITH THE DEFENDANT?
15 MR. BLACKMON: PLEASE SEAT THE JUROR.
16 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR.
17 THE COURT: ALL RIGHT. ALTERNATE COUNSEL, PLEASE. ONE AND
18 TWO.
19 THE CLERK: JUROR NUMBER 127, ZENA INGRAM (BLACK FEMALE.)
20 WHAT SAITH THE STATE? MR. CONNER: PRESENT MS. INGRAM.
21 THE CLERK: WHAT SAITH THE DEFENDANT?
22 MR. BLACKMON: PLEASE EXCUSE MS. INGRAM.
23 THE CLERK: HAVE A SEAT BACK IN THE JURY PANEL, YOU'VE BEEN
24 EXCUSED FROM THIS TRIAL, PLEASE, MA'AM. JUROR NUMBER 104,
25 FRANK GRANT (BLACK MALE). WHAT SAITH THE STATE?

HEARING

22

1 MR. CONNER: PRESENT MR. FRANK.

2 THE CLERK: WHAT SAITH THE DEFENDANT?

3 MR. BLACKMON: PLEASE SEAT THE JUROR.

4 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE, SIR.

5 THE COURT: ANYTHING WITH REGARD TO STRIKING THE JURY ON
6 BEHALF OF THE STATE, MR. CONNER?

7 MR. CONNER: NO, SIR.

8 THE COURT: ON BEHALF OF THE DEFENDANT?

9 MR. CONNER: NOTHING FROM THE STATE, YOUR HONOR.

10 MR. BLACKMON: NO, SIR.

11 THE COURT: ALL RIGHT. COUNSEL APPROACH, PLEASE.

12 (SIDEBAR DISCUSSION.)

13 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE JURY
14 SELECTED IN THE TRIAL OF THIS CASE, I UNDERSTAND THERE'S SOME
15 MATTERS THAT WE NEED TAKE UP BEFORE WE ACTUALLY GET
16 STARTED IN THE TRIAL OF THE MATTER. AND RATHER THAN JUST
17 HAVE YOU SIT IN THE JURY ROOM WHILE WE TAKE CARE OF THOSE
18 MATTERS, I'M GOING TO GO AHEAD AND EXCUSE YOU NOW AND
19 ALLOW YOU TO GET YOUR LUNCH AND ASK THAT YOU COME BACK
20 DIRECTLY TO YOUR JURY ROOM. THE BAILIFF WILL SHOW YOU
21 WHERE THAT JURY ROOM IS. SO I'M GOING TO EXCUSE YOU NOW, LET
22 YOU GO GET YOUR LUNCH AND BE BACK IN YOUR JURY ROOM,
23 PLEASE, AT TWO O'CLOCK. THAT'S ABOUT AN HOUR AND A HALF
24 FROM NOW. THAT WILL GIVE YOU PLENTY OF TIME AND GIVE US
25 TIME TO TAKE CARE OF THE MATTERS THAT WE NEED TO TAKE CARE

HEARING

23

1 OF. AND WE'LL START BACK AT TWO O'CLOCK. SO I WILL TELL YOU
2 THAT OVER THE LUNCH RECESS, DO NOT DISCUSS THIS MATTER WITH
3 ANYONE. DO NOT ALLOW ANYONE TO DISCUSS IT WITH YOU. IF
4 ANYONE SHOULD ATTEMPT TO TALK WITH YOU ABOUT THIS CASE
5 AND ANY MATTER WHATSOEVER OR APPROACH YOU, GET THEIR
6 NAME OR THEIR DESCRIPTION, REPORT IT TO THE BAILIFFS WHEN YOU
7 COME BACK AND I WILL TAKE CARE OF IT THEN.

8 ALSO, I WILL TELL YOU THAT, AS A HOUSEKEEPING MATTER,
9 LATER ON IN THIS TRIAL I WILL APPOINT ONE OF THE MEMBERS AS
10 THE PRINCIPAL MEMBER OR THE FOREPERSON OF THIS JURY, ONE OF
11 THE MEMBERS OF THE PRESENT JURY AS THE FOREPERSON OF THIS
12 JURY.

13 WHEN I DO THAT, THAT FOREPERSON SHOULD ALWAYS SIT AT
14 THE FIRST SEAT ON THE FRONT ROW DOWN HERE. THE ALTERNATE
15 SHOULD ALWAYS SIT WHERE HE'S SEATED. THE REST
16 OF THE SEATS ARE NOT RESERVED. YOU CAN SIT IN ANY OF THE
17 SEATS IN THE JURY BOX AND IT DOES NOT MATTER WHAT ORDER
18 YOU COME AND GO TO THE COURTROOM. I WOULD SIMPLY ASK THAT
19 YOU GO ALL THE WAY DOWN SO IT WOULDN'T BE A SITUATION OF
20 CRAWLING OVER ONE ANOTHER, RESERVING THE SEAT HERE FOR THE
21 ALTERNATE, AND THE FIRST SEAT ON THE FRONT ROW FOR THE
22 FOREPERSON WHEN I APPOINT THAT FOREPERSON. ALSO I WILL TELL
23 YOU THAT I DO NOT HAVE ANY OBJECTION IF YOU BRING YOUR
24 WATER OR YOUR COFFEE OR YOUR SOFT DRINKS BACK INTO THE
25 COURTROOM WITH YOU. THE CLERKS OF COURSE DON'T LIKE FOR ME

HEARING

24

1 TO SAY THIS BECAUSE THEY'RE CHARGED WITH MAINTENANCE OF
2 THE COURTROOMS AND THEY'RE ALWAYS WORRIED ABOUT SPILLS.
3 AND I DIDN'T LEARN THIS UNTIL ABOUT SIX OR SEVEN YEARS AGO
4 WHEN MY DAUGHTER WAS SERVING ON A JURY IN GEORGIA, WHERE
5 SHE LIVES, AND SHE SAID THEY WERE SITTING OVER THERE, THE
6 JUDGE HAD WATER ON HIS DESK AND THE LAWYERS HAD WATER ON
7 THEIR DESK, AND THE JURY WAS SITTING OVER THERE PARCHED AS
8 THEY COULD BE AND COULDN'T GET ANYTHING TO DRINK. SO I DON'T
9 MIND IF YOU BRING YOUR WATER, YOUR COFFEE OR YOUR SOFT
10 DRINK BACK IN THE COURTROOM WITH YOU WHEN YOU COME BACK
11 IN. WITH THOSE ADMONITIONS THEN, I'M GOING TO EXCUSE YOU
12 AND ALLOW YOU TO GET YOUR LUNCH AS YOU PLEASE. GO WITH MR.
13 BRADLEY TO SHOW YOU WHERE THE JURY ROOM IS AND THEN ASK
14 YOU TO BE BACK HERE AT TWO O'CLOCK. I'LL SEE YOU BACK HERE AT
15 TWO O'CLOCK. THANK YOU. GO WITH MR. BRADLEY, PLEASE.

16 (JURY LEAVES COURTROOM AT 12:24 P.M.)

17 THE COURT: MR. JACKSON, WHILE THEY'RE GOING OUT I WANT TO
18 TALK TO YOU ABOUT SCHEDULING.

19 (OFF THE RECORD DISCUSSION.)

20 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE JURY
21 PANEL NOT SELECTED IN THE TRIAL OF THIS CASE, I AM GOING TO
22 EXCUSE YOU NOW FOR THE REST OF THE DAY. IT'S OFTEN VERY
23 DIFFICULT FOR US TO ESTIMATE EXACTLY HOW LONG A CASE IS
24 GOING TO TAKE OR WHAT COULD HAPPEN WITH A CASE. SO I'M GOING
25 TO EXCUSE YOU NOW AND I'M GOING TO ASK YOU TO CALL THE

HEARING

25

1 NUMBER THAT YOU WERE GIVEN WHEN YOU CAME IN HERE TODAY
2 AFTER SIX O'CLOCK TONIGHT. THAT IS JUST A REGULAR ANSWERING
3 MACHINE. MOST ALL OF THE COUNTIES HAVE GONE TO THIS SYSTEM
4 THAT ALLOWS US TO HAVE THE JURORS CALL BACK INTO THAT.

5 (OFF THE RECORD DISCUSSION. REMAINING JURY PANEL
6 EXCUSED.)

7 THE COURT: I WILL TAKE JUST A MOMENT TO MEMORIALIZE
8 THE STIPULATION HERE IN WRITING SO THAT THERE WOULD BE NO
9 QUESTION AS TO WHAT THE STIPULATION IS. WE CAN DO IT DURING
10 THE LUNCH BREAK, BUT I JUST THOUGHT IT WAS SOMETHING WE
11 COULD TAKE CARE OF. WE CAN LET THE WITNESS GO, BUT IF IT'S
12 GOING TO TAKE THIS LONG TO GET IT DONE, WE'VE WASTED TOO
13 MUCH TIME.

14 MR. CONNER: I'LL BRING THEM BACK THEN.

15 THE COURT: OKAY. LET'S DO THAT. ALL RIGHT. MR.
16 BLACKMON, LET ME HEAR FROM YOU WITH REGARDS TO THE
17 MOTIONS THAT YOU HAVE.

18 MR. BLACKMON: MAY IT PLEASE THE COURT. AND THESE
19 WERE ALL THE FILES THIS MORNING EVEN BEFORE THEY FILED THE
20 FAX TO MR. CONNER THAT WE WERE SERVED BY A COPY HERE. OUR
21 FIRST MOTION HAS BEEN A SUPPLEMENTAL MOTION FOR STANDARD
22 DISCOVERY. THAT RENEWS OUR ORIGINAL RULE FIVE BRADY
23 DISCOVERY MOTION AND FURTHER SPECIFICALLY REQUESTS THE
24 PROVISION OF CERTAIN RESULTS THAT HAVE BEEN REFERRED TO IN
25 THE DISCOVERY MATERIALS THAT HAVE BEEN PROVIDED BY THE

HEARING

26

1 SOLICITOR'S OFFICE. WE HAVE SPECIFICALLY REQUESTED SIX
2 INDIVIDUALIZED ITEMS OR TYPES OF ITEMS. THE FIRST THREE BEING
3 THE RESULTS OF GUNSHOT RESIDUE TESTS ON THE DEFENDANT, TWO
4 OTHER WITNESSES, MR. WILSON, MR. DINGLE AND MR. CEANTE
5 HARVIN. MR. CONNER PROVIDED ME WITH THOSE RESULTS RIGHT
6 BEFORE WE COMMENCED PICKING A JURY, ACTUALLY WHEN THE
7 JURY CAME IN. AND SO THOSE THREE ITEMS HAVE IN FACT NOW BEEN
8 PROVIDED TO ME. WE HAVE ADDITIONALLY REQUESTED THE
9 RESULTS OF THE GUNSHOT RESIDUE TEST ON THE ORANGE YANKEES'
10 JACKET OF THE DEFENDANT, HAROLD WILSON, WHICH WAS
11 PROCURED PURSUANT TO A SEARCH WARRANT, AND LOGGED INTO
12 EVIDENCE ON MAY 22nd OF 2003, ACCORDING TO THE EVIDENCE
13 INVENTORY AND CHAIN OF CUSTODY FORM OF THE SAME DATE.
14 WE'VE ALSO REQUESTED THE RESULTS OF ANY FINGERPRINT
15 ANALYSIS CONDUCTED ON THE SHELL CASINGS AND THE BULLET
16 RECOVERED WHICH WERE LOGGED INTO EVIDENCE ON MAY 23rd OF
17 2003 ACCORDING TO THE EVIDENCE INVENTORY CHAIN OF CUSTODY
18 FORM OF THE SAME DATE. IN REVIEWING THE MATERIALS THAT
19 WERE PROVIDED, MR. CONNER FORWARDED TO ME A RULE FIVE
20 DISCLOSURE AND MOTION FOR RECIPROCAL DISCOVERY BACK ON
21 FEBRUARY 9TH WHICH REFERS, IN ITEM NUMBER FOUR, TO REPORTS
22 OF EXAMINATIONS AND TESTS UNDER SUBSECTION A., SUPPOSEDLY
23 BEING A SLED LAB REPORT UNDER LAB NUMBER LO3-05239, A LATENT
24 PRINT DEPARTMENT DATED OCTOBER 3RD OF 2003. BUT MY REVIEW
25 OF THE ACTUAL RESULTANT TESTS THAT WERE ATTACHED DATED

HEARING

27

1 OCTOBER 23RD OF 2003 UNDER THAT NUMBER, IS, IN FACT THE
2 RESULTS OF SOME JEANS AND CLOTHES AND SOME OTHER ITEMS
3 HAVING BEEN EXAMINED, BUT THERE'S ABSOLUTELY NOTHING FROM
4 THE LATENT PRINTS DEPARTMENT NOR DO I HAVE ANYTHING ON ANY
5 LATENT PRINTS OR ANY PRINTS OF ANY KIND.

6 MR. CONNER: SOME SHELL CASINGS; ISN'T THAT WHAT YOU'RE
7 ASKING?

8 MR. BLACKMON: YES. THE TWO SHELL CASINGS AND I BELIEVE
9 THE ONE FIRED BULLET.

10 MR. CONNER: ALL RIGHT. WE'LL FIND THAT IF WE GOT IT.

11 MR. BLACKMON: ALL RIGHT. ITEM NUMBER SIX WAS A
12 REQUEST FOR THE
13 IMMEDIATE RELEASE OF ANY AND ALL EVIDENCE INTENDED TO
14 IMPEACH THE CREDIBILITY OF ANY WITNESS THE STATE PROPOSES TO
15 OFFER, WHICH WOULD SPECIFICALLY INCLUDE BUT NOT BE LIMITED
16 TO PRIOR CRIMINAL RECORDS OF OR ANY OTHER ORAL OR WRITTEN
17 STATEMENTS CONTRADICTORY OF ANY OF THE STATEMENTS
18 PREVIOUSLY PROVIDED AS WELL AS ANY PLEA AGREEMENTS
19 ENTERED INTO WITH THOSE WITNESSES. IT SPECIFICALLY INCLUDED,
20 BUT NOT LIMITED TO, EDWARD MAURICE DINGLE, HERBERT L.
21 BUTLER, DALAMAR ALQUON BURROUGHS, CEANTE TERRELL HARVIN,
22 ALEXIS AND VIRGIL EARP, DOROTHY THOMPSON, ROBERT ALQUON
23 WILSON AND JOHNNY WILSON, JR., AND DWAUNTREZ KEITH. I
24 BELIEVE THERE HAVE BEEN WRITTEN STATEMENTS PROVIDED ON ALL
25 OF THOSE, AND I BELIEVE THEY'RE ACTUALLY ALL LISTED AS

HEARING

28

1 POTENTIAL WITNESSES.

2 THE COURT: YOU HAVEN'T BEEN GIVEN THOSE STATEMENTS?

3 MR. BLACKMON: I'VE GOT STATEMENTS FROM THEM, BUT I'VE
4 ASKED FOR CRIMINAL RECORDS AND ANY OTHER STATEMENTS OR
5 THE RESULTS OF ANY VERBAL STATEMENTS. ALL I HAVE IS WRITTEN
6 STATEMENTS.

7 THE COURT: I'M NOT SURE I UNDERSTAND HOW THEY CAN GIVE
8 YOU A VERBAL STATEMENT.

9 MR. BLACKMON: WELL, I'M JUST WONDERING IF THEY GAVE
10 LAW ENFORCEMENT A VERBAL STATEMENT THAT WAS WRITTEN
11 DOWN ANYWHERE OTHER THAN HAVING BEEN REDUCED TO A -
12 WRITTEN STATEMENTS THAT WERE PROVIDED.

13 THE COURT: OKAY. WHAT ELSE?

14 MR. BLACKMON: WE HAVE FILED, YOUR HONOR, A SECOND
15 MOTION WHICH IS TO SUPPRESS THE EMERGENCY ROOM AND
16 AUTOPSY PHOTOGRAPHS OF THE DECEDENT IN THE TRIAL. THE BASIS
17 FOR THAT INCLUDING THE PROBATIVE VALUE OF SUCH IF ANY IS
18 SUBSTANTIALLY OUTWEIGHED BY THE THINGS THAT ARE UNFAIR
19 AND PREJUDICED, CONFUSION OF ISSUES AND POSSIBLE MISLEADING
20 OF THE JURY AND NEEDLESS PRESENTATION OF CUMULATIVE
21 EVIDENCE.

22 THAT MAY BE A MATTER THAT NEEDS TO BE TAKEN UP AS
23 INDIVIDUAL PHOTOGRAPHS ARE INTRODUCED, BUT I WANT THE
24 COURT TO BE AWARE THAT WE ARE OBJECTING TO THOSE BEING
25 INTRODUCED EN MASSE.

HEARING

29

1 THE COURT: ALL RIGHT, SIR.

2 MR. BLACKMON: THIRD, WHAT I BELIEVE WOULD BE A FAIRLY
3 STANDARD MOTION, TO SUPPRESS THE ORAL, WRITTEN STATEMENTS
4 ALLEGED TO HAVE BEEN MADE BY THE DEFENDANT, HAROLD J.
5 WILSON, ON THE BASIS THAT THEY WERE NOT VOLUNTARY AND WERE
6 OBTAINED BY THE GREAT AND/OR CONTRIVED PROMISES OF LAW
7 ENFORCEMENT AT THE TIME OF SUCH (INAUDIBLE), FURTHER THAT
8 ANY ALLEGED ORAL STATEMENTS WERE MADE BY HIM WHEN IN
9 CUSTODY AND WHILE HE WAS NOT PROVIDED WITH HIS APPROPRIATE
10 MIRANDA RIGHTS.

11 THE COURT: ALL RIGHT, SIR.

12 MR. BLACKMON: AND FINALLY, YOUR HONOR, WE HAVE A
13 MOTION TO CONTINUE THIS MATTER UNTIL SUCH TIME AS THE
14 PROSECUTION HAS PROVIDED US ALL OF THE EVIDENCE SOUGHT
15 PURSUANT TO THE SUPPLEMENTAL DISCOVERY MOTION,
16 SPECIFICALLY INCLUDING THOSE FINGERPRINT ANALYSES,
17 IMPEACHMENT EVIDENCE, AND THE OTHER RESULTS OF THE
18 GUNSHOT TESTS, NOT ON INDIVIDUAL PEOPLE BUT ON THE CLOTHING,
19 I BELIEVE, THAT WE HAVE REQUESTED.

20 THE COURT: ALL RIGHT. MR. CONNER, LET ME HEAR FROM YOU
21 WITH REGARDS TO THE VARIOUS MATTERS. IT SEEMS LIKE IT
22 APPEARS – LET'S FIRST ADDRESS THE GUNSHOT RESIDUE TEST. IT
23 APPEARS THAT HE HAS BEEN GIVEN THE RESULTS OF THE GUNSHOT
24 RESIDUE TEST ON THE CLOTHING – I MEAN, ON THE INDIVIDUALS, I'M
25 SORRY. HOW ABOUT THE GUNSHOT RESIDUE TEST THAT HE CLAIMS

HEARING

30

1 ON THE ORANGE JACKET OR POSSIBLY THE OTHER CLOTHING?

2 MR. CONNER: YOUR HONOR, THAT IS ALSO REPORTED IN
3 REPORT THAT WAS GIVEN TO HIM. APPARENTLY THE - THE PERSON
4 WHO DID THE TESTING AT SLED DID NOT TEST THE
5 JACKET. SHE INDICATED THAT ...

6 THE COURT: SO WHAT YOU'RE SAYING IS THERE IS NO GUNSHOT
7 RESIDUE TEST DONE ON THE ORANGE JACKET?

8 MR. CONNER: THAT'S CORRECT.

9 THE COURT: OKAY.

10 MR. CONNER: THEY - THE LOCAL DEPARTMENT SENT IT UP
11 THERE, BUT FOR WHATEVER REASON SLED DIDN'T TEST IT.

12 THE COURT: THAT TAKES CARE OF THE DISCOVERY PART
13 BECAUSE IF THERE'S NO TESTS, THERE WOULD BE NO RESULTS, MR.
14 BLACKMON.

15 MR. BLACKMON: YES, YOUR HONOR.

16 THE COURT: OKAY. HOW ABOUT THE FINGERPRINTS AND
17 SHELL CASINGS?

18 MR. CONNER: THERE'S NO - THERE'S NO FINGERPRINT TESTING
19 ON THE SHELL CASINGS. I'M TOLD BY SERGEANT DUGGIN HERE THAT
20 ONCE A GUN WAS FIRED, THE SHELL WAS FIRED IN THE GUN, THAT
21 THEY ARE NOT ABLE TO GET FINGERPRINTS. SO THAT
22 WAS NOT REQUESTED OF SLED AND NOT PRESENTED. I DID HAVE A
23 LATENT PRINT REPORT WHICH I GAVE TO HIM EARLY ON BUT IT
24 INVOLVES NO TESTING ON THE SHELL CASINGS OR ON THE BULLET
25 RECOVERED FROM THE GROUND OUT THERE AT THE SITE.

HEARING

31

1 THE COURT: ALL RIGHT. SO, MR. BLACKMON, HE SAYS THAT
2 THERE WAS NO TESTING DONE ON THE SHELL CASINGS. AGAIN, SO
3 THERE'S NO REPORT, IT WOULD APPEAR ON THAT, SO THAT OUGHT TO
4 SOLVE THAT PROBLEM.

5 MR. BLACKMON: YES, SIR.

6 THE COURT: ALL RIGHT. NOW, WITH REGARD TO THE - TELL
7 ME ABOUT THE STATEMENTS. HE INDICATES THAT HE HAS COPIES OF
8 THE WITNESSES' STATEMENTS. ARE THERE ANY OTHER STATEMENTS
9 THAT -

10 MR. CONNER: INsofar AS I'M AWARE, THERE WERE NO OTHER
11 STATEMENTS OTHER THAN WHAT HAS ALREADY BEEN GIVEN TO HIM.
12 WE HAVE A STATEMENT FROM EACH ONE OF THESE PEOPLE; EDWARD
13 MAURICE DINGLE, HERBERT BUTLER, DALAMAR BURROUGHS, CEANTE
14 HARVIN, ALEXIS EARP, AND THE WHOLE LIST THERE. AND WE
15 PROVIDED HIM WITH THOSE STATEMENTS IN DISCOVERY EARLY ON.

16 THE COURT: HE'S ASKING FURTHER FOR THEIR CRIMINAL
17 RECORDS.

18 MR. CONNER: I HAVE COPIES OF THE CRIMINAL RECORDS,
19 YOUR HONOR, AND I'M PREPARED TO GIVE THOSE TO HIM AT THE
20 CONCLUSION OF THIS HEARING.

21 THE COURT: ALL RIGHT. THE COURT WOULD REQUIRE THAT
22 THOSE CRIMINAL RECORDS BE DISCLOSED. IS THERE ANYTHING ELSE
23 YOU NEED WITH REGARD TO THOSE WITNESSES THAT YOU FEEL LIKE
24 YOU'RE ENTITLED TO, MR. BLACKMON?

25 MR. CONNER: YOUR HONOR, I WOULD ASK YOU THIS, IF HE - IF

HEARING

32

1 HE IS MISSING A STATEMENT FROM ONE OF THESE WITNESSES, I'LL BE
2 GLAD TO GET IT TO HIM.

3 THE COURT: I THOUGHT YOU INDICATED YOU HAD ALL THE
4 STATEMENTS.

5 MR. BLACKMON: I BELIEVE I HAVE AT LEAST ONE STATEMENT
6 FROM ALL OF THOSE LISTED WITNESSES, YOUR HONOR, BUT IN SOME
7 OF MY REVIEW OF -- FOR EXAMPLE, THE SUMMARY OF THE LAW
8 ENFORCEMENT, PREPARATION OF VARIOUS LAW ENFORCEMENT
9 OFFICERS WHO WERE INVOLVED IN INTERVIEWING WITNESSES,
10 SEEMED TO INDICATE IN SOME REGARDS THAT THEY TALKED TO
11 SOME PEOPLE AND SOME PEOPLE MAY HAVE SAID THIS, AND SOME
12 PEOPLE MAY HAVE SAID THAT. THIS MOTION WAS GEARED TOWARDS
13 FINDING OUT IF THERE'S ANYTHING ELSE ANY OF THOSE WITNESSES
14 SAID TO THEM THAT WAS NOT REDUCED TO WRITING.

15 THE COURT: WHAT -- YOU KNOW, IT'S VERY LIKELY, MR.
16 BLACKMON, THAT WHEN THE TESTIMONY COMES OUT THEY'RE GOING
17 TO SAY, DURING THE COURSE OF THE INVESTIGATION I SPOKE WITH
18 JOHN DOE AND AS A RESULT OF MY CONVERSATION WITH JOHN JOE I
19 DID SO AND SO. AND THAT, YOU KNOW, I DON'T KNOW HOW THAT
20 CAN BE DISCLOSED. WE'LL JUST HAVE TO APPROACH --

21 MR. BLACKMON: IT WOULD ONLY BE DISCLOSED, I WOULD
22 THINK, YOUR HONOR, IF THEY WROTE THAT IN SOME NOTES OR KEPT
23 ANY NOTES ON THE SCENE THAT THEY WOULD HAVE HAD.

24 THE COURT: ANYTHING THAT THEY HAD, YOU'RE ENTITLED TO
25 THAT. AND HE HAS ALSO INDICATED HE WOULD GIVE YOU THE

HEARING

33

1 CRIMINAL RECORDS. NOW, IS THERE ANYTHING ELSE YOU NEED AS
2 FAR AS WITNESSES?

3 MR. BLACKMON: YOUR HONOR, AS FAR AS GUN RESIDUE TEST, I
4 UNDERSTAND THAT THE CLOTHING OF THE DEFENDANT WAS TAKEN.
5 THE CLOTHING WAS ACTUALLY LOGGED INTO EVIDENCE. I DON'T
6 HAVE A RECORD THAT THE CLOTHING WAS SENT TO SLED OR THAT
7 ANY GUN RESIDUE TESTING WAS CONDUCTED ON MR. WILSON'S
8 ACTUAL CLOTHING. AND IN LIGHT OF THE DISCLOSURE THAT THE
9 JACKET WAS SENT BUT NO GUN RESIDUE TEST CONDUCTED
10 PURSUANT TO THE ALLEGATIONS OF SEVERAL OF THOSE
11 STATEMENTS, THAT THAT IS CONSISTENT WITH THE CLOTHING AND
12 THE JACKET THAT MR. WILSON WOULD HAVE BEEN WEARING AT THE
13 TIME THE ALLEGED INCIDENTS OCCURRED. WE BELIEVE THAT THE
14 JACKET AND HIS CLOTHING SHOULD BE SUBJECTED TO GUNSHOT
15 RESIDUE TESTING. THE JACKET WAS SENT BUT NOT TESTED. WE
16 WOULD TAKE THE POSITION THAT IT SHOULD BE TESTED. AND IF THE
17 CLOTHING WAS PUT INTO EVIDENCE AND NOT SENT OR TESTED, IT
18 SHOULD LIKEWISE BE SENT AND TESTED AND THOSE RESULTS
19 PROVIDED TO US PRIOR TO THE CONTINUATION OF THIS TRIAL.

20 THE COURT: ALL RIGHT. I'M REQUIRING THEM TO GIVE YOU
21 THE RESULTS, BUT AS FAR AS REQUIRING THEM TO PERFORM ANY
22 PARTICULAR TEST, I'M NOT GOING TO REQUIRE THEM TO DO
23 THAT. THAT'S A MATTER THAT THE STATE - WHATEVER THEY WANT
24 TO PROVE AND WHAT THEY THINK IS NECESSARY TO PROVE THEIR
25 CASE. AND SO I'M NOT GOING TO REQUIRE THAT ANY - THAT

HEARING

34

1 THE STATE PERFORM ANY PARTICULAR TEST. THAT'S A MATTER OF
2 EVIDENCE AND IT'S UP TO THEM. BUT I WILL, OF COURSE, REQUIRE
3 THAT THEY FURNISH YOU WITH ANY RESULTS OF ANY TEST, NOT
4 ONLY THE JACKET BUT ANY OTHER CLOTHING. BUT I ASSUME YOU
5 DON'T HAVE ANY OTHER; IS THAT RIGHT, MR. CONNER?

6 MR. CONNER: THAT'S RIGHT.

7 THE COURT: ALL RIGHT. LET'S TALK ABOUT - LET'S TALK
8 ABOUT PHOTOGRAPHS. MR. CONNER, HAVE YOU DECIDED WHICH
9 PHOTOGRAPHS YOU WANT TO OFFER AND WHICH ONES THAT YOU
10 ARE NOT GOING TO OFFER? I DON'T REALLY CARE TO LOOK AT ALL OF
11 THEM, BUT THE ONES THAT YOU ARE GOING TO OFFER INTO
12 EVIDENCE, YOU NEED TO SHOW THOSE TO MR. BLACKMON.
13 IF HE HAS ANY OBJECTION TO THEM, I'LL RULE ON HIS OBJECTIONS.

14 MR. BLACKMON: AS TO A SERIES OF 23 PHOTOGRAPHS WHICH
15 MR. CONNER HAS JUST HANDED ME, WE HAVE NO OBJECTION TO ANY
16 OF THOSE.

17 THE COURT: ALL RIGHT. GO AHEAD AND GIVE THOSE TO THE
18 REPORTER. SHE DOESN'T NEED TO MARK THEM RIGHT NOW, BUT SHE
19 CAN MARK THEM IN A FEW MINUTES AS STATE'S 1 THROUGH 23. ANY
20 OTHER PHOTOGRAPHS YOU PLAN TO USE, MR. CONNER?

21 MR. CONNER: I'VE GOT SOME PHOTOGRAPHS. I DON'T HAVE A
22 PRESENT PLAN TO USE THEM UNLESS SOMETHING COMES UP DURING
23 THE TRIAL. I DO HAVE A SKETCH HERE WHICH I BELIEVE HE HAS A
24 COPY OF THAT AND I'M ASKING HIM TO EXAMINE THAT AT THIS POINT.

25 MR. BLACKMON: NO OBJECT TO THAT, YOUR HONOR.

HEARING

35

1 THE COURT: ALL RIGHT. THAT CAN BE MARKED. ACTUALLY
2 THAT'S PROBABLY - THE BEST THING IS, MS. WINFIELD, WOULD BE TO
3 MARK THAT AS NUMBER 1, STATE'S EXHIBIT NUMBER 1, AND THEN
4 THE PHOTOGRAPHS WOULD BE 2 THROUGH 24.

5 (SKETCH MARKED AS STATE'S EXHIBIT 1, STATE'S EXHIBITS 2
6 THROUGH 24, PHOTOGRAPHS, MARKED FOR EVIDENCE.)

7 THE COURT: I WOULD ASK THAT IF THERE ARE PHOTOGRAPHS
8 OR MATTERS THAT COULD COME UP TO WHICH YOU THINK THERE
9 MIGHT BE SOME OBJECTION, THAT THOSE WOULD BE BROUGHT TO
10 THE ATTENTION OF THE COURT BEFORE THEY'RE SHOWN TO A
11 WITNESS OR BROUGHT BEFORE THE JURY SO THAT THE COURT CAN
12 RULE ON THEM WITHOUT HAVING ANY PREJUDICE.
13 AND FINALLY, WELL, NOT FINALLY BUT IT APPEARS THERE'S JACKSON
14 V. DENNO ISSUES, MR. CONNER?

15 MR. CONNER: THAT'S CORRECT.

16 THE COURT: ALL RIGHT. LET'S GO AHEAD AND ADDRESS THOSE.

17 MR. CONNER: YOUR HONOR, AT THIS TIME WE WOULD CALL
18 ANGELA RABON.

19 THE COURT: ALL RIGHT. MS. RABON, COME AROUND, PLEASE.

20 ANGELA RABON, HAVING BEEN FIRST DULY SWORN, WAS
21 EXAMINED AND TESTIFIED AS FOLLOWS:

22 THE CLERK: PLEASE HAVE A SEAT, MA'AM.

23 DIRECT EXAMINATION BY MR. CONNER:

24 Q. STATE YOUR FULL NAME, PLEASE, MA'AM AND SPELL YOUR
25 LAST-NAME, PLEASE.

HEARING

36

1 A. ANGELA RABON, R-A-B-O-N.

2 Q. MS. RABON, WHERE ARE YOU EMPLOYED?

3 A. FOR THE SUMTER POLICE DEPARTMENT.

4 Q. AND HOW LONG HAVE YOU WORKED FOR THEM?

5 A. I'VE BEEN EMPLOYED THERE SINCE THE MIDDLE OF .

6 Q. AND IN WHAT CAPACITY DO YOU WORK THERE?

7 A. INVESTIGATIONS. I'M A DETECTIVE.

8 Q. AND IN MAY OF 2003, WHAT KIND OF WORK WERE YOU DOING?

9 A. DETECTIVE IN THE VIOLENT CRIMES UNIT.

10 Q. IN THAT REGARD, DID YOU BECOME INVOLVED IN THE
11 INVESTIGATION OF THE CASE THAT WE ARE TRYING HERE
12 TODAY?

13 A. I DID.

14 Q. AND DID YOU AND ANOTHER OFFICER HAVE AN OPPORTUNITY
15 TO INTERVIEW THE DEFENDANT SHORTLY AFTER HIS ARREST
16 ON MAY 20th, 2003?

17 A. I DID. THAT'S CORRECT.

18 Q. WHERE DID Y'ALL INTERVIEW HIM?

19 A. WE WERE IN THE LAW ENFORCEMENT CENTER IN LIEUTENANT
20 HOLSTON'S OFFICE.

21 Q. AND WHO WAS THE OTHER OFFICER?

22 A. LIEUTENANT ALVIN HOLSTON.

23 Q. AND WAS THERE ANYBODY ELSE IN THE ROOM OTHER THAN
24 THE THREE OF Y'ALL; THE DEFENDANT, WILSON, YOU, AND
25 ALVIN HOLSTON?

- 1 A. NO, SIR.
- 2 Q. AND DID YOU ADVISE HIM OF WHAT'S CALLED HIS MIRANDA
- 3 RIGHTS?
- 4 A. I DID.
- 5 Q. AND WHO GAVE HIM THE MIRANDA RIGHTS, YOU OR
- 6 LIEUTENANT HOLSTON?
- 7 A. I DID.
- 8 Q. AND COULD YOU TELL US WHAT YOU ADVISED HIM?
- 9 A. ON THE MIRANDA FORM, IT HAS EACH LINE OF THE MIRANDA
- 10 WHICH I READ TO MR. WILSON. AND I HAD HIM INITIAL EACH
- 11 LINE AS I READ IT TO HIM INDICATING THAT HE UNDERSTOOD
- 12 WHAT I WAS SAYING.
- 13 Q. I'M SHOWING YOU THIS HERE ON EXHIBIT NUMBER - COURT'S
- 14 EXHIBIT NUMBER 1 AT THIS POINT IN TIME AND ASK IF YOU
- 15 COULD IDENTIFY THAT FOR ME?
- 16 A. THIS IS THE MIRANDA INTERVIEW FORM THAT WE READ PRIOR
- 17 TO AN INTERVIEW OF A SUSPECT. AND EACH LINE NEXT TO THE
- 18 LINE OF THE MIRANDA I HAD MR. WILSON INITIAL.
- 19 Q. IS THAT A FORM YOU USED TO ADVISE MR. WILSON?
- 20 A. YES, SIR.
- 21 Q. AND THE - TELL US - TELL US THE RIGHTS THAT YOU READ HIM,
- 22 WHAT'S THE PURPOSE?
- 23 A. YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY
- 24 CAN BE USED AGAINST YOU IN COURT. YOU HAVE THE RIGHT
- 25 TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY

HEARING

38

1 QUESTIONS AND HAVE HIM OR HER WITH YOU DURING THE
2 QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE WILL
3 BE APPOINTED BEFORE - FOR YOU BEFORE ANY QUESTIONING IF
4 YOU WISH. AND IF YOU DECIDE TO ANSWER ANY QUESTIONS
5 NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE
6 RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK
7 WITH A LAWYER.

8 Q. AND YOU READ THOSE TO HIM?

9 A. YES, SIR.

10 Q. AND HE INITIALED ALONGSIDE INDICATING THAT HE
11 UNDERSTOOD EACH ONE OF THEM?

12 A. THAT'S RIGHT.

13 Q. AND DID EITHER YOU OR MR. HOLSTON PROMISE HIM ANYTHING
14 IN ORDER TO GET HIM TO TALK WITH YOU?

15 A. NO, WE DID NOT.

16 Q. DID YOU THREATEN HIM IN ANYWAY TO GET HIM TO TALK WITH
17 YOU?

18 A. NO, NO.

19 Q. DID HE TALK WITH YOU FREELY AND VOLUNTARILY?

20 A. HE DID. HE WAS QUITE EAGER TO GIVE HIS SIDE OF THE STORY
21 AND WE - IN FACT, I BELIEVE WE HAD TO STOP HIM AND READ
22 HIM HIS RIGHTS BEFORE HE ACTUALLY GAVE US THE
23 STATEMENT.

24 Q. AND AFTER YOU READ HIM HIS RIGHTS, DID HE SAY THAT HE
25 UNDERSTOOD IT?

HEARING

39

1 A. HE DID.

2 Q. AND DID HE WAIVE HIS RIGHTS TO HAVE A LAWYER PRESENT
3 AND TO PROCEED WITH YOU AND LIEUTENANT HOLSTON?

4 A. HE DID.

5 Q. AND DID HE SIGN THE FORM DOWN AT THE BOTTOM?

6 A. THAT'S RIGHT. HE DID.

7 Q. AND WHO WITNESSED IT?

8 A. LIEUTENANT HOLSTON.

9 Q. NOW, WHAT - ABOUT WHAT TIME OF DAY WAS THIS?

10 A. AT 2:25 A.M. ON MAY 20TH, '03.

11 Q. NOW, I SHOW YOU THIS WHICH IS COURT'S EXHIBIT NUMBER 2
12 AND ASK YOU IF YOU CAN IDENTIFY THAT?

13 A. THIS IS THE - THE FINAL WRITTEN STATEMENT THAT MR.
14 WILSON GAVE AT THE END OF - THE CONCLUSION OF THE
15 INTERVIEW.

16 Q. AND HOW WAS THAT DONE? WHO TYPED IT UP?

17 A. LIEUTENANT HOLSTON TYPED IT. HOW THAT'S DONE IS WE
18 SPOKE WITH HIM INITIALLY WHERE HE WAS GIVING US HIS
19 VERSION OF THE INCIDENT. AND I JUST REMEMBERED DURING
20 THE INTERVIEW WITH HIM HE WAS EXCITED AND SPOKE
21 REALLY FAST TRYING TO GIVE HIS VERSION OF WHAT HAD
22 HAPPENED. AND SO AT THE END THERE WE HAD HIM - TOLD
23 HIM WE NEEDED TO GET IT IN WRITING, WHAT HE'S TRYING TO
24 TELL US SO THAT WE COULD UNDERSTAND. HE WAS JUST
25 SPEAKING SO FAST AND ABOUT A LOT OF DIFFERENT PEOPLE.

HEARING

40

1 AND THAT'S WHAT WE DID. AND WE DID READ IT TO HIM TO
2 ASK HIM IF THAT WAS IN FACT HIS STATEMENT, IF THAT'S HOW
3 HE WANTED IT TO SAY. AND HE SAID, YES, THAT'S CORRECT.
4 AND WE HAD HIM SIGN AND I WITNESSED IT AS WELL AS
5 LIEUTENANT HOLSTON.

6 Q. AND WHAT TIME DID HE FINISH THAT PROCESS; DO YOU KNOW?

7 A. THE CONCLUSION OF EVERYTHING WAS AT 3:29 A.M.

8 Q. AND THE FORM THAT YOU HAVE THERE, COURT'S EXHIBIT
9 NUMBER 2, HE SIGNED THAT?

10 A. HE DID.

11 Q. CAN YOU READ US THE STATEMENT THAT HE GAVE?

12 A. OKAY.

13 THE COURT: ALL HE'S TALKING ABOUT IS THE ADMISSIBILITY
14 AT THIS POINT. I DON'T KNOW THAT WE WOULD NEED TO GO INTO
15 THE STATEMENT ITSELF.

16 MR. CONNER: IF YOU WANT TO LOOK AT IT.

17 THE COURT: YEAH, I'LL LOOK AT IT.

18 MR. CONNER: ANSWER ANY QUESTIONS THAT MR. BLACKMON
19 MIGHT HAVE FOR YOU.

20 THE COURT: CROSS-EXAMINATION, MR. BLACKMON, ONLY ON
21 THE ISSUE OF VOLUNTARINESS.

22 (COURT'S EXHIBIT 1, MIRANDA/INTERVIEW, AND COURT'S EXHIBIT 2,
23 DEFENDANT'S STATEMENT, WERE MARKED FOR IDENTIFICATION.)

24 CROSS-EXAMINATION BY MR. BLACKMON:

25 Q. MS. RABON, WAS A TAPE RECORDING MADE OF THE STATEMENT

HEARING

41

1 THAT WAS GIVEN BY MR. WILSON?

2 A. NO, SIR.

3 Q. AND WHEN THIS STATEMENT IS TYPED, IS IT TYPED INTO A
4 COMPUTER AND PRINTED OUT?

5 A. IT IS.

6 Q. HOW MANY STATEMENTS ARE YOU AWARE OF THAT MAY HAVE
7 BEEN PRINTED OUT AND DESTROYED BEFORE THE ONE WAS
8 PROPERLY PRESENTED TO MR. WILSON TO SIGN?

9 A. THIS IS THE ONLY STATEMENT.

10 Q. HOW LONG HAD MR. WILSON BEEN IN CUSTODY AT THAT POINT?

11 A. GAVE HIM THE WAIVER AS SOON AS HE CAME INTO THE
12 STATION AND BEGAN THE INTERVIEW AND THAT WAS
13 INDICATED, I BELIEVE, AT 2:25 A.M.

14 Q. AND WAS THERE NO VIDEOTAPE RECORDING MADE OF THIS
15 STATEMENT?

16 A. NO, SIR.

17 Q. BOTH YOU AND LIEUTENANT HOLSTON WERE PRESENT WHEN
18 THE STATEMENT WAS GIVEN?

19 A. YES, SIR.

20 Q. IS THERE ANYTHING THAT YOU RECALL THAT MR. WILSON SAID
21 THAT IS NOT IN THIS STATEMENT?

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

23 Q. WELL, EVERYTHING THAT YOU SPECIFICALLY RECALL MR.
24 WILSON STATING WAS REDUCED TO THIS WRITTEN STATEMENT
25 THAT'S COURT'S EXHIBIT NUMBER 2 NOW?

HEARING

42

1 A. THAT'S RIGHT.

2 Q. DIDN'T MR. WILSON TELL YOU ALL THAT HE - I'LL WITHDRAW
3 THAT. SO IT'S YOUR TESTIMONY THAT THIS IS THE ONLY
4 STATEMENT THAT WAS PRINTED OR PRESENTED TO BE SIGNED?

5 A. IT'S THE ONLY TIME THAT I INTERVIEWED HIM AND THE ONLY
6 STATEMENT GIVEN TO ME.

7 Q. WAS THERE ANY TIME DURING THE INTERVIEWING PROCESS
8 THAT YOU WERE NOT PRESENT IN THE ROOM?

9 A. NO.

10 Q. COURT'S INDULGENCE FOR A MOMENT?

11 THE COURT: ALL RIGHT, SIR.

12 (PAUSE.)

13 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

14 THE COURT: ANYTHING FURTHER OF THIS WITNESS, MR.
15 CONNER?

16 MR. CONNER: NOTHING FURTHER.

17 THE COURT: ALL RIGHT. THANK YOU, DETECTIVE RABON, YOU
18 MAY STEP DOWN.

19 (WITNESS EXCUSED.)

20 THE COURT: ALL RIGHT. MR. CONNER, ANYTHING FURTHER ON
21 ADMISSIBILITY OF THE STATEMENT IN QUESTION?

22 MR. CONNER: YOUR HONOR, I CALL LIEUTENANT, OR ALVIN
23 HOLSTON.

24 THE COURT: ALL RIGHT. LIEUTENANT HOLSTON.

25 THE CLERK: STATE YOUR NAME, PLEASE.

HEARING

43

1 THE WITNESS: ALVIN HOLSTON.

2 ALVIN HOLSTON, HAVING BEEN FIRST DULY SWORN, WAS
3 EXAMINED AND TESTIFIED AS FOLLOWS:

4 THE CLERK: PLEASE HAVE A SEAT STATE YOUR FULL NAME,
5 SPELL YOUR LAST NAME, PLEASE.

6 THE WITNESS: ALVIN HOLSTON, H-O-L-S-T-O-N.

7 DIRECT EXAMINATION BY MR. CONNER:

8 Q. AND, LIEUTENANT HOLSTON, WHERE DO YOU WORK?

9 A. I'M EMPLOYED WITH THE SUMTER CITY POLICE DEPARTMENT
10 ASSIGNED TO THE CRIMINAL INVESTIGATION DIVISION.

11 Q. AND HOW LONG HAVE YOU WORKED IN THE CRIMINAL
12 INVESTIGATION DEPARTMENT?

13 A. 10 YEARS.

14 Q. AND WERE YOU WORKING THERE ON THE NIGHT OF MAY 19TH
15 AND THE EARLY MORNING HOURS OF MAY 20TH, 2003 ?

16 A. YES, SIR; I WAS.

17 Q. AND DID YOU BECOME INVOLVED IN INVESTIGATING THIS CASE
18 WE'RE TRYING HERE TODAY?

19 A. YES, SIR.

20 Q. AND IN THAT CAPACITY, DID YOU HAVE AN OPPORTUNITY TO
21 INTERVIEW THE DEFENDANT, HAROLD WILSON, IN YOUR
22 OFFICE?

23 A. YES, SIR.

24 Q. AND WHO WAS WITH YOU?.

25 A. PRESENT WAS DETECTIVE RABON, AND MYSELF, AND THE

HEARING

44

1 DEFENDANT, HAROLD WILSON.

2 Q. AND WERE YOU THERE WHEN SHE GAVE HIM HIS MIRANDA
3 RIGHTS WHICH IS RECORDED ON STATE'S EXHIBIT - COURT'S
4 EXHIBIT NUMBER 1?

5 A. YES, SIR; I WAS.

6 Q. AND DID YOU WITNESS HIM GETTING HIS RIGHTS AND ALSO
7 SIGNING THIS FORM?

8 A. YES, SIR.

9 Q. AND DID HE TALK WITH YOU FREELY AND VOLUNTARILY?

10 A. YES, SIR; HE DID.

11 Q. DID EITHER ONE OF YOU PROMISE HIM ANYTHING OR THREATEN
12 HIM IN ANY WAY TO GET HIM TO TALK TO YOU?

13 A. NO, SIR.

14 Q. DID HE ACTIVELY GIVE YOU HIS SIDE OF THE STORY?

15 A. YES, SIR; HE WAS.

16 Q. IS THIS STATEMENT THAT HE GAVE, COURT'S EXHIBIT NUMBER
17 2?

18 A. YES, SIR.

19 Q. AND DID YOU TYPE IT UP?

20 A. YES, SIR; I DID.

21 Q. AND WHERE DID YOU SIT IN RELATION TO HIM?

22 A. IF I COULD USE THIS AS MY DESK, THEY WERE SITTING ACROSS
23 FROM ME, MR. WILSON WAS SEATED TO MY LEFT AND
24 DETECTIVE RABON TO MY RIGHT. AND I -

25 Q. ACROSS THE DESK FROM YOU?

HEARING

45

1 A. YES, SIR.

2 Q. YOU SAT AT A MACHINE THERE. WOULD YOU SAY YOU TYPED
3 THIS UP?

4 A. THAT'S CORRECT.

5 Q. IS THAT THE STATEMENT HE GAVE?

6 A. YES, SIR; IT IS.

7 Q. AFTER HE GAVE THE STATEMENT, DID HE SIGN IT?

8 A. YES, SIR; HE DID.

9 MR. CONNER: ANSWER ANY QUESTIONS MR. BLACKMON MIGHT
10 HAVE.

11 THE COURT: CROSS-EXAMINATION, MR. BLACKMON.

12 CROSS-EXAMINATION BY MR. BLACKMON:

13 Q. LIEUTENANT HOLSTON, DID YOU NOT TELL MR. WILSON THAT IF
14 HE WOULD GIVE YOU AND SIGN A STATEMENT THAT YOU
15 WOULD LET HIS GIRLFRIEND GO WHO WAS BEING HELD AT THE
16 SAME TIME AT THE LAW ENFORCEMENT CENTER?

17 A. NO, SIR.

18 Q. YOU DENY TELLING HIM THAT?

19 A. YES, SIR; I DO.

20 Q. IS THAT THE ONLY STATEMENT, COURT'S EXHIBIT NUMBER 2,
21 THE ONLY STATEMENT THAT WAS PRINTED OUT?

22 A. YES, SIR.

23 Q. THERE WERE NO PREVIOUS COPIES THAT WERE PRESENTED
24 THAT HE REFUSED TO SIGN?

25 A. NO, SIR; HE WAS QUITE COOPERATIVE.

HEARING

46

1 Q. DO YOU RECALL ANY STATEMENTS OF MR. WILSON OTHER
2 THAN WHAT IS - HAS BEEN REDUCED TO THE WRITTEN
3 STATEMENT SHOWN AS COURT'S EXHIBIT NUMBER 4?

4 A. AS A SUPERVISOR, I KNEW THAT - THE CASE DETECTIVES THAT
5 WERE ASSIGNED TO THE CASE, DETECTIVE BRANNON, HAD
6 SPOKEN WITH HIM THE, I THINK, THE FOLLOWING DAY UPON
7 SERVING THE ACTUAL WARRANT, THE ARREST WARRANT.

8 Q. BUT THERE WERE NO STATEMENTS YOU PERSONALLY ARE
9 AWARE OF?

10 A. NO, SIR.

11 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

12 THE COURT: ANYTHING FURTHER OF THIS WITNESS, MR.
13 CONNER?

14 MR. CONNER: NOTHING FURTHER.

15 THE COURT: ALL RIGHT. THANK YOU, MR. HOLSTON. YOU MAY
16 STEP DOWN.

17 THE WITNESS: YES, SIR.

18 (WITNESS EXCUSED.)

19 THE COURT: ALL RIGHT. MR. CONNER, ANYTHING ELSE WITH
20 REGARD TO JACKSON V. DENNO, ADMISSIBILITY OF STATEMENT?

21 MR. CONNER: YOUR HONOR, WE HAVE - WE PROPOSE TO PUT IN
22 OR OFFER IT FOR

23 CONSIDERATION THE SECOND STATEMENT HE GAVE THE NEXT DAY.

24 HE GAVE THAT TO MR. BRANNON -

25 THE COURT: ALL RIGHT. LET'S TAKE THEM ONE AT A TIME.

HEARING

47

1 WE'LL SEE WHERE WE STAND ON THIS MATTER FIRST. BUT THIS IS ALL
2 YOU'RE GOING TO OFFER ON THE ADMISSIBILITY OF THIS STATEMENT?

3 MR. CONNER: THAT'S CORRECT.

4 THE COURT: ALL RIGHT. ALL RIGHT. MR. BLACKMON, YOU
5 HAVE THE RIGHT TO PRESENT ANY EVIDENCE THAT YOU WISH TO
6 PRESENT REGARDING THE ADMISSIBILITY OF THE STATEMENT
7 INCLUDING YOUR CLIENT'S TESTIMONY ON THOSE ISSUES WITHOUT
8 WAIVING HIS FIFTH AMENDMENTS RIGHTS. SO IF HE WOULD LIKE TO
9 TESTIFY OR IF YOU HAVE ANY OTHER EVIDENCE THAT YOU WISH TO
10 PRESENT REGARDING THE VOLUNTARINESS OF THE STATEMENT.

11 MR. BLACKMON: MY CLIENT INDICATES TO ME HE DOES NOT
12 WISH TO TESTIFY AS TO THAT ISSUE AT THIS TIME. SO WE WOULD
13 HAVE NO FURTHER EVIDENCE, YOUR HONOR.

14 THE COURT: ALL RIGHT. ALL RIGHT. LET ME HEAR FROM MR.
15 BLACKMON. TELL ME WHAT YOUR POSITION IS ON THAT MATTER, ON
16 THIS STATEMENT.

17 MR. BLACKMON: JUDGE, BASED ON THE TESTIMONY
18 PRESENTED WE WOULD UNFORTUNATELY, RESPECTFULLY BELIEVE
19 THAT THERE MAY BE SUFFICIENT EVIDENCE TO MEET THE JACKSON-
20 DENNO TEST BUT FOR THE RECORD, WE WOULD OPPOSE IT ON THE
21 BASIS THAT THERE'S INSUFFICIENT EVIDENCE.

22 THE COURT: ALL RIGHT. I WOULD FIND THAT THERE IS
23 SUFFICIENT EVIDENCE TO SHOW THAT THE STATEMENT WAS
24 VOLUNTARY. AND, IN FACT, THE COURT FINDS BASED ON THE
25 RECORD BEFORE ME THAT THE STATEMENT WAS FREELY AND

HEARING

48

1 VOLUNTARILY GIVEN, THAT HAVING BEEN ADVISED OF HIS RIGHTS OF
2 THE MIRANDA AND THE STATE HAS PROVEN THAT HIS STATEMENT
3 WAS FREELY AND VOLUNTARILY GIVEN AFTER THE MIRANDA RIGHTS
4 AND THE COURT WOULD RULE THAT THE STATEMENTS ARE - THAT
5 THIS STATEMENT IS ADMISSIBLE. ALL RIGHT. LET'S APPROACH THE
6 NEXT ONE, MR. CONNER.

7 MR. CONNER: I WOULD CALL DETECTIVE RUSSELL BRANNON.

8 THE COURT: ALL RIGHT. GIVE THESE STATEMENTS BACK.

9 THE CLERK: STATE YOUR NAME.

10 THE WITNESS: RUSSELL SCOTT BRANNON.

11 RUSSELL SCOTT BRANNON, HAVING BEEN FIRST DULY SWORN, WAS
12 EXAMINED AND TESTIFIED AS FOLLOWS:

13 THE CLERK: HAVE A SEAT UP THERE, PLEASE.

14 THE WITNESS: (COMPLYING.)

15 THE CLERK: STATE YOUR FULL NAME, SPELL YOUR LAST NAME,
16 PLEASE.

17 THE WITNESS: RUSSELL SCOTT BRANNON, B-R-A-N-N-O-N.

18 DIRECT EXAMINATION BY MR. CONNER:

19 Q. OFFICER BRANNON, WHERE DO YOU WORK?

20 A. CITY OF SUMTER POLICE DEPARTMENT.

21 Q. HOW LONG HAVE YOU WORKED FOR THE CITY OF SUMTER?

22 A. NINE AND A HALF YEARS.

23 Q. AND WERE YOU WORKING ON THE NIGHT OF MAY THE 19th AND
24 THE EARLY MORNING HOURS OF MAY 20th, 2003?

25 A. YES, SIR; I WAS.

HEARING

49.

- 1 Q. AND DID YOU HAVE OCCASION TO BECOME INVOLVED IN
2 WORKING ON THIS PARTICULAR CASE, THE ONE WE'RE TRYING
3 HERE TODAY?
- 4 A. YES, SIR; I DID.
- 5 Q. HAD - DID YOU IN FACT BECOME INVOLVED IN THE ARREST OF
6 THE DEFENDANT?
- 7 A. I DID, SIR.
- 8 Q. NOW, SUBSEQUENTLY ON MAY 21ST OF 2003, DID YOU HAVE
9 OCCASION TO SEE THE DEFENDANT A SECOND TIME?
- 10 A. YES, SIR; I DID.
- 11 Q. AND WHEN YOU SAW HIM, WHERE WAS HE?
- 12 A. AT THE SUMTER COUNTY CORRECTIONAL CENTER.
- 13 Q. AND WHO WAS WITH YOU AT THAT POINT?
- 14 A. DETECTIVE MIKE MORRIS.
- 15 Q. AND YOU AND OFFICER MORRIS SAW HIM AT THE JAIL; IS THAT
16 CORRECT?
- 17 A. YES, THAT IS CORRECT.
- 18 Q. AND WHEN YOU WERE THERE, DID YOU HAVE AN OCCASION TO
19 GIVE HIM HIS MIRANDA RIGHTS?
- 20 A. YES, SIR; WE DID.
- 21 Q. AND WHAT BROUGHT THAT ON?
- 22 A. DURING THE SERVICE OF MR. WILSON'S WARRANT FOR THE
23 MURDER CHARGE, MR. WILSON MADE CONTACT WITH
24 DETECTIVE MORRIS AND MYSELF AND BEGAN INITIATING
25 CONTACT IN REFERENCE TO THE ACTUAL INCIDENT. WE

HEARING

50

1 ADVISED HIM THAT WE COULD NOT TALK TO HIM AT
2 THAT TIME. HE WAS VERY PERSISTENT. I ASKED HIM IF HE
3 WANTED TO GIVE A STATEMENT AND HE SAID HE DID. AT THAT
4 TIME WE BROUGHT OUT A MIRANDA WARNING FOR HIM. WE
5 DID READ IT TO HIM.

6 (COURT'S EXHIBIT 3, INTERVIEW FORM FROM DEFENDANT, AND
7 COURT'S EXHIBIT 4, HANDWRITTEN STATEMENT FROM DEFENDANT,
8 MARKED FOR EVIDENCE.)

9 BY MR. CONNER:

10 Q. AND I SHOW YOU THIS AT THIS POINT AND ASK YOU IF CAN YOU
11 IDENTIFY THIS?

12 A. YES, SIR. THIS WOULD BE THE FORM THAT I USED.

13 Q. IS THAT THE FORM YOU NORMALLY USE?

14 A. YES, SIR.

15 Q. AND IS THAT THE STANDARD FORM THAT'S USED BY YOUR
16 DEPARTMENT?

17 A. THAT IS, SIR, WITH THE ADDITION OF MY NAME TYPED ONTO
18 THE BOTTOM.

19 Q. IS THAT THE SENTENCE - OR THE FORM USED BY YOU?

20 A. IDENTICAL WITH THE EXCEPTION OF THE NAME, SIR. YES, SIR.

21 Q. AND DID YOU INFORM HIM OF EACH ONE OF THE RIGHTS IN
22 REGARDS TO MIRANDA?

23 A. YES, SIR; I DID. HE WAS EXPLAINED EACH RIGHT IN SUCCESSION
24 AT WHICH POINT HE INITIALED AS HE SAID WAS - AS HE WAS
25 INSTRUCTED TO DO IF HE FULLY UNDERSTAND TO DO EACH.

HEARING

51

1 AND AT THE CONCLUSION AND THE BOTTOM OF THE MIRANDA
2 FORM HE PUT HIS INITIALS TO THE POINT WHERE HE READ IT
3 HIMSELF. I HAD HIM READ IT OUT LOUD TO VERIFY THAT HE
4 UNDERSTOOD AND WAS WILLING TO TALK WITH US AND HAD
5 HIM INITIAL AT THAT POINT.

6 Q. SO HE ADMITTED BY READING IT AND BY SIGNING AT THE
7 BOTTOM THAT HE WAS WAIVING HIS RIGHTS?

8 A. THAT IS CORRECT.

9 Q. AND DID YOU PROMISE HIM ANYTHING IN ORDER TO GET HIM
10 TO TALK TO YOU?

11 A. NO, SIR.

12 Q. DID YOU THREATEN HIM IN ANYWAY?

13 A. NO, SIR.

14 Q. DID HE TALK TO YOU FREELY AND VOLUNTARILY?

15 A. YES, SIR. HE INITIATED IT.

16 Q. HE INITIATED THE STATEMENT?

17 A. YES, SIR.

18 Q. AND DID YOU SUBSEQUENT - AT THAT POINT DID YOU TAKE A
19 STATEMENT FROM HIM?

20 A. YES, SIR.

21 Q. AND, DID YOU WRITE THE STATEMENT OUT YOURSELF OR TYPE
22 IT OUT YOURSELF?

23 A. NO, SIR. WE HAD SOME BLANK STATEMENT FORMS WITHIN THE
24 FOLDER THAT I WAS CARRYING. I OFFERED THEM TO HIM AND
25 HE HANDWROTE THE STATEMENT HIMSELF.

HEARING

52

1 Q. AND, I SHOW YOU HERE STATE'S EXHIBIT NUMBER 4 AND ASK
2 YOU IF ...

3 A. -- DETECTIVE MORRIS.

4 Q. AND DID HE SIGN IT?

5 A. YES, SIR. IT IS SIGNED BY MR. WILSON.

6 MR. CONNER: ANSWER ANY QUESTIONS THAT MR. BLACKMON
7 MIGHT HAVE FOR YOU.

8 THE COURT: CROSS-EXAMINATION, MR. BLACKMON.

9 CROSS-EXAMINATION BY MR. BLACKMON:

10 Q. DETECTIVE BRANNON, DID YOU NOT INDICATE TO MR. WILSON
11 THAT IF HE WOULD GIVE YOU A STATEMENT YOU WOULD TALK
12 FOR HIM AT HIS PRELIMINARY HEARING TO HELP HIM GET SOME
13 OF THE CHARGES DROPPED?

14 A. ABSOLUTELY NOT.

15 Q. HOW LONG A PERIOD OF TIME DID THIS STATEMENT TAKE?

16 A. ACCORDING TO THE INFORMATION THAT'S ON THE PAGE, IT'S
17 APPROXIMATELY AN HOUR, I WOULD SAY. NO MORE.

18 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

19 THE COURT: ANYTHING FURTHER FROM THIS WITNESS, MR.
20 CONNER?

21 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU. YOU MAY BE EXCUSED.

23 THE WITNESS: THANK YOU, SIR.

24 THE COURT: MR. CONNER, ANY FURTHER EVIDENCE ON
25 BEHALF OF THE STATE IN REGARD TO THE VOLUNTARINESS OF THE

HEARING

53

- 1 STATEMENT, SIR?
- 2 MR. CONNER: I WOULD CALL MIKE MORRIS, YOUR HONOR.
- 3 THE COURT: ALL RIGHT. COME AROUND, PLEASE, SIR.
- 4 THE CLERK: PLACE YOUR HAND ON THE BIBLE AND STATE
- 5 YOUR NAME, PLEASE.
- 6 THE WITNESS: DAVID MICHAEL MORRIS, JR.
- 7 DAVID MICHAEL MORRIS, JR., HAVING BEEN FIRST DULY SWORN, WAS
- 8 EXAMINED AND TESTIFIED AS FOLLOWS:
- 9 THE CLERK: HAVE A SEAT, PLEASE, SIR.
- 10 THE WITNESS: (COMPLYING.)
- 11 THE CLERK: STATE YOUR FULL NAME, SPELL YOUR LAST
- 12 NAME.
- 13 THE WITNESS: DAVID MICHAEL MORRIS, JR., —O-R-R-I-S.
- 14 DIRECT EXAMINATION BY MR. CONNER:
- 15 Q. OFFICER MORRIS, HOW LONG HAVE YOU WORKED FOR THE CITY
- 16 OF SUMTER POLICE?
- 17 A. FOR THE CITY OF SUMTER, A LITTLE OVER THREE YEARS.
- 18 Q. AND HOW LONG DID YOU WORK IN LAW ENFORCEMENT?
- 19 A. PROBABLY YEARS.
- 20 Q. AND WERE YOU WORKING FOR THE CITY OF SUMTER BACK IN
- 21 MAY OF 2003?
- 22 A. YES, SIR.
- 23 Q. AND IN THAT CAPACITY, WHAT WERE YOU DOING? WHAT KIND
- 24 OF WORK?
- 25 A. I WAS ASSISTING DETECTIVE BRANNON IN THE INVESTIGATION

HEARING

54

1 OF THIS CASE. WE GOING TO THE JAIL TO SERVE A WARRANT.

2 Q. SO, YOU WERE IN THE DETECTIVE GROUP?

3 A. YES, SIR.

4 Q. AND YOU WENT OUT THERE WITH OFFICER BRANNON?

5 A. YES, SIR.

6 Q. AND DID Y'ALL HAVE AN OCCASION TO TALK WITH THE
7 DEFENDANT, HAROLD WILSON?

8 A. YES, SIR.

9 Q. AND WAS HE ANXIOUS TO GIVE YOU A STATEMENT?

10 A. YES, SIR.

11 Q. AND I SHOW YOU HERE THESE FORMS AND ASK YOU TO
12 EXAMINE THEM, PLEASE. FIRST OF ALL, COURT'S EXHIBIT
13 NUMBER 3?

14 A. YES, IT IS THE WAIVER.

15 Q. AND DID OFFICER BRANNON GIVE HIM HIS MIRANDA RIGHTS?

16 A. YES, SIR.

17 Q. AND DID YOU HEAR HIM GIVE IT TO HIM?

18 A. YES, SIR.

19 Q. AND DID YOU OBSERVE THE DEFENDANT'S RESPONSE?

20 A. I DID. I OBSERVED HIM SIGN THE FORM AND I ALSO SIGNED IT.

21 Q. AND DID HE INDICATE TO OFFICER BRANNON THAT HE
22 UNDERSTOOD THESE RIGHTS?

23 A. YES, SIR.

24 Q. AND THAT HE WAS WILLING TO WAIVE HIS RIGHT TO HAVE A
25 LAWYER PRESENT TO TALK TO Y'ALL, WRITE OUT HIS OWN

HEARING

55

1 STATEMENT?

2 A. YES, SIR.

3 Q. DID EITHER ONE OF YOU PROMISE HIM ANYTHING TO GET HIM
4 TO TALK TO YOU?

5 A. NO, SIR.

6 Q. DID YOU THREATEN HIM IN ANYWAY?

7 A. NO, SIR.

8 Q. NOW, I SHOW YOU HERE A STATEMENT, EXHIBIT NUMBER 4,
9 AND ASK YOU ABOUT THAT?

10 A. IT APPEARS TO BE THE STATEMENT THAT MR. WILSON WROTE
11 HIMSELF.

12 Q. DID YOU SEE HIM WRITING THIS STATEMENT?

13 A. YES, SIR.

14 Q. AND DID HE SIGN IT?

15 A. YES, SIR; HE SIGNED IT AND I ALSO SIGNED IT.

16 MR. CONNER: I HAVE NO FURTHER QUESTIONS OF YOU.

17 THE COURT: CROSS-EXAMINATION, MR. BLACKMON?

18 CROSS-EXAMINATION BY MR. BLACKMON:

19 Q. DETECTIVE, WERE THERE ANY VERBAL OR OTHER STATEMENTS
20 OF ANY KIND MADE BY MR. WILSON THAT WERE NOT REDUCED
21 TO THIS WRITTEN STATEMENT THAT'S COURT'S EXHIBIT 4?

22 A. NONE THAT I CAN RECALL; NO, SIR.

23 Q. AND WERE YOU PRESENT DURING THE ENTIRE INTERVIEW?

24 A. YES, SIR.

25 Q. DID YOU OVERHEAR ANY STATEMENT CONCERNING SPEAKING

HEARING

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1 ON BEHALF OF MR. WILSON AT HIS PRELIMINARY HEARING?

2 A. NO, SIR.

3 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

4 THE COURT: ANY FURTHER QUESTIONS OF THIS WITNESS?

5 MR. CONNER: NOTHING FURTHER, YOUR HONOR.

6 THE COURT: ALL RIGHT. THANK YOU, MR. MORRIS. YOU MAY
7 STEP DOWN.

8 (WITNESS EXCUSED.)

9 THE COURT: ALL RIGHT. ANY OTHER WITNESSES ON THIS ISSUE,
10 MR. CONNER?

11 MR. CONNER: I HAVE NO FURTHER WITNESSES.

12 THE COURT: ALL RIGHT. AGAIN, MR. BLACKMON, YOUR CLIENT
13 HAS THE RIGHT TO PRESENT ANY TESTIMONY THAT HE WISHES
14 TO PRESENT REGARDING THE VOLUNTARINESS OF THIS
15 STATEMENT WITHOUT WAIVING HIS FIFTH AMENDMENT RIGHTS.

16 MR. BLACKMON: MY CLIENT HAS INDICATED TO ME, YOUR
17 HONOR, THAT HE DID NOT WISH TO MAKE ANY TESTIMONY AT THIS
18 TIME AS TO THAT STATEMENT AS WELL.

19 THE COURT: AND NO OTHER EVIDENCE TO PRESENT?

20 MR. BLACKMON: NO, SIR, YOUR HONOR.

21 THE COURT: ALL RIGHT. ALL RIGHT. THE COURT WOULD FIND
22 THAT THE STATEMENT TAKEN FROM THE DEFENDANT THAT HE GAVE
23 IN HIS OWN HANDWRITING, WAS FREELY, VOLUNTARILY, KNOWINGLY
24 AND INTELLIGENTLY MADE, AFTER HAVING BEEN ADVISED OF HIS
25 CONSTITUTIONAL RIGHTS AS WELL AS HIS RIGHTS UNDER THE

HEARING

57

1 MIRANDA DECISION. THE COURT WOULD RULE THE STATEMENT IS
2 ADMISSIBLE. ALL RIGHT. THOSE ARE THE ONLY TWO STATEMENTS,
3 MR. CONNER?

4 MR. CONNER: THAT'S IT.

5 THE COURT: ALL RIGHT. ALL RIGHT. ONE OTHER MATTER, MR.
6 BLACKMON, I

7 BELIEVE WAS THE MOTION TO CONTINUE?

8 MR. BLACKMON: YES, SIR, YOUR HONOR.

9 THE COURT: ALL RIGHT. GO AHEAD AND PUT THAT ON THE
10 RECORD. TELL ME WHAT THAT'S ABOUT, PLEASE.

11 MR. BLACKMON: I THINK, YOUR HONOR, WE BRIEFLY PUT THAT
12 ON THE RECORD EARLIER, THAT WE WOULD REQUEST THAT THIS
13 MATTER BE CONTINUED UNTIL THE STATE HAS PRODUCED ALL THE
14 EVIDENCE SOUGHT UNDER THE SUPPLEMENTAL DISCOVERY MOTION.
15 PURSUANT TO THE COURT'S EARLIER RULINGS, I UNDERSTAND THE
16 COURT IS NOT GOING TO REQUIRE THE STATE TO CONDUCT GUNSHOT
17 RESIDUE TESTING. BUT IN LIGHT OF THE FACT THAT WE NOW HAVE
18 DISCOVERED THAT APPARENTLY MR. WILSON'S CLOTHING HAS NOT
19 BEEN SUBMITTED FOR TESTING AND THE JACKET CAME BACK AFTER
20 BEING SUBMITTED WITHOUT BEING TESTED, AND THAT THERE
21 APPARENTLY IS NO FINGERPRINT EVIDENCE, WE WOULD
22 RESPECTFULLY REQUEST THAT THE MATTER BE CONTINUED SO THAT
23 WE COULD SEEK TO HAVE THOSE ARTICLES OF CLOTHING TESTED
24 FOR GUNSHOT RESIDUE. AND, FURTHER, I BELIEVE THE SOLICITOR
25 HAS INDICATED HE WILL PROVIDE STATEMENTS FOLLOWING THIS

HEARING

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1 MOTION SO THAT, I BELIEVE, WILL PROBABLY RESOLVE THE OTHER
2 ISSUES.

3 THE COURT: ALL RIGHT. I WOULD RESPECTFULLY DENY YOUR
4 MOTIONS. I FEEL LIKE
5 THAT THE EVIDENCE THE STATE WISHES TO PRESENT IS A MATTER
6 FOR THEIR - IS UP TO THEM. OF COURSE, I'M ALSO AWARE OF THE
7 FACT THAT THIS, TO SOME DEGREE, IS A FACTUAL DETERMINATION
8 WHICH I WILL NEED TO DO, BUT MY UNDERSTANDING FROM THE
9 FORENSIC EXPERTS THAT I'VE HEARD TESTIFY BEFORE REGARDING
10 GUNSHOT RESIDUE, THAT IT'S SOMETHING THAT HAS TO BE DONE
11 RIGHT AWAY OR IS EASILY DESTROYED AND WOULD BE UNLIKELY
12 THAT THEY WOULD FIND ANYTHING, EVEN IF ANY TEST WAS RUN,
13 BUT I DON'T THINK THAT'S A MATTER THAT I NEED TO DETERMINE. IN
14 ANY EVENT, I'M GOING TO RESPECTFULLY DENY THE MOTION FOR
15 CONTINUANCE. I DON'T BELIEVE THERE'S ANY PREJUDICE AS A
16 RESULT OF IT. THE ATTEMPT COULD HAVE BEEN MADE BEFOREHAND
17 TO HAVE A PRIVATE TEST RUN IF THAT IS WHAT THE DEFENSE HAD
18 INTENDED TO DO SO. I WOULD RESPECTFULLY DENY THAT MOTION.
19 ALL RIGHT. THAT BEING THE CASE, IS THERE ANYTHING BEFORE WE
20 START BACK AT TWO O'CLOCK WITH THE JURY, MR. CONNER, THAT
21 YOU NEED TO DO OTHER THAN TO GET THE STIPULATION, THE
22 LANGUAGE IN THE STIPULATION?

23 MR. CONNER: I DON'T HAVE ANYTHING.

24 THE COURT: ALL RIGHT. ANYTHING ELSE, MR. BLACKMON?

25 MR. BLACKMON: JUDGE, I HAVE TALKED TO THE DEFENDANT

HEARING

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1 ABOUT THE INDICTMENT AND THE ARREST WARRANTS AND I
2 NEED TO TALK WITH HIM VERY BRIEFLY. I MAY HAVE ONE
3 MOTION AS TO THE INDICTMENT BUT IT WILL BE VERY BRIEF
4 AND I BELIEVE WE CAN DO THAT RIGHT BEFORE PROCEEDING.
5 THE COURT: ALL RIGHT. WE'LL BE IN RECESS THEN UNTIL TWO
6 O'CLOCK AT WHICH TIME BE READY TO PROCEED. THANK YOU,
7 COUNSEL.

8 MR. BLACKMON: THANK YOU.

9 (LUNCH BREAK TAKEN.)

10 THE COURT: ALL RIGHT. I UNDERSTAND THAT THE PARTIES
11 HAVE AGREED ON THE STIPULATION. I'M GOING TO LET MS. WINFIELD
12 TAKE IT AND MARK IT AS COURT'S EXHIBIT NUMBER 3 AND GET IT
13 BACK TO ME AND THEN AT THE APPROPRIATE TIME I'LL PUT THE
14 STIPULATION TO THE JURY -- NO. 5.

15 (COURT'S EXHIBIT 5, STIPULATION, WAS MARKED FOR
16 IDENTIFICATION.)

17 THE COURT: STIPULATION HAS BEEN SIGNED BY BOTH PARTIES.
18 ALL RIGHT. I UNDERSTAND THERE'S ONE ADDITIONAL MOTION ON
19 BEHALF OF THE DEFENDANT, MR. BLACKMON?

20 MR. BLACKMON: YES, YOUR HONOR.

21 THE COURT: ALL RIGHT. YES, SIR?

22 MR. BLACKMON: MAY IT PLEASE THE COURT. FOR THE RECORD,
23 WE WOULD AT THIS TIME MOVE TO QUASH AND DISMISS THE
24 INDICTMENT IN ITS ENTIRETY ON THE BASIS THAT THE
25 SOLICITOR'S OFFICE HAS FAILED TO COMPLY WITH RULE THREE OF

HEARING

60

1 THE SOUTH CAROLINA RULES OF CRIMINAL PROCEDURE.
2 SPECIFICALLY UNDER SUBSECTION C. OF RULE THREE. WITHIN 90
3 DAYS AFTER RECEIPT OF THE ARREST WARRANT FROM THE CLERK OF
4 COURT, THE SOLICITOR SHALL TAKE ACTION ON THE WARRANT BY
5 PREPARING AN INDICTMENT FOR PRESENTMENT TO THE GRAND JURY,
6 WHICH INDICTMENT SHALL BE FILED WITH THE CLERK OF COURT,
7 ASSIGNED A CRIMINAL CASE NUMBER AND PRESENTED TO THE
8 GRAND JURY. IT IS MY UNDERSTANDING THAT THE ARREST
9 WARRANTS IN THIS MATTER WERE FORWARDED FROM THE CLERK'S
10 OFFICE TO THE SOLICITOR ON MAY 29TH, 2003. HOWEVER THE
11 INDICTMENT ITSELF WAS APPARENTLY NOT PREPARED NOR
12 SUBMITTED TO THE GRAND JURY UNTIL SEPTEMBER TH WHICH IS
13 SOME DAYS FOLLOWING THE FORWARDING OF THE WARRANTS TO
14 THE SOLICITOR'S OFFICE. I DON'T BELIEVE THAT THERE WERE ANY
15 MOTIONS FOR AN EXTENSION OF TIME UNDER SUBSECTION B. OF RULE
16 THREE. AND SINCE THE SOLICITOR'S OFFICE FAILED TO ACT UPON THE
17 WARRANTS AS REQUIRED BY RULE THREE, THEN THE COURT LACKS
18 JURISDICTION TO TAKE THE MATTER ANY FURTHER AND THEY
19 SHOULD BE QUASHED AND DISMISSED.

20 THE COURT: SO IT'S YOUR POSITION THAT IT'S OUT OF
21 JURISDICTION?

22 MR. BLACKMON: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT. HOW IS YOUR CLIENT PREJUDICED BY
24 THAT, MR. BLACKMON?

25 MR. BLACKMON: WELL, YOUR HONOR, RULE THREE DOESN'T

HEARING

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1 REQUIRE THAT HE BE PREJUDICED BY IT. RULE THREE JUST REQUIRES

2 -

3 THE COURT: I DON'T WANT -

4 MR. BLACKMON: -- THAT IT BE DONE.

5 THE COURT: I KNOW THAT, BUT I WANT TO PUT ON THE RECORD

6 IF YOU CAN POINT TO ANY REASON WHY YOU FEEL HE IS PREJUDICED.

7 I THINK IT OUGHT TO BE ON THE RECORD. AND IF

8 YOU CAN'T POINT TO ANYTHING, THAT'S GOING TO MAKE A

9 DIFFERENCE IN MY RULING.

10 MR. BLACKMON: JUDGE, I'M NOT AWARE AT THIS TIME OF ANY
11 PREJUDICE OTHER THAN BY DELAYING THE MATTER, THE EVIDENCE
12 THAT COULD HAVE BEEN PRODUCED AND SUBMITTED PRIOR TO THAT
13 TIME WAS NOT AND COULD NOT HAVE BEEN AND SO - WAS NOT
14 PROPERLY ACTED UPON BY THE GRAND JURY. PERHAPS THEY DIDN'T
15 EVEN HAVE SUFFICIENT EVIDENCE PRIOR TO THE EXPIRATION OF THE
16 DAYS AND THE SOLICITOR'S DID NOT HAVE SUFFICIENT EVIDENCE TO
17 PRESENT THE MATTER TO THE GRAND JURY WITHIN DAYS. AND IF
18 THE SOLICITOR'S OFFICE UNDER THOSE CIRCUMSTANCES FAILED TO
19 REQUEST AN EXTENSION, THEN BY PRESENTING IT AFTER THE DAYS
20 WITHOUT PROPERLY GETTING AN EXTENSION, MY CLIENT WOULD
21 HAVE BEEN PREJUDICED BY THE MATTER BEING BOUND OVER AND
22 TRUE BILLED ON EVIDENCE THAT SHOULD HAVE BEEN AVAILABLE
23 PRIOR TO THE EXPIRATION OF DAYS BUT APPARENTLY WAS NOT.

24 THE COURT: ALL RIGHT. DO YOU WISH TO BE HEARD, MR.
25 CONNER?

HEARING

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1 MR. CONNER: I DON'T, YOUR HONOR. I DON'T - I SUBMIT THAT
2 HE'S NOT BEEN PREJUDICED BY IT.

3 MR. BLACKMON: ALSO, YOUR HONOR, I APOLOGIZE, THE
4 INDICTMENT ITSELF INDICATES THAT COUNTS TWO, THREE, AND FOUR
5 WERE ISSUED, I BELIEVE, AS PART OF THE INDICTMENT PURSUANT TO
6 ARREST WARRANT H. HOWEVER ARREST WARRANT H DOES NOT
7 CHARGE THE DEFENDANT WITH EITHER ATTEMPTED ARMED ROBBERY
8 OR POSSESSION OF A FIREARM DURING THE COMMISSION OF A
9 VIOLENT CRIME AND SO THERE ARE NO ARREST WARRANTS THAT
10 HAVE BEEN ISSUED FOR THOSE TWO COUNTS. AND THEY ARE NOT
11 SPECIFICALLY LISTED IN THE ARREST WARRANT THAT IS REFERRED
12 TO IN THE INDICTMENT. AND THE FACT THAT THEY WERE COMBINED
13 IN THAT INDICTMENT WITHOUT EVEN HAVING ARREST WARRANTS
14 ISSUED FURTHER PREJUDICES THE DEFENDANT. AND SINCE NO
15 ARREST WARRANTS WERE ISSUED THESE ARE NOT, AS I UNDERSTAND
16 IT, LESSER INCLUDED OFFENSES OF THE PRIMARY COUNTS AND
17 SHOULD HAVE BEEN - AND WERE THEREFORE IMPROPERLY INCLUDED
18 IN THE INDICTMENTS AND PLEADINGS.

19 THE COURT: ALL RIGHT, SIR. WITH REGARD TO THE FIRST
20 MOTION OF PRESENTMENT AFTER MORE THAN DAYS AND THEREFORE
21 NOT IN COMPLIANCE WITH RULE THREE, YOU SAID IT
22 WAS DAYS, MR. BLACKMON?

23 MR. BLACKMON: YES, YOUR HONOR.

24 THE COURT: ALL RIGHT. IT'S MY VIEW THAT THAT IS A
25 PROCEDURAL RULE AND IT IS NOT A JURISDICTIONAL ISSUE. IT IS NOT

HEARING

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1 A STATUTE. AND I THINK IT IS A PROCEDURAL RULE AND
2 I THINK DOES NOT AFFECT THE JURISDICTION OF THE COURT BUT IT'S
3 A PROCEDURAL RULE FOR ORDERLY AND EFFECTIVE DISPOSITION OF
4 CASES THAT REQUIRE THE SOLICITOR TO MOVE ON THEM IN A PROPER
5 FASHION. THIS IS ONLY EIGHT DAYS AFTER THE TIME ALLOWED BY
6 THE RULE. AND THE DEFENDANT HAS NOT BEEN ABLE TO CITE ANY
7 REASON THAT HE WAS PREJUDICED BY THAT EIGHT-DAY DELAY AND
8 THEREFORE I DO NOT THINK THAT IT IS JURISDICTIONAL AND I WOULD
9 RESPECTFULLY DENY YOUR MOTION TO QUASH THE INDICTMENT.
10 WITH REGARD TO THE ARREST WARRANTS BEING LISTED ON THE
11 INDICTMENT, IT'S MY VIEW THAT THOSE WERE LISTED ON THE BACK
12 OF THE INDICTMENT BUT ARE NOT A PART OF THE INDICTMENT
13 THEMSELVES ARE INCORPORATED INTO THE INDICTMENT, THAT THE
14 MATTERS WHICH BRING THIS MATTER BEFORE THE COURT ARE ON
15 THE BODY OF THE INDICTMENT. THAT IS WHAT THE GRAND JURY
16 ACTS ON. THEY ACT ON THE EVIDENCE PRESENTED TO THEM AND NOT
17 THE INDICTMENTS. AND THE FACT THAT THE INDICTMENT BILL WAS
18 MADE - I MEAN, THE ARREST WARRANT NUMBERS MAY OR MAY NOT
19 BE CORRECT, AGAIN, IT'S NOT JURISDICTIONAL AND FURTHERMORE IS
20 NOT PREJUDICIAL TO THE DEFENDANT. AND I WOULD THEREFORE
21 RESPECTFULLY DENY THE MOTION TO QUASH THE INDICTMENT ON
22 THE BASIS THAT THE ARREST WARRANTS MAY OR MAY NOT BE
23 CORRECT AS LISTED ON THE BACKSIDE OF THE INDICTMENT. ALL
24 RIGHT. THANK YOU.

25 MR. BLACKMON: AND, JUDGE, JUST TO MAKE SURE THE

HEARING

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1 RECORD'S CLEAR, THERE
2 ARE NO ARREST WARRANTS FOR THOSE CHARGES.

3 THE COURT: ALL RIGHT. I UNDERSTAND.

4 MR. BLACKMON: THANK YOU, SIR.

5 THE COURT: IT'S NOT THE ARREST WARRANTS THAT BRING --
6 GIVE THIS COURT

7 JURISDICTION. IT'S THE TESTIMONY BEFORE THE GRAND JURY AND
8 GRAND JURY'S FINDING OF A TRUE BILL THAT GIVES THIS COURT
9 JURISDICTION AND THAT'S WHY I DON'T THINK THE INDICTMENT IS
10 DEFECTIVE.

11 MR. BLACKMON: THANK YOU, SIR.

12 THE COURT: THANK YOU. ALL RIGHT. ALL RIGHT. ANYTHING,
13 MR. CONNER,

14 BEFORE WE BRING THE JURY IN?

15 MR. CONNER: NOTHING, YOUR HONOR.

16 THE COURT: ALL RIGHT. MR. BLACKMON?

17 MR. BLACKMON: NO, SIR, YOUR HONOR.

18 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

19 (JURY ENTERS COURTROOM AT 2:17 P.M.)

20 THE BAILIFF: YOUR HONOR, ALL THE JURORS AND THE
21 ALTERNATE ARE PRESENT IN THE
22 COURTROOM.

23 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. LADIES AND
24 GENTLEMEN, THANK YOU FOR YOUR PROMPTNESS IN BEING BACK
25 HERE. WE HAVE NOW DISPOSED OF THE PRETRIAL MATTERS THAT WE

HEARING

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1 NEEDED TO DISPOSE OF BEFORE GOING FORWARD WITH THIS MATTER
2 AND WE NOW ARE READY TO GO FORWARD. SWEAR THE JURY PANEL,
3 PLEASE.

4 (JURY IMPANELED.)

5 THE CLERK: THANK YOU. YOU MAY BE SEATED.

6 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, BEFORE WE
7 BEGIN THE ACTUAL TRIAL OF THIS CASE, I THOUGHT IT MIGHT
8 BE HELPFUL IF I EXPLAINED TO YOU BASICALLY HOW A TRIAL
9 PROCEEDS. I KNOW ALL OF YOU HAVE SEEN TRIALS ON TV, BUT
10 I THINK THAT YOU'RE GOING TO FIND THAT IT'S VERY
11 DIFFERENT IN REAL LIFE. FIRST OF ALL, THE STATE WILL MAKE
12 AN OPENING STATEMENT. AN OPENING STATEMENT IS NOT
13 EVIDENCE. IT IS SIMPLY AN OUTLINE TO HELP YOU
14 UNDERSTAND WHAT THE STATE EXPECTS THE EVIDENCE WILL
15 SHOW. THE DEFENDANT MAY, IF HE WISHES TO, PRESENT AN
16 OPENING STATEMENT BUT HE DOESN'T HAVE TO FOR REASONS
17 THAT I WILL EXPLAIN LATER. FOLLOWING THE OPENING
18 STATEMENT, YOU WILL HEAR THE TESTIMONY AND EVIDENCE
19 IN THIS CASE. THIS WILL CONSIST OF TESTIMONY FROM THE
20 STATE'S WITNESSES AS WELL AS FROM ANY PHYSICAL EXHIBITS
21 WHICH WILL BE INTRODUCED INTO EVIDENCE. AND I'LL SAY
22 RIGHT NOW AT THIS POINT THAT I KNOW THAT THERE ARE
23 GOING BE SOME PHYSICAL EXHIBITS INTRODUCED IN EVIDENCE
24 AND THE LAWYERS MAY ASK ME FOR PERMISSION TO PUBLISH
25 THOSE EXHIBITS TO THE JURY. THAT MEANS TO SHOW THEM TO

HEARING

66

1 YOU, TO PASS THEM AROUND TO YOU WHILE YOU'RE SEATED
2 THERE IN THE JURY BOX. DO NOT BE CONCERNED IF YOU DO
3 NOT HAVE AS LONG TO LOOK AT THE EXHIBITS WHILE YOU'RE
4 SEATED IN THE JURY BOX AS YOU MIGHT LIKE TO. YOU WILL
5 BE ABLE TO TAKE THEM WITH YOU IN YOUR JURY ROOM WHEN
6 YOU RETIRE TO DELIBERATE YOUR VERDICT. ANY EXHIBITS
7 THAT HAVE BEEN INTRODUCED INTO EVIDENCE, YOU WILL BE
8 ABLE TO LOOK AT THEM FOR AS LONG AS YOU MIGHT DESIRE
9 EVEN THOUGH YOU MAY NOT HAVE AS LONG TO LOOK AT THEM
10 WHILE YOU'RE SEATED THERE IN THE JURY BOX AS YOU WOULD
11 LIKE TO. FOLLOWING THE COMPLETION OF THE TESTIMONY THE
12 ATTORNEYS WILL AGAIN HAVE AN OPPORTUNITY TO MAKE
13 WHAT IS CALLED CLOSING STATEMENT OR A SUMMATION TO
14 YOU. THIS IS AN OPPORTUNITY FOR THE ATTORNEYS TO
15 SUMMARIZE THE CASE FROM THEIR RESPECTIVE POINTS OF
16 VIEW. AGAIN THE ARGUMENTS ARE NOT EVIDENCE.
17 FOLLOWING THE CLOSING STATEMENTS BY THE ATTORNEYS, I
18 WILL INSTRUCT YOU ON THE LAW OF SOUTH CAROLINA AS IT
19 APPLIES TO THE ISSUES THAT HAVE ARISEN IN THIS CASE. AND
20 WHEN I HAVE COMPLETED MY INSTRUCTIONS TO YOU, YOU
21 WILL BE PERMITTED TO BEGIN YOUR DELIBERATIONS IN ORDER
22 TO REACH A VERDICT. NOW, LADIES AND GENTLEMEN, YOU'RE
23 NOW THE JURY IN THIS CASE. AND I WANT TO TAKE JUST A FEW
24 MOMENTS TO TELL YOU SOMETHING ABOUT YOUR DUTY AS
25 JURORS AND TO GIVE YOU SOME PRELIMINARY INSTRUCTIONS.

HEARING

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1 AT THE END OF THIS TRIAL I WILL GIVE YOU MORE DETAILED
2 INSTRUCTIONS AND THOSE INSTRUCTIONS WILL CONTROL
3 YOUR DELIBERATIONS. IT WILL BE YOUR DUTY TO DECIDE
4 FROM THE EVIDENCE WHAT THE FACTS ARE. YOU AND YOU
5 ALONE ARE THE JUDGES OF THE FACTS. YOU WILL HEAR THE
6 EVIDENCE, DECIDE WHAT THE FACTS ARE AND THEN APPLY
7 THOSE FACTS TO THE LAW THAT I GIVE YOU AT THE
8 CONCLUSION OF THIS TRIAL. THAT IS HOW YOU REACH A
9 VERDICT. IN DOING SO, YOU MUST FOLLOW THE LAW WHETHER
10 YOU AGREE WITH IT OR NOT. THE EVIDENCE WILL CONSIST OF
11 TESTIMONY OF THE WITNESSES, DOCUMENTS, AND OTHER
12 THINGS RECEIVED INTO EVIDENCE AS EXHIBITS, AND ANY
13 FACTS ON WHICH THE PARTIES AGREE OR WHICH I MAY
14 INSTRUCT YOU TO ACCEPT. NOW YOU SHOULD NOT TAKE
15 ANYTHING THAT I MAY SAY AND DO DURING THIS TRIAL AS
16 INDICATING WHAT I THINK THE EVIDENCE IS OR WHAT YOUR
17 VERDICT SHOULD BE. I DO NOT HAVE ANY OPINION ABOUT THE
18 EVIDENCE. THE LAW DOES NOT ALLOW ME TO HAVE AN
19 OPINION ABOUT THE FACTS. THAT IS A MATTER THAT IS
20 SOLELY UP TO YOU. THE SAME LAW THAT MAKES YOU THE
21 JUDGE OF THE FACTS MAKES ME THE JUDGE OF THE LAW. YOU
22 MUST TAKE THE LAW AS I GIVE IT TO YOU REGARDLESS OF
23 WHAT YOU THINK THE LAW IS OR THE LAW OUGHT TO BE. IF I'M
24 WRONG ON THE LAW, THERE'S ANOTHER TIME AND PLACE FOR
25 THAT ERROR TO BE CORRECTED. BUT FOR THIS CASE, YOU

HEARING

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1 MUST ACCEPT THE LAW AS I INSTRUCT IT TO YOU. NOW, THIS IS
2 A CRIMINAL CASE BROUGHT BY THE STATE OF SOUTH
3 CAROLINA. THE STATE CHARGES THE DEFENDANT WITH FOUR
4 CHARGES THAT ARE CONTAINED IN THIS INDICTMENT WHICH I
5 HAVE IN MY HAND. THOSE ARE: MURDER; ASSAULT AND
6 BATTERY WITH INTENT TO KILL; ATTEMPTED ARMED ROBBERY
7 AND POSSESSION OF A FIREARM DURING THE COMMISSION OF A
8 CRIME OF VIOLENCE. THE INDICTMENT IS NOT EVIDENCE OF
9 ANYTHING. IT IS SIMPLY THE DESCRIPTION OF THE CHARGES
10 MADE BY THE STATE AGAINST THE DEFENDANT. THE
11 DEFENDANT HAS PLED NOT GUILTY TO THE CHARGES AND IS
12 PRESUMED INNOCENT UNLESS AND UNTIL PROVEN GUILTY
13 BEYOND A REASONABLE DOUBT. A REASONABLE DOUBT IS THE
14 KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON
15 TO HESITATE TO ACT. A DEFENDANT HAS THE RIGHT NOT TO
16 TESTIFY AND NEVER HAS TO PROVE INNOCENCE OR PRESENT
17 ANY EVIDENCE. THE BURDEN OF PROOF IS ALWAYS ON THE
18 STATE OF SOUTH CAROLINA. NOW, THERE ARE CERTAIN THINGS
19 THAT ARE NOT EVIDENCE AND YOU MUST NOT CONSIDER THEM
20 AS EVIDENCE IN DECIDING THE FACTS OF THIS CASE.
21 STATEMENTS AND ARGUMENTS OF THE ATTORNEYS ARE NOT
22 EVIDENCE. QUESTIONS AND OBJECTIONS OF THE ATTORNEYS
23 ARE NOT EVIDENCE. THE TESTIMONY THAT I INSTRUCT YOU TO
24 DISREGARD IS NOT EVIDENCE. EVIDENCE MAY BE DIRECT OR
25 CIRCUMSTANTIAL. DIRECT EVIDENCE IS TESTIMONY BY A

HEARING

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1 WITNESS ABOUT WHAT THAT WITNESS PERSONALLY SAW, OR
2 HEARD, OR DID. CIRCUMSTANTIAL EVIDENCE IS INDIRECT
3 EVIDENCE. THE LAW PERMITS YOU TO GIVE EQUAL WEIGHT TO
4 BOTH, BUT IT IS FOR YOU TO DECIDE HOW MUCH WEIGH TO GIVE
5 TO ANY OF THE EVIDENCE. THERE ARE RULES OF EVIDENCE
6 WHICH CONTROL WHAT CAN BE RECEIVED IN THE COURTROOM.
7 WHEN A LAWYER ASKS A QUESTION OR OFFERS AN EXHIBIT AS
8 EVIDENCE AND A LAWYER ON THE OTHER SIDE THINKS THAT IT
9 IS NOT PERMITTED BY THE RULES, THAT LAWYER MAY OBJECT.
10 IF I OVERRULE THE OBJECTION, THE QUESTION MAY BE
11 ANSWERED OR THE EXHIBITS MAY BE RECEIVED. IF I SUSTAIN
12 THE OBJECTION, THE QUESTION CANNOT BE ANSWERED AND
13 THE EXHIBIT CANNOT BE RECEIVED. WHENEVER I SUSTAIN AN
14 OBJECTION TO A QUESTION OR DENY A MOTION TO ENTER AN
15 EXHIBIT INTO EVIDENCE, YOU MUST IGNORE THE QUESTION OR
16 THE EXISTENCE OF THE EXHIBIT AND YOU MUST NOT GUESS
17 WHAT THE ANSWER WOULD HAVE BEEN OR WHAT THE EXHIBIT
18 WOULD HAVE SHOWN. SOMETIMES IT MAY BE NECESSARY FOR
19 ME TO REQUEST THAT YOU LEAVE THE COURTROOM WHILE I
20 DISCUSS WITH THE ATTORNEYS LEGAL QUESTIONS THAT COME
21 UP DURING THE TRIAL. IF THIS OCCURS, YOU SHOULD NOT
22 SPECULATE ABOUT OUR DISCUSSIONS OR THE REASONS THAT
23 YOU WERE ASKED TO LEAVE THE ROOM. THIS IS SIMPLY A
24 PROCEDURE THAT THE LAW REQUIRES WHEN CERTAIN LEGAL
25 ISSUES ARISE. THERE MAY ALSO BE OCCASIONS WHEN I ASK

HEARING

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1 THE ATTORNEYS TO APPROACH THE BENCH SO THAT I CAN
2 DISCUSS A LEGAL ISSUE WITH THEM IN PRIVATE. I WILL DO
3 THIS AS OFTEN AS POSSIBLE THAT IT WILL NOT BE NECESSARY
4 FOR YOU TO LEAVE THE COURTROOM MORE THAN IS
5 ABSOLUTELY NECESSARY. AGAIN, IF I ASK THE ATTORNEYS
6 TO STEP UP TO THE BENCH OR IF I ASK YOU TO LEAVE THE
7 COURTROOM, PLEASE DON'T THINK THAT ANYBODY IS TRYING
8 TO HIDE ANYTHING FROM YOU OR KEEP ANY EVIDENCE FROM
9 YOU. THIS IS SIMPLY A PROCEDURE USED BY ALL LAWYERS
10 AND BY ALL COURTS TO DETERMINE AND DECIDE LEGAL
11 QUESTIONS. NOW, IN DECIDING FACTS OF THIS CASE, YOU MAY
12 HAVE TO DECIDE WHICH WITNESSES TO BELIEVE AND WHICH
13 WITNESSES NOT TO BELIEVE. THIS IS CALLED CREDIBILITY.
14 YOU MAY BELIEVE EVERYTHING A WITNESS SAYS OR ONLY
15 PART OF IT OR NONE OF IT. IN DECIDING WHAT TO BELIEVE,
16 YOU MAY CONSIDER A NUMBER OF FACTORS INCLUDING THE
17 WITNESS'S ABILITY TO SEE OR HEAR OR KNOW THE THINGS THE
18 WITNESS TESTIFIED TO, THE QUALITY OF THE WITNESS'S
19 MEMORY, THE WITNESS'S MANNER OR DEMEANOR WHILE
20 TESTIFYING, WHETHER THE WITNESS HAS AN INTEREST IN THE
21 OUTCOME OF THE CASE OR ANY MOTIVE, BIAS OR PREJUDICE,
22 WHETHER THE WITNESS IS CONTRADICTED BY ANYTHING
23 THE WITNESS SAID OR WROTE BEFORE THE TRIAL OR BY ANY
24 OTHER EVIDENCE, AND FINALLY HOW REASONABLE WAS THE
25 WITNESS'S TESTIMONY WHEN CONSIDERED IN THE LIGHT OF

HEARING

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1 OTHER EVIDENCE WHICH YOU DO BELIEVE. NOW JUST A FEW
2 WORDS TO YOU ABOUT YOUR CONDUCT AS JURORS. I'VE
3 ALREADY GIVEN YOU SOME INSTRUCTION BUT I WANT TO
4 EMPHASIZE AGAIN, DO NOT TALK TO EACH OTHER ABOUT THIS
5 CASE UNTIL THE END OF THE CASE WHEN YOU GO TO YOUR
6 JURY ROOM TO DECIDE ON YOUR VERDICT. DO NOT TALK WITH
7 ANYONE ELSE ABOUT THE CASE UNTIL THE TRIAL IS ENDED,
8 FOLLOWING YOUR VERDICT AND YOU HAVE BEEN DISCHARGED
9 AS JURORS. THIS MEANS THAT IF WE RUN OVER IN THE
10 EVENING, AND WE PROBABLY WILL, THAT YOU SHOULD NOT
11 DISCUSS THE CASE WITH MEMBERS OF YOUR FAMILY OR YOUR
12 FRIENDS OR WITH ANYONE ELSE. YOU MAY TELL THEM THAT
13 YOU ARE A JUROR BUT DON'T TELL THEM ANYTHING ABOUT
14 THE CASE UNTIL YOU HAVE BEEN DISCHARGED BY ME. AND
15 THE REASON FOR THIS IS PRETTY APPARENT. YOU'VE GOT TO
16 DECIDE THIS CASE BASED UPON WHAT YOU HEAR IN THIS
17 COURTROOM AND NOT ON THE BASIS OF WHAT ANYONE ELSE
18 MIGHT SAY. DO NOT LET ANYONE TALK TO YOU ABOUT THE
19 CASE. IF ANYONE SHOULD TRY TO TALK TO YOU, GET THEIR
20 NAME OR THEIR DESCRIPTION AND REPORT IT TO THE
21 BAILIFFS AND THEY WILL REPORT IT TO ME. DO NOT READ ANY
22 NEWS STORIES OR ARTICLES OR LISTEN TO ANY RADIO OR
23 TELEVISION REPORTS ABOUT THE CASE. IF THERE IS ANYTHING
24 ON THE BROADCAST MEDIA, SIMPLY TURN IT OFF OR IF THERE'S
25 ANYTHING IN THE NEWSPAPER, HAVE SOMEBODY READ OR

HEARING

72

1 SCAN THE NEWSPAPER BEFORE YOU LOOK AT IT AND IF THERE
2 IS ANYTHING IN THE NEWSPAPER DO NOT READ THAT ARTICLE
3 IN THE NEWSPAPER BECAUSE YOU'VE GOT TO DECIDE, AGAIN,
4 THIS CASE BASED UPON WHAT YOU HEAR IN THIS COURTROOM
5 AND NOT ON THE BASIS OF WHAT MIGHT BE REPORTED IN THE
6 NEWS MEDIA. WITH DUE RESPECT TO MY FRIENDS IN THE NEWS
7 MEDIA, WHAT THEY REPORT IS NOT ALWAYS THE MOST
8 ACCURATE. YOU'RE NOT TO CONSIDER AS EVIDENCE
9 ANYTHING THAT YOU MAY SEE OR HEAR WHEN COURT IS NOT
10 IN SESSION EVEN IF WHAT YOU SEE AND HEAR IS DONE BY ONE
11 OF THE PARTIES OR ONE OF THE WITNESSES. DO NOT DO ANY
12 RESEARCH SUCH AS CONSULTING DICTIONARIES OR OTHER
13 REFERENCE MATERIALS AND DO NOT MAKE ANY
14 INVESTIGATION ABOUT THE CASE ON YOUR OWN. IF YOU NEED
15 TO COMMUNICATE WITH ME, SIMPLY GIVE A SIGN OR NOTE TO
16 THE BAILIFF AND HE WILL GIVE IT TO ME AND I WILL TRY TO
17 ADDRESS YOUR PROBLEM. AND FINALLY AND PROBABLY MOST
18 IMPORTANTLY, DO NOT MAKE UP YOUR MIND ABOUT WHAT
19 YOUR VERDICT SHOULD BE UNTIL YOU HAVE HEARD ALL OF
20 THE TESTIMONY AND EVIDENCE IN THIS CASE AND THE CHARGE
21 ON THE LAW BY THE COURT. YOU WILL BE INSTRUCTED WHEN
22 TO BEGIN YOUR DELIBERATIONS BY EITHER ME OR THE BAILIFF.
23 ARE THERE ANY OBJECTIONS TO MY OPENING REMARKS ON
24 BEHALF OF THE STATE, MR. CONNER?
25 MR. CONNER: NONE, YOUR HONOR.

HEARING

73

1 THE COURT: ON BEHALF OF THE DEFENDANT, MR. BLACKMON?

2 MR. BLACKMON: NONE, YOUR HONOR.

3 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THE FIRST
4 THING THAT WE DO IN THIS CASE IS THE OPENING STATEMENT AND I
5 WILL CALL NOW UPON THE ASSISTANT SOLICITOR, MR. CONNER. MR.
6 CONNER.

7 MR. CONNER: MAY IT PLEASE THE COURT.

8 THE COURT: YES, MR. CONNER.

9 MR. CONNER: LADIES AND GENTLEMEN OF THE JURY. MY
10 NAME IS HARRY CONNER. I'M THE ASSISTANT SOLICITOR HERE IN
11 SUMTER COUNTY. THE REASON I PUT THIS CHART UP HERE IS YOU'RE
12 GOING TO SEE A LOT OF IT DURING THIS TRIAL BECAUSE THIS IS
13 WHERE THE EVENT HAPPENED. THIS IS CARVER STREET HERE IN THE
14 CITY OF SUMTER. RIGHT - THIS IS . YOU'LL FIND THAT ONE OF THE
15 VICTIMS LIVED AT YOU WILL HEAR FROM THE
16 WITNESSES WHO PRIMARILY WERE LOCATED RIGHT HERE IN FRONT
17 OF THESE THREE TRASH CANS IN FRONT OF
18 THERE WERE THREE GREEN CITY TRASH CANS THERE. YOU WILL SEE
19 PHOTOGRAPHS OF THESE THINGS. THE CITY POLICE GOT A CALL
20 ABOUT 8:40 P.M. ON MAY THE 19TH, 2003 TO - THAT THERE WAS A
21 SHOOTING THERE. IN FACT, YOU WILL HEAR FROM A POLICEMAN WHO
22 WAS IN THE VICINITY WHO HEARD SOME OF THE GUNSHOTS AND HE
23 WENT THERE TO THAT LOCATION. YOU WILL FIND THAT - THAT THE
24 TESTIMONY WILL REVEAL THAT THERE WAS ONE YOUNG MAN, 14
25 YEARS OLD, THEY CALLED HIM LITTLE REGGIE. REGGIE FOSTER.

HEARING

74

1 RIGHT HERE, IN LEANING UP AGAINST ONE OF THESE TRASH CANS. HE
2 HAD BEEN SHOT, SHOT IN THE HEAD AND HE DIED. ALSO YOU WILL
3 FIND THAT THERE WAS ANOTHER YOUNG MAN NAMED HERBERT
4 LINWOOD BUTLER LAYING AT THE BACK OF THIS - THIS HOME,
5 RIGHT THERE ON THE GROUND. HE HAD BEEN SHOT
6 IN THE LEG. THE, LADIES AND GENTLEMEN, THERE'LL BE TESTIMONY
7 IN THIS CASE REGARDING THE MOTIVE FOR THIS THING. AND IT ALL
8 STEMS TO THIS FACT; THAT THEY WERE THERE OR MR. WILSON WAS
9 THERE WITH THE IDEA OF ROBBING ONE MAURICE DINGLES WHO
10 HAPPENED TO LIVE AT NOW, ONE THING --ONE
11 THING IN THIS CASE YOU'RE GOING TO LEARN THAT THERE WERE
12 SEVERAL PARTIES AND THESE YOUNG FELLOWS HAVE NICKNAMES.
13 AND I WANT TO TELL YOU WHO THE PARTIES WERE. OF COURSE
14 THERE WAS LITTLE REGGIE. HE'S THE ONE WHO GOT SHOT RIGHT
15 HERE AT THE TRASH CANS WHOSE BODY - WHO WAS FOUND RIGHT
16 THERE. HE SUBSEQUENTLY DIED IN THE HOSPITAL. BUT HE WAS SHOT
17 IN THE HEAD AND DIED AS A RESULT OF THAT WOUND. YOU WILL
18 FIND THAT THIS YOUNG MAN BACK HERE NAMED HERBERT LINWOOD
19 BUTLER, HE WAS ON THE GROUND, SHOT IN THE LEG. THEY CALLED
20 HIM DADDY RAB,. SOME OF THEM JUST CALLED HIM RAB. ALSO
21 MAURICE DINGLES' FULL NAME IS EDWARD MAURICE DINGLE AND
22 FREQUENTLY THEY CALL HIM REESE. LIVES RIGHT HERE AT
23 THERE WAS ALSO CEANTE HARVIN AND DALAMAR
24 BURROUGHS AND DALAMAR IS FREQUENTLY DL. THESE ARE THE
25 PARTIES THAT WERE THERE. THESE WERE ALL FRIENDS. THEY WERE

HEARING

75

1 STANDING AROUND THERE CHATTING AT THIS TRASH CAN. NOW THE
2 OTHER TWO GENTLEMEN THAT CAME UP, DWAUNTREZ, SOME OF
3 THEM CALLED HIM TOREZ, DWAUNTREZ KEITH, AND ALSO THIS
4 DEFENDANT, THE ONE WE SAW ON TRIAL TODAY, THE ONE THAT WE
5 SUBMIT DID THE SHOOTING AND KILLED LITTLE REGGIE, SHOT MR.
6 BUTLER IN THE LEG. HIS NAME IS HAROLD WILSON AND MOST OF THE
7 TIME THEY CALLED HIM TWINKIE. THE - YOU ARE GOING TO HEAR IN
8 THIS CASE A SLICE OF LIFE, I WOULD SAY, SOMEWHAT ON THE ROUGH
9 SIDE. SOMETHING THAT SOME OF YOU MAY NOT BE FAMILIAR WITH
10 OR MAY NOT EXPERIENCE DAILY. THE - AND I SAY SOMETHING ELSE
11 TO YOU. YOU'RE GOING TO HEAR SOME VARIATIONS IN TESTIMONY IN
12 A CASE LIKE THIS. ANYTIME YOU HAVE A GROUP OF PEOPLE WHO
13 WITNESS SOMETHING YOU'RE NATURALLY GOING TO HAVE
14 VARIATIONS. AND YOU SAY, WELL, MR. SOLICITOR, THAT MUST MEAN
15 THAT THEY'RE ALL LYING IF THEY GOT DIFFERENT STORIES.
16 WELL, THAT'S NOT QUITE TRUE. AND I WILL GIVE YOU THIS AS A
17 LITTLE EXAMPLE. SUPPOSE THERE'S A SHOOTING THAT OCCURS
18 BEHIND ME HERE AND THESE GENTLEMEN OVER THERE, THEY
19 CAN SEE WHAT'S HAPPENING BEHIND ME. THEY CAN SEE THAT
20 SHOOTING AND THEY KNOW WHO'S GOT THE GUN AND EXACTLY
21 WHAT HAPPENED. BUT I DON'T KNOW THAT. I TURNED AROUND AND I
22 LOOK AND I SEE A PERSON WITH A GUN IN HIS HAND. THAT'S ALL I
23 SEE. AND SO, THEY MAY KNOW A LITTLE BIT MORE THAN WHAT I
24 KNOW. SO THAT THERE'S GOING BE SOME VARIATIONS AS TO WHAT
25 HAPPENED EXACTLY. BUT I SUBMIT THAT THE VARIATIONS ARE VERY

HEARING

76

1 MINOR IN COMPARISON TO THE TOTAL STORY AS TO WHO DID THE
2 SHOOTING. AND ALL OF THAT WILL POINT TO THIS DEFENDANT,
3 HAROLD WILSON. ANOTHER THING I WOULD ASK YOU TO DO IS STAY
4 ATTENTIVE TO THE WITNESSES BECAUSE YOU'RE GOING TO HEAR
5 SOME WITNESSES IN THIS CASE WHO ARE STRONGER THAN OTHERS.
6 IN OTHER WORDS, SOME WITNESSES MIGHT BE MORE CREDIBLE,
7 MORE BELIEVABLE THAN ANOTHER WITNESS. BUT I SUBMIT TO YOU
8 TO STAY IN THERE TO THE END. LISTEN TO THE WHOLE STORY
9 BEFORE YOU MAKE UP YOUR MIND AND I SUBMIT TO YOU THAT YOUR
10 VERDICT WILL BE THAT MR. WILSON SHOT LITTLE REGGIE AND
11 FURTHER LINWOOD BUTLER AND THE MOTIVE WAS ROBBERY. AND
12 ANOTHER THING, THE JUDGE WILL INSTRUCT YOU
13 ON THE LAW HERE AT THE END. IT DOESN'T HAVE TO BE A MOTIVE,
14 BUT I SUBMIT THE EVIDENCE IS GOING TO INDICATE THAT THAT'S THE
15 MOTIVE. THANK YOU FOR YOUR ATTENTION.

