

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from York County

John C. Hayes, III, Circuit Court Judge

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S.C. Supreme Court

CHRISTOPHER A. WOODY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001686

APPENDIX

TARA DAWN SHURLING
Attorney and Counselor at Law

ALAN WILSON
Attorney General

J. RUTLEDGE JOHNSON
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

3614 Landmark Drive, Suite A
Columbia, S. C. 29204
(803)738-8622 Phone
(803)738-1600 Fax

ATTORNEY FOR PETITIONER.

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE
COURT OF GENERAL SESSIONS
CASE NO.: 05-GS-46-0858

STATE OF SOUTH CAROLINA,
PLAINTIFF,
-VS-
CHRISTOPHER WOODY,
DEFENDANT.

TRANSCRIPT OF RECORD
VOLUME I OF V

MAY 2, 2005
YORK, SOUTH CAROLINA

B E F O R E:

HONORABLE LEE S. ALFORD, JUDGE, AND A JURY.

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

MR. THOMAS E. POPE
YORK COUNTY SOLICITOR
MR. WILLY THOMPSON
ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE
YORK, SOUTH CAROLINA

MR. JOHN DELGADO
ATTORNEY AT LAW
ATTORNEY FOR THE DEFENDANT WOODY
COLUMBIA, SOUTH CAROLINA

SHANNON MCGILBERRY
COURT REPORTER

JAN 10 1990

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REPORTER'S NOTE: ALL EXHIBITS WERE FILED WITH THE OFFICE OF
THE YORK COUNTY CLERK OF COURT.)

*REPORTER'S NOTE: NO REFERENCE HEREIN BY EXHIBIT NUMBER.

1 THE COURT: COUNSEL, ARE WE READY TO PROCEED?

2 MR. POPE: YES, SIR, YOUR HONOR. CAN WE GET MR. WOODY
3 IN AND THEN WE'LL BRING MR. CAMPBELL AROUND TO BE SWORN.

4 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND AND PLACE
5 YOUR LEFT HAND ON THE BIBLE.

6 (DEBREZIO CAMPBELL WAS DULY SWORN.)

7 MR. DEST: MAY IT PLEASE THE COURT.

8 THE COURT: YES, SIR, MR. DEST.

9 MR. DEST: YOUR HONOR, WE'RE HERE IN THE MATTER OF THE
10 STATE VERSUS CHRISTOPHER WOODY, AND AS YOU MAY REMEMBER,
11 YOUR HONOR, LAST MONTH, MARCH 3RD, MY CLIENT, DEBREZIO
12 CAMPBELL, ALONG WITH HIS BROTHER DESMOND CAMPBELL, ENTERED
13 PLEAS IN FRONT OF THIS COURT REGARDING THIS MATTER.

14 I HAVE BEEN REPRESENTING MR. CAMPBELL SINCE THE
15 INCEPTION OF THIS CASE. I WANT TO PUT THAT ON THE RECORD.

16 YOUR HONOR, ON MARCH 3RD OF THIS YEAR, MR. CAMPBELL
17 PLED GUILTY TO MURDER. HE ALSO PLED GUILTY TO CONSPIRACY TO
18 COMMIT MURDER AND UNLAWFUL CARRYING OF A PISTOL BY A PERSON
19 UNDER 21. IN ACCORDANCE WITH THE PLEA NEGOTIATIONS, MR.
20 CAMPBELL SIGNED A PLEA AGREEMENT ON THAT DATE, THE DAY OF
21 THE PLEA, AND I WOULD LIKE TO GO OVER THE SPECIFICS OF THE
22 AGREEMENT FOR PURPOSES OF THE RECORD. IF YOUR HONOR PLEASE,
23 I WILL NEED TO READ THE ENTIRE AGREEMENT.

24 THE COURT: YES, SIR. YES, SIR..

25 MR. DEST: AGREEMENT MADE THIS DAY OF MARCH, 2005,

1 BETWEEN AND AMONG THE STATE OF SOUTH CAROLINA AS REPRESENTED
2 BY THOMAS E. POPE, SOLICITOR, SIXTEENTH JUDICIAL CIRCUIT,
3 AND THE DEFENDANT, DEBREZIO M. CAMPBELL, AND DEFENSE
4 ATTORNEY, HARRY A. DEST.

5 IN CONSIDERATION OF THE MUTUAL PROMISES MADE HEREIN,
6 THE PARTIES HERETO AGREE AS FOLLOWS:

7 ONE, THAT THE DEFENDANT, DEBREZIO M. CAMPBELL, AGREES
8 TO PLEAD GUILTY TO THE FOLLOWING INDICTMENTS NOW PENDING:
9 MURDER OF ARVELL BAGLEY, POSSESSION OF A FIREARM DURING THE
10 COMMISSION OF A VIOLENT CRIME, CONSPIRACY TO MURDER OF
11 ARVELL BAGLEY AND UNLAWFUL CARRYING OF A PISTOL, FOR A
12 SENTENCE OF THIRTY YEARS IN PRISON;

13 TWO, THE DEFENDANT AGREES TO PROVIDE COMPLETE AND
14 THOROUGH COOPERATION TO THE SIXTEENTH CIRCUIT SOLICITOR'S
15 OFFICE AND ALL INVOLVED LAW ENFORCEMENT AGENCIES, INCLUDING
16 GIVING TRUE AND HONEST TESTIMONY AT ANY APPROPRIATE JUDICIAL
17 PROCEEDING. THE DEFENDANT FURTHER AGREES THAT HIS WRITTEN
18 STATEMENT DATED JUNE 27TH, 2004, IN WHICH HE CONFESSED TO
19 THE MURDER OF ARVELL BAGLEY IS TRUE AND ACCURATE;

20 THREE, THE STATE AGREES THAT THIS AGREEMENT REMAINS
21 ENFORCEABLE IN THE EVENT THAT THE CHARGES AGAINST THE CO-
22 DEFENDANTS ARE RESOLVED IN SUCH A WAY AS TO NOT REQUIRE
23 TESTIMONY OF THE DEFENDANT, PROVIDED THAT ALL OTHER
24 CONDITIONS OF COOPERATION HAVE BEEN PERFORMED BY THE
25 DEFENDANT;

1 FOUR, IN THE EVENT THE DEFENDANT WITHDRAWS HIS PLEA,
2 THE STATE WOULD PROCEED WITH A TRIAL AND WILL SEEK THE
3 SENTENCE OF LIFE WITHOUT PAROLE AGAINST THE DEFENDANT;

4 FIVE, IN THE EVENT THAT THE DEFENDANT DOES NOT COMPLY
5 WITH THE CONDITIONS OF THIS PLEA AGREEMENT, THE STATE SHALL
6 MOVE TO HAVE THE NEGOTIATED SENTENCE VACATED. DEFENDANT'S
7 GUILTY PLEA WOULD REMAIN IN EFFECT AND HE WOULD BE SUBJECT
8 TO THE FULL PENALTIES OF EACH CHARGE IN THE DISCRETION OF
9 THE COURT;

10 SIX, THE PARTIES HEREBY AGREE THAT THIS PLEA AGREEMENT
11 CONTAINS THE ENTIRE AGREEMENT OF THE PARTIES AND THIS
12 AGREEMENT MAY BE MODIFIED ONLY IN WRITING, SIGNED BY ALL
13 PARTIES, AND THE PARTIES HAVE SIGNED THIS AGREEMENT BY MR.
14 POPE, SIXTEENTH CIRCUIT SOLICITOR, MR. DEBREZIO CAMPBELL, MY
15 CLIENT, AND YOUR HONOR AND MYSELF.

16 PRIOR TO SIGNING THIS AGREEMENT, YOUR HONOR, I WENT
17 OVER ALL THE TERMS OF THIS AGREEMENT WITH MY CLIENT,
18 SPECIFICALLY WHAT IS REQUIRED OF HIM, THE CONDITIONS OF THE
19 PLEA AGREEMENT AND, OF COURSE, ADVISED HIM THAT IN THE EVENT
20 HE DID NOT COMPLY WITH THAT PLEA AGREEMENT, THE STATE COULD
21 SEEK TO VACATE HIS SENTENCE OF THIRTY YEARS AND COULD
22 PURSUE, OBVIOUSLY, A LIFE-WITHOUT-PAROLE SENTENCE ON THE
23 MURDER CHARGE.

24 I ADVISED HIM -- I FURTHER ADVISED HIM THAT HE IS
25 AFFIRMING THROUGH THIS AGREEMENT THAT THE STATEMENT THAT HE

1 MADE ON JUNE 27TH, 2004, IS TRUE AND ACCURATE WITH RESPECT
2 TO THE MURDER OF ARVELL BAGLEY.

3 AS I STATE ON THE RECORD, YOUR HONOR, MY CLIENT PLED
4 GUILTY ON MARCH 3RD TO THE CHARGES AND RECEIVED A SENTENCE
5 OF THIRTY YEARS ON THE MURDER, CONCURRENT SENTENCING TO ALL
6 THE OTHER CHARGES, IN ACCORDANCE WITH OR COMPORTING WITH THE
7 PLEA AGREEMENT.

8 MOREOVER, YOUR HONOR, I HAVE MET WITH MY CLIENT OR MET
9 WITH MY CLIENT LAST FRIDAY, APRIL 29TH, WITH THE SOLICITOR,
10 DEPUTY SOLICITOR WILLY THOMPSON AND I BELIEVE MERRY COLLINS
11 ALSO WAS PRESENT, THE INVESTIGATOR FOR THE SOLICITOR'S
12 OFFICE, AND PRIOR TO MR. THOMPSON ASKING ANY QUESTIONS OF MY
13 CLIENT, I ALSO ADVISED HIM AGAIN THAT THE TERMS OF THE PLEA
14 AGREEMENT ARE SUCH THAT IF HE TESTIFIED OR DID NOT COMPLY TO
15 THE PLEA AGREEMENT THAT HE WOULD BE SUBJECT TO THE
16 POSSIBILITY OF BEING RE-SENTENCED AND FACING LIFE WITHOUT
17 PAROLE. I ADVISED HIM THAT, AGAIN, IT WOULD BE A SITUATION
18 WHERE IF HE DID NOT COMPLY WITH THE AGREEMENT THAT HE AGREED
19 TO ON MARCH 3RD, THAT THE STATE COULD SEEK OTHER CHARGES
20 AGAINST HIM, POTENTIALLY. I ALSO ADVISED HIM THAT IF HE DID
21 NOT COMPLY, THERE WAS ALWAYS THE POSSIBILITY THAT IT COULD
22 IMPLICATE HIM ON OTHER OFFENSES.

23 I ALSO ADVISED HIM THAT IF IT WAS HIS CHOICE NOT TO
24 COMPLY THAT IT WAS MY ADVICE AT THAT TIME FOR HIM NOT TO
25 SPEAK TO ANYONE ELSE INVOLVED IN THIS MATTER, WHETHER IT WAS

1 THE PROSECUTOR OR DEFENSE LAWYER OR INVESTIGATORS. I TOLD
2 HIM TO SPEAK TO NO ONE AND ADVISED HIM THAT IF HE DID NOT DO
3 THAT THAT IT COULD, LIKE I SAID, IMPLICATE HIM OR COULD
4 ADVERSELY AFFECT HIM BECAUSE HE WOULD NOT BE IN COMPLIANCE
5 WITH THE AGREEMENT AND COULD POTENTIALLY FACE HIM -- HE
6 COULD BE FACING OTHER CHARGES.

7 I AGAIN TODAY ADVISED HIM OF -- OR WENT BACK OVER ALL
8 THE THINGS THAT I HAD ADVISED HIM OF PREVIOUSLY WITH RESPECT
9 TO THIS PLEA AGREEMENT AND WHAT I UNDERSTAND HIS COMPLIANCE
10 SHOULD BE. I'VE ALSO ADVISED HIM OF THE PERIL OF TESTIFYING
11 DIFFERENT FROM WHAT HE'S ALREADY AGREED TO TESTIFY TO WITH
12 RESPECT TO THE PLEA AGREEMENT AND THAT'S WHERE WE ARE, YOUR
13 HONOR.

14 THE COURT: ALL RIGHT. MR. CAMPBELL, YOU'VE HEARD WHAT
15 MR. DEST, WHO REPRESENTED YOU ON THESE CHARGES, PREVIOUS
16 CHARGES, TO WHICH YOU'VE PLED GUILTY, AND OTHER CHARGES.
17 YOU'VE HEARD WHAT HE SAID WITH REGARD TO HIS ADVICE TO YOU
18 AND WHAT INFORMATION HE WENT OVER WITH YOU AND THE EXECUTION
19 OF AN AGREEMENT, PLEA BARGAIN AGREEMENT, WITH THE STATE.

20 DID YOU UNDERSTAND EVERYTHING HE HAS JUST SAID TO THE
21 COURT, SIR?

22 MR. CAMPBELL: UH-HUH; YEAH.

23 THE COURT: ALL RIGHT. DO YOU UNDERSTAND IT? DO YOU
24 UNDERSTAND EVERYTHING HE SAID AND EVERYTHING HE'S ADVISED
25 YOU OF?

1 MR. CAMPBELL: YES.

2 THE COURT: ANY QUESTION ABOUT THAT?

3 MR. CAMPBELL: NO.

4 THE COURT: ALL RIGHT.

5 MR. POPE: PLEASE THE COURT, YOUR HONOR. I THINK WE
6 HAVE SOME MATTERS TO ADDRESS CONCERNING HIS STATEMENT AND
7 THE STATEMENT HE MADE THE OTHER DAY.

8 THE COURT: ALL RIGHT. JUST HOLD UP A MINUTE.

9 MR. POPE: IT WON'T BE ANY DETAILED QUESTIONS.
10 BASICALLY, I'LL JUST LAY IT OUT FOR YOU. BASICALLY, OUR
11 APPROACH IS TO CONFIRM THE STATEMENT THAT MR. DEST JUST
12 REFERENCED AND WE'D PUT A COPY IN THE RECORD OF THAT
13 STATEMENT AND TO HAVE THE OPPORTUNITY TO REVIEW THE NOTES
14 FROM THE MEETING THAT MR. DEST REFERENCED AND CONFIRM THOSE
15 AND THAT WOULD BE THE ONLY TWO QUESTIONS WE HAVE.

16 THE COURT: ALL RIGHT, SIR. MR. CAMPBELL, COME AROUND.
17 WHY DON'T YOU HAVE A SEAT IN THE WITNESS CHAIR SO IT WILL BE
18 EASIER TO RECORD YOU.

19 DIRECT EXAMINATION

20 DEBREZIO MENDEZ CAMPBELL BY MR. THOMPSON:

21 Q. MR. CAMPBELL, I'M GOING TO SHOW YOU COURT'S EXHIBIT
22 NUMBER 1. I'M GOING TO ASK THAT YOU TO TAKE A MOMENT TO
23 READ THROUGH THAT AND IDENTIFY IT FOR ME. HAVE YOU LOOKED
24 AT IT, HAD AN OPPORTUNITY TO LOOK AT IT?

25 A. UH-HUH.

- 1 Q. CAN YOU TELL ME WHAT THAT IS?
- 2 A. A PAPER.
- 3 Q. IS THAT THE STATEMENT THAT YOU GAVE LAW ENFORCEMENT
- 4 BACK AT THE TIME OF YOUR ARREST?
- 5 A. HUH-UH.
- 6 Q. YOU NEED TO ANSWER YES OR NO.
- 7 A. NO.
- 8 Q. NO? IS THIS YOUR SIGNATURE ON THIS PAPER HERE---
- 9 A. YES.
- 10 Q. ---WHERE IT ADVISES YOU OF YOUR RIGHTS AND HERE?
- 11 A. YEAH.
- 12 Q. THIS IS YOUR SIGNATURE AT THE BOTTOM OF THE FIRST PAGE
- 13 OF THAT STATEMENT?
- 14 A. YEAH.
- 15 Q. I'M SORRY.
- 16 A. YES.
- 17 Q. YES? IS THIS YOUR SIGNATURE AT THE BOTTOM OF THE
- 18 SECOND PAGE OF THAT STATEMENT?
- 19 THE COURT: SIR, WAIT JUST A MINUTE. MR. CAMPBELL, IF
- 20 YOU COULD SPEAK UP SO EVERYBODY CAN HEAR YOU. I CANNOT HEAR
- 21 YOUR RESPONSES, PLEASE.
- 22 A. YES.
- 23 Q. AND THEN ON THE FINAL, THIRD PAGE OF THE STATEMENT, IS
- 24 THAT YOUR SIGNATURE RIGHT HERE?
- 25 A. YES.

1 Q. AND THAT SIGNATURE IS SWEARING THAT YOU'VE TOLD THE
2 TRUTH IN THIS STATEMENT. IS THAT NOT CORRECT?

3 A. I GUESS. I GUESS.

4 Q. WOULD YOU LIKE TO READ IT?

5 A. NO.

6 Q. ARE YOU UNWILLING TO TELL ME WHAT THIS IS, THEN?

7 A. I DON'T KNOW WHAT IT IS.

8 Q. WILL YOU READ IT?

9 A. NO.

10 Q. YOU WON'T READ IT RIGHT NOW?

11 A. NAH.

12 MR. POPE: YOUR HONOR, I WOULD ASK TO MAKE STATE'S --
13 COURT'S EXHIBIT NUMBER 1 A PART OF THE COURT'S RECORD AT
14 THIS TIME.

15 THE COURT: YES, SIR.

16 Q. ASK YOU TO LOOK AT COURT'S EXHIBIT NUMBER 2. LET ME
17 ASK YOU TO READ THROUGH THOSE.

18 A. GO AHEAD. I AIN'T READING IT.

19 Q. YOU'RE NOT GOING TO READ THIS?

20 A. NO.

21 Q. ALL RIGHT. THEN I'LL READ IT FOR YOU. THESE ARE
22 INTERVIEW NOTES WITH DEBREZIO CAMPBELL, THURSDAY, 4/28/05,
23 AT 4:25 P.M., CONTACT VISIT. PRESENT HARRY DEST, DEBREZIO
24 CAMPBELL, WILLY THOMPSON, MERRY COLLINS. DEST BEGINS: I
25 NEED TO EXPLAIN SOME THINGS TO YOU AS YOUR LAWYER. AT THE

1 PLEA AGREEMENT WE AFFIRMED THINGS IN YOUR STATEMENT. I NEED
2 TO ADVISE YOU THAT IF YOU DON'T COMPLY UNDER THE PLEA
3 AGREEMENT, THE STATE COULD SEEK LIFE WITHOUT PAROLE. IF
4 YOUR STATEMENT IS DIFFERENT NOW THAN AT THE PLEA, YOU COULD
5 BE CHARGED WITH PERJURY. IF YOUR -- IF YOU -- IF YOUR
6 STATEMENT DIFFERS, YOU COULD ALSO BE CHARGED WITH ADDITIONAL
7 CHARGES. IF IT IS YOUR WISH TO COOPERATE, THEN TALK TO NO
8 ONE, AS YOU COULD PERJURE YOURSELF -- I'M SORRY. IF YOU
9 WISH NOT TO COOPERATE, THEN TO TALK TO NO ONE, AS YOU COULD
10 PERJURE YOURSELF. DO YOU UNDERSTAND WHAT I'VE SAID?
11 DEFENDANT SAYS YES. MR. THOMPSON ASKS IF DEFENDANT WISHES
12 TO SPEAK WITH HIM. DEFENDANT SAYS, GO AHEAD. MR. THOMPSON
13 SAYS, TELL US WHAT HAPPENED. DEFENDANT SAYS, WE WENT TO
14 TAKE DUDE, BAGLEY, SOME MONEY. TROY SAID, COME BACK BECAUSE
15 DARRELL NOT -- DARRELL NOT THERE. I GOT TO GO TO NEXT MAN.
16 THEY WERE ON THEIR WAY DRIVING OUT AND THEY SAW DARRELL
17 COMING, SO THEY TURNED AROUND AND WENT BACK IN. I TRIED TO
18 GIVE HIM MONEY AND THEN HE -- AND THEN, YOU KNOW, I WAS
19 PICKING UP MONEY OR WHATEVER AND DARRELL STARTED CURSING, SO
20 I STARTED CURSING. HE, BAGLEY, TRIED TO PULL HIS GUN, SO I
21 STARTED SHOOTING AS I WAS RUNNING, SHOOTING BEHIND ME, AND
22 THEN IT INDICATES THAT HE MOTIONS AND POINTS TO THE LEFT
23 HAND. IT SAYS HE RAN UP PARKING LOT, BUT NOT NEAR THE
24 LEXUS. HE TOLD DESMOND NOT TO GO THAT WAY BECAUSE THEY WERE
25 SHOOTING. WHEN ASKED WHO IS THEY, HE SAYS, I GUESS JUST

1 DARRELL. WHAT ABOUT WOODY? WAS HE SHOOTING? I WASN'T
2 LOOKING. I WAS JUST TRYING NOT TO GET HIT. DID YOU SEE
3 BAGLEY SHOOTING? YES. DID YOU SEE HIS GUN? YES. WHAT DID
4 HIS GUN LOOK LIKE? IT WAS A BLACK PISTOL, LIKE A NINE.
5 WERE YOU PAYING THE NEXT MAN FOR? DARRELL WAS THE BOSS; WE
6 WERE SELLING FOR HIM. WHAT WERE YOU SELLING? CRACK, COKE.
7 HOW LONG HAD YOU BEEN SELLING FOR HIM? A COUPLE OF MONTHS.
8 WE, WHO IS WE? ACTUALLY, I SOLD. DESMOND DIDN'T. DID ANY
9 OF YOUR OTHER BROTHERS HELP SELL? NO. WHAT WAS WOODY'S
10 ROLE? HE WAS MY FRIEND OR MY BROTHER'S FRIEND. I ASKED HIM
11 TO GO DOWN THERE WITH ME. WHY? I DON'T KNOW. I JUST DID.
12 THE GUN YOU HAD ON YOU, WHERE DID YOU GET IT? YOU WERE
13 SILENT. DID YOU GET IT AT OK PAWN SHOP? I DIDN'T SAY THAT.
14 IT DON'T MATTER WHERE I GOT IT. A FRIEND. WHAT KIND OF
15 GUN? A .25. AUTOMATIC OR SEMI-AUTOMATIC? AUTOMATIC.
16 WHERE WAS THE GUN? IN MY POCKET. DID WOODY HAVE A GUN?
17 I DON'T KNOW. I WAS DRUNK AND HIGH. I DON'T KNOW ABOUT
18 ANYONE ELSE. TROY CAME OUT OF APARTMENT. I DON'T KNOW, BUT
19 I HEARD A COUPLE MORE SHOTS. DOES THIS SOUND FAMILIAR, MR.
20 CAMPBELL, SO FAR?
21 A. (NO RESPONSE)
22 Q. YES OR NO?
23 A. I DON'T KNOW. I DON'T KNOW.
24 Q. YOU DON'T RECALL THE CONVERSATION YOU HAD WITH ME AND
25 MS. COLLINS AND MR. DEST LAST THURSDAY?

1 A. I DON'T KNOW.

2 MR. THOMPSON: YOUR HONOR, I WON'T FINISH READING THIS,
3 BUT I WILL PUT IT IN THE STATE'S RECORD AT THIS POINT SINCE
4 HE'S GOING TO BE UNRESPONSIVE TO IT.

5 THE COURT: ALL RIGHT.

6 MR. THOMPSON: IT'S COURT'S EXHIBIT NUMBER 2. THAT'S
7 ALL I HAVE, YOUR HONOR.

8 THE COURT: MR. DELGADO.

9 MR. DELGADO: MAY I ASK THE COURT TO INQUIRE OF MR.
10 CAMPBELL WHETHER OR NOT HE WANTS TO WITHDRAW HIS GUILTY
11 PLEA?

12 THE COURT: THAT'S NOT THE PURPOSE OF THE HEARING TODAY
13 OR THE PURPOSE OF THIS HEARING.

14 MR. DELGADO: IT WOULD SEEM APPARENT THAT IT MAY VERY
15 WELL BE, AT LEAST FROM THE AGREEMENT THAT HE MADE, THE PLEA
16 AGREEMENT, HE HAD A RIGHT TO WITHDRAW. I'M SIMPLY ASKING
17 THE COURT DOES HE NEED -- DOES THE COURT NEED TO INQUIRE OF
18 THAT?

19 THE COURT: HE HAD A RIGHT TO WITHDRAW -- HE HAD A
20 RIGHT TO WITHDRAW BEFORE HE PLED. ARE YOU SAYING ASK HIM
21 WHETHER HE WANTS TO WITHDRAW THE PLEA THAT HE PLED BEFORE
22 THE COURT AND SENTENCED ON?

23 MR. DELGADO: I BELIEVE THAT'S WHAT THE PLEA AGREEMENT
24 SEEMS TO INDICATE, YOUR HONOR.

25 MR. THOMPSON: PLEASE THE COURT, YOUR HONOR. THAT'S

1 NOT BEFORE THE COURT TODAY AND IT'S NOT A MATTER OF
2 DISCUSSION AT THIS POINT IN TIME AND I BELIEVE THAT'S NOT
3 WHAT THIS PLEA AGREEMENT SAYS EITHER IN SEPARATE PARAGRAPH
4 OR ANY OTHER PARTS. IF HE WERE GOING TO WITHDRAW, IT HAD TO
5 BE BEFORE THE PLEA AGREEMENT WAS ACTUALLY ACCEPTED AFTER --
6 BEFORE HE PLED.

7 THE COURT: I MEAN, THAT'S THE USUAL SITUATION WHEN
8 IT'S IN AN AGREEMENT THAT IF THEY WITHDRAW THE PLEA, THEY
9 WITHDRAW IT BEFORE THEY ACTUALLY PLEAD AND ARE SENTENCED BY
10 THE COURT. OR IF THEY, YOU KNOW --

11 MR. DELGADO: ALL RIGHT.

12 THE COURT: I'M NOT GOING TO GET INTO THAT AT THIS
13 TIME. THAT WILL BE A MATTER FOR ANOTHER DAY, I WOULD THINK.
14 ALL RIGHT. ANYTHING ELSE OF THIS WITNESS?

15 MR. THOMPSON: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. THANK YOU, MR. CAMPBELL. YOU
17 MAY STAND DOWN, SIR.

18 MR. DELGADO: YOUR HONOR, MAYBE THERE IS ONE OTHER
19 THING. I'M SORRY. MAY WE APPROACH THE BENCH MAYBE AND
20 MAYBE --

21 THE COURT: YES, SIR.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE
23 OF THE COURT REPORTER, BUT OUT OF THE HEARING OF THE COURT
24 REPORTER.)

25 MR. POPE: YOUR HONOR, I'VE DISCUSSED WITH BOTH THE

1 DEFENSE COUNSEL AND WITH MR. DEST CONCERNING COURT'S EXHIBIT
2 1. I HAVE CHARLENE BLACKWELDER, WHO ACTUALLY READ THE
3 MIRANDA AND TOOK THE STATEMENT -- THIS STATEMENT AND IT'S MY
4 UNDERSTANDING THAT THEY'RE AGREEING TO STIPULATE THAT THIS
5 IS, IN FACT, THE STATEMENT THAT WAS TAKEN BY LAW ENFORCEMENT
6 AND THE STATEMENT THAT WAS REFERRED TO, AND I WILL CALL THE
7 COURT'S ATTENTION -- I APOLOGIZE. OFFICER HUTCHINSON AND
8 BURRIS ACTUALLY, ONE TOOK THE STATEMENT, ONE WITNESSED THE
9 STATEMENT. IT WAS NOT BLACKWELDER ON THIS PARTICULAR
10 STATEMENT, AND, AGAIN, I CAN HAVE THEM AVAILABLE.

11 IT'S MY UNDERSTANDING NOBODY DISPUTES THAT THIS IS THE
12 STATEMENT THAT WAS REFERRED TO IN THE PLEA AGREEMENT
13 CONCERNING MR. DEBREZIO CAMPBELL AND THE STATEMENT THAT HE
14 GAVE LAW ENFORCEMENT THAT WAS PROVIDED IN DISCOVERY.

15 MR. DELGADO: NO OBJECTION AS TO THIS HEARING. THAT'S
16 FINE.

17 THE COURT: I THINK HE ACKNOWLEDGED THOSE ARE HIS
18 SIGNATURES, DIDN'T HE?

19 MR. DEST: YES, SIR.

20 THE COURT: DIDN'T WANT TO CONFIRM THE AGREEMENT, BUT
21 HE ACKNOWLEDGED HIS SIGNATURES. ALL RIGHT. NOW, ARE WE
22 GOING TO GO INTO MR. DESMOND CAMPBELL?

23 MR. POPE: YES, YOUR HONOR. I BELIEVE WE HAVE TO
24 INFORM --

25 MR. STALEY: JUDGE, BEFORE WE DO THAT, I WANT AN

1 OPPORTUNITY TO TALK TO MY CLIENT ONE MORE TIME TO EXPLAIN
2 FULLY THE CONVERSATIONS I'VE HAD WITH THE SOLICITOR SINCE
3 OUR LAST DISCUSSION BEFORE I CALL HIM.

4 THE COURT: IS HE AVAILABLE NOW OR HAS HE GOT TO BE
5 BROUGHT?

6 MR. POPE: I THINK THEY HAVE -- THEY'RE GOING TO -- AND
7 THAT WAS MY POINT. I DON'T HAVE AN OBJECTION TO HIM TALKING
8 TO HIS CLIENT. I UNDERSTAND WE'VE GOT TO MECHANICALLY SWAP
9 THEM OUT.

10 THE COURT: ALL RIGHT. LET'S GO AHEAD AND TAKE A SHORT
11 BREAK AND, YOU KNOW, COME BACK AND DO THAT, THEN.

12 MR. POPE: I WILL NOTIFY THE COURT WHEN HE HAS ARRIVED
13 AND HAD THE OPPORTUNITY TO TALK TO HIS ATTORNEY.

14 THE COURT: ALL RIGHT.

15 MR. DEST: YOUR HONOR, MAY I BE EXCUSED FOR RIGHT NOW?

16 THE COURT: YES, SIR.

17 MR. DEST: IS THERE ANY NEED FOR ME TO BE HERE?

18 THE COURT: NO; I DON'T THINK SO.

19 MR. DEST: I'LL BE AVAILABLE.

20 (WHEREUPON, A BRIEF RECESS WAS OBSERVED.)

21 THE COURT: WELL, YOU DON'T HAVE YOUR CLIENT.

22 MR. DELGADO: NO, SIR.

23 MR. STALEY: YOUR HONOR, MAY I APPROACH?

24 THE COURT: YES, SIR.

25 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE

1 OF THE COURT REPORTER, BUT OUT OF THE HEARING OF THE COURT
2 REPORTER.)

3 THE COURT: ALL RIGHT. LET'S GO AHEAD AND BREAK FOR
4 LUNCH. COUNSEL, IF YOU HAVE A WITNESS LIST, YOU CAN JUST
5 PUT ON MY BENCH WHENEVER YOU HAVE A CHANCE TO DO THAT BEFORE
6 WE START BACK AND WE'LL RESUME AT TWENTY-FIVE MINUTES 'TIL
7 THREE. THE JURY WILL COME AT TWENTY MINUTES 'TIL THREE.
8 MADAM CLERK, IF YOU'LL LET THEM KNOW. WE'LL RECESS UNTIL
9 THEN.

10 (WHEREUPON, COURT WAS ADJOURNED FOR LUNCH AT 1:27 P.M.
11 AND RECONVENED AT 2:40 P.M.)

12 THE COURT: SOLICITOR, DO YOU HAVE ANY PROBLEMS WITH
13 REQUESTED VOIR DIRE BY THE DEFENSE?

14 MR. POPE: YOUR HONOR, I THINK MR. THOMPSON'S REVIEWED
15 IT. THERE MAY BE ONE OR TWO ISSUES.

16 MR. THOMPSON: YOUR HONOR, AS TO NUMBER 5, I THINK YOU
17 COVER YOUR NORMAL QUESTIONING AND I JUST DON'T LIKE THE WAY
18 THAT THAT'S ASKED. DOES ANYONE HAVE ANY PROBLEM -- IT'S
19 JUST SO OPEN-ENDED LIKE THAT, YOU COULD HAVE A GUY THAT
20 STANDS UP, WELL, MURDER'S SERIOUS. YOU KNOW, THAT'S MY
21 PROBLEM. YOU KNOW, I DON'T KNOW WHAT THAT MEANS, SO I THINK
22 THAT COULD JUST --

23 THE COURT: ALL RIGHT. LET ME -- MR. DELGADO. I
24 USUALLY ASK THIS QUESTION. I DON'T MIND HAVING THAT --
25 ASKING THIS QUESTION.

1 MR. DELGADO: THAT'D BE FINE.

2 THE COURT: FIRST, I ASK ANY MEMBERS OF THE JURY KNOW
3 OF ANY REASON WHATSOEVER WHY THEY SHOULD NOT SERVE AS A
4 JUROR IN THIS PARTICULAR CASE. OF COURSE, THEY'LL KNOW WHAT
5 THE ALLEGATIONS ARE BY THE TIME I TELL THEM THAT, AND THE
6 OTHER THING I DON'T MIND ASKING THEM IS IS THERE ANY MEMBER
7 OF THE JURY PANEL WHO COULDN'T LISTEN TO THE TESTIMONY AND
8 THE EVIDENCE AND MY INSTRUCTIONS TO YOU ON THE LAW AND
9 RENDER A JUDGMENT WHICH WOULD FAIR TO BOTH SIDES AND I DON'T
10 MIND ASKING THEM THAT, SO -- BUT I WILL DO THAT INSTEAD.
11 ANYTHING ELSE, SOLICITOR?

12 MR. THOMPSON: I DON'T NECESSARILY HAVE A PROBLEM WITH
13 ANYTHING ELSE, YOUR HONOR, WITH -- I DO ASK WHILE YOU'RE
14 ASKING THE JURORS IF THEY'RE FAMILIAR WITH THE PROSECUTION
15 AND THE LAW ENFORCEMENT THAT YOU ASK AS WELL IF THEY'RE
16 FAMILIAR WITH MR. DELGADO AND HIS FIRM.

17 THE COURT: SURE. LET ME ASK YOU ABOUT -- THAT IS A
18 QUESTION I NEED TO ASK YOU. SOLICITOR POPE IS GOING TO BE
19 TRYING THE CASE ALONG WITH WILLY THOMPSON. MR. DELGADO,
20 YOUR FULL NAME, PLEASE, SIR.

21 MR. DELGADO: IT'S JOHN DENNIS DELGADO,
22 D-E-L-G-A-D-O.

23 THE COURT: ALL RIGHT. IS ANYBODY GOING TO ASSIST YOU?
24 DO YOU WANT ANYBODY INTRODUCED TO --

25 MR. DELGADO: MY LAW CLERK WILL BE ASSISTING ME; YES,

1 SIR. MARY FORD.

2 THE COURT: ALL RIGHT. MARY FORD?

3 MS. FORD: YES, SIR.

4 MR. DELGADO: YES, SIR.

5 THE COURT: ALL RIGHT.

6 MR. POPE: PLEASE THE COURT, YOUR HONOR. WHEN THE
7 JURY -- WHEN WE BEGIN, I'LL CALL THE CASE. I THINK YOU HAVE
8 THE ORIGINALS, BUT I HAVE TRUE COPIES. I CAN JUST CALL THEM
9 FROM THE TRUE COPIES THAT I'VE GOT.

10 THE COURT: THAT'S ALL RIGHT.

11 MR. POPE: IF YOU WANT ME TO HAND THEM UP --

12 THE COURT: THAT'S FINE. LET ME TELL MR. DELGADO, WHAT
13 I'LL USUALLY DO IS READ THE ALLEG-- -- MOST OF THE
14 ALLEGATIONS IN THE INDICTMENT, EXPLAIN TO THE JURY THAT
15 THEY'RE ALLEGATIONS ONLY, SO THEY'LL HAVE SOME IDEA OF WHEN
16 IT OCCURRED AND WHAT OCCURRED AND THAT SORT OF THING. ARE
17 WE OTHERWISE READY TO GO, THEN?

18 MR. POPE: YES, SIR, YOUR HONOR; THE STATE IS.

19 THE COURT: ALL RIGHT. YOU WANT TO CALL THE CASE THEN?

20 MR. POPE: WE'LL CALL IT WHEN THE JURY'S PRESENT. YOU
21 WANT THE JURY IN?

22 THE COURT: YEAH. OH, I'M SORRY. BRING THE JURY IN,
23 PLEASE, SIR.

24 (WHEREUPON, THE JURY VENIRE ENTERED THE COURTROOM)

25 THE COURT: COUNSEL READY TO PROCEED. SOLICITOR.

1 MR. POPE: PLEASE THE COURT, YOUR HONOR. DOCKET NUMBER
2 2005-GS-46-0858, STATE OF SOUTH CAROLINA, COUNTY OF YORK,
3 STATE VERSUS CHRISTOPHER WOODY, INDICTMENT COUNT ONE:
4 MURDER, COUNT TWO: POSSESSION OF A FIREARM DURING THE
5 COMMISSION OF A VIOLENT CRIME. DOCKET NUMBER 2005-GS-46-
6 0859, STATE OF SOUTH CAROLINA, COUNTY OF YORK, STATE VERSUS
7 CHRISTOPHER WOODY, INDICTMENT FOR CRIMINAL CONSPIRACY.
8 DOCKET NUMBER 2005-GS-46-0860, STATE OF SOUTH CAROLINA,
9 COUNTY OF YORK, STATE VERSUS CHRISTOPHER WOODY, INDICTMENT
10 FOR CARRYING A PISTOL UNLAWFULLY.

11 ALL THREE OF THESE ARE -- BEEN TRUE BILLED BY THE GRAND
12 JURY, YOUR HONOR. HE'S PRESENT IN THE COURTROOM,
13 REPRESENTED BY MR. DELGADO AND THE STATE IS READY TO PROCEED
14 TO TRIAL ON THESE CHARGES.

15 THE COURT: MR. DELGADO, READY FOR THE DEFENSE?

16 MR. DELGADO: READY FOR TRIAL, YOUR HONOR. YES, SIR.

17 THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL, IF
18 YOU'D GIVE ME YOUR ATTENTION, PLEASE. WE'RE ABOUT TO GO
19 INTO A TRIAL IN THE MATTER OF THE STATE OF SOUTH CAROLINA
20 VERSUS CHRISTOPHER WOODY. MR. WOODY IS CHARGED BY THE STATE
21 WITH THREE OFFENSES. HE'S CHARGED WITH MURDER; HE'S ALSO
22 CHARGED WITH POSSESSION OF A FIREARM DURING THE COMMISSION
23 OF A VIOLENT CRIME AND HE'S CHARGED WITH THE OFFENSE OF
24 CARRYING A PISTOL UNLAWFULLY.

25 WITH REGARD TO THE ALLEGATIONS CONCERNING MURDER, I'M

1 GOING TO READ FROM THE INDICTMENT. THE INDICTMENT READS AS
2 FOLLOWS: THAT CHRISTOPHER WOODY DID, IN YORK COUNTY, ON OR
3 ABOUT JUNE THE 26TH, 2004, WITH MALICE AFORETHOUGHT, KILL
4 ONE ARVELL BAGLEY, SPELLED A-R-V-E-L-L BAGLEY, BY MEANS OF
5 SHOOTING THE VICTIM WITH A FIREARM AND SAID VICTIM DIED AS A
6 RESULT THEREOF. THE MURDER OCCURRED IN FRONT OF ARVELL
7 BAGLEY'S APARTMENT LOCATED AT [REDACTED] PACES RIVER AVENUE IN
8 ROCK HILL, SOUTH CAROLINA.

9 THE STATE ALSO CHARGES CHRISTOPHER WOODY WITH
10 POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT
11 CRIME. THE ALLEGATIONS IN THAT INDICTMENT ARE AS FOLLOWS:
12 THAT CHRISTOPHER WOODY DID, IN YORK COUNTY, ON OR ABOUT JUNE
13 THE 26TH, 2004, POSSESS A FIREARM WHILE COMMITTING THE CRIME
14 OF MURDER, A VIOLENT CRIME AS DEFINED IN SECTION 16-1-60,
15 CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED.

16 THE STATE ALSO CHARGES CHRISTOPHER WOODY WITH THE
17 OFFENSE OF CARRYING A PISTOL UNLAWFULLY ON THE SAME DATE,
18 AND LET ME JUST READ THE ALLEGATION TO YOU, THAT CHRISTOPHER
19 WOODY DID, IN YORK COUNTY, SOUTH CAROLINA, ON OR ABOUT JUNE
20 THE 26TH, 2004, UNLAWFULLY CARRY ABOUT HIS PERSON A PISTOL.

21 NOW, LADIES AND GENTLEMEN OF THE JURY PANEL, WHAT I
22 HAVE READ TO YOU ARE ALLEGATIONS CONTAINED IN THE
23 INDICTMENT. INDICTMENTS ARE MERELY A FORMAL DOCUMENT BY
24 WHICH ANY PERSON CHARGED WITH A CRIMINAL OFFENSE IS PUT ON
25 NOTICE AS TO WHAT THE ALLEGATIONS AGAINST HIM OR HER ARE SO

1 THEY CAN COME INTO COURT AND PROPERLY DEFEND THEMSELVES, AND
2 THAT'S ALL THEY ARE, IS ALLEGATIONS. THEY'RE NOT PROOF OF
3 ANYTHING, CANNOT BE CONSIDERED AS EVIDENCE OR PROOF IN THIS
4 CASE. THE ONLY REASON I READ THESE ALLEGATIONS TO YOU IS IN
5 THE EVENT IT WOULD CAUSE YOU TO KNOW YOU KNEW SOMETHING
6 ABOUT THIS CASE BEFORE YOU CAME TO COURT TODAY, AND THAT'S
7 THE ONLY REASON I READ THEM. AGAIN, THESE ARE ALLEGATIONS.
8 THEY'RE NOT PROOF OF ANYTHING IN THIS CASE.

9 NOW, THE STATE IS REPRESENTED IN THIS CASE BY SOLICITOR
10 TOMMY POPE AND ASSISTANT SOLICITOR, WILLY THOMPSON.
11 COUNSEL, WOULD YOU PLEASE STAND AND FACE THE JURY PANEL.
12 THANK YOU. YOU MAY BE SEATED.

13 IS ANYONE ON THE JURY PANEL RELATED BY BLOOD OR
14 MARRIAGE, FRIENDS WITH OR HAVE ANY OTHER TYPE SOCIAL,
15 BUSINESS OR PROFESSIONAL RELATIONSHIP WITH EITHER TOMMY POPE
16 OR WILLY THOMPSON OF THE SIXTEENTH CIRCUIT SOLICITOR'S
17 OFFICE? IF SO, PLEASE STAND. YES, MA'AM. PLEASE GIVE US
18 YOUR NAME AND NUMBER.

19 JUROR: JULIA LINDSAY.

20 THE COURT: YOUR NUMBER. DO YOU REMEMBER YOUR NUMBER?

21 JUROR: 104.

22 THE COURT: 104?

23 JUROR: RIGHT.

24 THE COURT: YES, MA'AM.

25 JUROR: AND WILLY THOMPSON'S SON, I BELIEVE, IS IN A

1 CLASS THAT I ASSIST WITH AT SCHOOL.

2 THE COURT: ALL RIGHT. MA'AM, IS THERE ANYTHING ABOUT
3 THAT RELATIONSHIP THAT WOULD INTERFERE IN ANY WAY WITH YOUR
4 ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT IN THIS
5 CASE A FAIR AND IMPARTIAL TRIAL?

6 JUROR: I WOULD HOPE NOT.

7 THE COURT: WELL, I HAVE TO HAVE A MORE DEFINITIVE
8 ANSWER, EITHER YES OR NO, MA'AM.

9 JUROR: NO.

10 THE COURT: OKAY. THANK YOU. YOU MAY BE SEATED.
11 ANYONE ELSE?

12 (NO FURTHER RESPONSE)

13 THE COURT: IS ANYONE ON THE JURY PANEL RELATED BY
14 BLOOD OR MARRIAGE, FRIENDS WITH OR HAVE ANY OTHER TYPE
15 SOCIAL, BUSINESS OR PROFESSIONAL RELATIONSHIP WITH ANYONE
16 WHO WORKS IN THE SIXTEENTH CIRCUIT SOLICITOR'S OFFICE? IF
17 SO, PLEASE STAND.

18 (NO ONE STANDS)

19 THE COURT: THE DEFENDANT, CHRISTOPHER WOODY, IS
20 REPRESENTED IN THIS CASE BY MR. JOHN DENNIS DELGADO AND ALSO
21 MARY FORD. COUNSEL, WOULD YOU PLEASE STAND AND ALSO PLEASE
22 ASK MR. WOODY TO STAND AND SO THE JURY CAN SEE WHO HE IS.
23 THANK YOU. THANK YOU, SIR. YOU MAY BE SEATED.

24 IS ANYONE ON THE JURY PANEL RELATED BY BLOOD OR
25 MARRIAGE, FRIENDS WITH OR HAVE ANY OTHER TYPE SOCIAL,

1 BUSINESS OR PROFESSIONAL RELATIONSHIP WITH CHRISTOPHER
2 WOODY? IF SO, PLEASE STAND.

3 (NO ONE STANDS)

4 THE COURT: IS ANYONE ON THE JURY PANEL RELATED BY
5 BLOOD OR MARRIAGE, FRIENDS WITH OR HAVE ANY OTHER TYPE
6 SOCIAL, BUSINESS OR PROFESSIONAL RELATIONSHIP WITH, THAT IS
7 TO SAY, CURRENTLY OR FORMERLY REPRESENTED BY OR ANY OTHER
8 TYPE RELATIONSHIP TO EITHER JOHN DENNIS DELGADO OR MARY
9 FORD? IF SO, PLEASE STAND.

10 (NO ONE STANDS)

11 THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL, I'M
12 GOING TO GO THROUGH A LIST OF POTENTIAL WITNESSES IN THIS
13 CASE. IT'S A FAIRLY LENGTHY LIST AND ALL OF THESE POTENTIAL
14 WITNESSES MAY NOT BE CALLED, BUT THEY MAY BE CALLED, AND
15 WHAT I'M GOING TO ASK YOU TO DO IS WHEN I CALL THEIR NAMES,
16 IF YOU'RE RELATED BY BLOOD OR MARRIAGE, FRIENDS WITH OR HAVE
17 ANY OTHER TYPE SOCIAL, BUSINESS OR PROFESSIONAL RELATIONSHIP
18 WITH ANY OF THESE NAMED POTENTIAL WITNESSES, WHEN I CALL
19 THEIR NAMES, I WOULD ASK THAT YOU PLEASE STAND.

20 MR. POPE: PLEASE THE COURT, YOUR HONOR. I'M GOING TO
21 APPROACH AND MAKE SURE YOU HAVE THE STATE'S LIST.

22 THE COURT: I DON'T BELIEVE I HAVE YOUR COMPLETE LIST;
23 NO, SIR. COUNSEL HAVE THAT?

24 MR. DELGADO: YOUR HONOR, I APOLOGIZE. I HANDWROTE
25 MINE BY EARLIER --

1 THE COURT: I HAVE IT.

2 MR. DELGADO: DO YOU HAVE --

3 THE COURT: YES, SIR. I HAVE IT.

4 MR. DELGADO: THANK YOU.

5 THE COURT: DO YOU HAVE A COPY OF THE SOLICITOR'S
6 COMPLETE LIST?

7 MR. DELGADO: I DO NOT; NO, SIR. I'LL BE GLAD TO SHOW
8 MINE TO MR. SOLICITOR AS WELL.

9 THE COURT: IT'S A RATHER LENGTHY LIST, LADIES AND
10 GENTLEMEN, AS I SAY. ALL OF THESE WITNESSES PROBABLY WILL
11 NOT BE CALLED, BUT THEY MAY BE CALLED, AND, AGAIN, WHEN I
12 CALL THEIR NAMES, IF YOU'RE RELATED BY BLOOD OR MARRIAGE,
13 FRIENDS WITH OR HAVE ANY OTHER TYPE SOCIAL, BUSINESS OR
14 PROFESSIONAL RELATIONSHIP WITH THE NAMED POTENTIAL WITNESS,
15 PLEASE STAND.

16 ANTONIO BAGLEY. DAVID BAGLEY. MICHAEL BAGLEY.
17 VICTORIA BELL. KIMBERLY BOWDEN, SPELLED B-O-W-D-E-N.
18 KIMBERLY BROWN. RODNEY BROWN. CHARLIE CAMP. DEBREZIO
19 CAMPBELL. DESMOND CAMPBELL.

20 YES, SIR. PLEASE GIVE US YOUR NAME AND NUMBER, SIR.

21 JUROR: MY NAME IS NATHANIEL JACKSON AND --

22 THE COURT: DO YOU REMEMBER YOUR NUMBER, SIR?

23 JUROR: MY NUMBER IS 86.

24 THE COURT: 86?

25 JUROR: YES, SIR.

1 THE COURT: YES, SIR.

2 JUROR: I AM A UNCLE OF DEBREZIO AND DESMOND BY
3 MARRIAGE, BUT MY WIFE AND I HAVE DIVORCED.

4 THE COURT: OKAY. ALL RIGHT. YOU KNOW BOTH DEBREZIO
5 CAMPBELL AND DESMOND CAMPBELL?

6 JUROR: YES, SIR; I DO.

7 THE COURT: YOU'RE NOT CURRENTLY MARRIED TO THEIR -- IS
8 THAT THEIR --

9 JUROR: NO, SIR.

10 THE COURT: OKAY. LET ME ASK YOU, SIR, IF YOU KNOW
11 ANYTHING ABOUT THIS CASE AS A RESULT OF THAT RELATIONSHIP.

12 JUROR: NO, SIR.

13 THE COURT: HAVE YOU DISCUSSED THIS CASE AT ALL WITH
14 EITHER DEBREZIO CAMPBELL OR DESMOND CAMPBELL?

15 JUROR: NO, SIR.

16 THE COURT: IS THERE ANYTHING ABOUT YOUR RELATIONSHIP
17 WITH THEM, SIR, THAT WOULD INTERFERE IN ANY WAY, IF THEY
18 WERE TO BE CALLED AS A WITNESS BY EITHER SIDE IN THIS CASE,
19 WOULD THAT INTERFERE IN ANY WAY WITH YOUR ABILITY TO GIVE
20 BOTH THE STATE AND THE DEFENDANT, CHRISTOPHER WOODY, A FAIR
21 AND IMPARTIAL TRIAL IN THIS CASE?

22 JUROR: NO, SIR.

23 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. ANYONE
24 ELSE?

25 (NO FURTHER RESPONSE)

1 THE COURT: PATRICIA CAMPBELL. ROBERT CAMPBELL.
2 BURLEY MCDANIEL. BURLEY'S SPELLED B-U-R-L-E-Y, MCDANIEL.
3 JAMIE MITCHELL. DOUG MCKOWN. IS THAT THE SOLICITOR --
4 EXCUSE ME. THAT'S THE --

5 MR. POPE: CORONER, YES, SIR.

6 THE COURT: CORONER. YES, SIR. ALL RIGHT. SAMORA
7 CULLER, SPELLED C-U-L-L-E-R. GLYNDA DANIELS. LEZLEE
8 ELLIOTT, LEZLEE'S SPELLED L-E-Z-L-E-E, ELLIOTT. SAM
9 HICKLIN. STEVE PURSLEY. SAMMIE TATE. SHANE ESTES. OMAR
10 FEASTER. JONATHAN GIBSON. ETTA GIBSON. JESSIE MAE GOOD.
11 FLOYD GRANT. ALICE GRAY, SPELLED G-R-A-Y. CHRISTA GRAY.
12 TONYA GRAY. NICOLE GREEN. OMAR HALL. CHUCKIE HARDIN,
13 SPELLED H-A-R-D-I-N. DEMETRIUS HARDIN. LINDA HARDIN.
14 MICHELLE HARRIS. GEORGETTE HAYES. RONALD HAYES. MATTHEW
15 HOOD. TAWANNA HOOD. MICHAEL HUNT. PEGGY JENKINS. RODNEY
16 JOHNSTON. JAMES MAYNARD. RALPH MERCHANT. HAROLD NANCE.
17 JAMES NEWTON, SPELLED N-E-W-T-O-N. SUSAN POWELL. J.
18 HINKLEY, H-I-N-K-L-E-Y. IS THAT'S WITH THE ROCK HILL FIRE
19 DEPARTMENT? IS THAT CORRECT?

20 MR. THOMPSON: YES, YOUR HONOR.

21 THE COURT: ALL RIGHT. G. NORTON WITH THE ROCK HILL
22 FIRE DEPARTMENT. S. SHULER, SPELLED S-H-U-L-E-R, WITH THE
23 ROCK HILL FIRE DEPARTMENT. B. WEATHERFORD WITH THE ROCK
24 HILL FIRE DEPARTMENT. THE FOLLOWING NAMES WITH THE ROCK
25 HILL POLICE DEPARTMENT: CHARLENE BLACKWELDER. WILLY

1 BURRIS. LUTRICIA DAVIS. KEITH DUGAN. MYRA DURHAM. CHUCK
2 GUYTON. BRUCE HAIRE. MATT HALL. DAVE HANOKA, SPELLED H-A-
3 N-O-K-A. KATHY HARVESTON, SPELLED H-A-R-V-E-S-T-O-N. CHRIS
4 HEFNER. LES HERRING. T.A.L. HUTCHINSON. LINDA IRBY. MARC
5 KITTS. SERGEANT RYAN JENKINS. BRIAN LAMBERT. ALAN W.
6 MCSWAIN. GLENDA OLIVER. JOHN RANIER. LIEUTENANT L.B.
7 RAYMES, SPELLED R-A-Y-M-E-S. ZANE SMITH. JOSHUA WELCH. LO
8 ANN WRIGHT. ALSO, BRIAN BAGWELL.

9 YES, SIR. PLEASE GIVE US YOUR NAME AND NUMBER.

10 JUROR: RONNIE D. WALDEN, 206.

11 THE COURT: YES, SIR.

12 JUROR: BRIAN'S MY SON-IN-LAW.

13 THE COURT: ALL RIGHT, SIR. LET ME ASK YOU, SIR,
14 WHETHER YOU'VE DISCUSSED THIS CASE AT ALL WITH HIM.

15 JUROR: NO, SIR.

16 THE COURT: OKAY. SIR, HE WERE TO BE CALLED AS A
17 WITNESS BY EITHER SIDE IN THIS CASE, WOULD THAT FACT
18 INTERFERE IN ANY WAY WITH YOUR ABILITY TO GIVE BOTH THE
19 STATE AND THE DEFENDANT, CHRISTOPHER WOODY, A FAIR AND
20 IMPARTIAL TRIAL?

21 JUROR: NO, SIR.

22 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. JOHN
23 GEORGE. TODD GARDNER. WAYNE SMITH. KEVIN TOLSON. JOHN
24 WILLIAMS. MIKE WILLIAMS. ELIZABETH RICHARDSON.
25 SHAQUAVIOUS ROBINSON.

1 AND WITH SOUTH CAROLINA LAW ENFORCEMENT DIVISION, JAN
2 BRYSON. SUZANNE CROMER. ROD GREEN. SAMUEL REIGHLEY,
3 SPELLED R-E-I-G-H-L-E-Y. JENNIFER STONER. KEN WHITLER.
4 KEISHA SMITH. DR. OTIS SPEIGHT, SPELLED S-P-E-I-G-H-T.
5 CHRIS STANKE.

6 OH, I BEG YOUR PARDON. YES, SIR. PLEASE GIVE US YOUR
7 NAME AND NUMBER.

8 JUROR: MY NAME IS BYRON MCCLURE. I'M JUROR 114.

9 THE COURT: YES, SIR, MR. MCCLURE.

10 JUROR: I'M SORRY. YOU CALLED THE NAME OF KEISHA
11 SMITH.

12 THE COURT: ALL RIGHT. JUST ONE MINUTE. LET ME GET
13 BACK TO IT. KEISHA SMITH?

14 JUROR: YES, SIR.

15 THE COURT: YES, SIR. AND HOW DO YOU KNOW KEISHA
16 SMITH?

17 JUROR: I COACHED HER IN HIGH SCHOOL.

18 THE COURT: ALL RIGHT, SIR. LET ME ASK YOU, SIR, IF
19 SHE WERE TO BE CALLED AS A WITNESS BY EITHER SIDE IN THIS
20 CASE, WOULD THAT INTERFERE IN ANY WAY WITH YOUR ABILITY TO
21 GIVE BOTH THE STATE AND THE DEFENDANT, CHRISTOPHER WOODY, A
22 FAIR AND IMPARTIAL TRIAL IN THIS CASE?

23 JUROR: NO, SIR.

24 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. THANK
25 YOU. ANYONE ELSE?

1 (NO FURTHER RESPONSE)

2 THE COURT: OKAY. OKAY. THE NEXT NAME I CALLED WAS
3 DR. OTIS SPEIGHT. CHRIS STANKE. SHONTAY STARKS. MELINDA
4 B. STEWART, WHO IS ALSO KNOWN AS SHAWN. TROY BERNARD
5 TOBIAS. DELORES WILLIAMS. CHRISTOPHER ALAN WOODY. HAROLD
6 STALEY, WHO'S A MEMBER OF THE ROCK HILL BAR. HARRY DEST, D-
7 E-S-T. HE IS, I BELIEVE, THE CHIEF PUBLIC DEFENDER. PHILIP
8 PERRY. WANSEY -- EXCUSE ME. MANSEY CUTTINO. FIRST NAME IS
9 SPELLED M-A-N-S-E-Y; SECOND NAME IS SPELLED C-U-T-T-I-N-O.
10 ROBERT BENSON. MALCOLM STROUD. MERRY COLLINS. CHRIS
11 HEFNER. ANGELA CRANFORD. KEITH WADE. SERGEANT RANDY
12 GIBSON. OFFICER VINCE HOLLAND.

13 I BEG YOUR PARDON. THAT'S THE WRONG LIST. NONE OF
14 THIS WAS ENDED UP TO ME. I'M SORRY. IT'S A DIFFERENT CASE.
15 ALL RIGHT. FORGET THE LAST FEW NAMES.

16 I THINK THAT CONCLUDES THE LIST OF POTENTIAL WITNESSES.
17 A FEW OTHER QUESTIONS, LADIES AND GENTLEMEN. IS ANY MEMBER
18 OF THE JURY PANEL OR A MEMBER OF YOUR FAMILY PRESENTLY
19 EMPLOYED OR HAVE YOU BEEN IN THE PAST EMPLOYED WITH ANY OF
20 THE FOLLOWING LAW ENFORCEMENT AGENCIES, AND I'LL TAKE THEM
21 ONE AT A TIME: YORK COUNTY SHERIFF'S DEPARTMENT OR WITH
22 BRUCE M. BRYANT, THE YORK COUNTY SHERIFF? IF SO, PLEASE
23 STAND.

24 YES, SIR. PLEASE GIVE US YOUR NAME AND NUMBER.

25 JUROR: 165, WILLIAM M. THOMAS, JUNIOR.

1 THE COURT: YES, SIR, MR. THOMAS.

2 JUROR: MY COUSIN IS LIEUTENANT KELLY LOVELACE AND HER
3 MOTHER WAS BETTY CARROLL WITH THE SHERIFF'S DEPARTMENT.

4 THE COURT: ALL RIGHT, SIR. HAVE YOU DISCUSSED THIS
5 CASE AT ALL WITH ANYONE, SIR, ANY OF THEM?

6 JUROR: NO.

7 THE COURT: SIR, IS THERE ANYTHING ABOUT YOUR
8 RELATIONSHIP WITH THEM THAT WOULD INTERFERE IN ANY WAY WITH
9 YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR
10 AND IMPARTIAL TRIAL IN THIS CASE?

11 JUROR: NO.

12 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. YES,
13 MA'AM. PLEASE GIVE US YOUR NAME AND NUMBER.

14 JUROR: DEBRA WILLIAMS, 174. MY BROTHER-IN-LAW WORKS
15 FOR THE SHERIFF'S DEPARTMENT.

16 THE COURT: WHAT'S HIS NAME, PLEASE, MA'AM?

17 JUROR: BURT WILLIAMS.

18 THE COURT: MA'AM, IS THERE ANYTHING -- HAVE YOU
19 DISCUSSED THIS CASE AT ALL WITH HIM?

20 JUROR: NO, SIR.

21 THE COURT: MA'AM, IS THERE ANYTHING ABOUT THAT
22 RELATIONSHIP THAT WOULD INTERFERE IN ANY WAY WITH YOUR
23 ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT,
24 CHRISTOPHER A. WOODY, A FAIR AND IMPARTIAL TRIAL IN THIS
25 CASE?

1 JUROR: NO, SIR.

2 THE COURT: THANK YOU, MA'AM. YOU MAY BE SEATED. YES,
3 SIR. PLEASE GIVE US YOUR NAME AND NUMBER AGAIN, PLEASE,
4 SIR.

5 JUROR: 206, RONNIE D. WALDEN.

6 THE COURT: YES, SIR.

7 JUROR: BRIAN BAGWELL WAS ONE OF THE FORENSIC.

8 THE COURT: YES, SIR.

9 JUROR: HE'S MY SON-IN-LAW.

10 THE COURT: OKAY. ALL RIGHT, SIR. AGAIN, IS THERE
11 ANYTHING ABOUT THAT RELATIONSHIP THAT WOULD INTERFERE IN ANY
12 WAY WITH YOUR ABILITY TO GIVE BOTH THE STATE AND THE
13 DEFENDANT A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

14 JUROR: NO, SIR.

15 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. ANYONE
16 ELSE? YES, SIR. PLEASE GIVE US YOUR NAME AND NUMBER, SIR.

17 JUROR: CHARLES WYLIE, JUROR 179.

18 THE COURT: YES, SIR.

19 JUROR: RODNEY PEEPLES, A SECURITY OFFICER AT MY
20 OFFICE.

21 THE COURT: TRUANT OFFICER?

22 JUROR: YES, SIR. A SECURITY OFFICER, I THINK, AT MOSS
23 JUSTICE.

24 THE COURT: SECURITY OFFICER?

25 JUROR: YES.

1 THE COURT: ALL RIGHT, SIR. SIR, IS THERE ANYTHING
2 ABOUT THAT RELATIONSHIP THAT WOULD INTERFERE IN ANY WAY WITH
3 YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR
4 AND IMPARTIAL TRIAL IN THIS CASE?

5 JUROR: NO, SIR.

6 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. ANYONE
7 ELSE?

8 (NO FURTHER RESPONSE)

9 THE COURT: ALL RIGHT. CITY OF ROCK HILL POLICE
10 DEPARTMENT OR CHIEF OF POLICE, JOHN H. GREGORY, III. THE
11 SOUTH CAROLINA LAW ENFORCEMENT DIVISION. THE FEDERAL BUREAU
12 OF INVESTIGATION OR FBI.

13 IS ANY MEMBER OF THE JURY PANEL OR A MEMBER OF YOUR
14 FAMILY PRESENTLY EMPLOYED OR HAVE YOU BEEN EMPLOYED IN THE
15 PAST WITH ANY OF THE FOLLOWING PROSECUTING AGENCIES OR DO
16 YOU KNOW PERSONALLY EITHER OF THE BELOW-NAMED INDIVIDUALS OR
17 ANY INDIVIDUALS EMPLOYED IN THE YORK COUNTY SOLICITOR'S
18 OFFICE IN WHICH SOLICITOR THOMAS E. POPE IS THE SOLICITOR
19 AND ALSO ASSISTANT SOLICITOR WILLY THOMPSON OR ASSISTANT
20 SOLICITOR PHIL SMITH.

21 YES, SIR. PLEASE STAND AND GIVE US YOUR NAME AND
22 NUMBER, SIR.

23 JUROR: CARL GULLICK, JUROR 65.

24 THE COURT: YES, SIR.

25 JUROR: I'M ACQUAINTED WITH, YOU KNOW, MR. POPE, MR.

1 THOMPSON AND OTHER PEOPLE. YES, SIR.

2 THE COURT: ALL RIGHT. SIR, IS THERE ANYTHING ABOUT
3 YOUR RELATIONSHIP IN THAT REGARD THAT WOULD INTERFERE IN ANY
4 WAY WITH YOUR ABILITY TO GIVE BOTH THE STATE AND THE
5 DEFENDANT IN THIS CASE, CHRISTOPHER WOODY, A FAIR AND
6 IMPARTIAL TRIAL?

7 JUROR: NO, SIR.

8 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. YES,
9 SIR. PLEASE GIVE US YOUR NAME AND NUMBER, SIR.

10 JUROR: 157, ERIC SIMS. THROUGH MARRIAGE, I KNOW TOMMY
11 POPE.

12 THE COURT: HOW DO YOU MEAN BY MARRIAGE, SIR?

13 JUROR: THROUGH MARRIAGE. HE MARRIED INTO THE FAMILY.

14 THE COURT: ALL RIGHT. SIR, IS THERE ANYTHING ABOUT
15 THAT RELATIONSHIP THAT WOULD INTERFERE IN ANY WAY WITH YOUR
16 ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT,
17 CHRISTOPHER WOODY, A FAIR AND IMPARTIAL TRIAL?

18 JUROR: NO, SIR.

19 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. ANYONE
20 ELSE? YES, SIR. PLEASE GIVE US YOUR NAME AND NUMBER, SIR.

21 JUROR: BYRON MCCLURE, JUROR 114. I AM AFFILIATED WITH
22 MR. POPE. I HAVE REF'D A COUPLE OF HIS BASKETBALL GAMES
23 WITH HIM.

24 THE COURT: OKAY. ALL RIGHT. WELL, LET ME AGAIN ASK
25 YOU WHETHER THERE'S ANYTHING ABOUT THAT RELATIONSHIP THAT

1 WOULD INTERFERE IN ANY WAY WITH YOUR ABILITY TO GIVE BOTH
2 THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL IN
3 THIS CASE?

4 JUROR: NO, SIR.

5 THE COURT: THANK YOU, SIR. YOU MAY BE SEATED. ANYONE
6 ELSE?

7 (NO FURTHER RESPONSE)

8 THE COURT: ATTORNEY GENERAL'S OFFICE OR ATTORNEY
9 GENERAL HENRY MCMASTER. ANY PROSECUTING ATTORNEY'S OFFICE.
10 HAS ANY MEMBER OF THE JURY PANEL EVER BEEN EMPLOYED BY
11 ANY CIVILIAN OR MILITARY LAW ENFORCEMENT AGENCY? IF SO,
12 PLEASE STAND.

13 (NO ONE STANDS)

14 THE COURT: IS ANY MEMBER OF THE JURY PANEL A MEMBER OF
15 OR CONTRIBUTOR TO ANY GROUP WHICH HAS AS ITS PRIMARY CONCERN
16 THE PROMOTION OF LAW ENFORCEMENT OR VICTIMS' RIGHTS? THESE
17 GROUPS WOULD INCLUDE BUT NOT BE LIMITED TO CITIZENS AGAINST
18 VIOLENCE EVERYWHERE, CADRE, WHICH IS C-A-D-R-E INITIALS,
19 MOTHERS AGAINST DRUNK DRIVING OR STUDENTS AGAINST DRUNK
20 DRIVING. IF SO, PLEASE STAND. IF YOU'RE A MEMBER OF OR
21 CONTRIBUTE TO ANY OF THESE GROUPS, PLEASE STAND.

22 YES, MA'AM. PLEASE GIVE US YOUR NAME AND NUMBER.

23 JUROR: JUROR 17, JANE BONHAM. I CONTRIBUTE TO SADD.

24 THE COURT: MA'AM, IS THERE ANYTHING ABOUT YOUR SUPPORT
25 OF THAT ORGANIZATION THAT WOULD INTERFERE IN ANY WAY WITH

1 YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT,
2 CHRISTOPHER WOODY, A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

3 JUROR: I DON'T BELIEVE SO.

4 THE COURT: I HAVE A MORE DEFINITIVE ANSWER, YES OR NO.

5 JUROR: NO.

6 THE COURT: NO? IS THAT YOUR ANSWER? THANK YOU. YOU
7 MAY BE SEATED. THANK YOU.

8 HAS ANY MEMBER OF THE JURY PANEL HAD ANY PRIOR
9 KNOWLEDGE ABOUT THIS CASE BEFORE COMING TO COURT HERE TODAY
10 FROM ANY SOURCE, INCLUDING HAVING HEARD ANYONE DISCUSSING
11 THE CASE? IF SO, PLEASE STAND. IF YOU HAD ANY PRIOR
12 KNOWLEDGE ABOUT THE CASE OF ANY SORT BEFORE COMING TO COURT
13 TODAY, PLEASE STAND.

14 YES, MA'AM. PLEASE GIVE US YOUR NAME AND NUMBER.

15 JUROR: LEORA AMENTLER, JUROR NUMBER 2. I USED TO LIVE
16 IN PACES RIVER APARTMENTS.

17 THE COURT: PARDON ME?

18 JUROR: I USED TO LIVE AT PACES RIVER'S APARTMENTS.

19 THE COURT: OKAY. MA'AM, LET ME GET YOU TO COME DOWN
20 AND RESPOND TO THIS QUESTION DOWN FRONT, IF YOU WILL.

21 THE COURT: WHAT KNOWLEDGE DO YOU HAVE ABOUT THIS CASE,
22 YOU LIVING IN THESE APARTMENTS?

23 JUROR: I LIVED IN THOSE APARTMENTS. I MOVED OUT OF
24 THOSE APARTMENTS AUGUST OF 2003 AND MY CHILDREN STILL HAVE
25 FRIENDS THAT LIVE IN THOSE APARTMENTS.

1 THE COURT: WHAT KNOWLEDGE DO YOU HAVE ABOUT THIS CASE
2 FROM HAVING LIVED THERE?

3 JUROR: THAT IS A DRIVE-BY SHOOTING.

4 THE COURT: THAT'S THE INFORMATION YOU HAD?

5 JUROR: UH-HUH.

6 THE COURT: LET ME ASK YOU, AND THIS IS VERY
7 IMPORTANT,---

8 JUROR: UH-HUH.

9 THE COURT: ---COULD YOU PUT ASIDE ANYTHING YOU HEARD
10 ABOUT THIS CASE FROM ANY SOURCE BEFORE COMING TO COURT TODAY
11 AND LISTEN ONLY TO THE TESTIMONY AND EVIDENCE AND MY
12 INSTRUCTION TO YOU WITH REGARD TO THE LAW THAT APPLIES TO
13 THIS CASE AND RENDER A DECISION BASED ON THAT ALONE AND NOT
14 ON ANYTHING YOU MAY HAVE HEARD BEFORE COMING TO COURT TODAY?
15 CAN YOU DO THAT OR NOT?

16 JUROR: I CAN DO THAT.

17 THE COURT: ALL RIGHT. ALL RIGHT. YOUR NUMBER WAS?

18 JUROR: TWO.

19 MR. DELGADO: THE JUROR'S NAME AGAIN? I'M SORRY, YOUR
20 HONOR.

21 JUROR: LEORA AMENTLER. L-E-O-R-A A-M-E-N-T-L-E-R.

22 THE COURT: LET ME ASK YOU, AND I WANT TO BE ABSOLUTELY
23 CLEAR ABOUT THIS,---

24 JUROR: UH-HUH.

25 THE COURT: ---DID YOU WITNESS ANYTHING ABOUT THIS

1 CASE---

2 JUROR: NO, SIR.

3 THE COURT: ---OR DISCUSS IT WITH ANYBODY THERE?

4 JUROR: JUST WITH CHILDREN.

5 THE COURT: JUST WITH CHILDREN?

6 JUROR: UH-HUH.

7 THE COURT: AND THAT'S THE INFORMATION YOU HAD BUT,
8 AGAIN, WOULD YOU HAVE ANY TROUBLE PUTTING THAT ASIDE,
9 REALIZING THAT ANY INFORMATION YOU MAY HAVE GOTTEN BEFORE
10 COMING TO COURT MAY NOT BE ACCURATE, WOULD YOU BE WILLING TO
11 BASE IT SOLELY ON THE TESTIMONY AND EVIDENCE THAT COMES IN
12 DURING THE TRIAL---

13 JUROR: YES.

14 THE COURT: ---AND THE LAW AS I CHARGE IT TO YOU?

15 JUROR: YES. IT'S CHILDREN.

16 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YOU MAY
17 RETURN TO YOUR SEAT. THANK YOU.

18 JUROR: I LIVED IN PACES RIVER AS WELL.

19 THE COURT: OKAY. MA'AM, LIKEWISE, I'LL GET YOU TO
20 COME DOWN IN FRONT AND RESPOND IF YOU WILL.

21 JUROR: OKAY.

22 THE COURT: COME RIGHT HERE, PLEASE, MA'AM. GIVE US
23 YOUR NAME AND NUMBER FIRST.

24 JUROR: I'M DARLENE BLOOM. MY NUMBER'S 15

25 THE COURT: OKAY. HOW LONG DID YOU LIVE THERE, MA'AM?

1 JUROR: I DID IN 1997 THROUGH FEBRUARY OF '98.

2 THE COURT: AND THIS OCCURRED ON --

3 JUROR: BEFORE.

4 THE COURT: BEFORE --

5 JUROR: BUT I KNEW ABOUT IT BECAUSE I HEARD IT ON THE
6 NEWS AND I SAID, OH, SOMEBODY GOT KILLED AT PACES RIVER.

7 THE COURT: OKAY. ALL RIGHT. YOU HEARD SOMETHING
8 ABOUT IT ON THE NEWS?

9 JUROR: NEWS. YES.

10 THE COURT: CAN YOU REMEMBER THE ACCOUNT OF IT ON THE
11 NEWS OR NO? YOU JUST KNEW---

12 JUROR: I JUST REMEMBER PACES RIVER --

13 THE COURT: ---SOMEBODY GOT KILLED THERE?

14 JUROR: YES.

15 THE COURT: ALL RIGHT. LET ME ASK YOU AND THIS IS
16 IMPORTANT. OF COURSE, YOU SAY YOU DON'T REMEMBER ANY OF THE
17 DETAILS OF WHAT---

18 JUROR: NO.

19 THE COURT: ---HAPPENED, JUST THAT SOMEBODY GOT KILLED
20 THERE?

21 JUROR: YES.

22 THE COURT: LET ME ASK YOU WHETHER YOU COULD PUT ASIDE
23 ANYTHING YOU MAY HAVE HEARD BEFORE COMING TO COURT TODAY,
24 LIKE A NEWSCAST,---

25 JUROR: YES.

1 THE COURT: ---AND LISTEN ONLY TO THE SWORN TESTIMONY
2 AND EVIDENCE THAT COMES IN AND MY INSTRUCTION TO YOU WITH
3 REGARD TO THE LAW THAT APPLIES AND DECIDE THIS CASE SOLELY
4 ON WHAT YOU HEAR IN THE COURTROOM AND NOT ON ANYTHING YOU
5 MAY HAVE HEARD BEFORE YOU CAME TO COURT TODAY?

6 JUROR: I WOULDN'T HAVE ANY PROBLEM WITH IT.

7 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YOU MAY
8 RETURN TO YOUR SEAT. THANK YOU. COUNSEL, JUST A MINUTE.
9 SEVEN I DON'T USUALLY ASK. Y'ALL DIDN'T RAISE ANY QUESTION
10 ABOUT IT AND I JUST NOW NOTICED IT. THAT'S -- TO ME, THAT'S
11 NOT SOMETHING I NORMALLY ASK.

12 MR. POPE: IT'S COVERED IN YOUR INSTRUCTION.

13 THE COURT: IT'S BASICALLY KIND OF A CHARGE ON THE LAW
14 AND I THAT ONCE THE JURY'S SELECTED. I DON'T USUALLY
15 PROFILE THEM ON THIS ONE. PRESUMED INNOCENT DOESN'T -- I
16 MEAN, THAT'S LIKE PUTTING THEM ON NOTICE IN ADVANCE, SO I
17 DON'T USUALLY DO THAT. SO --

18 MR. DELGADO: I'D LIKE THE RECORD TO REFLECT THAT THIS
19 DEFENSE LAWYER DIDN'T SEE THE DEFENDANT'S NAME ON THE LIST
20 OR DID YOU ALREADY SAY IT? DO YOU HAVE THE DEFENDANT'S NAME
21 ON THE PUBLIC JURY LIST?

22 THE COURT: THEY HAD THE DEFENDANT'S NAME --

23 MR. DELGADO: DIDN'T MEAN TO SAY IT, BUT I JUST WANTED
24 TO PUT THAT ON THE RECORD. IT'S NOT MISTRIAL STUFF. I JUST
25 -- YOU'LL COVER THAT IN YOUR CHARGE, BUT I JUST WANT TO TELL

1 YOU. I CAN'T BELIEVE I LET THAT SLIDE.

2 THE COURT: THAT THEY HAD YOUR CLIENT ON THEIR WITNESS
3 LIST?

4 MR. DELGADO: SIR, I KNOW IF I HAD JUMPED UP, IT WOULD
5 HAVE BROUGHT MORE ATTENTION TO IT, BUT --

6 THE COURT: WELL, HE'S ONLY A POTENTIAL WITNESS IS THE
7 WAY WE PUT IT ANYWAY, SO -- AND, OF COURSE, I ONLY ASKED
8 THEM THE ONE TIME AND NOT --

9 MR. DELGADO: OH, YES.

10 THE COURT: THAT'S THE REASON I WAS SCREENING THOSE,
11 TRYING TO ELIMINATE THE DUAL ONES.

12 MR. DELGADO: ALL RIGHT.

13 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN. I
14 APPRECIATE YOUR PATIENCE. A FEW MORE QUESTIONS. IS THERE
15 ANY MEMBER OF THE JURY PANEL THAT IS OPPOSED TO THE
16 OWNERSHIP OR USE OF FIREARMS FOR ANY REASON? IF SO, PLEASE
17 STAND.

18 (NO ONE STANDS)

19 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL THAT
20 KNOWS SOMEONE WHO DIED AS THE RESULT OF A GUNSHOT WOUND OR
21 HAS BEEN INJURED BY A GUNSHOT WOUND? IF SO, PLEASE STAND.

22 JUROR: JUROR 205, CLYDE TATE.

23 THE COURT: WAIT JUST A MINUTE. I THINK I WANT TO TAKE
24 YOUR RESPONSES TO THIS QUESTION DOWN FRONT JUST OUT OF AN
25 ABUNDANCE OF CAUTION, SO LET'S DO IT THAT WAY. MA'AM, COME

1 UP HERE, PLEASE. GIVE US YOUR NAME AND NUMBER FOR THE
2 RECORD, PLEASE.

3 JUROR: STEPHANIE SUTTON. I'M JUROR 204.

4 THE COURT: AND TELL ME ABOUT THAT, PLEASE, MA'AM.

5 JUROR: MY AUNT AND UNCLE, GREAT AUNT AND UNCLE, WERE
6 MURDERED YEAR BEFORE LAST.

7 THE COURT: YEAR BEFORE LAST?

8 JUROR: YES, SIR.

9 THE COURT: ALL RIGHT. LET ME ASK YOU, MA'AM, WHETHER
10 THERE'S ANYTHING ABOUT THAT EXPERIENCE, GIVEN THE NATURE OF
11 THE ALLEGATIONS IN THIS CASE, IS THERE ANYTHING ABOUT THAT
12 EXPERIENCE THAT WOULD INTERFERE IN ANY WAY WITH YOUR ABILITY
13 TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND
14 IMPARTIAL TRIAL IN THIS CASE?

15 JUROR: NO. I WASN'T THERE. I WASN'T THERE.

16 THE COURT: OKAY. THANK YOU, MA'AM. YOU MAY BE
17 SEATED. THANK YOU.

18 JUROR: NUMBER 15, DARLENE BLOOM.

19 THE COURT: YES, MA'AM, MS. BLOOM.

20 JUROR: MY SISTER-IN-LAW WAS SHOT IN A CONVENIENCE
21 STORE HOLDUP ON IN 1967. SHE'S CURRENTLY --

22 THE COURT: ALL RIGHT. MA'AM, LET ME ASK YOU, GIVEN
23 THE NATURE OF THE ALLEGATIONS IN THIS CASE, IS THERE
24 ANYTHING ABOUT THAT EXPERIENCE THAT WOULD INTERFERE IN ANY
25 WAY WITH YOUR ABILITY TO GIVE BOTH THE STATE AND THE

1 DEFENDANT, CHRISTOPHER WOODY, A FAIR AND IMPARTIAL TRIAL IN
2 THIS CASE?

3 JUROR: NO.

4 THE COURT: THANK YOU, MA'AM. YOU MAY RETURN TO YOUR
5 SEAT. THANK YOU. FOR THE RECORD, PLEASE GIVE US YOUR NAME
6 AND NUMBER FOR THE RECORD.

7 JUROR: CARL GULLICK, 65.

8 THE COURT: YES, SIR.

9 JUROR: THIS IS ALMOST EMBARRASSING, BUT I WAS SHOT ONE
10 TIME.

11 THE COURT: OKAY.

12 JUROR: IT WAS --

13 THE COURT: CIRCUMSTANCE --

14 JUROR: I ACCIDENTALLY PULLED THE TRIGGER.

15 THE COURT: LET ME ASK YOU, SIR, WHETHER THAT WOULD
16 INTERFERE IN ANY WAY WITH YOUR---

17 JUROR: NO, SIR.

18 THE COURT: ---ABILITY TO GIVE BOTH SIDES A FAIR AND
19 IMPARTIAL TRIAL?

20 JUROR: NO, SIR; IT WOULD NOT.

21 THE COURT: THANK YOU AGAIN. WE APPRECIATE IT. PLEASE
22 GIVE US YOUR NAME AND NUMBER, SIR.

23 JUROR: CLYDE TATE, JUROR 205.

24 THE COURT: YES, SIR, MR. TATE.

25 JUROR: MY PARTNER WAS KILLED IN 2001.

1 THE COURT: OKAY. WAS THAT AS A RESULT OF A ROBBERY OR
2 ACCIDENT OR WHAT? SUICIDE?

3 JUROR: IT WAS A MURDER/SUICIDE.

4 THE COURT: MURDER/SUICIDE. ALL RIGHT. LET ME ASK
5 YOU, SIR, WHETHER ANYTHING ABOUT YOUR EXPERIENCES IN THAT
6 CASE WOULD INTERFERE IN ANY WAY WITH YOUR ABILITY TO GIVE
7 BOTH SIDES A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

8 JUROR: NO, SIR.

9 THE COURT: THANK YOU, SIR. YOU MAY RETURN TO YOUR
10 SEAT. THANK YOU. PLEASE GIVE US YOUR NAME AND NUMBER.

11 JUROR: MICHAEL HUDSON, 196.

12 THE COURT: YES, SIR, MR. HUDSON.

13 JUROR: I KNEW JASON RATTERY AND HE WAS KILLED, SHOT IN
14 THE CHEST.

15 THE COURT: OKAY. SIR, IS THERE ANYTHING ABOUT YOUR
16 EXPERIENCES IN THAT REGARD THAT WOULD INTERFERE IN ANY WAY
17 WITH YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A
18 FAIR AND IMPARTIAL TRIAL IN THIS CASE?

19 JUROR: NO, SIR.

20 THE COURT: THANK YOU, SIR. YOU MAY RETURN TO YOUR
21 SEAT. PLEASE GIVE US YOUR NAME AND NUMBER.

22 JUROR: ASHLEY DALLAS, 186.

23 THE COURT: YES, MA'AM.

24 JUROR: MY AUNT WAS SHOT TO DEATH IN '89.

25 THE COURT: OKAY. WAS THAT -- HOW -- WHAT WERE THE

1 CIRCUMSTANCES?

2 JUROR: IT WAS A ROBBERY. I DO NOT KNOW. I DON'T
3 REMEMBER.

4 THE COURT: GIVEN THE NATURE OF THE ALLEGATIONS IN THIS
5 CASE, IS THERE ANYTHING ABOUT YOUR EXPERIENCES IN THAT
6 REGARD THAT WOULD INTERFERE IN ANY WAY WITH YOUR ABILITY TO
7 GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL
8 TRIAL IN THIS CASE?

9 JUROR: I DON'T THINK SO; NO.

10 THE COURT: OKAY. I HAVE TO HAVE A YES OR NO.

11 JUROR: NO.

12 THE COURT: THANK YOU, MA'AM. YOU MAY RETURN TO YOUR
13 SEAT. GIVE US YOUR NAME AND NUMBER.

14 JUROR: DE'SHEDRIC BOLER; I'M 183.

15 THE COURT: YES, SIR, MR. BOLER.

16 JUROR: I HAD A FRIEND SHOT LAST YEAR. I DON'T THINK
17 IT WOULD AFFECT MY JUDGMENT.

18 THE COURT: OKAY. LET ME ASK YOU, GIVEN THE NATURE OF
19 THE ALLEGATIONS IN THIS CASE, WOULD THAT EXPERIENCE
20 INTERFERE IN ANY WAY WITH YOUR ABILITY TO GIVE BOTH THE
21 STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

22 JUROR: I HAVE ANOTHER QUESTION.

23 THE COURT: YES, SIR.

24 JUROR: I THINK I KNOW SOMETHING ABOUT THIS TRIAL. I'M
25 NOT SURE. I THINK -- I KNOW DEBREZIO'S GIRLFRIEND. HER

1 NAME IS NINI, SOMETHING LIKE THAT, AND I THINK I GOT A
2 FRIEND TALKING TO HER AND THAT -- AND THAT WOULD AFFECT MY
3 JUDGMENT.

4 THE COURT: ALL RIGHT. WELL, I APPRECIATE YOUR HONESTY
5 AND WE CERTAINLY WANT TO KNOW THAT. WE WILL EXCUSE YOU, BUT
6 STAY WITH THE JURY, BUT WE WILL EXCUSE YOU FROM THIS CASE.

7 JUROR: THANK YOU.

8 THE COURT: YES, MA'AM. PLEASE GIVE US YOUR NAME AND
9 NUMBER, MA'AM.

10 JUROR: PAMELA HARKER, 193.

11 THE COURT: YES, MA'AM.

12 JUROR: MY SISTER COMMITTED SUICIDE WITH USE OF A
13 FIREARM AND I ALSO WORKED WITH A NURSE WHOSE HUSBAND KILLED
14 HER, SHOT HER.

15 THE COURT: ALL RIGHT. MA'AM, GIVEN THE NATURE OF THE
16 ALLEGATIONS IN THIS CASE, IS THERE ANYTHING ABOUT YOUR
17 EXPERIENCES IN THAT REGARD THAT WOULD INTERFERE IN ANY WAY
18 WITH YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT
19 A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

20 JUROR: I CAN GIVE A FAIR TRIAL.

21 THE COURT: OKAY. THANK YOU, MA'AM. YOU MAY RETURN TO
22 YOUR SEAT. GIVE US YOUR NAME AND NUMBER, SIR.

23 JUROR: JEFFREY DEASON, 187.

24 THE COURT: YES, SIR, MR. DEASON.

25 JUROR: I HAVE A GOOD FRIEND WHO'S A SOUTH CAROLINA

1 STATE TROOPER. HE WAS SHOT FIVE OR SIX TIMES IN A ROUTINE
2 TRAFFIC STOP.

3 THE COURT: OKAY. LET ME ASK YOU, GIVEN THE NATURE OF
4 THE ALLEGATIONS IN THIS CASE, IS THERE ANYTHING ABOUT YOUR
5 EXPERIENCES IN THAT REGARD THAT WOULD INTERFERE IN ANY WAY
6 WITH YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT,
7 CHRISTOPHER WOODY, A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

8 JUROR: NO, SIR.

9 THE COURT: THANK YOU, SIR. YOU MAY RETURN TO YOUR
10 SEAT. COME ON UP HERE, PLEASE, AND GIVE US YOUR NAME AND
11 NUMBER FOR THE RECORD, PLEASE.

12 JUROR: CHARLES WYLIE, 179.

13 THE COURT: YES, SIR, MR. WYLIE. YES, SIR. WHAT
14 HAPPENED?

15 JUROR: MY NIECE'S SON WAS SHOT DOWN IN CHARLOTTE,
16 NORTH CAROLINA.

17 THE COURT: OKAY. SIR, IS THERE ANYTHING ABOUT --
18 GIVEN THE NATURE OF THE ALLEGATIONS IN THIS CASE, IS THERE
19 ANYTHING ABOUT YOUR EXPERIENCES IN THAT REGARD THAT WOULD
20 INTERFERE IN ANY WAY WITH YOUR ABILITY TO GIVE BOTH THE
21 STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL IN THIS
22 CASE?

23 JUROR: NO, SIR.

24 THE COURT: THANK YOU, SIR. YOU MAY RETURN TO YOUR
25 SEAT. THANK YOU. HAS ANY MEMBER OF THE JURY PANEL FORMED

1 OR EXPRESSED AN OPINION AS TO THE GUILT OR INNOCENCE OF THE
2 DEFENDANT IN THIS CASE, CHRISTOPHER WOODY? IF SO, PLEASE
3 STAND.

4 (NO ONE STANDS)

5 THE COURT: IS ANY MEMBER OF THE JURY PANEL CONSCIOUS
6 OF ANY INTEREST, BIAS OR PREJUDICE FOR OR AGAINST THE
7 DEFENDANT, CHRISTOPHER WOODY? IF SO, PLEASE STAND.

8 YES, SIR. PLEASE GIVE US YOUR NAME AND NUMBER.

9 JUROR: MY NAME IS JUAN BALAREZO AND MY NUMBER IS 181.

10 THE COURT: SIR, I'M GOING TO ASK YOU TO COME DOWN
11 FRONT AND GIVE ME YOUR RESPONSE. GIVE US YOUR NAME AND
12 NUMBER FOR THE RECORD, PLEASE, AGAIN.

13 JUROR: JUAN BALAREZO.

14 THE COURT: 181, IS THAT RIGHT?

15 JUROR: YES.

16 THE COURT: ALL RIGHT, SIR. PLEASE TELL US ABOUT IT.

17 JUROR: AN AFRICAN AMERICAN KILLED MY MOTHER IN THE
18 SEVENTIES AND AN AFRICAN AMERICAN ALMOST KILLED MY WIFE, SO
19 I WON'T BE PARTIAL, OR IMPARTIAL.

20 THE COURT: ALL RIGHT, SIR. WELL, I APPRECIATE YOUR
21 HONESTY AND I APPRECIATE YOUR COMING UP AND RESPONDING TO
22 THE QUESTION. I'M GOING TO EXCUSE YOU FROM THIS CASE. JUST
23 STAY WITH THE JURY PANEL AND FOLLOW THE INSTRUCTIONS, BUT WE
24 WILL NOT REQUIRE YOU TO SIT ON THIS CASE. OKAY? THANK YOU.

25 JUROR: OKAY. THANK YOU.

1 THE COURT: CAN EACH MEMBER OF THE JURY PANEL GIVE BOTH
2 THE STATE AND THE DEFENDANT, CHRISTOPHER WOODY, A FAIR AND
3 IMPARTIAL TRIAL IN THIS CASE? IF YOU COULD NOT DO THAT,
4 PLEASE STAND.

5 (NO ONE STANDS)

6 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
7 COULD NOT LISTEN TO THE TESTIMONY AND EVIDENCE IN THIS CASE
8 AND MY INSTRUCTION TO YOU WITH REGARD TO THE LAW THAT
9 APPLIES TO THE ISSUES IN THIS CASE AND RENDER A VERDICT
10 WHICH WOULD BE FAIR TO BOTH THE STATE AND THE DEFENDANT,
11 CHRISTOPHER WOODY? IF YOU COULD NOT DO THAT, PLEASE STAND
12 AT THIS TIME.

13 (NO ONE STANDS)

14 THE COURT: DOES ANY MEMBER OF THE JURY PANEL KNOW OF
15 ANY REASON WHATSOEVER WHY HE OR SHE SHOULD NOT SERVE AS A
16 JUROR IN THIS PARTICULAR CASE? IF SO, PLEASE STAND.

17 (NO ONE STANDS)

18 THE COURT: ANY ADDITIONAL QUESTIONS REQUESTED OF THE
19 JURY PANEL FROM THE STATE?

20 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. DELGADO: NOTHING FOR THE DEFENSE. THANK YOU.

23 THE COURT: ALL RIGHT. MADAM CLERK, THEN, IF YOU'LL
24 GIVE US A JURY. GENTLEMEN, I BELIEVE THE STRIKES ARE TEN
25 AND FIVE. WE'LL DRAW ONE ALTERNATE; STRIKES ARE TWO AND

1 ONE. THANK YOU.

2 THE CLERK: IF YOUR NAME IS CALLED, PLEASE BRING ANY
3 PERSONAL BELONGINGS YOU HAVE AND COME STAND BY THE BAILIFF.
4 NUMBER 201, PAMELA POAG. WHAT SAY YE FOR THE STATE?

5 MR. POPE: PRESENT MS. POAG.

6 THE CLERK: DEFENSE?

7 MR. DELGADO: PLEASE SWEAR MS. POAG.

8 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 44,
9 FRANK DIXON. WHAT SAY YE FOR THE STATE?

10 MR. POPE: PRESENT MR. DIXON.

11 THE CLERK: DEFENSE?

12 MR. DELGADO: PLEASE SWEAR MR. DIXON.

13 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 205,
14 CLYDE TATE. WHAT SAY YE FOR THE STATE?

15 MR. POPE: PRESENT MR. TATE.

16 THE CLERK: DEFENSE?

17 MR. DELGADO: PLEASE SWEAR MR. TATE.

18 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 169,
19 ANTHONY VAN SICKLE. WHAT SAY YE FOR THE STATE?

20 MR. POPE: PRESENT MR. VAN SICKLE.

21 THE CLERK: DEFENSE?

22 MR. DELGADO: PLEASE SWEAR THE JUROR.

23 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 204,
24 STEPHANIE SUTTON. WHAT SAY YE FOR THE STATE?

25 MR. POPE: PRESENT MS. SUTTON.

1 THE CLERK: DEFENSE?

2 MR. DELGADO: WE EXCUSE MS. SUTTON FROM THIS TRIAL.

3 THE CLERK: EXCUSED FROM THIS CASE. NUMBER 118,

4 MARJORIE MOBLEY. WHAT SAY YE FOR THE STATE?

5 MR. POPE: PLEASE EXCUSE MS. MOBLEY.

6 THE CLERK: EXCUSED IN THIS CASE. NUMBER 186, ASHLEY

7 DALLAS. WHAT SAY YE FOR THE STATE?

8 MR. POPE: PRESENT MS. DALLAS.

9 THE CLERK: DEFENSE?

10 MR. DELGADO: WE EXCUSE MS. DALLAS FROM THE TRIAL.

11 THE CLERK: YOU'RE EXCUSED IN THIS CASE. NUMBER 157,

12 ERIC SIMS. WHAT SAY YE FOR THE STATE?

13 MR. POPE: PRESENT MR. SIMS.

14 THE CLERK: DEFENSE?

15 MR. DELGADO: EXCUSE MR. SIMS FROM THE TRIAL.

16 THE CLERK: EXCUSED IN THE CASE. NUMBER 179, CHARLES

17 WYLIE. WHAT SAY YE FOR THE STATE?

18 MR. POPE: PRESENT MR. WYLIE.

19 THE CLERK: DEFENSE?

20 MR. DELGADO: SWEAR MR. WYLIE.

21 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 86,

22 NATHANIEL JACKSON. WHAT SAY YE FOR THE STATE?

23 MR. POPE: PLEASE EXCUSE MR. JACKSON.

24 THE CLERK: YOU'RE EXCUSED FROM THIS CASE. NUMBER 7,

25 AUDRAY BAKER. WHAT SAY YE FOR THE STATE?

1 MR. POPE: PRESENT MS. BAKER.

2 THE CLERK: DEFENSE?

3 MR. DELGADO: PLEASE SWEAR MS. BAKER.

4 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 7,
5 ELIZER HINTON.

6 THE COURT: WHAT NUMBER WAS THAT?

7 THE CLERK: 76. WHAT SAY YE FOR THE STATE?

8 MR. POPE: PRESENT MR. HINTON.

9 THE CLERK: DEFENSE?

10 MR. DELGADO: SWEAR MR. HINTON, PLEASE.

11 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 185,
12 GLORIA CHISHOLM. WHAT SAY YE FOR THE STATE?

13 MR. POPE: PRESENT MS. CHISHOLM.

14 THE CLERK: DEFENSE?

15 MR. DELGADO: PLEASE SWEAR MS. CHISHOLM.

16 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 29,
17 STELLA COOPER. WHAT SAY YE FOR THE STATE?

18 MR. POPE: PRESENT MS. COOPER.

19 THE CLERK: DEFENSE?

20 MR. DELGADO: PLEASE SWEAR MS. COOPER.

21 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 115,
22 STEPHANI MCLAWHORN. WHAT SAY YE FOR THE STATE?

23 MR. POPE: PRESENT MS. MCLAWHORN.

24 THE CLERK: DEFENSE?

25 MR. DELGADO: IF WE COULD HAVE JUST ONE SECOND, PLEASE.

1 CAN WE EXCUSE MS. MCLAWHORN FROM THIS TRIAL?

2 THE CLERK: EXCUSED FROM THIS TRIAL. NUMBER 187,

3 JEFFREY DEASON. WHAT SAY YE FOR THE STATE?

4 MR. POPE: PRESENT MR. DEASON.

5 THE CLERK: DEFENSE?

6 MR. DELGADO: WE'LL EXCUSE MR. DEASON FROM THE TRIAL.

7 THE CLERK: EXCUSED IN THIS CASE. NUMBER 104, JULIA

8 LINDSAY. WHAT SAY YE FOR THE STATE?

9 MR. POPE: PRESENT MS. LINDSAY.

10 THE CLERK: DEFENSE.

11 MR. DELGADO: PLEASE SWEAR MS. LINDSAY.

12 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 126,

13 NATASHA PAIGE. WHAT SAY YE FOR THE STATE?

14 MR. POPE: PRESENT MS. PAIGE.

15 THE CLERK: DEFENSE?

16 MR. DELGADO: PLEASE SWEAR MS. PAIGE.

17 THE CLERK: HAVE A SEAT IN THE JURY BOX. NUMBER 174,

18 DEBRA WILLIAMS. WHAT SAY YE FOR THE STATE?

19 MR. POPE: PRESENT MS. WILLIAMS.

20 THE CLERK: DEFENSE?

21 MR. DELGADO: EXCUSE MS. WILLIAMS FROM THE TRIAL.

22 THE CLERK: EXCUSED IN THIS CASE. NUMBER 70, LYNN

23 HAMMOND. WHAT SAY YE FOR THE STATE?

24 MR. POPE: PLEASE EXCUSE MR. HAMMOND.

25 THE CLERK: YOU'RE EXCUSED FROM THIS CASE. NUMBER 65,

1 CARL GULLICK. WHAT SAY YE FOR THE STATE?

2 MR. POPE: PRESENT MR. GULLICK.

3 THE CLERK: DEFENSE?

4 MR. DELGADO: WE EXCUSE MR. GULLICK FROM THE TRIAL.

5 THE CLERK: EXCUSED IN THIS CASE. NUMBER 125 -- 121,

6 JENNIFER MONROE. WHAT SAY YE FOR THE STATE?

7 MR. POPE: PRESENT MS. MONROE.

8 THE CLERK: DEFENSE?

9 MR. DELGADO: PLEASE SWEAR MS. MONROE.

10 THE CLERK: HAVE A SEAT IN THE JURY BOX. THIS IS FOR
11 THE ALTERNATE. JAMES E. NEAL. WHAT SAY YE FOR THE STATE?

12 MR. POPE: PRESENT MR. NEAL.

13 THE CLERK: DEFENSE?

14 MR. DELGADO: SWEAR MR. NEAL.

15 THE COURT: ANY QUESTIONS CONCERNING THE SELECTION
16 PROCESS FROM THE STATE?

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

18 THE COURT: FROM THE DEFENSE?

19 MR. DELGADO: NO, SIR, NOTHING.

20 THE COURT: OKAY. LADIES AND GENTLEMEN OF THE JURY
21 PANEL WHO WERE NOT SELECTED FOR THIS PARTICULAR CASE, I'M
22 GOING TO GO AHEAD AND EXCUSE YOU AT THIS TIME FOR THE
23 BALANCE OF THE DAY.

24 (JURY VENIRE EXCUSED AT 3:50 P.M.)

25 THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL, IF

1 YOU'D GIVE ME YOUR ATTENTION, PLEASE. WE HAVE STILL MATTERS
2 THAT WE NEED TO TAKE UP, PRE-TRIAL MATTERS, THAT I NEED TO
3 TAKE UP WITH COUNSEL AND IT, OF COURSE, WILL NOT BE
4 NECESSARY FOR YOU TO BE PRESENT FOR THOSE PRE-TRIAL MATTERS
5 WE STILL NEED TO TAKE UP, BUT WE WANTED TO GO AHEAD AND GET
6 A JURY SELECTED SO WE COULD EXCUSE THE OTHER JURORS AND FREE
7 THEM UP, EITHER FOR ANOTHER TRIAL TOMORROW OR JUST FREE THEM
8 UP, AND SO WE'RE NOT ACTUALLY GOING TO GET STARTED WITH THE
9 TRIAL TODAY.

10 FIRST THING IN THE MORNING, WE WILL ADMINISTER THE OATH
11 TO YOU AS JURORS AND WILL ACTUALLY BEGIN THE TRIAL AT THAT
12 TIME. BUT I'M GOING TO GO AHEAD AND GIVE YOU WHAT I CALL A
13 PRELIMINARY INSTRUCTION, OR A CHARGE, WITH REGARD TO WHAT TO
14 EXPECT AS WE GO THROUGH THIS TRIAL. I SUSPECT THAT MOST OF
15 YOU HAVE NOT SERVED ON A GENERAL SESSIONS OR CRIMINAL COURT
16 CASE IN CIRCUIT COURT BEFORE, SO HOPEFULLY THESE
17 INSTRUCTIONS TO YOU OR INFORMATION I'M GOING TO GIVE TO YOU
18 WILL MAKE THIS -- MAKE YOU A LITTLE MORE AT EASE IN THIS
19 UNFAMILIAR SURROUNDINGS AND AT LEAST YOU'LL KNOW WHAT TO
20 EXPECT AS WE GO THROUGH THE TRIAL. I'M GOING TO GO THROUGH
21 THE THAT NOW WITH YOU.

22 THE FIRST THING THAT WILL HAPPEN IN THE MORNING WHEN WE
23 GET STARTED IS THAT IS AN ATTORNEY FOR THE STATE, WHO IS
24 EITHER THE SOLICITOR OR ASSISTANT SOLICITOR, WILL MAKE AN
25 OPENING STATEMENT TO YOU AND THEN THE ATTORNEY FOR THE

1 DEFENDANT WILL HAVE THE SAME OPPORTUNITY TO ADDRESS YOU IN
2 AN OPENING STATEMENT. THESE OPENING STATEMENTS BY THE
3 ATTORNEYS ARE NOT EVIDENCE, BUT YOU SHOULD PAY CLOSE
4 ATTENTION, BECAUSE THEY'RE, IN ESSENCE, GOING TO IDENTIFY TO
5 YOU WHAT THEY PERCEIVE OR SAY THE ISSUES IN THE CASE ARE.

6 AFTER THEY HAVE MADE THEIR OPENING STATEMENTS TO YOU,
7 THEN THE STATE WILL PROCEED BY PRESENTING THE TESTIMONY AND
8 EVIDENCE THAT THEY WANT YOU TO CONSIDER AND THE REASON THE
9 STATE GOES FIRST IS THAT THE STATE HAS THE BURDEN OF PROOF
10 IN THIS CASE. THERE IS NO BURDEN OF PROOF UPON THE
11 DEFENDANT TO PROVE HIS INNOCENCE. THE BURDEN OF PROOF IS
12 UPON THE STATE OF SOUTH CAROLINA TO PROVE THE CHARGES
13 AGAINST THIS DEFENDANT BACKED BY EVIDENCE THAT SATISFIES
14 YOU, THE JURY, BEYOND A REASONABLE DOUBT BEFORE YOU CAN
15 RETURN A VERDICT OF GUILTY. IF THE STATE FAILS TO MEET THAT
16 BURDEN OF PROOF, THEN YOUR VERDICT MUST BE NOT GUILTY.

17 AFTER THE SOLICITOR HAS PRESENTED TO YOU THE EVIDENCE
18 THAT THEY WANT YOU TO CONSIDER ON BEHALF OF THE STATE, THEN
19 THE SAME OPPORTUNITY WILL BE AFFORDED TO THE DEFENSE. THE
20 DEFENDANT MAY, BUT IS NOT REQUIRED TO, PRESENT ANY TESTIMONY
21 OR EVIDENCE BECAUSE THE STATE HAS THE BURDEN OF PROVING THE
22 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. THE DEFENDANT
23 DOES NOT HAVE TO PROVE HE IS INNOCENT. HE IS PRESUMED
24 INNOCENT AND THAT PRESUMPTION STAYS WITH HIM THROUGHOUT THE
25 TRIAL AND MAY ONLY BE REMOVED IF THE STATE MEETS ITS BURDEN

1 OF PROVING THE GUILT OF THE DEFENDANT BEYOND A REASONABLE
2 DOUBT.

3 NOW, WHAT IS EVIDENCE IN THE CASE? EVIDENCE IS THE
4 SWORN TESTIMONY YOU WILL HEAR FROM THE WITNESS STAND HERE TO
5 MY RIGHT, EXHIBITS ADMITTED INTO THE RECORD FOR YOUR
6 CONSIDERATION BY ME, THE PRESIDING JUDGE, AND ANY
7 STIPULATION OF COUNSEL. EXHIBITS MAY TAKE MANY FORMS, SUCH
8 AS DOCUMENTS, PICTURES, VIDEOTAPES, MAPS, DIAGRAMS AND SO
9 FORTH.

10 STIPULATIONS ARE AGREEMENTS OF FACTS BY THE ATTORNEYS.
11 IF THE ATTORNEYS ENTER INTO A STIPULATION OF FACT, THAT WILL
12 BE MADE KNOWN TO YOU AND YOU CAN CONSIDER THAT STIPULATION
13 OF FACT, ALONG WITH ALL OF THE OTHER TESTIMONY AND EVIDENCE,
14 AND GIVE IT SUCH WEIGHT AS YOU DEEM APPROPRIATE ONCE YOU
15 BEGIN YOUR DELIBERATIONS.

16 SWORN TESTIMONY, EXHIBITS AND STIPULATIONS ARE THE ONLY
17 EVIDENCE YOU MAY CONSIDER IN YOUR DELIBERATION OF THE
18 INNOCENCE OR GUILT OF THE DEFENDANT. YOU MAY NOT CONSIDER
19 ANYTHING YOU'VE HEARD FROM ANY OTHER SOURCE ABOUT THIS CASE
20 IN MAKING YOUR DECISION BECAUSE THAT IS NOT EVIDENCE.

21 AFTER YOU HAVE HEARD ALL THE EVIDENCE, THEN THE
22 ATTORNEYS FOR THE STATE AND THE DEFENDANT WILL ONCE AGAIN
23 APPEAR BEFORE YOU AND MAKE WHAT WE CALL CLOSING ARGUMENTS.
24 WE CALL THEM ARGUMENTS BECAUSE THE ATTORNEYS ARE ALLOWED AT
25 THAT TIME TO ARGUE THEIR POSITIONS, WILL ATTEMPT TO PERSUADE

1 YOU AS TO THEIR VIEW OR POSITION AS TO THE FACTS.

2 NOW, WHEN YOU HAVE HEARD FINAL ARGUMENTS FROM COUNSEL,
3 I WILL THEN CHARGE YOU, WHICH SIMPLY MEANS TO INSTRUCT YOU,
4 AS TO THE LAW THAT APPLIES TO THE ISSUES IN THIS CASE. YOU
5 WILL THEN RETIRE TO THE JURY ROOM TO DELIBERATE AND REACH
6 YOUR VERDICT. THAT'S HOW A CASE IS TRIED IN GENERAL
7 SESSIONS COURT, WHETHER IT BE THIS CASE OR ANY OTHER CASE.
8 SOME CASES TAKE A HALF A DAY OR A DAY; SOME CASES TAKE
9 WEEKS, BUT THE SAME FORMAT APPLIES IN EVERY CASE.

10 AS THE TRIAL JUDGE, I HAVE THREE FUNCTIONS TO PERFORM
11 DURING THE TRIAL. I AM THE PRESIDING OFFICER AND THEREFORE
12 SEE THAT THE TRIAL IS RUN IN AN ORDERLY MANNER. I DECIDE,
13 BASED ON RULES OF CIVIL AND CRIMINAL PROCEDURE, WHETHER
14 TESTIMONY AND EXHIBITS ARE ADMISSIBLE INTO EVIDENCE FOR YOUR
15 CONSIDERATION AND AT THE CONCLUSION OF THE TRIAL, I INSTRUCT
16 YOU AS TO THE LAW YOU MUST APPLY TO THE FACTS IN THIS CASE
17 IN REACHING YOUR VERDICT.

18 YOU, LADIES AND GENTLEMEN, ARE ALSO JUDGES IN THIS
19 CASE. YOU ARE THE JUDGES OF THE FACTS. IN OTHER WORDS, YOU
20 DETERMINE THE TRUTH OF THE FACTS IN THIS CASE.

21 UNDER OUR CONSTITUTION, I AM NOT PERMITTED AS THE JUDGE
22 OF THE LAW TO HAVE AN OPINION ABOUT THE FACTS, SO I DO NOT
23 GET INTO WHETHER I BELIEVE A WITNESS OR NOT. THAT IS NOT MY
24 FUNCTION. I'M NOT EVEN PERMITTED TO EXPRESS AN OPINION, IF
25 I HAD ONE, AS TO THE FACTS IN THIS CASE, SO YOU, THE JURORS,

1 DETERMINE WHAT IS THE TRUTH OF THE FACTS.

2 NOW, I DO NOT PERMIT JURORS TO TAKE NOTES DURING THE
3 TRIAL, BECAUSE IT'S MY EXPERIENCE THAT WHILE WRITING NOTES,
4 YOU MAY MISS SOMETHING VERY IMPORTANT FOR YOU TO HEAR AND
5 YOU MAY FAIL TO OBSERVE A WITNESS WHEN TESTIFYING. IT IS
6 IMPORTANT THAT YOU PAY CAREFUL ATTENTION TO ALL TESTIMONY
7 AND INTRODUCTION OF EVIDENCE SINCE YOU MUST JUDGE THE
8 CREDIBILITY OR BELIEVABILITY OF THE WITNESSES AND THE WEIGHT
9 TO GIVE ALL EVIDENCE INTRODUCED IN THIS CASE IN DETERMINING
10 THE TRUTH OF THE FACTS.

11 NOW, DURING THE TRIAL THE ATTORNEYS MAY OBJECT TO THE
12 ADMISSIBILITY OF CERTAIN TESTIMONY OR OTHER EVIDENCE. I
13 WILL EITHER SUSTAIN THE OBJECTION, WHICH MEANS I AGREE, AND
14 THE TESTIMONY OR EVIDENCE MAY NOT BE MADE PART OF THE RECORD
15 FOR YOUR CONSIDERATION, OR I WILL OVERRULE THE OBJECTION,
16 WHICH MEANS AS THE JUDGE OF THE LAW, I HAVE DETERMINED THAT
17 IT IS ADMISSIBLE AS PART OF THE RECORD FOR YOUR
18 CONSIDERATION. THE MERE FACT THAT I HAVE ADMITTED IT DOES
19 NOT MEAN THAT YOU MUST BELIEVE IT OR DISBELIEVE IT. I HAVE
20 SIMPLY DETERMINED THAT IT IS ADMISSIBLE UNDER OUR RULES, AND
21 IT IS UP TO YOU, THEN, TO BELIEVE IT OR DISBELIEVE IT AND
22 GIVE SUCH WEIGHT TO IT AS YOU DEEM APPROPRIATE.

23 AT THE CONCLUSION OF THE TRIAL WHEN WE SEND YOU TO THE
24 JURY ROOM, EVERY EXHIBIT THAT IS ADMITTED INTO EVIDENCE WILL
25 BE SENT TO THE JURY ROOM FOR YOU TO EXAMINE FURTHER AND TO

1 CONSIDER.

2 I REMIND YOU THAT AS JURORS IN THIS CASE IT WILL BE
3 YOUR EXCLUSIVE DUTY TO DETERMINE THE FACTS IN THIS MATTER
4 THROUGH YOUR EVALUATION OF THE EVIDENCE THAT IS RECEIVED
5 DURING THE COURSE OF THE TRIAL AND TO GIVE SUCH EVIDENCE
6 WHATEVER VALUE, WEIGHT OR EFFECT AS YOU DEEM APPROPRIATE
7 WITH THE GOAL OF REACHING THE TRUTH IN THIS MATTER.

8 LADIES AND GENTLEMEN OF THE JURY, WHATEVER YOUR VERDICT
9 IN THIS CASE, IT MUST BE YOUR UNANIMOUS VERDICT. ALL TWELVE
10 JURORS MUST AGREE ON THE VERDICT, WHICH THE FOREPERSON WILL
11 THEN BE AUTHORIZED TO WRITE ON BEHALF OF THE JURY.

12 NOW, LADIES AND GENTLEMEN OF THE JURY PANEL, YOU ARE
13 NOT TO DISCUSS THIS CASE AT ANY TIME DURING THE TRIAL UNTIL
14 I TELL YOU, AND THAT WILL NOT OCCUR UNTIL YOU HAVE RECEIVED
15 ALL OF THE EVIDENCE AND I HAVE INSTRUCTED YOU UPON THE LAW.
16 YOU SHOULD NOT DISCUSS THE CASE AMONG YOURSELVES AND YOU
17 SHOULD NOT DISCUSS IT WITH YOUR FAMILY, FRIENDS OR ANYONE
18 ELSE YOU MIGHT SEE ON A RECESS FROM COURT.

19 NOW, YOU MIGHT SAY, WELL, WHY CAN'T WE DISCUSS THE CASE
20 AMONG OURSELVES OR WHY CAN'T -- IF A FAMILY MEMBER FINDS OUT
21 WE'RE ON A JURY AND THEY WANT TO KNOW SOMETHING ABOUT THE
22 CASE WE'RE ON AND WE WANT TO TELL THEM ABOUT IT, WHY CAN'T
23 WE TELL THEM ABOUT IT?

24 THE PROBLEM IS THAT ONCE YOU START DISCUSSING THE CASE
25 AMONG YOURSELVES OR WITH ANYONE ELSE, INCLUDING FAMILY OR

1 FRIENDS, WHEN YOU START DISCUSSING THE CASE WITH THEM, THEN
2 YOU START FORMING OPINIONS AND YOU WOULDN'T BE FAIR TO BOTH
3 SIDES OF THIS CASE IF YOU DIDN'T WAIT 'TIL YOU'VE HEARD ALL
4 THE TESTIMONY AND EVIDENCE AND I'VE INSTRUCTED YOU UPON THE
5 LAW THAT APPLIES BEFORE YOU START FORMING OPINIONS. UNTIL
6 THEN, YOU SHOULD KEEP AN OPEN MIND AND WAIT UNTIL YOU HAVE
7 ALL THE INFORMATION YOU NEED TO MAKE A DECISION IN THIS CASE
8 BEFORE YOU START DISCUSSING THE CASE OR FORMING OPINIONS
9 ABOUT THE CASE.

10 NOW, IF YOU SHOULD OVERHEAR THE PARTIES, THE ATTORNEYS
11 OR WITNESSES TALKING ABOUT THE CASE OUTSIDE OF THE
12 COURTROOM, YOU SHOULD NOT LISTEN AND MOVE AWAY FROM THEM.
13 IF ANYONE SHOULD DELIBERATELY TRY TO DISCUSS THE CASE WITH
14 YOU, YOU SHOULD NOT DISCUSS IT WITH THEM, BUT LEAVE AND
15 REPORT THAT ATTEMPT TO ME THROUGH A BAILIFF OR THE CLERK OF
16 COURT, AND I WILL DEAL APPROPRIATE WITH THAT PERSON. NO ONE
17 SHOULD TRY TO DISCUSS THE CASE WITH YOU. IF THEY DO, I
18 CERTAINLY WANT TO BE MADE AWARE OF IT.

19 IF THERE SHOULD BE ANY MEDIA COVERAGE OF THIS TRIAL,
20 AND THERE MAY VERY WELL BE MEDIA COVERAGE OF THIS TRIAL, IF
21 THERE'S MEDIA COVERAGE OF THIS TRIAL, PLEASE DO NOT READ,
22 LISTEN TO OR WATCH ANY MEDIA ACCOUNT OF THIS TRIAL UNTIL
23 AFTER THE TRIAL IS OVER. IF SOMEONE WANTS TO SAVE IT FOR
24 YOU UNTIL AFTER THE TRIAL AND THE VERDICT IS IN, THEN YOU'RE
25 WELCOME TO READ, LISTEN TO OR WATCH ANY MEDIA ACCOUNT OF THE

1 TRIAL AT THAT TIME. BUT WHILE THE TRIAL IS GOING ON, FROM
2 THIS POINT FORWARD, PLEASE DO NOT READ, LISTEN TO OR WATCH
3 ANY MEDIA ACCOUNT OF THIS TRIAL UNTIL AFTER THE TRIAL IS
4 OVER.

5 NOW, I TELL YOU IF I'M AWARE THAT THERE'S BEEN SOME
6 MEDIA COVERAGE OF THIS TRIAL, I MAY VERY WELL ASK YOU IF
7 ANYBODY HAS READ, LISTENED TO OR WATCHED ANY MEDIA ACCOUNT
8 OF THIS TRIAL AND IF YOU HAVE TO TELL ME THAT YOU HAVE, THEN
9 THAT'S GOING TO CAUSE US A PROBLEM IN THIS CASE, SO PLEASE
10 DO NOT READ, LISTEN TO OR WATCH ANY MEDIA ACCOUNT OF THIS
11 TRIAL UNTIL IT'S OVER. IF SOMEONE WANTS TO SAVE IT FOR YOU,
12 THAT'S FINE, BUT DON'T DISCUSS IT WITH ANYONE, PLEASE.
13 THAT'S VERY, VERY IMPORTANT. YOU MUST MAKE YOUR DECISION IN
14 THIS CASE SOLELY ON THE SWORN TESTIMONY AND EVIDENCE THAT
15 COMES IN DURING THE COURSE OF THE TRIAL, INCLUDING ANY
16 EXHIBITS WHICH HAVE BEEN ADMITTED, ANY STIPULATIONS OF
17 COUNSEL, AND FROM NO OTHER SOURCE. THAT'S VERY IMPORTANT.

18 ALL RIGHT. THANK YOU FOR YOUR ATTENTION. LET ME GIVE
19 YOU A COUPLE OF HOUSEKEEPING MATTERS. NOW, IF YOU NEED TO
20 BRING UP A MATTER TO THE COURT, WHAT I WOULD ASK YOU TO DO
21 IS -- WE'LL APPOINT A FOREPERSON IN THE MORNING AND THE
22 FOREPERSON WILL SERVE AS SPOKESPERSON FOR THE JURY BACK TO
23 THE COURT, BUT IF ANYBODY HAS A MATTER THAT NEEDS TO COME TO
24 THE ATTENTION OF THE COURT FROM YOU OR THE JURY, YOU CAN
25 WRITE THAT MESSAGE DOWN ON A TABLET PROVIDED FOR YOU BACK IN

1 THE JURY ROOM; YOU GIVE THAT WRITTEN MESSAGE TO THE BAILIFF;
2 THE BAILIFF WILL BRING IT TO ME AND I'LL PROBABLY CORRESPOND
3 IN LIKE MANNER OR I'LL BRING YOU BACK OUT IN THE COURTROOM
4 AND RESPOND. THAT'S HOW WE SHOULD COMMUNICATE IN THIS CASE.

5 NOW, IF YOU -- WE TRY TO TAKE A BREAK ABOUT EVERY HOUR
6 AND A HALF. IF YOU NEED A BREAK BEFORE THE TIME A BREAK IS
7 TAKEN, PLEASE RAISE YOUR RIGHT HAND AND LET ME KNOW AND
8 YOU'LL KNOW I'LL TAKE A BREAK AS QUICKLY AFTER THAT AS I
9 CONVENIENTLY MAY DO SO.

10 IF YOU CANNOT HEAR OR SEE SOMETHING DURING THE COURSE
11 OF THE TRIAL THAT YOU NEED TO SEE AND HEAR, PLEASE DO NOT
12 HESITATE TO RAISE YOUR RIGHT HAND AND LET ME KNOW AND I'LL
13 MAKE SURE YOU'RE ABLE TO SEE AND HEAR SO YOU CAN PROPERLY DO
14 YOUR JOB. I TRY TO ANTICIPATE THAT, BUT SOME OF YOU ARE
15 MUCH FURTHER FROM THE WITNESS STAND AND THE ATTORNEYS THAN I
16 AND I MAY MISS THAT. SO DON'T HESITATE TO RAISE YOUR HAND
17 AND LET ME KNOW IF YOU CAN'T HEAR OR SEE AND WE'LL MAKE SURE
18 YOU ARE ABLE TO SEE AND HEAR SO YOU CAN PROPERLY DO YOUR
19 JOB.

