

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

L. Casey Manning, Circuit Court Judge

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S.C. Supreme Court

FRED R. RUTLAND,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000381

APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

WALT WHITMIRE
Assistant Deputy Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Honorable Frank Eppes, Special Circuit Court Judge

THE STATE,

RESPONDENT,

v.

FRED R. RUTLAND,

APPELLANT.

RECORD ON APPEAL

ROBERT M. DUDEK
Assistant Appellate Defender
S.C. Office of Appellate Defense
1122 Lady Street, Suite 940
Columbia, SC 29201

ATTORNEY FOR APPELLANT

T. TRAVIS MEDLOCK
Attorney General

DONALD J. ZELENKA
Chief Deputy Attorney General

HAROLD M. COOMBS, JR.
Senior Assistant Attorney General
Chief of Criminal Appeals

WILLIAM EDGAR SALTER, III
Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

Donald V. Myers, Solicitor
Eleventh Judicial Circuit

Lexington Co. Courthouse Annex
105 S. Lake Drive
Lexington, SC 29072
(803) 359-8352

Attorneys for Respondent

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1 MR. MCMAHON: MAY IT PLEASE THE COURT?

2 THE COURT: YES, SIR.

3 MR. MCMAHON: INDICTMENT NUMBERS 92-GS-32-3398, 92-GS-
4 32-586, 93-GS-32-1514 THE STATE -VS- FRED RANDALL RUTLAND,
5 INDICTMENT FOR MURDER, POSSESSION OF A FIREARM DURING A
6 VIOLENT CRIME AND POINTING AND POSSESSING A FIREARM. THE
7 STATE'S READY FOR TRIAL. MR. RUTLAND IS PRESENT WITH HIS
8 ATTORNEY.

9 THE COURT: MEMBERS OF THE PETIT JURY, ANYBODY KIN BY
10 BLOOD OR MARRIAGE TO FRED RANDALL RUTLAND? STAND UP, MR.
11 RUTLAND, AND LOOK THAT WAY. (THE DEFENDANT COMPLIED.) YOU
12 MAY BE SEATED. (THE DEFENDANT COMPLIED.) ANYBODY KIN TO --
13 WA ANYBODY KIN BY BLOOD OR MARRIAGE TO THE DECEASED JIMMY
14 PEELE? DOES ANYBODY HAVE ANY REASON THEY COULD NOT GIVE BOTH
15 THE STATE -- YES, MA'AM? ARE YOU ON THE JURY?

16 RESPONSE: NO, SIR.

17 THE COURT: ALL RIGHT. ANYBODY HAVE ANY REASON THEY
18 COULD NOT GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND
19 IMPARTIAL TRIAL? EVERYONE AGREE WITH THE PREMISE THAT
20 EVERYONE IS PRESUMED INNOCENT UNTIL PROVEN GUILTY BEYOND A
21 REASONABLE DOUBT? IF YOU WERE ONE OF THE -- IF YOU -- ANY
22 MEMBER OF THE JURY WERE ONE OF THE PARTIES IN THIS CASE WOULD
23 YOU BE CONTENT TO HAVE SOMEONE IN YOUR FRAME OF MIND SITTING
24 ON YOUR JURY? CONCLUSION OF THE EVIDENCE---

25 MR. MCMAHON: WOULD YOU ASK THE REVERSE OF THAT QUESTION

PAGES 3-10 HAVE BEEN INADVERTENTLY LEFT
OUT FOR NUMBERING PURPOSES...NO DESIGNATED
MATERIAL HAS BEEN DELETED.

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 MR. RIDDLE: THE STATE CALLS CHRIS GARNER TO THE STAND.

2 CHRIS GARNER, BEING DULY SWORN, TESTIFIES

3 AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY MR. RIDDLE

6 Q SGT. GARNER, YOU'RE EMPLOYED BY THE LEXINGTON COUNTY
7 SHERIFF'S DEPARTMENT?

8 A YES, SIR.

9 Q WHAT DO YOU DO WITH THE SHERIFF'S DEPARTMENT?

10 A I'M A SUPERVISOR ON THE HIGHWAY SAFETY UNIT.

11 Q COMMONLY KNOWN AS THE TRAFFIC UNIT?

12 A YES, SIR.

13 Q OK. DID YOU GET DISPATCHED TO THE BOW-WOW BOUTIQUE BACK
14 ON SEPTEMBER 4TH OF LAST YEAR?

15 A YES, SIR, I DID.

16 Q OK. AND HOW DID YOU COME TO GET INVOLVED IN THIS CASE?
17 HOW WAS YOUR FIRST KNOWLEDGE OF THIS CASE ARRIVED?

18 A I HAD ATE DINNER AT LEXINGTON AT THE PIZZA HUT, AND WHEN
19 I GOT BACK IN MY PATROL CAR ABOUT 1:45 OR 1:44 THE DISPATCHER
20 SOUNDED THE ALERT TONE ON THE RADIO CHANNEL OUR PRIMARY
21 CHANNEL WHICH INDICATES THERE'S AN EMERGENCY TYPE CALL
22 PENDING, AND FURTHER WITH THAT TRANSMISSION IT STATED THERE
23 WAS A SHOOTING AT THE BOW-WOW BOUTIQUE ON TWO NOTCH ROAD
24 WHICH IS A SHORT DISTANCE FROM THERE.

25 Q DID YOU PROCEED TO THE BOW-WOW BOUTIQUE?

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 A YES, I DID.

2 Q WHO WAS WITH YOU AT THAT TIME, SERGEANT?

3 A ONE OF MY DEPUTIES ROBERT SMITH.

4 Q AND WHEN YOU GOT TO THE BOW-WOW BOUTIQUE WERE THERE ANY
5 OTHER OFFICERS THERE?

6 A NO, SIR, THERE WAS NOT.

7 Q WERE YOU THE FIRST OFFICER ON THE SCENE?

8 A YES, I WAS.

9 Q AND WHAT HAPPENED WHEN YOU FIRST ARRIVED AT THE BOW-WOW
10 BOUTIQUE? WHAT'D YOU DO?

11 A WHEN I ARRIVED OUR FIRST PROCEDURE THAT IS TO MAKE SURE
12 THAT THE AREA IS SAFE AND TO CLEAR THE BUILDING, AND WHEN I
13 ARRIVED I NOTICED SOME VEHICLES IN THE PARKING LOT. THERE
14 WAS A BROWN CHEVROLET, CAPRICE, IMPALA OR BISCAYNE OR
15 SOMETHING OF THAT NATURE ON THE CEDAR CREST ROAD SIDE OF THE
16 BUILDING. I'M FAMILIAR WITH THE BUILDING, AND ON THE OTHER
17 SIDE ON THE TWO NOTCH ROAD THERE WAS A WHITE FORD VAN, AND AS
18 I CAME CLOSER THERE WAS A WHITE MALE STANDING OUTSIDE THE
19 ENTRANCE OF THE BOUTIQUE.

20 Q DID YOU, IN FACT, SECURE THE SCENE?

21 A YES, SIR, I DID.

22 Q AND DID YOU GO INSIDE THE BOW-WOW BOUTIQUE?

23 A YES, SIR, I DID.

24 Q AND WHAT TRANSPIRED WHEN YOU WENT INSIDE THE BOW-WOW
25 BOUTIQUE?

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 A AS I ENTERED THE BOUTIQUE THE WHITE MALE THAT WAS
2 OUTSIDE MADE SOME STATEMENTS TO ME AND I TOLD HIM TO STAY
3 OUTSIDE. I PAT SEARCHED HIM FOR WEAPONS AND AS I ENTERED THE
4 BUILDING I NOTICED A WHITE MALE LAYING ON HIS BACK ON THE
5 FLOOR IN A POOL OF BLOOD AND THERE WAS A WHITE FEMALE OVER
6 HIM WHICH APPEARED TO BE GIVING HIM C.P.R. THERE WAS ANOTHER
7 WHITE FEMALE BEHIND HER STANDING UP. THERE WAS A BAR IN
8 THERE AND THERE WAS A WHITE MALE STANDING THERE ALSO STANDING
9 UP.

10 Q AND DID THE WHITE MALE THAT WAS STANDING UP MAKE ANY
11 STATEMENTS TO YOU?

12 A AS I WALKED INTO THE BUILDING, YOU UNDERSTAND WE CLEARED
13 THE BUILDING TO MAKE SURE THERE WAS NOT ANY MORE GUNFIRE
14 BEING EXCHANGED. AS I CAME IN THE WHITE MALE STATED TO ME AS
15 I LOOKED AT HIM, I SHOT HIM I'M SORRY PLEASE HELP HIM.

16 Q OK. HAD YOU ASKED HIM ANY QUESTIONS TO THAT POINT?

17 A NONE.

18 Q HAD YOU DONE ANYTHING IN ORDER TO GET HIM TO MAKE THOSE
19 STATEMENTS TO YOU?

20 A NONE.

21 Q ALL RIGHT. DID HE SAY ANYTHING ELSE TO YOU IN REFERENCE
22 TO ANY QUESTIONING BY YOU IN REFERENCE TO THE SHOOTING?

23 A NONE.

24 Q WHAT DID YOU DO AFTER THE WHITE MALE MADE THE STATEMENT
25 TO YOU? WHAT DID YOU DO AFTER THE WHITE MALE MADE THOSE

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 STATEMENTS TO YOU?

2 A ADVISED HIM MIRANDA.

3 Q OK. WHEN YOU ADVISED HIM OF MIRANDA. DO YOU DO THAT
4 FROM MEMORY OR DO YOU DO THAT OFF A CARD?

5 A DO IT BOTH, BUT ON THIS DAY IN QUESTION I USED A CARD.

6 Q LET ME SHOW YOU THIS AND ASK IF YOU RECOGNIZE WHAT IT
7 IS.

8 A MIRANDA CARD.

9 Q OK. IS THIS A BLOWUP OF THE CARD THAT YOU ACTUALLY USED
10 ON THAT DAY?

11 A YES, IT IS.

12 Q OK. AND THAT, IN FACT, WAS MADE THIS MORNING FROM YOUR
13 MIRANDA CARD?

14 A YES, IT IS. I HAVE THE CARD WITH ME.

15 Q OK. AND THAT'S THE CARD YOU USED ON SEPTEMBER 4TH 1992?

16 A THAT'S CORRECT.

17 MR. RIDDLE: YOUR HONOR, I'D LIKE AT THIS POINT TO ENTER
18 THIS.

19 MR. GREGORY: NO OBJECTION.

20 THE COURT: NO OBJECTION. (STATE'S EXHIBIT #2 RECEIVED
21 IN EVIDENCE.)

22 Q SGT. GARNER, WOULD YOU GIVE THE RIGHTS TODAY AS YOU GAVE
23 THEM TO THE WHITE MALE INDIVIDUAL THAT MADE THOSE STATEMENTS
24 ON THAT DAY.

25 A YOU HAVE A RIGHT TO REMAIN SILENT. ANYTHING YOU SAY MAY

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 BE USED AGAINST YOU IN COURT. YOU HAVE A RIGHT TO HAVE A
2 LAWYER OR CONSULT WITH HIM BEFORE AND WHILE ANSWERING ANY
3 QUESTIONS. IF YOU CANNOT AFFORD A LAWYER ONE WILL BE
4 PROVIDED FOR YOU WITHOUT COST. AT THAT POINT I ASKED HIM IF
5 HE UNDERSTOOD HIS RIGHTS AS I EXPLAINED THEM TO HIM. EXACTLY
6 I SAID DO YOU UNDERSTAND YOUR RIGHTS AS I EXPLAINED TO YOU.
7 HE AFFIRMED HE DID. I THEN ASKED ARE YOU WILLING TO TALK
8 WITH US WITHOUT A LAWYER PRESENT. HE SAID HE DID.

9 Q ALL RIGHT. THE ONE NOW THAT YOU'RE REFERRING TO IS HE
10 IN THE COURTROOM HERE TODAY?

11 A YES, HE IS.

12 Q WOULD YOU POINT HIM OUT FOR ME.

13 A HE'S SEATED OVER HERE BETWEEN I ASSUME TWO ATTORNEYS.
14 HE'S IN THE LIGHT GRAY SUIT.

15 MR. RIDDLE: YOUR HONOR, I'D LIKE THE RECORD TO REFLECT
16 THAT THAT IS MR. RUTLAND.

17 Q SGT. GARNER, AFTER YOU READ MR. RUTLAND HIS MIRANDA
18 RIGHTS WHAT DID YOU DO WITH MR. RUTLAND AT THAT TIME?

19 A OTHER UNITS WERE RESPONDING. HE WAS PLACED IN A MARKED
20 PATROL CAR.

21 Q OK. WAS ANY FURTHER QUESTIONING DONE OF MR. RUTLAND AT
22 THAT POINT?

23 A NOT BY ME.

24 Q OK. DO YOU KNOW IF ANY OTHER DEPUTIES QUESTIONED HIM AT
25 THAT PARTICULAR POINT IN TIME?

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 A NOT AT THAT EXACT POINT IN TIME, NO, SIR.

2 Q OK. HE WAS JUST PLACED IN THE CAR BY HIMSELF?

3 A THAT'S CORRECT.

4 Q DOES THAT END YOUR CONTACT WITH THE DEFENDANT IN THIS
5 CASE?

6 A IT DOES FOR ME, SIR.

7 Q ALL RIGHT.

8 MR. RIDDLE: BEG THE COURT'S INDULGENCE FOR ONE MOMENT.

9 Q WERE YOU PRESENT AT THE SCENE STILL WHEN DEPUTY FRIER
10 ARRIVED ON THE SCENE?

11 A YES, I WAS.

12 Q ALL RIGHT. DID YOU ADVISE DEPUTY FRIER OF ANYTHING AT
13 THAT TIME?

14 A YES, SIR. WHEN DETECTIVE FRIER PULLED UP IN HIS
15 UNMARKED VEHICLE I ADVISED HIM THAT THERE HAD BEEN A SHOOTING
16 AND THAT THERE WAS A VICTIM INSIDE THE STORE, A WHITE MALE
17 AND THAT AS I WALKED INTO THE STORE THAT THE SUSPECT MADE
18 SOME SPONTANEOUS STATEMENTS TO ME. AT THAT POINT HE WAS
19 BROUGHT OUTSIDE FROM THE STORE, GIVEN HIS MIRANDA AND HAND
20 CUFFED AND PLACED IN THE VEHICLE, AND THAT I ALSO OBSERVED
21 THE 9 MILLIMETER IN THE STORE, AND IT WAS A SMALL AUTOMATIC,
22 I BELIEVE IT WAS A 25 ON THE FLOOR.

23 Q AND THAT'S WHAT YOU TOLD DETECTIVE FRIER?

24 A RIGHT. AT THAT POINT MY DUTIES TECHNICALLY WERE OVER.
25 IT WAS TURNED OVER TO THE INVESTIGATION DIVISION.

CHRIS GARNER - CROSS BY MR. GREGORY

1 Q AND WAS HE THE ONLY INVESTIGATOR ON THE SCENE AT THAT
2 POINT?

3 A AT THAT PARTICULAR POINT IN TIME HE WAS BUT LT. PHILLIPS
4 CAME A SHORT TIME WHO IS THE SUPERVISOR OR THE DETECTIVE CAME
5 A SHORT TIME LATER.

6 Q THAT'S ALL I HAVE. THANK YOU, SERGEANT.

7 CROSS-EXAMINATION

8 BY MR. GREGORY

9 Q DID YOU LEAVE THE SCENE AT THAT TIME?

10 A AT WHAT TIME, SIR?

11 Q WHEN SCOTTIE FRIER ARRIVED THERE?

12 A NOT EXACTLY AT THAT TIME.

13 Q DID YOU STAY THERE FOR WHAT LENGTH OF TIME AFTER THAT?

14 A ROUGH ESTIMATION, SIR?

15 Q YES, SIR.

16 A I'D SAY JUST ROUGH ESTIMATION TWELVE TO FIFTEEN MINUTES.

17 Q 12 TO 15 MINUTES?

18 A ROUGH.

19 Q AND YOU LEFT IN YOUR PATROL CAR?

20 A YES, SIR.

21 Q ALONE?

22 A NO.

23 Q WHO DID YOU HAVE WITH YOU?

24 A TRAFFIC DEPUTY SMITH.

25 Q WHERE WAS FRED RUTLAND AT THAT TIME?

CHRIS GARNER - CROSS BY MR. GREGORY

1 A IN THE BACK OF A MARKED PATROL CAR WITH ANOTHER DEPUTY
2 THAT HAD A CAGED UNIT.

3 Q DID YOU HAVE ANY FURTHER COMMUNICATION WITH MR. RUTLAND
4 FROM THAT POINT ON?

5 A NO, SIR.

6 Q DO YOU KNOW IF MR. FRIER HAD ANY CONVERSATIONS WITH MR.
7 RUTLAND WHILE YOU WERE THERE?

8 A DO I KNOW?

9 Q YES, SIR.

10 A NO, NOT FOR A FACT I DON'T KNOW.

11 Q NOTHING FURTHER.

12 MR. MCMAHON: THANK YOU, SERGEANT. YOU CAN STEP DOWN.
13 WE CALL DETECTIVE FRIER.

14 DETECTIVE FRIER. BEING DULY SWORN,
15 TESTIFIES AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. MCMAHON

18 Q WOULD YOU INTRODUCE YOURSELF TO THE COURT PLEASE.

19 A MY NAME IS DETECTIVE SCOTT FRIER. I'M A CRIMINAL
20 INVESTIGATOR WITH THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT.

21 Q HOW LONG HAVE YOU BEEN EMPLOYED WITH THE LEXINGTON
22 COUNTY SHERIFF'S DEPARTMENT?

23 A I'VE BEEN WITH THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT
24 FOR ABOUT 7 AND A HALF YEARS.

25 Q HOW LONG HAVE YOU BEEN ASSIGNED TO THE CRIMINAL

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 INVESTIGATION DIVISION?

2 A RIGHT AT FIVE YEARS.

3 Q WERE YOU ON DUTY ON SEPTEMBER THE 4TH OF '92?

4 A YES, SIR, I WAS. I WAS WORKING THE DAY SHIFT.

5 Q DID YOU HAVE AN OCCASION TO RESPOND TO A PARTICULAR
6 LOCATION AND PARTICULAR CALL TO LEXINGTON COUNTY?

7 A YES, SIR, OFFICERS AND DETECTIVES WERE DISPATCHED TO [REDACTED]
8 [REDACTED] [REDACTED], AND WE WERE TOLD THAT IT WAS THE BOW-WOW
9 BOUTIQUE LOCATED AT CEDAR CREST AND TWO NOTCH ROAD IN
10 REFERENCE TO A SHOOTING INCIDENT.

11 Q APPROXIMATELY WHAT TIME WERE YOU DISPATCHED TO THAT
12 LOCATION, DETECTIVE FRIER?

13 A A LITTLE AFTER 1:30, APPROXIMATELY -- AS A MATTER OF
14 FACT APPROXIMATELY 1:40, 1:45.

15 Q IN THE AFTERNOON.

16 A YES, SIR.

17 Q ALL RIGHT. NOW WOULD YOU DESCRIBE THIS VERY GENERALLY,
18 BRIEFLY FOR HIS HONOR THE SCENE AND WHO ALL WAS PRESENT WHEN
19 YOU ARRIVED AT THE SCENE.

20 Q UPON MY ARRIVAL MY LIEUTENANT PHILLIPS WAS ON THE SCENE.
21 I NOTICED HIS UNMARKED CAR WAS THERE. SGT. GARNER MET ME; HE
22 WAS COMING OUTSIDE OF THE BUSINESS LOCATION. POINTED TO A
23 MARKED PATROL CAR. THERE WAS A WHITE GENTLEMAN IN THE PATROL
24 CAR. DEPUTY GARNER -- SGT. GARNER INFORMED ME THAT THAT WAS
25 THE SUSPECT, THAT HE HAD MADE A STATEMENT TO SGT. GARNER,

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 THAT HE HAD SHOT THE GENTLEMAN INSIDE, AND SGT. GARNER
2 INFORMED ME THAT HE HAD MIRANDIZED THIS SUBJECT. I THEN WENT
3 AND SPOKE WITH THE SUBJECT BRIEFLY AND STEPPED BACK INSIDE TO
4 SPEAK WITH LT. PHILLIPS TO INFORM HIM THAT I HAD THE SUSPECT
5 AND WOULD BE TAKING HIM BACK TO THE OFFICE FOR QUESTIONING.

6 Q THE TERM SGT. GARNER USED TO YOU WAS HE HAD MIRANDIZED
7 THIS SUBJECT. WHO WAS THIS SUBJECT?

8 A HE IDENTIFIED FRED RUTLAND. I DIDN'T KNOW HIS NAME AT
9 THE TIME. HE IDENTIFIED THE GENTLEMAN WHO'S SEATED AT THE
10 DEFENDANT'S TABLE. I LATER IDENTIFIED HIM AS FRED RUTLAND.

11 Q NOW THE SHOOTING DID IT OCCUR INSIDE OR OUTSIDE THE BOW-
12 WOV BOUTIQUE?

13 A AT THAT TIME I WASN'T SURE. UPON STEPPING IN TO LOCATE
14 LT. PHILLIPS THEY WERE TREATING A GENTLEMAN ON THE FLOOR IN
15 THE BOUTIQUE, SO FROM THAT I WAS ABLE TO ASSUME THAT IT HAD
16 OCCURRED INSIDE.

17 Q HOW LONG WERE YOU ACTUALLY INSIDE THE BUILDING,
18 DETECTIVE FRIER?

19 A LONG ENOUGH TO FIND MY LIEUTENANT AND INFORM HIM THAT I
20 HAD THE SUSPECT OUTSIDE AND WOULD BE TAKING HIM TO THE OFFICE
21 IN JUST A MATTER OF SECONDS.

22 Q ALL RIGHT. NOW THEN WHAT ACTION DID YOU TAKE WHEN YOU
23 LEFT THE BUILDING?

24 A I WENT BACK OUT, PLACED MR. RUTLAND IN MY PATROL CAR,
25 DROVE HIM TO THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT. HE

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 AND I BOTH ENTERED AN INTERVIEW ROOM WHERE I RECEIVED FURTHER
2 STATEMENT FROM HIM.

3 Q NOW YOUR PATROL CAR WAS THAT A MARKED OR UNMARKED UNIT?

4 A IT'S A UNMARKED UNIT, SIR.

5 Q THERE WAS TESTIMONY ABOUT A CAGED MARKED UNIT, WOULD
6 YOUR VEHICLE BE CAGED IN ANY WAY?

7 A NO, SIR.

8 Q IT'S JUST A NORMAL FULL PASSENGER AUTOMOBILE?

9 A IT'S FULL SIZE PASSENGER AUTOMOBILE; IT'S DARK BLUE IN
10 COLOR, NO CAGE, NO POLICE MARKINGS ON IT.

11 Q WHAT, IF ANYTHING, DID YOU ADVISE MR. RUTLAND OF BEFORE
12 YOU LEFT THE SCENE AT THE BOW-WOW BOUTIQUE?

13 A EVEN THOUGH SGT. GARNER HAD ADVISED HIM OF HIS MIRANDA,
14 I ALSO FROM MEMORY ADVISED HIM OF HIS RIGHTS UNDER THE
15 MIRANDA DECISION.

16 Q AND WHEN YOU SAY FROM MEMORY, EXPLAIN THAT CONCEPT.

17 A OVER THE COURSE OF MY CAREER IN LAW ENFORCEMENT HAVING
18 READ SO MANY DIFFERENT PEOPLE THEIR RIGHTS AND HAVING DONE
19 THE FORM SO MANY TIMES, I JUST HAVE THE SENTENCES FROM
20 MEMORY, AND I QUOTED 'EM TO HIM.

21 Q WHAT DID YOU ADVISE HIM OF NOW AT THE SCENE?

22 A I ADVISED HIM THAT HE HAD THE RIGHT TO REMAIN SILENT,
23 NOT MAKE ANY STATEMENT AT ALL, THAT ANY STATEMENT HE DID MAKE
24 CAN BE USED AGAINST HIM IN COURT, THAT HE HAS A RIGHT TO HAVE
25 AN ATTORNEY PRESENT AT ANY TIME DURING POLICE QUESTIONING,

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 THAT IF HE CANNOT AFFORD AN ATTORNEY THAT HE CAN ASK THAT THE
2 STATE APPOINT ONE TO HIM AT NO COST, AND THAT IF HE BEGINS TO
3 ANSWER QUESTIONS FOR LAW ENFORCEMENT HE HAS THE RIGHT TO STOP
4 AT ANY TIME AND SEEK COUNSEL FOR AN ATTORNEY.

5 Q THAT WAS DONE FROM MEMORY?

6 A YES, SIR.

7 Q ORALLY.

8 A YES, SIR.

9 Q NOT IN WRITING.

10 A NO, SIR, THAT WAS NOT DONE IN WRITING; THAT WAS DONE
11 STILL ON THE SCENE.

12 Q AND WHERE PHYSICALLY WERE YOU AND MR. RUTLAND AT UPON
13 THAT ADVICE?

14 A I BELIEVE AT THAT TIME MR. RUTLAND WAS STILL SEATED IN
15 THE PATROL CAR, IN THE MARKED PATROL CAR.

16 Q FROM THAT POINT WHAT OCCURRED?

17 A AFTER -- AS I SAID, AFTER I HAD GONE IN AND NOTIFIED MY
18 LIEUTENANT OF WHAT MY ACTIONS WERE GOING TO BE, I PLACED MR.
19 RUTLAND IN MY PATROL CAR AND WE PROCEEDED TO LEXINGTON COUNTY
20 SHERIFF'S DEPARTMENT, WENT INTO AN INTERVIEW ROOM.

21 Q DESCRIBE FOR THE JUDGE MR. RUTLAND'S DEMEANOR AND HIS
22 CONDITION WHILE AT THE SCENE.

23 A HE WAS SHAKING. YOU KNOW, HE WASN'T A CALM, NORMAL
24 PERSON WALKING DOWN THE STREET INVOLVED IN ANY EVERYDAY
25 ACTIVITY; HOWEVER, HE WAS VERY COHERENT, SEEMED TO UNDERSTAND

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 WHAT ACTIONS WE WOULD BE TAKING AS FAR AS MY QUESTIONING
2 ABOUT IT TAKING PLACE AND NEEDING TO RECEIVE SOME INFORMATION
3 FROM HIM. HE SEEMED TO UNDERSTAND THE MIRANDA RIGHTS. HE
4 SEEMED TO UNDERSTAND WHAT IMPLICATIONS WERE INVOLVED THERE.

5 Q NOW FROM THE SCENE TO THE LEXINGTON COUNTY SHERIFF'S
6 DEPARTMENT, WHAT DISTANCE ARE WE TALKIN' ABOUT?

7 A YOU'RE TALKIN' ABOUT A MATTER OF TWO AND A HALF MILES.

8 Q AND YOU DROVE HIM DIRECTLY TO THE LEXINGTON COUNTY
9 SHERIFF'S DEPARTMENT?

10 A YES, SIR.

11 Q AND WHAT TYPE OF SETTING DID Y'ALL GO TO?

12 A WE WENT INTO AN INTERVIEW ROOM WHICH OFF OF A HALLWAY IN
13 THE SHERIFF'S DEPARTMENT.

14 Q NOW UPON ARRIVING THERE WHO ALL WAS PRESENT IN THAT
15 INTERVIEW ROOM?

16 A JUST MYSELF AND MR. RUTLAND.

17 Q WHAT, IF ANYTHING, DID YOU ADVISE MR. RUTLAND OF NOW?

18 A AFTER WE GOT SAT DOWN I INFORMED MR. RUTLAND THAT I
19 WOULD NEED TO GET A STATEMENT FROM HIM; I WOULD NEED TO
20 REDUCE THIS STATEMENT TO WRITING. AT THAT POINT IN TIME I
21 AGAIN ADVISED HIM UNDER THE MIRANDA RIGHTS WHICH ARE PRINTED
22 ON A STATEMENT FORM. IT'S COMMON FORM WE USE WHEN WE'RE
23 OBTAINING A WRITTEN STATEMENT FROM A SUSPECT OR A DEFENDANT.
24 AGAIN, ON THIS FORM FOLLOWING AN INFORMATION SEGMENT WHERE
25 YOU HAVE INFORMATION CONCERNING THE IDENTITY OF THE PERSON

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 GIVING THE SUBJECT YOU HAVE THOSE RIGHTS PRINTED IN FIVE
2 SENTENCES AS I SPOKE OF EARLIER.

3 Q NOW THOSE RIGHTS THAT YOU GAVE THIS SECOND TIME---

4 A YES, SIR.

5 Q ---WERE IN WRITING. CORRECT?

6 A YES, SIR, THEY'RE IN WRITING. THEY'RE PRINTED OUT.

7 Q I'M GOING TO SHOW YOU A DOCUMENT AND ASK YOU IF YOU CAN
8 IDENTIFY IT FOR THE COURT, PLEASE.

9 A THAT IS A BLOWN UP COPY OF AN ORIGINAL STATEMENT FORM.
10 I HAVE THE ORIGINAL COPY IN MY POSSESSION BEARING THAT
11 IDENTIFICATION SEGMENT AND THEN THE RIGHT SEGMENT THAT I
12 SPOKE OF.

13 Q NOW THIS TOP INFORMATION UP HERE WHO FILLED THIS OUT,
14 DETECTIVE FRIER?

15 A THAT IS IN MY HANDWRITING FILLED OUT ON THE INFORMATION
16 PROVIDED TO ME BY FRED RUTLAND.

17 Q WHAT DATE AND TIME WAS THIS TAKEN?

18 A IT WAS TAKEN ON SEPTEMBER 4TH 1992, AT THE LEXINGTON
19 COUNTY SHERIFF'S DEPARTMENT. THE TIME STARTED IS 14:05 WHICH
20 IS 2:05 P.M.

21 Q AND WHAT TIME WAS IT THAT YOU HAD RECEIVED A CALL TO GO
22 TO THE LOCATION OF THE SHOOTING?

23 A AT 13:44, APPROXIMATELY 13:40 WHICH WAS ABOUT 25 MINUTES
24 BEFORE THIS STATEMENT WAS BEGINNING.

25 Q WHO PROVIDED YOU WITH THE NAME FRED RANDALL RUTLAND?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A MR. RUTLAND.

2 Q AGE?

3 A HIS AGE WAS PROVIDED TO ME; HIS BIRTH DATE WAS PROVIDED;
4 HIS PLACE OF BIRTH; A HOME ADDRESS ON ORANGEBURG DRIVE IN
5 SUMMERVILLE, SOUTH CAROLINA.

6 Q AND THIS NUMBER HERE.

7 A WAS LISTED AS A HOME PHONE NUMBER PROVIDED BY MR.
8 RUTLAND.

9 Q AND MR. RUTLAND ADEQUATELY AND CORRECTLY ADVISED YOU OF
10 ALL THIS INFORMATION.

11 A YES, SIR, MY FURTHER BACKGROUND CHECK REVEALED THAT ALL
12 THE INFORMATION PROVIDED BY MR. RUTLAND WAS, IN FACT,
13 CORRECT.

14 Q ALL RIGHT, SIR. NOW AS YOU GO DOWN THIS FORM NUMBERS
15 ONE THROUGH FIVE THESE ARE THE VARIOUS RIGHTS. CORRECT?

16 A YES, SIR, AS THEY ARE PRINTED OUT ON THE FORM.

17 Q DID YOU GO OVER EACH AND EVERY ONE OF THOSE RIGHTS?

18 A YES, SIR, THEY'LL BE A CIRCLE LOCATED AT EACH NUMBER. I
19 DO THAT TO SIGNIFY THAT I HAVE PHYSICALLY READ THOSE RIGHTS
20 OUT TO HIM AND ASK HIM DOES HE UNDERSTAND THEM. AT THAT
21 POINT IN TIME IF HE DOES AND INDICATES THAT HE UNDERSTANDS
22 AND AGREES TO SPEAK WITH ME, I'LL HAVE THE DEFENDANT PLACE
23 HIS INITIALS BESIDE EACH ONE OF THE RIGHTS. THERE'LL BE FIVE
24 SETS OF INITIALS THERE, AND IF I FEEL COMFORTABLE AT THAT
25 TIME THAT HE HAS GIVEN ME A VERY KNOWING AND VOLUNTARY WAIVER

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 OF THOSE RIGHTS, YOU'LL SEE MY INITIALS PLACED ON THE FAR
2 SIDE. THEY ARE CUT OFF ON THAT FORM BUT THEY ARE VERY
3 EVIDENT HERE ON THE ORIGINAL.

4 Q THESE INITIALS ARE WHOSE?

5 A THOSE ARE FRED RUTLAND'S. THAT'S THE R AND SOME OF THE
6 F AND H R.

7 Q ON THE ABOVE ON THE ORIGINAL YOU CAN SEE THE ENTIRE---

8 A RIGHT.

9 Q AND WHO PLACED THE INITIALS F.R.R. ON THERE?

10 A THOSE WERE PLACED THERE BY FRED RUTLAND.

11 Q NOW THIS STATEMENT FORM, HOW MANY PAGES WERE INVOLVED IN
12 THE TAKING OF THIS STATEMENT?

13 A THAT STATEMENT INVOLVED THREE PAGES. THE FIRST PAGE
14 THAT HAS THE RIGHTS AND THEN TWO PAGES SUBSEQUENT TO THAT OR
15 THEY'RE JUST LONG FORMS OF A VOLUNTARY STATEMENT.

16 Q AND THIS WOULD BE PAGE TWO OF THAT STATEMENT?

17 A ABOVE OR BELOW IT, YES, SIR.

18 Q AND THIS WOULD BE PAGE THREE OF---

19 A ABOVE OR BELOW IT, YES, SIR.

20 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THE ORIGINAL AND
21 WITH THE THREE BLOW-UPS AT THIS TIME JUST FOR IDENTIFICATION
22 PURPOSES AT THIS TIME.

23 THE COURT: ALL RIGHT.

24 (STATE'S EXHIBITS 4 THROUGH 6 MARKED FOR
25 IDENTIFICATION.)

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q NOW, DETECTIVE FRIER, EXPLAIN TO THE COURT SINCE YOU
2 HAVE ADVISED MR. RUTLAND OF HIS RIGHTS, BUT CONTEMPORANEOUS
3 WITH TAKING THIS WRITTEN STATEMENT, DID YOU PRESERVE MR.
4 RUTLAND'S STATEMENT AND THE RIGHTS YOU GAVE HIM IN ANY OTHER
5 MANNER?

6 A YES, SIR, I ALSO USED A SMALL CASSETTE RECORDER TO TAPE
7 RECORD STATEMENT PROVIDED BY MR. RUTLAND.

8 Q AND DID YOU TAPE THAT CONVERSATION THAT YOU HAD WITH MR.
9 RUTLAND?

10 A YES, SIR, I DID.

11 Q DID YOU TAPE THE CONVERSATION WITH MR. RUTLAND BEFORE OR
12 AFTER THE THREE-PAGE WRITTEN STATEMENT?

13 A I TAPED THE CONVERSATION WITH MR. RUTLAND AFTER WHICH I
14 WENT BACK AND REDUCED WHAT INFORMATION HE HAD GIVEN ME TO A
15 WRITTEN STATEMENT. SO I TAPED THE STATEMENT FIRST, WENT BACK
16 AND THEN REDUCED THAT TO A WRITTEN STATEMENT.

17 Q DID YOU TAPE THE STATEMENT WITH MR. RUTLAND BEFORE OR
18 AFTER YOU HAD ADVISED HIM OF HIS MIRANDA RIGHTS IN WRITING?

19 A WHEN THE TAPE IS -- IN THE TAPE IT'LL NOTE THAT I
20 ADVISED HIM OF HIS RIGHTS WHILE THE TAPE RECORDER IS GOING,
21 AND THERE IS AN ORAL RECOGNITION OF THOSE RIGHTS BY MR.
22 RUTLAND AND THEN A WAIVER OF THOSE RIGHTS BY MR. RUTLAND AND
23 IT IS ON THE TAPE.

24 Q HAD YOU DONE THIS WRITTEN WAIVER OF RIGHTS BEFORE OR
25 AFTER YOU STARTED TAPING THIS THING?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A I MAY HAVE BEEN DOING THAT AT THE SAME TIME. WHAT I'LL
2 GENERALLY DO IS I'LL START THE TAPE RECORDER AND I WILL GO
3 OVER THAT FIRST FORM AND DO THE RIGHTS. THAT WAY I HAVE --
4 AT THE SAME TIME I'M GETTING AN ORAL WAIVER OF THOSE RIGHTS
5 AND THEN I'M GETTING IT REDUCED TO AN INITIAL WAIVER OF THOSE
6 RIGHTS.

7 Q I WANT TO SHOW YOU TWO ITEMS AND ASK IF YOU CAN IDENTIFY
8 THEM FOR THE COURT, PLEASE.

9 A THIS IS A MAXELL CASSETTE TAPE. I'VE GOT MARKED
10 ORIGINAL FRED RUTLAND SEPTEMBER 4TH 1992. IT'S GOT THE
11 NUMBERS 9234421 WHICH ARE A LEXINGTON COUNTY SHERIFF'S
12 DEPARTMENT CASE NUMBER, AND HAS MY NAME DETECTIVE S.R. FRIER.
13 ON THE BACK I HAVE ORIGINAL RUTLAND AND THEN ORIGINAL WRITTEN
14 AGAIN. THIS IS THE TAPE THAT I USED TO RECORD THE
15 CONVERSATION WITH MR. RUTLAND.

16 Q AND THE OTHER DOCUMENT?

17 A THE OTHER DOCUMENT IS A TRANSCRIBED FORM WHERE I HAD A
18 SECRETARY REVIEW THE TAPE AND THEN TRANSCRIBE THE CONTENTS
19 OVER INTO PAPER -- OVER ONTO PAPER.

20 MR. MCMAHON: YOUR HONOR, I WOULD OFFER BOTH OF THESE
21 FOR I.D. PURPOSES.

22 MR. GREGORY: NO OBJECTION.

23 (STATE'S EXHIBITS 7 AND 8 MARKED FOR IDENTIFICATION.)
24

25 MR. MCMAHON: YOUR HONOR, I WOULD MOVE NOW TO PUBLISH

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 THE TAPE TO THE COURT.

2 THE COURT: ALL RIGHT.

3 MR. MCMAHON: AND YOU CAN FOLLOW ALONG WITH THE
4 TRANSCRIPT. THEY BOTH GO TO THE ISSUE OF MIRANDA RIGHTS AND
5 VOLUNTARINESS, AND I'D HAVE SOME QUESTIONS AFTER THE TAPE IS
6 FINISHED. (THE TAPE WAS PLAYED.) PLEASE THE COURT?

7 THE COURT: YES, SIR.

8 Q DETECTIVE FRIER, DID YOU THREATEN MR. RUTLAND IN ANY WAY
9 TO GET HIM TO MAKE A STATEMENT?

10 A NO, SIR, I DID NOT.

11 Q WHAT DID YOU TELL HIM BESIDES HIS RIGHTS AS FAR AS THE
12 GIVING OF THE STATEMENT?

13 THE COURT: DID YOU TELL HIM IT LOOKED LIKE SELF
14 DEFENSE?

15 A NO, SIR, I -- AS I INFORMED MR. MCMAHON, WHEN I WENT
16 INTO THE BUSINESS I WAS NOT IN THE BUSINESS LONG ENOUGH TO
17 MAKE SUMMATION AS TO WHAT HAD HAPPENED. THE GENTLEMAN I HAD
18 BEEN TOLD BY SGT. GARNER THAT THIS GENTLEMAN WAS INVOLVED. I
19 SPOKE WITH HIM BRIEFLY. HE INDICATED THAT YES HE WAS IN FACT
20 THE SUSPECT. I WALKED IN LONG ENOUGH TO INFORM LT. PHILLIPS
21 THAT I HAD THE SUSPECT AND I WOULD BE TAKING HIM BACK TO THE
22 SHERIFF'S DEPARTMENT. I SPOKE WITH NO OTHER WITNESSES, WAS
23 NOT ABLE TO MAKE ANY SUMMATION AT THE SCENE. I WASN'T ABLE
24 TO FORM ANY KIND OF OPINION AT THAT POINT IN TIME WHAT HAD
25 HAPPENED. I SIMPLY KNEW THAT WE HAD TO GET A STATEMENT FROM

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 THE GENTLEMAN WHO CLAIMS HE WAS INVOLVED AND BEGIN AN
2 INVESTIGATION.

3 Q DID YOU HOLD OUT ANY HOPE OF LENIENCY OR LIGHT TREATMENT
4 TO MR. RUTLAND?

5 A NO, SIR, I'M NOT IN A PROPER POSITION TO DO THAT.

6 Q YOU GAVE NO INDUCEMENTS TO HIM WHATSOEVER TO GET THAT
7 STATEMENT.

8 A NO, SIR. THE RIGHTS WERE READ TO HIM AS THEY'RE
9 INITIALED TO AND THEN AS THEY'RE ON THE TAPE. THERE WAS NO
10 THREAT, NO COERCION, NO ANGER OR ANYTHING IN MY VOICE. IT
11 WAS---

12 Q THAT STATEMENT I REFER TO IS STATES FOR IDENTIFICATION
13 NUMBER SEVEN, DOES THAT ADEQUATELY DEPICT MR. RUTLAND'S
14 DEMEANOR DURING THAT PERIOD OF TIME?

15 A YES, SIR, AS I STATED HE HAD JUST BEEN INVOLVED IN A
16 SHOOTING INCIDENT BY HIS OWN ADMISSION. HE WAS SHAKING BUT
17 HE WAS COHERENT OF WHAT WAS GOIN' ON.

18 Q ALERT AND AWARE AND ABLE TO ANSWER YOUR QUESTIONS.

19 A YES, SIR.

20 Q NOW AFTER YOU TOOK THE STATEMENT ON THE TAPE IS WHEN YOU
21 REDUCED TO WRITING. IS THAT CORRECT?

22 A YES, SIR.

23 Q WAS THERE ADDITIONAL INFORMATION INCLUDED IN THE WRITTEN
24 STATEMENT THAT IS NOT IN THE TAPED STATEMENT?

25 A YES, SIR, THERE WAS SOME INFORMATION THAT MR. RUTLAND

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 HAD PROVIDED TO ME. IF COULD GET MY ORIGINAL COPY OF THAT
2 BACK.

3 Q STATE'S I.D. 3?

4 A YES, SIR. THERE WAS SOME INFORMATION HE PROVIDED TO ME
5 THAT HE CLAIMS SALLY HAD INFORMED HIM THAT HER HUSBAND HAD
6 BEATEN HER AND ASKED THAT I INCLUDE THAT IN THE STATEMENT AS
7 I HAVE.

8 Q LET'S GET THAT RELATIONSHIP CORRECT NOW.

9 A YES, SIR.

10 Q THE VICTIM IS WHO?

11 A THE VICTIM IS JIMMY PEELE, LIVES IN PELION, SOUTH
12 CAROLINA.

13 Q AND MR. RUTLAND REFERRED ON THIS TAPE TO SALLY. THAT'S
14 SALLY WHO?

15 A SALLY IS THE LAWFUL WIFE TO JIMMY PEELE.

16 Q THE VICTIM?

17 A YES, SIR. HER NAME IS SALLY PEELE.

18 Q OK. AND WHAT WAS THE RELATIONSHIP BETWEEN MR. RUTLAND
19 AND MS. PEELE?

20 A HE ADMITTED THAT THEY HAD BEEN IN AN EXTRAMARITAL
21 AFFAIR.

22 Q OK. NOW OK, SO HE TOLD YOU THAT AND YOU PUT THAT IN THE
23 STATEMENT.

24 A YES, SIR.

25 Q ALL RIGHT, SIR. AND THERE WAS SOME OTHER INFORMATION

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 ALSO.

2 A YES, SIR. HOW THEY HAD MET WORKING TOGETHER AT THE WAL
3 MART WHICH IS NOT IN THE TAPED STATEMENT. HE BEGAN THE
4 ALLEGATIONS THAT HE HAD MADE THAT SALLY HAD TOLD HIM JIMMY
5 HAD BEATEN HER. THAT IS NOT INCLUDED IN THE TAPE. THAT WAS
6 INFORMATION HE PROVIDED WHILE WE WERE REDUCING THIS TO
7 WRITING.

8 Q SO NOW THOSE THREE PAGES ON THE WRITTEN STATEMENT
9 STATE'S I.D. #3---

10 A YES, SIR.

11 Q WERE THOSE PAGES PRESENTED TO MR. RUTLAND?

12 A YES, SIR, THEY WERE. THERE IS ALSO SOME INFORMATION
13 THAT IS INCLUDED IN THE -- NOT MEANING TO INTERRUPT YOU -- ON
14 THE FINAL PAGE WHERE HE HAD WRITTEN SOME INFORMATION
15 CONCERNING THE PURCHASE OF THE WEAPONS EARLIER. HE MENTIONS
16 THAT THE SHOTGUN AND THE PISTOL WERE BOUGHT. HE MENTIONS
17 THAT SALLY ASKED HIM TO PURCHASE THE PISTOL -- THAT HE ASKED
18 SALLY TO PURCHASE THE PISTOL BECAUSE HE DID NOT HAVE A SOUTH
19 CAROLINA I.D. HE ALSO INFORMED ME THAT IT WAS HIS IDEA TO
20 BUY THE PISTOL BECAUSE HE MADE A STATEMENT TO ME THAT THE
21 SHOTGUN WAS JUST TOO AWKWARD.

22 Q DID HE SIGN EACH AND EVERY ONE OF THOSE PAGES?

23 A YES, SIR, EACH ONE OF THOSE PAGES ON THE BOTTOM THERE'S
24 A LINE IT'S THERE FOR A SIGNATURE OF THE PERSON GIVING A
25 VOLUNTARY STATEMENT. ALSO YOU'LL FIND ON EACH PAGE OF THOSE

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 STATEMENTS AT THE VERY BEGINNING WHERE THERE'S WRITTEN
2 INFORMATION AND AT THE END OF THE PAGE WHERE THERE'S WRITTEN
3 INFORMATION YOU'LL ALSO SEE F. R. R., F. R. R. TOP AND BOTTOM
4 WHICH ARE ALSO INITIALS PROVIDED BY FRED RUTLAND. THESE ARE
5 PLACED THERE SO THAT MR. RUTLAND CAN FEEL CONFIDENT AFTER HE
6 SIGNS THIS FORM THAT NO INFORMATION WILL BE ADDED ABOVE OR
7 BELOW EITHER ONE OF THOSE MARKS IN THE MARGIN INDICATING THAT
8 NO INFORMATION THAT HE PROVIDED WAS PLACED ONTO THE FORM.

9 Q NOW DID YOU CONTINUE TO INVESTIGATE THIS CASE AFTER
10 SEPTEMBER THE 4TH?

11 A YES, SIR, I DID. AFTER SPEAKING -- AFTER GETTING THE
12 INFORMATION FROM MR. RUTLAND AND CONDUCTING OF THE INTERVIEWS
13 I SPOKE WITH LT. PHILLIPS AND INFORMED THAT I WOULD BE THE
14 INVESTIGATING OFFICER ON THE CASE, AND THEN BEGAN TO FOLLOW
15 UP INVESTIGATION INTO THE MATTER.

16 Q DID MR. RUTLAND EVER EXERCISE HIS RIGHT TO REMAIN
17 SILENT?

18 A NO, SIR, HE NEVER INVOKED ANY RIGHTS THAT APPLIED UNDER
19 THE MIRANDA DECISION.

20 Q DID HE EVER REQUEST AN ATTORNEY?

21 A NO, SIR, HE DID NOT.

22 Q DURING THE COURSE OF YOUR INVESTIGATION YOU INDICATE --
23 DID YOU HAVE AN OCCASION TO INTERVIEW BRUCE SHARP?

24 A YES, SIR, I DID. I INTERVIEWED HIM AT HIS HOME IN
25 PELION.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q AS A RESULT OF YOUR INTERVIEW WITH BRUCE SHARP DID YOU
2 HAVE AN OCCASION TO GO BACK TO THE JAIL TO SPEAK WITH THE
3 DEFENDANT MR. RUTLAND?

4 A YES, SIR, I DID.

5 Q WHAT DATE AND TIME?

6 A I SPOKE AGAIN WITH MR. RUTLAND WITHIN THE LEXINGTON
7 COUNTY DETENTION CENTER ON SEPTEMBER 7TH OF 1992 AND THE
8 INTERVIEW BEGAN AT 1:04 P.M.

9 Q ON THE 4TH, 5TH, 6TH OR 7TH DID MR. RUTLAND EVER
10 EXERCISE HIS RIGHT TO REMAIN SILENT?

11 A NO, SIR, AND I HAD NOT RECEIVED ANY COMMUNICATION FROM
12 ANY ATTORNEY IN HIS INTEREST.

13 Q HAD HE REQUESTED AN ATTORNEY IN ANY MANNER?

14 A NO, SIR.

15 Q DID HE INVOKE ANY OF HIS RIGHTS TO YOU THAT YOU'RE AWARE
16 OF?

17 A NO, SIR.

18 Q ALL RIGHT, SIR. NOW WHEN YOU WENT BACK TO HIM ON THE
19 7TH THREE DAYS LATER WHAT, IF ANYTHING, DID YOU ADVISE HIM
20 OF?

21 A AGAIN, USING THE SAME VOLUNTARY STATEMENT FORM OF
22 SUSPECT OR DEFENDANT, I AGAIN GOT HIS INFORMATION FROM HIM
23 CONCERNING HIS FULL NAME, DATE OF BIRTH, HOME ADDRESS.
24 AGAIN, THIS FORM HAS THOSE RIGHTS PRINTED OUT ONE THROUGH
25 FIVE SENTENCES. I WENT OVER THOSE RIGHTS WITH MR. RUTLAND.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 AGAIN YOU'LL NOTICE THE CIRCLE OVER THE RIGHTS OVER THE
2 NUMBER INDICATING THAT I READ IT TO HIM. YOU'LL NOTICE THE
3 INITIALS F.R.R. FIVE TIMES INDICATING THAT MR. RUTLAND
4 INITIALED THOSE RIGHTS IN THAT PAGE AND THEN YOU'LL NOTICE MY
5 INITIALS ON THE FAR SIDE OF THE MARGIN.

6 Q DID HE GIVE YOU A WRITTEN STATEMENT ON THE 7TH OF
7 SEPTEMBER?

8 A YES, HE DID.

9 Q DO YOU HAVE THE ORIGINAL?

10 A YES, SIR, I DO.

11 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THE ORIGINAL OF
12 THAT STATEMENT AS A COURT'S EXHIBITS -- EXCUSE ME FOR I.D.
13 THAT'S A BLOWUP OF THE TWO PHASES OF THAT STAGE. (STATE'S
14 EXHIBITS 9 THROUGH 11 MARKED FOR IDENTIFICATION.)

15 THE COURT: NO OBJECTION.

16 Q FOR PURPOSES OF TIME, DETECTIVE FRIER, RATHER THAN GOING
17 THROUGH EACH AND EVERY RIGHT, YOU USED THE SAME PROCEDURE ON
18 THE TAKING THE WRITTEN STATEMENT AS YOU USED ON THE 4TH?

19 A YES, SIR, I DID.

20 Q AND I BELIEVE YOURS IS THE ORIGINAL IS STATE'S I.D. 9?

21 A YES, SIR.

22 Q AND HE INITIALED EACH AND EVERY ONE OF THOSE RIGHTS.
23 CORRECT?

24 A IN THE FASHION AND MANNER AS ON THE 4TH.

25 Q WHAT, IF ANYTHING DID YOU ADVISE HIM OF IN WRITING ON

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 SEPTEMBER THE 7TH? IF YOU WOULD PUBLISH THAT FOR THE JURY,
2 PLEASE -- FOR THE JUDGE, PLEASE.

3 A I'LL PUBLISH THE STATEMENT AS IS WRITTEN AND THEN SIGNED
4 TO BY FRED RUTLAND. ON FRIDAY MORNING I WENT WITH SALLY TO
5 HER HOUSE. ROBIN DROVE US OVER THERE. JIMMY WAS HOME WHEN
6 WE GOT THERE. SALLY WENT INTO THE HOUSE BY HERSELF. SALLY
7 TOOK THE PISTOL WE HAD BOUGHT AT THE PAWN SHOP. SALLY COMES
8 OUT OF THE BACK DOOR A LITTLE WHILE LATER SORT OF DRAGGING
9 JIMMY. WHEN SHE COMES OUT SHE AND JIMMY WERE YELLING AT EACH
10 OTHER. I CAME FROM THE VAN WITH THE SHOTGUN. I WENT ABOUT
11 HALF WAY TO THE TRAILER. I POINTED THE GUN AT JIMMY AS HE
12 WAS COMING OUT OF THE TRAILER. I TOLD JIMMY THAT I TOLD HIM
13 THAT I WAS GOING TO BE THERE TO HELP HER. JIMMY DID NOT HAVE
14 A GUN THAT I SAW. SALLY WAS STANDING BETWEEN ME AND JIMMY.
15 SHE STILL HAD THE PISTOL. JIMMY KEPT ASKING SALLY TO GO INTO
16 THE TRAILER AND TALK WITH HIM. I TOLD SALLY THAT SHE WAS NOT
17 GOING BACK INTO THAT TRAILER WITH HIM. I SHOT THE SHOTGUN
18 OFF ONCE WHEN I THOUGHT JIMMY WAS COMING TOWARDS ME. THIS
19 TOOK PLACE BEFORE I HAD CONVERSATION WITH JIMMY WHEN HE FIRST
20 CAME OUT OF THE DOOR. THIS HAPPENED BEFORE JIMMY TRIED TO
21 GET SALLY TO GO BACK INTO THE TRAILER. SALLY NEVER DID GET
22 ANY CLOTHES OR BELONGINGS. I STOOD IN THE DRIVEWAY WITH THE
23 SHOTGUN WHILE SALLY GOT INTO THE VAN. I THEN GOT INTO THE
24 BACK OF THE VAN AND WE LEFT. I AM NOT SURE ABOUT THE EXACT
25 TIME FRAME WHEN I SHOT THE GUN OFF. IT MAY HAVE BEEN THE

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 FIRST OR SECOND TIME THAT HE CAME OUT OF THE TRAILER. WHEN
2 WE HAD ARRIVED WE DID NOT KNOW IF JIMMY WAS HOME. WE THOUGHT
3 HE WAS NOT AT HOME. IF SALLY HAD THOUGHT HE WAS HOME SHE
4 WOULD NOT HAVE GONE INSIDE.

5 Q HE SIGNED BOTH OF THOSE PAGES?

6 A YES, SIR, IN A MANNER CONSISTENT WITH THE WAY HE HAD ONT
7 THE 4TH.

8 Q AGAIN, INITIALLING AND BLOCKING IN THE SUBSTANCE---

9 A BLOCKING IN THE SUBSTANCE TO MAKE SURE THAT NO OTHER
10 INFORMATION IS WRITTEN IN.

11 Q DID YOU PROMISE HIM ANYTHING TO GET THAT STATEMENT?

12 A NO, SIR.

13 Q DID YOU THREATEN HIM IN ANY MANNER?

14 A NO, SIR.

15 Q HOPE OF REWARD OR LENIENCY?

16 A NO, SIR.

17 Q NOW DID HE TELL YOU CERTAIN OTHER INFORMATION ON
18 SEPTEMBER 7TH AT THE TIME YOU TOOK THAT WRITTEN STATEMENT?

19 A YES, I ALSO QUESTIONED HIM ABOUT ANY PRIOR ACTIVITIES OR
20 PLANS THAT HE AND SALLY HAD MADE, AND DURING THIS TIME THAT
21 THE INTERVIEW BEGAN, THIS IS ALL WHILE WE WERE UNDER THE
22 MIRANDA RIGHTS THAT HE HAD WAIVED. I ASKED HIM IF HE AND
23 SALLY EVER DISCUSSED KILLING JIMMY, AND HE MADE A STATEMENT
24 TO ME THAT HE HAD TOLD SALLY ONE TIME BEFORE THAT HE WOULD
25 ~~TAKE CARE OF JIMMY OR HAVE HIM TAKEN CARE OF FOR HER. I~~

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A YES, SIR.

2 Q WERE THEY RED AND SWOLLEN?

3 A NOT TO THE POINT THAT IT REALLY STRIKES BACK IN MY
4 MEMORY, NO, SIR.

5 Q DID HE CRY IN YOUR PRESENCE ON THE WAY TO THE JAIL OR
6 AFTER YOU GOT TO THE JAIL?

7 A HE DID CRY SOME DURING THE INTERVIEW IN THE JAIL; I
8 DON'T RECALL HIM CRYING IN ROUTE TO THE JAIL OR INTO THE
9 INTERVIEW ROOM. WE WENT THERE FIRST.

10 Q ALL RIGHT. DID YOU HAVE CONVERSATION WITH HIM FROM THE
11 SCENE TO THE JAIL?

12 A I'M SURE WE SPOKE, YES, SIR.

13 Q NOTHING CONCERNING THE CRIME?

14 A WE WOULDN'T HAVE GONE INTO IT AT GREAT LENGTH. I
15 INFORMED HIM THAT WHERE WE WERE GOING WAS TO THE SHERIFF'S
16 OFFICE BUT WITH THE INTENTION OF SITTING DOWN IN AN INTERVIEW
17 ROOM AND GETTING A WRITTEN STATEMENT.

18 Q IS THAT WHAT HAPPENED? YOU WENT DIRECTLY FROM THERE TO
19 THE INTERVIEW ROOM?

20 A YES, SIR.

21 Q AND I THINK YOU SAID YOU GOT TO THE INTERVIEW ROOM AT
22 14:05 WHICH WAS FIVE AFTER TWO?

23 A THAT IS THE TIME THAT I HAVE STARTED WRITING ON THE
24 FRONT OF THAT STATEMENT. AS I'M FILLING THAT STATEMENT OUT
25 AND GETTING HIS INFORMATION, I'VE GOT WRITTEN ON THERE 14:05

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 SO THAT WOULD'VE BEEN THE TIME THAT WE WALKED INTO THE
2 INTERVIEW ROOM AND GOT SAT DOWN WITH THIS FORM AND I STARTED
3 ASKING THE QUESTIONS ON THE IDENTIFICATION SEGMENT OF IT.

4 Q ALL RIGHT, SIR. I'M CONFUSED HERE A LITTLE BIT BECAUSE
5 THAT TIME THAT YOU HAVE WRITTEN ON THAT STATEMENT, THE FIRST
6 STATEMENT, THE 3-PAGE STATEMENT.

7 A UH-HUH.

8 Q IT'S TWO MINUTES -- IT'S 5 MINUTES AFTER 2.

9 A YES, SIR.

10 Q YET THE TAPED STATEMENT THAT WE HEARD PLAYED HERE IN THE
11 COURTROOM JUST A FEW MINUTES AGO STARTS AT 2:30.

12 A RIGHT. I DID NOT HAVE THE TAPE RECORDER AT THAT TIME
13 AND I MAY HAVE SPOKE BRIEFLY WITH HIM ABOUT SOME OF THE
14 FACTS. THE INTERVIEW ROOM IS SEPARATED FROM THE AREA WHERE
15 THE DETECTIVES' WORK STATIONS ARE AND I WOULD'VE HAD TO HAVE
16 GONE INTO MY WORK AREA, GET THE TAPE RECORDER; I WOULD'VE HAD
17 TO HAVE GOTTEN ACCESS TO THE SUPERVISOR'S OFFICE. MY OTHER
18 SUPERVISOR WHO HAS THE SUPPLY CLOSET AT HIS OFFICE WAS ALSO
19 AT THE SCENE WITH LT. PHILLIPS. I HAD TO FIND A RANKING
20 OFFICER WHO HAD A KEY TO GET ME IN THERE TO GET IN THAT
21 CLOSET TO GET AN UNUSED CASSETTE TAPE. SO THERE WOULD --
22 THERE WOULD'VE BEEN SOME DISPARITY IN THE TIME FRAME OF WHEN
23 I SAT DOWN, GOT THIS INFORMATION AND GOT HIS RIGHTS, INFORMED
24 HIM THAT I'M GOING TO GET A TAPE RECORDER, GOING TO MY WORK
25 AREA. TRY TO FIND SOMEBODY TO GET ME INTO THAT OFFICE TO GET

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A CLEAN CASSETTE TAPE AND THEN GET BACK IN THERE AND GET
2 STARTED; EXPLAIN TO HIM WHAT WE'RE GOING TO DO AND THEN
3 GETTING STARTED WITH THE TAPE.

4 Q ALL RIGHT, SIR, BUT DIDN'T YOU SAY EARLIER THAT YOU HAD
5 TAKEN A STATEMENT FROM HIM AS SOON AS HE CAME IN AND SAT
6 DOWN. NOW YOU'VE GOT 25 MINUTES THERE THAT YOU, I
7 UNDERSTOOD, SAID THAT YOU TOOK A STATEMENT FROM HIM DURING.

8 A I DON'T RECALL SAYING THAT. AGAIN, THERE ARE SOME
9 THINGS I HAVE TO TAKE CARE OF FIRST OFF. I NEED TO GET HIS
10 IDENTIFICATION INFORMATION WHICH HE PROVIDED TO ME, AND THEN
11 I WANTED TO GO OVER WITH THE RIGHTS AND MAKE SURE I'VE GOT IT
12 REDUCED DOWN TO HIS INITIALLING THOSE WAIVERS; NOT JUST THE
13 ORAL WAIVER, AND THEN FROM THERE I INFORMED HIM THAT I NEEDED
14 TO GET A TAPE RECORDER AND GET A TAPE, AND IT TOOK ME A FEW
15 MINUTES TO GET THOSE ROUNDED UP.

16 Q WELL, I UNDERSTAND YOU DID ALL THAT, BUT ALSO, WHEN HE
17 SAT DOWN AT 5 MINUTES AFTER 2, DIDN'T YOU JUST SAY THAT YOU
18 WENT INTO TALKING TO HIM ABOUT WHAT HAPPENED AT THE SCENE
19 AFTER YOU GAVE HIM HIS MIRANDA WARNINGS?

20 A WE HAVE -- WE MAY HAVE SPOKE BRIEFLY ABOUT SOME FACTS.
21 I DON'T REMEMBER. LOOKING AT THAT AND THEN THE TIME FRAME
22 YOU TALKIN' ABOUT WHEN THE TAPE STARTS, I DON'T SEE WHERE WE
23 COULD'VE HAD ANY AMOUNT OF CONVERSATION.

24 Q WELL, LET ME LOOK AT THE EXHIBIT HERE THAT'S BEEN MARKED
25 FOR IDENTIFICATION, THIS 3-PAGE STATEMENT---

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A UH-HUH.

2 Q AND LOOK AT THE FIRST PAGE HERE---

3 A YES, SIR.

4 Q ---HAS A DATE ON IT.

5 A YES, SIR.

6 Q IT'S ALSO GOT A TIME, AND IT SAYS 14:05 TIME STARTED.

7 A YES, SIR.

8 Q ARE YOU SAYING NOW THAT WHEN YOU STARTED WRITING THIS
9 STATEMENT IT WAS REALLY 2:30 AND NOT 14:05? IS THAT WHAT
10 YOU'RE TELLING ME?

11 A IT WOULD'VE BEEN -- WELL, IT WOULD'VE BEEN AFTER WE
12 COMPLETED THE TAPE AT -- THAT STATEMENT WAS REDUCED DOWN TO
13 WRITING AFTER 2:41 P.M. WHAT I'M DOING, MR. GREGORY, AS I'M
14 FILLING OUT THAT INFORMATION SEGMENT, I'M JUST GOING BLANK --
15 FILLING IN EACH BLANK. AT THE TIME WE SAT DOWN AND I FIRST
16 STARTED DOING THAT INFORMATION SEGMENT IT WOULD'VE BEEN
17 14:05.

18 Q ALL RIGHT, SIR. SO YOU ACTUALLY SAT DOWN AND STARTED
19 TAKING THE STATEMENT AT 5 MINUTES AFTER 2.

20 A UH-HUH.

21 Q WHICH IS 14:05.

22 A ACTUALLY STARTED GETTING HIS INFORMATION AND ADVISING
23 HIM OF HIS RIGHTS UNDER MIRANDA ON THE PAPER.

24 Q BUT ARE YOU TRYING TO TELL ME THAT YOU JUST WROTE THE
25 FIRST LITTLE PART AT 14:05 AND THEN YOU DIDN'T WRITE THE

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 OTHER PART FOR ANOTHER 30 OR 40 MINUTES?

2 A THAT'S CORRECT, BECAUSE BEFORE I STARTED DOING THE
3 INTERVIEW ON THE TAPE I WANTED TO HAVE HIS INITIALED WAIVER
4 OF RIGHTS IN MY POSSESSION SO I WOULDN'T---

5 Q ALL RIGHT. DURIN' THAT -- DURIN' THAT 25-MINUTE PERIOD
6 BEFORE YOU TURNED THE TAPE ON AT 2:30, DIDN'T YOU HAVE
7 CONVERSATION WITH MR. RUTLAND?

8 A I MAY HAVE HAD SOME CONVERSATION. I MAY HAVE ASKED HIM
9 IF HE CARED FOR SOMETHING TO DRINK. I MAY HAVE ASKED HIM,
10 YOU KNOW, WERE THERE THINGS WE NEEDED TO DO.

11 Q ALL RIGHT, SIR. WASN'T IT DURING THAT PERIOD OF TIME
12 THAT YOU STILL HAD HAND CUFFS ON HIM?

13 A I TOOK THE HAND CUFFS OFF HIM IN THE INTERVIEW ROOM. I
14 DON'T REMEMBER EXACTLY AT WHAT STAGE I TOOK THEM OFF.

15 Q WHEN DID HE CIRCLE THESE FOUR OR YOU CIRCLED THE FOUR
16 NUMBERS OUT HERE AND HE PUT INITIALS, WHEN DID -- WHEN DID
17 ALL THAT OCCUR? WHAT---

18 A AFTER I HAD TAKEN THE HAND CUFFS OFF OF HIM.

19 Q YOU DID TAKE THE HAND CUFFS OFF OF HIM TO PUT HIS
20 INITIALS OUT HERE?

21 A OBVIOUSLY, BECAUSE HE WAS CUFFED BEHIND HIS BACK. HIS
22 HANDS WERE CUFFED BEHIND HIS BACK SO THEY WOULD'VE BEEN
23 RELEASED TO HAVE DONE THAT.

24 Q NOW WAS THAT DONE RIGHT AT 14:05 OR DONE AT 2:30, 25
25 MINUTES LATER?

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A WHAT WAS DONE? WHEN HE SIGNED---

2 Q TAKIN' THE HAND CUFFS OFF OF HIM SO HE COULD INITIAL
3 THOSE---

4 A THAT WOULD'VE BEEN DONE VERY SHORTLY AFTER 14:05
5 BECAUSE, AS I STATED, I GO OVER THE INFORMATION SEGMENT; THEN
6 I GO OVER THE RIGHTS; HAVE THEM INITIAL THEM; PUT MY INITIALS
7 BY 'EM, AND THEN INFORM HIM THAT I NEED TO GET A TAPE
8 RECORDER. MY MAIN OBJECTION (SIC) IS TO MAKE SURE I HAVE THE
9 PROPER IDENTIFICATION ON HIM AND MAKIN' SURE AS I CONTINUE
10 I'VE STILL GOT A VALID WAIVER OF THOSE RIGHTS AND I NOW GOT
11 IT REDUCED DOWN TO A WRITTEN INITIAL FORM.

12 Q ALL RIGHT. I'M -- I'M TRYIN' TO GET NOW TO SOME
13 CONVERSATION THAT YOU HAD WITH MR. RUTLAND. DURING THIS
14 PERIOD OF TIME WHAT WAS HIS DEMEANOR? WAS HE CRYIN' DURING
15 THIS PERIOD OF TIME?

16 A I DON'T THINK HE STARTED CRYIN' AT THAT POINT. I DON'T
17 BELIEVE HE STARTED CRYING UNTIL WE WERE IN THE TAPED
18 STATEMENT AND I BELIEVE YOU'LL HEAR ON THE TAPE THERE'S SOME
19 CRYING.

20 Q DIDN'T YOU TELL HIM DURING THIS PERIOD OF TIME
21 IMMEDIATELY AFTER YOU BROUGHT HIM INTO THE JAIL THAT YOU
22 THOUGHT THAT HE HAD AN EVIDENT CASE OF SELF DEFENSE?

23 A NO, SIR. I COULDN'T MAKE A STATEMENT LIKE THAT. I HAD
24 NO INFORMATION AT THIS POINT IN TIME WHAT HAD TAKEN PLACE
25 THERE.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 Q YOU SPECIFICALLY DENY THAT YOU MADE EITHER ONE OF THOSE
2 STATEMENTS?

3 A YES, SIR.

4 Q WASN'T MR. RUTLAND CRYING THE WHOLE TIME THAT YOU WERE
5 WITH HIM, SIR?

6 A NO, SIR, HE WAS NOT. AS A MATTER OF FACT, YOU CAN HEAR
7 AT ONE POINT IN TIME DURING THE TAPE, HE LAUGHS WHEN HE GETS
8 THE NAME MIXED UP WITH ROBIN HUNT. HE CALLS HER ROBIN HOOD.
9 NO, SIR, HE WASN'T CRYIN' THE WHOLE TIME. YOU CAN HEAR
10 DURING THE TAPE THAT HE'S NOT CRYING THE WHOLE TIME.

11 Q WASN'T THE REASON THAT YOU DIDN'T TURN THE TAPE ON UNTIL
12 2:30 WAS BECAUSE HE WAS SO EMOTIONALLY UPSET THAT YOU HAD TO
13 WAIT?

14 A NO, SIR, MR. GREGORY, I'VE EXPLAINED TO YOU THE ACTIONS
15 I TOOK BETWEEN 14:05 AND 14:30.

16 Q ALL RIGHT, SIR. THANK YOU. SUBSEQUENTLY YOU WENT BACK
17 TO SEE HIM ON THE SEVENTH THREE OR FOUR DAYS LATER AT THE
18 JAIL.

19 A YES, SIR.

20 Q AND ASKED TO GO THROUGH THE SAME ROUTINE ABOUT GIVING A
21 STATEMENT GOING DOWN THE LIST OF CERTAIN THINGS AND
22 INITIALLING THE STATEMENT THAT YOU HAD. THAT'S THE SAME
23 FORMAT THAT YOU USED IN THE PREVIOUS STATEMENTS.

24 A YES, SIR, IT IS.

25 Q YOU WROTE THOSE STATEMENTS, DIDN'T YOU?

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A YES, SIR, I ALWAYS DO.

2 Q ALL THAT'S YOUR HANDWRITING.

3 A YES, SIR, IT IS AS IS ALWAYS.

4 Q DID YOU HAND HIM THE STATEMENT AFTER YOU FINISHED
5 WRITING IT AND ADVISE HIM TO ADD ANY ADDITIONAL LANGUAGE THAT
6 HE WANTED TO PUT IN THE STATEMENT?

7 A NO, SIR, WHAT I -- WHAT IS COMMON PRACTICE WITH ME IS I
8 WILL READ THE STATEMENT AS WE HAVE IT WRITTEN; HAND IT TO
9 HIM; ASK HIM TO READ IT. IF HE IS COMFORTABLE WITH THE FACTS
10 THAT ARE IN THE STATEMENT TO PLEASE SIGN IT. HIS SIGNATURE
11 IS AFFIXED ON BOTH STATEMENTS.

12 Q I UNDERSTAND BUT YOU DIDN'T WRITE DOWN VERBATIM WHAT HE
13 SAID, DID YOU?

14 A NO, SIR, OF COURSE I CAN'T.

15 Q DID YOU GIVE HIM THE OPPORTUNITY TO MAKE ANY CHANGES IN
16 THE STATEMENT?

17 A YES, SIR, I ALWAYS DO. THOSE INITIALS---

18 Q DID YOU GIVE HIM A PEN AND THE STATEMENT?

19 A I DON'T REMEMBER IF I SPECIFICALLY HANDED A PEN. OF
20 COURSE THERE'S A PEN THERE. I'M USING IT TO WRITE WITH.

21 Q ALL RIGHT, SIR, IF YOU DIDN'T HAND HIM A PEN, HOW CAN HE
22 MAKE ANY CHANGES IN THE STATEMENT?

23 A HE DIDN'T REQUEST---

24 Q ---GAVE HIM A STATEMENT AND NO PEN.

25 A HE DIDN'T REQUEST TO MAKE ANY CHANGES.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 Q BUT YOU ADVISED HIM THAT HE COULD?

2 A YES, SIR. I ASKED HIM WAS HE COMFORTABLE WITH THE FACTS
3 AS WE HAD THEM WRITTEN UP.

4 Q AND THEN DIDN'T YOU HAND HIM A PEN AND SAY IF YOU SO
5 DESIRE HERE IS A PEN FOR YOU TO MAKE SOME CHANGES?

6 A I DON'T THINK I SPECIFICALLY WENT THAT FAR, NO, SIR.

7 Q DID MR. RUTLAND EVER ASK YOU FOR A CIGARETTE DURING THE
8 PERIOD OF TIME THAT HE WAS MEETING WITH YOU TALKING ABOUT
9 THESE STATEMENTS AND SO FORTH?

10 A HE MAY HAVE. I CAN'T REMEMBER. IF I DO RECALL
11 CORRECTLY THOUGH AT THAT TIME THERE WAS A COMPLETE NO-SMOKING
12 POLICY INSIDE THE BUILDING AT THE SHERIFF'S OFFICE. SO IF HE
13 HAD ASKED ME FOR A CIGARETTE THERE IS NO WAY HE COULD'VE HAD
14 ONE IN THAT INTERVIEW ROOM. IT'S NOT DEFYING (SIC) MR.
15 RUTLAND OF ANYTHING. IT'S JUST A -- IT'S A RULE.

16 Q DID YOU ADVISE HIM OF THAT RULE, THAT THERE'S A NO-
17 SMOKING POLICY?

18 A I'M SURE IF I TOLD HIM HE COULDN'T HAVE ONE I WOULD'VE
19 TOLD HIM WHY.

20 Q WHEN YOU WENT OVER TO THE JAIL, DETECTIVE FRIER, TO TALK
21 TO MR. RUTLAND ON THE 7TH OF SEPTEMBER, WHERE DID Y'ALL HAVE
22 THAT CONVERSATION?

23 A IT'S IN A SMALL BLOCK -- BLOCKED ROOM WITHIN THE
24 DETENTION CENTER. IT'S JUST AN INTERVIEW ROOM. IT'S A SMALL
25 TABLE THERE AND A COUPLE OF CHAIRS.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 Q DIFFERENT ROOM FROM THAN YOU GOT THE PREVIOUS STATEMENT?

2 A YES, SIR.

3 Q WHEN HE WALKED IN DO YOU RECALL THE FIRST THING THAT YOU
4 TOLD HIM?

5 A NO, SIR, I DON'T.

6 Q DIDN'T YOU TELL HIM THAT SALLY PEELE HAD SET HIM UP TO
7 KILL HER HUSBAND WHEN HE WALKED IN THAT ROOM?

8 A I DON'T THINK I MADE A STATEMENT LIKE THAT.

9 Q YOU DENY THAT YOU SAID THAT?

10 A I DON'T RECALL MAKING A STATEMENT LIKE THAT.

11 Q WHAT WAS HIS REACTION WHEN YOU FIRST SAW HIM AND HE CAME
12 IN AND YOU HAD A CONVERSATION WITH HIM?

13 A HE AND I HAD NOT HAD ANY PROBLEMS BETWEEN -- ANY
14 PERSONAL PROBLEMS BETWEEN ONE ANOTHER. WE SPOKE OPENLY AND
15 EVENLY WITH EACH OTHER.

16 Q DIDN'T THAT IRRITATE HIM TO HEAR A STATEMENT OF THAT
17 NATURE, AND DIDN'T HE JUMP UP AND PUSH THE CHAIR BACK?

18 A THE ONLY TIME MR. RUTLAND BECAME IRRITATED WITH ME WAS
19 WHEN I TOLD HIM WE WERE GOING TO NEED TO AFFIX THE PART WHERE
20 HE HAD SPOKE ABOUT HAVING JIMMY TAKEN CARE OF EARLIER AND
21 SPEAKING WITH THAT CO-WORKER. THAT'S THE ONLY TIME DURING
22 ANY CONVERSATION WITH MR. RUTLAND HE EVER BECAME OFFENDED
23 WITH ME.

24 Q WHEN WAS THAT CONVERSATION THAT YOU'RE TALKIN' ABOUT,
25 JUST THEN THAT YOU WERE DISCUSSING? WHEN DID THAT OCCUR?

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A AFTER WE HAD GOTTEN THE INFORMATION ON THE SECOND
2 STATEMENT.

3 Q ALL AT THE SAME TIME?

4 A IT WAS BEFORE -- IT WAS BEFORE I HAD HIM SIGN AND
5 INITIAL THIS FORM BECAUSE I INSTRUCTED HIM WE WERE GONNA NEED
6 TO PUT THAT IN THERE.

7 Q WASN'T THAT BEFORE YOU EVEN SAT DOWN AND WROTE OUT THIS
8 STATEMENT AND HAD HIM SIGN IT WHICH IS DATED SEPTEMBER 7,
9 '92?

10 A NO, SIR. WE HAD GOTTEN THIS STATEMENT WRITTEN OUT AND
11 CONTINUED ON CONVERSATION BEFORE IT HAD BEEN SIGNED.

12 Q WHY WASN'T THERE ANY TAPE RUN DURING THAT CONVERSATION
13 WITH MR. RUTLAND?

14 A I JUST USED THE TAPE ON THE FIRST INCIDENT. THE BLOCK
15 BUILDING -- NOT THE BLOCK BUILDING, BUT THE BLOCK ROOM THAT
16 SITS WITH INSIDE THE DETENTION CENTER THAT AT THE TIME WE
17 USED AS AN INTERVIEW ROOM, THE ACOUSTICS IN THAT ROOM ARE
18 VERY POOR. IT'S JUST A BLOCK BUILDING. THE ECHO AND THE
19 SOUND IN THAT ROOM IS SO POOR A TAPE RECORDER IT'S ALMOST
20 IMPOSSIBLE FOR THE SECRETARIES TO DICTATE (SIC) FROM THAT. I
21 MEAN I JUST DID IT IN WRITING.

22 Q DETECTIVE FRIER, THIS IS A RIGHT SERIOUS CASE. ISN'T
23 IT?

24 A YES, SIR, IT IS.

25 Q AND DOESN'T THE SHERIFF'S DEPARTMENT HAVE OTHER AREAS

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 THAT YOU COULD'VE TAKEN MR. RUTLAND? I MEAN HE HAD ALL THE
2 TIME IN THE WORLD YOU HAD HIM IN THE JAIL OVER THERE.
3 COULDN'T YOU HAVE TAKEN HIM WHERE YOU GOT THE FIRST STATEMENT
4 FROM HIM?

5 A WE'RE NOT ALLOWED TO REMOVE INMATES FROM THAT DETENTION
6 FACILITY TO TAKE THEM BACK OVER TO THE SHERIFF'S OFFICE.
7 THAT'S WHY THERE IS AN INTERVIEW ROOM PROVIDED IN THE
8 BUILDING. WE ARE NOT ALLOWED TO TAKE THEM FROM THAT
9 DETENTION FACILITY BACK INTO THE SHERIFF'S OFFICE.

10 Q WELL, WHO WON'T ALLOW YOU TO DO THAT? AREN'T YOU PART
11 OF THE SHERIFF'S OFFICE?

12 A YES, SIR, BUT I DON'T -- I DON'T MAKE THE RULES AND
13 REGULATIONS THERE, SIR.

14 Q BUT IF YOU WANT TO TAKE A TAPED STATEMENT OF A SUSPECT
15 IN A CASE---

16 A IF YOU WOULD LIKE TO SPEAK TO RANKING OFFICERS THERE IN
17 CHARGE OF THE DETENTION FACILITY THEY CAN PROBABLY EXPLAIN
18 THAT TO YOU. AS AN EMPLOYEE OF THE SHERIFF'S DEPARTMENT I'M
19 INSTRUCTED THAT I'M NOT TO REMOVE ANYONE FROM THAT DETENTION
20 FACILITY. THERE IS AN INTERVIEW ROOM PROVIDED ME -- FOR ME
21 WITHIN THAT BUILDING. THAT'S WHAT WE USE.

22 Q IN YOUR CONVERSATION WITH MR. RUTLAND THERE AT THAT TIME
23 HOW LONG WERE YOU AND HE IN THAT ROOM TOGETHER?

24 A PROBABLY 30 TO 45 MINUTES. I DON'T HAVE AN ENDING TIME.

25 I DON'T HAVE AN ENDING TIME WRITTEN DOWN.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 Q THE STARTING TIME IS WHAT'S PRINTED ON THE STATEMENT
2 13:04?

3 A YES, SIR, THAT'S WHAT TIME I WOULD'VE SAT BACK DOWN AND
4 STARTED WITH THE INFORMATION SEGMENT AND THE MIRANDA SEGMENT
5 AGAIN.

6 Q WHEN DURING THAT THIRTY OR 40-MINUTE PERIOD OF TIME DID
7 IT OCCUR THAT MR. RUTLAND GOT UPSET AND STOOD UP WHERE HE
8 WAS?

9 A I DIDN'T STOP AND CHECK MY WATCH AT THAT TIME, MR.
10 GREGORY.

11 Q WELL, DON'T YOU RECALL? WAS IT THE FIRST THING HE
12 HAPPENED WHEN HE WALKED IN THE ROOM---

13 A NO, SIR.

14 Q ---AND YOU GAVE HIM THAT NEWS?

15 A IT WAS TOWARD THE END OF THE SEGMENT; TOWARD THE END OF
16 THE INTERVIEW.

17 Q HALF WAY THROUGH?

18 A TOWARDS THE END, SIR.

19 Q HOW MUCH TIME ELAPSED FROM THAT INCIDENT UNTIL THE TIME
20 YOU WALKED OUT OF THE ROOM?

21 A 5 OR 10 MINUTES.

22 Q 5 OR 10 MINUTES?

23 A LONG ENOUGH FOR ME TO CLOSE OUT THIS STATEMENT AND HAVE
24 HIM SIGN WHAT WAS WRITTEN DOWN.

25 Q IS THIS THE CHAIN OF EVENTS AT THAT SEPARATE INTERVIEW

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 SESSION OVER THERE AT THE JAIL IN THE ROOM WHERE YOU CAN'T
2 RUN A TAPE RECORDER, FOR LACK OF A BETTER DESCRIPTION, YOU
3 HAD FINISHED THE INITIAL INTERVIEW WITH HIM AND HE WAS ABOUT
4 TO LEAVE AND HE COULDN'T LEAVE BECAUSE THEY WERE BRINGING A
5 DOG BY, AND SO WHILE HE WAS STILL THERE IN YOUR PRESENCE
6 THAT'S WHEN YOU ADVISED HIM THAT SALLY HAD SET HIM UP. DOES
7 THAT JOG YOUR MEMORY A LITTLE BIT?

8 A A MINUTE AGO YOU SAID I TOLD HIM THAT WHEN HE WALKED IN
9 THE DOOR. THERE WOULD'VE BEEN NO DOG IN THE DETENTION
10 FACILITY. THERE WOULD'VE BEEN NO REASON FOR HIM NOT TO BE
11 ABLE TO WALK OUT THAT DOOR.

12 Q I'M JUST TRYIN' TO TIE DOWN WHEN IT HAPPENED.

13 A AS I STATED---

14 Q I'M TRYIN' TO JOG YOUR MEMORY.

15 A THAT MEMORY -- THAT INTERVIEW STARTED AT 13:04.

16 Q ALL RIGHT.

17 A I'M NOT EXACTLY SURE WHAT TIME IT ENDED. TOWARD THE END
18 OF THE INTERVIEW IS WHEN THAT STATEMENT WAS MADE.

19 Q AND YOU DON'T RECALL A DOG BEING WALKED BY AND THE FACT
20 THAT HE COULDN'T LEAVE AT THAT TIME?

21 A THERE WOULD'VE BEEN NO REASON FOR A DOG TO BE WITHIN THE
22 DETENTION FACILITY. IF THERE WAS ONE IT WASN'T TO MY
23 KNOWLEDGE. I DON'T RECALL MR. RUTLAND SAYIN' I CAN'T LEAVE
24 THERE'S A DOG. I CERTAINLY DIDN'T TELL HIM THAT.

25 Q DID YOU AND HE LEAVE OUT OF THE SAME DOOR?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YES, SIR, I BELIEVE WE DID BECAUSE I HAVE TO TAKE HIM
2 BACK IN BY THE BOOKING DESK FOR THEM TO SEE TO LET HIM GO
3 BACK TO THE ELEVATOR SO WE WOULD -- YES, SIR, WE WOULD'VE
4 GONE THROUGH THE SAME DOOR.

5 Q OK. THANK YOU, SIR.

6 MR. MCMAHON: NO FURTHER QUESTIONS.

7 MR. RIDDLE: JUDGE, THAT'S ALL WE HAVE TO OFFER ON THIS
8 ISSUE.

9 MR. GREGORY: YOUR HONOR, WE'D LIKE TO CALL THE
10 DEFENDANT TO OFFER TESTIMONY.

11 THE COURT: YES, SIR.

12 FRED RANDALL RUTLAND, BEING DULY SWORN,

13 TESTIFIES AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. GREGORY

16 Q YOUR FULL NAME IS FRED RANDALL RUTLAND?

17 A YES, SIR.

18 Q AND YOU LIVE IN SUMMERVILLE, SOUTH CAROLINA?

19 A YES, SIR.

20 Q DO YOU RECALL THE EVENTS OF SEPTEMBER 4, 1992?

21 A YES, I DO.

22 Q LOOKING TOWARDS THE TIME OF DAY ABOUT 1:30 IN THE
23 AFTERNOON, DO YOU RECALL THE POLICE OFFICERS, THE DETECTIVES
24 FROM THE SHERIFF'S DIVISION COMING TO THE BOW-WOW BOUTIQUE
25 AFTER THE SHOOTING?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YES.

2 Q AND DO YOU RECALL BEING HAND CUFFED AT THAT TIME?

3 A YES, SIR.

4 Q DO YOU RECALL MAKING A STATEMENT TO A SHERIFF'S DEPUTY
5 BY THE NAME OF GARDNER (SIC) THE FIRST MAN ON THE SCENE?

6 A I DON'T KNOW WHO HE WAS. I KNEW IT WAS AN OFFICER.

7 Q DO YOU RECALL WHAT YOU TOLD HIM THE FIRST STATEMENT THAT
8 YOU MADE TO ANY OFFICER OF THE LAW FOLLOWING THE SHOOTING?

9 A I SAID -- I SAID THAT I SHOT HIM, THERE'S NO ONE ARMED;
10 NO ONE IS GONNA GIVE YOU ANY PROBLEM; PLEASE HELP HIM.

11 Q HOW SOON AFTER YOU MADE THAT STATEMENT WERE YOU
12 ARRESTED?

13 A I WAS MAKING -- I KNEW THEY WERE COMING IN. I WAS
14 STANDING UP FROM BEING DOWN WORKING WITH JIMMY WHEN THEY --
15 WHEN THEY CAME IN AND I WAS ARRESTED IMMEDIATELY. I MEAN I
16 WAS CUFFED IMMEDIATELY.

17 Q YOU WERE CUFFED IMMEDIATELY. WERE YOU EVER ADVISED THAT
18 YOU WERE ARRESTED OR THAT YOU WERE UNDER ARREST?

19 A NO, NOT THAT I'M AWARE OF.

20 Q DO YOU RECALL WHERE YOU WERE TAKEN FROM THE TIME THAT
21 YOU WERE CUFFED?

22 A JUST MOMENTS I WAS PUT INTO I THINK A CRUISER WITH A
23 CAGE. I DON'T KNOW IF IT WAS MARKED OR NOT BUT IT HAD A
24 CAGE.

25 Q YOU WERE IN THE BACK SEAT?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YEAH. YES, SIR.

2 Q DID ANYBODY TALK TO YOU WHILE YOU WERE IN THE BACK SEAT
3 OF THAT CRUISER?

4 A I THINK SCOTTIE CAME OVER AND -- MR. FRIER AND SAID
5 SOMETHING. I THINK HE DID. I'M NOT SURE. SOMEBODY OPENED
6 THE DOOR AND HAD SOMETHING TO SAY.

7 Q DID YOU GET INTO ANY SERIOUS CONVERSATION WITH ANYBODY
8 ABOUT THE SHOOTING FROM THAT POINT UNTIL YOU GOT TO THE JAIL?

9 A YEAH, SCOTTIE WAS QUESTIONIN' ME ALL THE WAY IN AND WE
10 WERE TALKIN' ABOUT IT ALL THE WAY DOWN.

11 Q NOW HE MOVED YOU OUTTA THAT PATROL CAR INTO HIS CAR?

12 A YES, SIR.

13 Q YOU RECALL THAT HAPPENING?

14 A YES, SIR.

15 Q WHAT WAS YOUR---

16 A I MOVED FROM ONE CAR INTO ANOTHER CAR AND THEN INTO
17 SCOTTIE'S CAR.

18 Q ALL RIGHT. SO YOU WERE IN THREE DIFFERENT PATROL CARS--

19 -

20 A I THINK SO.

21 Q ---AT THE SCENE.

22 A I'M PRETTY SURE.

23 Q AFTER YOU GOT INTO DETECTIVE FRIER'S CAR AND HEADED TO
24 THE JAIL, YOU HAD CONVERSATION WITH HIM?

25 A YES, SIR.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q WHAT DO YOU RECALL HIM SAYING, SIR, DURING THAT PERIOD
2 OF TIME?

3 A HE ASKED ME WHAT HAPPENED. I TOLD HIM THAT JIMMY CAME
4 IN WITH THAT GUN AND TRIED TO SHOOT US, AND I STOPPED HIM,
5 AND I TRIED TO FIND AN EXIT BUT I COULDN'T; THERE WASN'T
6 NOWHERE TO GO TO. HE SAYS WELL SOUNDS LIKE YOU DID THE ONLY
7 THING YOU COULD DO. WE NEED TO GO AHEAD AND GET THIS -- IT
8 SOUNDS LIKE SELF DEFENSE TO ME. WE NEED TO GO AHEAD AND GET
9 THESE STATEMENTS DOWN WHILE IT'S FRESH ON YOUR MIND.

10 Q DID HE EVER REPEAT THOSE STATEMENTS TO YOU?

11 A I HEARD IT TWICE, YES.

12 Q WHEN WAS THE SECOND TIME?

13 A I THINK WE WERE EITHER PULLING INTO THE STATION OR WE
14 WERE ALREADY INSIDE. I'M NOT SURE WHICH.

15 Q WERE YOU DISCUSSING OR TALKING WITH HIM ABOUT THE
16 SITUATION THE WHOLE TIME?

17 A MORE OR LESS. IT WAS, YOU KNOW, IT WAS A COUPLE BRIEF
18 MOMENTS THERE WASN'T BEIN' ANYTHING BEIN' SAID.

19 Q HOW LONG DO YOU RECALL THE TRIP TAKING?

20 A SEEMED LIKE A LONG TIME. I DON'T KNOW.

21 Q WHEN YOU GOT---

22 A IT SEEMED LIKE FIFTEEN OR TWENTY MINUTES, BUT I'M NOT
23 SURE.

24 Q HOW LONG DO YOU RECALL SITTING IN THE THREE PATROL
25 VEHICLES?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A IT WAS JUST IN ONE, INTO ANOTHER ONE AND THEN INTO
2 SCOTTIE'S. IT WAS JUST A MATTER OF A FEW MINUTES THERE; NOT
3 LONG AT ALL.

4 Q I'M GOING TO SHOW YOU A THREE-PAGE STATEMENT WHICH HAS
5 BEEN MARKED AS AN EXHIBIT FOR IDENTIFICATION, AND IT'S THE
6 ONE THAT'S DATED FOUR-SEPTEMBER-92, AND IT'S NUMBER 4,
7 STATE'S #4 FOR I.D. IT STATES HERE THAT TIME STARTED THE
8 14:05 WHICH WOULD'VE BEEN FIVE MINUTES AFTER TWO IN THE
9 AFTERNOON. DO YOU RECALL THAT BEING THE TIME THAT YOU
10 ARRIVED AT THE JAIL?

11 A I DIDN'T KNOW WHAT TIME I GOT THERE. I DIDN'T KNOW
12 ANYTHING ABOUT WHAT TIME IT WAS.

13 Q DO YOU RECALL GIVING ALL THIS INFORMATION IN THE FIRST
14 PARAGRAPH OF PAGE ONE?

15 A YES. I DON'T -- WELL, I GUESS I DID.

16 Q WHO WERE YOU TALKING TO AT THAT TIME?

17 A SCOTTIE.

18 Q DETECTIVE FRIER?

19 A EXCUSE ME. YES, MR. FRIER.

20 Q AND DO YOU RECALL PUTTING YOUR INITIALS OUT BY THESE
21 FIVE NUMBERS THAT HE HAD CIRCLED?

22 A I RECALL INITIALLING IT EVERYWHERE HE PUT HIS FINGER FOR
23 ME TO INITIAL.

24 Q HOW DID THAT---

25 A I KNEW IT WAS MY RIGHTS BUT I JUST SHOT 'EM IN AND I

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WASN'T CARIN'. -- I DIDN'T CARE ABOUT MY RIGHTS. I WAS
2 WORRIED ABOUT HIS, HIS WELL BEIN' 'CAUSE THAT'S WHAT WAS ON
3 ME.

4 Q ALL RIGHT. WHAT WAS YOUR EMOTIONAL STATE AT THIS TIME?

5 A I WAS COMPLETELY TREMBLIN'. I WASN'T JUST SHAKING; I
6 WAS JERKING. I COULDN'T -- I COULDN'T CONTROL MY TEARS OR MY
7 GASPIN' FOR BREATH. I COULDN'T CONTROL ANY OF THAT.

8 Q DID YOU HAVE HAND CUFFS ON AT THIS TIME?

9 A WHEN I SIGNED THIS?

10 Q WHEN YOU INITIALED THE NUMBERS UP HERE.

11 A I'M NOT SURE. I BELIEVE THEY TOOK THE HAND CUFFS FROM
12 MY BACK AND PUT 'EM IN THE FRONT. I'M NOT SURE WHETHER I HAD
13 'EM ON AT THAT TIME OR NOT.

14 Q DID YOU HAVE CONVERSATION WITH DETECTIVE FRIER BETWEEN
15 THE HOUR OF 14:05 WHEN IT'S PRINTED HERE AND THIS STATEMENT
16 STARTED AND THE TIME THAT HE TURNED THE TAPE RECORDER ON AT
17 2:30?

18 A TO ME THAT WAS AN ENTIRELY DIFFERENT INTERVIEW. IT WAS
19 AFTER WE HAD FINISHED THIS, THEN WHOEVER WAS LOOKING FOR THE
20 TAPES FOUND THEM 'CAUSE I HAD A FEW MINUTES AFTER GIVING
21 THESE STATEMENTS AND THEY CAME IN WITH THIS TAPE RECORDER.

22 Q IN OTHER WORDS, YOU'RE SAYING THAT HE TOOK THIS ENTIRE
23 STATEMENT BETWEEN 14:05 AND 14:30---

24 A WHENEVER IT WAS HE FOUND THE TAPES.

25 Q --- TAPE RECORDER?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YES.

2 Q AND TOOK ANOTHER STATEMENT?

3 A YES.

4 Q DO YOU RECALL SIGNING THIS STATEMENT AND YOUR SIGNATURE
5 APPEARED ON THE BOTTOM OF ALL THREE PAGES. THIS IS STATE'S
6 EXHIBIT 4 FOR IDENTIFICATION.

7 A I RECALL INITIALLING WHERE HE PUT HIS FINGER AND SIGNING
8 WHERE HE TOLD ME TO ON PAPERS. APPARENTLY THAT IS THE
9 PAPERS.

10 Q AND ALL THAT WAS DONE PRIOR TO TURNING THE TAPE RECORDER
11 ON AT 2:30?

12 A YES, IT WAS.

13 Q DURING THAT APPROXIMATE 25 MINUTES, DID DETECTIVE FRIER
14 TELL YOU ANYTHING THAT MADE YOU FEEL COMFORTABLE, SAFE OR
15 SECURE?

16 A I KNOW THAT WHEN HE TOLD ME THIS IT DEFINITELY LOOKED
17 LIKE SELF DEFENSE TO HIM THAT WE NEEDED TO GO AHEAD AND GET
18 THIS OVER WITH, I FELT COMFORT IN GETTIN' IT OVER WITH; I
19 FELT COMFORT IN THE FACT THAT OK HE JUST NEEDS TO KNOW WHAT I
20 CAN TELL HIM AND HE'LL LEAVE ME ALONE.

21 Q DID HE GO OUT AND LOOK FOR THE TAPE RECORDER OR WAS
22 SOMEBODY ELSE LOOKIN' FOR IT?

23 A HE HAD THE SAME DETECTIVE THAT TOOK ME FROM HIS OFFICE
24 TO THE JAIL LOOKING FOR IT AND SOME LADY THAT WAS IN THE
25 OFFICE. I KNOW THEY WAS LOOKIN' FOR IT. I DON'T KNOW

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WHETHER HE DID OR NOT. I DON'T KNOW.

2 Q ALL RIGHT---

3 A I KNOW IF HE DID IT WAS JUST FOR A MOMENT 'CAUSE HE WAS
4 IN THERE WITH ME RIGHT TILL THE END.

5 Q AFTER YOU FINISHED TELLING THE 10-MINUTE STATEMENT ON
6 TAPE, WHERE DID YOU GO?

7 A I GUESS THEY PUT ME IN JAIL. I DON'T KNOW.

8 Q WELL, DIDN'T YOU STICK AROUND FOR THEM TO TYPE THAT
9 STATEMENT UP OR WRITE IT OUT?

10 A NO, SIR.

11 Q AFTER YOU GOT THROUGH TALKIN' ON TAPE DID YOU
12 IMMEDIATELY LEAVE THAT ROOM?

13 A THAT'S WHEN THEY CAME IN AND TOLD ME THAT JIMMY HAD
14 DIED. IT WAS -- I THINK IT WAS LIKE 3 O'CLOCK. I'M NOT
15 SURE.

16 Q ALL RIGHT. AND DID YOU SIGN ANY ADDITIONAL DOCUMENTS
17 AFTER YOU GAVE THE STATEMENT ON THE TAPE BEFORE YOU LEFT?

18 A NOT THAT I'M AWARE OF.

19 Q ALL RIGHT.

20 A IF HE TOLD ME TO I DID. IF HE TOLD ME TO I SIGNED IT
21 BUT I'M NOT AWARE OF IT.

22 Q DO YOU RECALL SIGNING ANY MORE THAN JUST THIS ONE
23 STATEMENT ON THAT DAY THIS, BEING THE STATE'S EXHIBIT 4 FOR
24 IDENTIFICATION THE 3-PAGE STATEMENT?

25 A I CAN'T REMEMBER SIGNING ANYTHING ELSE. I DON'T KNOW.

FRED RUTLAND - DIRECT BY MR. GREGORY

1

2

Q COULD YOU HAVE SIGNED ANOTHER STATEMENT?

3

A LIKE I SAID, IF MR. FRIER TOLD ME TO, I -- I WOULD HAVE.

4

5

Q NOW I HAND YOU ANOTHER STATEMENT WHICH IS DATED 3 DAYS
LATER SEPTEMBER 7, '92 WHICH IS THE STATE'S #10 EXHIBIT FOR

6

IDENTIFICATION, AND IT'S A 2-PAGE STATEMENT. DO YOU RECALL

7

WHEN MR. FRIER CAME TO SEE YOU IN THE JAIL AND TALKED TO YOU

8

ABOUT THIS STATEMENT?

9

A YES, SIR.

10

Q WAS IT ABOUT 1 O'CLOCK IN THE AFTERNOON?

11

A YOU CAN'T TELL TIME IN THERE AT ALL.

12

Q ALL RIGHT. HAD YOU ALREADY HAD LUNCH THAT DAY?

13

A I DON'T RECALL.

14

Q WELL, WHEN HE CAME OVER WHAT DID HE SAY TO YOU WHEN HE
CAME IN?

15

16

A WHY DIDN'T YOU TELL ME WHAT HAPPENED OVER AT JIMMY'S
FRIDAY. WHAT ARE YOU TRYING TO HIDE. SOMETHING IN THAT
ORDER.

17

18

Q AND HOW DID THAT MAKE YOU FEEL?

19

A LIKE I'D MADE A MISTAKE BY TALKIN' TO HIM.

20

Q WELL, DID YOU GO AHEAD AND GIVE HIM THIS STATEMENT?

21

A I GUESS I DID.

22

Q DID HE WRITE THESE STATEMENTS OUT IN HIS OWN
HANDWRITING?

23

24

A YES.

25

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q DID HE GIVE YOU A CHANCE TO LOOK AT THESE STATEMENTS
2 BEFORE YOU SIGNED THEM AND MAKE ANY CHANGES IN THE
3 STATEMENTS?

4 A I BELIEVE HE ASKED ME IF I AGREED WITH THEM, IF SO
5 PLEASE SIGN HERE.

6 Q WELL, DID HE GIVE YOU A PEN AND ASK YOU IF YOU COULD---

7 A WHEN HE TOLD ME TO SIGN HERE AND INITIAL HERE, YES, HE
8 GAVE ME THE PEN.

9 Q ALL RIGHT. DID HE ADVISE YOU THAT WHILE YOU WERE
10 SIGNING WITH A PEN THAT YOU COULD MAKE ANY CHANGES IN THE
11 STATEMENT?

12 A I'M NOT SURE. I'M NOT SURE WHEN HE TOLD ME THAT.

13 Q WELL, WHAT WERE YOU THINKING YOU HAD A RIGHT TO DO WHEN
14 HE GAVE YOU THE PEN AND YOU HAD THE STATEMENT?

15 A TO SIGN IT AND INITIAL IT WHERE HE TOLD ME TO, AND HE
16 SAID IF THERE ARE ANY CHANGES INITIAL THEM ALSO.

17 Q ALL RIGHT, SIR, DID HE ADVISE YOU THAT YOU HAD THE RIGHT
18 TO MAKE CHANGES?

19 A MAYBE -- MAYBE. POSSIBLY. I WAS -- I WAS STILL VERY
20 UPSET.

21 Q DO YOU RECALL ON SEPTEMBER 4TH, NOW I'M GOIN' BACK TO
22 THE 4TH, THE DAY OF THE EVENT WHEN YOU WERE ACTUALLY ADVISED
23 THAT YOU WERE ARRESTED?

24 A I DON'T KNOW THAT I WAS EVER TOLD THAT I WAS ARRESTED.

25 I KNOW THAT SCOTTIE SAYS I'M SORRY BUT I'M GONNA HAVE TO LOCK

FRED RUTLAND - DIRECT BY MR. GREGORY

1 YOU UP BECAUSE THAT'S THE PROCEDURE WHEN ANYONE LOSES THEIR
2 LIFE THERE HAS TO BE A HEARING. I'M SORRY BUT IT'S THE
3 HOLIDAY WEEKEND AND YOU'RE NOT GONNA BE ABLE TO GET OUT TILL
4 TUESDAY.

5 Q DID YOU THINK YOU WERE GOING TO BE ABLE TO GET OUT ON
6 TUESDAY?

7 A ACCORDIN' TO EVERYTHING THAT HE WAS INDICATIN', YES. I
8 DIDN'T -- I DIDN'T EVEN REALIZE I WAS UNDER ARREST. I JUST
9 THOUGHT I WAS BEIN' HELD.

10 Q ALL RIGHT. BACK ON THE 7TH AFTER THE 2-PAGE STATEMENT
11 WAS REDUCED TO WRITING AND YOU SIGNED IT, WERE YOU THEN ABOUT
12 READY TO LEAVE THE INTERVIEW ROOM?

13 A YES, SIR, WE WERE MORE OR LESS CHATTIN'.

14 Q AND WHAT WERE YOU CHATTING ABOUT?

15 A WE WERE JUST WAITING ON THE GERMAN SHEPHERD. THEY HAD A
16 RUCKUS IN ONE OF THE CELLS AND THEY HAD A VERY LARGE GERMAN
17 SHEPHERD COMIN' DOWN THE HALL, AND AS I WAS STEPPIN' OUT THEY
18 TOLD ME TO CLOSE THE DOOR, DO NOT COME OUT. SOME OFFICER, I
19 DON'T KNOW WHO IT WAS.

20 Q AND HOW LONG DID YOU HAVE TO STAY IN THERE WHILE THEY
21 WERE GETTING THE DOG OUT?

22 A POSSIBLY 10 OR 15 MINUTES.

23 Q WHAT HAPPENED WHILE YOU WERE IN THERE DURING THAT PERIOD
24 OF TIME?

25 A MR. FRIER COCKS BACK IN HIS DESK AS I'M SITTING THERE --

FRED RUTLAND - DIRECT BY MR. GREGORY

1 NOT IN THE DESK BUT IN HIS CHAIR, SAYS WELL FRED I BELIEVE
2 SALLY YOU UP TO KILL HER HUSBAND, AND THAT WAS WHEN I GOT
3 UPSET BECAUSE I KNEW THAT WASN'T -- WASN'T THE TRUTH.

4 Q WHAT DID YOU DO AT THAT TIME?

5 A I STOOD UP AND MADE THE STATEMENT THAT HE MADE 2 PAGES
6 OUT OF THAT I WOULD NOT SIGN.

7 Q AND WHAT DID YOU TELL HIM?

8 A MY STATEMENT WAS SCOTTIE IF THAT'S ALL SHE WANTED THERE
9 WAS A MAN ON THE JOB OFFERED THAT JUST A FEW MONTHS AGO. IF
10 THAT'S ALL SHE WANTED SHE DIDN'T NEED ME.

11 Q AND IS THAT ALL YOU TOLD MR. FRIER?

12 A AT THAT TIME HE ASKED ME WELL DID YOU TALK TO HER ABOUT
13 THAT. MY STATEMENT WAS SHE WAS IN THE CONVERSATION; SHE WAS
14 THERE AT THE TIME. IT WAS JUST A GUY ON THE JOB SAID THAT.

15 Q SO YOU SIMPLY JUST TOLD HIM ABOUT A CONVERSATION THAT
16 YOU HAD OVERHEARD?

17 A MORE OR LESS. THE ONLY REASON THE MAN MADE THAT
18 STATEMENT BECAUSE JIMMY WAS IN A MOTEL ACROSS FROM THE JOB
19 WAITING ON SALLY TO MAKE A MISTAKE OR WHATEVER. HE WAITED
20 FOR HER. I DON'T KNOW. HE WAS OVER THERE. AND SHE'S---

21 Q THIS IS THE JOB THAT YOU AND SALLY WERE WORKING ON AT
22 THE SAME TIME?

23 A CONSTRUCTION JOB AT WAL MART, YES.

24 Q THAT WAS REMODELING THE WAL MART STORE?

25 A YES, SIR.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q WHERE? CHARLESTON?

2 A IN SUMMERVILLE.

3 Q AND WHAT WAS SALLY IN RELATIONSHIP TO YOU ON THAT JOB?

4 A SHE WAS MORE OR LESS MY LEAD CARPENTER OR ONE OF MY
5 CARPENTERS. I WAS THE CARPENTER FOREMAN.

6 Q AND THIS CONVERSATION THAT YOU OVERHEARD BETWEEN HER AND
7 ANOTHER CO-WORKER, WAS IT ON THE JOB?

8 A YES, SIR, IN FRONT OF THE BUILDING.

9 Q DID YOU DISCUSS WITH MR. FRIER WHY HE DIDN'T WRITE IT UP
10 THE WAY THAT YOU TOLD HIM?

11 A THERE WAS NO -- THERE WAS NOTHIN' I -- AS SOON AS THAT
12 WAS SAID HE STARTED CHANGIN' IT AROUND. OH YOU DISCUSSED
13 THAT WITH HER AND STARTED MAKIN' UP HIS OWN WORDS, AND
14 GRABBED HIS PEN AND STARTED TO WRITE DOWN IN HIS OWN -- YOU
15 KNOW, JUST THE WAY HE DID EVERYTHING ELSE, IN HIS OWN WORDS,
16 AND I WAS NOT WILLING TO SIGN SUCH A STATEMENT AS HE WAS
17 STARTIN' TO WRITE.

18 Q ALL RIGHT. LET'S GO BACK TO THESE STATEMENTS. THE
19 FIRST ONE IS A 3-PAGE STATEMENT OF SEPTEMBER 4, '92 WHICH IS
20 STATE'S EXHIBIT 4 FOR IDENTIFICATION. DOES THIS STATEMENT
21 HERE CONSISTING OF 3 PAGES THAT YOU SIGNED HERE DATED
22 SEPTEMBER 4TH '92 INCLUDE EVERYTHING THAT YOU TOLD DETECTIVE
23 FRIER WHEN YOU WERE SUPPLYING HIM WITH INFORMATION FOR THAT
24 STATEMENT?

25 A I'M NOT SURE. I'D HAVE TO COMPLETELY READ IT. I STILL

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WOULD'N'T BE SURE. I DON'T KNOW WHAT I TOLD HIM AT THAT TIME.

2 Q WHY IS THAT -- MR. RUTLAND, WHY IS IT THAT YOU DIDN'T
3 KNOW WHAT YOU WERE TELLING HIM AT THAT TIME?

4 A I WAS TOO EMOTIONALLY UPSET TO EVEN UNDERSTAND THE
5 SERIOUSNESS OF ANYTHING OTHER THAN I'D JUST SHOT JIMMY AND I
6 KNEW I'D DONE IT BUT AS FAR AS, YOU KNOW, IT BEIN' MURDER AND
7 ALL THAT KINDA STUFF, I DIDN'T KNOW IT. I WAS HURTIN'. I
8 KNOW THERE'S DIFFERENCES IN HERE FROM WHAT I KNOW I TOLD HIM
9 AND WHAT IS ACTUALLY HERE, BUT WHETHER IT'S ALL HERE THAT I
10 TOLD HIM OR NOT I DON'T KNOW.

11 Q THREE DAYS LATER YOU MADE ANOTHER STATEMENT AND THAT IS
12 SEPTEMBER 7. I HAND YOU THAT ONE AND ASK YOU BASICALLY THE
13 SAME QUESTION: DOES THAT STATEMENT DEPICT EVERYTHING THAT
14 YOU TOLD DETECTIVE FRIER WHEN YOU WERE PROVIDING HIM WITH THE
15 INFORMATION FOR THAT STATEMENT?

16 A NO, IT DOESN'T.

17 Q WHAT ARE THE DIFFERENCES? WHAT'S THE PROBLEM WITH THE
18 STATEMENT?

19 A IT SAYS I SHOT THE SHOTGUN OFF ONCE WHEN I THOUGHT JIMMY
20 WAS COMIN' TOWARDS ME. WELL, HE WAS RUNNING AFTER SALLY AND
21 I KNOW I SAID THAT.

22 Q THAT'S NOT IN THERE?

23 A NO, IT SAYS HE WAS COMIN' AT ME, TOWARDS ME. HE WAS
24 COMIN' TOWARDS ME BUT SALLY WAS TOO.

25 Q DID YOU SHOOT THE GUN IN THE AIR?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YES, SIR, I DID. NOT AT THAT TIME THOUGH, YOUR HONOR.
2 I SHOT THE GUN IN THE AIR BEFORE HE CAME CHASIN' OUT. I SHOT
3 THE GUN BEFORE HE CAME RUNNING OUT. HE COME RUNNING OUT
4 AFTER THE GUN WAS SHOT -- WAS SHOT.