16 THE COURT: MR. BLACKMON?

17 MR. BLACKMON: MAY IT PLEASE THE COURT.

18 THE COURT: YES, SIR.

19 MR. BLACKMON: LADIES AND GENTLEMEN, MY NAME IS
20 RICHARD BLACKMON. AND I'M HERE TODAY REPRESENTING HAROLD
21 WILSON. HE'S HERE TODAY BECAUSE HE'S BEEN CHARGED WITH
22 THESE HORRIBLE CHARGES THAT YOU'VE HEARD THE COURT ADVISE
23 YOU ABOUT. BUT UNDER OUR SYSTEM OF JUSTICE, JUST LIKE
24 EACH OF YOU, HE IS INNOCENT RIGHT NOW. HE WILL REMAIN
25 INNOCENT UNTIL THE STATE PROVES BEYOND A REASONABLE DOUBT

HEARING

77

1 THAT HE'S GUILTY OF EVERY ELEMENT OF EACH AND EVERY CHARGE.
2 AND UNTIL THE STATE CONVINCES ALL OF YOU THAT HE IS GUILTY
3 BEYOND A REASONABLE DOUBT, AND THE COURT - AS MR. CONNER
4 SAYS, THE COURT WILL EXPLAIN TO YOU WHAT THE LAW IS. IT WILL
5 EXPLAIN WHAT REASONABLE DOUBT IS AND CONFIRM WHAT
6 UNANIMOUS IS. AND Y'ALL HAVE SEEN ENOUGH ABOUT THAT ON TV.
7 WELL, YOU PROBABLY HAVE AN IDEA ABOUT THAT. BUT UNTIL YOU
8 ARE, EACH ONE, CONVINCED BEYOND THAT REASONABLE DOUBT
9 UNANIMOUSLY THAT THE STATE HAS MET ITS BURDEN, MR. WILSON IS
10 INNOCENT AND REMAINS INNOCENT. AND I'M NOT ASKING YOU TO
11 TURN A GUILTY PERSON FREE. I'M ASKING YOU TO LISTEN TO THE
12 EVIDENCE THAT COMES FROM THIS CHAIR, EXAMINE THE
13 DOCUMENTS, PHOTOGRAPHS AND OTHER - WHATEVER PHYSICAL
14 EVIDENCE THAT'S PRESENTED TO YOU, APPLY THAT EVIDENCE AND
15 THAT TESTIMONY TO THE LAW THAT THE COURT INSTRUCTS YOU,
16 AND IF THE STATE HAS NOT MET ITS BURDEN, YOU MUST COME BACK
17 WITH A NOT GUILTY VERDICT. MR. CONNER WAS KIND TO POINT OUT
18 THAT THERE'S GOING TO BE SOME INCONSISTENCIES BECAUSE THERE
19 ARE GOING TO BE. AND I THINK THAT'S GOING TO BE ONE OF THE
20 IMPORTANT THINGS THAT Y'ALL HAVE TO THINK ABOUT. I DON'T
21 THINK THESE ARE GOING TO BE SMALL, TINY INCONSISTENCIES THAT
22 ONE PERSON STANDING HERE MIGHT SEE DIFFERENTLY THAN ONE
23 PERSON STANDING THERE. I THINK THESE INCONSISTENCIES ARE
24 GOING TO BE THE KIND THAT PEOPLE WHO DIDN'T COORDINATE THEIR
25 STORY BEFORE THEY WERE SEQUESTERED AND TALKED TO BY LAW

HEARING

78

1 ENFORCEMENT AND GAVE STATEMENTS WOULD HAVE TOLD. SO IF
2 THEY AGREE, I BELIEVE, ON ONE ULTIMATE FACTOR, THAT HAROLD
3 WILSON DID THIS SHOOTING THEN THIS IS WHY; BECAUSE THIS IS
4 WHAT WE SAW, BUT IF EACH ONE OF THEM SAW SOMETHING TOTALLY
5 DIFFERENT, THEN I BELIEVE THAT'S GOING TO GIVE YOU SOME
6 REALLY GOOD REASON TO FIND THAT THEY ARE NOT CREDIBLE AND
7 TO GIVE NO WEIGHT TO THEIR TESTIMONY. SO I ASK YOU TO LISTEN
8 VERY, VERY CLOSELY TO THE EVIDENCE THAT COMES FROM THIS
9 CHAIR BECAUSE THAT'S THE EVIDENCE THAT'S IMPORTANT HERE.
10 AND IF THAT EVIDENCE CAUSES YOU TO HAVE SOME REASONABLE
11 DOUBT, THEN YOU DO WHAT OUR SYSTEM REQUIRES YOU TO DO.
12 THANK YOU VERY MUCH.

13 THE COURT: ALL RIGHT. MR. CONNER, CALL YOUR FIRST
14 WITNESS.

15 MR. CONNER: YOUR HONOR, I CALL DARREN WISEMAN.

16 MR. BLACKMON: IF IT PLEASE THE COURT, CAN WE APPROACH
17 THE BENCH?

18 THE COURT: YES, SIR

19 (SIDEBAR DISCUSSION.)

20 THE COURT: LADIES AND GENTLEMEN, BEFORE WE START WITH
21 TESTIMONY IN THIS CASE, THERE ARE A COUPLE OF THINGS THAT WE
22 HAVE TO DO. AND WE ARE GOING TO DO THOSE AT THIS TIME. SO I
23 AM GOING TO ASK YOU TO GO TO YOUR JURY ROOM FOR JUST A FEW
24 MINUTES BEFORE WE GET STARTED WITH THE TESTIMONY. DO NOT
25 DISCUSS THE CASE AMONG YOURSELVES. IT WOULD BE PREMATURE

HEARING

79

1 FOR YOU TO BEGIN ANY DISCUSSION AMONG YOURSELVES. THANK
2 YOU. PLEASE GO TO YOUR JURY ROOM FOR JUST A FEW MINUTES.

3 (JURY LEAVES COURTROOM AT 2:43 P.M.)

4 THE COURT: ALL RIGHT. ON MOTION OF THE DEFENSE FOR
5 SEQUESTRATION, I'M GOING TO GRANT THAT MOTION. OF COURSE IT
6 WILL BE RECIPROCAL SEQUESTRATION, THAT BOTH SIDES WILL HAVE
7 TO SEQUESTER WITNESSES. HOWEVER IT'S MY UNDERSTANDING
8 FROM MR. BLACKMON THAT HE'S NOT MOVING TO SEQUESTER THE
9 LAW ENFORCEMENT WITNESSES OR WITNESSES THAT WERE - ANY OF
10 THE WITNESSES WHO WERE NOT PRESENT AT THE SCENE BUT WHAT
11 YOU'RE REQUESTING IS THAT THOSE WITNESSES WHO MIGHT BE
12 WITNESS - FACT WITNESS OF WHAT HAPPENED AT THE SCENE TO BE
13 SEQUESTERED. AND THE STATE HAS THE RIGHT TO KEEP THE VICTIMS
14 AND, OF COURSE, LAW ENFORCEMENT'S NOT A PROBLEM AND I
15 UNDERSTAND THE WITNESSES, MR. CONNER, THAT YOU MIGHT CALL
16 IN THAT CONNECTION WOULD BE ALEXIS EARP, CEANTE HARVIN,
17 DALAMAR BURROUGHS AND DWAUNTREZ KEITH. THOSE WOULD BE
18 THE FOUR THAT WOULD BE SUBJECT TO THE SEQUESTRATION ORDER.
19 IS THAT YOUR UNDERSTANDING?

20 MR. CONNER: THAT'S CORRECT.

21 THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT AS WELL,
22 MR. BLACKMON?

23 MR. BLACKMON: YES, SIR, YOUR HONOR.

24 THE COURT: ALL RIGHT. AND I WILL ALSO SAY THAT THIS IS -
25 AND, FOLKS, I'M NOT GOING TO REQUIRE THE STATE TO DISCLOSE - I

HEARING

80

1 MEAN, THE DEFENSE TO DISCLOSE WHAT WITNESSES IT'S GOING TO
2 CALL BUT I WOULD TELL YOU THAT THE SEQUESTRATION ORDER
3 APPLIES TO THE DEFENSE WITNESSES AS WELL. AND THAT ANY
4 DEFENSE WITNESSES WHO ARE CALLED LATER ON IN THIS TRIAL
5 MUST BE SEQUESTERED. SO I'LL LEAVE IT UP TO YOU, MR. BLACKMON,
6 TO MAKE SURE THAT THEY ARE NOT PRESENT IN THE COURTROOM.

7 MR. BLACKMON: THANK YOU, SIR.

8 THE COURT: AND ALSO, WHY DON'T WE TAKE AND GIVE THAT
9 SEQUESTRATION LIST TO MR. CONNER. I UNDERSTAND THAT YOU'VE
10 GOT SOME EQUIPMENT THAT YOU NEED TO GET SET UP, SO I THINK
11 IT'S PROBABLY A GOOD TIME GO AHEAD AND DO THAT, TOO. SO WE'LL
12 TAKE A FEW MINUTES WHILE WE SEQUESTER THE WITNESSES AND
13 GET THAT EQUIPMENT SET UP SO WE'LL BE READY TO GO WHEN WE
14 START BACK UP. THANK YOU. TAKE A FEW MINUTES. Y'ALL LET ME
15 KNOW WHEN YOU'RE READY.

16 MR. CONNER: THANK YOU, YOUR HONOR.

17 (BREAK TAKEN)

18 THE COURT: ALL RIGHT. HAS THE STATE SEQUESTERED THE
19 WITNESSES THAT WERE REQUESTED TO BE SEQUESTERED, MR.
20 CONNER?

21 MR. CONNER: YES.

22 THE COURT: DEFENSE SEQUESTERED ANY WITNESSES THEY
23 NEED TO SEQUESTER?.

24 MR. BLACKMON: YES, SIR. YOUR HONOR, WE SEQUESTERED
25 THE TWO WILSONS THAT WERE LISTED AS POTENTIAL WITNESSES.

HEARING

81

1 THE COURT: ALL RIGHT. THEN WE ARE READY TO PROCEED.
2 ANYTHING BEFORE WE BRING THE JURY IN, MR. CONNER?

3 MR. CONNER: I DON'T KNOW OF ANYTHING, YOUR HONOR.

4 THE COURT: MR. BLACKMON?

5 MR. BLACKMON: NOT THAT I KNOW OF, YOUR HONOR.

6 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

7 (JURY ENTERS COURTROOM AT 3:02 P.M.)

8 THE BAILIFF: YOUR HONOR, ALL JURORS ARE PRESENT IN THE
9 COURTROOM.

10 THE COURT: ALL RIGHT. WE THANK YOU FOR YOUR PATIENCE,
11 LADIES AND GENTLEMEN. AND WE ARE NOW READY TO PROCEED.
12 MR. CONNER, YOU MAY CALL YOUR FIRST WITNESS.

13 MR. CONNER: CALL DARREN WISEMAN, YOUR HONOR.

14 THE CLERK: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
15 YOUR RIGHT HAND, PLEASE. STATE YOUR NAME, PLEASE.

16 THE WITNESS: DARREN WISEMAN.

17 DARREN MARK WISEMAN HAVING BEEN FIRST DULY SWORN, WAS
18 EXAMINED AND TESTIFIED AS FOLLOWS:

19 THE CLERK: HAVE SEAT UP THERE PLEASE.

20 THE WITNESS: (COMPLYING.)

21 THE CLERK: STATE YOUR FULL NAME, SPELL YOUR LAST NAME
22 PLEASE.

23 THE WITNESS: DARREN MARK WISEMAN, W-I-S-E-M-A-N.

24 DIRECT EXAMINATION BY MR. CONNER:

25 Q. OFFICER WISEMAN, WHERE DO YOU WORK?

HEARING

82

1 A. SUMTER POLICE DEPARTMENT.

2 Q. AND HOW LONG HAVE YOU WORKED IN THE SUMTER POLICE
3 DEPARTMENT?

4 A. SINCE AUGUST OF 2001.

5 Q. AND WERE YOU WORKING ON MAY 19TH TH, AND GOT A CALL TO
6 GO TO

7 A. YES, SIR.

8 Q. AND DO YOU KNOW WHEN THE CALL CAME IN?

9 A. EXACT TIME? NO, SIR. SOMEWHERE 8:40, 8:41 AREA.

10 Q. AND HOW LONG DID IT TAKE TO GET OVER THERE?

11 A. ANYWHERE FROM A MINUTE TO TWO MINUTES.

12 Q. IF YOU WOULD, JUST TELL THESE LADIES AND GENTLEMEN IN
13 YOUR OWN WORDS WHAT HAPPENED WHEN YOU GOT THERE.

14 A. WHEN I ARRIVED ON THE SCENE, I PULLED UP IN FRONT OF THE
15 CARVER AND I OBSERVED REGINALD FOSTER, I BELIEVE WAS
16 HIS NAME, SITTING ON THE GROUND WITH HIS BACK AGAINST
17 THE TRASH CAN WITH HIS CHIN TUCKED DOWN HIS CHEST. HE
18 WAS KIND OF JUMPING, CONVULSIONS IF YOU WILL. I GOT OUT
19 OF MY CAR, VERBALLY COMMANDED HIM IF HE COULD HEAR
20 ME, IF HE COULD TALK. GOT NOTHING FROM HIM. I THEN TRIED
21 TO SHAKE HIM AND GET HOLD OF HIM. NO MOVEMENT FROM
22 HIM. WHEN I LOOKED CLOSER, I COULD TELL THAT HIS - ONE
23 OF HIS EYES WAS BLOWN OUT WITH WHAT LOOKED LIKE A
24 BULLET WOUND. I TRIED TO FIND A PULSE, COULDN'T GET A
25 PULSE ON HIM AND I BASICALLY SAT THERE WITH HIM UNTIL

HEARING

83

1 EMS ARRIVED AND HANDED HIM OVER TO THEM.

2 Q. HE NEVER MOVED?

3 A. OTHER THAN TO QUESTION HIM TO SEE IF HE WAS ABLE TO
4 RESPOND. I CHECKED FOR A PULSE IN HIS WRIST. THAT WAS
5 THE EXTENT OF ME TOUCHING HIM.

6 Q. AND DID HE APPEAR TO STILL BE LIVING?

7 A. TO WHAT I COULD TELL, NO, HE WAS NOT.

8 Q. AND YOU SAY HE WAS JUMPING?

9 A. HE WAS KIND OF GOING THROUGH CONVULSIONS, IF YOU WILL.
10 THAT'S THE BEST WAY I CAN DESCRIBE IT. MAYBE A NERVOUS -
11 HIS NERVES WERE JUMPING.

12 Q. NOW, DID ANYBODY ELSE ARRIVE THERE WHILE YOU WERE
13 THERE?

14 A. DEPUTY DUBOSE WAS DIRECTLY BEHIND MYSELF. WE ARRIVED
15 AT THE SAME TIME. WHEN I GOT OUT OF THE CAR I WENT TO
16 THE FIRST - MR. FOSTER, WHO WAS ON THE GROUND. THERE
17 WAS A FEMALE IN BETWEEN MR. FOSTER AND THE TRAILER.
18 AND I BELIEVE SHE WAS YELLING THAT SOMEBODY THAT WAS
19 IN THE BACK THAT WAS ALSO SHOT. AND DEPUTY DUBOSE RAN
20 BACK TO THAT VICTIM TO RENDER AID TO HIM WHILE I STAYED
21 WITH MR. FOSTER.

22 Q. WAS ANYBODY AROUND MR. FOSTER WHEN YOU GOT THERE?

23 A. I DON'T BELIEVE THERE WAS. I THINK SHE WAS - THE FEMALE
24 WAS THE CLOSEST PERSON AND SHE WAS BETWEEN MR. FOSTER
25 AND THE TRAILER.

HEARING

84

- 1 Q. AND DID YOU SEE ANY WEAPONS AROUND MR. FOSTER?
- 2 A. NO, SIR; I DID NOT.
- 3 Q. LOOK AT THESE DOCUMENTS, PLEASE. WHAT IS THAT
- 4 DOCUMENT?
- 5 A. THESE ARE OUR COMPUTER-AIDED DISPATCH OPERATION
- 6 REPORTS FROM OUR COMMUNICATION CENTER.
- 7 Q. ARE THOSE DOCUMENTS MAINTAINED IN THE NORMAL COURSE
- 8 OF YOUR BUSINESS AT THE DEPARTMENT?
- 9 A. YES, SIR.
- 10 Q. AND WHAT DO THEY REFLECT?
- 11 A. EVERY TIME AN INDIVIDUAL, AN OFFICER RATHER, KEYS - HITS
- 12 THE RADIO, USES THE RADIO, IT'S COMPUTER-GENERATED
- 13 DOCUMENTS SPECIFIC TO TIME AS TO WHEN THAT OFFICER
- 14 TRANSMITTED.
- 15 Q. DOES IT TELL YOU WHAT TIME THE CALL CAME INTO THE
- 16 DISPATCH?
- 17 A. 8:41 P.M.
- 18 Q. AND WHAT TIME DID THIS - DOES IT SHOW THE TIME THAT YOU
- 19 ARRIVED THERE?
- 20 A. I ARRIVED AT 8:44.
- 21 Q. SO WITHIN ABOUT THREE MINUTES?
- 22 A. THAT WAS THE TIME THE CALL WAS RECEIVED. THE TIME THE
- 23 CALL WAS GIVEN OUT WAS 8:42; BUT, YES, SIR.
- 24 Q. SO, YOU GOT THERE ABOUT TWO MINUTES AFTER YOU GOT THE
- 25 CALL?

HEARING

85

1 A. YES, SIR.

2 Q. NOW DID ANYONE APPROACH YOU AND TALK WITH YOU WHILE
3 YOU WERE THERE AT THE FOSTER BODY?

4 A. THE FEMALE THAT WAS IN BETWEEN FOSTER AND THE TRAILER.
5 I ASKED HER WHO SHOT HIM.

6 MR. BLACKMON: OBJECT TO ANYTHING THAT MIGHT HAVE
7 BEEN SAID, YOUR HONOR, AS HEARSAY.

8 THE COURT: ALL RIGHT. WOULD BE HEARSAY NORMALLY
9 UNLESS IT QUALIFIES FOR ONE OF THE EXCEPTIONS. MR. CONNER,
10 WHAT'S YOUR POSITION?

11 MR. CONNER: I THINK IT WILL APPLY UNDER THE EXCITED
12 UTTERANCE DOCTRINE, YOUR HONOR. IT'S SOMETHING THAT'S JUST
13 HAPPENED WITHIN TWO TO THREE MINUTES OF WHEN SOMEBODY IS
14 SHOT, AND -

15 THE COURT: ALL RIGHT. OBJECTION IS OVERRULED. I THINK IT
16 DOES QUALIFY AS AN EXCEPTION UNDER SUBPARAGRAPH THREE OF
17 THE EXCITED UTTERANCE. THE OBJECTION IS OVERRULED. YOU MAY
18 PROCEED WITH QUESTIONING.

19 MR. BLACKMON: FOR THE RECORD, YOUR HONOR, IF SHE DID
20 NOT SEE WHAT WAS SAID THIS MAY BE DOUBLE HEARSAY, SHE MAY
21 BE REPEATING SOMETHING THAT SOMEONE ELSE TOLD HER.

22 THE COURT: WELL, AT THIS POINT HE - THAT WASN'T THE
23 OBJECTION, BUT WE'LL PROCEED. WHAT SHE SAID IS WHAT I AM
24 RULING IS ADMISSIBLE UNDER THE EXCITED UTTERANCE. GO AHEAD,
25 SIR.

HEARING

86

1 BY MR. CONNER:

2 Q. WHAT DID SHE SAY?

3 A. I ASKED HER WHO SHOT HIM AND SHE TOLD ME SHE WASN'T
4 EXACTLY SURE. I SAID, WELL, WHERE DID HE GO. SHE KIND
5 OF WAS SILENT, IF YOU WILL. I THEN ASKED HER AGAIN, WHICH
6 WAY DID HE GO. AND SHE SAID HE LEFT. I SAID, DID HE LEAVE
7 ON FOOT, DID HE LEAVE IN A CAR. SHE SAID IT WAS A CAR. I
8 ASKED HER WHAT KIND. SHE SAID IT WAS WHITE CADILLAC. I
9 THEN ASKED HER IF IT WAS A CAR OR A SUA. SHE SAID IT WAS
10 AN SUA. I ASKED HER IF IT WAS POSSIBLY AN ESCALADE. SHE
11 SAID PROBABLY, SOMETHING TO THAT AFFECT. AND THAT
12 WAS THE EXTENT OF MY CONVERSATION WITH HER AND THEN I
13 DIRECTED ALL OF MY ATTENTION MR. FOSTER AFTER THAT.

14 Q. SO IN SUMMARY, IT WAS A WHITE SUA, CADILLAC?

15 A. YES, SIR.

16 MR. CONNER: ANSWER ANY QUESTIONS ATTORNEY BLACKMON
17 HAS FOR YOU.

18 THE COURT: CROSS-EXAMINATION, MR. BLACKMON?

19 CROSS-EXAMINATION BY MR. BLACKMON:

20 Q. OFFICER WISEMAN, SHE TOLD YOU SHE DID NOT SEE WHO SHOT
21 OR SHE COULD NOT TELL?

22 A. SHE DID NOT KNOW THE NAME OF THE PERSON.

23 Q. OKAY. DID SHE TELL YOU SHE ACTUALLY OBSERVED THE
24 PHYSICAL SHOOTING?

25 A. NO, SIR.

HEARING

87

- 1 Q. WHEN YOU GOT THERE, DID YOU SEE ANY GUNS LAYING
2 ANYWHERE?
- 3 A. NO, SIR.
- 4 Q. DID YOU CHECK MR. FOSTER TO SEE IF THERE WERE ANY GUNS
5 ON HIS PERSON?
- 6 A. NO, SIR.
- 7 Q. DID YOU REMAIN WITH MR. FOSTER UNTIL HE WAS REMOVED
8 BY THE EMERGENCY TECHNICIANS?
- 9 A. YES, SIR.
- 10 Q. DID ANYONE ELSE APPROACH HIS BODY DURING THAT TIME?
- 11 A. I DO NOT BELIEVE SO; NO, SIR.
- 12 Q. DID YOU APPROACH THE OTHER PERSON WHO WAS INJURED IN
13 THE BACK OF THE HOUSE?
- 14 A. NO, SIR.
- 15 Q. DO YOU REMEMBER THE NAMES OF ANYONE ELSE WHO WAS
16 PRESENT AT OR NEAR THE SCENE WHEN YOU ARRIVED?
- 17 A. NO, SIR.
- 18 Q. DID YOU TAKE ANY NOTES OF THE NAMES OF ANYONE WHO
19 WAS PRESENT WHEN YOU ARRIVED?
- 20 A. NO, SIR.
- 21 Q. DID ANYONE ELSE APPROACH YOU TO ADVISE THEY HAD
22 OBSERVED ANY ALLEGED SHOOTING?
- 23 A. NO, SIR.
- 24 Q. AND WHO ELSE WAS PHYSICALLY PRESENT WHEN YOU
25 ARRIVED?

HEARING

88

1 A. WHEN I ARRIVED THERE WAS THE VICTIM, MR. FOSTER, AND
2 THERE WAS A FEMALE IN BETWEEN HIMSELF AND THE TRAILER
3 WHICH WOULD BE CARVER.

4 Q. DURING THE TIME THAT YOU WERE THERE, DID YOU SEE ANY
5 BULLETS, SHELL CASINGS OR OTHER EVIDENCE OF GUNFIRE?

6 A. I ASSISTED EMS BY DRIVING THE AMBULANCE TO THE
7 HOSPITAL. WHEN I CAME BACK, SERGEANT DUGGIN WAS
8 PROCESSING THE CRIME SCENE. AND I BELIEVE HE DID FIND
9 SHELL CASINGS BUT THAT WAS ALL FOUND AFTER - AFTER THE
10 - AFTER THE INITIAL ARRIVAL.

11 Q. DO YOU KNOW HOW MUCH TIME ELAPSED FROM THE TIME OF
12 THE ALLEGED SHOOTING UNTIL THE TIME THE CALL CAME INTO
13 DISPATCH?

14 A. PROBABLY A MINUTE. I MEAN, I ASSUME ABOUT A MINUTE.

15 Q. WHERE WERE YOU WHEN YOU RECEIVED THE CALL TO GO
16 THERE?

17 A. WAS ON SOUTH SUMTER STREET AT WILLIAMS.

18 Q. WERE YOU ALONE?

19 A. NO, SIR. I WAS SITTING NEXT TO AN OFFICER. I DO NOT RECALL
20 WHO THAT OFFICER WAS, BUT I REMEMBER SITTING NEXT TO
21 ANOTHER OFFICER.

22 Q. DID THE OTHER OFFICER RESPOND WITH YOU?

23 A. I'M NOT SURE. I'M NOT SURE IF THEY DID OR NOT.

24 Q. YOU YOURSELF DID NOT OBSERVE THE SHOOTING?

25 A. NO, SIR.

HEARING

89

1 MR. BLACKMON: COURT'S INDULGENCE FOR MOMENT.
2 THE COURT: ALL RIGHT, SIR.
3 (PAUSE.)
4 BY MR. BLACKMON:
5 Q. SO WHEN YOU ARRIVED, MR. FOSTER WAS SITTING ON THE
6 GROUND WITH HIS BACK AGAINST THE TRASH CAN?
7 A. YES, SIR.
8 Q. AND HOW CLOSE WAS HE TO A BICYCLE?
9 A. PROBABLY WITHIN THREE OR FOUR FEET.
10 Q. SO THE CLOSEST BICYCLE TO MR. FOSTER WOULD HAVE BEEN
11 WITHIN THREE TO FOUR FEET?
12 A. APPROXIMATE YES, SIR.
13 Q. AND TO YOUR KNOWLEDGE, ARE YOU THE FIRST OFFICER ON
14 THE SCENE?
15 A. YES, SIR.
16 MR. BLACKMON: NOTHING FURTHER.
17 THE COURT: REDIRECT, MR. CONNER?
18 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR.
19 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU MAY STEP
20 DOWN.
21 MR. CONNER: WE WOULD ASK THAT HE BE EXCUSED.
22 THE COURT: ANY OBJECTION TO THIS WITNESS BEING EXCUSED,
23 MR. BLACKMON?
24 MR. BLACKMON: NO, SIR, YOUR HONOR.
25 THE COURT: ALL RIGHT. YOU ARE EXCUSED.

HEARING

90

1 (WITNESS EXCUSED.)

2 BY MR. CONNER: YOUR HONOR, NEXT I WOULD CALL SERGEANT
3 TRUMAN DUGGIN.

4 THE COURT: ALL RIGHT. MR. DUGGIN, COME AROUND, PLEASE.

5 THE CLERK: PUT YOUR HAND ON THE BIBLE, RAISE YOUR RIGHT
6 HAND AND STATE
7 YOUR NAME, PLEASE.

8 THE WITNESS: TRUMAN DUGGIN.
9 TRUMAN DUGGIN, HAVING BEEN FIRST DULY SWORN, WAS EXAMINED
10 AND TESTIFIED AS FOLLOWS:

11 THE WITNESS: I DO.

12 THE CLERK: HAVE A SEAT UP THERE, PLEASE, SIR. STATE YOUR
13 NAME AND SPELL YOUR LAST NAME, PLEASE.

14 THE WITNESS: TRUMAN DUGGIN, D-U-G-G-I-N.
15 DIRECT EXAMINATION BY MR. CONNER:

16 Q. MR. DUGGIN, WHERE DO YOU WORK?

17 A. SUMTER CITY POLICE DEPARTMENT.

18 Q. AND HOW LONG HAVE YOU WORKED FOR THE SUMTER CITY
19 POLICE DEPARTMENT?

20 A. I'VE BEEN EMPLOYED THERE 11 YEARS FULL-TIME, AND PRIOR
21 TO THAT I HAD FIVE YEARS AS RESERVE OFFICER; SO 16 YEARS
22 TOTAL WORKING WITH THE POLICE DEPARTMENT.

23 Q. AND BEFORE YOU JOINED THE POLICE DEPARTMENT, WHAT DID
24 YOU DO?

25 A. I WAS IN THE UNITED STATES AIR FORCE. I WAS STATIONED

HEARING

91

1 HERE AT SHAW, AND I RETIRED AS AN E8, SENIOR MASTER
2 SERGEANT.

3 Q. AND WHAT KIND OF WORK DO YOU DO FOR THE SUMTER POLICE
4 DEPARTMENT?

5 A. I'M IN THE INVESTIGATIVE SERVICE DIVISION. MY SPECIALTY IS
6 CRIME SCENE INVESTIGATIONS, EVIDENCE AND POLYGRAPH.

7 Q. AND HOW LONG HAVE YOU BEEN DOING THAT KIND OF WORK?

8 A. FULL-TIME IN THE CRIME SCENE, ABOUT SIX YEARS.

9 Q. AND BACK ON MAY THE 19TH, 2003, DID YOU GET A CALL IN
10 REGARDS TO THIS CASE OVER AT

11 A. YES, SIR; I DID.

12 Q. AND DID YOU RESPOND THERE THAT NIGHT?

13 A. YES, SIR.

14 Q. AND COULD YOU TELL US WHAT YOUR JOB WAS THERE?

15 A. MY JOB WAS TO – AFTER I ARRIVED, WAS BRIEFED OF THE
16 SITUATION, I PHOTOGRAPHED THE INCIDENT, AND COLLECTED
17 EVIDENCE CONNECTED WITH THIS INCIDENT.

18 Q. AND I SHOW YOU HERE A SERIES OF PHOTOGRAPHS MARKED AS
19 STATE'S EXHIBIT NUMBER 2 THROUGH 24 AND ASK YOU
20 EXAMINE THOSE IF YOU WOULD.

21 A. (COMPLYING). YES, SIR. THESE ARE PHOTOGRAPHS THAT I
22 TOOK THE NIGHT OF THE INCIDENT AND FOLLOWING DAY.

23 Q. AND, YOUR HONOR, IF I COULD OFFER THOSE PHOTOGRAPHS
24 INTO EVIDENCE AT THIS TIME. I UNDERSTAND THERE'S NO
25 OBJECTION.

HEARING

92

1 THE COURT: YES. THEY'RE ALREADY ADMITTED INTO
2 EVIDENCE AS STATE'S EXHIBITS 2 THROUGH 24.

3 MR. CONNER: AT THIS TIME I REQUEST PERMISSION TO PUBLISH
4 THOSE PHOTOGRAPHS.

5 THE COURT: YES, SIR. LADIES AND GENTLEMEN, IF YOU'LL
6 RECALL THAT I TOLD YOU THAT THE STATE HAD THE RIGHT TO
7 PUBLISH PHOTOGRAPHS WHILE WE WERE IN THE COURT WHEREIN THE
8 STATE IS GOING TO DO THAT, BUT RATHER THAN HAND THEM
9 AROUND TO YOU THEY'RE GOING TO USE SOME ELECTRONIC
10 EQUIPMENT FOR PUBLISHING THOSE PHOTOGRAPHS TO YOU.

11 THE WITNESS: WITH YOUR PERMISSION, YOUR HONOR.

12 THE COURT: YES, SIR.

13 THE WITNESS: THANK YOU.

14 THE COURT: LET ME REMIND MR. CONNER AND THE WITNESS IN
15 THIS CASE TO KEEP YOUR VOICES UP BECAUSE THE COURT REPORTER
16 HAS GOT TO BE ABLE TO HEAR WHAT YOU HAVE TO SAY. IN FACT, IT
17 MIGHT BE BETTER, MR. DUGGIN, IF YOU'LL GO AROUND ON THE
18 OTHER SIDE OF THE MACHINE SO THAT SHE CAN HEAR YOU.

19 BY MR. CONNER:

20 Q. THIS IS STATE'S EXHIBIT NUMBER 2.

21 A. THIS IS THE INCIDENT LOCATION THE DAY AFTER. THIS WILL BE
22 THE MAILBOX, WOULD BE THREE
23 GARBAGE CANS, THE VICTIM AND BICYCLE LAYING IN THAT
24 AREA, THE NIGHTTIME PHOTOGRAPHS AND DAYTIME PHOTOS.

25 Q. AND THAT WAS TAKEN WHEN?

HEARING

93

- 1 A. THE FOLLOWING DAY.
- 2 Q. AND THIS IS STATE'S EXHIBIT NUMBER 3?
- 3 A. THIS IS THE TRAILER AT 208 CARVER STREET. THIS IS THE
- 4 MAILBOX I JUST POINTED OUT, COMES DOWN THE SIDE OF THE
- 5 DRIVEWAY. VICTIM NUMBER TWO WOULD BE RIGHT OVER
- 6 HERE TOWARD THE FRONT. THIS IS THE BACK OF THE TRAILER
- 7 LOOKING TOWARDS THE ROAD.
- 8 Q. THIS IS STATE'S EXHIBIT NUMBER 4?
- 9 A. THIS IS ACROSS THE STREET FROM THE INCIDENT LOCATION.
- 10 Q. THIS IS STATE'S EXHIBIT NUMBER 5?
- 11 A. THIS IS ON THE NIGHT OF THE INCIDENT. THIS IS THE MAILBOX
- 12 ON WHERE ALL THE ACTIVITY TOOK PLACE. RIGHT NEXT TO IT -
- 13 - THIS MAILBOX HAS GOT 208 ON IT, AND WHAT APPEARS TO BE
- 14 WHERE A BULLET WENT THROUGH THE MAILBOX, THAT WOULD
- 15 BE THE ENTRY.
- 16 Q. WHY WOULD YOU SAY THAT'S THE ENTRY?
- 17 A. THERE SHOULD BE ANOTHER PICTURE. THIS RIGHT HERE. IT'S
- 18 INDENTED AS IF - THE BULLET GOING INTO IT WOULD PUSH THE
- 19 METAL IN.
- 20 Q. AND THIS IS STATE'S EXHIBIT NUMBER 6?
- 21 A. THIS IS ON THE OTHER SIDE OF THE MAILBOX, AND YOU CAN
- 22 SEE THIS IS WHERE THE METAL IS TORN AWAY WHERE IT WAS
- 23 PASSING THROUGH THE MAILBOX.
- 24 Q. SO THAT WOULD BE THE EXIT?
- 25 A. THIS WOULD BE THE EXIT.

HEARING

94

1 Q. AND THIS IS STATE'S EXHIBIT NUMBER 7?

2 A. THIS IS THE YARD. THIS , THE TRAILER. THIS IS THE
3 MAILBOX AND THIS IS ACROSS THE STREET LOOKING INTO THE
4 INCIDENT LOCATION.

5 Q. THIS IS STATE'S EXHIBIT NUMBER 8?

6 A. THIS IS ANOTHER VIEW OF THE HOUSE ACROSS THE STREET.
7 THIS IS THE MAILBOX. YOU CAN SEE IN ANOTHER PHOTO WHAT
8 THAT PERTAINS TO BUT THE MAILBOX HERE, AND HOUSE
9 ACROSS THE STREET FROM

10 Q. THIS IS STATE'S EXHIBIT NUMBER 9?

11 A. THIS IS THE NIGHT OF THE INCIDENT. YOU CAN SEE THE
12 GARBAGE CANS, THE BICYCLE. THIS IS ALL DEBRIS LEFT BY
13 EMS.

14 Q. WHERE IS THE MAILBOX?

15 A. MAILBOX IS RIGHT ON THE OTHER SIDE OF THE GARBAGE CAN,
16 RIGHT THERE.

17 Q. AND THIS IS STATE'S EXHIBIT NUMBER 10?

18 A. FIRST RESPONDING OFFICERS NOTICED THERE WAS A
19 PROJECTILE IN THE DRIVEWAY AREA. THAT IS THE CONE OFF OF
20 ONE OF THEIR FLASHLIGHTS THAT MARK IT SO NO ONE WOULD
21 DISTURB IT. SO THIS IS LOOKING BACK UP THE STREET, THE
22 BICYCLE, AND MAILBOX. YOU CAN SEE WHERE THE GARBAGE
23 CAN IS TURNED OVER.

24 Q. HOW MANY TRASH CANS WERE THERE, TOTAL?

25 A. THERE WAS THREE OF THEM.

HEARING

95

- 1 Q. AND BY PROJECTILE, WHAT DO YOU MEAN?
- 2 A. LAYING RIGHT HERE. A PROJECTILE WAS THE LAYER OF THE
- 3 LEAD COPPER PORTION OF A BULLET. IT IS THE FIRED - WHAT
- 4 COMES OUT OF THE GUN, OUT OF THE RIFLE OR THE PISTOL,
- 5 WHATEVER IT IS SHOT WITH.
- 6 Q. I SHOW YOU THEN STATE'S EXHIBIT NUMBER 11?
- 7 A. THIS IS THE BICYCLE THAT WAS AT THE INCIDENT LOCATION
- 8 BELOW THE MAILBOX, AND AT THE GARBAGE CANS.
- 9 Q. AND WHERE IS THE MAILBOX?
- 10 A. YOU CAN REALLY SEE IT ON THIS PHOTO. IT SHOULD BE BACK
- 11 IN HERE. NOTICE THERE'S BLOOD ON THE - RIGHT HERE IS THE
- 12 MAILBOX, ONE HERB CORBY AND BLOOD ON THE WHEEL.
- 13 Q. THAT POST THERE IS THE MAILBOX?
- 14 A. YES.
- 15 Q. STATE'S EXHIBIT NUMBER 12?
- 16 A. THIS WOULD BE THE HERB CORBY IN BETWEEN THE OTHER
- 17 TWO. IT WAS THE BICYCLE, THE HERB CORBY THAT WAS
- 18 STANDING UP THAT YOU CAN SEE IN THE OTHER PHOTO. THIS IS
- 19 LAYING DOWN. OVER HERE WOULD BE ANOTHER ONE
- 20 STANDING UP. YOU CAN SEE THAT THE WAY THE BLOOD
- 21 SPLATTER IS ON THE GARBAGE CAN THAT IT WAS AT THE TIME
- 22 OF THE INJURY STANDING UP. IT HAS SINCE FALLEN OVER
- 23 BECAUSE OF THE WAY THE BLOOD IS RUNNING. SO IT'S BEEN
- 24 KNOCKED OVER.
- 25 Q. THIS IS STATE'S EXHIBIT NUMBER 13?

HEARING

96

1 A. THIS IS A PICTURE, JUST A CLOSE-UP VIEW OF THE BLOOD THAT
2 WAS ON THE HERB CORBY.

3 Q. THIS IS STATE'S EXHIBIT NUMBER 14?

4 A. THIS IS AT THE ROAD LOOKING BACK AT
5 THE RESIDENCE. HERE IS THE ONE CONE, THE BULLET ON THE
6 GROUND THERE. IF YOU LOOK BACK THIS WAY IT'S KIND OF
7 HARD TO SEE, BUT THERE IS THE PORCH THAT YOU CAN SEE
8 FROM THE OTHER VIEW LOOKING AT THE BACK OF THE HOUSE.

9 Q. THIS IS STATE'S EXHIBIT NUMBER 15, IT'S WHAT? STATE'S
10 EXHIBIT NUMBER 16 FIRST.

11 A. THIS IS WHERE THE VICTIM NUMBER TWO -- WHEN HE WAS
12 SHOT, THIS IS WHERE HE ENDED UP, WHERE EMS TREATED HIS
13 WOUNDS BEFORE THEY TRANSPORTED HIM. THIS IS TO THE
14 SIDE OF AND THIS IS THAT BACK PORCH AREA.

15 Q. AND THIS IS STATE'S EXHIBIT NUMBER 15?

16 A. THIS IS A CLOSE-UP VIEW OF THE -- OF GARMENTS THAT THE
17 INDIVIDUAL WAS WEARING. IT WAS TAKEN OFF BY THE EMS
18 BEFORE THEY TRANSPORTED HIM. IT WAS ON THE GROUND.
19 HERE'S THE TRAILER. AND THE STUFF THROUGH HERE WOULD
20 BE THE BACK PORCH VIEW TO GIVE YOU ANOTHER
21 PERSPECTIVE.

22 Q. AND THIS -- THIS IS STATE'S EXHIBIT NUMBER 18?

23 A. THIS IS THAT CONE. THIS IS ONE THE PATROL OFFICER LAID THE
24 CONE DOWN AT BEFORE I REPLACED IT WITH ONE OF MY CRIME
25 SCENE CONES. SO THIS IS HOW I FOUND IT. GOT A CONE RIGHT

HEARING

97

1 HERE IS THE - WHAT TURNED OUT TO BE PRONOUNCED AS A
2 NINE MILLIMETER PROJECTILE OR BULLET.

3 Q. AND THIS IS STATE'S EXHIBIT NUMBER 19 ?

4 A. THIS IS A SHELL CASING. IT IS ALMOST IN THE MIDDLE OF THE
5 ROAD. IT'S MORE ON THE OTHER SIDE OF THE ROAD IN FRONT
6 OF THE HOUSE THAT WE SHOWED YOU A PICTURE OF THAT HAS
7 THE LITTLE BUSHES IN FRONT OF IT. THE CARTRIDGE, NINE
8 MILLIMETER CARTRIDGE, THAT WAS IN THE ROAD.

9 Q. THIS IS STATE'S EXHIBIT NUMBER 20 ?

10 A. DIRECTLY ACROSS THE STREET WAS THE HOUSE THAT I
11 MENTIONED. THE MAILBOX, THIS IS THAT MAILBOX POST AND
12 PATROL OFFICER DISCOVERED A NINE MILLIMETER SHELL
13 CASING AT THIS LOCATION. HE MARKED IT WITH A PIECE OF
14 GUM WRAPPER UNTIL I GOT THERE AND THEN I COULD POST A
15 CONE TO PHOTOGRAPH IT. SO IT'S A NINE MILLIMETER
16 CARTRIDGE WITH A CASING THAT'S ALREADY BEEN FIRED AND
17 EJECTED FROM A WEAPON.

18 Q. THIS IS STATE'S EXHIBIT NUMBER 22?

19 A. JUST A CLOSER, CLOSE-UP VERSION. HERE'S THE GUM WRAPPER
20 THAT THE OFFICER PUT THERE SO I WOULD KNOW WHERE IT
21 WAS AT. AND THIS IS THE CASING AS IT WAS FOUND.

22 Q. WHAT IS A CASING?

23 A. A CASING IS - THE BULLET COMES WITH A SHELL CASING AT
24 THE BACK. IT'S WHAT HOLDS THE POWDER AND HOLDS THE
25 BULLET. SO WHEN THE WEAPON IS FIRED, THE IGNITION BOX

HEARING

98

1 THAT STARTS THE PRIMER INTO THE SHELL CASING, THE
2 BULLET TRAVELS DOWN THE BARREL AND THIS IS THE SPENT
3 CASING. THE POWDER HAS BEEN USED. IT IS EMPTY. IN
4 SEMIAUTOMATIC WEAPONS IF THEY'RE FUNCTIONING
5 PROPERLY IT WILL EJECT THAT, AND THAT'S WHAT HAPPENED
6 HERE. IT WAS EJECTED AND LAYING ON THE GROUND.

7 Q. AND THIS IS STATE'S EXHIBIT NUMBER 23 ?

8 A. THIS IS IN FRONT OF , LOOKING UP THE STREET.
9 THIS JUST SHOWS THE BICYCLE PLACEMENT. WE HAD SOME
10 BICYCLES WHEN I WENT UP THERE I HAD HIM - I DON'T
11 KNOW IF THEY WERE INVOLVED OR NOT, SO WE
12 PHOTOGRAPHED EVERYTHING IN PLACE BEFORE WE TOUCH IT.

13 Q. AND THIS IS STATE'S EXHIBIT NUMBER 24?

14 A. THIS IS A PIECE OF A PROJECTILE, THE BULLET PORTION. IT WAS
15 REMOVED FROM THE VICTIM'S SKULL OR HIS HEAD AT
16 AUTOPSY.

17 Q. AND THAT WAS WHICH VICTIM?

18 A. REGINALD FOSTER.

19 Q. YOU CAN HAVE A SEAT.

20 A. (COMPLYING.)

21 Q. SERGEANT DUGGIN, THESE CASINGS THAT YOU GOT OFF THE
22 GROUND THERE, WHAT KIND OF WEAPON ARE THEY FIRED IN?

23 A. THEY'RE NINE MILLIMETER CARTRIDGES COMMONLY USED IN
24 SEMIAUTOMATIC PISTOLS.

25 Q. AND TELL - SOME OF THESE FOLKS MIGHT KNOW ABOUT

HEARING

99

1 SEMIAUTOMATIC PISTOLS AND SOME OF THEM MAY NOT. IF
2 YOU WOULD, HOW DO THOSE THINGS OPERATE?

3 A. THEY'RE SEMIAUTOMATIC IT'S GAS OPERATED. AND THE
4 AMMUNITION IS FED THROUGH THE HANDLE OF THE GUN,
5 THROUGH A MAGAZINE, AND AS THE SLIDE - AS THE TRIGGER IS
6 PULLED THE WEAPON WILL FIRE, GAS IS PRODUCED. THE SLIDE
7 WILL COME BACK, PICK UP ANOTHER CARTRIDGE. AS IT GOES
8 FORWARD AND LOAD THE CARTRIDGE INTO THE BARREL FOR
9 ANOTHER. AND IT ALSO CHOCKS THE FIRING PIN SO IT CAN BE
10 SHOT VERSUS A REVOLVER TO WHERE IT WILL HOLD A SET, SIX,
11 EIGHT, DEPENDING ON THE TYPE OF REVOLVER, AND YOU HAVE
12 TO PULL THE HAMMER BACK. THESE CASINGS IN REVOLVERS
13 ARE NOT EJECTED. THEY STAY WITH THE GUN UNTIL THEY'RE
14 MANUALLY TAKEN OUT. WELL, ON A SEMIAUTOMATIC EVERY
15 TIME A GUN IS FIRED IF IT'S FUNCTIONING PROPERLY IT WILL
16 EJECT A CASE AND RELOAD A CARTRIDGE. A SEMIAUTOMATIC
17 IS WHAT WE CARRY ON THE POLICE DEPARTMENT.

18 Q. SO, THE CASINGS, THE FIRED CASINGS ARE THROWN OUT ON
19 THE GROUND?

20 A. YES, SIR.

21 Q. AND HOW MANY DID YOU RECOVER?

22 A. I RECOVERED THREE.

23 Q. NOW THE LAST PICTURE WE SAW NUMBER 24, I BELIEVE, WAS A
24 FRAGMENT THAT YOU SAY WAS RECOVERED. WHERE WAS IT
25 RECOVERED?

HEARING

100

1 A. IT WAS AT THE AUTOPSY AT NEWBERRY HOSPITAL AND IT WAS
2 RECOVERED FROM THIS SKULL.

3 Q. AND DID YOU - WERE YOU THERE WHEN IT WAS RECOVERED?

4 A. YES, SIR; I WAS.

5 Q. NOW ALSO AT THE AUTOPSY, DID YOU HAVE AN OPPORTUNITY
6 TO DO WHAT'S CALLED A GSR EXAMINATION OF MR. FOSTER'S
7 THINGS?

8 A. YES, SIR. GSR IS GUNSHOT RESIDUE TEST, AND WE
9 QUESTIONED - IT WASN'T THE ONE THAT I DID. IT WAS THE ONE
10 THAT THE DOCTORS DO. AND IT WAS A PRECAUTIONARY
11 MEASURE TO TAKE THESE, BUT BECAUSE OF THE SERIOUSNESS
12 OF THE CRIME, WE WENT AHEAD AND TOOK THE SAMPLES AND
13 SUBMITTED THEM TO SLED, STATE LAW ENFORCEMENT
14 DIVISION.

15 Q. WHAT - WHAT'S THE PURPOSE OF THAT TEST?

16 A. IT'S TO DETERMINE IF THERE'S - THE INDIVIDUAL HAS FIRED A
17 WEAPON. WITH THIS PARTICULAR TEST THERE WAS NO
18 ANALYSIS DONE BECAUSE OF THE TIME LIMIT. GUNSHOT
19 RESIDUE IS VERY FRAGILE. IT MUST BE ACCOMPLISHED WITHIN
20 SIX HOURS. AND ACCORDING TO THE DOCTORS THERE HE WAS
21 OUT - MR. FOSTER WAS ON LIFE SUPPORT FOR OVER SIX HOURS
22 AND WE WERE NOT ABLE TO COLLECT THIS EVIDENCE DUE TO
23 THE NATURE HE WAS ON LIFE SUPPORT. WE WERE NOT GOING
24 TO LET THAT INTERFERE WITH HIS TREATMENT. AND SO WHEN
25 WE DID COLLECT IT AND WE LEFT IT UP TO THE EXPERTS AT

HEARING

101

1 STATE LAW ENFORCEMENT DIVISION TO MAKE THE
2 DETERMINATION WHETHER THEY WOULD USE THE KIT OR NOT
3 AND THEY -- BECAUSE IT WAS AFTER THE SIX HOURS THAT HE
4 WAS ALIVE, THEY DID NOT DO IT.

5 Q. NOW, IN THIS CASE I SHOW YOU THESE THREE ITEMS AND ASK
6 YOU IF CAN YOU IDENTIFY THEM?

7 A. YES, SIR. THESE ARE OUR STANDARD GUNSHOT RESIDUE
8 COLLECTION KIDS. THEY'RE MADE TO STATE LAW
9 ENFORCEMENT DIVISION'S SPECIFICATIONS AND THIS IS THE
10 ONLY ONE THAT WE USE.

11 Q. NOW, IS THE ONE IN THERE THAT YOU OBTAINED YOURSELF?

12 A. YES, SIR; THE ONE ON THE -- HAROLD JAMAR WILSON.

13 Q. AND WHEN DID YOU DO THAT?

14 A. IT WAS THE -- THE MORNING THAT HE WAS IN FOR QUESTIONING.

15 Q. SO THE NIGHT HE WAS ARRESTED OR THE EARLY MORNING
16 HOURS OF --

17 A. YES, SIR.

18 Q. -- MAY THE 20th?

19 A. YES, SIR.

20 Q. AND WAS THAT SUBMITTED TO SLED?

21 A. YES, SIR; IT WAS.

22 Q. AND ALSO, YOU HAVE TWO OTHERS THERE?

23 A. YES, SIR; I DO.

24 Q. AND WHO ARE THEY ON?

25 A. ONE IS ON EDWARD DINGLES AND OTHER CEANTE HARVIN.

HEARING

102

1 Q. AND WHAT OFFICERS TURNED THOSE IN?

2 A. DETECTIVE TODD SIMS DID THE ONE ON MR. HARVIN, AND
3 DETECTIVE SERGEANT ANGELA RABON ON EDWARD DINGLE,
4 AND THEN MYSELF FOR HAROLD WILSON.

5 MR. CONNER: MAY IT PLEASE THE COURT. WE HAVE A
6 STIPULATION THAT MR. FOISEY WAS WORKING FOR SERGEANT
7 DUGGIN AT THE TIME.

8 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
9 JURY, LET ME TELL YOU WHAT THAT IS AND I WILL PUBLISH THE
10 STIPULATION TO YOU. YOU SHOULD TREAT THIS JUST AS THE
11 EVIDENCE AS ADMITTED AND IT IS BECAUSE BOTH PARTIES HAVE
12 AGREED TO THIS STIPULATION. THE UNDERSIGNED AGREES TO
13 STIPULATE THAT JOHN FOISEY WAS THE RECORDS CUSTODIAN FROM
14 THE SUMTER POLICE DEPARTMENT FROM MAY , UNTIL JULY . IN HIS
15 CAPACITY AS THE EVIDENCE CUSTODIAN, HE TRANSPORTED TO SLED,
16 ONE, BLOOD OF REGINALD FOSTER, TWO, GUNSHOT RESIDUE KITS FOR
17 EDWARD MAURICE DINGLE, CEANTE HARVIN AND HAROLD WILSON
18 AND, THREE, BALLISTIC ITEMS RECOVERED FROM THE SCENE OF THE
19 SHOOTING TO INCLUDE THREE NINE-MILLIMETER CARTRIDGE CASINGS
20 AND ONE FIRED BULLET PROJECTILE. AND THIS IS AGREED TO BY
21 COUNSEL AND SO IT'S A STIPULATED FACT IN THIS CASE. ALL RIGHT.
22 MR. CONNER.

23 MR. CONNER: AND AT THIS TIME WE WOULD ASK THAT THESE
24 THREE GUNSHOT RESIDUE KITS BE ADMITTED INTO EVIDENCE.

25 THE COURT: ANY OBJECTION, MR. BLACKMON?

HEARING

103

1 MR. BLACKMON: NO OBJECTION, YOUR HONOR.

2 THE COURT: ALL RIGHT. IT WILL BE ADMITTED INTO EVIDENCE

3 AS STATE'S NUMBERS, 25, 26 and 27, AND WITHOUT OBJECTION.

4 (STATE'S EXHIBIT 25, GSR. KIT FOR HAROLD WILSON, STATE'S EXHIBIT

5 26, GSR. KIT FOR EDWARD DINGLE, AND STATE'S EXHIBIT 27, GSR. KIT

6 FOR CEANTE HARVIN, WERE ADMITTED INTO EVIDENCE.)

7 BY MR. CONNER:

8 Q. I SHOW YOU - I SHOW YOU THIS AND ASK IF YOU CAN IDENTIFY
9 THAT?

10 A. YES, SIR; THIS IS THE BULLET FRAGMENT FROM THE HEAD OF
11 REGINALD FOSTER TAKEN AT AUTOPSY.

12 Q. AND THAT WAS SUBMITTED TO SLED ALSO?

13 A. YES, SIR. IT WAS.

14 Q. I BELIEVE YOU TOOK THAT OUT OF HIM; DIDN'T YOU?

15 A. YES, SIR, I DID, FROM THE AUTOPSY TO - STRAIGHT TO SLED.

16 MR. CONNER: YOUR HONOR, I'D OFFER THAT ITEM INTO
17 EVIDENCE AT THIS TIME.

18 THE COURT: ANY OBJECTION, MR. BLACKMON?

19 MR. BLACKMON: FOR THE RECORD, YOUR HONOR, WE WOULD
20 OBJECT TO THAT UNLESS THE STATE CAN ESTABLISH THE
21 CHAIN OF CUSTODY FROM THE AUTOPSY ITSELF DIRECT TO
22 SLED. I UNDERSTAND THAT MR. DUGGIN WAS PRESENT AT THE
23 AUTOPSY AND I UNDERSTAND HE TOOK IT TO SLED, BUT IT
24 WOULD BE MY UNDERSTANDING THAT IF THE AUTOPSY WAS
25 CONDUCTED BY A LICENSED MEDICAL EXAMINER, THAT A

HEARING

104

1 MEDICAL EXAMINER WOULD HAVE HAD TO REMOVE,
2 SUPPOSEDLY, THE FRAGMENT SO THE FRAGMENT WOULD HAVE
3 BEEN IN THE CUSTODY OF THE MEDICAL EXAMINER FIRST AND
4 THERE'S BEEN NO CHAIN OF CUSTODY ESTABLISHED THAT THIS
5 ITEM IS THE FRAGMENT REMOVED BY THE MEDICAL EXAMINER.
6 THE COURT: ASK HIM THOSE QUESTIONS, MR. CONNER.

7 BY MR. CONNER:

8 Q. WERE YOU PRESENT WHEN THE AUTOPSY WAS DONE, MR.
9 DUGGIN?

10 A. YES, SIR; I WAS.

11 Q. AND DID YOU SEE THIS ITEM BEING RETRIEVED BY THE
12 MEDICAL DOCTOR THAT WAS DOING THE AUTOPSY?

13 A. YES, SIR; I DID.

14 Q. AND DID HE GIVE IT TO YOU?

15 A. YES, SIR; HE DID.

16 THE COURT: AND WHAT DO YOU WITH IT?

17 THE WITNESS: THERE'S -- I TOOK IT TO SLED. THERE WAS
18 APPROPRIATE PAPERWORK.

19 THE COURT: ALL RIGHT. WHAT'S YOUR POSITION, MR.
20 BLACKMON?

21 MR. BLACKMON: FOR THE RECORD, YOUR HONOR, I BELIEVE
22 THERE HAS TO BE A CHAIN OF CUSTODY FROM THE MEDICAL
23 EXAMINER TO MR. DUGGIN. THERE'S NO PAPERWORK THAT I KNOW
24 OF THAT'S BEEN FILED SHOWING THE CHAIN OF CUSTODY.

25 THE COURT: OBJECTION IS OVERRULED. IT DOESN'T HAVE TO

HEARING

105

1 BE PAPERWORK. HE'S TESTIFIED THE CHAIN OF CUSTODY WAS THE
2 MEDICAL EXAMINER GAVE IT TO HIM.

3 MR. BLACKMON: THAT'S THE ONLY OBJECTION, YOUR HONOR.

4 THE COURT: ALL RIGHT. OBJECTION'S OVERRULED. IT WILL BE
5 MARKED INTO EVIDENCE AS STATE'S NUMBER 28 SUBJECT TO THE
6 OBJECTION OF THE DEFENDANT.

7 (STATE'S EXHIBIT 28, BULLET FRAGMENT FROM REGINALD FOSTER'S
8 HEAD, WAS RECEIVED INTO EVIDENCE.)

9 BY MR. CONNER:

10 Q. I SHOW YOU THIS AND ASK YOU TO IDENTIFY THAT.

11 A. THESE ARE THE ITEMS, THREE CARTRIDGES AND ONE BULLET
12 THAT I RECOVERED FROM THE SCENE AT

13 Q. AND THOSE ITEMS WERE SUBMITTED TO SLED ALSO?

14 A. YES, SIR.

15 Q. AND I BELIEVE THESE ITEMS, THE TRANSMITTAL OF THOSE
16 ITEMS TO SLED WAS BY MR. FOISEY?

17 A. YES, SIR.

18 MR. CONNER: I BELIEVE THAT'S PART OF THE STIPULATION,
19 YOUR HONOR.

20 THE COURT: ALL RIGHT. THE STIPULATION CONTAINS AN
21 AGREEMENT ON BALLISTICS ITEMS RECOVERED FROM THE SCENE OF
22 THE SHOOTING TO INCLUDE THREE NINE-MILLIMETER CARTRIDGE
23 CASINGS AND ONE FIRED BULLET PROJECTILE WERE A PART OF THE
24 STIPULATION WITH REGARD TO MR. FOISEY.

25 MR. CONNER: WE'D OFFER THOSE INTO EVIDENCE AND WE'D

HEARING

106

1 JUST HAVE THEM MARKED IN ONE ENVELOPE.

2 MR. BLACKMON: NO OBJECTION.

3 THE COURT: GO AHEAD AND PUT THEM BACK INTO THE
4 ENVELOPE AND MARK THEM AS STATE'S NUMBER 29 WITHOUT
5 OBJECTION.

6 (STATE'S EXHIBIT 29, THREE NINE-MILLIMETER CARTRIDGE CASINGS
7 AND ONE FIRED BULLET, WERE MARKED AND RECEIVED INTO
8 EVIDENCE.)

9 THE COURT: GO AHEAD, MR. CONNER.

10 BY MR. CONNER:

11 Q. I'D JUST ASK YOU TO COME DOWN HERE AND LOOK AT THIS
12 SKETCH.

13 A. YOUR HONOR?

14 THE COURT: YES, SIR.

15 THE WITNESS: THANK YOU.

16 BY MR. CONNER:

17 Q. MAYBE JUST MOVE IT OVER THERE. CAN EVERYBODY SEE IT
18 THERE? IF YOU WOULD, OFFICER DUGGIN, I KNOW YOU'VE
19 SHOWN PICTURES, BUT IF YOU WOULD HOW ABOUT JUST
20 HONING IN ON THIS SKETCH HERE. JUST FOR THE RECORD,
21 YOUR HONOR, I BELIEVE THIS IS INTO EVIDENCE.

22 THE COURT: IT'S IN EVIDENCE AS STATE'S EXHIBIT NUMBER 1.

23 THE WITNESS: THIS IS THE RESIDENCE OF

24 THE INCIDENT TOOK PLACE RIGHT HERE. THERE'S SEVERAL
25 BUSHES, THE THREE HERB CORBY GARBAGE CANS. THE

HEARING

107

1 VICTIM, REGINALD FOSTER, WAS HERE. HE WAS REMOVED
2 FROM THE SCENE AT THE TIME THAT I GOT THERE. THE
3 BICYCLE. HAD A MAILBOX HERE. RIGHT ACROSS THE STREET
4 WHICH IS 205, ONE BULLET THAT WAS FOUND - EXCUSE ME.
5 ONE SHELL CASING THAT WAS FOUND NEXT TO THE MAILBOX.
6 THE MAILBOX FOR THIS ONE WOULD BE RIGHT ABOUT HERE.
7 THE PROJECTILE THAT WAS FOUND, THE ACTUAL BULLET
8 ITSELF, WAS IN THIS AREA. RIGHT HERE, GOING INTO THE
9 RESIDENCE.

10 BY MR. CONNER:

11 Q. JUST BEFORE YOU GO ANY FURTHER THEN, GIVE ME ONE OF
12 THOSE MARKERS, A RED ONE IF YOU COULD?

13 A. (COMPLYING.)

14 Q. OKAY. HOW ABOUT JUST PUTTING A LITTLE X. MARK WHERE
15 YOU FOUND THESE ITEMS?

16 A. NUMBER ONE ON THE NORTH FIELD PARK CANISTERS WHERE
17 THE CASINGS ARE, NUMBER ONE WILL BE RIGHT HERE. THE ONE
18 SHELL CASING. NUMBER TWO WOULD BE ANOTHER SHELL
19 CASING OUT ALMOST TO THE CENTER POINT OF THE ROAD,
20 RIGHT ABOUT 205. NUMBER THREE WOULD BE IN THAT AREA.
21 THAT IS THE PROJECTILE, THE ACTUAL BULLET. AND NUMBER
22 FOUR WAS DISCOVERED AFTER WE MOVED POLICE CARS OUT
23 OF THE WAY AND WAS DOING ONE FINAL SWEEP. NUMBER
24 FOUR WAS FOUND IN THIS GENERAL AREA, RIGHT HERE, RIGHT
25 ON THE SIDE OF THE ROAD WHERE THE GRASS MEETS.

HEARING

108

1 Q. OKAY. HAVE A SEAT.

2 A. (COMPLYING.)

3 Q. JUST HAVE A SEAT. ANSWER ANY QUESTIONS THAT MR.
4 BLACKMON MIGHT HAVE FOR YOU.

5 A. YES, SIR.

6 THE COURT: ALL RIGHT. CROSS-EXAMINATION, MR.
7 BLACKMON?

8 CROSS EXAMINATION BY MR. BLACKMON:

9 Q. MR. DUGGIN, WAS ANY FINGERSPRINTING ATTEMPTED ON ANY
10 OF THE SHELLS OR THE CASINGS THAT YOU RECOVERED
11 INDICATED IN THE LITTLE PACKAGES THAT WERE IDENTIFIED
12 AS STATE'S NUMBER 29.

13 A. NO, SIR.

14 Q. WAS ANY FINGERSPRINT ATTEMPTED ON ANY OF THE BICYCLES?

15 A. YES, ON THE BICYCLES, WITH NEGATIVE RESULTS.

16 Q. WAS A WEAPON RECOVERED?

17 A. NO, SIR.

18 Q. SO THE ACTUAL GUN THAT WAS USED TO KILL THIS YOUNG
19 MAN HAS NOT BEEN RECOVERED?

20 A. NO, SIR; IT HASN'T.

21 Q. THE BULLET HOLE THAT'S SHOWN ON THE MAILBOX AT, DO
22 YOU HAVE ANY WAY OF GAUGING HOW LONG THAT WAS
23 THERE?

24 A. NO, SIR; I DON'T.

25 Q. SO YOU DON'T KNOW IF IT WAS PUT THERE THAT NIGHT OR

HEARING

109

1 SOME OTHER NIGHT?

2 A. NO, I DON'T.

3 Q. DO YOU KNOW WHAT CALIBER WEAPON WAS USED TO INFLICT
4 THAT HOLE?

5 A. NO, SIR.

6 Q. DO YOU EVEN KNOW FOR A FACT THAT - YOU CAN SAY BEYOND
7 A REASONABLE DOUBT THAT THAT WAS IN FACT A GUNSHOT
8 HOLE?

9 A. MYSELF SCIENTIFICALLY, NO.

10 Q. WAS THE ENTRANCE OR THE EXIT THAT YOU REPRESENTED AS
11 BEING ENTRANCE AND EXITS FOR BULLETS, WERE EITHER OF
12 THEM TESTED FOR BULLET RESIDUE AT ANY TIME?

13 A. NO, SIR; THERE WASN'T.

14 Q. COULD THEY HAVE BEEN TESTED?

15 A. I WOULD - I COULDN'T ANSWER YES OR NO ON THAT. IT WOULD
16 BE SUBMITTED AND STATE LAW ENFORCEMENT DIVISION
17 WOULD HAVE TO MAKE THAT DETERMINATION.

18 Q. THE GUNSHOT RESIDUE KIT FOR HAROLD JAMAR WILSON WAS
19 COLLECTED AT WHAT TIME?

20 A. I'D HAVE TO LOOK AT THE KIT, BUT IT WAS LATE INTO THE
21 HOURS WE WERE COLLECTING GSR.

22 Q. WHERE IS THE KIT?

23 A. IT'S RIGHT UP HERE.

24 THE COURT: THEY ALL SHOULD BE IN EVIDENCE.

25 MR. BLACKMON: OH.

HEARING

110

1 BY MR. BLACKMON:

2 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT 25, I BELIEVE.

3 A. OKAY. THE PAPERWORK THAT IS STILL AT SLED WITH THIS. I
4 HAVE JUST HAVE PART OF THE KIT. THE PAPERWORK WOULD
5 BE AT SLED. I DO REMEMBER IT WAS PRIOR TO HIM GIVING A
6 STATEMENT AND IT WAS AT ABOUT THE FIVE-AND-A-HALF-
7 HOUR MARK WHERE WE HAVE TO DO THESE IN SIX HOURS. IT
8 WAS AROUND THE FIVE-AND-A-HALF-HOUR MARK.

9 Q. SO, IT WAS WITHIN THE SIX-HOUR TIME?

10 A. OH YES, SIR. IT WAS WITHIN THE SIX-HOUR TIME; YES.

11 Q. AND IT CAME BACK NEGATIVE FOR GUNSHOT RESIDUE ON
12 HAROLD WILSON?

13 A. YES, SIR.

14 Q. BUT IT CAME BACK POSITIVE FOR GUNSHOT RESIDUE ON
15 CEANTE HARVIN?

16 A. THAT'S WHAT THE SLED REPORT SAYS. THERE WAS ONE THAT
17 CAME BACK POSITIVE.

18 Q. THE GUNSHOT RESIDUE KIT THAT WAS COLLECTED ON
19 REGINALD FOSTER, IT WAS COLLECTED - LET ME BACK UP. I'M
20 SORRY. MR. FOSTER'S HANDS WERE BAGGED AT THE SCENE;
21 WERE THEY NOT?

22 A. YES, SIR.

23 Q. AND DO YOU KNOW HOW LONG THE BAGGING REMAINED ON
24 HIS HANDS?

25 A. NO, SIR. I KNOW IT WAS REMOVED AS PART OF THE LIFE SAVING

25 Q. DO YOU RECALL WHEN YOU WOULD HAVE LEFT ON THE

HEARING

112

1 DAYLIGHT HOURS OF MAY 20th?

2 A. NO, SIR.

3 Q. DO YOU RECALL WHETHER IT WOULD HAVE BEEN EARLY
4 MORNING, MIDDLE DAY, LATE AFTERNOON?

5 A. I DON'T RECALL.

6 Q. DO YOU RECALL IF THERE WAS ANYONE STILL AT THE SCENE
7 WHEN YOU DID LEAVE?

8 A. NO, SIR.

9 Q. WOULD YOU HAVE BEEN THE LAST ONE THERE?

10 A. THE LAST ONE OR AS EVERYBODY'S GETTING READY TO LEAVE;
11 YES, SIR. YES.

12 Q. NEITHER YOU NOR ANYONE ELSE WHO EXAMINED THE SCENE
13 FOUND ANY SPENT CASINGS FROM A . OR A . CALIBER?

14 A. NO, SIR.

15 Q. NOR DID YOU FIND ANY OTHER PROJECTILES AT ANY OTHER
16 LOCATION?

17 A. NO, SIR; AND THAT WAS PART OF THE REASON IN GOING BACK
18 THE NEXT DAY IN DAYLIGHT WAS TO CONTINUE OUR SEARCH.

19 Q. WAS THERE NOT A TIME PERIOD FROM SOMETIME IN THE EARLY
20 MORNING HOURS OF MAY 20th UNTIL DAYLIGHT WHEN Y'ALL
21 WENT BACK THAT THE CRIME SCENE WAS NOT SECURED AND
22 CORDONED OFF?

23 A. YES, SIR.

24 Q. AND APPROXIMATELY HOW LONG WOULD YOU SAY THAT WAS?

25 A. I BELIEVE I LEFT, I'D HAVE TO CHECK MY RECORDS, BUT JUST A

HEARING

113

- 1 SHORT TIME BEFORE MIDNIGHT. AND SO IT WOULD BE AROUND
2 MIDNIGHT UNTIL WE WENT BACK THE NEXT DAY. SO WOULD
3 HAVE PROBABLY HAVE SIX HOURS OF DARKNESS.
- 4 Q. DO YOU RECALL GOING BACK IMMEDIATELY ON FIRST LIGHT?
- 5 A. I DON'T BELIEVE IT WAS IMMEDIATELY.
- 6 Q. SO THERE WOULD HAVE BEEN SOME DAYLIGHT HOURS ALSO?
- 7 A. YES, SIR.
- 8 Q. A NUMBER OF PEOPLE WERE INTERVIEWED THAT LIVED IN THAT
9 NEIGHBORHOOD?
- 10 A. I DON'T KNOW. I DIDN'T PARTICIPATE IN ANY OF THE
11 INTERVIEWS.
- 12 Q. YOU MENTIONED EARLIER THAT YOU WERE BRIEFED WHEN YOU
13 ARRIVED ON THE SCENE.
- 14 A. YES, SIR.
- 15 Q. WHO BRIEFED YOU?
- 16 A. IT WOULD HAVE BEEN ONE OF THE POLICE OFFICERS OR
17 DETECTIVES. BY NAME, I DON'T REMEMBER.
- 18 Q. DO YOUR NOTES INDICATE WHO THAT MIGHT HAVE BEEN?
- 19 A. I DON'T BELIEVE SO.
- 20 Q. WERE YOU NOT PHYSICALLY PRESENT WHEN THE INCIDENT
21 ACTUALLY OCCURRED?
- 22 A. NO, SIR.
- 23 Q. TO YOUR KNOWLEDGE NO - NO MEMBER OF LAW
24 ENFORCEMENT WAS PHYSICALLY PRESENT WHEN IT ACTUALLY
25 OCCURRED?

HEARING

114

1 A. THAT'S CORRECT.

2 Q. DO YOU KNOW WHO MOVED ANY OF THE HERB CORBIES?

3 A. NO, SIR.

4 Q. I'M GOING TO SHOW YOU THE PHOTOGRAPHS THAT HAVE BEEN
5 MARKED INTO EVIDENCE. WOULD YOU GO TO STATE'S NUMBER
6 9 AND 10, EACH OF THOSE APPARENTLY SHOW TWO HERB
7 CORBIES; DO THEY NOT?

8 A. IT'S ALL THE WAY YOU'RE LOOKING AT IT.

9 Q. WOULD YOU LOOK AT STATE'S NUMBER 9? TWO HERB CORBIES
10 STANDING UP. IF YOU LOOK AT STATE'S NUMBER 10 YOU SEE
11 ONE STANDING UP AND ONE LAYING DOWN; CORRECT?

12 A. RIGHT.

13 Q. DO YOU KNOW WHICH OF THOSE TWO WAS TAKEN FIRST?

14 A. I BELIEVE THE ONE THAT'S LAYING DOWN. THAT CAN'T BE SEEN
15 IN THIS STATE'S EXHIBIT NUMBER 9 BECAUSE OF THE BRUSH
16 THAT'S THERE. IT ALMOST APPEARS THAT THOSE TWO GO WITH
17 NUMBER 208 AND OTHER ONE IS UP THE ROAD A LITTLE BIT FOR
18 THE NEXT RESIDENCE.

19 Q. IF YOU LOOK FORWARD OVER TO DEFENDANT'S 12 THAT
20 APPEARS TO BE THE ONE THAT'S LAYING DOWN WITH THE
21 BLOODSTAINS?

22 A. YES, SIR. THAT'S THE ONE THAT'S BACK INTO THE BUSHES, IF
23 YOU WILL, WITH THE BLOODSTAINS ON IT.

24 Q. THAT'S THE SAME ONE THAT WE SEE ON DEFENDANT'S NUMBER
25 10 LYING DOWN FROM THE OTHER SIDE?

HEARING

115

- 1 A. YES, SIR.
- 2 Q. SO IF YOU LOOK AT DEFENDANT'S NUMBER 9, CAN YOU STILL
- 3 SEE THE SHOES AND THE REMAINS THAT WERE LEFT BY THE
- 4 EMS PERSONNEL THAT AREN'T CLEARLY SHOWN IN NUMBER 10?
- 5 A. I PROBABLY ALREADY GATHERED THOSE.
- 6 Q. YOU GATHERED UP THE SHOES?
- 7 A. I GATHERED WHATEVER ITEMS WERE THERE THAT BELONGED
- 8 TO MR. WILSON.
- 9 Q. IF YOU'LL LOOK AT DEFENDANT'S NUMBER 11 IT APPEARS TO BE
- 10 BLUEISH PURPLISH BICYCLE?
- 11 A. YES, SIR. YES.
- 12 Q. IT APPEARS THERE'S BLOODSTAINS ON THE WHEEL?
- 13 A. YES, SIR.
- 14 Q. WAS ANY SAMPLES TAKEN OF THE BLOODSTAINS TO
- 15 DETERMINE WHOSE BLOOD THEY WERE?
- 16 A. NO, SIR.
- 17 Q. WAS A BLOOD SAMPLE TAKEN FROM THE HERB CORBY SHOWN
- 18 ON DEFENDANT'S 12 AND 13 TO DETERMINE WHOSE BLOOD THAT
- 19 WAS?
- 20 A. NO, SIR. FROM MY BRIEFING IT WAS THE SUBJECT'S OR EXCUSE
- 21 ME. THE VICTIM WAS ON HIS BICYCLE WHEN HE WAS SHOT.
- 22 THAT'S WHERE HE ENDED UP.
- 23 Q. WHEN YOU WERE BRIEFED BY THE OFFICER WHEN YOU FIRST
- 24 ARRIVED ON THE SCENE, THE VICTIM WAS NOT ON THE BICYCLE;
- 25 WAS HE?

HEARING

116

1 A. NO, SIR. HE WAS LEANING UP AGAINST THE HERB CORBY.

2 Q. WHEN YOU DESCRIBED STATE'S EXHIBIT 12 WITH THAT HERB
3 CORBY IN BETWEEN THE OTHER TWO LAYING DOWN, YOU
4 INDICATED IT APPEARED THAT IT WAS KICKED OVER. YOU
5 DON'T KNOW WHO PICKED IT UP?

6 A. NO, SIR; I DO NOT, BUT IT WAS IN THE UPRIGHT POSITION WHEN
7 THE BLOOD WAS LET ON IT BECAUSE OF THE WAY THE BLOOD
8 WAS FLOWING.

9 Q. SO YOU HAVE AT LEAST ONE PICTURE IN THE UPRIGHT
10 POSITION?

11 A. NO, SIR, JUST HAVE IT IN THE - LAYING ON ITS SIDE. BUT IF YOU
12 TAKE THE PICTURE AND HOLD IT STRAIGHT UP MAKING IT SIT
13 UP, YOU CAN SEE HOW THE BLOOD FLOWS AND JUST LAY IT TO
14 THE SIDE.

15 Q. WELL, IS THERE ANY EVIDENCE OF BLOOD TRAIL OR BLOOD
16 SPLATTER FROM ANYWHERE NEAR THE ROAD IN FRONT 208,
17 NEAR THE AREA OF THE HERB CORBY BACK TO WHERE THE
18 SECOND VICTIM WAS FOUND?

19 A. NONE THAT I NOTICED.

20 Q. NONE THAT ANY OTHER LAW ENFORCEMENT OFFICIAL
21 BROUGHT TO YOUR ATTENTION?

22 A. CORRECT.

23 Q. BASED UPON THE CONDITION OF THE PIECE OF PROJECTILE THAT
24 WAS VIEWED AT THE AUTOPSY, YOU CANNOT INDICATE WITH
25 ANY DEGREE OF CERTAINTY WHAT CALIBER OF WEAPON THAT

HEARING

117

1 PROJECTILE CAME FROM?

2 A. NO, SIR. THE ONLY THING THAT WE HAVE IS THE REPORT FROM
3 STATE LAW ENFORCEMENT DIVISION SAYING IT IS A BULLET
4 FRAGMENT.

5 Q. THE PHOTOGRAPHS SHOWS THAT IT APPEARED TO BE RATHER
6 LARGE. IN FACT, IT'S RATHER SMALL, MAYBE A HALF-INCH
7 LONG?

8 A. LET ME LOOK AT MY PHOTOGRAPH. I WOULD SAY JUST A LITTLE
9 BIT LARGER THAN AN HALF-INCH, UH-HUH.

10 Q. IN YOUR EXPERIENCE, WOULD YOU DESCRIBE A NINE
11 MILLIMETER SHELL AS SMALL, MEDIUM OR LARGE CALIBER?

12 A. MEDIUM CALIBER.

13 Q. HOW WOULD YOU DESCRIBE THE .38?

14 A. IT WOULD ALSO BE A MEDIUM CALIBER.

15 Q. AND .25?

16 A. SMALL.

17 Q. WAS ANY FRAGMENT OF PROJECTILE RECOVERED FROM VICTIM
18 NUMBER TWO?

19 A. NONE THAT I'M AWARE OF.

20 Q. THERE IS ANY REASON FINGERPRINTING WAS NOT ATTEMPTED
21 OF THE CARTRIDGE SHELL CASINGS?

22 A. YES, SIR. I'VE BEEN TRAINED IN THE PROCESSING OF SHELL
23 CASINGS. WELL, ACTUALLY IN THE PROCESSING OF FULL
24 CARTRIDGE. AFTER A WEAPON IS FIRED THE SHELL CASING HAS
25 EXTENSIVE HEAT AND THAT WOULD DESTROY ANY

HEARING

118

1 FINGERPAINT OILS THAT WOULD BE ON IT, ON A CARTRIDGE OR
2 AN UNSHOD - THIS - THIS IS - IF I HAVE A WEAPON AND I -- AND I
3 UNLOAD IT MYSELF, I CAN USE A PROCESS TO DETERMINE IF
4 THERE'S FINGERPRINT ON IT. IT'S A CHEMICAL PROCESS. BUT TO
5 DO THAT ON ONE THAT HAS BEEN FIRED, I'VE BEEN TRAINED,
6 THAT - THERE'S PROTOCOL. WE DO NOT DO IT.

7 Q. TO YOUR KNOWLEDGE, HAVE ANY FINGERPAINT OR PARTIAL
8 FINGERPRINT EVER BEEN RECOVERED FROM A FIRED CASING OR
9 PROJECTILE?

10 A. NOT TO MY KNOWLEDGE.

11 Q. LIKEWISE THERE IS - WOULD IT BE FAIR TO SAY THAT YOU
12 CANNOT ASCERTAIN TO A DEGREE OF CERTAINTY THE
13 PROJECTILE THAT WAS RECOVERED CAME FROM ONE OF THE
14 CASINGS THAT THAT WAS RECOVERED?

15 A. NO, SIR.

16 MR. BLACKMON: NOTHING FURTHER.

17 THE COURT: REDIRECT?

18 REDIRECT EXAMINATION BY MR. CONNER:

19 Q. OFFICE DUGGIN, WHEN REGINALD FOSTER WAS LAYING ON THE
20 GROUND, WAS SOME CLOTHING THERE?

21 A. YES, SIR; THERE WAS.

22 Q. AND WAS THAT CLOTHING THAT HAD LEFT BEEN THERE WHEN
23 EMS LEFT?

24 A. YES, SIR.

25 Q. AND THERE WASN'T ANY GUN RECOVERED FROM HIM, WAS

HEARING

119

1 THERE?

2 A. NO, GIRL, THERE WASN'T.

3 Q. AND THERE - THERE WAS NO GUN IN THE AREA THAT EMS
4 TURNED OVER TO YOU OR ANYTHING?.

5 A. NO, SIR.

6 MR. CONNER: I HAVE NOTHING FURTHER.

7 THE COURT: ROCKROSE?

8 MR. BLACKMON: NO, SIR YOUR HONOR.

9 THE COURT: ALL RIGHT. THANK YOU, OFFICER DUGGIN. YOU
10 MAY STEP DOWN.

11 THE WITNESS: YES, YOUR HONOR.

12 (WITNESS EXCUSED.)

13 MR. CONNER: AT THIS TIME, YOUR HONOR, I'D CALL WAYNE
14 DUBOSE.

15 THE CLERK: PLACE YOUR HAND DOWN ON THE BIBLE. RAISE
16 YOUR RIGHT HAND, STATE YOUR FULL.

17 THE WITNESS: WAYNE DUBOSE.

18 WAYNE DUBOSE, HAVING BEEN FIRST DULY SWORN, WAS EXAMINED
19 AND TESTIFIED AS FOLLOWS:

20 THE CLERK: HAVE A SEAT OVER HERE, PLEASE.

21 THE CLERK: STATE YOUR NAME AND SPELL YOUR LAST.

22 THE WITNESS: WAYNE DUBOSE. D-U-B-O-S-E.

23 DIRECT EXAMINATION BY MR. CONNER:

24 Q. OFFICER DUBOSE, WHERE DO YOU WORK?

25 A. I'M EMPLOYED WITH THE SUMTER COUNTY SHERIFF'S OFFICE.

HEARING

120

- 1 Q. HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S?
- 2 A. SEVEN YEARS.
- 3 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?
- 4 A. FOR EIGHT YEARS.
- 5 Q. WERE YOU WORKING BACK ON MAY 18TH, 2003?
- 6 A. YES, SIR; I WAS.
- 7 Q. WHAT WERE YOU DOING?
- 8 A. I WAS A CORPORAL ON PATROL SHIFT. I WAS WORKING THE
- 9 ROAD THAT NIGHT.
- 10 Q. WERE YOU IN THE VICINITY OF WHERE THIS CRIME OCCURRED
- 11 AROUND
- 12 A. YES, SIR.
- 13 Q. AND WHERE WERE YOU ROUGHLY WHEN YOU GOT THE CALL?
- 14 A. I WAS AT THE INTERSECTION OF KINGSBURY AND GUIGNARD.
- 15 Q. AND WHAT DID YOU DO AS A RESULT OF THAT CALL?
- 16 A. DISPATCHER CAME ACROSS THE RADIO AND ADVISED THAT
- 17 THERE HAD BEEN A 1075, WHICH IS A SHOOTING, AND GAVE THE
- 18 LOCATION AT BEING AT THAT TIME BEING
- 19 CLOSE IN THE AREA, I WENT AHEAD AND HEADED IN THAT
- 20 DIRECTION.
- 21 Q. AND HOW DID -- TIMEWISE, WHERE WERE YOU IN RELATIONSHIP
- 22 TO THE OFFICER WHO WAS THE FIRST OFFICER THERE?
- 23 A. I WAS -- WE ARRIVED JUST ABOUT THE SAME TIME OR WE DID
- 24 ARRIVE AT THE SAME TIME.
- 25 Q. AND WHAT DID YOU DO WHEN YOU GOT THERE? WHAT DID YOU

HEARING

121

1 -- FIRST OF ALL, TELL US WHAT YOU SAW.

2 A. MYSELF AND OFFICER WISEMAN ARRIVED. I OBSERVED FOSTER
3 AT THE TRASH CANS. HE WAS LEANING UP AGAINST THE TRASH
4 CAN WITH HIS HEAD DOWN IN A POSITION LIKE THAT
5 (INDICATING.)

6 Q. WAS HE I A SEATED POSITION OR WAS HE IN A STANDING
7 POSITION?

8 A. HE WAS SEATED. AND AS I APPROACHED OFFICER WISEMAN
9 HAD WENT TO HIM. AT THAT TIME A FEMALE HAD GOT OUR
10 ATTENTION AND SAID THERE WAS SOMEONE BEHIND THE
11 RESIDENCE WHO HAD ALSO BEEN SHOT. AT THAT TIME I WENT
12 TO THAT PERSON.

13 Q. AND TELL US WHAT YOU OBSERVED. YOU SAY THERE WAS A
14 FEMALE?

15 A. YES, SIR. IT WAS A FEMALE THAT WAS IN THE YARD.

16 Q. WERE THERE ANY OTHER PEOPLE AROUND?

17 A. AT THAT TIME, I DON'T RECALL. I REMEMBER HER BUT I DON'T
18 REMEMBER ANYBODY ELSE AT THAT TIME.

19 Q. AND - NOW THE OTHER FELLOW THAT WAS SHOT, WHERE WAS
20 HE?

21 A. HE WAS - IF YOU'RE FACING THE RESIDENCE FROM THE ROAD
22 SLIGHTLY TO THE LEFT IN THE - THE BACKYARD.

23 Q. AND WAS HE ON THE GROUND OR WAS HE STANDING UP OR
24 WHAT WAS HIS CONDITION?

25 A. YEAH. HE WAS LAYING DOWN WHEN I APPROACHED HIM.

HEARING

122

1 Q. AND TELL US WHAT YOU DID FIRST.

2 A. I COME AROUND. I IDENTIFIED MYSELF. AND I SHOOK HIM TO
3 TRY TO SEE IF HE WAS CONSCIOUS OR WHAT. AT THAT TIME I
4 ADVISED HIM OR ASKED HIM IF - OR HE TOLD ME HE HAD BEEN
5 SHOT. I ASKED HIM IF HE KNEW WHO SHOT HIM.

6 MR. BLACKMON: OBJECTION TO ANYTHING HE MIGHT HAVE
7 SAID TO - TO HEARSAY AS WELL, SAME OBJECTION

8 THE COURT: ALL RIGHT. MR. CONNER, I'LL BE GLAD TO HEAR
9 FROM YOU ON THAT.

10 MR. CONNER: YOUR HONOR, WE'VE GOT THE SAME SITUATION
11 HERE WE HAD BEFORE. WE'VE GOT AN EXCITED UTTERANCE BY
12 SOMEBODY THAT'S JUST BEEN SHOT.

13 THE COURT: ALL RIGHT. WHAT SAY YOU, MR. BLACKMON, TO
14 THE FACT THAT IT APPEARS TO FALL UNDER SUBPARAGRAPH TWO?

15 MR. BLACKMON: JUDGE, MORE TIME HAD PASSED FROM THE
16 TIME OF THE INCIDENCE UP TO THIS POINT WHEN IT WOULD NOT BE
17 CLOSE ENOUGH IN TIME TO QUALIFY AS A EXCITED UTTERANCE.

18 THE COURT: MY RECOLLECTION OF THE RULE OF EVIDENCE IS
19 TIME IS NOT THE CRUCIAL THING BUT WHETHER THE EXCITEMENT AT
20 THE MOMENT IS STILL A PART OF THE OVERALL SCENE. AND BASED
21 UPON WHAT I HAVE HEARD, IT APPEARS THAT IT WAS. I WILL
22 OVERRULE THE OBJECTION AND ALLOW THE ADMISSION, THE
23 TESTIMONY UNDER RULE SUB TWO. YOU MAY ANSWER THE
24 QUESTION.

25 THE WITNESS: AT THAT TIME THE VICTIM THAT WAS ON THE

HEARING

123

1 GROUND, HE TOLD ME THAT HE HAD BEEN SHOT. WHEN I ASKED HIM
2 WHO HAD SHOT HIM, HE SAID TWINKIE. AT THAT TIME I'D ASKED HIM
3 ABOUT TWINKIE'S NAME. HE SAID, ALL I KNOW IS TWINKIE. AT THAT
4 TIME I STARTED LOOKING AT TOWARD WHERE HE WAS SHOT AT AND
5 STARTED TIME PRESSURE.

6 BY MR. CONNER:

7 Q. DID YOU CHECK HIM FOR ANY WEAPON?

8 A. AFTER I GOT - ANOTHER OFFICER BACK THERE OR SOMEONE
9 ELSE HAD BROUGHT ME SOME GLOVES, I PUT THEM ON AND I
10 ACTUALLY PATTED HIM DOWN TO SEE IF THERE WERE ANY
11 WEAPONS OR ANYTHING AROUND HIM AND THEN I STARTED
12 DOING AS MUCH FIRST-AID I COULD.

13 Q. DID YOU DISCOVER ANY WEAPON HIM?

14 A. NO, SIR.

15 Q. AND DID YOU DETERMINE WHERE HE HAD BEEN SHOT?

16 A. IT APPEARED WITH - HIS PANTS WERE ON, THAT HE HAD BEEN
17 SHOT IN THE GROIN AREA, RIGHT AROUND HIS GROIN AND -
18 LEFT LEG AREA.

19 Q. NOW WHAT KIND OF ASSISTANCE DID YOU RENDER?

20 A. I JUST - I DID JUST BASIC FIRST-AID AND THEN WAS TRYING TO
21 RETRIEVE INFORMATION FROM HIM. I DIDN'T KNOW HOW BAD
22 OFF HE WAS, SO I TRIED TO GET AS MUCH INFORMATION AS I
23 COULD, AND KEEP THAT GENERAL AREA SECURE OF ANYBODY
24 ELSE.

25 Q. IN OTHER WORDS, YOU DIDN'T LET ANYBODY ELSE COME

HEARING

124

1 AROUND HIM AT THAT TIME?

2 A. THAT'S CORRECT. I BELIEVE THE FIRST PEOPLE THAT WAS TO
3 ME WAS EMS. THERE WAS SOME OTHER OFFICERS THAT CAME
4 BACK TO CHECK ON ME. I TOLD THEM I WAS ALL RIGHT AND
5 THE NEXT PEOPLE THAT APPROACHED ME WAS EMS
6 PERSONNEL.

7 Q. AND THEN WHEN EMS TOOK OVER, WHAT DID YOU DO?

8 A. I JUST MORE OR LESS STOOD BACK AND TRIED TO JOT DOWN
9 WHAT HE WAS SAYING ON THE GLOVE THAT I HAD ON MY
10 HAND. AND ONCE THEY STARTED TREATING HIM THEY CUT HIS
11 CLOTHING OFF, THEY LOADED HIM INTO THE AMBULANCE. AND
12 I ACTUALLY STAYED WITH THEM, I ACTUALLY DROVE THE
13 AMBULANCE TO THE HOSPITAL.

14 MR. CONNER: ANSWER ANY QUESTIONS THAT MR. BLACKMON
15 MIGHT HAVE FOR YOU.

16 THE COURT: ALL RIGHT. MR. BLACKMON, CROSS-EXAMINATION.
17 CROSS-EXAMINATION

18 BY MR. BLACKMON:

19 Q. MR. DUBOSE, DID YOU RECOVER ANY BULLETS OR PROJECTILES
20 FROM MR. BUTLER?

21 A. NO, SIR; I DID NOT.

22 Q. DID YOU RECOVER ANY DRUGS OR ANYTHING ELSE FROM HIM?

23 A. NO, SIR.

24 Q. DID YOU CHECK TO SEE IF HE HAD HAD A WEAPON?

25 A. YES, SIR; I DID A QUICK PAT DOWN WHEN I GOT TO HIM.

HEARING

125

1 Q. DID HE HAVE A WEAPON OF ANY KIND?

2 A. NO, SIR.

3 Q. DID YOU SEE ANY BLOOD SPLATTER OR -- OR TRAIL FROM THE
4 PLACE WHERE YOU WALKED OUT TO THE ROAD BACK TO
5 WHERE YOU MET WITH THIS GENTLEMAN?

6 A. NO, SIR; I DIDN'T.

7 Q. DID YOU TALK WITH ANYONE ELSE ON THE SCENE?

8 A. NO, SIR. AT THAT TIME IT WAS JUST THE VICTIM AND THERE
9 WAS THE FEMALE THAT WAS IN THE YARD. THEY WERE ON THE
10 PORCH. I JUST TOLD THEM TO GO INSIDE, TRY TO STAY
11 INSIDE.

12 Q. AND WHAT TIME DID YOU ARRIVE ON THE SCENE?

13 A. ROUGHLY 8:40. IT WAS ROUGHLY THE SAME TIME OFFICER
14 DUGGIN ARRIVED.

15 Q. DID YOU PULL UP AT THE SAME TIME?

16 A. WE PULLED UP TOGETHER.

17 Q. DO YOU RECALL YOURSELF BRIEFING OFFICER DUGGIN?

18 A. I BRIEFED HIM IN THE BACKYARD WHERE THE VICTIM WAS
19 LAYING, AND THE CLOTHING THAT WAS STILL THERE.

20 Q. NOW MR. -- HANDS WERE BAGGED AT THE TIME?

21 A. DON'T RECALL WHEN THEY LOADED HIM IN THE AMBULANCE
22 OR THEY STARTED TRANSPORTING HIM BECAUSE I DROVE THE
23 AMBULANCE TO THE EMERGENCY ROOM AND THEN I HAD NO
24 FURTHER CONTACT WITH HIM.

25 Q. TO YOUR KNOWLEDGE, NO GSR. KIT WAS DONE ON THIS

HEARING

126

1 GENTLEMAN?

2 A. AT THAT TIME, NO, SIR, NOT TO MY KNOWLEDGE.

3 Q. DID YOU SEARCH, SEARCH THE IMMEDIATE AREA TO SEE IF YOU
4 COULD FIND A PROJECTILE OR PART OF A PROJECTILE?

5 A. NO, SIR. I JUST DID A QUICK LOOK AROUND TO MAKE SURE NO
6 ONE ELSE WAS AROUND.

7 Q. DID YOU GO BACK THE NEXT DAY?

8 A. NO, SIR; I DID NOT.

9 Q. SO YOUR INVOLVEMENT ENDED DRIVING IN THE VAN TO THE
10 EMERGENCY ROOM, OR DID YOU GO BACK TO THE SCENE AFTER
11 YOU TOOK HIM TO THE EMERGENCY ROOM?

12 A. I DID GO BACK TO THE SCENE AFTER WE LEFT THE EMERGENCY
13 ROOM BECAUSE MY PATROL CAR WAS STILL THERE. IT WAS
14 TIED UP IN THE CRIME SCENE.

15 Q. SO APPROXIMATELY WHAT TIME WOULD YOU SAY YOU LEFT?

16 A. I DON'T RECALL. IT WAS SHORTLY AFTER THEY LOADED HIM
17 INTO THE AMBULANCE AND THEN WE WERE GONE. I DON'T
18 EVEN KNOW HOW LONG WE WERE ACTUALLY GONE FROM THE
19 CRIME SCENE.

20 Q. WHEN YOU RETURNED WERE OTHER OFFICERS STILL ON THE
21 SCENE?

22 A. YES, SIR.

23 Q. YOU DON'T KNOW WHAT TIME THE SCENE WAS RELEASED AS
24 FAR AS LAW ENFORCEMENT WAS CONCERNED?

25 A. I DON'T RECALL EXACTLY WHAT TIME IT WAS LATER.

HEARING

127

1 MR. BLACKMON: COURT'S INDULGENCE.

2 (PAUSE.)

3 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

4 THE COURT: MR. CONNER, ANY REDIRECT?

5 MR. CONNER: I HAVE NOTHING FURTHER ON REDIRECT.

6 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU MAY STEP
7 DOWN.

8 THE WITNESS: THANK YOU, SIR.

9 (WITNESS EXCUSED.)

10 THE COURT: COULD COUNSEL APPROACH, TALK ABOUT
11 SCHEDULING?

12 (OFF-THE-RECORD DISCUSSION.)

13 THE COURT: LADIES AND GENTLEMEN OF THE JURY, YOU'VE
14 BEEN IN THE COURTROOM NOW FOR ABOUT AN HOUR AND MINUTES
15 AND I THINK IT'S APPROPRIATE THAT WE TAKE A SHORT RECESS. WE
16 DO HAVE SOME MORE TESTIMONY WE WANT TO GET ACCOMPLISHED
17 THIS AFTERNOON. SO - IT'S NOT GOING TO BE VERY LONG, BUT IF YOU
18 WOULD GO TO YOUR JURY ROOM FOR NO MORE THAN EIGHT OR
19 MINUTES AND WE'LL BE READY TO START BACK. DO NOT DISCUSS THE
20 CASE AMONG YOURSELVES. IT'S STILL TOO EARLY FOR YOU TO GET
21 INTO ANY DISCUSSION ABOUT THE CASE. JUST RELAX, GET A DRINK.
22 OF WATER AND WE'LL BE READY TO START BACK IN ABOUT MINUTES.
23 THANK YOU VERY MUCH.

24 (JURY LEAVES COURTROOM FOR RECESS.)

25 THE COURT: ALL RIGHT. READY TO RESUME, MR. CONNER?

HEARING

128

1 MR. CONNER: WE'RE READY.

2 THE COURT: READY MR. BLACKMON?

3 MR. BLACKMON: YES, SIR.

4 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

5 (JURY RETURNS TO COURTROOM AT 4:37 P.M.)

6 THE BAILIFF: YOUR HONOR, ALL THE JURORS AND THE
7 ALTERNATE ARE PRESENT IN THE COURTROOM.

8 THE COURT: THANK YOU VERY MUCH. WE'RE NOW READY TO
9 RESUME. MR. CONNER, CALL YOUR NEXT WITNESS.

10 MR. CONNER: I CALL BRIAN CHRISTMAS, YOUR HONOR.

11 THE COURT: ALL RIGHT. COME AROUND, PLEASE.

12 THE CLERK: PUT YOUR HAND ON THE BIBLE. RAISE YOUR RIGHT
13 HAND, PLEASE. STATE YOUR NAME, PLEASE.

14 THE WITNESS: BRIAN CHRISTMAS.

15 BRIAN LEE CHRISTMAS, HAVING BEEN FIRST DULY SWORN, WAS
16 EXAMINED AND TESTIFIED AS FOLLOWS:

17 THE CLERK: HAVE A SEAT UP HERE, PLEASE. STATE YOUR FULL
18 NAME AND SPELL YOUR LAST NAME FOR ME, PLEASE.

19 THE WITNESS: BRIAN LEE CHRISTMAS, C-H-R-I-S-T-M-A-S.

20 DIRECT EXAMINATION BY MR. CONNER:

21 Q. OFFICER CHRISTMAS, WHERE DO YOU WORK?

22 A. FOR THE SUMTER POLICE DEPARTMENT IN THE INVESTIGATIVE
23 SERVICES DIVISION AND PROPERTY (INAUDIBLE.)

24 Q. AND DO YOU ALSO HAVE A SECOND JOB?

25 A. YES, SIR; I WORK FULL TIME FOR THE FIRE DEPARTMENT FOR

HEARING

129

1 SUMTER FIRE DEPARTMENT.

2 Q. AND HOW LONG HAVE YOU WORKED FOR THE FIRE
3 DEPARTMENT?

4 A. I'VE BEEN THERE A LITTLE OVER SEVEN YEARS.

5 Q. HOW LONG HAVE YOU WORKED WITH THE CITY?

6 A. WITH THE POLICE DEPARTMENT?

7 Q. WITH THE POLICE DEPARTMENT:

8 A. A LITTLE OVER FOUR YEARS.

9 Q. AND WERE YOU WORKING BACK ON MAY 18th, 2003?

10 A. THAT - THAT DAY I DID WORK WITH THE POLICE DEPARTMENT.
11 I HAD GOT OFF AT 5:30 IN THE AFTERNOON AND WENT TO A
12 CAPTAINS' MEETING AT THE TRAINING GROUNDS.

13 Q. AND THAT WAS A FIRE DEPARTMENT ASSIGNMENT?

14 A. YES, SIR. CAPTAINS - I VOLUNTEER FOR THE FIRE DEPARTMENT
15 AND ALSO VOLUNTEER WITH THE COUNTY. AND WE HAD A
16 CAPTAINS' MEETING THERE.

17 Q. THIS LOCATION THAT YOU WERE LOCATED AT, HOW FAR WAS IT
18 FROM

19 A. PROBABLY AROUND QUARTER OF A MILE AT MOST, WOULD
20 APPROXIMATE SOMEWHERE AROUND THERE.

21 Q. AND TELL US - OR WHAT GOT YOUR ATTENTION ABOUT WHAT
22 WAS GOING ON OVER ON CARVER STREET?

23 A. WE HAD ALREADY ADJOURNED THE MEETING AT THE CAPTAINS'
24 MEETING. WE WERE ALL STANDING OUTSIDE AND WE HEARD
25 DISTINCTLY, LIKE, TWO SHOTS GO OFF AND THEN THERE WAS

HEARING

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1 LIKE A PAUSE AND THEN WE HEARD ONE MORE SHOT GO OFF.
2 RIGHT DOWN THE STREET. SO ME AND ANOTHER OFFICER WAS
3 THERE THAT HAD JUST STARTED. WHEN WE HEARD THAT WE
4 WAS KIND OF LIKE, YOU KNOW, WHAT'S GOING ON DOWN
5 THERE.

6 Q. AND THEN - SO YOU HEARD TWO SHOTS AND THEN THERE WAS
7 A PAUSE?

8 A. YES, SIR.

9 Q. AND YOU HEARD A THIRD SHOT?

10 A. YES, SIR.

11 Q. AND THEN WHAT GOT YOU MOVING TO GO OVER THERE?

12 A. WE HEARD - WE HAD OUR RADIOS ON AND WE HEARD THEM
13 COME OVER DISPATCH, SAID THAT THERE HAD BEEN A WHICH
14 IS A SHOOTING AT CARVER STREET. I TOLD THE OTHER
15 OFFICER WHICH WAS IN TRAINING AT THE TIME, I TOLD HIM, I
16 SAID, LET'S GET IN YOUR CAR AND GO DOWN THERE. SO WE GOT
17 IN HIS CAR AND HEADED STRAIGHT DOWN TO
18 CARVER STREET.

19 Q. AND AS YOU APPROACHED CARVER STREET, WHAT DID YOU
20 SEE THERE?

21 A. AS WE APPROACHED WE CAME UP FROM THE OPPOSITE WAY
22 FROM - FROM OFFICER WISEMAN AND THE DEPUTY THAT
23 RESPONDED. WE ACTUALLY CAME IN FROM THE OTHER END
24 AND WE SAW A LADY COMING DOWN THE ROAD AND SHE SAID
25 SOME GUY'S BEEN SHOT. SHE'S HOLLERING. AND SO WE

HEARING

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1 PROCEEDED DOWN AND WE GOT THERE JUST A FEW SECONDS
2 AFTER OFFICE WISEMAN AND THE DEPUTY AND SAW THAT -
3 THE YOUNG BOY LAYING ON THE GROUND UP AGAINST THE
4 TRASH CAN, APPEARED TO HAVE BEEN SHOT IN THE HEAD. AND
5 I APPROACHED HIM FIRST AND OFFICER WISEMAN WAS
6 ALREADY WITH HIM AS I APPROACHED HIM. AND THEN I WENT
7 BACK TO WHERE THE DEPUTY WAS AT THE BACK BECAUSE
8 THEY SAID THERE WAS ANOTHER GUY THAT WAS SHOT IN THE
9 BACK, AT THE BACK END OF THE TRAILER.

10 Q. AND THAT'S WHERE - DID YOU GET THERE BEFORE WAYNE
11 DUBOSE OR AFTER WAYNE DUBOSE?

12 A. I COME UP - AS I APPROACHED THE VICTIM THAT WAS AT THE
13 BACK, DEPUTY DUBOSE WAS ALREADY GOING BACK THAT WAY.
14 HE GOT THERE JUST PRIOR TO ME AND HE APPROACHED THE
15 GUY AND ASKED, YOU KNOW, STARTED TALKING TO HIM. OF
16 COURSE, HE ASKED THE GUY, YOU KNOW, WHAT HAPPENED
17 AND HE SAID HE HAD BEEN SHOT.

18 MR. BLACKMON: YOUR HONOR, HEARSAY AS TO THE GUY THAT
19 WAS LAYING DOWN ON THE GROUND.

20 THE COURT: ALL RIGHT. I BELIEVE THE EVIDENCE STANDARD IS
21 TO THE TIME IT WAS MADE. IN MY VIEW OF THE MATTER THAT IT IS
22 WITHIN THE TIME IT WOULD BE PERMITTED AS
23 SUBJECT TO THE HEARSAY RULE UNDER , SUBPARAGRAPH TWO AND I
24 WILL ALLOW THE TESTIMONY OF EXCITED UTTERANCES. GO AHEAD,
25 MR. CONNER.

HEARING

132

1 BY MR. CONNER:

2 Q. AND DID YOU OVERHEAR HIS RESPONSE TO OFFICER DUBOSE?

3 A. YES, SIR. HE STATED HE HAD BEEN SHOT AND OFFICER DUBOSE
4 ASKED HIM WHO SHOT HIM AND HE STATED THAT TWINKIE
5 SHOT HIM.

6 Q. AND AS A RESULT OF THAT, WHAT DID YOU DO?

7 A. I -- I -- THAT'S WHEN I CALLED OVER AND GAVE A BOLO OUT, BE
8 ON THE LOOKOUT FOR TWINKIE. I WAS FAMILIAR WITH THE
9 NAME TWINKIE FROM A GUY THAT WE HAD DEALT WITH
10 BEFORE.

11 Q. AND YOU CALLED THE DISPATCH THEN --

12 A. YES, SIR.

13 Q. -- TO PUT OUT A BOLO. WHAT IS BOLO?

14 A. BE ON THE LOOKOUT FOR.

15 Q. BE ON THE LOOKOUT?

16 A. BE ON THE LOOKOUT OUT FOR TWINKIE.

17 Q. WAS A VEHICLE DESCRIPTION PROVIDED TO YOU ALSO?

18 A. RIGHT. JUST A FEW SECONDS AFTER THAT I HAD LEFT AND
19 ANOTHER LADY HAD PULLED ME OFF AND SHE TOLD ME --
20 MR. BLACKMON: MAY IT PLEASE THE COURT. SAME OBJECTION
21 AS TO WHATEVER ANOTHER LADY TOLD HIM. NOW SOME MORE
22 TIME HAS PASSED, CONTINUE TO ESTABLISH WHO THIS --
23 THE COURT: YES, SIR. YOU NEED TO ESTABLISH WHO THIS
24 INDIVIDUAL IS, MR. CONNER, SO I CAN RULE ON IT. I'M NOT SURE WHO
25 IT'S GOING TO BE, WHO'S HEARSAY IS --

HEARING

133

1 THE WITNESS: I SPOKE TO A MRS. GREEN. SHE PULLED ME TO
2 THE SIDE. THIS IS ONLY SECONDS AFTER -- AFTER HE HAD MADE THE
3 STATEMENT.

4 MR. BLACKMON: OBJECTION.

5 THE COURT: WAIT. DON'T -- DON'T SAY WHAT SHE SAID. JUST
6 TELL ME, SHE PULLED YOU TO THE SIDE AND WHAT -- TRY TO STATE
7 THE CIRCUMSTANCES AROUND THE CONVERSATION, NOT THE
8 CONVERSATION ITSELF.

9 THE WITNESS: AND TOLD ME WHO -- WHO HAD --

10 THE COURT: DON'T SAY WHO.

11 THE WITNESS: OKAY.

12 THE COURT: SHE PULLED YOU TO THE SIDE. WHAT DID SHE SAY
13 ABOUT WHERE SHE HAD BEEN AND WHAT HER RELATIONSHIP WAS TO
14 THIS?

15 THE WITNESS: SHE -- SHE STATED TO ME THAT SHE WAS OUT
16 THERE AND SHE HAD TOLD ME WHO HAD SHOT BOTH THE GUYS
17 OUTSIDE.

18 MR. BLACKMON: SHE'S NOT EVEN LISTED AS A WITNESS AND
19 HAS NOT BEEN LISTED AS A WITNESS AND IS NOT SCHEDULED TO BE
20 CALLED AS A WITNESS.

21 THE COURT: WELL, UNDER THE AVAILABILITY IS IMMATERIAL.
22 DO YOU KNOW THE NAME OF THIS WITNESS? DO YOU KNOW WHO
23 THIS WITNESS IS THAT TOLD YOU THIS?

24 THE WITNESS: MRS. GREEN.

25 THE COURT: MRS. GREEN.

HEARING

134

1 THE WITNESS: I DON'T KNOW HER FIRST NAME. WHEN ALL OF
2 THIS WAS GOING ON, I-

3 THE COURT: I'M GOING TO SUSTAIN THIS OBJECTION. I WOULD
4 THINK MRS. GREEN SHOULD BE THE WITNESS WHO WOULD TESTIFY TO
5 THIS, IF SHE SAW IT. OBJECTION'S SUSTAINED.

6 BY MR. CONNER:

7 Q. PUT ON A CALL IN AND HOW LONG IT TOOK YOU TO RESPOND?
8 DID YOU HAVE COPY OF THAT RECORD WITH YOU?

9 A. YES, SIR; I DO.

10 Q. COULD YOU REFER TO THAT AND TELL US WHAT TIME THE CALL
11 CAME OUT AND WHAT TIME YOU GOT THERE?

12 A. THIS IS A COPY OF OUR COMPUTER-AIDED DISPATCH. THE CALL
13 WAS RECEIVED AT 8:41, 59 SECONDS WHICH WOULD BE ONE
14 SECOND PRIOR TO 8:42. AND THE FIRST PERSON ON THE SCENE
15 WOULD HAVE BEEN AT 8:44:15 WHICH WOULD BE JUST A LITTLE,
16 JUST OVER TWO MINUTES.

17 Q. AND WHEN DID YOU GET THERE; DOES IT SHOW THAT?

18 A. I GOT THERE AT 8:44, 24 SECONDS.

19 Q. SO ABOUT TWO MINUTES AND 20-SOME ODD SECONDS?

20 A. YES, SIR.

21 MR. CONNER: ANSWER ANY QUESTIONS MR. BLACKMON MIGHT
22 HAVE FOR YOU, BRIAN.

23 THE COURT: CROSS-EXAMINATION, MR. BLACKMON.

24 CROSS-EXAMINATION BY MR. BLACKMON:

25 Q. I BELIEVE YOU INDICATED, OFFICER CHRISTMAS, THAT YOU

HEARING

135

- 1 HEARD AT LEAST THREE OR FOUR SHOTS COMING FROM THE
2 AREA; DIDN'T YOU?
- 3 A. YES, SIR. I HEARD THREE TO FOUR SHOTS, NO MORE THAN FOUR
4 SHOTS.
- 5 Q. DID THEY ALL SOUND LIKE THE SAME TYPE SHOTS OR WAS
6 THERE ANY DIFFERENCE TO THEM?
- 7 A. AS FAR AS - I REALLY CAN'T RECALL. I MEAN, THAT'S BEEN A
8 WHILE AGO, WHETHER IT WAS - ALL SOUNDED THE SAME OR
9 NOT.
- 10 Q. SO, YOU DON'T RECALL ANY SOUNDING LOUDER OR?
- 11 A. NO, I DON'T RECOLLECT ANY - ANY DIFFERENCE IN THE SOUND.
- 12 Q. NOW AFTER YOU HEARD THE SHOTS, YOU ACTUALLY STAYED
13 AT THE LOCATION AND LISTENED A FEW MORE MINUTES TO SEE
14 IF ANY MORE SHOTS WERE FIRED; DIDN'T YOU?
- 15 A. I REALLY CAN'T RECOLLECT HOW LONG I STAYED. I HEARD THE
16 SHOTS AND IT WAS A BRIEF PERIOD IN THERE. IT WASN'T REAL
17 LONG. AND THEN THEY CALLED OUT THERE WAS A 1075,
18 WHICH IS A SHOOTING, RIGHT DOWN THE STREET.
- 19 Q. DID YOU SIGN THE STATEMENT ON MAY 19TH, 2003?
- 20 A. YES, SIR.
- 21 Q. DID YOU INDICATE IN THAT STATEMENT, WE LISTENED A FEW
22 MORE MINUTES TO SEE IF ANY MORE SHOTS WERE FIRED
23 BEFORE WE CALLED DISPATCH?
- 24 A. YES, SIR. YES, SIR.
- 25 Q. SO WOULD THAT NOT INDICATE THAT THERE WAS SOME

HEARING

136

- 1 MINUTES HAD PASSED BEFORE DISPATCH WAS EVEN NOTIFIED?
- 2 A. IT COULD HAVE BEEN MINUTES.
- 3 Q. AND YOU NOTIFIED DISPATCH BEFORE YOU HEARD DISPATCH
- 4 NOTIFY Y'ALL?
- 5 A. NO. ACTUALLY I NEVER DID GET A CHANCE. THEY CALLED IT
- 6 OUT BEFORE - BEFORE I ACTUALLY - I WAS GOING TO CALL
- 7 DISPATCH AND THEY -
- 8 Q. YOU WERE NOT PHYSICALLY PRESENT ON THE SCENE WHEN THE
- 9 SHOOTING OCCURRED; WERE YOU?
- 10 A. NO, SIR.
- 11 Q. AND YOU DIDN'T SEE ANY VEHICLE LEAVING THE SCENE; DID
- 12 YOU?
- 13 A. NO, SIR.
- 14 Q. YOU DIDN'T FIND ANY WEAPONS ON THE SCENE; DID YOU?
- 15 A. NO, SIR.
- 16 Q. DID YOU SEE ANY BLOOD TRAIL, BLOOD SPLATTER FROM THE
- 17 STREET BACK TO WHERE YOU WENT TO LOOK AT THE BACK OF
- 18 THE HOUSE?
- 19 A. NO, SIR.
- 20 Q. DID YOU LOOK FOR ANY?
- 21 A. I DID LOOK ALL IN THAT AREA, NOT NECESSARILY AT THAT
- 22 TIME, BUT DURING THE WHOLE PERIOD WE WAS OUT THERE. WE
- 23 LOOKED IN THE WHOLE AREA.
- 24 MR. BLACKMON: NOTHING FURTHER.
- 25 THE COURT: REDIRECT?