20 NOW, IF YOU -- WHEN YOU COME BACK IN THE MORNING, IF
21 YOU HAVE SOMETHING TO DRINK BACK IN THE JURY ROOM AND YOU
22 WANT TO BRING IT BACK INTO THE JURY BOX, I'LL ALLOW YOU TO
23 DO THAT. SO IF YOU GOT COFFEE, WATER, COKE OR WHATEVER, IF
24 YOU WANT TO BRING IT BACK TO THE JURY BOX TO SIP ALONG AS WE
25 GO THROUGH THE TRIAL, YOU'RE WELCOME TO DO THAT. COUNSEL

1 AND MYSELF WILL BE SIPPING ON WATER AS WE GO THROUGH THE
2 TRIAL. IF YOU WANT TO BRING SOMETHING BACK TO DRINK WITH
3 YOU, YOU'RE WELCOME TO DO THAT.

4 NOW, I'M GOING TO ASK YOU AT THIS TIME -- I'M GOING TO
5 EXCUSE YOU AT THIS TIME TO GO WITH THE BAILIFF. THE BAILIFF
6 WILL SHOW YOU THE JURY ROOM OR WHERE TO COME BACK TO IN THE
7 MORNING AND I WOULD ASK YOU TO BE BACK IN THE JURY ROOM
8 READY TO GO PROMPTLY AT 9:30 AND WE'LL TRY TO GET STARTED
9 PROMPTLY AT 9:30. PLEASE TRY TO BE ON TIME. WE CAN'T START
10 'TIL EVERY SINGLE JUROR IS PRESENT, SO PLEASE BE ON TIME
11 AND, AGAIN, I'LL REMIND YOU, PLEASE DON'T DISCUSS THIS CASE
12 WITH ANYONE DURING THE OVERNIGHT RECESS. PLEASE RETIRE AT
13 THIS TIME.

14 (JURY OUT AT 4:05 P.M.)

15 THE COURT: I'M GOING TO TRY TO GET THROUGH BY FIVE,
16 BUT DOES ANYBODY NEED ABOUT A FIVE-MINUTE BREAK BEFORE WE
17 ACTUALLY GET STARTED WITH MOTIONS? EVERYBODY USE A BREAK?
18 LET'S JUST TAKE FIVE QUICK MINUTES AND COME RIGHT BACK.

19 (WHEREUPON, A BRIEF RECESS WAS OBSERVED)

20 THE COURT: COUNSEL, DO YOU KNOW HOW YOU WANT TO
21 PROCEED ON THIS? DO YOU WANT BRING THE --

22 MR. STALEY: YEAH. I'D LIKE TO BRING HIM OUT AS I
23 ADDRESS THE COURT.

24 THE COURT: AND LET -- AND ADDRESS THE COURT MUCH IN
25 THE SAME WAS AS MR. DEST ADDRESSED THE COURT CONCERNING HIS

1 CLIENT?

2 MR. STALEY: YES, SIR, YOUR HONOR. I DO NOT INTEND ON
3 CALLING HIM. IF THE COURT IS INCLINED TO DO THAT AT SOME
4 POINT AFTER WHAT I SAY, I THINK WILL MAKE A GOOD POINT, BUT
5 IN ANY EVENT I DO WANT HIM PRESENT AS I PUT OUR
6 CONVERSATIONS AND MY ADVICE TO HIM ON THE RECORD, AND ALSO
7 JUST A BRIEF FACTUAL SCENARIO WHICH OF YOUR HONOR'S AWARE,
8 BUT I WANT THE RECORD TO BE CLEAR.

9 THE COURT: ALL RIGHT. CAN YOU BRING OUT DESMOND
10 CAMPBELL?

11 MR. STALEY: DESMOND CAMPBELL. YOUR HONOR, I'M HAROLD
12 STALEY. I'M WITH THE FIRM OF ELROD, JONES, LEADER AND
13 BENSON. FOR PURPOSES OF THE RECORD, STEPHEN COX OF
14 ROBINSON, BRADSHAW WAS ORIGINALLY APPOINTED TO REPRESENT MR.
15 CAMPBELL. I HAVE -- THAT -- WE FILED A MOTION AND I ASSUMED
16 THAT APPOINTMENT AND MR. COX RECEIVED CREDIT FOR THIS
17 APPOINTMENT.

18 EARLY ON IN THIS CASE, YOUR HONOR, I ENDEAVORED TO
19 REPRESENT MR. CAMPBELL TO THE BEST OF MY ABILITY. ON MARCH
20 3RD, 2005, WE CAME TO COURT AND WE ENTERED INTO AN AGREEMENT
21 WITH THE STATE AND PURSUANT TO THAT AGREEMENT, MY CLIENT
22 PLED GUILTY TO ACCESSORY AFTER THE FACT AND AGREED TO
23 TESTIFY TRUTHFULLY, WHICH WOULD BE IN ACCORDANCE TO WHAT HIS
24 STATEMENT THAT HE GAVE, AT LEAST ON THE DATE THAT HE WAS
25 ARRESTED.

1 AT THE DATE OF THIS HEARING ON MARCH 3RD, 2005, THE
2 SOLICITOR ACTIVELY READ INTO THE RECORD THEIR VERSION OR THE
3 FACTS AS THEY BELIEVED THE TRUTH WAS. MY CLIENT, UNDER OATH
4 AT THAT TIME, ADMITTED THAT THOSE WERE THE TRUTHS. AT THIS
5 POINT, YOUR HONOR, AT SOME POINT THERE BECAME SOME
6 CONFUSION, I THINK, AS TO WHETHER OR NOT MY CLIENT WAS
7 WILLING TO CONTINUE TO COOPERATE.

8 IN EARLIER CONVERSATIONS WITH THE STATE, YOU KNOW, MY
9 CLIENT TODAY INDICATED A DESIRE TO CONTINUE TO LIVE UP TO
10 THE TERMS OF THAT AGREEMENT, TO TELL THE TRUTH WHICH WOULD
11 BE CONSISTENT WITH WHAT HE TESTIFIED MARCH 3RD WHEN HE PLED
12 GUILTY TO ACCESSORY AFTER THE FACT.

13 I HAVE EXPLAINED TO MY CLIENT THAT THE STATE'S POSITION
14 WAS IS THAT THIS PLEA AGREEMENT IS ALREADY REVOKED. I HAD
15 AN OPPORTUNITY TO READ SOME CASES, PULLED SOME SOURCES AT
16 LUNCH TIME AND I APPRECIATE YOUR HONOR EXTENDING THAT TIME
17 PERIOD TO ME. I DON'T THINK IT'S THAT CLEAR-CUT. I'VE
18 ADVISED MY CLIENT THAT I FELT THAT IF HE'D COME TODAY, TAKE
19 THE STAND, FIRST OF ALL, WILL LET BOTH PARTIES KNOW WHAT IS
20 EXPECTED OF HIS TESTIMONY. AT THAT POINT I THOUGHT HE WOULD
21 BE IN A PRETTY GOOD POSITION TO ARGUE THAT THE PLEA
22 AGREEMENT WAS STILL ENFORCEABLE AND SHOULD BE HONORED.

23 MY CLIENT, DESPITE -- AND I ALSO FELT LIKE HIS
24 TESTIMONY BEING CONSISTENT WITH WHAT HE'S ALREADY SAID UNDER
25 OATH WOULD NOT LATER DOWN THE ROAD CAUSE HIM ANY FURTHER

1 DAMAGE.

2 I'VE ADVISED MY CLIENT OF THOSE THINGS AND GIVEN HIM
3 ADVICE. MY CLIENT, HOWEVER, BELIEVES THAT THE STATE'S
4 POSITION THAT THE OFFER IS REVOKED, THAT HE'S IN A
5 SITUATION, BY COMING IN HERE AND TESTIFYING TO WHATEVER AND
6 THEN TURNING AROUND AND BEING CHARGED WITH MURDER, IS NOT
7 PURSUANT TO THE AGREEMENT AND IT IS HIS POSITION THAT THEY
8 ARE THE ONES THAT ARE REVOKING THAT AGREEMENT.

9 MY CLIENT, YOUR HONOR, IS HERE. I DO NOT INTEND TO
10 CALL HIM TO THE STAND. I HAVE INSTRUCTED MY CLIENT, BASED
11 ON HIS POSITION AND HE HAS TOLD ME HE WILL ASSERT THE FIFTH
12 ON ANY QUESTIONS THAT ARE PRESENTED TO HIM TODAY BY YOUR
13 HONOR, BY DEFENSE COUNSEL OR THE STATE, BECAUSE AT THIS
14 POINT, REGARDLESS OF WHAT HAPPENS WITH THE PLEA NEGOTIATIONS
15 OR THE PREVIOUS AGREEMENT, HE'S, WITHOUT A DOUBT, WOULD BE
16 FACING CONSPIRACY TO COMMIT MURDER REGARDLESS OF WHETHER OR
17 NOT THE PLEA CAN BE SET ASIDE NOW THAT IT'S OVER A MONTH
18 OLD, BUT HE'S HERE. HE'S OUT HERE. I WANTED HIM PRESENT AS
19 I TOLD YOU EXACTLY WHAT MY ADVICE TO HIM WAS, WHAT HIS
20 POSITION IS. I'VE TOLD HIM EVERYTHING THAT WE JUST TALKED
21 ABOUT, BUT IT'S -- HE'S GOING TO PLEAD THE FIFTH AND IT'S MY
22 UNDERSTANDING HE HAS INSTRUCTED ME THAT HE'S GOING TO TAKE
23 THE FIFTH ON ANY QUESTIONS THAT ARE DIRECTED TO HIM. AND HE
24 DOES NOT INTEND ON EITHER BEING CALLED TODAY, TOMORROW OR
25 ANY TIME THIS WEEK UNLESS THE STATE IS WILLING TO TELL HIM

1 THAT THEY ARE WILLING TO HONOR THAT AGREEMENT AND ARE
2 WILLING TO SAY IF HE WERE TO TESTIFY, WHAT THE ORIGINAL
3 AGREEMENT WAS TRUTHFULLY, THAT THEY WILL HONOR THAT AND NOT
4 COME AFTER HIM AND SEEK LIFE WITHOUT PAROLE ON MURDER.

5 THAT'S OUR POSITION, YOUR HONOR.

6 THE COURT: MR. CAMPBELL, YOU'VE HEARD WHAT YOUR
7 ATTORNEY HAS STATED TO THE COURT. DO YOU UNDERSTAND
8 EVERYTHING HE HAS SAID?

9 MR. DESMOND CAMPBELL: YES, SIR.

10 THE COURT: HAVE YOU HAD PLENTY OF OPPORTUNITY TO
11 DISCUSS ALL OF THIS WITH HIM?

12 MR. DESMOND CAMPBELL: YES, SIR.

13 THE COURT: WELL, I -- YOU KNOW, HE'S GOING TO HAVE TO
14 TAKE WHATEVER POSITION HE WANTS TO TAKE IN THE CASE, WHETHER
15 TAKING THE FIFTH IS IN COMPLIANCE WITH THE AGREEMENT OR NOT,
16 YOU KNOW, THAT'S -- ALL OF THAT, I GUESS, MIGHT HAVE TO BE
17 ADDRESSED AT A FUTURE TIME. IN ANY EVENT, HE'S FULLY
18 INFORMED AS TO THE ORIGINAL AGREEMENT AND WHAT HIS CURRENT
19 STATUS IS AND THAT, THEN THAT'S GOING TO BE BETWEEN HE AND
20 YOU, MR. STALEY, AS TO WHAT HE'S GOING TO DO.

21 MR. STALEY: WELL, YOUR HONOR, JUST FOR PURPOSES OF THE
22 RECORD, AS YOU WELL KNOW, I'VE BEEN ENGAGED IN CONVERSATIONS
23 WITH HIM SINCE THIS MORNING. I'VE BEEN HERE SINCE NINE
24 O'CLOCK, AND WE MET. I TALKED TO HIM OVER AT THE JAIL. I
25 TALKED TO HIM AT THIS TIME, CAME BACK OUT, ASKED THE COURT

1 TO GIVE ME LUNCH TIME SO I COULD PULL SOME CASES. WENT BACK
2 AND HAVE SPENT THE BETTER PART OF THE LAST HOUR TALKING
3 ABOUT EVERY ANGLE OF THIS AND HE DOES SO -- I'M CONFIDENT
4 THAT HE UNDERSTANDS EXACTLY WHAT'S GOING TO HAPPEN BY NOT
5 GOING FORWARD, THAT THE STATE'S GOING TO SEEK TO CHARGE HIM
6 WITH MURDER AND SEEK LIFE WITHOUT PAROLE.

7 THE COURT: ALL RIGHT, SIR. THANK YOU, SIR.

8 MR. POPE: PLEASE THE COURT, YOUR HONOR, I THINK THERE
9 IS PROBABLY SOME CLARITY STILL NEEDED----

10 THE COURT: WAIT, WAIT JUST A MINUTE BEFORE WE PUT HIM
11 UP.

12 MR. POPE: ----FOR MR. CAMPBELL WHILE HIS ATTORNEY'S
13 STILL PRESENT. I UNDERSTAND THAT HE'S STANDING HERE TODAY
14 SAYING HE'S NOW WILLING TO GIVE TRUE AND HONEST TESTIMONY,
15 BUT PART OF PARAGRAPH THREE OF HIS PLEA AGREEMENT ALSO
16 INDICATED THAT HE WOULD PROVIDE COMPLETE AND THOROUGH
17 COOPERATION AND MR. THOMPSON WENT, I THINK THIS PAST WEEK,
18 TO TALK TO MR. CAMPBELL IN PREPARATION FOR TODAY'S TRIAL, IN
19 WHICH MR. CAMPBELL GAVE HIM A TOTALLY DIFFERENT STORY.

20 THE DILEMMA WE'RE IN, WHEN YOU TALKING ABOUT WHETHER
21 PLEADING THE FIFTH IS COOPERATION OR NOT COOPERATION, WE
22 CAN'T EVEN GET TO THE BOTTOM OF WHY HE BECAME UNCOOPERATIVE
23 IN THIS SCENARIO, SO I GUESS I'M SAYING THAT FOR THE RECORD
24 AND I'M SAYING IT FOR MR. STALEY AND MR. CAMPBELL'S
25 CLARIFICATION, IS THE DIFFICULTY NOW BY PLEADING THE FIFTH,

1 BY NOT COOPERATING NOW TO EVEN GET TO THE BOTTOM OF IT,
2 CLEARLY ONCE AGAIN HE HAS INDEPENDENTLY VIOLATED IT
3 INDEPENDENT OF WHAT TRANSPIRED LAST WEEK. SO IT'D BE THE
4 STATE'S DESIRE TO PUT HIM ON THE STAND AND JUST QUESTION
5 CONCERNING -- AND THERE MAY BE AN EXPLANATION, BUT WHAT MR.
6 THOMPSON WAS TOLD LAST WEEK THAT WE IMMEDIATELY DISCLOSED TO
7 MR. WOODY AND HIS COUNSEL NEEDS TO BE ADDRESSED WITHIN THE
8 CORNERS OF THIS AGREEMENT.

9 I JUST -- I GUESS WHAT I DON'T WANT TO HAVE HAPPEN HE'S
10 SAYING HE'S HERE TO COOPERATE AND CLEARLY THAT HASN'T BEEN
11 THE CASE. IF THERE IS SOME OPPORTUNITY FOR HIM TO COOPERATE
12 TO MAKE IT RIGHT, AND I'M NOT HERE TO SAY THERE IS OR ISN'T,
13 HE CERTAINLY WON'T FORGO THAT OPPORTUNITY BY NEVER
14 ADDRESSING THIS ISSUE.

15 THE COURT: ALL RIGHT. AND YOU'RE TALKING ABOUT THE
16 SAME ISSUE THAT YOU RAISED WHEN DEBREZIO CAMPBELL CAME OUT?

17 MR. POPE: CORRECT, YOUR HONOR.

18 THE COURT: OKAY.

19 MR. STALEY: WELL, IT SOUNDS TO ME, YOUR HONOR, THAT
20 THE SOLICITOR, AND I'M NOT PUTTING WORDS IN MR. POPE'S
21 MOUTH, BUT IT SOUNDS TO ME HE'S SAYING, YOU KNOW, IF HE GETS
22 UP THERE AND WE LIKE WHAT HE SAYS AND WE THINK WE CAN USE
23 IT, THEN WE'RE WILLING TO MAYBE HONOR THE AGREEMENT, BUT THE
24 PROBLEM IS IS THAT, YOU KNOW, I'VE OFFERED TO ALLOW THEM TO
25 TALK TO HIM OUTSIDE OF COURT TO SEE IF THE PROBLEM I HAVE IS

1 THE CONVERSATIONS THAT DEAL WITH IF WE LIKE WHAT SAYS FOR
2 THE REASONS OF LAST WEEK, THE PRESSURES THAT MAY HAVE BEEN
3 PUTTING ON HIM OR WHATEVER OTHER REASONS, IF THOSE ARE VALID
4 REASONS AND WE LIKE THEM, THEN WE'RE OKAY. BUT IF WE DON'T,
5 HE'S UNDER OATH -- AND I'VE EXPLAINED TO MY CLIENT THAT I
6 FELT LIKE IN HIS BEST INTEREST, THAT IT WOULD BE IN HIS BEST
7 INTEREST TO DO SO, BECAUSE I DIDN'T THINK IT WOULD HURT HIM
8 IN THE LONG RUN VERSUS, YOU KNOW, IF HE TESTIFIES TO WHAT,
9 TRUTHFULLY, TO WHAT HIS PRIOR STATEMENTS WERE, HE'S ALREADY
10 SAID THAT ONE TIME IN COURT AND WE WENT THROUGH THAT. MY
11 CLIENT'S JUST NOT CONFIDENT AT THIS TIME THAT IF HE DOES
12 THAT, THE STATE'S NOT STILL GOING TO COME BACK AND SEEK A
13 LIFE WITHOUT PAROLE ON THE MURDER. I'VE EXPLAINED TO HIM.
14 I'VE PULLED A CASE. I THINK IT'S NOT AS CLEAR-CUT AND THERE
15 CERTAINLY WOULD BE AN ADDITIONAL HURDLE THEY WOULD HAVE TO
16 COME -- GET OVER IF HE WERE TO TESTIFY IN COURT AS HE
17 PREVIOUSLY AGREED TO DO. THERE IS -- YOU KNOW, IT'S NOT A
18 CLEAR-CUT CASE AND I'VE EXPLAINED THAT TO MY CLIENT, THAT
19 THAT MAKES IT EVEN MORE DIFFICULT FOR THE STATE, BECAUSE IN
20 SOME RESPECTS HE HAS COMPLIED AND, YOU KNOW, BUT BY NOT
21 DOING THAT, THAT ARGUMENT'S NOT THERE, BECAUSE IF THEIR
22 ARGUMENT IS LAST WEEK HE DIDN'T COOPERATE, WELL, HE MET WITH
23 THEM; HE TALKED TO THEM. HIS STORY MAY OR MAY NOT HAVE BEEN
24 DIFFERENT IN SOME RESPECTS, BUT THAT'S AN ARGUMENT AT AN
25 APPROPRIATE TIME THAT WILL BE ADDRESSED, WHETHER OR NOT THAT

1 CONSTITUTED COOPERATION. IF HE CAME TODAY, TESTIFIED IN
2 ACCORDANCE TO WHAT -- AND I'M JUST RETELLING YOU WHAT I'VE
3 ALREADY TOLD HIM. IF HE TESTIFIES TODAY CONSISTENT TO WHAT
4 THE AGREEMENT IS, I THINK IT'S HARDER FOR THE STATE, AND
5 I'VE EXPLAINED THAT TO HIM, BECAUSE HE HAS COMPLIED WITH THE
6 MAJORITY OF WHAT THE AGREEMENT WAS, AND THE ISSUE OF WHETHER
7 OR NOT HE DID OR DID NOT COOPERATE LAST WEEK WOULD BECOME AN
8 ISSUE THAT THEY WOULD HAVE TO DEAL WITH AT A LATER TIME.

9 I DON'T THINK IT'S CLEAR-CUT, JUDGE. I CAN'T TELL MY
10 CLIENT AS AN ATTORNEY THAT I'M ABSOLUTELY POSITIVE IF YOU
11 TAKE THE STAND TODAY AND YOU TESTIFY THAT WE'RE GOING TO WIN
12 THIS, BUT I CAN'T TELL MY CLIENT, YOU KNOW, EITHER THAT IF
13 HE DOES THAT, THAT WE WON'T WIN THAT ARGUMENT. I THINK THE
14 STATE WOULD HAVE A HURDLE TO GET OVER. I'VE EXPLAINED THAT
15 TO HIM, THAT I THINK IT'S IN HIS BEST INTEREST TO TAKE THE
16 STAND AND HAVE THE COURT CHARGE HIM TO -- IF THE COURT WERE
17 INCLINED, TO CALL HIM AS TO WHAT HIS TESTIMONY. I'M JUST
18 TRYING TO SAVE TIME. HE'S INDICATED TO ME, AND I -- HE'S
19 NOT INDICATED, EVEN ON -- BASED ON WHAT MR. POPE SAID NOR
20 WHAT I'VE SAID THAT HIS MIND HAS CHANGED AND HE WANTS TO DO
21 SO. HE'S INSTRUCTED ME THAT -- HE HAS TOLD ME THAT HE'S
22 GOING TO PLEAD THE FIFTH ON ANY QUESTIONS THE COURT WOULD
23 ASK, SO --

24 THE COURT: I -- READING BETWEEN THE LINES, I -- YOU
25 KNOW, THERE'S NO JURY HERE OR ANYTHING LIKE THAT. READING

1 BETWEEN THE LINES, I GUESS THE CONCERN OF THE SOLICITOR'S
2 OFFICE WOULD BE IF HE'S GIVEN A STATEMENT DIFFERENT FROM
3 THAT, IT MIGHT TURN AROUND AND BE USED AGAINST HIM IF HE
4 TESTIFIES NOW---

5 MR. STALEY: YES, SIR. MY --

6 THE COURT: ---TO IMPEACH HIM WITH AS TO WHETHER THAT
7 VIOLATES THE AGREEMENT IN AND OF ITSELF. I DON'T HAVE --
8 NOBODY'S TOLD ME THAT. I'M JUST KIND OF READING BETWEEN THE
9 LINES BASED ON WHAT WAS HANDED UP TO ME IN DEBREZIO
10 CAMPBELL'S CASE AND THEIR CONCERN WOULD BE ABOUT THAT. THE
11 QUESTION WOULD BE, YOU KNOW, WHETHER HE'S -- WHEN IS HE IN
12 COMPLIANCE WITH ANY AGREEMENT HE MIGHT HAVE WORKED OUT IN
13 THE SOLICITOR'S OFFICE AND WHAT IS COMPLIANCE, THOSE ISSUES
14 HAVE TO BE RESOLVED AND YOU AND YOUR CLIENT ARE GOING TO
15 HAVE TO MAKE A DECISION ON THAT OR HE'S GOING TO HAVE TO
16 MAKE A DECISION ON THAT---

17 MR. STALEY: JUDGE, I THINK THAT'S --

18 THE COURT: ---AS TO WHETHER HE'S IN COMPLIANCE OR
19 NOT, IF HE'S DOING WHAT HE AGREED TO DO AND IF HE WANTS TO
20 BE IN COMPLIANCE WITH THAT AGREEMENT.

21 MR. STALEY: ALL RIGHT.

22 THE COURT: AND IF HE DOES, WHETHER HE IS, IN FACT,
23 BEING IN COMPLIANCE WITH IT. NOW, THAT'S SOMETHING YOU-ALL
24 ARE GOING TO HAVE TO EVALUATE AND MAKE A DETERMINATION
25 YOURSELF. THE COURT CAN'T DO THAT, OBVIOUSLY, AND IF HIS

1 POSITION IS THAT HE'S GOING TO TAKE THE FIFTH AMENDMENT AND
2 NOT TESTIFY TO ANYTHING CONCERNING WHAT HAPPENED, THE
3 INCIDENT OF WHICH THE CURRENT CHARGES AROSE AND WE'RE
4 STARTING TRIAL ON TODAY, IF HE TAKES THAT POSITION, THAT'S
5 GOING TO BE A DECISION HE'S GOING TO HAVE TO MAKE, AND IT
6 COULD WEIGH AGAINST HIM IN FUTURE ARGUMENTS, BECAUSE
7 IF HE TAKES THE FIFTH, HE'S CERTAINLY NOT COOPERATING WITH
8 THE AGREEMENT THAT HE ENTERED INTO, 'CAUSE HE AGREED TO COME
9 IN AND TESTIFY TRUTHFULLY AND THAT THE PREVIOUS STATEMENT HE
10 GAVE WAS THE TRUTH AND HE SAID UNDER OATH IT WAS THE TRUTH
11 AT THE PLEA AGREEMENT AND IF HE DOESN'T COME IN TODAY TO
12 TESTIFY TO THE SAME THING, THEN THE QUESTION IS WHETHER HE'S
13 IN COMPLIANCE WITH THAT AGREEMENT. HE MAY NOT WANT TO BE IN
14 COMPLIANCE WITH THE AGREEMENT. I'M NOT SAYING THAT.

15 MR. STALEY: YES, YOUR HONOR.

16 THE COURT: BUT I'M SAYING IF HE WANTS TO BE IN
17 COMPLIANCE WITH THAT AGREEMENT, YOU KNOW, TAKING THE FIFTH,
18 IT'S CERTAINLY A QUESTION OF WHETHER THAT'S IN COMPLIANCE OR
19 NOT, BUT I'M NOT GOING TO MAKE THAT DETERMINATION.

20 MR. STALEY: AND, JUDGE, --

21 THE COURT: SOMEBODY'S GOING TO HAVE TO MAKE THAT
22 DETERMINATION, BUT YOU-ALL NEED TO EVALUATE IT AND MAKE YOUR
23 OWN DETERMINATION OF THAT.

24 MR. STALEY: JUDGE, I JUST WANT TO SAY FOR THE RECORD I
25 HAVE EVALUATED IT AND I -- EXACTLY WHAT YOU JUST SAID I'VE

1 EXPLAINED TO HIM AND EXPLAINED TO HIM THAT IF HE DOESN'T
2 TAKE -- THERE'S NO QUESTION, I THINK, AT THAT POINT THE
3 ARGUMENT THAT HE'S IN COMPLIANCE BECOMES A WEAK ARGUMENT.
4 YOU KNOW, I'VE EXPLAINED IT AND I DON'T THINK THERE WAS ANY
5 QUESTIONS. I ASKED HIM BACK THERE TO TELL ME EXACTLY WHAT
6 MY ADVICE WAS AND WHAT I TOLD HIM AND HE CAME BACK AND HE
7 TOLD ME EXACTLY WHAT I TOLD HIM, AND IT'S VERY MUCH INCLINED
8 TO WHAT YOU JUST SAID, YOUR HONOR. SO I DON'T THINK -- YOU
9 KNOW, I'VE GIVEN HIM THE BEST ADVICE I KNOW TO GIVE HIM.
10 HE'S MADE A CONSCIOUS DECISION, YOUR HONOR, AND HE HASN'T
11 INDICATED ANY DESIRE TO WANT TO CHANGE THAT. I WILL SAY
12 THIS: MY CLIENT IS WILLING TO MEET WITH THE SOLICITOR AT
13 ANY TIME TO DISCUSS IT PRIOR TO SEE WHETHER OR NOT -- YOU
14 KNOW, THE PROBLEM MY CLIENT HAS IS WHETHER OR NOT, YOU KNOW,
15 AN APPROPRIATE REASON FOR LAST WEEK CAN BE GIVEN, AND THAT'S
16 A CRAP SHOOT AND THAT'S THE PROBLEM HE'S HAVING. I THINK HE
17 WOULD BE BETTER OFF TAKING IT, TAKING THAT CHANCE, BUT MY
18 CLIENT DOES NOT FEEL COMFORTABLE DOING SO, YOUR HONOR.

19 THE COURT: ALL RIGHT. WELL, THE SOLICITOR MAY WANT TO
20 MEET WITH HIM. I DON'T KNOW. I'LL LEAVE THAT UP TO THEM.

21 MR. POPE: YOUR HONOR, I THINK --

22 THE COURT: I'M NOT GOING TO -- I DON'T THINK WE NEED
23 TO DO ANYTHING ELSE TODAY. WE'VE GOT A LITTLE TIME, BECAUSE
24 HE'S NOT BEING CALLED TO TESTIFY JUST YET. CERTAINLY THE
25 STATE, THOUGH, IF THEY WERE GOING TO USE HIM AS A WITNESS,

1 THEY CERTAINLY WOULD WANT TO CALL HIM IN THEIR CASE IN CHIEF
2 IF THEY WERE GOING TO USE HIM AS A WITNESS, AND IF THEY
3 DIDN'T CHOOSE TO USE HIM, THERE'S A QUESTION WHETHER THE
4 DEFENSE WILL CALL HIM AS A WITNESS OR NOT AND THEN IT WOULD
5 BE THEIR BURDEN. WE'LL HAVE JUST A LITTLE BIT MORE TIME, IT
6 APPEARS TO ME, MAYBE, AND BOTH HE AND THE SOLICITOR CAN
7 THINK ABOUT THEIR POSITIONS. I DON'T -- IT'S NOT UP TO THE
8 COURT; IT'S UP TO THE SOLICITOR AND IT'S UP TO HIM AS TO
9 WHAT POSITION HE'LL TAKE, BUT YOU'LL HAVE A LITTLE BIT MORE
10 TIME TO DO THAT. I THINK YOU'VE THOROUGHLY EXPLAINED IT TO
11 YOUR CLIENT AND I THINK HE UNDERSTANDS IT.

12 DO YOU UNDERSTAND, MR. CAMPBELL?

13 MR. DESMOND CAMPBELL: YES, SIR.

14 THE COURT: DO YOU HAVE ANY QUESTIONS FOR THE COURT?

15 MR. DESMOND CAMPBELL: NO, SIR.

16 THE COURT: ALL RIGHT, SIR. ALL RIGHT.

17 MR. STALEY: THANK YOU, JUDGE.

18 THE COURT: LET'S PROCEED ON WITH ANY OTHER PRE-TRIAL
19 MOTIONS, PLEASE, SOLICITOR.

20 MR. POPE: PLEASE THE COURT, YOUR HONOR, WE HAD A
21 NUMBER OF MOTIONS PENDING WITH BOTH SIDES AND I CAN TRY TO
22 RUN THROUGH THEM AND I THINK WE HAVE ONE WITNESS TO ADDRESS
23 MOST OF THE DEFENSE MOTIONS. MR. DELGADO HAS MADE A MOTION
24 OF SEQUESTRATION AS TO ALL THE WITNESSES AND I DON'T HAVE
25 ANY OBJECTION TO THAT AS LONG AS IT'S RECIPROCAL. I WOULD

1 NOTE THAT WE HAVE FAMILY MEMBERS, WHICH UNDER THE VICTIMS'
2 BILL OF RIGHTS I DON'T THINK WOULD BE COVERED BY THAT, AND I
3 DON'T MIND WORKING WITH MR. DELGADO TO DELINEATE WHO ON HIS
4 POTENTIAL LIST WOULD BE. CHARLENE BLACKWELDER'S OUR CASE
5 AGENT AND MERRY COLLINS IS THE INVESTIGATOR WITH MY OFFICE.
6 I NOTICED THAT SHE WAS ON MR. DELGADO'S LIST, I ASSUME,
7 BECAUSE OF THE MR. CAMPBELL ISSUES AND WE PROVIDED -- SHE
8 WAS PRESENT AND WE PROVIDED THE INFORMATION AND I UNDERSTAND
9 THAT; BUT I WOULD REQUEST THAT SHE BE ALLOWED TO REMAIN --

10 MR. DELGADO: THAT'S FINE, YOUR HONOR.

11 THE COURT: WELL, LET ME POINT THIS OUT TO YOU, BECAUSE
12 WE'VE RUN INTO A PROBLEM FROM TIME TO TIME. LET ME EXPLAIN
13 WHAT SEQUESTRATION IS TO THOSE WHO WILL TESTIFY.
14 SEQUESTRATION MEANS THAT A PERSON WILL NOT BE IN THE
15 COURTROOM UNTIL AFTER THEY TESTIFY OTHER THAN THE EXCEPTIONS
16 THAT WE MAKE. THEY'RE ALLOWED TO BE IN THE COURTROOM
17 PURSUANT TO LAW, BUT THEY WILL NOT BE IN THE COURTROOM WHEN
18 OTHERS ARE TESTIFYING, BUT, ALSO, THEY WILL NOT DISCUSS,
19 ONCE THEY'VE TESTIFIED, THEY WILL NOT GO BACK AND TELL OTHER
20 POTENTIAL WITNESSES WHO HAVE NOT TESTIFIED WHAT THEIR
21 TESTIMONY IS OR WHAT WAS GOING ON IN THE COURTROOM -- WAS
22 GOING ON, WHAT QUESTIONS WERE ASKED, WHAT THEIR TESTIMONY
23 WAS OR ANYTHING ELSE ABOUT IT, AND SO THAT MEANS FAMILY
24 MEMBERS, SO THEY CAN'T GO TALK TO A FAMILY MEMBER AND THAT
25 FAMILY MEMBER THEN GO TALK TO THE OTHER WITNESSES AND TELL

1 THEM WHAT'S GOING ON. SO SEQUESTRATION MEANS NOT ONLY NOT
2 BEING THE COURTROOM UNTIL AFTER YOU TESTIFY, BUT ALSO NOT
3 DISCUSSING YOUR TESTIMONY, WHAT WENT IN WITH YOUR TESTIMONY,
4 INCLUDING QUESTIONS ASKED OF YOU, WITH ANYONE ELSE WHO IS A
5 WITNESS IN THE CASE WHO HAS NOT TESTIFIED, OR, REALLY, WITH
6 ANYONE ELSE IS THE BEST POLICY, IT APPEARS TO ME, BECAUSE IF
7 YOU GO TALK TO A FAMILY MEMBER, THEN THAT FAMILY MEMBERS
8 GOES AND TALKS TO THEM, THEN TECHNICALLY THAT WOULDN'T BE A
9 VIOLATION OF THE SEQUESTRATION RULE BECAUSE YOU HAVEN'T
10 DISCUSSED IT WITH A WITNESS WHO HASN'T TESTIFIED, BUT YOU
11 DON'T KNOW WHO'S GOING TO BE A WITNESS. SO THE BEST THING
12 TO DO IS JUST NOT DISCUSS ANY TESTIMONY WITH ANYBODY.

13 MR. POPE: AND I WILL ADDRESS THAT. I KNOW THE FAMILY
14 -- I WILL TALK WITH THEM AFTER COURT AND EXPLAIN THAT ISSUE.
15 SOME OF THE FAMILY MEMBERS ARE POTENTIALLY WITNESSES AND,
16 LIKE I SAID, THEY WOULD BE PRESENT, BUT I'LL
17 EXPLAIN THAT AS WELL AS PERHAPS FRIENDS OF THE FAMILY THAT
18 ARE WITNESSES, AND I'LL DISCUSS THAT WITH THE FAMILY. ALSO,
19 IF MR. DELGADO WOULD DO THE SAME FOR MR. WOODY'S FAMILY.

20 THE COURT: ALL RIGHT. AND THERE ARE A COUPLE OTHER
21 THINGS TO REMEMBER ABOUT THAT AS FAR AS SEQUESTRATION IS
22 CONCERNED. WELL, LET ME SAY THIS TO YOU: I WOULD LIKE TO
23 ASK THAT ANYBODY WHO MIGHT BE A WITNESS IN THIS CASE, ANY
24 FAMILY MEMBERS FROM EITHER SIDE OF THE CASE AND THAT SORT OF
25 THING, ARE NOT TO BE STANDING AROUND OUTSIDE THE COURTROOM

1 DISCUSSING THE CASE WHERE JURORS ARE PRESENT. WE'VE HAD
2 THAT COME UP FROM TIME TO TIME, SO PLEASE AVOID THOSE
3 DISCUSSIONS OUT THERE WHERE THE JURY MIGHT BE IN YOUR
4 PRESENCE OR COMING BY OR WALKING BY. AVOID THOSE KIND OF
5 STATEMENTS OR CONVERSATION WHEN IT'S GOING ON. ALL RIGHT.
6 THANK YOU.

7 MR. POPE: YOUR HONOR, MR. DELGADO HAS TWO OTHER
8 MOTIONS CONCERNING THE MOTION TO SUPPRESS STATEMENTS WHICH
9 REQUIRE A JACKSON VERSUS DENNO HEARING AND A SUPPRESSION
10 MOTION FOR THE FIREARM THAT WAS RECOVERED FROM MR. WOODY'S
11 VEHICLE, AND I HAVE CHARLENE BLACKWELDER HERE TO TESTIFY ON
12 THOSE ISSUES, BUT BEFORE THAT, THE STATE HAS A NUMBER OF
13 MOTIONS PENDING THAT I THINK WE COULD KNOCK OUT FAIRLY
14 QUICKLY. A MOTION FOR RECIPROCAL DISCOVERY.

15 MR. DELGADO: YOUR HONOR, I DON'T BELIEVE THERE'S
16 ANYTHING THAT THE STATE HAS NOT ALREADY GIVEN TO ME THAT I
17 INTEND TO INTRODUCE IN MY CASE IN CHIEF. I WILL AGAIN LOOK
18 AT THAT AGAIN TONIGHT, BUT I -- BECAUSE THIS THING'S GONE
19 BACK AND FORTH SO MUCH TODAY, I'M KIND OF STUNNED AS TO
20 WHERE I AM, BUT LET ME TAKE A LOOK AT THAT AGAIN TODAY, BUT
21 I DON'T BELIEVE THERE'S ANYTHING THAT THEY ALREADY HAVEN'T
22 GIVEN TO ME IN THE WAY OF BRADY THAT WOULD BE --

23 MR. POPE: AND FOR THE -- AND ADDRESSING BRADY AND ALL
24 KYLES, DURING THE PAST WEEK, NEEDLESS TO SAY, THERE'S BEEN
25 SOME NEW INFORMATION IN THE CAMPBELL SITUATION THAT WAS

1 FORWARDED TO MR. DELGADO. TO THE BEST OF OUR ABILITY, WE'VE
2 FORWARDED EVERYTHING EITHER ELECTRONICALLY OR BY PAPER AND
3 WE KEPT RECORDS OF THAT, BUT I THINK MR. DELGADO -- WE'VE
4 GIVEN HIM BASICALLY EVERYTHING WE HAVE IN THE FILE, AS THE
5 COURT KNOWS OUR APPROACH TO DISCOVERY.

6 WE ALSO HAVE A MOTION FOR ANY USE OF INSANITY AND,
7 AGAIN, INFORMALLY HE'S ADDRESSED THAT. I JUST WANT TO
8 ADDRESS THAT FOR THE RECORD. INSANITY OR GUILTY BUT
9 MENTALLY ILL.

10 MR. DELGADO: THAT WILL NOT BE A DEFENSE, YOUR HONOR.

11 MR. POPE: OKAY. AND, FINALLY, AS TO NOTICE OF ANY
12 ALIBI, WE HAVE NOT RECEIVED NOTICE OF ANY ALIBIS.

13 MR. DELGADO: THERE WILL NOT BE ANY ALIBI DEFENSE, YOUR
14 HONOR.

15 MR. POPE: YOUR HONOR, WITH THAT BEING ADDRESSED, I
16 THINK IN THE TIME WE HAVE REMAINING, I CAN CALL CHARLENE
17 BLACKWELDER ON BOTH THE ISSUE OF JACKSON VERSUS DENNO AND
18 THE MIRANDA ISSUE AND THE SEARCH OF THE PISTOL, THE SEARCH
19 OF THE CAR.

20 (CHARLENE BLACKWELDER, BEING FIRST DULY AFFIRMED, WAS
21 EXAMINED AND TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 CHARLENE BLACKWELDER BY MR. POPE:

24 Q. MS. BLACKWELDER, IF YOU WOULD, STATE YOUR NAME AND
25 SPELL YOUR LAST NAME, PLEASE, MA'AM.

1 A. CHARLENE BLACKWELDER, B-L-A-C-K-W-E-L-D-E-R.

2 Q. AND COULD YOU TELL THE COURT WHERE YOU'RE EMPLOYED?

3 A. ROCK HILL POLICE DEPARTMENT.

4 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

5 A. APPROXIMATELY SEVENTEEN YEARS.

6 Q. OKAY. AND I CALL YOUR ATTENTION BACK TO THIS
7 PARTICULAR CASE BACK IN JUNE OF LAST YEAR. WERE YOU
8 EMPLOYED WITH ROCK HILL POLICE DEPARTMENT AT THAT TIME?

9 A. YES, SIR; I WAS.

10 Q. IN WHAT CAPACITY?

11 A. CRIMES AGAINST PERSONS DETECTIVE.

12 Q. OKAY.

13 MR. POPE: YOUR HONOR, I'M GOING TO THE CHASE ON SOME
14 OF THIS WITH NO OBJECTION FROM THE DEFENSE AS FAR AS WHAT
15 SHE DOES IN HER DAY-TO-DAY JOB AND THINGS OF THAT NATURE.
16 Q. DID YOU HAVE AN OPPORTUNITY TO BE INVOLVED IN THIS
17 PARTICULAR INVESTIGATION THE NIGHT OF THE 26TH, ROLLING INTO
18 THE 27TH?

19 A. YES, SIR; I DID.

20 Q. OKAY. AND WHAT WAS YOUR INVOLVEMENT? WHAT WAS YOUR
21 JOB THAT EVENING?

22 A. I WAS PAGED IN BY LIEUTENANT HUTCHINSON TO ASSIST IN
23 TAKING STATEMENTS FROM WITNESSES AND THE CO-DEFENDANT AND ET
24 CETERA.

25 Q. OKAY. ULTIMATELY, DID YOU BECOME LIKE THE CASE OFFICER

1 OR CASE AGENT OR WHAT DO YOU CALL THAT AT YOUR AGENCY?

2 A. THE CASE AGENT.

3 Q. OKAY. AND SO WERE YOU PRETTY MUCH THE RECIPROCAL OR
4 THE RECEIVER OF ALL THE DIFFERENT INFORMATION THAT WAS
5 COMING IN?

6 A. THAT'S CORRECT.

7 Q. AND WHEN YOU CAME IN THAT NIGHT, WHAT TIME DID YOU COME
8 IN THAT EVENING? DO YOU RECALL?

9 A. IT WAS A LITTLE AFTER TEN P.M. CLOSE TO 10:30.

10 Q. OKAY. AND WHEN YOU CAME IN AT TEN P.M., WHAT
11 INFORMATION DID YOU RECEIVE OR WHAT DID YOU KNOW AS FAR AS
12 WHAT HAD TRANSPIRED AT PACES RIVER?

13 A. WE HAD DIFFERENT STATEMENTS. DIFFERENT DETECTIVES HAD
14 DIFFERENT PEOPLE. THERE WERE SEVERAL DIFFERENT -- CHRISTA
15 GRAY WAS PRESENT AT THE LAW CENTER, ALONG WITH HER SISTER,
16 TONYA GRAY, OMAR HALL. WE KNEW -- THERE WAS CHRISTA GRAY,
17 TONYA GRAY, OMAR HALL. I THINK MR. GRANT WAS PRESENT ALSO,
18 FLOYD GRANT. DIFFERENT WITNESSES WERE COMING IN DIFFERENT
19 TIMES, TAKING STATEMENTS, AND I KNEW THAT THERE HAD BEEN A
20 SHOOTING AT PACES RIVER AND THAT THERE WAS INFORMATION GIVEN
21 BY WITNESSES AND --

22 Q. AND WHAT INFORMATION WAS THAT?

23 A. I'M SORRY. INFORMATION ABOUT THE DEFENDANTS AND --

24 Q. DID THEY GIVE A VEHICLE DESCRIPTION?

25 A. THEY DID. THEY GAVE A VEHICLE DESCRIPTION. MS. GRAY

1 GAVE US A DESCRIPTION OF THE VEHICLE. MR. GRANT GAVE US A
2 DESCRIPTION OF THE VEHICLE, ALONG WITH THE NAMES OF DESMOND
3 AND DEBREZIO CAMPBELL. TONYA GRAY PROVIDED THE VEHICLE
4 INFORMATION, ALONG WITH THE TAG NUMBER. WHILE WE WERE
5 TALKING WITH HER AT THE LAW CENTER, SHE RECEIVED A PHONE
6 CALL ON HER CELL, PROVIDING INFORMATION THAT IT WAS A
7 VIRGINIA TAG. WE RAN THAT TAG, WHO THE VEHICLE CAME BACK
8 REGISTERED TO. WE HAD --

9 Q. NOW, WHEN YOU SAID A VIRGINIA TAG, YOU GOT A SPECIFIC
10 TAG NUMBER DURING THIS INVESTIGATIVE PORTION? YOU HAD A
11 SPECIFIC TAG NUMBER YOU WERE LOOKING FOR?

12 A. YES, SIR; WE DID.

13 Q. OKAY. AND, NOW, AS YOU'RE AT THE ROCK HILL POLICE
14 DEPARTMENT, WHAT WAS GOING ON AT THE CRIME SCENE, BASED ON
15 YOUR KNOWLEDGE OF THE INVESTIGATION? WHAT WAS GOING ON?
16 WHAT UNIT WAS WORKING THE CRIME SCENE?

17 A. CRIME SCENE UNIT. THE FORENSIC SERVICES UNIT WAS AT
18 THE CRIME SCENE PROVIDING US WITH INFORMATION. WHILE WE
19 WERE OBTAINING THE STATEMENTS FROM THE DIFFERENT WITNESSES,
20 KIM BROWN, OMAR HALL AND DESMOND CAMPBELL CAME TO THE ROCK
21 HILL POLICE DEPARTMENT VOLUNTARILY THEMSELVES AND WE
22 RECEIVED ADDITIONAL INFORMATION FROM THEM AND FROM MR.
23 CAMPBELL, DESMOND CAMPBELL, AS WELL AS WHO THE CO-DEFENDANTS
24 WERE INVOLVED IN THE SHOOTING.

25 Q. OKAY. SO FROM THE CRIME SCENE, DID YOU KNOW WHAT

1 CALIBER WEAPONS YOU WERE LOOKING FOR?

2 A. YES, SIR; WE DID.

3 Q. OKAY. WHAT WAS THAT?

4 A. WE KNEW THAT WAS .22 AND A .45, A .22 AUTOMATIC AND A
5 .45 AUTOMATIC.

6 Q. AND YOU WERE LOOKING FOR THESE GUNS. IN ADDITION, BY
7 -- AT THAT POINT YOU HAD NAMES AND A VEHICLE DESCRIPTION AND
8 ULTIMATELY A VEHICLE TAG; IS THAT CORRECT?

9 A. THAT WAS CORRECT; YES, SIR.

10 Q. OKAY. AND THEN WHEN DESMOND CAMPBELL AND WHO WERE THE
11 OTHER TWO INDIVIDUALS THAT COME TO ROCK HILL POLICE
12 DEPARTMENT?

13 A. KIM BROWN AND OMAR HALL.

14 Q. OKAY. WHEN YOU TALKED TO THEM, DID THEY TELL YOU
15 ANYTHING, PARTICULARLY DESMOND CAMPBELL, DID HE GIVE A
16 STATEMENT TO THE OFFICERS CONCERNING WHAT HAD ACTUALLY
17 TRANSPIRED IN THE ACTUAL SHOOTING OF THE VICTIM THAT DAY?

18 A. YES, SIR; HE DID. HE GAVE -- HE TOLD US EXACTLY WHAT
19 HAPPENED.

20 Q. OKAY. AND DID HE NAME THE OTHER INDIVIDUALS THAT WERE
21 INVOLVED?

22 A. HE NAMED DEBREZIO CAMPBELL AND HE NAMED THE OTHER
23 INDIVIDUAL AS WOODY WAS ALL HE KNEW AT THAT PARTICULAR TIME,
24 THAT THEY CALL HIM WOODY.

25 Q. OKAY. AND BASED ON THAT INFORMATION WHILE THIS WAS

1 GOING ON, WAS THERE A POINT TO ASSIST IN -- AT THE
2 INVESTIGATION OUT AT PACES RIVER, WAS THERE A POINT THAT YOU
3 ASSISTED IN COMPILING A SEARCH WARRANT THAT MR. HANOKA WAS
4 ACTUALLY, I THINK, DOING THE PHYSICAL TYPING ON?

5 A. THAT'S CORRECT.

6 Q. AND WAS THAT -- THIS WOULD NOW GO INTO THE MORNING
7 HOURS OF THE 27TH; IS THAT CORRECT?

8 A. 27TH, CORRECT.

9 Q. OKAY. AND DURING THOSE MORNING HOURS, WAS THERE A TIME
10 WHEN MR. HANOKA TOOK A SEARCH WARRANT FOR THE SCENE OVER AT
11 PACES RIVER TO YOUR CITY JUDGE OR NIGHT JUDGE?

12 A. THAT'S CORRECT.

13 Q. OKAY. AND WHO WAS THAT JUDGE?

14 A. DELORES WILLIAMS.

15 Q. OKAY. AND WHERE WAS SHE AT THAT TIME OF NIGHT?

16 A. SHE WAS AT HER RESIDENCE ON UNIVERSITY DRIVE IN ROCK
17 HILL, SOUTH CAROLINA.

18 Q. OKAY. AND SO YOU CONTACTED HER AND DID MR. HANOKA
19 ACTUALLY GO THERE? BASED ON YOUR KNOWLEDGE OF THE
20 INVESTIGATION, DID HE GO THERE AND GET A SEARCH WARRANT AT
21 THAT TIME?

22 A. YES, SIR; HE DID.

23 Q. OKAY. NOW, SUBSEQUENT TO THAT, AS YOU DEVELOPED
24 INFORMATION CONCERNING THE WHEREABOUTS OF THE CAMPBELL
25 BROTHERS AND POSSIBLY MR. WOODY, DID YOU DETERMINE A FOCUS

1 ON A DIFFERENT APARTMENT AREA?

2 A. THAT'S CORRECT; WE DID. THAT WAS THE STONE HAVEN
3 APARTMENTS. WE WERE GIVEN THAT INFORMATION BY, AGAIN, BY
4 CHRISTA GRAY, TONYA GRAY, MR. GRANT, KIM BROWN, WHICH HAD
5 PICKED DESMOND CAMPBELL UP FROM THE APARTMENT COMPLEX OF
6 STONE HAVEN APARTMENTS, OMAR HALL, AND WE WERE GIVEN
7 INFORMATION AS TO WHAT APARTMENTS DEBREZIO CAMPBELL WAS IN.
8 WE ALSO CHECKED OUR UTILITIES, WHICH SHOWED CAMPBELLS
9 RESIDING -- I BELIEVE IT WAS [REDACTED] OR [REDACTED]. KIMBERLY GREEN
10 WAS A COUSIN TO WHAT -- THE CAMPBELLS, I BELIEVE, OR HAD
11 INFORMATION ABOUT HIM. WE ALSO CHECKED UTILITIES FOR HER
12 ADDRESS AND CHECKED THAT LOCATION, AND WE HAD SHAQUAVIOUS
13 ROBINSON, WHICH WE KNEW TO BE THE GIRLFRIEND OF DEBREZIO
14 CAMPBELL, RESIDING AT [REDACTED] STONE HAVEN APARTMENTS, AND
15 AS A RESULT OF ALL THIS INFORMATION COMING IN, WE DID OBTAIN
16 SEARCH WARRANTS FOR THESE.

17 Q. OKAY. AND AS TO THOSE APARTMENTS, ULTIMATELY BASED ON
18 THE TOTALITY OF INFORMATION THAT YOU'VE DISCUSSED, YOU GOT
19 SEARCH WARRANTS FOR THREE DIFFERENT PLACES IN WHICH YOU'RE
20 LOOKING FOR MR. CAMPBELL?

21 A. YES, SIR.

22 Q. OKAY. AT THE SAME TIME, DID YOU HAVE AN OPPORTUNITY,
23 THE VEHICLE, THE DESCRIPTION YOU HAD, THE TAG THAT YOU HAD,
24 DID YOU HAVE AN OPPORTUNITY FOR AN OFFICER TO LOCATE THAT
25 VEHICLE AT STONE HAVEN?

1 A. THE VEHICLE WAS LOCATED BY ONE OF OUR UNIFORM OFFICERS
2 SITTING IN FRONT OF THE COMPLEX BUILDING OF [REDACTED], I BELIEVE,
3 WAS [REDACTED].

4 Q. AT SOME POINT DID YOU GO BACK TO THE CITY JUDGE, SOME
5 LATER -- I SAY IN THE EVENING. IT'S NOW THE MORNING HOURS
6 OF THE -- TWO, THREE O'CLOCK IN THE MORNING; CORRECT?

7 A. CORRECT.

8 Q. DID YOU, AT A SEPARATE TIME, GO FOR THE PURPOSE OF
9 OBTAINING WARRANTS FOR THE ITEMS OR POTENTIAL EVIDENCE THAT
10 YOU COULD FIND AT STONE HAVEN?

11 A. YES, SIR; I DID.

12 Q. OKAY. AND AS PART OF THAT, DID YOU GO AND OBTAIN FROM
13 HER, I BELIEVE, FOUR SEPARATE WARRANTS, THREE FOR APARTMENTS
14 AND ONE FOR THE VEHICLE OF MR. WOODY?

15 A. CORRECT; YES, SIR.

16 Q. OKAY. AND WHEN YOU WENT TO SEE HER THAT EVENING AT HER
17 RESIDENCE, DID YOU HAVE ALL FOUR WARRANTS, THE THREE FOR THE
18 APARTMENTS AND THE CAR? DID YOU HAVE ALL FOUR OF THOSE AT
19 THE SAME TIME?

20 A. I DID; YES, SIR.

21 Q. OKAY. AND DID YOU BRIEF HER ON -- OF COURSE, BY -- AT
22 THAT POINT SHE HAD ALREADY BEEN TALKING TO HANOKA PREVIOUSLY
23 ON THE FIRST SEARCH WARRANT; IS THAT CORRECT?

24 A. YES; THAT'S CORRECT.

25 Q. BUT DID YOU AGAIN TELL HER WHAT THE SITUATION WAS AS

1 FAR AS THE CRIME YOU WERE INVESTIGATING, THE NATURE OF THE
2 EVIDENCE -- IN OTHER WORDS, WHILE YOU WERE THERE, DID YOU
3 TELL HER THAT?

4 A. YES, SIR; I DID.

5 Q. AND SUBSEQUENTLY DID YOU PRESENT EACH OF THE FOUR
6 AFFIDAVITS, THREE FOR THE APARTMENTS AND THE ONE FOR THE
7 CAR, TO HER AND SWEAR OR ATTEST AS TO THE INFORMATION AS TO
8 THE PROBABLE CAUSE?

9 A. YES, SIR; I DID.

10 Q. OKAY.

11 MR. POPE: BEG THE COURT'S INDULGENCE.

12 Q. I FIRST SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 1,
13 2, 3 AND 4 FOR THE PURPOSE OF THIS HEARING, ASK IF YOU'VE
14 HAD THE OPPORTUNITY PREVIOUSLY TO LOOK AT THOSE.

15 A. YES.

16 Q. AND CAN YOU IDENTIFY THOSE?

17 A. THE FIRST ONE IS THE SEARCH WARRANT FOR THE APARTMENT
18 OF [REDACTED] STONEYPONTE DRIVE, WHICH IS MYSELF AS THE
19 AFFIANT.

20 Q. OKAY. WHAT IS THE NEXT ONE?

21 A. THAT WAS EXHIBIT 1.

22 Q. WHAT'S NUMBER 2?

23 A. NUMBER 2 IS THE SEARCH WARRANT FOR THE NISSAN MAXIMA OF
24 THE DEFENDANT, CHRISTOPHER WOODY.

25 Q. AND DID YOU HAVE THE TAG NUMBER AND THE INFORMATION

1 THAT YOU RAN, DID YOU HAVE THAT INFORMATION ON THAT ONE?

2 A. YES, SIR; I DID.

3 Q. ALL RIGHT. NUMBER 3?

4 A. NUMBER 3 IS -- IT'S AN ADDITIONAL SEARCH WARRANT FOR

5 [REDACTED], APARTMENT [REDACTED], STONEYPONTE, WHICH WAS ANOTHER

6 LOCATION THAT WE SEARCHED AND NUMBER 4 IS AN ADDITIONAL

7 SEARCH WARRANT FOR THE ADDRESS OF [REDACTED], APARTMENT [REDACTED],

8 STONEYPONTE, ALSO WHICH WAS SEARCHED.

9 Q. AND IN EACH OF THOSE, YOU WERE LOOKING FOR MR. CAMPBELL
10 OR EVIDENCE FROM THE CASE USED IN THE DESCRIPTION OF

11 PROPERTY, YOU WERE LOOKING -- I THOUGHT I SAW AT ONE POINT A

12 .25 -- YOU HAD SAID .22 EARLIER.

13 A. I'M SORRY.

14 Q. A .25 AND A .45?

15 A. CORRECT.

16 Q. SO IS IT .25 OR .22?

17 A. IT'S .25.

18 Q. OKAY. AND A .25 AND A .45. AND WHEN YOU TOOK THESE
19 FOUR TO THE JUDGE, OF COURSE, PREVIOUSLY THERE WAS THE ONE
20 FOR PACES RIVER WITH HANOKA. WHEN YOU TOOK THESE FOUR TO
21 THE JUDGE AND YOU SWORE AS AN AFFIANT TO ALL THESE, SHE WAS
22 PRESENTED WITH ALL FOUR OF THESE AT THE SAME TIME?

23 A. YES, SIR; SHE WAS.

24 Q. OKAY. AND DID YOU SWEAR TO THE PROBABLE CAUSE WITHIN
25 EACH ONE ALL AT---

1 A. I AFFIRMED, YES, SIR.

2 Q. ---THE SAME TIME? OR AFFIRMED? I'M SORRY.

3 A. YES, SIR.

4 MR. POPE: YOUR HONOR, THIS IS STATE'S EXHIBIT 1, 2, 3
5 AND 4 I'LL HAND UP TO THE COURT.

6 Q. OKAY. AND ONCE YOU RECEIVED THOSE FROM THE JUDGE, DID
7 YOU GO TO THE APARTMENT AND EXECUTE THE SEARCH WARRANTS, YOU
8 AND OTHER LAW ENFORCEMENT OFFICERS?

9 A. CORRECT; WE DID.

10 Q. OKAY. AND I BELIEVE IN THE ONE THAT MAY BE STATE'S
11 EXHIBIT 1 THAT REFLECTS APARTMENT 201,---

12 A. CORRECT.

13 Q. ---THAT WAS WHERE ULTIMATELY MR. CAMPBELL WAS LOCATED
14 AND YOU DETERMINED THEN THAT THAT WAS MR. WOODY THERE ALSO?

15 A. THAT'S CORRECT.

16 Q. OKAY. AND DID YOU DETERMINE MR. WOODY'S IDENTITY WHEN
17 YOU WERE THERE AT THE APARTMENT?

18 A. YES, SIR; WE DID. HE WAS PRESENT IN THE APARTMENT AND
19 WE ASKED HIM HIS NAME AND HE TOLD US CHRISTOPHER WOODY.

20 Q. OKAY. HOW DID -- HOW, IF AT ALL, DID HIS CLOTHING
21 CORRESPOND WITH WHAT YOU HAD --

22 A. HE HAD ON A RED SHIRT, WHICH -- HE HAD ON JEANS. HE
23 HAD WHAT THE WITNESSES DESCRIBED AS DREADLOCKS. HE ALSO --
24 DEBREZIO CAMPBELL HAD GIVEN US A DESCRIPTION OF WHAT HE WAS
25 WEARING. I'M SORRY. DESMOND CAMPBELL HAD GIVEN US A

1 DESCRIPTION OF WHAT HE WAS WEARING. THE WITNESSES HAD GIVEN
2 US A DESCRIPTION OF WHAT HE WAS WEARING. WE KNEW THE
3 VEHICLE IN FRONT OF THE APARTMENT COMPLEX WITH VIRGINIA TAGS
4 WAS A DESCRIPTION OF WHAT HE WAS SEEN GETTING INTO. HE HAD
5 A RED SHIRT AND JEANS ON AND HIS HAIR WAS IN CORN ROWS AND,
6 OF COURSE, HE IDENTIFIED HIMSELF AS CHRISTOPHER WOODY.

7 Q. OKAY. AND ONCE YOU THEN SEARCHED THE APARTMENTS AND
8 THEY WERE ARRESTED THERE, DID YOU THEN GO -- OR YOU AND THE
9 OFFICERS AND THE FORENSIC UNIT, DID YOU THEN EXECUTE THE
10 SEARCH OF THE VEHICLE?

11 A. YES, SIR; WE DID.

12 Q. OF COURSE, YOU HAD THE SEARCH WARRANT FOR THE VEHICLE?

13 A. YES, SIR.

14 Q. OKAY. IN ADDITION TO THAT SEARCH WARRANT AND THE
15 INFORMATION THAT YOU'VE INDICATED HERE, WHAT ADDITIONAL
16 INFORMATION -- ONCE YOU SEARCHED THE APARTMENT, WHAT
17 ADDITIONAL INFORMATION DID YOU HAVE TO CONNECT THE
18 DEFENDANTS TO THAT CAR?

19 A. CHRISTOPHER WOODY HIMSELF STATED THAT IT WAS HIS
20 VEHICLE.

21 Q. OKAY. AND AT THAT POINT, YOU HAD HAD THE NAME WOODY
22 AND THE CAMPBELL BROTHERS AND, OF COURSE, AGAIN, TO MAKE
23 CLEAR FOR THE RECORD, MR. DESMOND CAMPBELL HAD ACTUALLY COME
24 TO THE POLICE STATION AND SAID THAT HE, ALONG WITH THE OTHER
25 TWO INDIVIDUALS, WERE IN THE---

1 A. THAT'S CORRECT.

2 Q. ---CAR DURING THE CRIME; IS THAT CORRECT.

3 A. YES, SIR; THAT'S CORRECT.

4 Q. OKAY. AND BASED ON THAT PROBABLE CAUSE AND THE SEARCH
5 WARRANT, DID YOU, IN FACT, SEARCH THAT VEHICLE?

6 A. YES, SIR; WE DID.

7 Q. AND WAS A.45 CALIBER WEAPON, AMONG OTHER ITEMS,
8 RECOVERED FROM MR. WOODY'S VEHICLE?

9 A. YES, SIR; IT WAS.

10 Q. AT SOME POINT AFTER THAT, THIS IS NOW THE MORNING OF
11 THE -- SUNDAY THE 27TH. THAT PARTICULAR EVENING, DID YOU
12 HAVE AN OPPORTUNITY TO INTERVIEW MR. WOODY THAT EVENING?

13 A. NO, SIR.

14 Q. OR INTO THE MORNING HOURS?

15 A. NO, SIR.

16 Q. OKAY. POST ARREST, DID YOU TAKE A STATEMENT FOR HIM --

17 A. NO, SIR.

18 Q. -- FROM HIM? OKAY. ON TUESDAY THE 29TH, WHERE WAS MR.
19 WOODY AT THAT TIME?

20 A. HE WAS AT THE ROCK HILL POLICE DEPARTMENT IN THE --
21 BACK IN THE JAIL.

22 Q. OKAY. AND WHEN YOU WENT TO TALK TO MR. WOODY THEN, HAD
23 ANY TIME PRIOR TO THEN HAD HE GIVEN YOU ANY INDICATION OR
24 ANY OTHER LAW ENFORCEMENT OFFICER ANY INDICATION THAT HE DID
25 NOT WISH TO SPEAK TO ANYBODY?

1 A. NO, SIR.

2 Q. OKAY. THAT NIGHT OF THE ARREST, DID ANYBODY ATTEMPT TO
3 INTERROGATE HIM THEN?

4 A. NO, SIR.

5 Q. OKAY. DID ANYBODY READ HIM HIS MIRANDA RIGHTS THEN,
6 THE NIGHT OF THE ARREST?

7 A. NO, SIR.

8 Q. OKAY. AND WHY WAS THAT?

9 A. THERE -- WE DIDN'T QUESTION HIM ABOUT ANYTHING.

10 Q. OKAY. SO SUBSEQUENTLY ON THE 29TH, AGAIN ON THE
11 TUESDAY WHEN YOU WENT AND QUESTIONED HIM, DID HE APPEAR TO
12 UNDERSTAND WHAT YOU WERE SAYING?

13 A. YES, SIR.

14 Q. DID HE APPEAR TO UNDERSTAND WHAT YOU WERE DOING AS FAR
15 AS THAT YOU WERE WANTING TO DISCUSS THIS PARTICULAR CASE
16 WITH HIM?

17 A. YES, SIR.

18 Q. COULD YOU TELL THE COURT -- I WANT TO GO AHEAD AND HAND
19 UP STATE'S EXHIBIT 5. CAN YOU EXPLAIN TO THE COURT HOW THIS
20 FORM IS EXECUTED?

21 A. YES, SIR. THAT'S A STATEMENT OF THE DEFENDANT'S RIGHTS
22 AND I READ THEM TO MR. WOODY. AFTER I WENT AND GOT HIM OUT
23 OF JAIL, I READ THE STATEMENTS TO MR. WOODY VERBATIM WHAT'S
24 WRITTEN ON THE STATEMENT FORM. ON THE SECOND ONE, HE
25 PROVIDED ME WITH A VERBAL STATEMENT. I TYPED AS HE TOLD ME

1 WHAT HAPPENED. WHEN WE FINISHED THE STATEMENT -- DETECTIVE
2 BURRIS WAS IN AND OUT. WHEN WE FINISHED THE STATEMENT, I
3 HAD DETECTIVE BURRIS TO COME IN AND VERIFY THAT I READ HIM
4 HIS RIGHTS AND ASKED HIM DID I THREATEN HIM OR PROMISE HIM
5 ANYTHING TO MAKE THE STATEMENT AND HE SAID NO AND THEN HE
6 SIGNED THE STATEMENT OF HIS RIGHTS AND DETECTIVE BURRIS
7 WITNESSED IT.

8 Q. OKAY. AS FAR AS THE -- AND DID HE ASK MR. WOODY IF THAT
9 WAS HIS SIGNATURE OR---

10 A. YES, SIR.

11 Q. ---YOU ASKED HIM IN FRONT OF MR. BURRIS?

12 A. I ASKED MR. WOODY IN FRONT OF MR. BURRIS.

13 Q. OKAY. SO AS FAR AS THE ACTUAL STATEMENT ITSELF, YOU
14 TYPED THAT UP?

15 A. I TYPED THAT; YES.

16 Q. OKAY. AS FAR AS THE READING OF HIS RIGHTS,---

17 MR. POPE: AND, YOUR HONOR, IN THE INTEREST OF TIME,
18 MR. DELGADO'S GOT A COPY AND YOU HAVE A COPY BEFORE YOU.

19 Q. ---ARE THE RIGHTS ON THAT SHEET THAT HE SIGNED
20 UNDERNEATH, ARE THOSE THE RIGHTS THAT YOU READ?

21 A. YES, SIR. THAT'S THE RIGHTS THAT I READ.

22 Q. OKAY. DID HE APPEAR TO UNDERSTAND THEM?

23 A. YES, SIR.

24 Q. OKAY. THE WAIVER THAT HE EXECUTED WHEN HE ULTIMATELY
25 GAVE A STATEMENT, IS THE WAIVER ON THAT SHEET, STATE'S

1 EXHIBIT 5, IS THAT WHAT YOU READ?

2 A. YES, SIR.

3 Q. OKAY. AND HE SEEMED TO UNDERSTAND IT?

4 A. YES, SIR.

5 Q. DID HE INDICATE TO YOU, AND I THINK IT'S DESIGNATED
6 THERE, HIS EDUCATIONAL BACKGROUND?

7 A. MAY I SEE IT, PLEASE?

8 MR. POPE: CAN I SEE THAT JUST ONE SECOND, YOUR HONOR?

9 Q. DID HE INDICATE THAT --

10 A. YES, SIR.

11 Q. OKAY. AND HOW MANY YEARS OF SCHOOL HAS HE HAD?

12 A. FIFTEEN YEARS OF SCHOOLING.

13 Q. WAS THERE ANY DOUBT AT THAT TIME, THAT MORNING, AND
14 THIS IS AT 9:50 A.M.; IS THAT RIGHT?

15 A. CORRECT.

16 Q. WAS THERE ANY DOUBT THAT HE UNDERSTOOD WHAT YOU WERE
17 SAYING AS FAR AS READING, WRITING AND UNDERSTANDING THE
18 ENGLISH LANGUAGE?

19 A. NOT TO MY KNOWLEDGE, NO, SIR.

20 Q. IS THERE ANY INDICATION THAT HE WAS UNDER THE INFLUENCE
21 OF ANYTHING AT THAT TIME?

22 A. NO, SIR.

23 Q. OKAY. DID YOU PROMISE HIM ANYTHING IF HE WOULD GIVE
24 YOU A STATEMENT?

25 A. NO, SIR.

1 Q. OKAY. DID -- YOU SAID DETECTIVE BURRIS WAS IN AND OUT.
2 DID HE PROMISE ANYTHING?

3 A. NO, SIR.

4 Q. ANY TYPE OF LENIENCY IF HE WOULD GIVE A STATEMENT?

5 A. NO, SIR.

6 Q. DID YOU THREATEN HIM IN ANY WAY WITH A GREATER
7 PUNISHMENT IF HE WOULD GIVE A STATEMENT?

8 A. NO, SIR.

9 Q. OKAY. AND DID YOU THREATEN HIM IN ANY OTHER MANNER,
10 PHYSICALLY OR OTHERWISE, EITHER YOU OR DETECTIVE BURRIS?

11 A. NO, SIR.

12 Q. OKAY. WHERE DID THIS STATEMENT TAKE PLACE?

13 A. IT'D BE IN THE ROCK HILL POLICE DEPARTMENT, DETECTIVE
14 DIVISION. IT'S A ROOM ABOUT FIVE BY SEVEN MAYBE. IT'S A
15 DESK WITH A COMPUTER AND A CHAIR AND IT'S ACTUALLY INSIDE
16 THE DETECTIVE DIVISION.

17 Q. AND HOW MANY DOORS TO THAT ROOM?

18 A. TWO.

19 Q. OKAY. AND HOW WERE YOU DRESSED THAT DAY?

20 A. BASICALLY LIKE I AM NOW.

21 Q. OKAY. DID YOU HAVE A WEAPON ON THAT DAY?

22 A. NO, SIR. WHENEVER WE GO TO THE JAIL TO GET SOMEONE OUT
23 OF JAIL AND BRING THEM BACK, WE SECURE OUR WEAPON INSIDE OF
24 A GUN LOCKER.

25 Q. OKAY. FOR THE MAJORITY OF THIS INTERVIEW, OTHER THAN

1 MR. BURRIS WITNESSING, WHO WAS PRESENT FOR THE INTERVIEW?

2 A. JUST MYSELF AND MR. WOODY.

3 Q. OKAY. WERE THE DOORS OPEN OR SHUT?

4 A. THEY WERE OPEN.

5 Q. OKAY. WAS HE FREE AT ANY TIME TO STOP TALKING TO YOU?

6 A. YES, SIR; HE WAS.

7 Q. OKAY. DID HE WAIVE THOSE RIGHTS AS YOU INDICATE ON THE

8 FORM, THAT HE INDICATED ON THE FORM, AND WILLING TO GIVE YOU

9 A STATEMENT?

10 A. YES, SIR.

11 Q. AND YOU TOOK DOWN THAT STATEMENT?

12 A. I -- YES, SIR; I DID.

13 Q. DID HE HAVE AN OPPORTUNITY TO REVIEW IT WHEN YOU GOT

14 THROUGH?

15 A. YES, SIR.

16 Q. TO MAKE ANY CHANGES IF HE WANTED TO?

17 A. YES, SIR.

18 Q. DID YOU GIVE HIM THAT OPPORTUNITY?

19 A. YES, SIR; I DID.

20 Q. DID YOU THREATEN HIM IF HE WANTED TO CHANGE ANYTHING OR

21 PROMISE HIM ANYTHING NOT TO CHANGE ANYTHING?

22 A. NO, SIR.

23 Q. OKAY. BASED ON THE TOTALITY OF WHAT YOU SAW THAT DAY,

24 WAS THE STATEMENT THAT HE GAVE YOU FREELY AND VOLUNTARILY

25 GIVEN?

1 A. YES, SIR.

2 Q. ALL RIGHT. THANK YOU.

3 MR. POPE: BEG THE COURT'S INDULGENCE.

4 Q. ONE FINAL THING, TALKING ABOUT THIS .25 AND, OF COURSE,
5 YOU DID RETURNS ON THE SEARCH WARRANT AS TO WHAT YOU FOUND
6 AND THEY'RE LISTED IN THE STATE'S EXHIBITS; RIGHT?

7 A. YES, SIR.

8 Q. THE .25 WAS ACTUALLY FOUND UNDER THE MATTRESS IN THE
9 APARTMENT, 201, WHERE MR. CAMPBELL WAS LOCATED; IS THAT
10 CORRECT?

11 A. THAT'S CORRECT, 1275-201.

12 Q. OKAY. AND THEN THE .45 WAS ACTUALLY FOUND IN---

13 A. IN THE VEHICLE.

14 Q. ---MR. WOODY'S VEHICLE?

15 A. THAT'S CORRECT.

16 Q. ALL RIGHT.

17 MR. POPE: THANK YOU. ANSWER ANY QUESTIONS OF DEFENSE
18 COUNSEL.

19 CROSS-EXAMINATION

20 CHARLENE BLACKWELDER BY MR. DELGADO:

21 Q. ACTUALLY, MS. BLACKWELDER, IT SAYS .22 BEFORE, BUT YOU
22 WOULD --

23 A. I DID. I CAN EXPLAIN WHY.

24 Q. THAT OKAY. THE POINT IS IT WAS A .25?

25 A. IT WAS A .25; YES.

1 Q. ALL RIGHT. MS. BLACKWELDER, LET ME DO THIS IN REVERSE
2 ORDER.

3 A. OKAY.

4 Q. LET'S TALK ABOUT THE STATEMENT THAT YOU TOOK FROM
5 CHRIS.

6 A. YES, SIR.

7 Q. ON, I BELIEVE, THE STATEMENT, EXHIBIT NUMBER 5, IS
8 THERE ANYTHING THERE, MA'AM, THAT INDICATES WHEN YOU BEGAN
9 TALKING TO CHRIS AND WHEN YOU ENDED TALKING TO CHRIS?

10 A. DO I NOT HAVE THE TIME ON MY STATEMENT? MAY I SEE IT?

11 Q. MA'AM, I HAVE MY COPY.

12 THE COURT: HERE'S THE COURT'S COPY.

13 A. WE USUALLY DO PUT A START TIME ON THERE, BUT NO, SIR;
14 THERE IS NOT.

15 Q. OKAY. THE WAY THAT WAS DONE, NEITHER YOU NOR MR.
16 BURRIS TYPED THAT AS HE SAID IT TO YOU. IN OTHER WORDS,
17 THERE WAS SOME INTERROGATION OR QUESTIONS, WITH A QUESTION
18 AND ANSWER, AND CHRIS ANSWERED YOU; IS THAT CORRECT?

19 A. NO, SIR.

20 Q. YOU TYPED IT EXACTLY AS HE SAID IT?

21 A. YES, SIR.

22 Q. WHO TYPED IT?

23 A. I DID.

24 Q. YOU TYPED IT IN THAT ROOM?

25 A. YES, SIR.

1 Q. OKAY. WHEN YOU TYPED IT IN THAT ROOM, WAS THERE ANY --
2 WHEN DID YOU START AND WHEN DID YOU FINISH?

3 A. I WOULD HAVE EITHER STARTED AT 9:50 OR ENDED AT 9:50.

4 Q. WHAT ARE YOU REFERRING TO THERE, MA'AM, ON PAGE TWO?

5 A. STATEMENT PREPARED, PAGE 3. I'M SORRY. WHERE IT SAYS
6 STATEMENT PREPARED BY BLACKWELDER,---

7 Q. YES, MA'AM.

8 A. ---THE DATE AND TIME.

9 Q. I'M SORRY. SO IN OTHER WORDS, IT ENDED AT THAT TIME OR
10 STARTED AT THAT TIME?

11 A. YES, SIR.

12 Q. HARD TO SAY?

13 A. TO BE HONEST WITH YOU, IT COULD HAVE ENDED OR STARTED
14 -- WELL, I'M NOT SURE.

15 Q. OKAY.

16 A. BUT I KNOW, YOU KNOW, USUALLY WE PUT 9:50 -- WHATEVER
17 TIME WE FINISH, WE USUALLY PUT IT ON THERE.

18 Q. OKAY. SO I GUESS WHAT I'M SAYING IS WITHOUT SOME
19 INDEPENDENT RECOLLECTION, SOME INDEPENDENT MEMORIALIZATION,
20 THERE'S NOTHING TO INDICATE WHEN YOU STARTED, 9:45, 9:40,
21 9:35. WOULD THAT BE FAIR?

22 A. YES, SIR.

23 Q. THIS ISN'T A TEST. I'M SIMPLY JUST TRYING TO SEE IF
24 YOU --

25 A. OH, I KNOW. I'M THINKING. I'M JUST --

1 Q. YES, MA'AM. THERE WAS NO INDEPENDENT RECOLLECTION OR
2 MEMORIALIZATION, EITHER BY VIDEOTAPE OR AUDIOTAPE, OF WHAT
3 CHRIS SAID TO YOU?

4 A. NO, SIR. THAT'S CORRECT.

5 Q. EVERYTHING HE SAID TO YOU, MA'AM, WAS TYPED ONTO THAT
6 PIECE OF PAPER---

7 A. THAT'S CORRECT.

8 Q. ---AS HE SAID IT?

9 A. YES, SIR.

10 Q. THIS IS SOME THREE DAYS AFTER THE INCIDENT; CORRECT,
11 MA'AM?

12 A. YES, SIR.

13 Q. FOR THOSE INTERVENING THREE DAYS, FROM THE 26TH TO THE
14 29TH, OR THE MORNING OF THE 29TH, CHRIS WAS HELD AT THE ROCK
15 HILL POLICE DEPARTMENT?

16 A. THAT'S CORRECT.

17 Q. AGAIN, I'M TELLING YOU THAT'S WHAT HAPPENED. MY
18 STATEMENT -- MY QUESTION TO YOU IS THIS, MA'AM: NO ONE
19 INTERVIEWED CHRIS, NO ONE ASKED CHRIS TO GIVE A STATEMENT IN
20 THOSE INTERVENING THREE DAYS?

21 A. NOT TO MY KNOWLEDGE, NO, SIR.

22 Q. DO YOU KNOW WHETHER OR NOT, MA'AM, CHRIS EVER ASKED FOR
23 AN ATTORNEY DURING THOSE INTERVENING THREE DAYS?

24 A. NO, SIR. HE DID NOT, NOT TO MY KNOWLEDGE.

25 Q. IS THAT -- TO YOUR KNOWLEDGE, HE NEVER DID?

1 A. CORRECT.

2 Q. IF HE HAD ASKED ANYONE ELSE AND THEY SIMPLY DIDN'T TELL
3 YOU, YOU WOULDN'T HAVE KNOWN THAT?

4 A. THAT'S CORRECT.

5 Q. ALL RIGHT. LET ME GET BACK TO ONE OTHER THING. MR.
6 DESMOND CAMPBELL IS THE -- REPORTS TO LAW ENFORCEMENT---

7 A. YES, SIR.

8 Q. ---AT THE ROCK HILL POLICE DEPARTMENT ON --

9 A. THE NIGHT IN QUESTION.

10 Q. YES, MA'AM. THAT WAS THE 26TH?

11 A. COULD HAVE BEEN THE 27TH. I THINK IT WAS BETWEEN THE
12 26TH AND 27TH.

13 Q. LET'S JUST SAY AROUND MIDNIGHT, THE NIGHT OF THE 26TH,
14 THE MORNING OF THE 27TH.

15 A. THAT'S CORRECT.

16 Q. HE REPORTS BY COMING TO THE ROCK HILL POLICE DEPARTMENT
17 AND WHAT HE ALSO REPORTS IS NOT ALSO THAT HE WAS INVOLVED
18 WITH SOMETHING INVOLVING MR. BAGLEY, BUT THAT HIS CAR WAS
19 SHOT UP ON 77; CORRECT?

20 A. ACTUALLY, IT WAS NOT HIS CAR. HE WAS A PASSENGER IN
21 THE VEHICLE.

22 Q. I'M SORRY. THE CAR THAT HE WAS IN WAS SHOT UP.

23 A. THAT'S CORRECT.

24 Q. DO YOU FIND THAT INTERESTING? THIS MAN IS INVOLVED
25 WITH NOT ONLY ONE INCIDENT INVOLVED A DISCHARGED GUN, BUT

1 TWO DIFFERENT, RIGHT HERE IN ROCK HILL?

2 A. NO, SIR.

3 Q. DID HE TELL YOU WHO HAD FIRED THAT GUN, MA'AM, WHO HAD
4 FIRED AT HIM?

5 A. NO, SIR. HE DID NOT KNOW HOW HAD -- TO MY KNOWLEDGE,
6 WHO HAD SHOT AT HIM.

7 Q. ALL RIGHT.

8 A. HE HAD CALLED HIS GIRLFRIEND, I BELIEVE, IN CHESTER TO
9 COME AND PICK HIM UP, MS. BROWN, OR ONE OF HIS GIRLFRIENDS
10 TO COME AND PICK HIM UP, AND OMAR HALL RODE WITH HER, WHICH
11 IS A COUSIN, I BELIEVE, TO HER, TO COME AND PICK HIM UP FROM
12 THE APARTMENTS AND AFTER THE SHOOTING IS WHEN HE HAD CALLED
13 HER, SO HE INDICATED, AND WHEN SHE CAME TO PICK HIM UP, AS
14 THEY WERE LEAVING THE COMPLEX AND GOT ONTO I-77, THAT'S WHEN
15 THEY WERE SHOT AT BY SOMEONE IN A BURGUNDY HONDA.

16 Q. ANY INDICATION TO YOU WHAT MOTIVE ANYBODY WOULD HAVE
17 HAD TO HAVE SHOT AT THIS CAR?

18 A. NO, SIR. THAT CASE IS STILL UNDER INVESTIGATION.

19 Q. I'M SORRY. SAY THAT AGAIN.

20 A. IT'S STILL UNDER INVESTIGATION.

21 Q. DO YOU KNOW THAT YOU-ALL NOW HAVE SOME OTHER
22 INFORMATION ABOUT WHO, IN FACT, DID SHOOT INTO THAT CAR?

23 A. YES. IT'S STILL -- YES, SIR. IT'S STILL BEING
24 INVESTIGATED.

25 Q. YOU KNOW THE NAMES OF THREE INDIVIDUALS AS OF RIGHT

1 NOW, CORRECT, MA'AM, AS A RESULT OF MR. DESMOND CAMPBELL'S
2 RECENT REVELATIONS TO THE SOLICITOR; CORRECT, MA'AM?

3 A. NO, SIR. I HAVE NO KNOWLEDGE. I DON'T UNDERSTAND YOUR
4 QUESTION.

5 Q. SURE. DO YOU KNOW NOW, MA'AM, THAT MR. CAMPBELL, IN
6 HIS REVELATIONS TO THE SOLICITOR, MR. DESMOND CAMPBELL,---

7 A. DESMOND CAMPBELL.

8 Q. ---LAST MONDAY---

9 A. CORRECT.

10 Q. ---GAVE THE NAMES OF THE THREE INDIVIDUALS WHO FIRED
11 INTO THAT CAR?

12 A. OKAY.

13 Q. DO YOU KNOW THAT, MA'AM?

14 A. NO, SIR.

15 Q. THEY HAVEN'T TOLD YOU THE NAMES OF THOSE THREE FOLKS?

16 A. I DON'T HAVE THAT KNOWLEDGE. NO, SIR.

17 Q. I HAVE IT.

18 THE COURT: WHAT'S THAT GOT TO DO WITH THIS, COUNSEL?
19 MOVE ON. MOVE ON. MOVE ON.

20 MR. DELGADO: ALL RIGHT.

21 THE COURT: GOT NOTHING TO DO WITH VOLUNTARINESS OF A
22 CONFESSION. LET'S GO.

23 Q. YOUR WORDS, MS. BLACKWELDER, AWARE THAT HE, THAT IS,
24 MR. CAMPBELL, DESMOND CAMPBELL, HAD TOLD YOU WHAT --
25 EXACTLY WHAT HAD HAPPENED AT PACES RIVER APARTMENTS?

1 A. YES.

2 Q. ALL RIGHT.

3 MR. DELGADO: THAT'S ALL. THANK YOU, YOUR HONOR.

4 MR. POPE: NOTHING FURTHER, YOUR HONOR.

5 THE COURT: LET ME ASK YOU A COUPLE OF QUESTIONS,
6 PLEASE, MA'AM.

7 THE WITNESS: YES, SIR.

8 THE COURT: I WAS GOING TO ASK THE SAME QUESTION
9 COUNSEL ASKED, AND THAT IS DO YOU HAVE ANY IDEA HOW LONG YOU
10 HAD THE DEFENDANT, MR. WOODY, HOW LONG THE SESSION IN WHICH
11 HE GAVE THE STATEMENT FROM THE TIME HE WAS ADVISED OF HIS
12 RIGHTS UNTIL HE SIGNED THE STATEMENT? GIVE ME A ROUGH IDEA?

13 THE WITNESS: WE COME IN -- THAT WAS ON A TUESDAY
14 MORNING, YOUR HONOR. WE COME IN AT EIGHT O'CLOCK, SO IT
15 COULD HAVE BEEN NO MORE THAN AN HOUR, EVEN IF WE FINISHED
16 IN, WHAT, AN HOUR AND FIFTY MINUTES?

17 THE COURT: SO IT COULDN'T HAVE BEEN MORE THAN AN HOUR
18 AND FIFTY MINUTES?

19 THE WITNESS: YES, SIR.

20 THE COURT: THAT'S THE MAXIMUM AMOUNT OF TIME YOU WERE
21 WITH HIM?

22 THE WITNESS: YES, SIR.

23 THE COURT: WAS HE DENIED ANY FOOD OR WATER OR ANYTHING
24 LIKE THAT DURING THAT PERIOD OF TIME?

25 THE WITNESS: NO, SIR. NO, SIR.

1 THE COURT: DID HE ACCEPT ANY FOOD OR ANYTHING DURING
2 THAT TIME?

3 THE WITNESS: NO, SIR.

4 THE COURT: NO PROMISES WERE MADE TO HIM?

5 THE WITNESS: NO, SIR.

6 THE COURT: NO THREATS MADE TO HIM?

7 THE WITNESS: NO, SIR.

8 THE COURT: DID HE ASK FOR AN ATTORNEY DURING ANY OF
9 THAT TIME?

10 THE WITNESS: NO, SIR.

11 THE COURT: DID HE TELL YOU HE DIDN'T WANT TO TALK TO
12 YOU AT ANY TIME?

13 THE WITNESS: NO, SIR.

14 THE COURT: THANK YOU, MA'AM.

15 THE WITNESS: YES, SIR.

16 THE COURT: ANY QUESTIONS RELATED TO THE QUESTIONS I
17 ASKED? I WANT TO GIVE YOU AN OPPORTUNITY TO DO THAT.

18 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

19 MR. DELGADO: NOTHING ELSE, YOUR HONOR. THANK YOU.

20 THE COURT: THANK YOU, MA'AM. ANYTHING ELSE,
21 SOLICITOR?

22 MR. POPE: NOT ON THIS MATTER, YOUR HONOR.

23 THE COURT: COME ON DOWN, PLEASE, MA'AM. ANYTHING YOU
24 WISH TO BE HEARD, MR. DELGADO?

25 MR. DELGADO: YOUR HONOR, YES. I CALL MR. WOODY TO THE

1 STAND, PLEASE.

2 THE COURT: ALL RIGHT, SIR.

3 MR. DELGADO: MR. WOODY, PUT YOUR LEFT HAND ON THE
4 BIBLE AND RAISE YOUR RIGHT.

5 (CHRISTOPHER ALAN WOODY, BEING FIRST DULY SWORN, WAS
6 EXAMINED AND TESTIFIED AS FOLLOWS):

7 MR. DELGADO: COME RIGHT HERE.

8 DIRECT EXAMINATION

9 CHRISTOPHER ALAN WOODY BY MR. DELGADO:

10 Q. MR. WOODY, I'M GOING TO HAND YOU A THREE-PAGE PIECE OF
11 PAPER IDENTIFIED WITH A RED STICKER, STATE'S EXHIBIT NUMBER
12 5. LOOK AT THAT VERY QUICKLY AND SEE IF YOU CAN IDENTIFY A
13 SIGNATURE ON THE SECOND PAGE AND THE FIRST PAGE AS WELL.

14 A. YES. MINE.

15 Q. IS THAT YOUR SIGNATURE?

16 A. YES, SIR.

17 Q. DID YOU GIVE A STATEMENT TO MS. BLACKWELDER ON THE
18 MORNING OF THE 29TH OF SEPTEMBER, 2004?

19 A. I HONESTLY THOUGHT IT WAS THE WEDNESDAY, BUT I GUESS.

20 Q. SOME PERIOD OF TIME, SOME SEVERAL DAYS AFTER THE
21 INCIDENT, YOU MADE A STATEMENT; IS THAT CORRECT?

22 A. YES, SIR.

23 Q. WAS EVERYTHING THAT WAS SAID BY YOU TO MS. BLACKWELDER,
24 IS THAT IN THAT STATEMENT?

25 A. NO, NOT EVERYTHING. I ASKED HER A FEW QUESTIONS THAT'S

1 NOT IN HERE.

2 Q. I'M SORRY. SAY THAT AGAIN. YOU --

3 A. I ASKED HER A FEW QUESTIONS THAT ARE NOT IN HERE.

4 Q. YOU ASKED MS. BLACKWELDER A FEW QUESTIONS?

5 A. YEAH.

6 Q. ABOUT THE SITUATION?

7 A. YEAH.

8 Q. BEFORE YOU MADE THAT STATEMENT, SIR, WOULD YOU TELL THE
9 JUDGE WHERE WERE YOU HELD?

10 A. IN ROCK HILL CITY JAIL.

11 Q. AT THE ROCK HILL POLICE DEPARTMENT?

12 A. UH-HUH.

13 Q. EXPLAIN TO THE COURT, TO THE JUDGE, TO WHOM AND THE
14 RESPONSE WHEN YOU ASKED FOR AN ATTORNEY.

15 A. I ASKED OFFICER HUTCHINSON WHEN WOULD I GET TO SEE A
16 LAWYER. THIS WAS PROBABLY THAT -- THE NEXT DAY -- WELL, THE
17 SAME DAY, THAT SUNDAY, AND HE TOLD ME --

18 Q. THE SAME DAY OF WHAT, OF YOUR ARREST?

19 A. YEAH. AND I SAID -- HE SAID, WHAT YOU NEED A LAWYER
20 FOR? WE DON'T WANT TO TALK WITH YOU. AND I ASKED FOR A
21 LAWYER WHEN THEY FIRST CAME, TOO.

22 Q. WHEN WHO --

23 A. I SAID -- WHEN THEY FIRST CAME TO THE APARTMENT. I
24 SAID, I WANT A LAWYER.

25 Q. TO WHOM DID YOU MAKE THAT REQUEST?

1 A. IT WAS HER AND OFFICER HUTCHINSON WERE IN THERE.

2 Q. HER BEING MS. BLACKWELDER AND MR. HUTCHINSON?

3 A. UH-HUH.

4 Q. ALL RIGHT. WHAT DID YOU SAY, SPECIFICALLY?

5 A. GET ME A LAWYER.

6 Q. UNTIL THE MORNING OF THE 29TH WHEN YOU MADE THAT
7 STATEMENT, HAD ANY ATTORNEY BEEN CONTACTED BY YOU OR
8 APPOINTED FOR YOU ON THE CHARGES PRESENTLY PENDING, SIR?

9 A. NO, SIR. I ASKED THE JUDGE, TOO, THE ONE THAT DENIED
10 MY BOND.

11 Q. THAT WAS THE DAY OF YOUR ARREST?

12 A. NO. IT WAS THAT MONDAY, I THINK.

13 Q. YOU ASKED WHICH JUDGE?

14 A. I DON'T KNOW HIS NAME. HE'S ON MY FIRST PAPER WHERE MY
15 BOND WAS DENIED. I ASKED HIM WHEN WAS I GOING TO GET A
16 LAWYER, TOO, AND HE WAS LIKE -- HE WAS LIKE, I DON'T KNOW.

17 Q. DO YOU REMEMBER WHERE YOU WERE WHEN THAT -- WHEN YOU
18 ASKED FOR THAT?

19 A. YEAH. I WAS STILL IN ROCK HILL CITY.

20 MR. DELGADO: YOUR HONOR, THAT'S ALL THE QUESTIONS I
21 HAVE. THANK YOU.

22 CROSS EXAMINATION

23 CHRISTOPHER ALAN WOODY BY MR. POPE:

24 Q. MR. WOODY, UNTIL THAT DAY, YOU'RE SAYING YOU WERE
25 THINKING IT WAS A WEDNESDAY, BUT UNTIL THAT 29TH.

1 A. YEAH.

2 Q. UNTIL THAT DAY, HAD ANYBODY TRIED TO QUESTION YOU OR
3 INTERROGATE YOU AS FAR AS FINDING OUT WHAT HAPPENED?

4 A. UNTIL THE DAY OF ME --

5 Q. NO, UNTIL THIS DAY, 'TIL THAT DAY.

6 A. NAH. HUTCHINSON JUST ASKED A COUPLE OF QUESTIONS AT
7 THE SCENE. HE WAS LIKE -- HE ASKED ME WHERE THE GUN WAS AND
8 SHE ASKED ABOUT -- SHE ASKED ME WHOSE CAR WAS OUTSIDE.

9 Q. ABOUT THE CAR KEYS OR SOMETHING?

10 A. YEAH, BUT THE CAR KEYS WERE IN THERE AND SHE FOUND
11 THEM, AND I TOLD HER THAT I HAD A CAMRY, WHICH IS TRUE.

12 Q. A CAMERA?

13 A. UH-HUH, CAMRY.

14 Q. IN THE CAMRY?

15 A. NO, A CAMRY, A TOYOTA CAMRY.

16 Q. CAMRY. I'M SORRY; I'M SORRY. NOW, IF I UNDERSTOOD,
17 LOOKING AT THIS DOCUMENT, AND I GOT THE SAME THING. WHAT IS
18 THAT, STATE'S EXHIBIT 5?

19 A. STATE --

20 Q. IT SAYS YOU GOT FIFTEEN YEARS OF SCHOOL. SO YOU DID
21 SOME COLLEGE? YOU GOT SOME COLLEGE, TOO?

22 A. YES, SIR.

23 Q. OKAY. AND SO THAT DAY WHEN THEY WERE TALKING TO YOU,
24 THAT WEDNESDAY, DO -- YOU UNDERSTAND THAT FORM; RIGHT?

25 A. I UNDERSTAND?

1 Q. I MEAN, YOU UNDERSTAND -- YOU CAN READ THAT AND
2 UNDERSTAND IT?

3 A. YEAH; I KNOW WHAT IT SAYS.

4 Q. AND AT THE POINT WHEN YOU WERE READING AND UNDERSTAND
5 THAT, IS THE WAY SHE TOLD IT AS FAR AS HER READING THE
6 RIGHTS, ARE YOU READING THEM AND LOOKING AT THEM, MR. BURRIS
7 COMING IN AND WITNESSING IT, IS THAT WHAT -- IS THAT HOW
8 THAT WENT DOWN?

9 A. I MEAN, YEAH. I'M PRETTY SURE THEY DID READ IT. I
10 MEAN, I JUST -- I'M GOING TO SIGN REGARDLESS. I WAS TRYING
11 TO MAKE SURE THAT -- I DIDN'T WANT TO LIE FROM THE
12 BEGINNING. YOU KNOW WHAT I'M SAYING?

13 Q. RIGHT.

14 A. BUT I -- I DON'T RECALL WHAT THEY SAID, YOU KNOW WHAT
15 I'M SAYING. I WASN'T REALLY LISTENING. I WAS JUST TRYING
16 TO HURRY UP AND GET IT OVER WITH.

17 Q. OKAY. SO YOU DIDN'T LISTEN TO THEM WHEN THEY TOLD YOU
18 WHAT RIGHTS YOU HAD AND HOW THEY COULD GET YOU AN ATTORNEY
19 AND ALL THAT STUFF, THAT PLACE WHERE YOU SIGNED?

20 A. YEAH, BUT THEN WHEN I -- SOON AS I READ IT, I ASKED FOR
21 AN ATTORNEY THEN.

22 Q. OKAY. SO YOU ASKED FOR AN ATTORNEY BEFORE YOU GAVE THE
23 STATEMENT?

24 A. YES.

25 Q. OKAY.

1 A. FROM HER.

2 Q. OKAY. YOU ASKED HER FOR AN ATTORNEY AND YOU TOLD HER
3 YOU DIDN'T WANT TO TALK TO HER, THAT YOU WANTED AN ATTORNEY?

4 A. I TOLD HER THAT I WANTED AN ATTORNEY.

5 Q. OKAY. DID YOU GIVE THIS STATEMENT FREELY AND
6 VOLUNTARILY?

7 A. YEAH; IT WAS VOLUNTARY.

8 Q. OKAY. AND SO DID YOU WANT TO TALK TO AN ATTORNEY
9 BEFORE YOU GAVE THIS STATEMENT?

10 A. I WANTED TO TALK TO AN ATTORNEY THE MINUTE THEY
11 ARRESTED ME.

12 Q. OKAY. BUT THEN YOU STILL GAVE THIS STATEMENT. WHY --
13 DID THEY PROMISE YOU SOMETHING?

14 A. NO. I'M NOT GOING TO NECESSARILY SAY THEY PROMISED ME
15 ANYTHING, BUT THEY -- I WAS TRYING TO SEE MY MOTHER THAT DAY
16 WHILE I WAS STILL AT ROCK HILL CITY AND IT WAS KIND OF LIKE,
17 I GUESS, A FAVOR FOR A FAVOR. I MEAN, SHE NEVER SAID THAT
18 OR ANYTHING, BUT I THOUGHT -- I MEAN, I WAS TAKING IT AS IF
19 I DIDN'T, YOU KNOW WHAT I'M SAYING, IF I DIDN'T WORK WITH
20 HER, SHE WOULDN'T WORK WITH ME ON SEEING MY MOTHER.

21 Q. BLACKWELDER, SHE TOLD YOU THAT?

22 A. NO; SHE DIDN'T TELL ME THAT. I FELT THAT WAY.

23 Q. OKAY. YOU FELT -- IN OTHER WORDS, YOU FELT IF YOU'D DO
24 SOMETHING TO ACCOMMODATE HER, SHE MIGHT DO SOMETHING TO
25 ACCOMMODATE YOU?

1 A. YEAH. I GUESS YOU CAN SAY THAT.

2 Q. OKAY. WHEN YOU SIGNED, IT SAID -- AND I'M JUST READING
3 OFF THIS FORM. IT SAID, I HAVE READ OR HAD READ TO ME THE
4 STATEMENT OF MY RIGHTS SHOWN ABOVE. I UNDERSTAND WHAT MY
5 RIGHTS ARE AND I'M WILLING TO MAKE A STATEMENT. I DO NOT
6 WANT AN ATTORNEY AT THIS TIME. I UNDERSTAND AND I KNOW WHAT
7 I AM DOING. I KNOW THE PERSON TALKING TO ME IS A POLICE
8 OFFICER AND I UNDERSTAND WHAT HE, AND, OF COURSE, THIS WAS A
9 SHE, SHE WAS TALKING ABOUT. DID YOU SIGN THAT?

10 A. YES, I DID.

11 Q. OKAY. DID YOU UNDERSTAND WHAT YOU WERE SIGNING WHEN
12 YOU SIGNED THAT?

13 A. NO, I DON'T. WHY WOULD I EVER SAY THAT I DON'T WANT AN
14 ATTORNEY? I'D BEEN ASKING FOR ONE FOR THE WHOLE TIME.

15 Q. I GUESS THAT'S MY QUESTION TO YOU NOW. YOU SIGNED TWO
16 DIFFERENT PLACES THAT SAID THAT YOU WERE WAIVING YOUR RIGHT
17 TO AN ATTORNEY THAT DAY, DIDN'T YOU?

18 A. YES, I DID.

19 Q. OKAY. AND ULTIMATELY YOU REVIEWED THIS STATEMENT. IS
20 THIS YOUR WORDS THAT YOU GAVE IN THIS STATEMENT? YOU'VE HAD
21 AN OPPORTUNITY TO READ THE STATEMENT; RIGHT?

22 A. YEAH; I READ IT.

23 Q. IS THAT WHAT YOU SAID THAT DAY?

24 A. YES.

25 Q. AND I HEARD YOU SAY SOMETHING ABOUT YOU HAD ASKED HER

1 SOME QUESTIONS OR SOMETHING THAT WEREN'T IN HERE, BUT THE
2 WORDS THAT WERE USED HERE AND EVEN THE LANGUAGE THAT WAS
3 USED, IS THAT WHAT YOU SAID THAT DAY?

4 A. YES.

5 Q. OKAY. AND IS THAT STATEMENT --

6 A. YEAH; YES.

7 Q. I MEAN, THAT'S NOT HER LANGUAGE; RIGHT?

8 A. NO; I'M PRETTY SURE IT'S MINE.

9 Q. OKAY. AND SO THAT DAY, AFTER BEING APPRISED OF THOSE
10 RIGHTS, YOU GAVE HER THIS STATEMENT -- I MEAN, MR. BURRIS,
11 THE OLDER GUY THAT CAME IN AND SIGNED THIS, HE DIDN'T
12 THREATEN YOU IN ANY WAY, DID HE?

13 A. NO. NO ONE THREATENED ME.

14 Q. OKAY. WERE YOU UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
15 AT THAT TIME WHEN YOU GAVE THIS STATEMENT?

16 A. NO, STRICTLY EMOTION.

17 Q. OKAY. EMOTION. ALL RIGHT. AND WAS THE EMOTION SUCH
18 THAT YOU DIDN'T UNDERSTAND WHAT YOU WERE DOING?

19 A. THE EMOTION WAS SUCH THAT I DIDN'T REALLY -- I WASN'T
20 LISTENING TO MY RIGHTS. I WAS TRYING TO HURRY UP AND TELL
21 THEM WHAT HAPPENED. I WAS HOPING TO GO HOME, TO BE HONEST
22 WITH YOU.

23 Q. I GOT YOU; I GOT YOU. YOU WANTED -- I'M WITH YOU NOW.
24 SO YOU WANTED -- YOU UNDERSTOOD THEY HAD TO DO THAT, BUT YOU
25 WANTED THEM TO HURRY UP AND DO THAT SO YOU COULD TELL THEM

1 WHAT YOU HAD TO TELL THEM. IS THAT A FAIR STATEMENT? WHAT
2 YOU WANTED TO TELL THEM? WHEN I SAY HAD TO --

3 A. I DIDN'T WANT -- WANTED TO TELL THEM, BUT I TOLD THEM.
4 THIS IS WHAT I TOLD THEM.

5 Q. AND YOU TOLD THEM VOLUNTARILY?

6 A. YES, I DID.

7 Q. OKAY.

8 MR. POPE: THANK YOU, SIR. I APPRECIATE IT.

9 MR. DELGADO: NO FURTHER QUESTIONS.

10 THE COURT: THANK YOU, SIR. YOU MAY STAND DOWN, SIR.

11 MR. DELGADO: YOUR HONOR, MAY I MAKE A BRIEF ARGUMENT--

12 -

13 THE COURT: YES, SIR.

14 MR. DELGADO: ---FOR THE PRESERVATION OF THE RECORD?

15 YOUR HONOR, AS A RESULT OF THE RYAN COMMISSION, GOVERNOR

16 RYAN OF ILLINOIS, AND HIS ATTEMPT TO DETERMINE WHETHER OR

17 NOT THE DEATH PENALTY WAS GOING TO BE APPLIED FAIRLY, SOME

18 THREE YEARS AGO CONVENED A COMPILATION OF INDIVIDUALS: LAY

19 PUBLIC, PROSECUTION AND DEFENSE ATTORNEYS. THAT COMMISSION

20 ISSUED A REPORT, THE RYAN COMMISSION. THE RYAN COMMISSION

21 RECOMMENDED THAT BY STATUTE ALL INTERROGATIONS BE RECORDED

22 AND SUBSEQUENT TO THAT, THE STATE OF ILLINOIS HAS PASSED

23 THAT, I BELIEVE, YOUR HONOR, BY STATUTE. IT MAY BE BY COURT

24 ORDER.

25 THERE ARE TWO OTHER STATES THAT DO THAT AS WELL:

1 ALASKA AND MINNESOTA. ALL INTERROGATIONS ARE RECORDED, SO
2 THERE IS NO PROBLEM ABOUT WHAT WAS SAID, WHO SAID IT, WHAT
3 WAS TAKEN DOWN, WHEN IT STARTED, WHEN IT ENDED, WHETHER OR
4 NOT THERE WAS AN COERCION. I SAY THAT TO THE COURT, YOUR
5 HONOR, SIMPLY TO PRESERVE THIS ISSUE FOR ANY FURTHER APPEAL
6 THAT MAY HAVE TO BE REVIEWED.

7 THE REASON I SAY THIS, YOUR HONOR, IS BECAUSE THIS VERY
8 POOR LAWYER WOULD NEVER HAVE THOUGHT TO HAVE PRESERVED
9 MENTAL RETARDATION UNDER ATKINS VERSUS VIRGINIA OR A
10 JUVENILE EXECUTION UNDER BROOKS VERSUS SIMMONS. I WOULD
11 HAVE NEVER THOUGHT IT. I AM TRYING TO LEARN FROM MY MORE
12 BRILLIANT COLLEAGUES THAT THOSE SORTS OF ISSUES NEED TO BE
13 PRESERVED UNDER THE FIFTH AND SIXTH AMENDMENT, AND THAT IS
14 ALL MY ARGUMENT. THANK YOU, SIR.

15 THE COURT: DOES THE STATE WISH TO BE HEARD AT ALL?

16 MR. POPE: NO, SIR, YOUR HONOR.

17 THE COURT: THE COURTS, IN LOOKING AT A MOTION TO
18 SUPPRESS A STATEMENT AS NOT BEING VOLUNTARY, THE STATE HAS
19 THE BURDEN OF PROVING BY THE PREPONDERANCE OF THE EVIDENCE
20 THAT THE STATEMENT WAS FREELY AND VOLUNTARILY GIVEN AND THE
21 DEFENDANT WAIVED HIS RIGHTS AND GAVE THAT STATEMENT AND HE
22 UNDERSTOOD WHAT HE WAS DOING. THE STATE HAS THAT BURDEN
23 AND, AS I SAY, THAT IS BY A PREPONDERANCE OF THE EVIDENCE,
24 THE COURT, IN LOOKING AT IT, HAS TO MAKE A
25 DETERMINATION BASED ON THE TOTALITY OF THE CIRCUMSTANCES, AS

1 TO WHETHER THE COURT FINDS BY A PREPONDERANCE OF THE
2 EVIDENCE THAT THE STATEMENT WAS FREELY AND VOLUNTARILY
3 GIVEN, NOT THE RESULT OF ANY KIND OF COERCION, AND THAT ANY
4 WAIVERS OF CONSTITUTIONAL RIGHTS ARE VOLUNTARILY MADE --
5 UNDERSTOOD AND MADE BY THE DEFENDANT, AND I -- THERE ARE A
6 NUMBER OF CASES. I WOULD POINT TO SCHNECKLOTH VERSUS
7 BUSTAMONTE AT 412 US 218, '93 SUPREME COURT 2041; 36 LAWYERS
8 EDITION SECOND 854, AND IN WHICH THE COURT, AND THIS HAS
9 BEEN REALLY REAFFIRMED IN OTHER CASES. IT -- THE TEST IS
10 WHETHER THE CONFESSION WAS A PRODUCT OF AN ESSENTIALLY FREE
11 AND UNCONSTRAINED CHOICE BY ITS MAKER.

12 LOOKING AT ALL OF THE FACTS AND CIRCUMSTANCES OF THIS
13 PARTICULAR CASE, INCLUDING THE AMOUNT OF TIME THAT THE
14 DEFENDANT WAS QUESTIONED, HIS INTELLIGENCE LEVEL, HIS
15 EDUCATION AND BACKGROUND AND THE FACTS AND CIRCUMSTANCES
16 SURROUNDING THE QUESTION IN THIS CASE, CONSIDERING THE
17 CREDIBILITY OF THE WITNESSES, THE COURT FINDS THAT BY A
18 TOTALITY OF THE CIRCUMSTANCES, THAT BY PREPONDERANCE OF THE
19 EVIDENCE THAT THE STATE HAS ESTABLISHED THAT THE STATEMENT
20 GIVEN BY THE DEFENDANT WAS FREELY AND VOLUNTARILY GIVEN WITH
21 FULL ADVICE CONCERNING HIS CONSTITUTIONAL RIGHTS AND A
22 KNOWING, INTELLIGENT WAIVER OF THOSE RIGHTS THAT HE MADE
23 THAT STATEMENT.

24 NOW, THE COURT, THEREFORE, WILL ADMIT THE STATEMENT AND
25 ALLOW THE STATEMENT TO COME IN. IT GOES -- IT FOLLOWS,

1 THOUGH, THAT WHEREAS THE COURT MUST MAKE THAT DETERMINATION
2 BY PREPONDERANCE OF THE EVIDENCE, THE JURY MUST FIND, IF THE
3 DEFENDANT DENIES THIS WAS FREELY AND VOLUNTARILY GIVEN AND
4 THAT HE WAIVED HIS CONSTITUTIONAL RIGHTS, THE JURY MUST FIND
5 BEYOND A REASONABLE DOUBT THAT THAT IS THE CASE, AND SO THE
6 ISSUE WILL BE SUBMITTED TO THE JURY AND THE JURY WILL MAKE
7 THE FINAL DETERMINATION AS TO WHETHER THE STATEMENT WAS
8 FREELY AND VOLUNTARILY GIVEN AND THEY WILL DECIDE THAT BY A
9 DIFFERENT STANDARD, A DIFFERENT BURDEN, THAT BEING BEYOND A
10 REASONABLE DOUBT. BUT THE COURT FINDS BY A PREPONDERANCE OF
11 THE EVIDENCE AND LOOKING AT ALL THE TOTALITY OF
12 CIRCUMSTANCES, THE STATEMENT WAS FREELY AND VOLUNTARILY
13 GIVEN AND SHOULD BE ADMITTED. I WOULD THEREFORE DENY YOUR
14 MOTION TO SUPPRESS THE STATEMENT.

15 ANYTHING ELSE, COUNSEL FOR THE DEFENSE, YOU WISH TO
16 MAKE AT THIS TIME?

17 MR. DELGADO: NO, SIR. THANK YOU.

18 THE COURT: ALL RIGHT. IN THAT CASE, COUNSEL, IT'S A
19 GOOD TIME TO GO AHEAD AND ADJOURN FOR THE DAY AND IF YOU'VE
20 GOT SOME OTHER MATTERS -- YOU HAVE SOME OTHER MATTERS WE'RE
21 GOING TO NEED TO TAKE UP BEFORE WE GET STARTED?

22 MR. DELGADO: MAY I JUST VERY QUICKLY AND I'LL -- I MAY
23 TRY TO TALK TO MY COLLEAGUE. IF -- DEPENDING ON HOW THIS
24 SHAKES OUT, THEY DO NOT CALL EITHER OF THE CAMPBELL
25 BROTHERS, IT MAY VERY WELL BE NECESSARY FOR ME TO CALL THEM,

1 BUT I HAVE ATTEMPTED AND I WANT TO SAY THIS TO YOU AS AN
2 OFFICER OF THE COURT. THIS PAST WEEK I E-MAILED BOTH MR.
3 STALEY AND MR. DEST AND THEY WERE BOTH KIND ENOUGH TO E-MAIL
4 ME BACK, ASKING FOR PERMISSION TO SPEAK TO THEIR CLIENTS.
5 THEY DENIED ME THAT PERMISSION.

6 I THINK THAT I NEED TO -- I WILL ASK THEM AGAIN, BUT I
7 MAY NEED TO BE ABLE TO ASK THE COURT -- I THINK I'D BE
8 DEFECTIVE IF I CALL A WITNESS TO THE STAND THAT I'VE NEVER
9 TALKED TO AND I THINK WE DISCUSSED THIS IN CHAMBERS A BIT
10 THIS MORNING. I NEED TO BE ABLE TO TALK TO THOSE FOLKS TO
11 SEE WHAT THEY WILL SAY. I MAY CALL THEM, I MAY NOT CALL
12 THEM, BUT I THINK I NEED TO BE ABLE TO DO THAT. I DON'T
13 KNOW HOW ELSE TO DO IT EXCEPT TO ASK, IF THEY DENY ME THAT
14 RIGHT -- I JUST THINK THAT I'M DEFECTIVE IF I DON'T AT LEAST
15 ATTEMPT TO DO THAT AGAIN OR AT LEAST ATTEMPT TO DO IT AND
16 DECIDE WHETHER OR NOT TO CAL THEM. I SIMPLY WANTED TO BRING
17 THAT TO YOUR ATTENTION. I'LL SEE IF I CAN DISCUSS THIS
18 AGAIN WITH MY COLLEAGUES AND AGAIN WITH MR. DEST AND --

19 THE COURT: WELL, YOU MIGHT DISCUSS IT WITH ALL OF
20 THEM. I UNDERSTAND YOUR QUANDARY. AT THE SAME TIME, YOU
21 KNOW, IF YOU CAN SHOW ME ANY AUTHORITY WHERE YOU WOULD HAVE
22 A RIGHT TO DO IT OVER AND ABOVE THEIR COUNSEL. THEY ARE
23 OBVIOUSLY REPRESENTED. THERE OBVIOUSLY COULD BE SOME
24 DETRIMENT TO THEIR RIGHTS IF THEY DISCUSS THE CASE WITH YOU.
25 I -- THEREFORE, THAT'S SOMETHING YOU CAN DISCUSS WITH THEM.

1 THEY CAN ADVISE THEIR CLIENTS ACCORDINGLY AND IF YOU CAN
2 SHOW ME ANY AUTHORITY WHERE YOU CAN GO BEYOND -- IF A
3 DEFENDANT, A CO-DEFENDANT'S REPRESENTED BY AN ATTORNEY,
4 WHERE YOU COULD GO BEYOND THAT RIGHT AND THAT ATTORNEY'S
5 DECLINATION TO ALLOW YOU AND TALK DIRECTLY WITH A CLIENT, IF
6 YOU CAN SHOW ME SOME AUTHORITY OF THAT, I CAN LOOK AT IT, OR
7 YOU CAN MAKE THAT DECISION ON YOUR OWN, BASED ON WHATEVER
8 RESEARCH YOU MIGHT FIND AND THEN WE WILL HAVE TO DEAL WITH
9 IT AT THE TIME. BUT I DON'T KNOW OF ANY AUTHORITY AT THIS
10 POINT. THERE MAY BE SOME, BUT I'M NOT AWARE OF IT AT THIS
11 TIME. IF YOU CAN SHOW ME SOME AUTHORITY, I'LL LOOK AT IT,
12 IF YOU THINK THE COURT SHOULD BE INVOLVED AND I'M NOT SURE
13 THE COURT SHOULD BE INVOLVED IN THAT, BUT I WILL ONLY BE
14 INVOLVED IF YOU MAKE ME BE INVOLVED IN IT. LET ME PUT IT
15 THAT WAY. IF I'M REQUIRED TO DO IT, I THINK, WOULD BE THE
16 ONLY WAY THAT WOULD BE APPROPRIATE FOR THE COURT TO DO IT.

17 MR. POPE: YOUR HONOR, WE'VE HAD SOME LIMITED
18 DISCUSSIONS. THE DILEMMA, ACCORDING TO WHICH STORY THEY'RE
19 TELLING, HOOKS EITHER ONE OF US. THERE'S ALSO THE ISSUE AT
20 THE APPROPRIATE TIME, KIND OF A MECHANICAL ISSUE, IF IT GETS
21 TIME FOR ONE OR BOTH OF THEM TO BE CALLED AND THEY'RE GOING
22 TO TAKE THE FIFTH, WHICH YOU DON'T HAVE A RIGHT TO PULL
23 SOMEBODY UP AND HAVE THEM TAKE THE FIFTH IN FRONT OF A JURY.
24 WE'LL HAVE TO ADDRESS THAT ISSUE. YOU KNOW, YOU CAN'T PUT
25 THEM UP JUST TO TAKE THE FIFTH AND WE'VE DISCUSSED THAT,

1 TOO, SO WE'LL BE PREPARED TO ADDRESS THAT.

2 YOUR HONOR, BEFORE WE LEAVE THIS ISSUE, I KNOW I KIND
3 OF WRAPPED IN --

4 THE COURT: LET ME ASK YOU WHILE YOU'RE ON THAT
5 SUBJECT, TO TELL YOU, COUNSEL, YOU NEED TO LOOK AT THAT
6 ISSUE AS WELL, BUT I THINK -- I DON'T KNOW ABOUT ALL THE
7 FACTUAL CIRCUMSTANCES, BUT GENERALLY IT'S NOT APPROPRIATE TO
8 CALL WITNESSES YOU KNOW IN ADVANCE THAT THEY'RE GOING TO
9 TAKE THE FIFTH JUST TO HAVE THEM TAKE THE FIFTH.

10 MR. DELGADO: I UNDERSTAND.

11 THE COURT: BUT THAT MAY BE ONLY IN APPLIED
12 CIRCUMSTANCES. I DON'T KNOW. IT'S SOMETHING YOU MAY WANT
13 TO LOOK AT IT. IF YOU HAVE SOMETHING YOU WANT ME TO LOOK
14 AT, I'LL BE GLAD TO LOOK AT IT, BUT I THINK GENERALLY THAT'S
15 TRUE, BUT I DON'T KNOW THAT IT APPLIES TO EVERY FACTUAL
16 SITUATION, SO I'M GOING TO LEAVE THAT UP TO YOU.

17 MR. DELGADO: YOUR HONOR, LET ME JUST ASK THIS: MR.
18 STALEY'S STATEMENT NOTWITHSTANDING, DOES THE COURT, AT LEAST
19 JUST THE COURT, NEED TO HEAR THAT FROM THE CLIENT OUTSIDE
20 THE PRESENCE OF THE JURY? THAT'S ALL I'M ASKING. IN OTHER
21 WORDS, I'M NOT TRYING TO SAY MR. STALEY'S PUTTING WORDS IN
22 HIS MOUTH; I'M NOT SAYING THAT IN THE SLIGHTEST, BUT -- AND
23 I WOULD NEVER CALL SOMEBODY --

24 THE COURT: WELL, I DON'T HAVE ANY PROBLEMS AT ALL
25 DOING THAT IN CAMERA---

1 MR. DELGADO: ALL RIGHT.

2 THE COURT: ---AT THE APPROPRIATE TIME, BUT YOU RECALL
3 THAT I LEFT IT UP -- I WANTED TO GIVE THE SOLICITOR, MR.
4 CAMPBELL, HIS ATTORNEY, A FURTHER OPPORTUNITY TO DISCUSS THE
5 MATTER, BECAUSE THERE ARE SOME RAMIFICATIONS TO MR. DEST OR
6 MR. CAMPBELL, WHICHEVER WAY HE CHOOSES TO PROCEED, AND
7 BECAUSE OF THAT, I'M GOING TO LEAVE IT UP TO THEM TO GIVE
8 THEM AN OPPORTUNITY TO DO IT UP UNTIL HE'S CALLED. NOW,
9 INSOFAR AS THAT IS CONCERNED, IF WE WANT TO CALL HIM OUT OF
10 THE PRESENCE OF THE JURY IN CAMERA AND HAVE HIM MAKE THAT
11 STATEMENT OUT OF THE PRESENCE OF THE JURY SO IT DOESN'T HAVE
12 TO BE DONE IN FRONT OF THE JURY, I'LL BE GLAD TO DO THAT. I
13 HAVE NO PROBLEMS WITH THAT, BUT -- AND HAVE HIM DECLARE WHAT
14 HE'S GOING TO DO ANYTHING ELSE, BUT I'LL LEAVE THAT UP TO
15 YOU-ALL.