5 Q WAS THE GUN FIRED IN HIS DIRECTION?

6 A NOT AT ALL.

7 Q DID YOU TELL DETECTIVE FRIER IN WHICH DIRECTION YOU
8 FIRED THE GUN?

9 A I'M SURE I DID. I DO NOT SEE IT HERE, BUT I KNOW I TOLD
10 HIM I SHOT IT UP IN THE AIR, STRAIGHT UP.

11 Q HOW MANY TIMES DID YOU FIRE THE GUN?

12 A HOW MANY?

13 Q HOW MANY TIMES?

14 A JUST ONCE.

15 Q MR. RUTLAND, WHEN YOU WERE TALKING AND THE TAPE WAS
16 GOING WHICH WAS BETWEEN 2:30 AND 2:40 ON THE 4TH OF SEPTEMBER
17 AND THAT TRANSCRIBED STATEMENT WAS BEING RECORDED, CAN YOU
18 RECALL WHAT YOUR EMOTIONAL STATE WAS AT THAT TIME, SIR?

19 A I WAS -- I WAS STILL VERY UPSET. YOU KNOW, I WAS VERY
20 UPSET. IT DIDN'T JUST STOP. I WAS STILL COMPLETELY JERKING
21 AND CRYING AND---

22 Q WHEN DID YOU ACTUALLY GET CALMED DOWN?

23 A TO WHAT POINT?

24 Q THAT YOU WEREN'T EMOTIONALLY UPSET CRYING AND JERKING?

25 A I REMEMBER ON THE 7TH THE FIRST THING I ASKED SCOTTIE

FRED RUTLAND - CROSS BY MR. RIDDLE

1 BEFORE WE WENT INTO THE INTERROGATION ROOM WAS SCOTTIE DO YOU
2 KNOW IF I'LL EVER QUIT SHAKING LIKE THIS BECAUSE IT WAS JUST
3 ABOUT AS BAD THAT MORNING AS IT WAS TO START WITH. I
4 COULDN'T EVEN HOLD A CUP OF COFFEE OR ANYTHING. IT WAS
5 IMPOSSIBLE.

6 Q DO YOU REMEMBER WHEN ALL THAT CALMED DOWN?

7 A IT WAS LATER. IT WAS MAYBE -- MAYBE A WEEK. I DON'T
8 KNOW. IT WAS LATER. IT WAS AFTER I WAS OUTTA JAIL AND
9 EVERYTHING.

10 Q ALL RIGHT, SIR. THANK YOU VERY MUCH.

11 CROSS-EXAMINATION

12 BY MR. RIDDLE

13 Q MR. RUTLAND, I JUST WANT TO SEE IF I CAN GET A FEW
14 THINGS STRAIGHT WITH YOU. YOU REMEMBER THE FIRST OFFICER WHO
15 TESTIFIED MR. GARNER---

16 A YES.

17 Q ---THE BIG FELLOW. DO YOU REMEMBER SEEING HIM AT THE
18 BOW-WOW BOUTIQUE RIGHT AFTER THE SHOOTING, A FEW MINUTES
19 LATER?

20 A NO, I DON'T.

21 Q YOU DON'T REMEMBER MR. GARNER APPROACHING YOU AND
22 PLACING YOU IN HAND CUFFS?

23 A I REMEMBER TWO OFFICERS COMING IN THE DOOR. MR. GARNER
24 OR MR. SMITH. I DON'T KNOW WHO IT WAS.

25 Q TWO OFFICERS CAME TO THE DOOR AND YOU TOLD THEM AT THAT

FRED RUTLAND - CROSS BY MR. RIDDLE

1 TIME THAT YOU HAD SHOT HIM, THAT YOU HAD PUT THE GUN DOWN AND
2 YOU WEREN'T GONNA GIVE THEM ANY PROBLEMS.

3 A RIGHT.

4 Q AND TO HELP HIM.

5 A PLEASE.

6 Q OK.

7 A PLEASE HELP HIM.

8 Q AND THAT WAS NOT IN RESPONSE TO ANY QUESTIONING THAT
9 THEY HAD DONE.

10 A I DON'T KNOW IF THEY'D SAID ANYTHING WHEN THEY CAME IN
11 OR NOT. I DON'T KNOW.

12 Q BUT YOU JUST BASICALLY VOLUNTEERED THAT INFORMATION: I
13 SHOT HIM; THERE'S NO GUNS; THEY'RE DOWN THERE ON THE GROUND;
14 HELP HIM.

15 A YES.

16 Q AND THAT WAS NOT IN RESPONSE TO THEIR QUESTIONING?

17 A I DON'T KNOW IF THEY ASKED ANY QUESTIONS OR NOT. I
18 DON'T KNOW IF THAT WAS A RESPONSE OR NOT. I DON'T KNOW.

19 Q AND ONE OF THOSE TWO OFFICERS HAND CUFFED YOU BEHIND
20 YOUR BACK AND TOOK YOU OUTSIDE. IS THAT CORRECT?

21 A AND MADE ME STAND UP AGAINST THE WALL FOR AMOUNT OF
22 TIME.

23 Q PATTED YOU DOWN, CHECKED YOU FOR WEAPONS.

24 A I DON'T KNOW.

25 Q TOOK YOU OUTSIDE.

FRED RUTLAND - CROSS BY MR. RIDDLE

1 A RIGHT.

2 Q AND THEN ONE OF THOSE OFFICERS MIRANDIZED YOU AS HE
3 TESTIFIED EARLIER. IS THAT CORRECT?

4 A I DON'T KNOW.

5 Q YOU SAID YOU DON'T REMEMBER GETTING ANY MIRANDA WARNINGS
6 AT THE SCENE.

7 A NO, I DON'T REMEMBER THAT. I REMEMBER SCOTT -- MR.
8 FRIER ASKING ME IF I HAD.

9 Q BEEN MIRANDIZED. IS THAT RIGHT?

10 A I THINK THAT'S THE WORD.

11 Q ALL RIGHT. AND WHAT DID YOU REPLY?

12 A I DON'T REMEMBER.

13 Q ALL RIGHT. AND DID DETECTIVE FRIER ORALLY MIRANDIZE
14 YOU, ADVISE YOU THAT YOU HAD THE RIGHT TO REMAIN SILENT, THAT
15 YOU HAD THE RIGHT TO AN ATTORNEY AND ANY OTHER RIGHTS THAT
16 WE'VE TALKED ABOUT HERE TODAY?

17 A AT SOME TIME, YES, HE DID.

18 Q WAS THAT IN THE PATROL CAR?

19 A I DON'T KNOW IF IT WAS IN THE PATROL CAR OR IT WAS IN
20 HIS CAR. I HAVE NO IDEA.

21 Q BUT YOU WERE STILL AT THE BOW-WOW BOUTIQUE.

22 A I DON'T KNOW.

23 Q YOU DON'T KNOW. ALL RIGHT. HE THEN TRANSPORTED YOU
24 DOWN TO THE SHERIFF'S DEPARTMENT. CORRECT?

25 A RIGHT. YES, SIR.

FRED RUTLAND - CROSS BY MR. RIDDLE

1 Q Y'ALL WENT INTO THE INTERVIEW ROOM.

2 A YES, SIR. SOMEWHERE.

3 Q ALL RIGHT. AND Y'ALL DID THIS FIRST STATEMENT THAT'S
4 DATED SEPTEMBER 4TH OF '92. RIGHT?

5 A YES, SIR.

6 Q DO YOU REMEMBER DETECTIVE FRIER GIVING YOU THE MIRANDA
7 WARNINGS THAT ARE SHOWN ON THIS FORM?

8 A NOT PER SE. I CAN'T SAY THAT I ABSOLUTELY REMEMBER HIM
9 SAYING THAT. HE WAS READING AND ASKING ME TO SAY -- INITIAL.
10 READING AND---

11 Q OK. WELL, THOSE ARE YOUR INITIALS---

12 A YES, SIR, I DO NOT---

13 Q ---ON STATE'S #3 FOR I.D.

14 A YES, SIR.

15 Q OK. RIGHT THERE BY THOSE MIRANDA FORM -- MIRANDA
16 WARNINGS.

17 A RIGHT.

18 Q AND YOU PLACED THOSE INITIALS THERE.

19 A YES, SIR.

20 Q AND YOU AGREED TO TALK WITH DETECTIVE FRIER AT THAT
21 TIME. ISN'T THAT CORRECT?

22 A YES, SIR.

23 Q HE NEVER THREATENED YOU.

24 A NO.

25 Q NEVER RAISED HIS VOICE AT YOU.

FRED RUTLAND - CROSS BY MR. RIDDLE

1 A NO, HE WAS VERY NICE.

2 Q VERY NICE TO YOU.

3 A OVERLY NICE.

4 Q AND IT WAS JUST THE TWO OF YA'LL TOGETHER. RIGHT?

5 A OVERLY NICE.

6 Q OVERLY NICE. AND HE TOLD YOU, I BELIEVE ACCORDING TO
7 YOU, IT WAS AN OBVIOUS CASE OF SELF DEFENSE.

8 A THAT WAS ON THE WAY TO THE STATION AND HE MADE SOME
9 MENTION OF IT AFTER WE WAS IN THE OFFICE.

10 Q OK. AND YOUR TESTIMONY IS THAT IS THE ONLY REASON YOU
11 GAVE THIS STATEMENT ON SEPTEMBER THE 4TH.

12 A YES, SIR.

13 Q ALL RIGHT. NOW I BELIEVE YOU ALSO TESTIFIED -- I JUST
14 WANNA MAKE SURE I HAVE IT STRAIGHT -- THAT YOU DON'T RECALL
15 HIM GIVING YOU THESE MIRANDA WARNINGS ON THE SEPTEMBER 4TH
16 WRITTEN STATEMENT.

17 A I KNOW HE -- YOU KNOW, I KNOW HE DID, BUT I DON'T RECALL
18 IT, NO, BECAUSE I MEAN IT'S EVIDENT THAT I SIGNED IT.

19 Q AND I BELIEVE IT'S ALSO YOUR TESTIMONY THAT YOU MADE
20 THIS ENTIRE SEPTEMBER 4TH STATEMENT PRIOR TO THE TAPED
21 STATEMENT. IS THAT CORRECT?

22 A YES, SIR.

23 Q NOW MR. FRIER'S VOICE AS IT WAS PLAYED ON THAT TAPE, IS
24 THAT THE SAME TONE OF VOICE THAT HE USED DURING THE COURSE OF
25 THAT ENTIRE INTERVIEW ON THE 4TH?

FRED RUTLAND - CROSS BY MR. RIDDLE

1 A THE SUAVE SOUTHERN GENTLEMAN, YES.

2 Q QUIET, POLITE TONE OF VOICE.

3 A YES.

4 Q OK. SO YOU WERE NOT AFRAID OF SCOTTIE FRIER.

5 A NO.

6 Q YOU HAD NO REASON TO THINK HE WAS GONNA HURT YOU.

7 A NO.

8 Q AFTER YOU DID THIS WRITTEN STATEMENT STATE'S #3 FOR
9 IDENTIFICATION, HE ASKED YOU IF YOU AGREED WITH EVERYTHING
10 THAT WAS IN THAT STATEMENT. CORRECT?

11 A I THINK SO.

12 Q HE READ THAT STATEMENT TO YOU. DID HE NOT?

13 A YES, SIR.

14 Q AND HE ASKED YOU IF YOU WANTED TO MAKE ANY CHANGES OR
15 ADD ANY INFORMATION.

16 A I THINK HE DID.

17 Q ALL RIGHT. AND YOU APPARENTLY DECLINED TO DO EITHER.
18 CORRECT?

19 A LIKE MR. JOTTIE -- MR. FRIER KEPT TELLIN' ME WE NEED TO
20 GET THIS OVER WITH. DON'T WORRY ABOUT HOW UPSET YOU ARE. WE
21 NEED TO GET THIS OVER WITH, I MEAN GET THROUGH THIS.

22 Q THAT'S NOT WHAT I'M ASKING YOU.

23 A I WAS WANTIN' TO GET THROUGH WITH IT JUST AS HE DID.

24 Q AND HE GAVE YOU A CHANCE TO CHANGE ANYTHING IN THAT
25 STATEMENT THAT YOU WANTED TO.

FRED RUTLAND - CROSS BY MR. RIDDLE

1 A I GUESS HE DID.

2 Q AND YOU DECLINED TO DO THAT.

3 A I DON'T SEE ANY CHANGES.

4 Q OK. AND THAT IS YOUR SIGNATURE ON THIS STATEMENT.

5 A YES, SIR.

6 Q AND YOUR INITIALS IN THE FRONT AND AT THE BACK OF THIS
7 STATEMENT.

8 A I INITIALED IT AND SIGNED IT EVERYWHERE I WAS SUPPOSED
9 TO.

10 Q AND THE TAPED STATEMENT WOULD YOU AGREE THAT THAT'S AN
11 ACCURATE REPRESENTATION OF WHAT TRANSPIRED BETWEEN YOU AND
12 DETECTIVE FRIER WHILE THE TAPE PLAYER WAS RUNNING?

13 A YES, SIR.

14 Q AND YOU'LL AGREE THAT DETECTIVE FRIER EVEN MIRANDIZED
15 YOU ON THAT TAPE AS EVIDENCED BY STATE'S #8 FOR
16 IDENTIFICATION.

17 A I GUESS HE DID. YES, SIR.

18 Q WELL, YOU HEARD THE TAPE. DIDN'T YOU?

19 A YEAH, RIGHT. I HEARD IT.

20 Q AND IT'S ON THE TAPE.

21 A RIGHT.

22 Q OK. BUT YOU SAY YOU HAVE NO INDEPENDENT RECOLLECTION OF
23 THAT?

24 A YES, SIR, I DO NOT REMEMBER THAT.

25 Q NOW ON SEPTEMBER THE 7TH DETECTIVE FRIER CAME BACK TO

FRED RUTLAND - CROSS BY MR. RIDDLE

1 YOU AGAIN. DID HE NOT? CAME OVER TO THE JAIL?

2 A YES, SIR.

3 Q AT THAT TIME HE MIRANDIZED YOU AGAIN.

4 A YES, SIR.

5 Q AND DO YOU RECALL HIM MIRANDIZING YOU ON THAT OCCASION?

6 A I REMEMBER HIM SAYIN' WE'VE ALREADY WENT THROUGH THIS A
7 FEW TIMES; WE JUST NEED TO GO THROUGH THIS AGAIN. JUST
8 INITIAL -- YOU KNOW, I'M GONNA READ THIS TO YOU AND I WANT
9 YOUR INITIAL BESIDE.

10 Q THAT'S STATE'S #9 FOR IDENTIFICATION. RIGHT?

11 A YES, SIR, THAT'S MY INITIALS.

12 Q AND HE TOLD YOU AT THAT TIME THAT YOU HAVE THE RIGHT TO
13 REMAIN SILENT AND NOT MAKE ANY STATEMENT AT ALL. CORRECT?

14 A HE READ THAT TO ME, YES.

15 Q AND YOU INITIALED IT.

16 A YES.

17 Q AND THAT YOU -- ANY STATEMENT YOU MADE COULD BE USED
18 AGAINST YOU IN COURT.

19 A YES.

20 Q AND YOU INITIALED THAT.

21 A YES, SIR.

22 Q YOU HAVE THE RIGHT TO AN ATTORNEY AT ANY TIME DURING THE
23 QUESTIONING.

24 A I INITIALED AS HE WAS READIN' IT TO ME I WAS INITIALLIN'
25 OR I INITIALED EVERYWHERE HE SAID AND I READ THIS ALL TO YOU;

FRED RUTLAND - CROSS BY MR. RIDDLE

1 INITIAL THIS, RIGHT. I DID THAT. YES, HE READ THE ENTIRE
2 STATEMENT TO ME.

3 Q AND YOU UNDERSTOOD THOSE RIGHTS.

4 A YES, SIR.

5 Q HOW FAR DID YOU GO IN SCHOOL, MR. RUTLAND?

6 A I HAVE A G.E.D.

7 Q SO YOU CAN READ AND WRITE?

8 A YES, SIR.

9 Q AND YOU GAVE DETECTIVE FRIER THIS STATEMENT ON SEPTEMBER
10 THE 7TH. IS THAT CORRECT?

11 A YES, SIR.

12 Q AND WAS HE SPEAKING WITH YOU ON THE 7TH THE SAME WAY
13 THAT HE WAS SPEAKING WITH YOU ON THE 4TH AND ON THAT TAPE --
14 ON YOUR WRITTEN STATEMENT FROM THE 4TH AND ON YOUR TAPED
15 STATEMENT FROM THE 4TH?

16 A VERY CLOSE.

17 Q DID HE EVER RAISE HIS VOICE DURING THIS TIME ON THE 7TH?

18 A HE WAS A LITTLE BIT COCKY. HE DIDN'T REALLY RAISE HIS
19 VOICE AND THREATEN ME, BUT HE WAS A LITTLE SHARPER, SHORTER.

20 Q DID HE THREATEN YOU?

21 A NO, SIR.

22 Q HE NEVER PROMISED YOU ANYTHING IF YOU WOULD MAKE THAT
23 STATEMENT. DID HE?

24 A NO, SIR.

25 Q YOU MADE THAT STATEMENT KNOWINGLY AND VOLUNTARILY.

FRED RUTLAND - CROSS BY MR. RIDDLE

1 DIDN'T YOU?

2 A THE REASON I MADE THE STATEMENTS, YES, WAS BECAUSE HE
3 SAYS WE NEED TO GET THIS DOWN FOR YOUR BEHALF. WE NEED TO
4 GET THIS ALL DOWN AND OUT OF THE WAY.

5 Q WELL, NOW YOU'RE SAYING THAT HE TOLD YOU THIS WAS FOR
6 YOUR BENEFIT. IS THAT WHAT YOU'RE---

7 A YES, SIR.

8 Q ---SAYING?

9 A YES, SIR.

10 Q DID HE EVER PROMISE YOU ANYTHING IN ORDER TO GET YOU TO
11 MAKE THE STATEMENT?

12 A NO, SIR.

13 Q HE JUST ASKED YOU IF YOU'D LIKE TO MAKE A STATEMENT.
14 ISN'T THAT CORRECT?

15 A HE SAID I NEEDED TO. HE DIDN'T ASK ME IF I'D LIKE TO.
16 HE SAYS I NEED TO MAKE THE STATEMENT. WE NEED TO GET THIS
17 OUT OF THE WAY. WE NEED TO GET THIS DONE.

18 Q YOU WERE AWARE THAT YOU HAD THE RIGHT NOT TO MAKE ANY
19 STATEMENT AT ALL.

20 A MORE OR LESS, YES.

21 Q WELL, YOU HAD BEEN MIRANDIZED ON AT LEAST FIVE PRIOR
22 OCCASIONS---

23 A SURE.

24 Q ---HAD YOU NOT?

25 A YES, SIR.

FRED RUTLAND - CROSS BY MR. RIDDLE

1 Q ALL RIGHT.

2 A I GUESS I HAD. YA'LL GOT MY INITIALS ON AT LEAST THAT
3 MANY.

4 Q AND YOU WERE AWARE THAT YOU DID NOT HAVE TO MAKE A
5 STATEMENT TO DETECTIVE FRIER.

6 A YES, HE DID NOT FORCE ME TO.

7 Q RIGHT. AND YOU CHOSE TO GIVE UP THE RIGHT NOT TO MAKE A
8 STATEMENT AND WENT AHEAD AND MADE IT. IS THAT CORRECT?

9 A I CHOSE TO COOPERATE WITH MR. FRIER.

10 Q AND YOU VOLUNTARILY GAVE HIM A STATEMENT.

11 A YES, AND HE DIDN'T TWIST MY ARM, NO.

12 Q RIGHT. AND YOU KNEW WHAT YOUR RIGHTS WERE AT THE TIME
13 THAT YOU MADE THAT STATEMENT.

14 A APPARENTLY I DID. YES.

15 Q YES. ALRIGHT. AND AT THE TIME YOU MADE THE STATEMENT
16 HERE ON THE 4TH----

17 A I WAS NOT AWARE OF A WHOLE LOT OF ANYTHING AT THE TIME.

18 Q LET ME FINISH MY QUESTION AND THEN YOU CAN ANSWER IT.
19 OK?

20 A I WAS ANSWERIN' THE LAST ONE. EXCUSE ME.

21 Q YOU'RE SAYING THAT ON THE 7TH YOU WEREN'T AWARE OF WHAT
22 YOUR RIGHTS WERE?

23 A YES, SIR, I WAS A LITTLE BIT MORE COHERENT ON THE 7TH.

24 Q ON THE 4TH WHEN YOU MADE THIS STATEMENT YOU HAD BEEN
25 MIRANDIZED AT LEAST THREE TIMES. CORRECT? ONCE BY THE FIRST

FRED RUTLAND - CROSS BY MR. RIDDLE

1 OFFICERS ON THE SCENE; ONCE BY DETECTIVE FRIER IN THE PATROL
2 CAR, AND THEN THIS MIRANDA WARNING.

3 A I DON'T REMEMBER THE OFFICER DOING IT. YES, I REMEMBER
4 MR. FRIER SAYING THIS IS YOUR RIGHTS; I HAVE TO GIVE THEM TO
5 YOU NOW, ON THE WAY TO THE STATION.

6 Q RIGHT.

7 A SO---

8 Q AND HE GAVE YOU THOSE RIGHTS.

9 A YES. HE---

10 Q AND ASKED YOU IF YOU UNDERSTOOD THEM?

11 A ISN'T THAT PART OF THE RIGHTS? DOES IT SAY THAT?

12 Q WELL, DOWN AT THE BOTTOM IT SAYS UNDERSTANDING THESE
13 RIGHTS I MAKE THE FOLLOWING STATEMENT. THAT'S THE STATEMENT
14 FROM SEPTEMBER 4TH.

15 A I DON'T KNOW IF HE ASKED ME IF I UNDERSTOOD 'EM OR NOT.

16 Q BUT YOU DID UNDERSTAND THEM.

17 A AT THE TIME I UNDERSTOOD THAT SCOTTIE WANTED ME TO TELL
18 HIM ALL I COULD.

19 Q BUT YOU UNDERSTOOD YOU DID NOT HAVE TO TELL HIM.

20 A YES, I UNDERSTOOD THAT.

21 Q AND HE DIDN'T MAKE YOU TELL HIM.

22 A YES, SIR.

23 Q RIGHT? OK. AND THEN HE GAVE YOU YOUR RIGHTS AGAIN ON
24 THE TAPE RECORDER. IS THAT CORRECT?

25 A I DON'T RECALL THAT. IT LOOKS LIKE I DID, YES.

FRED RUTLAND - CROSS BY MR. RIDDLE

1 Q WELL, LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S 8 FOR
2 IDEN---

3 A I HEARD THAT WHILE AGO. I HEARD IT ON THE TAPE AND I
4 MEAN I SEE THIS, YES.

5 Q OK. DO YOU REMEMBER AS I READ THESE TO YOU. YES WAS
6 YOUR RESPONSE. AND YOU UNDERSTAND THESE. AND YOU RESPONDED?

7 A YES. ARE YOU ASKING ME TO READ THIS?

8 Q YES. THAT'S EXACTLY WHAT I'M DOING. SO YOU TOLD
9 DETECTIVE FRIER ON THE 4TH THAT YOU UNDERSTOOD YOUR RIGHTS?

10 A APPARENTLY I DID, YES, SIR.

11 Q OK. AND YOU DID, IN FACT, UNDERSTAND YOUR RIGHTS ON THE
12 FOURTH?

13 A APPARENTLY I DID, YES, SIR.

14 Q OK. AND YOU HAD INITIALED THAT YOU WERE WILLING TO
15 SPEAK WITH ME AT THIS TIME, AND YOU RESPONDED?

16 A I UNDERSTOOD AT THIS TIME. I JUST SHOT A MAN.

17 Q JUST TELL ME WHAT YOU RESPONDED FIRST.

18 A WHAT WAS THAT QUESTION?

19 Q OK. AND YOU HAVE INITIALED THAT YOU WERE WILLING TO
20 TALK -- TO SPEAK WITH ME AT THIS TIME AND YOU RESPONDED?

21 A YES.

22 Q SO YOU TOLD DETECTIVE FRIER THAT YOU UNDERSTOOD YOUR
23 RIGHTS AT THAT TIME---

24 A YES.

25 Q ---AND AGREED TO TALK WITH HIM.

FRED RUTLAND - CROSS BY MR. RIDDLE

- 1 A YES.
- 2 Q OK. AND YOU'VE GOT A G.E.D. AND YOU CAN READ AND WRITE.
- 3 A YES.
- 4 Q SCOTTIE FRIER NEVER RAISED HIS VOICE WITH YOU.
- 5 A NO.
- 6 Q NEVER THREATENED YOU.
- 7 A OVERLY POLITE.
- 8 Q NEVER THREATENED YOU.
- 9 A NO.
- 10 Q NEVER PROMISED YOU ANYTHING IF YOU WOULD SPEAK WITH HIM.
- 11 A NO.
- 12 Q AND YOU CHOSE VOLUNTARILY TO GIVE UP THOSE RIGHTS AND
- 13 GIVE HIM THIS WRITTEN STATEMENT ON THE 4TH AND THE TAPED
- 14 STATEMENT ON THE 4TH AND THE WRITTEN STATEMENT ON THE 7TH.
- 15 IS THAT CORRECT?
- 16 A YES.
- 17 Q AND YOU UNDERSTOOD YOUR RIGHTS AT THE TIME THAT YOU WERE
- 18 GIVEN -- I MEAN AT THE TIME THAT YOU GAVE THOSE STATEMENTS.
- 19 A AT THE TIME I GAVE THE STATEMENTS I DIDN'T UNDERSTAND
- 20 MUCH OF ANYTHING OTHER THAN MR. FRIER WAS ASKIN' ME TO GIVE
- 21 HIM THESE STATEMENTS AND GET IT OUT OF THE WAY.
- 22 Q NOW YOU JUST---
- 23 A GET IT FINISHED.
- 24 Q ---TOLD ME YOU UNDERSTOOD YOUR RIGHTS.
- 25 A YES, SIR. I DO UNDERSTAND THIS THING CALLED THE

FRED RUTLAND - CROSS BY MR. RIDDLE

1 MIRANDUM (SIC) OR WHATEVER YOU CALL IT.

2 Q ALL RIGHT. AND YOU UNDERSTOOD 'EM BACK ON SEPTEMBER THE
3 4TH AND SEPTEMBER THE 7TH. CORRECT?

4 A APPARENTLY, YES, SIR.

5 Q THAT'S ALL I HAVE.

6 THE COURT: ANYTHING FURTHER?

7 MR. GREGORY: NOTHING FURTHER, YOUR HONOR.

8 THE COURT: THANK YOU.

9 MR. GREGORY: PLEASE STEP DOWN.

10 THE COURT: ANYBODY ELSE?

11 MR. GREGORY: NO FURTHER WITNESSES, YOUR HONOR.

12 THE COURT: I'M GONNA OVERRULE THE MOTION AND LET 'EM --
13 STATEMENTS COME IN AS FREELY AND VOLUNTARILY. ALL RIGHT.
14 BRING THAT JURY IN. I WANNA TALK TO 'EM, LET 'EM -- I'M
15 GONNA LET YA'LL MAKE OPENIN' STATEMENTS BEFORE WE LET 'EM GO
16 FOR LUNCH.

17 MR. MCMAHON: WHERE IS THE INDICTMENT?

18 THE COURT: I DON'T HAVE IT.

19 MR. MCMAHON: DO OPENINGS AND THEN BREAK? IS THAT WHAT
20 YOU SAID? (THE FOLLOWING OCCURRED IN THE PRESENCE OF THE
21 JURY.)

22 THE COURT: GO AHEAD AND SWEAR THE JURY. (THE JURY WAS
23 SWORN AT 12:40 P.M.)

24 MR. MCMAHON: MAY IT PLEASE THE COURT?

25 THE COURT: YES, SIR.

1
2 MR. MCMAHON: MADAM FORELADY AND LADIES AND GENTLEMEN OF
3 THE JURY, MY NAME IS KNOX MCMAHON. I'M THE DEPUTY FOR THE
4 11TH CIRCUIT. THE 11TH CIRCUIT INCLUDES LEXINGTON, SALUDA,
5 EDGEFIELD AND MCCORMICK COUNTIES, AND MYSELF ALONG WITH
6 ASSISTANT SOLICITOR DAYTON RIDDLE THE GENTLEMAN ON THE END
7 WILL BE PRESENTING THIS CASE OF THE STATE -VS- FRED RANDALL
8 RUTLAND AND THE CHARGES IN THE INDICTMENT WHICH THE STATE HAS
9 BROUGHT AGAINST HIM, AND AS SOLICITOR AND PROSECUTORS
10 BASICALLY OUR FUNCTION IS WE PRESENT CASES ON BEHALF OF THE
11 STATE ON BEHALF OF THE COUNTY OF LEXINGTON, ON BEHALF OF THE
12 PEOPLE OF THE COUNTY OF LEXINGTON WHEN ALLEGATIONS ARE
13 BROUGHT AGAINST INDIVIDUALS ALLEGING THAT THEY HAVE COMMITTED
14 SOME CRIME. ALSO SEATED AT THE TABLE WITH US IS DETECTIVE
15 SCOTTIE FRIER WITH THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT.
16 NOW MR. FRED RANDALL RUTLAND SEATED OVER AT THE TABLE WITH
17 HIS ATTORNEY STOOD UP BEFORE Y'ALL TODAY. HE IS THE
18 DEFENDANT.

19 HE IS THE GENTLEMAN ON TRIAL CHARGED WITH THREE SEPARATE
20 OPTIONS: CHARGED WITH THE CRIME OF MURDER, POSSESSION OF A
21 FIREARM DURING THE COMMISSION OF A CRIME AND POINTING AND
22 PRESENTING A FIREARM. BASICALLY WHAT WILL OCCUR IS THAT THE
23 STATE HAS THE BURDEN OF PROOF. IN OUR SYSTEM OF JUSTICE THE
24 STATE MUST PROVE THIS CASE BEYOND A REASONABLE DOUBT. ANY
25 CASE IS PROVED BY THE WITNESSES, BY THE TESTIMONY, BY THE

1
2 EXHIBITS, BY THE CHARGE OR GUIDED BY THE PHYSICAL EVIDENCE,
3 AND WE WILL CALL CERTAIN WITNESSES TO TESTIFY BEFORE YOU
4 BEFORE THIS WITNESS STAND SWORN UNDER OATH, AND THEY WILL
5 TESTIFY AS TO WHAT THEY OBSERVED AND SAW AND WHAT THEY HEARD
6 OR ANY TESTS THEY MAY HAVE PERFORMED, ANY ITEMS OF EVIDENCE
7 THAT MAY COME IN IN THIS PARTICULAR CASE, AND AT THE
8 CONCLUSION OF ALL THE EVIDENCE, AT THE CONCLUSION OF ALL THE
9 EVIDENCE, REGARDLESS OF WHAT PARTY PRESENTS A PARTICULAR
10 WITNESS, HIS HONOR WILL TELL YOU WHAT THE LAW IS,
11 SPECIFICALLY WHAT ARE THE ELEMENTS OF MURDER, WHAT ARE THE
12 ELEMENTS OF POINTING A FIREARM.

13 WHAT ARE THE ELEMENTS OF POSSESSING A FIREARM DURING A
14 VIOLENT CRIME. HE JUDGE EPPES IS THE JUDGE OF THE LAW. WE
15 ALL MUST TAKE THE LAW AS HE TELLS US THE LAW IS IN SOUTH
16 CAROLINA.

17 YA'LL WILL TAKE IT AND APPLY IT TO THE FACTS AS YOU AS
18 FAIR-MINDED JURORS DETERMINE THOSE FACTS TO BE, APPLYING AND
19 COMPARING THE FACTS AS YOU FIND THEM TO BE TO THE LAW AS HIS
20 HONOR TELLS YOU, AND THEN YOU WILL REACH A VERDICT THAT
21 SPEAKS THE TRUTH, THAT DOES JUSTICE IN THIS CASE. YA'LL WERE
22 EACH AND EVERY ONE WAS QUALIFIED IN THE JURY POOL THAT YOU
23 WILL BE FAIR AND IMPARTIAL JURORS AND I KNOW YOU WILL 'CAUSE
24 YOU HAVE NO FRIENDS TO REWARD, NO ENEMIES TO PUNISH, KNOW
25 NOTHING WHATSOEVER ABOUT THE CASE, AND YOU WILL MAKE YOUR

1
2 DECISION, YOU WILL REACH THAT TRUE AND JUST VERDICT BASED
3 SOLELY ON WHAT YOU HEAR IN THIS COURTROOM FROM THE WITNESSES
4 WHO TESTIFY BEFORE YOU UNDER OATH.

5 NOW WHAT THE ATTORNEYS, WHAT I SAY IS NOT EVIDENCE.
6 WHAT ANY OF THE ATTORNEYS SAY IS NOT EVIDENCE. WHAT IS
7 EVIDENCE IS WHAT THE WITNESSES SAY OR ANY PHYSICAL EVIDENCE
8 THAT COMES IN WHAT THAT PROVES TO YOU, TO YOU INDIVIDUALLY
9 AND TO YOU AS A JUROR.

10 WHAT THE STATE ALLEGES, THIS IS AN INCIDENT WHICH
11 OCCURRED BACK ON SEPTEMBER 4TH 1992 WHICH I BELIEVE WAS A
12 FRIDAY, AND IT OCCURRED IN THE MIDDLE OF THE DAY RIGHT AFTER
13 WHAT WE CALL LUNCH TIME OR JUST WITHIN AN HOUR OF WHERE WE
14 ARE RIGHT NOW REALLY AS FAR AS THE TIME OF THE CRIME. THE
15 VICTIM IN THIS CASE WAS IN HIS EARLY 30'S, 33-YEAR-OLD MALE
16 JIMMY LEE PEELE, AND MR. PEELE LIVED DOWN IN THE WHAT I CALL
17 THE PELION AREA OF LEXINGTON COUNTY DOWN TOWARD THE SOUTH END
18 OF THAT COUNTY OF OUR COUNTY, AND HE WAS AT HIS HOME ON THIS
19 PARTICULAR DAY THAT MORNING WORKIN' ON A CAR WITH A FRIEND OF
20 HIS, THE FRIEND OF HIS SEATED RIGHT THERE ON THE FRONT ROW
21 BRUCE SHARP WITH THE DARK BLACK T-SHIRT, AND WHILE HE WAS
22 THERE WORKING ON THIS VEHICLE OF THAT PARTICULAR MORNING MR.
23 FRED RANDALL RUTLAND CAME TO MR. PEELE'S HOME. HE DIDN'T
24 COME TO MR. PEELE'S HOME ALONE BECAUSE HE HAD NOT BEEN ALONE
25 FOR AWHILE. HE CAME WITH MR. JIMMY LEE PEELE'S WIFE, SALLY

1
2 PEELE, THE YOUNG LADY SEATED RIGHT THERE IN THE PINK ON THAT
3 OTHER SIDE ABOUT THE THIRD ROW BACK, THE VICTIM'S WIFE. AND
4 MR. RUTLAND AND MS. PEELE, MRS. PEELE AND ANOTHER INDIVIDUAL
5 NAMED ROBIN HUNT WHO I DON'T SEE IN THE COURTROOM RIGHT NOW,
6 THEY WENT OVER THERE THAT PARTICULAR MORNING AND MS. PEELE
7 WENT IN THE HOUSE ARMED WITH A PISTOL, AND THERE WAS SOME
8 DISCUSSION BETWEEN MR. PEELE AND MS. PEELE AND THAT WAS MR.
9 FRED RANDALL RUTLAND GETTING A SHOTGUN POINTED IT AT MR.
10 JIMMY LEE PEELE AND HE FIRED IT OFF AT THE MAN'S HOUSE.
11 YOU'LL HEAR ALL THAT TESTIMONY.

12 YOU'LL HEAR A WITNESS THAT WAS THERE THAT OBSERVED THAT.
13 YOU'LL HEAR THE DISPATCHER THAT TOOK THE CALL FROM MR. PEELE
14 AND THE TONE OF MR. PEELE'S VOICE, AND THIS WAS A LITTLE
15 BEFORE 11 O'CLOCK WHEN THIS INCIDENT HAPPENED WITH THE
16 SHOTGUN, BUT IT DIDN'T STOP. IT KEPT ON THAT DAY. AND LATER
17 ON THAT DAY MR. RUTLAND AND MS. PEELE WERE DRIVING ON TWO
18 NOTCH ROAD AND CEDAR CREST.

19 MANY OF YOU MAY BE FAMILIAR WITH THAT AREA. IT'S THE
20 FIRST LIGHT OUT OF TOWN AT THE OLD HOUSE I CALL IT. AND YOU
21 TURN RIGHT AND CUT OVER TO TWO NOTCH ROAD BACK OVER TO WHAT I
22 CALL DOOLEYVILLE WHERE JASON DOOLEY AND ALL THOSE FAMILIES OF
23 DOOLEYS LIVE RIGHT OUT THERE. RIGHT THERE AT THE CORNER OF
24 TWO NOTCH AND CEDAR CREST IS A BUSINESS THE BOW-WOW BOUTIQUE,
25 AND MS. PEELE AND MR. RUTLAND WAS AT THAT BUSINESS AND WHILE

1
2 THERE MR. PEELE CAME TO THAT LOCATION.

3 LIKE I SAY, IT WAS ABOUT A QUARTER TILL TWO WITHIN ABOUT
4 AN HOUR FROM WHEN THEY WERE THERE, AND MR. RUTLAND WAS NOW
5 ARMED ALSO WITH A PISTOL. HE HAD BEEN ARMED WITH A SHOTGUN
6 EARLIER THAT DAY. NOW HE'S GOT A PISTOL AND JIMMY LEE PEELE
7 HAD A PISTOL TOO. I SUBMIT TO YOU HE HAD A PISTOL FOR
8 PURPOSES OF DEFENDING HIMSELF, AND I SUBMIT TO YOU HE'D BEEN
9 LURED THERE. AND WHEN HE ARRIVED I SUBMIT THAT WITHOUT
10 PROVOCATION AND WITHOUT JUSTIFICATION AND NOT IN SELF
11 DEFENSE, FRED RANDALL RUTLAND SHOT JIMMY LEE PEELE. HE MADE
12 SURE HE WAS DEAD BECAUSE HE SHOT HIM FOUR TIMES. FOUR TIMES.

13 NOW THE CIRCUMSTANCES UNDER WHICH THOSE SHOTS WERE FIRED
14 IS IMPORTANT. THERE'S NO QUESTION ABOUT THAT. AND BECAUSE
15 HE WAS KILLED WITH A PISTOL THAT'S WHY HE'S INDICTED FOR
16 POSSESSION OF A FIREARM DURING A VIOLENT CRIME BECAUSE THAT
17 VIOLENT CRIME BEING THE MURDER OF JIMMY LEE PEELE. AND WHAT
18 WE ASK Y'ALL TO DO IS DON'T -- DON'T TAKE MY WORD FOR IT.
19 THAT'S NOT JUSTICE. THAT'S NOT JUSTICE. OR MR. RIDDLE'S OR
20 MR. GREGORY'S. YOU TAKE THE WORD OF THE WITNESSES THAT ARE
21 GOING TO TESTIFY BEFORE YOU UNDER OATH AND DETERMINE UNDER
22 WHAT CIRCUMSTANCES THOSE GUNS WERE FIRED. THAT WEAPON WAS --
23 THAT GUN WAS FIRED OUT THERE THAT DAY IN THE PELION SECTION,
24 UNDER WHAT CIRCUMSTANCES THAT GUN WAS FIRED FOUR TIMES AT THE
25 BOW-WOW BOUTIQUE, TWO WEAPONS, TWO WEAPONS THAT FRED RUTLAND

1
2 AND SALLY PEELE HAD GONE RIGHT ACROSS THE STREET THAT VERY
3 MORNING AT THE PAWN SHOP AND SECURED THEM SEPTEMBER 4TH 1992.
4

5 THE JUDGE IS GONNA CHARGE YOU MURDER IS THE UNLAWFUL
6 KILLING OF ANOTHER HUMAN BEING WITH MALICE AFORETHOUGHT
7 EXPRESSED OR IMPLIED. HE WILL EXPLAIN THOSE TERMS TO YOU
8 MUCH BETTER THAN I CAN. MALICE IS THE KILLING -- MALICE MAY
9 BE IMPLIED FROM THE USE OF A DEADLY WEAPON. AFORETHOUGHT
10 MEANS SOME PREMEDITATION. I ASK Y'ALL TO LISTEN TO ALL THE
11 PLANNING AND THE SCHEMING AND THE CONNIVING AND THE GETTING
12 TOGETHER OF THE TWO OF THEM TO TAKE PLACE THAT MORNING THAT
13 LEADS UP TO THE TRAGIC DEATH OF JIMMY LEE PEELE. WHEN I
14 STAND BEFORE YA'LL WHENEVER THIS AFTERNOON, TOMORROW, WHEN
15 THIS CASE IS CONCLUDED, I'M NOT GONNA TELL YOU WHAT I THINK
16 YOUR VERDICT SHOULD BE BECAUSE I TRUST YOUR -- I TRUST THAT
17 YOU WILL LISTEN TO THIS EVIDENCE, ALL OF THE EVIDENCE, AND
18 ALL THAT I ASK IS YOU JUST DETERMINE A VERDICT THAT DOES
19 JUSTICE, JUSTICE TO THE DEFENDANT AND JUSTICE TO JIMMY PEELE;
20 NOTHING MORE; NOTHING LESS. THANK YOU. THANK YOU, YOUR
21 HONOR.

22 THE COURT: MR. GREGORY?

23 MR. GREGORY: MAY IT PLEASE YOUR HONOR? MADAM FORELADY,
24 LADIES AND GENTLEMEN OF THE JURY, MY NAME IS JACK GREGORY.
25 I'M AN ATTORNEY; PRACTICE LAW IN COLUMBIA, SOUTH CAROLINA. I

1
2 GET A CHANCE TO COME TO LEXINGTON ON A LOT OF OCCASIONS TO
3 REPRESENT A LOT OF GOOD PEOPLE FROM LEXINGTON. ON THIS
4 PARTICULAR OCCASION I REPRESENT FRED RUTLAND. HE'S NOT A
5 LEXINGTON COUNTY BORN AND BRED. HE LIVES IN SUMMERVILLE, BUT
6 HIS JOB IN SUMMERVILLE AS A FOREMAN OF A CONSTRUCTION CREW
7 LED HIM TO MEET SALLY PEELE WHO IS A CARPENTER AND WAS
8 WORKING IN HIS CONSTRUCTION CREW WHILE THEY WERE REMODELING A
9 WAL MART STORE IN SUMMERVILLE, AND HE LEARNED FROM HIS
10 WORKING RELATIONSHIP WITH SALLY PEELE THAT SHE WAS BEING
11 ABUSED BY HER HUSBAND TO THE DEGREE THAT SHE CAME TO WORK
12 WITH BRUISES, BLACK EYE, SOMETIMES SHE DIDN'T COME TO WORK.

13 MR. MCMAHON: YOUR HONOR, I'D HAVE A MATTER OF LAW.

14 THE COURT: YEAH, DON'T GO INTO THAT.

15 MR. GREGORY: LADIES AND GENTLEMEN, THAT BROUGHT MR.
16 RUTLAND TO LEXINGTON COUNTY BECAUSE HE CAME TO ASSIST---

17 MR. MCMAHON: I WOULD HAVE A MATTER OF LAW.

18 THE COURT: YEAH, DON'T -- YOU CAN'T GO INTO THAT AT
19 THIS STAGE OF THE GAME. GO AHEAD.

20 MR. GREGORY: HE WAS IN LEXINGTON COUNTY ON SEPTEMBER 4,
21 1992. THERE'S NO QUESTION ABOUT THAT, LADIES AND GENTLEMEN.
22 YOU DON'T HAVE TO MAKE THAT DETERMINATION, AND HE SHOT JIMMY
23 PEELE ON THAT DAY. WE ADMIT THAT. YOU DON'T HAVE TO MAKE
24 THAT DETERMINATION. LADIES AND GENTLEMEN, THIS IS A CLASSIC
25 CASE OF SELF DEFENSE. HE SHOT JIMMY PEELE IN SELF DEFENSE OF

1
2 THAT WAS IN THE BUILDING AT THE TIME. AS YOU HEAR THE
3 EVIDENCE, PAY PARTICULAR ATTENTION TO THE WEAPONS THAT WERE
4 PRESENTED AT ABOUT 1:30 ON SEPTEMBER 4TH 1992. YOU WILL
5 LEARN THAT MR. RUTLAND DID HAVE A 25 CALIBER AUTOMATIC PISTOL
6 IN HIS RIGHT HAND. YOU WILL LEARN THAT JIMMY PEELE CAME INTO
7 THE BOW-WOW BOUTIQUE ARMED WITH A 9 MILLIMETER BLACK SQUARE
8 WEAPON WITH A CLIP ABOUT A FOOT LONG. YOU PAY PARTICULAR
9 ATTENTION TO THE FACTS, LADIES AND GENTLEMEN, BECAUSE THIS
10 CASE IS THE PERFECT CASE OF SELF DEFENSE. I SUBMIT THAT YOU
11 DON'T HAVE TO DETERMINE THE FACTS IN ANOTHER REGARD BECAUSE
12 THREE HOURS EARLIER THAT MR. RUTLAND DID FIRE A SHOTGUN INTO
13 THE AIR AT MR. PEELE'S HOME WHILE HE WAS IN THERE
14 ACCOMPANYING POSITION WITH MRS. PEELE. THAT'S AN ADMITTED
15 FACT ALSO THREE HOURS BEFORE JIMMY PEELE WALKED INTO THE BOW-
16 WOV BOUTIQUE WITH HIS NINE MILLIMETER. NOW, LADIES AND
17 GENTLEMEN, THIS IS A HOMICIDE CASE, AND IT'S A VERY SERIOUS
18 CASE.

19 ONE LIFE HAS ALREADY BEEN LOST, AND HIS HONOR WILL
20 CHARGE YOU WHAT THE LAW IS WITH REGARD TO THE CRIME OF
21 MANSLAUGHTER AND THE DEFENSE OF SELF DEFENSE. YOU ARE THE
22 SOLE JUDGES OF THE FACTS IN THIS CASE. WHAT YOU DECIDE IS
23 WHAT THE FACTS ARE. WE SIMPLY PRESENT THE WITNESSES, THE
24 EVIDENCE BY WAY OF TESTIMONY AND EXHIBITS. YOU WEIGH THESE
25 OUT AND DETERMINE WHAT THE FACTS ARE. ACTUALLY THIS CASE

1
2 OUT AND DETERMINE WHAT THE FACTS ARE. ACTUALLY THIS CASE
3 HAS BEEN STREAMLINED TO A DEGREE IN THAT WE ARE IN COURT
4 ADMITTING TO CERTAIN FACTS. SO YOU DON'T HAVE THAT TO
5 DECIDE.

6 BUT THE BIG DECISION HERE, LADIES AND GENTLEMEN ARE THE
7 MOTIVES, ARE THE UNDERLYING THINGS THAT WENT ON THAT JUST
8 DON'T JUMP OUT AT YOU. WE CAN LOOK AT A WATCH AND TELL WHAT
9 TIME IT IS, BUT IF WE WAKE UP IN THE MORNING AND WE HAVE TO
10 GUESS, THEN WE HAVE TO USE OTHER THINGS TO BRING OURSELVES TO
11 A DETERMINATION OF WHAT TIME IT IS. IS IT STILL DARK OR IS
12 IT DAYLIGHT? THAT'LL HELP US TO DETERMINE. I ALSO ASK YOU
13 TO THINK ABOUT ONE THING THAT I MENTION TO ALL JURORS: IF
14 YOU HAVE A COIN THERE'S A HEAD AND A TAIL. THERE ARE ALWAYS
15 TWO SIDES TO EVERY STORY, BUT THERE IS ONLY ONE TRUE
16 RENDITION OF THAT STORY. MAKE SURE THAT YOUR VERDICT IS THAT
17 TRUE RENDITION. I REALIZE THAT AS YOU ALL TWELVE HAVE THE
18 OPPORTUNITY TO LISTEN TO THE EVIDENCE THAT'S PRESENTED IN
19 THIS CASE THAT IS A TREMENDOUS RESPONSIBILITY. MR. RUTLAND
20 WHO IS SEATED HERE AT THE TABLE WITH ME IS ON TRIAL FOR A
21 HOMICIDE.

22 IF HE IS CONVICTED THE CHARGE IS MURDER. IF HE IS
23 ACQUITTED IT IS BECAUSE HE WAS JUSTIFIED IN DOING WHAT HE DID
24 WHICH IS SELF DEFENSE. THANKS FOR YOUR KIND ATTENTION.

25 THE COURT: MADAM FOREMAN, LADIES AND GENTLEMEN OF THE

1
2 JURY, I REALIZE WE LEFT YA'LL OUT THERE, BUT WE SHORTENED UP
3 THE CASE BY TAKIN' UP A LOTTA LEGAL MATTERS THAT WE DON'T
4 HAVE TO SEND YOU OUT WHILE IT'S GOIN' ON. AT THIS TIME Y'ALL
5 HAVE NO OBJECTION TO ME LETTIN' THE JURY GOIN' TO LUNCH?

6 MR. MCMAHON: NONE FROM THE STATE.

7 THE COURT: ANY FROM THE DEFENSE?

8 MR. GREGORY: NO, SIR.

9 THE COURT: AT THIS TIME I'M GOING TO EXCUSE YOU FOR THE
10 LUNCH HOUR. I'LL ASK YOU NOT TO DISCUSS THIS CASE WITH EACH
11 OTHER OR WITH EACH OTHER. IF ANYONE TRIES TO DISCUSS IT WITH
12 YOU, TAKE THEIR NAME AND REPORT IT TO ME. I'LL ASK YOU TO BE
13 BACK IN THE JURY ROOM AT 2:30. BE BACK IN THE JURY ROOM AT
14 2:30. (THERE WAS A LUNCH RECESS.) STATE WAIVE THE POLLING
15 OF THE JURY?

16 MR. RIDDLE: THE STATE WAIVES.

17 THE COURT: DEFENSE WAIVE POLLING?

18 MR. GREGORY: DEFENSE WAIVES POLLING.

19 THE COURT: YOU MAY PROCEED.

20 MR. RIDDLE: YOUR HONOR, THE STATE CALLS CHRIS GARNER TO
21 THE STAND.

22 CHRIS GARNER, BEING DULY SWORN, TESTIFIES

23 AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. RIDDLE

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 Q WOULD YOU STATE YOUR NAME FOR THE RECORD, PLEASE, SIR.

2 A CHRISTOPHER GARNER.

3 Q AND YOU'RE EMPLOYED WITH THE SHERIFF'S DEPARTMENT?

4 A YES, SIR.

5 Q WHAT CAPACITY DO YOU WORK IN?

6 A SUPERVISOR ON THE HIGHWAY SAFETY UNIT.

7 Q AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
8 DEPARTMENT?

9 A BE 14 YEARS JULY 4TH.

10 Q SERGEANT, WERE YOU WORKING BACK ON SEPTEMBER 4TH OF
11 1992?

12 A YES, I WAS.

13 Q DO YOU REMEMBER WHAT SHIFT YOU WERE WORKING ON THAT
14 OCCASION?

15 A DAY SHIFT.

16 Q WERE YOU BY YOURSELF THAT DAY OR WAS THERE ANYONE ELSE
17 WITH YOU?

18 A I WAS BY MYSELF MOST OF THE DAY BUT FOR LUNCH I HAD ONE
19 OF MY OTHER DEPUTIES RIDING WITH ME.

20 Q WHERE DID YOU GO TO LUNCH THAT DAY?

21 A PIZZA HUT ON COLUMBIA AVENUE IN LEXINGTON.

22 Q THAT'S RIGHT UP THIS WAY ABOUT A HALF A MILE?

23 A YES, SIR, IN THE CITY LIMITS OF LEXINGTON.

24 Q AFTER LUNCH DID YOU HAVE AN OCCASION TO RESPOND TO A
25 CALL?

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 Q TELL ME HOW YOU CAME TO BE INVOLVED IN THAT?

2 A AFTER LUNCH I GOT BACK IN MY PATROL CAR AND TURNED ON
3 THE RADIO AND THE ALERT TONE WAS ACTIVATED WHICH IS AN
4 EMERGENCY TONE THE DISPATCHER ACTIVATES WHEN THERE'S A
5 SERIOUS CALL, AND THEY GAVE OUT A CALL AT THE BOW-WOW
6 BOUTIQUE WHICH IS LOCATED AT TWO NOTCH AND CEDAR CREST IN
7 LEXINGTON COUNTY THAT THERE WAS A SHOOTING AND ONE PERSON WAS
8 DOWN.

9 Q WHAT DID YOU DO AFTER YOU RECEIVED THAT CALL?

10 A I RESPONDED TO HEADQUARTERS BECAUSE I WAS THE CLOSEST
11 CALL, AND I RESPONDED FROM THE PIZZA HUT TO THE LOCATION WITH
12 EMERGENCY EQUIPMENT, ACTIVATED BLUE LIGHT AND SIREN.

13 Q APPROXIMATELY WHAT TIME WAS IT THAT YOU RECEIVED THE
14 CALL, SERGEANT?

15 A APPROXIMATELY 13:45, 13:44, ABOUT 1:44 OR 1:45,
16 SOMEWHERE IN THAT AREA.

17 Q IN THE AFTERNOON.

18 A YES, SIR.

19 Q ALL RIGHT. AND HOW LONG DID IT TAKE YOU TO ARRIVE AT
20 THE SCENE?

21 A NOT MUCH MORE THAN FIVE MINUTES.

22 Q WHAT DID YOU DO WHEN YOU FIRST ARRIVED AT THE SCENE?

23 A WHEN I ARRIVED OF COURSE OUR FIRST ISSUE THERE IS TO
24 MAKE SURE THE SCENE IS CONTROLLED AND TO CHECK FOR INJURED
25 PARTIES. WHEN I ARRIVED I SAW A WHITE MALE STANDING OUTSIDE

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 THE BUILDING AND I SAW TWO VEHICLES. I SAW A BROWN CHEVROLET
2 ON THE CEDAR CREST SIDE OF THE BOW-WOW BOUTIQUE, AND I SAW A
3 FORD ECONOLINE VAN ON THE TWO NOTCH ROAD SIDE.

4 Q THIS BUILDING SITS ON THE CORNER?

5 A YEAH, IT'S A T INTERSECTION.

6 Q ALL RIGHT. THE WHITE MALE THAT YOU SAW IS HE IN THE
7 COURTROOM TODAY?

8 A YES, HE IS.

9 Q COULD YOU POINT HIM OUT WHO YOU'RE SPEAKING OF.

10 A HE'S ON THE FIRST BENCH, SECOND ROW, BLACK HAIR,
11 MUSTACHE, THAT'S HIM.

12 Q THE FELLOW STANDING UP?

13 A THAT'S CORRECT.

14 Q DID YOU LATER LEARN THAT THAT WAS DANNY KESTNER?

15 A YES, I DID.

16 Q ALL RIGHT. AFTER YOU ARRIVED AND YOU SAW MR. KESTNER
17 OUTSIDE WHAT DID YOU DO FROM THAT POINT, SERGEANT?

18 A I ORDERED HIM TO TURN AROUND SO I COULD CHECK HIM FOR
19 WEAPONS AT GUNPOINT BECAUSE I DIDN'T KNOW WHO THE SUSPECT WAS
20 OR IF THERE WAS ONE AT THAT TIME AND SAW THAT HE WAS NOT, AND
21 THAT HE ADVISED ME THAT THE PERSON WHO HAD BEEN SHOT WAS ON
22 THE INSIDE OF THE BUILDING.

23 Q ALL RIGHT. WHAT DID YOU DO FROM THERE?

24 A CLEARED THE BUILDING. AGAIN, WE WENT IN THE BUILDING
25 SLOWLY TO MAKE SURE THERE'S STILL NOT GUNFIRE, AND AS I GOT

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 INTO THE BUILDING I OBSERVED TWO WHITE FEMALES ONE OF WHICH
2 WAS BENT OVER A WHITE MALE THAT WAS LAYIN' ON THE FLOOR IN
3 QUITE A BIT OF BLOOD, APPEARED TO BE GIVIN' HIM C.P.R.

4 Q AND WHAT DID YOU DO FROM THAT POINT?

5 A STILL HAD A SHOTGUN AND I WAS COMIN' IN BECAUSE THERE
6 WAS A WHITE MALE STANDING THERE AND AS I STARTED WALKIN' INTO
7 THE BUILDING HE LOOKED AT ME AND SAID I SHOT HIM I'M SORRY
8 PLEASE HELP HIM.

9 Q OK. AND WHICH INDIVIDUAL TOLD YOU THAT?

10 A THAT MAN SEATED RIGHT OVER THERE BETWEEN THE TWO
11 ATTORNEYS WITH THE LIGHT BROWN SUIT.

12 MR. RIDDLE: YOUR HONOR, I'D LIKE FOR THE RECORD TO
13 REFLECT THAT THAT'S THE DEFENDANT RANDALL RUTLAND.

14 Q AFTER HE MADE THOSE STATEMENTS TO YOU WHAT, IF ANYTHING,
15 DID YOU DO THEN?

16 A ORDERED HIM TO COME TOWARD ME. HE WAS SEARCHED FOR
17 WEAPONS; DID NOT HAVE ANY ON HIS PERSON. THERE WERE TWO
18 WEAPONS IN THE BUILDING. THERE WAS A 25 AUTOMATIC ON THE
19 FLOOR AND THERE WAS ALSO A PERVIET TECH NINE NINE MILLIMETER
20 ON THE FLOOR. BOTH OF THEM CLOSE TO EVERYONE'S IMMEDIATE
21 AREA. I TOOK HIM OUTSIDE OF THE BUILDING, ARRESTED HIM AND
22 GAVE HIM MIRANDA RIGHTS.

23 Q ALL RIGHT. DID YOU PUT HAND CUFFS ON HIM?

24 A YES, I DID.

25 Q WHAT DID YOU DO WITH MR. RUTLAND AFTER YOU PLACED THE

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 HAND CUFFS ON HIM?

2 A OTHER CRUISES WERE PULLING UP TO THE SCENE AND A DEPUTY
3 WITH UNIFORM PATROL DIVISION PULLED UP WITH A MARKED CRUISER
4 WITH A CAGE CAR AND HE WAS PUT IN THE BACK OF THAT VEHICLE.

5 Q ALL RIGHT. IS THAT STANDARD PROCEDURE---

6 A YES, IT IS.

7 Q ---FOR THE DEPARTMENT? ALL RIGHT. YOU TESTIFIED YOU
8 GAVE MR. RUTLAND HIS MIRANDA RIGHTS.

9 A YES.

10 Q DO YOU DO THAT FROM MEMORY OR DO YOU DO THAT FROM A
11 FORM?

12 A EITHER OR BUT THIS DAY IN PARTICULAR I USED MY CARD.

13 Q OK. DO YOU HAVE THAT CARD WITH YOU?

14 A YES, SIR, I DO.

15 Q ALL RIGHT. LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY
16 MARKED AS STATE'S #2 FOR IDENTIFICATION AND ASK YOU IF YOU
17 RECOGNIZE WHAT IT IS.

18 A THAT'S A COPY OF THE CARD.

19 Q A BLOWN UP VERSION OF IT?

20 A YES.

21 MR. RIDDLE: YOUR HONOR, I'D MOVE THAT THIS BE OFFERED
22 INTO EVIDENCE AT THIS TIME.

23 MR. GREGORY: NO OBJECTION, YOUR HONOR.

24 (STATE'S EXHIBIT #2 RECEIVED IN EVIDENCE.)

25 Q SERGEANT, IF YOU WOULD, WOULD YOU GIVE THE RIGHTS AS YOU

CHRIS GARNER - DIRECT BY MR. RIDDLE

1 GAVE THEM TO MR. RUTLAND AS YOU GAVE THEM TO MR. RUTLAND ON
2 THAT PARTICULAR DAY?

3 A YES, SIR. YOU HAVE A RIGHT TO REMAIN SILENT. ANYTHING
4 YOU SAY MAY BE USED AGAINST YOU IN COURT. YOU HAVE A RIGHT
5 TO HAVE A LAWYER AND CONSULT WITH HIM BEFORE OR WHILE
6 ANSWERING ANY QUESTIONS. IF YOU CANNOT AFFORD A LAWYER ONE
7 WILL BE PROVIDED FOR YOU WITHOUT COST, AND THEN I WENT INTO
8 THE WAIVER PORTION. DO YOU UNDERSTAND YOUR RIGHTS AS I HAVE
9 EXPLAINED THEM TO YOU. HE AFFIRMED HE DID. AND I ASKED HIM
10 ARE YOU WILLING TO TALK WITH US WITHOUT A LAWYER PRESENT.
11 AND HE AFFIRMED THAT HE DID.

12 Q OK. AND DID YOU QUESTION HIM AT THAT TIME?

13 A NO.

14 Q WHY NOT?

15 A THAT'S NOT IN MY JOB DESCRIPTION AT THAT POINT SINCE I
16 WAS THE FIRST SUPERVISOR THERE AND WAS ALSO SECURING THE
17 SCENE. THAT IS WHAT THE DETECTIVES DO. THAT'S OUR POLICY.

18 Q AND YOU WERE JUST FOLLOWING POLICY AND PLACED HIM IN THE
19 PATROL VEHICLE?

20 A RIGHT.

21 Q WAS THAT THE LAST CONTACT THAT YOU HAD WITH THE
22 DEFENDANT?

23 A YES, IT WAS.

24 Q WHAT, IF ANYTHING, DID YOU DO WHEN DETECTIVE FRIER
25 ARRIVED AT THE SCENE?

CHRIS GARNER - DIRECT BY MR. RIDDLE

A WHEN DETECTIVE FRIER ARRIVED AT THE SCENE I ADVISED THAT WE HAD RESPONDED TO A SHOOTING AND THAT WHEN I WALKED INTO THE BUILDING AFTER CLEARING THE BUILDING I HAD SOME SPONTANEOUS STATEMENTS BY THE SUSPECT WHICH I STATED THAT THE SUSPECT SAID I SHOT HIM I'M SORRY PLEASE HELP. I ALSO ADVISED HIM THAT WE ARRESTED HIM, TOOK HIM OUT IN THE PARKING LOT AND GAVE HIM MIRANDA RIGHTS, PLACED HIM IN THE VEHICLE AWAITING FOR A DETECTIVE.

Q AND WAS THAT YOUR LAST INVOLVEMENT WITH THIS CASE?

A YES, IT WAS.

Q AND HOW LONG AFTER THE -- AFTER YOU SPOKE WITH DETECTIVE FRIER DID YOU REMAIN AT THE SCENE?

A I DON'T THINK IT WAS MUCH MORE THAN 15 OR 20 MINUTES.

Q AND THEN YOU WENT BACK TO YOUR NORMAL DUTIES AT THAT TIME?

A YES, I DID.

MR. RIDDLE: BEG THE COURT'S INDULGENCE. YOUR HONOR, THAT'S ALL WE HAVE AT THIS TIME.

CROSS-EXAMINATION

BY MR. GREGORY

Q SGT. GARNER, WHEN YOU ARRIVED WERE YOU ALONE AT THE TIME?

A NO, I WAS NOT.

Q WHO WAS WITH YOU, SIR?

A TRAFFIC DEPUTY ROBERT SMITH.

CHRIS GARNER - CROSS BY MR. GREGORY

1 Q DID HE LEAVE WITH YOU WHEN YOU LEFT?

2 A YES, HE DID.

3 Q AND YOUR PATROL CAR IS IT MARKED?

4 A YES, SIR, IT IS A MARKED PATROL CAR.

5 Q DOES IT HAVE A CAGE IN THE BACK?

6 A TRAFFIC CARS DON'T RUN CAGES.

7 Q ALL RIGHT, SIR. DID YOU PLACE MR. RUTLAND IN YOUR CAR?

8 A DID I?

9 Q YES, SIR.

10 A NO, SIR.

11 Q IN WHICH CAR DID YOU PLACE HIM IN?

12 A DEPUTY DONALD BENNETT, BE A '91 FORD CROWN VICTORIA.

13 Q AND THAT'S A VEHICLE THAT'S A SHERIFF'S DEPARTMENT
14 VEHICLE WITH A CAGE IN THE BACK OF IT?

15 A YEAH, THAT'S THE UNIFORM RESPONSE CAR. THAT'S CORRECT.

16 Q DID YOU PLACE HAND CUFFS ON MR. RUTLAND?

17 A DID I?

18 Q YES, SIR.

19 A YES, SIR.

20 Q IN WHAT MANNER?

21 A I DON'T UNDERSTAND THE QUESTION.

22 Q WERE THEY CUFFED IN FRONT OR---

23 A NO, NO, NO. OUR POLICY IS UNLESS THERE'S A HANDICAP OR
24 SOMETHING LIKE THAT, THEY'RE ALWAYS HAND CUFFED FROM BEHIND.

25 Q IN BEHIND?

CHRIS GARNER - CROSS BY MR. GREGORY

- 1 A YES, SIR, IN THIS FASHION RIGHT HER.
- 2 Q ALL RIGHT, SIR. AND YOU PLACED HIM IN THE BACK SEAT OF
- 3 THE OTHER VEHICLE?
- 4 A YES, SIR.
- 5 Q YOUR VEHICLE WAS THE FIRST ONE ON THE SCENE?
- 6 A THE FIRST MARKED VEHICLE, YES, SIR.
- 7 Q AND WHEN YOU GOT THERE THERE WERE TWO VEHICLES IN THE
- 8 YARD?
- 9 A YES, SIR.
- 10 Q YOU SAID A BROWN CHEVROLET?
- 11 A YES, SIR.
- 12 Q AND A BLUE VAN?
- 13 A BLUE OR LIGHT VAN. IT WAS A FORD VAN.
- 14 Q YOU SURE THERE WASN'T ANOTHER VEHICLE OUT THERE?
- 15 A I THINK AROUND THE BACK OF THE BUILDING THERE WAS A
- 16 CHRYSLER PRODUCT BEHIND THE BOW-WOW BOUTIQUE.
- 17 Q DID YOU CHECK ANY ONE OF THESE THREE VEHICLES?
- 18 A NO, SIR, I DID NOT.
- 19 Q YOU JUST PROCEEDED STRAIGHT ON INTO THE BUILDING?
- 20 A I DIDN'T PROCEED STRAIGHT. I JUST---
- 21 Q AFTER TALKIN' WITH MR. KESTNER.
- 22 A YES, THAT'S CORRECT, SIR.
- 23 Q AND HOW LONG WOULD YOU SAY THAT YOU STAYED THERE, SIR?
- 24 A AT THE WHOLE SCENE?
- 25 Q YES, SIR.

CHRIS GARNER - CROSS BY MR. GREGORY

1 A I THINK I ARRIVED -- I THINK I WAS DISPATCHED AROUND
2 13 -- I THINK THE CALL WAS RECEIVED AROUND 13:42. I BELIEVE
3 I RESPONDED BY DISPATCH AT 13:44 AND I PROBABLY CLEARED
4 WITHIN 15 TO 20 MINUTES, SO I'D SAY ROUGHLY A QUARTER AFTER
5 2.

6 Q NO MORE THAN 30 MINUTES THEN?

7 A OH, NO.

8 Q ALL RIGHT. WHEN YOU LEFT HOW MANY PATROL CARS WERE
9 THERE OR INVESTIGATORS CARS OR DEPARTMENT CARS?

10 A OK. THERE WAS THE ONE UNIFORM CAR THAT WAS THERE WHICH
11 IS THE UNIFORM RESPONSE CAR THAT THE DEFENDANT WAS PLACED IN.
12 THAT WAS A MARKED CAR. THERE WAS DETECTIVE FRIER'S CAR AND
13 THERE WAS LT. PHILLIPS' CAR WHICH THEY ARE BOTH UNMARKED
14 CRUISERS, AND, OF COURSE, THE AMBULANCE WAS THERE.

15 Q ALL RIGHT, SIR. DID YOU IDENTIFY ALL THE PEOPLE THAT
16 WERE IN THE BOW-WOW BOUTIQUE---

17 A DID I?

18 Q ---WHEN YOU GOT THERE? YES, SIR.

19 A NO.

20 Q THAT'S NOT YOUR FUNCTION?

21 A NO, NOT AT THAT POINT, SIR.

22 Q HOW MANY PEOPLE WERE THERE THAT YOU SAW?

23 A IN THE BUILDING?

24 Q YES, SIR.

25 A IN THE BUILDING BESIDES MYSELF?

CHRIS GARNER - CROSS BY MR. GREGORY

1 Q YES, SIR.

2 A THERE WOULD BE THE VICTIM; THERE WAS A LADY THAT WAS
3 GIVING HIM C.P.R., AND THERE WAS ANOTHER LADY INSIDE THE
4 BUILDING. SO THERE WAS TWO FEMALES AND ONE MALE AND THIS
5 GENTLEMAN WAS STANDING OUTSIDE THE DOOR.

6 Q ALL RIGHT. DO YOU SEE THOSE TWO FEMALES HERE IN THE
7 COURTROOM?

8 A YEAH, I BELIEVE I SEE ONE FOR SURE.

9 Q AND CAN YOU POINT HER OUT?

10 A YES, SIR. SHE'S SITTING RIGHT NEXT TO THE GENTLEMAN
11 RIGHT THERE WITH THE POLKA DOTTED DRESS.

12 Q THE ONE THAT GOT HER HAND UP?

13 A THAT'S HER.

14 Q ALL RIGHT, SIR. HOW ABOUT ELSEWHERE IN THE COURTROOM?
15 DO YOU SEE THE OTHER FEMALE?

16 A I DON'T REMEMBER HER FACE THAT WELL BECAUSE SHE WAS
17 GIVING C.P.R. SO I REALLY COULDN'T SAY WITH CERTAINTY UNDER
18 OATH SO I WOULDN'T DO THAT.

19 Q ALL RIGHT, SIR. THANK YOU VERY MUCH.

20 MR. RIDDLE: BRIEFLY, YOUR HONOR.

21 REDIRECT EXAMINATION

22 BY MR. RIDDLE

23 Q SERGEANT, YOU TESTIFIED, I BELIEVE, THAT DETECTIVE FRIER
24 WAS ON THE SCENE AND LT. PHILLIPS. DO YOU KNOW FOR CERTAIN
25 WHETHER THEY WERE THERE WHEN YOU LEFT THE SCENE?

CHRIS GARNER - CROSS BY MR. GREGORY

1 A WELL, I DON'T THINK -- I KNOW SCOTTIE WASN'T THERE
2 DETECTIVE FRIER.

3 Q SCOTTIE FRIER WAS NOT AT THE SCENE WHEN YOU LEFT?

4 A YEAH, HE LEFT BEFORE I DID.

5 Q THAT'S ALL I HAVE.

6 THE COURT: THANK YOU, SIR. YOU CAN STEP DOWN.

7 A THANK YOU.

8 MR. RIDDLE: YOUR HONOR, THE STATE WOULD CALL DANIEL
9 KESTNER TO THE STAND.

10 DANIEL KESTNER, BEING DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. RIDDLE

14 Q CAN YOU STATE YOUR WHOLE NAME FOR ME, PLEASE, SIR.

15 A DANIEL ERIC KESTNER.

16 Q OK. AND, MR. KESTNER, THE LADY IN THE POLKA DOTTED
17 DRESS IS THAT YOUR WIFE?

18 A YES, SIR.

19 Q DID SHE RUN THE BOW-WOW BOUTIQUE?

20 A WE MANAGED IT, YES, SIR.

21 Q AND DID SHE HAVE A PARTNER IN THE BOW-WOW BOUTIQUE?

22 A YES, SIR, IT WAS ROBIN HUNT.

23 Q OK. WERE YOU AT THE BOW-WOW BOUTIQUE ON SEPTEMBER THE
24 4TH OF 1992?

25 A YES, SIR, I WAS.

DANIEL KESTNER - DIRECT BY MR. RIDDLE

1 Q WHO ALL WAS THERE WITH YOU?

2 A THAT -- WELL, ABOUT 1:30 SALLY AND THEM HAD COME OVER
3 WANTIN' TO BUY A CAR FROM ME SO THERE WAS JUST ME -- MYSELF,
4 MY WIFE, SALLY PEELE AND FRED RUTLAND.

5 Q ALL RIGHT. WHEN YOU SAY FRED RUTLAND YOU'RE SPEAKING OF
6 THE DEFENDANT?

7 A YES, SIR.

8 Q WHAT WERE YOU DOING AT THE TIME THEY CAME TO BUY A CAR?
9 WHAT DID YOU DO?A

10 A THEY COME WANTIN' TO PURCHASE THE CAR, SO I WAS --
11 DIDN'T KNOW EXACTLY WHERE THE TITLE WAS, SO I WAS GONNA TRY
12 TO ROUND THE TITLE UP. I KNOWED IT WAS IN THE CAR SOMEWHERE
13 BUT THE CAR WAS PACKED FULL OF JUNK FROM WHEN WE JUST MOVED.

14 Q ALL RIGHT. LET ME BACK UP JUST ONE SECOND AND SHOW YOU
15 SOMETHING AND ASK YOU IF YOU RECOGNIZE WHAT IT IS.

16 A THAT'S THE BOW WOW.

17 Q THAT'S THE BOW-WOW BOUTIQUE?

18 A YES, SIR.

19 MR. RIDDLE: YOUR HONOR, I'D MOVE THAT THIS BE ADMITTED
20 INTO EVIDENCE AT THIS TIME.

21 MR. GREGORY: NO OBJECTION.

22 THE COURT: NO OBJECTION. (STATE'S EXHIBIT #1 RECEIVED
23 IN EVIDENCE.)

24 Q STEP DOWN FOR ME IF YOU WOULD, PLEASE, SIR. (WITNESS
25 COMPLIED.) IF YOU COULD, MR. KESTNER, EXPLAIN THE LAYOUT OF

DANIEL KESTNER - DIRECT BY MR. RIDDLE

1 THE BOW-WOW BOUTIQUE AND THE ROADS SURROUNDING IT.

2 A OK. TWO NOTCH CAME ACROSS THIS A WAY KINDA LIKE THIS
3 AND CEDAR CREST CAME DOWN THAT ROAD RIGHT HERE.

4 Q AND THIS BUILDING SITS ON THE CORNER?

5 A YES, SIR.

6 Q ALL RIGHT. WHERE IS THE FRONT DOOR OF THIS BUILDING?

7 A RIGHT THERE.

8 Q OK. AND WHAT IS THIS AREA RIGHT HERE?

9 A WE TURNED THAT INTO AN APARTMENT. THAT'S WHERE ME AND
10 MY WIFE AND MY STEPSON ARE LIVIN'.

11 Q OK. AND THE FRONT AREA WAS THE SHOP ITSELF?

12 A YES, SIR.

13 Q OK. THERE WAS FOUR PEOPLE IN THE SHOP I BELIEVE YOU
14 TESTIFIED TO EARLIER. WHERE WERE YA'LL IN THE SHOP?

15 A OK. WHEN I WENT OUT I COME OUT AND WENT BACK OUT THE
16 FRONT DOOR. THE CAR WAS SITTIN' OVER HERE.

17 Q OK. NOW THAT'S THE CAR THAT YOU'RE REFERRING TO?

18 A I WAS GONNA SELL SALLY PEELE.

19 Q OK. LET ME JUST DO SOMETHIN' RIGHT QUICK HERE. GOT A
20 LITTLE STICKER THAT REPRESENTS THE CAR. I'D LIKE YOU TO
21 PLACE THAT ON THE CHART WHERE THE CHARGER WAS LOCATED.
22 (WITNESS COMPLIED.) OK. AND IS THAT THE DIRECTION THE CAR
23 WAS POINTED IN?

24 A YES, SIR. THE FRONT WAS TOWARD TWO NOTCH.

25 Q TELL ME WHAT THE BLUE AREAS ARE ON HERE.

DANIEL KESTNER - DIRECT BY MR. RIDDLE

1 A THAT -- WELL, WE HAD BIG PANE GLASS WINDOWS ON EACH OF
2 THE BLUE.

3 Q PICTURE WINDOWS?

4 A YES, SIR.

5 Q OK. AND WHERE WAS YOUR WIFE IN THE SHOP AT THIS TIME?

6 A SHE WAS STANDIN' BEHIND THIS TABLE HERE.

7 Q WHAT WAS SHE DOING?

8 A GROOMIN' A CHOW DOG, CHOW PUPPY.

9 Q ALL RIGHT. AND THAT WAS HER JOB THERE?

10 A YES, SIR, SHE DID DOGS THERE.

11 Q ALL RIGHT. WHEN YOU LEFT TO GO LOOK FOR THE TITLE, HOW
12 DID YOU LEAVE OUT OF THE BUILDING ITSELF?

13 A SALLY WAS OVER HERE; SHE WAS GOING TO CALL THE HIGHWAY
14 DEPARTMENT. SHE WAS ON THIS SIDE OF THE DOOR AND FRED WAS
15 STANDIN' KIND OF IN THE DOORWAY AND THEN I WENT OUT AND WENT
16 THROUGH THE SWINGING DOORS AND AROUND TO THE SIDE.

17 Q THIS IS THE SWINGING GATE YOU'RE SPEAKING OF?

18 A YES, SIR.

19 Q ALL RIGHT. WHAT IS THIS BROWN AREA RIGHT HERE?

20 A THAT'S LIKE A LATTICE WORK. IT'S LIKE A WINDOW BUT IT
21 HAD LATTICE WORK ON IT DRAPED ACROSS THE FRONT OF IT SO THE
22 CUSTOMERS COULDN'T SEE (INAUDIBLE) CUSTOMERS CAME IN THE CAME
23 IN THE DOOR.

24 Q ALL RIGHT. COULD YOU SEE OUT FROM THE BACK OF THAT
25 AREA?

DANIEL KESTNER - DIRECT BY MR. RIDDLE

1 A YES, SIR.

2 Q OK. SO SOMEONE STANDING IN THIS AREA HERE WOULD THEY BE
3 ABLE TO SEE SOMEONE STANDING OUT HERE?

4 A YOU COULD SEE ALL THE WAY TO THE WINDOW OUTSIDE THE
5 DOOR.

6 Q ALL RIGHT. WAS THERE A WINDOW IN THIS FRONT DOOR?

7 A YES, SIR.

8 Q ALL RIGHT. IF SOMEONE WERE STANDING IN THIS DOORWAY
9 WOULD THEY BE ABLE TO SEE OUT THIS FRONT WINDOW HERE?

10 A YES, SIR.

11 Q WOULD THEY BE ABLE TO SEE OUT THIS FRONT WINDOW HERE?

12 A THEY COULD IF THEY HAD TURNED AROUND AND GOT A LITTLE
13 BIT DIFFERENT. THEY'D PROBABLY HAVE TO STAND ABOUT IN HERE.

14 Q DOES THIS WALL GO ALL THE WAY TO THE CEILING?

15 A YES, SIR, BUT IT WAS A LITTLE BIT SHORTER (INAUDIBLE).

16 THE COURT REPORTER: MR. RIDDLE, I CAN'T HEAR YOUR
17 WITNESS.

18 Q YOU'RE GONNA HAVE TO SPEAK UP.

19 A OK.

20 Q MR. KESTNER, I'M SORRY. ALL RIGHT. IF YOU WERE
21 STANDING HERE COULD YOU SEE OUT THROUGH THE FRONT DOOR?

22 A IF YOU WERE STANDING IN THE DOORWAY?

23 Q YES, SIR.

24 A NO, SIR, YOU GOT TO STAND OFF TO THE SIDE.

25 Q ALL RIGHT. YOU CAN HAVE A SEAT FOR ME IF YOU WOULD.

DANIEL KESTNER - DIRECT BY MR. RIDDLE

1 A OK.

2 Q I BELIEVE THAT YOU STATED THAT YOU WENT OUTSIDE TO TRY
3 TO FIND THE TITLE TO THE AUTOMOBILE?

4 A YES, SIR.

5 Q WHERE WERE YOU LOOKING FOR THAT TITLE?

6 A IN THE GLOVE BOX AND UNDER THE SEATS AND EVERYWHERE.
7 'CAUSE WE HAD TOWED THE CAR BACK FROM FLORIDA AND IT WAS A
8 TOTAL MESS.

9 Q YOU WERE LOOKING IN THE VEHICLE?

10 A YES, SIR.

11 Q ALL RIGHT. DID THERE COME A TIME WHEN JIMMY PEELE
12 ARRIVED AT THE BOW-WOW BOUTIQUE?

13 A I DIDN'T NOTICE HIM PULLIN' UP, NO, SIR.

14 Q WHEN IS THE FIRST TIME THAT YOU SAW JIMMY PEELE AT THE
15 BOW-WOW BOUTIQUE?

16 A WELL, I HEARD SOMETHIN' THAT SOUNDED LIKE TWO SHOTS OR
17 TWO BULBS BREAKING SIMULTANEOUSLY, SO I CAME OUT OF THE CAR
18 AND CAME IN TO SEE WHAT IT WAS AND WHENEVER I WALKED IN THE
19 DOOR AND OPENED THE DOOR I SEEN JIMMY PEELE FALLIN' TO THE
20 FLOOR.

21 Q OK. DID YOU SEE JIMMY PEELE'S HANDS AT THAT TIME?

22 A I COULDA SAW HIS RIGHT HAND. I DIDN'T SEE NOTHIN' IN
23 HIS RIGHT HAND.

24 Q HE DIDN'T HAVE ANYTHING IN HIS RIGHT HAND?

25 A NO, SIR, I COULDN'T SEE TO THE LEFT OF HIM.

DANIEL KESTNER - DIRECT BY MR. RIDDLE

1 Q OK. DO YOU KNOW WHETHER JIMMY PEELE WAS RIGHT-HANDED OR
2 LEFT-HANDED?

3 A WELL, WHEN I WORKED WITH HIM AT PEELE'S ELECTRIC COMPANY
4 HE ALWAYS USED HIS RIGHT HAND FOR DRILLS AND STUFF BUT HE
5 COULD'VE BEEN BOTH.

6 Q AFTER THE SHOOTING, MR. KESTNER, WHAT DID YOU DO THEN?

7 A AS I SEEN THAT FRED AND THEM WAS GETTIN' READY TO START
8 HELPIN' JIMMY GIVIN' HIM CARDIAC ARREST AND EVERYTHING, I
9 TURNED AROUND AND I WALKED BACK OUTSIDE TO WAIT ON A
10 POLICEMAN OR THE AMBULANCE TO SHOW UP.

11 Q AND DID YOU REMAIN OUTSIDE AFTER THE SHOOTING TILL---

12 A YES, SIR.

13 Q ---DEPUTY GARNER ARRIVED?

14 A YES, SIR.

15 MR. RIDDLE: BEG THE COURT'S INDULGENCE FOR ONE MOMENT.

16 I BELIEVE THAT'S ALL I HAVE, YOUR HONOR.

17 CROSS-EXAMINATION

18 BY MR. GREGORY

19 Q MR. KESTNER?

20 A YES, SIR.

21 Q THE APARTMENT IN THE REAR IS THAT WHERE YOU LIVE?

22 A YES, SIR.

23 Q ISN'T THERE A WINDOW OVER HERE ON THIS SIDE?

24 A YES, SIR.

25 Q KINDA LIKE THE BAY WINDOW UP HERE ON---

DANIEL KESTNER - CROSS BY MR. GREGORY

1 A YES, SIR, THE SAME KINDA WINDOW. YES, SIR.

2 Q COULD YOU DRAW THAT ON THERE FOR ME. I'M GOING TO GIVE
3 YOU A -- HERE'S A PURPLE PEN. (WITNESS COMPLIED.) ALL
4 RIGHT, SIR. NOW I ASK YOU TO LOOK AT THIS ENTRANCE WAY
5 BESIDE THE BATH.

6 A YES, SIR.

7 Q IS THAT HOW YOU GOT INTO YOUR APARTMENT?

8 A YES, SIR. YOU COULD GET IN FROM THERE OR THE BACK DOOR.

9 Q OK. AND I'M ASSUMING BACK HERE YOU HAD A LIVIN' ROOM
10 AND A BEDROOM AND---

11 A YES, SIR. WE HAD TWO BEDROOMS, A LIVIN' ROOM AND A
12 KITCHEN AREA.

13 Q ALL RIGHT. WHAT KIND OF DOORWAY WAS THIS HERE?

14 A THIS HERE WAS JUST A OPEN DOORWAY. WELL, THERE WAS
15 REALLY ANOTHER WALL LIKE THIS AND A DOOR RIGHT HERE. AND
16 THIS DOOR WAS ALWAYS CLOSED SO THE DOGS WOULDN'T COME BACK IN
17 HERE 'CAUSE OUR DOG WOULD COME OUT TOO.

18 Q ALL RIGHT. THAT'S JUST AN INTERIOR DOOR?

19 A YES, SIR.

20 Q AND THE FRONT DOOR UP HERE HAD GLASS IN IT.

21 A YES, SIR.

22 Q BUT THIS ONE BACK HERE DIDN'T HAVE A GLASS IN IT.

23 A SOLID INTERIOR DOOR.

24 Q ALL RIGHT, SIR. THANK YOU. THE BOW-WOW BOUTIQUE, YOU
25 DIDN'T WORK THERE, DID YOU?

DANIEL KESTNER - CROSS BY MR. GREGORY

1 A I HELPED MY WIFE WHILE I WASN'T WORKIN' AT THE TIME. I
2 WOULD BATHE DOGS AND STUFF FOR HER.

3 Q OH, IS THAT RIGHT?

4 A YES, SIR.

5 Q AND WAS THAT AFTER YOU HAD BEEN WORKIN' FOR PEELE
6 ELECTRIC?

7 A I WORKED FOR PEELE ELECTRIC ALMOST TWO YEARS AGO.

8 Q AND DID YOU HAVE ANY OTHER JOB IN BETWEEN THAT ONE AND--

9 -

10 A I WAS HELPIN' -- YES, SIR. WHEN I WORKED -- WHEN WE WAS
11 IN JACKSONVILLE I WORKED AT AUTOS ON AND THEN WHEN I CAME
12 BACK TO SOUTH CAROLINA IN AUGUST I WORKED FOR JOHNNY GASTON'S
13 REMODELIN' SERVICE PUTTIN' DOWN CARPET AND VINYL AND STUFF.

14 Q NOW HOW LONG HAD YOU AND YOUR WIFE BEEN OPERATIN' THE
15 BOW-WOW BOUTIQUE, SHE WAS OPERATIN' WITH ROBIN HUNT I BELIEVE
16 YOU SAID.

17 A OK. SINCE WE CAME BACK FROM JACKSONVILLE OR---

18 Q YES, SIR.

19 A ---ALL TOGETHER? SINCE AUGUST.

20 Q AUGUST OF '92?

21 A YES, SIR.

22 Q SO YOU'D ONLY BEEN THERE ABOUT A MONTH.

23 A YES, SIR.

24 Q NOW YOUR WIFE IS THE LADY THAT WAS IN THE BOW-WOW
25 BOUTIQUE---

DANIEL KESTNER - CROSS BY MR. GREGORY

- 1 A YES, SIR.
- 2 Q ---AT THE TIME.
- 3 A YES, SIR.
- 4 Q AND SHE IS KIM KESTNER.
- 5 A YES, SIR.
- 6 Q SHE WAS THE ONE THAT STOOD UP A FEW MINUTES AGO?
- 7 A YES, SIR.
- 8 Q AND YOU HAD GONE OUTSIDE TO GET INTO A CHARGER
- 9 AUTOMOBILE TO LOOK FOR SOME RECORDS?
- 10 A YES, FOR A CAR TITLE TO SELL TO SALLY.
- 11 Q AND WHEN DID YOU TALK TO SALLY ABOUT SELLING HER THAT
- 12 VEHICLE?
- 13 A MY WIFE I THINK HAD TALKED TO HER A COUPLE DAYS BEFORE
- 14 THEN AND SHE HAD ASKED ABOUT NEEDIN' A CAR, AND I REALY
- 15 DIDN'T WANT TO SELL IT 'CAUSE I WAS GONNA KEEP THE MOTOR OUT
- 16 OF IT, AND THEN SHE OFFERED AMOUNT OF MONEY FOR IT AND SO I
- 17 SAID SURE.
- 18 Q ALL RIGHT. DID YOU FIND THE TITLE WHEN YOU WERE OUT
- 19 THERE?
- 20 A EVENTUALLY, YES, SIR. DIDN'T FIND IT THAT DAY, NO, SIR.
- 21 Q AND WAS THE CAR RUNNING? WOULD IT RUN?
- 22 A YES, SIR, IT RUN WHEN YOU CRANKED IT UP. YES, SIR.
- 23 Q WHEN SALLY CAME OVER THERE YOU WERE INSIDE THE BUILDING
- 24 AT THE TIME, WERE YOU NOT?
- 25 A YES, SIR, WHENEVER THEY CAME IN. YES, SIR.

DANIEL KESTNER - CROSS BY MR. GREGORY

1 Q AND SHE AND FRED CAME IN AND WHAT WAS THE GIST OF THE
2 CONVERSATION WHEN THEY GOT THERE?

3 A WELL, THE ONLY THING THAT I REALLY KNEWED WAS THAT
4 WHENEVER THEY CAME IN SHE SAID SHE NEEDED A CAR TO GO FIND
5 CHRISTINE WHICH WAS HER DAUGHTER BECAUSE JIMMY HAD HIDDEN HER
6 FROM HER, AND SO THAT WAS ONE OF THE REASONS SHE WAS WANTIN'
7 TO BUY A CAR.

8 Q AND HAD YOU OFFERED TO LOAN IT TO HER TO TEST DRIVE IT
9 OR ANYTHING?

10 A NO, SIR, SHE SAID THAT IF SHE BOUGHT IT, YOU KNOW, AND
11 IF I WANTED IT BACK LATER ON I COULD BUY IT BACK FROM HER AND
12 SO ON AND SO ON.

13 Q SO YOU AND SALLY STRUCK A DEAL---

14 A YES, SIR.

15 Q ---ON THE AUTOMOBILE.

16 A YES, SIR.

17 Q ALL RIGHT, SIR. A DODGE CHARGER.

18 A 1976 DODGE CHARGER.

19 Q AND IT WAS TITLED IN YOUR NAME?

20 A AT THE TIME IT WAS STILL TITLED IN FLORIDA IN A WOMAN'S
21 NAME THAT I BOUGHT IT FROM. I REALLY NEVER DID DRIVE THE CAR
22 TO WORK.

23 Q SO THAT REQUIRED SOMEBODY TO MAKE A PHONE CALL TO
24 FLORIDA TO CHECK OUT---

25 A YES, THAT'S WHAT SHE WAS DOIN'. SHE WAS TRYIN' TO CALL

DANIEL KESTNER - CROSS BY MR. GREGORY

1 TO SEE WHAT SHE HAD TO DO ABOUT GETTIN' THE TITLE CHANGED
2 OVER IN HER NAME.

3 Q ALL RIGHT, SIR. AND HOW MANY TELEPHONES ARE THERE IN
4 THE BOW-WOW BOUTIQUE OR WERE THERE IN SEPTEMBER OF '92?

5 A AT THAT TIME THERE WASN'T BUT THREE PHONES. THERE WAS
6 ONE IN OUR BEDROOM BACK IN THE BACK APARTMENT; ONE IN THE
7 KITCHENETTE AREA OF THE APARTMENT AND THEN THE ONE AT THE
8 FRONT BY HER DESK OR BY THE GROOMIN' TABLE.

9 Q ALL RIGHT. COULD YOU -- LET ME GIVE YOU A RED PEN HERE
10 AND YOU PUT A T WITH A CIRCLE AROUND IT WHERE ALL THREE
11 TELEPHONES WERE.

12 A THIS IS ONE PHONE. THERE'S ONE HERE AND ONE BACK HERE.

13 Q SO WE'RE LOOKING AT LIKE ONLY ONE PHONE OUT IN THE
14 BUSINESS PART OF---

15 A YES, SIR.

16 Q ---THE PREMISES. NOW DOES THAT TELEPHONE OUT THERE HAVE
17 A SEPARATE LINE THAN THE TWO IN THE BACK OR WERE THEY ALL---

18 A NO, SIR, ALL ON THE SAME LINE.

19 Q AND SHE PICKED UP THE PHONE WHERE TO USE TO CALL FLORIDA
20 ABOUT THE TITLE?

21 A I BELIEVE IT WAS THE ONE UP NEAR THE FRONT.

22 Q NEAR THE BUSINESS PART.

23 A YES, SIR.

24 Q ALL RIGHT. NOW AT THE TIME SHE WAS IN THERE ON THE
25 TELEPHONE YOUR WIFE WAS WORKING---

DANIEL KESTNER - CROSS BY MR. GREGORY

1 A YES, SIR.

2 Q ---IN THE BOW-WOW BOUTIQUE.

3 A YES, SIR.

4 Q WHAT WAS SHE DOING AT THAT TIME?

5 A SHE WAS GROOMIN' A LITTLE CHOW PUPPY, BRUSHIN' HIM OUT;
6 HE'D JUST HAD HIS BATH.

7 Q AND YOU LEFT THE BUILDING TO GO OUT TO THE CAR.

8 A YES, SIR.

9 Q HOW DID YOU LEAVE?

10 A I WENT OUT THE FRONT DOOR AND THEN AROUND TO THE SIDE.

11 Q ALRIGHT. AS YOU WENT OUT THE FRONT DOOR, DID YOU NOTICE
12 ANY OTHER VEHICLES OUT THERE AROUND THE BUILDING?

13 A NO, SIR, BESIDES THE ONE THAT THEY'D COME UP IN THE BLUE
14 FORD VAN.

15 Q A BLUE FORD VAN.

16 A YES, SIR.

17 Q WHERE WAS IT PARKED?

18 A THE NOSE OF IT WAS POINTED DOWN TWO NOTCH LIKE YOU'RE
19 GOIN' TOWARD NUMBER ONE IN FRONT OF THE BUILDIN'.

20 Q BY THE DOOR?

21 A ALMOST RIGHT BY THE DOOR, YES, SIR.

22 Q YOU HAD THE VAN HERE -- I'M GONNA GIVE YOU A VAN. IF
23 YOU WOULD PUT THIS VAN OUT THERE WHERE YOU SAW IT.

24 A RIGHT THERE IS WHERE IT WAS.

25 Q ALL RIGHT, SIR. IT'S NOT STICKIN'?

DANIEL KESTNER - CROSS BY MR. GREGORY

1 A NO, SIR.

2 Q LET'S SEE IF WE GOT ANY TAPE. ALL RIGHT NOW, THE STREET
3 THAT'S OUT THERE WHERE THAT VAN IS PARKED IS CALLED TWO NOTCH
4 ROAD?

5 A YES, SIR.

6 Q NOW THAT BUILDING DOESN'T SIT STRAIGHT IN THE
7 INTERSECTION. DOES IT?

8 A NO, SIR.

9 Q HOW DOES IT SIT COMPARED TO THE INTERSECTION?

10 A WELL, WHEN YOU COME TO THE INTERSECTION THE
11 INTERSECTION'S LIKE A T.

12 Q LIKE A 90 DEGREE?

13 A YES, SIR, LIKE A T. AND THEN THE BUILDIN' KINDA SIT IN
14 IT ALMOST WHERE THE FRONT OF THE BUILDIN' WAS KINDA SLOPED
15 TOWARD THE CORNER OF THE ROAD, YOU KNOW, WHERE THE T WAS.

16 Q ALL RIGHT. SO THE FRONT DOOR OF THAT BUILDING AND THE
17 FRONT OF THE BUILDING SITS SQUARELY INTO THE---

18 A THE T.

19 Q ---ANGLE.

20 A YES, SIR.

21 Q OK. NOW HOW LONG WERE YOU OUT IN YOUR CHARGER?

22 A IT DIDN'T SEEM LIKE IT WAS MORE THAN ABOUT 5 TO 6
23 MINUTES. I JUST GOT TO START LOOKIN' FOR THE TITLE REAL GOOD
24 AND THAT'S WHEN I HEARD THE TWO POPS.

25 Q AND WHERE WERE YOU LOOKING? WHAT PART OF THE---

DANIEL KESTNER - CROSS BY MR. GREGORY

1 A AT THAT TIME I WAS LOOKIN' UP UNDER THE SEAT WAS WHERE I
2 WAS TRYIN' TO LOOK AT 'CAUSE I'D DONE WENT THROUGH THE GLOVE
3 BOXES AND THE CONSOLE AND I WAS STARTIN' TO LOOK UP UNDER THE
4 SEAT.

5 Q ALL RIGHT, SIR. SO YOU WERE IN THE CAR, IF YOU WERE IN
6 THE CHARGER, SITTING IN IT---

7 A YES, SIR.

8 Q ---COULD YOU AT THAT ANGLE LOOK THROUGH THIS WINDOW THAT
9 IT WAS PARKED NEXT TO?

10 A NO, SIR.

11 Q WHY IS THAT?

12 A 'CAUSE I WAS LEANED OVER THE CONSOLE AND HAD MY HEAD UP
13 UNDER ALMOST TRYIN' TO LOOK UP UNDER THE DRIVER'S SIDE OF THE
14 SEAT FROM THE PASSENGER'S SIDE.

15 Q I UNDERSTAND, BUT IF YOU WERE SITTING UP IN THE CAR---

16 A IF I WAS SITTING UP IN THE CAR I WOULD HAVE HAD TO LOOK
17 THROUGH TWO PAIRS OF CURTAINS TO SEE THROUGH THE WINDOWS OF
18 THE BUILDING. I MIGHT HAVE BEEN ABLE TO SEE A FIGURE BUT THAT
19 WOULD HAVE BEEN ABOUT IT.

20 Q WHY WERE THERE CURTAINS IN THE WINDOW?

21 A JUST TO SORTA KEEP THE HEAT AND EVERYTHING DOWN INSIDE
22 THE BUILDING.

23 Q NOW WHICH SIDE OF THE BUILDING DID THE SUN SET ON?

24 A THE SUN?

25 Q YES, SIR.

DANIEL KESTNER - CROSS BY MR. GREGORY

1 A MOST OF THE TIME IT WOULD COME UP IN THE FRONT AND GO
2 DOWN IN THE BACK.

3 Q MR. KESTNER, WHEN YOU WALKED OUT OF THE BOW-WOW BOUTIQUE
4 TO GO OUT TO YOUR CAR, DO YOU RECALL IF YOU LEFT THE FRONT
5 DOOR OF THIS BUILDING OPEN OR PULLED SHUT?

6 A IT'D BEEN VERY POSSIBLE I MIGHTA LEFT IT WHERE IT WOULD
7 BEEN OPEN.

8 Q NOW AFTER YOU HEARD THE SHOTS, DID YOU IMMEDIATELY GO
9 BACK INTO THE BUILDING?

10 A YES, SIR.

11 Q SO YOU WENT INTO THE BUILDING ACTUALLY BEFORE SGT.
12 GARNER GOT THERE?

13 A YES, SIR.

14 Q AND WHEN YOU WALKED IN WHAT DID YOU FIND? WHAT DID YOU-
15 --

16 A THAT'S WHEN I SEEN JIMMY PEELE FALLIN' TO THE FLOOR AND
17 THEN I SEEN FRED RUTLAND COMIN' OVER TO HELP HIM AND THEN I
18 TURNED AROUND AND WALKED BACK OUT.

19 Q WHEN YOU WALKED BACK OUT WHERE DID YOU WALK OUT TO?

20 A I WALKED OUT IN FRONT OF THE VAN AND THERE WAS A -- WE
21 HAD A SIGN TOWARD THE -- OUT TOWARD THE FRONT OF THE
22 BUILDIN'---

23 Q YES, SIR.

24 A ---AND I WAS JUST KINDA STANDIN' IN BETWEEN THAT SIGN
25 AND THE VAN WAITIN' ON THE POLICE TO SHOW UP.

DANIEL KESTNER - CROSS BY MR. GREGORY

1 Q ALL RIGHT. DID YOU MAKE THE PHONE CALL TO THE POLICE?

2 A NO, SIR.

3 Q DID YOU TELL ANYBODY TO CALL THE POLICE?

4 A NO, SIR.

5 Q WHEN YOU WALKED OUT HOW MUCH TIME ELAPSED FROM THE TIME
6 THAT YOU WALKED OUT OF THAT BUILDING IN CALCULATION WITH THE
7 TIME THAT YOU WALKED IN? IN OTHER WORDS, HOW MUCH TIME DID
8 YOU SPEND IN THE BUILDING LOOKIN' AT---

9 A I PROBABLY WASN'T THERE NO MORE'N THREE MINUTES.

10 Q DID YOU HAVE ANY CONVERSATION WITH ANYBODY?

11 A NO, SIR. I HEARD THAT -- THE ONLY THING I HEARD WAS
12 SALLY PEELE SAYIN' CALL FOR AN AMBULANCE, SO I FIGURED MY
13 WIFE OR SOMEBODY ELSE INSIDE THE BUILDIN' WOULD CALL AND I
14 WAS GONNA GO OUTSIDE AND WAIT.

15 Q ALL RIGHT. NOW WHO ALL WAS IN THE BUIDLING AT THAT
16 TIME?

17 A AT THAT TIME WHENEVER I SEEN THAT JIMMY WAS DOWN ON THE
18 GROUND AND WHEN I WALKED IN IT WAS ME, SALLY, FRED AND
19 KIMBERLY AND JIMMY WAS ON THE FLOOR.

20 Q ALL RIGHT. DID IT NOT AROUSE YOUR CURIOSITY AS TO HOW
21 JIMMY GOT IN THE BUILDING WHEN HE WASN'T THERE WHEN YOU---

22 A WHENEVER I THOUGHT ABOUT IT, YES, SIR, I DID.

23 Q DID YOU LOOK AROUND OUT IN THE YARD TO SEE IF HE HAD
24 DRIVEN IN---

25 A YES, SIR, I DID WALK AROUND. I WALKED OUT TO THAT

DANIEL KESTNER - CROSS BY MR. GREGORY

1 STREET SIGN WHERE THE BOW-WOW SIGN WAS OUT ON THE FRONT, THE
2 LIGHTED SIGN, I COULD SEE THE CAR SITTIN' AROUND TO THE LEFT-
3 HAND SIDE OF THE BUILDIN'.

4 Q ALL RIGHT. IF YOU WOULD, PLEASE, STEP DOWN AND POINT TO
5 WHERE YOU SAW THIS CAR.

6 A JIMMY'S CAR RIGHT UP HERE SIDE THE BUILDIN' WITH THE
7 NOSE UP POINTIN' BACK DOWN CEDAR CREST.

8 Q ALL RIGHT. I HAND YOU---

9 A OK.

10 Q ---A LITTLE VEHICLE MARKED PEELE AND ASK THAT YOU PLACE
11 THAT ON THE DIAGRAM WHERE YOU SAW IT, SIR. (WITNESS
12 COMPLIED.) DID YOU IMMEDIATELY WALK UP TO THAT PEELE
13 VEHICLE?

14 A NO. I DIDN'T WALK UP TO THE VEHICLE, NO, SIR.

15 Q HOW CLOSE DID YOU GET TO IT?

16 A FROM THE SIGN TO THE CAR WAS ROUGHLY ABOUT FIFTEEN FOOT.

17 Q DID YOU NOTICE ANYTHING PECULIAR ABOUT THE VEHICLE?

18 A THAT IT WAS STILL RUNNIN'.

19 Q STILL RUNNING.

20 A YES, SIR.

21 Q FRONT DOOR OPEN?

22 A NO, SIR. DOORS WERE SHUT.

23 Q WERE THE WINDOWS DOWN?

24 A YES, SIR.

25 Q HOW COULD YOU TELL IT WAS RUNNING?

DANIEL KESTNER - CROSS BY MR. GREGORY

1 A IT HAD A LIFTER TAP IN IT AND IT DIDN'T SOUND LIKE IT
2 WAS RUNNIN' TOO GOOD. IT WAS PRETTY LOUD.

3 Q WHAT KINDA CAR WAS IT?

4 A I THINK IT WAS ABOUT A '72 OR '73 CAPRICE, CHEVROLET
5 CAPRICE.

6 Q THANK YOU, SIR. NOTHING FURTHER.

7 MR. MCMAHON: STATE CALLS KIMBERLY KESTNER.

8 KIMBERLY KESTNER, BEING DULY SWORN,

9 TESTIFIES AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. MCMAHON

12 Q WOULD YOU INTRODUCE YOURSELF TO THE JURY, PLEASE.

13 A KIMBERLY DIANE KESTNER.

14 Q WHERE DO YOU LIVE NOW, MS. KESTNER?

15 A [REDACTED]

16 Q AND MR. KESTNER THAT JUST TESTIFIED, THAT'S YOUR
17 HUSBAND?

18 A YES.

19 Q DO YOU HAVE ANY CHILDREN?

20 A YES.

21 Q HOW MANY CHILDREN DO YOU HAVE?

22 A ONE.

23 Q AND WHAT AGE OR BOY OR GIRL?

24 A BOY. HE'S BE 14 NEXT MONTH.

25 Q NOW WHAT IS YOUR PRESENT OCCUPATION?

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

- 1 A I'M A VETERINARIAN TECHNICIAN AND GROOMER.
- 2 Q AND WHO DO YOU WORK FOR?
- 3 A DR. AMY SPEES.
- 4 Q HOW LONG HAVE YOU BEEN WORKIN' FOR HER?
- 5 A ALMOST THREE MONTHS.
- 6 Q LAST YEAR WERE YOU EMPLOYED BY THE BOW-WOW BOUTIQUE?
- 7 A YES.
- 8 Q WHAT KIND OF WORK DID YOU DO?
- 9 A I WAS A GROOMER THERE.
- 10 Q HOW LONG HAD YOU DONE IT?
- 11 A FROM THE FIRST?
- 12 Q FROM THE FIRST OF BEIN' A GROOMER, HOW LONG HAD YOU BEEN
- 13 A GROOMER?
- 14 A RIGHT AT 4 YEARS.
- 15 Q HOW LONG HAD YOU WORKED AT THE BOW-WOW BOUTIQUE?
- 16 A ABOUT THREE OF THOSE YEARS.
- 17 Q NOW WHO RUN THAT PARTICULAR BUSINESS BACK ON SEPTEMBER
- 18 '92?
- 19 A ROBIN HUNT RUN IT.
- 20 Q ROBIN HUNT?
- 21 A YES.
- 22 Q AS A MATTER OF FACT, THIS STICK-ON, THIS VAN RIGHT HERE-
- 23 --
- 24 A YES.
- 25 Q ---THAT MR. GREGORY HAD YOUR HUSBAND PUT ON THERE---

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 A YES.

2 Q WHOSE VAN WAS THAT?

3 A ROBIN HUNT'S.

4 Q WHO ARRIVED IN THAT VAN? DO YOU KNOW?

5 A I DON'T KNOW.

6 Q AND ON THIS PARTICULAR DAY THIS FRIDAY SEPTEMBER THE 4TH
7 YOU WERE WORKING THAT DAY?

8 A YES, SIR.

9 Q AND WHO ARRIVED THERE SHORTLY AFTER LUNCH AFTER ONE
10 O'CLOCK?

11 A SALLY. SALLY CAME IN WITH FRED. I DIDN'T KNOW HIM AT
12 THAT TIME.

13 Q YOU SAY SALLY CAME IN WITH FRED. WHO WAS THERE WHEN
14 SALLY AND FRED WALKED IN?

15 A ME AND DANNY WAS THE ONLY ONE THERE.

16 Q AND YOU'RE REFERRING TO SALLY PEELE.

17 A YES.

18 Q AND FRED RUTLAND.

19 A YES.

20 Q AND ABOUT WHAT TIME DID THEY ARRIVE?

21 A SEEMED LIKE IT WAS ABOUT FIFTEEN OR TWENTY AFTER ONE.

22 Q AND WHAT WERE YOU DOIN'?

23 A I WAS GROOMIN'.

24 Q IN WHAT AREA OF THE BUILDING WOULD YOU BE DOING YOUR
25 GROOMING?

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

- 1 A I WAS RIGHT---
- 2 Q LET ME TELL YOU TWO THINGS: HOW 'BOUT SPEAK UP SO---
- 3 A OK.
- 4 Q ---THIS YOUNG LADY CAN GET DOWN WHAT YOU SAY.
- 5 A OK.
- 6 Q AND THEN IF YOU STAND ON THIS SIDE SHE CAN HEAR YOU
- 7 BETTER.
- 8 A I WAS GROOMIN' RIGHT HERE.
- 9 Q WHERE IS THE FRONT DOOR TO THE BUILDIN'?
- 10 A RIGHT HERE.
- 11 Q AND DESCRIBE FOR THE JURY WHAT TYPE OF DOOR WAS ON THE
- 12 FRONT DOOR.
- 13 A IT'S A HALF WAY DOOR WITH A GLASS TOP.
- 14 Q NOW THAT BUILDING WE TALKED ABOUT IT A LITTLE BIT, IT
- 15 SITS AT WHAT INTERSECTION?
- 16 A IT'S KINDA CADDYCORNER WITH TWO NOTCH AND CEDAR CREST.
- 17 IT COMES -- IT'S IN THE MIDDLE OF BOTH ROADS.
- 18 Q KIND OF AT A 45 DEGREE ANGLE WHERE THEY COME IN AT A 90
- 19 DEGREE ANGLE. IS THAT CORRECT?
- 20 A YES, IT IS.
- 21 Q OK. SO THAT FRONT DOOR WOULD BE CLOSER TO THE TWO NOTCH
- 22 SIDE. CORRECT?
- 23 A YEAH, I WOULD THINK SO.
- 24 Q AND CAN YOU SEE IN AND OUT OF THAT FRONT DOOR?
- 25 A YES.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 Q ARE THERE ANY WINDOWS ON THE FRONT OF THE BUILDING?

2 A YES.

3 Q POINT THOSE WINDOWS OUT FOR THE JURY, PLEASE.

4 A THERE'S A WINDOW HERE AND A WINDOW BACK HERE AND A
5 WINDOW HERE.

6 Q NOW WHEN YOU SAY -- LET ME SEE IF I CAN GET THIS. ALL
7 RIGHT. THIS IS THE FRONT DOOR HERE?

8 A YES.

9 Q THIS BLUE AREA HERE IS WINDOWS?

10 A YES.

11 Q AND THIS BLUE AREA HERE IS WINDOWS. IS THAT RIGHT?

12 A YES.

13 Q THIS SIDE OF THE BUILDING, KIM, WHAT ROAD WOULD BE OVER
14 THERE?

15 A TWO NOTCH ROAD.

16 Q AND THIS SIDE OF THE BUILDING.

17 A CEDAR CREST.

18 Q NOW THOSE WINDOWS FROM INSIDE THE BUILDING EITHER IN
19 THIS OFFICE AREA I'M GONNA CALL IT---

20 A UH-HUH.

21 Q ---OR THIS GROOMING AREA---

22 A UH-HUH.

23 Q ---CAN YOU SEE OUT THE FRONT DOOR?

24 A WHEN I STAND HERE I CAN SEE THROUGH THIS LATTICE DOOR TO
25 THE FRONT DOOR INTO THIS WINDOW.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 Q DESCRIBE THAT LATTICE WORK FOR THE JURY, WHAT YOU MEAN.

2 A KINDA HALF WALL, HALF LIKE HIP HIGH AND THE REST OF IT'S

3 A LATTICE. IT'S ABOUT THE SIZE OF THESE BIG WINDOWS. IT'S
4 JUST A BIG OLD THING OF LATTICE WORK.

5 Q IF YOU'RE -- IF YOU'RE BACK HERE GROOMING---

6 A YES.

7 Q ---BACK IN THIS AREA GROOMING, AND SOMEONE COMES IN THE
8 FRONT DOOR AND WALKS IN THIS DIRECTION, ARE YOU ABLE TO SEE
9 THAT PERSON?