HEARING

137

1 MR. CONNER: I HAVE NOTHING FURTHER.

2 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU MAY STEP
3 DOWN.

4 THE WITNESS: THANK YOU.

5 (WITNESS EXCUSED.)

6 MR. CONNER: CALL MR. SIMS.

7 THE COURT: COME AROUND, MR. SIMS.

8 THE CLERK: PUT YOUR LEFT HAND ON THE BIBLE, RAISE YOUR
9 RIGHT HAND. STATE YOUR NAME, PLEASE.

10 THE WITNESS: TODD ALLEN SIMS.

11 TODD ALLEN SIMS, HAVING BEEN FIRST DULY SWORN, WAS EXAMINED
12 AND TESTIFIED AS FOLLOWS:

13 THE CLERK: HAVE SEAT UP HERE PLEASE. STATE YOUR FULL
14 NAME AND SPELL YOUR LAST NAME, PLEASE.

15 THE WITNESS: TODD ALLEN SIMS S-I-M-S.

16 DIRECT EXAMINATION BY MR. CONNER:

17 Q. OFFICER SIMS, WHERE DO YOU WORK?

18 A. I WORK FOR THE CITY OF SUMTER POLICE DEPARTMENT.

19 Q. AND HOW LONG DID YOU WORK FOR THE CITY OF SUMTER
20 POLICE DEPARTMENT?

21 A. ALL TOGETHER, 13 YEARS.

22 Q. AND WHAT KIND OF WORK DO YOU DO FOR THEM?

23 A. I WORK IN THE INVESTIGATIVE SERVICE DIVISION.

24 Q. HOW LONG HAVE YOU BEEN IN THE INVESTIGATIVE SERVICES?

25 A. THIS JULY WILL BE SEVEN YEARS.

HEARING

138

1 Q. IS THAT INVESTIGATIVE SERVICE, IS THAT THE NAME Y'ALL
2 HAVE FOR THE DETECTIVE SQUAD?

3 A. THAT'S CORRECT.

4 Q. AND WERE YOU WORKING, TODD, BACK ON MAY 19TH, 2003?

5 A. YES, SIR; I WAS.

6 Q. AND DID YOU ON THAT DAY HAVE OCCASION TO RESPOND TO
7 THIS PARTICULAR CALL INVOLVING THE SHOOTING OVER AT

8
9 A. YES, SIR; I DID.

10 Q. AND AS A RESULT OF THAT INFORMATION THAT WAS BEING PUT
11 OUT OVER THE DISPATCH, WHAT DID YOU DO?

12 A. EVERYTHING THAT ALWAYS THAT WE DO WHEN WE GET
13 INFORMATION IN REGARDS TO PHYSICAL DESCRIPTION OF A
14 SUSPECT OR OF A VEHICLE, WE GET IN THE AREA AND START
15 RIDING AROUND AND LOOKING FOR ANYTHING OR ANYONE
16 THAT MIGHT MATCH THAT DESCRIPTION.

17 Q. AND WHAT WERE YOU LOOKING FOR?

18 A. AT THAT TIME I WAS LOOKING FOR A WHITE CADILLAC
19 ESCALADE DRIVEN BY A SUBJECT BY THE NAME TWINKIE.

20 Q. AND WHERE DID YOU GO?

21 A. I RODE AROUND.

22 Q. WHAT AREA WERE YOU IN?

23 A. THE WEST SIDE OF TOWN, BLANDING STREET, BARBER STREET
24 PURDY STREET AREA.

25 Q. NOW, WHEN YOU WENT OVER THERE, DID YOU FIND HIM?

HEARING

139

- 1 A. NO, SIR.
- 2 Q. AND LATER THAT NIGHT, WERE YOU INVOLVED WITH ANOTHER
- 3 OFFICER WHERE Y'ALL DID LOCATE HIM?
- 4 A. YES, SIR.
- 5 Q. AND WHERE WAS THAT AT?
- 6 A. THAT WAS AT A RESIDENCE ON SOUTH SALEM STREET.
- 7 Q. AND THAT'S OVER IN THE SAME AREA?
- 8 A. THE SAME - THE SAME EXACT AREA.
- 9 Q. AND DO YOU REMEMBER WHERE IT WAS?
- 10 A. IT WAS AT A TRAILER. I BELIEVE IT WAS A DOUBLEWIDE
- 11 TRAILER ON SOUTH SALEM STREET.
- 12 Q. DID YOU GO IN THE HOME OR DID YOU STAY OUTSIDE?
- 13 A. I STAYED OUTSIDE. I TOOK THE POSITION AS LOOKOUT,
- 14 LOOKING AT THE BACK DOOR TO MAKE SURE NO ONE CAME
- 15 OUT THE BACK DOOR.
- 16 Q. NOW IN ADDITION TO LOOKING FOR TWINKIE OR IN A WHITE
- 17 ESCALADE, DID YOU ALSO HAVE AN OCCASION TO DO A
- 18 GUNSHOT RESIDUE KIT ON CEANTE HARVIN?
- 19 A. YES, SIR; I DID.
- 20 Q. AND WHERE DID YOU DO THAT?
- 21 A. ON CARVER STREET, RIGHT IN FRONT OF
- 22 Q. I SHOW YOU THIS HERE WHICH IS MARKED AS STATE'S EXHIBIT
- 23 NUMBER 27 AND ASK YOU TO EXAMINE THAT.
- 24 A. YES, SIR. THIS IS THE ACTUAL KIT THAT WAS COLLECTED.
- 25 Q. AND YOU -

HEARING

140

1 A. ON THE FRONT OF IT, IT HAS WHO I COLLECTED IT FROM, MR.
2 CEANTE HARVIN, ALSO THE OFFICER'S NAME WHICH IS MINE,
3 TODD ALLEN SIMS, MY BADGE NUMBER AND THE AGENCY I
4 WORK FOR AND ALSO THE CASE NUMBER.

5 Q. WHEN YOU DO ONE OF THESE GUNSHOT RESIDUE KITS, WHAT
6 DO YOU DO?

7 A. IF YOU DO SEVERAL OF THEM THEY COME INTO HABIT. YOU
8 HAVE SEVERAL DIFFERENT THINGS. YOU HAVE A FLUID TYPE OF
9 SUBSTANCE YOU PUT ON THE HAND. IT'S ALSO A STICKY, IT'S A
10 BOTTLE THAT HAS STICKY SUBSTANCE ON THE BOTTOM OF IT.
11 YOU TAP AROUND THE HAND AND IT PICKS UP ANY TYPE OF
12 PARTICLES THAT MIGHT BE ON THE HAND.

13 Q. SO YOU PUT IT ON THE HANDS?

14 A. YES, SIR. YES, SIR. YOU HAVE TWO APPLICATIONS THAT YOU
15 DO ON EACH HAND OF THE SUBJECT THAT YOU'RE USING THE
16 GSR. KIT ON.

17 Q. AND THEN, DO YOU PUT THAT IN SOME TYPE OF CONTAINER?

18 A. YES, SIR. IT'S GOT A SEALED CONTAINER ON - THE LITTLE
19 STICKY THINGS HAS THEIR OWN CONTAINER. YOU SEAL IT UP
20 ALSO ALONG WITH THE Q. TIP SWABS THAT YOU DO, IT HAS A
21 SEALED CONTAINER. AT THE TIME YOU THEN PUT IT IN THIS
22 BAG HERE, SEAL IT UP WITH A EVIDENCE SEAL AND YOU DO A
23 CHAIN OF CUSTODY AND PUT IT INTO EVIDENCE.

24 MR. CONNER: OKAY. ANSWER ANY QUESTIONS OF COUNSEL.

25 THE COURT: CROSS-EXAMINATION, MR. BLACKMON.

HEARING

141

1 CROSS-EXAMINATION BY MR. BLACKMON:

2 Q. GUNSHOT RESIDUE OR SAMPLE OR PARTICLES DEGRADE AFTER
3 ABOUT SIX HOURS?

4 A. YES, SIR.

5 Q. SO THE APPEARANCE OF GUNSHOT RESIDUE WOULD INDICATE
6 NORMALLY THAT THE PERSON WHO HAD BEEN TESTED FIRED A
7 GUNSHOT WITHIN THE LAST SIX HOURS?

8 A. NOT JUST SHOOTING A HANDGUN, SIR, ALSO POSSIBLY BE
9 HANDLING ONE OR POSSIBLY BEING IN THE VICINITY OF WHERE
10 ONE HAD BEEN FIRED.

11 Q. SO THE PRESENCE OF GUNSHOT RESIDUE ITSELF WOULD NOT
12 NECESSARILY MEAN THAT A PERSON HAD FIRED A GUN?

13 A. THAT'S CORRECT.

14 Q. THAT PERSON MAY HAVE HANDLED A GUN OR BEEN IN THE
15 VICINITY OF WHERE ONE WAS FIRED?

16 A. THAT'S CORRECT.

17 Q. YOU WERE PHYSICALLY PRESENT WHEN MR. WILSON WAS
18 TAKEN INTO CUSTODY?

19 A. THAT'S CORRECT, SIR.

20 Q. HE WAS TAKEN INTO CUSTODY WITHOUT INCIDENT; WASN'T HE?

21 A. TO MY KNOWLEDGE; YES, SIR.

22 Q. HE DIDN'T GIVE ANYBODY ANY TROUBLE?

23 A. NOT MY KNOWLEDGE.

24 Q. WERE YOU PRESENT WHEN ANY GUNSHOT RESIDUE KIT WAS
25 TAKEN?

HEARING

142

1 A. NO, SIR.

2 Q. DO YOU RECALL APPROXIMATELY WHAT TIME HE WAS TAKEN
3 INTO CUSTODY?

4 A. I BELIEVE IT WAS SOMETIME AFTER MIDNIGHT, SIR.

5 Q. AT THE SAME TIME WAS HIS GIRLFRIEND TAKEN INTO CUSTODY?

6 A. AS FAR AS CUSTODY, I CANNOT SAY THAT SHE WAS IN
7 CUSTODY. I KNOW SHE WAS PRESENT, BUT I CANNOT SAY SHE
8 WAS IN CUSTODY.

9 Q. WAS ANYONE ELSE PRESENT TAKEN OUT OF THE HOUSE?

10 A. I BELIEVE THE MOTHER WAS THERE AT THE TRAILER AS WELL,
11 ALONG WITH THE FEMALE AND THE DEFENDANT.

12 Q. THEN YOU WENT TO THE ACTUAL SCENE AT
13 STREET?

14 A. YES, SIR. YES, SIR. AFTER IT ALL HAD TAKEN PLACE; YES, SIR.

15 Q. AND WOULD THAT HAVE BEEN AFTER MR. WILSON WAS TAKEN
16 INTO CUSTODY?

17 A. NO, SIR. NO, SIR. I WENT TO THE SCENE AFTER -- IN THE VICINITY
18 LOOKING FOR THE SUSPECT OR THE VEHICLE I WAS THEN ASKED
19 TO COME TO THE SCENE TO SURVEY THE AREA, TALK TO ANY
20 WITNESS, AND ALSO TO PERFORM THE GSR. KIT.

21 Q. YOU DID NOT FIND ANY BULLET OR EVIDENCE, EVIDENCE,
22 PROJECTILE OR SHELL CASINGS, OTHER THAN THE THREE
23 CASINGS AND ONE PROJECTILE THAT MR. DUGGIN HAS ALREADY
24 TESTIFIED TO?

25 A. THAT'S CORRECT. THAT'S THE ONLY ONE.

HEARING

143

1 Q. DO YOU RECALL HOW FAR AWAY YOU WERE WHEN THE
2 ORIGINAL CALL CAME IN?

3 A. I WAS AT THE LAW ENFORCEMENT CENTER.

4 Q. SO YOU DIDN'T RESPOND DIRECTLY THERE?

5 A. NO, SIR.

6 MR. BLACKMON: NOTHING FURTHER OF THIS WITNESS, YOUR
7 HONOR.

8 THE COURT: REDIRECT?

9 MR. CONNER: I HAVE NO OTHER QUESTIONS.

10 THE COURT: ALL RIGHT. THANK YOU, MR. SIMS.

11 THE WITNESS: THANK YOU, SIR.

12 THE COURT: YOU MAY STEP DOWN.

13 (WITNESS EXCUSED.)

14 (OFF THE RECORD DISCUSSION.)

15 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, AFTER
16 CONFERRING WITH COUNSEL, IT APPEARS THAT THIS IS GOOD TIME
17 FOR US TO RECESS FOR THE AFTERNOON. SO WE'LL ASK YOU TO GO
18 BACK TO YOUR HOMES AND FAMILIES AND WE WILL RESUME THE
19 TRIAL OF THIS MATTER TOMORROW MORNING AT . DURING THE
20 RECESS, DO NOT DISCUSS THIS WITH ANYBODY, ALLOW NOBODY TO
21 DISCUSS IT WITH YOU. IF ANYONE SHOULD APPROACH YOU OR TRY TO
22 TALK WITH YOU ABOUT THE CASE, GET THEIR NAME AND THEIR
23 DESCRIPTION AND REPORT IT TO US IN THE MORNING AND WE WILL
24 DEAL WITH THE MATTER AT THAT TIME. ALSO AS I TOLD YOU, DO NOT
25 LISTEN TO ANY NEWS REPORTS, READ ANY NEWSPAPER REPORTS OR

HEARING

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1 BROADCAST MEDIA ABOUT THIS MATTER. YOU'VE GOT TO DECIDE
2 THIS CASE BASED UPON WHAT YOU HEAR IN THIS COURTROOM AND
3 NOT ON THE BASIS OF ANYTHING THAT YOU MAY LEARN ON YOUR
4 OWN OUTSIDE OF THE COURTROOM. WITH THOSE ADMONITIONS
5 THEN, I'M GOING TO EXCUSE YOU NOW AND ALLOW YOU TO GO TO
6 YOUR HOMES. PLEASE BE BACK IN THE JURY ROOM TOMORROW
7 MORNING AT :. I'LL SEE YOU AT THAT TIME. HAVE A PLEASANT
8 EVENING.

9 (JURY LEAVES COURTROOM AT 5:02 P.M.)

10 THE COURT: EVERYBODY ELSE, STAY IN PLACE, PLEASE,
11 NOBODY IS EXCUSED BUT THE JURY. LET'S WAIT JUST A FEW MINUTES.
12 I WANT TO GIVE THE JURY A FEW MINUTES TO CLEAR THE BUILDING. I
13 HAVE ANOTHER MATTER, MS. WINFIELD, SCHEDULED AT : FOR
14 ANOTHER MATTER. I NEED YOU HERE FOR THAT.

15 MR. BLACKMON: MAY IT PLEASE THE COURT. I HAVE VISITED
16 WITH MR. WILSON FRIDAY AND SUNDAY IN PREPARATION FOR THE
17 TRIAL IN THIS MATTER AND DISCOVERED AT THAT TIME THAT HE WAS
18 HAVING PROBLEMS MAKING TELEPHONE CALLS AND SEEING PEOPLE.
19 APPARENTLY HE'S NOT BEEN ALLOWED TO VISIT ANYBODY SINCE HE'S
20 BEEN TRANSPORTED OVER TO LEE CORRECTION CENTER. I ASKED THE
21 WARDEN IN CHARGE OVER THE WEEKEND, I BELIEVE IT WAS A MARY
22 HUGHES, IF SHE WOULD ARRANGE FOR HIM TO MAKE SOME PHONE
23 CALLS BECAUSE I NEEDED TO TALK WITH SOME WITNESSES WHO HAD
24 NOT COME FORTH TO DISCUSS THE MATTER WITH ME. SHE ASSURED
25 ME HE WOULD BE ALLOWED TO DO THAT. I UNDERSTAND FROM HIM

HEARING

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1 NOW THAT HE MAY NOT HAVE BEEN ALLOWED TO MAKE THOSE
2 CALLS. AND SO I WOULD RESPECTFULLY ASK THAT I BE ALLOWED TO
3 CONSULT WITH HIM A FEW MINUTES WITH HIS MOTHER PRESENT, NOT
4 ANYBODY ELSE BUT HIS MOTHER WOULD BE ABLE TO GET IN TOUCH
5 WITH WITNESSES WHEN WE LEAVE THE COURTROOM TODAY.

6 THE COURT: WELL, MY POLICY IS THIS OF COURSE, IF THE — IF
7 THE — THE DEFENDANT CAN TALK WITH HIS ATTORNEY AT ANY TIME.

8 MR. BLACKMON: YES, SIR.

9 THE COURT: ANYWHERE, ANYTIME, WHETHER IT BE IN THE
10 CORRECTION FACILITIES OR WHETHER IT BE IN THE HOLDING CELL OR
11 IN THE COURTROOM. IT'S NOT MY POLICY TO ALLOW OR ORDER THE
12 CORRECTIONAL PEOPLE TO DO ANYTHING THAT DOES NOT CONFORM
13 TO THEIR RULES AND REGULATIONS. BUT IF YOU HAVE BEEN HAVING
14 DIFFICULTY IN SEEING HIM AND TALKING WITH HIM, THEN I WOULD
15 ORDER THAT THAT CEASE, OTHERWISE I CAN'T ASK THAT THEY
16 DEVIATE FROM THEIR RULES. I DON'T KNOW WHY —

17 MR. BLACKMON: WELL, APPARENTLY SHE MAY UNDERSTAND
18 SOME BETTER WHO SOME PEOPLE ARE THAT I WOULD NOT
19 UNDERSTAND, AND SO I'M NOT ASKING THE COURT TO ORDER
20 ANYBODY AT ANY CORRECTIONAL FACILITY TO DEVIATE FROM THEIR
21 STANDARDS. IF WE COULD MAYBE HAVE FIVE MINUTES HERE IN THE
22 LOCKUP CELL.

23 THE COURT: I WILL ALLOW YOU TO DO THAT, NO MORE THAN 10
24 MINUTES IN THE LOCKUP CELL BEFORE HE IS RETURNED TO CUSTODY.

25 MR. BLACKMON: ALL RIGHT. THANK YOU, SIR.

HEARING

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1 THE COURT: ALL RIGHT. WE'LL BE IN RECESS UNTIL TOMORROW
2 MORNING AT 9:30.

3 END OF DAY 5:05 P.M.

4 *****

5 ON TUESDAY, NOVEMBER 16, 2004:

6 THE COURT: ALL RIGHT. ANYTHING BEFORE WE BRING THE JURY
7 IN, MR. CONNER?

8 MR. CONNER: NOT FROM US, YOUR HONOR.

9 THE COURT: MR. BLACKMON?

10 MR. BLACKMON: NOTHING, YOUR HONOR.

11 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

12 (JURY ENTERS COURTROOM AT 9:36 A.M.)

13 THE CLERK: YOUR HONOR, ALL THE JURORS AND ALTERNATE ARE
14 PRESENT IN THE COURTROOM.

15 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, LADIES AND
16 GENTLEMEN, AND THANK YOU FOR YOUR PROMPTNESS IN BEING
17 BACK HERE AND WE ARE NOW READY TO PROCEED. DO I NEED TO ASK
18 EACH OF YOU BEFORE WE GO FORWARD IF ANYBODY HAS HAD ANY
19 CONTACT FROM ANY PERSON WHATSOEVER WITH REGARDS TO THIS
20 MATTER OR HAS READ ANYTHING IN THE NEWSPAPER, OR SEEN ANY
21 NEWS STORIES CONCERNING THIS MATTER? I WOULD NEED TO KNOW
22 ABOUT THOSE MATTERS NOW. NO RESPONSE? I SEE THERE HAS BEEN
23 NONE AND WE ARE READY TO GO FORWARD. THANK YOU. MR.
24 CONNER, YOU MAY CALL YOUR NEXT WITNESS.

25 MR. CONNER: CALL CHRISTOPHER MOORE, YOUR HONOR.

HEARING

147

1 THE COURT: ALL RIGHT. COME AROUND, PLEASE.

2 THE CLERK: PUT YOUR LEFT HAND ON THE BIBLE, RAISE YOUR
3 RIGHT HAND. STATE YOUR FULL NAME, PLEASE.

4 THE WITNESS: CHRISTOPHER SHANE MOORE.

5 CHRISTOPHER SHANE MOORE, HAVING BEEN FIRST DULY SWORN,
6 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

7 THE CLERK: HAVE A SEAT OVER HERE, PLEASE. STATE YOU'RE
8 YOUR FULL NAME, PLEASE. SPELL YOUR LAST NAME PLEASE.

9 THE WITNESS: CHRISTOPHER SHANE MOORE, —O-O-R-E.

10 DIRECT EXAMINATION BY MR. CONNER:

11 Q. MR. MOORE, WHERE ARE YOU EMPLOYED?

12 A. SUMTER COUNTY SHERIFF'S DEPARTMENT.

13 Q. AND HOW LONG HAVE YOU WORKED FOR THE SUMTER COUNTY
14 SHERIFF?

15 A. SINCE JUNE OF THIS YEAR.

16 Q. AND PRIOR TO THAT, WHERE DID YOU WORK?

17 A. FOR THE SUMTER CITY POLICE DEPARTMENT.

18 Q. AND HOW LONG HAVE YOU BEEN A LAW ENFORCEMENT
19 OFFICER?

20 A. ABOUT TWO AND A HALF YEARS.

21 Q. AND WERE YOU WORKING ON MAY 19TH OF 2003?

22 A. YES, I WAS.

23 Q. AND IN THAT REGARD, DID YOU GET A CALL TO RESPOND TO
24

25 A. YES, I DID.

HEARING

148

1 Q. -- IN THE CASE THAT WE'RE TRYING NOW?

2 A. YES, SIR.

3 Q. WHERE WERE YOU GOT THIS CALL, OFFICER?

4 A. I WAS AT SOUTH SUMTER AND WILLIAMS STREET, PARKED NEXT
5 TO ANOTHER OFFICER.

6 Q. AND, WHO WAS THE OTHER OFFICER?

7 A. PATROLMAN DARREN WISEMAN.

8 Q. AND AFTER THIS CALL CAME OVER THE DISPATCH, WHAT DID
9 YOU DO?

10 A. WE IMMEDIATELY PULLED OFF. WISEMAN WAS IN FRONT OF ME.
11 WE WENT DOWN ATLANTIC AND WENT DOWN -- DOWN MANNING
12 STREET AND CAME OUT ON GUIGNARD. AND IT WAS ABOUT A
13 MINUTE, MINUTE AND A HALF BEFORE WE GOT TO THE SCENE
14 AT CARVER STREET.

15 Q. AND YOU FOLLOWED WISEMAN?

16 A. I FOLLOWED WISEMAN.

17 Q. AND HOW FAR AHEAD OF YOU WAS HE WHEN YOU GOT THERE?

18 A. THERE WAS -- DUE TO THE TRAFFIC AND TRAFFIC LIGHTS HE GOT
19 A LITTLE BIT -- A LITTLE BIT OF DISTANCE BETWEEN ME AND
20 HIM, COUPLE CAR LENGTHS.

21 Q. BUT YOU FOLLOWED; RIGHT?

22 A. YES, SIR.

23 Q. AND WHEN YOU GOT THERE, WHAT DID YOU SEE?

24 A. WELL, WHEN I FIRST GOT THERE THERE WAS ALREADY TWO
25 OFFICERS THERE. I SAW A YOUNG BLACK MALE. IT LOOKED

HEARING

149

1 LIKE HE WAS SITTING DOWN, LEANING UP AGAINST A TRASH
2 CAN. AND HE HAD BLOOD COMING FROM - LOOKED LIKE HIS
3 HEAD.

4 Q. AND WHO ATTENDED TO HIM?

5 A. WAYNE DUBOSE WITH THE SHERIFF'S DEPARTMENT. WISEMAN
6 WITH THE POLICE DEPARTMENT ATTENDED TO THE FIRST
7 VICTIM.

8 Q. THERE WAS ANOTHER VICTIM?

9 A. RIGHT.

10 Q. AND WHERE WAS HE?

11 A. HE WAS BACK, BACK IN THE YARD A LITTLE FURTHER NEAR THE
12 TRAILERS. AND WAYNE DUBOSE WENT AND TENDED TO HIM
13 AND I WENT WITH WAYNE AT THE TIME AS A SECURITY-TYPE
14 THING FOR OFFICER SAFETY.

15 Q. AND WAS THERE ANY CIVILIAN THERE TO TALK TO YOU?

16 A. THERE WAS PEOPLE AROUND. AFTER DUBOSE AND THE
17 SHERIFF'S DEPARTMENT STARTED TENDING TO THE VICTIM, I
18 IMMEDIATELY STARTED TRYING TO GET PEOPLE OUT OF WHAT
19 WE COULD ESTABLISH AS A CRIME SCENE. THERE WAS PEOPLE
20 AROUND AND STUFF. I COULDN'T TELL YOU HOW MANY, BUT
21 THERE WAS PEOPLE AROUND.

22 Q. BUT YOU MOVED THOSE PEOPLE OUT?

23 A. THAT'S WHAT I STARTED DOING.

24 Q. AND - AND THEN WERE YOU APPROACHED BY A WOMAN THAT
25 SAID ANYTHING TO YOU

HEARING

150

1 A. AN UNKNOWN WOMAN. I DIDN'T HAVE A CHANCE TO GET HER
2 NAME OR ANYTHING BUT SHE TOLD US THAT --

3 MR. BLACKMON: OBJECT TO ANYTHING AN UNKNOWN WOMAN
4 MIGHT HAVE SAID, YOUR HONOR.

5 THE COURT: ALL RIGHT. MR. CONNER, LET ME HEAR FROM YOU
6 WITH REGARD TO THAT.

7 MR. CONNER: WELL, YOUR HONOR, HE ARRIVED WITH MR.
8 WISEMAN. AND ALSO HE INDICATES THAT DUBOSE WAS THERE AND I
9 BELIEVE THE STATEMENTS FROM THIS WOMAN WHO HAS -- HAS
10 ALREADY COME IN IN THIS CASE.

11 THE COURT: NO, SIR. I DON'T BELIEVE IT HAS. MY
12 RECOLLECTION IS THAT I SUSTAINED THE OBJECTION YESTERDAY
13 WHEN THIS QUESTION WAS ASKED. IT WAS JUST ASKED OF ONE
14 WITNESS YESTERDAY AND I BELIEVE I SUSTAINED THE OBJECTION. I
15 DID ALLOW THE STATEMENTS THAT WAS MADE BY ONE OF THE
16 ALLEGED VICTIMS IN THIS CASE, BUT I DON'T BELIEVE
17 THAT I DID YESTERDAY, TO THE BEST OF MY RECOLLECTION -- I GUESS
18 WE BETTER TAKE UP THIS MATTER AND I'LL BE GLAD TO HEAR FROM
19 BOTH OF YOU IN DETAIL. BUT ON THE SURFACE IT DOES APPEAR TO BE
20 AN OBJECTION UNDER THE HEARSAY RULE. AND I WOULD THINK I
21 BETTER TAKE THE TESTIMONY AND FIND OUT EXACTLY WHAT WE'RE
22 TALKING ABOUT. LADIES AND GENTLEMEN OF THE JURY, I HATE TO
23 SEND YOU BACK OUT SO QUICKLY, BUT THIS IS A MATTER THAT I'M
24 GOING TO HAVE TO RULE UPON. SO I'M GOING TO ASK IF YOU WILL,
25 WHEN YOU GO TO THE JURY ROOM, PLEASE DO NOT DISCUSS THIS

HEARING

151

1 MATTER AMONG YOURSELVES. I'VE GOT TO TAKE CARE OF THIS
2 EVIDENTIARY MATTER AND I NEED TO DO THAT OUTSIDE OF YOUR
3 PRESENCE. THANK YOU
4 VERY MUCH.

5 (JURY LEAVES COURTROOM AT 9:41 AM.)

6 THE COURT: ALL RIGHT. MR. CONNER, I'LL LET YOU MAKE THE
7 PROFFER AND ASK ANY BACKGROUND QUESTIONS THAT YOU THINK IS
8 NECESSARY AND I'LL HEAR LEGAL ARGUMENTS ON THE ISSUE LATER.
9 PROFFERED EXAMINATION BY MR. CONNER:

10 Q. SIR, DID YOU SAY YOU ARRIVED AT THE SCENE WITHIN A SHORT
11 TIME AFTER THE DISPATCH CALL?

12 A. RIGHT.

13 Q. AND ABOUT HOW LONG ELAPSED BEFORE YOU GOT THERE?

14 A. IT WAS A MINUTE, MINUTE AND A HALF. I DON'T REALLY LOOK
15 AT THAT.

16 Q. AND WERE YOU RIGHT BEHIND MR. WISEMAN?

17 A. RIGHT.

18 Q. I BELIEVE YOU TESTIFIED IT WAS SOMETHING IN THE
19 NEIGHBORHOOD OF TWO MINUTES?

20 A. (NODS HEAD AFFIRMATIVELY.)

21 THE COURT: ANSWER AUDIBLY.

22 THE WITNESS: COULD HAVE BEEN.

23 THE COURT: WHAT WAS THE ANSWER?

24 THE WITNESS: IT COULD HAVE BEEN.

25 THE COURT: ALL RIGHT. ANSWER UP, PLEASE.

HEARING

152

1 THE WITNESS: OKAY.

2 BY MR. CONNER:

3 Q. THIS LADY THAT APPROACHED YOU, WAS SHE THERE IN THE
4 YARD WHEN YOU GOT THERE?

5 A. SHE WAS.

6 Q. AND SHE CAME OVER AND STARTED TALKING TO YOU?

7 A. WELL, SHE JUST WAS - WAS ALL AND OUT AND SAYING, YOU
8 NEED TO LOOK FOR A WHITE ESCALADE, CADILLAC ESCALADE.

9 Q. AND DID YOU PUT THAT IN THE LITTLE REPORT THAT YOU
10 WROTE?

11 A. YES, SIR. I DID.

12 Q. AND AS A RESULT OF THAT CONVERSATION YOU HAD WITH
13 THAT LADY, DID YOU DO ANYTHING?

14 A. I TOLD IT TO PATROLMAN WISEMAN AND HE IN TURN PUT IT OUT
15 OVER THE DISPATCH AS A BOLO, TO BE ON THE LOOKOUT.

16 Q. FOR WHAT?

17 A. FOR A WHITE CADILLAC ESCALADE?

18 MR. CONNER: THAT WOULD BE IT, YOUR HONOR.

19 THE COURT: ALL RIGHT. WHAT ABOUT THAT, MR. BLACKMON?

20 CROSS-EXAMINATION BY MR. BLACKMON:

21 Q. THIS UNKNOWN WOMAN DIDN'T GIVE YOU A NAME?

22 A. NO, SIR.

23 Q. THIS UNKNOWN WOMAN DIDN'T TELL YOU SHE OBSERVED THE
24 ACTUAL SHOOTING?

25 A. NO, SIR.

HEARING

153

1 Q. AND THIS UNKNOWN WOMAN DIDN'T TELL YOU SHE SAW WHO
2 DID IT; DID SHE?

3 A. NO, SIR.

4 Q. THIS WOMAN DIDN'T TELL YOU HOW LONG SHE'D BEEN IN THE
5 YARD?

6 A. NO, SIR.

7 Q. THIS WOMAN DIDN'T TELL YOU SHE WAS PRESENT WHEN THE
8 SHOOTING OCCURRED?

9 A. NO, SIR.

10 MR. BLACKMON: IF IT PLEASE THE COURT. WE WOULD TAKE
11 THE POSITION THAT THAT DOES NOT QUALIFY AS AN EXCITED
12 UTTERANCE AS IT DOES NOT DIRECTLY RELATE TO THE SHOOTING
13 ITSELF. THERE'S NO TESTIMONY THAT SHE WAS PRESENT AT THE
14 SHOOTING NOR IS THERE ANY TESTIMONY THAT SHE WAS AWARE OF
15 THE SHOOTING HERSELF PERSONALLY. WE DON'T KNOW WHO SHE IS.
16 WE DON'T KNOW IF SOMEONE ELSE TOLD HER SOMETHING. THAT
17 WOULD MAKE IT DOUBLE HEARSAY. I BELIEVE IT CLEARLY DOES NOT
18 FALL WITHIN - AS AN EXCITED UTTERANCE AND THEREFORE WE MOVE
19 THAT IT NOT BE ALLOWED.

20 THE COURT: WELL, I DISAGREE, MR. BLACKMON, FOR TWO
21 REASONS. FIRST OF ALL, I HAD THOUGHT THAT THE TESTIMONY THAT
22 WAS GOING TO BE PROFFERED BY THIS WITNESS WAS AN
23 IDENTIFICATION OF THE DEFENDANT WHICH WAS NOT TESTIFIED TO
24 BY ANYONE YESTERDAY AS FAR AS COMING FROM THIS LADY.
25 HOWEVER, THERE WAS TESTIMONY OF THE OTHER OFFICER AS

HEARING

154

1 TESTIFIED IN THIS CASE REGARDING INFORMATION THAT DEVELOPED
2 ABOUT A WHITE ESCALADE. THAT IS ALREADY IN EVIDENCE AND I
3 BELIEVE WAS IN EVIDENCE WITHOUT OBJECTION. BUT BE THAT AS IT
4 MAY, WHETHER IT'S WITHOUT OBJECTION OR WITH OBJECTION, I
5 THINK THAT THIS STILL QUALIFIES UNDER THE EXCEPTION TO THE
6 HEARSAY RULE UNDER 803-2, AS THE INFORMATION THAT WAS SAID IN
7 THE HEAT OF THE MOMENT, WITHIN A FEW MINUTES AFTER THIS
8 SHOOTING OCCURRED AND OF COURSE UNDER 803 THE AVAILABILITY
9 OF THE DECLARANT IS IMMATERIAL IF IT IS ONE OF THE EXCEPTIONS.
10 AND WHAT SHE'S GOING TO - WHAT HE'S GOING TO TESTIFY TO IS THE
11 STATEMENTS MADE BY THIS INDIVIDUAL TO LOOK OUT FOR A WHITE
12 ESCALADE WITHOUT IDENTIFYING THE DEFENDANT IN PARTICULAR. I
13 BELIEVE THAT EVIDENCE IS ALREADY IN THE RECORD. I THINK THAT
14 ALSO IT IS RELEVANT UNDER THE RELEVANCY SECTIONS IN THE - OF
15 THE RULES OF EVIDENCE, AND I THINK THAT THE PROBATIVE VALUE
16 OUTWEIGHS THE PREJUDICIAL EFFECTS. SO I DON'T THINK IT'S
17 OBJECTIONABLE FROM A RELEVANCY STANDPOINT. I THINK IT IS
18 HEARSAY BUT I THINK IT DOES FALL WITHIN ONE OF THE EXCEPTIONS
19 TO THE HEARSAY RULE. AND I WILL ALLOW THE TESTIMONY.

20 MR. BLACKMON: JUST FOR THE RECORD, YOUR HONOR, IF ALL
21 THE TESTIMONY IS THAT SHE WAS HOLLERING OUT WHITE ESCALADE,
22 WE'D ALSO TAKE THE POSITION THAT THE FACT THAT THERE'S A
23 WHITE ESCALADE ON THE STREET IS CERTAINLY NOT THE STARTING
24 EVENT OR CONDITION. IT'S JUST TRAFFIC ON THE ROAD.

25 THE COURT: WELL, WHAT SHE'S SAYING THAT STARTED THE

HEARING

155

1 EVENT, THAT'S NOT THE STARTING EVENT. THE STARTING EVENT
2 UNDER - IS THE SHOOTING THAT TOOK PLACE AND INFORMATION
3 THAT SHE SAID OR THE STATEMENTS THAT SHE MADE ARE WHAT IS
4 BEING ADMISSIBLE AND THE RELEVANCY OF THOSE STATEMENTS IS
5 GOING TO BE CONNECTED UP BY THE STATE AND HAS ALREADY BEEN
6 CONNECTED UP BY THE STATE THAT THEY'RE LOOKING FOR A WHITE
7 ESCALADE. IF IT TURNS OUT THAT THAT WHITE ESCALADE HAS
8 NOTHING TO DO WITH THE FACTS OF THIS CASE, ONCE ALL THE
9 EVIDENCE IS IN, THEN, OF COURSE YOU CAN MOVE TO HAVE IT
10 STRICKEN. BUT I THINK MR. CONNER DOES HAVE THE RIGHT TO TRY
11 TO CONNECT THE - MAKE THE RELEVANCY TO THE WHITE ESCALADE
12 OR THE STATEMENT ABOUT THE WHITE ESCALADE TO THIS
13 DEFENDANT. HE HAS THE RIGHT TO MAKE THAT CONNECTION EITHER
14 NOW OR LATER ON.

15 MR. BLACKMON: VERY WELL, SIR.

16 THE COURT: ALL RIGHT, SIR.

17 MR. CONNER: MAY IT PLEASE THE COURT. SEQUESTER THE
18 WITNESSES AS THEY COME INTO THE COURTROOM.

19 THE COURT: ALL RIGHT SIR. WE'LL TAKE CARE OF THAT, ALSO.
20 MR. BLACKMON, ALSO MAKE SURE THAT NO WITNESSES ARE PRESENT.

21 MR. BLACKMON: YES, YOUR HONOR.

22 (PAUSE.)

23 THE COURT: ALL RIGHT. READY TO PROCEED MR. CONNER?

24 MR. CONNER: WE'RE READY.

25 THE COURT: BRING THE JURY IN PLEASE, BAILIFF. THE RECORD

HEARING

156

1 IS PROTECTED, MR. BLACKMON. YOU NEED NOT MAKE ANY FURTHER
2 OBJECTION ON THIS POINT.

3 MR. BLACKMON: THANK YOU, SIR.

4 (JURY RETURNS TO COURTROOM AT 9:48 AM.)

5 THE BAILIFF: YOUR HONOR, ALL THE JURORS ARE PRESENT AND
6 ACCOUNTED FOR.

7 THE COURT: ALL RIGHT. MR. CONNER, YOU MAY PROCEED.

8 DIRECT EXAMINATION - (CONTINUED) BY MR. CONNER:

9 Q. NOW, OFFICER MOORE, WHEN YOU ARRIVED THERE WHILE
10 WISEMAN AND DUBOSE WAS THERE A WOMAN THERE IN THE
11 YARD THAT APPROACHED Y'ALL?

12 A. THERE WAS.

13 Q. DID THIS WOMAN SAY ANYTHING TO YOU ABOUT A VEHICLE?

14 A. SHE WAS YELLING OUT THAT WE NEEDED TO LOOK FOR A WHITE
15 ESCALADE.

16 Q. AND -

17 A. A WHITE CADILLAC ESCALADE.

18 Q. WHITE CADILLAC ESCALADE?

19 A. YES, SIR.

20 Q. AND WHAT DID YOU DO AS A RESULT OF THAT INFORMATION?

21 A. I RELAYED THAT INFORMATION TO PATROLMAN WISEMAN WHO
22 IN TURN PUT IT - IT OUT OVER A PD DISPATCH AS BOLO, BE ON
23 THE LOOKOUT FOR A WHITE CADILLAC ESCALADE.

24 MR. CONNER: I HAVE NO FURTHER QUESTIONS. ANSWER ANY
25 QUESTIONS MR. BLACKMON MIGHT HAVE FOR YOU.

HEARING

157

1 THE COURT: ALL RIGHT. MR. BLACKMON, CROSS-
2 EXAMINATION?

3 CROSS-EXAMINATION BY MR. BLACKMON:

4 Q. OFFICER, WHAT WAS YOUR OFFICER'S NUMBER AT THE TIME?

5 A. EXCUSE ME.

6 Q. YOU WOULDN'T HAVE HAD A OFFICER NUMBER WITH THE
7 POLICE DEPARTMENT AT THAT TIME? LET ME SHOW YOU - MAY
8 I APPROACH, YOUR HONOR?

9 THE COURT: YES, SIR.

10 Q. LET ME SHOW YOU WHAT I BELIEVE IS PART OF A CAD
11 OPERATIONS FORM.

12 A. YES, SIR.

13 Q. I THINK SEVERAL OTHER OFFICERS HAVE TESTIFIED TO THAT SO
14 FAR. WOULD YOU LOOK AT THAT AND TELL ME WHEN THAT
15 INDICATES YOU ARRIVED ON THE SCENE, IF IT INDICATES THAT?

16 A. 8:45 P.M.

17 Q. 8:45?

18 A. 8:44.

19 Q. HOW MANY OFFICERS RESPONDED TO THE SCENE BEFORE YOU
20 ARRIVED ACCORDING TO THAT?

21 A. THE - ACCORDING TO THIS IT SAYS WISEMAN AND MYSELF
22 ARRIVED AT 8:44.

23 Q. DID ANYONE ELSE ARRIVE BEFORE THAT?

24 A. ACCORDING TO THE CAD SYSTEM, NO.

25 Q. SO CORPORAL DUBOSE WASN'T THERE WHEN YOU ARRIVED?

HEARING

158

- 1 A. HE WAS THERE AT THE TIME WHEN I ARRIVED, BUT, HE WORKS
2 FOR THE COUNTY. SO WITH HIM BEING IN THE CITY ANSWERING
3 A CALL, HE DIDN'T NECESSARILY SIGN DOWN IMMEDIATELY HIS
4 ARRIVAL AT THE SCENE. I BELIEVE HIS NUMBER WAS 138.
- 5 Q. WHEN YOU ARRIVED YOU PARKED YOUR VEHICLE WHERE?
- 6 A. RIGHT NEAR THE TRASH - RIGHT NEAR THE TRASH CAN WHERE -
7 - RIGHT BEHIND - I BELIEVE I WAS BEHIND DUBOSE, DUBOSE'S
8 CAR.
- 9 Q. AND YOU SAW THE YOUNG MAN LEANING UP AGAINST THE
10 TRASHCAN?
- 11 A. YES, SIR.
- 12 Q. HOW MANY TRASH CANS DID YOU SEE THERE AT THAT TIME?
- 13 A. I DON'T RECALL HOW MANY THERE WERE THERE.
- 14 Q. THE TRASH CAN?
- 15 A. I KNOW THERE WAS AT LEAST ONE, THE ONE HE WAS LEANING
16 UP AGAINST, BUT I DON'T REMEMBER ANY OTHER ONES.
- 17 Q. THE ONE THAT HE WAS LEANING UP AGAINST, WAS IT UPRIGHT
18 OR LAYING FLAT?
- 19 A. AS I REMEMBER IT WAS UP, UPRIGHT.
- 20 Q. NOW THE WOMAN THAT MADE THIS STATEMENT TO LOOK OUT
21 FOR A WHITE CADILLAC, DID SHE GIVE YOU HER NAME?
- 22 A. NO, SIR.
- 23 Q. DID YOU INTERVIEW HER LATER?
- 24 A. NO, SIR.
- 25 Q. DID YOU ASK ANY OF THE OFFICERS THERE TO INTERVIEW HER

HEARING

159

- 1 LATER?
- 2 A. NO, SIR; I DID NOT.
- 3 Q. SHE DIDN'T TELL YOU SHE SAW THE SHOOTING ITSELF, DID SHE?
- 4 A. NO, SIR.
- 5 Q. SHE DIDN'T TELL YOU SHE SAW ANYBODY GET IN A WHITE
- 6 CADILLAC ESCALADE?
- 7 A. NO, SIR.
- 8 Q. SHE DIDN'T GIVE YOU ANY REASON WHY SHE TOLD YOU TO
- 9 LOOK OUT FOR A WHITE ESCALADE?
- 10 A. NO, SIR.
- 11 Q. DO YOU KNOW HOW OLD SHE WAS?
- 12 A. I DON'T EVEN RECALL THAT.
- 13 Q. HOW WAS SHE DRESSED?
- 14 A. I DON'T RECALL THAT.
- 15 Q. WHERE WAS SHE WHEN YOU FIRST SAW HER?
- 16 A. IN THE YARD NEAR THE BACK WHERE THE VICTIM, THE SECOND
- 17 VICTIM WAS.
- 18 Q. SO YOU ORIGINALLY WENT TOWARDS THE BACK OF THE YARD
- 19 WHERE THE SECOND VICTIM WAS?
- 20 A. RIGHT. WITH DUBOSE.
- 21 Q. AND YOU REMAINED THERE FOR HOW LONG?
- 22 A. I DON'T RECALL HOW LONG I WAS THERE. AS SOON AS DUBOSE
- 23 STARTED TENDING TO THE VICTIM THAT'S WHEN I BEGAN
- 24 MOVING PEOPLE OUT OF WHAT WE BELIEVED TO BE THE CRIME
- 25 SCENE.

HEARING

160

- 1 Q. SO YOU WERE THERE UNTIL HE BEGAN TRYING TO MEDICALLY
2 TEND TO THE VICTIM?
- 3 A. RIGHT, RIGHT.
- 4 Q. WERE YOU THERE WHEN THE AMBULANCE FOLKS ARRIVED?
- 5 A. YES, I WAS.
- 6 Q. WERE YOU STILL NEAR THAT SECOND VICTIM?
- 7 A. UH, I DON'T RECALL WHERE I WAS AT WHEN THE AMBULANCE
8 ARRIVED.
- 9 Q. DID YOU REMAIN ON THE SCENE?
- 10 A. I DID.
- 11 Q. AND DID YOU PARTICIPATE IN THE INVESTIGATION?
- 12 A. NO, I DIDN'T. I WAS PART OF THE PERIMETER, HOLDING PEOPLE
13 OUT OF THE CRIME SCENE. AFTER OTHER UNITS ARRIVED, I WAS
14 INSTRUCTED BY THE SUPERVISOR TO GO DOWN CARVER STREET
15 A LITTLE WAYS TOWARDS GUIGNARD AND BLOCK THE ROAD
16 AND NOT LET ANYBODY IN.
- 17 Q. DID YOU CONTINUE TO MAINTAIN THAT PERIMETER?
- 18 A. I DID.
- 19 Q. AND DO YOU RECALL WHETHER YOU WERE ONE OF THE LAST
20 FOLKS TO LEAVE THE AREA OR NOT?
- 21 A. I WAS ONE OF THE LAST ONES TO LEAVE.
- 22 Q. ABOUT WHAT TIME WOULD YOU SAY YOU LEFT?
- 23 A. I DON'T EVEN RECALL HOW LONG WE WERE OUT THERE.
- 24 Q. WAS IT STILL DARK?
- 25 A. YES.

HEARING

161

1 Q. WOULD THE CAD REPORT INDICATE WHEN ANY OF Y'ALL LEFT
2 THE SCENE?

3 A. I BELIEVE SO; YES, SIR.

4 Q. HOW WOULD IT INDICATE Y'ALL LEFT THE SCENE?

5 A. I'D HAVE TO LOOK AT IT TO TELL YOU. I BELIEVE IT'S THIS ONE.

6 Q. WOULD YOU TELL THE JURY WHAT THAT ONE IS?

7 A. IT SAYS THAT I LEFT AT :.

8 Q. DID ANY -

9 A. ALONG WITH - I DON'T RECALL WHO SOME OF THE NUMBERS
10 ARE BUT IT'S NUMEROUS DETECTIVES.

11 Q. SO THE LAST DETECTIVES THAT LEFT THE SCENE THAT NIGHT
12 LEFT WHAT TIME?

13 A. ACCORDING TO THE CAD, IT WOULD BE :.

14 Q. DID YOU GO BACK TO THE SCENE THE FOLLOWING MORNING?

15 A. NO, SIR; I DID NOT.

16 Q. AND TO THE BEST OF YOUR KNOWLEDGE, THE SCENE REMAINED
17 UNSECURED FROM : AT NIGHT UNTIL WHOEVER WENT BACK THE
18 FOLLOWING MORNING?

19 A. TO MY KNOWLEDGE; YES, SIR.

20 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

21 THE COURT: REDIRECT, MR. CONNER?

22 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR. I
23 WOULD ASK THAT HE BE EXCUSED.

24 THE COURT: ANY OBJECTION?

25 MR. BLACKMON: NO OBJECTION

HEARING

162

1 THE COURT: ALL RIGHT. MR. MOORE, THANK YOU FOR COMING.
2 YOU ARE EXCUSED.

3 THE WITNESS: THANK YOU.
4 (WITNESS EXCUSED.)

5 MR. CONNER: YOUR HONOR, AT THIS TIME I'M GOING TO CALL
6 RUSSELL BRANNON.

7 THE COURT: ALL RIGHT. MR. BRANNON, COME AROUND,
8 PLEASE.

9 THE CLERK: RAISE YOUR RIGHT HAND. STATE YOUR NAME,
10 PLEASE.

11 THE WITNESS: RUSSELL SCOTT BRANNON.

12 RUSSELL SCOTT BRANNON, HAVING BEEN FIRST DULY SWORN, WAS
13 EXAMINED AND TESTIFIED AS FOLLOWS:

14 THE CLERK: HAVE A SEAT OVER HERE. PLEASE STATE YOUR
15 FULL NAME AND SPELL YOUR LAST NAME.

16 THE WITNESS: RUSSELL SCOTT BRANNON, B-R-A-N-N-O-N.
17 DIRECT EXAMINATION BY MR. CONNER:

18 Q. OFFICER BRANNON, WHERE DO YOU WORK?

19 A. CITY OF SUMTER POLICE DEPARTMENT, SIR.

20 Q. HOW LONG HAVE YOU WORKED FOR THE CITY OF SUMTER?

21 A. APPROXIMATELY NINE AND A HALF YEARS.

22 Q. AND WHAT KIND OF DUTIES DO YOU HAVE AT THE PRESENT
23 TIME?

24 A. CURRENTLY I'M A SERGEANT ASSIGNED TO D. SHIFT ON PATROL.

25 Q. THAT'S A PATROL SHIFT.?

HEARING

163

1 A. YES, SIR.

2 Q. NOW BACK ON MAY THE 19TH OF 2003, WHAT WERE YOU DOING
3 THEN?

4 A. I WAS ASSIGNED TO THE VIOLENT CRIMES UNIT AS A DETECTIVE.

5 Q. AND IS THAT THE RESPONSIBILITY THAT YOU HAD BECOME
6 INVOLVED IN THE INVESTIGATION OF THIS CASE THAT
7 HAPPENED AT ?

8 A. YES, SIR. I WAS ASSIGNED THE CASE.

9 Q. AND DID YOU GO AROUND THERE THAT NIGHT?

10 A. YES, SIR; I DID.

11 Q. DID YOU GO TO THE SCENE INITIALLY OR DID YOU GO
12 SOMEWHERE ELSE?

13 A. NO, SIR. MY INITIAL RESPONSE WAS I HEARD WHAT THE
14 OFFICERS HAD WAS - I RESPONDED TO THE EMERGENCY ROOM
15 TO MEET WITH THE VICTIMS. I DIDN'T KNOW WHAT THE STATUS
16 WAS OF THEM AT THE TIME. UPON MY ARRIVAL THERE WE MET
17 WITH
18 THE DOCTORS. I LEARNED THAT WE HAD ONE THAT WAS IN
19 CRITICAL, AT THE TIME, WAS STABLE CONDITION I BELIEVE.
20 AND THE SECOND WAS - THEY DETERMINED HE WAS
21 AMBULATORY. HE WAS UP WALKING AROUND HIM. HE HAD A
22 GUNSHOT WOUND TO
23 THE LEG.

24 Q. DID YOU DETERMINE WHAT KIND OF WOUNDS THESE
25 INDIVIDUALS HAD?

HEARING

164

1 A. YES, SIR. THE FIRST INDIVIDUAL WHICH IS THE MOST SEVERE IS
2 THE DECEASED, MR. FOSTER. HE HAD A SUSTAINED GUNSHOT
3 WOUND TO THE HEAD. HE WAS ON LIFE SUPPORT AT THE TIME.
4 THE DOCTORS' IMMEDIATE PROGNOSIS FOR HIM WAS -
5 THEY BELIEVED THAT HE WOULD BE DECEASED WITHIN THE
6 NEXT FEW HOURS. THEIR PLANS WERE TO TRY TO GET HIM TO A
7 MORE QUALIFIED TRAUMA CENTER. SECOND INDIVIDUAL WHO
8 WAS -

9 Q. WHERE WAS MORE QUALIFIED?

10 A. I BELIEVE IT WAS GOING BE PALMETTO RICHLAND.

11 Q. COLUMBIA?

12 A. YES, SIR.

13 Q. DID YOU GET A SAMPLE OF BLOOD FROM HIM?

14 A. YES, SIR. HE WAS STILL - I TALKED WITH THE NURSES AND
15 WHEN I LEARNED OF HIS CONDITION I WENT AHEAD AND
16 REQUESTED THAT WE GET WHAT WE CALL A GRAY TOP WHICH
17 IS A SMALL VIAL OF THE VICTIM'S BLOOD BECAUSE THAT WAS
18 OUR ONLY OPPORTUNITY AT THAT TIME TO GET ANYTHING FOR
19 ANY FUTURE USE.

20 Q. AND DID YOU SUBMIT THAT TO THE EVIDENCE ROOM?

21 A. YES, SIR. I SURE DID.

22 Q. NOW, HOW ABOUT THE OTHER YOUNG MAN THAT WAS INJURED,
23 DID YOU DISCOVER OR TALK TO HIM?

24 A. YES, SIR; I DID. I IDENTIFIED MYSELF AS A DETECTIVE OF THE
25 SUMTER POLICE DEPARTMENT. HIS NAME IS HERBERT LINWOOD

HEARING

165

- 1 BUTLER.
- 2 Q. THAT IS THIS GENTLEMAN SEATED RIGHT HERE, HIM WEARING
- 3 THE JACKET?
- 4 A. YES, SIR. IT IS.
- 5 Q. AND DID YOU DETERMINE WHAT KIND OF WOUND HE HAD?
- 6 A. YES, SIR. BY LOOKING AT HIM HE WAS LAYING PRONE ON A
- 7 STRETCHER. HE WAS ALREADY BEING TREATED. I LOOKED AT
- 8 IT AND HE APPEARED HE HAD AN IN-AND-OUT WOUND ON HIS
- 9 LEFT LEG NEAR HIS GROIN.
- 10 Q. THE BULLET HIT HIM WHERE?
- 11 A. IT APPEARED THAT THE BULLET ENTERED ON THE LEFT SIDE OF
- 12 HIS LEG AND THEN EXITED OUT CLOSEST TO THE GROIN AREA.
- 13 Q. AND THAT WAS THE LEFT LEG?
- 14 A. YES, SIR.
- 15 Q. AND THE BULLET WAS NO LONGER IN HIM?
- 16 A. NO, SIR, ACCORDING TO THE DOCTORS AT THE TIME.
- 17 Q. NOW - NOW AFTER LEAVING THE HOSPITAL DID YOU GO
- 18 ANYWHERE?
- 19 A. YES, SIR; I DID. I CALLED BACK DOWN TO THE SCENE, SEE IF
- 20 THEY NEEDED ME ANY OTHER LOCATION BEFORE I CAME BACK
- 21 DOWN TO THEM. AND THEY DIDN'T SO I HEADED BACK TO THE
- 22 SCENE.
- 23 Q. AND DID YOU BECOME INVOLVED IN LOOKING FOR A VEHICLE
- 24 AT THAT TIME?
- 25 A. YES, SIR; I DID.

HEARING

166

1 Q. TELL US ABOUT THAT.

2 A. THE INITIAL REPORTS WHEN I HEARD THE CALL GO OUT AND
3 THE SHOTS FIRED OR THE PERSON SHOT ON THE CAR -- EXCUSE
4 ME, ON CARVER STREET INDICATED THAT THE WHITE CADILLAC
5 ESCALADE MAY HAVE BEEN INVOLVED. THE NAME TWINKIE
6 CAME OUT. I RESPONDED TO THE EMERGENCY ROOM. I DID
7 WHAT I HAD TO DO AS FAR AS NOTATION AND WHATNOT THERE
8 AND ON MY WAY BACK I -- I RODE BACK DOWN SOUTH PURDY
9 STREET AND EDWARD STREET AREA WHERE THAT WHITE
10 CADILLAC ESCALADE IS KNOWN TO HANG OUT AND HEADED
11 BACK OVER TO THE SCENE TO SEE WHAT I NEEDED TO BE DOING
12 THERE.

13 Q. WHERE YOU LOOKING FOR A WHITE ESCALADE?

14 A. YES, SIR. I SURE WAS.

15 Q. WERE YOU ALSO LOOKING FOR A SUBJECT BY THE NAME OF
16 TWINKIE?

17 A. YES, SIR; I WAS.

18 Q. DO YOU KNOW WHETHER HAROLD WILSON GOES BY THE
19 NICKNAME TWINKIE?

20 A. YES, SIR; I DO.

21 Q. AND LATER THAT NIGHT, DID YOU FIND MR. WILSON?

22 A. YES, SIR. WE LOCATED MR. WILSON AT
23 WHICH IS APPROXIMATELY TWO BLOCKS, THREE BLOCKS AWAY
24 FROM THE ACTUAL CRIME SCENE AND A BLOCK AWAY FROM
25 HIS RESIDENCE.

HEARING

167

1 Q. AND, DID YOU ARREST HIM?

2 A. YES, SIR WE DID. WE MADE CONTACT WITH THE INDIVIDUALS
3 LOCATED INSIDE THE RESIDENCE ASKED ALL INDIVIDUALS TO
4 STEP OUT. WE DID MAKE ENTRY WITH AN ENTRY TEAM INTO
5 THE RESIDENCE, LOCATED MR. WILSON AND HIS GIRLFRIEND
6 ASLEEP IN THE BED AT WHICH TIME THEY WERE TAKEN INTO
7 CUSTODY.

8 Q. AND DID THEY HAVE ANY COVERS ON THEM?

9 A. YES, SIR. THEY WERE COVERED UP IN THE BED SLEEPING.

10 Q. NOW THERE'S BEEN A LOT OF DISCUSSION THROUGHOUT THIS
11 CASE ABOUT THIS, THIS CAD RECORD. I'D ASK YOU TO IDENTIFY
12 THAT?

13 A. YES, SIR. IT IS WHAT WE CALLED A CAD REPORT WHICH IS
14 SHORT FOR THE COMPUTER-AIDED DISPATCH FORM THAT IS
15 GENERATED EACH AND EVERY TIME A OFFICER IS ASSIGNED TO
16 A CALL.

17 Q. DOES IT SHOW THE TIME THAT THE DISPATCH CALL WAS
18 RECEIVED BY DISPATCH?

19 A. THE 911 PHONE CALL?

20 Q. YEAH.

21 A. YES, SIR. IT WAS RECEIVED ON MAY 19TH, 2003 AT EXACTLY 20:41
22 HOURS AND 59 SECONDS.

23 Q. AND DOES IT SHOW WHAT TIME THE DISPATCHER PUT THE
24 MESSAGE OUT ON THE AIR?

25 A. YES, SIR; 12 SECONDS LATER SHE'S TRANSMITTING. SHE PUT THE

HEARING

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1 INITIAL CALL INTO THE COMPUTER WITHIN THAT 12 SECONDS
2 AND IS BEING DISPATCHED AT THAT TIME.

3 Q. AND DOES IT ALSO SHOW THE TIME THAT YOUR FIRST UNIT
4 ARRIVED?

5 A. YES, SIR; IT DOES. THE FIRST UNIT WHO ACTUALLY SIGNED ON
6 THE RADIO AND SAID THAT HE WAS IN ROUTE DID SO AT 42
7 MINUTES AFTER AND 20 SECONDS. THE FIRST UNIT SIGNING
8 DOWN ON THE SCENE DID SO AT 44 MINUTES AND 15 SECONDS.
9 MR. CONNER: YOUR HONOR, WE WOULD OFFER THIS DOCUMENT
10 INTO EVIDENCE AT THIS TIME.

11 MR. BLACKMON: NO OBJECTION, YOUR HONOR.

12 THE COURT: ALL RIGHT. IT'S HOW MANY PAGES, MR. CONNER;
13 FOUR?

14 MR. CONNER: FOUR, AS I UNDERSTAND IT.

15 THE COURT: ALL RIGHT. BE ADMITTED INTO EVIDENCE AS
16 STATE'S EXHIBIT NUMBER 30 WITHOUT OBJECTION, FOUR PAGES,
17 CONSISTING OF FOUR PAGES.

18 (STATE'S EXHIBIT 30 CAD REPORT, WAS MARKED AND RECEIVED INTO
19 EVIDENCE.)

20 BY MR. CONNER:

21 Q. NOW, ON THE SECOND PAGE, WE'VE GOT IT STAPLED TOGETHER
22 BUT ACTUALLY IT'S PAGE THREE OF THE REPORT LISTS A - IS A
23 LIST THERE. I'D LIKE TO CALL YOUR ATTENTION TO THAT.

24 A. YES, I'M FAMILIAR WITH THAT.

25 Q. NOW DOES IT SHOW - WHAT DOES IT SHOW?

HEARING

169

- 1 A. THE SECOND LIST IS TITLED THE CALL LOG. AT ANY TIME THAT
2 YOU HAVE MULTIPLE UNITS RESPONDING, THE DISPATCHERS
3 TRY TO KEEP AWARE OF WHERE THEY ARE FOR SAFETY
4 PRECAUTION AND WHATNOT. IT SHOWS THE CALL SIGNS FOR
5 THE INDIVIDUALS AT THAT TIME. MY PARTICULAR CALL SIGN
6 AT THIS TIME IS ALPHA . SHOULD I ARRIVE ON THE SCENE IT
7 WOULD BE DOCUMENTED AS A. AND THE TIME AT THE SCENE.
8 THIS PARTICULAR ONE HERE SHOWS THE ON-SCENE ARRIVE AND
9 EN ROUTES OF MULTIPLE UNITS AND THE REMAINING ON
10 SCENES AND TRANSMISSIONS IN BETWEEN.
- 11 Q. AND DOES IT SHOW A LISTING OF THE OFFICERS THAT WE'VE
12 HAD TESTIFY HERE, MR. WISEMAN, AND OFFICER DUBOSE, WHEN
13 THEY ARRIVED?
- 14 A. YES, SIR. CALL NUMBERS CHANGE PERIODICALLY BUT AT THIS
15 TIME I BELIEVE THAT CHRIS MOORE WAS - EXCUSE ME, ALPHA .
16 DARREN WISEMAN WAS ALPHA AND DEPUTY DUBOSE WAS .
- 17 Q. AND IF YOU'D JUST READ OFF WHAT TIME THOSE UNITS
18 ARRIVED?
- 19 A. ALPHA WHICH IS OFFICER WISEMAN ARRIVED AT : AND
20 SECONDS. ALPHA WHICH IS OFFICER MOORE RECEIVED, OR
21 EXCUSE ME, ARRIVED AT :, SECONDS AND DEPUTY DUBOSE
22 SHOWS HIM ARRIVING AT : AND I BELIEVE SECONDS. IT'S
23 SLIGHTLY CUT OFF. I CAN'T READ IT EXACT. THOSE ARE THE
24 TIMES THAT WHEN I'M ARRIVING THAT I'M KEYING
25 THE MIKE AND TELLING THEM.

HEARING

170

1 Q. SO THERE'S A COMPUTER THERE IN YOUR CAR WHERE YOU KEY
2 YOUR MIKE IN YOUR VEHICLE AND SAY YOU'RE THERE?

3 A. YES, SIR. THE COMPUTER RECORDS ME KEYING MY MIKE BUT
4 IT'S DEPENDING ON MYSELF ARRIVING AND LETTING THEM
5 KNOW WHEN BUT DUE TO RADIO TRANSMISSIONS WHEN YOU
6 ARRIVE ON A SCENE LIKE THAT, ONCE YOU HEAR THE INITIAL
7 OFFICERS ARRIVE YOU TEND TO STAY OFF UNTIL YOU KNOW
8 THAT THEY'RE OKAY AND THEN YOU GIVE YOUR INFORMATION.

9 Q. NOW, DID YOU HAVE AN OCCASION TO INTERVIEW THIS
10 DEFENDANT ON - LET'S SEE, ON MAY 21st, 2003?

11 A. I BELIEVE THAT WOULD BE CORRECT THAT I INTERVIEWED HIM
12 AT SUMTER COUNTY CORRECTIONAL CENTER.

13 Q. AND WHO ACCOMPANIED YOU WHEN INTERVIEWED HIM?

14 A. MY PARTNER, DETECTIVE MIKE MORRIS.

15 Q. AND WHAT WAS THE PURPOSE OF Y'ALL GOING OUT THERE TO
16 INTERVIEW HIM?

17 A. WE HAD LEARNED THAT MR. FOSTER BECAME DECEASED AT
18 APPROXIMATELY : THAT MORNING OFFICIALLY AND DUE TO
19 THAT HIS CHARGE WAS UPGRADED FROM ASSAULT AND
20 BATTERY WITH INTENT TO KILL, TO MURDER. I DID OBTAIN A
21 WARRANT THAT DAY AND DURING THE PROCESS OF SERVING IT
22 AND INTERVIEWS THAT DAY. I FINALLY GOT OVER TO THE JAIL
23 SOMETIME AROUND : O'CLOCK AND MY PURPOSE WAS TO SERVE
24 THE WARRANTS ON MR. WILSON FOR MURDER.

25 Q. AND WHEN YOU GOT THERE AND SERVED THE WARRANT ON

HEARING

171

1 HIM, HAD HE INDICATED SOME INTEREST IN CONTACT -
2 TALKING TO YOU?

3 A. YES, SIR. HE WAS INITIATING CONVERSATION WITH US. HE HAD
4 ALREADY LEARNED OF MR. FOSTER'S DEATH.

5 Q. AND AT THAT POINT IN TIME DID YOU READ HIM WHAT'S
6 CALLED HIS MIRANDA RIGHTS?

7 A. YES, SIR; I DID.

8 Q. HAD YOU READ HIM HIS MIRANDA RIGHTS PRIOR TO THAT?

9 A. I HAD NOT, NO. I DID NOT PRIOR TO THAT, NO.

10 Q. AT THAT TIME YOU DID READ HIM HIS MIRANDA RIGHTS?

11 A. YES, SIR; I DID.

12 THE COURT: LADIES AND GENTLEMEN OF THE JURY, LET ME
13 JUST STICK IN HERE A LITTLE BRIEF STATEMENT OF THE LAW IN
14 CONNECTION WITH THIS LINE. THERE HAS BEEN ADMITTED
15 INTO THE RECORD A STATEMENT ALLEGED TO HAVE BEEN
16 MADE BY THE DEFENDANT. BEFORE YOU MAY CONSIDER THE
17 STATEMENT AS EVIDENCE FOR ANY PURPOSE, YOU MUST
18 DETERMINE FOUR QUESTIONS: DID THE DEFENDANT MAKE THE
19 STATEMENT; WAS THE DEFENDANT WARNED OF HIS
20 CONSTITUTIONAL RIGHTS; DID THE DEFENDANT KNOWINGLY
21 AND INTELLIGENTLY WAIVE HIS CONSTITUTIONAL RIGHTS; WAS
22 THE STATEMENT GIVEN VOLUNTARILY. THE FACT THAT THE
23 COURT HAS ADMITTED THE STATEMENT INTO EVIDENCE
24 SHOULD NOT BE CONSIDERED BY YOU AS ANY EVIDENCE THAT
25 THE DEFENDANT MADE SUCH A STATEMENT OR THAT THE

HEARING

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1 REQUIRED CONSTITUTIONAL SAFEGUARDS WERE IN FACT
2 PROVIDED AND WAIVED BY THE DEFENDANT OR THAT THE
3 STATEMENT WAS VOLUNTARILY GIVEN BECAUSE THESE ISSUES
4 ARE FOR YOU, THE JURY, TO DETERMINE. THE STATE MUST
5 PROVE BEYOND A REASONABLE DOUBT EACH OF THE FOUR
6 REQUIREMENTS THAT I HAVE JUST STATED TO YOU BEFORE YOU
7 MAY CONSIDER THE STATEMENT AS EVIDENCE FOR ANY
8 PURPOSE WHATSOEVER. ALL RIGHT, SIR.

9 MR. CONNER: YOUR HONOR, I WOULD OFFER THESE
10 DOCUMENTS INTO EVIDENCE AT THIS TIME, THE PREVIOUSLY
11 MARKED EXHIBITS, EXHIBITS NUMBER 3 AND 4.

12 THE COURT: YES. AS I SAID THE STATEMENTS - THE COURT HAS
13 ALREADY DETERMINED THAT THEY ARE ADMISSIBLE AS I HAVE JUST
14 TOLD THE JURY AND COURT MARKINGS WILL BE CHANGED TO STATE'S
15 NUMBERS 31 AND 32.

16 M R. BLACKMON: AND THAT WOULD BE SUBJECT TO OUR
17 ORIGINAL OBJECTION, YOUR HONOR.

18 THE COURT: YES.

19 (STATE'S EXHIBIT NUMBER 31, INTERVIEW FORM, 5-21-03, AND STATE'S
20 EXHIBIT NUMBER 32, STATEMENTS HANDWRITTEN BY DEFENDANT, 5-
21 21-03, FORMERLY COURT'S EXHIBIT 13 AND 14, WERE RECEIVED INTO
22 EVIDENCE.)

23 BY MR. CONNER:

24 Q. FIRST OF ALL, I SHOW YOU STATE'S EXHIBIT NUMBER 31. IF YOU
25 WOULD, HOW ABOUT JUST EXPLAINING TO THESE LADIES AND

HEARING

173

1 GENTLEMEN THE PROCEDURE YOU WENT THROUGH WITH
2 MR. WILSON AND TELL THEM WHAT YOU ADVISED MR. WILSON
3 OF WITH REGARDS TO HIS RIGHTS?
4 A. YES, SIR. HE WAS ADAMANT ABOUT TALKING WITH US AT THAT
5 TIME. LIKE I SAID, OUR ORIGINAL PURPOSE WAS TO SERVE THE
6 WARRANTS ON HIM AT THAT TIME, IT WAS NOT FOR AN
7 INTERVIEW. I CARRY AN INTERVIEW FORM AND BLANK
8 STATEMENT FORMS IN MY FOLDER AT ALL TIMES --- AND TO THE
9 LEFT OF THAT HAS A BLANK LINE, AS WE READ OVER EACH ONE
10 AND HE SAYS THAT HE FULLY UNDERSTANDS, HE'S REQUIRED
11 TO PUT HIS INITIALS DOWN ON THAT LINE STATING THAT HE
12 UNDERSTANDS. FURTHER THAT - BEFORE ANY QUESTIONING
13 HERE'S THE STATEMENT. IT SAYS: BEFORE ANY QUESTIONING I
14 WAS FURNISHED WITH THE ABOVE STATEMENT OF MY RIGHTS
15 AT 6 P.M. ON 5-21-2003, IT SAYS, AT THE LAW ENFORCEMENT
16 CENTER, THE SUMTER POLICE DEPARTMENT BY DETECTIVE R.
17 BRANNON. THIS WAS ACTUALLY HELD AT THE JAIL. IT'S JUST A
18 STANDARD FORM I KEEP IN MY FOLDER. SUBSEQUENTLY UP
19 UNDER THAT IT HAS A STATEMENT. IT SAYS: I HAVE READ OR
20 HAD READ TO ME THIS STATEMENT OF MY RIGHTS AND I AM
21 FULLY UNDERSTANDING WHAT MY RIGHTS ARE. I'M WILLING TO
22 ANSWER QUESTIONS AT THIS TIME WITHOUT A LAWYER
23 PRESENT. NO PROMISES OR THREATS HAVE BEEN MADE
24 AGAINST ME, NO PRESSURE HAS BEEN USED AGAINST ME. IN
25 ORDER FOR MR. WILSON TO HAVE INITIALED RIGHT HERE I

HEARING

174

- 1 REQUIRED HIM TO READ THAT OUT LOUD TO ME AND INITIAL
2 NEXT TO THE PART THAT HE HAD READ OR I READ IT TO HIM. HE
3 ACTUALLY CIRCLED -- PUT HIS INITIALS WHERE HE READ IT
4 HIMSELF. AT THE BOTTOM OF THIS, I SIGNED MY NAME AS A
5 WITNESS. DETECTIVE MIKE MORRIS SIGNED HIS NAME AND MR.
6 WILSON SIGNED HIS NAME THERE WITH THE DATE AND TIME.
- 7 Q. IF YOU WOULD, HOW ABOUT TELL US WHAT YOU READ HIM IN
8 REGARDS TO HIS RIGHTS?
- 9 A. VERBATIM IT STATES: BEFORE WE ASK YOU ANY QUESTIONS
10 YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT
11 TO REMAIN SILENT. ANYTHING YOU SAY --
- 12 Q. YOU ADVISED HIM OF EACH RIGHT?
- 13 A. INDIVIDUALLY, SIR. YES, SIR.
- 14 Q. THERE'S INITIALS ON THAT FORM?
- 15 A. YES, SIR. AS WE WENT OVER EACH ONE INDIVIDUALLY I ASKED
16 MR. WILSON TO PLACE HIS INITIALS THERE STATING THAT HE
17 DID FULLY UNDERSTAND IT AND HAD NO QUESTIONS AND WAS
18 AGREEING TO IT. THE SECOND ONE IS: ANYTHING YOU SAY CAN
19 BE USED AGAINST YOU IN COURT. THIRD: YOU HAVE THE
20 RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU
21 ANY QUESTIONS AND TO HAVE HIM OR HER WITH YOU DURING
22 THE QUESTIONING. FOURTH: IF YOU CANNOT AFFORD A
23 LAWYER ONE WILL BE APPOINTED FOR YOU BEFORE ANY
24 QUESTIONING IF YOU WISH. FIVE: IF YOU DECIDE TO ANSWER
25 ANY QUESTIONS NOW WITHOUT A LAWYER PRESENT YOU STILL

HEARING

175

- 1 HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU
2 TALK TO A LAWYER.
- 3 Q. AND AFTER READING HIM THOSE RIGHTS HE INDICATED TO YOU
4 THAT HE UNDERSTOOD?
- 5 A. YES, SIR.
- 6 Q. AND HE INDICATED HE'D TALK TO YOU WITHOUT A LAWYER?
- 7 A. YES, SIR.
- 8 Q. DID YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO YOU?
- 9 A. NO, SIR.
- 10 Q. DID YOU THREATEN HIM IN ANYWAY -
- 11 A. NO, SIR.
- 12 Q. -- TO GET HIM TO TALK TO YOU? DID HE TALK TO YOU FREELY
13 AND VOLUNTARILY?
- 14 A. YES, SIR.
- 15 Q. AND THEN DID YOU WRITE A STATEMENT FOR HIM OR DID HE
16 WRITE THE STATEMENT?
- 17 A. HE, HE - WE OFFERED HIM THE PAPER AND HE WROTE THE
18 STATEMENT HIMSELF.
- 19 Q. AND THAT WOULD BE ON THESE TWO FORMS HERE, STATE'S
20 EXHIBIT NUMBER 32?
- 21 A. YES, SIR.
- 22 Q. AND - AND AFTER HE FINISHED WRITING THAT STATEMENT, DID
23 HE SIGN IT?
- 24 A. YES, SIR.
- 25 Q. AND DID YOU AND MIKE MORRIS WITNESS IT?

HEARING

176

1 A. YES, WE DID.

2 Q. NOW, WOULD YOU READ US THE STATEMENT?

3 A. YES, SIR. THE BEGINNING OF THE STATEMENT SHOWS THE DATE
4 AND THE TIME AND LOCATION WHERE WE WERE AT. UP THE
5 TOP IT SAYS SUMTER COUNTY - EXCUSE ME - SUMTER JAIL. I,
6 HAROLD WILSON, HIS SIGNATURE, OF [REDACTED] STREET,
7 HAVING BEEN ADVISED OF MY CONSTITUTIONAL RIGHTS AND
8 HAVING SIGNED A WAIVER OF THOSE RIGHTS, DO HEREBY GIVE
9 THE FOLLOWING STATEMENT FREELY AND VOLUNTARILY
10 WITHOUT FEAR OF THREAT OR PROMISE OF REWARD TO
11 DETECTIVE BRANNON WHO HAS IDENTIFIED HIMSELF AS A
12 DETECTIVE. THE BEGINNING OF MR. WILSON'S STATEMENT IS
13 INITIALED AS TO THE BEGINNING OF HIS STATEMENT THAT
14 THESE ARE HIS WORDS. THIS IS HIS HANDWRITING. VERBATIM
15 IT SAYS: ME AND MY MAN, TOREZ, WAS ON CARVER PLOTTING
16 TO REESES FOR DAYS AND HIS GUN - EXCUSE ME, FOR DRUGS
17 AND HIS GUN. WHEN I REACH FOR THE GUN REESE START
18 BUSTING HIS GUN ON THE SECOND SHOT. I SAW LITTLE REGGIE
19 FALL. THEN I STARTED BUSTING AND SHOT AT LEAST TWICE.
20 LITTLE REGGIE NEVER GOT BACK UP AFTER HE FELL. I KNOW
21 FOR SURE THAT REESE SHOT LITTLE REGGIE. I'M SORRY THAT
22 MY MAN HAD TO GET KILLED IN MY STUPID PLAY. IF IT IS
23 ANYTHING I CAN HELP I WOULD LIKE TO HELP MRS. FOSTER
24 WITH MY LITTLE HOME BOY FUNERAL. MISS CLARK, I'M GUILTY
25 FOR ACCESSORY OF LITTLE REGGIE DEATH BECAUSE IF I WASN'T

HEARING

177

- 1 TRYING TO ROB HE WOULD STILL BE THERE ON THIS EARTH
2 TODAY AND I'M IN JAIL THINKING ABOUT THIS. I'M SORRY Y'ALL
3 MAD AT ME AND I DON'T BLAME Y'ALL FOR THIS. I JUST WANT
4 Y'ALL TO FORGIVE ME. HE INITIALED THE BEGINNING, THE END
5 OF THIS PARAGRAPH, DREW A LINE TO THE BOTTOM SO
6 NOTHING ELSE COULD BE ADDED. AND THEN THIS BOTTOM
7 STATEMENT OF THIS SAYS: I HAVE READ OR HAVE READ TO ME
8 THE ABOVE STATEMENT OF -- CONSISTING OF TWO PAGES AND
9 ATTEST THAT IT IS TRUE AND ACCURATE ACCOUNT TO THE
10 BEST OF MY KNOWLEDGE OF THE EVENTS WHICH TOOK PLACE
11 ON OR ABOUT DURING --. I HAVE RECEIVED A COPY OF THIS
12 STATEMENT FROM R. BRANNON, SIGNED HAROLD WILSON.
- 13 Q. AND IF YOU WOULD, HOW ABOUT READING THE FIRST
14 SENTENCE OF THAT STATEMENT AGAIN ON THE FIRST PAGE, THE
15 FIRST SENTENCE?
- 16 A. ME AND MY MAN, TOREZ, WAS ON CARVER PLOTTING TWO ROB
17 REESE FOR DRUGS AND HIS GUN.
- 18 Q. NOW, DID YOU DETERMINE WHO TOREZ WAS?
- 19 A. YES, SIR. TOREZ IS DWAUNTREZ KERSHARD KEITH.
- 20 MR. CONNER: ANSWER ANY QUESTIONS THAT THE DEFENSE
21 MIGHT HAVE FOR YOU.
- 22 THE COURT: CROSS-EXAMINATION, MR. BLACKMON.
- 23 CROSS-EXAMINATION BY MR. BLACKMON:
- 24 Q. OFFICER BRANNON, DO YOU DENY TELLING MR. WILSON THAT
25 YOU WOULD TESTIFY ON HIS BEHALF AT HIS PRELIMINARY

HEARING

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1 HEARING?

2 A. ABSOLUTELY.

3 Q. YOU DIDN'T OFFER TO HELP HIM IN ANY WAY AT HIS
4 PRELIMINARY HEARING?

5 A. NO, SIR.

6 Q. THE STATEMENT THAT HE GAVE INDICATED THAT IT WAS REESE
7 WHO FIRED THE FIRST SHOT?

8 A. HIS EXACT - EXACT WORDING STATES WHEN I REACH FOR THE
9 GUN, REESE START BUSTING HIS GUN. ON THE SECOND SHOT I
10 SAW LITTLE REGGIE FALL.

11 Q. SO IN THIS STATEMENT MR. WILSON DOES NOT ADMIT TO
12 SHOOTING LITTLE REGGIE OR ANYBODY ELSE; DOES HE?

13 A. NO, SIR. IT DOESN'T DIRECTLY.

14 Q. DID HE TELL YOU WHAT HE WOULD SHOOT?

15 A. WHO?

16 Q. MR. WILSON. DID HE TELL YOU WHAT HE WAS SHOOTING?

17 A. A HANDGUN.

18 Q. DID HE TELL YOU HE WAS SHOOTING A. CALIBER HANDGUN?

19 A. NO, SIR.

20 Q. DID HE DESCRIBE IT TO YOU?

21 A. NO, SIR.

22 Q: LET'S BACK UP A LITTLE BIT. WHEN YOU ORIGINALLY WENT TO
23 THE SCENE, MR. BUTLER WAS STILL THERE?

24 A. NO, SIR. I WAS - I RESPONDED AS WHAT THEY CALL THE DELTA
25 UNIT DETECTIVE. I RESPONDED TO THE ER FIRST.

HEARING

179

- 1 Q. WAS MR. BUTLER STILL WEARING HIS CLOTHES WHEN YOU GOT
2 TO THE ER?
- 3 A. NO SIR; I BELIEVE HE WAS IN A GOWN.
- 4 Q. DO YOU KNOW WHO RETRIEVED THE PLASTIC BAG 22 CALIBER
5 BULLETS FROM HIS CLOTHING?
- 6 A. NO, SIR. THERE WAS A UNIFORM OFFICER ON THE - THE - ALSO
7 AT THE HOSPITAL. I DON'T RECALL WHO IT WAS.
- 8 Q. SO YOU'RE AWARE MR. BUTLER DID HAVE BULLETS IN HIS
9 POCKET?
- 10 A. YES, SIR; I SAW A CHAIN OF CUSTODY WITH THAT.
- 11 Q. AND ARE YOU AWARE AS TO WHETHER ANY OF PEOPLE WHO
12 WERE AT THE SCENE HAD DRUGS IN THEIR POCKETS?
- 13 A. I BELIEVE THE AUTOPSY, THAT THE VICTIM MR. FOSTER WAS
14 FOUND WITH, I BELIEVE, 1.5 GRAMS OF MARIJUANA SUSPECTED.
- 15 Q. NOW WHEN Y'ALL WENT TO THE SOUTH SALEM STREET
16 ADDRESS AND ARRESTED MR. WILSON, HE WAS ARRESTED
17 WITHOUT INCIDENT; WASN'T HE?
- 18 A. WITHOUT VIOLENCE. YES, SIR; HE WAS ARRESTED WITHOUT
19 VIOLENCE.
- 20 Q. AND YOU ALSO TOOK INTO CUSTODY AT THE TIME HIS
21 GIRLFRIEND, YOU ALSO TOOK INTO CUSTODY AT THAT TIME HIS
22 GIRLFRIEND ANGELETIA MELTON?
- 23 A. WE DIDN'T TAKE HER INTO CUSTODY. MS. MELTON, AS I RECALL,
24 NICOLE VOLUNTEERED TO COME UP TO THE STATION WITH ME.
- 25 Q. SO, WHO DID SHE GO TO THE STATION WITH?

HEARING

180

- 1 A. SHE WENT WITH ME.
- 2 Q. SHE RODE TO THE STATION WITH YOU?
- 3 A. YES, SIR.
- 4 Q. AND DID SHE IN FACT GIVE YOU A STATEMENT AT THAT TIME?
- 5 A. YES, SIR.
- 6 Q. AND WERE YOU PHYSICALLY PRESENT WHEN SHE GAVE THAT
- 7 STATEMENT?
- 8 A. YES, SIR; I WAS.
- 9 Q. AND WAS SHE READ HER RIGHTS?
- 10 A. I BELIEVE SHE WAS BECAUSE AT THE TIME WE COULD NOT
- 11 DETERMINE IF SHE HAD HAD DIRECT INVOLVEMENT WITH IT
- 12 AND WE DID SO AS PRECAUTIONARY MEASURE.
- 13 Q. LET ME SHOW YOU A COPY OF A SUB -- STATEMENT AND ASK
- 14 YOU IF YOU CAN IDENTIFY THAT?
- 15 A. THIS IS A COPY OF THE STATEMENT FROM MS. MELTON.
- 16 Q. DID SHE HAND WRITE HER OWN STATEMENT?
- 17 A. NO, SIR. WE SAT IN MY OFFICE AND TALKED FOR A GOOD WHILE
- 18 AND DURING THE INITIAL CONVERSATIONS IT WAS JUST NOTES
- 19 AND WHEN SHE WAS READY TO GIVE A FINAL STATEMENT SHE
- 20 TALKED AND I TYPED. AND WHEN WE GOT DONE I PRINTED IT
- 21 OUT FOR HER TO READ AND TO INITIAL ANY MISTAKES OR
- 22 ANYTHING LIKE TO. AND ONCE SHE AGREED WITH IT WAS TO
- 23 SIGN THE BOTTOM OF THE FORM.
- 24 Q. DO YOU REMEMBER ABOUT WHAT TIME Y'ALL ARRIVED AT THE
- 25 STATION?

HEARING

181

- 1 A. PROBABLY THREE A.M., SOMEWHERE IN THERE.
- 2 Q. AND THAT WOULD HAVE BEEN ABOUT THREE A.M. ON MAY 19TH
- 3 WHEN THIS OCCURRED?
- 4 A. AFTER MIDNIGHT. IT HAD TO BE 20 - 21ST. I'M NOT EXACTLY
- 5 SURE OF THE DATE BUT IT WAS, I BELIEVE WE ARRESTED MR.
- 6 WILSON SOMETIME AROUND 2:30 OR SO THAT MORNING MAYBE.
- 7 IT HAD BEEN A LONG DAY. I HAD BEEN UP SINCE SIX THE
- 8 PREVIOUS MORNING.
- 9 Q. SO IT WAS THE EARLY MORNING HOURS FOLLOWING THE
- 10 INCIDENT OF THE ACTUAL OCCURRENCE?
- 11 A. YEAH. WE WERE STILL CONTINUING THE INVESTIGATION.
- 12 Q. AND MS. MELTON TO YOUR KNOWLEDGE FREELY AND
- 13 VOLUNTARILY ENTERED INTO THIS STATEMENT?
- 14 A. YES, SIR; SHE DID.
- 15 Q. DID YOU PROMISE HER ANYTHING?
- 16 A. NO, SIR. I DID NOT.
- 17 Q. DID YOU THREATEN HER IN ANYWAY?
- 18 A. NO, SIR; I DID NOT.
- 19 Q. AND SHE INITIALED ALL OF THESE PAGES AND SIGNED THE LAST
- 20 PAGE?
- 21 A. SHE DID, SIR.
- 22 Q. IS MS. MELTON HERE TODAY TO TESTIFY?
- 23 A. NO, SIR; SHE'S NOT. SHE'S DECEASED, YES.
- 24 Q. WHAT HAPPENED TO MS. MELTON?
- 25 A. SHE - SHE -

HEARING

182

1 MR. CONNER: YOUR HONOR, I DON'T THINK THAT'S RELEVANT.

2 THE COURT: ALL RIGHT. COME UP, COUNSEL.

3 (OFF THE RECORD DISCUSSION.)

4 THE COURT: ALL RIGHT. THE OBJECTION TO THE LAST
5 QUESTION IS SUSTAINED. LADIES AND GENTLEMEN, WE ALSO HAVE
6 ANOTHER EVIDENTIARY QUESTION THAT I NEED TO TAKE UP AND I
7 NEED TO DO IT ON THE RECORD OUTSIDE OF YOUR PRESENCE AGAIN. I
8 HATE TO HAVE TO SEND YOU OUT, BUT IT IS GOING BE NECESSARY TO
9 ASK YOU TO GO TO YOUR JURY ROOM FOR A FEW MINUTES WHILE I
10 CONSIDER THIS EVIDENTIARY QUESTION. PLEASE DO NOT DISCUSS
11 THE CASE AMONG YOURSELVES. IT WILL BE IMPROPER FOR YOU TO
12 DO ANY DISCUSSION ABOUT THE CASE. YOU CAN TALK ABOUT
13 ANYTHING YOU WANT TO; SPORTS, GRANDCHILDREN, WEATHER,
14 ANYTHING AT ALL. BUT DON'T TALK ABOUT THIS CASE AND WE'LL
15 SEND FOR YOU SHORTLY. THANK YOU.

16 (JURY LEAVES COURTROOM AT 10:25 AM.)

17 THE COURT: ALL RIGHT. THE QUESTION WAS ASKED ABOUT
18 WHETHER THIS INDIVIDUAL THAT GAVE THIS STATEMENT, THIS -- WHO
19 HAS BEEN IDENTIFIED AS THE GIRLFRIEND OF THE DEFENDANT WAS
20 PRESENT IN COURT THE ANSWER WAS NO. THE QUESTION WAS ASKED
21 WHAT HAPPENED TO HER AND THE ANSWER WAS THAT SHE WAS
22 DECEASED. AND THE NEXT QUESTION WAS HOW DID SHE DIE. AND
23 THAT IS THE QUESTION TO WHICH MR. CONNER OBJECTED AND I
24 SUSTAINED THAT OBJECTION. IT IS IN EVIDENCE THAT SHE IS
25 DECEASED BUT I DID SUSTAIN THE OBJECTION AS TO HOW SHE DIED

HEARING

183

1 OR WHERE, WHERE SHE DIED OR THE CIRCUMSTANCE SURROUNDING
2 HER DEATH. THE OBJECTION ON THE BASIS OF RELEVANCE AT BENCH
3 CONFERENCE, I DID NOT THINK THAT IT WAS RELEVANT TO THE
4 ISSUES HERE BUT I'LL BE GLAD, IF YOU WOULD LIKE, MR. BLACKMON,
5 TO PUT YOUR REASONS ON THE RECORD WHY YOU THINK THAT IT
6 WAS ADMISSIBLE.

7 MR. BLACKMON: MAY IT PLEASE THE COURT. FOR THE RECORD,
8 IT'S THE STATE'S OBLIGATION TO PROVIDE BEYOND A REASONABLE
9 DOUBT THAT THE DEFENDANT WAS THE ONE WHO
10 MURDERED REGINALD FOSTER, ASSAULTED THE OTHER ALLEGED
11 VICTIM. IT IS OUR UNDERSTANDING THAT THE GIRLFRIEND OF THE
12 DEFENDANT WAS KILLED ASSASSINATION STYLE BY THREE SHOTS TO
13 HER HEAD WITH A WEAPON WE BELIEVE IS SIMILAR TO THE WEAPON
14 THAT WAS USED IN THIS MATTER. IT IS OUR POSITION THAT WHOEVER
15 KILLED HER ALSO LIKELY KILLED THE ACTUAL VICTIM IN THIS CASE
16 WHICH WAS ONE WAY WE WOULD LIKE TO HAVE DEVELOPED THE
17 DEFENSE AND TO THAT EXTENT -

18 THE COURT: WHAT PROOF DO YOU HAVE OF THAT OTHER THAN
19 JUST SPECULATION? WHAT YOU HAVE OFFERED SO FAR IS JUST
20 SPECULATION.

21 MR. BLACKMON: WELL, THE - A LOT OF THAT PROOF WOULD
22 DEPEND UPON WHETHER THE DEFENDANT CHOOSES TO TESTIFY OR
23 NOT, YOUR HONOR. WE'RE NOT YET AT THE POINT YET -

24 THE COURT: WELL -

25 MR. BLACKMON: -- WHERE THE DEFENDANT WILL TESTIFY OR

1 CHOSE TO TESTIFY. IF HE WOULD TESTIFY I BELIEVE THE FACTS THAT
2 WOULD SUBSTANTIATE THAT. AND IN ADDITION BASED UPON THE
3 DISCOVERY MATERIALS THAT WERE PROVIDED BY THE STATE, IT IS
4 CLEARLY THOSE MATERIALS THAT THE GIRLFRIEND WAS
5 COOPERATING WITH LAW ENFORCEMENT TO RECOVER OR TRY TO
6 RECOVER THE GUN THAT WAS USED IN THIS SHOOTING FROM
7 WHOMEVER ACTUALLY HAD IT AND THAT HER MURDER AND -

8 THE COURT: BUT YOU'RE ASKING ME TO RULE ON THE
9 ADMISSIBILITY OF YOUR QUESTION OF STATEMENTS THAT ARE - AND
10 MATTERS THAT ARE NOT IN EVIDENCE. SO THEY'RE NOT IN EVIDENCE
11 AND I CAN'T SPECULATE ON THAT. SO THAT IS THE REASON FOR
12 DENYING OR SUSTAINING THE OBJECTION. MR. CONNER, AS TO THE
13 REASONS WHY THE WITNESS OR THE INDIVIDUAL IS NOW DECEASED,
14 YOU'VE GOT IN THAT SHE IS DECEASED. AT THIS POINT I DON'T THINK
15 THAT THE FACTS AND CIRCUMSTANCES SURROUNDING HER DEATH
16 ARE RELEVANT TO THIS CASE AND THERE IS NO EVIDENCE TO THAT
17 EFFECT AT THIS POINT. AND SO, I WOULD SUSTAIN THAT OBJECTION
18 AND THAT IS THE REASONS. IF AT SOME LATER TIME THE EVIDENCE IS
19 DEVELOPED THAT DOES MAKE IT RELEVANT YOU WOULD HAVE A
20 RIGHT OF COURSE TO RECALL THIS WITNESS IF YOU NEEDED TO GET
21 THAT INTO EVIDENCE.

22 MR. BLACKMON: AND AFTER A MORE THOROUGH FOUNDATION
23 LAID, YOUR HONOR, WE MAY REVISIT THAT ISSUE.

24 THE COURT: ALL RIGHT, SIR.

25 MR. BLACKMON: ALSO OUTSIDE OF THE PRESENCE OF THE JURY

HEARING

185

1 WE WERE GOING TO AND ARE ANTICIPATING PROFFERING THE
2 STATEMENT THAT WAS GIVEN BY ANGELETIA MELTON TO DETECTIVE
3 BRANNON THAT THE TIME.

4 THE COURT: ALL RIGHT. WHAT'S YOUR POSITION ON THE
5 STATEMENT, MR. CONNER? MR. CONNER: OUR POSITION IS
6 THAT IT'S HEARSAY, YOUR HONOR.

7 THE COURT: AND, WHY DO YOU - WHAT POSITION DO YOU
8 THINK WOULD MAKE IT ADMISSIBLE MR. BLACK - CONNER - I'M
9 SORRY, MR. BLACKMON?

10 MR. BLACKMON: MAY IT PLEASE THE COURT. THE WITNESS
11 WHO GAVE THE STATEMENT FREELY AND VOLUNTARILY IS NO
12 LONGER AVAILABLE. WE BELIEVE UNDER RULE, THAT THE
13 DECLARANT IS UNAVAILABLE PURSUANT TO A. FOUR, SHE'S UNABLE
14 TO BE PRESENT TO TESTIFY AT THE HEARING BECAUSE OF DEATH.
15 AND SO WE BELIEVE THAT THAT MAKES THAT AN EXCEPTION TO THE
16 HEARSAY RULE.

17 THE COURT: THERE'S NO QUESTION THAT SHE'S UNAVAILABLE
18 UNDER OF COURSE.

19 MR. BLACKMON: AND BECAUSE WHAT SHE IS TESTIFYING TO,
20 WE BELIEVE, IS THE EVENTS IMMEDIATELY FOLLOWING THE
21 SHOOTING, WITHIN MINUTES OF WHEN THEY HAPPENED, THAT WOULD
22 CONSTITUTE AN EXCITED UTTERANCE ON HER BEHALF AS WELL. AND
23 OTHER THAN HEARSAY -

24 THE COURT: WAIT A MINUTE. YOU'RE SAYING IT'S ADMISSIBLE
25 UNDER BECAUSE IS UNAVAILABILITY. I AGREE WITH YOU AS TO -A.,

1 AS TO UNAVAILABILITY BUT WHAT ABOUT THE B. SECTION? THAT
2 REQUIRES ONE OF THOSE FOUR MATTERS UNDER THE HEARSAY
3 EXCEPTIONS UNDER -B. AS TO THE UNAVAILABLE DECLARANT. IT'S
4 NOT FORMER TESTIMONY. IT'S NOT A STATEMENT UNDER BELIEF OF
5 IMPENDING DEATH, A STATEMENT AGAINST INTEREST OR A
6 STATEMENT OF PERSONAL FAMILY HISTORY. IS IT ANY ONE OF THOSE
7 FOUR?

8 MR. BLACKMON: TO SOME EXTENT, YOUR HONOR, I BELIEVE IT
9 COULD BE CONSIDERED A STATEMENT AGAINST INTEREST. THERE
10 ARE PARTS OF HER STATEMENT THAT ADMITTED THAT SHE, FOR
11 PURPOSES OF THIS ARGUMENT, PICKED UP AND DROVE OFF THIS
12 DEFENDANT AND TOREZ FROM THE SCENE. AND THEN SHE RECOUNTS
13 HER OBSERVATIONS AT THE SCENE WHEN IT HAPPENED. I BELIEVE
14 THAT WILL BE AN ISSUE AGAINST HER CRIMINAL INTEREST BECAUSE
15 IT WOULD SUBJECT HER TO CRIMINAL LIABILITY TO ACCESSORY
16 AFTER THE FACT.

17 THE COURT: SO, YOUR POSITION IS IT'S ADMISSIBLE UNDER 804-
18 B-3? MR. BLACKMON: YES, YOUR HONOR, AS WELL AS THE FACT
19 THAT IT STILL CONSTITUTES EXCITED UTTERANCE?

20 THE COURT: THAT'S 801.

21 MR. BLACKMON: 803-2.

22 THE COURT: 803-B-2. ALL RIGHT.

23 MR. BLACKMON: YES, SIR. AS WELL AS 803-1, A PRESENT SENSE
24 OF PREJUDICE AS FAR AS SHE WAS DESCRIBING OR EXPLAINING THE
25 EVENT WHILE SHE WAS THERE PERCEIVING IT OR IMMEDIATELY

HEARING

187

1 THEREAFTER.

2 THE COURT: ALL RIGHT. WHAT ELSE?

3 MR. BLACKMON: I BELIEVE THAT WOULD BE ALL, YOUR HONOR.

4 THE COURT: ALL RIGHT. I'LL LET YOU MAKE YOUR PROFFER
5 THROUGH THIS WITNESS AND THEN I'LL RULE BASED UPON WHAT HIS
6 TESTIMONY IS.

7 PROFFERED EXAMINATION BY MR. BLACKMON:

8 Q. OFFICER BRANNON, I BELIEVE YOU INDICATED EARLIER THAT
9 YOU TOOK THE STATEMENT?

10 A. YES, SIR.

11 Q. AND THEN YOU TYPED IT UP AND PRESENTED IT UP TO MS.
12 MELTON FOR HER REVIEW?

13 A. YES, SIR.

14 Q. DID SHE ENTER IT FREELY AND VOLUNTARILY?

15 A. YES, SIR.

16 Q. DID YOU THREATEN HER OR FORCE HER IN ANY WAY TO SIGN?

17 A. NO, SIR.

18 Q. IT WAS MAY 20TH SHORTLY AT OR AFTER THREE O'CLOCK IN THE
19 MORNING?

20 A. SOMETIME IN THAT TIME; YES, SIR.

21 Q. AND WHILE YOU WERE PHYSICALLY PRESENT, DID SHE DISCUSS
22 THE EVENTS THAT ACTUALLY OCCURRED ON CARVER STREET?

23 A. AS IN TO THE ACTUAL FACTS OF THE SHOOTING, SIR?

24 Q. AS TO THE EVENTS THAT OCCURRED IMMEDIATELY FOLLOWING
25 THE SHOOTING.

HEARING

188

- 1 A. SHE TALKED ABOUT WHAT HER PARTS WERE; YES, SIR.
- 2 Q. AND DID SHE INDICATE THAT SHE WAS PRESENT WHILE THIS
- 3 DEFENDANT AND A CO-DEFENDANT WERE LEAVING THE SCENE?
- 4 A. I BELIEVE SHE SAID SHE WAS DRIVING THE CADILLAC.
- 5 Q. LET ME SHOW YOU THAT STATEMENT.
- 6 A. YES, SIR. I'LL NEED THAT. THANK YOU. WOULD YOU LIKE ME
- 7 TO READ IT VERBATIM, SIR?
- 8 Q. PLEASE, SIR.
- 9 A. THIS MORNING MY BOYFRIEND TWINKIE, HAROLD WILSON, AND
- 10 I GOT UP AROUND EIGHT A.M. WE HUNG OUT FOR A WHILE AND
- 11 THEN TWINKIE LEFT TO GO GET MR. BIGS, MEANING HIS WHITE
- 12 ESCALADE. HE LEFT ME AT THE HOUSE FOR ABOUT AN HOUR
- 13 AND THEN -- OR SO. AND THEN I WALKED OVER TO THE
- 14 PROJECTS, BIRNIE CIRCLE, AND MET HIM COMING DOWN
- 15 CARVER STREET TOWARD GUIGNARD. HE WAS RIDING WITH
- 16 BRANDON HAYNESWORTH, NICKNAME OF CAM. SO I GOT IN
- 17 AND WE WENT AND GOT MY FRIEND, CHAVON. WE SPENT THE
- 18 REST OF THE DAY MESSING AROUND HANGING OUT AT THE
- 19 MALL, WHEREVER WE WANTED TO GO. WE SMOKED SOME
- 20 WEED PROBABLY A NICK, MEANING A NICKEL BAG. LATER IN
- 21 THE DAY, I DROVE MR. BIGS AND WE WENT AND PICKED UP
- 22 BASE, TOREZ AND BEN FROM IRIS WINDS MOBILE HOME PARK.
- 23 WHILE WE WAS RIDING AROUND WE TALKED ABOUT GETTING
- 24 SOME MORE WEED SO WE DECIDED TO GO TO THE PROJECTS
- 25 AND TWINKIE WOULD GO BUY SOME WEED FROM REESE,

HEARING

189

1 MAURICE GREEN. I DROPPED OFF TWINKIE AND TOREZ NEAR
2 CHAVON'S APARTMENT. BASE AND I STAYED IN THE TRUCK
3 LISTENING TO MUSIC WHILE THEY WALKED THROUGH THE CUT
4 BEHIND HER APARTMENT. I THINK HER APARTMENT'S OR
5 AFTER A FEW MINUTES I HEARD TWO GUNSHOTS COMING FROM
6 OVER OFF CARVER STREET OR FROM BACK OF THE GRAVEYARD.
7 I FIGURED SOMETHING MIGHT BE WRONG BECAUSE IT WAS
8 STILL DAYLIGHT AND THAT WAS UNUSUAL FOR SHOTS TO BE
9 FIRED DURING THE DAYLIGHT. I KNOW THEM BOYS OVER ON
10 CARVER STREET DON'T LIKE TWINKIE BECAUSE OF SOME BEEF
11 FROM SOMETIME AGO. THAT'S WHY TWINKIE DON'T LIKE TO
12 TAKE MR. BIGS INTO THE PROJECTS OR ON CARVER STREET. I
13 STARTED MR. BIGS AND BACKED OUT. HEADED UP CARVER
14 STREET FROM GUIGNARD. I GOT DOWN THE ROAD RIGHT THERE
15 WHERE THAT BRICK HOUSE IS -- THE RED -- WHERE THE BRICK
16 HOUSE IS WITH THE RED VAN IN THE YARD. THAT'S WHEN I
17 SEEN TWINKIE COMING DOWN THE ROAD RUNNING AND
18 DUCKING LIKE HE WAS RUNNING FROM BULLETS. BASE SAID,
19 WHAT'S THAT FOOL DOING. TWINKIE FELL ON THE GROUND,
20 KIND OF RUNNING AND HOLLERING, I THINK I'M HIT. I SLAMMED
21 ON THE BRAKES AND WE GOT OUT OF THE TRUCK AND WENT
22 OVER TO HIM. WE CHECKED ON HIM OVER THERE AND THERE
23 WASN'T ANYTHING WRONG WITH HIM. I TOLD TWINKIE TO GET
24 INTO THE TRUCK AND WHEN I GOT BACK IN, I SEEN TOREZ
25 ALREADY SITTING IN THE BACK OF THE TRUCK. TOREZ WAS

HEARING

190

1 HOLDING A BLACK WITH REDDISH HANDLE NINE MILLIMETER. I
2 KNOW IT WAS A NINE MILLIMETER BECAUSE I HAVE HELD THAT
3 SAME GUN BEFORE. AND THAT'S THE END OF A SENTENCE
4 THERE WITH HER INITIALS. THE GUN WAS IN ONE OF THE -- THE
5 GUN WAS IN ONE OF HIS HANDS AND THEY WERE RESTING IN HIS
6 LAP. HE WAS BREATHING HARD AND SAYING SOMETHING LIKE
7 THAT REESE IS BUSTING AT THEM IN THE CROWD. WE ALL GOT
8 INSIDE THE ESCALADE AND I DROVE OFF DOWN THE ROAD
9 TOWARDS THE CEMETERY. AS I GOT DOWN THE ROAD, I SEEN
10 SOME BIKES LAYING IN THE ROADWAY AND A BUNCH OF
11 PEOPLE STANDING THERE. I HOOKED A RIGHT AND DROVE
12 THROUGH THE GRAVEYARD AND ONTO THAT ROAD BESIDE THE
13 HESS STATION. I WENT ACROSS THE LIGHT AND WAS HEADED
14 TOWARD SALEM STREET. SOMEBODY HOLLERED FOR ME TO
15 STOP SO I DID. WHEN I STOPPED THEY ALL BAILED OUT AND
16 RAN OFF. I WASN'T FAR FROM TWINKIE'S AUNT'S HOUSE SO I
17 DROVE AROUND THERE AND TOLD HER WHAT HAPPENED. BY
18 THE TIME I TOLD HER WHAT HAPPENED I SEEN TWINKIE COMING
19 INTO THE YARD. WE DROVE THE WHITE CORSICA OVER TO THE
20 HOUSE AND TOLD PEACHES, TWINKIE'S MOM, WHAT HAPPENED.
21 AT SOME POINT I EITHER HANDED TWINKIE'S JACKET TO
22 PEACHES OR JUST LEFT IT IN THE HOUSE, I DON'T REMEMBER
23 WHICH. BUT I DO REMEMBER THAT IS STILL IN THE HOUSE.
24 WHILE WE OVER THERE RO, WHICH IS ROOSEVELT, CAME
25 WALKING DOWN THE ROAD TOWARDS US HOLLERING.

HEARING

191

- 1 PEACHES, KENNY AND ANOTHER GUY STOPPED RO AND HE
2 TOLD ME THAT SOMEBODY TOLD HIM I WAS DRIVING THE
3 ESCALADE AND THAT THE SHOTS CAME FROM INSIDE. HE SAID
4 THAT HE HEARD REGGIE HAD GOTTEN SHOT IN THE EYE.
5 ANYWAY WALKED OFF AND WE ALL GOT BACK IN THE CORSICA
6 WITH THE LITTLE BABIES SO WE COULD GET THEM OUT OF
7 THERE BEFORE SOMEBODY CAME AROUND SHOT UP TWINKIE'S
8 HOUSE. WHEN WE GOT BACK OVER TO HIS AUNT'S HOUSE, I
9 CALLED MY MOM AND TOLD MY MOM SOME OF WHAT
10 HAPPENED. WE SAT IN THE LIVING ROOM DISCUSSING THE
11 INCIDENT AND THEN TWINKIE AND I WENT TO BED.
- 12 Q. SUBSEQUENT TO GIVING THIS STATEMENT, DID YOU TALK
13 FURTHER WITH MS. MELTON?
- 14 A. FOLLOWING THAT STATEMENT?
- 15 Q. YES, SIR.
- 16 A. GENERAL CONVERSATION WHERE WE WERE TRYING TO GET
17 INTO THAT NIGHT AS FAR AS WHERE DID SHE WANT TO GO.
- 18 Q. DID SHE TALK WITH YOU OR WITH SOME OTHER OFFICER ABOUT
19 COOPERATING WITH LAW ENFORCEMENT TO RECOVER THE
20 GUN?
- 21 A. SHE WAS TALKING WITH ME.
- 22 Q. SHE DID TALK WITH YOU?
- 23 A. YES, SIR.
- 24 Q. AND WHEN SHE TALKED WITH YOU, WHAT IF ANYTHING DID SHE
25 INDICATE TO YOU?

HEARING

192

1 A. I ASKED HER IF SHE KNEW WHERE THAT GUN WAS AND SHE
2 SAID SHE DID NOT, BUT SHE SAID THOSE BOYS TRUSTED HER
3 AND THAT SHE MIGHT BE ABLE TO GET IT.

4 Q. AND WHAT, IF ANYTHING, DID SHE INDICATE TO YOU SHE
5 COULD OR WOULD TRY TO DO?

6 A. SHE SAID IF SHE GOT IT SHE WOULD CALL ME.

7 Q. AND DID YOU DO ANYTHING FURTHER TO ASSIST HER IN THAT
8 REGARD?

9 A. I DID PROVIDE HER WITH, I THINK, MY PAGER NUMBER AT THE
10 TIME.

11 Q. DID YOU RECEIVE ANY CONTACT BACK FROM HER AFTER THAT?

12 A. I BELIEVE IT'S SIX A.M. OR SO THAT MORNING I GOT A PAGE
13 CALLED HER BACK AND SHE SAID SHE COULDN'T DO ANYTHING
14 FOR ME AND THAT SHE WAS HAVING THREATS AGAINST HER.

15 Q. DID SHE INDICATE TO YOU WHO WAS MAKING ANY THREATS?

16 A. NO, SIR. SHE WOULD NOT ELABORATE.

17 Q. HOW LONG AFTER THAT WAS SHE KILLED?

18 A. WITHIN A WEEK. I DON'T KNOW THE EXACT DATE.

19 MR. BLACKMON: THAT WOULD BE ALL AS TO THE STATEMENT,
20 YOUR HONOR.

21 THE COURT: ALL RIGHT. MR. CONNER, DO YOU HAVE
22 QUESTIONS WITH REGARD TO THE PROFFER?

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

24 THE COURT: ALL RIGHT. MR. BLACKMON, I'LL HEAR FROM
25 YOU WITH REGARD TO THE REASONS YOU THINK THAT IT'S

HEARING

193

1 ADMISSIBLE AND WHAT YOUR GROUNDS ARE AND THEN I'LL HEAR
2 FROM MR. CONNER AS TO THE REASONS HE THINKS IT IS NOT
3 ADMISSIBLE.

4 MR. BLACKMON: IT HAS BEEN INDICATED INITIALLY PURSUANT
5 TO RULE 804-A-3 I BELIEVE, A GREAT DEAL OF THOSE CONTENTS OR
6 STATEMENT AGAINST INTEREST. SHE ALSO ADMITS IN ENGAGING IN
7 CRIMINAL ACTIVITY AS FAR AS DRUGS. SHE FURTHER ADMITS TO
8 MOVING OR TAKING FROM THE SCENE THE DEFENDANT IN THIS CASE
9 AND THE CO-DEFENDANT TOREZ, WHICH WE BELIEVE WOULD BE AN
10 ADMISSION AGAINST HER CRIMINAL INTEREST, WHICH COULD RESULT
11 IN CRIMINAL CHARGES PROSECUTED AGAINST HER. IN ADDITION
12 UNDER RULE 803-1, WE BELIEVE THAT SHE WAS MAKING A STATEMENT
13 WHICH DESCRIBED THE EVENT THAT OCCURRED THAT SHE
14 PARTICIPATED IN INsofar AS SHE WAS DRIVING A WHITE ESCALADE
15 ON CARVER STREET. MUCH HAS BEEN MADE BY THE PROSECUTION
16 THAT THE WHITE ESCALADE IS THE VEHICLE FOR WHICH THE BOLO
17 WAS PUT OUT THAT HAD LEFT THE SCENE. SO SHE'S ADMITTED
18 DRIVING THAT ON CARVER STREET AT THE TIME AND EXPLAINED TO
19 THEM SHE PICKED UP THE DEFENDANT AND CO-DEFENDANT AND
20 THAT IN FACT THE CO-DEFENDANT HAD A NINE MILLIMETER GUN IN
21 HIS POSSESSION AS OPPOSED TO THIS GUN. SO THE STATEMENT SHE
22 GAVE SPECIFICALLY DESCRIBES AND EXPLAINS THE -- EXPLAINS THE
23 EVENT OF HER BEING ON CARVER STREET IN THE WHITE ESCALADE,
24 AND THE CO-DEFENDANT HAD THE WEAPON. IT WAS MADE
25 IMMEDIATELY AFTER, WE BELIEVE, SINCE IT WAS BY THREE O'CLOCK

1 A.M. FOLLOWING THE INCIDENT, THE EARLY MORNING HOURS AFTER
2 IT OCCURRED.

3 THE COURT: SO THAT WOULD BE ACTUALLY SOME -- HER
4 STATEMENT, IF I UNDERSTAND THE TESTIMONY OF THIS WITNESS
5 IS THAT HER STATEMENT WAS SOME SIX HOURS LATER?

6 MR. BLACKMON: YES, SIR. THAT'S CORRECT. WE FURTHER
7 BELIEVE IT'S AN EXCITED UTTERANCE THAT QUALIFIES UNDER RULE
8 803-2. SHE MADE A STATEMENT ALTHOUGH, AS THE COURT
9 INDICATED, IT WAS FIVE TO SIX HOURS LATER SHE WAS STILL, WE
10 BELIEVE, UNDER THE STRESS OF THE EXCITEMENT CAUSED BY HER
11 HAVING HEARD THE GUNSHOTS. AND PICKING UP THE DEFENDANT
12 AND CO-DEFENDANT.