16 MR. DELGADO: MAYBE WE CAN DISCUSS THAT AS WELL AS WITH
17 MR. STALEY.

18 MR. POPE: AND, AGAIN, THIS HAS BEEN UNUSUAL FOR ALL OF
19 US, AS I'VE TOLD MR. DELGADO AND I'LL SAY ON THE RECORD, IF
20 WE DECIDE -- IF IT APPEARS WE'RE CALLING HIM, WHICH I'VE
21 INDICATED WE WON'T, THEN I WILL GIVE YOU A HEADS UP SO WE
22 CAN ADDRESS THAT ACCORDINGLY AND I'D APPRECIATE THE SAME
23 COURTESY OF HAVING AN IN CAMERA HEARING IF IT COMES TO IT.

24 YOUR HONOR, THE ONLY OTHER ISSUE I HAVE, AND I KNOW
25 WE'RE WASTING TIME --

1 THE COURT: I'M JUST THINKING MAYBE WE CAN ADDRESS IT
2 IN THE MORNING, BECAUSE CERTAIN PERSONS HAVE PLACES THEY
3 NEED TO BE. I WOULD -- WE CAN START AROUND NINE IN THE
4 MORNING IF YOU WANT TO DO THAT IF YOU HAVE SOMETHING ELSE
5 YOU WANT TO TAKE UP.

6 MR. POPE: WELL, NO; IT'S NOTHING NEW. IT'S JUST
7 FINISHING UP THE ISSUE ON THE SEARCH OF THE -- THE SEARCH
8 WARRANT AND THE SUPPRESSION OF THE GUN AND I THINK WE GOT
9 OFF ON THE OTHER ITEM --

10 THE COURT: IS HE MOVING TO SUPPRESS? I HAVEN'T HEARD
11 A MOTION TO SUPPRESS THE FIREARM.

12 MR. POPE: HE FILED A MOTION TO SUPPRESS.

13 MR. DELGADO: I DIDN'T ARGUE THAT, YOUR HONOR, BUT IT
14 WAS FILED WITH THE SOLICITOR. THAT'S THE REASON HE WENT IN
15 WITH THE FIRST THREE OR FOUR SEARCH WARRANTS, ONE OF WHICH,
16 NUMBER 2, WAS WHEN THE GUN THAT WAS SEIZED FROM THE NISSAN.
17 YES, SIR.

18 THE COURT: ALL RIGHT. WELL, YOU KNOW, I'LL BE GLAD TO
19 HEAR YOU ON ANY MOTION. I HAVEN'T LOOKED AT ANY WRITTEN
20 MOTIONS, ONE'S THAT HAVE BEEN FILED. IF IT'S AN ORAL
21 MOTION, I'M NOT SURE EXACTLY WHAT THE MOTION IS.

22 MR. POPE: I READ IT TO THE COURT, YOUR HONOR. IT'S
23 JUST ONE SENTENCE THAT THEY MOVED TO SUPPRESS THE GUN. I
24 CAN BE HEARD --

25 THE COURT: I BELIEVE HE HAD A SEARCH WARRANT FOR THE

1 AUTOMOBILE. THERE WAS A SEARCH WARRANT FOR THE AUTOMOBILE
2 AND SPECIFICALLY WHAT WAS REQUESTED TO LOOK FOR IN THE
3 AUTOMOBILE WAS WEAPONS AND SO I DON'T THINK THERE'S ANY
4 QUESTION BUT WHAT'S THAT'S THERE, AND SO IF THEY HAD A VALID
5 SEARCH WARRANT -- AND I'VE HEARD NO ATTACK ON THE SEARCH
6 WARRANT ITSELF. IF THEY FOUND THE PISTOL IN THE CAR
7 PURSUANT TO A VALID SEARCH WARRANT, THEN I THINK IT WAS
8 PROPERLY SEIZED AND SHOULD NOT BE SUPPRESSED, BUT IF YOU
9 WANT TO BE HEARD FURTHER ON IT, I' 'L BE GLAD TO HEAR YOU.

10 MR. DELGADO: NO, YOUR HONOR.

11 MR. POPE: YOUR HONOR, I'LL BE BRIEF ON THAT ISSUE.
12 ALL -- I SUBMIT THEY DON'T HAVE STANDING ON ANY SEARCH
13 WARRANT, BUT, YOU KNOW, I'LL HAND THIS UP. I'LL ADMIT THEY
14 DON'T HAVE STANDING ON ANY ONE BUT THE VEHICLE. I WOULD ASK
15 THAT THE COURT, IN ADDITION, I THINK THE SEARCH WARRANT
16 STANDS ALONE. OTHERWISE, IT WOULD ALSO STAND BECAUSE THE
17 JUDGE HEARD ALL FOUR, SO YOU CAN TAKE THE AFFIDAVITS IN
18 TOTALITY. AND, FINALLY, UNDER THE CARROLL DOCTRINE,
19 INDEPENDENT OF ALL THAT, I'D SUBMIT THEY DIDN'T NEED A
20 SEARCH WARRANT. I JUST WANTED TO GET THAT ON THE RECORD.
21 THANK YOU, SIR.

22 THE COURT: ALL RIGHT. THE COURT WOULD DENY THE MOTION
23 TO SUPPRESS THE PISTOL THAT MIGHT HAVE BEEN TAKEN FROM THE
24 AUTOMOBILE DURING THE SEARCH, THAT BEING PURSUANT TO A VALID
25 SEARCH WARRANT. IN ANY EVENT, IT APPEARS THERE WAS PROBABLE

1 CAUSE FOR THE SEARCH WARRANT TO BE ISSUED, IT APPEARS TO THE
2 COURT, SO -- AND THAT WAS ONE OF THE ITEMS THAT WAS SET
3 FORTH IN THE SEARCH WARRANT TO BE FOUND. EVEN AT THAT,
4 BASED ON THE TOTALITY OF THE INFORMATION PROVIDED TO THE
5 MAGISTRATE OR CITY RECORDER WHO HEARD IT AND ISSUED THESE
6 SEARCH WARRANTS, THE COURT WOULD TAKE INTO CONSIDERATION ALL
7 FOUR SEARCH WARRANTS AND THE INFORMATION THAT WAS PROVIDED
8 TO THE COURT AT THAT TIME IN CONSIDERING WHETHER THEY WERE
9 APPROPRIATE IN THIS CASE OR NOT. ALL RIGHT. ANYTHING ELSE?

10 MR. POPE: YOUR HONOR, IF THE COURT REPORTER -- I KNOW
11 SHE'S READY TO GO -- AT NINE O'CLOCK IN THE MORNING. I'LL
12 TRY TO MEET WITH MR. DELGADO. YOU KNOW, WE'VE GOT A NUMBER
13 OF ITEMS WE'VE BEEN PRE-MARKING TO PUT IN THIS CASE IN
14 EVIDENCE, JUST TRY TO DEAL WITH HOUSEKEEPING SO WE CAN MOVE
15 AT 9:30.

16 THE COURT: ALL RIGHT. LET'S TRY TO BE PRESENT, THEN,
17 AT NINE O'CLOCK AND WE CAN TAKE THEM AND ANY OTHER PRE-TRIAL
18 MATTERS THAT COME UP IN THE INTERIM AND YOU-ALL CAN PRE-MARK
19 ANY EXHIBITS THAT YOU HAVE. MEANWHILE, WE'LL BE ADJOURNED
20 UNTIL NINE O'CLOCK. THANK YOU.

21 (WHEREUPON, COURT WAS ADJOURNED FOR THE DAY AT 5:30
22 P.M. AND RECONVENED ON MAY 3, 2005 AT 10:05 A.M.)

23 (END OF VOLUME I)
24
25

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE
COURT OF GENERAL SESSIONS
CASE NO.: 05-GS-46-0858

STATE OF SOUTH CAROLINA,)
))
PLAINTIFF,)
- vs -)
CHRISTOPHER WOODY,)
))
DEFENDANT.)

TRANSCRIPT OF RECORD
VOLUME II OF V

MAY 3, 2005
YORK, SOUTH CAROLINA

B E F O R E:

HONORABLE LEE S. ALFORD, JUDGE, AND A JURY.

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

MR. THOMAS E. POPE
YORK COUNTY SOLICITOR
MR. WILLY THOMPSON
ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE
YORK, SOUTH CAROLINA

MR. JOHN DELGADO
ATTORNEY AT LAW
ATTORNEY FOR THE DEFENDANT WOODY
COLUMBIA, SOUTH CAROLINA

SHANNON MCGILBERRY
COURT REPORTER

1 MR. POPE: PLEASE THE COURT, YOUR HONOR.

2 THE COURT: YES, SIR.

3 MR. POPE: WHILE WE'RE GETTING READY, I INDICATED TO
4 MR. DELGADO, WE'VE GOT TWO WEAPONS. WE'VE GOT SAFETY
5 DEVICES FOR EACH WEAPON. I'LL ADDRESS THE .25. I'M NOT
6 GOING TO GET IT OUT RIGHT NOW, BUT I WAS GOING TO ADDRESS
7 THE .45 BEFORE THE JURY CAME IN.

8 THE COURT: A COUPLE OF HOUSEKEEPING MATTERS, ONE, I
9 HAD A NOTE THIS MORNING FROM JUROR NUMBER 104, JULIA
10 LINDSAY, THAT IT WAS KIND OF A COMMON NAME, BUT SHE DID KNOW
11 A MIKE WILLIAMS WHO IS ON THE POTENTIAL WITNESS LIST, WHO
12 SHE SAID LIVED ON BONHAM ROAD IN LAKE WYLIE, SOUTH CAROLINA.
13 SHE JUST WANTED TO KNOW IF THAT WAS THE SAME PERSON OR AT
14 LEAST MAKE THE COURT AWARE OF THAT.

15 IN CHECKING ON MR. WILLIAMS, HIS HOME ADDRESS IS --
16 WELL, IT'S DIFFERENT FROM THAT. LET ME JUST SAY THAT. HE
17 HAS A DIFFERENT ADDRESS THAN THAT. IT'S, I BELIEVE, A YORK
18 ADDRESS, BUT, ANYWAY, IT'S CERTAINLY NOT LAKE WYLIE, SO IT'S
19 NOT THE SAME PERSON, IN ANY EVENT. I'VE MADE COUNSEL AWARE
20 OF THAT IN CHAMBERS, SO -- ALL RIGHT. ANY -- YES, SIR.

21 MR. DELGADO: YOUR HONOR, THERE WERE TWO PHOTOGRAPHS
22 THAT I HAD MENTIONED TO THE COURT IN CHAMBERS THAT I MAY
23 HAVE OBJECTION TO. WE'VE RESOLVED BOTH OF THOSE MATTERS.
24 THERE IS ONE MATTER THAT I WOULD LIKE TO BE ABLE TO TELL THE
25 COURT ABOUT NOW.

1 IN THIS MATTER, MR. ARVELL DARRELL BAGLEY HAS A
2 SEVENTEEN-PAGE RAP SHEET FROM STATE LAW ENFORCEMENT
3 DIVISION. I HAVE, YOUR HONOR, COUNTED. I'VE GOT OVER THE
4 PAST TEN TO TWELVE YEARS FORTY-ONE ARRESTS, TWENTY-FIVE
5 CONVICTIONS, INCLUDING THINGS LIKE DISCHARGING FIREARMS,
6 RESISTING ARREST OF A LAW ENFORCEMENT OFFICER, POSSESSION OF
7 A GRAM OF MARIJUANA OR HASH, POSSESSION OF DRUG
8 PARAPHERNALIA, RESISTING ARREST TWICE, ACTUALLY... A LOT OF
9 ALCOHOL- AND DRUG-RELATED ACTIVITY.

10 YOUR HONOR, I -- I DON'T WANT TO DO THIS NOW, BUT AT
11 LUNCH TIME, I'M GOING TO MAKE A COPY OF WHAT I WANT TO GIVE
12 TO THE COURT NOW, WHICH IS A COPY OF INCIDENT REPORTS FROM
13 CHESTER -- CITY OF CHESTER POLICE DEPARTMENT AND THE CHESTER
14 COUNTY SHERIFF'S DEPARTMENT, AS WELL AS MR. BAGLEY'S SLED
15 RECORD. ADDITIONALLY, YOUR HONOR, SOME TIME IN 2004, BEFORE
16 HIS DEMISE, MR. BAGLEY WAS INDICTED BY THE STATE GRAND JURY
17 FOR MAIL OR WIRE FRAUD FOR FRAUDULENT -- FOR AN INSURANCE
18 SCAM INVOLVING SEVERAL OTHER DEFENDANTS IN CHESTER COUNTY.
19 THAT CASE I'VE TRIED TO FIND OUT FROM THE ATTORNEY GENERAL
20 JUST THIS PAST WEEK AND COULDN'T GET TO THE GUY THAT IS
21 PROSECUTING THAT MATTER. THAT WAS NEVER RESOLVED BECAUSE OF
22 HIS DEMISE. BUT THERE ARE, AS WELL, YOUR HONOR, I'VE ASKED
23 FROM FRIENDS FROM THE SOLICITOR'S OFFICE IF THEY WOULD FIND
24 ANYTHING FROM YORK COUNTY AUTHORITIES THAT WOULD PUT THEM,
25 THAT IS, LAW ENFORCEMENT, ON NOTICE. I'VE GOT SOME ASSAULT

1 AND GRAND LARCENY, DRUG POSSESSION AND SOME OTHER THINGS IN
2 YORK COUNTY AND THE CITY OF ROCK HILL THAT I WILL GIVE YOU
3 COPIES OF. I ONLY HAVE ONE COPY OF THIS; I'M SORRY. MY
4 PRINTER WAS DOWN, BUT WHAT I WOULD LIKE TO DO IS GIVE THIS
5 TO THE COURT NOW. I'LL MAKE COPIES AND MAKE CERTAIN THE
6 SOLICITOR HAS THAT AS WELL.

7 THE COURT: ALL RIGHT. AND I WOULD POINT OUT TO YOU,
8 COUNSEL, YOU'RE GOING TO HAVE TO MAKE IT RELEVANT TO THIS
9 PARTICULAR CASE.

10 MR. DELGADO: CERTAINLY. ABSOLUTELY.

11 THE COURT: YOU CERTAINLY CAN'T JUST---

12 MR. DELGADO: ABSOLUTELY, YOUR HONOR.

13 THE COURT: ---TRASH SOMEBODY'S REPUTATION---

14 MR. DELGADO: ABSOLUTELY.

15 THE COURT: ---AND SO IT'S GOING TO HAVE TO BE
16 SOMETHING THAT YOU CAN RELATE TO SOME THEORY OF THE CASE---

17 MR. DELGADO: YES, SIR.

18 THE COURT: ---THAT COMES WITHIN THE RULES, BUT I -- I
19 WILL TAKE THESE AND LOOK AT THEM AND HEAR FROM YOU AT THE
20 APPROPRIATE TIME. OF COURSE, CERTAINLY WANT TO STAY AWAY
21 FROM ANY SPECIFICS IN THAT REGARD WITH REGARD TO THE OPENING
22 STATEMENT TO THE JURY UNTIL SOME DETERMINATION IS MADE.

23 ALL RIGHT. ANYTHING ELSE WE NEED TO ADDRESS BEFORE WE
24 BRING THE JURY IN AND GET STARTED FROM EITHER SIDE?

25 MR. POPE: YOUR HONOR, WITH THE UNDERSTANDING THAT WE

1 WITHDREW THE PHOTOS THAT MR. DELGADO DISCUSSED, FOR THE
2 RECORD, 1 THROUGH -- STATE'S 1 THROUGH 98 ARE PHOTOS AND,
3 AGAIN, I DON'T HAVE IN FRONT OF ME THE NUMBER THAT WE
4 WITHDREW, BUT WE WITHDREW ONE OF THOSE AT THE DEFENSE'S
5 REQUEST. 99 THROUGH 125, THAT'S VARIOUS PHYSICAL EVIDENCE.
6 MR. DELGADO HAS HAD AN OPPORTUNITY TO REVIEW THOSE ITEMS
7 ALSO AND THEY'VE ALL BEEN MARKED FOR IDENTIFICATION AT THIS
8 TIME, SO OF THOSE ITEMS, MY UNDERSTANDING THE OBJECTION WAS
9 TO THE PHOTO AND WE'VE WITHDRAWN THAT.

10 MR. DELGADO: THAT IS CORRECT, YOUR HONOR.

11 THE COURT: ALL RIGHT. ANYTHING ELSE?

12 MR. POPE: I'VE MADE BOTH WEAPONS SAFE AT THIS TIME,
13 YOUR HONOR.

14 THE COURT: ALL RIGHT. AND I APPRECIATE THAT,
15 SOLICITOR. ALL RIGHT. IF WE'RE READY TO PROCEED, THEN,
16 WE'LL BRING THE JURY IN. FOR THE RECORD, I'M ASKING JUROR
17 NUMBER 201, PAMELA W. POAG, TO SERVE AS FOREPERSON OF THIS
18 JURY.

19 MR. DELGADO: 201?

20 THE COURT: 201, PAMELA POAG, WILL BE THE FOREPERSON.
21 THANK YOU.

22 ALL RIGHT, SIR. IF YOU'LL PLEASE BRING THE JURY IN.

23 (JURY IN AT 10:10 A.M.)

24 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN OF THE
25 JURY. I APOLOGIZE FOR THE LITTLE DELAY IN GETTING YOU OUT

1 THIS MORNING. WE HAD SOME MATTERS WE NEEDED TO TAKE UP
2 BEFORE WE GOT STARTED THIS MORNING. WE'RE READY TO BEGIN
3 NOW AND I'M GOING TO ASK THE CLERK, PLEASE, IF SHE WILL
4 SWEAR THE JURY PANEL.

5 THE CLERK: PLEASE RISE AND RAISE YOUR RIGHT HAND.

6 (JURY SWORN)

7 THE COURT: PLEASE BE SEATED. THANK YOU. A COUPLE OF
8 THINGS I WANT TO ADVISE YOU OF. FIRST OF ALL, MR. NEAL, I
9 WANTED TO ADVISE YOU THE ROLE OF THE FORE- -- EXCUSE ME --
10 THE ALTERNATE. THE ALTERNATE'S ROLE IN THIS CASE IS THE
11 SAME AS THE FIRST TWELVE JURORS CHOSEN AND THAT IS TO LISTEN
12 CAREFULLY TO THE TESTIMONY AND EVIDENCE IN THE CASE, BECAUSE
13 IF FOR ANY REASON AN EMERGENCY SHOULD DEVELOP WITH REGARD TO
14 ONE OF THE FIRST TWELVE JURORS CHOSEN AND WE HAD TO EXCUSE
15 THAT JUROR, YOU WOULD AUTOMATICALLY FILL IN FOR THE MISSING
16 JUROR. YOU COULD NOT DO THAT UNLESS YOU HAD LISTENED
17 CAREFULLY TO THE TESTIMONY AND EVIDENCE AND WERE IN A
18 POSITION TO DO THAT. WE DO ASK THAT THE ALTERNATE REMAIN IN
19 THAT SAME SEAT THROUGHOUT THE TRIAL, IF YOU WOULD, PLEASE.

20 NOW, I'VE ASKED JUROR NUMBER 201, PAMELA W. POAG, MS.
21 POAG, I'VE ASKED THAT YOU SERVE AS FOREPERSON OF THE JURY.
22 LET ME -- I WANT TO EXPLAIN TO YOU THE ROLE OF THE
23 FOREPERSON.

24 THE FOREPERSON IS ASKED TO SERVE AS SPOKESPERSON FOR
25 THE JURY BACK TO THE COURT, SO IF THERE'S A MATTER THAT

1 NEEDS TO COME TO THE ATTENTION OF THE COURT FROM THE JURY, I
2 WOULD ASK THAT YOU WRITE THAT DOWN ON THE TABLET PROVIDED
3 FOR YOU BACK IN THE JURY ROOM, GIVE THAT TO THE BAILIFF.
4 THE BAILIFF WILL BRING IT TO ME AND I WILL EITHER CORRESPOND
5 IN LIKE MANNER OR I'LL BRING YOU BACK OUT INTO THE COURTROOM
6 AND RESPOND. THAT'S HOW WE SHOULD COMMUNICATE, YOU NOW
7 HAVING BEEN SWORN AS JURORS IN THIS CASE.

8 WE ALSO ASK THAT THE FOREPERSON SERVE AS MODERATOR ONCE
9 WE REACH THE DELIBERATIVE STAGE OF THIS TRIAL, TO MODERATE
10 THOSE DISCUSSIONS AND DELIBERATIONS, TO MAINTAIN SOME ORDER
11 IN THOSE DELIBERATIONS AND TO MAKE SURE THAT EVERYONE ON THE
12 JURY PANEL IS ALLOWED TO PARTICIPATE AND BE HEARD IN THOSE
13 DELIBERATIONS AND DISCUSSIONS. AND, FINALLY, ONCE A
14 UNANIMOUS VERDICT IS REACHED BY THE JURY, WE ASK THAT THE
15 FOREPERSON RECORD THE VERDICTS ON THE VERDICT FORMS, WHICH
16 WILL BE PROVIDED TO YOU AND EXPLAINED TO YOU AT THE
17 APPROPRIATE TIME AT THE CONCLUSION OF THE TRIAL. OTHERWISE,
18 THE ROLE OF THE FOREPERSON IS THE SAME AS THE OTHER JURORS
19 CHOSEN IN THIS CASE, AND THAT IS TO LISTEN CAREFULLY TO THE
20 TESTIMONY AND THE EVIDENCE SO YOU'LL BE IN A POSITION TO
21 DELIBERATE AND HELP REACH A VERDICT IN THIS CASE.

22 NOW, WE ASK THAT THE FOREPERSON ALSO RETAIN THAT SAME
23 SEAT THROUGHOUT THE TRIAL.

24 NOW, THE OTHER SEATS ARE INTERCHANGEABLE, SO IT REALLY
25 DOES NOT MATTER WHERE ANY OTHER JUROR SITS, BUT WE DO LIKE

1 TO KEEP THE FOREPERSON AND THE ALTERNATE IN THE SAME SEATS
2 THROUGHOUT THE TRIAL.

3 NOW, THAT CONCLUDES THIS INSTRUCTION TO YOU. WE'RE
4 READY NOW TO ACTUALLY BEGIN THE TRIAL AND WE'RE TO THAT PART
5 OF THE TRIAL WHERE COUNSEL WILL MAKE THEIR OPENING
6 STATEMENTS TO YOU. I ASK THAT YOU LISTEN ATTENTIVELY AS
7 COUNSEL ADDRESS YOU IN OPENING STATEMENT.

8 COUNSEL, READY TO PROCEED.

9 MR. POPE: THANK YOU, SIR. JUNE 26, 2004, KIM BOWDEN
10 HAD LEFT KMART ABOUT NINE O'CLOCK, A LITTLE AFTER NINE
11 O'CLOCK, AND WAS COMING BACK TO HER HOME AT PACES RIVER.
12 SHE WAS CUTTING THROUGH COMING BACK FROM KMART. YOU'LL SEE
13 ON STATE'S EXHIBIT 1 THE ROAD SHE CUT THROUGH OVER NEAR
14 WHERE THE OLD PUTT-PUTT WAS WHERE IT CROSSES CELANESE, COMES
15 IN RIGHT AT RIVER RUN COURT. ON THIS -- IN OTHER WORDS,
16 CELANESE HERE, I-77 HERE AND PACES RIVER DOWN HERE.

17 AS SHE GETS TO THIS INTERSECTION, SHE SEES ACROSS THE
18 INTERSECTION HER NEIGHBOR -- IF I CAN THINK OF THE PROPER
19 TERM -- WHO LIVES IN THE APARTMENT DIRECTLY ACROSS FROM HER
20 APARTMENT IS NOW PULLING IN TO GO DOWN TO THE APARTMENT, AND
21 SHE SEES THE NEIGHBOR, ARVELL BAGLEY, TURN IN TO THE ROAD
22 HEADING DOWN THE WAY, GOING TO THE APARTMENTS AT PACES
23 RIVER.

24 THE LIGHT CHANGES AS HE MAKES HIS TURN IN AND SO SHE'S
25 DIRECTLY BEHIND, RIGHT THERE WHERE THE OUTBACK WOULD BE ON

1 THE RIGHT, AND SHE'S DIRECTLY BEHIND. TO HER LEFT, COMING
2 OUT RIGHT THERE AT THE LIGHT, SHE SEES A NISSAN MAXIMA.
3 YOU'LL HEAR SOME DESCRIBE IT AS GOLD; YOU'LL HEAR SOME
4 DESCRIBE IT AS SILVER. YOU'LL HEAR ABOUT THE LIGHTING DOWN
5 IN THAT AREA. IT'S KIND OF THOSE -- THE ORANGE KIND OF
6 HALIDE LIGHTS THAT CAST A GLOW OF THE APARTMENTS. AS SHE
7 CLEARED THE INTERSECTION, AND SHE'S BEHIND HER NEIGHBOR,
8 ARVELL BAGLEY, THIS SILVER NISSAN MAXIMA ROLLS AROUND BEHIND
9 AND MAKES A U-TURN. IN OTHER WORDS, IT'S COMING OUT AND
10 MAKES A U-TURN AND FALLS IN BEHIND.

11 YOU'LL HEAR HER TESTIMONY FROM THE STAND, THAT MAXIMA
12 WAS SO TIGHT ON HER, AT SOME POINT SHE COULDN'T SEE THE
13 LIGHTS. AT SOME POINT SHE THOUGHT IT HAD ITS BRIGHT LIGHTS
14 ON. IT WAS RIGHT ON HER BUMPER, BECAUSE, SEE, SHE WAS
15 BETWEEN THE DEFENDANTS IN THAT CAR AND ARVELL BAGLEY.

16 THEY PROCEED ON DOWN INTO PACES RIVER. MR. THOMPSON,
17 IF YOU'LL GIVE ME NUMBER 4, I BELIEVE IT IS. THEY PROCEED
18 INTO PACES RIVER AND SHE HEADS DOWN TO HER APARTMENT THAT
19 WAS RIGHT IN THIS AREA, SO SHE MAKES A LEFT. MR. BAGLEY IN
20 FRONT OF HER, SHE OBSERVES, GOES STRAIGHT AND COMES IN THE
21 PARKING LOT THIS WAY. THE SILVER MAXIMA THAT WAS RIGHT ON
22 HER BUMPER FOLLOWS MR. BAGLEY'S CAR.

23 WHEN SHE GETS INTO THE PARKING LOT AND SHE PARKS HER
24 CAR TO GO INTO HER APARTMENT, MR. BAGLEY PARKS HIS CAR AND
25 HE CALLS OUT TO HER TO SPEAK TO HER, TO SAY HELLO AS

1 NEIGHBORS SOMETIMES WILL, AND HE BEGINS TO APPROACH HER.
2 HER TESTIMONY, I BELIEVE, WILL BE THAT SHE TURNS AND STARTS
3 TO WALK TOWARD HIM TO TALK TO HIM. AT THAT POINT THE NISSAN
4 MAXIMA COMES ON INTO THE SCENE AND TWO INDIVIDUALS GET OUT
5 OF THE CAR.

6 THE EVIDENCE WILL INDICATE THAT ONE OF THE INDIVIDUALS
7 WAS MR. DEBREZIO CAMPBELL AND HE WAS CARRYING A .25 SEMI-
8 AUTOMATIC. THE EVIDENCE WILL INDICATE THAT THE OTHER
9 INDIVIDUAL THAT GOT OUT OF THE CAR WAS MR. CHRISTOPHER
10 WOODY. HE WAS CARRYING A .45 AUTOMATIC.

11 AS THEY COME DOWN THE HILL, SHE SEES THE CAR COMING AND
12 MS. BOWDEN THINKS, WELL, IT MUST BE FRIENDS OF HIS, SO SHE
13 TURNS TO HEAD BACK IN AND THAT'S WHEN SHE HEARS THE
14 GUNSHOTS. AND YOU WILL HEAR FROM MS. BOWDEN HOW SHE WENT
15 INTO HER APARTMENT, TURNED AROUND AND SAW THE END OF THE
16 SHOOTING AND THE SILVER CAR SPED AWAY.

17 SHE GOES IMMEDIATELY OUT TO THE PARKING LOT, AS DO
18 OTHER NEIGHBORS. YOU'LL HEAR FROM MS. ETTA AND JONATHAN
19 GIBSON, WHO LIVE IN THIS BUILDING. YOU'LL HEAR MS. GIBSON
20 TELL ABOUT THAT SAME TIME HOW SHE'S PUTTING HER CHILD TO BED
21 IN THE FRONT BEDROOM IN THE CORNER RIGHT THERE. YOU'LL HEAR
22 HOW SHE HEARS THE GUNSHOTS. HER HUSBAND GOES OUT
23 IMMEDIATELY TO RENDER AID AND COMES BACK TO MAKE SURE THE
24 DOOR'S LOCKED AND HOW MS. BOWDEN AND GIBSON, WHO OTHER THAN
25 LIVING IN THE SAME AREA HAD NO REAL CONNECTION, ATTEMPTED TO

1 RENDER AID AS ARVELL BAGLEY, AN UNARMED MAN, LAY THERE DYING
2 IN THAT PARKING LOT.

3 YOU'LL HEAR THE EVIDENCE CONCERNING EMS COMING. YOU'LL
4 HEAR THE EVIDENCE OF HOW THE CITIZENS AND THE PEOPLE THAT
5 WERE RENDERING ASSISTANCE WERE THERE IMMEDIATELY. NO TIME
6 TO DISPOSE OF EVIDENCE IF THIS WAS SUPPOSEDLY AN ARMED MAN,
7 NO TIME TO GET RID OF ANYTHING. THE CITIZENS WERE THERE
8 IMMEDIATELY. AND THE EVIDENCE WILL INDICATE THAT HE WAS
9 KILLED BOTH WITH A BULLET FROM THE .25 THAT HAD ENTERED HIS
10 CHEST AND PIERCED HIS HEART AND FILLED HIS LUNGS WITH BLOOD.
11 INDEPENDENT OF THAT, INDEPENDENT OF THAT, HE WAS HIT THREE
12 TIMES WITH BULLETS FROM THE .45 FROM THE FIRING OF MR. WOODY
13 IN THE BACK OF THE ARM, HIS BUTTOCK AND HIS SKULL.

14 THE CHARGES YOU HAVE BEFORE YOU, COUNT ONE MURDER. THE
15 JUDGE READ TO YOU, AS THE JUDGE HAS INSTRUCTED YOU, THESE
16 ARE NOT -- THIS IS NOT EVIDENCE. THIS IS MERELY THE
17 CHARGING PAPER THAT ALLOWS THE JURY TO CONSIDER THE CHARGES
18 BEFORE IT. COUNT ONE, MURDER, SAYS THAT MR. WOODY DID KILL
19 ONE ARVELL BAGLEY BY MEANS OF SHOOTING THE VICTIM WITH A
20 FIREARM AND SAID VICTIM, ARVELL BAGLEY, DIED AS A RESULT
21 THEREOF. THIS MURDER OCCURRED IN FRONT OF ARVELL BAGLEY'S
22 APARTMENT LOCATED AT [REDACTED] PACES RIVER IN ROCK HILL.

23 COUNT TWO IS THE POSSESSION OF A FIREARM DURING THE
24 COMMISSION OF A VIOLENT CRIME AND, BASICALLY, WHAT THAT SAYS
25 IS THAT HE DID POSSESS THIS FIREARM DURING THE COMMISSION OF

1 THE MURDER.

2 THE SECOND CHARGE IS CRIMINAL CONSPIRACY, AND IT SAYS
3 THAT MR. WOODY DID WILLFULLY AND UNLAWFULLY UNITE, CONSPIRE,
4 CONFEDERATE, AGREE OR HAVE A TACIT UNDERSTANDING WITH
5 DEBREZIO CAMPBELL, DESMOND CAMPBELL AND/OR OTHERS FOR THE
6 PURPOSE OF COMMITTING THE CRIME OF MURDER AGAINST ARVELL
7 BAGLEY IN VIOLATION OF THE SOUTH CAROLINA CODE. THAT WILL
8 BE EVIDENCED FROM THE TESTIMONY, FROM THE FORENSIC EVIDENCE
9 AND ULTIMATELY FROM THE CONDUCT, BECAUSE WHAT YOU'LL HEAR
10 FROM THE FORENSIC OFFICER THAT PROCESSED THE SCENE IS
11 THERE'S BASICALLY TWO ROWS OF .25 SHELLS WHERE THE BULLETS
12 WERE BEING SHOT. YOU KNOW, YOU'LL LEARN HOW THE GUNS KICK
13 THE CASING OUT AND THEY'RE LAYING IN A LINE. THE GUNS KICK
14 THE CASING OUT AND THEY'RE LAYING IN A LINE. YOU'LL HEAR
15 ABOUT THE LEAD THAT WAS RECOVERED FROM THE WALL BEHIND, FROM
16 THE MAN'S BODY, FROM THE GROUND WHERE HE DROPPED. THEN
17 YOU'LL ALSO HEAR ABOUT THE .45 AND YOU'LL HEAR ABOUT THAT
18 LINE OF THREE CASINGS BEHIND MR. BAGLEY AT THE SCENE, ONE
19 SHOT TO THE ARM, ONE SHOT TO THE BUTTOCKS, ONE SHOT TO THE
20 HEAD, AND YOU WILL SEE WHERE THOSE CASINGS END UP AND YOU'LL
21 HEAR FROM AN EXPERT ON HOW THEY MATCH UP TO THE GUN THAT THE
22 EVIDENCE WILL INDICATE WAS REGISTERED TO MR. WOODY.

23 NOW, YOU WILL CONSIDER THE CONSPIRACY CHARGE, BUT I
24 WILL TELL YOU HERE NOW IN THE NEXT COUPLE OF DAYS, AND THE
25 JUDGE HAS TALKED ABOUT SOMETIMES CASES TAKE WEEKS, SOMETIMES

1 THEY TAKE DAYS. I ANTICIPATE WE WILL, IN FACT, FINISH THIS
2 WEEK. THIS WON'T BE LIKE CALIFORNIA WHERE YOU'RE HERE FOR
3 THREE MONTHS ON SOMETHING. THIS IS A VERY IMPORTANT CASE,
4 BUT WE WILL FINISH THIS WEEK.

5 ALTHOUGH THERE'S A CONSPIRACY AND YOU WILL CONSIDER
6 CONSPIRACY AND CONSIDER EVIDENCE, FOR YOUR PURPOSES FOR THIS
7 JURY, MR. CAMPBELL IS NOT ON TRIAL. NEITHER DEBREZIO OR
8 DESMOND CAMPBELL IS ON TRIAL. THEY WILL HAVE A SEPARATE
9 TIME, A SEPARATE COURT AND A SEPARATE DAY. THE QUESTION YOU
10 HAVE TO DEAL WITH THAT WILL BE BEFORE YOU TODAY IS DID MR.
11 WOODY TAKEN THIS .45 AND SHOOT ARVELL BAGLEY IN THE BACK
12 THREE TIMES, ULTIMATELY KILLING HIM? THAT'S THE DECISION
13 THAT YOU HAVE TO MAKE HERE TODAY. AND YOU NEED TO FOCUS ON
14 THAT, AND THE EVIDENCE -- AGAIN, WE'VE GOT EVIDENCE OF A .25
15 IN A KILLING BLOW. WE'VE GOT EVIDENCE OF A .45 IN A KILLING
16 BLOW. YOU WILL HEAR ALL THE EVIDENCE; WE WILL BRING YOU ALL
17 THE EVIDENCE.

18 AS TO MR. WOODY, THE EVIDENCE WILL INDICATE HE IS THE
19 ONE WHO SHOT THE .45 AND WE WILL FOCUS ON THAT.

20 IT'S THE STATE'S BURDEN TO PROVE THIS CASE, BUT WE HAVE
21 TO PROVE IT BEYOND A REASONABLE DOUBT. WE DO IT NOT THROUGH
22 WHAT I SAY, BUT THROUGH THE EVIDENCE THAT COMES HERE,
23 THROUGH THE PHYSICAL EVIDENCE THAT YOU WILL SEE.

24 ALL I ASK THAT YOU DO IS DO WHAT YOU JUST SWORE TO DO,
25 WHICH IS KEEP AN OPEN MIND AND RENDER A VERDICT THAT SPEAKS

1 THE TRUTH, AND THE TRUTH IN THIS PARTICULAR MATTER WILL BE
2 ABUNDANTLY CLEAR. THIS MAN DID TAKE THAT .45 AND CHOSE TO
3 SHOOT MR. BAGLEY THREE TIMES, TAKING HIS LIFE. THANK YOU
4 FOR YOUR TIME.

5 MR. DELGADO: MAY IT PLEASE THE COURT.

6 THE COURT: COUNSEL.

7 MR. DELGADO: MR. SOLICITOR. BARIUM, LEAD, ANTIMONY.
8 LET ME ASK YOU TO GO BACK WITH ME TO WHAT WAS FOR ME EIGHTH
9 GRADE SCIENCE. I CAN CLOSE MY EYES AND SEE ON THE RIGHT
10 HAND OF MY EIGHTH GRADE SCIENCE CLASS SOMETHING CALLED A
11 PERIODIC CHART. Y'ALL REMEMBER THAT? A BIG THING, ABOUT AS
12 BIG AS THAT, TO BE HONEST WITH YOU. I HAVEN'T THOUGHT OF
13 IT. EVERY CONCEIVABLE MINERAL, EVERY CONCEIVABLE ELEMENT
14 KNOWN TO THOSE OF US IN THE PHYSICAL WORLD IS DISPLAYED
15 THERE, AND THEY ALL HAVE LITTLE SYMBOLS. HYDROGEN IS AN H,
16 OXYGEN IS AN O, CHLORINE, I THINK, IS EITHER CL OR CH, CL
17 AND HERE ARE THREE MORE. AND THOSE LITTLE SYMBOLS FROM THE
18 PERIODIC CHART ARE LIKE THIS: BARIUM IS BA, LEAD IS PB. I
19 DON'T KNOW WHY THAT IS, BUT ANTIMONY, AN. THAT'S WHAT THIS
20 CASE IS ABOUT.

21 I'M NOT BEING SOCIABLE. FIRST OF ALL, I'LL SAY GOOD
22 MORNING TO Y'ALL, AND I'M SORRY THAT YOU HAVE BEEN CALLED
23 UPON TO RENDER A DECISION IN THIS CASE, BUT THAT IS WHAT OUR
24 CITIZENRY IS CALLED UPON TO DO FROM TIME TO TIME. I'M SORRY
25 TO SAY THAT WE'RE GLAD TO MEET YOU, ALL OF US, BOTH SIDES,

1 BUT HERE WE ARE.

2 I WANT TO INTRODUCE TO YOU OUR CLIENT. CHRIS, STAND UP
3 FOR A MINUTE. THIS IS CHRIS WOODY. HE'S TWENTY-FIVE YEARS
4 OLD NOW. HE'S FROM VIRGINIA, NEWPORT, VIRGINIA. HAVE A
5 SEAT, YOUNG MAN. THE LADY NEXT TO HER IS MY LAW CLERK. HER
6 NAME IS MARY FORD. SHE JUST GRADUATED FROM THE UNIVERSITY
7 OF SOUTH CAROLINA. WELL, SHE GRADUATES THIS FRIDAY. SHE
8 JUST COMPLETED LAW SCHOOL. SHE'S BEEN ASSISTING ME A
9 LITTLE, ASSISTING ME WITH THIS CASE.

10 WE KNOW YOUR NAMES FROM THE LIST. WE KNOW YOUR NAMES
11 WHEN YOU HAD TO COME UP AND STAND AROUND AND LOOK BACK AT US
12 WHEN WE DECIDED WHETHER OR NOT YOU WERE SUITABLE FOR THIS
13 CASE, BUT WHEN YOU SIT HERE IN THIS BOX, YOU DON'T TALK. WE
14 DO ALL THE TALKING. SO A VERY, VERY DIFFERENT RELATIONSHIP.
15 YOU CAN'T ASK US QUESTIONS; WE CAN'T ASK YOU QUESTIONS. WE
16 CAN'T SAY TO YOU, DO Y'ALL UNDERSTAND WHERE WE WERE GOING
17 WITH THAT WITNESS? IS THIS ENOUGH? DO YOU UNDERSTAND?

18 WE DO ALL THE TALKING IN THIS PIT AND THEN AFTER THE
19 CASE IS COMPLETELY OVER, AFTER THE JUDGE TELLS YOU WHAT THE
20 LAW YOU ARE TO APPLY, YOU GO BACK IN YOUR ROOM, AND ONLY
21 TWELVE OF YOU. THEN YOU DO YOUR TALKING AND WE DON'T HEAR A
22 THING WHAT YOU SAY. IT'S A VERY DIFFERENT RELATIONSHIP.
23 IT'S A VERY DIFFERENT EXPERIENCE.

24 IF I CAN, AND I WANT TO REMEMBER WHAT JUDGE ALFORD SAID
25 TO YOU YESTERDAY. THERE ARE TWO GUIDEPOSTS THAT YOU MIGHT

1 WANT TO CONSIDER IN HEARING EVIDENCE, AND I EXPECT, LADIES
2 AND GENTLEMEN, THURSDAY MAYBE -- MAYBE EVEN FRIDAY -- I
3 ALWAYS SELL THESE THINGS SHORT, BUT WE ARE THROUGH BY ALL
4 RIGHT. I CONCUR WITH MR. POPE THAT THAT'S EXACTLY RIGHT.
5 TWO THINGS THAT I WISH YOU WOULD REMEMBER NOW. I WILL
6 REMIND THEM OF YOU IN CLOSING AND I WILL TELL YOU THAT THE
7 JUDGE WILL ALSO TELL YOU THAT THESE ARE TWO GUIDEPOSTS THAT
8 YOU CAN USE. AS CHRIS WOODY SITS THERE RIGHT NOW, HE'S NOT
9 GUILTY OF ANYTHING. LET ME SAY THAT TO YOU AGAIN. EVERY
10 TIME DURING THE COURSE OF THIS TRIAL WHEN YOU COME IN HERE,
11 WATCHING HIM, ANY OTHER TIME WHILE YOU'RE HERE, AS YOU THINK
12 ABOUT IT BACK IN THE BACK, HE IS PRESUMED INNOCENT.

13 NOW, THAT'S NOT JUST LAWYER TALK. THE JUDGE TOLD YOU
14 ABOUT THAT YESTERDAY. THAT'S WHAT YOU HAVE TO DO. YOU HAVE
15 TO PRESUME HIM INNOCENT UNTIL THE SOLICITOR DESTROYS THAT
16 PRESUMPTION. IN OTHER WORDS, SOMETIMES LAWYERS CALL IT IF
17 HE WAS WEARING A ROBE UNTIL THE SOLICITOR -- A ROBE THAT HAS
18 PRESUMPTION OF INNOCENCE ALL OVER IT, UNTIL THE SOLICITOR
19 JERKS THAT OFF OF HIM AND PROVES TO YOU THE SECOND
20 GUIDEPOST, PROOF BEYOND EVERY REASONABLE DOUBT THAT EACH OF
21 THE TWELVE OF YOU WILL HAVE. LET ME SAY THAT TO YOU AGAIN.
22 PRESUMPTION OF INNOCENCE, EVERY TIME YOU SEE CHRIS WOODY,
23 AND THEN THE NECESSITY FOR MY FRIEND, THE SOLICITOR, HAS TO
24 PROVE TO YOU BEYOND EVERY REASONABLE DOUBT THAT HE WASN'T
25 ACTING IN SELF-DEFENSE.

1 LET ME SAY THAT TO YOU AGAIN. THAT'S EXACTLY WHAT THIS
2 CASE IS ALL ABOUT, SELF-DEFENSE, AND IT'S AS OLD AS OUR
3 HISTORY. THE BIBLE EVERYBODY'S GOING TO SQUARE OFF, THERE'S
4 A STORY IN THE EIGHTH CHAPTER OF ESTHER ABOUT THE KING
5 ALLOWING THE JEWS -- THE PHRASING IN THE EIGHTH CHAPTER IS
6 THAT THE KING, I THINK HIS NAME WAS HEZERIAS. PERMITTED THE
7 JEWS TO BAND TOGETHER IN THEIR CITY TO STAND FOR THEIR OWN
8 LIFE, TO DESTROY, TO SLAY AND TO CAUSE TO PERISH ALL THOSE
9 WHO WOULD ASSAULT THEM. IT'S AS OLD AS US. IT'S AS OLD AS
10 OUR HISTORY RIGHT THERE.

11 NOW, WHAT DOES THAT TELL US ABOUT OURSELVES AS HUMAN
12 CREATURES? WE HAVE THAT RIGHT, HOPEFULLY TO BE INVOKED AND
13 USED VERY RARELY, BUT WHEN IT IS NECESSARY TO DO SO TO
14 DESTROY, TO SLAY AND TO CAUSE TO PERISH, THEN WE MUST HAVE
15 TO DO THAT.

16 NOW, LADIES AND GENTLEMEN, LET ME TELL YOU SOMETHING
17 ABOUT THE STATE'S CASE. THERE ARE GOING TO BE SOME
18 PHOTOGRAPHS THAT ARE VERY DIFFICULT FOR SOME OF Y'ALL TO
19 LOOK AT. SOME OF YOU MAY HAVE SOME EXPERIENCE WITH
20 MEDICINE, BUT THERE ARE GOING TO BE SOME THINGS HERE THAT
21 WILL BE VERY DIFFICULT FOR YOU, BUT PLEASE UNDERSTAND, AND
22 FOR MR. BAGLEY'S FAMILY WHO ARE HERE, THAT IS THE
23 SOLICITOR'S RESPONSIBILITY TO SHOW YOU THAT, AND I SAY THIS
24 TO YOU AGAIN. THEY WILL SHOW YOU A HOLE, YES, AN ENTRY
25 WOUND IN THE BACK OF MR. BAGLEY'S HEAD THAT IS SHOT BY THE

1 .45 THAT MR. POPE JUST BROUGHT OUT? YES, HE DID. HE MOST
2 CERTAINLY DID.

3 WELL, SIR, HOW DO YOU SAY IT'S SELF-DEFENSE, THEN?

4 BARIUM, LEAD AND ANTIMONY. FOR THOSE OF YOU-ALL WHO
5 MAY OR MAY NOT HAVE EVER SHOT A HANDGUN OR USED A FIREARM,
6 BARIUM, LEAD AND ANTIMONY ARE THE CHEMICALS THAT ARE IN THE
7 GUN, IN THE PRIMER TO A SHELL, TO A SLUG. BARIUM, LEAD AND
8 ANTIMONY ARE CALLED GUNSHOT RESIDUE. LET ME SAY THAT TO YOU
9 AGAIN. WHEN A GUN IS SHOT OR A GUN, WHETHER IT'S IN YOUR
10 HAND OR NOT, A GUN THAT IS SHOT WILL HAVE GUNSHOT RESIDUE ON
11 IT AND IF YOU PICK THAT GUN UP, GUESS WHAT THAT LEAVES ON
12 YOUR HAND? GUNSHOT RESIDUE. AND THE DECEASED IN THIS CASE,
13 MR. ARVELL BAGLEY, HAD IT ON THE PALM OF HIS LEFT HAND.

14 HOW WOULD IT -- HOW IN THE WORLD WOULD THAT GET THERE
15 FROM THAT? CAN YOU IMAGINE THAT? YOU WAIT 'TIL MS. STONER,
16 AN AGENT WITH THE STATE LAW ENFORCEMENT DIVISION, COMES UP
17 HERE AND TALKS TO YOU ABOUT IT AND SHE'LL TELL YOU ABOUT THE
18 CHEMICAL TEST THAT THEY USE TO BE ABLE TO SHOW TO YOU THAT
19 HE HAD IT IN THE PALM OF HIS LEFT HAND, MR. BAGLEY. SO
20 WHERE DOES THAT LEAD US? WELL, IT COMES BACK TO SELF-
21 DEFENSE, AND LET ME JUST SAY THIS TO YOU ABOUT MY FRIENDS
22 FROM THE SOLICITOR'S OFFICE. THEY'RE FINE PROSECUTORS,
23 WONDERFUL FELLOWS, GREAT OFFICE. LET ME ALSO SAY THIS TO
24 YOU: THEY CAN'T SANITIZE MR. ARVELL BAGLEY. THEY CAN'T
25 SANCTIFY HIM. THEY CAN'T MAKE INTO SOMETHING HE WASN'T.

1 BUT IF, AS THE JUDGE SAID YESTERDAY, THEY'RE TO BRING YOU
2 ALL THE FACTS, IF THEY'RE TO SHOW TO YOU EVERYTHING THAT YOU
3 NEED TO KNOW TO COME TO THAT DECISION, WHICH IS YOUR GOAL,
4 TO PROVE HIS GUILT, THERE'S TWO FOLKS THAT MAY OR MAY NOT
5 TESTIFY. THEIR NAME IS CAMPBELL, DESMOND CAMPBELL AND
6 DEBREZIO CAMPBELL. THAT'S WHERE THIS CASE TURNS. AND IF MY
7 FRIENDS DON'T CALL THEM, THEN I WILL CALL THEM. BECAUSE IF
8 THEY WANT TO BRING YOU THE WHOLE TRUTH, IF THEY WANT TO
9 BRING YOU EVERYTHING THAT'S IN THIS CASE, THEY'RE SUPPOSED -
10 - THEY'RE GOING TO HAVE EIGHTY OR A HUNDRED PHOTOGRAPHS.
11 THAT'S FINE. I'M NOT TALKING -- WE'RE GOING TO AGREE ABOUT
12 PROBABLY EVERY -- ABSOLUTELY RIGHT. THAT'S THE GUN; THAT'S
13 THE SHELL CASING; THAT'S WHERE THE BLOOD IS ON THE GROUND;
14 THAT'S HIS HEAD. ABSOLUTELY. AND WE'LL PROVE TO YOU SELF-
15 DEFENSE.

16 WAIT 'TIL THIS CASE IS OVER, YOU'LL SEE MORE THEN,
17 HOPEFULLY, AS TO WHAT WE ARE SIMPLY GIVING YOU A PREVIEW OF
18 NOW. YOU WILL SEE WHAT WE TALK ABOUT IN FULL AND IN TOTO
19 THEN. SELF-DEFENSE.

20 HE HAD A RIGHT TO DO THAT, EVEN TO THE BACK OF HIS
21 HEAD, BECAUSE THERE WAS A GUN. MR. POPE'S WRONG. THERE WAS
22 A GUN AND WE'LL PROVE THAT TO YOU. THANK YOU. THANK YOU,
23 YOUR HONOR.

24 THE COURT: THE STATE WILL PLEASE CALL ITS FIRST
25 WITNESS.

1 MR. THOMPSON: THE STATE WOULD CALL KIMBERLY BOWDEN,
2 YOUR HONOR. COME UP AND BE SWORN, MS. BOWDEN.

3 THE CLERK: PLEASE RAISE YOUR RIGHT HAND, PLACE YOUR
4 LEFT HAND ON THE BIBLE.

5 (KIMBERLY SHAUNETTA BOWDEN, BEING FIRST DULY SWORN, WAS
6 EXAMINED AND TESTIFIED AS FOLLOWS):

7 DIRECT EXAMINATION

8 KIMBERLY SHAUNETTA BOWDEN BY MR. THOMPSON:

9 Q. GOOD MORNING, MS. BOWDEN. WOULD YOU GIVE YOUR FULL
10 NAME FOR THE COURT, PLEASE?

11 A. KIMBERLY SHAUNETTA BOWDEN.

12 Q. AND, MS. BOWDEN, BACK IN JUNE OF LAST YEAR, WHERE DID
13 YOU LIVE?

14 A. PACES RIVER APARTMENTS.

15 Q. AND CAN YOU TELL ME, HOW LONG HAD YOU LIVED THERE AT
16 THAT POINT IN TIME?

17 A. ABOUT THREE MONTHS, I THINK.

18 Q. OKAY. DID YOU KNOW ARVELL BAGLEY?

19 A. UH-HUH.

20 Q. HOW DID YOU KNOW HIM?

21 A. I STAYED ACROSS THE BREEZEWAY FROM HIM.

22 Q. OKAY. SO IS HIS APARTMENT RIGHT ACROSS THE BREEZEWAY
23 FROM YOU?

24 A. UH-HUH.

25 Q. HAD YOU KNOWN HIM FOR A LONG TIME?

1 A. I'D KNOWN OF HIM FOR A LONG TIME, BUT I ACTUALLY MET
2 HIM WHEN I MOVED THERE, SO --

3 Q. OKAY. SO, REALLY, THE TIME THAT YOU MET HIM, YOU WERE
4 JUST, I GUESS, AS A FRIEND OR SOMETHING OF THAT NATURE---

5 A. YES.

6 Q. ---WOULD BE WHEN YOU MOVED TO THE APARTMENT COMPLEX?

7 A. UH-HUH.

8 THE COURT: EXCUSE ME JUST A MINUTE, SOLICITOR. I'M
9 GOING TO GET YOU TO ANSWER YES OR NO INSTEAD OF UH-HUH,---

10 THE WITNESS: OKAY. YES.

11 THE COURT: ---IT MAKES IT EASIER TO RECORD YOUR
12 TESTIMONY. THANK YOU.

13 THE WITNESS: OKAY.

14 Q. I TELL YOU WHAT, BEFORE WE CONTINUE, LET ME PUT THIS
15 BOX DOWN SO YOU DON'T HAVE TO LOOK THROUGH IT WHEN I'M
16 TRYING TO TALK TO YOU. CAN YOU TELL ME, ON THE NIGHT -- DO
17 YOU RECALL JUNE 26TH OF 2004, WHAT DAY THAT WAS, WEEKDAY,
18 WEEKEND? DO YOU RECALL WHAT DAY?

19 A. I DON'T KNOW THE DAY.

20 Q. CAN YOU TELL ME, WHAT DID YOU -- WHAT WERE YOU DOING
21 THAT NIGHT?

22 A. WELL, I'D JUST GOT OFF WORK AT SIX O'CLOCK AND I CAME
23 HOME AND I DECIDED TO GO TO KMART TO PUT SOME PICTURES IN
24 THE HOUR DEVELOPMENT.

25 Q. OKAY. AND GO AHEAD, TELL ME WHAT HAPPENED AFTER THAT.

1 A. OKAY. ON MY WAY BACK, I WAS AT THE RED LIGHT BY THE
2 SMILE CAR WASH.

3 Q. BY THE SMILE CAR WASH?

4 A. I THINK IT'S THE SMILE CAR WASH ACROSS --

5 Q. WHAT'S THE NAME OF THAT ROAD THERE?

6 A. RIVER CHASE?

7 Q. RIVER CHASE? ALL RIGHT. AND CAN YOU TELL ME -- LET ME
8 SHOW YOU A PHOTOGRAPH. THIS PHOTOGRAPH RIGHT UP HERE --

9 MR. THOMPSON: YOUR HONOR, IF SHE MAY STEP DOWN FOR
10 JUST A MOMENT.

11 THE COURT: YES, SIR.

12 Q. DID YOU HAVE AN OPPORTUNITY TO SEE THIS PHOTOGRAPH
13 BEFORE YOU CAME UP ON THE STAND TO TESTIFY?

14 A. UH-HUH.

15 Q. AND CAN YOU TELL ME, IS THAT THE INTERSECTION THAT
16 YOU'RE SPEAKING OF?

17 A. YES, RIGHT HERE. THAT'S WHERE I WAS.

18 Q. ALL RIGHT. I TELL YOU WHAT, I'M GOING TO GIVE YOU THIS
19 POINTER---

20 A. OKAY..

21 Q. ---SO YOU CAN STAND BACK A LITTLE BIT AND NOT HAVE THAT
22 IN YOUR EYE. WHERE WERE YOU IN THE INTERSECTION WHEN YOU
23 CAME TO IT?

24 A. RIGHT HERE.

25 Q. OKAY. WAS IT STILL DAYLIGHT OR TURNING DARK AT THAT

1 TIME? WHAT TIME WOULD IT BE?

2 A. IT WAS TURNING DARK.

3 Q. IT WAS TURNING DARK? AND WHICH WAY WERE YOU GOING IN
4 THAT INTERSECTION?

5 A. I WAS COMING THIS WAY.

6 Q. OKAY. WHEN YOU GOT TO THAT INTERSECTION, DID YOU SEE
7 ANYONE ELSE IN THERE THAT YOU RECOGNIZED?

8 A. I SEEN DARRELL WAS COMING THIS WAY.

9 Q. AND DARRELL, WAS THAT ARVELL BAGLEY?

10 A. UH-HUH.

11 Q. ALL RIGHT. HE WENT BY THE NAME DARRELL?

12 A. YES.

13 Q. YES? OKAY. WHERE WAS HE? DID HE REACH THE LIGHT AT
14 THE SAME TIME?

15 A. I WAS AT THE RED LIGHT RIGHT THERE AND HE WAS COMING
16 THIS WAY AND HE CAUGHT THE YELLOW LIGHT, SO HE TOOK THE TURN
17 ON THE YELLOW.

18 Q. ALL RIGHT. SO HE TURNED INTO PACES RIVER THERE, TURNED
19 LEFT?

20 A. UH-HUH.

21 Q. OKAY. WHAT HAPPENED AT THAT POINT? WHAT HAPPENED
22 NEXT?

23 A. AS I WAS SITTING HERE AT THE RED LIGHT, I SAW DARRELL
24 COME IN AND HE TOOK THE YELLOW LIGHT AND WENT, AND I GOT THE
25 GREEN LIGHT, SO I WAS, YOU KNOW, GOING ACROSS AND AT THE

1 TIME I SEEN A -- THE MAXIMA COME UP. IT HAD RIMS ON IT AND
2 SOME GUYS IN IT, SO, OF COURSE, I WAS PAYING ATTENTION. AND
3 --

4 Q. OKAY. NOW, I'M SORRY. YOU SAID THAT KIND OF FAST.
5 YOU SAW A MAXIMA AND CAN YOU DESCRIBE WHAT IT LOOKED TO YOU
6 AT THAT POINT IN TIME?

7 A. IT WAS A LIGHT COLOR, LIKE CHAMPAGNE, HAD RIMS ON IT---

8 Q. OKAY.

9 A. ---AND THERE WAS SOME DUDES IN IT.

10 Q. OKAY. AND SO YOU PAID ATTENTION TO THAT AT THAT POINT?

11 A. UH-HUH.

12 Q. ALL RIGHT. WHAT HAPPENED AFTER THAT?

13 A. WHEN DARRELL TURNED, I SEEN, YOU KNOW, THE CAR OR
14 WHATEVER AND I COULD NOTICE BY LOOKING IN THE CAR THAT THE
15 GUYS SAW HIM, AND SO THEY TURNED AND HE TURNED BEHIND ME, SO
16 IT WAS LIKE DARRELL WAS GOING, THEN IT WAS ME AND THEN THE
17 CAR TURNED AROUND AND GOT IN BEHIND ME.

18 Q. ALL RIGHT. AND -- YOU CAN GO AHEAD AND SIT DOWN NOW.

19 A. OKAY.

20 Q. NOW, AFTER THAT OCCURRED, DID THEY -- DID Y'ALL GO TO
21 THE SAME PLACE FOLLOWING HIM? WHERE DID YOU GO?

22 A. YES. THEY WERE BEHIND -- I WAS BEHIND DARRELL AND THEY
23 WERE BEHIND ME AND THEY WAS SO CLOSE BEHIND ME, THEY WAS
24 BLINDING ME WITH THE LIGHTS, BUT I COULDN'T SEE THEIR
25 HEADLIGHTS. THAT'S HOW CLOSE THEY WERE BEHIND ME.

1 Q. OKAY. THEY WERE SO CLOSE THAT YOU COULDN'T, AT TIMES,
2 SEE THEIR HEADLIGHTS?

3 A. YEAH; I COULDN'T EVEN SEE THE HEADLIGHTS. THEY WAS
4 RIGHT ON MY BUTT ALL THE WAY DOWN, DOWN THE ROAD, EVEN WHEN
5 WE TURNED TO THE RIGHT AND THEY WAS BEHIND ME.

6 Q. NOW, WHEN YOU TURN INTO PACES RIVER APARTMENTS, IS
7 THERE A ONE-LANE ENTRANCE INTO THE APARTMENTS?

8 A. ON THAT PHASE, IT IS.

9 Q. ON THAT PHASE. AND IS THAT THE ENTRANCE THAT YOU WENT
10 IN?

11 A. UH-HUH.

12 Q. DID DARRELL GO IN BEFORE YOU, RIGHT BEFORE YOU, IN THAT
13 ENTRANCE?

14 A. YEAH. HE WAS WAY AHEAD OF ME, BECAUSE WHEN HE TURNED,
15 HE WAS GOING AT NORMAL SPEED AND I WAS SLOWING DOWN A LITTLE
16 BIT, 'CAUSE I'M THINKING WHO IS THIS, YOU KNOW, ON MY TAIL
17 LIKE, SO I WAS LOOKING IN THE MIRROR, TRYING TO SEE WHAT
18 KIND OF CAR WAS BEHIND ME.

19 Q. OKAY. AND DID THAT CAR FOLLOW YOU INTO THE---

20 A. YEAH.

21 Q. ---PACES RIVER COMPLEX AT THAT POINT?

22 A. YEAH.

23 Q. OKAY. WHEN YOU GOT INTO THE COMPLEX ITSELF, WHERE IN
24 THAT COMPLEX -- WHAT DIRECTION DO YOU TURN TO GET TO YOUR
25 APARTMENT?

1 A. I GO TO THE LEFT..

2 Q. IF YOU COULD JUST ONE OTHER TIME, IF YOU COULD STEP
3 DOWN. IF YOU CAN TELL ME ABOUT WHERE YOUR APARTMENT IS AND
4 DESCRIBE WHERE YOU WENT IN AS YOU SAID YOU WENT TO THE LEFT.

5 A. THAT'S MY APARTMENT RIGHT HERE BEHIND THE TREES.

6 MR. THOMPSON: FOR THE RECORD, THIS IS STATE'S EXHIBIT
7 NUMBER 5.

8 Q. THAT'S YOUR APARTMENT RIGHT THERE AT THE FAR END OF IT?

9 A. YEAH, RIGHT HERE.

10 Q. OKAY. WHICH -- WHEN YOU SAID YOU TURNED LEFT, WHICH
11 WAY ARE YOU TALKING ABOUT THAT YOU WENT?

12 A. FROM THIS WAY. WHEN I COME IN THE APARTMENT COMPLEX, I
13 GO THIS WAY AND I ALWAYS PARK RIGHT THERE IN THAT SPACE OR
14 THAT SPACE.

15 Q. OKAY. AND DID YOU DO THAT THAT NIGHT?

16 A. YES; EVERY NIGHT.

17 Q. DID YOU SEE WHICH WAY DARRELL HAD GONE?

18 A. DARRELL WENT AROUND THIS WAY AND CAME AND PARKED IN
19 THAT SPACE.

20 Q. OKAY. SO THAT WHOLE AREA COMES AROUND, EVEN THOUGH THE
21 TREES KIND OF BLOCK THAT IN THAT PICTURE?

22 A. UH-HUH.

23 Q. DID YOU SEE WHICH WAY THE MAXIMA WENT?

24 A. THEY WENT THAT WAY, TOO. THEY CAME AROUND THIS WAY.

25 Q. THEY CAME AROUND THAT WAY? ALL RIGHT. YOU CAN GO

1 AHEAD AND, AGAIN, HAVE A SEAT.

2 Q. WHEN THAT OCCURRED -- I'M SORRY. WHEN YOU GOT OUT OF
3 YOUR CAR THERE, WHAT HAPPENED NEXT?

4 A. WHEN I GOT OUT OF MY CAR, DARRELL WAS GETTING OUT OF
5 HIS CAR AND HE WAS WALKING DOWN TOWARDS THE COMPLEX AND HE
6 CALLED MY NAME AND TOLD ME TO COME HERE AND I STARTED
7 WALKING TOWARDS HIM, AND WE WAS JUST TALKING, YOU KNOW, AT A
8 DISTANCE JUST TALKING.

9 Q. IS IT PRETTY WELL LIT IN THAT APARTMENT COMPLEX?

10 A. I WOULD THINK SO.

11 Q. OKAY. SO YOU DIDN'T HAVE ANY PROBLEMS SEEING DARRELL
12 WHERE YOU WERE FROM -- WHERE YOU WERE STANDING?

13 A. HUH-UH.

14 Q. I'M SORRY. I'M GOING TO HAVE YOU TO GET DOWN --

15 A. NO; I DIDN'T HAVE A PROBLEM.

16 Q. OKAY. IF YOU CAN COME DOWN, STATE'S EXHIBIT 8, IF
17 YOU'LL TAKE A LOOK AT THIS PHOTOGRAPH FOR ME. NOW, YOU
18 MENTIONED YOU PARKED DOWN IN ONE OF THOSE BOTTOM TWO SPOTS.
19 WHEN YOU GOT OUT AND DARRELL CALLED YOU, WHICH WAY DID YOU
20 GO?

21 A. I GOT OUT AND I STARTED WALKING UP THIS WAY.

22 Q. OKAY. DID YOU ACTUALLY GET TO THE SIDEWALK THERE?

23 A. YEAH. I WAS PAST THE SIDEWALK.

24 Q. OKAY. WHERE WAS DARRELL? WHERE HAD HE PARKED?

25 A. HE WAS, LIKE, RIGHT HERE---

1 Q. OKAY.

2 A. ---IN ONE OF THOSE SPACES AND HE WAS WALKING DOWN THIS
3 WAY.

4 Q. ALL RIGHT. AND HAD Y'ALL SAID ANYTHING TO EACH OTHER
5 YET OTHER THAN, HELLO, OR ANYTHING LIKE THAT?

6 A. WE WAS JUST WHAT'S UP, HOW YOU DOING, STUFF LIKE THAT.

7 Q. OKAY. WHAT HAPPENED NEXT?

8 A. AS HE WAS WALKING DOWN THIS WAY, I WAS WALKING UP AND
9 THE CAR WAS COMING, LIKE, THIS WAY, SO BEING AS I HAD JUST
10 SEEN THE CAR TURN AROUND, WHEN THEY SAW HIM, I'M THINKING IT
11 WAS JUST SOME OF HIS HOME BOYS COMING -- YOU KNOW, SEEING
12 THAT HE HAD JUST MISSED THEM, SO THEY TURNED AROUND AND COME
13 BACK. AND SO WHEN I SAW THE CAR PULL UP, I SAID TO MYSELF,
14 WELL, I'LL JUST TALK TO HIM WHEN HE GET IN THE HOUSE.

15 Q. ALL RIGHT.

16 A. SO SOON AS I GO TO TURN AROUND, THAT'S WHEN THEY
17 STARTED SHOOTING AND I RAN FROM, LIKE, UP IN HERE ALL THE
18 WAY DOWN, UP THE SIDEWALK AND INTO THE HOUSE.

19 Q. OKAY. NOW, YOU HAD TURNED AROUND BY THE TIME THE
20 SHOOTING HAD STARTED?

21 A. I WASN'T EVEN TURNED. I WAS LIKE -- I WAS WALKING
22 TOWARDS HIM AND WHEN I SEEN THE CAR PULL UP, I WAS LIKE,
23 WELL, I'LL JUST TALK TO HIM WHEN HE GET IN THE HOUSE. AND
24 SO WHEN I GO TO GO LIKE THIS, THAT'S WHEN THEY STARTED
25 SHOOTING, SO I HAD STARTED RUNNING THEN.

1 Q. OKAY. WAS DARRELL MAKING ANY CERTAIN ACTIONS OR
2 ANYTHING LIKE THAT WHEN YOU SAW HIM LAST?

3 A. HE -- THE CAR HAD COME BEHIND --

4 MR. DELGADO: OBJECTION, YOUR HONOR, TO LEADING,
5 PLEASE.

6 THE COURT: OKAY. PLEASE AVOID LEADING, COUNSEL.

7 Q. WHAT, IF ANYTHING, DID DARRELL DO RIGHT BEFORE YOU
8 TURNED AROUND AWAY FROM HIM?

9 A. NOTHING. HE DIDN'T EVEN KNOW THE CAR WAS -- THE CAR
10 COME FROM BEHIND---

11 Q. OKAY.

12 A. ---AS HE WAS WALKING TOWARD ME AND THE CAR CAME FROM
13 THIS WAY,---

14 Q. ALL RIGHT.

15 A. --- AND SO HE DIDN'T EVEN SEE THE CAR BEHIND HIM.

16 Q. OKAY. DID HE HAVE ANYTHING IN HIS HANDS?

17 A. A BAG.

18 Q. OKAY.

19 A. YOU KNOW, KIND OF AFTER THE FACT WHEN WE WAS LOOKING OR
20 WHATEVER. I DIDN'T KNOW WHAT IT WAS AT THE TIME.

21 Q. ALL RIGHT. WHEN YOU TURNED AROUND, WHAT DID YOU DO AT
22 THAT POINT?

23 A. RAN IN THE HOUSE.

24 Q. OKAY. THE SHOT THAT YOU HEARD, DO YOU REMEMBER HOW
25 MANY OR HOW OFTEN?

1 A. IT WAS, LIKE, THREE GOES LIKE BACK TO BACK LIKE POP,
2 POP, POP, YOU KNOW, LIKE THREE BACK TO BACK, BUT IT WAS,
3 LIKE, WHILE I WAS RUNNING, SO I WASN'T EVEN THINKING ABOUT
4 THAT BECAUSE I WAS RUNNING.

5 Q. OKAY. DID THE SHOTS -- CAN YOU DESCRIBE, WERE THEY --
6 DID THEY SEEM TO BE SPACED APART A LOT OR WERE THEY CLOSE
7 TOGETHER?

8 A. JUST RANDOM SHOTS, YOU KNOW. IT WASN'T, LIKE,---

9 Q. OKAY.

10 A. ---NO MACHINE GUN OR NOTHING, BUT ---

11 Q. ALL RIGHT. WHERE DID YOU RUN AFTER -- WHEN THOSE SHOTS
12 WERE OCCURRING?

13 A. IN THE HOUSE..

14 Q. ALL RIGHT. WHEN YOU WENT IN THE HOUSE, WHAT DID YOU DO
15 NEXT?

16 A. PICKED UP THE PHONE AND CALLED 911.

17 Q. ALL RIGHT. DID YOU LOOK AND SEE WHAT WAS HAPPENING
18 OUTSIDE?

19 A. YEAH. I RAN IN THE BACK ROOM. I THINK I -- I ACTUALLY
20 CALLED 911 FIRST BECAUSE I PICKED THE PHONE UP AND I RAN IN
21 THE BACK ROOM AND I WAS LOOKING OUT THE BLINDS.

22 Q. OKAY.

23 A. AND THEN THAT'S WHEN I WAS CALLING 911 AS I WAS LOOKING
24 OUT THE BLINDS.

25 Q. WHAT DID YOU SEE, IF ANYTHING, OUT OF THE BLINDS?

1 A. I SEEN A TALL, SKINNY DUDE WITH A DARK SHIRT ON AND HE
2 WAS STANDING OUTSIDE A CAR WITH A GUN POINTED. I THINK HE
3 MIGHT HAVE HAD ONE LEG IN THE CAR GOING BACK TOWARDS THE
4 CAR. HE WAS LIKE THIS AND THEN I SAW HIM GET -- YOU KNOW,
5 GET IN THE CAR.

6 Q. ALL RIGHT. AND WAS THAT THE MAXIMA THAT YOU WERE
7 DESCRIBING?

8 A. YES.

9 Q. AND WHAT HAPPENED AT THAT POINT?

10 A. THEN THE CAR PULLED OFF AND AS THE CAR PULLED OFF,
11 THAT'S WHEN I CAME BACK OUTSIDE. SO --

12 Q. ALL RIGHT. COULD YOU SEE DARRELL OUT THE WINDOW WHEN
13 YOU WERE THERE?

14 A. NO.

15 Q. ALL RIGHT.

16 A. I WAS HOPING THAT HE HAD RAN.

17 Q. COULD YOU SEE IF THERE WERE OTHER PEOPLE IN THE CAR?

18 A. IT WAS -- I SAW THERE WAS THREE PEOPLE IN THE CAR WHEN
19 I TURNED UP AT THE TOP OF CELANESE.

20 Q. OH, OKAY. AND WHERE WAS THE VEHICLE -- WHEN YOU LOOKED
21 OUT AND YOU SAW THAT GENTLEMAN GETTING IN, ABOUT WHERE WAS
22 THE VEHICLE IN RELATIONSHIP TO HERE?

23 A. IT WAS ALONG IN THIS AREA RIGHT HERE, BECAUSE WHEN I
24 LOOKED OUT THE DUDE WAS STANDING OUTSIDE THE CAR AND THEN
25 THEY PULLED OFF AND THEY SPED AROUND.

1 Q. ALL RIGHT. YOU CAN GO AHEAD AND HAVE A SEAT AGAIN.

2 Q. WHEN YOU WENT BACK OUTSIDE, WHAT HAPPENED AT THAT
3 POINT?

4 A. WHEN I WENT BACK OUTSIDE, TROY AND FLOYD WAS STANDING
5 ON THE PATIO AND TROY KEPT HOLLERING, SOMEBODY BEEN -- I
6 HEARD SOME GUNSHOTS AND SOMEBODY BEEN SHOT. AND SO THEN HE
7 SEEN SOMEBODY LAYING ON THE GROUND, BUT THEY DIDN'T KNOW IT
8 WAS HIM BECAUSE HE HADN'T HAD A CHANCE TO MAKE IN THE HOUSE,
9 SO TROY WAS LIKE, MAN, SOMEBODY ON THE GROUND. SOMEBODY
10 BEEN SHOT, AND THAT'S WHEN I STARTED SCREAMING, I WAS LIKE,
11 THAT'S DARRELL; THAT'S DARRELL. SO I RAN OVER TO WHERE
12 DARRELL WAS AND WAS DOWN ON THE GROUND BESIDE HIM, TALKING
13 TO HIM, TELLING HIM TO BREATHE AND STUFF, AND TROY RAN OVER
14 THERE AND HE WAS JUST, YOU KNOW, SCREAMING AND, YOU KNOW,
15 SAYING STUFF.

16 Q. DID DARRELL APPEAR TO BE CONSCIOUS AT THAT TIME?

17 A. HE WAS BREATHING, BUT HIS EYES WASN'T BLINKING OR
18 NOTHING LIKE THAT.

19 Q. OKAY. WHEN YOU REACHED HIM, DID YOU NOTICE ANY OF THE
20 INJURIES TO HIM AT THAT POINT?

21 A. YES.

22 Q. WHAT DID YOU SEE?

23 A. I SAW A GUNSHOT -- I SAW SOMETHING TO THE FRONT OF HIS
24 HEAD AND IT WAS A KNOT IN THE TOP OF HIS HEAD, I GUESS,
25 WHERE THE BULLET CAME OUT OR WAS OBVIOUSLY WAS STILL IN

1 THERE, 'CAUSE THERE WAS A KNOT ON TOP, AND THERE WAS A LOT
2 OF BLOOD AND HE HAD SOMETHING ON THE SIDE OF HIS MOUTH THAT
3 I THOUGHT WAS SKINS, 'CAUSE I TOLD THEM THAT I THOUGHT HE
4 HAD A BAG OF SKINS OR SOMETHING, BUT IT TURNED OUT NOT TO BE
5 THAT. IT WAS SOMETHING ELSE.

6 Q. OKAY. DID YOU SEE WHAT WAS ON THE GROUND NEXT TO HIM
7 WHEN YOU WENT OUTSIDE?

8 A. IT WAS A BOTTLE OF LIQUOR. I FORGET WHAT THE NAME OF
9 IT IS.

10 Q. OKAY.

11 A. A PLASTIC BAG, A CUP.

12 Q. ALL RIGHT. WHILE YOU WERE THERE, DID YOU STAY WITH
13 DARRELL THAT ENTIRE TIME AFTER THAT?

14 A. UNTIL THEY PICKED HIM UP OFF THE GROUND.

15 Q. HOW QUICKLY DID YOU COME OUT OF YOUR APARTMENT? WHEN
16 YOU WERE LOOKING THROUGH THE BLINDS, DID YOU IMMEDIATELY GO
17 OUT OF THE APARTMENT?

18 A. YEAH.

19 Q. DID YOU WAIT A WHILE? DID YOU --

20 A. NO. AS SOON AS I SAW THE CAR SPEED OFF, I RAN OUTSIDE.

21 Q. OKAY. AND WHO ELSE HAD COME OUTSIDE ABOUT THE TIME
22 THAT YOU CAME OUTSIDE?

23 A. TROY, FLOYD. IT WAS --

24 Q. NOW, THAT TROY, WHO IS TROY?

25 A. HE STAYED IN THE APARTMENT COMPLEX, THE SAME APARTMENT

1 COMPLEX AS DARRELL DID. I MEAN, APARTMENT.

2 Q. DID HE STAY WITH DARRELL?

3 A. (NODS HEAD AFFIRMATIVELY)

4 Q. OKAY.

5 A. FROM MY ASSUMPTION. I MEAN, --

6 Q. AND WHO WAS FLOYD?

7 A. FLOYD IS DARRELL'S DADDY.

8 Q. OKAY. DID HE STAY THERE AS WELL?

9 A. I DON'T KNOW WHO STAYED IN THE APARTMENT. I JUST KNOW
10 WHO BE OVER THERE SOME, YOU KNOW.

11 Q. OKAY. THAT'S WHO WAS OVER THERE. DID YOU SEE OTHER
12 PEOPLE FROM THE APARTMENT COMPLEX AT THAT TIME, TOO?

13 A. YEAH. I SEEN ANOTHER -- A WHITE GUY AND A WHITE LADY---

14 Q. OKAY.

15 A. ---AND THEY TOLD ME SOMETHING ABOUT HOLDING A TOWEL --
16 TO GO GET A TOWEL AND HOLD IT ON HIM OR WHATEVER, --

17 Q. ALL RIGHT.

18 A. ---AND TROY RAN IN THE HOUSE -- I THINK IT WAS TROY OR
19 FLOYD -- RAN IN THE HOUSE AND GOT A TOWEL FOR ME TO PUT IT
20 ON HIM, BUT I TOLD THEM THAT I DIDN'T WANT TO PICK HIS HEAD
21 UP OR MOVE HIM, YOU KNOW, TO PUT THE TOWEL ON HIM, 'CAUSE I
22 DIDN'T WANT IT, YOU KNOW, --

23 Q. DID YOU NOTICE ANYTHING ABOUT HIS BREATHING WHILE YOU
24 WERE NEXT TO HIM?

25 A. YEAH. HE WAS -- FIRST HE TOOK THE FIRST COUPLE OF

1 BREATHS REAL GOOD, WHATEVER, AND I WAS TALKING TO HIM,
2 TELLING HIM TO BREATHE AND STUFF, YOU KNOW, RUBBING HIS HEAD
3 AND THEN HE'D LET BREATH OUT AND HE DIDN'T BREATHE FOR A
4 SECOND. SO THEN I WAS LIKE, BREATHE, BREATHE, AND HE'D PULL
5 ONE IN AND THEN HE'D LET IT OUT. HE DID THAT ABOUT THREE OR
6 FOUR TIMES AND THEN WHEN HE BREATHED THAT LAST TIME, HE
7 STOPPED.

8 Q. HE STOPPED. NOW, CAN YOU TELL ME, DID YOU STAY WITH
9 HIM UNTIL THE TIME THAT THE POLICE AND EMS ARRIVED?

10 A. YEAH, 'TIL THEY CUT THE CLOTHES OFF OF HIM AND
11 EVERYTHING.

12 Q. ALL RIGHT. WHILE YOU WERE THERE WITH HIM, DID ANYONE
13 PICK ANYTHING UP OR TAKE ANYTHING AWAY FROM HIM?

14 A. I DID.

15 Q. WHAT DID YOU PICK UP?

16 A. HIS CELL PHONE.

17 Q. AND WHY IS THAT?

18 A. 'CAUSE IT RING.

19 Q. OKAY. AND WHAT DID YOU DO WITH IT WHEN IT RANG?

20 A. ANSWERED IT.

21 Q. AND WHAT HAPPENED AFTER THAT?

22 A. I ANSWERED THE PHONE AND SOMEBODY ASKED ME TO SPEAK
23 WITH DARRELL AND I WAS LIKE, YOU KNOW, HE CAN'T TALK RIGHT
24 NOW. THERE'S JUST BEEN AN ACCIDENT; HE'S BEEN SHOT, AND I
25 HANDED THE PHONE TO FLOYD.

1 Q. TO FLOYD? IS THAT DARRELL'S DADDY?

2 A. UH-HUH.

3 Q. OKAY. WAS ANYTHING ELSE PICKED UP WHILE YOU WERE
4 THERE?

5 A. NO.

6 Q. DID YOU WATCH -- DID ANYONE ELSE PICK ANYTHING UP WHILE
7 YOU WERE THERE?

8 A. I WAS THE ONLY ONE ON THE GROUND WITH HIM.

9 Q. OKAY. DID YOU SEE ANYTHING ELSE, ANY WEAPONS OR
10 ANYTHING OF THAT NATURE THERE?

11 A. NO.

12 Q. CAN YOU TELL ME, WHEN EMS ARRIVED, DID YOU CONTINUE TO
13 STAY AT THAT POINT?

14 A. YEAH.

15 Q. ALL RIGHT. AND HOW LONG DID YOU STAY AT THE SCENE AT
16 THAT POINT AFTER EMS AND THE POLICE ARRIVED?

17 A. I WAS THERE 'TIL THEY TOLD -- 'TIL THE POLICE OFFICER
18 MADE ME GO TO THE POLICE STATION TO MAKE A STATEMENT.

19 Q. ALL RIGHT. AND YOU GAVE A STATEMENT AT THE POLICE
20 STATION AT THAT TIME?

21 A. YES.

22 Q. NOW, LET ME ASK YOU TO STEP DOWN ONE OTHER TIME AND
23 LOOK AT STATE'S EXHIBIT NUMBER 35. NOW, CAN YOU TELL ME
24 ABOUT WHERE IS YOUR APARTMENT IN RELATION TO THIS?

25 A. RIGHT THERE.

1 Q. RIGHT THERE? OKAY. AND IS THAT --

2 A. MY APARTMENT'S RIGHT HERE.

3 Q. OKAY. AND YOU WERE LOOKING OUT THE WINDOWS THAT WAY.
4 IS THIS THE AREA WHERE DARRELL WAS WHEN THIS ALL HAPPENED?

5 A. YES. WHEN I -- THAT'S MY WINDOW RIGHT HERE, SO WHEN I
6 WAS LOOKING OUT, I COULDN'T SEE, YOU KNOW, I COULDN'T SEE
7 OVER THERE SO THAT'S HOW COME I ASSUMED THAT HE HAD RAN.

8 Q. ALL RIGHT. WHERE WAS DARRELL'S BODY WHEN YOU FOUND
9 HIM?

10 A. RIGHT THERE. HIS HEAD WAS UP ON THIS -- UP THERE.

11 Q. OKAY. WERE HIS FEET FACING OUT TOWARD THE REST OF THE
12 PARKING LOT, THEN?

13 A. HIS FEET WAS DOWN HERE.

14 Q. ALL RIGHT. YOU CAN GO AHEAD AND SIT DOWN AGAIN. NOW,
15 WHEN YOU CAME OUT OF YOUR APARTMENT, WHO WAS THE FIRST
16 PERSON TO GO UP TO THE BODY? DO YOU RECALL?

17 A. I WAS.

18 Q. YOU WERE?

19 A. (NODS HEAD AFFIRMATIVELY)

20 MR. THOMPSON: KIMBERLY, THANK YOU. PLEASE ANSWER ANY
21 QUESTIONS THE DEFENSE HAS FOR YOU AT THIS TIME.

22 THE WITNESS: OKAY.

23 CROSS-EXAMINATION

24 KIMBERLY SHAUNETTA BOWDEN BY MR. DELGADO:

25 Q. GOOD MORNING, MS. BOWDEN.

1 A. GOOD MORNING.

2 Q. MS. BOWDEN, LET'S TALK FOR OUR JURY. HOW LONG HAD YOU
3 LIVED THERE AT PACES RIVER, THOSE APARTMENTS?

4 A. FOR ABOUT THREE MONTHS.

5 Q. ABOUT THREE MONTHS?

6 A. UH-HUH.

7 Q. DURING THAT PERIOD OF TIME, IF I CALL HIM ARVELL,
8 THAT'S THE SAME INDIVIDUAL, ARVELL DARRELL BAGLEY; IS THAT
9 CORRECT, MA'AM?

10 A. YES.

11 Q. ALL RIGHT. YOU'VE KNOWN MR. BAGLEY -- YOU CALL HIM
12 DARRELL. YOU'VE KNOWN HIM FOR MORE THAN JUST THOSE THREE
13 MONTHS; CORRECT, MA'AM?

14 A. YES. I'VE KNOWN OF HIM FOR MORE THAN THREE MONTHS.

15 Q. OKAY. IN FACT, YOU'VE KNOWN HIM YOUR WHOLE LIFE,
16 HAVEN'T YOU?

17 A. I'VE KNOWN OF HIM FOR -- NOT MY WHOLE LIFE. SINCE
18 PROBABLY HIGH SCHOOL, JUST HEARING, YOU KNOW, HEARING ABOUT
19 HIM.

20 Q. HOW WELL DID YOU KNOW HIM, MA'AM?

21 A. I ONLY KNEW OF HIM.

22 Q. OKAY. DID YOU KNOW WHERE HE WORKED?

23 A. I ONLY KNEW OF HIM. I ONLY KNEW OF HIM FROM BEING IN
24 THE APARTMENT COMPLEX. I DON'T ASK ANY PERSONAL QUESTIONS.

25 Q. OKAY. NOW, SO WHEN YOU SAY YOU WOULD TALK TO HIM AGAIN

1 LATER WHEN HE CAME IN THE HOUSE, ACTUALLY, YOU'RE NOT
2 TALKING ABOUT YOUR HOUSE, EVEN THOUGH THE DOORS ARE OPPOSITE
3 EACH OTHER IN THAT LITTLE HALLWAY; CORRECT, MA'AM?

4 A. YES.

5 Q. YOU'RE TALKING ABOUT HIS HOUSE AND THEN YOU'VE GOT YOUR
6 HOUSE; RIGHT?

7 A. I'M TALKING ABOUT IF HE WAS ON A SIDEWALK OR IN HIS
8 HOUSE OR JUST WHEREVER, YOU KNOW.

9 Q. CERTAINLY. I UNDERSTAND. NOW, YOUR CAR, ACCORDING TO
10 ONE OF THE PHOTOGRAPHS THAT YOU'VE SAID FOR OUR JURY WAS OUT
11 ON CELANESE ROAD COMING BACK FROM WORK.

12 A. COMING BACK FROM KMART.

13 Q. I'M SORRY. KMART. YOU'RE RIGHT. YOU WENT TO WORK,
14 THEN YOU WENT BACK TO KMART; CORRECT?

15 A. YES.

16 Q. WHAT KIND OF CAR WAS ARVELL DARRELL BAGLEY IN? WHAT
17 WAS HE DRIVING?

18 A. A LEXUS.

19 Q. HE WAS DRIVING A LEXUS?

20 A. (NODS HEAD AFFIRMATIVELY)

21 Q. OKAY. HOW LONG HAD HE BEEN DRIVING A LEXUS?

22 A. THAT'S THE ONLY CAR THAT I'VE KNOWN HIM TO HAVE, BUT,
23 LIKE I SAID, I DON'T KNOW EVERYTHING ABOUT, YOU KNOW,
24 DARRELL.

25 Q. OKAY. NOW, LET'S TALK ABOUT, MA'AM, IF I COULD, A

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1 COUPLE OF LITTLE THINGS THAT YOU SAID TO OUR JURY.

2 A. OKAY.

3 Q. I'M SORRY. YOUR VOICE WAS DROPPED AND I DIDN'T HEAR.

4 YOU SAID HE HAD A BAG AND LATER YOU FOUND OUT AND YOUR VOICE
5 DROPPED. THAT WAS THE LIQUOR THAT HE HAD. IS THAT CORRECT?

6 A. YEAH. LIQUOR WAS IN THE BAG.

7 Q. LIQUOR WAS IN THE BAG. OKAY. COULD YOU SMELL ANY
8 ALCOHOL ON HIS BREATH?

9 A. I REALLY WASN'T EVEN PAYING ATTENTION.

10 Q. OKAY. SO WHEN --

11 MR. DELGADO: MR. SOLICITOR, MAY I ASK YOU TO PUT ONE
12 OF THEM BACK? THE ONE WITH THE -- NEXT TO LAST PHOTOGRAPH.
13 HOW ABOUT THAT?

14 MR. POPE: THAT MR. THOMPSON HAD UP?

15 MR. DELGADO: YES, SIR. I'M SORRY. THERE WE GO.

16 Q. MA'AM, WHY DON'T YOU STAND RIGHT HERE WITH ME JUST ONE
17 SECOND. AND MAY I STEAL THAT LITTLE -- YOU STILL HAVE THAT?
18 YES. THANK YOU. YOUR APARTMENT, YOU COME DOWN -- I'LL TRY
19 TO BE -- YOU COME DOWN THIS SIDEWALK AND YOU COME IN AND
20 YOUR APARTMENT IS DOWN THIS WAY ON THE FIRST FLOOR; CORRECT?

21 A. YES.

22 Q. SOMEBODY GOING TO SEE MR. BAGLEY WOULD COME IN THIS
23 WAY, COME DOWN THE SIDEWALK AND WOULD GO TO THIS RIGHT;
24 CORRECT?

25 A. YES.

KIMBERLY SHAUNETTA BOWDEN - CROSS BY MR. DELGADO:

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1 Q. HE HAD A THREE-BEDROOM APARTMENT; IS THAT CORRECT,
2 MA'AM?

3 A. I THINK SO.

4 Q. YOU'VE BEEN IN THAT APARTMENT, HAVE YOU NOT?

5 A. YEAH, BUT I WASN'T ALL IN THE BACK ROOMS.

6 Q. OKAY. WELL, WHEN YOU COME IN THIS WAY, THAT'S THE
7 DIRECTION THAT YOU WERE HEADING BECAUSE YOU WERE GOING INTO
8 YOUR APARTMENT; CORRECT?

9 A. WHEN WHAT?

10 Q. WHEN ALL OF THIS TOOK PLACE ON THE NIGHT OF THE 26TH.

11 A. OH. YEAH.

12 Q. OKAY. NOW, MR. BAGLEY HAD PARKED HIS LEXUS UP THIS
13 WAY. WAS IT HEADED IN OR WAS IT BACKED IN? DO YOU RECALL?

14 A. HEADED IN.

15 Q. IT WAS HEADED IN THIS WAY. THERE WERE OTHER OPEN SPOTS
16 IN HERE, LIKE MAY HAVE BEEN UP -- BUT HE PARKED HIS UP
17 THERE?

18 A. YES.

19 Q. OKAY. AND THE CAR THAT YOU SAW CAME IN AND CAME IN
20 RIGHT ABOUT HERE PAST HIS LEXUS; IS THAT RIGHT?

21 A. HE WAS PAST THE LEXUS.

22 Q. THAT'S WHAT I'M SAYING.

23 A. YES.

24 Q. PAST MR. BAGLEY'S LEXUS AND TWO FELLOWS GOT OUT OF THE
25 CAR; IS THAT CORRECT?

- 1 A. TWO FELLOWS DIDN'T GET OUT OF THE CAR RIGHT THERE.
- 2 Q. OKAY.
- 3 A. BECAUSE I TURNED TO RUN, SO I DON'T KNOW.
- 4 Q. SURE. AND YOU TURNED AROUND, BUT YOU NEVER EVEN -- YOU
- 5 WEREN'T EVEN IN THE PARKING LOT. YOU WERE KIND OF RIGHT
- 6 HERE ON THE SIDEWALK; ISN'T THAT CORRECT?
- 7 A. I WAS FARTHER UP IN THE GRASS.
- 8 Q. KIND OF UP IN HERE.
- 9 A. UP, UP.
- 10 Q. UP THIS WAY?
- 11 A. CLOSE TO THE LINE.
- 12 Q. OKAY. RIGHT IN HERE?
- 13 A. UH-HUH.
- 14 Q. AND WHEN HE REALIZED -- I THINK YOU SAID THAT YOU
- 15 THOUGHT THESE WERE SOME FRIENDS OF HIS AND THAT HE WAS GOING
- 16 TO TALK TO THEM. HE HAD TURNED BACK TO LOOK AT THEM;
- 17 CORRECT?
- 18 A. NO. HE DIDN'T EVEN KNOW THE CAR WAS BEHIND HIM. ME
- 19 AND HIM WAS STILL TALKING.
- 20 Q. UH-HUH.
- 21 A. SO WHEN THE CAR PULLED UP, I SAW THE CAR BECAUSE I WAS
- 22 FACING IT DIRECTLY.
- 23 Q. SURE.
- 24 A. SO THAT'S WHY I TURNED TO WALK OFF.
- 25 Q. THAT'S RIGHT. BECAUSE YOU REALIZED THAT THESE FELLOWS

1 LOOKED LIKE THEY WANTED TO TALK. YOU DIDN'T KNOW THEM;

2 CORRECT?

3 A. I DIDN'T KNOW -- YEAH. I DIDN'T REALIZE THEY WANTED TO
4 TALK. I JUST SAW THE CAR PULL UP AND OUT OF RESPECT OF THE
5 MAN'S PRIVACY, I WALKED OFF TO DO WHAT I HAD TO DO.

6 Q. 'CAUSE YOU DIDN'T WANT TO BE -- YOU DIDN'T WANT TO HEAR
7 ANYTHING THAT YOU -- WOULD BE PRIVATE; CORRECT?

8 A. RIGHT. THAT'S -- MY BUSINESS IS MINE AND HIS BUSINESS
9 IS HIS.

10 Q. AND HE HAS PRIVATE BUSINESS; RIGHT?

11 A. EVERYBODY DOES.

12 Q. SURE. SO WHEN YOU WALKED -- FOLLOW MY LITTLE RED DOT.
13 WHEN YOU WERE WALKING BACK UP THIS WAY, YOU TELL ME WHERE,
14 AND I'M GOING TO START UP HERE AGAIN. LET'S JUST SAY THAT
15 YOU WERE UP IN THIS AREA. WOULD THAT BE FAIR? I'M NOT
16 ASKING --

17 A. SOMEWHERE.

18 Q. YEAH; SURE. AS YOU START COMING BACK UP THIS WAY, YOU
19 HEAR SOME SHOTS; CORRECT? THREE, MAYBE FOUR SHOTS?

20 A. APPROXIMATELY.

21 Q. AND THEN YOU RAN INTO YOUR APARTMENT AND CAME INTO YOUR
22 APARTMENT; CORRECT?

23 A. YES.

24 Q. AND YOU LOOKED OUT YOUR APARTMENT. DID YOU HEAR ANY
25 MORE SHOTS, MA'AM?

1 A. LIKE I SAID, I THINK I HEARD MORE SHOTS WHEN I WAS
2 RUNNING IN THE APARTMENT, BUT MY MIND WASN'T ON LISTENING TO
3 GUNSHOTS.

4 Q. OF COURSE. GUNSHOTS, THAT WAS A SCARY THING, WASN'T
5 IT, DEAR?

6 A. OF COURSE.

7 Q. AND YOUR BLOOD PRESSURE'S UP AND YOU WERE EXCITED. IT
8 WAS SOMETHING THAT HAPPENED THAT SCARED YOU?

9 A. UH-HUH.

10 Q. OKAY. I GUESS WHAT I'M ASKING IS THAT YOU HEARD TWO
11 DIFFERENT SERIES OF GUNSHOTS, ONE BEFORE YOU GOT IN THE
12 APARTMENT AND THEN WHEN YOU WERE OUT LOOKING THROUGH THE
13 BLINDS, YOU SAW AND HEARD OR HEARD SOME OTHER SHOTS;
14 CORRECT, MA'AM?

15 A. YES. I WOULDN'T SAY THERE WAS TWO DIFFERENT SERIES.
16 IT'S JUST THAT I WAS OUTSIDE AND I WAS INSIDE. I'M NOT
17 SAYING THAT THEY WAS SHOOTING, THEN THEY STOPPED, THEN THEY
18 STARTED BACK ONCE I GOT IN. IT'S JUST THAT I WAS IN THE
19 PROCESS OF GETTING OUT OF THE WAY.

20 Q. MY QUESTION TO YOU, MA'AM, IS THERE WAS A GAP IN TIME
21 BETWEEN THE FIRST SERIES AND WHAT YOU HEARD LATER; CORRECT,
22 MA'AM?

23 A. I CAN'T SAY THAT 'CAUSE I DON'T KNOW. I WASN'T PAYING
24 ATTENTION TO THAT. IT COULD HAVE BEEN ALL THE SAME
25 GUNSHOTS, BUT IF YOUR MIND IS ELSEWHERE, YOU KNOW.

1 Q. SURE. OKAY. WHY DON'T YOU JUST HAVE A SEAT AGAIN.

2 THANK YOU.

3 MR. DELGADO: MS. CLERK, MAY I -- THANK YOU.

4 Q. NOW, YOUR WORD -- YOUR VOICE DROPPED AGAIN. DID I HEAR
5 YOU SAY THAT TROY, THAT'S MR. TROY TOBIAS, THE FELLOW WHO'S
6 OUT HERE IN THE WAITING ROOM NOW, BIGGER FELLOW?

7 A. YES.

8 Q. MR. TROY TOBIAS WAS MR. BAGLEY'S ROOMMATE. HE HAD ONE
9 OF THE THREE BEDROOMS. DID YOU KNOW THAT?

10 A. YES; I KNEW THAT.

11 Q. OKAY. AND MR. FLOYD GRANT, THAT WAS MR. BAGLEY'S,
12 ARVELL DARRELL BAGLEY'S FATHER; CORRECT, MA'AM?

13 A. YES.

14 Q. YOU KNOW HE -- YOU SAY YOU DON'T KEEP TRACK OF WHO'S
15 GOING IN AND OUT OF THERE, BUT YOU'D SEEN HIM OVER THERE A
16 LOT; CORRECT, MA'AM?

17 A. THAT'S HIS FATHER.

18 Q. YES, MA'AM. AND YOU'D SEE HIM OVER THERE A LOT;
19 CORRECT?

20 A. UH-HUH.

21 Q. OKAY. NOW, YOUR WORDS DROPPED WHEN YOU SAID THAT YOU
22 RAN OUT TO WHERE MR. BAGLEY WAS ON THE GROUND AND THEN I
23 THINK YOU SAID TROY CAME OUT AND WAS SCREAMING AND STUFF.
24 DO YOU REMEMBER SAYING THAT?

25 A. I DON'T KNOW IF I REMEMBER SAYING THAT. I SAID THAT I

1 CAME OUTSIDE.

2 Q. YES, MA'AM.

3 A. TROY WAS STANDING ON THE PATIO. HE WAS SCREAMING HE
4 HEARD GUNSHOTS.

5 Q. YES, MA'AM. WHAT DID YOU MEAN BY "AND STUFF"? DO YOU
6 RECALL THAT, MA'AM?

7 A. MEANING I HEARD -- I HEARD GUNSHOTS. SOMEBODY'D BEEN
8 SHOT. I HEARD GUNSHOTS. AND THEN HE SAW THE BODY LAYING ON
9 THE GROUND. HE WAS LIKE, MAN, SOMEBODY DONE BEEN SHOT, AND
10 THAT'S WHEN HE POINTED OVER THAT WAY 'CAUSE, LIKE I SAID, I
11 DIDN'T EVEN KNOW THAT DARRELL WAS LAYING THERE---

12 Q. YES, MA'AM.

13 A. ---WHEN I RAN OUTSIDE.

14 Q. FROM THE TIME THAT YOU GOT TO WITHIN AN ARM'S LENGTH OF
15 MR. BAGLEY LAYING ON THE GROUND, MR. TOBIAS CAME RIGHT UP
16 RIGHT ABOUT THAT SAME TIME, DIDN'T HE?

17 A. TROY WAS STANDING ON THE PATIO---

18 Q. YES, MA'AM.

19 A. ---WHEN I CAME OUT---

20 Q. I UNDERSTAND.

21 A. ---AND THEN WHEN I SAID -- WHEN HE SAID, GUNSHOTS, AND
22 HE POINTED OVER AT DARRELL LAYING THERE AND HE SAID, MAN,
23 SOMEBODY DONE BEEN SHOT, AND HE POINT AND THAT'S WHEN I
24 SAID, THAT'S DARRELL; THAT'S DARRELL, THAT'S WHEN HE JUMPED
25 OVER --

1 Q. THE BALCONY?

2 A. YEAH, OVER THE BANNISTER.

3 Q. HE JUMPED OVER THE BALCONY AND RAN RIGHT TO DARRELL;
4 CORRECT, MA'AM?

5 A. HE DIDN'T RUN TO DARRELL. HE RAN OVER -- I WAS AT
6 DARRELL.

7 Q. YES, MA'AM.

8 A. HE RAN UP BEHIND ME.

9 Q. WELL, THAT'S WHAT I'M SAYING. TO WHERE YOU WERE RIGHT
10 BESIDE DARRELL.

11 A. YEAH, BUT HE WASN'T EVEN THAT CLOSE TO DARRELL. HE WAS
12 STANDING UP, HYSTERICAL, ON THE PHONE CALLING 911 AND I WAS
13 ON THE GROUND WITH DARRELL.

14 Q. I UNDERSTAND, BUT WHAT I'M SAYING IS IT GOT TO HIM SO
15 BAD, HE JUMPED OVER --

16 MR. DELGADO: MR. SOLICITOR, MAY I SHOW THE -- ONE OF
17 THOSE OTHER PHOTOGRAPHS THAT SHOWS THE PORCH AGAIN, PLEASE,
18 SIR? I THINK --

19 Q. YES, MA'AM. IF YOU'LL STEP RIGHT HERE AGAIN. MAYBE
20 YOU CAN SEE IT FROM THERE. THIS IS THE PORCH MR. TOBIAS --
21 IF MY HAND WILL STOP -- JUMPED OVER AND HE CAME RIGHT IN
22 HERE, TOO, DIDN'T HE?

23 A. YEAH. HE WAS -- CAN I SEE THAT?

24 Q. SURE..

25 A. WHEN TROY WAS STANDING HERE, BY THIS CAR BEING IN THE

1 WAY HERE, YOU CAN ONLY SEE SOMEONE LAYING HERE, BUT BEING
2 THAT HE DIDN'T KNOW DARRELL WAS HOME, HE DIDN'T KNOW IT WAS
3 DARRELL.

4 Q. YES, MA'AM.

5 A. SO I CAME OUT OF THE APARTMENT COMPLEX AND I COME
6 RUNNING OUT AND HE POINTED, 'CAUSE I DIDN'T KNOW DARRELL WAS
7 LAYING THERE, EITHER. SO HE SAID, SOMEBODY BEEN SHOT;
8 SOMEBODY BEEN SHOT. THERE'S BEEN SOME GUNSHOTS. HE POINTED
9 THIS WAY AND SAID SOMEBODY WAS LAYING ON THE GROUND. THAT'S
10 WHEN I STARTED RUNNING OVER HERE THEN, BECAUSE THAT'S WHEN I
11 KNEW IT WAS DARRELL.

12 Q. YES, MA'AM.

13 A. AND TROY AND THEM JUMPED OVER AND THEY -- HE WAS
14 STANDING BACK UP IN HERE ON THE CELL PHONE, DIALING 911, AND
15 I WAS ON THE GROUND WITH DARRELL.

16 Q. TROY AND THEM JUMPED OVER. YOU MEAN MR. GRANT JUMPED
17 OVER, TOO?

18 A. I DON'T KNOW IF HE JUMPED OVER OR HE CAME OUT THE DOOR,
19 BUT I'M ASSUMING HE JUMPED OVER. I WAS ON THE GROUND.

20 Q. OKAY. SO WITHIN A SECOND OF YOU -- A FEW SECONDS OF
21 YOU GETTING RIGHT TO MR. DARRELL BAGLEY, HIS ROOMMATE AND
22 HIS FATHER WERE RIGHT THERE BESIDE OF YOU AS WELL? STANDING
23 UP. I'M NOT SAYING THEY WERE -- RIGHT?

24 A. UH-HUH.

25 Q. OKAY. IF I MAY -- THANK YOU, MA'AM. PLEASE TAKE YOUR

1 SEAT AGAIN. SOMEBODY CALLED -- WAS IT A MALE OR FEMALE
2 VOICE CALLED?

3 A. CALLED WHAT?

4 Q. ON THE CELL PHONE THAT YOU PICKED UP AND ANSWERED.

5 A. FEMALE VOICE.

6 Q. AND THEY ASKED FOR MR. BAGLEY?

7 A. YES.

8 Q. OKAY. MA'AM, DO YOU REMEMBER MAKING A STATEMENT -- I
9 THINK YOU SAID TO OUR JURY, I GUESS IT WAS THE NIGHT OF THE
10 26TH; CORRECT, MA'AM?

11 A. YES.

12 Q. ALL RIGHT. BEFORE MIDNIGHT THAT NIGHT, YOU'D GIVEN A
13 STATEMENT TO LAW ENFORCEMENT AT THE ROCK HILL POLICE
14 DEPARTMENT; CORRECT, MA'AM?

15 A. YES.

16 Q. OKAY. HAVE YOU HAD A CHANCE TO REVIEW THAT BEFORE
17 TODAY, MA'AM?

18 A. SEVERAL TIMES.

19 Q. OKAY. DO YOU RECALL, MA'AM, SAYING IN THE SECOND LINE,
20 SECOND SENTENCE, LET ME JUST READ IT TO YOU. YEAH; IF
21 YOU'VE GOT IT, GO AHEAD. LOOK AT THIS SENTENCE, THE SECOND
22 SENTENCE. I'D BEEN STAYING THERE FOR ABOUT FIVE WEEKS, BUT
23 I'VE KNOWN OF DARRELL MOST OF MY LIFE; CORRECT, MA'AM?

24 A. YES.

25 Q. DID YOU KNOW HIM BECAUSE Y'ALL MAY HAVE LIVED TOGETHER

1 DOWN IN -- NOT LIVED TOGETHER, BY THAT I MEAN IN CHESTER,
2 SOUTH CAROLINA?

3 A. I'M FROM GREAT FALLS.

4 Q. OKAY. DID YOU KNOW HIM AS A RESULT OF LIVING IN
5 CHESTER OR CHESTER COUNTY?

6 A. I'D HEARD OF HIM AS A RESULT OF LIVING IN CHESTER
7 COUNTY.

8 Q. OKAY. GREAT FALLS, FOR ANYBODY THAT DOESN'T KNOW,
9 THAT'S IN CHESTER COUNTY?

10 A. IS IN CHESTER COUNTY; YES.

11 Q. THAT'S RIGHT. YOU'VE LIVED THERE ALL YOUR LIFE IN
12 CHESTER COUNTY; CORRECT?

13 A. YES.

14 Q. MA'AM, LET ME JUST DIRECT YOUR ATTENTION ON YOURS. IF
15 YOU WOULD JUST READ HERE, JUST -- THIS SENTENCE JUST TO
16 YOURSELF, WHEN THE CAR PULLED UP. HOW ABOUT THAT? JUST
17 READ THAT TO YOURSELF.

18 A. UH-HUH.

19 Q. OKAY?

20 A. OKAY.

21 Q. NOW, WHEN YOU SAY THAT YOU SAW SOMEBODY -- I THINK YOUR
22 WORDS TO OUR JURY WERE A SKINNY DUDE WITH ONE LEG BACK IN
23 THE CAR. SO, IN OTHER WORDS, THERE WAS -- SOMEBODY THAT YOU
24 IDENTIFIED AS BEING IN THAT PARKING LOT WAS A SKINNY FELLOW;
25 CORRECT, MA'AM?

1 A. UH-HUH. FROM WHAT I THINK IS SKINNY AND WHAT'S NOT,
2 YEAH.

3 Q. OKAY.

4 MR. DELGADO: CHRIS, STAND UP A MINUTE.

5 Q. IS THIS FELLOW SKINNY, MA'AM?

6 A. NO.

7 Q. SO SKINNY WOULD BE -- I'M NOT TRYING TO SAY I AM, BUT
8 WHAT I'M SAYING IS IT'S GOING TO MUCH SLENDERER THAN THIS
9 INDIVIDUAL; RIGHT?

10 A. HE WAS.

11 MR. DELGADO: OKAY. THANK YOU, CHRIS.

12 Q. MA'AM, IN THE -- IF YOU WILL REVIEW, I THINK YOU SAID,
13 MA'AM, I HAD HEARD MAYBE THREE OR FOUR SHOTS BY THE TIME I
14 GOT IN THE HOUSE; CORRECT, MA'AM?

15 A. YES.

16 Q. WHEN I LOOKED OUT, I SAW A TALL, BLACK DUDE, JEANS, A
17 DARK SHIRT AND LOW HAIRCUT. THIS WOULD NOT BE A LOW HAIRCUT
18 BY THAT; CORRECT, MA'AM?

19 A. WE ALL KNOW THAT THERE WAS MORE THAN ONE PERSON IN THE
20 CAR.

21 Q. I'M SORRY, DEAR.

22 A. I SAID WE ALL KNOW THERE WAS MORE THAN ONE PERSON IN
23 THE CAR.

24 Q. OH, I UNDERSTAND. AND I BID YOU THERE WAS, MA'AM. I'M
25 JUST TRYING TO MAKE CERTAIN THAT I CLEARLY UNDERSTOOD.

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1 THAT'S NOT A HAIRCUT THAT YOU'RE DESCRIBING HERE?

2 A. NO.

3 Q. SEE, SOMETIMES WHEN WE TALK THAT, SOME FOLKS MAY NOT
4 UNDERSTAND THAT. THOSE ARE DREAD LOCKS; CORRECT, MA'AM?

5 A. YES.

6 Q. ALL RIGHT. WHEN I LOOKED BACK, I SAW A TALL BLACK
7 DUDE, JEANS, A DARK SHIRT AND LOW HAIRCUT. HE HAD HIS
8 ARM OUTSTRETCHED AND I HEARD SOME MORE SHOTS; CORRECT,
9 MA'AM?

10 A. YES.

11 Q. ALL RIGHT. SO YOU HEARD THREE OR FOUR, THEN YOU RAN
12 INTO THE HOUSE, LOOKED OUT AND YOU HEARD SOME MORE SHOTS;
13 CORRECT, MA'AM?

14 A. WHEN I WAS MAKING A STATEMENT, I WASN'T TELLING HER I
15 HEARD MORE SHOTS WHEN I LOOKED OUT THE WINDOW. THEREFORE, I
16 WOULD HAVE SEEN THE SHOTS, 'CAUSE I WAS AT THE WINDOW. I'M
17 SPEAKING IN GENERAL WITH EVERYTHING THAT WAS GOING ON. I
18 KNOW FROM THE TIME THAT I STARTED RUNNING UNTIL I GOT IN THE
19 HOUSE, THERE WAS MORE SHOTS BESIDES FROM WHEN I WAS OUTSIDE.

20 Q. I UNDERSTAND. ALL I CAN DO, MA'AM, AND ALL OUR JURY
21 CAN DO IS THIS WAS WITHIN, WHAT, THREE HOURS OF WHAT
22 OCCURRED THAT EVENING ON JANUARY 26TH; RIGHT?

23 A. YES, IT WAS.

24 Q. AND THAT'S WHAT YOU RECALLED AND TOLD THE POLICE;
25 CORRECT?

1 A. YES.

2 Q. 'CAUSE THEY ASKED YOU, WHAT'D YOU SEE? WHAT'D YOU
3 HEAR; CORRECT, MA'AM?

4 A. OF COURSE.

5 Q. OKAY.

6 A. MAY I MAKE A STATEMENT?

7 Q. CERTAINLY.

8 A. BUT THE JURY ALSO KNOW THAT IN THE LIGHT OF WHAT'S
9 HAPPENING, YOU'RE RUNNING THINGS THROUGH YOUR MIND A HUNDRED
10 TIMES, SO---

11 Q. ABSOLUTELY.

12 A. ---WHEN I'M SPEAKING OF WHAT'S GOING ON, I'M NOT
13 SPEAKING OF IT IN SEQUENTIAL ORDER EVERY TIME. I'M JUST
14 TELLING WHAT'S HAPPENING.

15 Q. BECAUSE OF -- SURE. AND THE REASON FOR THAT IS BECAUSE
16 THAT WAS A SCARY, UPSETTING TIME AND EXPERIENCE FOR YOU;
17 CORRECT, MA'AM?

18 A. YES.

19 Q. YOU'VE NEVER BEEN IN THE MILITARY OR HAD TO USE GUNS AT
20 ALL, HAVE YOU, MA'AM?

21 A. I'VE BEEN AROUND GUNS A LOT.

22 Q. HAD YOU EVER HAD TO SEE SOMEBODY DIE BEFORE?

23 A. NO.

24 Q. NO. THAT HURT YOU AND SCARED YOU, DIDN'T IT,
25 MA'AM?

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1 A. YES.

2 Q. YOU WERE CONCERNED ABOUT WHAT WAS HAPPENING RIGHT HERE
3 WITH THE FELLOW THAT YOU KNEW; CORRECT, MA'AM?

4 A. YES.

5 Q. OKAY. THANK YOU, DEAR.

6 MR. DELGADO: THAT'S ALL, YOUR HONOR. THANK YOU.

7 RE-DIRECT EXAMINATION

8 KIMBERLY SHAUNETTA BOWDEN BY MR. THOMPSON:

9 Q. MS. BOWDEN, DO YOU KNOW CHRISTOPHER WOODY?

10 A. NO.

11 Q. NO. OKAY. AND I THINK HE POINTED TO YOUR STATEMENT HE
12 MENTIONED THAT ONE LINE THAT HE READ, LET'S SEE, I SAW A
13 TALL, BLACK DUDE, JEAN, DARK SHIRT, AND A LOW HAIRCUT.
14 THAT'S CORRECT; RIGHT, THAT LINE?

15 A. YES.

16 Q. AND AT THE VERY END OF THAT PARAGRAPH, WHAT DID YOU
17 DESCRIBE THE DRIVER AS WEARING?

18 A. I THINK MAYBE THE DRIVER HAD ON A SHIRT THAT HAD SOME
19 RED IN IT.

20 Q. THAT HAD SOME RED IN IT. OKAY.

21 MR. THOMPSON: THANK YOU. NO FURTHER --

22 A. ALSO, IF HE HAD HIS HAIR PULLED BACK AS HE DOES NOW, IF
23 I'M LOOKING OUT OF THE WINDOW AND IT'S NIGHTTIME, I'M
24 ASSUMING HE HAS A LOW HAIRCUT ANYWAYS, 'CAUSE IF YOU LOOK AT
25 HIM, IT LOOKS LIKE HE HAS A LOW HAIRCUT.

1 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

2 RE-CROSS EXAMINATION

3 KIMBERLY SHAUNETTA BOWDEN BY MR. DELGADO:

4 Q. MS. BOWDEN, THIS HAPPENED ABOUT NINE O'CLOCK; IS THAT
5 CORRECT, MA'AM?

6 A. YES.

7 Q. IT WAS STILL LIGHT ON JUNE THE 26TH, WASN'T IT?

8 A. IT'S DAYLIGHT. IT'S LIGHTER THAN NOW. IF YOU LOOK AT
9 HIM,---

10 MR. THOMPSON: YOUR HONOR, WE'D OBJECT AS --

11 A. ---HE LOOKS LIKE HE HAS A LOW HAIRCUT.

12 THE COURT: HOLD IT, HOLD IT, HOLD IT, HOLD IT, HOLD
13 IT, MA'AM. HOLD IT. WHEN THERE'S AN OBJECTION MADE, LET
14 THE COURT RULE ON THE OBJECTION. WHAT WAS IT?

15 MR. THOMPSON: THIS IS BEYOND THE SCOPE, YOUR HONOR, OF
16 THE DIRECT, OR REDIRECT.

17 MR. DELGADO: IT WASN'T UNTIL SHE --

18 THE COURT: I WOULD ALLOW THE QUESTION INSOFAR AS THE
19 TIME AND WHAT SHE WAS ABLE TO SEE. YES, MA'AM.

20 Q. MA'AM, THE LONGEST DAY OF THE YEAR IS JUNE 22ND.
21 THAT'S CALLED THE SUMMER SOLSTICE. THAT'S WHEN THE SUN'S
22 OUT, THE VERY LONGEST DAY. THIS IS, WHAT, FOUR DAYS AFTER
23 THAT, MA'AM?

24 A. OKAY.

25 Q. OKAY. AT NINE O'CLOCK IT CERTAINLY ISN'T DARK, IS IT?

1 A. IF YOU TAKE A -- IF YOU TURN AROUND AND LOOK AT HIM
2 RIGHT NOW WITH HIS HAIR LIKE IT IS, DOES IT NOT LOOK LIKE HE
3 HAS A LOW HAIRCUT?

4 Q. NO, MA'AM.

5 A. TRULY DOES.

6 THE COURT: I THINK THAT'S FAR ENOUGH.

7 MR. THOMPSON: YOUR HONOR, HE'S TESTIFYING --

8 MR. DELGADO: SHE HAD A QUESTION, YOUR HONOR.

9 THE COURT: WELL, I -- I DON'T THINK YOU'RE SUPPOSED TO
10 BE TESTIFYING IN THIS CASE. ANYTHING ELSE OF THIS WITNESS?

11 MR. THOMPSON: NOTHING FROM THE STATE, YOUR HONOR.

12 MR. DELGADO: NOTHING.

13 THE COURT: OKAY. THANK YOU, MA'AM. YOU MAY STAND
14 DOWN.

15 MR. THOMPSON: YOUR HONOR, I'D ASK TO EXCUSE THE
16 WITNESS AT THIS TIME.

17 THE COURT: ANY OBJECTION, COUNSEL?

18 MR. DELGADO: NO, YOUR HONOR.

19 THE COURT: THANK YOU FOR COMING, MA'AM. YOU MAY BE
20 EXCUSED AT THIS TIME.

21 THE WITNESS: OKAY.

22 THE COURT: COUNSEL APPROACH JUST A MINUTE, PLEASE?

23 (WHEREUPON, A BENCH CONFERENCE WAS CONDUCTED IN THE
24 PRESENCE OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE
25 HEARING OF THE COURT REPORTER AND THE JURY.)

1 MR. THOMPSON: PLEASE THE COURT, YOUR HONOR, THE STATE
2 WOULD CALL JONATHAN GIBSON. MR. GIBSON, IF YOU'D GO FORWARD
3 AND BE SWORN IN.

4 THE CLERK: PLEASE RAISE YOUR RIGHT HAND, PLACE YOUR
5 LEFT HAND ON THE BIBLE.

6 (JONATHAN DAVID GIBSON, BEING FIRST DULY SWORN, WAS
7 EXAMINED AND TESTIFIED AS FOLLOWS):

8 DIRECT EXAMINATION

9 JONATHAN DAVID GIBSON BY MR. THOMPSON:

10 Q. GOOD MORNING, MR. GIBSON. WOULD YOU STATE YOUR FULL
11 NAME FOR THE COURT, PLEASE?

12 A. JONATHAN DAVID GIBSON.

13 Q. AND, MR. GIBSON, WHAT DO YOU DO FOR A LIVING?

14 A. RIGHT NOW I AM ON STAFF AT OAKDALE BAPTIST CHURCH,
15 RUNNING THEIR SPORTS OUTREACH MINISTRY.

16 Q. ALL RIGHT. CAN YOU TELL ME, BACK IN JUNE OF LAST YEAR,
17 DID YOU LIVE IN PACES RIVER APARTMENTS?

18 A. YES, SIR.

19 Q. CAN YOU TELL ME, ON THE EVENING OF JUNE 26, 2004, DID
20 ANYTHING UNUSUAL HAPPEN THAT YOU RECALL?

21 A. YES, SIR. MY LIFE WAS RADICALLY CHANGED THAT NIGHT. I
22 SAW THINGS THAT -- MY WIFE AND I WERE IN OUR APARTMENT
23 COMPLEX. I WAS SITTING IN THE LIVING ROOM, TURNED THE T.V.
24 ON AND MY WIFE WAS PUTTING OUR LITTLE GIRL TO BED, AND WE
25 HEARD GUNSHOTS. WE HEARD ABOUT FIVE GUNSHOTS AND, YOU KNOW,

1 IN THOSE SPLIT-SECOND DECISIONS, IT WAS AROUND THE 4TH OF
2 JULY, SO I THOUGHT, THAT'S KIDS PLAYING WITH FIREWORKS, BUT
3 THEN I THOUGHT, NO; THAT WAS GUNSHOTS. SO I IMMEDIATELY
4 LOOKED OUT OUR SLIDING GLASS DOOR AND SAW A GOLD MAXIMA
5 PULLING AROUND THE LOOP.