10 A YES.

11 Q WHAT PART OF THAT PERSON CAN YOU SEE?

12 A THE UPPER PART OF THE BODY LIKE FROM THE HIPS UP.

13 Q AND WHEN THEY GET ON DOWN FURTHER INTO THE BUILDING,
14 THIS AREA RIGHT HERE, CAN YOU SEE ANY MORE OF 'EM?

15 A NO, ABOUT THE SAME.

16 Q IS THERE EVER A TIME YOU CAN SEE 'EM FULL BODIED SO TO
17 SPEAK?

18 A NOT TILL THEY COME TO MY BAY OR UP HERE AND LOOK OVER
19 THIS COUNTER.

20 Q ALL RIGHT. WHAT TYPE OF GATE ARE YOU REFERRING TO RIGHT
21 HERE?

22 A IT'S A LITTLE LATTICE TYPE -- NOT LATTICE, BUT LOUVER-
23 TYPE SWINGING GATE.

24 Q IS IT LOWER THAN THIS?

25 A YES, IT'S LOWER THAN THIS WALL.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 Q CAN YOU SHOW THE JURY ABOUT HOW HIGH YOU'RE TALKIN'
2 ABOUT THIS GATE BEING.

3 A IT WOULD COME UP TO MY HIP; MAYBE A LITTLE LOWER.

4 Q AND THEN THIS RIGHT HERE, WHAT IS THIS?

5 A THAT'S THE COUNTER WHERE I HAD MY REGISTER ON.

6 Q THAT'S WHERE YOU GREET CUSTOMERS---

7 A RIGHT.

8 Q ---AND SUCH. IS THAT RIGHT?

9 A RIGHT.

10 Q NOW TELEPHONE. POINT OUT THE TELEPHONE IN THE OFFICE
11 AREA UP HERE IN THE AREA WHERE Y'ALL WASN'T LIVIN'.

12 A RIGHT HERE.

13 Q THAT WOULD BE RIGHT BY THE GROOMIN' TABLE.

14 A YEAH. ACTUALLY IT'S A LITTLE ABOVE MY GROOMIN' TABLE
15 BUT THAT TABLE GOT MOVED BACK AND FORTH.

16 Q NOW THE BACK PART OF THIS BUILDING, WHAT WAS DONE WITH
17 IT?

18 A AS IN WALLS AND STUFF YOU MEAN?

19 Q NO, WHAT WAS THAT USED FOR?

20 A I WAS LIVIN' BACK HERE.

21 Q AND WHO LIVED BACK THERE?

22 A ME AND MY HUSBAND AND SON.

23 Q AND THERE WAS OR WAS NOT, I FORGOT, OTHER WINDOWS?

24 A YEAH, THERE'S A BIG WINDOW RIGHT HERE.

25 Q OK. WHERE YOU CAN SEE OUT TO TWO NOTCH ROAD SOME.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

- 1 A YEAH, MY SON COULD. HIS -- HIS ROOM WAS RIGHT HERE.
- 2 Q IS THERE A DOOR THAT SITS HERE?
- 3 A IT'S JUST A BIG OPEN -- THERE WAS NO DOOR ON IT.
- 4 Q NO DOOR ON IT.
- 5 A NO.
- 6 Q NOW WHAT ABOUT HERE?
- 7 A THERE WAS A DOOR ON THIS ONE.
- 8 Q NOW THAT DOOR---
- 9 A IT'S A LITTLE INTERIOR DOORWAY, BATHROOM TYPE DOOR.
- 10 Q DID THAT DOOR STAY OPEN OR CLOSED?
- 11 A CLOSED.
- 12 Q DID THAT DOOR STAY LOCKED OR UNLOCKED?
- 13 A UNLOCKED. IT DIDN'T HAVE A LOCK ON IT.
- 14 Q DIDN'T EVEN HAVE A LOCK.
- 15 A NO.
- 16 Q IF THIS IS THE ENTRANCE OF THE BUILDIN' HERE, CAN YOU
- 17 EXIT THE BUILDING HERE THROUGH THE APARTMENT?
- 18 A YES.
- 19 Q THERE'S A DOOR THERE?
- 20 A YES.
- 21 Q ALL RIGHT. I THINK YOU CAN GO BACK AND TAKE YOUR SEAT.
- 22 I'LL TRY TO KEEP FROM RUNNING YOU UP AND DOWN. NOW YOU SAY
- 23 SALLY PEELE AND FRED RUTLAND ARRIVED. WHAT WAS THE PURPOSE
- 24 OF THEM BEING THERE? DO YOU KNOW?
- 25 A I THINK SALLY WANTED TO COME BUY THAT OLD CAR OF OURS.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 Q AND DID YOU HAVE A CONVERSATION WITH HER?

2 A YEAH, SHE WANTED TO FIND OUT HOW SHE COULD GET THE CAR
3 AND SO SHE WAS GONNA CALL THE HIGHWAY DEPARTMENT AND SEE WHAT
4 SHE HAD TO DO TO GET THAT TRANSFERRED SO SHE COULD MAKE IT
5 LEGAL TO DRIVE.

6 Q AND THAT'S THE OLD DODGE CHARGER.

7 A YES.

8 Q WHICH IS THE YELLOW CAR ON THE DIAGRAM THAT I PUT---

9 A YES.

10 Q ---THERE MARKED KESTNER.

11 A YES.

12 Q AND THAT'S WHERE IT WAS SITTING.

13 A YES.

14 Q NOW WHICH TELEPHONE WAS SALLY USING SALLY PEELE?

15 A THE LITTLE ONE BY THE GROOMIN' TABLE.

16 Q DID SHE OR YOU OR FRED RUTLAND EVER GO BACK TO THE
17 APARTMENT AREA OF THE BUILDING DURING THE COURSE OF THIS
18 INCIDENT?

19 A YES, I DID.

20 Q YOU DID. BEFORE THE INCIDENT HAPPENED OR AFTER THE
21 INCIDENT?

22 A AFTER.

23 Q OK. BEFORE IT HAPPENED DID ANYBODY GO BACK THERE?

24 A NO.

25 Q NOW WHERE WERE YOU AT -- IF SALLY PEELE IS ON THE PHONE

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 HERE---

2 A UH-HUH.

3 Q ---WHERE WERE YOU AT?

4 A I WAS BEHIND THE GROOMIN' TABLE STANDIN' KINDA BESIDE
5 HER. SHE---

6 Q I'LL TELL YOU WHAT I'M GONNA TRY TO DO, KIM, I'M GONNA
7 TRY TO HOLD THIS UP WHERE YOU CAN POINT TO IT WITHOUT GETTING
8 UP.

9 A OK.

10 Q AND THE JURY CAN STILL SEE IT. OK?

11 A I WAS RIGHT HERE.

12 Q I WANT YOU TO PUT UP THERE OR MR., PLEASE, S.P. FOR WHERE
13 SALLY PEELE WAS AT.

14 A WELL, THIS TABLE WAS SCOTED A LITTLE FURTHER DOWN. THE
15 PHONE WAS UP ABOVE THIS TABLE ACTUALLY. SO SALLY WOULD BE
16 STANDIN' RIGHT HERE.

17 Q CAN YOU PUT THE INITIALS THERE S.P. WHERE WOULD YOU
18 HAVE BEEN AT?

19 A RIGHT HERE.

20 Q NOW WHERE WAS MR. RUTLAND THE DEFENDANT?

21 A RIGHT HERE.

22 Q NOW OF THE THREE OF YA'LL CAN YOU SEE BACK ACROSS THIS
23 LATTICE WORK BACK TO THE FRONT DOOR? CAN YOU?

24 A YES.

25 Q CAN SALLY?

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 A I WOULD THINK SO, YES.

2 Q CAN MR. RUTLAND?

3 A I WOULD THINK ALL OF US COULD.

4 Q AND THESE WINDOWS ON THE FRONT COULD HE LOOK IN THAT
5 DIRECTION AND SEE SOMEONE WALKING OUTSIDE THE BUILDING?

6 A NOT AT THAT TIME BECAUSE I HAD MY BACK TO THAT WINDOW.

7 Q IF YOU WERE TURNED IN THE APPROPRIATE DIRECTION COULD
8 YOU---

9 A I COULD SEE, YES.

10 Q YOU COULD SEE THROUGH THOSE WINDOWS.

11 A YES.

12 Q THEY HAD SOME KINDA CURTAINS ON 'EM.

13 A THEY HAD REAL SHEER -- SHEER-LIKE CURTAINS ON 'EM.

14 Q NOW THIS IS THE POSITION OF THE THREE OF YA'LL: YOU,
15 MS. PEELE AND THE DEFENDANT WHILE MS. PEELE WAS ON THE
16 TELEPHONE. IS THAT CORRECT?

17 A THAT'S CORRECT.

18 Q WHEN SHE GOT OFF THE PHONE DID YOU MOVE?

19 A NO.

20 Q YOU STAYED THERE AND CONTINUED TO DO WHAT?

21 A GROOM.

22 Q NOW -- THE DOG.

23 A YES.

24 Q WHAT KINDA DOG WAS IT?

25 A I HAD A CHOW PUPPY ON THE TABLE.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 Q IS THAT A SMALL DOG? I DON'T KNOW.

2 A HE WAS A -- YEAH, HE WAS ONLY LIKE 10 WEEKS OLD. HE WAS
3 A PUPPY.

4 Q NOW DID SALLY MOVE?

5 A I CAN'T RECALL IF SHE DID OR NOT.

6 Q WHAT ABOUT MR. RUTLAND?

7 A NO, I THINK HE STAYED IN THE SAME POSITION THE WHOLE
8 TIME HE WAS THERE.

9 Q NOW DID SOMEONE -- WHERE HAD YOUR HUSBAND GONE?

10 A HE WALKED OUT THE SWINGING GATES TO THE FRONT DOOR TO
11 THE CAR.

12 Q NOW WHO WAS THE NEXT PERSON TO ARRIVE?

13 A TO COME THROUGH THE FRONT DOOR?

14 Q RIGHT.

15 A JIMMY.

16 Q JIMMY?

17 A JIMMY PEELE.

18 Q OK. WHEN YOU USE THE NAME SALLY AND JIMMY, YOU'VE KNOWN
19 SALLY AND JIMMY?

20 A YES.

21 Q FOR HOW LONG? HOW LONG HAVE YOU KNOWN 'EM?

22 A ABOUT 14, 15 YEARS.

23 Q AND I BELIEVE YOUR HUSBAND SAID HE HAD WORKED WITH MR.
24 PEELE---

25 A YES.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 Q ---A COUPLE OF YEARS BEFORE THIS HAPPENED. IS THAT
2 RIGHT?

3 A YES.

4 Q YA'LL WERE FRIENDS, ACQUAINTANCES?

5 A (NODDED YES.)

6 Q NOW WHAT ENTRANCE -- WELL, LET ME ASK YOU THIS FIRST:
7 WHERE DID YOU FIRST SEE JIMMY?

8 A COMIN' -- HE WAS COMIN' IN THE FRONT DOOR RIGHT HERE.

9 Q WAS HE INSIDE THE FRONT DOOR OR OUTSIDE THE FRONT DOOR?

10 A HE WAS OUTSIDE THE FRONT DOOR COMIN' IN.

11 Q SO THE FIRST PLACE YOU SEEN HIM WAS OUTSIDE THE DOOR.

12 A RIGHT.

13 Q PUT A J.P. IN THERE FOR ME WHERE YOU FIRST SEEN HIM.
14 (WITNESS COMPLIED.) YOU AND MS. PEELE AND MR. RUTLAND ARE
15 STILL IN THE SAME RELATIVE POSITIONS THAT YOU HAVE MARKED ON
16 THAT DIAGRAM?

17 A CORRECT.

18 Q IS MS. PEEL ON OR OFF THE PHONE?

19 A WHEN JIMMY COMES IN?

20 Q WHEN YOU FIRST SEE JIMMY.

21 A I THINK SHE WAS JUST HANGIN' UP FROM THE HIGHWAY
22 DEPARTMENT.

23 Q DESCRIBE FOR THE JURY, PLEASE, HOW JIMMY ENTERED THE
24 BUILDING.

25 A HE JUST OPENED THE DOOR AND WALKED IN.

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

- 1 Q WAS THAT WALK -- I MEAN, IN RECOLLECTION NOW THINKING
2 ABOUT THEN, WAS THERE ANYTHING UNUSUAL ABOUT THAT WALK, THE
3 MANNER IN WHICH HE CAME INTO THE BUILDING?
- 4 A NO, HE JUST WALKED IN. HE WASN'T IN A RUSH OR ANYTHING.
5 HE JUST WALKED IN.
- 6 Q NOW WHAT PART OF HIM DID YOU SEE THEN?
- 7 A WHEN HE WAS WALKIN' THROUGH?
- 8 Q SURE.
- 9 A FROM HIS -- LIKE FROM HIS MID WAIST UP.
- 10 Q DID YOU SEE AT THAT POINT IN TIME ANYTHING IN HIS HAND?
- 11 A NO. HIS HANDS WERE BELOW THE LATTICE WORK.
- 12 Q WHEN HE COMES IN THE BUILDING WHERE DOES HE GO TO?
- 13 A RIGHT TO THE SWINGING GATES.
- 14 Q POINT OUT FOR THE JURY.
- 15 A RIGHT.
- 16 Q ALL RIGHT. SO HE COMES IN THE BUILDING.
- 17 A UH-HUH.
- 18 Q HE COMES STRAIGHT BACK HERE.
- 19 A YES.
- 20 Q PUT THERE -- WELL, DON'T PUT ANYTHING THERE. WE'LL
21 COVER IT UP.
- 22 A OK.
- 23 Q SO IT'S RIGHT HERE. WHERE IS MR. RUTLAND?
- 24 A STANDING IN THIS DOORWAY IN THIS OPEN AREA.
- 25 Q CAN YOU SEE ANY MORE OR ANY LESS OF JIMMY PEELE WHEN IS

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 THERE BY THE SWINGING DOOR?

2 A LITTLE MORE.

3 Q LITTLE MORE.

4 A 'CAUSE THE LITTLE LATTICE DOORS AREN'T AS HIGH AS THE
5 WALL.

6 Q NOW WHAT, IF ANYTHING, DID YOU NOTICE IN HIS HANDS THEN?

7 A HE HAD CIGARETTES IN HIS HANDS, A PACK OF MARLBORO
8 CIGARETTES.

9 Q HAD WHAT?

10 A A PACK OF CIGARETTES.

11 Q A PACK OF CIGARETTES. WHAT DID HE DO WITH THEM?

12 A HE LAID 'EM ON THE COUNTER RIGHT HERE.

13 Q WHERE'D HE LAY 'EM?

14 A RIGHT ABOUT HERE. WELL, ACTUALLY IT WAS THE FRONT PART.
15 RIGHT ABOUT HERE.

16 Q IF I CAN PLACE THIS ON HERE ABOUT WHERE THOSE CIGARETTES
17 WERE LAID DOWN IF YOU WOULD PLEASE. NOW THAT'S THE COUNTER
18 WHERE YOUR REGISTER IS AT. RIGHT?

19 A RIGHT. BUT MY REGISTER IS MORE IN THE CORNER BACK HERE.
20 BACK HERE IS WHERE MY REGISTER IS. ALL THIS IS OPEN TO GREET
21 PEOPLE.

22 Q AND THAT'S THE FIRST THING YOU SAW IN HIS HAND?

23 A YES.

24 Q LET ME ASK YOU SOMETHING ELSE. I'M GONNA JUMP FORWARD

25 BUT I'M COMIN' BACK IN A MINUTE. DID YOU EVER SEE ANYTHING

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 ELSE IN MR. PEELE'S HAND---

2 A NO.

3 Q ---BESIDES THOSE CIGARETTES? NOW WHERE WAS MR. RUTLAND?

4 A HE WAS STANDIN' IN THIS OPEN AREA.

5 Q YOU HAD A GOOD VIEW NOW OF MR. PEELE?

6 A YES, SIR.

7 Q IS THERE ANY OBSTRUCTIONS BETWEEN MR. RUTLAND AND MR.
8 PEELE?

9 A NO. EXCEPT FOR THAT LITTLE LATTICE GATE.

10 Q WHICH IS THE SAME THING BETWEEN YOU AND MR. PEELE. IS
11 THAT RIGHT?

12 A RIGHT.

13 Q TELL THE JURY WHAT HAPPENED NEXT, KIM.

14 A AS JIMMY WAS WALKIN' THROUGH THE FRONT DOOR, I SEEN -- I
15 SEEN FRED PUT HIS CIGARETTES IN HIS MOUTH AND REACH BEHIND
16 HIS BACK.

17 Q WHEN DID YOU SEE FRED DO THIS?

18 A WHEN JIMMY WAS WALKIN' THROUGH THE DOOR.

19 Q WHAT DOOR?

20 A THE FRONT DOOR.

21 Q YOU SEEN FRED TAKE THIS ACTION WHEN JIMMY WAS COMIN'
22 THROUGH THIS FRONT DOOR?

23 A YEAH, HE WAS RIGHT ABOUT COMIN' IN THIS WAY. HE WAS
24 ALREADY IN AND YOU COULD SEE HIM THROUGH THE LATTICE WORK.

25 Q OK. WHAT IS MR. RUTLAND DOIN'?

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 A I GLANCED AT HIM AND HE WAS PUTTIN' A PACK OF CIGARETTES
2 IN HIS MOUTH.

3 Q AND THEN WHAT DID HE DO?

4 A HE WAS REACHIN' BEHIND HIM.

5 Q STAND UP AND SHOW THE JURY WHAT YOU MEAN REACHING BEHIND
6 HIM.

7 A HE WAS KINDA GOIN' LIKE THIS IN A MOTION OF GOIN' LIKE
8 THIS.

9 Q AND YOU SAID HE PUT A PACK OF CIGARETTES IN HIS MOUTH.

10 A YES.

11 Q ARE YOU REFERRIN' TO A WHOLE PACK?

12 A WHOLE PACK. I DON'T KNOW IF IT WAS A WHOLE PACK BUT IT
13 WAS A PACK.

14 Q THE PACKAGE OF CIGARETTES HE PUT 'EM IN---

15 A RIGHT.

16 Q ---HIS MOUTH. AND DID LIKE THIS.

17 A MOTIONED LIKE THAT, YES, SIR.

18 Q HAD YOU HEARD JIMMY PEELE SAY ANYTHING AT THAT POINT?

19 A NO.

20 Q LET ME ASK YOU A QUESTION. THE ENTIRE TIME THIS EVENT
21 OCCURRED DID YOU EVER HEAR JIMMY PEELE SAY---

22 A NOTHIN'.

23 Q NOW AFTER YOU SAW MR. RUTLAND MAKE THAT MOTION, WHAT
24 OCCURRED NEXT?

25 A THAT'S WHEN I JUST GLANCED BACK AT JIMMY AND HE APPEARED

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 TO BE DOIN' THE SAME THING.

2 Q DID HE APPEAR TO BE DOIN' THE SAME THING BEFORE OR AFTER
3 MR. RUTLAND TOOK THAT ACTION?

4 A I'M NOT SURE BECAUSE I WAS LOOKIN' AT FRED AT THE TIME,
5 SIR.

6 Q THEN WHAT OCCURRED?

7 A THEN I HEAR SHOTS OR IT SOUNDED LIKE FIRECRACKERS TO ME.

8 Q HOW MANY OF 'EM?

9 A TWO. I HEARD TWO.

10 Q AND WHAT DIRECTION WERE THOSE COMIN'? IF YOU'RE
11 STANDIN' THERE BY THE GROOMIN' TABLE? CAN YOU TELL?

12 A I CAN'T TELL.

13 Q THEN WHAT DID YOU SEE?

14 A THEN I RUN BEH -- SQUAT BEHIND THE CHOW PUPPY.

15 Q THEN WHAT HAPPENED?

16 A THEN I GET UP AND FRED AND SALLY ARE WALKIN' TOWARDS
17 JIMMY AND THEY'RE GETTING ON THE FLOOR TO START C.P.R.

18 Q WHERE IS JIMMY AFTER YOU HEAR THE SHOTS?

19 A FALLIN'.

20 Q THEN WHERE'D YOU NEXT SEE JIMMY?

21 A ON THE FLOOR.

22 Q NOW AGAIN, PRIOR TO THAT TIME, UP UNTIL THIS TIME YOU'D
23 NEVER SEEN JIMMY WITH ANY WEAPON.

24 A NO.

25 Q HAD YOU EVER HEARD JIMMY SAY ANYTHING?

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 A NO.

2 Q WERE THERE ANY WORDS EXCHANGED BETWEEN MR. PEELE AND MR.
3 RUTLAND?

4 A NOW, COULD YOU SHOW THE JURY, CAN YOU POINT OUT FOR THE
5 JURY WHEREVER MR. PEELE FELL?

6 A HE KINDA FELL IN THE ANGLE RIGHT THERE.

7 Q PLACE THIS ON THE DIAGRAM FOR ME, PLEASE. THAT'S WHY I
8 DIDN'T GET YOU TO INITIAL THAT.

9 A RIGHT THERE.

10 Q WHAT DID YOU DO THEN, KIM?

11 A I REACHED FOR MY LITTLE BLUE PHONE BY MY GROOMIN' TABLE
12 TO CALL 911 AND I COULDN'T GET IT TO WORK, SO I GO BACK TO
13 THE APARTMENT AREA AND CALL 911 FROM THAT SIDE OF THE
14 BUILDIN'.

15 Q AND WHEN YOU CALLED THE SHERIFF'S DEPARTMENT THEY
16 SUBSEQUENTLY ARRIVE?

17 A YES.

18 Q NOW DURING THE TIME FROM WHEN YOU MAKE A PHONE CALL TILL
19 THE SHERIFF'S DEPUTY ARRIVES AND WHEN MR. GARNER, SGT.
20 GARNER, THE BIG GENTLEMAN THAT LEFT EARLIER, HE'S THE FIRST
21 OFFICER THAT ARRIVED?

22 A I THINK SO. THERE WERE SO MANY.

23 Q DURING THAT PERIOD OF TIME DID YOU SEE, DID YOU HAVE AN
24 OCCASION TO OBSERVE MR. RUTLAND?

25 A WHILE I WAS ON THE PHONE?

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON.

1 Q OR ANY TIME PRIOR TO WHEN THE DEPUTY ARRIVED?

2 A YES, THEY WERE BOTH ON THE FLOOR WITH JIMMY.

3 Q DID YOU EVER SEE HIM WITH A WEAPON?

4 A NOT UNTIL THE DISPATCHER TOLD ME TO GO ASK HIM TO PUT
5 HIS GUN DOWN. THAT'S WHEN I SEEN FRED'S GUN.

6 Q WHERE DID HE HAVE THAT GUN?

7 A LOOKED LIKE HE WAS TAKIN' IT OUT OF HIS BACK POCKET OR
8 BEHIND HIS PANTS.

9 Q STAND UP AND SHOW THE JURY WHAT YOU SAW.

10 A LOOKED LIKE HE WAS GETTIN' IT FROM HIS POCKET OR IN HIS
11 PANTS.

12 Q SAME TYPE LOCATION AS BEFORE?

13 A YES.

14 Q AND WHAT WAS DONE WITH THAT GUN?

15 A HE LAID IT ON THE FLOOR.

16 Q AND COULD YOU PLACE ON HERE POSSIBLY WHERE THAT GUN
17 WOULD BE. DO YOU REMEMBER?

18 A NO.

19 Q THAT'S ALL RIGHT. DID YOU SEE ANY OTHER WEAPON ON THE
20 FLOOR?

21 A YES.

22 Q AND DO YOU KNOW APPROXIMATELY WHERE THAT WEAPON WAS?

23 A IT WAS -- SEEMED LIKE IT WAS BACK HERE IN BETWEEN THIS
24 PLANT AND THIS STEREO STAND.

25 Q BUT THE OFFICERS CAME IN I BELIEVE DETECTIVE CATO

KIMBERLY KESTNER - DIRECT BY MR. MCMAHON

1 PHOTOGRAPHED THIS WHOLE AREA AND GATHERED THOSE WEAPONS INTO
2 EVIDENCE. IS THAT RIGHT?

3 A I GUESS. I'D DONE BEEN SCOOTED OUT THE DOOR WHILE THE
4 PEOPLE WERE IN THERE.

5 Q APPROXIMATELY WHAT WAS THE DISTANCE FROM WHERE MR. PEELE
6 WAS STANDING TO WHERE MR. RUTLAND WAS STANDING WHEN YOU HEARD
7 THE SHOTS? ABOUT HOW FAR IS IT FROM THAT SWINGING GATE TO
8 THAT DOORWAY?

9 A SEEMS LIKE ABOUT 10 FEET, 15 FEET, SOMEWHERE IN THAT
10 RANGE.

11 Q WAS IT FURTHER THAN I AM FROM YOU NOW?

12 A IT'S ABOUT THAT DISTANCE.

13 Q ABOUT THE DISTANCE I AM FROM YOU RIGHT NOW?

14 A (NODDED YES.)

15 Q COULD YOU DESCRIBE FOR THE JURY THE -- NOT THE MANNER
16 BUT THE SPEED AT WHICH MR. RUTLAND MADE THAT MOTION ABOUT
17 LIKE THAT. SLOW OR QUICK?

18 A SEEMS LIKE IT WAS KIND OF IN BETWEEN. I REALLY COULDN'T
19 SAY HOW QUICK IT WAS.

20 Q NO WORDS EXCHANGED.

21 A NO.

22 Q NONE.

23 A NONE.

24 Q YOU NEVER SAW MR. PEELE WITH A GUN.

25 A NO.

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 Q NO FURTHER QUESTIONS.

2 CROSS-EXAMINATION

3 BY MR. GREGORY

4 Q KIM, TELL ME IF YOU HEARD THIS VEHICLE PULL UP OVER HERE
5 WITH PEELE WRITTEN ON IT PRIOR TO SEEIN' JIMMY PEELE WALKIN'
6 THROUGH THE FRONT DOOR.

7 A NO.

8 Q YOU DIDN'T? SO THE FIRST KNOWLEDGE OF ANYBODY COMIN' IN
9 OR COMING UP WAS ACTUALLY SEEING HIM WALK INTO THE BOW-WOW
10 BOUTIQUE?

11 A YES.

12 Q HOW SOON AFTER YOUR HUSBAND HAD WALKED OUT THAT DOOR
13 JIMMY PEELE WALKED IN THAT DOOR?

14 A SEEMED LIKE ABOUT FIVE MINUTES.

15 Q DURING THAT 5-MINUTE PERIOD WHAT WERE YOU, SALLY PEELE
16 AND FRED RUTLAND DISCUSSING INSIDE THE BOW-WOW BOUTIQUE?

17 A SALLY WAS ON THE PHONE WITH THE HIGHWAY DEPARTMENT. I
18 WAS GROOMING THE DOG.

19 Q AND WAS FRED HAVING ANY CONVERSATION WITH YOU?

20 A I DON'T BELIEVE -- I DON'T RECALL IF HE WAS OR NOT.
21 USUALLY WHEN I'M GROOMING I'M QUIET.

22 Q YOU DON'T TALK WHEN YOU GROOM?

23 A NO, NOT REALLY.

24 Q THAT GET YOU OFF TRACK?

25 A YEAH, MAKES ME MESS UP.

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 Q NOW WHEN YOU GROOMIN' A DOG YOU CLIP THE HAIR OR JUST
2 BRUSHIN' IT?

3 A THAT PARTICULAR DOG I WAS JUST BRUSHIN' IT BECAUSE IT
4 WAS A CHOW PUPPY.

5 Q SO YOU DIDN'T HAVE ANY SCISSORS THEN.

6 A NO.

7 Q NO REAL SERIOUS PROBLEM ABOUT MESSIN' UP THEN.

8 A NO.

9 Q YOU SAID THIS TELEPHONE THAT YOU USE IS RIGHT BY THE
10 GROOMING TABLE. CAN YOU JUST REACH RIGHT OVER IT AND PICK IT
11 UP AND---

12 A YEAH.

13 Q WHERE DO YOU DIAL? ON THE PHONE ITSELF?

14 A YEAH, IT'S A LITTLE BLUE HAND-HELD PUSH BUTTON.

15 Q AND WHEN YOU TRIED TO DIAL 911 IT WOULDN'T WORK?

16 A IT WOULDN'T WORK.

17 Q WHY WAS THAT? DID YOU EVER FIGURE OUT WHY?

18 A I DON'T KNOW WHY. I HAVE NO IDEA.

19 Q DID IT WORK LATER?

20 A IT DID AFTER I CHANGED PHONES FROM THE BACK PHONE TO THE
21 FRONT?

22 A WHATCHU MEAN? YOU MEAN YOU JUST TOOK THAT PHONE AND
23 TRADED IT WITH ONE IN THE REAR?

24 A NO. I WAS ON THE BACK PHONE TO THE 911 AND IT HAD A
25 REAL LONG CORD AND I COULD STRETCH IT ALMOST TO THIS -- I

KIMBERLY KESTNER - CROSS BY MR. GREGORY.

1 COULD STRETCH IT ALMOST TO THIS DOORWAY COMIN' RIGHT HERE.
2 SO I JUST LAID IT DOWN AND PICKED UP THIS OTHER ONE AND THEN
3 I WAS ABLE TO HEAR THE DISPATCHER. I DIDN'T EVEN HANG UP THE
4 OTHER ONE I DON'T BELIEVE.

5 Q YOU THINK IT WAS JUST A TEMPORARY MALFUNCTION?

6 A YEAH, I GUESS.

7 Q ALL RIGHT. IN ORDER TO GET BACK INTO THE BACK PART OF
8 THE BUILDING WHERE YOUR APARTMENT WAS YOU HAD TO OPEN THIS
9 DOOR AND YOU WALKIN' OUT TO THAT TELEPHONE?

10 A RIGHT.

11 Q AND YOU JUST LEFT THAT DOOR OPEN---

12 A YES.

13 Q ---AND PULLED THE PHONE THROUGH?

14 A YES.

15 Q WELL, NOW ISN'T A CARDINAL WRONG TO LEAVE THAT DOOR OPEN
16 WITH THE CHOW IN THERE AND---

17 A NOT IF HE'S ON MY GROOMIN' NOOSE. HE'S ON A DOUBLE
18 NOOSE. HE CAN'T GET OFF THE TABLE.

19 Q SO HE'S GONNA STAY ON THAT TABLE.

20 A YEAH, HE'S GONNA STAY ON THE TABLE.

21 Q NO MATTER WHAT.

22 A NO MATTER WHAT.

23 Q OK. NOW WHEN FRED PEELE COMES IN THE DOOR, DID ANYBODY
24 SAY HI -- EXCUSE ME -- JIMMY PEELE. WHEN JIMMY PEELE COMES
25 IN THE BUILDING DID ANYBODY ACKNOWLEDGE HIM HI JIMMY OR---

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 A I DON'T BELIEVE SO.

2 Q DID YOU HAVE ANY CONVERSATION WITH ANYBODY AFTER HE
3 WALKED IN THE BUILDING?

4 A NO.

5 Q DID SALLY SAY ANYTHING TO JIMMY?

6 A AS FAR AS I REMEMBER WHEN HE WALKED IN SALLY SAID OH MY
7 GOD AND THAT WAS IT.

8 Q NOW YOUR POSITION WAS BEHIND THE GROOMING TABLE AND WERE
9 YOU STILL LOOKING TOWARD YOUR APARTMENT AREA WITH THE DOG IN
10 FRONT OF YOU?

11 A NO. I WAS RIGHT HERE. I WAS LOOKIN' IN THIS DIRECTION
12 RIGHT HERE TOWARD JIMMY WHEN JIMMY CAME IN. IS THAT WHAT
13 YOU'RE ASKIN'?

14 Q YEAH, BASICALLY. DID YOU SEE HIM ACTUALLY COME THROUGH
15 THE FRONT DOOR?

16 A YES.

17 Q SO YOU HAD TO TURN AROUND AND LOOK.

18 A WELL, NO, I HAD MY TABLE POSITIONED WHERE I COULD SEE
19 THE FRONT DOOR FROM THE CORNER OF MY EYE AND I COULD SEE THE
20 TUB AREA. IF I HAD A DOG IN THE TUB OR WHAT NOT I COULD SEE
21 AIL AROUND THERE. THE ONLY THING I COULDN'T SEE WAS THIS
22 WINDOW HERE UNTIL I TURNED AROUND. I COULD SEE EVERYTHING
23 ELSE.

24 Q ALL RIGHT. IS THE GROOMING TABLE AS WE HAVE IT DRAWN ON
25 THIS DIAGRAM --- I WANT TO BORROW YOUR POINTER -- IS IT

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 EXACTLY LIKE IT WAS ON THAT DAY OR WAS IT TURNED A LITTLE BIT
2 TO THE SIDE?

3 A NO, IT WAS PARALLEL TO THAT WALL.

4 Q EXACTLY LIKE IT WAS?

5 A YES, EXCEPT FOR A LITTLE FURTHER BACK.

6 Q FURTHER TOWARDS THE FRONT OF THE---

7 A THE MIDDLE OF THE BUILDING. THEY GAVE ME MORE ROOM
8 RIGHT HERE THAN I'M USED TO.

9 Q IS IT NORMAL FOR YOU TO BE GROOMIN' DURING THIS TIME OF
10 THE DAY? IS THIS JUST NORMAL ROUTINE?

11 A WHEN I HAD NINE DOGS, YEAH, I'D WORK RIGHT THROUGH THE
12 LUNCH.

13 Q AND YOU WOULD KEEP THE REST OF 'EM IN THE PENS OVER
14 HERE?

15 A YEAH.

16 Q NOW WAS IT NORMAL FOR YOU TO OPERATE THE BUSINESS ALONE?

17 A YES.

18 Q AND I'M SURE YOU GOT A LOT OF HELP FROM YOUR HUSBAND
19 DAN.

20 A YES, WHEN HE WAS THERE.

21 Q HE SAID HE WAS WORKING THERE.

22 A YEAH, HE WAS WORKIN' THERE HELPIN' THAT DAY.

23 Q NOW DID HE OWN THE CAR THAT HE WENT OUT TO LOOK FOR THE
24 PAPERWORK IN OR WAS THAT YOUR CAR?

25 A IT WAS -- IT WAS BOUGHT BY ME BUT WE NEVER CHANGED THE

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 TITLE OVER. WE JUST PULLED IT BACK TO SOUTH CAROLINA WITH US
2 WHEN WE CAME BACK.

3 Q PULLED IT BACK?

4 A YES.

5 Q IT WOULDN'T DRIVE BACK?

6 A YEAH, IT WOULD DRIVE BACK BUT WE RENTED A BIG U-HAUL
7 WITH A CAR -- CAR TRAILER THING.

8 Q SURE. OK. HAD YOU BEEN DRIVIN' IT EARLIER THAT DAY?

9 A NO.

10 Q HAD HE?

11 A NO.

12 Q HOW LONG HAD IT BEEN PARKED OUT THERE?

13 A SINCE WE HAD CAME BACK. SEEMS LIKE ABOUT A MONTH.

14 Q IT HADN'T BEEN MOVED SINCE THEN?

15 A YEAH, IT'D BEEN MOVED BACK AND FORTH AND STARTED UP
16 EVERY NOW AND THEN BUT IT WAS NEVER ON THE ROAD.

17 Q IT WASN'T YOUR NORMAL USED VEHICLE?

18 A NO, WE DIDN'T DRIVE IT ON THE ROAD. IT WASN'T SOUTH
19 CAROLINA LEGAL SO WE DIDN'T DRIVE IT.

20 Q OK. SO IT WASN'T REGISTERED HERE IN ORDER TO BE ABLE
21 TO---

22 A NO.

23 Q ---OPERATE IT.

24 A RIGHT.

25 Q OK. AND HE WAS GONNA USE THE MOTOR OUT OF IT I BELIEVE

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 FOR---

2 A YEAH, FOR ANOTHER VEHICLE.

3 Q AND DID YOU NEGOTIATE THE SALE OF THIS VEHICLE WITH
4 SALLY PEELE?

5 A BASICALLY I DID IT. SHE JUST SAID SHE'D GIVE US SO MUCH
6 AMOUNT OF MONEY AND IF WE WANTED IT BACK IN A FEW WEEKS SHE
7 WOULD SELL IT BACK AT THE SAME PRICE.

8 Q DID SHE SEEM TO BE IN A HURRY TO TRANSACT THIS THING?

9 A YEAH, SHE WANTED A CAR.

10 Q NOW WHEN SHE CAME UP IN THE VAN DID YOU NOTICE THE VAN
11 PULL UP AND PARK?

12 A I DIDN'T KNOW THAT THEY DROVE THE VAN.

13 Q HAD YOU EVER MET FRED RUTLAND BEFORE---

14 A NO.

15 Q ---THAT DAY? DO YOU KNOW IF HE'D EVER BEEN INTO THIS
16 BUILDING BEFORE?

17 A NO, NOT TO MY KNOWLEDGE.

18 Q AND YOU'RE THERE PRETTY MUCH ALL THE TIME?

19 A IF HE'D BEEN IN THERE DO YOU THINK YOU WOULD'VE KNOWN
20 ABOUT IT?

21 A OH, YEAH.

22 Q NOW WHEN SALLY AND FRED CAME IN THE FRONT DOOR, DID
23 Y'ALL JUST IMMEDIATELY GET INTO A DISCUSSION OF THE SALE OF
24 THIS AUTOMOBILE?

25 A I BELIEVE SO, YEAH.

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 Q AND YOU PROBABLY DIDN'T DO A WHOLE LOTTA TALKIN' BECAUSE
2 YOU WERE GROOMIN'.

3 A RIGHT. BASICALLY DANNY WAS DOIN' IT. DANNY WAS TELLIN'
4 'EM.

5 Q WHERE WAS YOUR SON ALL THIS TIME?

6 A SCHOOL.

7 Q HE DOESN'T GET OUT UNTIL SOMETHIN' LIKE 3 O'CLOCK IN THE
8 AFTERNOON?

9 A 2:45 SOMETHIN' LIKE THAT.

10 Q DOES HE---

11 A HE RIDES A BUS.

12 Q THE BUS BRINGS HIM BACK. AND IT WAS ABOUT THE TIME THAT
13 SALLY WAS HANGIN' THE PHONE UP JIMMY CAME IN THE FRONT DOOR.

14 A RIGHT.

15 Q WHAT, IF ANY WORDS, DID YOU HEAR SPOKEN OTHER THAN SALLY
16 SAYING OH MY GOD AFTER JIMMY PEELE WALKED IN AND SHE WAS
17 HANGING UP THE PHONE?

18 A NONE.

19 Q AND HOW MUCH TIME ELAPSED FROM THE TIME THAT HE WALKED
20 IN THE FRONT DOOR THAT YOU HEARD THE SHOTS FIRED?

21 A FOUR OR FIVE MINUTES. IT WASN'T LONG. THREE OR FOUR
22 MINUTES.

23 Q DID IT SEEM TO GO BY LIKE RATHER QUICKLY?

24 A REAL QUICK.

25 Q HOW DID YOU FEEL AT THAT TIME?

KIMBERLY KESTNER - CROSS BY MR. GREGORY

- 1 A SCARED.
- 2 Q WHAT MADE YOU SCARED?
- 3 A 'CAUSE I DIDN'T KNOW WHAT WAS GOIN' ON.
- 4 Q WELL, WHEN SALLY SAID OH MY GOD DID THAT CAUSE YOUR
- 5 BLOOD PRESSURE TO RISE?
- 6 A THAT CAUSED ME TO DUCK BEHIND THE CHOW PUPPY.
- 7 Q AND WHAT HAPPENED TO THE PUPPY AT THAT POINT?
- 8 A HE WAS LOOKIN' AT ME WAGGIN' HIS TAIL.
- 9 Q SO YOU SQUATTED DOWN. DID YOU HAVE SOME FEELIN' THAT
- 10 SOMETHING WAS GONNA HAPPEN?
- 11 A NO, I JUST -- THIS WAS WHEN THE SHOTS WERE GOIN' ON.
- 12 SHE SAID OH MY GOD RIGHT BEFORE THE SHOTS LIKE SECONDS
- 13 BEFORE. ALL THIS HAPPENED IN JUST---
- 14 Q HOW LONG DID JIMMY PEELE STAND IN THIS ENTRANCE WAY
- 15 WHERE SWINGS AROUND BEFORE SALLY SAID OH MY GOD?
- 16 A 30, 40 SECONDS. NOT LONG.
- 17 Q AND NOBODY SAID ANYTHING TO ANYBODY DURIN' THAT PERIOD
- 18 OF TIME?
- 19 A NO.
- 20 Q WELL, DID ANYBODY LIGHT A CIGARETTE DURING THAT PERIOD
- 21 OF TIME?
- 22 A NO. NOT TO MY KNOWLEDGE. I KNOW I DIDN'T.
- 23 Q AND WERE YOU STILL STANDIN' OR SQUATTIN' AT THIS POINT?
- 24 A WHEN? WHEN JIMMY FIRST---
- 25 Q WHEN JIMMY FIRST WALKS UP---

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 A I WAS STILL STANDIN'.

2 Q ---TO THE SWINGING---

3 A I WAS STANDIN'.

4 Q ---DOOR?

5 A STANDING.

6 Q WHEN DID YOU ACTUALLY GO INTO A SQUATTING POSITION?

7 A WHEN SALLY SAID OH MY GOD AND THE SHOTS WENT OFF.

8 Q NOW WHERE WERE YOU LOOKIN' WHEN SHE MADE THAT STATEMENT?

9 A TOWARDS JIMMY.

10 Q YOU WERE LOOKIN' TOWARD JIMMY. AND WHERE WAS SALLY
11 STANDIN' AT THAT TIME?

12 A I'M NOT SURE. I THINK SHE WAS KINDA BESIDE ME COMIN'
13 AROUND THIS DOOR. I THINK SHE WAS COMIN' AROUND THIS DOOR
14 LIKE IN BETWEEN JIMMY AND FRED.

15 Q SO SHE WAS ACTUALLY MOVIN' AT---

16 A SHE WAS MOVIN' AT THE TIME.

17 Q ---THE TIME. AND THEN SHE ALSO BLOCKED YOUR VIEW OF
18 JIMMY PEELF?

19 A I DON'T KNOW. I CAN'T RECALL.

20 Q THAT'S WHEN YOU STARTED TO SQUAT.

21 A YES.

22 Q AND WHEN YOU STARTED SQUATTING HOW MANY SECONDS WENT BY
23 BEFORE YOU HEARD SHOTS?

24 A AS I WAS SQUATTING THERE WERE SHOTS.

25 Q WERE THEY LOUD SHOTS?

KIMBERLY KESTNER - CROSS BY MR. GREGORY

- 1 A SOUNDED LIKE A FIRECRACKER TO ME.
- 2 Q DID YOU HEAR ANYTHING BREAK?
- 3 A NO. NOT TO MY KNOWLEDGE. I DON'T REMEMBER. NO.
- 4 Q DID YOU SEE JIMMY PEELE FALL TO THE FLOOR?
- 5 A I SEEN HIM FALLIN' WHEN I LOOKED BACK UP AFTER
- 6 SQUATTING.
- 7 Q SO WHEN YOU SQUATTED YOU LOOKED DOWN AT THE FLOOR?
- 8 A I WAS LOOKIN' AT THE CHOW PUPPY.
- 9 Q THE CHOW PUPPY'S ON THE TABLE OVER YOUR HEAD. RIGHT?
- 10 A KINDA -- I'M KINDA EVEN WITH HIM. MY HEAD WOULD
- 11 PROBABLY BE WHERE HIS BACK IS.
- 12 Q OK. AND HOW DID JIMMY FALL? DID HE FALL FORWARD OR
- 13 BACKWARD?
- 14 A BACKWARDS.
- 15 Q NOW HOW CLOSE WERE YOU STANDING TO FRED RUTLAND AT THIS
- 16 TIME?
- 17 A 2 FEET. HE KINDA IN FRONT OF MY TABLE IN THAT DOORWAY
- 18 IN THAT OPEN WAY.
- 19 Q AND YOU'VE GOT HIM IN THE DOORWAY BY THE GROOMING TABLE.
- 20 A RIGHT.
- 21 Q NOW THERE'S NO SWINGIN' DOOR THERE, IS THERE?
- 22 A NO, IT'S JUST A OPEN PLACE WHERE A DOOR SHOULD BE AND
- 23 THERE WASN'T ONE.
- 24 Q DO YOU RECALL FRED RUTLAND TURNING AROUND AS HE STOOD
- 25 THERE IN THAT DOORWAY, COMPLETELY AROUND BACKWARDS?

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 A LOOKIN' BEHIND HIM?

2 Q YES.

3 A I DON'T RECALL.

4 Q HE COULD'VE DONE SOMETHIN' LIKE THAT, YOU JUST DON'T
5 REMEMBER?

6 A I DON'T KNOW. I COULDN'T TELL YOU.

7 Q AFTER YOU CALLED 911 AND GOT A RESPONSE DID YOU
8 SUBSEQUENTLY WALK OUTSIDE THE BUILDING?

9 A NO.

10 Q YOU STAYED IN THERE TILL THE OFFICERS CAME?

11 A RIGHT.

12 Q DID YOU NOTICE WHAT HAPPENED TO JIMMY PFEL IMMEDIATELY
13 AFTER THE SHOTS?

14 A HE WAS FALLIN' IMMEDIATELY AFTER.

15 Q DID HE HIT THE FLOOR?

16 A YES.

17 Q AND WAS HE LYING EXACTLY WHERE HE IS ON THAT DIAGRAM?

18 A THAT'S THE WAY I REMEMBER, YES.

19 Q DID HE EVER ENTER INTO THAT SECOND SECTION---

20 A NO.

21 Q ---OF THE BUILDING? WHO WENT OVER TO HIM AND WHAT DID
22 YOU SEE?

23 A SALLY AND FRED WENT OVER TO HIM AND STARTED C.P.R.

24 Q HOW DID THAT WORK? CAN YOU DESCRIBE IT.

25 A THEY JUST BOTH WALKED OVER AND KNELT DOWN BESIDE HIM.

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 THAT'S WHEN I WAS TRYIN' TO GET THE BLUE PHONE IN THE
2 GROOMIN' AREA TO WORK AND IT WOULDN'T WORK.

3 Q WHAT DID THEY DO, JUST STRETCH HIM OUT AND GIVE HIM
4 MOUTH TO MOUTH RESUSCITATION?

5 A I BELIEVE SO, YES. I DON'T KNOW IF THEY STRETCHED HIM
6 OUT. I THINK HE WAS ALREADY STRETCHED OUT.

7 Q NOW DID YOU SEE TWO PISTOLS IN THE BOW-WOW BOUTIQUE
8 AFTER THE SHOOTING?

9 A AFTER I GOT THROUGH TALKIN' TO THE 911 DISPATCHER I DID
10 'CAUSE THE DISPATCHER ASKED ME TO GET FRED TO LAY HIS GUN
11 DOWN AND THAT'S WHEN I SEEN BOTH GUNS, THE ONLY TIME I SEEN
12 BOTH GUNS.

13 Q CAN YOU DESCRIBE THE GUN THAT FRED HAD IN HIS HAND.

14 A IT LOOKED LIKE JUST A LITTLE GUN. I DON'T KNOW GUNS.
15 IT WAS JUST A LITTLE GUN.

16 Q ABOUT THE SIZE OF YOUR HAND?

17 A YEAH.

18 Q AND WHAT KINDA GUN WAS OVER THERE BY FRED? I MEAN --
19 EXCUSE ME -- BY JIMMY PEELE?

20 A ABOUT 8 FOOT AWAY THERE WAS A BLACK OOZIE TYPE GUN. I
21 DON'T KNOW WHAT KIND IT IS.

22 Q DID IT HAVE A REAL LONG CLIP ABOUT A FOOT LONG WITH IT?

23 A I DON'T KNOW IF IT'S THAT LONG, BUT IT LOOKS -- KINDA L-
24 SHAPED GUN. LOOKS LIKE AN L.

25 Q AND WHERE WAS THIS LYING?

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 A ABOUT EIGHT TO TEN FEET BEHIND HIM ON HIS LEFT SIDE.

2 Q UP IN THE CORNER OF THE FIRST---

3 A THE STEREO AND THE PLANT.

4 Q ---SECTION.

5 A UP HERE IT WAS KIND OF IN BETWEEN HERE.

6 Q HAD YOU EVER SEEN THAT BLACK GUN BEFORE?

7 A NO.

8 Q HAD YOU EVER SEEN ONE LIKE IT BEFORE?

9 A JUST ON TV. I NEVER KNEW WHAT THEY WERE THOUGH.

10 Q MS. KESTNER---

11 A YES.

12 Q WAS ANYBODY WORKIN' ON THIS GROOMIN' TABLE UP HERE?

13 THIS IS THE ONE UP CLOSE TO THE FRONT OF THE BUILDING.

14 A NO. THAT'S MY BIG DOG TABLE.

15 Q YOU'RE BIG DOG TABLE?

16 A YES.

17 Q IS IT ANY DIFFERENCE IN SIZE---

18 A YES.

19 Q ---WITH THIS TABLE?

20 A WELL, IT'S THE SAME SIZE, THE FOOTING OF IT IS, BUT IT'S

21 UP HIGHER. THAT ONE'S LOWER BUT THE ONE I HAD THE CHOW

22 PUPPY'S ON HIGHER 'CAUSE I GOT IT ON THINGS TO MAKE THE TABLE

23 LOWER SO I WANTED TO SQUAT DOWN.

24 Q I SEE.

25 A I ONLY PUT BIG DOGS ON THAT BACK TABLE.

KIMBERLY KESTNER - CROSS BY MR. GREGORY

1 Q ALL RIGHT. SO YOU WERE NOT AT THIS TABLE HERE.

2 A NO.

3 Q YOU REMEMBER SPECIFICALLY?

4 A YES. I HAD THE LITTLE CHOW AND---

5 Q YOU WERE UP HERE BY THE TELEPHONE?

6 A YES.

7 Q I HAVE NO FURTHER QUESTIONS.

8 MR. MCMAHON: THANK YOU. YOU CAN COME DOWN, MS.

9 KESTNER. STATE CALLS DETECTIVE CATO.

10 CHARLES CATO, BEING DULY SWORN, TESTIFIES

11 AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. MCMAHON

14 Q SIR, WOULD YOU INTRODUCE YOURSELF TO THE JURY, PLEASE.

15 A I'M INVESTIGATOR CHARLES CATO WITH THE LEXINGTON COUNTY
16 SHERIFF'S DEPARTMENT.

17 Q WHAT UNIT ARE YOU ASSIGNED TO NOW, MR. CATO?

18 A I'M ASSIGNED TO THE IDENTIFICATION SECTION.

19 Q HOW LONG HAVE YOU BEEN WITH OUR SHERIFF'S DEPARTMENT?

20 A 12 AND A HALF YEARS.

21 Q AND WHAT DIFFERENT DIVISIONS HAVE YOU BEEN ASSIGNED TO
22 WITHIN THAT 12-YEAR PERIOD OF TIME?

23 A I STARTED OUT AS A DISPATCHER; WENT TO THE WARRANT
24 DIVISION FOR A SHORT PERIOD OF TIME, AND I WAS ASSIGNED TO
25 INVESTIGATIONS AND THAT'S WHERE I'VE STAYED UNTIL I GOT

CHARLES CATO - DIRECT BY MR. MCMAHON

1 TRANSFERRED TO IDENTIFICATION SECTION.

2 Q WHAT ARE THE PRIMARY DUTIES AND RESPONSIBILITIES THAT
3 YOU HAVE AS FAR AS BEING IN THE IDENTIFICATION, I.D. SECTION,
4 DETECTIVE?

5 A RESPONSIBLE FOR PROCESSING ALL CRIME SCENES, TAKING
6 PHOTOGRAPHS, VIDEO TAPES, DOING DIAGRAMS, COLLECTING
7 EVIDENCE, TRANSPORTING EVIDENCE TO AND FROM SLED FOR ANALYSIS
8 AS REQUESTED, IN CHARGE OF KEEPING ALL EVIDENCE AT THE
9 SHERIFF'S DEPARTMENT; ALSO DOING SOME DRUG TESTING.

10 Q AS PART OF THOSE DUTIES AND RESPONSIBILITIES DID YOU
11 PROCESS THE SCENE OF THE BOW-WOW BOUTIQUE ON SEPTEMBER THE
12 4TH OF '92?

13 A YES, I DID.

14 Q WOULD YOU DESCRIBE FOR THE JURY, PLEASE, THIS SCENE
15 SPECIFICALLY UPON YOUR ARRIVAL.

16 A SEVERAL PATROL CARS, I MET WITH LT. PHILLIPS AND TALKED
17 WITH HIM AND HE BASICALLY GAVE ME A DESCRIPTION OF WHAT HAD
18 HAPPENED, INTERPRETATION OF WHAT WE HAD HAD AT THAT LOCATION.
19 I KNEW IT WAS A DOG GROOMING LOCATION. I LIVE MAYBE THREE OR
20 FOUR MILES FROM THERE, SO I KINDA PASS IT ALMOST EVERY OTHER
21 DAY.

22 Q ALL RIGHT, SIR. AND SPECIFICALLY COULD YOU DESCRIBE THE
23 INTERIOR OF THE BUILDING AND WHAT ITEM OR ITEMS YOU FIRST
24 NOTED IN THE -- I'M GONNA CALL IT KINDA THE LOBBY AREA OUT
25 HERE, DETECTIVE CATO, THIS AREA RIGHT IN HERE.

CHARLES CATO - DIRECT BY MR. MCMAHON

1 A OK. WHEN I FIRST ENTERED THE LOCATION THERE WAS AN
2 INDIVIDUAL LYING ON THE FLOOR AND E.M.T.'S WERE ATTENDING TO
3 HIM AND PUTTIN' HIM ON A STRETCHER. I WALKED IN; I NOTICED
4 THE POOL OF BLOOD -- I'LL USE THIS POINTER -- IN THIS GENERAL
5 VICINITY RIGHT HERE. THERE WAS ALSO A SMALL HANDGUN RIGHT AT
6 THE CORNER OF THIS COUNTER. THERE WAS ALSO A LARGER WEAPON
7 OR A BLACK SQUARE-TYPE WEAPON IN THIS AREA RIGHT HERE.

8 Q DID YOU TAKE BOTH OF THOSE WEAPONS INTO CUSTODY AT THAT
9 TIME?

10 A YES, SIR, I DID.

11 Q I SHOW YOU AN ITEM AND ASK YOU IF YOU CAN IDENTIFY IT
12 FOR US, PLEASE.

13 A YES, SIR. THIS IS THE 25 CALIBER WEAPON THAT WAS FOUND
14 IN THIS AREA RIGHT THERE AT THE CORNER OF THE COUNTER.

15 Q PLACE THIS STICKER ON THERE APPROXIMATELY WHERE THAT WAS
16 FOUND.

17 A YES, SIR. (WITNESS COMPLIED.)

18 Q AND YOU TOOK THAT WEAPON INTO CUSTODY WHICH IS THIS
19 WEAPON RIGHT HERE. IS THAT CORRECT?

20 A THAT'S CORRECT.

21 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THIS INTO
22 EVIDENCE AT THIS TIME.

23 MR. GREGORY: NO OBJECTION.

24 (STATE'S EXHIBIT #12 RECEIVED IN EVIDENCE.)

25 Q NOW WHAT WAS THE CONDITION OF THIS WEAPON UPON YOUR

CHARLES CATO - DIRECT BY MR. MCMAHON

1 RECOVERY OF IT AS FAR AS LOADED OR UNLOADED?

2 A IT WAS LOADED.

3 Q AND WHERE WAS THIS WEAPON SUBSEQUENTLY SENT?

4 A IT WAS SENT TO SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

5 Q FOR WHAT PURPOSES?

6 A FOR BALLISTIC TESTS.

7 Q AND DID THEY PERFORM CERTAIN BALLISTICS TESTS ON THAT
8 WEAPON?

9 A YES, THEY DID.

10 Q I'M GOING TO GET BACK TO THAT SHORTLY AFTER WE TALK
11 ABOUT SOME BULLETS RECOVERED FROM MR. PEELE'S BODY. NOW YOU
12 MENTIONED ANOTHER WEAPON.

13 A YES, SIR.

14 Q WHAT TYPE WAS THE OTHER WEAPON? APPROXIMATELY WHERE WAS
15 IT LOCATED, DETECTIVE CATO?

16 A THE WEAPON IN QUESTION WAS A ONE COBRA M-11 NINE
17 MILLIMETER S.W.D., INC. IT WAS A 9 MILLIMETER PISTOL SEMI-
18 AUTOMATIC AND IT WAS LOCATED IN THIS GENERAL FACILITY.

19 Q WOULD YOU PUT THIS STICK-ON RIGHT THERE, WOULD YOU PLACE
20 THAT ON THERE IN THE APPROXIMATE LOCATION WHERE YOU RECOVERED
21 THAT SECOND ONE.

22 A (WITNESS COMPLIED.)

23 Q AND DID YOU TAKE THAT WEAPON INTO CUSTODY?

24 A YES, I DID.

25 Q HOW FAR AWAY WAS THAT WEAPON FROM MR. PEELE?

CHARLES CATO - DIRECT BY MR. MCMAHON

1 A IT WAS SOME FOUR FEET, FIVE FEET.

2 Q LET ME SHOW YOU THIS ITEM AND ASK YOU IF YOU CAN
3 IDENTIFY IT FOR ME, PLEASE.

4 A YES, SIR, THIS IS THE WEAPON.

5 Q ALL RIGHT, SIR. NOW WE TALKED ABOUT THE MAGAZINE, THIS
6 MAGAZINE FITS UP IN HERE. IS THAT CORRECT?

7 A YES, SIR.

8 Q WHAT WAS THE CONDITION OF THIS WEAPON AS TO WHETHER IT
9 WAS LOADED OR UNLOADED.

10 A IT WAS LOADED.

11 Q LET ME ASK YOU THIS -- LET ME GET IT MARKED FIRST.

12 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THIS INTO
13 EVIDENCE.

14 MR. GREGORY: NO OBJECTION.

15 THE COURT: NO OBJECTION.

16 (STATE'S EXHIBIT #13 RECEIVED IN EVIDENCE.)

17 Q NOW REFERRING NOW TO STATE'S 13. THIS ITEM RIGHT HERE
18 I'M POINTING TO RIGHT HERE.

19 A YES, SIR.

20 Q WHAT IS THAT?

21 A THAT'S A SAFETY SWITCH.

22 Q AND AS A MATTER OF FACT THERE'S SOME WORDING ON IT.
23 WHAT DOES IT SAY TO THE LEFT?

24 A IT SAYS SAFE.

25 Q AND IF YOU FLIP IT BACK THIS WAY?

CHARLES CATO - DIRECT BY MR. MCMAHON

1 A IT SAYS FIRE.

2 Q SO IN THIS DIRECTION IS THAT ON SAFE OR FIRE?

3 A THAT IS ON SAFE.

4 Q AND WHEN IS IT -- WHEN IT IS ON SAFE, YOU CANNOT
5 DISCHARGE THE WEAPON.

6 A NO, SIR, YOU CANNOT.

7 Q DID YOU TAKE A PHOTOGRAPH OF THIS WEAPON AT THE SCENE?

8 A YES, SIR, I DID.

9 Q DO YOU RECOGNIZE THIS? CAN YOU IDENTIFY IT FOR US,
10 PLEASE.

11 A YES, SIR, THAT IS THE WEAPON.

12 Q IS THAT A PHOTOGRAPH OF THE WEAPON AT THE SCENE?

13 A YES, SIR.

14 Q CAN YOU LOOK AT THAT PHOTOGRAPH AND DISTINGUISH THE --
15 THE MANNER IN WHICH THE SAFETY IS, WHETHER IT'S ON OR OFF?

16 A THE SAFETY IS ON.

17 Q THE SAFETY IS ON. NOW WHEN YOU TOOK THAT PHOTOGRAPH,
18 WHERE WERE YOU AT?

19 A I WAS STANDING RIGHT HERE.

20 Q HAD YOU MANIPULATED THE SAFETY IN ANY MANNER?

21 A NO, SIR, I HAD NOT.

22 Q TO YOUR KNOWLEDGE HAD IT FIRED?

23 A NO, SIR.

24 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THIS INTO
25 EVIDENCE.

CHARLES CATO - DIRECT BY MR. MCMAHON

1 MR. GREGORY: NO OBJECTION.

2 THE COURT: NO OBJECTION.

3 (STATE'S EXHIBIT #14 RECEIVED IN EVIDENCE.)

4 Q THIS WAS STATE'S EXHIBIT #14. HAD THE WEAPON BEEN
5 UNLOADED BY THIS POINT IN TIME, MR. CATO?

6 A YES, IT HAD.

7 Q AND WHO UNLOADED THE GUN?

8 A I DID.

9 Q NOW DID YOU HAD OCCASION ALSO TO SEARCH THIS BACK AREA
10 I'LL CALL IT THIS GROOMING AREA BACK HERE?

11 A YES, I DID.

12 Q WHAT, IF ANYTHING, DID YOU TAKE INTO CUSTODY FROM THAT
13 LOCATION?

14 A TOOK SHELL CASINGS WHICH APPARENTLY CAME FROM THE 25
15 CALIBER WEAPON THAT WAS FOUND HERE, FOUND A SHELL CASE --
16 CASINGS IN THIS AREA.

17 Q HOW MANY SHELL CASINGS?

18 A FOUR.

19 Q WOULD YOU, PLEASE, PLACE THIS ON THE DIAGRAM IN THE
20 PROPER LOCATION. (WITNESS COMPLIED.) I HAND YOU THIS ITEM
21 AND ASK YOU IF YOU CAN IDENTIFY THOSE FOR US, PLEASE.

22 A YES, SIR, THESE ARE THE FOUR SHELL CASINGS THAT I
23 RECOVERED AT THE SCENE.

24 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THESE INTO
25 EVIDENCE.

CHARLES CATO - DIRECT BY MR. MCMAHON

1 MR. GREGORY: NO OBJECTION.

2 (STATE'S EXHIBIT #15 RECEIVED IN EVIDENCE.)

3 Q STATE'S 15. NOW, DETECTIVE CATO, WHAT ARE SHELL
4 CASINGS?

5 A SPENT CARTRIDGES OF LOADED AMMUNITION.

6 Q SO THERE WERE FOUR ROUNDS FIRED?

7 A YES, SIR.

8 Q AND THAT'S WHAT CALIBER?

9 A 25 CALIBER.

10 Q THAT'S THE CALIBER OF STATE'S EXHIBIT #12 THIS WEAPON?

11 A YES, IT IS.

12 Q AND YOU FOUND FOUR OF THOSE SHELL CASINGS?

13 A YES, SIR.

14 Q HOW MANY SHELL CASINGS DID YOU FIND FROM STATE'S EXHIBIT
15 #13?

16 A NONE.

17 Q DID YOU FIND ANY EVIDENCE THAT STATE'S EXHIBIT #13 HAD
18 BEEN FIRED?

19 A NO, SIR.

20 Q DID YOU FIND ANY EVIDENCE THAT STATE'S #13 HAD EVER BEEN
21 TAKEN OFF OF SAFETY?

22 A NO, SIR.

23 Q NOW WHERE WAS MR. PEELE'S BODY TAKEN TO THAT DAY?

24 A LEXINGTON COUNTY MORGUE.

25 Q FOR WHAT PURPOSE?

CHARLES CATO - DIRECT BY MR. MCMAHON

1 A FOR THE PURPOSE OF PERFORMING AN AUTOPSY.

2 Q DID YOU HAVE AN OCCASION TO ATTEND THAT AUTOPSY?

3 A YES, SIR.

4 Q AND WERE CERTAIN ITEMS TURNED OVER TO YOU AT THAT
5 AUTOPSY?

6 A YES, SIR, THERE WERE.

7 Q WHAT TYPES OF ITEMS?A

8 A JACKETED PROJECTILES RECOVERED FROM THE BODY OF MR.
9 PEELE.

10 Q I SHOW YOU 3 MORE ITEMS AND ASK YOU TO LOOK AT 'EM AND
11 IDENTIFY 'EM FOR US, PLEASE.

12 A YES, SIR, 'THESE ARE THREE JACKETED PROJECTILES THAT WERE
13 TAKEN FROM THE BODY OF MR. PEELE.

14 Q AND THEY WERE TURNED OVER TO YOU?

15 A YES, THEY WERE.

16 Q WHAT DID YOU DO WITH THOSE, DETECTIVE CATO?

17 A TRANSPORTED THEM TO THE SOUTH CAROLINA LAW ENFORCEMENT
18 DIVISION TO BE COMPARED TO THE WEAPON AND THE 25 CALIBER THAT
19 I FOUND AT THE SCENE.

20 Q STATE'S EXHIBIT 12?

21 A YES, SIR.

22 Q WHO TURNED THOSE ITEMS OVER TO YOU?

23 A DR. KITT MCMASTER.

24 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THESE ITEMS INTO
25 EVIDENCE.

CHARLES CATO - DIRECT BY MR. MCMAHON

1 MR. GREGORY: NO OBJECTION.

2 THE COURT: NO OBJECTION. (STATE'S EXHIBIT #16 RECEIVED
3 IN EVIDENCE.)

4 Q STATE'S EXHIBIT #16 THESE BULLETS RECOVERED FROM THE
5 BODY OF MR. PEELE, THEY WERE COMPARED TO STATE'S EXHIBIT #12.
6 IS THAT CORRECT?

7 A YES, SIR.

8 Q IS THERE SOME RESULTS OF THOSE COMPARISONS BY THE STATE
9 LAW ENFORCEMENT DIVISION?

10 A YES, SIR, IT IS.

11 Q DOES THAT CONCLUDE THAT THESE STATE'S EXHIBIT #13 THESE
12 BULLETS WERE, IN FACT, FIRED BY THIS WEAPON STATE'S EXHIBIT
13 12?

14 A YES, IT DOES.

15 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THIS INTO
16 EVIDENCE.

17 THE COURT: NO OBJECTION.

18 MR. GREGORY: NO OBJECTION.

19 (STATE'S EXHIBIT #17 RECEIVED IN EVIDENCE.)

20 Q AS A MATTER OF FACT, MR. PEELE HAD BEEN SHOT FOUR TIMES.
21 ONE BULLET HE WAS UNABLE TO RECOVER AT AUTOPSY.

22 A THAT IS CORRECT.

23 Q NOW, DETECTIVE CATO, I WANT TO GO BACK ONE FURTHER
24 LOCATION, BACK TO THE SCENE FOR A MOMENT, THIS PARTICULAR VAN
25 OUT HERE, YOU AGREE THAT'S THE APPROXIMATE LOCATION OF WHERE

CHARLES CATO - DIRECT BY MR. MCMAHON

1 THE VAN WAS AT ON STATE'S EXHIBIT #1?

2 A YES, SIR, IT IS.

3 Q DID YOU HAVE AN OPPORTUNITY TO DETERMINE WHO THE OWNER
4 OF THAT VAN IS?

5 A I'M NOT SURE. I THINK SOMEBODY TOLD ME AT THE TIME. I
6 CAN'T REMEMBER WHO OWNED THE VAN.

7 Q DO YOU RECALL WHO WAS OPERATING THE VAN THAT PARTICULAR
8 DAY?

9 A YES, SIR.

10 Q WHO WAS THAT?

11 A MR. RUTLAND AND MS. PEELE.

12 Q DID YOU HAVE AN OCCASION TO SEARCH THAT VAN?

13 A YES, I DID.

14 Q WHAT, IF ANYTHING, DID YOU RECOVER OUT OF THAT VAN?

15 A RECOVERED A MOSS BERG 12 GAUGE SHOTGUN LOADED WITH FOUR
16 DOUB -- SINGLE AUGHT BUCK WINCHESTER SHELLS.

17 Q WOULD YOU, PLEASE, PLACE THIS ON THE VEHICLE, THE VAN,
18 WHERE YOU RECOVERED THAT SHOTGUN. (WITNESS COMPLIED.) I ASK
19 YOU TO LOOK AT THIS AND IDENTIFY THIS FOR ME, PLEASE.

20 A YES, SIR, THIS IS THE WEAPON I RECOVERED OUT OF THE VAN.

21 Q WHAT WAS THE CONDITION OF THAT WEAPON AS FAR AS LOADED
22 OR UNLOADED?

23 A IT WAS LOADED.

24 Q I SHOW YOU SOME OTHER ITEMS AND ASK YOU IF YOU CAN
25 IDENTIFY THEM FOR ME, PLEASE.

CHARLES CATO - DIRECT BY MR. MCMAHON

1 A YES, SIR, THESE ARE THE FOUR SHELLS THAT I UNLOADED OUT
2 OF THE WEAPON O BUCK, AUGHT BUCK.

3 Q WHAT DOES THAT MEAN, DETECTIVE CATO?

4 A IT SIGNIFIES THE LARGENESS OF THE PELLETS INSIDE. THE
5 DOUBLE AUGHT BUCK IS THE LARGEST PELLETS THAT ARE MADE OTHER
6 THAN A SLUG. THIS WOULD BE THE NEXT TO THE LARGEST AS FAR AS
7 A PELLET GOES.

8 Q THOSE SHELLS WERE LOADED IN THIS WEAPON.

9 A YES, SIR.

10 Q WHICH WAS IN THAT VAN.

11 A YES, SIR.

12 MR. MCMAHON: YOUR HONOR, I WOULD OFFER THESE IN
13 EVIDENCE.

14 MR. GREGORY: NO OBJECTION.

15 THE COURT: NO OBJECTION. (STATE'S EXHIBIT #18 RECEIVED
16 IN EVIDENCE.)

17 Q DETECTIVE CATO, I DON'T HAVE ANY OTHER QUESTIONS.
18 ANSWER ANY QUESTIONS HE HAS.

19 CROSS-EXAMINATION

20 BY MR. GREGORY

21 Q DETECTIVE CATO, WHEN YOU PICKED UP THIS SHOTGUN FROM THE
22 VAN OUT THERE, DID YOU BREAK IT DOWN AT THAT TIME TO SEE
23 WHETHER OR NOT IT WAS LOADED?

24 A YES, SIR, I DID.

25 Q AND THESE WERE FOUR SHELLS THAT YOU TOOK FROM THAT

CHARLES CATO - CROSS BY MR. GREGORY

1 SHOTGUN, WERE THEY NOT?

2 A THAT'S CORRECT.

3 Q WHERE WERE THESE FOUR SHELLS LOCATED IN THE SHOTGUN?

4 A THREE IN THE CHAMBER; ONE IN THE CHAMBER AND THREE IN
5 THE MAGAZINE.

6 Q HOW MANY WILL THE MAGAZINE HOLD? DO I NEED TO HAND YOU
7 THE WEAPON?

8 A YES, SIR. I WOULD SAY AS A GUESS WITHOUT REALLY LOADIN'
9 THE GUN, I'D SAY FIVE.

10 Q NOW WHERE WAS THIS SHOTGUN LOCATED IN THE VAN?

11 A IT WAS LOCATED BETWEEN THE DRIVER'S SEAT AND THE
12 PASSENGER'S SEAT.

13 Q WAS IT IN PLAIN VIEW?

14 A YES, SIR.

15 Q IS THERE A CONSOLE IN THE VAN BETWEEN THE DRIVER AND
16 PASSENGER?

17 A I DON'T THINK THAT VAN HAD A CONSOLE IN IT. I THINK
18 THERE WERE JUST TWO SEATS THERE. I THINK THE -- LIKE THE
19 ENGINE COMPARTMENT CAME DOWN AND MADE A LITTLE PLACE ON THE
20 DASH, IT COMES DOWN A LITTLE BIT.

21 Q DID YOU SEARCH THE VAN TO SEE IF THERE WAS ANY OTHER
22 ITEMS OF INTEREST THERE?

23 A NO, SIR, THAT WAS THE ONLY THING I RETRIEVED FROM THE
24 VAN.

25 Q THE BLACK NINE MILLIMETER WEAPON THAT YOU FOUND AT THE

CHARLES CATO - CROSS BY MR. GREGORY

1 SCENE THERE WHICH HAS BEEN IDENTIFIED AS STATE'S EXHIBIT #13,

2 I REALIZE THAT THERE ARE NO BULLETS IN THE MAGAZINE HERE---

3 A YES, SIR.

4 Q ---BUT HOW MANY BULLETS DOES THIS MAGAZINE HOLD?

5 A TO BE HONEST WITH YOU I REALLY DON'T KNOW UNLESS I LOAD

6 IT. THERE'S NO -- I CAN TELL YOU HOW MANY BULLETS WERE IN IT

7 OR IN THE WEAPON.

8 Q HOW MANY DID YOU REMEMBER?

9 A 32.

10 Q 32?

11 A YES, SIR.

12 Q AND CAN YOU DESCRIBE HOW THAT WEAPON OPERATES.

13 A BASICALLY IT'S JUST A SEMI-AUTOMATIC WEAPON. IN OTHER

14 WORDS, TO FIRE THE WEAPON YOU HAVE TO PULL THE TRIGGER EACH

15 TIME. IT'S NOT A AUTOMATIC WEAPON. IT'S JUST A -- IT'S

16 SIMILAR TO THE 25. THE 25 YOU HAVE TO PULL THE TRIGGER EACH

17 TIME YOU WANNA FIRE IT AND IT RELOADS ITSELF.

18 Q ALL RIGHT, SIR. NOW THE 25 WHICH IS THIS STATE'S

19 EXHIBIT #12, -- EXCUSE ME -- YEAH, 12, IT HAS A SMALLER CLIP

20 THAT FITS UP IN THE HANDLE?

21 A YES, SIR.

22 Q HOW MANY ROUNDS DOES IT HOLD? HOW MANY BULLETS FIT INTO

23 THAT MAGAZINE?

24 A I'D SAY SIX IN THE MAGAZINE AND ONE IN THE CHAMBER SO IT

25 WOULD BE SEVEN. IF YOU TOOK HOW MANY SPENT CASES WE HAD AND

CHARLES CATO - CROSS BY MR. GREGORY

1 HOW MANY LIVE ROUNDS WAS LEFT IN THE WEAPON IT WAS SEVEN.

2 Q SO FOUR BULLETS WERE FIRED AND THREE WERE LEFT IN THE
3 GUN?

4 A YES, SIR.

5 Q THESE WEAPONS WERE BOTH ON THE FLOOR WHEN YOU WALKED
6 INTO THE BOW-WOW BOUTIQUE?

7 A THAT'S CORRECT.

8 Q AND THIS WEAPON HERE THE 9 MILLIMETER WHICH IS STATE'S
9 EXHIBIT #13 JUST HAPPENED TO BE LYING WITH THE SAFETY
10 POSITION UP IN THE AIR?

11 A YES, SIR.

12 Q NOT FACE DOWN ON THE FLOOR.

13 A NO, SIR.

14 Q SO YOU DIDN'T HAVE TO PICK THE WEAPON UP AND TURN IT
15 OVER?

16 A THE ONLY THING I DID TO THE WEAPON WAS I PICKED IT UP,
17 TOOK THE MAGAZINE OUT, CYCLED THE ROUND OUT TO SEE IF THERE
18 WAS ANY IN THE CHAMBER WHICH ONE FELL OUT, PLACED IT BACK
19 DOWN ON THE FLOOR, PHOTOGRAPHED IT.

20 Q SO THERE WAS A BULLET IN THE CHAMBER.

21 A YES, SIR.

22 Q WELL, DOES THAT MEAN IF THE SAFETY HAD BEEN OFF---

23 A IT WOULD BE READY TO FIRE.

24 Q HOW DO YOU GET THE SAFETY OFF OF THIS WEAPON THE 9
25 MILLIMETER?

CHARLES CATO - CROSS BY MR. GREGORY

1 A ON THE RIGHT-HAND SIDE OF THE WEAPON YOU HAVE THE
2 SELECTOR SWITCH. YOU TURN THE SELECTOR SWITCH; IT'S LIKE AN
3 ARROW. IF THE ARROW IS POINTING FORWARD TOWARD THE MUZZLE
4 IT'S READY TO FIRE. IF THE ARROW IS FACING THE PERSON
5 HOLDING THE WEAPON IT'S ON SAFE. SO TO FIRE THE WEAPON YOU'D
6 HAVE TO LOAD THE CLIP, CYCLE ROUND THROUGH, PUT THE SELECTOR
7 SWITCH ON FIRE, THEN IT'S READY TO GO.

8 Q ALL RIGHT, SIR. LET ME JUST BACK UP A MINUTE AND TELL
9 ME IN THE PROCESS OF THE CHAIN OF EVENTS THAT YOU JUST WENT
10 THROUGH WHEN YOU SAID YOU CYCLE THE BULLET INTO THE CHAMBER,
11 WHAT DO YOU DO?

12 A PULL THE BOLT BACK ON THIS WIRE HERE SO IF A PIECE ON
13 TOP, IT'S A ROUND PIECE; IT SWIVELS, JUST PULL IT BACK AND
14 LET IT GO FORWARD AND IT CYCLES A ROUND FROM THE CLIP UP INTO
15 THE CHAMBER.

16 Q NOW THAT COULD BE DONE WITH THE SAFETY OFF OR DOES THE
17 SAFETY HAVE TO BE ON FIRE IN ORDER TO---

18 A YOU CAN DO IT EITHER WAY, BUT TO FIRE THE WEAPON THE
19 SAFETY HAS TO BE OFF.

20 Q SO THE WEAPON COULD BE CARRIED AROUND WITH A BULLET IN
21 THE CHAMBER AND THE SAFETY ON AND THEN WHEN IT GETS READY TO
22 BE FIRED, RETURN THE SAFETY TO FIRE AND PULL THE TRIGGER.

23 A YES, SIR.

24 Q AND THEN THE MAGAZINE WHAT DOES IT DO? DOES IT FUNNEL A
25 NEW BULLET INTO THE CHAMBER AFTER EACH FIRING?

CHARLES CATO - CROSS BY MR. GREGORY

1 A ONCE YOU FIRE THE WEAPON THE PERCUSSION OF THE WEAPON
2 PUSHES THE SPRING BACK, EJECTS THE EMPTY CASING AND PUTS
3 ANOTHER CASE OF LIFE ROUND INTO THE CHAMBER.

4 Q DETECTIVE CATO, WHAT IS THE PURPOSE OR REASON FOR
5 SOMEBODY HAVING THE WEAPON OF THIS NATURE?

6 A OF THIS NATURE?

7 Q OF THIS NATURE. A 9 MILLIMETER GUN THAT HOLDS 32 ROUNDS
8 OF---

9 A SOME PEOPLE COLLECT 'EM FOR JUST TO HAVE, YOU KNOW, AS A
10 COLLECTOR'S ITEM. SOME PEOPLE ARE I GUESS AWED BY THE LOOK
11 OF THE WEAPON, AND THAT'S ABOUT IT.

12 Q DOES THIS WEAPON HAVE A NICKNAME?

13 A WELL, ANY TYPE OF WEAPON THAT LOOKS LIKE THIS I'VE HEARD
14 PEOPLE CALL 'EM OOZIES, WHICH AN OOZIE IS A FULLY AUTOMATIC
15 WEAPON WHERE THIS WEAPON IS A SEMI-AUTOMATIC WEAPON. TECH
16 NINE WHICH ARE MAKERS OF SEMI-AUTOMATIC AND AUTOMATIC
17 WEAPONS.

18 Q WOULD YOU USE A WEAPON LIKE THIS HUNTING SOMETHING?

19 A I PERSONALLY WOULDN'T; I DON'T KNOW ANYBODY THAT DOES.

20 Q DO YOU OWN ONE?

21 A NO.

22 Q DO YOU KNOW ANYBODY THAT DOES?

23 A YES.

24 Q DO YOU KNOW WHAT THEY USE IT FOR?

25 A TARGET PRACTICE.

CHARLES CATO - CROSS BY MR. GREGORY

1 MR. MCMAHON: OBJECT. THAT'S IRRELEVANT. WHAT OTHER
2 PEOPLE OWN IT FOR IS IRRELEVANT. WHETHER OR NOT MR. CATO
3 OWNS ONE IS IRRELEVANT.

4 THE COURT: GO AHEAD. I'LL EXPLAIN TO THE JURY.

5 Q WHEN YOU WENT TO OBTAIN FROM THE CORONER OR KITT
6 MCMASTER---

7 A DOC MCMASTER.

8 Q DOC MCMASTER THE PATHOLOGIST, THE BULLET FRAGMENTS HERE
9 WHICH IS STATE'S EXHIBIT #16---

10 A YES, SIR.

11 Q DID YOU ALSO OBTAIN FROM HIM A REPORT OF THE AUTOPSY?

12 A NO, SIR, THE AUTOPSY USUALLY GOES TO EITHER THE CORONER,

13 A COPY GOES TO THE SOLICITOR'S OFFICE AND TO THE
14 INVESTIGATING OFFICER. I ATTEND ANY TIME A DEATH OCCURS IN
15 LEXINGTON COUNTY OF A QUESTIONABLE MATTER OR A SERIOUS MATTER
16 SUCH AS THIS I ALWAYS OR MY PARTNER ALWAYS ATTENDS THE
17 AUTOPSY.

18 Q ALL RIGHT. DID YOU ATTEND THE AUTOPSY IN THIS
19 PARTICULAR CASE?

20 A YES, I DID.

21 Q WERE YOU AWARE OF THE PATHOLOGIST IN THE AUTOPSY
22 DETERMINING THAT THE BODY HAD A RESIDUE OF MARIJUANA?

23 MR. MCMAHON: JUDGE, I DON'T HAVE NO OBJECTION TO THAT.
24 I DON'T HAVE NO OBJECTION TO THE AUTOPSY REPORT COMIN' IN,
25 BUT THE DOCTOR IS THE ONE BEST QUALIFIED---

CHARLES CATO - CROSS BY MR. GREGORY

1 THE COURT: YEAH, THE DOCTOR WILL HAVE TO TESTIFY.

2 MR. MCMAHON: ---TO TESTIFY TO THAT AND WE INTEND ON
3 CALLING HIM.

4 THE COURT: YEAH.

5 MR. MCMAHON: I WOULD OBJECT TO THE FORM OF THE
6 QUESTION.

7 THE COURT: REPHRASE IT OR YOU CAN PUT THE REPORT IN.

8 MR. MCMAHON: I DON'T THINK HE WOULD HAVE PERSONAL
9 KNOWLEDGE AS TO THE RESULTS OF THE TOXICOLOGIST.

10 THE COURT: HE WOULDN'T KNOW.

11 MR. MCMAHON: LIKE I SAY, I DON'T HAVE NO OBJECTION, BUT
12 I DO HAVE OBJECTION---

13 MR. GREGORY: THEY'RE CALLING THE DOCTOR THAT'S FINE.

14 MR. MCMAHON: YES, SIR. I THINK I'D HAVE TO IN A
15 HOMICIDE CASE CALL THE DOCTOR, BUT ANYWAY, THAT'S WHAT I
16 OBJECT TO.

17 Q ALL RIGHT. THESE THREE BULLETS THAT WERE REMOVED FROM
18 JIMMY PEELE OBVIOUSLY CAME FROM THE 25 CALIBER.

19 A YES, SIR.

20 Q AND CAN YOU DESCRIBE THE USE OF THAT PISTOL. YOU SAY
21 YOU'VE GOT TO PULL EACH BULLET BY THE TRIGGER FINGER.

22 A YES, SIR, IT ACTS -- THE MECHANISM BASICALLY ACTS THE
23 SAME WAY AS THIS WEAPON, THE PERCUSSION OF THE ROUND BEIN'
24 DISCHARGED FORCES THE SLIDE BACK AND CYCLES ANOTHER ROUND
25 THROUGH BACK INTO THE CHAMBER.

CHARLES CATO - CROSS BY MR. GREGORY

1 Q ALL RIGHT, SIR. DETECTIVE CATO, DO YOU KNOW WHAT
2 HAPPENED TO THE 32 BULLETS THAT YOU TOOK OUT OF THE 9
3 MILLIMETER?

4 A YES, SIR, I HAVE 'EM.

5 Q YOU HAVE 'EM? DID YOU BRING 'EM TODAY?

6 A I BELIEVE THEY'RE IN MY BOX.

7 Q COULD WE SEE 'EM?

8 A WHERE WOULD YOU LIKE ME TO PUT 'EM?

9 Q JUST PUT ONE UP ON THE COUNTER HERE.

10 MR. GREGORY: WE WOULD LIKE TO MARK THIS BAG AS THE
11 DEFENDANT'S EXHIBIT A.

12 MR. MCMAHON: NO OBJECTION.

13 THE COURT: NO OBJECTION.

14 (DEFENDANT'S EXHIBIT #1 RECEIVED IN EVIDENCE.)

15 Q NOW THIS IS DEFENDANT'S EXHIBIT -- ALL RIGHT. IF YOU
16 WOULD, DETECTIVE CATO, I'M GONNA TAKE ONE OF THESE BULLETS
17 OUT AND SET IT UP HERE ON THE RAIL. NOW WE'VE GOT SPENT
18 CASINGS HERE STATE'S EXHIBIT 15. DO YOU HAVE THE REMAINING
19 BULLETS OUT OF THE 25 CALIBER?

20 A LET ME SEE MY BOX.

21 Q ALL RIGHT.

22 A AS I SAID PRIOR, THESE WERE TAKEN TO SLED FOR TEST
23 FIRINGS. OUT OF THE THREE BULLETS LEFT OUT OF THE WEAPON I
24 RECOVERED, THE 25, SOUTH CAROLINA LAW ENFORCEMENT DIVISION
25 USED TWO OF THOSE THREE FOR COMPARISON AND THERE ARE THE TWO

CHARLES CATO - CROSS BY MR. GREGORY

1 CASINGS.

2 Q ALL RIGHT.

3 MR. GREGORY: WE'D LIKE TO MARK THOSE AS DEFENDANT'S
4 EXHIBIT 2.

5 Q CAN WE PUT 'EM IN YOUR BOX?

6 A YES, SIR.

7 (DEFENDANT'S EXHIBIT #2 RECEIVED IN EVIDENCE:.)

8 Q ALL RIGHT. I'LL LEAVE THIS ONE OUT FOR JUST A MINUTE.
9 WHAT I WOULD LIKE FOR YOU TO DO, DETECTIVE CATO, IS COMPARE
10 THE DEFENDANT'S EXHIBIT 1 WHICH IS THE LARGER BULLET WITH
11 DEFENDANT'S EXHIBIT 2 WHICH IS THE SMALLER BULLET.

12 A WELL, AS YOU CAN PLAINLY SEE, EXHIBIT ONE WHICH IS A
13 NINE MILLIMETER IS LARGER THAN DEFENDANT'S EXHIBIT #2 SIMPLY
14 BECAUSE OF THE LARGER CALIBER. THEY BOTH ARE A JACKETED
15 ROUND WHICH MEANS THAT THERE IS A COPPER OUTSIDE COATING OVER
16 THE LEAD PROJECTILE.

17 Q ALL RIGHT. NOW THE CALIBER OF THE TWO BULLETS WHEN YOU
18 REFER TO THE NINE MILLIMETER BEING A LARGER CALIBER THAN THE
19 SMALL BULLET, TWENTY-FIVE CALIBER, IS THAT WHAT'S WRITTEN ON
20 THE BOTTOM OF THESE BULLETS? I HAND YOU DEFENDANT'S EXHIBIT
21 #1.

22 A WRITTEN ON THE BOTTOM OF EXHIBIT #1, DEFENDANT'S EXHIBIT
23 #1 IS 9 MILLIMETER LUKER (PHONETIC).

24 Q THEN ON THE BOTTOM OF DEFENDANT'S EXHIBIT #2, WHAT'S
25 WRITTEN THERE? I CAN'T READ IT MYSELF.

CHARLES CATO - CROSS BY MR. GREGORY

1 A IT'S .25 AUTO.

2 Q ALL RIGHT.

3 A IT ALSO HAS THREE OTHER LITTLE LETTERS THAT I CAN'T
4 READ.

5 Q ALL RIGHT. LET'S RETURN THESE TO THEIR RESPECTIVE
6 BOXES. ONE OTHER QUESTION: COMPARING THE TWO WEAPONS,
7 DETECTIVE CATO, THE WEIGHT OF A TWENTY-FIVE CALIBER PISTOL AS
8 OPPOSED TO THE WEIGHT OF A NINE MILLIMETER WHICH ONE IS THE
9 HEAVIEST?

10 A THE 9 MILLIMETER.

11 Q WOULD YOU KNOW WHAT THE DIFFERENCE IN WEIGHT IS BETWEEN
12 THE TWO?

13 A I DON'T HAVE THAT INFORMATION.

14 Q THANK YOU, SIR. NOTHING FURTHER.

15 MR. MCMAHON: PLEASE THE COURT?

16 THE COURT: LET'S TAKE A LITTLE STRETCH.

17 MR. MCMAHON: I'D HAVE SOME QUESTIONS ON REDIRECT.

18 THE COURT: OH, GO AHEAD. TAKE CARE OF THAT.

19 REDIRECT EXAMINATION

20 BY MR. MCMAHON

21 Q DETECTIVE CATO, JUST VERY BRIEFLY, MR. GREGORY -- IF I
22 MIGHT REMOVE MY COAT FOR MINUTE THERE WITH THE COURT'S
23 PERMISSION?

24 THE COURT: YES, SIR.

25 Q MR. GREGORY ASKED YOU WOULD YOU HUNT WITH STATE'S

CHARLES CATO - REDIRECT BY MR. MCMAHON

1 EXHIBIT #13. YOUR RESPONSE WAS?

2 A I WOULDN'T.

3 Q WOULD YOU HUNT WITH STATE'S EXHIBIT #12?

4 A NO, SIR.

5 Q FOR WHAT PURPOSE WOULD A PERSON CARRY STATE'S EXHIBIT
6 #12 BACK HERE FOR?

7 A FOR CONCEALMENT.

8 Q ALL RIGHT, SIR. AND WHAT PURPOSE IS STATE'S EXHIBIT #12
9 PRETTY MUCH USED FOR?

10 A SELF DEFENSE.

11 Q WILL STATE'S EXHIBIT #12 KILL YOU, DETECTIVE CATO?

12 A YES, SIR.

13 Q WILL STATE'S EXHIBIT #13 KILL YOU?

14 A YES, SIR.

15 Q WOULD YOU HUNT WITH STATE'S EXHIBIT #19?

16 A YES, SIR.

17 Q WHAT KINDA GAME WOULD YOU HUNT IF YOU HAD STATE'S
18 EXHIBIT NINETEEN WITH THE SHELLS AND STATE'S EXHIBIT NUMBER
19 EIGHTEEN?

20 A LARGE GAME.

21 Q WOULD YOU POINT THIS WEAPON AT A HUMAN BEING, DETECTIVE
22 CATO?

23 A NO, SIR.

24 Q NO FURTHER QUESTIONS.

25 MR. GREGORY: NOTHING FURTHER.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 THE COURT: THANK YOU. TAKE THE JURY TO THE ROOM AND
2 TAKE A STRETCH. GET 'EM A COKE. (THERE WAS A RECESS.)
3 ALL RIGHT. BRING THE JURY IN. (THE FOLLOWING OCCURRED IN
4 THE PRESENCE OF THE JURY.) YOU MAY PROCEED.

5 MR. MCMAHON: THE STATE CALLS DETECTIVE FRIER.

6 DETECTIVE FRIER, BEING DULY SWORN,
7 TESTIFIES AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. MCMAHON

10 Q SIR, WOULD YOU INTRODUCE YOURSELF TO THE JURY, PLEASE.

11 A YES, SIR. MY NAME IS DETECTIVE SCOTT FRIER. I'M A
12 CRIMINAL INVESTIGATOR WITH THE LEXINGTON COUNTY SHERIFF'S
13 DEPARTMENT.

14 Q HOW LONG HAVE YOU BEEN EMPLOYED WITH THE SHERIFF'S
15 DEPARTMENT?

16 A I'VE BEEN WITH THE SHERIFF'S DEPARTMENT FOR ABOUT 7 AND
17 A HALF YEARS.

18 Q HOW LONG HAVE YOU BEEN ASSIGNED TO THE INVESTIGATION
19 DIVISION?

20 A I HAVE WORKED WITHIN THAT DIVISION FOR RIGHT AT FIVE
21 YEARS.

22 Q NOW WHAT ARE YOUR PRIMARY DUTIES AND RESPONSIBILITIES
23 BEING ASSIGNED TO THAT DIVISION?

24 A WE FOLLOW UP AND INVESTIGATE ALL MAJOR INCIDENTS AND
25 THOSE INCIDENTS THAT WILL REQUIRE FURTHER INVESTIGATION

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 BEYOND THE JUST INITIAL RESPONSE.

2 Q DID YOU HAVE OCCASION TO RESPOND TO THE BOW-WOW BOUTIQUE
3 ON 9-4 OF '92?

4 A YES, SIR, I DID. AT APPROXIMATELY 1:30 OR SHORTLY AFTER
5 WE WERE NOTIFIED THAT THERE WAS A SHOOTING INCIDENT THAT HAD
6 TAKEN PLACE AT [REDACTED] ROAD. WE WERE FURTHER INFORMED
7 THAT THAT WAS THE BOW-WOW BOUTIQUE LOCATED AT CEDAR CREST AND
8 TWO NOTCH ROAD.

9 Q AND I'M NOT EVEN SURE MYSELF OR SOLICITOR RIDDLE HAD
10 ASKED THIS QUESTION EARLIER, BUT ALL THIS AREA WE'RE TALKIN'
11 ABOUT IS LOCATED IN LEXINGTON COUNTY.

12 A YES, SIR, WITHIN THE LEXINGTON AREA.

13 Q IF WE WERE TO LEAVE THE COURTHOUSE NOW WHERE WOULD WE
14 GO? WHAT DIRECTION WHAT ROUTE WOULD WE TAKE TO GET TO THE
15 BOW-WOW BOUTIQUE?

16 A YOU WOULD TAKE HIGHWAY ONE GOIN' OUT OF TOWN LIKE YOU'RE
17 GOIN' BACK TOWARDS WEST COLUMBIA AFTER THE OLD HOUSE, WHAT I
18 CALL THE OLD HOUSE AND THEN GOIN' DOWN A HILL RIGHT THERE BY
19 J.C.'S NEW BOWLIN' ALLEY. YOU WOULD HANG A RIGHT. THAT'S
20 CEDAR CREST. IT GOES ACROSS THE RAILROAD TRACKS. IT COMES
21 INTO A T INTERSECTION AT TWO NOTCH ROAD ABOUT 2, 2 AND A HALF
22 MILES FROM HERE.

23 Q AND THAT BUILDING THE BOW-WOW BOUTIQUE WAS RIGHT THERE
24 ON THE RIGHT. IS THAT CORRECT?

25 A YES, SIR, AS YOU'RE COMING TO THE STOP SIGN.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q ABOUT HOW FAR IS IT FROM HERE TO THE COURTHOUSE OUT
2 THERE TO CEDAR CREST DO YOU THINK?

3 A ABOUT 2 AND A HALF MILES.

4 Q NOW AGAIN, APPROXIMATELY WHAT TIME WAS IT YOU RESPONDED
5 OUT THERE?

6 A AT APPROXIMATELY 1:40 IN THE AFTERNOON.

7 Q DESCRIBE FOR THE JURY WHAT OCCURRED UPON YOUR ARRIVAL,
8 WHAT YOUR OBSERVATIONS WERE.

9 A AS I ARRIVED I PULLED INTO THE PARKING LOT AT THE
10 BOUTIQUE. AS I DID SGT. GARNER WAS COMING AROUND FROM THE
11 FRONT OF THE BUILDING, WHO HAD TESTIFIED EARLIER. I MET WITH
12 SGT. GARNER AND HE POINTED TOWARDS THE PATROL CAR THAT WAS
13 PARKED OUTSIDE THE BUILDING. THERE WAS A GENTLEMAN SEATED IN
14 THE BACK SEAT OF THE PATROL CAR, APPEARED TO BE HAND CUFFED
15 BEHIND HIS BACK, BEHIND THE CAGE OF THE CAR. MR. GARNER
16 INFORMED ME THAT UPON HIS ARRIVAL THAT THE GENTLEMAN SEATED
17 IN THE CAR HAD MADE A SPONTANEOUS STATEMENT TO HIM THAT HE
18 HAD SHOT THE MAN INSIDE. SGT. GARNER INFORMED ME THAT HE HAD
19 READ TO HIM HIS MIRANDA RIGHTS FROM A CARD, THAT THEY HAD
20 SECURED HIM AND PLACED HIM IN THERE.

21 Q THAT WAS PRETTY MUCH THE TERMS HE USED AND THE FULL
22 CONVERSATION YOU AND SGT. GARNER HAD?

23 A YES, VERY QUICK. HE SAID THE MAN IN THE CAR MADE A
24 SPONTANEOUS STATEMENT. HE WAS THERE WHEN WE ARRIVED. HE'S
25 BEEN MIRANDIZED. HE'S IN THE CAR.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q NOW WOULD THAT BE STANDARD PROCEDURE TO HAND CUFF SUCH A
2 SUBJECT IN THE MANNER IN WHICH HE WAS HAND CUFFED?

3 A IT IS OUR POLICY ANYONE YOU HAND CUFF, YOU HAND CUFF
4 BEHIND THE BACK. THAT'S FOR OFFICER SAFETY REASONS.

5 Q AND WOULD IT BE STANDARD PROCEDURE TO PLACE THAT SUBJECT
6 IN A CAGED UNIT THAT YOU CALL?

7 A CERTAINLY. AGAIN, FOR OFFICER SAFETY.

8 Q AND THAT'S JUST A UNIT THAT'S GOT A BARRICADE BETWEEN
9 THE DRIVER'S AREA OF THE PATROL CAR AND THE PASSENGER AREA.
10 CORRECT?

11 A YES, SIR.

12 Q WHAT DID YOU DO AFTER THIS CONVERSATION THAT YOU HAD
13 WITH SGT. GARNER?

14 A I WALKED TOWARDS THE PATROL CAR WHERE THE GENTLEMAN WAS
15 SEATED. I GOT INTO THE FRONT PASSENGER'S SIDE, WAS ABLE TO
16 LOOK BACK THROUGH THE CAGED UNIT INTO THE AREA AND SPEAK WITH
17 THE GENTLEMAN THAT WAS BACK THERE. I INFORMED HIM THAT I WAS
18 AN INVESTIGATOR WITH THE SHERIFF'S DEPARTMENT AND THEN I
19 QUICKLY WENT OVER AGAIN WITH HIM THOSE MIRANDA RIGHTS THAT
20 MR. GARNER INFORMED ME HE HAD GIVEN.

21 Q NOW HOW DID YOU -- I BELIEVE SGT. GARNER STATED HE KNEW
22 WHAT'S BEEN MARKED AS STATE'S EXHIBIT #2, A BLOWUP OF HIS
23 ADVICE CARD.

24 A RIGHT.

25 Q HOW DID YOU FIRST ADVISE -- WELL, LET ME ASK YOU THIS:

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 WHO WAS THAT SUBJECT IN THE PATROL CAR?

2 A THE GENTLEMAN SEATED AT THE DEFENDANT'S TABLE IN BETWEEN
3 THE TWO GENTLEMAN. HE HAS A SUIT AND A VEST AND A TIE ON.

4 Q THE DEFENDANT FRED RUTLAND?

5 A YES, SIR.

6 Q HOW DID YOU ADVISE HIM OF HIS MIRANDA RIGHTS?

7 A I SIMPLY DID IT BY MEMORY OFF THE TOP OF MY HEAD.

8 Q SPECIFICALLY WHAT DID YOU TELL HIM?

9 A I INFORMED HIM THAT HE OF COURSE HAD THE RIGHT TO REMAIN
10 SILENT AND NOT MAKE ANY STATEMENT AT ALL, THAT ANY STATEMENT
11 HE DOES MAKE CAN BE USED AGAINST HIM IN A COURT OF LAW, THAT
12 HE HAS A RIGHT TO HAVE AN ATTORNEY PRESENT AT ANY TIME DURING
13 QUESTIONING, THAT IF HE CANNOT AFFORD AN ATTORNEY HE CAN
14 APPLY TO THE STATE TO HAVE ONE APPOINTED TO HIM AT NO COST,
15 AND THAT IF HE BEGINS TO ANSWER QUESTIONS FOR LAW ENFORCEMENT
16 HE HAS THE RIGHT TO STOP AT ANY TIME.

17 Q SO YOU TOLD HIM HE HAD THESE RIGHTS.

18 A YES, SIR.

19 Q AND OF COURSE HE COULD EXERCISE THOSE RIGHTS IF HE WANTS
20 TO.

21 A YES, SIR.

22 Q DID HE RESPOND TO YOU IN ANY WAY AT THAT TIME, DETECTIVE
23 FRIER?

24 A WE SPOKE. WE BEGAN TO SPEAK WITH ME ASKIN' HIM ABOUT
25 WHAT HAD HAPPENED.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q DID HE EXERCISE HIS RIGHTS? DID HE REQUEST TO REMAIN
2 SILENT? OR DID HE REQUEST AN ATTORNEY AT THAT POINT?

3 A NO, SIR, HE DID NOT.

4 Q WHAT IS THE PROCEDURE WHEN -- NOW YOU'RE STILL OUT ON
5 THE SCENE OF THE SHOOTING?

6 A YES, SIR.

7 Q HAVE YOU EVEN BEEN IN THE BUILDING?

8 A NO, SIR, I HAVE NOT.

9 Q DO YOU KNOW WHAT HAS OCCURRED IN THE BUILDING AS FAR AS
10 ANY DETAILS OR SPECIFICS?

11 A NO, SIR, I HAVE NOT EVEN STEPPED INSIDE THE BUILDING AT
12 THIS POINT.

13 Q DID MR. RUTLAND THEN AGREE TO SPEAK WITH YOU?

14 A YES, HE DID.

15 Q SO WHAT WOULD BE THE NORMAL PROCEDURE FROM THAT POINT
16 AND WHAT DID YOU DO?

17 A AT THAT POINT IN MY TIME IT WOULD BE IN MY BEST INTEREST
18 TO GET THE SUBJECT AWAY FROM THE INCIDENT LOCATION SO THAT WE
19 COULD GET TO A LOCATION WHERE WE COULD TALK. MY LIEUTENANT,
20 WHO IS IN CHARGE OF OUR DIVISION, WAS ALREADY ON THE SCENE;
21 HE WAS INSIDE THE BUILDING. I KNEW THAT BECAUSE HIS CAR WAS
22 PARKED OUTSIDE. I ASKED THEM TO MOVE MR. RUTLAND FROM THE
23 MARKED PATROL CAR INTO MY PATROL CAR WHICH IS AN UNMARKED
24 FORD CROWN VICTORIA. AT THAT POINT IN TIME I STEPPED INSIDE,
25 FOUND MY LIEUTENANT, INFORMED HIM THAT I HAD THE DEFENDANT

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 OUTSIDE OR THE SUBJECT OUTSIDE; HE WAS WANTING TO TALK; I WAS
2 GONNA TRAVEL WITH HIM FROM THE LOCATION TO THE SHERIFF'S
3 DEPARTMENT, AND THEN STEPPED BACK OUTSIDE AND GOT IN THE CAR.

4 Q AND IS THAT WHAT YOU, IN FACT, DID?

5 A YES, SIR, I THEN DROVE FROM THERE TO THE SHERIFF'S
6 DEPARTMENT.

7 Q HOW LONG -- HOW LONG DO YOU THINK, DETECTIVE FRIER, YOU
8 WERE ACTUALLY ON THE SCENE AT THE BOW-WOW BOUTIQUE?

9 A IT WOULD'VE BEEN NO MORE THAN TEN MINUTES. IT ALL
10 HAPPENED PRETTY QUICKLY WITH ME GETTING AWAY FROM THERE.

11 Q SO YOU DIDN'T HAVE NOR DID YOU UNDERTAKE THE
12 RESPONSIBILITY OF LT. PHILLIPS.

13 A NO, SIR. HE WAS THE SENIOR OFFICER IN CHARGE OF THE
14 CRIME SCENE.

15 Q NOR THE RESPONSIBILITIES OF INVESTIGATOR CATO AS FAR AS
16 THE CRIME SCENE.

17 A HE'S THE IDENTIFICATION TECHNICIAN.

18 Q WELL WHAT BECAME YOUR PRIMARY RESPONSIBILITY?

19 A AT THAT POINT IN TIME MY PRIMARY RESPONSIBILITY WAS AN
20 INTERVIEW WITH THE SUBJECT.

21 Q AND WHERE DID YOU PROPOSE TO CONDUCT THAT INTERVIEW?

22 A WE HAVE INTERVIEW ROOMS PROVIDED FOR US WITHIN THE
23 SHERIFF'S DEPARTMENT.

24 Q HOW FAR IS THE SHERIFF'S DEPARTMENT FROM HERE?

25 A THE SHERIFF'S DEPARTMENT IS FROM HERE THREE QUARTERS OF

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A MILE, IF THAT FAR, HALF A MILE OR THREE QUARTERS OF A MILE.

2 Q SO HOW -- HOW LONG OR HOW MUCH DISTANCE THEN FROM CEDAR
3 CREST AND TWO NOTCH APPROXIMATELY TO THE SHERIFF'S
4 DEPARTMENT?

5 A NO MORE THAN 3 MILES; PROBABLY CLOSER TO TWO AND A HALF
6 OR TWO.

7 Q WHAT KINDA TIME YOU TALKIN' ABOUT THERE TO THE SHERIFF'S
8 DEPARTMENT?

9 A NO MORE THAN FIVE MINUTES.

10 Q NOW, DETECTIVE FRIER, WHEN YOU TAKE MR. RUTLAND FROM THE
11 BOW-WOW BOUTIQUE TO THE SHERIFF'S DEPARTMENT, WHAT TYPE OF
12 VEHICLE IS HE IN?

13 A HE'S IN MY UNMARKED PATROL CAR. IT'S JUST A REGULAR
14 FULL-SIZE FOUR-PASSENGER VEHICLE. IT DOES NOT POSSESS ANY
15 MARKINGS OF A POLICE VEHICLE, BUT THERE'S A BLUE LIGHT INSIDE
16 THE CAR THAT SITS DOWN ON THE FLOORBOARD UNTIL I NEED IT.

17 Q IS HE STILL HAND CUFFED?

18 A YES, SIR, HE IS.

19 Q BEHIND HIS BACK?

20 A YES, SIR, HE IS.

21 Q IS THERE ANY CAGE IN THAT VEHICLE?

22 A NO, SIR, HE'S SITTING IN THE PASSENGER'S SEAT BESIDE ME.

23 Q AND SPECIFICALLY WHERE AT THE SHERIFF'S DEPARTMENT DO
24 YOU TAKE MR. RUTLAND?

25 A I PULL INTO THE BACK LOT IS WHERE OFFICERS PARK THEIR

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 VEHICLES. WE GO IN THROUGH A BACK DOOR AND GO INTO AN
2 INTERVIEW HALL.

3 Q AND THEN SPECIFICALLY WHERE DO YOU TAKE HIM?

4 A INTO A SPECIFIC INTERVIEW ROOM. WE HAVE A SEAT.
5 THERE'S A TABLE AND CHAIRS PROVIDED.

6 Q NOW IS THAT -- IS THE SHERIFF'S DEPARTMENT BROKE UP
7 ADMINISTRATIVELY AND THE JAIL SEPARATE?

8 A YES, SIR, THEY'RE TWO SEPARATE BUILDINGS.

9 Q THE LOCATION YOU TAKE HIM TO IS THAT IN THE JAIL SECTION
10 OR IS THAT IN THE ADMINISTRATIVE SECTION?

11 A THAT IS IN THE ADMINISTRATIVE OR THE DAILY OPERATIONS
12 AREA OF THE SHERIFF'S DEPARTMENT.

13 Q AND THAT'S JUST AN OFFICE TYPE OF SETTING, DETECTIVE
14 FRIER?

15 A YES, SIR, AND THEN ATTACHED -- OR DETACHED FROM THAT
16 OFFICER THERE'S A HALLWAY WHICH SEPARATES THE OFFICE AREA
17 FROM A SERIES OF INTERVIEW ROOMS.

18 Q NOW WHEN YOU TAKE HIM INTO THAT INTERVIEW ROOM WHO ALL -
19 - WE'RE TALKIN' -- I'M TALKIN' ABOUT THIS INTERVIEW NOW --
20 WHO ALL IS PRESENT DURING THIS TIME?

21 A IT WOULD BE MYSELF AND MR. RUTLAND. ON A COUPLE OF
22 OCCASIONS THERE WILL BE OTHER OFFICERS WHO ARE ASKED TO STAND
23 THERE AND WATCH MR. RUTLAND AS I GO INTO OUR WORK AREA TO
24 RETRIEVE SOME ITEMS, BUT THE INTERVIEW ITSELF WILL BE
25 CONDUCTED BETWEEN MR. RUTLAND AND MYSELF.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q WHEN YOU GET HIM INTO THAT INTERVIEW ROOM, WHAT, IF
2 ANYTHING, DO YOU ADVISE HIM OF?

3 A WE SIT DOWN AGAIN. I HAVE THE INTENTION AT THIS POINT
4 IN TIME OF GETTING A WRITTEN STATEMENT FROM MR. RUTLAND. WE
5 HAVE A FORM, A STANDARD FORM THAT WE USE WHEN WE DO THIS. IN
6 THE FIRST PART OF FORM THERE'LL BE A BLOCK OF AREA ON THE
7 FORM THAT HAS IDENTIFICATION INFORMATION WHERE I GET THE
8 INFORMATION OF THE SUBJECT WHO'S PROVIDING US WITH THE
9 STATEMENT. UNDER THAT THERE'S A PRINTED OUT AREA. THERE ARE
10 FIVE SENTENCES PRINTED OUT OF THOSE RIGHTS THAT I HAD ADVISED
11 MR. RUTLAND OF EARLIER FROM MEMORY.

12 Q NOW DID YOU GET A WRITTEN STATEMENT FROM HIM?

13 A YES, SIR, I DID.

14 Q DID YOU ADVISE HIM OF HIS RIGHTS IN WRITING?

15 A YES, SIR, AT THIS TIME I DID.

16 Q DO YOU HAVE A COPY OF THAT FORM?

17 A YES, SIR, THIS WILL BE THE ORIGINAL STATEMENT FORM THAT
18 I USED ON SEPTEMBER 4TH 1992.

19 Q WHAT NUMBER IS THAT?

20 A IT IS MARKED STATE'S EXHIBIT 3 FOR I.D. AT THIS TIME.

21 Q AND REFERRING TO STATE'S EXHIBIT 4, 5 AND 6 FOR I.D.,
22 ARE THESE BLOW-UPS OF STATE'S 1, 2 AND 3 ON THAT PARTICULAR
23 PLAN?

24 A YES, SIR, THEY ARE.

25 MR. MCMAHON: YOUR HONOR, I WOULD OFFER STATE'S 3, 4, 5

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 AND 6 INTO EVIDENCE AT THIS TIME.

2 MR. GREGORY: NO OBJECTION.

3 (STATE'S EXHIBITS 3, 4, 5 AND 6 RECEIVED IN EVIDENCE.)

4 Q NOW, DETECTIVE FRIER, I'M GONNA HAVE YOU REFER TO
5 STATE'S 3.

6 A YES, SIR.

7 Q I WILL REFER TO 4, 5 AND 6. NOW STATE'S 4 IS -- HOW
8 DOES STATE'S 4 RELATE TO STATE'S 3?

9 A IT'S A BLOWN-UP COPY. THERE IS ONE DIFFERENCE ON THE
10 MARGIN ON THIS SIDE THERE IS SOME INFORMATION THAT IS DELETED
11 THAT CAN BE FOUND ON THIS ORIGINAL FORM.

12 Q IT DIDN'T QUITE MAKE IT ON THE BLOWUP.

13 A DIDN'T QUITE MAKE IT, NO, SIR.

14 Q ALL RIGHT, SIR. AND HOW DOES STATE'S 5 RELATE TO
15 STATE'S 3?

16 A THAT PAGE RELATES PRETTY CONSISTENT. THE INFORMATION IN
17 THE MARGINS THAT'S THERE, THAT'S CONSISTENT.

18 Q THAT IS PAGE 2 OF STATE'S 3?

19 A YES, SIR, AS IS MARKED IN THE TOP CORNER.

20 Q AND THEN STATE'S 6 HOW DOES THAT RELATE TO STATE'S
21 THREE?

22 A IT'S CONSISTENT. MARKED 3 OF 3.

23 Q I'M GONNA BE REFERRING SO THE JURY CAN AT LEAST SEE SOME
24 OF WHAT I'M REFERRING TO STATE'S 4 AND YOU WILL BE REFERRING
25 TO STATE'S 3. IS THAT CORRECT?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A YES, SIR. THIS IS PROBABLY BIG ENOUGH AS I CAN SHOW
2 THIS TO THEM, SEE WHAT'S MISSIN'.