13 THE COURT: ALL RIGHT. I UNDERSTAND YOUR POSITION.
14 ANYTHING FROM -- LET ME HEAR FROM MR. CONNER.

15 MR. CONNER: IT'S EXCITED UTTERANCE ARGUMENT, YOUR
16 HONOR, IT WOULD SEEM TO ME.

17 THE COURT: I'M NOT CONCERNED ABOUT THAT. I DON'T
18 THINK -- I DON'T THINK IT'S ADMISSIBLE UNDER - SUBPARAGRAPH
19 ONE, OR SUBPARAGRAPH TWO. IT'S AN EXCITED UTTERANCE. I THINK
20 IT HAS BEEN LONGER -- TO REFLECT ON THE EVENTS. IT'S NOT AN
21 EXCITED UTTERANCE WHEN THERE'S BEEN A TIME TO REFLECT ON
22 THE EVENTS BECAUSE SHE WOULD NOT STILL BE UNDER THE STRESS
23 OR EXCITEMENT CAUSED BY THOSE EVENTS AND CONDITIONS. SO, I
24 DON'T THINK IT'S ADMISSIBLE UNDER THE EXCITED UTTERANCE.
25 NEITHER DO I THINK IT'S ADMISSIBLE UNDER THE SUBPARAGRAPH

HEARING

195

1 ONE, PRESENT SENSE IMPRESSION BECAUSE IT'S NOT MADE WHILE
2 EXPLAINING AN EVENT OR CONDITION MADE WHILE THE DECLARANT
3 WAS -- ACTUALLY PRECEDING THE EVENT OR CONDITION BUT WAS
4 MADE LATER. SO I'M NOT REALLY CONCERNED WITH THE
5 ADMISSIBILITY UNDER. I AM CONCERNED WITH THE ADMISSIBILITY
6 UNDER SUBPARAGRAPH B. SUBPARAGRAPH THREE.

7 MR. CONNER: YOUR HONOR, I THINK THIS ABOUT THE
8 ARGUMENT. THIS ONE WAS NOT ARRESTED SO THERE WERE NO
9 CHARGES BEING MADE AGAINST HER. THE -- IN MY WAY OF
10 THINKING -- I DON'T -- AS A PROSECUTOR, I DON'T BELIEVE I
11 CAN CONVICT HER ON THIS STATEMENT OF --

12 THE COURT: DOESN'T MATTER WHAT YOU THINK. IT'S WHAT
13 SHE WOULD HAVE PERCEIVED.

14 MR. CONNER: WELL, SHE IS NOT ADMITTING ANY CRIMINAL
15 ACT.

16 THE COURT: POSSESSION OF MARIJUANA?

17 MR. CONNER: WELL, POSSESSION OF MARIJUANA, THAT'S
18 IRRELEVANT TO THIS DISCUSSION.

19 THE COURT: ACCESSORY AFTER THE FACT?

20 MR. CONNER: I THINK THAT SHE'S NOT ADMITTING TO
21 CRIMINAL ACT THERE BECAUSE OF THIS. SHE DIDN'T KNOW THAT
22 A CRIME HAD OCCURRED. SHE GIVES NO INFORMATION HERE TO
23 INDICATE THAT SHE KNEW ANYTHING IN ADVANCE THAT THEY GUYS
24 HAD DONE A CRIME. ALL SHE KNOWS IS THEY CAME RUNNING -- OR
25 SOMEBODY COULD HAVE TAGGED THEM FOR THAT MATTER, AND

1 THEY WERE FRIENDS OF HERS. IN FACT, THE CAR BELONGED TO MR.
2 WILSON OR THE VEHICLE BELONGED TO HIM AND SHE WAS JUST
3 DRIVING IT, AND THAT SHE WAS JUST PICKING THEM UP. AND FOR
4 ALL SHE KNEW, THEY COULD HAVE BEEN IN DISTRESS. AND THAT'S
5 WHAT I GATHER FROM HER STATEMENT. NOT THAT -- THAT SHE WAS
6 INVOLVED IN KNOWING THAT SOMETHING WRONG HAD BEEN DONE
7 BY THEM. AND SHE WAS RENDERING ASSISTANCE TO THEM.

8 THE COURT: ALL RIGHT, SIR. I UNDERSTAND YOUR POSITION.
9 I'M GOING TO TAKE A RECESS AND I WANT TO REVIEW THE
10 STATEMENT IN DETAIL MYSELF AND TAKE A RECESS AND THEN
11 I WILL RULE ON THIS MATTER AFTER I HAVE HAD A CHANCE TO DO
12 THAT. LET'S TAKE ABOUT A 10-MINUTES RECESS.

13 THE WITNESS: THANK YOU.

14 (RECESS TAKEN.)

15 THE COURT: THANK YOU. PLEASE BE SEATED.

16 (AT 11:05 A.M. TRIAL RESUMES AS FOLLOWS:)

17 THE COURT: ALL RIGHT. BACK ON THE RECORD WITH REGARD
18 TO THE MATTER OF THE STATE VS. WILSON. IN INDICTMENT 03-763 THE
19 ISSUE IS THE ADMISSIBILITY OF THE STATEMENT MADE BY
20 ANGELETIA NICOLE MELTON TO THE LAW ENFORCEMENT OFFICER
21 SOME SIX HOURS AFTER THE INCIDENT, FIVE TO SIX HOURS AFTER THE
22 INCIDENT ON THE EARLY MORNING HOURS OF THE ST, I GUESS. IN ANY
23 EVENT, THE COURT HAS REVIEWED THE RULES OF EVIDENCE AND IN
24 MY VIEW THE STATEMENT IS NOT ADMISSIBLE UNDER EXCEPTIONS TO
25 REGARDING THE HEARSAY EXCEPTIONS WHEN THE DECLARANT IS --

HEARING

197

1 WHERE THE AVAILABILITY OF THE DECLARANT IS IMMATERIAL. I
2 DON'T THINK IT FALLS WITHIN THE EXCEPTION OF SUBPARAGRAPH
3 ONE FOR PRESENT SENSE IMPRESSION, NOR SUBPARAGRAPH TWO AS
4 AN EXCITED UTTERANCE. HOWEVER, THE DEFENSE IS ALSO OFFERING
5 THE STATEMENT AS AN EXCEPTION UNDER 804-B-3 AS A STATEMENT
6 AGAINST INTEREST WHEN THE DECLARANT IS UNAVAILABLE. I
7 WOULD FIND THAT IN THIS CASE THE DEFENDANT HAS MET THE TEST
8 OF SUBPARAGRAPH A. REGARDING THE UNAVAILABILITY OF THE
9 DECLARANT BECAUSE UNDER SUBPARAGRAPH A 804-A DECLARANT
10 WHO IS DECEASED IS UNAVAILABLE. SO THEN WE GO TO THE B.
11 SECTION TO DECIDE WHETHER IT FALLS WITHIN ONE OF THE
12 EXCEPTIONS. AND WITHIN MY VIEW IT DOES FALL WITHIN THE
13 EXCEPTION OF 804-B-3 AS A STATEMENT AGAINST INTEREST. THE TEST
14 FOR HEARSAY IS THE TRUSTWORTHINESS OR THE RELIABILITY OF THE
15 STATEMENT. IT APPEARS TO ME THAT THE STATEMENT WAS TAKEN
16 FROM THIS DEFENDANT AT THE TIME WHEN SHE WAS DESCRIBING
17 INCIDENTS AND GIVING FACTS WHICH COULD HAVE EXPOSED HER TO
18 CRIMINAL LIABILITY AND THEREFORE THE STATEMENT IS RELIABLE
19 AND I WILL ADMIT THE STATEMENT UNDER 804-B-3 MR. BLACKMON,
20 HERE IS THE STATEMENT. ALL RIGHT. BRING THE JURY IN, PLEASE.

21 THE COURT: MARK IT AS DEFENDANT'S NUMBER 1, ADMITTED
22 OVER THE OBJECTION OF THE STATE.

23 (DEFENDANT'S EXHIBIT NUMBER 1, STATEMENT, WAS RECEIVED
24 INTO EVIDENCE.)

25 (JURORS RETURN TO COURTROOM AT 11:09 A.M. AND THE TRIAL

1 RESUMED AS FOLLOWS:)

2 THE COURT: ALL RIGHT. WE ARE NOW READY TO PROCEED.

3 MR. BAILIFF, I BELIEVE ALL THE JURORS ARE PRESENT AND THE
4 ALTERNATE IS PRESENT AND WE ARE NOW READY TO PROCEED.

5 THE COURT: YOU MAY CONTINUE YOUR CROSS-EXAMINATION,
6 MR. BLACKMON.

7 MR. BLACKMON: THANK YOU, SIR.

8 CROSS-EXAMINATION (CONTINUED) BY MR. BLACKMON:

9 Q. MR. BRANNON, LET ME HAND YOU WHAT'S BEEN MARKED AS
10 DEFENDANT'S EXHIBIT 1. WERE YOU -- YOU WERE PRESENT
11 WHEN MR. WILSON WAS PLACED UNDER ARREST IN THE EARLY
12 MORNING HOURS OF MAY 20TH?

13 A. YES, SIR. I'M THE INDIVIDUAL THAT PLACED HIM UNDER
14 ARREST.

15 Q. HIS GIRLFRIEND WAS PRESENT WITH YOU WHEN HE WAS
16 ARRESTED?

17 A. YES, SIR.

18 Q. AND SHE ACCOMPANIED YOU TO THE LAW ENFORCEMENT
19 CENTER?

20 A. YES, SIR.

21 Q. AND APPROXIMATELY WHAT TIME WOULD YOU SAY THAT WAS?

22 A. APPROXIMATELY 2:30ISH TO THREE IN THE MORNING.

23 Q. AND AT THE TIME, WHAT WAS THE PURPOSE OF HER
24 ACCOMPANYING Y'ALL?

25 A. I WANTED TO INTERVIEW HER. SHE HAD BEEN WITH THE

HEARING

199

1 SUSPECT OF THE ALLEGED SHOOTING AND WANTED TO SPEAK
2 TO HER AND SEE WHAT SHE HAD KNOWN.

3 Q. DID SHE SPEAK WITH YOU VOLUNTARILY?

4 A. YES, SIR; SHE DID.

5 Q. DID YOU EXPLAIN TO HER HER MIRANDA RIGHTS?

6 A. YES, SIR. I DON'T RECALL IF WE DID THE -- I'M PRETTY SURE WE
7 DID THE REGULAR MIRANDA FORM, BUT IN ADDITION ON HER
8 STATEMENT IT HAS HER RIGHTS AT THE TOP OR A WAIVER.

9 Q. SO, WHERE DID YOUR CONVERSATION WITH HER TAKE PLACE?

10 A. IN MY OFFICE AT THE LAW ENFORCEMENT CENTER.

11 Q. AND OVER HOW LONG A PERIOD OF TIME, WOULD YOU SAY?

12 A. TWO HOURS.

13 Q. DURING THAT TWO HOURS, SHE RELATED HER VIEW OF THE
14 INCIDENT AS FAR AS HER PERSONAL KNOWLEDGE WAS
15 CONCERNED?

16 A. YES, SIR; AFTER THE FACT.

17 Q. AND YOU KEPT NOTES OF THAT INTERVIEW?

18 A. YES, SIR.

19 Q. AND AS A RESULT OF THAT, DID YOU TYPE OUT A STATEMENT?

20 A. YES, I DID.

21 Q. AND AFTER TYPING OUT THAT STATEMENT, DID YOU PRESENT
22 TO IT MS. MELTON?

23 A. I DID.

24 Q. AND HER FULL NAME WAS WHAT?

25 A. ANGELETIA NICOLE MELTON.

1 Q. AND WHEN YOU PRESENTED THAT STATEMENT TO HER, DID YOU
2 -- IN YOUR OPINION, WAS SHE GIVING YOU TRUTHFUL
3 INFORMATION?

4 A. AS FAR AS MY OPINION ABOUT HER STATEMENT?

5 Q. YES, SIR.

6 A. I HAD MY DOUBTS ABOUT HER STATEMENT.

7 Q. YOU WROTE DOWN EXACTLY WHAT SHE INDICATED?

8 A. YES, SIR; IT WAS HER STATEMENT.

9 Q. AND SHE INITIALED EVERY PAGE OF THAT STATEMENT?

10 A. YES, SIR; I BELIEVE SO.

11 Q. DID SHE ENTER INTO THAT STATEMENT FREELY AND
12 VOLUNTARILY?

13 A. YES, SHE DID.

14 Q. DID YOU THREATEN HER OR PROMISE HER ANYTHING TO MAKE
15 THIS STATEMENT?

16 A. NO, SIR; I DID NOT.

17 Q. DID SHE SIGN THE STATEMENT AFTER SHE INITIALED EVERY
18 OTHER PAGE?

19 A. YES, SIR; SHE DID.

20 Q. THAT IS -- WHAT YOU ARE LOOKING AT IS DEFENDANT'S
21 NUMBER 1. IS THAT THE ACCURATE COPY OF THE ORIGINAL
22 STATEMENT THAT SHE GAVE?

23 A. YES, SIR.

24 Q. WOULD YOU PLEASE PUBLISH THAT TO THE JURY?

25 A. I APOLOGIZE, SIR. THIS MORNING MY BOYFRIEND, TWINKIE,

HEARING

201

1 PARENTHESSES HAROLD WILSON, AND I GOT UP AROUND EIGHT
2 A.M. WE HUNG OUT FOR A WHILE AND THEN TWINKIE LEFT TO
3 GO GET MR. BIGS, IN QUOTATION, MEANING HIS WHITE
4 ESCALADE. HE LEFT ME AT THE HOUSE FOR AN HOUR OR SO
5 AND THEN I WALKED OVER TO THE PROJECTS, PARENTHESSES,
6 BIRNIE CIRCLE, AND MET HIM COMING DOWN CARVER STREET
7 TOWARD GUIGNARD. HE WAS RIDING WITH BRANDON
8 HAYNESWORTH, PARENTHESSES CAM, SO I GOT IN. AND WE
9 WENT AND GOT MY FRIEND CHAVON. WE SPENT THE REST OF
10 THE DAY MESSING AROUND, HANGING OUT AT THE MALL AND
11 WHEREVER WE WANTED TO GO. WE SMOKED SOME WEED
12 PROBABLY, PARENTHESSES, A NICK MEANING A DIME BAG -- OR,
13 EXCUSE ME, A NICKLE BAG. LATER IN THE DAY I DROVE MR.
14 BIGS AND WE WENT AND PICKED UP BASE, TOREZ AND BEN
15 FROM IRIS WINDS MOBILE HOME PARK. WHILE WE WERE RIDING
16 AROUND WE GOT -- WE TALKED ABOUT GETTING SOME MORE
17 WEED. SO WE DECIDED TO GO TO THE PROJECTS AND TWINKIE
18 WOULD GO BUY SOME FROM REESE, MAURICE GREEN. I
19 DROPPED OFF TWINKIE AND TOREZ NEAR CHAVON'S
20 APARTMENT. BASE AND I STAYED IN THE TRUCK LISTENING TO
21 MUSIC WHILE THEY WALKED THROUGH THE CUT BEHIND HER
22 APARTMENT. I THINK HER IS NUMBER OR AFTER A FEW
23 MINUTES I HEARD TWO GUNSHOTS COMING FROM OVER OFF OF
24 CARVER STREET OR FROM THE BACK OF THE GRAVEYARD. I
25 FIGURED SOMETHING MIGHT BE WRONG BECAUSE IT WAS STILL

HEARING

202

1 DAYLIGHT AND THAT WAS UNUSUAL FOR SHOTS TO BE FIRED
2 DURING THE DAYLIGHT. I KNOW THEM BOYS OVER ON CARVER
3 STREET DON'T LIKE TWINKIE BECAUSE OF SOME BEEF FROM
4 SOMETIME AGO. THAT'S WHY TWINKIE DON'T LIKE TO TAKE MR.
5 BIGS INTO THE PROJECTS OR ON CARVER STREET. I STARTED
6 MR. BIGS AND GOT BACK -- AND BACKED OUT HEADING UP
7 CARVER STREET FROM GUIGNARD. I GOT DOWN THE ROAD
8 RIGHT THERE WHERE THAT BRICK HOUSE IS WITH THE RED VAN
9 IN THE YARD. THAT'S WHEN I SEEN TWINKIE RUNNING DOWN
10 THE ROAD, RUNNING AND DUCKING LIKE HE WAS RUNNING
11 FROM BULLETS. BEN SAID, WHAT'S THAT FOOL DOING. TWINKIE
12 FELL ON THE GROUND KIND OF RUNNING AND HOLLERING, I
13 THINK I'M HIT. I SLAMMED ON THE BRAKES AND WE GOT OUT OF
14 THE TRUCK AND WENT OVER TO HIM. WE CHECKED HIM OVER
15 AND THERE WASN'T ANYTHING WRONG WITH HIM. I TOLD
16 TWINKIE TO GET IN THE TRUCK AND THAT'S WHEN I GOT BACK
17 IN. I SEEN TOREZ ALREADY SITTING IN THE BACK OF THE
18 TRUCK. TOREZ WAS HOLDING A BLACK WITH REDDISH HANDLE
19 NINE MILLIMETER. I KNOW IT IS A NINE MILLIMETER BECAUSE I
20 HAVE HELD THAT SAME GUN BEFORE AND EVEN SHOT IT.
21 THAT'S BEEN SCRATCHED OUT WITH HER INITIALS ON THAT
22 PORTION. THE GUN WAS IN ONE OF HIS HANDS AND THEY WERE
23 RESTING IN HIS LAP. HE WAS BREATHING HARD SAYING
24 SOMETHING THAT REESE WAS BUSTING AT THEM IN THE
25 CROWD. WE ALL GOT OUT -- WE ALL GOT INSIDE THE ESCALADE

HEARING

203

1 AND I DROVE DOWN THE ROAD TOWARD THE CEMETERY. AS I
2 GOT DOWN THE ROAD, I SEEN SOME BIKES LAYING IN THE
3 ROADWAY AND A BUNCH OF PEOPLE STANDING THERE. I
4 HOOKED A RIGHT AND DROVE THROUGH THE GRAVEYARD AND
5 ONTO THAT ROAD BESIDE THE HESS STATION. I WENT ACROSS
6 THE LIGHT AND WAS HEADED TOWARDS SALEM STREET.
7 SOMEBODY HOLLERED FOR ME TO STOP SO I DID. WHEN I
8 STOPPED THEY ALL BAILED OUT AND RAN OFF. I WASN'T FAR
9 FROM TWINKIE'S AUNT'S HOUSE SO I DROVE AROUND THERE
10 AND TOLD HER WHAT HAPPEN. BY THE TIME I TOLD HER WHAT
11 HAPPENED, I SEEN TWINKIE COME INTO THE YARD. WE DROVE
12 THE WHITE CORSICA OVER TO HIS HOUSE AND TOLD PEACHES,
13 TWINKIE'S MOM, WHAT HAD HAPPENED. AT SOME POINT I
14 EITHER HANDED TWINKIE'S JACKET TO PEACHES OR JUST LEFT
15 IT IN THE HOUSE, I DON'T REMEMBER WHICH, BUT I DO
16 REMEMBER THAT IT IS STILL IN THE HOUSE. WHILE WE OVER
17 THERE RO, WHICH IS ROOSEVELT, CAME WALKING DOWN THE
18 ROAD TOWARDS US HOLLERING. PEACHES, KEN AND ANOTHER
19 GUY STOPPED RO AND HE TOLD HIM THAT SOMEBODY TOLD HIM
20 I WAS DRIVING THE ESCALADE AND THAT THE SHOTS CAME
21 FROM INSIDE. HE SAID THAT HE HEARD REGGIE HAD GOTTEN
22 SHOT IN THE EYE. ANYWAY RO WALKED OFF AND WE ALL GOT
23 BACK IN THE CORSICA WITH THE LITTLE BABIES SO WE COULD
24 GET THEM OUT OF THERE BEFORE SOMEBODY CAME AROUND
25 AND SHOT UP TWINKIE'S HOUSE. WHEN WE GOT BACK OVER TO

1 HIS AUNT'S HOUSE, I CALLED MY MOM AND TOLD MY MOM
2 SOME OF WHAT HAPPENED. WE SAT IN THE LIVING ROOM
3 DISCUSSING THE INCIDENT AND THEN TWINKIE AND I WENT TO
4 BED.

5 Q. AND AFTER MS. MELTON SIGNED THAT STATEMENT, SHE WAS
6 RELEASED?

7 A. YES, SIR.

8 Q. DID YOU TALK TO HER AGAIN AFTER THAT?

9 A. YES, SIR; I DID.

10 Q. AND WHAT, IF ANYTHING, DID SHE OFFER TO ASSIST YOU WITH?

11 A. AFTER THE STATEMENT OR FOLLOWING THE TIME PERIOD?

12 Q. AFTER THE STATEMENT.

13 A. WE DISCUSSED WHERE WE WOULD TAKE HER. WE WERE
14 CONCERNED FOR HER. SHE WAS LIVING ON THE STREETS,
15 BASICALLY LIVING WHEREVER SHE WANTED TO. SO WE WERE
16 TRYING TO MAKE ARRANGEMENTS TO GET HER TO A PLACE
17 THAT SHE CHOSE. SHE DECIDED TO BE DROPPED OFF AT
18 TWINKIE'S HOUSE. SHE ALSO STATED THAT SHE WOULD DO AN
19 ATTEMPT TO GET HOLD OF THE GUN BECAUSE THOSE BOYS
20 TRUSTED HER AND I DID PROVIDE HER WITH MY BEEPER
21 NUMBER FOR HER TO IMMEDIATELY BEEP ME SHOULD SHE GOT
22 HOLD OF THE WEAPON. I TOOK HER TO, I THINK IT WAS
23 AND DROPPED HER OFF AND THAT WAS
24 APPROXIMATELY FIVE TO SIX A.M. IN THE MORNING,
25 SOMEWHERE IN THERE. IT WAS VERY LATE.

HEARING

205

1 Q. NOW, WAS MR. WILSON UNDER ARREST AT THAT TIME; WAS HE
2 NOT?

3 A. YES, SIR; HE WAS.

4 Q. AND TO YOUR KNOWLEDGE SHE WAS AWARE THAT HE WAS
5 UNDER ARREST?

6 A. YES, SIR.

7 Q. DO YOU KNOW IF TOREZ WAS UNDER ARREST AT THAT TIME?

8 A. NO, SIR. WE WERE -- WE HAD AN IDEA WHO TOREZ WAS BUT WE
9 HADN'T HAD ANY POSITIVE IDENTIFICATION ON HIM YET SO WE
10 WERE UNABLE TO LOCATE HIM.

11 Q. SO TOREZ WAS NOT IN YOUR CUSTODY?

12 A. NO, SIR. HE WAS NOT IN CUSTODY AT THAT TIME.

13 Q. ALL RIGHT. DID YOU TALK WITH MS. MELTON AGAIN ABOUT
14 LOCATING THE WEAPON?

15 A. THAT WAS THE LAST CONVERSATION I HAD WITH MS. MELTON
16 UNTIL LATER.

17 Q. DID SHE CALL YOU BACK ON YOUR BEEPER AFTER THAT?

18 A. YES, SIR. SHE PAGED ME. I DID CALL HER BACK. SHE PAGED.

19 Q. WHEN -- WHAT WAS -- PARDON ME. WHEN WAS THAT?

20 A. SIX OR SEVEN IN THE MORNING. IT WASN'T MUCH LONGER. I
21 SEEM TO RECALL THAT IT WAS EARLY THAT NEXT MORNING OR
22 THAT FOLLOWING MORNING.

23 MR. CONNER: MAY IT PLEASE THE COURT.

24 THE COURT: YES, SIR.

25 MR. CONNER: MAY WE APPROACH?

HEARING

206

1 THE COURT: YES, SIR.

2 (OFF THE RECORD DISCUSSION.)

3 BY MR. BLACKMON:

4 Q. TO YOUR KNOWLEDGE, WHEN WAS TOREZ IDENTIFIED?

5 A. I'D HAVE TO REVIEW THE STATEMENT, I BELIEVE, OF MR.
6 BUTLER OR -- EITHER MR. BUTLER OR MR. BURROUGHS BECAUSE
7 I HAD THEM DO A LINEUP AND THERE WAS A SIGNATURE
8 ON IT.

9 Q. WERE YOU PRESENT WHEN THAT WAS EFFECTIVE -- WHEN THE
10 LINEUP WAS DONE?

11 A. YES, SIR.

12 Q. SO YOU SET UP A LINEUP FOR MR. BUTLER?

13 A. UH-HUH.

14 Q. AND AS A RESULT OF THAT LINEUP, WAS MR. BUTLER
15 IDENTIFIED?

16 A. I BELIEVE THE PHOTO NUMBER IS NUMBER SIX, THE INDIVIDUAL
17 DESCRIBED OR DWAUNTREZ LASHARD KEITH.

18 Q. AND AFTER PHOTO NUMBER SIX, WHICHEVER ONE IT WAS THAT
19 WAS IDENTIFIED IN THE PHOTO LINEUP AS DWAUNTREZ KEITH,
20 WAS MR. KEITH ARRESTED?

21 A. YES, SIR. WE DID OBTAIN A WARRANT SUBSEQUENT TO THAT
22 AND INFORMATION LED US TO THE DEPARTMENT OF JUVENILE
23 JUSTICE WHERE HE WAS SUPPOSED TO BE MEETING A
24 COUNSELOR OR SOMEBODY, AND WE PICKED HIM UP THERE.

25 Q. AND THE WARRANT FOR MR. KEITH WAS FOR WHAT?

HEARING

207

1 A. MAY HAVE BEEN MURDER AT THE TIME, SIR.

2 Q. DID YOU SERVE THAT WARRANT ON HIM?

3 A. YES, SIR.

4 Q. LET ME BACK UP AND TIE UP A COUPLE LOOSE ENDS. YOU HAD
5 MENTIONED EARLIER THAT WHEN Y'ALL ARRIVED ON THE
6 SCENE YOU CHECKED INTO SECURITY FIRST TO MAKE SURE THE
7 AREA WAS, WHAT, SECURED BEFORE YOU KEY PEOPLE IN
8 SOMETIMES?

9 A. ARE YOU REFERRING TO IN GENERAL?

10 Q. IN GENERAL, YEAH.

11 A. AS FAR AS THE TIME FRAMES, YES, SIR. IF I KNEW THE DOOR,
12 FOR INSTANCE, OVER THERE, THAT DISTANCE WAS WHERE I
13 WAS GOING TO ARRIVE, IF TWO OFFICERS' ALREADY THERE I
14 DON'T NEED BE ON THE RADIO, WHAT I CALL HOGGING IT UP
15 BECAUSE I'M GOING TO OBVIOUSLY ARRIVE JUST SHORTLY
16 AFTER. IF THEY'RE THERE THEY NEED THE RADIO TO HOLLER
17 FOR HELP, AND AMBULANCE BACKUP UNITS OR ANYTHING
18 ELSE. AS SOON AS I REALIZE THAT THEY ARE OKAY THEN I'LL
19 BE ON THE RADIO AND TELL THEM I'M OKAY, I'M GOING TO KEY
20 UP ON MY --- AND TELL THEM EVERYTHING IS -, THAT I'VE
21 ARRIVED ON THE SCENE.

22 Q. THAT IS A NORMAL PRACTICE WITHIN THE DEPARTMENT?

23 A. YES, SIR.

24 Q. SO DO YOU SPECIFICALLY RECALL WHETHER YOU KEYED IN
25 IMMEDIATELY WHEN YOU ARRIVED OR WHETHER YOU WAITED

1 A SHORT PERIOD OF TIME BEFORE YOU KEYED IN?

2 A. ON THE NIGHT IN QUESTION?

3 Q. YES, SIR.

4 A. I STAYED OFF THE RADIO BECAUSE I WASN'T UP WAS EN ROUTE
5 TO THE HOSPITAL UNTIL THERE WAS A LULL AND THEN I
6 REALIZED THE OFFICERS HAD THE SCENE SOMEWHAT SECURED
7 AND THAT WAY I CAN GET MY TRANSMISSION IN THAT I WAS
8 GOING TO THE ER.

9 Q. COURT'S INDULGENCE FOR A MOMENT.

10 (PAUSE.)

11 Q. AFTER YOU DID ARRIVE BACK -- AFTER YOU ARRIVED AT THE
12 SCENE, DO YOU RECALL ABOUT WHAT TIME THAT WAS?

13 A. DO YOU HAVE A CAD HISTORY I CAN LOOK AT, SIR? YES, SIR.
14 THE TIME FRAME WAS 9:09 P.M. AND 27 SECONDS.

15 Q. AND YOU REMAINED THERE FOR HOW LONG?

16 A. I DON'T RIGHTLY RECALL. THERE WAS A TIME PERIOD WHERE
17 WE ACTUALLY GOT UP AND WENT TO SOUTH SALEM STREET
18 FROM THERE BUT I WAS THERE FOR AT LEAST AN HOUR MAYBE.

19 Q: YOU WERE ONE OF THE LAST OFFICERS TO LEAVE THAT AREA?

20 A. NO, SIR. WE HANDLED -- WE WENT TO MAKE THE ARREST AND
21 THEY WERE STILL PROCESSING THE SCENE AT THAT TIME, I
22 BELIEVE.

23 Q. DURING THE TIME THAT YOU WERE ASSISTING IN PROCESSING
24 THE SCENE?

25 A. NO, SIR. I WENT TO THE SCENE. I ACTUALLY DIDN'T ENTER INTO

HEARING

209

- 1 WHERE THE SHOTS WERE FIRED AND WHERE THE DECEDENT
2 WAS. WHAT I DID WAS I WENT TO THE HOUSE ACROSS
3 THE STREET. IT'S A BRICK STRUCTURE AND I START LOOKING TO
4 SEE IF THERE WAS PROJECTILE MARKS ON THE HOUSE OR THE
5 WINDOWS OR ANYTHING LIKE TO -- OR ON THE TREES OR
6 MAILBOX, JUST DIFFERENT ITEMS, JUST RULING OUT STUFF.
- 7 Q. AND YOU DIDN'T FIND ANY PROJECTILES OR ANYTHING?
- 8 A. NO, SIR; I DID NOT.
- 9 Q. DID YOU CHECK IN THE YARD?
- 10 A. WHICH YARD, SIR?
- 11 Q. THE YARD OF THAT HOUSE ACROSS THE STREET.
- 12 A. THE ONE WHERE THE --
- 13 Q. BRICK HOUSE.
- 14 A. YES, SIR; I DID.
- 15 Q. DID YOU FIND ANYTHING IN THE YARD?
- 16 A. NO, SIR; I DID NOT.
- 17 Q. TO YOUR KNOWLEDGE, HAD ANYTHING ALREADY BEEN FOUND
18 IN FRONT OF THE HOUSE?
- 19 A. THERE WAS -- SERGEANT DUGGIN HAD ALREADY GOTTEN OUT
20 AND STARTED MARKING ITEMS OR THERE WAS ITEMS MARKED.
21 I STAYED AWAY FROM THOSE AND WAS PRIMARILY STAYED IN
22 THE YARD IN TOWARDS THE CEMETERY SIDE.
- 23 MR. BLACKMON: NOTHING FURTHER OF THIS WITNESS, YOUR
24 HONOR.
- 25 THE WITNESS: YES, SIR.

HEARING

210

1 THE COURT: REDIRECT?

2 REDIRECT EXAMINATION BY MR. CONNER:

3 Q. OFFICER BRANNON, YOU NEVER RECOVERED ANY GUN; IS THAT
4 CORRECT?

5 A. NO, SIR. NO WEAPON'S BEEN RECOVERED.

6 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR.

7 THE COURT: ALL RIGHT. THANK YOU.

8 THE WITNESS: THANK YOU.

9 THE COURT: OFFICER BRANNON, YOU MAY STEP DOWN.

10 (WITNESS EXCUSED.)

11 MR. CONNER: YOUR HONOR, AT THIS TIME THE NEXT WITNESS IS
12 OUT OF THE COURTROOM.

13 THE COURT: THE BAILIFF IS BACK THERE. HE CAN GET THEM
14 FOR YOU. WHAT'S THE NAME?

15 MR. CONNER: ALEXIS EARP. SHE'S IN MY OFFICE DOWNSTAIRS.

16 THE COURT: COME UP PLEASE, MA'AM.

17 THE CLERK: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
18 YOUR RIGHT HAND, STATE YOUR NAME, PLEASE.

19 THE WITNESS: ALEXIS EARP.

20 ALEXIS LORETTA EARP, HAVING BEEN FIRST DULY SWORN, WAS
21 EXAMINED AND TESTIFIED AS FOLLOWS:

22 THE CLERK: HAVE A SEAT UP HERE, PLEASE, MA'AM. STATE
23 YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE COURT,
24 PLEASE.

25 THE WITNESS: ALEXIS LORETTA EARP. EARP, E-A-R-P.

HEARING

211

1 DIRECT EXAMINATION BY MR. CONNER:

2 Q. MISS EARP, WHERE DO YOU LIVE?

3 A.

4 Q. AND HOW LONG HAVE YOU LIVED ON CARVER STREET?

5 A. PROBABLY ABOUT SEVEN, SIX TO SEVEN YEARS NOW.

6 Q. AND HAVE YOU RECENTLY FINISHED SCHOOL?

7 A. YES, I DID.

8 Q. WHERE DID YOU GO TO SCHOOL?

9 A. UNIVERSITY OF SOUTH CAROLINA IN COLUMBIA.

10 Q. AND WHAT KIND OF DEGREE DID YOU GET?

11 A. A BACHELOR OF ARTS DEGREE IN PUBLIC RELATIONS.

12 Q. AND WHEN DID YOU GRADUATE?

13 A. AUGUST 7, 2004 .

14 Q. NOW, WHO LIVES THERE AT YOU?

15 A. ME AND MY MOTHER, MY LITTLE BROTHER AND MY SISTER.

16 Q. AND WERE YOU -- WERE YOU LIVING THERE -- WERE YOU

17 PRESENT ON MAY 19TH, 2003?

18 A. YES. I HAD CAME FOR -- WAS A SHORT VACATION. I WAS IN
19 COLUMBIA AT SCHOOL AND I HAPPENED TO COME HOME.

20 Q. AND SO YOU WERE HOME THEN ON MAY 19TH, 2003 WHEN THIS --

21 A. YES, I WAS.

22 Q. -- FELLOW GOT SHOT NEXT DOOR?

23 A. YES, I WAS.

24 Q. AND WHO WAS IN THE RESIDENCE WITH YOU AT THE TIME THIS
25 HAPPENED?

HEARING

212

1 A. ME, MY LITTLE SISTER, MY LITTLE BROTHER.

2 Q. AND COULD YOU TELL US, IF YOU WOULD, WHAT GOT YOUR
3 ATTENTION?

4 A. I HEARD TWO SHOTS. I WAS IN THE HOUSE, ON THE PHONE AND I
5 HEARD TWO SHOTS OUTSIDE. AND MY LITTLE BROTHER
6 SCREAMED THAT SOMEONE HAD BEEN SHOOTING AND I WENT
7 TO THE SIDE WINDOW.

8 Q. AND WHEN YOU LOOKED OUT OF THE SIDE WINDOW, WHAT DID
9 YOU SEE?

10 A. I SAW LITTLE REGGIE SITTING ON HIS BIKE IN FRONT OF THE
11 MAILBOX. AND THEN I TURNED LIKE TO THE SIDE OF THE
12 WINDOW, THE WINDOW'S, LIKE, IN THE MIDDLE OF THE HOUSE.
13 THE WAY THE HOUSE IS SET, THE HOUSE IS NOT SET TO THE
14 FRONT OF THE STREET. IT'S SET TO THE SIDE WHERE YOU CAN
15 SEE FROM THE WINDOW AND WHEN I TURNED TO THE SIDE
16 OF THE WINDOW IT WOULD HAVE BEEN MY RIGHT-HAND SIDE. I
17 ALSO LOOKED TO THAT SIDE AND I SAW MAURICE RUNNING TO
18 HIS BACK DOOR AND THEN I SAW SOMEBODY DRAGGING THEIR
19 LEG, BEHIND THE HOUSE, SOMEBODY WAS DRAGGING IT ON THE
20 GROUND BEHIND THE HOUSE.

21 Q. DID YOU LATER LEARN WHO THAT PERSON WAS?

22 A. YEAH, I LATER LEARNED THAT IT WAS LINWOOD.

23 Q. LINWOOD WHO?

24 A. LINWOOD WHO? I DON'T KNOW HIS LAST NAME.

25 Q. YOU DON'T KNOW HIS LAST NAME?

HEARING

213

- 1 A. NO.
- 2 Q. IS THIS LINWOOD RIGHT HERE?
- 3 A. YEAH, THAT'S HIM.
- 4 Q. RIGHT HERE IN THE GRAY COAT?
- 5 A. UH-HUH.
- 6 Q. SO, YOU'VE HEARD TWO SHOTS?
- 7 A. RIGHT.
- 8 Q. THEN YOU LOOKED OUT YOUR WINDOW?
- 9 A. THEN I LOOKED OUT THE WINDOW. AND I TOLD MY LITTLE
- 10 BROTHER AND SISTER TO GET DOWN ON THE FLOOR. SO AT
- 11 THAT PRESENT TIME I WAS THE ONLY PERSON LOOKING OUT OF
- 12 THE WINDOW.
- 13 Q. AND WHEN YOU LOOKED OUT OF THE WINDOW YOU SAW THE
- 14 FELLOW YOU CALLED LITTLE REGGIE?
- 15 A. UH-HUH.
- 16 Q. UP NEAR THE MAILBOX.
- 17 A. RIGHT.
- 18 Q. AND YOU SAW MAURICE?
- 19 A. RUNNING TO HIS BACK DOOR.
- 20 Q. THAT WAS AT ?
- 21 A. RIGHT.
- 22 Q. NEXT DOOR?
- 23 A. RIGHT.
- 24 Q. AND YOU ALSO SAW SOMEBODY IN THE BACKYARD OF REESE'S
- 25 HOUSE?

1 A. CRAWLING AROUND DRAGGING THEIR LEG.

2 Q. CRAWLING AROUND ON THE GROUND, DRAGGING THEIR LEG?

3 A. CORRECT.

4 Q. AND THEN WHAT HAPPENED NEXT?

5 A. THEN I HEARD ANOTHER SHOT AND IT SOUNDED LIKE IT WAS
6 COMING, LIKE, THROUGH MY HOUSE. SO I TURNED AND LOOKED
7 AGAIN. AND I SAW LITTLE REGGIE FALL OFF HIS BIKE. I NEVER
8 SAW ANYBODY ELSE BUT I SAW LITTLE REGGIE FALL OFF HIS
9 BIKE. WELL, AFTER LITTLE REGGIE FELL OFF HIS BIKE I SAID, I
10 THINK LITTLE REGGIE JUST GOT SHOT, TO MY LITTLE BROTHER
11 AND SISTER. I SAID, DON'T GET UP OFF OF THE FLOOR, DON'T
12 GET UP OFF THE FLOOR. SO THEN RIGHT AFTER THAT I SAW
13 OTHER PEOPLE, LIKE, RUNNING OUTSIDE OR WHATEVER AND I
14 WENT OUTSIDE. AND THEN WHEN I WENT OUTSIDE, I SAW THAT
15 HE WAS ON HIS BIKE.

16 Q. WHO WAS ON HIS BIKE?

17 A. LITTLE REGGIE. HE WAS LAYING ON HIS BIKE.

18 Q. DID HE APPEAR TO BE WOUNDED?

19 A. YEAH. THERE WAS A LOT OF BLOOD.

20 Q. BUT HE WAS ON THE GROUND?

21 A. HE WAS LAYING ON HIS BIKE.

22 Q. ON HIS BIKE?

23 A. ON THE BACK TIRE OF HIS BIKE. HE WAS LAYING ON IT.

24 Q. BUT THE BIKE WAS ON THE GROUND?

25 A. RIGHT.

HEARING

215

- 1 Q. AND HE WAS ON TOP OF THE BIKE?
- 2 A. RIGHT.
- 3 Q. ON THE BACK TIRE YOU SAY?
- 4 A. RIGHT.
- 5 Q. NOW, DID YOU SEE A VEHICLE OR TAKE NOTE OF A VEHICLE
- 6 THERE IN THAT AREA?
- 7 A. YES. I SAW A WHITE ESCALADE DRIVE BY. I NEVER SAW, LIKE,
- 8 DRIVERS OR ANYTHING TO THAT EFFECT, BUT I SAW THE TRUCK.
- 9 Q. AND DID YOU TELL YOUR SISTER TO CALL THE POLICE?
- 10 A. YES, I TOLD HER TO CALL THE POLICE.
- 11 Q. I WANT YOU TO COME DOWN HERE AND LOOK AT THIS SKETCH
- 12 FOR US NOW IF YOU WOULD. REFERRING TO STATE'S EXHIBIT
- 13 NUMBER 1, THIS SKETCH OF CARVER STREET, SHOW US WHERE
- 14 YOU WERE AT.
- 15 A. RIGHT HERE, . THE BACK DOOR WOULD PROBABLY BE
- 16 AROUND THIS AREA, RIGHT HERE. THIS WOULD BE THE , BACK
- 17 DOOR.
- 18 Q. THERE'S A BACK DOOR ON YOUR SIDE OF THE HOUSE?
- 19 A. A BACK - NO. OUR BACK DOOR, THERE ARE TWO BACK
- 20 WINDOWS. THERE'S A BACK WINDOW HERE AND THEN THERE'S
- 21 A BACK DOOR HERE. THERE ARE TWO BACK WINDOWS. THE
- 22 BACK DOOR TO MY HOUSE IS LOCATED BACK HERE AND THE
- 23 FRONT DOOR IS BACK HERE.
- 24 Q. AND THE BACK DOOR ON 208, WHERE IS IT?
- 25 A. SOMEWHERE AROUND HERE.

HEARING

216

1 Q. NOW, WERE YOU AT VERY BACK WINDOW THERE ON THE SIDE
2 OF THE HOUSE?

3 A. I WAS AT THE MIDDLE WINDOW. THERE IS ONE WINDOW HERE,
4 THEN THERE'S A WINDOW HERE, THEN THERE'S A WINDOW
5 HERE. THERE ARE THREE WINDOWS AND THERE'S A FRONT
6 DOOR AND A STEP.

7 Q. SO YOU WOULD BE AT THAT MIDDLE WINDOW?

8 A. RIGHT.

9 Q. AND WHEN YOU LOOKED OUT THAT WINDOW, YOU SAY YOU
10 HEARD TWO SHOTS?

11 A. RIGHT.

12 Q. WHEN YOU LOOKED OUT OF WINDOW SHOW US WHERE YOU
13 SAW LITTLE REGGIE.

14 A. HE WOULD HAVE BEEN ON HIS BIKE. OKAY. THIS IS THE
15 MAILBOX, THEN THIS WOULD HAVE BEEN THE BIKE. AND THAT'S
16 - THIS SKETCH IS A LOT OFF BECAUSE THE MAILBOX
17 SITS A LITTLE FURTHER BACK, ABOUT HERE. SO THE BIKE WAS
18 MORE ABOUT HERE.

19 Q. THIS SKETCH IS NOT TO SCALE?

20 A. NO, IT'S NOT.

21 Q. NOW, AND WHERE DID YOU SEE MAURICE?

22 A. RUNNING TO THE BACK DOOR.

23 Q. AND WHERE DID YOU SEE LINWOOD?

24 A. FARTHER DOWN, LIKE, IN THE BACK OF THE HOUSE WHERE THE
25 WINDOW IS. SEE I SAW HIM DRAG HIS LEG. I DIDN'T SEE HIS

HEARING

217

1 FACE ALL THE WAY. I SAW THE LOWER PART OF HIS BODY.

2 Q. AND THEN YOU SAY YOU HEARD A THIRD SHOT?

3 A. RIGHT. AND IT SOUNDED LIKE IT WAS IN FRONT OF THE -

4 Q. WHERE DID IT SOUND LIKE IT CAME FROM?

5 A. COULD HAVE BEEN POSSIBLY IN THIS AREA. SOMEWHERE IN
6 THAT AREA.

7 Q. IT WAS FROM THE FRONT?

8 A. BUT I CAN'T BE ACCURATE ON EXACTLY WHERE. WHEN THERE
9 ARE SHOTS FIRED, YOU'RE NOT REALLY SURE EXACTLY WHERE
10 THEY'RE COMING FROM.

11 Q. OKAY. BUT YOU SAW LITTLE REGGIE FALL?

12 A. RIGHT. WHEN I HEARD THE THIRD SHOT, I SAW HIM FALL OFF
13 HIS BIKE.

14 Q. AND MAURICE WAS AROUND THERE TRYING TO GET IN HIS
15 HOUSE?

16 A. RIGHT.

17 Q. LINWOOD WAS IN THE BACK ON THE GROUND?

18 A. ON THE GROUND.

19 Q. HAVE A SEAT.

20 A. (COMPLYING.)

21 MR. CONNER: I HAVE NO FURTHER QUESTIONS OF YOU.

22 THE COURT: CROSS-EXAMINATION, MR. BLACKMON.

23 CROSS-EXAMINATION BY MR. BLACKMON:

24 Q. WHERE EXACTLY WAS MAURICE WHEN YOU SAW HIM

25 A. GOING TO HIS BACK DOOR.

1 Q. ALL RIGHT. SO WHERE WAS HE WHEN YOU SAY HE WAS GOING
2 TO HIS BACK DOOR?

3 A. WHERE WAS HE? ON HIS BACK STEP.

4 Q. HE WAS ON THE STEP?

5 A. RIGHT.

6 Q. AND HOW LONG DID YOU LOOK AT HIM?

7 A. PROBABLY ABOUT A MINUTE OR TWO.

8 Q. A MINUTE OR TWO, SO THERE WAS PROBABLY A MINUTE OR
9 TWO FROM THE TIME YOU BEGAN LOOKING AT HIM UNTIL YOU
10 HEARD THE THIRD SHOT?

11 A. POSSIBLY.

12 Q. AND HOW LONG WOULD YOU SAY YOU LOOKED AT LINWOOD?

13 A. FOR PROBABLY ABOUT TWO MINUTES BECAUSE I WAS TRYING
14 TO SEE WHO IT WAS, BUT ALL I COULD SEE WAS THE LOWER
15 PART OF HIS BODY.

16 Q. AND YOU LOOKED AT LINWOOD FIRST OR DID YOU LOOK AT
17 MAURICE FIRST?

18 A. THE WAY THE BACK STEP IS, I COULD GLANCE BETWEEN THE
19 TWO. LIKE THE WAY THE BACK STEP IS, AND THE BACKYARD AS
20 -- CLOSE AS THEY ARE TO EACH OTHER, I CAN GLANCE IN
21 BETWEEN THE TWO AND SORT OF STILL SEE THE TWO, BOTH
22 KIND OF SORT OF. BUT MORE OF MY ATTENTION WAS ON
23 LINWOOD, ACTUALLY.

24 Q. SO I'M TRYING TO NARROW THIS DOWN. IF YOU LOOKED AT
25 MAURICE FOR ABOUT A MINUTE OR TWO AND YOU LOOKED AT

HEARING

219

1 LINWOOD FOR A COUPLE MINUTES --

2 A. RIGHT.

3 Q. -- IS THAT ONE OR TWO MINUTES AND ANOTHER TWO MINUTES
4 OR ALL TOGETHER?

5 A. ALL TOGETHER.

6 Q. SO IT'S TWO MINUTES ALL TOGETHER?

7 A. IT'S TWO MINUTES ALL TOGETHER.

8 Q. OKAY. NOW, DID YOU NOTICE A GUN IN MAURICE'S HAND?

9 A. NO, I DID NOT.

10 Q. DID YOU NOTICE A GUN ANYWHERE NEAR LINWOOD?

11 A. NO, I DID NOT.

12 Q. DID YOU LOOK AT THEIR HANDS PARTICULARLY?

13 A. NO, I DID NOT.

14 Q. DID YOU KEEP YOUR EYES ON MAURICE THE WHOLE TIME?

15 A. WOULD -- THIS BE PERTAINING TO THE FIRST QUESTION THAT
16 YOU ASKED, WHEN YOU SAID DID YOU SEE THEM BETWEEN ONE
17 AND TWO MINUTES.

18 Q. YES, MA'AM.

19 A. NO, IT WAS BETWEEN REESE AND LINWOOD.

20 Q. OKAY. NOW WERE YOU LOOKING AT REESE OR LINWOOD OR
21 ANYTHING ELSE IN PARTICULAR WHEN YOU HEARD THE THIRD
22 SHOT?

23 A. STILL LOOKING BACK. I GLANCED BACK AT MY BROTHER AND
24 SISTER TO MAKE SURE THAT THEY WERE STILL DOWN ON THE
25 FLOOR.

- 1 Q. SO, DO YOU REMEMBER EXACTLY WHAT YOU WERE LOOKING
2 AT
3 WHEN YOU DID HEAR THE THIRD SHOT?
- 4 A. NO, I WOULDN'T SAY THAT I COULD.
- 5 Q. OKAY. SO, WOULD IT BE FAIR TO SAY YOU DON'T REMEMBER
6 SPECIFICALLY LOOKING AT REESE OR LINWOOD WHEN YOU
7 HEARD THE THIRD SHOT?
- 8 A. THAT WOULD BE FAIR.
- 9 Q. NOW YOU'RE PRETTY CONFIDENT THAT YOU ONLY HEARD
10 THREE SHOTS YOURSELF?
- 11 A. THAT'S ALL I HEARD FOR MYSELF. WHETHER THERE WERE
12 MORE OR LESS, I HEARD THREE.
- 13 Q. AND YOU WERE ON THE PHONE WHEN THE FIRST SHOTS WERE
14 HEARD?
- 15 A. RIGHT.
- 16 Q. AND WHERE IS THAT PHONE IN YOUR HOUSE?
- 17 A. IN -- IN THE ROOM WHERE I LOOKED OUT THE WINDOW. IT'S A
18 CORDLESS PHONE.
- 19 Q. AND DO YOU REMEMBER WHERE YOU WERE STANDING IN THE
20 ROOM ON THE PHONE WHEN YOU HEARD THE FIRST TWO
21 SHOTS?
- 22 A. IN THE MIDDLE, IN THE MIDDLE OF THE FLOOR, LIKE, IN THE
23 MIDDLE OF -- IT'S THE DEN. IN THE MIDDLE OF THE DEN.
- 24 Q. ACTUALLY IN THE FLOOR, FROM WHERE YOU'RE SITTING OR
25 STANDING?

HEARING

221

- 1 A. OH. I WAS STANDING UP BECAUSE I HAD JUST ANSWERED THE
2 PHONE.
- 3 Q. OKAY. DO YOU REMEMBER WHO YOU WERE TALKING TO?
- 4 A. NO, BECAUSE AS SOON AS I HEAR THE SHOTS I WENT TO THE
5 WINDOW AND DROPPED THE HONE SO.
- 6 Q. NOW, WHEN YOU LOOKED OUT FRONT AFTER HEARING THE
7 FIRST TWO SHOTS, YOU DIDN'T SEE ANYBODY OUT THERE; DID
8 YOU?
- 9 A. NO, I DIDN'T.
- 10 Q. AND YOU INDICATED YOU SAW LITTLE REGGIE ON HIS BICYCLE?
- 11 A. YEAH, I SAW HIM.
- 12 Q. NOW AT THE TIME YOU FIRST SAW HIM ON HIS BICYCLE YOU
13 DIDN'T REALLY KNOW IT AS LITTLE REGGIE; DID YOU?
- 14 A. THE ONLY REASON I KNEW T WAS HIM BECAUSE EARLIER THAT
15 EVENING -- WELL, EARLIER THAT DAY, RATHER, OR, RATHER,
16 EVENING, DAY, HE HAD BEEN SITTING ON HIS BIKE, LIKE, AT THE
17 MAILBOX OR, LIKE, AROUND THE AREA. EVERYBODY WAS OUT.
18 SO I KNEW WHAT, LIKE, HE HAD HAD ON, HIS COAT OR HIS
19 JACKET OR WHATEVER. I KNEW WHAT HE HAD ON, AND I HAD
20 TALKED TO HIM FOR A LITTLE WHILE AND I KNEW WHAT KIND
21 OF BIKE HE WAS ON SO.
- 22 Q. SO YOU KNEW WHAT KIND OF JACKET HE HAD ON?
- 23 A. UH-HUH.
- 24 Q. AND YOU KNEW HIS BIKE?
- 25 A. YEAH. I THINK HE HAD A LITTLE JACKET OR A PULLOVER OR IM

1 NOT SURE. I BARELY -- HAT WAS YEAR AND SOME CHANGE AGO.

2 Q. I UNDERSTAND. BUT WHEN YOU FIRST LOOKED OUT THE
3 WINDOW AFTER HEARING THE TWO HOTS, THE MINUTE YOU
4 LOOKED OUT OF THAT MIDDLE WINDOW YOU KNEW IT WAS
5 LITTLE REGGIE ON THE BIKE; DIDN'T YOU?

6 A. I KNEW THAT WAS HIM.

7 Q. OKAY. DID YOU MAKE A STATEMENT ON MAY 19th, 2003 OF TO
8 LAW ENFORCEMENT?

9 A. YEAH, I DID.

10 Q. LET ME SHOW YOU A COPY OF THAT STATEMENT.

11 A. OKAY.

12 Q. THAT'S YOUR SIGNATURE ON IT.

13 A. OKAY.

14 Q. DO YOU RECALL SIGNING THAT STATEMENT?

15 A. UH-HUH.

16 Q. DID YOU WRITE IT OUT YOURSELF?

17 A. NO.

18 Q. IT WAS WRITTEN OUT FOR YOU?

19 A. RIGHT.

20 Q. DID YOU READ IT BEFORE YOU SIGNED IT?

21 A. I DON'T THINK SO. I THINK I JUST SIGNED IT. I WAS SHOOK UP. I
22 DIDN'T PAY ANY ATTENTION.

23 Q. LET ME ASK YOU TO READ THE STATEMENT THAT STARTS WITH
24 I TURNED AND LOOKED.

25 A. I TURNED AND LOOKED WHEN I SAW LITTLE REGGIE FALL OFF

HEARING

223

1 THE BIKE AND HIT THE ROUND. I DID NOT KNOW IT WAS HIM AT
2 FIRST.

3 Q. OKAY. NOW, YOU GAVE THIS STATEMENT TO?

4 A. DETECTIVE, WHATEVER, HOLSTON OR WHATEVER HIS NAME IS.

5 Q. THE SAME NIGHT THAT THE INCIDENT HAPPENED?

6 A. RIGHT.

7 Q. DIDN'T YOU -- YOU TESTIFIED JUST NOW YOU KNEW IT WAS
8 LITTLE REGGIE BUT BACK THEN YOU DIDN'T KNOW IT WAS
9 LITTLE REGGIE. WHICH ONE IS TRUTHFUL?

10 A. I DON'T KNOW.

11 Q. OKAY.

12 A. IT WAS A YEAR AND SOME CHANGE AGO. THINGS -- I'VE DONE A
13 LOT OF THINGS SINCE THEN SO.

14 Q. HAD YOU BEEN IN THAT NEIGHBORHOOD ALL THAT DAY?

15 A. YEAH.

16 Q. HAD YOU BEEN OUT ON THE STREET TALKING TO THE NUMBERS
17 OF PEOPLE THAT WERE OUT THERE ALL THAT DAY LONG?

18 A. NO, NOT REALLY, LIKE, TO SPEAK, BUT OTHER THAN THAT, NO.

19 Q. WOULD IT BE FAIR TO SAY THAT THERE HAD BEEN A LOT OF
20 PEOPLE IN THE NEIGHBORHOOD THAT DAY?

21 A. I DON'T KNOW.

22 Q. WELL, YOU MENTIONED -- EARLIER YOU HAD MENTIONED
23 LITTLE REGGIE EARLIER OUT THERE ON HIS BICYCLE?

24 A. YEAH, I SEEN THEM EARLIER. I SEEN THEM OUT THERE EARLIER,
25 BUT THAT'S NOT TO SAY THAT THERE WAS A WHOLE LOT OF

1 PEOPLE OUT THERE. THOSE ARE THE SAME PEOPLE WHO ARE
2 ALWAYS OVER THERE.

3 Q. ALL RIGHT. SO WHEN YOU SAW LITTLE REGGIE OVER THERE
4 EARLIER, WHO DID YOU SEE HIM WITH?

5 A. HE WAS -- WELL, HE WAS ON HIS BIKE AND MY LITTLE BROTHER
6 WAS WITH HIM. AND I THINK HE WAS COMING IN THE HOUSE TO
7 GET SOMETHING TO DRINK OR SOMETHING LIKE THAT AND I
8 WAS ON THE PORCH. THEY SPOKE LIKE, HI, ALEXIS. SO I REALLY
9 JUST GLANCED. SO I KNOW IT WAS A COUPLE OF PEOPLE BUT I
10 DON'T KNOW WHO IT WAS PER SE.

11 Q. DO YOU REMEMBER SEEING MAURICE OUT THERE?

12 A. I DID SEE REESE EARLIER THAT DAY, UH, I THINK I SAW HIM
13 GOING IN THIS HOUSE EARLIER THAT DAY, POSSIBLY, I THINK.

14 Q. DID YOU SEE LINWOOD EARLIER THAT DAY?

15 A. I DON'T THINK SO. I DON'T THINK I SAW HIM. I DON'T KNOW. I
16 WAS ON MY PORCH. IT WAS A COUPLE OF PEOPLE, ALL THE
17 SAME BOYS. I DON'T PAY ATTENTION TO THEM. I SEE
18 THEM, THEY SPEAK. I SAY, HEY, HOW ARE YOU DOING. I GO IN
19 THE HOUSE. SO I'M STANDING ON THE PORCH. SO, I REALLY
20 DON'T PAY ATTENTION TO SEE WHO'S STANDING, WHERE
21 EVERYBODY IS, WHO'S TOGETHER OR WHATEVER. I JUST PAY
22 ATTENTION BECAUSE MY LITTLE BROTHER WAS COMING IN THE
23 HOUSE AND I SEEN LITTLE REGGIE. HE WAS LIKE, I BE BACK
24 OUT.

25 Q. ARE YOU AWARE THAT LITTLE REGGIE WAS FOUND WITH

HEARING

225

- 1 MARIJUANA IN HIS POCKET?
- 2 A. NO.
- 3 Q. ARE YOU AWARE THAT THERE WAS MARIJUANA SOLD ON THAT
- 4 STREET?
- 5 A. AM I AWARE THAT IT SOLD ON THE STREET?
- 6 Q. YES, MA'AM. ON THAT STREET.
- 7 A. ON THAT PARTICULAR STREET?
- 8 Q. YES, MA'AM.
- 9 A. IT'S SOLD ON A LOT OF STREETS. NOT THAT I CAN SAY.
- 10 Q. DID YOU USE MARIJUANA ON THAT DAY?
- 11 A. NO, I DON'T DO DRUGS.
- 12 Q. YOU DIDN'T DO DRUGS THEN?
- 13 A. DIDN'T DO DRUGS THEN, I DON'T DO THEM NOW, I NEVER HAVE.
- 14 Q. DO YOU KNOW WHETHER REESE DID DRUGS THAT DAY?
- 15 MR. CONNER: YOUR HONOR, I WOULD -
- 16 THE WITNESS: I DON'T UNDERSTAND THE RELEVANCE.
- 17 THE COURT: YES, SIR. IF SHE KNOWS I'LL ALLOW HER TO
- 18 ANSWER BUT IF SHE DOESN'T KNOW SHE CAN ANSWER AS WELL.
- 19 BY MR. BLACKMON:
- 20 Q. WERE YOU AWARE AS TO WHETHER OR NOT REESE HAD ANY
- 21 DRUGS THAT DAY?
- 22 A. I DON'T KNOW.
- 23 Q. WHILE YOU WERE TALKING WITH ANYBODY OUT THERE
- 24 EARLIER THAT DAY, DID YOU SEE ANYBODY WITH ANY GUNS?
- 25 A. NO.

1 Q: YOU JUST TESTIFIED THAT YOU WERE LOOKING OUT THE
2 MIDDLE WINDOW?

3 A: RIGHT.

4 Q: WHEN YOU DID THIS STATEMENT ON MAY 19TH OF 2003 ...

5 A: I KNOW EXACTLY WHAT THE STATEMENT SAYS, THE BACK
6 WINDOW. IT'S NOT A BACK WINDOW. THEY CONSIDER IT A
7 BACK WINDOW.

8 Q: WHO CONSIDERS IT A BACK WINDOW?

9 A: I GUESS THE OFFICE OR THE POLICE. THEY CONSIDER IT
10 A BACK WINDOW BECAUSE OF THE WAY THE HOUSE IS MADE
11 BUT IT IS NOT A BACK WINDOW. THERE ARE THREE SIDE
12 WINDOWS. A BACK WINDOW WOULD PLACE ME LOOKING AT
13 THE RAILROAD TRACK AND THE TREES IN THE BACKYARD.

14 Q: LET ME SHOW YOU WHAT HAS BEEN MARKED AS STATE'S
15 EXHIBIT NUMBER 7. DOES THAT SHOW THE HOUSE YOU LIVE
16 IN ON THE LEFT?

17 A: RIGHT.

18 Q: WITH THE THREE WINDOWS?

19 A: UH-HUH.

20 Q: SO, THE WINDOW YOU WERE LOOKING OUT IS THAT SMALLEST
21 WINDOW OF THE THREE?

22 A: RIGHT.

23 Q: WAS IT DARK WHEN YOU LOOKED OUT THAT WINDOW?

24 A: KIND OF. I GUESS THE SUN WAS GOING DOWN OR WHATEVER
25 BUT IT SITS IN THE BACK OF MY HOUSE AND THERE ARE A

HEARING

227

1 LOT OF TREES. IT WAS KIND OF DIM AND THE LIGHTING
2 WASN'T REAL GOOD.

3 Q: BUT YOU WERE ABLE TO CLEARLY ESTABLISH THAT IT WAS
4 REESE GOING IN THE BACK DOOR?

5 A: YES.

6 Q: HOW WERE YOU ABLE TO MAKE SURE THAT IT WAS REESE AND
7 NOT SOMEBODY ELSE?

8 A: I KNOW HOW HE WALK. I KNOW HOW HE RUN. I'VE BEEN
9 AROUND THERE FOR ABOUT SIX OR SEVEN YEARS. I KNOW
10 HIS WALK, I KNOW HOW HE RUN, I KNOW HOW HE WEAR HIS
11 CLOTHES.

12 Q: SO, HOW WAS HE WEARING HIS CLOTHES THAT DAY?

13 A: HANGING OFF OF HIM LIKE HE ALWAYS DOES.

14 Q: DO YOU KNOW WHAT KIND HE WAS WEARING?

15 A: BIG CLOTHES. I GUESS, BIG, HANGING OFF OF HIM?

16 Q: WERE THEY JEANS, PANTS?

17 A: I DON'T KNOW, THEY WERE BIG. HE DIDN'T HAVE A BELT
18 OR WHATEVER HE DIDN'T HAVE ON. I DON'T KNOW.

19 THAT'S HOW THEY ALL WEAR THEIR CLOTHES. BUT HIM IN
20 PARTICULAR, I KNOW HOW HE WEARS HIS CLOTHES.

21 Q: DID YOU SEE HIS FACE?

22 A: NO I SAW HIS HAIR.

23 Q: HOW WAS HIS HAIR DISTINGUISHED FROM ANYBODY ELSE?

24 A: NO OFFENSE. IT'S LIKE PICKED UP, PEEZY, NOT COMBED,
25 BRUSHED OR ANYTHING. JUST THERE.

HEARING

228

1 Q: WHEN YOU FIRST SAW HIM, WHAT WAS HE DOING. THAT
2 WOULD BE REESE?

3 A: RUNNING TO HIS BACK DOOR.

4 Q: HOW FAR WOULD YOU SAY YOU SAW HIM RUNNING?

5 A: I GUESS HE COULD HAVE BEEN RUNNING FROM THE FRONT,
6 POSSIBLY. I DON'T KNOW WHERE HE WAS RUNNING FROM.

7 I DON'T KNOW I JUST SAW HIM AT HIS BACKDOOR. I SAW
8 HIM LIKE RUNNING TO HIS BACKDOOR. LIKE THE DISTANCE
9 BETWEEN LIKE THE FRONT DOOR AND THE SIDE OF MY HOUSE
10 IS A LITTLE WAYS. SO, BY THE TIME I SEE HIM, HE'S
11 RUNNING THE DISTANCE OF THE LENGTH OF WHERE I GUESS
12 MY HOUSE AND THEIR TRAILER STARTS.

13 Q: SO, DID YOU SEE REESE FIRST OR THE PERSON ON THE
14 PERSON ON THE BIKE FIRST AFTER YOU HEARD THE TWO
15 SHOTS?

16 A: LET ME THINK. I WOULD HAVE TO SAY REESE. I SAW HIM
17 FIRST. BECAUSE SEE THERE IS MORE MOVEMENT COMING
18 FROM THERE SO I SEE HIM FIRST. BECAUSE THERE IS
19 MORE MOVEMENT FROM THE DOOR.

20 Q: SO YOU ...

21 A: THEN I GLANCED TOWARD THE FRONT.

22 Q: SO YOU WOULD HAVE HEARD THE TWO SHOTS, SEEN REESE
23 RUNNING FROM THE FRONT, DID YOU WATCH HIM GET ALL
24 THE WAY TO THE BACK DOOR BEFORE YOU LOOKED TO THE
25 FRONT?

HEARING

229

- 1 A: YEAH. I WATCHED HIM GET ALL THE WAY TO THE BACK
2 DOOR.
- 3 Q: THEN YOU ALSO NOTICED LINWOOD CRAWLING ON THE
4 GROUND?
- 5 A: RIGHT.
- 6 Q: AND YOU WATCHED THEM FROM UP TO ONE OR TWO MINUTES?
- 7 A: RIGHT.
- 8 Q: BEFORE YOU LOOKED TO THE FRONT?
- 9 A: RIGHT.
- 10 Q: THEN YOU LOOKED TO THE FRONT AND THE PERSON, YOU
11 WERE OR WEREN'T SURE WAS LITTLE REGGIE AT THE TIME,
12 WAS SITTING ON THE BIKE?
- 13 A: RIGHT.
- 14 Q: WAS STILL SITTING ON THE BIKE?
- 15 A: STILL SITTING ON THE BIKE.
- 16 Q: AT THE POINT YOU FIRST SAW THE PERSON SITTING ON THE
17 BIKE, YOU DON'T KNOW WHETHER HE HAD OR HAD NOT BEEN
18 SHOT AT THAT MOMENT, DO YOU?
- 19 A: NO.
- 20 Q: YOU DIDN'T ACTUALLY SEE ANYBODY SHOOTING ANY SHOTS
21 ANYWHERE?
- 22 A: NO.
- 23 Q: YOU DIDN'T SEE WHO WAS DRIVING THE WHITE ESCALADE?
- 24 A: NO.
- 25 Q: WHILE YOU, I BELIEVE YOU ACTUALLY WENT OUT ON YOUR

1 PORCH AT SOME POINT?

2 A: UH-HUH.

3 Q: DID YOU SEE ANY GUNS ANY WHERE IN THE NEIGHBORHOOD?

4 A: NO.

5 Q: DID YOU SEE ANY BULLETS OR ANY BULLET FRAGMENTS OR
6 ANY EMPTY CARTRIDGES OR ANYTHING?

7 A: NO.

8 MR. BLACKMON: COURT'S INDULGENCE FOR A MOMENT.

9 Q: WHEN YOU MADE THE STATEMENT BACK ON MAY 19TH ...

10 A: UH-HUH.

11 Q: ... I BELIEVE YOU INDICATED THAT BETWEEN 9:30 AND
12 9:45, TODAY I WAS LOOKING OUT MY BACKSIDE WINDOW OF
13 MY HOUSE.

14 A: RIGHT.

15 Q: YOU MADE THAT STATEMENT AT THE TIME...

16 A: THAT'S WHAT TIME I THOUGHT IT WAS.

17 Q: WHAT MADE YOU THINK IT WAS BETWEEN 9:30 AND 9:45?

18 A: BECAUSE THE LIGHT WAS DEEM, IT WAS DARK. IT WAS
19 KIND OF DARK OUTSIDE.

20 MR. BLACKMON: NOTHING FURTHER.

21 THE COURT: REDIRECT?

22 REDIRECT BY MR. CONNOR:

23 Q: MS. EARP, YOU WENT OUTSIDE AFTER IT WAS ALL OVER,
24 DIDN'T YOU?

25 A: YEAH.

HEARING

231

1 Q: AND YOU WENT UP THERE AND LOOKED AT LITTLE REGGIE
2 LAYING THEIR ON THE GROUND ON THE BICYCLE?

3 A: YEAH.

4 Q: SO, THERE'S NO DOUBT THAT IT WAS LITTLE REGGIE THAT
5 YOU SAW THERE ON THE BICYCLE, ISN'T THAT CORRECT?
6 AND YOU SAW HIM UP CLOSE.

7 A: YEAH.

8 Q: WHEN YOU GOT OUT THERE AND LOOKED DOWN AT LITTLE
9 REGGIE, THERE WASN'T ANY GUN LAYING AROUND HIM, WAS
10 IT?

11 A: HUH-UH.

12 Q: HE DIDN'T HAVE A GUN, DID HE?

13 A: (SHAKES HEAD NEGATIVELY).

14 Q: MS. EARP, WHEN YOU FIRST LOOKED ... EXCUSE ME.
15 (WITNESS IS CRYING)

16 THE COURT: DO YOU NEED TO TAKE A BREAK?

17 WITNESS: NO, I'M ALRIGHT.

18 THE COURT: GO AHEAD, MR. CONNER.

19 Q: HE DIDN'T FALL, HE WAS STANDING UP WHEN YOU FIRST
20 SAW HIM OR SITTING ON THE BIKE.

21 A: HE WAS SITTING ON THE BIKE.

22 Q: HE WASN'T STANDING UP.

23 A: HE WAS JUST SITTING ON HIS BIKE.

24 Q: AND HE DIDN'T FALL UNTIL THAT THIRD SHOT WENT OFF,
25 IS THAT RIGHT?

HEARING

232

1 A: YES.

2 MR. CONNER: THAT'S ALL.

3 THE COURT: RE CROSS, MR. BLACKMON?

4 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

5 THE COURT: ALL RIGHT. THANK YOU MS. EARP, YOU MAY
6 STEP DOWN.

7 MR. CONNER: YOUR HONOR, WE'D LIKE TO ASK THAT SHE BE
8 EXCUSED.

9 THE COURT: ANY OBJECTION?

10 MR. BLACKMON: NO OBJECTION.

11 THE COURT: ALL RIGHT. YOU ARE EXCUSED. THANK YOU
12 FOR COMING. ALL RIGHT. MR. CONNER, YOU MAY CALL YOUR
13 NEXT WITNESS.

14 MR. CONNER: YOUR HONOR, I CALL CEANTE HARVIN.

15 THE COURT: ALL RIGHT.

16 MR. CONNER: HE'S SEQUESTERED, YOUR HONOR, WE'RE
17 GETTING HIM.

18 THE COURT: ALL RIGHT.

19 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
20 YOUR RIGHT HAND. STATE YOUR NAME, PLEASE.

21 WITNESS: CEANTE HARVIN.

22 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THAT THE
23 TESTIMONY YOU GIVE THIS COURT WILL BE THE TRUTH, THE
24 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

25 WITNESS: I DO.

HEARING

233

1 BAILIFF: HAVE A SEAT UP HERE, PLEASE SIR.

2 (WITNESS COMPLIES)

3 BAILIFF: STATE YOUR FULL NAME AND SPELL YOUR LAST
4 NAME FOR US, PLEASE.

5 WITNESS: CEANTE TERELL HARVIN, H-A-R-V-I-N.

6 MR. HARVIN - EXAMINATION BY MR. CONNER:

7 Q: CEANTE, WHERE DO YOU LIVE?

8 A:

9 Q: WHERE DO YOU LIVE NOW?

10 A: OH, IN NORTH CAROLINA.

11 Q: WHERE DO YOU LIVE IN NORTH CAROLINA?

12 A: ASHEVILLE.

13 Q: WHO DO YOU LIVE UP THERE WITH?

14 A: MY MOM.

15 Q: DID YOU GROW UP IN SUMTER?

16 A: YEAH.

17 Q: DID YOU GO TO SCHOOL IN SUMTER?

18 A: YES, SIR.

19 Q: WHEN DID YOU MOVE FROM SUMTER?

20 A: ABOUT 2 ½ YEARS AGO.

21 Q: HOW OLD ARE YOU?

22 A: 19.

23 Q: WERE YOU VISITING HERE BACK ON MAY THE 19TH OF 2003?

24 A: YES, SIR.

25 Q: WHO WERE YOU VISITING WITH?

HEARING

234

- 1 A: I WAS GOING TO MY GRANDMA'S HOUSE.
- 2 Q: WHERE DOES SHE LIVE?
- 3 A:
- 4 Q: WHAT'S HER NAME?
- 5 A: DOROTHY SCRIVEN(SIC), BUT SHE DEAD NOW.
- 6 Q: SHE'S DECEASED?
- 7 A: YEAH.
- 8 Q: DO YOU HAVE SOME OTHER RELATIVES WHO LIVE THERE?
- 9 A: YEAH.
- 10 Q: WHO LIVES THERE?
- 11 A: MY AUNT AND UNCLE.
- 12 Q: WHAT'S THEIR NAME?
- 13 A: PATRICIA GREEN AND DOUG GREEN.
- 14 Q: WHEN YOU WERE HERE ON MAY THE 19TH OF 2003 VISITING
- 15 AT THAT HOME, WAS YOUR GRANDMOTHER STILL LIVING OR
- 16 WHERE YOU JUST VISITING WITH MS. GREEN?
- 17 A: YES, SIR.
- 18 Q: NOW, ON THE DAY THAT REGINALD FOSTER WAS SHOT THERE
- 19 IN THE YARD AND LINWOOD BUTLER, WHERE HAD YOU BEEN?
- 20 A: I WAS COMING UP THE STREET THERE.
- 21 Q: COMING UP THE STREET?
- 22 A: YES, SIR.
- 23 Q: WHERE HAD YOU BEEN?
- 24 A: WHERE WAS I COMING FROM?
- 25 Q: YES.

HEARING

235

- 1 A: MY COUSIN'S HOUSE.
- 2 Q: WHAT'S HIS NAME?
- 3 A: LARRY SINK.
- 4 Q: DOES HE LIVE ON CARVER STREET, TOO?
- 5 A: YES, SIR.
- 6 Q: WHAT'S HIS ADDRESS, DO YOU REMEMBER?
- 7 A: I THINK HE'S LIKE .
- 8 Q: ?
- 9 A: YEAH.
- 10 Q: JUST TELL US IN YOUR OWN WORDS WHAT HAPPENED AS YOU
- 11 CAME BACK?
- 12 A: I WAS COMING UP AND I SEEN THEM SHOOT SO I RAN.
- 13 Q: HOW WERE YOU COMING, WERE YOU WALKING OR RIDING OR
- 14 WHAT?
- 15 A: ON A BIKE.
- 16 Q: YOU WERE ON A BICYCLE?
- 17 A: YES, SIR.
- 18 Q: AS YOU APPROACHED, WAS IT DAYLIGHT OR DARK?
- 19 A: DAYLIGHT.
- 20 Q: SO, IT WAS STILL DAYLIGHT?
- 21 A: YES, SIR.
- 22 Q: I WANT YOU TO KIND OF LOCATE ME AS TO HOW CLOSE YOU
- 23 WERE TO THEM WHEN YOU SAW - FIRST SAW THE GUN.
- 24 A: ALL RIGHT. ABOUT, GO BACK OVER A LITTLE BIT.
- 25 (COUNSEL MOVES). ABOUT RIGHT THERE.

HEARING

236

1 Q: SO, ABOUT AS FAR AS I AM TO YOU?

2 A: YEAH.

3 Q: MAYBE 15 TO 20 FEET?

4 A: YES, SIR.

5 Q: AND YOU WERE RIDING UP ON A BIKE?

6 A: YES, SIR.

7 Q: WHO DID YOU SEE THERE?

8 A: WHO DID I SEE?

9 Q: YEAH, WHO WERE THE PEOPLE?

10 A: I ALREADY KNOW THAT MY COUSIN, MY COUSIN MAURICE

11 DINGLE AND TREZ AND LINWOOD AND D.L. WERE DOWN

12 THERE. I AIN'T SEE WHEN TWINKIE AND THEM CAME.

13 Q: WHEN YOU ROAD UP, WAS TWINKIE THERE?

14 A: YEAH.

15 Q: THERE WAS A FELLOW NAME TREZ WITH HIM?

16 A: YES, SIR.

17 Q: AND YOUR COUSIN, YOU SAY HIS NAME WAS MAURICE

18 DINGLE?

19 A: YES, SIR.

20 Q: HE WAS THERE?

21 A: YEAH.

22 Q: THEY CALL HIM REESE?

23 A: YES, SIR.

24 Q: HOW ABOUT LINWOOD BUTLER?

25 A: YEAH, HE WAS THERE, TOO.

HEARING

237

1 Q: AND D.L. THAT'S DALAMAR BURROUGHS?
2 A: YES, SIR.
3 Q: THEY WERE ALL STANDING, STANDING IN FRONT OF THE
4 TRASH CAN?
5 A: YES, SIR.
6 Q: NOW, WHEN YOU, WHAT DID YOU SEE, WHO DID YOU SEE
7 WITH A GUN?
8 A: I ONLY SEE TWINKIE WITH A GUN, SIR.
9 Q: THE ONLY ONE YOU SAW WITH A GUN WAS TWINKIE?
10 A: YES, SIR.
11 Q: WHERE WAS TWINKIE STANDING?
12 A: LIKE IN THE MIDDLE OF THE ROAD.
13 Q: IN THE MIDDLE OF THE STREET?
14 A: YES, SIR.
15 Q: WHERE WAS HE POINTING THE GUN?
16 A: LIKE TOWARDS THE MAILBOX.
17 Q: TOWARD THE MAILBOX. DID HE SHOOT THE GUN?
18 A: YES, SIR.
19 Q: DO YOU HAVE ANY IDEA HOW MANY TIMES HE SHOT?
20 A: NO, AFTER THE FIRST SHOT I RAN.
21 Q: AFTER THE FIRST SHOT YOU RAN?
22 A: YES, SIR.
23 Q: WHERE DID YOU RUN TO, CEANTE?
24 A: TO THE LADY HOUSE ACROSS THE STREET. I RAN THROUGH
25 HER YARD THEN TO MY AUNT'S HOUSE.

HEARING

238

1 Q: SO THAT BRICK HOUSE THAT IS RIGHT ACROSS THE STREET
2 THERE THAT IS WHERE YOU RAN?

3 A: YEAH, THROUGH HER YARD.

4 Q: THROUGH HER YARD. AND YOU JUST KEPT ON TRUCKING IT?

5 A: YES, SIR.

6 Q: AND YOU SAY YOU WENT TO ANOTHER RELATIVES HOUSE?

7 A: YES, SIR.

8 Q: NOW, WHEN YOU RODE UP THERE, WHEN YOU FIRST GOT
9 THERE, DID YOU HEAR ANYBODY TALKING?

10 A: NO, SIR.

11 Q: DID TWINKIE HAVE THE PISTOL OUT WHEN YOU FIRST SAW
12 HIM OR DID HE PULL IT OUT AS YOU APPROACHED?

13 A: WHEN I APPROACHED.

14 MR. CONNER: ANSWER ANY QUESTIONS THAT THE
15 DEFENDANT'S LAWYER MIGHT HAVE FOR YOU.

16 THE COURT: CROSS EXAMINATION MR. BLACKMON?

17 MR. HARVIN - CROSS EXAMINATION BY MR. BLACKMON:

18 Q: SO WHERE EXACTLY WERE YOU, I ASK IF YOU WILL TO STEP
19 DOWN A LITTLE BIT AND LOOK AT THIS DRAWING AND SEE
20 IF YOU RECOGNIZE ...

21 THE COURT: PUT IT ON THE EASEL, PLEASE. YOU CAN
22 LEAVE IT RIGHT THERE, THEY CAN SEE IT. PUT IT UP RIGHT
23 THERE.

24 (WITNESS STEPS DOWN)

25 Q: MR. HARVIN, THIS IS . THE TRASH

HEARING

239

1 CANS IN THE FRONT. YOU WOULD HAVE BEEN COMING FROM
2 WHICH AREA, DOWN HERE ...

3 THE COURT: JUST A MINUTE. MR. HARVIN, I'M GOING TO
4 ASK YOU TO STEP ASIDE A LITTLE BIT AND SPEAK LOUDLY
5 ENOUGH SO THAT I CAN HEAR YOU AND SO THAT THIS LADY HERE
6 CAN HEAR YOU AND ALL THE MEMBERS OF THE JURY CAN HEAR
7 YOU. YOU'RE AWAY FROM THE MICROPHONE SO YOU'VE GOT TO
8 KEEP YOUR VOICE UP.

9 Q: SO YOU WOULD HAVE BEEN COMING FROM THE LEFT SIDE OF
10 THE PICTURE AS WE'RE LOOKING AT IT?

11 A: YES, SIR.

12 Q: WHICH SIDE OF THE ROAD WERE YOU RIDING ON ON YOUR
13 BIKE?

14 A: ON THIS SIDE.

15 Q: AT WHAT POINT DID YOU FIRST SEE THE PERSON YOU'VE
16 DESCRIBED AS TWINKIE?

17 A: WHEN I GET HERE.

18 Q: SO WHERE WERE YOU?

19 A: I GET IN FRONT OF THEIR HOUSE.

20 Q: SHOW US WHERE ON THIS PICTURE YOU WOULD HAVE BEEN?

21 THE COURT: SPEAK UP, PLEASE SIR.

22 A: RIGHT UP IN HERE.

23 Q: IN THE MIDDLE OF THE ROAD?

24 A: YEAH.

25 Q: ALL RIGHT. SO, IF YOU'RE IN THE MIDDLE OF THE ROAD,

HEARING

240

1 TELL US WHO WAS STANDING WHERE IN THIS LITTLE GROUP.

2 A: I COULDN'T REALLY SEE ALL THAT GOOD. I SEE HE HAD
3 THE GUN AND I RAN.

4 Q: WHEN YOU GLANCED EARLIER, YOU NOTICED THAT IT WAS
5 HIM AND ...

6 A: YEAH, I KNOW THAT THEY WAS DOWN THERE BECAUSE I HAD
7 SEE THEM DOWN THERE EARLIER.

8 Q: HOW LONG AGO HAD YOU BEEN DOWN THERE?

9 A: ABOUT 10 MINUTES.

10 Q: AND EARLIER WHEN YOU WERE DOWN THERE, WHO WAS DOWN
11 THERE?

12 A: SAME PEOPLE.

13 Q: WHO WAS STANDING CLOSES TO YOU?

14 A: I CAN'T REMEMBER.

15 Q: WHEN YOU SAY YOU SAW TWINKIE, HIS BACK WAS TO YOU,
16 WASN'T IT?

17 A: ON THE LEFT SIDE.

18 Q: YOU COULD SEE HIM ON HIS LEFT SIDE?

19 A: YEAH.

20 Q: WHERE DID YOU SEE HIM GET THIS GUN FROM?

21 A: I GUESS FROM HIS JACKET.

22 Q: YOU GUESSING. YOU DIDN'T SEE HIM GET A GUN OUT OF
23 HIS JACKET?

24 A: NO. WHEN I COME UP I SEE HE HAD IT.

25 Q: WHEN YOU CAME UP HE ALREADY HAD IT?

HEARING

241

- 1 A: YEAH.
- 2 Q: SO, YOU DIDN'T SEE HIM TAKE IT OUT HIS JACKET?
- 3 A: NO.
- 4 Q: WHEN YOU SAW HIM WITH THE GUN, WHAT DID YOU DO?
- 5 THE COURT: DO YOU NEED THE DIAGRAM ANYMORE?
- 6 Q: WITH REFERENCE TO YOU BEING IN THE MIDDLE OF THE
- 7 STREET, THE PERSON YOU IDENTIFIED AS TWINKIE OVER BY
- 8 THE TRASH CAN, WHERE WAS REESE?
- 9 A: I BELIEVE HE WAS RIGHT OVER HERE.
- 10 Q: BUT YOU DON'T KNOW?
- 11 A: (SHAKES HEAD NEGATIVELY)
- 12 Q: DO YOU KNOW WHERE LITTLE REGGIE WAS?
- 13 A: IN THE MIDDLE, THE FRONT OF THE TRASH CAN.
- 14 Q: DO YOU REMEMBER WERE D.L. WAS?
- 15 A: NO.
- 16 MR. BLACKMON: OKAY. YOU CAN SIT BACK DOWN.
- 17 Q: I BELIEVE YOU JUST NOW INDICATED YOU DID NOT SEE
- 18 TWINKIE PULL A GUN OUT OF HIS JACKET POCKET?
- 19 A: NO, SIR.
- 20 Q: WHAT WAS TWINKIE WEARING AT THE TIME YOU SAW HIM?
- 21 A: I SEEN HE HAD ON A COAT OR A JACKET.
- 22 Q: WHAT KIND OF COAT WAS HE WEARING?
- 23 A: I CAN'T REMEMBER.
- 24 Q: WHAT COLOR?
- 25 A: I CAN'T REMEMBER.

HEARING

242

- 1 Q: DO YOU REMEMBER HOW CLOSE TO TWINKIE TREZ WAS?
- 2 A: I THINK THEY WERE PROBABLY ABOUT FIVE FEET AWAY.
- 3 Q: WAS TREZ CLOSER TO YOU OR WAS TWINKIE CLOSER TO YOU?
- 4 A: TREZ.
- 5 Q: THE MINUTE YOU FIRST SAW THE GUN IN TWINKIE'S HAND
- 6 ...
- 7 A: YEAH.
- 8 Q: ... HAD SHOTS BEEN FIRED TO YOUR KNOWLEDGE?
- 9 A: YES, SIR.
- 10 Q: A SHOT HAD ALREADY BEEN FIRED?
- 11 A: YEAH.
- 12 Q: BUT YOU DIDN'T ACTUALLY SEE THAT SHOT BEING FIRED,
- 13 DID YOU?
- 14 A: YES, SIR.
- 15 Q: WHO FIRED IT?
- 16 A: TWINKIE.
- 17 Q: SO, THE SHOT WAS FIRED AS SOON AS YOU SAW THE GUN?
- 18 A: YES, WHEN I SEEN IT.
- 19 Q: HOW LONG WOULD YOU SAY YOU WERE RIDING DOWN THAT
- 20 STREET BEFORE YOU STOPPED AND SAW THE GUN?
- 21 A: UNTIL I GOT IN FRONT OF 206, SIR.
- 22 Q: ABOUT HOW LONG, FIVE SECONDS, TEN SECONDS, A MINUTE?
- 23 A: ABOUT FIVE SECONDS.
- 24 Q: SO YOU WERE RIDING DOWN CARVER STREET FOR ABOUT FIVE
- 25 SECONDS TO GET IN FRONT OF THAT HOUSE AND THEN SEE

HEARING

243

- 1 TWINKIE WITH THE GUN?
- 2 A: NO, SIR. I WAS ON MY WAY TO MY HOUSE AND I SEE HIM
- 3 WITH THE GUN AND I RAN.
- 4 Q: AND YOU HEARD HOW MANY SHOTS?
- 5 A: I CAN'T REMEMBER.
- 6 Q: DID ALL THE SHOTS SOUND ALIKE TO YOU?
- 7 A: YES, SIR.
- 8 Q: YOU DIDN'T LIVE ON THAT STREET AT THAT TIME?
- 9 A: NO, SIR.
- 10 Q: HAD YOU VISITED FREQUENTLY ON THAT STREET?
- 11 A: YES, SIR.
- 12 Q: HAD YOU USED ANY MARIJUANA YOURSELF ON THAT STREET?
- 13 A: NO, SIR.
- 14 Q: DO YOU KNOW WHETHER REESE USED MARIJUANA ON THAT
- 15 STREET?
- 16 A: I DON'T HAVE NO IDEA.
- 17 Q: AT THAT TIME WERE YOU A MEMBER OF A GANG CALLED THE
- 18 CRYPTS?
- 19 A: NO, SIR.
- 20 Q: DO YOU DENY THAT UNDER OATH?
- 21 A: YEAH, I DENY IT.
- 22 Q: DO YOU KNOW WHETHER AT THAT TIME REESE WAS A MEMBER
- 23 OF A GANG CALLED THE CRYPTS?
- 24 A: NO, SIR.
- 25 Q: YOU DENY THAT UNDER OATH ALSO?

HEARING

244

- 1 A: YES, SIR.
- 2 Q: AT NO POINT DID YOU SEE REESE PULL A GUN?
- 3 A: NO, SIR.
- 4 Q: AT NO POINT DID YOU SEE REESE HAVE A GUN IN HIS
- 5 HAND?
- 6 A: NO, SIR.
- 7 Q: WHAT COLOR WAS THE GUN THAT YOU SAW IN TWINKIE'S
- 8 HAND?
- 9 A: BLACK, SIR.
- 10 Q: HOW BIG WAS IT?
- 11 A: IT LOOKED LIKE A 9.
- 12 Q: WHAT MAKES YOU THINK IT WAS A 9?
- 13 A: THE WAY IT WAS SHAPED, SIR.
- 14 Q: WHAT WOULD MAKE YOU THINK IT WAS WASN'T A .38 SEMI
- 15 AUTOMATIC?
- 16 A: I DON'T KNOW.
- 17 Q: WHAT KNOWLEDGE DO YOU HAVE ON 9MM?
- 18 A: WHAT KNOWLEDGE. I DON'T HAVE NONE. I JUST KNOW HOW
- 19 THEY LOOKED. I SEE THEM ON T.V.
- 20 Q: SEEN THEM ON T.V. CAN YOU EXPLAIN HOW GUNSHOT
- 21 RESIDUE WAS FOUND ON YOUR HAND?
- 22 A: AIN'T NONE BEEN FOUND ON MY HAND. THE POLICE HAD
- 23 CHECKED MY HAND. THEY AIN'T NOTHING HAD CAME BACK.
- 24 Q: SO, IT'S YOUR TESTIMONY UNDER OATH THAT NO GUNSHOT
- 25 RESIDUE WAS FOUND ON YOUR HAND?

HEARING

245

- 1 A: NO, THEY AIN'T NOTHING BEEN ON ME.
- 2 Q: DID YOU HANDLE A GUN THAT DAY?
- 3 A: NO, SIR.
- 4 Q: HAD YOU FIRED A GUN THAT DAY?
- 5 A: NO, SIR.
- 6 Q: IT'S YOUR TESTIMONY UNDER OATH TODAY THAT WHEN YOU
- 7 RODE UP YOU SAW TWINKIE WITH A GUN IN HIS HAND?
- 8 A: YES, SIR.
- 9 Q: YOU'RE SURE THAT'S WHAT HAPPENED?
- 10 A: YES, SIR.
- 11 Q: OKAY. DO YOU REMEMBER GIVING A STATEMENT TO THE
- 12 POLICE BACK ON MAY 19TH?
- 13 A: YES, SIR.
- 14 Q: LET ME SHOW YOU THAT STATEMENT. LET ME ASK YOU TO
- 15 READ THIS SENTENCE, PLEASE, SIR. STARTING WITH HE
- 16 PULLED.
- 17 A: "HE PULLED A GUN EITHER FROM HIS JACKET OR FROM HIS
- 18 POCKET."
- 19 Q: EARLIER TODAY YOU TESTIFIED THAT YOU THOUGHT HE
- 20 PULLED IT FROM HIS JACKET AND THEN YOU CHANGED YOUR
- 21 MIND AND SAID YOU DIDN'T SEE HIM PULLING IT FROM HIS
- 22 JACKET AND HE ALREADY HAD IT IN HIS HAND.
- 23 A: YEAH.
- 24 Q: AND YOU SAID, HE EITHER PULLED IT FROM HIS JACKET OR
- 25 HIS POCKET. SO, WHICH ONE OF THOSE IS THE TRUTH?

HEARING

246

1 A: WELL, IT HAD TO BE HIS JACKET OR HIS POCKET IF I
2 SAID IT THAT DAY, SO.
3 Q: SO, YOU JUST NOW SAID FOR SURE THAT HE HAD IT
4 ALREADY IN HIS HAND THAT WAS A LIE?
5 A: WELL, I COULDN'T, I AIN'T HAD REMEMBER, SIR.
6 Q: WELL, YOU DON'T REALLY REMEMBER EITHER WAY RIGHT
7 NOW, DO YOU?
8 A: YES, SIR.
9 Q: WHICH DO YOU REMEMBER NOW?
10 A: TALKING ABOUT DID HE HAVE IT IN HIS POCKET OR HIS
11 HAND?
12 Q: YES, SIR.
13 A: I BELIEVE IT CAME FROM HIS JACKET, SIR.
14 Q: NOW, YOU BELIEVE IT CAME FROM HIS JACKET?
15 A: IF I SAID IT ON THAT DAY THAT'S WHAT HAPPENED, SIR.
16 Q: SO, WHEN YOU TOLD THE JURY A LITTLE WHILE AGO THAT
17 YOU'RE DEFINITELY SURE IT CAME FROM HIS HAND BUT
18 THAT WASN'T TRUE?
19 A: I THOUGHT IT WAS, I DON'T KNOW, SIR.
20 Q: YOU THOUGHT. MR. HARVIN, DO YOU REMEMBER WHAT DAY
21 OF THE WEEK THIS WAS?
22 A: WHAT DAY OF THE WEEK?
23 Q: YES.
24 A: MONDAY.
25 Q: WHY WERE YOU HOME FROM SCHOOL?

HEARING

247

- 1 A: I DIDN'T GO TO SCHOOL THEN, SIR.
- 2 Q: YOU DIDN'T GO TO SCHOOL THEN?
- 3 A: NO
- 4 Q: HOW OLD WERE YOU WHEN THAT HAPPENED?
- 5 A: 17. PLUS SCHOOL WAS OUT ANYWAY.
- 6 Q: SCHOOL WAS OUT IN NORTH CAROLINA ON MAY 19TH?
- 7 A: I DIDN'T NEVER GO TO SCHOOL UP THERE.
- 8 Q: WHERE HAD YOU ATTENDED SCHOOL IN 2003?
- 9 A: SUMTER HIGH.
- 10 Q: DID YOU FINISH OUT THE SCHOOL YEAR?
- 11 A: NO, SIR.
- 12 Q: DID YOU QUIT OR GOT EXPELLED?
- 13 A: QUIT.
- 14 Q: WHEN DID YOU QUIT SCHOOL THAT YEAR?
- 15 A: IT WAS LIKE FEBRUARY.
- 16 Q: SO, IF YOU QUIT SCHOOL YOU WERE ACTUALLY LIVING HERE
- 17 IN SUMTER AND ATTENDED SUMTER HIGH UP UNTIL THEN,
- 18 WEREN'T YOU?
- 19 A: UNTIL WHEN?
- 20 Q: UNTIL FEBRUARY WHEN YOU QUIT SCHOOL?
- 21 A: YEAH. THEN AFTER THAT I WENT TO NORTH CAROLINA,
- 22 SIR. THE END OF FEBRUARY.
- 23 Q: SO, WHEN DID YOU COME BACK HERE TO BE HERE ON MAY
- 24 19TH?
- 25 A: PROBABLY ABOUT TWO WEEKS BEFORE THAT DAY, SIR.

HEARING

248

1 MR. BLACKMON: NOTHING FURTHER.

2 THE COURT: REDIRECT MR. CONNER?

3 MR CONNER: I HAVE NOTHING FURTHER OF HIM, YOUR
4 HONOR.

5 THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN.

6 MR. CONNER: THE NEXT WITNESS WE CALL, YOUR HONOR, IS
7 DALAMAR BURROUGHS.

8 THE COURT: COME AROUND, PLEASE, MR. BURROUGHS.

9 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
10 YOUR RIGHT HAND. STATE YOUR NAME, PLEASE.

11 WITNESS: DALAMAR BURROUGHS.

12 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THE
13 TESTIMONY YOU GIVE THIS COURT SHALL BE THE TRUTH, THE
14 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

15 WITNESS: YES, SIR.

16 BAILIFF: HAVE A SEAT UP HERE, PLEASE, SIR.

17 (WITNESS COMPLIES)

18 BAILIFF: STATE YOUR FULL NAME AND SPELL YOUR LAST
19 NAME FOR ME, PLEASE.

20 WITNESS: DALAMAR BURROUGHS, B-U-R-R-O-U-G-H-S

21 THE COURT: ALL RIGHT. MR. BURROUGHS, I NEED FOR YOU
22 SPEAK UP LOUDLY SO THAT I CAN HEAR YOU AND THE COURT
23 REPORTER CAN HEAR YOU AND EVERYONE HERE IN THE COURTROOM
24 CAN HEAR WHAT YOU HAVE TO SAY.

25 MR. BURROUGHS - EXAMINATION BY MR. CONNER:

HEARING

249

- 1 Q: MR. BURROUGHS, DO YOU HAVE A NICKNAME?
- 2 A: YES, SIR.
- 3 Q: WHAT IS YOUR NICKNAME?
- 4 A: D.L.
- 5 Q: SO, MOST PEOPLE CALL YOU D.L. RATHER THAN DALAMAR?
- 6 A: YES, SIR.
- 7 Q: NOW, WHERE DO YOU LIVE?
- 8 A: ON DINGLE STREET.
- 9 Q: HERE IN SUMTER?
- 10 A: YES, SIR.
- 11 Q: HOW LONG HAVE YOU LIVED IN SUMTER?
- 12 A: A LONG TIME, REAL LONG TIME. ABOUT 10, 11 SOMETHING
- 13 LIKE THAT.
- 14 Q: TEN OR 11 YEARS?
- 15 A: YES, SIR.
- 16 Q: WHO DO YOU LIVE WITH?
- 17 A: MY MOTHER.
- 18 Q: DO YOU HAVE ANY BROTHERS OR SISTERS?
- 19 A: YES, SIR.
- 20 Q: HOW MANY?
- 21 A: FOUR BROTHERS AND TWO SISTERS.
- 22 Q: NOW, AT THE PRESENT TIME ARE YOU DOING SOME KIND OF
- 23 WORK?
- 24 A. YES, SIR.
- 25 Q. WHAT ARE YOU DOING?

HEARING

250

- 1 A. CONSTRUCTION.
- 2 Q. HOW LONG HAVE YOU BEEN DOING THAT?
- 3 A. FOUR MONTHS NOW.
- 4 Q. NOW, WERE YOU PRESENT AROUND ON CARVER STREET ON MAY
- 5 19TH, 2003 WHEN REGINALD FOSTER WAS SHOT AND KILLED?
- 6 A. YES, SIR.
- 7 Q. HAD YOU BEEN AROUND THERE FOR A LITTLE WHILE THAT
- 8 DAY PREVIOUS TO THIS HAPPENING?
- 9 A. YEAH, I HAD BEEN AROUND FOR A LITTLE WHILE THAT DAY.
- 10 Q. WHERE WERE YOU ON CARVER STREET PRIOR TO IT
- 11 HAPPENING?
- 12 A. DOWN THERE AT REESE HOUSE.
- 13 Q. AND THAT'S
- 14 A: YES, SIR.
- 15 Q: WHO ELSE WAS THERE WITH YOU?
- 16 A: ME, REESE, LINWOOD, REGGIE AND CEANTE.
- 17 Q: SO, THIS GENTLEMEN BACK HERE ON THE FIRST ROW IS THE
- 18 ONE YOU CALL REESE?
- 19 A: YES, SIR.
- 20 Q: AND THE ONE ON THE SECOND, HERE WITH THE GRAY COAT
- 21 ON, LINWOOD, HE WAS THERE?
- 22 A: YES, SIR.
- 23 Q: AND THE FELLOW THAT GOT SHOT, LITTLE REGGIE WAS
- 24 THERE?
- 25 A: YES, SIR.

HEARING

251

1 Q: AND CEANTE THE ONE, STAND UP BACK THERE CEANTE, HE
2 WAS THERE?
3 A: YES, SIR.
4 Q: WHILE YOU ALL WERE THERE, DO YOU KNOW THE DEFENDANT
5 MR. WILSON?
6 A: YEAH, I KNOW HIM.
7 Q: HOW DO YOU KNOW HIM?
8 A: FROM AROUND THE HOOD, WE FROM THE SAME HOOD.
9 Q: YOU'RE FROM THE SAME WHAT?
10 A: FROM THE SAME NEIGHBORHOOD AS HIM.
11 Q: THE SAME NEIGHBORHOOD?
12 A: YES, SIR.
13 Q: HOW LONG HAVE YOU KNOWN HIM?
14 A: I'VE KNOWN HIM FOR A WHILE.
15 Q: FOR A GOOD WHILE? SO, DID YOU ALL DECIDE TO GO
16 SOMEWHERE?
17 A: YEAH, WE DECIDED TO GO TO THE MARKET EXPRESS.
18 Q: WHO WENT TO THE MARKET EXPRESS?
19 A: ME, LINWOOD, REESE, REGGIE, THAT WAS IT.
20 Q: NOW, MR. WILSON, DOES HE GO BY A NICKNAME?
21 A: YES, SIR.
22 Q: WHAT'S HIS NICKNAME?
23 A: TWINKIE.
24 Q: DID HE GO TO THE MARKET EXPRESS WITH YOU?
25 A: NO, HE AIN'T GO WITH US.

HEARING

252

1 Q: WAS THERE ANOTHER FELLOW WITH TWINKIE?
2 A: YES, SIR.
3 Q: WHO WAS HE?
4 A: TREZ.
5 Q: SO, HE'S A FELLOW NAME TREZ?
6 A: YES, SIR.
7 Q: HE DIDN'T GO TO THE MARKET EXPRESS EITHER?
8 A: NO, SIR.
9 Q: WHERE DID MR. WILSON AND TREZ GO WHEN YOU ALL WENT
10 TO THE MARKET EXPRESS?
11 A: SEE LIKE WHERE WE WAS STANDING AT BEFORE WE WENT
12 THEY JUST STOOD THERE.
13 Q: THEY JUST STAYED OVER THERE IN THE NEIGHBORHOOD?
14 A: YES, SIR.
15 Q: AND YOU ALL WENT TO THE MARKET EXPRESS. WHAT WAS
16 THE PURPOSE OF GOING TO THE MARKET EXPRESS?
17 A: JUST TO GO TO THE STORE REALLY TO GET SOME
18 CIGARETTES. MAURICE WANTED TO GO TO THE STORE SO WE
19 WENT WITH THEM.
20 Q: WHEN YOU CAME BACK TELL US WHAT HAPPENED THERE WHEN
21 YOU CAME BACK?
22 A: WHEN I CAME BACK, I WAS FOLLOWING BEHIND SO
23 EVERYBODY ELSE WAS ALREADY THERE. A FEW SECONDS
24 BEFORE ME THEY WAS ALREADY THERE. I WAS A LITTLE
25 BEHIND ON MY BIKE. WHEN I GOT THERE WE WAS JUST

HEARING

253

1 CHILLING PROBABLY LIKE A SECOND. I WAS ABOUT TO
2 LIKE UP A CIGARETTE. I WAS LOOKING FOR A LIGHTER.
3 BY THE TIME I WENT TO GO ASK THE SECOND PERSON FOR A
4 LIGHT, I HAD DONE HEAR, THE DEFENDANT ASKING THE
5 QUESTIONS, YOU KNOW WHAT I'M SAYING. SO WHEN I
6 LOOKED BACK HE ALREADY HAD A GUN OUT AND STUFF. A
7 FEW MINUTES AFTER THAT IT WAS LIKE SECONDS THERE WAS
8 LIKE SHOOTING AFTER THAT.

9 Q: SO, YOU ALL GOT BACK TO REESE' HOUSE THEN?

10 A: UH-HUH.

11 Q: WHERE WERE YOU STANDING?

12 A: IN FRONT OF THE TRASH CANS THAT HAD BEEN PUT OUT
13 BESIDE THE ROAD.

14 Q: SO YOU ALL WERE STANDING THERE IN FRONT OF THE TRASH
15 CANS?

16 A: YES.

17 Q: IT WAS, THE CROWD THAT YOU TALKED ABOUT THEN WAS
18 LINWOOD BUTLER, REESE, REGGIE FOSTER AND YOU?

19 A: YES, SIR.

20 Q: AND YOU ALL WERE STANDING IN FRONT OF THE TRASH CAN
21 AND YOU WERE LIGHTING A CIGARETTE?

22 A: YES, SIR.

23 Q: WHERE DID MR. WILSON AND TREZ COME FROM?

24 A: THEY CAME UP THE BLOCK. LIKE UP ON THE STREET WHERE
25 WE WAS AT.

HEARING

254

1 Q: DID THEY COME AND STAND WITH YOU OR DID THEY STAND
2 OFF TO THE SIDE OR TELL US HOW THAT HAPPENED.

3 A: THEY WAS ALL TO THE SIDE, THEY WAS MORE LIKE IN
4 FRONT OF US, YOU KNOW.

5 Q: WHERE WAS MR. WILSON STANDING?

6 A: WE WAS IN FRONT OF THE TRASH CANS. WHERE I WAS
7 STANDING HE WAS MORE LIKE DIAGONAL FROM ME BUT IN
8 FRONT OF REESE.

9 Q: WAS HE IN THE ROAD?

10 A: YES, SIR.

11 Q: TELL US WHAT YOU HEARD HIM SAY?

12 A: WHOA, REESE, LET ME GET THAT. THAT'S ALL. THEN HE
13 SAID I SHOULD KILL Y'ALL FOR WHAT Y'ALL DID TO ME IN
14 THE GRAVEYARD.

15 Q: SAY IT AGAIN.

16 A: HE SAID, WHEN HE PUT THE GUN BACK DOWN HE SAID I
17 SHOULD SHOOT Y'ALL FOR WHAT Y'ALL DID TO ME IN THE
18 CHURCH YARD.

19 Q: AND HE HAD THE GUN -- WHERE DID HE GET THE GUN FROM?

20 A: I GUESS OFF HIMSELF. OFF HIMSELF.

21 Q: WHAT DID HE DO WITH THE GUN?

22 A: IN WHICH PART OF THIS?

23 Q: WHEN HE FIRST GOT IT OUT.

24 A: WHEN HE FIRST GOT IT OUT. HE POINTED IT AT FIRST
25 THEN HE PUT IT BACK DOWN. THEN WHEN HE REPHRASE

HEARING

255

1 WHAT HE WAS SAYING, HE PICKED IT BACK UP.

2 Q: HE SAID WHAT AFTER HE PUT IT BACK DOWN?

3 A: WHEN HE PUT IT DOWN, I WAS JUST PLAYING. WHEN HE

4 PICKED IT BACK UP HE SAID, I SHOULD SHOOT YOU FOR

5 WHAT YOU DID IN THE CHURCH YARD AND THAT'S WHEN HE

6 PICKED IT BACK UP.

7 Q: THEN WHAT DID HE DO?

8 A: HE STARTED SHOOTING AFTER THAT.

9 Q: WHAT DID YOU DO?

10 A: RAN.

11 Q: WHERE DID YOU RUN?

12 A: WELL, ACROSS IN THE YARD DIRECTLY IN FRONT OF

13 REESE'S, THROUGH THAT YARD RIGHT THERE.

14 Q: DID SOMEBODY ELSE RUN IN THAT DIRECTION, TOO?

15 A: YES, SIR.

16 Q: WHO?

17 A: CEANTE RAN IN THAT DIRECTION.

18 Q: I WANT YOU TO COME DOWN HERE AND LOOK AT THIS SKETCH

19 FOR US. STAND RIGHT THERE AND HOLD THIS.

20 THE COURT: KEEP YOUR VOICE UP BECAUSE YOU ARE AWAY.

21 FROM THE MICROPHONE. WE'VE STILL GOT TO BE ABLE TO HEAR

22 YOU.

23 Q: IF YOU WOULD, SHOW US WHERE YOU WERE STANDING.

24 A: I WAS STANDING ...

25 MR. CONNER: THIS IS STATE'S EXHIBIT NUMBER ONE, MS.

HEARING

256

1 REPORTER.

2 A: I WAS STANDING RIGHT HERE.

3 THE COURT: KEEP YOUR VOICE UP, PLEASE.

4 A: I WAS STANDING RIGHT HERE. THIS AREA RIGHT HERE.

5 Q: SO YOU WERE STANDING THERE IN FRONT OF THE TRASH
6 CANS THEN?

7 A: YEAH.

8 Q: NOW, WERE YOU STANDING ON THE PAVEMENT OR OFF OF THE
9 PAVEMENT?

10 A: I WAS ON MY BIKE AT THE TIME.

11 Q: REESE AND LITTLE REGGIE, WHERE WERE THEY?

12 A: TO THE RIGHT ...

13 Q: SO THEY OFF KIND OF ON THE RIGHT HAND SIDE OF THE
14 PICTURE THERE MAYBE IN FRONT OF THE FIRST TRASH CAN
15 OR IN THAT GENERAL AREA ANYWAY?

16 A: YES, SIR.

17 Q: NOW, LINWOOD, WHERE DO YOU RECALL HIM BEING?

18 A: RIGHT HERE.

19 THE COURT: SPEAK UP, PLEASE.

20 A: IN THIS AREA RIGHT HERE.

21 Q: NOW, TREZ, WHERE WAS HE?

22 A: ON THE OTHER SIDE. HE WAS HERE. TREZ WAS COMING
23 THIS WAY.

24 Q: BUT THEY WERE OUT ON THE PAVEMENT?

25 A: YES, SIR.

HEARING

257

1 Q: WAS TREZ SAYING ANYTHING?

2 A: NO, SIR.

3 Q: AND THE MAN THAT DID THE TALKING WAS TWINKIE?

4 A: YES, SIR.

5 THE COURT: SPEAK UP, PLEASE.

6 MR CONNER: YOU NEED TO TALK LOUD ENOUGH SO THEY CAN
7 HEAR YOU. YOU NEED TO SPEAK UP BECAUSE THIS LADY HAS GOT
8 TO HEAR IT ALL SO THAT SHE CAN MAKE A RECORD OF IT.

9 Q: NOW, YOU SAY TWINKIE SAID SOMETHING AND IN SOME
10 PARTS OF IT PULLED THE GUN. START AT THE VERY
11 BEGINNING AND SHOW US WHERE HE WAS AND WHAT HE SAID
12 AND WHAT HE DID.

13 A: WHERE HE WAS STANDING?

14 Q: YEAH.

15 A: HE WAS STANDING ABOUT RIGHT HERE. HE PULLED THE GUN
16 AND SAID, WHOA REESE, LET ME GET THAT.

17 Q: HE SAID, "WHOA REESE, LET ME GET THAT." WHAT DID
18 YOU TAKE THAT TO MEAN?

19 MR. BLACKMON: OBJECT TO THAT. THAT CALLS FOR
20 SPECULATION, YOUR HONOR.

21 THE COURT: NO, SIR. I'LL LET HIM TESTIFY AS TO WHAT
22 IT MEANS TO HIM.

23 A: IT MEAN GIVE WHAT YOU GOT. WHAT'S IN YOUR POCKET.
24 WHAT YOU GOT ON YOU. IT MEANS THERE'S A ROBBERY, IS
25 THE WAY I TAKE IT.