6 Q. OKAY. NOW, WHEN YOU MENTION PULLING AROUND THE LOOP,
7 IF YOU COULD JUST FOR A MOMENT, IF IT PLEASE THE COURT, I'D
8 ASK THE WITNESS TO STEP DOWN MOMENTARILY---

9 THE COURT: YES, SIR.

10 Q. --TO BE ABLE TO POINT OUT TO ME ON THIS PHOTOGRAPH.
11 HERE'S THE POINTER. HAVE YOU HAD AN OPPORTUNITY TO SEE THIS
12 PICTURE BEFORE? I BELIEVE IT'S STATE'S EXHIBIT NUMBER 8.

13 A. THIS IS THE LOOP. BEHIND THESE TREES RIGHT HERE IS
14 WHERE MY APARTMENT IS.

15 Q. ALL RIGHT.

16 A. AND I KNOW IT DOESN'T LOOK LIKE THERE'S A VISIBLE VIEW,
17 BUT THE LIMBS AREN'T ALL THE WAY DOWN AND I COULD SEE THE
18 MAXIMA PULLING AROUND RIGHT HERE.

19 Q. OKAY. AND WHEN YOU SAW IT, WAS IT STOPPED WHEN YOU
20 FIRST SAW IT OR WAS IT STILL MOVING?

21 A. WHEN I FIRST SAW IT, I DON'T KNOW IF IT WAS STOPPED OR
22 IF IT WAS GOING. I REMEMBER SEEING IT IN THIS AREA RIGHT
23 HERE, SO I -- YOU KNOW, JUST REMEMBERING BACK, I THINK IT
24 STARTED -- IT WAS MOVING AND I CAUGHT IT WHIPPING AROUND
25 THIS CORNER TO EXIT OUT.

1 Q. ALL RIGHT. HOW FAST DID IT GO AROUND THE CORNER?

2 A. IT WAS GOING FAST ENOUGH THAT BY -- 'CAUSE WHEN I SAW
3 IT, I IMMEDIATELY RAN OUT THE DOOR TO GO SEE IF ANYTHING WAS
4 HAPPENING AND BY THE TIME, YOU KNOW, I GOT AROUND THE
5 CORNER, THEY HAD ALREADY EXITED OUT AND I DIDN'T SEE IT
6 ANYMORE.

7 Q. OKAY. AND WHEN YOU GOT OUT THE DOOR, WHERE DID YOU GO?

8 A. THERE'S A LITTLE SIDEWALK. I RAN UP THE SIDEWALK AND I
9 WAS STANDING RIGHT HERE, 'CAUSE THIS IS A NICE APARTMENT
10 COMPLEX. YOU DON'T REALLY BELIEVE THAT YOU'RE GOING TO HEAR
11 GUNSHOTS AT NIGHT AND I WAS IN THIS AREA LOOKING AND I SAW A
12 BODY LAYING ON THE GROUND. THEN FROM THAT, I RAN BACK
13 INSIDE TO MAKE SURE MY WIFE WAS OKAY, I MEAN, JUST TOLD HER
14 TO STAY IN THE HOUSE, LOCKED HER IN AND RAN BACK OUTSIDE
15 WITH MY CELL PHONE AND CALLED THE COPS TO SEE IF THERE'S
16 ANYTHING I COULD DO TO HELP THE VICTIM.

17 Q. AND WHEN YOU FIRST CAME OUT, WAS THERE ANYONE WITH THE
18 VICTIM AT THAT TIME?

19 A. AT THAT TIME THERE WAS NOBODY THERE.

20 Q. WITH THE VICTIM OR---

21 A. WITH THE VICTIM.

22 Q. ---IN THE VICINITY OF THE VICTIM?

23 A. I -- YOU KNOW, I DIDN'T SEE ANYBODY. YOU KNOW, THERE
24 WAS JUST -- I JUST SAW A PERSON LAYING ON THE GROUND, NOT
25 MOVING, AND YOU HEAR GUNSHOTS, YOU SEE SOMEBODY LAYING ON

JONATHAN DAVID GIBSON -- DIRECT BY MR. THOMPSON:

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1 THE GROUND, YOU FIGURE THEY'VE BEEN SHOT.

2 Q. AND WHEN YOU LOOKED OVER TOWARDS HIM, HOW -- IS THAT --
3 WELL LIT IS THAT PARKING LOT?

4 A. YEAH. I MEAN, IT'S -- IT WAS RIGHT AT DUSK, SO THE
5 STREET LIGHTS WERE ON AND IT WASN'T COMPLETELY DARK YET, SO
6 IT WAS LIT. I MEAN, THERE WAS -- I MEAN, YOU COULD SEE
7 PLAIN AS DAY AS YOU'RE SEEING RIGHT NOW.

8 Q. ALL RIGHT. AND DID YOU NOTICE ANYTHING UNUSUAL BESIDE
9 THE VICTIM OR AROUND THE VICTIM WHEN YOU LOOKED OVER THERE?

10 A. NOTHING AT ALL.

11 Q. OKAY. DID YOU NOTICE ANY WEAPONS OR ANYTHING OF THAT
12 NATURE?

13 A. DIDN'T SEE ANY WEAPONS, DIDN'T SEE ANYTHING. I MEAN,
14 HE HAD A BROWN PAPER BAG IN HIS HAND THAT LOOKED LIKE IT HAD
15 A DRINK IN IT AND THAT WAS ALL THAT HE HAD ON HIM.

16 MR. THOMPSON: OKAY. YOU CAN GO AHEAD AND SIT BACK
17 DOWN FOR A MOMENT. WELL, I TELL YOU WHAT, BEFORE YOU DO,
18 LET ME SHOW YOU ONE OTHER PHOTOGRAPH OR TWO OTHER SETS OF
19 PHOTOGRAPHS BEFORE YOU SIT DOWN.

20 Q. STATE'S EXHIBIT NUMBER 10 -- WELL, I THOUGHT IT WAS
21 STATE'S EXHIBIT NUMBER 10. ALL RIGHT. GO AHEAD AND SIT
22 DOWN. WE'LL GO ON TO SOME OTHER QUESTIONS WHILE WE GET THAT
23 PHOTOGRAPH TO COME UP. NOW, YOU HAD MENTIONED THAT YOU
24 CALLED 911 AT THAT POINT IN TIME. DID YOU HAVE YOUR CELL
25 PHONE ON YOU AT THAT POINT?

1 A. YES, SIR.

2 Q. AND HAVE YOU HAD AN OPPORTUNITY TO HEAR THE 911 TAPE---

3 A. YES.

4 Q. ---SINCE THIS INCIDENT DATE?

5 A. YES, SIR.

6 Q. AND DOES IT FAIRLY AND ACCURATE DEPICT WHAT OCCURRED
7 THAT EVENING OR WHAT YOU RECALL IT SOUNDED LIKED THAT
8 EVENING ON 911?

9 A. YES, SIR.

10 Q. ALL RIGHT.

11 MR. THOMPSON: I'D ASK AT THIS TIME TO PLAY THAT TAPE
12 FOR THE JURY.

13 MR. DELGADO: WITHOUT OBJECTION, YOUR HONOR.

14 THE COURT: HAS IT BEEN ADMITTED?

15 MR. THOMPSON: IT IS STATE'S EXHIBIT NUMBER 125, YOUR
16 HONOR.

17 MR. DELGADO: THEY'VE PLAYED IT FOR ME. I HAVE NO
18 OBJECTION.

19 THE COURT: ALL RIGHT. ADMITTED WITHOUT OBJECTION.
20 YOU MAY PUBLISH IT.

21 (STATE'S EXHIBIT NUMBER 125 PUBLISHED TO THE JURY)

22 Q. ALL RIGHT. NOW, AT THE TIME YOU MAKE THAT 911 CALL, IS
23 THAT WHEN YOU COME BACK OUT AFTER RUNNING BACK TOWARDS YOUR
24 APARTMENT?

25 A. YES, SIR.

1 Q. NOW, ABOUT HOW LONG WOULD IT HAVE TAKEN YOU -- YOU SAID
2 YOU HAD GONE OUT IMMEDIATELY WHEN YOU FIRST WENT OUT. HOW
3 LONG DID IT TAKE YOU TO GO TO YOUR APARTMENT AND COME BACK?

4 A. WELL, EVERYTHING HAPPENED REALLY, REALLY FAST. YOU
5 KNOW, I'M NOT A WORLD CLASS SPRINTER, BUT I RAN BACK TO MY
6 APARTMENT. WHEN YOU WALK IN MY APARTMENT, MY KEYS,
7 EVERYTHING, IS RIGHT THERE WHEN YOU OPEN THE DOOR, 'CAUSE I
8 WOULD LOSE IT, AND SO IT WAS OPEN, THE DOOR, GRABBED IT,
9 TOLD MY WIFE TO STAY IN THE HOUSE AND NO TO OPEN THE DOOR
10 FOR ANYBODY, SHUT THE DOOR, LOCKED IT AND RAN BACK OUT, SO,
11 YOU KNOW, THIRTY SECONDS.

12 Q. ALL RIGHT. AND WHEN YOU GOT BACK OUT, WAS ANYONE ELSE
13 OUT THERE AT THE BODY AT THAT POINT WHEN YOU GOT BACK OUT?

14 A. WHEN I CAME OUT THE SECOND TIME, MY NEIGHBOR ABOVE US
15 AND I WERE RUNNING OUT AT THE SAME TIME AND WE WERE RUNNING
16 OVER THERE TOGETHER AND WHEN WE GOT THERE THERE WAS ANOTHER
17 LADY THAT WAS GETTING THERE THAT WAS HOLDING HIM AND THE
18 NEIGHBOR ABOVE ME -- I'M SORRY; I DON'T KNOW HER NAME -- SHE
19 WAS CHECKING HIS PULSE AND THAT -- AND I WAS ON THE PHONE
20 WITH 911 TRYING TO, YOU KNOW, DO WHATEVER WE COULD TO HELP
21 HIM.

22 Q. OKAY. DID YOU SEE ANYONE PICKING ANYTHING UP OR
23 REMOVING ANYTHING?

24 A. NO, SIR.

25 Q. DID YOU SEE ANYTHING UNUSUAL LYING AROUND THE VICTIM AT

1 THAT POINT?

2 A. NOTHING -- I MEAN, THE WHOLE CIRCUMSTANCE WAS UNUSUAL,
3 BUT I DIDN'T SEE ANYTHING -- YOU KNOW, I JUST SAW A GUY
4 LAYING ON THE GROUND LIKE HE'D BEEN SHOT. THERE WAS NOTHING
5 -- YOU KNOW, LIKE IF YOU HAVE SOMETHING IN YOUR HANDS,
6 YOU'LL DROP IT OR WHATEVER. THERE WAS NOTHING THERE.

7 Q. OKAY. DO YOU RECALL HOW HE WAS LYING ON THE GROUND AT
8 THAT POINT?

9 A. HE WAS KIND OF AT AN ANGLE, LIKE HE WAS CROUCHED A
10 LITTLE BIT. YOU KNOW, HE WASN'T LAYING PERFECTLY STRAIGHT
11 OR WHATEVER, LIKE ROLLED ONTO ONE SIDE A LITTLE BIT AND KIND
12 OF IN A CROUCHED POSITION.

13 Q. ALL RIGHT. WAS HIS HEAD TOWARD THE APARTMENT BUILDINGS
14 THAT WERE NEXT TO HIM OR WAS IT OUT TOWARDS THE PARKING
15 LOT?

16 A. HIS HEAD WAS TOWARD THE APARTMENT COMPLEX.

17 Q. OKAY. AND DID YOU REMAIN THERE UNTIL THE POLICE AND
18 EMS ARRIVED?

19 A. ONCE -- AT THE END OF THAT TAPE I COULD HEAR THE
20 AMBULANCE COMING AND I KNOW APARTMENT COMPLEXES AND STUFF
21 CAN GET CONFUSING, SO I RAN TO THE FRONT, 'CAUSE I KNEW THIS
22 GUY NEEDED ALL THE HELP HE COULD GET AND ALL; SECONDS COUNT.
23 SO I RAN TO THE FRONT TO MAKE SURE THE AMBULANCE DIDN'T TURN
24 THE WRONG WAY, DIDN'T GET LOST, AND DIRECTED THEM TO WHERE
25 IT WAS, 'CAUSE, YOU KNOW, THERE'S LOOPS AND STUFF THAT YOU

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1 CAN GET LOST IN AND I KNEW HE NEEDED -- YOU KNOW, TIME WAS
2 OF THE ESSENCE, SO I DIRECTED THEM THERE AND CAME BACK AND
3 STAYED THERE THE WHOLE TIME.

4 Q. JUST A COUPLE OF FINAL THINGS. BACK TO THE
5 PHOTOGRAPHS, IF YOU COULD. I BELIEVE THIS IS STATE'S
6 EXHIBIT NUMBER 10. IF YOU WOULD JUST TAKE A LOOK. STEP
7 DOWN JUST A MOMENT AGAIN. AND CAN YOU TELL ME WHAT THIS
8 VIEW INDICATES?

9 A. THIS RIGHT HERE IS THE -- MY APARTMENT. THESE ARE MY
10 SLIDING GLASS WINDOWS. THAT'S WHAT I WAS LOOKING OUT OF
11 WHEN EVERYTHING HAPPENED.

12 Q. OKAY. AND FROM THIS ANGLE, WHERE WOULD THAT PIECE OF
13 GRASS THAT YOU WERE STANDING ON BE?

14 A. IT WOULD BE -- THIS CAR IS BLOCKING THAT PIECE OF
15 GRASS. IF THIS CAR WASN'T HERE, IT WOULD BE RIGHT ON THE
16 OTHER SIDE.

17 Q. OKAY. WE'LL LOOK AT ANOTHER PICTURE THAT MAY HELP WITH
18 THAT, STATE'S EXHIBIT NUMBER 12, I BELIEVE.

19 A. THAT'S --

20 Q. THERE WE GO.

21 A. THAT'S THAT PIECE OF GRASS THAT I RAN TO. AGAIN,
22 THERE'S MY APARTMENT AND THAT'S WHERE I WAS -- THAT'S WHERE
23 I HEARD THE GUNSHOTS. THERE'S A LITTLE TINY HALL. I RAN
24 AND -- RAN OUT HERE AND CAME TO RIGHT HERE.

25 Q. OKAY; OKAY. AND, LIKE YOU SAID, THE TREES FROM THE

1 PICTURE ABOVE ARE VERY THICK, BUT THEY APPEAR LIKE THAT WHEN
2 YOU'RE DOWN ON THE GROUND?

3 A. YES, SIR. YOU CAN -- I MEAN, THERE'S NO -- IT'S NOT
4 BLOCKING MY VIEW AT ALL. I MEAN, I CAN SEE -- THERE'S A
5 PLAYGROUND RIGHT HERE AND, YOU KNOW, MY WIFE AND KIDS WILL
6 GO OVER THERE AND PLAY. I CAN SEE THEM FROM MY WINDOW IF I
7 LOOK OVER THERE.

8 Q. OKAY. SO THE PLAYGROUND WAS, I GUESS, RIGHT NEXT TO
9 WHERE THE BODY WAS, APPARENTLY?

10 A. YES, SIR.

11 Q. AND I THINK FROM THE OVERHEAD PICTURES THAT WE LOOKED
12 AT EARLIER, STATE'S EXHIBIT NUMBER 8, COULD YOU POINT OUT
13 WHERE THAT PLAYGROUND WOULD BE?

14 A. THESE ARE THE TREES THAT I WAS LOOKING THROUGH AND
15 RIGHT HERE UNDERNEATH ALL THESE TREES, LIKE THAT RIGHT THERE
16 IS THE ACTUAL SLIDE THAT, YOU KNOW, MY KIDS WOULD SLIDE DOWN
17 AND STUFF AND THE PLAYGROUND'S ALL IN THAT AREA.

18 Q. OKAY. THANK YOU. YOU CAN GO AHEAD AND HAVE A SEAT.
19 ONCE AGAIN, MR. GIBSON, DID YOU SEE A GUN OR WEAPON AT ANY
20 TIME?

21 A. NO, SIR.

22 Q. DID YOU SEE ANYONE RETRIEVING ANYTHING OFF THE
23 GROUND OR FROM THE VICTIM AT ANY TIME BEFORE THE POLICE
24 ARRIVED?

25 A. NO, SIR.

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1 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

2 CROSS-EXAMINATION

3 JONATHAN GIBSON BY MR. DELGADO:

4 Q. MR. GIBSON, GOOD MORNING. MR. GIBSON, MY NAME IS JOHN
5 DELGADO. I'M GOING TO ASK YOU A COUPLE OF QUESTIONS ABOUT
6 WHAT YOU SAW. WHEN YOU TESTIFIED PREVIOUSLY, YOU SAID
7 SOMETHING ABOUT BY THE TIME I GOT AROUND THE CORNER, BY THAT
8 YOU MEAN BY THE TIME YOU GOT AROUND THE CORNER OF YOUR
9 APARTMENT AND CAME OUT. IS THAT FAIR?

10 A. YES, SIR.

11 Q. AS OPPOSED TO JUMPING OVER THE LITTLE BALCONY OR OVER
12 THE RAILING?

13 A. RIGHT.

14 Q. OKAY.

15 A. IT WAS FASTER FOR ME TO RUN THROUGH THE HOUSE THAN TO
16 TAKE THE SAFETY LOCK OUT, SLIDE THE DOOR OPEN, PULL THE
17 BLINDS BACK. YOU KNOW, WE HAVE KIDS---

18 Q. SURE.

19 A. ---SO STUFF'S ON THE PORCH. I DIDN'T WANT TO --

20 Q. I UNDERSTAND. WOULD IT BE FAIR TO SAY, SIR, THAT IN
21 ANY EVENT, THAT RAILING IS NOT VERY HIGH, MAYBE AS HIGH AS
22 THIS IF WE WERE STANDING ON IT, MAYBE FROM WHERE I'M
23 STANDING?

24 A. FROM WHERE YOU'RE STANDING, ---

25 Q. YES, SIR.

1 A. ---IT'S PROBABLY WAIST HIGH.

2 Q. WAIST HIGH? CAN YOU GET OVER THAT IF YOU'RE AN ADULT?

3 A. YES, SIR.

4 Q. SURE. OKAY. I'M NOT SAYING THAT YOU SHOULD HAVE DONE
5 IT ANY OTHER WAY.

6 A. RIGHT.

7 Q. I'M SIMPLY -- I'M JUST TRYING TO MAKE CERTAIN HOW HIGH
8 THAT MAY OR MAY NOT HAVE BEEN. SIR, YOU SAID YOU, IN FACT,
9 SIR, YOU WERE THE FIRST PERSON --

10 MR. DELGADO: MAY I SEE THE REPORT?

11 Q. MR. GIBSON, IF YOU COULD SEE FROM THERE. IF NOT, SIR,
12 WHY DON'T YOU STAND HERE? LET ME KNOW IF YOU CAN SEE THAT.

13 A. OKAY.

14 Q. YOU -- IN EFFECT, YOU TURNED THE CORNER AND CAME OUT OF
15 YOUR APARTMENT AND CAME OVER IN THIS DIRECTION?

16 A. YES, SIR.

17 Q. YOU WEREN'T IN THE CIRCULAR AREA. YOU EVEN HAD TO GO
18 DOWN A LITTLE FURTHER SO THAT YOU COULD SEE DIRECTLY THIS
19 WAY. WOULD THAT BE FAIR?

20 A. I --

21 Q. THIS ISN'T A TRICK. I'M JUST SAYING --

22 A. RIGHT. NO, NO, NO. I KNOW I WAS IN THE GRASS.

23 Q. YES, SIR.

24 A. I DIDN'T COME ALL THE WAY OVER TO THE CAR, SO WHETHER I
25 WAS IN THE CIRCLE AREA OR IF I WENT OVER IN THERE A LITTLE

1 BIT --

2 Q. IT'S HARD TO SAY.

3 A. HARD TO SAY.

4 Q. CERTAINLY. AND THE REASON FOR THAT IS BECAUSE YOUR
5 ATTENTION WAS WHAT WAS HAPPENING DOWN HERE AND YOU COULD SEE
6 A BODY LAYING THERE; CORRECT, SIR?

7 A. YES, SIR.

8 Q. AND THE HEAD WAS IN THIS DIRECTION; CORRECT?

9 A. CORRECT.

10 Q. THE FEET WERE OUT TOWARDS WHERE YOU WERE WALKING, MAYBE
11 HERE OR THERE; CORRECT?

12 A. I WAS ACTUALLY RUNNING AND---

13 Q. OKAY.

14 A. ---THE FEET WERE LAYING -- OR THE LEGS WERE ACTUALLY
15 LAYING OUT PAST THE CARS.

16 Q. OH, OKAY. SO HIS BODY WAS A LITTLE FURTHER OUT INTO
17 THE GENERAL AREA. WOULD THAT BE FAIR?

18 A. YES, SIR.

19 Q. OKAY. NOW, WHEN YOU SAW THAT, MY RECOLLECTION OF WHAT
20 YOU'VE TESTIFIED TO IS YOU DECIDED YOU'D GO BACK TO YOUR
21 APARTMENT,---

22 A. CORRECT.

23 Q. ---LOCK THAT UP FOR SAFETY PURPOSES OF YOUR WIFE AND
24 YOUR CHILD, GOT YOUR KEYS AND CAME BACK OUT AGAIN TO THIS
25 GENERAL AREA AGAIN; CORRECT?

1 A. NO. WHEN I CAME OUT THE SECOND TIME, I RAN STRAIGHT TO
2 THE VICTIM.

3 Q. STRAIGHT OVER HERE? OKAY. AND WHEN YOU DID THAT, BY
4 THAT TIME, SOMEBODY ELSE WAS THERE BY THE BODY?

5 A. YES, SIR.

6 Q. THAT WAS A LADY THAT YOU MAY OR MAY NOT KNOW NOW IS MS.
7 BOWDEN, BLACK LADY?

8 A. YES, SIR. THERE WAS A BLACK LADY THERE.

9 Q. OKAY. THAT'S NOT THE WOMAN THAT YOU SAID LIVED ABOVE
10 YOU.

11 A. NO.

12 Q. THAT WAS A WHOLE 'NOTHER LADY?.

13 A. THAT'S A WHOLE 'NOTHER LADY.

14 Q. OKAY. ALL RIGHT. SO WHEN -- BY THE TIME, THAT THIRTY
15 SECONDS FROM THE TIME YOU CAME BACK TO YOUR APARTMENT, CAME
16 BACK TO THE BODY, BY THAT TIME THIS LADY, THE BLACK LADY,
17 MS. BOWDEN, WAS THERE?

18 A. YES, SIR.

19 Q. OKAY. THAT'S FINE. IF YOU'LL HAVE A SEAT. YOU SAID
20 -- EXCUSE ME, MR. GIBSON. YOU SAID THAT'S A NICE APARTMENT
21 COMPLEX AND YOU JUST DON'T THINK OR REALIZE OR PROJECT THAT
22 YOU'D EVER HEAR GUNSHOTS. I'M CERTAIN THAT'S THE CASE.
23 THAT WAS A SCARY TIME; CORRECT, SIR?

24 A. YES, SIR.

25 Q. IN FACT, WE HEARD THAT IN THE TAPE. THERE WAS SOMEBODY

1 SCREAMING IN THE BACKGROUND; CORRECT, SIR?

2 A. YES, SIR.

3 Q. THAT WAS EITHER MS. GIBSON OR SOMEBODY ELSE THAT WAS
4 AROUND THE BODY AT THAT TIME; CORRECT?

5 A. WELL, MY WIFE WAS NEVER AROUND THE BODY.

6 Q. I'M SORRY. MS. -- I'M SORRY. NOT MS. GIBSON. I
7 APOLOGIZE. I'M SO SORRY. MS. BOWDEN OR SOMEBODY THAT WAS
8 ALSO AROUND WHERE MR. BAGLEY HAD FALLEN; CORRECT?

9 A. WELL, ONCE -- YES, SIR. IT HAD TO BE SOMEBODY AROUND
10 THERE. YOU WOULDN'T --

11 Q. I DIDN'T MEAN YOUR WIFE. I APOLOGIZE. I'M SORRY. I
12 KNEW BETTER THAN THAT. WHAT I MEANT BY THAT IS SOMEBODY WHO
13 WAS THERE BY THE BODY, THAT'S WHOSE VOICE WE HEARD HERE IN
14 THE BACKGROUND; CORRECT, SIR?

15 A. CORRECT.

16 Q. OKAY. AND THEY WERE SHOWING AND EMOTING WHAT THEY WERE
17 HAVING TO WITNESS RIGHT IN FRONT OF THEM; CORRECT?

18 A. CORRECT.

19 Q. YOU SAID, SIR, THAT HE HAD A BOTTLE IN ONE OF HIS
20 HANDS; IS THAT CORRECT?

21 A. IT LOOKED---

22 Q. A BAG MAYBE --

23 A. ---LIKE A, YOU KNOW, WHEN YOU BUY DRINKS, THEY PUT IN A
24 BROWN PAPER BAG,---

25 Q. YES, SIR.

1 A. ---AND IT JUST LOOKED LIKE THAT'S WHAT HE WAS HOLDING
2 WHENEVER HE GOT SHOT.

3 Q. DID HE HAVE IT IN HIS RIGHT HAND OR HIS LEFT HAND, SIR?

4 A. I DON'T REMEMBER.

5 Q. HE HAD IT -- IN ANY EVENT, AS HE WAS LAYING ON THE
6 GROUND, HE HAD A BOTTLE IN ONE HAND OR -- I'M SORRY -- A
7 PAPER BAG WHICH LOOKED LIKE --

8 A. WELL, YOU CAN SEE THE TOP OF THE BOTTLE.

9 Q. OKAY.

10 A. LIKE -- ,CAUSE HE WAS IN THE CROUCHED POSITION. YOU
11 KNOW, I DON,T KNOW WHICH HAND HELD IT, BUT IT WAS THERE WITH
12 HIM.

13 Q. RIGHT. THAT WAS STILL CLUTCHED IN ONE OF HIS HANDS;
14 CORRECT?

15 A. YES, SIR.

16 MR. DELGADO; OKAY. THAT'S ALL. THANK YOU, YOUR
17 HONOR. THANK YOU, MR. GIBSON

18 THE COURT: REDIRECT, COUNSEL?

19 MR. THOMPSON: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

20 THE COURT: THANK YOU, SIR. YOU MAY STAND DOWN, SIR.

21 MR. THOMPSON: YOUR HONOR, I'D ASK THAT MR. GIBSON BE
22 EXCUSED AT THIS TIME.

23 MR. DELGADO: ABSOLUTELY.

24 THE COURT: THANK YOU FOR COMING, SIR. YOU MAY BE
25 EXCUSED AT THIS TIME.

1 MR. GIBSON: THANK YOU.

2 THE COURT: COUNSEL, I THINK IT MAY BE A GOOD TIME TO
3 TAKE A SHORT RECESS AT THIS TIME. MADAM FOREMAN, MEMBERS OF
4 THE JURY PANEL, WE'LL TAKE A SHORT RECESS AT THIS TIME. YOU
5 MAY REFRESH YOURSELVES DURING THE BREAK. SMOKERS ON THE
6 PANEL? RAISE YOUR HAND. ANY SMOKERS? ALL RIGHT. A COUPLE
7 MAYBE. IF YOU'D LIKE TO SMOKE DURING THIS BREAK, I'LL ALLOW
8 YOU TO DO THAT. NOW, WE HAVE TO DO THAT OUTSIDE THE
9 COURTHOUSE. THE BAILIFF WILL TAKE YOU OUT THERE AND BRING
10 YOU BACK. I'D ASK YOU DO THAT AS QUICKLY AS POSSIBLE. I
11 ONLY WANT TO TAKE ABOUT TEN MINUTES OR SO IN THIS BREAK.
12 PLEASE REFRESH YOURSELVES. OF COURSE, PLEASE DO NOT BEGIN
13 DISCUSSING THE CASE. WE'RE NOT READY TO DO THAT. THANK
14 YOU. PLEASE RETIRE TO THE JURY ROOM AT THIS TIME.

15 (JURY OUT AT 11:38 A.M.)

16 THE COURT: PROBABLY A GOOD TIME FOR ME TO POINT OUT --
17 LET ME POINT OUT FOR THE BENEFIT, NOT ONLY OF THE ATTORNEYS
18 BUT ALSO FOR ANYBODY ELSE THAT'S IN THE COURTROOM, MY POLICY
19 IS I DO NOT ALLOW ANYONE TO GET UP AND MOVE AROUND OR CARRY
20 ON ANY CONVERSATIONS WHEN THE JURY'S GOING OUT OR COMING IN,
21 SO I ASK YOU TO PLEASE OBSERVE THAT RULE. REMAIN SEATED AND
22 DO NOT ENGAGE IN CONVERSATION DURING THE TIME THE JURY'S
23 GOING OUT OR COMING IN.

24 AT THIS TIME, OF COURSE, YOU MAY BE EXCUSED IF YOU WISH
25 TO REFRESH YOURSELVES. ONE POINT I NEED TO MAKE CLEARER IS

1 I UNDERSTAND THAT THE DEFENSE DID NOT OBJECT TO THE EXHIBITS
2 THAT WERE MARKED FOR IDENTIFICATION. THERE WERE A NUMBER OF
3 THEM REFERRED TO BY THE SOLICITOR AT THE BEGINNING OF THE
4 TRIAL, BUT YOU DIDN'T ACTUALLY SAY THEY AGREED TO BE
5 ADMITTED AND THEY WERE CONSIDERED TO BE ADMITTED. IS THAT
6 THE CASE?

7 MR. DELGADO: THAT IS THE CASE, YOUR HONOR.

8 MR. THOMPSON: THAT IS CORRECT, YOUR HONOR.

9 THE COURT: OKAY. I WANT TO BE SURE. THEN LET THE
10 RECORD REFLECT THAT ALL THOSE EXHIBITS THAT HAVE BEEN MARKED
11 FOR IDENTIFICATION ARE ALSO ADMITTED INTO EVIDENCE WITHOUT
12 OBJECTION, THOSE THAT WERE REFERRED TO AT THE BEGINNING OF
13 THE TRIAL.

14 I JUST WANT TO BE SURE, 'CAUSE I WASN'T -- I WANT TO
15 MAKE SURE THEY'RE ADMITTED BEFORE YOU START USING THEM.

16 MR. POPE: YES, SIR. AND WE DESIGNATED THE ONE PICTURE
17 THAT WAS PULLED. I DON'T HAVE THE NUMBER HERE BEFORE ME,
18 BUT WE DID -- THERE WAS ONE PICTURE THAT WAS PULLED.

19 THE COURT: I UNDERSTAND. WE'LL TAKE ABOUT TEN
20 MINUTES, THEN WE'LL START BACK.

21 (WHEREUPON, A BRIEF RECESS WAS OBSERVED)

22 THE COURT: COUNSEL READY TO PROCEED?

23 MR. THOMPSON: THE STATE'S READY, YOUR HONOR.

24 MR. DELGADO: DEFENSE IS READY.

25 THE COURT: PLEASE BRING THE JURY IN.

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1 (JURY IN AT 11:55 A.M.)

2 THE COURT: COUNSEL READY TO PROCEED?

3 MR. THOMPSON: THE STATE'S READY, YOUR HONOR. PLEASE
4 THE COURT, THE STATE CALLS ETTA GIBSON. MS. GIBSON, IF
5 YOU'LL COME FORWARD AND BE SWORN IN, PLEASE.

6 THE CLERK: PLEASE RAISE YOUR RIGHT HAND, PLACE YOUR
7 LEFT HAND ON THE BIBLE.

8 (JENNIFER ETTA GIBSON, BEING FIRST DULY SWORN, WAS
9 EXAMINED AND TESTIFIED AS FOLLOWS):

10 DIRECT EXAMINATION

11 JENNIFER ETTA GIBSON BY MR. THOMPSON:

12 Q. HELLO, MS. GIBSON. CAN YOU GIVE YOUR FULL NAME FOR THE
13 COURT, PLEASE?

14 A. YES. JENNIFER ETTA GIBSON.

15 Q. AND IF YOU WOULD SPELL ETTA FOR US.

16 A. E-T-T-A.

17 Q. OKAY. MS. GIBSON, DID YOU LIVE AT PACES RIVER
18 APARTMENTS BACK IN JUNE OF LAST YEAR?

19 A. YES, SIR.

20 Q. HOW LONG HAD YOU BEEN LIVING THERE AT THAT POINT IN
21 TIME?

22 A. WE'D BEEN IN THE COMPLEX, I BELIEVE, FOR ABOUT TWO
23 YEARS AND MAYBE IN THAT APARTMENT FOR SIX TO NINE MONTHS.

24 Q. WHAT APARTMENT BUILDING WERE YOU IN?

25 A. [REDACTED].

1 Q. AND YOUR APARTMENT NUMBER?

2 A. [REDACTED].

3 Q. WAS [REDACTED]? OKAY. DOES THAT PUT YOU ON THE GROUND FLOOR,
4 THEN?

5 A. YES, SIR.

6 Q. IF YOU COULD, I'M GOING TO ASK YOU, IF YOU WOULD, JUST
7 TO STEP OUT FOR JUST A MOMENT, IF IT PLEASE THE COURT, YOUR
8 HONOR. I'M GOING TO ASK YOU TO TAKE A LOOK AT A PHOTOGRAPH.
9 I'LL GIVE YOU THIS POINTER SO YOU CAN POINT OUT THINGS FOR
10 US.

11 A. OKAY.

12 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 10. CAN
13 YOU SHOW ME, IS YOUR APARTMENT PICTURED IN THAT?

14 A. RIGHT THERE. THAT'S OUR APARTMENT.

15 Q. OKAY. AND SO YOU'RE RIGHT AT THE -- I GUESS IF WE GO
16 BACK TO THE OTHER PHOTOGRAPH, WHICH I BELIEVE IS OVERHEAD,
17 WHERE IS THAT APARTMENT BUILDING IN RELATION TO THAT?

18 A. I THINK RIGHT HERE UNDER THESE -- RIGHT HERE.

19 Q. RIGHT BEHIND THESE TREES?

20 A. UH-HUH.

21 Q. OKAY. AND SO THE TREES WE SEE IN THE OTHER PHOTOGRAPH,
22 STATE'S EXHIBIT NUMBER 10, ARE THOSE TREES THAT WE SEE ABOVE
23 FROM THE OTHER PHOTOGRAPH; IS THAT CORRECT?

24 A. YES; RIGHT THERE.

25 Q. NOW, DID YOU HEAR ANYTHING UNUSUAL THAT NIGHT?

JENNIFER ETTA GIBSON - DIRECT BY MR. THOMPSON:

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1 A. YES, SIR, WE DID. WE HEARD -- I HEARD A SET OF
2 GUNSHOTS.

3 Q. OKAY. AND WHERE WERE YOU WHEN YOU HEARD THOSE
4 GUNSHOTS?

5 A. I WAS IN THIS BEDROOM RIGHT HERE, PUTTING MY TWO-YEAR-
6 OLD DAUGHTER TO SLEEP.

7 Q. OKAY. NOW, WHAT DID THE GUNSHOTS SOUND LIKE TO YOU AT
8 THE TIME?

9 A. I SPOKE TO MY HUSBAND AND I SAID, HONEY, AND HE -- WE
10 KIND OF THOUGHT IT MIGHT BE FIREWORKS, BECAUSE IT WAS CLOSE
11 TO THE 4TH OF JULY, BUT THEN WE REALIZED IT WASN'T FIREWORKS
12 AND THERE WERE TWO DISTINCT, DIFFERENT-SOUNDING BANGS, I
13 GUESS, THAT --

14 Q. OKAY. NOW, DID THOSE BANGS, DID THEY SEEM TO OCCUR ALL
15 AT ONCE OR DID THEY SPREAD OUT? HOW DID THEY SOUND?

16 A. THEY WERE PRETTY CLOSE TOGETHER. THEY KIND OF BANG,
17 BANG; BANG, BANG, BANG. THAT'S HOW IT SOUNDED TO ME, SO --

18 Q. OKAY. OKAY. AND AFTER THAT, DID YOU HEAR ANY OTHER
19 SHOTS?

20 A. NO, SIR, I DID NOT.

21 Q. WHAT DID YOU DO WHEN YOU HEARD THOSE SHOTS?

22 A. WELL, I LOOKED OUT THIS WINDOW RIGHT HERE. I OPENED
23 THE BLINDS AND I LOOKED OUT THAT WINDOW AND I YELLED TO MY
24 HUSBAND.

25 Q. OKAY. AND WHAT DID YOU SEE WHEN YOU LOOKED OUT OF THE

JENNIFER ETTA GIBSON - DIRECT BY MR. THOMPSON:

208

1 BLINDS?

2 A. I SAW A CAR DRIVE AWAY.

3 Q. I'LL JUST POINT BACK TO STATE'S EXHIBIT NUMBER 8, THAT
4 AERIAL PHOTO, WHERE WAS THE VEHICLE THAT YOU SAW PULL AWAY?

5 A. IT WAS DRIVING HERE, WAS RIGHT AROUND HERE AND IT DROVE
6 OFF THAT WAY.

7 Q. OKAY. DO YOU RECALL WHAT KIND OF VEHICLE IT APPEARED
8 TO BE?

9 A. I BELIEVE IT WAS A GOLD MAXIMA.

10 Q. OKAY. AND WERE YOU ABLE TO RECOGNIZE THAT AT THAT
11 POINT IN TIME?

12 A. YES, I WAS. MY BROTHER-IN-LAW HAS A MAXIMA AND THAT'S
13 -- I KNEW IT WAS A MAXIMA, SO YEAH.

14 Q. OKAY. OKAY. AND CAN YOU TELL ME -- YOU CAN GO AHEAD
15 AND HAVE A SEAT, IF YOU WILL. WHEN YOU LOOKED OUT THE
16 WINDOW AND YOU SAW THAT CAR GO BY, DID YOU CONTINUE TO WATCH
17 FROM THAT WINDOW?

18 A. YES, I DID, 'CAUSE IT WAS CRAZY GOING ON OUT THERE, SO,
19 YES, I CONTINUED TO WATCH.

20 Q. OKAY. WHAT DID YOU SEE THEN?

21 A. NOTHING, REALLY. THE CAR DROVE OFF. I YELLED TO MY
22 HUSBAND. HE RAN OUTSIDE TO SEE WHAT HAD HAPPENED, BECAUSE
23 WE THOUGHT IT WAS GUNSHOTS AT THAT POINT. WE KNEW IT WASN'T
24 FIREWORKS; WE KNEW IT WASN'T KIDS PLAYING AROUND, AND MY
25 HUSBAND RAN OUT THERE. I CONTINUED TO WATCH FROM THE

JENNIFER ETTA GIBSON — DIRECT BY MR. THOMPSON:

209

1 WINDOW. I SAW MY HUSBAND RUN OUT THERE AND THEN WHEN HE
2 CAME BACK IN, THERE WAS NO OTHER MOVEMENT. I MEAN, IT WAS
3 JUST MY HUSBAND WAS THE ONLY ONE OUT THERE AT THAT POINT.
4 THEN HE CAME BACK IN, PUT HIS SHOES ON, SAID, STAY HERE, AND
5 RAN BACK OUTSIDE.

6 Q. ALL RIGHT. IS THAT PARKING AREA WELL IT?

7 A. YEAH. IT WAS — IT WASN'T PITCH BLACK OUT THERE AND
8 THERE'S LIGHTS OUT THERE IN THE PARKING LOT. THERE ARE
9 LIGHTS IN THE PARKING LOT.

10 Q. DID IT APPEAR THAT ANYONE WAS RUNNING AFTER THE CAR
11 THAT TOOK OFF?

12 A. NO, NOT AT ALL.

13 Q. WHEN YOUR HUSBAND RAN OUT, DID YOU SEE WHERE HE WENT TO
14 WHEN HE WENT OUT?

15 A. WELL, WHEN HE WENT OUT, HE JUST RAN OUT KIND OF IN THE
16 STREET TO KIND OF LOOK AND SEE WHAT HAD HAPPENED.

17 Q. OKAY.

18 A. AND I WAS STILL LOOKING OUT THAT WINDOW UNTIL HE CAME
19 BACK IN AND THEN I WENT TO THE FRONT PORCH AND WATCHED FROM
20 THERE. THAT'S WHERE I WAS AT THE REST OF THE TIME.

21 Q. OKAY. DID YOU GO DIRECTLY TO THE FRONT PORCH FROM
22 THERE?

23 A. YES. I DIDN'T EVEN TURN THE LIGHT OFF IN MY DAUGHTER'S
24 ROOM. I JUST WENT OUT.

25 Q. OKAY. AND WHEN YOU WENT OUT TO THE FRONT PORCH, WHAT,

JENNIFER ETTA GIBSON -- DIRECT BY MR. THOMPSON:

210

1 IF ANYTHING, DID YOU OBSERVE AT THAT TIME?

2 A. AT THAT POINT, I GUESS OTHER PEOPLE WERE STARTING TO
3 WALK -- COME OUT OF THE WOODWORK AND SEE WHAT WAS GOING ON,
4 BUT IT TOOK A, YOU KNOW, IT TOOK A FEW MINUTES FOR THAT TO
5 HAPPEN. SO AT THAT POINT WHEN I FIRST WALKED OUT, IT WAS MY
6 HUSBAND AND, I BELIEVE, THE NEIGHBOR UPSTAIRS WERE THERE ON
7 THE BODY, 'CAUSE HE CAME BACK IN AND HE SAID, THERE'S TWO
8 LEGS. I SEE TWO LEGS. I'M GOING TO GET MY SHOES ON. YOU
9 STAY IN HERE. RAN OUT AND KNEW AT THAT POINT SOMEONE WAS
10 DOWN AND HAD BEEN SHOT.

11 Q. COULD YOU SEE TWO LEGS ALSO?

12 A. I COULD; YES, SIR.

13 Q. OKAY. AND WERE THEY STICKING, WHAT, OUT FROM BEHIND
14 ONE OF THE VEHICLES AS YOU SAW IN THAT PHOTO?

15 A. YES. THEY WERE -- YEAH. IT WAS OBVIOUS IT WAS BETWEEN
16 TWO CARS AND I JUST SAW LEGS STICKING OUT.

17 Q. DID YOU STAY ON THE PORCH, THEN, AT THAT POINT?

18 A. YES, I DID. YES, SIR.

19 Q. DID YOU EVER LEAVE THE PORCH AT ANY POINT TO GO UP
20 TOWARDS THE BODY OR GO UP TOWARDS ANY OF THAT?

21 A. NO. I WAS TOLD TO STAY IN THE APARTMENT.

22 Q. OKAY. WHEN YOU WERE LOOKING OUT IN THAT DIRECTION, DID
23 YOU SEE ANYONE ELSE DOING ANYTHING OR -- WHILE YOU WERE, I
24 MEAN, WHILE YOU WERE WATCHING DURING THE TIME YOU WERE THERE
25 BEFORE THE POLICE OR EMS ARRIVED?

JENNIFER ETTA GIBSON - CROSS BY MR. DELGADO:

211

1 A. THE ONLY THING IS I HEARD MY HUSBAND YELL FOR A TOWEL
2 AND I BELIEVE, JUST FROM WHAT HE TOLD ME, THEY WERE APPLYING
3 PRESSURE TO HIM, BUT I COULD NOT SEE THEM DOING THAT. I
4 JUST KNOW THEY WERE TRYING TO HELP HIM AT THAT POINT.

5 MR. THOMPSON: THANK YOU, MS. GIBSON. I HAVE NO
6 FURTHER QUESTION.

7 MS. GIBSON: OKAY. THANK YOU.

8 CROSS-EXAMINATION

9 JENNIFER ETTA GIBSON BY MR. DELGADO:

10 Q. HI, MS. GIBSON.

11 A. HI.

12 Q. I'M JOHN DELGADO.

13 A. HI.

14 Q. MS. GIBSON, JUST A COUPLE OF THINGS, PLEASE, MA'AM.

15 A. OKAY.

16 Q. YOU SAID, MA'AM, AND LET ME SEE IF I CAN -- IT TOOK --
17 AND PLEASE UNDERSTAND I DON'T RECALL EXACTLY WHAT LED UP TO
18 YOUR SAYING THIS, SO I WANT YOU TO HELP REFRESH MY MEMORY.

19 A. YES, SIR.

20 Q. WHEN YOU RAN OUT OF -- YOU RAN -- WENT OUT TO YOUR
21 PORCH, YOU SAW YOUR HUSBAND GO OUT THE SECOND TIME?

22 A. I SAW HIM GO OUT THE FIRST TIME.

23 Q. I'M SORRY. YES.

24 A. YES.

25 Q. AND THE SECOND TIME WAS FROM THE LITTLE PORCH---

1 A. YES.

2 Q. ---THAT HAS THE LITTLE RAILINGS ON IT.

3 A. CORRECT.

4 Q. THAT ALL THE APARTMENTS HAVE?

5 A. CORRECT.

6 Q. OKAY. WHEN HE WENT OUT THE SECOND TIME, NOT THE FIRST
7 TIME, THE SECOND TIME, IT TOOK A FEW MINUTES, I THINK YOUR
8 WORDS WERE, IT TOOK A FEW MINUTES FOR OTHERS TO GO TO WHERE
9 HE WAS?

10 A. YES.

11 Q. TO HE BEING THE FELLOW THAT WAS ON THE GROUND?

12 A. CORRECT.

13 Q. OKAY. SO YOU SAW SOMETHING -- YOU HEARD SOMETHING, YOU
14 WENT TO -- THROUGH YOUR DAUGHTER'S BLINDS?

15 A. YES.

16 Q. AND YOU SAW A MAXIMA DRIVE AWAY?

17 A. YES.

18 Q. COULD YOU SEE, DEAR, WHETHER OR NOT THERE WAS ANYBODY
19 -- HOW MANY FOLKS MAY OR MAY NOT HAVE BEEN INSIDE?

20 A. WELL, I BELIEVE THERE WERE THREE, BECAUSE I COULD --
21 BECAUSE OF THE LIGHT. THEY WERE ACTUALLY RIGHT UNDER---

22 Q. OKAY. ALL RIGHT.

23 A. ---THE STREET LIGHT AND, OBVIOUSLY, SOMEONE WAS
24 DRIVING.

25 Q. SURE.

JENNIFER ETTA GIBSON -- CROSS BY MR. DELGADO.

213

1 A. AND THERE WERE TWO PEOPLE, ONE IN THE FRONT PASSENGER
2 AND ONE IN THE BACK PASSENGER. I COULD SEE THEM 'CAUSE I
3 COULD SEE THEIR --

4 Q. 'CAUSE THE CAR CAME IN THAT DIRECTION PAST YOU?

5 A. YES. RIGHT PAST ME.

6 Q. YOU YELLED FOR YOUR HUSBAND SOMETHING ABOUT
7 FIRECRACKERS, BLAH, BLAH. HE WENT OUTSIDE.

8 A. UH-HUH.

9 Q. I GUESS WE DIDN'T NOTICE 'TIL YOU SAID IT, HE RAN OUT
10 THERE SHOELESS?

11 A. YES.

12 Q. HE CAME -- HE DIDN'T TELL US THAT.

13 A. YES.

14 Q. WHEN HE CAME BACK IN, HE PUT ON HIS SHOES AND WENT OUT
15 THE SECOND TIME?

16 A. CORRECT.

17 Q. DURING THAT WHOLE TIME YOU WERE EITHER WATCHING THROUGH
18 THE BLINDS OR SOMEHOW OBSERVING WHAT HAD JUST HAPPENED?

19 A. CORRECT.

20 Q. OKAY. YOU DIDN'T HELP HIM PUT HIS SHOES ON. YOU KNEW
21 WHAT HE WAS DOING OR THAT HE WAS GOING TO GO BACK OUT THERE
22 A SECOND TIME?

23 A. YEAH. HE JUST SLIPPED HIS SANDALS ON AND GRABBED HIS
24 PHONE, RAN OUT, SO IT WASN'T LIKE HE HAD TO TIE HIS SHOES OR
25 ANYTHING.

JENNIFER ETTA GIBSON - RE-DIRECT BY MR. THOMPSON:

214

1 Q. OKAY. THAT'S GOOD. THERE WAS NOBODY NEAR THE BODY;
2 THERE WAS NOBODY THAT YOU SAW COME RIGHT UP THERE.

3 A. NO.

4 Q. IT TOOK A COUPLE OF MINUTES OR A FEW MINUTES UNTIL
5 SOMEBODY GOT THERE ALONG WITH YOUR HUSBAND?

6 A. IT -- NO, THERE WAS NOT, AND IT WAS ACTUALLY A VERY
7 SPLIT-SECOND DECISION. IT WASN'T, LIKE, FIVE MINUTES. IT
8 WAS HERE, HERE, HERE, HERE. IT WAS VERY QUICK -- QUICKLY.

9 Q. SURE. I GUESS WHAT I'M SAYING IS WHILE YOU WERE
10 VIEWING IT, YOU DIDN'T SEE ANYBODY ELSE BEAT YOUR HUSBAND TO
11 THE SCENE ONE WAY OR THE OTHER?

12 A. NO, NOT ONE WAY OR THE OTHER. HE WAS THE FIRST ONE.

13 Q. THANK YOU VERY MUCH, MA'AM.

14 A. OKAY.

15 MR. DELGADO: THAT'S ALL MY QUESTIONS.

16 RE-DIRECT EXAMINATION

17 JENNIFER ETTA GIBSON BY MR. THOMPSON:

18 Q. JUST ONE QUESTION.

19 A. OKAY.

20 Q. DO YOU KNOW -- WHEN YOU RAN TO THE WINDOW, DO YOU KNOW
21 WHO LOOKED OUT FIRST, YOU OR YOUR HUSBAND?

22 A. I BELIEVE I LOOKED OUT FIRST AND THEN I YELLED FOR HIM
23 AND HE JUST WENT RIGHT OUTSIDE.

24 Q. OKAY.

25 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

TROY BERNARD TOBIAS - DIRECT BY MR. THOMPSON:

215

1 THE COURT: THANK YOU, MA'AM. YOU MAY STAND DOWN,
2 MA'AM.

3 MR. THOMPSON: YOUR HONOR, I'D ASK TO EXCUSE MS. GIBSON
4 AT THIS TIME.

5 MR. DELGADO: ABSOLUTELY; YES, SIR.

6 THE COURT: THANK YOU FOR COMING, MA'AM. YOU MAY BE
7 EXCUSED.

8 MR. THOMPSON: YOUR HONOR, THE STATE WOULD CALL TROY
9 TOBIAS. MR. TOBIAS, IF YOU WILL GO FORWARD AND BE SWORN IN,
10 PLEASE.

11 THE CLERK: PLEASE RAISE YOUR RIGHT HAND, PLACE YOUR
12 LEFT HAND ON THE BIBLE.

13 (TROY BERNARD TOBIAS, BEING FIRST DULY SWORN, WAS
14 EXAMINED AND TESTIFIED AS FOLLOWS):

15 DIRECT EXAMINATION

16 TROY BERNARD TOBIAS BY MR. THOMPSON:

17 Q. GOOD AFTERNOON, MR. TOBIAS. COULD YOU GIVE YOUR FULL
18 NAME TO THE COURT, PLEASE?

19 A. TROY BERNARD TOBIAS.

20 Q. DO YOU GO BY TROY?

21 A. YES, SIR.

22 Q. TROY, BACK IN JUNE OF LAST YEAR, DID YOU LIVE IN PACES
23 RIVER?

24 A. YES, I DID.

25 Q. WHO LIVED WITH YOU THERE?

- 1 A. ARVELL DARRELL BAGLEY AND FLOYD GRANT.
- 2 Q. FLOYD GRANT? AND WHO IS FLOYD GRANT?
- 3 A. DARRELL'S FATHER.
- 4 Q. ALL RIGHT. IS THAT MR. GRANT RIGHT BACK HERE?
- 5 A. YES, SIR.
- 6 Q. IN THE GREEN SHIRT? TROY, HOW LONG HAD YOU BEEN LIVING
- 7 WITH DARRELL?
- 8 A. RIGHT AT A YEAR.
- 9 Q. RIGHT AT ABOUT A YEAR?
- 10 A. YES, SIR.
- 11 Q. CAN YOU TELL ME ON JUNE 26 OF THAT YEAR, OF LAST YEAR,
- 12 WHAT CONTACT DID YOU HAVE WITH DARRELL THAT AFTERNOON OR
- 13 THAT EVENING?
- 14 A. WELL, I TALKED TO HIM SHORTLY AFTER TWELVE IN THE
- 15 AFTERNOON WHEN I -- BEFORE I LEFT AND HE WAS IN THE BATHROOM
- 16 WHEN I TALKED TO HIM, SO I LEFT. I GOT BACK HOME SHORTLY
- 17 AFTER EIGHT.
- 18 Q. OKAY. AFTER EIGHT O'CLOCK IN THE EVENING?
- 19 A. YES, SIR.
- 20 Q. ALL RIGHT. WAS DARRELL THERE WHEN YOU GOT HOME?
- 21 A. NO, HE WASN'T.
- 22 Q. WHO, IF ANYONE, WAS AT YOUR APARTMENT AT THAT TIME?
- 23 A. FLOYD.
- 24 Q. FLOYD WAS?
- 25 A. YES, SIR.

1 Q. OKAY. AND WHAT WAS FLOYD DOING AT THAT POINT IN TIME?

2 A. WHEN I PULLED UP, HE WAS SITTING ON THE PATIO.

3 Q. AND WHAT DID Y'ALL DO AFTER THAT? WHAT HAPPENED BEFORE
4 THE GUNSHOTS FIRED? WHAT DID Y'ALL DO? WHAT WERE YOU
5 DOING?

6 A. I WENT IN AND STARTED CLEANING UP. FLOYD CAME IN OFF
7 THE PATIO, CAME IN, WENT IN HIS ROOM, CUT HIS STEREO ON AND
8 I STARTED CLEANING UP THE KITCHEN AND BY THAT TIME, SHORTLY
9 AFTER NINE, I HEARD THREE GUNSHOTS.

10 Q. OKAY. AND YOU SAID YOU WERE CLEANING UP THE KITCHEN.
11 WAS THERE A SPECIAL REASON YOU WERE CLEANING UP THE KITCHEN
12 AT THAT TIME?

13 A. YES, SIR. WE WAS HAVING COMPANY.

14 Q. OKAY. WHO WERE YOU EXPECTING?

15 A. TWO YOUNG LADIES WAS COMING TO VISIT US.

16 Q. OKAY. AND DID YOU KNOW IF DARRELL WAS GOING TO BE
17 THERE OR NOT?

18 A. HE WAS ON HIS WAY HOME.

19 Q. OKAY. HAD ANYONE ELSE STOPPED BY THE APARTMENT FROM
20 EIGHT O'CLOCK TO NINE WHEN YOU WERE THERE?

21 A. NO.

22 Q. ALL RIGHT. NOW, YOU MENTIONED, I GUESS, -- WAS IT
23 AROUND NINE THAT YOU HEARD THE GUNSHOTS OR SOMEWHERE IN THAT
24 AREA?

25 A. YES, SIR.

1 Q. DESCRIBE TO ME WHAT YOU HEARD WHEN YOU HEARD THOSE
2 GUNSHOTS.

3 A. WELL, I WAS STANDING IN THE KITCHEN AND I HEARD THREE
4 LOUD GUNSHOTS, POW, POW, POW, SO AT THE TIME ME AND FLOYD
5 CAME TO THE LIVING ROOM AND I ASKED FLOYD DID HE HEAR THE
6 SHOTS, AND BY THAT TIME I WALKED TO THE PATIO AND OPENED THE
7 BLINDS BACK. I SAW A HEAVY-SET, DARK-SKINNED GUY WITH
8 DREADS PUTTING SOMETHING IN HIS PANTS, TURN AROUND AND RAN
9 TO A CAR AND JUMP IN A CAR AND THEY DROVE OFF.

10 Q. DID YOU SEE WHAT KIND OF CAR IT WAS?

11 A. YEAH. IT WAS -- WITH THE LIGHTING, IT LOOKED LIKE A
12 GOLD MAXIMA AT THE TIME.

13 Q. OKAY. DID YOU NOTICE ANYTHING ABOUT THE WHEELS ON THE
14 CAR?

15 A. NO.

16 Q. OKAY. WELL, WHEN YOU SAW THAT PARTICULAR CAR, DID YOU
17 SEE ANYONE ELSE IN IT AT THAT TIME?

18 A. I SAW THREE OCCUPANTS IN IT.

19 Q. THREE OBJECTS IN IT?

20 A. THREE OCCUPANTS.

21 Q. OCCUPANTS. OKAY. WHAT DID YOU DO WHEN YOU SAW THAT?

22 A. SO I OPENED THE SLIDING DOOR BACK AND I STEPPED ON THE
23 PATIO AND I TURNED AND TOLD FLOYD, SOMEBODY JUST GOT SHOT
24 BESIDE MY CAR, AND I DIDN'T KNOW WHO IT WAS. SO BY THAT
25 TIME KIM RAN OUT AND SAID IT WAS DARRELL. WELL, BY THAT

TROY BERNARD TOBIAS - DIRECT BY MR. THOMPSON:

219

1 TIME I JUMPED OVER THE PATIO AND CALLED 911.

2 Q. OKAY. DID YOU HAVE YOUR CELL PHONE ON YOU AT THAT
3 POINT?

4 A. YES, I DID.

5 Q. ALL RIGHT. AND HAVE YOU HAD AN OPPORTUNITY TO HEAR THE
6 911 TAPE?

7 A. YES.

8 Q. DOES IT FAIRLY AND ACCURATE DEPICT---

9 A. YES.

10 Q. ---YOUR CONVERSATION WITH 911?

11 A. YES.

12 MR. THOMPSON: YOUR HONOR, THAT'S STATE'S EXHIBIT NUMBER
13 124 AND I'D ASK TO PLAY THAT FOR THE COURT AT THIS TIME AND
14 PUBLISH IT.

15 MR. DELGADO: WITHOUT OBJECTION.

16 THE COURT: OKAY. YOU MAY PUBLISH IT.

17 (STATE'S EXHIBIT NUMBER 124 WAS PUBLISHED TO THE JURY)

18 Q. I BELIEVE THAT'S ALL OF YOURS. WAS IT DURING THAT 911
19 CONVERSATION THAT YOU FIRST REALIZED IT WAS DARRELL THAT WAS
20 SHOT?

21 A. NO. I KNEW IT WAS HIM ONCE KIM RAN OUT AND SAID IT WAS
22 DARRELL LAYING ON THE GROUND.

23 Q. AND YOU SAID YOU HAD THE PHONE WITH YOU AT THE TIME; IS
24 THAT CORRECT?

25 A. YES, SIR.

TROY BERNARD TOBIAS - DIRECT BY MR. THOMPSON:

220

1 Q. THAT YOU MADE THE CALL. DID YOU GO STRAIGHT OUT TO THE
2 BODY AFTER THAT?

3 A. NO.

4 Q. WHAT DID YOU DO?

5 A. I STOOD OUT IN THE STREET AND I WAS TALKING TO 911.

6 Q. OKAY. DID YOU WATCH THE BODY FROM WHERE YOU WERE
7 STANDING?

8 A. YES.

9 Q. WHEN YOU FIRST WERE LOOKING OUT THE WINDOW ITSELF
10 BEFORE YOU OPENED THE PATIO, COULD YOU SEE A BODY FROM
11 THERE?

12 A. NO.

13 Q. WHEN DID YOU FIRST REALIZE THERE WAS A BODY THERE?

14 A. WHEN I SLIDE THE DOOR OPEN AND STEPPED ON THE PATIO.

15 Q. OKAY. SO THEN WHEN YOU STEPPED OUT ON THE PATIO,
16 THAT'S WHEN YOU NOTICED THE BODY THERE?

17 A. YES, SIR.

18 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER 8, WHICH IS
19 CURRENTLY UP THERE. IF YOU CAN STEP DOWN FOR JUST A MOMENT.
20 LET ME GIVE YOU THIS POINTER TO POINT ON THE PHOTOGRAPH
21 WITH. WHERE IS YOUR APARTMENT BUILDING IN THAT PHOTOGRAPH?

22 A. RIGHT THERE.

23 Q. OKAY. AND YOU WERE ON THE PATIO THERE

24 A. YES, SIR.

25 Q. WHERE WAS THE VEHICLE WHEN YOU SAW IT, THE MAXIMA?

TROY BERNARD TOBIAS - DIRECT BY MR. THOMPSON:

221

- 1 A. RIGHT THERE.
- 2 Q. RIGHT BACK IN THERE? OKAY. AND WHICH WAY DID IT GO
- 3 AFTER IT --
- 4 A. HE TOOK OFF UP THROUGH THERE.
- 5 Q. IT TOOK OFF?
- 6 A. YES, SIR.
- 7 Q. OKAY. AND CAN YOU TELL ME -- I'M GOING TO SHOW YOU
- 8 ANOTHER PHOTOGRAPH, TOO, WHILE YOU'RE UP. THIS IS STATE'S
- 9 EXHIBIT NUMBER 18. WAS THAT THE ANGLE YOU HAD FROM YOUR
- 10 PATIO?
- 11 A. YES, SIR.
- 12 Q. OKAY. AND THE CAR THAT'S FARTHER BACK UP THERE, THE
- 13 CREAM-LOOKING OR YELLOW-LOOKING CAR THAT'S FARTHER UP, WHOSE
- 14 CAR IS THAT? DO YOU KNOW?
- 15 A. RIGHT THERE?
- 16 Q. YEAH, RIGHT THERE.
- 17 A. DARRELL'S.
- 18 Q. THAT'S DARRELL'S? OKAY. AND WHERE WAS THE BODY IN
- 19 THIS PHOTOGRAPH? WHERE WAS IT LAYING WHEN YOU LOOKED OUT?
- 20 A. RIGHT THERE.
- 21 Q. OKAY. WAS THE HEAD TOWARDS THE APARTMENT BUILDING OR
- 22 OUT TOWARDS THE PARKING LOT?
- 23 A. TOWARDS THE BUILDING, RIGHT THERE.
- 24 Q. OKAY. AND WHICH WAY WERE HIS FEET AT THE TIME?
- 25 A. TOWARDS THE ROAD.

- 1 Q. DO YOU RECALL HOW HE WAS LAYING WHEN YOU SAW HIM?
- 2 A. SLUMPED OVER, LIKE BALLED UP IN A KNOT.
- 3 Q. I'M SORRY?
- 4 A. LIKE BALLED UP IN A KNOT.
- 5 Q. KIND OF BALLED UP?
- 6 A. YEAH.
- 7 Q. I'M ALSO GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 13.
- 8 CAN YOU TELL ME, IS THAT YOUR APARTMENT THERE AT THE BOTTOM?
- 9 A. RIGHT THERE.
- 10 Q. OKAY. AND IS THAT WHERE YOU WERE STANDING -- IS THAT
- 11 THE RAILING YOU'RE TALKING ABOUT WHERE THE PORCH IS?
- 12 A. YES, SIR.
- 13 Q. OKAY. AND WHEN YOU CAME OUT, WHERE DID YOU GO IN
- 14 RELATIONSHIP TO THAT AFTER YOU CAME OVER THE RAILING?
- 15 A. I WALKED TOWARD -- OUT THAT WAY.
- 16 Q. OKAY. OUT THAT WAY, AND THAT'S WHEN YOU TALKED WITH
- 17 911?
- 18 A. YES, SIR.
- 19 Q. DID YOU STAY THERE, REMAIN UNTIL THE POLICE ARRIVED?
- 20 A. YES, SIR.
- 21 Q. YOU CAN GO AHEAD AND HAVE A SEAT. DID YOU SEE ANY
- 22 WEAPONS OR ANYTHING OF THAT KIND WHEN YOU LOOKED OVER TO
- 23 WHERE DARRELL WAS LYING?
- 24 A. NO, SIR.
- 25 Q. DID YOU SEE ANYTHING UNUSUAL -- THAT YOU NOTICED THAT

TROY BERNARD TOBIAS - DIRECT BY MR. THOMPSON:

223

1 SEEMED UNUSUAL WHEN YOU LOOKED OVER IN THAT DIRECTION?

2 A. NO, SIR.

3 Q. DO YOU KNOW CHRISTOPHER WOODY?

4 A. NO, SIR.

5 Q. DO YOU KNOW DEBREZIO CAMPBELL?

6 A. NO, SIR. I HAVE HEARD OF HIM. I DIDN'T KNOW HIM
7 PERSONALLY.

8 Q. OKAY. HOW ABOUT DESMOND CAMPBELL? DID YOU KNOW HIM?

9 A. NO, JUST HEARD OF HIM, NEVER CONVERSATED WITH HIM.

10 Q. OKAY. YOU KNEW WHO THEY WERE BUT NOT -- I'M TRYING TO
11 FIGURE OUT EXACTLY -- DID YOU KNOW WHO THEY WERE BUT YOU
12 WEREN'T, LIKE, FRIENDS WITH THEM?

13 A. YEAH; YEAH. I KNEW WHO THEY WERE.

14 Q. HOW ABOUT MR. WOODY? DID YOU KNOW WHO HE WAS? HAD YOU
15 HEARD ABOUT HIM?

16 A. NO, SIR.

17 Q. NO? WHEN THE POLICE AND PARAMEDICS ARRIVED, DID YOU
18 CONTINUE TO STAY OUTSIDE AT THAT POINT?

19 A. YEAH; I WAS OUTSIDE.

20 Q. DID YOU GO BACK INTO THE APARTMENT FOR ANY REASON?

21 A. NO.

22 Q. DID YOU LEAVE STRAIGHT FROM THERE? HOW DID YOU -- DID
23 YOU EVER GO TO THE POLICE DEPARTMENT AND GIVE A STATEMENT OR
24 ANYTHING LIKE THAT THAT EVENING?

25 A. YES, SIR.

1 Q. AND HOW DID YOU GET THERE?

2 A. A DETECTIVE.

3 Q. DETECTIVE DROVE YOU?

4 A. YEAH.

5 Q. ALL RIGHT. AND HOW LATE WAS IT THAT YOU STAYED AT THE
6 POLICE DEPARTMENT?

7 A. AFTER TWO.

8 Q. AFTER TWO O'CLOCK IN THE MORNING? AND DID YOU ACTUALLY
9 EVEN GO HOME THAT NIGHT AFTER ALL THIS?

10 A. NO.

11 Q. ALL RIGHT. WHAT TIME WOULD YOU ACTUALLY HAVE GONE BACK
12 TO THE APARTMENT NEXT?

13 A. THAT WAS, LIKE, BETWEEN ELEVEN AND TWELVE O'CLOCK THAT
14 NEXT DAY.

15 Q. SO ELEVEN TO TWELVE O'CLOCK NOON?

16 A. YES.

17 Q. OKAY. AND THAT WOULD HAVE BEEN ON THE 27TH THAT YOU
18 WENT BACK?

19 A. YES, SIR.

20 Q. AND FLOYD, DID HE COME OUT WITH YOU WHEN YOU CAME OUT?

21 A. YES..

22 Q. WHAT WAS HIS DEMEANOR WHEN HE CAME OUT?

23 A. HE RAN OVER TO HIM, SCREAMING, HOLLERING. HE CALLED
24 911.

25 Q. OKAY. CAN YOU TELL ME, DID FLOYD GO TO THE POLICE

1 DEPARTMENT, TOO? DID YOU SEE HIM THERE?

2 A. YES. HE WAS THERE.

3 Q. ALL RIGHT. DID HE GO BACK TO THE HOUSE THAT NIGHT,
4 EITHER?

5 A. NO.

6 Q. DO YOU KNOW, DID FLOYD STAY OUT AS WELL DURING THE TIME
7 THAT YOU WERE THERE UNTIL THE AMBULANCE AND THE POLICE CAME?

8 A. YES.

9 Q. DID YOU EVER SEE HIM GO BACK INTO THE APARTMENT?

10 A. NO. WELL, HE RAN IN THERE AND GOT A TOWEL.

11 Q. OKAY. DID YOU REMOVE ANYTHING FROM YOUR APARTMENT, ANY
12 GUNS OR ANYTHING LIKE THAT?

13 A. NO.

14 Q. OKAY. DID YOU SEE ANY OTHER GUNS OR ANYTHING LIKE
15 THAT?

16 A. NO.

17 Q. AND DID YOU HAVE AN OPPORTUNITY, WHILE YOU COULD GO
18 RIGHT UP TO THE BODY, DID YOU HAVE AN OPPORTUNITY TO SEE
19 AROUND THE BODY AND SEE WHAT WAS THERE?

20 A. YES.

21 Q. DID YOU SEE ANY WEAPONS OR ANYTHING OF THAT NATURE
22 THERE?

23 A. NO.

24 Q. ANY MONEY OR ANYTHING LIKE THAT?

25 A. NO.

1 Q. DID THE POLICE ASK YOU FOR CONSENT TO SEARCH YOUR
2 RESIDENCE?

3 A. YES.

4 Q. AND DID YOU GIVE THAT CONSENT TO THEM?

5 A. YES, I DID.

6 Q. OKAY.

7 MR. THOMPSON: YOUR HONOR, BEG THE COURT'S INDULGENCE
8 JUST ONE MOMENT.

9 Q. AND WERE YOU THERE WHEN -- YOU HAD SAID FLOYD CALLED
10 911. DID YOU HEAR HIS 911 CALL AS WELL?

11 A. YES.

12 Q. AND WAS IT FAIRLY AND ACCURATELY DEPICTING THE CALL
13 THAT HE MADE---

14 A. YES.

15 Q. ---WHEN YOU WERE THERE?

16 MR. DELGADO: YOUR HONOR, I OBJECT. I OBJECT TO
17 PLAYING IT FOR THIS GENTLEMAN. MR. GRANT'S HERE.

18 MR. THOMPSON: YOUR HONOR, HE STILL SAID THAT HE HEARD
19 IT AND IT'S TRUE AND ACCURATE. I WOULD ASK TO PLAY IT AT
20 THIS TIME.

21 THE COURT: HAS IT BEEN ADMITTED?

22 MR. THOMPSON: NO, I DON'T BELIEVE IT HAS, BUT I WOULD
23 ASK TO ADMIT IT AT THIS POINT.

24 MR. DELGADO: WELL, IT HAS TO BE ADMITTED THROUGH THE
25 PROPER FOUNDATION; YES.

TROY BERNARD TOBIAS -- CROSS BY MR. DELGADO:

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1 MR. THOMPSON: I BELIEVE I'VE LAID A PROPER FOUNDATION.

2 THE COURT: COUNSEL APPROACH JUST A MINUTE.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE
4 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING
5 OF THE COURT REPORTER AND THE JURY.)

6 MR. THOMPSON: YOUR HONOR, THIS IS STATE'S EXHIBIT
7 NUMBER 126 AND I'D ASK TO ENTER INTO EVIDENCE AT THIS TIME
8 AND PUBLISH IT TO THE JURY.

9 MR. DELGADO: NO OBJECTION.

10 THE COURT: ALL RIGHT. ADMITTED WITHOUT OBJECTION.

11 (STATE'S EXHIBIT NUMBER 126 WAS PUBLISHED TO THE JURY)

12 MR. THOMPSON: I BELIEVE IT ENDS THERE. THANK YOU,
13 SIR. PLEASE ANSWER ANY QUESTIONS DEFENSE COUNSEL HAS FOR
14 YOU.

15 MR. DELGADO: YOUR HONOR, MAY MR. THOMPSON AND I
16 APPROACH JUST ONE SECOND?

17 THE COURT: CERTAINLY.

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

21 CROSS-EXAMINATION

22 TROY BERNARD TOBIAS BY MR. DELGADO:

23 Q.. MR. TOBIAS, HOW OLD ARE YOU, SIR?

24 A. THIRTY-THREE.

25 Q. THIRTY-THREE YEARS OLD.

1 Q. YOU HAD BEEN LIVING IN THE PACES RIVER APARTMENT WITH
2 MR. BAGLEY FOR ABOUT A YEAR BEFORE JUNE OF 2004; CORRECT,
3 SIR?

4 A. NO.

5 Q. OKAY. HOW LONG HAD YOU BEEN LIVING WITH MR. BAGLEY AT
6 PACES RIVER APARTMENTS?

7 A. ABOUT A YEAR. ABOUT A YEAR.

8 Q. ABOUT A YEAR; IS THAT CORRECT, SIR?

9 A. UH-HUH.

10 Q. SPEAK UP, NOW, SO EVERYBODY CAN HEAR YOU. ABOUT A
11 YEAR. HAD YOU AND MR. BAGLEY MOVED IN THERE TOGETHER OR HAD
12 HE BEEN THERE FIRST, HAD YOU BEEN THERE FIRST?

13 A. TOGETHER.

14 Q. TOGETHER. ALL RIGHT, SIR. THE LEASE WAS MADE OUT IN
15 HIS NAME; CORRECT, SIR?

16 A. NO.

17 Q. MADE OUT IN YOUR NAME?

18 A. YES, SIR.

19 Q. OKAY. FOR THAT SAME APARTMENT YOU WERE LIVING IN, I
20 THINK IT'S BUILDING 14-101?

21 A. YES, SIR.

22 Q. ALL RIGHT. NOW, WHEN -- HOW MUCH YOUNGER IS MR. BAGLEY
23 THAN YOU, SIR, WHEN HE PASSED?

24 A. SIX YEARS.

25 Q. OKAY. THAT WOULD MAKE HIM ABOUT TWENTY-SIX?

1 A. YES, SIR.

2 THE COURT: EXCUSE ME JUST A MINUTE, COUNSEL. I'M
3 SORRY TO INTERRUPT. LET ME ASK THE WITNESS, MR. TOBIAS, IF
4 YOU COULD SPEAK UP JUST A LITTLE BIT. I CAN BARELY HEAR YOU
5 AND I DON'T THINK THAT THE JURY CAN HEAR YOU AND EVERYBODY
6 NEEDS TO HEAR YOU, SO IF YOU COULD SPEAK UP JUST A LITTLE
7 BIT. YOU MAY WANT TO TALK TOWARDS THE MIKE. THAT MIGHT
8 HELP A LITTLE.

9 THE WITNESS: YES, SIR.

10 Q. HE WAS ABOUT TWENTY-SIX YEARS OLD MAYBE WHEN HE PASSED;
11 IS THAT CORRECT?

12 A. TWENTY-SEVEN.

13 Q. TWENTY-SEVEN. ALL RIGHT, SIR. AND WHERE WAS HE
14 WORKING, SIR?

15 A. WITH HIS FATHER.

16 Q. THAT'S RIGHT. MR. FLOYD GRANT WAS DOING SOME
17 LANDSCAPING; IS THAT RIGHT?

18 A. YES, SIR.

19 Q. AND THAT BUSINESS WAS LOCATED IN CHESTER, WAS IT?

20 A. YES, SIR.

21 Q. OKAY. WHAT WAS THE NAME OF THE ADDRESS THERE AT
22 CHESTER? WOULD YOU KNOW, SIR, FOR THE LANDSCAPING BUSINESS?

23 A. NO, SIR.

24 Q. WHERE'D THEY KEEP THEIR TRAILERS THAT HAVE ALL THEIR
25 LAWN MOWING EQUIPMENT AND RAKING EQUIPMENT, BLOWING

- 1 EQUIPMENT, THAT KIND OF STUFF? WHERE WOULD THEY KEEP THAT?
- 2 A. ON MR. FLOYD'S TRUCK.
- 3 Q. AND WHERE WAS THAT KEPT?
- 4 A. AT THE HOUSE.
- 5 Q. OKAY. WHERE WAS IT ON THIS DAY, SIR?
- 6 A. IT WAS IN THE SHOP.
- 7 Q. WHAT WAS THE NAME OF THE SHOP?
- 8 A. I DON'T KNOW WHICH SHOP IT WAS IN.
- 9 Q. OKAY. SO WHERE WAS ALL THE LAWN MOWING EQUIPMENT?
- 10 THAT WAS IN THE SHOP, TOO?
- 11 A. NO, SIR.
- 12 Q. OKAY. WELL, SO MR. BAGLEY -- EXCUSE ME. MR. GRANT HAS
- 13 THIS LAWN SERVICE; RIGHT?
- 14 A. YES, SIR.
- 15 Q. THAT MR. ARVELL BAGLEY, DARRELL, WORKED FOR HIS DAD;
- 16 CORRECT, SIR?
- 17 A. YES, SIR.
- 18 Q. ALL RIGHT. SO HIS DAD, MR. FLOYD GRANT AND YOU AND
- 19 ARVELL, DARRELL BAGLEY, LIVED THERE TOGETHER; CORRECT, SIR?
- 20 A. YES, SIR.
- 21 Q. HOW LONG HAD MR. FLOYD GRANT BEEN LIVING THERE WITH
- 22 Y'ALL?
- 23 A. RIGHT AT ABOUT THREE MONTHS.
- 24 Q. THREE MONTHS. ALL RIGHT, SIR. AND HE HAD MOVED UP
- 25 FROM CHESTER WHERE HE'S FROM?

TROY BERNARD TOBIAS - CROSS BY MR. DELGADO:

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- 1 A. NO.
- 2 Q. OKAY. WHERE WAS HE FROM?
- 3 A. HE WAS FROM CHESTER.
- 4 Q. OKAY. YOU'RE FROM CHESTER, TOO; CORRECT?
- 5 A. YES, SIR.
- 6 Q. MR. BAGLEY, DARRELL BAGLEY, WAS FROM CHESTER, TOO?
- 7 A. YES, SIR.
- 8 Q. THAT'S WHERE Y'ALL EITHER WERE BORN OR WHERE YOU'D
- 9 KNOWN EACH OTHER COMING UP; CORRECT?
- 10 A. YES, SIR.
- 11 Q. YES, SIR. YOU'VE KNOWN HIM FOR A LONG TIME?
- 12 A. YES, SIR.
- 13 Q. YES, SIR. MR. BAGLEY, YOUR MIDDLE NAME IS TROY BERNARD
- 14 BAGLEY; CORRECT, SIR?
- 15 A. NO, SIR.
- 16 Q. OH, IT'S NOT?
- 17 A. NO.
- 18 THE COURT: YOU SAID BAGLEY.
- 19 Q. I APOLOGIZE. I'M SORRY.
- 20 THE COURT: YOU MEAN TOBIAS?
- 21 Q. TROY BERNARD TOBIAS. I APOLOGIZE.
- 22 A. YES, SIR.
- 23 Q. I DIDN'T MEAN TO MISSTATE IT. TROY BERNARD TOBIAS;
- 24 CORRECT, SIR?
- 25 A. YES, SIR.

1 Q. MR. BAGLEY, YOU'VE BEEN CONVICTED OF A COUPLE OF
2 THINGS, HAVE YOU NOT?

3 A. TOBIAS.

4 Q. I APOLOGIZE, MR. TOBIAS. YOU'VE BEEN CONVICTED OF A
5 COUPLE OF THINGS, HAVE YOU NOT, SIR?

6 A. YES, SIR.

7 Q. YES, SIR. YOU HAVE A DRUG POSSESSION ON YOU, DO YOU
8 NOT, SIR?

9 A. YES, SIR.

10 Q. YES, SIR. THAT WAS CRACK COCAINE; CORRECT, SIR?

11 A. NO, SIR.

12 Q. POSSESSION OF LESS THAN ONE GRAM ICE OR CRACK COCAINE,
13 FIRST OFFENSE? THAT WASN'T YOU?

14 A. YES, SIR.

15 Q. I'M SORRY?

16 A. YES, SIR.

17 Q. YES, IT WAS. YOU WERE SENTENCED TO FIVE YEARS AND A
18 \$5,000 FINE; CORRECT, SIR?

19 A. YES, SIR.

20 Q. AND THAT HAPPENED DOWN IN CHESTER, DIDN'T IT?

21 A. YES, SIR.

22 Q. CHESTER COUNTY? IS THAT RIGHT, SIR?

23 A. YES, SIR.

24 Q. YOU WERE ALSO CONVICTED, I GUESS, DOWN IN CHESTER AS
25 WELL, FOR ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED

TROY BERNARD TOBIAS - CROSS BY MR. DELGADO:

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1 NATURE; CORRECT, SIR?

2 A. YES, SIR.

3 Q. YOU GOT FOUR YEARS SUSPENDED ON THAT ONE, DIDN'T YOU,
4 SIR?

5 A. YES, SIR.

6 Q. THAT WAS IN 2000; RIGHT?

7 A. '99.

8 Q. OKAY.

9 A. WELL, IT HAPPENED IN '97.

10 Q. JUST GOT AROUND TO GETTING CONVICTED IN 2000?

11 A. '99.

12 Q. '99. YOU WENT TO COURT SEPTEMBER 13TH, 2000; RIGHT?
13 AT LEAST THAT'S WHAT IT SHOWS HERE.

14 A. '99.

15 Q. OKAY. YOU WERE ON PROBATION AT THE TIME THIS THING
16 HAPPENED?

17 A. TIME WHAT HAPPENED, SIR?

18 Q. BACK IN JUNE -- I'M SORRY?

19 A. TIME OF WHAT HAPPENED?

20 Q. THE SHOOTING IN JUNE.

21 A. NO, SIR.

22 Q. YOU WERE OFF;---

23 A. YES, SIR.

24 Q. ---IS THAT RIGHT? YOUR PROBATION UP HERE OR WAS IT
25 DOWN IN CHESTER?

1 A. IN CHESTER.

2 Q. NOW, YOU AND ARVELL WERE GOOD FRIENDS; CORRECT, SIR?

3 A. YES, SIR.

4 Q. AS A MATTER OF FACT, YOU SAID SOMETHING ABOUT WHETHER
5 OR NOT -- ONE OF THESE TWO CARS -- DARRELL WAS LAYING RIGHT
6 IN BETWEEN ONE OF MY CARS OR A CAR THAT WAS OWNED BY ME;
7 CORRECT, SIR?

8 A. YES, SIR.

9 Q. AND IS THAT THE RED CAR OR THE BLACK CAR?

10 A. THE RED CAR.

11 Q. YES, SIR. WHAT KIND OF CAR IS THAT, SIR? I CAN'T TELL
12 FROM HERE.

13 A. A CADILLAC.

14 Q. A RED CADILLAC. IN ANOTHER PHOTOGRAPH THAT YOU SHOWED
15 TO THE PROSECUTION UP THE HILL A LITTLE BIT --

16 MR. DELGADO: MR. PROSECUTOR, I DON'T REMEMBER WHICH
17 NUMBER THAT WAS. I THINK THERE'S ANOTHER ONE THAT SHOWED
18 THE WHITE CAR.

19 Q. MR. TOBIAS, YOU RECALL, IN ANY EVENT, THE SOLICITOR
20 SHOWING YOU A PICTURE -- HERE IT IS. IF YOU NEED TO STAND
21 UP, YOU CAN STAND RIGHT HERE. THAT WHITE CAR, THIS CAR
22 RIGHT HERE, THAT'S MR. DARRELL BAGLEY'S CAR; CORRECT, SIR?

23 A. YES, SIR.

24 Q. WHAT KIND OF CAR IS THAT, SIR?

25 A. A LEXUS.

TROY BERNARD TOBIAS - CROSS BY MR. DELGADO:

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1 Q. PLEASE HAVE A SEAT, SIR. YOU SAY YOU KNOW BUT DON'T
2 REALLY KNOW, YOU'VE HEARD OF OR YOU MAY HAVE MADE SOME SORT
3 OF ACQUAINTANCE WITH TWO FELLOWS: ONE NAMED DESMOND
4 CAMPBELL, ONE FELLOW BY THE NAME OF DEBREZIO CAMPBELL,
5 CORRECT? THEY'RE BROTHERS.

6 A. YES, SIR.

7 Q. YOU KNOW THEM? ALL RIGHT. OR YOU KNOW OF THEM OR
8 KNOW---

9 A. YES.

10 Q. ---SOMETHING ABOUT THEM; CORRECT?

11 A. YES.

12 Q. THEY EVER COME AROUND YOUR APARTMENT THERE?

13 A. NO.

14 Q. NEVER BEEN THERE?

15 A. NO, SIR.

16 Q. YOU JUMPED OVER THE PATIO AND CALLED 911; CORRECT?

17 A. YES, SIR.

18 Q. BUT YOU WOULDN'T HAVE GONE CLOSE TO THAT BODY, WOULD
19 YOU?

20 A. NO.

21 Q. NO. ONE OF YOUR VERY BEST FRIENDS AND YOU DIDN'T GO
22 CLOSE TO THE BODY?

23 A. NO, I DIDN'T.

24 Q. WOULD YOU CONSIDER HIM TO BE ONE OF YOUR VERY BEST
25 FRIENDS?

1 A. YES.

2 Q. BUT MR. FLOYD ALSO EITHER JUMPED OVER OR RAN OUT AND HE
3 WAS RIGHT THERE BESIDE HIS SON; CORRECT, SIR?

4 A. YES, SIR.

5 Q. AND YOU MUST HAVE HEARD THIS STATEMENT, HIM CALLING
6 911, FROM WHERE YOU WERE STANDING; RIGHT?

7 A. YES, SIR.

8 Q. 'CAUSE HE WAS RIGHT BY THE BODY?

9 A. YES, SIR.

10 Q. ALL RIGHT, SIR. YOU EVER SEE MR. FLOYD GOING THROUGH
11 ARVELL'S POCKETS?

12 A. NO, SIR.

13 Q. DID YOU EVER SEE HIM TRYING TO RUMMAGE AROUND IN --

14 A. NO, SIR.

15 Q. YOU NEVER SAW ANY WEAPONS; YOU NEVER SAW ANY MONEY?

16 A. NO, SIR.

17 Q. WE HAVE YOUR WORD FOR THAT; RIGHT?

18 A. YES, SIR.

19 Q. OKAY.

20 MR. DELGADO: YOUR HONOR, MAY THE PROSECUTOR AND I
21 APPROACH THE BENCH A MINUTE?

22 THE COURT: YES, SIR.

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

1 Q. MR. TOBIAS, YOU NEVER WENT BACK INTO THE APARTMENT FROM
2 THE TIME YOU JUMPED OVER THE PATIO LATTICE WORK THERE;
3 CORRECT?

4 A. NO, SIR.

5 Q. YOU HAD YOUR CELL PHONE WITH YOU AND YOU CALLED 911 AND
6 YOU STAYED OUT THE WHOLE TIME?

7 A. YES, SIR.

8 Q. YOU WENT LATER THAT EVENING TO THE ROCK HILL POLICE
9 DEPARTMENT WHERE YOU GAVE A STATEMENT; CORRECT?

10 A. YES, SIR.

11 Q. YOU DIDN'T RETURN TO THAT APARTMENT COMPLEX OR TO PACES
12 RIVER UNTIL AROUND NOON THE VERY NEXT DAY?

13 A. YES, SIR.

14 Q. SIR, DO YOU KNOW -- HOLD ON JUST ONE SECOND. DO YOU
15 KNOW A FELLOW BY THE NAME OF DEMETRIUS HARDIN FROM DOWN IN
16 CHESTER?

17 A. YES.

18 Q. HIS NICKNAME IS BONE, B-O-N-E?

19 A. YES, SIR.

20 Q. HE EITHER GREW UP WITH YOU OR WITH MR. BAGLEY AND Y'ALL
21 WOULD KNOW EACH OTHER?

22 A. YES, SIR.

23 Q. ALL RIGHT, SIR. I'M NOT SAYING HE'S YOUR CLOSEST
24 FRIEND, BUT DO YOU KNOW HIM AS A FRIEND?

25 A. YES.

TROY BERNARD TOBIAS - RE-DIRECT BY MR. THOMPSON:

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1 Q. ALL RIGHT, SIR. WHAT -- I'M SORRY IF I DIDN'T SAY
2 THIS. HIS NAME IS DEMETRIUS BONE HARDIN,---

3 A. YES, SIR.

4 Q. ---BONE BEING A STREET NAME OR NICKNAME?

5 A. YES, SIR.

6 Q. ALL RIGHT. DO YOU KNOW A FELLOW BY THE NAME OF RODNEY
7 BROWN FROM CHESTER?

8 A. YES, SIR.

9 Q. YOU KNOW RODNEY AS WELL?

10 A. YES, SIR.

11 Q. OKAY. DO YOU KNOW A FELLOW NAMED PEANUT? I DON'T
12 ACTUALLY KNOW WHAT HIS NAME IS.

13 A. NO.

14 Q. YOU DON'T KNOW HIM?

15 A. NO, SIR.

16 MR. DELGADO: YOUR HONOR, MAY I CONFER WITH MS. FORD
17 FOR A MINUTE? I THINK I'M THROUGH.

18 THE COURT: YES, SIR.

19 MR. DELGADO: YOUR HONOR, THAT'S ALL THE QUESTIONS I
20 HAVE. THANK YOU.

21 THE COURT: ANYTHING ON RE-DIRECT?

22 RE-DIRECT EXAMINATION

23 TROY BERNARD TOBIAS BY MR. THOMPSON:

24 Q. HE HAD MENTIONED YOU DIDN'T GET CLOSE. WHY DIDN'T YOU
25 GET CLOSE, TROY?

1 A. BECAUSE I DIDN'T WANT TO SEE HIM LIKE THAT.

2 Q. OKAY. AND WERE YOU WORKING AT THE TIME?

3 A. YES, SIR.

4 Q. WHERE WERE YOU WORKING?

5 A. AT LEINER'S HEALTH PRODUCTS IN FORT MILL.

6 Q. ALL RIGHT. THAT'S THAT ONE, WHAT, UP OFF CAROWINDS
7 BOULEVARD?

8 A. YES, SIR.

9 Q. AND ARE YOU EMPLOYED NOW AS WELL?

10 A. YES, SIR.

11 Q. WHERE DO YOU WORK NOW?

12 A. HELLA LIGHTING CORPORATION.

13 Q. AND THAT'S RIGHT OVER HERE, WHAT, IN THE YORK
14 INDUSTRIAL PARK?

15 A. YES, SIR.

16 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

17 MR. DELGADO: YOUR HONOR, I HAVE NOTHING ELSE. I JUST
18 WANT TO RESERVE THE RIGHT TO BE ABLE TO CALL THIS GENTLEMAN
19 UNDER THEIR SUBPOENA IN OUR CASE.

20 THE COURT: ALL RIGHT. THANK YOU, MR. TOBIAS. YOU MAY
21 STAND DOWN AT THIS TIME. YOU NEED TO KEEP YOURSELF
22 AVAILABLE FOR TESTIMONY IF NEEDED. THANK YOU.

23 THE WITNESS: YES, SIR.

24 THE COURT: COUNSEL, IT -- I REALIZE WE HAVEN'T BEEN
25 BACK FROM BREAK THAT LONG, BUT IT MAY BE A GOOD TIME TO GO

CHRISTA ANDREA GRAY - DIRECT BY MR. THOMPSON:

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1 AHEAD AND GET LUNCH. IF YOU'VE GOT A SHORT WITNESS, WE CAN
2 DO THAT.

3 MR. THOMPSON: I THINK WE'LL FINISH BEFORE ONE.

4 THE COURT: ALL RIGHT. WELL, GO AHEAD. WE'LL DO THAT.

5 MR. THOMPSON: THE STATE WOULD CALL CHRISTA GRAY. MS
6 GRAY, IF YOU'D STEP FORWARD AND BE SWORN IN, PLEASE.

7 THE CLERK: PLEASE RAISE YOUR RIGHT HAND, PLACE YOUR
8 LEFT HAND ON THE BIBLE.

9 (CHRISTA ANDREA GRAY, BEING FIRST DULY SWORN, WAS
10 EXAMINED AND TESTIFIED AS FOLLOWS):

11 DIRECT EXAMINATION

12 CHRISTA ANDREA GRAY BY MR. THOMPSON:

13 Q. MS. GRAY, COULD YOU GIVE YOUR FULL NAME FOR THE COURT,
14 PLEASE?

15 A. CHRISTA ANDREA GRAY.

16 Q. AND, MS. GRAY, CAN YOU TELL ME, DID YOU KNOW ARVELL
17 BAGLEY, ARVELL DARRELL BAGLEY?

18 A. YES, SIR.

19 Q. HOW DID YOU KNOW HIM?

20 A. HE WAS MY BOYFRIEND.

21 Q. HOW LONG HAD Y'ALL BEEN BOYFRIEND/GIRLFRIEND?

22 A. FOUR AND A HALF YEARS.

23 Q. AND CAN YOU TELL ME ON THE NIGHT THAT HE WAS KILLED, DO
24 YOU RECALL SEEING ANYTHING UNUSUAL AT YOUR APARTMENT
25 COMPLEX?

1 A. YES, SIR.

2 Q. WHERE DID YOU LIVE?

3 A. I LIVE IN STONE HAVEN.

4 Q. ALL RIGHT. DID YOU LIVE UP IN ONE OF THE -- DID YOU
5 LIVE -- WHICH FLOOR OF THE APARTMENTS.

6 A. THIRD FLOOR.

7 Q. THIRD FLOOR. DO YOU RECALL WHAT BUILDING YOU WERE IN?

8 A. YES, SIR.

9 Q. WHAT BUILDING WAS THAT?

10 A. [REDACTED].

11 Q. OKAY. AND WHAT, IF ANYTHING, UNUSUAL DID YOU SEE THE
12 NIGHT OF THE MURDER ON JUNE 26, 2004, AT YOUR APARTMENT?

13 A. THAT DAY I WAS AT HOME ALL DAY, RESTING, AND I WAS
14 WATCHING TELEVISION IN MY ROOM AND I HEARD LOUD MUSIC
15 OUTSIDE, SO I JUST GOT UP AND LOOKED OUT THE WINDOW AND I
16 SEEN A SILVER, FOUR-DOOR MAXIMA BACK IN IN THE PARKING LOT
17 TO THE BACK ENTRANCE OF THE PARKING LOT AND I SEEN A BLACK
18 MALE GET OUT THE CAR WITH A THING OF BEER AND I NOTICED THAT
19 THE CAR WAS -- I HAVE NEVER SEEN THE CAR IN MY APARTMENT
20 COMPLEX BEFORE AND IT HAD OUT-OF-STATE TAG.

21 Q. OKAY.

22 A. AND THE YOUNG MAN THAT GOT OUT, I HAD NEVER SEEN HIM
23 BEFORE NEITHER.

24 Q. ALL RIGHT. DO YOU REMEMBER ANYTHING ABOUT HIM WHEN YOU
25 SAW HIM?

1 A. NO. HE WAS JUST DARK-SKINNED. I THINK HE HAD A HAT ON
2 AND A RED T-SHIRT.

3 Q. OKAY.

4 A. UH-HUH.

5 Q. AND AFTER THAT, DID YOU SEE HIM ANY MORE THAT DAY? DO
6 YOU REMEMBER ABOUT WHAT TIME THAT WAS THAT YOU SAW HIM
7 FIRST?

8 A. I THINK IT WAS AROUND FOUR O'CLOCK.

9 Q. OKAY.

10 A. AND I DIDN'T SEE FOR A WHILE UNTIL A COUPLE HOURS
11 LATER---

12 Q. ALL RIGHT.

13 A. ---AND THAT'S WHEN I WAS STILL AT HOME AND I HEARD
14 MUSIC AGAIN A COUPLE HOURS LATER, PROBABLY AROUND SEVEN
15 SOMETHING, AND I LOOKED OUT MY WINDOW AGAIN AND I SEEN THE
16 SAME CAR WAS PARKED IN FRONT OF THE BUILDING THIS TIME. IT
17 HAD MOVED FROM OUT THE PARKING SPOT AND THERE WERE THREE
18 MALES OUTSIDE THE CAR AND ONE FEMALE STANDING AT HER CAR IN
19 FRONT OF THE MAXIMA.

20 Q. DID YOU KNOW ANY OF THE PEOPLE WHO WERE DOWN THERE?

21 A. YES, SIR.

22 Q. AND WHO WERE THEY?

23 A. DESMOND CAMPBELL, DEBREZIO CAMPBELL, THE SAME BLACK
24 MALE THAT WAS DRIVING THE MAXIMA, AND A YOUNG LADY, SHONTAY.

25 Q. OKAY. AND DID SHONTAY LIVE THERE IN THE APARTMENT

CHRISTA ANDREA GRAY - DIRECT BY MR. THOMPSON:

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1 COMPLEX?

2 A. NO, SIR.

3 Q. OKAY. HOW ABOUT DESMOND OR DEBREZIO?

4 A. YEAH. I HAD SEEN THEM AT MY APARTMENT COMPLEX BEFORE.

5 Q. HAD YOU EVER TALKED TO DESMOND OR DEBREZIO?

6 A. YES, SIR.

7 Q. CAN YOU TELL ME WHEN YOU SAW THEM THAT SECOND TIME,

8 AGAIN, ABOUT WHAT TIME DO YOU RECALL THAT BEING?

9 A. AROUND SEVEN OR 7:30.

10 Q. OKAY. CAN YOU DESCRIBE WHAT WAS HAPPENING AT THAT

11 POINT WHEN YOU SAW THEM?

12 A. THE YOUNG MAN WHO WAS DRIVING THE MAXIMA, HE WAS IN THE

13 DRIVER'S SEAT; DEBREZIO WAS ON THE PASSENGER SIDE. DESMOND

14 WAS STANDING OUTSIDE THE YOUNG LADY'S CAR, TALKING WITH HER.

15 Q. OKAY. AND AS YOU SAID, THE MAN WHO YOU SAW EARLIER WAS

16 THE ONE IN THE DRIVER'S SEAT?

17 A. YES, SIR.

18 Q. THAT WAS THE ONE WITH THE RED SHIRT?

19 A. YES, SIR.

20 Q. DID YOU SEE WHAT DEBREZIO WAS WEARING?

21 A. DEBREZIO HAD ON A BLACK T-SHIRT.

22 Q. OKAY. AND HE WAS IN --

23 A. AND --

24 Q. -- IN WHICH SEAT, AGAIN?

25 A. IN THE PASSENGER SIDE.

1 Q. PASSENGER SIDE.

2 A. UH-HUH. AND DESMOND HAD ON A WHITE -- WHITE WIFE
3 BEATER WITH A WHITE TOWEL HANGING OVER HIS HEAD.

4 Q. OKAY. SO IT WAS, LIKE, A WHITE TANK-TOP TYPE SHIRT HE
5 WAS WEARING?

6 A. YES, SIR.

7 Q. AND WHAT DID YOU SEE THEM DO AT THAT POINT?

8 A. THEY WAS -- THEY HAD THE MUSIC PLAYING. THEY WAS
9 SITTING, WAITING ON DESMOND TO FINISH TALKING TO THE YOUNG
10 LADY AND WAITING FOR HIM TO GET IN THE CAR AND DESMOND WAS
11 SAYING HIS GOODBYES TO THE YOUNG LADY AND DEBREZIO WAS
12 WORKING HIS BROTHER, COME ON, MAN, COME ON. AND THE YOUNG
13 LADY MUST HAVE SAID SOMETHING TO DESMOND --

14 MR. DELGADO: YOUR HONOR, I'VE TRIED NOT TO OBJECT, BUT
15 I BELIEVE THAT'S HEARSAY.

16 THE COURT: WELL, SHE HADN'T SAID WHAT HE SAID OR WHAT
17 WAS SAID, SO UNLESS -- SHE CAN'T TESTIFY TO WHAT WAS SAID,
18 WHAT SOMEBODY ELSE SAID OUT OF COURT. WITH THAT, YOU MAY
19 PROCEED.

20 Q. AND WHAT HAPPENED AT THAT POINT?

21 A. AND I HEARD THE YOUNG MAN IN THE DRIVER'S SEAT --

22 MR. DELGADO: OBJECTION.

23 THE COURT: WELL, HOLD IT. THAT'S NOT -- YOU CAN'T SAY
24 WHAT ANYBODY ELSE SAID.

25 MR. THOMPSON: YOUR HONOR, THIS WOULD BE THE DEFENDANT

1 THAT WAS SPEAKING.

2

3 THE COURT: WELL, IN THAT CASE, SHE CAN CERTAINLY
4 TESTIFY AS TO WHAT HE SAID.

5 Q. WHAT HAPPENED?

6 A. AND HE WAS TELLING THE YOUNG LADY, COME ON. I GOT HIM.
7 DON'T WORRY ABOUT HIM, TELLING DESMOND TO COME ON, GET IN
8 THE CAR.

9 Q. OKAY.

10 MR. DELGADO: OBJECTION TO THE RELEVANCE OF THAT.

11 THE COURT: WELL, SHE'S JUST RECITING. I WILL ALLOW
12 IT. YOU MAY PROCEED.

13 Q. WHAT HAPPENED AFTER THAT?

14 A. AND THEY DROVE OFF AND I JUST SAT BACK IN MY ROOM
15 WATCHING TELEVISION.

16 Q. DID YOU THINK ANYTHING UNUSUAL ABOUT THAT AT THAT TIME?

17 A. NO. NO, SIR.

18 Q. OKAY. DID ANYTHING HAPPEN LATER IN THE NIGHT THAT
19 ENDED UP MAKING THIS IMPORTANT TO YOU?

20 A. YES, SIR.

21 Q. WHAT WAS THAT?

22 A. I GOT A PHONE CALL FROM DARRELL'S COUSIN, ASKING HIM
23 WHERE WAS HIS WHEREABOUTS, AND --

24 MR. DELGADO: OBJECTION, YOUR HONOR.

25 THE COURT: I'LL SUSTAIN THE OBJECTION AS TO HEARSAY,

CHRISTA ANDREA GRAY - DIRECT BY MR. THOMPSON:

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1 COUNSEL.

2 MR. THOMPSON: ALL RIGHT.

3 Q. I'M NOT ASKING YOU WHAT OTHER PEOPLE TOLD YOU.

4 A. UH-HUH.

5 Q. JUST AS A RESULT OF THE PHONE CALL, WHAT DID YOU DO?

6 A. I LEFT MY HOUSE, MY HOME, AND I WENT TO THE HOSPITAL.

7 Q. OKAY. AND WHO WAS AT THE HOSPITAL WHEN YOU GOT THERE?
8 DO YOU RECALL?

9 A. TROY.

10 Q. OKAY. TROY WAS THERE. DO YOU REMEMBER WHETHER -- WHY
11 DID -- WHAT WAS THE ULTIMATE REASON YOU WENT TO THE
12 HOSPITAL?

13 A. DARRELL HAD BEEN SHOT.

14 Q. OKAY. WERE YOU TRYING TO SEE HIM AT THAT POINT?

15 A. YES, SIR.

16 Q. AND DO YOU RECALL WHAT TIME IT WAS THAT YOU LEARNED HE
17 HAD BEEN SHOT?

18 A. AROUND 9:30.

19 Q. OKAY. AND WHEN YOU WERE AT THE HOSPITAL, DID YOU TALK
20 TO A POLICE OFFICERS THERE?

21 A. NO, SIR.

22 Q. DID YOU ULTIMATELY END UP TALKING TO POLICE OFFICERS
23 AFTER --

24 A. YES, SIR, AFTER THE DETECTIVE TOOK ME TO THE POLICE
25 STATION.

CHRISTA ANDREA GRAY - DIRECT BY MR. THOMPSON:

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1 Q. OKAY. SO THEY TOOK YOU, WHAT, FROM THE HOSPITAL TO THE
2 POLICE STATION?

3 A. YES, SIR.

4 Q. AND YOU SPOKE WITH THEM THERE?

5 A. YES, SIR.

6 Q. DO YOU RECALL -- IS THERE ANYTHING -- WELL, LET ME
7 REPHRASE THAT. DO YOU RECALL WHEN YOU GOT TO THE POLICE
8 STATION, WAS THERE ANYONE THERE THAT YOU RECOGNIZED?

9 A. DARRELL'S FATHER WAS THERE AND ALSO MY FAMILY WAS
10 OUTSIDE IN THE WAITING ROOM.

11 Q. OKAY. DID YOU TELL THE POLICE WHAT YOU HAD SEEN
12 EARLIER THAT DAY---

13 A. YES, SIR.

14 Q. ---REGARDING THE MAXIMA---

15 A. YES, SIR.

16 Q. ---AND THE PEOPLE THAT YOU SAW IN IT?

17 A. YES, SIR.

18 Q. OKAY. DID YOU TELL THEM ABOUT --

19 MR. DELGADO: OBJECTION, LEADING, PLEASE.

20 THE COURT: PLEASE AVOID THE LEADING, COUNSEL.

21 Q. WHAT, IF ANYTHING, DID YOU TELL THEM ABOUT WHERE THIS
22 OCCURRED?

23 A. I TOLD THEM THAT EARLIER, A COUPLE OF WEEKS EARLIER, I
24 WAS GETTING -- JUST GETTING HOME AND --

25 MR. DELGADO: OBJECTION, YOUR HONOR. THAT'S NOT

1 RESPONSIVE TO THE QUESTION.

2 MR. THOMPSON: I'LL CHANGE THE QUESTION, YOUR HONOR.

3 THE COURT: ALL RIGHT, SIR.

4 MR. THOMPSON: WE'LL MOVE AWAY FROM THAT RIGHT NOW.

5 Q. IF YOU WOULD, DID YOU HAVE AN OPPORTUNITY TO TALK WITH
6 FLOYD GRANT ON THE PHONE THAT NIGHT?

7 A. YES, SIR.

8 Q. ALL RIGHT. AND HAD YOU ATTEMPTED AT ALL TO CALL
9 DARRELL THAT NIGHT?

10 A. YES, SIR.

11 Q. WHAT NUMBER OR WHAT PHONE WOULD YOU HAVE TRIED TO REACH
12 HIM AT?

13 A. HIS CELL PHONE.

14 Q. WHAT HAPPENED WHEN YOU CALLED HIM ON HIS CELL PHONE?

15 A. HE DIDN'T PICK UP, HIS FATHER ANSWERED.

16 Q. HIS FATHER ANSWERED THE CELL PHONE?

17 A. (NODS HEAD AFFIRMATIVELY)

18 Q. OKAY. AND AFTER YOU GAVE A STATEMENT AT THE POLICE
19 DEPARTMENT, CAN YOU TELL ME, WAS THERE ANYTHING THAT YOU
20 KNEW OF BETWEEN DARRELL AND EITHER -- ANY ONE OF THE THREE
21 GUYS IN THE CAR THAT -- ANY BAD BLOOD OR ANYTHING OF THAT
22 NATURE?

23 A. JUST THE ALTERCATION HE GOT INTO WITH DEBREZIO A WEEK
24 EARLIER.

25 Q. AND WHAT WAS THAT ABOUT?

CHRISTA ANDREA GRAY - DIRECT BY MR. THOMPSON:

1 MR. DELGADO: OBJECTION.

2 A. OR WHO WAS THAT OVER?

3 THE COURT: WAIT JUST A MINUTE, COUNSEL. COUNSEL
4 APPROACH JUST A MINUTE.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE
6 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING
7 OF THE COURT REPORTER AND THE JURY.)

8 MR. DELGADO: WITHDRAW THE OBJECTION, YOUR HONOR.

9 THE COURT: ALL RIGHT, SIR. YOU MAY PROCEED,
10 SOLICITOR.

11 Q. GOING BACK, I BELIEVE IT WAS, LIKE, TUESDAY THE 22ND OF
12 JUNE OF LAST YEAR, DID YOU HAVE ANY WORDS WITH DEBREZIO
13 CAMPBELL AT THAT TIME?

14 A. YES, SIR.

15 Q. AND WHAT HAPPENED? YOU DON'T HAVE TO GO INTO ALL THE
16 DETAILS, BUT BASICALLY WHAT DID HE DO WHEN HE TALKED TO YOU
17 THAT DAY?

18 A. ASKING ME WHERE WAS MY BOYFRIEND.

19 Q. AND WAS THAT DARRELL?

20 A. UH-HUH.

21 Q. HAD HE JUST BEEN THERE?

22 A. YES, SIR.

23 Q. CAN YOU TELL ME HOW HAD HE -- WHAT WAS HAPPENING WHEN
24 DEBREZIO STARTED TALKING TO YOU?

25 A. DARRELL HAD JUST LEFT ON HIS MOTORCYCLE.

1 Q. AND IS THAT WHEN DEBREZIO APPROACHED YOU?

2 A. YES, SIR.

3 Q. AND WHAT, IF ANYTHING, DID HE DO TO YOU AT THAT POINT
4 IN TIME?

5 A. HE MADE ME FEEL UNCOMFORTABLE, TALKING TO ME ABOUT
6 DARRELL.

7 Q. OKAY. AND CAN YOU TELL ME DID HE MAKE A PASS OR
8 ANYTHING LIKE THAT AT YOU AT THAT POINT?

9 A. YES, SIR.

10 Q. DID YOU TELL DARRELL ABOUT THAT LATER ON?

11 A. YES, SIR.

12 Q. AND CAN YOU TELL ME THE NEXT DAY, WHAT, IF ANYTHING,
13 HAPPENED THAT YOU KNOW OF THAT -- BETWEEN DARRELL AND
14 DEBREZIO?

15 A. THEY HAD WORDS WITH EACH OTHER THAT WEDNESDAY NIGHT.

16 Q. OKAY. AND DID YOU SEE -- DID IT HAPPEN OVER AT YOUR
17 APARTMENT COMPLEX, IN THAT AREA?

18 A. YES, SIR.

19 Q. AND HOW DO YOU KNOW THAT?

20 A. DARRELL TOLD ME.

21 Q. ALL RIGHT. DID HE COME IN? WERE YOU AROUND AT THE
22 TIME IT HAPPENED?

23 A. I WAS IN MY HOME AND HE EXITED. HE CAME IN. EXCUSE
24 ME.

25 Q. ALL RIGHT. WHEN HE CAME IN, HOW WAS HE? WHAT WAS HIS

CHRISTA ANDREA GRAY - CROSS BY MR. DELGADO:

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1 APPEARANCE WHEN HE CAME IN?

2 A. HE HAD ON A T-SHIRT AND THE T-SHIRT WAS WET, SO I KNOW
3 IT WAS RAINING OUTSIDE.

4 Q. ALL RIGHT. WAS HE ACTING NORMAL? WAS HE BREATHING
5 HEAVY?

6 A. HE WAS BREATHING KIND OF HEAVY, SO I KNOW SOMETHING HAD
7 JUST HAPPENED.

8 Q. OKAY. AND HE TOLD YOU IT WAS SOMETHING WITH DEBREZIO?

9 A. YES, SIR.

10 Q. OKAY. AND THAT WOULD HAVE BEEN ON, I BELIEVE,
11 WEDNESDAY, THE 23RD; IS THAT CORRECT?

12 A. YES, SIR.

13 Q. DO YOU KNOW, WAS DARRELL -- WAS HE RIGHT-HANDED OR
14 LEFT-HANDED?

15 A. RIGHT-HANDED.

16 Q. NOW, YOU SAID YOU HAD BEEN SITTING AROUND THE APARTMENT
17 THAT DAY. DID YOU KNOW WHERE DARRELL WAS DURING THAT DAY?

18 A. IN CHESTER.

19 Q. OKAY.

20 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

21 PLEASE ANSWER ANY QUESTIONS THE DEFENSE HAS FOR YOU AT THIS
22 TIME.

23 CROSS-EXAMINATION

24 CHRISTA ANDREA GRAY BY MR. DELGADO:

25 Q. MS. GRAY, YOU'VE HAD A RELATIONSHIP WITH MR BAGLEY FOR,

1 I BELIEVE YOU SAID, TWO AND A HALF YEARS?

2 A. YES, SIR.

3 Q. ALL RIGHT. ARE YOU FROM CHESTER AS WELL, MA'AM?

4 A. YES, SIR.

5 Q. ALL RIGHT. WOULD IT BE FAIR TO SAY THAT YOU GREW UP IN

6 CHESTER AND CAME TO KNOW MR. ARVELL DARRELL BAGLEY?

7 A. YES, SIR.

8 Q. AND YOU ALSO, AS A RESULT OF GROWING UP THERE, KNOW MR.

9 TROY TOBIAS; CORRECT?

10 A. YES, SIR.

11 Q. THEY WERE, IF NOT CLOSEST OF FRIENDS, BUT GOOD FRIENDS?

12 A. YES, SIR.

13 Q. ALL RIGHT. YOU WERE LIVING AT STONEYPONTE APARTMENTS;

14 CORRECT, MA'AM?

15 A. YES, SIR.

16 Q. ALL RIGHT. DID YOU HAVE A CAR AT THIS TIME, MA'AM?

17 A. YES, SIR.

18 Q. WHAT KIND OF CAR DID YOU HAVE?

19 A. A HONDA ACCORD, A '91.

20 Q. WHO HAD THE TITLE TO THAT CAR?

21 A. I DID.

22 Q. OKAY. DID YOU EVER HAVE A CAR OWNED BY OR USED BY MR.

23 BAGLEY, A LEXUS AUTOMOBILE?

24 A. NO, SIR.

25 Q. YOU NEVER HAD A LEXUS?

- 1 A. I DIDN'T OWN IT.
- 2 Q. NO; I DIDN'T SAY THAT. I SAID DID YOU EVER HAVE ONE
- 3 THAT WAS PAID FOR AND USED BY HIM THAT HE LET YOU HAVE;
- 4 CORRECT?
- 5 A. NO, SIR.
- 6 Q. WHAT KIND OF CAR WAS IT THAT HAD TWO T.V. MONITORS IN
- 7 IT THAT WAS BROKEN INTO?
- 8 A. THE LEXUS.
- 9 Q. THAT WAS A LEXUS?
- 10 A. UH-HUH.
- 11 Q. THAT WAS A CAR THAT YOU WERE DRIVING; CORRECT, MA'AM?
- 12 A. NO, SIR.
- 13 Q. IT WASN'T?
- 14 A. (SHAKES HEAD NEGATIVELY)
- 15 Q. THAT LEXUS IS DIFFERENT THAN THE WHITE LEXUS THAT MR.
- 16 BAGLEY WAS DRIVING ON JUNE 26; CORRECT?
- 17 A. NO, SIR.
- 18 Q. THAT'S THE SAME LEXUS?
- 19 A. YES, SIR.
- 20 Q. OKAY. THAT LEXUS, THE WHITE LEXUS THAT HE HAD, HE
- 21 WOULD DRIVE THAT, BUT HE ALSO HAD A MOTORCYCLE AS WELL; IS
- 22 THAT RIGHT?
- 23 A. YES, SIR.
- 24 Q. SO HE HAD TWO DIFFERENT, OR MORE, MEANS OF
- 25 TRANSPORTATION; CORRECT?

1 A. YES, SIR.

2 Q. NOW, THAT WHITE LEXUS WAS -- THERE WAS A REPORTED THEFT
3 OR SOME BREAK-IN INTO THAT CAR. DO YOU RECALL THAT, MA'AM?

4 MR. THOMPSON: YOUR HONOR, I'M GOING TO OBJECT AS TO
5 RELEVANCE.

6 THE COURT: WHAT IS THE RELEVANCE, COUNSEL?

7 MR. DELGADO: UNEXPLAINED -- WELL, CAN I MAKE AN OFFER
8 OF PROOF?

9 MR. THOMPSON: WE'D ASK TO APPROACH IF WE'RE GOING TO
10 DISCUSS --

11 MR. DELGADO: SURE.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE
13 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING
14 OF THE COURT REPORTER AND THE JURY.)

15 Q. MS. GRAY, IN JUNE OF 2003, SPECIFICALLY JUNE 23RD,
16 2003, DID YOU MAKE A REPORT TO THE ROCK HILL POLICE
17 DEPARTMENT ABOUT A BREAK-IN THE CAR THAT YOU WERE DRIVING?

18 A. YES, SIR.

19 Q. THAT WAS A LEXUS AUTOMOBILE; CORRECT, MA'AM?

20 A. YES, SIR.

21 Q. THAT'S THE SAME LEXUS THAT IS PICTURED HERE; IS THAT
22 CORRECT? BY THAT HERE, MA'AM, I MEAN THAT HE, MR. BAGLEY,
23 HAD AND WAS DRIVING ON JUNE THE 6TH -- JUNE THE 26TH OF
24 2004?

25 A. YES, SIR.

1 Q. ALL RIGHT. THAT CAR HAD TWO MOUNTED T.V. MONITORS IN
2 IT, DID IT NOT, MA'AM?

3 A. YES, SIR.

4 Q. OKAY. ALL -- THOSE WERE STOLEN FROM THAT LEXUS;
5 CORRECT, MA'AM?

6 A. YES, SIR.

7 Q. THERE WAS ALSO -- THOSE TWO TV'S WERE A TOTAL OF \$800
8 AND WERE MOUNTED IN A HEADSET. DO YOU RECALL THAT, MA'AM?

9 A. YES, SIR.

10 Q. ALL RIGHT. THERE WAS ALSO A PLAY STATION FOR \$200
11 STOLEN?

12 A. YES, SIR.

13 Q. AND THOSE GET US TO ABOUT \$1,000; CORRECT, MA'AM?

14 A. YES, SIR.

15 Q. AND THEN THERE WAS FOUR OF THESE SPINNER WHEEL RIMS.
16 DO YOU REMEMBER THAT, MA'AM?

17 A. YES, SIR.

18 Q. THAT WAS A TOTAL OF \$4,000, \$1,000 APIECE, A RIM, THAT
19 WERE ALSO TAKEN OFF THAT CAR; CORRECT, MA'AM?

20 A. YES, SIR.

21 Q. ALL RIGHT. SO YOU REPORTED THE THEFT FOR \$5,000 FROM A
22 CAR OWNED BY MR. BAGLEY AND THAT HE WOULD LET YOU USE.

23 WOULD THAT BE FAIR?

24 A. YES, SIR.

25 Q. THAT CAR WAS TITLED IN SOMEBODY ELSE'S NAME, IT WAS

1 ANOTHER FELLOW BY THE NAME OF RONALD HAYES; ISN'T THAT
2 CORRECT?

3 A. YES, SIR.

4 Q. THAT'S EITHER ANOTHER FAMILY FRIEND OR AN UNCLE;
5 CORRECT?

6 A. YES, SIR.

7 Q. ALL RIGHT. SOMETIMES MR. BAGLEY WOULD PUT THINGS IN
8 OTHER PEOPLE'S NAMES, BUT HE WOULD USE IT OR LET YOU USE IT?

9 MR. THOMPSON: YOUR HONOR, I OBJECT TO WHAT --

10 THE COURT: I SUSTAIN THE OBJECTION, COUNSEL. THAT'S -
11 -

12 MR. THOMPSON: ASK THAT IT BE STRICKEN FROM THE RECORD.

13 THE COURT: YES, SIR. THAT WILL BE STRICKEN FROM THE
14 RECORD. THE JURY'S INSTRUCTED TO DISREGARD THE LAST
15 STATEMENT OR QUESTION, AS THE CASE MAY BE, BY DEFENSE
16 COUNSEL.

17 Q. DO YOU KNOW WHETHER OR NOT, MA'AM, THAT MR. BAGLEY DID
18 NOT KEEP IT IN HIS NAME, BUT MADE THE PAYMENTS ON THAT
19 VEHICLE?

20 A. NO.

21 Q. YOU DIDN'T KNOW THAT?

22 A. HUH-UH.

23 Q. AND THAT THE INSURANCE COMPANY WOULD NOT COVER THIS
24 CLAIM? DO YOU RECALL THAT?

25 MR. THOMPSON: YOUR HONOR, I OBJECT.

CHRISTA ANDREA GRAY -- CROSS BY MR. DELGADO:

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1 Q. WOULD YOU KNOW THAT?

2 MR. THOMPSON: OBJECTION, YOUR HONOR.

3 MR. DELGADO: EXCUSE ME. I'M SORRY.

4 THE COURT: COUNSEL, YOU'RE GOING TO HAVE TO HAVE SOME
5 BASIS, SO LET'S MAKE IT RELEVANT TO THE CASE, PLEASE. THE
6 JURY'S AGAIN --

7 Q. DID YOU KNOW --

8 THE COURT: HOLD IT. JURY'S AGAIN INSTRUCTED TO
9 DISREGARD THE LAST QUESTION OF COUNSEL AND GIVE IT NO
10 CONSIDERATION WHATSOEVER.

11 MR. DELGADO: JUST ONE SECOND, PLEASE.

12 Q. OH. MS. GRAY, YOU SAW CHRIS WOODY FOR THE SECOND TIME
13 THAT AFTERNOON AT THE STONE HAVEN APARTMENTS; CORRECT,
14 MA'AM?