3 Q THIS AREA UP HERE, WHO FILLED THIS OUT?

4 A THAT'S IN MY HANDWRITING, SIR.

5 Q AND WHAT DATE AND TIME DID THIS INTERVIEW BEGIN?

6 A AS SOON AS I STARTED FILLING OUT THE TOP PORTION OF THE
7 FORM, THE FIRST THING I DO IS THAT FIRST LINE WHICH HAS THE
8 DATE, THE LOCATION. I HAVE L.C.S.D. PRINTED THERE FOR
9 LEXINGTON COUNTY SHERIFF'S DEPARTMENT, AND THEN I HAVE THE
10 TIME IN MILITARY TIME 14:05 WHICH IS 2:05 IN THE AFTERNOON.

11 Q SO YOU BEGAN THIS PROCEDURE AT THE SHERIFF'S DEPARTMENT
12 SEPTEMBER 4TH '92 AT 14:05 OR 2:05 IN THE AFTERNOON.

13 A YES, SIR.

14 Q IS THAT CORRECT?

15 A YES, SIR.

16 Q NOW THERE IS CERTAIN INFORMATION, IDENTIFYING
17 INFORMATION I CALL IT ON THIS -- ON THIS FORM STATE'S 4. WHO
18 PROVIDED THIS IDENTIFYING INFORMATION?

19 A THE GENTLEMAN SEATED OVER THERE PROVIDED THIS
20 INFORMATION TO ME AS I QUESTIONED HIM ACCORDING TO THE BLOCKS
21 ON THE FORM.

22 Q THE DEFENDANT.

23 A YES, SIR.

24 Q MR. RUTLAND.

25 A YES, SIR.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q WHO TOLD YOU HE WAS 42 YEARS OLD?

2 A MR. RUTLAND DID.

3 Q WHO PROVIDED YOU WITH HIS DATE OF BIRTH?

4 A MR. RUTLAND DID.

5 Q AND LOCATION OF HIS BIRTH?

6 A MR. RUTLAND DID.

7 Q AND HIS ADDRESS.

8 A MR. RUTLAND.

9 Q AND UP HERE AT THE TOP RIGHT, THE NUMBERS UP THERE, WHAT
10 IS THAT NUMBER?

11 A THAT IS THE SOCIAL SECURITY NUMBER THAT MR. RUTLAND
12 PROVIDED TO ME AT THIS TIME.

13 Q AND I ASSUME YOU IDENTIFIED YOURSELF HERE AS DETECTIVE
14 FRIER.

15 A AS A DETECTIVE WITH L.C.S.D. LEXINGTON COUNTY SHERIFF'S
16 DEPARTMENT.

17 Q AND WHO PROVIDED THIS INFORMATION?

18 A MR. RUTLAND PROVIDED THAT TO ME AS A HOME PHONE NUMBER.

19 Q WAS HE ABLE TO PROVIDE THAT INFORMATION TO YOU
20 COHERENTLY?

21 A YES, SIR, HE WAS.

22 Q DID YOU LATER DETERMINE THAT THAT INFORMATION WAS
23 CORRECT, TRUE?

24 A YES, SIR, I WAS ABLE TO RUN IDENTIFICATION CHECKS WHICH
25 WERE CONSISTENT.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q THAT WAS CORRECT?

2 A EVERYTHING WAS CORRECT, YES, SIR.

3 Q NOW WE COME DOWN 1 THROUGH 5. JUST DESCRIBE FOR THE
4 JURY HOW YOU ADVISED HIM OF HIS RIGHTS AND WHAT PROCEDURE IS
5 ACTUALLY UNDERTAKEN BETWEEN YOU AND THE DEFENDANT.

6 A AS I SPOKE OF, THERE ARE FIVE SENTENCES PRINTED OUT.
7 EACH ONE HAS A NUMBER BESIDE IT. WHAT I DO IS I READ TO HIM
8 AS IS WRITTEN ON THE FORM THAT I HAVE THE RIGHT TO REMAIN
9 SILENT AND NOT MAKE ANY STATEMENT AT ALL, THAT ANY STATEMENT
10 I DO MAKE CAN BE USED AGAINST ME IN COURT, THAT I HAVE THE
11 RIGHT TO HAVE AN ATTORNEY PRESENT AT ANY TIME DURING
12 QUESTIONING, THAT IF I CANNOT AFFORD AN ATTORNEY I CAN APPLY
13 TO THE COURT TO HAVE ONE APPOINTED AT NO COST TO ME, THAT IF
14 I DECIDE TO TALK TO AN OFFICER WITHOUT AN ATTORNEY PRESENT I
15 MAY STOP AT ANY AND REQUEST AN ATTORNEY BE PRESENT FOR
16 FURTHER QUESTIONING.

17 Q YOU GO OVER EACH AND EVERY ONE OF THOSE RIGHTS.

18 A YES, SIR. AND AS I DO, TO INDICATE I HAVE DONE THAT I
19 WILL ALWAYS CIRCLE THE NUMBER WHICH IS BESIDE THE SENTENCE TO
20 INDICATE I'VE READ IT.

21 Q AND YOU DO THAT ONE AT A TIME AND THEN GO TO NUMBER TWO
22 AND THEN GO TO NUMBER THREE?

23 A YES, SIR.

24 Q SEQUENTIALLY?

25 A YES, SIR, I CIRCLE EACH ONE.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q AFTER YOU CIRCLE 'EM THAT YOU HAVE A RIGHT TO REMAIN
2 SILENT AND NOT MAKE ANY STATEMENT AT ALL, WHO PUTS THE CIRCLE
3 THERE?

4 A I DO, SIR.

5 Q NOW ON STATE'S FOUR THERE IS SOMETHING RIGHT HERE THAT
6 IS CUT OFF. WHAT IS THAT?

7 A THOSE ARE THE, AGAIN, THERE'S A SET OF INITIALS THAT ARE
8 ON THE FORMS THERE. THE INITIALS F.R.R. YOU WILL NOTICE THEM
9 IN THE MARGIN, THOSE ARE A SERIES OF INITIALS THAT I ASKED
10 THE DEFENDANT TO PLACE BESIDE EACH NUMBER, AND I DO THAT; I
11 ASK HIM DO YOU UNDERSTAND THE RIGHTS THAT I'VE READ TO YOU;
12 DO YOU UNDER THE RAMIFICATIONS AND IMPLICATIONS THAT I'VE
13 READ TO YOU; DO YOU AGREE TO TALK TO ME WITHOUT AN ATTORNEY
14 PRESENT; IF YOU HAVE NO OBJECTION TO SPEAKING TO ME WOULD YOU
15 PLEASE PLACE YOUR INITIALS BY EACH NUMBER, ONE SET OF
16 INITIALS BY EACH NUMBER.

17 Q F.R.R. WHOSE INITIALS?

18 A THOSE WERE PLACED THERE BY FRED RUTLAND.

19 Q HE PLACED 'EM THERE.

20 A YES, SIR.

21 Q ON EACH AND EVERY ONE OF THOSE RIGHTS.

22 A YES, SIR.

23 Q AND YOU SPECIFICALLY WENT OVER EACH AND EVERY ONE OF
24 THOSE RIGHTS.

25 A YES, SIR.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q IN WRITING THIS TIME.

2 A YES, SIR.

3 Q DID HE PLACE HIS INITIALS BY THERE ON STATE'S 3 WHERE
4 YOU CAN CLEARLY SEE HIS INITIALS?

5 A YES, SIR, HE DID.

6 Q NOW TO THE LEFT OF THOSE INITIALS THERE ARE SOME OTHER
7 INITIALS. WHAT IS THAT?

8 A THOSE ARE MY INITIALS S.R.F., AND AGAIN I WOULD DO THAT
9 EACH TIME AS HE INITIALS EACH INDIVIDUAL NUMBER I WOULD GO
10 BEHIND HIM AND INITIAL THAT AND THAT IS AN INDICATION THAT
11 THAT WAS A KNOWN WAIVER, THAT HE UNDERSTOOD WHAT HE WAS
12 SAYING AND AGREED TO TALK WITH ME AND HE UNDERSTOOD THOSE
13 RIGHTS.

14 Q WHICH COLUMN OF INITIALS IS MR. RUTLAND?

15 A THIS WOULD BE THERE BE F.R.R.

16 Q AND YOURS?

17 A MINE ARE OFF TO THE SIDE S.R.F.

18 Q DID YOU ADVISE HIM OF EACH AND EVERY ONE OF THOSE RIGHTS
19 PRIOR TO TAKING ANY STATEMENT FROM HIM?

20 A YES, I DID.

21 Q DID HE WAIVE THOSE RIGHTS?

22 A YES, SIR, HE DID.

23 Q DID HE AGREE TO TALK TO YOU?

24 A YES, SIR.

25 Q DID HE OBJECT TO TALKING TO YOU IN ANY MANNER?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

- 1 A NO, SIR, HE DID NOT.
- 2 Q DID HE REQUEST AN ATTORNEY?
- 3 A NO, SIR, HE DID NOT.
- 4 Q HE DIDN'T INVOKE HIS RIGHTS IN ANY MANNER.
- 5 A NO, HE DID NOT.
- 6 Q DETECTIVE FRIER, DID YOU PROMISE HIM ANYTHING WHEN YOU
7 TALKED TO HIM?
- 8 A NO, SIR, I DID NOT.
- 9 Q DID YOU THREATEN HIM IN ANY WAY?
- 10 A NO, SIR.
- 11 Q WHAT WAS THE TONE BETWEEN YOU AND MR. RUTLAND?
- 12 A SAME AS YOU AND I ARE SPEAK WITH NOW -- WITH EACH OTHER
13 NOW.
- 14 Q BUSINESS-LIKE, PROFESSIONAL?
- 15 A YES, SIR.
- 16 Q I ASSUME YOU WOULD SAY THAT'S THE SAME AS YOU AND I.
- 17 A YES, SIR.
- 18 Q THAT TYPE OF CONVERSATION BETWEEN THE TWO OF YA'LL.
- 19 A YES, SIR.
- 20 Q NOW AFTER YOU ADVISED HIM OF HIS RIGHTS IN THE TOP PART
21 OF THIS FORM THERE'S A STATEMENT HERE. WHAT IS THIS AND DID
22 YOU ASK HIM IF HE UNDERSTOOD HIS RIGHTS?
- 23 A YES, IT'S JUST A FOLLOW-UP SENTENCE. UNDERSTANDING
24 THESE RIGHTS I MAKE THE FOLLOWING STATEMENT.
- 25 Q DID HE AGREE TO SPEAK WITH YOU AT THAT TIME?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A YES, HE DID.

2 Q DID YOU THEN-- WHAT TYPE OF STATEMENTS DID YOU THEN GET
3 FROM HIM?

4 A I THEN LEFT THE INTERVIEW ROOM FOR A SHORT PERIOD OF
5 TIME TO GET A TAPE RECORDING DEVICE AND A CLEAN CASSETTE
6 TAPE. I WANTED TO GET THE INITIAL INTERVIEW WITH HIM. I WAS
7 GONNA DO THAT ON AN AUDIO TAPE.

8 Q WAS THE WRITTEN STATEMENT PRODUCED, SO TO SPEAK, DID YOU
9 GET IT FROM THE DEFENDANT BEFORE OR AFTER YOU GOT THE TAPED
10 STATEMENT?

11 A NO, SIR, I -- I USED THE FORM HERE TO GET THIS AMOUNT OF
12 INFORMATION AND THIS WAIVER OF RIGHTS. AT THAT POINT IN TIME
13 I PLACED THIS STATEMENT TO THE SIDE. I GO GET A TAPE
14 RECORDING DEVICE AND A CASSETTE TAPE. I DO NOT GO BACK TO
15 THIS FORM UNTIL AFTER WE HAVE COMPLETED AN INTERVIEW ON TAPE.

16 Q AND WHAT -- DID YOU HAVE TO LEAVE THE INTERVIEW ROOM TO
17 GO GET A TAPE RECORDER?

18 A YES, SIR, I DID. I HAD TO LEAVE THE INTERVIEW ROOM, GO
19 INTO THE DETECTIVE'S WORK AREA, GO TO MY CUBICLE, GET A TAPE
20 RECORDING DEVICE. I HAD TO FIND SOMEONE WHO COULD LET ME
21 INTO ANOTHER AREA TO GET A CLEAN TAPE.

22 Q AND DID YOU SECURE ALL THAT INFORMATION, THAT MATERIAL,
23 THE TAPE AND---

24 A YES, SIR, I WAS ABLE TO RETRIEVE ALL OF THAT.

25 Q AND DID YOU, IN FACT, GET A TAPED STATEMENT FROM THE

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 DEFENDANT?

2 A YES, I DID.

3 Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
4 NUMBER SEVEN AND EIGHT AND ASK YOU IF YOU CAN LOOK AT THOSE
5 AND IDENTIFY 'EM FOR US, STATE'S FOR IDENTIFICATION SEVEN AND
6 EIGHT.

7 A STATE'S EXHIBIT 7 FOR I.D. IS A MAXELL CASSETTE TAPE. I
8 HAVE MARKED ON IT RUTLAND FRED ORIGINAL. THE NUMBER IS
9 9234421 WHICH ARE LEXINGTON COUNTY SHERIFF'S DEPARTMENT CASE
10 NUMBERS. SEPTEMBER 4TH 1992, AND I HAVE MY NAME DETECTIVE
11 S.R. FRIER, AND THEN I HAVE ORIGINAL ON IT AGAIN. ON THE
12 BACK I HAVE RUTLAND AND ORIGINAL, INDICATE THIS IS THE TAPE
13 THAT I USED FOR THE INTERVIEW WITH FRED RUTLAND ON SEPTEMBER
14 4TH.

15 Q IS THAT THE TAPE OF THE CONVERSATION THAT YOU HAD WITH
16 MR. RUTLAND ON THE AFTERNOON OF SEPTEMBER THE 4TH?

17 A YES, SIR, IT IS.

18 Q AND WAS THAT TAPE TRANSCRIBED?

19 A YES, SIR, IT WAS.

20 Q AND DO YOU HAVE THAT?

21 A I HAVE A COPY OF THAT, YES, SIR. THIS IS A COPY OF THAT
22 TRANSCRIPT MARKED STATE'S EXHIBIT 8 FOR I.D.

23 MR. MCMAHON: YOUR HONOR, I WOULD OFFER 7 AND 8 INTO
24 EVIDENCE.

25 THE COURT: NO OBJECTION.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 (STATE'S EXHIBITS 7 AND 8 RECEIVED IN EVIDENCE.)

2 MR. MCMAHON: YOUR HONOR, I WOULD LIKE TO PUBLISH
3 STATE'S 7; AT THE SAME TIME HAND OUT COPIES OF THE TRANSCRIPT
4 SO THEY, EACH OF THE JURORS CAN FOLLOW ALONG.

5 THE COURT: YES, SIR. NO OBJECTION.

6 Q AS WE LISTEN TO STATE'S SEVEN THAT WOULD BE THE
7 TRANSCRIPT AND COPIES THEREOF OF STATE'S EIGHT. IS THAT
8 CORRECT?

9 A YES, SIR, IT SHOULD CONTAIN THE CONTENTS OF THE TAPE.
10 (THE TAPE WAS PLAYED FOR THE JURY.)

11 Q NOW, DETECTIVE FRIER, I WOULD LIKE TO ASK YOU A FEW
12 QUESTIONS ABOUT STATE'S #7 AND 8.

13 A YES, SIR.

14 Q YOU WERE -- AGAIN ADVISED MR. RUTLAND OF HIS RIGHTS ON
15 THE TAPE. IS THAT CORRECT?

16 A YES, SIR, AS -- AS IS HEARD ON THE FIRST OF THE TAPE.

17 Q THAT APPEARS ON THE FIRST PAGE OF THE TRANSCRIPT OF
18 STATE'S 8.

19 A YES, SIR, THE FIRST NARRATIVE PARAGRAPH.

20 Q DID YOU FURTHER REFER BACK TO HAVING PREVIOUSLY ADVISED
21 HIM OF HIS RIGHTS?

22 A YES, SIR, I REMIND HIM THAT IT'S THE SAME STATEMENTS
23 THAT I HAD JUST READ TO HIM A FEW MINUTES BEFORE.

24 Q DID YOU ASK HIM WHETHER OR NOT HE UNDERSTANDS HIS
25 RIGHTS?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A YES, SIR; I DID.

2 Q HIS RESPONSE?

3 A THAT HE DID UNDERSTAND 'EM.

4 Q DID HE GIVE YOU ANY INDICATION THAT AFTERNOON THAT HE
5 DIDN'T UNDERSTAND HIS RIGHTS?

6 A NO, SIR, NONE AT ALL.

7 Q DID THERE APPEAR TO BE ANYTHING WITH HIM, WAS HE
8 INCOHERENT; DID HE ANSWER QUESTIONS INAPPROPRIATELY TO GIVE
9 YOU AN INDICATION THAT HE DIDN'T KNOW WHAT HE WAS SAYING AND
10 WHAT HE WAS DOING?

11 A NO, SIR.

12 Q DID HE EVER ASK YOU ANY QUESTIONS ABOUT HIS RIGHTS?

13 A NO, SIR.

14 Q IF HE HAD WHAT WOULD YOU HAVE DONE?

15 A IT DEPENDS ON WHAT THE QUESTION WAS. IF HE'D ASK ME,
16 SAY, CAN I HAVE AN ATTORNEY OR I WANT AN ATTORNEY BEFORE I
17 SPEAK WITH YOU, WELL THEN I'VE GOT TO CEASE THE INTERVIEW.

18 Q DID HE ASK YOU ANY QUESTIONS THAT YOU WOULD ANSWER --
19 WOULD YOU HAVE ANSWERED QUESTIONS FOR HIM IF HE HAD ASKED?

20 A CERTAINLY.

21 Q DID HE ASK YOU?

22 A NO, SIR.

23 Q DID HE APPEAR TO YOU TO GIVE THIS TAPED STATEMENT FREELY
24 AND VOLUNTARILY?

25 A YES, SIR, HE DID.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q AND THE DEMEANOR THAT WE HEAR FROM YOU ON THE TAPE IS
2 THAT A FAIR AND ADEQUATE REPRESENTATION OF YOUR DEMEANOR
3 DURING---

4 A YES, SIR, AS I SAID, AS YOU AND I ARE IN CONVERSATION.

5 Q THE SAME AS MR. RUTLAND IS THAT THE WAY HIS DEMEANOR WAS
6 DURING THIS TAPED INTERVIEW?

7 A YES, SIR, IT WAS.

8 Q AND HE STARTS OFF ABOUT THE ROAD MASTER INN AND SAYS AN
9 INDIVIDUAL PICKS HIM UP, HIM AND SALLY UP THERE. IS THAT
10 RIGHT?

11 A YES, SIR.

12 Q WHERE IS THE ROAD MASTER INN?

13 A THAT'S ON KNOX ABBOTT DRIVE IN CAYCE.

14 Q LOCATED IN LEXINGTON COUNTY---

15 A STILL HERE IN LEXINGTON COUNTY.

16 Q AND THEY DROVE FROM THE ROAD MASTER INN, ACCORDING TO
17 HIS STATEMENT, TO WHERE?

18 A HE DESCRIBES A PAWN SHOP ON HIGHWAY ONE IN LEXINGTON AND
19 WE WERE ABLE TO DETERMINE THAT THAT WAS THE --- WHAT'S CALLED
20 THE MAIN STREET GUN AND PAWN DOWNTOWN IN LEXINGTON.

21 Q THAT WAS THROUGH SUBSEQUENT INVESTIGATION?

22 A YES, SIR.

23 Q WHERE IS THAT PAWN SHOP LOCATED IN RELATIONSHIP TO WHERE
24 WE'RE AT RIGHT NOW?

25 A IT'S LOCATED ON THE SAME BLOCK ON THE OTHER SIDE OF THE

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 STREET JUST BEFORE YOU GET TO THE RED LIGHT GOIN' -- LIKE
2 YOU'RE GOIN' FURTHER INTO THE TOWN OF LEXINGTON.

3 Q AND WE'RE TALKIN' ABOUT THE MORNING OF SEPTEMBER THE 4TH
4 THE DAY MR. PEELE---

5 A YES, SIR.

6 Q ---WAS KILLED. IS THAT CORRECT?

7 A ACCORDING TO MR. RUTLAND HE AND MS. PEELE AND MS. HUNT
8 LEFT THE ROAD MASTER, TRAVELED INTO LEXINGTON TO THIS PAWN
9 SHOP.

10 Q STRAIGHT TO THE PAWN SHOP?

11 A YES, SIR.

12 Q AND WE'RE TALKIN' ABOUT ON THE MORNIN' OF SEPTEMBER THE
13 4TH THE DAY MR. PEELE---

14 A YES, SIR.

15 Q ---WAS KILLED. IS THAT CORRECT?

16 A ACCORDING TO MR. RUTLAND HE AND MS. PEELE AND MS. HUNT
17 LEFT THE ROAD MASTER, TRAVELED INTO LEXINGTON TO THIS PAWN
18 SHOP.

19 Q STRAIGHT TO THE PAWN SHOP.

20 A YES, SIR.

21 Q AND YA'LI. INVESTIGATION REVEALED WHAT THEY SECURED AT
22 THE PAWN SHOP AND IS ALSO BASICALLY CONSIDERED IN THIS
23 STATEMENT?

24 A YEAH, INVESTIGATION REVEALED THAT THEY PURCHASED TWO
25 FIREARMS. THEY PURCHASED A 25 CALIBER SEMI-AUTOMATIC PISTOL,

1 DETECTIVE FRIER - DIRECT BY MR. MCMAHON
2 AMMUNITION FOR SUCH PISTOL; THEY PURCHASED A MOSSBERG SHOTGUN
3 12 GAUGE AND BUCKSHOT SHELLS THAT WOULD FIT THAT SHOTGUN.Q
4 Q STATE'S EXHIBIT #12?
5 A YES, SIR.
6 Q STATE'S EXHIBIT #18 I BELIEVE IT IS -- EXCUSE ME --
7 NINETEEN.
8 A YES, SIR.
9 Q STATE'S EXHIBIT #17.
10 A 18.
11 Q YOU GOT ME ONE NUMBER OFF.
12 A YES, SIR.
13 Q SHELLS FOR THE SHOTGUN.
14 A ALL THIS---
15 Q WAS IT PURCHASED THAT MORNING?
16 A YES, SIR.
17 Q RIGHT HERE ACROSS THE STREET?
18 A YES, SIR.
19 Q ACCORDING TO HIS STATEMENT, AFTER THESE ITEMS WERE
20 PURCHASED, WHERE DID HE AND MS. PEELE AND MS. HUNT GO?
21 A ACCORDING TO MR. RUTLAND'S STATEMENT THEY THEN TRAVELED
22 FROM LEXINGTON TO JIMMY AND SALLY PEELE'S HOME IN PELION.
23 Q THEY WENT TO THE PAWN SHOP BEFORE OR AFTER THEY WENT TO
24 MR. PEELE'S?
25 A WENT TO THE PAWN SHOP; SECURED TWO WEAPONS, AMMUNITION

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q AND ACCORDING TO THIS STATEMENT, WHO REQUESTED THE 25
2 CALIBER PISTOL TO BE PURCHASED?

3 A AT THE TIME OF THE TAPE MR. RUTLAND TOLD ME THAT HE
4 REQUESTED SALLY TO PURCHASE IT; SAID THAT HE ASKED HER TO DO
5 IT.

6 Q NOW IN THIS STATEMENT HE TELL YOU ABOUT GOING TO MR.
7 PEELE'S.

8 A YES, SIR, HE DOES.

9 Q DOES HE TELL YOU ANYTHING AT THIS TIME OR IN THIS
10 WRITTEN STATEMENT ON SEPTEMBER THE 4TH ABOUT WHAT HAPPENED
11 WHEN THEY WERE AT JIMMY PEELE'S HOUSE?

12 A NO, SIR, ALL HE TELLS ME IS THAT HE AND SALLY TRAVELED
13 TO THE HOUSE. THEY WERE GOIN' THERE TO GET A CAR, GOIN'
14 THERE TO GET SALLY'S VEHICLE. THEY DON'T SPEAK OF ANYTHING
15 THAT OCCURS THERE OR MR. RUTLAND DOESN'T SPEAK OF ANYTHING
16 THAT OCCURS THERE ON THIS DAY.

17 Q AND THEN HE TELLS YOU ABOUT GOING TO -- BEIN' AT THE
18 BOUTIQUE.

19 A YES, SIR, GOIN' TO ROBIN HUNT'S HOUSE AND THEN GOING TO
20 THE ROUTIQUE.

21 Q HE NEVER TELLS YOU HOW JIMMY PEELE COMES TO BE AT THE
22 BOUTIQUE.

23 A NO, SIR, HE JUST SAID---

24 Q YOU LEARNED THAT LATER.

25 A YES, SIR, I DID.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q NOW AFTER YOU TAKE THE TAPED STATEMENT---

2 A YES, SIR.

3 Q WHAT THEN OCCURRED BACK TO STATE'S 4 ORIGINAL STATEMENT?
4 WHAT OCCURRED?

5 A I THEN WANTED TO GO BACK TO THIS WRITTEN STATEMENT AND
6 REDUCE SOME OF WHAT WE HAD TALKED ABOUT INTO A WRITTEN FORM
7 SO THAT I CAN GET MR. RUTLAND TO SIGN, TO AFFIX HIS SIGNATURE
8 ONTO A WRITTEN STATEMENT.

9 Q WHO WRITES OUT THAT STATEMENT, DETECTIVE FRIER?

10 A THAT'S MY HANDWRITIN'. THAT'S JUST A GENERAL PRACTICE
11 OF MINE. I'VE HAD OTHERS DO IT AND IT BE -- NOT BE LEGIBLE,
12 BE DIFFICULT TO READ SO I ALWAYS PRINT IT OUT IN MY
13 HANDWRITING.

14 Q AFTER IT'S WRITTEN OUT, THIS 3-PAGE STATEMENT, STATE'S
15 4---

16 A YES, SIR.

17 Q ---5 AND 6, WHAT DO YOU DO AS FAR AS PRESENTING IT TO
18 THE DEFENDANT?

19 A I FIRST TAKE THE STATEMENT, GO BACK AND READ TO IT WORD
20 FROM WORD WHAT WE HAVE WRITTEN DOWN ON ALL THREE PAGES. THEN
21 I HAND THE COPIES OF THE STATEMENT TO MR. RUTLAND OR WHOEVER
22 I'M SPEAKIN' WITH, ASK THEM TO REVIEW THE FACTS THAT ARE
23 PRINTED OUT IN THE STATEMENT THEMSELVES. AFTER THAT IF THEY
24 AGREE THAT THESE FACTS ARE CONSISTENT WITH WHAT WE'VE
25 DISCUSSED, I WILL ASK THEM TO INITIAL THE MARGINS, THE TOP

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 AND THE BOTTOM. I DON'T KNOW THAT YOU CAN SEE IT HERE, BUT
2 YOU'LL NOTICE AT THE BEGINNING OF THE NARRATIVE PORTION OF
3 THE STATEMENT YOU'LL SEE THE INITIALS F.R.R. AT THE TOP AND
4 THE BOTTOM AND YOU'LL SEE THOSE ALONG THREE PAGES. I ASK
5 THAT THE SUBJECT INITIAL THIS SO THAT NO OTHER INFORMATION IS
6 ADDED TO THE STATEMENT AFTER HE HAS SIGNED FOR IT AND VOUCHED
7 FOR THE FACTUALNESS.

8 Q DO YOU ACTUALLY READ THE STATEMENT TO HIM AFTER -- AFTER
9 IT'S WRITTEN OUT?

10 A YES, SIR, I DO. THEN I PRESENT IT TO HIM AND ASK HIM TO
11 READ IT TO DETERMINE IF THE FACTS ARE TRUE AND ACCURATE AS WE
12 HAVE DISCUSSED.

13 Q YOU ACTUALLY DID THAT WITH MR. RUTLAND. IS THAT
14 CORRECT?

15 A YES, SIR, I DID.

16 Q AND HE INITIALED EACH OF THOSE PAGES AND SIGNED EACH OF
17 THOSE PAGES ON STATE'S FOUR, FIVE AND SIX.

18 A YES, SIR. HIS SIGNATURE IS AFFIXED ON ALL THREE PAGES.

19 Q WHAT I WANT YOU TO DO NOW, DETECTIVE FRIER, IS PLEASE
20 READ THAT FOR THE JURY AND JUST READ IT SLOWLY THE NARRATIVE
21 PART OF THE STATEMENT.

22 A I'LL PUBLISH IT AS IT IS WRITTEN. I HAVE KNOWN SALLY
23 PEELE FOR APPROXIMATELY SIX MONTHS. I KNEW HER FROM
24 SUMMERVILLE. WE WORKED TOGETHER AT THE WAL MART IN
25 SUMMERVILLE. WHILE I KNEW SALLY I LEARNED THAT HER HUSBAND

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 JIMMY PEELE WAS BEATING HER UP. JULY 9TH OF THIS YEAR SALLY
2 AND I LEFT TO GO TO HOUSTON. SALLY WAS AFRAID OF JIMMY.
3 ABOUT A WEEK BEFORE JIMMY HAD BEATEN HER WITH A PIPE. WE
4 WERE GONE FOR TEN DAYS. WHEN WE GOT BACK SALLY WENT BACK TO
5 JIMMY. SALLY AND I CONTINUED TO SEE EACH OTHER. SALLY
6 CALLED ME YESTERDAY AND SAID THAT JIMMY WAS GETTING VIOLENT.
7 I MAY HAVE CALLED HER. I DON'T REMEMBER. I TOLD HER I WOULD
8 COME UP FROM SUMMERVILLE TO HELP HER GET AWAY. SHE SAID THAT
9 SHE WAS GOING TO HANDLE IT. I TOLD HER I WAS GOING TO COME
10 UP AND BE AT THE DAYS INN AT 26 AND CAYCE. I HAD MY WIFE
11 DRIVE ME UP HERE YESTERDAY. SALLY AND I STAYED AT THE ROAD
12 MASTER INN TOGETHER LAST NIGHT. SALLY'S FRIEND CAME TO PICK
13 US UP. ROBIN, SALLY AND I WENT TO THE PAWN SHOP ON HIGHWAY
14 ONE. WE WENT TO GET SALLY'S SHOTGUN. WHILE WE WERE THERE I
15 HAD SALLY PURCHASE A SMALL 25 CALIBER SEMI-AUTO PISTOL. I
16 TOLD SALLY THAT WE NEEDED A HANDGUN. WE GOT THE SHOTGUN OUT
17 OF PAWN AND PURCHASED THE PISTOL. WE ALL LEFT AND WENT BACK
18 TO ROBIN'S HOUSE. WE MADE SOME PHONE CALLS AND SALLY AND I
19 LEFT IN ROBIN'S VAN. WE WENT TO THE SCHOOL TO GET SALLY'S
20 DAUGHTER, BUT SHE WAS ALREADY GONE. WE THEN DROVE BACK TO
21 ROBIN'S HOUSE. WE CALLED THE SHERIFF'S DEPARTMENT. SALLY
22 AND I THEN LEFT AGAIN IN ROBIN'S VAN TO GO TO SALLY'S WORK
23 PLACE THE BOUTIQUE. WE WERE GOING TO TRY TO BUY A CAR FROM
24 ONE OF SALLY'S CO-WORKERS SO WE COULD GET AWAY. WHEN WE GOT
25 TO THE SHOP I PUT THE PISTOL IN MY PANTS BACK POCKET AND

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 CARRIED IT INTO THE SHOP. WHEN WE GOT INSIDE SALLY'S FRIEND
2 AND HER BOYFRIEND WERE INSIDE. WHILE WE WERE INSIDE I SAW
3 JIMMY PEELE COMING TOWARDS THE FRONT OF THE SHOP. WHEN I SAW
4 JIMMY COMING I PULLED THE PISTOL OUT OF MY POCKET. I WANTED
5 IT IN PLAIN VIEW BEFORE HE GOT THERE. WHEN JIMMY CAME IN I
6 TOLD HIM NOT TO DO ANYTHING. I HAD THE PISTOL QUOTE DOWN
7 SHOWING END QUOTE. THEN I POINTED IT AT JIMMY AS HE WAS
8 REACHING TOWARDS HIS BACK. JIMMY CAME OUT WITH A GUN FROM
9 HIS BACK. AS HE TRIED TO RAISE THE GUN I SHOT HIM. I TRIED
10 TO SHOOT HIM LOW; JIMMY KEEPS COMING UP WITH THE GUN. SO I
11 SHOT HIM AGAIN. I SHOT A TOTAL OF FOUR ROUNDS. I DON'T
12 THINK JIMMY SHOT. JIMMY KNEW THAT SALLY AND I HAD BEEN
13 TOGETHER. MY WIFE KNEW THAT I WAS INVOLVED WITH SALLY. I
14 HAD SALLY PURCHASE THE PISTOL AT MY REQUEST BECAUSE I DO NOT
15 HAVE A SOUTH CAROLINA I.D. IT IS MY IDEA TO BUY THE PISTOL.
16 THE SHOTGUN WAS JUST TOO AWKWARD.

17 Q NOW YOU PRESENTED THOSE THREE PAGES TO HIM.

18 A YES, SIR, I DID.

19 Q AND READ 'EM TO HIM.

20 A YES, I DID.

21 Q AND ON EACH AND EVERY PAGE HE INITIALED 'EM AND KINDA
22 BLOCKED IT IN.

23 A YES, SIR, TO MAKE SURE THAT NO OTHER INFORMATION IS
24 ADDED OUTSIDE OF WHAT HE IS ASSIGNING AND ATTESTING TO.

25 Q AND HE SIGNED HIS NAME AT THE BOTTOM OF EACH ONE OF

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

THESE PAGES.

A YES, SIR, HIS SIGNATURE IS AFFIXED TO THE BOTTOM OF ALL THREE PAGES.

Q I NOTICE IN THIS HE SAYS, HE GOES -- THEY GO FROM THE PAWN SHOP TO ROBIN'S HOUSE. HE NEVER SAYS ANYTHING IN THIS ABOUT GOING TO MR. PEELE'S HOUSE.

A NO, HE DOES NOT.

Q AND IN THIS ON STATE'S 5 THE SECOND PAGE---

A UH-HUH.

Q ---HE STATES THAT AT THE BOUTIQUE WHILE WE WERE INSIDE I SAW JIMMY PEELE COMING TOWARDS THE FRONT DOOR OF THE SHOP.

A RIGHT.

Q MR. RUTLAND TELLS YOU HE SAW MR. PEELE BEFORE MR. PEELE EVER COMES INSIDE?

A YES, HE SAID HE SAW HIM THROUGH THE WINDOWS AS HE WAS APPROACHING THE FRONT DOOR.

Q HE SAYS WHEN I SAW JIMMY COMING I PULLED THE PISTOL OUT OF MY POCKET.

A RIGHT. HE INFORMED ME THAT HE PULLED HIS WEAPON OUT BEFORE MR. PEELE EVEN ENTERED THE STORE.

Q THIS IS THE WRITTEN STATEMENT THAT HE GIVES ON SEPTEMBER THE 4TH.

A YES, SIR.

Q IS THAT CORRECT?

A YES, SIR.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q DETECTIVE FRIER, LET ME ASK YOU ONE THING ABOUT THE
2 FIRST PAGE OF THIS STATE'S 4---

3 A UH-HUH.

4 Q ---IT TALKS ABOUT WHERE I LEARNED -- WHILE I KNEW SALLY
5 I LEARNED THAT HER HUSBAND JIMMY PEELE WAS BEATING HER UP.
6 SALLY WAS AFRAID OF JIMMY. DID YOU IN YOUR INVESTIGATION
7 CHECK ALL POLICE REPORTS---

8 A YES, SIR, I---

9 Q ---AS FAR AS MS. PEELE AS A COMPLAINANT?

10 A YES, SIR, I MAY ALSO REITERATE THAT THAT STATEMENT WAS
11 AS MR. RUTLAND HAD TOLD ME THAT HE HAD LEARNED HER HUSBAND
12 WAS BEATING HER UP. THAT ACCORDING TO MR. RUTLAND WAS BASED
13 SOLELY ON STATEMENT MADE TO HIM FROM SALLY PEELE. HE HAD
14 NEVER SEEN JIMMY PEELE INFLICT ANY TYPE INJURY ONTO SALLY
15 PEELE.

16 Q DID YOU EVER FIND ONE POLICE REPORT THAT SHE CALLED THE
17 POLICE?

18 A NO, SIR. I -- I REVIEWED OUR RECORDS DIVISION TO SEE IF
19 WE HAD ANY IN-HOUSE REPORTS OR PRIOR RESPONSES OF OUR
20 DEPUTIES TO THAT RESIDENCE. WE CHECKED IT BY ADDRESS AND BY
21 NAMES OF BOTH WHO WOULD BE THE VICTIM OR THE COMPLAINANT.
22 THAT WOULD BE JAMES OR JIMMY PEELE, SALLY PEELE AND THAT
23 ADDRESS, AND THERE ARE NO SUCH REPORTS TO INDICATE WE EVER
24 RESPONDED TO ANY TYPE DOMESTIC PROBLEM.

25 Q OR ANY MEDICAL REPORTS.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A NOT THAT I WAS ABLE TO LOCATE THROUGH INVESTIGATION, NO,
2 SIR.

3 Q I'D HAVE TO READ BACK THROUGH THIS AGAIN, ALSO THE
4 WRITTEN STATEMENT, HE DOESN'T SAY ANYTHING IN THIS DOCUMENT
5 STATE'S 3 ABOUT SALLY AND JIMMY PEELE'S DAUGHTER ON ANY TAPED
6 STATEMENT. IS THAT CORRECT?

7 A ON PAGE 2 IT DOES SAY WE WENT TO THE SCHOOL TO GET
8 SALLY'S DAUGHTER. SHE WAS ALREADY GONE. THEY THEN DROVE
9 BACK TO ROBIN'S HOUSE. THAT'S ON PAGE 2.

10 Q THEREAFTER, AFTER YOU RECEIVED THESE TWO STATEMENTS,
11 TAPED STATEMENTS AND THE WRITTEN STATEMENT, WHAT'S DONE WITH
12 MR. RUTLAND?

13 A HE IS THEN ESCORTED BACK INTO THE DETENTION FACILITY OF
14 THE SHERIFF'S OFFICE AND BACK INTO THE JAIL.

15 Q DO YOU CONTINUE TO FOLLOW UP AN INVESTIGATION OF THIS
16 CASE?

17 A YES, SIR. SHORTLY AFTER COMPLETING MY INTERVIEW WITH
18 HIM I MEET WITH LT. PHILLIPS AGAIN WHO IS MY SUPERVISOR, AND
19 I'M INSTRUCTED BY HIM AT THAT TIME THAT I WOULD BE THE
20 INVESTIGATING OFFICER FOR THE CASE WITH FOLLOW UP.

21 Q IS PART OF YOUR DUTY AND RESPONSIBILITY IS YOU CONTINUE
22 TO TRY TO GET BACKGROUND AND INTERVIEW DIFFERENT WITNESSES OR
23 POTENTIAL WITNESSES?

24 A YES, SIR.

25 Q I WANT TO ASK IF YOU KNOW THIS INDIVIDUAL HERE?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A YES, SIR.

2 Q WHAT IS HIS NAME?

3 A HIS NAME IS DARLING BRUCE SHARPE, BRUCE SHARPE AS HE'S
4 KNOWN BY HIS FRIENDS.

5 Q THANK YOU, BRUCE. THANK YOU, MR. SHARPE. DID YOU HAVE
6 AN OCCASION BETWEEN THE 4TH OF SEPTEMBER AND THE 7TH OF
7 SEPTEMBER TO INTERVIEW MR. SHARPE?

8 A YES, SIR, I DID. I TRAVELED TO MR. SHARPE'S HOME AND
9 CONDUCTED AN INTERVIEW WITH HIM AT HIS HOME IN PELION.

10 Q AS A RESULT OF THE INTERVIEW YOU HAD WITH MR. SHARPE AND
11 CONVERSATION WITH MR. SHARPE, WHAT DID YOU DO IN REGARDS TO
12 THE DEFENDANT?

13 A MR. SHARPE HAD RELAYED TO ME SOME INFORMATION THAT MR.
14 RUTLAND HAD NOT PROVIDED DURING THE STATEMENTS THAT I TOOK
15 FROM HIM ORIGINALLY ON SEPTEMBER 4TH. I WENT BACK INTO THE
16 LEXINGTON COUNTY DETENTION FACILITY, GOT MR. FRED RUTLAND
17 BROUGHT DOWN SO I COULD RE-QUESTION HIM.

18 Q FROM THE 4TH, 5TH, 6TH OR 7TH HAD MR. RUTLAND EVER
19 REQUESTED AN ATTORNEY?

20 A NO, SIR, HE HAD NOT.

21 Q EVER EXERCISED HIS RIGHT TO REMAIN SILENT?

22 A NO, SIR, HE HAD NOT.

23 Q WHEN Y'ALL FINISHED YOUR INTERVIEW ON THE 4TH DID HE SAY
24 DETECTIVE FRIER DON'T EVER COME BACK AND TALK TO ME AGAIN?

25 A NO, SIR, NOTHING OF THAT SORT.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 Q DON'T WANT TO TALK TO YOU ANY FURTHER?

2 A NO, SIR.

3 Q SO YOU GO BACK AND SPEAK TO HIM ON THE 7TH OF SEPTFMBER.

4 A YES, I DO BACK IN THE DETENTION FACILITY.

5 Q WHAT TIME OF DAY WE TALKIN' ABOUT?

6 A ABOUT 1 O'CLOCK IN THE AFTERNOON.

7 Q AGAIN, WHAT, IF ANYTHING, DID YOU ADVISE HIM OF?

8 A AGAIN I GO BACK THERE WITH THE INTENTION OF GETTING A
9 WRITTEN STATEMENT FROM MR. RUTLAND. SO I CARRY WITH ME AGAIN
10 ANOTHER FORM, BLANK COPY OF THE FORM THAT I WENT OVER WITH
11 YOU BEFORE THAT HAS THE SAME INFORMATION. HAS THE
12 IDENTIFICATION INFORMATION AT THE TOP AND, AGAIN, WILL HAVE
13 THE RIGHTS INFORMATION PRINTED UNDER THERE.

14 Q YOU'RE REFERRING NOW TO STATE'S I.D.---

15 A YES, SIR, THIS IS STATE'S EXHIBIT #9.

16 Q 9?

17 A FOR I.D.

18 Q AND WILL STATE'S 10 AND 11 BE BLOW-UPS OF PAGE ONE AND
19 TWO OF STATE'S 9?

20 A YES, SIR, IT WOULD BE.

21 MR. MCMAHON: YOUR HONOR, I WOULD OFFER 9, 10 AND 11 IN
22 EVIDENCE.

23 THE COURT: NO OBJECTION.

24 (STATE'S NINE, TEN AND ELEVEN RECEIVED IN EVIDENCE.)

25 Q NOW YOU'LL BE REFERRING TO STATE'S NINE, THE ORIGINAL---

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A YES, SIR.

2 Q ---AND I'LL BE REFERRING TO 10 AND 11. WITHOUT GOING
3 BACK THROUGH EACH AND EVERY RIGHTS AGAIN---

4 A YES, SIR.

5 Q ---SUFFICE IT TO SAY, YOU USED THE SAME PROCEDURE AND
6 RE-ADVISED MR. RUTLAND AGAIN OF ALL THESE RIGHTS UNDER
7 MIRANDA?

8 A YES, SIR, I DID. THE SAME PROCEDURE, YOU'LL NOTICE
9 AGAIN, IN THE MARGIN IT'S CUT SLIGHTLY OFF. YOU'LL SEE THE
10 SAME INDENTIONS ON THE LIGHT FORM THAT I USED BEFORE. YOU'LL
11 SEE WHERE I'VE CIRCLED EACH NUMBER BY THE SENTENCE, AND
12 YOU'LL SEE WHERE I HAD MR. RUTLAND PLACE HIS INITIALS OR
13 WAIVER OF HIS RIGHTS AND MINE ARE BESIDE IT AND THAT IT'S A
14 VOLUNTARY AND I FELT THAT HE UNDERSTOOD.

15 Q AND AS I COUNT, THIS WOULD BE APPROXIMATELY THE FIFTH
16 TIME HE'S BEEN MIRANDIZED.

17 A THAT'S MY RECOLLECTION. SGT. GARNER MIRANDIZED HIM; I
18 MIRANDIZED HIM 3 OR 4 TIMES AND THEN THIS WOULD BE ABOUT THE
19 5TH TIME.

20 Q WHERE WAS THIS INTERVIEW CONDUCTED?

21 A THIS INTERVIEW WAS CONDUCTED IN A SMALL INTERVIEW ROOM
22 WITHIN THE DETENTION FACILITY AT THE LEXINGTON COUNTY
23 SHERIFF'S DEPARTMENT.

24 Q WHAT WAS THE ATMOSPHERE, SO TO SPEAK, BETWEEN YOU AND
25 MR. RUTLAND?

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A AS FAR AS OUR COMMUNICATIONS OR LIKES OR DISLIKES
2 TOWARDS---

3 Q ---TOWARDS EACH OTHER.

4 A EVERYTHING WAS FINE. HE AND I HAD GOTTEN ALONG FINE
5 THROUGH THE PROCESS.

6 Q DID YOU PROMISE HIM ANYTHING IN RETURN FOR THIS
7 STATEMENT?

8 A NO, SIR, I DID NOT.

9 Q THREATEN HIM IN ANY MANNER?

10 A NO, SIR, I DID NOT.

11 Q DID HE WAIVE HIS RIGHTS?

12 A YES, HE DID.

13 Q IN YOUR OPINION DID HE WAIVE HIS RIGHTS FREELY AND
14 VOLUNTARILY?

15 A YES, SIR, I FEEL HE DID.

16 Q DID HE GIVE YOU THAT STATEMENT OF HIS OWN FREE WILL AND
17 ACCORD?

18 A YES, SIR, HE DID.

19 Q NOW WOULD YOU PUBLISH STATE'S 9, 10 AND 11 FOR THE JURY,
20 PLEASE.

21 A I'LL PUBLISH IT AS IT IS WRITTEN. ON FRIDAY MORNING I
22 WENT WITH SALLY TO HER HOUSE. ROBIN DROVE US OVER THERE.
23 JIMMY WAS HOME WHEN WE GOT THERE. SALLY WENT INTO THE HOUSE
24 BY HERSELF. SALLY TOOK THE PISTOL WE HAD BOUGHT AT THE PAWN
25 SHOP. SALLY COMES OUT OF THE BACK DOOR A LITTLE LATER SORT

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 OF DRAGGING HIM. END QUOTE. WHEN SHE COMES OUT SHE AND
2 JIMMY WERE YELLING AT EACH OTHER. I CAME FROM THE VAN WITH
3 THE SHOTGUN. I WENT ABOUT HALF WAY TO THE TRAILER. I
4 POINTED THE GUN AT JIMMY AS HE WAS COMING OUT OF THE TRAILER.
5 I TOLD JIMMY THAT I HAD TOLD HIM THAT I WOULD BE HERE TO HELP
6 HER. JIMMY DID NOT HAVE A GUN THAT I SAW. SALLY WAS
7 STANDING BETWEEN ME AND JIMMY. SHE STILL HAD THE PISTOL.
8 JIMMY KEPT ASKING SALLY TO GO INTO THE TRAILER AND TO TALK
9 WITH HIM. I TOLD SALLY SHE WAS NOT GOING BACK INTO THE
10 TRAILER WITH HIM. I SHOT THE SHOTGUN OFF ONCE WHEN I THOUGHT
11 JIMMY WAS COMING TOWARDS ME. THIS TOOK PLACE BEFORE I HAD
12 CONVERSATION WITH JIMMY WHEN HE FIRST CAME OUT OF THE DOOR.
13 THIS HAPPENED BEFORE JIMMY TRIED TO GET SALLY TO GO BACK INTO
14 THE TRAILER. SALLY NEVER DID GET ANY CLOTHES OR BELONGINGS.
15 I STOOD IN THE DRIVEWAY WITH THE SHOTGUN WHILE SALLY GOT INTO
16 THE VAN. I THEN GOT INTO THE BACK OF THE VAN AND WE LEFT.
17 I'M NOT SURE ABOUT THE EXACT TIME FRAME WHEN I SHOT THE GUN
18 OFF. IT MAY HAVE BEEN THE FIRST OR SECOND TIME THAT WE CAME
19 OUT OF THE TRAILER. WHEN WE HAD ARRIVED WE DID NOT KNOW THAT
20 JIMMY WAS HOME. WE THOUGHT HE WAS NOT AT HOME. IF SALLY HAD
21 THOUGHT HE WAS HOME SHE WOULD NOT HAVE GONE INSIDE.
22 Q DO YOU KNOW IF THERE WAS ANY OTHER INDIVIDUAL THAT
23 WITNESSES THAT BESIDES MR. RUTLAND AND MRS. PEELE AND OF
24 COURSE MR. PEELE?

25 A BASED ON THE INTERVIEW THAT I HAD WITH BRUCE SHARPE, I

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

LEARNED THAT HE WITNESSED THIS INCIDENT.

Q DO YOU KNOW IF ANY OF THOSE PARTIES THE FOUR INDIVIDUALS THAT WERE JUST MENTIONED: MR. PEELE, JIMMY; MS. PEELE, SALLY; MR. RUTLAND AND BRUCE SHARPE, DID ANY ONE OF THOSE FOUR CALL THE POLICE DEPARTMENT, THE SHERIFF'S DEPARTMENT?

A YES, SIR, WE RECEIVED A 911 CALL AT THE SHERIFF'S DEPARTMENT AFTER THIS INCIDENT.

Q FROM?

A FROM JIMMY PEELE.

Q WHO'S HOUSE DID THIS HAPPEN AT?

A AT JIMMY PEELE'S HOUSE.

Q MS. PEELE WAS NOT LIVING THERE.

A SHE HAD NOT STAYED THERE LAST NIGHT. THERE HAD BEEN SOME ON AND OFF TIME WITH 'EM OR THAT SHE HAD BEEN STAYING AT OTHER PLACES. SHE WAS NOT THERE LAST NIGHT AS IS INDICATED IN THE STATEMENT OF MR. RUTLAND.

Q SHE WAS AT THE ROAD MASTER.

A THEY SPENT THE NIGHT TOGETHER AT ROAD MASTER, YES, SIR.

Q AND THIS IS THE PISTOL, REFERRING TO STATE'S 12?

A YES, SIR.

Q AND AGAIN THE SHOTGUN WOULD BE STATE'S 19.

A YES, SIR, THAT ACCORDING TO THE STATEMENT PROVIDED BY FRED RUTLAND.

Q AND HE SPECIFICALLY SAYS I POINTED THE SHOTGUN; I POINTED THE GUN AT JIMMY AS HE WAS COMIN' OUTTA THE TRAILER.

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 A YES, SIR.

2 Q AND SPECIFICALLY SAID JIMMY DID NOT HAVE A GUN THAT I
3 SAW.

4 A RIGHT, AND AGAIN, NONE OF THIS INFORMATION WAS PROVIDED
5 IN THE FIRST STATEMENT. THIS WAS ALL AFTER I RECONTACTED
6 HIM.

7 Q DID THIS HAPPEN BEFORE OR -- THE TIMING IS OBVIOUS I
8 THINK -- BEFORE OR AFTER THE INCIDENT AT THE ROW-WOW
9 BOUTIQUE?

10 A THIS HAPPENED BEFORE. THIS HAPPENED AFTER THEY LEFT THE
11 PAWN SHOP; TRAVELED TO JIMMY'S HOUSE.

12 Q THIS IS THE FIRST TIME HE TOLD YOU ABOUT THIS ON THE
13 7TH. ISN'T THAT RIGHT?

14 A YES, SIR. AND HE ONLY TOLD ME WHEN I HAD CONFRONTED HIM
15 WITH THE FACTS THAT I HAD.

16 Q NOW, DETECTIVE FRIER, THAT'S NOT ALL HE TOLD YOU ON THE
17 7TH.

18 A NO, SIR, IT'S NOT.

19 Q DID HE TELL YOU CERTAIN OTHER INFORMATION THAT WAS NOT
20 REDUCED TO WRITING OR THAT HE WOULD NOT SIGN?

21 A YES, SIR. DURING THIS INTERVIEW I ALSO ASKED HIM SOME
22 QUESTIONS ABOUT WHETHER HE HAD SPOKEN WITH SALLY BEFORE ABOUT
23 DOIN' SOMETHIN' TO JIMMY TO GET HIM OUT OF THE WAY. DURIN'
24 THIS TIME HE ADMITTED TO ME THAT HE HAD, IN FACT, A MONTH

25 EARLIER TALKED TO SALLY ABOUT DOING AWAY WITH JIMMY OR HAVING

DETECTIVE FRIER - DIRECT BY MR. MCMAHON

1 SOMETHING DONE TO QUOTE TAKE CARE OF JIMMY OR HAVE JIMMY
2 TAKEN CARE OF. HE SAID THAT HE APPROACHED SALLY WITH THIS IN
3 SUMMERVILLE AND THAT SALLY TOLD HIM NO NOT TO DO THAT. HE
4 ALSO TOLD ME THAT HE HAD SPOKE WITH A CO-WORKER WHILE WORKING
5 DOWN IN CHARLESTON. I'M NOT SURE EXACTLY WHERE. HE NEVER
6 WOULD IDENTIFY THE CO-WORKER, BUT HE TOLD ME HE HAD CONSULTED
7 WITH A CO-WORKER ABOUT POSSIBLY HAVING JIMMY TAKEN CARE OF,
8 AND I ASKED HIM I SAID YOU MEAN LIKE HAVING SOMEONE ELSE DO
9 SOMETHING TO JIMMY AND HE SAID YEAH. AT THAT POINT IN TIME I
10 INFORMED HIM THAT I WAS GOING TO NEED TO REDUCE THOSE
11 STATEMENTS HE HAD JUST MADE TO ME DOWN INTO WRITING. AT THAT
12 TIME MR. RUTLAND PUSHED HIMSELF AWAY FROM THE TABLE AND STOOD
13 UP AND SAID I'M NOT -- I'M NOT SIGNING THAT, AND I EXPLAINED
14 TO HIM AT THAT POINT IN TIME, I SAID YOU UNDERSTAND YOUR --
15 I'VE ADVISED YOU OF YOUR RIGHTS; YOU'VE GIVEN ME THIS
16 INFORMATION. EVEN IF YOU DON'T SIGN IT, AS AN OFFICER OF THE
17 LAW, I CAN GET ON THE WITNESS STAND AND TESTIFY TO WHAT
18 YOU'VE JUST TOLD ME AND MR. RUTLAND'S STATEMENT TO ME AT THAT
19 POINT WAS FINE YOU DO WHAT YOU HAVE TO DO BUT I'M NOT SIGNIN'
20 THAT.

21 Q AND THAT WAS ALL AT THE SAME OF THE INTERVIEW ON THE
22 7TH.

23 A ON THE 7TH IN THE DETENTION CENTER, YES, SIR.

24 MR. MCMAHON: JUDGE, I DON'T HAVE ANY FURTHER QUESTIONS.
25 THANK YOU, DETECTIVE FRIER.

DETECTIVE FRIER -- CROSS BY MR. GREGORY

1 CROSS-EXAMINATION

2 BY MR. GREGORY

3 Q DETECTIVE FRIER?

4 A YES, SIR.

5 Q THE INITIAL STATEMENT THAT YOU OBTAINED FROM JIMMY PEELE

6 -- I MEAN FRED RUTLAND IS THE 3-PAGE STATEMENT OF SEPTEMBER

7 4TH 1992---

8 A THAT WOULD NOT BE THE ORIGINAL STATEMENT. THAT WOULD BE

9 FIRST TIME THAT THE STATEMENT WAS REDUCED TO MY WRITING.

10 Q ALL RIGHT. THE INITIAL STATEMENT. ALL OF THIS WRITING

11 THAT APPEARS ON ALL OF THESE EXHIBITS HERE WHICH ARE PART OF

12 THESE STATEMENTS, TAKING THE INITIAL STATEMENT OF 4 SEPTEMBER

13 OF '92; THE SUBSEQUENT STATEMENT OF 7 SEPTEMBER OF '92, WHO

14 WROTE ALL THESE STATEMENTS OUT?

15 A THOSE STATEMENTS ARE IN MY HANDWRITING.

16 Q THAT'S YOUR HANDWRITING?

17 A YES, SIR.

18 Q NOW ARE YOU WRITING THIS INFORMATION OUT AS YOU ARE

19 TALKING WITH FRED RUTLAND?

20 A YES, SIR, WE'RE REDUCING PARTS OF THE CONVERSATION INTO

21 A WRITTEN FORM.

22 Q ARE YOU TELLING ME THAT YOU MIGHT WRITE A FEW SENTENCES

23 AND THEN STOP AND THEN TALK TO HIM SOME MORE AND THEN COME

24 BACK AND WRITE SOME MORE?

25 A SURE. I'M NOT WRITING VERBATIM WHAT HE'S SAYING. NO,

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 SIR.

2 Q NOW ON THE INITIAL STATEMENT WHICH IS THIS EXHIBIT
3 STATE'S EXHIBIT #4.

4 A UH-HUH.

5 Q IT STATES UP HERE TIME STARTED 14:05, THAT'S MILITARY
6 TIME.

7 A YES, SIR.

8 Q THAT'S 2:05 IN THE AFTERNOON.

9 A YES, SIR.

10 Q AND YOU GOT ALL THIS INITIALED TWO PARAGRAPHS TAKEN CARE
11 OF IMMEDIATELY.

12 A YES, SIR.

13 Q WHEN YOU SAT DOWN WITH HIM.

14 A YES, SIR, AT THE TIME I STARTED WRITING THE SENTENCE,
15 YES, SIR.

16 Q ALL RIGHT. AND THEN IT'S YOUR STATEMENT THAT YOU
17 STOPPED RIGHT HERE ABOUT HALF WAY DOWN THIS FIRST PAGE AND
18 BEGAN LOOKING FOR A TAPE AND TAPE RECORDER?

19 A YES, SIR, MY OBJECTIVE AT THIS POINT IN TIME IS AS YOU
20 UNDERSTAND FROM MY PREVIOUS TESTIMONY, I HAVE NOT GOTTEN MR.
21 RUTLAND TO GIVE ME ANYTHING IN WRITING THAT HE HAS WAIVED
22 THOSE RIGHTS. THERE HAVE BEEN TWO ORAL ADMINISTRATIONS OF
23 THOSE RIGHTS TO HIM, BUT NO ONE HAS SAT DOWN WITH HIM AND
24 ASKED HIM TO SIGN A WAIVER. MY FIRST RESPONSIBILITY IS TO
25 GET REDUCED INTO WRITING HIS WAIVER OF THOSE RIGHTS, YES.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 SIR.

2 Q ALL RIGHT. SO YOU GOT THAT ACCOMPLISHED.

3 A YES, SIR.

4 Q AND YOU WERE LOOKIN' FOR THE TAPE TO PUT IT IN A
5 CASSETTE.

6 A YES, SIR.

7 Q HOW LONG DID IT TAKE YOU TO GET THIS INFORMATION DOWN
8 HERE? YOU STARTED AT 14:05 AND YOU ASKED HIM SOME QUESTIONS;
9 FILLED IN SOME BLANKS AND THEN Y'ALL WENT DOWN AND CIRCLED
10 AND INITIALED THE FIVE STATEMENTS. HOW LONG DID THAT TAKE
11 YOU?

12 A CONSERVATIVELY FIVE MINUTES. IT COULD BE AS MUCH AS 10
13 OR 12. JUST NOT REMEMBER EXACTLY HOW QUICKLY HE WAS
14 ANSWERING AND I WAS TALKING, BUT 5 TO 12 MINUTES.

15 Q ALL RIGHT. DID YOU FIND YOUR TAPE?

16 A YES, SIR. I HAD TO -- IT TOOK ME A FEW MOMENTS, BUT,
17 YES, I DID.

18 Q DIDN'T YOU ACTUALLY HAVE SOME YOUNG LADY BRING YOU A
19 TAPE?

20 A NO, SIR, I DID NOT. I HAD A SUPERVISOR WITH A KEY OPEN
21 UP A STORAGE CLOSET FOR ME, AND I PERSONALLY WENT IN THAT
22 STORAGE CLOSET WITH THAT SUPERVISOR OPENING THE DOOR FOR ME
23 AND I RETRIEVED THE TAPE.

24 Q DIDN'T YOU ACTUALLY RUN INTO SOME PROBLEMS TRYIN' TO
25 FIND A TAPE AND PRIOR TO ACTUALLY TAKING A TAPED CONVERSATION

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 WITH MR. RUTLAND, PREPARED THIS 3-PAGE DOCUMENT SITTING THERE
2 TALKIN' TO HIM AND WRITING DOWN WHAT THE TWO OF Y'ALL WERE
3 TALKIN' ABOUT?

4 A NO, SIR. THERE WOULD'VE BEEN NO WAY I COULD'VE DONE
5 THAT. YOU'RE TALKIN' ABOUT 5 TO 12 MINUTES TO GET THAT
6 INFORMATION AND THEN ME HANDWRITING OUT 3 PAGES OF
7 INFORMATION DURING A CONVERSATION WITH HIM. THERE'S NO WAY
8 THAT CAN BE DONE IN THAT TIME FRAME.

9 Q LET ME HAVE THE TAPED STATEMENT THAT WE HEARD ON THE
10 VIDEO. I MEAN ON THE TAPE RECORDER A FEW MINUTES AGO.
11 THAT'S STATE'S EXHIBIT #8. NOW I NOTICE THE JURY HAS COPIES
12 OF IT.

13 A YES, SIR.

14 Q IT STATES ON THIS STATEMENT THAT THIS STATEMENT WAS
15 TAKEN AT 2:30 P.M.

16 A YES, SIR.

17 Q WHICH IS ABOUT 25 MINUTES AFTER YOU INITIALLY GOT THE
18 STATE'S EXHIBIT #4---

19 A YES, SIR.

20 Q ---FILLED IN THE FIRST THING.

21 A YES, SIR.

22 Q ON PAGE ONE.

23 A YES, SIR.

24 Q WHAT HAPPENED DURING THAT 25-MINUTE PERIOD? NOW YOU
25 TOLD ME ABOUT THE FIRST FIVE, TEN OR TWELVE MINUTES YOU WERE

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 FILLIN' OUT THE FIRST THING, BUT THERE'S -- THERE'S A LITTLE
2 GAP OF TIME IN THERE. WEREN'T YOU AND MR. RUTLAND SITTING
3 THERE TALKIN' DURING THAT PERIOD OF TIME?

4 A NO, SIR. AS I STATED TO YOU, I HAD TO GO INTO MY WORK
5 AREA. I HAD TO GET A TAPE RECORDER. I HAD TO CHECK MY
6 BATTERIES TO MAKE SURE IT WAS WORKING PROPERLY. I WENT TO MY
7 SUPERVISOR'S OFFICE. A COUPLE OF THE OTHER INVESTIGATORS
8 INFORMED ME THAT HE WAS STILL AT THE CRIME SCENE WITH OUR
9 LIEUTENANT. THEN I HAD TO GO THROUGHOUT THE BUILDING TRYIN'
10 TO FIND A SUPERVISOR THAT HAD A KEY TO LET ME INTO THAT
11 STORAGE ROOM.

12 Q ARE YOU TRYIN' TO TELL ME THAT IT TOOK YOU ABOUT 20
13 MINUTES, MAYBE 15 TO 20 MINUTES TO FIND THE, CHECK THE
14 BATTERIES, GET INTO AN OFFICE AND THEN BRING IT BACK AND SET
15 IT UP?

16 A IF YOU'RE LOOKING, ENCOMPASSING ALL THE INFORMATION I
17 GOT FROM MR. RUTLAND, THE REVIEW OF HIS RIGHTS AND THE
18 MIRANDA DECISION AND MAKIN' SURE WE HAD THAT DONE PROPERLY
19 AND THEN GETTING OUT AND LOOKIN' FOR THE TAPE AND THE ACCES -
20 - YES, SIR.

21 Q WELL, DETECTIVE FRIER, WHY IS IT IMPORTANT THEN TO WRITE
22 UP THIS STATEMENT AFTER YOU HAVE OBTAINED STATE'S EXHIBIT #8
23 WHICH IS A RECALLING OF EVERYTHING THAT HE SAID? WHY WRITE
24 THIS STATEMENT UP HERE AFTER YOU'VE THE TAPED STATEMENT?

25 A AGAIN, UPON THE COMPLETION OF THE TAPE, I CAN'T HAVE HIM

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 SIGN THE TAPE AS TO THE VALIDITY OF THE FACTS; THEREFORE, I
2 STOP, WRITE IT OUT AND THEN FOR THE FIRST TIME, I HAVE A
3 WRITTEN, SIGNED STATEMENT FROM MR. RUTLAND BY---

4 Q IF YOU COMPARE THE TWO STATEMENTS, THE 3-PAGE
5 HANDWRITTEN STATEMENT DOESN'T CONTAIN EVERYTHING THAT'S IN A
6 9-PAGE CONVERSATION THAT WAS ON TAPE. DOES IT?

7 A THEREFORE THE WRITTEN STATEMENT CONTAINS SOME THINGS
8 THAT THE TAPED STATEMENT DOESN'T CONTAIN.

9 Q EXACTLY. EXACTLY. AND ISN'T THAT INFORMATION THAT WAS
10 OBTAINED FROM THE LANGUAGE THAT WE SEE IN STATE'S EXHIBIT
11 NUMBER FOUR OBTAINED IN YOUR CONVERSATION OF FRED RUTLAND
12 DURING THAT TWENTY-FIVE MINUTE PERIOD PRIOR TO YOU TURNIN' ON
13 THE TAPE?

14 A NO, SIR. MR. GREGORY, IF YOU'LL LOOK AT THE FINAL PAGE
15 OF THE TAPED STATEMENT, YOU'LL NOTICE THAT IT TOOK ME ELEVEN
16 MINUTES TO CONDUCT AN ORAL INTERVIEW WITH MR. RUTLAND, AND I
17 DON'T THINK I COULD DO AN ELEVEN-MINUTE ORAL AND WRITTEN-OUT
18 INTERVIEW WITH HIM ON THREE PAGES. NO, SIR. THERE'S
19 THERE'S NO WAY.

20 Q YES, SIR. BUT YOU ALSO LOOKED ON THAT TAPED STATEMENT
21 AND YOU DIDN'T START THAT TAPE UNTIL 2:30 THAT AFTERNOON.

22 A RIGHT. AND I---

23 Q WHICH IS FIVE MINUTES AFTER MR. RUTLAND SAT DOWN IN THE
24 ROOM AND STARTED HAVING A CONVERSATION WITH YOU.

25 A 25 MINUTES AFTER I GOT INFORMATION AND MIRANDA WAIVER

DETECTIVE FRIER -- CROSS BY MR. GREGORY

1 FROM MR. RUTLAND.

2 Q EXACTLY. 25 MINUTES.

3 A YES, SIR.

4 Q AND DURING THAT PERIOD OF TIME, DIDN'T YOU TELL MR.
5 RUTLAND THAT HE HAD AN EVIDENT CASE OF SELF DEFENSE?

6 A I NEVER MADE SUCH A COMMENT.

7 Q DIDN'T YOU ALSO TELL MR. RUTLAND THAT HE DID ALL THAT HE
8 COULD DO UNDER THE CIRCUMSTANCES?

9 A I NEVER MADE -- I WAS NOT PREPARED TO MAKE SUCH A
10 COMMENT. AS I TESTIFIED TO EARLIER, I HAD NOT STEPPED INSIDE
11 THE INCIDENT LOCATION. MY INVOLVEMENT AT THE CRIME SCENE WAS
12 SOLELY TO GET HIM AND GET AWAY. I HAD NOT BEEN IN THE SCENE.
13 I HAD NOT HAD ENOUGH EVIDENCE PROVIDED TO ME TO MAKE A
14 STATEMENT. I HAD NO IDEA WHAT INVOLVEMENT HAD TAKEN PLACE
15 INSIDE THE STORE.

16 Q DIDN'T YOU JUST TESTIFY ON DIRECT THAT YOU WALKED INTO
17 THE CRIME SCENE AND TALKED TO THE LIEUTENANT TO TELL HIM THAT
18 YOU WERE GOING TO TAKE FRED RUTLAND DOWN TO GET A STATEMENT
19 AND HE WAS THERE AND HE WAS IN CHARGE?

20 A YES, SIR.

21 Q WELL, WHY DID YOU JUST TELL ME THAT YOU DIDN'T GO INTO
22 THE CRIME SCENE?

23 A I TOLD YOU I ST -- I -- I STEPPED INTO THE CRIME SCENE.
24 I DIDN'T STEP INTO IT IN THE CONTEXT OF PROCESSING THE SCENE
25 OR MAKING SOME DETERMINATIONS OF EVIDENCE.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 Q YOU ALSO PUT MR. RUTLAND IN THE FRONT SEAT OF YOUR
2 VEHICLE ON THE WAY TO THE JAIL. DIDN'T YOU?

3 A YES, SIR, I DID.

4 Q AND YOU HAD A CONVERSATION WITH HIM ON THE WAY TOO,
5 DIDN'T YOU?

6 A WE PROBABLY HAD SOME CONVERSATION, YES, SIR.

7 Q IT TOOK YOU ABOUT FIVE MINUTES TO GET THERE. DIDN'T IT?

8 A YES, SIR.

9 Q AND YOU TOLD HIM DURING THAT CONVERSATION, WHAT
10 HAPPENED, AND HE TOLD YOU AND YOU SAID THAT'S AN EVIDENT CASE
11 OF SELF DEFENSE. DIDN'T YOU?

12 A I NEVER MADE SUCH A STATEMENT.

13 Q ALL RIGHT. LET ME ASK YOU THIS: AFTER MR. RUTLAND GAVE
14 THE STATEMENT THAT WAS TAKEN, DIDN'T YOU TAKE HIM THEN BACK
15 INTO THE JAIL PART OF THE LEXINGTON COUNTY DETENTION CENTER?

16 A YES, SIR, HE WAS TAKEN BACK.

17 Q ALL RIGHT. NOW WAS HE STILL HAND CUFFED DURING ALL THIS
18 PROCEDURE?

19 A I TOOK THE HAND CUFFS OFF OF HIM WHILE WE WERE IN THE
20 INTERVIEW ROOM.

21 Q AND PUT 'EM BACK ON HIM WHEN HE LEFT TO GO BACK TO THE
22 JAIL?

23 A MR. GREGORY, I DON'T RECALL. IT -- A LOT DEPENDS ON THE
24 DEMEANOR OF THE SUBJECT AND THE ROUTE I'M GONNA BE TAKIN'
25 BACK INTO THE BACK AS TO WHETHER I WOULD'VE DONE THAT AND I

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 JUST DON'T RECALL THAT.

2 Q DETECTIVE FRIER, YOU STATED EARLIER THAT THE REASON MR.
3 RUTLAND WAS PLACED IN THE BACK SEAT OF A CAGED PATROL VEHICLE
4 AND HAND CUFFED HIS REAR -- WITH HIS HANDS HAND CUFFED BEHIND
5 HIM WAS BECAUSE THAT WAS A PARTICULAR METHOD THAT THE
6 SHERIFF'S DEPARTMENT HAD SET UP AND YOU WERE FOLLOWING
7 PROCEDURE AT THAT POINT.

8 A YES, SIR.

9 Q ISN'T THERE PROCEDURE SET UP WHEN YOU MOVE A PERSON THAT
10 YOU'RE INTERVIEWING IN A HOMICIDE CASE FROM THE
11 ADMINISTRATIVE PART OF THE SHERIFF'S DEPARTMENT WHICH IS
12 WHERE YOU'VE SAID THAT YOU HAD MR. RUTLAND BACK TO THE JAIL,
13 WHICH IS A SEPARATE BUILDING YOU SAID, DON'T YOU PUT HAND
14 CUFFS ON HIM?

15 A AS I SAID, IT WOULD DEPEND ON THE ROUTE I'VE TAKEN, BUT
16 THERE IS ONE DIRECT HALLWAY THAT LEADS FROM THE SHERIFF'S
17 OFFICE INTO THE JAIL IF WE TOOK IT---

18 Q WELL, IS THAT THE ROUTE THAT YOU WENT?

19 A I DON'T REMEMBER, AND IT'S POSSIBLE THAT SOMEONE ELSE
20 WALKED HIM TO THE BACK. THAT'S JUST A TECHNICALITY OF MOVING
21 HIM FROM THE INTERVIEW ROOM TO THE BACK.

22 Q WELL, I KNOW THAT YOU ARE VERY PRECISE AND SPECIFIC
23 ABOUT REMEMBERING HOW HE INITIALED TO THE LEFT OF THESE
24 CIRCLED NUMBERS AND HOW YOU INITIALED OUT BESIDE HIM, AND HOW
25 YOU HAND CUFFED HIM IN THE REAR BECAUSE IT'S PROCEDURE. YOU

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 JUST DON'T REMEMBER THAT PART OF THE SITUATION?

2 A MY EXPERIENCE HAS TAUGHT ME THAT I WILL BE DILIGENTLY
3 CROSS EXAMINED ON MY HANDLING OF THESE STATEMENTS. I KNOW
4 WHAT IT'S IMPORTANT AND PROPER FOR ME TO MAINTAIN MY MEMORY
5 OF MY NOTES OF IT. HOW I TRANSPORT SOMEONE BACK FROM THE
6 JAIL IS NOT GENERALLY A POINT I HAVE TO ANSWER.

7 Q WELL, IS YOUR LOSS OF MEMORY ABOUT HOW HE WAS
8 TRANSPORTED FROM THE ADMINISTRATIVE PART TO THE JAIL PART
9 SIMILAR TO YOUR LOSS OF MEMORY ABOUT TELLING MR. RUTLAND THAT
10 HE HAS AN EVIDENT CASE OF SELF DEFENSE BEFORE HE GAVE THIS
11 STATEMENT---

12 MR. MCMAHON: OBJECTION.

13 A AS I'VE STATED.

14 MR. MCMAHON: ---HE SAID HE DID NOT TELL HIM THAT. I'D
15 HAVE A MATTER OF LAW.

16 THE COURT: SUSTAIN THE OBJECTION. YEAH, DON'T SAY
17 ANYTHING THAT'S NOT IN THE RECORD.

18 MR. GREGORY: YOUR HONOR, I'D LIKE TO BE HEARD ON THAT
19 ISSUE---

20 MR. MCMAHON: NO, SIR, I DON'T WANT TO BE HEARD. I
21 DON'T WANT A JURY ARGUMENT IN FRONT OF THE JURY EITHER.

22 THE COURT: DON'T MAKE AN ARGUMENT. JUST LET HER PLAY
23 IT BACK RIGHT NOW WHAT HE SAID. CAN YOU FIND IT? THE
24 JURY'LL HAVE TO HEAR THAT. YOU DON'T MAKE A STATEMENT ON
25 WHAT HE'S SAID. LET THE JURY TAKE IT FROM WHAT HE'S SAID.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 YOU CAN'T PUT WORDS IN HIS MOUTH. GO AHEAD.

2 Q YOU JUST DON'T REMEMBER MAKING THAT STATEMENT TO MR.
3 RUTLAND?

4 A I DIDN'T MAKE SUCH A STATEMENT.

5 Q ALL RIGHT, SIR. NOW IN THE ROOM THAT YOU TOOK THIS
6 TAPED STATEMENT, YOU SAY THAT THAT ROOM IS LOCATED IN THE
7 ADMINISTRATIVE PART OF THE SHERIFF'S DEPARTMENT.

8 A IN THE DAILY OPERATIONS AREA, YES, SIR.

9 Q THREE DAYS LATER YOU TOOK ANOTHER STATEMENT FROM MR.
10 RUTLAND WHICH IS UP ON THE EASEL HERE.

11 A YES, SIR.

12 Q THAT'S ON 7 OF SEPTEMBER OF '93.

13 A YES, SIR.

14 Q '92. EXCUSE ME.

15 A '92.

16 Q AND THAT STATEMENT WAS TAKEN ABOUT 1:04 IN THE
17 AFTERNOON.

18 A YES, SIR.

19 Q WHY WASN'T THERE A TAPED CONVERSATION BETWEEN YOU AND
20 MR. RUTLAND MADE AT THAT TIME AS YOU SAY YOU DID THREE DAYS
21 EARLIER WHEN YOU LAST TALKED TO HIM?

22 A I DIDN'T TAKE A TAPE INTO THAT AREA. WE CONDUCT
23 INTERVIEWS WITH PERSONS ONCE THEY'RE IN THE DETENTION CENTER
24 WITHIN THE DETENTION CENTER FACILITY. WE ARE NOT ALLOWED TO
25 TAKE THEM BACK INTO THE OPERATIONS AREA OF THE SHERIFF'S

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 DEPARTMENT. THE INTERVIEW ROOM THAT THEY HAVE SET UP FOR US
2 IN THERE IS A BLOCK BUILDING WITH LINOLEUM FLOORS. THE
3 ACOUSTICS IN THAT ROOM ARE HORRIBLE. IT'S DIFFICULT TO
4 UNDERSTAND A CONVERSATION BETWEEN TWO PEOPLE, MUCH LESS
5 TRYING TO DECIPHER WHAT IS ON THE TAPE RECORDER, AND I DIDN'T
6 RECORD THE INTERVIEW IN THAT ROOM.

7 Q COULDN'T YOU HAVE TAKEN IT OVER THERE AND TAKEN A TAPED
8 STATEMENT FROM HIM?

9 A NO, SIR, WE HAVE POLICY THAT PROHIBITS US FROM MOVING
10 SOMEONE FROM THE DETENTION FACILITY INTO THE OPERATIONS AREA
11 OF THE SHERIFF'S DEPARTMENT.

12 Q SO YOU'RE TRYING TO TELL ME THAT YOU COULD TAKE A TAPED
13 STATEMENT FROM HIM ON THE 4TH OF SEPTEMBER BUT THROUGH SOME
14 POLICY IN THE SHERIFF'S DEPARTMENT, YOU COULDN'T TAKE A TAPED
15 STATEMENT FROM HIM ON THE 7TH OF SEPTEMBER?

16 A NO, SIR, I COULD'VE TAKEN A TAPED STATEMENT. I CHOSE
17 NOT TO BECAUSE OF THE POOR ACOUSTICS IN THE ROOM.

18 Q I SEE. NOW DOES THIS STATEMENT THAT YOU HAVE ON THE 7TH
19 OF SEPTEMBER CONTAIN EVERYTHING THAT FRED RUTLAND TOLD YOU IN
20 THAT CONVERSATION THAT YOU HAD WITH HIM?

21 A NO, SIR, IT DOESN'T.

22 Q HOW LONG DID YOU SPEND TALKIN' TO HIM WHILE YOU TOOK
23 THAT STATEMENT?

24 A I DON'T HAVE A CLOSING TIME WRITTEN DOWN, MR. GREGORY.
25 I WOULD IMAGINE THIRTY, FORTY-FIVE MINUTES PROBABLY. THAT'S

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 WITHOUT HAVING CHECKED A WATCH OR WRITTEN A CLOSING TIME
2 DOWN.

3 Q ALL RIGHT, SIR. AFTER YOU OBTAINED THIS STATEMENT AND
4 GOT IT SIGNED AND SO FORTH AND HE WAS ABOUT TO WALK OUT OF
5 THE ROOM THERE, DO YOU RECALL A DOG BEING TAKEN THROUGH THE
6 HALLWAY AND THEREFORE HE COULDN'T WALK OUT OF THE ROOM AT
7 THAT TIME?

8 A NO, SIR. ME AND MR. RUTLAND WOULD'VE WALKED OUT AT THE
9 SAME TIME I HAVE TO TAKE MR. RUTLAND THROUGH -- THROUGH THE
10 DOOR OF THE INTERVIEW ROOM WE'RE IN, THROUGH A DOOR WHERE WE
11 HAVE TO MOTION TO THE BOOKING OFFICER TO ELECTRONICALLY LET
12 US PASS THROUGH THAT DOOR WHICH ALLOWS THEM TO LET HIM GO
13 THROUGH A GATEWAY TO THE ELEVATOR TO GO BACK UPSTAIRS. WE
14 WOULD'VE LEFT AT THE SAME TIME. THERE WOULD'VE BEEN NO
15 REASON FOR A DOG TO BE WITHIN THE DETENTION FACILITY. WE
16 WERE STILL INSIDE THE DETENTION FACILITY.

17 Q I UNDERSTAND THAT, AND YOU WERE INSIDE OF THE ROOM, AND
18 IN ORDER TO GET OUT OF THE ROOM YOU HAD TO OPEN THE DOORWAY
19 AND THE DOORWAY OPENS UP INTO A HALLWAY.

20 A WHICH IS STILL WITHIN THE DETENTION FACILITY.

21 Q ALL RIGHT. IF THERE HAD BEEN A DISTURBANCE IN THE
22 DETENTION FACILITY, AND A DOG BROUGHT IN AND THAT DOG WAS
23 BEING TAKEN DOWN THE HALLWAY, DO YOU RECALL NOT BEING ABLE TO
24 ENTER THE HALLWAY WHEN YOU FINISHED THIS SEPTEMBER 7TH
25 STATEMENT DUE TO THAT FACT?

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A THERE WAS NOTHING THAT PROHIBITED US FROM ENTERING THAT
2 HALLWAY.

3 Q DID YOU ATTEMPT TO ENTER THE HALLWAY ON MORE THAN ONE
4 OCCASION?

5 A I DON'T BELIEVE SO, SIR.

6 Q NOW DO YOU RECALL MAKING A STATEMENT AFTER YOU HAD
7 OBTAINED THIS SEPTEMBER 7TH 2-PAGE STATEMENT HERE WHICH IS
8 STATE'S EXHIBIT 11 AND 12 -- EXCUSE ME -- 10 AND 11. DO YOU
9 RECALL MAKING A STATEMENT TO HIM THAT SALLY PEELE HAD PUT HIM
10 UP TO DOIN' WHAT HE HAD DONE?

11 A I DON'T RECALL IF I MADE SUCH A STATEMENT.

12 Q ISN'T THAT WHEN HE GOT MAD AND JUMPED UP FROM THE TABLE
13 AND GOT INTO A ARGUMENT WITH YOU THAT HE WASN'T GONNA SIGN
14 ANYTHING FROM THAT POINT ON?

15 A NO, SIR, HE HAD GOTTEN UP FROM THE TABLE WELL BEFORE
16 THAT. I WOULDN'T CONSIDER OUR CONVERSATION AT THAT POINT AN
17 ARGUMENT. HE JUST SIMPLY TOLD ME THAT HE WAS NOT GOING TO
18 SIGN TO WHAT I HAD INTRODUCED TO THE JURY.

19 Q WELL, ISN'T THAT WHAT BROUGHT IT TO A HEAD, DETECTIVE
20 FRIER?

21 A I WOULDN'T THINK SO. NO, SIR. THERE WAS NO -- THE
22 SITUATION BETWEEN US WAS NEVER BROUGHT TO A HEAD, IF YOU
23 WILL.

24 Q WELL, HE TOLD YOU HE WASN'T GONNA SIGN ANY MORE
25 STATEMENTS AT THAT POINT. DIDN'T HE?

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A HE SAID HE WASN'T GOING TO SIGN TO THAT.

2 Q YES, SIR. DIDN'T HE REPORT TO YOU IN YOUR CONVERSATION
3 WITH HIM ON SEPTEMBER 7TH THAT HE HAD OVERHEARD A
4 CONVERSATION ON THE JOB SITE IN SUMMERVILLE AND HE WAS
5 TELLING YOU WHAT HE HAD HEARD?

6 A NO, SIR. AS I TOLD YOU, WHAT HE TOLD ME WAS THAT HE HAD
7 CONSULTED WITH SALLY WHETHER OR NOT SHE WANTED HIM TO EITHER
8 TAKE CARE OR HAVE JIMMY TAKEN CARE OF AND THEN THAT HE LATER
9 HAD A CONVERSATION WITH A CO-WORKER OF HIS WHERE HE ASKED HIM
10 IF SUCH COULD BE DONE.

11 Q AND HE DIDN'T SIGN THAT STATEMENT, DID HE?

12 A HE REFUSED TO SIGN THAT ASPECT. HE SIGNED THE STATEMENT
13 FROM THAT DAY. HE REFUSED TO ALLOW ME TO ENTER THAT PORTION
14 INTO THE STATEMENT.

15 Q YES, SIR. NOW ON BOTH OF THESE OCCASIONS AND I'M GONNA
16 START FROM A CHRONOLOGICAL STANDPOINT WHEN YOU FIRST MET FRED
17 RUTLAND AT THE ROW-WOW BOUTIQUE.

18 A YES, SIR.

19 Q WHAT WAS HIS DEMEANOR EMOTIONALLY AT THAT TIME?

20 A HE WAS NOT IN A STATE THAT YOU OR I ARE IN AT THIS POINT
21 IN TIME. I MEAN HE HAD JUST AS IF -- BY UNDER HIS OWN
22 ADMISSION BEEN INVOLVED IN A SHOOTING INCIDENT. HE WAS
23 SHAKEN UP. HE WAS UPSET OF WHAT HAD HAPPENED, BUT I MEAN
24 TO -- HE WAS FINE PHYSICALLY. HE WAS ABLE TO WALK AND TALK
25 AND COMPREHEND QUESTIONS THAT I ASKED HIM.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 Q WAS HE CRYING DURING THIS PERIOD OF TIME?

2 A HE STARTED CRYING I THINK YOU WILL HEAR IN THE TAPE. HE
3 CRIES SOME IN THE TAPE, BUT DURING THE INITIAL CONTACT I HAD
4 WITH HIM AND THE TRAVELING TO THE SHERIFF'S DEPARTMENT AND
5 THE INTERVIEW ROOM, FROM THE FIRST, NO.

6 Q DID HE REQUEST FROM YOU A CIGARETTE DURING ANY OF THIS
7 PERIOD OF TIME?

8 A I DON'T KNOW. IF HE HAD I WOULD NOT HAVE BEEN ALLOWED
9 TO GIVE HIM ONE. THERE IS A NO-SMOKING POLICY IN THE
10 INTERVIEW ROOM.

11 Q BUT YOU CAN SMOKE IN THE JAIL.

12 A THE JAIL IS SOMEWHAT OF A SEPARATE ENTITY FROM US. WHAT
13 RULES THEY HAVE IN THERE I'M NOT SURE OF. I DON'T KNOW.

14 Q DURING THE SEPTEMBER 4 INTERVIEW THAT YOU HAD WITH MR.
15 RUTLAND---

16 A YES, SIR.

17 Q ---WHEN YOU WROTE DOWN THE STATEMENTS, WAS HE JUMPING,
18 NERVOUS, JERKING DURING THAT PERIOD OF TIME, CRYING, UPSET?

19 A NO, SIR. HE WAS IN CONTROL OF HIMSELF PHYSICALLY.
20 YOU'LL NOTICE THE SIGNATURE ON HIS STATEMENT DOESN'T INDICATE
21 THAT HE WAS HAVING ANY PHYSICAL DEXTERITY PROBLEMS.

22 Q WHAT ABOUT ON THE 7TH? DID YOU SEE ANY DIFFERENCE IN
23 HIS BEHAVIOR THEN AND THE THREE DAYS EARLIER?

24 A THE THREE DAYS BETWEEN WHAT HAD HAPPENED, I MEAN HE
25 OBVIOUSLY WASN'T AS SHAKEN AS HE WAS THE DAY I MET HIM, BUT

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 IT WASN'T ANYTHING.

2 Q WAS HE STILL SHAKEN UP ABOUT THE SITUATION?

3 A NOT TO THE POINT THAT HE WAS THREE DAYS BEFORE. NO,
4 SIR.

5 Q WASN'T HIS CONCERN, DETECTIVE FRIER, ABOUT JIMMY PEELE
6 MORE THAN OF HIMSELF?

7 A AT WHAT POINT IN TIME?

8 Q THE WHOLE TIME THAT YOU'D BEEN TALKIN' TO HIM. FROM THE
9 TIME YOU PICKED HIM UP ON THE 4TH OF SEPTEMBER THROUGH THE
10 7TH OF SEPTEMBER, THAT PERIOD OF TIME?

11 A I DON'T RECALL ANY CONCERNS OF MR. RUTLAND ABOUT MR.
12 PEELE. I DON'T -- I DON'T RECALL HIM EVER EVEN ASKING ME OF
13 HIS CONDITION PRIOR TO ME INFORMING HIM THAT HE HAD PASSED
14 AWAY.

15 Q DIDN'T YOU WRITE IN THESE STATEMENTS, DIDN'T WE SEE IN
16 THE TAPED STATEMENT THAT HE HAD SOME CONCERN ABOUT JIMMY
17 PEELE?

18 A SOME CONCERNS THAT HE STATES THAT HE MADE AT THE SCENE.
19 YOU WERE ASKIN' ME ABOUT STATEMENTS THAT HE MADE TO ME AS FAR
20 AS DURIN' THE INTERVIEW. HE INDICATED THAT HE MADE SOME
21 STATEMENTS OF CONCERN AT THE SCENE; HE DID NOT MAKE ANY
22 STATEMENTS OF CONCERN AS IN A PHYSICAL CONVERSATION LIKE YOU
23 AND I ARE HAVING.

24 Q ARE YOU TELLING ME THAT IF HE HAD YOU WOULD'VE WRITTEN
25 THEM IN THE STATEMENT?

DETECTIVE FRIER - CROSS BY MR. GREGORY.

1 A I DON'T KNOW IF I WOULD'VE WRITTEN 'EM IN THE STATEMENT.
2 I DON'T -- YOU KNOW, AS I STATED, NOT EVERY CON -- NOT EVERY
3 WORD OF THE CONVERSATION WE HAD WAS WRITTEN IN THE
4 STATEMENTS.

5 Q WELL, THERE COULD'VE BEEN THINGS THAT HE TALKED ABOUT
6 WITH YOU THAT DIDN'T ACTUALLY GET PRINTED BY YOU IN THESE
7 STATEMENTS.

8 A CERTAINLY.

9 Q AND THESE STATEMENTS WERE PRINTED AT THE TIME THAT YOU
10 WERE TALKIN' TO HIM.

11 A YES, SIR, AND THEY'RE SIGNED BY HIM ALSO.

12 Q ALL RIGHT.

13 Q YOU MENTIONED THAT YOU CHECKED AROUND TO SEE IF THERE
14 WAS ANY POLICE REPORTS CONCERNING SALLY PEELE BEING BEATEN BY
15 JIMMY PEELE.

16 A THAT OR ANY DOMESTIC RESPONSE REPORTS OR ANYTHING OF
17 THAT NATURE, YES, SIR.

18 Q DID YOU INTERVIEW ANY NEIGHBORS OF THEIRS?

19 A YES, SIR, I DID.

20 Q WHO?

21 A I INTERVIEWED MR. AND MRS. POLLACK. HER NAME IS SALLY.
22 I BELIEVE MR. POLLACK'S NAME IS MATTHEW OR MARK, AND I ALSO
23 INTERVIEWED SOME FAMILY MEMBERS OF MR. PEELE TO INCLUDE HIS
24 SISTER MARIE O'NEAL, HIS FATHER MR. PEELE.

25 Q DID YOU DETERMINE FROM THOSE INTERVIEWS THAT SALLY HAD

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 NEVER BEEN BEATEN BY JIMMY?

2 A I DETERMINED FROM THOSE INTERVIEWS THAT SALLY WAS THE
3 AGGRESSOR IN THE RELATIONSHIP, THAT SHE OFTEN TRIED TO PICK
4 FIGHTS WITH SOME FEMALES, THAT SHE HAD BEEN SEEN PUNCHING AND
5 SLAPPING JIMMY. THAT WAS WHAT I LEARNED FROM THOSE
6 INTERVIEWS.

7 Q WELL, COULD THOSE HAVE BEEN RETALIATORY EVENTS ON HER
8 PART?

9 A RETALIATORY ON SALLY'S BEHALF?

10 Q YES.

11 MR. MCMAHON: I OBJECT TO THAT. THAT WOULD BE
12 SPECULATION.

13 THE COURT: YEAH, LET'S DON'T SPECULATE.

14 MR. MCMAHON: IT'S HEARSAY WHAT THESE OTHER WITNESSES
15 MAY OR MAY NOT HAVE SAID.

16 THE COURT: I SUSTAIN THE OBJECTION.

17 Q YOU KNOW WHAT SIZE WOMAN SALLY IS?

18 A SHE'S SEATED OUT THERE IN THE PINK DRESS. SHE'S A VERY
19 TALL LADY. SHE'S PROBABLY FIVE TEN.

20 Q DO YOU KNOW HOW MUCH SHE WEIGHS?

21 A NO, SIR, I DON'T.

22 Q IF I TOLD YOU A HUNDRED AND TWENTY-FIVE POUNDS, COULD
23 YOU DENY THAT?

24 A NO, SIR, I COULDN'T.

25 Q DO YOU KNOW WHAT SIZE MAN JIMMY WAS? JIMMY PEELE.

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 A JIMMY WAS I UNDERSTAND ABOUT THE SAME HEIGHT AS HER,
2 BUILT DIFFERENTLY OF COURSE. HE WAS A MAN.

3 Q HE WEIGHED TWO HUNDRED AND FIFTY POUNDS, DIDN'T HE?

4 A I DON'T KNOW IF HE WEIGHED THAT MUCH.

5 Q HAVE YOU HAD A CHANCE TO LOOK AT THE AUTOPSY REPORT?

6 A YES, SIR, I HAVE.

7 Q YOU DON'T HAPPEN TO HAVE ANY REASON TO HAVE ANY
8 DISAGREEMENT WITH 250 POUNDS REPORT ON AN AUTOPSY REPORT, DO
9 YOU?

10 A I DON'T THINK HE WAS THAT HEAVY. IF IT'S ON THE AUTOPSY
11 REPORT I ---

12 Q WELL, YOU INTERVIEWED NEIGHBORS AND LOOKED AT POLICE
13 RECORDS. DID YOU GO TO THE HOSPITAL AND LOOK FOR HOSPITAL
14 RECORDS?

15 A I DON'T RECALL IF I CALLED AND ASKED IF SHE HAD EVER
16 BEEN TREATED, NO, SIR. WE HAVE AN IN HOUSE COMPUTER THAT
17 LISTS INCIDENT REPORTS THAT WE'VE HAD BACK ANY NUMBER OF
18 YEARS. I'M NOT SURE EXACTLY HOW FAR BACK THEY'RE KEPT.
19 THERE WAS NO SUCH REPORT.

20 Q DID YOU INTERVIEW ANYBODY THAT SHE WORKED FOR, ANY OF
21 HER EMPLOYERS?

22 A NO, SIR, I DID NOT.

23 Q ARE THE POLLACKS THE ONLY NEIGHBORS THAT YOU TALKED TO
24 THAT YOU CAN RECALL?

25 A THEY'RE THE ONLY NEIGHBORS THAT I HAVE A WRITTEN

DETECTIVE FRIER - CROSS BY MR. GREGORY

1 STATEMENT FROM, YES, SIR.

2 Q ALL RIGHT.

3 A NO, WELL I -- CAN I -- LET ME CORRECT THAT. I ALSO TOOK
4 AS -- AS I TESTIFIED TO EARLIER, BRUCE SHARPE IS A NEIGHBOR.
5 HE -- HE LIVES -- THERE'S A CUT-THROUGH BETWEEN THEIR BACK
6 YARDS. THEY DON'T LIVE ON THE SAME STREET. THEY LIVE
7 OPPOSITE ONE ANOTHER. THEY'RE -- THEY'RE -- THEY GET TO ONE
8 ANOTHER'S YARD THROUGH A CUT-THROUGH. HE ALSO LIVES WITH A
9 YOUNG LADY WHO'S SITTING OUT THERE. I'VE TALKED TO HER A
10 THOUSAND TIMES. FOR SOME REASON HER NAME SLIPS ME.
11 SIGHTLER. DAWN SIGHTLER. HE INTERVIEWED HER AND I
12 INTERVIEWED HER ALSO. I HAD A WRITTEN STATEMENT FROM HER
13 ALSO. THEY'RE ALSO NEIGHBORS.

14 Q DID YOU ASK THEM IN THE INTERVIEW IF THERE'S BEEN ANY
15 ALTERCATIONS IN THE PAST BETWEEN JIMMY PEELE AND SALLY PEELE?

16 A YES, SIR, AND THAT'S WHERE I RECEIVED THE INFORMATION
17 ABOUT HOW MUCH MORE AGGRESSIVE SALLY WAS THAN JIMMY, HOW SHE
18 HAD BEEN SEEN HITTING HIM ON SEVERAL OCCASIONS BY THESE
19 PEOPLE, AND HOW THESE PEOPLE --

20 Q YOU DON'T KNOW WHAT THE PURPOSE OF THOSE ALTERCATIONS
21 WERE ABOUT, DO YOU?

22 A NO, SIR. ALSO TO INCLUDE SALLY TRYIN' TO PICK FIGHTS
23 WITH SEVERAL WOMEN IN THAT AREA.

24 Q BUT THAT DOESN'T INVOLVE JIMMY PEELE, DOES IT?

25 A NO, SIR, IT DOESN'T.

EDWARD POPLIN DIRECT BY MR. RIDDLE

1 Q NOTHING FURTHER. THANK YOU, SIR.

2 MR. MCMAHON: NOTHING ON REDIRECT, YOUR HONOR.

3 THE COURT: THANK YOU, SIR.

4 A THANK YOU, YOUR HONOR.

5 THE COURT: DUE TO SOMETHIN' BEYOND MY CONTROL I GOT TO
6 START A LITTLE LATE TOMORROW. I GOT TO GO SOMEWHERE IN THE
7 MORNIN' BUT SO I'M GONNA LET YA'LL EAT LUNCH BEFORE YOU COME
8 IN TOMORROW SO IF YOU GOT SOMEBODY ELSE THERE WE...

9 MR. RIDDLE: STATE CALLS EDDIE POPLIN TO THE STAND.

10 THE COURT: I WON'T KEEP YOU TOO LATE.

11 EDWARD POPLIN, BEING DULY SWORN,

12 TESTIFIES AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MR. RIDDLE

15 Q WOULD YOU STATE YOUR FULL NAME FOR THE RECORD, PLEASE,
16 SIR.

17 A EDWARD POPLIN.

18 Q ALL RIGHT. AND YOU'RE WITH THE SHERIFF'S DEPARTMENT?

19 A YES, SIR.

20 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S DEPARTMENT?

21 A FOR THREE YEARS.

22 Q AND HOW OLD ARE YOU?

23 A I'M 24.

24 Q HAVE YOU EVER TESTIFIED IN GENERAL SESSIONS COURT
25 BEFORE?

EDWARD POPLIN - DIRECT BY MR. RIDDLE

1 A NO, SIR.

2 Q ARE YOU A LITTLE BIT NERVOUS HERE TODAY?

3 A YES, SIR, I AM.

4 Q LET ME ASK YOU THIS, OFFICER POPLIN: WHAT ARE YOUR
5 DUTIES WITH THE SHERIFF'S DEPARTMENT?

6 A OK. MAINLY WE WORK ON THE FRONT DESK. WE RECEIVE IN-
7 COMING CALLS, EMERGENCY AND ADMINISTRATIVE. WE TRY TO
8 PRIORITIZE AND DISPATCH ON IT.

9 Q OK. WOULD IT BE FAIR TO SAY THAT YOU WERE WORKING IN
10 THAT CAPACITY ON SEPTEMBER 4TH OF 1992?

11 A YES, SIR, I WAS.

12 Q AND WOULD IT ALSO BE FAIR TO SAY THAT YOU ARE WHAT WE
13 KNOW AS THE 911 OPERATOR?

14 A YES, SIR.

15 Q DID YOU, IN FACT, RECEIVE A 911 CALL FROM MR. JIMMY
16 PEELE ON SEPTEMBER THE 4TH OF 1992?

17 A YES, SIR, I DID.

18 Q ALL RIGHT. AND DO YOU MAKE NOTES OF THAT CALL AS THEY
19 COME IN, OF EACH 911 CALL?

20 A YES, SIR.

21 Q LET ME SHOW YOU A DOCUMENT AND ASK YOU IF YOU RECOGNIZE
22 WHAT IT IS.

23 A YES, SIR.

24 Q OK. IS THAT THE ORIGINAL 911 CALL CARD THAT YOU MADE?

25 A IT IS.

EDWARD POPLIN - DIRECT BY MR. RIDDLE

1 Q AND IS THE HANDWRITING ON THAT CALL CARD YOURS?

2 A YES, SIR.

3 MR. RIDDLE: YOUR HONOR, I'D MOVE THAT THIS BE ADMITTED
4 INTO EVIDENCE AT THIS TIME.

5 MR. GREGORY: NO OBJECTION.

6 THE COURT: NO OBJECTION. (STATE'S EXHIBIT #20 RECEIVED
7 IN EVIDENCE.)

8 Q LET ME SHOW YOU THIS DOCUMENT AND ASK YOU IF YOU
9 RECOGNIZE WHAT THAT IS?

10 A YES, SIR.

11 Q IS THAT A BLOWUP OF WHAT'S BEEN PREVIOUSLY MARKED
12 STATE'S 20?

13 A YES, SIR, IT IS.

14 MR. RIDDLE: YOUR HONOR, I'D MOVE THAT THIS BLOWUP BE
15 ADMITTED INTO EVIDENCE AS WELL.

16 MR. GREGORY: NO OBJECTION.

17 THE COURT: NO OBJECTION.

18 MR. RIDDLE: MARK THAT AS STATE'S 21. (STATE'S EXHIBIT
19 #21 RECEIVED IN EVIDENCE.)

20 Q IF YOU COULD, CAN YOU EXPLAIN THIS FORM AND WHAT YOU DO
21 TO THE JURY.

22 A WHENEVER WE RECEIVE AN INCOMING CALL---

23 Q LET ME STOP YOU REAL QUICK. HOW ABOUT STEP ON THE OTHER
24 SIDE OF THAT BECAUSE IT MAKES IT EASIER FOR THE COURT
25 REPORTER TO HEAR YOU IF YOU'RE SPEAKING TOWARD YOU.

EDWARD POPLIN - DIRECT BY MR. RIDDLE.

1 A WHENEVER WE TAKEN AN INCOMING CALL WE HAVE A SMALL
2 VERSION OF THIS. WE START OUT WITH THE CALLER'S NAME; WE PUT
3 THE ADDRESS, MISCELLANEOUS DIRECTIONS. WE USE CALL CODES TO
4 DEFINE WHAT THE CALL ACTUALLY IS. THIS ONE HERE WOULD BE
5 TRESPASSIN', HARASSMENT AND MAN WITH A GUN. WE ALSO HAVE A
6 PATROL DISTRICT AND REMARKS SECTION. IN THIS CASE I PUT
7 DESCRIPTION OF THE VEHICLE THAT THE SUSPECTS WERE DRIVING.
8 WE HAVE A TIME SCHEDULE HERE FROM THE TIME RECEIVED DISPATCH,
9 ARRIVED AND WHENEVER THEY CLEAR. WE INDICATE WHICH OFFICERS
10 GO THERE AND THEN WHAT THE STATUS OF IT WAS.

11 Q ALL RIGHT, SIR. FROM THE TOP -- FROM THE BOTTOM TWO
12 LINES UP, WHERE DOES ALL THAT INFORMATION COME TO YOU FROM?

13 A FROM HERE.

14 Q FROM HERE UP, WHERE DOES ALL THIS INFORMATION COME FROM?

15 A OK. FROM HERE TO HERE ALL OF THAT IS OVER THE PHONE.

16 Q THAT'S FROM THE CALL, AND THIS IS YOUR ADMINISTRATIVE
17 PART.

18 A YES, SIR.

19 Q I ASSUME YOU ARE 296?

20 A YES, SIR.

21 Q ALL RIGHT. AND THE DAY OF THE WEEK. WHAT IS THAT?

22 A THAT WOULD BE FRIDAY.

23 Q OK. DAY 6.

24 A YES, SIR.

25 Q SHIFT IS WHATEVER SHIFT YOU'RE WORKING?

EDWARD POPLIN - DIRECT BY MR. RIDDLE

1 A THAT'S RIGHT.

2 Q WHAT DOES THIS MEAN?

3 A WHERE WE CHECK EITHER O U (PHONETIC) IF IT HAPPENS, YOU
4 KNOW, IN OUR PRESENCE OR BY PHONE - BY WALK IN IF THEY COME
5 IN THROUGH THE LOBBY AND IF IT'S OVER 911 WE INDICATE THAT.

6 Q OK. SO THIS JUST INDICATES THE CALL CAME IN THROUGH
7 911?

8 A YES, SIR.

9 Q ALL RIGHT. COMPLAINANT'S PHONE NUMBER, YOU GOT THAT
10 PHONE CALL?

11 A YES, SIR.

12 Q AND THIS INFORMATION DOWN THROUGH THE DESCRIPTION YOU
13 GOT THROUGH THE CALL.

14 A YES, SIR.

15 Q WHAT DOES S-71 MEAN?

16 A THAT WOULD BE UNWANTED GUEST OR TRESPASSER.

17 Q OK. HOW ABOUT S-72?

18 A IT WOULD BE THREATS OR HARASSMENT.

19 Q OK. HOW ABOUT 10-59?

20 A MAN WITH A GUN.

21 Q ALL RIGHT. NOW YOU RECEIVED A CALL AT WHAT TIME?

22 A 10:41.

23 Q A.M. OR P.M.?

24 A MORNING.

25 Q AND DISPATCHED SOMEONE TO THAT ADDRESS [REDACTED]

EDWARD POPLIN - DIRECT BY MR. RIDDLE

1 AT WHAT TIME?

2 A WELL, WHO WAS OPERATING THE RADIO AT THAT TIME
3 DISPATCHED HIM, BUT IT WAS 10:44.

4 Q OK. 3 MINUTES LATER.

5 A YES, SIR.

6 Q ALL RIGHT. AND THEN ARRIVED AT WHAT TIME?

7 A 10:48.

8 Q ALL RIGHT. AND LEFT THE SCENE AT
9 WHAT TIME?

10 A 10:53.

11 Q OK. THE 911 -- YOU CAN HAVE A SEAT. THE 911 PHONE
12 CALLS THAT COME IN ARE THEY RECORDED?

13 A YES, SIR.

14 Q ALL RIGHT. AT MY REQUEST -- WELL, LET ME ASK YOU IF YOU
15 CAN IDENTIFY THIS FOR ME.

16 A YES, SIR. WE LISTENED TO IT EARLIER.

17 Q ALL RIGHT. AT MY REQUEST THIS MORNING DID YOU LISTEN TO
18 THIS TAPE RECORDING?

19 A YES, SIR.

20 Q AND IS THIS A FAIR AND ACCURATE REPRESENTATION OF THE
21 911 CALL THAT YOU TOOK AS A REFLECTED BY THAT CALLING CARD?

22 A IF IS, SIR.

23 MR. RIDDLE: YOUR HONOR, I'D MOVE THAT THIS BE ADMITTED
24 INTO EVIDENCE AT THIS TIME.

25 THE COURT: NO OBJECTION.

EDWARD POPLIN - CROSS BY MR. GREGORY

1 MR. GREGORY: NO OBJECTION.

2 (STATE'S EXHIBIT #22 RECEIVED IN EVIDENCE.)

3 MR. RIDDLE: YOUR HONOR, AT THIS TIME I'D MOVE TO
4 PUBLISH THIS TO THE JURY. (THE TAPE WAS PUBLISHED TO THE
5 JURY.)

6 Q THAT'S ALL I HAVE. PLEASE, ANSWER ANYTHING MR. GREGORY
7 HAS FOR YOU.

8 CROSS-EXAMINATION

9 BY MR. GREGORY

10 Q MR. POPLIN, HOW YOU DOIN'?

11 A ALL RIGHT.

12 Q ON STATE'S EXHIBIT #20 I'M ASSUMING THAT YOU ARE THE ONE
13 THAT WROTE IN ALL THIS INFORMATION. IS THAT YOUR
14 HANDWRITING?

15 A YES, SIR, ALL BUT THE BOTTOM LINE.

16 Q THE BOTTOM LINE?

17 A YES, SIR, AND THE TIMES.

18 Q THE STATUS IS FOUR SEVEN. IS THAT---

19 A YES, SIR.

20 Q ---A PARTICULAR OFFICER'S NUMBER?

21 A NO, SIR. THAT'S A STATUS ON THE CALL UNFOUNDED AND THEN
22 THEY INDICATED NO ONE WAS AT HOME.

23 Q ALL RIGHT, SIR. SO THE OFFICER THAT WENT OUT TO
24 INVESTIGATE THIS CALL GOT THERE AND THERE WAS NOBODY THERE?

25 A YES, SIR.

EDWARD POPLIN - CROSS BY MR. GREGORY

1 Q AND HOW MANY MINUTES DID IT TAKE HIM TO GET TO THE SCENE
2 AT THE TIME THAT THE CALL CAME IN?

3 A 4 MINUTES.

4 Q SO FOUR MINUTES AFTER THAT CALL AN OFFICER WAS ON THE
5 SCENE?

6 A YES, SIR.

7 Q AND THERE WAS NOBODY THERE.

8 A THAT'S RIGHT.

9 Q THANK YOU, SIR.

10 MR. RIDDLE: JUST HAVE A COUPLE OF QUESTIONS.

11 REDIRECT EXAMINATION

12 BY MR. RIDDLE

13 Q THE CALL WAS RECEIVED AT WHAT TIME ACCORDING TO #20,
14 STATE'S 20?

15 A 10:41.

16 Q OK. SO THAT'S 10:41 IN THE MORNING?

17 A YES, SIR.

18 Q WHAT TIME DID THE OFFICER ARRIVE AT THE SCENE?

19 A 10:48.

20 Q SO HOW MANY MINUTES IS THAT FROM THE TIME THE CALL'S
21 RECEIVED AND THE TIME THE OFFICER GOT THERE?

22 A SEVEN.

23 Q IT'S 4 MINUTES BETWEEN WHAT AND WHAT?

24 A DISPATCH AND ARRIVAL.

25 Q OK. SO IT'S THREE MINUTES BETWEEN THE TIME YOU GOT THE

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 CALL BEFORE IT GOT -- AN OFFICER WAS DISPATCHED TOWARDS THE
2 SCENE?

3 A THAT'S RIGHT.

4 Q ALL RIGHT. THAT'S ALL I HAVE.

5 THE COURT: THANK YOU, SIR.

6 MR. MCMAHON: THE STATE CALLS BRUCE SHARPE.

7 DARLING BRUCE SHARPE, BEING DULY SWORN,

8 TESTIFIES AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. MCMAHON

11 Q WOULD YOU INTRODUCE YOURSELF TO THE JURY, PLEASE.

12 A DARLING BRUCE SHARPE.

13 Q AND HOW OLD ARE YOU, MR. SHARPE?

14 A I AM 37.

15 Q WHERE DO YOU LIVE?

16 A I LIVE AT [REDACTED], PELION, SOUTH CAROLINA.

17 Q LOCATED IN LEXINGTON COUNTY?

18 A YES, SIR.

19 Q WHERE WERE YOU RAISED?

20 A I WAS RAISED IN WEST COLUMBIA.

21 Q AND YOU WENT TO WEST COLUMBIA SCHOOL, BROOKLYN CAYCE AND
22 SUCH?

23 A AIRPORT.

24 Q AIRPORT. EXCUSE ME.

25 A YES, SIR.

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 Q EXCUSE ME. HOW LONG HAVE YOU LIVED IN THE PELTON
2 SECTION OF LEXINGTON COUNTY?