HEARING

258

1 Q: DID REESE SAY ANYTHING?

2 A: YES.

3 Q: WHAT DID HE SAY?

4 A: HE SAID CHILL OUT.

5 Q: WHAT HAPPENED THEN?

6 A: FROM THEN ON HE PUT THE GUN BACK DOWN AND HE BRING

7 THE GUN BACK UP AND HE SAID I SHOULD HAVE KILLED

8 Y'ALL FOR WHAT YOU ALL DID TO ME IN THE CHURCH YARD.

9 Q: SO, SHOW US, IF YOU WOULD NOW, EXACTLY HOW, STAND

10 AND FACE THIS JURY AND PUT YOUR HAND LIKE HE HAD

11 HIS. WHERE WAS THE GUN?

12 A: I KNOW IT WAS IN THIS HAND RIGHT HERE. HE WAS LIKE

13 LIKE WE GET THAT AND THEN HE PUT IT BACK DOWN AND HE

14 SAID, I SHOULD HAVE KILLED Y'ALL FOR WHAT Y'ALL DID

15 IN THE CHURCH YARD.

16 Q: THEN WHAT DID HE DO WHEN HE SAID THAT?

17 A: HE HAD THE GUN STILL UP AND STARTED SHOOTING.

18 Q: DID YOU SEE ANYBODY ELSE WITH A GUN?

19 A: I DIDN'T SEE ANYBODY ELSE WITH A GUN.

20 Q: SHOW US WHERE YOU RAN.

21 A: RIGHT HERE (INDICATING). THROUGH THIS YARD HERE.

22 THE COURT: SPEAK UP, PLEASE. IF YOU DON'T SPEAK UP,

23 I'M GOING TO MAKE HIM GET BACK UP BY THIS MICROPHONE, MR.

24 CONNER. IF THE WITNESS CAN'T TESTIFY WHERE I CAN HEAR

25 HIM AND EVERYBODY ELSE IS GOING TO HEAR HIM HE'S GOING TO.

HEARING

259

1 HAVE TO GET BY THE MICROPHONE.

2 A: RIGHT THERE. I RAN ACROSS THE STREET. I RAN

3 THROUGH THESE BUSHES RIGHT HERE. I CAME BACK TO THE

4 ROAD AND RAN INTO THIS GRASSY FIELD RIGHT HERE.

5 MR. CONNER: HAVE A SEAT.

6 Q: NOW, D.L. WHEN DID YOU BECOME AWARE THAT SOMEBODY

7 HAD BEEN SHOT?

8 A: NOT LONG AFTER I CROSSED THE STREET LIKE WHEN I

9 FIRST STARTED TO RUN. JUST BEFORE I GOT IN THE

10 LADY'S YARD I HEARD SOMEBODY SCREAM OUT THAT THEY

11 HAD BEEN HIT.

12 Q: SOMEBODY SCREAM OUT WHAT?

13 A: THAT THEY HAD BEEN HIT.

14 Q: WHO WAS THAT?

15 A: IT SOUND LIKE LINWOOD.

16 Q: NOW, WHEN DID YOU GO BACK?

17 A: LIKE I HEARD THAT I KEPT GOING UNTIL AFTER I HEARD

18 THE SHOTS WAS GONE I TURNED AROUND TO SEE WHO WAS

19 THAT?

20 Q: SO, AFTER THE SHOOTING ENDED YOU WENT BACK?

21 A: YES, SIR.

22 THE COURT: YOU HAVE TO ANSWER OUT, PLEASE.

23 A: YES, SIR.

24 Q: WHEN YOU GOT BACK THERE, WHAT DID YOU SEE?

25 A: I DIDN'T SEE HIM. I SAW REG ON THE GROUND.

HEARING

260

1 Q: DID YOU KNOW REGINALD FOSTER?
2 A: YES, SIR.
3 Q: ARE YOU ANY RELATION TO HIM?
4 A: YES, SIR.
5 Q: WHAT WAS THE KINSHIP?
6 A: THAT WAS MY COUSIN.
7 Q: HOW OLD WAS HE?
8 A: FOURTEEN.
9 Q: WHEN YOU GOT THERE WHERE WAS HE LOCATED?
10 A: LAYING ON HIS BACK LIKE WHERE WE WERE STANDING. THE
11 SAME EXACT SPOT.
12 Q: DID YOU - DID YOU ATTEMPT TO RENDER ANY ASSISTANCE
13 TO HIM?
14 A: YEAH. BUT WHEN I TRIED TO GRAB HIM SOMEONE TOLD ME
15 TO LAY HIM BACK DOWN BECAUSE THE AMBULANCE WAS
16 COMING.
17 Q: DID YOU MOVE HIM?
18 A: NO NOT TOO MUCH. I DIDN'T GET A CHANCE TO BEFORE
19 SOMEONE TOLD ME TO STOP AND DON'T TOUCH HIM LET THE
20 AMBULANCE COME.
21 Q: DID THE POLICE COME WHILE YOU WERE THERE?
22 A: NO, SIR.
23 Q: HOW LONG DID IT TAKE THE POLICE TO ARRIVE?
24 A: IT SEEMED LIKE TO ME LIKE FOREVER. I GUESS PROBABLY
25 LIKE 30 MINUTES.

HEARING

261

- 1 Q: IT SEEMED LIKE A LONG TIME BUT THEY GOT THERE PRETTY
2 QUICK THOUGH, DIDN'T THEY?
- 3 A: YES, SIR. I GUESS SO.
- 4 Q: WHO TOLD YOU NOT TO MOVE HIM?
- 5 A: IT SOUND LIKE THE NEIGHBORS OR SOMETHING. WHOEVER
6 WAS, AFTER THEY RAN OUTSIDE.
- 7 Q: WAS IT A WOMAN?
- 8 A: YES, SIR. IT SOUND LIKE A WOMAN.
- 9 Q: NOW, YOU GAVE A STATEMENT TO THE POLICE A DAY OR SO
10 LATER, IS THAT RIGHT?
- 11 A: YES, SIR.
- 12 MR. CONNER: ANSWER ANY QUESTIONS THAT THE
13 DEFENDANT'S LAWYER MAY HAVE FOR YOU.
- 14 THE COURT: ANY QUESTIONS MR. BLACKMON?
- 15 MR. BURROUGHS- CROSS EXAMINATION BY MR. BLACKMON:
- 16 Q: MR. BURROUGHS, I WANT TO MAKE SURE WE HAVE WHAT YOU
17 CLAIM MR. WILSON SAID STRAIGHT. YOU HEARD HIM SAY
18 TWO THINGS. "WHOA, REESE, LET ME GET THAT" AND THEN
19 THE SECOND TIME YOU HEARD HIM SAY, "I SHOULD KILL
20 Y'ALL FOR WHAT Y'ALL DID TO ME IN THAT CHURCH YARD".
- 21 A: YES, SIR.
- 22 Q: AND YOU SPECIFICALLY REMEMBER PRETTY MUCH VERBATIM
23 THAT IS ALL HE SAID?
- 24 A: YES, SIR.
- 25 Q: THAT'S WHAT HE SAID AND HE DIDN'T SAY NOTHING ELSE?

HEARING

262

1 A: I AIN'T HEAR NOTHING ELSE?

2 Q: YOU DIDN'T HEAR NOTHING ELSE, OKAY. LET ME SHOW YOU

3 THAT STATEMENT YOU MADE ON MAY 21ST OF 2003 AT 4:02

4 P.M. YOU REMEMBER GIVING THE POLICE A STATEMENT,

5 DON'T YOU?

6 A: YES, SIR.

7 Q: I WANT YOU TO START RIGHT HERE WITH WE WERE ALL

8 STANDING. READ THAT PLEASE, SIR.

9 A: "WE WAS ALL STANDING CLOSE TOGETHER WHEN TWINKIE

10 SAID, REESE, LET ME GET THAT." I DON'T KNOW WHAT HE

11 WANTED.

12 Q: YOU DIDN'T KNOW WHAT HE WANTED AT THAT POINT, DID

13 YOU?

14 A: YES, SIR.

15 Q: WHAT'S THE NEXT THING THAT YOU SAY THAT MR. WILSON

16 SAID?

17 A: IT MUST HAVE BEEN MONEY OR SOMETHING BECAUSE TWINKIE

18 PULLED

19 Q: EXCUSE ME. HE DIDN'T SAY THAT, DID HE?

20 A: NO, THIS IS WHAT I SAID.

21 Q: BEFORE YOU SAID THAT, YOU SAID YOU DIDN'T KNOW WHAT

22 HE MEANT, DIDN'T YOU?

23 A: NO.

24 Q: EXCUSE ME.

25 MR. CONNER: MAY IT PLEASE THE COURT. I OBJECT TO

HEARING

263

1 HIM ARGUING WITH THE WITNESS ABOUT WHAT HE ...

2 THE COURT: YES, SIR. YOU STEP BACK. GIVE HIM THE
3 STATEMENT AND YOU STEP BACK.

4 Q: I'M GOING TO GIVE YOU THE STATEMENT. I'M GOING TO
5 MARK WHERE WE STARTED DOWN TO WHERE I END WITH THE
6 LAST THING THAT HE SAID. JUST READ THAT, PLEASE.

7 A: "WE WAS ALL STANDING CLOSE TOGETHER WHEN TWINKIE
8 SAID, REESE LET ME GET THAT. I DON'T KNOW WHAT HE
9 WANTED. IT MUST HAVE BEEN MONEY OR SOMETHING
10 BECAUSE TWINKIE PULLED A BLACK GUN FROM HIS JACKET
11 AND WAS HOLDING IT IN HIS RIGHT HAND POINTING IT AT
12 REESE. I COULD SEE THAT THE GUN HANDLED SPARKLED
13 LIKE THEY WERE LIGHT RED OR SOMETHING AND THAT IT
14 COCKED AT THE TOP. TWINKIE PULLED THE GUN BACK DOWN
15 AND SAID I'M JUST PLAYING. AND THEN HE PULLED THE
16 GUN BACK UP AND REESE, AND ASK REESE REMEMBER THAT
17 TIME YOU TRIED TO SHOOT AT ME." THAT'S IT.

18 Q: NOW, WHEN YOU GAVE THAT STATEMENT IN MAY OF 2003,
19 YOU DID NOT TELL THE POLICE THAT HE SAID ANYTHING
20 ABOUT, "I SHOULD KILL Y'ALL FOR WHAT Y'ALL DID TO ME
21 BACK AT THAT CHURCH YARD", DID HE?

22 A: THAT'S THE SAME MEANING RIGHT THERE, THOUGH.

23 THE COURT: NO, SIR. LISTEN TO THE QUESTION.

24 Q: WHEN YOU GAVE THE POLICE THIS STATEMENT IN MAY OF
25 2003, YOU DID NOT TELL THE POLICE THAT HE SAID, I

HEARING

264

1 SHOULD KILL Y'ALL FOR WHAT YOU DID IN THE CHURCH
2 YARD, DID YOU?
3 A: NO, I AIN'T SAY THAT.
4 Q: WHAT YOU DID SAY THAT HE SAID THEN WAS REMEMBER THAT
5 TIME THAT YOU TRIED TO SHOOT AT ME? NOW, WHICH ONE
6 DID HE REALLY SAY?
7 A: WELL, HE COULD HAVE SAID THAT ONE.
8 Q: WHICH ONE?
9 A: HE SAID THAT ONE.
10 Q: THE ONE YOU GAVE IN THE WRITTEN STATEMENT?
11 A: THE ONE I SAID.
12 Q: OKAY, I'M GOING TO ASK THAT AGAIN. I'M SORRY I'M
13 LOST. I WANT YOU TELL ME WORD FOR WORD.
14 A: THE WORDS THAT CAME OUT HIS MOUTH IS WHAT I SAID.
15 Q: WHICH ONES?
16 A: THE WORDS I SAID SITTING UP HERE TODAY.
17 Q: SO, YOU LIE UNDER OATH WHEN YOU GAVE THIS STATEMENT?
18 A: NO, I DIDN'T LIE UNDER OATH WHEN I SAID THAT
19 STATEMENT.
20 Q: OH, YOU WEREN'T TELLING THE TRUTH ...
21 MR. CONNER: OBJECTION. THESE LADIES AND GENTLEMEN
22 HEARD WHAT THIS FELLOW SAID TODAY AND THEY'VE HEARD ...
23 THE COURT: OBJECTIONS OVERRULED. CROSS EXAMINATION.
24 Q: SO, YOU WERE NOT TELLING THE TRUTH WHEN YOU SIGNED
25 THIS STATEMENT?

HEARING

265

1 A: NO, I WAS TRYING TO PUT IT IN MY OWN TEXT IN THAT
2 STATEMENT RIGHT THERE. I REMEMBER TELLING HIM
3 EXACTLY WHAT HE SAID. AND WHAT HE SAID ON THAT DAY.
4 Q: YOU TOLD THIS POLICE OFFICER EXACTLY WHAT MR. WILSON
5 SAID.
6 A: (NODS HEAD AFFIRMATIVELY)
7 Q: YOU HAVE TO ANSWER VERBALLY.
8 A: EXCUSE ME.
9 Q: YOU HAVE TO ANSWER VERBALLY. YOU CAN'T NOD.
10 A: YES, SIR.
11 Q: AND THE POLICE OFFICER PUT IN THIS STATEMENT EXACTLY
12 WHAT YOU TOLD HIM?
13 A: I GUESS SO.
14 Q: AND YOUR INITIALS ARE ON THE TOP AND BOTTOM WHERE
15 YOU SIGNED IT, DIDN'T YOU?
16 A: YES, SIR.
17 Q: NOW, HOW LONG DO YOU REMEMBER MR. WILSON BEING OUT
18 ON THAT STREET THAT DAY, MAY 19TH, 2003?
19 A: HOW LONG DO I REMEMBER?
20 Q: HOW LONG DURING THAT DAY DO YOU REMEMBER HIM BEING
21 OUT THERE.
22 A: HE WAS OUT THERE.
23 Q: WAS HE OUT THERE TWO OR THREE HOURS?
24 A: HE WAS OUT THERE BEFORE AND AFTER WE CAME BACK FROM
25 THE STORE.

HEARING

266

1 Q: ALL RIGHT. IT TOOK YOU ABOUT 40 MINUTES TO GO TO
2 THE STORE, DIDN'T IT?
3 A: IT WAS ABOUT 40 MINUTES.
4 Q: HOW LONG WAS HE OUT THERE BEFORE YOU WENT TO THE
5 STORE?
6 A: PROBABLY ABOUT 10 TO 15 MINUTES. BEFORE HE WAS OUT
7 THERE WHEN I ROLLED UP THERE.
8 Q: DO YOU REMEMBER ANYBODY OUT THERE SMOKING POT THAT
9 DAY?
10 A: I DON'T REMEMBER THAT.
11 Q: YOU DON'T REMEMBER ANYBODY SMOKING POT THAT DAY?
12 A: NO.
13 Q: DO YOU REMEMBER REESE HAVING POT IN HIS POSSESSION
14 THAT DAY?
15 A: NO, SIR.
16 Q: DO YOU REMEMBER REGGIE HAVING POT IN HIS POSSESSION
17 THAT DAY?
18 A: NO, SIR. BECAUSE I WASN'T WITH REGGIE THAT WHOLE
19 DAY.
20 Q: HOW LONG WERE YOU STANDING UP THERE BEFORE YOU ALL
21 WENT TO THE STORE?
22 A: AS SOON AS ME AND LINWOOD ROLLED UP, REESE ASKED TO
23 GO TO THE STORE.
24 Q: ALL RIGHT, SIR. IF I UNDERSTAND THIS CORRECT, WHEN
25 YOU FIRST RODE UP, YOU, REESE, LINWOOD AND REGGIE

HEARING

267

- 1 AND CEANTE WERE ALL THERE?
- 2 A: CEANTE WASN'T THERE FIRST.
- 3 Q: WAS CEANTE THERE BEFORE YOU ALL WENT TO THE STORE?
- 4 A: YEAH, HE WAS THERE BEFORE WE WENT TO THE STORE, TOO.
- 5 Q: SO, CEANTE WAS THERE BEFORE YOU ALL WENT TO THE
- 6 STORE?
- 7 A: YEAH, BUT HE RODE UP JUST BEFORE WE WERE GOING TO
- 8 THE STORE.
- 9 Q: HOW LONG WOULD YOU SAY CEANTE STAYED THERE WITH YOU
- 10 ALL'S GROUP BEFORE Y'ALL LEFT TO GO TO THE STORE?
- 11 A: I CAN'T REALLY REMEMBER BUT I KNOW IT WASN'T THAT
- 12 LONG THOUGH BECAUSE WE WENT STRAIGHT TO THE STORE.
- 13 Q: WAS IT MORE THAN 2 MINUTES, 5 MINUTES?
- 14 A: I'M NOT REALLY SURE.
- 15 Q: DID YOU, LINWOOD AND REESE AND REGGIE WENT TO THE
- 16 STORE?
- 17 A: YEAH.
- 18 Q: WHEN YOU FIRST PULLED BACK UP FROM GOING TO THE
- 19 STORE, DID YOU SEE A WHITE ESCALADE DOWN THE STREET?
- 20 A: YEAH, NOT ON CARVER STREET THOUGH, THAT'S THE
- 21 CEMETERY STREET.
- 22 Q: CEMETERY STREET?
- 23 A: YEAH.
- 24 Q: DO YOU KNOW WHO WAS DRIVING THE ESCALADE?
- 25 A: I KNOW WHO WAS DRIVING IT.

HEARING

268

1 Q: WHO?

2 A: NICOLE.

3 Q: WOULD THAT BE NICOLE MELTON (SIC), TWINKIE'S
4 GIRLFRIEND AT THE TIME?

5 A: YEAH.

6 Q: YOU SAW HER IN THE ESCALADE DOWN THE STREET?

7 A: YEAH.

8 Q: WAS ANYBODY IN THE ESCALADE WITH HER?

9 A: PROBABLY WAS, I AIN'T SEE THEM THOUGH.

10 Q: WAS IT SOMEBODY NAME VASE(SIC)?

11 A: NO.

12 Q: AT THAT TIME YOU WERE 17 YEARS OLD?

13 A: WHEN THAT HAPPENED?

14 Q: YES.

15 A: YES, SIR.

16 Q: WERE YOU IN SCHOOL THEN?

17 A: NO, SIR. I DON'T THINK.

18 Q: HAD YOU GRADUATED ALREADY?

19 A: NO, SIR. I'M IN SCHOOL NOW, THOUGH.

20 Q: WHY WASN'T YOU IN SCHOOL?

21 A: PROBABLY WAS ALREADY ...

22 MR. CONNER: YOUR HONOR, I DON'T THINK THAT'S
23 RELEVANT WHILE HE WAS IN SCHOOL OR WHY HE ...

24 THE COURT: WHAT IS THE RELEVANCE MR. BLACKMON?

25 MR. BLACKMON: I'LL REPHRASE IT, YOUR HONOR.

HEARING

269

1 THE COURT: ALL RIGHT. OBJECTION SUSTAINED.

2 Q: AT THE TIME THIS HAPPENED WERE YOU A MEMBER OF A

3 GANG KNOWN AS THE CRYPTS?

4 A: NO, SIR.

5 Q: AT THE TIME THIS HAPPENED WAS REESE A MEMBER OF A

6 GANG CALLED THE CRYPTS?

7 A: NOT THAT I KNOW OF?

8 Q: AT THE TIME THIS HAPPENED, DO YOU KNOW WHETHER

9 LITTLE REGGIE WAS A MEMBER OF THE CRYPTS?

10 A: NO, SIR.

11 Q: AT THIS TIME THIS HAPPENED, HAD YOU BEEN SMOKING ANY

12 MARIJUANA THAT DAY?

13 A: THAT DAY?

14 Q: YES, SIR.

15 A: PROBABLY EARLIER THAT DAY; YES, SIR.

16 Q: HAD YOU BEEN SMOKING THE MARIJUANA EARLIER THAT DAY

17 WITH LINWOOD AND REESE AND REGGIE?

18 A: NO, SIR. I SMOKE BY MYSELF.

19 Q: DID YOU GET THE MARIJUANA FROM REESE OR REGGIE?

20 A: NO, SIR.

21 Q: ARE YOU AWARE THAT MARIJUANA WAS FOUND IN REGGIE'S

22 POCKET?

23 A: AFTER I READ THE PAPERS.

24 Q: YOU DIDN'T KNOW ON THAT DAY THAT HE HAD MARIJUANA IN

25 HIS POCKET?

HEARING

270

1 A: NO, SIR.

2 Q: ARE YOU AWARE THAT BULLETS WERE FOUND IN LINWOOD'S
3 POCKET?

4 A: NO, SIR.

5 Q: WERE YOU AWARE OF ANYBODY ELSE HAVING A GUN OUT
6 THERE THAT DAY?

7 A: NO, SIR.

8 Q: WHEN YOU ORIGINALLY RAN ACROSS THE STREET, WHAT
9 HAPPENED TO YOUR BIKE?

10 A: MY BIKE?

11 Q: YES, SIR.

12 A: I WAS ON IT BUT IT WOULDN'T MOVE SO I DROPPED IT IN
13 THE MIDDLE OF THE ROAD AND KEPT RUNNING.

14 Q: DID YOU EVER MOVE IT?

15 A: NO, I THINK - WELL, THE POLICE OFFICE TOLD ME THEY
16 THINK A CAR HIT IT OR SOMETHING. BLOOD GOT ON THE
17 OTHER BIKES.

18 Q: NOW, YOU HEARD THE TOTAL OF HOW MANY SHOTS?

19 A: BETWEEN 3 AND 5.

20 Q: DID THEY ALL SOUND ABOUT THE SAME IN LOUDNESS?

21 A: YES, SIR.

22 Q: HAVE YOU HAD ANY EXPERIENCE WITH 9MM HANDGUNS?

23 A: NO, SIR.

24 Q: HAD ANY EXPERIENCE WITH A .38 HANDGUN?

25 A: NO, SIR.

THIRD JUDICIAL CIRCUIT

HEARING

271

- 1 Q: HAD ANY EXPERIENCE WITH A .25 CALIBER HANDGUN?
- 2 A: NO, SIR.
- 3 Q: NOW, AS SOON AS YOU HEARD THE SHOOTING START YOU RAN
- 4 ACROSS THE STREET, THROUGH THE BUSHES IN A YARD,
- 5 DRIVEWAY AND OVER TO THE FIELD YOU'RE TALKING ABOUT?
- 6 A: YES, SIR.
- 7 Q: THEN YOU WENT BACK AND YOU SAW LITTLE REGGIE. YOU
- 8 SAID YOU SAW HIM LYING ON HIS BACK?
- 9 A: YEAH, AND ON HIS BIKE, TOO, STILL.
- 10 Q: PARTLY ON HIS BIKE?
- 11 A: YEAH.
- 12 Q: YOU HAVE TO ANSWER VERBALLY, I'M SORRY.
- 13 A: YES, SIR.
- 14 Q: SO, HE WASN'T SITTING UP ON THE BICYCLE?
- 15 A: NO, SIR. HE WAS LIKE LAID BACK ON HIS BIKE.
- 16 Q: WHERE WAS HIS HEAD?
- 17 A: LIKE RIGHT, IT WAS LIKE ON THE BIKE, TOO. ON THE
- 18 GROUND.
- 19 Q: WAS HIS HEAD LIKE ON THE BIKE OR ON THE GROUND?
- 20 A: IT WAS ON THE GROUND.
- 21 Q: AT THE TIME YOU WENT BACK YOU DIDN'T MOVE HIM AT
- 22 ALL?
- 23 A: WELL, I PICKED UP LIKE THE BACK OF HIS HEAD AT
- 24 FIRST. THEN THEY TOLD ME TO LEAVE HIM ALONE.
- 25 Q: YOU PICKED UP THE BACK OF HIS HEAD, YOU PICKED UP

HEARING

272

1 THE BACK OF HEAD FROM THE GROUND?

2 A: IT WAS KIND OF, HE WASN'T ALL THE WAY TOUCHING THE

3 GROUND, THOUGH BECAUSE THE BIKE WAS UP UNDER HIM

4 FROM WHEN HE WAS SITTING ON IT.

5 Q: OKAY. SO, WAS HIS HEAD TOUCHING ANY PART OF THE

6 BIKE?

7 A: I'M NOT REALLY SURE. I'M NOT REALLY SURE BUT I KNOW

8 THAT THE BIKE WAS UP UNDER HIM, THOUGH.

9 Q: YOU DIDN'T REMOVE ANY GUNS FROM THE AREA, DID YOU?

10 A: NO, SIR.

11 Q: WHO ELSE WAS AROUND THAT AREA BEFORE THE POLICE GOT

12 THERE?

13 A: NO ONE BUT WHO YOU SEE HERE.

14 Q: WE KNOW THERE WAS SOME WOMAN OUT THERE AND SHE TOLD

15 YOU NOT TO MOVE HIM, RIGHT?

16 A: YES, SIR.

17 Q: YOU WERE THERE. DID REESE COME BACK OUT?

18 A: COME BACK OUT OF WHERE?

19 Q: AROUND WHERE LITTLE REGGIE WAS?

20 A: YES, SIR.

21 Q: HE DID COME BACK BEFORE THE POLICE GOT THERE?

22 A: YES, SIR.

23 Q: WHAT DID YOU SEE REESE DO WHEN HE CAME BACK THERE?

24 A: JUST STANDING THERE TRYING TO SEE WHAT WAS GOING ON,

25 WHAT HAPPENED.

HEARING

273

- 1 Q: WHERE WAS HE STANDING?
- 2 A: HE WAS STANDING LIKE RIGHT WHERE I WAS STANDING WHEN
- 3 WE CAME BACK.
- 4 Q: DID CEANTE COME BACK?
- 5 A: YES, SIR.
- 6 Q: CEANTE CAME BACK AND HE WAS STANDING THERE, TOO?
- 7 A: NO, WE WAS LIKE IN THE AREA TRYING TO SEE WHAT
- 8 HAPPENED.
- 9 Q: HOW CLOSE TO LITTLE REGGIE WAS CEANTE?
- 10 A: I AIN'T REALLY SURE ABOUT THAT.
- 11 Q: DID YOU WALK BACK AND TALK WITH LINWOOD?
- 12 A: NO, SIR.
- 13 Q: DID REESE GO BACK AND TALK WITH LINWOOD?
- 14 A: YES, SIR.
- 15 Q: THAT WAS BEFORE THE POLICE SHOWED UP?
- 16 A: YES, SIR.
- 17 Q: DID YOU SEE REESE TALKING TO LINWOOD BEFORE THE
- 18 POLICE SHOWED UP?
- 19 A: NO. REESE CAME BACK UP TO THE FRONT WHERE I WAS AT.
- 20 HE TOLD ME HE WAS ALRIGHT SO I JUST STAYED THERE
- 21 WHERE REG WAS AT.
- 22 Q: WHEN YOU SAY HE TOLD YOU REESE WAS ALRIGHT, WHO WAS
- 23 HE REFERRING TO IN YOUR OPINION?
- 24 A: NO. REESE TOLD ME THAT LINWOOD WAS ALRIGHT.
- 25 Q: OKAY. SO, HAD YOU SEEN REESE GO BACK TO CHECK ON

HEARING

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1 LINWOOD?

2 A: NO, BUT THEY RAN LIKE IN THE SAME DIRECTION.

3 Q: WHAT DO YOU REMEMBER TWINKIE WEARING AT THE TIME?

4 A: A JACKET, LIGHT JACKET.

5 Q: WHAT KIND OF JACKET?

6 A: A BASEBALL JACKET.

7 Q: DID HE HAVE ANY TEAM NAME ON IT?

8 A: YES, SIR.

9 Q: WHAT KIND?

10 A: BASEBALL TEAM, YANKEES.

11 Q: WHICH ONE?

12 A: THE YANKEES.

13 Q: WHAT COLOR WAS IT?

14 A: I THINK IT WAS ORANGE WITH WHITE LETTERS, YANKEE

15 LETTERS.

16 Q: WHEN YOU SAY MR. WILSON PULLED A GUN, DID YOU SEE

17 HIM SPECIALLY PULL IT OUT ANYWHERE?

18 A: I CAN'T SAY I SEEN HIM PULL THAT GUN. I SEEN IT IN

19 HIS HAND, THOUGH.

20 Q: WHEN YOU ALL CAME BACK FROM THE STORE, HE WAS

21 ALREADY STANDING OUT THERE NEAR THOSE TRASH CANS?

22 A: NO.

23 Q: WHERE WAS HE?

24 A: THEY WAS COMING FROM LOOK LIKE THE PROJECTS.

25 Q: SO, HE AND TREZ WERE TOGETHER?

HEARING

275

- 1 A: YES, SIR.
- 2 Q: AND THEY APPEARED TO YOU TO BE COMING FROM THE
- 3 PROJECTS? WHERE ARE THE PROJECTS?
- 4 A: THE PROJECTS?
- 5 Q: YEAH.
- 6 A: BERNIE CIRCLE.
- 7 Q: SO WHEN WE WERE LOOKING AT STATE'S EXHIBIT NUMBER 1,
- 8 CARVER STREET DOWN HERE, IF YOU'RE LOOKING AT CARVER
- 9 STREET FROM THE OTHER SIDE OF THE ROAD LOOKING AT
- 10 THE TRASH CANS ARE THE PROJECTS FROM THE RIGHT OR TO
- 11 THE LEFT?
- 12 A: IF WE LOOKING AT THE TRASH CANS?
- 13 Q: IF WE LOOKING AT THE TRASH CANS.
- 14 A: THEY WOULD BE TO THE LEFT.
- 15 Q: SO THE PROJECTS WOULD BE TO THE LEFT?
- 16 A: YES, SIR.
- 17 Q: WHERE IS THE MARKET EXPRESS TO THE RIGHT OR TO THE
- 18 LEFT?
- 19 A: IT'S TO THE LEFT BUT YOU GOT TO GO TO THE GRAVE YARD
- 20 STREET.
- 21 Q: SO YOU ALL WOULD HAVE BEEN COMING FROM THE MARKET
- 22 EXPRESS DOWN THE SAME BASIC DIRECTION YOU SAY HE WAS
- 23 COMING FROM THE PROJECTS?
- 24 A: YES, SIR.
- 25 Q: SO, DID YOU PASS HIM TO GET TO THE TRASH CANS OR WAS

HEARING

276

1 HE ALREADY THERE?

2 A: PASSED HIM.

3 Q: YOU PASSED HIM?

4 A: EVERYBODY PASSED HIM REALLY.

5 Q: SO, YOU ALL WERE ON BICYCLES AND EVERYBODY PASSED

6 HIM EVEN THOUGH YOU WERE FALLING BEHIND?

7 A: YEAH, I FALL BEHIND THAT'S WHY I THINK, THE REASON I

8 SAW HIM I FELL BEHIND.

9 Q: EVERYBODY WAS COMING FROM THE MARKET EXPRESS. YOU

10 HAD FELL BEHIND AND TO YOUR KNOWLEDGE YOU ALL PASSED

11 TWINKIE AND TREZ AND YOU ALL GOT TO THE AREA OF THE

12 TRASH CANS AND THEN THEY CAME UP?

13 A: YES, SIR.

14 Q: OKAY. WHEN THEY CAME UP, WHEN THEY APPROACHED THE

15 TRASH CANS, MR. WILSON DID NOT HAVE A GUN SHOWING IT

16 AROUND, DID HE?

17 A: HE AIN'T HAVE IT OUT ALREADY FLASHING.

18 Q: THE FIRST TIME YOU SAW THE GUN WAS WHEN HE PULLED IT

19 OUT OF HIS POCKET ...

20 A: THEN WHEN I LOOKED UP ...

21 Q: ... AND HE SAID "LET ME HAVE THAT" OR "LET ME GET

22 THAT"?

23 A: YES.

24 Q: NOW, AT THE POINT THAT HE SAID IN YOUR OPINION OR TO

25 YOUR RECOLLECTION, "REESE, LET ME GET THAT", MR.

HEARING

277

1 WILSON DIDN'T SAY GIVE ME ALL YOUR MONEY, DID HE?
2 A: EXCUSE ME. SAY THAT AGAIN.
3 Q: MR. WILSON DID NOT TELL REESE TO GIVE HIM ANY MONEY
4 HE MIGHT HAVE, DID HE?
5 A: NO, HE JUST SAID LET ME GET THAT.
6 Q: HE DIDN'T SAY ANYTHING SPECIFIC ABOUT WHAT THAT WAS,
7 DID HE?
8 A: NO, SIR.
9 Q: AT THE TIME, REESE DIDN'T HAVE ANY GUN OR ANY MONEY
10 OUT DID HE?
11 A: HE DIDN'T HAVE NO MONEY OR NOTHING OUT SHOWING,
12 SITTING ON HIS LAP OR NOTHING.
13 Q: WHAT WAS SITTING IN HIS LAP?
14 A: NOTHING.
15 Q: SO, REESE DIDN'T HAVE ANYTHING IN PLAIN VIEW TO
16 WHICH MR. WILSON COULD HAVE BEEN SAYING LET ME GET
17 THAT, DID HE?
18 A: EXCUSE ME, SAY THAT AGAIN.
19 Q: REESE DID NOT HAVE ANYTHING THAT YOU COULD SEE IN
20 HIS POSSESSION?
21 A: NO, SIR.
22 Q: BUT YOU DO SPECIFICALLY NOW REMEMBER MR. WILSON
23 SAYING I'M JUST PLAYING WHEN HE PULLED THE GUN OUT
24 THE FIRST TIME, DON'T YOU?
25 A: YEAH AND I SEE HIM PUT THE GUN DOWN, PUT THE GUN

HEARING

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1 BACK DOWN. I NEVER SEEN HIM PUT THE GUN UP THOUGH.

2 Q: HOW MUCH MARIJUANA HAD YOU SMOKED EARLIER THAT DAY?

3 A: SINCE I WAS A PERSONAL SMOKER PROBABLY JUST A HALF
4 OF ONE.

5 Q: WOULD YOU SAY YOU WERE HIGH?

6 A: THAT WAS SEVERAL HOURS BEFORE THEN.

7 Q: I'M SORRY.

8 A: THAT WAS SEVERAL HOURS BEFORE THEN, THOUGH.

9 Q: DID YOU DRINK ANY ALCOHOL BEVERAGES?

10 A: NO, SIR.

11 Q: HAD YOU SMOKED OR USED ANY OTHER DRUGS SINCE THEN
12 THAT DAY?

13 A: NO, SIR.

14 Q: DID YOU SEE ANY OF THESE OTHER PEOPLE USE ANY DRUGS
15 THAT DAY?

16 A: NO, SIR.

17 MR. BLACKMON: NOTHING FURTHER.

18 THE COURT: REDIRECT?

19 MR. CONNER: I HAVE NOTHING FURTHER FOR HIM, YOUR
20 HONOR.

21 THE COURT: ALL RIGHT. THANK YOU FOR COMING. YOU MAY
22 STEP DOWN.

23 (WITNESS STEPS DOWN)

24 THE COURT: ALL RIGHT. COUNSEL APPROACH SUCH A
25 MOMENT, PLEASE.

HEARING

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1 (COUNSEL APPROACHES BENCH)

2 THE COURT: IT IS ALMOST 1:00, JUST A COUPLE OF
3 MINUTES BEFORE 1:00. I THINK IT IS APPROPRIATE THAT WE
4 BREAK FOR LUNCH AT THIS TIME. IF IT SUITS EVERYBODY TO
5 MOVE THIS MATTER ALONG, I'D LIKE TO START BACK AT 2:00 IF
6 AN HOUR WOULD GIVE EVERYBODY TIME ENOUGH FOR LUNCH. DOES
7 THAT GIVE EVERYBODY TIME ENOUGH? ALL RIGHT. WE WILL
8 BREAK FOR LUNCH AT THIS TIME AND I WOULD ASK YOU TO BE
9 BACK IN THE JURY ROOM, PLEASE AT 2:00. OVER THE LUNCH
10 RECESS, DON'T DISCUSS THE CASE WITH ANYONE AND DON'T
11 ALLOW ANYONE TO DISCUSS IT WITH YOU. AND WHEN YOU ARE
12 REASSEMBLING IN THE JURY ROOM, DON'T DISCUSS IT AMONG
13 YOURSELVES. IT'S STILL PREMATURE FOR YOU TO BEGIN ANY
14 DISCUSSIONS ON THIS CASE. MR. STEWART, SINCE YOU'RE IN
15 THE FOREMAN'S SEAT, I'M GOING TO MAKE YOU THE FOREMAN OF
16 THIS JURY IF YOU WILL JUST STAY RIGHT WHERE YOU ARE AND
17 OCCUPY THAT SEAT FOR THE REST OF THE TRIAL.

18 THANK YOU. WE WILL BE IN RECESS UNTIL 2:00. PLEASE
19 BE BACK IN THE JURY ROOM BY 2:00.

20 (JURY EXCUSED 12:57)

21 THE COURT: ALL RIGHT. I WANT TO WAIT A COUPLE OF
22 MINUTES TO GIVE THE JURY AN OPPORTUNITY TO CLEAR THE
23 COURTROOM. ALL RIGHT. WE'LL BE IN RECESS UNTIL 2:00.

24 (LUNCH BREAK WAS TAKEN)

25 THE COURT: ALL RIGHT. BACK ON THE RECORD WITH

HEARING

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1 REGARD TO THE MATTER OF THE STATE VS. HAROLD JAMAR
2 WILSON. LET THE RECORD REFLECT THAT THE DEFENDANT IS
3 PRESENT WITH HIS COUNSEL. IS THE STATE READY TO GO
4 FORWARD, MR. CONNER?

5 MR. CONNER: WE'RE READY, YOUR HONOR.

6 THE COURT: ARE YOU READY MR. BLACKMON?

7 MR. BLACKMON: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

9 (JURY ENTERS THE COURTROOM 2:00 P.M)

10 BAILIFF: ALL THE JURORS AND THE ALTERNATES ARE
11 PRESENT IN THE COURTROOM.

12 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. THANK
13 YOU FOR YOUR PROMPTNESS IN BEING BACK HERE. WE NOW ARE
14 READY TO PROCEED. MR. CONNER, YOU MAY CALL YOUR NEXT
15 WITNESS.

16 MR. CONNER: WE'D CALL VELLO PAAVEL, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, PLEASE.
19 RAISE YOUR RIGHT HAND AND STATE YOUR NAME, PLEASE.

20 WITNESS: MY NAME IS VELLO PAAVEL.

21 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THE
22 TESTIMONY YOU GIVE THIS COURT SHALL BE THE TRUTH, THE
23 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

24 WITNESS: YES, SIR. I DO.

25 BAILIFF: HAVE A SEAT UP HERE, PLEASE, SIR.

HEARING

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1 (WITNESS COMPLIES)

2 BAILIFF: STATE YOUR FULL NAME AND SPELL YOUR LAST
3 NAME FOR ME.

4 WITNESS: VELLO PAAVEL, P-A-A-V-E-L.

5 MR. PAAVEL - EXAMINATION BY MR. CONNER:

6 Q: MR. PAAVEL, WHERE ARE YOU EMPLOYED?

7 A: I WORK FOR SOUTH CAROLINA LAW ENFORCEMENT DIVISION
8 WHICH IS COMMONLY KNOWN AS SLED. IN PARTICULAR I
9 WORK IN THE FORENSIC SERVICES LABORATORY IN THE FIRE
10 ARMS DEPARTMENT WHERE I AM A FIREARM EXAMINER.

11 Q: WHAT DOES A FIREARMS EXAMINER DO?

12 A: AS THE NAME SUGGEST. WE EXAM FIREARMS AND
13 AMMUNITION COMPONENTS. MAINLY WHAT I DO IS LOOK AT
14 BULLETS, CARTRIDGE CASES, BULLET FRAGMENTS AND THE
15 LIKE. I ALSO LOOK AT FIREARMS AND TRY TO DETERMINE
16 WHETHER OR NOT THOSE BULLETS, CARTRIDGE CASES ARE
17 FRAGMENTS WERE FIRED BY THOSE FIREARMS. I ALSO TRY
18 TO DETERMINE IF THOSE FIREARMS ARE WORKING PROPERLY.
19 IF ANYBODY HAS ALTERED THE FIREARMS. WE DO SERIAL
20 NUMBER RESTORATIONS. WE ALSO DO GENERAL TOOL MARK
21 EXAMINATION. FOR EXAMPLE, INVOLVING BURGLARIES
22 WHERE SOMEONE USES A PRY BAR OR SCREW DRIVER OR SOME
23 OTHER TOOL TO PRY ON SOMETHING OR DAMAGE SOMETHING.
24 WE EXAMINE THOSE MARKINGS.

25 Q: WHAT KIND OF TRAINING DO YOU HAVE TO DO THIS WORK?

HEARING

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1 A: IN ORDER TO WORK IN THE FORENSIC SERVICES LABORATORY
2 YOU HAVE TO HAVE SOME TYPE OF FOUR YEAR DEGREE. I
3 HAVE A BACHELOR OF SCIENCE DEGREE FROM THE
4 UNIVERSITY OF SOUTH CAROLINA. I MAJORED IN
5 CHEMISTRY. BUT SPECIFIC TRAINING IN THE AREA OF
6 FIREARMS IDENTIFICATION CAME FROM THE TRAINING
7 PROGRAM THAT WAS ADMINISTERED BY SLED. DURING THAT
8 TRAINING PROGRAM, WHAT I HAD TO DO WAS WORK UNDER
9 THE SUPERVISION OF COURT QUALIFIED FIREARM
10 EXAMINERS. I WAS GIVEN INFORMATION I HAD TO READ
11 AND STUDY. I WAS GIVEN TEST ON THIS INFORMATION. I
12 WAS GIVEN PRACTICAL PROBLEMS WHERE I HAD TO LOOK AT
13 BULLETS AND CARTRIDGE CASES AND FIREARMS
14 MICROSCOPICALLY AND HAD TO EXAMINE THESE THINGS.
15 ONCE I SUCCESSFULLY COMPLETED THAT TRAINING I WAS
16 ALLOWED TO WORK CASES ON MY OWN AND TESTIFY IN
17 COURT.

18 Q: HOW MANY YEARS OF EXPERIENCE DO YOU HAVE DOING THIS
19 KIND OF WORK?

20 A: I'VE BEEN AT SLED APPROXIMATELY 17 ½ YEARS. I'VE
21 BEEN IN THE FIREARMS DEPARTMENT ALL THAT TIME. THE
22 FIRST 2 YEARS THAT I WAS IN THE FIREARMS DEPARTMENT
23 I ALSO WAS INVOLVED PRIMARILY IN THE EXAMINATION OF
24 CRIME SCENES, FINGERPRINT, PHOTOGRAPHY AND THE LIKE.
25 BUT FOR ABOUT THE PAST 15 ½ YEARS, I'VE BEEN DOING

HEARING

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1 ALMOST STRICTLY FIREARMS IDENTIFICATION.

2 Q: DID YOU EVER TESTIFY BEFORE IN SOUTH CAROLINA COURTS
3 IN REGARDS TO YOUR OPINION IN REGARDS TO FIREARMS
4 EXAMINATIONS?

5 A: YES, SIR. I'VE TESTIFIED IN SOUTH CAROLINA GENERAL
6 SESSIONS COURT AND IN FEDERAL COURT APPROXIMATELY
7 265 TIMES AS AN EXPERT ON FIREARM IDENTIFICATION OR
8 TOOL MARK IDENTIFICATION.

9 MR. CONNER: MAY IT PLEASE THE COURT. WE WOULD
10 SUBMIT HIM AS A QUALIFIED EXPERT IN THE AREA OF FIREARMS
11 IDENTIFICATION AND EXAMINATION.

12 MR. BLACKMON: NO OBJECTION, YOUR HONOR.

13 THE COURT: ALL RIGHT. THE COURT WILL QUALIFY MR.
14 PAAVEL AS AN EXPERT IN THE FIELD OF FIREARMS
15 IDENTIFICATION. LADIES AND GENTLEMEN OF THE JURY LET ME
16 TELL YOU WHAT THAT MEANS. ORDINARILY IF A WITNESS IS NOT
17 TESTIFYING AS AN EXPERT, THE WITNESSES TESTIMONY IN THE
18 FORM OF OPINIONS OR INFERENCES THAT ARE RATIONALLY BASED
19 UPON THE PERCEPTION OF A WITNESS. THAT MEANS THAT THEY
20 ARE WITHIN THE WITNESSES FIVE SENSES AND THEY ARE A CLEAR
21 UNDERSTANDING OF THE WITNESSES TESTIMONY AND THEY DO NOT
22 REQUIRE SPECIAL KNOWLEDGE, SKILL OR EXPERIENCE. HOWEVER,
23 IF SCIENTIFIC, TECHNICAL OR OTHER SPECIALIZE KNOWLEDGE
24 WILL ASSIST THE TRIER OF FACTS AND THAT'S YOU IN THIS
25 CASE TO UNDERSTAND THE EVIDENCE OR TO DETERMINE A FACT AT

1 ISSUE, THEN A WITNESS QUALIFIED AS AN EXPERT BY
2 KNOWLEDGE, SKILL, EXPERIENCE, TRAINING OR EDUCATION MAY
3 TESTIFY IN THE FORM OF AN OPINION. SO, BASICALLY THE
4 DIFFERENCE BETWEEN AN EXPERT WITNESS AND A NON EXPERT
5 WITNESS IS THAT AN EXPERT WITNESS IS ALLOWED TO GIVE AN
6 OPINION AND I HAVE QUALIFIED THIS WITNESS AS AN EXPERT IN
7 THE FIELD OF FIREARMS IDENTIFICATION AND FIREARMS
8 EXAMINATION.

9 Q: MR. PAAVEL, I SHOW YOU THESE ITEMS. STATE'S EXHIBIT
10 28 AND ASK YOU IF YOU CAN IDENTIFY THAT.

11 A: YES, SIR. I RECOGNIZE THIS PARTICULAR ITEM. THIS
12 IS ONE OF THE ITEMS THAT WAS SUBMITTED TO ME FOR
13 EXAMINATION IN REFERENCE TO THIS CASE.

14 Q: OKAY. AND THAT'S, I BELIEVE, IT WAS TESTIFIED
15 EARLIER THAT THIS WAS THE FRAGMENT OF A BULLET THAT
16 WAS RECOVERED FROM THE SKULL, THE HEAD OF REGINALD
17 FOSTER?

18 A: YES, SIR. THE CONTAINER ACTUALLY HAS A LABEL ON IT
19 THAT IS MARKED REGINALD FOSTER AND IT SAYS BULLET
20 FRAGMENT FROM HEAD. I RECOGNIZE SOME OF THE OTHER
21 MARKINGS ON THIS LABEL AS FORENSIC AUTOPSY MARKINGS
22 THAT I COMMONLY SEE ON CONTAINERS THAT COME FROM
23 AUTOPSY.

24 Q: I NEXT ASK THAT YOU LOOK AT STATE'S EXHIBIT NUMBER
25 29 AND ASK IF YOU CAN IDENTIFY THAT.

HEARING

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1 A: SIR. I RECOGNIZE THESE ITEMS ALSO. THESE ARE
2 ADDITIONAL ITEMS THAT WERE SUBMITTED TO ME FOR
3 EXAMINATION. THERE ARE THREE FIRED 9MM LUGER
4 CALIBER CARTRIDGE CASES. THERE IS 1 FIRED 9MM LUGER
5 CALIBER BULLET IN THESE CONTAINERS.

6 Q: NOW, FROM THE EXAMINATIONS OF THE 3 FIRED CASINGS,
7 DID YOU REACH ANY CONCLUSION CONCERNING THOSE?

8 A: YES, SIR. ALL 3 OF THESE FIRED CASINGS OR CASES
9 WERE FIRED BY THE SAME FIREARM. I DETERMINED THAT BY
10 MICROSCOPICALLY EXAMINING THE MARKINGS THAT WERE
11 LEFT ON THAT CARTRIDGE CASE OR THESE CARTRIDGE CASES
12 AS A RESULT OF BEING FIRED IN A FIREARM AND THEN BY
13 USING A COMPARISON MICROSCOPE I LOOK AT THESE MARKS
14 AND SEE IF I SEE AN AGREEMENT OR SUFFICIENT
15 AGREEMENT IN THEM TO TELL WHETHER OR NOT THEY WERE
16 FIRED BY ONE FIREARM. IN THIS CASE, THESE CARTRIDGE
17 CASES HAD SUFFICIENT MARKINGS ON THEM AND I
18 DETERMINED THAT THEY WERE FIRED BY ONE FIREARM.

19 Q: WHAT ABOUT THE GUNS OR THE OPERATION OF THE GUN THAT
20 ALLOWS YOU TO MAKE THESE COMPARISONS? WHAT KIND OF
21 MARKS DO THEY LEAVE?

22 A: GENERALLY, WHAT HAPPENS IN A FIREARM, DEPENDING ON
23 THE TYPE OF FIREARM, YOU MAY HAVE DIFFERENT TYPES OF
24 MARKS THAT ARE LEFT ON IT. IN PARTICULAR, YOU MAY
25 HAVE MARKS ON THE FIRING PIN OF THE FIREARM. THE

1 EXTRACTOR OR THAT PORTION OF THE FIREARM WHICH PULLS
2 THE CARTRIDGE CASE OUT OF THE FIREARM IF IT IS A
3 SEMIAUTOMATIC TYPE OF FIREARM. YOU ALSO HAVE
4 MARKINGS FROM AN EJECTOR WHICH IS ANOTHER PART OF
5 THE FIREARM WHICH MAY KICK OUT THE CARTRIDGE CASE.
6 ALSO, THE BREACH FACE OR THAT PART OF THE FIREARM
7 THAT SUPPORTS THE REAR OF THE CARTRIDGE CASE MAY
8 LEAVE MARKINGS ON IT THAT CAN BE USED FOR
9 IDENTIFICATION AND ALSO THE INSIDE OF THE BARREL OR
10 THE CHAMBER PORTION CAN ALSO LEAVE MARKINGS ON THE
11 CARTRIDGE CASE THEY CAN BE USED FOR IDENTIFICATION.
12 NOW, IF YOU'RE SHOOTING A REVOLVER. A REVOLVER WILL
13 GENERALLY NOT HAVE EJECTOR MARKS OR EXTRACTOR MARKS
14 OR MARKS SUCH AS THAT. WHERE AS A SEMI-AUTOMATIC
15 FIREARM IS LIKELY TO HAVE THE TYPE OF MARKING.
16 Q: HOW DO YOU MICROSCOPICALLY DETERMINE THAT THESE
17 THINGS MATCH?
18 A: AGAIN, BASED ON TRAINING. I HAVE THE ABILITY TO
19 LOOK AT ITEMS AND SEE WHETHER OR NOT THE MARKINGS
20 THAT ARE PRESENT ON ONE SPECIMEN AGREE OR DISAGREE
21 WITH THE MARKINGS THAT ARE PRESENT ON ANOTHER
22 SPECIMEN. IF I SEE THAT SUFFICIENT AGREEMENT, I CAN
23 CONCLUDE THAT THEY WERE FIRED BY THE SAME GUN. AND
24 THE REASON I CAN DO THAT IS THAT WHEN A FIREARM IS
25 MANUFACTURED, THE MARKS THAT ARE LEFT ON THE FIREARM

HEARING

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1 AS A RESULT OF MANUFACTURING PROCESSES, HAND
2 FITTING, FILING OR EVEN LATER USE AND ABUSE CAN
3 LEAVE MARKS ON THAT FIREARM THAT MAKE THAT FIREARM
4 UNIQUE. THEN WHEN A CARTRIDGE IS FIRED IN THAT
5 FIREARM THE BULLET THAT GOES DOWN THE BARREL OR THE
6 CARTRIDGE CASE THAT COMES IN CONTACT WITH VARIOUS
7 PARTS OF THAT FIREARM CAN BE MARKED WITH THOSE
8 UNIQUE MARKINGS AND IF THE GUN LEAVES THOSE MARKINGS
9 ON THE SPECIMEN REPETITIVELY AND CONSISTENTLY AND
10 THERE IS A SUFFICIENT QUANTITY OF THEM I CAN TELL
11 WHETHER OR NOT A BULLET OR A CARTRIDGE CASE WAS
12 FIRED BY A PARTICULAR GUN OR IF I HAD JUST BULLETS
13 OR CARTRIDGE CASES TO COMPARE TO EACH OTHER THEN I
14 CAN TELL WHETHER OR NOT THEY WERE FIRED BY THE SAME
15 FIREARM.

16 Q: I WOULD ASSUME THEN THAT THE MICROSCOPE IS A
17 VALUABLE TOOL IN MAKING THAT COMPARISON?

18 A: YES, SIR. THE BULK OF OUR EXAMINATIONS AND
19 COMPARISONS ARE DONE USING A COMPARISON MICROSCOPE
20 AND WHAT THAT INSTRUMENT ALLOWS ME TO DO IS TAKE TWO
21 ITEMS, PLACE THEM ON THE MICROSCOPE AND THEN I HAVE
22 A SET OF BINOCULAR TYPE EYE PIECES THAT I LOOK
23 THROUGH AND I CAN SEE ONE SPECIMEN ON ONE SIDE AND
24 ONE SPECIMEN ON THE OTHER SIDE AND I CAN MOVE THEM
25 AROUND. I CAN CHANGE THE MAGNIFICATION AND I CAN

1 ACTUALLY LINE UP THE LITTLE MARKS THAT ARE LEFT ON
2 THE INDIVIDUAL SPECIMENS AND LOOK FOR DISAGREEMENT.

3 Q: NOW, IN TALKING ABOUT THIS YOU SAID SOMETHING ABOUT
4 SEMI AUTOMATIC VERSUS REVOLVER. THESE CASINGS WERE
5 FIRED IN WHAT KIND OF GUN?

6 A: THESE CARTRIDGE CASES WERE LIKELY TO HAVE BEEN FIRED
7 IN SOME SORT OF SEMI AUTOMATIC FIREARM TYPICALLY 9MM
8 LUGER CALIBER CARTRIDGES ARE FOUND IN SOME SORT OF
9 SEMIAUTOMATIC FIREARM. THERE ARE A FEW REVOLVERS
10 THAT WILL FIRE 9MM LUGER CALIBER CARTRIDGES BUT
11 THESE HAD MARKINGS ON THEM WHICH TEND TO INDICATE
12 THAT THEY WERE FIRED IN SOME SORT OF SEMIAUTOMATIC
13 FIREARM.

14 Q: NOW, COULD YOU JUST DESCRIBE FOR THE LADIES AND
15 GENTLEMEN, THE OPERATION OF A SEMIAUTOMATIC PISTOL
16 AS OPPOSED TO A REVOLVER FOR EXAMPLE?

17 A: YES, SIR. GENERALLY, WHAT HAPPENS WITH A
18 SEMIAUTOMATIC PISTOL, YOU HAVE TWO PIECES TO IT
19 GENERALLY. YOU HAVE A PORTION CALLED A CLIP OR A
20 MAGAZINE. THAT NORMALLY IS SOME SORT OF BOX THAT IS
21 FASHIONED TO FIT INSIDE THE FIREARM ITSELF AND
22 INSIDE THIS BOX AND IT IS USUALLY MADE OUT OF
23 STAINLESS STEEL. YOU WILL HAVE A MAGAZINE SPRING
24 AND A FOLLOWER. NOW, WHAT YOU WILL TYPICALLY DO IS
25 LOAD THAT MAGAZINE BEFORE HAND AND SOME PEOPLE CALL

HEARING

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1 IT A CLIP BUT MAGAZINE IS THE TERM THAT I COMMONLY
2 USE. YOU TAKE THAT LOADED MAGAZINE. IT IS INSERTED
3 INTO THE BOTTOM OF THE FIREARM. NORMALLY, ON MOST
4 HAND GUNS, THE GRIP PORTION THAT YOU HOLD IS WHERE
5 YOU INSERT THE MAGAZINE. ONCE THE MAGAZINE IS IN
6 THE FIREARM YOU TYPICALLY HAVE TO PULL BACK THE
7 SLIDE. NOW, THE SLIDE IS THE PORTION OF THE
8 MAGNESIUM THAT SUPPORTS THE CARTRIDGE CASE AND
9 GENERALLY SURROUNDS THE BARREL AND KEEPS ALL THE
10 MAGNESIUM TOGETHER. YOU PULL BACK ON THE SLIDE.
11 YOU LET THE SLIDE GO FORWARD BECAUSE IT HAS A LARGE
12 SPRING IN IT CALLED A RECALL SPRING. IT DRIVES THAT
13 SLIDE FORWARD. WHEN THE SLIDE GOES FORWARD IT
14 PUSHES THE CARTRIDGE OUT OF THE MAGAZINE INTO THE
15 BACK OF THE BARREL WHICH IS CALLED THE CHAMBER. IN
16 MOST CASES THE GUN IS NOW READY TO FIRE. IF I TAKE
17 THE FIREARM AND FIRE IT, WHEN YOU FIRE A
18 SEMIAUTOMATIC THE BULLET OR PROJECTILE GOES OUT THE
19 BARREL AND GOES DOWN TOWARD YOUR TARGET. THE FIRED
20 CARTRIDGE CASE WILL ACTUALLY BE EJECTED OR THROWN
21 OUT OF THE FIREARM AND THE WAY THAT NORMALLY HAPPENS
22 IS THE SLIDE MOVES TOWARD THE REAR AS A RESULT OF
23 THE BURNING OF THE GUN POWDER THAT'S INSIDE THAT
24 CARTRIDGE CASE WHEN THAT GUN POWDER BURNS IT
25 GENERATES A TREMENDOUS AMOUNT OF PRESSURE. IN THE

HEARING

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1 CASE OF A 9MM, IT GENERATES UPWARDS OF 35,000 POUNDS
2 OF PRESSURE PER SQUARE INCH. IT PUSHES THAT SLIDE
3 TOWARDS THE REAR. WHEN THE SLIDE GOES ALL THE WAY
4 BACK TOWARDS THE REAR IT STOPS, THE CARTRIDGE CASE
5 HAS BEEN THROWN OUT OF THE GUN, THEN AGAIN REMEMBER
6 THE RECALL SPRING IS IN THERE. IT PUSHES THAT SLIDE
7 FORWARD AGAIN AND IT CHAMBERS A NEW CARTRIDGE. THEN
8 WHEN YOU RELEASE THE TRIGGER IT'S READY TO FIRE
9 AGAIN. SO, ON A SEMIAUTOMATIC FIREARM EVERY TIME
10 YOU FIRE IT A BULLET GOES OUT THE BARREL AND A
11 CARTRIDGE CASE GOES OUT THE SIDE OF THE GUN OR IN
12 SOME CASES THE TOP OF THE GUN. THEN EACH TIME YOU
13 PULL THE TRIGGER IT KEEPS DOING THAT AS LONG AS YOU
14 HAVE CARTRIDGES IN THE MAGAZINE AND THE GUN WORKS
15 PROPERLY AND DOESN'T MALFUNCTION OR JAM OR YOU JUST
16 RUN OUT OF AMMUNITION OR YOU STOP SHOOTING. IN THE
17 CASE OF A REVOLVER, THE REVOLVER AS IT'S NAME
18 IMPLIES, HAS A PORTION WHICH ACTUALLY REVOLVES OR
19 ROTATES. IT HAS A CYLINDER THAT PULLS THE
20 CARTRIDGES IN THAT CYLINDER YOU HAVE A NUMBER OF
21 HOLES ARE CHAMBERS. YOU MAY HAVE ANYWHERE FROM 5 TO
22 9 DEPENDING ON THE BRAND OF FIREARM. YOU PLACE A
23 CARTRIDGE INTO EACH ONE OF THESE CHAMBERS, CLOSE THE
24 CYLINDER AND EVERY TIME YOU PULL THE TRIGGER THAT
25 CYLINDER ROTATES AND FIRES IN THE CASE OF A DOUBLE

HEARING

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1 ACTION REVOLVER OR IN SOME REVOLVERS YOU ACTUALLY
2 HAVE TO PULL THE HAMMER BACK FOR EACH SHOT AND FIRE.
3 ANOTHER THING WITH THE REVOLVER IS ONCE YOU FIRE
4 THAT CARTRIDGE IT STAYS IN THE GUN UNLESS YOU HAVE A
5 BROKEN OR MALFUNCTION REVOLVER THAT HAS A LOADING
6 GATE MISSING YOU GENERALLY DON'T SEE REVOLVER
7 CARTRIDGE CASES AT A SCENE UNLESS SOMEONE STOPS AND
8 EMPTIES THE GUN TO RELOAD IT.

9 Q: NOW, YOU SAY ALL 3 OF THOSE CASINGS WERE FIRED BY
10 THE SAME GUN?

11 A: THAT'S CORRECT.

12 Q: NOW, HOW ABOUT THIS OTHER ITEM THAT WAS FOUND IN THE
13 YARD DOWN AT THE SCENE.

14 A: YES, SIR.

15 Q: AGAIN, EXAMINATION OF THIS REVEALED IT TO BE
16 CONSISTENT WITH BEING A BULLET THAT YOU NORMALLY --
17 FIRST OF ALL, LOOK AT IT'S SHAPE, LOOK AT ITS
18 CONSTRUCTION, COMPARE IT TO ANY KNOWN IF IT'S AN
19 UNUSUAL SHAPE BUT THIS IS A VERY COMMON SHAPE, I
20 MEASURE IT'S DIAMETER AND I WEIGH IT. THEN WHAT I
21 DO IS I LOOK AT THE MARKS THAT ARE LEFT ON THE
22 OUTSIDE OF THE BULLET AS A RESULT OF IT BEING FIRED
23 THROUGH A GUN BARREL. THE INSIDE OF MOST HANDGUNS
24 AND RIFLES IS RIFFLING. NOW, RIFFLING IS A SERIES
25 OF PARALLEL SPIRING GROOVES THAT ARE PLACED INSIDE

1 THAT BARREL BY THE MANUFACTURES. NOW, BETWEEN THESE
2 GROOVES THERE ARE RAISED PORTIONS CALLED LANDS.
3 NOW, THE PURPOSE OF THESE LANDS AND GROOVES ARE
4 RIFFLING IN THE BARREL IS TO CAUSE THAT BULLET TO
5 SPIN, BECAUSE NORMALLY RIFFLING EITHER GOES TO THE
6 RIGHT OR GOES TO THE LEFT. IT EITHER GOES CLOCKWISE
7 OR IT'S COUNTER CLOCKWISE. IF YOU WERE LOOKING DOWN
8 A GUN BARREL IT WOULD LOOK LIKE A SERIES OF SPIRAL
9 LINE RUNNING DOWN THAT BARREL. NOW, THE PURPOSE OF
10 THE RIFFLING IN THAT BARREL IS TO MAKE THAT BULLET
11 SPIN. NOW, A BULLET HAS TO SPIN IN ORDER FOR IT TO
12 TRAVEL PROPERLY. IT'S MUCH LIKE A FOOTBALL. IF YOU
13 TAKE A FOOTBALL YOU HAVE TO PUT A CERTAIN AMOUNT OF
14 SPIN ON A FOOTBALL FOR IT TO TRAVEL PROPERLY. SAME
15 THING WITH A BULLET THAT IS COMING OUT OF A HANDGUN
16 OR A RIFLE IT GENERALLY HAS TO SPIN. NOW, THE
17 BENEFIT OF THE RIFLING TO ME FROM THE PURPOSE OF THE
18 MICROSCOPIC COMPARISON IS THAT WHEN THAT BULLET GOES
19 THROUGH THAT GUN BARREL AND IT'S BEING FORCED DOWN
20 THAT BARREL, THAT RIFFLING ACTUALLY ENGRAVES OR
21 SCRATCHES THE OUTSIDE OF THAT BULLET AND LEAVES
22 MARKINGS ON THE BULLET AND IF THE BULLET STRIKES A
23 TARGET AND THE BULLET IS NOT GROSSLY DAMAGED AND
24 THESE MARKINGS ARE REPETITIVE I CAN USE THOSE
25 MARKINGS FOR COMPARISON. AGAIN, IF YOU REMEMBER I

HEARING

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1 SAID WHEN THESE GUNS ARE MANUFACTURED THEY CAN LEAVE
2 UNIQUE MARKINGS ON VARIOUS PARTS OF THE BARREL OR
3 THE FIREARM ITSELF. AND THE BARREL IS ONE OF THEM.
4 SO, I LOOK AT THE MARKINGS ON THE BULLET, I WEIGH
5 IT, I MEASURE IT, I LOOK AT IT'S SHAPE, I COME TO
6 THE CONCLUSION THAT IT IS CONSISTENT WITH BEING A
7 9MM LUGER CALIBER BULLET. I'LL ACTUALLY COUNT THE
8 NUMBER OF LANDS AND GROOVES THAT ARE ON THIS
9 PARTICULAR BULLET. THAT TELLS ME HOW MANY THE BARREL
10 SHOULD HAVE HAD. I MEASURE THE SIZE OF THEM IF I
11 HAVE TO AND THEN BY USING INFORMATION THAT IS
12 PROVIDED TO US BY THE FBI I CAN TELL WHAT TYPE OF
13 FIREARM MAY HAVE FIRED THIS PARTICULAR BULLET BASED
14 ON THE MARKS THAT WERE LEFT ON IT AND THAT'S KNOWN
15 AS THE GENERAL RIFFLING CHARACTERISTIC.

16 Q: WHAT WAS YOUR CONCLUSION IN REGARDS TO WHAT YOU HAVE
17 THERE IN YOUR HAND?

18 A: THIS PARTICULAR BULLET WAS LIKELY TO HAVE BEEN FIRED
19 BY SOME TYPE OF HIGH POINT FIREARM. THE RIFFLING
20 THAT IS FOUND ON THIS PARTICULAR BULLET, CURRENTLY
21 THE ONLY FIREARM MANUFACTURED THAT WE'RE AWARE OF IN
22 THE LABORATORY, THAT I'M AWARE OF, THAT USES THIS
23 TYPE OF RIFFLING IS HIGH POINT.

24 Q: DO THEY MAKE A 9MM PISTOL?

25 A: YES, SIR. THEY MAKE A 9MM PISTOL AND THEY ALSO MAKE

HEARING

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1 A 9MM, WHICH MAY HAVE THIS TYPE OF RIFFLING.

2 Q: NOW, THE OTHER ITEM, DID YOU EXAMINE THE FRAGMENT
3 FROM THE AUTOPSY, WERE YOU ABLE TO MAKE ANY
4 CONCLUSIONS IN REGARD TO THAT ITEM?

5 A: NO, SIR. NOT REALLY. THIS PARTICULAR FRAGMENT IS
6 BADLY DAMAGED. IT IS A VERY SMALL FRAGMENT. THE
7 RIFFLING IMPRESSIONS THAT I WAS LOOKING FOR ARE NOT
8 PRESENT BECAUSE OF THE DAMAGE. THIS IS A VERY, VERY
9 SMALL FRAGMENT. SO, THE ONLY THING I COULD TELL ON
10 THIS PARTICULAR FRAGMENT WAS THAT IT IS CONSISTENT
11 WITH BEING PART OF SOME TYPE OF LEAD BULLET. I
12 CAN'T TELL WHAT CALIBER IT WAS. I CAN'T TELL WHAT
13 TYPE OF FIREARM IT WAS FIRED FROM AND EVEN IF I HAD
14 THE FIREARM THAT IS SUPPOSEDLY FIRED IT, THERE ARE
15 NO MARKINGS ON HERE THAT ARE IN GOOD ENOUGH
16 CONDITION THAT I COULD USE FOR ANY SORT OF
17 MICROSCOPIC COMPARISON TO TELL WHETHER IT WAS FIRED
18 BY A PARTICULAR FIREARM.

19 Q: SO, WOULD IT BE FAIR TO SAY THEN THAT THE SAMPLE
20 THAT YOU HAVE THERE IS JUST A PART OF A BULLET?

21 A: YES, SIR. THIS PARTICULAR ITEM WHICH IS STATE'S
22 EXHIBIT NUMBER 28 IS A PART OF SOME TYPE OF LEAD
23 BULLET, YES, SIR.

24 MR. CONNER: ANSWER ANY QUESTIONS THAT THE DEFENSE
25 LAWYER MIGHT HAVE FOR YOU.

HEARING

295

1 THE COURT: CROSS EXAMINATION MR. BLACKMON?

2 MR. PAAVEL - CROSS EXAMINATION BY MR. BLACKMON:

3 Q: DID YOU DO A MICROSCOPIC ANALYSIS ON THAT FRAGMENT,
4 WHICH IS STATE'S EXHIBIT 28?

5 A: OH, YES, SIR. IT WAS EXAMINED MICROSCOPICALLY TO
6 SEE IF THERE WAS ANYTHING ON IT THAT WAS SUITABLE
7 FOR COMPARISON.

8 Q: YOU FOUND NO EVIDENCE OF ANY COOPER ON THE FRAGMENT,
9 DID YOU?

10 A: NO, SIR. I SAW NO COOPER ON IT.

11 Q: THE BULLET PROJECTILE ITSELF THAT YOU EXAMINED, I
12 BELIEVE YOU JUST TESTIFIED IN YOUR OPINION WAS
13 CONSISTENT WITH COMING FROM A HIGH POWER?

14 A: HIGH POINT. THE 9MM BULLET, YES, SIR. IT'S A HIGH
15 POINT.

16 Q: THAT IS STATE'S EXHIBIT NUMBER 29?

17 A: YES, SIR.

18 Q: THAT IS A COPPER JACKET TO THE BULLET?

19 A: YES, SIR. THIS IS A COPPER JACKETED BULLET WHICH IS
20 STATE'S EXHIBIT NUMBER 29.

21 Q: AND YOU CANNOT SAY THAT THE LEAD INTERIOR OF THE
22 COPPER JACKETED BULLET THAT IS STATE'S 29 IS
23 CONSISTENT WITH OR THE SAME KIND OF LEAD THAT IS
24 CONTAINED IN THE FRAGMENT THAT IS NUMBER 28, CAN
25 YOU?

HEARING

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1 A: NO, SIR. I CANNOT.

2 Q: IN FACT, YOU CANNOT EVEN SAY THAT THE FRAGMENT THAT
3 IS 28 CAME FROM A 9MM BULLET, CAN YOU?

4 A: NO, SIR. I CANNOT.

5 Q: IT IS LIKEWISE POSSIBLE IT COULD HAVE COME FROM A
6 .38 CALIBER BULLET, COULD IT NOT?

7 A: OH, YES, SIR. IT COULD HAVE.

8 Q: IT COULD HAVE JUST COME FROM A .25 CALIBER BULLET?

9 A: I'M NOT FAMILIAR WITH ANY .25 CALIBER BULLETS THAT
10 HAVE THIS SAME TYPE OF CONSTRUCTION BUT IT COULD
11 HAVE; YES, SIR.

12 Q: FOR 17 1/2 YEARS YOU HAVE NOT COME ACROSS ANY?

13 A: I HAVE NOT. NO, SIR.

14 Q: NOW A FIREARM ITSELF WAS NOT SUBMITTED TO YOU FOR
15 ANALYSIS IN COMPARISON TO THESE FRAGMENTS IN THE
16 CASES WERE THEY?

17 A: NO, SIR. NOT ON THIS CASE.

18 Q: AND SPECIFICALLY WITH REFERENCE TO THE 3 SHELL
19 CASINGS WHICH YOU EXAMINED MICROSCOPICALLY AND THE 1
20 ACTUAL COPPER JACKETED THAT YOU EXAMINED
21 MICROSCOPICALLY, YOU CANNOT SAY TO A DEGREE OF
22 CERTAINTY THAT THE BULLET ITSELF CAME FROM ANY OF
23 THOSE 3 JACKETS, CAN YOU?

24 A: THAT'S CORRECT. I DON'T KNOW WHETHER OR NOT THIS
25 PARTICULAR 9MM LUGER CALIBER BULLET CAME FROM ANY OF

HEARING

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1 THESE CARTRIDGE CASES.

2 Q: COULD YOU TELL HOW LONG THE CASES OR THE BULLET HAD
3 BEEN EXPOSED TO THE WEATHER FROM YOUR EXAMINATION?

4 A: BARE WITH ME A MOMENT. THERE'S NO INDICATION IN MY
5 NOTES OF ANY SORT OF DEBRIS OR DIRT OR VEGETATION
6 INSIDE THESE CARTRIDGE CASES. THEY ARE NOT GROSSLY
7 DISCOLORED OR THEY HAVEN'T TURNED BROWN LIKE
8 CARTRIDGE CASES DO THAT ARE OUTSIDE IN THE WEATHER
9 FOR MONTHS ARE YEARS. THERE ARE STILL RELATIVELY
10 CLEAN AND SHINY. I CAN'T TELL YOU HOW LONG THEY
11 HAVE BEEN OUTSIDE, SIR.

12 Q: SO, YOU CAN'T SAY TO A DEGREE OF CERTAINTY THAT THEY
13 HAD ONLY BEEN OUTSIDE FOR ONE DAY OR TEN DAYS OR
14 LONGER BEFORE THEY WERE SUBMITTED TO YOU FOR
15 EXAMINATION?

16 A: NO, SIR. I CAN'T.

17 Q: AND YOU CAN'T TELL US FROM YOUR EXAMINATION WHEN
18 THOSE 3 SHELL CASINGS THAT WERE FOUND WHEN THEY WERE
19 ACTUALLY FIRED?

20 A: NO, SIR. I CANNOT.

21 Q: AND LIKEWISE YOU CANNOT TELL US IF A COPPER JACKET
22 BULLET WAS ACTUALLY FIRED?

23 A: NO, SIR. I CANNOT.

24 Q: WHEN YOU EXAMINED THE COPPER JACKET BULLET ITSELF,
25 DID YOU FIND ANYTHING THAT WOULD APPEAR TO YOU HAVE

HEARING

298

1 BEEN BLOOD SPLATTER OR ...

2 A: NO, SIR. I JUST SAW THAT IN MY NOTES. THERE WAS NO
3 EVIDENCE OF ANY SORT OF TRACE MATERIAL ON THAT
4 BULLET JUST AS BLOOD OR TISSUE OR ANYTHING LIKE
5 THAT.

6 Q: BASED ON YOUR 17 ½ YEARS EXPERIENCE IF THAT BULLET
7 HAD GONE THROUGH A PERSON'S LEG FOR EXAMPLE, WOULD
8 THERE HAVE BEEN SOME TRACE MATERIAL?

9 A: THAT I CAN'T SAY. THIS PARTICULAR BULLET IS
10 RELATIVELY HARD ON THE OUTSIDE, HAS A SMOOTH SHINY
11 EXTERIOR. IT DOES NOT HAVE A HOLLOW POINT OR
12 ANYTHING LIKE THAT. IT MAKE GO THROUGH AND IT MAY
13 SHOW SIGNS OF GOING THROUGH OR IT MAY NOT. I CAN'T
14 SAY. IF IT WAS A HOLLOW POINT, I WOULD EXPECT
15 POSSIBLY TO SEE SOME SORT OF TISSUE OR BLOOD IN IT
16 BUT THIS IS A ROUND NOSED COPPER JACKETED FAIRLY
17 HARD BULLET. IT COULD HAVE POTENTIALLY PASSED
18 THROUGH A LEG AND NOT HAVE VISIBLE TISSUE ON IT.

19 Q: BUT LIKEWISE YOU CANNOT SAY THAT IT DID PASS THROUGH
20 A LEG?

21 A: NO, SIR. I CANNOT. NO, SIR.

22 Q: YOU INDICATED IN YOUR REPORT THAT THE FOUR ITEMS,
23 THE THREE SHELL CASING AND THE BULLET ITSELF, THE
24 COPPER JACKETED BULLET WERE SUBMITTED FOR ENTRY INTO
25 IBIS?

HEARING

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1 A: YES, SIR.

2 Q: TO YOUR KNOWLEDGE WERE THEY IN FACT PUT INTO THE
3 IBIS?

4 A: YES, SIR. MY NOTES INDICATE THAT THEY WERE ENTERED
5 INTO THE IBIS DATABASE LAST YEAR.

6 Q: CAN YOU TELL THE JUROR WHAT THE IBIS DATABASE IS?

7 A: THE IBIS OR INTEGRATED BALLISTIC IDENTIFICATION
8 SYSTEM IS MERELY A COMPUTER SYSTEM THAT ALLOWS THE
9 OPERATOR TO ENTER IMAGES OF CARTRIDGE CASES OR
10 BULLETS IN PARTICULAR IT WILL ENTER IMAGES OF THE
11 RIFFLING IMPRESSIONS ON BULLETS. IT WILL ENTER
12 IMAGES OF THE FIRING PIN AREA AND THE BREACH FACE
13 AREA OF THE CARTRIDGE CASE. THEN WHAT THE COMPUTER
14 SYSTEM DOES IS IT CONVERTS THESE IMAGES INTO SOME
15 SORT OF NUMERICAL DATA WHICH IS STORED IN THE
16 DATABASE AND THEN EVERY TIME AN ENTRY IS MADE INTO
17 THIS DATABASE IT COMPARES THIS NUMERICAL DATA AND
18 THEN IF IT FINDS ANY SIMILARITIES BASED ON THIS
19 PROGRAMMING IN THIS NUMERICAL DATA IT PROVIDES THE
20 OPERATOR WITH A LIST OF POSSIBILITIES OF CARTRIDGE
21 CASES OR BULLETS THAT HAVE TO BE MICROSCOPICALLY
22 COMPARED. IT LITERALLY IS A COMPUTERIZED SCREENING
23 SYSTEM FOR BULLETS AND CARTRIDGE CASES. IT'S VERY
24 SIMILAR TO THE AFIS FINGERPAINT COMPUTER WHICH
25 ALLOWS YOU TO PUT FINGERPRINT INFORMATION IN AND THE

HEARING

300

1 SCREEN SAYS FINGERPRINT INFORMATION. THE IBIS DOES
2 THAT WITH BULLETS AND CARTRIDGE CASES.

3 Q: WHEN THERE IS A MATCH ON THE IBIS, WHAT HAPPENS?

4 A: WELL, THERE REALLY IS NO MATCH ON THE IBIS.

5 TELEVISION HAS SHOWN A LOT OF THINGS. THE IBIS
6 REALLY DOESN'T SHOW A MATCH. WHAT IT WILL DO IS GIVE
7 THE OPERATOR ONCE IT'S DONE THE CORRELATIONS A LIST
8 OF POSSIBILITIES THAT MAY EXIST IN THE DATABASE. IF
9 THERE ARE ANY HIGH PROBABILITY POSSIBILITIES WHAT
10 THE OPERATOR WILL DO IS GET WITH THE EXAMINER WHO
11 HAS THAT PARTICULAR EVIDENCE FIND THE CORRESPONDENCE
12 EVIDENCE AND THEN A MICROSCOPIC COMPARISON WILL HAVE
13 TO BE DONE ULTIMATELY WITH THE COMPARISON
14 MICROSCOPE. THE OPERATOR ALSO HAS THE ABILITY
15 BEFORE THAT STAGE OCCURS TO DO SOME PRESCREENING BY
16 LOOKING AT THE VARIOUS IMAGES AND THAT THE OPERATOR
17 IS ALSO, THE FIREARMS EXAMINER, THAT OPERATOR CAN
18 SOME TIMES EXCLUDE OR SCREEN OR LIMIT THOSE
19 POSSIBILITIES.

20 Q: WHEN THESE PARTICULAR FOUR ITEMS WERE SUBMITTED INTO
21 IBIS, WERE THERE ANY CORRELATIONS?

22 A: THERE WERE NO HIGH PROBABILITY CORRELATIONS FOUND.
23 TYPICALLY, WHAT HAPPENS IS AFTER CORRELATIONS ARE
24 DONE IF ANYTHING IS FOUND THAT IS HIGH PROBABILITY,
25 I WILL BE NOTIFIED. THERE WILL BE NOTATIONS IN MY

HEARING

301

1 CASE FILE. THERE IS NOTHING IN MY CASE FILE.
2 REFLECTING ANY SORT OF HIGH PROBABILITY HITS.

3 Q: YOU INDICATED EARLIER IN YOUR 17 1/2 YEARS ALSO
4 INVOLVED FINGERPRINTING AND CRIME SCENE?

5 A: YES, SIR. EARLY ON. YES, SIR.

6 Q: THESE TYPE OF SHELL CASINGS AND THIS TYPE OF BULLET
7 FRAGMENT ARE STATE'S 28, 29 ARE THEY SUBJECT TO BE
8 EXAMINED FOR FINGERPAINT ANALYSIS?

9 A: CARTRIDGE CASES CAN BE EXAMINED. I CAN TELL YOU
10 FROM EXPERIENCE THE PROBABILITY OF FINDING
11 FINGERPRINTS ON FIRED CARTRIDGE CASES IS VERY, VERY
12 SLIM. ALSO, THE PROBABILITY OF FINDING FINGERPRINTS
13 ON FIRED BULLETS IS INCREDIBLY SLIM. OCCASIONALLY,
14 YOU MIGHT SEE SOME SORT OF FINGERPRINT RIDGE DETAIL
15 ON THE BULLET OR THE CARTRIDGE CASE THAT'S BEEN
16 ETCHED IN FROM SOMEBODY THAT HAS HANDLED THAT
17 CARTRIDGE BEFORE IT WAS FIRED WITH SWEATY FINGERS OR
18 SOMETHING AND IT LITERALLY ETCHES INTO THAT
19 CARTRIDGE CASE WITH THAT BULLET, BUT TYPICALLY THE
20 PROCESS OF FIRING GENERATES ENOUGH HEAT AND THERE IS
21 ENOUGH MOVEMENT AND MOTION IN SOME FIREARMS THAT ANY
22 SORT OF FINGERPAINT THAT YOU TYPICALLY WOULD FIND
23 FROM MERELY TOUCHING AN ITEM WILL BE OBLITERATED OR
24 DAMAGED.

25 Q: SO, IF YOU TOUCH THE BULLET OR THE CASE IT WILL

HEARING

302

1 LIKELY BE DESTROYED AS FAR AS THE EVIDENCE?

2 A: BASED ON MY EXPERIENCE; YES.

3 Q: BUT IF YOU ACTUALLY HELD A BULLET OR A CASING
4 SUFFICIENTLY ...

5 A: I HAVE SEEN ETCHED FINGERPRINTS ON BRASS CARTRIDGE
6 CASES OR ON BULLETS. I HAVE NOT HAD ANY THAT WERE
7 SUITABLE FOR IDENTIFICATION BUT I HAVE SEEN SOME ON
8 THEM BEFORE.

9 Q: BY THE TIME THESE FOUR ITEMS GO TO YOU NO SUCH
10 ETCHING APPEARED ON ANY OF THEM, DID THEY?

11 A: NO, SIR. I SAW NOTHING LIKE THAT.

12 Q: CAN YOU OR CAN YOU NOT SAY WHETHER THERE WAS ANY
13 SUCH ETCHING WHEN THEY WERE ORIGINALLY RETRIEVED?

14 A: I WOULD EXPECT THAT IF THERE WERE ANY TYPE OF
15 FINGERPRINT, ETCHED FINGERPRINT ON THESE CARTRIDGE
16 CASES THEY WOULD HAVE BEEN THERE WHEN I SAW THEM.
17 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

18 THE COURT: REDIRECT?

19 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR. I
20 WOULD LIKE TO ASK THAT HE BE EXCUSED.

21 THE COURT: ANY OBJECTION?

22 MR. BLACKMON: NO OBJECTION, YOUR HONOR.

23 THE COURT: ALL RIGHT. THANK YOU. YOU ARE EXCUSED
24 AND THANK YOU FOR COMING.

25 MR. PAAVEL: PUT THESE BACK IN THE CONTAINERS?

HEARING

303

1 THE COURT: YES, SIR. RETURN THEM TO THE COURT
2 REPORTER.

3 MR. CONNER: I CALL KIMBERLY BLACK, YOUR HONOR.

4 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
5 YOUR RIGHT HAND. STATE YOUR NAME, PLEASE.

6 WITNESS: KIMBERLY BLACK.

7 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THE
8 TESTIMONY YOU GIVE THIS COURT WILL BE THE TRUTH, THE
9 WHOLE TRUTH AND NOTHING BUT THE TRUTH SO HELP YOU GOD?

10 WITNESS: I DO.

11 BAILIFF: HAVE A SEAT UP HERE.

12 (WITNESS COMPLIES)

13 BAILIFF: STATE YOUR FULL NAME AND SPELL YOUR LAST
14 NAME, PLEASE.

15 WITNESS: KIMBERLY BLACK, B-L-A-C-K.

16 MS. BLACK - EXAMINATION BY MR. CONNER:

17 Q: MS. BLACK, WHERE ARE YOU EMPLOYED?

18 A: SINCE AUGUST OF THIS YEAR I'VE ACTUALLY BEEN A STAY
19 AT HOME MOM. BUT THE 12 ½ YEARS PRIOR TO THAT I WAS
20 A FORENSIC CHEMIST ASSIGNED TO THE SOUTH CAROLINA
21 LAW ENFORCEMENT DIVISION.

22 Q: TELL US SOMETHING ABOUT YOUR TRAINING. YOUR
23 EDUCATION AND THEN YOUR TRAINING AT SLED.

24 A: YES, SIR. I RECEIVED A BACHELORS OF SCIENCE DEGREE
25 IN CHEMISTRY FROM FRANCES MARION COLLEGE IN 1989. I

HEARING

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1 TAUGHT UNDERGRADUATE ORGANIC CHEMISTRY LABORATORY AT
2 THE UNIVERSITY OF SOUTH CAROLINA IN COLUMBIA FOR A
3 YEAR. I WORKED FOR A PRIVATE COMPANY IN AN
4 ANALYTICAL LABORATORY FOR A YEAR AND HALF. I WAS
5 HIRED BY SLED IN 1992 AT THAT TIME AS A FORENSIC
6 CHEMIST ASSIGNED TO THE DRUG ANALYSIS UNIT. IN
7 NOVEMBER OF 1995, I TRANSFERRED TO THE TRACE
8 EVIDENCE DEPARTMENT WHERE I WAS EMPLOYED UNTIL
9 AUGUST OF THIS YEAR.

10 Q: WHAT KIND OF TRAINING DID YOU HAVE THERE IN THE
11 TRACE EVIDENCE UNIT?

12 A: THE SPECIFIC TRAINING THAT I HAVE THAT RELATES TO
13 TRACE EVIDENCE I COMPLETED A 3 1/2 YEAR TRAINING
14 PROGRAM WHERE I FOCUSED SPECIFICALLY ON THE USE OF
15 INSTRUMENTATION AND THE ANALYSIS OF TRACE EVIDENCE.
16 I HAD SOME EXPOSURE TO THE INSTRUMENTATION PRIOR TO
17 MY TRANSFER TO THAT DEPARTMENT IN THE DRUG ANALYSIS
18 UNIT AS WELL AS THE JOB WHERE I WORKED IN THE
19 ANALYTICAL LABORATORY. I HAD EXPOSURE TO SOME OF
20 THE INSTRUMENTATION, HOWEVER, NOT AT IT APPLIES TO
21 FORENSIC EVIDENCE SPECIFICALLY TRACE EVIDENCE. THE
22 3 1/2 YEAR TRAINING PROGRAM IS DIVIDED INTO SEGMENTS.
23 EACH SEGMENT IS ABOUT A SIX MONTH TRAINING DURATION.
24 GUNSHOT RESIDUE HOWEVER IS TYPICALLY A YEAR LONG
25 TRAINING PROCESS. THE TRAINING INCLUDES WRITTEN AND

304-A

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	
	)	
BRYAN MCCLARY,	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	C/A #: 2003-GS-43-763
v.	)	
	)	
HAROLD JAMAR WILSON,	)	
	)	
DEFENDANTS.	)	
	)	

SUMTER COUNTY COURTHOUSE
Monday, November 15, 2004
Tuesday, November 16, 2004
Wednesday, November 17, 2004
Thursday, November 18, 2004

BEFORE:

HONORABLE HOWARD P. KING, PRESIDING JUDGE.

VOLUME TWO

APPEARANCES:

W. Harry Conner, Jr., Esquire
Sumter County Assistant Solicitor
Sumter County Courthouse
141 E. Main Street
Sumter, South Carolina 29150
Attorney for The State

Richard Blackmon, Esquire
Attorney at Law
3 Law Range
Sumter, South Carolina 29150
Attorney for Harry J. Wilson

TAKEN BY MELISSA R. WINFIELD
CERTIFIED VERBATIM REPORTER

HEARING

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1 ORAL EXAMINATIONS AS WELL AS SUPERVISED CASE WORK
2 AND A COMPETENCY EXAMINE IN WHICH THE TRAINING MUST
3 SHOW THAT THEY ARE PROFICIENT IN THE INSTRUMENTION,
4 THE METHODS OF ANALYSIS THAT ARE USED FOR THE
5 SPECIFIC TYPE OF TRACE EVIDENCE.

6 Q: HAVE YOU TESTIFIED IN SOUTH CAROLINA COURTS IN
7 REGARDS TO GUNSHOT RESIDUE EXAMINATIONS PREVIOUSLY?

8 A: YES, SIR. I HAVE.

9 Q: DO YOU HAVE ANY IDEA HOW MANY TIMES?

10 A: SPECIFICALLY IN GUNSHOT RESIDUE I BELIEVE ABOUT 35
11 TIMES.

12 MR. CONNER: YOUR HONOR, WE WOULD SUBMIT THAT SHE'S A
13 QUALIFIED EXPERT IN TRACE EVIDENCE EXAMINATION AND IN
14 GUNSHOT RESIDUE EXAMINATION.

15 THE COURT: VOIR DIRE WITH REGARD TO QUALIFICATIONS
16 MR. BLACKMON?

17 MR. BLACKMON: NO, SIR, YOUR HONOR. NO OBJECTION.

18 THE COURT: ALL RIGHT. THE COURT WILL FIND THAT MS.
19 BLACK IS QUALIFIED AS AN EXPERT IN THE FIELD OF TRACE
20 EVIDENCE AND GUNSHOT RESIDUE EXAMINATION. LADIES AND
21 GENTLEMEN OF THE JUROR, YOU WILL RECALL AS I TOLD YOU A
22 FEW MINUTES AGO THAT A WITNESS QUALIFIED BY EXPERIENCE,
23 TRAINING, EDUCATION AND QUALIFIED BY THE COURT AS AN
24 EXPERT IS ALLOWED TO GIVE AN OPINION AND SO I HAVE
25 QUALIFIED THIS WITNESS AS AN EXPERT IN THOSE FIELDS AND

HEARING

306

1 SHE WILL BE ALLOWED TO GIVE AN OPINION. MR. CONNER, YOU
2 MAY PROCEED.

3 Q: TELL US ABOUT THE GUNSHOT RESIDUE EXAMINATION. WHAT
4 ARE YOU LOOKING FOR, WHAT KIND OF TEST WILL YOU DO.
5 TELL US ABOUT THAT.

6 A: WELL GUNSHOT RESIDUE IS THE MATERIAL THAT IS
7 EXPELLED WHEN A GUN IS FIRED. WHEN THE GUN IS FIRED
8 THERE IS A CLOUD OF MATERIAL THAT IS EXPELLED
9 PRIMARILY FROM THE MUSSEL END OF THE GUN. HOWEVER,
10 THERE CAN BE SOME MATERIAL EXPELLED FROM THE
11 CYLINDER GAP IF YOU'RE TALKING ABOUT A REVOLVER OR
12 EVEN THE INJECTION PORT IF YOU'RE TALKING ABOUT A
13 SEMIAUTOMATIC HANDGUN. BASICALLY, THIS CLOUD OF
14 MATERIAL WILL ENCIRCLE THE GUN ITSELF. IT WILL ALSO
15 TRAVEL A SHORT, A VERY SHORT DISTANCE AWAY FROM THE
16 GUN AND SOME OF THAT MATERIAL WILL CURVE BACK AROUND
17 AND ENCIRCLE AND ENGULF THE GUN. THIS CLOUD IS
18 COMPOSED OF MICROSCOPIC PARTIALS THAT CONTAIN
19 MATERIALS THAT ARE ACTUALLY FOUND IN THE AMMUNITION.
20 PRIMARILY I'M LOOKING FOR **ANTIMON, BARREN AND LEAD**,
21 WHICH ARE THREE ELEMENTS THAT ARE FOUND IN THE GUN
22 PRIMER MIXTURE FOUND IN ALL TYPES OF AMMUNITION.
23 THIS CLOUD OF MATERIAL WILL BE DEPOSITED ON ANY
24 OBJECT THAT'S LOCATED WITHIN THAT CLOUD. THEREFORE
25 I WOULD EXPECT TO FIND THESE PARTICLES ON THE GUN

HEARING

307

1 ITSELF ON THE HANDS OF THE SHOOTER, ON THE VICTIM,
2 IF THE VICTIM IS IN CLOSE ENOUGH PROXIMITY TO THE
3 GUN WHEN THE GUN IS FIRED AND THE VICTIMS HANDS ARE
4 ORIENTED. MAYBE OUT TOWARDS THAT CLOUD. I MAY ALSO
5 FIND THIS MATERIAL ON THE HANDS OF SOMEONE THAT MAY
6 BE STANDING RIGHT NEXT TO THE SHOOTER OR THAT MAY BE
7 SIMPLY IN CLOSE PROXIMITY TO THE GUN WHEN THE GUN IS
8 FIRED. WHAT'S IMPORTANT AT THAT TIME IS THE
9 PLACEMENT OF THE HANDS. BECAUSE THE GUNSHOT RESIDUE
10 KIT THAT IS COLLECTED IS DESIGNED TO BE, THE SAMPLES
11 ARE DESIGNED TO BE COLLECTED FROM THE HANDS OF A
12 PERSON AND THEN SUBMITTED TO ME IN THE LABORATORY
13 FOR ME TO TAKE A LOOK AT THE MATERIALS THAT ARE
14 FOUND ON THAT PERSONS HANDS TO SEE IF THEY HAVE
15 **BARREN, ANTONIO AND LEAD** SPECIFICALLY WHICH WOULD BE
16 FOUND IN THAT CLOUD. THE GUNSHOT RESIDUE KITS THAT
17 I RECEIVED IN THIS PARTICULAR CASE ACTUALLY HAD TWO
18 DIFFERENT TYPES OF SAMPLES. IN MOST OF THE GUNSHOT
19 RESIDUE KITS THAT I SEE HAVE TWO DIFFERENT, TWO
20 DIFFERENT METHODS OF COLLECTION BASICALLY. THE KIT
21 CONTAINS VERY SMALL ROUND METAL DISC THAT ARE A
22 LITTLE BIT SMALLER THAN THE SIZE OF A DIME. THESE
23 METAL DISC HAVE A STICKY ADHESIVE ADHERED TO THE TOP
24 PORTION. THE OFFICERS ARE INSTRUCTED TO TAKE THESE
25 METAL DISC AND THEN DAB THEM ON THE SURFACE OF THE

HEARING

308

1 SKIN OR THE SURFACE OF THE HAND WHEN COLLECTING THE
2 SAMPLES. WE RECOMMEND THAT ONE SAMPLE BE TAKEN FROM
3 THE BACK OF EACH HAND AND ONE SAMPLE BE TAKEN FROM
4 THE PALM OF EACH HAND FOR A TOTAL OF FOUR SAMPLES.
5 THE IDEA HERE IS ANY MATERIAL THAT IS ON A PERSONS
6 SKIN WILL BE TRANSFERRED TO THIS ADHESIVE ON THESE
7 METAL DISC. THESE PARTICLES WILL BE COLLECTED AND
8 PRESERVED ON THOSE METAL DISC AND ARE THEN PLACED IN
9 A CONTAINER AND PRESERVED AND TRANSPORTED TO ME IN
10 THE LABORATORY WHERE I CAN THEN TAKE A LOOK AT THEM
11 JUST TO SEE WHAT TYPES OF MATERIALS THIS PERSON HAS
12 ON THEIR HANDS. THE SECOND WAY THE SAMPLES CAN BE
13 COLLECTED INCORPORATES COTTON SWABS. BASICALLY,
14 THEY ARE JUST Q-TIPS THAT ARE SATURATED WITH A
15 LIQUID AND THE KITS THAT WE RECOMMEND TYPICALLY USE
16 NITROGASIC. THE SWABS ARE RUBBED ACROSS THE SURFACE
17 OF THE SKIN. ONCE AGAIN ONE SAMPLE, IT'S
18 RECOMMENDED THAT ONE SAMPLE BE COLLECTED FROM ANY
19 PALM AND ONE SAMPLE FROM THE BACK OF EACH HAND. THE
20 DIFFERENCE HERE WITH THE COTTON SWABS UNLIKE THAT
21 METAL DISC INSTEAD OF DABBING ON THE SURFACE OF THE
22 SKIN, THE COTTON SWABS ARE RUBBED ACROSS THE WHOLE
23 BACK OF THE HAND OR THE WHOLE PALM AND THEREFORE
24 SOME PARTICLES THAT MAY BE MISSED WITH THE PARTICLE
25 LIFT OR THE STICKY ADHESIVE MAY ACTUALLY BE

HEARING

309

1 COLLECTED ON THE COTTON SWABS. THE COTTON SWAB IS
2 THEN SUBMITTED TO ME IN THE LABORATORY AND ONCE
3 AGAIN THE IDEA HERE IS ANY MATERIAL ON A PERSONS
4 HANDS OR ON A PERSONS, THE SKIN ON THEIR HANDS WILL
5 BE TRANSFERRED TO THE COTTON SWABS AND PRESERVED ON
6 THE TIP OF THAT COTTON SWAB UNTIL I CAN PERFORM MY
7 ANALYSIS TO LOOK AND SEE WHAT TYPES OF MATERIALS ARE
8 PRESENT AND THE AMOUNT OF MATERIAL THAT IS PRESENT
9 THERE. BOTH METHODS OF COLLECTION AS I STATED
10 EARLIER IT'S SIMPLY A TEST THAT ALLOWS ME TO LOOK
11 AND SEE WHAT DOES SOMEONE HAVE ON THEIR HANDS AND IS
12 THERE A POSSIBILITY THAT THIS PERSONS HANDS MAY HAVE
13 BEEN EXPOSED TO THAT GUNSHOT RESIDUE CLOUD.

14 Q: WHAT ARE SOME OF THE THINGS THAT COULD INTERFERE
15 WITH THESE TESTS TO MAKE THEM INACCURATE?

16 A: GUNSHOT RESIDUE IS A MATERIAL WHICH, IT'S JUST
17 LIKELY CODED ON THE SURFACE OF THE SKIN. MUCH LIKE
18 IF YOU GET FLOUR OR SOMETHING ON YOUR HANDS. YOU
19 KNOW, THAT'S VERY EASILY WASHED OFF WITH WATER.
20 GUNSHOT RESIDUE PARTICLES ARE GOING TO ACT THE SAME
21 WAY. THEREFORE, THE MATERIAL CAN EASILY BE REMOVED
22 BY WASHING THE HANDS. IF THERE IS EXCESSIVE
23 BLEEDING THE BLOOD CAN SERVE TO WASH THE PARTICLES
24 OFF THE HANDS. NORMAL ACTIVITY CAN ALSO SERVE TO
25 REMOVE THIS MATERIAL. RUBBING YOUR HANDS TOGETHER,

HEARING

310

1 PLACING YOUR HANDS IN YOUR POCKETS, RUBBING YOUR
2 HANDS ON YOUR PANTS LEGS. ALSO, THIS MATERIAL IS
3 NATURALLY ABSORBED THROUGH THE SKIN. SO, IF YOU
4 HAVE PERSPIRATION, EXCESSIVE PERSPIRATION, THIS CAN
5 ALSO SERVE TO INCREASE THAT RATE OF ABSORPTION SO
6 THAT THE MATERIAL ACTUALLY MAY NOT BE COLLECTED AND
7 DETECTED EVEN AS SOON AS SIX HOURS AFTER THE
8 INCIDENT. BECAUSE OF ALL OF THESE FACTORS THAT DO
9 COME INTO PLAY, BECAUSE THIS MATERIAL CAN EASILY BE
10 REMOVED THE SLED LABORATORY HAS A POLICY THAT THE
11 SAMPLES SHOULD BE COLLECTED FROM A PERSONS HANDS
12 WITHIN SIX (6) HOURS OF THE INCIDENT. STUDIES HAVE
13 SHOWN THAT THIS MATERIAL CAN COMPLETELY BE REMOVED
14 IF YOU HAVE SOMEONE WHO HAS IN FACT FIRED A GUN JUST
15 THROUGH NORMAL ACTIVITY THAT MATERIAL CAN COMPLETELY
16 BE REMOVED WITHIN 6 HOURS AFTER THE SHOOTING IN
17 WHICH CASE THERE WOULD BE NO PARTICLES TO BE
18 COLLECTED AND THEREFORE THE TEST WOULD BE A NEGATIVE
19 RESULT.

20 Q: LET ME SHOW YOU STATE'S EXHIBIT NUMBERS 25, 26 AND
21 27 AND ASK YOU IF YOU EXAMINED THOSE?

22 A: STATE'S EXHIBIT 25 IS THE GUNSHOT RESIDUE KIT THAT I
23 RECEIVED IN THIS CASE FROM A HAROLD JAMAR WILSON.
24 STATE'S EXHIBIT 26 IS A GUNSHOT RESIDUE KIT WHICH I
25 RECEIVED FROM EDWARD DINGLE AND STATE'S EXHIBIT 27

HEARING

311

1 IS A GUNSHOT RESIDUE KIT WHICH I RECEIVED FROM
2 CEANTE HARVIN.

3 Q: COULD YOU START WITH NUMBER 25 AND TELL US WHAT YOUR
4 RESULTS WERE?

5 A: STATE'S EXHIBIT 25, THE GUNSHOT RESIDUE KIT FROM
6 HAROLD JAMAR WILSON. BARE WITH ME FOR JUST A
7 MOMENT. EACH GUNSHOT RESIDUE KIT CONTAINS AN
8 INFORMATION SHEET WHICH IS FILLED OUT BY THE OFFICER
9 AT THE TIME OF COLLECTION. I DO NOT HAVE AN
10 INFORMATION SHEET THAT WAS FILLED OUT FOR HAROLD
11 JAMAR WILSON. I DO HAVE ONE FILLED OUT FOR JAMES
12 WILSON. I WOULD ASSUME THAT THAT IS THE SAME.

13 Q: THERE IS ONLY ONE WILSON INVOLVED IN THIS.

14 A: OKAY.

15 Q: I NOTICE THE NAME WAS WRITTEN DOWN. I THINK JAMAR
16 GOT CHANGED TO JAMES.

17 A: I'M SORRY. I DO HAVE IT HERE. MY MISTAKE. I HAVE
18 ONE HERE FOR HAROLD JAMAR WILSON BUT IT WAS LISTED
19 ON THE PAPERWORK AS JAMES WILSON. IN THE KIT
20 LABELED HAROLD JAMAR WILSON I DID NOT FIND THE
21 PRESENCE OF GUNSHOT RESIDUE.

22 Q: DID YOU DO ONE ON MAURICE DINGLE. ON AN EDWARD
23 MAURICE DINGLE?

24 A: YES. THIS KIT ALSO THE RESULTS THERE ARE THE SAME.
25 I DID NOT FIND THE PRESENCE OF GUNSHOT RESIDUE IN

HEARING

312

1 THOSE SAMPLES EITHER.

2 Q: NOW, DID YOU ALSO SEE A KIT ON A REGINALD FOSTER?

3 A: YES, SIR. I RECEIVED A KIT FROM REGINALD FOSTER. I
4 DID NOT PERFORM AN ANALYSIS ON THAT KIT BECAUSE IT
5 WAS COLLECTED BEYOND THE SIX HOUR TIME FRAME THAT I
6 MENTIONED EARLIER.

7 Q: DID YOU RECEIVE A KIT ON CEANTE HARVIN?

8 A: YES. IN THAT GUNSHOT RESIDUE KIT I DID FIND ONE
9 ROUND LEAD PARTICLE ON THE LEFT PALM. I MADE A NOTE
10 IN MY REPORT THAT ROUND LEAD PARTICLES ARE ONE OF
11 THE COMPONENTS FOUND IN GUNSHOT RESIDUE.

12 Q: NOW, MS. BLACK, IN YOUR TESTING THERE, ON CEANTE
13 HARVIN, DID YOU ALSO DO TEST LOOKING FOR THESE OTHER
14 COMPONENTS OF GUN POWDER LIKE ANOMIA AND BARREN?

15 A: YES, SIR. BOTH TEST THAT I PERFORM I'M ROUTINELY
16 LOOKING FOR LEAD, BARREUN AND ANTIMONY. LEAD,
17 HOWEVER, IS THE PRIMARY COMPONENT FOUND IN GUNSHOT
18 RESIDUE BECAUSE NOT ONLY DO YOU HAVE LEAD IN YOUR
19 GUN PRIMER MIXTURE YOU ALSO HAVE YOUR BULLET
20 COMPOSED OF LEAD. THEREFORE LEAD IS GOING TO BE THE
21 PRIMARY COMPONENT FOUND AND WOULD BE MORE ABUNDANT
22 THAN THE OTHER ELEMENTS. SO, IT IS NOT UNCOMMON FOR
23 ME TO FIND ROUND LEAD PARTICLES BUT NOT NECESSARILY
24 FIND THE BARIUM AND THE ANTIMONY PRESENT ALSO.

25 Q: DID YOU FIND ANY ON ANY OF THESE OTHER GENTLEMEN?

HEARING

313

- 1 A: GIVE ME ONE MOMENT TO REFER TO MY NOTES, PLEASE. IN
2 THE TEST THAT I PERFORMED WHERE I LOOK AT THE COTTON
3 SWABS OR THE Q-TIPS I DID HAVE AN INDICATION THAT
4 THERE WERE ELEVATED LEVELS OF ANTIMONY AS WELL AS
5 LEAD. HOWEVER, I DID NOT FIND ANY ANTIMONY
6 PARTICLES WHEN PERFORMING THE SECOND TEST WHICH
7 INCORPORATES THE METAL DISC. BUT I DID HAVE AN
8 INDICATION WITH THE ONE TEST THAT THERE WAS AN
9 ELEVATED AMOUNT OF ANTIMONY.
- 10 Q: HOW ABOUT THE BARRIUM?
- 11 A: I DID NOT HAVE AN ELEVATED AMOUNT OF BARRIUM
12 SHOWING, NO, SIR. NOR DID I FIND BARRIUM PARTICLES
13 ON THE METAL DISC WHEN I LOOKED AT THOSE.
- 14 Q: AND YOU ONLY FOUND SINGLE LEAD PARTICLES YOU SAY?
- 15 A: YES, SIR.
- 16 Q: OF COURSE, THERE ARE OTHER SOURCES OF LEAD AVAILABLE
17 WHERE A PERSON MIGHT HAVE COME IN CONTACT WITH LEAD?
- 18 A: YES, SIR. ABSOLUTELY.
- 19 Q: CAN YOU GET — IN COMING IN CONTACT WITH LEAD, WOULD
20 THAT GIVE YOU A READING IN YOUR TEST IF I HANDLED A
21 LEAD OBJECT. LIKE FISHING EQUIPMENT THAT HAS LEAD
22 IN IT FOR EXAMPLE.
- 23 A: I WOULD DETECT THAT ON THE TEST THAT I PERFORM. WE
24 DO NOT DIFFERENTIATE THE ORIGIN OF THE LEAD SO IF
25 YOU CAME INTO CONTACT WITH A LEAD OBJECT THAT MAY

HEARING

314

1 ALSO YIELD THE SAME RESULTS THAT I HAVE HERE ON MY
2 TEST.

3 MR. CONNER: ANSWER ANY QUESTIONS THAT THE
4 DEFENDANT'S LAWYER MAY HAVE.

5 THE COURT: CROSS EXAMINATION MR. BLACKMON.

6 MS. BLACK - CROSS EXAMINATION BY MR. BLACKMON:

7 Q: SO, MS. BLACK, IT SOUNDS LIKE THE FACT THAT THERE
8 WAS ONE PARTICLE OF LEAD, ONE ROUNDED PARTICLE FOUND
9 ON THE LEFT PALM OF CEANTE HARVIN DOES NOT INDICATE
10 THAT CEANTE HARVIN FIRED A GUN OR WAS STANDING NEAR
11 A GUN WHEN IT WAS FIRED?

12 A: I COULD NOT ELIMINATE THAT AS A POSSIBILITY.

13 Q: YOU LIKEWISE COULD NOT SAY BEYOND A REASONABLE DOUBT
14 THAT THAT'S WHAT CAUSED IT?

15 A: THAT IS CORRECT.

16 Q: THE ELEVATED ANTIMONY THAT WAS FOUND IN WHICH TEST?

17 A: THAT WAS ALSO FOUND ON MR. HARVIN ON THE LEFT PALM
18 BUT IT WAS THE COTTON SWABS THAT I ANALYZED AS
19 OPPOSED TO THE METAL DISC.

20 Q: SO THE ELEVATED ANTIMONY WAS NOT FOUND ON HAROLD
21 JAMAR WILSON?

22 A: IF I MAY LOOK AT MY NOTES, PLEASE.

23 Q: SURE.

24 A: NO, SIR. I DIDN'T HAVE ANY ELEVATED ANTIMONY THAT
25 WOULD BE IN THE SAME CATEGORY WITH THE AMOUNT THAT I

HEARING

315

1 FOUND ON MR. HARVIN.

2 Q: AND LIKEWISE YOU FOUND NO ELEVATED AMOUNT OF BARIUM
3 ON MR. HAROLD JAMAR WILSON?

4 A: THAT IS CORRECT.

5 Q: WHERE ELSE CAN YOU GET AN ELEVATED LEVEL OF
6 ANTIMONY?

7 A: WELL, OBVIOUSLY, GUNSHOT RESIDUE IS A POSSIBLE
8 SOURCE FOR THAT MATERIAL. AS MR. CONNER MENTIONED
9 THE FISHING WEIGHTS CONTAIN LEAD BUT THEY ALSO
10 CONTAIN A SMALL AMOUNT OF ANTIMONY. BULLETS WHICH
11 OBVIOUSLY ARE A PART OF THE AMMUNITION THE BULLETS
12 THEMSELVES CONTAIN LEAD AND ALSO SMALL AMOUNTS OF
13 ANTIMONY. THERE ARE ALSO SOME FIRE RETARDANT
14 MATERIALS THAT CONTAIN ANTIMONY. SO THERE ARE OTHER
15 SOURCES OF ANTIMONY OTHER THAN GUNSHOT RESIDUE IF
16 YOU HAVE LEAD TYPICALLY YOU'RE GOING TO HAVE SOME
17 TRACE AMOUNT OF ANTIMONY FOUND BECAUSE IT'S USED IN
18 COMBINATION WITH A LEAD AS A SOFTENER. SO THERE ARE
19 OTHER SOURCES THAT YOU CAN ACTUALLY - IF YOU COME
20 INTO CONTACT WITH THESE OTHER SOURCES YOU CAN GET
21 THAT MATERIAL FROM THOSE ITEMS AS WELL. THE TEST
22 THAT I PERFORM DOES NOT ALLOW ME TO SAY WHAT SOURCE.
23 I'M JUST SIMPLY LOOKING FOR THE PRESENCE OR ABSENCE
24 OF THIS MATERIAL.

25 Q: IN THE NORMAL EXISTENCE, THE TYPICAL GUNSHOT RESIDUE

HEARING

316

1 THIS APPLICATION TO THE HAND BY RUBBING YOUR HANDS
2 ON YOUR PANTS OR CLOTHING OR WASHING THEM?

3 A: YES, SIR.

4 Q: YOU INDICATED EARLIER THAT NORMALLY THE GUNSHOT
5 RESIDUE WHICH IS CLOUDY MATERIAL WOULD COME OUT OF A
6 MUSSEL WEAPON, THE BARREL ...

7 A: YES. WHEN THE GUN IS FIRED THIS MATERIAL IS
8 EXPULSED AND IS PROPELLED FORWARD. THEN ONCE IT
9 EXITS FROM THE GUN AND COMES INTO CONTACT WITH A
10 NORMAL ATMOSPHERE IT WILL THEN BASICALLY SLOW DOWN
11 AND THAT WILL SERVE TO CAUSE THE CLOUD TO CIRCLE
12 BACK AROUND AND ENGULF THE GUN.

13 Q: NORMALLY, FROM YOUR EXPERIENCE, IF A PERSON WAS
14 STANDING SAY 15 TO 20 FEET AWAY, APPROXIMATELY WHERE
15 I'M STANDING TO YOU, IF I WAS THE PERSON WHO HAD
16 FIRED THE WEAPON WOULD THE GUNSHOT RESIDUE CLOUD
17 NORMALLY TRAVEL TO THE DISTANCE TO HIT YOU?

18 A: I WOULD NOT EXPECT THAT CLOUD TO TRAVEL 15 FEET.

19 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR:

20 THE COURT: REDIRECT?

21 MS. BLACK - REDIRECT BY MR. CONNER:

22 Q: MS. BLACK, ONE QUESTION. WHEN DID YOU COMPLETE YOUR
23 TESTING?

24 A: I'M SORRY?

25 Q: WHEN DID YOU COMPLETE YOUR TESTING?

HEARING

317

1 A: LET ME HAVE A SECOND TO REFER TO MY NOTES. I
2 COMPLETED THE EXAMINATION ON THE GUNSHOT RESIDUE
3 KITS ON JULY 16, 2003.

4 MR. CONNER: I HAVE NO FURTHER QUESTIONS.

5 THE COURT: ANYTHING FURTHER MR. BLACKMON?

6 MR. BLACKMON: NO, SIR, YOUR HONOR.

7 THE COURT: ALL RIGHT. THANK YOU, MS. BLACK. THANK
8 YOU FOR COMING. WOULD YOU LIKE TO HAVE THIS WITNESS
9 EXCUSED?

10 MR. CONNER: WE WOULD.

11 THE COURT: ANY OBJECTION?

12 MR. BLACKMON: NO OBJECTION.

13 THE COURT: YOU ARE EXCUSED. THANK YOU.

14 WITNESS: THANK YOU.

15 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE ARE
16 GOING TO TAKE A BRIEF RECESS AT THIS TIME SOMEWHERE
17 BETWEEN FIVE AND TEN MINUTES. SO, IF YOU WOULD JUST GO
18 TO YOUR JURY ROOM AND RELAX. DO NOT DISCUSS THE CASE
19 AMONG YOURSELVES. WE'LL BE READY TO START IN JUST A FEW
20 MINUTES. THANK YOU. YOU MAY GO TO YOUR JURY ROOM.
21 EVERYONE ELSE REMAIN SEATED, PLEASE.

22 (JURY BREAK 3:08 P.M.)

23 THE COURT: ALL RIGHT. WE'RE GOING TO TAKE ABOUT A
24 TEN MINUTE BREAK. BEFORE WE DO SO LET ME TELL THE
25 SPECTATORS IN THE COURT ROOM THAT A REPORT HAS GOTTEN

HEARING

318

1 BACK TO ME THAT THERE HAS BEEN SOME DISAGREEMENT PROBLEMS
2 IN THE HALLS OF THE COURTHOUSE WITH REGARD TO THE
3 SPECTATORS AND I WILL TELL EVERYONE THAT IS HERE THAT IF
4 THERE ARE ANY PROBLEMS WHATSOEVER, ANY DISTURBANCE OF ANY
5 NATURE WHATSOEVER IN AND AROUND THE COURTHOUSE THAT I
6 WILL CONSIDER THOSE TO BE IN CONTEMPT OF COURT. I WILL
7 ALSO INSTRUCT THE OFFICERS WHO ARE HERE THAT IF THERE ARE
8 ANY SUCH DISTURBANCES CAUSED THAT THE INDIVIDUALS ARE TO
9 BE ARRESTED FOR BREACH OF THE PEACE. SO, I EXPECT
10 EVERYONE TO MAINTAIN THEIR COMPOSURE AND THEIR CALMNESS
11 AND NOT TO GET IN TO ANY KIND OF ALTERCATIONS VERBAL OR
12 OTHERWISE WITH THE PARTIES, THE PEOPLE IN THIS ACTION.
13 THANK YOU.