15 A. YES, SIR.

16 Q. THE FIRST TIME WAS AROUND FOUR O'CLOCK IN THE
17 AFTERNOON?

18 A. YES, SIR.

19 Q. THE SECOND TIME WAS AROUND SEVEN O'CLOCK; CORRECT?

20 A. YES, SIR.

21 Q. AND HE WAS TALKING TO EITHER ONE OF THE TWO CAMPBELLS
22 AND/OR TO THIS OTHER GIRL THERE, SHONTAY, SHONTAY?

23 A. YES, SIR.

24 Q. ALL RIGHT. THERE WASN'T ANY MENTION OF ARVELL BAGLEY,
25 WAS THERE?

1 A. NO, SIR.

2 Q. THERE WASN'T ANY INDICATION THESE FELLOWS EVEN KNEW
3 ARVELL BAGLEY; CORRECT?

4 A. NO, SIR.

5 Q. OR THEY WERE EVEN HEADED OVER TO PACES FERRY ROAD.
6 CORRECT, MA'AM?

7 A. NO, SIR.

8 Q. OKAY.

9 MR. DELGADO: THAT'S ALL THE QUESTIONS. THANK YOU,
10 MA'AM.

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

12 THE COURT: THANK YOU, MA'AM. YOU MAY STAND DOWN,
13 MA'AM.

14 MR. THOMPSON: I WOULD ASK TO EXCUSE HER AT THIS TIME.

15 THE COURT: ANY OBJECTION, COUNSEL?

16 MR. DELGADO: NO; NO, SIR.

17 THE COURT: THANK YOU FOR COMING, MA'AM. YOU MAY BE
18 EXCUSED AT THIS TIME. ALL RIGHT. COUNSEL, THIS IS A GOOD
19 TIME FOR US TO TAKE A RECESS FOR LUNCH.

20 LADIES AND GENTLEMEN, MADAM FOREMAN, MEMBERS OF THE
21 JURY PANEL, IT'S A COUPLE MINUTES AFTER ONE. WE'RE GOING TO
22 GO AHEAD AND RECESS FOR LUNCH AT THIS TIME. WE'LL RECESS
23 UNTIL 2:15. I'M GOING TO ASK YOU, PLEASE, TO GET LUNCH AND
24 BE BACK IN THE JURY ROOM AT 2:15. DURING THE LUNCH BREAK,
25 YOU'LL GET TIRED OF HEARING ME SAY THIS, BUT I'M GOING TO

1 KEEP SAYING IT NEVERTHELESS.

2 PLEASE DO NOT DISCUSS THIS CASE AMONG YOURSELVES OR
3 WITH ANYONE ELSE YOU MIGHT SEE DURING A BREAK FROM COURT.
4 PLEASE AVOID ANYONE WHO MAY BE STANDING AROUND TALKING ABOUT
5 THIS CASE. IF ANYONE, AGAIN, SHOULD TRY TO DELIBERATELY
6 DISCUSS THE CASE WITH YOU, PLEASE DO NOT DISCUSS IT WITH
7 THEM, BUT LET THE BAILIFF KNOW UPON YOUR RETURN AND GIVE HIM
8 THE BEST DESCRIPTION YOU CAN SO I CAN DEAL WITH THAT PERSON.

9 THANK YOU. PLEASE ENJOY YOUR LUNCH AND PLEASE BE BACK
10 IN THE JURY ROOM AT 2:15. THANK YOU.

11 (JURY OUT AT 1:05 P.M.)

12 MR. POPE: PLEASE THE COURT, YOUR HONOR. I THINK ONCE
13 WE RECESS, MAY WE APPROACH JUST BRIEFLY ABOUT SCHEDULING?

14 THE COURT: YES, SIR. YES, SIR. LET'S -- YOU CAN DO
15 THAT NOW AND WE'LL GO AHEAD AND RECESS. ANYONE WISHING TO
16 LEAVE NOW, WE'LL RECESS UNTIL 2:15.

17 (WHEREUPON, COURT WAS ADJOURNED FOR LUNCH AT 1:07 P.M.
18 AND RECONVENED AT 2:25 P.M.)

19 THE COURT: ALL RIGHT. COUNSEL READY TO PROCEED?

20 MR. POPE: THE STATE'S READY, YOUR HONOR.

21 THE COURT: DEFENSE READY? PLEASE BRING THE JURY IN.

22 (JURY IN AT 2:27 P.M.)

23 THE COURT: GOOD AFTERNOON, MADAM FOREMAN, MEMBERS OF
24 THE JURY PANEL. HOPE YOU ENJOYED YOUR LUNCH TODAY. WE'RE
25 READY NOW TO RESUME WITH THE TRIAL. COUNSEL READY TO

ZANE SMITH - DIRECT BY MR. THOMPSON:

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1 PROCEED.

2 MR. THOMPSON: YES, YOUR HONOR. PLEASE THE COURT, THE
3 STATE WOULD CALL ZANE SMITH OF THE ROCK HILL POLICE
4 DEPARTMENT. MR. SMITH, IF YOU'D STEP FORWARD AND BE SWORN
5 IN, PLEASE.

6 (ZANE SMITH, BEING FIRST DULY SWORN, WAS EXAMINED AND
7 TESTIFIED AS FOLLOWS):

8 DIRECT EXAMINATION

9 ZANE SMITH BY MR. THOMPSON:

10 Q. OFFICER SMITH, COULD YOU GIVE YOUR WHOLE NAME FOR THE
11 COURT, PLEASE?

12 A. OFFICER ZANE SMITH.

13 Q. AND WHERE DO YOU WORK?

14 A. ROCK HILL POLICE DEPARTMENT.

15 Q. HOW LONG HAVE YOU BEEN WORKING THERE?

16 A. GOING ON SEVEN YEARS NOW.

17 Q. AND WHAT ARE YOUR DUTIES THERE?

18 A. I WORK PATROL DIVISION, ROUTINE PATROL.

19 Q. ALL RIGHT. AND WERE YOU WORKING PATROL THE NIGHT OF
20 JUNE 26TH OF 2004?

21 A. YES, SIR, I WAS.

22 Q. AND DID YOU GET CALLED OUT TO PACES RIVER APARTMENTS
23 THAT EVENING?

24 A. YES, SIR, I DID.

25 Q. DO YOU RECALL WHAT TIME YOU WERE CALLED OUT?

1 A. IT WAS APPROXIMATELY FIFTEEN AFTER NINE IN THE P.M.

2 Q. OKAY. AND DID YOU NOTE THE TIME THAT YOU ARRIVED ON
3 THE SCENE?

4 A. IT WAS APPROXIMATELY TWENTY AFTER.

5 Q. ALL RIGHT. AND WHO WAS WITH YOU AT THAT TIME?

6 A. OFFICER MCSWAIN. HE WAS ONE OF OUR -- HE HAD JUST COME
7 OUT OF THE ACADEMY AND HE WAS PART OF OUR FIELD TRAINING
8 PROGRAM, SO HE WAS STILL BEING TRAINED.

9 Q. HAD ANY OTHER OFFICERS ARRIVED BEFORE YOU AT THAT
10 POINT?

11 A. OFFICER HEFNER ARRIVED ABOUT THE SAME TIME THAT I DID.

12 Q. OKAY. HAD ANY EMS OR OTHER EMERGENCY PERSONNEL ARRIVED
13 BEFORE YOU AT THAT POINT?

14 A. NO. THEY CAME A COUPLE OF MINUTES AFTER WE DID.

15 Q. WHEN YOU ARRIVED, CAN YOU DESCRIBE WHAT YOU VIEWED AT
16 THE CRIME SCENE AT THAT POINT?

17 A. WHEN WE FIRST ARRIVED, WE STARTED TO HAVE A LOT OF
18 PEOPLE COME DOWN FROM THE APARTMENT COMPLEXES TO SEE WHAT
19 WAS GOING ON, BUT WHEN I FIRST ARRIVED, THE VICTIM WAS
20 LAYING ON HIS SIDE AND THERE WERE A FEW PEOPLE STANDING
21 AROUND HIM AND --

22 Q. OKAY. AND WHAT DID YOU DO AT THAT POINT IN TIME?

23 A. AT THAT TIME WE STARTED TO ESTABLISH OUR CRIME SCENE.
24 WE NEEDED TO KEEP THE WITNESSES CLOSE TO US AND PEOPLE WHO
25 WEREN'T WITNESSES, WE NEEDED TO MAKE SURE THEY STAYED AWAY

ZANE SMITH - DIRECT BY MR. THOMPSON:

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1 FROM OUR CRIME SCENE, SO WE STARTED TO PUT UP CRIME SCENE
2 TAPE BARRIER TO KEEP THEM OUT AND STARTED A CRIME SCENE LOG
3 AND THEN WE STARTED TO GET OUR WITNESS AND OUR VICTIM
4 INFORMATION.

5 Q. ALL RIGHT. AND AT THAT POINT YOU SAY YOU WERE PUTTING
6 UP CRIME SCENE TAPE, DO YOU RECALL WHERE YOU PUT UP THE
7 CRIME SCENE TAPE AT THAT POINT?

8 A. IT'S -- THE INCIDENT OCCURRED AT THE [REDACTED] BLOCK OF
9 PACES RIVER AND IT WAS IN THE PARKING LOT. IT ACTUALLY --
10 THE CRIME SCENE TAPE WENT UP TO ONE OF THE APARTMENTS,
11 ACTUALLY. IT WAS -- I MADE IT AS BIG AS I COULD.

12 Q. AND IF YOU WOULD STEP DOWN FOR JUST A MOMENT, I'M GOING
13 TO HAVE YOU VIEW STATE'S EXHIBIT NUMBER 33. CAN YOU SHOW IN
14 THAT PHOTOGRAPH YOU HAVE -- LET ME GET THE POINTER FOR YOU.
15 IF YOU COULD POINT OUT TO ME WHERE YOU PUT UP THE CRIME
16 SCENE TAPE AROUND THIS PART OF THE SCENE.

17 A. GOES RIGHT UP TO THE APARTMENT COMPLEX RIGHT THERE AND
18 IT ACTUALLY GOES TO THE OTHER SIDE AND GOES UP ALMOST TO
19 ANOTHER APARTMENT BUILDING, WHICH IS BACK OVER HERE AND THEN
20 ACROSS THE DRIVEWAY AND THEN ON THIS SIDE OF THE PARKING
21 LOT, THERE'S A LITTLE WOOD LOT AND WE ACTUALLY WENT INTO THE
22 WOOD LOT WITH IT.

23 Q. ALL RIGHT. THAT WOULD BE, I BELIEVE, -- HERE'S 34. IS
24 THAT PART OF THE WOOD LOT THERE?

25 A. YES, SIR, IT IS.

1 Q. AND IS THAT SOME OF THE CRIME SCENE TAPE YOU PUT UP
2 AROUND THAT AREA, TOO?

3 A. YES, IT IS.

4 Q. NOW, IN THESE PICTURES I NOTICE THE YELLOW NUMBERS.
5 YOU DID NOT SET UP THOSE YELLOW NUMBERS, DID YOU?

6 A. NO, SIR; I DID NOT.

7 Q. OKAY. WHAT, IF ANYTHING, DID YOU DO WHEN YOU SET UP
8 THE PERIMETER AT THAT POINT?

9 A. LIKE I SAID, ONCE WE SET UP THE PERIMETER, WE NEED --
10 WE ESTABLISHED WHO NEEDED TO BE THERE AND WHO DIDN'T NEED TO
11 BE THERE. LIKE I SAID, WE WANT TO KEEP OUR WITNESSES THERE
12 TO GET THEIR INFORMATION AND WE GOT THE VICTIM INFORMATION
13 AND THEN IF THEY WEREN'T A WITNESS TO ANYTHING THAT HAD
14 HAPPENED, WE'D ACTUALLY JUST CLEARED THEM OUT OF THE AREA SO
15 THEY WOULDN'T CONTAMINATE OUR CRIME SCENE.

16 Q. OKAY. ONCE YOU SET UP THE TAPE, WHERE DO YOU PUT --
17 WHERE DO THE OTHER PEOPLE THAT ARE NOT LAW ENFORCEMENT AT
18 THAT POINT IN TIME, WHERE DO THEY GO?

19 A. THEY'RE ON THE OUTSIDE OF THE TAPE.

20 Q. OKAY. SO YOU HAD -- THEY GO TO THE OUTSIDE OF THE
21 TAPE, NOT STAY WITH YOU AT THAT POINT?

22 A. CORRECT.

23 Q. CAN YOU SHOW US WHERE THE VICTIM'S BODY WAS IN THIS
24 PHOTOGRAPH?

25 A. IN BETWEEN THE WHITE HONDA AND THE BURGUNDY CADILLAC

ZANE SMITH - DIRECT BY MR. THOMPSON:

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1 RIGHT THERE.

2 Q. WHEN YOU ARRIVED, DID YOU GO UP TO THE VICTIM AND
3 OBSERVE WHAT WAS AROUND HIM AT THAT TIME?

4 A. I IMMEDIATELY WENT UP THERE AND, YOU KNOW, EMS WAS
5 ALREADY ON THE SCENE AND I WANTED TO GIVE EMS AS MUCH
6 INFORMATION ABOUT THE VICTIM AS I COULD.

7 Q. OKAY. NOW, YOU'RE SAYING ALREADY ON THE SCENE. WERE
8 THEY ALREADY ON THE SCENE WHEN YOU GOT THERE?

9 A. NO, THEY WERE NOT.

10 Q. OKAY. WHEN THEY ARRIVED, HOW SOON AFTER YOU DID THEY
11 ARRIVE?

12 A. I THINK IT WAS A COUPLE OF MINUTES AT THE MOST.

13 Q. OKAY. WHAT WAS THE FIRST THING THAT THEY DID WHEN THEY
14 GOT THERE?

15 A. THEY IMMEDIATELY, AFTER THEY DID THEIR ASSESSMENT,
16 STARTED DOING -- PERFORMING CPR.

17 Q. CAN YOU TELL ME, AS PART OF SETTING UP THE CRIME SCENE,
18 DID YOU FIND ANYTHING THAT YOU CONSIDERED TO BE EVIDENCE AT
19 THAT TIME?

20 A. YES, I DID. UNDERNEATH THE HONDA, RIGHT THERE I FOUND
21 A .45 CASING AND THEN UP HERE --

22 Q. NOW, YOU SAID A CASING. CAN YOU DESCRIBE TO US WHAT
23 THAT IS EXACTLY?

24 A. THE CASING -- A .45 CASING, IT IS A SHELL CASING. YOU
25 HAVE A BULLET AND THEN YOU ACTUALLY HAVE A SHELL CASING THAT

ZANE SMITH - DIRECT BY MR. THOMPSON:

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1 CREATES THE WHOLE ROUND. THE CASING IS ACTUALLY WHAT HAS
2 THE PRIMER AND THE GUNPOWDER, WHICH ONCE THE WEAPON IS
3 FIRED, IT IGNITES THE GUNPOWDER, WHICH SENDS THE BULLET AS A
4 PROJECTILE OUT OF THE BARREL OF THE GUN.

5 Q. AND THIS IS STATE'S EXHIBIT NUMBER 37. DOES THAT
6 DEPICT THE SHELL CASING THAT YOU SAW UNDER THE HONDA?

7 A. YES, SIR, IT IS.

8 Q. NOW, I SEE A COUPLE OF PIECES OF PAPER NEXT TO IT.
9 WHAT IS THAT ROCK HILL PIECE OF PAPER WITH --

10 A. THAT'S MY BUSINESS CARD. WHEN I STARTED TO FIND A
11 SHELL CASING, I DIDN'T HAVE ANY OTHER THING TO MARK IT WITH.
12 WE ALWAYS CARRY BUSINESS CARDS WITH US FOR VICTIMS OR TO USE
13 AS CALLING CARDS SO THEY CAN CALL US BACK, BUT WHAT I DID
14 WAS TO MARK THE SHELL CASINGS, I LAID MY BUSINESS CARDS DOWN
15 NEXT TO THEM AS I FOUND THEM.

16 Q. OKAY. AND, ULTIMATELY, I BELIEVE IS THAT WHERE THE
17 YELLOW CONES END UP AT SOME POINT?

18 A. SURE; YES. THAT WAS WHEN -- AFTER FSU HAD STARTED.

19 Q. IS THAT THE FIRST CASING THAT YOU FOUND?

20 A. YES, SIR, IT IS.

21 Q. DID YOU FIND ANY OTHER CASINGS?

22 A. YES; I BELIEVE I FOUND FIVE MORE.

23 Q. LET YOU LOOK AT STATE'S EXHIBIT NUMBER 20. IF YOU
24 COULD LOOK AT THAT PHOTOGRAPH AND DESCRIBE FOR ME, THOSE
25 PIECES OF PAPER ON THE GROUND, ARE THOSE YOUR CARDS AS WELL?

ZANE SMITH - DIRECT BY MR. THOMPSON:

266

1 A. THOSE ARE MY BUSINESS CARDS; YES.

2 Q. AND CAN YOU TELL US WHAT -- WHY THOSE ARE ON THE GROUND
3 THERE?

4 A. THOSE LYING NEXT TO MY BUSINESS CARD ARE .25 CALIBER
5 CASINGS THAT I FOUND.

6 Q. ALL RIGHT. AND, LET'S SEE, IF YOU WOULD, WERE THOSE
7 ALSO MARKED WITH CONES LATER ON?

8 A. YES, SIR, THEY WERE.

9 Q. AND THOSE CONES THERE, WOULD THAT ACCURATELY DEPICT --
10 THIS IS STATE'S EXHIBIT NUMBER 33, I BELIEVE. WOULD THAT
11 ACCURATE DEPICT WHERE YOU SAW THE CASINGS AND MARKED THEM
12 WITH YOUR CARDS BEFORE THE CONES CAME IN?

13 A. YES, SIR.

14 Q. AND I BELIEVE NOT ALL OF THESE CONES WOULD REPRESENT
15 SHELL CASINGS; CORRECT? THAT'S APPARENTLY WHEREVER THEY
16 FIND SOMETHING THAT'S ON THE GROUND, THEY -- IS THAT
17 SOMETHING THAT THEY DO JUST TO MARK WHAT'S THERE?

18 A. SURE. IF THEY BELIEVE IT'S GOING TO BE PERTINENT, YES,
19 THEY'LL MARK IT.

20 Q. ALL RIGHT. BUT IN THIS PHOTOGRAPH, STATE'S EXHIBIT 33,
21 THERE ARE FIVE NUMBERED CONES THAT ARE CLOSEST TO US IN THE
22 PHOTOGRAPH. ARE THOSE THE AREAS -- IS THAT WHERE YOU FOUND
23 THE CASINGS FOR THE .25 CALIBER?

24 A. YES, SIR.

25 Q. ALL RIGHT. AND THIS IS STATE'S EXHIBIT NUMBER 34. I

ZANE SMITH - DIRECT BY MR. THOMPSON:

267

1 BELIEVE THOSE -- AS WELL, DOES THAT INDICATE WHERE YOU FOUND
2 THOSE .25 CALIBER CASINGS?

3 A. YES, SIR.

4 Q. ALL RIGHT. NOW, DID YOU ALSO HAVE A CHANCE TO LOOK AT
5 THE THINGS THAT WERE CLOSE TO THE VICTIM, HIS BODY, OTHER
6 THAN SHELL CASINGS?

7 A. WHEN WE FIRST GOT THERE, YES. LIKE I SAY, I GOT UP TO
8 THE VICTIM 'CAUSE I WANT TO TRY TO GIVE EMS AS MUCH
9 INFORMATION AS I COULD.

10 Q. AND STATE'S EXHIBIT NUMBER 24, WAS THAT ALSO SOMETHING
11 THAT WAS NEAR THE VICTIM AT THE TIME?

12 A. YES, SIR, IT WAS.

13 Q. AND WHEN YOU COME IN, DO YOU ACTUALLY MOVE OR TOUCH ANY
14 OF THESE ITEMS WHEN YOU COME IN?

15 A. NO, SIR. YOU WANT TO, LIKE I SAID, YOU WANT TO LEAVE
16 THE CRIME SCENE AS IS AS MUCH AS POSSIBLE. I MEAN, OF
17 COURSE, CERTAIN THINGS COULD HAPPEN, BUT, NO, IT'S NOT A
18 PRACTICE FOR US TO TOUCH ANYTHING AT ALL.

19 Q. OKAY. AND WHILE YOU WERE THERE, DID YOU NOTICE ANY OF
20 THE OTHER PEOPLE WHEN YOU FIRST ARRIVED, WERE THERE MOVING
21 AND PICKING UP THINGS OR DOING ANYTHING OF THAT NATURE?

22 A. NO, SIR. WHEN WE ARRIVED THERE, THERE WAS A GENTLEMAN,
23 HE WAS, YOU KNOW, OBVIOUSLY UPSET AND, YOU KNOW, PACING BACK
24 AND FORTH AND HE WAS NEXT -- HE WAS PRETTY CLOSE TO THE
25 VICTIM.

ZANE SMITH -- DIRECT BY MR. THOMPSON:

268

1 Q. AND DO YOU RECALL WHO THAT WAS?

2 A. I BELIEVE THAT WAS HIS FATHER.

3 Q. OKAY. AND AT ANY POINT DID YOU HAPPEN TO SPEAK WITH
4 HIM WHILE YOU WERE THERE?

5 A. WHILE, I WAS, YOU KNOW, ATTEMPTING TO KEEP PEOPLE OUT
6 OF MY CRIME SCENE AND GET INFORMATION, THE EMS WORKERS THAT
7 WERE WORKING ON THE VICTIM HAD ACTUALLY CALLED US OVER THERE
8 BECAUSE HIS FATHER WAS, YOU KNOW, INTERFERING WITH WHAT THEY
9 WERE TRYING TO DO AND SO I HAD STEPPED OVER THERE AND
10 BASICALLY ASKED HIM TO STEP BACK AND TO LET THEM CONTINUE
11 WORKING ON HIM, BECAUSE HE WASN'T DOING THEM ANY GOOD, SO --

12 Q. AND DID HE STEP BACK AT THAT TIME?

13 A. YES, SIR, HE DID.

14 Q. ALL RIGHT. IS THAT UNUSUAL TO HAVE FAMILY MEMBERS ON A
15 CRIME SCENE?

16 A. ON A CRIME SCENE LIKE THAT, NO.

17 Q. IS IT UNUSUAL TO HAVE TO TELL THEM TO STEP BACK?

18 A. NO, IT'S NOT.

19 Q. OKAY. AFTER YOU SET UP THIS CRIME SCENE, WHAT OTHER
20 OFFICERS, WHAT OTHER THINGS HAPPENED AT THE SCENE AT THAT
21 POINT IN TIME?

22 A. AT THAT TIME, WHENEVER WE HAVE AN INCIDENT LIKE THAT,
23 YOU KNOW, SUCH AS A SHOOTING OR AN ARMED ROBBERY, THERE'S
24 ALWAYS A RESPONDING OFFICER, A SUPERVISOR ALSO RESPONDS TO
25 ASSESS THE SITUATION AND WE CONFIRMED THAT WE DID HAVE A

ZANE SMITH - DIRECT BY MR. THOMPSON:

269

1 SHOOTING WITH A VICTIM. OUR ON-CALL DETECTIVE WAS PAGED AND
2 OUR CRIME SCENE UNIT WAS ALSO PAGED.

3 Q. ALL RIGHT. DID YOU STAY THERE WHEN CRIME SCENE CAME,
4 TOO?

5 A. YES, I DID.

6 Q. DID YOU ASSIST THEM IN ANY WAY WHILE THEY WERE THERE?

7 A. YES, I DID. I DID HELP OUT WITH SOME MEASUREMENTS AND
8 AFTER WE'D PRETTY MUCH GOTTEN ALL THE VICTIMS OUT OF THERE,
9 VICTIMS -- SOME OF THE WITNESSES WERE TRANSPORTED TO OUR LAW
10 CENTER FOR STATEMENTS. ONCE WE GOT EVERYBODY OUT OF OUR
11 CRIME SCENE AND HAD CALMED EVERYTHING DOWN. AFTER WE DID
12 THESE INITIAL MARKS WHERE -- WE KNEW WHAT WE HAD AND WE
13 MARKED AND THEY TOOK PHOTOS AND THEY TOOK THEIR
14 MEASUREMENTS, THEN AFTER THAT, WE ACTUALLY, YOU KNOW, WALKED
15 AROUND THE WHOLE PERIMETER JUST TO MAKE SURE WE DIDN'T MISS
16 ANYTHING.

17 Q. ALL RIGHT. AND AFTER YOU WERE DONE WITH THE CRIME
18 SCENE THERE, DID YOU DO ANYTHING ELSE REGARDING THIS CASE?

19 A. ONCE I LEFT HERE, I RESPONDED TO STONEYPONTE DRIVE,
20 WHICH IS THE -- AN APARTMENT COMPLEX ON STONEYPONTE DRIVE.

21 Q. OKAY. AND WHAT WAS YOUR DUTIES THERE?

22 A. THEY HAD ACTUALLY CONDUCTED A SEARCH OF AN APARTMENT
23 AND THE APARTMENT ENDED UP BEING VACANT. I JUST SECURED THE
24 APARTMENT AFTER THEY HAD SEARCHED IT TO MAKE SURE NOBODY
25 WENT IN THERE AFTER THEY DID.

ZANE SMITH - CROSS BY MR. DELGADO:

270

1 Q. ALL RIGHT. ONE OTHER THING, OFFICER SMITH, HERE AT THE
2 PACES RIVER APARTMENTS WHERE THIS OCCURRED, THAT'S HERE IN
3 YORK COUNTY, IS IT NOT?

4 A. YES, SIR, IT IS.

5 Q. 'ALL RIGHT.

6 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

7 THE COURT: THANK YOU, SIR. YOU MAY RETURN TO YOUR
8 SEAT.

9 CROSS-EXAMINATION

10 ZANE SMITH BY MR. DELGADO:

11 Q. MY NAME'S JOHN DELGADO. MR. SMITH, WHAT YOU HAVE
12 IDENTIFIED HERE WITH THE USE OF YOUR BUSINESS CARD AND THEN
13 LATER BY THE USE OF THESE YELLOW CONES, WHAT YOU ARE DOING
14 IS YOU'RE DOCUMENTING WHAT YOU FOUND WHEN YOU CAME TO THE
15 SCENE; CORRECT?

16 A. YES, SIR.

17 Q. BY THAT I MEAN, ANYBODY COULD HAVE, AND I'M NOT SAYING
18 THEY DID THIS INTENTIONALLY, COULD DO IT NEGLIGENTLY. IF
19 YOU'RE WALKING ACROSS THIS EXPANSE HERE, SOMEONE COULD,
20 LET'S JUST SAY NUMBER 8, YOUR CONE NUMBER 8, NUMBER 8 COULD
21 HAVE HAD TWO OF THEM AND ONE PERSON ACCIDENTALLY COULD HAVE
22 KICKED IT OVER TO WHERE 5 IS NOW; CORRECT?

23 A. THAT IS POSSIBLE.

24 Q. EXACTLY. I GUESS WHAT I'M SAYING TO YOU, SIR, WHAT
25 TYPE OF FIREARM DO YOU HAVE?

ZANE SMITH - CROSS BY MR. DELGADO:

271

- 1 A. IT'S A SMITH AND WESSON NINE-MILLIMETER.
- 2 Q. THAT NINE-MILLIMETER IS AN AUTOMATIC; CORRECT, SIR?
- 3 A. IT'S SEMI-AUTOMATIC.
- 4 Q. SEMI-AUTOMATIC. THAT MEANS THAT WHEN YOU DISCHARGE
- 5 YOUR FIREARM, YOUR SIDEARM, THE BULLET GOES THROUGH THE
- 6 MUZZLE; CORRECT, SIR?
- 7 A. IT GOES THROUGH THE BARREL.
- 8 Q. THE BARREL. THE CASING EJECTS FROM THE GUN; CORRECT,
- 9 SIR?
- 10 A. CORRECT.
- 11 Q. SO, IN OTHER WORDS, IT DOESN'T -- THE SHELL CASING THAT
- 12 HOLDS THE SLUG GOES IN A DIFFERENT DIRECTION THAN THE BULLET
- 13 DOES; CORRECT?
- 14 A. SIR, IT'LL BE EJECTED OUT THE RIGHT SIDE OF THE
- 15 FIREARM.
- 16 Q. EXACTLY. THEY CALL THAT THE EJECTION POINT; IS THAT
- 17 CORRECT, SIR?
- 18 A. CORRECT.
- 19 Q. ALL RIGHT. SO IF I WERE TO BE SITTING HERE, STANDING
- 20 HERE, WITH YOUR SIDEARM AND POINTING HERE AT THE SCREEN, IF
- 21 THE BULLET GOES TO THE SCREEN, DEPENDING ON THE TYPE OF GUN
- 22 AND HOW IT EJECTS, IT WILL EJECT MAYBE TO THE RIGHT, MAYBE A
- 23 LITTLE FURTHER TO THE RIGHT, THE FRONT OR TO THE BACK,
- 24 DEPENDING ON THE GUN. WOULD THAT BE CORRECT, SIR?
- 25 A. MORE THAN LIKELY, IT'S GOING TO EJECT TO THE RIGHT AND

ZANE SMITH - CROSS BY MR. DELGADO:

272

1 TO THE REAR OF YOU.

2 Q. EXACTLY. BUT IF YOU HAVE THE GUN DOWN, IT WOULD HIT
3 POSSIBLY THE GROUND AND RICOCHET FROM THAT.

4 A. POSSIBLY.

5 Q. YEAH. I GUESS WHAT I'M SAYING, SIR, IS THERE'S NO WAY
6 OF TELLING WHEN IT HITS THE GROUND WHERE THE PERSON WAS
7 STANDING GENERALLY, EXCEPT FOR THE GENERAL AREA, WHEN THE
8 GUN WAS DISCHARGED. WOULD THAT BE FAIR?

9 A. THAT'D BE FAIR.

10 Q. OKAY. SIR, DO YOUR NOTES INDICATE, SIR, NOT ONLY IN
11 LAW ENFORCEMENT, YOU GOT A CALL TO REPORT TO THIS INCIDENT
12 SCENE; CORRECT, SIR?

13 A. CORRECT.

14 Q. FROM YOUR CENTRAL DISPATCH?

15 A. RIGHT.

16 Q. THIS CENTRAL DISPATCH COMMANDED THAT YOU COME TO THAT
17 SCENE AND YOU ACTIVATED YOUR BLUE LIGHTS AND WENT DIRECTLY
18 THERE?

19 A. I DIDN'T ACTIVATE MY BLUE LIGHTS, BUT I --

20 Q. YOU WENT THERE?

21 A. YES, SIR.

22 Q. ALL RIGHT. DO YOU RECALL WHEN YOU WERE NOTICED BY
23 DISPATCH TO GO TO THE SCENE?

24 A. THE EXACT TIME, NO, I DON'T. I BELIEVE THAT I WAS
25 PRETTY CLOSE BY, BUT EXACT TIME, NO, I COULDN'T GIVE YOU.

ZANE SMITH -- CROSS BY MR. DELGADO:

273

1 Q. I GUESS WHAT I'M SAYING, SIR, IS THIS: FROM THE TIME
2 YOU WERE ALERTED TO THE TIME YOU GET THERE, AT LEAST A
3 MINUTE AND A HALF, TWO MINUTES AT A MINIMUM?

4 A. CORRECT.

5 Q. ALL RIGHT. SO WHAT I'M SAYING IS THIS CRIME SCENE IS
6 NOT CONTROLLED FOR AT LEAST THAT MINUTE AND A HALF, TWO
7 MINUTES BECAUSE LAW ENFORCEMENT HASN'T ARRIVED?

8 A. THAT'S RIGHT.

9 Q. I'M NOT SAYING THAT AS SOON AS YOU GET THERE -- HOW
10 MANY FOLKS WERE AROUND THIS POOR MAN WHEN YOU GOT THERE?

11 A. HONESTLY, I DON'T KNOW. LIKE I -- IT'S JULY AND IT'S
12 STILL WARM OUT. IT'S NOT THAT LATE IN THE EVENING. THERE
13 WAS QUITE A FEW PEOPLE OUT ON THEIR BALCONIES AND IN THE
14 AREA, BUT --

15 Q. AND DOWN IN THE PARKING LOT BY THE BODY?

16 A. THERE WAS A FEW PEOPLE; YES.

17 Q. ALL RIGHT. SIR, ON DIRECT MR. THOMPSON ASKED YOU
18 WHETHER OR NOT IT'S USUAL OR UNUSUAL FOR YOU TO HAVE TO ASK
19 INDIVIDUALS TO STEP BACK FROM THE SCENE SO EMS CAN DO ITS
20 WORK OR JUST LAW ENFORCEMENT CAN DO ITS WORK; IS THAT
21 CORRECT, SIR?

22 A. SURE.

23 Q. THAT HAPPENS PRETTY FREQUENTLY.

24 A. IT'S NOT UNCOMMON FOR YOU TO HAVE TO DO THAT; NO, IT'S
25 NOT.

ZANE SMITH - CROSS BY MR. DELGADO:

274

1 Q. IS IT UNCOMMON, SIR, TO HAVE SOMEBODY GOING THROUGH THE
2 DECEDENT'S POCKETS?

3 A. WELL, I DIDN'T OBSERVE THAT.

4 Q. YOU DIDN'T OBSERVE THAT?

5 A. NO, SIR. EMS HAD CALLED ME OVER THERE BECAUSE HE WAS
6 RIGHT THERE, HE WAS IN THE WAY, AND THEY'D ASKED ME TO ASK
7 HIM TO STEP BACK, WHICH I DID.

8 Q. DID YOU MAKE A WRITTEN REPORT ON THIS --

9 A. I DIDN'T DO THE INITIAL REPORT, NO. THAT'S -- THE ONLY
10 THING I DID WAS THE STATEMENT.

11 Q. THAT'S WHAT I'M SAYING. DID YOU MAKE A REPORT?

12 A. WELL, THAT'S---

13 Q. THAT'S IT; SURE. SURE.

14 A. ---THE STATEMENT.

15 Q. SAME THING. OKAY. NOT HERE TO CONFUSE YOU. READ THAT
16 JUST VERY QUICKLY, MAYBE SORT OF TOWARDS THE MIDDLE, AND
17 THEN LET ME ASK YOU A QUESTION OR TWO.

18 A. EMS BEGAN TO PERFORM CPR ON THE VICTIM, BUT THE
19 VICTIM'S FATHER INTERFERED WITH EMS BY ATTEMPTING TO GO
20 THROUGH THE VICTIM'S PANTS POCKETS.

21 Q. SO LET ME ASK THIS TO YOU AGAIN. WHILE IT MAY BE NOT
22 UNUSUAL, THAT IS SOMETIMES COMMON, TO HAVE TO ASK FOLKS TO
23 STEP BACK---

24 A. UH-HUH.

25 Q. ---AND CLEAR THE SCENE SO THAT YOU AND EMS COULD DO

ZANE SMITH - RE-DIRECT BY MR. THOMPSON:

275

1 YOUR WORK, IT WOULD BE UNUSUAL THAT --- TO SEE SOMEBODY GOING
2 THROUGH THE VICTIM'S POCKETS, WOULDN'T IT? AT LEAST --

3 A. HONESTLY, IN SITUATIONS LIKE THAT, I MEAN, NOTHING
4 SURPRISES ME.

5 Q. SURE.

6 A. I MEAN, YOU'LL SEE SOME OF THE MOST OFF-THE-WALL THINGS
7 HAPPEN, SO --

8 Q. AND IT WAS IMPORTANT ENOUGH FOR YOU TO PUT IT IN YOUR
9 NOTES?

10 A. SURE. I MEAN, THAT'S WHAT THEY'D STATED.

11 Q. SO WHEN YOU EARLIER SAID THAT YOU HADN'T SEEN THAT, YOU
12 WERE JUST NOT REMEMBERING WHAT YOU HAD PUT THERE?

13 A. NO. THAT WAS BASED ON WHAT EMS WAS TELLING US.

14 Q. OKAY. AND THAT WAS THE FATHER OF THE DECEASED---

15 A. I BELIEVE IT WAS.

16 Q. ---GOING THROUGH HIS POCKETS?

17 A. I GUESS SO.

18 MR. DELGADO: THANK YOU, SIR. THAT'S ALL. THANK YOU.

19 RE-DIRECT EXAMINATION

20 ZANE SMITH BY MR. THOMPSON:

21 Q. BUT THAT WAS BASED ON WHAT EMS WAS TELLING YOU?

22 A. YES, SIR.

23 Q. AND YOU WROTE ATTEMPTING. IS THAT RIGHT, HE WAS
24 ATTEMPTING?

25 A. CORRECT.

ZANE SMITH -- RE-CROSS BY MR. DELGADO:

276

1 Q. OKAY. AND YOU DIDN'T ACTUALLY SEE HIM GO THROUGH HIS
2 POCKETS?

3 A. NO; NO. THEY -- WHEN THAT STARTED TO HAPPEN, THEY
4 IMMEDIATELY CALLED US AND THAT'S WHEN I TOLD HIM TO STEP
5 BACK.

6 Q. OKAY.

7 MR. DELGADO: YOUR HONOR, MAY I ASK THAT --

8 THE COURT: WELL, WAIT 'TIL THE SOLICITOR FINISHES
9 FIRST.

10 MR. DELGADO: I'M SORRY. I APOLOGIZE; I APOLOGIZE.

11 Q. DID YOU FIND ANY WEAPONS ON THE SCENE?

12 A. NO, SIR; I DID NOT.

13 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

14 RE-CROSS EXAMINATION

15 ZANE SMITH BY MR. DELGADO:

16 Q. THEY TOLD YOU SOMETHING THAT'S IMPORTANT ENOUGH TO PUT
17 IT IN YOUR REPORT THAT SOMEBODY ATTEMPTS TO GO THROUGH
18 SOMEBODY'S POCKETS. EITHER THEY WERE OR THEY WEREN'T. I
19 MEAN, DO YOU UNDERSTAND WHAT I'M SAYING?

20 A. I UNDERSTAND WHAT YOU'RE SAYING; YES. LIKE I SAID, --

21 Q. YOU DIDN'T SEE IT, BUT EMS TOLD YOU HE WAS ATTEMPTING
22 TO GO THROUGH HIS POCKETS?

23 A. YES, SIR.

24 MR. DELGADO: THAT'S ALL I NEED. THANK YOU.

25 THE COURT: THANK YOU, SIR. YOU MAY STAND DOWN, SIR.

RODNEY C. JOHNSON - DIRECT BY MR. THOMPSON:

277

1 DO YOU HAVE SOMETHING ELSE, SOLICITOR?

2 MR. THOMPSON: NO; THAT'S ALL.

3 THE COURT: THANK YOU, SIR.

4 MR. THOMPSON: PLEASE THE COURT, YOUR HONOR, THE STATE
5 WOULD CALL RODNEY JOHNSON. MR. JOHNSON, IF YOU'LL STEP
6 FORWARD AND BE SWORN IN, PLEASE.

7 THE CLERK: PLEASE RAISE YOUR RIGHT HAND AND PLACE YOUR
8 LEFT HAND ON THE BIBLE.

9 (RODNEY C. JOHNSON, BEING FIRST DULY SWORN, WAS
10 EXAMINED AND TESTIFIED AS FOLLOWS):

11 DIRECT EXAMINATION

12 RODNEY C. JOHNSON BY MR. THOMPSON:

13 Q. MR. JOHNSON, COULD YOU GIVE YOUR FULL NAME FOR THE
14 COURT, PLEASE?

15 A. RODNEY C. JOHNSON.

16 Q. AND WHERE DO YOU WORK?

17 A. PIEDMONT MEDICAL CENTER, THE EMS DIVISION.

18 Q. THE EMS DIVISION. HOW LONG HAVE YOU BEEN WORKING WITH
19 THE EMS DIVISION?

20 A. FOR PIEDMONT, SINCE JUNE OF '03.

21 Q. OKAY. AND WHAT ARE SOME OF YOUR QUALIFICATIONS THERE?
22 ARE YOU A CERTIFIED EMT?

23 A. I'M A PARAMEDIC, CERTIFIED BY THE STATE OF SOUTH
24 CAROLINA. ALSO, I HAVE CARDS IN ADVANCED CARDIO LIFE
25 SUPPORT AND BASIC TRAUMA LIFE SUPPORT AND PRE-HOSPITAL

1 TRAUMA LIFE SUPPORT.

2 Q. AND AS PART OF YOUR DUTIES, DO YOU WORK BASICALLY ON
3 AMBULANCE RUNS OR---

4 A. YES.

5 Q. ---DO YOU HELP PEOPLE WHO ARE INJURED?

6 A. YES, I DO.

7 Q. WERE YOU CALLED OUT THE NIGHT OF JUNE 26TH OF LAST YEAR
8 TO ASSIST WITH SOMEONE WHO HAD BEEN SHOT?

9 A. YES.

10 Q. CAN YOU TELL ME, WHERE WERE YOU CALLED OUT TO? DO YOU
11 RECALL?

12 A. I BELIEVE IT'S THE PACES RIVER APARTMENT COMPLEX.

13 Q. OKAY. AND DID YOU KNOW — AS PART OF YOUR JOB, DO YOU
14 HAVE TO NOTE WHEN YOU ARRIVE AND WHEN YOU'RE CALLED OUT AND
15 THOSE SORTS OF THINGS?

16 A. YES.

17 Q. WHEN DID YOU ACTUALLY ARRIVE? DO YOU RECALL?

18 A. A LITTLE BIT AFTER NINE, AROUND A QUARTER AFTER NINE,
19 SOMEWHERE AROUND THERE. I CAN'T REMEMBER EXACTLY.

20 Q. DID YOU NOTE IT ON YOUR REPORT?

21 A. YES.

22 Q. WOULD IT HELP YOU TO SEE YOUR REPORT?

23 A. YES.

24 Q. WOULD IT REFRESH YOUR MEMORY? LET YOU LOOK AT THAT.

25 IS THAT A COPY OF YOUR REPORT?

RODNEY C. JOHNSON - DIRECT BY MR. THOMPSON:

279

1 A. YES, IT IS.

2 Q. AND CAN YOU TELL ME, WHAT TIME DID YOU INDICATE THAT
3 YOU HAD ARRIVED ON THE SCENE?

4 A. IT SAYS 2118, WHICH IS 9:18.

5 Q. OKAY. SO 9:18?

6 A. YES.

7 Q. NOW, WHEN YOU ARRIVED, WHAT DID YOU FIND AS YOU GOT
8 THERE?

9 A. I FOUND A GENTLEMAN DOWN ON THE GROUND, LOTS OF
10 BLEEDING AROUND HIM, A FAIRLY LARGE CROWD, UPSET. ONE
11 PARTICULAR YOUNG LADY WAS VERY UPSET. LOTS OF YELLING AND
12 SCREAMING AND WE WERE JUST BASICALLY, AFTER THAT POINT,
13 FOCUSED ON THE VICTIM HIMSELF.

14 Q. OKAY. AND WHO RODE WITH YOU IN THAT AMBULANCE THAT
15 DAY? A. MY PARTNER, SAMMY TATE.

16 Q. ALL RIGHT. NOW, WHAT DID Y'ALL DO WHEN YOU GOT OUT?
17 WHAT WAS YOUR JOB AT THAT POINT? WHAT DID YOU DO?

18 A. WELL, WE GO CHECK ON THE VICTIM HIMSELF, CHECKED TO SEE
19 IF HE WAS BREATHING, HAD PULSES, WHICH HE WAS NOT AT THE
20 TIME.

21 Q. ALL RIGHT. WAS HE CONSCIOUS?

22 A. HE WAS NOT CONSCIOUS.

23 Q. AND YOU SAID HE DIDN'T HAVE A PULSE. WAS HE BREATHING
24 AT ALL?

25 A. HE WAS NOT BREATHING.

1 Q. OKAY. WHAT DID YOU DO AS A RESULT OF THAT?

2 A. WELL, WE GO AHEAD AND START OUR IMMEDIATE CARE, WHAT
3 WE'RE SUPPOSED TO DO, SECURE THE AIRWAY AND ONCE WE
4 ESTABLISH OR FIRST OPEN THE AIRWAY, I DID NOTICE A LOT OF
5 BLEEDING AROUND HIS ORAL CAVITY AREA AND WHAT APPEARED TO BE
6 SOME BRAIN MATTER. HOWEVER, MY PARTNER SAMMY WAS THE ONE
7 WHO DID THE ACTUAL INTUBATION, SO HE COULD PROBABLY GO INTO
8 MORE DETAIL ABOUT THAT.

9 Q. OKAY. SO WITHIN HIS MOUTH THERE WAS --

10 A. YES.

11 A. -- THERE WAS THAT THERE?

12 A. UH-HUH.

13 Q. AND YOU SAID INTUBATION. IF YOU COULD DESCRIBE WHAT
14 WAS REQUIRED THERE.

15 A. THAT'S WHEN WE ASSIST THEIR VENTILATION WITH A TUBE.
16 LIKE WHEN YOU GO IN THE HOSPITAL, THEY STICK A TUBE DOWN
17 YOUR THROAT TO HELP BREATHE FOR YOU WHEN YOU CAN'T BREATHE
18 ON YOUR OWN.

19 Q. ALL RIGHT. AND AT THAT POINT WERE YOU ABLE TO REVIVE
20 HIM AT ALL?

21 A. NO. HE STILL WAS NOT CONSCIOUS. HE STILL WAS NOT
22 BREATHING ON HIS OWN AT THAT TIME.

23 Q. DID HE EVER REGAIN A PULSE AT THAT TIME?

24 A. NO.

25 Q. DID Y'ALL CONTINUE TO TRY TO REVIVE HIM AT THAT TIME?

RODNEY C. JOHNSON - DIRECT BY MR. THOMPSON:

281

1 A. WE CONTINUED. WE PUT HIM ON A HEART MONITOR, WHICH
2 SHOWED A RHYTHM OF PULSING ELECTRICAL ACTIVITY, WHICH WE
3 CALL PEA, AND WHICH GIVES -- TELLS US THAT THERE'S SOMETHING
4 GOING ON, BUT THERE'S NO PULSE THAT GOES WITH IT, SO WE HAVE
5 TO WORK ON HIM ANYWAY TO TRY TO GET HIM BACK, TRY TO GET
6 ACTUAL PULSES TO GO WITH THAT RHYTHM THAT WAS SHOWING ON THE
7 MONITOR. BUT SINCE THERE WAS NO RHYTHM, WE HAD TO JUST DO
8 WHAT WE CAN TO TRY TO REVIVE HIM.

9 Q. NOW, AS YOU CONTINUED TO TRY TO WORK ON HIM, WHAT WAS
10 YOUR -- OTHER THAN REVIVING HIM AT THAT POINT, WERE YOU
11 TRYING TO GET HIM TRANSPORTED AS WELL?

12 A. YES. WE HAD TO SECURE HIM ON A BACKBOARD, PUT A
13 CERVICAL COLLAR ON HIM. THAT'S ALL PROTOCOL FOR THIS TYPE
14 OF INJURY HE HAD SUSTAINED, AND THEN TRANSPORT HIM AS
15 QUICKLY AS WE CAN TO THE HOSPITAL.

16 Q. AND WHAT IS IT YOU WERE ABLE TO IMMEDIATELY NOTE?

17 A. ON THE WAY TO THE HOSPITAL?

18 Q. WELL, I MEAN, EITHER IMMEDIATELY WHEN YOU FIRST ARRIVED
19 OR ON THE WAY TO THE HOSPITAL, WHAT INJURIES DID YOU NOTICE?

20 A. WE DID RECALL A GENTLEMAN THERE WHO WANTED TO GET
21 SOMETHING FROM THE VICTIM, BUT WE DIDN'T KNOW WHO HE WAS AT
22 THE TIME. WE WOULDN'T ALLOW HIM TO TOUCH THE VICTIM, ONE,
23 BECAUSE WE HAVE TO WORK ON HIM; TWO, IT'S A CRIME SCENE. AT
24 THE TIME WE DIDN'T KNOW WHO HE WAS.

25 Q. DID YOU ULTIMATELY FIND OUT WHO HE WAS?

1 A. I BELIEVE WE FOUND OUT LATER IT MIGHT HAVE BEEN HIS
2 FATHER.

3 Q. OKAY. DID YOU ACTUALLY LET HIM GET ANYTHING FROM THE
4 VICTIM?

5 A. NO, HE DIDN'T TAKE ANYTHING. NOT IN FRONT OF OUR
6 PRESENCE, HE DIDN'T.

7 Q. OKAY. DID HE PUT HIS HANDS IN HIS POCKETS OR ANYTHING
8 LIKE THAT?

9 A. NO. HE WANTED TO, BUT AS FAR AS -- FROM MY
10 RECOLLECTION, WE DIDN'T ALLOW HIM OR ANYBODY ELSE TO GET
11 NEAR THE VICTIM.

12 Q. ALL RIGHT. DID Y'ALL ASK THE POLICE TO TELL HIM TO
13 STEP BACK AT THAT POINT?

14 A. I BELIEVE ONE OF US DID, YEAH.

15 Q. OKAY. AND DID HE BOTHER Y'ALL AFTER THAT?

16 A. NO.

17 Q. AND CAN YOU DESCRIBE WHAT HIS Demeanor WAS, THE MAN
18 THAT WAS THERE?

19 A. HE SAID -- I VAGUELY REMEMBER, BUT --

20 Q. WITHOUT TELLING WHAT HE SAID, WHAT WAS HIS STATE LIKE
21 OR WHAT WAS HIS Demeanor? HOW --

22 A. HE SEEMED TO BE GENERALLY CONCERNED AND ALSO UPSET, NOT
23 AS MUCH AS THE YOUNG LADY WAS ON THE SCENE, THAT I RECALL.
24 THAT'S ABOUT ALL I CAN REMEMBER FROM THAT.

25 Q. ALL RIGHT. NOW, IN THE TIME THAT YOU TREATED HIM AND,

RODNEY C. JOHNSON - DIRECT BY MR. THOMPSON:

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1 OF COURSE, TAKING HIM IN THE AMBULANCE TO THE HOSPITAL, IS
2 THERE ANY TIME THAT HE BECAME CONSCIOUS?

3 A. NO.

4 Q. WAS THERE ANY TIME THAT HE BEGAN BREATHING AGAIN?

5 A. NO.

6 Q. WAS THERE ANY TIME THAT HE REGAINED A PULSE?

7 A. NO.

8 Q. I'D ASK YOU TO STEP DOWN FOR JUST A MOMENT. THERE IS
9 ONE PHOTOGRAPH I'D LIKE YOU TO SEE, STATE'S EXHIBIT NUMBER
10 36. AND IF YOU CAN LOOK DOWN AT THE BOTTOM OF THIS PICTURE,
11 I GUESS WHERE SOME OF THE BLOOD IS, AND I SEE SOME WRAPPERS
12 AND THINGS OF THAT NATURE, IS THAT SOMETHING THAT Y'ALL
13 LEAVE BEHIND OR IS THAT --

14 A. YEAH. WE USUALLY LEAVE -- WELL, THE STUFF WE LEAVE
15 BEHIND IS USUALLY A LOT OF TRASH FROM A LOT OF STUFF WE USE
16 FROM THE PACKAGES.

17 Q. OKAY.

18 A. IT'S HARD TO TELL WHAT THAT IS, THOUGH.

19 Q. I'M GOING TO PULL UP ONE MORE PICTURE FOR YOU IN JUST A
20 SECOND, BUT LOOK HERE AT STATE'S EXHIBIT 37. OKAY. THIS
21 PIECE OF PAPER RIGHT HERE,---

22 A. YES.

23 Q. ---DOES THAT APPEAR TO BE SOMETHING Y'ALL MIGHT HAVE
24 LEFT BEHIND?

25 A. YES.

1 Q. OKAY. AND AS PART OF -- I'M SORRY. I'M NOT GETTING
2 THE PROPER PICTURE AT THE MOMENT, BUT AS PART OF THE WORK
3 THAT YOU'RE DOING, WHEN YOU TRIED TO REVIVE HIM, ARE THERE
4 ANY LITTLE MONITORS THAT YOU PLACED ON HIM AT THAT POINT?

5 A. YES. WE PUT HIM ON A HEART MONITOR AND THAT WAS TO
6 MONITOR HIS RHYTHM AT THE TIME. LIKE I SAID, HE HAD A
7 RHYTHM, BUT IT DIDN'T HAVE ANY PULSES WITH IT.

8 Q. AND WHAT DO YOU MEAN BY A RHYTHM?

9 A. WELL, WE HAVE -- WHEN YOU'RE ON A HEART MONITOR, YOU'RE
10 SHOWING THE NORMAL KIND OF HEARTBEAT LIKE YOU SEE IN THE
11 HOSPITAL ON THE MONITOR,---

12 Q. RIGHT; RIGHT.

13 A. ---AND THAT'S WHAT HE WAS SHOWING WHEN WE HOOKED HIM
14 UP, BUT HE DIDN'T HAVE ANY PULSES TO CORRELATE WITH THAT,
15 WHICH TOLD US THAT HE STILL WAS NOT -- HE WAS NOT IN GOOD
16 SHAPE. AT THAT POINT WE STARTED TO DO SOMETHING.

17 Q. ALL RIGHT. STATE'S EXHIBIT NUMBER 23, IF YOU'LL LOOK
18 OVER HERE DOWN IN THIS -- IN THE RIGHT-SIDE OF THE PICTURE,
19 ---

20 A. YES.

21 Q. ---PROBABLY TOWARDS THE BOTTOM, THESE LITTLE PATCHES
22 HERE LIKE THAT,---

23 A. UH-HUH.

24 Q. ---ARE THOSE SOME OF THE THINGS Y'ALL WOULD USE TO PUT
25 ON THE BODY AT THAT TIME?

RODNEY C. JOHNSON -- CROSS BY MR. DELGADO:

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1 A. YES. THEY COVER UP THE LEADS AND THEY ACTUALLY PULL
2 OFF. THERE'S A STICKY THING THAT THEY PUT ONTO YOUR CHEST
3 AND THOSE WOULD COVER --

4 Q. THOSE THREE LITTLE THINGS RIGHT THERE ARE THINGS LEFT
5 BEHIND BY Y'ALL---

6 A. YES; UH-HUH.

7 Q. ---WHEN YOU WORKED ON THE VICTIM? OKAY. AND I SEE
8 HERE A SHIRT. ARE Y'ALL -- DID YOU END UP HAVING TO CUT OFF
9 THE SHIRT WHILE YOU WERE THERE?

10 A. YEAH, 'CAUSE WE HAVE TO CUT -- WE'RE SUPPOSED TO CUT
11 OFF MOST OF THE CLOTHING, BUT USUALLY WE TRY TO AT LEAST GET
12 THE TOP OFF 'CAUSE WE HAVE TO PUT THE LEADS ON, THEN WE HAVE
13 TO DO CPR AND THEN WE HAVE TO DO CHEST DECOMPRESSIONS
14 SOMETIMES AND A LOT OF CLOTHING GETS IN THE WAY, SO WE'RE
15 SUPPOSED TO JUST REMOVE THE CLOTHING ENTIRELY IF WE CAN.

16 Q. THANK YOU. GO AHEAD AND SIT DOWN. THANK YOU, SIR.

17 MR. THOMPSON: THANK YOU. PLEASE ANSWER ANY QUESTIONS
18 THE DEFENSE HAS.

19 CROSS-EXAMINATION

20 RODNEY C. JOHNSON BY MR. DELGADO:

21 Q. MR. JOHNSON, GOOD AFTERNOON.

22 A. HEY.

23 Q. MR. JOHNSON, YOU-ALL GOT THERE ABOUT 9:18 ACCORDING TO
24 YOUR RECORD?

25 A. YES.

1 Q. WHEN EMS DOES ITS WORK, YOU SHOW WHEN YOU GOT A CALL
2 AND TRY TO PUT THAT DOWN, WHEN YOU ARRIVE ON A SCENE, TRY TO
3 PUT THAT DOWN SO THAT EVERYTHING IS DOCUMENTED AND
4 MEMORIALIZED. WOULD THAT BE FAIR?

5 A. RIGHT. THAT'S CORRECT.

6 Q. SO THAT FOLKS LIKE MYSELF, IF WE EVER HAVE TO, CAN ASK
7 QUESTIONS ABOUT IT?

8 A. UH-HUH.

9 Q. Y'ALL GOT THERE AT 9:18.

10 A. UH-HUH.

11 Q. IF I SAY TO YOU THE FIRST 911 CALL---

12 A. UH-HUH.

13 Q. ---WAS AT 9:13, THAT'S ABOUT A FIVE-MINUTE PERIOD OF
14 TIME BEFORE YOU GOT THERE?

15 A. UH-HUH; UH-HUH.

16 Q. WHEN DOES IT SAY THAT YOU WERE DISPATCHED FROM YOUR
17 CENTRAL?

18 A. CALL DISPATCHED AT 9:13.

19 Q. 9:13?

20 A. UH-HUH.

21 Q. SO IT TOOK ABOUT FIVE MINUTES?

22 A. RIGHT.

23 Q. DEPENDING ON WHERE YOU ARE IN THE COUNTY OR WHERE YOU
24 HAVE BEEN, IT CAN TAKE YOU A GOOD BIT OF TIME. SOMETIMES
25 YOU'RE LUCKY AND YOU'RE VERY CLOSE; CORRECT?

1 A. RIGHT.

2 Q. IT TOOK YOU A GOOD FIVE MINUTES TO GET TO THE SCENE AT
3 PACES RIVER?

4 A. YES.

5 Q. DURING THAT PERIOD OF TIME, SIR, YOU DON'T KNOW WHAT
6 HAPPENED AT THE SCENE. YOU GOT THERE AND YOUR IMMEDIATE
7 RESPONSE IS, LET'S DEAL WITH THE VICTIM. LET'S SEE IF WE
8 CAN MAKE CERTAIN TO SEE WHAT WE CAN DO TO HELP THAT
9 INDIVIDUAL; CORRECT?

10 A. CORRECT.

11 Q. THAT'S WHAT YOU DID THAT NIGHT?

12 A. CORRECT.

13 Q. ONE INDIVIDUAL, I THINK YOU SAID HE WANTED TO GET
14 SOMETHING FROM THE VICTIM, I THINK YOUR WORDS WERE; RIGHT?

15 A. UH-HUH.

16 Q. HE WAS IN YOUR WAY?

17 A. HE WAS AROUND THE BODY AND TRYING TO GET TO -- BACK TO
18 THE BODY AND WE DIDN'T WANT HIM TO DO THAT BECAUSE OF THE
19 CRIME SCENE STUFF.

20 Q. AND THAT INTERFERES WITH YOUR ABILITY TO BE ABLE TO
21 ASSIST THE INDIVIDUAL ON THE GROUND?

22 A. CORRECT.

23 Q. HE WANTED -- BUT IT'S INTERESTING HE WANTED TO GET
24 SOMETHING FROM THE VICTIM. THOSE ARE YOUR WORDS.

25 A. RIGHT.

RODNEY C. JOHNSON - RE-DIRECT BY MR. THOMPSON:

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1 Q. ALL RIGHT, SIR. ONE OTHER MATTER, THE YOUNG LADY WHO
2 WAS UPSET, WOULD YOU HAPPEN TO KNOW THAT YOUNG LADY'S NAME?

3 A. NO.

4 Q. ALL RIGHT. VERY ATTRACTIVE, MAYBE TWENTY-FIVE-YEAR-
5 OLD, DARK-SKINNED LADY. WOULD THAT BE ABOUT RIGHT?

6 A. THAT'S ABOUT CORRECT.

7 Q. SHE WAS THERE AT THE SCENE, EITHER NEAR THE BODY OR
8 CLOSE TO IT?

9 A. YEAH. SHE WAS -- I MEAN, SHE WAS VERY NOTICEABLE. AS
10 SOON AS WE RODE UP, WE COULD SEE HER THERE CRYING AND --

11 Q. CERTAINLY; SURE. AND THERE WERE OTHER FOLKS AROUND
12 BESIDES --

13 A. YES.

14 Q. -- BESIDES HER AND THE FATHER?

15 A. YES.

16 Q. RIGHT NEAR THE BODY?

17 A. YES. AND WE HAD EVERYBODY STEP BACK SO WE COULD DO OUR
18 JOB.

19 Q. SURE.

20 MR. DELGADO: THANK YOU, MR. JOHNSON. THAT'S ALL OF MY
21 QUESTIONS. THANK YOU.

22 RE-DIRECT EXAMINATION

23 RODNEY C. JOHNSON BY MR. THOMPSON:

24 Q. HAD THE POLICE ALREADY ARRIVED WHEN YOU GOT THERE?

25 A. I THINK THERE WAS AN OFFICER THERE WHEN WE GOT THERE,

RODNEY C. JOHNSON - RE-DIRECT BY MR. THOMPSON:

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1 IF I'M NOT MISTAKEN.

2 Q. ALL RIGHT.

3 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS. YOUR
4 HONOR, I'LL ASK THAT THIS WITNESS BE EXCUSED.

5 MR. DELGADO: ABSOLUTELY, SIR.

6 THE COURT: THANK YOU FOR COMING, SIR. YOU MAY BE
7 EXCUSED.

8 MR. THOMPSON: YOUR HONOR, I'D ALSO ASK THAT OFFICER
9 SMITH BE EXCUSED.

10 THE COURT: NO OBJECTION?

11 MR. THOMPSON: HE WAS THE PRIOR WITNESS.

12 MR. DELGADO: OH, YES, OF COURSE. NO PROBLEM. YES.

13 THE COURT: HE'S EXCUSED AT THIS TIME AS WELL. THANK
14 YOU.

15 MR. THOMPSON: THANK YOU, YOUR HONOR.

16 MR. POPE: PLEASE THE COURT, I'M GOING TO CALL A
17 WITNESS OUT OF ORDER, 'CAUSE I BELIEVE HE'S PRESENT, DR.
18 MAYNARD, BUT IF I CAN BEG THE COURT'S INDULGENCE ONE SECOND,
19 I'M GOING TO STEP OUT AND MAKE SURE THAT THAT'S CORRECT.

20 PLEASE THE COURT, YOUR HONOR, DR. MAYNARD IS, IN FACT,
21 PRESENT. THERE'S AN ISSUE I PROBABLY NEED TO TAKE UP WITH
22 MR. DELGADO AND THIS MIGHT BE A TIME FOR A VERY SHORT BREAK.

23 THE COURT: ALL RIGHT. RIGHT. MADAM FOREPERSON,
24 MEMBERS OF THE JURY PANEL, WE'LL TAKE A SHORT RECESS AT THIS
25 TIME. YOU CAN REFRESH YOURSELVES DURING THE BREAK ROOM. IT

1 WILL NOT BE A LONG BREAK. THANK YOU.

2 (JURY OUT AT 3:00 P.M.)

3 MR. POPE: PLEASE THE COURT, YOUR HONOR, DR. MAYNARD IS
4 PRESENT. I CAN PUT HIM UP SHORTLY. I HAD INDICATED A
5 WARNING TO THE FAMILY THAT I WOULD GIVE THEM AN OPPORTUNITY
6 TO LEAVE PRIOR TO AUTOPSY AND I DIDN'T WANT TO SAY THAT IN
7 FRONT OF THE JURY. ALSO, I DO HAVE THE ACTUAL -- THERE IS A
8 PICTURE OF SOME X-RAYS THAT WE'VE PREVIOUSLY STIPULATED INTO
9 EVIDENCE, THESE ARE LARGER VERSIONS AND IT'S MY
10 UNDERSTANDING FROM DR. MAYNARD THERE MAY BE ONE X-RAY THAT
11 MR. DELGADO HASN'T SEEN AND I WANTED HIM TO HAVE THE
12 OPPORTUNITY TO DO THAT. THAT'S THE OTHER REASON FOR THE
13 BREAK.

14 THE COURT: ALL RIGHT. WELL, ANYTHING ELSE WE NEED TO
15 PUT ON THE RECORD AT THIS POINT?

16 MR. POPE: NOT FROM THE STATE, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 MR. DELGADO: YOUR HONOR, I WOULD LIKE TO SPEAK WITH
19 MR. POPE ABOUT -- TALKING ABOUT THE PICTURES, I THINK I
20 LOOKED AT EVERY PHOTOGRAPH TODAY. NOW, I COULD BE WRONG,
21 'CAUSE I SAW A HUNDRED PHOTOGRAPHS. I HAVEN'T SEEN THE
22 AUTOPSY PHOTOS. MAYBE I'M WRONG.

23 MR. POPE: NO. WE ONLY HAD AUTOPSY X-RAYS, NOT --
24 PICTURE X-RAY. WE DID NOT -- OTHER THAN THE HANDS, WE DO
25 NOT HAVE AUTOPSY PHOTOS.

1 THE COURT: HE'S SAYING THEY HAVE PERHAPS ONE
2 ADDITIONAL ONE THAT YOU HAVEN'T SHOWN. HE WANTS THE
3 OPPORTUNITY FOR YOU TO REVIEW IT NOW.

4 MR. DELGADO: ALL RIGHT.

5 MR. POPE: OKAY.

6 THE COURT: SO WE'LL JUST TAKE A BREAK AND COME BACK IN
7 JUST A FEW MINUTES.

8 (WHEREUPON, A BRIEF RECESS WAS OBSERVED)

9 THE COURT: READY TO PROCEED NOW?

10 MR. POPE: THE STATE'S READY, YOUR HONOR.

11 THE COURT: PLEASE BRING THE JURY IN. HOW ABOUT THE
12 OTHER EXHIBIT? IS THERE ANOTHER EXHIBIT OR NO?

13 MR. POPE: WE TOOK CARE OF THAT. WE HAD -- THAT WAS
14 THE X-RAY THAT I WAS REFERRING TO.

15 THE COURT: OKAY. AND Y'ALL AGREED WITH THAT, THEN?

16 MR. DELGADO: YES, YOUR HONOR.

17 THE COURT: IT'S BEEN MARKED. OKAY.

18 (JURY IN AT 3:15 P.M.)

19 THE COURT: COUNSEL READY TO PROCEED?

20 MR. POPE: THE STATE'S READY, YOUR HONOR.

21 THE COURT: YES, SIR.

22 MR. POPE: THE STATE WOULD CALL DR. JAMES MAYNARD TO
23 THE STAND.

24 (JAMES LOUIS MAYNARD, BEING FIRST DULY SWORN, WAS
25 EXAMINED AND TESTIFIED AS FOLLOWS):

DIRECT EXAMINATION

JAMES LOUIS MAYNARD BY MR. POPE:

Q. DR. MAYNARD, IF YOU WOULD, STATE YOUR NAME AND SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE, SIR.

A. JAMES LOUIS MAYNARD, M-A-Y-N-A-R-D.

Q. AND COULD YOU TELL THE JURY WHERE YOU'RE EMPLOYED?

A. I'M EMPLOYED IN YORK COUNTY WITH YORK PATHOLOGY ASSOCIATES.

Q. AND COULD YOU TELL THE JURY WHAT YOUR OCCUPATION IS?

A. I AM A PHYSICIAN, MORE SPECIFICALLY, A PATHOLOGIST WITH YORK PATHOLOGY ASSOCIATES.

Q. OKAY. AND COULD YOU TELL THE JURY WHAT A PATHOLOGIST IS, WHAT IT IS YOU ACTUALLY DO?

A. YES, SIR. A PATHOLOGIST IS A PHYSICIAN, A MEDICAL DOCTOR, WHO HAS GONE TO FOUR YEARS OF MEDICAL SCHOOL AND THEN FOUR TO FIVE YEARS OF RESIDENCY OF POST MEDICAL SCHOOL TRAINING IN PATHOLOGY. PATHOLOGY IS A PART OF MEDICINE THAT DEALS WITH DISEASE, INJURY, DEATH OF THE TISSUE OR BLOOD OR BODY FLUID LEVELS. THERE ARE MANY TYPES OF PATHOLOGY, FROM LOOKING AT PAP SMEARS, DETERMINING CANCER, NON-CANCERS, LOOKING AT SURGICAL SPECIMENS, SKIN BIOPSIES, IF YOU HAVE A COLON TAKEN OUT, OR UTERUS TAKEN OUT. THEN WE DO THE AUTOPSIES TO DETERMINE CAUSE AND MANNER OF DEATH AND THEN THERE'S A NUMBER OF SUB-SPECIALTIES, ONE OF THEM BEING FORENSIC PATHOLOGIST WHERE WE'RE LOOKING AT CAUSE AND MANNER

JAMES LOUIS MAYNARD - DIRECT BY MR. POPE:

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1 OF DEATH AND, MORE SPECIFICALLY, DEATH DUE TO A VIOLENT OR
2 AN UNNATURAL ACT.

3 Q. AND IN PERFORMING -- I THINK I JUST HEARD YOU SAY THE
4 MAIN TOOL OF FORENSIC PATHOLOGY IS THE ACTUAL -- IS
5 CONDUCTING THE AUTOPSY; IS THAT CORRECT?

6 A. THE AUTOPSIES AND EXAMINATION OF BLOOD AND BODY FLUIDS,
7 YES, SIR.

8 Q. OKAY. AND COULD YOU TELL THE JURY WHAT BACKGROUND AND
9 TRAINING AND EDUCATION YOU HAVE THAT ALLOWS YOU TO PERFORM
10 THESE AUTOPSIES?

11 A. YES, SIR. I WENT TO MEDICAL SCHOOL AT THE UNIVERSITY
12 OF NORTH CAROLINA FOR FOUR YEARS, GRADUATED AND THEN DID MY
13 RESIDENCY TRAINING IN PATHOLOGY AND IN FORENSIC PATHOLOGY AT
14 THE UNIVERSITY OF NORTH CAROLINA, WHICH IS A TOTAL OF, YOU
15 KNOW, NINE YEARS OF TRAINING, YOU KNOW, AFTER COLLEGE.

16 Q. WHAT PRACTICAL EXPERIENCE HAVE YOU HAD AS FAR AS
17 MEDICALLY DOING THE AUTOPSIES? HOW MANY YEARS HAVE YOU BEEN
18 DOING THEM NOW?

19 A. I'VE BEEN IN YORK COUNTY FOR TWENTY-NINE YEARS NOW AND
20 WAS UP THERE FOR NINE YEARS, SO THIRTY-SOME YEARS, WHATEVER
21 THAT ADDS UP TO.

22 Q. DO YOU HAVE AN ESTIMATE FOR THE JURY OF DURING THAT
23 TIME HOW MANY AUTOPSIES YOU MAY HAVE CONDUCTED?

24 A. CLOSE TO 2,000.

25 Q. AND FROM A FORENSIC COMPONENT, 'CAUSE THERE'S TIMES

1 WHEN YOU MAY DO AN AUTOPSY RELATED WITH UNRELATED COURT
2 ISSUES; IS THAT CORRECT?

3 A. YES, SIR, IT IS.

4 Q. FROM A FORENSIC COMPONENT, HAVE YOU BEEN CALLED FROM
5 TIME TO TIME TO TESTIFY IN COURTS OF THIS STATE OR OTHER
6 STATES BASED ON YOUR FINDINGS AS AN EXPERT?

7 A. YES, SIR, I HAVE.

8 Q. AND DO YOU KNOW HOW MANY TIMES, ROUGHLY, YOU'VE BEEN
9 CALLED TO TESTIFY AS AN EXPERT EVEN JUST -- HOW ABOUT JUST
10 HERE IN YORK COUNTY?

11 A. A LOT IN YORK COUNTY. IT'S PROBABLY CLOSE TO A HUNDRED
12 HERE, I WOULD IMAGINE.

13 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD TENDER DR.
14 MAYNARD AS AN EXPERT IN FORENSIC PATHOLOGY.

15 MR. DELGADO: ABSOLUTELY, YOUR HONOR, YES, SIR, WITH
16 THAT QUALIFICATION.

17 THE COURT: THE COURT WOULD FIND AND QUALIFY HIM IN THE
18 FIELD OF FORENSIC PATHOLOGY. LET ME GIVE THE JURY THIS
19 BRIEF EXPLANATION ABOUT EXPERT WITNESSES.

20 MADAM FORELADY, MEMBERS OF THE JURY PANEL, I WANT TO
21 INSTRUCT YOU WITH REGARD TO EXPERT WITNESSES AND THIS WILL
22 APPLY NOT ONLY WITH THIS EXPERT WITNESS, BUT ANY OTHER
23 WITNESS WHO MAY BE DESIGNATED OR CLASSIFIED AS EXPERTS
24 DURING THE COURSE OF THE TRIAL.

25 I CHARGE YOU THAT ALTHOUGH LAY WITNESSES ARE LIMITED TO

JAMES LOUIS MAYNARD - DIRECT BY MR. POPE:

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1 TESTIFYING ABOUT FACTS WITHIN THEIR KNOWLEDGE, ARE NOT
2 ALLOWED TO GIVE OPINIONS, CERTAIN WITNESSES WHO BY TRAINING,
3 EDUCATION AND EXPERIENCE ARE CONSIDERED AS EXPERTS IN A
4 PARTICULAR FIELD, MAY GIVE OPINIONS IN THAT FIELD BASED UPON
5 THE FACTS OF A MATTER AND THEIR CONCLUSIONS AND THESE
6 OPINIONS CONSTITUTE EVIDENCE TO BE CONSIDERED BY YOU IN
7 CONNECTION WITH ALL OF THE OTHER EVIDENCE AND TESTIMONY IN
8 THIS CASE, AND IT IS FOR YOU, THE JURY, TO GIVE IT SUCH
9 WEIGHT AS YOU IN EXPERIENCE AND DISCRETION MAY DETERMINE.
10 BY THIS, I MEAN THAT YOU MUST WEIGH SUCH EVIDENCE AND ACCEPT
11 OR REJECT IT IN THE SAME MANNER AS YOU TREAT ALL OTHER
12 EVIDENCE IN THE CASE.

13 THE VALUE OF EXPERT TESTIMONY DOES NOT DEPEND UPON THE
14 SKILL AND KNOWLEDGE PROFESSED BY EXPERTS, BUT UPON THE SKILL
15 AND KNOWLEDGE THEY ACTUALLY POSSESS. EXPERT TESTIMONY IS
16 GIVEN FOR THE PURPOSE OF ENLIGHTENING YOU AND NOT FOR THE
17 PURPOSE OF CONTROLLING YOUR JUDGMENT. YOU MAY PROCEED, MR.
18 SOLICITOR.

19 MR. POPE: PLEASE THE COURT.

20 Q. DR. MAYNARD, AS PART OF YOUR DUTIES, I CALL YOUR
21 ATTENTION TO JUNE 28TH. THIS WOULD BE MONDAY JUNE 28TH.
22 DID YOU HAVE AN OPPORTUNITY TO CONDUCT AN AUTOPSY IN THIS
23 PARTICULAR CASE?

24 A. YES, SIR, I DID.

25 Q. OKAY. AND COULD YOU TELL THE JURY HOW YOU ACTUALLY

JAMES LOUIS MAYNARD - DIRECT BY MR. POPE:

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1 PROCEED ONCE YOU RECEIVE A VICTIM IN A CASE, WHAT YOU
2 ACTUALLY DO INITIALLY?

3 A. ONCE WE ARE NOTIFIED THERE'S AN AUTOPSY, THE PEOPLE
4 THAT ARE NECESSARY ARE GATHERED TOGETHER, SUCH AS LAW
5 ENFORCEMENT, FORENSICS, ANYONE ELSE THAT MAY HAVE
6 INFORMATION: WE GATHER THE INFORMATION FROM THE INDIVIDUALS
7 AND THEN WE PROCEED TO LOOK AT THE DECEASED -- DECEDENT. WE
8 START WITH AN EXTERNAL EXAM WHERE ANY EVIDENCE THAT NEEDS TO
9 BE COLLECTED IS COLLECTED. THE CLOTHING IS REMOVED. THIS
10 IS EXAMINED. AGAIN, ANY EVIDENCE IS DONE. THEN WE START
11 WITH THE ACTUAL EXAMINATION OF THE DECEASED.

12 Q. AS FAR AS -- BEFORE WE BEGIN WITH THE ACTUAL INJURIES,
13 THE BULLET WOUNDS, WHAT, IF ANY, EXTERNAL ISSUES DID YOU
14 NOTICE AS FAR AS ANY ABRASIONS OR BRUISING OR ANYTHING OF
15 THAT NATURE?

16 A. YES, SIR. MR. BAGLEY HAD THE WOUNDS, BUT HE ALSO HAD
17 SEVERAL ABRASIONS OVER THE BODY. THERE WERE TWO AREAS OF
18 ABRASION OVER THE LEFT FOREHEAD, ONE-HALF-INCH IN SIZE AT
19 THE HAIRLINE. THE OTHER ONE IN THE MIDDLE OF THE FOREHEAD
20 WAS SORT OF AN IRREGULAR AREA. THERE WAS NO DISCOLORATION
21 AROUND THESE AREAS, BUT JUST SIMPLY A FRESH ABRASION. THERE
22 WERE ABRASIONS OVER THE LEFT FLANK AND OVER THE RIBS
23 APPROXIMATELY TWO INCHES IN SIZE. THERE WAS AN ABRASION
24 OVER THE RIGHT KNEE AND SEVERAL ABRASIONS OVER THE RIGHT
25 HAND AROUND THE THUMB. THE LEFT FOURTH AND FIFTH FINGERS

JAMES LOUIS MAYNARD - DIRECT BY MR. POPE:

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1 HAD TWO AREAS OF ABRASION ON THE TOP OF THE NON-PALM SIDE OF
2 IT.

3 Q. AND THE ITEMS THAT YOU OBSERVED, DID YOU DOCUMENT THOSE
4 THROUGH YOUR --

5 A. YES, SIR, I DID.

6 Q. AS WELL AS THE STEPS THAT WAS CONDUCTED THROUGH THE
7 AUTOPSY; IS THAT CORRECT?

8 A. YES, SIR, IT IS.

9 Q. IN ADDITION TO THE PHOTOS THAT YOU MAY TAKE, YOU
10 PREPARED A REPORT; IS THAT CORRECT?

11 A. YES, SIR, I DID.

12 Q. AND YOU ALSO PREPARED A DIAGRAM THAT'S EXHIBITED HERE
13 TODAY?

14 A. YES, SIR, I DID.

15 Q. AND DO YOU HAVE A COPY THERE WITH YOU OF YOUR DIAGRAM
16 ALSO?

17 A. YES, I DO.

18 Q. OKAY. AND I'M REFERRING TO THIS DIAGRAM AS STATE'S
19 EXHIBIT 75. AND DID YOU ALSO NOTE THE INJURIES IN THIS
20 PARTICULAR CASE ON THE DIAGRAM, STATE'S EXHIBIT 75, IN
21 ADDITION TO REFLECTING THEM IN YOUR REPORT?

22 A. YES, I DID.

23 Q. OKAY. AND WHILE WE'RE TALKING ABOUT THE EXTERNAL
24 BRUISING, I WANT TO CALL YOUR ATTENTION PARTICULARLY TO --
25 DOCTOR, IF YOU NEED THE COURT'S PERMISSION IF YOU NEED TO

1 STEP DOWN TO SEE THIS, I WANT TO CALL YOUR ATTENTION TO
2 WHAT'S IN THE PICTURE AS STATE'S EXHIBIT 77, ASK IF YOU CAN
3 TELL THE JURY WHAT THIS PICTURE INDICATES.

4 A. CAN I USE YOUR POINTER?

5 Q. YES, SIR.

6 A. THIS IS THE LEFT PALM OF MR. BAGLEY. THERE IS A LITTLE
7 BLOOD YOU SEE ON BOTH SIDES. THERE'S NO REAL INJURIES OR
8 ANY OTHER PART SHOWING THAN WHAT YOU SEE. THERE MAY BE A
9 LITTLE SOMETHING IN THAT CREASE THERE. LOOKS LIKE IT'S
10 BLOOD FROM HERE.

11 Q. AND SO THERE WERE NO SIGNIFICANT INJURIES ON HIM, BUT
12 YOU DO, IN FACT, NOTE BLOOD; IS THAT CORRECT?

13 A. YES, SIR; THAT'S CORRECT.

14 Q. AND I'LL SHOW YOU NOW WHAT SHOULD BE MARKED STATE'S
15 EXHIBIT 78. CAN YOU TELL ME WHAT THAT SHOWS?

16 A. YES, SIR. THIS IS HIS RIGHT PALM AGAIN AND MAYBE A
17 LITTLE BLOOD IN THAT CREASE, BUT THERE'S NO OTHER INJURIES.
18 YOU SEE THE TOP OF THE THUMB THERE LOOKS COMPLETELY FINE.

19 Q. AND SO AS FAR AS THE HANDS, YOU FOUND NO REAL INJURIES
20 TO THE HANDS, BUT YOU DID FIND SOME SMALL AMOUNT OF BLOOD;
21 IS THAT CORRECT?

22 A. YES, SIR; THAT'S CORRECT.

23 Q. I CALL YOUR ATTENTION BACK NOW TO 75, YOUR DIAGRAM.
24 YOU DOCUMENTED THE VARIOUS WOUNDS BY USING THAT DIAGRAM; IS
25 THAT CORRECT?

JAMES LOUIS MAYNARD - DIRECT BY MR. POPE:

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1 A. YES, SIR; THAT'S CORRECT.

2 Q. OKAY. AND DID YOU ALSO -- ONCE YOU LOCATE OR FIND A
3 WOUND, AS YOU'RE GOING TO INDICATE HERE TO US, DO YOU ALSO
4 TRY TO RECOVER ANY EVIDENCE THAT MAY BE PRESENT IN AN
5 INDIVIDUAL'S BODY?

6 A. YES, SIR, WE DO.

7 Q. OKAY. AND SO IN THIS PARTICULAR CASE, DID YOU ACTUALLY
8 RECOVER VARIOUS BULLET FRAGMENTS BASED ON THE INJURIES THAT
9 YOU SAW?

10 A. YES, WE DID.

11 Q. OKAY. I WANT TO CALL YOUR ATTENTION NOW FIRST TO WHAT
12 YOU HAVE INDICATED AS GUNSHOT WOUND NUMBER 1 AND ASK YOU
13 WHAT, IF ANYTHING, YOU CAN TELL US BASED ON YOUR REPORT AND
14 YOUR OBSERVATION ABOUT GUNSHOT WOUND NUMBER 1.

15 A. THIS IS GUNSHOT WOUND NUMBER 1. I DESCRIBED AS BEING
16 IN THE LEFT CHEST, AND YOU GO BY LANDMARKS, WE MEASURE FROM
17 THE TOP OF THE HEAD. THIS WAS FIFTEEN INCHES DOWN AND SIX
18 INCHES TO THE LEFT OF THE MIDLINE. THE MIDDLE OF THE BODY
19 BEING THE MIDLINE. IT'S ABOVE -- HERE'S THE NIPPLE, BEING
20 ABOVE THE NIPPLE. WE LOOK AROUND THE WOUND TO SEE IF THERE
21 IS ANY POWDER OR STIPPLING OR EVIDENCE OF BURNING AROUND
22 THERE. THERE WAS NO EVIDENCE OF ANY POWDER, DEBRIS OR
23 BURNING AROUND THE WOUND. WE THEN OPEN THE CHEST AND FOLLOW
24 THE PATH OF THE BULLET ON INTO THE CHEST AND LOOK FOR ANY
25 INJURIES THAT OCCURRED THERE.

JAMES LOUIS MAYNARD - DIRECT BY MR. POPE:

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1 Q. OKAY. AND WHAT INJURIES DID YOU OBSERVE ON THIS
2 PARTICULAR WOUND WHICH YOU'RE DESIGNATING AS WOUND NUMBER 1?

3 A. YES. THE BULLET ENTERED THE CHEST INTO THE LEFT CHEST
4 AND THEN WENT ACROSS THE TOP OF THE HEART. THE HEART HAS
5 TWO CORONARY ARTERIES, A RIGHT CORONARY ARTERY AND A LEFT
6 CORONARY ARTERY, AND THEN THE LEFT SPLITS INTO THE
7 CIRCUMFLEX AND ANTERIOR DESCENDING. THE BULLET HIT THE
8 CIRCUMFLEX ARTERY, WHICH IS GOING FROM APPROXIMATELY THE
9 CENTER LINE AROUND THE LEFT SIDE OF THE HEART TOWARD THE
10 BACK AND SO IT CUT THIS ARTERY. IT'S AN ARTERY THAT'S ABOUT
11 HALF THE SIZE OF A -- THE DIAMETER OF A PENCIL, SO IT'S A
12 GOOD-SIZE ARTERY. IT SUPPLIES THE BLOOD TO THE LEFT SIDE
13 AND THE BACK SIDE OF THE HEART. THIS WAS CUT. THE LUNG --
14 OR LACERATED. THE LUNG ON THIS SIDE WAS ALSO TORN WITH THE
15 BULLET GOING THROUGH. THE BULLET THEN WENT TO THE RIGHT
16 CHEST AND WAS IN THE RIGHT LUNG. THERE WAS EXTENSIVE
17 BLEEDING FROM THIS LACERATION OF THE LUNG AND, OF COURSE,
18 THE LACERATION OF THE ARTERY SUPPLYING BLOOD TO THE HEART
19 AND THERE WAS ENOUGH BLOOD THAT FILLED THE LEFT CHEST HERE.
20 IT WAS APPROXIMATELY TWO-THIRDS OF HIS BLOOD SUPPLY OF HIS
21 BODY WAS IN THAT CHEST CAVITY.

22 Q. WAS THAT ALSO DOCUMENTED -- IN ADDITION TO YOUR
23 PHYSICAL OBSERVATION, WAS THAT ALSO DOCUMENTED -- A NUMBER
24 OF THESE WOUNDS DOCUMENTED THROUGH THE X-RAYS?

25 A. YES, SIR, THEY WERE.

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1 Q. AND PER MY REQUEST, DID YOU BRING A NUMBER OF X-RAYS
2 FROM THIS CASE HERE TODAY?

3 A. YES, SIR, I DID.

4 Q. I CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT 130, 131
5 AND 132. DID YOU HAVE A CHANCE TO OBSERVE THOSE -- YOU
6 BROUGHT THEM HERE TODAY AND SINCE THEY WERE MARKED, DO THEY
7 ACCURATELY REFLECT YOUR FINDINGS IN THIS CASE?

8 A. YES, SIR, THEY DO.

9 Q. AND WOULD THEY ASSIST YOU IN EXPLAINING THIS MATTER TO
10 THE JURY?

11 A. YES, SIR, THEY WOULD, IF I MAY.

12 MR. POPE: YOUR HONOR, PREVIOUSLY MARK STATE'S EXHIBITS
13 130, 131 AND 132 I WOULD ASK TO BE ADMITTED INTO EVIDENCE.

14 MR. DELGADO: WITHOUT OBJECTION; YES.

15 THE COURT: ADMITTED WITHOUT OBJECTION.

16 Q. I WANT TO CALL YOUR ATTENTION FIRST TO WHAT I BELIEVE
17 WOULD BE 130 AND WOULD THIS ASSIST YOU IN DESCRIBING THE
18 INJURIES TO THE CHEST FOR THE JURY?

19 A. YES, SIR.

20 Q. WOULD YOU LIKE TO USE THIS?

21 A. THIS IS THE CHEST X-RAY AT AUTOPSY. WE DID THIS PRIOR
22 TO THE AUTOPSY, TRYING TO FIND THE BULLET OR DETERMINE WHERE
23 THE LOCATIONS OF THE BULLET IS. THIS IS THE LEFT CHEST.
24 THIS IS THE SPINE THAT WE'RE SEEING HERE. THIS IS THE RIGHT
25 CHEST. THESE ARE THE RIBS THAT YOU SEE COMING ACROSS. YOU

1 CAN ACTUALLY SEE THE VERTEBRAE HERE. THIS IS A EKG LEAD
2 THAT'S STILL ON THE BODY THAT WHEN EMS ARRIVED, THEY PUT THE
3 EKG LEADS AND LOOKED FOR ANY SIGNS OF CARDIAC OR HEART BEAT,
4 ET CETERA. TYPICALLY THE CHEST IS DARK ON X-RAY. THIS IS
5 DUE TO AIR BEING IN THE LUNGS; THE LUNGS ARE EXPANDED. YOU
6 SEE THE LEFT SIDE OF THE BODY IS NOT DARK, BUT IT'S ACTUALLY
7 LIGHT. THIS IS BECAUSE THE X-RAY OR THE RAYS DO NOT
8 PENETRATE, INDICATING THAT THIS LUNG IS FULL OF BLOOD, SO
9 THIS IS THAT TWO-THIRDS OF HIS BLOOD SUPPLY THAT'S OVER
10 HERE. THE HEART YOU CAN'T SEE BECAUSE IT COVERED BY ALL
11 THIS BLOOD ON THIS SIDE. THERE'S A LITTLE BIT OF IT ON THIS
12 SIDE, PARTICULARLY THE HEART IS IN THIS CONFIGURATION ON --
13 TOWARD THE LEFT SIDE OF THE BODY. THE OBJECT HERE IS A .25
14 CALIBER BULLET. YOU'LL NOTICE THAT THE BULLET IS SMOOTH.
15 IT HASN'T FRAGMENTED. THERE'S NOT ANY OTHER FRAGMENTS ALONG
16 THE PATH. THE PATH IS APPROXIMATELY THIS AREA, FROM THE
17 LEFT SIDE OF THE BODY TO THE RIGHT SIDE AND IT WAS GOING AT
18 A DOWNWARD ANGLE HERE.

19 Q. DOCTOR, YOU RECOVERED -- YOU ACTUALLY RECOVERED THAT --
20 YOU SAID .25 CALIBER BULLET ON THAT ONE; IS THAT CORRECT?

21 A. YES, SIR; THAT'S CORRECT.

22 Q. I SHOW YOU WHAT'S BEEN MARKED AND YOU PREVIOUSLY
23 OBSERVED, STATE'S EXHIBIT 115. I'D ASK IF YOU RECOGNIZE
24 THAT ITEM.

25 A. YES, SIR, I DO.

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1 Q. OKAY. AND YOU ACTUALLY RECOVERED THAT FROM MR.
2 BAGLEY'S BODY; IS THAT CORRECT?

3 A. YES, SIR, I DID.

4 Q. I SHOW YOU PICTURE-WISE STATE'S 85 AND THAT STATE'S
5 EXHIBIT 85 IS A PICTURE OF THE ITEM THAT YOU RECOVERED THERE
6 AT AUTOPSY?

7 A. YES, SIR, IT IS. A WELL-FORMED BULLET WITH MINIMAL
8 DEVIATION OR MINIMAL INJURY TO THE FRONT OF IT.

9 Q. AND THAT WOULD BE -- 115 IS THE ACTUAL ITEM OF PHYSICAL
10 EVIDENCE. DOCTOR, SO WHEN YOU RECOVERED THAT ITEM, WHAT DO
11 YOU PHYSICALLY DO WITH THE BULLET?

12 A. WE LOOK AT ANY FIBERS, ANY FOREIGN MATERIAL, WE DO
13 RECOVER THAT AND THEN THESE ARE PLACED IN A BAG OR A
14 CONTAINER LABELED AND SEALED AND THEN GIVE IT TO FORENSICS.

15 Q. OKAY. AND YOU GIVE IT TO THE FORENSIC UNIT FOR ANY
16 FURTHER PROCESSING---

17 A. YES, SIR.

18 Q. ---THAT THEY MAY HAVE DONE ON IT?

19 A. YES, SIR.

20 Q. OKAY. AND THIS PARTICULAR ITEM, AGAIN, YOU'RE
21 REFERRING TO -- YOU SAID A .25 CALIBER JACKETED BULLET? I'M
22 RECALLING YOUR REPORT; IS THAT CORRECT?

23 A. YES, SIR, IT IS.

24 Q. OKAY. AND I WOULD ASK -- LET ME GO BACK TO YOUR
25 DIAGRAM. FROM AN ENTRY STANDPOINT, IF YOU COULD SHOW ON ME

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1 THE JURY AS FAR AS UP, DOWN, LEFT, RIGHT, FRONT, BACK, WHERE
2 THIS WOULD BE ENTERING, WHERE THIS -- AND THIS IS THE .25
3 CALIBER BULLET.

4 A. YES. THIS BULLET ENTERED THE LEFT CHEST ABOVE THE
5 NIPPLE FIFTEEN INCHES BELOW THE HEAD AND SIX INCHES TO THE
6 LEFT OF THE MIDLINE. THE BULLET ENTERED THERE; IT WENT
7 ACROSS THE BODY, LACERATING THE LEFT LUNG. THE HEART IS
8 BENEATH THE BREASTBONE OR STERNUM AND A LITTLE BIT TO THE
9 LEFT. THE BULLET WENT ACROSS THE TOP OF THIS, LACERATED
10 THAT ARTERY THAT'S GOING TO THE LEFT SIDE OF THE HEART. THE
11 BULLET THEN CONTINUED ON DOWN TO THE OTHER SIDE OF THE BODY
12 AND THE BULLET WAS DOWN AT APPROXIMATELY THIS LEVEL, SO AT A
13 DOWNWARD ANGLE APPROXIMATELY THIRTY DEGREES OR SO.

14 Q. OKAY. NOW, DOES THAT MEAN THAT WHOEVER -- BASED ON
15 YOUR EXPERIENCE, WHOEVER WAS FIRING THE WEAPON WAS UP --

16 A. IT'S CERTAINLY A POSSIBILITY,---

17 Q. OKAY.

18 A. ---UPWARDS OR --

19 Q. WELL, THAT WAS MY QUESTION. DOES THAT AUTOMATICALLY
20 MEAN THAT THEY'RE UP OR IS THERE ANOTHER --

21 A. THERE ARE MANY WAYS YOU CAN TURN, YOU KNOW, SOMEONE.
22 THE BULLET -- A PERSON CAN BE HIGHER SHOOTING DOWNWARD. A
23 PERSON COULD BE LEANING OVER AT LEVEL AND THIS IS BECAUSE
24 THE BODY IS LEANING IN A CERTAIN DIRECTION.

25 Q. OKAY. DID YOU HAVE ANY INDICATION FROM WHERE IT WENT

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1 AND THE ITEMS THAT YOU SAID THAT IT PASSED THROUGH, DID IT
2 CHANGE ITS DIRECTION IN THE BODY OR DO YOU FEEL COMFORTABLE
3 THAT IT'S TRAVELING THAT -- IN OTHER WORDS, IT DIDN'T BOUNCE
4 OFF A RIB AND CHANGE COURSE OR ANYTHING. YOU HAD A STRAIGHT
5 -- I THINK YOU ACTUALLY USED A PROBE; IS THAT CORRECT?

6 A. YES, SIR; THAT'S CORRECT. THE BULLET WENT STRAIGHT
7 ACROSS WITHOUT DAMAGING ANY RIBS. THE BULLET IS MINIMALLY
8 DAMAGED ON THE FRONT OF IT.

9 Q. OKAY. AND WHEN I WAS ASKING YOU ABOUT A PROBE, CAN YOU
10 EXPLAIN TO THE JURY WHAT THAT ACTUALLY IS WHEN YOU PROBE A
11 WOUND FOR DIRECTION?

12 A. YES. WHAT WE'LL DO, IF THERE'S A WOUND WE CAN IDENTIFY
13 IS ACTUALLY TAKE A LONG PROBE, THIS IS A THREE-FOOT, THIN
14 FIBERGLASS ROD AND YOU CAN USUALLY TAKE A PROBE, PUT IT IN
15 THE ENTRANCE WOUND AND THEN FOLLOW THE TRACK OF THE BULLET
16 ALL THE WAY THROUGH UNTIL THE EXIT OR TO THE BULLET.

17 Q. AS FAR AS THE .25 CALIBER, .25 CALIBER, IS THAT SMALLER
18 OR LARGER THAN A .45 CALIBER?

19 A. SMALLER.

20 Q. OKAY. SO AS FAR AS THE .25 CALIBER, IS THIS THE ONLY
21 INJURY THAT YOU OBSERVED CONSISTENT WITH A .25 CALIBER?

22 A. YES, SIR; THAT'S CORRECT.

23 Q. I WANT TO NOW DRAW YOUR ATTENTION TO THE .45 CALIBER
24 WOUND AND YOU HAVE WHAT'S LISTED AS GUNSHOT WOUND NUMBER 2.
25 COULD YOU INDICATE WHAT YOU OBSERVED AS FAR AS GUNSHOT WOUND

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1 NUMBER 2?

2 A. NUMBER 2, AND THESE -- 1, 2, 3, 4 ARE JUST ORDERS THAT
3 WE TOOK THE BULLETS, NOT NECESSARILY WHEN THE BULLETS WERE
4 FIRED OR STRUCK HIM. WOUND NUMBER 2, THAT I LABELED AS
5 NUMBER 2, IS IN THE RIGHT POSTERIOR BUTTOCKS OR LOWER BACK
6 AND THIS IS THIRTY INCHES BELOW THE TOP OF THE HEAD, SO
7 THIRTY INCHES DOWN, AND ONE AND A HALF INCHES TO THE RIGHT
8 OF THE MIDLINE. THE BULLET ENTERED THE SOFT TISSUE AND WENT
9 AT A DOWNWARD ANGLE TO -- AND WAS FOUND IN THE RIGHT THIGH,
10 FORTY INCHES BELOW THE TOP OF THE HEAD, SO IT ENTERED AT
11 THIRTY INCHES AND WAS FOUND AT FORTY INCHES BELOW THE TOP OF
12 THE HEAD AND EIGHT INCHES -- IT ENTERED AN INCH AND A HALF
13 FROM THE MIDLINE. THIS IT'S EIGHT INCHES, SO IT'S IN THE
14 OUTER ASPECT OF HIS RIGHT THIGH. THE BULLET DID NOT --
15 THERE ARE NO MAJOR ORGANS IN THERE. THERE'S JUST BASICALLY
16 MUSCLE AND SOFT TISSUE. SO IT DID NOT ENTER THE ABDOMINAL
17 CAVITY OR KIDNEY AREA, BUT JUST STAYED IN THE SOFT TISSUE IN
18 A LEFT TO RIGHT -- FROM THE LEFT SIDE OF THE BODY TO THE
19 RIGHT SIDE OF THE BODY AND GOING DOWNWARD.

20 Q. OKAY. AND, AGAIN, YOU OBSERVED THERE WAS NOT ACTUALLY
21 AN X-RAY OF THE .45 TO THE BUTTOCKS; IS THAT CORRECT?

22 A. NO, THERE WAS NOT.

23 Q. OKAY. DID YOU HAVE AN OPPORTUNITY TO ALSO LOOK AT THE
24 CLOTHING THAT WAS RECOVERED AT THE SCENE? EMS HAS TESTIFIED
25 THAT THEY HAD REMOVED THE CLOTHING. IS THAT PRETTY STANDARD

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1 COURSE?

2 A. YES, SIR, IT IS---

3 Q. OKAY.

4 A. ---TO GET TO ALL THE VITAL AREAS.

5 Q. OKAY. AND WHEN THEY REMOVE THE CLOTHING, DO THEY PULL
6 OFF THE SHIRT OR HOW DO THEY GO THROUGH THE SHIRT?

7 A. IT'S USUALLY WITH A PAIR OF SCISSORS.

8 Q. OKAY. AND YOU HAD AN OPPORTUNITY TO LOOK AT WHAT'S
9 BEEN MARKED AS STATE'S EXHIBIT 21 IN EVIDENCE, YOU HAD AN
10 OPPORTUNITY AT THAT TIME AND TO REVIEW THE PICTURES OF THE
11 SHIRT THAT HE WAS WEARING AND THE BACK OF THE SHIRT THAT MR.
12 BAGLEY WAS WEARING; IS THAT CORRECT?

13 A. YES, I HAVE.

14 Q. OKAY. I WANT TO CALL YOUR ATTENTION NOW TO STATE'S
15 EXHIBIT 93, WHICH, AGAIN, IS ONE OF THE PHOTOS. IF YOU
16 COULD DESCRIBE TO THE JURY JUST BASICALLY WHAT THAT IS AND
17 WHAT THAT INDICATES.

18 A. THIS IS THE SHIRT MR. BAGLEY HAD ON. THERE IS A TAPE
19 MEASURE HERE. YOU CAN SEE A LOT OF BLOOD ON THE SHIRT ARMS.
20 YOU CAN SEE THAT THESE HAVE BEEN CUT OR TORN AND APPARENTLY
21 BY EMS WHEN THEY WERE TAKEN OFF.

22 Q. OKAY. AND AS YOU PROGRESS CLOSER, I NOTICE THAT THIS
23 IS THE BACK OF THE SHIRT AND THE INDICATION OF THE HOLE.
24 DID I UNDERSTAND YOU TO SAY THAT -- YOU SAID IT WAS
25 TRAVELING LEFT TO RIGHT; IS THAT CORRECT?

1 A. YES, SIR, THAT IS.

2 Q. SO, ROUGHLY, THIS IS THE OUTER GARMENT. THIS IS JUST
3 KIND OF THE LEFT INNER SIDE OF IT; IS THAT CORRECT?

4 A. YES, SIR; THAT'S CORRECT. AND THERE'S THE HOLE THERE.

5 Q. OKAY. AND THEN I CALL YOUR ATTENTION NOW TO STATE'S
6 EXHIBIT 96, WHICH, AGAIN, WOULD BE THE INNER GARMENT. CAN
7 YOU TELL -- THE BACKSIDE OF THE INNER GARMENT. CAN YOU TELL
8 US DOWN ON THE RIGHT SIDE WHAT THAT, AGAIN, INDICATES?

9 A. THIS -- THERE'S A LOT OF BLOOD. THERE'S ACTUALLY SOME
10 CLOTTED BLOOD IN THAT AREA AND THERE'S -- DO YOU HAVE A --
11 OKAY. THANK YOU. THERE'S A PICTURE OF A LARGER HOLE IN THE
12 GARMENT RIGHT ALONG THE EDGE OF IT.

13 Q. AND, AGAIN, I NOTICE THAT -- LET'S SEE, THAT WAS
14 STATE'S EXHIBIT 97 AND, OF COURSE, ULTIMATELY 98. THE FIRST
15 THREE PICTURES, 93, 94 AND 95, OF THE GARMENT WERE KIND OF
16 LEFT OF CENTER, THE HOLE WAS, AND THEN THIS IS RIGHT OF
17 CENTER. IS THAT CONSISTENT WITH THE DIRECTION OF TRAVEL
18 THAT YOU SAW FROM THIS BULLET?

19 A. YES, SIR, IT IS.

20 Q. OKAY. SO, AGAIN, FOR THE JURY IF YOU COULD SHOW ON MY
21 BACK THE DIRECTION OF TRAVEL AS TO THIS PARTICULAR INJURY.

22 A. THE BULLET ENTERED, AGAIN, THIRTY INCHES BELOW THE TOP
23 OF THE HEAD AND ONE AND A HALF INCHES FROM THE CENTER OF THE
24 SPINE IN THIS AREA. TEN INCHES DOWN BELOW THERE WE FOUND
25 THE BULLET IN THE RIGHT THIGH, SO, AGAIN, FROM LEFT TO

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1 RIGHT, BACK TO SLIGHTLY FRONTWARD, SO IT'S GOING INTO THE
2 THIGH, AND THEN, OF COURSE, A TEN-INCH DOWNWARD ANGLE.

3 Q. OKAY. AND, AGAIN, AS FAR AS THE ACTUAL PROJECTILE IN
4 THIS PARTICULAR CASE THAT YOU'VE INDICATED AS GUNSHOT WOUND
5 TWO, YOU RECOVERED THAT ALSO?

6 A. YES, SIR, I DID.

7 Q. OKAY. AND I SHOW YOU WHAT'S BEEN MARKED STATE'S
8 EXHIBIT 117 INTO EVIDENCE. IF YOU COULD -- ASK IF YOU COULD
9 IDENTIFY THAT.

10 A. YES, SIR, I CAN.

11 Q. AND WHAT IS THAT OBJECT?

12 A. THIS IS A SEMI-JACKETED .45 CALIBER BULLET THAT I
13 REMOVED FROM THE RIGHT SIDE OF MR. BAGLEY.

14 Q. STATE'S EXHIBIT 87, IS THAT A CLOSE-UP OF THE ITEM THAT
15 YOU'RE ACTUALLY HOLDING IN YOUR HAND?

16 A. YES. YES, SIR, IT IS. THIS IS THE FRONT OF THE BULLET
17 AND THIS IS THE JACKET THAT IS PEELED BACK.

18 Q. AND THEN 88 OF THE SAME ITEM, WHAT IS --

19 A. YES, SIR. THIS IS THE BACK END. THIS WOULD BE THE --
20 WHAT'S IN THE ACTUAL CASING OF THE BULLET AND THIS IS WHAT'S
21 NEXT TO THE POWDER THERE, THE JACKET HAS BEEN PEELED BACK AS
22 IT WAS CUT TO DO.

23 Q. OKAY. AND THIS ITEM, STATE'S EXHIBIT 117, AGAIN, YOU
24 DISTINGUISHED FROM THIS -- YOU SAID A .25, WHICH IS STATE'S
25 EXHIBIT 115.

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1 A. YES, SIR. I'M SORRY.

2 Q. EXCUSE ME. IS A SMALLER PIECE OF LEAD THAN THE 117,
3 THE .45; IS THAT CORRECT?

4 A. MUCH SMALLER. TYPICALLY, THEY ARE ABOUT ONE-FIFTH THE
5 SIZE.

6 Q. DOCTOR, I NOW CALL YOUR ATTENTION -- WELL, BEFORE WE
7 LEAVE THAT WOUND OR THE EARLIER WOUND, COULD YOU EXPLAIN TO
8 THE JURY JUST BASICALLY WHEN YOU TALK ABOUT THE STIPPLING
9 AND YOU TALKED ABOUT A DISTANT WOUND VERSUS A CLOSE WOUND,
10 WHAT THAT MEANS?

11 A. YES, SIR. STIPPLING IS RESIDUE OF POWDER, RESIDUE FROM
12 THE PRIMER OF A BULLET THAT WHEN THE BULLET IS FIRED, YOU
13 HAVE, OF COURSE, FIRE COMING OUT OF THE BARREL OF THE BULLET
14 -- BARREL OF THE GUN -- EXCUSE ME -- AND THE BULLET. THE
15 FIRE, DEPENDING ON THE TYPE OF GUN AND THE TYPE OF LOAD,
16 WILL ACTUALLY BURN SOMETHING. THIS IS, BY OUR TERMS, A
17 CONTACT OR EXTREMELY CLOSE THAT THE FIRE MAY GO OUT AN INCH,
18 TWO INCHES OR THREE INCHES, DEPENDING ON THE TYPE OF GUN,
19 AND THAT'S WHAT WE DETERMINE A CLOSE WOUND. THE STIPPLING
20 GOES A LITTLE FARTHER BACK. THE STIPPLING IS THIS POWDER
21 DEBRIS AND THE PRIMER MATERIAL THAT'S STILL IN -- WAS IN THE
22 PRIMER THAT FIRED, AND THIS WILL ACTUALLY -- FRAGMENTS OF
23 METAL OR THE POWDER ITSELF THAT WILL EMBED THEMSELVES IN THE
24 SKIN AND WILL CAUSE LITTLE, SMALL, BLACK PUNCTATE LITTLE
25 ALMOST PINPRICKS AROUND A WOUND. AND WE CAN DETERMINE ALONG

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1 WITH SLED OR OTHER LAW ENFORCEMENT APPROXIMATELY HOW FAR THE
2 GUN WAS. IF IT WAS A CLOSE WOUND OR A CONTACT WOUND, WE'LL
3 SEE BURNING AROUND THE WOUND ITSELF. IF IT'S BACK MORE THAN
4 A COUPLE OF INCHES, WE'LL TYPICALLY SEE STIPPLING AND AFTER
5 ABOUT SIX INCHES WE SEE NOTHING BECAUSE THE POWDER'S JUST
6 BLOWN AWAY. SO DISTANCE TO US IS USUALLY ABOUT ANYTHING
7 FROM SIX INCHES TO INFINITY OUT THERE. IT COULD A HUNDRED
8 FEET.

9 Q. SO, IN OTHER WORDS, WHEN YOU SAY DISTANCE, IT DOESN'T
10 NECESSARILY MEAN ALL THE WAY OVER HERE. YOU'RE SAYING
11 ANYTHING OUTSIDE OF THE ROUGHLY SIX INCHES?

12 A. SIX INCHES.

13 Q. I NOW CALL YOUR ATTENTION, AND JUST FOR CLARIFICATION,
14 BOTH THE .25 CALIBER AND THE .45 THAT WE JUST LOOKED AT,
15 WHICH IS YOUR WOUND ONE AND WOUND TWO,---

16 A. YES.

17 Q. ---YOU DETERMINED THE DISTANCE, IN OTHER WORDS, MORE
18 DISTANCE THAN SIX INCHES?

19 A. YES, SIR; THAT'S CORRECT.

20 Q. I NOW CALL YOUR ATTENTION WHAT YOU'VE INDICATED AS
21 GUNSHOT WOUND NUMBER 3 AND ASK WHAT IDENTIFICATION YOU CAN
22 GIVE TO THAT. I WILL GO BACK TO YOUR DIAGRAM, STATE'S
23 EXHIBIT 75.

24 A. YEAH. THIS IS WOUND NUMBER 3 IN THE LEFT FOREARM,
25 LATERAL FOREARM, OUTSIDE THE FOREARM. THIS WAS TWENTY-SIX

1 INCHES BELOW THE TOP OF THE HEAD. SO, AGAIN, FROM THE TOP
2 OF THE HEAD TWENTY-SIX INCHES DOWN, SIXTEEN INCHES BELOW THE
3 SHOULDER AND THREE INCHES BELOW THE ELBOW, WHICH WOULD BE IN
4 THIS AREA. THE BULLET ENTERED THIS AREA AND THEN EXITED THE
5 OTHER SIDE ON THE INNER SIDE OF THE LEFT FOREARM.

6 Q. OKAY. AND SO WHEN YOU SAY EXITED, THE ACTUAL MASS OF
7 THE BULLET, THE LARGER PART, THE CORE OR WHATEVER THEY CALL
8 IT, THE LARGER PART OF THE BULLET, DID YOU RECOVER THAT ONE
9 OUT OF MR. BAGLEY'S LEFT ARM?

10 A. I RECOVERED SOME FRAGMENTS AND A LITTLE BIT OF LEAD,
11 BUT THE MAIN CORE HAD GONE ON THROUGH AND IT WAS NOT
12 RECOVERED BY US.

13 Q. AND THAT ITEM 119, STATE'S EXHIBIT 119, DID YOU TAKE
14 THOSE FRAGMENTS AND, AGAIN, RECOVER THEM AND TURN THEM OVER
15 TO LAW ENFORCEMENT?

16 A. YES, SIR, I DID.

17 Q. AND I WILL SHOW YOU BY WAY OF PICTURE, DOES THAT APPEAR
18 TO BE THE FRAGMENTS THAT WOULD BE CONTAINED IN STATE'S
19 EXHIBIT 119?

20 A. YES, SIR. THESE ARE JACKETED AND THAT LOOKS -- APPEARS
21 TO BE LEAD THERE.

22 Q. OKAY. BASED ON WHAT YOU WERE OBSERVING OF THE WOUNDS
23 THEMSELVES, DID IT APPEAR THAT THE ENTRY TO THE ELBOW IN
24 YOUR WOUND THREE, COULD YOU DETERMINE FROM THE SIZE OF THE
25 WOUND WHETHER IT WAS MORE LIKELY, BASED ON YOUR EXPERIENCE,

1 CAUSED BY THE .25 OR THE .45?

2 A. THE WOUND IN THE LEFT ELBOW WAS CAUSED BY A .45 CALIBER
3 GUN OR BULLET, ONE, DUE TO THE DESTRUCTION OF IT, TWO, THE
4 SIZE OF THE FRAGMENTS THAT STILL REMAINED.

5 Q. AND, ALSO, IN THIS PARTICULAR INCIDENT YOU HAVE, I
6 BELIEVE, BEEN MARKED AS STATE'S EXHIBIT 131, WHICH WAS THE
7 X-RAYS OF THE ELBOW, TO SHOW WHERE THOSE FRAGMENTS WERE
8 LOCATED?

9 A. YES, SIR. THERE WE GO. THANK YOU. THIS IS THE X-RAY
10 OF THE ELBOW, THE -- THIS IS THE ELBOW JOINT ITSELF. THIS
11 IS THE UPPER -- BONE IN THE UPPER ARM AND APPROXIMATELY
12 THREE INCHES BELOW THIS ELBOW JOINT, YOU CAN SEE THESE
13 FRAGMENTS. THESE ARE THE LEAD FRAGMENTS. THERE'S ONE IN A
14 PIECE OF THE BONE THERE. THE BONE IS FRACTURED. THIS IS --
15 WHEN YOU LOOK AT THE OUTSIDE OF THE BONE, IT SHOULD BE NICE
16 AND SMOOTH AND YOU CAN SEE HERE THERE'S A FRACTURE WITH THE
17 FRAGMENTS OF BONE, BUT THIS ONE IS COMPLETELY BROKEN IN TWO.
18 THERE'S A FRACTURE THERE AND THEN THERE'S JUST FRAGMENTS OF
19 THE BONE. THE BONE GOES AROUND TO THE -- THE ARM IS TURNED
20 A LITTLE BIT AND THE BONE -- THE REST OF THE BONE IS
21 ACTUALLY ON THE OTHER SIDE, THIS BEING THE REST OF THE BONE
22 GOING UP TO THE ELBOW JOINT. SO THESE ARE THE PIECES THAT I
23 RECOVERED OUT OF HIS --

24 Q. AND, AGAIN, DOCTOR, LET ME MAKE SURE FROM AN
25 ORIENTATION STANDPOINT, THIS IS UP; IS THAT -- THAT CORRECT?

1 A. YES, SIR. THIS IS HIS UPPER ARM, ELBOW AND THIS IS THE
2 LOWER ARM OR FOREARM.

3 Q. SO ON THE LEFT ARM, YOU SAID ENTRANCE IN THE BACK OF
4 THE ARM AND EXIT OUT THE FRONT?

5 A. YES. WENT IN THREE INCHES BELOW THE ELBOW ON THE OUTER
6 OR WHAT WE CALL THE LATERAL SIDE AND THEN EXITED ON THE
7 INNER SIDE OF THE ARM.

8 Q. DID YOU HAVE ANY INDICATION OF RE-ENTRY ON THAT
9 PARTICULAR LEAD? IN OTHER WORDS, WAS THERE ANY INJURY THAT
10 MATCHED THAT THAT WOULD HAVE GONE ON INTO THE BODY OR
11 ANYTHING LIKE THAT?

12 A. NO, SIR; THERE WAS NOT.

13 Q. I'LL TAKE THIS OPPORTUNITY TO ASK YOU BOTH AS TO THE
14 ELBOW WOUND AND AS TO THE BUTTOCKS WOUND, WERE EITHER ONE OF
15 THOSE FATAL?

16 A. NO, SIR; THEY WERE NOT.

17 Q. OKAY. AND THE DAMAGE THAT YOU SAID AS TO THE BUTTOCK,
18 IT MISSED THE VITAL ORGANS IN ITS TRAVEL?

19 A. YES; THAT'S CORRECT. NO VITAL ORGANS OR VESSELS WERE
20 DAMAGED.

21 Q. OKAY. AND THIS WOULD BE CONSIST ENTIRELY OF BONE
22 DAMAGE AND FLESH DAMAGE?

23 A. YES, SIR. THE ARTERY THAT GOES ALONG THIS AREA WAS NOT
24 DAMAGED.

25 Q. OKAY. I NOW WANT TO CALL YOUR ATTENTION BACK TO YOUR

1 DIAGRAM, WHAT YOU'VE GOT AS WOUND NUMBER 4. AND, FIRST, YOU
2 NOTED THIS BRIEFLY, BUT ON THE BODY DIAGRAM IS FACING
3 FORWARD, I NOTICED SOME APPARENTLY SUBSTANTIAL MARKINGS
4 AROUND THE FOREHEAD. COULD YOU INDICATE TO THE JURY WHAT
5 THAT ITEM IS?

6 A. THESE ARE IRREGULAR AREAS OF ABRASION THAT I WAS
7 TALKING ABOUT EARLIER. THESE ARE FRESH AREAS OF ABRASION
8 AND THERE'S ANOTHER LITTLE AREA ON THE RIGHT KNEE I WAS
9 REFERRING TO.

10 Q. AND LIKEWISE ON THE LEFT BACK, IS THAT ABRASION AREA
11 ALSO?

12 A. YES, SIR, IT IS.

13 Q. SO NOW I'D ASK YOU TO REFER TO THE DIAGRAM AND TELL THE
14 JURY WHAT YOU FOUND AS FAR AS GUNSHOT WOUND FOUR.

15 A. THE WOUND NUMBER 4 IS IN THE BACK OF THE RIGHT HEAD.
16 THIS IS TWO INCHES BELOW THE TOP OF THE HEAD AND ONE AND A
17 HALF INCHES TO THE RIGHT OF THE MIDLINE. THIS IS THE AREA
18 OF ENTRANCE OF THE BULLET THERE.

19 Q. OKAY. AND CAN YOU TELL THE JURY WHAT -- WHERE DID IT
20 ACTUALLY GO AND WHAT DID IT ACTUALLY DO?

21 A. THE BULLET ENTERED THE SCALP, STRUCK THE SKULL, CAUSING
22 MASSIVE DESTRUCTION OF THE SKULL. THE BULLET DID NOT ENTER
23 OR PENETRATE THE SKULL, BUT ACTUALLY JUST CRUSHED IT INWARD.
24 THE BULLET THEN TRAVELED SOMEWHAT UPWARD AND WAS PARTIALLY
25 STICKING OUT OF THE SCALP AT THE TIME OF AUTOPSY, SO THE

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1 BULLET WAS FROM THE DECEDENT'S RIGHT SIDE TO HIS LEFT SIDE
2 AND SLIGHTLY UPWARD AND BACK TO FRONT, AND WE FOUND MOST OF
3 THE BULLET IN THE SCALP AT THIS AREA.

4 Q. AND DID YOU, AGAIN, RECOVER THAT ITEM?

5 A. YES, SIR, I DID.

6 Q. OKAY. AND THE BULLET THAT YOU FOUND IN THE SCALP, WAS
7 IT CONSISTENT WITH A .25 CALIBER OR A .45 CALIBER?

8 A. A .45 CALIBER.

9 Q. AND DID YOU LIKEWISE RECOVER THAT AND TURN IT OVER TO
10 LAW ENFORCEMENT FOR FURTHER TESTING?

11 A. YES, SIR, I DID.

12 Q. OKAY. AND STATE'S EXHIBIT 118, YOU PREVIOUSLY HAD AN
13 OPPORTUNITY TO LOOK AT THIS ITEM ALSO?

14 A. YES, SIR; THAT'S CORRECT.

15 Q. AND THAT WAS THE ITEM THAT YOU TURNED OVER?

16 A. YES. THIS IS MOST OF THE JACKET, ALONG WITH SOME OF
17 THE LEAD FROM THE BULLET.

18 Q. DOCTOR, I'LL REFER TO PHOTOGRAPHS -- I BELIEVE IT'S
19 GOING TO BE 8 AND 9 AND ASK IF YOU CAN INDICATE TO THE JURY
20 WHAT THAT ITEM IS.

21 A. YES, SIR. THIS IS THE JACKET OR THE COPPER JACKET OF
22 THE BULLET. THIS IS THE -- WHERE THE BULLET WOULD BE
23 SITTING OR THE LEAD AND THESE ARE THE LEAD FRAGMENTS OF WHAT
24 WE RECOVERED.

25 Q. AND THOSE ITEMS ARE REFLECTED IN THIS EXHIBIT, STATE'S

1 EXHIBIT 118, AND YOU COLLECTED THOSE FROM MR. BAGLEY AND
2 SENT THEM TO SLED?

3 A. YES, SIR, I DID.

4 Q. OKAY. YOU ALSO, I BELIEVE, HAD AN X-RAY THAT'S STATE'S
5 EXHIBIT 132 OF THE HEAD INJURY; IS THAT CORRECT?

6 A. YES, SIR, I DO.

7 Q. OKAY. WOULD YOU PUBLISH THAT TO THE JURY, PLEASE?

8 A. THIS IS THE X-RAY OF THE SKULL. THIS IS THE RIGHT SIDE
9 OF THE HEAD. THIS IS AN X-RAY LOOKING FROM THE FRONT TO THE
10 BACK. THIS WOULD BE WHERE THE EYES ARE. THIS IS THE NOSE
11 AREA AND THE JAW IS DOWN HERE. THIS IS THE FRAGMENTS OF
12 BULLET THAT ARE THERE AND THIS IS IN THE -- FROM THE RIGHT
13 SIDE TO THE LEFT SIDE AND THERE'S A COUPLE OTHER LITTLE
14 FRAGMENTS. THESE APPEAR TO BE SKULL BONE. THESE DARKER
15 LINES, GOING ALONG THIS LINE, THERE'S ONE GOING ALONG THIS
16 LINE, ARE FRACTURE LINES. THESE ARE BREAKS IN THE BONE.
17 THIS IS ACTUALLY A PIECE OF THE SKULL, THIS AREA HERE, THAT
18 WAS BLOWN INTO THE BRAIN THAT CAUSED MASSIVE DESTRUCTION TO
19 THE BRAIN. WHEN THE BULLET HIT IT, HIT THE SKULL, IT DID
20 NOT GO THROUGH THE SKULL, IT ACTUALLY JUST CAUSED A LARGE
21 FRAGMENT OF THE SKULL TO BE BLOWN INTO THE BRAIN AND THEN
22 THE BULLET OR THE REMAINDER OF THE JACKET WAS FOUND STICKING
23 OUT OF THE SCALP ON THIS SIDE.