3 A APPROXIMATELY 5 OR 6 YEARS.

4 Q AND WHO ALL LIVES IN THAT RESIDENCE WITH YOU?

5 A DAWN SIGHTLER, GERALD KIRKLAND AND HER DAUGHTER NEKI
6 SIGHTLER.

7 Q WHAT KIND OF WORK DO YOU DO, BRUCE?

8 A I DO INDUSTRIAL CLEAN UP WORK.

9 Q WERE YOU LIVING IN THIS SAME LOCATION BACK SEPTEMBER 4TH
10 OF LAST YEAR?

11 A YES, SIR.

12 Q NOW YOU KNEW JIMMY PEELE?

13 A YES, SIR.

14 Q HOW LONG HAD YOU KNOWN JIMMY?

15 A STARTING BACK IN HIGH SCHOOL. WE WENT TO HIGH SCHOOL
16 TOGETHER. I WAS A FEW YEARS OLDER'N HE WAS SO HE WAS LIKE IN
17 THE 9TH GRADE WHEN I WAS GRADUATING.

18 Q YA'LL WERE FRIENDS?

19 A NOT FRIENDS; WE JUST KNEW OF EACH OTHER BACK THEN.

20 Q ALL RIGHT. WHAT ABOUT NOW? WHAT ABOUT COMIN' UP FROM
21 1992 WHAT WAS YA'LL'S RELATIONSHIP?

22 A WE WERE GOOD FRIENDS THEN.

23 Q HOW CLOSE IS YOUR RESIDENCE TO MR. PEELE'S RESIDENCE ON,
24 WHAT WAS IT, SANDRA DRIVE?

25 A PROBABLY A MILE OR JUST A LITTLE BIT OVER FROM MY HOUSE.

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 Q FRIENDS AND NEIGHBORS.

2 A YES, SIR.

3 Q NOW ON THIS PARTICULAR DAY I WANT TO TALK TO YOU ABOUT
4 SEPTEMBER 4TH OF '92, YOU REMEMBER THAT DAY THAT FRIDAY?

5 A YES, SIR.

6 Q AND DID YOU HAVE AN OCCASION TO TALK TO JIMMY THAT DAY?

7 A YES, SIR, I DID.

8 Q HOW DID YOU FIRST GET IN CONTACT WITH HIM THAT DAY?

9 A HE HAD CALLED ME A LITTLE AFTER TEN THAT MORNIN', AND
10 NEEDED A AUTOMOTIVE BOOK FOR SOME WIRIN' ON A CAR, AND WE HAD
11 THE BOOK SO I TOLD HIM I'D BE OVER THERE IN JUST A LITTLE BIT
12 AND I GOT THE BOOK AND GOT IN THE CAR AND WENT TO THIS
13 RESIDENCE.

14 Q SO AS A RESULT OF THE PHONE CALL FROM JIMMY YOU GO OVER
15 THERE WITH YOUR SHOP BOOK, THE MANUAL TO HELP HIM WORK ON HIS
16 CAR?

17 A YES, SIR.

18 Q WHAT KINDA CAR YOU TALKIN' ABOUT?

19 A IT WAS A CHEVROLET.

20 Q YOU REMEMBER WHAT YEAR OR ANYTHING LIKE THAT?

21 A NOT EXACTLY. IT WAS A LATE MODEL.

22 Q WHAT COLOR WAS THAT CAR?

23 A IT WAS TAN, TAN, GOLD.

24 Q THAT WOULD BE THE SAME CAR HE WAS DRIVIN' AT THE ROW-WOW
25 BOUTIQUE. IS THAT RIGHT?

BRUCE SHARPE DIRECT BY MR. MCMAHON

1 A YES, SIR.

2 Q NOW ABOUT WHAT TIME DID YOU GET OVER THERE, BRUCE?

3 A I GUESS IT WAS JUST A LITTLE BIT BEFORE 10:30.

4 Q AND DID YOU HAVE ANY CONVERSATIONS WITH JIMMY ABOUT WHAT
5 HIS PLANS WERE OR WHY HE WANTED TO WORK ON THE CAR?

6 A YES, SIR, HE HAD TOLD ME HE WANTED TO GET THE CAR FIXED.
7 HE WAS TIRED. HIS NERVES WERE RACKED UP. HE WAS WANTIN' TO
8 GET HIS DAUGHTER AND GO TO FLORIDA AND FIND WORK, DOWN THERE
9 AND TAKE HIS DAUGHTER TO HIS MOTHER'S HOUSE.

10 Q AND HIS MOTHER SHE LIVES IN FLORIDA. IS THAT RIGHT?

11 A YES, SIR, THAT'S WHAT HE SAID.

12 Q AND I DON'T SEE HIS MOTHER IN HERE RIGHT THIS MOMENT,
13 BUT SHE'S BEEN HERE EARLIER TODAY. IS THAT CORRECT?

14 A YES, SIR.

15 Q AND YOU UNDERSTOOD THAT WAS WHY HE WAS WANTIN' TO GET
16 THIS CAR FIXED?

17 A YES, SIR.

18 Q NOW WHEN YOU GOT TO JIMMY'S HOUSE THAT MORNIN', BRUCE,
19 WHO ELSE WAS THERE?

20 A THERE WAS NOBODY ELSE THERE WHEN I GOT THERE.

21 Q SHORTLY THEREAFTER, DID SOMEONE ARRIVE?

22 A YES, SIR.

23 Q NOW, BRUCE, ME AND YOU AND MR. RIDDLE TALKED SEVERAL
24 TIMES ABOUT THIS PARTICULAR INCIDENT. WHAT WAS YOU WHAT

25 WERE YOU AND JIMMY DOIN' WHEN THE NEXT PERSON ARRIVED?

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 A WE WERE INSIDE THE TRAILER. WE WENT INSIDE AND WAS
2 GONNA ROLL A JOINT. WE HAD ROLLED A JOINT. JIMMY HAD GOT ON
3 THE PHONE AND -- WHEN THE -- THE PEOPLE ARRIVED, THEY -- HE
4 GOT OFF THE PHONE, TURNED AROUND AND HIS WIFE HAD APPARENTLY
5 COME INTO THE HOUSE AND HE TURNED AROUND AND SAID, TOLD HER
6 GO AHEAD SHOOT ME BITCH.

7 Q ALL RIGHT NOW. LET ME STOP YOU. WHEN YOU SAY -- ME AND
8 YOU HAVE TALKED ABOUT THAT TOO. YOU AND JIMMY WERE THERE AT
9 THE HOUSE AND YA'LL WERE ROLLIN' A JOINT OF MARIJUANA. IS
10 THAT CORRECT?

11 A YES, SIR.

12 Q AND OF COURSE I TALKED TO YOU ABOUT THAT BEIN' A
13 VIOLATION OF THE LAW. CORRECT?

14 A YES, SIR.

15 Q BUT YOU'VE TOLD US THAT AND THAT IS WHAT YA'LL WERE, IN
16 FACT, DOIN'.

17 A THAT'S WHAT WE WERE GOIN' TO DO.

18 Q YA'LL WERE ROLLIN' BUT YA'LL HADN'T SMOKED ANY MARIJUANA
19 AT THAT POINT.

20 A NO, SIR.

21 Q NOW WHAT WAS JIMMY DOIN'? YOU SAY HE WAS ON THE
22 TELEPHONE.

23 A YFS, SIR.

24 Q DO YOU KNOW WHO HE WAS TALKIN' TO THEN?

25 A NO, SIR, I DO NOT.

BRUCE SHARPE -- DIRECT BY MR. MCMAHON

1 Q WERE THERE ANY HARSH WORDS BETWEEN JIMMY AND WHOEVER HE
2 WAS TALKIN' TO ON THE TELEPHONE?

3 A NO, SIR.

4 Q WHAT WAS THE FIRST NOTICE YOU HAD THAT SOMEONE HAD COME
5 IN THAT TRAILER BESIDES YOU -- EXCUSE ME -- INTO THAT
6 RESIDENCE BESIDES YOU AND JIMMY?

7 A HE HUNG UP THE PHONE AND SAID GO AHEAD SHOOT ME BJTCH.

8 Q NOW DID YOU LOOK INTO THE DIRECTION OF WHERE HE WAS
9 REFERRIN'?

10 A YES, SIR.

11 Q AND WHO WAS THERE?

12 A HIS WIFE SALLY.

13 Q WHERE WAS SHE IN RELATION TO THE -- WHERE WAS SHE AT
14 WITH THE RESIDENCE?

15 A I WOULD SAY IN THE KITCHEN.

16 Q AND WHAT, IF ANYTHING, DID SHE HAVE?

17 A SHE HAD A PISTOL.

18 Q DO YOU KNOW WHAT KIND?

19 A JUST A SMALL PISTOL.

20 Q DID IT APPEAR TO BE STATE'S EXHIBIT #12?

21 A YES, SIR.

22 Q SHE HAD THIS.

23 A YES, SIR.

24 Q SALLY PEELE.

25 A YES, SIR.

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 Q WHEN YOU FIRST SAW HER SHE HAD IT.

2 A YES, SIR.

3 Q AND IN WHOSE DIRECTION WAS IT POINTED?

4 A AT JIMMY.

5 Q NOW WHAT'S THE NEXT THING THAT HAPPENED, BRUCE?

6 A THE NEXT THING THAT HAPPENED, SHE BACKED ON OUT THE DOOR
7 AND JIMMY HAD WENT ASIDE AFTER HER, AND I STOOD THERE IN THE
8 LIVING ROOM.

9 Q DESCRIBE IT, WHEN YOU SAY HE WENT OUT AFTER HER,
10 DESCRIBE FOR THE JURY HOW HE WENT FROM INSIDE THE RESIDENCE
11 TO OUTSIDE.

12 A HE JUST WALKED RIGHT TOWARD HER AND SHE BACKED RIGHT ON
13 OUT THE DOOR.

14 Q WAS HE RUNNIN' TOWARD HER?

15 A NO, SIR.

16 Q JUST WALKIN' NORMAL.

17 A WALKIN' NORMAL KINDA FAST.

18 Q PRIOR TO HER ARRIVAL YOU HAD NO INDICATION THAT SHE WAS
19 GONNA BE OVER THERE.

20 A NO, SIR, I DIDN'T.

21 Q AND HE HAD NOT SAID ANYTHING TO YOU ABOUT HER BEIN' OVER
22 THERE.

23 A NO, SIR.

24 Q NOW WHERE DID SHE GO AND WHERE DID -- WHERE DID JIMMY
25 GO?

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 A SHE STEPPED OUTSIDE IN THE YARD AND JIMMY STEPPED ON
2 OUTSIDE IN THE YARD TOO.

3 Q WHAT DID YOU DO, BRUCE?

4 A I STOOD THERE IN THE TRAILER.

5 Q WERE YOU ABLE TO SEE OUTSIDE?

6 A YES, SIR.

7 Q HOW FAR AWAY WERE YOU FROM SALLY PEELE AND JIMMY AT THIS
8 TIME?

9 A I WAS PROBABLY 15 FOOT OR SO.

10 Q NOW HOW MANY VEHICLES WERE OUTSIDE?

11 A IT WAS JIMMY'S CHEVROLET, OUR COUGAR AND BLUE AND WHITE
12 VAN.

13 Q DID YOU SEE ANYONE IN THE VAN AT THIS TIME?

14 A YES, SIR, I SAW A LADY DRIVIN' AND MR. RUTLEDGE (SIC)
15 WAS COMIN' FROM THE VAN.

16 Q NOW WHEN YOU SAW MR. RUTLAND COMIN' FROM THE VAN WHERE
17 WAS SALLY AND JIMMY.

18 A THEY WERE STANDIN' OUTSIDE.

19 Q WHAT, IF ANYTHING, DID MR. RUTLAND HAVE?

20 A HE HAD A SHOTGUN.

21 Q DESCRIBE THAT SHOTGUN FOR THE JURY.

22 A IT WAS A 12-GAUGE GUN.

23 Q SIMILAR TO STATE'S EXHIBIT #19?

24 A YES, SIR.

25 Q NOW HE HAD THIS SHOTGUN. NOW HOW WAS HE CARRYIN' IT?

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 A HE WAS RUNNIN' UP WITH IT AND POINTED IT AT JIMMY.

2 Q RUNNIN' UP WITH IT TOWARDS WHO?

3 A TOWARD JIMMY PEELE.

4 Q AND WHERE WAS THE SHOTGUN POINTED AT?

5 A IT WAS POINTED AT HIM.

6 Q NOW ALL THIS WAS TAKIN' PLACE IN WHOSE YARD?

7 A JIMMY AND SALLY'S.

8 Q WHERE IS THIS?

9 A AS FAR AS I KNOW SHE STILL HAD THE GUN IN HER HAND.

10 Q DESCRIBE AGAIN FOR THIS JURY HOW MR. RUTLAND CAME FROM
11 THE VAN UP TOWARDS JIMMY.

12 A HE CAME RUNNIN' UP FROM THE VAN POINTIN' THE SHOTGUN AT
13 JIMMY.

14 Q WHAT HAPPENED NEXT, BRUCE?

15 A JIMMY CAME BACK INSIDE. HE TOLD ME HE SAID BRUCE I
16 THINK YOU NEED TO LEAVE, SO I SAID ALL RIGHT AND I WENT
17 OUTSIDE AND WALKED TOWARD MY CAR, BUT I COULDN'T GO NOWHERE
18 BECAUSE I WAS BLOCKED IN.

19 Q BY WHAT VEHICLE?

20 A BLUE AND WHITE VAN.

21 Q OK.

22 A AND I STOOD THERE FOR A FEW MINUTES. THEY HAD EXCHANGED
23 SOME WORDS OUTSIDE. MR. RUTLAND SHOT THE GUN OFF IN THE AIR
24 AND---

25 Q WHO SHOT THE GUN OFF?

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 A MR. RUTLAND.

2 Q THEN WHAT DID HE DO AFTER HE SHOT IT OFF?

3 A HE POINTED IT BACK AT JIMMY.

4 Q HOW CLOSE WAS MR. RUTLAND TO JIMMY WHEN HE SHOT THE GUN
5 OFF? WHICH GUN YOU REFERRIN' TO, BRUCE?

6 A SHOTGUN.

7 Q THIS GUN.

8 A YES, SIR.

9 Q HOW CLOSE WAS HE TO JIMMY WHEN HE SHOT THE GUN?

10 A PROBABLY SIX FOOT.

11 Q HOW CLOSE IN RELATION TO ME AND YOU?

12 A THAT'S ABOUT AS GOOD AS---

13 Q ABOUT LIKE THAT. SAY IT AGAIN. I'M SORRY.

14 A IT'S ABOUT SOMETHIN' LIKE THAT, ABOUT THAT DISTANCE
15 RIGHT THERE.

16 Q WHERE DID HE HAVE THE MUZZLE OF THIS WEAPON BEFORE HE
17 FIRED THE GUN?

18 A HE HAD IT POINTED AT JIMMY.

19 Q SO IF JIMMY WAS RIGHT HERE RIGHT WHERE THIS DIAGRAM IS,
20 HE HAD THE WEAPON POINTED DIRECTLY AT HIM.

21 A YES, SIR.

22 Q AND THEN HE FIRED IT UP IN THE AIR?

23 A YES, SIR.

24 Q AND POINTED THE WEAPON BACK AT JIMMY?

25 A RIGHT.

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 Q AND YOU HAD NOT YET BEEN ABLE TO LEAVE?

2 A NO, SIR.

3 Q AND WHY COULDN'T YOU LEAVE?

4 A 'CAUSE THE BLUE AND WHITE VAN HAD ME BLOCKED IN.

5 Q THEN WHAT HAPPENED, BRUCE?

6 A THEN JIMMY WENT BACK INSIDE. SALLY AND MR. RUTLAND CAME
7 BACK TO THE VAN, TOLD ME TO -- THEY BACKED THE VAN UP OUTTA
8 MY WAY. SALLY TOLD ME TO GET THE HELL OUTTA THERE. I BACKED
9 THE CAR OUT. THEY BACKED THE VAN IN AND I DROVE OFF.

10 Q YOU GOT OUTTA THERE.

11 A YES, SIR.

12 Q WHEN YOU HAD THE OPPORTUNITY TO LEAVE. IS THAT RIGHT?

13 A YES, SIR.

14 Q DID YOU GO BACK OVER TO JIMMY'S AT ANY POINT AFTER THAT?

15 A NO, SIR, I DID NOT.

16 Q DID YOU EVER SEE JIMMY ALIVE AFTER YOU LEFT THAT
17 MORNING?

18 A NO, SIR, I DID NOT.

19 Q WHILE YOU WERE WITH JIMMY THAT PARTICULAR MORNING OF
20 SEPTEMBER THE 4TH, THE WHOLE TIME YOU WERE WITH HIM, WHERE
21 WAS HE AT?

22 A HE WAS EITHER OUTSIDE WORKIN' ON HIS CAR OR INSIDE OR
23 OUTSIDE TALKIN' TO HIS WIFE TRYIN' TO TALK TO HER.

24 Q AT HIS HOME.

25 A RIGHT.

BRUCE SHARPE - DIRECT BY MR. MCMAHON

1 Q WAS HE OUT LOOKIN' FOR TROUBLE?

2 A NO, SIR. HE TOLD ME, LIKE I SAID, HE TOLD ME HE WANTED
3 TO GET THAT CAR FIXED AND JUST GET THE HELL OUTTA THERE.

4 Q DURIN' THE TIME YOU SAW HIM THAT DAY THAT MORNIN' DID
5 YOU SEE JIMMY WITH ANY WEAPON WHATSOEVER?

6 A NO, SIR, I DID NOT.

7 Q I DON'T HAVE ANY FURTHER QUESTIONS.

8 CROSS-EXAMINATION

9 BY MR. GREGORY

10 Q MR. SHARPE, DO YOU RECALL WHERE YOU WERE THE NIGHT
11 BEFORE SEPTEMBER 3, '92?

12 A I WAS PROBABLY WORKIN'.

13 Q AND DID YOU SEE JIMMY PEELE AT THAT TIME?

14 A NO, SIR, I DID NOT.

15 Q DID YOU HAVE ANY COMMUNICATION WITH HIM THE NIGHT
16 BEFORE?

17 A NO, SIR.

18 Q DID HE CALL YOU ON THE 4TH OF SEPTEMBER?

19 A YES, SIR.

20 Q AND HE REACHED YOU AT YOUR HOME?

21 A YES, SIR.

22 Q AND YOU LIVE ABOUT A MILE AWAY FROM HIM?

23 A YES, SIR.

24 Q AND YOU BORROWED DONNA SIGHTLER'S CAR AND DROVE OVER TO

25 JIMMY PEELE'S HOUSE?

BRUCE SHARPE - CROSS BY MR. GREGORY

1 A RIGHT.

2 Q THAT'S THE COUGAR YOU WERE TALKIN' ABOUT IN THE YARD?

3 A YES, SIR.

4 Q AND WHEN YOU PULLED INTO THE YARD THERE WAS NO VAN THERE
5 AT THAT TIME, WAS THERE?

6 A NO, SIR, THERE WAS NOT.

7 Q AND THIS WAS SOMETHIN' LIKE 10:30 IN THE MORNIN'?

8 A YES, SIR.

9 Q HAD YOU HAD ANY COMMUNICATION WITH JIMMY PEELE PRIOR TO
10 HIS TELEPHONE CALL THAT DAY?

11 A NO, SIR.

12 Q ALL RIGHT, SIR. YOU'VE SMOKED MARIJUANA BEFORE, HAVEN'T
13 YOU?

14 A YES, SIR.

15 Q YOU KNOW WHAT IT SMELLS LIKE.

16 A YES, SIR.

17 Q WHEN YOU WALKED INTO JIMMY PEELE'S HOUSE DID YOU
18 RECOGNIZE THE SMELL OF MARIJUANA AT THAT TIME?

19 A NO, SIR, I HADN'T.

20 Q YOU DIDN'T? WELL, WHO HAD THE JOINT THAT YOU WERE
21 HOLDING?

22 A I HAD THE JOINT.

23 Q SO IT WAS YOUR JOINT.

24 A NO, IT WASN'T MY JOINT, BUT I HAD THE JOINT; I WAS
25 ROLLIN' IT.

BRUCE SHARPE - CROSS BY MR. GREGORY

1 Q WELL, WHERE DID YOU GET IT FROM?

2 A I GOT IT FROM JIMMY.

3 Q ALL RIGHT. YOU DON'T KNOW IF HE HAD SMOKED ONE BEFORE
4 YOU GOT THERE OR NOT. DO YOU, SIR?

5 A NO, SIR, I DO NOT.

6 Q ALL RIGHT. NOW WHAT WAS ACTUALLY WRONG WITH THE CAR?
7 YA'LL HAD THIS BOOK; YOU WERE GONNA SIT DOWN AND LOOK AT IT
8 AND DO WHATEVER YOU HAD TO DO. WAS THE CAR NOT RUNNIN' AT
9 THE TIME?

10 A IT WAS NOT RUNNIN'. IT HAD A BUSTED DISTRIBUTOR CAP AND
11 THE WIRES HAD TO BE PUT BACK ON IT AND PUT IN THE RIGHT
12 ORDER.

13 Q HOW MUCH TIME DID IT TAKE TO DO THAT?

14 A IT DOESN'T TAKE THAT LONG ONCE YOU GOT THE BOOK.

15 Q THE KEY IS TO HAVE A BOOK SO YOU KNOW WHICH WIRE GOES
16 OVER WHICH CAP.

17 A RIGHT. FIRIN' ORDER.

18 Q FIRING ORDER. DID YOU PUT THE WIRES ON THE DISTRIBUTOR
19 BEFORE YOU LEFT?

20 A NO, SIR, JIMMY PUT 'EM ON.

21 Q DID YOU SEE HIM DO IT?

22 A YES, SIR.

23 Q SO THE CAR GOT FIXED THEN BEFORE YOU LEFT.

24 A RIGHT.

25 Q AND IT WAS DRIVEABLE AT THAT TIME?

BRUCE SHARPF - CROSS BY MR. GREGORY

1 A YES, SIR.

2 Q NOW I'M TRYIN' TO PICTURE WHERE YOU PARKED YOUR VEHICLE
3 AND WHERE THE CHEVROLET VEHICLE THAT YOU HAD TO HOOK THE
4 DISTRIBUTOR WIRES ON WERE PARKED WITH RELATIONSHIP TO THE
5 MOBILE HOME. THIS IS THE MOBILE HOME WHERE THEY WERE LIVING
6 ON SANDRA DRIVE. RIGHT?

7 A YES, SIR.

8 Q WHEN YOU PULLED UP DID YOU PULL UP RIGHT TO THE HOME?

9 A NO, SIR, SURE DIDN'T.

10 Q WHY IS THAT?

11 A WELL, THE CAR WAS SITTIN' AWAY FROM THE HOME.

12 Q I MEAN HOW FAR AWAY FROM THE HOME?

13 A PROBABLY 20 YARDS OR SO, 20, 25 YARDS.

14 Q OK. AND WHERE WAS THE CHEVROLET THAT YOU NEEDED TO WORK
15 ON THE DISTRIBUTOR PART?

16 A IT WAS 20, 25 YARDS AWAY.

17 Q YOU PULLED UP NEXT TO IT?

18 A YES, SIR.

19 Q AND WHERE DID THE VAN PULL UP?

20 A THE VAN?

21 Q YES, SIR.

22 A IT PULLED UP DOWN THERE RIGHT IN FRONT OF THE CHEVROLET.
23 IT DIDN'T PULL ALL THE WAY DOWN TO THE YARD, NO, SIR.

24 Q I'M SORRY. I DIDN'T HEAR WHAT YOU SAID.

25 A IT DIDN'T PULL ALL THE WAY DOWN INTO THE -- NEXT TO THE

BRUCE SHARPE - CROSS BY MR. GREGORY

1 TRAILER.

2 Q IT PARKED ABOUT 25 YARDS AWAY ALSO?

3 A RIGHT.

4 Q WERE ALL THREE CARS, THE TWO CARS AND THE VAN PARKED
5 RIGHT BESIDE EACH OTHER?

6 A NO, SIR, THE VAN WAS IN FRONT OF THE CHEVROLET.

7 Q IN FRONT OF THE CHEVROLET.

8 A YES, SIR.

9 Q AND YOU WERE BESIDE THE CHEVROLET.

10 A YES, SIR, I PULLED OVER TO THE SIDE.

11 Q I DON'T UNDERSTAND HOW YOU GOT BLOCKED IN, HOW YOU
12 COULDN'T LEAVE.

13 A HOW I COULDN'T LEAVE?

14 Q YES.

15 A 'CAUSE THEY WERE SITTIN' IN THE ROADWAY FOR ME TO LEAVE.
16 I COULDN'T DR -- I WASN'T GONNA DRIVE AROUND 'EM.

17 Q I MEAN THERE WAS NO TREES OR BUILDINGS OR CARS BLOCKIN'
18 YOU FROM DRIVIN' OUT AND LEAVIN'. WERE THERE?

19 A I DIDN'T WANT TO TAKE DAWN'S CAR THROUGH THE TREES.
20 THERE'S PROBABLY SCRUB OAKS AND ALL THAT OUT THROUGH THERE.

21 Q SO IF YOU REALLY HAD TO LEAVE, YOU COULDA LEFT, BUT YOU
22 JUST DIDN'T LEAVE. IS THAT WHAT YOU'RE SAYIN'?

23 A I RECKON SO. YEAH.

24 Q ALL RIGHT. NOW YOU WERE IN THE HOUSE JUST ABOUT ALL THE
25 TIME UNTIL YOU GOT READY TO LEAVE. CORRECT?

BRUCE SHARPE - CROSS BY MR. GREGORY

1 A YES, SIR.

2 Q WAS ANYTHING FROM PREVENTING YOU FROM PICKIN' UP A
3 TELEPHONE AND DIALIN' 911?

4 A NO, SIR.

5 Q DO YOU RECALL WHICH SIDE OF THE VAN THAT MR. RUTLAND
6 CAME OUT OF?

7 A COME OUTTA THE PASSENGER SIDE.

8 Q WHERE WERE YOU LOOKING FROM IN ORDER TO SEE THAT?

9 A I WAS IN THE LIVIN' ROOM.

10 Q AND LOOKIN' OUT THE WINDOW?

11 A YES, SIR.

12 Q WERE YOU STANDING OR SITTING DOWN?

13 A I WAS STANDING AT THE TIME.

14 Q WHEN YOU LEFT DID YOU TAKE THAT JOINT THAT YOU WERE
15 ROLLING WITH YOU OR DID YOU LEAVE IT THERE, SIR?

16 A LEFT IT THERE.

17 Q WHEN YOU WENT OUT INTO THE YARD DID YOU STAY OUT IN THE
18 YARD AT ANY TIME BEFORE YOU GOT IN YOUR VEHICLE AND LEFT?

19 A WHEN I WALKED OUT IN THE YARD I WALKED OVER NEXT TO THE
20 VEHICLE AND STOOD THERE.

21 Q THAT'S THE COUGAR.

22 A RIGHT.

23 Q AND HOW LONG DID YOU STAND THERE?

24 A NOT LONG. NOT EVEN HARDLY A -- PROBABLY MAYBE A MINUTE
25 OR SO.

BRUCE SHARPE - CROSS BY MR. GREGORY

1 Q ENOUGH TIME FOR SOMEBODY TO DRIVE THE VAN OVER AND YOU
2 TO DRIVE OUT?

3 A IF---

4 Q IS THAT BASICALLY WHAT HAPPENED?

5 A IF THEY WOULD'VE MOVED IT, BUT THEY DIDN'T MOVE IT.

6 Q NOT RIGHT AWAY?

7 A NO, SIR.

8 Q THAT'S WHAT DELAYED YOU FROM DRIVIN' ON OUT.

9 A RIGHT.

10 Q ABOUT A MINUTE?

11 A RIGHT.

12 Q WAS MR. RUTLAND IN THE VAN WHEN IT WAS MOVING?

13 A NO, SIR.

14 Q HE WAS STILL IN THE YARD?

15 A YES, SIR.

16 Q NOW WHEN YOU WERE DISCUSSING HOW THIS SHOTGUN WAS HELD,
17 WITH ATTORNEY MCMAHON HERE, YOU SAID THAT IT WAS POINTED AT
18 JIMMY; THEN IT WENT IT WENT IN THE AIR AND BLASTED, AND THEN
19 IT CAME BACK DOWN AND WAS POINTED AT HIM JIMMY.

20 A YES, SIR.

21 Q YOU'RE PRETTY SURE ABOUT THAT.

22 A YES, SIR.

23 Q WELL, WAS IT POINTED AT HIS FEET OR POINTED AT HIS MID
24 SECTION?

25 A IT WASN'T POINTED AT HIS FEET; IT WAS POINTED AT HIM; IT

BRUCE SHARPE - CROSS BY MR. GREGORY

1 WAS UP THE UPPER PART OF HIS BODY.

2 Q AIRIGHT. DO YOU THINK THAT HE COULD'VE EASILY -- I'M
3 TALKIN' ABOUT MR. RUTLAND -- DO YOU THINK THAT HE COULD HAVE
4 EASILY PULLED THE TRIGGER WITH THE SHOTGUN IN THAT POSITION
5 AS HE DID WHEN HE HAD IT UP IN THE AIR?

6 A I WOULD SAY SO.

7 Q BUT HE DIDN'T. DID HE?

8 A NO, SIR.

9 Q DURING THE PERIOD OF TIME THAT YOU WERE THERE AT THE
10 MOBILE HOME DID YOU OBSERVE JIMMY PEELE AND SALLY IN THE YARD
11 SQUATTING DOWN ON THE GROUND AND TALKIN' WITH ONE ANOTHER FOR
12 A FEW MINUTES?

13 A NO, SIR.

14 Q NEVER SAW THAT HAPPEN?

15 A NO, SIR.

16 Q WHEN SALLY CAME IN THE MOBILE HOME AND YOU AND JIMMY
17 WERE INSIDE IN THE LIVING ROOM, HOW LONG WAS SHE ACTUALLY IN
18 THAT MOBILE HOME AND JUST JIMMY FOR A PERIOD OF TIME?

19 A WHEN I SAW HER I GUESS SHE HAD BACKED BACK OUT, 30
20 SECONDS.

21 Q NOW AFTER SHE WAS IN THERE FOR 30 SECONDS AND THEN CAME
22 OUT, JIMMY CAME OUT RIGHT AFTER HER. CORRECT?

23 A YES, SIR, HE FOLLOWED HER OUT.

24 Q ALL RIGHT. COULD YOU SEE WHERE THEY WERE AT THAT TIME
25 FROM WHERE YOU WERE IN THE HOUSE?

BRUCE SHARPE - CROSS BY MR. GREGORY

1 A WHEN I STOOD UP THEY CAME OUTSIDE OUT OF THE BACK DOOR,
2 STANDIN' THERE TALKIN' AND THAT'S WHEN MR. RUTLAND CAME
3 RUNNIN' UP FROM THE VAN WITH THE SHOTGUN.

4 Q ALL RIGHT. DID YOU SEE JIMMY AND SALLY AT THAT TIME?

5 A YES, SIR.

6 Q ARE YOU FAMILIAR WITH A SQUIRREL CAGE?

7 A NO, NOT REALLY.

8 Q DIDN'T YOU SEE JIMMY PEELE PICK UP A SQUIRREL CAGE WHEN
9 HE CAME OUT OF THE MOBILE HOME?

10 A NO, SIR, I DIDN'T.

11 Q YOU DIDN'T SEE THAT?

12 A NO, SIR.

13 Q ALL RIGHT. DID YOU SEE HIM PICK UP A PAN?

14 A NO, SIR, I DIDN'T.

15 Q WAS YOUR ATTENTION DIVERTED TO THE MAN COMIN' OUT OF THE
16 VAN INSTEAD OF JIMMY AND SALLY AT THAT TIME?

17 A YES, SIR, I TURNED MY -- I SAW THE MAN COME RUNNIN' AND
18 I WAS LOOKIN' AT HIM.

19 Q SO JIMMY PEELE COULD HAVE PICKED SOMETHING UP AND YOU
20 NOT REALIZE IT THEN. COULD THAT HAVE HAPPENED?

21 A COULD HAVE.

22 Q ALL RIGHT. NOW YOU'RE IN THE LIVING ROOM WATCHIN' MR.
23 RUTLAND RUN UP TOWARD THE HOUSE WITH A SHOTGUN. IS THAT
24 CORRECT?

25 A YES, SIR.

BRUCE SHARPE - CROSS BY MR. GREGORY

1 Q AND DID HE RUN ALL THE WAY UP TO THE HOUSE OR DID HE
2 STOP ABOUT HALF WAY?

3 A HE RUN ALL THE WAY UP TO WHERE SALLY AND THEM WAS AT.

4 Q ALL RIGHT. AND YOU WERE LOOKIN' OUT OF WHAT WINDOW?

5 A THE BACK LJVIN' ROOM WINDOW.

6 Q ALL RIGHT. NOW WHAT HAPPENED THEN?

7 A IT WAS A FEW WORDS EXCHANGED. JIMMY COME BACK IN AND HE
8 TOLD ME BRUCE I THINK IT'S TIME FOR YOU YOU NEED TO LEAVE,
9 AND I SAID OK, AND THAT'S WHEN I WALKED OUT; WALKED PAST
10 EVERYBODY AND WALKED OVER TO THE CAR.

11 Q AND WAS SALLY HOLDIN' THAT PISTOL ALL THIS TIME?

12 A YES, SIR, SHE HAD THE PISTOL IN HER HAND.

13 Q AND THAT DIDN'T STOP JIMMY FROM WALKIN' TOWARD HER 30
14 SECONDS AFTER SHE CAME INTO THAT MOBILE HOME OUT THE BACK
15 DOOR?

16 A RIGHT. IT DIDN'T.

17 Q HE JUST WALKED RIGHT TOWARD HER HOLDIN' THAT PISTOL?

18 A YES, SIR.

19 Q THIS IS THE ONE HERE PLAINTIFF'S (SIC) EXHIBIT #12?

20 A IT LOOKS LIKE IT.

21 Q THANK YOU, SIR.

22 MR. MCMAHON: NO FURTHER QUESTIONS.

23 MR. RIDDLE: THE STATE CALLS GENE SHORT, YOUR HONOR.

24 THE COURT: OK. A LITTLE SHORT ONE? WE'LL TAKE A
25 LITTLE SHORT ONE.

HERSHEL GENE SHORT - DIRECT BY MR. RIDDLE

1 HERSHEL GENE SHORT, BEING DULY SWORN,
2 TESTIFIES AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. RIDDLE

5 Q CAN YOU STATE YOUR FULL NAME FOR THE RECORD, PLEASE.

6 A HERSHEL GENE SHORT.

7 Q AND WHERE DO YOU WORK, MR. SHORT?

8 A MAIN STREET PAWN AND GUN IN LEXINGTON.

9 Q AND THAT'S LOCATED ABOUT HOW FAR FROM HERE?

10 A LESS THAN A BLOCK.

11 Q ALL RIGHT, SIR. HOW LONG HAVE YOU BEEN WITH THEM?

12 A SINCE 1988.

13 Q WHAT DO YOU DO WITH MAIN STREET PAWN AND GUN?

14 A I ORIGINALLY DESIGNED THEIR COMPUTER SYSTEM TO TRACK
15 THEIR FIREARMS TRANSACTIONS AND RECORD-KEEPING.

16 Q OK. AND YOU SUBSEQUENTLY BECAME AN EMPLOYEE THERE ON A
17 FULL-TIME BASIS?

18 A NOT REALLY ON A FULL -- I'M THERE FULL-TIME BUT I DON'T
19 WORK FOR THEM FULL-TIME.

20 Q OK. WERE YOU WORKING BACK ON SEPTEMBER 4TH OF 1992?

21 A YES, I WAS.

22 Q DO YOU RECALL BEING INVOLVED WITH A TRANSACTION WITH MS.
23 SALLY PEELE?

24 A YES, SIR.

25 Q OK. AND LET ME SHOW YOU THIS AND ASK YOU IF YOU

HERSHEL GENE SHORT - DIRECT BY MR. RIDDLE

1 RECOGNIZE WHAT IT IS.

2 A THAT'S A COPY OF A BILL OF SALE FOR A FIREARMS
3 TRANSACTION.

4 Q OK. AND WOULD THAT HAVE BEEN GENERATED BY YOU?

5 A I WAS THE ONE THAT KEYED THE TRANSACTION INTO THE
6 COMPUTER. THAT'S THE RECEIPT THAT THE COMPUTER GENERATES AT
7 THE END OF THE TRANSACTION.

8 Q RIGHT. AND THAT WOULD'VE BEEN AS A RESULT OF THE SYSTEM
9 THAT YOU DESIGNED?

10 A CORRECT.

11 Q OK. AND IS THIS A COPY OF THE TRANSACTION THAT TOOK
12 PLACE ON MAY -- OR EXCUSE ME -- SEPTEMBER THE 4TH OF 1992?

13 A THAT'S CORRECT.

14 Q ALL RIGHT.

15
16 MR. RIDDLE: YOUR HONOR, I'D MOVE THAT THIS BE ADMITTED
17 INTO EVIDENCE.

18 MR. GREGORY: NO OBJECTION.

19 THE COURT: NO OBJECTION. (STATE'S EXHIBIT #23 RECEIVED
20 IN EVIDENCE.)

21 Q NOW COULD YOU STEP DOWN IF YOU WOULD, PLEASE, SJR.
22 (WITNESS COMPLIED.) CAN YOU EXPLAIN TO THE JURY WHAT THIS
23 FORM INDICATES.

24 A THIS FORM INDICATES THAT AN INDIVIDUAL BY THE NAME OF
25 SALLY PEELE ON 9-4-92 AT 9:44 IN THE MORNING CAME INTO OUR

HERSHEL GENE SHORT - DIRECT BY MR. RIDDLE.

1 PLACE OF BUSINESS MAIN STREET PAWN AND GUN; SHE PURCHASED ONE
2 MOSSBERG SHOTGUN 12-GAUGE; SHE BOUGHT ONE BOX OF BUCKSHOT TO
3 GO WITH THE MOSSBERG; SHE BOUGHT ONE MORRISON 25 AUTOMATIC
4 PISTOL AND ONE BOX OF 25 AUTOMATIC AMMUNITION. THE
5 INFORMATION HERE ON THE BOTTOM OF THE FORM SAYS THAT THE
6 SAFETY FEATURES OF BOTH FIREARMS WERE EXPLAINED TO HER AND
7 THAT SHE CHECKED OFF THAT SHE RECOGNIZES THAT FACT, THAT SHE
8 WAS SHOWN HOW TO PROPERLY LOAD AND UNLOAD THE GUN; SHE WAS
9 TOLD IT WAS ILLEGAL TO KEEP THE GUN LOADED IN A VEHICLE
10 (INAUDIBLE) HER PERSON (INAUDIBLE) PERMIT.

11 Q ALL RIGHT. SO SHE WAS EXPLAINED WHERE SHE COULD AND
12 COULD NOT KEEP THAT FIREARM?

13 A THAT IS CORRECT.

14 Q HOW WAS THAT -- THOSE -- HOW WERE THOSE TWO FIREARMS AND
15 THE AMMUNITION PAID FOR?

16 A CASH.

17 Q CASH. ALL RIGHT. AND WHO PURCHASED THESE GUNS
18 SPECIFICALLY?

19 A SALLY PEFLE.

20 Q ALL RIGHT. DID SHE PURCHASE THEM FOR HERSELF OR DID SHE
21 PURCHASE THEM FOR ANOTHER INDIVIDUAL?

22 MR. GREGORY: YOUR HONOR, WE OBJECT. THAT'S--

23 THE COURT: YEAH, I SUSTAIN THE OBJECTION. SEE, HE
24 CAN'T---

25 MR. RIDDLE: HE CAN ANSWER THE QUESTION, YOUR HONOR.

HERSHEL GENE SHORT - DIRECT BY MR. RIDDLE

1 LET ME ASK---

2 THE COURT: IF HE KNOWS. YOU---

3 MR. RIDDLE: ---ME THIS.

4 THE COURT: ---GOT TO REPHRASE IT.

5 MR. RIDDLE: I'LL REPHRASE IT.

6 Q ARE YOU ALLOWED TO SELL A FIREARM TO A PERSON OTHER THAN
7 THE INTENDED OWNER?

8 A I'M NOT SURE I UNDERSTAND THE QUESTION.

9 Q ALL RIGHT. COULD MR. MCMAHON AND MYSELF GO INTO YOUR
10 SHOP; COULD MR. MCMAHON PURCHASE THE PISTOL FOR ME?

11 A IF HE TELLS ME SO, NO.

12 Q IF HE TELLS YOU THAT HE IS PURCHASING THE GUN FOR ME.

13 A THEN IT'S ILLEGAL AND I COULD NOT DO THE TRANSACTION.

14 Q ALL RIGHT. SO IF SALLY PEELE PRESENTED HERSELF TO
15 PURCHASE THESE PISTOLS, SHE WOULD HAVE TO PRESENT HERSELF AS
16 PURCHASING THEM FOR HERSELF.

17 A THAT'S CORRECT.

18 Q IF SHE PRESENTED IT AS PURCHASING IT FOR ANOTHER
19 INDIVIDUAL, COULD YOU SELL THOSE GUNS?

20 A NO.

21 Q AND WHY IS THAT?

22 A IT'S A VIOLATION OF FEDERAL LAW FOR ME TO GIVE A FIREARM
23 TO SOMEONE KNOWING THAT THEY'RE GOING TO GIVE IT TO SOMEONE
24 ELSE BECAUSE THAT PERSON MAY NOT BE ELIGIBLE TO OWN A
25 FIREARM.

HERSHEL GENE SHORT - DIRECT BY MR. RIDDLE

1 Q ALI. RIGHT. NOW TELL ME ONE LAST THING FROM THAT FORM:

2 WHAT TIME DID THAT TRANSACTION TAKE PLACE?

3 A 9:44 A.M.

4 Q ALI. RIGHT. AND THAT'S SEPTEMBER THE 4TH---

5 A YES, SIR.

6 Q ---'92?

7 A YES, SIR.

8 Q YOU CAN HAVE A SEAT NOW. (WITNESS COMPLIED.) LET ME
9 SHOW YOU WHAT'S BEEN MARKED STATE'S #12 AND ASK YOU IF THIS
10 IS THE 25 AUTOMATIC PURCHASED ON THAT DATE?

11 A THIS IS THE SAME PISTOL.

12 Q AND LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S #19 AND
13 ASK YOU IF THAT IS, IN FACT, THE 12-GAUGE SHOTGUN PURCHASED
14 ON THAT DAY.

15 A THIS IS THE SAME SHOTGUN.

16 Q THANK YOU. I DON'T HAVE ANY FURTHER QUESTIONS, MR.
17 SHORT.

18 CROSS-EXAMINATION

19 BY MR. GREGORY

20 Q MR. SHORT, YOU HAVE TO GET SOME PAPERWORK FILLED OUT AND
21 SIGNED BY SALLY PEELE WHEN SHE BUYS A WEAPON FROM YOUR
22 ESTABLISHMENT, DON'T YOU, SIR?

23 A THAT IS CORRECT.

24 Q I MEAN THAT ONE DOCUMENT THERE IS NOT THE ONLY DOCUMENT
25 THAT WAS TRANSACTED ON THAT DAY WITH YOUR---

HERSHEL GENE SHORT - CROSS BY MR. GREGORY

1 A NO, SIR, AS PART OF THAT TRANSACTION, THERE'S OTHER
2 FORMS AS WELL.

3 Q AND THE THREE DOCUMENTS THAT WERE TRANSACTED IN ADDITION
4 TO THIS DOCUMENT INCLUDED WHAT, SIR? WHAT WERE THOSE OTHER
5 DOCUMENTS?

6 A TWO FEDERAL FORM 44-73'S AND ONE STATE REGISTRATION FORM
7 FOR A PISTOL.

8 Q AND YOU HAVE TO OBTAIN HER SIGNATURE ON ALL THREE OF
9 THOSE FORMS. RIGHT?

10 A THAT IS CORRECT.

11 Q NOW DID NOT YOU GIVE A WRITTEN STATEMENT TO DETECTIVE
12 SCOTTIE FRIER WITH REGARD TO THE PURCHASE OF THESE TWO
13 WEAPONS IN THIS INVESTIGATION OF THIS CASE?

14 A I HAVE NEVER TALKED TO A MALE DETECTIVE ANY TIME ABOUT
15 THIS CASE.

16 Q ALL RIGHT. WELL, MAYBE IT WAS ANOTHER DETECTIVE. LET
17 ME LOOK AND SEE. HOW 'BOUT DETECTIVE SIMMONS, FEMALE?

18 A YES, SIR, SHE CAME INTO MY SHOP AFTERWARDS.

19 Q ALL RIGHT. YOU RECALL GIVING HER A STATEMENT AND
20 SIGNING A STATEMENT WITH HER?

21 A THAT IS CORRECT.

22 Q AND IN THAT STATEMENT DID NOT YOU SAY THAT THE SHOTGUN
23 THAT YOU ULTIMATELY SOLD SALLY PEELE WAS ACTUALLY HER
24 HUSBAND'S SHOTGUN THAT HE HAD PAWNED AT YOUR ESTABLISHMENT?

25 A THAT IS THE SHOTGUN THAT WAS PAWNED BY HER HUSBAND.

HERSHEL GENE SHORT - CROSS BY MR. GREGORY

1 Q AND WHEN DID THAT SHOTGUN COME OFF OF PAWN?

2 A THE DAY BEFORE MS. PEELE CAME IN.

3 Q SEPTEMBER 3.

4 A CORRECT.

5 Q AND WHAT TIME DID YOU OPEN UP THAT MORNING, THAT FRIDAY
6 MORNING?

7 A 9 A.M.

8 Q SO THEY WERE THERE 44 MINUTES AFTER YOU OPENED.

9 A THAT'S CORRECT. WELL, ACTUALLY THEY WERE THERE A LOT
10 EARLIER THAN THAT. THAT IS WHEN THE TRANSACTION WAS
11 COMPLETED.

12 Q I UNDERSTAND. THEY GOT THERE EARLIER AND WENT THROUGH
13 THE SHOPPING AND THE DISCUSSION AND THE FILLING OUT OF THE
14 FORM AND SO FORTH---

15 A CORRECT.

16 Q ---AND WHEN THEY HANDED YOU THE MONEY IT WAS 9:44.

17 A THAT'S CORRECT.

18 Q ALL RIGHT. WERE THEY YOUR FIRST CUSTOMER THAT MORNING?

19 A I'D HAVE TO CHECK MY RECORDS, SIR. I DON'T KNOW.

20 Q ALL RIGHT. EXPLAIN WHAT HAPPENS WHEN SOMEBODY BRINGS
21 SOMETHING TO YOUR ESTABLISHMENT, SAY, LIKE THIS SHOTGUN HERE
22 STATE'S EXHIBIT #19 AND PAWNS IT. WHAT DOES A PAWN
23 TRANSACTION ENTAIL?

24 A A PAWN TRANSACTION ENTAILS A CUSTOMER BRINGIN' IN ANY
25 TYPE OF MERCHANDISE THEY WISH, TRYING TO BORROW MONEY ON THAT

HERSHEL GENE SHORT - CROSS BY MR. GREGORY

1 MERCHANDISE. WHENEVER AN AGREED UPON AMOUNT OF MONEY IS
2 ASCERTAINED, WE GIVE THEM THE MONEY. THEY HAVE UP TO 90 DAYS
3 OF UNPAID INTEREST TO COME BACK AND PICK THE ITEM BACK UP BY
4 PAYING WHAT THEY BORROWED PLUS THE INTEREST THAT'S ACCRUED.

5 Q ALL. RIGHT. IS THAT BASICALLY WHAT SALLY PEELE DID WHEN
6 SHE PICKED UP THE SHOTGUN ON THE 4TH OF SEPTEMBER?

7 A NO, IT'S NOT.

8 Q WHAT HAPPENED?

9 A SALLY PEELE PURCHASED A SHOTGUN THAT HAD COME OFF OF
10 PAWN. IT WAS UP FOR SALE AS SHOP INVENTORY.

11 Q SO SHE MISSED GETTING THE PAWNED ITEM BY ONE DAY.

12 A YES, THAT'S CORRECT.

13 Q IF SHE'D COME IN THE DAY BEFORE, THE 3RD OF SEPTEMBER,
14 WHAT WOULD'VE BEEN THE DIFFERENCE IN THE SITUATION?

15 A THE DIFFERENCE WAS SHE WOULD NOT KNOW THE SHOTGUN HAD
16 BEEN THERE. I CANNOT TELL HER THAT. IF SHE SHOWS ME A PAWN
17 TICKET, SHE CAN PICK IT UP. IF SHE SAYS YOU HAVE A SHOTGUN
18 THAT MY HUSBAND PAWNED, I CAN'T TELL HER THAT IT'S THERE OR
19 NOT.

20 Q WELL, WHEN SHE CAME IN ON THE 4TH DID SHE HAVE THE PAWN
21 TICKET?

22 A NO, SIR. IF SHE DID IT WOULD'VE BEEN WITH THE REST OF
23 THE PAPERWORK AS A PAWN PICKUP, BUT IT WASN'T.

24 Q WELL, IT'S NOT IRONIC THAT SHE WOULD COME IN AND
25 PURCHASE THE SAME SHOTGUN THAT HER HUSBAND HAD PAWNED WITH

HERSHEL GENE SHORT - CROSS BY MR. GREGORY

1 YOUR ESTABLISHMENT.

2 A NO, IT'S NOT IRONIC. SHE CAME IN AND ASKED IF HER
3 HUSBAND HAD PAWNED A SHOTGUN. I CANNOT SAY YES; I CANNOT SAY
4 NO. I PULLED THAT SHOTGUN OFF THE SHELF AND SHOWED HER THE
5 SHOTGUN AND ASKED HER IF SHE WISHED TO BUY IT. THAT'S ALL I
6 CAN DO.

7 Q I SEE. I SEE. SO SHE MAY HAVE RECOGNIZED THE SHOTGUN.

8 A THAT'S CORRECT.

9 Q ALL RIGHT. BUT WHEN SHE CAME IN SHE CAME IN
10 SPECIFICALLY ASKIN' ABOUT A SHOTGUN THAT HER HUSBAND HAD
11 PAWNED. DIDN'T SHE?

12 A THAT IS CORRECT.

13 Q ALL RIGHT, SIR. THANK YOU VERY MUCH. NO FURTHER
14 QUESTIONS.

15 A THANK YOU.

16 MR. RIDDLE: YOU CAN STEP DOWN. THANK YOU. YOUR HONOR,
17 I'D ASK THAT THIS WITNESS BE EXCUSED.

18 THE COURT: YEAH. HOW MANY MORE WITNESSES THE STATE
19 GOT?

20 MR. RIDDLE: YOUR HONOR, WE HAVE ONE MORE TONIGHT. WE
21 MAY HAVE ONE ADDITIONAL ONE IN THE MORNING.

22 THE COURT: WELL, LET'S GET RID OF THAT ONE. BRING HIM
23 AROUND.

24 MR. RIDDLE: YOUR HONOR, THE STATE CALLS DR. KITT
25 MCMASTER TO THE STAND.

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 KITT MCMASTER, BEING DULY SWORN,
2 TESTIFIES AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. RIDDLE

5 THE COURT: YOU A BROTHER TO ALL THE LAWYERS?

6 A NOT A BROTHER BUT KIN.

7 THE COURT: JOHN GREG NOT YOUR DADDY.

8 A YES, SIR. I'M A WINNSBORO MCMASTER.

9 Q WOULD YOU STATE YOUR WHOLE NAME FOR THE RECORD, PLEASE,
10 DOCTOR.

11 A KITT RYAN MCMASTER, III.

12 Q ALL RIGHT. AND YOU ARE A PATHOLOGIST?

13 A THAT'S RIGHT.

14 Q CAN YOU TELL US WHERE YOU RECEIVED YOUR UNDERGRADUATE
15 TRAINING AND YOUR MEDICAL DEGREE.

16 A I WENT TO WOFFORD COLLEGE IN SPARTANBURG, SOUTH CAROLINA
17 AND THE MEDICAL UNIVERSITY OF SOUTH CAROLINA IN CHARLESTON.

18 THE COURT: YA'LI. STIPULATE HIS QUALIFICATIONS?

19 MR. GREGORY: YES, SIR, YOUR HONOR, WE STIPULATE.

20 MR. RIDDLE: YOUR HONOR, WE WOULD ASK---

21 THE COURT: TESTIFIED IN COURT.

22 Q DR. MCMASTER, YOU'RE NOW QUALIFIED AS A FORENSIC
23 PATHOLOGIST. I WOULD ASK YOU IF YOU HAD THE OPPORTUNITY TO
24 PERFORM AN AUTOPSY ON MR. JIMMY PEELE ON SEPTEMBER THE 4TH OF
25 1992.

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 A I DID.

2 Q ALL RIGHT. AND WHERE WAS THAT AUTOPSY PERFORMED?

3 A LEXINGTON MEDICAL CENTER.

4 Q ALL RIGHT. DOES YOUR AUTOPSY INCLUDE BOTH THE PHYSICAL
5 EXAMINATION OF THE BODY ITSELF AS WELL AS BLOOD TESTS AND
6 URINE TESTS ON THE INDIVIDUAL?

7 A YES, IT IS. IT'S A COMPLETE AUTOPSY.

8 Q ALL RIGHT. AND DID YOU, IN FACT, COMPLETE A BLOOD TEST
9 AND URINE TEST ON THE INDIVIDUAL JIMMY PEELE?

10 A WE DID A BLOOD ALCOHOL AND A URINE DRUG SCREEN.

11 Q WHAT DID THE BLOOD ALCOHOL TEST SHOW YOU, DOCTOR?

12 A IT WAS NEGATIVE.

13 Q IT WAS NEGATIVE? NO ALCOHOL?

14 A RIGHT.

15 Q ALL RIGHT. YOU ALSO INDICATED THAT YOU DID A URINE DRUG
16 SCREEN ON MR. JIMMY PEELE. IS THAT CORRECT?

17 A THAT'S RIGHT.

18 Q WHAT DO YOU TEST FOR IN THE URINE DRUG SCREEN?

19 A FOR BENZODIZATINES (PHONETIC), MARIJUANA, OPIATES, PCP,
20 AMPHETAMINES. I BELIEVE -- I THINK I MAY HAVE LEFT ONE OUT.

21 Q THE WHOLE SPECTRUM?

22 A THERE ARE SIX DRUGS THAT WE TEST FOR.

23 Q ALL RIGHT. AND WHEN YOU DID THIS URINE TEST ON MR.
24 PEELE DID YOU FIND MARIJUANA IN HIS URINE?

25 A YES, SIR.

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 Q DID YOU FIND BENZODIAZAPINES (PHONETIC)?

2 A THAT'S RIGHT.

3 Q VALIUMS?

4 A VALIUM.

5 Q IN THE URINE? OK. HOW ABOUT OPIATES? DID YOU FIND ANY
6 OF THOSE?

7 A NO, THAT WAS NEGATIVE.

8 Q DID YOU FIND ANY COCAINE?

9 A NEGATIVE.

10 Q DID YOU FIND ANY BARBITURATES OR AMPHETAMINES?

11 A BOTH OF THOSE WERE NEGATIVE.

12 Q ALL RIGHT. LET ME ASK YOU SPECIFICALLY ABOUT THE DRUGS
13 THAT YOU DID FIND IN MR. PEELE'S URINE. COULD YOU TELL FROM

14 A URINALYSIS WHEN A PARTICULAR DRUG WAS INGESTED BY AN
15 INDIVIDUAL?

16 A YOU CAN SAY WITHIN A CERTAIN PERIOD OF TIME HOW LONG AGO
17 IT WOULD HAVE TO HAVE BEEN, BUT YOU CAN'T SAY THAT IT WAS
18 WITHIN A GIVEN TIME BEFORE. FOR -- CAN I SAY FOR EXAMPLE?

19 Q SURE.

20 A FOR THE VALIUM THE BENZODIATINE (PHONETIC) IT COULD'VE
21 BEEN INGESTED ANYWHERE FROM A WEEK -- IT WAS INGESTED WITHIN
22 A WEEK OF THE TIME WE DID THE TEST.

23 Q SO IF I TOOK A VALIUM AND THEN GOT URINE TESTED IN TWO
24 WEEKS IT WOULD BE OUT OF MY SYSTEM.

25 A THAT'S RIGHT.

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 Q BUT A WEEK IT MAY STILL SHOW UP.

2 A RIGHT. AND YOU MAY NOT HAVE HAD ANY SINCE -- SINCE THAT
3 WEEK AGO, AND IT STILL COULD BE POSITIVE AT THAT TIME.

4 Q SO THERE'S NO WAY YOU CAN TELL WITH ANY DEGREE OF
5 CERTAINTY WHETHER THE VALIUM THAT HAD BEEN INGESTED OR THE
6 BENZODIAZAPINE (PHONETIC) CAME A WEEK BEFORE SEPTEMBER 4TH OR
7 TWO NIGHTS BEFORE HIS DEATH.

8 A THAT'S CORRECT.

9 Q HOW 'BOUT THE MARIJUANA?

10 A IT'S THE SAME SITUATION THERE. MARIJUANA WOULD BE EVEN
11 A LITTLE BIT LONGER. THAT COULD -- MARIJUANA STAYS IN THE
12 SYSTEM EVEN LONGER SO IT COULD'VE BEEN TWO TO THREE WEEKS
13 BEFORE EVEN.

14 Q ALL RIGHT. AND NO WAY TO TELL EXACTLY WHEN IT WAS.

15 A THAT'S RIGHT.

16 Q CAN YOU TELL FROM A URINE TEST WHETHER AN INDIVIDUAL
17 WOULD'VE BEEN UNDER THE INFLUENCE OF EITHER OF THOSE DRUGS AT
18 THE TIME OF THEIR DEATH?

19 A YOU CAN'T TELL..

20 Q CAN YOU TELL ME, DOCTOR, BASED ON YOUR TRAINING WHETHER
21 THE MARIJUANA AND THE VALIUM ARE GENERALLY CONSIDERED UPPERS
22 OR DOWNERS?

23 A MORE DOWNERS. VALIUM IS A SEDATIVE TYPE, SO IT'S A
24 DOWNER, AND MARIJUANA IS BASICALLY A DOWNER. IT CAN HAVE AN
25 INITIAL STIMULANT EFFECT BUT IT'S---

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 Q DO THESE DRUGS GENERALLY CAUSE AN INDIVIDUAL TO BE
2 VIOLENT AND AGGRESSIVE, SAY, FOR INSTANCE, LIKE P.C.P. DOES?

3 A NOT TO MY KNOWLEDGE.

4 Q DOCTOR, YOU ALSO PERFORMED A PHYSICAL EXAMINATION ON MR.
5 PEELE'S BODY. IS THAT CORRECT?

6 A THAT'S CORRECT.

7 Q AND THAT EXAMINATION WOULD BE TO DETERMINE THE CAUSE OF
8 DEATH?

9 A THAT'S RIGHT.

10 Q WERE YOU ABLE TO DETERMINE WHAT THE CAUSE OF DEATH WAS
11 ON MR. JIMMY PEELE?

12 A YES. CAN I SUMMARIZE THE FINDINGS OR---

13 Q YES, SIR.

14 A YOU KNOW, I FOUND ENTRANCE GUNSHOT WOUNDS: ONE TO THE
15 HEAD; TWO TO THE CHEST, AND ONE TO THE ABDOMINAL REGION. THE
16 HEAD WOUND -- THERE WERE NO EXIT WOUNDS SO ALL OF THE BULLETS
17 STAYED IN THE BODY AND THEY ALL CAUSED A LOT OF HEMORRHAGE.
18 THE HEAD WOUND MAY HAVE BEEN COMPATIBLE WITH -- WITH LIFE,
19 BUT ALL FOUR TOGETHER, I THINK, CAUSED A GOOD DEAL OF
20 HEMORRHAGE.

21 Q ALL RIGHT.

22 A BLOOD LOSS.

23 Q ALL RIGHT. WERE YOU ABLE DURING THE COURSE OF YOUR
24 AUTOPSY TO RECOVER ANY OF THE BULLETS?

25 A I FOUND THREE OF THE FOUR. I FOUND ALL FOUR --

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 DOCUMENTED THE PRESENCE OF ALL FOUR BY X-RAY BUT I WAS NOT
2 ABLE TO FIND THE FOURTH ONE PHYSICALLY. IT WAS BURIED DOWN
3 IN SOME OF THE SOFT TISSUE DOWN AROUND THE PELVIS AND I
4 COULDN'T LOCATE IT.

5 Q YOU RECOVERED HOW MANY OF THE BULLETS THAT HAD ENTERED?

6 A THREE.

7 Q AND WHAT DID YOU DO WITH THE BULLETS THAT YOU RECOVERED?

8 A I SUBMITTED THEM FOR BALLISTICS ANALYSIS.

9 Q DID YOU GIVE THEM TO CHARLIE CATO?

10 A I DID.

11 Q ONE BULLET REMAINED IN THE BODY?

12 A THAT'S RIGHT.

13 Q DID YOU MENTION BEFORE THAT YOU HAD TAKEN SOME X-RAYS OF
14 MR. PEELE?

15 A THAT'S RIGHT.

16 Q LET ME SHOW YOU THESE AND ASK YOU IF YOU RECOGNIZE WHAT
17 THEY ARE.

18 A THOSE ARE THE ONES WE TOOK PHOTOGRAPHS OF THE X-RAYS.

19 Q ALL RIGHT.

20 MR. GREGORY: NO OBJECTION.

21 THE COURT: NO OBJECTION. (STATE'S EXHIBIT #24 RECEIVED
22 IN EVIDENCE.)

23 Q DOCTOR, REFERRING TO STATE'S -- IF YOU CAN STEP DOWN FOR
24 ME. REFERRING TO STATE'S 24 IN EVIDENCE, WOULD YOU DESCRIBE
25 TO THE LADIES AND THE GENTLEMEN ON THE JURY AND IF YOU COULD

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 SPIN AROUND JUST A LITTLE BIT SO EVERYBODY CAN SEE YOU WHAT
2 THAT X-RAY SHOWS.

3 A FOR ALL---

4 Q WELL, LET'S DO THESE SIX AND THEN MOVE DOWN---

5 THE COURT: DO ABOUT SIX AND THEN MOVE DOWN AND THEN DO
6 SIX.

7 A THIS IS AN X-RAY TAKEN OF THE ABDOMINAL REGION THIS
8 PART. THIS WOULD BE THE SPINAL COLUMN. THESE TWO SHAPES
9 WHICH WOULD BE THE TWO HIP BONES, AND SO THE X-RAY SHOWS
10 THREE DIFFERENT BULLETS. THIS IS ONE WHICH IS LOCATED IN THE
11 SKIN, SOFT TISSUE OVER ON THE LEFT SIDE. THIS WOULD BE THE
12 LEFT, YOU KNOW, LOOKIN' AT SOMEBODY AS THOUGH YOU WOULD BE
13 LOOKIN' AT ME NOW. SO THIS WOULD BE THE LEFT. SO THIS IS
14 ONE BULLET HERE, AND THESE TWO BULLETS DOWN IN THE PELVIC
15 REGION.

16 Q ALL RIGHT. SLIDE DOWN HERE AND SHOW THE NEXT GROUP.

17 A THIS IS THE SPINAL COLUMN AND THESE TWO LINGUAL SHAPED
18 OBJECTS ARE THE TWO HIP BONES. THIS WOULD BE THE PELVIC
19 REGION. THIS WOULD BE THE STOMACH. YOU WOULD BE LOOKIN' AS
20 YOU'RE LOOKIN' AT ME NOW. SO THIS -- YOU HAVE THREE BULLETS
21 DOCUMENTED ON THE X-RAY. THIS IS ONE OVER ON THE LEFT SIDE
22 OF THE ABDOMINAL REGION AND TWO DOWN IN THE PELVIS.

23 Q AND WHICH BULLET WERE YOU NOT ABLE TO RECOVER? CAN YOU
24 TELL US.

25 A IT WOULD BE ONE OF THESE TWO, AND I COULDN'T SAY WHICH

KITT MCMASTER - DIRECT BY MR. RIDDLE

ONE OF THESE TWO IT IS.

Q IF YOU WOULD SHOW THEM WHICH -- WHICH TWO YOU'RE REFERRING TO.

A I'VE GOT -- LIKE I THINK I SAID BEFORE, I GOT THIS ONE OUT OF THE SKIN OVER ON THE LEFT SIDE. SO IT'S ONE OF THESE TWO THAT I DID NOT GET.

Q NOW LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S 25 IN EVIDENCE AND ASK THAT YOU EXPLAIN THAT AS WELL.

A THIS IS AN X-RAY OF THE SKULL. THIS WOULD BE THIS ONE DOWN HERE WAS TAKEN IN THIS DIRECTION SO THIS WOULD BE A LATERAL ONE. IT WOULD BE TAKEN THIS WAY. WE HAVE -- I DON'T KNOW IF YOU CAN SEE TOO WELL, BUT THE BULLET IS RIGHT HERE, IT WOULD BE DOWN AT THE BASE OF THE BRAIN, SO IT'S WITHIN THE SKULL AND WE CAN'T REALLY SEE THAT BULLET ON THE LATERAL X-RAY BUT THERE ARE SOME LITTLE FRAGMENTS THAT WHEN THE BULLET FRAGMENTED WHEN IT ENTERED THE SKULL CAUSING FRAGMENTATION. THIS IS BOTH OF THESE ARE SKULL X-RAYS. THIS ONE IS TAKEN IN THIS DIRECTION, AND THIS ONE IS TAKEN IN THIS DIRECTION. THIS YOU SEE THE WHITE JUST LIKE ON THE OTHER X-RAYS, THE BULLET, IT'S WITHIN THE SKULL ITSELF HAVING ENTERED SOMEWHERE ON THE RIGHT SIDE OF THE HEAD UP HERE. SO IT'S LYING AT THE BASE OF THE BRAIN. THESE WHITE, FRAGMENTED, IRREGULARLY SHAPED OBJECTS ARE JUST BULLET FRAGMENTS THAT, YOU KNOW, THE BULLET SPLIT WHEN IT WENT THROUGH THE BONE.

Q THANK YOU, DOCTOR. JUST BRIEFLY, DO ANY OF THESE

KITT MCMASTER - DIRECT BY MR. RIDDLE

1 ENTRANCE WOUNDS -- WERE YOU ABLE TO MAKE A DETERMINATION HOW
2 CLOSE OR HOW FAR AWAY THE INDIVIDUAL WAS SHOT?

3 A I SAY FOR ALL FOUR OF THEM THAT IT WAS AT LEAST TWO OR
4 THREE FEET AWAY.

5 Q HOW DO YOU KNOW THAT, DOCTOR?

6 A THERE ARE JUST CERTAIN CHARACTERISTICS OF A WOUND.
7 THERE'S NO IF A -- IF A -- THE RANGE OF FIRE IS LIKE ONE FOOT
8 AWAY OR SIX INCHES AWAY YOU WOULD SEE SOME BLACKENING AND
9 BURN OF THE SKIN AND SOOT, THIS KIND -- THESE KINDS OF---

10 Q THAT'S CAUSED BY THE GUNPOWDER?

11 A RIGHT.

12 Q AND IF IT'S FARTHER AWAY THEN APPROXIMATELY HOW FAR DO
13 YOU LOSE THE GUNPOWDER BURNS?

14 A ABOUT TWO FEET.

15 Q OK. BUT---

16 A IT'S---

17 Q ---YOU CAN'T TELL IF SOMETHING IS SIX FEET OR EIGHT FEET
18 OR NINE FEET.

19 A NO, YOU CAN'T.

20 Q BUT YOU CAN TELL US IF THEY'RE CLOSER---

21 A IS AT LEAST TWO FEET AWAY.

22 Q THAT'S ALL I HAVE. THANK YOU, DOCTOR.

23 A OK.

24 CROSS-EXAMINATION

25 BY MR. GREGORY

KITT MCMASTER - CROSS BY MR. GREGORY

1 Q ONE QUESTION, DOCTOR. IN YOUR EXAMINATION OF MR. PEFIF,
2 DID YOU DETERMINE HIS SIZE?

3 A HIS WEIGHT AS I RECALL WAS 200, 250 POUNDS. THAT'S AN
4 ESTIMATE; THAT'S NOT A WEIGHT.

5 Q OK.

6 A AND HEIGHT WE -- IT SHOULD BE IN THE PROTOCOL. I DO NOT
7 RECALL.

8 Q ALL RIGHT. THANK YOU, SIR.

9 A ALL RIGHT.

10 THE COURT: THANK YOU, SIR. WITHOUT OBJECTION HE IS
11 EXCUSED.

12 MR. RIDDLE: THANK YOU.

13 THE COURT: MADAM FOREMAN, LADIES AND GENTLEMEN OF THE
14 JURY, AT THIS TIME I'M GOING TO EXCUSE YOU FOR THE EVENING.
15 I HATE TO KEEP YOU SO LATE, BUT DUE TO SOMETHIN' SEVERAL
16 MONTHS AGO, I HAVE SOMETHING TOMORROW. I'M GOING TO EXCUSE
17 YOU ALL AND I'LL ASK YOU TO EAT YOUR LUNCH AND TO BE HERE IN
18 THE JURY ROOM AT ONE O'CLOCK TOMORROW. EAT YOUR LUNCH BEFORE
19 YOU COME. DON'T DISCUSS THE CASE WITH EACH OTHER OR WITH
20 ANYONE. IF ANYONE TRIES TO DISCUSS IT WITH YOU, TAKE THE
21 NAME AND REPORT TO ME. BE BACK THERE IN YOUR JURY ROOM AT
22 ONE O'CLOCK. EVERYBODY REMAIN SEATED WHILE THE JURY LEAVES.
23 (THE FOLLOWING OCCURRED IN THE ABSENCE OF THE JURY.) WHO'S
24 ON HIS BOND?

25 - MR. MCMAHON: YOUR HONOR, HE'S IN JAIL.

1 THE COURT: WE'LL LEAVE HIM THERE. ALL RIGHT. ONE
2 O'CLOCK.

3 MR. MCMAHON: ONE O'CLOCK?

4 THE COURT: ONE O'CLOCK.

5 MR. MCMAHON: WE MAY HAVE -- WE MAY HAVE ONE MORE
6 WITNESS. I'M NOT SURE.

7 THE COURT: ALL RIGHT. ONE O'CLOCK. (THE FOLLOWING
8 OCCURRED THE NEXT DAY.) YES, SIR? WHAT DO YOU SAY, MR.
9 GREGORY? DID YOU SEE THE MOTION?

10 MR. GREGORY: YOUR HONOR, OF COURSE WE OBJECT TO THIS
11 MOTION VERY VEHEMENTLY ON THE GROUNDS THAT THIS IS A BASIC
12 PART OF THE DEFENSE'S CASE IN THIS SITUATION.

13 THE COURT: NOT AS BETWEEN THE DEFENDANT AND THE
14 DECEASED. IT WOULD BE AS BETWEEN THE DECEASED AND THE WIFE
15 OR SOMETHIN' BUT IT WOULDN'T BE. I DON'T THINK YOU CAN GO
16 INTO THAT.

17 MR. GREGORY: WELL, I THINK I NEED TO EXPLAIN IT A
18 LITTLE BIT MORE IN DETAIL WHAT'S TRANSPIRED HERE.

19 THE COURT: WELL, I DON'T KNOW THAT YOU CAN EXPLAIN IT.
20 BETTER LET THE WITNESS EXPLAIN IT; THEN WE CAN CROSS IT AS WE
21 GO TO IT, BUT I DON'T THINK YOU CAN GO INTO DETAILS OF ANY
22 PRIOR ACTS WITH JIMMY PEELE AND SALLY PEELE.

23 MR. GREGORY: WELL, YOUR HONOR, IT GOES DIRECTLY ON
24 POINT AND DUE TO THE FACT THAT THIS CHARACTERIZES HIS
25 PROPENSITY WHICH IS THE NATURE OF THE BEAST. WHEN HE WALKED

1 INTO THE ROW-WOW BOUTIQUE ARMED AFTER HAVING BEEN THREE HOURS
2 EARLIER IN A CONFRONTATION, OBVIOUSLY IT WAS FOR THE PURPOSE
3 OF CREATING ANOTHER CONFRONTATION, THIS TIME BROUGHT ON BY
4 HIMSELF. THESE PRIOR ACTS BETWEEN THE HUSBAND AND THE WIFE
5 CERTAINLY BOLSTER OUR DEFENSE THEORY THAT WE'RE DEALING HERE
6 WITH A RAMBO TYPE INDIVIDUAL WHO HAS AT THIS POINT TURNED
7 INTO A VIGILANTE COMMITTEE OF ONE, AND IT WOULD APPEAR THAT
8 WITH THE SPOUSE, THE WIDOW BEING ABLE TO TESTIFY ABOUT PRIOR
9 SITUATIONS THAT SHE HAD ENCOUNTERED AND OTHER WITNESSES THAT
10 CAN VERIFY WHAT THEY HAVE SEEN, OBVIOUSLY SHOULD BACK UP THE
11 DEFENSE THEORY THAT MR. FRED RUTLAND HAD NO ALTERNATIVE UNDER
12 THE CIRCUMSTANCES BUT TO DO WHAT HE DID WHICH IS OUR WHOLE
13 CASE OF SELF DEFENSE.

14 THE COURT: WELL, SOLICITOR, WHAT DO YOU SAY ABOUT THAT?

15 MR. MCMAHON: YOUR HONOR, I THINK IT'S EXACTLY AS HIS
16 HONOR SAID. IF WE WERE TRYIN' MS. PEELE, I THINK IT WOULD GO
17 TO THE ISSUE OF HER STATE OF MIND AND THE PRIOR ACTS OF
18 VIOLENCE THAT MAY OR MAY NOT HAVE EXISTED BETWEEN HER AND THE
19 VICTIM, BUT HERE YOU'RE DEALIN' WITH A SITUATION OF A THIRD
20 PARTY NON-RELATED PARTY THAT IS TRYIN' TO BOOTSTRAP THAT IN
21 AND SAY I ACTED IN SELF DEFENSE BASED ON SOME ALLEGED
22 BATTERED WIFE DEFENSE THAT MY MISTRESS MAY OR MAY NOT HAVE,
23 AND I THINK WHAT HAS COME IN SO FAR MAY GO TO HIS STATE OF
24 MIND FROM HIS STATEMENTS ALONE, BUT I DON'T THINK YOU CAN
25 THEN BOLSTER THAT TESTIMONY BY BRINGIN' IN EXTRINSIC EVIDENCE

1 OF ANY PRIOR ACT OF -- OF PHYSICAL VIOLENCE BETWEEN MR. PEELE
2 AND MS. PEELE AS FAR AS THAT IN THE DEFENSE OF MR. RUTLAND.
3 MR. RUTLAND CAN SAY WHAT HE'S ALREADY SAID, BUT YOU CAN'T
4 BRING IN EXTRINSIC EVIDENCE OF THAT, YOUR HONOR. THE CASE OF
5 STATE -VS- HILL MAKES BATTERED WIFE SYNDROME A DEFENSE AS TO
6 THE BATTERED WIFE. I KNOW OF NO CASE WHERE---

7 THE COURT: I DON'T KNOW OF ANY CASE WHERE IT MAKES THE
8 BOYFRIEND---

9 MR. MCMAHON: ---THAT IT'S HELD THAT THAT WOULD EXTEND
10 TO THIRD PARTIES PARTICULARLY AS IT GOES TO THE ISSUE OF
11 SOLELY SELF DEFENSE, AND, YOUR HONOR, I THINK THAT'S WHAT
12 THEY'RE ATTEMPTING TO DO OR I BELIEVE THAT'S WHAT HE'S
13 ATTEMPTIN' TO DO. THAT'S WHY I MADE MR. RIDDLE PREPARE --
14 EXCUSE ME -- THAT'S WHY MR. RIDDLE PREPARED THE MOTION IN
15 LIMINE SO THAT THAT IRRELEVANT AND INAPPROPRIATE TESTIMONY
16 WOULD NOT GO TO THE JURY. I DON'T THINK IT'S RELEVANT TO ANY
17 ISSUE---

18 THE COURT: ANYBODY HAS A RIGHT TO COME TO THE DEFENSE
19 OF A MEMBER OF THEIR FAMILY. THEY HAVE A RIGHT TO COME TO
20 THEIR DEFENSE. THEY STAND IN THE SAME SHOES THEY STAND IN,
21 BUT I DON'T THINK THERE ARE ANY SHOES TO STAND IN AT THIS
22 PARTICULAR TIME ACCORDIN' TO THE FACTS THIS FAR THAT THIS
23 JURY'S HEARD.

24 MR. MCMAHON: JUDGE, I DON'T KNOW OF A CASE THAT WOULD
25 EXTEND OR BOOTSTRAP IT TO A THIRD PARTY AND BOYFRIEND WHEN

1 THERE -- THERE IS NO EVIDENCE IN THE RECORD AT THIS POINT ON
2 THE DAY IN QUESTION THAT THE PRIOR ACT THAT OCCURRED WHERE
3 HE'S CHARGED WITH POINTIN' AND PRESENTIN'. THE ONLY EVIDENCE
4 IN THE RECORD THERE SO FAR IS THAT MS. PEELE WAS ARMED, THAT
5 MR. RUTLAND WAS ARMED, AND MR. PEELE WAS NOT ARMED, AND THEN
6 LATER ON THAT DAY THERE IS NO EVIDENCE THAT ANY WORDS PASSED
7 BETWEEN MR. PEELE AND ANYBODY AT THE BOW-WOW BOUTIQUE.

8 THE COURT: I'M GONNA GRANT THE MOTION AT THIS TIME.
9 I'LL LET YOU SEE WHAT YOU CAN BRING UP AND SEE WHAT THEY
10 COME---

11 MR. GREGORY: YOUR HONOR, I WOULD LIKE TO MAKE ONE
12 FURTHER POINT---

13 THE COURT: YES, SIR.

14 MR. GREGORY: ---WITH REGARD TO THE MOTION. I'VE HANDED
15 UP TO THE COURT DURING THE ARGUMENTS HERE THE DEFENDANT'S
16 REQUEST TO CHARGE NUMBER ONE, TWO AND THREE, AND WOULD LIKE
17 TO---

18 THE COURT: I THINK THOSE IN THE -- THOSE'LL BE IN THE
19 GENERAL CHARGE.

20 MR. GREGORY: WELL, I'D LIKE TO POINT PARTICULAR
21 EMPHASIS TO OUR REQUEST NUMBER ONE---

22 THE COURT: ---MEANS OF ESCAPE. I DON'T KNOW ABOUT---

23 MR. GREGORY: THE ARGUMENT WAS THAT HE COULDN'T
24 BOOTSTRAP UP BECAUSE HE WASN'T A MEMBER OF THE FAMILY. WELL,
25 IN STATE V. HAYES A 1922 CASE, THIS THEORY IS ALSO MENTIONED

1 AGAIN AS LATE AS 1992 IN STATE V. BOLTON THAT ANY RELATIVE,
2 FRIEND OR BYSTANDER MAY TAKE THE LIFE OF A MALICIOUS
3 ASSAILANT WHERE THERE IS REASONABLE MEANS OF ESCAPE. WHERE
4 THERE'S NO REASONABLE MEANS OF ESCAPE PROPER. AND---

5 THE COURT: WELL, I'LL CHARGE THE -- I'LL CHARGE THAT
6 BUT I DON'T KNOW HOW YOU'RE -- SO FAR UP TO NOW THE FACTS
7 DON'T -- DON'T WARRANT WHAT YOU SAY ABOUT THE THIRD CLEARED
8 PARTY SO WE'LL START AND SEE WHAT YOU PUT UP.

9 MR. MCMAHON: JUDGE, I DON'T HAVE ANY PROBLEM WITH
10 DEFENSE OF OTHERS. I DON'T HAVE ANY PROBLEM WITH THAT CHARGE
11 WHATSOEVER. I HAVE A CHARGE -- A PROBLEM WITH THE BATTERED
12 WIFE SYNDROME EVIDENCE COMIN' IN AS FAR AS SALIY PEELE IS
13 CONCERNED.

14 THE COURT: YES, WELL, YES, SIR. WELL, I'M GONNA RULE
15 THAT OUT.

16
17 MR. MCMAHON: IF SHE HAD A RIGHT TO SELF DEFENSE AND HE
18 CAN -- HE CAN BOOTSTRAP THAT TO MR. RUTLAND. I DON'T HAVE A
19 PROBLEM WITH THAT WHATSOEVER. I'M NOT OBJECTING TO THAT TYPE
20 OF EVIDENCE.

21 THE COURT: I KNOW WHAT YOU OBJECTIN' TO. DON'T GO INTO
22 THAT.

23 MR. MCMAHON: YES, SIR. THANK YOU.

24 THE COURT: BRING THE JURY IN.

25 MR. MCMAHON: YOUR HONOR, WE REST NOW. DID YOU WANNA

1 HEAR---

2 THE COURT: ALL RIGHT. WAIT A MINUTE. WHOA.

3 MR. MCMAHON: ---MOTIONS?

4 THE COURT: LET'S NOTE THE MOTIONS. MARK 'FM HEARD
5 USUAL AND UNUSUAL OR YOU WANNA PUT 'EM IN THE RECORD NOW, MR.
6 GREGORY?

7 MR. GREGORY: YOUR HONOR, WE CAN JUST MARK 'FM HEARD.

8 THE COURT: ALL RIGHT. MARK THE MOTIONS HEARD, USUAL OR
9 UNUSUAL. WITHOUT PREJUDICIN' THE RIGHTS OF DEFENDANT TO GO
10 FORWARD. BRING THE JURY. (THE FOLLOWING OCCURRED IN THE
11 PRESENCE OF THE JURY.) STATE WAIVE A -- STATE WAIVE A
12 POLLIN' OF THE JURY?

13 MR. MCMAHON: YES, SIR.

14 THE COURT: DEFENSE WAIVE THE POLLIN'?

15 MR. GREGORY: YES, YOUR HONOR.

16 THE COURT: YOU MAY PROCEED.

17 MR. RIDDLE: YOUR HONOR, AT THIS TIME THE STATE WOULD
18 REST.

19 THE COURT: WE GOT BACK REALLY AT 12, BUT WE WERE HERE
20 AT ONE BUT WE TOOK UP SOME MATTERS WHERE WE WOULDN'T HAVE TO
21 SEND Y'ALL BACK OUT. YOU MAY PROCEED, MR. GREGORY.

22 MR. GREGORY: MAY IT PLEASE YOUR HONOR? THE DEFENSE
23 CALLS ITS FIRST WITNESS SALLY PEELE.

24 SALLY PEELE, BEING DULY SWORN, TESTIFIES

25 AS FOLLOWS:

SALLY PEELE - DIRECT BY MR. GREGORY

1 DIRECT EXAMINATION

2 BY MR. GREGORY

3 Q MS. PEELE, WOULD YOU, PLEASE, GIVE US YOUR FULL NAME
4 AGAIN.

5 A SALLY PEELE.

6 Q AND ARE YOU A RESIDENT OF RICHLAND COUNTY OR LEXINGTON
7 COUNTY?

8 A LEXINGTON.

9 Q AND HOW LONG HAVE YOU RESIDED HERE?

10 A IN LEXINGTON?

11 Q YES.

12 A '81.

13 Q SINCE 1981?

14 A YES, SIR.

15 Q YOU ARE THE WIDOW OF JIMMY PEELE. ARE YOU NOT?

16 A YES, I AM.

17 Q AND WHEN WERE YOU AND JIMMY MARRIED?

18 A 1983.

19 Q AND YOU HAVE ANY CHILDREN?

20 A ONE DAUGHTER.

21 Q AND HER NAME?

22 A Christine P. [REDACTED]

23 Q AND HER AGE?

24 A SHE'LL BE TEN IN AUGUST.

25 Q NOW, SALLY, WHAT IS YOUR OCCUPATION? WHAT IS YOUR

SALLY PEELE - DIRECT BY MR. GREGORY

1 VOCATION?

2 A I AM A CARPENTER; I HAVE BEEN FOR ALMOST FIFTEEN YEARS.

3 Q AND WHAT DO YOU DO AS A CARPENTER? CAN YOU DESCRIBE
4 WHAT YOUR DAILY ROUTINE IS ABOUT.

5 A COMMERCIAL WORK, JACK. I GO IN, MARK OUT FOOTERS FOR --
6 TO POUR CONCRETE; I POUR CONCRETE; I LAY IN STEEL; I BUILD
7 WALLS; I PUT THE ROOF ON; PUT THE DOOR KNOBS ON; I BUILD,
8 JACK. I BUILD.

9 Q NOW THIS IS HOUSES AND BUILDINGS.

10 A YES.

11 Q HOW MANY OTHER WOMEN WORK IN THE OCCUPATION THAT YOU DO?

12 A HOW MANY DO I KNOW OF?

13 Q SURE.

14 A I'VE MET HALF A DOZEN WORKING.

15 Q UH-HUH.

16 A IT'S A WHOLE LOT MORE NOWADAYS THEN IT USED TO BE.

17 Q HOW LONG HAVE YOU BEEN IN BUSINESS?

18 A ALMOST FIFTEEN YEARS.

19 Q LAST YEAR WHERE WERE YOU WORKING AS A CARPENTER?

20 A LAST YEAR?

21 Q YES.

22 A I WAS WORKING IN SUMMERVILLE.

23 Q NOW WHAT WAS GOING ON DOWN THERE?

24 A WE WERE DOING AN ADDITION TO A WAL. MART.

25 Q NOW WHEN YOU SAY WE, WERE YOU WORKING WITH A COMPANY AT

SALLY PEELE - DIRECT BY MR. GREGORY

1 THE TIME?

2 A YES, I WAS.

3 Q AND THE NAME OF THAT COMPANY?

4 A RPR AND ASSOCIATES.

5 Q AND WHERE ARE THEY LOCATED?

6 A THEY'RE RIGHT OVER THERE OFF OF RIVER DRIVE IN COLUMBIA.

7 Q NOW WHAT WAS YOUR JOB TITLE WITH RPR, INC.?

8 A CARPENTER.

9 Q AND WHAT WERE YOU DOIN' AT THE WAL. MART? WHAT FUNCTION
10 WERE YOU---

11 A I WAS A CARPENTER WITH HELPERS. I DID FOOTERS WHICH IS
12 CONCRETE UP UNDERNEATH THE CONCRETE SLAB. I DID THE FORMS
13 FOR THE CONCRETE SLAB ITSELF. LIKE I SAID BEFORE, I BUILT
14 THE WALLS; I BUILT STEPS; I JUST BASICALLY, JACK, ANYTHING
15 THAT NEEDED TO BE DONE. EVERYTHING FALLS UNDER CARPENTER.

16 Q ALL RIGHT. WHAT WERE THE DATES THAT YOU WERE EMPLOYED
17 THERE?

18 A I WAS EMPLOYED FROM MARCH THE 3RD UNTIL JULY THE 9TH
19 1992.

20 Q ALL RIGHT. WHERE WERE YOU LIVIN' AT THIS TIME?

21 A IN PELION, SOUTH CAROLINA.

22 Q AND HOW DID YOU GET BACK AND FORTH TO SUMMERVILLE?

23 A I HAD A '76 CHEVROLET CAPRICE THAT I WAS DRIVING BACK
24 AND FORTH.

25 Q SO YOU COMMUTED EVERY DAY?

SALLY PEELE - DIRECT BY MR. GREGORY

- 1 A EVERY DAY.
- 2 Q AND WHO WERE YOU LIVING WITH AT THIS TIME?
- 3 A JIMMY PEELE.
- 4 Q YOUR HUSBAND.
- 5 A CHRISTINE OF COURSE.
- 6 Q AND YOUR DAUGHTER.
- 7 A YES.
- 8 Q AND WHAT ADDRESS?
- 9 A [REDACTED], PELION.
- 10 Q AND HAD YOU AND YOUR HUSBAND BEEN LIVING THERE FOR A
- 11 GOOD PERIOD OF TIME?
- 12 A ABOUT THREE YEARS.
- 13 Q NOW WHAT TYPE OF HOME IS THAT, MS. PEELE?
- 14 A IT'S A MOBILE HOME.
- 15 Q CAN YOU DESCRIBE THE AREA AROUND THE MOBILE HOME AND
- 16 WHERE IT'S LOCATED IN PELION.
- 17 A IT'S OFF OF OLD CHARLESTON HIGHWAY. I'M NOT IF ANY OF
- 18 YOU ARE FAMILIAR. OLD CHARLESTON CONNECTS WITH 302. THE
- 19 AREA IMMEDIATELY AROUND THE MOBILE HOME IS TWO ACRES OF
- 20 PRETTY MUCH LAWN, SCRUB OAKS AND OPEN.
- 21 Q ARE THERE ANY OTHER HOUSES NEARBY?
- 22 A NEARBY? THERE'S A HOUSE PROBABLY, I GUESS IT'S ABOUT
- 23 MAYBE 125 FEET TO THE LEFT FROM MY TRAILER. THERE WAS A
- 24 TRAILER OVER IN FRONT. I DON'T KNOW FOR SURE, MAYBE 300
- 25 FEET, MAYBE 300 FEET, AND THE ADJACENT LOT IS EMPTY.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q IS THIS A MOBILE HOME PARK?

2 A NO, IT'S NOT.

3 Q WHO OWNS THE LAND THERE?

4 A THOMAS HAMMOND.

5 Q SO YOU WERE RENTING THE TWO ACRES?

6 A YES, I WAS.

7 Q AND YOUR DAUGHTER I'M ASSUMING IS IN SCHOOL..

8 A YES.

9 Q AND WHAT GRADE IS SHE IN?

10 A SHE'S IN FOURTH.

11 Q NOW TELL US A LITTLE BIT ABOUT YOUR HUSBAND JIMMY PEELE.

12 WAS HE WORKING LAST YEAR?

13 A WELL, IT WOULD DEPEND ON WHAT TIME LAST YEAR.

14 Q WELL, START IN JANUARY AND TAKE ME THROUGH DECEMBER.

15 A JANUARY THROUGH DECEMBER. IF I HAD TO TAKE A GUESS I'D
16 SAY---

17 Q NOW I DON'T WANT YOU TO GUESS; I WANT YOU TO TELL ME
18 WHAT YOU REMEMBER.

19 A OK. I'D SAY, JACK, HE WAS OUTTA WORK ABOUT FOUR MONTHS
20 LAST YEAR. ABOUT FOUR.

21 Q AND HOW LONG WAS HE OUTTA WORK?

22 A ABOUT FOUR MONTHS.

23 Q WHAT PERIOD OF TIME?

24 A HE WAS OUT OF WORK RIGHT AFTER CHRISTMAS, AND HE WAS OUT
25 OF WORK IN THE SPRING.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q AND WHERE WAS HE WORKING BEFORE HE WAS OUT OF WORK?

2 A BEFORE THE SPRING HE WAS WORKING FOR A SUB CONTRACTOR
3 CARPENTER THAT LIVED RIGHT AROUND THE CORNER FROM US. HIS
4 NAME WAS JOHNNY DIAL. AND IN THE WINTER HE WAS WORKING FOR A
5 COMPANY CALLED HUTCHINSON ELECTRIC. THEY'RE OUT OF MACON,
6 GEORGIA.

7 Q WHAT WAS MR. PEELE, THAT'S JIMMY PEELE YOUR HUSBAND'S
8 EXPERTISE?

9 A HE WAS AN ELECTRICIAN.

10 Q DID HE WORK ON THE SAME JOB THAT YOU WORKED ON YOU BEING
11 A CARPENTER AND HIM BEING AN ELECTRICIAN?

12 A ONE TIME WE ENDED UP ON THE SAME JOB TOGETHER, JACK,
13 SOME YEARS AGO. I THINK IT WAS ABOUT '85.

14 Q WOULD THAT HAVE BEEN A COMMERCIAL JOB OR RESIDENTIAL
15 JOB?

16 A IT WAS A RESIDENTIAL JOB.

17 Q AND HOW DID THAT SITUATION WORK OUT?

18 A IT DIDN'T.

19 Q WHY IS THAT?

20 A JIMMY BECAME JEALOUS OF MY WORK JUST FROM ALL THE GUYS.
21 YOU KNOW, THERE'S GUYS MOSTLY THAT WORK CONSTRUCTION WORK,
22 AND JUST BECAME JEALOUS AND IRRITABLE AND SO I QUIT. I QUIT.

23 Q TELL ME ABOUT THE WORK THAT YOU WERE DOING DOWN IN
24 SUMMERVILLE IN THE MIDDLE OF '92. DID YOU HAVE ANY OTHER
25 FEMALE CARPENTERS OR WORKERS ON THAT JOB?

SALLY PEELE - DIRECT BY MR. GREGORY

- []
- 1 A NO, JACK, I DIDN'T. NO.
- 2 Q HOW MANY OTHER CO-WORKERS WERE ON THAT JOB?
- 3 A LET ME THINK JUST A MINUTE. I THINK FIVE, JACK, YEAH,
- 4 I'M PRET -- YEAH, IT WAS FIVE.
- 5 Q DO YOU RECALL WHO THEY WERE?
- 6 A THERE WAS MYSELF, FRED RUTLAND, WOODROW JEFFERDS, DONNIE
- 7 SPENCER AND JOE -- I'M NOT SURE WHAT HIS LAST NAME IS AT THE
- 8 MOMENT -- ON OUR CREW.
- 9 Q THAT'S YOUR CREW.
- 10 A YES, SIR, THAT'S IN OUR CREW.
- 11 Q AND HOW MANY DIFFERENT CREWS WERE WORKING DOWN THERE?
- 12 A FOUR. THERE WERE ELECTRICIANS OF COURSE, AS A MATTER OF
- 13 FACT, FROM RIGHT UP THERE IN LEXINGTON, AND THERE WERE SHEET
- 14 METAL WORKERS AS IN AIR CONDITIONING AND HEATING, AND SHEET
- 15 ROCKERS AND THAT'S THE FOUR.
- 16 Q AND Y'LLI THE LAST GROUP TO GO IN DURING THE
- 17 CONSTRUCTION PROCESS?
- 18 A NO, JACK. WE'RE THE FIRST ONES IN AND THE LAST ONES
- 19 OUT.
- 20 Q SO YOU'VE GOT TWO FUNCTIONS.
- 21 A WE ARE A GENERAL CONTRACTORS CREWS. YES, WE TAKE CARE
- 22 OF EVERYONE AS FAR AS WHAT THE SUBS NEED DONE SO THAT THEY
- 23 CAN PERFORM THEIR DUTIES, THAT DEPENDS ON US.
- 24 Q WHO WAS YOUR IMMEDIATE SUPERVISOR ON THAT JOB?
- 25 A FRED RUTLAND.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q FRED RUTLAND BEING THE GENTLEMAN SEATED AT MY TABLE NEXT
2 TO ME.

3 A YES, SIR.

4 Q AND IS THAT WHEN YOU MET FRED RUTLAND?

5 A YES, IT IS.

6 Q DO YOU RECALL WHEN YOU ACTUALLY MET HIM, THE DAY THAT
7 YOU MET HIM?

8 A WELL, YES, JACK, I DID BECAUSE I KEEP -- I KEEP WATCH OF
9 WHEN I START AND STOP A JOB, AND IT WAS MARCH THE THIRD 1992.

10 Q AND YOU REPORTED ON THAT JOB THAT MORNING I PRESUME.

11 A MONDAY MORNING 7:30.

12 Q AND WHAT DID YOU REMEMBER ABOUT THAT FIRST DAY?

13 A WHAT I REMEMBER ABOUT THAT FIRST DAY WAS WELL, I'D NEVER
14 BEEN TO THAT LOCATION BEFORE SO I WAS UP EARLY AND TO MAKE
15 SURE I HAD PLENTY ENOUGH TIME TO GET THERE ON TIME AND WE
16 WERE DIGGIN' FOOTERS AND LAYIN' IN STEEL. OF COURSE I MET
17 EVERYONE AND IT SEEMED EVERY -- YOU KNOW, THEY SEEMED A
18 LITTLE BEHIND, BUT, YOU KNOW, IT'S NO PROBLEM IF WE COULD GET
19 ROJJIN'.

20 Q NOW WHEN YOU REPORTED TO WORK EVERY MORNING, WHO DID YOU
21 REPORT TO FIRST?

22 A FIRST?

23 Q YES.

24 A FIRST YOU GO IN AND SIGN IN AND THEN YOU REPORT TO YOUR
25 IMMEDIATE SUPERVISOR WHICH WOULD'VE BEEN FRED RUTLAND.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q SO YOU SAW HIM EVERY MORNIN' FIRST THING.

2 A YES, SIR.

3 Q NOW HOW LONG WERE YOU EXPECTED TO WORK A PARTICULAR DAY?
4 WERE YOU WORKIN' EIGHT HOURS A DAY OR TEN HOURS A DAY?

5 A WELL, INITIALLY IT WAS EIGHT, TWO TEN, DEPENDING UPON
6 WHAT NEEDED TO BE DONE, BUT NOW, JACK, LIKE I SAY, IT WAS A
7 LITTLE BEHIND, SO IT WASN'T -- IT WAS -- IT WASN'T TOO LONG
8 BEFORE WE STARTED DOIN' OVERTIME. WE COULD WORK ANY HOURS
9 NECESSARY TO GET THE JOB DONE. THAT IS CONSTRUCTION.

10 Q WERE YOU ABLE TO MAKE THE COMMUTE BACK AND FORTH FROM
11 PELION EVERY DAY WITHOUT ANY TROUBLE?

12 A WELL, NO, JACK, I MEAN IT CAUSED A LITTLE BIT OF TROUBLE
13 HERE BACK AND FORTH. I HAD AN ALTERNATOR GO OUT ON MY CAR.
14 I HAD A COUPLE THINGS, YOU KNOW, COUPLE LITTLE MINOR THINGS,
15 BUT STILL, YOU KNOW, ON OCCASION.

16 Q BESIDES CAR TROUBLE DID YOU HAVE ANY OTHER PROBLEMS
17 GETTING TO WORK ON TIME OR GETTING TO WORK AT ALL?

18 A WELL, LATER ON FROM THEN I DID, JACK. JIMMY DECIDED
19 THAT THERE WAS A PROBLEM AT WORK AND WOULD DO THINGS OF A
20 NATURE OF MESSIN' UP THE CAR---

21 MR. RIDDLE: YOUR HONOR, I'M GOING TO OBJECT AT THIS
22 TIME. THIS IS EXACTLY WHAT THE MOTION IN LIMINE WAS ABOUT.

23 THE COURT: DON'T GO INTO SOMEBODY MESSIN' UP THE CAR.
24 I DON'T KNOW THAT IT'S RELEVANT TO THIS. GO AHEAD.

25 Q OTHER THAN THE CAR ARE THERE ANY OTHER PROBLEMS THAT YOU

SALLY PEELE - DIRECT BY MR. GREGORY

1 ENCOUNTERED WITH YOUR WORK IN SUMMERVILLE?

2 A I'M NOT SURE EXACTLY WHAT IS UP AS FAR AS THE MOTION.

3 Q LET ME ASK YOU THIS QUESTION: IS YOUR JOB A PHYSICAL
4 JOB?

5 A YES, SIR, IT IS.

6 Q DOES IT REQUIRE FOR YOU TO BE IN GOOD PHYSICAL
7 CONDITION?

8 A CONSTANTLY.

9 Q WERE YOU ALWAYS IN GOOD PHYSICAL CONDITION?

10 A NO, SIR.

11 Q WHY?

12 A I WAS BEATEN REGULARLY.

13 MR. RIDDLE: OBJECTION, YOUR HONOR.

14 THE COURT: YEAH, I SUSTAIN THAT OBJECTION.

15 MR. RIDDLE: I'VE GOT A MATTER OF LAW AT THIS TIME.

16 THE COURT: JUST DON'T GO INTO THAT NOW. THIS IS NOT
17 BETWEEN YOU AND HIM. GO AHEAD. I WON'T SEND 'EM OUT.
18 DISREGARD THAT.

19 Q DID YOU WORK EVERY DAY ON THAT JOB BETWEEN MARCH AND
20 JULY WHEN YOU SAID THAT YOU WERE EMPLOYED IN SUMMERVILLE?

21 A NO, SIR.

22 MR. MCMAHON: JUDGE, WE'D HAVE AN OBJECTION AND A MATTER
23 OF LAW TO TAKE UP OUTSIDE THE PRESENCE OF THE JURY.

24 THE COURT: ALL RIGHT. LET THE JURY GO IN THE ROOM
25 THERE. (THE FOLLOWING OCCURRED IN THE ABSENCE OF THE JURY.)

SALLY PEELE - DIRECT BY MR. GREGORY

1 YES, SIR.

2 MR. RIDDLE: YOUR HONOR, IF IT PLEASE THE COURT? NOT
3 FIVE MINUTES AGO WE HAD A MOTION IN LIMINE WHERE I BELIEVE
4 YOUR HONOR'S RULING WAS THAT NO REFERENCES WERE TO BE MADE
5 ABOUT ANY PRIOR ALLEGED PHYSICAL ASSAULTS BY THE VICTIM ON
6 MS. PEELE.

7 THE COURT: ON THAT DAY OF -- DAY OF THE INCIDENT THEY
8 CAN BRING OUT ANY OF THAT IF IT HAPPENED ON THE DAY INCIDENT
9 BUT---

10 MR. RIDDLE: I AGREE.

11 THE COURT: ---NOT ALL THIS---

12 MR. RIDDLE: BUT ALL THIS STUFF THAT MR. GREGORY IS
13 BRINGIN' OUT THROUGH THE BACK DOOR WHAT HE CAN'T GET IN
14 THROUGH THE FRONT DOOR IS NOT ADMISSIBLE.

15 THE COURT: IT'S KINDA LIKE THE RED HOT POKER, WE DON'T
16 WANNA PUT IT IN; IT'S HARD TO PULL OUT. MR. GREGORY, LET'S
17 JUST DON'T GO INTO THAT NOW.

18 MR. GREGORY: YOUR HONOR, IF I MIGHT BE HEARD?

19 THE COURT: YES, SIR.

20 MR. GREGORY: THE REASON THAT I ASKED THESE QUESTIONS
21 WAS BECAUSE SHE HAD TO REPORT EVERY MORNING TO FRED RUTLAND.
22 SHE WAS PART OF A CREW, A WORK CREW, AND AS A PART OF THAT
23 CREW, HE HAD TO RELY ON ALL THESE PEOPLE BEIN' THERE EVERY
24 DAY AND IT BECAME A PROBLEM FOR HIM BEING ABLE TO HAVE HIS
25 CREW PERFORM WHAT THEY WERE SUPPOSED TO FOR THE ENTIRE JOB,

1 AND HE HAD TO INQUIRE OF HER AS TO WHY SHE WAS UNABLE TO BE
2 THERE. IF SHE COULDN'T PERFORM HER JOB, HE WAS GOING TO HAVE
3 TO FIND SOMEBODY ELSE TO FILL IN HER PLACE. THAT'S WHY THE
4 TWO OF THEM ULTIMATELY COMMUNICATED WITH EACH OTHER MORE THAN
5 AN EMPLOYER-EMPLOYEE RELATIONSHIP, AND THAT'S ULTIMATELY WHY
6 HE ENDED UP IN LEXINGTON, SOUTH CAROLINA AT HER REQUEST FOR
7 ASSISTANCE. I UNDERSTAND THAT THE MOTIONS HAVE BEEN MADE AND
8 GRANTED BY THE COURT---

9 THE COURT: HIS SELF DEFENSE I DON'T THINK IT -- IT'S
10 NOT HER DEFENSE.

11 MR. GREGORY: THAT'S CORRECT.

12 THE COURT: IT'S HIS DEFENSE.

13 MR. GREGORY: THAT'S CORRECT, AND I'M SIMPLY TRYING TO
14 LAY SOME GROUNDWORK TO SHOW WHY FRED RUTLAND OF SUMMERVILLE,
15 SOUTH CAROLINA ENDS UP IN LEXINGTON, SOUTH CAROLINA WHEN HE'S
16 REALLY GOT NO CONNECTION UP HERE WHATSOEVER.

17 THE COURT: WELL, HE CAN TELL WHY HE CAME UP HERE IF HE
18 WANTS TO. HE MIGHT NOT WANT TO TAKE THE STAND.

19 MR. RIDDLE: HE CAN'T TELL THE REASON HE CAME UP HERE
20 IS---

21 THE COURT: HE CAN'T TELL.---

22 MR. RIDDLE: ---BECAUSE OF ANY ALLEGED PRIOR BATTERY
23 BECAUSE THAT'S WHAT YOUR HONOR RULED ON.

24 THE COURT: AND IT'D BE HEARSAY WHAT --WHAT SHE TOLD HIM
25 THERE.

1 MR. RIDDLE: THE ISSUE IN THIS CASE IS NOT HOW HER JOB
2 PERFORMANCE WAS IN MARCH OF '92; IT'S WHAT HAPPENED ON
3 SEPTEMBER THE 4TH OF '92, AND ALL THIS ABOUT HOW SHE
4 PERFORMED ON HER JOB IS NOT RELEVANT TO THIS CASE.

5 MR. GREGORY: YOUR HONOR, IF I MIGHT POINT OUT SOMETHING
6 HERE: IN THE 4TH OF SEPTEMBER STATEMENT, THIS STATE'S
7 EXHIBIT #4, IT STATES, AND THIS IS IN EVIDENCE, SALLY WAS
8 AFRAID OF JIMMY ABOUT A WEEK BEFORE JIMMY HAD BEATEN HER WITH
9 A PIPE. WE WERE GONE FOR TEN DAYS. THERE IS ANOTHER---

10 THE COURT: WELL, THAT'S HIM SAYIN' THAT. THAT'S ALL
11 RIGHT FOR HIM TO SAY THAT.

12 MR. GREGORY: WELL, I WOULD THINK THERE MIGHT BE ON THE
13 SAME PAGE THERE -- SALLY CAME TO ME YESTERDAY AND SAID THAT
14 JIMMY WAS GETTING VIOLENT AGAIN. I MAY HAVE CALLED HER. I
15 DON'T REMEMBER. THAT'S THE WHOLE PURPOSE OF WHY I'M GOING
16 INTO THIS LINE OF QUESTIONING BECAUSE HER MAIN FUNCTION AT
17 THIS POINT IN TIME WAS TO WORK 40 HOURS A WEEK AND EARN A
18 LIVELIHOOD AND HER EMPLOYER FOREMAN, THE DEFENDANT IN THIS
19 CASE, WAS RELYING ON THAT PERFORMANCE, AND IT'S ALREADY -- I
20 WOULD SAY THAT THE CAT'S ALREADY OUT OF THE BAG AS FAR AS
21 THAT'S CONCERNED.

22 MR. MCMAHON: JUDGE, I BROUGHT THAT UP IN MY MOTION
23 ORIGINALLY THAT IT WAS ALREADY IN HIS STATEMENTS BECAUSE I
24 THINK THE LAW IS IF I PUT IN THE DEFENDANT'S STATEMENT I GOT
25 TO PUT IN ALL THE DEFENDANT'S STATEMENT; I CAN'T REDACT PART

SALLY PEELE - DIRECT BY MR. GREGORY

1 OF IT. I DON'T HAVE ANY PROBLEMS WITH THAT. THAT'S WHAT
2 I'VE MADE -- THAT'S WHAT WE MADE OUR MOTION ON WHAT HIS STATE
3 OF MIND MAY HAVE BEEN. I HAVE A PROBLEM WITH ANY EXTRINSIC
4 EVIDENCE OF BATTERING BEHAVIOR, ALLEGED BATTERING BEHAVIOR
5 WHICH I SUBMIT THERE WAS NOT, BUT THAT'S IRRELEVANT TO THIS
6 CASE. I HAVE A PROBLEM WITH EXTRINSIC EVIDENCE COMING IN
7 THROUGH THIS OR ANY OTHER WITNESS.

8 THE COURT: YEAH. WELL, I'M GONNA SUSTAIN THE OBJECTION
9 ON IT AND I ASK YOU NOT TO GO INTO IT, MR. GREGORY, NOW.

10 MR. GREGORY: ALL RIGHT, SIR.

11 THE COURT: BRING THE JURY IN.

12 (THE FOLLOWING OCCURRED IN THE PRESENCE OF THE JURY.)

13 THE COURT: YOU MAY PROCEED.

14 MR. GREGORY: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
15 COURT?

16 Q MS. PEELE, YOU HAVE POINTED OUT OR YOU HAVE DESCRIBED
17 THAT YOU WORKED IN A CREW ON THIS PARTICULAR JOB AND YOU HAVE
18 DESCRIBED SOME FOLKS WHO WORK WITH YOU. ARE THESE FOLKS IN
19 THE COURTROOM HERE TODAY?

20 A SOME OF THEM, YES, SIR.

21 Q WOULD YOU POINT 'EM OUT AND TELL US WHO THEY'RE -- GIVE
22 US THEIR NAMES.

23 A FRED RUTLAND IS MY IMMEDIATE FOREMAN OR WAS. DONNIE
24 SPENCER---

25 Q PLEASE, STAND, DONNIE.

SALLY PEELE - DIRECT BY MR. GREGORY

1 A --- IS A CARPENTER OR WAS A CARPENTER'S HELPER ON THE
2 JOB. WOODROW JEFFERDS WAS ANOTHER CARPENTER ON THE JOB.

3 Q ALL RIGHT. THANK YOU. PLEASE, SIT DOWN. NOW WHEN YOU
4 SAY A CARPENTER'S HELPER, DO CARPENTER'S WORK IN PAIRS?

5 A SOMETIMES, JACK. IT DEPENDS ON THE JOB. OK, USUALLY A
6 CARPENTER WORKS WITH A HELPER MOST ALL THE TIME.

7 Q WERE YOU THE CARPENTER OR WERE YOU THE HELPER?

8 A I WAS THE CARPENTER.

9 Q SO YOU HAD SOME HELP FROM SOMEBODY ELSE.

10 A YES, I DID.

11 Q NOW WHO WAS YOUR HELPER WHEN YOU IMMEDIATELY CAME ON
12 THIS JOB?

13 A DONNIE SPENCER.

14 Q AND HOW LONG WAS HE YOUR HELPER?

15 A UP UNTIL SOMETIME IN JUNE. UP UNTIL SOMETIME IN JUNE.

16 Q AND THEN WHO WAS YOUR NEXT HELPER AFTER DONNIE SPENCER?

17 A WOODROW JEFFERDS, BUT HE WASN'T MY HELPER. WE WERE TWO
18 CARPENTERS WORKING TOGETHER.

19 Q I UNDERSTAND. NOW DID YOUR HUSBAND JIMMY PEELE EVER
20 COME ONTO THE JOB SITE IN SUMMERVILLE?

21 A YES, SIR, HE WAS THERE TWICE.

22 Q AND WHAT WERE THOSE TWO TIMES?

23 MR. RIDDLE: OBJECTION, YOUR HONOR. WHAT RELEVANCE DOES
24 THIS HAVE TO THE CASE?

25 THE COURT: DID HE COME TO SEE YOU?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A ONCE.

2 THE COURT: WELL, YOU CAN TELL WHAT HE SAID WHEN HE CAME
3 TO SEE HER.

4 MR. MCMAHON: JUDGE, CAN WE TAKE THIS OUTSIDE THE
5 PRESENCE---

6 THE COURT: LET'S JUST DON'T GO INTO IT. I RULED ON IT
7 AND JUST LEAVE THAT OUT. I SUSTAIN THE OBJECTION.

8 MR. GREGORY: ALL RIGHT.

9 Q AT SOME POINT IN TIME, MS. PEELE, DID YOU GO TO YOUR
10 FOREMAN MR. RUTLAND AND HAVE A DISCUSSION WITH HIM ABOUT YOU
11 COMING TO WORK ON A REGULAR BASIS?