14 (BREAK WAS TAKEN)

15 THE COURT: ALL RIGHT. LET THE RECORD REFLECT THAT
16 WE ARE NOW BACK IN SESSION ON THE MATTER OF THE STATE VS.
17 HAROLD JAMAR WILSON. THE DEFENDANT IS PRESENT IN THE
18 COURT ROOM WITH HIS ATTORNEY MR. BLACKMON. THE STATE IS
19 PRESENT AND REPRESENTED BY MR. CONNER. MR. CONNER, ARE
20 YOU READY TO GO FORWARD?

21 MR. CONNER: WE'RE READY, YOUR HONOR.

22 THE COURT: READY MR. BLACKMON?

23 MR. BLACKMON: YES, SIR, YOUR HONOR.

24 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

25 (JURY ENTERS COURTROOM 3:31)

HEARING

319

1 BAILIFF: ALL JURORS AND ALTERNATES ARE PRESENT IN
2 THE COURTROOM.

3 THE COURT: ALL RIGHT. THANK YOU VERY MUCH LADIES
4 AND GENTLEMEN AND WE ARE NOW READY TO GO FORWARD. MR.
5 CONNER, YOU MAY CALL YOUR NEXT WITNESS.

6 MR. CONNER: YOUR HONOR, I WOULD CALL DR. JOEL
7 SEXTON.

8 THE COURT: ALL RIGHT. COME AROUND, PLEASE, DR.
9 SEXTON.

10 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE
11 YOUR RIGHT HAND AND STATE YOUR NAME, PLEASE.

12 WITNESS: DR. JOEL STEVEN SEXTON.

13 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THAT YOUR
14 TESTIMONY YOU GIVE THIS COURT SHALL BE THE TRUTH, THE
15 WHOLE TRUTH AND NOTHING BUT THE TRUTH SO HELP YOU GOD?

16 WITNESS: I DO.

17 BAILIFF: HAVE A SEAT, PLEASE.

18 (WITNESS COMPLIES)

19 BAILIFF: WOULD YOU SPELL YOUR LAST NAME FOR US,
20 PLEASE, SIR.

21 WITNESS: IT'S-E-X-T-O-N.

22 DR. SEXTON - EXAMINATION BY MR. CONNER:

23 Q: DR. SEXTON, WHAT KIND OF WORK DO YOU DO?

24 A: I'M A PATHOLOGIST. I DO THE SURGICAL PATHOLOGY AND
25 CLINICAL PATHOLOGY FOR NEWBERRY COUNTY HOSPITAL.

HEARING

320

1 MYSELF AND MY OTHER ASSOCIATE ALSO DO FORENSIC
2 PATHOLOGY FOR ABOUT 30 COUNTY CORONERS. SO, WE DO
3 ABOUT 800 FORENSIC AUTOPSIES A YEAR.

4 Q: COULD YOU TELL US SOMETHING ABOUT PATHOLOGY AND WHAT
5 THAT CONSIST OF?

6 A: A PATHOLOGIST IS A PHYSICIAN WHO AFTER FINISHING
7 MEDICAL SCHOOL DOES ADDITIONAL TRAINING. THE
8 TRAINING IN THE AREA OF PATHOLOGY IS TRYING TO
9 UNDERSTAND BY LOOKING AT ORGANS AND LOOKING AT THE
10 BODY WHAT DISEASE OR ILLNESS MIGHT BE PRESENT. WE
11 LOOK AT IT GROSSLY TO SEE IF THERE ARE TUMORS AND
12 THINGS OF THIS SORT. MICROSCOPICALLY WE LOOK TO SEE
13 IF THERE IS ANY DISEASE AS WELL AS THE TYPE OF
14 CANCER IF THERE IS CANCER PRESENT. THAT IS DONE
15 DURING THE AUTOPSIES. THE CLINICAL PATHOLOGY DEALS
16 WITH EXAMINING BLOOD, SPINAL FLUID, URINE AND OTHER
17 FLUIDS FROM THE BODY. THIS IS DONE GENERALLY BY A
18 TECHNOLOGIST UNDER OUR SUPERVISION. WE MAKE SURE
19 THAT THERE IS QUALITY CONTROL AND QUALITY ASSURANCE
20 IN THAT LABORATORY TO INSURE THAT THE SAMPLE IS FROM
21 THE RIGHT PERSON, THAT THE VALUE IS CORRECT. AND WE
22 INTERPRET THE RESULTS FOR YOUR PHYSICIAN TO HELP
23 YOUR PHYSICIAN UNDERSTAND IF YOU HAVE A GIVEN
24 ILLNESS OR DISEASE AND WHETHER YOU'RE GETTING BETTER
25 OR WORSE AS THESE DIFFERENT VALUES CHANGE. THE AREA

1 OF FORENSIC PATHOLOGY --- I SHOULD ALSO MENTION
2 SURGICAL PATHOLOGY. WE EXAMINE TISSUE REMOVED AT
3 SURGERY TO DETERMINE IF A PERSON HAS CANCER OR IF
4 THEY'VE GOT SOME OTHER CONDITION TO HELP YOUR
5 SURGEON BETTER TREAT YOU AT THE TIME OF SURGERY.
6 FORENSIC PATHOLOGIST HAVE THIS SAME TRAINING BUT
7 THEY ALSO HAVE ADDITIONAL TRAINING IN UNDERSTANDING
8 DIFFERENT TYPES OF INJURIES. IN OTHER WORDS, BY
9 LOOKING AT THE BODY AND LOOKING AT TISSUES TO
10 DETERMINE WHAT INJURY CAUSED THAT PARTICULAR
11 CONDITION IN THE BODY AS WELL AS UNDERSTANDING
12 CONDITIONS AT SCENES TO DETERMINE IF A PERSON WHO
13 DIED AT THE SCENE UNDER WHAT CIRCUMSTANCES THAT
14 PERSON DIED TO HELP UNDERSTAND WHETHER IT'S A
15 HOMICIDE DEATH AT THE HANDS OF ANOTHER OR SUICIDE,
16 DEATH AT THE PERSONS HANDS OR AN ACCIDENTAL DEATH OR
17 A NATURAL DEATH. SO A FORENSIC PATHOLOGIST IS A
18 PHYSICIAN WITH ADDITIONAL TRAINING IN MEDICINE
19 DEALING WITH AND INTERPRETING NOT JUST THE CAUSE OF
20 DEATH FROM FINDINGS AT AUTOPSY BUT CIRCUMSTANCES
21 SURROUNDING THAT DEATH.

22 Q: NOW, TELL US SOMETHING ABOUT YOURSELF AND WHAT YOUR
23 TRAINING WAS AND EDUCATION TO BECOME A PATHOLOGIST
24 IN FORENSIC PATHOLOGY.

25 A: I FIRST WENT THROUGH UNDERGRADUATE TRAINING AT THE

HEARING

322

1 UNIVERSITY OF VIRGINIA. RECEIVED A BA IN CHEMISTRY.
2 I THEN SERVED THREE YEARS IN THE NAVY BECAUSE I WAS
3 ON A NAVAL SCHOLARSHIP AND THEN CAME BACK TO THE
4 MEDICAL COLLEGE OF SOUTH CAROLINA IN CHARLESTON AND
5 TOOK A MASTER'S DEGREE IN CHEMISTRY. WHILE I WAS
6 THERE, STUDYING MY PH.D. MY ADVISOR, WHO WAS ONE OF
7 THREE IN THE DEPARTMENT OF CHEMISTRY AT THE TIME
8 BECAME THE PRESIDENT OF THE SCHOOL SO I HAD NO ONE
9 TO ADVISE ME AND HE SUGGESTED THAT I GO ON TO MED
10 SCHOOL SO I DID. I FINISHED MED SCHOOL IN 1968 AND
11 AFTER MEDICAL SCHOOL WE TAKE AN INTERNSHIP IN
12 RESIDENCE, WHICH I DID IN PATHOLOGY UNTIL 1972. IN
13 1968, I BECAME LICENSED IN THE STATE AFTER PASSING
14 THE STATE LICENSE EXAMINE. IN 1972, I BECAME
15 NATIONALLY BOARD CERTIFIED IN ANATOMICAL PATHOLOGY,
16 CLINICAL PATHOLOGY AND FORENSIC PATHOLOGY. THEN
17 HEADED THE FORENSIC SECTION OF THE DEPARTMENT OF
18 PATHOLOGY AT THE MEDICAL UNIVERSITY FROM '72 UNTIL
19 1983 WHEN I MOVED TO NEWBERRY WHERE I'M LOCATED NOW.
20 AT THAT TIME I WAS ALSO THE APPOINTED CHARLESTON
21 COUNTY MEDICAL EXAMINER RESPONSIBLE FOR EXAMINING
22 ALL THE DEATHS THAT OCCURRED IN CHARLESTON COUNTY
23 AND AUTOPSING THOSE THAT HAD A NEED FOR THAT. IN
24 ADDITION, I WAS A CONSULTING FORENSIC PATHOLOGIST
25 FOR ALL 46 COUNTIES AND HAD TWO OTHER FORENSIC

1 PATHOLOGIST ON MY STAFF AT THAT TIME.

2 Q: I WOULD ASSUME THEN THAT YOU HAVE TESTIFIED MANY
3 TIMES IN COURTS IN REGARDS TO CAUSE OF DEATH AND
4 QUESTIONS RELATING TO FORENSIC PATHOLOGY?

5 A: YES. OVER 700 TIMES.

6 MR. CONNER: YOUR HONOR, WE WOULD SUBMIT THAT HE IS
7 QUALIFIED IN THE AREA OF PATHOLOGY AND FORENSIC
8 PATHOLOGY.

9 THE COURT: VOIR DIRE WITH REGARD TO QUALIFICATIONS,
10 MR. BLACKMON?

11 MR. BLACKMON: NO, SIR. YOUR HONOR, WE WOULD
12 STIPULATE.

13 THE COURT: ALL RIGHT. I WOULD FIND THAT THE WITNESS
14 IS QUALIFIED IN THE FIELD OF PATHOLOGY AND FORENSIC
15 PATHOLOGY. LADIES AND GENTLEMEN OF THE JURY YOU WILL
16 RECALL THAT I TOLD YOU THAT AN EXPERT WITNESS WHO DOES
17 HAVE SPECIAL TRAINING IS ALLOWED TO GIVE AN OPINION.
18 THIS WITNESS, OF COURSE, I HAVE QUALIFIED IN THE FIELD OF
19 PATHOLOGY AND IN FORENSIC PATHOLOGY AND HE WILL BE
20 ALLOWED TO GIVE EXPERT OPINIONS.

21 Q: NOW, DR. SEXTON, DID YOU RECEIVE THE BODY OF
22 REGINALD FOSTER FROM SUMTER COUNTY BACK ON MAY 21ST,
23 2003 FOR EXAMINATION?

24 A: YES, WE DID. IT CAME TO OUR HOSPITAL FOR US TO DO
25 THE AUTOPSY.

HEARING

324

1 Q: COULD YOU TELL US WHAT YOU OBSERVED ABOUT HIM WHEN
2 YOU GOT HIM AND WHAT HISTORY YOU WERE GIVEN IN
3 REGARDS TO THE VICTIM?

4 A: WHEN HE ARRIVED, HE HAD BEEN IN THE HOSPITAL SINCE
5 THE 19TH, SO HE ARRIVED WITH NO CLOTHING JUST A
6 HOSPITAL GOWN AND NO PERSONAL EFFECTS. WE WERE TOLD
7 THAT HE ...

8 MR. BLACKMON: MAY IT PLEASE THE COURT. FOR THE
9 RECORD, I WOULD HAVE TO OBJECT TO ANYTHING THAT HE MIGHT
10 HAVE BEEN TOLD AS HEARSAY.

11 THE COURT: IS WHAT HE'S SAYING BEING OFFERED FOR THE
12 TRUTH OF THE MATTER OR WHAT'S THE PURPOSE ...

13 MR. CONNER: IT'S NOT BEING OFFERED FOR THE TRUTH OF
14 THE MATTER ASSERTED, YOUR HONOR.

15 THE COURT: ALL RIGHT. IF IT'S NOT BEING OFFERED FOR
16 THE TRUTH OF THE MATTER IT'S SUBJECT TO BEING STRICKEN
17 AND IT IS A MATTER THAT WOULD DEAL WITH THE TRUTH BUT IF
18 IT IS JUST A BACKGROUND I WILL OVERRULE THE OBJECTION AT
19 THIS TIME. GO AHEAD.

20 A: WE WERE SIMPLY TOLD THAT HE HAD BEEN SHOT ON THE
21 19TH, HAD BEEN IN THE HOSPITAL FROM THE INTERIM ON
22 THE 19TH THROUGH THE 21ST WHEN HE WAS PRONOUNCED
23 BRAIN DEAD, ACTIVE BRAIN DEAD SEVERAL DAYS BEFORE
24 BUT AFTER TWO DAYS OF BEING BRAIN DEAD HE WAS
25 BROUGHT TO US AFTER ORGAN ...

HEARING

325

1 Q: WHEN YOU GOT HIM DID YOU OBSERVE WHAT SIZE HE WAS
2 AND HOW MUCH HE WEIGHED AND THAT KIND OF THING?

3 A: WHAT WE DO IS WE MEASURE THE LENGTH OF THE BODY,
4 THAT CORRESPONDS PRETTY WELL TO THE SIZE OF AN
5 INDIVIDUAL AS FAR AS HEIGHT MINUS THE THICKNESS OF
6 THE SOLES OF HIS SHOES AND HIS LENGTH WAS 5 FEET 3½
7 INCHES AND HIS WEIGHT WE ESTIMATED AT A 130 POUNDS.

8 Q: TELL US WHAT INJURIES YOU NOTICE ABOUT HIM.

9 A: HE HAD ONLY ONE INJURY AND THAT WAS A GUNSHOT WOUND
10 HERE ON THE LEFT SIDE OF HIS HEAD, ABOVE HIS LEFT
11 EAR AND SLIGHTLY BEHIND HIS LEFT EAR THAT WAS
12 ELONGATED AND EXITED ON THE RIGHT SIDE OF HIS HEAD
13 THROUGH THE RIGHT UPPER EYELID. SO, IT WAS A SINGLE
14 GUNSHOT WOUND THAT WENT DOWNWARD TO THE RIGHT AND TO
15 THE FRONT FROM BEHIND AND ABOVE THE LEFT EAR OUT THE
16 RIGHT UPPER EYELID.

17 Q: DID YOU RECOVER FROM HIS BODY ANY BULLET FRAGMENT
18 THAT WAS LEFT IN HIM?

19 A: WE DID. IT WAS AT THE POINT OF ENTRY THERE WAS A
20 PORTION OF THE BULLET THAT HAD BEEN SHAVED OFF BY
21 THE BONE AT THAT POINT. THE BULLET WENT IN
22 ELONGATED. THE BULLET WAS TUMBLING AT THE TIME THAT
23 IT HIT HIS HEAD AND AS IT WENT THROUGH THE BONE AND
24 SKULL BREAKS SIMILAR TO A GLASS AND A WINDOW WHEN A
25 BB HITS IT. THE BB CAUSES A LITTLE HOLE ON ONE SIDE

HEARING

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1 AND A BIG CRATER ON THE OTHER SIDE AND IT MAKES A
2 SHARP EDGE AT THE EDGE OF THE HOLE AND THAT SHARP
3 EDGE HAD SCRAPED OFF SOME OF THE LEAD AND LEFT IT
4 JUST UNDER THE SCALP AT THE POINT OF ENTRY.

5 Q: SO THIS ONE ITEM THAT IS INTRODUCED HERE AS STATE'S
6 EXHIBIT NUMBER 28, I'D ASK YOU TO EXAMINE THAT IF
7 YOU WOULD.

8 A: YES. THIS IS THE PORTION OF LEAD THAT I REMOVED
9 FROM JUST UNDER THE SCALP. IT MATCHES MY TWO
10 PHOTOGRAPHS THAT'S IN A VIAL THAT HAS MY INITIALS ON
11 IT AND THE DECEDENT'S NAME AND HAS MY MARK ON THE
12 LEFT.

13 Q: NOW, THE LITTLE FRAGMENT THAT YOU HOLD THERE IN THE
14 TUBE THAT'S NOT THE WHOLE BULLET IS IT?

15 A: CORRECT. THIS IS ONLY A SMALL PORTION OF THE
16 BULLET.

17 Q: SO, THE MAJOR PART OF THE BULLET THEN, BASED UPON
18 WHAT YOU JUST SAID FROM MY UNDERSTANDING IS IT WENT
19 ON, PASSED ON THROUGH AND CAME OUT OF HIS RIGHT EYE?

20 A: THAT'S CORRECT.

21 Q: NOW, WHAT MAKES YOU SAY THAT THE BULLET WAS
22 TUMBLING?

23 A: WE DISTINGUISH ENTRANCE WOUNDS FROM EXIT WOUNDS BY
24 THEIR APPEARANCE AND WHEN THEY ARE IN CONTACT BY
25 CHARRING THE EDGE OF THE SKIN BECAUSE THE FLAMES

HEARING

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1 COME OUT OF THE GUN AS WELL AS THE BULLET. IN THIS
2 CASE, THERE WAS NO EVIDENCE OF ANY STIPULING OR
3 TATTOOING OR CHARRING OR SUT THAT OCCURS WITHIN A
4 FOOT OR SO BUT THERE WAS A WOUND THAT WAS TYPICALLY
5 OF A TUMBLING BULLET. A NORMAL ENTRANCE WOUND IS A
6 ROUND HOLE OR A OVAL HOLE BECAUSE THE BULLET IS
7 COMING JUST LIKE A FOOTBALL THAT'S BEEN PROPERLY
8 THROW IT'S SPINNING BECAUSE OF THE LANDS AND GROOVES
9 IN THE BARREL. IT'S VERY STABLE. IT WILL MAKE A
10 ROUND HOLE OR IF IT'S COMING IN AT AN ANGLE, A
11 SLIGHTLY ELONGATED HOLE. BUT THIS HOLE, AS YOU LOOK
12 AT IT, PERFECTLY MATCHED THE, A BULLET OF THAT TYPE
13 GOING IN SIDEWAYS. SQUARED OFF AT ONE END, ROUNDED
14 AT THE OTHER AND THEN ELONGATED. SO, IT WAS, IN MY
15 OPINION, WITHIN REASONABLE MEDIAL CERTAINTY A BULLET
16 THAT HAD COME THROUGH SOMETHING AND WAS THERE FOR A
17 TUMBLING AT THE TIME IT STRUCK THE DECEDENT. THE
18 EXIT WOUND WAS VERY TYPICAL OF AN EXIT WOUND IN THAT
19 AS THE BULLET STARTS TO EXIT IT FIRST PUSHES THE
20 SKIN OUTWARD AND THEN TEARS THROUGH THE SKIN. AT
21 THE POINT OF EXIT THERE IS GENERALLY NOTHING AGAINST
22 THE SKIN EXTERNALLY SO WE SIMPLY SEE A TEAR OR A
23 CROWS FOOT SORT OF APPEARANCE THAT WE CAN PUSH BACK
24 TOGETHER AND THERE'S NO MISSING SKIN. AT THE POINT
25 OF ENTRY YOU HAVE SCRAPING OF THE EDGE OF THE WOUND

THIRD JUDICIAL CIRCUIT

HEARING

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1 WHICH WE CALL AN ABRASION COLLAR THAT AS I MENTIONED
2 IS GENERALLY ROUND OR OVAL AND IN THIS CASE IT WAS
3 ELONGATED AND THAT ABRASION COLLAR IS TYPICAL OF THE
4 ENTRANCE SITE BECAUSE THE BULLET IS PUSHING AGAINST
5 THE SKIN AND IT FINALLY GOES THROUGH THE SKIN BUT IT
6 ACTUALLY PRODUCES A HOLE AND IT TAKES SOME OF THAT
7 SKIN WITH IT. SOMETIMES WE'LL FIND IT INTERNALLY.
8 SO, THE ENTRANCE WOUND, IN MY OPINION, WAS A
9 TUMBLING BULLET BECAUSE IT HAD THE APPEARANCE OF A
10 BULLET FROM THE SIDE, A SILLOUTTE APPEARANCE.

11 Q: NOW, WHAT WOULD CAUSE A BULLET TO TUMBLE? IN OTHER
12 WORDS, YOU NO LONGER HAVE THIS SPIRAL THAT YOU HAVE
13 IN AN ORDINARY BULLET BUT ONE THAT TUMBLES AS IT
14 TRAVELS THROUGH THE AIR.

15 A: IT HAS TO PASS THROUGH SOME INTERMEDIATE TARGET OR
16 HIT SOMETHING THAT CAUSES THE FLIGHT TO BE UNSTABLE.

17 Q: I SHOW YOU HERE THESE TWO PHOTOGRAPHS STATE'S
18 EXHIBIT NUMBER 5 AND NUMBER 6 THAT HAVE BEEN
19 ADMITTED IN THIS CASE AND ASK YOU TO EXAMINE THOSE.

20 A: OKAY.

21 Q: WOULD THE HOLES IN THAT MAILBOX INDICATE A BULLET,
22 WELL, WITH THE HOLES THERE --- IF A BULLET WOULD
23 HAVE HIT THE MAILBOX AND MADE THE HOLES THAT ARE
24 SHOWN IS THAT SUFFICIENT TO CAUSE A BULLET TO
25 TUMBLE?

HEARING

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1 A: YES, IT IS. IT DOES HAVE THE APPEARANCE OF ENTRY
2 NEAR THE OPENING WHERE YOU GET YOUR MAIL OUT AND AN
3 EXIT WHERE THE MAIL IS PUSHED OUTWARD AT THE
4 LOCATION OF THE SECOND PHOTOGRAPH WHERE THE BULLET
5 IN MY OPINION EXITED. SO, THE BULLET IS GOING FROM
6 THE FRONT OF THE MAILBOX TOWARDS THE REAR. NOW, THE
7 TYPE OF INJURY THAT HE HAD WOULD HE HAVE BEEN ABLE
8 TO MOVE AROUND OR TRAVEL ANY DISTANCE AFTER BEING
9 HIT?

10 A: IF HE WAS STATIONARY AT THE TIME HE WAS HIT, IN MY
11 OPINION, HE WOULD SIMPLY HAVE COLLAPSED BECAUSE THE
12 BULLET AS I MENTIONED WENT RIGHT THROUGH HIS BRAIN,
13 THROUGH THE ANTERIOR PORTION OF THE BRAIN. IT'S
14 TRUE THAT SOMETIMES WHEN WE'RE HUNTING WE'LL SAY HIT
15 A BIRD IN THE HEAD WITH BIRD SHOT AND IT WILL FLY
16 SORT OF FUNNY BEFORE IT COLLAPSES BUT IN GENERAL
17 UNLESS A STIMULUS IS CAUSED BY THE LOCATION OF THE
18 BRAIN THAT IS INJURED A PERSON HIT IN THE BRAIN
19 BECOMES IMMEDIATELY UNCONSCIOUS AND SIMPLY
20 COLLAPSES. IF THEY'RE MOVING, THEY MIGHT CONTINUE
21 MOVING FOR A STEP OR SO BUT THEY'RE GENERALLY GOING
22 TO COLLAPSE AT THAT LOCATION.

23 Q: SO IF YOU MOVE YOU WOULDN'T MOVE VERY FAR, IS THAT
24 RIGHT?

25 A: THAT'S CORRECT. AND WOULD USUALLY BE IMMEDIATELY

HEARING

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1 UNCONSCIOUS FROM THAT GUNSHOT WOUND.

2 Q: WHAT IS YOUR OPINION AS TO THE CAUSE OF DEATH?

3 A: IN THIS PARTICULAR CASE THE INJURY TO THE BRAIN WAS
4 ENOUGH TO CAUSE SWELLING OF THE BRAIN. IN SOME
5 CASES INJURIES LIKE THAT CAUSE IMMEDIATE DEATH IN
6 HIS CASE BECAUSE IT IS MORE TOWARDS THE FRONT OF THE
7 BRAIN, THE SWELLING THAT OCCURRED INCAPACITATED HIM
8 TO THE POINT WHERE HE HAD TO BE PUT ON A RESPIRATOR
9 TO SURVIVE, BUT HE DID SURVIVE FOR SOME PERIOD OF
10 TIME ARTIFICIALLY BUT THE GUNSHOT WOUND TO THE HEAD
11 CAUSED INJURY TO THE BRAIN WITH SWELLING WHICH
12 PRODUCED LACK OF ABILITY TO BREATHE PROPERLY WE CALL
13 ACUTE RESPIRATORY INSUFFICIENCY WHICH LEAD TO HIS
14 DEATH.

15 MR. CONNER: ANSWER ANY QUESTIONS THAT THE DEFENSE
16 LAWYER MIGHT HAVE.

17 THE COURT: CROSS EXAMINATION MR. BLACKMON?

18 DR. SEXTON - CROSS EXAMINATION BY MR. BLACKMON:

19 Q: SO, DR. SEXTON, WHEN YOU ALL MEASURED THE LENGTH OF
20 MR. FOSTER'S BODY, HOW LONG WAS IT?

21 A: WE MEASURED HIM TO BE 5 FEET 3 1/2 INCHES IN LENGTH.

22 Q: YOUR AUTOPSY INDICATES THAT A TOXICOLOGY EVALUATION
23 WAS OUTSTANDING AT THE TIME?

24 A: YES, THAT'S CORRECT.

25 Q: DID THE RESULTS OF THAT EVALUATION COME BACK?

HEARING

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1 A: THEY DID.

2 Q: WHAT WERE THE RESULTS OF THAT EXAMINATION?

3 A: THEY WERE ESSENTIALLY NEGATIVE. THERE WAS A LITTLE
4 BIT OF LIDOCANE(SIC) THAT WAS USED FOR A RECUSATION
5 PURPOSES BUT NO ALCOHOL AND NO DRUGS ON A
6 COMPREHENSIVE DRUG SCREEN. AND THAT WAS NOT ON THE
7 BLOOD THAT WE DREW FROM THE BLOOD VESSELS AT AUTOPSY
8 BECAUSE HE HAD BEEN ALIVE FOR TWO DAYS. THAT WAS ON
9 A BLOOD CLOT THAT WAS AROUND THE ENTRANCE WOUND
10 WHICH WOULD BE MORE TYPICAL OF THE LEVEL OF ANYTHING
11 IN HIS BLOOD AT THE TIME OF HIS INITIAL INJURY. I
12 SHOULD ALSO MENTION THAT THERE WAS BLOOD FROM
13 ADMISSION THAT WAS RECEIVED AND IT SHOWED SOME
14 CHEMICALS IN HIS BLOOD STREAM, THE CHEMICAL BEING
15 MARIJUANA, TETRAHYDRODANNABINOL.

16 Q: SO THE ADMISSION BLOOD THAT WAS PROVIDED FROM THE
17 VICTIM DID SHOW THE EXISTENCE OF MARIJUANA IN HIS
18 SYSTEM?

19 A: YES, THAT'S CORRECT.

20 Q: ARE YOU IN A POSITION TO TELL THE JURY WHAT KIND OF
21 BULLET THAT FRAGMENT CAME FROM?

22 A: NO, ONLY THAT IT'S A PORTION OF LEAD THAT CAME FROM
23 A BULLET AND THAT THE SIZE OF THE HOLE WOULD
24 INDICATE AT LEAST A MEDIUM CALIBER NOT A LITTLE .22
25 BUT SOMETHING LARGER LIKE A .38 OR A 9MM OR

HEARING

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- 1 SOMETHING OF THAT SORT.
- 2 Q: .38 OR A 9MM WOULD BE CONSIDERED A MEDIUM CALIBER?
- 3 A: CORRECT. UP TO ABOUT .45 CALIBER WOULD BE
- 4 CONSIDERED A MEDIUM CALIBER. BUT TO ANSWER YOUR
- 5 QUESTION SPECIFICALLY I CANNOT TELL WHICH CALIBER OR
- 6 ANYTHING ABOUT THE BULLET OTHER THAN THE FACT THAT
- 7 IT DID HAVE SOME LEAD ON IT SOMEWHERE BECAUSE THAT'S
- 8 WHAT WAS SCRAPED OFF.
- 9 Q: EITHER A .25 CALIBER OR ...
- 10 A: A .25 WOULD BE A SMALL CALIBER.
- 11 Q: IT WOULD NOT HAVE BEEN A LARGER CALIBER WEAPON TO
- 12 HAVE MADE THE INJURY, DO YOU THINK?
- 13 A: THAT'S CORRECT.
- 14 Q: DO YOU BELIEVE THAT TO A DEGREE OF MEDICAL
- 15 CERTAINTY?
- 16 A: WELL, FROM MY EXPERIENCE I HAVE NOT SEEN HOLES THAT
- 17 SMALL FROM A .25 CALIBER. ANYTHING IS POSSIBLE BUT
- 18 IN MY OPINION IT WOULD NOT HAVE.
- 19 Q: MR. CONNER SHOWED YOU TWO PHOTOGRAPHS OF A MAILBOX?
- 20 A: YES, SIR.
- 21 Q: YOU CANNOT SAY WITH ANY MEDICAL CERTAINTY THAT THE
- 22 BULLET FRAGMENT THAT YOU FOUND IN MR. FOSTER'S BRAIN
- 23 DID PASS THROUGH THAT MAILBOX, CAN YOU?
- 24 A: I CAN'T SAY WITH CERTAIN THAT IT DID PASS THROUGH
- 25 THE MAILBOX, I CAN SAY WITH CERTAINTY THAT THE

HEARING

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1 BULLET THAT HIT THE DECEASED PASSED THROUGH
2 SOMETHING AND THE MAILBOX ACCORDING TO THE HISTORY I
3 RECEIVED FROM THE SCENE WAS THE ONLY THING THAT HAD
4 A BULLET HOLE THROUGH IT. SO, BY DEDUCTIVE
5 REASONING IT IS LOGICAL TO ASSUME THAT THAT WAS THE
6 BULLET THAT HIT THE DECEASED. BUT THERE MAY HAVE
7 BEEN SOMETHING ELSE THAT WAS MOVED FROM THE SCENE
8 THAT A BULLET PASSED THROUGH BUT THAT OBJECT DOES
9 HAVE A HOLE THROUGH IT. HIS BULLET PASSED THROUGH
10 SOMETHING BEFORE HITTING HIM.

11 Q: THERE'S NO QUESTION THAT THE BULLET THAT HIT HIM
12 PASSED THROUGH SOMETHING FIRST IN YOUR OPINION?

13 A: THAT'S CORRECT.

14 MR. BLACKMON: NOTHING FURTHER.

15 THE COURT: REDIRECT, MR. CONNER?

16 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR. I
17 ASK THAT HE BE EXCUSED.

18 THE COURT: ALRIGHT, THANK YOU DR. SEXTON. ANY
19 OBJECTION TO HIM BEING EXCUSED?

20 MR. BLACKMON: NO OBJECTION.

21 THE COURT: THANK YOU DR. SEXTON YOU ARE EXCUSED.
22 THANK YOU FOR COMING.

23 WITNESS: THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT. GIVE THAT TO THE COURT
25 REPORTER, PLEASE. ALL RIGHT. MR. CONNER, YOU MAY CALL

HEARING

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1 YOUR NEXT WITNESS.

2 MR. CONNER: I CALL HERBERT LINWOOD BUTLER.

3 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE
4 YOUR RIGHT HAND.

5 (WITNESS COMPLIES)

6 BAILIFF: STATE YOUR NAME.

7 WITNESS: HERBERT LINWOOD BUTLER.

8 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THAT THE
9 TESTIMONY YOU GIVE THIS COURT TO BE THE TRUTH, THE WHOLE
10 TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

11 WITNESS: YES.

12 BAILIFF: HAVE A SEAT UP HERE.

13 (WITNESS COMPLIES)

14 BAILIFF: STATE YOUR FULL NAME AND SPELL YOUR LAST
15 NAME.

16 WITNESS: HERBERT LINWOOD, B-U-L-T-E-R.

17 MR. BUTLER - EXAMINATION BY MR. CONNER:

18 Q: LINWOOD, DO YOU LIVE IN SUMTER?

19 A: YES, SIR.

20 Q: HOW LONG HAVE YOU LIVED IN SUMTER?

21 A: SINCE I WAS A KID.

22 Q: WHAT STREET DO YOU LIVE ON?

23 A: . I STAYED ON . I MOVED ON

24 .

25 Q: WHO DO YOU LIVE WITH?

HEARING

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- 1 A: MY MOM.
- 2 Q: DO YOU HAVE ANY BROTHERS OR SISTERS?
- 3 A: ONE BROTHER AND ONE SISTER.
- 4 Q: DO YOU KNOW THE DEFENDANT HERE, HAROLD WILSON?
- 5 A: YEAH, I KNOW HIM A LITTLE.
- 6 Q: AND BY WHAT NAME DO YOU KNOW HIM BY?
- 7 A: TWINKIE.
- 8 Q: TWINKIE?
- 9 A: YES, SIR.
- 10 Q: HOW DID YOU COME TO KNOW HIM?
- 11 A: ONE OF HIS COUSINS, ME AND HIS COUSIN HAD WENT TO
- 12 SCHOOL TOGETHER.
- 13 Q: HAVE YOU KNOWN HIM JUST A YEAR OR TWO OR HAVE YOU
- 14 KNOWN HIM LONGER THAN THAT?
- 15 A: A GOOD LITTLE WHILE.
- 16 Q: LIKE ABOUT HOW LONG? FIVE YEARS, TEN YEARS?
- 17 A: ABOUT FIVE, TEN.
- 18 Q: DID YOU KNOW WHAT KIND OF VEHICLE HE HAD?
- 19 A: YES.
- 20 Q: WHAT WAS IT?
- 21 A: CADILLAC ESCALADE.
- 22 Q: A CADILLAC WHAT?
- 23 A: ESCALADE.
- 24 Q: ESCALADE?
- 25 A: YES, SIR.

HEARING

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1 Q: YOU NEED TO TALK UP A LITTLE BIT MORE CLEARLY SO
2 THAT WE CAN UNDERSTAND YOU. OLD MEN LIKE ME DON'T
3 HEAR TOO GOOD. NOW, DID YOU KNOW WHERE TWINKIE
4 LIVED?
5 A: YES, SIR.
6 Q: WHERE DID HE LIVE?
7 A: RIGHT THERE ON, I FORGOT THE NAME OF THE STREET BUT
8 ON ELMWOOD, I FORGOT THE NAME OF THE LITTLE STREET.
9 Q: IS IT VERY FAR FROM CARVER?
10 A: YEAH, IT'S A GOOD LITTLE PIECE AWAY FROM CARVER.
11 Q: BUT IT'S IN THE SAME AREA OF TOWN IS THAT RIGHT?
12 A: YES, SIR.
13 Q: HOW ABOUT THE GUY HE WAS WITH, DID YOU KNOW HIM?
14 A: NO, I JUST KNOW OF HIM, I DON'T KNOW ABOUT HIM.
15 Q: WOULD YOU KNOW HIM IF YOU SAW HIM?
16 A: YES, SIR.
17 Q: DID THIS OFFICER OVER HERE DID HE SHOW YOU A GROUP
18 OF PICTURES THAT CONTAINED THAT OTHER FELLOWS
19 PICTURE IN IT?
20 A: YES, SIR.
21 Q: DID YOU PICK HIS PICTURE OUT?
22 A: YES, SIR.
23 Q: WHAT NAME DO YOU KNOW HIM BY?
24 A: TREZ.
25 Q: TREZ?

HEARING

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- 1 A: YES, SIR.
- 2 Q: NOW, THE DAY THIS THING HAPPENED DID YOU SEE EITHER
- 3 ONE OF THEM, EITHER MR. WILSON OR TREZ EARLIER IN
- 4 THE DAY?
- 5 A: NO, SIR.
- 6 Q: TELL ME ABOUT THIS INCIDENT - HADN'T Y'ALL GONE TO A
- 7 STORE?
- 8 A: YEAH, WE HAD LEFT FROM WE WENT TO THE
- 9 MARKET EXPRESS ON THE CORNER OF GUIGNARD AND
- 10 LIBERTY.
- 11 Q: BEFORE YOU LEFT TO GO DOWN TO THE MARKET EXPRESS DID
- 12 YOU SEE EITHER TREZ OR WILSON?
- 13 A: YES, SIR.
- 14 Q: WHERE DID YOU SEE THEM?
- 15 A: IN FRONT OF 208.
- 16 Q: SO THEY WERE THERE TALKING WITH YOU ALL WHEN YOU
- 17 LEFT TO GO TO MARKET EXPRESS?
- 18 A: YES.
- 19 Q: WAS THERE ANY TROUBLE WITH THEM AT THAT POINT?
- 20 A: NO, SIR.
- 21 Q: WHO WENT TO THE MARKET EXPRESS?
- 22 A: ME, D.L., REG AND MAURICE.
- 23 Q: SO, D.L. HE'S THE ONE NAME DALAMAR?
- 24 A: YES, SIR.
- 25 Q: BURROUGHS?

HEARING

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- 1 A: YES, SIR.
- 2 Q: AND REGGIE, THE FELLOW THAT GOT SHOT, HE WAS WITH
- 3 YOU?
- 4 A: YES, SIR.
- 5 Q: AND MAURICE WAS WITH YOU?
- 6 A: YES, SIR.
- 7 Q: WERE YOU ALL WALKING OR RIDING BICYCLES?
- 8 A: WE WAS ON BICYCLES.
- 9 Q: NOW, HOW LONG WERE YOU GONE AT THE MARKET EXPRESS?
- 10 A: PROBABLY NO MORE THAN PROBABLY A MINUTE OR TWO.
- 11 PROBABLY ABOUT AN HOUR AT THE MOST.
- 12 Q: MAYBE AN HOUR?
- 13 A: YES, SIR.
- 14 Q: WHAT DID YOU GO TO THE MARKET EXPRESS FOR?
- 15 A: WELL, I WENT, I HAD GOT ME A PACK OF SOFT BATCH
- 16 COOKIES AND THEY GOT WHAT THEY WAS GOING TO GET AND
- 17 THEN WE LEFT AND WENT BACK TOWARDS 208.
- 18 Q: NOW, WHO LIVED AT 208?
- 19 A: MAURICE.
- 20 Q: MAURICE DINGLE?
- 21 A: DINGLE; YES, SIR.
- 22 Q: THAT'S THIS GENTLEMEN SEATED RIGHT HERE IN THE DARK
- 23 SHIRT WITH THE GREEN EMBLEM ON THE FRONT?
- 24 A: YES, SIR.
- 25 Q: NOW, WHEN YOU ALL CAME BACK WAS WILSON AND HIS

HEARING

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1 RUNNING MATE TREZ, WERE THEY ALREADY THERE AT THE
2 CANS OR DID THEY COME UP AFTER YOU ALL HAD GOTTEN
3 BACK?

4 A: AFTER.

5 Q: SO, YOU ALL HAD GOT BACK THERE AND WHERE WERE YOU
6 STANDING?

7 A: ALMOST IN FRONT OF ONE TRASH CAN. ON THE BICYCLE.
8 I WAS STILL SITTING ON MY BIKE.

9 Q: AND YOU WERE THERE IN FRONT OF THOSE THREE GREEN
10 TRASH CANS?

11 A: YES, SIR.

12 Q: WHERE DID YOU SEE WILSON COME FROM?

13 A: THROUGH THE PATH IN THE CEMETERY.

14 Q: WHO WAS WITH HIM?

15 A: TREZ.

16 Q: WHAT DID THEY DO?

17 A: THEY WALKED UP AND THEN TREZ HE WAS STANDING THERE
18 FOR A MINUTE AND THE NEXT THING I KNOW TWINKIE WAS
19 LIKE LET ME GET THAT WHAT'S IN YOUR POCKET REESE. SO
20 REESE WAS LIKE GO AHEAD WITH THAT. SO HE CHILLED
21 FOR A MINUTE AND THE NEXT THING I KNOW HE POINTED
22 THE GUN AT HIM AGAIN. HE WAS LIKE I AIN'T PLAYING
23 WITH YOU REESE LET ME GET WHAT'S IN YOUR POCKET AND
24 REESE KEPT SAYING GO AHEAD WITH THAT AND THEN AFTER
25 THAT THAT'S WHEN HE SAID I SHOULD HAVE KILL Y'ALL

HEARING

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- 1 ASS RIGHT NOW FOR WHAT Y'ALL DONE TO ME UP THERE BY
2 THE CHURCH. SO, I JUST PUT MY HEAD DOWN AND START
3 OPENING UP MY COOKIES. NEXT THING I KNOW I HEARD THE
4 SHOTS SO I LOOK UP AND THAT'S WHEN I SEE TWINKIE
5 WITH THE GUN POINTING. SO, I TRIED TO RUN. WHEN I
6 WENT BETWEEN THE TWO BUSH THAT'S WHEN I GOT HIT AND
7 I FELL TO THE GROUND SO I GOT BACK UP AND I HOP
8 TOWARD THE BACK OF THE HOUSE AND THAT WHERE I END UP
9 AT.
- 10 Q: WHEN YOU GOT TO THE BACK OF THE HOUSE THERE, DID YOU
11 GO AROUND BEHIND THE HOUSE OR DID YOU STAY THERE ON
12 THE SIDE OR ...
- 13 A: NOT QUITE ALL THE WAY AROUND. I WAS LIKE ON THE
14 CORNER OF THE BACK OF THE HOUSE.
- 15 Q: DID ANYBODY COME TO YOUR ASSISTANCE BACK THERE?
- 16 A: I SEEN REESE AND I TOLD HIM TO GO TELL SOMEBODY TO
17 CALL THE AMBULANCE BECAUSE I GOT HIT AND THAT WAS
18 IT.
- 19 Q: SO, HE CAME AROUND THERE. MAURICE CAME AROUND
20 THERE?
- 21 A: YES, SIR.
- 22 Q: DID HE COME DOWN THE SAME SIDE OF THE HOUSE YOU DID
23 OR DID HE COME AROUND ON THE OTHER SIDE?
- 24 A: I CAME DOWN THE FRONT HE CAME DOWN THE BACK SIDE.
- 25 Q: SO YOU ALL WERE ON DIFFERENT SIDES OF THE HOUSE?

HEARING

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1 A: YES, SIR.

2 Q: BUT YOU KIND OF MET AROUND THERE ON THE BACK CORNER?

3 A: YES, SIR..

4 Q: NOW, WHO WAS WILSON SHOOTING AT?

5 A: HE WAS SHOOTING AT WHOEVER.

6 Q: WAS ANYBODY ELSE SHOOTING?

7 A: NOT TO MY KNOWLEDGE.

8 Q: DID YOU SEE ANYBODY ELSE WITH A GUN?

9 A: NO, SIR.

10 Q: DID YOU SEE CEANTE WITH A GUN?

11 A: NO, SIR.

12 Q: DID YOU SEE DALAMAR WITH A GUN

13 A: NO, SIR.

14 Q: DID YOU SEE REESE WITH A GUN?

15 A: NO, SIR.

16 Q: DID YOU HAVE A GUN?

17 A: NO, SIR.

18 Q: WHAT DID TREZ DO?

19 A: HE JUST WAS STANDING UP SMILING.

20 Q: DID HE EVER SAY ANYTHING?

21 A: NO, SIR.

22 Q: THE ONLY ONE THAT DID THE TALKING WAS WHO?

23 A: TWINKIE.

24 Q: TWINKIE?

25 A: YES, SIR.

HEARING

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- 1 Q: TELL ME ABOUT YOUR INJURY. WHERE WERE YOU HIT?
- 2 A: IN MY LEFT LEG LIKE UP TOWARDS THE FAT PART OF MY
- 3 THIGH.
- 4 Q: COME DOWN HERE OUTSIDE OF THE WITNESS BOX DOWN ON
- 5 THE FLOOR AND TURN AND FACE THE JUDGE. NOW, POINT
- 6 TO WHERE YOU WERE HIT.
- 7 A: RIGHT HERE (INDICATING).
- 8 THE COURT: SPEAK UP.
- 9 A: RIGHT UP IN HERE, RIGHT THERE (INDICATING).
- 10 Q: IT WAS IN YOUR LEG, WASN'T IT?
- 11 A: YES, SIR.
- 12 Q: IT CAME OUT WHERE?
- 13 A: RIGHT UP HERE (INDICATING).
- 14 Q: IN YOUR GROIN?
- 15 A: YES, SIR.
- 16 Q: DID THE BULLET PASS THROUGH?
- 17 A: YES, SIR.
- 18 Q: SO THEY TOOK YOU TO THE HOSPITAL RIGHT AWAY?
- 19 A: I WAS IN THE BACK FOR A FEW MINUTES UNTIL THE
- 20 AMBULANCE PEOPLE CAME. I WAS BACK THERE FOR
- 21 PROBABLY ABOUT 30 MINUTES TO AN HOUR.
- 22 Q: THEN THEY TOOK YOU TO THE HOSPITAL?
- 23 A: YES, SIR.
- 24 Q: AT THE HOSPITAL, DID YOU SEE A DOCTOR?
- 25 A: YES, SIR.

HEARING

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1 Q: HOW LONG DID YOU STAY IN THE HOSPITAL?

2 A: ALMOST A WEEK.

3 Q: ALMOST A WEEK?

4 A: YES, SIR.

5 Q: WHAT MADE IT SO SERIOUS?

6 A: IT POPPED THE MAIN ARTERY IN MY LEG. THEY HAD TO
7 STITCH IT BACK TOGETHER.

8 Q: WHAT DID THE DOCTOR SAY IN REGARDS TO THE INJURY?

9 MR. BLACKMON: IF IT PLEASE THE COURT. I WOULD HAVE
10 TO OBJECT TO THAT AS BEING HEARSAY.

11 THE COURT: YES, SIR. WHAT WOULD THAT NOT BE
12 HEARSAY, MR. CONNER?

13 MR. CONNER: WE'LL CHANGE THE SUBJECT, YOUR HONOR.'

14 THE COURT: ALL RIGHT. OBJECTION SUSTAINED.

15 Q: YOU WERE IN THE HOSPITAL FOR A WEEK?

16 A: YES, SIR.

17 Q: AND YOU HAD A SEVERED ARTERY?

18 A: YES, SIR.

19 MR. BLACKMON: IF IT PLEASE THE COURT. I'M GOING TO
20 HAVE TO OBJECT TO THAT. UNLESS THIS WITNESS HAS SOME
21 MEDICAL KNOWLEDGE AND PERSONALLY IS AWARE THAT HE HAD A
22 SEVERED ARTERY.

23 THE COURT: ALL RIGHT. AS I HAVE TOLD THE JURY WHAT
24 THE LAWYERS SAY IS NOT TESTIMONY IN THIS CASE, IT'S ONLY
25 WHAT THE WITNESS IS SAYING, HE HAD PREVIOUSLY TESTIFIED

HEARING

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1. WITHOUT OBJECTION THAT HE HAD AN ARTERY SEVERED AND THAT
2. WAS SAID WITHOUT OBJECTION EARLIER ON. OBJECTION IS
3. OVERRULED.

4. Q: NOW, DID A FELLOW CALL TREZ, HE WASN'T A PART OF
5. YOUR GROUP, WAS HE?

6. A: NO, SIR.

7. Q: HE CAME WITH MR. WILSON?

8. A: YES, SIR.

9. Q: DID HE HAVE A GUN?

10. A: NO, SIR.

11. Q: DID HE SHOOT A GUN?

12. A: NO, SIR.

13. Q: DID YOU SEE HIM AT ANY TIME THERE WHILE THIS THING
14. WAS GOING ON WITH A GUN?

15. A: NO, SIR.

16. Q: NOW, DID YOU GIVE A STATEMENT TO THE POLICE BACK ON
17. MAY 19TH, 2003, THE VERY DAY THAT YOU GOT SHOT?

18. A: YES, SIR.

19. Q: I WANT YOU TO COME DOWN HERE AND GO OVER THIS THING
20. ON THIS DIAGRAM.

21. THE COURT: YOU MAY STEP DOWN AND I WILL TELL YOU
22. AGAIN, I WANT YOU TO STAND AT AN ANGLE WHERE THE JURY CAN
23. HERE YOU, I CAN HEAR YOU AND THE COURT REPORTER CAN HEAR
24. YOU AND KEEP YOUR VOICE UP. BECAUSE IF YOU DON'T I'M
25. GOING TO NOT ALLOW THE TESTIMONY.

HEARING

345

- 1 Q: THIS IS STATE'S EXHIBIT NUMBER 1. IF YOU WOULD
2 LINWOOD HOW ABOUT SHOW US WHERE YOU WERE STANDING
3 WHEN ALL THIS STARTED HAPPENING.
- 4 A: I WAS STANDING RIGHT HERE.
- 5 Q: THAT WAS IN THE FRONT?
- 6 A: THIS TRASH CAN RIGHT HERE.
- 7 Q: THE THIRD TRASH CAN OR THE ONE ON THE SIDE OF
8 THE GROUP, IS THAT RIGHT?
- 9 A: YES, SIR.
- 10 Q: THE LEFT HAND SIDE FACING THE HOUSE? WERE YOU IN
11 THE STREET OR WERE YOU IN THE DIRT?
- 12 A: I WAS HALF IN THE STREET, HALF IN THE DIRT.
- 13 Q: AND YOU SAY YOU WERE STILL ON THE BICYCLE?
- 14 A: YES, SIR.
- 15 Q: WHERE WERE THESE OTHER PEOPLE IN THE GROUP THERE?
- 16 A: MAURICE WAS STANDING RIGHT HERE, REGGIE WAS RIGHT
17 HERE, D.L. WAS RIGHT THERE.
- 18 Q: SO, ALL FOUR OF YOU WERE RIGHT THERE TOGETHER?
- 19 A: YES, SIR.
- 20 Q: FIVE OF YOU. CEANTE WHERE WAS HE?
- 21 A: WHEN ME AND D.L. WAS COMING DOWN HE WAS GOING BACK
22 UP THAT WAY.
- 23 Q: SO, CEANTE ...
- 24 A: I AIN'T SEE HIM WHEN HE CAME BACK. THE ONLY PERSON
25 I SEE WAS THE PEOPLE WHO I HUNG AROUND.

THIRD JUDICIAL CIRCUIT

HEARING

346

- 1 Q: NOW, MR. WILSON AND TREZ, WHERE WERE THEY?
- 2 A: MR. WILSON WAS RIGHT HERE AND TREZ WAS BY THE TRASH
- 3 CAN.
- 4 Q: SO, TREZ WAS KIND OF OVER THERE WITH YOU?
- 5 A: YEAH.
- 6 Q: AND WILSON STOOD OFF TO THE SIDE?
- 7 A: YES, SIR.
- 8 Q: TELL US AGAIN WHAT WILSON SAID AND DID?
- 9 A: HE SAID, "REESE, GIVE ME THAT WHAT'S IN YOUR
- 10 POCKET". REESE WAS LIKE "GO AHEAD", REESE WAS LIKE
- 11 GO AHEAD WITH THAT. THEN HE WAS LIKE I SHOULD HAVE
- 12 KILLED YOUR ASS RIGHT NOW FOR WHAT Y'ALL HAD - FOR
- 13 WHEN Y'ALL HAD SHOOT AT ME BY THE CHURCH. REESE WAS
- 14 LIKE GO AHEAD WITH THAT. HE PUT THE GUN BACK DOWN
- 15 TO THE SIDE OF HIS LIKE THAT. HE NEVER PULLED IT UP
- 16 OR NOTHING. HE JUST KEPT IT ON HIS SIDE. I WAS
- 17 WATCHING THE GUN AT THE TIME. HE KEPT IT ON HIS
- 18 SIDE.
- 19 Q: THEN WHAT DID HE DO?
- 20 A: THAT'S WHEN SHOTS WENT OFF AND I THAT'S WHEN I TRY
- 21 TO MAKE A MOVE BETWEEN THEM TWO BUSHES. WHEN I WAS
- 22 GOING BETWEEN THEM BUSHES, RIGHT, THAT'S WHEN I GOT
- 23 HIT AND I FELL.
- 24 Q: WHEN HE SHOT, DID YOU SEE HIS GUN?
- 25 A: TO TELL YOU THE TRUTH. I WASN'T PAYING NO

HEARING

347

1 ATTENTION. FROM THE WAY THE GUN WAS POINTED I WAS
2 JUST TRYING TO GET OUT OF DODGE.

3 Q: LET ME ASK YOU THIS. WHEN THIS THING STARTED WAS IT
4 DAYLIGHT OR DARK?

5 A: BEGINNING TO GET DARK.

6 Q: WHAT WAS THE LIGHT LIKE?

7 A: IT WAS STARTING TO GET DARK.

8 Q: COULD YOU SEE THE GUN?

9 A: YES, SIR.

10 Q: WHAT KIND OF GUN WAS IT?

11 A: LOOK LIKE A NINE.

12 Q: HOW DO YOU KNOW THAT IT WAS A NINE?

13 A: I HAD SEEN IT THE DAY BEFORE.

14 Q: WHO HAD IT WHEN YOU SAW IT THE FIRST TIME?

15 A: TREZ.

16 Q: WHY DID YOU GET JUST A GOOD LOOK AT IT?

17 A: HE WAS TRYING TO SELL IT AT FIRST.

18 Q: TREZ WAS TRYING TO SELL IT?

19 A: YES, SIR.

20 Q: WAS WILSON WITH HIM WHEN HE WAS TRYING TO SELL IT?

21 A: YES, SIR. HE WAS ON A BICYCLE WHILE HE WAS TRYING
22 TO SELL IT.

23 Q: HOW CLOSE WERE YOU TO IT WHEN YOU SAW IT?

24 A: PROBABLY ABOUT FROM HERE TO THERE (INDICATING).

25 Q: ABOUT 3 OR 4 FEET AWAY?

HEARING

348

- 1 A: YES, SIR.
- 2 Q: HOW DO YOU KNOW IT WAS THE SAME GUN, WHAT MAKES YOU
- 3 THINK IT WAS THE SAME GUN?
- 4 A: I HAD SEE - I HAD SEE BOTTOM PART OF IT. IT SEEN
- 5 RASPBERRY.
- 6 Q: WHAT DO YOU MEAN RASPBERRY?
- 7 A: IT HAD A LITTLE WOODEN PIECE ON IT, REDDISH COLOR.
- 8 Q: SO, IT LOOKED LIKE THE SAME GUN?
- 9 A: YES, SIR.
- 10 Q: SO THE GUN THAT WILSON HAD THERE LOOKED LIKE THE ONE
- 11 THAT TREZ WAS SHOWING AROUND?
- 12 A: YES, SIR.
- 13 Q: NOW, TELL US ABOUT WHERE YOU RAN.
- 14 A: I RAN THROUGH THE BUSHES, ALL THE WAY THROUGH HERE
- 15 (INDICATING).
- 16 Q: WHERE WERE YOU WHEN YOU REALIZED THAT YOU HAD BEEN
- 17 HIT?
- 18 A: RIGHT HERE (INDICATING).
- 19 Q: RIGHT THERE AT THAT BUSH?
- 20 A: YES, SIR.
- 21 Q: WHAT MADE YOU REALIZE THAT YOU HAD BEEN HIT?
- 22 A: I FELT SOMETHING GOING IN MY LEG AND MY LEG LOCK UP
- 23 AND THAT'S WHEN I FELT IT.
- 24 Q: HOW DID YOU GET THEN FROM THE BULLET - FROM HERE IN
- 25 FRONT OF 206 BACK THERE, HOW DID YOU GET FROM HERE

HEARING

349

1 BACK THERE IF YOUR LEG WAS ...

2 A: I USED MY GOOD LEG TO GET UP. I GOT UP AND I HOPPED
3 TO THERE.

4 Q: WHEN DID YOU FALL DOWN ON THE GROUND AND START
5 FALLING?

6 A: I NEVER CRAWLED. WHEN I FELL I WAS RIGHT THERE.

7 Q: RIGHT THERE ON THAT CORNER?

8 A: YES, SIR.

9 Q: WHEN MAURICE CAME UP TO YOU AND YOU TOLD HIM THAT
10 YOU WERE INJURY TO CALL FOR HELP OR CALL FOR AN
11 AMBULANCE, WHATEVER YOU TOLD THEM. I DON'T RECALL
12 THE EXACT WORDS, WHERE WERE YOU THEN?

13 A: RIGHT HERE (INDICATING).

14 Q: AND WHAT DID YOU TELL MAURICE?

15 A: I BEEN HIT. THAT'S WHEN HE WENT TO TRY TO GET TO
16 THE FRONT.

17 Q: WHERE IS THE FRONT?

18 A: RIGHT HERE (INDICATING).

19 Q: THE BACK DOOR IS OVER ON THE OTHER SIDE?

20 A: THE BACK DOOR IS ON THE OTHER SIDE.

21 MR. CONNER: HAVE A SEAT.

22 (WITNESS COMPLIES)

23 MR. CONNER: ANSWER ANY QUESTIONS THAT THE
24 DEFENDANT'S LAWYER MIGHT HAVE.

25 THE COURT: CROSS EXAMINATION, MR. BLACKMON?

HEARING

350

1 MR. BUTLER - CROSS EXAMINATION BY MR. BLACKMON:

2 Q: MR. BUTLER, STEP BACK DOWN HERE FOR A MINUTE,
3 PLEASE, SIR.

4 (WITNESS COMPLIES)

5 Q: YOU'LL NEED TO SPEAK UP SO THAT THE MICROPHONES WILL
6 RECORD YOU, I JUST WANT TO MAKE SURE I'VE GOT THE
7 POSITIONS EXACTLY RIGHT SO THERE'S NO ERROR. WHEN
8 YOU ALL WENT TO THE STORE AND Y'ALL CAME BACK FROM
9 THE STORE, Y'ALL WOULD HAVE BEEN COMING FROM THIS
10 END OF CARVER STREET?

11 A: NO, SIR.

12 Q: Y'ALL WOULD HAVE BEEN COMING FROM THIS END, THE
13 RIGHT SIDE OF CARVER?

14 A: NO, SIR. WE CAME UP RIGHT HERE.

15 Q: OKAY. SO Y'ALL WOULD COME UP HERE TO CARVER STREET?

16 A: UH-HUH.

17 Q: THEN YOU WOULD COME DOWN FROM THIS END OF CARVER?

18 A: YES, SIR.

19 Q: OKAY. SO, WHEN Y'ALL CAME FROM THE STORE AND GOT
20 HERE ONTO CARVER STREET ...

21 A: UH-HUH.

22 Q: IS IT YOUR TESTIMONY THAT MR. WILSON WAS ALREADY
23 DOWN HERE?

24 A: NO, SIR. HE WASN'T DOWN THERE.

25 Q: OKAY.

HEARING

351

- 1 A: HE AIN'T HAD GET UP THERE YET.
- 2 Q: HE HAD BEEN THERE EARLIER BEFORE Y'ALL LEFT?
- 3 A: YES, SIR.
- 4 Q: SO, YOU AND REGGIE, D.L. AND REESE ALL CAME BACK
- 5 DOWN HERE FROM THE STORE?
- 6 A: YES, SIR.
- 7 Q: I BELIEVE THREE OF YOU GOT BACK DOWN HERE BEFORE,
- 8 THE FOURTH ONE WAS A LITTLE BIT LATE?
- 9 A: WELL, HE AIN'T BEEN ALL THAT FAR BEHIND.
- 10 Q: BUT ALL FOUR OF YOU GOT HERE BEFORE YOU NEXT SAW MR.
- 11 WILSON AND TREZ?
- 12 A: YES, SIR.
- 13 Q: WHEN YOU NEXT SAW MR. WILSON AND TREZ, WHERE WERE
- 14 THEY COMING FROM?
- 15 A: SAY THIS THE CEMETERY RIGHT HERE. THEY WAS COMING
- 16 FROM THE PATH LIKE THAT RIGHT THERE.
- 17 Q: SO THEY CAME THROUGH HERE AND THEY CAME DOWN CARVER
- 18 STREET THE SAME WAY YOU ALL HAD COME?
- 19 A: THEY CAME ACROSS THE FIELD LIKE THAT RIGHT THERE.
- 20 Q: OKAY. SO YOU WERE STANDING DOWN HERE AND YOU
- 21 WATCHED THEM GO ACROSS THIS FIELD?
- 22 A: YES, SIR.
- 23 Q: NOW, WHERE ARE THE PROJECTS?
- 24 A: THE PROJECTS. HERE'S THE CEMETERY RIGHT HERE. GO
- 25 DOWN AND THE PROJECTS ARE RIGHT HERE (INDICATING).

HEARING

352

- 1 Q: ALL RIGHT. NOW, LITTLE REG WAS STANDING IN FRONT OF
2 THIS MIDDLE TRASH CAN?
- 3 A: YES, SIR.
- 4 Q: YOU WERE STANDING IN FRONT OF THE FURTHEST TO THE
5 LEFT TRASH CAN BACK OFF THE ROAD ...
- 6 A: YES, SIR.
- 7 Q: ... ON YOUR BICYCLE?
- 8 A: YES, SIR.
- 9 Q: AND MAURICE WAS WHERE AGAIN ON HERE?
- 10 A: RIGHT HERE (INDICATING).
- 11 Q: HE'S OVER HERE NEAR WHERE THE BICYCLE WAS DRAWN?
- 12 A: YES, SIR.
- 13 Q: OKAY. NOW, WHEN LITTLE REGGIE IS OVER HERE IN FRONT
14 OF THIS TRASH CAN WAS HE ON HIS BICYCLE OR JUST
15 STANDING UP?
- 16 A: HE WAS PARTLY HALF ON THE BICYCLE.
- 17 Q: SO, THE BICYCLE WAS REALLY OVER HERE IN FRONT OF THE
18 TRASH CAN, TOO?
- 19 A: YES, SIR.
- 20 Q: AND TREZ WAS OVER HERE NEAR THE TRASH CAN?
- 21 A: LEANING ON THE TRASH CAN.
- 22 Q: AND HAROLD WILSON WAS OUT HERE IN THE MIDDLE OF THE
23 STREET?
- 24 A: YES, STANDING LIKE RIGHT THERE (INDICATING).
- 25 Q: EXCUSE ME FROM GOING AROUND YOU, BUT LET ME GET A

1 PICTURE AND SEE IF WE CAN COORDINATE THAT WITH ...
2 SO, LET ME SHOW YOU WHILE WE'RE STANDING HERE
3 STATE'S EXHIBIT NUMBER 9. THAT'S A PICTURE SHOWING
4 AT LEAST TWO OF THOSE TRASH CANS. COMPARING THE
5 PHOTOGRAPH TO THIS SCENE, ARE THOSE TWO TRASH CANS
6 THAT WE'RE LOOKING AT ON THE PHOTOGRAPH, THE INSIDE
7 AND OUTSIDE TRASH CANS YOU THINK?
8 A: THEY ALL CLOSE BY EACH OTHER LIKE THEY IS RIGHT
9 HERE.
10 Q: OKAY. DOES THAT PICTURE ACCURATELY SHOW THE
11 APPEARANCE OF THOSE TWO TRASH CANS?
12 A: NO. THIS ONE RIGHT HERE HAD TO BE MOVED.
13 Q: OKAY. THERE ACTUALLY WAS A THIRD ONE IN BETWEEN
14 THEM ...
15 A: YEAH.
16 Q: ... AT ONE TIME, WASN'T IT?
17 A: YEAH. THE THIRD ONE WAS RIGHT HERE.
18 Q: IF I SHOW YOU STATE'S EXHIBIT NUMBER 10 THAT SHOWS
19 ONE LAYING DOWN ON IT'S BACK?
20 A: UH-HUH.
21 Q: COULD THAT BE THE ONE THAT WAS BETWEEN THEM AND THEN
22 GOT PUSHED BACK?
23 A: YEAH.
24 Q: BUT THERE IS NO QUESTION IN YOUR MIND THAT, IS THIS
25 PLACE ACCURATE FOR WHERE THE TRASH CANS WERE WHEN

HEARING

354

- 1 YOU ALL WERE STANDING THERE?
- 2 A: YES.
- 3 Q: OKAY. NOW, THE MAILBOX TO NUMBER 208 IS OVER HERE
- 4 ON THE RIGHT SIDE OF THE FARTHEST TRASH CAN, ,ISN'T
- 5 IT?
- 6 A: UH-HUH.
- 7 Q: NOW, THAT'S SHOWN RIGHT HERE ON STATE'S EXHIBIT 10.
- 8 A: YES.
- 9 Q: AND LITTLE REGGIE IS STANDING IN FRONT OF THE MIDDLE
- 10 TRASH CAN?
- 11 A: (NO RESPONSE)
- 12 Q: YOU HAVE TO ANSWER, I'M SORRY.
- 13 A: YES, SIR.
- 14 Q: NOW, AT ANY TIME WHILE YOU WERE THERE BEFORE YOU
- 15 HEARD A GUNSHOT, DID YOU SEE LITTLE REG MOVE
- 16 ANYWHERE OTHER THAN RIGHT IN FRONT OF THAT SECOND
- 17 TRASH CAN?
- 18 A: NO, SIR. HE STAYED IN ONE SPOT.
- 19 Q: OKAY. HE DID NOT -- THAT'S FINE. AFTER YOU WERE
- 20 SHOT, WHILE YOU WERE RUNNING?
- 21 A: I GOT SHOT LIKE RIGHT UP HERE, THAT'S WHERE I FALL
- 22 AT (INDICATING).
- 23 Q: OKAY. AS FAR AS YOU KNOW WAS LITTLE REG RIGHT
- 24 BESIDE YOU WHEN YOU GOT SHOT?
- 25 A: NO. I GOT OFF MY BICYCLE AND I WENT THROUGH THERE

HEARING

355

1 (INDICATING)

2 Q: OKAY. SO, YOU WENT THROUGH HERE LIKE THIS?

3 A: UH-HUH.

4 Q: AND YOU CONTINUED ON UP TO THE CORNER OF 208?

5 A: YES, SIR.

6 Q: AND WHEN YOU STOPPED ON THAT CORNER, DOES THIS

7 DRAWING ACCURATELY SHOW ABOUT WHERE YOU WERE?

8 A: WELL, IT AIN'T AIMED THE RIGHT WAY.

9 Q: SO, YOU WERE UP TOWARDS THE TOP AND YOUR HEAD WAS

10 GOING THE OTHER WAY?

11 A: YES, SIR.

12 Q: NOW, WHEN YOU HEARD THE SHOOTING GOING OFF YOU

13 DIDN'T SEE CEANTE ANYWHERE IN THIS AREA?

14 A: NO, SIR.

15 MR. BLACKMON: GO BACK THERE AND BE SEATED.

16 (WITNESS COMPLIES)

17 Q: LET ME MAKE SURE FOR ABOUT THE LAST TIME. YOU

18 SPECIFICALLY REMEMBER THE DEFENDANT HAROLD WILSON

19 SAY, "I SHOULD KILL Y'ALL RIGHT NOW FOR WHAT Y'ALL

20 DID ..." FINISH THAT FOR ME.

21 A: "FOR WHAT Y'ALL HAD DID AT ME BY THE CHURCH".

22 Q: "FOR WHAT Y'ALL HAD DID BY THE CHURCH"?

23 A: YES, SIR.

24 Q: YOU ARE ABSOLUTELY POSITIVE THAT THOSE WERE THE SAME

25 WORDS THAT CAME OUT HIS MOUTH?

HEARING

356

- 1 A: YES, SIR.
- 2 Q: DO YOU REMEMBER GIVING A WRITTEN STATEMENT TO
- 3 DETECTIVE RUSS BRANDON ON MAY 19TH RIGHT AFTER IT
- 4 HAPPENED?
- 5 A: YES, SIR.
- 6 Q: BEFORE I GET TO THAT LET ME ASK YOU A COUPLE OF
- 7 OTHER QUESTIONS. WHEN YOU AND SOME GENTLEMEN HAD
- 8 RETURNED FROM THE STORE THEY WERE ALL STANDING IN
- 9 FRONT OF THESE TRASH CANS. YOU WERE ABLE TO SEE
- 10 TWINKIE AND TREZ WALKING ACROSS THAT ...
- 11 A: FIELD; YES, SIR.
- 12 Q: ... DOWN THE ROAD?
- 13 A: YES, SIR.
- 14 Q: WHEN THEY APPROACHED YOU HOW LONG WOULD YOU SAY THEY
- 15 WERE THERE BEFORE THEY PULLED OUT THE GUN?
- 16 A: TO TELL YOU THE TRUTH, THE WAY IT SEEM LIKE THE GUN
- 17 WAS ALREADY OUT.
- 18 Q: WHERE'S THE FIRST POINT YOU SAW THE GUN?
- 19 A: WHEN IT WAS POINTED AT REESE.
- 20 Q: YOU DIDN'T SEE THE GUN AT ANY TIME OTHER THAN THE
- 21 DAY BEFORE WHEN TREZ WAS TRYING TO SELL IT OR ONE
- 22 LIKE IT? YOU DIDN'T SEE THAT GUN IN TWINKIE'S HAND,
- 23 TO YOUR KNOWLEDGE, BEFORE IT WAS POINTED AT REESE?
- 24 A: NO, SIR. WELL, IT WAS, HE HAD IT. IT WAS ON HIS
- 25 SIDE.

HEARING

357

- 1 Q: WELL, WHEN DID YOU SEE IT ON HIS SIDE?
- 2 A: WHEN HE CAME UP AND IT WAS JUST LIKE THAT. HE AIN'T
- 3 WAS TRYING TO HIDE IT OR NOTHING. HE WAS MAKING SURE
- 4 WE SEEN IT.
- 5 Q: SO THE FIRST TIME YOU SAW THE GUN IN HIS HAND ON MAY
- 6 19TH, WHERE WAS IT?
- 7 A: YOU TALKING TWINKIE?
- 8 Q: YES, SIR.
- 9 A: WHERE HE HAD IT AT OR WHAT?
- 10 Q: WHERE WAS HE STANDING WHEN YOU FIRST SAW THE GUN?
- 11 A: IN THE STREET. IN FRONT OF REESE AND THE TRASH CANS.
- 12 Q: NOW, LET ME HAND YOU THIS STATEMENT TAKEN MAY 20TH
- 13 AND ASK YOU TO START READING FROM THE WORDS, "I SAW
- 14 TWINKIE" ALL THE WAY TO THE SECOND PAGE.
- 15 A: "I SAW TWINKIE WALKING OUT OF THE ..." I MEAN, "OUT
- 16 OF THE ..." I DON'T UNDERSTAND THIS RIGHT HERE.
- 17 Q: CAN YOU JUST READ IT, PLEASE, SIR?
- 18 A: "I SAW TWINKIE TALKING OUT OF A PATH FROM THE ..."
- 19 Q: CEMETERY?
- 20 A: "... CEMETERY HOLDING A BLACK GUN WITH ..." WHAT
- 21 THAT IS? I CAN'T SEE WHAT THIS WORD RIGHT HERE IS.
- 22 Q: IT SAYS, "I SAW TWINKIE WALK OUT OF A PATH AT THE
- 23 CEMETERY HOLDING A BLACK GUN WITH BURGUNDY OR
- 24 RASPBERRY HANDLES ..."
- 25 A: UH-HUH.

THIRD JUDICIAL CIRCUIT

HEARING

358

1 Q: CAN YOU READ THE REST OF IT?

2 A: YEAH.

3 THE COURT: JUST READ IT AND ASK HIM IF YOU READ IT

4 CORRECTLY AND LET HIM FOLLOW YOU ALONG.

5 A: "I ..."

6 Q: DO YOU WANT ME TO JUST READ THAT AND YOU FOLLOW

7 ALONG?

8 A: YEAH, GO AHEAD.

9 Q: "I KNEW THAT IT WAS A 9MM BECAUSE I HAD SEEN THE GUN

10 BEING FLASHED IN THE PROJECTS BY THE FELLOW THAT WAS

11 ALSO WITH TWINKIE WHEN THEY COME OUT THE CEMETERY.

12 TWINKIE WAS HOLDING HIS GUN. TWINKIE WALKED OUT OF

13 THE CEMETERY WITH A GUN IN HIS RIGHT HAND COCKED TO

14 THE SIDE HE SAID REESE LET ME HOLD WHAT'S IN YOUR

15 POCKET, MEANING HE WANTED HIS MONEY. REESE TOLD

16 TWINKIE TO GO AHEAD WITH THAT ..." TURN OVER TO THE

17 BACK PAGE. "I WAS LOOKING AT TWINKIE AND HE SAID

18 COME ON REESE LET ME GET IT, LET ME GET IT. HE WAS

19 BITING HIS LIPS AND THEN HE STARTED SHOOTING. HE

20 SHOT AT LEAST ONE TIME." IS THAT AN ACCURATE

21 READING OF WHAT YOU SAID TO HIM?

22 A: YES.

23 Q: IF YOU WILL LOOK ON THAT FIRST, BOTH SIDE OF THE

24 PAGES, ARE THOSE YOUR INITIALS ON THE TOP LEFT HAND

25 SIDE IN THAT CIRCLE?

- 1 A: YES, SIR.
- 2 Q: AND THE BOTTOM OF THAT PAGE ARE THOSE YOUR INITIALS
- 3 IN THE OTHER CIRCLE?
- 4 A: YES, SIR.
- 5 Q: ARE THOSE YOUR INITIALS AT THE TOP LEFT HAND SIDE OF
- 6 THE CIRCLE?
- 7 A: YES, SIR.
- 8 Q: AND AT THE BOTTOM OF THE STATEMENT THE SAME INITIALS
- 9 IN THE CIRCLE?
- 10 A: UH-HUH.
- 11 Q: AND YOU SIGNED THAT STATEMENT?
- 12 A: YES, SIR.
- 13 Q: SO ON MAY 20TH, YOU TOLD THE POLICE YOU SAW TWINKIE
- 14 COME OUT OF THE CEMETERY HOLDING THE GUN, DIDN'T
- 15 YOU? BUT THAT WASN'T TRUE, WAS IT?
- 16 A: HUH-UH.
- 17 Q: I DIDN'T UNDERSTAND YOU, WAS IT TRUE OR WHAT IT NOT
- 18 TRUE?
- 19 A: NO, SIR.
- 20 Q: IT WAS NOT TRUE. WELL, NOW BACK ON MAY 20TH, 2003,
- 21 YOU DIDN'T TELL THE POLICE ANYTHING ABOUT HIS SAYING
- 22 I SHOULD HAVE SHOT Y'ALLS ASS RIGHT NOW FOR WHAT
- 23 Y'ALL DID AT THE CHURCH, DID YOU?
- 24 A: NO, SIR.
- 25 Q: WOULD IT BE FAIR TO SAY THAT YOU PROBABLY REMEMBER

HEARING

360

- 1 BETTER WHAT HAPPENED BACK THEN OR DO YOU REMEMBER
2 BETTER WHAT HAPPENED NOW?
- 3 A: BACK THEN.
- 4 Q: SO IF YOU DIDN'T TELL THE POLICE ANYTHING ABOUT
5 THAT, THAT DIDN'T REALLY HAPPEN, DID IT? YOU DIDN'T
6 HEAR HIM SAY THAT?
- 7 A: OH, IT HAPPENED. I HEARD HIM SAY IT.
- 8 Q: YOU JUST CHOOSE NOT TO TELL THE POLICE THAT. YOU
9 JUST ADMITTED HE DIDN'T COME OUT OF THE CEMETERY
10 HOLDING A GUN BY HIS SIDE. YOU DIDN'T SEE THAT, DID
11 YOU?
- 12 A: I SEE THE GUN ON HIS SIDE ONCE HE GET UP THERE, I
13 AIN'T SAY COMING THROUGH NO GRAVEYARD WITH NO GUN, I
14 AIN'T NEVER SAY THAT.
- 15 Q: WELL, WHEN YOU SAY TWINKIE WALKED OUT OF THE
16 CEMETERY WITH THE GUN IN HIS RIGHT HAND COCKED TO
17 THE SIDE THAT WASN'T TRUE WAS IT BECAUSE YOU DIDN'T
18 SEE HIM COME OUT OF THE CEMETERY WITH THE GUN IN HIS
19 RIGHT HAND COCKED TO THE SIDE, DID YOU?
- 20 A: NO, SIR. I AIN'T SEE HIM. BUT WHEN HE CAME UP
21 THERE THAT GUN WAS ALREADY OUT.
- 22 Q: SO YOU LIED WHEN YOU TOLD THEM THIS, DIDN'T YOU?
- 23 A: THEY PROBABLY BEEN CONFUSED ME. I BEEN GOING
24 THROUGH SO MUCH THEN.
- 25 Q: I BELIEVE YOU SAID A FEW MINUTES AGO THE FIRST TIME

1 TWINKIE SAID LET ME GET THAT WHAT'S IN YOUR POCKET
2 AND REESE SAID GO AHEAD WITH THAT, THAT'S WHEN YOU
3 SAW TWINKIE PULL THE GUN?
4 A: YEAH.
5 Q: THAT'S WHEN YOU LOOKED DOWN AND STARTED OPENING YOUR
6 COOKIES?
7 A: YES.
8 Q: YOU WEREN'T LOOKING AT ANYBODY WHEN THE GUN WENT
9 OFF, WHEN WHATEVER GUN WENT OFF WENT OFF THE FIRST
10 TIME, DID YOU?
11 A: NO, SIR.
12 Q: SO, YOU CAN'T TELL THE JURY THAT IT WAS THE GUN THAT
13 YOU NOW SAY WAS IN TWINKIE'S HAND WHEN IT WENT OFF,
14 CAN YOU?
15 A: I KNOW A 9 WHEN I HEAR A 9 GO OFF.
16 Q: YES, SIR. AND YOU MIGHT HAVE HEARD A 9 GO OFF BUT
17 YOU CAN'T TELL THIS JURY THAT THE GUN THAT YOU SAY
18 TODAY THAT YOU SAW IN TWINKIE'S HAND ON MAY 19TH IS
19 THE GUN THAT WAS FIRED, CAN YOU?
20 A: NOT REALLY, BUT I KNOW.
21 Q: YOU KNOW YOU HEARD A 9 GO OFF?
22 A: YEAH. THAT BEEN THE ONLY 9 OUT THERE.
23 Q: YOU WERE LOOKING DOWN AT YOUR COOKIES. YOU DON'T
24 KNOW WHETHER REESE PULLED ONE OR ANYBODY ELSE, DO
25 YOU?

HEARING

362

1 A: REESE AIN'T HAD NO GUN, WHERE HE GET IT FROM?
2 THE COURT: NO, SIR. DON'T ASK QUESTIONS, JUST
3 ANSWER THEM.
4 Q: YOU DIDN'T SEE ANYBODY ELSE AT THAT MOMENT WITH A
5 GUN, DID YOU?
6 A: NO, SIR.
7 Q: YOU HEARD ONE SHOT AT THAT POINT?
8 A: YES.
9 Q: IT WASN'T TWO SHOTS RIGHT TOGETHER, IT WAS JUST ONE
10 SHOT?
11 A: ONE SHOT. THAT BEEN ALL.
12 Q: YOU JUMPED OFF YOUR BIKE AND STARTED RUNNING?
13 A: YES.
14 Q: DO YOU HAVE ANY IDEA WHY YOUR BIKE WASN'T RIGHT
15 THERE BY THE TRASH CAN?
16 A: BECAUSE WHEN I DID SEND - SEE WHERE MY BICYCLE WAS
17 THEY SAY SOMEBODY BEEN DONE STOLE IT.
18 Q: SO, YOU RAN AROUND THROUGH THE BUSHES TO THE BACK OF
19 THE HOUSE. WHAT'S THE FIRST TIME YOU SAW REESE
20 AFTER YOU HEARD THE FIRST GUN SHOT?
21 A: WHEN I GOT TO THE BACK OF THE HOUSE.
22 Q: WHERE WAS REESE?
23 A: RUNNING FROM THE FRONT TO THE BACK.
24 Q: SO, YOU WEREN'T ALREADY ON HIS PORCH?
25 A: NO.

HEARING

363

1 Q: AT WHAT POINT DID YOU SEE REESE GO ON HIS PORCH?

2 A: WHEN HE WENT BACK - AFTER I DONE BEEN TELL HIM I GOT
3 HIT HE WENT BACK TOWARDS AROUND THE HOUSE TO THE
4 BACK DOOR AND I HEARD HIM KNOCKING ON THE BACK DOOR.

5 Q: DO YOU KNOW THE LADY THAT LIVED NEXT DOOR AT 210?

6 A: YES.

7 Q: LET ME SHOW YOU DEFENDANT'S EXHIBIT NUMBER 7. DOES
8 THAT ACCURATELY SHOW THIS LITTLE BLUE HOUSE WITH
9 THREE LITTLE WINDOWS AND ...

10 MR. CONNER: IF IT PLEASE THE COURT, I BELIEVE THAT'S
11 STATE'S EXHIBIT ...

12 MR. BLACKMON: I'M SORRY. THAT'S STATE'S EXHIBIT 7.

13 Q: DOES THAT ACCURATELY SHOW THE HOUSE THAT THAT WOMAN
14 LIVES IN I BELIEVE THAT BLUE HOUSE WITH THE THREE
15 LITTLE WINDOWS?

16 A: YES.

17 Q: AND THE HOUSE THAT YOU RAN BEHIND IS THE ONE IN THE
18 MIDDLE BEHIND THESE TREES?

19 A: UH-HUH.

20 Q: AND YOU WERE ON THE BACK LEFT CORNER OF THAT HOUSE?

21 A: YES, SIR.

22 Q: FROM WHERE YOU WERE ON MAY 19TH, COULD YOU SEE

23 ?

24 A: TALKING ABOUT FROM THE BACK?

25 Q: YES, SIR.

HEARING

364

- 1 A: NO.
- 2 Q: YOU COULD NOT, COULD YOU?
- 3 A: NO.
- 4 Q: AND YOU DIDN'T SEE THAT WOMAN OVER THERE WHILE YOU
- 5 WERE LAYING DOWN, DID YOU?
- 6 A: NO.
- 7 Q: AND YOU DIDN'T CRAWL TO THAT CORNER FROM THE 210
- 8 SIDE OF 208, DID YOU?
- 9 A: NO, SIR.
- 10 Q: SO, REESE CAME UP TO TALK WITH YOU BEFORE HE WENT TO
- 11 HIS BACK DOOR?
- 12 A: YES.
- 13 Q: DO YOU HOW LONG HE MIGHT HAVE STAYED WITH YOU?
- 14 A: NOT THAT LONG. I JUST TELL HIM AND THAT WAS IT HE
- 15 WAS GONE.
- 16 Q: AS YOU RAN BY THOSE TRASH CANS WHEN YOU JUMPED OFF
- 17 THAT BIKE AFTER YOU HEARD THE FIRST SHOT, DID YOU
- 18 RECOGNIZE WHETHER ANY OF THEM HAD BEEN KNOCKED OVER
- 19 THEN?
- 20 A: NO, SIR.
- 21 Q: AT THAT POINT, RIGHT BEFORE YOU HEARD THE GUN GO
- 22 OFF, WHERE DO YOU REMEMBER LITTLE REGGIE'S BICYCLE
- 23 BEING?
- 24 A: RIGHT BESIDE HIM.
- 25 Q: RIGHT BESIDE HIM?

HEARING

365

- 1 A: WELL ACTUALLY HE WAS ON IT.
- 2 Q: HE WAS ON IT RIGHT IN FRONT OF THAT MIDDLE TRASH
- 3 CAN?
- 4 A: YES.
- 5 Q: DO YOU HAVE ANY IDEA HOW THIS BIKE GOT MOVED OVER TO
- 6 THE FAR RIGHT OF THE TRASH CAN?
- 7 A: I DO NOT KNOW.
- 8 Q: YOU DIDN'T SEE ANYBODY DO IT?
- 9 A: NO.
- 10 Q: DO YOU KNOW ABOUT HOW LONG IT WAS BEFORE LAW
- 11 ENFORCEMENT ARRIVED?
- 12 A: A FEW MINUTES.
- 13 Q: WAS REESE BACK DOWN THERE, TO YOUR KNOWLEDGE, BEFORE
- 14 THE POLICE ARRIVED?
- 15 A: I DIDN'T SEE HIM.
- 16 Q: WAS ANYBODY ELSE OUT THERE BEFORE THE POLICE
- 17 ARRIVED?
- 18 A: I JUST HEARD SOMEBODY, I AIN'T SEE NOBODY. I JUST
- 19 HEAR THEM HOLLERING LITTLE REGGIE GOT SHOT. THAT
- 20 BEEN IT.
- 21 Q: TO THE BEST OF YOUR REMEMBRANCE, AT NO POINT, WERE
- 22 YOU EVER CRAWLING TOWARDS THAT BACK DOOR AT THE
- 23 HOUSE?
- 24 A: I WAS HOPPING.
- 25 Q: AT THAT TIME, WERE YOU A MEMBER OF THE CRYPTS?

HEARING

366

- 1 A: NEVER.
- 2 Q: AT THAT TIME DO YOU KNOW IF REESE WAS A MEMBER OF
- 3 THE CRYPTS?
- 4 A: NO.
- 5 Q: HAD YOU BEEN OUTSIDE IN THAT AREA MOST OF THAT DAY?
- 6 A: NO. I JUST HAD CAME FROM HOME WHEN I GOT ON CARVER.
- 7 Q: I BELIEVE YOU SAID Y'ALL WERE GONE TO THE STORE
- 8 MAYBE ABOUT AN HOUR. ONE TIME YOU SAID BETWEEN ONE
- 9 AND TWO HOURS. WHICH ONE WAS IT?
- 10 A: I AIN'T NEVER SAY NO ONE OR TWO HOURS. I SAY ABOUT
- 11 AN HOUR.
- 12 Q: ABOUT AN HOUR?
- 13 A: YEAH.
- 14 Q: OKAY. DO YOU REMEMBER SEEING TWINKIE AND TREZ THERE
- 15 BEFORE Y'ALL WENT TO THE STORE?
- 16 A: YES.
- 17 Q: DO YOU HAVE ANY IDEAL HOW LONG THEY HAD BEEN THERE
- 18 BEFORE Y'ALL WENT TO THE STORE?
- 19 A: WHEN WE CAME DOWN THE STREET FROM OFF -- COME DOWN
- 20 CARVER, THEY WAS ALREADY DOWN THERE.
- 21 Q: BEFORE THAT. BEFORE YOU ALL WENT TO THE STORE, HOW
- 22 LONG DO YOU REMEMBER THEM BEING OUT THERE THE FIRST
- 23 TIME?
- 24 A: I COULDN'T EVEN REALLY TELL YOU.
- 25 Q: HAD YOU SMOKED ANY MARIJUANA THAT DAY?

HEARING

367

1 A: NO.

2 Q: DO YOU KNOW IF REESE HAD?

3 A: NO, I TELL YOU I JUST WAS COMING FROM HOME.

4 Q: DO YOU KNOW IF CEANTE HAD ANY?

5 A: NO.

6 Q: HAD YOU TALKED TO CEANTE BEFORE YOU ALL WENT TO THE

7 STORE?

8 A: NO.

9 Q: DID YOU KNOW THAT LITTLE REG HAD MARIJUANA IN HIS

10 POCKET?

11 A: NO. NOT UNTIL AFTER THE PAPER. IT WAS IN THE

12 PAPER.

13 Q: YOU HAD SOME BULLETS IN YOUR POCKET, DIDN'T YOU?

14 A: YES.

15 Q: WHAT WERE YOU DOING WITH BULLETS IN YOUR POCKET?

16 A: NOTHING. JUST --- I WAS KEEPING THEM.

17 Q: HOW OLD WERE YOU AT THE TIME?

18 A: WHO ME?

19 Q: YES, SIR.

20 A: WHO ME?

21 Q: YES, SIR.

22 A: I WAS PROBABLY LIKE 20.

23 Q: WHEN IS YOUR BIRTHDAY?

24 A:

25 Q: WHAT YEAR?

HEARING

368

1 A: .

2 Q: SO YOU HAD BEEN 19 AT THE TIME, THAT WAS ONE MONTH

3 BEFORE YOUR BIRTHDAY?

4 A: YES.

5 Q: DO YOU KNOW IT'S ILLEGAL TO KEEP BULLETS ON YOU

6 UNTIL YOU BECOME 21?

7 A: NO, SIR.

8 Q: DID YOU HAVE A GUN TO GO WITH THE BULLETS?

9 A: NO, SIR.

10 Q: SOMEBODY ELSE GIVE YOU BULLETS TO HOLD?

11 A: NO, SIR.

12 Q: YOU JUST CARRIER A BUNCH OF BULLETS?

13 A: YES.

14 Q: WERE YOU IN SCHOOL AT THE TIME?

15 A: NO, SIR.

16 Q: HAD YOU GRADUATED?

17 A: NO, SIR.

18 Q: HOW LONG HAD YOU NOT ATTENDED SCHOOL?

19 A: A COUPLE OF YEARS.

20 Q: WERE YOU WORKING ANYWHERE?

21 A: I USE TO WORK, IT AIN'T TOO LONG I GET FIRED.

22 Q: ON MAY 19, 2003, WERE YOU WORKING ANYWHERE?

23 A: NO.

24 Q: AT NO POINT ON MAY 19TH, 2003, DID YOU SEE ANYONE

25 PULL A TRIGGER ON A GUN, DID YOU?

HEARING

369

1 A: NOTHING BUT THE GUN THAT I SEE TWINKIE WITH.

2 Q: YOU SAW HIM HOLDING IT BUT YOU DIDN'T SEE ANY GUN

3 ACTUALLY BE FIRED?

4 A: NO, I HAD MY HEAD DOWN.

5 Q: I ASKED YOU THAT THE FIRST TIME. DO YOU REMEMBER

6 HOW MANY SHOTS YOU DID HEAR ALTOGETHER?

7 A: NO, SIR.

8 Q: IF YOU'LL LOOK TOWARDS THE BOTTOM OF THE STATEMENT,

9 THE BACK OF THAT STATEMENT.

10 THE COURT: STEP BACK, PLEASE. DO IT THE WAY WE DID

11 IT BEFORE.

12 MR. BLACKMON: YES, SIR. I THOUGHT IT MIGHT BE

13 EASIER FOR ME TO POINT OUT THE SECTION BEFORE I ...

14 THE COURT: NO.

15 MR. BLACKMON: VERY WELL, SIR.

16 Q: IF YOU'LL COUNT DOWN, ONE, TWO, THREE, FOUR, FIVE,

17 SIX, SEVEN, EIGHT, NINE, TEN, ELEVEN, TWELVE LINES,

18 THE LAST WORD ON THAT SENTENCE IS THE. I'M GOING TO

19 READ THAT AND ASK YOU IF THAT'S AN ACCURATE READING.

20 THE OTHER GUY THAT WAS WITH TWINKIE WALKED UP TO

21 REESE AND STOOD BY HIM WHEN TWINKIE PULLED THE GUN

22 OUT. ISN'T THAT WHAT YOU SAID BACK THEN?

23 A: YES.

24 Q: YOU'VE REALLY DIDN'T SEE TWINKIE PULL A GUN OUT BACK

25 THEN, DID YOU?

HEARING

370

1 A: IT WAS ALREADY OUT.

2 Q: OKAY.

3 A: HE HAD TO PULL IT OUT.

4 Q: YOU SAY HE HAD TO PULL IT OUT.

5 A: I SAY HE DIDN'T HAD TO, IT WAS ALREADY OUT.

6 Q: SO, THEREFORE, IT'S NOT TRUTHFUL BACK THEN, WAS IT?

7 A: (NO RESPONSE)

8 MR. BLACKMON: I'D LIKE TO RETRIEVE MY COPY OF THE
9 STATEMENT, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MR. BLACKMON: THAT'S ALL.

12 THE COURT: ALL RIGHT. REDIRECT MR. CONNER?

13 REDIRECT BY MR. CONNER:

14 Q: LINWOOD, THE FIRST SHOT THAT WAS SHOT WAS SHOT AT
15 WHO?

16 A: TOWARDS WHERE REESE WAS.

17 Q: TOWARDS WHERE REESE WAS?

18 A: YES, SIR.

19 Q: IN YOUR PERSPECTIVE, THE SECOND SHOT, WHAT DID THAT
20 HIT?

21 A: ME IN MY LEG.

22 Q: IT HIT YOU IN THE LEG?

23 A: YES, SIR.

24 Q: NOW, ARE YOU A MEMBER OF ANY GANG THAT MR. WILSON
25 BELONGS TO?

HEARING

371

1 A: NO, SIR.

2 Q: ARE YOU A MEMBER OF ANY GANG AT ALL?

3 A: NO, SIR.

4 Q: NOW, WHEN YOU WERE LAYING THERE ON THE GROUND IN THE

5 BACKYARD OF REESE'S HOUSE, THE POLICE CAME TO YOU,

6 DIDN'T THEY?

7 A: YES, SIR.

8 Q: AND DID YOU TELL THE POLICE WHO HAD SHOT YOU?

9 A: YES, SIR.

10 Q: WHO DID YOU TELL THEM SHOT YOU?

11 A: TWINKIE.

12 Q: TWINKIE?

13 A: YES, SIR.

14 MR. CONNER: THANK YOU.

15 THE COURT: RECROSS?

16 RECROSS BY MR. BLACKMON:

17 Q: YOU JUST SAID THE FIRST SHOT WAS SHOT TOWARDS REESE,

18 WHERE REESE WAS, DIDN'T YOU?

19 A: YES, SIR.

20 Q: YOU DON'T KNOW WHERE THE FIRST SHOT WAS SHOT TOWARD,

21 DO YOU?

22 A: IT HAD TO BEEN TOWARDS THAT WAY.

23 Q: WHAT GUN FIRED THAT SHOT, IF YOU KNOW, PERSONALLY?

24 A: THE 9. I KNOW IT WHEN I HEAR IT.

25 Q: YOU HEARD THE SHOT AND YOU LOOKED UP?

THIRD JUDICIAL CIRCUIT

HEARING

372

- 1 A: YEAH.
- 2 Q: YOU DIDN'T SEE WHERE IT SHOT BECAUSE IT HAD ALREADY
- 3 BEEN SHOT, HADN'T IT?
- 4 A: YES.
- 5 Q: THE SECOND SHOT, YOU WERE RUNNING WEREN'T YOU?
- 6 A: UH-HUH. THAT'S WHEN I GET HIT IN MY LEG.
- 7 Q: BUT YOU DON'T KNOW WHO SHOT THAT TIME EITHER BECAUSE
- 8 YOU WERE RUNNING?
- 9 A: OH, I KNOW WHO SHOOT THAT TIME BECAUSE I SEEN HIM
- 10 RUNNING BEHIND ME GOING THIS WAY.
- 11 Q: OH, YOU SAW HIM SHOOT YOU WHILE YOU WERE RUNNING TO
- 12 THE BACK OF THE HOUSE?
- 13 A: I SEE HIM OUT THE CORNER OF MY EYE GOING DOWN THE
- 14 STREET AND THAT'S WHEN I HEAR ANOTHER SHOT AND
- 15 THAT'S WHEN I GET HIT IN MY LEG.
- 16 Q: YOU SAW HIM RUNNING DOWN THE STREET?
- 17 A: YES.
- 18 Q: DID YOU SEE HIM PULL THE TRIGGER?
- 19 A: I AIN'T BEEN LOOKING TO SEE NOBODY PULLING NO
- 20 TRIGGER I BEEN TRYING TO GET OUT THE WAY.
- 21 Q: EXACTLY RIGHT. YOU DIDN'T SEE THE FIRE COME OUT OF
- 22 THE PISTOL EITHER, DID YOU?
- 23 A: I KNOW I GET HIT AND IT HAD TO ...
- 24 Q: YOU DIDN'T SEE THE FIRE ...
- 25 THE COURT: DON'T ARGUE WITH HIM. ASK QUESTIONS.

HEARING

373

1 Q: DID YOU SEE THE FIRE COME OUT OF THE PISTOL?

2 A: NO, I WASN'T LOOKING FOR NO FIRE.

3 Q: WHEN YOU WERE RUNNING TO THE BACK OF THE HOUSE, YOU
4 WERE LOOKING IN WHAT DIRECTION?

5 A: TOWARDS THE BACK?

6 MR. BLACKMON: NOTHING FURTHER.

7 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU MAY STEP
8 DOWN. COUNSEL, LET ME SEE YOU FOR JUST A MINUTE.

9 (COUNSEL APPROACHES)

10 THE COURT: ALL RIGHT. MR. CONNER, YOU MAY CALL YOUR
11 NEXT WITNESS.

12 MR. CONNER:

13 Q: NOW, DO YOU KNOW HAROLD WILSON?

14 A: YES, SIR.

15 Q: WHAT DO YOU KNOW HIM AS? WHAT NAME DO YOU KNOW HIM
16 BY?

17 A: TWINKIE.

18 Q: TWINKIE?

19 A: YES, SIR.

20 Q: HOW LONG HAVE YOU KNOWN HIM?

21 A: PROBABLY FOUR OR FIVE YEARS PROBABLY.

22 Q: AND NOW, ON THE DAY THE SHOOTING OCCURRED IT
23 OCCURRED DOWN IN FRONT OF YOUR HOUSE, IS THAT RIGHT?

24 A: YES, SIR.

25 Q: DID YOU GO TO THE MARKET EXPRESS WITH ANYBODY?

HEARING

374

1 WITNESS: EDWARD MAURICE DINGLE, D-I-N-G-L-E.

2 MR. DINGLE - EXAMINATION BY MR. CONNER:

3 Q: MR. DINGLE, WHERE DO YOU LIVE?

4 A: AT

5 Q: WHO DO YOU LIVE WITH AT

6 A: MY AUNT AND MY UNCLE.

7 Q: WHAT'S THERE NAME?

8 A: JOSEPH GREEN AND PATRICIA GREEN.

9 Q: HOW LONG HAVE YOU BEEN LIVING HERE?

10 A: I'D SAY ABOUT 6 OR 7 YEARS.

11 Q: WERE YOU BORN IN SUMTER?

12 A: YEAH.

13 Q: YOU'VE LIVED HERE ALL YOUR LIFE?

14 A: YEAH.

15 Q: NOW, DO YOU KNOW HAROLD WILSON?

16 A: YES, SIR.

17 Q: WHAT DO YOU KNOW HIM AS? WHAT NAME DO YOU KNOW HIM
18 BY?

19 A: TWINKIE.

20 Q: TWINKIE?

21 A: YES, SIR.

22 Q: HOW LONG HAVE YOU KNOWN HIM?

23 A: PROBABLY FOUR OR FIVE YEARS PROBABLY.

24 Q: AND NOW, ON THE DAY THE SHOOTING OCCURRED IT

25 OCCURRED DOWN IN FRONT OF YOUR HOUSE, IS THAT RIGHT?

HEARING

375

- 1 A: YES, SIR.
- 2 Q: DID YOU GO TO THE MARKET EXPRESS WITH ANYBODY?
- 3 A: YES, SIR, I WENT WITH DADDY RABBIT, REG, AND D.L., MYSELF.
- 4 Q: DADDY RABBIT?
- 5 A: YES, SIR. LINWOOD.
- 6 Q: IS THAT ... THAT'S LINWOOD?
- 7 A: YES, SIR.
- 8 Q: AND D.L., IS HE IN THE COURTROOM HERE?
- 9 A: YES, SIR.
- 10 Q: WHERE IS HE?
- 11 A: SITTING IN THE FRONT ROW IN THE BLUE JACKET.
- 12 Q: THAT'S DALAMAR BURROUGHS?
- 13 A: YES, SIR.
- 14 Q: AND LITTLE REG, IS THAT REGGIE FOSTER?
- 15 A: YES, SIR.
- 16 Q: AND HOW DID YOU ALL GET TO THE MARKET EXPRESS?
- 17 A: RODE BIKES.
- 18 Q: NOW, WHEN YOU CAME BACK TO YOUR HOUSE, WHAT DID YOU
- 19 DO?
- 20 A: WELL, WENT IN AND TOOK MY STUFF IN FOR A QUICK SECOND
- 21 AND CAME STRAIGHT BACK OUT.
- 22 Q: AND YOU TOOK SOME STUFF IN THE HOUSE?
- 23 A: YES, SIR.
- 24 Q: AND WHAT WAS THAT FOR?
- 25 A: I THINK I WENT TO THE STORE FOR SOMEBODY ELSE, GET THEM

HEARING

376

1 SOMETHING FROM THE STORE.

2 THE COURT: SPEAK UP, PLEASE, SIR, I CAN'T UNDERSTAND
3 YOU.

4 A: YES, SIR.

5 Q: HE'S GOT A REAL SOFT ... WELL, IF YOU SLIDE UP TO THE
6 MICROPHONE A LITTLE BIT. GET AS CLOSE AS YOU CAN TO IT.

7 A: ALL RIGHT.

8 Q: SO YOU WENT IN THE HOUSE TO TAKE SOME STUFF TO
9 SOMEBODY INSIDE?

10 A: YES, SIR.

11 Q: AND THEN WHEN YOU CAME BACK OUT WHERE DID YOU GO?

12 A: TO THE THREE TRASH CANS.

13 Q: YOU WENT UP WHERE THE THREE TRASH CANS WERE?

14 A: YES, SIR.

15 Q: AND IS THAT WHERE EVERYBODY WAS CONGREGATED?

16 A: YES, SIR.

17 Q: NOW, WHEN DID YOU FIRST SEE TWINKIE AND THE OTHER
18 FELLOW?

19 A: ALL RIGHT. I SEEN TWINKIE EARLIER THAT DAY AT PEOPLE'S
20 COMMUNITY STORE DOWN THE STREET.

21 Q: SO YOU HAD SEEN HIM EARLIER IN THE DAY?

22 A: YEAH. YES, SIR.

23 Q: BUT I MEAN WHEN YOU WENT BACK OUTSIDE YOUR HOUSE
24 AFTER TAKING WHATEVER YOU TOOK IN, YOU WENT BACK OUT,
25 WAS TWINKIE THERE AT THE TRASH CAN WHEN YOU GOT THERE

- 1 OR DID HE COME UP LATER?
- 2 A: HE ... THEY WAS APPROACHING AS I WAS COMING OUT, HE WAS
- 3 APPROACHING, TOO.
- 4 Q: AND WHERE WERE THEY COMING FROM?
- 5 A: OUT TOWARDS THE GRAVEYARD WAY.
- 6 Q: SO THEY CAME FROM THE GRAVEYARD?
- 7 A: YES, SIR.
- 8 Q: AND IT WAS TWINKIE AND WHO ELSE?
- 9 A: TREZ.
- 10 Q: TREZ. DID YOU KNOW TREZ, TOO?
- 11 A: I JUST KNOW OF HIM. I JUST KNOW HIS NAME TREZ.
- 12 Q: NOW, TELL US WHAT HAPPENED THERE AT THE TRASH CANS,
- 13 MAURICE.
- 14 A: AFTER WE COME FROM THE STORE?
- 15 Q: YEAH.
- 16 A: ALL OF US JUST BEEN STANDING OUT THERE AND TWINK CAME
- 17 UP AND HE POINTED HIS GUN AND HE SAID, "LET ME GET THAT,
- 18 REESE." I TOLD HIM TO GO ON WITH THAT AND HE ... HE
- 19 MUMBLED SOMETHING ELSE I AIN'T ... I DIDN'T UNDERSTAND
- 20 THAT BECAUSE I SEEN THE GUN SO I REALLY WASN'T FOCUSING
- 21 SO I ... I REALLY DON'T KNOW WHAT ELSE HE SAID AFTER THAT.
- 22 AND AFTER ... I KNOW AFTER HE WAS MUMBLING SOMETHING
- 23 AND THAT WHEN HE STARTED FIRING HIS FIREARM.
- 24 Q: WHEN DID HE PULL HIS GUN?
- 25 A: HE FIRST PULLED IT WHEN HE SAY, "LET ME GET THAT, REESE."

HEARING

378

- 1 Q: HE SAID, "LET ME GET THAT, REESE"?
- 2 A: YEAH.
- 3 Q: AND WHAT DID YOU TAKE THAT TO MEAN?
- 4 A: I GUESS HE WAS TRYING TO ROB ME, I GUESS.
- 5 Q: YOU THOUGHT HE WAS TRYING TO ROB YOU?
- 6 A: YES, SIR.
- 7 Q: AND WHY DID YOU JUST SAY TO HIM GO ON OR SOMETHING?
- 8 DID YOU THINK THAT WOULD MAKE HIM GO AWAY?
- 9 A: NO, I JUST ... I DON'T KNOW WHY I SAID THAT. I JUST SAID IT.
- 10 Q: BUT HE DIDN'T GO AWAY, DID HE?
- 11 A: NO.
- 12 Q: WHAT DID HE DO THEN?
- 13 A: THEN ... THAT WHEN HE STARTED THAT MUMBLING ... THAT
- 14 PART DIDN'T COME IN REALLY CLEAR TO ME AND AFTER HE
- 15 STARTED MUMBLING THAT WHEN HE START FIRING.
- 16 Q: AND HOW MANY TIMES DID HE SHOOT THAT YOU KNOW OF?
- 17 A: I AIN'T KNOW. AFTER THAT ONE I JUST FADE BACK OUT FOR A
- 18 SECOND.
- 19 Q: AFTER HE SHOT THE FIRST TIME WHAT DID YOU DO?
- 20 A: I RAN.
- 21 Q: AND WHERE DID YOU RUN?
- 22 A: TOWARDS THE BACK OF MY HOUSE LIKE IN THE MIDDLE,
- 23 BETWEEN 210 AND 208.
- 24 Q: SO YOU RAN BETWEEN 210 AND 208?
- 25 A: YES, SIR.

1 Q: AND DID ... DID YOU ... DID YOU GO IN WELL, THE SIDE ... THE
2 BACK DOOR OF YOUR HOUSE?
3 A: WELL, IT WAS LOCKED. I COULDN'T GET IN THROUGH THAT
4 SIDE.
5 Q: SO YOU TRIED TO GO IN THAT DOOR?
6 A: YEAH.
7 Q: AND IT WOULDN'T ... COULDN'T GET IN.
8 A: NO, SIR.
9 Q: SO THEN YOU ... WHAT DID YOU DO?
10 A: YEAH, I ... I THOUGHT I HEARD SOMETHING IN THE BACK AND AS
11 I WENT AROUND TOWARDS THE BACK I SEEN LYNWOOD BACK
12 THERE.
13 Q: HE WAS ON THE GROUND?
14 A: YES, SIR.
15 Q: WHAT DID HE SAY TO YOU?
16 A: HE TOLD ME THAT HE WAS SHOT, THAT HE'D BEEN HIT.
17 Q: DID HE ASK YOU TO GET HIM SOME HELP?
18 A: YES, SIR.
19 Q: WHAT DID YOU DO THEN?
20 A: WELL, WE HAD TO WAIT FOR A FEW MINUTES TIL PEOPLE CAME
21 OUTSIDE AND I TOLD MY AUNT AND THEM TO CALL THE POLICE.
22 Q: SO YOU TOLD YOUR AUNT TO CALL THE POLICE?
23 A: YES, SIR.
24 Q: WHAT'S HER NAME?
25 A: PATRICIA GREEN.

HEARING

380

- 1 Q: I'M GONNA ASK YOU TO COME DOWN HERE AND POINT ... I'M
2 GONNA HAVE TO PUT THIS OVER HERE ...
3 THE COURT: HE NEEDS TO BE OVER THERE NEAR THAT
4 MICROPHONE BECAUSE IF HE'S NOT OVER THERE NEAR THAT
5 MICROPHONE NOBODY'S GOING TO HEAR HIM.
- 6 Q: STAND RIGHT CLOSE TO THAT MICROPHONE THERE. PUT THIS
7 BACK A LITTLE BIT. NOW, I ... I WANT TO ... I WANT YOU TO
8 SHOW WHERE YOU WERE LOCATED WHEN YOU FIRST SAW
9 TWINKIE.
- 10 A: EARLIER THAT DAY?
- 11 Q: NO. I'M TALKING ABOUT THEN WHEN THE SHOOTING
12 OCCURRED.
- 13 A: HE WAS LIKE PROBABLY LIKE COMING UP TOWARDS THIS WAY.
- 14 Q: HE CAME FROM THAT WAY?
- 15 A: YEAH. TOWARDS ... OUT TOWARDS THE GRAVEYARD.
- 16 Q: WHERE WERE YOU STANDING?
- 17 A: I WAS COMING OUT AND HE WAS LIKE, THEY WAS STILL COMING
18 DOWN AND I WAS COMING OUT ... OUT OF THE HOUSE.
- 19 Q: AND WHERE DID YOU GO TO?
- 20 A: I WAS LIKE ... I THINK I WAS ON THIS SIDE OF THE MIDDLE OF THE
21 TRASH CAN, SO OVER HERE.
- 22 Q: SO YOU WERE NEAR THE MIDDLE TRASH CAN?
- 23 A: YES, SIR.
- 24 Q: AND WHERE WAS HE?
- 25 A: HE WAS LIKE COMING UP, THEN AS HE CAME UP, HE CAME AND

- 1 WENT ON THIS SIDE LIKE ... LIKE RIGHT UP IN HERE SOMEWHERE.
2 PROBABLY OVER HERE.
- 3 Q: AND THAT'S WHERE HE WAS WHEN HE PULLED OUT THE GUN?
4 A: YES, SIR.
- 5 Q: AND ... AND WHEN HE STARTED SHOOTING WHERE DID YOU
6 RUN?
7 A: LIKE I THINK I CUT BACK THROUGH THIS WAY AND WENT
8 AROUND THIS WAY.
- 9 Q: AND WHERE IS THAT DOOR ON YOUR ... YOUR ... YOUR HOME
10 HERE, 208?
11 A: IT'S RIGHT HERE.
- 12 Q: THAT'S THE DOOR YOU TRIED TO GET IN?
13 A: YES, SIR.
- 14 Q: AND YOU SAY YOU COULDN'T GET IN IT?
15 A: YES, SIR.
- 16 Q: BECAUSE IT WAS LOCKED.
17 A: YES, SIR.
- 18 Q: SO THEN YOU RAN ON AROUND AND SAW LINWOOD ON THE
19 BACKSIDE OF THE TRAILER?
20 A: YES, SIR.
- 21 Q: AND WHAT DOOR DID YOUR AUNT COME OUT OF?
22 A: I THINK IT WAS THE FRONT.
- 23 Q: WHERE IS THAT?
24 A: RIGHT HERE.
- 25 Q: IS SHE THE ONE THAT CALLED THE POLICE?

HEARING

382

1 A: YES, SIR, I THINK SO.

2 Q: NOW, DID YOU SEE ... DID YOU SEE DWAUNTREZ WITH HIM? WAS
3 TREZ WITH TWINKIE?

4 A: YES, SIR.

5 Q: NOW, DID YOU ... DID YOU SEE ... DID TREZ HAVE A GUN ON HIM?

6 A: NO, SIR.

7 Q: DID YOU SEE ... DID YOU SEE ONE ON ANYBODY ELSE OTHER
8 THAN TWINKIE?

9 A: NO, SIR.

10 Q: HAVE A SEAT.

11 THE COURT: DOES THAT COMPLETE YOUR DIRECT
12 EXAMINATION, MR. CONNER?

13 MR. CONNER: IT DOES, YOUR HONOR.

14 THE COURT: ALL RIGHT. CROSS EXAMINATION, MR.
15 BLACKMON?

16 MR. DINGLE - CROSS EXAMINATION BY MR. BLACKMON:

17 Q: MR. DINGLE, DO YOU REMEMBER HOW LONG MR. WILSON WAS
18 OUT THERE THAT DAY BEFORE YOU ALL WENT TO MARKET
19 EXPRESS?

20 A: PROBABLY A COUPLE OF MINUTES, NOT LONG.

21 Q: NOW, LITTLE REGGIE, AFTER YOU ALL CAME BACK FROM THE
22 MARKET EXPRESS, YOU TOOK YOUR STUFF IN THE HOUSE?

23 A: YES, SIR.

24 Q: DO YOU REMEMBER WHAT YOU TOOK IN?

25 A: PACK OF CIGARETTES AND A MOUNTAIN DEW.

HEARING

383

- 1 Q: DID YOU GO THROUGH THE BACK DOOR OR THE FRONT DOOR?
- 2 A: THE FRONT.
- 3 Q: YOU CAME BACK OUT THE FRONT?
- 4 A: YES, SIR.
- 5 Q: AND WHEN YOU CAME BACK OUT THE FRONT AFTER TAKING
- 6 YOUR STUFF IN EVERYBODY ELSE WAS ALREADY
- 7 CONGREGATED AROUND THE TRASH CANS?
- 8 A: YES, SIR, EXCEPT TWINK AND TREZ.
- 9 Q: LITTLE REGGIE WAS IN FRONT OF THE MIDDLE TRASH CAN?
- 10 A: I THINK SO, YES, SIR.
- 11 Q: DO YOU REMEMBER WHETHER HE WAS SITTING ON HIS BIKE
- 12 STILL OR STANDING UP?
- 13 A: I CAN'T REMEMBER.
- 14 Q: WHEN YOU ALL WENT TO THE MARKET EXPRESS, DID LITTLE
- 15 REGGIE RIDE HIS OWN BIKE?
- 16 A: NO, I PULLED HIM ON HIS BIKE BECAUSE I DIDN'T HAVE A BIKE.
- 17 Q: SO HE RODE ON THE HANDLEBARS OF HIS BIKE AND YOU RODE
- 18 HIS BIKE?
- 19 A: YES, SIR.
- 20 Q: NOW, WHEN YOU GOT BACK OUT THERE WAS DADDY RABBIT OR
- 21 LINWOOD, WAS HE STANDING OUT THERE BESIDE ALL THE
- 22 TRASH CANS, TOO, AFTER YOU DROPPED YOUR STUFF OFF?
- 23 A: YES, SIR.
- 24 Q: WAS HE STILL SITTING ON HIS BICYCLE OR STANDING UP?
- 25 A: CAN'T REMEMBER.