24 Q. AND, DOCTOR, THERE'S BEEN SOME TESTIMONY FROM EMS
25 CONCERNING BRAIN MATTER IN THE MOUTH. IF THE BULLET DOESN'T

1 ACTUALLY GO INTO THE SKULL, HOW CAN THAT BE POSSIBLE?

2 A. THIS IS PRETTY COMMON WITH MAJOR INJURIES TO THE SKULL,
3 THAT A BLOW TO THE BRAIN CAN ACTUALLY CAUSE DESTRUCTION OF
4 THE BRAIN, WHICH HAPPENED IN THIS CASE WHERE SKULL BONE WAS
5 BLOWN INTO THE BRAIN. THE BRAIN IS THEN FORCED -- THE BRAIN
6 IS REAL TIGHT INSIDE THE SKULL. THE BRAIN, BECAUSE OF
7 PRESSURE THAT'S BUILT UP FROM THIS BLOW, HAS TO GO SOMEWHERE
8 AND WHAT HAPPENS IS TYPICALLY IN THE NOSE AREA HERE, THIS IS
9 A REAL THIN PLATE OF BONE THAT EXTENDS BETWEEN YOUR SKULL,
10 BETWEEN YOUR BRAIN AND WHAT WE CALL THE NASOPHARYNX OR THE
11 UPPER PART OF THE RESPIRATORY TRACT, BEING THE NOSE AND
12 MOUTH, AND THIS THIN, LESS-THAN-A-SIXTEENTH-OF-AN-INCH-IN-
13 THICKNESS BONE CAN EASILY BE BROKEN AND THE BRAIN PUSHED
14 THROUGH THERE WITH SUCH FORCE THAT YOU'LL ACTUALLY SEE BRAIN
15 TISSUE IN THE NOSE AND IN THE MOUTH, WHICH WOULD BE DOWN
16 HERE.

17 Q. WOULD THAT BE CONSISTENT WITH THE INJURIES THAT YOU
18 OBSERVED FROM THE AUTOPSY?

19 A. YES, SIR, IT WOULD.

20 Q. AND CAN YOU TELL THE JURY, MUCH LIKE YOU EXPLAINED WITH
21 THE WOUND TO THE CHEST AND WHAT OCCURRED, CAN YOU TELL WHAT
22 DAMAGE WOULD ACTUALLY HAVE OCCURRED TO MR. BAGLEY BASED ON
23 THIS PARTICULAR WOUND?

24 A. THERE WAS MASSIVE DAMAGE TO THE BRAIN. ONE, WE'VE GOT
25 FRAGMENTS OF THE SKULL THAT'S ACTUALLY TEARING INTO THE

1 BRAIN WHERE WE'VE GOT ALL THIS FORCE BEHIND THIS BULLET WITH
2 MASSIVE DISTORTION OF THE BRAIN ITSELF. IT'S COMPRESSED;
3 IT'S BANGED UP AGAINST THE SIDES OF THE SKULL. IT'S BANGED
4 DOWNWARD WHERE IT BROKE THE LITTLE PLATE IN THE NOSE,
5 FORCING BRAIN TISSUE OUT INTO THE NOSE, INTO THE MOUTH.
6 THIS AREA WHERE THIS BONE WENT INTO THE MID-BRAIN AREA.
7 THIS IS THE AREA THAT YOUR BODY CONTROLS RESPIRATORY AND
8 HEART BEAT. WITH DAMAGE TO THAT, OF COURSE, YOU KNOW,
9 EVENTUALLY THESE ORGANS WILL CEASE TO FUNCTION.

10 Q. SO YOU CONSIDER THIS A FATAL WOUND ALSO?

11 A. YES, SIR. CERTAINLY.

12 Q. SO THE .25 TO THE CHEST WOULD HAVE BEEN FATAL, AS WELL
13 AS THE .45 TO THE HEAD?

14 A. YES, SIR; THAT'S CORRECT.

15 Q. DOCTOR, THE CLOTHING THAT WAS RECOVERED AT AUTOPSY, IT
16 WAS TURNED OVER TO LAW ENFORCEMENT?

17 A. YES, SIR; THAT'S CORRECT.

18 Q. THE BULLETS THAT, AS YOU'VE INDICATED, WERE ALL TURNED
19 OVER TO LAW ENFORCEMENT?

20 A. YES, THEY WERE.

21 Q. PRIOR TO ACTUALLY BEGINNING YOUR IN-DEPTH EXAM, DID YOU
22 ALLOW LAW ENFORCEMENT THE OPPORTUNITY TO DO WHAT'S CALLED A
23 GSR KIT OR A GUNSHOT RESIDUE KIT ON MR. BAGLEY?

24 A. YES, SIR, I DID.

25 Q. OKAY. AND ONE OF THE MEMBERS OF THE FORENSIC SERVICES

1 UNIT WAS PRESENT THERE AT AUTOPSY; IS THAT CORRECT?

2 A. YES; THAT'S CORRECT.

3 Q. OKAY. AND DID HE COLLECT THAT KIT AND RETAIN IT FOR
4 EVIDENCE TO SEND TO SLED ALSO?

5 A. YES, SIR. THEY DID A FINGERPRINTS KIT.

6 Q. SO THEY PRINTED MR. BAGLEY AS WELL AS THE GUNSHOT
7 KIT PRIOR TO YOU GETTING INTO THE DETAILS OF YOUR
8 AUTOPSY?

9 A. YES, SIR.

10 Q. OKAY. THANK YOU. YOU CAN HAVE A SEAT, PLEASE, DOCTOR.
11 DOCTOR, OTHER THAN THE ITEMS THAT YOU'VE INDICATED, THE
12 PHYSICAL ABRASIONS, THE ARM INJURY, THE INJURY TO THE
13 BUTTOCKS AND THEN THE TWO FATAL INJURIES, OTHER THAN THOSE
14 INJURIES, DID YOU SEE ANY OTHER INTERVENING CAUSE, IN OTHER
15 WORDS, ANY OTHER CAUSE OF DEATH OTHER THAN THESE TWO
16 GUNSHOTS?

17 A. NO. HE WAS A HEALTHY GENTLEMAN.

18 Q. OKAY. AND DID YOU MAKE A DETERMINATION AS TO THE CAUSE
19 OF DEATH BASED ON THE TOTALITY, BASED ON YOUR EXPERIENCE AND
20 BASED ON THIS AUTOPSY AND YOUR INVESTIGATION?

21 A. YES, I DID.

22 Q. AND WHAT WAS THAT?

23 A. THE CAUSE OF DEATH WAS MULTIPLE GUNSHOT WOUNDS TO THE
24 HEAD AND TO THE CHEST.

25 Q. AND DID YOU DETERMINE THE MANNER OF DEATH?

JAMES LOUIS MAYNARD - CROSS BY MR. DELGADO:

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1 A. MANNER OF DEATH WAS HOMICIDE.

2 Q. ALL RIGHT.

3 MR. POPE: BEG THE COURT'S INDULGENCE. ANSWER ANY
4 QUESTIONS OF MR. DELGADO MAY HAVE.

5 CROSS-EXAMINATION

6 JAMES LOUIS MAYNARD BY MR. DELGADO:

7 Q. DOCTOR, GOOD AFTERNOON.

8 A. GOOD AFTERNOON, SIR.

9 Q. DOCTOR, LET ME SEE IF I CAN PLACE SOME OF THIS IN
10 PERSPECTIVE FROM A DEFENSE SIDE. YOU CANNOT, TO ANY DEGREE
11 OF MEDICAL CERTAINTY, SAY WHICH OF THE FOUR SHOTS RECEIVED
12 BY MR. BAGLEY, IN THE BUTTOCKS, IN THE ARM, IN THE LEFT
13 CHEST OR IN THE HEAD, WHICH CAME FIRST, CAN YOU?

14 A. NO, SIR, I CAN'T.

15 Q. IT IS MORE LIKELY, IS IT NOT, SIR, THAT THE SHOT TO THE
16 LEFT CHEST WAS CHRONOLOGICALLY THE FIRST SHOT. WOULD THAT
17 BE FAIR?

18 A. IT'S CERTAINLY A POSSIBILITY.

19 Q. YES, SIR. THE REASON FOR THAT, SIR, IS BECAUSE AS IT
20 TRANSECTED THE BODY, IT CUT ARTERIES AND BLOOD FLOWED FROM
21 EITHER THIS WOUND, AS WE'VE SEEN ON THE VARIOUS PICTURES,
22 THAT THE BLOOD FLOW WOULD NOT HAVE OCCURRED IF THE WOUND TO
23 THE BACK OF THE HEAD OCCURRED FIRST, IS THAT CORRECT?

24 A. HE WAS ALIVE AT THE TIME THAT THE SHOT OCCURRED TO THE
25 HEART.

1 Q. YES, SIR.

2 A. THE WOUND TO THE HEAD MAY HAVE KILLED HIM INSTANTLY OR
3 HE MAY HAVE LIVED FOR A FEW MINUTES AND SO TEMPORALLY, YOU
4 KNOW, THE LEFT CHEST WOUND OR THE CHEST WOUND CAUSED
5 SIGNIFICANT BLEEDING. IT TOOK SEVERAL MINUTES FOR THIS TO
6 BLEED OUT.

7 Q. YES, SIR. I GUESS WHAT I'M SAYING, SIR, OBVIOUSLY
8 EITHER OF THOSE TWO SHOTS, THE SHOT TO THE CHEST OR THE SHOT
9 TO THE HEAD, WAS A FATAL GUNSHOT WOUND?

10 A. BOTH OF THOSE --

11 Q. HE WOULD HAVE DIED FROM EITHER OF THOSE?

12 A. YES, SIR.

13 Q. BUT IT'S MORE LIKELY THAN NOT THAT THE GUNSHOT WOUND TO
14 THE LEFT CHEST OCCURRED FIRST BECAUSE OF THE BLOOD FLOW THAT
15 RESULTED; ISN'T THAT FAIR?

16 A. MORE PROBABLY, YES, SIR.

17 Q. ALL RIGHT. NOW, ONE OF THE THINGS THAT WE DO AT
18 AUTOPSY IS NOT ONLY DO YOU EXPLORE THE WOUND AND YOU RECOVER
19 WHAT YOU CAN FROM INSIDE THE WOUND, YOU TAKE BODILY FLUIDS
20 FOR EVALUATION AS WELL, DO YOU NOT, SIR?

21 A. YES, WE DO.

22 Q. ONE OF THE THINGS THAT WE DID WAS, IN YOUR AUTOPSY, AS
23 YOU DO IN ALL AUTOPSIES, YOU TOOK BLOOD FROM THE BODY TO
24 HAVE THAT EVALUATED BY THE TOXICOLOGIST AT THE STATE LAW
25 ENFORCEMENT DIVISION; CORRECT?

JAMES LOUIS MAYNARD - CROSS BY MR. DELGADO:

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1 A. YES, SIR, I DID.

2 Q. ALL RIGHT. OR DO YOU, HERE IN YOUR COUNTY, DO Y'ALL DO
3 THAT HERE IN --

4 A. IT VARIES. IN HOMICIDES THE STATE LAW ENFORCEMENT
5 DIVISION DOES IT.

6 Q. DOCTOR, WHEN MR. POPE OR MR. THOMPSON TALK ABOUT FSU,
7 THAT'S THE FORENSIC SERVICES UNIT OF THE SHERIFF'S
8 DEPARTMENT OR THE ROCK HILL POLICE DEPARTMENT; IS THAT
9 CORRECT?

10 A. A JOINT --

11 Q. IT'S A JOINT --

12 A. YES, SIR.

13 Q. SO WHAT YOU DO IS YOU TURN OVER THINGS LIKE THE
14 BULLETS, THE FRAGMENTS, THE BLOOD, WHATEVER ELSE YOU FIND,
15 YOU TURN THAT OVER TO FSU?

16 A. YES, SIR, I DO.

17 Q. ALL RIGHT, SIR. IT IS DIFFICULT, IF NOT IMPOSSIBLE, TO
18 TELL, SIR, BUT DEPENDING ON THE ANGLES, HOW THE BODY MOVES
19 AFTER THE FIRST OR THE SECOND SHOT, WHERE PEOPLE WERE
20 POSITIONED FOR THIS -- THESE SERIES OF FOUR SHOTS TO THE
21 BODY OF MR. BAGLEY. WOULD THAT BE A FAIR STATEMENT?

22 A. YES, SIR, IT WOULD.

23 Q. ALL RIGHT. BECAUSE THESE FOUR SHOTS COULD HAVE
24 OCCURRED FROM BOTH THE .25 AND THE .45 WITHIN A MATTER OF A
25 SECOND, SECOND AND A HALF?

1 A. IN REASONABLY SHORT TIME FRAMES, EXCEPT FOR THE ONE TO
2 THE HEAD.

3 Q. YES, SIR. WOULD THAT BE -- WOULD -- I'M JUST SAYING A
4 SECOND -- IN A SECOND ALL FOUR OF THOSE SHOTS COULD HAVE
5 TAKEN PLACE?

6 A. THE SHOT TO THE HEAD WAS PROBABLY A SHORT TIME LATER,
7 ALLOWING FOR THE HEART, IF THE HEART WERE SHOT FIRST,---

8 Q. YES, SIR.

9 A. ---TO BLEED.

10 Q. YES, SIR. ALL RIGHT. SO I GUESS WHAT I'M SAYING IS
11 ALL FOUR OF THEM COULD HAVE OCCURRED ALMOST INSTANTANEOUSLY
12 WITHIN A VERY, VERY SHORT PERIOD OF TIME?

13 A. IN A SHORT TIME; YES, SIR.

14 Q. DEPENDING HOW ARMS WERE BENT, HOW THE BODY WAS BENT,
15 HOW SOMETHING WAS MOVED BY THE IMPACT, THAT COULD CAUSE THE
16 ANGLES OF ENTRY AND THE TRANSVERSING THROUGH THE BODY, THAT
17 COULD CAUSE THE BODY TO MOVE FOR THE SECOND AND THIRD
18 SUBSEQUENT SHOTS. WOULD THAT BE FAIR, SIR?

19 A. YES, SIR, IT CAN.

20 Q. ALL RIGHT. LET'S TALK ABOUT THE BAGGING OF THE HANDS.
21 WHEN MR. BAGLEY WAS BROUGHT TO PIEDMONT MEDICAL CENTER OR
22 PIEDMONT PATHOLOGICAL, HE HAD PAPER BAGS WRAPPED AROUND HIS
23 HANDS; IS THAT CORRECT?

24 A. YES, SIR, IT IS.

25 Q. AND THOSE PAPER BAGS ARE JUST -- I DON'T KNOW WHETHER

JAMES LOUIS MAYNARD - CROSS BY MR. DELGADO:

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1 OR NOT THEY'RE GIVEN BY MEDICAL OR LAW ENFORCEMENT. IT
2 SIMPLY IS A PAPER BAG. WOULD THAT BE FAIR?

3 A. THESE ARE PAPER BAGS SUPPLIED BY LAW ENFORCEMENT; YES,
4 SIR.

5 Q. OKAY. AND WHAT HAPPENS IS THERE'S EITHER A CUFF OR
6 SOME SORT OF RESTRAINING DEVICE AROUND THE HANDS SO THAT
7 NOTHING CAN GET INTO THE BAG WHERE THE HANDS ARE LOCATED;
8 CORRECT, SIR?

9 A. TYPICALLY, TAPE IS PUT AROUND TO SECURE IT.

10 Q. TAPE; EXACTLY. THE POINT BEING, DOCTOR, IS THAT WHEN A
11 BODY IS BROUGHT TO YOU AS A FORENSIC PATHOLOGIST, YOU NEED
12 TO HAVE THE HANDS AS MUCH AS THEY WERE AT THE TIME THAT LAW
13 ENFORCEMENT OR EMS GOT TO THIS AS IS POSSIBLE. WOULD THAT
14 BE FAIR?

15 A. LAW ENFORCEMENT SOMETIMES WILL DO GUNSHOT RESIDUES AT
16 THE SCENE AND THEN BRING THE BODY DOWN, ESPECIALLY IF IT'S A
17 WET SCENE OR SOMETHING.

18 Q. ALL RIGHT. IN THIS CASE, IT WASN'T DONE AT THE SCENE,
19 IT WAS DONE DURING THE AUTOPSY; IS THAT CORRECT?

20 A. YES; THAT'S CORRECT.

21 Q. DOCTOR, WOULD YOU EXPLAIN ON MY HAND -- IF YOU COULD
22 COME DOWN, SIR.

23 MR. DELGADO: MR. POPE, COULD I ASK YOU TO SHOW THE
24 LEFT HAND OF MR. BAGLEY?

25 MR. POPE: DO YOU HAVE THE NUMBER FOR THIS?

1 MR. DELGADO: YES, SIR. I DON'T THINK YOU GAVE IT A
2 NUMBER, BUT -- MAYBE -- JUST ONE -- 130. NO. EXCUSE ME. I
3 APOLOGIZE. I'M SORRY. I'M SORRY. YES, SIR.

4 Q. THAT'S MR. BAGLEY'S LEFT PALM; CORRECT, SIR?

5 A. YES, SIR, IT IS.

6 Q. NOW, -- JUST ONE SECOND. DR. SMITH -- I APOLOGIZE.

7 I'M SO SORRY. DOCTOR, THE ONLY BLOOD THAT YOU HAVE HERE IS
8 ON HIS -- THE PALM -- EXCUSE ME -- THE THUMB; CORRECT, SIR?

9 A. ON THE THUMB AND THERE MAY BE SOME ON THAT THIRD FING--
10 -- OR FOURTH FINGER AND THEN---

11 Q. RIGHT UP HERE, SIR?

12 A. ---THE BASE OF THE FIFTH FINGER THERE. THERE MAY BE A
13 LITTLE SPOT DOWN AT --

14 Q. WERE EITHER OF THOSE, SIR, THIS ONE OR THAT ONE, YOU
15 CAN'T DEFINITELY SAY THAT THERE WAS BLOOD THERE. THAT
16 JUST LOOKS TO YOU, FROM WHAT YOU REMEMBER AND THE PHOTOGRAPH
17 THAT WAS TAKEN. WOULD THAT BE FAIR?

18 A. YES, SIR; THAT'S CORRECT.

19 Q. THIS ONE, HOWEVER, DOES LOOK MORE LIKE A BLOOD STAIN;
20 CORRECT, SIR?

21 A. THAT DEFINITELY IS BLOOD.

22 Q. ALL RIGHT. DOCTOR, YOU HAVE SEEN IN YOUR PRACTICE
23 BLOODY HANDS THAT WOULD HAVE DESTROYED ALL FORENSIC VALUE OF
24 THINGS THAT WERE ON THE PALM. WOULD THAT BE FAIR?

25 A. NOT NECESSARILY; NO, SIR.

JAMES LOUIS MAYNARD -- CROSS BY MR. DELGADO:

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1 Q. WELL, I GUESS WHAT I'M SAYING IS, IS THIS ONE BLOODY IN
2 THE PALM AREA?

3 A. NO, SIR, IT'S NOT.

4 Q. ALL RIGHT. DOCTOR, WILL YOU EXPLAIN FOR OUR JURY, IF
5 YOU COULD JUST STEP RIGHT HERE, EXPLAIN TO OUR JURY WHAT AT
6 THE AUTOPSY FSU DOES TO TAKE GUNSHOT RESIDUE FROM A PALM.

7 A. THEY'RE THE ONES THAT USUALLY TAKE IT. I DO NOT TAKE
8 IT.

9 Q. I DIDN'T MEAN TO SAY YOU DID. WHAT DO THEY DO TO MY
10 PALM?

11 A. THEY WILL TAKE A SOLUTION ON A SWAB THAT'S USUALLY A
12 SPECIALLY PREPARED SWAB AND GO ALONG THE PALM, BETWEEN THE
13 FINGERS AND THEN THERE'S ANOTHER ONE THAT'S TAKEN ON THE
14 BACKSIDE OF THE HANDS.

15 Q. THAT'S SWAB IS LIKE A Q-TIP WITH A CERTAIN SOLUTION ON
16 IT?

17 A. YES, SIR.

18 Q. AND THEY DAB THE PALM AND IN BETWEEN THE FINGERS?

19 A. WELL, NOT NECESSARILY DAB. THEY MAY SORT OF RUB IT.

20 Q. I'M SORRY. RUB IT. THEY PUT THAT IN A CONTAINER.
21 THEY GET ANOTHER Q-TIP WITH THAT SOLUTION AND PUT IT -- RUB
22 IT ON THE BACK; IS THAT CORRECT, SIR?

23 A. YES, SIR, TYPICALLY.

24 Q. FROM WHAT YOU SEE THERE ON THAT PALM, SIR, IS THERE ANY
25 BLOOD THERE THAT WOULD HAVE INDICATED IT WOULD HAVE

1 DESTROYED ANY SUBSTANCE THAT WAS ON THAT PALM? IS THERE ANY
2 BLOOD IN THE PALM?

3 A. THERE'S BLOOD ON THE THUMB,---

4 Q. RIGHT THERE.

5 A. ---NOT ON THE PALM, BUT, AGAIN, THIS IS THE WAY WE
6 RECEIVED IT,---

7 Q. OH, I -- YES, SIR.

8 A. ---NOT NECESSARILY WHAT IT WAS AT THE SCENE.

9 Q. EXACTLY. THE POINT BEING, SIR, IF AND WHEN THE FSU
10 FOLKS DID THE SWAB THERE ON THE PALM TO RECOVER ANYTHING
11 THAT MAY HAVE BEEN ON THE PALM, THERE WAS NO BLOOD THERE IN
12 THE PALM TO HAVE INHIBITED OR PROHIBITED FSU FROM THE SWAB
13 OF THE PALM. WOULD THAT BE FAIR?

14 A. IN THIS PICTURE THERE'S NO BLOOD. WHETHER THE SWAB WAS
15 DONE AFTER THIS PICTURE OR BEFORE THIS PICTURE, I DON'T
16 REMEMBER.

17 Q. YOU'RE FINE. HAVE A SEAT, SIR.

18 MR. DELGADO: MR. POPE, MAY I ASK YOU TO PULL UP
19 PHOTOGRAPH THIRTY-SIX, PLEASE?

20 Q. DOCTOR, YOU MAY NOT HAVE SEEN THIS. THIS IS A
21 PHOTOGRAPH TAKEN AT THE SCENE AND MR. POPE USED THIS TO
22 ORIENT SOME OF THE EMERGENCY MEDICAL TECHNICIANS. THIS IS,
23 IN YOUR EXPERIENCE, BLOOD; CORRECT, SIR?

24 A. YES, SIR. IT HAS THAT APPEARANCE.

25 Q. THAT IS BLOOD THAT'S NOT ONLY TRAILING AWAY, BUT IT

1 SEEMS TO BE A LARGE, SUBSTANTIAL AMOUNT OF BLOOD; CORRECT,
2 SIR?

3 A. YES, SIR. THERE'S SIGNIFICANT BLOOD ON THE PAVEMENT
4 THERE.

5 Q. ALL RIGHT. BUT THE ONLY BLOOD YOU SAW ON THE LEFT PALM
6 WAS HERE RIGHT AT THE THUMB JOINT HERE IS IN THE PREVIOUS
7 PHOTOGRAPH?

8 A. ON THAT PICTURE.

9 Q. YES, SIR.

10 A. YEAH; THAT'S ALL I'VE SEEN.

11 Q. I BELIEVE THAT'S ALL THE QUESTIONS I HAVE.

12 MR. DELGADO: MAY I TALK TO MS. FORD FOR JUST ONE
13 SECOND, YOUR HONOR?

14 THE WITNESS: SURE.

15 MR. DELGADO: JUST ONE SECOND, PLEASE. I APOLOGIZE.

16 Q. DOCTOR, ONE LAST THING. WHEN CLOTHES ARE SUBMITTED TO
17 YOU AS THE FORENSIC PATHOLOGIST, DO YOU DO ANY EXTERNAL
18 EVALUATION OF THE CLOTHES, THE SHIRT OR THE PANTS, SOMETIMES
19 EVEN SHOES AND SOCKS, TO DETERMINE WHETHER THERE IS GUNSHOT
20 RESIDUE OR STIPPLING ON CLOTHING AS WELL?

21 A. WE WILL LOOK AT THE CLOTHING, BUT NOT NECESSARILY DO
22 ANY TESTING ON IT.

23 Q. IN THIS CASE WERE ANY CLOTHES PRESENTED TO YOU, IF YOU
24 RECALL?

25 A. THE CLOTHES WERE SEIZED AT SOMETIME THAT DAY, WHETHER

1 INITIALLY BEFORE THE AUTOPSY OR AFTER THE AUTOPSY.

2 Q. I GUESS WHAT I'M SAYING TO YOU, SIR, IN YOUR EVALUATION
3 OF THAT, IN YOUR EXPERT EVALUATION OF THE CLOTHING, THERE'S
4 NO STIPPLING ON THE CLOTHING TO SHOW HOW FAR AWAY THE GUN,
5 AT THE TIME OF THE DISCHARGE OF THE GUNS AT THE TIME OF
6 DISCHARGE, WAS. WOULD THAT BE CORRECT, SIR?

7 A. I DID NOT SEE ANY BY MY JUST VISUAL EXAMINATION.

8 Q. I GUESS --

9 A. THE CLOTHING IS WITH THE BODY IN TESTING.

10 Q. YES, SIR. DOCTOR, I'M GOING TO JUST SAY THAT THIS IS
11 THE MUZZLE OF THE GUN. IF I -- YOU WERE TO SHOOT ME AND PUT
12 THE MUZZLE OF THE GUN IN EXACTLY THE SAME POSITION, MAYBE
13 FROM LEFT TO RIGHT, BUT THE BARREL OF THE GUN WERE EITHER
14 DIRECTLY ON THE SKIN OR THE CLOTHING, THAT WOULD LEAVE A
15 BURNING PATTERN INTO THE CLOTHING AND POSSIBLY EVEN INTO MY
16 SKIN; CORRECT, SIR?

17 A. IT WOULD TYPICALLY LEAVE A BURNING PATTERN; YES.

18 Q. AND THE FURTHER OUT THAT GOES, THE LESS CHANCE THAT
19 WE'D SEE THAT ON THE CLOTHING AND/OR THE BODY?

20 A. YES, SIR.

21 Q. SO ANYTHING PAST SIX INCHES, WE CALL OR YOU CALL IN
22 YOUR EXPERT ANALYSIS A DISTANT SHOT; CORRECT, SIR?

23 A. YES. AND THAT'S APPROXIMATELY SIX INCHES.

24 Q. EXACTLY. AND IN THIS CASE, THAT'S HOW YOU TERMED IT,
25 BECAUSE YOU COULD NOT FIND ANY STIPPLING EITHER ON THE BODY

JAMES LOUIS MAYNARD - RE-DIRECT BY MR. POPE:

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1 OR ON THE CLOTHING AROUND THE VICTIM; CORRECT, SIR?

2 A. NO, I DID NOT.

3 MR. DELGADO: ALL RIGHT. THANK YOU, DOCTOR.

4 THE WITNESS: THANK YOU.

5 MR. DELGADO: YOUR HONOR, THAT'S ALL THAT WE HAVE.

6 THANK YOU.

7 MR. POPE: JUST BRIEFLY.

8 RE-DIRECT EXAMINATION

9 JAMES LOUIS MAYNARD BY MR. POPE:

10 Q. DOCTOR, THE PICTURE -- I APOLOGIZE; I DON'T RECALL THE
11 NUMBER -- THE PICTURE THAT'S GOT THE EXTENSIVE AMOUNT OF
12 BLOOD SEEN, BASED ON THE INJURIES YOU'VE SEEN, IS THAT A
13 DRAINING OUT PROCESS, SO TO SPEAK, OR IS THIS BLOOD FRESH?
14 IN OTHER WORDS, WHAT YOU'RE SAYING IS AS SOON AS HE'S HIT,
15 IS HE SPRAYING BLOOD OR IS IT -- WE'RE SUBJECT TO TOO MUCH
16 TELEVISION.

17 A. NO. THIS IS MORE OF A DRAIN. WE DO NOT SEE A SPLATTER
18 EFFECT. THERE'S OBVIOUSLY NO SPLATTER ON THE BOTTOM OF THE
19 CAR THERE; THERE'S NO SPLATTER THAT WE SEE, BUT MORE OF IT
20 DRAINING, YOU KNOW, OUT OF THE INJURIES TO THE DECEDENT.

21 Q. AND MR. DELGADO WAS ASKING ABOUT THE .45 SHOT. IT'S
22 CLEAR, REGARDLESS OF WHERE SOMEONE WAS STANDING, THAT THE --
23 OR, YOU KNOW, BODIES TURNING, THINGS OF THAT NATURE, THE
24 THREE .45'S ARE THE ONES THAT HIT THE HEAD, THE BUTTOCKS AND
25 THE ARM, WERE ALL INTO THE REAR -- CAME INTO THE REAR OF MR.

1 BAGLEY'S BODY; IS THAT CORRECT?

2 A. YES, SIR. THE BUTTOCKS IS FROM THE REAR. THE ARM
3 COULD BE FROM THE REAR OR FROM THE OUTER ASPECT AND THE HEAD
4 IS FROM THE BACK, FROM THE REAR.

5 Q. OKAY. AND THE .25 WAS, I THINK YOU SAID, ABOVE THE
6 LEFT NIPPLE; IS THAT CORRECT?

7 A. YES, SIR

8 Q. THAT .25, THAT IS THE ONE THAT -- THE .45 GOES MORE TO
9 THE BRAIN ISSUE, THE .25 GOES MORE TO THE HEART AND LUNG AND
10 THINGS, THAT ISSUE?

11 A. YES, SIR.

12 Q. WOULD THIS ONE AUTOMATICALLY, AGAIN, -- I GUESS SPRAY
13 IS THE WRONG TERM, BUT THIS ONE WAS DRAINING BLOOD, BUT IN
14 OTHER WORDS, AS SOON AS -- IF IT HITS ME RIGHT NOW, WOULD I
15 AUTOMATICALLY DUMP THAT MUCH BLOOD OUT OR IS THAT THE
16 PROCESS?

17 A. NO, YOU WOULDN'T.

18 Q. SO I MAY TOUCH THIS AND HAVE LITTLE OR NO BLOOD ON MY
19 HAND INITIALLY, BUT THEN AS IT WOULD BLEED OUT.

20 A. YES, SIR. IT WAS MORE JUST OOZE OUT AS WE'RE SEEING
21 HERE.

22 Q. ALL RIGHT. THANK YOU. AND AS FAR AS THE -- I DON'T
23 WANT TO CONFUSE THE MATTER; I WANT TO MAKE SURE I UNDERSTAND
24 YOU. MR. DELGADO WAS ASKING YOU THE .45 OR THE .25 BEING
25 FIRED FIRST AND IF ONE WAS MORE LIKELY THAN NOT, DO YOU HAVE

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1 AN OPINION THAT ONE SHOT NECESSARILY CAME BEFORE THE OTHER?
2 HE WAS TALKING ABOUT IT HAPPENING QUICK, OR DO YOU HAVE AN
3 OPINION OF ONE SHOT BEFORE THE OTHER?

4 A. THE .25 PROBABLY WAS FIRST, DUE TO THE AMOUNT OF
5 BLEEDING THAT OCCURRED INTO THE CHEST. THE SHOT TO THE
6 BRAIN WOULD RENDER HIM INCAPACITATED, UNCONSCIOUS AND
7 PROBABLY DEAD VERY -- EITHER INSTANTLY OR CERTAINLY WITHIN A
8 VERY QUICK TIME.

9 Q. SO THIS ONE MAY HAVE STARTED THE WOUNDS, BUT THIS ONE
10 WOULD HAVE ENDED IT?

11 A. YES, SIR.

12 MR. POPE: ALL RIGHT. THANK YOU, SIR.

13 RE-CROSS EXAMINATION

14 JAMES LOUIS MAYNARD BY MR. DELGADO:

15 Q. DOCTOR, JUST REAL QUICK.

16 A. YES, SIR.

17 Q. DOCTOR, AS MR. POPE JUST ASKED YOU, THE BULLET WOUNDS
18 BY THE .45 DOESN'T MEAN THAT HIS BACK WAS TO IMPACT THE
19 INSTANTANEOUS SECOND THAT THIS TOOK PLACE. IN OTHER WORDS,
20 THE .25 COULD HAVE HIT AND THEN THE BODY DROPS, FALLS AND
21 THEN THE .45 SLUGS HIT HIM AS WELL; CORRECT, SIR?

22 A. DEPENDING ON WHERE THE DECEASED IS, THE BULLETS WERE
23 ALL COMING FROM THE BACK---

24 Q. YES, SIR.

25 A. ---OF THE DECEASED, SO IT -- THE GUN WAS IN THE BACK,

1 BACK SIDE OF THE DECEASED.

2 Q. THAT DOESN'T MEAN THAT'S EXACTLY WHERE IT WAS A
3 MILLISECOND BEFORE IT STARTED, BECAUSE THE .25 SLUG COULD
4 HAVE CAUSED THE BODY TO MOVE OR THE DECEDENT COULD HAVE
5 MOVED AS HE WAS ENGAGED IN THIS. WOULD THAT BE FAIR TO SAY?

6 A. THE DECEDENT COULD CERTAINLY HAVE MOVED WHEN HE'S HIT
7 BY A BULLET.

8 Q. YES, SIR.

9 A. BUT, AGAIN, ALL THE BULLETS ARE COMING FROM THE BACK
10 SIDE.

11 Q. I UNDERSTAND. THANK YOU VERY MUCH. THAT'S ALL, DOCTOR.

12 MR. DELGADO: THANK YOU, YOUR HONOR.

13 THE COURT: THANK YOU, DR. MAYNARD.

14 THE WITNESS: THANK YOU.

15 MR. POPE: YOUR HONOR, FROM A SCHEDULING STANDPOINT --
16 MAY DR. MAYNARD BE EXCUSED?

17 MR. DELGADO: ABSOLUTELY; YES.

18 THE COURT: THANK YOU FOR COMING, SIR. YOU MAY EXCUSED
19 AT THIS TIME.

20 THE WITNESS: OKAY. THANK YOU. THANK YOU, SIR.

21 MR. POPE: I BELIEVE I DO HAVE ANOTHER WITNESS THAT I
22 COULD GET THROUGH TODAY, YOUR HONOR. PERHAPS WE COULD HAVE
23 JUST A BRIEF, FIVE MINUTES EVEN, JUST ENOUGH TO GET THAT
24 WITNESS READY AND I'LL --

25 THE COURT: MADAM FORELADY, MEMBERS OF THE JURY PANEL,

1 WE'RE GOING TO TAKE A VERY SHORT RECESS, PROBABLY ABOUT FIVE
2 MINUTES, AT THIS TIME. PLEASE RETIRE TO THE JURY ROOM.
3 PLEASE DO NOT BEGIN DISCUSSING THE CASE. THANK YOU.

4 (JURY OUT AT 4:16 P.M.)

5 MR. POPE: PLEASE THE COURT, YOUR HONOR.

6 THE COURT: YES, SIR.

7 MR. POPE: THE X-RAYS I KEEP REFERRING TO, I THINK 130,
8 131 AND 132, WITH THE COURT'S PERMISSION AND CONSENT FROM
9 THE DEFENSE, I'M GOING TO REQUEST THAT DR. MAYNARD TAKE
10 THESE THREE -- THEY HAVE A MACHINE WHICH CAN MAKE A COPY OF
11 THESE.

12 THE COURT: YES, SIR.

13 MR. POPE: HE'LL TAKE THEM AND MAKE A COPY. I WILL
14 HAVE SOMEBODY PICK IT UP, RETURN IT TO THE CLERK IN THE
15 MORNING, THAT BEING 130, 131 AND 132, AND I'LL HAVE SOMEONE
16 FROM OUR OFFICE OR SOMEONE FROM LAW ENFORCEMENT PERHAPS DROP
17 BY IN THE MORNING AND RETURN THEM SO WE'LL HAVE SOMETHING IN
18 EVIDENCE WITH THAT AND RETURN THESE TO THE CUSTODY OF THE
19 DOCTOR.

20 THE COURT: NO OBJECTION, MR. DELGADO?

21 MR. DELGADO: NONE, YOUR HONOR; NO.

22 THE COURT: ALL RIGHT, SIR. THAT'S GRANTED. YOUR
23 MOTION'S GRANTED, SIR.

24 MR. POPE: AND IF I CAN HAVE ABOUT FIVE MINUTES, YOUR
25 HONOR, AND I'LL BE READY TO GO.

1 THE COURT: ALL RIGHT, SIR. WE'LL DO THAT.

2 (WHEREUPON, A BRIEF RECESS WAS OBSERVED)

3 THE COURT: SOLICITOR, BEFORE WE BRING THE JURY IN, LET
4 ME -- I WANT TO REMIND EVERYBODY FROM THE FAMILIES OF BOTH
5 SIDES OF THIS CASE AND THOSE ARE MAYBE FRIENDS AND FAMILY ON
6 BOTH SIDES OF THIS CASE, I WANT TO REMIND YOU OF WHAT I TOLD
7 YOU WHEN WE BEGAN THIS CASE, AND THAT IS PLEASE AVOID HAVING
8 ANY KIND OF CONVERSATIONS AROUND THE JURY AS THEY GO OUT AND
9 IN AND GET IN THEIR CARS AND THAT SORT OF THING, HAVING ANY
10 KIND OF CONVERSATIONS WHERE THEY CAN OVERHEAR YOUR
11 CONVERSATIONS OR MAKING COMMENTS ON PURPOSE LOUD ENOUGH FOR
12 THE JURORS TO HEAR. THAT'S HIGHLY IMPROPER AND I ADVISED
13 EVERYBODY AT THE BEGINNING OF THE CASE THAT IT WAS ENTIRELY
14 IMPROPER AND THAT YOU SHOULD NOT DO THAT. AND I'VE HAD SOME
15 CONCERN EXPRESSED BY THE JURY THAT MAYBE THEY WERE AFRAID
16 THAT SOME OF THE FAMILY MEMBERS HAD GOTTEN CLOSE ENOUGH TO
17 THEM AND INDICATING THAT THEY MIGHT OUGHT TO SAY SOMETHING
18 TO THEM ABOUT IT -- A CASE. NOW, I WANT TO AGAIN REMIND YOU
19 -- NOBODY HAS MADE ANY COMMENTS TO THEM, MADE ANY
20 STATEMENTS, AND THAT'S GOOD, BUT I WANT TO REMIND YOU AGAIN
21 PLEASE DO NOT DO THAT. IF YOU DO THAT, YOU'RE GOING TO
22 VIOLATE THE COURT'S INSTRUCTION TO YOU AND IT COULD RESULT
23 IN CONTEMPT SANCTIONS BEING ISSUED AGAINST THE PERSON OR
24 PERSONS WHO DO IT. SO PLEASE DO NOT DO THAT. I DON'T WANT
25 TO BE IN THAT POSITION AND I DON'T WANT YOU TO BE IN THAT

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1 POSITION. SO PLEASE AVOID HAVING ANY KIND OF CONVERSATIONS
2 IN THE PRESENCE OF THE JURY, IF YOU WILL, WHEN THEY'RE GOING
3 OUT OR COMING IN. I WOULD REMIND EVERYONE AND ASK COUNSEL
4 ALSO TO REMIND FAMILY MEMBERS AND THOSE WHO ARE ATTENDING
5 COURT OF THE SAME THING. JUST TRY TO AVOID ANY PROBLEM
6 COMING UP. THANK YOU.

7 MR. POPE: PLEASE THE COURT, YOUR HONOR, FOR THE
8 RECORD, I HAVE ADDRESSED IT WITH THE VICTIM'S FAMILY AND I
9 BELIEVE MR. DELGADO HAS DONE LIKEWISE.

10 THE COURT: THANK YOU. ALL RIGHT. PLEASE BRING THE
11 JURY IN, SIR.

12 (JURY IN AT 4:40 P.M.)

13 THE COURT: COUNSEL READY TO PROCEED.

14 MR. POPE: PLEASE THE COURT, YOUR HONOR, THE STATE
15 WOULD CALL CHARLENE BLACKWELDER TO THE STAND, PLEASE.

16 (CHARLENE BLACKWELDER, BEING FIRST DULY AFFIRMED, WAS
17 EXAMINED AND TESTIFIED AS FOLLOWS):

18 DIRECT EXAMINATION

19 CHARLENE BLACKWELDER BY MR. POPE:

20 Q. DETECTIVE BLACKWELDER, IF YOU WOULD, JUST STATE YOUR
21 NAME AND SPELL YOUR LAST NAME FOR THE COURT REPORTER,
22 PLEASE, MA'AM.

23 A. CHARLENE BLACKWELDER, B-L-A-C-K-W-E-L-D-E-R.

24 Q. COULD YOU TELL THE JURY WHERE YOU'RE EMPLOYED?

25 A. ROCK HILL POLICE DEPARTMENT.

1 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE ROCK HILL
2 POLICE DEPARTMENT?

3 A. APPROXIMATELY SEVENTEEN YEARS.

4 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

5 A. APPROXIMATELY SIXTEEN AND A HALF YEARS.

6 Q. LET ME DO THE MATH. THE SIXTEEN AND A HALF, THERE WAS
7 A TIME THAT YOU WERE GONE FROM ROCK HILL FOR ABOUT SIX
8 MONTHS?

9 A. THAT'S CORRECT.

10 Q. BUT OTHER THAN THAT TIME, YOU'VE CONTINUOUSLY BEEN WITH
11 ROCK HILL POLICE DEPARTMENT?

12 A. THAT'S CORRECT.

13 Q. AND CAN YOU TELL THE JURY, CURRENTLY AT THE ROCK HILL
14 POLICE DEPARTMENT, CURRENTLY WHAT YOUR DUTIES ARE?

15 A. I'M A CRIMES AGAINST PROPERTY DETECTIVE.

16 Q. AND JUST IN GENERAL, I MEAN, AGAIN, WE ALL WATCH T.V.,
17 BUT WHAT'S A DETECTIVE? WHAT IS THAT YOU DO?

18 A. INVESTIGATES CRIMES, WORK --

19 Q. GO AHEAD.

20 A. INVESTIGATE CRIMES CASES, WORK BURGLARIES, MURDERS,
21 ROBBERIES, WHAT HAVE YOU.

22 Q. AND WHAT DO YOU ACTUALLY DO TO INVESTIGATE CRIMES?
23 WHAT TYPES OF THINGS DO YOU DO?

24 A. OBTAIN THE FACTS, COLLECT EVIDENCE, TAKE WITNESS
25 STATEMENTS, MAKE INCIDENT REPORTS, ET CETERA, ET CETERA.

1 Q. POLICE STUFF?

2 A. POLICE STUFF.

3 Q. OKAY. NOW, BACK LAST YEAR, JUNE OF LAST YEAR, YOU SAID
4 YOU'RE CURRENTLY IN CRIMES AGAINST PROPERTY; IS THAT
5 CORRECT?

6 A. THAT'S CORRECT.

7 Q. OKAY. CRIMES AGAINST PROPERTY IS CRIMES --

8 A. AGAINST PROPERTY. IT'S BURGLARY OF BUSINESSES,
9 VEHICLES, THAT NATURE. COMMERCIAL BURGLARIES, RESIDENTIAL
10 BURGLARIES.

11 Q. OKAY. AND THEN BACK LAST YEAR YOU WERE IN CRIMES
12 AGAINST PERSONS.

13 A. THAT'S CORRECT.

14 Q. YOU WERE WORKING CRIMES AGAINST PERSONS.

15 A. CORRECT.

16 Q. WHAT IS CRIMES AGAINST PERSONS?

17 A. I'M SORRY; I DIDN'T MEAN -- WELL, CRIMES AGAINST
18 PERSONS IS JUST THAT ITSELF. IT'S CRIME AGAINST A PERSON:
19 MURDER, ASSAULT AND BATTERY, SEXUAL ASSAULT, WHAT HAVE YOU.

20 Q. AND BACK IN -- SO JUNE 26TH OF 2004, YOU WERE WORKING
21 AT ROCK HILL POLICE DEPARTMENT IN CRIMES AGAINST PERSONS;
22 IS THAT RIGHT?

23 A. YES, SIR.

24 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO BECOME
25 INVOLVED IN THIS PARTICULAR INVESTIGATION?

1 A. YES, SIR, I DID.

2 Q. AND HOW SO? HOW DID YOU BECOME AWARE OF THIS
3 PARTICULAR CASE?

4 A. I WAS -- WE WERE ON CALL. I WAS NOT THE DETECTIVE ON
5 CALL THAT PARTICULAR NIGHT, BUT I WAS PAGED IN BY LIEUTENANT
6 HUTCHINSON TO COME IN AND ASSIST WITH A MURDER INVESTIGATION
7 THAT HAD TAKEN PLACE AT PACES RIVER IN ROCK HILL.

8 Q. OKAY. AND WAS THIS A SATURDAY NIGHT, THE 26TH?

9 A. IT WAS; THAT'S CORRECT. AND IT WAS AROUND A LITTLE
10 AFTER NINE -- I'M SORRY. I WAS -- THE INCIDENT HAPPENED A
11 LITTLE AFTER NINE. I WAS PAGED IN A LITTLE AFTER -- A
12 LITTLE AFTER TEN THAT EVENING.

13 Q. OKAY. AND A LITTLE AFTER TEN WHEN YOU WERE PAGED IN,
14 YOU SAID BY LIEUTENANT HUTCHINSON?

15 A. THAT'S CORRECT.

16 Q. AND WHO IS THAT?

17 A. HE IS THE LIEUTENANT OVER THE CRIMES AGAINST PERSONS
18 UNIT OF THE ROCK HILL POLICE DEPARTMENT.

19 Q. SO HE WAS YOUR SUPERVISOR?

20 A. HE WAS MY SUPERVISOR AT THAT TIME; CORRECT.

21 Q. AND HE CALLED YOU IN TO ASSIST IN THIS INVESTIGATION.
22 WHERE DID YOU REPORT TO?

23 A. TO THE ROCK HILL POLICE DEPARTMENT.

24 Q. SO AT THE TIME YOU GOT -- APPROXIMATELY WHAT TIME DID
25 YOU ARRIVE AT THE ROCK HILL POLICE DEPARTMENT?

1 A. IT WOULD HAVE BEEN A LITTLE AFTER -- I'M GOING TO SAY
2 SOMEWHERE AROUND 10:30 P.M., MAYBE.

3 Q. OKAY. NOW, WHEN YOU ARRIVED AT THE POLICE DEPARTMENT,
4 ROCK HILL POLICE DEPARTMENT, WERE THERE OTHER OFFICERS OR
5 DETECTIVES THERE AT THE POLICE DEPARTMENT?

6 A. THERE WAS. THERE WAS OTHER DETECTIVES AND THEY WERE
7 TALKING TO DIFFERENT PEOPLE THAT HAD CAME TO THE POLICE
8 DEPARTMENT FOR WITNESS STATEMENTS.

9 Q. OKAY. AND WHAT DID YOU DO, GENERALLY, WHEN YOU ARRIVED
10 THERE?

11 A. I ASSISTED WITH OBTAINING WITNESS STATEMENTS FROM SOME
12 OF THE WITNESSES THERE AND TALKING WITH THE OTHER DETECTIVES
13 AT THE POLICE DEPARTMENT.

14 Q. SO HOW MANY DETECTIVES, ROUGHLY, WERE THERE THERE AT
15 THE ROCK HILL POLICE DEPARTMENT AT THE TIME THAT WERE
16 WORKING ON THIS?

17 A. FIVE OR SIX, I BELIEVE, MAYBE SEVEN. THEY WERE COMING
18 IN AND GOING OUT AT DIFFERENT TIMES.

19 Q. OKAY. MEANWHILE AT PACES RIVER, WAS THERE STILL LAW
20 ENFORCEMENT FUNCTIONS TAKING PLACE AT THE CRIME SCENE THAT
21 THE JURY'S ALREADY --

22 A. THAT'S CORRECT. FORENSIC SERVICES UNIT WAS STILL OUT
23 AT THE PACES RIVER WHERE THE INCIDENT HAD OCCURRED, AS WELL
24 AS SOME OTHER DETECTIVES THAT WERE STILL OUT THERE AS WELL.

25 Q. OKAY. AND WHAT IS THE FORENSIC SERVICES UNIT?

1 A. THEY ARE THE FORENSIC SERVICES UNIT FOR YORK COUNTY.
2 THEY COLLECT EVIDENCE FOR US, FOR ROCK HILL CITY AND YORK
3 COUNTY.

4 Q. AND SO THEY WERE AT THE SCENE. YOU WERE WORKING,
5 TALKING TO INDIVIDUALS THERE AT THE POLICE STATION; IS THAT
6 CORRECT?

7 A. CORRECT.

8 Q. OKAY. FROM AN INVESTIGATIVE STANDPOINT, YOU SAID THERE
9 WERE A NUMBER OF DETECTIVES THERE AT THE POLICE STATION.
10 WHAT IS EACH PERSON DOING OR WHAT ARE THEIR ROLES? WHAT WAS
11 TAKING PLACE THAT NIGHT THERE?

12 A. EACH PERSON'S GETTING INFORMATION FROM DIFFERENT
13 WITNESSES THAT WERE ON THE SCENE OR SAW SOMETHING OR CALLED
14 IN OR WHAT HAVE YOU. EACH DETECTIVE IS GENERALLY TAKING
15 STATEMENTS FROM DIFFERENT PEOPLE.

16 Q. OKAY. AND WHEN YOU TAKE A STATEMENT FROM AN
17 INDIVIDUAL, WHAT DOES THAT CONSIST OF? WHAT DO YOU ACTUALLY
18 DO?

19 A. JUST GET THE EVENTS OF WHAT THIS PERSON SAW AND GETTING
20 IT DOWN ON A SWORN AFFIDAVIT.

21 Q. OKAY. AND IF YOU HAVE SWORN AFFIDAVIT, IS MORE THAN
22 ONE DETECTIVE INVOLVED? IN OTHER WORDS, DOES ONE PERSON
23 TAKE THE STATEMENT, ANOTHER WITNESS IT OR SOMETHING OF THAT
24 NATURE?

25 A. THAT'S CORRECT.

1 Q. OKAY. AND AS PART OF THE APPROACH TO THE
2 INVESTIGATION, IS THERE SOME PERSON THAT ACTS KIND OF LIKE A
3 CENTRAL REPOSITORY FOR ALL THE INFORMATION THAT'S COME IN,
4 IN OTHER WORDS, HAS TO KIND OF KEEP UP WITH EVERYTHING?

5 A. THAT'S CORRECT.

6 Q. AND WHAT IS THAT CALLED?

7 A. THE CASE AGENT.

8 Q. OKAY. AND THE CASE AGENT -- DOES BEING THE CASE AGENT
9 MEAN THAT THAT INDIVIDUAL TALKS TO EVERY SINGLE WITNESS?

10 A. NO, SIR.

11 Q. OKAY.

12 A. THEY BASICALLY JUST COLLECT ALL THE INFORMATION. IT'S
13 A CERTAIN AREA WHERE ALL THE INFORMATION THAT IS COLLECTED
14 GOES INTO ONE LOCATION FROM EACH DETECTIVE, FROM FORENSIC
15 SERVICES UNIT, FROM WITNESSES, FROM THE INCIDENT REPORT,
16 FROM INFORMATION FROM DISPATCH, ET CETERA, ET CETERA, AND
17 IT'S ALL COMPILED INTO ONE FOLDER.

18 Q. OKAY. AND WHO WAS THE CASE AGENT OR ULTIMATELY THE
19 CASE AGENT?

20 A. MYSELF; MYSELF.

21 Q. SO THIS NIGHT AS DIFFERENT STATEMENTS ARE COMPLETED OR
22 DIFFERENT PIECES OF INFORMATION ARE COMING IN, IT WAS ALL
23 BROUGHT TO YOU TO COMPILE?

24 A. YES, SIR; THAT'S CORRECT.

25 Q. AND HOW DO YOU ACTUALLY COMPILE THAT?

1 A. BASICALLY, YOU JUST -- AS IT'S COMING IN, YOU GET IT
2 AND YOU PUT IT -- THERE'S -- YOU CAN'T -- YOU DON'T HAVE
3 TIME TO REALLY ORGANIZE IT AT THAT POINT, BUT YOU'RE VIEWING
4 WHAT YOU CAN AS YOU'RE GETTING THE INFORMATION SO THAT YOU
5 CAN HELP THE OTHER DETECTIVES OR SO THAT, YOU KNOW, YOU CAN
6 HELP THE FORENSIC SERVICES UNIT THAT'S OUT ON THE SCENE,
7 BECAUSE SOMEBODY MAY HAVE A PIECE OF INFORMATION AT THE
8 POLICE DEPARTMENT THAT YOU'RE GETTING THEY MAY NOT HAVE OUT
9 THERE OR VICE VERSA. SO YOU'RE TRYING TO READ THE
10 INFORMATION, OBTAIN THE INFORMATION AND PLACE THE
11 INFORMATION ALL AT THE SAME TIME, WHILE NEW INFORMATION IS
12 CONSTANTLY COMING IN. IT'S COMING IN FROM ALL WAVES, IF YOU
13 WILL.

14 Q. AND IS THAT WHAT YOU DID THAT NIGHT?

15 A. YES, SIR.

16 Q. OKAY. AND YOU SAY YOU STARTED ABOUT TEN. DID YOU
17 ACTUALLY WORK ON INTO THE MORNING HOURS OF WHAT WOULD BE THE
18 27TH, INTO SUNDAY MORNING, SO TO SPEAK?

19 A. YES, SIR; THAT'S CORRECT.

20 Q. OKAY. INTO THE SUNDAY MORNING HOURS, WERE YOU STILL
21 RECEIVING VARIOUS INFORMATION AND FOLLOWING LEADS AND THINGS
22 OF THAT NATURE?

23 A. WE WERE, AND AS A RESULT OF ALL OF THAT INFORMATION, WE
24 DID OBTAIN SOME SEARCH WARRANTS, ACTUALLY FOUR OF THEM, I
25 BELIEVE, FOUR. WE HAD RECEIVED INFORMATION THAT THE --WE

1 RECEIVED INFORMATION ABOUT THE TYPE BULLETS OR THE CALIBER,
2 THAT THERE WAS TWO DIFFERENT TYPES USED AT THE SCENE. WE
3 RECEIVED NAMES FROM ONE OF THE WITNESSES THAT CAME INTO THE
4 POLICE DEPARTMENT. ONE OF THE CO-DEFENDANTS IN THE CASE
5 ACTUALLY CAME TO THE POLICE DEPARTMENT WITH ANOTHER WITNESS.

6 Q. ULTIMATELY, THE -- EACH TIME SOMEBODY'S COMING IN, WHEN
7 YOU SAY WITNESSES, DOES THAT NECESSARILY MEAN WITNESSES THAT
8 WERE OUT THERE THAT WERE THERE AND HEARD THE GUNSHOTS OR
9 WHEN YOU SAY WITNESSES, DO YOU MEAN PEOPLE THAT HAVE ANY
10 PIECE OF INFORMATION?

11 A. PEOPLE THAT HAVE ANY PIECE OF INFORMATION ABOUT THE
12 CRIME.

13 Q. OKAY. AND BASED ON GATHERING THIS INFORMATION TOGETHER
14 AND THEN YOU TALKED ABOUT THE -- KNOWING THERE WAS TWO
15 DIFFERENT TYPES OF BULLETS, THE .25 AND THE .45, THAT
16 INFORMATION WOULD BE COMING IN, FOR EXAMPLE, FROM---

17 A. FORENSIC SERVICES.

18 Q. ---YOUR LAW ENFORCEMENT ON THE SCENE; IS THAT RIGHT?

19 A. YES, SIR.

20 Q. BASED ON ALL THE INFORMATION THAT'S COMING IN FROM ALL
21 THE DIFFERENT FRONTS, DID YOU ULTIMATELY DEVELOP THREE
22 SUSPECTS IN THIS PARTICULAR CASE?

23 A. YES, SIR, WE DID.

24 Q. AND WHO WERE THOSE SUSPECTS?

25 A. DEBREZIO CAMPBELL, DESMOND CAMPBELL AND CHRISTOPHER

1 WOODY, THE DEFENDANT.

2 Q. OKAY. AND DEBREZIO CAMPBELL AND DESMOND CAMPBELL, DID
3 YOU DETERMINE ARE THEY ANY RELATION?

4 A. THEY ARE BROTHERS.

5 Q. OKAY. DID YOU DETERMINE OR AS TO ANY RELATIONSHIP
6 BLOOD-WISE THAT THEY HAD WITH MR. WOODY?

7 A. THEY ARE -- TO MY KNOWLEDGE, THERE WAS NONE.

8 Q. OKAY. DID YOU FIND OUT ANY RELATIONSHIP OR CONNECTION
9 BETWEEN THE CAMPBELLS AND MR. WOODY, NOT FROM A BLOOD
10 RELATIONSHIP? DID YOU FIND OUT IF THEY AFFILIATE WITH EACH
11 OTHER?

12 A. YES, SIR, THEY DID.

13 Q. AND HOW DID YOU DETERMINE THAT?

14 A. WE DETERMINED THAT FROM SOME WITNESSES WHILE, AGAIN,
15 WHILE WE WERE AT THE POLICE DEPARTMENT OBTAINING STATEMENTS.
16 WE RECEIVED THE 911 CALLS THAT WE GOT FROM MR. KIM BOWDEN OR
17 BOWDEN -- I'M SORRY IF I DON'T SAY HIS LAST NAME CORRECTLY.
18 WHILE WE WERE AT THE POLICE DEPARTMENT, I OBTAINED
19 INFORMATION FROM TOBIAS, FLOYD GRANT, -- TROY TOBIAS, FLOYD
20 GRANT. WE HAD CHRISTA GRAY, THE VICTIM'S GIRLFRIEND, AT THE
21 POLICE DEPARTMENT, ALONG WITH HER SISTER. WHILE WE WERE
22 TALKING WITH HER, SOMEONE WAS CALLING HER, GIVING HER
23 INFORMATION ABOUT THE VEHICLE THAT --

24 Q. OKAY. AND ULTIMATELY -- EXCUSE ME. I DIDN'T MEAN TO
25 CUT YOU SHORT.

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1 A. OKAY.

2 Q. ULTIMATELY DID YOU DETERMINE A VEHICLE?

3 A. YES, SIR, WE DID.

4 Q. AND A SPECIFIC VEHICLE, DID YOU DETERMINE -- YOU'D
5 RECEIVED THE DESCRIPTION FROM 911 AND THINGS OF THAT NATURE;
6 CORRECT?

7 A. YES, SIR.

8 Q. DID YOU ULTIMATELY GET A TAG FOR THAT VEHICLE?

9 A. YES, SIR, WE DID.

10 Q. OKAY. AND WERE YOU ULTIMATELY ABLE, THROUGH LAW
11 ENFORCEMENT SOURCES, TO LOCATE THAT VEHICLE?

12 A. YES, SIR, WE DID.

13 Q. AND WHERE DID YOU LOCATE THAT VEHICLE?

14 A. IT WAS AT THE APARTMENT COMPLEX IN BUILDING -- IN FRONT
15 OF THE BUILDING AT [REDACTED] STONE HAVEN APARTMENTS, WHICH IS
16 ACROSS FROM SONIC AND CELANESE IN ROCK HILL.

17 Q. OKAY. AND DID LAW ENFORCEMENT ALSO HAVE THE
18 OPPORTUNITY TO SEND SOMEBODY OUT TO, IN ESSENCE, WATCH THAT
19 VEHICLE OR --

20 A. YES, SIR. WE HAD A UNIFORM OFFICER TO GO OUT TO THAT
21 LOCATION.

22 Q. OKAY. NOW, AT THIS POINT WHEN THESE THINGS ARE TAKING
23 PLACE, IS IT ON INTO THE MORNING HOURS OF THE 27TH AT THAT
24 TIME?

25 A. YES, SIR; THAT'S CORRECT.

1 Q. OKAY. AND YOU HAD INDICATED SOME SEARCH WARRANTS.

2 THAT NIGHT YOU ACTUALLY GOT A NUMBER OF SEARCH WARRANTS; IS
3 THAT CORRECT?

4 A. YES, SIR.

5 Q. OKAY. YOU GOT A SEARCH WARRANT FOR BACK AT THE SCENE
6 AT PACES RIVER; IS THAT CORRECT?

7 A. YES, SIR.

8 Q. OKAY. AND TO GET A SEARCH WARRANT YOU WENT AND YOU
9 HAVE, LIKE, A CITY JUDGE, OR A CITY RECORDER, THAT YOU TAKE
10 INFORMATION TO; IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. OKAY. IN ADDITION, I BELIEVE YOU DEALT WITH ANOTHER
13 OFFICER, HANOKA, THAT GOT THAT FIRST ONE; IS THAT CORRECT?

14 A. THAT'S CORRECT, FOR THE VICTIM'S RESIDENCE. YES, SIR.

15 Q. AGAIN, SOMETIME TWO, THREE O'CLOCK IN THE MORNING, DID
16 YOU GO YOURSELF AND GET ONE SEARCH WARRANT FOR THE VEHICLE
17 YOU HAD IDENTIFIED AND I BELIEVE THREE SEARCH WARRANTS FOR
18 APARTMENTS WHERE MR. CAMPBELL OR MR. WOODY MAY BE LOCATED?

19 A. YES, SIR, WE DID.

20 Q. AND WITH THOSE SEARCH WARRANTS, DID YOU HAVE AN
21 OPPORTUNITY TO PHYSICALLY GO TO STONE HAVEN APARTMENTS TO
22 EITHER SEARCH THOSE APARTMENTS OR TO SEARCH THE VEHICLE?

23 A. YES, SIR, WE DID.

24 Q. AND ULTIMATELY, IN GOING TO THOSE APARTMENTS, DID YOU,
25 IN FACT, LOCATE MR. DEBREZIO CAMPBELL AND MR. CHRISTOPHER

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1 WOOD:

2 A. YES, SIR, WE DID.

3 Q. OKAY. WHERE WERE THEY LOCATED?

4 A. IN THE APARTMENT OF [REDACTED] STONE HAVEN APARTMENTS,
5 WHICH WAS SHAQUICE (SIC) ROBINSON, THE GIRLFRIEND OF
6 DEBREZIO CAMPBELL'S APARTMENT.

7 Q. OKAY. NOW, WHEN YOU WENT OUT THERE TO EXECUTE THESE
8 SEARCH WARRANTS AND TO TRY TO LOCATE THE DEFENDANTS, AT THAT
9 POINT WAS MR. DESMOND CAMPBELL ALREADY -- YOU HAD INDICATED
10 EARLIER THAT HE WAS ALREADY AT THE POLICE STATION; IS THAT
11 CORRECT.

12 A. HE WAS AT THE POLICE DEPARTMENT. THAT'S CORRECT.

13 Q. OKAY. AND SO WHEN YOU WENT OUT TO LOCATE MR. DEBREZIO
14 CAMPBELL AND MR. CHRISTOPHER WOODY, WHO, IF ANYBODY, WENT
15 WITH YOU FROM LAW ENFORCEMENT AT THAT POINT?

16 A. THERE WERE SOME OF THE OTHER DETECTIVES, AS WELL AS THE
17 SWAT TEAM.

18 Q. OKAY. AND DID YOU, IN FACT, EXECUTE THOSE SEARCH
19 WARRANTS AT THAT RESIDENCE?

20 A. YES, SIR, WE DID.

21 Q. OKAY. AND AS FAR AS ACTUALLY SEARCHING, I UNDERSTAND
22 ABOUT THE LOCATION OF THE DEFENDANTS, BUT AS FAR AS ACTUALLY
23 SEARCHING, DID YOU HAVE ANYONE OR ANY NUMBER OF PEOPLE FROM
24 THE FORENSIC UNIT WITH YOU?

25 A. YES, SIR, WE DID.

1 Q. OKAY. AND AS FAR AS ANY EVIDENCE THAT WAS RECOVERED,
2 EITHER IN THE APARTMENTS OR IN THE CAR, DID YOU ACTUALLY
3 COLLECT THAT EVIDENCE OR WOULD ALL EVIDENCE COLLECTION BE
4 DONE BY THE FORENSIC UNIT?

5 A. ALL COLLECTION OF EVIDENCE IS DONE BY THE FORENSIC
6 UNIT. WE LOOK TO SEE, YOU KNOW, FOR THE EVIDENCE AND AS WE
7 LOCATE THAT EVIDENCE, WE POINT IT OUT TO THE FORENSIC
8 SERVICES UNIT, AS WELL AS THEM ALSO.

9 Q. OKAY. AND SO WHEN THE SEARCH WARRANT WAS EXECUTED, FOR
10 EXAMPLE, AT THE APARTMENT WHERE MR. DEBREZIO CAMPBELL AND
11 MR. WOODY WERE LOCATED, WHEN THAT SEARCH WARRANT WAS
12 RETURNED, SO TO SPEAK, IN OTHER WORDS, WHERE YOU LIST WHAT
13 WAS TAKEN FROM THE APARTMENT, THE FORENSIC UNIT WOULD LIST
14 THOSE ITEMS AND TAKE CUSTODY OF THOSE ITEMS; IS THAT
15 CORRECT?

16 A. THAT'S CORRECT; YES.

17 Q. OKAY. AND BASED ON THE INVESTIGATION, IN THE APARTMENT
18 WHERE THEY WERE LOCATED, WAS A .25 CALIBER PISTOL, STATE'S
19 EXHIBIT 99, WAS THAT LOCATED AT THE APARTMENT WHERE THEY
20 WERE ARRESTED?

21 A. YES, SIR.

22 Q. OKAY. AND YOU WOULD NOT HAVE TAKEN THIS INTO CUSTODY?

23 A. NO, SIR.

24 Q. OKAY. SO THE FORENSIC UNIT,---

25 A. YES, SIR.

- 1 Q. ---PARTICULARLY MR. GARDNER, I BELIEVE; IS THAT RIGHT?
- 2 A. YES, SIR.
- 3 Q. AND IN ADDITION TO ANY OTHER THINGS SUCH AS AMMO AND
- 4 THINGS OF THAT THAT WOULD HAVE BEEN RECOVERED, HE WOULD
- 5 ALSO, ANY PHYSICAL EVIDENCE, BOTTOM LINE, HE WOULD RECOVER;
- 6 IS THAT RIGHT?
- 7 A. YES, SIR; THAT'S CORRECT.
- 8 Q. AND ALSO AS FAR AS DOCUMENTING WITH PICTURES, IS THAT
- 9 SOMETHING THAT THE FORENSIC UNIT DOES ALSO?
- 10 A. YES, SIR.
- 11 Q. OKAY. AND I WANT TO CALL YOUR ATTENTION BACK NOW TO
- 12 THE VEHICLE. OKAY. AND THIS PARTICULAR NISSAN MAXIMA,
- 13 WHERE WAS IT LOCATED?
- 14 A. THE GUN?
- 15 Q. NO, THE VEHICLE.
- 16 A. OH. THE VEHICLE? I'M SORRY. IT WAS IN THE APARTMENT
- 17 COMPLEX. IT WAS ACTUALLY BACKED INTO -- IN FRONT OF [REDACTED]
- 18 STONEYPONTE APARTMENTS.
- 19 Q. OKAY. AND DID YOU DETERMINE FROM RUNNING THAT TAG WHO
- 20 THAT VEHICLE BELONGED TO?
- 21 A. YES.
- 22 Q. WHO WAS THAT?
- 23 A. IT WAS REGISTERED TO A SUBJECT OUT OF VIRGINIA. IF I
- 24 MAY REFER TO---
- 25 Q. SURE.

1 A. ----MY SEARCH WARRANT ACTUAL DOCUMENTATION. IT WAS A --
2 I BELIEVE IT WAS A FAMILY MEMBER OF MR. WOODY'S. REGISTERED
3 TO A JAMES ABRAM MOORE OF [REDACTED] IN DANVILLE,
4 VIRGINIA.

5 Q. DID YOU DETERMINE WHERE MR. WOODY WAS FROM ALSO?

6 A. HE WAS FROM DANVILLE, VIRGINIA. YES, SIR.

7 Q. OKAY. AND THAT PARTICULAR VEHICLE, ULTIMATELY, A
8 SEARCH WAS CONDUCTED PURSUANT TO THAT SEARCH WARRANT OF THAT
9 VEHICLE; IS THAT CORRECT?

10 A. YES.

11 Q. OKAY. AND SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
12 62. DO YOU SEE THAT?

13 A. YES.

14 Q. AND THAT'S THE REAR OF THAT SAME VEHICLE; IS THAT
15 CORRECT?

16 A. YES, SIR.

17 Q. AND 63, IS THAT ALSO THE SAME VEHICLE?

18 A. THAT'S THE VEHICLE; YES.

19 Q. OKAY. AND, AGAIN, AS FAR AS THE ACTUAL PHYSICAL SEARCH
20 AND COLLECTION OF EVIDENCE CONCERNING THAT VEHICLE, THE
21 FORENSIC UNIT WOULD HAVE CONDUCTED THAT?

22 A. FORENSICS, YES, SIR.

23 Q. OKAY. AND, OF COURSE, YOU'D RECEIVE REPORTS AND THINGS
24 BACK FROM THEM, BUT HANDLING THE EVIDENCE AND COLLECTING IT
25 AND SENDING IT TO SLED, THEY WOULD HAVE DONE THAT?

1 A. YES. AND THEY LET US KNOW AS WELL WHEN THEY'RE --
2 WHILE THEY'RE ON THE SCENE, WHAT THEY'VE FOUND, SO --

3 Q. OKAY. I NOW CALL YOUR ATTENTION, ONCE THAT SEARCH TOOK
4 PLACE, YOU SAID THEY LET YOU KNOW ON THE SCENE. WHAT, IF
5 ANYTHING, WAS RECOVERED OUT OF THAT SEARCH?

6 A. A .45 SEMIAUTOMATIC HANDGUN. I THINK IT'S A TAURUS.

7 Q. SO STATE'S EXHIBIT 107 WOULD HAVE BEEN RECOVERED---

8 A. YES, SIR.

9 Q. ---FROM THAT -- FROM THE VEHICLE?

10 A. YES.

11 Q. OKAY. AND ON STATE'S EXHIBIT 107, DID YOU HAVE AN
12 OPPORTUNITY TO RUN WHAT'S CALLED AN ATF CHECK ON THE WEAPON
13 THAT YOU RECOVERED, THE .45 THAT WAS RECOVERED OUT OF THE
14 CAR?

15 A. YES, SIR.

16 Q. OKAY. AND SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
17 123 AND ASK IF YOU RECOGNIZE THIS ITEM.

18 A. YES, SIR. THIS IS THE RETURN REQUEST FORM FROM THE
19 DEPARTMENT OF TREASURY, ALCOHOL, TOBACCO AND FIREARMS, WHERE
20 WE RUN TRACES ON GUNS.

21 Q. OKAY. AND WHEN YOU SAY A TRACE ON A GUN, WHAT DOES
22 THAT MEAN?

23 A. INDICATING WHO THE OWNER OF THE GUN WAS.

24 Q. OKAY.

25 MR. POPE: YOUR HONOR, I'D MOVE STATE'S EXHIBIT 123

1 INTO EVIDENCE AND REQUEST PERMISSION TO PUBLISH.

2 MR. DELGADO: ABSOLUTELY, YOUR HONOR.

3 THE COURT: ADMITTED WITHOUT OBJECTION. YOU MAY
4 PUBLISH, COUNSEL.

5 Q. MS. BLACKWELDER, WITH THE COURT'S PERMISSION, IF YOU
6 NEED TO STEP DOWN TO READ THIS.

7 THE COURT: YOU MAY STAND DOWN, MA'AM.

8 THE WITNESS: THANK YOU, SIR.

9 Q. IF YOU COULD EXPLAIN TO THE JURY WHAT THIS INDICATES.

10 A. THIS IS WHAT WE WERE JUST SPEAKING OF. THIS IS THE
11 TRACE FROM THE ALCOHOL, TOBACCO, FIREARMS RETURN, THE
12 REQUEST. WE PUT DOWN THE INFORMATION ON THE GUN, THE
13 TAURUS. IT'S A .45 PISTOL TAURUS, IS WHAT WE RECOVERED FROM
14 THE NISSAN AND WHEN WE SUBMITTED THAT, IT CAME BACK TO US
15 WITH THE OWNERSHIP OF CHRISTOPHER ALAN WOODY.

16 Q. OKAY. THANK YOU, MA'AM. YOU MAY BE SEATED. SO AT THE
17 TIME THAT THE SEARCH WAS EXECUTED OF THE CAR AND EXECUTED OF
18 THE APARTMENTS, MR. DEBREZIO CAMPBELL AND MR. CHRISTOPHER
19 WOODY WERE ALSO PLACED UNDER ARREST; IS THAT CORRECT?

20 A. YES, SIR; THAT'S CORRECT.

21 Q. I SHOW YOU WHAT'S NOW BEEN MARKED PICTURES STATE'S
22 EXHIBIT 73, SEE IF YOU CAN TELL ME WHAT THOSE PICTURES
23 DEPICT. AND, AGAIN, IF YOU NEED TO STEP DOWN --

24 A. THAT'S DEBREZIO CAMPBELL.

25 Q. OKAY. IS THAT HOW HE APPEARED AT THE TIME --

1 A. THAT'S AS HE APPEARED WHEN WE ARRESTED HIM AT THE
2 APARTMENTS; YES.

3 Q. OKAY. AND I'LL NOW SHOW YOU WHAT'S STATE'S EXHIBIT 74.

4 A. THAT'S CHRISTOPHER ALAN WOODY.

5 Q. OKAY. AND WAS THAT WHAT HE WAS WEARING THAT NIGHT?

6 A. YES, SIR.

7 Q. OKAY. IS THAT HOW HE APPEARED?

8 A. YES, SIR.

9 Q. OKAY. I SHOW YOU WHAT'S ALSO BEEN MARKED AS STATE'S
10 EXHIBIT 128 AND 127, ASK IF YOU RECOGNIZE THESE ITEMS.

11 A. YES, SIR.

12 Q. AND WHAT DO THOSE DEPICT?

13 A. CAN I READ THE EXHIBIT NUMBER ON IT?

14 Q. YES, MA'AM.

15 A. 128 SHOWS CHRISTOPHER ALAN WOODY WHEN HE WAS BOOKED IN
16 THE FOLLOWING MORNING ON THE 28TH AT THE ROCK HILL CITY
17 POLICE DEPARTMENT.

18 Q. OKAY. LET'S NOT PUBLISH THEM YET. IF YOU WOULD SHOW
19 ME -- TELL ME THE OTHER ONE AS WELL.

20 A. OKAY. THE OTHER ONE IS A PHOTOGRAPH OF CHRISTOPHER
21 ALAN WOODY WHEN HE WAS BOOKED IN AT THE YORK COUNTY
22 SHERIFF'S DEPARTMENT, I BELIEVE, ON THE 30TH OF JUNE WHEN HE
23 WOULD HAVE BEEN TRANSFERRED FROM THE ROCK HILL CITY JAIL
24 HERE TO THE YORK COUNTY MOSS JUSTICE CENTER. THIS WOULD
25 HAVE BEEN A PHOTOGRAPH TAKEN OF HIM.

1 Q. AND DO THESE ACCURATELY DEPICT THE WAY HE APPEARED AND
2 HIS HAIR STYLE AT THAT TIME?

3 A. YES.

4 MR. POPE: YOUR HONOR, I MOVE STATE'S---

5 MR. DELGADO: NO OBJECTION.

6 MR. POPE: ---EXHIBITS 128 AND 127.

7 THE COURT: ADMITTED WITHOUT OBJECTION.

8 Q. AND YOU SAID 128 WAS THE ROCK HILL---

9 A. CITY.

10 Q. ---CITY?

11 A. YES, SIR.

12 Q. IS THAT CORRECT?

13 A. YES, SIR.

14 Q. OKAY. AND THEN 127 --

15 A. WOULD BE YORK COUNTY SHERIFF'S DEPARTMENT, MOSS JUSTICE
16 CENTER.

17 Q. AND, AGAIN, I HAVE TALKED ABOUT THE SWAT TEAM AND THE
18 FORENSIC UNIT, BUT YOU WERE PHYSICALLY IN HIS PRESENCE WHEN
19 --

20 A. YES, SIR. I WAS PRESENT THERE WHEN THAT SEARCH WARRANT
21 WAS EXECUTED; YES, SIR.

22 Q. OKAY. LET ME ASK YOU ONE MORE. WHEN -- IN COMPILING
23 ALL THE DIFFERENT INFORMATION CONCERNING THIS CASE AS CASE
24 AGENT, PURSUANT TO MY REQUEST, DID YOU ALSO ASCERTAIN FROM
25 THE NATIONAL WEATHER SERVICE WHAT TIME THE SUNSET WAS THAT

1 EVENING AND WHAT TIME TWILIGHT WOULD HAVE BEEN?

2 A. YES, SIR, I DID.

3 Q. OKAY. AND I SHOW YOU WHAT'S BEEN MARKED AS STATE'S 129
4 FROM THE U.S. NAVAL OBSERVATORY. DOES THAT ACCURATELY
5 REFLECT SUNDOWN AND TWILIGHT OR SUNSET AND TWILIGHT THAT
6 DAY?

7 A. IT DOES. SOMETIMES -- I'M SORRY.

8 Q. DON'T PUBLISH IT YET. EXCUSE ME.

9 MR. POPE: STATE'S EXHIBIT 129.

10 MR. DELGADO: WITHOUT OBJECTION.

11 THE COURT: ADMITTED WITHOUT OBJECTION.

12 Q. MS. BLACKWELDER, NOW I'D ASK IF YOU COULD TELL US ON
13 THAT DAY OF THE 26TH WHAT TIME SUNSET WAS AND WHAT TIME
14 --

15 A. SUNSET WAS 8:42 P.M. AND DUSK WAS 9:11 P.M.

16 Q. OKAY. AND THIS CRIME TOOK PLACE SOMETIME AFTER NINE;
17 IS THAT CORRECT?

18 A. YES.

19 Q. OKAY. FINALLY, I WANT TO ASK YOU THAT NIGHT -- AND I
20 KEEP SAYING NIGHT. I GUESS AT THE POINT THAT THE SEARCH
21 WARRANTS WERE EXECUTED AT THE CAR, IT WAS ON AROUND FOUR OR
22 FIVE IN THE MORNING, IS THAT CORRECT, ON SUNDAY MORNING?

23 A. YEAH. THERE OR BEFORE, SHORTLY THERE BEFORE.

24 Q. OKAY. AND ONCE THE ARRESTS WERE EFFECTED, WHERE WAS
25 MR. DEBREZIO CAMPBELL AND WHERE WAS MR. WOODY TAKEN TO?

1 A. THEY WERE TAKEN TO THE ROCK HILL POLICE DEPARTMENT CITY
2 JAIL.

3 Q. OKAY. AND SO FROM THE SCENE THERE THAT NIGHT, THEY
4 WERE TAKEN TO ROCK HILL CITY JAIL?

5 A. YES, SIR.

6 Q. OKAY. AND THAT EVENING DID YOU HAVE AN OPPORTUNITY OR
7 ATTEMPT TO TALK -- THIS WOULD HAVE BEEN NOW SUNDAY, THE
8 27TH, THE MORNING OF THE 27TH. DID YOU HAVE AN OPPORTUNITY
9 TO TALK TO MR. WOODY?

10 A. I DID NOT SPEAK WITH MR. WOODY; NO, SIR.

11 Q. OKAY. DID YOU QUESTION HIM IN ANY MANNER?

12 A. NO, SIR, I DID NOT.

13 Q. OKAY. DID YOU READ HIM HIS MIRANDA RIGHTS THAT
14 EVENING?

15 A. NO, SIR, I DID NOT.

16 Q. DID ANY OTHER OFFICER QUESTION HIM IN YOUR PRESENCE?

17 A. NO, SIR.

18 Q. OKAY. HOW WAS -- WHAT WAS MR. WOODY'S DEemeanor THAT
19 EVENING WHEN HE WAS ARRESTED?

20 A. THAT'S ONE OF THE REASONS I DID NOT QUESTION HIM. HE
21 WAS VERY BOISTEROUS. HE WAS VERY INTOXICATED AND HE WAS
22 CURSING.

23 Q. WELL, WAS THERE EVER A POINT THAT YOU COULD SIT DOWN
24 AND FEEL THAT HE COULD VOLUNTARILY RELATE TO YOU THAT
25 EVENING?

1 A. THAT -- NO, SIR.

2 Q. OKAY. SUBSEQUENTLY, WAS THERE AN OPPORTUNITY ON THE
3 29TH, WHICH WOULD HAVE BEEN TUESDAY, I BELIEVE, DID YOU HAVE
4 AN OPPORTUNITY TO TALK TO HIM THAT TUESDAY MORNING?

5 A. YES, SIR, I DID.

6 Q. OKAY. AND HOW DID THAT TAKE PLACE?

7 A. I WENT BACK TO THE JAIL AND ASKED HIM IF HE WOULD SPEAK
8 WITH ME AND HE DID AND THEN I BROUGHT HIM UP TO A ROOM. OF
9 COURSE, I SECURED MY WEAPON. WE ALWAYS SECURE OUR WEAPONS
10 BEFORE WE GO IN THE JAIL AND BRING A PERSON OUT. WE GO INTO
11 THE DETECTIVE DIVISION. IT'S LIKE A FIVE-BY-SEVEN ROOM, A
12 SMALL ROOM WITH TWO DOORS. ONE DOOR IS CLOSED AND ONE DOOR
13 IS OPEN ALL THE TIME. I MIRANDIZED HIM AT THAT POINT AND WE
14 PROCEEDED TO TAKE A STATEMENT FROM HIM.

15 Q. OKAY. LET ME ASK YOU THAT DAY WHEN YOU WENT THERE,
16 THIS IS NOW TUESDAY THAT HE WAS IN THE HOLDING CELL, DID HE
17 APPEAR TO BE INTOXICATED THAT TUESDAY MORNING WHEN YOU SAW
18 HIM?

19 A. NO. NO, SIR.

20 Q. DID HE APPEAR TO UNDERSTAND WHAT YOU WERE SAYING?

21 A. YES, SIR.

22 Q. OKAY. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY
23 TYPE DRUGS? AND I -- AGAIN, I'M NOW TALKING ABOUT TWO DAYS
24 AFTER THIS.

25 A. NO, SIR.

1 Q. OKAY. HE INDICATED THAT HE WAS, IN FACT, WILLING TO
2 TALK TO YOU?

3 A. YES.

4 Q. OKAY. WHEN YOU BROUGHT HIM OUT -- YOU SAID YOU BROUGHT
5 HIM OUT OF THE DETENTION CENTER UP TO THE DETECTIVE
6 DIVISION; IS THAT CORRECT?

7 A. YES.

8 Q. DID YOU PROMISE HIM ANYTHING OR THREATEN HIM IN ANY WAY
9 IF HE WOULD COME UP THERE AND TALK TO YOU?

10 A. NO.

11 Q. OKAY. DID YOU TELL HIM THAT YOU WOULD TRY TO HAVE THEM
12 GO MORE LENIENTLY ON HIM IF HE WOULD COOPERATE?

13 A. NO, SIR.

14 Q. DID YOU PROMISE HIM THAT HE COULD SEE HIS MOTHER IF HE
15 COOPERATED?

16 A. NO, SIR.

17 Q. DID YOU PROMISE HIM ANYTHING OF THAT NATURE OR, TO YOUR
18 KNOWLEDGE, DID ANY LAW ENFORCEMENT OFFICER IN YOUR PRESENCE
19 OR OTHERWISE PROMISE ANYTHING TO GET HIM TO GIVE A
20 STATEMENT?

21 A. NO, SIR.

22 Q. OKAY. AND WHEN YOU WENT TO TAKE THE STATEMENT, WHERE
23 DID YOU ACTUALLY GO?

24 A. INSIDE THE DETECTIVE -- IT'S IN THE ROCK HILL POLICE
25 DEPARTMENT INSIDE THE DETECTIVE DIVISION. IT'S A BIG, OPEN

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1 AREA KIND OF LIKE THIS, WITH SOME LITTLE ROOMS OFF TO THE
2 SIDE.

3 Q. OKAY. WERE Y'ALL IN THE BIG PART OR WERE YOU OFF IN A
4 LITTLE ROOM?

5 A. NO. WE WERE OFF IN A LITTLE ROOM THAT'S ABOUT FIVE BY
6 SEVEN.

7 Q. WHAT IS IN THE LITTLE ROOM?

8 A. A DESK, A COMPUTER AND CHAIRS.

9 Q. HOW MANY DOORS IN THAT ROOM?

10 A. TWO DOORS.

11 Q. OKAY. WHERE DO THE DOORS LEAD?

12 A. ONE OF THE DOORS LEADS OUT INTO THE HALLWAY, THE MAIN
13 HALLWAY, AND ONE DOOR LEADS DIRECTLY BACK INTO THE OPEN AREA
14 OF THE DETECTIVE DIVISION.

15 Q. OKAY.

16 MR. POPE: MADAM CLERK, IF YOU CAN TURN THE LIGHTS --

17 Q. AND WHEN YOU WERE TALKING TO HIM, WHO WAS PRESENT WHEN
18 YOU WERE TALKING TO MR. WOODY?

19 A. JUST MYSELF, BUT DETECTIVE BURRIS WAS IN AND OUT AT THE
20 TIME.

21 Q. OKAY. WHEN DETECTIVE BURRIS WAS COMING IN, WAS HE
22 THREATENING MR. WOODY?

23 A. NO, SIR.

24 Q. WHAT SIZE MAN IS DETECTIVE BURRIS?

25 A. FIVE, NINE, MAYBE FIVE, TEN, 160 POUNDS MAYBE.

1 Q. HOW OLD IS HE?

2 A. HE'S IN HIS FIFTIES.

3 Q. OKAY. AND WHEN DETECTIVE BURRIS WAS COMING IN AND OUT,
4 THE TWO PEOPLE THAT WERE INTERACTING WITH MR. WOODY WERE YOU
5 AND DETECTIVE BURRIS; IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. OKAY. DID EITHER ONE OF YOUR THREATEN HIM,---

8 A. NO, SIR.

9 Q. ---LAY HANDS ON HIM OR ANYTHING OF THAT NATURE?

10 A. NO, SIR.

11 Q. OKAY. AND YOU SAY THE DOOR WAS OPEN OUT INTO THE
12 DETECTIVE DIVISION?

13 A. YES, SIR.

14 Q. OKAY. AS FAR AS A STATEMENT TAKING PLACE, HOW DID THAT
15 ACTUALLY MECHANICALLY HAPPEN? WHAT DO YOU DO?

16 A. MIRANDA -- THERE'S A STATEMENT FORM THAT WE HAVE ON THE
17 COMPUTER. WE PRINT IT OUT. IT HAS A STATEMENT OF HIS
18 MIRANDA RIGHTS. I READ THE RIGHTS TO HIM. THERE'S A
19 SECOND PARAGRAPH THAT INDICATES -- I CAN READ IT TO YOU
20 VERBATIM ON THE STATEMENT -- THAT INDICATES THAT HE
21 UNDERSTANDS HIS RIGHTS AND WAS WILLING TO SPEAK WITH US
22 WITHOUT HIS LAWYER PRESENT AND BASICALLY AT THAT POINT HE
23 SIGNS IT AND WE PROCEEDED TO TAKE THE STATEMENT.

24 Q. OKAY. I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
25 122 AND IT'S THREE PAGES THAT AT THIS POINT ARE UNSTAPLED,

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1 BUT COULD YOU TELL ME IF YOU CAN IDENTIFY THAT?

2 A. THIS IS A STATEMENT FROM CHRISTOPHER ALAN WOODY THAT I
3 TOOK AND DETECTIVE BURRIS WITNESSED.

4 Q. AND DOES IT ACCURATELY REFLECT WHAT HE TOLD YOU?

5 A. YES.

6 Q. DOES IT ALSO ACCURATELY REFLECT THE RIGHTS AS YOU READ
7 THEM TO HIM?

8 A. YES, SIR.

9 Q. OKAY. I'M GOING TO CALL YOUR ATTENTION --

10 MR. POPE: YOUR HONOR, STATE'S EXHIBIT 122 I'D MOVE
11 INTO EVIDENCE.

12 MR. DELGADO: YOUR HONOR, SUBJECT TO MY PREVIOUS
13 OBJECTION, --

14 THE COURT: ADMITTED OVER OBJECTION OF COUNSEL. YOU
15 MAY PROCEED.

16 Q. OKAY. DETECTIVE BLACKWELDER, I WANT TO ASK YOU IF YOU
17 CAN STEP DOWN, PLEASE, MA'AM. FIRST, IF I CAN GET THIS
18 FOCUSED, IF YOU COULD INDICATE -- THIS IS STATE'S EXHIBIT
19 122. IF YOU COULD INDICATE WHAT THIS FIRST PARAGRAPH IS.
20 IF YOU COULD READ THAT TO THE JURY AND TELL US WHAT IT
21 INDICATES.

22 A. THE FIRST PARAGRAPH IS A STATEMENT OF HIS MIRANDA
23 RIGHTS AND I READ IT VERBATIM AS IT SAYS, BEFORE WE ASK ANY
24 QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE
25 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED

1 AGAINST YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO AN
2 ATTORNEY FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO
3 HAVE HIM WITH YOU DURING QUESTIONING. YOU HAVE THIS RIGHT
4 TO THE ADVICE AND PRESENCE OF AN ATTORNEY EVEN IF YOU CANNOT
5 AFFORD TO HIRE ONE. WE HAVE NO WAY OF APPOINTING YOU AN
6 ATTORNEY, BUT ONE WILL BE APPOINTED BY THE COURT FOR YOU IF
7 YOU WISH. IF YOU WISH, YOU MAY ANSWER QUESTIONS WITHOUT THE
8 PRESENCE OF AN ATTORNEY AND YOU MAY STOP ANSWERING ANY TIME
9 YOU DESIRE UNTIL AN ATTORNEY IS PRESENT.

10 Q. OKAY. AND I NOTICE THAT THERE'S A SIGNATURE FOR A
11 WITNESS. WHO IS THAT?

12 A. THAT'S DETECTIVE BURRIS; THAT'S MR. WOODY, CHRISTOPHER
13 ALAN WOODY.

14 Q. OKAY. AND DID HE SIGN THAT IN YOUR PRESENCE?

15 A. HE DID.

16 Q. OKAY. AND THE DETECTIVE BURRIS, DID HE WITNESS -- WHAT
17 DID HE WITNESS INSOFAR AS THOSE RIGHTS?

18 A. WHAT WE DO IS AFTER I READ THIS ONE TO HIM, I READ THIS
19 ONE TO HIM AFTERWARDS THAT SAYS, I HAVE READ OR HAD READ --
20 IT'S THE SECOND PARAGRAPH, I HAVE READ OR HAD READ TO ME THE
21 STATEMENT OF MY RIGHTS SHOWN ABOVE. I UNDERSTAND WHAT MY
22 RIGHTS ARE AND AM WILLING TO MAKE A STATEMENT. I DO NOT
23 WANT AN ATTORNEY AT THIS TIME. I UNDERSTAND AND KNOW WHAT I
24 AM DOING. I KNOW THAT THE PERSON TALKING TO ME IS A POLICE
25 OFFICER AND I UNDERSTAND WHAT HE OR SHE IS TALKING ABOUT,

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1 AND BASICALLY MR. WOODY SIGNED IT THERE AND HE SIGNED IT
2 THERE. DETECTIVE BURRIS WITNESSED THE SIGNATURE OF THOSE
3 RIGHTS BEING READ TO HIM.

4 Q. OKAY. WHEN YOU READ THOSE RIGHTS TO MR. WOODY, DID YOU
5 DETERMINE WHAT TYPE OF EDUCATIONAL BACKGROUND HE HAD?

6 A. YES, SIR, I DID.

7 Q. OKAY.

8 A. AT THE BOTTOM OF THE FORM, IT INDICATES. THIS
9 INFORMATION WAS GIVEN BY MR. WOODY, HIS NAME, HIS BIRTH
10 DATE, SOCIAL SECURITY NUMBER, HIS ADDRESS, WHERE HE WORKED.
11 HE HAD FIFTEEN YEARS OF SCHOOLING, INDICATING THAT I CAN
12 READ AND WRITE.

13 Q. SO HE'D INDICATED THAT HE HAD POST-HIGH SCHOOL; IS THAT
14 CORRECT?

15 A. YES, SIR.

16 Q. OKAY. AND WHEN YOU WERE TALKING TO HIM, WAS THERE A
17 TABLE OR WHERE WERE YOU SITTING?

18 A. I WAS SITTING AT THE TABLE OR THE DESK IF YOU'RE
19 LOOKING AT ME DIRECTLY AS YOU WALK INTO THE ROOM. THERE IS
20 A DESK RIGHT HERE. THERE'S TWO CHAIRS HERE AND MR. WOODY
21 WAS SITTING IN ONE OF THEM. I WAS SITTING AT THE DESK RIGHT
22 HERE FACING THE COMPUTER.

23 Q. OKAY. AND SO WHAT WAS THE PURPOSE OF THIS FORM? IS IT
24 ACTUALLY ON THE COMPUTER?

25 A. IT IS ON THE COMPUTER; YES.

1 Q. OKAY. SO ONCE YOU GO THROUGH THE RIGHTS, AS YOU'RE
2 TALKING TO HIM, YOU'RE FACING HIM?

3 A. YES, SIR.

4 Q. DID HE APPEAR TO BE LISTENING TO YOU?

5 A. YES.

6 Q. DID HE APPEAR TO UNDERSTAND WHAT YOU WERE SAYING?

7 A. YES.

8 Q. DID IT APPEAR WHEN HE LOOKED AT THE DOCUMENT AND
9 SIGNED IT THAT HE COULD ACTUALLY READ THE ENGLISH
10 LANGUAGE?

11 A. YES, SIR.

12 Q. OKAY. WAS THERE ANY INDICATION, BE IT MENTAL, ALCOHOL,
13 DRUGS, DURESS, ANYTHING FROM YOUR OBSERVATION AT THE TIME
14 YOU SPENT WITH HIM THAT HE DIDN'T UNDERSTAND WHAT HE WAS
15 DOING?

16 A. NO, SIR.

17 Q. OKAY. AND DID HE ULTIMATELY, BASED ON ALL THAT, GIVE
18 YOU A VOLUNTARY STATEMENT?

19 A. YES, SIR, HE DID.

20 Q. OKAY. AND THE LANGUAGE THAT'S ACTUALLY IN THE
21 STATEMENT, I CAN SEE THE TIP OF IT THERE THAT STARTS
22 SATURDAY NIGHT I CAME TO ROCK HILL, WHERE DID THOSE WORDS
23 COME FROM?

24 A. FROM MR. WOODY.

25 Q. OKAY. AND HOW DO YOU RECORD THEM?

1 A. AS HE'S STATES IT.

2 Q. OKAY. AND WHEN YOU SAY THAT, WHAT DO YOU MEAN? WHAT
3 ARE YOU PHYSICALLY DOING WHILE YOU'RE --

4 A. I'M TYPING AND THERE'S A KEYBOARD IN FRONT ME. WHILE
5 MR. WOODY'S TALKING TO ME, I AM TYPING.

6 Q. OKAY. DO YOU CHOOSE THE WORDS THAT YOU --

7 A. NO, SIR.

8 Q. OKAY. LET ME ASK YOU THIS: WHEN YOU GOT THROUGH AND
9 ULTIMATELY I ASSUME THAT YOU'RE SITTING AT THE COMPUTER, YOU
10 PRINTED THIS OUT; IS THAT CORRECT?

11 A. YES.

12 Q. OKAY. WHEN YOU PRINTED IT OUT FOR HIS SIGNATURE AND TO
13 REVIEW HIS RIGHTS AGAIN, DID HE HAVE AN OPPORTUNITY TO
14 ACTUALLY READ THE STATEMENT?

15 A. YES, SIR.

16 Q. OKAY. AND DID HE ACTUALLY GIVE AN AFFIRMATION TO THE
17 STATEMENT ON PAGE THREE OF THE DOCUMENT?

18 A. YES, SIR.

19 Q. AND CAN YOU EXPLAIN TO THE JURY WHAT THAT IS?

20 A. YES, SIR. THIS IS THE THIRD PAGE OF THE STATEMENT
21 AFTER HIS STATEMENT WAS OBTAINED AND IT STATES, THE PERSON
22 APPEARING BEFORE ME, CHRISTOPHER ALAN WOODY, WHO DEPOSES AND
23 SAYS, I MAKE THIS STATEMENT OF MY OWN FREE WILL AND ACCORD
24 WITHOUT REWARD OR HOPE OF REWARD. I HAVE NOT BEEN
25 MISTREATED OR THREATENED IN ANY WAY. ALL OF THE ABOVE IS

1 THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO
2 HELP ME GOD. I HAVE READ OR HAD READ TO ME THE ABOVE
3 STATEMENT, CONSISTING OF THREE PAGES, AND RECEIVED A COPY OF
4 THIS STATEMENT, WHICH HE DID.

5 Q. SO, AGAIN, WAS THERE ANY INDICATION OF ANYTHING THAT
6 TRANSPIRED WHEN HE WAS GIVING THIS STATEMENT OF ANY PROMISE
7 OR THREATS ON BEHALF OF LAW ENFORCEMENT?

8 A. NO, SIR.

9 Q. ANY HOPE OF REWARD OR ANY OFFERING OF REWARD OR
10 ANYTHING THAT HE WAS PROMISED?

11 A. NO, SIR.

12 Q. AND, ULTIMATELY, HE SAT ACROSS FROM YOU HEARING THOSE
13 RIGHTS, KNOWING THOSE RIGHTS, AND WAIVED THEM AND GAVE YOU A
14 VOLUNTARY STATEMENT?

15 A. YES, SIR.

16 MR. POPE: YOUR HONOR, AT THIS TIME I'D PUBLISH THE
17 ACTUAL BODY OF THE STATEMENT.

18 THE COURT: YES, SIR.

19 Q. MS. BLACKWELDER, AGAIN, I KNOW SOME OF THE LANGUAGE IN
20 HERE IS STRONG. THIS IS NOT YOUR WORDS?

21 A. IT'S NOT MY WORDS; NO, SIR.

22 Q. I WOULD ASK YOU TO READ TO THE JURY THE STATEMENT THAT
23 WAS GIVEN THAT NIGHT.

24 THE WITNESS: YOUR HONOR, I WOULD LIKE TO APOLOGIZE
25 AHEAD OF TIME FOR THE LANGUAGE, BECAUSE IT'S NOT IN MY

CHARLENE BLACKWELDER - DIRECT BY MR. POPE:

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1 VOCABULARY TO SPEAK THIS.

2 A. SATURDAY NIGHT I CAME TO ROCK -- AND LADIES AND
3 GENTLEMEN OF THE JURY AS WELL. SATURDAY NIGHT I CAME TO THE
4 ROCK HILL BEFORE DARK. I WENT TO THE LIQUOR STORE. THEN I
5 CALLED 'BREZIO, I ASKED HIM, WHERE YOU AT? I BOUGHT SOME
6 LIQUOR AND HE TOLD ME HOW TO GET TO WHERE HE WAS. SO I WENT
7 TO HIS APARTMENTS CALLED STONE HAVEN ACROSS FROM THE SONIC.
8 SO WE CHILLED OUT THERE FOR A LITTLE WHILE, BUT IT WAS ME,
9 'BREZIO AND HIS GIRL NINI. THEN DESMOND CAME OVER LATER
10 WITH HIS GIRL. I DON'T KNOW IF KIM STAYED OR NOT, BUT I
11 KNOW THAT SHE DROPPED HIM OFF. SO THEN WE -- THEN WE
12 CHILLED FOR A WHILE. THEN ME AND DESMOND AND DEBREZIO WENT
13 BACK TO THE LIQUOR STORE AND WE GOT SOME MORE LIQUOR. WE
14 WENT TO THIS LIQUOR STORE THAT WAS NEAR CAPTAIN GALLEYS ON
15 THE SAME STREET. I DROVE TO THE LIQUOR STORE AND THEY HAD
16 TO TELL ME WHERE TO GO. WE WENT BACK TO THE APARTMENT AFTER
17 THAT AND WE DRANK SOME MORE. I DRUNK TO WHERE I WAS OVERLY
18 INTOXICATED. I FELT LIKE I WAS READY TO HURL AND I WAS
19 LIKE, LET'S RIDE OUT SO WE CAN GET SOME AIR. SO THE THREE
20 OF US LEFT AND I WAS DRIVING AT FIRST, BUT THEN I WAS TOO
21 DRUNK TO DRIVE AND I PULLED OVER AND EITHER DESMOND OR
22 DEBREZIO DROVE. I DON'T KNOW WHICH ONE. I THINK I GOT IN
23 THE BACK SEAT. I DON'T REMEMBER GETTING IN OR OUT OF THE
24 CAR. 'BREZIO STATED, THERE GOES THE NIGGER THAT SNUCKED ME.
25 I HAD MY GUN IN MY PANTS POCKET. IT WAS A .45 AUTO.

1 WHOEVER WAS DRIVING DID A U-TURN AND THEN WE GOT OUT OF THE
2 CAR AND ALL I SAW WAS THE NIGGER REACHING AND PULLING OUT.
3 HE WAS LIKE REACHING IN HIS BACK AND WAS LIKE, NO, AND HE
4 WAS BACKING UP AND THEN MY GUN CAME OUT AND I FIRED THREE
5 SHOTS. WE JUMPED BACK IN THE CAR AND I STARTED DRINKING
6 MORE LIQUOR THAT I HAD IN MY CAR, BECAUSE I THOUGHT THAT I
7 HAD KILLED SOMEBODY. WE WENT BACK TO THE CRIB AND I WENT TO
8 SLEEP. WHEN I WOKE UP, THE POLICE WAS THERE. 'BREZIO
9 CALLED ME LIKE A COUPLE OF DAYS BEFORE AND TOLD ME ABOUT
10 THIS NIGGER SNUCKING HIM AND I WAS LIKE, DO I KNOW THE
11 NIGGER? AND HE TOLD ME THAT I HAD SEEN HIM ONE TIME IN
12 STONE HAVEN. I THOUGHT THAT THIS WAS, LIKE, GOING TO BE A
13 FIGHT, BUT THEY TOLD ME THAT THE DUDE WAS A DRUG DEALER AND
14 HE HAD BAD BOYS.

15 Q. AND THAT'S STATE'S EXHIBIT 122?

16 A. YES, SIR.

17 Q. AS HE SAT ACROSS FROM YOU, DOES THIS ACCURATELY REFLECT
18 WHAT HE TOLD YOU?

19 A. YES, SIR.

20 Q. OKAY. AT ANY TIME WHILE HE WAS THERE, DID HE TELL YOU
21 THAT HE KNEW MR. BAGLEY? DID HE INDICATE HE EVEN KNEW MR.
22 BAGLEY?

23 A. NO, SIR.

24 Q. OKAY. DID HE INDICATE TO YOU THAT HE SAW A WEAPON,
25 THAT MR. BAGLEY HAD A WEAPON?

1 A. NO, SIR.

2 Q. OKAY. I UNDERSTAND HE SAID SOMETHING ABOUT REACHING,
3 BUT DID HE EVER INDICATE HE SAW A WEAPON?

4 A. NO, SIR.

5 Q. OKAY. DID HE EVER INDICATE THAT MR. BAGLEY POINTED OR
6 FIRED A WEAPON?

7 A. NO, SIR.

8 Q. SO THE ONLY INDICATION OF ANYTHING, THAT'S WHEN HE SAID
9 SOMETHING ABOUT REACHING OR SOMETHING?

10 A. YES, SIR; THAT'S CORRECT.

11 Q. IS THERE ANY CONVERSATION HE HAD OR ANYTHING HE
12 INDICATED TO YOU ABOUT THIS CASE OUTSIDE OF THAT
13 DOCUMENT---

14 A. NO, SIR.

15 Q. ---AS FAR AS WHAT TRANSPIRED?

16 A. NO, SIR.

17 Q. DID YOU GIVE HIM AN OPPORTUNITY TO REVIEW THAT AND
18 CHANGE ANYTHING---

19 A. YES, SIR.

20 Q. ---THAT HE WANTED TO CHANGE?

21 A. YES, SIR. I ALWAYS DO THAT AT THE END OF MY
22 STATEMENTS. AFTERWARDS, I ASK THEM, IS THERE ANYTHING THAT
23 YOU WOULD LIKE TO ADD OR CHANGE IN THE STATEMENT? I DO -- I
24 DID SAY THAT FOR HIM. HE DID NOT.

25 MR. POPE: THANK YOU. ANSWER ANY QUESTIONS MR. DELGADO

1 HAS.

2 CROSS-EXAMINATION

3 CHARLENE BLACKWELDER BY MR. DELGADO:

4 Q. MS. BLACKWELDER, YOU WERE THEN, THAT IS, ON THE NIGHT
5 OF SATURDAY, JUNE 26TH, 2004, THE CASE AGENT---

6 A. YES, SIR.

7 Q. ---FOR THIS -- FOR THIS CHARGE?

8 A. YES, SIR.

9 Q. YOU ARE TODAY THE CASE AGENT FOR THIS CHARGE?

10 A. YES, SIR.

11 Q. A CASE AGENT IS, IN EFFECT, THE TOP OF THE PYRAMID.
12 WOULD THAT BE FAIR?

13 A. NO. A CASE AGENT BASICALLY JUST COMPILES ALL THE
14 INFORMATION, PUTS IT ALL TOGETHER. THAT'S --

15 Q. LET'S TALK ABOUT SOME OF THE INFORMATION YOU COMPILED.
16 DO YOU HAVE A TOXICOLOGY REPORT ON THE DECEASED, MR. BAGLEY?

17 A. NO, SIR. I DON'T BELIEVE I DO. I'M SURE WE HAVE IT,
18 BUT --

19 Q. AND YOU SAID MR. HUTCHINSON, HE'S YOUR BOSS?

20 A. YEAH, HE IS MY BOSS; THAT'S CORRECT.

21 Q. JANUARY THIS YEAR?

22 A. YEAH; THAT'S WHAT I'M SAYING. I CAN'T -- YES, SIR.

23 Q. OKAY.

24 A. YES, SIR.

25 Q. YOU RECALL THAT NOW, MA'AM?

1 A. YES, SIR.

2 Q. OKAY. THAT TOXICOLOGY REPORT IS SENT TO YOUR BOSS AT
3 THE ROCK HILL POLICE DEPARTMENT INDICATING THEY, THAT IS
4 SLED, HAS ANALYZED BLOOD ALCOHOL OF MR. BAGLEY?

5 A. CORRECT.

6 Q. WOULD YOU TELL THE JURY, PLEASE, WHAT THAT REPORT
7 SHOWS?

8 A. 0.199 ALCOHOL FOUND IN THE BLOOD.

9 Q. .199 PERCENT; CORRECT, MA'AM?

10 A. YES, SIR.

11 Q. TO DRINK AND DRIVE IN THE STATE OF SOUTH CAROLINA IS
12 .08; ISN'T THAT CORRECT, MA'AM?

13 A. THAT'S CORRECT; YES, SIR.

14 Q. THAT'S OVER TWICE THE LEGAL LIMIT. OKAY. NOW, --
15 THANK YOU, MA'AM.

16 A. YES, SIR. THANK YOU.

17 Q. NOW, LET'S TALK ABOUT HIS INTOXICATED STATE ON THE
18 EARLY MORNING OF THE 27TH OF JUNE. THAT WOULD BE THE SUNDAY
19 MORNING, THE 27TH.

20 A. YES, SIR.

21 Q. YOU FIRST MET MY CLIENT WHEN YOU WENT TO THE STONE
22 HAVEN APARTMENTS TO THE RESIDENCE RENTED BY A WOMAN NAMED
23 SHAQUAVIOUS ROBINSON; IS THAT CORRECT?

24 A. YES, SIR.

25 Q. NOW, THAT LADY IS ALSO KNOWN BY A NICKNAME OR FAMILY

1 NAME OF NINI; IS THAT CORRECT?

2 A. YES, SIR.

3 Q. NOW, MS. SHAQUAVIOUS "NINI" ROBINSON IS OR WAS AT THAT
4 TIME THE GIRLFRIEND OF MR.---

5 A. DEBREZIO.

6 Q. ---DEBREZIO CAMPBELL?

7 A. YES, SIR.

8 Q. DEBREZIO CAMPBELL WAS ARRESTED AT SHAQUAVIOUS'S
9 APARTMENT?

10 A. YES, SIR.

11 Q. AND CHRIS WAS ARRESTED?

12 A. YES, SIR.

13 Q. APPROXIMATELY WHAT TIME WAS THAT, MA'AM? I'M NOT
14 ASKING TO THE MINUTE. WAS IT FIVE O'CLOCK, SIX O'CLOCK IN
15 THE MORNING?

16 A. IT WAS BEFORE DAYLIGHT. I COULD TELL YOU THAT.

17 Q. OKAY. WOULD FIVE O'CLOCK BE WITHIN THE STRIKING
18 DISTANCE?

19 A. I CAN'T GIVE YOU AN EXACT TIME OTHER THAN WHAT'S ON THE
20 -- I DON'T KNOW IF IT'S ON THE SEARCH WARRANT OR NOT. I CAN
21 TELL YOU -- I CAN'T SAY IT WOULD BE FAIR BECAUSE I DON'T
22 HAVE THE EXACT TIME. THAT'S BEING HONEST. IT WAS BEFORE
23 DAYLIGHT, I CAN TELL YOU THAT, BECAUSE IT WAS STILL DARK
24 WHEN WE WERE EXECUTING THE SEARCH WARRANTS.

25 Q. WELL, THE SEARCH WARRANTS WERE NOT EXECUTED UNTIL -- MY

1 INDICATION, MA'AM, IS THAT THE SEARCH WARRANTS WERE NOT AT
2 LEAST FOR THE MAXIMA, WAS NOT EXECUTED UNTIL 5:48 A.M. IN
3 THE MORNING. HE WASN'T ARRESTED BEFORE THAT, WAS HE?

4 A. NO. THAT'S CORRECT.

5 Q. SO HE WOULD HAVE TO BE ARRESTED AFTER THAT?

6 A. THAT'S CORRECT.

7 Q. CLOSER TO SIX O'CLOCK IN THE MORNING?

8 A. THAT'S CORRECT. YES, SIR.

9 Q. HE WAS HIGHLY INTOXICATED AT -- AFTER 5:48 A.M. ON
10 SUNDAY MORNING?

11 A. YES, SIR.

12 Q. I THINK YOUR WORDS WERE VERY INTOXICATED; RIGHT?

13 A. HE WAS INTOXICATED; CORRECT. YES, SIR.

14 Q. ALL RIGHT. WHEN YOU WENT TO SHAQUAVIOUS ROBINSON,
15 NINI'S APARTMENT, DID YOU SEE WHERE CHRIS HAD THROWN UP ON
16 THE CARPET WHERE SHAQUAVIOUS HAD TO CLEAN IT UP? DID YOU
17 SEE THAT? DID SHE TELL YOU ABOUT THAT?

18 A. NO.

19 Q. WHERE HE HAD, IN EFFECT, HAD, LIKE HE SAID, HURLED? HE
20 THOUGHT ABOUT IT AND FELT LIKE IT.

21 A. NO.

22 Q. DID YOU SEE ANY OF THAT? DO YOU KNOW ANY OF THAT?
23 OKAY.

24 A. NO, SIR.

25 Q. MA'AM, --

1 MR. DELGADO: MR. MAY, CAN I ASK YOU TO BRING UP THE
2 ATF REPORT JUST ONE SECOND, PLEASE.

3 MR. POPE: IT'S ACTUALLY --

4 MR. DELGADO: OKAY.

5 MR. POPE: I'M SORRY. IT'S RIGHT HERE.

6 MR. DELGADO: OKAY. ALL RIGHT.

7 Q. MS. BLACKWELDER, LET ME GET YOU TO STEP DOWN HERE WHERE
8 YOU CAN SEE -- A CHANCE TO SEE THIS. THIS IS THE
9 INFORMATION CONTAINED FROM THE ALCOHOL, TOBACCO AND FIREARMS
10 DIVISION OF THE TREASURY DEPARTMENT IN WASHINGTON ABOUT
11 WHERE A GUN WAS SOLD AND TO WHOM IT WAS SOLD; CORRECT?

12 A. YES, SIR.

13 Q. OVER ON THE BOTTOM RIGHT-HAND SIDE IT SAYS THE DEALER
14 INFORMATION IS CARTER'S GUNS AND AMMO, APPLEWOOD DRIVE,
15 DANVILLE, VIRGINIA.

16 A. YES, SIR.

17 Q. ALL RIGHT. WAIT JUST ONE SECOND. LET ME JUST -- DOES
18 IT INDICATE ON THERE, MA'AM, WHEN THAT WAS SOLD TO MR. --

19 A. SHIPPING DATE WAS 10/22/2002.

20 Q. ALL RIGHT. SO A YEAR AND A HALF OR MORE BEFORE THIS
21 INCIDENT; CORRECT, MA'AM?

22 A. YES, SIR.

23 Q. MA'AM, IF I TOLD YOU THAT MR. WOODY'S ACTUAL RESIDENCE
24 IS NOT WEST DOVER BUT WESTOVER DRIVE IN DANVILLE, VIRGINIA,
25 WOULD THAT BE FAIR?

1 A. YES, SIR.

2 Q. ALL RIGHT. NOW, THIS IS OF THE RIGHT-HAND CORNER,
3 SHOWS A .45 CALIBER MADE IN BRAZIL, A TAURUS. THAT IS WHAT
4 THIS IS. IS THAT CORRECT, MA'AM?

5 A. YES, SIR.

6 Q. AND THAT WAS SEIZED IN THE MAZDA; CORRECT, MA'AM?

7 A. YES.

8 Q. ALL RIGHT. IF YOU'LL HAVE A SEAT. THANK YOU. ONE
9 THING THAT MR. POPE ASKED YOU, MA'AM, THAT I WANTED TO
10 CLARIFY, YOU SAID YOU DETERMINED, THAT IS, YOU, BEING LAW
11 ENFORCEMENT, DETERMINED THAT THEY, THAT IS, MR. -- THE TWO
12 -- THAT MR. DEMETRIUS -- EXCUSE ME -- MR. DEBREZIO CAMPBELL
13 AND -- MR. DESMOND CAMPBELL, RATHER, AND THE DEFENDANT WERE
14 AFFILIATED; CORRECT, MA'AM?

15 A. YES, SIR.

16 Q. YOU MEAN AFFILIATED LIKE IN A GUN -- DIDN'T MEAN LIKE A
17 CLUB OR A GANG. THEY KNEW EACH OTHER; RIGHT?

18 A. YES, SIR, THEY DID.

19 Q. AS A MATTER OF FACT, DESMOND WORKED RIGHT THERE, JUST
20 LIKE HE SAID, WORKED THERE AT -- EXCUSE ME. AS HE SAID
21 RIGHT HERE, HE WORKED AT BLACK AND DECKER IN FORT MILL,
22 DIDN'T HE?

23 A. YES, SIR; THAT'S CORRECT.

24 Q. ALL RIGHT. THAT'S HOW THEY KNEW EACH OTHER?

25 A. YES, SIR.

1 Q. ALL RIGHT. MATTER OF FACT, CHRIS -- THE ONLY REASON HE
2 KNEW DEBREZIO WAS THROUGH DESMOND; CORRECT?

3 A. THAT'S CORRECT.

4 Q. ALL RIGHT. AND THAT'S WHAT'S REPORTED HERE ON THE LAST
5 PAGE OF STATE'S EXHIBIT 122 OR WHATEVER -- THERE'S HIS NAME.
6 PAGE ONE SAYS THAT HE WORKS -- HE LIVES IN CHARLOTTE. HE
7 WORKS AT BLACK AND DECKER, FORT MILL,---

8 A. YES, SIR.

9 Q. ---FIRST SHIFT, HAS FIFTEEN YEARS OF SCHOOL. THAT
10 WOULD BE HIGH SCHOOL AND THREE YEARS OF COLLEGE; CORRECT?

11 A. YES, SIR..

12 Q. ALL RIGHT. NOW, THE -- DO YOU KNOW -- AND THIS MAY BE
13 MY LAST QUESTION FOR YOU, MS. BLACKWELDER. DO YOU HAPPEN TO
14 KNOW, MA'AM, WHEN THE SEARCH WARRANT FOR THE PACES RIVER
15 APARTMENT -- NOW, LET'S MAKE CERTAIN. THERE WERE LOTS OF
16 SEARCH WARRANTS THAT WERE --

17 A. THAT WOULD BE THE VICTIM'S APARTMENT.

18 Q. I'M SORRY.

19 A. THE VICTIM'S? PACES RIVER, YES, SIR.

20 Q. WELL, WHERE MR. BAGLEY---

21 A. RIGHT.

22 Q. ---LIVED. DO YOU KNOW WHAT TIME OF THE NIGHT OR
23 MORNING THAT WAS EXECUTED?

24 A. THAT WOULD HAVE BEEN BEFORE MY SEARCH WARRANTS, BECAUSE
25 DETECTIVE HANOKA WAS THE ONE THAT ACTUALLY OBTAINED THAT

1 SEARCH WARRANT AND HE WOULD HAVE WENT PRIOR TO MY --
2 DETECTIVE HANOKA WAS ALREADY AT THE POLICE DEPARTMENT WHEN I
3 ARRIVED OR CAME LATER. I'M SORRY. HE WAS AT THE SCENE
4 BEFORE I WAS EVEN CALLED IN. SO HE WOULD HAVE WENT TO THE
5 JUDGE AND OBTAINED THE SEARCH WARRANT OR WHAT HAVE YOU
6 BEFORE I EVEN ARRIVED.

7 Q. ALL RIGHT. GIVE YOU THIS AND JUST SEE IF YOU CAN
8 IDENTIFY THAT BEING MR. HANOKA'S AFFIDAVIT AND ON THE LAST
9 PAGE WHERE IT WAS RETURNED, IN OTHER WORDS, WHEN IT WAS
10 EXECUTED AT PACES RIVER.

11 A. 6/27 AT 3:32 A.M. IN THE MORNING.

12 Q. ALL RIGHT. SO AT 3:22 IN THE MORNING---

13 A. YES, SIR.

14 Q. ---ON THE MORNING OF SUNDAY, THE 27TH, IS WHEN THE
15 POLICE WENT TO PACES RIVER APARTMENT?

16 A. THAT'S WHAT THIS --

17 Q. OKAY..

18 A. THAT'S WHAT THIS REFLECTS WHEN DETECTIVE HANOKA
19 EXECUTED IT.

20 Q. ALL RIGHT.

21 A. THIS COULD HAVE BEEN AFTER -- I CANNOT TESTIFY --

22 Q. I UNDERSTAND..

23 A. -- FOR HIM, BUT I CAN ONLY TELL YOU THAT SOMETIMES ON
24 THE RETURN WHEN YOU PUT THE DATE AND TIME ON IT, IT'S
25 GENERALLY AFTER IT'S BEEN EXECUTED.

1 MR. DELGADO: YOUR HONOR, I THINK THAT'S ALL THE
2 QUESTIONS I HAVE. THANK YOU.

3 RE-DIRECT EXAMINATION

4 CHARLENE BLACKWELDER BY MR. POPE:

5 Q. QUICK QUESTION, DETECTIVE BLACKWELDER. ALL THESE
6 DIFFERENT SEARCH WARRANTS -- OF COURSE, THEY'RE NOT IN
7 EVIDENCE, THE DIFFERENT SEARCH WARRANTS YOU'RE REFERRING TO.
8 THE ~~TIME~~, THE RETURN TIME, IS WHERE YOU KIND OF LIST WHAT
9 YOU GOT FROM THE SEARCH AND THEN YOU PUT THE TIME, KIND OF
10 WHEN THE SEARCH ENDED OR WHEN IT WRAPPED UP; IS THAT
11 CORRECT?

12 A. YES, SIR; THAT'S CORRECT.

13 Q. OKAY. FOR EXAMPLE, YOU SAID 3:32 ON THE PACES RIVER
14 SEARCH.

15 A. YES, SIR.

16 Q. NOW, OF COURSE, LAW ENFORCEMENT WAS OUT THERE FROM TEN
17 O'CLOCK THE NIGHT BEFORE ALL THE WAY THROUGH 3:32 IN THE
18 MORNING; IS THAT CORRECT?

19 A. THAT'S CORRECT. NEVER LEFT; THAT'S CORRECT.

20 Q. OKAY. AND SO IN THAT REGARD, THAT TIMING WAS ACTUALLY
21 TOWARD THE END OF THE SEARCH. ALL THE TESTIMONY AS FAR AS
22 THE CRIME SCENE AND ALL THAT WAS TAKING PLACE PRIOR TO THAT;
23 RIGHT?