12 A YES, I DID.

13 Q MRS. PEELE, AS A RESULT OF THAT CONVERSATION WITH YOUR
14 FOREMAN DID HE COME TO LEXINGTON COUNTY?

15 A YES, HE DID.

16 Q NOW WHEN WAS THE FIRST TIME THAT MR. RUTLAND CAME TO
17 LEXINGTON COUNTY?

18 A SEPTEMBER 3RD '92.

19 Q DO YOU KNOW HOW HE GOT UP HERE?

20 A HIS WIFE JO ANNE BROUGHT HIM.

21 Q DO YOU KNOW JO ANNE RUTLAND?

22 A YES, I DO.

23 Q IS SHE IN THE COURTROOM?

24 A YES, SIR, SHE IS.

25 Q CAN YOU POINT HER OUT OR DESCRIBE HER?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A I CAN. SHE HAS LONG DARK HAIR SITTING WITH THE COLORED
2 DRESS ON BEHIND FRED.

3 Q DID YOU SEE MR. RUTLAND ON SEPTEMBER 3?

4 A YES, SIR, I DID.

5 Q AND WHERE WAS THAT?

6 A I BELIEVE IT'S CALLED THE DAY'S INN.

7 Q THAT IS A MOTEL. HERE AROUND---

8 A ON AIRPORT BOULEVARD I BELIEVE.

9 Q AND WHAT WAS THE PURPOSE OF YOU AND MR. RUTLAND MEETING
10 ON THAT DATE SEPTEMBER 3 OF 1992?

11 A HE WAS GOING TO HELP ME LEAVE LEXINGTON.

12 Q LEAVE MEANING MOVE?

13 A YES. LEAVE. IMMEDIATELY. GO AND FIND ANOTHER PLACE TO
14 STAY, ANOTHER PLACE TO LIVE, ANOTHER PLACE TO WORK AWAY
15 IMMEDIATELY.

16 Q WHY DID YOU WANNA LEAVE, SALLY PEELE?

17 A BECAUSE MY LIFE WAS IN DANGER.

18 MR. RIDDLE: OBJECTION, YOUR HONOR.

19 THE COURT: I'LL SUSTAIN THE OBJECTION.

20 Q IN PREPARING TO LEAVE, WHAT DID YOU GO THROUGH BEFORE
21 YOU COULD ACTUALLY LEAVE TOWN? DID YOU HAVE A---

22 A IMMEDIATELY BEFORE?

23 Q YES.

24 A WFTJ., THURSDAY MORNING I TOLD JIMMY---

25 MR. RIDDLE: YOUR HONOR, OBJECTION. YOU'VE ALREADY

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1 RULED THAT PRIOR DIFFICULTY IS NOT ADMISSIBLE AND MR. GREGORY
2 CONTINUES TO---

3 THE COURT: HE'S GONNA ASK HER WHAT SHE'S GONNA DO TO
4 LEAVE. SHE MIGHTA BEEN GOIN' TO PICK UP HER CHILD OR
5 SOMETHIN'.

6 MR. GREGORY: I'LL ASK IT ANOTHER WAY.

7 Q DID YOU HAVE TO PACK A SUITCASE BEFORE YOU LEFT?

8 A YES.

9 Q WHERE WERE YOUR CLOTHES, MS. PEELE?

10 A IN THE MOBILE HOME.

11 Q AND HOW WERE YOU GOING TO PACK A SUITCASE, MS. PEELE?

12 A WELL, YOU HAVE TO GO TO WHERE THE CLOTHES ARE, JACK.

13 Q WHEN DID YOU PLAN TO GO WHERE THE CLOTHES WERE TO PACK
14 THEM?

15 A I TRIED TO GET THEM PACKED THURSDAY. WHEN DID I PLAN TO
16 GET THEM? FRIDAY MORNING.

17 Q WHERE WAS -- STRIKE THAT. DID YOU KNOW WHERE YOUR
18 HUSBAND WAS FRIDAY MORNING?

19 A I THOUGHT I DID, JACK, TO THE BEST OF MY KNOWLEDGE. AS
20 OF 1 TO 1:30 IN THE MORNING HE WAS BROKEN DOWN IN
21 SUMMERVILLE, SOUTH CAROLINA.

22 Q AND WHAT CAR DID HE OPERATE AT THAT TIME?

23 A A BLUE AND WHITE CHEVROLET CAPRICE.

24 Q BROKEN DOWN MEANING THE CAR WOULD NOT OPERATE?

25 A YES, SIR.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q AND THIS WAS AT WHAT TIME OF DAY OR NIGHT?

2 A IT WAS AT NIGHT, WOULD'VE BEEN FRIDAY MORNING SOMEWHERE
3 BETWEEN 1 AND 1:30 RECEIVED PHONE CALLS THAT HE WAS BROKEN
4 DOWN.

5 Q DID HE CALL YOU?

6 A I WAS GETTING A LOT OF PHONE CALLS, BUT, NO, JIMMY DID
7 NOT CALL ME.

8 Q DID YOU GO TO THE MOBILE HOME YOUR HOME, THAT THURSDAY
9 THE 3RD OF SEPTEMBER?

10 A YES, SIR.

11 Q AND WHAT DID YOU DO AT THE MOBILE HOME ON THAT DATE?

12 A I HAD PUT A FEW THINGS IN THE SUITCASE TO LEAVE AND
13 JIMMY HAD CHANGED HIS MIND THAT I WASN'T GOING TO LEAVE
14 BECAUSE THE PRIOR NIGHT BEFORE HE HAD SAID I COULD LEAVE, AND
15 WHILE I WAS PUTTING SOME THINGS IN THE SUITCASE JIMMY MADE A
16 STATEMENT TO ME THAT HE WAS GOING TO THE STORE, THAT HE WOULD
17 BE RIGHT BACK. WELL, I WAS STILL PUTTIN' JUST A -- I HAD
18 GOTTEN A FEW THINGS AND SOME PAPERWORK TOGETHER AND IT DAWNED
19 ON ME THAT JIMMY WAS NOT GOING TO THE STORE. HE WAS GOING TO
20 DO THE SAME THING ONCE AGAIN, AND THAT'S GO AND SNATCH UP
21 CHRISTINE AND HIDE HER FROM ME IN LIEU OF KEEPING ME AT HOME.

22 Q SO ULTIMATELY WHAT DID YOU DO?

23 A I WENT STRAIGHT TO THE SCHOOL.

24 Q AND WHEN WAS THIS?

25 A THIS WAS THURSDAY AROUND LUNCH TIME.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q THE THIRD OF SEPTEMBER?

2 A YES, SIR.

3 Q 1992?

4 A UH-HUH.

5 Q WHAT SCHOOL WAS THIS?

6 A PELION ELEMENTARY.

7 Q AND WHY DID YOU GO TO THE SCHOOL?

8 A THE STATEMENT I JUST MADE, I WAS AFRAID THAT JIMMY HAD
9 WENT TO GET CHRISTINE ONCE AGAIN TO TAKE HER AWAY FROM ME,
10 AND HE HAD. WHEN I GOT TO THE SCHOOL I FOUND OUT HE HAD JUST
11 BEEN THERE TO PICK HER UP.

12 Q AND DID YOU SEE JIMMY OR CHRISTINE LATER THAT DAY?

13 A YES, I DID.

14 Q WHERE?

15 A HE CAME TO ROBIN HUNT'S HOME.

16 Q AND DID YOU MEET AND TALK WITH HIM THEN?

17 A HE CAME OUT TO THE FRONT -- I DON'T -- NO, I WAS IN THE
18 VAN. I DON'T KNOW IF I HAD JUST GOTTEN THERE OR WAS FIXIN'
19 TO LEAVE FOR SURE, JACK, BUT I WAS IN THE VAN AND HE WAS
20 STILL IN A RAGE AND THREATENIN' BOTH MINE AND ROBIN'S LIFE,
21 AND I TOLD HIM TO GO AWAY AND LEAVE ME ALONE. NOW HE DIDN'T
22 IMMEDIATELY DO THAT, BUT AFTER A WHILE OF CURSING AND
23 CARRYIN' ON, HE DID LEAVE. THE ONLY REASON -- I HAD JUST
24 GOTTEN THERE. THE ONLY REASON WHY I WOULD HAVE PULLED IN IS
25 YOU KNOW, IF I'D KNOWN HE WAS THERE, I'D NEVER PULLED IN. WE

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1 HAD JUST GOTTEN THERE. HE HAD TAKEN HIS CAR THE BLUE AND
2 WHITE CHEVY AND PARKED IT WAY AROUND BACK UP IN THE WOODS
3 WHERE NO ONE COULD SEE IT.

4 Q ALL RIGHT. SO DID YOU MEET WITH YOUR HUSBAND ANYMORE
5 THAT DAY LATER?

6 A NO, SIR.

7 Q WHERE WAS YOUR DAUGHTER AT THIS TIME?

8 A I DIDN'T KNOW, JACK. I WAS LOOKING.

9 Q DO YOU KNOW WHY HE HAD GONE TO SUMMERVILLE WHEN HE BROKE
10 DOWN THAT EVENING?

11 A NOT FOR SURE. I KNOW THAT HIM AND---

12 MR. RIDDLE: OBJECTION. SHE JUST SAID SHE DOESN'T KNOW
13 FOR SURE. IT MUST ALL COME FROM HEARSAY, YOUR HONOR.

14 THE COURT: IF YOU DON'T KNOW, JUST DON'T ANSWER IT.

15 Q ONLY IF YOU KNOW YOURSELF. WAS YOUR DAUGHTER WITH HIM?

16 A YES.

17 Q WERE THERE OTHER THINGS, MS. PEELE, YOU NEEDED TO PACK
18 THE NEXT DAY?

19 A WELL, JACK, SEE WHEN I HAD ATTEMPTED TO PACK MY SUITCASE
20 AND LEAVE, JIMMY -- AFTER I WENT TO THE SCHOOL I CAME BACK TO
21 SEE WHETHER OR NOT JIMMY HAD COME BACK AND BROUGHT CHRISTINE
22 BACK TO THE TRAILER WITH HIM AND HE WAS -- HE WASN'T IN THE
23 TRAILER, BUT HE SHOWED UP WHILE I WAS THERE BACK FROM
24 WHEREVER HE HAD BEEN.

25 Q WHAT DAY WAS THIS?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A THURSDAY.

2 Q THE THIRD OF SEPTEMBER?

3 A YES, SIR. WHEN HE FIRST CAME AROUND TO THE CAR, HE
4 SNATCHED THE DOOR OPEN; TOOK MY SUITCASE OUT; DUMPED ALL THE
5 STUFF ON THE GROUND; SLUNG THE SUITCASE IN HIS CAR. I SAY
6 ALL MY STUFF, THERE WAS VERY FEW THINGS THAT I HAD THROWN IN
7 THE SUITCASE BECAUSE I WAS IN A HURRY TO SEE IF JIMMY HAD
8 TAKEN CHRISTINE FROM SCHOOL. HE CAME TOWARDS ME AND I BACKED
9 UP A LITTLE BIT AND I DIDN'T WANNA LET HIM GET INTO THE CAR
10 BECAUSE HE WAS TRYIN' TO GET INTO MY BROWN CAR BUT I DID
11 BECAUSE I KNOW BETTER THAN TO FIGHT HIM WHEN HE'S THAT ANGRY,
12 AND HE PULLED THE HOOD LATCH ON MY CAR AND PICKED UP A 4 BY 4
13 PIECE OF WOOD ABOUT YEA LONG AND STARTED BEATING THE TOP OF
14 THE CAR WITH IT, BEATING ON THE ENGINE BASICALLY.

15 Q IS THAT HOW THE DISTRIBUTOR GOT BROKEN?

16 A YES, IT IS.

17 Q NOW THIS CAR THAT YOU'RE DESCRIBING, WHAT COLOR IS IT?

18 A IT'S A BROWN '76 CHEVROLET CAPRICE.

19 Q ALL RIGHT. WERE YOU ABLE TO DRIVE THAT CAR AWAY AT THAT
20 TIME?

21 A NO, IT WAS DISABLED FROM THE BOARD AND HIM BEATING IT.

22 Q AND HOW DID YOU LEAVE YOUR HOME THAT AFTERNOON, THE 3RD
23 OF SEPTEMBER?

24 A WELL, JACK, AFTER HE BEAT UP THE CAR HE LEFT AGAIN AND I
25 GRABBED A TRASH BAG, THREW WHAT CLOTHES WERE LAYIN' ON THE

SALLY PEELE - DIRECT BY MR. GREGORY

1 GROUND IN IT AND GRABBED MY GERMAN SHEPHERD BY THE COLLAR AND
2 STARTED WALKIN'.

3 Q AND HOW LONG DID YOU WALK?

4 A I WALKED ABOUT I'D SAY A QUARTER OF A MILE AND JIMMY
5 CAME FLYIN' BACK DOWN THE ROAD. HE SWERVED SO I MOVED --
6 TOWARDS ME, AND STOPPED AND HE SAID GET IN THE CAR, AND I
7 SAID NO. HE SAID GET IN THE CAR; I SAID NO. I WOULDN'T GET
8 IN THAT CAR FOR ALL THE MONEY IN THIS WORLD, AND HE TOOK MY
9 GERMAN SHEPHERD FROM ME. HE PUT HER IN THE CAR AND LEFT.

10 Q WHERE DID YOU GO THEN?

11 A I CONTINUED WALKING DOWN THE ROAD UNTIL I CAME UPON
12 BRENDA CUPSTED. WE'D NEVER MET BEFORE OFFICIALLY. WE'D SEEN
13 EACH OTHER BECAUSE SHE DOESN'T LIVE FAR FROM ME, AND I ASKED
14 HER IF SHE HAD A PHONE WHERE I COULD CALL A CAB TO GET OUTTA
15 PRISON. SHE DIDN'T HAVE ONE, SO SHE SAID BUT I KNOW A
16 NEIGHBOR WHO DOES, AND WE WENT TO THE NEIGHBOR'S HOUSE AND
17 CALLED THE TAXI.

18 Q AND WHERE DID THE TAXI TAKE YOU?

19 A TO ROBIN HUNT'S HOUSE. SHE WAS WITH ME DURIN' ALL OF
20 THIS.

21 Q NOW WHAT WERE SOME OTHER ITEMS THAT YOU WANTED TO TAKE
22 WITH YOU THAT YOU WERE UNABLE TO OBTAIN ON SEPTEMBER 3?

23 A WELL, ONE OF THE THINGS THAT JIMMY TOOK WHEN HE DUMPED
24 OUT MY SUITCASE WAS MY PHOTO ALBUM THAT HAD ALL OF MY
25 IMPORTANT PICTURES. BABY PICTURES.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q DIDN'T YOU PICK THAT UP AND PUT IT IN THE PLASTIC BAG?

2 A NO, I WAS PANICKY.

3 Q HAVE YOU AND YOUR HUSBAND EVER PAWNED ANY OF YOUR
4 PERSONAL BELONGINGS?

5 A YES, SIR, JACK, WE HAVE. MONEY GET TIGHT.

6 Q IS THAT A WAY OF BORROWING MONEY?

7 A YES, IT IS.

8 Q DO YOU RECALL YOUR HUSBAND PAWNING THIS SHOTGUN HERE?

9 A YES, I DO.

10 Q DO YOU RECALL WHEN HE PAWNED IT AND WHERE HE PAWNED IT?

11 A YES, JACK, HE PAWNED IT THE FIRST PART OF MAY.

12 Q I'M HOLDING STATE'S EXHIBIT #19.

13 A IT WAS A BRAND NEW -- BASICALLY BRAND NEW; IT WAS A
14 CHRISTMAS PRESENT.

15 Q HIS CHRISTMAS PRESENT?

16 A YES.

17 Q WELL, DID YOU HAVE ANY DESIRE TO OBTAIN THAT SHOTGUN
18 BEFORE YOU LEFT TOWN?

19 A YES, JACK, I DID. WE HAD LOST QUITE A FEW THINGS
20 THROUGH THE PAWN SHOP NOT PICKIN' 'EM UP ON TIME AND I ALSO
21 DIDN'T WANNA LOOK AT THE SHOTGUN FROM MAYBE ANOTHER POINT OF
22 VIEW.

23 Q WELL, MS. PEELE, DID YOU GOT TO THE PAWN SHOP THE NEXT
24 MORNING?

25 A YES, I DID.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q AND BUY THE SHOTGUN?

2 A I SURE DID.

3 Q DO YOU RECALL WHO WAS WITH YOU AT THAT TIME?

4 A YES, FRED RUTLAND AND ROBIN HUNT.

5 Q DO YOU RECALL WHAT TIME YOU GOT TO THE PAWN SHOP?

6 A IT WAS EARLY. I WAS AFRAID THAT THE GUN WAS LATE -- TOO
7 LATE FOR, YOU KNOW, HAD BEEN IN THERE TOO LONG AND I WAS
8 AFRAID IT HAD BEEN SOLD OR -- I WANTED TO CHECK AND SEE IF IT
9 WAS STILL THERE.

10 Q WELL, WHEN YOU FOUND IT THERE, WHAT DID YOU DO?

11 A I PURCHASED IT. IT WAS A \$200 SHOTGUN THAT HAD BEEN
12 PAWNED FOR \$60. I JUST COULD NOT SEE LOSIN' IT AND IT BRAND
13 NEW.

14 Q SO WHAT'D YOU PAY FOR IT?

15 A I THINK THE TOTAL WAS \$108 BECAUSE IT HAD GONE OFF AND,
16 YOU KNOW, OR WHATEVER. I'M NOT QUITE CLEAR ON IT.

17 Q LOOKIN' NOW AT STATE'S EXHIBIT #23. I'M GONNA TURN IT
18 SO YOU CAN SEE IT. IS THIS THE PURCHASE RECEIPT THAT YOU
19 RECEIVED FROM THE PAWN SHOP?

20 A LOOKS LIKE IT, YEAH, JACK.

21 Q THIS WOULD'VE BEEN ON THE MORNING OF SEPTEMBER 4. LOOKS
22 LIKE 9:44 IN THE MORNING.

23 A UH-HUH.

24 Q AND IT SAYS \$108 FOR A MOSSBERG 12-GAUGE SHOTGUN.

25 A YES.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q AND THAT'S THE SHOTGUN YOU TALKIN' ABOUT.

2 A YES.

3 Q NOW WHILE YOU WERE IN THE PAWN SHOP, MS. PEELE, DID YOU
4 PURCHASE OTHER ITEMS?

5 A YES, JACK, I DID.

6 Q WHY?

7 A WHY DID I PURCHASE OTHER ITEMS?

8 Q SURE.

9 A WELL, MY ATTENTION WAS BROUGHT TO 'EM BY ROBIN AND HER
10 STATEMENT BEING NOW WOULDN'T IT BE---

11 MR. RIDDLE: OBJECTION TO THE HEARSAY.

12 THE COURT: DON'T SAY WHAT ROBIN SAID. SHE CAN TESTIFY.

13 Q BASED ON---

14 A WHY DID I PURCHASE THE PISTOL?

15 Q YES.

16 A FOR PROTECTION.

17 Q AND WHERE WERE YOU GOIN'? YOU WERE MOVIN' SOMEWHERE.
18 DID YOU DETERMINE AT THAT POINT WHERE YOU WERE GONNA MOVE TO?

19 A I HAD THOUGHT ABOUT GOIN' TO FLORIDA BECAUSE OF THE
20 STORM. LOT OF WORK.

21 Q HADN'T TIED DOWN A SPECIFIC PLACE YET.

22 A WELL, IT WAS PRETTY MUCH, YOU KNOW, THAT WAS -- NOT TIED
23 DOWN BUT ONE OF THE -- ONE OF THE GOOD IDEAS WOULD'VE BEEN TO
24 WORK THE STORE. A LOT OF MONEY FLOW. GET SET BACK UP FAIRLY
25 QUICKLY, BUT IT WAS ONLY ONE OF THREE. NUMBER ONE, WAS

SALLY PEELE - DIRECT BY MR. GREGORY

1 I.FAVE. PERIOD. GET OUT OF LEXINGTON, OUT OF COLUMBIA AS
2 SOON AS POSSIBLE. NUMBER TWO, WAS FLORIDA. NUMBER THREE,
3 WAS TEXAS. I MEAN NOTHING WAS TIED DOWN BUT THE MAIN THING
4 WAS JUST TO GET OUTTA COLUMBIA, JACK.

5 Q ALL RIGHT. AFTER YOU LEFT THE PAWN SHOP, DID YOU
6 EVENTUALLY GO BACK TO YOUR HOME?

7 A YES, I DID.

8 Q DID YOU EXPECT TO FIND JIMMY PEELE THERE?

9 A NO, JACK. I WOULD HAVE NEVER WENT TO THAT MORRIS HOME
10 IF I HAD THOUGHT JIMMY WAS GONNA BE THERE. NEVER.

11 Q WHERE DID YOU THINK HE WAS?

12 A I THOUGHT HE WAS BROKE DOWN IN SUMMERVILLE, JACK.

13 Q WHEN YOU GOT TO THE MORRIS HOME, WHAT WERE YOU RIDING IN
14 AT THAT TIME?

15 A ROBIN HUNT'S VAN.

16 Q AND WHO WAS WITH YOU?

17 A ROBIN HUNT AND FRED RUTLAND.

18 Q AND WHAT WAS THE PURPOSE OF GOIN' BACK TO THE HOME?

19 A TO GET MY CAR. WE HAD WENT BEFORE WE WENT TO THE PAWN
20 SHOP AND BOUGHT THE PARTS NECESSARY TO GET THAT CAR RUNNIN'
21 AGAIN.

22 Q SO YOU HAD ALREADY BEEN BY THE HOME ONCE EARLIER THAT
23 DAY?

24 A NO.

25 Q WHAT DO YOU MEAN?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A FRIDAY MORNING AFTER I WENT TO THE PAWN SHOP, I WENT OUT
2 TO THE MOBILE HOME TO PICK UP MY CAR AND HOPEFULLY SOME OF MY
3 THINGS.

4 Q BUT YOU HAD ALREADY GONE BY A PARTS PLACE TO BUY PARTS
5 FOR AN AUTOMOBILE?

6 A YEAH, BEFORE I EVER WENT TO THE PAWN SHOP. FIRST THING,
7 WAS WAITIN' ON 'EM WHEN THEY OPENED THE DOOR. I KNEW PRETTY
8 MUCH WHAT HAD BEEN RUSTED ON THE CAR. DISTRIBUTOR CAP.
9 PROBABLY SOME OF THE PLUGS WERE RUINED. ROTARY BUTTON MAYBE.

10 Q DO YOU RECALL WHICH PARTS STORE YOU WENT TO?

11 A I BELIEVE IT WAS NAPA.

12 Q AND WHAT DID YOU BUY?

13 A I BOUGHT A DISTRIBUTOR CAP, WIRES, PLUG WIRES AND I
14 BELIEVE A ROTARY BUTTON.

15 Q DID YOU KNOW WHAT TO DO TO FIX THE CAR?

16 A NO, I DIDN'T.

17 Q DID YOU GO TO THE PARTS STORE BEFORE YOU WENT TO THE
18 PAWN SHOP?

19 A YES, I DID.

20 Q WHEN YOU GOT TO THE HOUSE, YOUR HOME, WAS YOUR CAR THERE
21 AT THAT TIME?

22 A THE BROWN CAR?

23 Q YES, THE ONE THAT YOU WERE GONNA FIX.

24 A YES.

25 Q WHO WAS GONNA DO THE WORK FOR YOU?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A FRED.

2 Q FRED RUTTAND.

3 A YES.

4 Q WHEN YOU GOT TO THE HOME DID SOMETHING UNUSUAL APPEAR TO
5 YOU?

6 A DAWN SIGHTLER'S CAR WAS PARKED IN MY BACK YARD.

7 Q NOW THIS WAS A COUGAR I BELIEVE.

8 A YES.

9 Q THAT BRUCE SHARPE HAD DRIVEN OVER THERE.

10 A YES.

11 Q DID YOU KNOW THAT BRUCE SHARPE WAS THERE AT THAT TIME?

12 A NO, I DID NOT.

13 Q WHO DID YOU THINK -- WHAT DID YOU THINK WHEN YOU SAW---

14 A DAWN'S CAR IN MY YARD?

15 Q ---DAWN'S CAR---

16 A I THOUGHT THAT WAS REAL UNUSUAL. BECAUSE DAWN AND I HAD
17 NOT BEEN GETTIN' ALONG FOR SOME TIME OVER THE SALE OF A
18 GERMAN SHEPHERD WHICH SHE NEVER FULFILLED HER END OF THE
19 BARGAIN ON.

20 Q SO WHAT DID YOU DO?

21 A WELL, THE BACK DOOR WAS OPEN, JACK, AND DAWN IS JUST NOT
22 -- SO I THOUGHT WHAT IS DAWN DOIN' HERE, AND WENT IN THE
23 TRAILER.

24 Q AND YOU WENT IN YOUR HOME.

25 A YES.

SALLY PEELE - DIRECT BY MR. GREGORY.

1 Q WHEN YOU WENT IN THE HOME DID YOU TAKE A PISTOL WITH
2 YOU?

3 A YES, SIR.

4 Q WHERE WERE YOU CARRYING THE PISTOL?

5 A IN MY BACK POCKET.

6 Q I'M GOING TO SHOW YOU STATE'S EXHIBIT #12 AND ASK YOU IF
7 THAT'S THE PISTOL YOU HAD IN YOUR POCKET?

8 A YES.

9 Q AND WHERE DID THAT PISTOL COME FROM?

10 A I PURCHASED IT AT THE PAWN SHOP.

11 Q DID YOU EVER PUT THAT PISTOL OUT OF YOUR POCKET?

12 A YES, SIR.

13 Q WHEN?

14 A WHEN I WALKED INTO THE TRAILER I DIDN'T SEE ANYONE AT
15 FIRST, BUT BOTH THE PEOPLE THAT WERE IN THERE WERE SITTING ON
16 THE LIVING ROOM FLOOR.

17 Q AND WHAT WERE THEY DOING?

18 A THEY WERE LOOKIN' AT A AUTOMOBILE MANUAL SMOKIN' A
19 JOINT, JACK.

20 Q SO WHAT DID YOU DO?

21 A WHEN I SAW JIMMY I IMMEDIATELY STOPPED. HE CAME
22 STRAIGHT UP OFF THE FLOOR, JACK. HE WAS FAIRLY QUICK. HE
23 CAME OFF THE FLOOR AND WAS RIGHT UP NEXT TO ME FAST, AND HE
24 WAS ANGRY, JACK. I'VE SEEN HIM ANGRY PLENTY OF TIMES. YOU

25 CAN SEE IT IN HIS -- YOU CAN SEE IT IN HIS EYES WHEN HE WAS

SALLY PEELE - DIRECT BY MR. GREGORY

1 ANGRY.

2 MR. MCMAHON: OBJECTION, JUDGE. HE'S STILL TRYIN' TO
3 GET BACK INTO IT.

4 THE COURT: YEAH, LET'S DON'T GET INTO THAT.

5 MR. MCMAHON: YOU'VE RULED ON THAT AS I UNDERSTAND HIS
6 HONOR'S RULING.

7 THE COURT: WAS THE DEFENDANT IN THAT ROOM AT THE TIME?

8 Q WHERE WAS FRED RUTLAND AT THIS TIME?

9 A IN THE VAN OUTSIDE.

10 THE COURT: DISREGARD THAT. DON'T GO INTO IT.

11 Q HOW LONG WERE YOU INSIDE THE HOUSE ON THIS OCCASION?

12 A NO TIME, JACK. AS SOON AS I SAW JIMMY I STARTED BACKIN'
13 OUT. HE GRABBED ME BY MY WRIST AND TRIED TO KEEP ME IN THE
14 TRAILER WITH HIM.

15 Q DID YOU GET OUTSIDE?

16 A YES, FINALLY.

17 Q WHAT HAPPENED OUTSIDE?

18 A I FINALLY RIPPED FREE OF HIM. HE GRABBED UP A SQUIRREL
19 CAGE AND CAME TOWARDS ME.

20 Q NOW WHEN YOU SAY SQUIRREL CAGE, WHAT ARE YOU TALKIN'
21 ABOUT?

22 A I'M TALKIN' ABOUT THE FAN THAT RUNS AN AIR CONDITIONIN'
23 UNIT, BIG HEAVY FAN ABOUT LIKE THIS; ABOUT LIKE THIS; I'D SAY
24 IT WEIGHS, I DON'T KNOW, 40 POUNDS, 40 TO 50.

25 Q AND WHERE WAS THAT SITTING?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A RIGHT BY THE DOOR.

2 Q WERE YOU OUT IN THE YARD AT THIS TIME?

3 A YES, SIR.

4 Q AND WHERE DID YOU HAVE THE PISTOL?

5 A WHEN -- IT WAS STILL IN MY POCKET AT THAT POINT.

6 Q ALL RIGHT. DID HE PICK UP THE SQUIRREL CAGE?

7 A YES, HE DID.

8 Q WHAT DID HE DO WITH IT?

9 A CAME TOWARDS ME WITH IT FAST.

10 Q AND THEN WHAT DID YOU DO?

11 A FRED GOT OUT OF THE VAN AND FIRED A SHOTGUN BLAST INTO
12 THE AIR AND TOLD JIMMY TO STOP.

13 Q AND WHERE WERE YOU AT THIS TIME?

14 A I GUESS ABOUT 10 OR 12 FEET FROM THE BLACKBOARD. JIMMY
15 DID NOT STOP.

16 Q WHERE WAS FRED WHEN HE FIRED THE SHOTGUN?

17 A BACK BY THE VAN.

18 Q IS THIS THE SHOTGUN THAT HE FIRED?

19 A YES, IT IS.

20 Q AND WHERE DID HE FIRE IT?

21 A INTO THE AIR. STRAIGHT UP.

22 Q NOW YOU SAY FRED FIRED THE SHOTGUN IN THE AIR. WHERE
23 WERE YOU AT THIS TIME AND WHERE WAS JIMMY AT THIS TIME?

24 A I WAS IN FRONT OF FRED AND JIMMY WAS IN FRONT OF ME SO

25 BETWEEN ME AND TRAILER WAS JIMMY AND BETWEEN ME AND FRED -- I

SALLY PEELE - DIRECT BY MR. GREGORY

1 WAS BETWEEN FRED AND JIMMY BASICALLY. OK? JIMMY, ME AND
2 FRED.

3 Q HOW FAR APART WERE YOU AND JIMMY AT THIS TIME? YOU AND
4 YOUR HUSBAND.

5 A FOUR FEET, FIVE FEET.

6 Q WAS HE STILL ADVANCING TOWARDS YOU?

7 A YES, HE WAS.

8 Q THEN WHAT HAPPENED?

9 A I PULLED MY PISTOL AND POINTED IT AT HIS FEET AND TOLD
10 HIM TO STOP.

11 Q WHAT HAPPENED THEN?

12 A I DON'T KNOW EXACTLY WHAT GOT HIS ATTENTION, BUT HE
13 FINALLY STOPPED.

14 Q WHAT HAPPENED TO THE SQUIRREL CAGE?

15 A HE PUT IT DOWN.

16 Q WHAT DID YOU DO WITH THE PISTOL?

17 A I PUT IT BACK IN MY POCKET.

18 Q WHAT HAPPENED TO FRED?

19 A HE GOT BACK IN THE VAN.

20 Q HOW LONG DID YOU AND JIMMY STAND THERE?

21 A JIMMY AT THIS POINT SAID I WANT TO TALK TO YOU, YOU
22 KNOW, AND I REALLY WASN'T GOING TO AT FIRST, BUT HE SAID
23 PLEASE TALK TO ME. I SAID JIMMY I AM AFRAID OF YOU; IF YOU
24 WANNA TALK TO ME YOU'RE GONNA HAVE TO KNEEL DOWN AND I'LL
25 KNEEL DOWN OVER HERE ABOUT TEN FEET AWAY BECAUSE, YOU KNOW,

SALLY PEELE - DIRECT BY MR. GREGORY

1 THEN I WON'T HAVE TO WORRY ABOUT IT AND WE CAN TALK WELL,

2 WHEN WE HAD KNEELED DOWN HE BECAME BELLIGERENT AGAIN; TOLD ME

3 I'D NEVER SEE CHRISTINE. HE LOOKED OVER AT FRED AND HE SAID

4 IF YOU THINK SHE'S WORTH 20 YEARS YOU CAN HAVE THE BITCH. I

5 SAID THAT'S IT. I'M LEAVIN'. I SAID YOU ME ONCE AGAIN I'D

6 NEVER SEE CHRISTINE AGAIN. I SAID OK I'M LEAVING.

7 Q DID YOU LEAVE?

8 A YES.

9 Q HOW DID YOU LEAVE?

10 A IN THE VAN.

11 Q WHO WAS DRIVING?

12 A ROBIN.

13 Q WHEN YOU LEFT WHERE DID YOU GO?

14 A BACK TO ROBIN'S HOUSE.

15 Q DID YOU STAY THERE ANY LENGTH OF TIME?

16 A NOT MUCH, JACK. I WAS IN HOPES THAT CHRISTINE MIGHTA
17 BEEN IN SCHOOL. SO I MADE A PHONE CALL TO THE SCHOOL AND
18 THEY WOULDN'T TELL ME WHETHER OR NOT SHE WAS THERE OVER THE
19 PHONE, SO FRED AND I WENT UP THERE TO SEE IF SHE WAS THERE
20 AND SHE WASN'T. SO WE WENT BACK TO ROBIN'S; MADE A PHONE
21 CALL TO THE SHERIFF'S DEPARTMENT; ASKED THEM IF THEY COULD
22 HELP ME FIND MY DAUGHTER. THEY STATED RATHER PLAINLY, IT'S
23 NOT THE FIRST TIME I'D HEARD THIS, THAT THEY DID NOT GET
24 INVOLVED AT THAT POINT BETWEEN TWO PARENTS, THAT IF JIMMY HAD
25 CHRISTINE HE WAS ENTITLED TO HAVE HER AND THAT THEY COULD NOT

SALLY PEELE - DIRECT BY MR. GREGORY

1 HELP ME.

2 Q HOW WERE YOU PLANNIN' ON LEAVIN' LEXINGTON?

3 A ORIGINALLY?

4 Q NO, AT THIS POINT.

5 A AT THIS POINT I DID NOT KNOW. I WAS JUST SITTING THERE
6 TRYING TO COME UP WITH WHERE AM I GONNA GET TRANSPORTATION
7 FROM AND ROBIN MADE THE STATEMENT REMEMBER THE DODGE UP THERE
8 AT THE SHOP.

9 Q NOW THE SHOP WAS WHAT? WHAT WAS THAT?

10 A THE ROW-WOW BOUTIQUE.

11 Q SO THERE WAS A DODGE AT THE ROW-WOW BOUTIQUE.

12 A YES.

13 Q WHO'S CAR WAS IT?

14 A IT WAS -- I BELIEVE IT WAS KIM'S BUT I DIDN'T KNOW AT
15 THAT POINT IF IT WAS DANNY'S OR KIM'S.

16 Q AND DO YOU RECALL WHAT TIME OF DAY THIS WAS?

17 A THIS WAS AROUND ONE O'CLOCK.

18 Q ON THE FOURTH OF SEPTEMBER?

19 A YES.

20 Q WELL, WHAT DID YOU DO?

21 A WELL, I DIDN'T KNOW WHAT CONDITION THE CAR WAS IN AND
22 ROBIN SAID THAT SHE DIDN'T KNOW. SO I ASKED FRED I SAID WILL
23 YOU GO UP THERE WITH ME AND HAVE A LOOK AT THE CAR, AND IF IT
24 CAN BE GOT ONE THEN I'M GONNA BUY IT RIGHT NOW. IT'LL BE
25 TRANSPORTATION REGARDLESS OF WHAT KINDA SHAPE IT'S IN. SO WE

SALLY PEELE - DIRECT BY MR. GREGORY

1 WENT UP THERE AND LOOKED AT THE CAR.

2 Q ALL RIGHT. DID YOU NEGOTIATE THE PURCHASE OF THAT
3 AUTOMOBILE?

4 A YES, I DID. \$75.

5 Q AND WHAT DID YOU HAVE TO DO IN ORDER TO BE ABLE TO DRIVE
6 IT AWAY?

7 A WELL, KIM SAID THAT SHE HAD PURCHASED THE VEHICLE BUT
8 HAD NEVER HAD---

9 MR. RIDDIE: OBJECTION, YOUR HONOR. THAT'S HEARSAY.

10 THE COURT: YEAH, THAT'S HEARSAY. YOU CAN'T GO INTO
11 THAT.

12 Q DON'T REPEAT WHAT SOMEBODY SAID. JUST TELL US WHAT YOU
13 HAD TO DO.

14 A KIM PURCHASED THE VEHICLE BUT HAD NEVER CHANGED THE
15 TITLE OVER TO HER NAME, SO I GOT ON THE PHONE WITH THE
16 HIGHWAY DEPARTMENT. THE LITTLE PROCESS WENT ON.

17 Q NOW THE DIAGRAM THAT WE HAVE UP HERE ON THE FASEI, MS.
18 PEELE, IS THE BOW-WOW BOUTIQUE, IS IT NOT?

19 A UH-HUH.

20 Q AND COULD YOU SWING AROUND HERE AND POINT TO WHERE YOU
21 WERE ON THE TELEPHONE. YOU SAY YOU WERE CALLING THE HIGHWAY
22 DEPARTMENT?

23 A LET ME LOOK JUST A MINUTE. HERE.

24 Q ALL RIGHT. WHERE WERE YOU STANDING WHILE YOU WERE

25 TALKING ON THAT TELEPHONE?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A APPROXIMATELY HERE.

2 Q LET ME GET YOU TO STAND A LITTLE BIT TO THE RIGHT SO THE
3 JURY CAN SEE WHERE YOU ARE POINTING AT. DOWN THERE IN THE
4 MIDDLE OF THAT ROOM?

5 A YES.

6 Q AND WHY WERE YOU HAVING TO STAND OUT IN THAT PARTICULAR
7 AREA?

8 A WELL, BECAUSE KIM WAS GROOMING A DOG HERE.

9 Q KIM THAT'S KIM KESTNER?

10 A YES.

11 Q AND SHE WAS GROOMING THE DOG WHERE?

12 A HERE.

13 Q ON THE OTHER TABLE AWAY FROM THE TELEPHONE.

14 A YES.

15 Q AND DO YOU RECALL WHAT KINDA DOG SHE WAS GROOMIN'?

16 A IT WAS A LITTLE CHOW. I USED TO RAISE 'EM.

17 Q OK. THANK YOU. HAVE A SEAT. AND WHO ALL WAS IN THE
18 BOW-WOW BOUTIQUE AT THE TIME YOU WERE MAKING A PHONE CALL AND
19 KIM WAS GROOMING THE CHOW?

20 A WELL, IT WAS ME, FRED, KIM AND DANNY HAD WENT OUTSIDE TO
21 LOOK FOR THE TITLE FOR THE DODGE BECAUSE WE HAD ALREADY
22 NEGOTIATED THE SALE. IF IT WOULD RUN I WAS GONNA BUY IT.

23 Q DO YOU RECALL HOW MUCH TIME YOU HAD SPENT IN THE BOW-WOW
24 BOUTIQUE AT THIS POINT TALKING WITH KIM, TALKING TO THE
25 HIGHWAY DEPARTMENT?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A JACK, SEEMS LIKE TEN TO FIFTEEN MINUTES. NOT LONG. NOT
2 LONG.

3 Q HOW HAD YOU GOTTEN TO THE ROW-WOW BOUTIQUE?

4 A I ASKED ROBIN COULD I BORROW HER VAN LONG ENOUGH TO GO
5 UP THERE AND SEE ABOUT THAT DODGE.

6 Q AND DO YOU SEE A VAN PARKED OUT IN FRONT OF THE ROW-WOW
7 BOUTIQUE ON THAT DIAGRAM UP THERE? I'M REFERRING TO THE
8 STATE'S EXHIBIT #1 I BELIEVE. YES. IS THERE A VAN PARKED
9 OUT IN FRONT OF THERE?

10 A YES, THERE IS.

11 Q IS THAT WHERE YOU HAD DRIVEN TO?

12 A YEAH, THAT'S PRETTY CLOSE. THERE MIGHT BEEN SOME CANTY
13 (PHONETIC) TO IT INSTEAD OF IT BEING STRAIGHT LIKE THIS.

14 Q YES.

15 A BUT IT'S CLOSE. I MEAN IT'S RIGHT THERE IN THAT AREA,
16 YEAH.

17 Q NOW WHEN YOU GOT OUT OF THE VAN DO YOU RECALL ANY
18 DISCUSSION THAT YOU HAD WITH FRED RUTLAND WHEN YOU WERE ON
19 THE WAY OUT THERE OR GETTING OUT OF THE VAN TO GO IN? ANY
20 DISCUSSION WHATSOEVER ABOUT ANYTHING?

21 A NOT OTHER THAN THE CAR.

22 Q OK. WHAT HAD YOU DONE WITH THE PISTOL UP TO THIS POINT?

23 A WHERE WAS IT?

24 Q YEAH, THIS IS STATE'S EXHIBIT #12.

25 A IT WAS LAYIN' IN THE VAN, JACK.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q WHO PUT IT THERE?

2 A I DID.

3 Q AND WHEN YOU SAY IT WAS JUST LYING IN THE VAN,
4 WHEREABOUTS IN THE VAN? DO YOU RECALL?

5 A I THINK IT WAS ON THE CONSOLE. IN THE MIDDLE.

6 Q UH-HUH.

7 A I'M NOT SURE. IT WAS EITHER ON THE CONSOLE OR ON THE
8 DASH.

9 Q AND WHERE WAS THE SHOTGUN AT THIS POINT?

10 A IT WAS LAYIN' BETWEEN THE SEATS IN THE FLOOR OF THE VAN.

11 Q ALL RIGHT. DID YOU PICK UP THE PISTOL AS YOU WENT INTO
12 THE BOW-WOW BOUTIQUE?

13 A NO, I DID NOT.

14 Q DID YOU DISCUSS PICKIN' UP THE PISTOL AS YOU WERE GOIN'
15 INTO THE BOW-WOW BOUTIQUE?

16 A I DON'T REMEMBER DOIN' IT, NO.

17 Q DID YOU EVEN THINK ABOUT THE PISTOL GOIN' IN THE BOW-WOW
18 BOUTIQUE?

19 A NO, I DIDN'T.

20 Q WERE YOU DRIVING OR RIDING AS A PASSENGER?

21 A DRIVING.

22 Q WELL, WHAT WERE YOUR MOVEMENTS WHEN YOU PULLED UP IN
23 FRONT OF THE BOW-WOW BOUTIQUE TO GET OUT AND GO INSIDE?

24 A PUT THE VAN IN PARK; OPEN THE DOOR AND GET OUT.

25 Q DID YOU LEAVE THE KEY IN THE VAN?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A YES.

2 Q ALL RIGHT. DID FRED FOLLOW YOU INTO THE HOW-WOW
3 BOUTIQUE OR DID YOU FOLLOW HIM? DO YOU RECALL?

4 A I DON'T REMEMBER, JACK.

5 Q WELL, WHEN YOU WALKED IN THE FRONT DOOR THERE, WHERE WAS
6 KIM AND HER HUSBAND AT THAT TIME?

7 A KIM SEEMED LIKE -- KIM WAS BETWEEN THE -- THIS -- I'LL
8 SHOW YOU. KIM WAS RIGHT IN HERE.

9 Q STAND OFF TO THE SIDE THERE SO WE CAN SEE WHERE YOU'RE
10 POINTING.

11 A KIM WAS RIGHT AROUND IN HERE AND HER HUSBAND WAS RIGHT
12 IN HERE.

13 Q ALL RIGHT. WHEN YOU WALKED IN WAS THE DOOR OPEN? THE
14 FRONT DOOR?

15 A NO.

16 Q YOU HAD TO PUSH THE HANDLE TO COME IN?

17 A YES.

18 Q YOU CAN HAVE A SEAT NOW. (WITNESS COMPIED.) DID YOU
19 MAKE SOME SORT OF GREETING WHEN YOU CAME IN?

20 A HEY KIM YOU WANNA SEE THAT DODGE.

21 Q AND YOU IMMEDIATELY STARTED TALKIN' ABOUT THAT?

22 A YES.

23 Q ALL RIGHT. DO YOU RECALL DAN HER HUSBAND WALKING OUT OF
24 THE BUILDING?

25 A YES, I DO BECAUSE KIM'S STATEMENT WHEN I ASKED HER ABOUT

SALLY PEELE - DIRECT BY MR. GREGORY

1 SEJJIN' THE CAR WAS YOU HAVE TO ASK DANNY, SO I ASKED DANNY
2 AND HE SAID YOU KNOW I DON'T EVEN KNOW WHERE FOR SURE THE
3 TITLE IS.

4 Q AND HE WALKED OUT OF THE BUILDING.

5 A TO FIND THE TITLE. TO LOOK FOR IT IN THE CAR.

6 Q WHERE WAS THAT CAR PARKED THE ONE THAT YOU WERE TALKIN'
7 ABOUT BUYING?

8 A IS THAT SUPPOSED TO BE IT THE YELLOW ARROW OVER THERE?

9 Q WELL, WHERE DO YOU RECALL IT BEING?

10 A NO, IT WAS ON THE -- YOU GO IN THE FRONT DOORS HERE, IT
11 WAS PARKED OVER HERE ON THIS SIDE OF THE BUILDING.

12 Q OVER THERE WHERE YOU PARKED THE VAN?

13 A YEAH.

14 Q NOW AT SOME POINT IN TIME YOU HUSBAND CAME INTO THAT
15 BOW-WOW BOUTIQUE.

16 A YES.

17 Q YOU RECALL THAT?

18 A YES.

19 Q TELL US WHAT YOU REMEMBER.

20 A I REMEMBER JUST GETTING OFF THE PHONE. I REMEMBER FRED
21 COMING THROUGH THIS LITTLE GATE STATING JIMMY'S HERE AND
22 HEADJING PAST ME. I REMEMBER SEEJING JIMMY PASS THE LATTICE
23 WORK, SEEJING JIMMY, HIM REACHING BEHIND HIMSELF AND PULLING A
24 GUN ON ME.

25 Q AND HE PULJED A GUN ON YOU?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A YES, HE DID.

2 Q WHAT KIND OF GUN DID HE PULJ. ON YOU?

3 A THAT NINE MILLJ.METER LAYING RIGHT THERE. J---

4 Q I HAND YOU STATE'S EXHIBIT #13 AND ASK YOU IF THIS IS
5 THE GUN THAT YOU'RE TALKIN' ABOUT.

6 A YES, IT IS.

7 Q DID IT HAVE THIS CLIP WITH IT?

8 A YES, IT DID.

9 Q WHERE WAS THE CLIP?

10 A IN THE GUN.

11 Q CAN YOU SHOW ME HOW IT LOOKED? WHERE WAS HE CARRYING
12 THIS?

13 A BEHIND IN HIS PANTS.

14 Q THE BACK OF HIS PANTS?

15 A YES.

16 Q SALLY, WHERE DID THAT GUN COME FROM?

17 A ORIGINALLY, JACK?

18 Q YES.

19 A IT WAS PURCHASED FROM CHESLEY LEE I BELIEVE THE SUMMER
20 OF '91.

21 Q I HAND YOU---

22 MR. RIDDLE: YOUR HONOR, I'VE GOT AN OBJECTION AT THIS
23 POINT AND A MATTER OF LAW TO TAKE UP OUTSIDE THE PRESENCE OF
24 THE JURY.

25 THE COURT: LET THE JURY GO IN THE ROOM. (THE FOLLOWING

SALLY PEELE - DIRECT BY MR. GREGORY

1 OCCURRED IN THE ABSENCE OF THE JURY.) YES, SIR.

2 MR. RIDDLE: YOUR HONOR, MR. GREGORY HANDED ME A COPY OF
3 AFFIDAVIT OF SALE ON THAT FIREARM FROM AN INDIVIDUAL. BY THE
4 NAME OF LEE TO JIMMY PEELE. YOUR HONOR, I SUBMIT THAT'S AN
5 INADMISSIBLE HEARSAY, THAT IF MR. LEE WANTS TO COME IN AND
6 TESTIFY AS TO WHEN THAT GUN WAS SOLD, HE CAN DO THAT BECAUSE
7 THAT DOCUMENT SHOULD NOT GO INTO EVIDENCE.

8 THE COURT: WHERE IS HE?

9 MR. GREGORY: YOUR HONOR, WE'VE BEEN TRYIN' TO LOCATE
10 HIM FOR A FEW DAYS.

11 THE COURT: WELL, I'LL HAVE TO LEAVE IT OUT TILL YOU
12 FIND HIM. ALL RIGHT. CAN'T INTRODUCE THIS. BRING THE JURY
13 IN. (THE FOLLOWING OCCURRED IN THE PRESENCE OF THE JURY.)
14 YOU MAY PROCEED.

15 MR. GREGORY: THANK YOU, YOUR HONOR.

16 Q MS. PEELE, THE NINE MILLIMETER PISTOL THAT YOU HAVE
17 THERE THAT WE WERE TALKING ABOUT, WHOSE WEAPON WAS THAT?

18 A JIMMY PEELE'S.

19 Q WHEN DID HE OBTAIN THAT WEAPON?

20 A SOMEWHERE OF '91.

21 Q DO YOU KNOW WHO HE PURCHASED IT FROM?

22 A CHESLEY LEE.

23 Q WERE YOU PRESENT WHEN HE BOUGHT THAT PISTOL?

24 A YES, SIR, I WAS.

25 Q WHERE DID THE TRANSACTION TAKE PLACE?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A IN MY BACK YARD.

2 Q HAD YOU EVER SEEN THAT PISTOL SINCE IT WAS PURCHASED IN
3 '91 UNTIL YOU SAW IT IN THE BOW-WOW BOUTIQUE?

4 A YES, I HAVE.

5 Q WHEN?

6 MR. RIDDLE: YOUR HONOR, I'M GONNA OBJECT AT THIS POINT
7 IF THE ANSWER GOES TO YOUR PRIOR RULING.

8 THE COURT: ACCORDING TO WHAT SHE---

9 A HE HAD IT OUT SEVERAL TIMES.

10 Q IN THE HOME?

11 A YES.

12 MR. RIDDLE: YOUR HONOR, I DON'T SEE HOW THAT
13 INFORMATION IS RELEVANT IN LIGHT OF YOUR PRIOR RULING.

14 THE COURT: YEAH.

15 Q DO YOU KNOW WHERE YOUR HUSBAND KEPT THAT GUN?

16 A NO, I DON'T.

17 Q DO YOU KNOW IF IT WAS AT YOUR HOME ON SEPTEMBER 3, 1992
18 WHEN YOU WERE OUT THERE?

19 A NO, IT WAS NOT.

20 Q DO YOU KNOW WHERE IT WAS AT THAT TIME?

21 A BOBBY TINDAL HAD POSSESSION OF THAT GUN. JIMMY HAD
22 BORROWED SOME MONEY AND LET HIM HOLD THE GUN AGAINST THE
23 MONEY. OK?

24 Q WHERE DOES BOBBY TINDAL LIVE?

25 A PELJON.

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Honorable Frank Eppes, Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRED R. RUTLAND,

APPELLANT.

RECORD ON APPEAL

ROBERT M. DUDEK
Assistant Appellate Defender
S.C. Office of Appellate Defense
1122 Lady Street, Suite 940
Columbia, SC 29201

ATTORNEY FOR APPELLANT

T. TRAVIS MEDLOCK
Attorney General

DONALD J. ZELENKA
Chief Deputy Attorney General

HAROLD M. COOMBS, JR.
Senior Assistant Attorney General
Chief of Criminal Appeals

WILLIAM EDGAR SALTER, III
Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

Donald V. Myers, Solicitor
Eleventh Judicial Circuit

Lexington Co. Courthouse Annex
105 S. Lake Drive
Lexington, SC 29072
(803) 359-8352

Attorneys for Respondent

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SALLY PEELE - DIRECT BY MR. GREGORY

1 Q DID YOU ATTEMPT TO LOCATE BOBBY TINDAL?

2 A I SURE HAVE. DAILY.

3 Q HAVE YOU BEEN ABLE TO FIND HIM?

4 A NO, I HAVE NOT.

5 Q NOW BACK TO THE BOW-WOW BOUTIQUE ON THE 4TH OF SEPTEMBER
6 1992, WHEN DID YOU FIRST SEE YOUR HUSBAND AT THE BOW-WOW
7 BOUTIQUE?

8 A WEJJ, I KNEW THAT IT WAS JIMMY THROUGH THE LATTICE WORK
9 WHEN HE WAS COMING INTO THE SHOP.

10 Q HOW DID HE COME IN THE SHOP?

11 A THROUGH THE DOOR. HE CAME IN THROUGH THE FRONT DOOR
12 FAIRLY QUICK; STOPPED IN FRONT OF THE GATE; PUT HIS HANDS
13 BEHIND HIM; PULLED THAT NINE OUT; SHHH, SHHH; LOADED.

14 Q DID HE SAY ANYTHING?

15 A NOTHING.

16 Q WHAT WAS HIS APPEARANCE?

17 A HIS EYES WERE STRANGE, JACK.

18 Q HAD YOU EVER SEEN THAT LOOK BEFORE?

19 A YES.

20 Q WHAT DID YOU SAY OR DO AT THIS POINT?

21 A OH, MY GOD.

22 Q AND WHAT DID YOU DO?

23 A I STARTED MOVING TOWARD JIMMY.

24 Q WHAT HAPPENED THEN?

25 A I HEARD FRED GO JIMMY DON'T.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q WHERE WAS FRED STANDING AT THIS TIME?

2 A HE WAS BACK BEHIND ME SOMEWHERE AROUND THE PHONE IN THE
3 DOOR WAY I BELIEVE. IN THE DOORWAY.

4 Q WHAT WERE YOU DOING?

5 A WHEN FRED SAID THE SECOND TIME JIMMY PLEASE DON'T, I
6 GLANCED AT HIM.

7 Q YOU GLANCED AT WHO?

8 A FRED.

9 Q AND WHERE---

10 A I STOPPED LONG ENOUGH TO SEE, YOU KNOW, WHAT'S GOIN' ON.
11 SCARED TO DEATH. IN SHOCK BASICALLY.

12 Q WHAT DID YOU SEE?

13 A I SAW FRED WITH A 25 AUTOMATIC LIKE THIS, JIMMY PLEASE
14 DON'T.

15 Q AND WHEN YOU SAY THIS, DESCRIBE WHAT YOU'RE DOING.

16 A ALL. RIGHT. HE'S HOLDING THE 25 POINTING TOWARD THE
17 FLOOR.

18 Q IN WHICH HAND?

19 A IN HIS RIGHT HAND.

20 Q AND WHERE WAS HE STANDING THEN?

21 A IN THE DOORWAY.

22 Q AND WHERE WAS JIMMY STANDING AT THAT TIME?

23 A RIGHT IN FRONT OF THE GATE.

24 Q IN THE LOBBY AREA OR HAD HE COME THROUGH THE GATE?

25 A IN THE LOBBY AREA. HE WAS IN THE GATE. OK? THERE'S

SALLY PEELE - DIRECT BY MR. GREGORY

1 A -- HERE THERE IS A DESK ORBIOUSLY. OK? AND THE GATE HE
2 WAS HERE, JACK.

3 Q AND YOUR FINGER IS POINTING RIGHT WHERE THE GATE SWINGS.

4 A YES.

5 Q DID YOU MOVE AT THIS POINT?

6 A YES, I DID.

7 Q IN WHICH DIRECTION?

8 A MY -- IN A SPLIT SECOND MY MIND SAID THIS IS NOT
9 HAPPENING. THIS CANNOT HAPPEN. I STARTED TO MOVE BETWEEN
10 THE TWO MEN.

11 Q WHAT HAPPENED NEXT?

12 A HEARD SHOTS.

13 Q WHERE WERE YOU STANDING WHEN YOU HEARD SHOTS?

14 A ABOUT RIGHT AROUND HERE, JACK.

15 Q HOW CLOSE TO JIMMY PEELE WERE YOU WHEN YOU HEARD SHOTS?

16 A MAYBE TWO FOOT, MAYBE A LITTLE MORE TWO AND A HALF FOOT.

17 Q WHO WERE YOU LOOKING AT AT THAT TIME?

18 A JIMMY.

19 Q WHAT WAS GOING ON?

20 A JIMMY FELL.

21 Q WHERE WAS THE TECH NINE AT THE TIME YOU HEARD THE SHOTS?

22 A OUT LIKE THIS.

23 Q WHO WAS IT POINTED AT?

24 A FRED.

25 Q EARLIER YOU SAID THAT HE POINTED IT AT YOU.

SALLY PEELE - DIRECT BY MR. GREGORY

1 A YES.

2 Q WHEN DID IT SHIFT TO BE POINTED AT FRED?

3 A WHEN FRED SHOWED HIM HE HAD THE 25.

4 Q HOW DID THAT HAPPEN?

5 A HOW DID IT HAPPEN?

6 Q YES.

7 A HE TOOK THE GUN OFF OF ME LIKE THIS.

8 Q ALL RIGHT. NOW DESCRIBE HOW YOU'RE HOLDING YOUR HAND.

9 A I'M HOLDING MY HAND, THIS IS THE GUN, I'M HOLDING MY
10 HAND, I'M HOLDING THE GUN IN MY HAND.

11 Q YOU'RE HOLDING IT CHEST HIGH STRAIGHT OUT IN FRONT OF
12 YOU?

13 A I'M HOLDING -- IT WAS A LITTLE LOWER INITIALLY. OK?
14 AND AS HE KEEPS COMING FORWARD HE'S RAISING IT UP. I HAD NO
15 IDEA, JACK, THAT THAT GUN NEVER WENT OFF. NONE.

16 Q WHY IS THAT?

17 A BECAUSE THE SHOTS IN A CONCRETE BUILDING ARE REAL LOUD,
18 AND I SAW JIMMY PULLIN' THE TRIGGER.

19 Q WHERE WAS THAT TECH NINE AIMED WHEN YOU SAW JIMMY
20 PULLIN' THE TRIGGER?

21 A AT FRED ABOUT -- IT WAS STRAIGHT OUT.

22 Q AND THEN WHAT HAPPENED?

23 A JIMMY FELL..

24 Q HOW DID HE FALL?

25 A HE FELL ON HIS SIDE.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q LEFT OR RIGHT SIDE?

2 A LEFT SIDE.

3 Q WHERE DID HE FALL IN THE BUILDING?

4 A RIGHT BY THE GATE.

5 Q THIS STICK-ON OF A MAN ON EXHIBIT ONE FOR THE STATE, IS
6 THAT THE AREA IN WHICH HE FELL?

7 A YES. IT'S NOT QUITE CORRECT.

8 Q DO YOU RECALL WHAT YOU DID NEXT?

9 A YES. I IMMEDIATELY WENT TO JIMMY AND ROLLED HIM ON HIS
10 BACK. THIS I SHOVED OUT OF THE WAY BECAUSE TO ROLL HIM ON
11 HIS BACK.

12 Q NOW WHAT IS THIS?

13 A THE NINE MILLIMETER.

14 Q THE PISTOL?

15 A YES.

16 Q WHERE WAS IT AT THAT TIME BEFORE YOU SHOVED OUT OF THE
17 WAY?

18 A IT WAS -- IT WOULD'VE BEEN IN THE WAY TO ROLL HIM OVER
19 ON HIS BACK, JACK.

20 Q DO YOU KNOW WHERE YOU SHOVED IT?

21 A NO, I DON'T.

22 Q WHAT DID YOU DO THEN?

23 A I STARTED C.P.R., STRETCHED HIM OUT; STARTED GIVING HIM
24 MOUTH-TO-MOUTH. FRED IMMEDIATELY WAS OVER THERE WITH ME

25 HELPIN'.

SALLY PEELE - DIRECT BY MR. GREGORY

1 Q WHAT DID FRED---

2 A ---BECAUSE I HAD NEVER DONE IT BEFORE. I WAS, YOU KNOW,
3 IN A PANIC. KIM, CALL 911! GET ME SOME HELP NOW!

4 Q WHAT DID FRED DO AT THIS TIME?

5 A HE CAME OVER TO WHERE I WAS AND STARTED HELPING ME. HE
6 WOULD DO THE CHEST; I WOULD DO THE MOUTH; KEEPIN' HIM
7 BREATHIN', JACK. SCARED TO DEATH. I NEVER WANTED ANYONE TO
8 BE HURT.

9 Q WHAT HAPPENED NEXT? DO YOU RECALL ANYONE COMING IN THE
10 FRONT DOOR AT THIS TIME?

11 A DANNY CAME IN. I PAID HIM NO ATTENTION.

12 Q DO YOU REMEMBER HOW MANY SHOTS YOU HEARD?

13 A NO, I DON'T. SOUNDED LIKE A BUNCH.

14 Q WHEN YOU WERE COMIN' OFF THE TELEPHONE AND YOU AND FRED
15 WERE STANDING IN THE SAME AREA THERE NEXT TO THE LOBBY WITH
16 KIM KESTNER, WERE ALL THREE OF YOU IN THAT SAME SECTION OF
17 THIS BUILDING? AS YOU WERE TALKIN' ON THE TELEPHONE?

18 A YES.

19 Q WHEN FRED TOLD YOU THAT HE SAW JIMMY PEELE---

20 A UH-HUH.

21 Q ---WHERE DID FRED GO?

22 A FRED HAD BEEN -- FRED WAS UP THERE IN FRONT OF THE GATE
23 ABOUT WHERE THE BLACK FIGURE IS.

24 Q YES.

25 A OUT THERE IN FRONT OF THE GATE. CAME BY ME; SAID

SALLY PEELE - DIRECT BY MR. GREGORY

1 JIMMY'S HERE. SCARED ME.

2 Q DO YOU KNOW WHERE FRED WENT?

3 A I KNOWED IT WHEN I GLANCED AT FRED HE WAS IN THE
4 DOORWAY.

5 Q WHICH DOORWAY YOU TALKIN' ABOUT?

6 A SEE WHERE THE PHONE IS?

7 Q OK.

8 A OK.

9 Q IS THAT THE DOOR WHERE YOU'RE TALKIN' ABOUT RIGHT BY THE
10 PHONE?

11 A YES.

12 Q DID YOU KNOW AT THAT TIME HOW JIMMY PEELE HAD GOTTEN TO
13 THE ROW-WOW BOUTIQUE?

14 A NO.

15 Q DID HE SAY ANYTHING WHEN HE CAME IN?

16 A NO, JACK, HE DIDN'T.

17 Q DID YOU MAKE ANY OTHER STATEMENTS OTHER THAN WHAT YOU
18 JUST TESTIFIED TO?

19 A NO, I DID NOT.

20 Q AFTER YOU AND FRED WERE ADMINISTERING C.P.R. DID
21 EVENTUALLY OTHER PEOPLE START COMING INTO THE BUILDING?

22 A YES, THEY DID.

23 Q WHAT DO YOU REMEMBER FROM THAT POINT ON?

24 A I REMEMBER THE POLICE SHOWING UP. I DIDN'T PAY HIM A
25 WHOLE LOT OF ATTENTION AT FIRST, BUT HE HAND CUFFED FRED

SALLY PEELE - DIRECT BY MR. GREGORY

1 WHICH LEFT ME DOIN' C.P.R. BY MYSELF AND MADE NO ATTEMPT TO
2 HELP ME. I DIDN'T LIKE IT. HELP ME! PLEASE! FRED ALSO
3 MADE THE STATEMENT: PLEASE HELP HIM.

4 Q DID THE F.M.S. PEOPLE ARRIVE?

5 A A LITTLE WHILE LATER. I CONTINUED C.P.R. WHILE THEY
6 STARTED WORKING.

7 Q SALLY, THE CAR THAT'S PARKED OUT HERE ON THE SIDE OF THE
8 BUILDING CLOSE TO WHERE YOU ARE SEATED HAS BEEN IDENTIFIED AS
9 THE CAR THAT JIMMY PEELE DROVE UP IN. DID YOU RECOGNIZE THAT
10 CAR LATER?

11 A WHEN I CAME OUT WITH THE DETECTIVE I SAW IT THERE
12 RUNNING, YES.

13 Q AND WHICH CAR WAS IT? WHAT WAS IT?

14 A MY BROWN CHEVROLET.

15 Q IS THAT THE ONE YOU HAD BOUGHT THE WIRES FOR EARLIER
16 THAT DAY?

17 A YES.

18 Q THE ONE THAT YOU WERE GOING TO FIX?

19 A YES.

20 Q WERE YOU THERE AT THE TIME THAT THE POLICE PUT FRED
21 RUTLAND IN THE CAR AND DROVE HIM AWAY?

22 A I WAS STILL INSIDE WITH JIMMY, JACK.

23 Q WHAT DID YOU DO NEXT?

24 A AFTER---

25 Q WERE YOU ABLE TO GO TO THE HOSPITAL WITH YOUR HUSBAND?

SALLY PEELE - DIRECT BY MR. GREGORY

1 A NO. I WAS TOLD THAT I NEEDED TO MAKE A STATEMENT BEFORE
2 -- GO DOWN TO THE SHERIFF'S DEPARTMENT AND MAKE A STATEMENT.
3 I SAID WELL, I'M GOIN' TO THE HOSPITAL. NO.

4 Q WHO WOULDN'T LET YOU GO TO THE HOSPITAL?

5 A AS FAR AS I CAN REMEMBER THERE WERE TWO OFFICERS THERE.
6 THERE WAS A DETECTIVE HARRIS AND A DETECTIVE SIMMONS.
7 DETECTIVE SIMMONS TOLD ME THAT I HAD TO GO DOWN TO THE
8 SHERIFF'S DEPARTMENT AND MAKE A STATEMENT. I SAID WILL YOU
9 CALL THE HOSPITAL.

10 Q DID YOU EVER GET TO THE HOSPITAL?

11 A NO, I DIDN'T.

12 Q MS. PEELE, ON SEPTEMBER 4, 1992 WAS IT EVER YOUR
13 INTENTION TO KILL YOUR HUSBAND?

14 A NO, SIR, IT WAS NOT.

15 Q WAS IT EVER YOUR INTENTION TO HAVE YOUR HUSBAND KILLED?

16 A NO, IT WAS NOT.

17 Q WHAT WAS YOUR MAIN MOTIVE ON THAT PARTICULAR DAY?

18 A I WANTED TO FIND CHRISTINE AND LEAVE, JACK. LEAVE.

19 Q DID YOU LOVE JIMMY THEN?

20 A YES, I DID. STILL DO.

21 Q ANSWER ANY QUESTIONS THE SOLICITOR HAS.

22 CROSS-EXAMINATION

23 BY MR. RIDDLE

24 Q MS. PEELE?

25 A SIR?

SALLY PEELE - CROSS BY MR. RIDDLE

1 Q I THINK THIS JURY DESERVES TO HEAR THE TRUTH AND WE'RE
2 GONNA START RIGHT NOW. YOU AND FRED RUTLAND WERE LOVERS.
3 WEREN'T YOU?

4 A THERE WAS AN AFFAIR EARLIER BUT WE WERE NOT LOVERS AT
5 THAT TIME. NO.

6 Q MS. PEELE, DID YOU OR DID YOU NOT SPEND THE NIGHT WITH
7 FRED RUTLAND THE NIGHT BEFORE YOUR HUSBAND WAS KILLED AT THE
8 ROADWAY INN?

9 A YES, I DID.

10 Q YES, YOU DID. YES, YOU DID. AND NOW YOU WANNA TELL
11 THESE GOOD PEOPLE ON THIS JURY THAT YOU ARE ALL BROKEN
12 BECAUSE JIMMY IS GONE. IS THAT RIGHT?

13 A YES, IT IS.

14 Q NOW YOU REMEMBER GIVING A STATEMENT TO THE POLICE, MS.
15 PEELE?

16 MR. GREGORY: YOUR HONOR, WE HAVE A MOTION TO MAKE AT
17 THIS TIME OUTSIDE THE PRESENCE OF THE JURY.

18 MR. RIDDLE: IF IT PLEASE THE COURT, I BELIEVE WE CAN
19 HANDLE THIS AT THE SIDE BAR.

20 THE COURT: YEAH, YA'LL. STEP OVER HERE. (THERE WAS A
21 BENCH CONFERENCE OUT OF THE HEARING OF THE JURY AND OFF THE
22 RECORD.) WE'LL LET 'EM PUT IN THE STATEMENT BUT THEY CAN
23 CROSS EXAMINE HER ON IT AS A PRIOR INCONSISTENT STATEMENT.

24 Q DO YOU RECOGNIZE THAT STATEMENT I JUST HANDED TO YOU,
25 MS. PEELE?

SALLY PEELE - CROSS BY MR. RIDDLE

1 A YES, I DO.

2 Q IT'S A 3-PAGE STATEMENT. IS THAT CORRECT?

3 A YES.

4 Q OK. AND IN THAT STATEMENT -- IS THAT THE STATEMENT THAT
5 YOU MADE? I'LL GIVE YOU A CHANCE TO READ IT IF YOU WANT TO.

6 A SOME OF IT IS -- MOST OF IT IS. NOT ALL OF IT, NO.

7 Q WELL, TELL ME -- SHOW ME RATHER WHICH PART OF THAT
8 STATEMENT IS NOT YOURS.

9 A THERE'S A COUPLE OF THINGS.

10 Q LET ME -- LET ME JUST ASK YOU THIS: ARE THOSE YOUR
11 SIGNATURES ON THAT STATEMENT?

12 A YES, THEY ARE.

13 Q ON EACH AND EVERY PAGE.

14 A YES, THEY ARE.

15 Q AND THAT IS, IN FACT, THE STATEMENT THAT YOU SIGNED AT
16 THE SHERIFF'S DEPARTMENT AFTER THIS INCIDENT TOOK PLACE. IS
17 THAT CORRECT?

18 A YES.

19 Q IT WAS ON THE 7TH DAY OF SEPTEMBER OF 1992.

20 A YES.

21 Q OK. THREE DAYS AFTERWARDS. RIGHT?

22 A YES.

23 Q ALL RIGHT. I WANT YOU TO LOOK AT THAT STATEMENT AND
24 TELL ME WHERE, IF ANYWHERE, IT SAYS THAT JIMMY PEELE HAD A
25 SQUIRREL WHEN YA'LL WENT TO THE HOUSE.

SALLY PEELE - CROSS BY MR. RIDDLE

1 A I MADE THE STATEMENT.

2 Q I WANT YOU TO LOOK AT THE STATEMENT AND TELL ME WHERE,
3 IF ANYWHERE, IT SAYS---

4 A JUST LIKE IT SAYS BRUCE'S CAR WAS IN THE YARD. THAT'S
5 DAWN SIGHTLER'S CAR.

6 Q NO, MA'AM. I'M ASKING A VERY SIMPLE QUESTION. I WANT
7 YOU TO TELL ME---

8 A I DON'T KNOW WHERE IT IS, SIR.

9 Q IS IT IN THERE?

10 A NO, IT'S NOT.

11 Q ALL RIGHT. IT'S NOT IN THERE. NOW I ALSO WANT YOU TO
12 TELL ME WHERE IN THAT STATEMENT IT SAYS THAT JIMMY TOLD FRED
13 IF YOU THINK SHE'S WORTH 20 YEARS YOU CAN HAVE THE BITCH.

14 A IT'S NOT IN THERE.

15 Q WHILE WE'RE ON THAT SUBJECT, LET ME ASK YOU THIS: DID
16 HE SAY THAT BECAUSE HE THOUGHT FRED RUTLAND WAS GONNA KILL
17 HIM RIGHT THEN AND THERE AT HIS OWN HOUSE?

18 A NO. HIS STATEMENT WAS IF FRED THOUGHT I WAS WORTH 20
19 YEARS HE COULD HAVE ME BEING THAT FRED AND JO ANNE HAD BEEN
20 MARRIED FOR 20 YEARS -- 23 YEARS AND JIMMY WAS UNDER THE
21 IMPRESSION THAT THERE WAS AN AFFAIR.

22 Q CORRECTLY SO.

23 A NO.

24 Q WELL, YOU HAD JUST SPENT THE NIGHT WITH MR. RUTLAND THE
25 NIGHT BEFORE, HAD YOU NOT?

SALLY PEELE - CROSS BY MR. RIDDLE

1 A WE STAYED TOGETHER.

2 Q NOW LET'S GO ON UP TO THE ROW-WOW BOUTIQUE. YOU SAID
3 THAT JIMMY CAME IN AND TOOK THAT PISTOL AND POINTED IT AT
4 YOU. IS THAT CORRECT?

5 A YES.

6 Q WOULD YOU SHOW ME WHERE IN THAT STATEMENT IT SAYS THAT
7 JIMMY POINTED THAT GUN AT YOU.

8 A IT'S NOT IN THERE EITHER.

9 Q IT'S NOT IN THE STATEMENT. LAST THING I WANT TO ASK YOU
10 ABOUT, PROBABLY THE MOST IMPORTANT. I WANT YOU TO SHOW ME
11 WHERE IN THAT STATEMENT IT SAYS JIMMY PEELE WAS PULLING THE
12 TRIGGER ON THAT TECH NINE.

13 A IT'S NOT IN THERE.

14 Q IT'S NOT IN THERE. THAT STATEMENT WAS MADE THREE DAYS
15 AFTER THE EVENT.

16 A YES.

17 Q YOU THINK YOUR MEMORY IS BETTER TODAY OR THREE DAYS
18 AFTER IT HAPPENED?

19 A SIR, MY MEMORY IS FINE.

20 Q THAT'S NOT WHAT I ASKED YOU, MS. PEELE. DO YOU THINK
21 YOU CAN REMEMBER THE EVENTS OF SEPTEMBER THE 4TH 1992 BETTER
22 TODAY OR BETTER THREE DAYS AFTER THE EVENTS TOOK PLACE?

23 A I'M SURE I REMEMBER THE EVENTS THEN THE SAME WAY I
24 REMEMBER THE EVENTS NOW.

25 Q OK. NOW YOU WORK AS A BUILDER. IS THAT CORRECT?

SALLY PEELE - CROSS BY MR. RIDDLE

1 A YES.

2 Q AND WORKING AT THE WAL MART. RIGHT?

3 A YES.

4 Q IN THAT JOB, THAT JOB REQUIRES SOME STRENGTH AND SOME
5 ENDURANCE. IS THAT CORRECT?

6 A YES.

7 Q HOW TALL ARE YOU, MS. PEELE?

8 A I'M FIVE TEN, FIVE ELEVEN, DEPENDS ON WHAT I'VE GOT ON
9 MY FEET.

10 Q AND HOW MUCH DO YOU WEIGH?

11 A 125 POUNDS.

12 Q AND YOU'RE IN GOOD SHAPE.

13 A YES.

14 Q I WOULD PRESUME THAT YOU'RE FAIRLY STRONG.

15 A YES.

16 Q AND YOU'RE USED TO WORKIN' AROUND MEN. AS A MATTER OF
17 FACT, YOU HAVE MEN THAT WORK UNDER YOU.

18 A YES.

19 Q SO YOU'RE OBVIOUSLY NOT INTIMIDATED BY MEN.

20 A NO.

21 Q OK. NOW YOU TESTIFIED EARLIER, I BELIEVE, THAT YOU MET
22 FRED RUTLAND AT THE WAL MART. RIGHT?

23 A YES.

24 Q FIRST DAY YOU WENT TO WORK.

25 A YES.

SALLY PEELE - CROSS BY MR. RIDDLE

1 Q AND THAT WAS ON MARCH 3RD I THINK YOU SAID.

2 A YES.

3 Q BRIGHT AND EARLY ON MONDAY MORNING.

4 A YES.

5 Q OK. I WANT YOU TO LOOK AT THIS CALENDAR FOR A MINUTE.

6 TELL ME WHAT DAY MARCH 3RD OF 1992 WAS.

7 A TUESDAY.

8 Q TUESDAY. OK.

9 A YOU SURE THAT'S CORRECT? I'M JUST SAYIN' I THOUGHT IT
10 WAS MONDAY.

11 Q THIS IS JUST A COMMERCIAL CALENDAR. NOW YOU TESTIFIED
12 EARLIER, I BELIEVE, THAT MR. RUTLAND FIRST CAME TO LEXINGTON
13 ON SEPTEMBER THE 3RD OF 1992.

14 A YES.

15 Q ISN'T IT TRUE, MS. PEELE, THAT MR. RUTLAND HAD BEEN WITH
16 YOU AT ROBIN HUNT'S HOUSE BACK IN JULY OF '92 WHEN YOU AND HE
17 TOOK OFF AND WENT TO TEXAS FOR TEN DAYS?

18 A I DON'T REMEMBER, SIR.

19 Q DO YOU REMEMBER GOING TO TEXAS WITH MR. RUTLAND?

20 A YES, I DO.

21 Q AND THAT WAS BACK AROUND JULY OF 1992.

22 A YES.

23 Q AND DID MR. RUTLAND AND YOU COME BACK TO LEXINGTON
24 COUNTY TO ROBIN HUNT'S HOUSE AT THAT TIME?

25 A I TOOK FRED TO CHARLESTON SO---

SALLY PEELE - CROSS BY MR. RIDDLE

1 Q SO YOU'RE SAYING HE WAS NEVER IN LEXINGTON COUNTY BACK
2 IN JULY OF '92.

3 A NOT THAT I REMEMBER.

4 Q ALL RIGHT. WHEN YOU TESTIFIED EARLIER THAT WHEN YOU SAW
5 FRED RUTLAND ON SEPTEMBER 3RD WHICH WAS THURSDAY EVENING
6 SOMETIME THAT YOUR INTENTION WAS TO LEAVE TOWN IMMEDIATELY.
7 RIGHT? YOU WERE AT DAY'S INN ON AIRPORT BOULEVARD. RIGHT?
8 IT WAS RIGHT THERE BY THE AIRPORT. MS. PEELE, WHY DIDN'T YOU
9 TAKE SOME OF THIS \$222 THAT YOU SPENT ON THESE GUNS AND RENT
10 YOU A CAR AT THE AIRPORT AND LEAVE?

11 A YOU KNOW I'VE ASKED MYSELF THAT SAME QUESTION. AT THE
12 TIME I THOUGHT JIMMY WAS IN SUMMERVILLE AND I COULD GO GET
13 THE BROWN CAR. I'D HAD THE CAR FOR YEARS.

14 Q WELL, NOW YOU TESTIFIED EARLIER THAT YOU DIDN'T FIND OUT
15 THAT JIMMY WAS IN SUMMERVILLE TILL 1:30 IN THE MORNING. I
16 PRESUME THAT YOU SAW MR. RUTLAND PRIOR TO 1:30 IN THE MORNING
17 ON THURSDAY NIGHT.

18 A YES.

19 Q WHY DIDN'T YOU JUST GO LEAVE?

20 A BECAUSE I WANTED TO KNOW WHERE MY DAUGHTER WAS.

21 Q NOW WHEN YOU SAY THIS TRANSPIRED ON THE THIRD THAT JIMMY
22 PEELE DUMPED OUT YOUR SUITCASE AND ALL---

23 A YES.

24 Q ---DID YOU CALL THE SHERIFF'S DEPARTMENT AND TELL THEM
25 AT THAT TIME?

SALLY PEELE - CROSS BY MR. RIDDLE

1 A I CALLED THE SHERIFF'S DEPARTMENT AND ASKED THEM TO HELP
2 ME ABOUT CHRISTINE, YES.

3 Q THAT WAS ON FRIDAY.

4 A YES.

5 Q I'M TALKIN' ABOUT THURSDAY. DID YOU CALL THE SHERIFF'S
6 DEPARTMENT ON THURSDAY AFTER JIMMY PEELE ALLEGEDLY WOULDN'T
7 LET YOU LEAVE THE RESIDENCE?

8 A NO.

9 Q WHY NOT?

10 A I WAS BUSY LEAVING THE RESIDENCE.

11 Q WELL, DON'T YOU THINK THEY WOULD'VE COME OUT THERE AND
12 HELPED YOU IF YOU WANTED TO LEAVE?

13 A I DON'T KNOW, SIR. I'VE CALLED LEXINGTON COUNTY A FEW
14 TIMES AND ASKED THEM FOR HELP AND NEVER RECEIVED ANY.

15 Q DID YOU FILE ANY POLICE REPORTS, MA'AM?

16 A NO, SIR.

17 Q HAVE YOU EVER FILED ANY POLICE REPORTS?

18 A NO.

19 Q YOU NEVER COMPLAINED TO DETECTIVE FRIER, ANY OF THESE
20 OTHER OFFICERS WHO TESTIFIED EARLIER.

21 A YOU MEAN PRIOR TO?

22 Q PRIOR TO.

23 A NO.

24 Q OR ON THAT THURSDAY SPECIFICALLY.

25 A NO. YES.

SALLY PEELE - CROSS BY MR. RIDDLE

- 1 Q CORRECT.
- 2 A NOT DETECTIVE FRIER.
- 3 Q NOW HOW DID JIMMY PEELE GET THIS SHOTGUN?
- 4 A IT WAS A CHRISTMAS PRESENT.
- 5 Q FROM?
- 6 A ME.
- 7 Q YOU GAVE IT TO HIM.
- 8 A YES.
- 9 Q ALL RIGHT. I BELIEVE YOU TESTIFIED THAT THE REASON YOU
10 WENT TO THE PAWN SHOP WAS TO PICK THAT SHOTGUN UP. RIGHT?
- 11 A YES.
- 12 Q BECAUSE YOU WERE GONNA TAKE IT WITH YOU WHEN YOU LEFT.
- 13 A YES. AND NOT ONLY THAT, BUT TO KEEP JIMMY PEELE FROM
14 GETTIN' IT AFTER HE THREATENED TO KILL ME. YES, SIR.
- 15 Q OK. AND YOU WERE GONE AND YOU LEFT LEXINGTON COUNTY,
16 NUMBER ONE, GET OUT OF LEXINGTON; NUMBER TWO, TO GO TO
17 FLORIDA AND NUMBER THREE, GO BACK TO TEXAS. RIGHT?
- 18 A MY GOAL WHEN I LEFT WAS TO GET OUT OF COLUMBIA.
- 19 Q NUMBER ONE.
- 20 A YES.
- 21 Q NUMBER TWO, GO TO FLORIDA.
- 22 A POSSIBLY.
- 23 Q THAT'S WHAT YOU TESTIFIED TO EARLIER.
- 24 A IT WAS JUST A -- I MEAN EITHER FLORIDA, MAYBE TEXAS.
- 25 Q WELL, THE---

SALLY PEELE - CROSS BY MR. RIDDLE

1 A THE MAIN THING WAS TO GET AWAY FROM COLUMBIA WHERE JIMMY
2 COULD NOT FIND ME.

3 Q OK. FRED RUTLAND WAS GONNA GO WITH YOU. WASN'T HE?

4 A HE WAS GONNA GO AND HELP SEE TO IT THAT I GOT SET UP.
5 YES.

6 Q OK. WHERE HAVE YOU BEEN LIVING FOR THE LAST FEW MONTHS,
7 MS. PEELE?

8 A WHERE HAVE I BEEN?

9 Q UH-HUH.

10 A YOU WANT ME TO START NOW?

11 Q THE LAST COUPLE OF MONTHS. YOU'VE BEEN DOWN IN FLORIDA.
12 RIGHT?

13 A YES.

14 Q AND WHOSE BEEN DOWN THERE WITH YOU?

15 A WORKING.

16 Q WHOSE BEEN DOWN THERE WITH YOU?

17 A FRED.

18 Q FRED. HAS IT TAKEN YOU A COUPLE OF MONTHS TO GET SET UP
19 IN FLORIDA?

20 A IT -- ONE OF THE REASONS WHY I WENT TO FLORIDA---

21 Q YOU'RE NOT ANSWERING MY QUESTION. HAS IT TAKEN YOU A
22 COUPLE OF MONTHS TO GET SET UP DOWN IN FLORIDA?

23 A YES.

24 Q BECAUSE THAT'S THE ONLY REASON FRED WAS GONNA GO WITH
25 YOU. RIGHT?

SALLY PEELE - CROSS BY MR. RIDDLE

1 A WHAT DO YOU MEAN?

2 Q YOU JUST TESTIFIED THAT THE ONLY REASON HE WAS GONNA GO
3 WITH YOU WAS SO THAT YOU COULD GET SET UP. MY QUESTION TO
4 YOU IS DOES IT TAKE YOU A COUPLE OF MONTHS TO GET SET UP
5 BECAUSE HE'S BEEN DOWN IN FLORIDA WITH YOU?

6 A YES, SIR.

7 Q OK. SO HE SKIPPED HIS BAIL AND WENT DOWN TO FLORIDA
8 WITH YOU. RIGHT?

9 A EVIDENTLY SO.

10 Q RIGHT. YOU KNOW HIS BOND SAID DO NOT LEAVE THE STATE OF
11 SOUTH CAROLINA.

12 A AND HAD JUST MANAGED TO FIND GOOD WORK TO WHERE COULD DO
13 SOMETHING WITH THE LAW HERE AS TO -- ONE OF THE REASONS WHY
14 BEING THAT ON SATURDAY, SIR, FOLLOWING THIS INCIDENT?

15 Q NO. I MEAN WE'RE TALKIN' ABOUT HIM SKIPPIN' BAIL AND
16 GOING TO FLORIDA TO GET SET UP WITH YOU.

17 A NO, NOT WITH ME. TO GET ME SET UP.

18 Q AND HE'S BEEN DOWN THERE WITH YOU FOR AT LEAST TWO
19 MONTHS. IS THAT CORRECT?

20 A I'M NOT QUITE SURE HOW LONG.

21 Q WOULD THAT BE A FAIR ESTIMATE?

22 A YES.

23 Q OK. NOW YOU GET THIS PISTOL, THIS SHOTGUN, TWO BOXES OF
24 AMMUNITION. RIGHT?

25 A YES.

SALLY PEELE - CROSS BY MR. RIDDLE

1 Q AT THE PAWN SHOP.

2 A YES.

3 Q WOULD AGREE WITH THIS TIME THAT IT HAPPENED AT 9:44 IN
4 THE MORNING?

5 A YES.

6 Q AND YA'LL GO TO THE MARITAL HOME, YOURS AND JIMMY'S, AND
7 HE'S CALLIN' 911 ABOUT YA'LL POINTIN' A GUN AT HIM ROUGHLY AN
8 HOUR LATER. RIGHT?

9 A I HEARD THIS, YES.

10 Q OK. AND AT EXACTLY WHAT POINT DID YOU LOAD THAT PISTOL.
11 UP?

12 A I DON'T REMEMBER.

13 Q WAS IT ON THE WAY TO JIMMY'S HOUSE?

14 A I DON'T REMEMBER.

15 Q WAS IT WHILE YOU WERE SITTING IN THE DRIVEWAY AT JIMMY'S
16 HOUSE?

17 A SIR, I REALLY DON'T REMEMBER.

18 Q WELL, YOU JUST TESTIFIED EARLIER THAT YOUR MEMORY WAS AS
19 GOOD TODAY AS IT WAS WHEN THESE INCIDENTS TOOK PLACE OR THREE
20 DAYS AFTER THAT. WHICH ONE IS IT, MS. PEELE? IS IT AS GOOD
21 TODAY OR IS IT NOT AS GOOD TODAY?

22 A IT'S JUST AS GOOD TODAY.

23 Q WELL, THEN CAN YOU TELL ME WHEN YOU LOADED THAT PISTOL?

24 A PROBABLY LOADED AS SOON AS I BOUGHT IT.

25 Q ON THE WAY TO JIMMY'S HOUSE?

SALLY PEELE - CROSS BY MR. RIDDLE

1 A ON THE WAY TO OUR HOUSE, YES.

2 Q AND WHEN YOU GOT THERE YOU PUT THAT PISTOL IN YOUR
3 POCKET AND TOOK IT INSIDE WITH YOU. DIDN'T YOU?

4 A YES, BECAUSE THE CAR THAT WAS IN THE DRIVEWAY BELONGED
5 TO DAWN SIGHTLER AND OUR RELATIONSHIP AS FAR AS BEING
6 PERSONAL FRIENDS IS QUESTIONABLE AS FAR -- YOU KNOW, WE'RE
7 JUST NOT FRIENDS.

8 Q OK. FRED GOT OUT OF THAT CAR WHEN YOU CAME OUT OF THE
9 HOUSE. HE HAD THIS SHOTGUN. RIGHT?

10 A YES.

11 Q AND HE TOOK THIS SHOTGUN AND HE FIRED OFF A ROUND.
12 DIDN'T HE?

13 A YES.

14 Q UP IN THE AIR.

15 A YES.

16 Q LIKE THAT, ONLY NOISIER. RIGHT?

17 A YES.

18 Q WHERE EXACTLY DID HE POINT THAT GUN AT JIMMY PEELE?

19 A SIR, I DON'T REMEMBER ANY POINTING OF ANY GUN.

20 Q YOU THINK THAT'S WHAT ALLEGEDLY STOPPED AND GOT JIMMY'S
21 ATTENTION? SOMEBODY POINTING A GUN AT HIM? YOU REMEMBER
22 THAT HAPPENING?

23 A I REMEMBER THE SHOTGUN GOIN' OFF.

24 Q AND YOU REMEMBER FRED RUTLAND POINTIN' IT AT JIMMY.
25 DON'T YOU?

SALLY PEELE - CROSS BY MR. RIDDLE

1 A NO, I DO NOT. I WAS TALKING WITH JIMMY AT THE TIME.

2 Q NOW WHEN YOU GOT THERE YOU DREW YOUR PISTOL OUT. RIGHT?

3 A NO. I HAD IT IN MY POCKET.

4 Q BUT AT SOME POINT YOU HAD THE PISTOL OUT.

5 A YES, WHEN JIMMY WAS COMIN' TOWARDS ME WITH THE SQUIRREL
6 CAGE. YES.

7 Q A SQUIRREL CAGE. A SQUIRREL CAGE THAT DOESN'T APPEAR IN
8 YOUR STATEMENT.

9 A YES.

10 Q AND YOU POINTED THAT PISTOL AT JIMMY'S FEET.

11 A YES, I DID.

12 Q YOU POINTED IT AT HIM. RIGHT?

13 A YES, AT HIS FEET, SIR.

14 Q OK. AND YA'LI. WENT BACK TO ROBIN'S FROM THERE. THEN
15 YOU WENT TO SCHOOL.

16 A YES.

17 Q THEN YOU CAME BACK TO ROBIN'S. SOMETHIN' YOU KINDA LEFT
18 OUT THAT TRANSPIRED AT ROBIN'S HOUSE. DIDN'T YOU?

19 A WHAT IS THAT?

20 Q THE PHONE CALL BETWEEN YOU AND JIMMY PEELE. RIGHT?

21 A NO.

22 Q PHONE CALL WHERE YOU TOLD---

23 MR. GREGORY: YOUR HONOR, WE OBJECT TO ANY TESTIMONY
24 FROM THE SOLICITOR AT THIS POINT.

25 THE COURT: NO, YOU CAN'T TESTIFY, SOLICITOR. YOU GOT

SALLY PEELE - CROSS BY MR. RIDDLE

1 TO CALL---

2 MR. RIDDLE: YOUR HONOR, I'M ASKIN' HER IF SHE MADE A
3 TELEPHONE CALL.

4 THE COURT: OK. YOU CAN ASK HER.

5 A NO, SIR, I DID NOT.

6 Q IT'S YOUR TESTIMONY HERE TODAY THAT NO TELEPHONE CALL
7 TOOK PLACE BETWEEN YOU AND JIMMY PEELE WHERE EITHER YOU
8 CALLED HIM OR HE CALLED ROBIN HUNT'S HOUSE SOMETIME AROUND 12
9 NOON?

10 A FRIDAY?

11 Q FRIDAY.

12 A NO, SIR.

13 Q AND AT THAT TIME, ISN'T IT TRUE, MS. PEELE, THAT YOU
14 TOLD JIMMY TO MEET YOU AT THE SHOP AT IN ABOUT 45 MINUTES---

15 MR. GREGORY: NO, YOUR HONOR, WE OBJECT---

16 A THAT'S RIDICULOUS.

17 MR. GREGORY: ---TO THE TESTIMONY FROM THE SOIJCITOR AND
18 WE ASK THAT THAT BE STRICKEN FROM THE RECORD.

19 THE COURT: CAN YOU TIE THAT UP?

20 MR. RIDDLE: YES, SIR.

21 THE COURT: SUBJECT TO HIM TYIN' IT UP. NOTE YOUR
22 OBJECTION.

23 Q NOW LET'S GET RIGHT UP TO THE TIME THIS INCIDENT TOOK
24 PLACE. OK? YOU SAY TODAY THAT JIMMY CAME IN WITH THAT GUN,
25 PULLED IT OUT, PULLED IT OUT, AND STARTED POINTING, FIRST AT

SALLY PEELE - CROSS BY MR. RIDDLE

1 YOU AND THEN AT FRED.

2 A YES.

3 Q I BELIEVE YOU SAID YOU WERE LOOKIN' A JIMMY WHEN THAT
4 TRANSPIRED.

5 A YES.

6 Q AND THEN YOU LOOKED BACK AT FRED.

7 A WHEN HE SAID PLEASE DON'T, YES, I GLANCED AT HIM.

8 Q WHEN YOU LOOKED BACK AT HIM, IS IT YOUR TESTIMONY TODAY
9 THAT?

10 A IT WAS MORE IN FRONT OF HIM.

11 Q LIKE THIS.

12 A NO. POINTED AT THE FLOOR IN FRONT OF HIM.

13 Q LIKE THIS.

14 A YES.

15 Q OK.

16 A HOLDIN' IT DOWN LOW JUST SO, YOU KNOW, LIKE YOUR
17 STATEMENT SAID, JUST SO JIMMY COULD SEE IT. PLEASE DON'T.

18 Q NOW WHEN DID HE GET THIS GUN OUT?

19 A I DON'T KNOW.

20 Q YOU DON'T KNOW. ISN'T IT TRUE, MS. PEELE, THAT FRED
21 RUTLAND DREW THIS PISTOL BEFORE JIMMY PEELE EVEN GOT INTO THE
22 SHOP?

23 A SIR, I WATCHED JIMMY PEELE COME IN. IN MY STATEMENT I
24 SAY THAT I GLANCED AT FRED.

25 Q FRED RUTLAND HAD THAT GUN DRAWN BEFORE JIMMY PEELE EVER

SALLY PEELE - CROSS BY MR. RIDDLE

1 CAME INTO THAT SHOP. ISN'T THAT TRUE?

2 A NO, SIR. IT'S NOT. NOT TO MY KNOWLEDGE WHATSOEVER.

3 Q TELL ME SOMETHIN'. LOOKING BACK AT YOUR STATEMENT, TELL
4 ME WHERE IT SAYS THAT FRED SAID DON'T JIMMY PLEASE DON'T.

5 A IT DOESN'T.

6 Q FRED RUTLAND TOOK THAT PISTOL AND HE SHOT JIMMY PEELE
7 FOUR TIMES. RIGHT?

8 A YES, SIR.

9 Q EXCUSE ME?

10 A YES, SIR.

11 Q I DON'T HAVE ANYTHING FURTHER.

12 REDIRECT EXAMINATION

13 BY MR. GREGORY

14 Q MS. PEELE, DO YOU RECALL MAKING A STATEMENT TO THE
15 POLICE?

16 A YES, SIR.

17 Q DID YOU WRITE IT DOWN ON PAPER---

18 A NO.

19 Q ---OR DID YOU JUST TALK TO THEM?

20 A I JUST TALKED TO HIM.

21 Q SO ANYTHING THAT THEY HAVE WRITTEN ON PAPER IS WHAT THEY
22 WROTE THEMSELVES?

23 A YES, SIR.

24 Q HOW LONG DID YOU TALK TO THEM, MS. PEELE?

25 A I DON'T KNOW, JACK. A LONG TIME.

SALLY PEELE - REDIRECT BY MR. GREGORY

1 Q AN HOUR?

2 A 45 MINUTES.

3 Q DID YOU TALK A LOT, FAST?

4 A YES.

5 Q COULD YOU HAVE WRITTEN ALL THAT YOU TOLD THE POLICE ON
6 THREE OR TWO PAGES OF PAPER?

7 A NO, SIR.

8 Q WERE THERE ANY THINGS LEFT OUT OF WHAT YOU TOLD THE
9 POLICE?

10 A THERE SURE IS, AND THERE'S THINGS THAT ARE DIFFERENT
11 FROM WHAT I'M SURE I SAID. I DON'T -- THERE'S NO REASON WHY
12 I WOULD'VE CALLED THAT BRUCE'S CAR. IT'S DAWN'S CAR AND
13 ALWAYS HAS BEEN EVER SINCE I FIRST SAW IT.

14 Q SALLY, DO YOU RECALL AT THE PAWN SHOP WHEN YOU PURCHASED
15 THE SHOTGUN AND THE PISTOL STATE'S EXHIBIT 23 HERE THIS IS
16 THE RECEIPT, YOU BOUGHT SOME AMMUNITION THAT WENT WITH BOTH
17 OF THOSE WEAPONS, DIDN'T YOU?

18 A YES.

19 Q AND THIS RECEIPT HAS THIS WRITTEN DOWN AT THE BOTTOM AND
20 YOU SIGNED IT. DIDN'T YOU?

21 A YES.

22 Q WOULD YOU READ WHAT IT SAYS HERE DOWN AT THE BOTTOM
23 THERE RIGHT BEFORE THIS LITTLE PARAGRAPH HERE?

24 A RIGHT BEFORE?

25 Q RIGHT.

SALLY PEELE - REDIRECT BY MR. GREGORY

1 A IT SAYS---

2 Q YEAH, WHAT DID YOU READ RIGHT HERE?

3 A THE FOLLOWING ITEMS HAVE BEEN EXPLAINED AND/OR
4 DEMONSTRATED AND I UNDERSTAND THE SAME. YES. I DIDN'T---

5 Q READ THAT OUT LOUD.

6 A THE SAFE AND CORRECT USE OF THEM IN REGARDS TO THE ABOVE
7 DESCRIBED FIREARMS. THE SAFETY FEATURES, PROPER LOADING,
8 PROPER UNLOADING, PROPER STORAGE.

9 Q YOU MADE ALL THOSE CHECK MARKS?

10 A YES.

11 Q AND YOU SIGNED YOUR NAME.

12 A YES.

13 Q SO THE WEAPONS WERE LOADED AT THE PAWN SHOP, WEREN'T
14 THEY?

15 A YES.

16 Q YOU GOT A FIRSTHAND DEMONSTRATION FROM MR. SHORT, DIDN'T
17 YOU?

18 A YES, I DID.

19 Q SALLY, WHEN YOU WENT TO TALK TO THE POLICE AFTER THIS
20 OCCURRED, DID THEY REQUIRE YOU MAKE A STATEMENT BEFORE
21 CERTAIN THINGS COULD OCCUR?

22 A IMMEDIATELY AFTER THE SHOOTING?

23 Q YES.

24 A YES. I SAID I'M GOING TO THE HOSPITAL. NO YOU'RE NOT.
25 YOU'RE GONNA GO DOWNTOWN AND GIVE US A STATEMENT, THEN YOU

SALLY PEELE - REDIRECT BY MR. GREGORY

1 CAN GO TO THE HOSPITAL. WHILE I WAS DOWN THERE I WAS
2 INFORMED THAT THEY HAD FOUND CHRISTINE. I ASKED HER WHERE --
3 I ASKED HIM WHERE SHE WAS AND DURING THE PROCESS OF BEING
4 QUESTIONED BY THREE DIFFERENT DETECTIVES I WAS TOLD THAT I
5 WOULD BE TAKEN TO CHRISTINE AFTER I GIVE 'EM A STATEMENT.

6 Q HOW MANY STATEMENTS DID YOU GIVE 'EM?

7 A I HAVE NO IDEA.

8 Q HAVE YOU EVER TRIED TO RENT A CAR AT THE AIRPORT, MS.
9 PEELE?

10 A NO, SIR, I HAVEN'T.

11 Q DO YOU HAVE A CREDIT CARD, MS. PEELE?

12 A NO, I DON'T.

13 Q THANK YOU, MS. PEELE. YOU CAN STEP DOWN.

14 RE-CROSS-EXAMINATION

15 BY MR. RIDDLE

16 Q MS. PEELE, JUST ONE SECOND. THE STATEMENT THAT YOU HAVE
17 BEEN READING FROM UP THERE, WHAT'S THE DATE ON THE TOP OF
18 THAT STATEMENT?

19 A SEPTEMBER 7TH.

20 Q SEPTEMBER 7. THAT'S THREE DAYS AFTER THE SHOOTING.
21 RIGHT?

22 A YES, SIR.

23 Q YOU HAD ALL THE TIME IN THE WORLD AT THAT POINT TO MAKE
24 A FULL AND COMPLETE STATEMENT. DIDN'T YOU?

25 A YES, SIR.

SALLY PEELE - RECROSS BY MR. RIDDLE

1 Q OR YOU FOUND YOUR DAUGHTER ABOUT THEN.

2 A YES, SIR, AND I WAS ALSO TOLD BY A LEXINGTON COUNTY
3 DETECTIVE THAT IF I DID NOT BACK OFF I WOULD NEVER HAVE HER
4 AGAIN.

5 Q WHICH ONE?

6 A DETECTIVE -- THE DETECTIVE THAT WAS TALKIN' TO ME SAID
7 IT WAS A DETECTIVE HOBBS WHO MADE THE STATEMENT.

8 Q DETECTIVE HOBBS?

9 A YES, SIR.

10 Q OK. THANK YOU.

11 MR. GREGORY: THANK YOU. WE CALL DON SPENCER.

12 DON SPENCER, BEING DULY SWORN, TESTIFIES

13 AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. GREGORY

16 Q DON SPENCER, WHERE DO YOU LIVE?

17 A SUMMERVILLE.

18 Q AND WHAT OCCUPATION ARE YOU INVOLVED IN?

19 A I'M A MECHANIC.

20 Q AND HOW LONG HAVE YOU BEEN A MECHANIC?

21 A 16 YEARS OFF AND ON.

22 Q YOU ALSO WORK CONSTRUCTION?

23 A YES, SIR.

24 Q DID YOU AT ONE TIME WORK FOR R.J.R., INC.?

25 A R.P.R., YES, SIR.

DON SPENCER - DIRECT BY MR. GREGORY

1 Q R.P.R., INC. EXCUSE ME.

2 A YES, SIR.

3 Q AND DID YOU WORK ON A JOB CALLED WAL MART JOB IN
4 SUMMERVILLE?

5 A YES, SIR.

6 Q DO YOU RECALL WHAT DATE YOU WERE THERE WORKING?

7 A I WAS THERE WHEN THE JOB ORIGINALLY STARTED DECEMBER
8 31ST.

9 Q OF '91?

10 A YES, SIR.

11 Q AND HOW LONG DID YOU WORK THAT PARTICULAR JOB?

12 A I STAYED UNTIL ALMOST THE END OF JUNE.

13 MR. MCMAHON: YOUR HONOR, I HAVE A MATTER OF LAW. I
14 DON'T BELIEVE ANY OF HIS TESTIMONY WOULD BE RELEVANT TO THE
15 FACTS OF THIS CASE IN SEPTEMBER THE 4TH OF '92. HE'S SAYIN'
16 HE WORKED THERE FROM DECEMBER OF '91 UNTIL JUNE OF '92.

17 THE COURT: WHAT'S HE GOT RELEVANT TO THIS?

18 MR. GREGORY: YOUR HONOR, HE WORKED WITH THE---

19 MR. MCMAHON: I DON'T WANT TESTIMONY COMIN' OUT IN FRONT
20 OF THE JURY. I DO NOT THINK IT IS RELEVANT AND THAT'S WHAT
21 I'M RELYIN' ON THE RULES OF EVIDENCE; NOT, NOT MR. GREGORY
22 TESTIFYIN' TO THE MATTER. I'D LIKE TO TAKE IT UP WITH YOU AT
23 THE SIDE BAR OUTSIDE THE PRESENCE OF THE JURY.

24 THE COURT: COME AROUND HERE AND LET'S TAKE IT UP, SEE
25 ABOUT NOT SENDIN' THE JURY OUT. (THERE WAS A BENCH

DON SPENCER - DIRECT BY MR. GREGORY

1 CONFERENCE OUT OF THE HEARING OF THE JURY AND OFF THE
2 RECORD.)

3 Q ALL RIGHT, MR. SPENCER. DID YOU WORK ON A CONSTRUCTION
4 CREW WITH SALLY PEELE?

5 A YES, I DID.

6 Q AND WHAT WAS YOUR RELATIONSHIP WITH HER IN THAT
7 CONSTRUCTION CREW?

8 A MY -- MY JOB WAS BASICALLY REPAIRS OF ALL MACHINERY AND
9 CARPENTER'S HELPER. I WAS ASSIGNED WITH SALLY PEELE AS A
10 WORK PARTNER.

11 Q AND WHO WAS YOUR FOREMAN?

12 A FRED RUTLAND.

13 Q AND WERE YOU WORKING THERE WHEN SALLY CAME ONTO THE JOB?

14 A YES, SIR.

15 Q AND WERE YOU WORKING THERE WHEN HER FIRST DAY ON THE JOB
16 OCCURRED?

17 A YES, SIR.

18 Q DO YOU RECALL WHEN HER FIRST DAY ON THE JOB WAS?

19 A NO, SIR. BEGINNING IN MARCH IS ALL I REMEMBER ON THAT.

20 Q MARCH OF '92?

21 A YES, SIR.

22 Q AND YOU SUBSEQUENTLY LEFT THAT EMPLOYMENT.

23 A CORRECT.

24 Q THREE MONTHS LATER?

25 A RIGHT.

DON SPENCER - DIRECT BY MR. GREGORY

1 Q DURING THE PERIOD OF TIME THAT YOU AND SALLY PEELE WERE
2 WORKING TOGETHER, WAS IT CUSTOMARY FOR HER TO REPORT IN TO
3 MR. RUTLAND EVERY MORNING?

4 A YES, SIR.

5 Q DID YOU HAVE TO DO THE SAME THING?

6 A YES, SIR.

7 Q IF YOU OR SHE WERE UNABLE TO WORK ANY PARTICULAR DAY WAS
8 FRED RUTLAND THE PERSON THAT YOU HAD TO TALK TO TO GET
9 PERMISSION TO MISS WORK AND SO FORTH?

10 A NO, SIR, WE HAD TO GO -- WE HAD TO CONTACT RODNEY ROHAM
11 WHO WAS THE JOB SUPERVISOR AND WHICH RODNEY ROHAM WOULD THEN
12 NOTIFY FRED RUTLAND.

13 Q ALL RIGHT, SIR. THANK YOU. ANSWER ANY QUESTIONS THE
14 SOLICITOR MAY HAVE.

15 MR. MCMAHON: NO QUESTIONS.

16 THE COURT: THANK YOU, SIR.

17 MR. GREGORY: WE CALL WOODY---

18 THE COURT: HOW LONG YOU BEEN IN SUMMERVILLE FROM
19 BOSTON?

20 A EXCUSE ME?

21 THE COURT: WHERE YOU FROM? BOSTON?

22 A YEAH.

23 THE COURT: SEE, I CAN CATCH WHERE YOU FROM BY TWO
24 WORDS.

25 MR. GREGORY: WOODY JEFFORDS.

WOODY JEFFORDS - DIRECT BY MR. GREGORY

1 WOODY JEFFORDS, BEING DULY SWORN,
2 TESTIFIES AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. GREGORY

5 Q MR. JEFFORDS, WHERE DO YOU LIVE, SIR?

6 A SUMMERVILLE, SOUTH CAROLINA.

7 Q AND WHAT TYPE OF WORK ARE YOU ENGAGED IN?

8 A I'M A CARPENTER.

9 Q WERE YOU ALSO EMPLOYED WITH R.P.R., INC., IN 1992?

10 A YES, SIR, I WAS.

11 Q WHAT JOB WERE YOU WORKING ON?

12 A I WAS A CARPENTER THERE.

13 Q AND DO YOU RECALL WHOSE CREW YOU WERE WORKING ON AT THAT
14 TIME?

15 A WHEN I FIRST STARTED THE JOB I WAS PUT ON A NIGHT SHIFT
16 AND AFTER THE NIGHT SHIFT JOB WAS DONE I WAS PUT ON ANOTHER
17 CREW WITH SALLY.

18 Q AND THIS IS SALLY PEELE?

19 A YES, SIR.

20 Q DO YOU RECALL WHEN YOU AND SALLY BEGAN WORKING TOGETHER?

21 A IT WAS SHORTLY AFTER DONALD SPENCER LEFT.

22 Q AND YOU MORE OR LESS TOOK HIS PLACE?

23 A WELL, IN THE SENSE SINCE ME AND HER BOTH WERE CARPENTERS
24 IT DID -- THE JOB GOT DONE A LOT FASTER SINCE BOTH OF US KNEW
25 WHAT WAS GOIN' ON.

WOODY JEFFORDS - DIRECT BY MR. GREGORY

1 Q NOW WERE YOU STILL WORKING THERE WHEN SHE STOPPED WORK?

2 A YES, I WAS.

3 Q DO YOU RECALL WHEN THAT WAS?

4 A THE EXACT DATE, NO, SIR, I DON'T REMEMBER EXACTLY.

5 Q WHO WAS YOUR FOREMAN AT THIS TIME?

6 A FRED RUTLAND.

7 Q WERE YOU WORKING THE SAME HOURS THAT SALLY PEELE WAS
8 WORKING?

9 A YES, SIR, DAYLIGHT. DAY HOURS.

10 Q DAY HOURS.

11 A YES, SIR, AND SOMETIME WE'D WORK FROM 7 O'CLOCK IN THE
12 MORNING TILL 12 O'CLOCK AT NIGHT DEPENDIN' ON WHAT YOU GET
13 DONE.

14 Q SO YOU WOULD BE THERE ON THE JOB THE SAME TIME SHE WAS
15 THERE.

16 A YES, SIR.

17 Q WHAT WERE Y'ALL DOIN' THERE AT THE WAL MART?

18 A AT THE TIME WE WERE HAVING TO PUT IN ALL THOSE HOURS WE
19 WERE FINISHIN' UP THE CONCRETE SLAB INSIDE THE BUILDIN' SO
20 THEY COULD TEAR DOWN WHAT THEY CALL A DUST WALL, SEPARATIN'
21 THE ACTUAL CONSTRUCTION FROM THE INSIDE OF THE STORE.

22 Q THANK YOU, SIR. ANSWER ANY QUESTIONS THE SOLICITOR
23 MIGHT HAVE.

24 MR. MCMAHON: NO QUESTIONS.

25 THE COURT: THANK YOU, SIR.

FRED RUTLAND - DIRECT BY MR. GREGORY

MR. GREGORY: WE NEXT CALL DEFENDANT FRED RUTLAND.

FRED RUTLAND, BEING DULY SWORN, TESTIFIES

AS FOLLOWS:

DIRECT EXAMINATION

BY MR. GREGORY

Q MR. RUTLAND, WOULD YOU, PLEASE, GIVE US YOUR FULL NAME.

A FRED RANDALL RUTLAND.

Q AND YOUR ADDRESS.

A WHAT IS IT?

Q DO YOU LIVE IN SUMMERVILLE?

A YES.

Q HOW LONG?

A ROUTE ONE, SUMMERVILLE.

Q HOW LONG HAVE YOU LIVED IN SUMMERVILLE?

A WELL, I CAME TO SUMMERVILLE AFTER THANKSGIVIN' OF '89
WHEN I CAME BACK TO SUMMERVILLE. I WAS BORN AND RAISED
THERE.

Q HAVE YOU BEEN WORKING IN SUMMERVILLE?

A YES.

Q WHAT WERE YOU DOING THERE, WHAT TYPE OF WORK?

A THE LAST JOB WAS THE WAL MART JOB THAT EVERYBODY'S BEEN
TALKIN' ABOUT.

Q NOW TELL US A LITTLE BIT ABOUT YOUR FAMILY, MR. RUTLAND.
YOU'RE MARRIED, AREN'T YOU?

A YES, SIR.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q AND YOUR WIFE IS HERE IN THE COURTROOM, ISN'T SHE?