HEARING

384

1 Q: OKAY. NOW, WHEN YOU ALL WERE COMING FROM THE MARKET
2 EXPRESS YOU ALL HAD COME DOWN THAT ROAD AND TURNED
3 LEFT TO GET BACK ONTO COMMERCE STREET?

4 A: YES, SIR.

5 Q: SO MARKET EXPRESS WOULD HAVE UP ON ...

6 A: IT'S FURTHER DOWN THE GUIGNARD WAY.

7 Q: OKAY. AND AGAIN I'M CONFUSED. WHEN YOU CAME OUT OF
8 YOUR HOUSE I THOUGHT YOU SAID THEY WERE ALL ALREADY
9 STANDING IN FRONT OF YOUR TRASH CANS.

10 A: THEY WERE.

11 Q: DO YOU REMEMBER GIVING A STATEMENT BACK ON MAY THE
12 19TH, THE SAME DAY THIS THING HAPPENED?

13 A: YES, SIR.

14 Q: LET ME SHOW YOU A COPY OF THAT.

15 A: GOT MY OWN COPY.

16 Q: OKAY. SO YOUR TESTIMONY JUST NOW WAS THAT YOU CAME
17 OUT YOUR FRONT DOOR AFTER DROPPING YOUR STUFF OFF AND
18 THEY WERE ALL CONGREGATED AT THE TRASH CANS, ISN'T
19 THAT RIGHT?

20 A: YES, SIR, AFTER I DROPPED THE STUFF OFF, YES, SIR.

21 Q: OKAY. IF YOU'LL LOOK ON THAT STATEMENT AT THE POINT
22 WHERE IT SAYS SO I WAS COMING OUT THE HOUSE WHAT DID
23 YOU SAY BACK THEN?

24 A: WHAT PARAGRAPH IS THAT IN? WHERE IS THAT AT?

25 Q: ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT, NINE LINES

1 DOWN FROM THE START ABOUT HALFWAY CROSS THAT LINE, IT
2 SAYS SO I WAS COMING OUT THE HOUSE.

3 A: YES, SIR, I GOT IT.

4 Q: WOULD YOU READ THAT, PLEASE, SIR?

5 A: "SO I WAS COMING OUT OF THE HOUSE AND I MET ... I MET THEM
6 ABOUT TWO HOUSES DOWN FROM MY HOUSE."

7 Q: WHO WAS IT YOU MET ABOUT TWO HOUSES DOWN FROM YOUR
8 HOUSE?

9 A: I SAID TWO HOUSES DOWN BUT IT ... IT ACTUALLY WASN'T THAT
10 FAR DOWN. IT WAS ABOUT ... ABOUT A HOUSE OVER BECAUSE
11 WE WASN'T EXACTLY LIKE STANDING IN FRONT OF MY HOUSE,
12 IT WAS LIKE PIECE OF THE WAY OF THE NEXT DOOR NEIGHBOR'S
13 YARD, TOO.

14 Q: OKAY, SO GO AHEAD AND READ THE NEXT SENTENCE.

15 A: "SO WE WALKED DOWN ... SO WE WALKED BACK DOWN TO THE
16 FRONT ... TOWARD THE FRONT OF MY HOUSE AND LITTLE REG
17 WAS LEANING ON THE TRASH CAN."

18 Q: IF YOU DIDN'T REALLY MEET THEM TWO HOUSES DOWN AND
19 WALKED BACK DOWN THE ROAD IN FRONT OF YOUR TRASH CAN
20 BECAUSE THEY WERE ALREADY THERE.

21 A: WE WALKED BACK BUT IT WASN'T ... LIKE I SAID IT WASN'T TWO
22 HOUSES DOWN. IT WAS LIKE IN THE MIDDLE OF TOWARDS THE
23 NEXT DOOR NEIGHBOR'S YARD AND PART OF MY YARD, TOO.

24 Q: OKAY. SO WHEN YOU WALK BACK IN FRONT YARD AND SAID A
25 MINUTE AGO THEY WERE ALREADY ALL CONGREGATED AT THE

HEARING

386

- 1 TRASH CANS THAT WAS A LIE, WASN'T IT?
- 2 A: THAT'S WASN'T ... NO, NO, SIR, IT WAS NOT A LIE BECAUSE WE
- 3 CONSIDER ALL THAT BASICALLY PART OF JUST ONE YARD.
- 4 Q: WELL, WERE THEY STANDING AT THE TRASH CANS OR DID YOU
- 5 ALL HAVE TO ALL WALK DOWN THE ROAD SOME?
- 6 A: WE DIDN'T WALK DOWN THE ROAD SOME. WE WALKED
- 7 PROBABLY A COUPLE OF STEPS.
- 8 Q: WELL, IF YOU WALKED A COUPLE STEPS THEN THEY WEREN'T
- 9 ALREADY ALL CONGREGATED IN FRONT OF THE TRASH CANS,
- 10 WERE THEY?
- 11 A: WE WAS CLOSE BY THE TRASH CANS.
- 12 Q: WELL, THE TRASH CANS IS WHERE YOU ALL ENDED UP, WASN'T
- 13 IT?
- 14 A: YES, SIR.
- 15 Q: SO IF THEY WERE ALREADY THERE THEY DIDN'T WALK
- 16 ANYMORE, DID THEY?
- 17 A: THEY WERE ... THEY WAS LIKE BY THE BUSH AND THE ONLY
- 18 THING WE HAD TO DO WAS COME DOWN A COUPLE OF FEET AND
- 19 WE WAS IN FRONT OF THE TRASH CANS.
- 20 Q: OKAY. SO WHEN YOU SAID BACK THEN YOU WALKED ABOUT
- 21 TWO HOUSES DOWN THAT WAS TOTALLY INCORRECT. YOU JUST
- 22 WALKED A BUSH LENGTH.
- 23 A: THAT JUST ... IT WAS SOMEWHAT ... IT WAS BUSH LENGTH.
- 24 Q: IT WASN'T TWO HOUSES, THEN?
- 25 A: NO.

- 1 Q: OKAY. WELL, WHEN YOU GOT THERE LITTLE REG WAS ALREADY
2 LEANING ON THE TRASH CAN, WASN'T HE?
- 3 A: NO.
- 4 Q: SO HE WASN'T ALREADY LEANING ON THE TRASH CAN?
- 5 A: NO, LIKE I SAID WE CAME TWO FEET DOWN FROM THE BUSH AND
6 THEN THAT'S WHEN HE WAS LEANING ON THE TRASH CAN.
- 7 Q: SO WE WALKED BACK DOWN TO IN FRONT OF MY HOUSE AND
8 LITTLE REGGIE WAS LEANING ON THE TRASH CAN.
- 9 A: AFTER WE WALKED.
- 10 Q: OKAY. AND DADDY RABBIT WAS LEANING ON THE OTHER
11 TRASH CAN.
- 12 A: YES, SIR, ON THE OTHER SIDE. THE FURTHEST ONE ... THE THIRD
13 ONE I THINK TOWARDS THE BUSH.
- 14 Q: YOU WERE STANDING BEHIND THE SAME TRASH CAN LITTLE
15 REGGIE WAS LEANING ON.
- 16 A: YES, SIR.
- 17 Q: THAT WOULD BE ...
- 18 A: I WAS LIKE PROBABLY NOT-EXACTLY BEHIND IT. I'LL SAY
19 BESIDE IT.
- 20 Q: OKAY. THEN YOU WEREN'T STANDING BEHIND THE SAME
21 TRASH CAN THAT LITTLE REGGIE WAS LEANING ON?
- 22 A: NOT ... NOT EXACTLY BEHIND IT. I'LL SAY BESIDE IT.
- 23 Q: BUT YOU DID INITIAL THIS STATEMENT AND YOU SIGNED IT,
24 DIDN'T YOU?
- 25 A: YES, SIR, YES, SIR, I DID.

HEARING

388

- 1 Q: AND DID YOU NOT TELL THE OFFICER IT WAS ALL TRUE WHEN
2 YOU DID THAT?
- 3 A: YES, SIR, I DID.
- 4 Q: SO YOU WEREN'T REALLY STANDING BEHIND THAT TRASH CAN
5 WHEN YOU TOLD HIM YOU WERE?
- 6 A: I WAS STANDING BESIDE THE TRASH CAN. IT WASN'T EXACTLY
7 BEHIND IT, IT WAS LIKE IN THE MIDDLE ... LIKE PROBABLY IF I
8 TOOK ANOTHER STEP I WOULD HAVE BEEN BEHIND IT AND IF I
9 TOOK ANOTHER STEP FORWARD I WOULD HAVE BEEN IN FRONT
10 OF IT.
- 11 Q: OKAY. AND LITTLE REG WAS LEANING ON THAT SAME TRASH
12 CAN THAT YOU WERE BEHIND AND TO THE SIDE.
- 13 A: YES, SIR.
- 14 Q: AND THAT WAS THE MIDDLE TRASH CAN.
- 15 A: YES, SIR, I THINK SO.
- 16 Q: AND AT NO TIME BEFORE ANY SHOOTING STARTED OR AFTER
17 YOU HEARD ANY SHOOTING DID YOU SEE LITTLE REG MOVE
18 AWAY FROM IN FRONT OF THAT MIDDLE TRASH CAN, DID YOU?
- 19 A: I CAN'T REMEMBER. I CAN'T RECALL EXACTLY HOW.
- 20 Q: WHEN YOU STARTED RUNNING WHERE WAS LITTLE REG?
- 21 A: I CAN'T REMEMBER. I STARTED RUNNING I ... MY MIND BLANKED
22 OUT. I WAS NERVOUS AND I'M SCARED SO I CAN'T REMEMBER
23 FROM THAT ... FROM THE POINT.
- 24 Q: YOU SAW TWINKIE AND TREZ COME WALKING UP OUT OF THE
25 GRAVEYARD?

- 1 A: THEY COMING FROM TOWARDS THAT DIRECTION.
- 2 Q: YOU KNEW IT WAS TREZ WHEN HE CAME WALKING UP, DIDN'T
- 3 YOU?
- 4 A: YEAH, I KNEW IT WAS HIM.
- 5 Q: BECAUSE TREZ HAD BEEN EARLIER THAT DAY, HE'D BEEN OUT
- 6 THERE WITH TWINKIE, HADN'T HE?
- 7 A: YES, SIR.
- 8 Q: THE NEXT SENTENCE YOU TOLD THE POLICE BACK THEN WAS
- 9 THEN TWINKIE, I DON'T KNOW HIS REAL NAME, AND SOME
- 10 SKINNY DUDE CAME WALKING UP FROM OUT OF THE
- 11 GRAVEYARD. SO YOU REALLY DO KNOW TWINKIE'S NAME IS
- 12 HAROLD WILSON, DON'T YOU?
- 13 A: NO, SIR, I DID NOT KNOW THAT AT THE TIME.
- 14 Q: OKAY. WELL, YOU DIDN'T KNOW THE SKINNY DUDE WAS TREZ
- 15 AT THE TIME?
- 16 A: I JUST KNEW TREZ. I DIDN'T KNOW NOTHING ELSE.
- 17 Q: YOU JUST KNEW TREZ AND THAT'S ALL?
- 18 A: YES, SIR.
- 19 Q: SO WHY DID YOU TELL THE POLICE IT WAS SOME SKINNY DUDE
- 20 AND NOT TREZ?
- 21 A: BECAUSE IT WAS SOME SKINNY DUDE.
- 22 Q: BUT YOU DIDN'T TELL THEM IT WAS TREZ.
- 23 A: WELL --- AT THE TIME.
- 24 Q: DID YOU SEE TWINKIE WITH A GUN IN HIS HAND WHEN HE WAS
- 25 WALKING UP THE STREET OUT OF THE GRAVEYARD?

HEARING

390.

- 1 A: AS HE WAS WALKING? NO, ... NO, SIR, I DIDN'T.
- 2 Q: OKAY. SO THE FIRST TIME YOU SAW THE GUN WAS WHEN?
- 3 A: WHEN HE PULLED IT OUT.
- 4 Q: HAD HE SAID SOMETHING RIGHT BEFORE HE PULLED IT OUT?
- 5 A: HE SAID ... WHEN HE PULLED IT OUT HE SAID, "LET ME GET THAT,
- 6 REESE."
- 7 Q: YOU KNOW REMEMBER HIM SAYING, "LET ME GET THAT,
- 8 REESE"?
- 9 A: YES, SIR.
- 10 Q: AND YOU'RE SURE THOSE ARE THE EXACT WORDS THAT CAME
- 11 OUT OF HIS MOUTH?
- 12 A: YES, SIR, THOSE WERE HIS EXACT WORDS.
- 13 Q: WHY DIDN'T YOU THE POLICE HE SAID THAT, ON MAY 19TH OF
- 14 2003?
- 15 A: I DON'T KNOW.
- 16 Q: WOULD YOU READ THAT STATEMENT ... JUST LOOK AT IT AND
- 17 TELL ME WHERE IN THAT STATEMENT YOU TOLD THE POLICE AT
- 18 ANY TIME THAT TWINKIE SAID, "LET ME GET THAT, REESE."
- 19 A: IT'S NOT HERE.
- 20 Q: IT'S NOT IN THERE AT ALL, IS IT?
- 21 A: NO, SIR, IT'S NOT.
- 22 Q: YOU NEVER HEARD TWINKIE SAY ANYTHING ABOUT HAVING
- 23 SHOULD OF SHOT YOU ALL'S ASSES BECAUSE OF WHAT YOU ALL
- 24 DID IN THE CHURCH YARD, DID YOU?
- 25 A: WHEN I SAW THE GUN THE FIRST TIME MY MIND JUST BLANKED

1 OUT AND I KNOW HE WAS SAYING SOMETHING BUT I WASN'T ...

2 I'M NOT SURE WHAT HE WAS SAYING.

3 Q: OKAY. YOU DIDN'T HEAR HIM SAY THAT?

4 A: I'M NOT SURE. YEAH, HE SAID SOMETHING BUT I'M NOT SURE
5 WHAT HE SAID.

6 Q: YOUR TESTIMONY A LITTLE WHILE AGO WAS HE CAME UP,
7 POINTED THE GUN, SAID, "LET ME GET THAT, REESE,", YOU TOLD
8 HIM GO ON ...

9 A: I SAID, "GO AHEAD ON."

10 Q: GO AHEAD ON?

11 A: YEAH.

12 Q: AND THEN HE SAID THE SAME THING AGO OR HE JUST STARTED
13 MUMBLING SOMETHING.

14 A: I MEAN, YOU KNOW ... I DON'T KNOW, I SAW THE GUN THE FIRST
15 TIME I ... I WAS NERVOUS AND I WAS SCARED SO I ... I DON'T
16 KNOW.

17 Q: OKAY. WHEN YOU SAW THE GUN THE FIRST TIME DID YOU SEE
18 HIM DROP THE GUN BACK DOWN BY HIS SIDE?

19 A: YES, SIR, I DID.

20 Q: YOU DIDN'T SAY THAT, THOUGH, DID YOU?

21 A: I SAID HE PUT IT LIKE BACK IN HIS COAT.

22 Q: OH, HE PUT IT BACK IN HIS COAT?

23 A: YES, SIR, THAT WHY ... THAT'S WHAT I GOT IN MY STATEMENT.

24 Q: LET ME MAKE SURE I GET THIS RIGHT. SO WHAT YOU'RE NOW
25 TELLING THE JURY IS HE WALKED UP, HE POINTED A GUN, HE

HEARING

392

- 1 HAD TO PULL IT OUT OF HIS COAT TO GET IT ...
- 2 A: YES, SIR.
- 3 Q: ... THEN HE SAID, "LET ME GET THAT, REESE" ...
- 4 A: YES, SIR.
- 5 Q: YOU TOLD HIM TO GO AHEAD AND GO ON ...
- 6 A: YES, SIR.
- 7 Q: ... HE WAS MUMBLING SOMETHING AND THEN HE PUT THE GUN
- 8 BACK IN HIS COAT?
- 9 A: I DON'T ... I'M NOT SURE IF HE PUT IT BACK IN HIS COAT BUT I
- 10 KNOW HE PUT IT ... HE PUT IT DOWN AND HE HAD ... THE WAY HE
- 11 WAS TURNED I COULDN'T EXACTLY SEE ...
- 12 Q: SO HOW ...
- 13 A: ... IF HE PUT IT IN HIS COAT OR NOT.
- 14 Q: ... HOW ... I'M SORRY, GO AHEAD.
- 15 A: HE WAS TURNED LIKE TOWARDS THE SIDE AND SO I COULDN'T
- 16 SEE ...
- 17 Q: LET ME TURN THIS WAY. IS THIS THE WAY HE WAS KIND OF
- 18 TURNED OR WAS IT THE OTHER SIDE?
- 19 A: YEAH, I THINK IT WAS ON THE OTHER SIDE.
- 20 Q: SO IT WOULD HAVE BEEN TURNED KIND OF LIKE THIS?
- 21 A: YES, SIR.
- 22 Q: AND WAS HE HOLDING THE GUN WHEN HE RAISED IT IN HIS
- 23 RIGHT HAND OR HIS LEFT HAND?
- 24 A: I BELIEVE IT WAS HIS RIGHT.
- 25 Q: OKAY. SO THEN YOU THINK THE GUN WENT SOMEWHERE. YOU

HEARING

393

- 1 DON'T REMEMBER IT GOING DOWN TO HIS SIDE?
- 2 A: I REMEMBER THAT BUT I DON'T REMEMBER IF ... IF IT WENT IN ...
- 3 BACK IN HIS POCKET OR ... I KNOW HE PUT IT DOWN.
- 4 Q: AND HE WAS MUMBLING SOMETHING.
- 5 A: YES, SIR. HE MUMBLED AFTER ... WHEN HE RAISED IT BACK UP,
- 6 THAT WAS HE WAS MUMBLING SOMETHING.
- 7 Q: DID YOU NOT KEEP YOUR EYES ON THAT GUN FROM THE FIRST
- 8 MINUTE HE POINTED IT AT YOU?
- 9 A: I WAS ... YEAH, I WAS WATCHING HIM, YEAH.
- 10 Q: WAS HE POINTING IT AT YOU?
- 11 A: YES, HE DID. HE POINTED IT AT ME.
- 12 Q: SO YOU WERE WATCHING HIM THE WHOLE TIME AT THAT
- 13 POINT?
- 14 A: YES, SIR, WHEN I FIRST SEEN THE GUN I ... MY EYES WAS ON HIM,
- 15 YES, SIR.
- 16 Q: DID YOUR EYES LEAVE THE GUN AT ANY POINT AFTER THAT?
- 17 A: EXCEPT FOR WHEN HE HIDE IT ON HIS SIDE. IF HE PUT IT BACK
- 18 IN HIS COAT I DON'T KNOW. WHEN IT WENT BACK ON THE SIDE
- 19 THAT WAS THE ONLY TIME I DIDN'T SEE IT AFTER THAT.
- 20 Q: SO YOU'RE NOT REAL SURE WHERE THE GUN WENT. YOU DON'T
- 21 KNOW IF IT WENT BACK IN HIS POCKET OR JACKET OR DOWN AT
- 22 HIS SIDE?
- 23 A: YES, SIR, I DON'T KNOW.
- 24 Q: BUT YOU REMEMBER HEARING SOME WORDS?
- 25 A: YES. HE POINTED ... HE POINTED IT AGAIN AND THEN HE

HEARING

394

- 1 MUMBLED HIS WORDS.
- 2 Q: THEN HE POINTED IT AGAIN.
- 3 A: POINTED IT THEN HE MUMBLED HIS WORDS.
- 4 Q: SO THAT WOULD BE THE SECOND TIME HE POINTED IT?
- 5 A: YES, SIR.
- 6 Q: THAT'S WHEN THE FIRING STARTED?
- 7 A: YES, SIR.
- 8 Q: DID YOU SEE THE FIRST SHOT COME OUT OF THE GUN?
- 9 A: NO, SIR.
- 10 Q: DID YOU SEE THE MUZZLE FIRE COME OUT OF THE GUN?
- 11 A: NO, SIR.
- 12 Q: WERE YOU SPECIFICALLY LOOKING AT THE GUN WHEN YOU
- 13 HEARD THE FIRST SHOT GO OFF?
- 14 A: NO, SIR.
- 15 Q: WHERE WERE YOU LOOKING?
- 16 A: LIKE WHEN HE POINTED IT I WASN'T RIGHT THERE WHEN IT
- 17 FIRST WENT OFF BECAUSE WHEN HE POINTED IT BACK THE
- 18 SECOND TIME HE SAY SOMETHING AND THEN THAT'S WHEN I
- 19 STARTED RUNNING.
- 20 Q: SO WHEN HE POINTED IT THE SECOND TIME YOU STARTED TO
- 21 RUN AND THEN ...
- 22 A: AND ... NO. I RAN AND I SAY A COUPLE SECONDS AFTER THAT
- 23 THAT WHEN IT WENT OFF. JUST A FEW SECONDS AFTER THAT.
- 24 Q: SO YOU RAN AND IT WAS A COUPLE OF SECONDS AND THEN THE
- 25 GUN WENT OFF.

1 A: YES, SIR.

2 Q: AND HOW MANY TIMES DID IT GO OFF?

3 A: I'M NOT SURE.

4 Q: HOW MANY DO YOU REMEMBER TODAY?

5 A: I'M NOT SURE. LIKE I SAID WHEN I WAS RUNNING I... WHEN HE
6 PULLED IT OUT THE SECOND TIME I WAS NERVOUS AND SCARED.
7 SO I'M NOT SURE.

8 Q: WOULD IT BE FAIR TO SAY YOU MIGHT HAVE REMEMBERED
9 BETTER BACK ON MAY 19TH OF 2003? OR WOULD YOU
10 REMEMBER BETTER NOW?

11 A: I REALLY DIDN'T ... I DON'T KNOW.

12 Q: OKAY, LET'S LOOK BACK AT YOUR STATEMENT WHERE WE
13 STOPPED. "I WAS STANDING BEHIND THE SAME TRASH CAN
14 THAT LITTLE REGGIE WAS LEANING ON. DL WAS ON THE SIDE OF
15 THE SAME TRASH CAN. THEN TWINKIE, I DON'T KNOW WHAT HIS
16 REAL NAME IS, SOME SKINNY DUDE, CAME WALKING UP FROM
17 OUT OF THE GRAVEYARD." THEN IF YOU GO DOWN ABOUT
18 THREE LINES, "SO THEY CAME UP TO US FROM THE GRAVEYARD.
19 TWINKIE WAS SAYING SOMETHING ...

20 MR. CONNER: MAY IT PLEASE THE COURT? I DON'T
21 BELIEVE THIS IS PROPER CROSS EXAMINATION.

22 THE COURT: NO, SIR, IT'S NOT. OBJECTION IS SUSTAINED.

23 MR. BLACKMON: I'LL REPHRASE IT, YOUR HONOR.

24 Q: DIDN'T YOU SAY INITIALLY BACK ON MAY 19TH THAT ABOUT
25 FIVE SHOTS WENT OFF BEFORE YOU STARTED TO RUN?

HEARING

396

- 1 A: YES, SIR, I DID SAY THAT.
- 2 Q: OKAY. NOW, YOU'RE SAYING YOU STARTED RUNNING BEFORE
- 3 ANY SHOTS WERE FIRED.
- 4 A: YES, SIR.
- 5 Q: SO YOU WERE NOT TELLING THE TRUTH WHEN YOU SAY IT MAY
- 6 19TH, THAT THE FIVE SHOTS WENT OFF BEFORE YOU STARTED
- 7 RUNNING?
- 8 A: I JUST SAID WHAT EVERYBODY ELSE SAID.
- 9 Q: YOU SAID WHAT EVERYBODY ELSE SAID THEN ...
- 10 A: YES, SIR.
- 11 Q: ... OR YOU'RE SAYING WHAT EVERYBODY ELSE SAID NOW?
- 12 A: I SAID WHAT THEY BE SAYING THEN.
- 13 Q: OKAY. SO WHAT YOU WERE SAYING THEN WASN'T TRUTHFUL.
- 14 A: I JUST ... THAT'S WHAT EVERYBODY ELSE HAD SAY, HOW MANY
- 15 THEY HEARD SO THAT'S WHAT I WENT BY.
- 16 Q: YOU SAID TODAY THAT WHAT HE PULLED OUT WAS A NINE
- 17 MILLIMETER, WASN'T IT?
- 18 A: I SAID A .380 OR A NINE.
- 19 Q: IS THAT WHAT YOU SAID TODAY?
- 20 A: OH, NO, I SAID ... YEAH, I DID SAY A NINE TODAY, YES, SIR.
- 21 Q: WELL, BACK THEN YOU SAID IT WAS A KB OR A .380 OR A NINE.
- 22 A: YES, SIR, I DID SAY THAT BECAUSE IT LOOKED LIKE IT COULD
- 23 HAVE BEEN EITHER ONE.
- 24 Q: BUT YOU REMEMBER TODAY WHAT TWINKIE WAS WEARING
- 25 THEN?

1 A: I JUST REMEMBER THE ... HIS BROWN OR ORANGE COAT WITH
2 WHITE LETTERS AND SOME BLUE JEANS.

3 Q: TODAY YOU REMEMBER IT BEING A BROWN ORANGE COAT?

4 A: BROWN OR ORANGE. IT COULD HAVE BEEN ... IT WAS LIKE A ...

5 Q: BACK ON MAY 19TH YOU REMEMBERED IT BEING A BROWN COAT,
6 DIDN'T YOU?

7 A: AND THAT'S WHAT I JUST SAID. IT WAS LIKE A BROWNISH
8 ORANGE. BROWN OR ORANGE.

9 Q: WELL, SIR, WILL YOU READ THE FIRST LINE OF THE LAST
10 PARAGRAPH ON PAGE ONE OF YOUR STATEMENT CONCERNING
11 WHAT HE WAS WEARING?

12 A: YEAH, BROWN COAT.

13 Q: YOU DIDN'T SAY BACK THEN HE WAS WEARING A BROWNISH
14 ORANGE COAT, DID YOU?

15 A: I MEAN IT COULD HAVE BEEN EITHER ONE. IT WAS ... THE COAT
16 WAS KIND OF FADED OUT A LITTLE BIT, HAD LOOKED LIKE IT
17 WAS ORANGE BUT IT PROBABLY WAS BROWN.

18 Q: WHEN YOU DIDN'T IDENTIFY TREZ AS BEING TREZ ON MAY 19TH
19 OF 2003, YOU GAVE A DESCRIPTION OF HIM TO LAW
20 ENFORCEMENT WITHOUT SAYING WHO HE WAS?

21 A: I THINK SO. YES, SIR, I DID.

22 Q: WHEN YOU TOLD THE LAW ENFORCEMENT FOLKS THE OTHER
23 GUY WAS YOUNG AND DIDN'T LOOK LIKE HE WAS OVER 17, HE
24 WAS TALLER THAN TWINKIE BUT SKINNIER THAN TWINKIE, HE
25 HAD BROWN SKIN, NOT DARK ... WHY DIDN'T YOU JUST SAY IT

HEARING

398

- 1 WAS TREZ?
- 2 A: BECAUSE I DID NOT ... I DIDN'T KNOW AT THE TIME, SIR, THAT HIS
- 3 NAME WAS TREZ. I JUST KNOW THAT ... I THOUGHT HIS NAME
- 4 WAS TREZ, BUT I DIDN'T TELL THEM WHAT I THOUGHT. I JUST
- 5 GAVE THEM A DESCRIPTION OF WHAT I SAW.
- 6 Q: AT NO POINT DID TWINKIE SAY GIVE ME ANY MONEY, DID HE?
- 7 A: HE SAID GIVE ME WHAT YOU GOT.
- 8 Q: I THOUGHT HE SAID LET ME GET THAT, REESE?
- 9 A: SAME THING.
- 10 Q: HE DIDN'T SAY GIVE ME WHAT YOU GOT, DID HE?
- 11 A: IT'S THE SAME THING.
- 12 Q: THAT'S NOT THE WORDS HE USED, IS IT?
- 13 A: NOT THE WORDS BUT IT'S THE SAME THING.
- 14 Q: DID HE SAY GIVE ME YOUR GUN?
- 15 A: I DON'T HAVE A GUN.
- 16 Q: YOU DIDN'T HAVE A GUN THAT DAY?
- 17 A: I DON'T HAVE ONE AT ALL.
- 18 Q: HAD YOU BEEN USING MARIJUANA THAT DAY?
- 19 A: NO, SIR, I WAS NOT.
- 20 Q: DID YOU KNOW THAT LITTLE REG HAD MARIJUANA IN HIS
- 21 POCKET?
- 22 A: NO, SIR, I DID NOT KNOW THAT.
- 23 Q: YOU HADN'T BEEN USING MARIJUANA OUT THERE EARLIER?
- 24 A: NO, SIR, I DID NOT.
- 25 Q: BEEN USING ANY OTHER DRUG THAT DAY?

HEARING

399

1 A: NO, SIR.

2 Q: BEEN DRINKING?

3 A: NO, SIR.

4 Q: DID YOU SEE ANYBODY ELSE OUT THERE IN YOU ALL'S GROUP
5 DRINKING OR USING ANY DRUGS?

6 A: NO, SIR, I DID NOT.

7 Q: YOU DON'T REMEMBER THE TOTAL NUMBER OF SHOTS THAT
8 WENT OFF NOW?

9 A: NO, SIR, LIKE I TOLD YOU EARLIER I WAS NERVOUS AND I DON'T
10 ... I DON'T REMEMBER. I DON'T KNOW.

11 Q: YOU REMEMBER HEARING ONE SHOT GO OFF?

12 A: YES, SIR.

13 Q: YOU DON'T SPECIFICALLY REMEMBER ANY OTHER SHOTS GOING
14 OFF?

15 A: EVERYTHING JUST BLANKED OUT FOR ME. I DON'T ...

16 Q: IT'S BLANKED OUT NOW?

17 A: NO, SIR, IT'S NOT.

18 Q: OKAY. DID YOU SAY BACK ON MAY 19TH AFTER THE FIVE SHOTS
19 WENT OFF AND AFTER YOU STARTED RUNNING THAT HE
20 STARTED WALKING AND STARTED SHOOTING AGAIN AND
21 THAT'S WHEN LITTLE REGGIE AND EDDIE RABBIT GOT SHOT?

22 A: YES, SIR, THAT ... THAT'S WHAT I ... THAT'S WHAT I GOT ON THE
23 STATEMENT, YES, SIR.

24 MR. BLACKMON: MAY IT PLEASE THE COURT, WE'D LIKE
25 TO OFFER A COPY OF THAT STATEMENT AS DEFENDANT'S NUMBER

HEARING

400

1 TWO.

2 THE COURT: MR. CONNER?

3 MR. CONNER: I'VE GOT NO OBJECTION TO IT?

4 THE COURT: NO OBJECTION, IS THAT WHAT YOU SAID, MR.
5 CONNER?

6 MR. CONNER: THAT'S CORRECT.

7 THE COURT: ALL RIGHT. ADMITTED INTO EVIDENCE AS
8 DEFENDANT'S NUMBER TWO WITHOUT OBJECTION.
9 (WHEREUPON DEFENDANT'S EXHIBIT NUMBER TWO WAS MARKED FOR
10 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

11 MR. BLACKMON: NOTHING FURTHER FROM THIS WITNESS.

12 THE COURT: REDIRECT, MR. CONNER?

13 MR. DINGLE - REDIRECT EXAMINATION BY MR. CONNER:

14 Q: MR. DINGLE, ARE YOU A MEMBER OF ANY GANG?

15 A: NO, SIR.

16 Q: AND WHEN YOU SAID GO ON WHAT DID YOU INTEND THAT TO
17 MEAN?

18 A: JUST GO AHEAD ON WITH THE B.S.

19 Q: SAY IT AGAIN.

20 A: THAT WAS JUST LIKE SLANG FOR JUST GO AHEAD ON WITH THE
21 B.S.

22 Q: WHEN YOU FIRST SAW HIM PULL THIS GUN OUT DID YOU THINK
23 HE WAS SERIOUS?

24 A: NOT AT FIRST BECAUSE HE WAS LIKE ... HE DID A LITTLE LAUGH
25 AND PUT IT BACK DOWN TOWARDS HIS SIDE OR IN HIS POCKET

1 ONE. I COULDN'T ...

2 Q: THE SECOND TIME HE PUT IT UP ...

3 A: WELL, YEAH, I KNEW HE WAS SERIOUS, YES, SIR.

4 MR. CONNER: I'VE GOT NOTHING FURTHER.

5 THE COURT: RECROSS?

6 MR. BLACKMON: NOTHING FROM ME, YOUR HONOR.

7 THE COURT: ALL RIGHT. THANK YOU, SIR, YOU MAY STEP
8 DOWN. ALL RIGHT, LADIES AND GENTLEMEN OF THE JURY, WE'VE
9 REACHED ABOUT 5:10 ... 5:10 IN THE AFTERNOON. I THINK THIS IS A
10 GOOD TIME FOR US TO QUIT. I TELL JURIES THIS ALL THE TIME THAT I
11 DON'T MIND MAKING THE LAWYERS WORK LATE BUT I KNOW THE
12 JURORS HAVE LIVES OUTSIDE OF THIS COURTHOUSE SO WE ARE GOING
13 TO ADJOURN FOR THE AFTERNOON AND ALLOW YOU TO GO TO YOUR
14 HOMES AND FAMILIES FOR THE EVENING. AND ASK THAT YOU PLEASE
15 BE BACK IN THE JURY ROOM TOMORROW MORNING AT 9:30. AGAIN I
16 WOULD TELL YOU OVER THE EVENING RECESS DO NOT DISCUSS THE
17 CASE WITH ANYONE, DO NOT ALLOW ANYONE TO DISCUSS IT WITH
18 YOU, AND DO NOT READ ANY NEWS STORIES OR NEWS ... OR LISTEN TO
19 ANY RADIO OR TELEVISION BROADCASTS REGARDING THIS STORY ...
20 REGARDING THIS CASE BECAUSE YOU HAVE GOT TO DECIDE THIS
21 CASE BASED UPON WHAT YOU HEAR IN THIS COURTROOM. WITH
22 THOSE ADMONITIONS THEN I'M GOING TO EXCUSE YOU NOW AND
23 ALLOW YOU TO GO TO YOUR HOMES AND FAMILIES AND I'LL SEE YOU
24 TOMORROW MORNING AT 9:30. HAVE A PLEASANT EVENING.
25 EVERYONE ELSE REMAIN SEATED, PLEASE.

HEARING

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1 (JURY OUT AT 5:15 P.M.).

2 THE COURT: ALL RIGHT, WHILE WE'RE ALLOWING THE
3 JURY TO CLEAR THE COURTROOM, MR. BLACKMON, I WOULD LIKE TO
4 TALK WITH YOUR CLIENT ABOUT HIS FIFTH AMENDMENT RIGHTS. IF
5 YOU WOULD HAVE HIM COME UP TO THE RAIL, PLEASE. MR. WILSON,
6 WE HAVE NOT YET REACHED THIS STAGE OF THE TRIAL BUT I WANTED
7 TO MAKE SURE THAT YOU UNDERSTAND THESE THINGS AND THAT IS
8 THAT YOU MAY BE CALLED AS A WITNESS TO TESTIFY IN YOUR OWN
9 BEHALF. I WOULD ADVISE YOU THAT YOU HAVE THE RIGHT TO
10 INVOKE THE PROTECTIONS GIVEN YOU BY THE FIFTH AMENDMENT OF
11 THE CONSTITUTION OF THE UNITED STATES AND ALSO A SIMILAR
12 COUNTERPART PROVISION OF THE CONSTITUTION OF THE STATE OF
13 SOUTH CAROLINA. THE CONSTITUTION OF THE UNITED STATES
14 PROVIDES IN PART THAT NO PERSON SHALL BE COMPELLED IN ANY
15 CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF. THIS PROVISION
16 OF THE CONSTITUTIONAL LAW MEANS THAT YOU CANNOT BE
17 COMPELLED OR REQUIRED TO TESTIFY IN THIS CASE. THIS IS A RIGHT
18 AND A PRIVILEGE WHICH THE LAW EXTENDS TO YOU. IT IS A
19 PERSONAL PRIVILEGE AND NO ONE CAN WAIVE THIS RIGHT EXCEPT
20 YOU. YOU HAVE THE RIGHT NOT TO TESTIFY BUT YOU ALSO HAVE
21 THE RIGHT TO TESTIFY. THE COURT WILL GRANT YOU THE RIGHT TO
22 CONSULT WITH YOUR LAWYER BEFORE YOU MAKE A DECISION. IF YOU
23 ELECT NOT TO TESTIFY YOUR FAILURE TO TESTIFY CANNOT BE USED
24 BY THE STATE AS AN INFERENCE OF GUILT AND YOUR FAILURE TO
25 TESTIFY CANNOT BE CONSIDERED BY THE JURY IN ITS

1 DELIBERATIONS. IN FACT I WOULD INSTRUCT THE JURY THAT YOUR
2 ELECTION TO NOT TESTIFY, THAT IS YOUR ELECTION TO INVOKE THE
3 FIFTH AMENDMENT CANNOT BE USED AGAINST YOU IN ANY MANNER
4 WHATSOEVER. HOWEVER, IF YOU ELECT TO TESTIFY AND WAIVE THE
5 PRIVILEGE EXTENDED TO YOU BY THE CONSTITUTION I ADVISE YOU
6 THAT YOU WOULD ASSUME THE ROLE OF A WITNESS IN THIS CASE
7 AND YOU WOULD WAIVE OR GIVE UP YOUR CONSTITUTIONAL
8 PRIVILEGE AGAINST SELF INCRIMINATION. THIS MEANS THAT IF YOU
9 VOLUNTARILY TAKE THE WITNESS STAND AND TESTIFY YOU WILL
10 SUBJECT YOURSELF TO THE SAME RULES THAT GOVERN OTHER
11 WITNESSES AND YOU MAY BE EXAMINED AND CROSS EXAMINED ON
12 ANY RELEVANT ISSUE IN THIS CASE AND YOU MAY BE IMPEACHED TO
13 THE SAME EXTENT AS ANY OTHER WITNESS, ALL OF WHICH IS
14 GOVERNED BY THE RULES OF LAW AND THE RULES OF EVIDENCE. I
15 WOULD FURTHER ADVISE YOU THAT IF YOU ELECT TO TAKE THE
16 STAND AND TESTIFY THIS DECISION ON YOUR PART MUST BE MADE
17 FREELY, VOLUNTARILY, INTELLIGENTLY, AND WITH THE KNOWLEDGE
18 OF THE PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT OF
19 THE UNITED STATES CONSTITUTION AND WITH KNOWLEDGE OF THE
20 CONSEQUENCES OF YOUR ELECTION TO TESTIFY. NOW, AS I SAID I'M
21 NOT GOING TO REQUIRE YOU TO MAKE A DECISION TODAY BUT I
22 WOULD ASK YOU DO YOU UNDERSTAND WHAT I HAVE ADVISED YOU
23 ABOUT YOUR FIFTH AMENDMENT RIGHTS?

24 MR. WILSON: YES, SIR.

25 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT

HEARING

404

1 I HAVE JUST EXPLAINED TO YOU?

2 MR. WILSON: YEAH. IF I DON'T TESTIFY NONE OF MY
3 STATEMENTS CAN BE READING, RIGHT?

4 THE COURT: I'M SORRY?

5 MR. WILSON: IF I DON'T TESTIFY, IF I DON'T TAKE THE
6 STAND NONE OF MY STATEMENTS CAN BE READING, RIGHT?

7 THE COURT: IF YOU DON'T TAKE THE STAND ... NO, SIR,
8 THAT WOULD BE THE SAME THING, YOUR STATEMENTS COULD BE
9 USED AGAINST ... IN EVIDENCE AND YOU COULD NOT BE REQUIRED TO
10 TESTIFY EITHER WAY. THAT ...

11 MR. WILSON: SO ...

12 THE COURT: ... TESTIMONY, YOUR STATEMENT WILL BE
13 READ INTO EVIDENCE WOULD BE TESTIMONY AND THAT'S CORRECT.
14 IT WOULD NOT ... COULD NOT BE DONE.

15 MR. WILSON: ALL RIGHT.

16 THE COURT: ALL RIGHT. ANY ... ANY OTHER QUESTIONS?

17 MR. WILSON: NO, SIR.

18 THE COURT: ALL RIGHT. ALL RIGHT, THAT'S ALL I'M
19 GONNA DO TODAY. I'M NOT GONNA REQUIRE HIM TO MAKE AN
20 ELECTION AT THIS TIME, MR. BLACKMON, BUT I WILL ASK YOU
21 TOMORROW IF YOU'VE EXPLAINED THE SAME THING TO HIM AND IF IN
22 YOUR OPINION HE UNDERSTANDS.

23 MR. BLACKMON: YES, SIR.

24 THE COURT: I'LL ASK YOU THAT BEFORE WE ... WE GET A
25 DECISION FROM HIM TOMORROW.

1 MR. BLACKMON: THANK YOU, SIR.

2 THE COURT: ALL RIGHT. THANK YOU, YOU MAY BE
3 SEATED. ALL RIGHT, JUST FOR PLANNING PURPOSES, MR. CONNER,
4 CAN YOU GIVE ME SOME IDEA HOW MANY MORE WITNESSES YOU
5 EXPECT TO CALL?

6 MR. CONNER: YOUR HONOR, I EXPECT TO CALL TWO FOR
7 SURE. I MIGHT POSSIBLY HAVE A THIRD.

8 THE COURT: ALL RIGHT. ALL RIGHT. IS THERE ANYTHING
9 THEN BEFORE WE ADJOURN FOR THE AFTERNOON FROM THE STATE?

10 MR. CONNER: NOTHING FURTHER.

11 THE COURT: FROM THE DEFENSE?

12 MR. BLACKMON: NO, SIR, YOUR HONOR.

13 THE COURT: ALL RIGHT. AGAIN, I WOULD TELL ALL THE
14 SPECTATORS THAT ANY DISTURBANCE CAUSED BY ANY OF THE
15 PARTIES IN THIS COURTHOUSE IS CONSIDERED CONTEMPT OF COURT
16 IN THE PRESENCE OF THE COURT FOR WHICH THE COURT WILL PUNISH
17 IT AS CONTEMPT AND ALSO YOU WOULD BE SUBJECT TO CRIMINAL
18 LAWS OF THIS STATE IF YOU CAUSE ANY OTHER KIND OF TROUBLE. I
19 AM GOING TO ADJOURN AT THIS TIME BUT I EXPECT THE PARTIES TO
20 NOT CAUSE ANY KIND OF A DISTURBANCE AND IF YOU DO AND I'M
21 INSTRUCTING THE OFFICERS TO TAKE THE APPROPRIATE ACTIONS.
22 ALL RIGHT, WE'LL BE IN RECESS UNTIL TOMORROW MORNING AT 9:30
23 ON THIS CASE. AND THE MATTER THAT I HAD SCHEDULED FOR 9:00
24 O'CLOCK IN THE MORNING HAS BEEN CANCELED. I DO NOT HAVE TO
25 GIVE THAT. SO THE COURT PERSONNEL 9:30.

HEARING

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1 (WHEREUPON THERE WAS A PAUSE).

2 THE COURT: ALL RIGHT, BEFORE WE GET STARTED THIS

3 MORNING, COUNSEL, I JUST WANT TO MAKE SURE THAT THE RECORD

4 IS COMPLETE ON A COUPLE OF THINGS. YESTERDAY WE DID HAVE

5 TESTIMONY FROM ONE OF THE STATE'S WITNESSES WITH REGARD TO

6 THE STATEMENT THAT WAS MADE THAT HE ... THAT THE DEFENDANT

7 HAND WROTE OUT AND THAT WAS ADMITTED INTO EVIDENCE AND I

8 KNOW I SEE MR. HOLSTON AND MS. RABON HERE TODAY AND I'M SURE

9 THE STATEMENT IS GOING TO GO WITH THE OTHER STATEMENT THAT

10 WE HEARD THE JACKSON VS. DITTO MATTERS ON FRIDAY ... ON

11 MONDAY AFTERNOON. I JUST WANT THE RECORD TO BE COMPLETE

12 ON BOTH OF THOSE STATEMENTS, THAT AFTER HAVING HEARD

13 TESTIMONY FROM THE STATE'S WITNESSES AND ANY EVIDENCE

14 WHICH THE DEFENDANT WISHED TO PUT UP REGARDING THE

15 VOLUNTARINESS OF THE STATEMENTS THAT I DID HEAR THOSE

16 MATTERS AND THAT I CONSIDERED ALL OF THE EVIDENCE OFFERED

17 BY BOTH THE STATE AND THE DEFENDANT AND WAS CONVINCED

18 THAT THE STATEMENTS, BOTH OF THEM, THE ONE THAT HE HAND

19 WROTE AND THE ONE THAT WAS TAKEN BY MR. HOLSTON AND MS.

20 RABON WERE OBTAINED FROM THE DEFENDANT. THE DEFENDANT

21 WAS FULLY ADVISED OF HIS RIGHTS UNDER THE FIFTH AND SIXTH

22 AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND HE

23 WAS ADVISED OF THE CONSTITUTIONAL SAFEGUARDS REQUIRED

24 FROM MIRANDA VS. ARIZONA. FURTHER THAT THE DEFENDANT

25 KNOWINGLY AND INTELLIGENTLY WAIVED HIS RIGHTS UNDER THE

1 FIFTH AND SIXTH AMENDMENTS OF THE CONSTITUTION OF THE
2 UNITED STATES AND THE CONSTITUTIONAL SAFEGUARD REQUIRED
3 UNDER MIRANDA VS. ARIZONA AND THAT THE TWO STATEMENTS
4 THAT WERE TAKEN BY LAW ENFORCEMENT WERE OBTAINED FROM
5 THE DEFENDANT, WERE FREELY AND VOLUNTARILY GIVEN WITHOUT
6 DURESS, WITHOUT COERCION, WITHOUT UNDUE INFLUENCE, WITHOUT
7 REWARD, WITHOUT PROMISE OR HOPE OF REWARD, WITHOUT
8 PROMISE OF LENIENCY, WITHOUT THREAT OF INJURY OR BY
9 COMPULSION OR INDUCEMENT OF ANY KIND AND THAT SUCH
10 ALLEGED STATEMENTS OR CONFESSIONS WERE THE VOLUNTARY
11 PRODUCT OF THE FREE AND UNCONSTRAINED WILL OF THE
12 DEFENDANT AND THE COURT DOES MAKE A FINDING THAT THE TWO
13 INCRIMINATING STATEMENTS OR CONFESSIONS WERE ADMISSIBLE
14 INTO EVIDENCE AND ARE ADMISSIBLE INTO EVIDENCE.

15 MR. CONNER: YOUR HONOR, JUST GO AHEAD AND HAVE
16 THEM MARKED INTO EVIDENCE AT THIS POINT.

17 THE COURT: YOU'VE ALREADY ... THE ONE I BELIEVE THAT
18 THE ... IS ALREADY IN EVIDENCE, MS. WINFIELD, THE HANDWRITTEN
19 ONE? YEAH. YOU STILL NEED TO GO THROUGH ... I DO THINK WE NEED
20 TO GO THROUGH ... BECAUSE THE JURY ALSO HAS THE RIGHT TO RULE
21 ON THE VOLUNTARINESS SO I THINK MAYBE YOU BETTER GO
22 THROUGH THE THINGS WITH THE OFFICERS AGAIN AND THEN MOVE
23 TO HAVE IT ADMITTED. I WILL HAVE IT ... I WILL ADMIT IT AT THAT
24 TIME SUBJECT TO THE MATTERS THAT MR. BLACKMON HAS ALREADY
25 PUT ON THE RECORD. ALL RIGHT. ANYTHING ELSE BEFORE WE BRING

HEARING

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1 THE JURY IN? MR. CONNER?

2 MR. CONNER: NO, SIR.

3 THE COURT: MR. BLACKMON?

4 MR. BLACKMON: NO, SIR, NOT AT THIS TIME.

5 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

6 (JURY BROUGHT IN A.M.).

7 THE COURT: ALL RIGHT, THANK YOU VERY MUCH, LADIES
8 AND GENTLEMEN, FOR YOUR PROMPTNESS IN BEING BACK HERE AND
9 WE ARE READY TO PROCEED. I DO NEED TO ASK YOU THAT IF OVER
10 THE EVENING RECESS ANYONE TRIED TO CONTACT YOU OR MADE
11 ANY CONTACT WITH YOU WHATSOEVER ABOUT THIS MATTER I WILL
12 NEED TO KNOW IT NOW. ALSO IF YOU HAVE READ ANY NEWS STORIES
13 OR HEARD ANY BROADCAST REPORTS ABOUT THIS CASE OVER THE
14 EVENING RECESS I WILL ALSO NEED TO KNOW THAT. WITH A
15 NEGATIVE RESPONSE I ASSUME THAT NOBODY HAS ... THERE HAS
16 BEEN ON CONTACT AND NO NEWSPAPER REPORTS OR MEDIA REPORTS
17 HAVE BEEN VIEWED BY THE JURY AND WE ARE READY TO GO
18 FORWARD. THANK YOU. MR. CONNER, YOU MAY CALL YOUR NEXT
19 WITNESS.

20 MR. CONNER: YOUR HONOR. AT THIS TIME I CALL
21 LIEUTENANT ALVIN HOLSTON.

22 THE COURT: ALL RIGHT. MR. HOLSTON.

23 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
24 YOUR RIGHT HAND AND STATE YOUR NAME, PLEASE.

25 MR. HOLSTON: ALVIN HOLSTON.

1 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THE
2 TESTIMONY YOU GIVE TO THIS COURT SHALL BE THE TRUTH, THE
3 WHOLE TRUTH AND NOTHING BUT THE TRUTH SO HELP YOU GOD?

4 MR. HOLSTON: YES, SIR.

5 BAILIFF: HAVE A SEAT UP THERE, PLEASE, SIR. STATE
6 YOUR FULL NAME AND SPELL YOUR LAST NAME FOR ME, PLEASE, SIR.

7 MR. HOLSTON: ALVIN HOLSTON, H-O-L-S-T-O-N.

8 MR. HOLSTON - DIRECT EXAMINATION BY MR. CONNER:

9 Q: LIEUTENANT HOLSTON, WHERE ARE YOU EMPLOYED?

10 A: I'M EMPLOYED WITH THE SUMTER CITY POLICE DEPARTMENT
11 ASSIGNED TO THE CRIMINAL INVESTIGATION DIVISION.

12 Q: AND WHAT'S YOUR RESPONSIBILITIES WITH THAT DEPARTMENT?

13 A: I AM RESPONSIBLE FOR THE DAILY SUPERVISION AND ASSISTING
14 WITH THE FOLLOW UP OF THE INVESTIGATION OF CRIMINAL
15 CASES.

16 Q: AND WHAT ... WHAT KIND OF WORK WERE YOU DOING BACK IN
17 MAY OF 2003?

18 A: STILL ACTING IN THAT CAPACITY AS A SERGEANT AT THAT TIME
19 ASSIGNED TO THE INVESTIGATION DIVISION. STILL ASSISTING IN
20 AND WORKING AND FOLLOWING UP WITH CASES.

21 Q: OKAY. WAS YOUR DETECTIVE GROUP CALLED OUT IN REGARDS
22 TO THIS CASE THAT WE'RE TRYING HERE THAT OCCURRED
23 AROUND BACK ON MAY THE 19TH, 2003?

24 A: YES, SIR.

25 Q: AND DID YOU AS WELL AS A NUMBER OF OTHER DETECTIVES

HEARING

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1 RESPOND?

2 A: YES, SIR, WE DID.

3 Q: AND DID YOU HAVE AN OCCASION TO GO THE SCENE OF THE
4 CRIME AND TALK WITH SOME PEOPLE WHO WERE THERE?

5 A: YES, SIR.

6 Q: AND DID YOU INTERVIEW ALEXIS EARP?

7 A: YES, SIR.

8 Q: NOW, LATER THAT NIGHT IN THE EARLY MORNING HOURS OF
9 MAY THE 20TH, 2003, WAS THE DEFENDANT HAROLD WILSON
10 ARRESTED?

11 A: YES, SIR, HE WAS BROUGHT INTO CUSTODY BY DETECTIVE
12 DIVISION AFTER THE DETECTIVES RECEIVED SOME
13 INFORMATION ON POSSIBLE LOCATION OF MR. WILSON. HE WAS
14 APPREHENDED AT A RESIDENCE OFF OF SALEM STREET.

15 Q: INCIDENTALLY, I DON'T BELIEVE I ASKED YOU HOW LONG
16 YOU'VE BEEN WORKING FOR THE SUMTER POLICE
17 DEPARTMENT?

18 A: I'VE BEEN EMPLOYED THERE 12 YEARS. I'VE BEEN ASSIGNED TO
19 CRIMINAL INVESTIGATION DIVISION A LITTLE OVER TEN.

20 Q: AND WHAT KIND OF WORK DID YOU DO BEFORE YOU WENT TO
21 WORK FOR THE SUMTER POLICE DEPARTMENT?

22 A: I WAS IN THE UNITED STATES AIR FORCE ASSIGNED TO THE ... AT
23 THAT TIME IT WAS THE SECURITY POLICE. I THINK IT'S
24 CHANGED NAMES NOW. IT'S SECURITY FORCES, SOMETHING
25 LIKE THAT FOR ABOUT EIGHT YEARS.

1 Q: WHEN YOU ... AFTER HE WAS ARRESTED, AFTER MR. WILSON
2 WAS ARRESTED WAS HE BROUGHT TO YOUR OFFICE IN THE LAW
3 ENFORCEMENT CENTER?

4 A: YES, SIR.

5 Q: AND WHO WAS THERE WHEN YOU INTERVIEWED HIM?

6 A: MYSELF AND DETECTIVE ANGELA RABON.

7 Q: IS MS. RABON IN THE COURTROOM TODAY?

8 A: YES, SIR.

9 Q: WHERE IS SHE?

10 A: SHE'S SEATED NEXT TO JOHN BRANNON.

11 Q: THIS LADY RIGHT HERE?

12 A: YES, SIR.

13 Q: AND WHERE DID THE INTERVIEW TAKE PLACE?

14 A: THE INTERVIEW TOOK PLACE IN ... IN MY OFFICE AT ... WHICH IS
15 LOCATED IN THE COMMONS AREA OF THE DETECTIVE DIVISION.

16 Q: AND WHERE WERE YOU LOCATED IN THE ROOM?

17 A: I WAS SEATED AT MY DESK AND DETECTIVE RABON AND THE
18 DEFENDANT, MR. WILSON, WERE SEATED ACROSS FROM ME.

19 Q: AND DID ... DID YOU ALL GIVE HIM WHAT'S CALLED HIS
20 MIRANDA RIGHTS?

21 A: YES, SIR.

22 Q: AND I SHOW YOU HERE THIS FORM FIRST. THIS FORM, IT'S
23 COURT'S EXHIBIT NUMBER ONE AND ASK YOU TO EXAMINE
24 THAT.

25 A: YES, SIR, THIS IS THE SUMTER POLICE DEPARTMENT'S

HEARING

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- 1 INTERVIEW FORM AS PERTAINS TO THE MIRANDA RIGHTS.
- 2 Q: WHICH ONE OF YOU READ HIM HIS RIGHTS?
- 3 A: DETECTIVE RABON READ THEM WHILE I SAT AND WITNESSED
- 4 AND OBSERVED.
- 5 Q: YOU COULD OVERHEAR EVERYTHING SHE WAS SAYING AS WELL
- 6 AS EVERYTHING HE SAID?
- 7 A: YES, SIR.
- 8 Q: AND DID SHE READ THE RIGHTS OFF THAT FORM?
- 9 A: YES, SIR, SHE DID.
- 10 Q: WOULD YOU READ THOSE TO US, PLEASE?
- 11 A: IT SAYS, "BEFORE WE ASK YOU ANY QUESTIONS YOU MUST
- 12 UNDERSTAND YOUR RIGHTS." IT SAYS, "YOU HAVE THE RIGHT
- 13 TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED AGAINST
- 14 YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER
- 15 FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO
- 16 HAVE HIM OR HER WITH YOU DURING THE QUESTIONS. IF YOU
- 17 CANNOT AFFORD A LAWYER ONE WILL BE APPOINTED BEFORE
- 18 YOU BEFORE ANY QUESTIONING IF YOU WISH. IF YOU DECIDE
- 19 TO ANSWER ANY QUESTIONS NOW WITHOUT A LAWYER
- 20 PRESENT YOU WOULD STILL HAVE THE RIGHT TO STOP
- 21 ANSWERING ANY TIME UNTIL YOU TALK TO A LAWYER."
- 22 Q: DID HE RESPOND AS HE WAS READ EACH ONE OF THOSE RIGHTS?
- 23 A: YES. THIS PARTICULAR FORM IS SET UP FOR EACH STATEMENT
- 24 OR EACH SENTENCE THAT I READ THERE'S A INITIALING BLOCK
- 25 THAT GOES BESIDE IT AND AS DETECTIVE RABON READ EACH

1 LINE TO HIM HE INITIALED IT ACKNOWLEDGING THAT HE
2 UNDERSTOOD WHAT SHE WAS SAYING.

3 Q: AND AFTER THE RIGHTS WERE READ TO HIM DID HE ... DID HE
4 INDICATE THAT HE WOULD TALK TO YOU WITHOUT A LAWYER?

5 A: YES, SIR. THE FORM CONCLUDES ON. IT SAYS, "WAIVER OF
6 RIGHTS." IT SAYS, "BEFORE ANSWERING ANY QUESTIONS I WAS
7 FURNISHED WITH THE ABOVE STATEMENT OF MY RIGHTS, SPD,
8 WHICH ABBREVIATION FOR SUMTER POLICE DEPARTMENT ON
9 5/20/2003 AT THE LAW ENFORCEMENT CENTER OF THE SUMTER
10 POLICE DEPARTMENT BY DETECTIVE A.W. RABON." AND IT GOES
11 ON TO SAY, "I HAVE ... EXCUSE ME ... I'VE HAD READ OR HAD
12 READ TO ME THE STATEMENT OF MY RIGHTS AND I FULLY
13 UNDERSTAND WHAT MY RIGHTS ARE. I'M WILLING TO ANSWER
14 QUESTIONS AT THIS TIME WITHOUT A LAWYER PRESENT. NO
15 PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO
16 PRESSURE HAS BEEN USED AGAINST ME." AND THERE ... THERE
17 ARE TWO WITNESS BLOCKS AND A SIGNATURE BLOCK WHERE
18 MR. WILSON SIGNED AND A SIGNATURE BLOCK DETECTIVE
19 RABON SIGNED FIRST AND WITNESSED AND ACKNOWLEDGING
20 HE HAD AGREED TO TALK AND I SIGNED THE LINE BELOW
21 ACKNOWLEDGING AS WELL.

22 Q: AND DID YOU OR MS. RABON THREATEN HIM IN ANY WAY TO
23 GET HIM TO TALK TO YOU?

24 A: NO, SIR. WHEN THE DETECTIVES HAD PICKED HIM UP AND
25 TRANSPORTED HIM TO THE LAW ENFORCEMENT CENTER HE

HEARING

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1 APPEARED EAGER TO GIVE HIS SIDE OF THE STORY. HE WANTED
2 TO TALK.

3 Q: AND DID ... DID YOU PROMISE HIM ANYTHING TO GET HIM TO
4 TALK TO YOU?

5 A: NO, SIR.

6 Q: DID HE TALK TO YOU FREELY AND VOLUNTARILY?

7 A: YES, SIR, HE DID.

8 MR. CONNER: YOUR HONOR, WE WOULD OFFER THAT
9 FORM INTO EVIDENCE AT THIS TIME.

10 THE COURT: ALL RIGHT, BE ADMITTED INTO EVIDENCE AS
11 STATE'S EXHIBIT NUMBER 33 BASED UPON THE EARLIER RULINGS OF
12 THE COURT IN THE MATTERS OF THE RECORD BY THE DEFENDANT MR.
13 BLACKMON.

14 MR. BLACKMON: SUBJECT TO OUR PREVIOUS OBJECTION.

15 THE COURT: YES, SIR. COME ... COME AROUND JUST ONE
16 MINUTE, COUNSEL.

17 (DISCUSSION HELD OFF THE RECORD).

18 THE COURT: ALL RIGHT, IT IS ADMITTED INTO EVIDENCE
19 BASED UPON THE EARLIER IN CAMERA HEARING AND THE
20 STATEMENTS ON THE RECORD BY DEFENSE COUNSEL.
21 (WHEREUPON STATE'S EXHIBIT NUMBER 33 WAS MARKED FOR
22 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

23 Q: NOW, AT THAT POINT, LIEUTENANT HOLSTON, DID YOU ALL
24 PROCEED TO TAKE A STATEMENT FROM HIM?

25 A: YES, SIR, WE SIMPLY ASKED HIM, INQUIRED AS TO WHAT

1 HAPPENED, IF HE'D GO AHEAD AND TELL HIS SIDE OF THE STORY
2 AS TO WHAT TOOK PLACE ON CARVER STREET.

3 Q: AND WHO RECORDED WHAT HE WAS SAYING?

4 A: I TYPED WHAT HE WAS SAYING SO I ... I GUESS I WOULD BE THE
5 RECORDER.

6 Q: YOU ... YOU TOOK DOWN WHAT HE SAID BY TYPING IT UP?

7 A: YES, SIR.

8 Q: AND DO YOU ... DO YOU HAVE THE TYPED COPY OF THE
9 STATEMENT HE GAVE?

10 A: YES, SIR, I DO. YES, SIR.

11 Q: AND DID ... DID HE ... AFTER HE FINISHED DID YOU ALL READ
12 THAT BACK TO HIM?

13 A: YES, SIR, I DID.

14 Q: AND DID HE SAY THAT THAT ... THAT HE WAS IN AGREEMENT
15 WITH WHAT HAD BEEN TYPED UP?

16 A: YES, SIR.

17 Q: AND DID HE SIGN THE STATEMENT?

18 A: YES, SIR, HE DID.

19 Q: AND DID YOU AND MS. RABON ALSO WITNESS THAT?

20 A: YES, SIR.

21 Q: AND IS THAT PAPER THERE THE ... RIGHT IN FRONT OF YOU, THE
22 STATEMENT?

23 A: YES, SIR.

24 MR. CONNER: YOUR HONOR, WE OFFER THIS STATEMENT.

25 THE COURT: ALL RIGHT, BE ADMITTED INTO EVIDENCE AS

HEARING

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1 STATE'S EXHIBIT NUMBER 34 PURSUANT TO THE IN CAMERA HEARING
2 PREVIOUSLY HEARD AND SUBJECT TO THE MATTERS THAT HAVE
3 ALREADY BEEN PLACED ON THE RECORD BY DEFENSE COUNSEL.
4 (WHEREUPON STATE'S EXHIBIT NUMBER 34 WAS MARKED FOR
5 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

6 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF THE
7 JURY, AS I'VE TOLD YOU IN THE STATEMENT THAT HE HAND WROTE
8 OUT OR ALLEGEDLY HAND WROTE OUT THAT THE ... HAS BEEN
9 ADMITTED INTO EVIDENCE ... I DON'T REMEMBER THE NUMBER ...
10 AGAIN, THAT STATEMENT LIKE THIS STATEMENT HAS BEEN ADMITTED
11 INTO THE RECORD IN THIS CASE AS A STATEMENT ALLEGED TO HAVE
12 BEEN MADE BY THE DEFENDANT. BEFORE YOU MAY CONSIDER THIS
13 STATEMENT OR THE OTHER STATEMENT AS EVIDENCE FOR ANY
14 PURPOSE YOU MUST DETERMINE FOUR QUESTIONS. FIRST, DID THE
15 DEFENDANT MAKE THE STATEMENT? SECOND, WAS THE DEFENDANT
16 WARNED OF HIS CONSTITUTIONAL RIGHTS? THIRD, DID THE
17 DEFENDANT KNOWINGLY AND INTELLIGENTLY WAIVE HIS
18 CONSTITUTIONAL RIGHTS? AND FOURTH, WAS THE STATEMENT GIVEN
19 VOLUNTARILY? THE FACT THAT THE COURT HAS ADMITTED A
20 STATEMENT OR STATEMENTS INTO EVIDENCE SHOULD NOT BE
21 CONSIDERED BY YOU AS ANY EVIDENCE WHATSOEVER THAT THE
22 DEFENDANT MADE SUCH A STATEMENT OR THAT THE REQUIRED
23 CONSTITUTIONAL SAFEGUARDS WERE IN FACT PROVIDED AND
24 WAIVED BY THE DEFENDANT OR THAT THE STATEMENT WAS
25 VOLUNTARILY GIVEN BECAUSE THOSE ISSUES ARE FOR YOU, THE

1 JURY, TO DETERMINE. THE STATE MUST PROVE BEYOND A
2 REASONABLE DOUBT EACH OF THE FOUR REQUIREMENTS THAT I HAVE
3 JUST STATED TO YOU BEFORE YOU MAY CONSIDER ANY STATEMENT
4 AS EVIDENCE FOR ANY PURPOSE WHATSOEVER. SO WITH REGARD TO
5 THE ALLEGED STATEMENT OF THE DEFENDANT OR STATEMENTS OF
6 THE DEFENDANT SINCE THERE ARE TWO IN THIS CASE, THE STATE
7 MUST PROVE BY EVIDENCE EACH AND EVERY REQUIREMENT THAT
8 I'VE INSTRUCTED YOU BEYOND A REASONABLE DOUBT BEFORE YOU
9 MAY CONSIDER THE ALLEGED STATEMENT AS EVIDENCE IN THIS CASE.
10 ABSENT ANYONE OF THE REQUIREMENTS ABOUT WHICH I HAVE
11 INSTRUCTED YOU THE ALLEGED STATEMENTS SHOULD BE
12 DISREGARDED AND IN THAT EVENT YOU WOULD ACCORD NO
13 EVIDENTIARY WEIGHT TO IT WHATSOEVER. ON THE OTHER HAND, IF
14 YOU FIND BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
15 MADE THE TWO STATEMENTS OR EITHER OF THE STATEMENTS, THAT
16 THE DEFENDANT WAS GIVEN THE REQUIRED CONSTITUTIONAL
17 WARNINGS BEFORE INTERROGATION, THAT THE DEFENDANT
18 KNOWINGLY AND INTELLIGENTLY WAIVED HIS CONSTITUTIONAL
19 RIGHTS AND THEREAFTER GAVE A VOLUNTARY STATEMENT THE
20 STATEMENT MAY BE CONSIDERED BY YOU TOGETHER WITH ALL
21 OTHER EVIDENCE ... EVIDENCE IN THIS CASE AND GIVEN SUCH WEIGHT
22 AND VALUE AS YOU DEEM IT SHOULD HAVE. ALL RIGHT, MR. CONNER.

23 MR. CONNER: AT THIS TIME, YOUR HONOR, WE WOULD
24 ASK TO PUBLISH THE DOCUMENT BY HAVING LIEUTENANT ...

25 THE COURT: ALL RIGHT.

HEARING

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1 MR. CONNER: ... HOLSTON READ IT.

2 THE COURT: ALL RIGHT, MR. HOLSTON.

3 A: IT SAYS, "I, HAROLD WILSON, OF S , SUMTER,
4 SOUTH CAROLINA HAVE BEEN ADVISED OF MY
5 CONSTITUTIONAL RIGHTS AND HAVING SIGNED A WAVIER OF
6 THOSE RIGHTS DO HEREBY GIVE THE FOLLOWING STATEMENT
7 FREELY AND VOLUNTARILY WITHOUT FEAR OF THREAT OR
8 PROMISE OR REWARD TO THE DETECTIVE RABON AND
9 SERGEANT HOLSTON WHO HAS IDENTIFIED HIM OR HERSELF AS
10 POLICE OFFICERS. I HAD BEEN ON THE BLOCK WITH TREZ. I
11 DON'T KNOW HIS REAL NAME. WE WERE ON CARVER STREET
12 FOR ABOUT AN HOUR BEFORE THE SHOOTING. TREZ WANTED
13 ME TO GO WITH HIM OVER THERE WITH HIM TO GET SOME
14 REEFER. TREZ HAD THE NINE. HE WANTED SOME SMOKE. HE
15 TELL ME TO MARCH OVER THERE WITH HIM SO MY OLD LADY
16 WENT TO THE STORE. SHE WAS WITH V. OLD GIRL THAT
17 STAYED IN THE PROJECTS. I WAS ON THE BLOCK POST UP AT
18 REESE HOUSE. REESE IS MAUREESE. HE STAYS WHERE THE
19 SHOOTING WAS ... WAS AT ON CARVER. WE WERE CHILLING OUT
20 THERE, SMOKING REEFER. SO REESE HAD SELL HIS LAST DIME.
21 SO HE CALLED HIS WEIGHT MAN TO BRING SOME MORE REEFER.
22 TREZ WAS SAYING THAT REESE DIDN'T HAVE ... DIDN'T HAVE NO
23 REEFER BUT THE WEIGHT MAN WAS COMING. TREZ WAS
24 TALKING ABOUT ROBBING FOR WHAT THE WEIGHT MAN WAS
25 BRINGING. I WAS TELLING TREZ TO CHILL OUT. SO O.G. FOUND

HEARING

419

1 OUT. TREZ, HE'S THE CAPTAIN. HE WAS TELLING ME THAT THEY
2 WOULD STRIP MY RANK BECAUSE I'M NOT WITH HIM AND THAT
3 I'M BREAKING THE SIX POINT BRACKET. MY RANK IS A NIGHT
4 CRAWLER. REESE COULD HEAR TREZ TALKING. REESE WENT IN
5 HIS HOUSE WHEN WE WERE TALKING. I THINK HE WENT TO GET
6 HIS GUNS. IF I ... IF I HAD WALKED OFF ALL MY BROTHERS
7 WOULD HAVE BEAT ME DOWN. REGGIE AND DADDY RABBIT
8 AND D.L. ARE MY BROTHERS. MAURICE IS JUST ANOTHER
9 OUTLAW. HE JUST HANGS OUT WITH EVERYBODY. WE WERE
10 ALL CYRPT AND FOLK. IF I SHOT LITTLE REGGIE I'M GONNA KILL
11 MYSELF FOR REAL. IF I WALKED AWAY I WOULD HAVE BROKE
12 ALL THE BRACKETS OF THE SIX POINT STAR WHICH IS LOYALTY,
13 COURAGE, WISDOM AND STUFF. THEY WOULD CALL ME A
14 BLOOD OR A SLOB. I MIGHT BE TRYING TO GET OUT. I'LL JUST
15 TELL THEM TO SHOOT ME IN THE SHOULDER SO I CAN GET OUT.
16 THEY WOULD HAVE SHOT ME. THAT IS WHY I REACHED FOR
17 REESE'S GUN. WHEN I REACHED FOR REESE'S GUN HE BACKED
18 UP AND STARTED SHOOTING. THAT'S WHEN TREZ, A MAN
19 STARTS SHOOTING HIS NINE. IT WAS BLACK AND BROWN.
20 WHEN REESE START BUSTING REGGIE WAS BESIDE ME. REGGIE
21 TAKE MY BULLET. THAT BULLET WAS MEANT FOR ME. I BUST
22 ONCE OR TWICE WHEN I WAS ON THE STREET AND IN THE
23 GRAVEYARD. I WAS RUNNING AND BUSTING IN THE AIR.
24 EVERYONE HAD A GUN. LITTLE REGGIE HAD A NINE.
25 SOMEBODY SCOOPED HIS GUN. I RAN THROUGH THE

HEARING

420

1 GRAVEYARD AND RAN THROUGH THE PATH TO MAMA BURT'S
2 HOUSE. I TOLD MAMA BURT THAT I THOUGHT I'D BEEN SHOT.
3 SHE LIVES ON CARVER. SHE IS CHRIS CUMMINGS' AUNT. THEN I
4 KEPT RUNNING. I SAW MY GIRL ON CARVER IN MY ... IN MY
5 WHITE ESCALADE. I JUMPED IN THE TRUCK AND SO DID TREZ. I
6 JUMPED OUT OF THE TRUCK AT OAKLAND AND PURDY. I THINK
7 SHE, ANGELINE, TOOK HIM TO HIS PEOPLE'S HOUSE. TREZ WAS
8 STILL IN THE TRUCK WHEN I JUMPED OUT. I SAW LITTLE REGGIE
9 WHEN HE FELL. WHEN REESE SHOT AT ME I SEEN REGGIE FALL.
10 I WAS TRYING TO HELP REGGIE BUT REESE WAS SHOOTING. I
11 BUSTED MINE IN THE STREET AND IN THE GRAVEYARD. THERE'S
12 NO TELLING WHO SHOT WHO WHEN EVERYBODY WAS BUSTING.
13 A BULLET DON'T HAVE NO NAME ON IT. I BUSTED BACK AT
14 REESE. I BEEN TRYING TO KILL REESE WHEN I SEEN REGGIE
15 FALL. HE WOULD HAVE KILLED ME. AFTER THINKING ABOUT
16 THINGS I KNOW I SHOT DADDY RABBIT, LINWOOD BUTLER.
17 REESE OR TREZ SHOT REGGIE." THE STATEMENT ENDS AT THAT
18 POINT. THE ENDING POINT OF OUR FORM SAYS, "I'VE READ OR
19 HAD READ TO ME THE ABOVE STATEMENT CONSISTING OF ONE
20 PAGE AND ATTEST THAT IT IS A TRUE AND ACCURATE ACCOUNT
21 TO THE BEST OF MY KNOWLEDGE OF EVENTS WHICH TOOK
22 PLACE ON OR ABOUT OR DURING 19TH OF MAY, 2003. I HAVE
23 RECEIVED A COPY OF THE STATEMENT FROM DETECTIVE
24 RABON."

25 Q: WHAT TIME OF NIGHT WAS IT THAT YOU ALL TOOK THIS

1 STATEMENT?

2 A: HIS WAIVER OF RIGHTS WAS GIVEN ABOUT 2:25 A.M. AND THEN
3 WE PROCEEDED ON IN TAKING THE STATEMENT. THE
4 STATEMENT ENDED AT 3:29 A.M.

5 Q: AND THAT WAS ON THE MAY THE 20TH?

6 A: YES, SIR.

7 Q: OKAY. NOW, WHAT IS ALL THIS REFERENCE TO BUSTING IN THIS
8 ... IN THIS STATEMENT?

9 A: BUSTING IS A ... FROM THE WORKING ASPECT A STREET TERM
10 FOR SHOOTING OR FIRING A GUN AT SOMEONE.

11 MR. CONNER: ANSWER ANY QUESTIONS THE DEFENSE
12 LAWYER MIGHT HAVE.

13 THE COURT: CROSS EXAMINATION, MR. BLACKMON.

14 MR. HOLSTON - CROSS EXAMINATION BY MR. BLACKMON:

15 Q: LIEUTENANT HOLSTON, DO YOU KNOW WHAT TIME MR. WILSON
16 WAS ARRESTED OR PICKED UP?

17 A: IT WAS ABOUT 15 OR 20 MINUTES PRIOR TO HIM COMING TO THE
18 OFFICE AND HIS RIGHTS WAIVED. I WAS ON THE SCENE WHEN
19 DETECTIVES WENT TO THE RESIDENCE AND GOT HIM OUT OF
20 THE HOME.

21 Q: DID YOU GO IN THE HOUSE WHEN THEY TOOK HIM OUT OF THE
22 HOME?

23 A: YES, SIR, I WAS THE LAST ONE IN.

24 Q: OKAY. SO YOU'RE AWARE THAT HE HAD BEEN ASLEEP I BELIEVE
25 WITH HIS THEN GIRLFRIEND?

HEARING

422

- 1 A: SUPPOSEDLY ASLEEP.
- 2 Q: OKAY. AND THE GIRLFRIEND WAS REMOVED FROM THE HOUSE
- 3 AS WELL?
- 4 A: SHE WAS ESCORTED DOWN TO THE LAW ENFORCEMENT CENTER
- 5 FOR FURTHER QUESTIONING, YES, SIR.
- 6 Q: AND YOU ALL ESCORTED HER FOR THE PURPOSE OF GETTING A
- 7 STATEMENT FROM HER ALSO?
- 8 A: YES, SIR.
- 9 Q: AND SO WOULD IT BE FAIR TO SAY THAT SHE WAS IN CUSTODY
- 10 AT THE TIME AND MR. WILSON WAS AWARE OF THAT?
- 11 A: NO, SIR, SHE WAS NOT IN CUSTODY. NO, SHE WAS BEING
- 12 TREATED AS A WITNESS AT THIS POINT TO TRY TO DETERMINE
- 13 WHAT TIME HE GOT THERE, IF HE IN FACT HAD BEEN THERE,
- 14 JUST BASICALLY DETERMINE WHAT TIME HE HAD ARRIVED AT
- 15 THE RESIDENCE. SHE WAS BEING BROUGHT IN MERELY AS A
- 16 WITNESS.
- 17 Q: DURING PART OF YOUR INTERVIEW BEFORE MR. WILSON
- 18 ALLEGEDLY SIGNED THE WAIVER OF HIS CONSTITUTIONAL
- 19 RIGHTS FORM DIDN'T YOU TELL HIM IF YOU SIGN HERE, SIGN A
- 20 LITTLE STATEMENT YOU'LL LET HER GO, YOU WERE HOLDING
- 21 HER FOR ATTEMPTED MURDER AND ASSAULT AND BATTERY?
- 22 A: NO, SIR, I DID NOT.
- 23 Q: YOU DIDN'T TELL HIM ANYTHING LIKE THAT?
- 24 A: NO, SIR.
- 25 Q: OKAY. YOU'RE NOT ONE OF THE OFFICERS WHO INTERVIEWED

1 THE GIRLFRIEND, ARE YOU?

2 A: NO, SIR.

3 Q: HOW MANY TIMES DID YOU TYPE UP THE STATEMENT BEFORE
4 YOU PRESENTED ONE TO MR. WILSON TO SIGN?

5 A: ONE TYPED, ONE PRINT.

6 Q: ONE TYPED AND ONE PRINTED?

7 A: NO, SIR. TYPED THE STATEMENT AND THEN WE PRINTED IT. IT'S
8 ALL ONE PROCESS.

9 Q: ISN'T IT YOU ALL'S NORMAL COURSE TO HAVE THE WITNESS
10 INITIAL THE BEGINNING AND END OF THE STATEMENT?

11 A: NO, SIR, THERE IS ... THERE ARE SEVERAL DIFFERENT WAYS OF
12 TAKING STATEMENTS. THIS IS ... I MEAN THE MOST COMMON
13 THAT'S UTILIZED. AS YOU CAN SEE AT THE BOTTOM IT SAYS WE
14 NORMALLY READ THE STATEMENT BACK TO HIM, ALLOW HIM
15 TO SEE THE STATEMENT AND THEN HAVE THEM SIGN IT.

16 Q: I NOTICED THAT THE PRINT ON THE INSIDE PART OF THE
17 STATEMENT IS DIFFERENT FROM THE PRINT AT THE STANDARD
18 FORM PART.

19 A: YES, SIR, THAT'S THE FORMAT OF THE ... THE COMPUTER.

20 Q: SO YOU DON'T PRINT ... YOU DON'T PUT THE STATEMENT FORM
21 ALREADY IN A PRINTER, YOU JUST PRINT IN THE INSIDE?

22 A: NO, SIR, IT'S ON THE COMPUTER AS SUCH JUST AS THIS. THE
23 ONLY ... THERE'S JUST BLANK SPACE TO TYPE THE STATEMENT
24 AND THERE ARE INSERTIONS FOR THE NAME AND THE ADDRESS.

25 Q: HOW WOULD YOU DESCRIBE MR. WILSON'S CONDITION WHILE

HEARING

424

- 1 HE WAS GIVING THE STATEMENT?
- 2 A: HE DID NOT APPEAR TO BE UPSET. I MEAN HE WAS ANXIOUS TO
- 3 TELL HIS SIDE OF THE STORY BUT HE WAS NOT UPSET. ONLY AT
- 4 THE ... AT THE FACT THAT ... THAT WE HAD HIM DOWN IN
- 5 CUSTODY AND THAT WE HAD PRETTY MUCH TOLD HIM ...
- 6 INFORMED HIM THAT WE WERE AWARE THAT HE WAS SEEN ON
- 7 CARVER STREET.
- 8 Q: DID HE APPEAR TO YOU TO HAVE BEEN HIGH?
- 9 A: NO, SIR.
- 10 Q: OKAY. DID YOU PUT EVERYTHING HE TOLD YOU IN THIS
- 11 STATEMENT?
- 12 A: YES, SIR.
- 13 Q: DID YOU KEEP ANY NOTES WHILE HE WAS GIVING THE
- 14 STATEMENT ...
- 15 A: NO, SIR.
- 16 Q: ... BEFORE YOU TYPED IT UP?
- 17 A: NO, SIR.
- 18 Q: OKAY. YOU WERE TYPING AS HE SPOKE?
- 19 A: YES, SIR.
- 20 Q: WHO WAS DOING THE TYPING?
- 21 A: I WAS.
- 22 Q: WERE YOU PRESENT WHEN THE GUNSHOT RESIDUE TESTING
- 23 WAS DONE ON MR. WILSON?
- 24 A: THAT WAS IN MY OFFICE.
- 25 Q: WAS THAT DONE BEFORE OR AFTER THIS STATEMENT WAS

1 GIVEN?

2 A: BEFORE.

3 MR. BLACKMON: COURT'S INDULGENCE FOR A MOMENT.

4 THE COURT: YES, SIR.

5 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

6 THE COURT: REDIRECT?

7 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR.

8 THE COURT: ALL RIGHT. THANK YOU, LIEUTENANT
9 HOLSTON. YOU MAY STEP DOWN. ALL RIGHT, MR. CONNER, YOU MAY
10 CALL YOUR NEXT WITNESS.

11 MR. CONNER: EXCUSE ME, YOUR HONOR. I CALL ANGELA
12 RABON.

13 THE COURT: ALL RIGHT, MS. RABON, COME AROUND,
14 PLEASE.

15 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
16 YOUR RIGHT HAND AND STATE YOUR NAME, PLEASE.

17 MS. RABON: ANGELA RABON.

18 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THE
19 TESTIMONY YOU GIVE THIS COURT SHALL BE THE TRUTH, THE WHOLE
20 TRUTH AND NOTHING BUT THE TRUTH SO HELP YOU GOD?

21 MS. RABON: I DO.

22 BAILIFF: HAVE A SEAT UP THERE, PLEASE, MA'AM. STATE
23 YOU FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

24 MS. RABON: ANGELA WILSON RABON, R-A-B-O-N.

25 MS. RABON - DIRECT EXAMINATION BY MR. CONNER:

HEARING

426

- 1 Q: AND SERGEANT RABON, WHERE DO YOU WORK?
- 2 A: AT THE SUMTER POLICE DEPARTMENT.
- 3 Q: AND HOW LONG HAVE YOU WORKED AT THE SUMTER POLICE
- 4 DEPARTMENT?
- 5 A: SINCE AROUND THE MIDDLE OF 1997.
- 6 Q: AND WHERE DID YOU WORK PRIOR TO THAT?
- 7 A: AT THE CHARLESTON POLICE DEPARTMENT FOR CLOSE TO TWO
- 8 AND A HALF YEARS.
- 9 Q: AND HOW LONG HAVE YOU BEEN A DETECTIVE AT THE SUMTER
- 10 POLICE DEPARTMENT?
- 11 A: RIGHT AT SIX YEARS. LITTLE OVER SIX YEARS.
- 12 Q: AND DID YOU RESPOND THE NIGHT OF MAY THE 19TH, 2003, IN
- 13 REGARDS TO THE CASE WE'RE TRYING HERE TODAY?
- 14 A: I DID.
- 15 Q: AND DID YOU SIT IN ON THE TAKING OF THIS STATEMENT BY
- 16 HAROLD WILSON OF HIS RIGHTS?
- 17 A: I DID.
- 18 Q: AND YOU'VE HEARD ... YOU'VE BEEN HERE IN THE COURTROOM
- 19 AND YOU HEARD WHAT MR. HOLSTON OR LIEUTENANT
- 20 HOLSTON HAD TO SAY AND IS THAT WHAT HAPPENED?
- 21 A: THAT'S RIGHT.
- 22 Q: NOW, IN ADDITION TO THAT DID YOU HAVE OCCASION TO TAKE
- 23 A GUNSHOT RESIDUE KIT FROM ... THIS FORM SAYS --- I BELIEVE
- 24 IT SAYS MAURICE DINGLE, EDWARD MAURICE DINGLE OR
- 25 WHATEVER HIS NAME IS?

1 A: THAT'S RIGHT, I DID.

2 Q: AND WHERE DID YOU DO THAT?

3 A: AT THE LAW ENFORCEMENT CENTER IN THE MAIN PART OF THE
4 INVESTIGATIVE SERVICES DIVISION.

5 Q: OKAY AND THAT WAS THAT SAME EVENING?

6 A: THAT'S RIGHT. I RESPONDED TO THE SCENE AND I MET WITH
7 MAURICE ... I KNOW HIM AS MAURICE DINGLE ... RIGHT AFTER
8 THE INCIDENT AND ... AND I DID THE GUNSHOT RESIDUE
9 COLLECTION KIT ON HIM AT THE LAW ENFORCEMENT CENTER.

10 Q: AND WHAT TIME OF NIGHT WOULD THAT HAVE BEEN?

11 A: I'M NOT EXACT ON TIME. I'M SORRY. IT WOULD BE ON THE
12 PAPERWORK.

13 Q: IT WAS ON THE 19TH SO IT WOULD HAVE BEEN BEFORE
14 MIDNIGHT?

15 A: THAT'S RIGHT.

16 MR. CONNER: I HAVE NO FURTHER QUESTIONS. ANSWER
17 ANY QUESTIONS THE DEFENSE LAWYER MIGHT HAVE.

18 THE COURT: CROSS EXAMINATION, MR. BLACKMON?

19 MS. RABON - CROSS EXAMINATION BY MR. BLACKMON:

20 Q: SERGEANT RABON, DO YOU HAVE THE FORM THAT INDICATES
21 THE EXACT TIME THAT THE GSR KIT WAS TAKEN?

22 A: I DON'T, SIR. THAT WAS PLACED INTO THE KIT AND SENT TO
23 SLED FOR ANALYSIS.

24 Q: WHAT KIND OF FORM WOULD IT HAVE BEEN?

25 A: IT'S THE STANDARD FORM THAT COMES IN EVERY GSR KIT THAT

HEARING

428

1 YOU COMPLETE WITH THE FACTS CONCERNING THE INDIVIDUAL
2 YOU'RE COLLECTING THE GSR FROM.

3 Q: DID YOU BRING MR. DINGLE FROM THE SCENE OF THE INCIDENT
4 TO THE LAW ENFORCEMENT CENTER OR WAS HE TRANSPORTED
5 BY SOMEBODY ELSE?

6 A: I BELIEVE HE WAS TRANSPORTED BY SOMEONE ELSE. I DON'T
7 RECALL SPECIFICALLY ON THE TRANSPORT. I DO KNOW I MET
8 WITH HIM AT THE LAW ENFORCEMENT CENTER IN THE
9 INVESTIGATIVE SERVICES DIVISION.

10 Q: AND YOU DON'T KNOW WHAT TIME HE WAS REMOVED FROM
11 THE SCENE NOR WHERE EXACTLY HE WAS REMOVED FROM?

12 A: IT WAS SHORTLY AFTER THE INCIDENT OCCURRED. THE
13 WITNESSES WERE SEPARATED AT THE SCENE AND HE WAS
14 TAKEN TO THE STATION FOR A STATEMENT AND FOR THE GSR
15 KIT, THE GUNSHOT RESIDUE KIT.

16 Q: IT COULD HAVE BEEN ... IT HAD TO BE SOME TIME BEFORE
17 MIDNIGHT?

18 A: YES, SIR.

19 Q: YOU'RE NOT SURE WHAT TIME BEFORE MIDNIGHT ...

20 A: I'M NOT. I'M NOT.

21 Q: BUT IT COULD HAVE BEEN CLOSE TO MIDNIGHT, YOU DON'T
22 RECALL?

23 A: I DON'T RECALL ON THE TIME..

24 Q: DO YOU RECALL WHETHER IT WAS DONE BEFORE OR AFTER HE
25 GAVE A STATEMENT AT LAW ENFORCEMENT?

- 1 A: BEFORE HIS STATEMENT.
- 2 Q: SO IF YOU ALL DID NOT PUT A TIME ON HIS STATEMENT YOU
- 3 DON'T RECALL WHAT TIME HE GAVE HIS STATEMENT EITHER
- 4 EXACTLY OR APPROXIMATELY?
- 5 A: I DON'T. I JUST KNOW THE DATE INDICATED ON THE GSR KIT IS
- 6 THE 19TH.
- 7 Q: OKAY. THERE'S NO QUESTION THAT THERE WAS AT LEAST A
- 8 COUPLE OF FREE MINUTES FROM THE TIME THE 911 CALL CAME
- 9 IN UNTIL THE FIRST OFFICERS RESPONDED ON THE SCENE?
- 10 A: I DON'T KNOW THE EXACT TIME. I'M SURE THE 911 PRINTOUT
- 11 WOULD VERIFY THAT.
- 12 Q: WOULD THE CAD REPORT INDICATE WHEN MR. DINGLE WAS
- 13 TAKEN TO LAW ENFORCEMENT?
- 14 A: IT COULD POSSIBLY. I'M NOT SURE. I HAVEN'T LOOKED AT THE
- 15 CAD, SIR.
- 16 Q: LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
- 17 30 ...
- 18 A: OKAY.
- 19 Q: ... AND ASK IF YOU WILL REVIEW THAT ...
- 20 A: ALL RIGHT.
- 21 Q: ... AND SEE IF IT DOES.
- 22 A: IT DOESN'T STATE SPECIFICALLY WHEN I LEFT THE SCENE OR
- 23 ARRIVED AT THE LAW ENFORCEMENT CENTER AFTER THE
- 24 SCENE BUT IT DOES SHOW THAT SEVERAL UNITS LEFT THE
- 25 SCENE AT AROUND 11:00 P.M., 23:09, BUT I CAN'T SAY FOR

HEARING

430

1 CERTAIN WHEN I LEFT THE SCENE.

2 Q: DO YOU RECALL BEING ONE OF THE LAST OFFICERS TO LEAVE
3 THE SCENE?

4 A: NO, THERE WAS STILL UNITS THERE WHEN I WENT TO THE
5 STATION TO DO THE GUNSHOT RESIDUE KIT ON MR. DINGLE.

6 Q: SO THAT FORM DOES NOT INDICATE WHEN YOU LEFT THE
7 SCENE?

8 A: IT DOES NOT.

9 Q: DO YOU RECALL HEARING LIEUTENANT HOLSTON INDICATE
10 ANYTHING TO MR. WILSON ABOUT LETTING HIS GIRLFRIEND GO
11 IF HE WOULD GIVE A STATEMENT?

12 A: I DON'T.

13 Q: AND YOU DIDN'T SAY ANYTHING LIKE THAT?

14 A: NO, SIR.

15 Q: WERE YOU PRESENT WHEN MR. WILSON'S HOUSE WAS
16 SEARCHED?

17 A: I WAS.

18 Q: AND THE PURPOSE OF SEARCHING HIS HOUSE WAS TO LOCATE
19 ANY FIREARMS, BULLETS OR ANYTHING OF THAT NATURE?

20 A: I TAKE THAT BACK. I DON'T BELIEVE ... I WAS PRESENT WHEN HE
21 WAS ARRESTED AT THE RESIDENCE ON SALEM STREET. I DON'T
22 BELIEVE I WAS PRESENT DURING ... IF THEY SEARCHED HIS
23 RESIDENCE, I'M NOT SURE ON THAT.

24 Q: WHEN HE WAS ARRESTED ...

25 A: I KNOW I ... THE HOUSE I WAS ONLY AT WAS WHEN HE WAS

1 ARRESTED ON ... ON SALEM STREET.

2 Q: AND DID YOU ENTER THAT HOUSE WHEN HE WAS ARRESTED?

3 A: I DID.

4 Q: WAS THAT HOUSE SEARCHED WHEN HE WAS ARRESTED?

5 A: I CAN'T SAY FOR SURE. I WAS INVOLVED WITH THE INITIAL
6 ARREST AND ... BUT I ... I FEEL CERTAIN THAT IT WOULD HAVE
7 BEEN SEARCHED.

8 Q: THERE'S NO QUESTION THAT NO GUN OR BULLETS OR ANYTHING
9 WERE FOUND AS A RESULT OF THAT SEARCH, WERE THERE?

10 A: I DON'T KNOW THAT, SIR.

11 Q: OKAY. WOULD IT BE FAIR TO SAY THAT IF A GUN OR ANY
12 BULLETS HAD BEEN FOUND THEY WOULD HAVE PROBABLY
13 BEEN PUT INTO EVIDENCE?

14 A: THAT'S RIGHT.

15 Q: WHEN MR. ... WERE YOU PHYSICALLY PRESENT WHEN MR.
16 WILSON WAS PHYSICALLY PLACED UNDER ARREST?

17 A: YES, I WAS.

18 Q: AND WHERE WAS HE?

19 A: HE WAS LAYING IN A BED WITH A SHEET.

20 Q: DID HE APPEAR TO YOU AT THAT TIME TO HAVE BEEN UNDER
21 THE INFLUENCE OF ANYTHING?

22 A: NO.

23 Q: DURING ANY OF THE INTERVIEW DID HE APPEAR TO YOU TO BE
24 UNDER THE INFLUENCE OF ANYTHING?

25 A: NO, SIR.

HEARING

432

1 MR. BLACKMON: COURT'S INDULGENCE FOR A MOMENT?

2 THE COURT: YES, SIR.

3 Q: DO YOU RECALL THERE BEING AT LEAST TWO OR THREE OTHER
4 STATEMENTS TYPED THAT WERE REJECTED?

5 A: NO, SIR, IT WAS NOT.

6 Q: DO YOU RECALL ANY OTHER STATEMENTS THAT WERE
7 REJECTED?

8 A: NO.

9 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

10 THE COURT: REDIRECT?

11 MS. RABON - REDIRECT EXAMINATION BY MR. CONNER:

12 Q: OFFICER RABON (CAN'T HEAR) ...

13 THE COURT: SPEAK UP A LITTLE, MR. CONNER, I DIDN'T
14 HEAR YOU.

15 MR. CONNER: I WAS ASKING HER TO CUT THIS PACKAGE
16 OPEN, THAT'S STATE'S EXHIBIT NUMBER 26 AND SEE IF THERE'S
17 ANYTHING ...

18 THE COURT: ALL RIGHT. THAT'S FINE.

19 A: INSIDE ARE THE CONTAINERS WITH THE ... BASICALLY THEY
20 HAVE THE STICKY TAPE SECTION THAT YOU PUT ON THE HANDS
21 OF SOMEONE SUSPECTED OF SHOOTING A FIREARM AND IT
22 WOULD TEST AND COLLECT THE GSR, THE GUNSHOT RESIDUE.
23 AND THAT'S THE ONLY THING THAT IS IN THERE. THERE'S NO
24 FORMS IN HERE AT ALL.

25 MR. CONNER: I HAVE NOTHING FURTHER.

1 MR. BLACKMON: NOTHING FROM ME.

2 THE COURT: ALL RIGHT. THANK YOU, MS. RABON, YOU
3 MAY STEP DOWN.

4 MR. CONNER: MAY IT PLEASE THE COURT. AT THIS POINT
5 THE STATE WOULD REST.

6 THE COURT: ALL RIGHT. ALL RIGHT, LADIES AND
7 GENTLEMEN OF THE JURY, YOU HAVE HEARD THAT THE STATE HAS
8 ANNOUNCED THAT THEY HAVE RESTED THE CASE. THAT MEANS THAT
9 YOU HAVE HEARD ALL OF THE EVIDENCE THAT YOU WILL HEAR FROM
10 THE STATE AT THIS TIME. THERE ARE CERTAIN MATTERS THAT I NOW
11 NEED TO TAKE UP WITH THE ATTORNEYS INVOLVED. THIS WILL NOT
12 TAKE VERY LONG BUT I DO HAVE TO DO THIS ON THE RECORD AND
13 OUTSIDE OF YOUR PRESENCE SO I'M GONNA ASK THAT YOU GO TO
14 YOUR JURY ROOM FOR A FEW MINUTES WHILE WE TAKE UP THESE
15 MATTERS OF LAW. PLEASE DO NOT DISCUSS THE CASE AMONG
16 YOURSELVES. IT'S STILL PREMATURE FOR YOU TO BEGIN ANY
17 DISCUSSION OR ANY DELIBERATIONS ABOUT THIS MATTER BECAUSE
18 THERE ARE STILL THINGS THAT HAVE TO BE DONE INCLUDING THE
19 ARGUMENTS AND OTHER MATTERS THAT NEED TO BE DONE SO TO
20 HEAR THIS MATTER OR TO MAKE ANY DELIBERATIONS AT THIS POINT
21 IS STILL PREMATURE. TALK ABOUT ANYTHING YOU WANT TO BUT
22 DON'T TALK ABOUT THIS CASE AND WE'LL SEND FOR YOU VERY
23 SHORTLY. THANK YOU IF YOU WILL GO WITH THE BAILIFF TO THE
24 JURY ROOM.

25 (JURY OUT AT 10:21 A.M.).

HEARING

434

1 THE COURT: ALL RIGHT, MR. BLACKMON, ARE THERE
2 MOTIONS ON BEHALF OF THE DEFENDANT?

3 MR. BLACKMON: YES, SIR, YOUR HONOR. FOR THE
4 RECORD, YOUR HONOR, WE WOULD MOVE AT THIS TIME FOR THE
5 COURT TO DIRECT A VERDICT OF NOT GUILTY ON THE CHARGE OF
6 MURDER ON THE BASIS THAT ALL OF THE EVIDENCE IN THE LIGHT
7 MOST FAVORABLE TO THE STATE FAILS TO PROVIDE THE JURY AND
8 THE COURT WITH ANY EVIDENCE OF MALICE AFORETHOUGHT OR
9 THAT IN FACT IT WAS THIS DEFENDANT WHO FIRED THE BULLET THAT
10 KILLED REGINALD FOSTER. THERE HAS BEEN NO TESTIMONY THAT
11 THE BULLET THAT KILLED REGINALD FOSTER CONSISTING OF THE
12 FRAGMENT THAT WAS FOUND IN HIS BRAIN IS CONSISTENT WITH
13 EITHER THE BULLET OR THE CASINGS THAT WERE RECOVERED AT THE
14 SCENE. THERE'S BEEN NO WEAPON PLACED IN EVIDENCE WHICH CAN
15 BE TRACED BACK TO THIS DEFENDANT WHICH ANY EXPERT CAN HAVE
16 IDENTIFIED THE FRAGMENT AS COMING FROM. THERE HAS BEEN NO
17 TESTIMONY THAT IN FACT IT WAS THIS DEFENDANT WHO FIRED THE
18 WEAPON THAT CAUSED THE BULLET TO ENTER THE BRAIN OF
19 REGINALD FOSTER. AND THERE'S ABSOLUTELY NO EVIDENCE THAT
20 REGGIE FOSTER DIED AS AN APPROXIMATE RESULT OF ANY WEAPON
21 FIRED BY THIS DEFENDANT. AND WE WOULD ADDITIONALLY MOVE TO
22 THE COURT TO DIRECT A VERDICT OF NOT GUILTY AS TO THE ASSAULT
23 AND BATTERY WITH INTENT TO KILL HERBERT LINWOOD BUTLER
24 LIKEWISE ON THE BASIS THAT THERE IS NO EVIDENCE THAT ANY
25 BULLET THAT ENTERED MR. BUTLER'S LEG WAS FIRED FROM A

1 WEAPON HELD BY THIS DEFENDANT. THERE'S BEEN NO BULLET
2 RECOVERED OR TIED TO A WEAPON THAT CAN BE TRACED TO MR.
3 WILSON. THERE'S ABSOLUTELY NO EVIDENCE MR. WILSON WENT TO
4 THIS SCENE WITH MALICE AFORETHOUGHT WITH THE PURPOSE OF
5 KILLING HERBERT LINWOOD BUTLER SO WE BELIEVE THAT THERE'S NO
6 SUFFICIENT EVIDENCE FOR THAT. FURTHER WE WOULD ASK THE
7 COURT TO DIRECT A VERDICT OF NOT GUILTY ON THE CHARGE OF
8 ATTEMPTED ARMED ROBBERY ON THE BASIS THAT ALL OF THE
9 STATEMENTS OF ALL OF THE WITNESSES EVEN IN THE LIGHT MOST
10 FAVORABLE TO THE STATE IS NOT EVIDENCE OF INTENT TO ACTUALLY
11 ROB MAURICE DINGLE. I THINK THE CONTRADICTORY STATEMENTS
12 THAT WERE ADMITTED INTO EVIDENCE AND THE CONTRADICTORY
13 TESTIMONY EVEN TAKEN IN THE LIGHT MOST FAVORABLE TO THE
14 STATE DOES NOT INDICATE THAT THIS DEFENDANT WAS IN THE
15 PROCESS OF ROBBING OR ATTEMPTING TO ROB MAURICE DINGLE.
16 AND SO THE STATE FAILED TO PRESENT SUFFICIENT EVIDENCE BY
17 WHICH HE COULD EVEN BE FOUND GUILTY OF THAT. AND FINALLY WE
18 WOULD MOVE TO DISMISS COUNT FOUR, POSSESSION OF A FIREARM
19 DURING THE COMMISSION OF A CRIME OF VIOLENCE BECAUSE BASED
20 UPON THE TESTIMONY THAT WAS PRESENTED SINCE MR. WILSON
21 COULD NOT HAVE BEEN THE PERSON WHO SHOT LITTLE REGGIE AND
22 SINCE THERE HAS BEEN INSUFFICIENT PROOF THAT HE SHOT HERBERT
23 LINWOOD BUTLER AND SINCE THERE HAS BEEN INSUFFICIENT PROOF
24 THAT THERE WAS IN FACT AN ATTEMPTED ARMED ROBBERY THERE'S
25 INSUFFICIENT PROOF OF A CRIME OF VIOLENCE AND SO WE WOULD

HEARING

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1 RESPECTFULLY ASK THE COURT TO DIRECT A VERDICT OF NOT GUILTY
2 ON ALL CHARGES.

3 THE COURT: MR. CONNER?

4 MR. CONNER: MAY IT PLEASE THE COURT. IN REGARDS TO
5 THE MURDER I CERTAINLY THINK THERE'S MALICE AFORETHOUGHT IN
6 THAT HE'S INDICATED EVEN IN HIS OWN STATEMENTS TO THE POLICE
7 THAT HE WAS OUT THERE FIRING A GUN, BUSTING IT AS HE WOULD
8 SAY. IN ANY EVENT, ALL THE OTHER WITNESSES TESTIFIED THAT HE
9 WAS THE SINGLE SOURCE OF THE GUNFIRE AND THE MAILBOX
10 APPEARS TO HAVE BEEN DAMAGED BY GUNFIRE AND OF COURSE WE
11 HAVE TWO YOUNG MEN WHO HAVE BEEN SHOT. AND MR. BUTLER'S
12 HERE IN COURT SAYING THAT ... THAT IT WAS HIS PERCEPTION THAT
13 HE WAS SHOT BY TWINKIE AND EVEN THE INFORMATION GIVEN OUT
14 THAT NIGHT TO ... TO THE FIRST OFFICER THAT TREATED MR. BUTLER
15 WAS THAT TWINKIE WAS THE SHOOTER AND THAT INFORMATION WAS
16 PUT OUT OVER THE AIR. ALL THE EVIDENCE, YOUR HONOR, POINTS TO
17 THIS BEING THE SAME SHOOTER. THE ... NUMBER TWO, HE SAYS IN HIS
18 OWN STATEMENT, HIS LAST STATEMENT IS, "AFTER THINKING ABOUT
19 THINGS I KNOW I SHOT DADDY RABBIT" AND IN PARENTHESES OR IN
20 QUOTATION MARKS AFTER THAT HE SAYS LINWOOD BUTLER. THAT
21 WOULD BE ASSAULT AND BATTERY WITH INTENT TO KILL. THERE'S NO
22 INFORMATION IN ... WELL, I THINK THAT'S ENOUGH SAID IN THAT
23 REGARD AS TO ATTEMPTED ARMED ROBBERY, HE SAYS IN HIS
24 STATEMENT THAT HE GAVE TO MR. BRANNON HERE DOWN AT THE
25 JAIL, A HANDWRITTEN STATEMENT, "IF I WASN'T TRYING TO ROB HE

1 WOULD BE HERE ON EARTH TODAY." IT SAYS, "I AM GUILTY FOR
2 ACCESSORY OF LITTLE REGGIE'S DEATH BECAUSE IF I WASN'T TRYING
3 TO ROB HE WOULD BE HERE ON EARTH TODAY." HE ALSO SAID
4 EARLIER IN THAT STATEMENT, HIS FIRST SENTENCE, "THAT ME AND
5 MY MAN, TREZ, WAS ON CARVER PLOTTING TO ROB REESE FOR DRUGS
6 AND HIS GUN." THERE'S NO QUESTION ABOUT IT IS THAT HE HAD A
7 GUN AND HE WAS THERE TO ROB HIM AND THESE ... SEVERAL OF
8 THESE OTHER WITNESSES SAID SOMETHING TO THE EFFECT LET ME
9 GET WHAT'S IN YOUR POCKETS. OF COURSE, HE NEVER GOT IT, THAT'S
10 WHY HE'S CHARGED WITH ATTEMPTED ARMED ROBBERY RATHER
11 THAN ARMED ROBBERY. AND OF COURSE COUNT FOUR IS RELATED TO
12 COUNT ... THE OTHER COUNTS IN THAT IF HE'S CONVICTED FOR ANY
13 ONE OF THOSE HE WOULD BE GUILTY OF POSSESSION OF A FIREARM
14 DURING THE COMMISSION OF A VIOLENT CRIME.

15 THE COURT: ALL RIGHT. ANYTHING IN RESPONSE TO THE
16 STATE'S ARGUMENT, MR. BLACKMON?

17 MR. BLACKMON: NO, SIR, YOUR HONOR.

18 THE COURT: ALL RIGHT. ALL RIGHT, AT THE DIRECTED
19 VERDICT STAGE THE COURT IS TO LOOK AT THE EXISTENCE OF
20 EVIDENCE, NOT THE WEIGHT OR THE SUFFICIENCY OF THE EVIDENCE,
21 THAT IS A MATTER FOR THE JURY'S DETERMINATION. THE ONLY
22 THING THAT THIS COURT HAS TO DO OR SHOULD DO IS TO DETERMINE
23 IF THERE IS EVIDENCE IN THE RECORD THAT SUPPORTS THE CHARGES
24 THAT HAVE BEEN BROUGHT BY THE STATE AND FOR WHICH THE
25 DEFENDANT IS ON TRIAL. EVIDENCE CAN BE DIRECT OR

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1 CIRCUMSTANTIAL AND EITHER OR BOTH CAN SUPPORT A CONVICTION.
2 IN ADDITION TO THAT THERE IS THE DOCTRINE OF THAT WE'VE ALL
3 HEARD FROM TIME TO TIME THE HAND OF ONE IS THE HAND OF ALL.
4 IN MY VIEW THERE IS EVIDENCE IN THE RECORD IN THIS CASE BY
5 WHICH A JURY COULD CONCLUDE THAT ALL OF THE ELEMENTS OF
6 MURDER, ASSAULT AND BATTERY WITH INTENT TO KILL, AND
7 ATTEMPTED ARMED ROBBERY ARE PRESENT. IT IS UP TO THE JURY TO
8 DETERMINE THE CREDIBILITY OR BELIEVABILITY OF THE ELEMENTS
9 AND NOT THIS COURT. I DETERMINE ONLY THE EXISTENCE OF THE
10 EVIDENCE AND THERE IS EVIDENCE IN THE RECORD WHICH WOULD...
11 WHICH WOULD SUPPORT ALL ... THE ELEMENTS OF ALL THREE
12 CHARGES AND OF COURSE THE FOURTH CHARGE AS RELATED TO THE
13 OTHER THREE. OBVIOUSLY THEY CANNOT FIND THE DEFENDANT
14 GUILTY OF THE POSSESSION OF A WEAPON DURING THE COMMISSION
15 OF A VIOLENT CRIME UNLESS THEY FIND HIM GUILTY OF ONE OF THE
16 OTHER THREE CHARGES. BUT THERE IS ALSO EVIDENCE IN THE
17 RECORD THAT THE ... THEY COULD DO THAT. SO I WILL RESPECTFULLY
18 DENY THE MOTION WITH REGARD TO ALL THE CHARGES. ALL RIGHT.
19 ANYTHING ELSE WITH REGARD TO ANY MOTIONS OR MATTERS THAT
20 YOU NEED TO PUT ON THE RECORD AT THIS TIME, MR. BLACKMON?

21 MR. BLACKMON: FOR THE RECORD, YOUR HONOR, IN THE
22 PREVIOUS SIDEBAR I BELIEVE THE COURT INDICATED THAT IT DID NOT
23 SPECIFICALLY RECALL DURING THE JACKSON VS. DENNO HEARING
24 WHETHER AN OBJECTION WAS ACTUALLY PLACED ON THE RECORD OR
25 WHETHER IT WAS CONCEDED TO AND I HAVE NOT REVIEWED MY

1 NOTES BUT FOR THE RECORD BELIEVE THAT WE OBJECTED TO THAT
2 AND IF NOT WOULD JUST LIKE TO PUT ON THE RECORD MY
3 PERCEPTION THAT THERE SHOULD HAVE BEEN AND MAY HAVE BEEN
4 AN OBJECTION AND THEREFORE WOULD HAVE OBJECTED AND DID
5 OBJECT TO THE ADMISSION OF BOTH STATEMENTS FROM THE
6 DEFENDANT ON THE BASIS THAT THEY WERE NOT FREELY AND
7 VOLUNTARILY GIVEN, THAT THEY WERE IN FACT GIVEN AFTER
8 THREATS OR PROMISES OR INTIMIDATION WHICH WOULD CLEARLY BE
9 IN VIOLATION OF THE DEFENDANT'S CONSTITUTIONAL RIGHTS AND
10 FOR THAT REASON THEREFORE I DID OBJECT TO THE ADMISSION OF
11 THOSE STATEMENTS.

12 THE COURT: ALL RIGHT. SO NOTED. ALL RIGHT, NOW, MR.
13 BLACKMON, IF YOU HAVE HAD SUFFICIENT TIME AND YOU SHOULD
14 HAVE SINCE WE'VE BEEN ON TWO EVENING RECESSES WITH THIS TO
15 DISCUSS THE MATTERS OF THE FIFTH AMENDMENT RIGHTS WITH
16 YOUR CLIENT AND HE'S READY TO ADDRESS THOSE WITH THE COURT
17 YOU CAN BRING HIM AROUND.

18 MR. BLACKMON: JUDGE, I WOULD LIKE IF WE COULD TO
19 TAKE A BRIEF RECESS TO DISCUSS THAT MATTER WITH HIM. AS I
20 RECALL YESTERDAY WHEN WE ENDED THE COURT AND THE COURT
21 INITIALLY OR AT SOME POINT INITIALLY DISCUSSED THE MATTER
22 WITH THE DEFENDANT THE DEFENDANT SPECIFICALLY ASKED THAT IF
23 HE DIDN'T TESTIFY HIS STATEMENTS WOULD NOT BE ALLOWED INTO
24 EVIDENCE AND I THINK HE HAD UNDERSTOOD IF HE DIDN'T TESTIFY
25 THEY WOULD NOT BE ALLOWED INTO EVIDENCE. THEY NOW HAVE

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1 BEEN ALLOWED INTO EVIDENCE WHICH ...

2 THE COURT: I DISCUSSED THAT WITH HIM. WHAT I MEANT
3 WAS AT THAT POINT THEY HAD NOT BEEN ADMITTED INTO EVIDENCE
4 BECAUSE THEY WERE ADMITTED INTO EVIDENCE NOT THROUGH HIM
5 BUT THEY WOULD BE ... THEY COULD NOT HAVE BEEN INTRODUCED
6 INTO EVIDENCE THROUGH HIM IF THE STATE HAD NOT OFFERED THEM.

7 MR. BLACKMON: YES, SIR.

8 THE COURT: BUT THE STATE DID OFFER THEM. BUT I WILL
9 ... WE'LL TAKE ... WE'LL TAKE TEN MINUTES AND DISCUSS IT WITH HIM
10 AND THEN WE'LL COME BACK AND THEN CONCLUDE THE FIFTH
11 AMENDMENT MATTERS AND THEN GO FORWARD FROM THERE.