24 A. THAT'S CORRECT; YES, SIR.

25 Q. LIKEWISE, WHEN YOU'RE TALKING ABOUT THE SEARCH OF THE

1 APARTMENT [REDACTED] AT STONEYPONTE, DO YOU HAVE THAT ONE BEFORE
2 YOU ALSO?

3 A. YES, SIR.

4 Q. OKAY. I BELIEVE THAT RETURN WAS AT 5:25, SO --

5 A. THAT WOULD HAVE BEEN AFTER.

6 Q. SO ENTRY HAD BEEN MADE. THE SEARCH WAS COMPLETE AT
7 5:25; RIGHT?

8 A. YES, SIR.

9 Q. OKAY. SO THEY WOULD HAVE BEEN SECURED AT THE SCENE
10 SOMETIME PRIOR TO 5:25; CORRECT?

11 A. YES, SIR.

12 Q. OKAY. AND THEN THE VEHICLE SEARCH OF THE MAXIMA
13 CONCLUDED AT 5:48; IS THAT CORRECT?

14 A. THAT'S CORRECT.

15 Q. AND THAT'S JUST THE TIMES, AGAIN, WHERE THEY LIST WHAT,
16 IF ANYTHING, THEY RECOVERED AND WRAPPED THAT UP; IS THAT
17 CORRECT?

18 A. YES, SIR; THAT'S CORRECT.

19 Q. I HAVE ONE FINAL SERIES OF QUESTIONS. THE TOXICOLOGY
20 REPORT---

21 A. YES, SIR.

22 Q. ---THAT MR. DELGADO WAS ASKING YOU ABOUT, CAN I SEE A
23 COPY OF THAT?

24 A. I THINK THIS MR. -- I LOOKED AT HIS COPY.

25 MR. POPE: THANK YOU.

1 Q. AND HE WAS ASKING ABOUT THE .199 OF ALCOHOL. DO YOU
2 HAVE ANY EXPERIENCE AND TRAINING OR KNOWLEDGE OF HOW LOSING
3 HALF OF THE BLOOD VOLUME IN ONE'S BODY WOULD AFFECT THE
4 BLOOD TESTING ULTIMATELY AS FAR AS ALCOHOL? DO YOU HAVE ANY
5 EXPERIENCE IN THAT?

6 A. ONLY OTHER THAN THE FACT THAT IT WOULD GO DOWN.

7 Q. OKAY. AND DO YOU ALSO, IN ADDITION TO TESTING FOR
8 BLOOD ALCOHOL, DID THEY TEST FOR VARIOUS OTHER ITEMS IN THIS
9 REPORT THAT HE REFERRED TO?

10 A. THAT'S CORRECT.

11 Q. OKAY. CAN YOU INDICATE THE RESULTS OF THE OTHER ITEMS
12 THAT WERE TESTED AND THE RESULTS?

13 A. YES, SIR; YES, SIR. THE ITEMS TESTED IN URINE WAS 0.5
14 MILLILITER OF BLOOD, NEGATIVE SCREEN FOR AMPHETAMINES,
15 NEGATIVE SCREEN FOR BARBITURATES, NEGATIVE SCREEN FOR
16 BENZODIAZEPINE, WHICH ARE DRUGS. NEGATIVE FOR CANNABIS,
17 NEGATIVE SCREEN FOR COCAINE AND NEGATIVE SCREEN FOR OPIATES.

18 Q. SO OTHER THAN THE ALCOHOL, ALL OF THE SCREENS FOR
19 ANYTHING ELSE IN HIS SYSTEM WAS NEGATIVE?

20 A. YES, SIR; THAT'S CORRECT.

21 MR. POPE: THANK YOU. I HAVE NO FURTHER QUESTIONS.

22 MR. DELGADO: YOUR HONOR, BRIEF LITTLE QUESTION.

23 RE-CROSS EXAMINATION

24 CHARLENE BLACKWELDER BY MR. DELGADO:

25 Q. MS. BLACKWELDER, WHAT YOU MEANT TO MR. POPE WAS, IT

1 WOULD GO DOWN, MEANING THE LEVEL OF INTOXICATION, COULD VERY
2 PROBABLY AND WAS HIGHER THAN WHAT TIME THAT IT WAS TAKEN AT
3 THE AUTOPSY; CORRECT, MA'AM? HIGHER THAN .1- --

4 A. IT'S POSSIBLE. I CAN'T SAY. I CAN ONLY TELL YOU WHAT
5 WAS AT THE AUTOPSY, WHAT THE LEVEL WAS THERE AND WHAT HIS
6 CONDITION WAS WHENEVER I SAW HIM PERSONALLY.

7 Q. YES, MA'AM. NOW, AND, MA'AM, WE'RE TALKING TWO
8 DIFFERENT PEOPLE. WE'RE TALKING ABOUT MR. BAGLEY, .19- --

9 A. OKAY. I DID NOT SEE MR. BAGLEY. NO, SIR.

10 Q. OKAY. NOW, IN YOUR SEARCH WARRANT, MA'AM, ---

11 A. YES, SIR.

12 Q. ---ONLY ALLOWS LAW ENFORCEMENT TO GO INTO A PRIVATE
13 RESIDENCE UNDER THE CONSTITUTION AND THE LAWS OF THIS STATE
14 WHEN THE SEARCH WARRANT IS GRANTED BY A JUDGE; CORRECT,
15 MA'AM?

16 A. YES, SIR.

17 Q. SO IN OTHER -- MR. POPE SAID THAT THEY WERE OUT THERE.
18 I'M CERTAIN LAW ENFORCEMENT WAS OUT THERE IN THE PARKING LOT
19 AND THE COMMON AREAS, BUT NO LAW ENFORCEMENT OFFICER COULD
20 GO INTO THE APARTMENT RENTED BY MR. BAGLEY BEFORE THAT
21 SEARCH WARRANT, COULD THEY?

22 A. YEAH, BECAUSE IT WAS A CRIME SCENE. I MEAN, THEY WERE
23 ALREADY OUT THERE. PLUS, WE HAD -- I BELIEVE THERE WAS A
24 CONSENT SIGNED BY THE VICTIM'S FATHER, GIVING THE OFFICERS
25 CONSENT TO GO IN THE HOUSE PRIOR TO US GETTING THE SEARCH

1 WARRANT.

2 Q. IS THAT RIGHT?

3 A. YES, SIR.

4 Q. I HAVE NOT SEEN THAT. DO YOU HAVE A COPY OF THAT?

5 A. YES, SIR.

6 MR. DELGADO: YOUR HONOR, I THINK WITH THAT QUESTION,
7 JUST AS SOON AS I CAN SEE THAT, I THINK WE'RE THROUGH.

8 A. WELL, I THOUGHT I HAD IT.

9 Q. DO YOU HAVE THAT, MA'AM? THAT --

10 A. YES, SIR; I HAVE THAT --

11 Q. THAT'S SIGNED BY MR. TOBIAS AS WELL OR POSSIBLY BY --

12 A. FLOYD GRANT IS WHAT IT INDICATES.

13 Q. OKAY. THAT WILL BE FINE. THANK YOU VERY MUCH.

14 MR. DELGADO: THAT'S ALL, YOUR HONOR. THANK YOU.

15 THE COURT: THANK YOU, MA'AM. YOU MAY STAND DOWN.

16 THE WITNESS: THANK YOU, SIR.

17 MR. POPE: PLEASE THE COURT, I THINK THE NEXT WITNESS
18 WOULD BE LENGTHY. THIS MAY BE A GOOD STOPPING POINT TODAY.

19 THE COURT: WE'LL GO AHEAD AND ADJOURN FOR THE EVENING.

20 MADAM FORELADY, MEMBERS OF THE JURY PANEL, WE'RE GOING TO GO
21 AHEAD AND RECESS FOR THE EVENING. I'M GOING TO ASK YOU TO
22 BE BACK IN THE JURY ROOM READY TO GO AT 9:30 IN THE MORNING.
23 WE'LL TRY TO GET STARTED PROMPTLY AT 9:30, SO PLEASE TRY TO
24 BE ON TIME.

25 ON THE OVERNIGHT RECESS, I TOLD YOU'LL GET TIRED OF

1 HEARING ME SAY THIS, BUT I'M GOING TO KEEP SAYING IT ANYWAY,
2 BECAUSE IT'S SO IMPORTANT. ON THE OVERNIGHT RECESS, PLEASE
3 DO NOT DISCUSS THIS CASE AMONG YOURSELVES OR WITH ANYONE
4 ELSE YOU MIGHT SEE, INCLUDING FAMILY, FRIENDS OR ANYONE ELSE
5 DURING THE OVERNIGHT RECESS.

6 EVERYONE HAS BEEN INSTRUCTED, WHO IS ATTENDING COURT,
7 NOT TO TRY TO DISCUSS THE CASE WITH YOU. IF ANYONE DOES TRY
8 TO DISCUSS THE CASE WITH YOU OR IN YOUR PRESENCE, PLEASE
9 MAKE NOTE OF THAT PERSON, GET THE BEST DESCRIPTION YOU CAN
10 OF THAT PERSON OR PERSONS AND GIVE IT TO THE BAILIFF UPON
11 YOUR RETURN. THEY'LL GIVE IT TO ME AND I WILL DEAL
12 APPROPRIATELY WITH THAT PERSON OR PERSONS. NO ONE SHOULD
13 TRY TO DISCUSS THE CASE WITH YOU OR IN YOUR PRESENCE. IF
14 THEY DO, DO NOT DISCUSS IT WITH THEM, BUT SIMPLY MOVE AWAY
15 AND LET THE COURT KNOW THAT.

16 IF THERE SHOULD BE ANY MEDIA COVERAGE OF THIS TRIAL,
17 AND THERE MAY VERY WELL BE, I HAVE NO WAY OF KNOWING THAT,
18 BUT IF THERE SHOULD BE ANY MEDIA COVERAGE OF THIS TRIAL,
19 PLEASE DO NOT READ, LISTEN TO OR WATCH ANY MEDIA ACCOUNT OF
20 THE TRIAL UNTIL AFTER THE TRIAL IS OVER. AGAIN, IF SOMEONE
21 WANTS TO SAVE IT FOR YOU AND KEEP IT FOR YOU UNTIL AFTER THE
22 TRIAL AND THE VERDICT IS IN, YOU'RE PERFECTLY WELCOME TO
23 READ, TO LISTEN TO, OR WATCH ANY MEDIA ACCOUNT AFTER THE
24 TRIAL. IN THE INTERIM PERIOD, PLEASE DO NOT DO THAT. YOU
25 NEED TO MAKE YOUR DECISION ONLY ON THE SWORN TESTIMONY AND

1 EVIDENCE THAT COMES IN DURING THE COURSE OF THIS TRIAL AND
2 NOT FROM ANY OTHER SOURCE.

3 THANK YOU. PLEASE HAVE A PLEASANT NIGHT TONIGHT AND
4 PLEASE BE BACK IN THE JURY ROOM IN THE MORNING AT 9:30.
5 THANK YOU.

6 (JURY OUT AT 5:35 P.M.)

7 THE COURT: ALL RIGHT. IS THERE ANY MATTER WE NEED TO
8 TAKE UP OUT OF THE PRESENCE OF THE JURY AT THIS TIME BY
9 EITHER SIDE?

10 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

11 MR. DELGADO: NOTHING FROM THE DEFENSE.

12 THE COURT: ALL RIGHT. GENTLEMEN, HAVE A PLEASANT
13 EVENING TONIGHT AND WE'LL TRY TO RESUME AT 9:30. I, OF
14 COURSE, WILL BE HERE BEFORE THAT IF SOMETHING COMES UP YOU
15 NEED TO DISCUSS WITH ME.

16 (WHEREUPON, COURT WAS ADJOURNED FOR THE DAY AT 5:36
17 P.M. AND RECONVENED ON MAY 4, 2005 AT 9:41 A.M.)

18 (END OF VOLUME II)
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ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE
COURT OF GENERAL SESSIONS
CASE NO.: 05-GS-46-0858

STATE OF SOUTH CAROLINA,
PLAINTIFF,
-vs-
CHRISTOPHER WOODY,
DEFENDANT.

TRANSCRIPT OF RECORD
VOLUME III OF V

MAY 4, 2005
YORK, SOUTH CAROLINA

B E F O R E:

HONORABLE LEE S. ALFORD, JUDGE, AND A JURY.

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

MR. THOMAS E. POPE
YORK COUNTY SOLICITOR
MR. WILLY THOMPSON
ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE
YORK, SOUTH CAROLINA

MR. JOHN DELGADO
ATTORNEY AT LAW
ATTORNEY FOR THE DEFENDANT WOODY
COLUMBIA, SOUTH CAROLINA

SHANNON MCGILBERRY
COURT REPORTER

ORIGINAL

1 MR. POPE: YOUR HONOR, JUST FOR THE RECORD, NOW THAT
2 MR. WOODY'S PRESENT, 133 WILL BE THE RECOVERED FINGERPRINTS,
3 THE KNOWN CARD. WE JUST DID THEM ALL AS ONE PACKAGE AND I
4 UNDERSTAND THAT MR. DELGADO -- MY UNDERSTANDING IT COMES IN
5 WITHOUT OBJECTION.

6 MR. DELGADO: YES, SIR.

7 THE COURT: ALL RIGHT. ANY OTHER MATTERS WE NEED TO
8 TAKE UP AT THIS TIME OUT OF THE PRESENCE OF THE JURY FROM
9 EITHER SIDE?

10 MR. DELGADO: NOTHING FROM THE DEFENDANT.

11 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

12 THE COURT: PLEASE BRING THEM IN.

13 (JURY IN AT 9:43 A.M.)

14 THE COURT: GOOD MORNING, MADAM FORELADY, MEMBERS OF
15 THE JURY PANEL. I HOPE YOU HAD A PLEASANT NIGHT LAST NIGHT.
16 I DO NEED TO ASK YOU ONE QUESTION. THERE WAS AN EXTENSIVE
17 ARTICLE ABOUT THIS CASE IN THE HERALD THIS MORNING. THERE
18 WAS AN ARTICLE YESTERDAY MORNING AS WELL, BUT A MORE
19 EXTENSIVE ARTICLE THIS MORNING. I NEED TO INQUIRE AS TO
20 WHETHER ANY OF THE JURORS READ EITHER ONE OF THOSE ARTICLES,
21 PARTICULARLY THE ARTICLE THIS MORNING. DID ANY MEMBER OF
22 THE JURY PANEL READ ANY OF THOSE ARTICLES THAT WERE IN THE
23 HERALD, PARTICULARLY THE ONE TODAY? DID ANYBODY READ THE
24 ARTICLE THAT WAS IN THE PAPER TODAY? IF SO, RAISE YOUR
25 RIGHT HAND. READY TO PROCEED.

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1 MR. POPE: PLEASE THE COURT, YOUR HONOR. THE STATE
2 WOULD CALL TODD GARDNER TO THE STAND. IF YOU'D STEP AROUND
3 AND BE SWORN, PLEASE.

4 (WILLIAM TODD GARDNER, BEING FIRST DULY SWORN, WAS
5 EXAMINED AND TESTIFIED AS FOLLOWS):

6 DIRECT EXAMINATION

7 WILLIAM TODD GARDNER BY MR. POPE:

8 Q. OFFICER GARDNER, IF YOU WOULD, STATE YOUR NAME AND
9 SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

10 A. MY NAME IS WILLIAM TODD GARDNER, G-A-R-D-N-E-R.

11 Q. COULD YOU TELL THE JURY WHERE YOU'RE EMPLOYED?

12 A. I'M EMPLOYED WITH THE ROCK HILL POLICE DEPARTMENT.

13 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

14 A. I START MY TWENTY-EIGHTH YEAR THIS COMING OCTOBER.

15 Q. OKAY. AND HOW LONG HAVE YOU BEEN WITH THE ROCK HILL
16 POLICE DEPARTMENT?

17 A. APPROXIMATELY TWENTY-ONE YEARS.

18 Q. AND WHAT, SPECIFICALLY, NOW ARE YOUR DUTIES WITH THE
19 ROCK HILL POLICE DEPARTMENT? WHAT IS YOU DO DAY TO DAY?

20 A. ~~I'M ASSIGNED TO THE YORK COUNTY FORENSIC SERVICES UNIT,~~

21 WHICH IS A SPECIALIZED UNIT THAT WAS FORMED IN APRIL OF
22 2002.

23 Q. OKAY. AND TELL THE JURY JUST A LITTLE BIT ABOUT WHAT
24 IS THE YORK COUNTY FORENSIC SERVICES UNIT? DOES IT HAVE AN
25 ACRONYM? FSU IS THAT THE SAME THING?

1 A. THAT'S CORRECT. FORENSIC SERVICE --

2 Q. GO AHEAD AND TELL US JUST BRIEFLY WHAT THE FSU IS.

3 A. IT'S A GROUP OF OFFICERS WHO ARE TRAINED IN FORENSIC
4 TYPE SKILLS. THERE'S OFFICERS FROM THE ROCK HILL POLICE
5 DEPARTMENT AND THERE'S OFFICERS FROM THE YORK COUNTY
6 SHERIFF'S DEPARTMENT AND OFFICERS FROM WINTHROP P.D. AND
7 ALSO FROM FORT MILL P.D. WE ALL CAME TOGETHER AS ONE UNIT
8 TO WORK CRIME SCENES THROUGHOUT THE WHOLE COUNTY INSTEAD OF
9 OUR RESPECTIVE AGENCIES.

10 Q. AND YOU NAMED THE DATE. HOW LONG IS IT THAT THE FSU
11 BEEN OPERATING TOGETHER?

12 A. SINCE APRIL, 2002.

13 Q. SO BACK AT THE TIME OF THIS CASE IN JUNE OF 2004, YOU
14 WERE OPERATING AS A UNIT AT THAT TIME?

15 A. THAT'S CORRECT.

16 Q. OKAY. COULD YOU TELL THE JURY, AS FAR AS YOUR DUTIES
17 WITH THE FORENSIC UNIT, WHAT ACTUALLY IT IS YOU DO OR MAY DO
18 DAY TO DAY?

19 A. A LOT OF WORK IS DONE WITH EXAMINING LATENT
20 FINGERPRINTS. WE DO AN AWFUL LOT OF PHOTOGRAPHY. WE, ON A
21 DAY-BY-DAY BASIS, WE GO OUT AND WORK -- WE PROCESS CRIME
22 SCENES FOR THE DEPARTMENTS THAT REPRESENT OUR UNIT. WE
23 PROCESS EVID- -- ITEMS OF EVIDENCE THAT HAVE BEEN TURNED IN
24 BY UNIFORM OFFICERS AND DO CRIME SCENE SKETCHING.

25 Q. WHEN YOU SAY PROCESS, WHAT DOES THAT MEAN IN THE TERM

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1 THAT YOU USE? WHEN YOU SAY TO PROCESS A CRIME SCENE AND YOU
2 PROCESS EVIDENCE, WHAT DOES THAT MEAN?

3 A. WE ACTUALLY GO TO THE SCENE AND PHOTOGRAPH IT AND AS
4 FAR AS THE PROCESSING PROCEDURE IS PHOTOGRAPHY. WE MAY DUST
5 FOR FINGERPRINTS AND COLLECT LATENT FINGERPRINTS WE FIND AT
6 THE SCENE. WE COLLECT ANY ITEMS OF EVIDENCE THAT MAY BE
7 PERTINENT TO THIS CASE. WE MAY EVEN COLLECT STUFF THAT'S
8 NOT PERTINENT BUT WAS AT THE SCENE AND WE FELT LIKE IT MAY
9 BE AND WE MAY COLLECT IT AND LATER FIND OUT IT'S NOT. WE
10 COLLECT -- OUR UNIT BASICALLY IS A COLLECTION AGENCY. WE GO
11 OUT AND COLLECT EVIDENCE. THAT'S WHAT WE DO.

12 Q. OKAY. AND THEN YOU SAID, FOR EXAMPLE, PROCESS
13 EVIDENCE, YOU MENTIONED FINGERPRINTS. SO ACTUALLY AS FAR AS
14 ANY FINGERPRINT EVIDENCE, YOU PROCESS IT HERE IN YORK COUNTY
15 ON SITE SO TO SPEAK; IS THAT CORRECT?

16 A. THAT'S CORRECT. WE ACTUALLY HAVE -- EACH OFFICER HAS
17 AN INDIVIDUAL FINGERPRINT KIT, A LATENT FINGERPRINT KIT
18 THAT'S EITHER BOUGHT OR WE MAKE IT UP OURSELVES. WE
19 GENERALLY LIKE TO CUSTOMIZE OUR OWN KIT OF STUFF THAT WE
20 ~~ACTUALLY USE MOST OF THAT WE LIKE AND WE PROCESS USING~~
21 REGULAR FINGERPRINT POWDERS, SUPER GLUE AND MOST OF THE
22 CHEMICAL -- WE DO SOME CHEMICAL WORK FOR DEVELOPING LATENT
23 FINGERPRINTS, BUT MOST OF THAT STUFF IS DONE IN THE LAB, OUR
24 LABS.

25 Q. OKAY. AND YOU SAID OUR LABS HERE, ARE THERE OTHER LABS

1 THAT YOU USE FOR OTHER EVIDENCE YOU MAY COLLECT LIKE BLOOD
2 EVIDENCE OR FIREARM EVIDENCE, GUNSHOT RESIDUE EVIDENCE? IS
3 THERE ANOTHER LAB THAT YOU USE FOR THAT?

4 A. YES. CURRENTLY WE DON'T HAVE THE CAPABILITIES OF BEING
5 ABLE TO PROCESS BLOOD, FIREARMS, ANY TYPE OF BALLISTIC
6 TESTS, AND ALL THAT STUFF IS SENT TO OUR STATE LAB AT SLED.

7 Q. OKAY. SO YOU ACT AS A COLLECTION AGENCY, AS YOU SAID,
8 FOR, SAY, FIREARMS OR GUNSHOT RESIDUE, YOU COLLECT IT AND
9 PRESERVE IT BASED ON YOUR TRAINING, THEN YOU WOULD SEND IT
10 TO THE STATE LAW ENFORCEMENT DIVISION DOWN IN COLUMBIA FOR
11 TESTING?

12 A. THAT'S CORRECT.

13 Q. OKAY. AND THEN, IN FACT, IS THAT WHAT HAPPENED IN THIS
14 CASE ON A NUMBER OF ITEMS?

15 A. YES, IT IS.

16 Q. OKAY. COULD YOU TELL THE JURY WHAT, IF ANY, EXPERIENCE
17 YOU HAVE IN BACKGROUND AND TRAINING AS FAR A FIREARMS, I
18 MEAN, AS FAR YOU BEING A FIREARM TRAINER OR HANDLING
19 FIREARMS. HOW DO YOU -- WHAT YOUR TRAINING IS IN THAT
20 REGARD.

21 A. YES. I'VE BEEN A SENIOR FIREARM INSTRUCTOR WITH THE
22 ROCK HILL POLICE DEPARTMENT FOR ABOUT FOURTEEN YEARS. I'VE
23 BEEN TWO LEVEL ONE FIREARMS INSTRUCTOR SCHOOL, WHICH IS
24 DEALING WITH REVOLVERS. I'VE BEEN TO LEVEL TWO FIREARMS
25 INSTRUCTOR, WHICH IS DEALING WITH SEMI-AUTOMATICS. I'VE

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1 ALSO ATTENDED SOME ADVANCED HANDGUN TRAINING COURSES PUT ON
2 BY NUMEROUS PLACES, THE FBI, BLACKWATER U.S.A. I'M ALSO A
3 CONCEALED WEAPONS PERMIT INSTRUCTOR AND JUST RECENTLY, LAST
4 WEEK, I ATTENDED A BALLISTICS TEST SEMINAR.

5 Q. OKAY. ARE YOU ALSO TRAINED AND CERTIFIED AS FAR AS --
6 DO YOU CALL IT GUNSMITHING OR WORKING ON A GUN?

7 A. GUNSMITHING. YES. I'M ALSO -- ACTUALLY I'M NOT A
8 GUNSMITH. I'M AN ARMORER, WHICH IS DIFFERENT BECAUSE A
9 GUNSMITH ACTUALLY CUSTOM MAKES FIREARMS. I AM AN ARMORER,
10 WHICH I'M CERTIFIED TO WORK ON THE 4000, 5000 MODELS OF
11 SMITH AND WESSON, THE SIGMA SERIES SMITH AND WESSON AND THE
12 SW99 SERIES WEAPON.

13 Q. SO AN ARMORER ACTUALLY WORKS -- DOESN'T MAKE GUNS, BUT
14 REPAIRS THEM?

15 A. REPAIRS GUNS, YES.

16 Q. OKAY. YOU HAD MENTIONED THE WORK THAT YOU GUYS DO DAY
17 TO DAY AS FAR AS FINGERPRINT ANALYSIS. WHAT TRAINING OR
18 EXPERIENCE DO YOU HAVE THAT QUALIFIES YOU TO CONDUCT
19 FINGERPRINT ANALYSIS?

20 ~~A. THE FIRST THING IS I -- THE FIRST SCHOOL I EVER~~
21 ATTENDED WAS A BASIC LATENT PRINT COURSE WHICH WAS HELD AT
22 THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY, WAS A WEEK
23 LONG. IT WAS A VERY INTENSIVE COURSE ON THE DETAILS WITHIN
24 A FINGERPRINT, THE WHIRLS, LOOPS AND DEALING WITH THE DELTAS
25 AND CORES AND ARCHES AND WE -- BEFORE WE COULD GRADUATE FROM

1 THAT CLASS WE HAD TO COMPARE A MINIMUM OF A HUNDRED AND TEN
2 FINGERPRINTS THAT THE STATE LAW ENFORCEMENT DIVISIONS GIVES
3 YOU ALONG WITH A BOOK AND YOU HAD TO ACTUALLY IDENTIFY EACH
4 ONE OF THEM CORRECTLY. THE SECOND SCHOOL WAS AN ADVANCED
5 FINGERPRINT KIT -- FINGERPRINT CLASS THAT WAS HELD AT THE
6 ROCK HILL POLICE DEPARTMENT AND IT WAS PUT ON BY THE FBI
7 LATENT SECTION AND I'VE BEEN TO A DEMISTIFYING PALM PRINTS,
8 WHICH IS STRICTLY DEALING WITH THE PALMER SURFACES OF YOUR
9 HAND. AND EVERY -- REALLY EVERY OTHER CLASS THAT I'VE EVER
10 BEEN TO AS FAR AS HOMICIDE CLASSES AND EVEN ARSON CLASSES,
11 WE'VE DEALT WITH FINGERPRINTS.

12 Q. NOW, IN YOUR DAY-TO-DAY WORK YOU WERE TALKING ABOUT
13 PROCESSING THINGS OR COLLECTING SOMETIMES PERHAPS PRINTS AS
14 WELL AS OTHER EVIDENCE AND ALSO BACK HERE IN THE LAB
15 ACTUALLY ANALYZING THEM. WHAT IS IT -- WHEN YOU SAY
16 ANALYZING, WHAT IS IT YOU'RE ACTUALLY DOING?

17 A. YOU'RE TAKING A UNKNOWN STANDARD, WHICH WOULD BE A
18 LATENT PRINT THAT I'VE COLLECTED FROM A SCENE AND WE COMPARE
19 IT TO A KNOWN STANDARD, A TEN PRINT CARD THAT WE RECEIVE.
20 ONCE A PERSON IS ARRESTED, HE'S FINGERPRINTED AND WE'LL USE
21 THOSE CARDS TO COMPARE AN UNKNOWN STANDARD TO A KNOWN
22 STANDARD.

23 Q. DO YOU HAVE ANY ESTIMATE IN YOUR CAREER IN FORENSICS
24 HOW MANY OF THOSE UNKNOWN OR TEN PRINT CARDS YOU'VE WORKED
25 OR LOOKED AT?

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1 A. I WOULD SAY IT'D BE INTO THE THOUSANDS.

2 Q. OKAY. AS FAR AS PROCESSING CRIME SCENES, YOU KNOW, WE
3 TALKED A LITTLE BIT ABOUT PROCESSING A CRIME SCENE, WHAT
4 DOES THAT REALLY ENTAIL AGAIN? IF THIS ROOM WAS A CRIME
5 SCENE, WHAT IS PROCESSING A CRIME SCENE?

6 A. WELL, WE WOULD GO -- BASICALLY GO OVER THIS ROOM. IF
7 THIS ROOM WAS A CRIME SCENE, WE'D GO OVER THIS ROOM WITH A
8 FINE-TOOTH COMB. FIRST THING I WOULD DO IS WALK -- WE WALK
9 IN THE DOOR AND STOP AND LOOK TO SEE WHAT I HAD AND I WOULD
10 DO, BASICALLY, A WALK-THROUGH OF THE SCENE AND I'D WALK
11 THROUGH AND JUST SEE WHAT TYPE OF EVIDENCE THAT I HAD, IS IT
12 -- IT COULD BE TRACE EVIDENCE, IT COULD BE BLOOD EVIDENCE,
13 IT COULD BE FIREARM EVIDENCE, LATENT PRINT EVIDENCE AND I
14 JUST BASICALLY STEP IN AND TAKE JUST -- JUST TAKE IT ALL IN
15 AND FIGURE OUT WHAT I'M GOING TO NEED FROM MY TRUCK. THE
16 NEXT STEP I WOULD DO WOULD BE COME IN AND I WOULD ACTUALLY
17 PHOTOGRAPH IT. I'D PHOTOGRAPH IT EXACTLY THE WAY I FOUND
18 IT. AFTER I PHOTOGRAPH IT THE WAY I FOUND IT, I WOULD GO
19 BACK AND I'D MARK PERTINENT ITEMS OF EVIDENCE WITH NUMBER
20 CONES. ~~IT'S A LITTLE A TENT THAT HAS A NUMBER ON EACH~~
21 SIDE. I WOULD MARK EACH ITEM OF EVIDENCE WITH A NUMBER
22 CONE. ONCE I'VE DONE THAT, I WOULD ACTUALLY COME BACK AND
23 RE-PHOTOGRAPH IT AGAIN, OVERALL PHOTOGRAPHS, CLOSEUP
24 PHOTOGRAPHS. AFTER THAT'S DONE I -- WE NORMALLY WORK IN
25 PAIRS. WHILE I'M PHOTOGRAPHING THE NUMBER CONES, MY PARTNER

1 WOULD BE ACTUALLY DRAWING A SKETCH. HE'D DRAW A SKETCH AND
2 HE'D PLACE EACH PARTICULAR ITEM -- EVIDENCE ITEM ON THAT
3 SKETCH AND IT WOULD BE MARKED WITH THE NUMBER CONE THAT IT'S
4 ASSIGNED ON THE SKETCH. THEN WE WOULD MEASURE IT AND
5 ACTUALLY PUT THE MEASUREMENTS ON THE CRIME SKETCH ITSELF.
6 AFTER THAT'S DONE WE DOUBLE-CHECK OURSELVES TO MAKE SURE
7 THAT WE'VE DONE EVERYTHING THAT NEEDS TO BE DONE AND THEN
8 WE'LL START COLLECTING EVIDENCE AND WE WOULD START FROM THE
9 LOWEST NUMBER AND WORK OUR WAY. AND THAT DON'T ALWAYS
10 HAPPEN LIKE THAT, BUT GENERALLY WE TRY TO START WITH -- IF
11 WE START WITH ITEM -- CONE NUMBER 1, THAT'S THE FIRST PIECE
12 OF EVIDENCE WE'D PICK UP. SOMETIMES WE HAVE BEEN KNOWN TO
13 SKIP AROUND.

14 Q. OKAY. AND THEN YOU WOULD COLLECT THIS EVIDENCE AND
15 PERHAPS FORWARD IT TO ANOTHER LAB, PERHAPS RETAIN IT IN
16 EVIDENCE HERE ACCORDING TO WHAT TYPE OF EVIDENCE IT WAS?

17 A. THE FIRST PLACE IT WOULD GO TO, IT WOULD BE -- IF I WAS
18 THE PERSON COLLECTING, THE FIRST PLACE IT WOULD GO TO WOULD
19 BE STRAIGHT TO OUR EVIDENCE ROOM, OUR EVIDENCE CONTROL ROOM.
20 IT MAY BE AT THE ROCK HILL POLICE DEPARTMENT OR IT MAY BE
21 WITH THE YORK COUNTY SHERIFF'S DEPARTMENT, DEPENDING ON
22 WHERE THE JURISDICTION IS.

23 Q. OKAY. AND THIS EVIDENCE THAT YOU COLLECT, DO YOU ALTER
24 IT OR CHANGE IT ANY WAY FROM THE TIME YOU COLLECT IT AND
25 SEND IT -- YOU KNOW, PACKAGE IT UP AND SENDING IT TO ANOTHER

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1 LAB OR DO YOUR TESTING?

2 A. ABSOLUTELY NOT. THE ONLY THING WE DO WE'LL SECURE IT
3 IN A EVIDENCE ENVELOPE AND IT WILL GO TO THE LAB EXACTLY THE
4 WAY WE FOUND IT.

5 Q. OKAY. LET ME ASK YOU THIS, CAN YOU TELL THE JURY WHAT
6 TYPE OF TRAINING YOU HAVE AS FAR AS THE CRIME SCENE
7 ANALYSIS, YOU KNOW, WHAT BACKGROUND AND TRAINING YOU'VE HAD
8 AS FAR AS CRIME SCENE ANALYSIS.

9 A. I ATTENDED THE -- EACH OFFICER WHO ATTENDS THE SOUTH
10 CAROLINA CRIMINAL JUSTICE ACADEMY WILL RECEIVE A VERY
11 MINIMAL AMOUNT OF TRAINING IN CRIME SCENE PROCESSING. ONCE
12 YOU LEAVE THE ACADEMY THEN YOU START BRANCHING OUT AND GOING
13 TO DIFFERENT SCHOOLS. IT MAY BE AT THE ACADEMY, AN ADVANCE
14 CLASS IF YOU DON'T RECEIVE IN BASIC OR YOU MAY EVEN GO OUT
15 OF STATE TO GO TO OTHER ADVANCED TRAINING. SOME OF THE
16 TRAINING I HAVE BEEN TO IS, OF COURSE, THE BASIC -- I GOT IT
17 AT THE BASIC ACADEMY. I'VE ALSO ATTENDED THE ARSON CLASS
18 AND THE ADVANCED ARSON CLASS. I'VE ATTENDED THE CRIME SCENE
19 PROCESSING CLASS AT THE ACADEMY. SOME OF THE SCHOOLS THAT
20 ~~I'VE BEEN TO OUTSIDE OF THE ACADEMY ARE THE SOUTHERN POLICE~~
21 INSTITUTE AT THE UNIVERSITY OF LOUISVILLE. IT WAS A TWO
22 WEEK HOMICIDE CLASS, VERY INTENSIVE ON CRIME SCENE
23 PROCESSING AND COLLECTION OF EVIDENCE. I ATTENDED THE
24 I.P.T.M., WHICH IS THE INSTITUTE OF POLICE TECHNOLOGY AND
25 MANAGEMENT IN JACKSONVILLE, FLORIDA. THERE WAS A CRIME

1 SCENE PROCESSING CLASS THERE THAT DEALT HEAVILY ON ACTUALLY
2 PROCESSING FOR LATENT PRINT EVIDENCE. ALSO, I ATTENDED A
3 SURFACE SKELETONS AND BURIED BODY SCHOOL THAT ACTUALLY DEALT
4 WITH RECOVERY -- RECOVERING REMAINS OF SKELETAL REMAINS AND
5 ALSO BURIED BODIES. WE ACTUALLY HAD TO DIG A -- GO OUT INTO
6 THE WOODS, FIND A GRAVE AND ACTUALLY DIG -- EXCAVATE IT AND
7 COLLECT ALL THE BONES THAT WE FIND.

8 Q. LET ME ASK YOU IN YOUR LAW ENFORCEMENT CAREER YOU SAID
9 SPANS, WHAT, TWENTY -- CLOSE TO TWENTY-SEVEN YEARS,---

10 A. YES, SIR.

11 Q. ---HOW MANY CRIME SCENES HAVE YOU BEEN TO OVER THAT
12 PERIOD OF TIME? DO YOU HAVE AN ESTIMATE?

13 A. STARTED -- YOU KNOW, STARTED IN '82 AND TO BE HONEST, I
14 DON'T REALLY HAVE AN ESTIMATE. IT'S JUST UN- -- IT'D BE AN
15 ASTRONOMICAL AMOUNT, BECAUSE REALLY EVERY CALL YOU GO TO IS
16 A CRIME SCENE TO A -- SO I -- TWENTY-SEVEN YEARS, I MEAN,
17 IT'S JUST -- IT WOULD BE ASTRONOMICAL THE NUMBER THAT I'VE
18 BEEN TO.

19 Q. AND SINCE THIS -- SO YOU DID FORENSIC WORK PRIOR TO THE
20 FSU FORMING, TOO?

21 A. YES. I STARTED IN 1992 WITH THE ROCK HILL POLICE
22 DEPARTMENT AND WE HAD OUR OWN CRIME SCENE UNIT. I WAS PART
23 OF THAT CRIME SCENE UNIT THAT MERGED IN WITH THE FSU.

24 Q. OKAY. LET ME ASK YOU, IN THE PAST HAVE YOU HAD THE
25 OPPORTUNITY TO BE QUALIFIED AS AN EXPERT IN CRIME SCENE

1 ANALYSIS IN THE COURTS HERE IN SOUTH CAROLINA?

2 A. YES, I HAVE.

3 Q. IN THE PAST HAVE YOU BEEN QUALIFIED AS AN EXPERT IN
4 LATENT FINGERPRINT EXAMINATION IN COURTS IN SOUTH CAROLINA?

5 A. YES, I HAVE.

6 Q. HAVE YOU BEEN QUALIFIED AS AN EXPERT IN FIREARMS
7 IDENTIFICATION AND NOMENCLATURE, THE WORKINGS OF FIREARMS,
8 HAVE YOU BEEN QUALIFIED AS AN EXPERT IN SOUTH CAROLINA IN
9 THAT IN THE PAST?

10 A. YES, I HAVE.

11 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD TENDER MR.
12 GARDNER AS AN EXPERT IN CRIME SCENE ANALYSIS, LATENT
13 FINGERPRINT EXAMINATION AND FIREARMS IDENTIFICATION.

14 MR. DELGADO: ABSOLUTELY, YOUR HONOR.

15 THE COURT: ALL RIGHT. WITHOUT OBJECTION, HE'S SO
16 QUALIFIED, COUNSEL. YOU MAY PROCEED.

17 Q. OFFICER GARDNER, NOW, WHAT DO THEY CALL YOU GUYS,
18 INVESTIGATORS, DETECTIVES, OFFICERS?

19 A. WE KIND OF GIVE OUR OWN NAME AS AN INVESTIGATOR, BUT
20 ~~JUST OFFICER IS FINE.~~

21 Q. INVESTIGATOR GARDNER?

22 A. YES, SIR; THAT WILL BE FINE.

23 Q. COULD YOU TELL THE JURY HOW YOU -- SATURDAY JUNE 26,
24 2004 HOW YOU CAME TO BE INVOLVED IN THIS CASE OR HOW YOU
25 WERE NOTIFIED OF THIS CASE?

1 A. YES. OUR UNIT HAS AN ON-CALL SCHEDULE AND THERE'S --
2 THE WAY IT WORKS NOW, THIS COMING FRIDAY I'M ON SECONDARY
3 CALL AND THIS COMING SATURDAY I'M ON PRIMARY CALL. THIS
4 PARTICULAR EVENING THAT -- OF THE 26TH I WAS ON PRIMARY CALL
5 AND I WAS NOTIFIED BY DISPATCH THROUGH MY PAGER THAT MY
6 SERVICES WERE NEEDED.

7 Q. OKAY. AND DID YOU HAVE THE OPPORTUNITY TO RESPOND OUT
8 TO [REDACTED] PACES RIVER AVENUE ABOUT QUARTER TO TEN THAT NIGHT?

9 A. YES, SIR. I BELIEVE IT WAS ABOUT 9:45 WHEN I ARRIVED.

10 Q. OKAY. AND DID ANY OTHER FSU OFFICER GO WITH YOU?

11 A. YES, SIR. ANY TIME WE HAVE A SCENE THAT HAS THE
12 POTENTIAL OF BEING A DEATH SCENE OR IS AN ACTUAL DEATH
13 SCENE, WE ALWAYS CALL OUT A SECOND PERSON FOR ASSISTANCE.

14 Q. AND WHO CAME WITH YOU THAT NIGHT?

15 A. THAT WOULD BE INVESTIGATOR MIKE WILLIAMS.

16 Q. OKAY. AND SO YOU WORKED THE SCENE THAT NIGHT. AT SOME
17 POINT INTO THE EARLY MORNING HOURS THAT SUNDAY, THE 27TH,
18 DID YOU HAVE ALSO AN OPPORTUNITY TO CONDUCT A PROCESSING OR
19 A SEARCH OF AN APARTMENT OVER AT I BELIEVE IT'S STONE HAVEN
20 ACROSS FROM THE SONIC ON [REDACTED] AT STONEYPONTE DRIVE AT STONE
21 HAVEN OR STONEYPONTE APARTMENTS?

22 A. STONE -- YES, SIR, I DID.

23 Q. OKAY. AND ALSO, DID YOU HAVE AN OPPORTUNITY
24 INDEPENDENT OF THAT TO CONDUCT A SEARCH OF A NISSAN MAXIMA
25 THERE AT THOSE APARTMENTS?

1 A. YES, SIR, I DID.

2 Q. OKAY. LIKEWISE, THAT PARTICULAR VEHICLE, WAS IT
3 ULTIMATELY REMOVED AND PROCESSED FOR PRINTS IN ADDITION TO
4 THE SEARCH THAT WAS CONDUCTED THERE?

5 A. THAT'S CORRECT. WE CALLED A WRECKER TO COME PICK THE
6 VEHICLE UP AND WE TOOK IT BACK TO THE ROCK HILL POLICE
7 DEPARTMENT, OUR SALLY PORT AREA. I ACTUALLY FOLLOWED THE
8 VEHICLE BACK TO THE POLICE DEPARTMENT.

9 Q. OKAY. AND ALSO, ON THE FOLLOWING MONDAY WHEN DR.
10 MAYNARD CONDUCTED THE AUTOPSY, WOULD A MEMBER OF THE FSU
11 HAVE BEEN PRESENT THERE FOR THE PURPOSE OF COLLECTING
12 EVIDENCE?

13 A. THAT'S CORRECT. WE ALWAYS ATTEND AUTOPSIES.

14 Q. OKAY. AND WHO WENT TO THE AUTOPSY?

15 A. THAT WOULD HAVE BEEN INVESTIGATOR MIKE WILLIAMS.

16 Q. AND THAT WAS YOUR PARTNER THE NIGHT OF THIS CASE?

17 A. THAT'S CORRECT.

18 Q. NOW, AS FAR AS THE AUTOPSY, YOU DON'T PARTICIPATE AS
19 FAR AS ANY OF THE WORK DR. MAYNARD DOES IN THE AUTOPSY?

20 ~~A. NO, SIR. WE'RE THERE STRICTLY TO RECOVER EVIDENCE.~~

21 Q. OKAY. IN ADDITION, IN THIS PARTICULAR CASE, DID YOU
22 HAVE AN OPPORTUNITY, I BELIEVE IT WAS ON THAT MONDAY OR
23 SHORTLY THEREAFTER THE CRIME THAT HAPPENED SATURDAY NIGHT,
24 TO CONTACT EITHER I BELIEVE THE AIR NATIONAL GUARD OR SOME
25 OTHER AVIATION FACILITY ABOUT THE POSSIBILITY OF TAKING SOME

1 OVERHEAD PHOTOS OF THE CRIME SCENE AREA?

2 A. THAT'S CORRECT. WE OFTEN CALL AN AGENCY TO ASSIST. IT
3 MAY BE SLED. I THINK THE AIR NATIONAL GUARD WAS ACTUALLY
4 HERE FOR ANOTHER REASON AND WE WERE ABLE TO HOP A RIDE AND
5 ABLE TO PHOTOGRAPH THE SCENE AREA, AERIAL PHOTOGRAPHS.

6 Q. AND ALSO IN ASSISTING YOUR PRESENTATION IN THIS CASE,
7 DID YOU HAVE AN OPPORTUNITY, FOR EXAMPLE, IN STATE'S EXHIBIT
8 ONE TO ASSIST IN RETRIEVING FROM THE COUNTY G.I.S. PHOTOS,
9 CERTAIN ROAD INFORMATION AND THINGS THAT WOULD ASSIST THE
10 JURY IN UNDERSTANDING THIS CASE?

11 A. YES, I DID.

12 MR. POPE: YOUR HONOR, AT THIS POINT I'M GOING TO ASK
13 -- WE'RE GOING GO THROUGH THE POWER POINT, A NUMBER OF THE
14 PICTURES. I'M GOING TO ASK THAT HE BE ALLOWED TO STEP DOWN,
15 PLEASE.

16 THE COURT: YES, SIR. THAT WILL BE FINE.

17 Q. OFFICER GARDNER, TO BE SURE THAT ALL THE JURORS CAN
18 SEE, IF YOU'D STEP OVER THERE JUST A LITTLE BIT TO THE
19 RIGHT. IF YOU COULD JUST ORIENT ON STATE'S EXHIBIT ONE WHAT
20 THIS PICTURES DEPICTS SO THEY CAN ORIENT THE LOCATION OF
21 PACES RIVER APARTMENTS.

22 A. YES. THIS IS A PHOTOGRAPH WE RECEIVED FROM THE G.I.S.
23 -- THE COUNTY G.I.S. SECTION AND THIS IS I-77, THIS IS THE
24 ENTRANCE TO PACES RIVER AND THIS IS ACTUALLY PACES RIVER
25 APARTMENT COMPLEX HERE.

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1 Q. IF YOU COULD INDICATE WITHIN THE COMPLEX, CAN YOU SHOW
2 THE JURY ROUGHLY THE AREA WE'RE TALKING ABOUT WHERE THE
3 CRIME TOOK PLACE?

4 A. YES, SIR. THIS BEING THE ENTRANCE, ONCE YOU COME UP TO
5 THE ENTRANCE YOU DON'T HAVE A CHOICE BUT TO GO TO THE RIGHT
6 OR LEFT. YOU FOLLOW LEFT, YOU CAN GO STRAIGHT AND COME
7 AROUND OR GO THIS WAY, BUT WE WAS IN THIS GENERAL AREA RIGHT
8 HERE.

9 Q. AND THAT'S STATE'S EXHIBIT FOUR?

10 A. YES, SIR.

11 Q. WITH THE AERIAL PHOTOS THAT THE FSU TOOK, CAN YOU TELL
12 WHAT STATE'S EXHIBIT FIVE INDICATES?

13 A. YES. THIS IS AN AERIAL PHOTOGRAPH THAT WE WERE ABLE TO
14 SHOOT FROM A HELICOPTER. THIS IS DEPICTING THE AREA IN THIS
15 AREA HERE. THIS IS THE APARTMENT THAT WAS IN QUESTION.
16 THIS IS THE AREA THAT WE WERE WORKING IN.

17 Q. AND THESE PHOTOS WERE TAKEN AT THE BEGINNING OF THE
18 FOLLOWING WEEK, SO THE VEHICLES -- ARE THE VEHICLES IN THE
19 SAME CONFIGURATION THAT THEY WERE THAT NIGHT OR EVEN THE
20 SAME VEHICLES?

21 A. I'M NOT A HUNDRED PERCENT SURE, BUT THIS RED VEHICLE
22 HERE MAY BE A CADILLAC THAT WE WERE -- THAT WAS THERE THAT
23 NIGHT, BUT, NO, THESE VEHICLES ARE DEFINITELY NOT IN THE
24 SAME POSITION THEY WERE.

25 Q. BUT THE ACTUAL CONFIGURATION THE VEHICLES WERE IN THAT

1 NIGHT WHEN YOU PROCESSED THE SCENE, YOU DOCUMENTED THAT?

2 A. THE WAY THEY WERE THE NIGHT WE GOT THERE,---

3 Q. YES.

4 A. ---THEY WERE -- YES, SIR, WE DID DOCUMENT THAT.

5 Q. ALL RIGHT. COULD YOU ORIENT THE JURY TO WHAT THIS
6 PICTURE IS.

7 A. YES. THIS IS ANOTHER ANGLE. THIS IS THE ACTUAL
8 COMPLEX THAT WAS IN FRONT OF THE AREA THAT WE WERE WORKING.
9 THIS ROAD HERE IS THE ONE THAT I SAID EARLIER THAT YOU COULD
10 GO STRAIGHT AND COME AROUND OR -- AND THIS IS THE ROAD
11 COMING UP THE OTHER SIDE, BUT RIGHT HERE IS THE AREA THAT WE
12 WERE WORKING IN.

13 Q. AND THE AREA ROUGHLY FROM WHERE YOU JUST CIRCLED WHERE
14 THE SHADE IS, DOES THAT AREA INCLINE OR FLOW IN ANY
15 DIRECTION TOWARD THE -- TOWARD THAT APARTMENT?

16 A. YES. THIS AREA OVER HERE IS RATHER FLAT, BUT WHEN YOU
17 START BACK UP THIS WAY YOU ACTUALLY START GOING UPHILL
18 TOWARD THIS ROAD HERE. THIS IS DOWNHILL GOING THIS WAY. OF
19 COURSE, THIS IS UPHILL GOING THIS WAY.

20 Q. HOW ABOUT FROM LEFT TO RIGHT, AS YOU LOOK AT THOSE --
21 SAY, FOR EXAMPLE, I SEE THAT ONE CAR KIND OF BACKED IN NEXT
22 TO THE TREE. HOW DOES THAT FLOW FROM THE LEFT SIDE OF THE
23 PARKING LOT TOWARD THE APARTMENTS?

24 A. IT'S SOMEWHAT FLAT, BUT THERE IS -- IT'S FOR WATER
25 CONTROL. THERE IS -- IT DOES SLIGHTLY GO DOWNHILL TOWARD A

1 LARGE DRAIN.

2 Q. AND IF YOU COULD INDICATE TO THE JURY AGAIN, ORIENT
3 THEM ON WHERE THIS PICTURE IS.

4 A. YEAH. THIS IS A -- JUST A -- BASICALLY A CLOSER-IN
5 SHOT THAT WE TOOK. HERE'S THE AREA THAT WE WERE WORKING IN
6 RIGHT HERE. THIS IS THE ACTUAL CADILLAC THAT WAS ACTUALLY
7 ON THE SCENE PARKED IN THE SAME PLACE IT WAS PARKED IN WHEN
8 WE WERE THERE THAT NIGHT.

9 Q. OKAY. IN THE PREVIOUS PHOTO THAT WE HAD, GOING TO WHAT
10 I SAID, ASKING ABOUT GOING DOWNHILL, WHERE WOULD THAT BE?
11 IN OTHER WORDS, WHERE IS THAT LOCATED?

12 A. THIS IS THE SHADED AREA THAT WE TALKED ABOUT.

13 Q. SO THE EXIT TO PACES RIVER ON STATE'S EXHIBIT SEVEN
14 WOULD BE WHERE, WHAT DIRECTION?

15 A. UPHILL OR BACK THIS WAY.

16 Q. SO OFF TOWARDS WHERE THE JUDGE -- OFF IN THAT
17 DIRECTION?

18 A. YES, SIR.

19 Q. OKAY. AGAIN, IF YOU COULD ORIENT THE JURY AS TO WHAT
20 THIS PICTURE IS.

21 A. IT'S JUST ANOTHER PHOTOGRAPH OF THE AREA AND, AGAIN,
22 THIS AREA IS THE AREA THAT WE WERE WORKING IN. I ACTUALLY
23 PARKED MY TRUCK HERE THAT NIGHT AND MY PARTNER PARKED HIS
24 TRUCK RIGHT HERE.

25 Q. AND THAT NIGHT YOU HAD INDICATED TO THE JURY THAT YOU

1 ACTUALLY DO A DIAGRAM OF ITEMS YOU RECOVERED AS WELL AS
2 DESIGNATING VEHICLES IN A CONFIGURATION THAT NIGHT?

3 A. THAT'S CORRECT. THIS IS A CRIME SCENE DRAWING OR A
4 CRIME SCENE SKETCH THAT WE DO -- WE DID THAT NIGHT AND WE
5 ACTUALLY PUT VEHICLES IN THE PLACES WHERE WE FOUND THEM
6 INCLUDING THE TAG NUMBERS.

7 Q. OKAY. AND SO FROM THAT, DID YOU HAVE AN OPPORTUNITY TO
8 CREATE STATE'S EXHIBIT NINE IN EVIDENCE, WHICH BASICALLY IS
9 THE DAYLIGHT PHOTO BUT WITH THESE ITEMS INDICATING THE
10 VEHICLES AS THEY WERE CONFIGURED THAT NIGHT?

11 A. THAT'S CORRECT. THIS IS A -- THIS PHOTOGRAPH --
12 ACTUALLY THE ONE BEFORE YOU SEEN THE VEHICLES PARKED IN
13 THERE, THEY WERE TAKEN OUT AND WE ACTUALLY -- WITH A
14 COMPUTER WE ACTUALLY TOOK THESE VEHICLES OUT AND PUT IT IN A
15 ORIGINAL VEHICLES CONFIGURATION THE VEHICLES WERE THE NIGHT
16 WE -- WE ARRIVED ON THE SCENE AND THAT'S HOW THE VEHICLES
17 WERE.

18 Q. NOW, OFF TO THE RIGHT WHERE THERE'S OPEN SPACES, DID
19 YOU CONCERN YOURSELF WITH VEHICLES, IN OTHER WORDS, OFF TO
20 THE RIGHT OR FURTHER UP THE HILL PAST THE VICTIM'S VEHICLE?

21 A. NO, SIR. WE STOPPED -- THIS WAS THE VICTIM'S VEHICLE
22 RIGHT HERE. WE ACTUALLY STOPPED THERE BECAUSE THAT'S --
23 THAT WAS INSIDE OUR CRIME SCENE AND WE STOPPED THERE.
24 THAT'S WHY WE DIDN'T GO ANY FURTHER.

25 Q. AND STATE'S EXHIBIT NINE AGAIN, THIS IS JUST A TIGHTER

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1 VIEW OF THE SAME THING?

2 A. YES, SIR. THAT'S A CLOSEUP PHOTOGRAPH.

3 Q. OKAY. AND WOULD USING THIS PHOTOGRAPH, WOULD IT ASSIST
4 YOU IN ORIENTING THE JURY OF THE VARIOUS PICTURES THAT YOU
5 TOOK OF THE THINGS YOU OBSERVED THAT NIGHT?

6 A. YES, IT WOULD.

7 Q. OKAY. AND YOU INDICATED THAT THE FIRST THING THAT YOU
8 DID WAS A WALK-THROUGH OF THE SCENE; IS THAT CORRECT?

9 A. THAT'S CORRECT.

10 Q. OKAY. TELL THE JURY FIRST, WHEN YOU ARRIVED AT THE
11 SCENE, IS LAW ENFORCEMENT PRESENT?

12 A. YES, SIR. LAW ENFORCEMENT WAS PRESENT. THERE WAS ALSO
13 THE ACTUAL PRESENCE OF -- MY CRIME SCENE BARRIER TAPE HAD
14 BEEN PLACED -- WAS PLACED -- PUT IN PLACE BY THE UNIFORM
15 OFFICER.

16 Q. AND WHAT IS CRIME SCENE BARRIER TAPE? WHAT IS IT?

17 A. THAT IS TO KEEP PEOPLE OUT OF A CRIME SCENE, WHETHER IT
18 BE OTHER POLICE OFFICERS, BYSTANDERS, WITNESSES, FAMILY
19 MEMBERS, WHOEVER IT MAY BE. ONCE THE CRIME SCENE TAPE GOES
20 UP, NOBODY COMES IN. WE ACTUALLY HAVE OFFICERS STANDING AT
21 DIFFERENT POINTS AND DIFFERENT AREAS OF THE CRIME SCENE TAPE
22 AND NOT ALLOW ANYONE TO COME IN WHETHER IT BE A POLICE
23 OFFICER -- ONCE WE GET THERE AND WE TAKE CONTROL OF THE
24 SCENE, WE DON'T WANT ANYBODY IN THE SCENE INCLUDING THE
25 POLICE OFFICERS UNLESS WE ASK THEM TO COME IN.

1 Q. AND DID YOU HAVE AN OPPORTUNITY TO TALK TO OFFICER
2 SMITH THAT HAD SECURED THE SCENE WHEN YOU GOT THERE AS FAR
3 AS --

4 A. YES, I DID. HE WAS THE VERY FIRST OFFICER I TALKED TO.

5 Q. OKAY. AND WAS THERE ANYTHING THAT HE INDICATED THAT HE
6 REMOVED OR TOOK AWAY OR DISTURBED AT THE SCENE?

7 A. THE ONLY THING HE TOLD ME WAS THAT THAT NIGHT HE FOUND
8 SEVERAL SHELL -- SPENT SHELL CASINGS. SPENT SHELL CASINGS
9 ARE THE FIRED BULLETS THAT EJECT FROM A PISTOL AND HE MARKED
10 EACH ONE HE FOUND WITH ONE OF HIS BUSINESS CARDS.

11 Q. OKAY. SO HIS BUSINESS CARDS AT THE SCENE WOULD HAVE
12 OBVIOUSLY NOT BEEN THERE AT THE TIME OF THE CRIME; IS THAT
13 CORRECT?

14 A. THAT'S CORRECT. HE PLACED THEM THERE TO BASICALLY
15 PROTECT THEM WHERE ANY OFFICER COMING IN THE SCENE WOULDN'T
16 STEP ON THEM OR SO FORTH. HE PLACED HIS BUSINESS CARD AT IT
17 AND ALSO HELPED -- IT HELPED ME LOCATE THEM ALSO.

18 Q. OKAY. AND AS FAR AS THE LIGHTING, COULD YOU INDICATE
19 THE STREET LIGHTS THAT ARE PRESENT IN STATE'S EXHIBIT NINE?

20 A. YES. THERE'S A STREET LIGHT RIGHT HERE, WHICH IS IN
21 THIS KIND OF LITTLE GRASS AREA HERE. THAT'S A STREET LIGHT
22 THERE. THAT'S ALSO A STREET RIGHT HERE.

23 Q. DID YOU NOTICE ANYTHING ABOUT THE LIGHTING AT THESE
24 APARTMENTS AS FAR AS THE COLOR OF THE LIGHTING?

25 A. YES. IT WAS A -- MORE OF A AMBER COLOR. IT WASN'T ONE

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1 OF THE BRIGHT, WHITE LIGHTS. IT WAS MORE OF AN AMBER
2 COLORED LIGHT.

3 Q. AND DOES THAT ACTUALLY REFLECT -- WHEN YOU WERE OUT
4 THERE THAT NIGHT TAKING PICTURES, DID YOU USE A FLASH?

5 A. I DO. YES, SIR, I DO.

6 Q. OKAY. BUT AT SOME OF THE PLACES OUTSIDE OF THE FLASH
7 AREA, THE AMBER COLOR'S REFLECTED IN THOSE PICTURES?

8 A. YOU CAN ACTUALLY -- YES. YOU CAN ACTUALLY SEE THE
9 LIGHT THAT IS BEING EMITTED FROM THESE STREET LIGHTS IN THE
10 VERY BACKGROUND OF MY PICTURES. YOU SEE THE ORANGISH/
11 YELLOWISH COLOR.

12 Q. I'M GOING TO ASK YOU FIRST USING STATE'S EXHIBIT NINE
13 WITH THE ARROW POINTING TOWARDS THIS SPACE, IF YOU COULD
14 INDICATE FROM THE PICTURE, STATE'S EXHIBIT THIRTEEN, WHAT
15 THIS IS YOU OBSERVED..

16 A. YES. THIS IS -- THAT ARROW YOU HAD IN THE DIRECTION OF
17 THE PHOTOGRAPH THAT I WAS TAKING, THIS PHOTO. WHERE I WAS
18 STANDING AT WAS IN THE GENERAL AREA OF THAT ARROW AND I WAS
19 SHOOTING BACK IN THIS DIRECTION RIGHT HERE THAT'S SHOWN IN
20 ~~THIS PHOTOGRAPH HERE.~~

21 Q. NOW, WHEN YOU ARRIVED WAS THE VICTIM STILL PRESENT AT
22 THE SCENE?

23 A. NO. EMS HAD ALREADY TAKEN HIM TO THE HOSPITAL, LIFE-
24 SAVING EFFORTS.

25 Q. YOU HAD INDICATED THAT THE PURPOSE OF CRIME SCENE TAPE

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1 WAS TO MAKE SURE THAT NOTHING WAS CHANGED OR MOVED AS FAR AS
2 THE CRIME SCENE. IS THERE A REASON THAT EMS WOULD BE
3 ALLOWED TO TAKE THE VICTIM OUT OF THERE?

4 A. YES. REGARDLESS OF WHAT KIND OF EVIDENCE IS IN THE
5 SCENE, IT IS OUR GOAL AS A FORENSIC UNIT TO MAKE SURE THAT
6 IF THERE'S ANY CHANCE OF A VICTIM HAVING A CHANCE TO LIVE,
7 THEN WE WOULD DEFINITELY GET EMS IN THERE TO START LIFE-
8 SAVING EFFORTS.

9 Q. AND SO THAT WAS THE PURPOSE OF THEM BEING ALLOWED TO
10 TAKE---

11 A. THAT'S CORRECT.

12 Q. ---OR REMOVE THE VICTIM?

13 A. THEY ACTUALLY WERE IN THE CRIME SCENE WHILE IT WAS
14 ACTUALLY BEING ROPED OFF.

15 Q. I GOT YOU. STATE'S EXHIBIT NINE, DID YOU MOVE IN
16 CLOSER AND TAKE A PHOTO AGAIN IN THIS ORIENTATION?

17 A. I DID. I WAS STANDING IN THIS AREA RIGHT HERE WHEN I
18 SHOT THIS PHOTO- -- NEXT PHOTOGRAPH. IT'S A CLOSER-UP VIEW
19 OF THIS PHOTOGRAPH. THIS WAS ACTUALLY WHERE THE VICTIM WAS
20 FOUND BY EMS.

21 Q. AND THE ITEMS THAT WE SEE IN THIS PICTURE, YOU
22 ULTIMATELY MARKED CERTAIN ITEMS WITH CONES YOU'VE INDICATED?

23 A. I DID.

24 Q. OKAY. AND YOU CAME BACK AND SPECIFICALLY RETRIEVED
25 CERTAIN ITEMS IN THAT PICTURE?

1 A. I DID.

2 Q. NEXT IS STATE'S EXHIBIT NINE, IF YOU COULD TELL US THIS
3 PICTURE -- HOW IT IS ORIENTED?

4 A. I WAS ACTUALLY STANDING IN THIS AREA HERE SHOOTING BACK
5 UP THE HILL TOWARDS THESE VEHICLES OVER HERE.

6 Q. AND THE OPEN SPACE, THE ARROWS IN FRONT OVER TO THE
7 LEFT, WOULD THAT BE THE LOCATION OF THE VICTIM, MR. BAGLEY?

8 A. YES. THE VICTIM WAS LYING IN THIS AREA. THIS IS WHERE
9 WE FOUND THE VICTIM'S CLOTHES.

10 Q. AND COULD YOU TELL US WHAT STATE'S EXHIBIT SIXTEEN
11 DEPICTS?

12 A. YES, SIR. THIS IS THE AREA -- THIS IS THE OPEN SPACE
13 THAT THE VICTIM WAS FOUND IN, THE RED CADILLAC AND I'M NOT
14 SURE WHAT THE MAKE OF VEHICLE THIS IS. LOOKS LIKE
15 CHEVROLET, BUT ALSO IN THE BACKGROUND YOU SEE THE CRIME
16 SCENE TAPE AND ALSO IN THE BACKGROUND YOU CAN SEE A
17 PLAYGROUND AREA THAT'S BACK IN THESE TREES HERE.

18 Q. THE NEXT PHOTO, DID YOU HAVE AN OPPORTUNITY TO WALK
19 FURTHER INTO THE PARKING LOT AND TAKE THIS PICTURE?

20 A. ~~YES, I DID.~~

21 Q. OKAY. AND, AGAIN, DOES THE ARROW INDICATE --

22 A. THE ARROW INDICATES ABOUT WHERE I WAS STANDING WHEN I
23 TOOK THIS PHOTOGRAPH.

24 Q. COULD YOU TELL US WHAT THIS DEPICTS?

25 A. YES. THIS IS ANOTHER PHOTOGRAPH OF THE CRIME SCENE.

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1 AGAIN, YOU CAN SEE THE CRIME SCENE TAPE AT THE SIDE OF THE
2 APARTMENT COMPLEX, THE RED CADILLAC AND THE BLACK AND GRAY
3 CHEVROLET.

4 Q. OKAY. AND THE PLAYGROUND WOULD BE ORIENTED WHERE?

5 A. IF YOU WALK RIGHT BESIDE, FOLLOWING THE DIRECTION OF MY
6 POINTER AND THIS -- THIS PLAYGROUND AREA WOULD BE BACK
7 BEHIND THIS HEDGE RIGHT HERE.

8 Q. TELL US WHAT THIS PICTURE -- STATE'S EXHIBIT NINE,
9 WHAT'S THE ORIENTATION AND WHAT'S DEPICTED IN THAT PICTURE?

10 A. YES. I WAS STANDING IN THIS AREA HERE RIGHT BEHIND THE
11 RED CADILLAC SHOOTING BACK TOWARD THE -- WHERE THE VICTIM
12 WAS FOUND LYING AND YOU CAN ACTUALLY SEE PART OF THE
13 CADILLAC HERE. I WAS STANDING IN THE GRASS AREA SHOOTING
14 BACK TOWARD --

15 Q. OKAY. NOW, AT THIS POINT, OTHER THAN YOU HAD INDICATED
16 THE BUSINESS CARD OF AN OFFICER, HAD YOU PUT ANYTHING IN THE
17 SCENE?

18 A. NO, I HAD NOT. I WAS STRICTLY DOING -- AT THIS POINT
19 IN TIME I WAS TAKING PHOTOGRAPHS THAT DEPICTED THE WAY I
20 FOUND THE SCENE.

21 Q. I NOTICE IN THE SCENE THERE'S SOME ITEMS OF PAPER AND
22 WRAPPERS AND CONSTRUCTION AND THINGS OF THAT MANNER. BASED
23 ON YOUR EXPERIENCE AND ULTIMATELY YOUR OBSERVATION, DO YOU
24 KNOW WHAT THOSE ITEMS WERE?

25 A. CAN I HAVE ANOTHER POINTER? THIS ONE STOPPED. THIS IS

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1 A PAPER BAG, SOME SHIRTS, A PLASTIC BAG, CUP, AND THERE'S
2 ALSO A LIQUOR BOTTLE HERE. THIS IS A TOP OFF A PLASTIC CUP.
3 THIS IS -- ENDED UP BEING DEBRIS LEFT BY EMS. THERE'S ALSO
4 MORE DEBRIS RIGHT IN THIS AREA HERE. I THINK THE BUSINESS
5 CARD IN THIS PHOTOGRAPH HERE WAS RIGHT IN THIS AREA RIGHT
6 HERE.

7 Q. I NOTICE THERE'S LIKE A PLASTIC BAG UNDER THE CAR AND A
8 PLASTIC BAG UP ON THE WINDSHIELD ON THE CAR. WHAT WOULD
9 THOSE ITEMS BE?

10 A. THAT IS POSSIBLY -- THAT'S POSSIBLY EMS TRASH.

11 Q. OKAY. AND, FINALLY, THIS -- THE CLOTHES -- THERE'S
12 KIND OF A CRESCENT SHAPED BLACK OBJECT CLOSER TO US. WHAT
13 IS THE OBJECT IN STATE'S EXHIBIT NINETEEN?

14 A. I'M SORRY.

15 Q. THERE'S AN OBJECT RIGHT HERE. WHAT WAS THAT OBJECT?

16 A. THAT'S BLOOD.

17 Q. OKAY. AGAIN, COULD YOU TELL WHAT ORIENTATION, WHERE
18 YOU WERE STANDING AND WHAT THIS PHOTOGRAPH DEPICTS?

19 A. YES. I WAS STANDING -- I WAS STANDING IN THIS AREA
20 RIGHT HERE ALMOST IN FRONT OF THE APARTMENT COMPLEX SHOOTING
21 BACK UP THE HILL TOWARD THE RED CADILLAC AND THE WHITE CAR
22 HERE WHERE THE VICTIM WAS LYING.

23 Q. AND COULD YOU TELL US, IS THE VEHICLE THAT'S IN THE
24 BACKGROUND, WAS THAT THE VICTIM'S VEHICLE?

25 A. YES, SIR. THAT'S THE VICTIM'S VEHICLE.

1 Q. OKAY.

2 A. WE LATER FOUND OUT THAT NIGHT.

3 Q. AND SO THE APARTMENT COMPLEX WOULD BE TO YOUR BACK AS
4 YOU'RE SHOOTING --

5 A. ACTUALLY STANDING -- YEAH. IT WOULD ALMOST BE, LIKE,
6 AT THE DEFENSE TABLE. THAT'S WHERE I GOT THE PHOTOGRAPH I
7 SHOT, BEHIND ME, DIRECTLY BEHIND ME. IN THIS PHOTOGRAPH
8 HERE I'M STANDING UP THE HILL SHOOTING BACK DOWN TOWARDS
9 WHERE THE VICTIM WAS LYING.

10 Q. AND I NOTICE NOW IN THIS ORIENTATION THERE'S ACTUALLY
11 CONES PRESENT.

12 A. YES. THESE ARE AFTER I HAD COME BACK, I FINISHED
13 SHOOTING THE PHOTOGRAPHS OF THE SCENE BEFORE WE PUT ANYTHING
14 IN THERE AND NOW I'VE INDICATED IN THIS PICTURE HERE SOME
15 PHOTOGRAPHS OF NUMBER CONES.

16 Q. AND WHAT ORIENTATION WOULD THIS PICTURE BE?

17 A. THIS IS JUST A CLOSER-UP SHOT FROM -- I BASICALLY
18 WALKED BACK DOWN THE HILL CLOSER TO THE AREA WHERE THE
19 VICTIM WAS LYING AND YOU SEE IN THIS PHOTOGRAPH HERE ITEM
20 NUMBER 1, 2 AND 3. THESE ARE ITEMS -- PERTINENT ITEMS OF
21 EVIDENCE THAT WE THOUGHT WERE PERTINENT THAT WE WANTED TO
22 COLLECT.

23 Q. CAN YOU TELL WHAT ITEM ONE DEPICTS, PLEASE?

24 A. ITEM NUMBER 1 DEPICTS THE SHIRTS THAT WE FOUND. AGAIN,
25 HERE YOU CAN SEE DEBRIS FROM EMS. THAT STUFF WAS NOT

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1 COLLECTED. THERE'S A PAPER BAG HERE AND I'M NOT REAL SURE
2 IF THIS PHOTOGRAPH SHOWS THE GLASSES.

3 Q. AND DID YOU ACTUALLY RECOVER THOSE. -- I THINK DR.
4 MAYNARD HAD TESTIFIED HE HAD AN OPPORTUNITY TO LOOK AT THEM
5 BRIEFLY, BUT THE TWO SHIRTS THAT WERE ACTUALLY CUT OFF THE
6 BODY; IS THAT CORRECT?

7 A. YEAH.

8 Q. AND STATE'S EXHIBIT TWENTY-ONE IN EVIDENCE, THE
9 VICTIM'S CLOTHING WITH RED STAINS, A BEIGE SHIRT AND A WHITE
10 SHIRT, GLASSES AND A PROJECTILE. YOU RECOVERED THOSE INTO
11 EVIDENCE?

12 A. I DID.

13 Q. AND THESE ARE PHOTOS THAT YOU TOOK OF THE SHIRTS THAT
14 ARE IN THAT BAG?

15 A. THAT'S CORRECT. THIS IS THE OUTER SHIRT AND THERE'S
16 THE UNDERSHIRT.

17 Q. I'M SORRY. I NEED TO GET THOSE NUMBERS. STATE'S
18 EXHIBIT TWENTY-THREE WAS THE PARKING LOT PHOTO?

19 A. THAT'S CORRECT.

20 Q. NINETY-THREE IS THE PHOTO OF THE OUTER SHIRT?

21 A. THAT'S CORRECT.

22 Q. NINETY-SIX, PHOTO OF THE INNER SHIRT?

23 A. THAT'S CORRECT.

24 Q. OKAY. I SEE ALSO ONCE YOU COLLECT THE SHIRT, YOU'RE
25 HOLDING STATE'S EXHIBIT ONE, WHAT DOES THIS AREA INDICATE?

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1 A. THAT AREA WITHIN THE CIRCLE IS ACTUALLY A PROJECTILE.

2 Q. AND WHERE IS THAT IN THAT PICTURE? IS THAT WHERE YOU
3 ACTUALLY LOCATE?

4 A. RIGHT. THAT'S WHERE WE ACTUALLY FOUND IT LAYING ON THE
5 ASPHALT SURFACE.

6 Q. AND STATE'S -- AGAIN, I'VE -- STATE'S EXHIBIT FORTY-
7 SIX, IS THAT THE PHOTO?

8 A. THAT'S CORRECT.

9 Q. AND STATE'S EXHIBIT FORTY-SEVEN?

10 A. THAT'S JUST A CLOSER-UP PHOTOGRAPH, A CLOSE-IN
11 PHOTOGRAPH, OF THE PROJECTILE AND YOU CAN SEE IT THERE.

12 Q. AND IS THIS ALSO A PICTURE OF THE ITEM -- IS STATE'S
13 EXHIBIT EIGHTY-SIX A PICTURE OF THAT ITEM THAT WAS
14 RECOVERED?

15 A. THAT'S CORRECT. THIS ITEM HERE, OF COURSE, IT DOESN'T
16 LOOK ANYTHING LIKE THE PICTURE SHOWS IT WHEN WE FOUND IT,
17 BUT THIS IS ACTUALLY AFTER IT HAD COME BACK FROM OUR STATE
18 LAB AT SLED.

19 Q. AND STATE'S EXHIBIT 116, WHEN YOU RECOVERED IT YOU TOOK
20 THE ITEM AND YOU RECOVERED IT IN THE PARKING LOT AND YOU
21 SENT IT DOWN TO SLED, YOU DIDN'T ALTER IT OR CHANGE IT ANY
22 WAY?

23 A. NO, SIR, I DIDN'T. ALL I DID WAS COLLECT IT.

24 Q. AND SO STATE'S EXHIBIT 116, THAT IS THE PROJECTILE THAT
25 YOU FOUND ON THE GROUND THAT'S DEPICTED IN STATE'S EXHIBIT

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1 EIGHTY-SIX AS WELL AS THE PREVIOUS PHOTOS?

2 A. THAT'S CORRECT.

3 Q. NOW, IF YOU COULD INDICATE ON STATE'S EXHIBIT TWO WHAT
4 IS --

5 A. ITEM NUMBER 2 --

6 Q. I'M SORRY, ITEM NUMBER 2. STATE'S EXHIBIT THIRTY-SIX,
7 ITEM NUMBER 2.

8 A. IS A -- WAS A SHELL CASING. YOU ACTUALLY SEE THE
9 BUSINESS CARD. YOU REMEMBER I SPOKE OF AN OFFICER'S
10 BUSINESS CARD MARKING PROJECTILES. THIS IS TRASH FROM EMS
11 AND HERE'S OFFICER SMITH'S BUSINESS CARD INDICATING HE
12 MARKED THIS .45 CALIBER SHELL CASING.

13 Q. AND THAT'S IN STATE'S EXHIBIT THIRTY-SEVEN. AND
14 THIRTY-EIGHT, WHAT IS DEPICTED THERE?

15 A. THIS SHOWS MY ITEM NUMBER 2 AND IT SHOWS THE .45
16 CALIBER SHELL CASING AND OFFICER SMITH'S BUSINESS CARD IS
17 UNDER MY NUMBER 10.

18 Q. OKAY. AND THIS IS IN EVIDENCE AS STATE'S EXHIBIT 110.
19 DID YOU RECOVER THIS SHELL CASING FROM THAT AREA THAT
20 EVENING?

21 A. YES, I DID.

22 Q. OKAY. DID YOU ALTER IT OR CHANGE IT IN ANY WAY?

23 A. NO, SIR, I DID NOT.

24 Q. OKAY. AND DID YOU SEND IT TO THE STATE LAW ENFORCEMENT
25 DIVISION?

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1 A. YES, SIR. IT WAS SENT TO OUR STATE LAW ENFORCEMENT
2 DIVISION.

3 Q. STATE'S EXHIBIT THREE, COULD YOU INDICATE WHAT THAT
4 ITEM IS?

5 A. YES. THIS IS --

6 Q. I'M SORRY. STATE'S EXHIBIT TWENTY-FOUR, YOUR NUMBER 3.

7 A. MY NUMBER 3 IS A PLASTIC BAG WITH A BOTTLE OF HENESSY
8 ACTUALLY OPENED AND I THINK THIS RIGHT HERE IS THE ACTUAL
9 TOP OF IT.

10 Q. AND YOU HAD INDICATED IN AN EARLIER PICTURE THERE WAS
11 ACTUALLY A CUP THAT WAS PRESENT ALSO.

12 A. THAT'S RIGHT.

13 Q. OKAY. AND DID YOU RECOVER THIS ITEM?

14 A. YES, I DID.

15 Q. OKAY. OF COURSE, THE JURY HAS STATE'S EXHIBIT TWENTY-
16 FOUR. DID YOU ACTUALLY RECOVER THE PHYSICAL BOTTLE?

17 A. YES, I DID.

18 Q. OKAY. WAS ANY TESTING DONE ON THAT ANY FURTHER THAN
19 WHAT YOU HAD?

20 A. NO, SIR. WE JUST COLLECTED IT 'CAUSE WE THOUGHT IT WAS
21 PERTINENT.

22 Q. BACK TO STATE'S EXHIBIT NINE AND ASK IF YOU COULD
23 ORIENT THE JURY AS TO THIS PHOTO.

24 A. YES. THIS IS -- THIS IS ABOUT THE AREA THAT I WAS
25 STANDING WHEN I TOOK THE PHOTOGRAPH POINTING IN THIS

1 DIRECTION HERE. IT SHOWS -- IT SHOWS THE OPEN SPACE HERE
2 AND YOU CAN ACTUALLY SEE THE WHITE ITEMS ON THE -- MARKED BY
3 A CIRCLE. EACH ONE OF THOSE CIRCLES INDICATE A BUSINESS
4 CARD WITH OFFICER SMITH'S NAME ON IT.

5 Q. AND THIS IS STATE'S EXHIBIT TWENTY. OF COURSE, THE
6 JURY WILL HAVE THE ACTUAL PICTURES IN THE JURY ROOM, BUT FOR
7 EXAMPLE, USING THE VEHICLES IN THE DISTANCE AND YOU CAN'T
8 SEE IT AS GOOD UP HERE, WHAT -- YOU WERE TALKING ABOUT THE
9 LIGHTING EARLIER.

10 A. YEAH. IF YOU CAN SEE ALL THESE, THE LIGHTER COLOR CARS
11 AND YOU CAN SEE THAT THE LIGHT THAT IS BEING EMITTED FROM
12 THESE STREET LIGHTS IS THAT ORANGISH/YELLOWISH AMBER COLOR.

13 Q. STATE'S EXHIBIT TWENTY-ONE.

14 A. YEAH. THIS IS OFFICER SMITH'S BUSINESS CARD, IT'S
15 CIRCLED, HAS A SHELL CASING INSIDE IT.

16 Q. AND ULTIMATELY DID YOU MARK WITH YOUR CONE THE SHELL
17 CASING?

18 A. YES, I DID.

19 Q. AND DID YOU TAKE A PHOTO? AGAIN, WHERE WOULD THE
20 ORIENTATION FOR THIS --

21 A. YES. I WAS STANDING IN THIS GENERAL AREA RIGHT HERE
22 PHOTOGRAPHING BACK UP THE HILL.

23 Q. AND, AGAIN, WHERE WOULD THE VICTIM HAVE BEEN IN
24 REFERENCE TO WHERE YOU'RE SHOOTING?

25 A. THE VICTIM WOULD HAVE BEEN ACTUALLY IN THIS SPACE HERE,

1 THIS OPEN SPACE.

2 Q. AND CAN YOU TELL US WHAT THESE ITEMS DEPICT?

3 A. YES. THIS DEPICTS ITEMS FIVE, SIX, SEVEN, EIGHT AND
4 NINE. EACH ONE OF THESE NUMBER CONES MARKED A SPENT .25
5 CALIBER SHELL CASING.

6 Q. AND THAT'S IN STATE'S EXHIBIT THIRTY-FOUR?

7 A. THAT'S CORRECT.

8 Q. STATE'S EXHIBIT TWENTY-FIVE?

9 A. SPENT .25 CALIBER SHELL CASING.

10 Q. STATE'S EXHIBIT TWENTY-SIX?

11 A. A SPENT .25 CALIBER SHELL CASING.

12 Q. STATE'S EXHIBIT TWENTY-SEVEN?

13 A. ANOTHER SPENT .25 CALIBER SHELL CASING?

14 Q. STATE'S EXHIBIT TWENTY-EIGHT?

15 A. SPENT .25 CALIBER SHELL CASING.

16 Q. STATE'S EXHIBIT TWENTY-NINE?

17 A. ANOTHER SPENT .25 CALIBER SHELL CASING.

18 Q. AND YOU ACTUALLY RECOVERED EACH -- AFTER YOU MARKED
19 THEM AND PHOTOGRAPHED THEM, YOU RECOVERED EACH OF THOSE
20 CASINGS?

21 A. THAT'S CORRECT.

22 Q. AND YOU'VE HAD AN OPPORTUNITY TO LOOK AT ALL THIS
23 EVIDENCE OBVIOUSLY WHEN YOU COLLECTED IT IN PREPARATION AND
24 THIS MORNING; IS THAT CORRECT?

25 A. THAT'S CORRECT.

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1 Q. OKAY. STATE'S EXHIBIT 101, 102, 103, 104 AND 105 IN
2 EVIDENCE, ARE THOSE THE SHELL CASINGS THAT YOU RECOVERED
3 FROM THERE IN THE PARKING LOT?

4 A. YES, THEY ARE.

5 Q. AND WERE THEY ALSO SENT TO THE STATE LAW ENFORCEMENT
6 DIVISION FOR ANALYSIS?

7 A. YES, THEY WERE.

8 Q. NOW, WITH THE MARKERS STILL IN PLACE, DID YOU HAVE AN
9 OPPORTUNITY TO PHOTOGRAPH, BASICALLY, FROM THE VIEW TOWARDS
10 WHERE THE VICTIM WAS?

11 A. THAT'S CORRECT. I WAS STANDING IN THIS GENERAL AREA
12 RIGHT HERE AND I PHOTOGRAPHED THE ANGLE BACK TOWARDS WHERE
13 THE VICTIM WAS LYING.

14 Q. THIS IS STATE'S EXHIBIT THIRTY-THREE?

15 A. THAT'S CORRECT. YOU CAN SEE THE NUMBER CONES MARKING
16 THE .25 CALIBER SHELL CASINGS AND YOU CAN SEE THE NUMBER
17 CONES WHERE THE VICTIM WAS LYING.

18 Q. AND SO FIVE, SIX, SEVEN, EIGHT, NINE OF YOUR INDICATION
19 ARE THE SHELL CASINGS THAT WERE -- THAT YOU RECOVERED THAT
20 DAY, THAT .25?

21 A. THAT'S CORRECT. THAT'S CORRECT.

22 Q. OKAY.

23 MR. POPE: YOUR HONOR, AT THIS POINT ON THE STATE'S
24 EXHIBITS WE'VE PREVIOUSLY SECURED, I'D REQUEST PERMISSION TO
25 REMOVE THE SECURITY DEVICE SO THAT HE CAN SHOW THE

1 NOMENCLATURE OF THE WEAPON.

2 THE COURT: YES, SIR; PERMISSION GRANTED.

3 Q. IT MAY BE BETTER TO ACTUALLY HANDLE THIS. OFFICER
4 GARDNER, JUST BASICALLY CAN YOU TELL THE JURY THE NATURE OF
5 THIS WEAPON, WHAT TYPE OF WEAPON IT IS, SEMI-AUTOMATIC
6 VERSUS REVOLVER, WHAT THAT REALLY MEANS?

7 A. YES. THERE'S BASICALLY TWO TYPES OF HANDGUNS, A
8 REVOLVER AND A SEMI-AUTOMATIC, WHICH I COMMONLY REFER TO AS
9 A PISTOL. WITH A REVOLVER YOU ACTUALLY HAVE A CYLINDER THAT
10 ACTUALLY HOLDS FIVE, SIX, SEVEN -- I'VE EVEN SEEN EIGHT-
11 ROUND REVOLVERS. THAT'S WHERE THE AMO IS POSITIONED AND
12 EVERY TIME YOU PULL THE TRIGGER, THAT CYLINDER ROTATES TO A
13 NEW UNFIRED ROUND, BUT WITH A SEMI-AUTOMATIC PISTOL THERE IS
14 A DEVICE CALLED A MAGAZINE WHICH FITS INSIDE THE MAGAZINE
15 WELL. THE MAGAZINE ALSO IS COMMONLY CALLED A CLIP. ONCE
16 THE MAGAZINE IS INSERTED INTO THE GUN, INTO THE PISTOL, YOU
17 HAVE TO ACTUALLY PULL THE SLIDE BACK AND YOU SEE THE TOP
18 PART OF THE GUN ACTUALLY MOVES. THE SLIDE COMES TO THE REAR
19 POSITION. ONCE THE SLIDE GOES FORWARD, IT PICKS UP A ROUND
20 FROM THE MAGAZINE AND ACTUALLY SLIDES IT INTO THE CHAMBER,
21 WHICH IS PART OF THE BARREL AND THAT'S HOW THIS WEAPON IS
22 ACTUALLY LOADED. ONCE THE WEAPON IS FIRED, THERE IS A
23 DEVICE THAT'S BUILT ONTO THE SLIDE CALLED THE EXTRACTOR.
24 THE EXTRACTOR IS BASICALLY A SMALL HOOK THAT HOOKS OVER THE
25 RIM OF THE BULLET. ONCE IT'S FIRED, THE SLIDE MOVES TO THE

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1 REAR PORTION AGAIN, EXTRACTING THE BULLET FROM THE CHAMBER
2 AND WHEN IT GETS TO THE FURTHEST POINT BACK THERE IS ANOTHER
3 DEVICE INSIDE, NORMALLY BUILT ONTO THE FRAME, IT'S CALLED
4 THE EJECTOR. THE BACK OF THE SHELL CASING STRIKES THE
5 EJECTOR AND KICKS -- AND KICKS THE ROUND OUT OF THE EJECTION
6 PORT. THE EJECTION PORT IS THE AREA, THE CUT OUT AREA, THAT
7 YOU SEE HERE.

8 Q. OKAY. BASED ON YOUR EXPERIENCE, IS THIS -- YOU CALLED
9 THIS IS A PISTOL, YOU SAID A SEMI-AUTOMATIC?

10 A. A SEMI-AUTOMATIC OR A PISTOL.

11 Q. OKAY. BASED ON YOUR EXPERIENCE, WHERE -- IF I'M FIRING
12 THIS FIREARM, WHERE WOULD YOU EXPECT THE CASING TO GO?

13 A. IF I'M FIRING -- IF I'M STANDING AT THE WALL FIRING
14 THIS FIREARM HERE, I WOULD EXPECT THE ROUND ITSELF, THE
15 SPENT CASING, TO BE EJECTED OUT OF THE TOP PORTION OF THIS
16 GUN. THIS GUN -- WITH JUST ABOUT ANY SEMI-AUTOMATIC PISTOL,
17 IT DEPENDS UPON THE TYPE AMMUNITION YOU USE, WHETHER IT'S
18 FACTORY AMO, WHETHER IT'S HAND RELOADED, WHERE IT'S A SUPER
19 HOT LOAD THAT'S BEEN LOADED WITH EXTRA POWDER. I WOULD
20 EXPECT THIS WEAPON HERE TO EITHER COME STRAIGHT BACK OVER
21 THE TOP OF MY HEAD, THE SPENT CASING, OR OUT TO MY RIGHT.

22 Q. FROM THAT CAN YOU HAVE SOME DETERMINATION, BASED ON
23 YOUR EXPERIENCE, ROUGHLY IN WHAT AREA THE SHOOTER WOULD BE--
24 IN OTHER WORDS, WHAT DO RECOVERING CASINGS TELL YOU ABOUT
25 THE POSSIBLE LOCATION OF THE SHOOTER?

1 A. FROM MY EXPERIENCE, IT WOULD BE THAT IT WOULD BE THAT
2 HE WOULD BE INSIDE EITHER THIS SPACE HERE AND POSSIBLY IN
3 THE LOWER PORTION OF THIS SPACE AND THE UPPER PORTION OF
4 THIS SPACE CAUSE THE ROUNDS TO BE HERE AND THEN THIS ONE
5 HERE COULD BE -- CAUSE THE ROUND TO BE ON THIS SIDE. HE WAS
6 STANDING TO THE LEFT OF WHERE THOSE SPENT CASINGS WERE
7 FOUND.

8 Q. OKAY. AND ALL OF THE CASINGS THAT WE'RE TALKING ABOUT
9 IN THIS PHOTOGRAPH AT THIS JUNCTURE ARE THE .25 CALIBERS,---

10 A. THAT'S RIGHT.

11 Q. ---THE SMALL CALIBER CASINGS?

12 A. THE SMALL CALIBER THAT WAS FIRED FROM A WEAPON LIKE
13 THIS.

14 Q. OKAY. IF YOU WOULD, SECURE THAT WEAPON BACK. AND THAT
15 WEAPON WAS IDENTIFIED AS STATE'S EXHIBIT 99. IS IT AGAIN
16 SECURED?

17 A. YES, IT IS SECURED.

18 Q. INVESTIGATOR GARDNER, THE -- AGAIN, THE ITEMS THAT YOU
19 INDICATED YOU SAID EARLIER, THAT NIGHT YOU RECORD -- MUCH
20 LIKE THE CARS, YOU RECORD THE CASINGS THAT WERE LOCATED AND
21 THE NUMBERS ON STATE'S EXHIBIT 81?

22 A. THAT'S CORRECT.

23 Q. OKAY. AND CAN YOU INDICATE WHERE THOSE CASINGS --
24 WHERE, IN OTHER WORDS, THE PICTURES WE JUST LOOKED AT, THIS
25 IS THE .25 CALIBER CASING; IS THAT CORRECT?

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1 A. CORRECT. EACH ONE OF THESE CIRCLES HERE INDICATE THE
2 SHELL CASINGS I FOUND FROM THE .25 AND .45 SHELL CASING I
3 FOUND, WHICH WAS RIGHT HERE IN FRONT OF THE CAR.

4 Q. I KNOW YOU SAID THAT YOU FOUND THE .25 TO BE -- THEY
5 MADE CERTAIN LINES THAT DON'T APPEAR HERE. IS THIS DIAGRAM
6 TO SCALE?

7 A. NO, SIR. THIS IS NOT TO SCALE.

8 Q. OKAY. SO -- BUT YOU TOOK MEASUREMENTS. IN OTHER
9 WORDS, THE DIFFERENCE BETWEEN SEVEN, EIGHT AND NINE DISTANCE
10 WISE IS JUST HAND-DRAWN ON THERE?

11 A. THAT'S CORRECT. IT'S HAND-DRAWN.

12 Q. ALSO, DID YOU HAVE THE OPPORTUNITY, AFTER PROCESSING
13 THE AREA OF THIS PARKING LOT, TO MOVE UP TOWARD THE
14 APARTMENT BUILDING ITSELF?

15 A. YES, I DID. I WAS BASICALLY STANDING IN THIS POSITION
16 RIGHT HERE SHOOTING FROM THE APARTMENT BUILDING.

17 Q. AND, AGAIN, THAT IS THE -- THE BLANK SPACE THERE IS THE
18 SPACE WHERE THE VICTIM, MR. BAGLEY, WOULD HAVE BEEN?

19 A. THAT'S CORRECT. THAT'S -- I WAS STANDING IN THE SPACE
20 WHERE THE VICTIM WAS FOUND.

21 Q. AND COULD YOU INDICATE WHAT THIS PICTURE DEPICTS?

22 A. YES, SIR. THIS IS THE -- AGAIN, THE FRONT OF THE
23 APARTMENT COMPLEX THAT WAS RIGHT NEAR WHERE THE VICTIM WAS
24 FOUND. THIS IS MY PARTNER, INVESTIGATOR WILLIAMS. HE'S
25 ACTUALLY HOLDING A NUMBER CONE UP AGAINST THE WALL OF -- THE

1 WHITE FRAME AROUND THE WINDOW. MY ITEM NUMBER 4, WHICH IS
2 STATE'S EXHIBIT 49, SHOWS A -- WHAT WE THOUGHT WAS A BULLET
3 HOLE AND WE ACTUALLY USED A SAWSALL TO CUT A SECTION OF THIS
4 WALL OUT.

5 Q. THAT'S STATE'S EXHIBIT 50?

6 A. STATE'S EXHIBIT 50.

7 Q. STATE'S EXHIBIT 49 WAS THE PICTURE OF THE PRIOR
8 SEGMENT?

9 A. THAT'S CORRECT.

10 Q. STATE'S EXHIBIT 51, COULD YOU INDICATE WHAT THIS
11 DEPICTS?

12 A. YES. THIS IS -- THIS IS THE SECTION OF WOOD THAT WE
13 CUT OUT, HAD BEEN BROKE IN TWO AND IT REVEALED A PROJECTILE
14 LODGED IN THE WOOD.

15 Q. OKAY. AND DID YOU ACTUALLY RECOVER THAT PIECE OF WOOD?

16 A. YES, I DID.

17 Q. AND THE PROJECTILE WAS RECOVERED FROM IT ALSO AS
18 DEPICTED IN STATE'S EXHIBIT 83?

19 A. THAT'S CORRECT.

20 Q. AND THIS WOULD BE STATE'S EXHIBIT 113; IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. OKAY. AND YOU HAD AN OPPORTUNITY TO LOOK AT THIS
23 PREVIOUSLY?

24 A. I HAVE; I HAVE.

25 Q. AND WAS THIS ITEM ALSO SENT TO THE STATE LAW

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1 ENFORCEMENT DIVISION?

2 A. YES, IT WAS.

3 Q. BASED ON YOUR EXPERIENCE, IN LOOKING AT THAT, WAS THAT
4 ITEM THAT YOU RECOVERED OUT OF THE WINDOW FRAME, IS THAT
5 CONSISTENT WITH A .45 OR A .25?

6 A. THAT WOULD BE CONSISTENT WITH A .25.

7 Q. COULD YOU NOW TELL US WHAT STATE'S EXHIBIT 52
8 INDICATES?

9 A. YES. MY PARTNER AGAIN, INVESTIGATOR WILLIAMS, IS
10 HOLDING A NUMBER 10 CONE UP AGAINST WHAT WE THOUGHT AGAIN
11 WAS A HOLE IN THE SIDING.

12 Q. OKAY. DID YOU HAVE THE OPPORTUNITY TO GO INSIDE THE
13 APARTMENT AND SEE IF IT HAD GONE FURTHER INTO THE BUILDING.
14 ON THIS PICTURE?

15 A. YES, I DID.

16 Q. OKAY. NOW, STATE'S EXHIBIT 53 REFLECTS THE SIDING.
17 STATE'S EXHIBIT 54, CAN YOU TELL ME WHAT THAT INDICATES?

18 A. THIS IS THE OTHER SIDE -- INSIDE THE APARTMENT COMPLEX.
19 RIGHT OUTSIDE ON THE OTHER SIDE OF THIS WALL IS THE ACTUAL
20 OUTSIDE WALL AND THIS HOLE INDICATES A PROJECTILE.

21 Q. AND STATE'S EXHIBIT 55?

22 A. THAT'S JUST A CLOSE -- CLOSER-UP VERSION OF THE
23 PROJECTILE, WHICH IS RIGHT THERE.

24 Q. AND THEN YOU ACTUALLY RECOVERED IT ALSO?

25 A. I DID.

1 Q. AGAIN, THAT'S REFLECTED IN STATE'S -- THAT PHOTO IS
2 STATE'S EXHIBIT 84; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. OKAY. AND ACTUALLY THE ITEM THAT WAS RECOVERED IS
5 STATE'S EXHIBIT 114; IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. DID YOU ALTER OR CHANGE THIS IN ANY WAY?

8 A. NO, SIR, I DID NOT.

9 Q. OKAY. AND YOU SENT THAT TO THE STATE LAW ENFORCEMENT
10 DIVISION?

11 A. YES, SIR, I DID.

12 Q. DID IT APPEAR THIS ITEM -- BASED ON YOUR EXPERIENCE, IS
13 THIS ITEM MORE CONSISTENT WITH A .25 OR A .45?

14 A. A .25.

15 Q. SO BASED ON YOUR EXPERIENCE, THE TWO THAT YOU ACTUALLY
16 GET OUT OF THE APARTMENT BUILDING WOULD BE .25; IS THAT
17 CORRECT?

18 A. YES, SIR.

19 Q. THE SHELL CASINGS THAT YOU HAVE INDICATED EARLIER, THE
20 .25 SHELL CASINGS THAT WERE IN THE PARKING LOT IN THE
21 CONFIGURATION IN THE DIRECTION OF THE VICTIM AND OF THE
22 APARTMENT, IS THAT CONSISTENT, BOTH THOSE CASINGS, WITH
23 BEING .25 CALIBER?

24 A. YES, SIR, MOST DEFINITELY.

25 Q. ALSO, AND MUCH LIKE THE PARKING LOT DIAGRAM, STATE'S

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1 EXHIBIT 82, DID YOU PREPARE A DIAGRAM WITH ACTUAL
2 MEASUREMENTS OF THE TWO BULLET ENTRIES INTO THE APARTMENTS?

3 A. YES, WE DID. ONE'S INDICATED HERE AND ONE IS INDICATED
4 HERE.

5 Q. OKAY. AND YOU WENT PHYSICALLY INSIDE THE APARTMENTS.
6 THIS WAS MR. BAGLEY'S AND HIS ROOMMATE AND HIS FATHER'S
7 APARTMENT. YOU HAD THEIR PERMISSION TO GO IN THERE AND
8 SEARCH THAT?

9 A. YES, WE HAD CONSENT TO SEARCH. THIS IS JUST A CLOSEUP,
10 THAT WAS A CLOSEUP OF OUR -- STATE'S EXHIBIT 82 IS A CLOSEUP
11 OF THE CRIME SCENE SKETCH WE DID.

12 Q. NOW, YOU'D INDICATED EARLIER THAT MEMBERS OF THE FSU
13 WENT TO THE AUTOPSY THAT MONDAY.

14 A. THAT'S CORRECT.

15 Q. THIS HAPPENED SATURDAY EVENING INTO SUNDAY MORNING.
16 AND WENT TO THE AUTOPSY MONDAY FOR PURPOSES OF GATHERING ANY
17 OTHER EVIDENCE THAT MAY BE AVAILABLE, COLLECT ANY OTHER
18 EVIDENCE; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. OKAY. DID YOU HAVE AN OPPORTUNITY THAT NIGHT WHEN YOU
21 WERE OUT PROCESSING THE SCENE TO ACTUALLY LOOK AT THE BODY?
22 YOU KNOW, I KNOW YOU SAID THE BODY WAS REMOVED. DID YOU
23 HAVE ANY OPPORTUNITY TO LOOK AT THE BODY OR THE NUMBER OF
24 WOUNDS OR ANYTHING OF THAT NATURE THAT NIGHT?

25 A. NO, SIR. I DID NOT HAVE THE OPPORTUNITY TO DO THAT.

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1 Q. ONCE THE AUTOPSY WAS PERFORMED, WAS THERE INFORMATION
2 GATHERED THAT SENT YOU BACK TO THE CRIME SCENE YET AGAIN?

3 A. YES, SIR. INVESTIGATOR WILLIAMS INFORMED ME THAT I
4 NEEDED TO RETURN TO THE SCENE TO SEARCH FOR ADDITIONAL SHELL
5 CASINGS.

6 Q. OKAY. AND WHAT WAS THAT BASED ON?

7 A. THE EVIDENCE THAT THEY FOUND FROM THE BODY. THERE WERE
8 SOME .45 CALIBER PROJECTILES FOUND.

9 Q. AND, NOW, ON YOUR -- THE CRIME SCENE INITIAL SEARCH
10 THAT NIGHT, AS YOU'VE INDICATED TO THE JURY, YOU FOUND ONE
11 .45 PROJECTILE AT THE SCENE AND ONE .45 CASING AT THE SCENE;
12 IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. OKAY. AND THEN FROM THE AUTOPSY THEY HAD RECOVERED AN
15 ADDITIONAL .45---

16 A. FORTY-FIVE CALIBER --

17 Q. ---PROJECTILE?

18 A. THAT'S CORRECT.

19 Q. SO YOU HAD THE OPPORTUNITY TO GO OUT AND BASICALLY LOOK
20 AT THE SCENE. IS THE FIRST OPPORTUNITY YOU HAD BEEN THERE
21 DURING THE DAYLIGHT HOURS?

22 A. ACTUALLY, I THINK -- I THINK IT WAS. I THINK -- I
23 DON'T THINK I WAS THERE -- 'CAUSE WHEN IT TURNED DAYLIGHT I
24 WAS IN STONE POINT THEN BASICALLY --

25 Q. YOU'RE TALKING ABOUT THE NIGHT YOU WERE PROCESSING THAT

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1 SATURDAY INTO SUNDAY---

2 A. RIGHT.

3 Q. ---AND BY THE TIME IT GOT DAYLIGHT YOU WERE OVER AT
4 STONEYPOINTE?

5 A. THAT'S CORRECT. THIS IS THE FIRST TIME I HAD A CHANCE
6 TO RETURN TO THE SCENE.

7 Q. OKAY. AND FIRST, AGAIN, I WANT US TO FOCUS, DID YOU
8 MAKE ANY DETERMINATIONS OR DISCOVERIES CONCERNING .25
9 CALIBER AMMUNITION WHEN YOU WERE THERE?

10 A. YES, I DID. I THINK IN THE NEXT PHOTOGRAPH YOU'LL SEE
11 I WAS STANDING IN THIS AREA HERE AND I WAS SHOOTING BACK
12 THIS DIRECTION HERE.

13 Q. OKAY. AND THE NEXT PHOTOGRAPH, STATE'S EXHIBIT 32, CAN
14 YOU TELL US WHAT THAT DEPICTS?

15 A. YEAH. THAT -- THERE'S A NUMBER CONE UP HERE INDICATING
16 ANOTHER .25 CALIBER SHELL CASING THAT I FOUND.

17 Q. OKAY. STATE'S EXHIBIT 30, WHAT DOES THIS ITEM DEPICT?

18 A. THIS IS MY ITEM THIRTEEN NUMBER CONE. IT'S JUST A
19 CLOSER-UP VIEW OF THE NUMBER CONE INDICATING THE .25 CALIBER
20 SHELL CASING THAT I FOUND.

21 Q. OKAY. AND STATE'S EXHIBIT 31?

22 A. THIS IS A PHOTOGRAPH OF THE .25 CALIBER SHELL CASING
23 THAT I RECOVERED.

24 Q. OKAY. AND THAT NIGHT IN PROCESSING THE SCENE, DID THIS
25 PARTICULAR SHELL CASING, WAS THERE A POLICE CAR NEXT TO IT

1 OR DID YOU OBSERVE THAT THAT NIGHT?

2 A. NO. THERE WAS NOT -- IT WAS NOT MARKED BY ANY BUSINESS
3 CARD LIKE THE OTHER ONES WERE MARKED. THE -- BELIEVE IT OR
4 NOT, THE STUFF -- SHELL CASINGS THIS SMALL ARE QUITE HARD TO
5 FIND EVEN BEING ON PAVEMENT. YOU'LL NOTICE THAT SOME OF
6 THIS -- THIS THING -- THE SHELL CASING ACTUALLY LOOKS A LOT
7 LIKE SOME OF THE DEBRIS LAYING AROUND, SO IT WAS -- I MEAN,
8 I DIDN'T FIND IT.

9 Q. OKAY. WHEN YOU WENT BACK AND DID YOU IN FACT RECOVER
10 THAT PARTICULAR ITEM?

11 A. I DID. I DID RECOVER THAT ITEM.

12 Q. OKAY. AND WAS IT SENT TO THE STATE LAW ENFORCEMENT
13 DIVISION?

14 A. YES, IT WAS.

15 Q. AND THIS ITEM 106, IT WAS PACKAGED AND SENT TO SLED
16 ALSO?

17 A. THAT'S CORRECT.

18 Q. OKAY. SHOW THE JURY -- IF YOU COULD OPEN 106. IF YOU
19 COULD SHOW THE JURY THE SIZE OF THE PARTICULAR ITEM.

20 A. THIS IS A .25 CALIBER -- A SPENT .25 CALIBER SHELL
21 CASING.

22 Q. AND IS THAT A CASING THAT -- THAT'S THE SAME AS THE
23 OTHER STATE'S EXHIBIT 101 AND 102, 103, 104, 105 AS FAR AS
24 SIZE AND SHAPE?

25 A. THAT'S CORRECT.

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1 Q. OKAY. NOW, YOU WERE EXPLAINING EARLIER ABOUT THE
2 CASING. IS THE CASING THE PART THAT YOU TALKED ABOUT KICKS
3 OUT OF THE GUN?

4 A. YES. THIS IS THE ACTUAL -- THIS CASE HOLDS WHAT IS
5 CALLED A PRIMER, WHICH IS THE AREA IN THE BACK. IN THE BACK
6 PORTION OF THE SHELL YOU CAN ACTUALLY SEE AN INDENTION IN
7 THE PRIMER. THIS IS WHERE THE STRIKER OR FIRING PIN
8 ACTUALLY STRIKES; STRIKES THE PRIMER, THERE'S A SMALL
9 EXPLOSION AND IT IGNITES THE POWDER WHICH IS INSIDE THE
10 SHELL, THE CASING ITSELF. WHEN THAT IGNITION HAPPENS, IT
11 ACTUALLY PUSHES THE -- THE GASES ACTUALLY PUSH THE
12 PROJECTILE OUT THE END OF THE BARREL.

13 Q. AND THE PROJECTILE IS THE LEAD PART -- OF COURSE, THE
14 .25 IS NOT IN FRONT OF US, BUT IT'S THE PART -- THE BUSINESS
15 END OF THE BULLET.

16 A. IT'S THE BULLET; THAT'S RIGHT.

17 Q. NOW, I'D LIKE YOU, IF YOU COULD, ORIENT THE JURY, IN
18 FACT, USING THE PHOTO YOU PREVIOUSLY INDICATED WHERE YOU
19 MARKED THE CONES AND BY THE WAY, SEVEN, EIGHT, NINE, FIVE,
20 AND SIX, IS THERE ANY -- YOUR DESIGNATION DOESN'T IN ANY WAY
21 SAY WHICH BULLET WAS FIRST OR SECOND?

22 A. ABSOLUTELY NOT.

23 Q. OKAY.

24 A. THAT'S JUST THE WAY -- THE FIRST ONE I CAME TO WAS
25 NUMBER 5. I JUST STARTED PLACING NUMBERS DOWN ON THE ONES I

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1 FOUND.

2 Q. OKAY. AND FROM THIS ORIENTATION WHERE YOU RECOVERED
3 THE ITEM -- YOUR ITEM THIRTEEN, THE ITEM THAT YOU JUST
4 SHOWED THE JURY, ARE YOU ABLE TO ROUGHLY DESIGNATE WHERE IT
5 WOULD HAVE BEEN LOCATED IN THIS PATTERN?

6 A. THAT'S CORRECT. IT WAS INSIDE THIS CIRCLE HERE. IN
7 THAT GENERAL AREA.

8 Q. AND, AGAIN, USING WHAT YOU EXPLAINED ABOUT HOW THE
9 CARTRIDGE KICKS, WOULD IT STILL BE CONSISTENT WITH THE
10 LOCATIONS YOU WERE TALKING ABOUT OF THE SHOOTER?

11 A. IT ABSOLUTELY IS. IT'S CONSISTENT, BECAUSE I REALLY
12 THINK THAT THESE ROUNDS HERE WERE FIRED SOMEWHERE IN THIS
13 AREA RIGHT IN HERE. I THINK THESE ROUNDS HERE WERE FIRED IN
14 THIS -- IN THAT GENERAL AREA OF THIS OVER HERE.

15 Q. AND, AGAIN, ON STATE'S EXHIBIT 34, ALL OF THESE SIX ARE
16 .25 CALIBER?

17 A. THAT'S CORRECT.

18 Q. OKAY. IN THIS AREA OF THE PARKING LOT DID YOU FIND --
19 IN THAT AREA ANY .45 CALIBER?

20 A. NO, I DID NOT.

21 Q. OKAY. AND LIKEWISE IN YOUR OTHER PHOTO THAT ORIENTS
22 THAT CASINGS FACING TOWARD THE VICTIM, WHERE THE VICTIM WAS
23 LOCATED, COULD YOU ALSO INDICATE OR DO YOU ALSO INDICATE
24 WHERE THIS WOULD BE?

25 A. YEAH. THAT'D BE -- THAT OTHER .25 SHELL CASING WAS IN

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1 THIS GENERAL AREA RIGHT HERE.

2 Q. AND, AGAIN, WAS THAT DOCUMENTED IN -- THIRTEEN, WAS
3 THAT DOCUMENTED ALSO ON YOUR --

4 A. YES, IT WAS. I -- WE WENT BACK AND PUT NUMBER 13 ON
5 THE CRIME SCENE SKETCH IN THIS AREA RIGHT HERE.

6 Q. THAT SAME DAY DID YOU HAVE AN OPPORTUNITY TO OBSERVE
7 THE OTHER SIDE OF THE STREET, OR THE OTHER SIDE OF THE ROAD,
8 FACING AS THIS ARROW DEPICTS IN STATE'S EXHIBIT NINE?

9 A. I DID.

10 Q. AND COULD YOU TELL US WHAT STATE'S EXHIBIT 39
11 INDICATES?

12 A. YES. STATE'S EXHIBIT 39 INDICATES A NUMBER CONE MARKED
13 FOURTEEN, WHICH IS A -- WHICH WAS A .45 SHELL CASING.

14 Q. AND STATE'S EXHIBIT 40?

15 A. IT'S JUST A CLOSEUP OF ITEM FOURTEEN.

16 Q. OKAY. I WANT TO BACK UP A SECOND BACK TO 39. THIS RED
17 CADILLAC THAT IS BACKED IN THERE, YOU HAD MENTIONED EARLIER,
18 DOES THAT APPEAR, FROM YOUR OBSERVATION IN THE PHOTOS AND
19 THAT NIGHT THAT IT IS ACTUALLY SITTING IN THE SAME PLACE AND
20 CONFIGURATION AS IT WAS THE NIGHT OF THE INCIDENT?

21 A. YES. THAT VEHICLE HAD NOT MOVED FROM THE TIME OF THE
22 DATE ON THE 26TH TO THIS DATE HERE.

23 Q. THE WHITE CAR THAT'S IN STATE'S EXHIBIT 39, IN YOUR
24 INITIAL PICTURE CRIME SCENE NIGHT I THINK IT WAS A BLACK --
25 YOU INDICATED POSSIBLY CHEVROLET?

1 A. THAT'S CORRECT. IT WAS A BLACK AND GRAY CHEVROLET AND
2 THIS VEHICLE IS DIFFERENT.

3 Q. AND IT WOULD HAVE BEEN -- THE CHEVROLET WAS FACING THE
4 SAME DIRECTION?

5 A. YES, SIR. THE CHEVROLET WAS ACTUALLY FACING THE SAME
6 DIRECTION THIS ONE IS, BUT IT'S JUST A DIFFERENT VEHICLE.

7 Q. DID YOU HAVE AN OPPORTUNITY ALSO TO STEP BACK AGAIN IN
8 THIS LOCATION. WOULD YOU DESCRIBE THIS LOCATION TO THE
9 JURY, AND WHICH DIRECTION YOU WERE LOOKING AT?

10 A. THIS IS ACTUALLY THE -- I WAS IN THIS POSITION HERE
11 TAKING A PHOTOGRAPH BACK TOWARD THIS DIRECTION. THIS IS THE
12 AREA WHERE THE VICTIM WAS FOUND AND THIS IS THE RED
13 CADILLAC.

14 Q. CAN YOU TELL US WHAT THESE TWO CONES -- WE'VE SEEN
15 FOURTEEN PREVIOUSLY FROM A DIFFERENT ANGLE. WHAT DOES
16 FOURTEEN AND FIFTEEN DEPICT?

17 A. YES, SIR. STATE'S EXHIBIT 41, THIS DEPICTS ITEM
18 FOURTEEN AND FIFTEEN, WHICH BOTH REVEAL TO BE A .45 CALIBER
19 SHELL CASING.

20 Q. OKAY. AND IN THIS PHOTO WHERE WOULD THE VICTIM HAVE
21 BEEN?

22 A. RIGHT HERE.

23 Q. OKAY.

24 A. ACTUALLY, THESE -- YOU CAN ACTUALLY SEE THE STAIN.

25 Q. OKAY.

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1 MR. POPE: BEG THE COURT'S INDULGENCE. I'M NOW GOING
2 TO SECURE THE .45 WITH THE --

3 Q. THIS WOULD BE STATE'S EXHIBIT 107. AND, AGAIN, NOW AS
4 TO THE .45, MUCH AS YOU DID THE .25, IF YOU COULD EXPLAIN
5 THE NOMENCLATURE OF THAT GUN, PLEASE, SIR.

6 A. THIS IS A TAURUS P1 .45. IT'S A .45 CALIBER HANDGUN.
7 THE SAME NOMENCLATURE JUST ABOUT ON ALL SEMI-AUTOMATICS.
8 AGAIN, YOU HAVE THIS -- THIS PARTICULAR PISTOL HERE ALSO HAS
9 A SLIDE THAT MOVES BACK -- BACKWARDS AND FORWARDS. IT HAS A
10 MAGAZINE WELL WHERE THE MAGAZINE WOULD GO OR A CLIP WOULD
11 GO. THIS IS THE DEVICE THAT ACTUALLY HOLDS THE AMMUNITION.
12 IT HAS AN EJECTION PORT HERE. YOU CAN ACTUALLY SEE ON THIS
13 PARTICULAR WEAPON HERE, AS YOU CAN SEE, THIS IS CALLED THE
14 EXTRACTOR, THAT LITTLE -- THAT BAR THAT'S GOING RIGHT HERE,
15 THAT'S THE EXTRACTOR. THAT'S THE LITTLE HOOK I TOLD YOU
16 ABOUT THAT ACTUALLY GOES AROUND THE RIM OF THE GUN -- OF THE
17 BULLET. THAT BAR RIGHT THERE IS THE EXTRACTOR. AGAIN, THE
18 MAGAZINE IS INSERTED, THE SLIDE COMES FORWARD, PICKS UP A
19 ROUND FROM THE MAGAZINE, PUTS THE ROUND INSIDE THE CHAMBER.
20 ONCE YOU PULL THE TRIGGER, SLIDE IT BACK AND IT COMES
21 FORWARD AND RELOADS A FRESH ROUND, RELOADS A LIVE ROUND BACK
22 INTO IT, AND THIS GUN IS FIRED THAT WAY UNTIL THERE'S NO
23 ROUNDS LEFT IN THE MAGAZINE. IF THE GUN WORKS PROPERLY, THE
24 SLIDE WILL LOCK BACK IN THIS POSITION HERE.

25 Q. OKAY. AND HOW WOULD YOU EXPECT THE CASINGS TO BE

1 EXTRACTED FROM THIS PARTICULAR GUN?

2 A. AGAIN, IF I WAS POINTING THE WEAPON TOWARD THE WALL AND
3 I FIRED THIS WEAPON, DEPENDING UPON THE AMMUNITION, IT WOULD
4 EITHER COME STRAIGHT OVER THE TOP OF MY HEAD OR TO MY RIGHT
5 OR ANYWHERE IN THAT -- ANYWHERE IN THAT GENERAL PIE SHAPE.

6 Q. AND SO WHEN YOU SAY DEPENDING ON THE AMMUNITION, WHAT
7 DO YOU MEAN IN THAT REGARD?

8 A. THE TYPE OF AMMUNITION, AGAIN, IF IT'S HAND LOADED,
9 THERE'S A POSSIBILITY THAT IT WOULD BE A VERY LIGHT ROUND, A
10 LIGHT RECOIL ROUND WHICH CAUSES -- HAS CAUSED PROBLEMS WITH
11 THE OPERATION OF A WEAPON. IT WOULD NOT KICK THE SPENT
12 ROUND OF THE CHAMBER -- OUT OF THE EJECTION PORT AS FAR. IT
13 COULD BE A VERY, VERY HOT ROUND, A PLUS P PLUS ROUND OR A
14 PLUS P ROUND, WHICH WOULD CAUSE THE WEAPON -- THE EXPLOSION
15 TO BE GREATER, THAT COULD CAUSE THE SPENT ROUND TO BE TOSSED
16 FURTHER.

17 Q. OKAY. AND IN THIS PARTICULAR CASE YOU WERE ABLE TO
18 ACTUALLY RECOVER BULLETS AND CASINGS FOR THIS CASE?

19 A. I DID.

20 Q. OKAY. AND WERE THEY THE RELOADS OR WEAKER ROUND?

21 A. NO, SIR. THEY WERE -- THEY ARE CORE BOND. THEY'RE
22 VERY GOOD ROUNDS.

23 Q. AND IS CORE BOND PLUS P, WHAT DOES THAT INDICATE?

24 A. WELL, PLUS P ON ANY -- THERE IS A PLUS P AND A PLUS P
25 PLUS, WHICH IS BASICALLY -- I GUESS IN SIMPLE TERMS WOULD BE

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1 PLUS POWER OR PLUS POWER PLUS A LITTLE BIT MORE IS THE PLUS
2 P PLUS. I THINK THAT'S THE EASIEST WAY FOR ME TO DESCRIBE
3 IT.

4 Q. BASED ON YOUR EXPERIENCE WITH THIS AMMUNITION, AND YOU
5 KNOW WHICH AMMUNITION WAS USED BASED ON WHAT YOU RECOVERED,
6 WHERE WOULD YOU EXPECT THIS WEAPON TO KICK THESE CASINGS?

7 A. I THINK -- AGAIN, I THINK EVEN WITH THAT TYPE, I THINK
8 IT WOULD BE MORE -- MORE KNOCKED OUT TO THE RIGHT AND MORE
9 OVER THE TOP OF MY HEAD.

10 Q. AND REALIZING IT'S A LITTLE DIFFICULT AND THIS
11 PICTURE'S REVERSED, FOURTEEN AND FIFTEEN CASINGS, WHERE
12 WOULD YOU EXPECT THE SHOOTER BE FACING THIS DIRECTION?

13 A. I WOULD SAY SOMEWHERE IN THIS GENERAL AREA RIGHT HERE,
14 MAYBE EVEN CLOSER. I THINK -- I WOULD SAY IN THIS AREA HERE
15 FOR THIS ONE AND MAYBE IN THIS AREA HERE FOR THIS ONE.

16 Q. AND THIS IS THE PARKING SPOT WHERE THE VICTIM WAS SHOT;
17 IS THAT CORRECT?

18 A. RIGHT. I THINK -- IF YOU REMEMBER WE WERE TALKING, YOU
19 SAID SOMETHING ABOUT THE HORSESHOE SHAPE, THIS IS THAT
20 HORSESHOE SHAPE THAT WE WERE LOOKING AT IN ONE OF THE FIRST
21 PICTURES.

22 Q. OKAY. AND PACKAGED WITHIN STATE'S EXHIBIT 107 IS FOUR
23 LIVE ROUNDS, AND I'M NOT GOING TO ASK YOU TO --

24 MR. POPE: YOUR HONOR, WE'LL SECURE THIS WEAPON.

25 THE COURT: YES, SIR.

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1 Q. JUST SHOW THE JURY JUST ONE OF THESE, AGAIN, JUST SHOW
2 THE DIFFERENCE BETWEEN THE SIZE OF THE .45 AND THE .25 AND
3 EXPLAIN THE NOMENCLATURE OF THAT BULLET?