2 A YES, SIR. JO ANNE THERE ON THE FRONT.

3 Q DO YOU HAVE ANY CHILDREN?

4 A YES, THAT'S MY DAUGHTER ALLISON BESIDE HER. I HAVE A 13
5 AND A HALF YEAR OLD SON.

6 Q AND I IMAGINE HE'S IN SCHOOL AT THIS HOUR.

7 A YES, SIR, I IMAGINE SO.

8 Q NOW---

9 A HE'S SLIPPIN' BEHIND A LITTLE BIT THIS YEAR.

10 MR. MCMAHON: I COULDN'T HEAR. I APOLOGIZE.

11 A I SAID HE'S SLIPPIN' A LITTLE BIT THIS YEAR. WE BEEN
12 HAVIN' PROBLEMS.

13 Q MR. RUTLAND, DO YOU RECALL WHEN YOU INITIALLY STARTED
14 WORK ON THIS WAL MART JOB?

15 A YES, IT WAS DECEMBER 31ST OF '91.

16 Q AND WHO WERE YOU WORKING FOR AT THAT TIME?

17 A IT WAS R.P.R. RODNEY ROHAM WAS THE SUPERINTENDENT.

18 Q WHAT WAS YOUR JOB FUNCTION?

19 A CARPENTER FOREMAN. MORE OR LESS I JUST TOOK CARE OF ALL
20 THE FIELD WORK AND THE SUPERINTENDENT TOOK CARE OF THE OFFICE
21 WORK.

22 Q WHAT IS YOUR EDUCATIONAL BACKGROUND, MR. RUTLAND?

23 A ONLY A G.E.D.

24 Q AND HOW LONG HAVE YOU BEEN IN THE CONSTRUCTION BUSINESS?

25 A SINCE BEFORE I GOT MY G.E.D. WHEN I WAS -- I STARTED

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WITH MY GRANDFATHER AT ABOUT 14. THEN I WENT BACK TO SCHOOL
2 AND GOT MY G.E.D. AND CONTINUED BACK IN THE CONSTRUCTION.

3 Q WHAT WAS GOIN' ON WITH THE WAL. MART JOB? WHAT WAS YOUR
4 ACTUAL FUNCTION THERE?

5 A WE WERE ADDING ON 38,000 FOOT ALL THE WAY AROUND TWO
6 SIDES OF THE STORE MAKIN' IT NEXT TO THE -- WELL, THE LARGEST
7 STORE IN THE AREA WITHOUT STOPPIN' OPERATIONS.

8 Q WHAT WAS YOUR TITLE?

9 A CARPENTER FOREMAN.

10 Q YOU HAD FOLKS WORKING UNDERNEATH YOU?

11 A YES, SIR.

12 Q AND WE'VE HEARD THE TESTIMONY OF SEVERAL OF THOSE FOLKS
13 TODAY?

14 A YES, SIR.

15 Q HOW MANY DID YOU HAVE IN YOUR CREW?

16 A THE ACTUAL R.P.R. CREW WE MAY HAVE PICKED UP 15, 19, BUT
17 I ALSO HAD OTHER CONTRACTORS THAT WOULD COME TO ME, AND THE
18 BLOCK MASON SUB CONTRACTOR I ENDED UP INHERITIN' THEM AND IT
19 WAS ABOUT 30. THEY WORKED FOR A SUB CONTRACTOR AND I ENDED
20 UP HAVIN' ALL THOSE MEN TO FINISH THE JOB WITH.

21 Q WERE YOU A COORDINATOR OF SORTS?

22 A YES, SIR.

23 Q WHAT DID THAT REQUIRE YOU TO DO ON THE JOB?

24 A QUALITY CONTROL AS A SENSE. I WORKED THE SCHEDULE OUT
25 WITH THE SUPERINTENDENT. HE WOULD GET THE SCHEDULE FROM THE

FRED RUTLAND - DIRECT BY MR. GREGORY

1 OFFICE AND WE WOULD SIT DOWN AND DISCUSS HOW MANY PEOPLE IT
2 WAS GONNA TAKE TO DO WHAT AND ALL. WE'D TRY TO GET THE
3 PEOPLE THERE AND GET IT DONE ON SCHEDULE.

4 Q YOU HAD TO MANAGE THE FOLKS THAT WORKED UNDERNEATH YOU
5 THEN?

6 A YES.

7 Q DID YOU RELY ON THEIR BEING THERE ON THE JOB DAILY?

8 A IT WAS ABOUT ONE OF THE MOST IMPORTANT FACTORS.

9 Q DID SALLY COME AND WORK UNDERNEATH YOU?

10 A YES, SIR.

11 Q DO YOU RECALL WHEN SHE CAME ONTO THE JOB?

12 A YES, SIR, IT WAS THE FIRST OF MARCH.

13 Q AND HOW LONG WAS SHE THERE?

14 A TILL JULY.

15 Q WERE YOU HER FOREMAN?

16 A YES, SIR.

17 Q AND WHAT WAS HER JOB? WHAT WAS SHE SUPPOSED TO BE
18 DOING?

19 A WELL, CARPENTER. YOU KNOW, THAT'S A VERY LOOSE-FITTED
20 WORD, BUT, YEAH, AS A CARPENTER. SHE'D TAKE CARE OF THE
21 LAYOUT. I'D, YOU KNOW, RELAY IT FROM THE BLUEPRINT TO HER OR
22 WOODY OR WHOEVER WAS GONNA TAKE THE SMALL FORCE OF MEN AND GO
23 PERFORM IT, YOU KNOW, WHAT HAD TO BE DONE; WHERE IT HAD TO BE
24 SIZES AND DIMENSIONS AND LOCATIONS AND STUFF.

25 Q HOW WAS HER ABILITY AS A CARPENTER?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A VERY GOOD.

2 Q DID YOU RELY ON HER?

3 A YEAH. YES, I DID.

4 Q WAS SHE ALWAYS AT WORK?

5 A NO. STARTED OFF PRETTY GOOD.

6 Q THEN WHAT HAPPENED?

7 A STARTED SKIPPING A FEW DAYS AND---

8 MR. MCMAHON: YOUR HONOR, I'D HAVE A MATTER OF LAW.

9 THE COURT: YEAH, WE WON'T GO INTO ANYTHING ABOUT
10 PROBLEMS SHE HAD. YOU CAN SAY WHETHER OR NOT SHE CAME TO
11 WORK.

12 A YES, I DID. I SAID STARTED MISSING A FEW DAYS.

13 Q AND DID YOU HAVE TO TALK TO HER ABOUT THAT?

14 A YES, SIR. YOU KNOW, THE SUPERINTENDENT GIVES YOU THE
15 WORK FORCE FOR YOU TO PERFORM YOUR DUTIES WITH. THAT'S NOT
16 YOUR DECISION, AND WE'RE ALL GOOD FOR SOMETHING AND IF I'M
17 NOT GETTIN' FULLY POTENTIAL I TRY TO FIND OUT WHAT'S WRONG,
18 WHAT THE PROBLEM IS, YES. I HAVE TO MAKE THE DECISION
19 WHETHER TO REPLACE 'EM OR NOT.

20 Q DID YOU REPLACE HER?

21 A NO.

22 Q WHAT DID YOU ATTEMPT TO DO FOR HER BENEFIT?

23 A WELL, WE WENT TO WHERE I PREVIOUSLY HAD BEEN WORKING
24 WHICH WAS DOWNTOWN HOUSTON AND WAS SEEKING WORK SEEING HOW
25 THE -- HOW IT WAS GOIN' BECAUSE I HAD BEEN GONE FOR ABOUT TWO

FRED RUTLAND - DIRECT BY MR. GREGORY

1 YEARS AND I WASN'T SURE HOW WELL THE -- YOU KNOW, HOW WELL.
2 THE MONEY WAS GOIN' IN THAT AREA AND JUST TO SEE HOW MUCH IT
3 WOULD COST TO RELOCATE, JUST CHECKIN' THE FEASIBILITY OF
4 RELOCATION.

5 Q WHEN WAS THAT?

6 A THAT WAS JULY.

7 Q OF '92?

8 A OF '92, YES, SIR.

9 Q AND YOU AND SALLY BOTH WENT TO HOUSTON?

10 A YES, SIR.

11 Q DID YOU ATTEMPT TO FURTHER HELP HER IN THAT REGARD?

12 A YES, SIR.

13 Q WHAT ELSE DID YOU DO, SIR?

14 A WELL, DIDN'T HAVE ENOUGH FINANCES TO GET AN APARTMENT.
15 FOUND THE WORK OK BUT SHE DIDN'T HAVE HER DAUGHTER, AND WE
16 RAN OUTTA MONEY AND CAME BACK TO SOUTH CAROLINA.

17 Q WHEN WAS THIS?

18 A THAT WAS JULY 19TH WHEN WE GOT BACK.

19 Q ALL RIGHT. WAS SHE STILL WORKING WITH YOU AT THE WAL
20 MART JOB ON JULY 19, 1992?

21 A WELL, AS OF JULY 9TH WE BOTH -- WELL, SHE WAS LAID OFF
22 AT JULY 9TH. SHE HAD AN R.O.F. A REDUCTION OF FORCE.

23 Q ALL RIGHT.

24 A AND AT THAT TIME IS WHEN WE WENT TO HOUSTON. SO I QUIT
25 MY JOB.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q WHY?

2 A I DIDN'T GO BACK THE 19TH.

3 Q DID YOU ATTEMPT TO FURTHER ASSIST HER IN THE LEXINGTON
4 AREA, LEXINGTON, SOUTH CAROLINA?

5 A WORKING?

6 Q YES.

7 A NO, SIR.

8 Q WHERE?

9 A WELL, I STAYED IN CONTACT WITH TEXAS WITH HOUSTON AND,
10 YOU KNOW, I FOUND OUT HOW MUCH IT WAS GONNA COST TO MOVE IN,
11 GET AN APARTMENT AND ALL THAT, AND I KNEW I HAD A JOB LOCATED
12 THERE FOR HER, YES, WORKIN' BY HERSELF FOR HERSELF; NOT AS AN
13 HOURLY EMPLOYEE OF THE COMPANY OR ANYTHING.

14 Q AND WHERE WAS THIS?

15 A THAT WAS IN HOUSTON.

16 Q AND WHEN WAS THIS SUPPOSED TO START?

17 A WHENEVER SHE GOT THERE.

18 Q NO PARTICULAR TIME?

19 A NO, SIR.

20 Q ALL RIGHT, SIR. DO YOU RECALL HAVING ANY COMMUNICATIONS
21 WITH HER FOLLOWING JULY 19, 1992?

22 A YES, SIR.

23 Q AND AS A RESULT OF THAT COMMUNICATION DID YOU COME TO
24 COLUMBIA, SOUTH CAROLINA OR LEXINGTON, SOUTH CAROLINA?

25 A YES, SIR.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q DO YOU RECALL WHAT PROMPTED YOU TO COME UP HERE?

2 A A PHONE CALL SESSION THAT SAID WELL. I MEAN -- I'M
3 SCARED, IT'S TIME FOR ME TO GET AWAY FROM JIMMY. HE'S
4 GETTIN' VIOLENT. I SEE THE RAGE COMIN' BACK ON HIM. HE TOLD
5 ME HE WASN'T GONNA HURT ME NO MORE BUT I'M SCARED.

6 Q AND WHAT DID YOU DO?

7 A I SAID WELL I'LL BE THERE THIS AFTERNOON.

8 Q WHEN WAS THIS?

9 A THAT WAS SEPTMBER THE 3RD.

10 Q AND DID YOU COME UP?

11 A YES, I DID.

12 Q WHO BROUGHT YOU?

13 A MY WIFE JO ANNE.

14 Q WHAT DID YOU DO AFTER YOU GOT HERE?

15 A I IMMEDIATELY UPON ARRIVAL I WENT AND GOT A MOTEL ROOM
16 AND WAITED ON SALLY TO COME OVER.

17 Q AND THEN?

18 A WELL, HER -- HER AND MS. HUNT CAME IN TOGETHER AND THEY
19 WERE HYSTERICAL AND THAT'S WHEN I FOUND OUT THE CAR HAD BEEN
20 TORN UP, THE ONE I HAD BEEN WORKIN' ON GETTIN' IT READY FOR A
21 TRIP. THE CAR HAD BEEN TORN UP, AND THEIR LIVES HAD BEEN
22 THREATENED WITH A FOUR OR FIVE FOOT 4x4. NEARLY RAN OVER BY
23 AN AUTOMOBILE.

24 MR. MCMAHON: YOUR HONOR, I'M GONNA OBJECT.

25 THE COURT: YEAH.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 MR. MCMAHON: I BELIEVE THIS WOULD ALL BE HEARSAY.

2 THE COURT: SUSTAIN THE OBJECTION.

3 Q AS A RESULT OF YOUR CONVERSATION WITH---

4 THE COURT: AS A RESULT OF THE CONVERSATION YOU CAN TELL
5 WHAT YOU DID BUT YOU CAN TELL WHAT THE CONVERSATIONS WERE.

6 A YES, SIR.

7 THE COURT: GO AHEAD.

8 Q AS A RESULT OF THAT CONVERSATION WHAT DID YOU DO?

9 A WELL, WENT TO A DIFFERENT MOTEL IN FEAR OF JO ANNE AND
10 JIMMY GETTIN' TOGETHER AND JIMMY FINDIN' US AT THAT MOTEL.
11 WHERE JO ANNE LEFT ME AT. WE HAD NO AUTOMOBILE SO WE
12 COULDN'T PROCEED TO LEAVE.

13 Q SO WHAT DID YOU DO?

14 A WAITED TILL THE NEXT MORNING.

15 Q AND WHY DID YOU HAVE TO WAIT TILL THE NEXT MORNING?

16 A TO GET CAR PARTS TO GO AND TRY AND GET SALLY'S CAR
17 FIXED; NOT THINKIN' OF ANY OTHER WAY WE COULD GET
18 TRANSPORTATION.

19 Q DO YOU HAVE A CREDIT CARD?

20 A NO, SIR, I DON'T HAVE A CREDIT CARD.

21 Q DID YOU ATTEMPT TO RENT A VEHICLE WITHOUT A CREDIT CARD?

22 A I NEVER SEEN A VEHICLE RENTED WITHOUT A CREDIT CARD,
23 AND, NO, I DIDN'T TRY TO RENT ONE BECAUSE I'M AWARE THAT YOU
24 DO HAVE TO HAVE A CREDIT CARD.

25 Q YES, SIR. HOW MUCH DID YOU HAVE TO SPEND TO GET THE

FRED RUTLAND - DIRECT BY MR. GREGORY

1 PARTS TO FIX THE CAR?

2 A SOMEWHERE SHY OF \$40. RIGHT AROUND \$40.

3 Q WHAT PARTS WERE YOU PURCHASING?

4 A DISTRIBUTOR CAP AND ROTARY BUTTONS, SPARK PLUG WIRES. I
5 MAY HAVE GOT A SET OF SPARK PLUGS.

6 Q WHO WAS PLANNIN' ON DOIN' THE WORK?

7 A I WAS.

8 Q WHEN DID YOU DETERMINE WOULD BE A GOOD TIME TO GO TO
9 WORK ON THE CAR?

10 A AS SOON AS WE COULD GET THERE IN THE MORNING.

11 Q DID YOU WORK ON IT AT NIGHT?

12 A I COULDN'T HAVE GOT THE PARTS THAT I WAS AWARE OF.

13 Q SO WHEN DID YOU GET THE PARTS?

14 A MUSTA BEEN 8 O'CLOCK. I DON'T REMEMBER WHERE WE WERE
15 BUT I KNOW IT WAS EARLY IN THE MORNING.

16 Q AFTER YOU GOT THE PART DO YOU RECALL WHERE YOU WENT?

17 A THEN WE CAME TO LEXINGTON.

18 Q SIR?

19 A THEN WE CAME OVER HERE TO LEXINGTON.

20 Q NOW WHAT DAY WAS THIS? DO YOU RECALL THE DATE?

21 A YES, IT WAS SEPTEMBER 4TH.

22 Q 1992.

23 A 1992.

24 Q AND WHEN YOU CAME TO LEXINGTON WHERE DID YOU GO, WHAT
25 DID YOU DO?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A I WENT TO A PAWN SHOP SOMEWHERE TO GET THAT SHOTGUN
2 'CAUSE IT WAS FIXIN' TO BE LOST.

3 Q LOST MEANING WHAT?

4 A POSSESSION OF THE -- OF THE PAWN SHOP, THEY WERE GONNA
5 KEEP IT AND NOT RETURN IT BACK FOR THE INTEREST.

6 Q ALL RIGHT. YOU WERE IN THE PAWN SHOP WHEN IT WAS
7 PURCHASED BY SALLY?

8 A YES, SIR.

9 Q DID YOU OBSERVE HER PURCHASE THE 25 CALIBER PISTOL?

10 A YES, I DID.

11 Q DID YOU HAVE ANY PART IN THE PURCHASE OF THE PISTOL?

12 A MY STATEMENT, SIR, I ASKED HER TO. I TOLD SCOTTIE THAT
13 I'D ASKED HER TO.

14 Q DID YOU?

15 A I -- YEAH, I TOLD SCOTTIE THAT, YES.

16 Q I SAY DID YOU ASK HER TO PURCHASE IT?

17 A I'M NOT SURE. I'M REALLY NOT SURE, YOU KNOW, THAT I HAD
18 NO TIME TO THINK WHEN I GAVE THIS STATEMENT, YOU KNOW, 'CAUSE
19 AFTER I THOUGHT ABOUT IT, I DON'T REMEMBER SAYIN' IT. I
20 MIGHTA THOUGHT IT; I MIGHT'VE COMMUNICATED THAT WITH ROBIN OR
21 I MAY HAVE TOLD SALLY, BUT SHE WAS DEALIN' WITH THE MAN
22 BUYIN' THAT -- YOU KNOW, GETTIN' THE SHOTGUN OUT OF THE BACK
23 AND TAKIN' CARE OF THE PAPERWORK AND ALL THAT, AND I SWEAR I
24 CAN'T RECALL SAYIN' ANYTHING TO HER ABOUT IT. YOU KNOW, MY
25 STATEMENT SAID I DID, BUT I SWEAR I CAN'T RECALL IT BECAUSE -

FRED RUTLAND - DIRECT BY MR. GREGORY.

1 - I DON'T KNOW. IT'S JUST ALL RUN TOGETHER THERE YOU KNOW.

2 Q AFTER YOU -- AFTER SALLY HAD MADE THE PURCHASE IN THE
3 PAWN SHOP DID YOU SEE THE PAWN SHOP OPERATOR LOAD THE WEAPONS
4 AND SHOW HER HOW TO USE THEM?

5 A I DON'T RECALL THAT, NO.

6 Q AND WHO ALL WAS---

7 A I KNOW THEY WERE -- YOU KNOW, THEY WERE DEALIN' AROUND
8 THERE. I DON'T KNOW WHAT ALL THEY WAS DOIN'.

9 Q IT DIDN'T INTEREST YOU, DID IT?

10 A NO. ROBIN WAS ACTIN' FUNNY. I HAD JUST MET HER AND SHE
11 WAS, YOU KNOW, SHE WAS STANDIN' AT THE COUNTER. THIS IS
12 WHERE THE 25 COME FROM. SHE WAS STANDIN' THERE AT THE
13 COUNTER JUMPIN' UP AND DOWN LIKE A LITTLE KID SAYIN' OOOH, I
14 WANT ONE.

15 MR. MCMAHON: OBJECTION TO HEARSAY.

16 THE COURT: YEAH, DON'T SAY WHAT SHE SAID. SAME
17 OBJECTION.

18 A I SEEN HER DOIN' IT.

19 THE COURT: HUH?

20 A I SEEN HER DOIN' IT.

21 Q WHAT DID YOU DO AFTER THE GUNS WERE PURCHASED BY SALLY
22 PEELE?

23 A WE LEFT AND WENT OUT TO PELJON TO SALLY AND JIMMY'S
24 MOBILE HOME OR HOUSE.

25 Q AND WHAT WAS THE PURPOSE OF GOIN' OUT THERE?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A HOPEFULLY TO GET A FEW CLOTHES -- HOPEFULLY TO PICK UP A
2 FEW PAIR OF CLOTHES AND GET THE CAR, REPAIR THE CAR AND
3 LEAVE.

4 Q ALL RIGHT. YOU DROVE STRAIGHT ON OVER TO THE PEELE
5 HOME?

6 A AS FAR AS STRAIGHT I DON'T KNOW 'CAUSE I STILL DON'T
7 KNOW MY WAY AROUND. I DON'T KNOW WHICH WAY WE WENT OR WHERE
8 IT WAS AT.

9 Q YOU'RE UNFAMILIAR WITH LEXINGTON, AREN'T YOU? HAVE YOU
10 EVER BEEN UP HERE BEFORE?

11 A I STARTED WORK WITH MY GRANDDADDY WHEN I WAS 14 AND THEN
12 AFTER HE WENT TO SOUTH AMERICA TO BUILD A MAHOGANY SAW MILL--

13 -

14 MR. MCMAHON: YOUR HONOR, I FAIL TO SEE THE RELEVANCE
15 OF---

16 A ---AND I WENT TO SCHOOL---

17 THE COURT: WAIT A MINUTE. WELL, HE CAN SAY---

18 MR. MCMAHON: I WOULD ASK THE COURT TO RULE ON THAT.

19 THE COURT: DID YOU GO TO WILL LOU GRAY SCHOOL?

20 A YES, SIR, THAT'S THE NAME OF IT. OPPORTUNITY SCHOOL.
21 RIGHT THERE IN WEST COLUMBIA, THANK YOU, SIR.

22 THE COURT: HE CAN TELL THAT.

23 A YES, I WENT TO SCHOOL IN WEST COLUMBIA WHEN I WAS A
24 TEENAGER.

25 Q WHEN YOU ARRIVED OVER AT THE PEELE HOME WHAT VEHICLE

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WERE YOU IN AT THAT TIME?

2 A THE BLUE FORD VAN.

3 Q AND DO YOU RECALL WHAT HAPPENED WHEN YOU PULLED UP AND
4 STOPPED?

5 A UPON FIRST ARRIVING SALLY SAYS WHAT IS SHE DOIN' HERE.
6 MY BACK DOOR -- THE BACK DOOR IS OPEN ON MY HOUSE. WHAT IS
7 SHE DOIN' IN THERE.

8 Q SO WHAT HAPPENED?

9 A WHAT DID I DO?

10 Q WHAT DID YOU SEE?

11 A SHE SAYS YA'LL JUST STAY RIGHT HERE. I'M GONNA SEE WHAT
12 SHE'S DOIN', AND SALLY WENT TO THE TRAILER.

13 Q AND WHERE WERE YOU AT THIS TIME?

14 A I WAS SITTING IN THE BACK OF THE VAN. IT WAS LIKE A
15 THREE OR FOUR SEATS IN THERE OR SOMETHIN' BUT I WAS -- IT WAS
16 TWO SEATS UP FRONT AND I WAS SITTING IN THE BACK.

17 Q ALL RIGHT, SIR. WHAT HAPPENED? WHAT -- WHAT HAPPENED
18 NEXT?

19 A WELL, SECONDS AFTER SALLY WALKED INTO THE TRAILER, I SEE
20 HER BACKIN' INTO THE DOORWAY. THE DOOR WAS STILL WIDE -- YOU
21 KNOW, JUST OPENED UP. I SEEN HER BACKIN' INTO THE DOORWAY,
22 AND STRUGGLIN' TO GET INTO THE DOOR. SHE GRABBED THE DOOR
23 FRAME AND SHE'S PULJIN' ON IT, PULJIN' ON IT LIKE THAT TRYIN'
24 TO GET BACK INTO THE DOOR, AND I'D LOOK UP THERE, IT WAS
25 QUITE A WAYS OFF, PROBABLY 60, 75 YARDS AWAY, YOU KNOW, AND I

FRED RUTLAND - DIRECT BY MR. GREGORY

1 LOOKED UP THERE; I HAD TO LOOK DOWN TO SEE, YOU KNOW, SEE
2 WHAT WAS GOIN' ON UP THERE AND THEN THERE SHE WAS IN A
3 STRUGGLE; SHE WAS HAVIN' PROBLEMS. SO I SWUNG THE DOOR OPEN
4 ON THE VAN, THE SLIDIN' DOOR AND GOT OUT, AND I WAS -- I WAS
5 HEADED IN THAT DIRECTION AND I JUST -- I HADN'T TOOK BUT FOUR
6 OR FIVE STEPS, AND I SEEN JIMMY HAD A HOLD TO HER ARM AND
7 JERKIN' ON HER AND IT WAS BACK AND FORTH LIKE A ROPE, AND I
8 STOPPED AND HOLLERED. I THINK I HOLLERED JIMMY. HE LOOKED
9 OUT THE TRAILER AND LET HER GO. SHE BACKS ON DOWN THE STEPS.

10 Q HAD YOU EVER SEEN JIMMY PEELE BEFORE?

11 A I'VE MET HIM ON A FEW OCCASIONS.

12 Q WHEN?

13 A ONCE JULY 19TH.

14 Q WHERE?

15 A ROBIN'S. THAT'S WHEN I FIRST MET ROBIN.

16 Q DID YOU HAVE A CONVERSATION WITH HIM AT THAT TIME?

17 A YES, WE HAD A -- WE HAD A TALK.

18 Q WHO ALL WAS THERE?

19 A JIMMY, JO ANNE, SALLY, MYSELF AND CHRISTINE AND RANDY MY
20 SON. WE WAS ALL OUT ON THE PORCH.

21 Q HAD YOU EVER SEEN JIMMY PEELE PRIOR TO JULY 19TH?

22 A YES, SIR, HE SHOWED UP ON THE JOB ONE DAY SHORTLY
23 AFTER -- THREE OR FOUR WEEKS AFTER SALLY STARTED WORKING
24 THERE.

25 Q WAS HE ANGRY?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 THE COURT: DON'T GO INTO THAT.

2 MR. MCMAHON: JUDGE, THAT WOULD BE A HEARSAY QUESTION.

3 THE COURT: YEAH.

4 A I SEEN HIM ON THE JOR.

5 MR. MCMAHON: OBJECTION.

6 THE COURT: YEAH, WELL, YOU CAN SAW HIM---

7 MR. MCMAHON: ---THAT'S NOT RESPONSIVE TO THE QUESTION.

8 I'D SAY THE QUESTION IS NOT ADMISSIBLE.

9 THE COURT: GO AHEAD. YOU CAN SAY YOU SAW HIM BUT
10 THAT'S ALL YOU CAN SAY. YOU CAN'T TELL HOW HE GOT THERE OR
11 WHY HE GOT THERE UNLESS HE INVITED HIM.

12 A I DIDN'T.

13 Q THAT WAS MY QUESTION. DID YOU INVITE HIM DOWN THERE?

14 A NO, SIR.

15 Q WAS SALLY PEELE WORKING WITH YOU AT THAT TIME?

16 A AT THAT VERY MOMENT WE WERE WORKIN' RIGHT TOGETHER.

17 Q OK. NOW HAD YOU SEEN JIMMY PEELE ON ANY OTHER OCCASIONS
18 BESIDES THE TWO YOU MENTIONED---

19 A YES, HE---

20 Q ---BEFORE YOU SAW HIM ON SEPTEMBER 4, 1992?

21 A YES, HE'D BEEN TO MY HOUSE.

22 Q IN SUMMERVILLE?

23 A IN SUMMERVILLE, YES.

24 Q DO YOU RECALL WHEN THAT WAS?

25 A A COUPLE WEEKS BEFORE THE FOURTH. A WEEK, MAYBE TWO

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WEEKS. I BELIEVE IT WAS PROBABLY TWO WEEKS BEFORE SEPTEMBER
2 THE FOURTH.

3 Q ALL RIGHT, SIR. SO YOU KNEW WHO JIMMY PEELE WAS?

4 A YES, SIR, I DID.

5 Q AND WHEN YOU CALLED HIS NAME, HE TURNED SAIIY A LOOSE AT
6 THE TRAILER?

7 A YES, IT WAS SIMULTANEOUS. WHEN I HOLLERED HE LET GO OR
8 SHE COME DOWN THE STEPS BACKWARDS.

9 Q NOW WHAT HAPPENED NEXT?

10 A HE COME RUSHIN' AFTER HER. HE COME RUSHIN' DOWN THE
11 STEPS. SHE GOES BACKIN' AWAY FROM HIM. YOU KNOW, THEY STOOD
12 THERE AND HAD A FEW WORDS. HE DIDN'T IMMEDIATELY COME DOWN.
13 THEY STOOD THERE AND HAD SOME WORDS. I STAYED BACK QUITE A
14 WAYS FROM THE TRAILER AND HE HAD SOMETHIN' OVER HIS BACK. I
15 COULDN'T TELL WHAT IT WAS AT THE TIME AND HE WAS FIXIN' TO
16 SLING IT AT HER, AND WHEN I SHOT THE SHOTGUN HE SET IT BACK
17 DOWN WHATEVER IT WAS, HE CAME OUT, STILL CHASIN' HER.

18 Q NOW---

19 A HE CAME DOWN THE STEPS AND HE WENT BACK UP. HE COME
20 DOWN THE STEPS; SHE WALKED BACK AWAY FROM HIM, AND HE WENT
21 BACK UP IN THE TRAILER ALMOST NON STOP.

22 Q OVER WHAT PERIOD OF TIME NOW ARE WE TALKIN' ABOUT?

23 A SECONDS.

24 Q YOU MENTIONED FIRING A SHOTGUN.

25 A YES, SIR.

FRED RUTLAND - DIRECT BY MR. GREGORY

- 1 Q DID YOU FIRE THE SHOTGUN?
- 2 A YES, I DID.
- 3 Q AND WHERE DID YOU FIRE THE SHOTGUN?
- 4 A WHERE DID I FIRE IT?
- 5 Q YES, SIR.
- 6 A I JACKED THE SHOT UP IN THE AIR JUST TO LET HIM KNOW IT
- 7 WAS LOADED.
- 8 Q DID YOU EVER POINT IT AT HIM?
- 9 A NOT AT THAT TIME.
- 10 Q WHERE WERE YOU STANDING AT THIS TIME?
- 11 A I WAS PROBABLY 50 YARDS FROM THE TRAILER.
- 12 Q AND HOW CLOSE TO THE VAN?
- 13 A TEN YARDS FROM THE VAN, JUST A FEW STEPS AWAY FROM THE
- 14 VAN.
- 15 Q WHERE HAD THE SHOTGUN BEEN WHEN YOU GOT OUT OF THE VAN?
- 16 A IT WAS LAYIN' IN THE FLOOR OF THE VAN.
- 17 Q WHEN DID YOU GET THE SHOTGUN?
- 18 A I GOT IT OUT OF THE FLOOR OF THE VAN.
- 19 Q WHEN?
- 20 A WHEN I SEEN SALLY BACKIN' UP INTO THE DOOR.
- 21 Q DID YOU EVER POINT THE SHOTGUN AT JIMMY PEEFEE?
- 22 A YES, I DID.
- 23 Q DESCRIBE THOSE CIRCUMSTANCES.
- 24 A WELL, AFTER I SHOT IT HE PICKED UP THE THING AND STARTED
- 25 TO THROW IT AT SALLY.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q AGAIN?

2 A NO. TO START WITH. TO START WITH WHEN HE FIRST PICKED
3 IT UP.

4 Q YES, SIR.

5 A SO HE WAS AT THE BOTTOM OF THE STEPS. HE'D ALREADY COME
6 DOWN AND SHE RUN AWAY OUT ABOUT MAYBE SIX FOOT FROM THE
7 STEPS, AND THIS IS WHEN HE WENT BACK UP. OK, AS SOON AS SHE
8 GOT OUT INTO THE YARD HE WENT BACK INSIDE AND PICKED THIS FAN
9 UP AND STARTED TO THROW IT AT HER, AND I SHOT THE GUN, AND
10 WHEN I SHOT THE GUN HE COME RUSHIN' DOWN THE STEPS; SHE COMES
11 BACKIN' AWAY FROM IT -- WELL, SHE TURNED AND RAN TOWARDS ME
12 TO START WITH AND HE GOT OUT ALMOST REACHED HER AND I
13 HOILERED AT HIM STOP JIMMY, STOP WHERE YOU'RE AT. I TOLD YOU
14 YOU'RE NOT GONNA HURT HER NO MORE.

15 Q AND WHERE DID YOU HAVE THE SHOTGUN AT THIS POINT?

16 A WHERE DID I HAVE IT?

17 Q YES, SIR.

18 A I HAD IT -- I HAD IT DOWN LIKE -- ACTUALLY I WAS --
19 WHERE WAS I POINTIN' IT?

20 Q YES, SIR.

21 A IT WAS RIGHT DOWN RESIDE HIM. I DIDN'T WANNA POINT IT
22 AT HIM. I WAS POINTIN' IT DOWN BESIDE HIM.

23 Q ALL RIGHT, SIR. AND WHAT HAPPENED AFTER THAT?

24 A WELL HE STARTED TO MAKE ANOTHER STEP AND I MOVED IT OVER
25 TOWARDS HIM. I SAID I HAVE TO MESS YOU UP, MAN. HE SAYS ALL

FRED RUTLAND - DIRECT BY MR. GREGORY

1 RIGHT. THAT'S WHEN HE LOST HIS RAGE OR WHATEVER IT WAS. HE
2 JUST ALL RIGHT, I JUST WANNA TALK TO MY WIFE. I SAID DO
3 WHATEVER YOU WANT TO PUT YOU AIN'T GONNA HURT HER.

4 Q YOU ARE DEMONSTRATIN' THAT HE THREW BOTH HANDS UP AND
5 SIGHED, LET OUT A BIG GASP OF AIR?

6 A YES, SIR.

7 Q AND HOW FAR AWAY WERE YOU FROM HIM AT THIS TIME?

8 A A LITTLE BIT FURTHER THAN YOU AND MYSELF 'CAUSE IT -- I
9 COME RUNNIN' UP AND I RAN INTO A -- I RAN AROUND THE CAR AND
10 I RAN INTO A DOG PEN -- A DOGHOUSE THAT I HADN'T SEEN WHEN I
11 WAS -- WHEN I WAS APPROACHIN' AND HE WAS COMIN' ACROSS THE
12 OPEN TURN AROUND BEHIND THE TRAILER AT THE END OF THE
13 DRIVEWAY AND THEY JUST -- THEY JUST GOT -- SALLY JUST GOT UP
14 IN FRONT OF THE DOGHOUSE AND HE WAS ON THE OTHER SIDE OF IT
15 JUST REACHIN' OUT FOR HER.

16 Q WHERE WAS SALLY AT THIS TIME?

17 A SHE WAS RIGHT OUT IN FRONT OF HIM. SHE HAD TURNED
18 AROUND. WHEN SHE GOT TO THE DOGHOUSE SHE HAD TURNED AROUND
19 TO SEE WHERE HE WAS AT AND THAT'S WHEN HE WAS REACHIN' FOR
20 HER, AND SHE TOOK A COUPLE OF STEPS BACKWARD AND HE STOPPED.
21 THAT'S THE REASON SHE DIDN'T SEE ME POINTIN' THE GUN AT HIM.

22 Q ALL RIGHT. WELL, WHAT HAPPENED AFTER THAT AFTER HE
23 SIGHED AND ACTED LIKE HE HAD CALMED DOWN?

24 A WELL, HE SAYS -- I SAYS DO WHATEVER YOU WANT TO. YOU
25 JUST AIN'T GONNA HURT HER NO MORE. HE SAYS OK, I JUST WANNA

FRED RUTLAND - DIRECT BY MR. GREGORY

1 TALK AND HE SAID THAT AND BRUCE COMES OUTTA THE TRAILER AND
2 HE COMES WALKIN' IN BEHIND 'EM AND I'M WATCHIN' HIM, YOU
3 KNOW, AS WELL AS -- TO SEE IF HE HAD ANY -- TO SEE IF HE WAS
4 ARMED. OK? AND THEY BOTH TOLD HIM BRUCE YOU NEED TO LEAVE.
5 I DIDN'T KNOW HIM, YOU KNOW, BUT THEY BOTH TOLD HIM HE NEEDED
6 TO LEAVE.

7 Q DID HE LEAVE?

8 A YEAH, HE COME WALKIN' PAST ME AND MADE THE STATEMENT MAN
9 I'M TIRED OF THIS SHIT. EVERY TIME I GET AROUND 'EM THEY
10 ALWAYS GOIN' TO FIGHTIN'. SAID SOMEBODY FIXIN' TO GET HURT,
11 AND HE LEFT AND HE WENT TO HIS CAR AND THEN LEFT SHORTLY
12 AFTER THAT. SOMEBODY TOLD ROBIN TO MOVE THE VAN.

13 Q HOW LONG DID JIMMY AND SALLY TALK AFTER BRUCE LEFT?

14 A FIVE MINUTES OR SO.

15 Q AND THEN WHAT HAPPENED?

16 A AFTER THE CONVERSATION? AT THE END OF THE CONVERSATION
17 IT WAS NASTY.

18 Q WHAT DID YOU SEE?

19 A THAT ROWED BACK UP.

20 Q WHO?

21 A JIMMY. THEY WERE BOTH STILL SQUATTIN' THERE ON THE
22 GROUND TALKIN'. THEY WERE HAVIN' A SENSIBLE CONVERSATION,
23 YOU KNOW, I WAS JUST STANDIN' OFF OVER THERE. I HADN'T NEVER
24 MOVED. I WAS STILL STANDIN' OFF OVER THERE THE OTHER SIDE OF
25 THE DRIVEWAY, AND THEY -- THEY CROSSED THE DRIVEWAY, YOU

FRED RUTLAND - DIRECT BY MR. GREGORY

1 KNOW, OUT TO WHERE I WASN'T LISTENIN' TO 'FM AT ALL.

2 Q ALL RIGHT, SIR. WHAT HAPPENED AFTER THAT?

3 A HE BLOWED UP ON ME THERE. HE SAYS FRED, YOU KNOW, WHEN
4 HE BLOWED UP HE SAID FRED IF YOU THINK THIS BITCH IS WORTH 20
5 YEARS OF A GOOD MARRIAGE, TAKE THE M.F. BITCH OUT OF MY FACE.
6 I DON'T EVER WANT TO SEE THE M.F. AGAIN. GET HER OUTTA HERE.

7 Q WHAT DID YOU DO?

8 A I SAID SALLY I THINK IT'S TIME TO LEAVE.

9 Q DID YOU STILL HAVE THE SHOTGUN IN YOUR HAND AT THAT
10 POINT?

11 A I HAD IT CRADLED IN MY ARM. I WASN'T POINTIN' IT. I
12 JUST HAD IT CRADLED UP IN MY ARM LIKE I WAS STANDIN' THERE,
13 YOU KNOW, HUNTIN' OR SOMETHIN', BIRD HUNTIN' OR SOMETHING.

14 Q WEJJ., DID YOU LEAVE?

15 A WEJJ., ABOUT THE TIME SALLY MADE IT TO THE VAN, I'M NOT
16 WATCHIN' HER, BUT SHE WALKS PAST ME, HE GETS BACK TO WHERE HE
17 WAS AT THE SAME PLACE YOU ARE NOW ON THE OTHER SIDE OF THE
18 DOGHOUSE, AND HE LAYS OUT LIKE HE'S GONNA RUSH ME, AND I
19 SAY -- I DIDN'T SAY NOTHIN'. HE SAID FRED I'M GONNA F. YOU
20 UP MAN. I'M GONNA BLOW YOUR SHIT AWAY. I'M GONNA TAKE YOU
21 OUT MAN. JUST NON STOP. I STARTED BACK INTO THE VAN. I
22 NEVER SAID NOTHIN' ELSE TO HIM.

23 Q DID HE HAVE ANY WEAPONS ON HIM AT THAT TIME?

24 A NO, SIR. NOTHIN' VISIBLE.

25 Q YOU WERE STILL HOLDIN' THE SHOTGUN.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YES, SIR.

2 Q AND YOU BACKED UP, GOT IN THE VAN AND DROVE OFF?

3 A YEAH, WE LEFT.

4 Q AND WHERE DID YOU GO?

5 A WENT TO ROBIN'S AND CALLED YOU I BELIEVE. I KNOW WE
6 CALLED A LAWYER.

7 Q DID YOU GET 'FM?

8 A I DON'T KNOW. I MEAN I WASN'T ON THE PHONE. I WAS JUST
9 -- YOU KNOW, IN AWES. SALLY CALLED; I DON'T KNOW WHO SHE
10 CALLED, BUT I KNOW SHE WAS CALLIN' A LAWYER. SHE CALLED THE
11 SHERIFF'S DEPARTMENT; CALLED THE SCHOOL.

12 Q WELL, WHERE DID YOU GO AFTER YOU STAYED AT ROBIN'S FOR A
13 WHILE?

14 A WE WENT BACK TO PELION TO THE ELEMENTARY SCHOOL. I
15 DIDN'T KNOW IT WAS PELION BUT I KNOW IT IS NOW.

16 Q AND HOW LONG WERE YOU OVER THERE?

17 A WE WAS PROBABLY THERE TEN OR FIFTEEN MINUTES.

18 Q THEN WHERE'D YOU GO?

19 A WENT BACK UP TO ROBIN'S.

20 Q STAY THERE LONG?

21 A NO. YOU KNOW.

22 Q WAS THERE ANY DISCUSSION DURING THIS PERIOD OF TIME
23 ABOUT THESE PARTS THAT YOU HAD BOUGHT AND WERE GONNA PUT ON
24 THIS AUTOMOBILE THAT HAD BEEN DAMAGED?

25 A NO. WE DIDN'T DISCUSS THOSE ANYMORE. THEY WERE JUST

FRED RUTLAND - DIRECT BY MR. GREGORY

1 IAYIN' IN THE BACK OF THE VAN IN A BAG.

2 Q WHAT WAS THE TOPIC OF CONVERSATION?

3 A GETTIN' ANOTHER VEHICLE. THAT ONE WAS OUT OF REACH. WE
4 COULDN'T HAVE THAT ONE. WE COULDN'T GET IT.

5 Q SO WHAT DO YOU RECALL HAPPENIN' AT THIS POINT?

6 A ROBIN MADE A STATEMENT THAT KIM'S GOT A OLD CAR UP THERE.
7 SHE MIGHT SELL YOU. SO WE WENT UP THERE TO SEE KIM ABOUT,
8 YOU KNOW, GETTIN' THAT OLD DODGE.

9 Q WELL, THIS IS SEPTEMBER 4, '92 AT WHAT TIME OF DAY?

10 A WELL, IT WAS AFTER -- IT WAS AFTERNOON.

11 Q DID YOU RIDE UP TO THE SHOP?

12 A YES, SIR.

13 Q AND HAD YOU EVER BEEN THERE BEFORE?

14 A NO, I HAD NO IDEA WHERE IT WAS.

15 Q WHERE WAS IT?

16 A IT WAS JUST -- COME OUTTA THE ROAD THAT GOES DIRECTLY TO
17 ROBIN'S HOUSE AND TAKE A RIGHT AND IT SITS THERE ON THE SIDE
18 OF TWO NOTCH ROAD.

19 Q DOES THAT STATE'S EXHIBIT #1 APPEAR TO YOU TO BE IN THE
20 ROW-WOW BOUTIQUE?

21 A CLOSE FACSIMILE OF.

22 Q YES, SIR. DO YOU RECALL GOING INTO THAT BUILDING ON THE
23 4TH OF SEPTEMBER?

24 A YES, SIR.

25 Q HOW DID YOU ARRIVE AT THE BUILDING?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A IN THE VAN.

2 Q AND IS THAT THE VEHICLE THAT'S PARKED OUT BY THE DOOR?

3 A YES, SIR.

4 Q WERE YOU DRIVIN'?

5 A NO, I WAS JUST RIDIN'.

6 Q AND WHEN YOU GOT OUT OF THE VAN WHAT DID YOU DO?

7 A THE VAN WASN'T PARKED IN THE FRONT DOOR.

8 Q WHERE WAS IT PARKED?

9 A IT WAS OVER ABOUT -- WELL, THE BEST I UNDERSTAND IT TWO
10 NOTCH RUNS ON A DIAGONAL AND THEN CEDAR RUNS BACK ON ANOTHER
11 DIAGONAL. AM I CORRECT?

12 Q YES.

13 A WELL, IT WAS BACK WHERE KIM'S CAR IS ON THAT PICTURE.

14 Q ALL RIGHT, SIR.

15 A AND KIM'S CAR WAS BACK BY WHAT IS CALLED THE APARTMENT
16 HERE IN THIS PICTURE.

17 Q ALL RIGHT. SO DO YOU RECALL GETTING OUT OF THE VAN AND
18 WALKING INTO THE BUILDING?

19 A YES, SIR, I DO.

20 Q DID YOU TAKE ANYTHING WITH YOU WHEN YOU WENT IN?

21 A YES, I TOOK THAT 25 WITH ME.

22 Q AND CAN YOU TELL US WHY.

23 A I JUST HAD A MAN PROMISE TO TAKE ME OUT; BLOW MY SHIT
24 AWAY, FUCK UP MY WORLD, JUST MOMENTS BEFORE.

25 Q HAD YOU BEEN CARRYING THAT PISTOL SINCE HE HAD SAID THAT

FRED RUTLAND - DIRECT BY MR. GREGORY

1 TO YOU?

2 A NO.

3 Q WHERE HAD THE PISTOL BEEN?

4 A IT WAS ON THE LITTLE MOTOR COVER IN THE VAN AND LITTLE -
5 - KINDA LIKE A ASHTRAY THING. IT WAS JUST A LITTLE OPENIN'
6 SITTIN' RIGHT THERE ON TOP OF THE MOTOR.

7 Q WHEN DID YOU PICK IT UP?

8 A AS I WAS GETTING OUT OF THE PASSENGER'S SIDE OF THE VAN.

9 Q DID YOU HAVE ANY REASON TO BELIEVE THAT JIMMY PEELE WAS
10 AT THE BOW-WOW BOUTIQUE?

11 A NO, SIR, NONE.

12 Q WHEN YOU WALKED IN WHO DID YOU SEE IN THERE?

13 A WELL, I MET KIM AND DANNY. I WAS INTRODUCED TO 'EM.
14 THAT'S THE ONLY PEOPLE THAT WERE THERE.

15 Q AND WHO WAS WITH YOU?

16 A SAJJY.

17 Q TELL US WHAT HAPPENED WHILE YOU WERE INSIDE THAT
18 BUILDING.

19 A WELL, WE TALKED ABOUT BUYIN' THE CAR. YOU KNOW,
20 EVERYBODY'S HEARD ALL THIS ALREADY, BUT TALKED ABOUT BUYIN'
21 THE CAR. DANNY WENT OUT TO FIND THE TITLE AND GET HIS
22 PERSONAL BELONGINGS OUT OF IT. I'M NOT SURE IF THE CAR WAS
23 PAID FOR THEN. I DON'T KNOW THAT. BUT SAJJY CALLED THE
24 HIGHWAY DEPARTMENT TO SEE WHAT IT WAS GONNA TAKE TO TRANSFER
25 AN OUT-OF-STATE TITLE. FOUND OUT THAT KIM HAD TO BE PRESENT

FRED RUTLAND - DIRECT BY MR. GREGORY

1 AND SHE WAS TRYIN' TO HURRY UP AND GET FINISHED WITH THE DOG
2 SO SHE COULD GO UP TO THE HIGHWAY DEPARTMENT AND SIGN IT
3 OVER.

4 Q ALL RIGHT. WHAT HAPPENED?

5 A IT DIDN'T HAPPEN THAT WAY. WE DIDN'T GET THE CAR.

6 Q WHERE WAS SALLY ON THE TELEPHONE AT THIS TIME?

7 A I DON'T REMEMBER THE TELEPHONE MYSELF.

8 Q OK, SIR. WHERE WERE YOU AT THIS TIME?

9 A I WAS STANDIN' -- I WAS PACIN'. I WAS JUST PACIN' ALL
10 OVER. I WAS NERVOUS. IF YOU MEAN THE TIME WHEN JIMMY GOT
11 THERE, I KNOW WHERE I WAS.

12 Q ALL RIGHT. WHERE WERE YOU WHEN JIMMY GOT THERE. YOU
13 CAN STEP DOWN AND POINT.

14 A WELL, I JUST WALKED FROM OVER HERE. THIS GATE WAS OPEN
15 AND EVERYBODY WAS SAYIN' THE GATE, IN AND OUT THE GATE, BUT
16 IT WAS SWUNG OPEN. I DON'T KNOW IF IT HAD A LATCH TO KEEP IT
17 OPEN OR NOT, BUT IT WAS NOT CLOSED.

18 Q IT WAS STATIONARY IN OTHER WORDS.

19 A YES. YES. I JUST LEFT -- I JUST WALKED A CIRCLE OVER
20 HERE AND I WALKED OVER HERE. THE FIRST TIME I SEEN JIMMY'S
21 HEAD WAS RIGHT HERE IN THE CORNER OF THIS WINDOW.

22 Q WHICH WINDOW IS THAT?

23 A IT'S THE ONE RIGHT BESIDE THE FRONT DOOR.

24 Q THAT'S THE WINDOW THAT OPENS UP WHERE THE DOGS WERE
25 GROOMED?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YES, THE GROOMING TABLES ARE RIGHT HERE. THIS IS THE
2 TABLE THAT SLID WAY BACK. ALL OF THIS IS BACK IN THIS AREA.

3 Q YES, SIR.

4 A UP IN THE CORNER.

5 Q ALL RIGHT, SIR. WHEN YOU SAW JIMMY HE WAS OUTSIDE THE
6 BUILDING?

7 A YES, HE WAS RIGHT HERE AT THIS WINDOW ON THE OUTSIDE OF
8 THIS.

9 Q AND WHAT WAS HE DOING OUT THERE?

10 A WELL, WHAT I SEEN WAS THAT MOTION JUST THE SIDE OF HIS
11 HEAD GOING DOWN IN A FAST STEPPING MOTION.

12 Q ALL RIGHT. WHAT HAPPENED NEXT?

13 A WELL, I HEARD A DOOR OPEN.

14 Q WHICH DOOR WAS IT?

15 A THIS FRONT DOOR. I HEARD IT RATTLE 'CAUSE IT -- I DON'T
16 KNOW. IT MADE A LOTTA NOISE.

17 Q OK.

18 A I DON'T KNOW WHY IT MADE SO MUCH NOISE.

19 Q AND WHERE WERE YOU AT THAT TIME?

20 A I WAS GOING THAT WAY.

21 Q ALL RIGHT. WHEN YOU SAY THAT WAY, DESCRIBE IT.

22 A I WAS LEAVING FROM, YOU KNOW, FROM BEING HERE, I WAS IN
23 MOTION.

24 Q ALL RIGHT. WHERE---

25 A OUT THAT DOOR.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q WHERE IS HERE? YOU SAID YOU WERE LEAVING HERE.

2 A RIGHT INSIDE THIS -- RIGHT INSIDE OF THIS WALL.

3 Q WHERE THE GATE IS?

4 A WHERE THE GATE IS, YES, SIR. RIGHT INSIDE THE GATE.

5 Q WHERE -- WHICH DIRECTION WERE YOU WALKING IN?

6 A TO THE BACK OF THE BUILDING I THOUGHT WAS THE BACK OF
7 THE BUILDING.

8 Q WHY WERE YOU WALKIN' TO THE BACK OF THE BUILDING?

9 A 'CAUSE HE WAS COMIN' IN THE FRONT OF THE BUILDIN'.

10 Q SO WHAT DID YOU DO THEN?

11 A WELL, I DIDN'T HAVE NOWHERE TO GO.

12 Q DID YOU LOOK?

13 A IT WAS -- IT WAS JUST ALL DARK EXCEPT FOR SOME LIGHT
14 OVER HERE, A WINDOW OR SOMETHIN' OVER HERE WHERE ALL I COULD
15 SEE WAS JUST BRIGHT LIGHT. I COULDN'T SEE NOTHIN' ELSE. I
16 DIDN'T KNOW IF IT WAS A STORAGE ROOM OR WHAT IT WAS.

17 Q WHAT WERE YOU LOOKIN' FOR?

18 A AN EXIT. I DIDN'T WANT A CONFRONTATION WITH HIM.

19 Q ALL RIGHT, SIR. WHAT HAPPENED THEN?

20 A I DIDN'T HAVE NOWHERE TO GO.

21 Q SO WHAT DID YOU DO?

22 A I PULLED THAT 25 OUT OF MY BELT. MR. FRIER HAS IT IN MY
23 PANTS POCKET 'CAUSE THAT'S WHERE HE WANTED IT. I HAD IT IN
24 MY BELT.

25 Q AND YOU'RE POINTING TO THE LEFT SIDE OF YOUR---

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A I HAD IT RIGHT -- RIGHT -- RIGHT IN MY PANTS THERE.

2 Q THAT'S RIGHT ABOVE YOUR LEFT LEG?

3 A YES, SIR.

4 Q ALL RIGHT, SIR. THEN WHAT'D YOU DO?

5 A WELL, WHEN I STEPPED INTO THAT DOORWAY, I LOOKED AROUND
6 AND SAYS OH NO. I PULLED THIS OUT; I COCKED IT; TURNED
7 AROUND; TOOK ANOTHER STEP BACK AND I WAS RIGHT INSIDE OF THIS
8 DOOR INSIDE OF THIS ROOM WHERE IT HAPPENED.

9 Q ALL RIGHT. NOW WHICH ROOM WERE YOU IN WHEN YOU PULLED
10 THE 25 CALIBER PISTOL OUT OF YOUR PANTS?

11 A I WAS IN THAT ROOM.

12 Q IS THAT THE ROOM THAT THE DOG PEN IS IN?

13 A DOG PEN AREA, YES, SIR.

14 Q ALL RIGHT. AND THEN YOU TURNED AROUND, AND WHAT ROOM
15 WERE YOU LOOKING AT AT THAT TIME?

16 A THE---

17 Q GROOMIN' ROOM?

18 A GROOMIN' ROOM, YES, SIR.

19 Q AND WHERE WERE YOU STANDING?

20 A RIGHT IN THE DOORWAY.

21 Q THE DOORWAY BETWEEN THE GROOMING ROOM AND THE DOG PEN
22 ROOM?

23 A YES, SIR, JUST MAYBE A HALF A STEP INSIDE THE GROOMIN'
24 ROOM.

25 Q AND WHICH DIRECTION WERE YOU FACING?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A THIS COUNTER AREA HERE.

2 Q WHERE THE SWINGING DOOR IS?

3 A YES, SIR.

4 Q AND WHERE WAS JIMMY PEELE AT THIS TIME?

5 A WHEN I TURNED -- WHEN I TURNED AROUND AND MADE MYSELF,
6 YOU KNOW, AND PIVOT ON IT; I SWUNG AROUND, HE STEPPED UP IN
7 FRONT OF ME AT THIS POINT RIGHT HERE AT THE SAME TIME THAT I
8 TURNED AROUND.

9 Q YES, SIR, AND WHAT DID YOU SEE HIM DOING?

10 A WELL, HE STEPPED UP, CAME AROUND AND SQUARED OFF WITH ME
11 AND SALLY WAS JUST COME UP TO THE FRONT OF HIM HERE.

12 Q AND WHERE WAS KIM AT THIS TIME?

13 A SHE WAS -- WELL, THIS IS HER TABLE BUT IT WAS WAY BACK
14 IN HERE. SHE WAS BACK IN HERE.

15 Q WHERE WAS SALLY?

16 A WHEN I SAID THERE'S JIMMY SALLY WAS HERE FIXIN' TO TURN
17 AROUND AND TALK TO KIM. SHE WAS RIGHT AT KIM'S TABLE, RIGHT
18 AT THE END OF IT, AND WHEN I WENT THATAWAY, SALLY CAME
19 THISAWAY. SHE CAME UP TO HERE.

20 Q NOW WHERE IS HERE?

21 A WELL, RIGHT IN FRONT OF THIS OPENING AND THIS COUNTER AT
22 THE END OF THIS WALL.

23 Q THE LATTICE WORK WALL?

24 A YES, SIR.

25 Q ALL RIGHT. NOW WAS SHE STANDING STILL AT THAT TIME OR

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WAS SHE MOVING? SALLY PEELE.

2 A SHE WAS STILL IN MOTION. SHE WASN'T IN MOTION AFTER
3 JIMMY STOPPED. WHEN JIMMY STOPPED IT WAS JUST -- SHE MIGHTA
4 TOOK ANOTHER HALF A STEP.

5 Q DO YOU KNOW WHY SHE STOPPED?

6 A YES.

7 Q WHY?

8 A THAT THING RIGHT THERE.

9 Q GO PICK IT UP AND SHOW ME WHAT YOU'RE TALKIN' ABOUT.

10 A THIS.

11 Q WHAT IS IT?

12 A IT'S A PISTOL.

13 Q AND WHERE WAS IT? WHERE DID YOU SEE IT?

14 A WHERE DID I SEE IT?

15 Q YES, SIR.

16 A THE FIRST I SEEN IT WAS RIGHT HERE.

17 Q WHOSE HAND?

18 A IT WAS IN HIS HAND RIGHT HERE. THAT'S THE FIRST TIME I
19 SEEN IT WHEN IT CLEARED HIS BACK.

20 Q WHAT HAPPENED NEXT?

21 A IN HER STOMACH.

22 Q HE COCKED IT AND PUT IT IN HER STOMACH? IS THAT WHAT
23 YOU SAW?

24 A YEAH, IN HER -- AND IT WENT LIKE THAT, AND IT WENT OUT
25 LIKE THAT. SHE DREW UP A LITTLE BIT. SHE WASN'T THAT FAR

FRED RUTLAND - DIRECT BY MR. GREGORY

1 AWAY FROM HIM.

2 Q ABOUT HALF A FOOT?

3 A BETWEEN A HALF A FOOT AND NINE INCHES. IT WASN'T A
4 WHOLE FOOT.

5 Q YES, SIR. DID HE SAY ANYTHING?

6 A NO.

7 Q HOW DID HE LOOK?

8 A HOW DID HE LOOK?

9 Q YES.

10 A WILD.

11 Q DID YOU EVER SEE HIM LOOK LIKE THAT ON THESE OTHER
12 OCCASIONS THAT YOU MET HIM?

13 A NOT THAT BAD. BAD BUT, YOU KNOW, I MEAN NOT WITH THAT
14 MUCH VENGEANCE AND WRATH TO HIM, NO, NOT BEFORE. HIS FACE
15 WAS DRAWED UP JUST ALL SUCKED UP.

16 Q DID YOU TALK TO HIM THEN?

17 A YEAH.

18 Q WHAT WAS YOUR REACTION AT THAT POINT, SIR?

19 A WELL, I SPOKE TO JIMMY BEFORE HE STUCK IT IN SALLY'S
20 STOMACH.

21 Q WHAT'D YOU SAY?

22 A HE COME UP AND SQUARED OFF AND DID THAT, I SAID DON'T
23 JIMMY AND THEN WHAT ARE YOU DOIN'. WELL, AS SOON AS HE
24 STEPPED PAST THIS WALL, THAT'S WHAT WE CALL A C.P. WALL, AS
25 SOON AS HE MADE HIS ONE STEP RIGHT HERE, THIS STEP PAST THAT

FRED RUTLAND - DIRECT BY MR. GREGORY

1 WAIJ. HE COMES AROUND LIKE THIS IMMEDIATELY.

2 Q WHAT KIND OF STANCE DID HE MAKE?

3 A WEIJ., IT LOOKS LIKE SOMETHIN' YOU SEE ON TV. I DON'T
4 KNOW. LET'S HAVE A SHOOT-OUT OR SOMETHIN'. I DON'T KNOW
5 WHAT KIND OF STANCE THAT IS.

6 Q YES, SIR. WHAT DID YOU TELL HIM?

7 A WELL, I SAID JIMMY DON'T AND HIS FOOT GOES OVER HERE AND
8 HE PLANTS IT. HE COMES IN AND PLANTS THAT FOOT. JIMMY
9 DON'T. MR. SCOTTIE'S GOT ME DOWN THERE SAYIN' DON'T DO
10 NOTHIN'. THAT'S HIS WORDS, SIR; NOT MINE.

11 Q ALL RIGHT. WHAT DID YOU DO?

12 A WEIJ., HE GETS IT ON UP AND PULS IT ON UP. I SAID JIMMY
13 PLEASE DON'T. THERE'S THAT BIG OLD BARREL OUT THERE. HANDS
14 ON HIS HIP BONE OR SOMEWHERE DOWN ON HIS HIP. IT DRAWS HIM
15 FORWARD, AND I SAID PLEASE DON'T. AND IT HOOKS HIM. COMES
16 AROUND WITH IT AND I SAYS DAMN IT, JIMMY! WHEN I SAID DAMN
17 IT JIMMY HE LOOKS OVER THERE AT ME; HE LOOKS AT THE LITTLE
18 PISTOL AND PULS THE TRIGGER THAT QUICK. COMES OFF OF HER
19 AND WHEN I SEE A GUN DO THAT, I THINK IT'S DONE SHOT!

20 Q SO WHAT HAPPENED?

21 A WHAT HAPPENED? I SHOT HIM IN HIS SIDE.

22 Q WHERE WAS SALLY AT THIS TIME?

23 A SHE'S STANDIN' RIGHT THERE. IF I WAS JIMMY, SHE'S
24 STANDIN' RIGHT THERE.

25 Q HOW FAR AWAY?

FRED RUTLAND - DIRECT BY MR. GREGORY

- 1 A THREE FOOT.
- 2 Q AND YOU SHOT HIM IN THE SIDE?
- 3 A YEAH.
- 4 Q HOW DID YOU DO IT? OUT LIKE THIS?
- 5 A YES, SIR.
- 6 Q ALL RIGHT.
- 7 A WITH THAT THING?
- 8 Q 25 CALIBER?
- 9 A YES.
- 10 Q DID YOU HIT HIM?
- 11 A YES, I HIT HIM.
- 12 Q WHAT HAPPENED?
- 13 A WHEN I HIT HIM?
- 14 Q YES.
- 15 A HE HAD IT STRETCHED OUT; HE LOOKED DOWN, AND STUCK IT
- 16 STRAIGHT OUT.
- 17 Q AT YOU?
- 18 A YES, RIGHT STRAIGHT INTO MY CHEST. THE FIRST ONE
- 19 WOULD'VE, YOU KNOW, PRAISE THE LORD THE SAFETY WAS OFF, BUT
- 20 THE FIRST SHOT WOULD'VE CAUGHT ME HERE BECAUSE HE HAD IT
- 21 TILTED UP. THE REST O F IT WAS STRAIGHT IN.
- 22 Q WAS THE MAGAZINE IN IT?
- 23 A YES. JUST -- YEAH.
- 24 Q SO WHAT DID YOU DO, SIR?
- 25 A I BROUGHT THAT LITTLE THING FROM THIS POSITION DOWN HERE

FRED RUTLAND - DIRECT BY MR. GREGORY

1 SHOOTING HIM IN THE SIDE TO UP IN HIS CHEST BECAUSE HE WAS
2 SHOOTIN' ME.

3 Q WHAT DID YOU THINK AT THIS POINT, SIR?

4 A WHAT DID I THINK?

5 Q YES, SIR.

6 A WELL, I SHOT HIM, SHOT HIM IN THE CHEST.

7 Q DID YOU HEAR ANY EXPLOSIONS?

8 A YES.

9 Q HOW MANY?

10 A WELL, IT WAS JUST THE ONE IN THE SIDE AND THEN THE TWO
11 IN THE CHEST WAS JUST BAM AND I SEE HIS EYES DON'T EVEN
12 FLINCH. I DO IT AGAIN, YOU KNOW, JUST BAM, BAM ALMOST
13 SIMULTANEOUSLY, AND THEN IT WAS A FINAL SHOT WHICH I DIDN'T
14 SHOOT HIM IN THE HEAD. I THOUGHT I WAS SHOT. I FELT IT. I
15 WAS FALLIN' BACK WITH THE 25. I WAS TRYIN' TO GET HER AWAY
16 FROM, YOU KNOW, I SEEN I'D ALREADY STUNNED HIM AND I WAS
17 TRYIN' TO GET IT AWAY FROM SALLY AND JIMMY AND IT WENT OFF AS
18 IT WAS GOIN' UP IN THE AIR.

19 Q AND THAT WAS THE LAST SHOT?

20 A THAT WAS THE LAST.

21 Q NOW, MR. RUTLAND, WHAT HAPPENED IMMEDIATELY AFTERWARDS,
22 AFTER THE FOUR SHOTS? WHAT DO YOU RECALL?

23 A WHEN I OPENED MY EYES BACK I LOOKED AND I SEE JIMMY
24 SPINNIN' OFF TO THE SIDE, SPINNIN' OFF SIDWAYS, AND AS HE'S
25 SPINNIN' TOWARDS THE COUNTER HE'S SPINNIN' TOWARD THE

FRED RUTLAND - DIRECT BY MR. GREGORY

1 COUNTER, SALLY HEADED TOWARDS HIM AND LOOKIN' BACK AT ME AS
2 SHE'S MOVIN' TOWARDS HIM.

3 Q AND WHERE DID HE FALL?

4 A RIGHT WHERE HE'S AT, BUT HE WAS ON HIS LEFT SIDE KIND OF
5 FELL AROUND THE CORNER OF THIS COUNTER, JUST KIND FELL AROUND
6 THE CORNER OF IT.

7 Q DID YOU KNOW THAT THE SAFETY WAS ON THAT TECH NINE?

8 A NO, SIR, I DIDN'T KNOW THAT---

9 Q WHEN DID YOU FIND THAT OUT?

10 A WHEN DID I FIND THAT OUT? YESTERDAY.

11 Q WHERE WAS THE TECH NINE AFTER HE FELL ON THE FLOOR?

12 A IT WAS IN HIS HAND. IT WAS IN HIS HAND AND HE WAS OVER
13 ON HIS LEFT SIDE AND IT WAS IN HIS HAND.

14 Q WHAT DID YOU DO WITH THE PISTOL THAT YOU HAD?

15 A THE PISTOL THAT I HAD?

16 Q YES, SIR.

17 A I STUCK IT IN MY BACK POCKET.

18 Q AND WHAT DID YOU DO?

19 A WHAT DID I DO?

20 Q YES, SIR.

21 A WHEN I STUCK IT IN MY POCKET I WAS ON THE OTHER SIDE OF
22 THE ROOM AND ABOUT THE TIME I GOT TO THE COUNTER THERE, SALLY
23 WAS IN THE PROCESS OF GETTIN' OVER HIM, KICKED THE THING
24 ACROSS THE ROOM OUT OF HIS HAND. KICKED -- I THINK SHE
25 KICKED THE CLIP. I AIN'T SURE, BUT JUST KICKED IT, AND I

FRED RUTLAND - DIRECT BY MR. GREGORY

1 THOUGHT IT WAS GONNA BLOW UP, BUT SHE KICKED IT OUT OF THE
2 WAY AND ROLLED HIM OVER ON HIS BACK, SO I STEPPED OFF TO THE
3 OTHER SIDE OF HIM 'CAUSE SHE WAS OVER ON -- SHE WAS OVER HERE
4 ON THIS SIDE. SHE KICKED THAT GUN OUT OVER THAT WAY. SHE
5 WAS OVER HERE ON THIS SIDE AND I STEPPED ACROSS HIS LEG OVER
6 HERE ON THIS SIDE.

7 Q SO YOU WERE ON THE FRONT DOOR SIDE AND SHE WAS AWAY FROM
8 THE FRONT DOOR.

9 A YES, SIR.

10 Q AND WHAT DID THE TWO OF Y'ALL DO AT THAT TIME, YOU AND
11 SALLY?

12 A WELL, CHECKED, YOU KNOW, THE PULSE AND IT WAS FAINT,
13 JUST A FAINT PULSE. SO WE, YOU KNOW, I TOLD SALLY GIVE HIM
14 MOUTH TO MOUTH AND, YOU KNOW, MAKE SURE TO KEEP HIS TONGUE UP
15 AND I'D DO THE -- I'D PUMP HIS CHEST.

16 Q IS THAT WHAT YOU DID?

17 A YEAH.

18 Q HOW LONG DID YOU DO THAT?

19 A I DON'T KNOW. I HAVE NO IDEA.

20 Q DID ANYBODY COME IN TO THE BUILDING SHORTLY THEREAFTER
21 THAT YOU REMEMBER?

22 A THE FIRST PERSON I REMEMBER COMING IN WAS THE POLICEMAN.

23 Q AND THEN WHAT HAPPENED WHEN THE POLICE GOT THERE?

24 A WELL, HE OPENED THE DOOR AND I WAS STANDIN' UP 'CAUSE I
25 KNEW HE WANTED TO TALK, AND I TOLD HIM I SAYS I SHOT THIS

FRED RUTLAND - DIRECT BY MR. GREGORY

1 MAN. THE GUNS ARE OVER THERE. AIN'T NOBODY GOT NO WEAPONS.
2 HE SAYS WE'LL COME OVER HERE. I SAYS I GOT TO HELP HIM. HE
3 SAID NO GET OVER HERE AGAINST THE WALL. I SAYS WE'LL GO AHEAD
4 AND CUFF ME MAN; DO WHATEVER YOU GOT TO DO, BUT PLEASE HELP
5 HIM; PLEASE HELP HER WITH HIM. THEY WOULDN'T, YOU KNOW.
6 IT'S PROBABLY NOT IN THEIR PROCEDURE.

7 Q MR. RUTLAND, DO YOU SMOKE?

8 A YES.

9 Q WERE YOU SMOKING THAT DAY?

10 A YES, I WAS QUITE NERVOUS THAT DAY.

11 Q WERE YOU SMOKING IN THE DOG ROUTINE?

12 A I'M SURE I WAS.

13 Q DO YOU RECALL---

14 A I RECALL STICKIN' A PACK OF CIGARETTES IN MY MOUTH, YES,
15 SIR.

16 Q WHEN DID YOU DO THAT?

17 A WHEN I SAID -- I WAS JUST FLIPPIN' ONE UP OUTTA MY PACK
18 YOU KNOW. I JUST REACHED IN MY POCKET AND GOT 'EM AND
19 FLIPPIN' ONE UP WHEN I SEEN JIMMY PASS THAT WINDOW, AND WHEN
20 I TURNED AND WENT BACK TOWARD THAT ROOM AND I SEEN I HAD TO
21 PULL MY GUN OUT I STUCK 'EM IN MY MOUTH BECAUSE I KNEW I HAD
22 TO HAVE TWO HANDS TO COCK IT TO GET A BULLET IN IT 'CAUSE
23 I WON'T CARRY A GUN WITH A BULLET IN IT. I WON'T NEVER CARRY
24 A GUN AGAIN, BUT I DON'T -- I MEAN I KNEW I HAD TO HAVE TWO
25 HANDS TO PUT A BULLET IN.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q WHAT DID YOU DO WITH THE CIGARETTES AFTER YOU GOT THE
2 BULLET IN THE GUN?

3 A I HAVE NO IDEA. I MIGHTA SWALLOWED 'EM. I HAVE NO
4 IDEA.

5 Q NOW WHEN THE POLICE GOT THERE YOU TOLD THEM THE GUNS
6 WERE ON THE FLOOR.

7 A YES.

8 Q WHEN DID THE PISTOL GET ON THE FLOOR?

9 A I THINK KIM TOLD ME TO THROW IT DOWN. PUT YOUR GUN DOWN
10 FRED, AND I THREW IT OVER THERE AND IT HIT THAT NINE
11 MILLIMETER. I THREW IT OVER THERE AND SO THEY WOULD BE
12 TOGETHER WHEN THEY GOT THERE AND IT HIT THAT NINE MILLIMETER
13 AND IT -- YOU KNOW. I MEAN I NOTICED IT HIT IT. I DON'T
14 KNOW WHERE IT WENT TO AFTER THAT BUT I NOTICED IT HIT IT.

15 Q DO YOU RECALL GOING OUT OF THE BUILDING INTO A PATROL
16 VEHICLE?

17 A YES.

18 Q WHOSE CAR WERE YOU IN?

19 A I DON'T KNOW.

20 Q WERE YOU MOVED AROUND SEVERAL TIMES?

21 A SEEMED TO ME I GOT OUTTA ONE CAR, INTO ANOTHER ONE. I
22 KNOW IT WAS GETTIN' AWFUL HOT OUT THERE, AND THEN I FINALLY
23 GOT INTO SCOTTIE'S CAR. MR. FRIER'S.

24 Q AND WHERE DID YOU GO FROM THERE? WHERE DID MR. FRIER
25 TAKE YOU?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A TO HIS OFFICE.

2 Q HOW DID YOU GET TO HIS OFFICE? WERE YOU RIDING IN HIS
3 CAR?

4 A YES.

5 Q WHERE ABOUT?

6 A IN THE FRONT SEAT.

7 Q WERE YOU HAND CUFFED?

8 A YES.

9 Q FRONT OR BACK?

10 A DON'T KNOW. I WAS IN THE BACK IN THE OTHER CAR. I
11 BELIEVE HE PUT 'EM IN THE FRONT OF ME TO GET INTO HIS CAR.

12 Q WHEN YOU GOT TO HIS OFFICE DO YOU RECALI. GOING THROUGH
13 SOME DISCUSSIONS WITH HIM ABOUT MAKING A STATEMENT?

14 A THAT DISCUSSION WAS DONE BEFORE WE GOT TO THE OFFICE.

15 Q WELL, WHO SAID WHAT?

16 A MR. FRIER SAYS WELL, WHAT'S HAPPENED HERE? I TOLD HIM
17 THAT A MAN COME IN THERE WITH THAT MACHINE GUN AND TRIED TO
18 KILL ME AND HIS WIFE. HE SAID WHAT'D YOU DO? I SAID I
19 STOPPED HIM; I SHOT HIM. I HAD TO. HE SAID WELL, YOU KNOW WE
20 NEEDED TO GET A STATEMENT. I SAID I NEED A CIGARETTE. I NEED
21 ONE RIGHT NOW.

22 Q DID HE SAY ANYMORE TO YOU?

23 A YEAH, HE KEPT ASKIN' ME ABOUT WHAT HAPPENED, WHAT WAS
24 GOIN' ON, WHO'S WHO AND WHAT WAS WE DOIN' THERE AND WHY I HAD
25 THE GUN, WHO WAS I, WHO WAS THE VICTIM.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q YES, SIR. WHERE WERE YOU ALL THE TIME THAT YOU WERE
2 THERE AND YOU WERE QUESTIONED?

3 A THAT WAS ON THE WAY TO THE OFFICE.

4 Q IN HIS CAR?

5 A YES.

6 Q WHAT DID HE TELL YOU?

7 A HE SAYS WELL, FRED IT SURE SOUNDS LIKE AN EVIDENT CASE OF
8 SELF DEFENSE MAYBE. YOU NEED TO GO AHEAD AND GIVE ME THIS
9 INFORMATION DOWN SO I CAN HELP YOU WITH THIS. NEED TO GET IT
10 DOWN SO -- SO -- WHILE IT'S FRESH ON YOUR MIND.

11 Q WHERE WERE YOU ABOUT THIS TIME?

12 A I WAS, YOU KNOW, THAT WAS RIGHT BEFORE WE GOT INTO THE
13 GATES AND PULLED INTO THE OFFICE AND ALL THAT STUFF.

14 Q AFTER YOU GOT INSIDE THE POLICE STATION OR THE SHERIFF'S
15 DEPARTMENT, WERE YOU TAKEN TO A ROOM?

16 A YES.

17 Q AND WHAT WAS THE PURPOSE OF THAT MANEUVER?

18 A TO GIVE STATEMENTS I GUESS, AND THAT WAS -- HE SAID THAT
19 WAS THE THING TO DO.

20 Q ALL RIGHT. LOOKING AT THE FIRST PAGE OF THE STATE'S
21 EXHIBIT #4, IS THAT THE STATEMENT, THE FIRST PAGE THAT YOU
22 WERE DISCUSSING WITH HIM AT THIS PARTICULAR TIME?

23 A WHEN WE GOT TO THE OFFICE?

24 Q YES, SIR.

25 A PROBABLY SO. I'M -- I DON'T KNOW.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q WELL, AT THE UPPER RIGHT CORNER THERE IT SAYS 14:05.
2 THAT WOULD BE 2:05 IN THE AFTERNOON.

3 A YES.

4 Q WOULD THAT BE ABOUT THE TIME---

5 A YES.

6 Q ---THAT YOU ARE TALKIN' ABOUT?

7 A IT WOULD. I BELIEVE I LEARN'T THAT -- I BELIEVE I LEARN'T
8 THAT HE PICKED ME UP SHORTLY AFTER 1:30. I BELIEVE I'VE
9 LEARN'T THAT SINCE.

10 Q SO WHEN YOU WERE IN THE ROOM WITH HIM DID HE ASK YOU
11 QUESTIONS AND YOU GIVE HIM RESPONSES AT THAT NUMBER?

12 A YES.

13 Q WHO WROTE THIS STATEMENT?

14 A SCOTTIE DID.

15 Q IS THIS HIS HANDWRITING?

16 A MR. FRIER. I GUESS IT IS.

17 Q I MEAN WERE YOU---

18 A YES.

19 Q ---SITTING THERE WHEN HE WROTE IT?

20 A DID I SEE HIM WRITE IT?

21 Q YES, SIR.

22 A I CAN'T SAY THAT.

23 Q WHAT KINDA CONDITION WERE YOU IN AT THIS TIME?

24 A HE COULDA HAD A HANDFUL OF PENS RIGHT IN FRONT OF ME. I
25 COULDN'T A SEEN 'EM. I COULDN'T SEE. I WAS CRYIN'. I WAS

FRED RUTLAND - DIRECT BY MR. GREGORY

1 UPSET. I WAS SHAKIN' ALL OVER, TREMBLIN'.

2 Q HAD YOU EVER HAD THAT FEELIN' BEFORE?

3 A NO, SIR.

4 Q HOW LONG DID IT LAST?

5 A THE COMPLETE UNCONTROLLABLE JERKING?

6 Q YES, SIR.

7 A TILL HE PISSSED ME OFF MONDAY, I FINALLY GOT OVER IT.

8 YOU KNOW, HE WAS TELLIN' ME, YOU KNOW, YOU NEED TO GO AHEAD

9 AND GET THIS OFF YOUR MIND, YOU KNOW. GO AHEAD AND TELL --

10 YOU NEED TO TELL SOMEBODY ABOUT THIS. YOU NEED TO YOU KNOW

11 GO AHEAD AND TALK ABOUT IT SO YOU'LL BE OK. YOU KNOW? I

12 TOLD HIM I RECKON. I KNOW A LOT OF IT'S FACT. I KNOW IT'S

13 NOT IN THE RIGHT ORDER. YOU KNOW, I READ IT TIME AND TIME

14 AGAIN TRYIN' TO FIGURE OUT HOW HE GOT THAT PISTOL IN MY BACK

15 POCKET. I DON'T KNOW HOW I LET HIM MAKE ME SAY THAT. I WAS

16 JUST GIVIN' HIM A STATEMENT, YOU KNOW. I DIDN'T KNOW IT

17 WAS -- YOU KNOW, I REALLY DIDN'T KNOW THAT THAT WAS THE WHOLE

18 TRUTH, NOTHIN' BUT THE TRUTH AND STILL DON'T.

19 Q YOU THOUGHT WHAT?

20 A THAT HE WAS JUST WANTIN' TO TALK ABOUT WHAT HAPPENED AND

21 HE'D BRING UP QUESTIONS AND I'D ANSWER 'EM.

22 Q WELL, WERE YOU TELLIN' HIM THE TRUTH?

23 A THE BEST OF MY KNOWLEDGE.

24 Q WERE YOU TELLIN' HIM EXACTLY AS IT HAPPENED?

25 A HE ASKED ME SOMETHIN'; I ANSWERED IT.

FRED RUTLAND - DIRECT BY MR. GREGORY

1 Q AND THEN---

2 A SEQUEL OF EVENTS, NO, SIR.

3 Q DID YOU SIGN THIS STATEMENT AFTER HE WROTE IT?

4 A YES, WHEN HE PRESENTED ME WITH THE PAPER TO SIGN, I
5 SIGNED WHAT HE TOLD ME TO.

6 Q AND DID HE TAKE ANOTHER STATEMENT FROM YOU ON A TAPE
7 RECORDER?

8 A YEAH.

9 Q WHEN WAS THAT DONE?

10 A RIGHT AFTER -- RIGHT AFTER HE GOT TIRED OF ASKIN' ME
11 QUESTIONS. I GUESS WHENEVER I HUNG MYSELF. I DON'T KNOW.

12 Q MR. RUTLAND, DO YOU RECALL TALKIN' WITH THE TAPE
13 RECORDER RUNNING?

14 A NO, SIR.

15 Q AFTER THAT CONVERSATION, WITH THE TAPE RECORDER, DID YOU
16 OR WERE YOU ASKED TO SIGN ANOTHER PAPER THAT DAY?

17 A I DON'T KNOW, SIR. I REALLY DON'T. I DON'T KNOW HOW
18 MANY. I MEAN THEY SHOVIN' 'EM AT ME AND I WAS SIGNIN' 'EM.
19 I DON'T KNOW HOW MANY PAPERS I SIGNED. I DON'T KNOW HOW MANY
20 INITIALS I MADE. I HAVE NO IDEA.

21 Q WHY WAS THAT? WHY DID YOU HAVE TROUBLE AT THIS POINT IN
22 TIME?

23 A IT HAD JUST HAPPENED. I'M STILL TRYIN' TO -- YOU KNOW,
24 I'M STILL WORRIED ABOUT JIMMY AND SALLY AND WHAT'S GOIN' ON
25 AND I DIDN'T CARE WHAT WAS GOIN' ON THERE. IT DIDN'T MATTER

FRED RUTLAND - DIRECT BY MR. GREGORY

1 TO ME. YOU KNOW, HE SAID IT WAS GONNA HELP ME. I GUESS IT
2 IS.

3 Q WELL, DID DETECTIVE FRIER MAKE ANY MORE STATEMENTS TO
4 YOU ABOUT HOW IT WAS GONNA HELP YOU?

5 A IT WAS GONNA CALM ME DOWN. YOU NEED TO TALK TO
6 SOMEBODY. IT'LL CALM YOU DOWN JUST TO GO AHEAD AND TELL ME
7 EVERYTHING THAT HAPPENED.

8 Q WHERE DID YOU GO AFTER THE STATEMENT EPISODE? WHAT
9 HAPPENED TO YOU NEXT?

10 A WHEN HE SAID THAT I HAD TO GO TO JAIL, YOU MEAN?

11 Q IF THAT'S WHAT HAPPENED NEXT.

12 A I GUESS IT IS.

13 Q WHAT DID YOU DO?

14 A SMOKED A CIGARETTE ON THE WAY BACK TO THE JAIL. THAT
15 DETECTIVE WAS NICE.

16 Q NOW THREE DAYS LATER ON THE 7TH OF SEPTEMBER YOU WERE
17 ASKED TO SIGN ANOTHER STATEMENT, WERE YOU NOT?

18 A YES.

19 Q DO YOU RECALL THE EVENTS ON THAT PARTICULAR DAY?

20 A YES.

21 Q WHAT HAPPENED?

22 A I WAS IN A LITTLE BETTER SHAPE.

23 Q WERE YOU COMPLETELY OVER THE SITUATION?

24 A NOT YET, BUT, NO, I WASN'T AT ALL THEN. I WAS STILL IN
25 JERKS. I COULDN'T -- YOU KNOW, I HAD TO HOLD MY HAND JUST

FRED RUTLAND - DIRECT BY MR. GREGORY

1 I.IKE A, YOU KNOW, TO KEEP 'EM FROM JERKIN'.

2 Q WELL, WHO CAME TO SEE YOU THEN ON THE 7TH?

3 A MR. FRIFER.

4 Q WHERE DID Y'ALL GO?

5 A TO AN INTERROGATION ROOM.

6 Q AND WHAT TOOK PLACE?

7 A WELL, WE TALKED A LITTLE BIT. FIRST THING I ASKED HIM
8 WAS SCOTTIE WILL THIS EVER -- WILL THIS EVER GO AWAY. WILL I
9 EVER BE NORMAL AGAIN. HE SAYS I DON'T KNOW.

10 Q WHY DID HE WANT TO TALK TO YOU ON THAT PARTICULAR DAY
11 AND GET A STATEMENT FROM YOU THEN?

12 A BECAUSE I DIDN'T GIVE HIM EVERYTHING HE WANTED TO KNOW
13 THE FIRST TIME. I DIDN'T INVOLVE GOIN' TO THE TRAILER. I
14 DON'T KNOW IF IT WAS IN THE FIRST ONE OR NOT, BUT HE FOUND
15 OUT IT HAPPENED AND I HADN'T TOLD HIM.

16 Q WELL, DID YOU NOT TELL HIM BECAUSE YOU DIDN'T WANT HIM
17 TO KNOW ABOUT IT?

18 A I WAS JUST LIKE HE WAS. I WAS WANTIN' TO GET FINISHED
19 WITH IT.

20 Q OK.

21 A YOU KNOW HE WAS LET'S GET FINISHED WITH THIS AND I WAS
22 TRYIN' MY BEST TO GET FINISHED WITH IT.

23 Q WELL, DID YOU COOPERATE WITH HIM ON THE 7TH?

24 A YES.

25 Q DO YOU RECALL SIGNIN' THAT STATEMENT?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A YES, HE HAD SOME MORE PAPERS THERE FOR ME TO SIGN, YES,
2 SIR.

3 Q THIS IS STATE'S EXHIBIT #10 WHICH IS THE FIRST PAGE OF A
4 2-PAGE STATEMENT. IT SHOWS THAT AT 13:04 THAT AFTERNOON YOU
5 MADE A STATEMENT, SEPTEMBER 7, 1992.

6 A YES, THAT'S WHEN, YOU KNOW, HE WANTED TO KNOW WHAT
7 HAPPENED. WHY DIDN'T I TELL HIM WE WENT TO THE TRAILER. AND
8 YOU KNOW I TOLD HIM YOU DIDN'T ASK ME BUT THAT DOESN'T SHOW
9 ON THERE EITHER.

10 Q YES, SIR. AFTER YOU SIGNED THAT STATEMENT DID YOU HAVE
11 ANY FURTHER CONVERSATION WITH SCOTTIE, DETECTIVE FRIER?

12 A YES, WE DID.

13 Q WHEN?

14 A SHORTLY AFTER. IMMEDIATELY AFTER.

15 Q AND WHAT WAS THE CONVERSATION?

16 A HE KICKS BACK IN HIS CHAIR AND SAYS WELL, YOU KNOW FRED I
17 THINK SALLY SET YOU UP TO KILL HER HUSBAND.

18 Q WHAT'D YOU DO THEN?

19 A THAT UPSET ME YOU KNOW. I STOOD UP KINDA ABRUPTLY. I
20 GUESS HE THOUGHT I WAS GONNA HURT HIM SINCE I WAS SUCH A BAD
21 MAN OR WHATEVER BUT HE DUCKED AWAY FROM ME I STOOD UP SO
22 FAST. I DIDN'T MEAN TO UPSET HIM BUT HE UPSET ME AND I SAID
23 WELL IF THAT'S ALL SHE WANTED, THERE'S A MAN ON THE JOB
24 OFFERED THAT LAST SUMMER. SHE DIDN'T NEED ME.

25 Q AND WHAT WERE YOU REFERRING TO THEN WITH THAT COMMENT?

FRED RUTLAND - DIRECT BY MR. GREGORY

1 A A CONVERSATION BETWEEN A BLOCK MASON, A COLORED
2 GENTLEMAN ON THE JOB AND SALLY AND MYSELF. WE WERE WORKING
3 IN FRONT OF THE STORE IN THE PARKING LOT, YOU KNOW, IN FRONT
4 OF THE WAL MART STORE IN SUMMERVILLE AND SALLY COULDN'T
5 MAINTAIN CONCENTRATION BECAUSE SHE KEPT LOOKIN' OUT ACROSS
6 SCANNIN' THE WHOLE PARKIN' LOT LOOKIN' TO SEE IF JIMMY WAS
7 COMIN' ACROSS THE PARKIN' LOT AFTER HER OR ANYTHING LIKE
8 THAT.

9 Q WHY WAS SHE DOIN' THAT?

10 A HIS MOTHER BROUGHT HIM DOWN TO THE MOTEL THE NIGHT
11 BEFORE AND HE'D BEEN SIT -- STAYED THERE ACROSS THE JOB.

12 MR. MCMAHON: YOUR HONOR, I'M GONNA OBJECT. I DON'T
13 KNOW WHEN HE'S TALKIN' ABOUT AGAIN.

14 THE COURT: YEAH, LET'S DON'T---

15 A PARDON ME?

16 THE COURT: I DON'T KNOW WHEN HE'S TALKIN' ABOUT.

17 A IT'S IN JUNE.

18 MR. MCMAHON: YOUR HONOR, THE COURT RULED ON THAT.

19 MR. GREGORY: THIS IS PART OF THE CONVERSATION THAT
20 DETECTIVE FRIER WAS TALKIN' TO HIM ABOUT ON SEPTEMBER THE 7TH
21 1992.

22 MR. MCMAHON: HE'S SAYING HE TOLD DETECTIVE FRIER THIS?
23 IS THAT WHAT HE'S RESPONDING TO?

24 MR. GREGORY: HE DIDN'T---

25 MR. MCMAHON: EXCUSE ME. I'M ADDRESSING THE COURT. I

FRED RUTLAND - DIRECT BY MR. GREGORY

1 TOLD DETECTIVE FRIER THIS INFORMATION HE'S NOW TESTIFYIN' TO?

2 A RIGHT.

3 THE COURT: THAT'S WHAT HE'S SAYIN'.

4 MR. MCMAHON: FINE. IF THAT'S WHAT HE'S SAYIN' HE TOLD
5 DETECTIVE FRIER.

6 THE COURT: GO AHEAD.

7 Q ALL RIGHT. WELL, DID YOU EXPLAIN TO DETECTIVE FRIER
8 WHAT---

9 MR. MCMAHON: OBJECTION. THAT WOULD BE LEADING. HE CAN
10 TELL---

11 THE COURT: DON'T LEAD HIM.

12 MR. MCMAHON: ---WHAT HE TOLD DETECTIVE FRIER.

13 Q ALL RIGHT. WELL, TELL 'EM.

14 MR. MCMAHON: OBJECT TO THE LEADING.

15 Q TELL WHAT YOU EXPLAINED TO HIM.

16 A I STOOD UP; I SAYS NO SCOTTIE IF THAT'S ALL SHE WANTED,
17 THERE'S A MAN OFFERED THAT ON THE JOB LAST YEAR, LAST SUMMER.
18 EXCUSE ME. HE SAYS SO DID YOU TALK TO SALLY ABOUT THIS. I
19 SAYS SHE WAS IN THE CONVERSATION. AT THE CONVERSATION. SO
20 YOU DID TALK TO HER ABOUT IT. I AIN'T SAYIN' NOTHIN'. HE
21 GRABS HIS PEN AND STARTS WRITIN' DOWN ANOTHER PAGE. I SAYS I
22 AIN'T SIGNIN' NOTHIN'. I'M DONE. LET'S GO. AND HE SAYS YOU
23 THINK WITH EIGHT YEARS ON THE LEXINGTON COUNTY POLICE FORCE
24 THAT MY INTEGRITY IS NOT GONNA STAND FOR ITSELF. I CAN GO IN
25 THAT COURTROOM AND TELL THEM PEOPLE ANYTHING I WANT TO AND

FRED RUTLAND - DIRECT BY MR. GREGORY

1 YOU THINK THEY'RE NOT GONNA BELIEVE ME ABOVE YOU. I DON'T
2 EVEN HAVE TO TELL THEM THE TRUTH. MY INTEGRITY STANDS FOR
3 ITSELF. I SAYS PARDON ME SIR BUT I'M NOT TESTING YOUR
4 INTEGRITY. I AM NOT QUESTIONIN' IT. I'M JUST NOT SIGNIN'
5 THAT PIECE OF PAPER.

6 Q AND DID YOU SIGN IT?

7 A NO.

8 Q DID YOU HAVE ANY FURTHER CONVERSATION WITH HIM?
9 DETECTIVE PRIER.

10 A NO. HE MADE IT VERY APPARENT IT DIDN'T MATTER WHAT HE
11 SAID OR WHAT I SAID, THAT YOU KNOW, THAT WAS THE END OF IT.

12 Q WHAT WAS THE PURPOSE, MR. RUTLAND, OF YOUR VISIT TO
13 LEXINGTON ON SEPTEMBER 3, 1992?

14 A TO HELP SALLY REMOVE HER STUFF FROM THE AREA; TO GO WITH
15 HER TO GET A JOB, APARTMENT AND SAFETY.

16 Q WAS IT YOUR INTENT OR DESIRE TO KILL HER HUSBAND?

17 A JACK, I HAVEN'T BALLED UP MY FIST TO DO HARM TO ANYONE
18 SINCE I WAS A TEENAGER. I HAVEN'T EVEN BEEN IN A FIST FIGHT.
19 I DON'T WANNA HURT NO ONE EVER, AND JIMMY WAS NOT ONE OF 'EM.
20 WHEN JIMMY WASN'T IN A RAGE WE GOT ALONG. I LIKED HIM.

21 Q MR. RUTLAND, DID YOU HAVE ANY OTHER OPTION IN THE BOW-
22 WOW BOUTIQUE SEPTEMBER 4, 1992 WHEN JIMMY CAME IN THERE?

23 A NO. YOU KNOW, I COULDA STOOD THERE AND LET HIM FIND OUT
24 THAT IT WASN'T SHOOTIN' 'CAUSE I DIDN'T FIND OUT IT WASN'T
25 SHOOTIN' TILL IT WAS DONE, BUT HE COULDA FOUND OUT IT WASN'T

FRED RUTLAND - DIRECT BY MR. GREGORY

1 SHOOTIN' JUST LIKE I DID, YOU KNOW, AND THEN PUT THE SAFETY
2 OFF AND DO IT AGAIN. THAT'S THE ONLY OPTION I HAD. I DID,
3 YOU KNOW, THAT'S THE ONLY OPTION I HAD. I COULD LET HIM DO
4 IT AGAIN. IF AT FIRST YOU DON'T SUCCEED, YOU KNOW, LET HIM
5 DO IT TO YOU AGAIN. THAT'S THE ONLY OPTION I HAD.

6 Q THANK YOU. ANSWER ANY QUESTIONS THE SOLICITOR HAS.

7 THE COURT: LET ME SEE THE JURY. EVERYBODY ALL RIGHT?
8 ANYBODY NEED TO GO? I THINK ONE NEEDS TO GO TO THE SANDBOX.
9 WE'LL TAKE A LITTLE SHORT RECESS. YOU CAN STEP DOWN.

10 MR. MCMAHON: YOUR HONOR, I WOULD HAVE A MATTER OF LAW
11 FOR THE COURT BEFORE HE STEPS OFF THE STAND.

12 THE COURT: YES, SIR?

13 MR. MCMAHON: OUTSIDE THE PRESENCE OF THE JURY.

14 THE COURT: OK. YEAH, GO AHEAD. (THE FOLLOWING
15 OCCURRED IN THE ABSENCE OF THE JURY.)

16 A DO I HAVE TO STAY UP HERE?

17 THE COURT: YOU CAN STEP DOWN. YES, SIR?

18 MR. MCMAHON: YOUR HONOR, THE ONLY THING I HAD IS UNDER
19 PERRY, THE PERRY DECISION, I WOULD ASK THAT THE DEFENDANT BE
20 TAKEN INTO CUSTODY UNTIL SUCH TIME AS HE COMES SUBJECT TO
21 CROSS-EXAMINATION AND NOT BE ALLOWED TO CONFER WITH HIS
22 ATTORNEY BEFORE CROSS-EXAMINATION.

23 THE COURT: YEAH, I'LL LET HIM SIT RIGHT HERE. DON'T
24 Y'ALL TALK TO HIM.

25 MR. MCMAHON: I WOULD ASK THAT HE BE WITH AN OFFICER

FRED RUTLAND - CROSS BY MR. MCMAHON

1 DURING THAT PERIOD OF TIME.

2 THE COURT: YEAH.

3 MR. MCMAHON: YOU NEED TO TALK TO THE JUDGE.

4 A MAY I GO TO THE REST ROOM, SIR?

5 THE COURT: WELL, SOME OFFICER CAN TAKE YOU TO THE REST
6 ROOM.

7 MR. MCMAHON: THANK YOU, YOUR HONOR.

8 THE COURT: TAKE HIM TO THE REST ROOM. (THERE WAS A
9 BRIEF RECESS.) ALL RIGHT. BRING THE JURY IN. (THE
10 FOLLOWING OCCURRED IN THE PRESENCE OF THE JURY.)

11 CROSS-EXAMINATION

12 BY MR. MCMAHON

13 MR. MCMAHON: MAY IT PLEASE THE COURT?

14 THE COURT: YOU MAY PROCEED.

15 Q MR. RUTLAND, EARLIER YOU WERE TELLIN' THE JURY WHERE YOU
16 LIVE NOW. WHERE ARE YOU PRESENTLY RESIDING?

17 A RIGHT AT THE MOMENT?

18 Q YES, SIR.

19 A LEXINGTON COUNTY.

20 Q LEXINGTON COUNTY JAIL?

21 A YES, SIR.

22 Q AND YOU WERE PLACED OUT ON BOND AFTER THIS INCIDENT
23 HAPPENED. ISN'T THAT CORRECT?

24 A YES, SIR.

25 Q AND YOU REMEMBER SIGNING THAT BOND AND THE FORM AND

FRED RUTLAND - CROSS BY MR. MCMAHON

1 CONDITIONS OF YOUR PARTICULAR BOND?

2 A NOT -- NOT PARTICULARS. I DON'T THINK I HAD A COPY.

3 Q YOU DON'T THINK YOU HAD A COPY?

4 A NO, SIR.

5 Q DO YOU THINK YOU SIGNED THAT BOND FORM OR NOT?

6 A YES, SIR, I SIGNED THE BOND.

7 Q I BELIEVE THIS IS A COPY OF YOUR BOND FORM RIGHT HERE.
8 YOUR SIGNATURE IS ON THE FRONT. THE INITIALS ON THE BACK.

9 A YES, SIR.

10 Q THAT WAS SEPTEMBER THE 9TH OF '92. CORRECT?

11 A YES, SIR.

12 Q NOW YOU GOT OUT ON BOND. YOU STAYED OUT ON BOND FOR A
13 PERIOD OF TIME. ISN'T THAT CORRECT?

14 A YES, SIR.

15 Q AND THEN YOU GOT RE-ARRESTED.

16 A RIGHT.

17 Q WHERE WAS YOU AT WHEN YOU GOT RE-ARRESTED?

18 A MIAMI.

19 Q EXCUSE ME?

20 A MIAMI.

21 Q MIAMI, SOUTH CAROLINA?

22 A MIAMI, FLORIDA.

23 Q MIAMI, FLORIDA. WELL, LOOK HERE ON THE BACK OF THIS
24 BOND. DO NOT LEAVE THE STATE OF SOUTH CAROLINA.

25 A WHERE IS THAT? OH, WRITTEN IN RIGHT HERE. YES, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q DO NOT LEAVE THE STATE OF SOUTH CAROLINA.

2 A YES, SIR.

3 Q WELL, WHY WERE YOU IN MIAMI, FLORIDA?

4 A YOU TOLD ME I HAD TO PLEAD GUILTY.

5 Q YOU WERE IN MIAMI, FLORIDA 'CAUSE I TOLD YOU YOU HAD TO
6 PLEAD---

7 A I HAD TO PLEAD GUILTY AND YOU WERE GONNA GIVE ME 30
8 YEARS, YES, SIR.

9 Q SO THIS YOUNG MAN HERE 30 YEAR-OLD HIGH SCHOOL GRADUATE,
10 8-YEAR DEPUTY SCOTTIE FRIER OVERBORE YOUR WILL TO GIVE YOU --
11 GIVE ALL THOSE STATEMENTS. CORRECT?

12 A I DIDN'T -- PARDON ME. I DIDN'T UNDERSTAND YOU.

13 Q YOUNG MR. FRIER HERE OVERBORE YOUR WILL TO GET YOU TO
14 GIVE ALL THESE STATEMENTS.

15 A OVERBORE IS NOT IN MY VOCABULARY. I DON'T KNOW WHAT YOU
16 MEAN.

17 Q HE TOOK ADVANTAGE OF YOU. MR. FRIER TOOK ADVANTAGE OF
18 YOU TO GET YOU TO GIVE ALL THESE STATEMENTS.

19 A YES, SIR.

20 Q YES, SIR. HE HAD YOU SIGNIN' AND INITIALIN' AND
21 THROWIN' PENS AT YOU AND EVERYTHING ELSE.

22 A YES, SIR.

23 Q AND 42 YEAR-OLD FRED RUTLAND DIDN'T KNOW WHAT HE WAS
24 DOIN', DID HE? DID HE?

25 A I WAS COOPERATING, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q AND BEIN' LED DOWN THE PRIMROSE PATH RIGHT INTO THE
2 DEPARTMENT OF CORRECTIONS BY YOUNG MR. DETECTIVE SCOTTIE
3 FRIER. IS THAT RIGHT?

4 A YES, SIR.

5 Q AND NOW YOU GONNA TELL THIS JURY, MR. RUTLAND, THAT THE
6 REASON YOU JUMPED BOND IS BECAUSE OF ME?

7 A YES, SIR.

8 Q THAT'S WHAT YOU'RE TELLIN' THIS JURY?

9 A YES, SIR.

10 Q TELL 'EM WHY.

11 A BECAUSE YOU SAID I WAS GONNA HAVE TO PLEAD GUILTY AND I
12 WAS GONNA GET 30 YEARS.

13 Q AND WHEN I TOLD YOU THAT, HOW MANY TIMES HAVE YOU TALKED
14 TO YOUR LAWYER BY THEN?

15 A ON NUMBERS OF OCCASIONS.

16 Q YOU HAD AN ATTORNEY.

17 A YES, SIR.

18 Q AND YOU HAVE DISCUSSED YOUR CASE WITH HIM?

19 A YES, SIR.

20 Q BUT WHEN I TOLD YOU THAT YOU PACKED UP YOUR CLOTHES,
21 PACKED UP YOUR BELONGINGS AND YOU AND THE GRIEVING WIDOW WENT
22 TO MIAMI, FLORIDA?

23 A YES, SIR.

24 Q 'CAUSE OF WHAT I SAID.

25 A PRIMARILY.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q WELL, WHAT CAUSED YOU AND YOUNG MS. PEELE TO GO TO
2 HOUSTON, TEXAS JULY 9TH TO JULY THE 19TH?

3 A CHECKING OUT THE EMPLOYMENT, SEEING WHAT THE WORK
4 SITUATION WAS LIKE.

5 Q YOU WERE JUST GONNA GO DOWN THERE AND HELP HER SET UP,
6 WEREN'T YOU?

7 A YES, SIR.

8 Q AND COME ON BACK HOME.

9 A YES, SIR.

10 Q IS THAT RIGHT?

11 A WHY'D YOU QUIT YOUR JOB?

12 A SOMEONE I KNEW NEEDED HELP. SOMEONE I WAS ACQUAINTED
13 WITH NEEDED HELP.

14 Q SOMEONE YOU WERE ACQUAINTED WITH NEEDED HELP MEANING MS.
15 PEELE?

16 A YES, SIR.

17 Q SO YOU'RE A CARPENTER FOREMAN WITH WAL MART; SHE NEEDS
18 HELP GETTIN' ANOTHER JOB, SO YOU QUIT YOUR JOB AND HEAD DOWN
19 FOR DOWNTOWN HOUSTON, TEXAS. THAT'S WHAT YOU'RE TELLIN' THIS
20 JURY?

21 A YES, SHE -- HER LIFE WAS IN JEOPARDY, YES, SIR.

22 Q IN JULY.

23 A BEFORE.

24 Q IN JULY I SAID.

25 A YES, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q NOW IT'S NOT CORRECT THAT THE ONLY TIME -- I'M NOT
2 TALKIN' ABOUT BACK IN HIGH SCHOOL AT WILL LOU GRAY, BUT IN
3 1992 YOU HAD BEEN TO LEXINGTON COUNTY PRIOR TO SEPTEMBER THE
4 3RD OF '92.

5 A YES, SIR.

6 Q IN FACT, JULY 19TH OF 1992 YOU HAD BEEN TO ROBIN HUNT'S
7 HOUSE.

8 A YES, SIR.

9 Q AND WITH SALLY PEELE.

10 A YES, SIR.

11 Q THAT WAS THE DAY Y'ALL CAME BACK FROM MIAMI -- EXCUSE ME
12 -- FROM HOUSTON.

13 A YES, SIR.

14 Q I GET CONFUSED WHERE YA'LL WERE AT AT THE TIME.

15 A RIGHT.

16 Q FROM HOUSTON. AND YA'LL WENT BY ROBIN'S. DID YA'LL
17 STAY THERE A COUPLE OF DAYS?

18 A NO.

19 Q NO. AND THEN SALLY TOOK YOU HOME TO SUMMERVILLE.

20 A YES, SIR.

21 Q ISN'T THAT CORRECT? SO YOU'VE BEEN HERE BEFORE
22 SEPTEMBER THE 3RD OF '92.

23 A YES, SIR.

24 Q CORRECT? NOW YOU DONE QUIT YOUR JOB TO GO TO TEXAS, AND
25 YOU COME BACK FROM TEXAS. I GUESS YOU DON'T FIND A JOB IN

FRED RUTLAND - CROSS BY MR. MCMAHON

1 TEXAS.

2 A YES, THERE WAS WORK THERE.

3 Q WELL, WHY'D YOU COME BACK TO SUMMERVILLE?

4 A JIMMY.

5 Q EXCUSE ME?

6 A JIMMY PEELE.

7 Q YOU CAME BACK AND YOU WERE 1500 MILES AWAY.

8 A YES, SIR.

9 Q SAFE AND SECURE IN DOWNTOWN HOUSTON, TEXAS BUT YOU CAME
10 BACK BECAUSE OF JIMMY PEELE. THAT'S YOUR ANSWER?

11 A BECAUSE JIMMY PEELE'S STATEMENT TO SALLY SAYING YOU WILL
12 NEVER GET TO SEE YOUR DAUGHTER AGAIN IF YOU DO NOT COME HOME
13 TO ME.

14 Q SO IT WASN'T JIMMY PEELE. YOU GOT CHILDREN, DON'T YOU?

15 A YES, SIR, I DO.

16 Q ALL RIGHT. BUT YOU WERE CONCERNED WITH MS. PEELE'S
17 CHILD.

18 A YES, SIR.

19 Q NOT WHETHER YOU'D EVER SEE YOUR CHILDREN. YOU WERE
20 WORRIED ABOUT MS. PEELE'S CHILD.

21 A RIGHT. THEY WERE NOT -- MINE WERE NOT IN CUSTODY.

22 Q NOW YOUR'S WERE HOME IN SUMMERVILLE.

23 A YES, SIR.

24 Q WHEN YA'LL COME -- YOU COME UP AGAIN ON -- YOU'RE NOT UP
25 HERE BETWEEN JULY THE 19TH AND SEPTEMBER THE THIRD, ARE YOU?

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A YES, SIR.

2 Q OH, YOU ARE?

3 A YEAH.

4 Q THERE ARE OTHER TIMES YOU'RE UP HERE.

5 A YEAH.

6 Q OH, I DIDN'T KNOW THAT. WHEN? WHEN ARE THESE OTHER
7 TIMES?

8 A AROUND THE END OF JULY. FIRST OF AUGUST.

9 Q END OF JULY; FIRST OF AUGUST YOU BACK UP TO LEXINGTON.

10 A YES, SIR.

11 Q WORKIN'?

12 A NO.

13 Q LOOKIN' FOR WORK?

14 A NO.

15 Q WHAT OTHER TIMES?

16 A THAT'S ALL I CAN REMEMBER.

17 Q THE TIME YOU COME UP END OF JULY, FIRST OF AUGUST IS
18 THAT TO SEE MRS. PEELE?

19 A MR. PEELE. JIMMY.

20 Q OH, TO SEE JIMMY PEELE?

21 A YES, SIR.

22 Q OK. SO YOU COME BACK AT THE END OF JULY, FIRST OF
23 AUGUST AND SEE JIMMY PEELE SOMEWHERE?

24 A YES, SIR.

25 Q NOT TO SEE MRS. PEELE.

FRED RUTLAND -- CROSS BY MR. MCMAHON

1 A NO.

2 Q 'CAUSE YA'LL AREN'T HAVIN' A RELATION -- AN AFFAIR.

3 A NO.

4 Q BUT YOU HAD.

5 A HAD WE?

6 Q YOU ANSWER MY QUESTIONS. YOU'RE THE WITNESS, MR.
7 RUTLAND.

8 A NO. WE DON'T HAVE AN AFFAIR. NO. WE DIDN'T HAVE ONE.

9 Q SO IF MR. FRIER MADE ALL THAT UP IN YOUR STATEMENTS THAT
10 JIMMY KNEW THAT SALLY AND I HAD BEEN TOGETHER. MY WIFE KNEW
11 THAT I WAS INVOLVED WITH SALLY.

12 A INVOLVED, YES.

13 Q OH, THERE'S A DIFFERENCE BETWEEN INVOLVED AND AN AFFAIR.

14 A I THINK SO.

15 Q YOU EXPLAIN THAT TO ME. WHAT DOES INVOLVED MEAN?

16 A I WAS INVOLVED IN TRYIN' TO GET HER INTO A SAFE
17 LOCATION.

18 Q THAT'S THE DIFFERENCE. YOU JUST A GOOD SAMARITAN.

19 A I TRY TO BE, YES, SIR.

20 Q THAT'S WHAT YOU WERE.

21 A I TRY TO BE.

22 Q I NOTICE STATE'S EXHIBIT #13 YOU HANDLED THAT WEAPON
23 VERY WELL.

24 A I'VE BEEN A SPORTSMAN ALL MY LIFE, YES.

25 Q YOU'VE BEEN A SPORTSMAN ALL YOUR LIFE?

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A YES, I'VE NEVER SEEN---

2 Q YOU HANDLED IT VERY WELL.

3 A WELL---

4 Q WELL, I MEAN YOU COCKED IT BACK AND YOU HAD THE MAGAZINE
5 IN AND YOU WERE DEMONSTRATIN' TO THE JURY.

6 A YES.

7 Q LET ME ASK YOU ABOUT THE 19TH. WHAT KINDA SHOTGUN IS
8 THIS?

9 A IT'S A MOSSBERG 12 GAUGE PUMP, ABOUT A 7 SHOT IT LOOKS
10 LIKE.

11 Q IS THAT THE BIGGEST GAUGE SHOTGUN ONE CAN BUY?

12 A NO, SIR.

13 Q WHAT'S THE BIGGEST GAUGE?

14 A TEN I THINK.

15 Q WHAT'S THE MOST POPULAR?

16 A THAT'S THE 12.

17 Q THE 12?

18 A YEAH.

19 Q AND IT'S PRIMARILY USED FOR HUNTIN'?

20 A YEAH.

21 Q NOW HOW YOU LOAD IT?

22 A SLIP IT IN THE BOTTOM THERE.

23 Q WHERE?

24 A UP THROUGH THERE.

25 Q RIGHT IN HERE?

FRED RUTLAND - CROSS BY MR. MCMAHON

- 1 A YEAH.
- 2 Q AND THEY COME IN HERE. CORRECT?
- 3 A RIGHT.
- 4 Q AND HOW DO YOU GET ONE FROM HERE UP INTO THIS CHAMBER?
- 5 A JUST.
- 6 Q SHOW ME.
- 7 A PULJ. THE HANDLE BACK.
- 8 Q NOW THIS IS WHAT YOU LOAD IN IT.
- 9 A YES.
- 10 Q DOUBLE AUGHT BUCK?
- 11 A I DON'T KNOW WHAT THAT IS.
- 12 Q DON'T YOU KNOW WHAT Y'ALL BOUGHT?
- 13 A NOT REALLY.
- 14 Q YOU DON'T? SALLY KNEW WHAT KIND OF AMMUNITJON TO BUY?
- 15 A I DON'T KNOW WHY WE GOT THAT, NO.
- 16 Q SIR?
- 17 A I DON'T KNOW WHY WE GOT THAT, NO.
- 18 Q IS THAT -- WELL, THAT'S AUGHT BUCK I GUESS.
- 19 A YES, THAT'S SINGLE AUGHT.
- 20 Q YOU PUT IT DOWN HERE. CORRECT?
- 21 A YES, SIR.
- 22 Q WHAT TYPE OF HUNTING WOULD THIS BE USED FOR?
- 23 A DEER, DUCK OR HOGS OR---
- 24 Q BEARS?
- 25 A ANYTHING WILD.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q AND BIG?