12 MR. BLACKMON: THANK YOU, SIR.

13 THE COURT: LET ME ASK BEFORE WE DO THAT JUST FOR
14 PLANNING PURPOSES, MR. BLACKMON, WITHOUT REQUIRING A
15 DECISION ON HIS PART AT THIS TIME DO YOU ANTICIPATE OTHER
16 EVIDENCE?

17 MR. BLACKMON: AT THIS POINT, YOUR HONOR, I DON'T
18 ANTICIPATE ANY OTHER EVIDENCE.

19 THE COURT: ALL RIGHT, THANK YOU.

20 (WHEREUPON THERE WAS A PAUSE).

21 THE COURT: ALL RIGHT, MR. BLACKMON, HAVE MR.
22 WILSON AROUND AND LET THE RECORD REFLECT THAT WE ARE BACK
23 ON THE RECORD WITH REGARD TO THE STATE VS. HAROLD JAMAR
24 WILSON. HE IS PRESENT IN COURT WITH HIS ATTORNEY, MR.
25 BLACKMON. YOU ALL COME AROUND AND LET'S DECIDE THE FIFTH

1 AMENDMENT SITUATION. MR. WILSON, YESTERDAY I EXPLAINED TO
2 YOU THE RIGHTS THAT YOU HAVE UNDER THE FIFTH AMENDMENT TO
3 THE CONSTITUTION OF THE UNITED STATES AND A SIMILAR
4 COUNTERPART PROVISION OF THE CONSTITUTION OF THE STATE OF
5 SOUTH CAROLINA AND THAT IS THAT NO PERSON SHALL BE
6 COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST
7 HIMSELF. THAT MEANS THAT YOU DO NOT HAVE TO TESTIFY IN THIS
8 CASE. YOU HAVE A RIGHT TO TESTIFY BUT YOU ALSO HAVE THE
9 RIGHT NOT TO TESTIFY. I DID TELL YOU YESTERDAY THAT I WOULD
10 GIVE YOU AN OPPORTUNITY TO TALK WITH YOUR LAWYER ABOUT
11 THIS RIGHT BEFORE I REQUIRED YOU TO MAKE A DECISION. DID YOU
12 UNDERSTAND WHAT I EXPLAINED TO YOU ABOUT YOUR
13 CONSTITUTIONAL RIGHTS TO TESTIFY OR NOT TO TESTIFY?

14 MR. WILSON: YES, SIR.

15 THE COURT: AND HAVE YOU HAD A CHANCE TO TALK
16 WITH MR. BLACKMON ABOUT THIS RIGHT?

17 MR. WILSON: YES, SIR.

18 THE COURT: AND HAVE YOU MADE A DECISION AS TO
19 WHETHER YOU DO OR DO NOT WISH TO TESTIFY IN THIS CASE?

20 MR. WILSON: YES, SIR.

21 THE COURT: AND IS THAT DECISION NO YOUR PART
22 FREELY AND VOLUNTARILY MADE?

23 MR. WILSON: WELL, I'M FREE AND I'M TAKING ...

24 THE COURT: WELL, IS ... I HAVEN'T ASKED YOU WHAT THE
25 DECISION IS YET. I'M ASKING YOU IF YOUR DECISION THAT YOU'VE

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1 MADE IS IT FREELY AND VOLUNTARILY MADE OF YOUR OWN FREE
2 WILL AND ACCORD?

3 MR. WILSON: YES, SIR.

4 THE COURT: AND WHAT IS THAT DECISION? DO YOU
5 WANT TO TESTIFY OR DO YOU NOT WANT TO TESTIFY?

6 MR. WILSON: I WANT TO TESTIFY.

7 THE COURT: YOU WISH TO TESTIFY?

8 MR. WILSON: YES, SIR.

9 THE COURT: ALL RIGHT. ALL RIGHT, MR. BLACKMON, DO
10 YOU WISH TO PUT ANYTHING ON THE RECORD WITH REGARD TO THIS
11 MATTER?

12 MR. WILSON: JUST FOR THE RECORD, YOUR HONOR, I
13 HAVE IN FACT CONFERRED WITH MR. WILSON AND TO THE BEST OF MY
14 ABILITY I BELIEVE EXPLAINED HIS RIGHTS TO HIM AS HAS THE COURT.
15 THE COURT PUT THOSE RIGHTS ON THE RECORD YESTERDAY AND
16 AGAIN BRIEFLY TODAY. AND I BELIEVE TO THE BEST OF MR. WILSON'S
17 ABILITY HE UNDERSTANDS THOSE RIGHTS. HOWEVER, AS AN OFFICER
18 OF THE COURT, I FEEL COMPELLED TO MITIGATE THAT TO THE EXTENT
19 THAT WHEN I WAS PROVIDED WITH THE CRIMINAL RECORD OF THE
20 DEFENDANT BY THE STATE WHEN WE COMMENCED THIS TRIAL
21 MONDAY AFTER OUR DISCOVERY MOTIONS THAT IT IS FURTHER
22 INCLUDED ON HIS CRIMINAL RECORD THAT MR. WILSON HAS ALREADY
23 BEEN DIAGNOSED AS BEING EDUCABLY MENTALLY HANDICAPPED
24 AND HAVING PSYCHIATRIC/PSYCHOLOGICAL DISABILITIES SO AS A
25 LAWYER, AS A LAY PERSON I DON'T ...

1 THE COURT: WAS THIS ADDRESSED AT THE COMPETENCY
2 HEARING?

3 MR. BLACKMON: YES, SIR, YOUR HONOR, IT WAS AND WE
4 OBJECTED SOMEWHAT TO THAT ON THE BASIS THAT THE MEDICAL
5 RECORDS THAT WERE PROVIDED INDICATED THAT HE SHOULD NOT
6 HAVE BEEN COMPETENT. FOR WHAT THAT'S WORTH, I JUST WANTED
7 TO PUT ON THE RECORD THAT THAT'S INCLUDED ON HIS CRIMINAL
8 RECORD NOW AND OF COURSE WE'RE GONNA RAISE A MOTION AS TO
9 HIS PREVIOUS CRIMINAL HISTORY IMMEDIATELY FOLLOWING THIS
10 HEARING. BUT SUBJECT TO HIS CONDITION, TO THE BEST OF HIS
11 ABILITY I BELIEVE HE UNDERSTANDS THOSE RIGHTS AND HAS BEEN
12 ABLE TO VOICE THOSE UNDERSTANDINGS OF THOSE RIGHTS. I
13 BELIEVE THAT HE DOES AT THIS TIME WANT TO TESTIFY AND IS DOING
14 THAT FREELY AND VOLUNTARILY. THERE'S CERTAINLY BEEN NO
15 THREAT OR NO COMPULSION OR NO DURESS EITHER BY ANYBODY IN
16 THE COURT OR LAW ENFORCEMENT OR ANYONE INCLUDING ME THAT
17 I HAVE SPECIFICALLY GIVEN HIM THAT OBJECTION. HE UNDERSTANDS
18 THOSE RIGHTS AND THEREFORE WISHES TO TESTIFY AT THIS TIME.

19 THE COURT: ALL RIGHT. ALL RIGHT, MR. WILSON, BEFORE
20 I MAKE A FINAL DETERMINATION ON THIS I WANT TO ALSO EXPLAIN
21 TO YOU AND I THINK MR. BLACKMON HAS ALSO EXPLAINED TO YOU
22 THAT AS I UNDERSTAND IT THERE ARE CERTAIN CRIMINAL
23 CONVICTIONS THAT YOU HAVE THAT CAN BE USED BY THE STATE TO
24 IMPEACH YOUR TESTIMONY AND YOU CAN BE ASKED ABOUT THOSE
25 CRIMINAL CONVICTIONS. TELL ME, MR. CONNER, WHAT YOU WOULD

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1 INTEND TO GO INTO ON CROSS EXAMINATION WITH REGARD TO
2 CRIMINAL CONVICTIONS AND DETERMINING WHETHER OR NOT THEY
3 ARE ADMISSIBLE BEFORE I REQUIRE HIM TO MAKE A DECISION.

4 MR. CONNER: YOUR HONOR, IN THE RECORDS WE'VE BEEN
5 GIVEN HE WAS CONVICTED OF COMMON LAW ROBBERY IN JUVENILE
6 COURT ON MAY THE 28TH, 2001 AND ALSO AT THE SAME TIME
7 BURGLARY SECOND DEGREE.

8 MR. BLACKMON: I BELIEVE THAT WAS JUNE 28TH OF '01.

9 MR. CONNER: JUNE 28TH OF '01.

10 THE COURT: JUNE 28, '01?

11 MR. BLACKMON: YES, SIR.

12 THE COURT: ALL RIGHT. THESE MATTERS ARE GOVERNED
13 BY RULE 608 OF THE SOUTH CAROLINA RULES OF EVIDENCE. THESE
14 ARE CRIMES THAT QUALIFY UNDER RULE 608 BECAUSE THEY ARE
15 PUNISHABLE BY IMPRISONMENT FOR IN EXCESS OF ONE YEAR AND
16 THEY ARE WITHIN THE TIME LIMIT REQUIRED BY 608 SUBPARAGRAPH
17 B. SO I BELIEVE THAT THEY CAN BE INQUIRED ON CROSS
18 EXAMINATION. NOW, THAT MEANS, MR. WILSON, THAT THE STATE
19 WILL HAVE THE RIGHT TO BRING OUT THESE TWO PRIOR CRIMES IF
20 YOU TAKE THE STAND BUT WILL NOT HAVE THE RIGHT TO BRING
21 THEM OUT IF YOU DO NOT TAKE THE STAND. I WANT TO MAKE SURE
22 YOU UNDERSTAND THAT. IS THAT ... DO ... DO YOU UNDERSTAND
23 THAT?

24 MR. WILSON: YES, SIR.

25 MR. BLACKMON: JUDGE, FOR THE RECORD I WOULD LIKE

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1 TO BE HEARD ON THAT ISSUE SPECIFICALLY JUST FOR THE RECORD.

2 THE COURT: ALL RIGHT. GO AHEAD.

3 MR. BLACKMON: MAY IT PLEASE THE COURT, I BELIEVE
4 MY READING OF THE RULES IS THIS MATTER SHOULD BE GOVERNED
5 BY RULE 609A1, THAT IMPEACHMENT BY EVIDENCE OF CONVICTION OF
6 A CRIME WHEN YOU'RE DEALING WITH AN ACCUSED IS ONLY
7 ADMISSIBLE IF THE COURT DETERMINES THAT THE PROBATIVE VALUE
8 OF ADMITTING THE EVIDENCE OUTWEIGHS ITS PREJUDICIAL EFFECT
9 TO THE ACCUSED. FURTHER UNDER SUBSECTION D A JUVENILE
10 ADJUDICATION, EVIDENCE OF A JUVENILE ADJUDICATION WOULD BE
11 ADMISSIBLE UNDER THE RULE IF THE CONVICTION OF THE CRIME
12 ITSELF WOULD BE ADMISSIBLE TO ATTACK THE CREDIBILITY OF AN
13 ADULT. HOWEVER, I BELIEVE IN THIS MATTER THE STATE COULD NOT
14 SHOW THIS COURT THAT THE CONVICTION OF THIS JUVENILE OF THE
15 TWO CHARGES COMMON LAW ROBBERY AND BURGLARY SECOND
16 DEGREE AS A MINOR WOULD QUALIFY UNDER THIS RULE ON THE
17 BASIS THAT THEY CANNOT SHOW THAT THOSE SENTENCES AS A
18 JUVENILE WOULD CARRY THE MAXIMUM SENTENCE OF DEATH OR
19 IMPRISONMENT FOR MORE THAN ONE YEAR.

20 THE COURT: IT DOESN'T REQUIRE THAT. IT'S THE CRIME IS
21 PUNISHABLE AND THE CRIME IS ONE OF COMMON LAW ROBBERY AND
22 BURGLARY BOTH OF WHICH THE RULE 609A1 SAYS IF THE CRIME IS
23 PUNISHABLE BY DEATH OR IMPRISONMENT IN EXCESS OF ONE YEAR
24 AND THE JUVENILE ... THE 609D CARRIES THAT OVER TO JUVENILE
25 ADJUDICATION SO ASSUMING THAT ... ASSUMING THAT THE

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1 PROBATIVE VALUE OUTWEIGHS THE PREJUDICIAL EFFECT.

2 MR. BLACKMON: FURTHER, YOUR HONOR, AT THIS TIME
3 ALL JUVENILE RECORDS ARE CONFIDENTIAL UNLESS OTHERWISE
4 ORDERED BY THE FAMILY COURT SO AT THIS POINT THERE HAS NOT
5 BEEN AS I UNDERSTAND A FAMILY COURT ORDER RELEASING THIS
6 JUVENILE'S RECORDS AND SINCE THERE HAS BEEN NO RELEASE OF HIS
7 RECORDS AS THE LAW REQUIRES UNDER SECTION 20-7-780 HIS RECORD
8 IS NOT EVEN PROPERLY BEFORE THIS COURT ...

9 THE COURT: CAN'T I SOLVE THAT BY ORDERING THE
10 COURT ... THE JUVENILE COURT TO FURNISH THE RECORD RIGHT NOW?

11 MR. BLACKMON: I'LL BE HONEST WITH THE COURT I DON'T
12 KNOW IF THIS COURT HAS THE AUTHORITY TO ORDER A FAMILY
13 COURT TO PRODUCE A RECORD ...

14 THE COURT: WHAT DOES THE STATUTE SAY?

15 MR. BLACKMON: I DON'T HAVE THE STATUTE IN FRONT OF
16 ME, YOUR HONOR, I'D NEED TO REVIEW THAT. ALL I KNOW IS THAT
17 THE ... THE CASE OF STATE VS. MALLORY IN 27-780 SAYS THAT THE
18 FAMILY COURT HAS TO RELEASE IT. I HONESTLY I DON'T KNOW WHAT
19 THE STATUTE SAYS WITH REFERENCE TO SOMEBODY ELSE ORDERING
20 THE FAMILY COURT TO OR NOT TO DO SOMETHING.

21 THE COURT: ALL RIGHT.

22 MR. BLACKMON: I JUST KNOW THAT AS OF THIS
23 PARTICULAR MOMENT THAT ORDER HAS NOT BEEN SIGNED.

24 THE COURT: ANY OTHER GROUNDS?

25 MR. BLACKMON: NO, SIR, YOUR HONOR.

1 TO BE HEARD ON THAT ISSUE SPECIFICALLY JUST FOR THE RECORD.

2 THE COURT: ALL RIGHT. GO AHEAD.

3 MR. BLACKMON: MAY IT PLEASE THE COURT, I BELIEVE
4 MY READING OF THE RULES IS THIS MATTER SHOULD BE GOVERNED
5 BY RULE 609A1, THAT IMPEACHMENT BY EVIDENCE OF CONVICTION OF
6 A CRIME WHEN YOU'RE DEALING WITH AN ACCUSED IS ONLY
7 ADMISSIBLE IF THE COURT DETERMINES THAT THE PROBATIVE VALUE
8 OF ADMITTING THE EVIDENCE OUTWEIGHS ITS PREJUDICIAL EFFECT
9 TO THE ACCUSED. FURTHER UNDER SUBSECTION D A JUVENILE
10 ADJUDICATION, EVIDENCE OF A JUVENILE ADJUDICATION WOULD BE
11 ADMISSIBLE UNDER THE RULE IF THE CONVICTION OF THE CRIME
12 ITSELF WOULD BE ADMISSIBLE TO ATTACK THE CREDIBILITY OF AN
13 ADULT. HOWEVER, I BELIEVE IN THIS MATTER THE STATE COULD NOT
14 SHOW THIS COURT THAT THE CONVICTION OF THIS JUVENILE OF THE
15 TWO CHARGES COMMON LAW ROBBERY AND BURGLARY SECOND
16 DEGREE AS A MINOR WOULD QUALIFY UNDER THIS RULE ON THE
17 BASIS THAT THEY CANNOT SHOW THAT THOSE SENTENCES AS A
18 JUVENILE WOULD CARRY THE MAXIMUM SENTENCE OF DEATH OR
19 IMPRISONMENT FOR MORE THAN ONE YEAR.

20 THE COURT: IT DOESN'T REQUIRE THAT. IT'S THE CRIME IS
21 PUNISHABLE AND THE CRIME IS ONE OF COMMON LAW ROBBERY AND
22 BURGLARY BOTH OF WHICH THE RULE 609A1 SAYS IF THE CRIME IS
23 PUNISHABLE BY DEATH OR IMPRISONMENT IN EXCESS OF ONE YEAR
24 AND THE JUVENILE ... THE 609D CARRIES THAT OVER TO JUVENILE
25 ADJUDICATION SO ASSUMING THAT ... ASSUMING THAT THE

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1 PROBATIVE VALUE OUTWEIGHS THE PREJUDICIAL EFFECT.

2 MR. BLACKMON: FURTHER, YOUR HONOR, AT THIS TIME
3 ALL JUVENILE RECORDS ARE CONFIDENTIAL UNLESS OTHERWISE
4 ORDERED BY THE FAMILY COURT SO AT THIS POINT THERE HAS NOT
5 BEEN AS I UNDERSTAND A FAMILY COURT ORDER RELEASING THIS
6 JUVENILE'S RECORDS AND SINCE THERE HAS BEEN NO RELEASE OF HIS
7 RECORDS AS THE LAW REQUIRES UNDER SECTION 20-7-780 HIS RECORD
8 IS NOT EVEN PROPERLY BEFORE THIS COURT ...

9 THE COURT: CAN'T I SOLVE THAT BY ORDERING THE
10 COURT ... THE JUVENILE COURT TO FURNISH THE RECORD RIGHT NOW?

11 MR. BLACKMON: I'LL BE HONEST WITH THE COURT I DON'T
12 KNOW IF THIS COURT HAS THE AUTHORITY TO ORDER A FAMILY
13 COURT TO PRODUCE A RECORD ...

14 THE COURT: WHAT DOES THE STATUTE SAY?

15 MR. BLACKMON: I DON'T HAVE THE STATUTE IN FRONT OF
16 ME, YOUR HONOR, I'D NEED TO REVIEW THAT. ALL I KNOW IS THAT
17 THE ... THE CASE OF STATE VS. MALLORY IN 27-780 SAYS THAT THE
18 FAMILY COURT HAS TO RELEASE IT. I HONESTLY I DON'T KNOW WHAT
19 THE STATUTE SAYS WITH REFERENCE TO SOMEBODY ELSE ORDERING
20 THE FAMILY COURT TO OR NOT TO DO SOMETHING.

21 THE COURT: ALL RIGHT.

22 MR. BLACKMON: I JUST KNOW THAT AS OF THIS
23 PARTICULAR MOMENT THAT ORDER HAS NOT BEEN SIGNED.

24 THE COURT: ANY OTHER GROUNDS?

25 MR. BLACKMON: NO, SIR, YOUR HONOR.

1 THE COURT: ALL RIGHT. HOW ABOUT ... I WANT TO GIVE
2 YOU A CHANCE TO PUT EVERYTHING ON THE RECORD ... HOW ABOUT
3 THE PROBATIVE VALUE ...

4 MR. BLACKMON: FOR THE RECORD, YOUR HONOR, I
5 BELIEVE THAT THE SERIOUSNESS OF THESE CHARGES, MURDER,
6 ASSAULT AND BATTERY WITH INTENT TO KILL, ATTEMPTED STRONG
7 ARMED ROBBERY, AND POSSESSION OF A WEAPON DURING A VIOLENT
8 CRIME THE CHARGES THAT MR. WILSON MAY OR MAY NOT HAVE ON
9 HIS JUVENILE RECORD WHICH MAY OR MAY NOT HAVE BEEN
10 PROPERLY RELEASED YET ARE SO CLOSE IN NATURE AS FAR AS
11 COMMON LAW ROBBERY AND BURGLARY SECOND DEGREE THAT
12 THERE IS ABSOLUTELY NO PROBATIVE VALUE BUT AN EXCESS
13 AMOUNT OF PREJUDICIAL VALUE. THESE WERE OFFENSES THAT
14 APPARENTLY WOULD HAVE BEEN COMMITTED BY HIM AS A JUVENILE,
15 AS A MINOR BEFORE HE ... IF HE HAS THE FACULTIES OF AN ADULT
16 NOW ... HAD THOSE FACULTIES AND SO WE BELIEVE THAT THE
17 PREJUDICIAL VALUE OF TELLING THE JURY HE HAD A COMMON LAW
18 ROBBERY CONVICTION AS A JUVENILE IN MAY OF 2001 SO GREATLY
19 OUTWEIGHS THE PROBATIVE VALUE AS TO RENDER THAT THEY
20 SHOULD NOT BE RELEASED.

21 THE COURT: ALL RIGHT. I WOULD RESPECTFULLY
22 OVERRULE YOUR MOTION TO EXCLUDE THOSE MATTERS. I THINK
23 THAT THE COMMON LAW ROBBERY AND BURGLARY SECOND AS A
24 JUVENILE DO MEET THE REQUIREMENTS OF RULE 609A, B, AND D. NOT
25 ONLY DOES THE RULE SPECIFICALLY SAY THAT IN STATE VS.

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1 MALLORY SAYS JUVENILE ADJUDICATIONS ARE ADMISSIBLE IN THIS
2 STATE TO IMPEACH ANY WITNESS INCLUDING THE ACCUSED IF THE
3 CONDUCT WOULD BE CRIMINAL IF IT WERE COMMITTED BY AN ADULT
4 AND THAT IS VERY CLEARLY WHAT THE SITUATION IS HERE. IT'S
5 FURTHER MY VIEW THAT IF THERE'S ANY PROBLEM WITH THE
6 OBTAINING OF THE JUVENILE RECORDS OR AS TO WHETHER THEY ARE
7 PROPERLY BEFORE THIS COURT IT WOULD BE THE COURT'S ORDER
8 THAT THEY BE RELEASED TO THE SOLICITOR'S OFFICE FOR USE IN THIS
9 TRIAL AND FINALLY, IT WOULD FURTHER BE MY FINDING THAT THE
10 PREJUDICIAL EFFECT IS NOT OUTWEIGHED BY THE PROBATIVE VALUE
11 AND THEREFORE AGAIN THE REQUIREMENTS OF RULE 609 AND 403 ARE
12 MET AND SO I WILL ALLOW THE EVIDENCE OF THE COMMON LAW
13 ROBBERY AND BURGLARY SECOND ON JUNE 28TH, 2001, TO BE USED. I
14 THINK YOUR POSITION IS ADEQUATELY STATED ON THE RECORD, MR.
15 BLACKMON.

16 MR. BLACKMON: IT IS UP TO THAT POINT, YOUR HONOR,
17 BUT OUT OF AN ABUNDANCE OF CAUTION I WOULD FURTHER AT THIS
18 TIME MOVE TO SUPPRESS AND EXCLUDE THE JUVENILE RECORD OF
19 THIS DEFENDANT ON THE BASIS THAT IT HAS BEEN RECEIVED BY THE
20 SOLICITOR'S OFFICE CLEARLY IN VIOLATION OF SECTION 20-7-780 OF
21 OUR CODE OF LAWS WHICH CLEARLY MAKES JUVENILE RECORDS
22 CONFIDENTIAL. THERE HAS BEEN NO ...

23 THE COURT: HOW CAN YOU SAY IT CLEARLY DOES, YOU
24 DON'T EVEN HAVE THE CODE SECTION. YOU'RE JUST QUOTING FROM
25 THE RULE BOOK.

1 MR. BLACKMON: WELL, I'M QUOTING FROM THE RULE
2 BOOK AND I BELIEVE THAT'S WHAT IT SAYS, YOUR HONOR. AS AN
3 OFFICER OF THE COURT I BELIEVE 20-7-780 WOULD REQUIRE THAT A
4 FAMILY COURT ORDER THE RELEASE OF THAT RECORD BEFORE THE
5 SOLICITOR'S OFFICE WOULD PROPERLY HAVE ACCESS TO ...

6 THE COURT: YOU CAN'T SAY THAT'S WHAT THE CODE
7 SECTION SAYS.

8 MR. BLACKMON: I CAN SAY THAT AS AN OFFICER OF THE
9 COURT I BELIEVE THAT'S WHAT STATE VS. MALLORY AND OUR COURT
10 HAS SAID THE SECTION READS.

11 THE COURT: IT SAYS THAT ... NO, THE ... WHAT YOU'RE
12 READING FROM IS THE RULE BOOK WHERE THE EDITOR OF THE RULE
13 BOOK SAID IT SHOULD BE NOTED THAT SECTION ... CODE SECTION 20-7-
14 780 WHICH MAKES JUVENILE RECORDS CONFIDENTIAL UNLESS
15 OTHERWISE ORDERED BY THE FAMILY COURT MAY LIMIT ACCESS TO
16 RECORDS OF JUVENILE ADJUDICATIONS. BUT THAT'S AN EDITORIAL
17 COMMENT. THAT'S NOT EVEN NECESSARILY A COMMENT FROM STATE
18 VS. MALLORY AND IT ... UNLESS IT CAN BE SHOWN THAT THAT
19 STATUTE PROHIBITS IT I'M GOING TO ALLOW IT AND I'M GOING TO ...
20 AND IT MAYBE EVEN BE THAT I CAN ORDER IT BUT IN ANY EVENT
21 YOUR POSITION IS NOTED AND OVERRULED. I AM GOING TO ALLOW IT.
22 NOW, MR. WILSON, HAVING SAID THAT, AND HAVING HEARD YOUR
23 ATTORNEY'S POSITION WITH REGARD TO YOUR JUVENILE RECORD
24 WHICH I AM GOING TO ALLOW, I WOULD AGAIN ASK YOU IF THERE ARE
25 ANY QUESTIONS THAT YOU HAVE ABOUT YOUR RIGHTS TO TESTIFY OR

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1 NOT TESTIFY AND WHAT CAN OR CANNOT BE USED AGAINST YOU? DO
2 YOU HAVE ANY QUESTIONS ABOUT ANY OF THOSE?

3 MR. WILSON: WELL, I AIN'T GOT NO QUESTION BUT I GOT
4 SOME QUESTION ABOUT ...

5 THE COURT: I'M SORRY, SPEAK IN FRONT OF THE
6 MICROPHONE AND SPEAK UP.

7 MR. WILSON: I GOT SOME QUESTIONS ABOUT MY RECORD.
8 I AIN'T NEVER BEEN FOUND GUILTY ON SECOND DEGREE BURGLARY. I
9 BEEN FOUND GUILTY ON BURGLARY TWO, POSSESSION OF BURGLARY
10 TOOLS. I AIN'T KNOW HOW THAT GOT THERE IN MY ... AND IN MY
11 RECORD IN DEPARTMENT OF JUVENILE JUSTICE THEY HAVE
12 BURGLARY TOOLS.

13 THE COURT: ALL RIGHT. MY UNDERSTANDING FROM
14 BOTH OF YOU WHEN WE DISCUSSED THIS MATTER WAS THAT IT WAS
15 AN ADJUDICATION OF GUILT OF COMMON LAW ROBBERY AND
16 BURGLARY SECOND.

17 MR. BLACKMON: JUDGE, THE PRINTOUT THAT WAS
18 PROVIDED TO ME BY THE SOLICITOR'S OFFICE SAYS BURGLARY
19 COMMON SECOND DEGREE, NON VIOLENT. AND I WAS ... I DID NOT
20 REPRESENT MR. WILSON AT THAT TIME AND SO I CANNOT ADVISE THE
21 COURT. ALL I KNOW IS WHAT HE INDICATES HIS RECORD ...

22 THE COURT: WHAT ARE YOU SAYING, MR. WILSON?

23 MR. WILSON: IF I ... IF I WERE CHARGED FOR BURGLARY AT
24 THAT SCENE ... ALL THAT INCIDENT HAPPENED IN ONE AND THAT
25 HAPPENED ON THE BRIDGE. HOW CAN I BURGLARY ON THE BRIDGE?

1 THE COURT: WELL, I'M NOT ... I DON'T KNOW ANYTHING
2 ABOUT THE FACTS. WHAT I'M ASKING YOU IS WHAT DID THEY FIND
3 YOU GUILTY OF IN FAMILY COURT?

4 MR. WILSON: POSSESSION OF BURGLARY TOOLS. A
5 SCREWDRIVER. A FLATHEAD SCREWDRIVER.

6 THE COURT: WHAT ABOUT THE COMMON LAW ROBBERY?

7 MR. WILSON: THE ... I BEEN CHARGED FOR ACCESSORY
8 FOR A COMMON LAW ROBBERY BECAUSE I BEEN THERE AT THE
9 SCENE.

10 THE COURT: IS THAT THE FAMILY COURT OF SUMTER
11 COUNTY?

12 MR. WILSON: YES, SIR.

13 THE COURT: LET'S GET THE COURT RECORDS AND FIND
14 OUT, MR. CONNER.

15 MR. CONNER: OKAY.

16 THE COURT: DON'T WANT TO GO JUST BY THE NCIC
17 REPORT. LET'S SEE EXACTLY WHAT ...

18 MR. CONNER: WELL, THIS ... THIS THING WE GOT IS ... IS A
19 DJJ COURT HISTORY, YOUR HONOR, DEPARTMENT OF JUVENILE
20 JUSTICE.

21 THE COURT: WELL, LET'S SEE WHAT THE FAMILY COURT'S
22 GOT.

23 MR. WILSON: I WANT TO SEE THE PAPER THAT I SIGNED.

24 THE COURT: LET'S SEE WHAT THE FAMILY COURT
25 RECORDS ARE. WE'LL LOOK AND SEE WHAT THE FAMILY COURT

HEARING

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1 RECORDS ARE. I THINK THAT'S ... THAT'S GONNA BE THE ... WE'LL OPEN
2 THE FAMILY COURT RECORDS AND ... WHAT WE MAY DO IN JUST A
3 FEW MINUTES IS TAKE A RECESS AND LET ME GO CALL ... I'LL JUST
4 CALL JUDGE MCFADDEN AND TELL HIM THAT I WANT THOSE RECORDS
5 AND GET THEM FROM HIM. THAT'LL PROBABLY BE THE MOST LIKELY
6 WAY TO GET THEM QUICKLY. SO WE'LL DO THAT IN JUST A FEW
7 MINUTES. ALL RIGHT.

8 MR. CONNER: I'LL HAND THIS UP TO YOUR HONOR. THAT'S
9 ... THAT'S WHAT I'M GOING BY.

10 THE COURT: ALL RIGHT. I'M GOING TO TAKE A RECESS
11 WHILE I CONTACT THE FAMILY COURT.

12 (WHEREUPON THERE WAS A PAUSE).

13 THE COURT: ALL RIGHT, I HAVE GOT A CALL IN AND HAVE
14 DISCUSSED WITH JUDGE MCFADDEN OF THE FAMILY COURT AND HE'S
15 CHECKING THE RECORDS DOWN THERE. I CAN'T IMAGINE THAT THESE
16 RECORDS ... HIS RECORDS ARE GOING TO ... OR THE COURT'S RECORDS
17 ARE GOING TO REVEAL ANYTHING DIFFERENT THAN IS REVEALED BY
18 THIS PRINTOUT AND SO WHAT I WANT TO DO AT THIS POINT, MR.
19 BLACKMON, IS HAVE MR. WILSON COME BACK AROUND AND I'M JUST
20 GONNA TELL HIM THAT ASSUMING THAT THIS IS THE CORRECT
21 CRIMINAL RECORD AND I ASSUME THAT IT IS AND WE'LL SEE WHAT
22 HAPPENS BUT ASSUMING IT IS THE CORRECT CRIMINAL RECORD DO
23 YOU UNDERSTAND THAT THE STATE CAN ASK YOU ABOUT THIS
24 CRIMINAL RECORD WHEN YOU TAKE THE STAND?

25 MR. WILSON: YES, SIR.

1 THE COURT: OKAY. UNDERSTANDING THAT THEY CAN
2 INQUIRE ABOUT YOUR CRIMINAL RECORD AND CAN USE YOUR
3 CRIMINAL RECORD TO IMPEACH YOU IF YOU DO NOT ANSWER
4 TRUTHFULLY REGARDING YOUR CRIMINAL RECORD, HAVE YOU MADE
5 A DECISION AS TO WHETHER YOU DO OR DO NOT WISH TO TESTIFY IN
6 THIS CASE?

7 MR. WILSON: YES, SIR.

8 THE COURT: AND WHAT IS THAT DECISION?

9 MR. WILSON: FREELY AND VOLUNTARILY, SIR.

10 THE COURT: PARDON?

11 MR. WILSON: FREELY AND VOLUNTARY, SIR.

12 THE COURT: I UNDERSTAND IT'S FREELY AND VOLUNTARY
13 BUT IS IT YES OR NO, YOU DO OR DO NOT WISH TO TESTIFY?

14 MR. WILSON: YEAH, I WANT TO TESTIFY, SIR.

15 THE COURT: YOU DO WISH TO TESTIFY? ALL RIGHT. ALL
16 RIGHT, THE COURT THEN FINDS THAT THE DEFENDANT HAS MADE A
17 FREE, VOLUNTARY, KNOWING AND INTELLIGENT DECISION TO ... AND
18 HAS WAIVED HIS FIFTH AMENDMENT RIGHTS FREELY AND
19 VOLUNTARILY AND HAS ELECTED TO TESTIFY IN THIS MATTER AND OF
20 COURSE THE COURT WILL ALLOW HIM TO DO SO. WHEN I GET THE
21 WORD FROM THE FAMILY COURT, MR. CONNER, IT MAY BE THAT YOU
22 WILL NEED TO SEND SOMEONE DOWN THERE TO GET THEIR ACTUAL
23 RECORDS BEFORE CROSS EXAMINATION IF THAT BECOMES
24 NECESSARY.

25 MR. BLACKMON: AND JUDGE IN THAT INTERIM I'VE

HEARING

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1 REVIEWED SECTION 20-7-780 AND WOULD LIKE TO ADVISE THE COURT
2 THAT PURSUANT TO 20-7-780 THE OFFICIAL JUVENILE RECORDS OF THE
3 DYSDJJ SHALL BE OPEN TO INSPECTION ONLY BY CONSENT OF THE
4 JUDGE. ALL INFORMATION OBTAINED SHALL BE CONFIDENTIAL AND
5 SHALL NOT BE DISCLOSED DIRECTLY OR INDIRECTLY TO ANYONE
6 OTHER THAN THE JUDGE AND THIS IS REFERRING TO THE FAMILY
7 COURT JUDGE OR OTHERS ENTITLED UNDER THIS CHAPTER ...

8 THE COURT: MR. BLACKMON, I'VE ALREADY RULED ON
9 THAT AND YOU DIDN'T PRESENT THAT TO ME AT THE TIME. SO I'M NOT
10 GONNA CONSIDER IT ANYMORE.

11 MR. BLACKMON: THEN MAY I PROFFER IT JUST FOR THE
12 RECORD?

13 THE COURT: YOU'VE DONE SO. YOU DID NOT HAVE THAT
14 INFORMATION AND THAT LAW AVAILABLE TO ME AT THE TIME I
15 ASKED YOU ABOUT IT AND SO THE COURT HAS ALREADY MADE ITS
16 RULING.

17 MR. BLACKMON: VERY WELL, SIR. AND I'M NOT ARGUING
18 WITH THE COURT BUT MAY I PROFFER IT FOR THE RECORD ...

19 THE COURT: NO, SIR. YOU'VE MADE YOUR POINT.

20 MR. BLACKMON: VERY WELL, SIR. THANK YOU.

21 THE COURT: ALL RIGHT. READY TO GO?

22 MR. CONNER: I'M READY. ONE THING THAT BOTHERS ME
23 SOMEWHAT IS IF MR. WILSON DENIES HIS RECORD DO YOU THINK THE
24 FAMILY COURT CAN PROVIDE US THE COPIES?

25 THE COURT: I EXPECT THAT THEY'RE GOING TO BE ABLE

1 TO BUT AGAIN WE'LL JUST HAVE TO SEE AND AGAIN THAT'S A MATTER
2 THAT IS UP TO THE PARTY WISHING TO USE IT TO ... TO HAVE THE
3 INFORMATION AVAILABLE. IF YOU OFFER IT BASED ON THAT I'LL RULE
4 ON IT BASED ON THAT. IT'S NOT UP TO ME TO DETERMINE WHAT THE
5 CORRECT EVIDENCE IS. THAT'S UP TO THE AUTHORITIES. ALL RIGHT,
6 LET'S MOVE FORWARD. I JUST MADE THAT CALL TO TRY TO ASSIST
7 THE DETERMINATION OF IT BUT ...

8 MR. CONNER: WELL, I WOULD HAVE SENT SOMEBODY,
9 YOUR HONOR, IF ...

10 THE COURT: WELL, SEND THEM DOWN THERE NOW. ALL
11 RIGHT. BRING THE JURY IN, PLEASE.

12 MR. BLACKMON: MAY IT PLEASE THE COURT?

13 THE COURT: YES, SIR.

14 MR. BLACKMON: BEFORE WE BRING THE JURY IN I WOULD
15 LIKE TO JUST FOR THE RECORD MY UNDERSTANDING IS THE COURT
16 DID JUST IN FACT CONDUCT THE EXAMINATION OF THE DEFENDANT
17 AS TO HIS UNDERSTANDING OF HIS CONSTITUTIONAL RIGHTS NOT TO
18 TESTIFY OR TO TESTIFY AND WHETHER HE WOULD FREELY AND
19 VOLUNTARILY WAIVE THOSE RIGHTS. AND IN CONJUNCTION WITH HIS
20 EXAMINATION OR HIS UNDERSTANDING OF THOSE CONSTITUTIONAL
21 RIGHTS AND THE FREEDOM TO WAIVE THOSE HAD HE DESIRED WE
22 MADE CERTAIN ... CERTAIN ARGUMENTS IN THE CONTEXT OF THAT
23 DETERMINATION. NOW THE COURT HAVING RULED WITHIN THE
24 CONTEXT OF THAT DETERMINATION WE WOULD LIKE TO AT THIS TIME
25 MOVE TO SUPPRESS AS PART OF THIS TRIAL BUT NOT AS PART OF THE

HEARING

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1 COMPETENCY EXAMINATION OR NOT COMPETENCY EXAMINATION
2 BUT AS PART OF THE EVALUATION AND EXAMINATION AS TO HIS FREE
3 AND VOLUNTARILY WAIVER OF HIS CONSTITUTIONAL RIGHTS BUT
4 NOW AS PART OF THE DEFENSE'S CASE IN CHIEF TO SUPPRESS ANY
5 JUVENILE RECORD OF THIS DEFENDANT PURSUANT TO SECTION 20-7-
6 780, 20-7-1360, 20-7-690 AND 20-7-8510 AS WELL AS 1980 OPINION OF THE
7 ATTORNEY GENERAL NUMBER 80-77 ON THE BASIS THAT THOSE
8 RECORDS ARE PROPERLY MAINTAINED IN THE JUVENILE COURT AND
9 CANNOT BE RELEASED UNDER THOSE REQUIREMENTS EXCEPT BY
10 ORDER OF THE FAMILY COURT JUDGE. THERE HAS BEEN PROVIDED BY
11 THE SOLICITOR'S OFFICE AT THIS TIME, 11:30 A.M. ON WEDNESDAY,
12 NOVEMBER 17TH, 2004, ANY ORDER SIGNED BY A FAMILY COURT JUDGE
13 EITHER AS PART OF THE DISCOVERY ...

14 THE COURT: 50 WORDS OR LESS, MR. BLACKMON. TELL ME
15 WHAT YOU'RE GETTING AT.

16 MR. BLACKMON: THE FAMILY COURT RECORDS THAT MR.
17 CONNER HAS REFERRED TO THE COURT ARE NOT RELEASABLE TO THIS
18 COURT OR TO THE JURY OR TO ANYONE WITHOUT AN ORDER BY THE
19 FAMILY COURT JUDGE. THAT HAS NOT BEEN SOUGHT NOR RECEIVED
20 AND THEY HAVE NOW BEEN RELEASED. TO SOME EXTENT WE BELIEVE
21 THAT'S NOW THE FRUIT OF THE POISONED TREE AND CLEARLY IN
22 VIOLATION OF THIS DEFENDANT'S CONSTITUTIONAL RIGHTS AND
23 RIGHTS TO DUE PROCESS AND THAT ...

24 THE COURT: IN WHAT RESPECT? HOW?

25 MR. BLACKMON: HIS RIGHTS PURSUANT TO ...

1 THE COURT: WHY DOESN'T RULE ... WHY DOESN'T RULE 609
2 TAKE CARE OF THAT. IT SAYS 609D, "JUVENILE ADJUDICATIONS ARE
3 ADMISSIBLE."

4 MR. BLACKMON: THAT'S A FAMILY ... THAT'S A COURT
5 RULING, YOUR HONOR, THAT IS NOT A STATUTE. THE STATUTE THAT
6 HAS BEEN ISSUED CLEARLY SETS FORTH CERTAIN MINIMUM
7 REQUIREMENTS THAT MUST BE COMPLIED WITH IN ORDER TO
8 RELEASE RECORDS. WHILE THE EVIDENCE RULE SAYS THEY'RE
9 ADMISSIBLE IN ORDER TO MAKE THE ADMISSIBLE YOU MUST COMPLY
10 WITH THE STATUTE TO GET THEM RELEASED AND THE SOLICITOR'S
11 OFFICE DID NOT COMPLY WITH THE STATUTE TO GET THEM RELEASED.
12 THEY HAVE THEM IMPROPERLY AND THAT'S IN VIOLATION OF HIS
13 RIGHTS UNDER THIS STATUTE.

14 THE COURT: LET ME SEE IT. ALL RIGHT. I DISAGREE
15 THAT THE ... YOU'RE READING FROM THE CHILDREN'S CODE OF
16 JUVENILE RECORDS AND IF YOU'LL READ THAT VERY CAREFULLY AND
17 IT SPECIFICALLY MAKES SOME EXCEPTIONS FOR MATTERS IN COURT
18 AND IF I HAVE READ IT CORRECTLY THAT IT DOES NOT PROHIBIT THE
19 ... THIS SECTION ... THESE CODE SECTIONS DO NOT PROHIBIT THE
20 INQUIRY INTO A DEFENDANT'S JUVENILE RECORD IN THIS COURT
21 WHEN IT OTHERWISE MEETS THE REQUIREMENTS OF EVIDENCE AND I
22 DON'T BELIEVE THAT THAT ... THOSE SECTIONS BAR THE EVIDENCE
23 FOR WHICH MR. CONNER SEEKS TO INTRODUCE AND I WILL
24 RESPECTFULLY OVERRULE THE MOTION.

25 MR. BLACKMON: THANK YOU, SIR.

HEARING

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1 THE COURT: ALL RIGHT. MR. CONNER, I'M JUST TRYING TO
2 DECIDE WHAT TO DO ABOUT THE JURY PANEL. WE NEED TO PUT A
3 MESSAGE ON THE MACHINE FOR THE JURY PANEL. IT LOOKS LIKE
4 THAT WE'RE GOING TO HAVE TESTIMONY, HEAR ARGUMENTS AND
5 CHARGE. IT'S GOING TO BE PROBABLY MID AFTERNOON BEFORE THE
6 JURY GETS THE CASE. I DON'T KNOW WHETHER TO BRING ... I'M
7 INCLINED JUST TO BRING THE JURY BACK TOMORROW MORNING. YOU
8 ALL GOT SOME OTHER MATTERS THAT I NEED TO TAKE UP I CAN TAKE
9 THEM UP.

10 MR. CONNER: I CAN CALL DOWN TO THE OFFICE AND
11 HAVE THEM ... HAVE EITHER MR. JACKSON OR SOMEBODY ELSE COME
12 UP HERE TO SEE IF THEY'VE GOT ANY FEELING ABOUT THAT. I'M KIND
13 OF OUT OF THE LOOP AS FAR AS WHAT THEY'VE GOT PLANNED.

14 THE COURT: I AM, TOO BUT WE NEED TO GET THAT
15 MESSAGE ON THERE BECAUSE IT'S SUPPOSED TO BE ON THERE ... WE
16 TOLD THEM WE'D HAVE IT ON THERE BY 12:00 O'CLOCK SO HOW ABOUT
17 ... BUT THE MATTERS WE'RE DEALING WITH NOW ARE TAKING FAR TOO
18 LONG BUT ANYHOW CALL DOWN THERE AND TELL MR. JACKSON TO
19 COME UP AND TALK TO MR. HERRING ABOUT IT.

20 (WHEREUPON THERE WAS A PAUSE).

21 THE COURT: CALL BACK TONIGHT. LET'S MAKE THAT
22 DECISION. ALL RIGHT. ANYTHING ELSE BEFORE WE GO FORWARD?
23 MR. CONNER?

24 MR. CONNER: I HAVE NOTHING FURTHER.

25 THE COURT: ALL RIGHT, MR. ...

HEARING

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1 MR. BLACKMON: NOTHING FURTHER, YOUR HONOR.

2 THE COURT: ALL RIGHT. ALL RIGHT, BRING THE JURY IN,
3 PLEASE.

4 (JURY BROUGHT IN AT 11:40 A.M.).

5 THE COURT: ALL RIGHT, THANK YOU. MR. FOREMAN AND
6 LADIES AND GENTLEMEN OF THE JURY, I APOLOGIZE FOR KEEPING
7 YOU WAITING IN THE JURY ROOM. I HAD NO IDEA THAT THE MATTERS
8 THAT WE HAD TO ATTEND TO WERE GOING TO TAKE AS LONG AS THEY
9 DID. BUT WE NOW HAVE RESOLVED THOSE MATTERS AND WE'RE
10 READY TO GO FORWARD. BEFORE WE TOOK OUR RECESS YOU HEARD
11 THE STATE ANNOUNCE THAT THEY HAD RESTED THEIR CASE. THAT
12 MEANS THAT THE DEFENSE NOW HAS THE RIGHT TO PRESENT ANY
13 TESTIMONY OR ANY EVIDENCE TO YOU THAT HE WISHES TO PRESENT.
14 IN THAT CONNECTION I'LL CALL ON MR. BLACKMON TO PRESENT ANY
15 EVIDENCE ON BEHALF OF THE DEFENDANT.

16 MR. BLACKMON: MAY IT PLEASE THE COURT, WE WOULD
17 CALL THE DEFENDANT, HAROLD JAMAR WILSON.

18 THE COURT: COME AROUND, PLEASE, MR. WILSON.

19 BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE
20 YOUR RIGHT HAND AND STATE YOUR NAME, PLEASE.

21 MR. WILSON: HAROLD JAMAR WILSON.

22 BAILIFF: DO YOU SOLEMNLY SWEAR OR AFFIRM THE
23 TESTIMONY YOU GIVE THIS COURT SHALL BE THE TRUTH, THE WHOLE
24 TRUTH AND NOTHING BUT THE TRUTH SO HELP YOU GOD?

25 MR. WILSON: YES, SIR.

HEARING

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1 BAILIFF: HAVE A SEAT. STATE YOUR FULL NAME AND
2 SPELL YOUR LAST NAME FOR ME.

3 MR. WILSON: HAROLD JAMAR WILSON. WILSON, W-I-L-S-O-
4 N.

5 MR. WILSON - DIRECT EXAMINATION BY MR. BLACKMON:

6 Q: HAROLD, HOW OLD ARE YOU?

7 A: 19.

8 Q: WHERE DO YOU LIVE WHEN YOU ... NORMALLY WHERE DO YOU
9 LIVE?

10 A:

11 Q: AND THAT'S HERE IN SUMTER?

12 A: YES, SIR.

13 Q: HOW LONG HAVE YOU LIVED HERE IN SUMTER?

14 A: ALL MY LIFE.

15 Q: DID YOU GO TO SCHOOL HERE IN SUMTER?

16 A: YES, SIR.

17 Q: WHERE DID YOU LAST GO TO SCHOOL?

18 A: PAL ACADEMY.

19 Q: WHEN WAS THAT IF YOU REMEMBER?

20 A: '96 OR '97.

21 Q: DID YOU FINISH THE PAL ACADEMY?

22 A: NO, SIR.

23 Q: THERE'S BEEN A LOT OF TESTIMONY UP TO NOW ABOUT A
24 WHITE CADILLAC ESCALADE. DO YOU OWN A WHITE CADILLAC
25 ESCALADE?

- 1 A: NO, SIR.
- 2 Q: DOES SOMEBODY IN YOUR FAMILY OWN A WHITE CADILLAC
- 3 ESCALADE?
- 4 A: YES, SIR.
- 5 Q: WHO DOES?
- 6 A: MY COUSIN, ROBERT WILSON.
- 7 Q: OKAY. DO YOU HAVE ACCESS TO USING THAT ESCALADE?
- 8 A: YES, SIR.
- 9 Q: UP UNTIL MAY OF 2003, DID YOU HAVE A GIRLFRIEND?
- 10 A: YES, SIR.
- 11 Q: AND WHAT WAS HER NAME?
- 12 A: ANGELINA NICOLE NELSON.
- 13 Q: WHAT DOES SHE GO BY?
- 14 A: NICOLE OR BUTTON.
- 15 Q: DID YOU ALL PRETTY WELL STAY TOGETHER?
- 16 A: YES, SIR.
- 17 Q: WERE YOU ALL TOGETHER A GOOD BIT OF MAY 19TH OF 2003?
- 18 A: YES, SIR.
- 19 Q: HOW ABOUT TELL THE JURY IN YOUR OWN WORDS WHAT
- 20 HAPPENED ON MAY 19TH, 2003.
- 21 A: MAY 19TH, 2003, ALL US BEEN IN FRONT OF REESE HOUSE,
- 22 CHILLING AND SMOKING REEFER.
- 23 Q: AND YOU'LL HAVE TO SPEAK A LITTLE SLOW BECAUSE I WANT
- 24 TO MAKE SURE THEY ALL UNDERSTAND EVERYTHING YOU SAY.
- 25 A: YES, SIR.

HEARING

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- 1 Q: WHEN YOU SAY ALL OF US, WHO IS ALL OF US?
- 2 A: ME, TREZ, D.L., LITTLE REGGIE, REESE AND DADDY RABBIT.
- 3 Q: AND HOW LONG HAD ALL OF YOU ALL BEEN OVER THERE IN
- 4 FRONT OF REESE'S HOUSE?
- 5 A: WE WENT OVER THERE AROUND ... AROUND ABOUT A HOUR OR
- 6 TWO.
- 7 Q: HOW DID YOU GET OVER THERE?
- 8 A: I HAD CAME FROM THE PROJECTS FROM NICOLE, SHE HAD DROP
- 9 MY ... I GOT A HOME GIRL — STAY IN THE PROJECTS SO ME AND
- 10 TREZ HAD WALK OVER THERE.
- 11 Q: DO YOU REMEMBER ANY OF THE TIMES OF THIS NOW?
- 12 A: WHAT THE TIMING WAS?
- 13 Q: YES, SIR.
- 14 A: NO, SIR.
- 15 Q: DO YOU REMEMBER WHEN YOU FIRST WENT OVER ON CARVER
- 16 STREET I BELIEVE THAT DAY, WHAT TIME OF DAY OR AS FAR AS
- 17 MORNING OR AFTERNOON?
- 18 A: IT NORMALLY IN THE AFTERNOON. DAYLIGHT, SUN STILL BEEN
- 19 OUT.
- 20 Q: AND SO WHILE YOU ALL WERE OVER THERE YOU'D BEEN OVER
- 21 THERE FOR ABOUT AN HOUR?
- 22 A: YES, SIR.
- 23 Q: WHAT HAD BEEN GOING ON UP UNTIL THEN?
- 24 A: ALL US, WE JUST BEEN STANDING IN FRONT OF REESE HOUSE AT
- 25 THE TRASH CAN POLITICKING.

HEARING

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1 Q: WHEN YOU SAY YOU WERE ALL OUT THERE POLITICKING WHAT
2 DOES THAT MEAN?

3 A: TALKING AMONGST EACH OTHER, LAUGHING, JOKING, TAKING A
4 BOBO.

5 Q: WAS ANYBODY USING ANY DRUGS?

6 A: YES, SIR.

7 Q: WHO?

8 A: ALL OF US.

9 Q: WHAT KIND OF DRUGS WERE YOU ALL USING THAT DAY?

10 A: MARIJUANA AND COCAINE.

11 Q: SPECIFICALLY AS FAR AS YOU REMEMBER WHO WAS USING
12 MARIJUANA AND COCAINE?

13 A: LITTLE REGGIE DIDN'T, LITTLE REGGIE DON'T USE COKE. I
14 WOULDN'T GIVE HIM THAT. IT WAS ME, REESE AND DADDY
15 RABBIT.

16 Q: DID THERE COME A PART OF THAT DAY WHEN SOME OF THOSE
17 FOLKS LEFT FOR A WHILE?

18 A: NOT TO MY KNOWLEDGE.

19 Q: DO YOU REMEMBER ANY OF THEM GOING TO THE STORE?

20 A: NOT TO MY KNOWLEDGE. TRAFFIC WAS IN AND OUT.

21 Q: DO YOU REMEMBER ANY PART OF THAT AFTERNOON WHEN
22 LITTLE REGGIE RODE OFF ON HIS BICYCLE WITH REESE OR
23 ANYBODY ELSE?

24 A: NO, SIR.

25 Q: IS IT POSSIBLE THAT THEY COULD HAVE?

HEARING

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- 1 A: THEY COULD.
- 2 Q: YOU WERE PRETTY HIGH THAT DAY, DO YOU THINK?
- 3 A: YES, SIR.
- 4 Q: HOW WOULD YOU DESCRIBE THESE OTHER PEOPLE WHO HAD
- 5 BEEN USING THESE DRUGS?
- 6 A: IN WHAT MANNER?
- 7 Q: DID THEY APPEAR TO YOU TO BE HIGH, TOO?
- 8 A: YES, SIR.
- 9 Q: WHEN YOU WENT OVER ON CARVER STREET THAT AFTERNOON
- 10 DID YOU HAVE A GUN WITH YOU?
- 11 A: A GUN?
- 12 Q: YES, SIR.
- 13 A: YES, SIR.
- 14 Q: WHAT KIND OF GUN DID YOU HAVE WITH YOU?
- 15 A: A .25.
- 16 Q: AND WHEN YOU SAY .25 WHAT KIND OF .25 WAS IT?
- 17 A: A .25 CALIBER BUT THE COLOR AND EVERYTHING?
- 18 Q: YES, SIR.
- 19 A: IT BEEN A BLACK .25 WHAT I HAD BOUGHT FROM LITTLE REGGIE
- 20 BROTHER ROOSEVELT FOSTER IN THE PREVIOUS WEEK.
- 21 Q: IS THAT THE ONLY GUN YOU HAD IN YOUR POSSESSION?
- 22 A: YES, SIR.
- 23 Q: DID ANYBODY ELSE OVER THERE WHILE YOU WERE THERE FOR
- 24 ABOUT AN HOUR HAVE ANY GUNS?
- 25 A: YES, SIR.

1 Q: WHO ELSE?

2 A: ALL OF US HAD GUNS.

3 Q: DID ANYBODY THAT YOU KNOW OF HAVE A GUN THAT HAD A
4 REDDISH OR A RASPBERRY HANDLE ON IT?

5 A: YES, SIR.

6 Q: WHO?

7 A: DWAUNTREZ KEITH GOING AS TREZ.

8 Q: HOW DO YOU KNOW THAT HE HAD THE GUN THAT WAS THAT
9 RED, STRAWBERRYISH, RASPBERRYISH KIND OF HANDLE ON IT?

10 A: CAUSE HE HAD IT THE PREVIOUS WEEK AND HE HAD IT WHEN
11 REESE HAD PULL OUT A GUN WHEN HE STARTED SHOOTING IN
12 THE ROAD.

13 Q: WAIT A MINUTE. LET ME BACK UP A LITTLE BIT. YOU ALL WERE
14 STANDING THERE TALKING.

15 A: YES, SIR.

16 Q: MR. WILSON, I'M GONNA ASK YOU TO STEP DOWN HERE AND I'M
17 GONNA GIVE YOU THIS POINTER AND ASK YOU TO POINT OUT A
18 FEW THINGS. YOU'RE GONNA NEED TO STAY BACK A LITTLE BIT
19 SO YOU CAN SPEAK TO THE MICROPHONE AND POINT.

20 THE COURT: PULL THAT MICROPHONE AROUND THERE TO
21 THE FRONT. ALL RIGHT.

22 Q: THIS IS A DRAWING THAT SHOWS CARVER STREET AS AND
23 210, 206 AND THREE LITTLE TRASH DUMPSTERS. WHILE YOU
24 WERE STANDING THERE TALKING THIS TIME WHERE WERE YOU
25 STANDING?

HEARING

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- 1 A: LIKE RIGHT UP IN THERE.
- 2 THE COURT: I CAN'T HEAR YOU.
- 3 A: RIGHT THERE IN FRONT OF LITTLE REGGIE.
- 4 Q: ALL RIGHT. NOW, CAN YOU POINT THE RED END OF THAT ON
- 5 THERE WHERE YOU WERE?
- 6 A: LIKE RIGHT UP IN ... RIGHT UP IN THIS WAY.
- 7 Q: ALL RIGHT, SO THAT'S RIGHT UP IN HERE SOMEWHERE?
- 8 A: YES, SIR.
- 9 Q: AND WERE YOU IN THE ROAD?
- 10 A: YES, SIR.
- 11 Q: WERE YOU HALFWAY IN THE ROAD OR NOT QUITE HALFWAY IN
- 12 THE ROAD?
- 13 A: I'M LIKE ... I'M LIKE IN BETWEEN FROM ... FROM THE ROAD AND
- 14 FROM THE DIRT WHERE IT AT, I'M LIKE IN BETWEEN. I KNOW IF I
- 15 WOULD HAVE TAKE A STEP I COULD HAVE BRUSHED AGAINST
- 16 LITTLE REGGIE WHERE HE WAS STANDING.
- 17 Q: OKAY. BUT YOU WERE IN THE ROAD?
- 18 A: YES, SIR.
- 19 Q: OKAY. AND WHERE WAS LITTLE REGGIE?
- 20 A: HE BEEN RIGHT THERE ON THE FRONT OF HIS TRASH CAN.
- 21 Q: AND YOU HAVE TO ACTUALLY USE THE END OF THIS TO POINT
- 22 AT IT.
- 23 A: LIKE RIGHT THERE IN FRONT OF THE TRASH CAN.
- 24 Q: WAS HE OFF THE ROAD?
- 25 A: HE WAS OFF ... I CAN'T REMEMBER.

1 Q: OKAY. DO YOU REMEMBER WHETHER HE WAS ON HIS BICYCLE
2 OR OFF HIS BICYCLE?

3 A: HE WAS OFF ... HE WAS OFF HIS BIKE.

4 Q: OKAY. DO YOU REMEMBER WHERE HIS BICYCLE WAS?

5 A: IT BEEN BESIDE HIM.

6 Q: BESIDE HIM. SHOW US ON HERE WHERE IT WAS.

7 A: RIGHT THERE ON HIS RIGHT SIDE.

8 Q: IT WAS ON HIS RIGHT SIDE?

9 A: YES, SIR.

10 Q: SO THIS DRAWING SHOWS A BICYCLE OVER HERE. THAT'S NOT
11 WHERE IT WAS AT THE TIME?

12 A: NO, SIR.

13 Q: IT WAS OVER HERE ON THE OTHER SIDE?

14 A: YES, SIR.

15 Q: ALL RIGHT. SO IF LITTLE REGGIE WAS IN FRONT OF THE TRASH
16 CAN ARE YOU SAYING HE'S IN FRONT OF THE MIDDLE TRASH
17 CAN?

18 A: MIDDLE TRASH CAN.

19 Q: AND YOU WERE RIGHT HERE IN FRONT OF HIM.

20 A: YES, SIR.

21 Q: WHERE WAS TREZ?

22 A: TREZ? TREZ WAS LIKE ON MY LEFT.

23 Q: TREZ WAS ON YOUR LEFT?

24 A: YEAH.

25 Q: WAS HE IN THE ROAD OR OFF THE ROAD?

HEARING

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- 1 A: HE WAS IN THE ROAD.
- 2 Q: OKAY. WHERE WAS DL?
- 3 A: DL BEEN POST UP LIKE ON THAT TRASH CAN.
- 4 Q: OVER BY THE FIRST TRASH CAN ON THE LEFT?
- 5 A: THAT BE ... THAT MY LEFT BUT WHEN I WAS AT THE SCENE THAT
- 6 BE THE RIGHT WHERE HE WAS STANDING.
- 7 Q: OKAY. SO IT'S THIS ONE I'M POINTING AT NOW?
- 8 A: YES, SIR.
- 9 Q: WAS HE AT THE FRONT, THE BACK, OR THE SIDE OF THE TRASH
- 10 CAN?
- 11 A: AT THE SIDE. THAT LIKE RIGHT THERE ... HE WAS LIKE RIGHT
- 12 THERE LEANING LIKE THAT ON THE CORNER. LIKE THAT RIGHT
- 13 THERE, SEE THAT TRASH CAN, HE POST UP ON THE CORNER
- 14 WITH HIS ELBOW.
- 15 Q: AND WHO ELSE WAS THERE?
- 16 A: MAN WHAT WE CALL DADDY RABBIT, HERBERT BUTLER AND
- 17 MAURICE.
- 18 Q: WHERE WAS DADDY RABBIT?
- 19 A: THAT BEEN RABBIT, YOU KNOW, AND THAT THERE BY DL.
- 20 REESE WAS UP OVER HERE.
- 21 Q: REESE IS UP OVER HERE NEAR WHERE THIS RED DOT IS OR IN
- 22 THAT AREA?
- 23 A: OVER THERE IN THE AREA.
- 24 Q: OKAY. WAS HE CLOSER TO THE INSIDE TRASH CAN?
- 25 A: HE WAS RIGHT BESIDE IT.

- 1 Q: WELL, WE'VE GOT THREE TRASH CANS. THERE'S ONE HERE ON
2 THE INSIDE OF WHERE WE'RE LOOKING. ONE IN THE MIDDLE
3 AND ONE OUT HERE ON THE OUTSIDE.
- 4 A: YEAH, HE BY THIS ONE RIGHT HERE.
- 5 Q: HE WAS BACK HERE NEAR THE INSIDE TRASH CAN?
- 6 A: YES, SIR.
- 7 Q: AND YOU WERE OUT HERE IN THE STREET?
- 8 A: YES, SIR.
- 9 Q: WHILE YOU WERE STANDING ... HOW FAR WOULD YOU SAY YOU
10 WERE FROM REESE? LET ME BACK UP TO HERE. WERE YOU THIS
11 FAR OR CLOSER?
- 12 A: ALONG ABOUT THE DISTANCE RIGHT THERE.
- 13 Q: ALONG ABOUT THAT DISTANCE?
- 14 A: YES, SIR.
- 15 Q: PRETTY CLOSE TO NINE OR TEN FEET. AT ANY POINT DID YOU
16 GET CLOSER TO REESE THAN THAT?
- 17 A: YES, SIR.
- 18 Q: WHEN?
- 19 A: WHEN HE WENT TO DRAW HIS PISTOL. I WAS TRYING TO STOP
20 HIM FROM DRAWING IT.
- 21 Q: OKAY. WHAT WERE YOU ALL DOING RIGHT BEFORE HE WENT
22 TO DRAW THE PISTOL?
- 23 A: WHAT WE WERE DOING?
- 24 Q: YES, SIR.
- 25 A: REESE ... WE BEEN OUT THERE SMOKING. I'M GOING TO COP A

HEARING

470

- 1 LAST DIME AND MATCH LITTLE REGGIE HIS LAST BAG.
- 2 Q: YOU'VE GOT TO SLOW DOWN. YOU'RE TALKING TOO FAST FOR
- 3 EVERYBODY TO UNDERSTAND.
- 4 A: ALL RIGHT.
- 5 Q: IS THERE ANYTHING ELSE YOU NEED TO SHOW US ON HERE ...
- 6 LET ME ... WE'LL COME BACK TO THE SHOOTING PART IN JUST A
- 7 MINUTE.
- 8 A: YES, SIR.
- 9 Q: AFTER THE SHOOTING STARTED ...
- 10 A: YES, SIR.
- 11 Q: ... WHERE DID YOU GO?
- 12 A: AFTER THE SHOOTING STARTED?
- 13 Q: YES, SIR. ON THIS ... ON THIS DRAWING WHERE DID YOU GO?
- 14 A: WHERE DID I WENT?
- 15 Q: YES, SIR.
- 16 A: I'M LIKE RIGHT UP IN THERE.
- 17 Q: RIGHT UP IN HERE?
- 18 A: YEAH.
- 19 Q: IN THE ROAD STILL?
- 20 A: YES, SIR.
- 21 Q: AND AFTER YOU HEARD THE SHOOTING START WHERE DID YOU
- 22 GO?
- 23 A: I HAD RAN THROUGH THE BACK THAT WAY YOU SEE AND THE
- 24 THING YOU GOT DRAWN AS THE CEMETERY ...
- 25 Q: IF THIS SAYS THIS IS THE CEMETERY AREA SHOW US WHERE

1 YOU WENT FROM HERE WHEN IT STARTED.

2 A: THE CEMETERY ... REESE HOUSE RIGHT NEAR THE CEMETERY
3 LIKE RIGHT THERE. THIS SKETCH IS WRONG.

4 Q: OKAY. SO WHERE DID YOU GO?

5 A: I WENT THROUGH THE CEMETERY AND I RAN THROUGH THE
6 PATH AND COME BACK TO THE OTHER PATH AND THAT YOUNG
7 FELLOW RIGHT THERE WITH THE DREADSS, COME THROUGH
8 THERE YOU ALL AND WENT TO MAMA BURT'S HOUSE.

9 Q: OKAY. SO ON THIS DRAWING HERE ...

10 A: YES, SIR.

11 Q: ... IF THIS WERE THE CEMETERY AREA AND MR. CONNER SAID
12 EARLIER IT WASN'T ACCURATE BUT ASSUMING THAT THIS IS THE
13 CEMETERY YOU RAN THROUGH THE CEMETERY?

14 A: THROUGH THE CEMETERY, I FELL OVER A TOMBSTONE OR
15 WHATEVER WHEN THEY WERE SHOOTING BUT I'M RUNNING
16 THROUGH AND HEARD SHOTS SEVERAL SHOTS BACK.

17 Q: OKAY. WE'LL GO OVER THAT IN JUST A SECOND. NOW, YOU'RE
18 RUNNING THIS WAY. DO YOU KNOW WHERE TREZ WENT?

19 A: TREZ ... I DON'T REMEMBER THAT BUT I AIN'T KNOW WHICH WAY
20 HE WENT BUT WHEN I MEET UP WITH TREZ HE WAS IN FRONT OF
21 HOME BOY JAMEL HOUSE, THE BRICK HOUSE WHERE HE GOT
22 THE RED --- JAMEL, JAMEL PLEASANT.

23 Q: WHAT STREET IS JAMEL'S HOUSE ON?

24 A: CARVER STREET.

25 Q: OKAY. WELL, IF THIS IS CARVER STREET AND THIS IS THE

HEARING

472

- 1 CEMETERY EVEN THOUGH IT'S NOT TO SCALE AND IT'S NOT
2 REALLY EXACTLY THERE, YOU ENDED UP MEETING UP WITH
3 TREZ BACK ON CARVER STREET?
- 4 A: THOUGH I HAD RAN ... I RAN THROUGH THE CEMETERY LIKE THE
5 CEMETERY ... IS CURVED LIKE THAT AND TALKING ABOUT A
6 LITTLE BROOK DOWN THERE. I CAME BACK. I CAME BACK TO
7 GET BACK WITH --- UP THERE UNDER A BROKEN FENCE AND
8 WENT TO MAMA BURT'S HOUSE.
- 9 Q: OKAY, WHERE IS MAMA BURT'S HOUSE?
- 10 A: RIGHT THERE BESIDE ...
- 11 Q: IS IT ON CARVER STREET?
- 12 A: IT'S ON CARVER STREET.
- 13 Q: OKAY. IT'S NOT IN THE SAME BLOCK THAT THESE THREE
14 HOUSES ARE, IS IT?
- 15 A: IT ON THIS SIDE.
- 16 Q: IT'S ON THIS SIDE OF THE ROAD?
- 17 A: YES, SIR.
- 18 Q: AND DO YOU KNOW ABOUT HOW MANY HOUSES DOWN IT IS,
19 FROM WHERE ALL THIS STARTED?
- 20 A: IT ... I CAN'T SAY EXACTLY. I AIN'T WANT TO LIE. I CAN'T SAY.
- 21 Q: WELL, IS IT FARTHER THAN FROM HERE TO THE COURTHOUSE
22 DOOR OUT THERE?
- 23 A: YES, SIR.
- 24 Q: IS IT FARTHER THAN FROM HERE ACROSS THE STREET TO MY
25 OFFICE?

HEARING

473

1 JURY FOREMAN: EXCUSE ME. CAN I SAY SOMETHING?

2 THE COURT: SIR?

3 JURY FOREMAN: I CAN'T HEAR HIM.

4 THE COURT: ALL RIGHT. THANK YOU FOR BRINGING THAT
5 TO OUR ATTENTION. YOU NEED TO SPEAK UP. THESE FOLKS HAVE
6 GOT TO HEAR YOU.

7 A: YES, SIR, I HAD TO STEP AWAY FROM THE MIC BEFORE I COULD
8 HAVE SHOWED ...

9 THE COURT: NO, SIR, JUST ANSWER THE QUESTION.

10 Q: GO BACK AHEAD AND SIT DOWN FOR RIGHT NOW. I'LL CALL
11 YOU BACK IN A MINUTE IF WE NEED TO. ALL RIGHT. SO YOU
12 AND ALL THESE PEOPLE WERE STANDING THERE TALKING AND
13 SMOKING. AND WHAT HAPPENED TO CAUSE ANYBODY TO PULL
14 A GUN OUT?

15 A: I DON'T KNOW WHAT KIND OF CONFUSION. WHAT I THINK IT
16 BECAUSE TREZ AND HE FROM THAT HOOD OR WHATNOT UNLESS
17 THEM BOY HAD A CONTRACT ON MY HEAD CAUSE THEY SAY
18 THEY HAD A CONTRACT ON MY HEAD.

19 Q: WHO HAD A CONTRACT ON YOUR HEAD?

20 A: THAT YOUNG FELLOW BACK THERE WITH THE DREADS.

21 Q: SO WERE YOU WORRIED THAT DAY? WERE YOU WORRIED THAT
22 DAY?

23 A: YES, SIR.

24 Q: ALL RIGHT. NOW, YOU SAID A LITTLE WHILE AGO YOU HAD A .25
25 CALIBER BLACK PISTOL?

HEARING

474

- 1 A: BLACK ... YES, SIR.
- 2 Q: WHERE WAS IT?
- 3 A: WHERE ... WHERE WAS THE PISTOL?
- 4 Q: YES, SIR.
- 5 A: IN MY POCKET, BACK POCKET.
- 6 Q: IN WHAT KIND OF BACK POCKET?
- 7 A: BACK POCKET OF MY BROOKLYN EXPRESS JEANS.
- 8 Q: IN YOUR JEAN'S POCKET?
- 9 A: YES, SIR.
- 10 Q: YOU DIDN'T HAVE IT IN A JACKET POCKET?
- 11 A: NO, SIR.
- 12 Q: WHEN YOU FIRST STARTED COMING UP ON CARVER STREET DID
- 13 YOU HAVE THAT GUN OUT?
- 14 A: NO, SIR.
- 15 Q: WHEN IS THE FIRST TIME YOU PULLED THAT GUN OUT, IF AT
- 16 ALL?
- 17 A: ALL THE COMMOTION START GOING WHERE EVERYBODY
- 18 STARTED SHOOTING.
- 19 Q: ALL RIGHT. AFTER THE COMMOTION STARTED ... AFTER
- 20 EVERYBODY STARTED SHOOTING. WHO WAS THE FIRST PERSON
- 21 YOU SAW THERE PULL A GUN OUT?
- 22 A: IT HAD TO BE REESE BECAUSE I SEEN REESE GRAB HIS GUN,
- 23 PULL HIS GUN I WENT TO REACH FOR HIS GUN AND I SEE TREZ
- 24 WITH HIS GUN AND ...
- 25 Q: ALL RIGHT. SLOW DOWN. YOU SAW REESE GRAB HIS GUN.

- 1 A: YES, SIR.
- 2 Q: AND YOU GRABBED AT YOUR GUN.
- 3 A: I AIN'T ...
- 4 Q: TREZ GRABBED ...
- 5 A: I AIN'T GRABBED AT MY GUN.
- 6 Q: YOU DIDN'T?
- 7 A: NO. NO, SIR, MY BAD. I WENT TO GRAB FOR REESE'S GUN.
- 8 Q: OKAY. HOW DO YOU KNOW REESE GRABBED HIS GUN?
- 9 A: BECAUSE I SEE THE .38 CAME OUT.
- 10 Q: YOU SAW IT CAME OUT FROM WHERE?
- 11 A: FROM ... FROM THE WAISTLINE RIGHT THERE.
- 12 Q: OKAY. TELL THE JURY WHAT HIS GUN LOOKED LIKE.
- 13 A: IT BEEN A BLACK .38. A .38 SPECIAL.
- 14 Q: SO WHEN YOU SAW HIM PULL THAT GUN OR START TO PULL THE
- 15 GUN OUT OF HIS WAIST BAND WHAT DID YOU DO?
- 16 A: I WENT TO REACH FOR IT.
- 17 Q: YOU WENT TO REACH FOR HIS GUN?
- 18 A: YES, SIR.
- 19 Q: WHY?
- 20 A: WHY? BECAUSE BEING WHO I AM AND WHAT WE REPRESENT I
- 21 AIN'T HAD WANT NOBODY TO GET HURT.
- 22 Q: UP TO THE POINT RIGHT THERE WHEN YOU TRIED TO GRAB
- 23 REESE'S GUN ...
- 24 A: YES, SIR.
- 25 Q: ... HOW HAD YOU TRIED TO ROB REESE OF ANYTHING?

HEARING

476

- 1 A: I DON'T KNOW. AT MY KNOWLEDGE IF I BEEN TRYING TO ROB
2 REESE I WOULD HAVE ... I WOULD HAVE HAD THE PISTOL TO
3 REESE HEAD OR SOMETHING AND THEN I WOULDN'T COME
4 WHERE EVERYBODY KNEW ME. I WOULD HAVE BEEN SKI ... SKI
5 MASK AND DISGUIISING MYSELF OR SOMETHING. THEN I
6 WOULDN'T HAD ON LIGHT COLORED CLOTHES ON AND A
7 DESCRIPTION OF GETTING OUT OF A WHITE CADILLAC
8 ESCALADE THAT EVERYBODY IN THE NEIGHBORHOOD KNOW ME
9 BY.
- 10 Q: SO WERE YOU STANDING IN THE STREET BACK THERE THAT DAY
11 ROBBING REESE OR TRYING TO ROB HIM?
- 12 A: NO, SIR.
- 13 Q: WHY WERE YOU JUST STANDING THERE?
- 14 A: WE WERE CHILLING, KICKING, SMOKING REEFER, GETTING ...
15 THAT WE ALWAYS DO ON CARVER STREET.
- 16 Q: SO THE FIRST GUN YOU SAW WAS REESE PULLING HIS GUN OUT?
- 17 A: YES, SIR.
- 18 Q: WHAT HAPPENED THEN?
- 19 A: THEN TREZ WENT FOR HIS AND THEN THEM BOYS START
20 SHOOTING AND THEM BOYS START SHOOTING AND I RAN. I HAD
21 MY GUN. I PULLED MY GUN AND I STARTED BUSTING ...
- 22 Q: DID YOU ACTUALLY SEE WHO SHOT FIRST?
- 23 A: YES, SIR.
- 24 Q: WHO?
- 25 A: REESE.

HEARING

477

- 1 Q: AND HOW DO YOU KNOW HE SHOT FIRST?
- 2 A: CAUSE WHEN I SEE HIM SHOT LITTLE ... LITTLE REGGIE FALL.
- 3 Q: THAT WAS THE FIRST SHOT YOU HEARD ...
- 4 A: FIRST ... THE FIRST SHOT I HEARD.
- 5 Q: NOW, WHEN THAT HAPPENED WHERE WAS REESE?
- 6 A: REESE? HE WAS LIKE RUNNING BACK TOWARDS ... I DON'T
- 7 KNOW WHAT THE ... THE ADDRESS NUMBER BUT TOWARDS HIS
- 8 YARD. MOVING BACK.
- 9 Q: LET ME SHOW YOU A PICTURE THAT'S MARKED STATE'S EXHIBIT
- 10 NUMBER SEVEN. AND I'M GONNA LET YOU LOOK AT THAT. DO
- 11 YOU RECOGNIZE WHERE THAT IS, THE PICTURE THAT'S SHOWN
- 12 THERE?
- 13 A: NO, SIR ...
- 14 THE COURT: SPEAK UP, SIR.
- 15 A: NO, SIR.
- 16 Q: ALL RIGHT. DO YOU KNOW WHERE REESE LIVES?
- 17 A: I KNOW WHERE HE LIVE BY JUST GOING LIVING, NOT BY NO
- 18 PICTURE.
- 19 Q: ALL RIGHT.
- 20 A: CAUSE IT BEEN ...
- 21 Q: WHERE DID HE LIVE?
- 22 THE COURT: ALL RIGHT. STEP BACK.
- 23 A: HE ... HE'S STAYING ON CARVER STREET.
- 24 Q: OKAY. DID HE STAY AT THAT HOUSE ON CARVER STREET THAT
- 25 WAS NEAR WHERE ALL THIS HAPPENED?

HEARING

478

- 1 A: YES, SIR.
- 2 Q: WAS IT RIGHT BESIDE A TRAILER THAT WAS KIND OF BLUE?
- 3 A: I CAN'T TELL YOU THAT.
- 4 Q: WAS IT BEHIND A GROUPING OF THREE TRASH CANS?
- 5 A: YES, SIR.
- 6 Q: AND ALL THE PLACE THAT YOU ALL WERE STANDING WAS IN
- 7 FRONT OF THREE TRASH CANS?
- 8 A: YES, SIR.
- 9 Q: OKAY. WITH REFERENCE TO THOSE THREE TRASH CANS WHERE
- 10 WAS REESE?
- 11 A: REESE ON ... ON THE LEFT SIDE BY THE END OF THE TRASH CAN
- 12 LIKE ... LIKE IN THE ROAD WHERE YOU BACK ON THE DRIVEWAY,
- 13 YOU HAVE DIRT, WHEN HE START SHOOTING, HE WAS RUNNING
- 14 BACK SHOOTING.
- 15 Q: SO WHEN REESE WAS SHOOTING HE WAS IN THE ROAD OR NOT
- 16 IN THE ROAD?
- 17 A: HE AIN'T NEVER BEEN IN THE ROAD.
- 18 Q: OKAY. WAS HE IN THE DRIVEWAY?
- 19 A: LIKE IN ... YOU COULD SAY THE DRIVEWAY WHERE HE BEEN AT.
- 20 WHERE HE WAS ... LIKE HE WAS RUNNING TOWARDS LIKE HIS
- 21 HOUSE IN THAT DIRECTION.
- 22 Q: OKAY. HE WAS RUNNING TOWARDS HIS HOUSE.
- 23 A: YES, SIR.
- 24 Q: SO AT WHAT POINT DID YOU PULL OUT YOUR .25 CALIBER
- 25 PISTOL?

HEARING

479

1 A: WHEN I BEEN RUNNING ACROSS THE STREET.

2 Q: ALL RIGHT. SO YOU WERE ACROSS THE STREET?

3 A: I'M RUNNING. I BEEN RUNNING.

4 Q: YOU WERE RUNNING ACROSS THE STREET?

5 A: YES, SIR, I AIN'T WANT TO LIE AND SAY I WASN'T IN THE STREET
6 OR IN THE GRAVEYARD WHEN I PULL OUT BUT I KNOW WHEN I'M
7 RUNNING I ACTUALLY PULL OUT.

8 Q: OKAY. AND DID YOU SHOOT YOUR .25 CALIBER PISTOL?

9 A: YES, SIR.

10 Q: WHERE WERE YOU POINTING IT WHEN YOU SHOT IT?

11 A: I AIN'T BEEN AIMING. I JUST LIKE RUNNING BACK AND BUST
12 AND I SEE DUCKING LIKE, I FELL, BUT SHOOTING. I AIN'T BEEN
13 AIMING.

14 Q: WHEN YOU TURNED TO RUN LITTLE REGGIE HAD ALREADY
15 BEEN SHOT?

16 A: YES, SIR.

17 Q: AND THAT WAS BEFORE YOU PULLED OUT YOUR .28 ...

18 A: YES, SIR.

19 Q: UP TO THE POINT WHERE LITTLE REGGIE FELL HAD ANYBODY
20 OTHER THAN REESE SHOT?

21 A: YES, SIR.

22 Q: WHO ELSE HAD SHOT?

23 A: TREZ.

24 Q: NOW, AT THE POINT WHERE REESE PULLED OUT THAT GUN
25 WHAT IF ANYTHING DO YOU REMEMBER SAYING TO REESE?

HEARING

480

- 1 A: ME SAYING TO REESE?
- 2 Q: YES, SIR.
- 3 A: I DIDN'T SAY NOTHING.
- 4 Q: YOU ALL WERE JUST TALKING?
- 5 A: WE JUST TALKING.
- 6 Q: AT WHAT POINT DID YOU TELL REESE IF AT ALL I OUGHT TO KILL
- 7 YOU ALL'S ASS FOR WHAT YOU DID TO ME?
- 8 A: I WOULDN'T ... I WOULDN'T EVEN DO THAT TO NONE OF THEM
- 9 BOYS.
- 10 Q: YOU DIDN'T SAY THAT AT ALL?
- 11 A: NO, SIR.
- 12 Q: OKAY. AND AT THE POINT REESE HAD PULLED OUT HIS GUN OR
- 13 STARTED TO PULL OUT HIS GUN HAD YOU TOLD ... WHAT HAD
- 14 YOU TOLD REESE ABOUT GIVING YOU ANYTHING THAT
- 15 BELONGED TO HIM?
- 16 A: I AIN'T ASKED REESE FOR NOTHING. I WOULDN'T GET PROBABLY
- 17 A HUNDRED DOLLARS AND I HAD \$3,000.00 AND AROUND ABOUT
- 18 500 IN MY POCKET.
- 19 Q: YOU ALREADY \$3,500 ...
- 20 A: \$3,500.00 IN MY POCKET, YES, SIR.
- 21 Q: YOU DIDN'T NEED HIS MONEY?
- 22 A: NO, SIR.
- 23 Q: YOU ALREADY HAD \$3,500.00.
- 24 A: YES, SIR. IF ANYTHING I WOULD HAVE GIVE HIM SOME MONEY.
- 25 Q: DID YOU WANT HIS .38?

HEARING

481

- 1 A: SIR?
- 2 Q: DID YOU WANT HIS .38?
- 3 A: NO, SIR. I WOULD BUY IT FROM HIM IF I HAD WANT IT IF HE
- 4 WOULD HAVE SELL IT TO ME.
- 5 Q: BUT YOU WEREN'T TRYING TO STEAL ANYTHING?
- 6 A: NO, SIR.
- 7 Q: NOW, YOU LEFT AT THAT POINT?
- 8 A: WHEN ALL THE SHOOTING?
- 9 Q: YES, SIR.
- 10 A: YES, SIR.
- 11 Q: AND WHERE DID YOU GO?
- 12 A: I HAD RAN THROUGH THE CEMETERY AND WE CUT THROUGH
- 13 SOME PATH AND JUMP SOME YARDS AND WENT TO MAMA
- 14 BURT'S HOUSE.
- 15 Q: AND DID YOU END UP IN THE CADILLAC ESCALADE?
- 16 A: YES, SIR.
- 17 Q: WHO WAS DRIVING?
- 18 A: NICOLE.
- 19 Q: OKAY AND WHERE DID YOU GO AFTER THAT?
- 20 A: I HAD JUMP OUT ON I THINK OAKLAND AND PURDY STREET.
- 21 Q: ALL RIGHT. WHEN YOU JUMPED OUT ON OAKLAND AND PURDY
- 22 STREET DID YOU STILL HAD THAT .25 WITH YOU?
- 23 A: NO, SIR.
- 24 Q: WHAT HAPPENED TO IT?
- 25 A: I HAD DROP IT AS I RUNNING.

HEARING

482

- 1 Q: DO YOU REMEMBER WHERE YOU DROPPED IT?
- 2 A: I THINK IN THE CEMETERY OR WHEN I ... IT BEEN IN THE
- 3 CEMETERY OR ACROSS THE FENCE WHEN I JUMP BUT I KNOW IT
- 4 HAD DROP.
- 5 Q: DID IT DROP OUT OF YOUR HAND OR SOME OTHER PLACE?
- 6 A: YEAH, IT DROP OUT OF MY POCKET.
- 7 Q: SO WHEN DID YOU STICK IT BACK IN YOUR POCKET?
- 8 A: I AIN'T NEVER STICK IT BACK IN MY POCKET.
- 9 Q: OH, IT WASN'T IN YOUR POCKET?
- 10 A: NO, SIR.
- 11 Q: I MUST HAVE MISUNDERSTOOD YOU. DID IT DROP OUT OF YOUR
- 12 POCKET OR DID IT DROP OUT OF YOUR HAND?
- 13 A: WHEN IT DROP OUT ... WHAT WHEN I BEEN RUNNING?
- 14 Q: YES, SIR.
- 15 A: OH, WHEN I BEEN RUNNING IT WAS STILL IN MY HAND.
- 16 Q: OKAY. AND THEN WHEN YOU WERE RUNNING DID YOU HAVE TO
- 17 ... DID YOU JUMP OVER THE FENCE BEFORE OR AFTER YOU GOT
- 18 INTO THE CEMETERY?
- 19 A: I RAN ... I HAD TO RUN THROUGH THE CEMETERY AND JUMP
- 20 OVER THE GATE WHERE THE FENCE WAS.
- 21 Q: AT ANY TIME ON MAY 19TH, 2003, DID YOU GO INTO THAT
- 22 DRIVEWAY OR YARD THAT GOES TO REESE'S HOUSE OR THE
- 23 HOUSE NEXT TO HIM?
- 24 A: NO, SIR.
- 25 Q: DURING THE TIME THAT YOU WERE THERE ON MAY 19TH OF 2003,

1 AT ANY TIME DO YOU REMEMBER GETTING OUT OF THE STREET
2 OTHER THAN AFTER YOU RAN THROUGH THE CEMETERY?

3 A: I BEEN IN THE STREET THE WHOLE TIME. TO MY KNOWLEDGE I
4 COULDN'T BE ... I COULDN'T BE MOVE LIKE I WOULD HAVE MOVE,
5 I WOULD HAVE FELL I WAS SO INTOXICATED.

6 Q: AFTER YOU GOT BACK INTO THE VEHICLE WITH YOUR
7 GIRLFRIEND WHERE DID YOU ALL GO?

8 A: I AIN'T KNOW WHERE THEY WENT BUT I KNOW WHERE I WENT. I
9 HAD JUMPED OUT ON OAKLAND AND PURDY AND I HAD RAN TO
10 MY AUNT HOUSE.

11 Q: WHEN YOU GOT TO YOUR AUNT'S HOUSE DO YOU KNOW HOW
12 LONG YOU STAYED THERE?

13 A: NO, SIR.

14 Q: WHERE DID YOU GO AFTER THAT IF ANYWHERE?

15 A: I HAD WENT MY GRANDMAMA HOUSE ON EDWARD STREET AND
16 MY AUNT TELL ME TO COME ON CAUSE WHAT WAS GOING ON
17 CAUSE ROOSEVELT FOSTER AND ROGER JONES THEY CAME UP
18 WITH SOME PISTOLS AND SAY THAT NICOLE BEEN DRIVING MY
19 TRUCK AND SOME FIRE START IN MY TRUCK SO HE PULLED A
20 PIECE OUT AT NICOLE AND MY AUNT TELL ME TO GO ON CAUSE
21 SOME SHOOTING MIGHT OCCUR AND STUFF AND I'M LIKE I'M
22 STRAIGHT, LIKE I AIN'T DID IT, I AIN'T GOT NO REASON TO RUN, I
23 AIN'T DID NOTHING. SO I JUST COME ON ANYWAY.

24 Q: SO WHERE DID YOU END UP GOING?

25 A: 36 SOUTH SALEM.

HEARING

484

1 Q: AND DID YOUR GIRLFRIEND END UP THERE ALSO?

2 A: YES, SIR.

3 Q: DID YOU ALL BOTH GO TO BED?

4 A: YES, SIR.

5 Q: DO YOU REMEMBER BEING ARRESTED THERE?

6 A: YES, SIR.

7 Q: AND AFTER YOU WERE ARRESTED YOU WERE TAKEN TO THE
8 POLICE DEPARTMENT?

9 A: YES, SIR.

10 Q: AND WHEN YOU WERE THERE I BELIEVE YOU WERE TAKEN TO ...

11 WELL, BEFORE YOU ACTUALLY WENT IN THERE DID ... DID
12 SOMEBODY DO SOME TESTS ON YOUR HANDS AND FINGERS?

13 A: YES, SIR.

14 Q: AND THEN AFTER THAT DID YOU MEET WITH OFFICE RABON
15 AND OFFICER HOLSTON, LIEUTENANT HOLSTON IN ONE OF THEIR
16 OFFICES?

17 A: YES, SIR.

18 Q: DID THEY ASK YOU TO GIVE THEM A STATEMENT?

19 A: YES, SIR.

20 Q: TELL THE JURY WHAT HAPPENED.

21 A: I WAS IN THERE. THEY WERE LIKE THEY WERE ASKING ME
22 WHAT GOING ON. I'M LIKE I AIN'T KNOW NOTHING, I'M SCARED.
23 CAUSE I ALREADY BEEN SCARED BECAUSE WHEN THEY ARREST
24 ME AND I WAKE UP I HAD NOTHING BUT PISTOLS IN MY HEAD, I
25 THOUGHT SOMEBODY BEEN COMING TO KILL ME. SO BEING I'M

1 A SCHIZOPHRENIC I'M SCARED, I'M ... SHOOT I'M UNDER
2 PRESSURE. I AIN'T KNOW WHAT GOING ON. SO THEY GOT ME
3 DOWN THERE, THEY START QUESTIONING ME. I AIN'T FIND OUT
4 THEY HAD NICOLE INTO CUSTODY TIL DETECTIVE HOLSTON
5 TELL ME IF YOU DONT GIVE ME YOUR STATEMENT WE'RE
6 GONNA CHARGE NICOLE FOR MURDER, ACCESSORY OR
7 WHATEVER AFTER THE FACT AND ALL THAT. SO I'M LIKE I AIN'T
8 GONNA DO ... I AIN'T GONNA ... YOU AIN'T NO MAN, YOU NO MAN,
9 YOU GONNA LET YOUR GIRL TAKE THE BLAME FOR YOU, YOU
10 NO MAN. SO I THOUGHT ABOUT IT. I'M LIKE MAN, YOU KNOW,
11 LIKE I ... I ... I GIVE YOU ALL A STATEMENT.

12 Q: SO YOU TOLD THEM YOU WOULD GIVE THEM A STATEMENT?

13 A: YES, SIR.

14 Q: AND THEN YOU DID GIVE THEM A STATEMENT?

15 A: YES, SIR.

16 Q: AND THE STATEMENT THAT THEY GAVE YOU YOU READ IT OR
17 WAS IT READ TO YOU?

18 A: AIN'T NEVER ... I AIN'T NEVER READ IT AND IT AIN'T NEVER READ
19 IT TO ME, SIR.

20 Q: OKAY. YOU SIGNED IT?

21 A: YES, SIR.

22 Q: YOU DIDN'T INITIAL THAT ONE, YOU JUST PUT YOUR SIGNATURE
23 ON THE BOTTOM OF THE PAGE?

24 A: YES, SIR.

25 Q: PART OF YOUR STATEMENT SAYS AFTER THINKING ABOUT

HEARING

486

- 1 THINGS I KNOW I SHOT DADDY RABBIT AND LINWOOD BUTLER.
- 2 A: YES, SIR.
- 3 Q: DO YOU THINK YOU SHOT LINWOOD BUTLER?
- 4 A: NO, SIR, THE REASON WHY I MADE THAT STATEMENT BECAUSE
- 5 DETECTIVE HOLSTON SAY THAT AIN'T GOOD ENOUGH, MY
- 6 STATEMENT AIN'T GOOD ENOUGH. I DID SOMETHING SO ORDER
- 7 FOR THEM TO LET NICOLE GO I GOT TO SAY I AT LEAST SHOT
- 8 SOMEBODY AND SO I SAY I DECIDE I AIN'T KNOW IF I SHOT HIM
- 9 OR NOT. I SAY I PROBABLY SHOT THEM. I AIN'T SAID I THOUGHT
- 10 I DID SHOT ... I SAID I PROBABLY SHOT THEM.
- 11 Q: NOW A LITTLE WHILE AGO WHEN YOU SAID HOW YOU WERE
- 12 SHOOTING, SHOW THE JURY HOW YOU WERE SHOOTING AGAIN.
- 13 A: I BEEN RUNNING AND I LIKE HAD SHOOT... SHOT BACK ALONG
- 14 ABOUT TWICE.
- 15 Q: OKAY. AT ANY POINT WHEN YOU WERE RUNNING AND
- 16 SHOOTING DID YOU AIM DOWNWARDS?
- 17 A: NO, SIR.
- 18 Q: DID YOU AIM STRAIGHT AND LEVEL?
- 19 A: NO, SIR.
- 20 Q: YOU WERE SHOOTING UPWARDS?
- 21 A: YES, SIR, I'M LIKE RUNNING, DUCKING AND SHOOTING. I'M LIKE
- 22 BULLETS WAS PASSING MY HEAD AND THEY SOUND LIKE SKY
- 23 ROCKETS, YOU KNOW, WHEN THEY HITTING THOSE TREES. I'M
- 24 LIKE OH, MAN. AND I SAID, I'M SCARED. I DIDN'T KNOW WHAT
- 25 TO DO.

1 Q: A COUPLE OF DAYS LATER YOU WERE SERVED WITH AN ARREST
2 WARRANT FOR MURDER AT THE JAIL?

3 A: YES, SIR.

4 Q: AND THAT WAS WHEN DETECTIVE BRANNON AND I BELIEVE
5 DETECTIVE MORRIS CAME AND TALKED WITH YOU?

6 A: I AIN'T KNOW THE DETECTIVE NAME BUT I KNOW DETECTIVE
7 BRANNON.

8 Q: AND YOU WANTED TO TALK TO THEM AND TELL THEM SOME
9 MORE?

10 A: NO, SIR.

11 Q: HOW DID IT HAPPEN THAT YOU SIGNED ANOTHER STATEMENT
12 ON THAT DAY?

13 A: WHEN WE FIND OUT ... WHEN I FIND OUT LITTLE REGGIE GOT
14 KILLED, I MEAN, HE DIED OH, I MEAN I'M ... I START CRYING, I
15 SAY, OH, MAN, MY LITTLE HOMIE HAD TO GO. OH, ME. SO
16 DETECTIVE BRANNON WE KNOW ... WE KNOW IT BEEN A
17 SHOOTOUT. WE KNOW YOU AIN'T KILL HIM, JUST GIVE US A
18 STATEMENT AND SAY RIGHT HERE AND I GO TO PRELIMINARY
19 HEARING I'LL TELL THEM TO DROP YOUR CHARGE TO
20 INVOLUNTARY MANSLAUGHTER. AND SO I SAID ALL RIGHT.

21 Q: NOW, LET ME BACK UP A LITTLE BIT. UP ... UP TIL THE TIME YOU
22 WENT OUT THERE ARE YOU SUPPOSED TO BE TAKING ANY KIND
23 OF MEDICINE?

24 A: YES, SIR.

25 Q: WHAT KIND?

HEARING

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- 1 A: ZOLOFT, RID --- DEPAKOTE AND ZYPREXOR.
- 2 Q: HAD YOU BEEN IN THE JAIL AT THAT POINT FOR A COUPLE OF
- 3 DAYS? ON MAY 21ST AND THEY GOT YOU ON MAY 20TH, I THINK.
- 4 A: YES, SIR.
- 5 Q: DID YOU TAKE YOUR MEDICINE THOSE TWO DAYS?
- 6 A: NO, SIR.
- 7 Q: SO WHEN YOU GAVE THAT SECOND STATEMENT PART OF THAT
- 8 SAYS ME AND MY MAN, TREZ, WAS ON CARVER PLOTTING TO
- 9 ROB REESE'S FOR DRUGS AND HIS GUN. DID YOU WRITE THAT
- 10 YOURSELF?
- 11 A: YES, SIR.
- 12 Q: WHY DID YOU WRITE THAT?
- 13 A: CAUSE OFFICER DETECTIVE BRANNON TELL ME I HAD TO WRITE
- 14 IT CAUSE IF IT BEEN IN MY HANDWRITING THEN ... IF IT BE IN
- 15 ANY HANDWRITING THEN THEY WOULDN'T HONOR COURT WAS
- 16 ... I CAN'T USE THE ... PSYCHOLOGICAL WORDS THAT YOU ... BIG
- 17 WORDS THAT YOU WHATEVER YOU SAY. I HAD TO WRITE IT IN
- 18 MY OWN HANDWRITING.
- 19 Q: SO AT THE POINT THAT REESE WAS REACHING FOR HIS GUN
- 20 HOW HAD YOU TRIED TO ROB HIM OF ANY DRUGS OR GUNS?
- 21 A: TO MY KNOWLEDGE I DON'T KNOW.
- 22 Q: DID HE EVEN HAVE ANY MORE DRUGS AT THAT POINT?
- 23 A: NO, HE BEEN CALLING HIS WEIGHT MAN TO COME BRING HIM
- 24 SOME DRUGS.
- 25 Q: SO HE DIDN'T HAVE ANY DRUGS.

1 A: NO, SIR. IF I WERE GONNA ROB REESE I WOULDN'T EVEN BUY NO
2 REEFER FROM HIM. I WOULD HAVE ROBBED THEM OR
3 SNATCHED THEM ... SNATCHED THE PACKAGE OUT HIS HAND
4 AND RAN.

5 Q: WHEN YOU WENT TO CARVER STREET ON MAY 19TH, ... CARVER
6 STREET ON MAY 19TH OF 2003, WHO DID YOU INTEND TO KILL
7 WHEN YOU WENT THERE?

8 A: NO ONE.

9 Q: WHEN YOU STARTED SHOOTING WHO DID YOU INTEND TO KILL
10 IF ANYBODY?

11 A: NO ONE.

12 MR. BLACKMON: ANSWER ANYTHING MR. CONNER MIGHT
13 ASK YOU, PLEASE, SIR.

14 A: YES, SIR.

15 THE COURT: CROSS EXAMINATION, MR. CONNER?

16 MR. WILSON - CROSS EXAMINATION BY MR. CONNER:

17 Q: MR. WILSON, HOW OLD ARE YOU?

18 A: 19, SIR.

19 Q: AND WHEN WERE YOU BORN?

20 A: , , SIR.

21 Q: ?

22 A: YES, SIR.

23 Q: ARE YOU THE SAME HAROLD WILSON THAT WAS CONVICTED IN
24 FAMILY COURT OF STRONG ARMED ROBBERY AND BURGLARY
25 SECOND ...

HEARING

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1 MR. BLACKMON: SUBJECT TO OUR PRIOR OBJECTION.

2 THE COURT: SO NOTED.

3 Q: ... SECOND DEGREE BACK ON JUNE THE 28TH, 2001?

4 A: YES, SIR.

5 Q: YOU ARE?

6 A: I'M CONVICTED OF ACCESSORY ALL THEM BURGLARY TOOLS
7 BUT I WASN'T WITH SECOND DEGREE BURGLARY.

8 Q: YOU DENY THAT YOU WERE CONVICTED OR PLED GUILTY IN
9 FACT TO A BURGLARY SECOND DEGREE?

10 A: YES, SIR.

11 Q: YOU DID PLEAD GUILTY TO IT?

12 A: I AIN'T PLEAD GUILTY TO IT. IT BEEN ... I PLEAD GUILTY TO
13 POSSESSION OF BURGLARY TOOLS BUT THEY HAD DROPPED
14 THAT, THOUGH.

15 Q: THEY DROPPED THE BURGLARY TWO?

16 A: YES, SIR.

17 Q: YOU PLED GUILTY TO BURGLARY SECOND.

18 A: NO, SIR. I AIN'T NEVER PLEAD GUILTY TO SECOND DEGREE
19 BURGLARY.

20 Q: HOW ABOUT STRONG ARMED ROBBERY?

21 A: NO, SIR. ACCESSORY TO STRONG ARMED ROBBERY AFTER THE
22 FACT.

23 MR. CONNER: MAY IT PLEASE THE COURT. WE WOULD
24 OFFER THE DOCUMENT THAT WE TENDER TO THE COURT IN MR. ...

25 THE COURT: ALL RIGHT, ANYTHING OTHER THAN THE

1 ORIGINAL OBJECTIONS THAT YOU MADE, MR. BLACKMON?

2 MR. BLACKMON: NO, SIR, YOUR HONOR, JUST SUBJECT TO
3 OUR ORIGINAL OBJECTION.

4 THE COURT: ALL RIGHT. IT DOES APPEAR TO BE A
5 CERTIFIED RECORD OF THE FAMILY COURT AND THE COURT WILL
6 ADMIT IT AS STATE'S NUMBER 35 SUBJECT TO THE OBJECTION OF THE
7 DEFENDANT.

8 (WHEREUPON STATE'S EXHIBIT NUMBER 35 WAS MARKED FOR
9 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

10 Q: MR. WILSON, THE DAY THIS HAPPENED ON MAY THE 19TH, 2003, IT
11 WAS STILL DAYLIGHT WHEN ALL THE SHOOTING HAPPENED,
12 WASN'T IT?

13 A: YES, SIR.

14 Q: PULL THAT MICROPHONE DOWN A LITTLE BIT CLOSE SO YOU
15 CAN ... SO YOU CAN BE HEARD BETTER.

16 THE COURT: PUSH IT WAY DOWN ON THE STAND.

17 Q: SO IT WAS STILL DAYLIGHT?

18 A: YES, SIR.

19 Q: AND YOU COULD SEE EVERYTHING GOOD?

20 A: YES, SIR.

21 Q: AND THESE OTHER FELLOWS COULD SEE YOU GOOD, COULDN'T
22 THEY?

23 A: YES, SIR.

24 Q: AND RIGHT THERE, MAURIC E, HE WAS THERE, WASN'T HE?

25 A: YES, SIR.

HEARING

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- 1 Q: AND LINWOOD BUTLER, THE ONE YOU CALL DADDY RABBIT, HE
2 WAS ... HE WAS THERE.
- 3 A: YES, SIR.
- 4 Q: AND YOU KNOW THEM ALL, DON'T YOU?
- 5 A: YES, SIR.
- 6 Q: AND DALAMAR BURROUGHS, D.L., HE WAS THERE, WASN'T HE?
- 7 A: YES, SIR.
- 8 Q: AND REGGIE FOSTER, THE ONE THEY CALL LITTLE REGGIE, HE
9 WAS THERE.
- 10 A: YES, SIR.
- 11 Q: AND YOU WERE THE BIG MAN WITH THE GUN.
- 12 A: NO, SIR. I WAS THE BIG MAN ... WHAT DO YOU MEAN? PHRASE
13 THAT.
- 14 Q: YOU HAD A GUN.
- 15 A: YES, I HAD A GUN. BUT I AIN'T BEEN THE ONLY ONE WITH A
16 GUN.
- 17 Q: YOU HAD A NINE, DIDN'T YOU?
- 18 A: NO, SIR.
- 19 Q: YOU DENY YOU HAD A NINE?
- 20 A: DO I DENY I HAD A NINE? YES, SIR. I AIN'T IN NONE OF MY
21 STATEMENTS YOU CAN READ SAYING I HAD THAT NINE.
- 22 Q: WELL, TELL ME ABOUT THIS GUN YOU SAID YOU HAD. YOU SAY
23 IT WAS A .25?
- 24 A: YES, SIR.
- 25 Q: AND WAS IT A SEMIAUTOMATIC .25? OR WAS IT A REVOLVER?

- 1 A: IT BEEN AN AUTOMATIC.
- 2 Q: IT WAS AUTOMATIC?
- 3 A: YES, SIR.
- 4 Q: IT HAD A CLIP THAT WENT IN THE HANDLE, DIDN'T IT?
- 5 A: YES, SIR.
- 6 Q: AND EVERY TIME YOU PULLED THE TRIGGER IT'D GO BANG,
- 7 BANG, BANG, WOULDN'T IT?
- 8 A: YES, SIR.
- 9 Q: AS MANY TIMES AS YOU PULLED THE TRIGGER IT WOULD SHOOT
- 10 THAT MANY TIMES.
- 11 A: DEPEND ON AMOUNT OF AMMUNITION YOU GOT IN.
- 12 Q: SAY IT AGAIN?
- 13 A: DEPEND ON AMOUNT OF AMMUNITION YOU GOT IN.
- 14 Q: IF YOU HAD A FULL CLIP IT WOULD SHOOT THE WHOLE CLIP.
- 15 HOW MANY WAS IN A CLIP?
- 16 A: ONE.
- 17 Q: ONE ROUND?
- 18 A: WHAT DO YOU MEAN? WHAT YOU MEAN BY ONE ROUND?
- 19 Q: HOW MANY BULLETS WERE IN THERE?
- 20 A: ONE.
- 21 Q: ONLY ONE BULLET IN THE ... IN THE CLIP?
- 22 A: YES, SIR.
- 23 Q: YOU KNOW BETTER THAN THAT.
- 24 THE COURT: JUST ASK A QUESTION, MR. CONNER. NO
- 25 COMMENTS, PLEASE. THE JURY WILL DISREGARD THE COMMENT.

HEARING

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- 1 Q: BUT IT WAS A SEMIAUTOMATIC PISTOL?
- 2 A: YES, SIR.
- 3 Q: AND EVERY TIME YOU PULLED THE TRIGGER IT WOULD SHOOT
- 4 UNTIL THE CLIP WAS EMPTY, IS THAT RIGHT?
- 5 A: YES, SIR.
- 6 Q: AND EVERY TIME IT SHOT IF THERE WAS A ROUND ... A ROUND IN
- 7 THERE IT WOULD THROW IT OUT ON THE GROUND, THE CASING
- 8 IT CAME OUT ON THE GROUND, ISN'T THAT RIGHT?
- 9 A: YES, SIR.
- 10 Q: THAT'S THE WAY A SEMIAUTOMATIC WORKS.
- 11 A: YES, SIR.
- 12 Q: YOU KNOW ALL ABOUT THAT, DON'T YOU?
- 13 A: YES, SIR.
- 14 Q: YOU KNOW YOUR GUNS GOOD, DON'T YOU?
- 15 A: NO, SIR. BUT I KNOW THE DIFFERENCE. I AIN'T SAYING I'M AN
- 16 EXPERT BUT I KNOW.
- 17 Q: I'M SORRY, I DIDN'T ...
- 18 A: I AIN'T SAY I'M AN EXPERT BUT I KNOW CAUSE THAT'S THE ONLY
- 19 THING ROUND THERE IN OUR NEIGHBORHOOD IS GUNS.
- 20 Q: NOW, I WANT YOU TO TELL ME AGAIN HOW CLOSE YOU WERE
- 21 TO REESE. NOW, YOU TELL ME TO STOP WHEN I GET AS CLOSE
- 22 AS YOU WERE TO REESE.
- 23 A: WHEN THE INCIDENT OCCURRED OR BEFORE IT ...
- 24 Q: THE INCIDENT OCCURRED.
- 25 A: WHEN THE INCIDENT ... WHEN EVERYTHING HAPPENED AND

- 1 REESE WENT TO REACH FOR A GUN, I BEEN TRYING TO GRAB
2 REESE'S GUN.
- 3 Q: WELL, WHEN ... BEFORE YOU SAW THE GUN YOU SAY YOU WERE
4 STANDING OUT IN THE MIDDLE OF THE ROAD...
- 5 A: YES, SIR.
- 6 Q: ... IS THAT RIGHT?
- 7 A: YES, SIR.
- 8 Q: IN FRONT OF REESE'S HOUSE?
- 9 A: YES, SIR. IN FRONT OF HIS TRASH CANS.
- 10 Q: AND HE WAS BEHIND A TRASH CAN.
- 11 A: NO, SIR.
- 12 Q: WHERE WAS HE THEN?
- 13 A: HE BEEN LIKE ON THE SIDE.
- 14 Q: ON THE SIDE OF THE TRASH CAN.
- 15 A: YES, SIR.
- 16 Q: BUT HE WAS ON THE SIDE OF THE TRASH CAN THAT WAS ON
17 YOUR RIGHT, IS THAT RIGHT?
- 18 A: YES, SIR.
- 19 Q: SO HE ... AND HE WAS ABOUT AS FAR AS I AM TO YOU, ABOUT
20 TEN FEET AWAY, ISN'T THAT RIGHT? ISN'T THAT WHAT YOU
21 SAID WHEN YOU WERE UP HERE?
- 22 A: AIN'T NOT THE DISTANCE. IT BEEN ... SEEMED A LITTLE FURTHER
23 ... I CAN'T, ... I CAN'T MEASURE FROM RIGHT THERE TO RIGHT
24 THERE.
- 25 Q: WELL, YOU WANT ME TO BACK UP OR YOU WANT ME TO COME

- 1 CLOSER?
- 2 A: HE ... HE AIN'T BEEN THAT CLOSE WHERE I WAS STANDING SO
- 3 WHEN I REACHED FOR THE PISTOL I BEEN A LITTLE BIT CLOSER.
- 4 Q: WELL, I'M TALKING ABOUT WHEN ... WHEN IT ... WHEN
- 5 EVERYTHING STARTED, BEFORE ANYBODY HAD A PISTOL OUT,
- 6 HOW FAR WERE YOU STANDING APART?
- 7 A: TAKE A COUPLE STEPS BACK.
- 8 Q: TAKE A COUPLE STEPS BACK? SO YOU WERE ABOUT THIS FAR?
- 9 TELL ME WHAT TO DO.
- 10 A: YOU NOT ... IT WAS AROUND ABOUT IN THE RANGE BUT I THINK
- 11 THAT TOO CLOSE THOUGH, I DON'T KNOW.
- 12 Q: DO YOU WANT ME TO BACK UP A LITTLE FURTHER?
- 13 A: YEAH, I SAY ROUND ABOUT MAYBE THE DISTANCE RIGHT
- 14 THERE.
- 15 Q: ABOUT THIS DISTANCE?
- 16 A: YES, SIR.
- 17 Q: SO MAYBE 12 FEET APART?
- 18 A: IT BEEN A GOOD DISTANCE BETWEEN US. I AIN'T KNOW ...
- 19 Q: A GOOD DISTANCE.
- 20 A: YEAH, I AIN'T KNOW ABOUT ALL THE FEET AND MEASURING
- 21 AND ALL THAT.
- 22 Q: NOW, LISTEN TO ME. YOU SAID WHILE AGO THE FIRST ONE TO
- 23 PULL OUT A GUN WAS REESE, IS THAT RIGHT?
- 24 A: YES, SIR.
- 25 Q: AND SO WHAT YOU DID THEN YOU SAID YOU TRIED TO TAKE

1 REESE'S GUN?

2 A: I AIN'T BEEN TRYING TO TAKE REESE'S GUN. I BEEN TRYING TO
3 STOP HIM.

4 Q: SO HOW DID YOU DO THAT?

5 A: I AIN'T NEVER HAD MY HAND ... WHEN I WENT TO ... WHEN HE
6 PULLED HIS GUN I WENT TO REACH BUT WHEN HE SHOT I HIT
7 ABOUT FACE AND THAT'S WHEN I START RUNNING. BUT WHEN ...
8 BUT IN THE PROCESS WHEN THE SHOT FALL UP I STILL RUNNING.

9 Q: NOW, SO YOU WERE STANDING ABOUT THIS DISTANCE THAT I
10 AM FROM ... FROM ME TO YOU AND REESE PULLED OUT A GUN
11 AND SO WHAT YOU DID IS YOU WENT RUNNING OVER HERE AND
12 GRABBED ... WAS TRYING TO GRAB HIS ARM, IS THAT RIGHT?

13 A: I AIN'T BEEN RUNNING NONE.

14 Q: WELL, YOU WALKED OVER THERE.

15 A: I WENT ... I AIN'T BEEN RUNNING. I BEEN WALKING ... I WALKING
16 LIKE FULL SPEED WITH TRYING TO GET IT BUT ... BUT ... BUT THE
17 RANGE WAS TOO FAR I COULDN'T PREVENT HIM FROM STOP
18 SHOOTING.

19 Q: YOU COULDN'T STOP HIM FROM SHOOTING.

20 A: YES, SIR.

21 Q: BUT YOU WENT OVER THERE TO HIM AND TRIED TO STOP HIM
22 FROM SHOOTING.

23 A: YES, SIR.

24 Q: YOU WENT ALL THE WAY TO HIM, A MAN WITH A GUN ...

25 A: I AIN'T WENT ALL THE WAY TO HIM. WE HAD DISTANCE