4 A. THIS IS A .45 CALIBER ROUND. YOU REMEMBER THE .25 THAT
5 I SHOWED YOU EARLIER IS VERY, VERY -- THE SIZE IS A BIG
6 DIFFERENCE. THE PROJECTILE IS ACTUALLY THE COPPER COLOR
7 AREA ABOVE THE CASING ITSELF AND THIS BULLET HERE IS
8 ACTUALLY CONSIDERED A HOLLOW POINT. IF YOU NOTICE THAT THE
9 END OF THE BULLET HAS A HOLE IN IT. THIS HELPS WITH THE
10 EXPANSION OF THE BULLET ONCE IT STRIKES ITS OBJECT. AGAIN,
11 YOU HAVE THE SHELL CASING ITSELF AND, AGAIN, YOU HAVE A
12 PRIMER THAT'S ACTUALLY, WHEN IT'S STRUCK BY THE STRIKER, THE
13 FIRING PIN, CAUSING THAT EXPLOSION, WHICH IGNITES THE POWDER
14 AND THE GASES FROM THAT POWDER PUSHES THE BULLET OUT THE END
15 OF THE BARREL.

16 Q. TALKING ABOUT THE BULLET PART AS OPPOSED TO THE CASING
17 AND THAT'S THE UPPER POINT, I BELIEVE YOU SAID THE HOLLOW
18 POINT?

19 A. YES.

20 Q. USING THE ITEM RECOVERED AT THE SCENE, STATE'S EXHIBIT
21 116 AS AN EXAMPLE, CAN YOU TELL US THE PARTS THAT ARE
22 CONTAINED IN THE RECOVERY OF THE BULLET AND HOW THAT EQUATES
23 TO -- AND BE SURE TO TELL EACH SECTION OF THE JURY.

24 A. IF YOU LOOK INSIDE THIS BULLET HERE YOU'LL ACTUALLY SEE
25 A GRAY AREA. THIS IS A LEAD BULLET THAT IS COPPER COATED.

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1 IT'S COMMON CALLED A JACKETED HOLLOW POINT BECAUSE OF THE
2 JACKET THAT COVERS THE ACTUAL LEAD BULLET ITSELF. THE
3 PORTION OF THE BULLET THAT -- AFTER IT'S BEEN FIRED AND IF
4 WORKS CORRECTLY, YOU'LL NOTICE IN THIS PIECE OF EVIDENCE
5 HERE, YOU ACTUALLY HAVE THIS JACKET HERE THAT'S BEEN
6 EXPANDED AND THEN YOU HAVE A LEAD BALL HERE. SEE THE JACKET
7 THAT HAS EXPANDED AND HERE'S THE LEAD BALL THAT WAS ENCASED
8 IN THAT JACKET.

9 Q. IS ACTUALLY THE JACKET CREATED TO EXPAND LIKE THAT ON
10 THE .45?

11 A. YES.

12 Q. ON THIS AMO?

13 A. THAT'S CORRECT.

14 Q. AND WHAT IS THE PURPOSE OF THAT JACKET EXPANDING?

15 A. IT'S BASICALLY FOR -- BALLISTICALLY IT ACTUALLY CREATES
16 A LARGER WOUND CHANNEL ONCE THAT JACKET OPENS UP. OF
17 COURSE, YOU CAN SEE IT'S MUCH LARGER THAN WHAT IT WAS BEFORE
18 IT WAS FIRED. IT HELPS CREATE A WOUND CHANNEL, A PERMANENT
19 WOUND CHANNEL, AND, AGAIN, IT ALSO ALLOWS THE CORE -- WHICH
20 BULLET SEPARATION IS NOT IDEAL. WE LIKE -- BALLISTICALLY WE
21 LIKE THE BULLET TO STAY TOGETHER, BUT IN THIS CASE HERE THE
22 LEAD INSERT ACTUALLY CAME APART.

23 Q. NOW, WHILE WE STILL HAVE THE LIGHTS ON, IF YOU COULD
24 SHOW THE JURY AN EXAMPLE AND THE DIFFERENCE OF AMMUNITION,
25 FOR EXAMPLE, UNDER STATE'S EXHIBIT 113, THE DIFFERENCE IN

1 THE .25 AS FAR AS THE TYPE OF AMO, JACKETED OR UNJACKETED.

2 A. OKAY. THIS IS ALSO A JACKETED BULLET. THIS IS A .25
3 CALIBER PROJECTILE. THIS IS CONSIDERED A FULL METAL JACKET,
4 WHICH THERE IS NO HOLE AT THE END OF THIS BULLET. IT'S
5 COMPLETELY ENCASED IN COPPER. YOU CAN SEE THAT THIS IS A
6 LOT SMALLER THAN WHAT THE .45 IS. THE REASON WHY THERE'S
7 NOT BULLET SEPARATION AND WE DON'T NORMALLY FIND BULLET
8 SEPARATION WHEN YOU HAVE A FULL METAL JACKET, 'CAUSE IT'S
9 NOT DESIGNED TO EXPAND. BASICALLY, THIS ROUND IS -- IT'S
10 ACTUALLY WHAT WE USE -- WE USE A FULL METAL JACKET ROUND TO
11 PRACTICE WITH ON OUR RANGE. IT'S A LOT CHEAPER AND IT'S NOT
12 -- IT'S NOT DESIGNED FOR WHAT WE WOULD NEED FOR OUR PERSONAL
13 PROTECTION OF CIVILIANS, BECAUSE IT HAS A GREATER CHANCE OF
14 OVER PENETRATION AND GOING OUTSIDE OF THE HUMAN BODY.

15 Q. DOES THE .45 AND THE .25, BOTH THE BULLETS AND THE
16 CASINGS, THE SIZE -- THERE IS SIGNIFICANT SIZE -- IN OTHER
17 WORDS, TO BE ABLE TO DISTINGUISH THEM, THERE'S A SIZE
18 DIFFERENCE?

19 A. THERE'S A SIGNIFICANT SIZE DIFFERENCE.

20 Q. OKAY. AND WHICH IS THE LARGER OF THE TWO?

21 A. THE .45.

22 Q. OKAY.

23 MR. POPE: MADAM CLERK. YOUR HONOR, I'M GOING TO
24 PACKAGE -- BEFORE WE GO FURTHER I'M GOING TO PACKAGE 107
25 BACK UP.

1 THE COURT: YES, SIR.

2 Q. REFERRING BACK TO NOW STATE'S EXHIBIT 41, YOU SAID
3 FIFTEEN AND FOURTEEN INDICATE TWO ADDITIONAL -- YOU CALLED
4 THOSE SPENT CASINGS?

5 A. SPENT SHELL CASINGS.

6 Q. SPENT SHELL CASINGS. OKAY. FORTY-TWO, WHAT DOES THIS
7 PICTURE DEPICT?

8 A. STATE'S EXHIBIT 42 IS A CLOSEUP SHOT OF FOURTEEN AND
9 FIFTEEN. ACTUALLY, FOURTEEN AND YOU CAN SEE THE SHELL
10 CASING. YOU CAN SEE IT BLENDS RIGHT IN WITH THE GRASS. IN
11 THE DARKNESS IT WAS MISSED. I DIDN'T FIND IT. THE SAME
12 THING WITH FIFTEEN, THE SHELL CASING RIGHT THERE, .45
13 CALIBER SHELL CASING.

14 Q. AND DID YOU ACTUALLY PHYSICALLY RECOVER THOSE SPENT
15 SHELL CASINGS, AGAIN, TO SEND TO THE STATE LAW ENFORCEMENT
16 DIVISION?

17 A. YES, I DID.

18 Q. AND STATE'S EXHIBIT 111 AND 112, YOU'VE HAD AN
19 OPPORTUNITY TO LOOK AT THOSE?

20 A. I DID.

21 Q. AND KNOW WHAT THOSE ITEMS ARE?

22 A. YES, SIR, I DID.

23 Q. OKAY. NOW, I WILL TAKE YOU BACK, STATE'S EXHIBIT NINE
24 IN THIS PHOTO THAT YOU SHOWED THE JURY EARLIER, IF YOU WOULD
25 ORIENT THEM WHERE THIS PHOTO WOULD BE -- WHERE THIS WOULD BE

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1 TAKEN FROM.

2 A. YES. THIS IS THE RED CADILLAC, THIS IS THE OPEN SPACE
3 THAT THE VICTIM WAS FOUND AND I'M TAKING THE PHOTOGRAPH BACK
4 TOWARD THIS DIRECTION.

5 Q. OKAY. AND IN THIS PHOTO YOU HAD INDICATED STATE'S
6 EXHIBIT 110, WHICH WAS THE EMPTY SHELL CASING WHICH I THINK
7 UNDER THE LITTLE TENT CARD YOU HAD IT AS NUMBER 2, BUT THAT
8 SHELL CASING, WHERE WOULD THAT BE LOCATED?

9 A. RIGHT HERE.

10 Q. AND BASED ON THAT, WHERE WOULD YOU EXPECT THAT SHOT TO
11 HAVE BEEN FIRED?

12 A. I WOULD SAY IT WOULD BE CLOSER IN AND THERE WAS --
13 SINCE THERE WAS EMS WORKING IN THIS AREA RIGHT HERE, THAT
14 ITEM COULD HAVE BEEN KICKED, BUT I THINK THIS ROUND HERE WAS
15 FIRED AT A CLOSER RANGE THAN THE FOURTEEN OR FIFTEEN WERE
16 FIRED.

17 Q. AND ORIENT THE JURY NOW AS FACING TOWARD WHERE THE
18 VICTIM WOULD HAVE BEEN, THE LAST TWO, WHICH IS STATE'S
19 EXHIBIT 111 AND 112, THAT YOU RECOVERED WOULD BE ROUGHLY IN
20 WHAT AREA ON THIS PICTURE?

21 A. ACTUALLY, ABOUT WHERE I'M STANDING AT IN THIS AREA
22 RIGHT HERE. YOU KNOW, BACK IN THIS AREA RIGHT HERE ALMOST
23 -- PROBABLY WHERE I WAS STANDING AT WHEN I TOOK THIS
24 PHOTOGRAPH.

25 Q. AND, AGAIN, DID YOU DOCUMENT THOSE ITEMS?

1 A. YES, I DID. HERE'S THE RED CADILLAC, FIFTEEN'S HERE
2 AND FOURTEEN'S HERE.

3 Q. OKAY. AND SO ULTIMATELY AT THE SCENE, BOTH IN THE
4 NIGHT OF THE SCENE AND THE DAYLIGHT VISIT TO THE SCENE, YOU
5 RECOVERED THREE EMPTY .45 CASINGS?

6 A. YES, I DID.

7 Q. OKAY. AND THEY'RE ROUGHLY IN WHICH AREA?

8 A. ITEM NUMBER 2, FIFTEEN AND FOURTEEN.

9 Q. OKAY. AND WHERE WOULD THE BODY BE AGAIN?

10 A. NUMBER 1.

11 Q. OKAY. YOU ALSO RECOVERED THERE AT THE SCENE ONE .45
12 CALIBER SPENT -- WHAT DID YOU CALL THE SLUG, A PROJECTILE?

13 A. A PROJECTILE.

14 Q. AND THAT WAS RECOVERED WHERE?

15 A. IT WAS RECOVERED RIGHT AT THE -- WHERE THE VICTIM'S
16 CLOTHING WAS FOUND UNDER -- ACTUALLY UNDER THE VICTIM'S
17 CLOTHING.

18 Q. OKAY. NOW, I'M REFERRING TO THE .25 CALIBER EMPTY
19 CASINGS. YOU RECOVERED A TOTAL OF SIX---

20 A. YES, SIR.

21 Q. ---OF THOSE?

22 A. YES, SIR.

23 Q. OKAY. AND WHERE WERE THEY LOCATED?

24 A. FIVE AND SIX, SEVEN, EIGHT, NINE AND THIRTEEN.

25 Q. OKAY. DID YOU RECOVER ANY .25 CALIBER CASINGS OVER ON

1 THIS SIDE OF STATE'S 81 WHERE THE .45'S WERE?

2 A. NO, SIR, I DID NOT.

3 Q. OKAY. DID YOU RECOVER ANY .45'S OVER WHERE THE .25'S
4 WERE?

5 A. NO, SIR, WE DID NOT.

6 Q. IN ADDITION, THERE AT THE SCENE, YOU ALSO RECOVERED
7 TWO, AGAIN, BULLETS FROM THE .25?

8 A. TWO PROJECTILES FROM THE .25 AND THAT WOULD BE
9 INDICATED HERE AND HERE.

10 Q. SO THE TWO THAT WERE RECOVERED AT THE SCENE FROM THE
11 .25 WERE RECOVERED OUT OF THE WALL---

12 A. FROM --

13 Q. ---ON THE OUTSIDE AND INSIDE OF THE APARTMENT?

14 A. RIGHT.

15 Q. OKAY. THE .25 THAT WAS RECOVERED FROM THE APARTMENT,
16 WOULD THAT BE CONSISTENT IN YOUR EXPERIENCE, YOUR OPINION
17 WITH THE .25 CASING LOCATION, IN OTHER WORDS, BEING FIRED AT
18 THE VICTIM ACROSS IN THAT DIRECTION?

19 A. I DEFINITELY SAY IT'S CONSISTENT. I MEAN, IT WAS FIRED
20 IN THIS DIRECTION HERE AND YOU CAN SEE THERE'S A FAIRLY
21 DECENT LINE STRAIGHT FROM ONE TO THE OTHER.

22 Q. OKAY. IN THIS ENTIRE SCENE THAT NIGHT DID YOU FIND ANY
23 MORE BULLET CASINGS OF ANY OTHER CALIBER OR, FOR THAT
24 MATTER, THE SAME CALIBER BUT OTHER CASINGS OTHER THAN THE
25 ONES THAT YOU INDICATED HERE?

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1 A. NO, SIR, I DID NOT.

2 Q. OKAY. THE -- BACK WHEN YOU WENT IN THE DAY TIME,
3 'CAUSE THERE WAS -- YOU ADMITTED THERE WAS SOME THAT NIGHT
4 THAT YOU DIDN'T SEE. BACK WHEN YOU WENT AND SEARCHED AGAIN
5 IN THE DAY TIME, DID YOU SEE ANY OTHER CASINGS OF ANY OTHER
6 CALIBER OTHER THAN THE TWO .45'S AND THE ONE .25 THAT YOU
7 RECOVERED THAT DAY?

8 A. I DID NOT FIND ANY OTHER SHELL CASINGS.

9 Q. OKAY. DID YOU FIND ANY OTHER INDICATIONS OF A WEAPON
10 OTHER THAN THE TWO GROUPS OF ITEMS WE'VE TALKED ABOUT?

11 A. NO, SIR, I DID NOT.

12 Q. OKAY. THAT NIGHT AT THE SCENE DID YOU FIND ANY CARS
13 THAT HAD BEEN SHOT BY EITHER ONE OF THESE TWO WEAPONS OR ANY
14 OTHER WEAPON?

15 A. NO, SIR. WE SEARCHED -- WE SEARCHED THE AREA EVEN THE
16 WOODED AREA OUT HERE WHERE THE PLAYGROUND WAS, WE SEARCHED
17 THAT. WE SEARCHED THE WOODS ON THE OTHER SIDE OF THE
18 PARKING LOT FOR BULLET HOLES IN TREES OR STRUCK -- ANY
19 VEHICLES STRUCK. WE SEARCHED ALL THESE VEHICLES. THE ONLY
20 OTHER THING THAT WAS STRUCK OTHER THAN THE VICTIM WAS THE
21 APARTMENT.

22 Q. AND THAT'S THE TWO THAT YOU RECOVERED?

23 A. THAT'S THE TWO WE RECOVERED.

24 Q. HOW ABOUT -- OKAY. SO NOTHING BEHIND THE .25 CASING?

25 A. NOTHING ON THE SIDE, NOTHING OVER HERE.

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1 Q. HOW ABOUT TOWARD THE DIRECTION OF THE .45 CASING? I
2 GUESS THAT'D BE THE PLAYGROUND BACK THERE. WAS ANY
3 PLAYGROUND EQUIPMENT APPEAR TO APPARENTLY HAVE BULLET HOLES
4 IN IT---

5 A. NO, SIR.

6 Q. ---OR ANYTHING OF THAT NATURE?

7 A. NO, SIR.

8 Q. NOW, YOU WORKED FROM ROUGHLY 10:45 THAT NIGHT OF THE
9 26TH PROCESSING THE AREA ON INTO THE KIND OF MID-MORNING
10 HOURS OF THE 27TH; IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. OKAY. AND DID YOU ULTIMATELY HAVE AN OPPORTUNITY TO GO
13 WITH THE OR FOLLOW UP BEHIND THE SWAT TEAM AND ROCK HILL
14 CITY IN EXECUTING SEARCH WARRANTS SEARCHING FOR WEAPONS
15 EVIDENCE AND FOR MR. WOODY AND MR. CAMPBELL? DID YOU HAVE
16 THAT OPPORTUNITY TO GO TO STONEYPONTE DRIVE?

17 A. YES. I WAS ACTUALLY PART OF THE SWAT TEAM AT THE TIME
18 THIS OCCURRED, BUT I WAS ACTING IN MY OFFICIAL CAPACITY AS A
19 FORENSIC OFFICER AND I WAS PART OF THE ACTUAL ENTRY TEAM
20 THAT SERVED THE WARRANT.

21 Q. OKAY. AND ONCE YOU WERE THERE AT [REDACTED] STONEYPONTE, DID
22 YOU DO BASICALLY THE SAME TYPE OF FORENSIC PROCESSING THERE
23 AT THAT AREA LOOKING FOR EVIDENCE?

24 A. YES, WE DID.

25 Q. AND ULTIMATELY IN THIS PARTICULAR APARTMENT DEBREZIO

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1 CAMPBELL WAS ARRESTED THERE AS WELL AS MR. WOODY; IS THAT
2 CORRECT?

3 A. THAT'S CORRECT.

4 Q. OKAY. AND IN THE BEDROOM WHERE MR. CAMPBELL WAS FOUND,
5 COULD YOU TELL US WHAT STATE'S EXHIBIT 56 INDICATES?

6 A. YES, SIR. THIS IS THE BACK OF THE HEADBOARD OF THE
7 BED. THERE WAS SEVERAL LIVE .25 CALIBER ROUNDS LOCATED HERE
8 AND ALSO I THINK THERE WAS ABOUT TEN BUCKS THERE, TWO FIVES.
9 THIS IS JUST ANOTHER VIEW OF THIS ITEM WITH MY NUMBER CONES
10 IN PLACE, A SPENT ROUND -- THE LIVE ROUNDS WERE FOUND HERE
11 ALONG WITH THE MONEY.

12 Q. AND THAT'S STATE'S EXHIBIT 57?

13 A. THAT'S CORRECT.

14 Q. TELL US WHAT STATE'S EXHIBIT 58 DEPICTS.

15 A. WE LIFTED UP THE MATTRESS. THIS IS ACTUALLY THE BOX
16 SPRINGS THAT THE -- THAT WE FOUND THE .25 CALIBER PISTOL.
17 THIS IS MY PARTNER HOLDING UP THE MATTRESS AND WE FOUND THE
18 .25 CALIBER PISTOL LOADED UNDER THE MATTRESS.

19 Q. STATE'S EXHIBIT 59?

20 A. THIS IS A PIECE OF EVIDENCE MARKED WITH MY NUMBER CONE,
21 ITEM NUMBER 12.

22 Q. AND STATE'S EXHIBIT 60?

23 A. THIS SHOWS BOTH TOGETHER. YOU HAVE THE PISTOL HERE AND
24 YOU ALSO HAVE THE LIVE AMO UP HERE.

25 Q. AND DID YOU RECOVER THOSE ITEMS AND SEND THEM TO THE

1 STATE LAW ENFORCEMENT DIVISION FOR FURTHER TESTING?

2 A. YES, I DID.

3 Q. OKAY. AND STATE'S EXHIBIT 99 THAT THE JURY'S
4 PREVIOUSLY SEEN DESIGNATED AS THE RAVEN .25 CALIBER PISTOL,
5 IS THAT THE ONE DEPICTED AS YOUR ITEM TWELVE ON STATE'S
6 EXHIBIT 60?

7 A. THAT'S CORRECT.

8 Q. OKAY. AND COULD YOU -- YOU MENTIONED IT BEING LOADED.
9 COULD YOU TELL WHAT CONFIGURATION THIS GUN WAS IN? WHEN YOU
10 SAY LOADED, WHAT DO YOU MEAN?

11 A. THERE WAS A MAGAZINE IN THE MAGAZINE WELL. CAN I TAKE
12 THIS OUT?

13 Q. YES, SIR. AND YOU CAN SHOW THEM THE MAGAZINE, TOO.

14 A. AGAIN, I THINK I TOLD Y'ALL EARLIER THAT THIS IS THIS
15 AREA AND THIS AREA HERE IS CONSIDERED THE MAGAZINE WELL.
16 THIS IS THE MAGAZINE. THIS IS ACTUALLY WHAT THE -- WHAT THE
17 AMO IS STORED IN AND HERE'S THE ACTUAL AMO. THERE WERE SIX
18 ROUNDS LOADED INTO THE MAGAZINE AND ONE ROUND ACTUALLY
19 LOADED INTO THE CHAMBER. THERE WERE SIX IN THE MAGAZINE,
20 ONE IN THE CHAMBER AND IT WAS LOADED AND WHAT WE CALL HOT,
21 SO IT WAS READY TO FIRE.

22 Q. OKAY. SO LET ME ASK YOU, THE MAGAZINE, HOW MANY DOES
23 IT HOLD?

24 A. IF I'M NOT MISTAKEN, THIS MAGAZINE PROBABLY HOLDS SEVEN
25 -- PROBABLY SEVEN, SEVEN ROUNDS. I'M NOT REALLY SURE. I'M

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1 FAMILIAR WITH THESE GUNS. I DON'T OWN ONE, BUT I'VE REALLY
2 NEVER -- I'VE NEVER HAD AN OPPORTUNITY TO FIRE ONE.

3 Q. AND SO ONE WOULD HAVE BEEN --

4 A. ONE WOULD BE IN THE CHAMBER READY TO FIRE. IF THE
5 TRIGGER WAS PULLED IT WOULD FIRE. YOU WOULD NOT HAVE TO
6 MANIPULATE THE SLIDE TO GET A BULLET FROM THE MAGAZINE INTO
7 THE CHAMBER.

8 Q. AND THEN INDEPENDENT OF WHAT WAS IN THE CHAMBER AND THE
9 CLIP, THERE WAS THE ADDITIONAL LIVE ROUNDS, THAT'S YOUR
10 NUMBER 11 AND STATE'S EXHIBIT 60 THAT WAS ON THE HEADBOARD?

11 A. THAT'S CORRECT.

12 Q. OKAY. AND YOU SENT THOSE TO SLED ALSO?

13 A. YES, I DID.

14 Q. BASED ON YOUR OBSERVATION OF THE SPENT CASINGS --
15 DIFFERENT COMPANIES MAKE AMMUNITION; IS THAT CORRECT?

16 A. THAT'S CORRECT.

17 Q. BASED ON YOUR OBSERVATION OF THE SPENT CASINGS AND THE
18 LIVE AMO, DID IT APPEAR TO BE THE SAME AMO?

19 A. YES, SIR, IT DID.

20 Q. OKAY. AS WELL AS THE AMO THAT WAS IN THE WEAPON?

21 A. YES, SIR.

22 Q. IN ADDITION AT THAT PARTICULAR AREA YOU RECOVERED THE
23 .25 AND THAT AMMUNITION FROM THE BEDROOM OF MR. CAMPBELL,
24 DID YOU ALSO -- LAW ENFORCEMENT ALSO ARRESTED MR. CAMPBELL
25 AND MR. WOODY AT THAT LOCATION; IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. OKAY. AND YOU TOOK PHOTOS OF THEM I THINK WE'VE SEEN
3 EARLIER. YOU TOOK PHOTOS OF THEM THAT NIGHT?

4 A. I DID.

5 Q. OKAY. ULTIMATELY DID YOU ALSO HAVE AN OPPORTUNITY TO
6 GO OUT AND PROCESS MR. WOODY'S NISSAN MAXIMA?

7 A. YES, I DID.

8 Q. AND COULD YOU TELL US WHAT STATE'S EXHIBIT 61 DEPICTS?

9 A. THIS IS THE FRONT OF THE NISSAN MAXIMA. THIS IS WHAT
10 WE IDENTIFIED AS MR. WOODY'S VEHICLE.

11 Q. OKAY. AND, AGAIN, THE JURY WILL HAVE THE ACTUAL
12 PICTURES IN THE BACK. ON THE RIGHT -- AS I'M FACING THE
13 RIGHT FRONT SIDE, THE LIGHTING IN THIS PARKING LOT, AND THIS
14 IS A DIFFERENT SET OF CARS, BUT THE LIGHTING IN THIS PARKING
15 LOT WAS IT SIMILAR AS FAR AS THE AMBER COLOR?

16 A. IT WAS VERY SIMILAR. IT HAD THE SAME TYPE OF AMBER
17 ORANGE, YELLOWISH TYPE OF STREET LIGHT.

18 Q. OKAY. DID IT APPEAR -- OF COURSE, YOU WERE WORKING
19 WITH A FLASH ON THE FRONT END, BUT DID IT APPEAR FOR YOU
20 WHEN YOU SAW IT WITH YOUR OWN EYES, THE VEHICLES WITHOUT THE
21 LIGHT, DID IT APPEAR THE COLOR TO BE DIFFERENT?

22 A. IT ACTUALLY APPEARED TO BE A GOLDISH COLOR.

23 Q. AND TELL US WHAT STATE'S EXHIBIT 62 IS.

24 A. THIS IS THE DRIVER'S SIDE OF THE VEHICLE SHOWING THE
25 REAR OF THE VEHICLE, THE NISSAN MAXIMA.

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1 Q. STATE'S EXHIBIT 63?

2 A. PASSENGER SIDE OF MR. WOODY'S VEHICLE.

3 Q. AND ULTIMATELY YOU ACTUALLY, AGAIN, PROCESSED OR WENT
4 INTO THAT VEHICLE?

5 A. YES, WE DID. THIS IS THE INTERIOR PORTION OF THE
6 DRIVER'S SIDE, STEERING WHEEL. I THINK THAT IS THE
7 EMERGENCY BRAKE. THIS IS THE CONSOLE AND THE PASSENGER
8 SEAT.

9 Q. OKAY. AND WHAT DOES STATE'S EXHIBIT 65 DEPICT?

10 A. ANOTHER INTERIOR VIEW OF THE VEHICLE, PASSENGER SEAT,
11 DRIVER'S SEAT, CONSOLE, EMERGENCY BRAKE.

12 Q. STATE'S EXHIBIT 66?

13 A. THIS IS THE CENTER CONSOLE AND THIS IS A LIVE .45
14 CALIBER ROUND.

15 Q. AND DID YOU RECOVER THAT ROUND?

16 A. YES, I DID.

17 Q. STATE'S EXHIBIT 67, THAT'S A CLOSER PICTURE?

18 A. THAT'S JUST A CLOSER PHOTOGRAPH OF IT.

19 Q. STATE'S EXHIBIT 108 AND, AGAIN, THE LIVE ROUNDS FROM
20 THE CENTER CONSOLE, DID YOU RETRIEVE THAT AND SEND IT TO
21 SLED ALSO?

22 A. YES, I DID.

23 Q. OKAY. DID YOU HAVE AN OPPORTUNITY TO LOOK AT THAT AMO
24 AND AS FAR AS COMPARE IT TO THE .45 THAT YOU RECOVERED AT
25 THE SCENE? DID IT APPEAR TO BE THE SAME BRAND TYPE AMO?

1 A. YES, SIR. IT WAS CORE BOND.

2 Q. CORE BOND. AND THAT'S THE PLUS P AMO?

3 A. IT'S CORE BOND PLUS P.

4 Q. AND SO YOU RECOVERED THIS ONE, STATE'S EXHIBIT 108; IS
5 THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. AND WHAT IS STATE'S EXHIBIT 68?

8 A. THIS IS A PHOTOGRAPH I TOOK FROM THE PASSENGER SIDE AND
9 HERE'S THE CENTER CONSOLE AND THERE'S A .45 CALIBER BULLET
10 RIGHT HERE.

11 Q. STATE'S EXHIBIT 69, IF YOU COULD TELL THE JURY WHAT
12 THIS DEPICTS.

13 A. THIS IS A -- THIS IS THE CONSOLE WHERE -- RIGHT BELOW
14 THE LITTLE OPENING HERE IS RIGHT BELOW THE STEREO. IT'S
15 VERY HARD TO SEE, BUT THERE'S A MAGAZINE IN THIS PHOTOGRAPH
16 AND IT'S INSIDE THIS CIRCLE HERE. THIS IS THE SIDE THAT
17 GOES DOWN. THIS IS ACTUALLY WHERE THE BULLETS GO AND HERE'S
18 THE BOTTOM OF IT. THE CD'S KIND OF GIVE IT A -- SOME TYPE
19 OF WEIRD EFFECT. IT LOOKS LIKE IT'S PART OF THE CAR. THIS
20 IS AN ACTUAL MAGAZINE THAT I RETRIEVED FROM INSIDE THE CAR.

21 Q. OKAY. AND DID YOU RECOVER THAT ALSO---

22 A. YES, I DID.

23 Q. ---FOR EVIDENCE?

24 A. I DID.

25 Q. STATE'S EXHIBIT 109, COULD YOU OPEN THAT UP FOR THE

WILLIAM TODD GARDNER - DIRECT BY MR. POPE:

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1 JURY, PLEASE.

2 A. THIS IS THE MAGAZINE AND THE WAY THAT YOU'RE ACTUALLY
3 LOOKING AT IT ON THIS PHOTOGRAPH WOULD BE IT WAS SITTING IN
4 THE HOLE JUST LIKE THIS RIGHT HERE. THE AREA THAT I SHOWED
5 YOU HERE, THAT LITTLE CURVE AREA IS ACTUALLY WHAT YOU'RE
6 LOOKING AT IS THIS RIGHT HERE, THAT LITTLE CURVE RIGHT
7 THERE, BUT IT WAS SITTING IN THE HOLE JUST LIKE THAT RIGHT
8 THERE.

9 Q. NOW, DID IT APPEAR THAT TO FUNCTION OR MATCH WITH
10 STATE'S EXHIBIT 107, THE PT145 TAURUS .45?

11 A. YES, SIR, IT IS. IT'S MARKED TAURUS PT145 ON THE BUTT
12 PLATE.

13 Q. OKAY. AND DID THAT HAVE ANY AMO IN IT?

14 A. NO, SIR. NO, SIR, IT DID NOT.

15 Q. AFTER PROCESSING AND RECOVERING THE ONE LIVE BULLET AND
16 THE CLIP, WHAT, IF ANY, FURTHER PROCESSING DID YOU DO?

17 A. WELL, WE CONTINUED TO SEARCH AND IT'S A -- YOU CAN'T
18 REALLY SEE IT. I MEAN, YOU CAN SEE IF YOU REALLY LOOK HARD,
19 BUT THERE IS AN ACTUAL PISTOL IN THIS PHOTOGRAPH AND IT'S
20 LOCATED RIGHT HERE. THIS IS THE ACTUAL BARREL, THE BOTTOM
21 OF THE SLIDE WITH THE TRIGGER GUARD AND IT'S HIDDEN PRETTY
22 WELL.

23 Q. THAT'S STATE'S EXHIBIT 70?

24 A. THAT'S CORRECT.

25 Q. OKAY. STATE'S EXHIBIT 72, CAN YOU INDICATE TO THE JURY

WILLIAM TODD GARDNER - DIRECT BY MR. POPE:

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1 --

2 A. YES. AGAIN, YOU CAN SEE -- ACTUALLY SEE THE PISTOL
3 NOW. HERE'S THE BOTTOM OF THE MAGAZINE, HERE'S THE GRIP.
4 THE TRIGGER GUARD COMES DOWN, THE BOTTOM OF THE FRAME AND
5 THE BARREL'S LOCATED HERE.

6 Q. STATE'S EXHIBIT 71?

7 A. ANOTHER PHOTOGRAPH, YOU CAN SEE -- NOW YOU CAN SEE THE
8 BARREL, ACTUALLY SEE PART OF THE SLIDE, THE BOTTOM OF THE
9 FRAME, THE TRIGGER GUARD, PART OF THE TRIGGER AND THE GRIP
10 AND PART OF THE MAGAZINE.

11 Q. AND WHAT CONFIGURATION WAS THIS STATE'S EXHIBIT 107 IN
12 AS FAR AS ROUNDS, LIVE ROUNDS, AND THE MAGAZINE AND
13 OTHERWISE?

14 MR. POPE: MADAM CLERK, IF YOU'D HIT THE LIGHTS.

15 Q. IF YOU COULD SHOW THE JURY THAT.

16 A. THIS GUN WAS LOADED. IT HAD A LIVE ROUND IN THE
17 CHAMBER AND IT HAD THREE LIVE ROUNDS IN THE MAGAZINE.

18 Q. OKAY. AND ARE THOSE ROUNDS ALSO CONTAINED THEREIN?
19 COULD YOU REMOVE THOSE, PLEASE?

20 A. THE MAGAZINE THAT WAS IN THE GUN AND THE FOUR LIVE
21 ROUNDS THAT WE FOUND IN THE GUN, ONE IN THE CHAMBER AND
22 THREE IN THE MAGAZINE.

23 Q. DO YOU HAVE AN INDICATION OF HOW MANY THAT MAGAZINE
24 HOLDS?

25 A. IT WOULD HOLD NO MORE THAN TEN, BECAUSE I THINK THIS IS

WILLIAM TODD GARDNER - DIRECT BY MR. POPE:

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1 BEFORE PREBAND, SO IT WOULDN'T HOLD NO MORE THAN TEN, BUT
2 LET'S SEE IF IT'S MARKED ON THE BACK. YES; IT WILL ONLY
3 HOLD TEN. IT'S MARKED -- ACTUALLY STAMPED ON THE MAGAZINE,
4 TEN.

5 Q. SO, AGAIN, THREE WERE IN THE CLIP AND ONE WAS --

6 A. IN THE CHAMBER.

7 Q. IN THE CHAMBER IN THE READY POSITION?

8 A. IT'S READY TO GO; READY TO FIRE.

9 Q. YOU RECOVERED THESE ITEMS ALSO AND SENT THEM TO SLED
10 FOR ANY FURTHER TESTING?

11 A. YES, I DID.

12 MR. POPE: YOU CAN LEAVE THE LIGHTS ON.

13 Q. AS PART OF YOUR DUTIES AT THE CRIME SCENE, DID YOU ALSO
14 HAVE THE OPPORTUNITY TO PROCESS THE VEHICLE FOR LATENT
15 PRINTS?

16 A. YES, I DID.

17 Q. OKAY. CAN YOU TELL THE JURY WHAT THAT MEANS?

18 A. WE HAD THE VEHICLE TOWED FROM THE SCENE WHERE WE
19 ACTUALLY GOT THE VEHICLE TO OUR POLICE DEPARTMENT, ACTUALLY
20 PUT IT INSIDE THE SALLY PORT. THE SALLY PORT IS A LOCATION
21 WHERE PRISONERS ARE BROUGHT INTO. IT HAS TWO GATES ON EACH
22 END. WE LOCK IT. WE SECURE THE VEHICLES IN THERE WITH
23 CRIME SCENE TAPE AND I ACTUALLY -- MYSELF AND MY PARTNER,
24 INVESTIGATOR WILLIAMS, WE PROCESSED THE CAR WITH BLACK
25 POWDERS TO TRY TO DEVELOP ANY TYPE OF LATENT PRINTS OFF

WILLIAM TODD GARDNER - DIRECT BY MR. POPE:

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1 THE VEHICLE.

2 Q. OKAY. AND IS THE NATURE OF THE LATENT -- WHEN YOU SAY
3 LATENT PRINTS, TELL THE JURY WHAT YOU MEAN.

4 A. LATENT PRINTS ARE BASICALLY FINGERPRINTS THAT ARE LEFT
5 BY A SCENE BY SOMEONE -- FROM SOMEONE TOUCHING SOMETHING.
6 IT CAN BE VISIBLE OR NOT VISIBLE. IN THIS CASE THESE WERE
7 LATENT PRINTS, NOT PATENT PRINTS. PATENT PRINTS ARE PRINTS
8 -- I KNOW YOU'VE TOUCHED WOOD BEFORE AND WHEN YOU MOVE YOUR
9 HAND YOU CAN ACTUALLY SEE YOUR FINGERPRINT. THAT'S A PATENT
10 PRINT. A LATENT PRINT IS AN INVISIBLE PRINT THAT NEEDS SOME
11 TYPE OF -- SOME DEVICE TO DEVELOP WITH, SUCH AS BLACK
12 FINGERPRINT POWDER AND THAT'S WHAT WE USED. WE APPLIED IT
13 TO THE VEHICLE WITH A FEATHER DUSTER AND/OR A MAGNETIC WAND.
14 I DEVELOP LATENT PRINTS AND ALL YOU DO IS TAKE A PIECE OF
15 TAPE ONCE YOU FIND IT AND TAPE OVER THE TOP OF IT, YOU FILL
16 OUT A BACKING CARD, WHICH IS A WHITE CARD. ONE SIDE IS
17 SOLID WHITE AND THE OTHER SIDE -- ON THE BACK SIDE OF IT HAS
18 AN AREA THAT YOU CAN DRAW A PHOTOGRAPH OR DRAW A PICTURE AND
19 INDICATE THE CASE NUMBER, THE DATE AND WHERE IT WAS FOUND
20 AND A DESCRIPTION OF THE OBJECT IT WAS FOUND ON AND WHO
21 ACTUALLY LIFTED THE LATENT PRINT.

22 Q. DOES EVERY TIME YOU TOUCH AN ITEM, DOES IT
23 AUTOMATICALLY LEAVE USABLE PRINTS?

24 A. NO.

25 Q. ALL RIGHT. WHAT DOES THAT MEAN?

WILLIAM TODD GARDNER - DIRECT BY MR. POPE:

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1 A. THE DIFFERENCE BETWEEN A USABLE PRINT -- AND IT DOESN'T
2 TAKE MUCH TO DESTROY A PRINT. IF I WOULD WALK UP TO THIS
3 COUNTER TOP AND LIFT STRAIGHT UP, I HAVE PROBABLY LEFT VERY
4 USABLE LATENT PRINTS. NOW, IF I COME UP AND DO THE SAME
5 THING AND ACTUALLY SLID MY HAND JUST A LITTLE BIT, I HAVE
6 JUST PROBABLY DESTROYED ANY USABLE LATENT PRINTS. ANOTHER
7 WAY THAT YOU HAVE NON-USABLE LATENT PRINTS IS THAT EVERY
8 TIME I PUT MY HAND DOWN, BY PUTTING MY HAND DOWN IN THE SAME
9 PLACE, ALL I'VE DONE IS CONTINUOUSLY APPLIED DIFFERENT
10 FINGERPRINTS OVER DIFFERENT FINGERPRINTS EACH TIME. SO I
11 HAVE MULTIPLE FINGERPRINTS IN ONE LOCATION. THERE IS AN
12 OPPORTUNITY -- WE DEFINITELY WILL RECOVER, BUT THE --
13 PROBABLY NOT GOING TO BE ABLE TO USE THEM BECAUSE THEY'RE
14 OVERLAYS OVER OVERLAYS OVER OVERLAYS.

15 Q. THAT DOESN'T MANE SOMEBODY DID OR DIDN'T TOUCH THAT
16 COUNTER. IT'S JUST THE ONES THAT YOU CAN'T IDENTIFY?

17 A. THAT'S RIGHT.

18 Q. OKAY. AND THE ONES THAT YOU CAN'T IDENTIFY, WHAT
19 THAT'S BASICALLY SAYING IS THAT SOMEBODY THAT YOU CAN
20 IDENTIFY CAME IN CONTACT WITH THAT ITEM AT SOME TIME?

21 A. THAT'S CORRECT.

22 Q. OKAY. AND IF YOU NEED TO REFER TO YOUR REPORT, BUT DID
23 YOU BRING -- YOU COMPARE AGAINST KNOWN SAMPLES; IS THAT
24 CORRECT?

25 A. THAT'S CORRECT.

1 Q. OKAY. AND SO YOU COMPARED AGAINST THE PRINTS THAT YOU
2 RECEIVED FROM MR. CAMPBELL AND MR. WOODY THAT EVENING; IS
3 THAT CORRECT? OR YOU DIDN'T COMPARE THEM THAT EVENING, BUT
4 FROM THEIR ARREST YOU USED THOSE PRINTS?

5 A. I DID.

6 Q. OKAY. AND IN PROCESSING THE CAR I BELIEVE YOU FOUND
7 FOUR POSSIBLE --

8 A. MAY I?

9 Q. YES, SIR. -- POSSIBLY IDENTIFIABLE PRINTS?

10 A. YES, SIR, I DID.

11 Q. AND COULD YOU TELL -- AND IS THAT CONTAINED IN THE TEST
12 AND IN THE ITEMS CONTAINED IN STATE'S EXHIBIT 133?

13 A. YES, SIR.

14 Q. NOW, THERE'S A NUMBER OF DOCUMENTS IN THERE. COULD YOU
15 JUST BRIEFLY TELL THE JURY WHAT THESE DOCUMENTS ARE?

16 A. THIS IS AN EXAMPLE OF A LATENT PRINT THAT WAS DEVELOPED
17 BY MYSELF. IF YOU'LL NOTICE THIS IS ANOTHER PRIME EXAMPLE
18 OF WHAT I SHOWED YOU JUST A FEW MINUTES AGO OF HOW A -- THIS
19 PERSON PLACED THEIR PRINTS ONTO A SURFACE AND ACTUALLY SLID
20 THEIR HAND A LITTLE BIT. IF YOU'LL NOTICE THAT THE SLIDE
21 MARKS RUN DOWN, THAT'S -- THIS IS A PERFECT EXAMPLE OF A
22 PERSON NOT INTENTIONALLY TRYING TO DESTROY HIS FINGERPRINTS,
23 BUT QUITE OFTEN LIKE ALL OF US DO IS WE'LL TOUCH AND OBJECT
24 AND INSTEAD OF LIFTING STRAIGHT UP, WE'LL JUST WALK OFF FROM
25 IT. SO THIS IS JUST A GOOD EXAMPLE OF A PERSON LEAVING

1 FINGERPRINTS AND ACTUALLY SMEARING THE MAJORITY OF IT. THIS
2 IS WHAT IS LATENT PRINT. AGAIN, I DESCRIBED THE BACK OF THE
3 LATENT PRINT CARD. IT HAS ALL THE INFORMATION ABOUT THE
4 CASE AND WHERE I ACTUALLY -- I'M GLAD WE DON'T HAVE TO BE
5 ARTISTS BECAUSE WE'RE -- I'M NOT. THIS IS A ROUGH DRAWING
6 OF THE VEHICLE, THE BACK OF THE VEHICLE THAT I DREW. THIS
7 IS CALLED A TEN PRINT CARD. IT USED TO BE DONE WITH INK.
8 WE NOW HAVE A COMPUTER SYSTEM THAT DOES IT CALLED A LIVE
9 SCAN. THIS IS A LIVE SCAN GENERATION OF A TEN PRINT CARD.
10 TEN PRINT CARD IS EACH FINGER ROLLED FROM FINGERNAIL TO
11 FINGERNAIL TO GET THE WHOLE PRINT. THE FINGERS ARE -- WE
12 DESIGNATE FINGERS BY NUMBERS. THE NUMBER 1 FINGER IS ALWAYS
13 THE THUMB, THEN GOES TWO, THREE, FOUR, FIVE. THE NUMBER 6
14 FINGER IS YOUR OTHER THUMB, SEVEN, EIGHT, NINE, TEN. SO WE
15 START HERE AT ITEM NUMBER 1 OR FINGER NUMBER 1 THROUGH FIVE,
16 SIX THROUGH TEN. ON THE BOTTOM YOU HAVE SIMULTANEOUS
17 IMPRESSIONS, WHICH IS THE FIRST FOUR -- YOUR FOUR FINGERS
18 HERE, THE LEFT HAND HERE, THE RIGHT HAND HERE AND THEN YOU
19 HAVE THE -- A REGULAR THUMB PRINT, RIGHT AND LEFT THUMB HERE
20 AND THIS IS CALLED A TEN PRINT CARD.
21 Q. AND SO YOU USED THE KNOWN TEN PRINT CARDS FOR MR.
22 CAMPBELL AND MR. WOODY AGAINST THE UNKNOWNNS THAT YOU
23 RECOVERED?
24 A. THAT'S CORRECT.
25 Q. AND THAT'S WHAT'S REFLECTED IN YOUR WORK PRODUCT ON

1 THAT?

2 A. THAT'S CORRECT.

3 Q. THAT'S STATE'S EXHIBIT 133 THAT WE PREVIOUSLY MOVED
4 INTO EVIDENCE.

5 A. YES, SIR.

6 Q. NOW, IF YOU WOULD, REFERRING TO YOUR REPORT, IF YOU
7 COULD TELL THE JURY THE RESULTS OF 133, IN OTHER WORDS, THE
8 RESULTS OF WHAT YOU WERE ABLE TO ASCERTAIN.

9 A. I LIFTED FOUR LATENT PRINTS THAT WERE IDENTIFIABLE.
10 LATENT PRINT NUMBER 1 WAS LIFTED FROM THE FRONT HOOD AREA OF
11 THE NISSAN MAXIMA WITH VIRGINIA REGISTRATION JJC6829. IT
12 WAS POSITIVELY MATCHED TO MR. DEBREZIO CAMPBELL. IT WAS
13 NUMBER 7, RIGHT INDEX FINGER. LATENT PRINT NUMBER 2 WAS
14 LIFTED ALSO FROM THE FRONT HOOD AREA OF THE SAME NISSAN
15 MAXIMA AND IT WAS POSITIVELY MATCHED TO THE NUMBER 1 RIGHT
16 THUMB OF MR. DEBREZIO -- EXCUSE ME -- DEBREZIO CAMPBELL.
17 LATENT PRINT NUMBER 3 WAS LIFTED FROM THE PASSENGER SIDE
18 FRONT DOOR FRAME OF THE NISSAN MAXIMA AND WAS POSITIVELY
19 MATCHED TO BE DEBREZIO CAMPBELL'S NUMBER 4 RIGHT RING
20 FINGER. LATENT PRINT NUMBER 4 WAS LIFTED FROM THE REAR
21 PASSENGER SIDE DOOR OF THE NISSAN MAXIMA AND WAS POSITIVELY
22 MATCHED TO THAT OF MR. CHRISTOPHER WOODY, NUMBER 9 LEFT RING
23 FINGER.

24 Q. IN PROCESSING THE CAR, YOU RECOVERED THE GUN, CLIP AND
25 THE .45 BULLET AND THEN THESE PRINTS; IS THAT CORRECT?

WILLIAM TODD GARDNER - DIRECT BY MR. POPE:

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1 A. THAT'S CORRECT.

2 Q. DID YOU SEE ANY INDICATION ON THE CAR OF WHETHER GLASS
3 HAD BEEN BROKEN OR A BULLET HAD ENTERED INTO THE CAR? IN
4 OTHER WORDS, ANY INDICATION THAT THAT CAR HAD BEEN FIRED
5 UPON?

6 A. NO, SIR. THERE WAS NO INDICATION OF ANYTHING.

7 Q. WAS THERE ANY INDICATION INTERNALLY OF ANY OF THE
8 OCCUPANTS THAT MAY HAVE BEEN SHOT OR INJURED OR BLEEDING OR
9 ANYTHING OF THAT NATURE?

10 A. NO, SIR.

11 Q. OKAY. LIKEWISE, IN THE APARTMENT RESIDENCE WAS THERE
12 ANY INDICATION OF ANYTHING THAT ANYBODY HAD BEEN INJURED
13 FROM A BULLET WOUND?

14 A. NO, SIR.

15 Q. OKAY. IN THE CAR OR IN THE APARTMENT DID YOU FIND --
16 OTHER THAN YOU SAW -- SHOWED SOME MONEY, A SMALL AMOUNT OF
17 MONEY, DID YOU SEE ANY LARGE QUANTITIES OF MONEY EITHER IN
18 THE CAR OR IN THAT APARTMENT?

19 A. NO. I SEEN ALL THAT I THINK WAS TWO FIVE DOLLAR BILLS.

20 Q. OKAY. YOU CAN HAVE A SEAT.

21 THE COURT: WHEN WE GET TO A GOOD STOPPING POINT, WE
22 PROBABLY NEED TO TAKE A BREAK.

23 MR. POPE: I'M ABOUT DONE. YES, SIR. I'M ABOUT TO END
24 RIGHT NOW.

25 Q. ANYWHERE IN ANY OF THE PROCESSING DID YOU FIND ANY

1 INFORMATION OR INDICATION ANYWHERE OF ANY OTHER WEAPON OTHER
2 THAN THE .45 AND THE .25?

3 A. NO, SIR. THERE WAS ONLY THE .45 AND .25 THAT WE FOUND,
4 'CAUSE WE DID SEARCH. WE SEARCHED THE AREA WELL.

5 Q. ANYWHERE DID YOU SEE ANY LARGE SUMS OF MONEY?

6 A. NO, NONE AT ALL.

7 Q. FINALLY, THE AUTOPSY YOU SAID THAT MIKE WILLIAMS OF FSU
8 WENT TO AUTOPSY FOR THE PURPOSE OF RECEIVING EVIDENCE?

9 A. THAT'S CORRECT.

10 Q. OKAY. AND SHOWING YOU STATE'S EXHIBIT 85: IF YOU'D
11 STEP DOWN. STATE'S EXHIBIT 85 REFLECTED AS THE .25
12 RECOVERED FROM THE RIGHT CHEST. DID THE FSU RECEIVE THAT
13 AND TRANSPORT THAT TO SLED, STATE'S EXHIBIT 115?

14 A. YES, SIR, WE DID.

15 Q. AND, AGAIN, THAT IS A .25 CALIBER?

16 A. THAT IS A .25 CALIBER BULLET.

17 Q. STATE'S EXHIBIT 88, A PHOTO OF THE ITEM RECEIVED AS
18 RECOVERED FROM THE UPPER THIGH, WHICH IS STATE'S EXHIBIT
19 117, IS A .45 CALIBER. THAT WAS RECOVERED ALSO?

20 A. THAT'S CORRECT.

21 Q. STATE'S EXHIBIT 89 THAT WAS INDICATED A BULLET
22 PROJECTILE FROM THE VICTIM'S HEAD AND STATE'S EXHIBIT -- THE
23 ACTUAL ITEM IS STATE'S EXHIBIT 118, THAT WAS RECOVERED ALSO?

24 A. THAT'S CORRECT.

25 Q. STATE'S EXHIBIT 90 INDICATED AS BULLET JACKET FRAGMENTS

WILLIAM TODD GARDNER - DIRECT BY MR. POPE:

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1 THAT WERE RECOVERED FROM THE ELBOW, ACTUAL ITEM NUMBER 119,
2 WAS THAT RECOVERED ALSO?

3 A. THAT'S CORRECT.

4 Q. DID YOU ALTER OR TAMPER WITH THOSE OR DID ANY MEMBER OF
5 THE FSU CHANGE THEM IN ANY WAY BEFORE THEY WERE SENT TO
6 SLED?

7 A. NO, SIR.

8 Q. OKAY. IN ADDITION, AT THE SCENE OR AT THE AUTOPSY A
9 GUNSHOT RESIDUE KIT, OR A COLLECTION KIT WAS PROCESSED ON
10 MR. CAMPBELL; IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. IN OTHER WORDS, HIS HANDS HAD BEEN BAGGED AND THEN AT
13 AUTOPSY THAT WAS PROCESSED?

14 A. THAT'S CORRECT.

15 Q. OKAY. AND ONCE THAT'S SEALED THERE'S ACTUALLY A KIT, A
16 STEP YOU GO THROUGH FROM SLED ON HOW YOU PROCESS THE KIT?

17 A. IT COMES IN KIT FORM ALREADY SEALED, YOU OPEN IT UP AND
18 THERE IS A -- THERE'S TWO SHEETS OF PAPER THERE AND A PAIR
19 OF RUBBER GLOVES, DETAILED INSTRUCTIONS ON HOW TO DO IT AND
20 THE INFORMATION ABOUT WHO THE GSR IS BEING PERFORMED ON, ALL
21 THAT INFORMATION.

22 Q. AND IT WAS PROCESSED AND THEN ALSO STATE'S EXHIBIT 120
23 WAS SENT TO SLED?

24 A. THAT'S CORRECT.

25 Q. AND THEN IT WOULD BE TESTED, FOR EXAMPLE, AT THE TRACE

1 LAB AT SLED; IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. THANK YOU, SIR. YOU MAY HAVE A SEAT.

4 MR. POPE: THAT WOULD BE IT, YOUR HONOR.

5 THE COURT: ALL RIGHT. THIS IS PROBABLY A GOOD TIME TO
6 TAKE A BREAK. MADAM FORELADY, MEMBERS OF THE JURY PANEL,
7 WE'RE GOING TO TAKE A RECESS AT THIS TIME. YOU MAY REFRESH
8 YOURSELVES DURING THE BREAK. THOSE THAT WOULD LIKE TO SMOKE
9 DURING THIS BREAK, I WILL ALLOW YOU TO DO THAT IF YOU'LL
10 SMOKE BRIEFLY AND COME RIGHT BACK TO THE JURY ROOM. PLEASE
11 RETIRE TO THE JURY ROOM AT THIS TIME. THANK YOU.

12 (JURY OUT AT 11:35 A.M.)

13 THE COURT: ALL RIGHT. COUNSEL, WE'LL PROBABLY TAKEN
14 ABOUT TEN, TWELVE MINUTES, SOMETHING LIKE THAT, IF YOU WILL,
15 PLEASE. THANK YOU.

16 (WHEREUPON, A BRIEF RECESS WAS OBSERVED.)

17 THE COURT: WE'RE READY TO PROCEED THEN? ALL RIGHT.
18 PLEASE BRING THE JURY IN, SIR.

19 (JURY IN AT 11:55 A.M.)

20 THE COURT: ALL RIGHT. COUNSEL READY TO PROCEED.

21 MR. DELGADO: THANK YOU, YOUR HONOR.

22 CROSS-EXAMINATION

23 WILLIAM TODD GARDNER BY MR. DELGADO:

24 Q. GOOD AFTERNOON, MR. GARDNER.

25 A. YOU TOO, SIR.

1 Q. MR. GARDNER, I WON'T BE ANYWHERE AS LONG AS THAT, BUT
2 LET ME SEE IF I CAN HONE IN ON SOME THINGS THAT I NEED TO
3 AMPLIFY.

4 A. YES, SIR.

5 MR. DELGADO: MR. SOLICITOR, IF YOU WOULD -- AND I
6 TRIED TO GET IT, BUT I COULD NOT. IT MAY HAVE BEEN DOWN IN
7 THE RIGHT CORNER, BUT THE PHOTOGRAPH OF THE .45 THAT WAS
8 FOUND IN THE NISSAN, NOT THE MAGAZINE. I'M SORRY TO SAY I
9 --

10 MR. POPE: I CAN LOCATE IT FOR YOU.

11 Q. WHILE WE'RE DOING THAT, SIR, WHERE IS THAT TAURUS?

12 A. SIR, I THINK IT'S OVER --

13 Q. IN HERE?

14 A. I THINK SO; YES, SIR.

15 MR. POPE: PLEASE THE COURT, YOUR HONOR. MR. DELGADO,
16 YOU'RE WANTING THE PHOTO OF WHAT --

17 MR. DELGADO: WHERE THIS WAS FOUND RIGHT BY THE
18 DRIVER'S SEAT. I THINK MR. GARDNER SAID IT WAS VERY
19 DIFFICULT TO SEE BECAUSE OF THE ANGLE OR THE COLORING OR
20 WHATEVER.

21 A. YES, SIR.

22 Q. MR. GARDNER, WHILE WE'RE GETTING TO THAT, -- I THINK
23 THAT'S IT. YES, SIR. MR. GARDNER, IF YOU'LL STEP DOWN,
24 PLEASE. IS THAT WHAT I JUST VERBALLY DESCRIBED AND WHAT YOU
25 HAD PREVIOUSLY DESCRIBED IN YOUR TESTIMONY, THIS GUN BEING

1 FOUND BY THE DRIVER'S SEAT INSIDE THE NISSAN MAXIMA?

2 A. THAT'S CORRECT.

3 Q. ALL RIGHT, SIR. LET ME JUST ASK A COUPLE QUESTIONS

4 ABOUT THAT. I REMEMBER FROM YOUR CREDENTIALS THAT YOU ARE A

5 CONCEALED WEAPONS PERMIT INSTRUCTOR; CORRECT, SIR?

6 A. THAT'S CORRECT.

7 Q. A CONCEALED WEAPONS PERMIT OR CWP IS THE ONLY WAY THAT

8 THE LAW OF THE STATE OF SOUTH CAROLINA ALLOWS A CITIZEN,

9 EXCEPT FOR LAW ENFORCEMENT, A CITIZEN TO BE ABLE TO CARRY A

10 FIREARM, A SIDEARM; IS THAT CORRECT, SIR?

11 A. CONCEALED WEAPONS PERMIT PERMITS THE HOLDER OF THAT

12 PERMIT TO CARRY A WEAPON ON HIS PERSON CONCEALED.

13 Q. EXACTLY. TO GET A PERMIT, THE STATE LAW REQUIRES THAT

14 YOU BE TRAINED AND PASS A TEST BY SOMEONE SUCH AS YOURSELF

15 WHO IS AN INSTRUCTOR?

16 A. EIGHT-HOUR TEST -- I'M SORRY. EIGHT-HOUR COURSE, A

17 FIFTY QUESTION TEST AND HE'S ALSO GOT TO BE CERTIFIED ON THE

18 RANGE.

19 Q. THAT IS WHAT THE LAW OF THE STATE OF SOUTH CAROLINA

20 REQUIRES?

21 A. THAT'S CORRECT.

22 Q. NOW, IN A CAR, EVEN WITH A CWP OR CONCEALED WEAPONS

23 PERMIT, A CITIZEN WHO DOESN'T HAVE A PERMIT CAN STILL KEEP A

24 GUN IN THE LOCKED CONSOLE, THE LOCKED GLOVE BOX OR THE TRUNK

25 OF A CAR; CORRECT, SIR?

WILLIAM TODD GARDNER - CROSS BY MR. DELGADO:

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1 A. I THINK THE LAW SAYS IT HAS TO BE IN THE GLOVE BOX, A
2 CONSOLE OR A TRUNK, BUT IT DOESN'T SAY ANYTHING ABOUT BEING
3 LOCKED.

4 Q. ALL RIGHT. THE POINT BEING DIFFERENT STATES HAVE
5 DIFFERENT WAYS OF ALLOWING CITIZENS TO CARRY OR HAVE AROUND
6 THEM A SIDEARM?

7 A. THAT'S CORRECT.

8 Q. DO YOU KNOW WHAT THE LAW IN THE STATE OF VIRGINIA IS,
9 SIR, ABOUT THAT?

10 A. NO, SIR, I DO NOT.

11 Q. SOME STATES REQUIRE THAT THE GUN BE EXPOSED RATHER THAN
12 CONCEALED INSIDE A CAR. DID YOU KNOW THAT, SIR?

13 A. I KNOW THAT NORTH CAROLINA IS SIMILAR TO THAT, BUT IT'S
14 GOT TO BE OUT IN PLAIN VIEW.

15 Q. I'M NOT TRYING TO SAY THAT IT HAS TO BE A PINK REVOLVER
16 OR SOMETHING LIKE THAT. WHAT I'M SAYING IS THAT IS IN PLAIN
17 VIEW, YOU SAW IT, IT WAS JUST DIFFICULT FOR YOU TO SEE ON
18 THAT PHOTOGRAPH. IS THAT FAIR TO SAY?

19 A. NO, SIR. I CAN PROMISE YOU I DIDN'T SEE IT.

20 Q. ALL RIGHT.

21 A. I -- IT WAS BROUGHT TO MY ATTENTION BY INVESTIGATOR
22 WILLIAMS.

23 Q. IN THE LAW OF -- IF THE LAW OF THE STATE OF SOUTH
24 CAROLINA WERE THAT IT HAD TO BE IN PLAIN SIGHT, WOULD THAT
25 BE IN PLAIN SIGHT?

1 A. NO, SIR.

2 Q. NO, SIR.

3 A. NO, SIR.

4 Q. HAVE A SEAT, SIR. THAT WOULD BE -- EXCUSE ME, MR.

5 GARDNER. AN INDIVIDUAL WHO IS CHARGED WITH CARRYING A

6 WEAPON UNLAWFULLY COULD SAY I'M NOT GUILTY, I THINK THAT'S

7 IN PLAIN SIGHT. LAW ENFORCEMENT MAY SAY NO, IT'S NOT IN

8 PLAIN SIGHT AND THAT'S WHERE A JURY WOULD DECIDE.

9 A. THAT'S CORRECT.

10 Q. ALL RIGHT, SIR. NOW, YOU SAID, SIR, WITH THE CLIP THAT

11 GOES IN THIS .45 THAT THIS WEAPON ALLOWS TEN ROUNDS TO BE IN

12 THE GUN; CORRECT, SIR?

13 A. TEN ROUNDS IN THE MAGAZINE AND ONE IN THE CHAMBER WOULD

14 BE ELEVEN.

15 Q. A TOTAL OF ELEVEN---

16 A. THAT'S CORRECT.

17 Q. ---COULD BE -- BY A MANUFACTURING DESIGN COULD BE

18 ALLOWED IN THIS GUN?

19 A. THAT'S CORRECT.

20 Q. ALL RIGHT, SIR. WHAT YOU FOUND WERE FOUR IN THIS

21 MAGAZINE; CORRECT, SIR?

22 A. THAT'S CORRECT. NO, THREE IN THE MAGAZINE.

23 Q. THREE. I -- THAT'S EXACTLY RIGHT. I'M SORRY. MY

24 MATH. THREE IN THAT MAGAZINE AND ONE IN THE CHAMBER?

25 A. THAT'S CORRECT.

1 Q. THE WAY THIS GUN OPERATES IS THERE WOULD ALWAYS BE ONE
2 AUTOMATICALLY IN THE CHAMBER BECAUSE THERE'S AN AUTOMATIC
3 CHAMBERING DEVICE; CORRECT, SIR?

4 A. THAT GUN WOULD BE LOADED WITH A MAGAZINE IN THE GUN AND
5 NOT -- ONE NOT IN THE CHAMBER.

6 Q. ALL RIGHT, SIR.

7 A. THE ONLY WAY ONE CAN GET IN THE CHAMBER IS IF YOU
8 PHYSICALLY PUT ONE IN THE CHAMBER AND LET THE SLIDE GO
9 FORWARD OR PUT THE MAGAZINE IN, CYCLE THE SLIDE, LET IT GO
10 FORWARD, WHICH WILL PICK -- THE SLIDE PUSHES ONE FROM THE
11 MAGAZINE INTO THE CHAMBER.

12 Q. WHAT I'M SAYING, SIR, IS THIS: IF THERE WERE SIX ROUNDS
13 IN THIS MAGAZINE AND ONE IN THE CHAMBER AND IF AN INDIVIDUAL
14 FIRED THREE TIMES, ALL RIGHT, SIR, --

15 A. SIX ROUNDS IN ONE CHAMBER FIRED THREE TIMES.

16 Q. A TOTAL OF SEVEN.

17 A. YES, SIR.

18 Q. -- FIRED THREE TIMES, THAT WOULD AUTOMATICALLY HAVE ONE
19 IN THE CHAMBER AND THREE IN THE MAGAZINE; CORRECT, SIR?

20 A. YES, SIR.

21 Q. ALL RIGHT. SO I GUESS WHAT I'M SAYING IS YOU'RE NOT
22 SAYING HE RELOADED THIS BY ANY MEANS, ARE YOU?

23 A. NO, SIR. I DIDN'T -- NO.

24 Q. OKAY.

25 A. NOT AT ALL.

1 Q. ON THE OTHER HAND, THE .25 HAD BEEN RELOADED; CORRECT,
2 SIR?

3 A. I WOULD HAVE TO SAY YES.

4 Q. 'CAUSE IT WAS A WHOLE NEW CHAMBER -- I MEAN, A WHOLE
5 NEW MAGAZINE IN THE .25 AND ALL OF THE SLUGS IN THAT .25 IT
6 WAS -- IT WAS A COMPLETELY FULL MAGAZINE; CORRECT, SIR?

7 A. I'M NOT -- TO BE HONEST WITH YOU, I DON'T KNOW EXACTLY
8 HOW MANY THAT MAGAZINE HOLDS.

9 Q. ALL RIGHT.

10 A. BUT IT WAS SIX IN THE MAGAZINE AND ONE IN THE CHAMBER.

11 Q. SIR, I'M NOT QUIBBLING WITH YOU ABOUT --

12 MR. DELGADO: MR. POPE, I'M SORRY TO HAVE TO ASK YOU DO
13 MY WORK FOR ME AGAIN. THE NISSAN MAXIMA, I BELIEVE IT'S A
14 SIDE VIEW OF THE NISSAN MAXIMA WHICH WE'VE ALREADY TALKED
15 ABOUT AS FOUND AT STONEYPONTE DRIVE. YES, SIR.

16 Q. MR. GARDNER, --

17 MR. POPE: [REDACTED].

18 MR. DELGADO: YES, SIR. THANK YOU. I'M SORRY. SIXTY
19 WHAT?

20 MR. THOMPSON: [REDACTED].

21 MR. DELGADO: [REDACTED].

22 Q. MR. GARDNER, IF YOU COULD STEP DOWN FOR ME AGAIN, SIR.
23 I'M SORRY TO KEEP MAKING YOU COME DOWN HERE.

24 A. THAT'S FINE, SIR.

25 Q. DID YOU SAY THAT THAT MADE IT LOOK LIKE UNDER THE LIGHT

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1 THAT WAS EVIDENT AT THE STONE HAVEN -- EXCUSE ME -- AT
2 STONEYPONTE. THAT COULD -- SOMEBODY COULD SAY THAT HAS A
3 GOLD TINGE TO IT?

4 A. NOW, KEEP IN MIND THAT PHOTOGRAPH WAS TAKEN WITH A VERY
5 POWERFUL FLASH. SO MY FLASH COULD WASH OUT ANY AMBIENT
6 LIGHTS COMING FROM ANY OTHER LIGHT. WITHOUT A FLASH THINGS
7 IN THE WHOLE PARKING LOT LOOKED A GOLDISH COLOR, A AMBER
8 COLOR.

9 Q. HOW ABOUT THAT WHITE PATROL VEHICLE UP THERE IN THE TOP
10 RIGHT?

11 A. ACTUALLY, IF YOU'LL LOOK AT THE VERY BACK OF THE
12 PASSENGER SIDE GOING TOWARD THE BACK OF THE CAR OR THE BACK
13 DOOR AND GOING TOWARD THE TRUNK, YOU CAN ACTUALLY SEE A
14 YELLOW TINT TO IT.

15 Q. OKAY. WHAT ABOUT THE YELLOW TINT THERE ON THAT GREEN
16 PICKUP? IS THERE --

17 A. ON THE TOP OF IT WHERE THE TOP OF THE CAB THERE IS A
18 YELLOWISH TINT.

19 Q. IN SUM, WITH YOUR FLASH OR EVEN WITHOUT THE FLASH,
20 THAT'S A WHITE PATROL CAR AND A GREEN TRUCK; CORRECT?

21 A. THAT'S CORRECT.

22 Q. ALL RIGHT, SIR. WHAT I'M SAYING IS WHEN YOU POINTED
23 YOUR CAMERA, YOU'RE BASICALLY FOCUSING IN ON THE NISSAN AND
24 THAT'S WHERE THE LIGHT SOURCE WAS DIRECTED---

25 A. THAT'S CORRECT.

1 Q. ---SO YOU'D HAVE MORE LIGHT EXPOSURE FOR THE NISSAN;
2 CORRECT?

3 A. THAT'S CORRECT.

4 Q. ALL RIGHT, SIR. THANK YOU. SIR, WHEN YOU WERE AT THE
5 SCENE THAT EVENING, THIS IS THE WHITE LEXUS THAT YOU FOUND
6 AT THE SCENE?

7 A. YES, SIR, IT IS.

8 Q. ALL RIGHT, SIR.

9 MR. DELGADO: YOUR HONOR, I'D LIKE TO MARK THIS IN
10 EVIDENCE, PLEASE, DEFENDANT'S EXHIBIT 1.

11 THE COURT: WHAT'S THE RELEVANCE, PLEASE, SIR?

12 MR. DELGADO: THE RELEVANCE, YOUR HONOR, WOULD BE THE
13 SAME ISSUE THAT WE HAD TALKED ABOUT BEFORE. MAYBE I OUGHT
14 TO JUST ADDRESS THE COURT.

15 THE COURT: DISCUSS IT WITH THE SOLICITOR, PLEASE.

16 MR. DELGADO: OKAY.

17 (WHEREUPON, COUNSEL CONFERRED OFF THE RECORD.)

18 MR. DELGADO: YOUR HONOR, THE SOLICITOR HAS NO
19 OBJECTION.

20 MR. POPE: WE PROVIDED THAT PICTURE TO HIM.

21 THE COURT: ALL RIGHT. ADMITTED WITHOUT OBJECTION.

22 Q. SIR, I'M NOT GOING TO MAKE ANY OF US OR THESE FOLKS
23 LOOK AT THIS, BUT THIS IS THE THING THAT HAS A -- THE SHIRT
24 IN IT THAT WAS CUT OFF THE BODY, IS THAT CORRECT, THAT WAS
25 COLLECTED AT THE SCENE?

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1 A. THAT'S CORRECT, SIR.

2 Q. ALL RIGHT. THAT WE'VE SEEN ON SEVERAL PHOTOGRAPHS?

3 A. YES, SIR.

4 Q. BY CONSENT AND THEN LATER BY SEARCH WARRANT YOU WENT TO
5 THE -- INTO THE PACES RIVER APARTMENT WHERE MR. BAGLEY HAD
6 RESIDED WITH MR. TOBIAS AND HIS FATHER MR. FLOYD GRANT;
7 CORRECT, SIR?

8 A. THAT'S CORRECT, SIR.

9 Q. YOU WENT INSIDE TO LOOK AT VARIOUS THINGS. I THINK YOU
10 SEIZED TWENTY-FIVE FROM INSIDE AND OTHER ITEMS YOU SEIZED
11 FROM THAT APARTMENT; CORRECT?

12 A. THAT'S CORRECT.

13 Q. MR. GARDNER, I'M TRYING TO DO THIS SO EVERYONE CAN SEE
14 IT. EXCUSE ME, MS. COURT REPORTER. THE WAY YOU HAD
15 DEMONSTRATED FOR THIS JURY WAS THAT IF YOU HAD POINTED THIS
16 GUN AT THE SCREEN OR PROJECTOR,---

17 A. YES, SIR.

18 Q. ---YOU SAID THAT THE SHELLS WOULD BE EJECTED FROM THIS
19 .45 OVER YOUR HEAD; CORRECT, SIR?

20 A. IT COULD GO OVER MY HEAD --

21 Q. OR IT COULD GO TO THE RIGHT?

22 A. IT COULD GO OVER TO THE RIGHT, ANYWHERE IN THAT --

23 Q. THAT GENERAL AREA?

24 A. YES, SIR.

25 Q. WHICH PRESUPPOSES THAT IF THE GUN IS POINTED THIS WAY.

1 IF THE GUN IS POINTED THIS WAY, SIR, WHICH WAY DOES THE
2 EJECTION PORT ALLOW AND REQUIRE THE GUN TO GO THEN? THEN IT
3 GOES UP, DOES IT NOT, SIR?

4 A. IT COULD GO OVER YOUR HEAD --

5 Q. SURE, OUT THIS SIDE.

6 A. OVER YOUR HEAD AND OUT TO --

7 Q. THE RIGHT, WHICH WOULD BE UP; CORRECT, SIR?

8 A. THE ROUND'S COMING STRAIGHT UP, THAT YOU'RE INDICATING
9 UP, WHAT ACTUALLY COULD BE COMING STRAIGHT OVER YOUR HEAD
10 AND THE OTHER ROUNDS THAT IF YOU'RE HOLDING IT THIS WAY, THE
11 ONES COMING UP THIS WAY, NOW THAT YOU TURN IT THIS WAY, IT
12 COULD BE GOING THIS WAY.

13 Q. NO, SIR. WELL, I'M SAYING IT COMES THIS WAY. IT GOES
14 OVER YOUR HEAD OR TO THE RIGHT OR IT CAN COME IN BETWEEN;
15 RIGHT? IF YOU TURN IT THIS WAY IT COMES OVER YOUR HEAD, BUT
16 OVER THE SHOULDER AND OUT, CORRECT, SIR, UP?

17 A. NO, SIR.

18 Q. IT WOULDN'T COME UP? WOULD IT COME --

19 A. NO, IT COULD. I'M SAYING THE ANGLE THAT YOU -- IF YOU
20 TURN THE GUN BACK UP RIGHT, THE TOP --

21 Q. SURE.

22 A. NOW, YOU'RE LOOKING AT THE TOP OF THE EJECTION PORT.

23 Q. YES, SIR.

24 A. EARLIER I SAID THOSE ROUNDS COULD COME STRAIGHT OVER
25 TOP OF YOUR HEAD---

1 Q. YES, SIR.

2 A. ---AND ONTO THE RIGHT OF -- RIGHT SIDE OF THE EJECTION
3 PORT AS YOU LOOK AT IT, THE ROUNDS COULD COME AT ANOTHER --
4 OUT THIS ANGLE.

5 Q. OUT THIS ANGLE; CORRECT? SO --

6 A. AND IT WOULD NOT BE -- IT WOULD BE AN ARCING MOTION.

7 Q. LET'S DO THIS: WOULD YOU STEP DOWN HERE WITH ME, SIR.
8 AND IF YOU WOULD, MOVE THE CYLINDER FORWARD. CAN YOU DO
9 THAT ON THIS GUN MANUALLY?

10 A. I COULD, BUT THE LOCK'S IN PLACE.

11 Q. ALL RIGHT. LET'S DO IT THIS WAY: WITH MY PEN -- WITH
12 MY PEN, IF THE GUN IS HELD HERE STRAIGHT UP,---

13 A. YES, SIR.

14 Q. ALL RIGHT, SIR? ---IT CAN EITHER GO UP OVER YOUR HEAD;
15 CORRECT, SIR?

16 A. YES, SIR.

17 Q. OR RIGHT AND OUT; CORRECT, SIR?

18 A. YES, SIR.

19 Q. SO USING MY PEN, IF I TURN THE GUN THIS WAY, THEN WHICH
20 WAY DOES THE SHELL CASING STRIKE THEN, SIR? IT STRIKES UP,
21 DOES IT NOT, SIR?

22 A. I THINK -- I THINK -- I AGREE IT'S GOING TO EXTRACT UP.
23 IT'S GOING TO COME THIS WAY. THESE ROUNDS HERE ARE NOW
24 GOING THIS WAY.

25 Q. AND IT COULD GO STRAIGHT UP. SO IF YOUR CONE --

1 A. IT COULD VERY WELL GO STRAIGHT UP.

2 Q. ALL RIGHT. THANK YOU. NOW, WHY DON'T YOU STAY DOWN
3 HERE WITH ME JUST ONE SECOND BECAUSE --

4 A. OKAY.

5 MR. DELGADO: SOLICITOR, I APOLOGIZE -- I APOLOGIZE FOR
6 NOT HAVING THESE NUMBERED FOR YOU, BUT THESE WERE FROM YOUR
7 -- YOUR HONOR, WITH THE SOLICITOR'S PERMISSION, I WOULD LIKE
8 TO ENTER THESE DEFENDANT'S EXHIBITS 2 AND 3.

9 MR. POPE: NO OBJECTION, YOUR HONOR.

10 THE COURT: ADMITTED WITHOUT OBJECTION.

11 Q. NOW, WITH THE SCENARIO -- THE REASON I SAID THAT, SIR,
12 TO YOU ABOUT THE ANGLE OF EJECTION IS THAT BECAUSE YOU SAID,
13 I BELIEVE, IN YOUR TESTIMONY YOUR WORDS WERE I EXPECT THAT
14 THIS WOULD EJECT IN THAT FASHION. YOU DID NO TESTING ON
15 THIS GUN TO SHOW HOW SHELLS ARE EJECTED FROM IT, DID YOU?

16 A. THAT'S CORRECT.

17 Q. ALL RIGHT. BY THAT I MEAN THAT SOMETIMES, EITHER AT
18 FSU OR AT THE STATE LAW ENFORCEMENT DIVISION, WE DO EJECTOR
19 TESTING; DO WE NOT, SIR?

20 A. I HAVE NEVER DONE THAT.

21 Q. DO YOU KNOW THAT'S DONE AT STATE LAW ENFORCEMENT?

22 A. YES. MY EXPERIENCE WITH THIS IS TWENTY-SEVEN YEARS --
23 I SHOULD SAY FOURTEEN YEARS OF BEING A FIREARM INSTRUCTION
24 AND KNOWING THAT STANDING BESIDE A SHOOTER LOOKING AT
25 CERTAIN THINGS THAT I'VE BEEN HIT THE FACE WITH IT, WITH A

1 SPENT ROUND, AND I'VE STOOD BEHIND OFFICERS WATCHING THEM
2 AND BEEN HIT BY SPENT ROUNDS COMING OVER THE TOP OF THEIR
3 HEADS AND AT DIFFERENT ANGLES.

4 Q. SURE.. BECAUSE THE STANDARD WAY THE POLICE ARE TAUGHT
5 LEGS SPREAD, CUP AND SAUCER WITH THE GUN VERTICAL; CORRECT,
6 SIR? THAT'S POLICE TECHNIQUE AND TRAINING; CORRECT, SIR?

7 A. ALL EXCEPT THE CUP AND SAUCER.

8 Q. HAND GRIP.

9 A. TWO HANDS, SIR.

10 Q. TWO-HAND GRIP. ALL RIGHT, SIR. I'M NOT A POLICE
11 OFFICER.

12 A. I KNOW.

13 Q. I GUESS WHAT I'M SAYING TO YOU, SIR, IS IF THAT WERE
14 NOT DONE THIS WAY, IF IT'S TURNED -- PLEASE UNDERSTAND, SIR,
15 I'M SIMPLY SAYING THAT YOU COULD HAVE -- YOU DIDN'T HAVE TO.
16 I'M NOT SAYING THAT, BUT YOU COULD HAVE TESTED THIS GUN TO
17 SEE HOW IT WOULD HAVE EJECTED USING THE SAME SORT OF
18 AMMUNITION AT THE STATE LAW ENFORCEMENT DIVISION?

19 A. OUR PROTOCOL---

20 Q. YES, SIR.

21 A. ---IS IF THAT REQUEST IS BEING MADE IT WOULD BE DONE BY
22 STATE LAW ENFORCEMENT DIVISION.

23 Q. SURE. I UNDERSTAND. THE POINT BEING IS THAT WE HAVE
24 DONE IT -- WE, I'M TALKING ABOUT LAW ENFORCEMENT HAS DONE
25 IT, IT CAN BE DONE. IT JUST WASN'T DONE IN THIS CASE.

1 A. I'VE NEVER DONE IT.

2 Q. ALL RIGHT, SIR. THANK YOU. NOW, LET ME JUST ASK YOU
3 THIS: I'M NOW GOING TO SHOW YOU DEFENDANT'S EXHIBIT NUMBER
4 2. DEFENDANT'S EXHIBIT NUMBER 2 WHICH MR. POPE --

5 MR. POPE: I'M SORRY, SIR?

6 MR. DELGADO: YES, SIR. I'M TRYING TO SEE IF I CAN --
7 I THINK IT'S GOING TO BE STATE'S EXHIBIT NUMBER 9. MAYBE
8 NINETEEN, MR. POPE. ALL RIGHT, SIR. NO. MR. POPE, LET'S
9 GO TO NINE AGAIN. I'M SORRY. MR. POPE, I APOLOGIZE. I'M
10 SORRY, BUT I HAD THE NUMBERS WRONG, 39. ALL RIGHT, SIR.

11 Q. NOW, 39, MR. GARDNER, IS BASICALLY FROM A VERY
12 DIFFERENT ANGLE AND NIGHT TIME AS OPPOSED TO DAY TIME OF
13 WHAT I SHOW YOU AS DEFENDANT'S EXHIBIT NUMBER 2. WOULD THAT
14 BE FAIR?

15 A. ARE YOU ASKING --

16 Q. YOU KNOW WHAT, SIR, THAT'S A DIFFERENT CAR. THE WHITE
17 CAR IS A DIFFERENT CAR, BUT IT'S PARKED IN EXACTLY THE SAME
18 SPOT AS THE DARKER CAR HERE IN DEFENDANT'S EXHIBIT 2;
19 CORRECT?

20 A. THAT'S A DIFFERENT ANGLE OF PHOTOGRAPH I'M SURE.

21 Q. YES, SIR; YES, SIR. I UNDERSTAND. WHAT I'M SAYING IS
22 THE DARK CAR THAT WERE PRESENT AT THE SCENE IS PARKED IN THE
23 SAME DIRECTION -- I THINK YOU IDENTIFIED THIS AS A
24 CHEVROLET.

25 A. YES, SIR; THAT'S CORRECT.

1 Q. -- HEADED IN AS THE WHITE CAMRY IS IN THE PHOTO ON THE
2 SCREEN.

3 A. YES, SIR.

4 Q. WHAT I'M SAYING TO YOU, SIR, IS THIS: COULD NOT -- IF
5 SOMEONE WERE STANDING APPROXIMATELY WHERE THE COURT REPORTER
6 IS IN THE PHOTOGRAPH ON THE SCENE -- ON THE SCREEN, IF THE
7 GUN IS TURNED HORIZONTAL AS NON-TRADITIONAL, NON-LAW
8 ENFORCEMENT TRAINING, IF THAT GUN WAS TURNED HORIZONTAL FROM
9 THE BACK OF THE CAMRY, IF IT GOES UP, COULD IT NOT HAVE
10 EITHER HIT THE RED CADILLAC OR THE WHITE CAMRY AND ROLLED
11 AND BOUNCE INTO THE GRASS? ISN'T THAT CONCEIVABLY POSSIBLE,
12 SIR, AT ALL?

13 A. TELL ME AGAIN WHERE YOU'RE --

14 Q. SURE.

15 A. I UNDERSTAND WHAT YOU'RE SAYING.

16 Q. SURE.

17 A. CIRCLE ON THE PICTURE, SIR. TELL WHERE YOU'RE
18 DESCRIBING.

19 Q. FROM APPROXIMATELY WHERE THE COURT REPORTER'S HEAD IS
20 AND, AGAIN, THIS ISN'T SCIENTIFIC AND IT'S VERY NON TO
21 SCALE. YOU CAN'T ACTUALLY DOCUMENT IT PERFECTLY. I GUESS
22 WHAT I'M SAYING, SIR, IS THIS: IN A PERFECT, PRISTINE
23 ENVIRONMENT WHERE THERE IS NO INTERFERENCE, IF THOSE TWO
24 CARS WERE NOT THERE, THEN YOU COULD HAVE DETERMINED WITH THE
25 SCIENTIFIC ACCURACY THAT'S DESERVED, YOU COULD HAVE THEN

1 BEEN ABLE TO SAY WHERE THE SHOOTER WAS AS OPPOSED TO WHERE
2 THESE TWO CARS ARE INTERFERING WITH THE BOUNCING OF THE
3 SHELL CASING. WOULDN'T THAT BE FAIR?

4 A. I JUST WANT TO MAKE SURE I UNDERSTAND WHAT YOU'RE
5 ASKING ME.

6 Q. SURE.

7 A. IF YOU'RE ASKING ME IF A PERSON WAS STANDING AT THE
8 BACK OF THOSE CARS OR BETWEEN THOSE CARS OR AT THE REAR OF
9 THOSE CARS,---

10 Q. YES, SIR. WELL, IN THE PAVED AREA.

11 A. IN THE PAVED AREA---

12 Q. YES, SIR.

13 A. ---BEHIND THE CARS.

14 Q. OKAY.

15 A. BEHIND THE WHITE CAR, BESIDE THE RED CAR.

16 Q. SURE. STANDING RIGHT WHERE THE DRIVER'S -- THE TAG IS
17 ON THE CAMRY.

18 A. IF YOU'RE ASKING ME IF A PERSON HOLDS A GUN OUT IN THIS
19 NATURE HERE, HORIZONTALLY, OR IN THIS NATURE HERE, EITHER
20 ONE, AND FIRED THAT WEAPON, IS IT POSSIBLE FOR THOSE ROUNDS
21 TO GET TO WHERE MY NUMBER CONE IS?

22 Q. YES, SIR.

23 A. POSSIBLE, BUT HIGHLY, HIGHLY DOUBTFUL.

24 Q. OKAY. WOULD YOU THINK, SIR, THAT IN THE SAME FASHION
25 THAT WE FOUND -- MS. COURT REPORTER, THIS IS NOW STATE'S

1 EXHIBIT NUMBER 3. THE WAY THAT YOU DESCRIBED IT YOU FOUND A
2 .45 SHELL CASING UNDERNEATH THE WHITE CAR, WHICH IS TO THE
3 LEFT---

4 A. OF THE CADILLAC.

5 Q. ---OF THE CADILLAC, THE SPACE WHERE MR. BAGLEY WAS AND
6 THEN THE WHITE CAR. YOU SAID, WELL, EMS WAS IN THERE AND
7 THEY COULD HAVE -- AND THAT'S EXACTLY CORRECT. THEY COULD
8 HAVE HELPED EITHER KICK IT, MOVE IT. THERE WERE PEOPLE
9 AROUND THE SCENE; CORRECT, SIR?

10 A. YES, SIR.

11 Q. THE REASON I SAY THAT IS IF IT'S NOT A CONTROLLED,
12 ABSOLUTE SCIENTIFICALLY CONTROLLED ENVIRONMENT, THERE'S NO
13 WAY FOR YOU TO SCIENTIFICALLY DETERMINE EXACTLY WHERE THE
14 SHOOTER WAS. ISN'T THAT FAIR?

15 A. SCIENTIFICALLY, I COULD NOT PUT HIM IN THAT LOCATION.

16 Q. THANK YOU. IF YOU'LL HAVE A SEAT. ONE LAST THING,
17 SIR,---

18 A. YES, SIR.

19 MR. DELGADO: STATE'S EXHIBIT NUMBER 1, MR. POPE, IF
20 YOU WOULD, PLEASE.

21 Q. DO YOU HAVE THAT --

22 A. IT'S ON THE WHITE THING.

23 Q. THANK YOU VERY MUCH. THIS, SIR, IS THE POWER POINT TO
24 THE HARD COPY THAT I'M GIVING YOU, SIR. YOU ORIENTED THE
25 JURY TO INTERSTATE 77,---

1 A. YES, SIR.

2 Q. ---CELANESE ROAD INTERSECTING; CORRECT, SIR?

3 A. YES, SIR.

4 Q. THE ROAD THAT LEADS TO -- RIVER CHASE BOULEVARD. I'M
5 SORRY. THAT'S THE NAME OF IT..

6 A. YES, SIR.

7 Q. RIVER CHASE BOULEVARD THAT LEADS TO PACES RIVER;
8 CORRECT, SIR?

9 A. THAT'S CORRECT, SIR.

10 Q. NOW, IF YOU CAME BACK OUT RIVER CHASE, CAME TO THE BIG
11 INTERSECTION WITH CELANESE, TURN LEFT -- EXCUSE ME -- TURN
12 RIGHT GOING WEST ON CELANESE ROAD, HOW FAR IS TO THE
13 STONEYPONTE APARTMENTS? YOU TURN OFF OF CELANESE, DO YOU
14 NOT, SIR?

15 A. YES, SIR. IT'S OFF CELANESE. ACTUALLY YOU GO -- ONCE
16 YOU TURN -- MADE THE RIGHT TURN ON CELANESE, YOU GO THROUGH
17 THE INTERSECTION OF RIVERVIEW ROAD AND JUST A SHORT DISTANCE
18 DOWN IS THE ENTRANCE TO STONEYPONTE.

19 Q. RIGHT. IN FACT, IF YOU WERE ABLE TO DO THIS, ONE OF
20 THESE PLACES RIGHT IN HERE IS GOING TO BE THE -- WHAT'S THE
21 NAME OF THE HAMBURGER PLACE THAT I'M SORRY SAY I --

22 A. SONIC.

23 Q. SONIC. SO RIGHT IN HERE IS THE SONIC AND YOU TURN
24 RIGHT BY THE SONIC TO STONE HAVEN APARTMENTS; CORRECT, SIR?

25 A. THAT'S CORRECT, SIR.

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1 Q. AND THE STONE HAVEN APARTMENTS, IF YOU FOLLOW MY LITTLE
2 POINTER, THE STONE HAVEN APARTMENTS ARE BASICALLY RIGHT OFF
3 THE ROAD. THEY START ALMOST IMMEDIATELY AS SOON AS YOU GET
4 OFF CELANESE; CORRECT, SIR?

5 A. NOT -- WELL, NO, SIR. YOU HAVE TO -- THE DRIVEWAY IS
6 PROBABLY A HUNDRED AND FIFTY, TWO HUNDRED YARDS OFF THE
7 ROAD.

8 Q. ALL RIGHT. AND THEN THE APARTMENTS START.

9 A. YES, SIR.

10 Q. I GUESS WHAT I'M SAYING IS IN COMPARISON TO RIVER
11 CHASE, WHICH IS A --

12 A. CORRECT. IT'S A VERY SHORT -- IT'S A LOT SHORTER
13 DISTANCE.

14 Q. EXACTLY. MY QUESTION TO YOU, SIR, IS THIS: FROM THE
15 APARTMENT COMPLEX AT PACES RIVER, AS THE CROW FLIES, TO THE
16 STONEY -- STONE HAVEN APARTMENT, MILE AND A HALF?

17 A. NO, SIR.

18 Q. TWO MILES?

19 A. OH, LESS.

20 Q. THANK YOU, SIR. THAT'S ALL THE QUESTIONS I HAVE.

21 MR. DELGADO: THANK YOU, YOUR HONOR.

22 RE-DIRECT EXAMINATION

23 WILLIAM TODD GARDNER BY MR. POPE:

24 Q. JUST BRIEFLY, TALKING ABOUT THE CASE AND, OF COURSE,
25 THE JURY WILL HAVE YOUR DIAGRAM. YOU GOT THE .25'S ACROSS

1 THE PARKING LOT.

2 A. YES, SIR.

3 Q. WE GOT THE .45'S DOWN IN THE PARKING LOT OR ON THE
4 GRASS SIDE AROUND THE BODY. BASED ON YOUR EXPERIENCE, WOULD
5 YOU BELIEVE THAT THE .45 COULD KICK A SHELL CASING FROM
6 WHERE THE .25'S ARE ALL THE WAY TO WHERE THAT .45 LANDED?

7 A. ABSOLUTELY NOT.

8 Q. OKAY. VICE VERSA, DO YOU THINK THE .45'S CAN KICK ONE
9 TO WHERE THE -- YOU KNOW, OR THE LOCATION OF THE .45 COULD
10 KICK ONE AS FAR AS THE .25?

11 A. NO, SIR.

12 Q. OKAY. IN YOUR EXPERIENCE AND WHAT YOU WERE RELAYING,
13 THE AREAS THAT YOU'RE FINDING CASINGS, BE IT THE .25'S OR
14 THE .45'S, ARE THE AREAS THAT YOU'RE FINDING CASINGS IN
15 GENERAL WHERE YOU EXPECT THE SHOOTERS WOULD BE LOCATED?

16 A. YES, SIR, IT IS.

17 Q. AND WHAT IS THAT BASED ON?

18 A. THE LOCATION OF THE SHELL CASINGS ON THE GROUND, PAST
19 EXPERIENCE OF BEING -- OF SHOOTING -- NOT PARTICULARLY THAT
20 WEAPON, BUT WEAPONS SIMILAR TO THAT, KNOWING WHERE THE SHELL
21 CASINGS ARE GOING TO GO. THERE IS OBVIOUSLY A PATTERN OF
22 WHERE THE SHELL CASINGS WERE ON THE GROUND, EVEN WITH THE --
23 EVEN WITH THE .45'S. THEY WERE IN CLOSE PROXIMITY OF EACH
24 OTHER SO WAS -- SO WERE THE .25'S. ALL WERE IN CLOSE
25 PROXIMITY TO EACH OTHER, WHICH MEANS THE SHOOTER WAS IN

1 CLOSE PROXIMITY TO THOSE SHELL CASINGS WHEN HE SHOT THEM.

2 Q. OKAY. NOW, WHETHER HE'S LEFT OR RIGHT OR A LITTLE BACK
3 OR A LITTLE FORWARD, SCIENTIFICALLY YOU CAN'T SAY THAT?

4 A. NO, SIR, I CAN'T.

5 Q. ALL RIGHT, SIR.

6 A. I CAN'T PINPOINT WHERE HE WAS STANDING.

7 Q. OKAY. TALKING ABOUT THE .45 FOR A SECOND, MR. DELGADO
8 WAS ASKING ABOUT THE ONE IN THE CHAMBER AND THE INDICATION
9 OF RELOADED OR NOT RELOADED. TO HAVE ONE IN THE CHAMBER,
10 THAT MEANS READY TO ROLL; RIGHT?

11 A. YES, SIR.

12 Q. YOU EITHER HAVE RACKED IT INTO THE CHAMBER OR YOU'VE
13 PREVIOUSLY FIRED IT WITH A CLIP IN WHERE ANOTHER ONE IS FED
14 IN; IS THAT CORRECT?

15 A. EITHER WAY THAT'S --

16 Q. OR YOU PUT ONE IN THE CHAMBER OR IT'S FED ONE --

17 A. YEAH. IT'S GOT -- YOU EITHER GOT TO PHYSICALLY PUT IT
18 IN THE CHAMBER OR INSERT A MAGAZINE AND LET THE SLIDE GO
19 FORWARD.

20 Q. OKAY. OR IF IT HAD FIRED, THEN IT WOULD CHAMBER THE
21 NEXT ROUND?

22 A. THE NEXT TIME -- IF YOU GOT IT IN A LOADED CONDITION, A
23 HOT CONDITION, AND YOU PULL THE TRIGGER, ALL THAT'S DONE
24 AUTOMATICALLY FOR YOU, HENCE THE WORD SEMI-AUTOMATIC. EVERY
25 TIME YOU PULL THE TRIGGER IT FIRES, EJECTS, RELOADS AND

1 READY TO GO AGAIN.

2 Q. IF YOU SHOT IT THREE TIMES, THEN IT WOULD FEED -- IF
3 THERE'S ONE AVAILABLE IN THE CLIP, IT WOULD FEED THE NEXT
4 ONE INTO THE CHAMBER?

5 A. YES, SIR.

6 Q. OKAY.

7 MR. POPE: BEG THE COURT'S INDULGENCE.

8 Q. WE WERE REFERRING TO STATE'S EXHIBIT 63 WHEN YOU WERE
9 TALKING ABOUT THE VEHICLE AND THE GOLD COLOR THAT IT CAST UP
10 ON THE CARS---

11 A. YES, SIR.

12 Q. ---WHEN YOU WERE TAKING THE PICTURES. I'D ASK YOU, THE
13 ACTUAL EXHIBIT 63 THAT'S NOT THROUGH THE PRESENTER, IS THAT
14 WHAT THIS ITEM DEPICTS?

15 A. YES, SIR, IT IS.

16 Q. OKAY. AND DOES THAT MORE ACCURATELY REFLECT COLORATION
17 THAN THIS DOES?

18 A. IT SURE DOES.

19 MR. POPE: YOUR HONOR, PERMISSION TO PUBLISH STATE'S
20 EXHIBIT 63.

21 THE COURT: YES, SIR.

22 Q. AND, FINALLY, THE DEFENSE WAS REFERRING, I BELIEVE, TO
23 STATE'S EXHIBIT 71,---

24 A. YES, SIR.

25 Q. ---WHICH WAS THE PISTOL AND HE WAS ASKING ABOUT

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1 CONCEALED AND NOT CONCEALED AS FAR AS UNLAWFUL CARRYING OF A
2 WEAPON AND YOU TALKED ABOUT NORTH CAROLINA AND SOUTH
3 CAROLINA. JUST TO CLARIFY, IN SOUTH CAROLINA WHERE ARE YOU
4 LEGALLY ALLOWED TO HAVE A PISTOL?

5 A. IF YOU DON'T HAVE A CONCEALED WEAPONS PERMIT, THE ONLY
6 PLACES YOU CAN CARRY A PISTOL IN YOUR VEHICLE IS IN A GLOVE
7 BOX, A CONSOLE OR THE TRUNK. IF YOU HAVE A CONCEALED
8 WEAPONS PERMIT, THE ONLY PLACES YOU CAN CARRY A HANDGUN
9 LEGALLY IS ON YOUR PERSON. IF IT'S NOT ON YOUR PERSON, IT'S
10 GOT TO BE IN A GLOVE BOX, A CONSOLE OR A TRUNK, PERIOD.

11 Q. OKAY. AND THAT'S A SOUTH CAROLINA CONCEALED WEAPONS
12 PERMIT?

13 A. YES, SIR.

14 MR. POPE: THANK YOU, SIR. ANSWER ANY QUESTIONS MR.
15 DELGADO MAY HAVE.

16 RE-CROSS EXAMINATION

17 WILLIAM TODD GARDNER BY MR. DELGADO:

18 Q: MR. GARDNER, MAYBE ONE LAST QUESTION. YOU SAID TO MR.
19 POPE I CAN'T PINPOINT WHERE THE SHOOTER WAS STANDING AND THE
20 REASON YOU CAN'T DO THAT IS BECAUSE THERE WERE OBJECTS AND
21 INTERFERENCE LIKE YOU SAID WITH THE EMS PERSONNEL THAT I'VE
22 SHOWN ON THE PHOTOGRAPH IF THE GUN IS TILTED. YOU CAN'T
23 PINPOINT THAT, CAN YOU, SIR?

24 A. I CAN'T -- I CAN'T PUT -- MEASURE LINES AND SAY HIS
25 RIGHT FOOT WAS HERE AND HIS LEFT FOOT---

1 Q. CERTAINLY.

2 A. ---WAS HERE, BUT I KNOW FROM EXPERIENCE THAT THE PERSON
3 WHO FIRED THE .45 CALIBER HANDGUN WAS STANDING IN CLOSE
4 PROXIMITY OF WHERE I FOUND THOSE .45 CALIBER SHELL CASINGS.

5 Q. UNLESS THOSE SHELL CASINGS WERE INTERFERED WITH AND
6 ROLLED, HIT AND WERE OTHERWISE TRANSPORTED. FAIR, SIR?

7 A. FAIR.

8 MR. DELGADO: THANK YOU.

9 THE COURT: THANK YOU, SIR. YOU MAY STAND DOWN, SIR.

10 MR. POPE: THIS WOULD BE A GOOD TIME FOR A BREAK, YOUR
11 HONOR. ASK THAT THIS WITNESS BE EXCUSED, PLEASE.

12 THE COURT: ANY OBJECTION?

13 MR. DELGADO: NO, SIR.

14 THE COURT: THANK YOU FOR COMING, SIR. YOU MAY BE
15 EXCUSED AT THIS TIME. COUNSEL APPROACH JUST A MINUTE ON
16 SCHEDULING:

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE
18 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING
19 OF THE COURT REPORTER AND THE JURY.)

20 THE COURT: MADAM FORELADY, MEMBERS OF THE JURY PANEL,
21 WE'RE GOING TO GO AHEAD AND RECESS FOR LUNCH AT THIS TIME.
22 I'M GOING TO ASK YOU TO BE BACK IN THE JURY ROOM READY TO GO
23 AT TWO O'CLOCK. THAT SHOULD GIVE EVERYBODY PLENTY OF TIME.
24 THERE'S SOME MATTERS I MAY NEED TO TAKE UP WITH COUNSEL OUT
25 OF YOUR PRESENCE. WE'LL DO THAT BEFORE YOU COME BACK, IF

1 NECESSARY. THAT'S THE REASON I'M TALKING A LITTLE LONGER
2 THAN NORMAL FOR LUNCH. SO PLEASE HAVE LUNCH AND PLEASE BE
3 BACK IN THE JURY ROOM READY TO GO AT TWO O'CLOCK. THANK
4 YOU.

5 (JURY OUT AT 12:30 P.M.)

6 THE COURT: WHY DON'T WE DO THIS, YOU-ALL MEET BACK
7 WITH ME LET'S SAY ABOUT TWENTY MINUTES 'TIL TWO AND LET'S
8 MEET BACK AND YOU CAN COME BACK TO CHAMBERS AND LET'S SEE
9 WHERE WE ARE AND SEE IF WE NEED TO COME BACK AND PUT
10 ANYTHING ON THE RECORD AT THAT POINT IF YOU'RE READY TO DO
11 THAT. I'M NOT SURE IF YOU'LL BE READY OR NOT DEPENDING ON
12 WHERE YOU ARE. ALL RIGHT. LET'S DO THAT, BUT I'LL LOOK FOR
13 YOU ABOUT TWENTY MINUTES 'TIL.

14 (WHEREUPON, COURT WAS ADJOURNED FOR LUNCH AT 12:30 P.M.
15 AND RECONVENED AT 2:30 P.M.)

16 THE COURT: PLEASE BRING THE JURY IN, SIR.

17 (JURY IN AT 2:30 P.M.)

18 THE COURT: GOOD AFTERNOON, MADAM FORELADY, LADIES AND
19 GENTLEMEN OF THE JURY. I APOLOGIZE FOR THE DELAY IN GETTING
20 YOU BACK OUT. WE'RE READY NOW TO RESUME WITH THE TRIAL.
21 COUNSEL, READY TO PROCEED?

22 MR. POPE: PLEASE THE COURT, YOUR HONOR. THE STATE
23 WOULD CALL JENNIFER STONER, SPECIAL AGENT JENNIFER STONER.

24 (JENNIFER M. STONER, BEING FIRST DULY SWORN, WAS
25 EXAMINED AND TESTIFIED AS FOLLOWS):

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DIRECT EXAMINATION

JENNIFER M. STONER BY MR. POPE:

Q. AGENT STONER, IF YOU WOULD, STATE YOUR NAME AND SPELL YOUR LAST NAME FOR THE COURT REPORTER.

A. JENNIFER M. STONER, S-T-O-N-E-R.

Q. COULD YOU TELL THE JURY WHERE YOU'RE EMPLOYED.

A. I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION IN THE TRACE EVIDENCE DEPARTMENT.

Q. OKAY. AND COULD YOU TELL THE JURY WHAT IS TRACE EVIDENCE?

A. IN OUR LAB -- IT DIFFERS FROM STATE TO STATE, BUT IN OUR LAB TRACE EVIDENCE ENCOMPASSES NUMEROUS DIFFERENT FORENSIC EXAMINATIONS. WE LOOK FOR GUNSHOT RESIDUE. WE DO ANALYSIS FOR GUN POWDER EXAMINATIONS, WHICH CAN GIVE THE DISTANCE THE VICTIM WAS FROM A GUN WHEN THE GUN WAS FIRED. WE ANALYZE PAINT EVIDENCE IN HIT AND RUN ACCIDENTS OR IN BREAKING AND ENTERINGS. WE ANALYZE EXPLOSIVE DEBRIS FROM BOMBS THAT HAVE EXPLODED AND THEY WANT TO KNOW WHAT CAUSED THE BOMB TO EXPLODE. WE ANALYZE FIBER EVIDENCE USUALLY IN SEXUAL ASSAULTS OR HOMICIDE CASES. WE ANALYZE DUCK TAPE, ADHESIVES IN TAPE AND WE ALSO ANALYZE OIL LUBRICANTS AND TRACE OTHER EXAMINATIONS, WHICH INCLUDE SOMETHING THEY DON'T KNOW WHAT IT IS AND THEY'RE NOT SURE WHERE IT GOES, THEN IT COMES TO OUR DEPARTMENT.

Q. SO YOU KIND OF CATCH EVERYTHING --

1 A. UNFORTUNATELY AT TIMES, YES.

2 Q. OKAY. CAN YOU TELL THE JURY JUST BASICALLY, DAY TO
3 DAY, WHAT YOUR DUTIES ARE? IN OTHER WORDS, OF COURSE, YOU
4 SPEND A CERTAIN AMOUNT OF TIME ON THE ROAD TESTIFYING AS
5 YOU'RE DOING HERE TODAY; IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. OKAY. WHAT DO YOU DO OTHER -- WHEN YOU ACTUALLY HAVE
8 TIME AND YOU'RE AT THE LAB, WHAT TYPE THINGS DO YOU
9 PHYSICALLY ACTUALLY DO AND WHAT TYPE OF EQUIPMENT DO YOU
10 USE?

11 A. NORMALLY IN OUR LAB GUNSHOT RESIDUE CASES ARE THE
12 MAJORITY OF THE CASES THAT WE RECEIVE, SO WE GO ON A TWO-
13 MONTH ROTATION WHERE THAT'S ALL WE DO FOR TWO MONTHS IS
14 RECEIVE GUNSHOT RESIDUE CASES, EXAMINE THEM, GENERATE
15 REPORTS, HAVE THE REPORT REVIEWED AND THEN TESTIFY ON THOSE
16 CASES. WHEN WE'RE NOT ON GUNSHOT RESIDUE ROTATION, WE'RE
17 RESPONSIBLE FOR PEER REVIEWING THE OTHER ANALYST'S CASES AND
18 FOR WORKING THE FIBERS, THE PAINTS, THE EXPLOSIVES AND THE
19 TRACE OTHER CASES AND BASICALLY THAT JUST ENCOMPASSES WE
20 RECEIVE A CASE IN, WE CONTACT THE OFFICER TO FIND OUT WHAT
21 THEY'RE LOOKING FOR, LOOK AT THE EVIDENCE TO SEE IF WE CAN
22 DO ANYTHING WITH IT AND THEN PROCEED FROM THERE ACCORDING TO
23 OUR PROTOCOL.

24 Q. I TAKE IT BY YOUR PRESENCE HERE TODAY THAT YOU WERE ON
25 GUNSHOT RESIDUE ROTATION WHEN THIS CASE CAME UP?

1 A. YES, I WAS.

2 Q. OKAY. CAN YOU TELL THE JURY YOUR BACKGROUND AND
3 EDUCATION AND WHAT QUALIFIES YOU TO PERFORM THESE TESTS?

4 A. I HAVE A BACHELOR OF SCIENCE DEGREE IN CHEMISTRY FROM
5 CALIFORNIA UNIVERSITY OF PENNSYLVANIA, WHICH IS A SMALL
6 STATE SCHOOL IN PENNSYLVANIA. AFTER I RECEIVED MY DEGREE, I
7 PERFORMED AN INTERNSHIP IN THE TRACE EVIDENCE LAB AT SLED
8 FOR A SUMMER. AFTER THAT INTERNSHIP ENDED, I WAS HIRED IN
9 THE DRUG ANALYSIS DEPARTMENT WHERE I WENT THROUGH THE
10 CRIMINAL JUSTICE ACADEMY AND BECAME A CERTIFIED LAW
11 ENFORCEMENT OFFICER. I WORKED IN THE DRUG LAB IDENTIFYING
12 DRUGS FOR APPROXIMATELY A YEAR AND THEN I TRANSFERRED TO
13 TRACE EVIDENCE WHERE I BEGAN MY TRAINING PROGRAM THERE AND
14 LITERALLY WHAT WE DO IS WE TRAIN UNDER SENIOR EXAMINERS.
15 IT'S A THREE- TO FOUR-YEAR TRAINING PROGRAM WHERE I WORK
16 CLOSELY WITH THE EXAMINERS ON ALL THEIR CASES. I LEARN HOW
17 TO PERFORM EXAMINATIONS, WHAT THE RESULTS MEAN, HOW TO RUN
18 THE INSTRUMENTS, HOW TO SERVICE THE INSTRUMENTS. I ALSO
19 ATTEND NUMEROUS CLASSES AND SYMPOSIUMS OR COURSES ON
20 DIFFERENT TECHNIQUES IN TRACE EVIDENCE, HOW TO USE THE
21 EQUIPMENT, WHAT ARE SCIENTIFICALLY ACCEPTABLE METHODS THAT
22 WE'RE USING JUST SO WE KEEP ABREAST OF WHAT'S GOING ON IN
23 THE TECHNOLOGY.

24 Q. HOW LONG HAVE YOU BEEN WITH THE STATE LAW ENFORCEMENT
25 DIVISION?

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1 A. I HAVE BEEN THERE SINCE SEPTEMBER OF 1997.

2 Q. AND HAVE YOU HAD THE OPPORTUNITY, AS PART OF YOUR WORK,
3 TO TESTIFY AS AN EXPERT IN TRACE EVIDENCE ANALYSIS?

4 A. I HAVE.

5 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD TENDER
6 SPECIAL AGENT STONER AS AN EXPERT IN TRACE EVIDENCE
7 ANALYSIS.

8 MR. DELGADO: WITHOUT OBJECTION, YES.

9 THE COURT: WITHOUT OBJECTION SHE'S SO QUALIFIED,
10 COUNSEL.

11 Q. COULD YOU TELL THE JURY, PLEASE, MA'AM, WHAT IS GUNSHOT
12 RESIDUE?

13 A. GUNSHOT RESIDUE IS A TERM THAT OUR LABORATORY USES..
14 IT'S TO DESCRIBE THE VAPOR OR THE CLOUD THAT FORMS AROUND
15 THE WEAPON UPON THE WEAPON'S DISCHARGE AND THIS VAPOR OR
16 CLOUD CONTAINS METALLIC PARTICLES FROM YOUR PRIMER
17 COMPOSITION, FROM THE CARTRIDGE CASE, FROM THE BULLET AND
18 FROM THE BARREL OF THE GUN FROM PRIOR SHOOTINGS. WHEN WE
19 RECEIVE A GUNSHOT RESIDUE EXAMINATION, IT IS THESE METALS
20 THAT WE TEST FOR.

21 Q. I WILL SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 134.
22 IS THIS AN ITEM THAT YOU BROUGHT? DO YOU FEEL THAT IF SO
23 WOULD IT ASSIST THE JURY IN EXPLANATION OF YOUR TESTIMONY?

24 A. YES, IT IS.

25 Q. OKAY.

1 MR. POPE: YOUR HONOR, I PREVIOUSLY MARKED STATE'S
2 EXHIBIT 134.

3 MR. DELGADO: WITHOUT OBJECTION, YES.

4 THE COURT: ADMITTED WITHOUT OBJECTION.

5 Q. WOULD THIS ASSIST YOU IN EXPLAINING EXACTLY WHAT YOU
6 WERE JUST TALKING ABOUT AS FAR GUNSHOT RESIDUE?

7 A. YES.

8 MR. POPE: YOUR HONOR, I'M GOING TO PUBLISH 134.

9 Q. MS. STONER, IF YOU NEED TO, WITH THE COURT'S
10 PERMISSION, CAN SHE STEP DOWN, YOUR HONOR, WHERE SHE CAN SEE
11 THESE?

12 THE COURT: YES, SIR.

13 Q. IF YOU NEED TO STEP DOWN. JUST GIVE ME ONE SECOND AND
14 I'LL HAND YOU A POINTER. IN RELATION TO GUNSHOT RESIDUE,
15 CAN YOU TELL THE JURY WHAT 134 DEPICTS?

16 A. WHEN YOU FIRE A WEAPON, YOU CAN'T SEE THIS. THIS IS
17 ACTUALLY TAKEN WITH HIGH-SPEED PHOTOGRAPHY. WHEN YOU FIRE A
18 WEAPON, THIS IS ACTUALLY THE CLOUD OR THE PLUME OF GUNSHOT
19 RESIDUE THAT COMES OUT OF THE GUN WHEN IT'S FIRED. IT'S
20 GOING TO EXIT THE WEAPON THROUGH ANY OPENING IN THAT GUN.
21 IT'S GOING TO COME OUT OF THE TRIGGER GUARD. IF IT'S A
22 REVOLVER, IT'S GOING TO COME OUT OF THE CYLINDER GAP AND IF
23 IT'S AN AUTOMATIC IT'S GOING TO COME OUT OF THE SLIDE AND
24 IT'S ALSO GOING TO COME OUT OF THE BARREL OF THE GUN. AND I
25 LIKE TO USE THIS PICTURE, BECAUSE A LOT OF PEOPLE THINK THAT

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1 THE GUNSHOT RESIDUE ALL GOES FORWARD AND IS PROJECTED WITH
2 THE BULLET, BUT IT'S NOT TRUE. IT'S KIND OF LIKE IF YOU GET
3 IN YOUR CAR, YOU SPIN YOUR TIRES AND SMOKE YOUR TIRES AND
4 TAKE OFF, THE SMOKE'S GOING TO STAY WHERE YOUR CAR WAS AND
5 THAT'S WHAT THIS DOES. SOME OF IT TRAVELS WITH THE BULLET,
6 BUT THE MAJORITY OF IT STAYS ON THE AREA WHERE THE GUN WAS,
7 WHICH IS GOING TO BE YOUR HAND. SO THAT'S THE MAIN PART OF
8 WHERE THE GUNSHOT RESIDUE IS DEPOSITED.

9 Q. HAVE A SEAT.

10 MR. POPE: YOU CAN TURN THE LIGHT ON, PLEASE, MA'AM.

11 Q. AND HOW IS IT -- YOU TALKED IT BEING DEPOSITED. HOW IT
12 ACTUALLY FORMED? WHAT IS IT FORMED FROM?

13 A. CAN I STEP DOWN AND USE THIS PICTURE TO --

14 Q. SURE; SURE. I APOLOGIZE. I DID NOT MARK THAT. THAT
15 WOULD BE 135. YOU NEED BOTH OF THESE?

16 A. NO, JUST ONE, THAT ONE.

17 MR. DELGADO: WITHOUT OBJECTION.

18 MR. POPE: YOUR HONOR, WE MOVE STATE'S EXHIBIT 135 INTO
19 EVIDENCE.

20 THE COURT: ADMITTED WITHOUT OBJECTION.

21 A. THE GUNSHOT RESIDUE IS BASICALLY FORMED -- WHENEVER YOU
22 FIRE A WEAPON THERE'S A SMALL EXPLOSION THAT GOES ON INSIDE
23 THE GUN. YOU HAVE YOUR PRIMER COMPOSITION RIGHT HERE AT THE
24 BASE OF THE CARTRIDGE. WHEN THE FIRING PIN HITS THIS, IT
25 INITIATES AN EXPLOSIVE REACTION. IN THIS PRIMER COMPOSITION

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1 YOU HAVE LEAD STIFFNATE, WHICH IS THE INITIATING EXPLOSIVE.
2 IT'S SET OFF BY A BANG OR A CHARGE, WHICH IS WHAT THE FIRING
3 PIN HITS IT AND SETS IT OFF. YOU ALSO HAVE ANTIMONY
4 SULFIDE, WHICH IS YOUR FUEL, BECAUSE IN ORDER TO BURN YOU
5 NEED SOMETHING TO BURN AND YOU ALSO HAVE BARIUM NITRATE,
6 WHICH IS YOUR OXIDIZER. FOR ANY EXPLOSIVE REACTION YOU NEED
7 TO HAVE OXYGEN, SO IT PROVIDES THAT. ONCE THIS EXPLOSION
8 TAKES PLACE, A FLAME COMES THROUGH HERE AND LIGHTS YOUR
9 SMOKELESS POWDER. NOW, YOUR SMOKELESS POWDER IS CONSIDERED
10 A LOW EXPLOSIVE WHICH MEANS IT BURNS RATHER THAN DETONATES.
11 SO AS IT BURNS IT'S GOING TO TRANSFER -- VERY QUICKLY IT
12 TRANSFERS THE BURNING PROPERTIES FROM ONE POWDER PARTICLE TO
13 THE NEXT. AS THIS HAPPENS YOU'RE GOING TO BUILD UP A WHOLE
14 BUNCH OF HEAT AND PRESSURE AND AS YOU KNOW WHEN PRESSURE
15 BUILDS UP IT HAS TO BE RELEASED AT SOME POINT. THE EASIEST
16 WAY FOR THIS PRESSURE TO BE RELEASED IS TO FORCE THE BULLET
17 OUT OF THE CARTRIDGE BASE DOWN THE BARREL OF THE GUN. AS
18 THIS HAPPENS, THE CLOUD OF GUNSHOT RESIDUE FORMS AND THE
19 VAPORIZED PARTICLES, BECAUSE OF THE HEAT AND PRESSURE, THE
20 PARTICLES OF METALS, THE POWDER RESIDUE HERE, THEY'RE GOING
21 TO VAPORIZE. AS THEY VAPORIZE THEY'RE GOING TO CONDENSE AND
22 THEY'RE GOING TO MAKE UP THIS CLOUD WHICH IS GOING TO
23 DEPOSIT ON ANYTHING AROUND THAT GUN FROM THE TIME OF
24 DISCHARGE.
25 Q. OKAY. IS THAT HOW THE GUNSHOT RESIDUE GETS ON YOUR HAND?

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1 A. BASICALLY, IF THE GUNSHOT RESIDUE -- IF YOU FIRE THE
2 WEAPON AND YOU'RE IN THAT CLOUD IT'S GOING TO DEPOSIT ON
3 YOUR HAND. IF YOU'RE STANDING NEXT TO THAT WEAPON AND
4 YOU'RE IN THAT CLOUD, YOU CAN ALSO GET IT ON YOUR HAND.

5 Q. IF YOU'RE IN PROXIMITY TO IT --

6 A. IF YOU'RE IN PROXIMITY TO IT.

7 Q. OKAY. LET ME ASK YOU THIS, USING STATE'S 135 AND THE
8 FRONT END THE JURY'S LEARNED IS THE BULLET ITSELF, THE PART
9 THAT'S BEING EXPELLED, DOES THAT BULLET ALSO GET THE SAME
10 CHEMICALS OR WHATEVER, THE ELEMENTS THAT -- ON IT ALSO?

11 A. THOSE ELEMENTS WILL BE PRESENT ON THAT BULLET. IF
12 THERE'S ANYTHING THAT'S IN THAT AREA IT WILL BE EXPOSED TO
13 IT.

14 Q. OF COURSE, IN A BULLET SITUATION WHEN I SAY IN THE AREA
15 OF WHERE IT INITIALLY TOOK PLACE, BUT THE BULLET MAY BE OVER
16 HERE EVENTUALLY.

17 A. CORRECT. BUT AT THE TIME IT CAME OUT AND THAT CLOUD
18 FORMED AND IT WAS IN THAT VICINITY.

19 Q. ALL RIGHT. THANK YOU, MA'AM. YOU SAID ON THE HANDS,
20 CAN YOU TELL US THE GSR -- I GUESS BEFORE I GET INTO
21 SPECIFICS, CAN YOU TELL US THE GSR TEST ITSELF -- AND I
22 THOUGHT I HAD IT IN HERE. DID YOU RECEIVE THE GSR --

23 A. THIS IS A DEMO.

24 Q. I APOLOGIZE. STATE'S EXHIBIT 120, DID YOU RECEIVE THE
25 GSR KIT IN THIS CASE?

1 A. THIS IS THE GSR KIT THAT I RECEIVED TO ANALYZE IN THIS
2 CASE.

3 Q. OKAY. AND COULD YOU TELL THE JURY WHAT'S ENTAILED IN
4 THE GSR KIT, WHAT IT ACTUALLY IS?

5 A. THE GUNSHOT RESIDUE KIT IS ACTUALLY A KIT THAT -- CAN I
6 USE THE DEMO?

7 Q. I'M SORRY?

8 A. CAN I USE THE DEMO KIT TO SHOW THEM?

9 Q. YES, MA'AM.

10 MR. POPE: WITH THE COURT'S PERMISSION AND DEFENSE --

11 MR. DELGADO: ABSOLUTELY; WITHOUT OBJECTION.

12 Q. IF YOU'D LIKE TO STEP DOWN, THAT'D BE FINE, WITH THE
13 COURT'S PERMISSION.

14 THE COURT: YES, SIR.

15 A. THE GUNSHOT RESIDUE KIT THAT WE USE IN OUR STATE
16 CONSISTS OF -- THESE ARE CALLED PARTICLE LIFTS. OF COURSE,
17 THE DIRECTIONS AND THE NITRIC ACID SWABS. THE FIRST PART OF
18 THE KIT THEY TAKE IS THEY TAKE ONE OF THESE FOR YOUR RIGHT
19 PALM, YOUR RIGHT BACK, YOUR LEFT PALM AND YOUR LEFT BACK AND
20 THEY JUST TAP OVER THAT AREA TO PICK UP ANY RESIDUE THAT'S
21 PRESENT ON YOUR HAND. THIS WILL PICK UP PARTICLES OF
22 GUNSHOT RESIDUE SO THAT WE CAN ANALYZE THEM UNDER A
23 MICROSCOPE. AFTER THAT PART OF THE KIT'S DONE, THEY USE THE
24 NITRIC ACID THAT'S PROVIDED, WET THE TIP OF THE SWAB AND
25 THEY SWAB EACH AREA TWICE AND PUT IT IN A MARKED TUBE FOR