2 A WHAT?

3 Q BIG. BIG GAME?

4 A YEAH, I THINK IT IS CALLED BIG GAME, YES, SIR.

5 Q WHEN DID YOU LOAD THIS SHOTGUN ON SEPTEMBER THE 4TH?

6 A I DON'T KNOW HOW IT GOT LOADED. I REALLY DON'T KNOW IF
7 I LOADED IT OR NOT.

8 Q WELL, THEN WAS IT LIKE IN THE VAN AND THESE SHELLS WERE
9 IN THE VAN AND IT MAGICALLY GOT LOADED, MR. RUTLAND?

10 A IT COULD'VE BEEN. I'M NOT AWARE OF HOW IT GOT LOADED.

11 Q DID MS. PFELE LOAD IT?

12 A I'M NOT AWARE OF HOW IT GOT LOADED. I DON'T KNOW.

13 Q WELL, YOU WERE IN THE VAN.

14 A YES.

15 Q AND YOU WERE -- THERE WASN'T NOBODY POINTIN' A GUN AT
16 YOU EVER AT [REDACTED] WAS IT?

17 A NO.

18 Q WELL, WHY CAN'T YOU REMEMBER WHEN THIS SHOTGUN GOT
19 LOADED?

20 A I JUST DON'T REMEMBER THAT.

21 Q OR YOU DON'T CHOOSE TO REMEMBER THAT.

22 A WELL, MAY BE BUT I JUST DON'T REMEMBER IT.

23 Q WHEN YOU GOT OUT OF THE VAN, LET ME ASK YOU THIS---

24 A I KNEW IT WAS LOADED, YES, SIR.

25 Q WHEN WAS THIS LOADED?

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A SOMETIME AFTER WE LEFT THE PAWN SHOP WITH IT.

2 Q WHO LOADED IT?

3 A I MAY HAVE.

4 Q DID YOU OR DIDN'T YOU?

5 A I DON'T KNOW.

6 Q NOW THIS HAD TO BE -- WELL, IT HAD TO BE BETWEEN A
7 QUARTER TILL TEN AND A QUARTER TILL ELEVEN. YA'LL WERE EN
8 ROUTE FROM RIGHT HERE FROM ACROSS THE COURTHOUSE DOWN TO
9 SANDRA DRIVE IN PEIION. WHY DID YOU LOAD THIS ON THE WAY?

10 A I DON'T KNOW.

11 Q YOU DON'T KNOW WHY YOU TOOK LIVE AMMUNITION AND LOADED
12 IT INTO THIS GUN ON THE WAY TO MR. PEELE'S HOUSE?

13 A WELL, I KNOW IT'S NO GOOD WITHOUT AMMUNITION IN IT. I
14 KNOW THAT. THAT MIGHT'A BEEN THE REASON.

15 Q YOU WANTED IT TO BE GOOD.

16 A I DON'T KNOW THAT. I DON'T KNOW WHY -- I DON'T KNOW WHO
17 -- I DON'T REMEMBER THE GUNS BEING LOADED.

18 Q WELL, YOUR ATTORNEY SAID MOTIVES ARE SO IMPORTANT.

19 A PARDON ME?

20 Q MOTIVES ARE SO IMPORTANT. YOUR ATTORNEY SAID THAT.
21 MOTIVES. WHAT WAS YOUR MOTIVE IN LOADING THIS WEAPON ON THE
22 WAY TO JIMMY PEELE'S HOUSE BETWEEN TEN AND ELEVEN O'CLOCK
23 THAT MORNING?

24 A IF I REMEMBERED DOIN' IT I PROBABLY WOULD REMEMBER THE
25 MOTIVE, BUT I DON'T REMEMBER DOIN' IT.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q YOU DON'T REMEMBER. THAT'S YOUR TESTIMONY.

2 A THAT'S WHAT I JUST SAID, YES, SIR.

3 Q YOU THINK YOU LOADED IT.

4 A I DON'T KNOW THAT.

5 Q YOU KNOW IT WAS LOADED WHEN SALLY GOT OUT OF THE VAN,
6 DIDN'T YOU?

7 A NO, I DIDN'T KNOW THAT EITHER.

8 Q YOU DIDN'T KNOW THAT.

9 A NO.

10 Q YOU KNEW SALLY GOT OUT OF THE VAN, DIDN'T YOU?

11 A YES.

12 Q AND YOU KNEW SALLY AND THE NEIGHBOR THAT SHE DIDN'T LIKE
13 DAWN HER CAR WAS THERE.

14 A I KNEW THERE WAS A CAR THERE.

15 Q AND YOU KNOW THAT A GUN'S NO GOOD IF IT DOESN'T HAVE
16 BULLETS IN IT.

17 A YES, I KNOW THAT.

18 Q BUT YOU DON'T KNOW WHO WAS LOADING IT OR WHO DID IT.
19 CORRECT?

20 A YES, SIR, THAT'S MY STATEMENT.

21 Q THAT'S NOT IN YOUR STATEMENT ANYWHERE, BY THE WAY, WHERE
22 YOU SAID WHEN YOU ARRIVED AT THE PEELE RESIDENCE AND SALLY
23 SAID WHAT'S SHE DOING HERE REFERRING TO DAWN. THAT'S NOT IN
24 YOUR -- BY THE WAY, I MAY ASK YOU ABOUT YOUR STATEMENTS----

25 A YES, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q I PLACED THEM ON THE TABLE UP THERE IN FRONT OF YOU.
2 STATE'S EXHIBIT #3 THE FIRST STATEMENT.

3 A YES, SIR.

4 Q STATE'S EXHIBIT #8 IS A TRANSCRIPT OF THE TAPE AND
5 STATE'S EXHIBIT #9.

6 A YES, SIR.

7 Q THOSE WILL BE THE ONLY EXHIBITS I REFER TO AS FAR AS
8 WRITTEN DOCUMENTS. OK? THAT'S NOT IN ANY OF YOUR STATEMENTS
9 THOUGH, WHAT'S SHE DOIN' HERE.

10 A IT'S NOT YOU SAY?

11 Q YOU WANNA LOOK?

12 A NO, I'M JUST ASKIN' YOU. YOU SAID IT ISN'T?

13 Q I'M SAYIN' IT ISN'T. I'M ASKIN' YOU IF IT IS.

14 A I DON'T KNOW.

15 Q YOU HAVEN'T READ OVER YOUR STATEMENTS, MR. RUTLAND,
16 BEFORE TESTIFYING IN YOUR MURDER TRIAL?

17 A I DON'T KNOW IF I SAID IT'S -- THAT WHAT YOU JUST SAID
18 OR NOT.

19 Q YOU HAVEN'T READ OVER YOUR STATEMENT?

20 A YES, SIR, I HAVE READ MY STATEMENTS.

21 Q TELL THE JURY HOW MANY TIMES YOU'VE READ OVER THOSE
22 STATEMENTS.

23 A I HAVE NO IDEA.

24 Q NUMEROUS TIMES.

25 A I'VE READ 'EM QUITE A FEW TIMES.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q HOW MANY TIMES?

2 A I'VE ONLY HAD 'EM FOR A WEEK.

3 Q YOU'VE ONLY HAD 'EM FOR A WEEK?

4 A A WEEK I BELIEVE. I JUST GOT 'EM JUST LAST WEEK
5 SOMETIME.

6 Q SO WHERE YOU SIGNED THAT YOU RECEIVED A COPY OF 'EM BACK
7 ON SEPTEMBER THE 4TH AND SEPTEMBER THE 2ND, THAT'S NOT TRUE
8 EITHER.

9 A I DID -- I HAVE NOT HAD THAT IN MY POSSESSION, NO.

10 Q OK. I HAVE READ THIS PAGE, INITIALED CORRECTIONS OR
11 CHANGES, IF ANY, RECEIVED A COPY OF THIS STATEMENT BY
12 CERTIFIED (UNINTELLIGIBLE) AND IT IS TRUE AND CORRECT TO THE
13 BEST OF MY KNOWLEDGE AND SIGNED IT.

14 Q YES, SIR.

15 Q BUT YOU DIDN'T GET A COPY.

16 A I GUESS I DID.

17 Q YOU GUESS YOU DID.

18 A I DON'T KNOW WHERE IT IS. I HAVEN'T HAD IT IN THE LAST
19 EIGHT MONTHS.

20 Q THAT'S THE THIRD PAGE OF YOUR STATEMENT ON SEPTEMBER THE
21 7TH AND YOU SIGNED EACH AND EVERY ONE OF THOSE PAGES.
22 CORRECT?

23 A YES, SIR.

24 Q THE SECOND PAGE HERE I'M REFERRING TO STATE'S 6 UP HERE,
25 5 AND STATE'S 4. WERE YOU ALL NERVOUS AND UPSET AND SHAKING.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 THAT'S YOUR TESTIMONY. HUH?

2 A YEAH, I WAS PRETTY DISTORTED

3 Q SHAKEN.

4 A PRETTY DISTORTED AT THE TIME, YES.

5 Q HOW MANY TIMES HAD YOU BEEN GIVEN YOUR MIRANDA RIGHTS?
6 YOU KNOW WHAT YOUR RIGHTS ARE.

7 A YES.

8 Q WHAT ARE YOUR MIRANDA RIGHTS IN YOUR UNDERSTANDING, MR.
9 RUTLAND?

10 A THAT'S THOSE THINGS RIGHT THERE.

11 Q WHAT DO THEY SAY?

12 A THAT I HAVE THE RIGHT TO REMAIN SILENT AND NOT MAKE ANY
13 STATEMENT AT ALL. THAT'S NUMBER ONE.

14 Q YES, SIR. THERE ARE SOME OTHER'S, AREN'T THERE?

15 A THAT ANY STATEMENT I DO MAKE CAN BE USED AGAINST ME IN
16 COURT.

17 Q AND THERE'S, WHAT, THREE OTHERS.

18 A THAT I DO HAVE THE RIGHT TO AN ATTORNEY PRESENT AT ANY
19 TIME FOR QUESTIONING.

20 Q FOUR?

21 A THAT IF I CANNOT AFFORD AN ATTORNEY I CAN APPLY TO THE
22 COURT TO HAVE ONE APPOINTED AT NO COST TO ME.

23 Q AND THE FIFTH ONE?

24 A IF I DECIDE TO TALK TO AN OFFICER WITHOUT AN ATTORNEY
25 PRESENT I MAY STOP AT ANY TIME TO BE PRESENT FOR FURTHER

FRED RUTLAND - CROSS BY MR. MCMAHON

1 QUESTIONING.

2 Q MR. FRIER WENT OVER THE RIGHTS WITH YOU. DIDN'T HE?

3 A I SIGNED 'EM, YES, SIR.

4 Q HE WENT OVER THEM WITH YOU, DIDN'T HE?

5 A YES, HE READ ALL OF 'EM.

6 Q AND DEPUTY GARNER, THE BIG DEPUTY THAT TESTIFIED
7 YESTERDAY HE READ YOU YOUR RIGHTS?

8 A YES, SIR, YA'LL SAID HE DID, YEAH.

9 Q DO YOU SAY -- WHAT YOU SAY IS IMPORTANT, MR. RUTLAND.

10 A I DON'T KNOW.

11 Q YOU DON'T KNOW. IF THAT'S THE ANSWER, THAT'S FINE.

12 A I DON'T KNOW.

13 Q YOU DON'T KNOW WHETHER HE DID OR NOT.

14 A NO, SIR.

15 Q BUT MR. FRIER CERTAINLY WENT OVER 'EM WITH YOU.

16 A I SIGNED EACH ONE OF 'EM, YES.

17 Q INITIALED EACH ONE OF 'EM.

18 A NUMEROUS OF TIMES.

19 Q YOU SAID YOU UNDERSTOOD 'EM. EVEN IN YOUR TAPED
20 STATEMENT YOU SAID -- YOU LOOKED ON PAGE ONE IN YOUR TAPED --
21 STATE'S EXHIBIT #8, YOU -- AFTER DETECTIVE FRIER GOES OVER
22 THERE. LOOK AT PAGE ONE OF STATE'S 8. YOU HAVE THEM ALL
23 RIGHT THERE IN FRONT OF YOU.

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

25 Q YES, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A NO, I DON'T.

2 Q YES, SIR, RIGHT HERE.

3 A I DO NOT.

4 Q ALL RIGHT, SIR. MAYBE YOU DON'T. HERE'S STATE'S 8.

5 PAGE ONE. YOU SEE THE FIRST PARAGRAPH. MR. RUTLAND A FEW

6 MONTHS. AND ON ONE OTHER OCCASION YOU AND I WENT OVER YOUR

7 RIGHTS UNDER THE MIRANDA DECISION. NOW THAT'S DETECTIVE

8 FRIER SPEAKING, AND HE'S REFERRING IN THAT TAPE TO HAVING

9 GONE -- ALREADY GONE OVER YOUR RIGHTS IN WRITING.

10 A YES, SIR.

11 Q YOU UNDERSTOOD THAT.

12 A I HEARD, YES, SIR.

13 Q YOU SEE THAT? AND YOU'VE HEARD THAT ON THE TAPE ALSO.

14 YOU GOT TO LISTEN TO THE TAPE.

15 A YES, SIR.

16 Q I WANNA GO OVER YOUR RIGHTS UNDER THE MIRANDA DECISION.

17 I'M GONNA READ THOSE RIGHTS TO YOU AGAIN.

18 A YES, SIR.

19 Q SO FORGET SGT. GARNER. EVEN IF HE DOESN'T EXIST, THIS

20 IS AT LEAST THE SECOND TIME THIS DETECTIVE HAS TOLD YOU YOUR

21 RIGHTS.

22 A YES, SIR, I UN---

23 Q ONE OF THEM. YOU DON'T HAVE TO SAY ANYTHING.

24 A BUT YOU REALLY NEED TO SO YOU CAN GET THIS OFF YOUR MIND

25 SO YOU CAN GO AHEAD AND GET IT DOWN.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q THAT'S ON THE TAPE?

2 A IS IT?

3 Q THAT'S ON THE TAPE?

4 A I DON'T KNOW.

5 Q WELL, YOU HEARD THE TAPE.

6 A IS IT ON THE TAPE.

7 Q YOU HEARD THAT.

8 A YES, SIR.

9 Q IS IT ON THE TAPE?

10 A I DON'T KNOW.

11 Q YOU WANT TO LOOK AT THE TRANSCRIPT OF THE TAPE? OR YOU
12 JUST WANT TO STICK WITH I DON'T KNOW?

13 A IT MAY BE ON THE TAPE.

14 Q NO, SIR, I DON'T BELIEVE THERE'S ANYTHING ON THE TAPE
15 LIKE THAT. I DON'T BELIEVE ANYTHING LIKE THAT EXISTED.

16 A THERE'S A LOTTA CONVERSATION THAT'S NOT ON THE TAPE OR
17 PAPER.

18 Q BUT WHAT'S ON THE TAPE IS CLEARLY THE CONVERSATION THAT
19 HAPPENED DURING THAT 11-MINUTE PERIOD OF TIME. ISN'T IT?

20 A UH-HUH.

21 Q SIR?

22 A YES.

23 Q TAPE WASN'T CUT ON AND OFF.

24 A NO.

25 Q CUT ON ONCE AND CUT OFF AGAIN, WASN'T IT?

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A YES.

2 Q AND EVEN ON THE TAPE FIRST PAGE, YOU UNDERSTAND THESE
3 ANSWER YES. YOU SEE THAT ON THE FIRST PAGE?

4 A YES.

5 Q NOW LOOK THERE AT THAT LAST -- OR THAT LAST LINE WHERE
6 IT'S GOT PRIOR. OK WE SPOKE EARLIER ABOUT THE CONTACT YOU
7 HAVE HAD SINCE MARCH WITH SALLY PEELE. WE GOT TO THE PART
8 WHERE THIS MORNING YOU AND SALLY WERE AT THE ROAD MASTER INN
9 TOGETHER AND HER FRIEND CAME AND PICKED YOU UP. THAT'S ALL
10 Y'ALL HAD TALKED ABOUT UP TO THAT POINT WHERE THEY CUT THE
11 TAPE ON. WASN'T IT?

12 A NO, SIR.

13 Q NO, SIR. THAT'S INCORRECT. THAT'S WRONG.

14 A THAT'S NOT SAYING -- DOES IT SAY THAT'S ALL WE TALKED
15 ABOUT? NO, SIR.

16 Q BUT THAT'S CERTAINLY WHAT IT SAYS ON THE TAPE.

17 A IT DOESN'T SAY THAT'S ALL WE TALKED ABOUT.

18 Q ---WHAT YA'LI GOT TO. THE ROAD MASTER.

19 A THAT'S THE PART HE WANTED TO START BACK UP AT.

20 Q SO THIS IS A PRODUCT OF MR. FRIER'S IMAGINATION.

21 A IT'S A PRODUCT OF HIS TERMINATION.

22 Q LET ME ASK YOU A COUPLE THINGS. ROAD MASTER INN. YA'LI
23 STARTED OFF THERE THAT MORNING OF THE 4TH? WHAT TIME DID
24 YA'LI. LEAVE THE ROAD MASTER?

25 A IT WAS QUITE EARLY. IT WAS AFTER SEVEN.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q 7 A.M. I BELIEVE YOU TESTIFIED TODAY YA'LL WENT AND GOT
2 SOME CAR PARTS.

3 A YES, SIR.

4 Q 'CAUSE YA'LL WERE GONNA FIX THE CAR.

5 A YES, SIR.

6 Q AND YOU HAD BEEN -- SPENT THE EVENING -- THE NIGHT WITH
7 MS. PEELE.

8 A YES.

9 Q YOU KNEW OR IT WAS YOUR UNDERSTANDING AT LEAST THAT MR.
10 PEELE WAS BROKE DOWN SOMEWHERE ON THE INTERSTATE SOMEWHERE.
11 CORRECT?

12 A THAT WAS MY UNDERSTANDING, YES.

13 Q BUT Y'ALL WENT AND GOT SOME CAR PARTS RIGHT IN HERE YOU
14 SAY.

15 A YES.

16 Q AND THEN WENT TO THE PAWN SHOP.

17 A YEAH.

18 Q WHAT TIME DID YOU GET TO THE PAWN SHOP? PRETTY EARLY.

19 A YEAH.

20 Q ABOUT THE TIME THEY OPENED THE DOOR?

21 A YEAH, WE HAD TO WAIT ON THE AUTO PARTS SHOP TO OPEN
22 FIRST.

23 Q SO YA'LL WERE PROBABLY AT THE PAWN SHOP BY 9 O'CLOCK.

24 A PROBABLY SO.

25 Q HOW LONG WERE YA'LL IN THERE?

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A I BELIEVE I SEEN WE WAS THERE ABOUT 44 MINUTES OR
2 SOMETHIN' LIKE THAT.

3 Q 9:44 IS WHEN THIS INVOICE IS TYPED.

4 A YES, SIR.

5 Q LET'S PUT THAT DOWN HERE. 9:44. NOW LET ME ASK YOU
6 SOMETHING: IF MR. PEELE BROKE DOWN ON THE INTERSTATE AND YOU
7 WANTED TO FIX THIS CAR AND GET AWAY, WHY DID YA'LL TAKE TIME
8 AFTER YOU GOT THE CAR PARKED TO GO BY THE PAWN SHOP?

9 A BECAUSE AS SOON AS WE GOT THE CAR FIXED WE WAS LEAVIN'
10 TOWN.

11 Q YA'LL COULDN'T WAIT TILL AFTER YOU GOT THE CAR FIXED AND
12 RIDE BACK TO LEXINGTON? IS IT WRITTEN IN STONE ANYWHERE THAT
13 YOU CAN'T MAKE A STOP AFTER YOU GET THE CAR FIXED?

14 A NO, BUT THE CAR WAS CLOSE TO THE INTERSTATE.

15 Q SO YA'LL WANTED TO PICK UP THE SHOTGUN TO GET IT OUT OF
16 PAWN, THE CHRISTMAS PRESENT.

17 A YEAH, I DIDN'T KNOW NOTHIN' ABOUT IT BEFORE WE WENT TO
18 THE PAWN SHOP.

19 Q DIDN'T KNOW NOTHIN' ABOUT WHAT?

20 A THE SHOT -- I KNEW THE SHOTGUN IT WAS ON, YOU KNOW, WAS
21 PAWNED, BUT I DIDN'T KNOW WE WAS GONNA GET IT.

22 Q WELL, THAT'S WHY YA'LL WENT TO THE PAWN SHOP.

23 A YES, SIR.

24 Q TO PICK THIS UP.

25 A YES, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q CORRECT?

2 A YES, SIR.

3 Q AND IT'S KINDA AWKWARD TO CARRY.

4 A UH-HUH.

5 Q SIR?

6 A YES.

7 Q THAT'S IN ONE OF YOUR STATEMENTS OR ONE OF DETECTIVE
8 FRIER'S STATEMENTS.

9 A YES, SIR, IT IS.

10 Q YOUR FIRST STATEMENT. DETECTIVE FRIER'S FIRST
11 STATEMENT. I'M SORRY.

12 A YES, SIR.

13 Q DETECTIVE FRIER'S FIRST STATEMENT. NOW IF Y'ALL JUST
14 WANTED TO PICK THIS UP TO GET ON OUTTA TOWN, EXPLAIN TO THE
15 JURY WHY YOU NEEDED THIS.

16 A A GUN'S NO GOOD WITHOUT AMMUNITION.

17 Q AIN'T NO GOOD NAKED, IS IT?

18 A NO.

19 Q YOU GOT TO LOAD IT UP. SOMETHIN' TO COME OUT THE
20 BUSINESS END, EH? IS THAT RIGHT?

21 A YES.

22 Q AND OF COURSE DETECTIVE FRIER SAID THIS IS AWKWARD. HE
23 SAID THAT LATER ON THAT DAY. WROTE THAT DOWN. MADE YOU SIGN
24 IT. I GUESS HE MADE YA'LL BUY THIS TOO, DIDN'T HE?

25 A NO.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q WELL, NOW EXPLAIN THAT TO ME. WHY'D YOU BUY THIS?

2 A WELL, YOU STOPPED WHEN I WAS EXPLAININ' THAT A WHILE
3 AGO.

4 Q I APOLOGIZE. ANY TIME I CUT YOU OFF YOU PLEASE TELL ME,
5 MR. RUTLAND.

6 A YES, SIR.

7 Q EXPLAIN THAT TO THE JURY PLEASE WHY YA'LI. BOUGHT THIS.

8 A WELL, THE LADY THAT WAS WITH US WAS DANCIN' IN THE
9 MIDDLE OF THE FLOOR SAYIN' PLEASE GET ME ONE OF THOSE, I WANT
10 ONE OF THOSE.

11 Q I DID CUT YOU OFF.

12 A YOU DID DIDN'T YOU?

13 Q I APOLOGIZE. BUT I SURE DID.

14 A YES, SIR.

15 Q I SURE DID. NOW I SEE WHAT YOU SAYIN'. SO NOW I TOLD
16 YOU PLEAD GUILTY AND GET 30 YEARS, MR. FRIER OVERRORE YOUR
17 WILL. AND A LADY DANCIN' IN THE AISLE MADE YOU BUY THIS
18 PISTOL.

19 A I DIDN'T BUY THE PISTOL.

20 Q MADE MS. PEELE BUY THIS PISTOL. IS THAT WHAT YOU'RE
21 TELLIN' ME?

22 A DIDN'T MAKE HER, NO.

23 Q NOW DID MR. FRIER---

24 A BUT SHE -- SHE ASKED FOR IT.

25 Q ---THAT HE CAN THROW HIS VOICE -- THIS IS YOUR VOICE ON

FRED RUTLAND - CROSS BY MR. MCMAHON

1 THE TAPE ISN'T IT, MR. RUTLAND?

2 A BEHIND THE TEARS, YES, SIR.

3 Q YES, SIR. AND ON THAT TAPE WHOSE DOES IT SAY IDEA IT
4 WAS TO BUY THIS PISTOL?

5 A I SAID IT---

6 Q ---WHO DOES IT SAY?

7 A THAT WAS AFTER WE'D TALKED ABOUT IT.

8 Q WHOSE DOES IT SAY ON THE TRANSCRIPT IDEA IT WAS TO BUY
9 THE PISTOL?

10 A IT SAID IT WAS MINE.

11 Q DID YOU ASK HER TO. YES.

12 A I ANSWERED THE QUESTIONS YES.

13 Q YES, YOU ASKED HER TO. WELL HE DIDN'T TELL YOU -- HE
14 DIDN'T TELL YOU TO ANSWER, DID HE? YOU DON'T HEAR IT ON THE
15 TAPE, DO YOU?

16 A DO YOU? NO, HIM TELLIN' ME, NO.

17 Q BUT WE HEAR ALL THOSE TEARS ON THE TAPE. IS THAT WHAT
18 YOU'RE TELLIN' ME?

19 A I DON'T KNOW. I GUESS. YES, SIR.

20 Q ISN'T THAT WHAT YOU'RE TELLIN' THIS JURY. SO YA'LL
21 BOUGHT THIS BECAUSE OF THE LADY DANCIN' IN THE AISLE. AND
22 YOU TOLD SCOTTIE THAT IT WAS YOUR IDEA FOR SALLY TO BUY THIS
23 PISTOL. NOW REGARDLESS OF WHAT IN THE TAPE OR STATEMENT OR
24 ANYTHING, I MEAN THAT'S LAWYER TALK. OK? OR THAT'S
25 OVERBEARING DETECTIVE TALK. TELL THE JURY, WHOSE IDEA WAS

FRED RUTLAND - CROSS BY MR. MCMAHON

1 IT, WHOSE IDEA WAS IT TO BUY THE PISTOL.

2 A TELL THE JURY THE TRUTH. PLEASE LET ME.

3 Q WHOSE IDEA WAS IT?

4 A WE WERE STANDING THERE. SALLY WAS OVER HERE TALKING TO
5 THE MAN WHO RUNS THE SHOP. THIS LADY THAT WAS DRIVING US
6 AROUND WAS STANDING HERE LOOKING AT THAT AND THERE WAS A PINK
7 HANDLE ONE RIGHT BESIDE IT AND SHE WAS DANCIN' UP AND DOWN
8 SAYIN' OH LOOK HOW CUTE THAT IS. I'D SURE LIKE TO HAVE ONE
9 OF THOSE. SALLY PLEASE BUY ME ONE. AND THAT'S WHAT STARTED
10 THE CONVERSATION ABOUT IT. I SAYS YOU KNOW IF YOU NEED ANY
11 PROTECTION, YOU KNOW, A SHOTGUN IS NOT PROTECTION. YOU NEED
12 A HANDGUN IF YOU NEED PROTECTION AT ALL.

13 Q WHY ISN'T A SHOTGUN PROTECTION, MR. RUTLAND?

14 A IT'S FOR HUNTIN'.

15 Q IT'S TOO AWKWARD ACCORDING TO MR. FRIER.

16 A SCOTTIE'S WORD.

17 Q GO AHEAD.

18 A WELL, THAT'S WHAT TRANSPIRED WITH THE 25. YOU KNOW, SHE
19 WAS TALKIN' ABOUT JIMMY JUMPED ON THE CAR THAT SHE WAS
20 SITTING IN THE DAY BEFORE AND WAS SCARED OF HIM. SHE SAID
21 EVEN IF Y'ALL -- EVEN IF Y'ALL DO LEAVE TOWN I STILL NEED
22 SOME PROTECTION. I WANT OF 'EM. PLEASE BUY ME ONE. I'M
23 SCARED OF HIM.

24 Q WHO SAID THAT?

25 A ROBIN.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q OH, YA'LL BOUGHT THIS FOR ROBIN.

2 A I DIDN'T SAY THAT. I SAID THAT'S WHAT GOT -- THAT'S
3 WHAT -- THAT'S WHAT THE CONVERSATION WAS.

4 Q SO YA'LL BOUGHT THE GUN AND YA'LL COULD ONLY DO THAT
5 BEFORE Y'ALL WENT TO JIMMY'S HOUSE.

6 A BEFORE WE LEFT THE STATE BECAUSE YOU CAN'T BUY A HANDGUN
7 OUT OF STATE.

8 Q YOU CAN'T BUY A HANDGUN IN THE STATE, MR. RUTLAND.

9 A I COULDN'T AT THE TIME, NO.

10 Q IT WAS ILLEGAL FOR YOU TO EVEN BUY ONE, WASN'T IT?

11 A WHY IS THAT?

12 Q YOU DIDN'T HAVE NO I.D., DID YOU?

13 A RIGHT. RIGHT. I DIDN'T HAVE MY DRIVER'S LICENSE.

14 Q AND YOU KNOW IT'S ILLEGAL TO CARRY ONE CONCEALED ON YOUR
15 PERSON.

16 A YES.

17 Q NOT ONLY COULDN'T YOU CARRY ONE; YOU COULDN'T EVEN
18 LEGALLY BUY ONE IN SOUTH CAROLINA BACK ON SEPTEMBER THE 4TH
19 1992, COULD YOU?

20 A NO, SIR.

21 Q NOW YA'LL GO STRAIGHT FROM THERE TO JIMMY'S HOUSE, AND I
22 GUESS THE WORST CRIME JIMMY WAS GUILTY OF AT THIS TIME, THIS
23 TIME OF THE MORNING ON THIS PARTICULAR DAY WAS ROLLIN' A
24 JOINT OR SMOKIN' A JOINT. HE CERTAINLY WASN'T OUT LOOKIN'
25 FOR YA'LL. WAS HE? WAS HE?

ERED RUTLAND - CROSS BY MR. MCMAHON

1 A NOT AT THAT TIME, NO.

2 Q 'CAUSE HE WAS HOME WHEN YA'LL GOT THERE. WASN'T HE?

3 A YEAH.

4 Q AND THAT WAS AT -- WELL, LET'S SAY IT THE SHERIFF'S
5 DEPARTMENT TIME. 10:41. PUT DOWN HERE 10:41. OF COURSE I
6 IMAGINE A LOT HAD TRANSPIRED BY THEN.

7 A THAT'S.

8 Q HUH?

9 A THAT'S AFTER WE LEFT, YES.

10 Q SO YA'LL WENT STRAIGHT FROM LEXINGTON -- YA'LL WENT
11 STRAIGHT TO JIMMY'S HOUSE. YA'LL DIDN'T STOP ANYWHERE
12 BETWEEN?

13 A I DON'T THINK SO.

14 Q SO YA'LL PROBABLY GOT DOWN THERE -- YA'LL HAD BEEN
15 THERE, WHAT, 15, 20 MINUTES?

16 A WE WEREN'T THERE THAT LONG.

17 Q TEN MINUTES?

18 A IT WAS PROBABLY ALL 15 MINUTES.

19 Q NOW THE PEOPLE THAT WAS THERE WHEN THIS INCIDENT
20 HAPPENED TO, WHICH ONE CALLED 911? YOU?

21 A NO.

22 Q MS. PEELE?

23 A NO.

24 Q JIMMY. JIMMY PEELE.

25 A YES, THAT'S---

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q JIMMY PEELE. AND, MR. RUTLAND TELL THIS JURY NOW
2 THERE'S NO DOUBT YOU POINTED THIS GUN AT JIMMY PEELE.

3 A I POINTED IT DOWN BESIDE HIM.

4 Q IT'S NO DOUBT THAT YOU POINTED THIS GUN AT JIMMY PEELE.

5 A YES, I DID.

6 Q YOU GUILTY OF POINTIN' THIS FIREARM AT JIMMY PEELE.
7 AREN'T YOU?

8 A TO STOP HIS ADVANCE, YES.

9 Q YOU GUILTY OF POINTIN' THIS FIREARM AT JIMMY PEELE. IS
10 THAT RIGHT?

11 A I POINTED IT IN HIS DIRECTION, YES, SIR.

12 Q DID YOU POINT THE -- YOU SAID IT BOTH WAYS, MR. RUTLAND.
13 DID YOU POINT THE GUN AT JIMMY PEELE?

14 A I POINTED AT HIS DIRECTION, YES.

15 Q WHEN YOU SAY AT HIS DIRECTION, IF HE'S STANDING RIGHT
16 HERE, IS THAT HIS DIRECTION?

17 A I POINTED RIGHT DOWN BESIDE HIS LEGS.

18 Q RIGHT DOWN BESIDE HIS LEGS.

19 A YES, SIR.

20 Q WHAT WEAPON DID HE HAVE IN HIS HAND WHEN YOU POINTED THE
21 SHOTGUN AT HIM?

22 A THE RAGE THAT HE WAS CHASIN' SALLY WITH.

23 Q WHAT WEAPON, WHAT WEAPON DID HE HAVE IN HIS HAND WHEN
24 YOU POINTED THIS SHOTGUN AT HIM?

25 A HE WAS JUST REACHING OUT TO TAKE HER DOWN.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q WHAT WEAPON DID HE HAVE?

2 A THAT'S ALL HE HAD WAS THE RAGE.

3 Q SO HE HAD NOTHING. HE HAD NOTHING. SHOW ME ONE
4 STATEMENT IN THERE, ONE TAPE, ONE THING IN WRITING THAT SAYS
5 ANYTHING ABOUT A SQUIRREL CAGE. SHOW ME.

6 A SHOW ME ONE THING THAT SAYS THESE STATEMENTS ARE THE
7 WHOLE TRUTH.

8 Q MR. RUTLAND, ONE OF US IS A WITNESS AND ONE OF US AIN'T.

9 A YES, SIR.

10 Q YOU WANT ME TO TELL YOU WHICH ONE THAT IS?

11 A I'M -- I'M OK, YES, SIR.

12 Q SHOW ME WHICH ONE OF THOSE STATEMENTS THAT SAY ANYTHING
13 ABOUT A SQUIRREL CAGE.

14 A NONE OF 'EM.

15 Q YOU DIDN'T THINK THAT WAS IMPORTANT TO TELL DETECTIVE
16 FRIER OR DID YOU TELL DETECTIVE FRIER AND HE JUST LIED?

17 A I TOLD HIM WHAT HE WANTED TO HEAR; LET ME GO.

18 Q DID YOU TELL DETECTIVE FRIER ABOUT THE SQUIRREL CAGE?

19 A NO, I DON'T THINK I DID.

20 Q THAT WASN'T IMPORTANT TO YOU.

21 A I DIDN'T SAY IT WASN'T IMPORTANT.

22 Q WELL, THIS IS SELF DEFENSE. WHY WOULDN'T YOU TELL HIM?
23 AS A MATTER OF FACT, YOU DIDN'T TELL MR. FRIER ANYTHING ON
24 SEPTEMBER THE FOURTH---

25 A NO, SIR, I DIDN'T.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q ---ABOUT WHAT HAPPENED AT JIMMY PEELE'S HOUSE THAT
2 MORNING, DID YOU?

3 A NO, SIR, I DIDN'T. HE DIDN'T ASK ME ABOUT WHAT HAPPENED
4 THAT MORNING. I ANSWERED HIS QUESTIONS.

5 Q SO YOU WASN'T GONNA BE TRUTHFUL WITH HIM.

6 A I DIDN'T LIE TO HIM.

7 Q YOU WASN'T GONNA TELL HIM THE WHOLE TRUTH.

8 A I WASN'T GONNA TELL HIM THE WHOLE STORY IF HE DIDN'T ASK
9 FOR IT.

10 Q YOU WERE UPSET, NERVOUS, CRYIN' EVEN ON THE FOURTH, BUT
11 YOU WERE ALERT ENOUGH TO HOLD BACK WHAT FRED RUTLAND WANTED
12 TO HOLD BACK. IF HE DIDN'T ASK, IT DIDN'T GET ANSWERED.

13 A YES, SIR.

14 Q IF HE'D A SAID TELL ME WHAT HAPPENED FRED, YOU'D A TOLD
15 HIM EVERYTHING WOULDN'T YOU?

16 A I COULDN'T HARDLY SEE PAST THAT NINE MILLIMETER, SIR.

17 Q OH, THE NINE MILLIMETER. YES, SIR. THE NINE MILLIMETER
18 THAT OF COURSE YOU HAD YOUR PISTOL OUT WHEN YOU SAW JIMMY.
19 LET ME GET THE TIME RIGHT. YA'LL WENT RIGHT TO ROBIN'S
20 HOUSE. RODE OUT BY THE SCHOOL. THEN YOU WENT BACK TO
21 ROBIN'S HOUSE AGAJN. DIDN'T YOU?

22 A YES, SIR.

23 Q COUPLE OF PHONE CALLS TO MAKE FROM ROBIN'S HOUSE. ONE
24 ABOUT THE CAR. WHAT TIME WE TALKIN' ABOUT HERE.

25 A NOTHIN' ABOUT THE CAR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q WELL, NOW WHEN WAS THERE A DEAL -- WHEN WAS THERE ANY
2 CONTACT WITH THE BOW-WOW BOUTIQUE?

3 A WHEN WE WENT UP THERE.

4 Q THERE WASN'T A PRIOR PHONE CALL ABOUT IT?

5 A NO.

6 Q WHAT TIME DID Y'ALL LEAVE ROBIN'S HOUSE?

7 A I DON'T KNOW.

8 Q WHAT OTHER PHONE CALLS?

9 A WE CALLED THE SHERIFF'S DEPARTMENT AND ASKED 'EM FOR A
10 LITTLE HELP.

11 Q OK. WHO'D YOU TALK TO?

12 A I DIDN'T MAKE ANY PHONE CALLS.

13 Q YOU DIDN'T?

14 A I MADE NO PHONE CALLS.

15 Q WHO MADE THAT PHONE CALL?

16 A I BELIEVE SALLY DID. YEAH.

17 Q CALLED THE LAWYER.

18 A YEAH.

19 Q CALLED THE SC -- WELL, WHEN YOU CALLED THE SCHOOL WAS
20 THE SECOND TRIP NOW. SHE CALL JIMMY PEELE?

21 A NO.

22 Q WHY DOES -- WHY DOES THAT MAKE YOU SMILE?

23 A JUST BECAUSE OF THE ACCUSATIONS THAT FOLLOWED THAT
24 STATEMENT.

25 Q SHE DIDN'T CALL JIMMY PEELE.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A NO.

2 Q DIDN'T HAVE A CONVERSATION WITH JIMMY PEELE?

3 A NO.

4 Q WHEN WAS THE LAST TIME BEFORE SEPTEMBER THE 4TH OF '92
5 TO YOUR KNOWLEDGE THAT SALLY PEELE WAS IN THE BOW-WOW
6 BOUTIQUE?

7 A I HAVE NO IDEA.

8 Q NONE. SHE DIDN'T WORK THERE.

9 A (NODDED NO) AT THE TIME.

10 Q SHE HADN'T WORKED THERE THE WHOLE TIME SHE'D BEEN A
11 CARPENTER WITH YOUR OUTFIT.

12 A I BELIEVE SHE DID.

13 Q DURING THE TIME SHE WAS A CARPENTER SHE ALSO WORKED
14 THERE?

15 A I THINK SO.

16 Q WHAT TIME DID YA'LL LEAVE ROBIN'S HOUSE?

17 A I DON'T KNOW.

18 Q WHAT TIME DID Y'ALL GET TO THE BOW-WOW BOUTIQUE?

19 A I DON'T KNOW THAT.

20 Q HOW LONG HAD YO BEEN THERE BEFORE JIMMY GOT THERE?

21 A FIVE, MAYBE -- MAYBE TEN MINUTES AT THE MOST.

22 Q I DON'T HAVE THAT TIME CALL CARD. 1:30? GIVE OR TAKE?
23 YOU KNOW YOUR STATEMENT STARTED AT 2:05.

24 A RIGHT.

25 Q LET ME ASK YOU THIS---

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A I THINK THE 911 CALL WAS ABOUT 9 -- 1:30 I THINK.

2 Q NOW YA'LL LEFT ROBIN AT HER HOUSE. SHE DIDN'T GO WITH
3 YOU.

4 A NO.

5 Q ROBIN WAS SCARED OF JIMMY PEELE.

6 A YES.

7 Q SIR?

8 A AT THE TIME?

9 Q YEAH.

10 A I DON'T KNOW WHY SHE STAYED HOME.

11 Q NO, NO, NO. NOW WAIT A MINUTE. ROBIN WAS SCARED OF
12 JIMMY PEELE.

13 A YES, SHE WAS.

14 Q SHE DIDN'T GO DOWN TO THE BOW-WOW BOUTIQUE BECAUSE SHE
15 KNEW JIMMY PEELE WAS GONNA MEET YA'LL DOWN THERE? ISN'T THAT
16 RIGHT?

17 A NO.

18 Q HUH?

19 A NO.

20 Q BUT SHE WAS SCARED OF JIMMY. RIGHT?

21 A YES, SHE WAS.

22 Q AND SHE HAD BEEN OVER TO JIMMY'S HOUSE THAT MORNING WITH
23 YA'LL.

24 A YES.

25 Q IN HER VAN.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A YES.

2 Q RIGHT HERE. ROBIN WAS DRIVIN' THAT VAN. RIGHT?

3 A YES.

4 Q JIMMY WAS IN A RAGE. RIGHT?

5 A YES.

6 Q ROBIN WOULD LIKE TO HAVE ONE OF THESE FOR PROTECTION.

7 A YES.

8 Q RIGHT?

9 A BECAUSE OF HIS ACTIONS THE DAY BEFORE.

10 Q BECAUSE OF HIS ACTIONS THAT DAY TOO. HE TOLD YOU THAT
11 HE WAS GOING TO F. YOU UP. F. UP YOUR WORLD. BLOW YOUR SHIT
12 AWAY AND TAKE YOU OUT MAN.

13 A YEP.

14 Q RIGHT?

15 A YEP.

16 Q AND SHE -- HE KNEW, HE KNEW NOW, MR. RUTLAND, YA'LL WERE
17 IN ROBIN'S VAN. RIGHT?

18 A SHE DID NOT HEAR THAT STATEMENT.

19 Q JIMMY PEELE KNEW YA'LL WERE IN ROBIN'S VAN.

20 A YES.

21 Q WHERE DO YOU THINK THE FIRST PLACE HE'D LOOK FOR YA'LL?
22 ROBIN'S HOUSE?

23 A YES.

24 Q YOU DIDN'T WORRY ABOUT NO PROTECTION. DID YOU? YOU
25 TOOK A GUN AND A SHOTGUN. DIDN'T YOU?

FRED RUTLAND - CROSS BY MR. MCMAHON

1 A THEY WERE IN THE VAN.

2 Q LOADED IN THE VAN.

3 A WE DIDN'T TAKE 'EM INTO HER HOUSE. THEY WERE JUST IN
4 THE VAN.

5 Q THEY WERE LOADED.

6 A YES, THEY WERE LOADED.

7 Q SO YOU TAKE THIS AND YOU GET DOWN AND YOU JUST HAPPEN TO
8 PUT THIS IN YOUR BELT.

9 A YES, SIR, I JUST HAPPENED TO PUT IT THERE.

10 Q WELL, THE TRANSCRIPT SAYS---

11 A PRAISE THE LORD.

12 Q THE TRANSCRIPT SAYS IT'S IN YOUR PANTS POCKET.

13 A MY STATEMENT WAS IT'S IN MY PANTS.

14 Q THAT'S WHERE SCOTTIE PUT IT

15 A HE PUT IT IN MY POCKET.

16 Q DOES IT ACTUALLY MAKE ANY DIFFERENCE?

17 A I DON'T KNOW.

18 Q DOES THAT ;MAKE ANY DIFFERENCE TO YOU? IS IT STILL
19 CONCEALED?

20 A I DON'T SEE IT.

21 Q AND WHILE YOU'RE THERE---

22 A IN YOUR BELT IS NOT CONCEALED.

23 Q WHAT? SIR?

24 A YOU COULD SEE IT WHEN YOU PUT IT IN YOUR BELT.

25 Q WHILE YOU'RE THERE YOU SEE JIMMY PEELE BEFORE HE EVER

FRED RUTLAND - CROSS BY MR. MCMAHON

1 GETS IN THE BUILDIN'.

2 A ONE STEP FROM THE DOOR, YES, SIR.

3 Q CROSSING THE PASSING WINDOW OUTSIDE. ISN'T THAT RIGHT?

4 AND YOU TAKE YOUR GUN OUT THEN. DON'T YOU?

5 A SHORTLY AFTER THAT, YES, SIR.

6 Q YOU TAKE YOUR GUN BEFORE HE EVER COMES IN THE BUILDING.

7 DON'T YOU?

8 A NO, SIR.

9 Q LET'S LOOK AT YOUR STATEMENT NOW.

10 A NO, SIR.

11 Q YOU DON'T WANT TO LOOK AT YOUR STATEMENT?

12 A OH, GO AHEAD, YES.

13 Q WHAT DOES YOUR STATEMENT SAY?

14 A STATEMENT SAYS I SEEN HIM DRIVE UP.

15 Q WE GOT THE SHOTGUN OUT OF PAWN AND PURCHASED THE PISTOL.

16 WE ALL LEFT AND WENT BACK TO ROBIN'S HOUSE. NOTHIN' THERE

17 ABOUT GOIN' TO JIMMY'S. WE HAD SOME MORE PHONE CALLS AND

18 SALLY AND I LEFT IN ROBIN'S VAN; WENT TO THE SCHOOL, DROVE

19 BACK, CALLED THE SHERIFF'S DEPARTMENT; SALLY AND I LEFT IN

20 ROBIN'S VAN TO GO TO SALLY'S WORK PLACE TO THE BOUTIQUE TO

21 BUY A CAR. WHEN WE GOT TO THE SHOP I PUT THE PISTOL IN MY

22 PANTS BACK POCKET. YOU SEE THAT? AND CARRIED IT INTO THE

23 SHOP. YOU SIGNED IT ON SEPTEMBER THE 4TH.

24 A (INAUDIBLE)

25 Q WHILE WE WERE INSIDE I SAW JIMMY PEELE COMIN' TOWARDS

FRED RUTLAND - CROSS BY MR. MCMAHON

1 THE FRONT DOOR OF THE SHOP. WHEN I SAW JIMMY I PULLED THE
2 PISTOL. SAME THING YOU DID WITH THE SHOTGUN. WHEN YOU SAW
3 JIMMY YOU PULLED THE SHOTGUN. WHEN YOU SAW JIMMY YOU PULLED
4 THE PISTOL.

5 A WHEN I SAW JIMMY PULIN' ON SALLY I PULLED THE SHOTGUN.

6 Q WHEN YOU SAW JIMMY AT THE BOUTIQUE YOU PULLED THE
7 PISTOL.

8 A NOT AT THAT MOMENT, NO.

9 Q WHEN I SAW JIMMY COMING I PULLED THE PISTOL OUT OF MY
10 POCKET. OUT OF MY POCKET.

11 A SCOTTIE HAD ALREADY PUT IT IN MY POCKET.

12 Q YOU PULLED THAT PISTOL WHEN YOU SAW JIMMY. DIDN'T YOU?

13 A IT WAS---

14 Q SIR?

15 A I COULD SHOW YOU ON THE CHART RIGHT HERE WHERE IT WAS AT
16 WHEN I PULLED IT. WHERE I WAS. THAT'S WHEN I REACHED THIS
17 POINT RIGHT THERE AND I SEEN NO EXIT.

18 Q WHERE WAS JIMMY?

19 A I DON'T KNOW.

20 Q YOU DON'T KNOW WHERE JIMMY WAS?

21 A NO. BUT I KNOW IF HE'S COMIN' TO HUNT US HE'S GOT A
22 GUN. I KNOW THAT.

23 Q SO DO YOU. CORRECT? CORRECT?

24 A YES.

25 Q I WANTED IT IN PLAIN VIEW BEFORE HE GOT THERE. WHEN

FRED RUTLAND - CROSS BY MR. MCMAHON

1 JIMMY CAME IN I TOLD HIM NOT TO DO ANYTHING.

2 A I DIDN'T SAY THAT.

3 Q I HAD THE PISTOL. THEN I POINTED IT AT JIMMY, I POINTED
4 IT AT JIMMY WHEN HE WAS REACHING TOWARDS HIS BACK. IS THAT
5 WHAT HAPPENED?

6 A NO, SIR.

7 Q WHEN DID YOU POINT IT AT JIMMY?

8 A I HAD IT POINTED AT THE FLOOR WHEN HE'S DOIN' THIS. HE
9 COMES AROUND -- WHERE IS IT -- I THINK WE JUST WENT THROUGH
10 THIS BUT I'LL SHOW YOU AGAIN. (INAUDIBLE) WHEN IT GOES -- I
11 DON'T SEE IT. MY STATEMENT WAS DON'T DO IT JIMMY.

12 Q AND YOU GOT YOUR PISTOL OUT TOO. RIGHT?

13 A RIGHT.

14 Q RIGHT?

15 A RIGHT.

16 Q AND HIS PISTOL IS STILL BACK -- WHERE IS YOUR PISTOL?

17 A MY PISTOL IS DOWN HERE LIKE THIS UP AGAINST THE WALL.
18 DOWN HERE LIKE THIS.

19 Q YOUR PISTOL IS LIKE THIS. GET BACK LIKE THAT. PUT YOUR
20 PISTOL LIKE YOU SAY HE HAD IT.

21 A WHEN HE'S LIKE THIS I SAID DON'T DO IT JIMMY.

22 Q YOU'VE ALREADY GOT YOUR PISTOL OUT DON'T YOU, MR.
23 RUTLAND?

24 A YES.

25 Q AND YOU CANNOT SEE A WEAPON IN HIS HAND AT ALL, CAN YOU?

FRED RUTLAND - CROSS BY MR. MCMAHON

1 RIGHT NOW.

2 A I CAN'T SEE HIS HAND EITHER.

3 Q ALL RIGHT, SIR. DID YOU EVER THINK SOMEBODY IN THIS
4 WORLD'S GOT A RIGHT OF SELF DEFENSE BESIDES FRED RUTLAND?
5 YOU EVER THINK THAT?

6 A I HOPE SO.

7 Q SO YOU'RE DOWN HERE. HOW CLOSE ARE YA'LL? TELL ME WHEN
8 TO STOP. THIS IS LIKE HIGH NOON. ISN'T IT?

9 A UH-HUH.

10 Q SIR?

11 A I GUESS SO.

12 Q YES, SIR. YOU KNEW JIMMY WAS GONNA BE THERE. DIDN'T
13 YOU?

14 A BEFORE HE WALKED IN THAT STORE. NO, SIR.

15 Q HOW DID HE KNOW YA'LL WERE GONNA BE THERE?

16 A I HAVE NO IDEA.

17 Q SIR?

18 A I'M SURE HE SEEN THE VAN WHEN HE WAS COMIN' TO ROBIN'S.

19 Q BACK ON BACK UP NOW. WANT TO GET IT RIGHT. YOU GOT
20 YOUR PISTOL DOWN LIKE THIS.

21 A TURN IT DOWN FLAT FOR ME.

22 Q ARM UP?

23 A FLAT FACING ME. FLAT OVER YOUR HAND.

24 Q I'M NOT GOOD AT THIS.

25 A I'M NOT EITHER.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q YOU HANDLED THAT (INAUDIBLE).

2 A LIKE THIS OPEN HAND, PALM, OPEN PALM.

3 Q ALL RIGHT.

4 A DOWN HERE.

5 Q I THINK I CAN GET IT. LIKE THIS.

6 A (INAUDIBLE) 'CAUSE IT DOES MAKE AN IMPRESSION.

7 Q IT MAKES AN IMPRESSION---

8 A YES, SIR.

9 Q ---BUT FRED RUTLAND -- SIR?

10 A IT SCARED THE SHIT OUTTA ME, YES, SIR.

11 Q BUT FRED RUTLAND CAN'T EVEN SEE IT RIGHT NOW, CAN HE?

12 A I CAN SEE HIM PULLIN' SOMETHIN' OUT.

13 Q YES, SIR. AND OF COURSE WHAT CAN JIMMY PEELE SEE?

14 A HE CAN'T SEE NOTHIN' BUT SALLY ACTUALLY.

15 Q OH, HE CAN'T SEE THIS.

16 A HE'S NOT LOOKIN'---

17 Q YOU CAN JUST SEE HIM AND EVERYTHING HE'S DOIN' BUT
18 MAGICALLY JIMMY CAN'T SEE ANYTHING FRED'S DOIN'.

19 A HE'S NOT LOOKIN' IT.

20 Q OK. ALL RIGHT. GO AHEAD.

21 A I'M STANDIN' THERE.

22 Q OPEN YOUR THUMB.

23 A THANK YOU. I SAID JIMMY DON'T. NOTHIN' HAPPENED EXCEPT
24 HE WAS COMIN' LIKE THIS. I SAID PLEASE DON'T.

25 Q WHAT'S FRED DOIN'?

FRED RUTLAND - CROSS BY MR. MCMAHON

- 1 A STANDIN' THERE.
- 2 Q YOU JUST STANDIN' THERE.
- 3 A YES, SIR.
- 4 Q YOU'VE ALREADY GOT YOUR GUN OUT BEFORE HE GETS IN THE
- 5 PLACE BUT YOU JUST STANDIN' THERE.
- 6 A YES, SIR. HE'S RIGHT HERE AND I SAYS PLEASE DON'T.
- 7 Q YOU TELLIN' THIS JURY HE DIDN'T EVEN HAVE IT COCKED?
- 8 A YES, SIR.
- 9 Q OF COURSE YOURS HAS BEEN COCKED.
- 10 A SINCE I GOT IN THAT BACK ROOM RIGHT THERE BEHIND YOU.
- 11 Q WELL BEFORE YOU CONFRONTED JIMMY PEELE.
- 12 A THREE SECONDS.
- 13 Q WELL BEFORE.
- 14 A THREE SECONDS.
- 15 Q ALL RIGHT. AND THEN WHAT?
- 16 A HE GOES LIKE THIS IN SALLY'S STOMACH AND HE'S LOOKIN' AT
- 17 HER.
- 18 Q OK.
- 19 A I SAJD DAMN IT JIMMY.
- 20 Q IS THAT IN THIS STATEMENT RIGHT HERE?
- 21 A THIS ISN'T A COMPLETE STATEMENT, NO, SIR.
- 22 Q IS THAT IN YOUR STATEMENT? YES OR NO!
- 23 A NO.
- 24 Q THANK YOU.
- 25 A AND I SAID DAMN IT JIMMY, AND HE LOOKED AT ME; LOOKED

FRED RUTLAND - CROSS BY MR. MCMAHON

1 DOWN AT HIS GUN AND PULLED OVER AND PULLED THE TRIGGER.

2 Q 32 ROUNDS, SEMI-AUTOMATIC, NINE MILLIMETER, THE HOST OF
3 TERRORISTS AROUND THE WORLD, FRED RUTLAND TOOK HIM DOWN WITH
4 FOUR SHOTS.

5 A YES, SIR.

6 Q YOU CAN HAVE YOUR SEAT. JIMMY FELI; NEVER GOT OFF A
7 ROUND. IS THAT RIGHT?

8 A I'M ALIVE.

9 Q SIR?

10 A I AM ALIVE, YES, SIR.

11 Q HE NEVER GOT OFF A ROUND.

12 A NO, SIR.

13 Q 'CAUSE YOU WERE FASTER AND YOU WERE QUICKER.

14 A NO, SIR, HE PULLED THE TRIGGER BEFORE I EVER POINTED THE
15 GUN AT HIM.

16 Q HE PULLED THIS TRIGGER. IS THAT WHAT---

17 A YES.

18 Q ---YOU'RE TELLIN' US? WHERE IS THAT IN ANY STATEMENT?

19 A IT'S NOT A COMPLETE.

20 Q WHERE IS THAT IN THE TAPE?

21 A IT'S NOT COMPLETE. I ANSWERED---

22 Q DID YOU HEAR THAT ON THE TAPE?

23 A I ANSWERED SCOTTIE'S QUESTIONS IN THAT TAPE, SIR.

24 Q TAPE CUT ON AND OFF?

25 A I DON'T THINK IT IS.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q YOU DIDN'T THINK IT WAS IMPORTANT TO TELL SCOTTIE FRIER
2 MAN THE MAN PULLED THE TRIGGER. I HAD TO KILL HIM. WASN'T
3 IT IMPORTANT FOR YOU TO TELL HIM THAT?

4 A THE IMPORTANCE OF WHAT I TOLD SCOTTIE WAS WHAT HE ASKED
5 ME. IT WAS IMPORTANT FOR ME TO COOPERATE WITH HIM.

6 Q IT'S IN EVERY STATEMENT, WITH YOUR STATEMENT ON THE 4TH,
7 YOUR TAPED STATEMENT---

8 A YOU'LL NOTICE ON THE FIRST PAGE HERE---

9 Q YES, SIR.

10 A IT AIN'T TRUE TO FORM.

11 Q SIR?

12 A IT AIN'T TRUE TO FORM.

13 Q I'LL BE GLAD TO HAVE YOU EXPLAIN YOURSELF, MR. RUTLAND.
14 GO AHEAD.

15 A WHERE IS IT AT ABOUT THE PANTS? I PUT THE PISTOL IN MY
16 PANTS. PERIOD. OK? WHEN HE SAID THAT I KNEW I COULDN'T
17 DEAL WITH HIM NO MORE. WHENEVER HE SAYS YOU MEAN IN YOUR
18 POCKET, YOUR BACK POCKET.

19 Q YOU KNEW YOU COULDN'T DEAL WITH HIM ANYMORE SO THAT'S
20 WHY YOU GAVE HIM A 2-PAGE WRITTEN STATEMENT ON SEPTEMBER THE
21 7TH.

22 A YEAH. I ANSWERED HIS QUESTIONS.

23 Q YOU DIDN'T DEAL WITH HIM ANYMORE.

24 A I KNEW I WASN'T GONNA GIVE HIM NO MORE'N HE ASKED FOR,
25 BUT I KNEW I HAD TO COOPERATE WITH HIM.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q AND BOTH YOUR TAPED STATEMENT AND YOUR WRITTEN
2 STATEMENT, YOU PULLIN' THE GUN OUT AND YOU GOT THE GUN OUT
3 AND THE BUSINESS END READY BEFORE JIMMY PEELE GETS IN.

4 A DO I HAVE THE TAPED STATEMENT HERE?

5 Q YES, SIR. IT'S ON PAGE SIX. STATE'S EIGHT. THE WHOLE
6 TIME I WAS BACKIN' UP WITH THE GUN---

7 A LET'S BACK UP TO FIVE, MR. -- MR. KNOX. LET'S BACK UP
8 TO FIVE JUST A SECOND.

9 Q FIVE WHAT?

10 A PAGE FIVE.

11 Q ALL RIGHT.

12 A IT SAYS WHERE DID YOU PUT IT. RUTLAND, IN MY PANTS.
13 THEN I GOT A YES. OK? YOU MEAN IN YOUR PANTS POCKET. YEAH.

14 Q YOU GOT A YES THERE TOO, DIDN'T YOU?

15 A I MEAN THAT'S WHAT I PUT A YES TO, YES.

16 Q YES, SIR. WHERE'D YOU PUT IT. IN MY PANTS. IN YOUR
17 PANTS POCKET. YES. WHERE'D YOU PUT IT. IN MY PANTS.
18 WHERE'D YOU PUT IT. IN YOUR BELT.

19 A YES.

20 Q WELL, WHY DID YOU SAY IN YOUR PANTS? SCOTTIE MAKE YOU?

21 A IN MY PANTS. RIGHT THERE IN MY BELT.

22 Q SCOTTIE MADE YOU SAY PANTS.

23 A NO, HE PUT THE POCKET IN THERE.

24 Q HE MADE THE STATE - POCK -- HE PUT POCKET.

25 A I NEVER SAID POCKET. I NEVER SAID POCKET.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q BUT YOU ANSWERED YES.

2 A YES, I DID.

3 Q NOW WE TALK ABOUT THE 7TH, AND THAT'S WHEN YOU GAVE YOUR
4 STATEMENT ABOUT WHAT HAPPENED FRIDAY MORNING WHEN YOU POINTED
5 THE SHOTGUN AT JIMMY AND FIRED A ROUND OFF AT JIMMY.
6 CORRECT?

7 A NO, SIR, I DID NOT FIRE A ROUND OFF AT JIMMY.

8 Q AT JIMMY'S HOUSE.

9 A I DIDN'T FIRE A ROUND OFF AT JIMMY'S HOUSE.

10 Q WHILE YOU WERE AT JIMMY'S HOUSE AND FIRED A ROUND OFF!
11 YOU UNDERSTAND WHAT I'M SAYING, DON'T YOU, MR. RUTLAND?

12 A I WANTED TO MAKE SURE THAT I DID, YES, SIR.

13 Q YOU UNDERSTAND WHAT I'M SAYIN'. DON'T YOU?

14 A I FIRED IT OFF IN THE AIR, YES.

15 Q AT JIMMY PEELE'S RESIDENCE.

16 A YES.

17 Q WHILE HE SAT OVER THERE AND TALKED TO HIS WIFE YOU HAD
18 THIS THE WHOLE TIME. DIDN'T YOU?

19 A I HAD IT CRADLED IN MY ARM, YES, SIR.

20 Q AND THEN YOU HAD A CONVERSATION WITH MR. FRIER AFTER
21 THAT ABOUT PIANNIN' ON KILLIN' HIM A MONTH BEFORE. DIDN'T
22 YOU?

23 A NO, SIR.

24 Q THAT'S A LIE TOO. ISN'T IT?

25 A NO, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q DAVID JONES, STAND UP. YOU KNOW THIS GENTLEMAN?
2 RECOGNIZE HIM?

3 A NO, SIR.

4 Q NO, SIR? WELL, HE'S YOUR CELL MATE FROM SEPTEMBER OF
5 '92.

6 A OH, YEAH.

7 Q THANK YOU, DAVID. YOU HAD SOME CONVERSATIONS WITH HIM
8 FROM THE 4TH TO THE 9TH, DIDN'T YOU, MR. RUTLAND?

9 A WE WERE IN JAIL TOGETHER, YES.

10 Q YOU HAD SOME CONVERSATIONS WITH HIM TOO. DIDN'T YOU?
11 DIDN'T YOU?

12 A I'M SURE Y'ALL HAVE TOO.

13 Q THAT IS NOT RESPONSIVE TO MY QUESTION, MR. RUTLAND.

14 THE COURT: YOU HAVE TO ANSWER HIS QUESTION AND THEN YOU
15 CAN EXPLAIN IT.

16 A PARDON ME, YOUR HONOR?

17 THE COURT: YOU CAN ANSWER HIM AND THEN EXPLAIN IT.

18 Q DID YOU HAVE A CONVERSATION WHILE YOU WERE IN JAIL WITH
19 MR. DAVID JONES?

20 A SPECIFIC CONVERSATION?

21 Q YES OR NO?

22 A I KNOW WE READ THE BIBLE A COUPLE OF TIMES.

23 Q YOU READ THE BIBLE.

24 A AND HE TOLD ME WHERE A FEW THINGS WAS AT. WE HAD A
25 CONVERSATION ABOUT THAT.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q DID YOU HAVE A CONVERSATION WITH MR. DAVID JONES WHILE
2 YOU WERE IN JAIL ABOUT YOUR CASE AND THE KILLING OF JIMMY
3 PEELE? YES OR NO?

4 A I CAN'T SAY THAT FOR SURE.

5 Q SIR?

6 A I DON'T KNOW THAT FOR SURE.

7 Q YOU DON'T KNOW.

8 A NO.

9 Q YOU DON'T REMEMBER WHAT YOU TOLD MR. JONES THAT YA'LL
10 HAD TALKED ABOUT A MONTH BEFORE YOU AND SALLY? YOU DON'T
11 REMEMBER TELLIN' THAT?

12 A NO.

13 Q YOU DON'T REMEMBER TELLIN' MR. JONES THAT YOU KNEW THAT
14 Y'ALL KNEW THAT JIMMY WAS COMIN' DOWN THERE?

15 A NO.

16 Q DID YOU TELL MR. JONES THAT?

17 A NO, I DID NOT.

18 Q YOU DID NOT.

19 A HE MEAN ABOUT TO THE BOUTIQUE?

20 Q YES.

21 A NO.

22 Q YOU DIDN'T TELL MR. JONES THAT.

23 A NO, SIR, I DIDN'T TELL NO SUCH A THING.

24 Q YOU DIDN'T BRAG TO MR. JONES ABOUT KILLING JIMMY PEELE?

25 A IT'S NOTHIN' TO BE PROUD OF, SIR.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q SIR?

2 A IT'S NOTHIN' TO BE PROUD OF, NO.

3 Q YOU WERE UPSET ALL THIS TIME.

4 A PRETTY TORE UP, YES, SIR.

5 Q DOES CHESS CALM YOU DOWN, PLAYIN' CHESS?

6 A IT DOES HELP.

7 Q PLAYED A LOT OF THAT WHILE YOU WERE IN JAIL.

8 A I DON'T THINK SO.

9 Q OH, YOU DIDN'T. YOU DIDN'T PLAY IT IN THE CELL WITH MR.
10 JONES, MR. SANDERS. YOU REMEMBER BARRY SANDERS, THE OTHER
11 GENTLEMAN IN THE CELL WITH YOU?

12 A YEAH.

13 Q HUH?

14 A I REMEMBER THE BOY, YEAH.

15 Q HAVE A CONVERSATION WITH HIM ABOUT THIS?

16 A I DON'T THINK SO.

17 Q YOU DENY THOSE CONVERSATIONS.

18 A YES, SIR.

19 Q YOU SPECIFICALLY DENY THEM; NEVER DISCUSSED YOUR CASE
20 WITH DAVID JONES.

21 A NO, SIR.

22 Q YOU NEVER DISCUSSED IT. NEVER MADE ANY STATEMENTS TO
23 ANYBODY.

24 A NOT THAT I'M AWARE OF.

25 Q NOT THAT YOU'RE AWARE OF. YOU COULDN'T REMEMBER THAT,

FRED RUTLAND - CROSS BY MR. MCMAHON

1 MR. RUTLAND?

2 A I CAN'T REMEMBER ANY SPECIFIC CONVERSATION ABOUT IT, NO.

3 Q AND YOU DON'T REMEMBER THE ONE THAT I'VE ASKED YOU
4 SPECIFICALLY ABOUT.

5 A MR. MCMAHON, THAT'S IMPOSSIBLE BECAUSE THERE WAS NO WAY
6 I KNEW HE WAS COMING UP TO THE BOUTIQUE.

7 Q SIR?

8 A THERE WAS NO WAY I WAS AWARE THAT HE WAS GONNA BE THERE.
9 I WAS IN A BIG GAWKY BLUE VAN. I KNOW THAT.

10 Q UNLESS THERE WAS A PHONE CALL TO HIM. RIGHT?

11 A THERE WAS NO PHONE CALL. THERE WAS NO WAY FOR A PHONE
12 CALL.

13 Q IF THERE WAS, MAKE A LOTTA DIFFERENCE. WOULDN'T IT?

14 A NO, SIR.

15 Q IT WOULDN'T?

16 A NO, SIR.

17 Q WHY WOULDN'T IT?

18 A BECAUSE OF THE TIME ELEMENT.

19 Q EXPLAIN.

20 A THE TIME WE CAME INTO ROBIN'S, CALLED THE SHERIFF,
21 LAWYER AND LEFT. IF JIMMY WAS AT HIS HOUSE HE WOULDN'T HAVE
22 TIME TO GET THERE IN THE TIME THAT HE DID.

23 Q ROBIN PEELE WAS AT HER HOUSE -- EXCUSE ME -- ROBIN HUNT
24 WAS AT ROBIN'S HOUSE WHILE YOU AND SALLY WERE THERE.

25 A YES.

FRED RUTLAND - CROSS BY MR. MCMAHON

1 Q BEFORE Y'ALL WENT TO THE BOUTIQUE.

2 A YES.

3 Q AND IF THE PHONE WAS USED YA'LL WOULD BE USIN' HER
4 PHONE.

5 A YES.

6 Q DID YOU MAKE A STATEMENT TO HER AFTER Y'ALL LEFT MR.
7 PEFLE'S THAT MORNING THAT YOU WOULDN'T WANT TO KILL HIM DOWN
8 THERE; YOU JUST WANTIN' TO CRIPPLE HIM?

9 A PARDON ME?

10 Q DID YOU MAKE A STATEMENT IN THE VAN IN THE PRESENCE OF
11 ROBIN HUNT AFTER YA'LL LEFT MR. PEFLE'S RESIDENCE THAT YOU
12 WASN'T GONNA KILL HIM BUT JUST CRIPPLE HIM WHEN YOU SHOT?

13 A NO. NO.

14 Q YA'LL WASN'T PLANNIN' ON BRUCE BEIN' DOWN THERE, WERE
15 YOU?

16 A WASN'T PLANNIN' ON ANYONE BEIN' THERE.

17 Q KINDA SURPRISED YOU WHEN BRUCE WAS THERE. DIDN'T IT?

18 A IT SURPRISED ME FOR ANYONE TO BE THERE.

19 Q LIKE YOU SAID ON DIRECT, "IF AT FIRST YOU DON'T SUCCEED-

20 --

21 A GIVE 'EM ANOTHER CHANCE.

22 Q NO FURTHER QUESTIONS.

23 REDIRECT EXAMINATION

24 BY MR. GREGORY

25 Q OK. MR. RUTLAND, I'M GONNA HAND YOU THE TAPED

FRED RUTLAND - REDIRECT BY MR. GREGORY

1 CONVERSATION THAT WAS TAKEN AT 2:30 SEPTEMBER 4TH 1992. YOU
2 WERE ASKED TO READ ON PAGE THREE CONCERNING THE PURCHASE OF
3 THE 25 CALIBER PISTOL AND YOU WERE ASKED THE QUESTION BY
4 DETECTIVE FRIER WHO PURCHASED IT. WHAT WAS YOUR RESPONSE?
5 THIS IS ON PAGE THREE.

6 A SALLY.

7 Q THEN HE ASKED YOU ANOTHER QUESTION. SALLY PURCHASED IT.
8 HE ALSO STARTED ASKING ADDITIONAL QUESTIONS.

9 A YES, SIR.

10 Q AND WHILE HE WAS ASKING ADDITIONAL QUESTIONS DID YOU
11 ANSWER THE QUESTION THAT HE HAD ASKED: SALLY PURCHASED IT?

12 A YES, I DID.

13 Q AND WHAT WAS YOUR ANSWER?

14 A YES.

15 Q THAT'S ALL. THANK YOU SO MUCH. PLEASE STEP DOWN.

16 THE COURT: MADAM FOREMAN, LADIES AND GENTLEMEN OF THE
17 JURY, AT THIS TIME WE'LL QUIT FOR THE EVENIN'. I'LL ASK YOU
18 NOT TO DISCUSS THIS CASE WITH EACH OTHER OR WITH ANYONE. IF
19 ANYONE TRIES TO DISCUSS IT WITH YOU, TAKE THEIR NAME AND
20 REPORT IT TO ME. WE'LL MEET AT 9 O'CLOCK IN THE MORNING.
21 EVERYBODY. 9 O'CLOCK. BE IN THE JURY ROOM AT 9 O'CLOCK IN
22 THE MORNING. EVERYBODY ELSE REMAIN SEATED TILL THE JURY
23 LEAVES. 9 O'CLOCK. (THE FOLLOWING OCCURRED IN THE ABSENCE
24 OF THE JURY.) COURT'LL RECESS, 9 O'CLOCK. (THE FOLLOWING
25 OCCURRED THE NEXT DAY.)

1 MR. RIDDLE: YOUR HONOR, IF IT PLEASE THE COURT, I HAVE
2 ONE MATTER IN LIMINE BEFORE WE GET STARTED THIS MORNING.

3 THE COURT: YES, SIR.

4 MR. RIDDLE: FOR REPLY THE STATE INTENDS TO OFFER A
5 WITNESS BY THE NAME OF DAVID JONES OR TO HAND UP FOR THE
6 COURT'S INFORMATION A COPY OF DAVID JONES' RAP SHEET. YOUR
7 HONOR, THE ONLY CONVICTIONS WHICH DAVID JONES HAS ARE, ONE,
8 FOR CARRYING A PISTOL BACK IN 1991 AND A CONVICTION FROM
9 JANUARY OF '92 IN -- EXCUSE ME -- FOR VOLUNTARY MANSLAUGHTER.
10 YOUR HONOR, I BELIEVE UNDER THE CASE OF ANDY MITCHELL -VS-
11 THE STATE OF SOUTH CAROLINA WHICH IS 379 S.E.2d 123, IT'S A
12 1989 CASE, THAT CONVICTION FOR VOLUNTARY MANSLAUGHTER IS NOT
13 A CRIME OF MORAL TURPITUDE AND THUS IS NOT ADMISSIBLE.

14 THE COURT: WHAT DO YOU SAY, MR. GREGORY?

15 MR. GREGORY: YOUR HONOR, IF I UNDERSTAND THE MOTION
16 IT'S A MOTION IN LIMINE TO---

17 THE COURT: IT'S FOR YOU NOT TO GO INTO HIS RECORD OF---

18 MR. GREGORY: PREVENT ME FROM GOIN' INTO HIS RECORD.
19 THAT'S CORRECT. I'M ASSUMIN' THAT IF THEY OFFER HIM AS A
20 WITNESS THAT HIS RECORD STANDS JUST AS HIS APPEARANCE DOES IN
21 THE COURTROOM THAT---

22 THE COURT: WELL, IT SAYS HERE---

23 MR. GREGORY: ---HE CAN---

24 THE COURT: ---THIS CASE SAYS IT'S INADMISSIBLE AS TO
25 CREDIBILITY. MURDER. THAT'S ALL YOU DO IS TO IMPEACH

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ROBIN HUNT - DIRECT BY MR. RIDDLE

1 MR. MCMAHON: YES, SIR.

2 THE COURT: DEFENSE WAIVE THE POLLIN'?

3 MR. GREGORY: DEFENSE WAIVES POLLIN'.

4 THE COURT: YOU MAY PROCEED.

5 MR. RIDDLE: YOUR HONOR, THE STATE WOULD CALL ROBIN HUNT
6 TO THE STAND.

7 ROBIN HUNT, BEING DULY SWORN, TESTIFIES
8 AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. RIDDLE

11 Q MS. HUNT, WOULD YOU STATE YOUR FULL NAME FOR THE RECORD.

12 A ROBIN THOMASON HUNT.

13 Q MS. HUNT YOU WERE WITH JIMMY PEELE -- I MEAN, EXCUSE
14 ME -- WITH FRED RUTLAND AND SALLY PEELE ON FRIDAY SEPTEMBER
15 THE 4TH DURING THE MORNING HOURS. WERE YOU NOT?

16 A YES, I WAS.

17 Q AND WERE YOU WITH THEM WHEN THEY WERE AT JIMMY PEELE'S
18 RESIDENCE SOMETIME BETWEEN TEN AND ELEVEN?

19 A YES.

20 Q ON THAT FRIDAY MORNING.

21 A YES, I WAS.

22 Q AS YA'LL WERE LEAVING THAT RESIDENCE IN YOUR VAN DID
23 FRED RUTLAND MAKE A COMMENT TO YOU SUBSTANTIALLY SIMILAR TO
24 HE WASN'T GOING TO JIMMY, JUST CRIPPLE HIM?

25 A YES, SIR.

ROBIN HUNT - DIRECT BY MR. RIDDLE

1 Q ALL RIGHT. AND WERE YOU WITH THEM AGAIN AT YOUR HOUSE
2 SOMETIME AROUND 12 NOON?

3 A YES, SIR.

4 Q AND DURING THAT TIME DID YOU OVERHEAR A PHONE
5 CONVERSATION BETWEEN SALLY PEELE AND SOMEONE ON THE OTHER END
6 OF YOUR PHONE?

7 A YES, SIR.

8 MR. GREGORY: YOUR HONOR, AT THIS TIME WE WOULD ENTER AN
9 OBJECTION. I DON'T THINK THAT COUNSEL HAS LAID THE PROPER
10 GROUNDWORK HERE TO ENABLE THIS WITNESS TO TELL WHAT HE WANTS
11 HER TO TELL. HE'S ASKIN' HER DID SHE HEAR -- OVERHEAR A
12 PHONE CONVERSATION AND I THINK THAT HE'S FAILED TO LAY THE
13 GROUNDWORK AS TO WHERE SHE WAS, WHERE THE TELEPHONE WAS, WHO
14 SHE WAS LISTENING TO AND SO FORTH.

15 THE COURT: GO AHEAD. GO AHEAD AND LAY A LITTLE MORE
16 GROUNDWORK.

17 MR. RIDDLE: YES, SIR, YOUR HONOR.

18 Q DID YOU, IN FACT, OVERHEAR A PHONE CONVERSATION?

19 A YES, SIR.

20 Q AND THAT WAS FROM A TELEPHONE I BELIEVE LOCATED IN YOUR
21 BEDROOM.

22 A YES, SIR.

23 Q AND YOU WERE IN YOUR BATHROOM.

24 A YES, SIR.

25 Q WHICH IS PART OF YOUR BEDROOM.

ROBIN HUNT - DIRECT BY MR. RIDDLE

1 A 2. ADJACENT TO THE BEDROOM.

2 Q 3. OK. AND SALLY PEELE IS THE INDIVIDUAL THAT WAS ON THE
3 PHONE AT YOUR HOUSE. IS THAT CORRECT?

4 A YES, SIR.

5 Q AND YOU DON'T KNOW WHO THE OTHER INDIVIDUAL WAS.

6 A NO, SIR.

7 Q DID YOU HEAR SALLY PEELE ADDRESS THE OTHER INDIVIDUAL BY
8 NAME?

9 A YES, SIR.

10 Q WHAT NAME DID SHE USE?

11 MR. GREGORY: OBJECTION, YOUR HONOR. AT THIS POINT
12 COUNSEL HAS STILL NOT LAID ENOUGH GROUNDWORK BECAUSE THIS
13 WITNESS CANNOT TESTIFY THAT THERE WAS ANYBODY ON THE OTHER
14 LINE.

15 THE COURT: WELL, SHE CAN JUST ONLY SAY WHAT SHE HEARD,
16 YEAH. OVERRULE THE OBJECTION. SHE CAN SAY WHAT SHE SAID.

17 Q DID SHE ADDRESS THE OTHER INDIVIDUAL OR THE INDIVIDUAL
18 SHE WAS TALKING TO BACK THERE?

19 A YES, SIR.

20 Q AND WHAT NAME DID SHE USE?

21 A JIMMY.

22 Q AND HAD SHE ASKED THAT INDIVIDUAL TO MEET HER ANYWHERE?

23 A AT THE SHOP.

24 Q AT THE SHOP. REFERRING TO?

25 A BOW-WOW BOUTIQUE.

ROBIN HUNT - DIRECT BY MR. RIDDLE

1 Q AND DID SHE SPECIFICALLY GIVE A TIME?

2 A IN ABOUT 45 MINUTES.

3 Q AND WHO WAS PRESENT IN YOUR HOUSE WHEN THAT TOOK PLACE?

4 A MYSELF AND SALLY AND FRED RUTLAND.

5 Q THAT'S ALL I HAVE, MS. HUNT. THANK YOU.

6 CROSS-EXAMINATION

7 BY MR. GREGORY

8 Q THIS WAS AT YOUR HOME, WAS IT NOT?

9 A YES, IT WAS.

10 Q AND DO YOU RECALL THE TIME OF DAY, MS. HUNT?

11 A THAT WE WERE---

12 Q THAT YOU HEARD WHAT YOU JUST TESTIFIED TO. WHAT TIME OF
13 DAY WAS IT?

14 A SOMETIME A LITTLE AFTER NOON.

15 Q YOU DIDN'T KNOW WHAT DAY OF THE WEEK IT WAS?

16 A NOT OFF HAND. IT'S BEEN A LONG TIME AGO. IT WAS IN
17 SEPTEMBER.

18 Q WHAT DATE?

19 A THE 4TH.

20 Q NOW WERE YOU ON THE TELEPHONE YOURSELF?

21 A NO, SIR. EARLIER I WAS.

22 Q YES, BUT AT THE TIME THAT YOU'RE TALKIN' ABOUT HERE,
23 YOU'RE TALKIN' ABOUT HEARING SOMEBODY ON THE TELEPHONE WHO
24 WAS IN ANOTHER ROOM FROM WHERE YOU WERE.

25 A ABOUT TEN FEET FROM ME.

ROBIN HUNT - CROSS BY MR. GREGORY

1 Q BUT IN ANOTHER ROOM.

2 A YES.

3 Q AND THEY'RE ON THE TELEPHONE AND YOU'RE NOT ON THE
4 TELEPHONE.

5 A YES, SIR.

6 Q SO YOU DON'T KNOW WHO WAS ON THE OTHER END OF THAT
7 TELEPHONE. DO YOU?

8 A NO, SIR.

9 Q YOU'RE JUST GUESSING.

10 A I'M JUST SAYIN' WHAT I HEARD.

11 Q YEAH, BUT YOU ONLY HEARD SALLY PEELE, DIDN'T YOU?

12 A YES, SIR.

13 Q DID YOU HEAR ANY CONVERSATION ON THE OTHER END?

14 A NO, SIR.

15 Q YOU HEARD A ONE-WAY CONVERSATION, DIDN'T YOU?

16 A YES, SIR.

17 Q AND YOU HAVE NO EARTHLY IDEA WHO MIGHT'VE BEEN ON THE
18 OTHER END.

19 A NO, SIR.

20 Q THERE MIGHT'VE BEEN NOBODY ON THE OTHER END.

21 A I GUESS THAT'S -- WELL, THAT'S POSSIBLE TOO I GUESS.

22 Q IS THAT THE ONLY TIME THAT SHE PICKED UP THE PHONE WHILE
23 SHE WAS AT YOUR HOUSE?

24 A NO.

25 Q WHERE ELSE DID YOU HEAR HER CALL?

ROBIN HUNT - CROSS BY MR. GREGORY

1 A MADE A CALL FOR HER TO YOU IN THE KITCHEN. I KNOW SHE
2 CALLED THE PELION SCHOOLS TO TALK TO THE SUPERINTENDENT THERE
3 OR AT LEAST THAT'S WHO SHE ASKED FOR WHEN SHE USED THE OTHER
4 PHONE.

5 Q AND YOU'VE GOT SEVERAL PHONES IN THE HOUSE, DON'T YOU?

6 A TWO.

7 Q WELL, IF YOU WANTED TO HEAR WHAT THE CONVERSATION WAS
8 YOU COULD'VE GONE TO THE OTHER ROOM WHERE THE OTHER PHONE WAS
9 AND PICKED IT UP AND LISTENED, COULDN'T YOU?

10 A I WAS IN THE BATHROOM.

11 Q I UNDERSTAND. BUT THERE WAS ANOTHER PHONE IN THE HOUSE
12 WHERE YOU COULD HEAR AND EAVESDROP ON THE CONVERSATION,
13 WASN'T THERE?

14 A YES, SIR, IN THE KITCHEN.

15 Q ALRIGHT. AND YOU DON'T KNOW WHAT NUMBER SHE CALLED, DO
16 YOU?

17 A I WASN'T IN THERE WHEN THE CALL STARTED. I LEFT THE
18 KITCHEN AND WENT TO MY BATHROOM.

19 Q SO YOU DON'T KNOW WHAT NUMBER SHE DIALED. DO YOU?

20 A NO, SIR.

21 Q ISN'T IT POSSIBLE, MS. HUNT, THAT SHE COULD'VE BEEN EVEN
22 TALKING TO A THIRD PERSON ABOUT SOMEBODY ELSE?

23 A NO, SIR. SHE CALLED JIMMY'S NAME AND CHRISTINE'S NAME.

24 Q AND WHO IS CHRISTINE?

25 A HERS AND JIMMY'S DAUGHTER.

ROBIN HUNT - CROSS BY MR. GREGORY

1 Q AND WASN'T CHRISTINE SUPPOSED TO BE IN SCHOOL?

2 A SHE KNEW AT THAT TIME CHRISTINE WAS NOT IN SCHOOL.

3 Q HOW DID SHE KNOW SHE WAS NOT IN SCHOOL, MS. HUNT?

4 A SHE AND FRED HAD GONE TO THE SCHOOL TO TRY TO GET
5 CHRISTINE FROM SCHOOL EARLIER.

6 Q AND THAT WAS ONE OF THE OTHER PHONE CALLS YOU HEARD.
7 WASN'T IT?

8 A YES, SIR.

9 Q THANK YOU.

10 MR. RIDDLE: NOTHING FURTHER, YOUR HONOR.

11 THE COURT: YOU MAY COME DOWN.

12 MR. MCMAHON: THE STATE CALLS DAVID JONES.

13 MR. RIDDLE: YOUR HONOR, I'D ASK THAT MS. HUNT BE
14 EXCUSED.

15 THE COURT: NO OBJECTION.

16 MR. GREGORY: NO OBJECTION.

17 THE COURT: THANK YOU, MA'AM.

18 DAVID JONES, BEING DULY SWORN, TESTIFIES

19 AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. MCMAHON

22 Q SIR, WOULD YOU INTRODUCE YOURSELF TO THE JURY, PLEASE.

23 A I'M DAVID JOEL JONES.

24 Q MR. JONES, HOW OLD ARE YOU?

25 A I'M 49.

DAVID JONES - DIRECT BY MR. MCMAHON

1 Q WHERE ARE YOU FROM?

2 A WEST COLUMBIA.

3 Q MR. JONES, DID YOU HAVE AN OCCASION TO BE IN THE
4 LEXINGTON COUNTY JAIL AS AN INMATE SEPTEMBER OF 1992?

5 A YES, SIR, I WAS.

6 Q AND SPECIFICALLY THE FIRST WEEK OR TEN DAY OF SEPTEMBER
7 OF 1992, DID YOU GET A CELL MATE?

8 A YES, SIR, I DID.

9 Q WHO WAS THAT CELL MATE?

10 A MR. FRED RUTLAND WHO'S SITTING OVER THERE.

11 Q WHAT FLOOR WERE YOU ASSIGNED TO?

12 A THE THIRD FLOOR.

13 Q DO YOU RECALL SPECIFICALLY WHAT DATE MR. RUTLAND BECAME
14 YOUR CELL MATE AT THE LEXINGTON COUNTY JAIL?

15 A YES, SIR, IT WAS FRIDAY EVENING OF SEPTEMBER 4TH OF
16 1992.

17 Q AND DID YOU KNOW -- WELL, LET ME ASK YOU THIS: HOW LONG
18 WAS HE YOUR CELL MATE?

19 A PROBABLY FIVE OR SIX DAYS. I BELIEVE HE GOT OUT ON BOND
20 I BELIEVE IT WAS WEDNESDAY. I DON'T REMEMBER THE DATE.

21 Q HE GOT OUT ON BOND BEFORE YOU DID?

22 A YES, SIR, HE DID.

23 Q SO FROM THAT FRIDAY TO THE FOLLOWING MIDDLE OF THE WEEK
24 AROUND WEDNESDAY YOU AND HE WERE CELL MATES. IS THAT
25 CORRECT?

DAVID JONES - DIRECT BY MR. MCMAHON

1 A YES, SIR, AND THERE WAS ONE OTHER INDIVIDUAL IN THE CELL
2 ALSO,

3 Q WHO WAS THAT?

4 A DAVID SANDERS.

5 Q AND HOW DID HE GET OUT ON THAT WEDNESDAY?

6 A HE GOT OUT ON BOND.

7 Q NOW WHEN DID YOU FIRST SEE MR. RUTLAND?

8 A WE SAW HIM COME INTO OUR CELL. WE WERE OUT IN THE DAY
9 ROOM, YOU KNOW, THE INMATES, AND HE WENT INTO OUR CELL
10 SOMETIMES FRIDAY EVENIN' AND HE DID NOT COME OUT AND CO-
11 MINGLE, AND WE FIRST SPOKE TO HIM WHEN WE WENT IN ABOUT
12 11:30.

13 Q EXPLAIN TO THE JURY WHAT MR. JONES, WHEN YOU REFER TO A
14 JAIL AND THE CELL, KIND OF EXPLAIN TO THEM HOW IT WAS
15 PHYSICALLY SET UP AND WHAT YOU'RE TALKIN' ABOUT.

16 A WELL, THE DAY ROOM IS AN OPEN ROOM WHERE THEY HAVE THE
17 TV AN TABLES AND YOU PLAY CHECKERS, CARDS OR SOMETHIN', AND
18 YOU CO-MINGLE WITH THE OTHER INMATES, AND THE CELLS ARE ON A
19 HALL AND YOU GO INTO A HALLWAY AND GO INTO YOUR CELL. IT'S A
20 LARGE OPEN AREA.

21 Q SO YOU SAW HIM COME IN.

22 A YES, SIR.

23 Q AND HE WENT TO THE CELL.

24 A YES, SIR.

25 Q DID YOU KNOW WHY HE WAS THERE, WHY HE WAS IN JAIL?

DAVID JONES - DIRECT BY MR. MCMAHON

1 A WE WERE TOLD HE WAS INVOLVED IN A SHOOTING.

2 MR. GREGORY: YOUR HONOR, WE OBJECT TO---

3 THE COURT: DON'T GO---

4 Q DON'T GO INTO WHAT SOMEBODY ELSE SAID.

5 THE COURT: HE CAN'T -- NO, HE CAN'T---

6 Q LATER ON YOU GONNA TALK WITH HIM ABOUT IT. CORRECT?

7 A YES, SIR.

8 Q NOW DID YOU HAVE CONVERSATIONS WITH MR. RUTLAND FROM
9 THAT FRIDAY UNTIL THAT NEXT WEDNESDAY WHICH I BELIEVE WOULD
10 BE THE NINTH?

11 A YES, SIR, I DID.

12 Q AND WERE ANY OF THOSE CONVERSATIONS ABOUT HIS CASE?

13 A YES, SIR. WE WENT TO THE CELL AND MR. RUTLAND INFORMED
14 US THAT HE HAD JUST KILLED A MAN.

15 Q WHAT ELSE DID HE SAY ABOUT IT, DAVID? WHAT ELSE DID HE
16 TELL YOU?

17 A LATER ON AFTER WE HAD BROKEN THE ICE AND STARTED
18 CONVERSATION WITH EACH OTHER, HE TOLD US THAT THE MAN
19 DESERVED IT AND HE HAD OFFERED TO DO IT A MONTH EARLIER.

20 Q NOW WHO TOLD YOU HE HAD OFFERED TO DO IT A MONTH
21 EARLIER?

22 A MR. RUTLAND.

23 Q MR. RUTLAND TOLD YOU?

24 A YES, SIR.

25 Q AND WHAT WERE HIS WORDS?

DAVID JONES - DIRECT BY MR. MCMAHON.

1 A I TOLD HER I WOULD DO IT ABOUT A MONTH AGO.

2 Q AND YOU SAID HE MR. RUTLAND SAID HE DESERVED IT.

3 A YES, SIR.

4 Q WHO WAS HE REFERRING TO?

5 A HE WAS REFERRING TO MR. JIMMY PEELE.

6 Q DID HE SAY WHY MR. RUTLAND -- DID MR. RUTLAND SAY WHY HE
7 THOUGHT JIMMY PEELE DESERVED IT?

8 A HE SAID HE WASN'T WORTH A DAMN.

9 Q HIS WORDS?

10 A YES, SIR.

11 Q YOU CONTINUE WITH THIS CONVERSATION WITH HIM?

12 A OH, YEAH, WE CONTINUED CONVERSIN' ON AND OFF FOR THE
13 WHOLE, YOU KNOW, THE WHOLE TIME WE WERE ROOMMATES, CELL
14 MATES.

15 Q DESCRIBE FOR THE JURY, IF YOU WOULD, DAVID, WHAT MR.
16 RUTLAND'S DEMEANOR WAS DURING THESE CONVERSATIONS, WHAT HIS
17 ATTITUDE WAS DURING THESE CONVERSATIONS.

18 A MR. RUTLAND WAS COCKY AND ARROGANT AND ALMOST BOASTIN'
19 ABOUT WHAT HE HAD DONE.

20 Q I WANT TO ASK YOU NOW, WHEN YOU SAY THAT, DAVID, TELL US
21 WHAT YOU OBSERVED IN HIM THAT LED YOU TO THAT CONCLUSION.

22 A WELL, MR. RUTLAND WAS NOT SHOWING ANY REMORSE. HE WAS
23 LAUGHIN' ABOUT WHAT HAD HAPPENED. HE WAS TALKIN' ABOUT THAT
24 HE HAD KILLED MR. PEELE AND HE WAS GONNA RUN OFF WITH MR.
25 PEELE'S WIFE. HE SHOWED NO REMORSE FOR HIS FAMILY WHO HE

DAVID JONES - DIRECT BY MR. MCMAHON

1 PLANNED TO LEAVE.

2 Q HAVE YOU EVER HAD AS PART OF THESE CONVERSATIONS, DID
3 YOU EVER -- DID HE EVER SAY ANYTHING TO YOU ABOUT THE ACTUAL
4 DAY OF SEPTEMBER THE 4TH WHEN THE KILLIN' OCCURRED?

5 A YES, SIR, HE DID.

6 Q WHAT, IF ANYTHING, DID HE TELL YOU ABOUT WHAT HE HAD
7 DONE THAT MORNING?

8 A HE SAID THAT HE HAD DRIVEN UP THAT MORNING AND THEY --
9 AND HE ALWAYS SAID THEY -- THEY HAD GONE TO PURCHASE A 25
10 CALIBER PISTOL.

11 Q DID HE SAY WHERE HE HAD DRIVEN UP FROM?

12 A HE SAID HE'D DRIVEN UP FROM SUMMERVILLE.

13 Q DID HE TELL YOU ANYTHING ABOUT WHERE IT HAPPENED AT?

14 A OH, YES, SIR.

15 Q JUST THE LOCATION.

16 A HE SAID IT HAPPENED AT THE BOW-WOW BOUTIQUE OFF OF TWO
17 NOTCH ROAD, AND HE SAID THAT THEY HAD DRIVEN TO THE BOW-WOW
18 BOUTIQUE BECAUSE -- AND THESE ARE MR. RUTLAND'S WORDS -- WE
19 KNEW HE WOULD BE THERE.

20 Q HE REFERRING TO?

21 A HE WAS REFERRING TO MR. JIMMY PEELE.

22 Q WHERE DID HE TELL YOU HE WENT TO SCHOOL?

23 A HE SAID HE WENT TO SCHOOL AT WILL LOU GRAY OPPORTUNITY
24 SCHOOL.

25 Q THANK YOU, MR. JONES. I DON'T HAVE ANY FURTHER

DAVID JONES - CROSS BY MR. GREGORY

1 QUESTIONS.

2 CROSS-EXAMINATION

3 BY MR. GREGORY

4 Q WELL, MR. JONES, YOU'VE BEEN SO KIND TO TELL US WHAT YOU
5 HEARD. WHAT DID YOU TELL FRED. YA'LL WERE HAVIN' A
6 CONVERSATION. DIDN'T YOU TELL HIM WHY YOU WERE IN JAIL?

7 A YES, SIR, I DID.

8 Q WELL, WHAT DID YOU TELL HIM?

9 MR. MCMAHON: YOUR HONOR, I HAVE A MATTER OF LAW. WE
10 HAVE A MOTION IN LIMINE. HIS HONOR HAS RULED ON THAT.

11 THE COURT: YES, SIR, THAT DON'T---

12 MR. MCMAHON: IT IS NOT ADMISSIBLE UNDER THE LAWS OF THE
13 STATE OF SOUTH CAROLINA.

14 THE COURT: THAT DON'T GO TO HIS CREDIBILITY. YOU CAN
15 CROSS EXAMINE HIM ON OTHER THINGS. GO AHEAD.

16 Q SO YOU DID HAVE A CONVERSATION WITH HIM. DIDN'T YOU?

17 A YES, SIR, I DID.

18 Q AND YOU TOLD HIM WHY YOU WERE IN JAIL. DIDN'T YOU?

19 MR. MCMAHON: YOUR HONOR, I JUST OBJECTED TO THAT AND
20 YOU---

21
22 THE COURT: WELL, HE CAN---

23 MR. MCMAHON: ---SUSTAINED THAT OBJECTION. I'M GONNA
24 MAKE---

25 THE COURT: WELL, HE CAN---

DAVID JONES - CROSS BY MR. GREGORY

1 MR. MCMAHON: ---A MOTION FOR A MISTRIAL AT THIS POINT,
2 YOUR HONOR.

3 THE COURT: WELL, I OVERRULE THAT MOTION. HE CAN SAY --
4 HE HADN'T SAID WHAT HE SAID. HE JUST SAID HE TOLD HIM. HE
5 CAN SAY HE TALKED TO HIM BUT HE CAN'T GO INTO WHAT HE TALKED
6 TO HIM ABOUT. GO AHEAD.

7 Q YOU TOLD HIM WHY YOU WERE IN JAIL, DIDN'T YOU?

8 A YES, SIR, I DID.

9 Q AND YOU EXPLAINED THE CIRCUMSTANCES AROUND YOUR---

10 MR. MCMAHON: THAT IS ABSOLUTELY INADMISSIBLE. EVEN IF--
11 --

12 THE COURT: WELL, HE WON'T---

13 MR. MCMAHON: ---THE CHARGE WAS ADMISSIBLE THE FACTS OF
14 IT WOULDN'T BE, JUDGE.

15 THE COURT: HE HADN'T GONE INTO IT. GO AHEAD. HE'S
16 JUST CROSS-EXAMINATION. AS LONG AS HE DON'T GO INTO IT.

17 Q YOU EVEN EXPLAINED THE CIRCUMSTANCES AROUND WHY YOU
18 WERE---

19 MR. MCMAHON: JUDGE, I HAVE A MATTER OF LAW TO TAKE UP
20 OUTSIDE---

21 THE COURT: HE HADN'T---

22 MR. MCMAHON: ---THE PRESENCE OF THE JURY.

23 THE COURT: I OVERRULE THAT AND JUST -- LET -- HE HASN'T
24 SAID ANYTHING OR DONE ANYTHING YET.

25 MR. MCMAHON: JUDGE, HE'S GOIN' AGAINST YOUR MOTION,

DAVID JONES - CROSS BY MR. GREGORY

1 SIR.

2 THE COURT: HE HADN'T GONE THAT FAR YET. GO AHEAD.

3 Q MR. JONES?

4 A YES, SIR.

5 Q IN YOUR CONVERSATION WITH MR. RUTLAND YOU EXPLAINED WHY
6 YOU WERE THERE, WEREN'T YOU?

7 A YES, SIR, WE BOTH EXPLAINED TO EACH OTHER WHY WE WERE
8 THERE.

9 Q THANK YOU. NOW WHAT HAS THE STATE PROMISED YOU TO COME
10 DOWN HERE AND TESTIFY TODAY?

11 A THE STATE HAS PROMISED ME NOTHIN', SIR.

12 Q I UNDERSTAND. IN OTHER WORDS YOU'RE HERE JUST BECAUSE
13 YOU'RE A GOOD JOE AND YOU WANNA TELL THESE FOLKS OF LEXINGTON
14 COUNTY WHAT YOU AND FRED RUTLAND AND YOU DISCUSSED WHEN YOU
15 WERE IN JAIL AND YOU WERE TALKIN' TO HIM AND HE WAS TALKIN'
16 TO YOU.

17 A SIR, I AM AN HONEST PERSON ON MORALS. I SPOKE TO MY
18 ATTORNEY ABOUT WHAT MR. RUTLAND HAD SAID AND THEY SAID NOT TO
19 SAY ANYTHING UNTIL MY SITUATION WAS OVER WITH, AND THAT'S
20 WHAT I DID. I FOLLOWED MY ATTORNEY'S INSTRUCTIONS.

21 Q DO YOU KNOW WHY YOU WERE NOT CALLED AS A WITNESS WHEN
22 THE STATE PUT THEIR CASE UP TWO DAYS AGO?

23 MR. MCMAHON: YOUR HONOR, TRIAL TACTICS IS---

24 THE COURT: HE WOULDN'T KNOW. I'LL SUSTAIN THE
25 OBJECTION.

DAVID JONES - CROSS BY MR. GREGORY

1 MR. MCMAHON: I'LL MAKE THAT DECISION.

2 THE COURT: I'LL SUSTAIN THE OBJECTION.

3 Q WHEN WERE YOU ASKED TO COME TESTIFY, SIR? WHEN WERE YOU
4 ASKED TO COME DOWN HERE TO COURT TO TESTIFY?

5 A I BELIEVE IT WAS THIS WEDNESDAY.

6 Q THIS WEDNESDAY. TODAY'S FRIDAY, ISN'T IT?

7 A YES, SIR.

8 Q TWO DAYS AGO. IS THAT WHAT YOU'RE TELLIN' US?

9 A YES, SIR, I HAVE -- WE -- I BELIEVE YOU CAN NOTICE I
10 HAVE BEEN HERE EVERY DAY.

11 Q YOU DIDN'T TESTIFY ON WEDNESDAY. DID YOU?

12 A NO, SIR, I DID NOT.

13 Q HOW, MR. JONES, WOULD YOU KNOW THAT FRED RUTLAND GOT OUT
14 ON BOND FIVE OR SIX DAYS AFTER HE WAS IN JAIL? HOW WOULD YOU
15 KNOW THAT?

16 A HE TOLD US.

17 Q IT SEEMS TO ME THAT IF A MAN IS OUT ON BOND HE LEAVES
18 JAIL; HE'S NO LONGER YOUR ROOMMATE.

19 A HE CAME BACK INTO THE CELL, SIR, AND TOLD US HE WAS
20 GETTING OUT.

21 Q WHEN YOU GOT OUT ON BOND DID YOU GO BACK TO YOUR JAIL
22 CELL, SIR?

23 A YES, SIR, I DID.

24 Q WHY WOULD YOU GO BACK TO YOUR JAIL CELL IF YOU WERE OUT
25 ON BOND?

DAVID JONES - CROSS BY MR. GREGORY

1 A THAT'S THE WAY THE PROCEDURES OF THE JAIL. WE JUST
2 FOLLOW THEIR INSTRUCTIONS.

3 Q THE PROCEDURES OF THE JAIL. YOU FOLLOW THEIR
4 INSTRUCTIONS. SO HOW LONG DO YOU GO BACK TO JAIL AFTER YOU
5 GET YOUR BOND SET?

6 A YOU HAVE TO WAIT TILL THEY WILL ALLOW YOU TO LEAVE.

7 Q WHO CONTACTED YOU, MR. JONES, TO COME UP HERE AND
8 TESTIFY?

9 A WHO CONTACTED ME?

10 Q YES, SIR.

11 A I PERSONALLY CONTACTED MR. PEELE AND TOLD HIM WHAT I
12 KNEW AND THEN DETECTIVE FRIER CONTACTED ME.

13 Q YOU CONTACTED MR. PEELE?

14 A YES, SIR, I DID.

15 Q WHICH MR. PEELE ARE YOU TALKIN' ABOUT, SIR?

16 A THE MR. PEELE THAT OWNS PEELE ELECTRIC.

17 Q WHAT DID HE PAY YOU TO COME TESTIFY, SIR?

18 A NO ONE HAS PAID ME A THING, SIR.

19 MR. MCMAHON: OBJECTION. THAT WOULD BE HEARSAY. IF HE
20 WANTS TO CALL MR. PEELE AS A WITNESS I DON'T HAVE NO
21 OBJECTION.

22 Q WHEN DID YOU CONTACT HIM, SIR?

23 A WHEN I GOT OUTTA JAIL, SOMETIME IN MARCH.

24 Q WHEN YOU GOT OUT ON BOND?

25 A WHEN I WAS RELEASED FROM THE JAIL, SIR.

DAVID JONES - CROSS BY MR. GREGORY

1 Q WHAT'S YOUR OCCUPATION, MR. JONES?

2 A I'M A DISABLED VETERAN.

3 Q HAVE YOU WORKED ANY SINCE YOU'VE BEEN OUT ON BOND, SIR?

4 A NO, SIR, I HAVE NOT.

5 Q HOW LONG WERE YOU IN THE LEXINGTON COUNTY JAIL?

6 A APPROXIMATELY 14 MONTHS.

7 Q THANK YOU, SIR. NOTHIN' FURTHER.

8 MR. MCMAHON: NO FURTHER QUESTIONS. YOUR HONOR, WITH
9 THAT THE STATE WOULD REST.

10 THE COURT: ANYTHING FROM THE DEFENSE?

11 MR. GREGORY: JUST A MINUTE, JUDGE.

12 THE COURT: YA'LL GONNA HAVE ONE OR TWO ARGUMENTS?

13 MR. MCMAHON: WE WAIVE OPENING.

14 MR. GREGORY: YES, SIR, WE'D LIKE TO CALL FRED RUTLAND.

15 MR. MCMAHON: I HAVE A MATTER OF LAW. YOUR HONOR, WE
16 HAVE A MATTER OF LAW.

17 THE COURT: YEAH, LET THE JURY GO TO THE ROOM A MINUTE.
18 (THE FOLLOWING OCCURRED IN THE ABSENCE OF THE JURY.) YES,
19 SIR?

20 MR. RIDDLE: YOUR HONOR, THE MATTER OF LAW IS HE
21 INTENDED TO CALL FRED RUTLAND TO THE STAND IN SUR REPLY. WE
22 SPECIFICALLY ASKED WHEN FRED RUTLAND WAS ON THE STAND
23 PREVIOUSLY DID YOU MAKE THOSE STATEMENTS TO DAVID JONES. THE
24 DEFENDANT DENIED MAKING THOSE STATEMENTS. SO WE PUT UP DAVID
25 JONES IN REPLY. THIS WOULD NOT BE RESPONSIVE TO REPLY

1 BECAUSE IT'S ALREADY COME OUT ON CROSS. IT'S NOT PROPER.

2 THE COURT: WHAT DID YOU RECALL HIM FOR?

3 MR. GREGORY: SPECIFICALLY TO HAVE HIM SAY YES OR NO DID
4 HE MAKE THE SPECIFIC STATEMENTS THAT DAVID JONES TESTIFIED
5 TO.

6 MR. RIDDLE: THAT'S EXACTLY WHAT MR. MCMAHON ASKED HIM
7 ON CROSS-EXAMINATION: DID YOU TELL DAVID JONES ALL THE
8 THINGS THAT DAVID JONES JUST ENUMERATED AND HE DENIED EVERY
9 ONE. IT'S NOT PROPER SUR REPLY, YOUR HONOR.

10 THE COURT: HE SAID AT THAT TIME HE DIDN'T.

11 MR. GREGORY: WELL, AT THAT TIME HE HAD NOT HEARD DAVID
12 JONES TESTIFY AND SAY IT. I MEAN I'M SURE -- AND THEY
13 MENTIONED THIS WHILE THE JURY WAS IN HERE THAT IT'S A TACTIC
14 AS TO WHEN THEY CALL THEIR WITNESSES AND I UNDERSTAND THAT
15 THEIR TACTIC WAS TO CROSS EXAMINE FRED RUTLAND.

16 THE COURT: WELL, IT'D HAVE BEEN IMPROPER WHEN THEY
17 ASKED HIM THAT QUESTION AND HE DENIED IT, THEY HAD TO PUT HIM
18 UP BECAUSE THEY HAD ASKED HIM THAT.

19 MR. GREGORY: I UNDERSTAND THAT, BUT THEY COULD'VE PUT
20 HIM UP ON DIRECT, BUT SINCE THEY WAITED AND PUT HIM UP AT
21 THIS STAGE OF THE TRIAL HE MAY HAVE STATED THINGS AT THIS
22 POINT THAT THEY DID NOT ASK FRED RUTLAND WHAT HE SAID.

23 MR. RIDDLE: IF HE CAN POINT TO A SPECIFIC THING THAT
24 DAVID JONES SAID, THEN I THINK HE CAN PUT HIM ON THE STAND TO
25 DENY A SPECIFIC THING THAT DAVID JONES SAID THAT MR. MCMAHON

1 DID NOT ASK HIM ABOUT, BUT MR. MCMAHON DID ASK HIM ABOUT
2 EVERY THING THAT DAVID JONES TESTIFIED TO.

3 MR. GREGORY: YOUR HONOR---

4 THE COURT: YOU GOT ANY SPECIFIC THING?

5 MR. GREGORY: YOUR HONOR, WITHOUT GOIN' BACK AND
6 LISTENING TO THE TESTIMONY, I'D BE HARD PRESSED -- I'D BE
7 GUESSING. I WOULD HAVE TO COMPARE THE CROSS-EXAMINATION
8 QUESTIONS OF MR. RUTLAND AND THE DIRECT TESTIMONY THAT DAVID
9 JONES GAVE. I REALIZE THAT IT COULD TAKE AN HOUR TO PROBABLY
10 DO THAT, BUT I MEAN THAT WOULD BE THE ONLY WAY THAT I COULD
11 TRUTHFULLY SAY YES THIS IS NOT WHAT WAS COVERED ON CROSS-
12 EXAMINATION.

13 MR. RIDDLE: I WAS HERE; YOUR HONOR WAS HERE; MR.
14 MCMAHON WAS HERE; MR. MCMAHON WENT THROUGH EACH AND EVERY
15 THING THAT DAVID JONES TESTIFIED TO AND ASKED MR. RUTLAND DID
16 HE OR DID HE NOT TELL DAVID JONES THAT, TELL THE CEEJ. MATE AT
17 THE LEXINGTON COUNTY JAIL THAT, AND HE DENIED EACH AND EVERY
18 ONE OF THEM. IT'S NOT PROPER SUR REPLY TO PUT HIM UP AT THIS
19 TIME.

20 THE COURT: I'M GONNA SUSTAIN THE SOLICITOR'S MOTION AND
21 NOT LET HIM TESTIFY.

22 MR. GREGORY: THANK YOU, SIR.

23 THE COURT: BRING THE JURY BACK.

24 MR. MCMAHON: SO WE'RE NOW AT THE POINT OF---

25 THE COURT: WAIT A MINUTE. YA'LL GONNA WAIVE OPENIN'?

1 MR. MCMAHON: YES, SIR, WE'RE GONNA WAIVE OPENIN' BUT I
2 WANNA GET THE CHARGES STRAIGHT BEFORE I ARGUE.

3 THE COURT: I'M GONNA CHARGE SELF-DEFENSE; I'M GONNA
4 CHARGE THE ELEMENTS OF SELF-DEFENSE. I'M GONNA CHARGE THE
5 GENERAL CHARGE OF MURDER.

6 MR. MCMAHON: YOU GONNA CHARGE -- WE'D REQUEST A CHARGE
7 ON MUTUAL COMBAT.

8 THE COURT: YEAH, I'LL CHARGE THAT.

9 MR. MCMAHON: I HAVEN'T TALKED WITH MR. GREGORY ABOUT
10 ANY CHARGE THAT THEY MAY HAVE. I'M SURE THERE ARE SOME. I
11 JUST WANTED TO GET SOME---

12 THE COURT: YEAH, HE GAVE---

13 MR. MCMAHON: ---BEFORE WE ARGUE.

14 THE COURT: HE GAVE ME THREE REQUESTS WHICH IS COVERED
15 IN THE GENERAL CHARGE.

16 MR. RIDDLE: THIS WILL BE -- I'M HANDING UP TWO
17 REQUESTS.

18 THE COURT: MR. GREGORY, YA'LI. GONNA HAVE ONE OR TWO
19 ARGUMENTS?

20 MR. GREGORY: ONE. WE'LL HAVE ONE ARGUMENT.

21 THE COURT: OK. AND YOU GONNA WAIVE OPENIN'. SO, MR.
22 GREGORY, YOU'LL OPEN.

23 MR. GREGORY: I'LL OPEN, YES, SIR.

24 THE COURT: YEAH, I'M GONNA CHARGE MUTUAL COMBAT.

25 MR. MCMAHON: OK, SIR.